

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Wamoua Lee **FILE #** 14-348-318
 2. **APPLICANT:** Wamoua Lee **HEARING DATE:** December 11, 2014
 3. **TYPE OF APPLICATION:** Nonconforming Use Permit - Change
 4. **LOCATION:** 599 Wells St, between Edgerton and Payne
 5. **PIN & LEGAL DESCRIPTION:** 292922420179, Lot 21 of Chas Weide's Subd of Block 35 of Arlington Hills Addition to St. Paul
 6. **PLANNING DISTRICT:** 5 **PRESENT ZONING:** R4
 7. **ZONING CODE REFERENCE:** §62.109(c)
 8. **STAFF REPORT DATE:** December 3, 2014 **BY:** Bill Dermody
 9. **DATE RECEIVED:** November 20, 2014 **60-DAY DEADLINE FOR ACTION:** January 19, 2015
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- A. **PURPOSE:** Change of nonconforming use for a two-family dwelling – not owner occupied
- B. **PARCEL SIZE:** 40 ft. (Wells) x 125 ft. = 5,000 sq. ft.
- C. **EXISTING LAND USE:** R-Duplex
- D. **SURROUNDING LAND USE:**
Vacant to the southwest (T2); Single-family and duplex residential in other directions (R4, RT2)
- E. **ZONING CODE CITATION:** §62.109(c) authorizes the planning commission to allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location upon making certain findings (see Section H below).
- F. **HISTORY/DISCUSSION:** The subject site received an Establishment of Nonconforming Use Permit in 2005 to allow the building to be a residential two-family dwelling, conditional on one of the units remaining owner-occupied. The building was constructed in 1914 as a single-family home and was converted to a duplex in 1989. The site was rezoned from RM2 to RT2 at some time between 1975 and 2004. The site was rezoned in 2004 from RT2 (Townhouse Residential District) to R4 (One-Family Residential District) as part of a larger 40-acre study of the Phalen Corridor.
- G. **DISTRICT COUNCIL RECOMMENDATION:** As of this writing, the Payne Phalen District 5 Planning Council has not provided a recommendation.
- H. **FINDINGS:**
 1. The application is for a change of nonconforming use from an owner-occupied two-family dwelling to a non-owner-occupied two-family dwelling. Essentially, the application seeks to remove the condition of approval of the 2005 Establishment of Nonconforming Use Permit that required owner-occupancy of at least one of the units.
 2. The building was constructed in 1914 as a single-family home and converted to a duplex in 1989. The minimum lot size for a duplex in either the RM2 or RT2 zoning district is 6,000 square feet and 50 feet wide, as compared to the subject site's lot size of 5,000 square feet and 40 feet wide. The site received approval in 2005 for an Establishment of Nonconforming Use Permit, conditional on owner-occupancy of at least one of the units.
 3. Section 62.109(c) states: *The planning commission may allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location if the commission makes the following findings:*
 - a. *The proposed use is equally appropriate or more appropriate to the neighborhood than the existing nonconforming use. This finding is met. The duplex has a similar neighborhood*

impact regardless of the presence of owner-occupancy. The neighboring properties on either side of the subject site contain duplexes without owner-occupancy zoning requirements.

- b. *The traffic generated by the proposed use is similar to that generated by the existing nonconforming use.* This finding is met. The number of residential units is unchanged.
- c. *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is met. The duplex has similar impact regardless of its owner-occupancy status.
- d. *The use is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan's Housing Chapter calls for a mix of owner-occupied and rental housing in new housing development, but does not address owner-occupancy versus rental status for conversions of existing housing stock.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the change of nonconforming use for a two-family dwelling – not owner occupied.



