

**Department of Community Planning and Economic Development**  
Rezoning  
BZZ-6277

**Date:** December 2, 2013

**Address of Property:** 1936 Fremont Avenue South

**Project Name:** 1936 Fremont Avenue South

**Applicant:** Shree Investments LLC

**Contact Person and Phone:** Ashish Aggarwal, (612) 710-3004

**CPED Staff and Phone:** Janelle Widmeier, Senior City Planner, (612) 673-3156

**Date Application Deemed Complete:** October 3, 2013

**End of 60-Day Decision Period:** December 2, 2013

**End of 120-Day Decision Period:** On October 31, 2013, staff sent a letter to the applicant extending the decision period to no later than January 31, 2014. On November 12, 2013, the applicant granted the City an additional extension to the decision period to no later than February 28, 2014 in order to allow for the application to be continued one cycle.

**Ward:** 7      **Neighborhood Organization:** Lowry Hill Neighborhood

**Existing Zoning:** R2B Two-family District

**Proposed Zoning:** R3 Multiple-family District

**Zoning Plate Number:** 18

**Lot area:** 6,075 square feet

**Legal Description:** South 41.87 feet of Lot 11 and North 3.75 feet of Lot 12, Block 2, Walker's Addition to Minneapolis, Hennepin County, Minnesota.

**Proposed Use:** Convert an existing duplex into a triplex.

**Concurrent Review:** Petition to rezone the property located at 1936 Fremont Avenue South from the R2B Two-family District to the R3 Multiple-family District in order to allow for the conversion of an existing duplex into a triplex.

**Applicable zoning code provisions:** Chapter 525, Article VI Zoning Amendments.

**Background:** The applicant proposes to rezone the property located at 1936 Fremont Avenue South from the R2B Two-family District to the R3 Multiple-family District. This application was continued from the November 12, 2013 meeting of the City Planning Commission at the request of the applicant

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in order to allow more time to consider and respond to the CPED staff report and recommendation. The applicant has submitted a letter dated November 21, 2013 that includes an updated statement of use, description of the project, and responses to the rezoning findings along with other supporting documentation.

The subject property is approximately 6,075 square feet in size and the existing 2-½ story building located on the property was originally constructed as a top-down duplex in 1920. The applicant purchased the property in 2009. Currently, there is an existing illegal dwelling unit that occupies the third floor of the dwelling. There is also a fourth illegal unit in the basement, but the applicant has indicated that they are trying to legalize the third unit. Compliance with applicable building codes and obtaining a building permit is required in addition to rezoning the property to establish the third dwelling unit.

A third unit cannot be grandfathered if it has never been legally established. Between 1924 and 1963, the subject property was located within a “residential” district that allowed only single and two-family dwellings. Since 1963, the property has been located in the R2B District, which has never allowed dwellings with more than 2 units. City Licensing records indicate that the number of dwelling units on the property increased around 2004. Tax records from the City’s Assessors Office provided by the applicant show that it was being used as a triplex back to at least 1995. However, City permit records consistently reflect that the historic legal use of the property was a duplex. Permits reflecting the use of the property included:

<b>Date</b>	<b>Permit Type</b>	<b>Work Permitted</b>
1920	Building	“Duplex dwelling”
1953	Building	“Minor alterations to 1 <sup>st</sup> floor and 2 <sup>nd</sup> floor kitchens in duplex”
1978	Electrical	“2-100 amp ser[vice] 14-30 amp [circuit]”
1990	Building	“[Replace] soffit/fascia, trim—Bldg Use: Duplex”
2011	Building	Zoning approval: “R2B/duplex. Replace one basement window at rear to a larger one. No other work included in this permit.” Construction Code Service approval: “Install larger window below grade in the storage basement at duplex.”

In cases where the record is unclear, property owners can apply for a certificate of nonconforming use application. The purpose of a certificate of nonconforming use application is to give property owners the opportunity to make the case that a use was legally established at some point in time and has not been discontinued for more than one year since it was legally established. Because the zoning code has never allowed a triplex to be established on this property, the third unit cannot be grandfathered.

