

**AGENDA
ZONING COMMITTEE
OF THE SAINT PAUL PLANNING COMMISSION
Thursday, October 24, 2013 3:30 P.M.
City Council Chambers, Room #300
Third Floor City Hall - Saint Paul, Minnesota**

NOTE: The order in which the items appear on this agenda is not necessarily the order in which they will be heard at the meeting. The Zoning Committee will determine the order of the agenda at the beginning of its meeting.

APPROVAL OF OCTOBER 10, 2013, ZONING COMMITTEE MINUTES

SITE PLAN REVIEW –

- List of current applications
- Request from Capitol River Council for public hearing on site plan review for Metropolitan Council's OMF storage building, 340 Broadway Street (Tom Beach, 651-266-9086)

NEW BUSINESS

- 1 13-239-519 Feline Rescue Inc**
Change of nonconforming use from elevator service with workshop to office/meeting & storage with a cat intake room and sick cat isolation rooms.
600 Fairview Ave N, NE corner at Thomas
RM2
Bill Dermody 651-266-6617

- 2 13-235-708 David and Robin Brown**
Reestablishment of nonconforming use as a duplex
1685 Lincoln Ave, NE corner at Cambridge
R3
Scott Tempel 651-266-6621

- 3 13-236-068 O'Reilly Automotive Stores Inc**
Rezone from VP Vehicular Parking to B2 Community Business District
1653 - 1659 Huron St, between Larpenteur and Idaho Ave W
VP
Jamie Radel 651-266-6614

- 4 13-239-537 AT & T (Skyline Building)**
Conditional use permit to install 9 cell antennas
633 Robert St S Unit 405, between King and Baker
Jake Reilly 651-266-6618

- 5 13-240-134 Brett Ripley**
Reestablishment of nonconforming use as a 4 plex
1685 Taylor Ave, between Aldine and Charlotte
R4
Jamie Radel 651-266-6614

ADJOURNMENT

Information on agenda items being considered by the Zoning Committee can be found online at www.stpaul.gov/ped, then Planning, then Zoning Committee.

ZONING COMMITTEE MEMBERS: Call Samantha Langer at 266-6550 if you are unable to attend the meeting.

APPLICANT: You or your designated representative must attend this meeting to answer any questions that the committee may have.



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

SITE PLAN REVIEW COMMITTEE

**Tuesday, October 22, 2013
2nd Floor Conference Room
375 Jackson Street, Suite 218**

<u>Time</u>	<u>Project Name and Location</u>
9:00	Harriet Island 85 West Water Street New parking lot and parks maintenance buildings

Applicants should plan to attend this meeting.

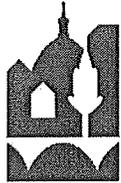
At this meeting you will have a chance to discuss the site plan for your project with Saint Paul's Site Plan Review Committee. The Committee is made up of City staff from Zoning, Traffic, Sewers, Water, Public Works, Fire Inspections, and Parks. You are encouraged to bring your engineer, architect, or contractor with you to handle any technical questions raised by city staff. The purpose of this meeting is to simplify the review process by letting the applicant meet with staff from a number of departments at one time. Staff will make comments and ask questions based on their review of the plans. By the end of the meeting you will know if the site plan can be approved as submitted or if revisions will be required. Staff will take minutes at the meeting and send you a copy.

The meeting room is on the skyway level and 25' to your left as you get out of the elevator.

Parking

A few free parking spaces are available in our visitor parking lot off of 6th Street at Jackson. Parking is also available at on-street meters. The closest parking ramp is on Jackson one block south of our office between 4th and 5th Street.

If you have questions, please contact Tom Beach at 651-266-9086 or tom.beach@ci.stpaul.mn.us.



District 17

CapitolRiver Council

CapitolRiver Council – District 17
101 East 5th Street, Suite 240, Saint Paul, MN 55101
Phone: (651) 221-0488
Web: capitolrivercouncil.org
Email: melissa@capitolrivercouncil.org

October 15, 2013

Saint Paul Planning Commission
1400 City Hall Annex
25 Fourth Street West
Saint Paul, MN 55102

Dear Members of the Saint Paul Planning Commission,

On Tuesday, September 24th, members of the CapitolRiver Council attended a site plan review for the Metropolitan Council's OMF storage building (SPR#13-229156) proposed for 340 Broadway Street. The purpose of the building is to store seasonal equipment like snowplow blades and snow blowers.

During this meeting, Metropolitan Council staff claimed to be unfamiliar with pertinent elements of both the Greater Lowertown Master Plan and the Great River Passage Master Plan, both of which describe a vision for the area. The prefabricated storage building that is being proposed is not at all consistent with that vision. CapitolRiver Council is concerned that, in addition to being an eyesore, this building will impede the kind of development that our master plans aim for in a part of downtown that is experiencing (and will continue to experience) significant growth and change as new projects come online. The future of Lowertown is an exciting one and also one of high potential for economic development in this urban neighborhood.

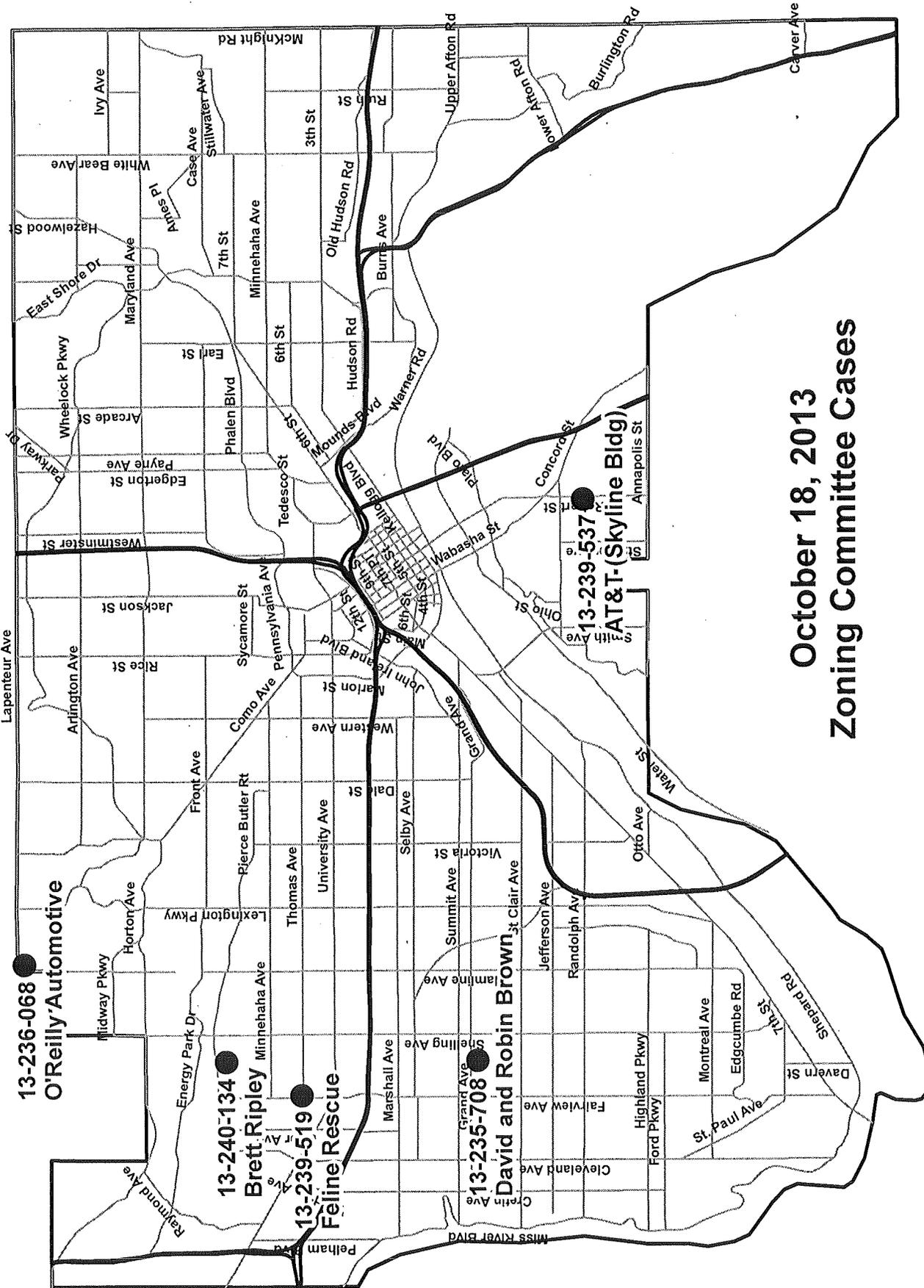
We are writing the Planning Commission to request a public hearing for this project, so that the issue may be given the time and consideration that it warrants. There are all manner of investments that make sense in the context of our master plans, and the city's vision for Lowertown. This is not one of them.

Thank you in advance for your consideration.

Sincerely,

Melissa Martinez-Sones
Director

cc: Councilmember Dave Thune



13-236-068
O'Reilly Automotive

13-240-134
Brett Ripley

13-239-519
Feline Rescue

13-235-708
David and Robin Brown

13-239-537
AT&T-(Skyline Bldg)

October 18, 2013
Zoning Committee Cases

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Feline Rescue **FILE #** 13-239-519
2. **APPLICANT:** Feline Rescue Inc **HEARING DATE:** October 24, 2013
3. **TYPE OF APPLICATION:** Nonconforming Use Permit - Change
4. **LOCATION:** 600 Fairview Ave N, NE corner at Thomas
5. **PIN & LEGAL DESCRIPTION:** 332923120213, Maywood and Addition to the C Lot 11 Blk 1
6. **PLANNING DISTRICT:** 11 **PRESENT ZONING:** RM2
7. **ZONING CODE REFERENCE:** §62.109(c)
8. **STAFF REPORT DATE:** October 14, 2013 **BY:** Bill Dermody
9. **DATE RECEIVED:** October 3, 2013 **60-DAY DEADLINE FOR ACTION:** December 2, 2013

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- A. **PURPOSE:** Change of nonconforming use from elevator service with workshop to office/meeting and storage with a cat intake room and sick cat isolation rooms.
 - B. **PARCEL SIZE:** 117 ft. (Thomas) x 43 ft. (Fairview), totaling 5,040 sq. ft.
 - C. **EXISTING LAND USE:** Elevator services with workshop
 - D. **SURROUNDING LAND USE:**

