

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Walgreens **FILE #** 14-293-509
 2. **APPLICANT:** Afton Architects for RD Parent Investors LLC **HEARING DATE:** July 31, 2014
 3. **TYPE OF APPLICATION:** Nonconforming Use Permit - Relocation
 4. **LOCATION:** 1578 University Ave W, SE corner at Snelling Avenue
 5. **PIN & LEGAL DESCRIPTION:** 342923320001; Section 34 Town 29 Range 23 Subj To Aves And Esmts The W 27o Ft Of N 26o Ft Of Sw 1/4 Of Sec 34 Tn 29 Rn 23
 6. **PLANNING DISTRICT:** 13
 7. **ZONING CODE REFERENCE:** Sec. 62.109(d) **PRESENT ZONING:** T4
 8. **STAFF REPORT DATE:** July 24, 2014 **BY:** Anton Jerve
 9. **DATE RECEIVED:** June 3, 2014 **60-DAY DEADLINE FOR ACTION:** August 25, 2014
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- A. **PURPOSE:** Nonconforming use permit for relocation of one drive-through lane
- B. **PARCEL SIZE:** 44,000 sq. ft.
- C. **EXISTING LAND USE:** Bank
- D. **SURROUNDING LAND USE:**
 - North: Commercial (T4)
 - East: Commercial (T4)
 - South: Commercial, Midway Shopping Center (T4)
 - West: Commercial (T4)
- E. **ZONING CODE CITATION:** Sec. 62.109(d) lists the conditions under which the Planning Commission may grant a permit to relocate a legal nonconforming use.
- F. **HISTORY/DISCUSSION:** The property was previously used as a bank since at least 1958 and has been vacant since 2013. The previous use included six drive-through lanes. In 1982, the Board of Zoning Appeals approved a height variance for a four-story addition related to the bank use. The decision was appealed, but City Council upheld the variance. The building was not ultimately expanded. The property was approved for a sign variance in 2004 for a two-foot tall electronic message sign around the perimeter of the building. The sign was not installed, and the permission expired in 2005. The property was purchased by the owner of the adjacent Midway Shopping Center, RK Midway LLC, under a separate limited liability corporation, RD Parent Investors LLC.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The District 13 Council has recommended approval of the nonconforming use permit for relocation of one drive-through lane.
- H. **FINDINGS:**
 1. The applicant, RD Parent Investors LLC, is proposing to relocate an existing nonconforming drive-through lane on an existing building. The existing building will be used for Walgreens Pharmacy, which will be relocated from its current location as a tenant in the adjacent Midway Shopping Center. The drive-through is being moved south (away from University Avenue) to allow for a 2,800 square foot building addition for commercial use along the University Avenue frontage. There is no tenant identified for the building addition. The drive-through was previously used for a bank that operated on the site until 2013. The property has an easement for access and a portion of its parking from RK Midway LLC, the owner of Midway Shopping Center.
 2. The property owner, representing both RK Midway LLC and RD Parent Investors LLC, has been engaged with Metro Transit and the City of Saint Paul to plan for the future of the site, its relationship to the redevelopment of Midway Shopping Center, and eventual sale and redevelopment of the "Bus Barn Site," all within the framework of the Snelling Station Area

Plan. RK Midway LLC/RD Parent Investors LLC, Metro Transit, and City of Saint Paul signed a three-party Memorandum of Understanding and hired a consultant, Urban Investment Group, to recommend redevelopment phasing of the 34.5 acre super-block, bounded by Snelling Avenue, University Avenue, Pascal Street, and St. Anthony Avenue. A financial gap analysis for that redevelopment was also completed, and next steps leading toward the potential sale of the Bus Barn Site to RK Midway LLC were identified.

