

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

10-0288R

RESOLUTION DENYING A REQUEST TO AMEND CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO-FAMILY RESIDENTIAL, TO C-1, COMMERCIAL, PROPERTY LOCATED AT THE SOUTHEAST CORNER OF 21ST AVENUE EAST AND SUPERIOR STREET (MARDI BAGLEY AND SHARON KANGAS).

CITY PROPOSAL:

RESOLVED, that the city council finds as follows:

(a) A petition has been submitted to rezone the property located at the southeast corner of 21st Avenue East and Superior Street (the site) from R-2, Two-Family Residential, to C-1, Commercial: and

(b) The comprehensive plan - future land use map identifies the site as "traditional neighborhood," which is described as houses oriented with shorter dimensions to the street and detached garages, four to eight dwellings per acre density, a mix of housing types at corners (i.e. town homes and four-plexes) and limited commercial (i.e. corner store), home-businesses, churches, schools; and

(c) C-1 zoning allows for the following purposes:

(1) Any use permitted in the R-4 apartment residential district;

(2) Automobile parking lot or parking garage;

(3) Bank;

(4) Display room for merchandise to be sold at wholesale, where merchandise sold is stored elsewhere;

(5) Clinic, medical and dental only occupying 10,000 square feet or less in total floor area;

(6) Dressmaking, tailoring, shoe repairing, repair of household appliances and bicycles, dry cleaning and pressing, catering and bakery with sale of bakery products on the premises and other uses of a similar character; provided, that no use permitted in this paragraph shall employ more than five persons in a single shift on the premises, not including employees whose principal duties are off the premises or temporary seasonal employees;

(7) Filling station;

(8) Offices and office building;

(9) Personal service uses, including barbershops, beauty parlors, photographic or art studios, messenger, taxicab, newspaper or telegraphic branch service stations, dry cleaning receiving stations, restaurants and other uses of a similar character;

(10) Private school;

(11) Retail store. In connection with such store there shall be no slaughtering of animals or poultry, nor commercial fish cleaning and processing on the premises;

(12) Theater, not including drive-in theaters;

(13) Laundromat;

(14) Florist shop or greenhouse;

(d) In addition to the above uses, permitted uses in a C-1 zone include any use allowed in an R-4 apartment residential district, all of which are more intense than the "traditional neighborhood" future land use designated for the site in the comprehensive plan; and

(e) Rezoning the site to C-1 would not be consistent with good zoning practice as provided for in the Minnesota Municipal Planning Act and relevant case law.

RESOLVED FURTHER, that based upon the above findings, the petition submitted by Mardi Bagley and Sharon Kangas to rezone the property located at the

southeast corner of 21st Avenue East and Superior Street from R-2, Two-Family Residential, to C-1, Commercial, is denied.

Approved as to form:

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Attorney

PC/PLNG :EU 5/17/2010

STATEMENT OF PURPOSE: This zoning map amendment would provide a zoning change from R-2 (Two-Family Residential) to C-1 (Commercial) for property located at the southeast corner of 21st Avenue East and Superior Street. City planning staff recommend denial of the rezoning petition for the reasons listed in the resolution.

On May 11, 2010, the Duluth City Planning commission held a public hearing on the proposal and voted 11-0 to recommend that the city council deny the rezoning request.

The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the comprehensive plan and appellate courts have opined that zoning decisions should be consistent with the comprehensive plan or risk being considered arbitrary and capricious.

Application Date: March 22, 2010  
Date Certified: April 28, 2009  
Action Deadline: July 19, 2010