Residential uses (RM2 and R4) to the north and east, industrial uses (T3 and T4) to the south and southeast, and primarily industrial uses (I1) to the west, excepting the associated Feline Rescue building immediately southwest (I1).
 - E. **ZONING CODE CITATION:** §62.109(c) authorizes the planning commission to allow a nonconforming use to change to a use permitted in the district in which the nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the nonconforming use is first allowed upon making certain findings (see Section H below).
 - F. **HISTORY/DISCUSSION:** In 1933, a glass cutting company, which was acknowledged to be nonconforming under the "C Residential District" (multifamily) zoning, received approval to replace a storage shed that was lost in a fire. The site was rezoned RM2 in 1975 as part of a citywide rezoning. The previous occupant, an elevator services company with a workshop, last renewed their Certificate of Occupancy in 2011 (expires in 2014).
 - G. **DISTRICT COUNCIL RECOMMENDATION:** As of the date of this staff report, the District 11 Council has not provided a recommendation.
 - H. **FINDINGS:**
 1. The application requests approval to change the nonconforming use from elevator service with workshop to office/meeting and storage with a cat intake room and sick cat isolation rooms. The subject site is not proposed to be open to the public except for a potential spay/neuter program that would use a garage space two days per month. No expansion of the building is proposed.
 2. The previous business most closely resembles the Zoning Code use of a service business with workshop, which is first permitted in the T2 Traditional Neighborhood zoning district. The proposed use resembles either a veterinary clinic, which is first permitted in T2, or administrative office with accessory storage, which is first permitted in T1.
 3. The applicant operates a shelter/adoption center across the street at 593 N. Fairview Avenue. The 593 facility will continue to be where adoptions are processed and where cats are held after their intake and isolation periods, which generally takes two to four weeks. 593 will continue to be the main facility accessed by the public. 593's public hours are currently 10 a.m. to noon and 6 p.m. to 8 p.m. Monday through Friday, and 10 a.m. to 2 p.m. Saturday and Sunday.
 4. Section 62.109(c) states: *The planning commission may allow a nonconforming use to change to a use permitted in the district in which the nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the nonconforming*

use is first allowed, 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. According to the application, the previous elevator service and workshop business was open 7 a.m. to 6 p.m. Monday through Friday, with occasional weekend hours. The business had 45 employees and 35 service trucks, though other than Tuesday morning when the full crew came to the building generally only 14 employees were present. The proposed use is open later into the evening, but has fewer employees (8 to 12 volunteers anticipated at this site at a time) and is open for fewer hours. The cats will be kept indoors. The previous workshop use, which could have potentially generated noise issues via any on-site elevator equipment repairs, has been eliminated.
- b. *The traffic generated by the proposed use is similar to that generated by the existing nonconforming use.* This finding can be met. The potential spray/neuter program proposed for the subject site could generate significant additional traffic, with 30 to 40 cats treated per program day (two program days per month). A recommended condition would prohibit the spay/neuter program on the site. The other functions of the proposed use will generate less traffic due to a reduction of approximately 33 employees and elimination of 35 service trucks. Besides the spay/neuter program, there is no proposed public use of the building.
- 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 subject site has had non-residential uses since at least 1933. The surrounding area is mostly industrial uses.
- d. *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 calls for a range of uses including commercial office uses such as proposed. The Fairview Station Area Plan designates the site as part of a Sensitive Neighborhood Infill area, which has no provisions relating to existing non-residential development.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the change of nonconforming use from elevator service with workshop to office/meeting and storage with a cat intake room and sick cat isolation rooms subject to the following additional condition:
 1. The spay/neuter program shall not be conducted on the subject property.



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 #: 13-239519
 Fee: 700.00
 Tentative Hearing Date:
10-24-13

PD = 11

332923120213

APPLICANT

Name Feline Rescue, Inc.
 Address 593 Faiview Ave. N.
 City Saint Paul St. MN Zip 55104 Daytime Phone _____
 Name of Owner (if different) Eagle Elevator Corp.
 Contact Person (if different) Randi Helgeson Phone 952-934-1343

PROPERTY LOCATION

Address/Location 600-602 Fairview Ave. N.
 Legal Description Lot 11 Block 1 Maywood Addition
 PIN 33-29-23-12-0213 Current Zoning RM2
 (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 Elevator maintenance/repair business
 Proposed Use Offices for Feline Rescue as well as intake and sick cat care
 Attach additional sheets if necessary
See attached

Attachments as required Site Plan Consent Petition Affidavit

Applicant's Signature Randi Helgeson Date 10/3/2013 City Agent [Signature]

10-3-13

BACKGROUND

Feline Rescue, Inc. is a nonprofit corporation whose mission is to provide safe shelter, veterinary care, and socialization for stray, abandoned, or abused cats until good permanent homes can be found for them. To accomplish this mission, Feline Rescue operates three main programs:

1. The Shelter/Adoption Center at 593 N. Fairview. This building, owned by Feline Rescue since December 2005, houses about 65 to 70 cats in a number of rooms. This building is open to the public during posted hours, and visitors can come in and get to know the cats prior to adoption as well as just come for a visit. The building also has a smaller, restricted access "intake" room where cats coming into the shelter are tested for various conditions and diseases and held until they are ready for adoption and are transferred to one of the public rooms. (This generally takes two to four weeks.) Cats who have minor illnesses, are recovering from veterinary procedures, or otherwise need to be separated from the general cat population for a time are kept in another restricted access "med" room. However, even with these precautions it can be difficult to keep minor illnesses (chiefly upper respiratory infections) from spreading to other areas of the shelter. (Cats with serious medical needs or needing to be spayed or neutered are taken to veterinary clinics for treatment.) The building also includes a small office.
2. The Foster system cares for between 100 and 200 kittens and special needs cats in the homes of volunteers, where the cats are socialized and made available for adoption. These cats can be either placed in the shelter as space becomes available or adopted directly from the foster system. Foster volunteers have no place to meet with one another except in individual homes.
3. The Outreach program consists of volunteers who help the public arrange for low-cost spay and neuter services for household pets and feral colonies and also help with other medical and behavioral issues as needed. To accomplish these activities, Outreach works with various veterinary partners including MNSNAP, a nonprofit that provides low cost spays and neuters using a mobile veterinary van that travels around the state. The van comes to Feline Rescue two days each month, using the garage/storage area and parking lot at the 593 building. MNSNAP can spay or neuter between 30 and 40 cats a day. The surgeries are done in the van, and the cats that are waiting for their surgeries or are recovering from them are kept in the garage until their owners pick them up. The garage is adequate but space is quite limited, since this area is largely used to store supplies for the three programs (see attached photos).

PROPOSAL

Feline Rescue would like to purchase the building at 600 N. Fairview, which is across the street from our existing building. The building would be for the private use of Feline Rescue. No adoptions would occur at this location, and it would not be open to the general public. The building has two floors and two garage areas, one of which is heated, while the other has a loading dock area.

The upper floor of the building would be used as a conference room for Board meetings and an expanded office. In addition, the intake room and sick room would be relocated from the existing shelter to rooms on this floor. A separate room would also be established to isolate cats that have contagious conditions. We believe we can better prevent the spread of illnesses from incoming and sick cats to the rest of the shelter through this more complete separation.

The lower floor would provide meeting and storage space for the Foster program volunteers, as well as a separate area for the Outreach program (supplies are now kept in volunteers' homes). The building would also be used for other kinds of storage, such as supplies for fundraising events. The garage with loading dock would be used for sorting and storing donated supplies.

We are also exploring the use of the heated garage for the MNSNAP operation; although this may not work logistically. The current plan would have the van park outside the building on Thomas a couple of days each month, and the garage would be used as the staging area. The garage, or another separated space at the rear of the building also would be used to hold feral cats that have been trapped to be spayed or neutered for a few days before the operation and a few days afterward for a period of recovery. They would then be released back into their colony. While some members of the public would access the rear garage to make use of this service, MNSNAP spay/neuter operations are done by advance appointment only, so the public use would be quite limited.

APPLICATION FINDINGS

The building has been reviewed by an architect, and staff in the Department of Safety and Inspections (DSI) has concluded that it is code compliant as long as the building is not open to the public. Zoning staff in DSI have classified the previous use as "office," first permitted in the T1 district. They have also classified Feline Rescue's proposed use as "veterinary clinic," first permitted in the T2 district. They have advised Feline Rescue that they did not have sufficient information to find that the elevator repair business was a service business with workshop (contractor's shop), which is a T2 use. After further discussion with the owner of the previous use, we believe there is sufficient information to support the service business with workshop designation (see attached photos). We also believe that the veterinary clinic use in the zoning code has some significant differences from the uses proposed by Feline Rescue. We believe that the Feline Rescue proposal meets the required findings for a change of nonconforming use as described below.

Section 62.109 (c) of the zoning code states that 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:

- (1) The proposed use is equally appropriate or more appropriate to the neighborhood than the existing nonconforming use.** Based on information provided by the owner of the elevator business, it seemed to be have many of the characteristics of a service business with workshop or a business sales and services use (both first permitted in the T2 district)

rather than being a strictly office use. The hours of the business were 7 a.m. to 6 p.m. Monday through Friday, with some Saturday or Sunday hours as well. The business had a total of 45 employees and 35 service trucks. On average, 14 staff came to the building each day: three office staff; four sales/project managers; and five to seven employees who generally worked at job sites but stopped by daily to pick up parts, fluids, and supplies; to work with tooling; or to meet with the project managers. On Tuesdays (time day), all employees would come between 6am and noon (45 people). Therefore, we believe that the previous use was a service business with workshop and would be first permitted in the T2 district.

The uses proposed by Feline Rescue also fit within the lists of T1 and T2 uses. Much of the building will be used for meeting space, office, and storage, with some of it used for cat care. Current estimates are that up to 12 cats would be in the intake area and generally 10 or fewer cats in the sick room. The isolation room population would vary, and it will even be empty at times. At this point, Feline Rescue does not intend to increase the number of cats available for adoption at the shelter, which limits the number of new cats that can be taken in.

We expect that four to six volunteer staff will come to this facility each day to care for the cats, with a similar number coming to use the offices and storage areas. Larger meetings of the Board, foster system, and outreach will occur approximately once per month each. If the MNSNAP program can be moved to this site, it will take place twice each month, from about 9 a.m. to 6 p.m. This has generally occurred on Sundays, but can be scheduled on other days.

The meeting and storage uses are similar to those of the previous business and are consistent with T1 uses. The intake and sick cat, and isolation rooms are somewhat similar to a veterinary clinic, but with some key differences. Veterinary clinics handle a wider variety of animals, illnesses, and procedures. Clients bring their animals to the clinic, resulting in greater traffic throughout the day. This location will not be open to the general public and will only house cats that are already associated with Feline Rescue. In that respect the cat care uses could be considered similar to a medical laboratory, a permitted T1 use. However, the uses proposed by Feline Rescue fall within what is permitted in the T2 zoning district, similar to the previous use which, we believe, most closely matches a T2 use, making the proposed use equally appropriate or more appropriate to the neighborhood than the previous elevator repair business.

- (2) The traffic generated by the proposed use is similar to that generated by the existing nonconforming use.** Based on information from the owner, the elevator business generated traffic for approximately 14 staff, except for Tuesdays when all 45 staff people came. The existing building has very limited off-street parking. There appears to be only 1 space provided in the enclosed garage without stacking. The loading dock and driveway would need to be kept available for supply pick up and delivery. The business owner estimates that they needed 7 – 8 parking spaces on a typical day, so it seems likely that the

business made use of on-street parking, a situation that appears to be legally nonconforming. Feline Rescue anticipates generating a similar amount of traffic on a daily basis, without the extra traffic on Tuesdays, but it will be spread out more evenly throughout the day rather than the pattern of employees coming in the morning and leaving in the afternoon. In addition, Feline Rescue has access to the parking lot in front of our 593 Fairview building, which can accommodate about 12 cars. This will improve the parking situation at 600 N. Fairview.