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

RECEIVED
NOV 03 2014
BY: PD-5

Zoning Office Use Only
File #: 14-348318
Fee: 700.00
Tentative Hearing Date: 12-11-14

APPLICANT

Name: Wamona Lee #292922420179
Address: 718 Viking Dr. E.
City: Maplewood St. MN Zip: 55107 Daytime Phone: 651-226-1361
Name of Owner (if different): Wamona LEE / Sheng Lee
Contact Person (if different): Mai Lee Phone: 651-280-0906

PROPERTY LOCATION

Address/Location: 599 Wells St.
Legal Description: St. Paul, MN 55130
Current Zoning: Single family R4
(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: ☒ Change from one nonconforming use to another (para. c)
☐ Re-establishment of a nonconforming use vacant for more than one year (para. e)
☐ Establishment of legal nonconforming use status for use in existence at least 10 years (para. a)
☐ Enlargement of a nonconforming use (para. d)

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

Present/Past Use: Single family
Proposed Use: duplex

Attach additional sheets if necessary

Attachments as required ☐ Site Plan

☐ Consent Petition

☐ Affidavit

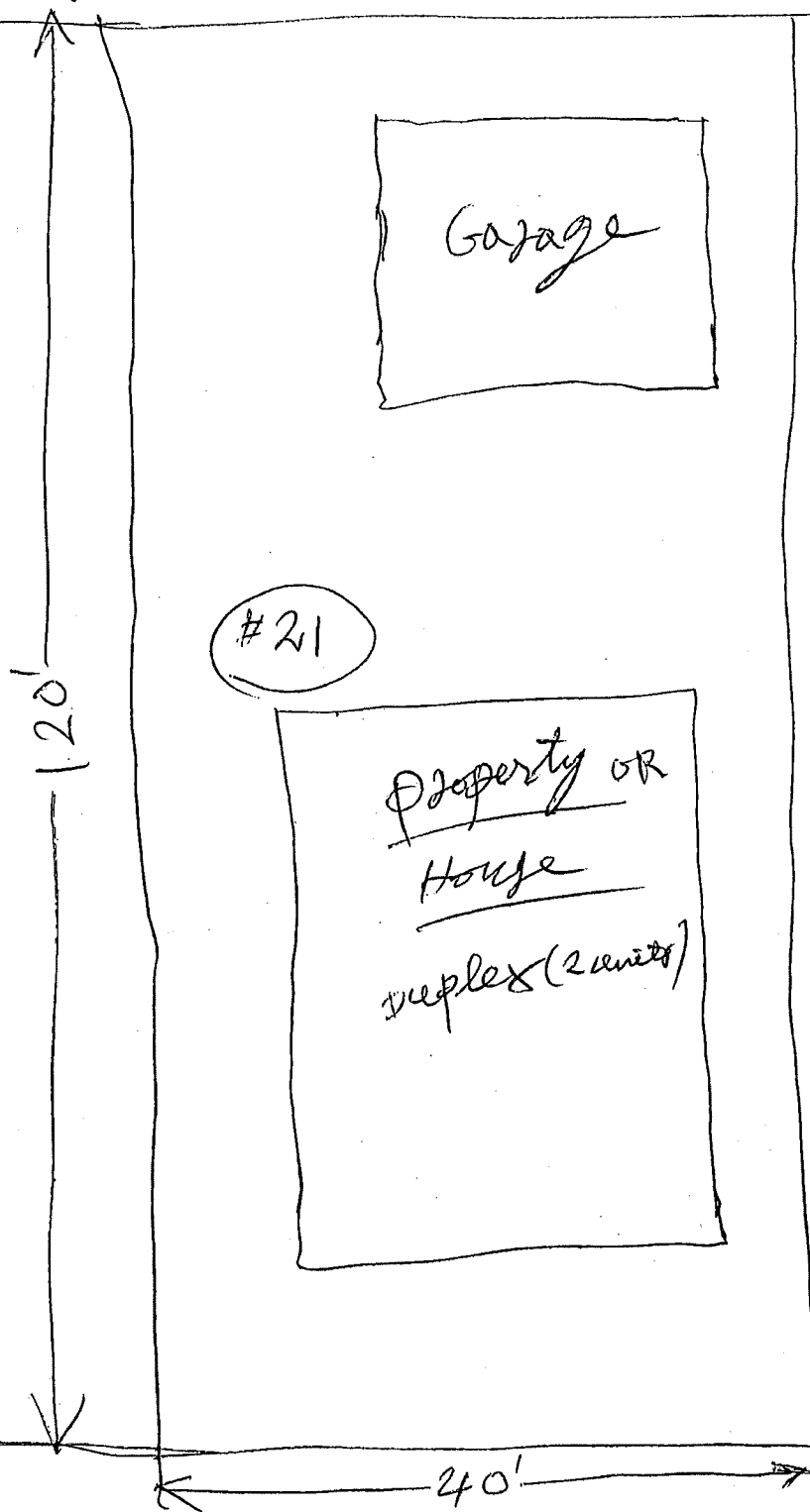
Applicant's Signature: [Signature]

