

MINUTES OF THE ZONING COMMITTEE
Thursday, March 9, 2023 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Hackney, Rangel Morales, Reilly, Syed, and Taghioff
EXCUSED: Grill, Hood, and Ochoa
STAFF: Anton Jerve, Samantha Langer, and Allan Torstenson

The meeting was chaired by Commissioner Reilly.

1416 Grand Rezoning - 23-015-210 - Rezone from OS office-service to T2 traditional neighborhood. 1416 Grand Avenue, between Albert Street and Pascal Street.

Anton Jerve presented the staff report with a recommendation of approval for the rezoning. He said District 14 submitted a letter recommending denial, and there were 0 letters in support, and 5 letters in opposition.

In response to Commissioner Syed, Mr. Jerve said that there are no storefronts currently open at the property and the interior is being renovated.

In response to Commissioner Hackney, Mr. Jerve said there was no conditional use permit option to allow a retail use in an OS district.

Chair Reilly said the information in the staff report stated that the applicant is currently rehabbing the building and he questioned how this application came before the Planning Commission.

Mr. Jerve said the applicant is rehabbing the building with flexibility as to the final use. The final buildout would be based on if this rezoning application gets approved.

Commissioner Taghioff said that segment of the street is zoned RM2, but the way it has been built up is single family or similar smaller uses and asked how staff considers the zoning classification of those adjacent properties verses what exists there today and is likely to exist there for some time.

Mr. Jerve said he considered balancing everything that was listed in the staff report including the goals of the Comprehensive Plan with the perspective of the neighbors. Those homes on the block that are single family homes have been RM2 since 1975 and there has been no land use change over that time to multifamily. Zoning is one factor of the character of the neighborhood, but not the only one. This property was built as a retail use, it continues to look like a retail use, and rezoning is consistent with the Comprehensive Plan goals.

Mr. Torstenson provided some history on the zoning of Grand Avenue. Before there was a zoning code in Saint Paul, Grand Avenue developed along a streetcar line, and it developed organically creating a mix of many different uses. In 1922 when the city first adopted a zoning code the streetcar lines were zoned commercial and that permitted both residential and commercial to exist and allowed the development along Grand Avenue to grow based on what the market was and what made sense in the area. A new zoning code was adopted in 1975 and the approach was to change commercial districts to be more nuanced. Grand Avenue was the ultimate example of a street where the new zoning was really nuanced based on the way it had developed up to that point. Most of the areas that were residential were made RM2 multifamily residential. In this section of Grand Avenue from the commercial corner at Hamline to the commercial corner at Snelling it was primarily residential, and it was made RM2 to focus the commercial at the corners at major

intersections and keep those areas that created nonconformity. The thinking at that time was it should stay more residential and our thinking has evolved more since then.

In reply to Chair Reilly, Mr. Jerve said there are not retail uses currently at the property. There were commercial service uses including a hair salon and chiropractor that fall under the OS zoning. Mr. Jerve said rezoning to a B zone would not address the building nonconformity where a T district would. A T district would also allow for the flexibility over time to be residential. He said staff did review the possibility of a reestablishment of a nonconforming use, but the required findings, particularly the hardship finding and spot zoning finding could not be met.

Chair Reilly said he would like more clarification on the concept of not being able to meet the spot zoning clause for a nonconforming use, but it can be met for a rezoning.

Mr. Jerve said for the rezoning application the staff report says that it is not spot zoning because it is a commercial use to a commercial use and the change from OS to T makes it more in line with the policies that have been adopted for the neighborhood. A T district would be more appropriate over a B district because of the pedestrian friendly requirements and the building design and setback requirements. The T district scale is more consistent with that allowed in RM2 districts.

Commissioner Hackney referred to a letter submitted by a neighbor and asked if it is true that if this were rezoned to T2 it would be the only property along Grand Avenue zoned T2 surrounded by residential properties. Mr. Torstenson said it is likely.