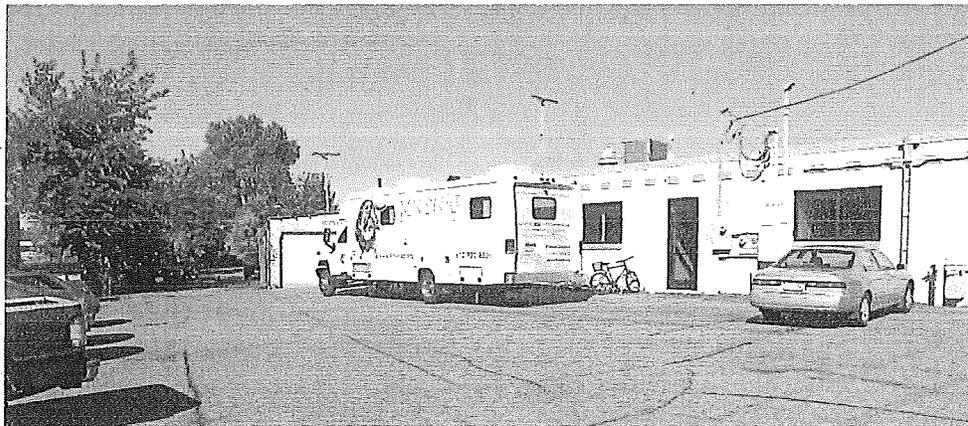
(3) The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.

Because this building will not be open to the public and will be used only by Feline Rescue staff, the proposed use will not be detrimental to the existing character of development in the neighborhood. In fact, Feline Rescue hopes to underplay our use of the building as much as possible so that the general public is unaware of our occupancy. While the MNSNAP spay/neuter service will involve some limited public access, these pet owners need to make appointments in advance, which, we hope, will limit public awareness. Feline Rescue will meet all necessary building code requirements and will work with DSI Animal Control staff to ensure that the cat care use does not endanger the public health, safety, or general welfare.

(4) The use is consistent with the comprehensive plan. According to the Generalized Land Use Map (Figure LU-L), the property at 600 N. Fairview is located where three major proposed land use plan categories converge: industrial uses to the west, mixed use corridor to the south, and established neighborhood to the north and east. The land use description for "Established Neighborhood" recognizes that they can include "scattered neighborhood-serving commercial, service, and institutional uses at the juncture of arterial and collector streets." The Transportation plan classifies Fairview as a Minor B Arterial and Thomas as a Collector, making this a suitable location for the proposed institutional/service use. The proposed use is compatible with the comprehensive plan and the mixed use character of the area.

Feline Rescue, Inc. Change of Nonconforming Use Application

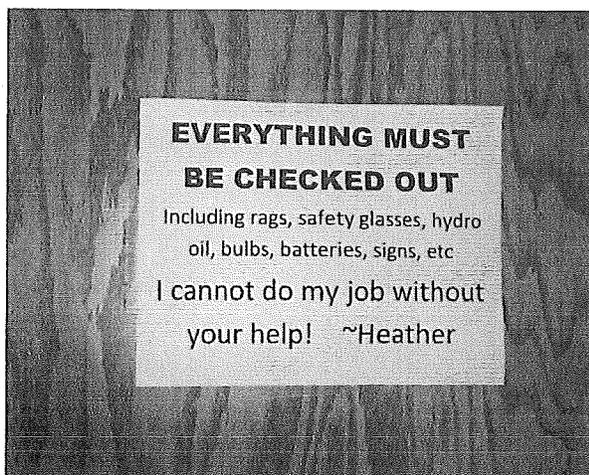
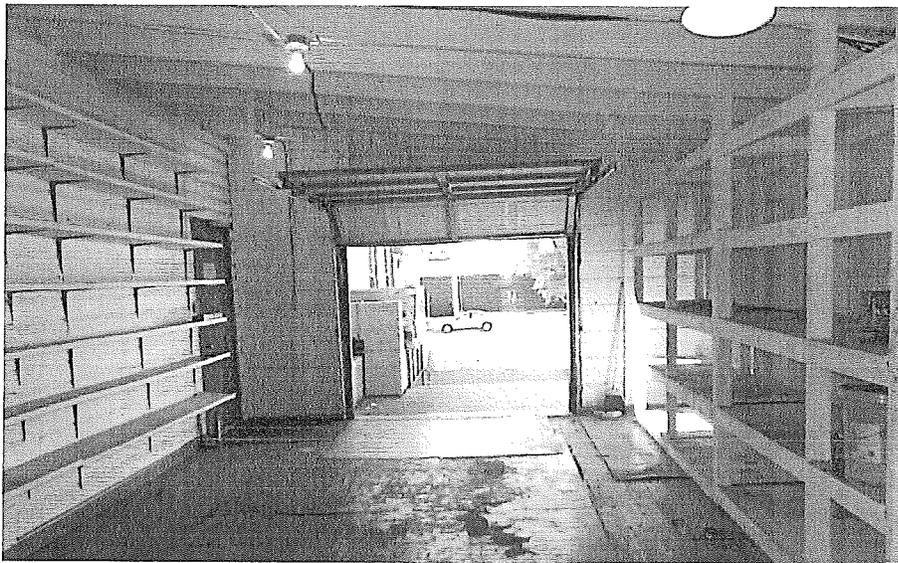
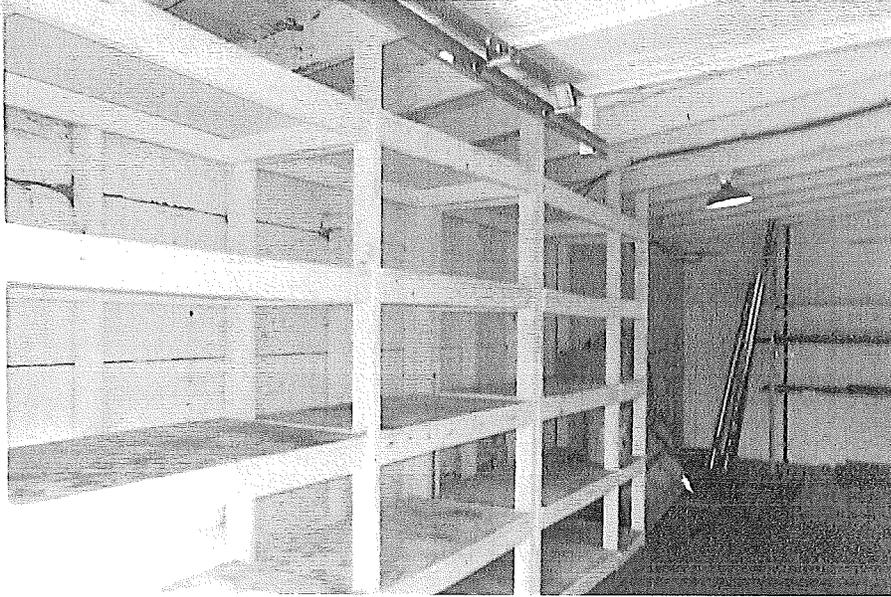
MNSNAP Activity at Feline Rescue's 593 Fairview building. All surgery takes place in the van.



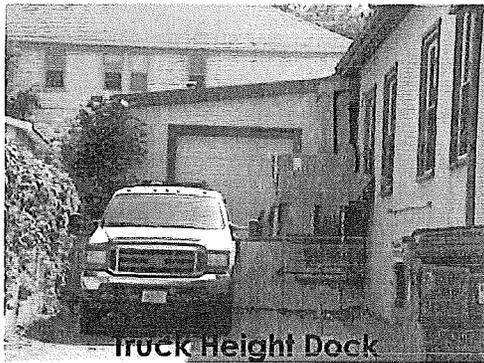
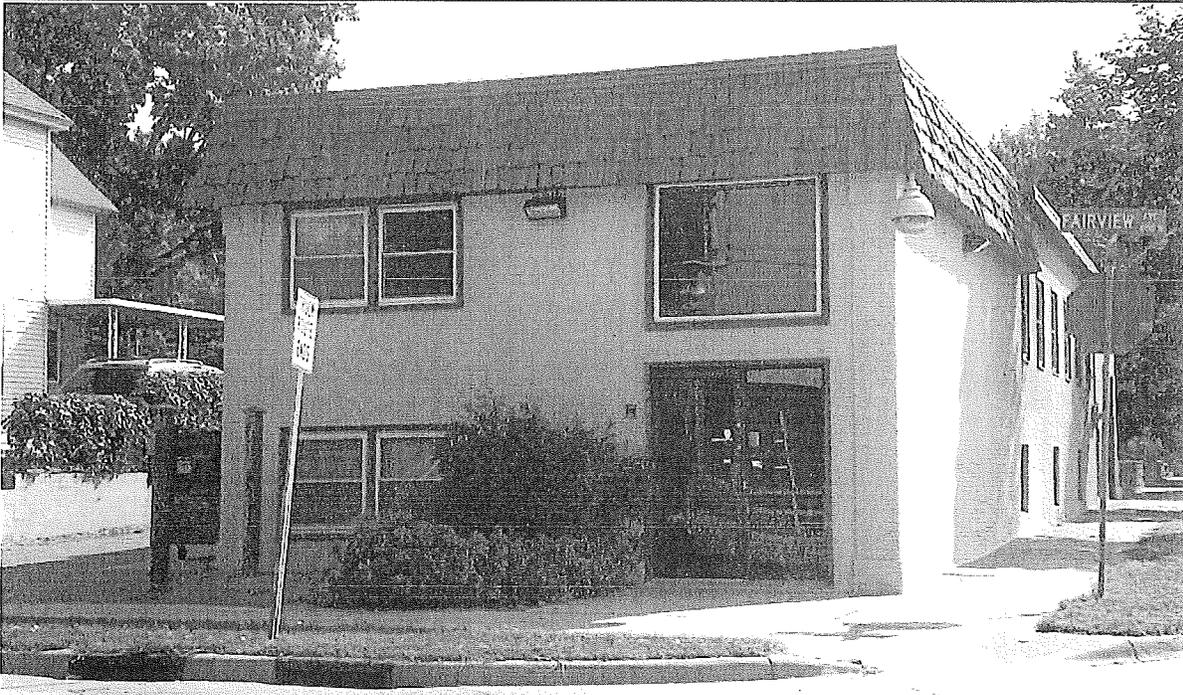
Setup in storage area

Feline Rescue, Inc. Change of Nonconforming Use Application

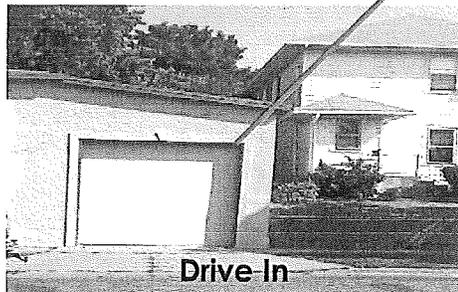
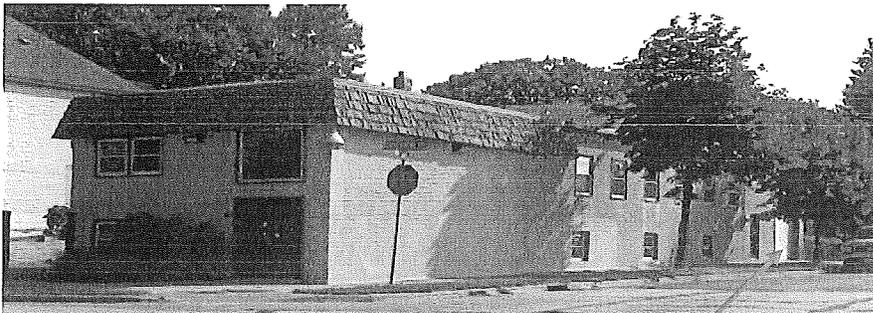
600 N. Fairview loading area photos



FORE SALE - 600 Fairview Avenue North - St. Paul



Truck Height Dock



Drive-In

JB REALTY CO.

