

## Community Planning and Economic Development - Planning Division Report

Appeal of the Decision of the Zoning Administrator  
BZZ-2324

**Date:** May 19<sup>th</sup>, 2005

**Applicant:** Kathleen Grendahl

**Address of Property:** 209 West 15<sup>th</sup> Street

**Contact Person and Phone:** Kathleen Grendahl, (612) 870-7878

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

**Date Application Deemed Complete:** April 25<sup>th</sup>, 2005

**End of 60 Day Decision Period:** June 24<sup>th</sup>, 2005

**Ward:** 7      **Neighborhood Organization:** Citizens for Loring Park Community

**Existing Zoning:** OR3 – Institutional Office Residential District, DP – Downtown Parking Overlay District

**Appeal of the decision of the Zoning Administrator:** Kathleen Grendahl has filed an appeal of the decision of the Zoning Administrator denying the establishment of a 14<sup>th</sup> dwelling unit in an existing apartment building located at 209 West 15<sup>th</sup> Street in the OR3 District.

**525.170. Appeals of decisions of the zoning administrator.** All findings and decisions of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within twenty (20) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

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**Background:** The applicant is appealing the decision of the Zoning Administrator denying the establishment of a 14<sup>th</sup> dwelling unit in an existing apartment building in the OR3 district. The subject property is approximately 57 ft. x 139 ft. (7,964sq. ft.) and is referenced and registered as a 13-unit apartment building. A 14<sup>th</sup> dwelling unit was discovered during an inspection conducted by the Fire Department on November 30<sup>th</sup>, 2004. The current Zoning Ordinance allows for up to 26 dwelling units based on the density in the OR3 district and the lot area. The Zoning Administrator has determined that the applicant would require a Conditional Use Permit to allow for the establishment of the 14<sup>th</sup> dwelling unit. However, there is sufficient parking on the same zoning lot, located at 219 15<sup>th</sup> Street West, and therefore a parking variance would not be required. The applicant is appealing this decision of the Zoning Administrator to establish rights to the 14<sup>th</sup> dwelling unit, without a conditional use permit, for an apartment building located in the OR3 district. The applicant must submit evidence to show that the property has continuously existed as 14 dwelling unit apartment building and show legal conversion in order to establish legal nonconforming rights to the additional unit or obtain a conditional use permit.

Upon review of city building permits, a 13-unit apartment building was constructed on the property May 17<sup>th</sup>, 1913. On December 22, 1933, the City of Minneapolis conducted a Building and Housing Survey of this property and showed the total number of dwelling units to be 13. The survey from 1933 also indicated that there are 13 dwelling units total and one of the units was located in the basement. Upon inspection of the building, City staff found two units in the basement labeled B1 and B2. In 1986, a permit was issued to repair fire damage and the inspection record shows 13 dwelling units referenced and registered. Rental license history of this property shows a continuous use of 13 dwelling units since 1991.

Under the 1963 Zoning Code, the subject site was zoned B1-3, Office-Residence District. . The B1-3 district would have also allowed up to 26 dwelling units based on the density in the district and the lot area. An apartment building, at this time, would have required a conditional use permit to legalize a 14 dwelling unit. In addition, a building permit would have been required to convert the structure from 13 dwelling units to 14. The City of Minneapolis' records do not indicate the legal addition of a 14<sup>th</sup> dwelling or any permits that indicate more than 13 dwelling units.

**Analysis:** The applicant is requesting that in lieu of the application for a conditional use permit she would be willing to pay \$55 for a conversion permit and \$1450 for a sewer availability charge to have the building registered as a 14 dwelling unit apartment building. This process was outlined by the Plan Review Department, in order to achieve building code compliance. However, the applicant must obtain a conditional use permit to receive zoning approval for the conversion permit.

Any use containing five dwelling units or more, new or additional, requires a conditional use permit. For example, if someone obtains a conditional use permit for a new apartment building with 19 dwelling units, they cannot build an additional 20<sup>th</sup> unit. The addition of the 20<sup>th</sup> dwelling unit would require a new conditional use permit.

Staff found evidence that indicates that the property was constructed as and has been used as a 13 dwelling unit apartment building. Staff believes that the legal nonconforming rights for the additional 14<sup>th</sup> dwelling unit were not established on this property. Staff could not find evidence that proves the

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use was ever legally established. The applicant did not provide evidence that the property has been used as a 14 dwelling unit apartment building.

**Findings:**

1. The property was established when a 13 unit apartment building was constructed on the lot in 1913.
2. In 1933, the Building and Housing survey indicated that there were 13 dwelling units.
3. In 1963, the property was zoned B1-3 Office Residence District and would have allowed up to 26 dwelling units.
4. In 1986, a permit was issued for fire damage repair and the permit indicated 13 referenced and registered dwelling units.
5. Since 1991, the property has been registered through rental licenses for 13 dwelling units.
6. In 1999, the property was zoned OR3 – Institutional Office Residential District and would allow the legalization of the 14<sup>th</sup> dwelling unit with a conditional use permit.
7. Buildings with five or more units require a conditional use permit. Adding any number of dwelling units to an existing building with five or more units requires a conditional use permit

**Recommendation of the CPED Department Planning Division:**

The Department of Community Planning and Economic Development Planning Division recommends **denial** of the appeal of the decision of the Zoning Administrator.