Date: 10-29-14 City Agent: [Signature]

599 Wells St. E. St. Paul

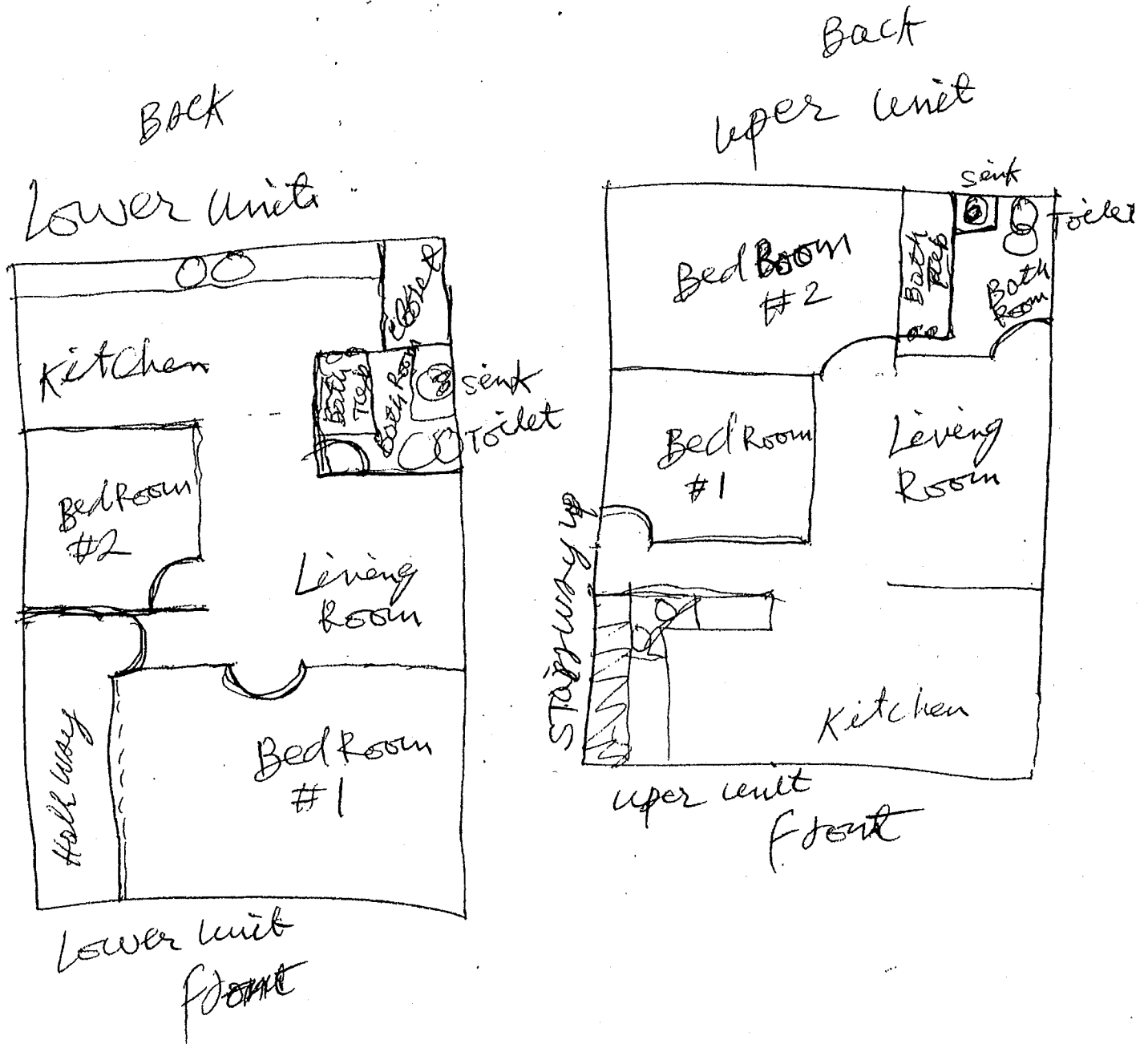
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Alley