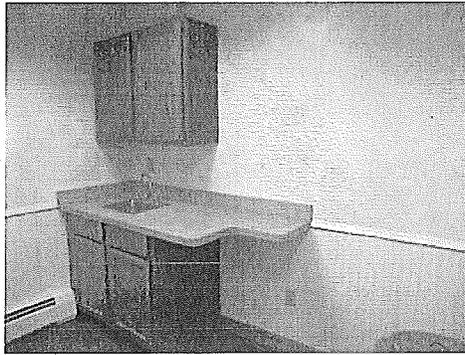
CONTACT INFO

Judy Mueller
Senior Vice-President
JB Realty Co.
Direct: 651.294.3501
Fax: 651.294.3517
Email: jamueller@jbrealtyco.com

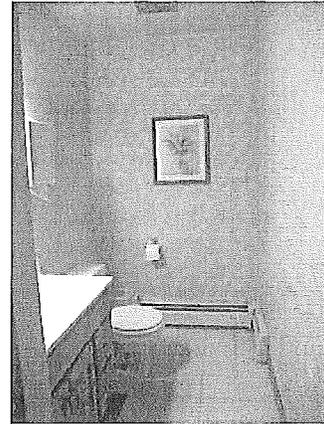
1600 University Avenue W.
209 Spruce Tree Centre
St. Paul, MN 55104
www.jbrealtyco.com



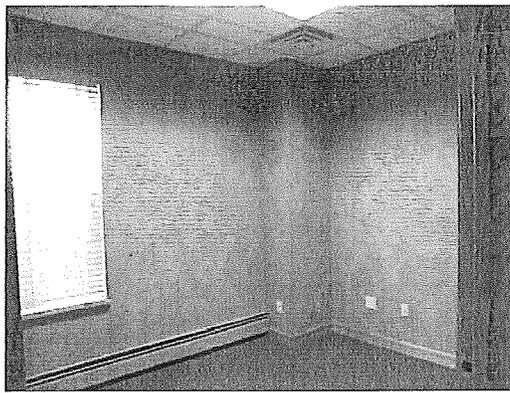
Split Entrance



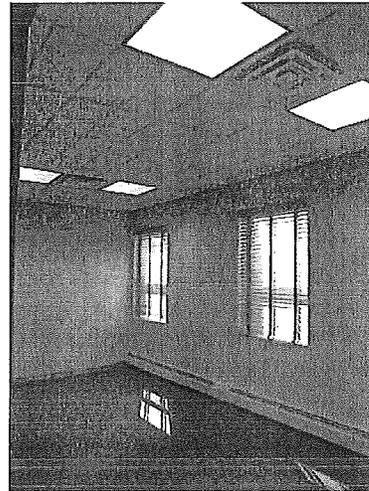
Kitchenette area



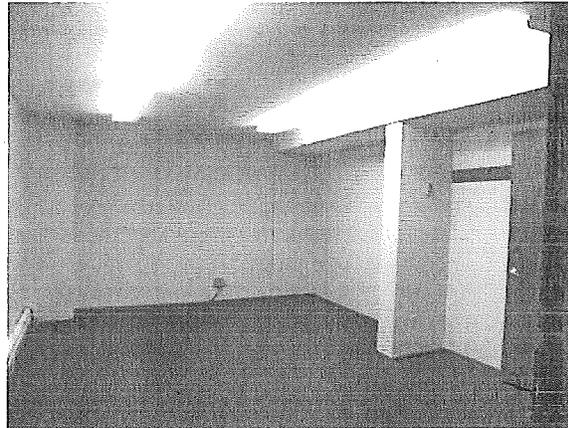
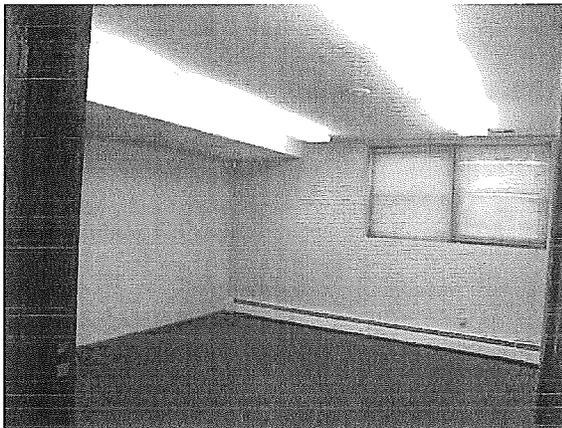
Bathroom



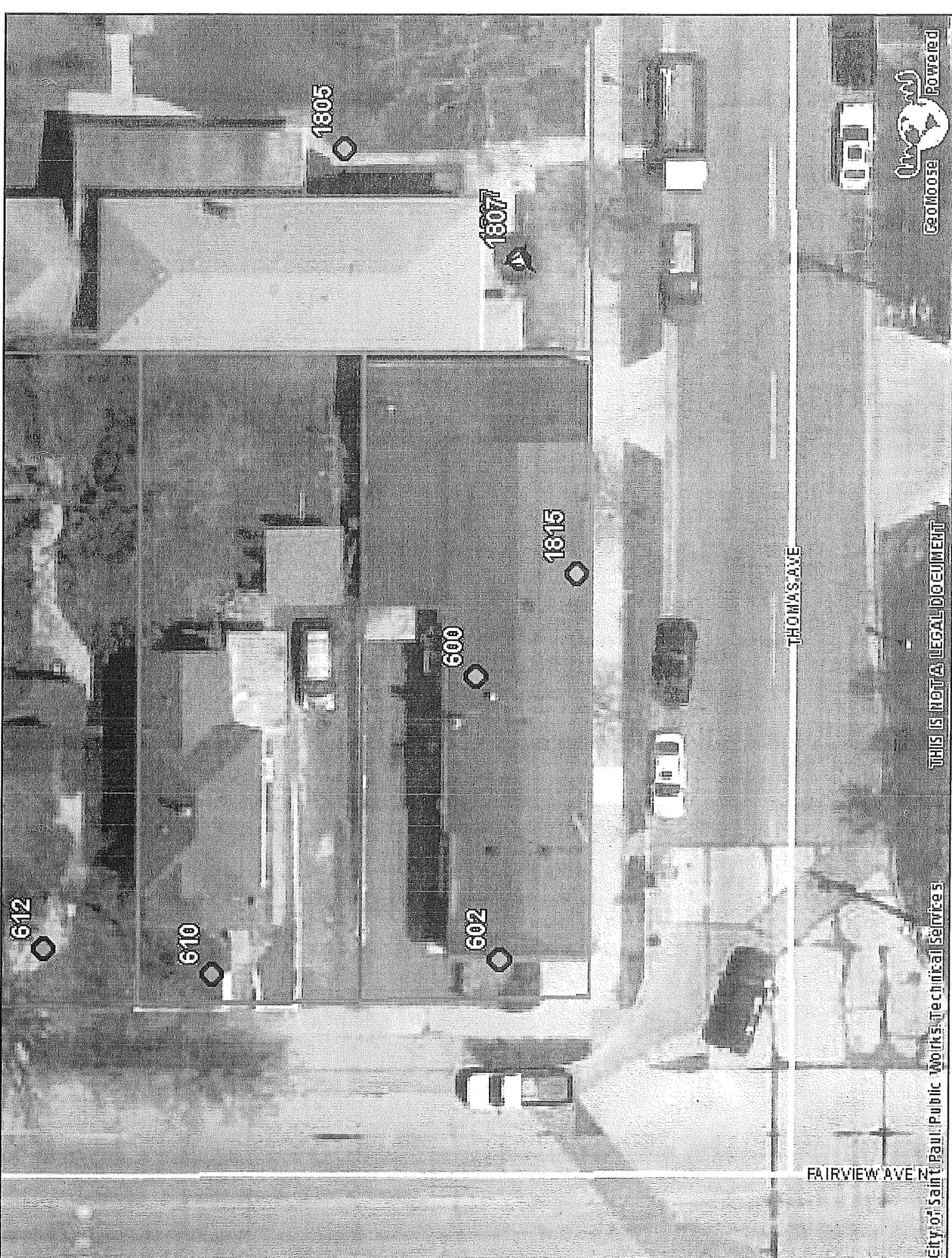
Sample upper level offices/conference rooms



Sample lower level office/conference rooms



JB Realty Company
651.645.5500
www.jbrealtyco.com



612

610

602

600

1815

1807

1805

THOMAS AVE

FAIRVIEW AVE N

City of Saint Paul, Public Works, Technical Services

THIS IS NOT A LEGAL DOCUMENT



GISmo Oblique Photography

Images courtesy of: Microsoft® Virtual Earth™ 2006

Show Dashboard Show Reference Map

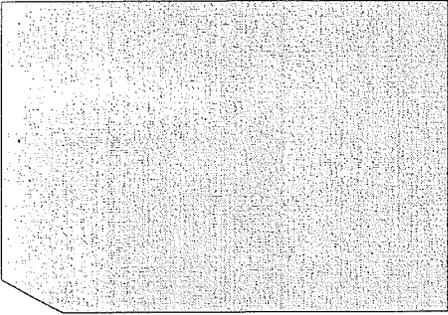
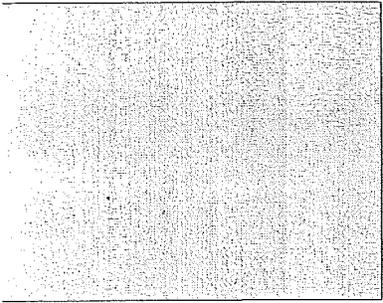
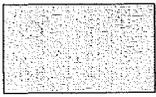


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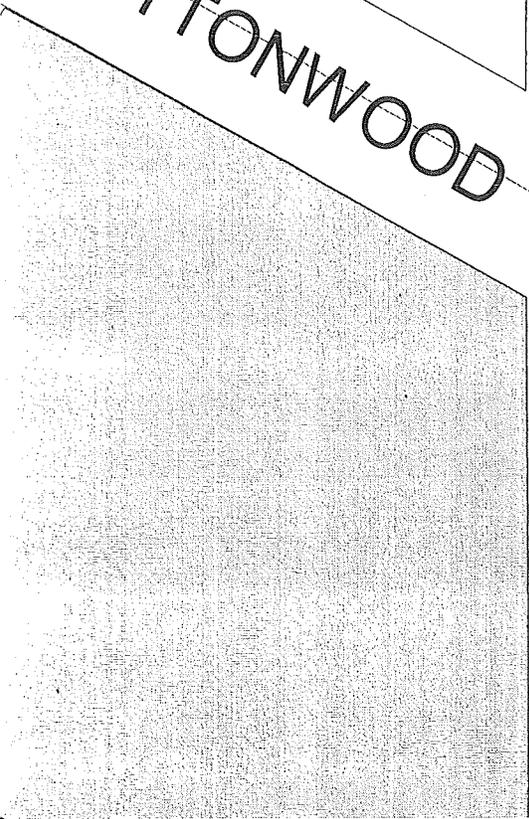
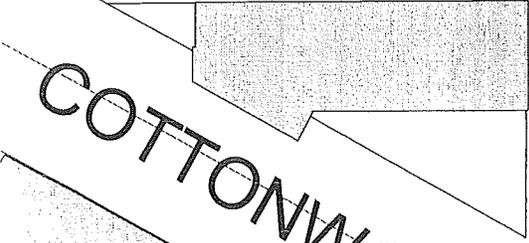
GISmo Oblique Photography

