

ZONING COMMITTEE STAFF REPORT

FILE NAME: 549 Minnehaha Nonconforming Use **FILE #** 21-252-047
APPLICANT: Michael E. Lubke **HEARING DATE:** May 6, 2021
TYPE OF APPLICATION: Nonconforming Use Permit - Reestablishment
LOCATION: 549 Minnehaha Avenue East, NE corner at Jessie Street
PIN & LEGAL DESCRIPTION: 292.29.22.34.0114; West 47 feet of Lots 27 & 30, Block 16, Stinson's Addition
PLANNING DISTRICT: 5
ZONING CODE REFERENCE: § 62.109(e) **PRESENT ZONING:** RT1
STAFF REPORT DATE: April 29, 2021 **BY:** Bill Dermody
DATE RECEIVED: April 9, 2021 **60-DAY DEADLINE FOR ACTION:** June 8, 2021

- A. **PURPOSE:** Reestablishment of nonconforming use to permit a theatre arts teaching studio
- B. **PARCEL SIZE:** 47' (Minnehaha) x 73' (Jessie) = 3,746 sq. ft.
- C. **EXISTING LAND USE:** Vacant former embroidery shop and residence
- D. **SURROUNDING LAND USE:**
Religious facility to the southeast (RT1) and mixed density residential (RT1; single-family, two-family, multi-family) in other directions
- 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. **PARKING:** There is no off-street parking required because there is no building expansion proposed and the new use does not require more parking than the old use unless the instructor moves off-site or the number of students exceeds 13 (6 to 10 are anticipated). If this were new construction, Zoning Code § 63.207 would require a minimum of 4 off-street parking spaces (3 for the proposed business if the instructor lives on-site and 1.5 for the 2nd floor 2-bedroom residence) compared to 5 off-street parking spaces for the previous use (4 for the ~1,600 s.f. business space and 1.5 for the residence).
- G. **HISTORY/DISCUSSION:** The building has been vacant since 2018. It was previously an embroidery/screen printing business on the ground floor and residential above for decades. It has contained mixed residential/commercial uses since at least 1975. It was part of a larger rezoning from RM1 low-density multiple-family residential district to RT1 two-family residential district at some point after 1975.
- H. **DISTRICT COUNCIL RECOMMENDATION:** As of this writing, the Payne Phalen District 5 Community Council has not provided a recommendation.
- I. **FINDINGS:**
1. The application requests a reestablishment of nonconforming use to permit a theatre arts teaching studio in the first floor of the existing building at 549 Minnehaha Avenue East.
 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 (1) 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. The structure's first floor was constructed in 1924 for commercial purposes and would be costly to convert to residential uses. The structure has been vacant for more than two years.

- (2) *The proposed use is equally appropriate or more appropriate to the district than the previous legal nonconforming use.* This finding can be met if the intensity of the business is limited by limiting the number of students.
- (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 can be met if the intensity of the business is limited to avoid negative traffic/parking impacts.
- (4) *The proposed use is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan in Map LU-2 designates the site's 2040 Land Use as Urban Neighborhood, which in Policy LU-36 is directed to promote neighborhood-serving commercial businesses that are compatible with the character and scale of the existing residential development. Similarly, the Railroad Island Area Plan Summary (2007) in Policy 12 calls for supporting the establishment of commercial uses that serve the neighborhood and/or would attract people to the neighborhood.
- (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 has been superseded by a Mayor's Executive Order that eliminates certain petition requirements during the pandemic.

J. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the reestablishment of nonconforming use to permit a theatre arts teaching studio subject to the following condition:

1. The number of students is limited to 13 if the instructor lives on-site or to 10 if the instructor lives off-site.



NONCONFORMING USE PERMIT APPLICATION

Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex, 25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6583

Zoning Office Use Only	
File #	_____
Fee Paid \$	_____
Received By / Date	_____
Tentative Hearing Date	_____

APPLICANT

Name	_____						
	<i>(must have ownership or leasehold interest in the property, contingent included)</i>						
Address	_____	City	_____	State	_____	Zip	_____
Email	_____		Phone	_____			
Name of Owner (if different)	_____		Email	_____			
Contact Person (if different)	_____		Email	_____			
Address	_____	City	_____	State	_____	Zip	_____

