

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Internacional Auto Sales **FILE #** 14-197-427
  2. **APPLICANT:** Internacional Auto Sales (Nasseh Ghaffari) **HEARING DATE:** May 22, 2014
  3. **TYPE OF APPLICATION:** NUP – Expansion
  4. **LOCATION:** 1265 Arcade St, NW corner at Orange
  5. **PIN & LEGAL DESCRIPTION:** 202922440068; Oak Ville Park Lots 17 And Lot 18 Blk 6
  6. **PLANNING DISTRICT:** 5
  7. **ZONING CODE REFERENCE:** Sec. 62.109(d) **PRESENT ZONING:** T2
  8. **STAFF REPORT DATE:** May 15, 2014 **BY:** Bill Dermody
  9. **DATE RECEIVED:** April 23, 2014 **60-DAY DEADLINE FOR ACTION:** June 17, 2014
- 

- A. **PURPOSE:** Expansion of nonforming use to increase number of parking stalls for outdoor auto sales
- B. **PARCEL SIZE:** 122' (Arcade) x 81' (Orange) totaling 9,922 square feet
- C. **EXISTING LAND USE:** A-Auto Showroom/Lot/Service
- D. **SURROUNDING LAND USE:**
  - North: Residential (T2)
  - East: Church (R4)
  - South: Commercial (T2)
  - West: Residential (R4)
- E. **ZONING CODE CITATION:** Sec. 62.109(d) lists the conditions under which the Planning Commission may grant a permit to expand or relocate a legal nonconforming use.
- F. **HISTORY/DISCUSSION:** The site was rezoned from B3 to T2 in 2007 as part of a 40-acre study and rezoning along Arcade Street, which caused the existing automobile sales use to become nonconforming. In 1994, the site received a conditional use permit to allow outdoor sales of used automobiles, including a modification of the Orange Street driveway's allowable distance from Arcade Street, subject to seven (7) conditions. The 1994 approval included approval for minor vehicle repair in a single-vehicle bay (ZF #94-247). In 1990, a different conditional use permit was approved for outdoor auto sales, but the use was never established. In the early 1950s the site received approval for a gasoline service station and a billboard, neither of which are still in existence.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The Payne Phalen District 5 Planning Council opposes the requested expansion of a nonconforming use (please see attached letter). At their committee meeting to discuss the application, attendees "expressed substantial frustration with the substantial and serious number of license violations." Also, staff has received one letter of opposition to the request.
- H. **FINDINGS:**
  1. The site is located at the northwest corner of Orange and Arcade Streets. It is currently used for automobile sales. The lot is enclosed by an approximately 6'-high fence with two gates—one along each street frontage.
  2. The existing CUP, approved in 1994, allows no more than 14 "for sale" cars on the lot at any one time, and requires a minimum of 8 off-street parking spaces for customers/employees. The 1994 CUP also forbids parking "for sale" vehicles in the public street or alley.
  3. The application requests expansion of a nonconforming use (outdoor auto sales) to allow 29 parking stalls to be used for auto sales.

4. According to staff calculations, the site cannot accommodate more than 28 parking stalls – the application site plan shows more stalls along Arcade Street than can actually fit on the site, meeting Zoning Code off-street parking facility standards. Additionally, the Zoning Code standards, if applied strictly, would leave room for only two (2) parallel parking spaces in front of the building after accounting for the drive aisle, rather than the six (6) angled spaces shown in that area – however, the 1994 CUP included a site plan with that same inadequately sized drive aisle. Regardless of the maximum number of vehicles approved through the subject application, a site plan review is necessary to ensure proper compliance with Zoning Code standards.
5. The applicant has conveyed that a reason for the application is to allow more vehicles to be kept on-site where they can be better protected from vandalism.
6. Section 62.109(d) *Expansion or relocation of nonconforming use states that the planning commission may permit the expansion or relocation of a legal nonconforming use if the commission makes the following findings:*
  1. *In residential districts, the expansion or relocation will not result in an increase in the number of dwelling units.* This finding is met. This is a non-residential property with no dwelling units proposed.
  2. *For expansion of a structure, the expansion will meet the yard, height and percentage of lot coverage requirements of the district.* This finding is met. No expansion of a structure is requested.
  3. *The appearance of the expansion or relocation will be compatible with the adjacent property and neighborhood.* This finding is can be met. The business expansion can be compatible with the adjacent property and neighborhood if the site is maintained properly, including no outside storage of materials other than automobiles, and if no vehicles are parked on public streets or alleys nearby.
  4. *Off-street parking is provided for the expansion or relocation that meets the requirements of article 63.200 for new uses.* This finding can be met. Sec. 63.200 requires 1 parking space per 400 sq. ft. GFA plus 1 space per 5,000 sq. ft. of outdoor sales, which equals 5 (4 plus 1) parking spaces for the subject site. A site plan review is necessary to verify that the minimum parking space and drive aisle dimensions are provided.
  5. *Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use.* This finding is met. The first zoning district that conditionally permits the use is B3. However, the site cannot meet the B3 condition that requires a minimum lot size of 15,000 sq. ft. The second zoning district that conditionally permits the use is IT. However, the site cannot meet the IT condition that it be located within ¼ mile of University Avenue. Therefore, the first zoning district that would permit the use is I1. Rezoning the site to I1 would result in spot zoning inappropriate to the area, which contains no industrial zoning.
  6. *After the expansion or relocation, the use will not result in an increase in noise, vibration, glare, dust, or smoke; be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare.* This finding can be met. The business expansion will not be detrimental to the immediate neighborhood's existing character nor endanger the public health, safety, or general welfare if the site is maintained properly, including no outside storage of materials other than automobiles, and if no vehicles are parked on public streets or alleys nearby. No increase in noise, vibration, glare, dust, or smoke is anticipated from the use expansion.
  7. *The use is consistent with the comprehensive plan.* This finding is met. The

Comprehensive Plan designates the site as part of a Mixed Use Corridor, which allows for commercial uses such as proposed. The District 5 Plan contains no provisions specific to the proposal. The Arcade Street Small Area Plan does not address business expansions such as proposed, though it does encourage community-oriented commercial to locate at the Maryland and Phalen intersections rather than other locations along Arcade Street.

8. *A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the expansion or relocation.* This finding is met. The petition was found sufficient on April 23, 2014: 14 parcels eligible; 10 parcels required; 10 parcels signed.

I. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the expansion of nonforming use to increase number of parking stalls for outdoor auto sales subject to the following conditions:

1. There shall be no more than 28 vehicles on the lot at any one time, including "for sale" vehicles and those of customers and employees.
2. A minimum of 5 off-street parking spaces shall be provided for customers/employees.
3. Site Plan approval through the Department of Safety and Inspections.
4. No outside storage of materials other than automobiles shall be permitted on the site.
5. "For sale" vehicles shall be parked only on the lot at all times and shall not be parked in the public street or alley at any time.
6. No barbed wire fencing shall be present on the site.







