

FILE

DEPARTMENT OF SAFETY AND INSPECTIONS
Ricardo X. Cervantes, Director

17-214989



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

October 30, 2017

John Rupp
Commonwealth Properties
The Commodore Restaurant
79 N. Western Ave.
Saint Paul, MN 55102

Re: 79 N. Western Ave.
Proposed Expansion Area West of the Commodore Restaurant

Dear Mr. Rupp:

This letter is in response to your request to allow the interior space west of the existing Commodore Restaurant to also be used as dining room space for the restaurant/bar. Your claim is that this space was issued a building permit for use as a restaurant/bar in 2012. Building Official Steve Ubl disagrees with your claim and has determined that the permit issued did not include the space in question. That disagreement is not a zoning issue and I have no authority to intervene. Additionally, the space included in the original liquor license obtained by the previous owner is irrelevant for zoning purposes.

This site is located in a RM3 residential zoning district. As such, the use of the property for a restaurant, bar, and squash club are all nonconforming uses established under the pre-1975 zoning code when hotels and accessory uses were permitted in residential zoning districts.

For zoning purposes, I am concerned about what the most previous use of this space in question was. Sec. 62.102 of the Saint Paul zoning code states that the burden of proof establishing a nonconforming use "shall be on the property owner." I have not received proof from you that the most recent use of this space was for a restaurant. You provided a floor plan from 1976 when the addition was constructed showing this area as a future dining room, but no evidence that use as a dining room was ever established. On the other hand, it appears that the area was used for the squash club based on: 1) The plans approved by the Heritage Preservation Commission for the windows along the south wall of the space in question, dated Aug. 7, 1987, were for the squash club and included a floor plan identifying the space as an exercise room, a storage room and two office rooms, and 2) Photos in our file show the space in question with exercise equipment in it, dated February 11, 2000.

You obtained this space in 2001; it was used for the squash club at some time prior to your acquisition. Although it was originally designed for future dining room space, it was never legally established as space for a restaurant. A squash club is a nonconforming health/sports club and a restaurant/bar is another type of nonconforming use. To change from one type of

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a nonconforming use to a different type of a nonconforming use requires a change of nonconforming use permit from the planning commission as specified under Sec. 62.106(b). Since this space has been vacant for more than one year, a reestablishment of nonconforming use permit is required as specified under Sec. 62.106(h). Both can be handled under the reestablishment of nonconforming use permit. In addition, off-street parking will need to be evaluated.

If you believe this decision is made in error, you may file an appeal with the Board of Zoning Appeals within ten days as allowed under Sec. 61.701. There is a filing fee of \$547.

Sincerely,



Wendy Lane
Zoning Administrator
651-266-9081

c: Therese Skarda
Steve Ubl
Dan Niziolek
Yaya Diatta
Allan Torstenson