

Department of Community Planning and Economic Development – Planning Division
Rezoning
BZZ-4997

Date: December 13, 2010

Applicant: Marlin Frank

Address of Property: 3104 45th Avenue South

Project Name: 3104 45th Avenue South Rezoning

Contact Person and Phone: Marlin Frank, (651) 492-1706

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

Date Application Deemed Complete: October 27, 2010

End of 60-Day Decision Period: December 26, 2010

End of 120-Day Decision Period: February 24, 2011 (*extension letter sent November 17, 2010*)

Ward: 12 **Neighborhood Organization:** Longfellow Community Council

Existing Zoning: R1A Single-Family Residence District

Proposed Zoning: R2B Two-Family Residence District

Zoning Plate Number: 28

Legal Description: WALTONS 7TH ADDN TO SEVEN OAKS MPLS, Block 3, Lots 1-3

Proposed Use: two-family dwelling

Rezoning Petition: change the zoning classification from R1A Single-Family District to R2B Two-Family District to allow for the legal conversion of a single-family dwelling to a two family dwelling.

Applicable zoning code provisions: Chapter 525, Article VI, Zoning Amendments, Chapter 546 Residence Districts

Background and Analysis: The subject property is approximately 120 ft. by 117 ft. (14,040 sq. ft.). The first building permit on the property was to allow for a 28 ft. by 42 ft. brick and stucco single-family dwelling with a 20 ft. by 22 ft. detached garage in 1922. The Building and Housing Survey conducted in 1934 indicated the use of the property was a single-family dwelling with a doctor's office in the basement. A two-family dwelling would have been a permitted use on the subject property until 1963,

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when the property was rezoned to R1A Single-Family District. A two-family dwelling is a prohibited use in the R1A Single-Family District.

The present use of the property is a two-family dwelling. City records indicate that the legal use of the property is a single-family dwelling. The property owner applied for a certificate of nonconforming use to legally establish a two-family dwelling in the R1A District. The applicant had provided a copy of the 1930 United States Federal Census form and an online article referencing a previous property owner as evidence of the use as a two-family dwelling prior to the zoning change to R1A in 1963. The Zoning Board of Adjustment denied the application for the certificate of a nonconforming use on September 16, 2010, per section 531.30(4) of the zoning code, under which the applicant must bear the burden of proof to illustrate clear and convincing evidence that the use of the property was legally established as a two-family dwelling prior to 1963 and not discontinued for a period in excess of one (1) calendar year.

The applicant is now petitioning to rezone the property from R1A Single-Family to R2B Two-Family District to allow for the legal conversion of a single-family to a two family dwelling. The subject property exceeds the minimum lot area required to allow for the conversion from a single-family dwelling to a two-family dwelling in the R2B District and meets the minimum off-street parking requirement of two parking spaces. If the petition to rezone the property is approved, the applicant will be required to obtain building permits to legally convert the use from a single-family to a two-family dwelling and meet current applicable codes.

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

REZONING

Findings As Required By The Minneapolis Zoning Code:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

The subject property's existing land use classification is low-density housing, which is primarily single family and two-family residential, with less than 20 dwelling units/acre. The proposed use of a two-family dwelling is consistent at six dwelling units per acre. The property is designated *Urban Neighborhood* on the future land use map of the comprehensive plan. East Lake Street, a commercial corridor, is one block north of the subject property. The urban neighborhood classification is predominately a residential area with a range of densities, with highest densities generally to be concentrated around identified nodes and corridors.

a. According to the principles and polices outlined in *The Minneapolis Plan for Sustainable Growth*, the following policies are relevant to the rezoning:

Policy 3.6: Foster complete communities by preserving and increasing high quality housing opportunities suitable for all ages and household types.

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3.6.4 Provide and maintain moderate and high-density residential areas, as well as areas that are predominantly developed with single and two family structures.

Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses.

1.8.1 Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.

1.8.2 Advance land use regulations that retain and strengthen neighborhood character, including direction for neighborhood serving commercial uses, open space and parks, and campus and institutional uses.

1.8.3 Direct uses that serve as neighborhood focal points, such as libraries, schools, and cultural institutions, to designated land use features.

Policy 8.8: Preserve neighborhood character by preserving the quality of the built environment.

8.8.1 Preserve and maintain the character and quality of residential neighborhoods with regulatory tools such as the zoning code and housing maintenance code.