**NONCONFORMING 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 #: 14-197427  
 Fee: \_\_\_\_\_  
 Tentative Hearing Date: 5-22-14

PD = 5

#202922440068

**APPLICANT**

Name Internacional Auto Sales, LLC.  
 Address 1265 Arcade St.  
 City St. Paul St. MN Zip 55106 Daytime Phone 651-985-1147  
 Name of Owner (if different) Michael Abri  
 Contact Person (if different) Kristian L. Oyen Phone 952-855-9224

**PROPERTY LOCATION**

Address/Location 1265 Arcade St, St Paul, MN 55106  
 Legal Description Lot 17 and 18; Block 6  
 Current Zoning \_\_\_\_\_  
 (attach additional sheet if necessary)

**TYPE OF PERMIT:** Application is hereby made for a Nonconforming Use Permit under provisions of Chapter 62, Section 109 of the Zoning Code:

- The permit is for:  Establishment of legal nonconforming use status for use in existence at least 10 years (para. a)  
 Change of nonconforming use (para. c)  
 Expansion or relocation of nonconforming use (para. d)  
 Reestablishment of a nonconforming use vacant for more than one year (para. e)

**SUPPORTING INFORMATION:** Supply the information that is applicable to your type of permit.

Present/Past Use Second-hand auto sales

Proposed Use Second-hand auto sales

Attach additional sheets if necessary

Applicant seeks to allow 12 more parking spots for sale vehicles to the existing lot, conforming with the zoning code

Attachments as required  Site Plan  Consent Petition  Affidavit

Applicant's Signature [Signature]  
 Attorney for Applicant

Date 4/17/14 City Agent

add  
4-17-14

- (1) In residential districts, the expansion, or relocation will not result in an increase in the number of dwelling units

Applicant's request is not one for changing any number of dwelling units.

- (2) For expansion of a structure, the expansion will meet the yard, height and percentage of lot coverage requirements of the district;

Applicant's request does not include an expansion of structure.

- (3) The appearance of the enlargement expansion or relocation will be compatible with the adjacent property and neighborhood;

Applicant's request is to change the number of parking spots in the lot at the subject property, and will be compatible with the adjacent property and neighborhood.

- (4) Off-street parking is provided for the enlargement expansion or relocation that meets the requirements of article 63.200 for new uses;

Off-street parking is provided per the requirements of article 63.200.

- (5) Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use;

Rezoning is not requested.

- (6) After the enlargement expansion or relocation, the use will not result in an increase in noise, vibration, glare, dust, or smoke; be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare;

The use will allow 12 more vehicles on the property, and six of these vehicles will be stored. There is no evidence that there will be increased noise, vibration, glare, dust, or smoke or that it will be detrimental to the immediate neighborhood or endanger the public health, safety, or general welfare.

- (7) The use is consistent with the comprehensive plan;

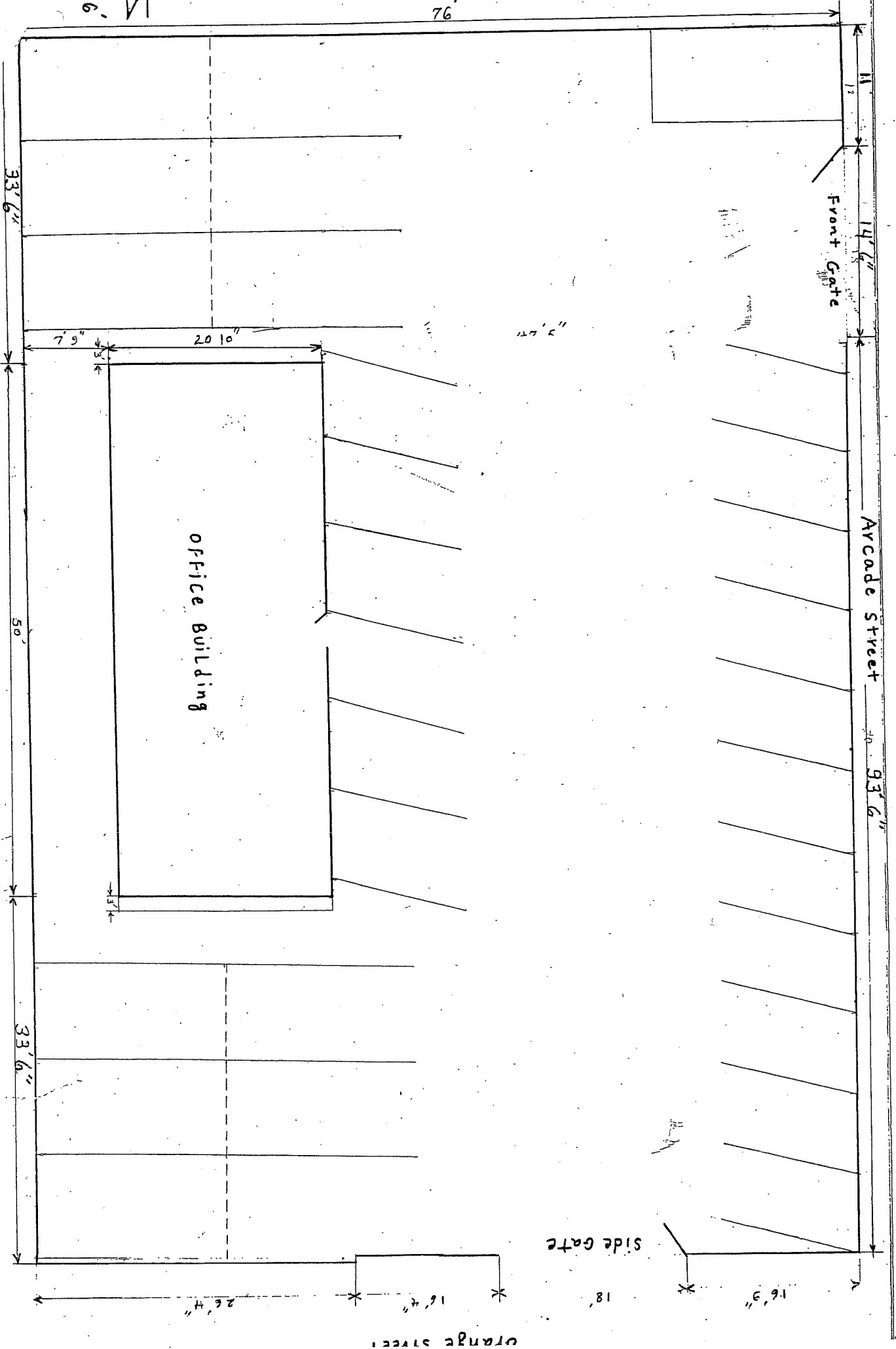
Applicant's request is consistent with the comprehensive plan.

- (8) A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the expansion or relocation.

The notarized petition contains more than two-thirds of the signatures of owners within 100 feet.

VI

76'



# PAYNE PHALEN DISTRICT FIVE PLANNING COUNCIL

STRONG  SAFE  WELCOMING  CONNECTED  NEIGHBORHOODS

May 8, 2014

Mr. Bill Dermody  
City Planner  
Planning & Economic Development  
25 W. 4th St., Suite 1400  
St. Paul, MN 55102

Re: 1265 Arcade, Expansion of nonconforming use for off-street vehicle parking

Dear Mr. Dermody,

The Payne Phalen District Five Planning Council's land use committee - the Community Planning & Economic Development Committee met on Tuesday, May 6, 2014 at the 722 Payne Eastern District SPPD station. On the agenda was the matter of license violations of the applicant and a request for expansion of the nonconforming use for off-street vehicle parking.