599 Wells Street E. St. Paul

599 Wells St. E.
St Paul, MN 55106



city of saint paul
planning commission resolution
file number 05-90
date October 21, 2005

WHEREAS, Shao Xiong, File # 05-160-844, has applied to establish legal nonconforming use status as a duplex under the provisions of §62.109(a) of the Saint Paul Legislative Code, for the property located at 599 Wells, Parcel Identification Number (PIN) 29-29-22-42-0179, legally described as CHAS.WEILDE'S SUBDIVISON OF BLOCK 35 OF ARLINGTON HILLS ADDITION TO ST. PAUL LOT 21 BLK 35; and

WHEREAS, the Zoning Committee of the Planning Commission, on October 11, 2005, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.300 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 purchased the property as a duplex in 2002. In 2003, LIEP sent two letters to the applicant stating that the property could only legally be used as a single family home, not a duplex. The applicant was instructed to apply for nonconforming use status or a variance of the lot size requirements. The applicant did not respond to these letters.
2. On January 3, 2005, a follow up inspection from LIEP revealed that the property was still being used as a duplex. The applicant was instructed to either deconvert the home into a single family residence by February 19, 2005, or apply for a legal nonconforming use permit from the Planning Commission.
3. Section 62.109(a) of the Zoning Code provides that the Planning Commission may grant legal nonconforming use status to use of structures if the Commission makes eight findings. The findings and the applicant's ability to meet them are as follows:
 - (1) *The use occurs entirely within an existing structure.* This condition is met. The duplex conversion was made within the existing single family home in 1989.
 - (2) *The use or use of similar intensity permitted in the same clause of the Zoning Code or in a more restrictive zoning district has been in existence continuously for a period of at least ten years prior to the date of the application.* This condition is met. An appraisal from 1989 states that the property at 599 Wells is a converted duplex and a 1988 HUD Property Disposition Report also lists the property as a duplex. The Cole Directory from 1996-1997 shows that the property was occupied by two tenants. Tax records from 1999 through 2005 list 599 Wells as a multiple family property. The applicant has

moved by Morton
seconded by _____
in favor Unanimous
against _____

also included a 2002 Certificate of Real Estate Value from the Minnesota Department of Revenue and a Minnesota Fair Plan Homeowners Application that shows the property is classified as a duplex.