PROPERTY INFO

Address/Location	_____			
PIN(s) & Legal Description	_____			
	<i>(attach additional sheet if necessary)</i>			
	Lot Area	_____	Current Zoning	_____

TYPE OF PERMIT:	Application is hereby made for a Nonconforming Use Permit under provisions of Zoning Code § 62.109.
The permit is for:	<input type="checkbox"/> Establishment of legal nonconforming use status for use in existence at least 10 years (para. a)
	<input type="checkbox"/> Change of nonconforming use (para. c)
	<input type="checkbox"/> Expansion or relocation of nonconforming use (para. d)
	<input type="checkbox"/> Reestablishment of a nonconforming use vacant for more than one year (para. e)

Present / Past Use	_____
Proposed Use	_____
SUPPORTING INFORMATION:	Demonstrate that each of the requirements in Zoning Code § 62.109 for the type of nonconforming use permit being requested is met. Attach additional sheets if necessary.
Attachments as required:	<input type="checkbox"/> Site Plan <input type="checkbox"/> Consent Petition <input type="checkbox"/> Affidavit
<input type="checkbox"/>	If you are a religious institution you may have certain rights under RLUIPA. Please check this box if you identify as a religious institution.

Applicant's Signature _____ Date _____

Re-Establishment of Nonconforming Use Application
Mike Lubke - 549 Minnehaha Ave E St. Paul, MN 55130
Accompanying Support for Requirements of Zoning Code 62.109

(1) The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose; The building, as it currently stands, has only a ½ bathroom on the main floor with no other amenities for a living unit, be that anything resembling a kitchen or even egress windows for a legal bedroom. The cost necessary to add those features would far exceed any sort of market price for this plot of land in this neighborhood, and would be economically unfeasible.

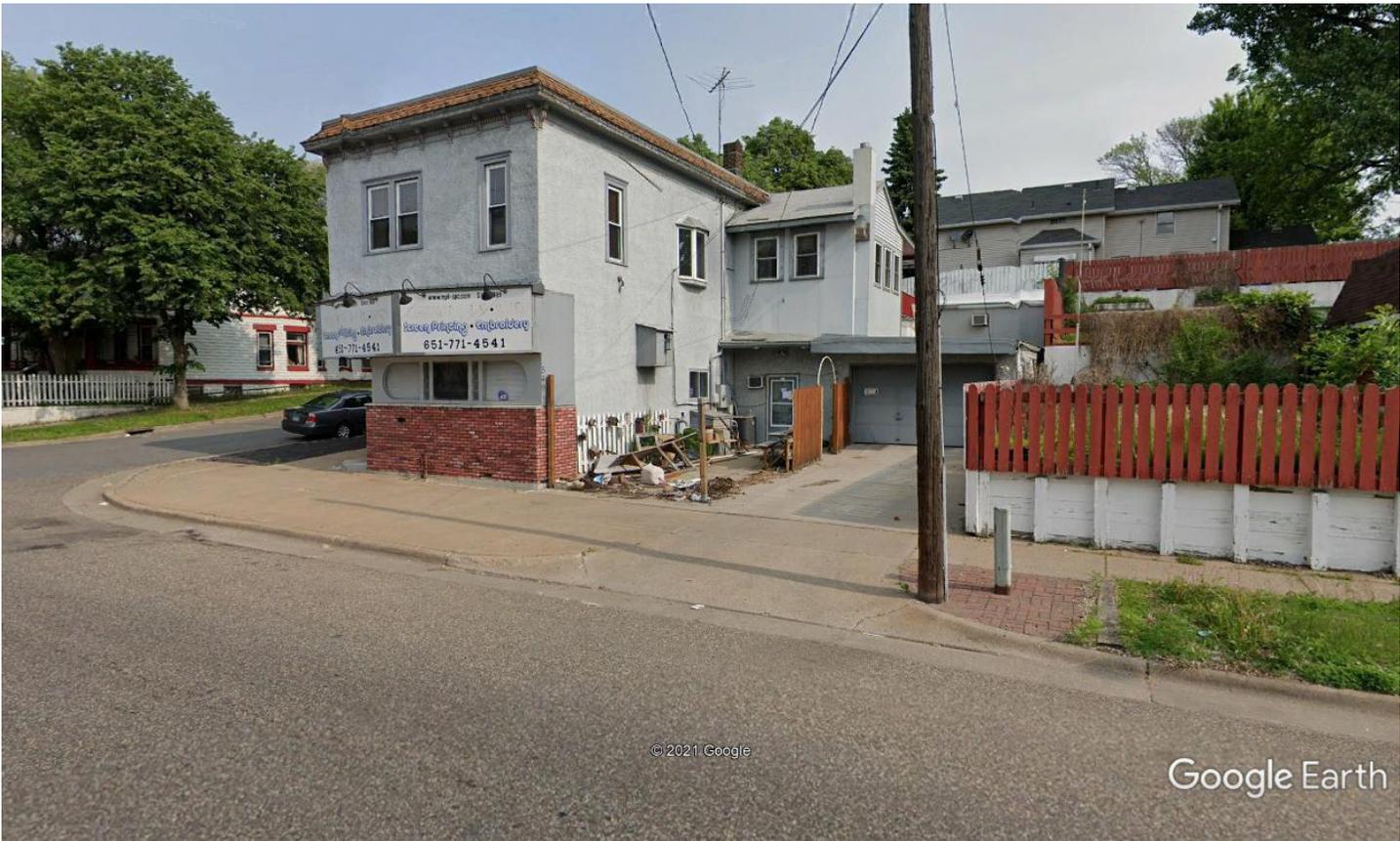
(2) The proposed use is equally appropriate or more appropriate to the district than the previous legal nonconforming use; Prior use was for a custom printing shop, providing specialized service to a relatively small, niche clientele. Proposed use as a theatre arts teaching studio will likewise provide a specialized service to a relatively small, niche clientele. Neither are expressly allowed within RT1, while both are expressly permitted in T1 zones, which are interspersed through the area in question (including across the street).