In response to Commissioner Hackney regarding a statement in a letter submitted, Mr. Jerve said he could not verify, if this were to be approved, if it would be the only T2 zone in the area surrounded by residential for a retail use in the middle of the block and away from a node. He did confirm that this was not in or near a Neighborhood Node as defined in the Comprehensive Plan. He said the Zoning Code refers to pedestrian and transit nodes which aren't defined and there is a bus stop on the block. [*The nearest bus stop is at the intersection of Pascal/Grand, across the street from this block*].

Commissioner Taghioff questioned how to assess the character of Grand Avenue. Do you take it literally to say the service pattern is commercial at the corners and there should be no midblock commercial or do you consider the ongoing rhythm of commercial, residential, and sometimes mixed uses and define that as the character.

Commissioner Hackney said it has been a service use consistently and a retail use could require more traffic and that parking availability should be taken into consideration.

Commissioner Taghioff said that parking arrangements have been carefully negotiated over the years and when things change it will always cause concern. Something to bring to the conversation around Neighborhood Nodes is that the only node we have per the plan at Grand Avenue is at Grand Avenue and Victoria. Grand Avenue is more of a linear node. The notion that it is a point on the map that is a circular thing makes less sense regarding Grand Avenue. It is a series of nodal points along the entire avenue. There is a sense of continuous commercial along the part we are reviewing.

There was discussion pertaining to uses, but Chair Reilly stated we they were not there to discuss the use, they need to discuss whether T2 zoning was appropriate at this location.

In response to Chair Reilly, Mr. Jerve said he did not have the specific build date of the building. *[Building date was later established as 1931.]* Heritage Preservation staff thought that the structure had been surveyed at one point, but it isn't on any historic register. He confirmed he would submit any existing documentation regarding surveys at the Planning Commission meeting. *[The building was later confirmed to be on the National Registry, but not on any City or State historic district. No historic review is required for this application or building rehabilitation.]*

The applicant, Rob Yang, 2431 Carver Avenue E, Maplewood, MN, provided history about himself growing up in Saint Paul to demonstrate that he is part of the community. He started Phenom, a family footwear and apparel store in 2008. He has moved locations many times due to the growth of the business. His latest location was destroyed during the unrest after the George Floyd incident, and it was a horrible experience. He prides himself on being a neighborhood store and he was proud of his neighbors and his regular customers. They couldn't open again at that location and they wanted to rebuild in Saint Paul. They purchased a building on Grand Avenue because it is in a great and safe neighborhood. When they first looked at purchasing the property, they looked at the Ramsey County property tax record it was listed as small retail but did not realize you needed to contact the City for zoning information. They purchased the building and tried to get a permit to remodel the building as a retail store and that is when they learned it was zoned Office Service. He decided to get a permit to build out office space. He didn't renew the Chiropractor business lease and began remodeling that half of the building and while allowing the other side to remain as a beauty salon. Once the beauty salon lease was up he would remodel it all to make it all his sales office. He prides himself on giving back to the community and provides many community services and donates to many organizations.

Mr. Yang addressed the neighborhood concerns. He said the staff report accurately portrays how the zoning change is consistent with the Comprehensive Plan and it is not spot zoning. Mr. Yang said his initial meeting with the Macalester-Groveland Community Council included attacks on him personally and his business that included fear mongering and false accusations that he wanted to address. He referred to a letter submitted by Dan Witucki that stated, "The applicant's behavior by already essentially running a shoe store, and delivery business, has been disrespectful of the neighbors (and neighborhood) and the city itself. It was well known by the applicant what the zoning was when he bought the building and applicant has had no regard for the neighbors or the city by simply doing as he pleases flouting the zoning laws of the city. In my experience those that take those types of liberties, especially when unlawful, keep pushing boundaries and taking further liberties." He has spoke with City staff multiple times and under the current zoning he is permitted to use the building as a sales office as he is currently operating. He referenced a letter submitted by Caleb Johnson that stated he evicted the existing OS commercial tenants including a BIPOC owned business, Hairitage Beauty. He did not evict anyone; he chose not to renew their lease so he could renovate the space. He stated the letter is promoting fear mongering. He also referenced the letter submitted by Margaret McMahon stating "as a side note, the owner has been in this building for 1 ½ years, and he has blocked out the windows and doors on the righthand side unit the entire time he's owned it so you can't see inside. Now that the hair salon has moved out of the lefthand side unit, he has covered those windows as well. It feels a bit suspicious to me. What kind of business is he running out of that space, is he operating his retail store and trying to hide it, and it doesn't provide a very welcoming trustworthy neighborhood feeling. Somebody may want to

