

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** James and Sarah Jarman **FILE #:** 18-124-254
 2. **APPLICANT:** James R Jarman and Sarah Jarman **HEARING DATE:** December 6, 2018
 3. **TYPE OF APPLICATION:** Rezoning - Consent
 4. **LOCATION:** 541 Selby Ave, between Kent and Mackubin
 5. **PIN & LEGAL DESCRIPTION:** 01.28.23.22.0119; Woodland Park Addition, Lot 13, Block 4
 6. **PLANNING DISTRICT:** 8 **EXISTING ZONING:** RM2
 7. **ZONING CODE REFERENCE:** § 61.801(b)
 8. **STAFF REPORT DATE:** November 28, 2018 **BY:** Tony Johnson
 9. **DATE RECEIVED:** November 19, 2018 **60-DAY DEADLINE FOR ACTION:** January 18, 2018
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- A. **PURPOSE:** Rezone from RM2 multi-family residential to BC community business (converted).
- B. **PARCEL SIZE:** 50 ft. of frontage on Selby Avenue x 116 ft. = 5,800 sq. ft.
- C. **EXISTING LAND USE:** One-Family Dwelling
- D. **SURROUNDING LAND USE:** **North:** One-Family Residential (RT2)
East: Multi-Family Residential (RM2)
South: Commercial (B2)
West: Two-Family Residential (RM2)
- E. **ZONING CODE CITATION:** § 61.801(b) provides for changes to the zoning of property initiated by the property owner.
- F. **HISTORY/DISCUSSION:** In 1922 the subject parcel, along with all of the parcels on Selby Avenue were zoned commercial. The 1922 commercial district permitted a range of commercial and residential uses. In 1975 when the modern zoning code was enacted the subject parcel was zoned RM2 multi-family residential and has remained RM2 until today. The subject parcel is within the Historic Hill Heritage Preservation District, which requires Heritage Preservation Commission approval for exterior alterations.
- G. **PARKING:** Zoning Code § 63.207 requires a minimum of 6 spaces for the proposed commercial uses. The subject parcel currently has two off-street parking spaces in the garage. A parking variance application has submitted for this, noting that the applicant intend to develop bike parking facilities to serve the proposed uses.
- H. **DISTRICT COUNCIL RECOMMENDATION:** There has been no recommendation from District 8 at the time of this staff report.
- I. **FINDINGS:**
 1. The application is to rezone the subject parcel to BC community business (converted) in order to convert the property to retail use on the first floor and an office use on the second floor. The applicants indicate that they intend to retain the residential character of the structure and are not proposing any exterior changes at this time.
 2. The proposed BC zoning is consistent with the way this area has developed. Selby Avenue has developed with a mix of commercial and residential uses of varying densities. From 1922 to 1975 Selby Avenue was zoned commercial, which permitted all residential and commercial uses. In 1975 when the modern zoning code was enacted, parcels on Selby Avenue were rezoned to a mix of zoning districts that generally corresponded to the underlying land uses of the parcels.

Zoning Code § 66.413, *Intent, BC community business (converted) district*, states the following:

The BC community business (converted) district is a business district expressly for existing residential structures in commercial areas, which will permit the operation of businesses which do not generate large amounts of traffic and at the same time will retain the visual character of the building forms and open space associated with residential uses. This includes a limited height on buildings and front and side yards. It is further the intent of this district to provide parking for employees who work in buildings which are converted from residential to business use.

The proposed BC zoning is consistent with the current and historic development pattern along Selby Avenue regarding the mix of uses and dimensional standards. If the subject property is converted back to a residential use, the minimum lot area per unit requirements for the RM2 zoning district would apply.

3. The proposed BC zoning is consistent with the Comprehensive Plan. Selby Avenue is identified in the comprehensive plan as a mixed use corridor and therefore is suitable for a mix of commercial and residential uses. Land Use Plan Policy LU-1.24 calls for supporting a mix of uses along mixed use corridors. Policy LU-1.46 calls for encouraging the expansion of compact commercial areas in neighborhood centers and Mixed Use corridors to further the objectives of both categories and neighborhoods. Policy 10 in the District 8 neighborhood plan states that priority will be given to commercial development on the vacant lots and buildings at Selby and Victoria as well as vacant commercial buildings on Selby Avenue west of Dale Street, and that conversion of residential properties on Selby to commercial use is generally discouraged. Although the proposed rezoning will allow a conversion of a residential use to commercial use, the BC zoning district will ensure that the residential character of the structure is maintained and will also allow the property to be used for residential uses.
4. The proposed BC zoning is compatible with the mix of residential and commercial uses in the immediate area and along Selby Avenue. The surrounding land uses are generally permitted in the BC community business district. The BC zoning district has the same lot coverage and front setback requirements as the RM2 zoning district adjacent to the subject parcel, and in the event that commercial uses are discontinued, the BC zoning district has the same lot area per unit requirements as the RM2 district, ensuring continued compatibility with the adjacent residential uses. The BC zoning district is more restrictive than the adjacent B2 zoning district and is compatible with the existing commercial uses in the B2 district adjacent to the subject parcel.
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 BC would not constitute spot zoning. The uses that are permitted in a BC community business (converted) district are consistent the uses permitted in the RM2 multi-family residential and B2 community business districts in the immediate area.
6. The petition for rezoning was found to be sufficient on November, 9, 2018; 31 parcels eligible; 21 parcels required; 26 parcels signed.

- J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the proposed rezoning from RM2 multi-family residential to BC community business (converted) at 541 Selby Avenue.