(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; The studio will not involve any machinery, emissions, hazardous materials, or other threats to public safety. Operations will involve clients attending performance classes, contained within the main floor work room - visually and acoustically isolated from the public.

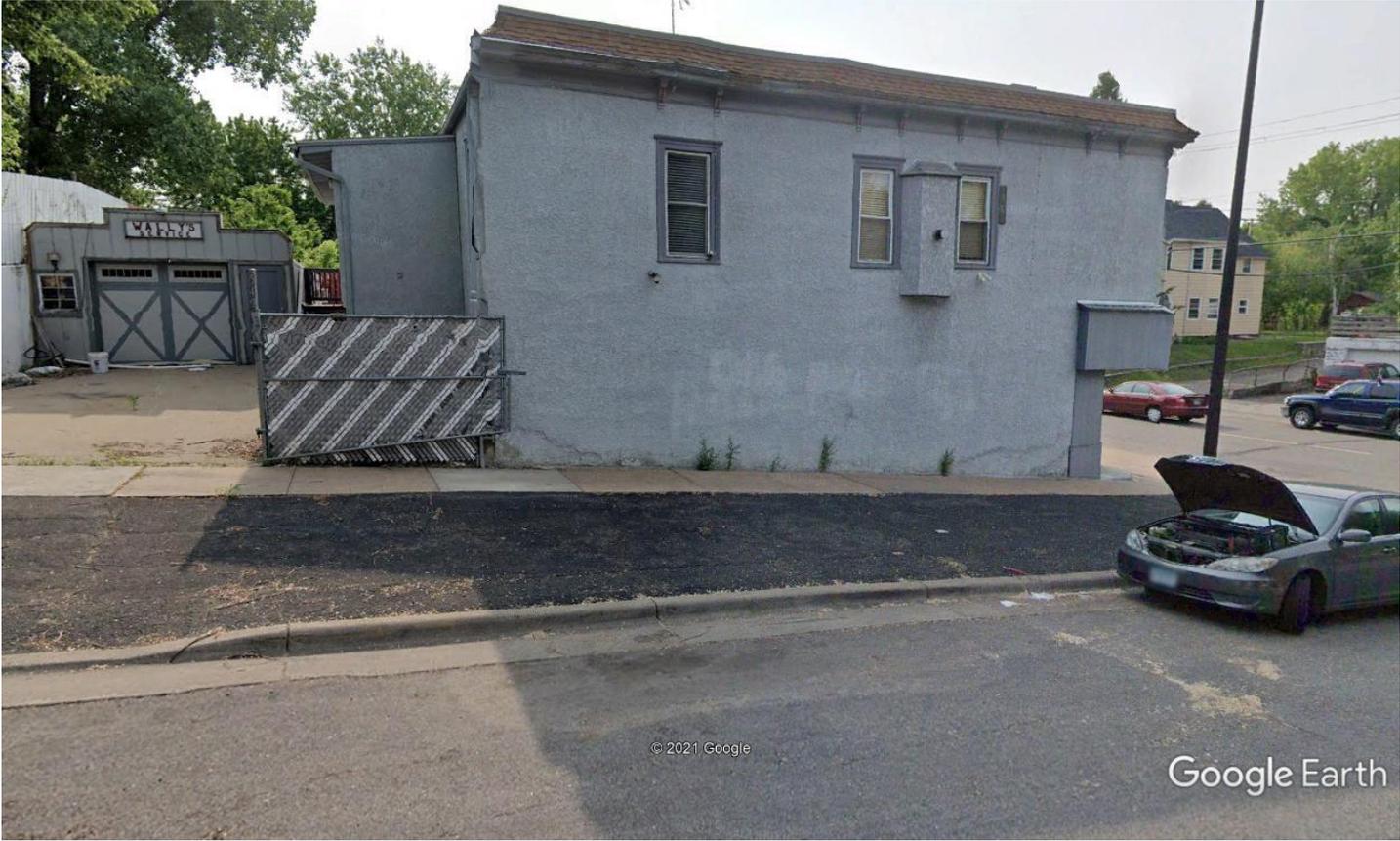
(4) The proposed use is consistent with the comprehensive plan; By operating the studio while living above, the proposed use will allow for economic development in the area (Policy LU-6.1) while also moving towards an increase in owner-occupied properties in the Railroad Island neighborhood. The business will be accessible by public transit, being 1 block away from the 64 line (Policy LU-1). In addition, the nature of the business is one that is, at its core, exemplary of the city's values of being Welcoming and Safe as well as People-focused.

