

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Steven Virkus and Jennifer Virkus
  2. **APPLICANT:** Steven L Virkus/Jennifer E Virkus **HEARING DATE:** September 26, 2013
  3. **TYPE OF APPLICATION:** Rezoning
  4. **LOCATION:** 814 Grand Ave, between Avon and Victoria
  5. **PIN & LEGAL DESCRIPTION:** 022823420159; Summit Park Addition to StPaul Lot 4 Blk 17
  6. **PLANNING DISTRICT:** 16 **EXISTING ZONING:** B2
  7. **ZONING CODE REFERENCE:** §61.801(b)
  8. **STAFF REPORT DATE:** September 12, 2013 **BY:** Scott Tempel
  9. **DATE RECEIVED:** September 5, 2013 **60-DAY DEADLINE FOR ACTION:** November 4, 2013
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- A. **PURPOSE:** Rezone from B2 Community Business to T2 Traditional Neighborhood.
- B. **PARCEL SIZE:** 6000 sq. ft.
- C. **EXISTING LAND USE:** Mixed Commercial/Residential
- D. **SURROUNDING LAND USE:**
  - North: Commercial Retail and Multi-family Residential
  - East: Multi-family Residential
  - West: Single-family and Multi-family Residential
  - South: Single-family Residential
- E. **ZONING CODE CITATION:** §61.801(b) provides for changes to the zoning of property initiated by the property owner.
- F. **HISTORY/DISCUSSION:** The property has undergone multiple changes to both structures and uses over the years. The current owners bought the property in 2011. There is a mixed commercial/residential building at the front of the property. The Department of Safety and Inspections sent enforcement letters on February 28, 2013, and on August 28, 2013, stating that residential space in a building at the rear of the property constitutes a separate single family dwelling that is not allowed in the B2 zone. The enforcement letters instructed the owners to either remove the dwelling unit in the building at the rear of the property or rezone to T2.
- G. **DISTRICT COUNCIL RECOMMENDATION:** District 16 had not commented on this case at the time the staff report was written.
- H. **FINDINGS:**
  1. The proposed zoning is consistent with the way this area has developed. The proposed zoning is consistent with the way this area has developed and with the historical zoning of the properties. The T2 zoning district permits a varied mix of residential and commercial uses. Grand Avenue is a major commercial corridor. There are mixed residential and commercial uses both east and west of the parcel. §66.313 states the intent of the T2 Traditional Neighborhood District, which is to encourage a variety of uses and housing types, with careful attention to the amount and placement of parking and transitions to adjacent residential neighborhoods.
  2. The proposed zoning is consistent with the Comprehensive Plan Land Use policy 1.24, Support a mix of uses on Mixed-Use Corridors. This section of Grand Avenue is identified as a mixed-use corridor in the Land Use Plan element of the Comprehensive Plan, adopted in 2010.
  3. The proposed zoning is compatible with surrounding uses, which are mixed use, commercial, and single-family and multi-family residential. T2 permits both residential

and neighborhood oriented commercial uses, consistent with the area's existing mix of uses.

4. Court rulings have determined that "spot zoning" is illegal in Minnesota. Minnesota courts have stated that this term "applies to zoning changes, typically limited to small plots of land, which establish a use classification inconsistent with the surrounding uses and create an island of nonconforming use within a larger zoned property." Approval of this proposal would not result in spot zoning as the area around the subject property has developed with a mix of uses similar to those allowed in T2. The mix of residential and commercial uses proposed by the applicant is consistent with that of the existing neighborhood.
- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the proposed rezoning from B2 Community Business to T2 Traditional Neighborhood.