With the proposed conversion of the building to a triplex, at least three parking spaces must be provided on the property. Currently, there is an existing parking pad located at the rear of the site that is accessed from Franklin Avenue West through a shared driveway on the adjacent property. The rear parking area can accommodate up to 4 parking spaces.

Staff has not received correspondence from the neighborhood group prior to the printing of this report. Other correspondence has been received and is attached. Any correspondence received after the printing of this report will be forwarded on to the Planning Commission for consideration.

**REZONING:**

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

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

According to *The Minneapolis Plan for Sustainable Growth*, the future land use of the site is designated as urban neighborhood. Hennepin Avenue, a designated Commercial Corridor, is located approximately 3 ½ blocks east of the site. Franklin Avenue is one property south of the subject property, but is not a designated land use feature in this location as the Community Corridor designation terminates where Franklin Avenue intersects with Hennepin Avenue. Urban neighborhoods are a “predominantly residential area with a range of densities, with highest densities generally to be concentrated around identified nodes and corridors. May include undesignated nodes and some other small-scale uses, including neighborhood-serving commercial and institutional and semi-public uses (for example, schools, community centers, religious institutions, public safety facilities, etc.) scattered throughout. More intensive non-residential uses may be located in neighborhoods closer to Downtown and around Growth Centers.” Areas designated as urban neighborhoods are not generally intended to accommodate significant new growth, other than replacement of existing buildings with those of similar density.

Land Use Policy 1.8 states: “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.” This policy includes the following applicable implementation step (1.8.1) “Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.”

As the site is not located in or adjacent to any land use features, the comprehensive plan does not support higher residential density at this location and rezoning the subject property from R2B to R3 would not be consistent with the comprehensive plan.

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

Rezoning to the R3 District would be in the interest of the property owner as it would allow the existing building on the site to be converted from an existing duplex into a triplex. The minimum lot area in the R3 District is 1,500 square feet per dwelling unit. Therefore with a lot size of 6,075 square feet, up to 4 dwelling units could be established provided all applicable building code requirements could be met.

**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.**

Zoning districts in the immediate area include R1, R2, R2B and R4. The R4 zoning is located across the street from the subject property. Although zoned R2B, the properties directly to the north and south of the subject property are triplexes. There is a variety of residential uses in the immediate area including single-family dwellings and 26-unit multiple family dwellings. The proposed zoning would likely be compatible with the surrounding zoning classifications and uses of property.

**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.**

There are reasonable uses allowed under the existing R2B zoning classification, including the existing legal use of the structure as a duplex. Staff has included an attachment to the staff report which further details regarding the differences between the existing and proposed zoning classifications for the property.

**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.**

The zoning on the block where the subject property is located has not changed since 1963. In 1977, several properties in the nearby area were down-zoned from the R4 Multiple-family District to the R2B Two-family District. Since then, there haven't been significant changes relative to the character and trend of the development in this specific area.

The property located at 1917 Fremont Avenue South, zoned R2B, is a legal duplex. The City previously cited the property for an illegal third unit. It was converted back to a legal duplex in 2011. In May of this year, the City Council denied a petition to rezone the property of 1915 Fremont Avenue South from R2B to R3 to legalize a third nonconforming dwelling unit.

**RECOMMENDATION:**

**Recommendation of the Department of Community Planning and Economic Development for the Rezoning:**

The Department of Community Planning and Economic Development recommends that the City Planning Commission and City Council adopt the above findings and **deny** the rezoning petition to change the zoning classification of the property located at 1936 Fremont Avenue South from the R2B Two-family District to the R3 Multiple-family District in order to allow for the conversion of an existing duplex into a triplex.

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**Attachments:**

- Applicant's statement of use / description of the project, responses to findings and supporting documents
- Correspondence
- Rezoning Matrix – R2B vs. R3
- Zoning map
- Site plan and floor plans
- Photos