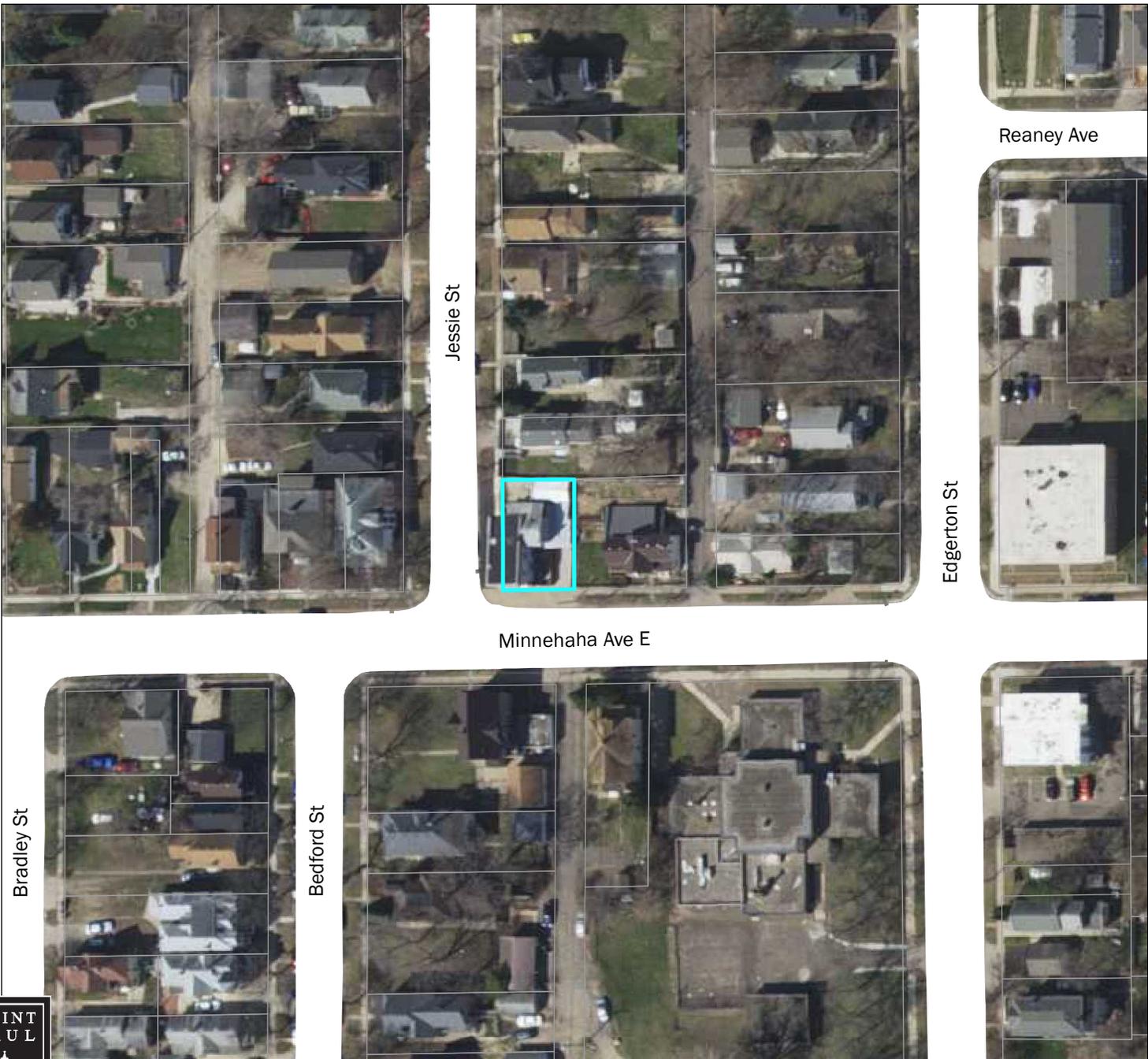
(5) A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the use.

I was informed by Bill Dermody that the notarized petition requirement was being waived due to safety concerns related to the Covid-19 pandemic.



