

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** TNT Fireworks (1177 Clarence) **FILE #** 14-198-104
 2. **APPLICANT:** TNT Fireworks **HEARING DATE:** May 22, 2014
 3. **TYPE OF APPLICATION:** Conditional Use Permit
 4. **LOCATION:** 1177 Clarence St, West side of Clarence at Rose Ave E
 5. **PIN & LEGAL DESCRIPTION:** 272922220162, Kiefer park Vac Sts And Alleys Accruing And Fol, Lots 7 Thru 10 And Lots 15 Thru 28 Blk 1 And Lots 1 Thru 28 Blk 2
 6. **PLANNING DISTRICT:** 2 **PRESENT ZONING:** T2
 7. **ZONING CODE REFERENCE:** §65.526, §61.501, Chapter 66
 8. **STAFF REPORT DATE:** May 14, 2014 **BY:** Bill Dermody
 9. **DATE RECEIVED:** April 25, 2014 **60-DAY DEADLINE FOR ACTION:** June 22, 2014
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- A. **PURPOSE:** Conditional use permit for outdoor commercial sale of consumer fireworks
- B. **PARCEL SIZE:** 287,664 sq. ft. (irregular)
- C. **EXISTING LAND USE:** C-Grocery Store
- D. **SURROUNDING LAND USE:**
 - North: Commercial (T2)
 - East: Commercial (T2)
 - South: Multi-family residential (RM2)
 - West: Parkway (R3)
- E. **ZONING CODE CITATION:** §65.526 provides standards and conditions for the outdoor sales of consumer fireworks; §61.501 lists general conditions that must be met by all conditional uses; Chapter 66 lists outdoor commercial sales of consumer fireworks as a conditional use in the B3, I1, and I2 districts, but not in the T2 district.
- F. **HISTORY/DISCUSSION:** In 2007, the City Council adopted an ordinance regulating outdoor sales of consumer fireworks (C.F. 07-633). One of the provisions of this ordinance was to first permit these sales in the B3 zoning district as a conditional use. Minnesota Statutes Sec. 624.20 Subd. 1(d) states: "*A local unit of government may not: prohibit or restrict the display of items for permanent or temporary retail sale... that comply with National Fire Protection Association Standards 1124 (2003 edition)...*" According to the State Fire Marshal, the only exception is if the local jurisdiction prohibits retail stands of all kinds in a zoning district, then it can prohibit the retail sale of consumer fireworks in that zoning district. Since the Saint Paul Zoning Code permits certain kinds of outdoor sales in the T2 district, the T2 district does not fall under this exception. Outdoor sales of fireworks have not occurred on this site previously, though the applicant did conduct indoor fireworks sales here in 2013.
- G. **DISTRICT COUNCIL RECOMMENDATION:** As of the date of this staff report, the District 2 Council has not provided a recommendation regarding the application. One resident has written in support of the application.
- H. **FINDINGS:**
 1. The application proposes to occupy approximately 10 parking spaces in the parking lot of Cub Foods for the purpose of selling consumer fireworks. The affected area includes a 20' x 40' sales tent and an overnight storage container.
 2. The Zoning Code permits the outdoor sale of consumer fireworks as a conditional use in the B3 community business district subject to the standards and conditions of Section 65.526. Minnesota Statutes Sec. 624.20 Subd. 1(d) in essence requires that outdoor sales of fireworks be permitted in those zoning districts where other outdoor sales are permitted, and the Saint Paul Zoning Code permits certain other outdoor sales in the T2 traditional neighborhood district. The standards and conditions for outdoor commercial sale of consumer fireworks area as follows:
 - a. *The standards and conditions of Section 65.525 shall apply: Sec. 65.525 states: The use shall not conflict with off-street parking, off-street loading and the system of pedestrian flow.*

The planning commission, in determining that the use is harmonious with adjacent uses, shall require the submission of a site plan including a floor plan and all uses within three hundred (300) feet of the boundary of said site superimposed on said site plan. This condition is met. Though the use occupies approximately 10 parking spaces, they are located far from the commercial building entrances. Pedestrian flow is unaffected by the use. The parking lot drive aisles are unimpeded by the sales tent and storage container.

