ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** 1688 Dayton Triplex Expansion Nonconforming Use Permit **FILE #**21-309-190
2. **APPLICANTS:** Brian Nofzinger and Jane Rauenhorst **HEARING DATE:** November 4, 2021
3. **TYPE OF APPLICATION:** Expansion of Nonconforming Use Permit
4. **LOCATION:** 1688 Dayton Avenue (south side between Aldine Street and Pierce Street)
5. **PIN & LEGAL DESCRIPTION:** 04.28.23.11.0155; Lot 5 & E 10 ft of Lot 6, Blk 3; Kuhl's Addition
6. **PLANNING DISTRICT:** 13
7. **ZONING CODE REFERENCE:** § 62.109(d) **PRESENT ZONING:** RT1
8. **STAFF REPORT DATE:** October 28, 2021 **BY:** Kady Dadlez
9. **DATE RECEIVED:** October 6, 2021 **60-DAY DEADLINE FOR ACTION:** December 5,2021

A. **PURPOSE:** Expansion of a nonconforming triplex to replace the existing rear exterior stairway with an enclosed stairway.

B. **PARCEL SIZE:** The property has 50 feet of frontage on Dayton Avenue and is about 114 feet in depth for a lot area of 5,702 square feet.

C. **EXISTING LAND USE:** Legal nonconforming triplex.

D. **SURROUNDING LAND USE:**

North: One and two-family homes in an RT1 zoning district. There is a four-unit building at the eastern end of the block on the north side.

East: Mostly one-family homes in an RT1 zoning district. There is a ten-unit apartment building at the eastern end of the block on the south side.

South: One and two-family homes on Selby Avenue in a T2 zoning district. There are a couple of commercial uses at the eastern end of the block.

West: One-family homes in an RT1 zoning district.

E. **ZONING CODE CITATION:** § 62.109(d) lists the conditions under which the Planning Commission may grant a permit to expand a legal nonconforming use.

F. **HISTORY/DISCUSSION:** There are no previous zoning cases concerning this property. It is a legal nonconforming triplex with a certificate of occupancy in a RT1 duplex zoning district.

G. **DISTRICT COUNCIL RECOMMENDATION:** The Union Park District Council's Committee on Land Use and Economic Development met on October 18 and recommended approval of the permit request. The resolution from the full board will be provided when it is available.

H. **FINDINGS:**

1. The applicants request an expansion of nonconforming use to permit construction of an enclosed stairway at the rear of the existing triplex building to make it safer and quieter for residents to come and go. The applicants own the property and reside in one of the units of the triplex. There is a dwelling unit on each level of the house and an existing 10' x 19' exterior stairway at the rear of the property that provides access to the second and third floor units. The proposed stairway is three stories and 35 feet in height and would provide access to the units on the second and third floors. The stairway addition will match the roof line, height, materials, and color of the existing house, using the same grey siding with white trim as the rest of the house. If the applicants were simply replacing the exterior stairway, no expansion of nonconforming use permit would be needed. Because the footprint of the building is being expanded, a nonconforming use permit is required.
2. 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 proposed stairway will not result in an increase in the number of dwelling units.
2. *For expansion of a structure, the expansion will meet the yard, height and percentage of lot coverage requirements of the district.* This finding is met. The proposed stairway is at the rear of the existing building. The required setback requirements for the proposed expansion are met. The required rear yard setback is 25 feet and the proposed setback is 34 feet. The required side yard setbacks are 9 feet. The proposed easterly side yard setback is 9 feet and the proposed westerly sideward setback is 22.5 feet. The height of the proposed stairway will match the existing roofline of the house and at 35 feet meets the 40 foot height requirement. There is no maximum lot coverage restriction in RT1 zoning districts.
3. *The appearance of the expansion or relocation will be compatible with the adjacent property and neighborhood.* This finding is met. The appearance of the proposed enclosed stairway is consistent with the design and height of the existing house and will be constructed with similar materials and windows as neighboring properties and the grey siding and white trim will match the existing house.
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. The proposed stairway does not require additional off-street parking.
5. *Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use.* This finding is met. The property is in an RT1 zoning district that extends five blocks from Fry Street to Fairview Avenue. Rezoning the property to permit a triplex would result in spot zoning. The Union Park Community Plan does not support rezoning to permit the triplex use based on land use policy LU2.1, which calls for maintaining and establishing zoning that preserves lower-density, single-family homes and duplexes outside of mixed-use corridors.
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 proposed stairway will not result in an increase in noise, vibration, glare, dust, or smoke and will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.
7. *The use is consistent with the comprehensive plan.* This finding is met. Policy H-45 in the Housing chapter of the 2040 Comprehensive Plan calls for supporting the preservation and maintenance of historic housing stock as an affordable housing option. Policy H-48 in the Housing chapter calls for expanding permitted housing types in Urban Neighborhoods (as defined in the Land Use chapter) to include duplexes, triplexes, town homes, small-scale multifamily and accessory dwelling units to allow for neighborhood-scale density increases, broadened housing choices and intergenerational living. Policy LU-5 in the Land Use Plan encourages flexible building design to ensure ongoing functionality and viability, and to respond to new market opportunities. The proposed enclosed stairway expansion will allow the existing triplex to function well for all its residents. Policy LU-34 in the Land Use chapter of the plan calls for providing for medium-density housing that diversifies housing options, such as townhouses, courtyard apartments and smaller multi-family developments, compatible with the general scale of Urban Neighborhoods. Policy H1.5 in the Union Park Community Plan encourages owner occupation of single-family and multi-family homes. The applicants lives in one of the units in the triplex.