Images courtesy of: Microsoft® Virtual Earth™ 2006

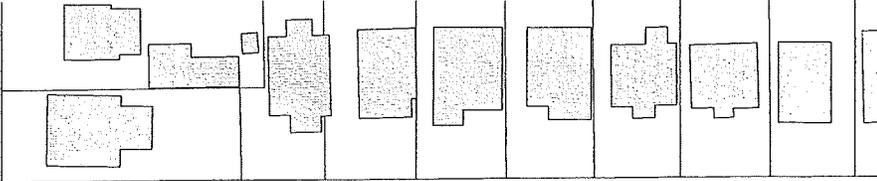




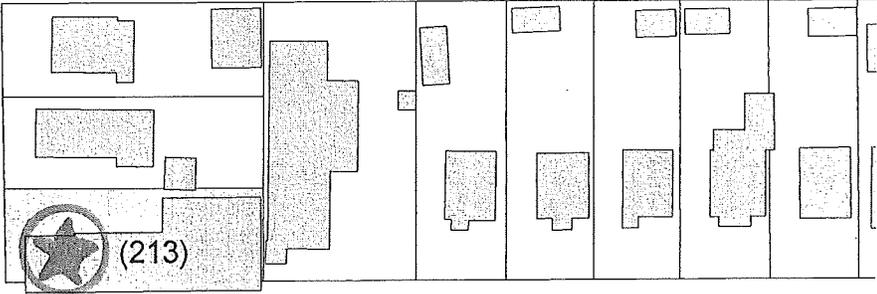
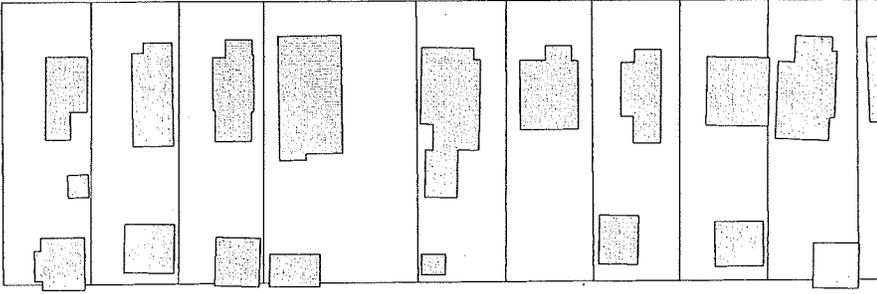
FAIRVIEW



COTTONWOOD

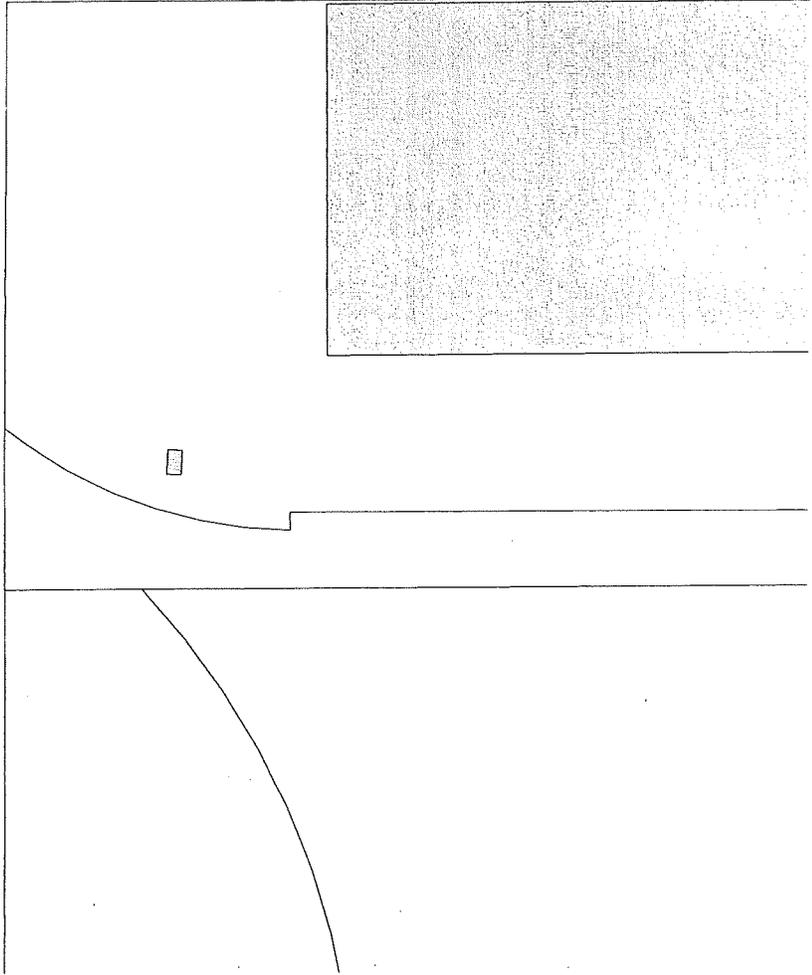


LAF



(213)

THOMAS





APPLICANT Feline Rescue
 PURPOSE Chg of non-conforming use
 FILE # 13-234519 DATE 10-7-13
 PLNG. DIST 11 Land Use Map # 10
 Zoning Map # 7

LEGEND

- zoning district boundary
- subject property
- one family
- two family
- multiple family
- commercial
- industrial
- vacant



SCALE 1" = 400'

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** David and Robin Brown **FILE #** 13-235-708
 2. **APPLICANT:** David and Robin Brown **HEARING DATE:** October 24, 2013
 3. **TYPE OF APPLICATION:** Nonconforming Use Permit-Reestablishment
 4. **LOCATION:** 1685 Lincoln Ave, NE corner at Cambridge
 5. **PIN & LEGAL DESCRIPTION:** 042823410033; Haags Subdivision Lot 1
 6. **PLANNING DISTRICT:** 14
 7. **ZONING CODE REFERENCE:** §62.109(e) **PRESENT ZONING:** R3
 8. **STAFF REPORT DATE:** October 15, 2013 **BY:** Scott Tempel
 9. **DATE RECEIVED:** September 24, 2013 **60-DAY DEADLINE FOR ACTION:** November 23, 2013
-

- A. **PURPOSE:** Reestablishment of nonconforming use as a duplex
- B. **PARCEL SIZE:** 7463 sq. ft.
- C. **EXISTING LAND USE:** R-Single Family Dwelling
- D. **SURROUNDING LAND USE:**
 - North: Mixed Use Retail and Commercial (B2)
 - East: One- and Two- Family Residential (R3)
 - South: One Family Residential (R3)
 - West: One Family and Multi Family Residential (R3, RM2)
- E. **ZONING CODE CITATION:** §62.109(e) lists the conditions under which the Planning Commission may grant a permit to reestablish a nonconforming use.
- F. **HISTORY/DISCUSSION:** An up/down duplex was constructed on this property in 1930. The builder constructed an identical residence next door to the east, which has historically been and currently is recognized as a legal nonconforming duplex. In the 1940s and 1950s, the entire building at 1685 Lincoln was occupied by the owner as a one-family dwelling. During the 1970s the property was owned by Macalester College and operated as its alumni house. The 1975 City of Saint Paul Land Use map shows the property as a duplex. The owner of the property in the 1980s rehabbed the property as a duplex, but pulled no permits. The property was used as a duplex in the late 1980s and 1990s. Mr. Brown bought the property in 2012 with the intent of using it as a duplex rental. Mr. Brown has spent a significant amount of money rehabilitating the property to its original historic beauty and charm, however all permits were issued as a single family residence. In order for the property to be used as a legal duplex, a reestablishment of nonconforming use permit must be issued by the Planning Commission.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The District 14 Council has sent a letter recommending approval of the application. The applicant attended the August 28th, 2013, District 14 Housing and Land Use Committee meeting to explain the project. At the meeting, the applicant provided two letters of support from neighboring property owners and a letter of support from Macalester College.
- H. **FINDINGS:**
 1. The Planning Commission has established guidelines for applications for nonconforming use permits for duplexes. While not themselves requirements, these guidelines lay out additional more objective factors the Planning Commission wishes to consider in determining if the required findings for granting nonconforming use permits listed in §62.109 of the Zoning Code can be made. The Planning Commission's Duplex Conversion Guidelines state that for applications for nonconforming use permits for duplexes in residential districts, staff will recommend denial 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 finding is met. The lot size is approximately 7,463 square feet and the lot frontage is approximately 50 feet.
 - B. *Gross living area, after completion of duplex conversion, of at least 1,500 square feet. Neither unit shall be smaller than 500 square feet.* This condition is met. According to measurements provided by the applicant, each unit is approximately 1,700 square feet. The combined gross living area is 3,400 square feet.
 - C. *Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum.* This condition is met. Each unit has a one car garage.
 - D. *All remodeling work for the duplex is on the inside of the structure unless the plans for exterior changes are approved by the Board of Zoning Appeals as part of the variance. (The Planning Commission will approve these changes for the cases they handle.)* This condition is met. Other than exterior finishing all remodeling work will take place inside the structure.
 - E. *For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a duplex without the necessary permits, a code compliance inspection shall be conducted and the necessary permits obtained to bring the entire structure into conformance with building and fire code standards; or the property owner must, as a condition of the approval, make the necessary improvements to obtain the necessary permits and bring the entire structure into building and fire code compliance within the time specified in the resolution.* This condition is met. The applicant will work with the Department of Safety and Inspections to obtain the necessary code compliance documentation and permits.
2. Section 62.109(e) states: *When a legal nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of more than one year, the planning commission may permit the reestablishment of a nonconforming use if the commission makes the following findings:*
- (1) *The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose.* This finding is met. According to city records the building was constructed as a two unit structure and information provided by the applicant shows that it is currently configured as a duplex. Due to the configuration of the structure, conversion to a conforming single family use would be unreasonable. The continued use as a duplex is a reasonable use of this property.
 - (2) *The proposed use is equally appropriate or more appropriate to the district than the previous legal nonconforming use.* This finding is met. The proposed use as a duplex is equally appropriate to the previous use as a duplex.
 - (3) *The proposed 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 proposed use as a duplex will not be detrimental to the safety, welfare or existing character of development in the immediate neighborhood. This proposal reestablishes the historic nature of a duplex that has been part of the character of the surrounding neighborhood for over 80 years.
 - (4) *The proposed use is consistent with the comprehensive plan.* This finding is met. The Housing Chapter of the Comprehensive Plan supports an increase in housing choice (strategy H1.1) across the city to support economically diverse neighborhoods. The project meets two goals of the Macalester-Groveland Community Plan: (7) Maintain and

preserve the district's current housing stock, and (11) Monitor housing conditions and address deferred maintenance of the district's aging housing stock through providing incentives for home improvement activities. The Community Plan also contains a goal to (8) Maintain the single family character of the district, however both the District Council and supportive neighbors consider the rehabbed duplex a positive improvement to the neighborhood that fits with its historic character.