The applicant appeared before the committee, and responded to concerns.

CPED had 13 members present and there were 18 additional community members present.

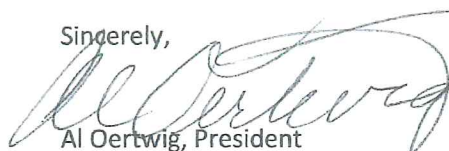
The committee and residents expressed substantial frustration with the substantial and serious number of license violations. In addition to the residents present at the meeting four additional statements of concern had been shared with the District 5 office. The applicant provided reasons for the license violations, but these statements did not resolve committee/resident concerns.

The CPED committee then made and adopted a motion to oppose the request for expansion of the nonconforming use for off-street parking.

A second motion was made and adopted that the District 5 CPED Committee supports full enforcement of code at 1265 Arcade, and, further, that District 5 CPED makes no comment or findings of fact regarding the owner's assertion that more for sale vehicles should have been permitted on the lot.

Please contact me if I can offer any further information about the CPED motion. The CPED motion will be on the Consent Agenda for the May 27th, 2014 regular meeting of the District Five Board of Directors.

Sincerely,



Al Oertwig, President

506 KENNY ROAD, SUITE 130, SAINT PAUL, MINNESOTA 55130-4554

TEL # (651) 774-5234  FAX # (651) 774-9745

E-MAIL: DISTRICT5@PAYNEPHALEN.ORG

WWW.PAYNEPHALEN.ORG

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Dermody, Bill (CI-StPaul)

From: [NAME & EMAIL WITHHELD]  
Sent: Wednesday, May 14, 2014 6:57 AM  
To: Dermody, Bill (CI-StPaul)  
Subject: comments on Internacional Auto Sales

Received postcard yesterday and am unable to walk very far to attend the meeting on May 22<sup>nd</sup> at 3:30 at the court house.

My comment is for me and the neighbors on Hyacinth Ave.

I have reported cars being parked for over a week at a time from the car lot behind me, and he retrieved the cars and the next day some of the cars were back parked right back on our street.

Now we have a Chrysler that is moved right back on the street again for almost a week now. Isn't there a law that says a car lot can't have his cars out on the street all the time instead of in his car lot? Something has to be done about this, He jocking the cars around every day we see strange cars parked on our street and have seen the car lot people come and retrieve them and park another car there.

Please don't use my name, I don't want to be harassed about this but it has to be known, they can keep their own cars on their lot, not here on the street. This Chrysler had to jumped last time he moved it, the battery was dead, so now it is just dead sitting here.

Thanks for listening  
[NAME WITHHELD]

**Dermody, Bill (CI-StPaul)**

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**From:** Steven Langness <[REDACTED]>  
**Sent:** Thursday, May 15, 2014 10:49 AM  
**To:** Dermody, Bill (CI-StPaul)  
**Subject:** Internacional Auto Sales

This is my 2<sup>nd</sup> attempt. They don't shovel their snow in the winter and don't mow their grass in the summer. Plus they have anywhere from 2 to 12 or more already on the streets. That is right more than one street. I thought there was a law that a car had to be moved every 24 or 48 hours. It does not matter to them. It is however long they what to leave them. When they what'd the place all of us were told, they would not have any more cars than the lot would hold. What happen with that. In summery.

They been bad neighbors and instead of getting bigger they need to go.

Sincerely

Steven Langness

789 East Orange Ave.

St. Paul, MN 55106

Home [REDACTED]

Cell [REDACTED]

