

city of saint paul  
planning commission resolution  
file number 18-08  
date February 23, 2018

WHEREAS, Superior LLC, File # 18-024-155, has applied for a conditional use permit for a mixed residential / commercial use with more than 6 dwelling units (64 proposed), with modification of a special condition for this use to allow dwelling units on the first floor (39 units proposed, no first floor dwelling units permitted), and modification of the condition for this use that at least 80% of the first floor shall be devoted to non-residential principal uses (10% proposed), under the provisions of §§ 61.501, 61.502, and 65.143(b) of the Saint Paul Legislative Code, on property located at 2103 Wabash Avenue, Parcel Identification Number (PIN) 32.29.23.14.0002, legally described as Hewitt's Out Lots, Lots 118 - 119, and vacated adjacent 7 feet of Wabash Avenue, and vacated adjacent 10 feet of Montgomery Street; and

WHEREAS, the Zoning Committee of the Planning Commission, on February 15, 2018, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The site contains a mostly vacant former industrial building (fully vacant 2<sup>nd</sup> and 3<sup>rd</sup> floors, partially vacant 1<sup>st</sup> floor) that has reportedly not been fully used since 1979. Several retail/service businesses have partially occupied the 1<sup>st</sup> floor in recent years, including pet boarding, industrial tires sales and service, and guitar repair. The building was constructed in several stages of additions, resulting in multiple floor levels and roof levels.
2. The site is surrounded by industrial zoning and mainly industrial uses. It abuts Myrtle Avenue, Montgomery Street, and Wabash Avenue. The surrounding streets accommodate much truck traffic and do not have sidewalks.
3. Zoning Code § 65.143(b) includes the following special conditions that apply to mixed residential and commercial use in an I2 general industrial zoning district. *In I1-I2 industrial districts, dwelling units shall not be located in the basement or first floor and at least eighty (80) percent of the first floor shall be devoted to principal uses permitted in the district, other than residential uses. In the I2 district, a conditional use permit is required for a mixed residential and commercial use with more than six (6) dwelling units.* The application for a conditional use permit proposes 64 dwelling units in the building, including 39 first-floor units comprising up to 90 percent of the first floor area. Therefore, the conditions that there be no dwelling units on the first floor and that at least 80% of the first floor shall be devoted to non-residential principal uses are not met. The application requests that these conditions be modified as discussed below.
4. Zoning Code § 61.501 lists five standards that all conditional uses must satisfy:

moved by Edgerton  
seconded by \_\_\_\_\_  
in favor 11  
against 2 (Ochs, Vang)

- (a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This condition is met. The site is designated in Comprehensive Plan Figure LU-B as Industrial, which calls for "(p)rimarily manufacturing and/or the processing of products; could include light or heavy industrial land uses, large warehouse facilities, and/or utilities." The West Midway Industrial Area Plan (WMIAP) says in Strategy PI-1 that we should, "(r)etain and protect current industrial land from conversions to non-industrial uses." The conditional use permit maintains the I2 zoning and is therefore in compliance with the Comprehensive Plan.
  - (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The site has direct access to three streets.
  - (c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition can be met. Adjacent streets do not have sidewalks and convey large amounts of truck traffic. The use does not negatively impact the area's existing character or endanger public safety, provided that the property owner work to improve the surrounding pedestrian and bicycle infrastructure.
  - (d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The adjacent properties are not being rezoned and maintain their permitted uses.
  - (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is not met. The applicant has requested modification of regulations that apply to the proposed use in the I2 general industrial zoning district. The requirements for approval of the requested modification are discussed in Finding 5 below.
5. Zoning Code § 61.502 provides that "*the planning commission ... may modify any or all special conditions when strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.*" These requirements for modification of special conditions are met. The application requests modification of conditions that prohibit dwelling units on the first floor and require that 80% of the first floor be devoted to principal uses permitted in the district, other than residential uses. Strict application of these conditions would likely prevent otherwise lawful use of this long-underutilized building due to its condition and the investment that would be required to make it functional for industrial uses. The requested modification to allow 39 dwelling units on the first floor and decrease the required amount of non-residential use on the first floor from 80% to 10% would not impair the intent and purpose of these conditions to retain and protect industrial land in the I2 general industrial district from conversion to residential uses because the property and adjacent properties maintain their industrial zoning.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Superior LLC for a conditional use permit for a mixed residential / commercial use with more than 6 dwelling units (64 proposed), with modification of a special condition for this use to allow dwelling units on the first floor (39 units proposed, no first floor dwelling units permitted), and modification of the condition for this use that at least 80% of the first floor shall be devoted to non-residential principal uses (10% proposed), at 2103 Wabash Avenue is hereby approved, subject to the following condition:

1. The property owner shall work with the community and other interested parties on a safety plan regarding pedestrian and bicycle access in the area.