- (5) *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 use.* This finding is met. The petition was found sufficient on September 25, 2013: 13 parcels eligible; 9 parcels required; 12 parcels signed.

- I. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the reestablishment of nonconforming use as a duplex at 1685 Lincoln subject to the condition that the applicant adhere to all applicable code requirements and receives a certificate of occupancy for a two-unit building.



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 #: 13-235708
 Fee: 700.00
 Tentative Hearing Date:
10-24-13

PD=14

042823410033

APPLICANT

Name David and Robin Brown
 Address 4065 Viking Blvd
 City Anoka St. Wys Zip 55305 Daytime Phone 763-647-0474
 Name of Owner (if different) _____
 Contact Person (if different) _____ Phone _____

PROPERTY LOCATION

Address/Location 1685 Lincoln Ave, St. Paul, Mn 55105
 Legal Description Parcel ID 042823410033
Hagg's Subdivision lot 1 Current Zoning Single Family
 (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 Presently: Single family, Previously: Duplex
 Proposed Use Duplex

Attach additional sheets if necessary

CK 1192

Attachments as required Site Plan Consent Petition Affidavit

Applicant's Signature David Brown Date 8/14/13 City Agent pdh
9-24-13

1685 Lincoln Ave.

August 8th, 2013

Macalester-Groveland Council, St. Paul City Counsel and Zoning Commission,

We wish to thank you for considering our request to modify the status of our home at 1685 Lincoln Ave. We have a number of circumstances which we believe are important to consider when weighing the decision regarding zoning or reestablishment of a non conforming use.

Our home was built in the early 1920s as a duplex. It has a matching duplex next door (built by the same owner) and there are several homes in the immediate area that rent to those seeking to live in the Macalester area. The home is situated one block off Grand Ave. The home backs up to Ace Hardware, located on Grand Ave. Across the street and 50 feet toward Grand is an apartment complex that has 4 units.

Our neighbor to the immediate east is Marjorie Wherley at 1677 Lincoln. She is the owner of the matching duplex. Her home is in a similar situation and uses the "Nonconforming Use Permit". Within 100 feet of the home is at least one other domestic non conforming use residence.

We bought the home in 2012 anticipating that we could use it as a duplex. It has two identical floors with 3 bedrooms and 3 baths on each floor. Our economic issue is that we bought it as an investment and we desire to be landlords. To use it as a duplex is the only way we know that would be financially viable. If not a duplex, renting a 3400 square foot home with six beds and six baths is not realistic. Our mortgage and fees on the home bring the expense to a little over \$3000 dollars a month. It's difficult enough to find a quality tenant that can afford half that amount. To find a family that would afford the expense let alone want two matching levels is extremely unlikely and would result in significant monthly financial loss.

We bought the home over a year ago as an atypical investment. We knew it needed considerable personal and financial investment to bring it back. We

invested a large amount of time, doing as much of the work ourselves as we could. For what we couldn't do, we hired licensed trades people. As we went through the months of work we asked a lot of questions regarding how to bring it back to its original intent as a duplex. It's taken us time to find the right people in the city and start the process.

We believe we are good for the neighborhood. We bought the home in the spring of 2012. The home was falling in disrepair. We have and continue to bring it back to its original beauty and style. The top 3 feet of the chimney was falling off the house. We hired local St. Paul contractors to rebuild it. The upstairs shower was nonfunctional. The previous owner disconnected and removed the plumbing when the shower pan needed repairing. We hired a group of professionals to rebuild both up and downstairs showers. With regards to the garage, the roof was falling in. The previous owner had randomly supported it with extra two by fours. We rebuilt it from the ground up. We repainted and repaired the outside of the house and we take pride in the gardens. We also updated the entire major electrical in the house. We have worked with the city to make sure all improvements are inspected and satisfactory.

We have met and enjoy interacting with those in the neighborhood, all of whom have expressed praise for taking care of the home, many neighbors have used the same contractors they saw being used at our home to repair their own home. Our painters went on to paint the neighbors house. A neighbor who works for Macalester used our chimney masons to repair his chimney.

The previous owner would not let the city inspect the home. Within days of buying the home we were contacted by city water and were requested to switch out the meters. We were informed the previous owners refused to let the city inside. The furnace and water heater were improperly installed and never inspected. We resolved those and many other issues. We are proud to be part of this city and aim to be good examples.

In the year that we have owned the home we have:

Painted the exterior of the house and repaired damaged window trim

Rebuilt the upper level of the chimney

Updated and replaced the entire electrical fuse boxes and meters

Rebuilt the garage

Rebuilt the upstairs kitchen

Installed new furnace and water heater

Rebuilt the upstairs and downstairs showers

Landscaped the outside

Each of the upgrades was done cooperatively with city inspectors. It has been a very hectic year and we have done our best to exceed expectations and requirements.

My wife is a nurse, I am a doctor. We have 5 children between the ages of 6 and 15. Life is busy! We own a similar home blocks away. While we are novices as duplex owners, we already have a very good reputation with the neighbors. We have a very positive relationship with the neighborhood and are proud to be part of it. My children and I were able to attend the neighborhood 4th of July celebration. The kids saw what it means to be part of a healthy community and were very impressed. I like to be visibly involved at our home, doing yard work; don't mind helping the neighbors shovel their sidewalk or carry fertilizer for one gal who shouldn't be working that hard. I consider it a privilege to be personally involved with the neighborhood. Our hope is to eventually retire and live on the second floor of the Lincoln home. In the mean time we are finding quality tenants for the home and neighborhoods.

At this and our other home our tenants over the last few years have included an economics professor at Macalister, a lawyer and his wife who is an elementary teacher, an eye surgeon and her sister who is a lawyer. We have had researchers and PhDs all of which have added a good nature to the area. At our other home we have an incoming professor for St Thomas and her husband who is a computer

wiz. We have posted the home on the network "High Winds" which Macalester uses for their staff and professors.

I believe we add value to the city and neighborhood. We raise expectations for maintaining property and investing in a home. We share with our neighbors their concerns and actively strive to be part of the culture. We provide living space for people or families that add quality to the surroundings. We pay our taxes and are not against paying higher taxes for a duplex status. The previous owner avoided paying taxes and fees and owed the state as well as schools and other institutions a lot of money. We are prompt at paying for things and like to invest in this quality area.

When we bought the home we assumed because it was at one time a duplex that it could be returned to duplex status. We didn't really know how to go about doing that but have asked many people a lot of questions. Eventually it has led us to the right people at the city.

We appreciate your taking time to consider this matter and would be happy to discuss it further.

David W. Brown

Robin and the rest of the Brown family

8/27/13 MGCC Housing Land Use Committee Meeting
 Mac-Groveland Resident Concerns

1685 Lincoln Nonconforming Use Permit Application

Name	Address	Opinion	Reason
John Driggs	1678 Lincoln Ave.	In Support	Owner is extremely responsible, has made positive improvements to area.
Marjorie Wherley	1677 Lincoln Ave	In Support	I am the owner-occupant of the duplex next door to this property and I support the application. 1685 was built as a duplex in the 1920s, before St. Paul even had a zoning code. Later when the entire area was zoned R1, properties like mine and 1685 were "grandfathered in" as permitted nonconforming R2 uses. The previous owners lived there and operated the property as a duplex until their four children became teenagers and took over the rental unit for about ten years. When they sold the property to the present owner, I am sure they did not disclose the nonconforming zoning issue or the fact that it could only be used as a duplex as long as it was continuously operated as a duplex (and thus would now need a new permit). I never learned this about my own duplex-home until quite a few years after I bought it (fortunately, I didn't have 4 teenagers, so the rental use has been continuous!). At any rate, while I prefer owner-occupied duplexes, I also like the fact that this area has duplexes sprinkled (lightly) throughout, thus offering rental opportunities without creating a highly dense, rental-only neighborhood. It has been a good mix; I wish more neighborhoods had been planned so well. The present owner has upgraded the property substantially and has been (from the beginning, before he

ZONING WORKSHEET

ADDRESS: 1685 Lincoln
 PIN: 0428 23 41 0033

BUILDING CARD INFORMATION:

CONSTRUCTION DATE: 6.24.1950 PERMIT: _____ TYPE OF STRUCTURE: 2 story duplex
PERMITS COUNTY ASSESSOR'S RECORDS LICENSE RECORDS CITY DIRECTORY

1949 - owner occupies entire bldg
 1955 - same
 1969 - owned by college, use as the alumni house
 + office, kitchen sink on 2nd floor has been removed
 1985 New owner rehabbed back to duplex (no permits pulled)
 1991 duplex
 1992 per assessor, 2nd floor open to kitchen (walk thru bedroom)
 consider as a family room with wet bar,

LEGAL DESCRIPTION: Haags Subd. Lot 1

LOT SIZE: 50 x 149.25 = 7462.5 + alley = 7862.5
 CROSS STREETS: Cambridge + Macalester

ZONE	USE (C/NC)	UNITS PERMITTED	REQUIRED LOT SIZE	LOT SIZE (C/NC)
X	C			C
1922				
1960			50.7500	C
1964	A R's	C		
1975	R3	NC	ROOMS: UNITS: 50 600	C

ZONING STATUS FOR _____ COMMERCIAL USE: _____ PLANNING: _____
duplex RESIDENTIAL USE: _____ ZONING FILE _____
 _____ LEGAL - CONFORMING _____ NO RECORD _____
 _____ LEGAL - CONFORMING USE WITH NON-CONFORMING LOT SIZE (for residential)
 _____ LEGAL - NON-CONFORMING USE
 ILLEGAL

**SUMMARY INFORMATION SHEET
FOR DUPLEX AND TRIPLEX COVERSION CASES**

Housing unit breakdown:	Existing	Proposed
Number of units	2	2
Number of bedrooms in each unit		
Unit 1	3	3
Unit 2	3	3
Unit 3		
Size of each unit in square feet		
Unit 1	1735	1735
Unit 2	1735	1735
Unit 3		
Debt:		
Initial principal amount	\$ 300,000	
Initial interest rate	3.5%	
Term of mortgage/debt financing	15 year	
Time remaining on note	14 year	
Balance on existing debt	\$ 280,000	
Rehabilitation		
Type of improvements:		
New Garage		
New Kitchens		
Up dated Electrical		
New Furnace /water heater		
rebuilt upper & lower bath		
rebuilt fire places		
paint@d outside		
replaced 10 missing doors		
replumbed basement		

ZONING PETITION SUFFICIENCY CHECK SHEET

REZONING

SCUP

NCUP

FIRST SUBMITTED

RESUBMITTED

DATE PETITION SUBMITTED: 9-24-13

DATE PETITION RESUBMITTED: _____

DATE OFFICIALLY RECEIVED: _____

DATE OFFICIALLY RECEIVED: _____

PARCELS ELIGIBLE: 13

PARCELS ELIGIBLE: _____

PARCELS REQUIRED: 9

PARCELS REQUIRED: _____

PARCELS SIGNED: 12

PARCELS SIGNED: _____

CHECKED BY: Paul Dubruel

DATE: 9-25-13

CITY OF SAINT PAUL

CONSENT OF ADJOINING PROPERTY OWNERS FOR A
NONCONFORMING USE PERMIT

We, the undersigned, owners of the property within 100 feet of the subject property acknowledge that we have been presented with the following:

A copy of the application of David & Robin Brown
(name of applicant)

to establish a Duplex
(proposed use)

located at 1685 Lincoln Ave.
(address of property)

requiring a nonconforming use permit, along with any relevant site plans, diagrams, or other documentation.