3. The consultant's report, *TOD Redevelopment Strategy Report of Findings and Recommendations*, recommends the first phase of redevelopment should be centered along a proposed new segment of Asbury Street directly adjacent to 1578 University Avenue, and extending south from University Avenue to the southern property line of Midway Shopping Center property. This phase of redevelopment would also include an extension of Spruce Tree Drive to connect from the intersection of Snelling Avenue and Spruce Tree Drive to the new Asbury Street. This is recommended as the first phase, because it would allow for the existing Midway Shopping Center and 1578 University to remain, greatly improve access to the Bus Barn Site, and create a new redevelopment parcel along Snelling Avenue by breaking up the super-block with pedestrian-scaled streets. It is recommended that these segments be public streets. RK Midway LLC/RD Parent Investors LLC, Metro Transit, and City of Saint Paul have agreed that this phase has the most immediate benefit to the three parties.
4. The consultant's report also recommends that if a drive-through cannot be avoided on the proposed Walgreens site, it should be screened from University Avenue with a building until it is financially feasible to fully redevelop the site with a new building.
5. 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. The location is not in a residential district.
 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. The nonconforming use is proposed to be relocated, not expanded.
 3. *The appearance of the expansion or relocation will be compatible with the adjacent property and neighborhood.* This finding is met. Based on input from RK Midway LLC/RD Parent Investors LLC, Metro Transit and the City of Saint Paul, the consultant's report recommends the first phase of redevelopment include a new proposed Asbury Street directly east of the site and connecting to the Bus Barn Site. This proposed Asbury Street and associated development will be vital to realizing the vision of development identified in the Snelling Station Area Plan and consultant report. RK Midway LLC/RD Parent Investors LLC has indicated support for the new Asbury Street because it allows for market flexibility by allowing existing buildings to remain, while improving access to the Bus Barn Site for future development. The proposed drive-through relocation is compatible with the plans for the larger 34.5 acre super-block as long as it does not impede the near-term (less than five years) development of the proposed new Asbury Street. The applicant has provided Attachment A2.1, which illustrates how the use as proposed in the site plan is compatible within the overall proposed street network. Additionally, the relocation allows for the building addition, which will screen the use from University Avenue and thus improve compatibility with the neighborhood.
 4. *Off-street parking is provided for the expansion or relocation that meets the requirements of article 63.200 for new uses.* This finding is met. There is no minimum parking requirement at this location.

5. *Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use.* This finding is met. The site is surrounded by T4 zoning. The site and adjacent T4 sites were rezoned as part of the Traditional Neighborhood-Central Corridor Zoning Study, adopted April 20, 2011. This zoning study created the T4 zoning district, which allows for the high-density mixed-use development that was planned for the area around the Snelling/University intersection in the Snelling Station Area Plan, adopted October 22, 2008. At the time of the rezoning, T4 was identified to be most appropriate zoning district to allow for the type of development recommended in the Snelling Station Area Plan. Rezoning the site would be spot 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 is met. The nonconforming use, a drive-through, is being relocated farther away from University Avenue, allowing it to be screened from the sidewalk with a building addition. The drive-through is also being reduced by five lanes to one lane. These factors will contribute to mitigating any negative impacts from the use.
7. *The use is consistent with the comprehensive plan.* This finding is met. The Snelling Station Area Plan recommends that redevelopment contribute to pedestrian and street connectivity. The use meets the following relevant policies from the Snelling Station Area Plan:
 - 4.1.1.c) *Ensure first floor retail or commercial units have at least one primary entrance on a public street.*
 - 4.1.1.d) *Commercial or retail uses located on the first floor should help to animate the street by incorporating large glass frontages that allow the activity within to be seen from the street.*
 - 4.1.2.f) *New buildings should permit for the gradual extension of north-south connections into the Midway Shopping District as well as the creation of a new east-west mid block connector.*
 - 4.1.2.g) *Larger developments should contribute to an emerging block pattern through the location of new sidewalk connections and streetscape improvements.*
 - 4.1.2.h) *Where streets cannot be extended, new development should be sited to provide for pedestrian mid block connections through the placement of sidewalks, landscaping or other forms of pedestrian infrastructure.*
- 5.2 *The Mobility Enhancement Area*
Special strategies for the Snelling Station Mobility Enhancement Area include:
Extending the existing block pattern and incorporating urban streetscape standards within the Midway Shopping District with reduced curb radii, bump-outs, narrower streets and special paving patterns;

