



## Request for City Council Committee Action from the Department of Community Planning & Economic Development—Planning Division

Date: July 31, 2008

To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

Referral to: Zoning & Planning Committee

**Subject:** Appeal of the decision of the City Planning Commission denying applications to allow for the legalization of an existing efficiency dwelling unit within an existing multiple family residence located at 1801 1<sup>st</sup> Avenue South.

**Recommendation:** The following action was taken by the Planning Commission on July 7, 2008 (BZZ-4027):

**6. 1801 1st Ave S (BZZ-4027, Ward: 6), 1801 1<sup>st</sup> Ave S (Shanna Sether).**  
**This item was continued from the June 16, 2008 meeting.**

**A. Conditional Use Permit:** Application by Kirk Moorhead, on behalf of Housing 150, LLC, for a conditional use permit for the property located at 1801 1st Ave S in the OR3 Institutional Office Residence District.

**Action:** The City Planning Commission accepted the findings and **denied** the application for the conditional use permit to increase the number of dwelling units from 20 to 21 for an existing multiple-family dwelling located at 1801 1st Ave S in the OR3 Institutional Office Residence District.

**B. Variance:** Application by Kirk Moorhead, on behalf of Housing 150, LLC, for a variance to reduce gross floor area requirement for an efficiency dwelling unit from 350 square feet to 272 square feet for the property located at 1801 1st Ave S in the OR3 Institutional Office Residence District.

**Action:** The City Planning Commission accepted the findings and **denied** the application for the variance to reduce the minimum floor area requirement for an efficiency dwelling unit from 350 square feet to 272 square feet for a proposed dwelling within an existing multiple-family dwelling located at 1801 1st Ave S in the OR3 Institutional Office Residence District.

**Ward: 6**

Prepared by: Shanna Sether, Senior Planner (612-673-2307) Approved by: Jason Wittenberg, Planning Supervisor Presenters in Committee: Shanna Sether, Senior Planner
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**Financial Impact**

- No financial impact

**Community Impact**

- Neighborhood Notification: Stevens Square Community Organization was notified of the applications.
- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: On June 30, 2008, staff sent a letter to the applicant extending the 60 day decision period to no later than September 19, 2008.

**Supporting Information**

Kirk Moorhead, on behalf of Plymouth Church Neighborhood Foundation, has filed an appeal of the decision of the City Planning Commission denying applications for a conditional use permit to increase the maximum number of dwelling units from 20 to 21 and a variance to reduce the minimum gross floor area of an efficiency dwelling unit from 350 square feet to 272 square feet for an existing multiple family residence located at 1801 1<sup>st</sup> Avenue South in the OR3 Institutional Office Residence District. The dwelling unit in question is existing; however, it has not been legally established. At its meeting on July 7, 2008, the City Planning Commission voted 6-1 to deny both applications that would allow for the legalization of the existing dwelling unit. The appeal (attached) was filed on July 17, 2008. The City Planning Commission minutes and Planning Division staff report are attached.

The appellants have stated that the decisions are being appealed in the interest of preserving affordable housing. The appellants contend that converting the existing lower level apartment into a legal apartment is consistent with the required findings for the conditional use permit and variance. In addition, a great deal of public financing has been dedicated to the project and in order to maximize the impact of the public investment, the additional unit should be allowed to be legalized and licensed. The appellant's complete statement of the action being appealed and reasons for the appeal are attached.

**Department of Community Planning and Economic Development – Planning Division**  
**Conditional Use Permit and Variance**  
BZZ-4027

**Date:** July 7, 2008

**Applicant:** Plymouth Church Neighborhood Foundation

**Addresses of Property:** 1801 1st Avenue South

**Project Name:** 1801 1st Avenue South

**Contact Person and Phone:** Kirk Moorhead, (612) 871-0890

**Planning Staff and Phone:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** May 22, 2008

**End of 60-Day Decision Period:** July 21, 2008

**End of 120-Day Decision Period:** Staff sent a letter to the applicant on June 30, 2008, extending the decision period to no later than September 19, 2008.

