

MINUTES OF THE ZONING COMMITTEE
Thursday, October 21, 2021 - 3:30 p.m.

PRESENT: DeJoy, Grill, Hood, Rangel Morales, Reilly, Syed, and Taghioff
STAFF: Bill Dermody, Mike Richardson, Samantha Langer, and Peter Warner

The meeting was chaired by Commissioner Reilly. He stated that the chair of the Planning Commission had determined that due to the COVID-19 pandemic it is neither practical nor prudent for the Zoning Committee to meet in person, and therefore the meeting was being conducted remotely, with all members of the Zoning Committee attending the meeting remotely. The public is also able to join the meeting remotely and can speak during the public hearing portion or submit comments by noon on the day before the meeting.

1329 - 1331 Lincoln Rezoning - 21-305-090 - Rezone from RT1 two-family residential to RM1 low-density multiple-family residential. 1329-1331 Lincoln Avenue, between Hamline Avenue and Syndicate Avenue

Mike Richardson presented the staff report with a recommendation of denial for the rezoning. He said District 14 submitted a letter recommended rezoning to RT2 rather than RM1, and there were no letters in support or opposition.

In response to Commissioner Rangel Morales, Mr. Richardson said that they looked at other potential zoning districts and other potential avenues such as a nonconforming use permit, but the RM1 zoning district seemed the most appropriate. It created the least nonconformities to allow for a third unit.

Commissioner Grill asked for clarification on why staff said this was spot zoning in the staff report. Mr. Richardson said that the pattern of zoning and development on Lincoln Avenue from east to west is so strong that creating a multifamily district on a 40 foot lot would create an isolated use compared to what is immediately surrounding it.

Mr. Dermody added that this lot is rather narrow and is not on an arterial street. The pattern of development that Mr. Richardson referred to is the zoning that is usually applied to narrow lots on local streets. Although there may be a variety of other land uses and zoning districts in the area it is not on local streets.

Commissioner Rangel Morales asked if zoning to RM2 would be more consistent since it is across the alley. Mr. Richardson said the issue is proximity and adjacency and the property is separated by a few parcels. He added that the frontage on Lincoln is important in defining a pattern and the fabric of how Lincoln works as a street versus across the alley and how the frontage of those parcels work as a pattern on Grand Avenue.

Commissioner Taghioff said that RT1 two-family and RM1 multiple-family zoning districts have very similar standards and he would like to know exactly what the inconsistency would be for this to be considered spot zoning. Mr. Richardson said that the use classification is inconsistent with the one- and two-family development pattern as it would create an isolated multiple-family-zoned parcel.

In response to Chair Reilly, Mr. Richardson said he spoke with the applicant briefly after the District Council submitted their letter. The conclusion for the spot zoning finding would likely be the same if the applicant were to apply to rezone to RT2, and it would be more nonconforming than if it was rezoned to RM1.

The applicant, Gary Ballman, 384 Holly Avenue, Saint Paul, said this would contribute to easing the affordable housing shortage in Saint Paul. He said that both of his neighbors are supportive. Mr. Ballman said that there is a five-unit building two doors from him and commercial on the other side of the alley and he doesn't understand why his request would be incompatible with the surrounding area.

Michael Lewis, 1335 Lincoln Avenue, Saint Paul, spoke in support. He has lived at this location since 1986 and there has never been a negative impact coming from the subject property as a duplex and he does not anticipate any if it were used as a triplex. His own experience with living on Lincoln Avenue is that it is dominated by the businesses on the Hamline-Grand Avenue corner and everything that is along Grand Avenue. There is no impact to him regarding this application.

No one spoke in opposition. The public hearing was closed.

In response to Commissioner DeJoy's question about the District Council letter, Mr. Richardson said that three- and four-unit dwellings are allowed in RT2 whereas only one or two are allowed in RT1 district. The District Council gave two reasons for their recommendation, the first was to address the housing shortage and second to alleviate the concern about spot zoning, which it would not do.

Commissioner Taghioff questioned whether the 20-foot lot width minimum per unit in the RT2 district would allow a triplex on a 40-foot lot, even under RT2.

Mr. Richardson confirmed that was correct and that would be the nonconformity that would result from rezoning to RT2.

In response to Commissioner Grill, Mr. Warner said spot zoning is a legal concept and is illegal in Minnesota. The staff report lays out how Minnesota law applies when considering zoning changes. He said this application meets the test for spot zoning and because it meets the test it is presumptively illegal. Mr. Warner said that the proximity to Grand Avenue to Lincoln doesn't prove the rule. Grand Avenue is completely different in terms of street use, scale, and occupancy compared to Lincoln Avenue. He said the staff finding suggests that there is a consistent pattern of occupancy along Lincoln and there is a definite and well understood zoning divide between Lincoln and Grand defined by the alley. Mr. Warner said that he concurs with the staff report and added that it is his legal opinion that this would constitute spot zoning. He advised that the way to address this issue is to look at the Zoning Code in light of the housing shortage and consider whether current zoning districts are too fine grained when it comes to residential density and occupancy types at this level of residential use.

The Commissioners expressed their frustration with not being allowed to approve this application based on spot zoning, and the desire to address a change in the Zoning Code to allow more multifamily residential uses.

Commissioner Taghioff said he spoke with staff about the similarities of this case and another illegal triplex that had applied for a nonconforming use permit that went before the Committee. He said the difference was that proceeding under 62.109 nonconforming use permit would not be appropriate in this case because the applicant is unable to establish a nonconforming use for 10 years or longer for this particular property. He wondered if there was any flexibility in terms of compromising any of those standards in 62.109(a), and if they are able to modify or essentially approve a nonconforming use despite noncompliance with one of those standards.

Mr. Warner said it remains a possibility. He advised that the route would be to apply for a variance from the 10-year standard, that variance standards apply and that may or may not be a difficult hurdle for the applicant to meet. He added that this is also something that needs to be discussed with staff so they could consider policy implications.

Following up on Commissioner Taghioff's question, Chair Reilly asked about the uses allowed in RT1 because one of the required findings for a variance is that the variance will not permit any use that is not allowed in the zoning district where the affected land is located, which would be the case here.

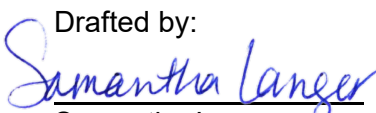
In response to Commissioner Rangel Morales, Mr. Richardson said this type of zoning issue is currently being analyzed under the 1-4 unit study. He said it would likely be addressed in the Phase 2 part of study which is anticipated to be completed sometime around late summer of 2022. The question of how many units on lower-density residentially-owned lots is one of the items being examined in the study.

Commissioner Rangel Morales said this has the potential to provide a remedy for this applicant in the near future. He suggested that as the Commission starts having discussions about that study we can remember properties like this where it makes sense to have more density and be able to sustain it.

Commissioner DeJoy moved denial of the rezoning. Commissioner Rangel Morales seconded the motion.

The motion passed by a vote of 7-0-0.

Adopted Yeas - 7 Nays - 0 Abstained - 0

Drafted by:

Samantha Langer
Recording Secretary

Submitted by:

Michael Richardson (Nov 5, 2021 10:56 CDT)
Mike Richardson
City Planner

Approved by:

Jacob Reilly (Nov 5, 2021 14:19 CDT)
Jake Reilly
Chair









21-305-090 1329-1331 Lincoln minutes_MR_v2

Final Audit Report

2021-11-05

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