ZONING PETITION SUFFICIENCY CHECK SHEET

REZONING

SCUP

NCUP

FIRST SUBMITTED

RESUBMITTED

DATE PETITION SUBMITTED: \_\_\_\_\_

DATE PETITION RESUBMITTED: 4-17-14

DATE OFFICIALLY RECEIVED: \_\_\_\_\_

DATE OFFICIALLY RECEIVED: 4-23-14

PARCELS ELIGIBLE: \_\_\_\_\_

PARCELS ELIGIBLE: 14

PARCELS REQUIRED: \_\_\_\_\_

PARCELS REQUIRED: 10

PARCELS SIGNED: \_\_\_\_\_

PARCELS SIGNED: 10

CHECKED BY: Paul Dubrarel

DATE: 4-23-14



January 2014 staff photographs of the site







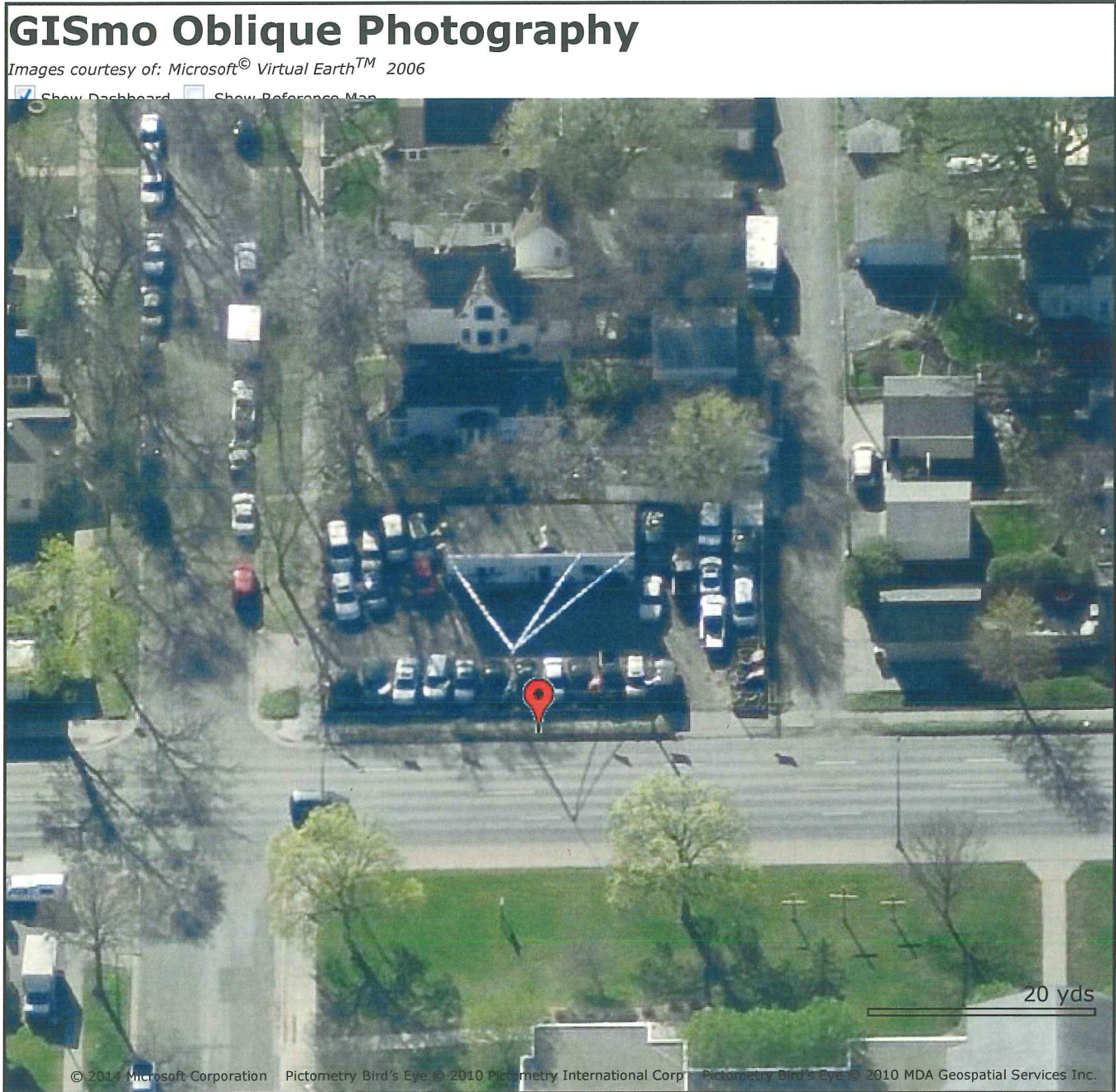












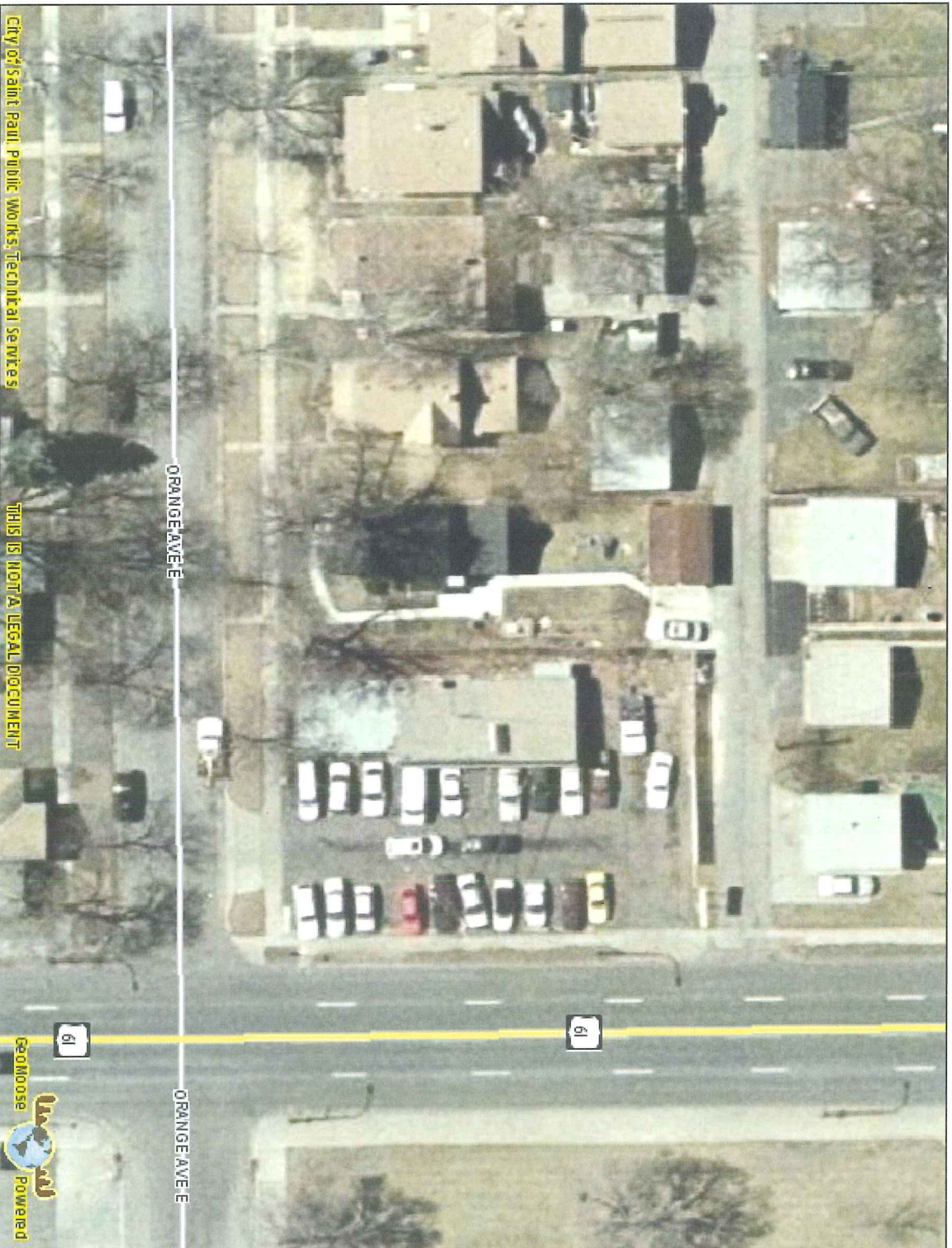


2001 aerial photograph





2003 aerial photograph



City of Saint Paul, Public Works Technical Services

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GeoMoose Powered



2006 aerial photograph



© 2013 Google  
Image U.S. Geological Survey

Google earth



2008 aerial photograph





2009 aerial photograph



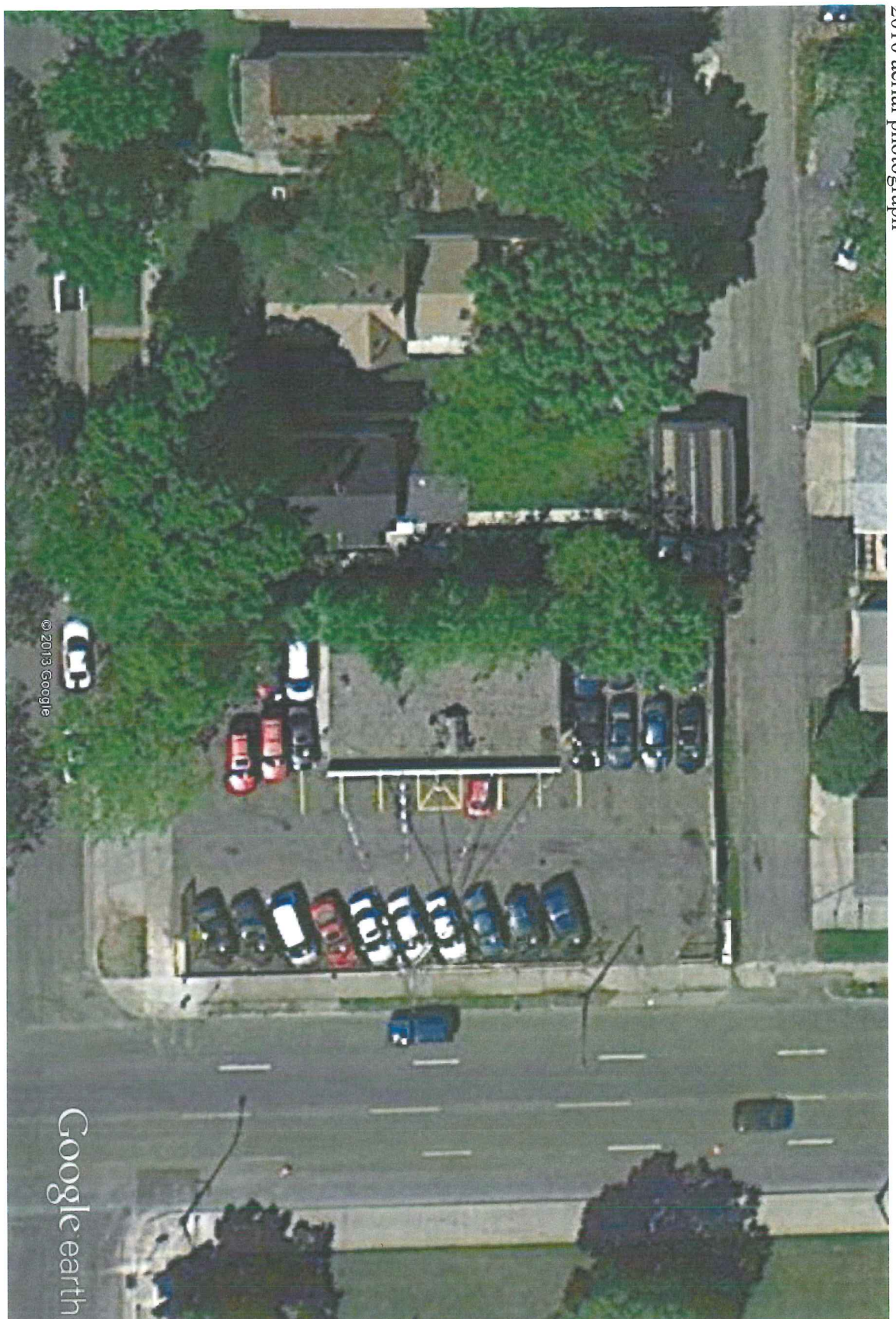
City of Saint Paul, Public Works, Technical Services

