



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

25 West Fourth Street
Saint Paul, MN 55102

Telephone: 651-266-6700
Facsimile: 651-228-3220

July 21, 2014

Mr. Brian Alton
McClay-Alton, PLLP
951 Grand Avenue
St. Paul, MN 55105

RE: Notice of Appeal of Zoning File 14-293-465, Saint Paul Domestic Abuse Intervention Project

Dear Mr. Alton:

I am writing to notify you that we have received an appeal of the Planning Commission's decision to approve a conditional use permit for reuse of a nonresidential structure for an office, with modification of the consent petition condition, on property located at 390 - 394 Dayton Avenue. The Saint Paul City Council will conduct a public hearing on the appeal on August 20, 2014.

No building permits may be issued, and any permits that may have been issued prior to the appeal being filed are suspended, and any construction must cease until the City Council has made a final determination on the appeal.

For your information, a copy of the appeal, including the appellant's grounds for appeal, is attached as well as a copy of the Zoning Code language relating to appeals to the City Council.

Minnesota Statutes 15.99 requires that all city action on zoning applications be completed within 60 days of the date the application is made, but allows the City to extend this period for an additional 60 days (total of 120 days). In order to allow time for a City Council public hearing on an appeal while meeting deadlines established by state law, the City of Saint Paul is hereby extending the deadline for action from August 16, 2014, to October 15, 2014.

Please contact me at 651-266-6614 or by e-mail at jamie.radel@ci.stpaul.mn.us if you have questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jamie Radel", written over a horizontal line.

Jamie Radel
City Planner

cc: File #: 14-293-465
Zoning Administrator
License Inspector
District 8



APPLICATION FOR APPEAL
Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6589

Zoning Office Use Only
File #
Fee: 440.00
Tentative Hearing Date:

To Be Scheduled

APPELLANT

Name Pergola Management, LLC
Address 201 Western Avenue North
City St. Paul St. MN Zip 55102 Daytime Phone 651-602-9150

PROPERTY LOCATION

Zoning File Name Saint Paul Domestic Abuse Intervention Project
Address / Location 390-394 Dayton Avenue between Western and Arundel

14-293-465

TYPE OF APPEAL: Application is hereby made for an appeal to the:

☐ Planning Commission, under provision of Chapter 61, Section 701, Paragraph c of the Zoning Code, of a decision made by the Planning Administrator or Zoning Administrator

OR

☒ City Council, under provision of Chapter 61, Section 702, Paragraph a of the Zoning Code, of a decision made by the Planning Commission

Date of decision: July 11, 20 14 File Number: 14-293-465

GROUND FORS APPEAL: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Planning Commission.

See Attached

CK16648

Attach additional sheets if necessary

Appellant's Signature Pergola Management, LLC
By: [Signature] Date 7/18/14 City Agent pdid
Brian Pergament 7-18-14

Pergola Management, LLC
201 Western Avenue North
St. Paul, Minnesota 55102
651-602-9150

July 18, 2014

Hand Delivered

Mr. Paul Dubruiel
Department of Planning and Economic Development
1400 City Hall Annex
25 West Fourth Street
St. Paul, Minnesota 55102

RE: Notice of Appeal
Appellant: Pergola Management, LLC
Zoning File Name: Saint Paul Domestic Abuse Intervention Project
File No. 14-293-465

Dear Mr. Dubruiel:

Enclosed herewith for filing in the above matter please find Application For Appeal to the City Council of Pergola Management, LLC, together with a check in the amount of \$440.00 in payment of the filing fee.

Please send all notices regarding the date, time and place of the hearing on the appeal to the undersigned at the address listed above, together with any other correspondence regarding the appeal hearing.

Very truly yours,

Pergola Management, LLC

By: 

Brian Pergament

APPLICATION FOR APPEAL

PERGOLA MANAGEMENT, LLC

GROUND FOR APPEAL

The decision of the Planning Commission to approve the application of the Saint Paul Abuse Intervention Project violates Section 65.132 (e) of the Code of Ordinances which states:

"Applications for conversion or reuse shall include a notarized petition of two-thirds (2/3) of the property owners within one hundred (100) feet of the property proposed for the reuse, site plans, building elevations, and landscaping plans, and other information which the planning commission may request"

The decision of the Planning Commission to approve the application of the Saint Paul Abuse Intervention Project unlawfully applies and violates Section 61.502 of the Code of Ordinances which states:

"The planning commission, after public hearing, 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."

Sec. 61.701. Administrative appeals.

- (a) The board of zoning appeals shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator in carrying out or enforcing any provision of this code.
- (b) The grant or denial of approval by the planning or zoning administrator of site plans, permits, similar use determinations or other matters that the planning commission has, by rule, delegated to the planning or zoning administrator is subject to appeal to the planning commission.
- (c) An appeal may be taken by any person, firm or corporation, or by any office, department, board or bureau affected by a decision of the planning or zoning administrator within ten (10) days after the date of the decision. The appeal shall specify the grounds of the appeal. The planning or zoning administrator shall forthwith transmit to the board or commission all of the papers constituting the record upon which the action appealed from was taken. An administrative appeal shall stay all proceedings, including criminal proceedings, in furtherance of the action appealed from unless the zoning administrator certifies to the board or commission, after notice of appeal has been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order granted by a court of competent jurisdiction.

(C.F. No. 04-537, § 1, 6-9-04; C.F. No. 10-349, § 2, 4-28-10)

Sec. 61.702. Appeals to city council.

- (a) The city council shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any fact, procedure or finding made by the board of zoning appeals or the planning commission. An appeal may be taken to the city council by any person, firm or corporation or by any office, department, board or bureau affected by a decision of the board of zoning appeals or planning commission. Such appeal shall be taken within ten (10) days after the date of the decision appealed from and shall specify the grounds for the appeal. Appeals of decisions by the board of zoning appeals shall be filed with the zoning administrator; appeals of decisions by the planning commission shall be filed with the planning administrator, except that appeals of decisions by the planning commission on site plan review shall be filed with the zoning administrator.
- (b) The city council shall conduct a hearing on the appeal, shall give due notice of the hearing to all interested parties as required under section 61.303, and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

(C.F. No. 04-537, § 1, 6-9-04; C.F. No. 07-149, § 34, 3-28-07; C.F. No. 10-349, § 2, 4-28-10)

Sec. 61.703. Permits suspended upon appeal.

Building permits shall not be issued after an appeal has been filed. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease pending a final decision on the appeal.

Sec. 61.704. Orders.

In exercising the above powers, the city council, planning commission, or board of zoning appeals may reverse or affirm, wholly or partly, or may modify the orders, requirements, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made. To that end, the board of zoning appeals shall have all the powers of the zoning administrator, and the city council shall have all the powers of either the board of zoning appeals or the planning commission. All final decisions, orders, requirements or determinations by the board of zoning appeals, planning commission, and/or city council shall be in the form of a written resolution. The city council shall serve a copy of the resolution upon the appellant and/or the owner of the affected property, zoning administrator, planning commission and board of zoning appeals by mail or personal service. The board of zoning appeals or planning commission shall serve a copy of the resolution upon the appellant and/or owner of the affected property, the zoning administrator and the planning administrator. Decisions of the city council on all matters within its jurisdiction shall be final subject only to judicial review by a court of competent jurisdiction.

(C.F. No. 10-349, § 2, 4-28-10)