We consent to the approval of this application as it was explained to us by the applicant or his/her representative.

ADDRESS OR PIN	RECORD OWNER	SIGNATURE	DATE
1 601 Cambridge St #2	Jacquelyn Chicquero	Jacquelyn Chicquero	8-5-13
2 1687 Lincoln Ave	Maria Kruger/David Aus	Maria Kruger	8/5/13
3 83 Cambridge St	Samuel/Nicole Walling	Samuel Walling	8/5/13
4 1682 Lincoln Ave	Agnes/Robert Golligowski	Agnes Golligowski	8/9/13
5 1678 Lincoln Ave	John/Bonnie Driggs	John Driggs	8/8/13
6 1672 Lincoln Ave	John Myers/Annelle Murphy	Annelle Murphy	8/4/13
7 1667 Lincoln Ave	Mary Sullivan	Mary Margaret Sullivan	8/5/13
8 1673 Lincoln Ave	Thomas Clavens/Renee	Renee Clavens	8/5/13
9 1677 Lincoln Ave	Majorie Wherlein	Majorie Wherlein	8/4/13
10 1685 Lincoln Ave	Robin/David Brown	David Brown	8/3/13
11 1676 Grand Ave	Nancy Smolik	Nancy Smolik	8-22-13
12 1674 Grand Ave	Kline Holding LLC	J Kline	8-8-13
13 1672 Grand Ave	Coper Properties	Becky Judel	8.9.13

NOTE: All information on the upper portion of this application must be completed prior to obtaining eligible signatures on this petition.

See email from 9/08
Bill Parron regarding Betty's
Signature

CITY OF SAINT PAUL

AFFIDAVIT OF PETITIONER FOR A CONDITIONAL
USE PERMIT OR A NONCONFORMING USE
PERMIT

STATE OF MINNESOTA)

SS

COUNTY OF RAMSEY)

The petitioner, David W Brown, being first duly sworn, deposes and states that the consent petitioner is informed and believes the parties described on the consent petition are owners of the parcels of real estate described immediately before each name; each of the parties described on the consent petition is an owner of property within 100 feet of the subject property described in the petition; the consent petition contains signatures of owners of at least two-thirds (2/3) of all eligible properties within 100 feet of the subject property described in the petition; and the consent petition was signed by each said owner and the signatures are the true and correct signatures of each and all of the parties so described.

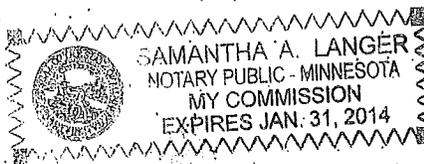
David W Brown
NAME

4065 Viking Blvd
ADDRESS Andover Min 55303

763-647-0474
TELEPHONE NUMBER

Subscribed and sworn to before me this
24 day of September, 2013

Samantha Langer
NOTARY PUBLIC



MACALESTER COLLEGE



THE HIGH WINDS FUND
1600 GRAND AVENUE
SAINT PAUL, MINNESOTA
55105-1899

TEL: 651-696-6552
FAX: 651-696-6250
E-MAIL: highwinds@macalester.edu
www.macalester.edu/highwinds/

September 9, 2013

Macalester Groveland Community Council
320 South Griggs Street
Saint Paul, MN 55105

Dear Board of Directors,

On September 9, 2013, David Brown asked us for this letter of support to re-establish non-conforming use at 1685 Lincoln Avenue. Our support is based on need and desire for increased housing density. First, the staff and faculty at Macalester College have a need for a variety of housing styles and sizes in the neighborhood. Macalester staff currently lives at 1685 Lincoln. Second, the use of the property as a duplex is consistent with Macalester's vision to support and encourage increased density near the business nodes around the College. Macalester College supports the use of 1685 Lincoln Avenue as a duplex, which was its originally intended use.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Welna". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Tom Welna
Director



MacalesterGroveland

COMMUNITY COUNCIL

320 South Griggs Street
St. Paul, MN 55105
www.macgrove.org

Phone: 651-695-4000
Fax: 651-695-4004
E-mail: mgcc@macgrove.org

September 13, 2013

Re: 1685 Lincoln Nonconforming Use Permit

Dear Scott:

The Housing & Land Use Committee of the Macalester-Groveland Community Council met in response to the Nonconforming Use Permit application for 1685 Lincoln Avenue on Wednesday, August 28th. The Committee passed the following motion, which was approved by the Board of Directors on September 12th:

The Macalester-Groveland Community Council recommends approval of the Nonconforming Use Permit application at 1685 Lincoln Avenue.

Neighbors submitted their support to the Community Council prior to the meeting. No opposition to the application was submitted to the Community Council before or at the meeting.

Thank you for your consideration of this recommendation. Please contact me with any questions at 651-695-4000.

Sincerely,

Afton Martens
Executive Director

cc: David Brown

Tempel, Scott (CI-StPaul)

From: Marge Wherley <Marge_Wherley@abtassoc.com>
Sent: Thursday, October 17, 2013 8:45 AM
To: Tempel, Scott (CI-StPaul)
Subject: File #13-235-708/David and Robin Brown

I am writing to support the reestablishment of nonconforming use as a duplex for 1685 Lincoln Avenue.

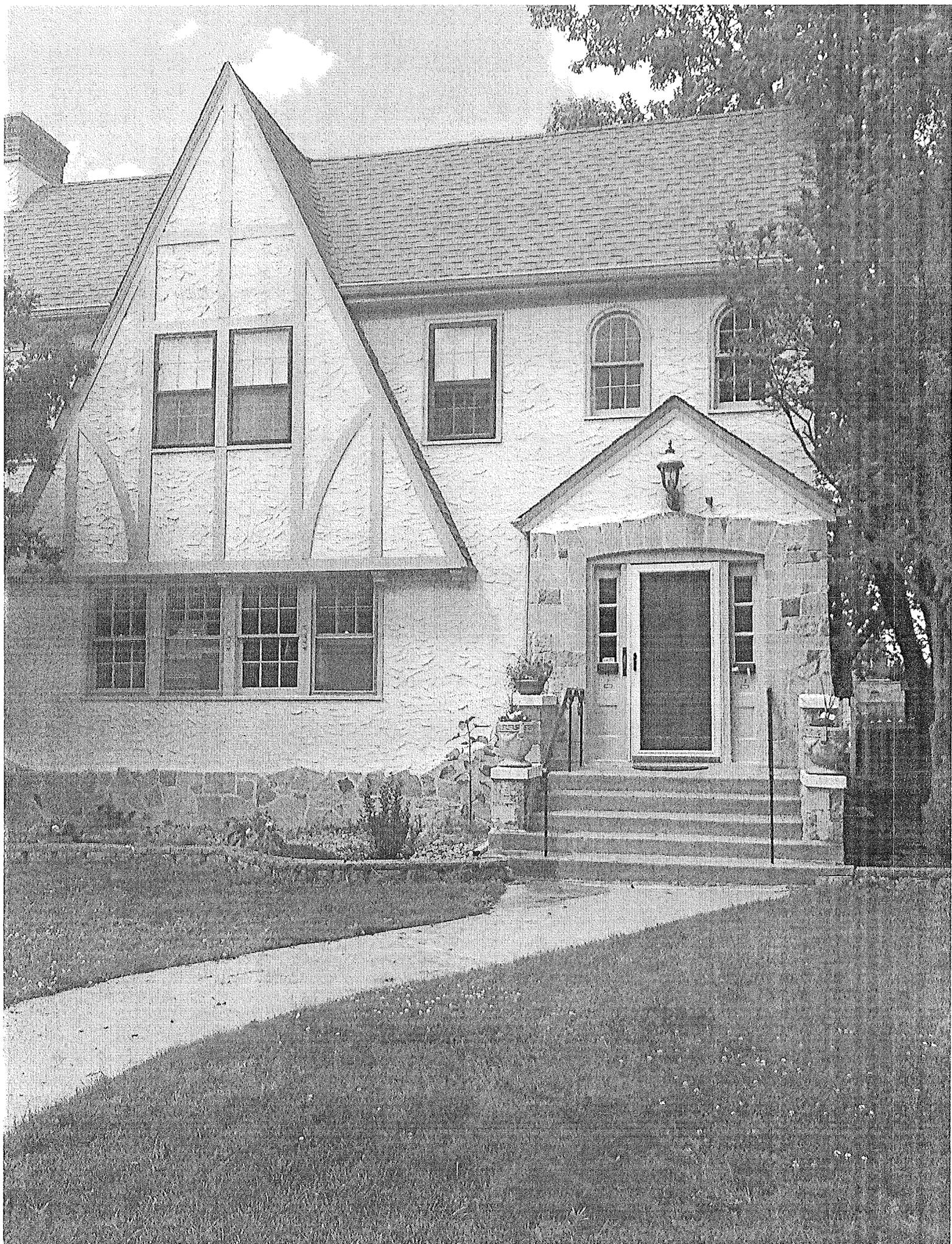
This building was built as a duplex before St. Paul even had a zoning code. The previous owner used the building as a single family residence only during the years when their 4 children were teenagers and needed more space. I own the duplex next door to the property, 1677 Lincoln. (Which, BTW, was never owner-occupied during the first 60+ years after it was constructed -- until I bought it in 1992. I have lived here and rented the other apartment for over twenty years.)