Because the proposed Walgreens project is happening prior to completion of the overall planning process of the 34.5 acre super-block, street improvements have not been included in order to allow for ongoing coordination of the parties as well as to allow time for engineering the new streets. The dedication of right-of-way will ensure these common goals can be achieved expediently, as the proposed street segments are recommended to be built in the near term. Because this auto-oriented use is not generally supported within such close proximity to a light rail station and the project is not exceeding other design

requirements, a commitment to dedicate the land for right-of-way is necessary to meet the Comprehensive Plan policies cited above. A formal commitment to dedicate land for right-of-way consistent with Phase One is necessary to allow for the future development of the streets, and to provide permanent access to the site and adjacent property in a manner 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. This finding is met. The petition was found sufficient on June 3, 2014: three parcels eligible; two parcels required; two parcels signed.*

- I. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the Nonconforming Use Permit for relocation of one drive-through lane subject to the following conditions:
 1. Final site plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application.
 2. A Letter of Intent shall be submitted to the Planning Administrator to dedicate, in principle, right-of-way for proposed Asbury Street (66' wide) to proposed Fuller Avenue and proposed Spruce Tree Drive (75' wide) to proposed Asbury Street consistent with the first phase of redevelopment described in the *TOD Redevelopment Strategy Report of Findings and Recommendations*. This will ensure the implementation of the Snelling Station Area Plan and facilitate the ongoing redevelopment of the 34.5 acre super-block consistent with the Comprehensive Plan.
 3. A master plan shall be submitted within two years of this approval showing anticipated future development of all parcels included in the *TOD Redevelopment Strategy Report of Findings and Recommendations*. The master plan, at a minimum, must delineate all street rights-of-way within the development area.
 4. Final building plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application, particularly relating to Section 66.343.13.c. *Glass on windows and doors shall clear or slightly tinted, and allow views into and out of the interior.* Shelving, merchandise, graphics, and/or advertising may not block views into or out of the building interior.



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 #: 14-293-509
 Fee: \$700.00
 Tentative Hearing Date: 6-19-14

PD=13
 #342923320001

APPLICANT

Name James W. Cox, AIA
 Company Afton Architects & Planners, Ltd
 Address 12941 22nd Street South
 City Afton St. MN Zip 55001 Daytime Phone 651-436-3699
 Name of Owner (if different) RD Parent Investors LLC
 Contact Person (if different) Richard Birdoff Phone 212-265-6600

PROPERTY LOCATION

Address/Location 1578 University Avenue West
 Legal Description The west two hundred seventy (270) feet of the north two hundred sixty (260) feet of the west one-half of the southwest one-quarter (W½SW¼) of section thirty-four (34), township twenty nine (29) north, Range twenty-three (23), west of the fourth principal meridian, according to the United States Government Survey thereof, excepting Snelling Avenue and University Avenue Current Zoning T-4 Traditional Neighborhood
 (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)
 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 Building was previously used as a bank with (6) drive-thru lanes

Proposed Use Proposed use is a Walgreens Pharmacy with (1) drive-thru

Attach additional sheets if necessary
 See attached Site Plan Review drawings.

This non-conforming use application is for relocating one existing drive-thru lane. Five existing drive-thru lanes will be demolished as well as the existing overhead canopy. The one remaining drive-thru lane will be relocated approx. 70' south along the east elevation for use as a pharmacy drive-thru. The drive thru window will be hidden from Snelling Ave and, after the building addition is completed, hidden from University Ave and the transit station as well

The relocation will not contribute to an increase of noise or traffic and will not endanger public health, safety or general welfare.

The remodeling of the existing bank building for use as a Walgreens Pharmacy is an adaptive reuse of an existing building and as thus, fits the character of the neighborhood.

Attachments as required Site Plan Consent Petition Affidavit

Applicant's Signature James W. Cox
 Revised 11/18/13

Date 5-29-14 City Agent ATJ

5-29-14

Statement in Support of Application of RK Midway

The proposed renovation of and addition to the former American Bank building at 1578 University Avenue, on the corner of University and Snelling Avenues (the “Project”), is consistent with and supportive of the recently completed strategic development plan for the “Snelling-Midway Super Block” (also referred to as the “Snelling-Midway Smartsite”), and the recommendations of the Urban Investment Group in its TOD Redevelopment Strategy Report of Findings and Recommendations, dated June 17, 2014 (the “Report”).

The Project. The Project consists of (1) relocating Walgreen’s from its current location as an in-line store in the existing Midway Shopping Center into the existing two-store American Bank building, (2) constructing a one story addition to that the American Bank Building for a coffee shop (Dunn Bros., Caribou, Starbucks or similar), and (3) related site improvements. The site improvements include new or improved curbs and sidewalks along the east and south site boundaries, a reconfigured parking lot, and improved streetscape and landscaping.