**Ward:** 6      **Neighborhood Organization:** Stevens Square Community Organization

**Existing Zoning:** OR3 Institutional Office Residence District

**Zoning Plate Number:** 20

**Legal Description:** Not applicable for this application

**Proposed Use:** Add one additional dwelling unit within an existing multiple family structure

**Concurrent Review:**

- Conditional use permit to increase the number of dwelling units from 20 to 21 for an existing multiple-family dwelling located at 1801 1st Avenue South in the OR3 Institutional Office Residence District.
- Variance to reduce gross floor area requirement for an efficiency dwelling unit from 350 square feet to 272 square feet.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances, Chapter 530 Site Plan Review, Chapter 535 General Rules of Applicability, Chapter 541 Off-Street Parking and Loading Chapter 548, Article I, Commercial Districts

**Background:** This item was continued from the June 17, 2008, City Planning Commission public hearing to allow for the correct notices to be sent out. The applicant, Kirk Moorhead, on behalf of Plymouth Neighborhood Church Foundation proposes to legalize one additional dwelling unit in an existing 20-unit multiple-family residence located at 1801 1st Avenue South. The property is located in the Stevens Square Historic District and the structure is contributing to the district.

In 1914, a three-story, 19-unit residential structure with a garden level was constructed on the subject site. In 1969, the previous property owner was granted a legal 20th dwelling unit on appeal of the Zoning Administrator’s decision by the Board of Adjustment. Recently, a 21st dwelling unit, 272 square feet in area, was identified in the garden level of the structure. The zoning office determined that this 21st unit was not legally established. A multiple-family dwelling is allowed as a conditional use in the OR3 District. The property is deemed to have a conditional use permit for the existing twenty dwelling units. The proposal to legalize the existing 21<sup>st</sup> dwelling unit requires a modification of the conditional use permit. Unit “B2”, as referred to on the floor plan, has less floor area than the minimum requirement for an efficiency unit, which is 350 square feet. Therefore the applicant is requesting a variance to reduce the minimum floor area requirement of an efficiency unit from 350 square feet to 272 square feet.

As of the writing of this staff report, staff has not received any correspondence from the neighborhood organization. Staff will forward additional comments, if any are received, at the City Planning Commission meeting.

**CONDITIONAL USE PERMIT:** to allow for an additional 21<sup>st</sup> dwelling unit within an existing 20-unit multiple family residence.

Findings as required by the Minneapolis Zoning Code for the conditional use permit:

The Community Planning and Economic Development Planning Division has analyzed the application and from the findings below concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. **Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The applicant is proposing to legalize an existing 21<sup>st</sup> dwelling unit within an existing residential structure. Generally one additional dwelling unit on the site should not prove detrimental to public health, safety, comfort or general welfare provided the building complies with all applicable building codes and life safety ordinances; however, the City Council has an adopted an ordinance that, for public welfare purposes and to avoid overcrowding, an efficiency unit must be at least 350 square feet. The proposed dwelling unit is only 272 square feet in area.

2. **Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The surrounding area is fully developed. One additional dwelling unit should not affect any development or improvement of surrounding properties.

**3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The site is served by existing infrastructure. The structure does not have an off-street parking area. The applicant is proposing to provide four bicycle lockers along the alley to meet the increased parking requirement of one off-street parking space or four bicycle parking spaces.

**4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The structure was built in 1914 as a 19-unit apartment building and granted rights to a 20-unit building in 1969. Off-street parking was not required at the time the building was constructed and was deemed to be sufficient at the time the building was converted to 20 dwelling units. The proposed dwelling unit requires one off-street parking space. The Zoning Code allows a reduction of one off-street parking stall with the installation of a bicycle parking supporting a minimum of four bicycles. The applicant is meeting this requirement by providing four bicycle lockers that are located adjacent to the alley. The additional dwelling unit would likely increase traffic congestion in the area.

**5. Is consistent with the applicable policies of the comprehensive plan.**

According to Map 9.10, as found in The Minneapolis Plan, this site is designated as multifamily residential. In the Marketplaces: Neighborhoods chapter found in The Minneapolis Plan, Policy 4.9 states that, “Minneapolis will grow by increasing its supply of housing.” One of the implementation steps of this policy states that the City should “support the development of new medium- and high-density housing in appropriate locations throughout the City.” The sites proximity to downtown makes it appropriate for higher density and could be in compliance with the goals of The Minneapolis Plan.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located, with the approval of this conditional use permit.**

The use of the site for a multi-family residence would conform to the applicable regulations of the districts in which it is located upon approval of the variance to reduce floor area requirement for an efficiency unit. However, staff is recommending denial of the proposed variance.