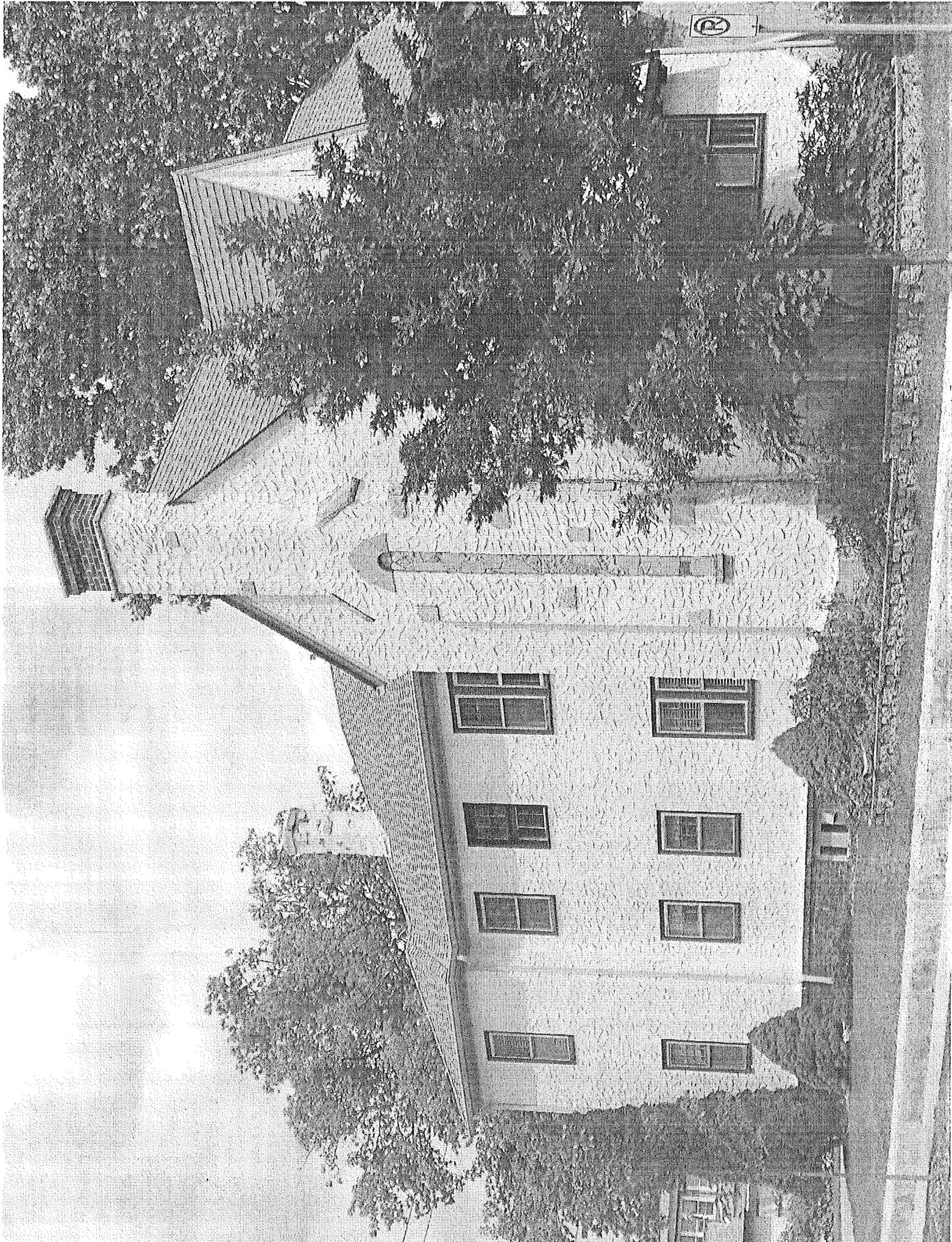
I really have appreciated the mix of duplex and single family residences in St. Paul. It's an opportunity for good rental housing in a really great neighborhood, with very low impact on "quiet enjoyment. All in all, since moving here from Minneapolis, I have found St. Paul's zoning department to be very creative, flexible and rational.

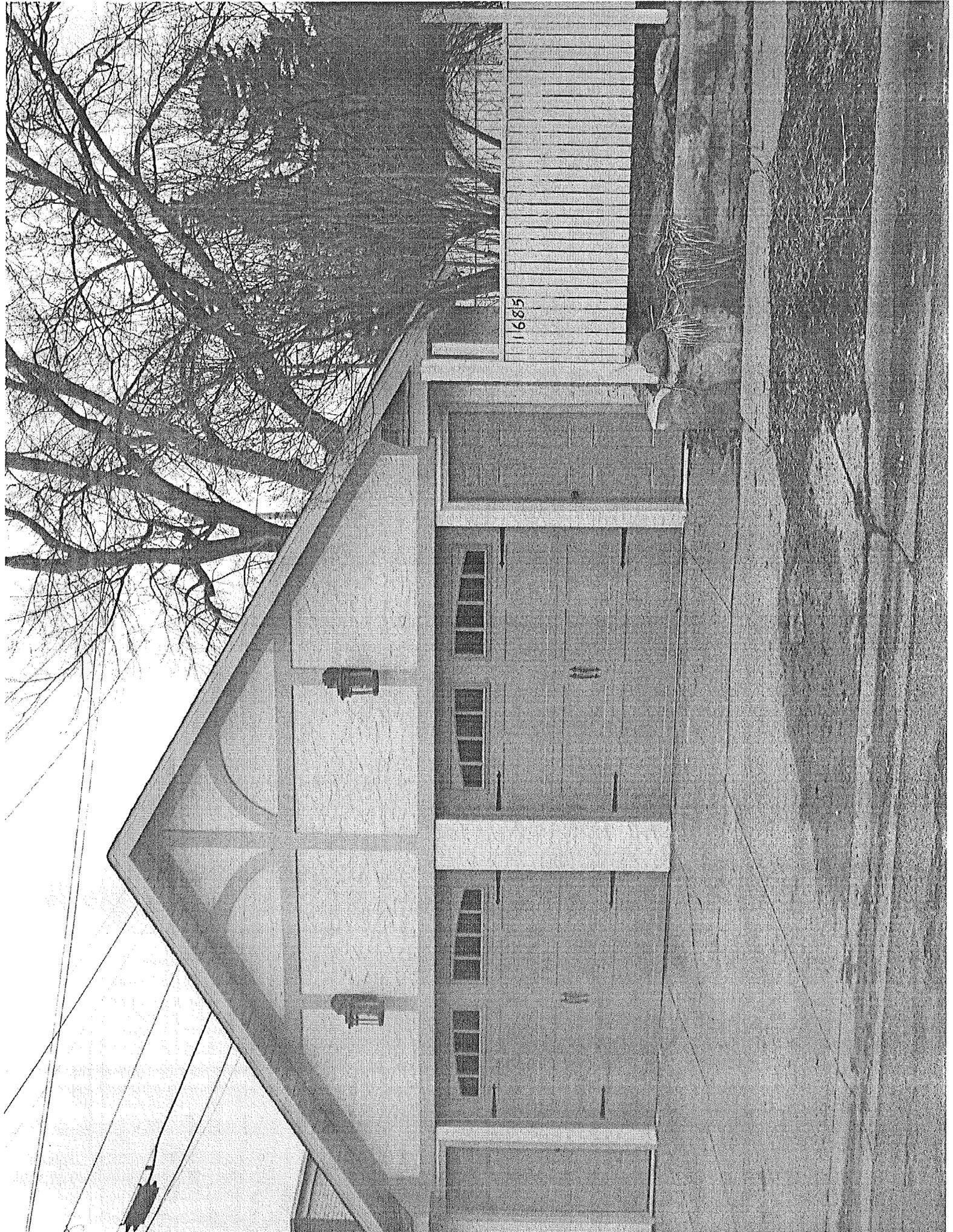
Mr. and Mrs. Brown have operated 1685 Lincoln as a duplex since their purchase last year (they had no idea about the nonconforming use—I'm completely certain the previous owners did not disclose this zoning issue). The Browns have invested substantially in upgrading the building and garage, have carefully screened tenants, and they monitor both the building and their tenants (including neighbor satisfaction) regularly. I believe they received 100% property owners' signatures on the petition to re-establish use as a duplex, which demonstrates that they are capable and concerned. I hope you will support this application.

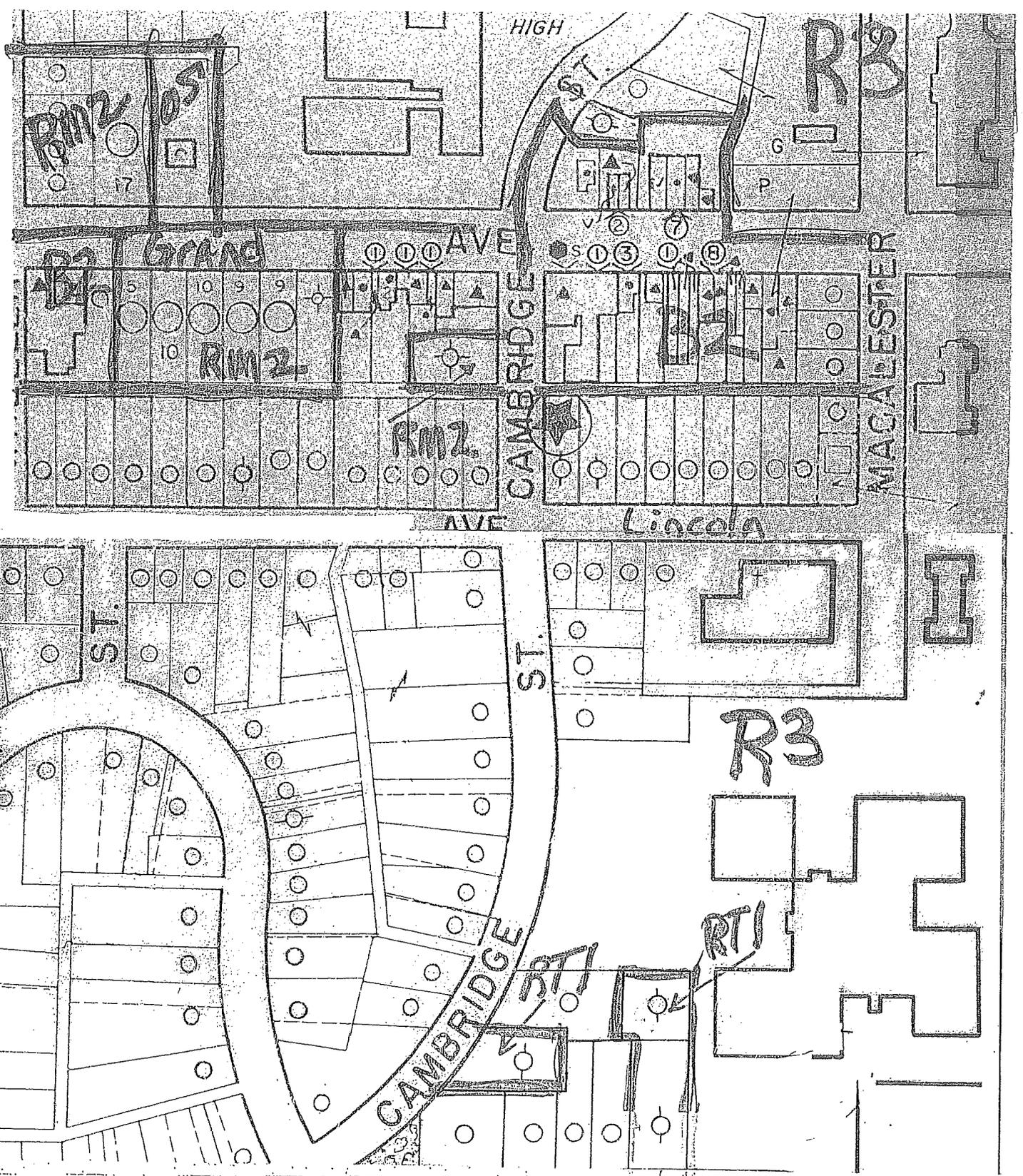
Marge Wherley, Associate
Abt Associates, Inc.
301.347.5868 | 1677 Lincoln Avenue | St. Paul, Minnesota 55105

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CANT David and Robin Brown
 DSE RE-EST N.CUP
13-235708 DATE 9-25-13
 DIST 14 Land Use Map # 18+26
 Zoning Map # 14+13

LEGEND

zoning district boundary

subject property

one family

two family

multiple family

commercial

industrial

vacant