549 Minnehaha Ave E viewed from Minnehaha Ave (above) and Jessie Street (below)



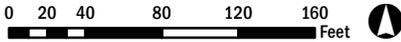


FILE #21-252-047 Aerial Map
Application of Michael Lubke

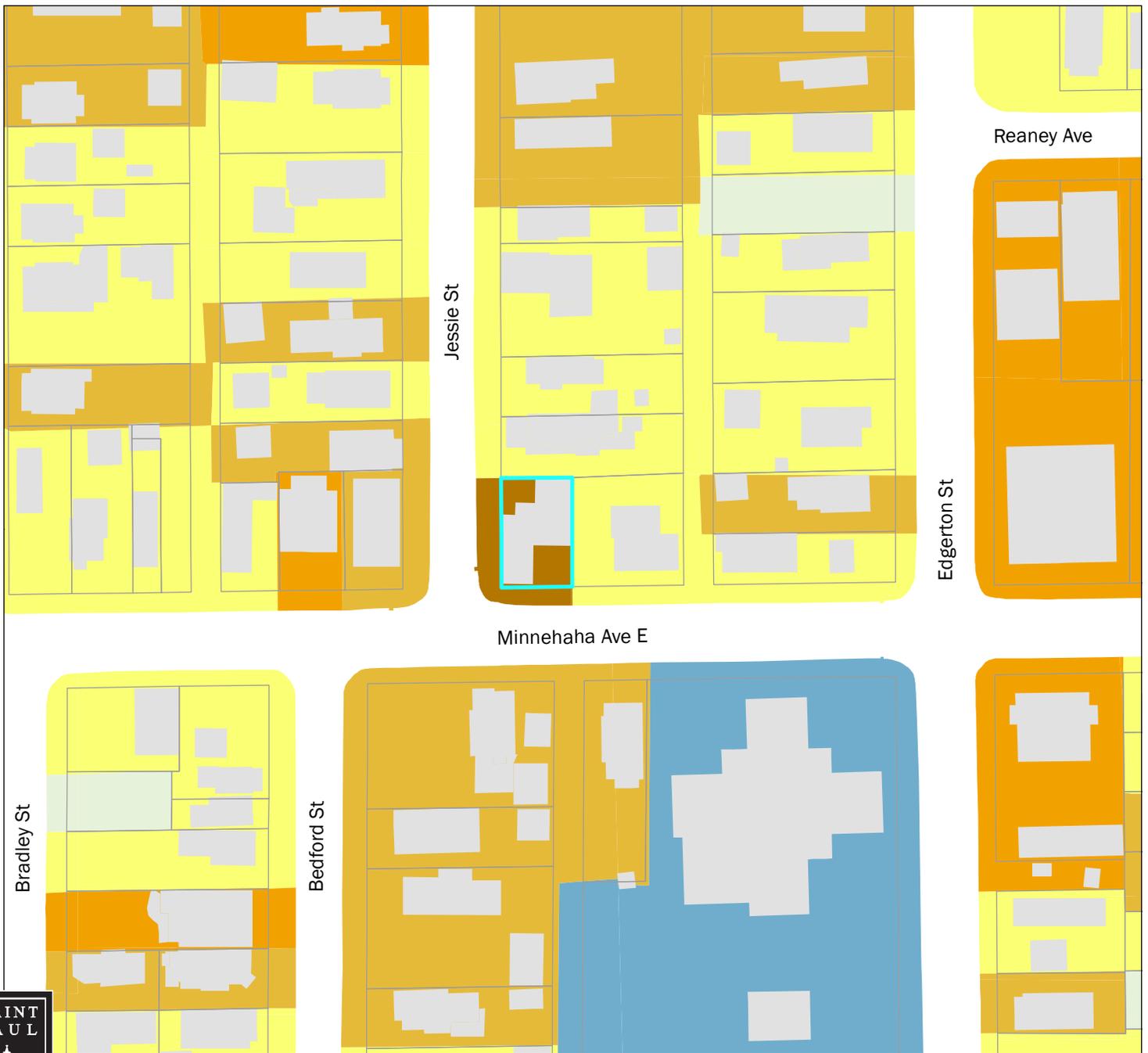
Application Type: Reest. NCUP
 Application Date: April 8, 2021
 Planning District: 5

Subject Parcel(s) Outlined in Blue

□ Parcel Boundary

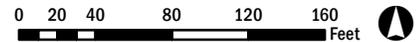


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FILE #21-252-047 Existing Land Use Map
Application of Michael Lubke

