

**Excerpt from the
CITY PLANNING COMMISSION MINUTES
Minneapolis Community Planning & Economic Development (CPED)**

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MEMORANDUM

DATE: February 4, 2016

TO: Zoning and Planning Committee

FROM: Jason Wittenberg, Manager, Community Planning & Economic Development – Land Use, Design and Preservation

SUBJECT: Planning Commission decisions of January 11, 2016

The following actions were taken by the Planning Commission on January 11, 2016. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Committee Clerk

Lisa Kusz - 612.673.3710

Commissioners present

Matthew Brown, President | John Slack, Vice President
Lisa Bender | Rebecca Gagnon | Ben Gisselman | Ryan Kronzer | Nick Magrino | Sam Rockwell

Commissioners absent

Alissa Luepke Pier, Secretary

2. 3200 Bryant Ave S, Ward 10

Staff report by [Mei-Ling Smith](#), BZZ-7523.

The City Planning Commission adopted staff findings for the application by David Merryfield.

A. Rezoning.

Action: The City Planning Commission recommended that the City Council **approve** the application to rezone the property located at 3200 Bryant Ave S from the R2B Two-Family District to the CI Neighborhood Commercial District.

Aye: Bender, Gagnon, Gisselman, Kronzer, Magrino, Rockwell and Slack

Absent: Luepke-Pier

Staff Smith presented the staff report.

Not Approved by the Commission

Dave Merryfield (3344 Fremont Ave S): I'm looking to bring some rejuvenation into that space. That's the reason for splitting the space in two. I think the planner and the results of her assessment probably speak for themselves with the recommendation. I'm hoping you'll support it.

Lee Switzenberg (1816 Colfax Ave S): I own two small apartment buildings near here. I've been active in trying to keep this a nice neighborhood. I'm sure this used to be a lovely market. If I'm working at one of the apartments that I renovated, it was handy to get what I needed so nearby. It serviced the immediate neighbors. I advertised it to my renters as a very ugly, but convenient convenience store. It was the quietest business in town. They put a nice mosaic on the building, but it has since been removed, which is ok because this gentleman did a nice renovation on the exterior of the building. They now call it Lyn-Lake. It's well served by commercial properties. It's zoned R2B. I think we're here because it's out of compliance with the current use as it was built. Most of the buildings on this particular street and the two I own are also nonconforming to the zoning as it's written. It's a beautiful neighborhood. I don't know what's going to come in there now because if you change the zoning from R2B to C1 there won't be too much neighborhood input on what goes on and it could be a number of things. There's a lot of single family homes close by and I've heard that this gentleman has generated quite a bit of support. I'm thinking there's going to be signage if they put a restaurant in, which may or may not have enough parking spaces and I believe they can stay open until 2:00 a.m. There are many potential uses that could come into this building if it goes C1 and is no longer nonconforming. This would be a C1 parcel in a sea of R2B and to do it would open up any other property owner who has nonconforming property on the block ask to have their zoning change to how the building was intended to be used. I think there are a lot of people who would hope to take advantage of that.

Pamela Meyerhoff (911 W 32nd St): I'm concerned about bar/restaurant/late night active businesses going in here and I'm concerned that changing the zoning of this will open the door to possibly creating a situation that would seriously impact my property because there isn't any parking or room for garbage. This was built before many current regulations. I want to make sure the property stays zoned residential with a variance to use for limited purposes. It was a quite property with very little problems except for usual graffiti.

President Brown closed the public hearing.

Commissioner Kronzer: Mei-Ling, has the property lost its nonconforming status?

Staff Smith: No.

Commissioner Kronzer: Can you remind us what basic uses are allowed in C1?

Staff Smith: General retail sales and services, bakeries...the intent is to have small scale neighborhood serving uses like a small bank, antique store, not a pawn shop, not auto repair, or liquor store. You could have a restaurant with limited entertainment. The space is very limited, the building is approximately 2400 square feet so if the property owner chooses to use that, they would be limited for how they use the building and they'd be restricted from a Licensing standpoint as well. Under current zoning you could do a single family home or two family home. Very few nonresidential uses would be allowed and most of them have a minimum lot area requirement of 10,000 or 20,000 square feet.

Commissioner Gagnon: Are there any alternatives to let him build what he'd like to build other than rezoning?

Staff Smith: Staff has responded to the finding about whether there are any other reasonable uses other than the current zoning. If they were to do a single family home or duplex there they would have to get a minimum lot

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area variance. They'd also have to get the same variance for any other nonresidential use that they would use. We find that there are almost no reasonable uses under the existing zoning for that property.

Commissioner Gagnon: But there's alternative methods to achieving...

Staff Smith: Yes. The applicant came in with a rezoning request, but they have they have the option also to request a change of nonconforming use if they wanted to. They could have pursued that. Every time the use changes they have to go through the public hearing process again because of its nonconforming status.

Commissioner Bender: I'll move to follow the staff recommendation and grant the rezoning to C1 (Kronzer seconded). This is in the 10th ward. We've seen a few of these recently where this is a building that was clearly built for commercial purposes and was rezoned because one philosophy of zoning is to take certain areas of the city and blocks and zone them for future use. It is a bit unusual to have one C property in a sea of R2B, but I do think that given the historic form of this neighborhood and the fact that this is a commercial building, I think there is a good argument for the C zoning. Putting the constant need to come back for applications for a nonconforming use creates a lot of uncertainty for an owner of a commercial building. These small buildings can be more challenging to rent. I hear a lot from folks that they like to have these neighborhood serving businesses nearby. This is a very small site so I think it's very unlikely to have something like a restaurant here, but if there was, any use that needed a liquor license, we have other controls in place that would allow us to set the hours of operation of any kind of restaurant or any place that serves alcohol. I feel comfortable with those regulations allowing us to mitigate any kind of impacts on neighbors. I recognize that this is close to residential, but that's often the case in our commercial corridors as well. I think it's appropriate here to think forward and think how we imagine this building will be used in the future. I think it's unreasonable to consider that this will be used for residential, but I think it's clearly a commercial building and it seems appropriate to me for it to have the neighborhood scale commercial zoning.

Commissioner Rockwell: I think if we require an application for nonconforming use, reality is this building will end up being vacant, which is worse for the neighborhood.

President Brown: Bryant Avenue is considered a community corridor in the Comprehensive Plan which generally supports C1 zoning. We've also established more of a precedent in recent years of accommodating these small stand-alone commercial buildings that have been there for many years. We've seen if they remain nonconforming uses, a lot of times they just remain vacant. The economics do not work for someone to tear down a building like that and build a single family house or duplex. I think this makes a lot of sense. The C1 zoning district is still pretty restrictive. It's intended for buildings like this that are very small.

Aye: Bender, Gagnon, Gisselman, Kronzer, Magrino, Rockwell and Slack

Absent: Luepke-Pier