- b. *The use shall obtain all necessary permits from the city. Permits for outdoor sale of consumer fireworks shall be valid from June 25 to July 5 each year, during the Independence Day holiday season. This condition can be met. The applicant has verbally conveyed an intent to abide by this condition, which is a recommended condition of approval.*
 - c. *All items offered for sale shall be kept within the sales structure. The sales structure shall be located at least twenty (20) feet from any other structure. This condition is met. The application site plan shows a sales tent where the items will be kept. The tent is at least 20 feet from the nearest structure.*
 - d. *The sales structure shall be located at least one hundred (100) feet from the closest property line of any property used or zoned for residential use (excluding mixed commercial-residential uses). This condition is met. The closest residential properties are approximately 250 feet to the north and 400 feet to the south.*
 - e. *An outdoor no-smoking area of fifty (50) feet surrounding the perimeter of the structure shall be maintained on the property. The fifty-foot non-smoking area must be physically marked. No portion of any public sidewalk, boulevard right-of-way, public street, or alley may fall inside the perimeter. This condition can be met. The buffer area does not include any portion of a public sidewalk, boulevard, street, or alley. A recommended condition would require such signage, which should be placed as directed by the Fire Marshal.*
 - f. *The structure shall not be located within fifty (50) feet of a motor vehicle fuel dispenser. This condition is met. There are not motor vehicle fuel dispensers in this commercial area.*
 - g. *When the structure is unoccupied and not open for business, merchandise shall be secured or removed from the site. This condition is met. A metal overnight storage container is provided just east of the sales tent for this purpose.*
3. §61.501 lists five standards that all conditional uses must satisfy:
- a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council. This condition is met. There are no provisions in the Comprehensive Plan, District 5 Plan, or Northeast Corridor Development Plan that pertain to the proposed use.*
 - b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets. This condition is met. The use does not block any drive aisles and utilizes existing ingress and egress for the shopping center.*
 - c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare. This condition can be met. Provided that the Zoning Code conditions specific to fireworks sales are met (#2 above), then the use will not be detrimental to the surrounding character or present a danger.*
 - d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. This condition is met. The use is temporary and is located in the parking lot, so it will have no effect on the development and improvement of surrounding property.*
 - e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located. This condition is met. The use is temporary and therefore is not required to meet T2 building and site design standards.*

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the conditional use permit for outdoor commercial sale of consumer fireworks subject to the following additional conditions:
1. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application.
 2. Materials may be stored only under the sales tent or in the overnight storage container. No materials may be stored in adjacent areas, such as drive aisles.
 3. The use is permitted only from June 25 to July 5, 2014.
 4. A 50' no-smoking area around the use's perimeter shall be maintained and physically marked. Signs shall be placed as directed by the Fire Marshal.

**CONDITIONAL USE PERMIT APPLICATION**

Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6589

Zoning office use only

File # 14-198104

Fee

Tentative Hearing Date: 5-22-14

PD=2

272922220162**APPLICANT**

Name	TNT Fireworks		
Address	2109 59th Avenue South		
City	Fargo	St. ND	Zip 58104
Daytime Phone	701-526-2450		
Name of Owner (if different)	Terry Anderson		
Contact Person (if different)	Christopher Ulmer	Phone	701-400-7661

PROPERTY LOCATION

Address / Location	Cub Foods parking lot - 1177 Clarence Street		
Legal Description			
Current Zoning	T2		
(attach additional sheet if necessary)			

TYPE OF PERMIT: Application is hereby made for a Conditional Use Permit under provisions of Chapter _____, Section 61.302, Paragraph _____ of the Zoning Code.

SUPPORTING INFORMATION: Explain how the use will meet all of the applicable standards and conditions. If you are requesting modification of any special conditions or standards for a conditional use, explain why the modification is needed and how it meets the requirements for modification of special conditions in Section 61.502 of the Zoning Code. Attach additional sheets if necessary.

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APR 23 2014

Per _____

☐ Required site plan is attached

Applicant's Signature [Signature] Date 4/22/14 City Agent [Signature]

To Whom It May Concern:

TNT Fireworks would like to host a fireworks tent at the Cub Foods located at 1177 Clarence St.

The sales facility and storage container will not congest any traffic in the lot nor cause problems with the entrance or exiting of the property. The tent and storage will fall in the parking stalls and will not extend out into the drive lane.

The ground based sparkler tent will not be detrimental to the exisiting character of the property, neighborhood, nor will it cause any health or safety concerns. Our tent operators are well trained in handling and proper safety procedures. There will be no discharging of ground based sparklers on the premises and we will post signs on each side of the tent stating that.