- (3) *The off-street parking is adequate to serve the use.* This condition is met. There is a two car garage in the rear of the building and an extra parking space next to the garage.
 - (4) *Hardship would result if the use were discontinued.* This condition could be met. The applicant has submitted an estimate of the likely cost of deconversion in excess of \$59,000, which is one-third of the appraised market value. However, the estimate is based on remodeling projects throughout the house. It is unclear how much of the estimated costs are based on deconversion versus general remodeling.
 - (5) *Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses.* This condition is met. The properties across from 599 Wells are zoned RT2 (Townhome Residential) and TN2 (Traditional Neighborhood), so rezoning this property to allow two units would not be spot zoning.
 - (6) *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This condition is met. The area is zoned R4 for single family residential housing, but there are other duplexes on similar sized lots on either side of 599 Wells.
 - (7) *The use is consistent with the Comprehensive Plan.* This condition is met. The Comprehensive Plan supports a range of housing types and values (Land Use Objective 5.3).
 - (8) *A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the use.* This condition is met. The petition was found sufficient on September 22, 2005: 21 parcels eligible; 14 parcels required; 14 parcels signed.
3. The Planning Commission has established Duplex Conversion Guidelines for nonconforming use permits. These guidelines lay out additional, more quantitative factors the Planning Commission wishes to consider in determining if the required finding listed in §62.109(a) of the Zoning Code can be made. These guidelines direct staff to recommend denial of applications for nonconforming use permits for duplexes in residential districts unless the following guidelines are met:
- (a) *Lot size of at least 5,000 square feet with a lot width or front footage of 40 feet.* This condition is met. The property at 599 Wells has 40 feet of frontage and the City's plat maps show a total lot area of 5,000 square feet.
 - (b) *Gross living area, after completion of duplex conversion, of at least 1,800 square feet for the two units.* This condition is not met. The applicant has submitted a form which shows 1,577 square feet of gross living area for the two units.
 - (c) *Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum. A site plan showing improved (durable, permanent, dustless surface) parking spaces must be provided.* This condition is met. The applicant has submitted a parking site plan which shows three off-street parking spaces. There is a two car garage in the rear of the building and an additional parking space next to the garage.
 - (d) *All remodeling work for the duplex conversion is on the inside of the structure. Exceptions to this condition will be made if the applicant submits exterior elevation drawings which are approved as architectural comparable by the Design staff of the Department of Planning and Economic Development. PED staff would simply approve*

or disapprove; they would not revise drawings or write any detailed comments. This condition is met. The conversion of 559 Wells into a legal duplex does not require any remodeling work, because a second unit is already established within the building.

