

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Bai Lor **FILE #:** 19-024-995
 2. **APPLICANT:** Bai Lor **HEARING DATE:** April 11, 2019
 3. **TYPE OF APPLICATION:** Rezoning
 4. **LOCATION:** 388 Minnehaha Avenue W, SW corner at Western Avenue
 5. **PIN & LEGAL DESCRIPTION:** 36.29.23.21.0001; Lots 1 and 2, Johnstone's Subdivision of Block 1 of Stinson's Division
 6. **PLANNING DISTRICT:** 7 **EXISTING ZONING:** R4
 7. **ZONING CODE REFERENCE:** § 61.801(b)
 8. **STAFF REPORT DATE:** April 3, 2019 **BY:** Tony Johnson
 9. **DATE RECEIVED:** March 26, 2019 **60-DAY DEADLINE FOR ACTION:** May 25, 2018
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- A. **PURPOSE:** Rezone from R4 one-family residential to RT1 two-family residential.
- B. **PARCEL SIZE:** 113 ft. of frontage on Minnehaha Avenue and 82.4 feet of frontage on Western Avenue N = 9,311.2 sq. ft.
- C. **EXISTING LAND USE:** Single Family Dwelling
- D. **SURROUNDING LAND USE:**
 - North: Recreation (I1)
 - East: Multi- Family, Single- Family (RT1)
 - South: Vacant, Duplex across the alley (R4)
 - West: Single Family (R4)
- E. **ZONING CODE CITATION:** § 61.801(b) provides for changes to the zoning of property initiated by the property owner.
- F. **HISTORY/DISCUSSION:** The subject structure was originally constructed in 1896 as a single family dwelling. In 1922 when the first zoning code was enacted the property was B residence which permitted two-family dwellings. Somewhere between 1925 and 1955 the subject structure was converted to a two-family dwelling. In 1975 when the modern zoning code was adopted the property was zoned RT1 two-family residential. In the 1990's the subject property along with much of Frogtown was rezoned to R4 single family, and the duplex became legally nonconforming. In 2011 the property was added to the vacant building list as category 3 vacant building. In 2013 a residential use affidavit was submitted indicating the property owner's intent to convert the property to a single family dwelling and a building permit was obtained for the conversion. On June 2, 2013, the building inspector finalized the building permit indicating that the property has been physically converted to single family dwelling. Since that time city and county records were updated characterizing this as single family dwelling. Per Zoning Code § 62.106(d), when a nonconforming use changes to a use permitted in the district in which the property is located, a nonconforming use may not thereafter be resumed. The applicant now wants to convert the house back to a duplex.

G. **PARKING:** Zoning Code § 63.207 requires a minimum of 3 parking spaces for a duplex. There is a 2 car detached garage on the property. In conjunction with the rezoning application, the applicant submitted a request for a parking variance of one space.

H. **DISTRICT COUNCIL RECOMMENDATION:** District 7 has made no recommendation at the time of this staff report.

I. **FINDINGS:**

1. The applicant is proposing to rezone the parcel to RT1 in order to reestablish a duplex. The house was a duplex for at least 55 years before it was converted to a one-family dwelling in 2013 after being listed as a vacant building list, and it lost its legal nonconforming status as duplex.
2. The proposed zoning is consistent with the way this area has developed. The area has developed with a mix of single-family, two-family, and multifamily residential uses. North of the parcel along Minnehaha there are a variety of industrial land uses. The proposed RT1 zoning is consistent with the adjacent land uses, and also the historic use of the subject structure as a duplex.
3. The proposed zoning is consistent with the Comprehensive Plan. The subject parcel, at the intersection of a minor arterial (Minnehaha Ave.) and a collector street (Western Ave.) is located in area defined by the comprehensive plan as an established neighborhood. Established neighborhoods are predominately residential areas with a range of housing types, including duplexes. The proposed RT1 zoning is consistent with Land use Plan policy LU 1.8, which calls for encouraging the development small scale multifamily uses that are compatible with the scale of established neighborhoods. It is also consistent with Housing Plan policy H 1.1 for increasing housing choices across the city to support economically diverse neighborhoods.
4. The proposed zoning is compatible with the surrounding single- family, two- family, and multifamily land uses. The immediate area is characterized by a variety of housing types and land uses. The proposed RT1 zoning permits a single- family and two- family housing types which is compatible with the existing scale of development.
5. 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.”* The proposed rezoning to RT1 would not constitute spot zoning. The proposed RT1 zoning would simply expand the existing RT1 zoning district east of the subject parcel.

J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the rezoning from R4 one-family residential to RT1 two-family residential at 388 Minnehaha Avenue W.