make an unannounced visit to see what kind of business he's running, and whether or not he's abiding by the current zoning uses." He currently has a building permit for remodeling with the city. It is normal for a business to tape up the windows during remodeling. He said it is very dangerous to accuse someone on breaking the law without any evidence. He understands that no one likes change and the opposition fears what they may have to give up or what might or might not happen. He hopes that the Zoning Committee will not make a decision and cave into fear alone. If his request is approved the neighborhood, he does not see the neighborhood as losing anything, but instead gaining another unique asset to the neighborhood.

In response to Commissioner Rangel Morales, Mr. Yang said the renovations up to this point have been extensive and include a new HVAC system and two new bathrooms. He also added he gave a six month notice to both tenants that he would not renew their leases. He worked with each business until they could find new locations and gave them good reviews.

There was discussion among commissioners regarding concerns by neighbors including that if this is given T2 designation it will be torn down and the largest allowable multifamily building will be built. There was also discussion of concerns by neighbors that Mr. Yang was renovating this property to be retail without the proper permits.

Mr. Yang clarified that he has already done extensive renovations and once they are complete will total around \$300,000.00. This business is something he would like to pass down through his family. The renovations up to this point have been for office service, but he told his architect that if this can be approved for retail service in the future, he wants to make sure retrofitting to retail wouldn't involve too much work. At the beginning of this year, he spoke with city staff about the possibility of changing this to a retail service and they said there could be a possibility because of the changes in zoning and city plans. He would not have paid the application fee or pursued this if city staff said there was no possibility.

Commissioner Hackney said his one concern is traffic and asked how Mr. Yang plans to accommodate traffic that comes to the store.

Mr. Yang said he is not a regular retail store. It is more of a destination store. Most of his customers are clients he has had since he opened in 2008. People come to his store with an item in mind to purchase and spend around fifteen minutes in his store. For special shoe releases they do online raffles with specific, individual pick-up times and that eliminates long lines.

Kristos Kalemanis, 1045 Arcade Street, Saint Paul, MN, spoke in support. He said Mr. Yang is his landlord and he is an upstanding man and he is fortunate to know him. He visited the space and it is exactly as Mr. Yang has described.

Abby Johnson, 1422 Grand Avenue, Saint Paul, MN, spoke in opposition. She said when they bought their home in this location, they did their due diligence because it was next to a commercial building. When they saw it was zoned Office Service, they decided they were okay with that use because it was a limited use. They have done a lot of renovations on their home and plan to be in it for the long haul. It is a very residential stretch of Grand Avenue and she is worried that changing the use to T2 would allow uses for this space that would be disruptive to her family and potentially decrease their properties value. If the property changes to T2, that change will be permanent regardless of who owns the property. The change would allow uses like a dry cleaner, liquor store,

tattoo parlor, funeral home, bar, and restaurant, etc. He is proposing a shoe store, but that isn't forever, and he could sell the property and move on after the change in zoning. We don't know what will happen in the future, but the change to T2 is permanent. She worries that the negative impacts of these other uses and that a change from OS to T2 wouldn't be congruent with the current community. They have concerns about the owners LLC and the fact that it is inactive by the State. That raises concerns that the shoe store may not be a long-term fixture of the street.

Caleb Johnson, 1422 Grand Avenue, Saint Paul, MN, spoke in opposition. Mr. Johnson submitted written testimony and wanted to clarify a few items. The perspective from which what he heard the commercial tenancy end by eviction was from the tenants themselves. He said the tenants at Hairitage were good neighbors and they were looking forward to the diversification in the immediate area and that is why they referenced the BIPOC commercial business.

Mr. Johnson said currently there are sales being shipped out of this store. Employees are regularly pushing carts of items and shipping is received daily. It has been occupied with inventory since 2022. He has seen individuals leaving with shoes from the building. He isn't sure of the difference between a sales office and a warehouse, but it seems to be operating as a warehouse distribution center for online sales based on the frequency of traffic.