Project Ownership. The Applicant, RD Parent Investors LLC, acquired 1578 University Avenue from American Bank in December, 2013. The Applicant is one of three related private entities that own most of the Super Block: RK Midway, LLC owns the Midway Shopping Center. Rein Midway LP owns the 4.7 acre lot in the southeast corner of the Super Block (subject to an option to purchase in favor of the City of St. Paul). The Metropolitan Council owns the 9.93 acre “Bus Barn” site in the southwest corner of the Super Block.

The Report. The Report recommends a strategy for pedestrian-friendly TOD development that is consistent with the Snelling Station Area Plan, capitalizes on recent investments in light rail transit (“LRT”) and imminent investment in bus rapid transit (“BRT”), while respecting existing revenue sources and allowing the flexibility to pursue redevelopment opportunities as they arise. The Report identifies the following ten principles as “essential elements for achieving high quality TOD” on the Site:

ensure flexibility to respond to unexpected opportunities; change image/brand of site in the short term; align interests between public and private parties long term; respect existing revenue sources; pair delivery of development and infrastructure in phases; create incremental value over time through phasing; draw transit users into the site through design and land uses; accommodate market fluctuations through diversity of uses; serve the neighborhood and beyond; and use high value TOD land for TOD uses and remaining land for less transit supportive uses.

The recommendations start with a “Phase 1” at the corner of Snelling and University that will “use Phase 1 infrastructure to catalyze and set the tone for future development . . .” The Report specifically recommends establishing in Phase 1 a new Asbury Street in the drive aisle between the American Bank building and McDonald’s and reuse of the American Bank building with ground floor retail. The Report also recommends extending Spruce Tree Street across Snelling Avenue into the Super Block, along the south boundary of the Project site.

Plan Consistency. The Project is consistent with the Snelling Station Area Plan (the “Plan”) and the recommendations of the Report:

- The Project provides immediate evidence that improvements are underway in the most visible location on the Super Block.
- The Project provides an immediate transit-oriented, pedestrian friendly use for a now-vacant building at the Snelling Station Area Plan, lays the ground work for the first phase of infrastructure for the Super Block.
- The Project creates a new city block at the corner of Snelling and University, as the Plan and Report contemplate, that is the right size and the right location for higher density development when the right opportunity arises.
- The Project establishes the street grid for the first phase of infrastructure improvements for the whole Super Block. The eastern boundary of the site will be the right-of-way of the future extension of Asbury Street into the Super Block. The southern boundary of the site will align with the extension of Spruce Tree Street into the Super Block. These two streets are the start of the restored street grid the Plan and the Report envision.
- The Project clears the way for further extension of the street grid into the site by moving Walgreen’s out of the way of the Simpson Street alignment.
- Asbury and Spruce Tree Streets will also be the pedestrian entrances to the Super Block from the LRT and BRT stations, as the Report and the Snelling Station Area Plan envision. Asbury Street will align with the pedestrian crossing at the eastern end of the LRT platform. Spruce Tree Street aligns with the south end of the future BRT station. Both streets are the first opening into the Super Block for a pedestrian starting at Snelling and University.
- Walgreen’s and the proposed coffee shop are both pedestrian-oriented retail uses appropriate for the LRT and BRT stations. Walgreen’s works as a destination for shoppers and as a convenient place to stop on the way to, from or between the LRT and BRT. The coffee shop will provide a place to wait for the train or bus or to pick up a beverage for the ride. In addition, the office space on the second floor of the American Bank building provides a lower-density start to the mixed use development the Plan and Report envision for the site.
- Until the market is ready for higher density development on the corner, the Project will provide attractive, active uses that are compatible with LRT and BRT.

Traffic Impacts. The adaptive reuse of 1578 University Avenue as a Walgreen’s store and coffee shop will provide a productive, active mixed use for the site at a density the current infrastructure can support. The traffic study the Applicant prepared for the Project predicts that the proposed reuse of will add to already high traffic volumes at peak times. The Snelling Station Area Plan and Report envision far more intensive use for this corner. Even with a significant increase in public transit use, the higher density development will require significant traffic handling enhancements in the roads outside of the Super Block, including the contemplated extension of Ayd Mill Road across I-94 to the Super Block. The Project will make productive, transit and pedestrian oriented use of the site until both (1) demand for more intensive use appears and (2) traffic handling for the more intensive use is programmed and funded.

