

Department of Community Planning and Economic Development – Planning Division
Rezoning & Variance
BZZ-5211

Date: August 1, 2011

Applicant: Jen Nichols

Address of Property: 2747 Thomas Avenue North

Project Name: 2747 Thomas Avenue North Rezoning

Contact Person and Phone: Jen Nichols, (612) 251-2408

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

Date Application Deemed Complete: June 27, 2011

End of 60-Day Decision Period: August 25, 2011

End of 120-Day Decision Period: October 24, 2011 (*Extension letter sent July 15, 2011*)

Ward: 4 **Neighborhood Organization:** Jordan Area Community Council

Existing Zoning: R1A Single-Family District

Proposed Zoning: R2B Two-Family District

Zoning Plate Number: 7

Legal Description: Lot 000, Block 001, RADISSON PARK ADDN S 11 5/10 Ft Of Lot 2 All Of Lot 3 And N 28 5/10 Ft Of Lot 4 Lots 2 3 And 4

Proposed Use: A two- family dwelling

Concurrent Review

- Rezoning Petition to change the zoning classification from R1A Single-Family District to R2B Two-Family District
- Variance to reduce the minimum lot area from 10,000 sq. ft. to 9,934 sq. ft. (<1%)

Applicable zoning code provisions: Chapter 525, Article VI, Zoning Amendments, Chapter 525, Article IX Variances, Specifically Section 525.520(2) “to vary the minimum lot area” and Chapter 546 Residence Districts

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Background and Analysis: The subject property is located on an irregular parcel, approximately 80 ft. by 110 ft. by 83 ft. by 128 ft. (9,934 sq. ft.). The first building permit on the property was to allow for a 63.6 ft. by 33 ft. double-dwelling with a 20 ft. by 22 ft. detached garage in 1952.

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 1952 through 1963. The property was split zoned to R1A Single-Family Residence District and B3SP Community Service District in 1963 with the adoption of the new zoning ordinance. The entire property was zoned R1A Single-Family District since 1999. A two-family dwelling is a prohibited use in the R1A District and the use is nonconforming.

Title records indicate that the nonconforming use of the property as a two-family dwelling was abandoned in January 2010 when the building went into foreclosure. A nonconforming use may continue and the property shall retain its legal nonconforming rights to the use under the condition that the use is not discontinued for a continuous period of more than one (1) year per section 531.40 (a)(1) of the zoning code:

531.40. Loss of nonconforming rights. (a) Discontinuance. (1) In general. If a nonconforming use or structure is discontinued for a continuous period of more than one (1) year, it shall be deemed to be abandoned and may not thereafter be reestablished or resumed. Any subsequent use of the land or structure shall conform to the requirements of the district in which it is located.

The present owner purchased the two-family dwelling on January 27, 2011 and the nonconforming rights to continue the use as a two-family dwelling expired in January 2011. The applicant would be required to either convert the existing two-family dwelling to a single-family dwelling, rebut abandonment through a nonconforming use certificate or petition to rezone the property to a district that would allow for a two-family dwelling. Based on the allowed options, the applicant is petitioning to rezone the property from R1A Two-Family District to R2B Multiple Family District to allow for the legal establishment of a two-family dwelling.

A two-family dwelling in the R2B District requires a minimum lot area requirement of 10,000 sq. ft. The subject property is approximately 9,934 sq. ft. and does not have the minimum lot area required to allow for a two-family dwelling. Therefore, the applicant has applied for a variance to reduce the minimum lot area from 10,000 sq. ft. to 9,934 sq. ft. (<1%).

Staff has not received any correspondence from the Jordan Area 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.**

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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 8.75 dwelling units per acre. The property is designated *Urban Neighborhood* on the future land use map of the comprehensive plan. West Broadway, a community corridor, is one-half block west 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.

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.

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 continue as a two-family dwelling; the use which was established on the property in 1952. 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 and allow for the use to continue as it has for nearly 60 years. The applicant is not intending to demolish, remodel or add on to the existing structure to allow for the second dwelling unit.