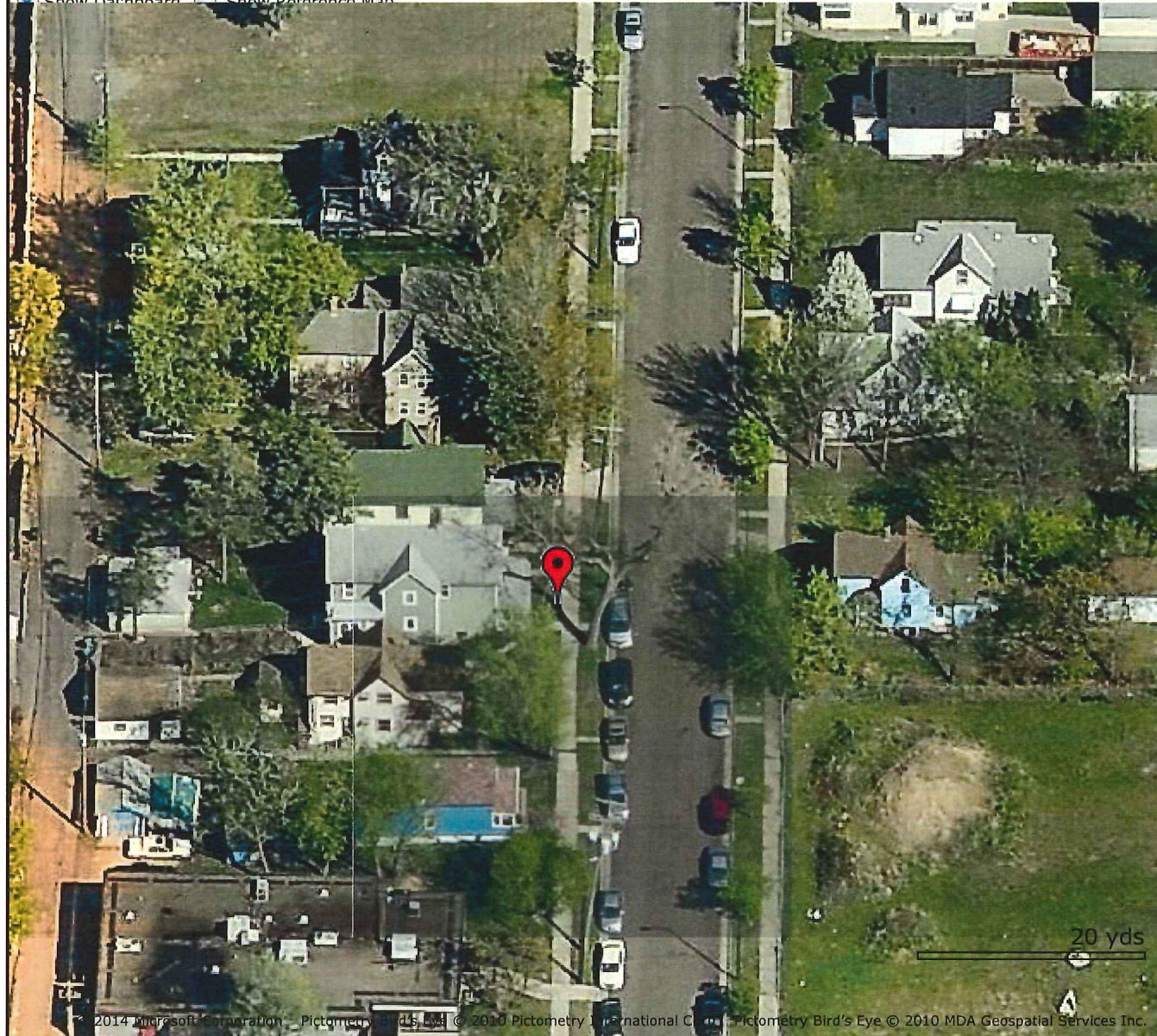
- (e) The proposed duplex structure is located in a mixed density neighborhood, not a homogeneous single-family area or in an area where duplexes and triplexes are already concentrated to the point of congesting neighborhood streets. This condition is met. Wells is a mixed density street with duplexes and single family homes.*
- (d) A code compliance inspection has been conducted and the unit is found to be up to the housing code standards; or the property owner has agreed to make the necessary improvements to bring it to housing code compliance. This condition is met. The applicant has agreed to maintain the property at housing code compliance standards.*
- (g) An economic feasibility analysis has been conducted for those cases where economic hardship is claimed as one reason for the variance request. The applicant should supply city staff with the necessary information. This condition could be met. The information submitted by the applicant is unclear, even with the use of the duplex unit the proforma shows that the property has a cash loss of \$18,921 per year.*

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Shao Xiong to establish legal nonconforming use status as a duplex for the property located at 599 Wells is hereby approved subject to the condition that one of the units remains owner occupied.