EHG

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, RD Parent Investors, Llc, 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.

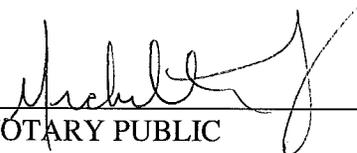
RD Parent Investors LLC

By: 
NAME Richard Birdoff, Manager

810 Seventh Ave; 10th floor
New York, NY 10019
ADDRESS

212-265-6600
TELEPHONE NUMBER

Subscribed and sworn to before me this
28th day of May, 2014.


NOTARY PUBLIC

MICHELLE LOPEZ
Notary Public, State of New York
No. 01LO6268176
Qualified in Bronx County
Certificate Filed in New York County 16
Commission Expires August 27, 2016



UNION PARK DISTRICT COUNCIL

1570 Concordia Avenue, Suite LL100, Saint Paul, MN 55104

p 651.645.6887 | f 651.917.9991 | info@unionparkdc.org | www.unionparkdc.org

An Affirmative Action, Equal Opportunity Employer

July 3, 2014

Tom Beach
Department of Safety and Inspections
375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806

Re: Site Plan reviews

Dear Tom,

The Union Park District Council (UPDC) Land Use Committee reviewed the Walgreens site plan and its non-conforming use permit for a single drive thru at its meeting on June 24, 2014, and recommended approval. At its meeting on July 2, 2014, the UPDC Board voted to recommend approval of the Walgreens site plan and its non-conforming use permit for a single drive thru.

The Land Use Committee also reviewed the Primrose Day Care Center site plan at its June meeting, and recommended approval with an amendment that the plan address implementation of bicycle parking on the site. On July 2, the UPDC Board voted to recommend approval of the Primrose site plan.

Although no action was required of the UPDC Land Use Committee or Board with respect to the Pawn America improvements at 1636 University Avenue, the UPDC Land Use Committee views the improvements favorably.

Please let me know if you have any questions.

Thank you for your time!

Sincerely,

Julie Reiter
Executive Director
Union Park District Council

Request for Continuance

Date June 4, 2014

Gaius Nelson, Chair
Zoning Committee
City of Saint Paul
1400 City Hall Annex
Saint Paul, Minnesota 55102

Re: Zoning File #14-293509

Dear Mr. Nelson:

I am the applicant or the applicant's duly appointed representative for this zoning file.

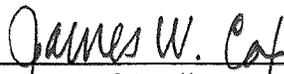
I request a continuance of the public hearing on the application in this zoning file, which is presently scheduled before the Zoning Committee on June 19, 2014.

I understand that a continuance of the public hearing before the Zoning Committee means that the decision of the Planning Commission on this application, which is presently scheduled for June 27, 2014, will also be continued.

I request that the Zoning Committee continue the public hearing for this zoning file to July 17, 2014, I understand that the Planning Commission would then be scheduled to make their decision on July 25, 2014.

I am aware of and understand the statutory requirements found in Minn. Statute § 15.99 (1995) requiring the City of Saint Paul to approve or deny this application within sixty days of its submission. I desire to extend the sixty day period for a City decision under Minn. Stat. § 15.99 by 28 days to August 25, 2014, to accommodate the continuance I am requesting.

Sincerely,



Signature of Applicant or
Applicant's duly appointed
representative

James W. Cox

Printed name of Applicant or
Applicant's duly appointed
representative



Certification
 I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of Minnesota.