Our tent area will not impede the normal day to day operations of the property or surrounding areas, we want to provide the residents of this area a place to by MN legal "fireworks" to help them celebrate our Independence Day, we also want to stress to them that the product we are selling is ALL MN legal and we want to prevent them from shopping in border states and bringing illegal product back in to MN.

We currently have operated a similar facility in St Paul, at Midway. I feel we have been a great business, neighbor and friend to the community of St Paul.

Please let me know if you have any questions, concerns or if you need anything else.

Thanks,

Chris Ulmer

ulmerc@tntfireworks.com

701-400-7661

Foods - St Paul - 1177 Clarence St.

Overnight storage container

Tent 20x40'



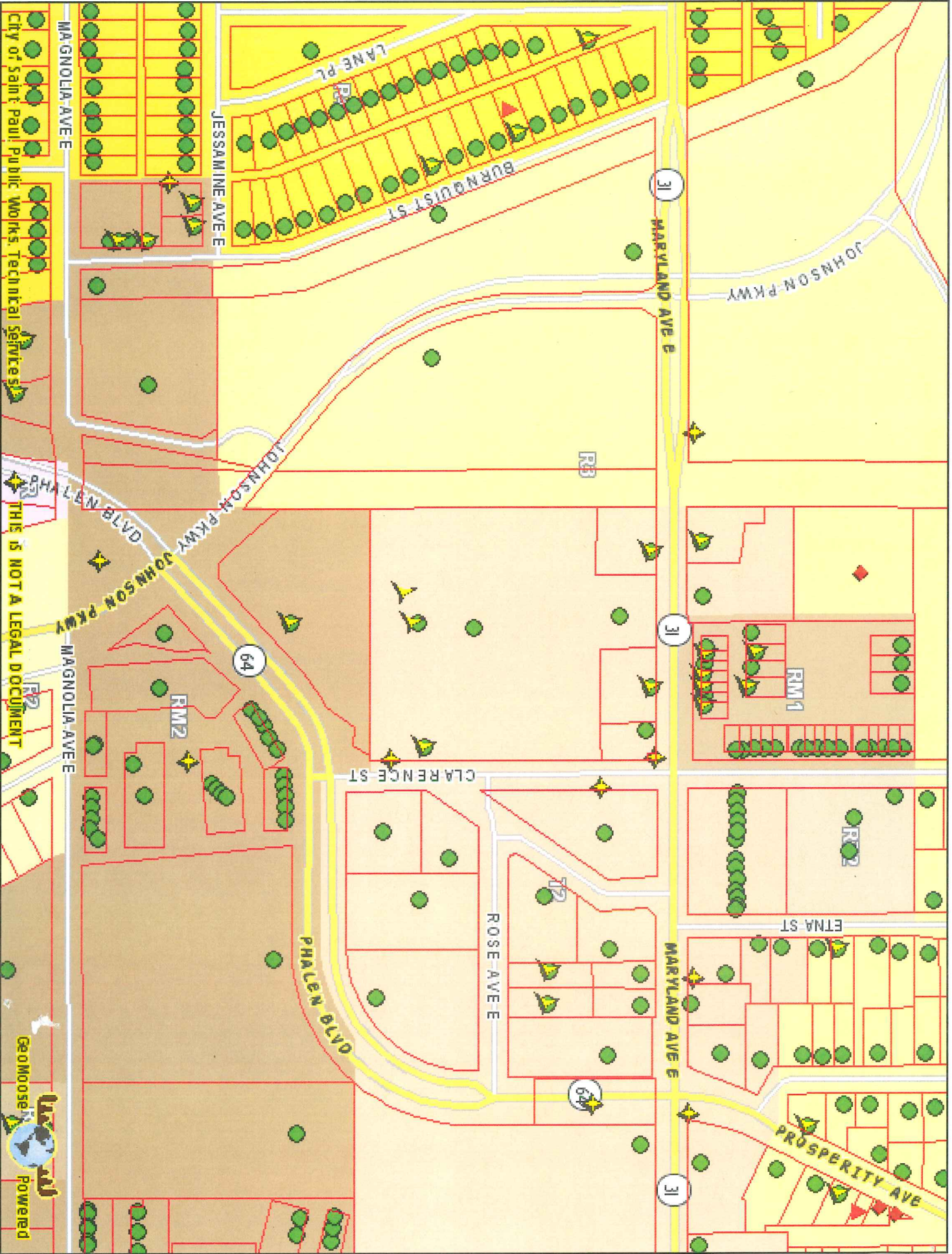
Dermody, Bill (CI-StPaul)