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2010 aerial photograph



© 2013 Google

Google earth

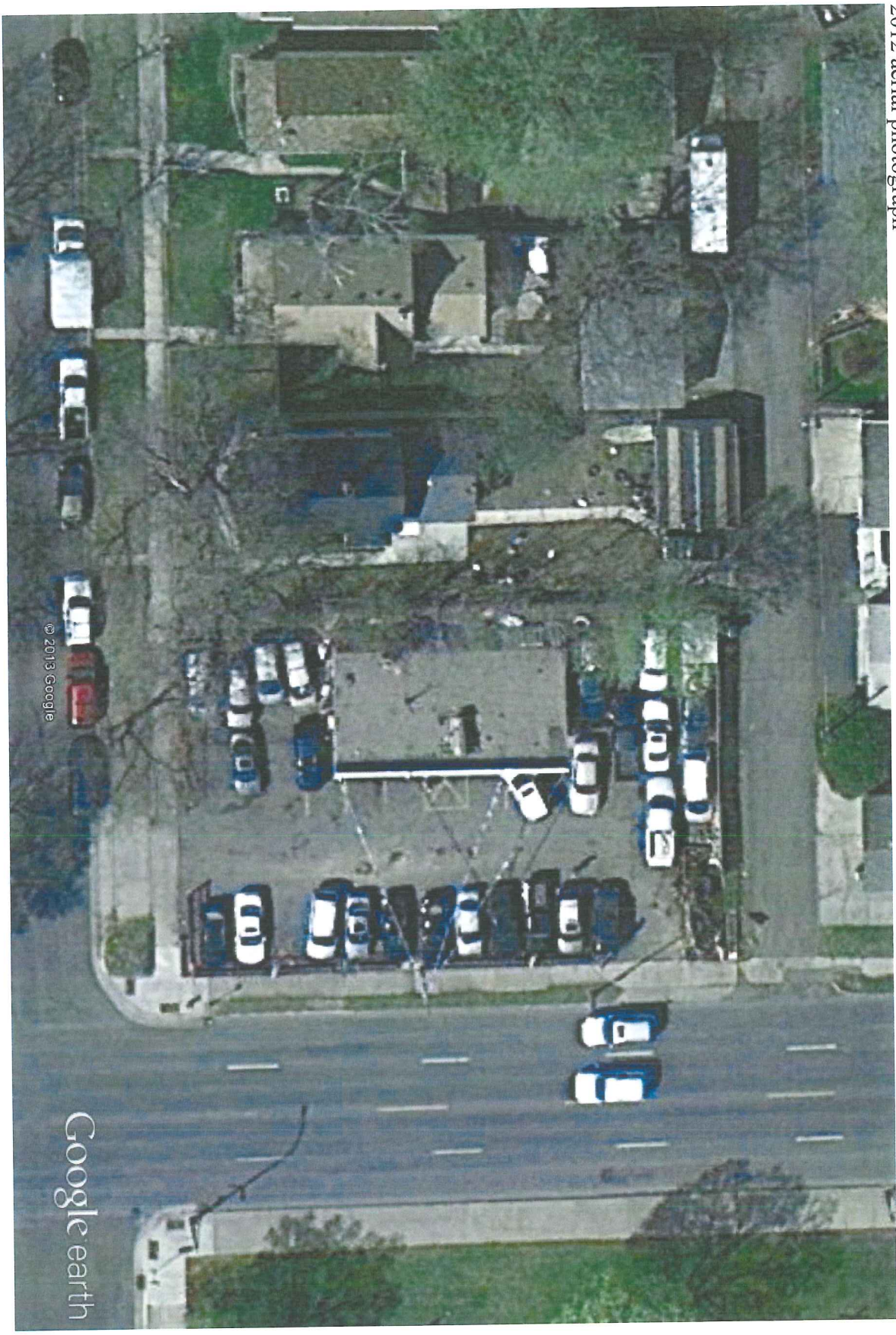


2011 aerial photograph





2012 aerial photograph

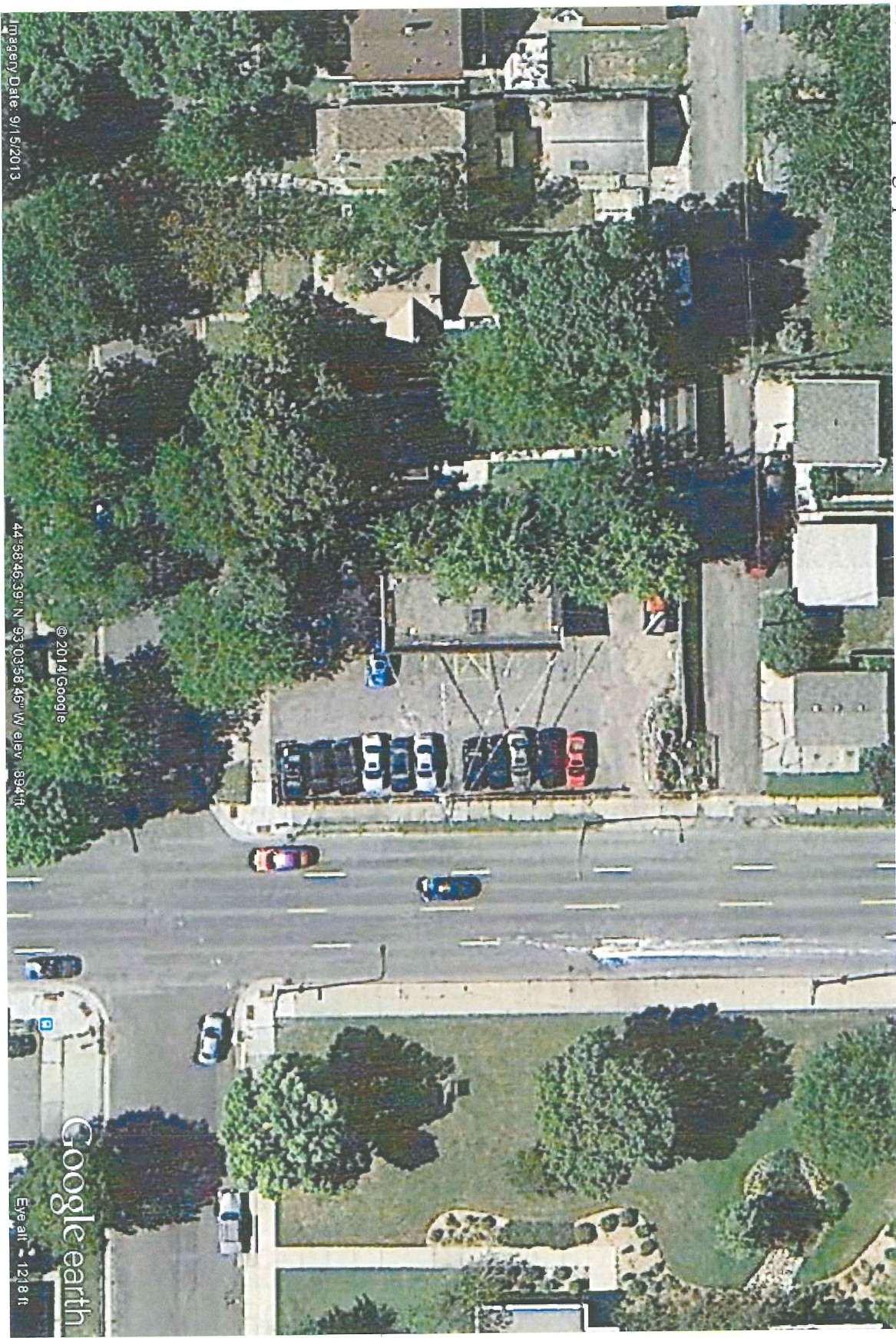


© 2013 Google

Google earth



2013 aerial photograph



Imagery Date: 9/15/2013

© 2014 Google

44°58'46.39" N 93°03'58.46" W elev: 894 ft

Google earth

Eye alt: 1218 ft



1994 CUP

City of Saint Paul  
Planning Commission Resolution

Number 94-66

Date November 18, 1994

WHEREAS, FORTUNE AUTO SALES, file #94-247, has applied for a Special Condition Use Permit under the provisions of Section 60.544(2) and 64.300(d) of the Saint Paul Legislative Code to allow outdoor sales of used automobiles on property located at 1265 ARCADE STREET, legally described as Lots 17 & 18, Block 6; Oak Ville Park; and

WHEREAS, the Zoning Committee of the Planning Commission held a public hearing on November 7, 1994, at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of Section 64.300 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing, as substantially reflected in the minutes, made the following findings of fact:

1. The applicant has a contract to purchase the property and intends to operate a used car business on the site. While there is an auto repair bay in the building, the single service bay does not have a hydraulic lift. Consequently, the applicant plans to conduct only minor repair of vehicles which are for sale on site; he will not operate a general auto repair garage at this site. The proposed hours of operation are from 9:00 a.m. to 6:00 p.m. Monday through Saturday; there will be two employees. There is space for the display of 14 vehicles and 8 off-street customer and employee parking spaces.

A 5 to 6 foot chain-link fence surrounds the property; there are gates for vehicular access on Arcade, just south of the alley, and on Orange, just west of Arcade. There is also a driveway on Arcade just north of Orange, but there is no gate opening to allow traffic.

The applicant submitted a letter from the City of Saint Paul Department of Fire and Safety Services which indicates that the existing underground storage tanks, stated by the owner to have been filled with sand over 15 years ago and with fill opening having been filled with concrete (visually verified), have been approved as abandoned in place.

2. Section 60.544(2) of the zoning code permits outdoor sales space for exclusive sale of new or secondhand automobiles, house trailers or rental of trailers or automobiles, all subject to the following:

Moved by Morton

Seconded by \_\_\_\_\_

In favor Unanimous

Against \_\_\_\_\_

CITY OF SAINT PAUL, MINNESOTA  
SPECIAL CONDITION USE PERMIT

ZONING FILE # 94-247

APPLICANT: FORTUNE AUTO SALES

PURPOSE: Special condition use permit to allow outdoor sales of used automobiles.

LOCATION: 1265 Arcade Street (northwest corner of Arcade & Orange)

LEGAL DESCRIPTION: Lots 17 & 18, Block 6, Oak Ville Park

ZONING COMMITTEE ACTION: Recommend approval with conditions

PLANNING COMMISSION ACTION: Approval with conditions and modification of Finding 2b, to permit the location of the driveway on Orange Avenue to be not less than 30 feet from the Arcade Street curb line, subject to the following conditions which must be met before the use is established:

CONDITIONS OF THIS PERMIT:

1. There shall be no more than 14 "For Sale" cars on the lot at any one time.
2. A minimum of 8 off-street parking spaces shall be provided for customers/employees.
3. The existing fence along Orange Avenue and Arcade Street is removed; no barbed wire fencing shall be present on the site.
4. The driveway on the west side of Arcade Street, immediately north of Orange Avenue be discontinued and access for the parking lot be obstructed with wheel stops or similar materials.
5. No outside storage of materials other than automobiles shall be permitted on the site.
6. "For Sale" cars shall be parked on the lot at all times when they are not being road tested or transported for maintenance or sale, and shall not be parked in the public street or alley at any time.
7. The applicant obtains and maintains a dealership repair garage license for the business, not a general auto repair license.

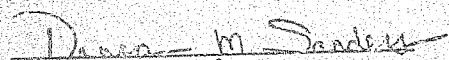
APPROVED BY: David McDonell, Commission Chairperson

I, the undersigned Secretary to the Zoning Committee of the Planning Commission for City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on minutes of the Saint Paul Planning Commission meeting held on November 18, 1994 and on record in the Saint Paul Planning Office, 25 West Fourth Street, Saint Paul, Minnesota.

This permit will expire one year from the date of approval if the use herein permitted is not established.

The decision to grant this permit by the Planning Commission is an administrative action subject to appeal to the City Council. Anyone affected by this action may appeal this decision by filing the appropriate application and fee at the Zoning Office, 1100 City Hall Annex, 25 West Fourth Street. Any such appeal must be filed within 15 calendar days of the mailing date noted below.

Violation of the conditions of this permit may result in its revocation.