GISmo Oblique Photography

Images courtesy of: Microsoft® Virtual Earth™ 2006

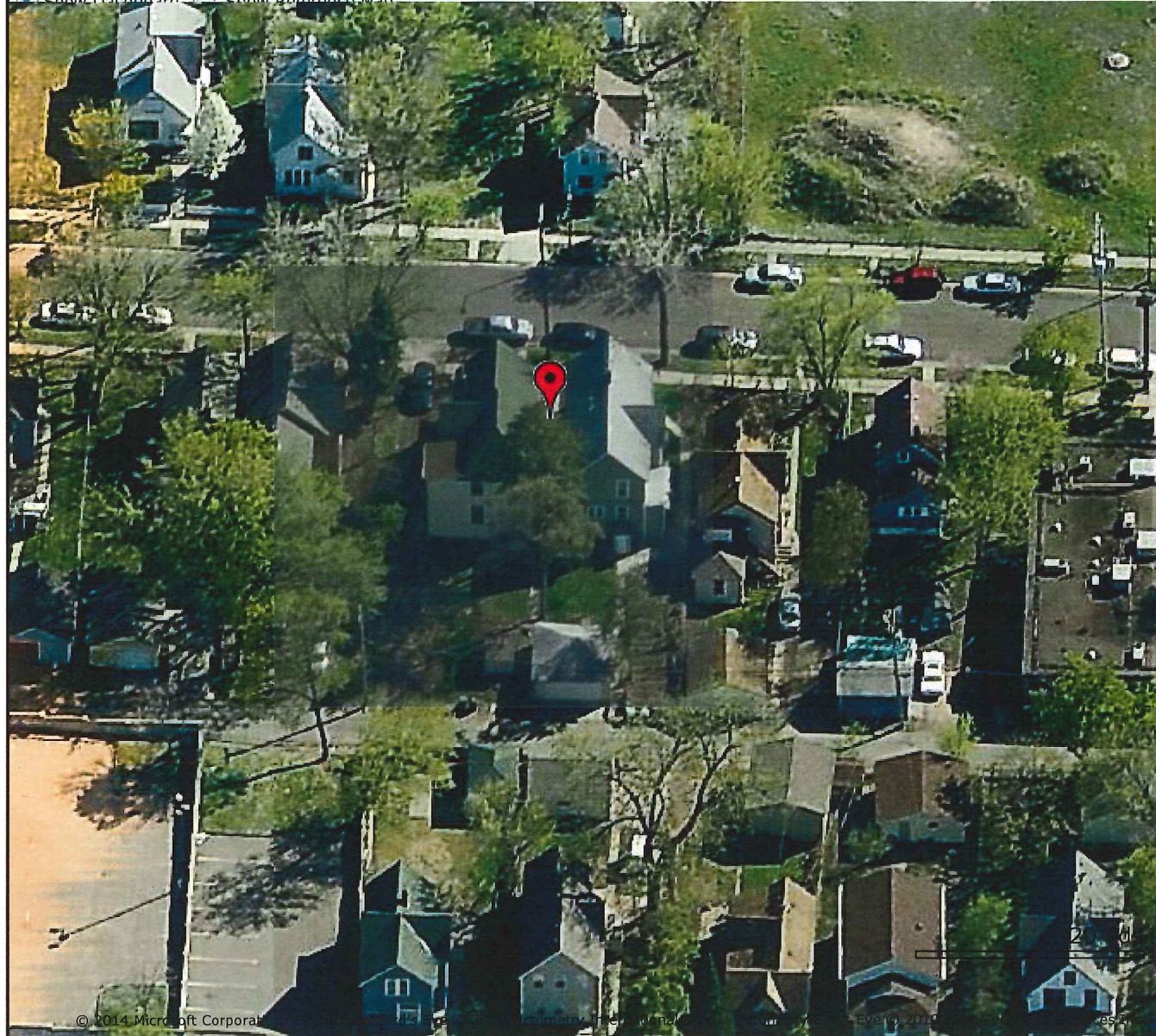
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GISmo Oblique Photography