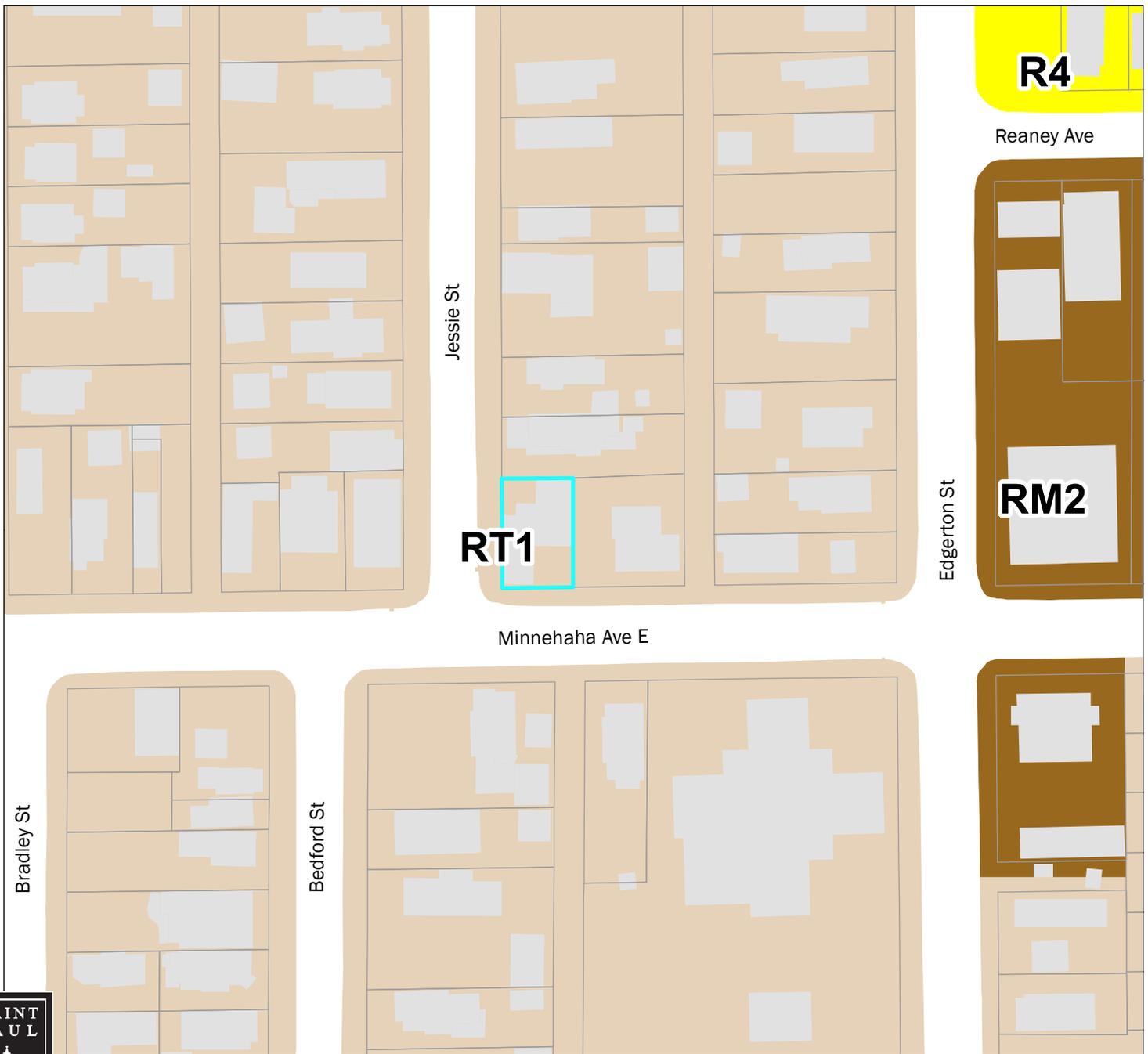
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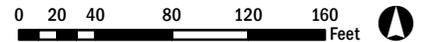
Subject Parcel(s) Outlined in Blue

- | | | | |
|---------------------------|--------------------------------|--------------------------------|--------------|
| Parcel Boundary | Multifamily | Industrial and Utility | Railway |
| Farmstead | Office | Extractive | Airport |
| Seasonal/Vacation | Retail and Other Commercial | Institutional | Agricultural |
| Single Family Detached | Mixed Use Residential | Park, Recreational or Preserve | Undeveloped |
| Manufactured Housing Park | Mixed Use Industrial | Golf Course | Water |
| Single Family Attached | Mixed Use Commercial and Other | Major Highway | |



FILE #21-252-047 Zoning Map Application of Michael Lubke

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Subject Parcel(s) Outlined in Blue

Parcel Boundary	RM3 Multiple-Family	B2 Community Business	F2 Residential Low
RL One-Family Large Lot	T1 Traditional Neighborhood	B3 General Business	F3 Residential Mid
R1 One-Family	T2 Traditional Neighborhood	B4 Central Business	F4 Residential High
R2 One-Family	T3 Traditional Neighborhood	B5 Central Business Service	F5 Business
R3 One-Family	T3M T3 with Master Plan	IT Transitional Industrial	F6 Gateway
R4 One-Family	T4 Traditional Neighborhood	ITM IT with Master Plan	VP Vehicular Parking
RT1 Two-Family	T4M T4 with Master Plan	I1 Light Industrial	PD Planned Development
RT2 Townhouse	OS Office-Service	I2 General Industrial	CA Capitol Area Jurisdiction
RM1 Multiple-Family	B1 Local Business	I3 Restricted Industrial	
RM2 Multiple-Family	BC Community Business (converted)	F1 River Residential	