From: Tom Birrenbach <tombirrenbach@gmail.com>
Sent: Tuesday, May 13, 2014 5:25 PM
To: Dermody, Bill (CI-StPaul)
Subject: File # 14-198-104

I live at
1355 Phalen Blvd.
#215
St. Paul, MN 55106

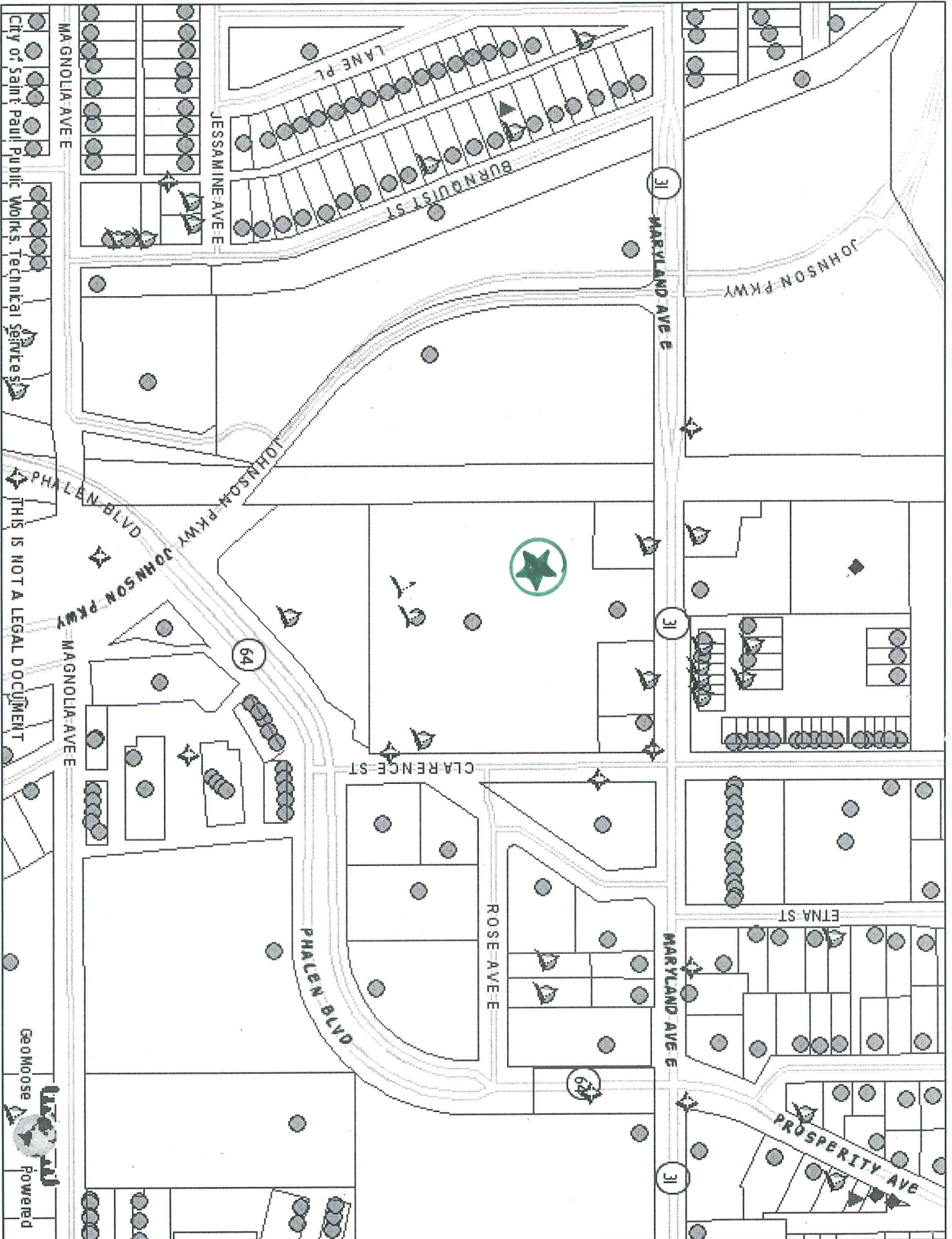
next door to the Cub store.
I have no problem with the temporary fireworks concession.