Mr. Johnson noted the staff report acknowledging that T1 is probably a better fit than OS but justifies moving to T2 designation simply because of the retail use. He doesn't agree that rezoning this to T2 meets the intent of the ordinance. It does not exist in an intersection or node. Zoning T2 would make this block mixed-use, not Urban Neighborhood. The staff interpretation of the District 14 Plan should be rejected because Macalester Groveland Housing and Land Use Committee rejected this request by a 13-1 vote. He said that the character of this area is a more residential section of Grand Avenue. This property is on an island surrounded by residential property and moving it to a less restrictive use seems to be spot zoning.

Mr. Johnson said There is no bus stop on this block of Grand. The nearest one is the next block over on the other side of Pascal. This was described as a destination shoe store and that implies that it draws from all over the region and would create more car traffic rather than transit use. He is concerned more about future uses if this is rezoned and the impact it could have on the neighborhood.

In response to Commissioner Rangel Morales, he said that service-based businesses their client is matched one to one with the service provider limiting the amount of traffic. The retail location being described as a destination location doesn't seem to make it viable that people will be taking the bus to the location but will most likely be driving. He is less concerned about the boutique retail sale of shoes and clothing, but this is opening the door to more intensive uses that are allowed in a T2 designation. He also noted that the property records show that they are delinquent on their water bill, taxes, and their LLC has been revoked by the Secretary of State. It doesn't seem that they are a sustainable business that will exist for a long time at this location.

Mr. Yang responded to the testimony. He said that he can easily renew his LLC. The utility records were messed up because of the two separate units in the building and they have been paid. He is up to date on taxes. He has invested a lot of money into this property and he needs a business that will provide a lot of customers and that would include service based business. So, a service-based business will not be necessarily less busy than a retail one. He wants to be an asset to the

community and is not looking for short term gain. He said they are receiving shipments but are not selling any merchandise out of this location. He noted no neighbors had reached out to him or spoken to him prior to the meeting. He invites any neighbors to visit the property.

The public hearing was closed.

Commissioner Taghioff noted that the only decision before the Committee is whether they think that T2 is an appropriate zoning classification for this parcel of land.

In response to Commissioner Rangel Morales, Mr. Jerve said a T1 district would have the same use restrictions as OS. It would not open any possibilities for the variety of stores allowed at this site. A T2 district is more consistent with the policies in the District 14 Plan and Comprehensive Plan and allows a similar density to RM2 and that is why it was recommended.

There was discussion regarding Land Use Categories, including Urban Neighborhoods and Neighborhood Nodes in the Comprehensive Plan. It was acknowledged that all categories are defined as mixed-use. The Comprehensive Plan acknowledges that urban centers, like Saint Paul, are always changing based on their proximity to transit or other market dynamics and existing factors.

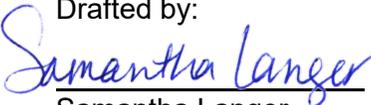
Commissioner Rangel Morales moved approval of the rezoning. Commissioner Hackney seconded the motion.

Commissioner Taghioff said that buying a property along Grand Avenue implies that you are in a major corridor and implies you will have proximity to commercial and that what may be there today may not be there tomorrow. Grand Avenue has a rhythm of mixed-use along the street and that is consistent with the way this area has developed. The adjacent houses are zoned in the RM2 district and could support greater density.

Commissioner Hackney said he agrees with looking at Grand Avenue as essentially an extended Neighborhood Node and he appreciates that the Comprehensive Plan is looking to have flexibility in the way an area changes.

The motion passed by a vote of 5-0-0.

Adopted Yeas - 5 Nays - 0 Abstained - 0

Drafted by:

Samantha Langer
Recording Secretary

Submitted by:

Anton Jerve (Apr 21, 2023 08:30 CDT)
Anton Jerve
City Planner

Approved by:

Jacob Reilly (Apr 26, 2023 11:57 CDT)
Jake Reilly
Chair

1416 Grand Minutes-AJ

Final Audit Report

2023-04-26

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