Staff comment: The surrounding area is predominately developed with single and two-family structures. The proposed use will occur within the existing structure, although a new two-family dwelling could be constructed if the rezoning is approved. The subject property includes three platted lots; if the structure were to be removed, 3 single-family homes would be allowed per the zoning code. The lot area is not large enough to accommodate more than one two-family dwelling if the property were to be subdivided into two lots. The applicant is not intending to demolish, remodel or add on to the existing structure to allow for the second dwelling unit. The proposed rezoning is consistent with these goals of *The Minneapolis Plan for Sustainable Growth*.

b. Consistency with plans:

This property is not located within a study area governed by additional small area or master plans.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

The amendment is primarily in the interest of the property owner. However, the surrounding area is predominately developed with single and two-family structures. The proposed use will occur within the existing structure. The subject property includes three platted lots; if the structure were to be removed, 3 single-family homes would be allowed per the zoning code. The applicant is not

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intending to demolish, remodel or add on to the existing structure to allow for the second dwelling unit. Further, the applicant has stated that the second dwelling unit has existed in the building prior to 1930.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The nearest R2B zoning is approximately one block to the north. The zoning along Lake Street is C1 Neighborhood Commercial District and C2 Neighborhood Corridor Commercial District. The property directly to the south is also a two-family dwelling. There is a mix uses in the area, including single and two-family uses, commercial uses and a two institutional uses, Minnehaha Academy and the vacant Cooper Elementary School. Given the surrounding uses and zoning classifications, the amendment of this zoning classification to R2B is compatible with the immediate area.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

The structure is currently being used as a two-family dwelling, although the legal use of the property is a single-family dwelling. The property owner applied for a certificate of nonconforming use to legally establish a two-family dwelling in the R1A District. The Zoning Board of Adjustment denied the application for the certificate of a nonconforming use on September 16, 2010, per section 531.30(4) of the zoning code, under which the applicant must bear the burden of proof to illustrate clear and convincing evidence that the use of the property was legally established as a two-family dwelling prior to 1963 and not discontinued for a period in excess of one (1) calendar year.

The R2B Two-family District is established to provide for an environment of predominantly low density, single and two-family dwellings and cluster developments. The surrounding area is predominately developed with single and two-family structures. The proposed use will occur within the existing structure. The subject property includes three platted lots; if the structure were to be removed, 3 single-family homes would be allowed per the zoning code. The applicant is not intending to demolish, remodel or add on to the existing structure to allow for the second dwelling unit. Staff feels as though there is reasonable use of this property as either a single- or two-family dwelling permitted by the proposed zoning classification.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

From 1924, the first year the City of Minneapolis had a codified zoning ordinance, to 1963, the property was zoned Residence District. A two-family dwelling was a permitted use at the time of the building's construction in 1922 through 1963. The property was rezoned to R1A Single-Family

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Residence District in 1963 with the adoption of the new zoning ordinance. The property has been continuously zoned R1A Single-Family District since 1963.

In 1992, the city council directed staff to commence a zoning study of the R2B District and the effects of conversion of single-family to two-family dwellings and enacted a moratorium on conversions. As a result of the study, the city council concluded that in order to maintain the low density character of single-family neighborhoods and promotion of home ownership, maintenance and investment in residential property, two-family dwellings established January 1, 1995, were required to have a minimum lot area of 10,000 square feet instead of 5,000 square feet. Further, the city council concluded that two-family dwellings existing on January 1, 1995, are permitted uses with a minimum of 5,000 square feet of lot area. The existing two-family dwellings are on lots less than 10,000 square feet in lot area, whereas the proposed two-family dwelling will be located on a lot sufficient in area.

The surrounding area is predominately developed with single and two-family structures. The character or trend in development of the area has not changed significantly. The proposed use will occur within the existing structure. Staff believes that the proposed amendment will be in character and consistent within the surrounding area.

RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the rezoning:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the rezoning petition to change the zoning classification for the property located at 3104 45th Avenue South from R1A Single-Family District to R2B Two-Family District to allow for the legal conversion of a single-family dwelling to a two family dwelling.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copies of letters sent to the neighborhood organization and council office
- 3) Correspondence from a neighbor
- 4) Zoning map
- 5) Existing Land Use map
- 6) Future Land Use map
- 7) Rezoning matrix
- 8) Site plan
- 9) Floor plan
- 10) Photos