  
Donna M. Sanders  
Secretary to the Saint Paul  
Zoning Committee

Copies to: Applicant



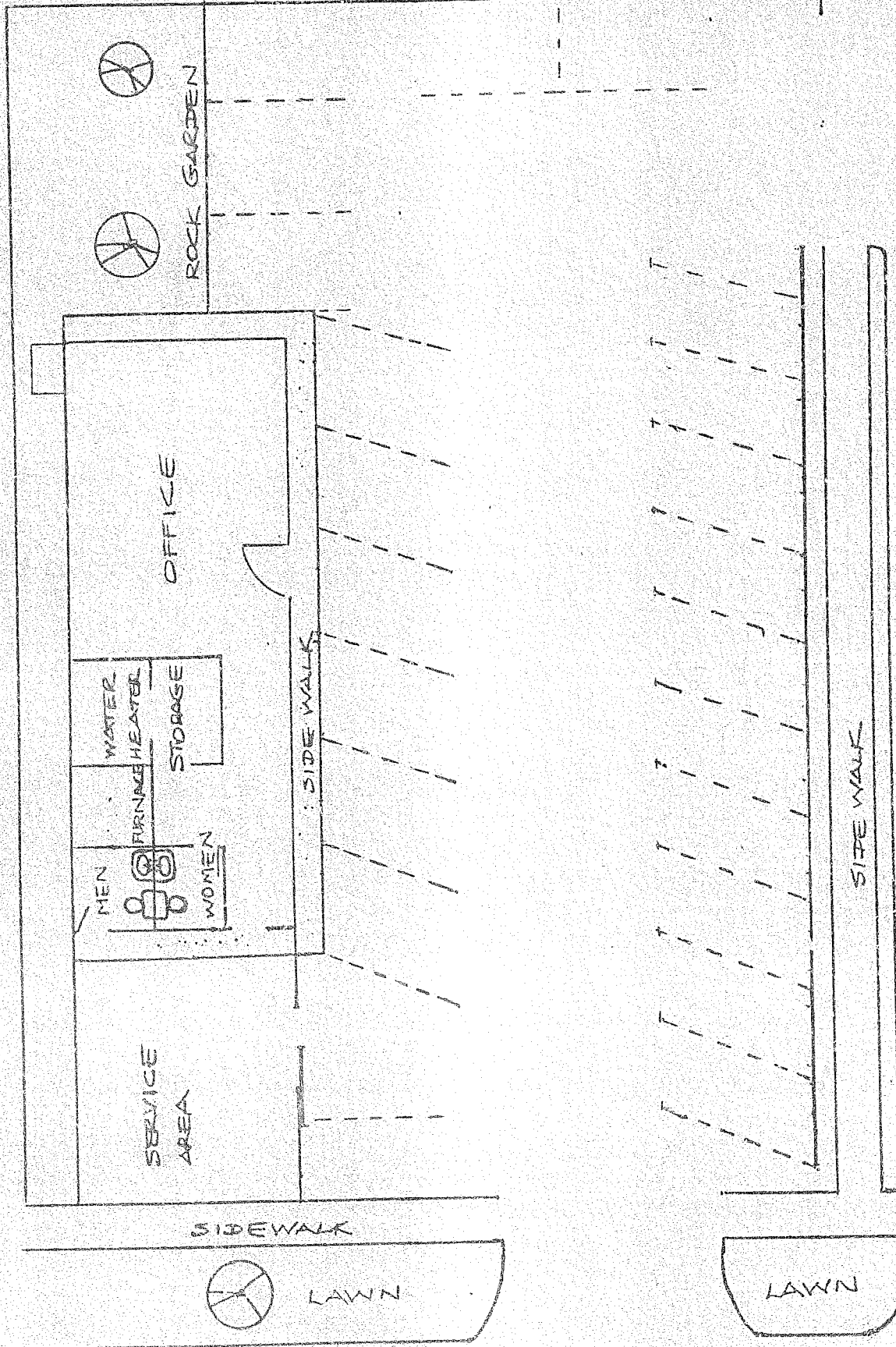
SITE PLAN/DIAGRAM  
1265 ARCADE ST.  
ST. PAUL, MN 55106

1994 Site Plan

ALLEY

SCALE 1"=12'

LAWN



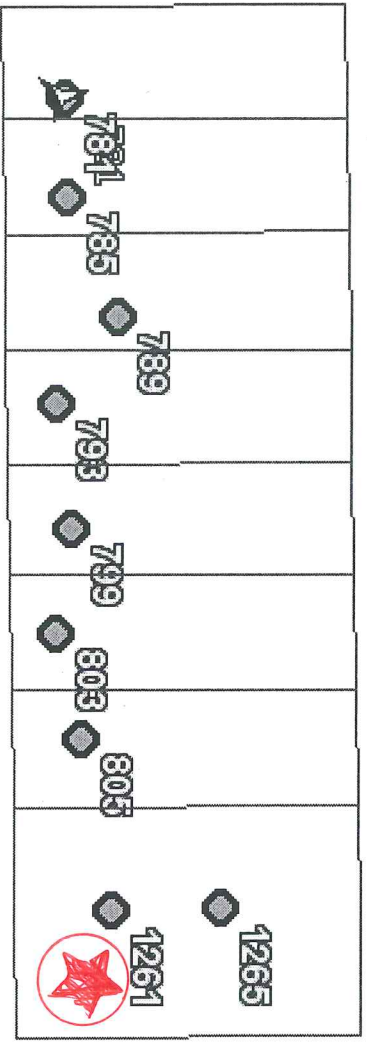
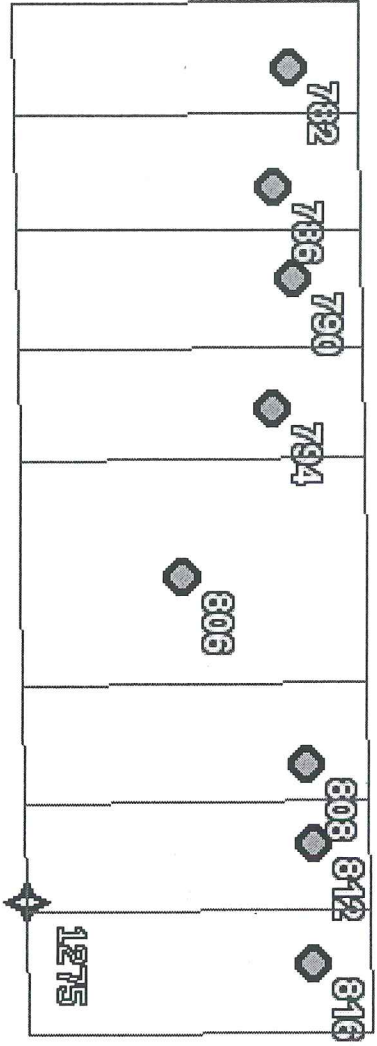
SIDE WALK

ARCADE STREET.