Images courtesy of: Microsoft® Virtual Earth™ 2006

☒ Show Dashboard ☐ Show Reference Map





0 82.5 165 330 495 660 Feet

FILE NAME: Wamoua Lee

Aerial

APPLICATION TYPE: Change of nonconforming use

 Subject Parcels

FILE #: 14-348318 DATE: 11/21/2014

PLANNING DISTRICT: 5

ZONING PANEL: 10

Saint Paul Department of Planning and Economic Development and Ramsey County





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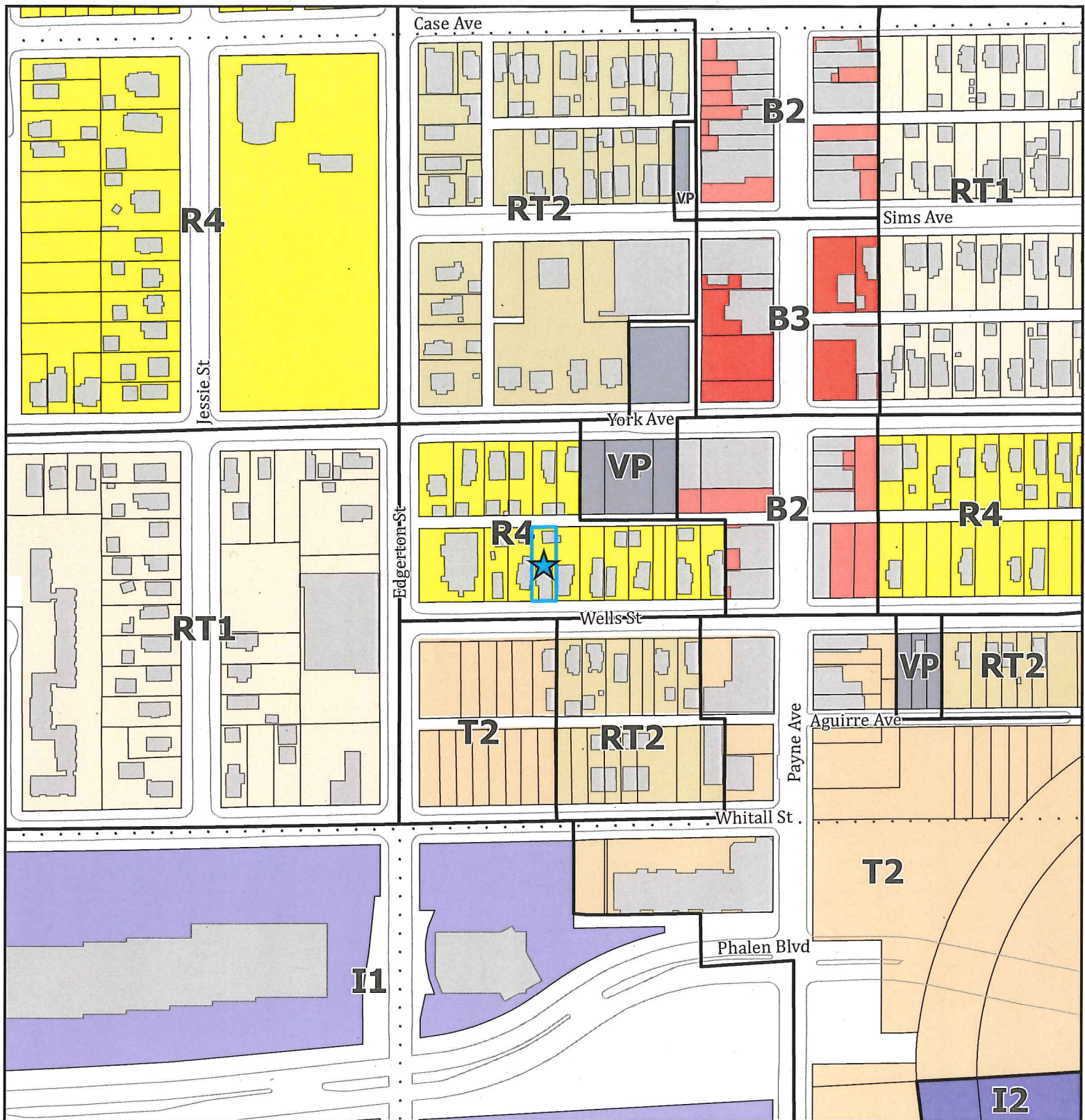
PLANNING DISTRICT: 5

ZONING PANEL: 10

Land Use

- | | |
|---|--|
| Single Family Detached | Industrial and Utility |
| Single Family Attached | Institutional |
| Multifamily | Park, Recreational or Preserve |
| Office | Railway |
| Retail and Other Commercial | Undeveloped |
| Mixed Use Residential | Subject Parcels |
| Mixed Use Industrial | Section Lines |





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APPLICATION TYPE: Change of nonconforming use

FILE #: 14-348318 DATE: 11/21/2014

PLANNING DISTRICT: 5

ZONING PANEL: 10

Zoning

R4 One-Family

RT1 Two-Family

RT2 Townhouse

T2 Traditional Neighborhood

B2 Community Business

B3 General Business

I1 Light Industrial

I2 General Industrial

VP Vehicular Parking

Subject Parcels

· · Section Lines