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.

A range of zoning classifications exists in the area. The nearest R2B zoning is located on the corner for 29th Avenue North and Thomas Avenue North. The zoning along West Broadway is OR1 Neighborhood Office Residence District, OR2 High-Density Office Residence District, R4 and R5 Multiple Family Districts. The properties directly to the west and southwest are zoned OR2. There are a mix uses in the area, including single and two-family uses, office and commercial uses. 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 present owner purchased the two-family dwelling on January 27, 2011 and the nonconforming rights to continue the use as a two-family dwelling expired in January 2011. The applicant would be required to either convert the existing two-family dwelling to a single-family dwelling, rebut abandonment through a nonconforming use certificate or petition to rezone the property to a district that would allow for a two-family dwelling. Based on the allowed options, the applicant is petitioning to rezone the property from R1A Two-Family District to R2B Multiple Family District to allow for the legal establishment of a two-family dwelling.

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 applicant is not intending to demolish, remodel or add on to the existing structure to allow for the second dwelling unit. The subject property is greater in area than the majority of the single- and two-family zoned properties in the vicinity. 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 1952 through 1963. The property was split zoned to R1A Single-Family Residence District and B3SP Community Service District in 1963 with the adoption of the new zoning ordinance. The entire property was zoned R1A Single-Family District since 1999. A two-family dwelling is a prohibited use in the R1A District and the use is nonconforming.

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 dwelling is on a lot 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.

VARIANCE: to reduce the minimum lot size requirement from 10,000 square feet to 9,934 square feet (<1 percent) to allow for an additional dwelling unit within an existing building.

Findings as required by the Minneapolis Zoning Code:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

There are practical difficulties unique to the property and were not created by the applicant. The lot is 9,934 sq. ft. in size and the use of a two-family dwelling was established in 1952. 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 dwelling is on a lot less than 10,000 square feet in lot area, whereas the proposed two-family dwelling will be

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located on a lot sufficient in area. The applicant would need to acquire an additional 66 sq. ft. of land to add the proposed dwelling unit within the existing building on the subject site without a variance. This would be difficult to obtain because the adjacent properties are developed. Staff does not believe the existing lot size of the property is a circumstance created by the applicant. The overall surrounding area consists of a significant number of single- and two-family dwellings.

2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.

The present owner purchased the two-family dwelling on January 27, 2011 and the nonconforming rights to continue the use as a two-family dwelling expired in January 2011. The applicant would be required to either convert the existing two-family dwelling to a single-family dwelling, rebut abandonment through a nonconforming use certificate or petition to rezone the property to a district that would allow for a two-family dwelling. Based on the allowed options, the applicant is petitioning to rezone the property from R1A Two-Family District to R2B Multiple Family District to allow for the legal establishment of a two-family dwelling.

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 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 the use of this property as a two-family dwelling would be reasonable.

3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

Lot area requirements are established to ensure compatibility with surrounding uses. The surrounding area contains a mix of land uses, including low density residential, office and commercial uses. Nearby structures at 2721 Upton Avenue North and 2900 Thomas Avenue North are duplexes zoned R2B and have approximately 5,100 sq .ft. of lot area. The properties immediately to the west and southwest are an office building, used car sales and an automobile convenience facility. The proposed lot area would meet the intent of the ordinance as the 9,934 square feet of lot area per unit is satisfied and the building has existed in the existing configuration on the site for almost 60 years.

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

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petition to the change the zoning classification for the property located at 2747 Thomas Avenue North from R1A Single-Family District to R2B Two-Family District to allow for a two-family dwelling.

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 adopt the above findings and **approve** the variance to reduce the minimum lot area from 10,000 sq. ft. to 9,934 sq. ft. (<1%) for the property located at 2747 Thomas Avenue North to allow for 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) Zoning map
- 4) Future Land Use map
- 5) Rezoning matrix
- 6) Site plan
- 7) Floor plans
- 8) Photos