70NING FILE 94:247

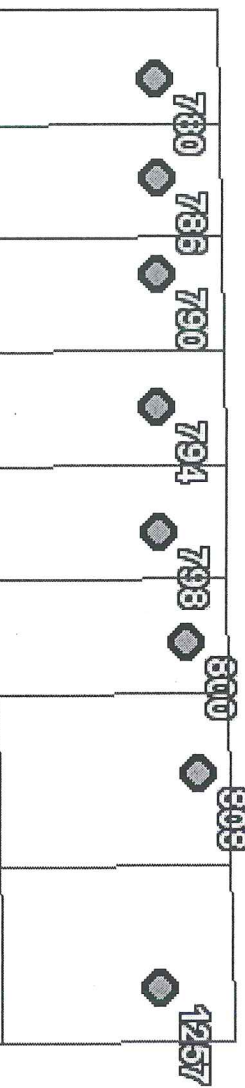
HYACINTH AVE E

HYACINTH AVE E



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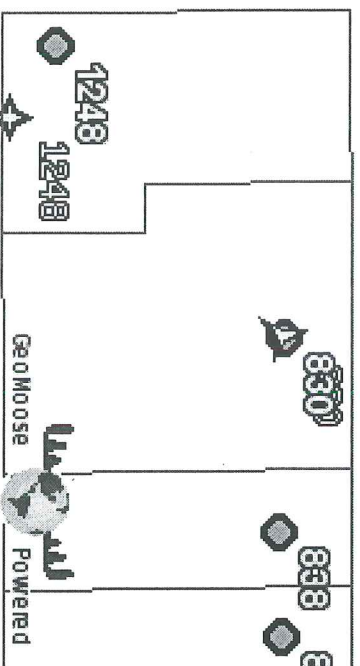
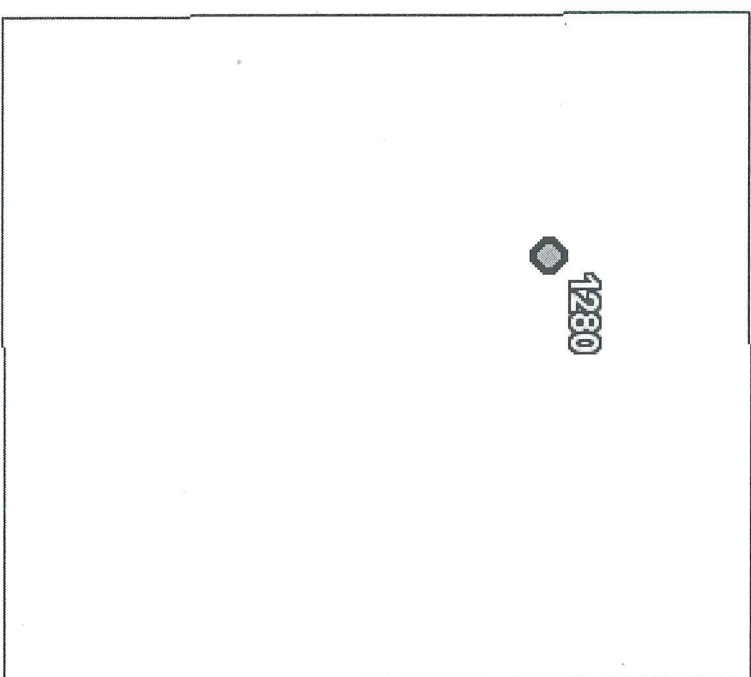


City of Saint Paul, Public Works, Technical Services

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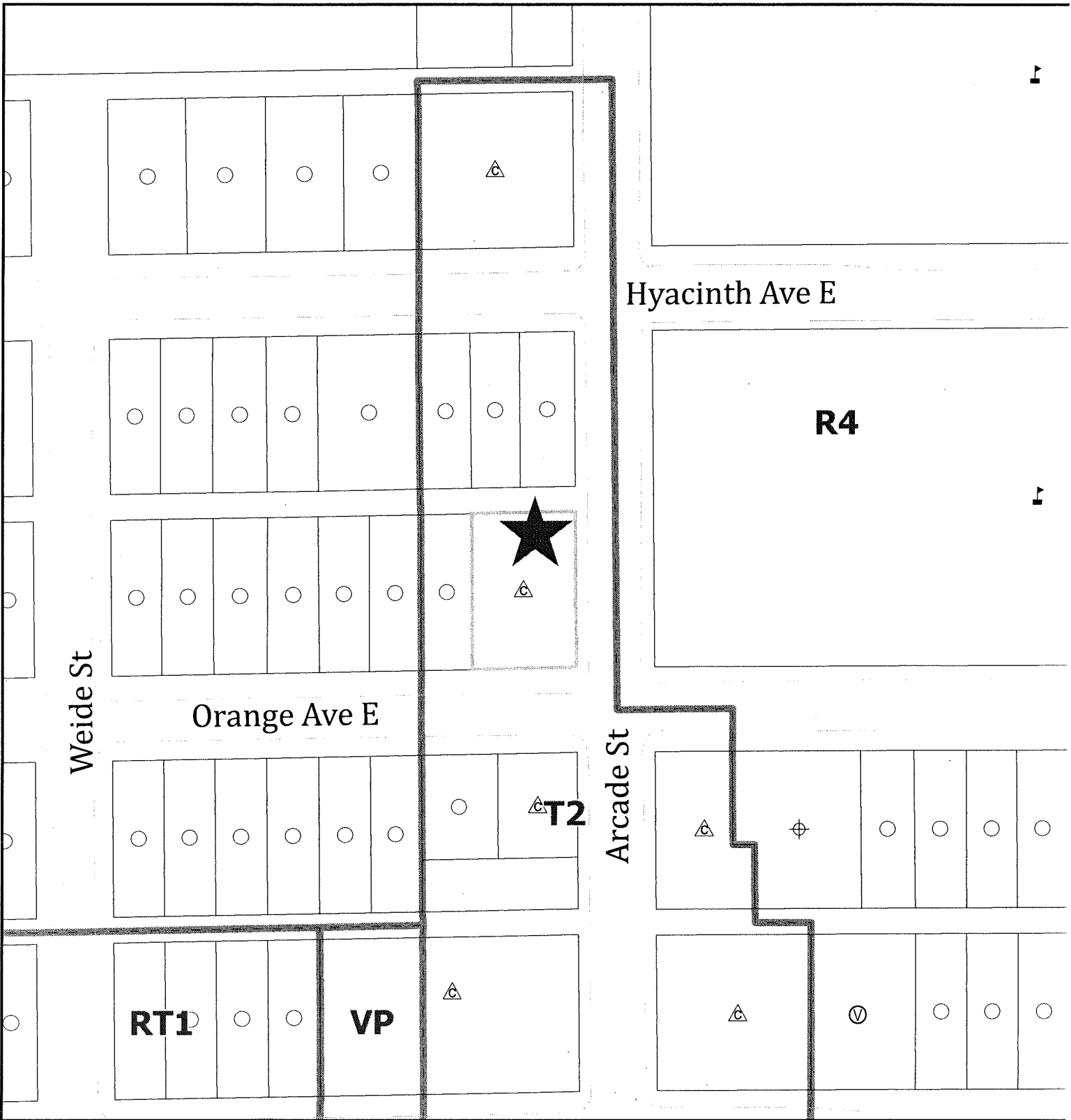
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Geomouse

Powered



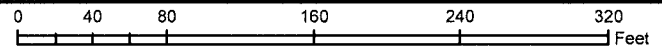
APPLICANT Internacional Auto

APPLICATION TYPE Expansion of NCUP

FILE # 14-197427 DATE 4/23/2014

PLANING DISTRICT 5

ZONING MAP # 5



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