**VARIANCE** – to reduce the minimum gross floor area (GFA) requirement of an efficiency unit from 350 square feet to 272 square feet

**Findings Required by the Minneapolis Zoning Code:**

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The minimum floor area requirement for dwelling unit is 500 square feet and 350 square feet for an efficiency unit. There are twenty legally established units; 18 are one-bedroom apartments at approximately 550 square feet, and 2 are two-bedroom apartments at approximately 730 square feet. The proposed unit is an efficiency unit. Adjacent to the proposed dwelling unit is a storage room. Additional area could be added to the proposed dwelling unit by adding area from the existing storage room and thereby eliminating the need for the variance. However, the applicant has stated that adjustments to the interior walls would require additional building code compliance, including fire suppression and handicapped accessibility. The existing number of legal units is a reasonable use of the property and strict adherence to the regulations should not cause undue hardship.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The site has close proximity to downtown with nearby transit options. It is an area appropriate for higher density housing. The twenty units that have been legally established are a reasonable use of the property. The proposed unit that was illegally established resulted in a nonconforming unit size. Although the illegal establishment of the existing unit may not have been a circumstance created by the current owners, it is not a circumstance that is related to the parcel of land.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The granting of the variance should not affect surrounding uses. The purpose of the minimum unit size is to distinguish between a rooming unit and a dwelling unit and to avoid overcrowding. If the twenty-first unit is a separate living quarter with a complete kitchen facility, sleeping area and bathroom, the intent of the ordinance would be met.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

The Planning Department does not expect that granting the variance would affect congestion of the public streets. Generally one additional dwelling unit on the site should not prove detrimental to public health or endanger the public safety provided the building complies with all applicable

building codes and life safety ordinances; however, the City Council has an adopted an ordinance that, for public welfare purposes and to avoid overcrowding, an efficiency unit must be at least 350 square feet. The proposed dwelling unit is only 272 square feet in area.

## **RECOMMENDATIONS:**

### **Recommendation of the Department of Community Planning and Economic Development— Planning Division for the Conditional Use Permit:**

The Department of Community Planning and Economic Development—Planning Division recommends that the City Planning Commission and the City Council accept the above findings and **deny** the application for the conditional use permit to increase the number of dwelling units from 20 to 21 for an existing multiple-family dwelling located at 1801 1st Avenue South in the OR3 Institutional Office Residence District.

### **Recommendation of the Department of Community Planning and Economic Development— Planning Division for the Variance:**

The Department of Community Planning and Economic Development—Planning Division recommends that the City Planning Commission and the City Council accept the above findings and **deny** the application for the variance to reduce the minimum floor area requirement for an efficiency unit from 350 square feet to 272 square feet for a proposed dwelling within an existing multiple-family dwelling located at 1801 1st Avenue South in the OR3 Institutional Office Residence District.

### **Attachments:**

1. Written descriptions and findings submitted by the applicant
2. April 23, 2008, e-mail to Stevens Square Neighborhood Organization and CM Lilligren
3. Zoning map
4. Survey
5. Architectural plans
6. Bicycle locker specifications
7. Building Index Cards (1914-1973)
8. Photographs
9. Oblique aerials

**Excerpt from the  
CITY PLANNING COMMISSION  
MINUTES**

**Minneapolis Community Planning & Economic Development (CPED)  
Planning Division**

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Minneapolis, MN 55415-1385  
(612) 673-2597 Phone  
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**MEMORANDUM**

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DATE: July 10, 2008

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of July 7, 2008

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The following actions were taken by the Planning Commission on July 7, 2008. 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:

Commissioners present: President Motzenbecker, Gorecki, Huynh, LaShomb, Nordyke, Norkus-Crampton, Schiff, and Tucker – 8

Commissioners not present: Luepke-Pier (excused) and Williams

Committee Clerk: Lisa Baldwin (612) 673-3710

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**3. Zoning Code Text Amendment (Ward: All), ([Brian Schaffer](#)).**

**A. Text Amendment:** Amending Title 20, Chapter 531 of the Minneapolis Code of Ordinances related to the Zoning Code: Nonconforming Uses and Structures.

The purpose of the amendment is to extend the length of time a legal nonconforming single or two family structure containing a conforming use that is damaged or destroyed has to apply for a building permit before the nonconforming rights are lost.

**Action:** The City Planning Commission recommends that the City Council adopt the findings and **approve** the zoning code text amendment, amending section 531.40.

**4. Zoning Code Text Amendment (Ward: All), ([Erik Nilsson](#)).**

**A. Text Amendment:** Amending Title 20, Chapter 520 of the Minneapolis Code of Ordinances related to the Zoning Code: Introductory Provisions and Title 20, Chapter 525 of the Minneapolis Code of Ordinances related to the Zoning Code: Administration and Enforcement.

The purpose of the amendment is to provide a codified process for making a request for an exception from generally-applicable zoning requirements based on a claim that the request is a “reasonable accommodation” under federal law.

**Action:** The City Planning Commission recommends that the City Council adopt the findings and **approve** the zoning code text amendment, noting that the words “immediately adjacent” should be used in place of “immediately abutting.”