Print Name: _____
 Signature: _____
 Date: _____
 Reg. No. _____

**SITE PLAN
 REVIEW SET
 RESUBMISSION
 DRAFT**

Project: RD PARENT INVESTORS LLC
WALGREENS RELOCATION W/ PHARMACY DRIVE-THRU & RETAIL ADDITION
 1578 UNIVERSITY AVE W ST. PAUL, MN 55104

Commission Number: 14-10201
 Drawn: SHK Checked: SHK
 Date: JULY 18 2014

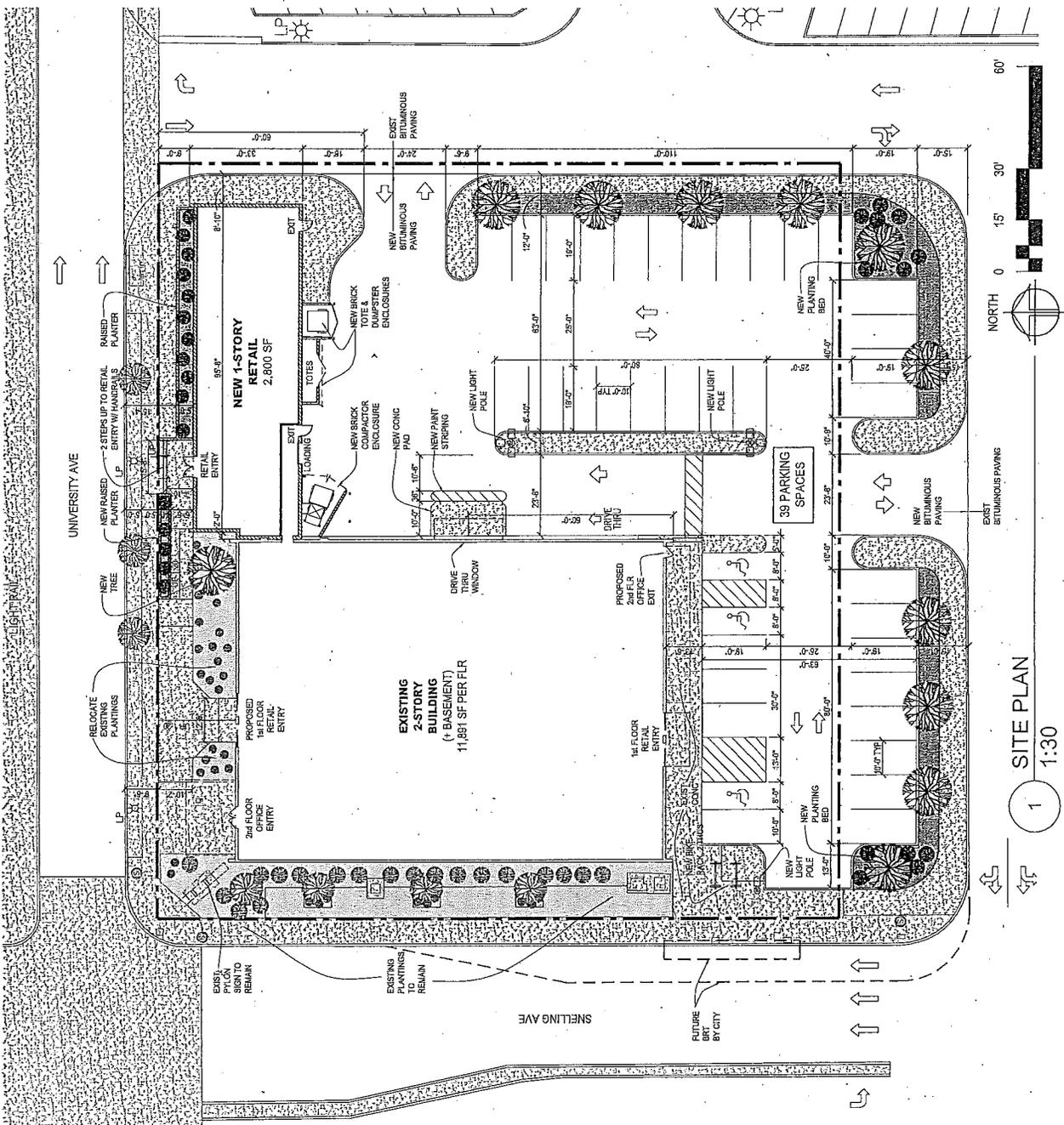
NO.	DATE	DESCRIPTION

Sheet Title: **SITE PLAN**

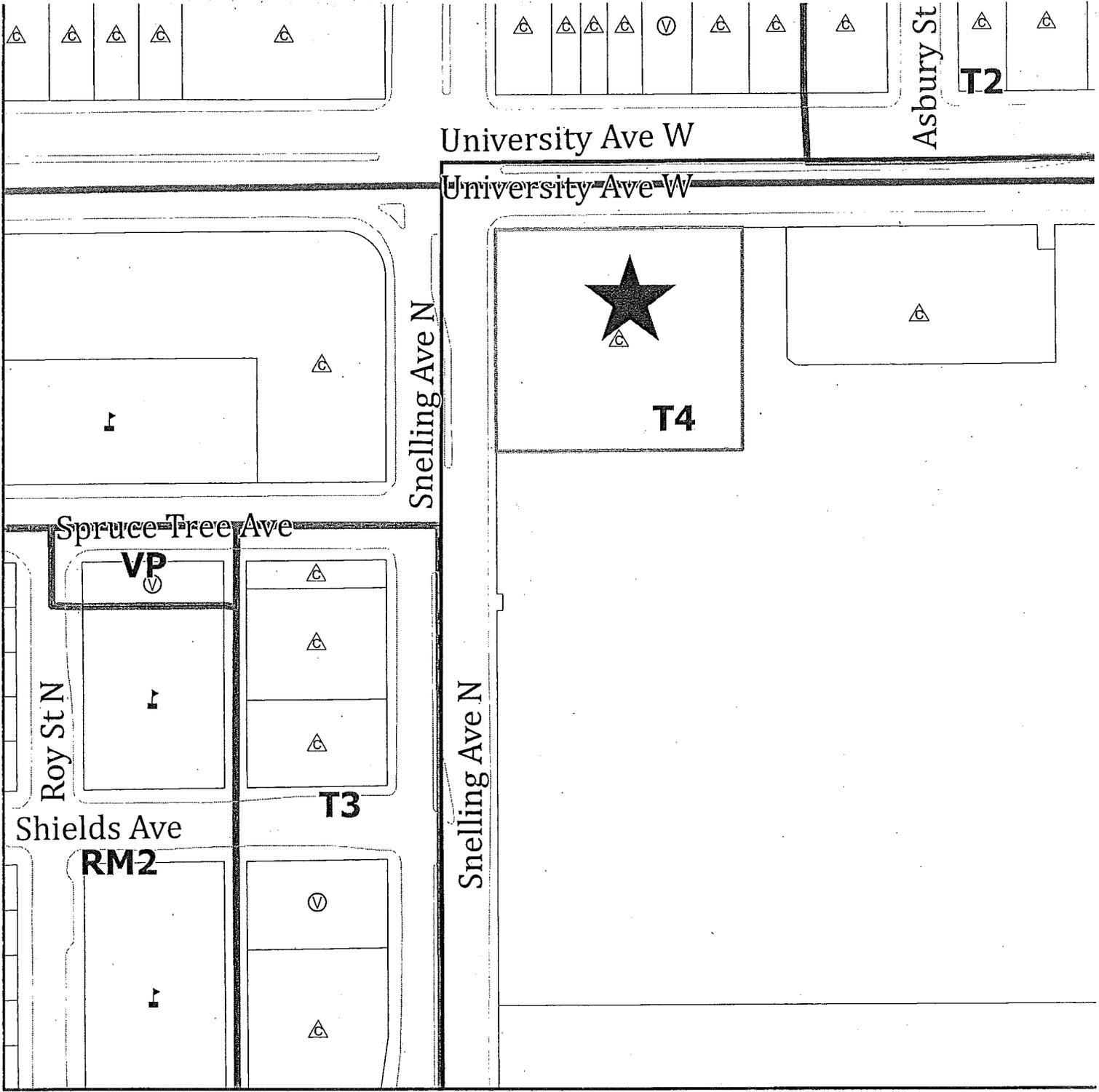
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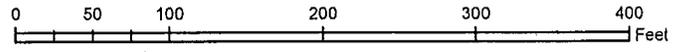
- NEW CONCRETE PAVING
- EXIST CONCRETE PAVING TO REMAIN
- NEW PLANTING BED/ LANDSCAPING
- EXIST PLANTING BED/ LANDSCAPING TO REMAIN
- NEW TREES/ SHRUB
- EXISTING TREES/ SHRUB TO REMAIN



1 SITE PLAN
 1:30



APPLICANT Afton Architects & Planners LTD
 APPLICATION TYPE NCUP - Relocation
 FILE # 14-293509 DATE 7/24/2014
 PLANING DISTRICT 13
 ZONING MAP # 14



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