Tom Birrenbach



City of Saint Paul Public Works Technical Services



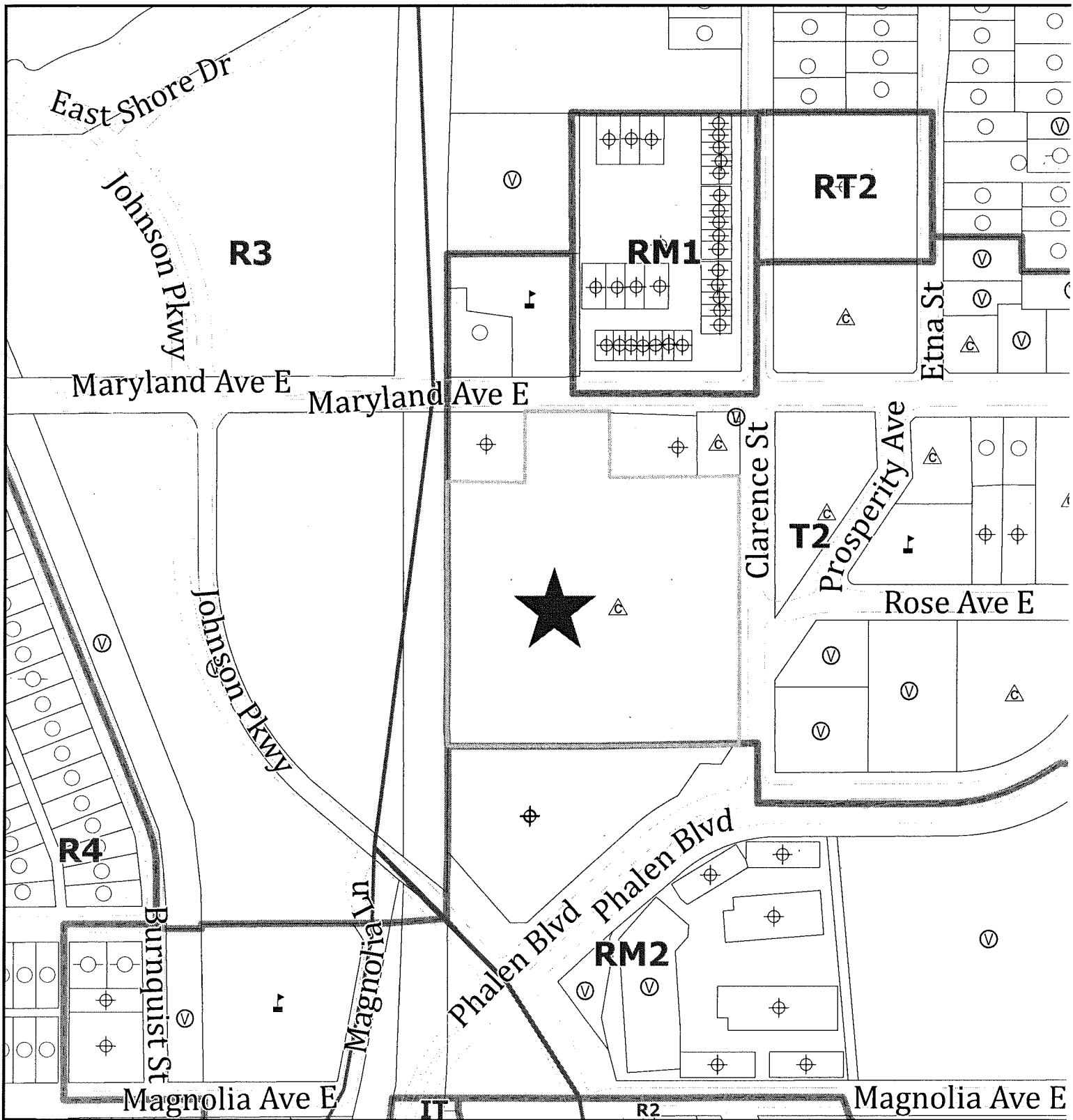


City of Saint Paul Public Works Technical Services

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GeoMoose

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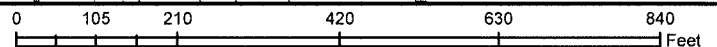
APPLICANT TNT Fireworks

APPLICATION TYPE Conditional Use Permit

FILE # 14-198104 DATE 4/25/2014

PLANING DISTRICT 2

ZONING MAP # 5



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|----------------------|--------------------------|
| Commercial & Office | Residential One Family |
| Industrial & Utility | Residential Two Family |
| Institutional | Residential Three Family |
| Vacant/Undeveloped | Multifamily |