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 has been superseded by Mayor's Executive Order 2021-35 that eliminates certain petition requirements during the pandemic.

I. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the expansion of a nonconforming triplex to replace the existing rear exterior stairway with an enclosed stairway at 1688 Dayton Avenue, subject to the following condition:

1. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plans submitted and approved as part of this application.

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

PD=

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

#042823110155

APPLICANT

Name Brian Nofzinger and Jane Rauenhorst
(must have ownership or leasehold interest in the property, contingent included)
Address 1688 Dayton Avenue City Saint Paul State Mn Zip 55104
Email brian.nofzinger@gmail.com Phone 612-308-2008
Name of Owner (if different) _____ Email _____
Contact Person (if different) _____ Email _____
Address _____ City _____ State _____ Zip _____

PROPERTY INFO

Address/Location 1688 Dayton Avenue
PIN(s) & Legal Description PIN: 042823110155 Lot 5 Block 3 of Kuhl's addition to the city of
(attach additional sheet if necessary)
Subj to alley;The Fol; E 10 ft of lot 6 & all of lot 5 blk 3 Lot Area .13 acre Current Zoning RT1

TYPE OF PERMIT: Application is hereby made for a Nonconforming Use Permit under provisions of Zoning Code § 62.109.

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

Present / Past Use Triplex
Proposed Use Triplex

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.

See enclosed documents.

RECEIVED
OCT 05 2021
BY: _____

Attachments as required: ■ Site Plan ☐ Consent Petition ☐ Affidavit

☐ 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 10/3/21
Jane Rauenhorst 10/3/21

Rev 8.5.2019

Nonconforming Use Permit Application:

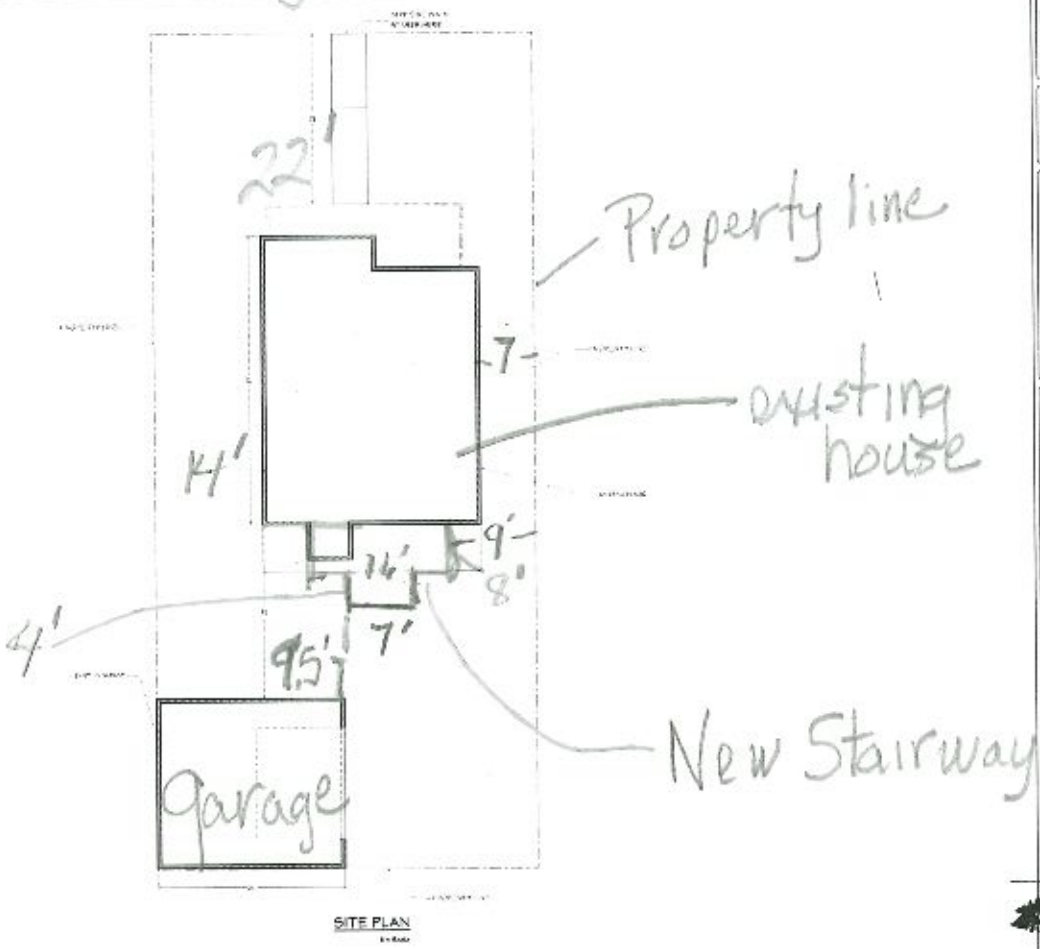
My wife and I live in the Triplex at 1688 Dayton Ave, which we have owned for 10 years. It has an existing 10ft by 19ft open exterior stairway on the back of the building, providing access to the 2nd and 3rd floor apartments. (See photo)

We are seeking approval to remove and replace the existing stairway with an enclosed stairway, which will be a safer and quieter way for tenants to come and go from the building. (See drawings).

Code requirements:

1. The number of dwelling units will not increase. It will remain at 3.
2. Yard requirements. The new structure will be:
    a. 9 ft from the east side yard property line,
    b. 22.5 ft from the west side yard property line,
    c. 34 ft from the south alley property line,
    d. 9.5 ft from the garage,
    e. 35 ft tall.
3. Per our drawings, note that roof line of the new stairway will match the existing roof line of the house, with windows and siding that are consistent with the rest of the structure and with neighboring homes.
4. The number of parking spaces will not be changed, neither will the number of dwelling units.
5. The zoning of the property is not being changed.
6. The enclosed stairway will not result in an increase of noise, glare, dust or smoke. Closed to the weather, it will be a safer and quieter way for tenants to come and go from the building.
7. The use is not changing, so remains consistent with the comprehensive plan.
8. This requirement is waived, due to emergency COVID procedures.

1688 Dayton Ave.



SITE PLAN

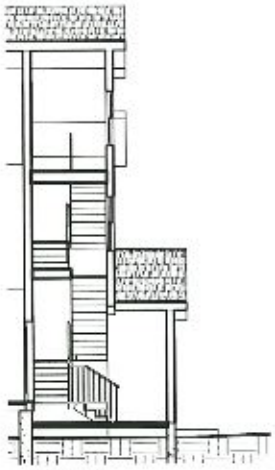
Nilles Builders, Inc.
Full Warranty
Licensed • Bonded • Insured #4620

1688 DAYTON AVE.
ST. PAUL, MN
STAIR TOWER

SUNNY MUELLER

6

Perspective

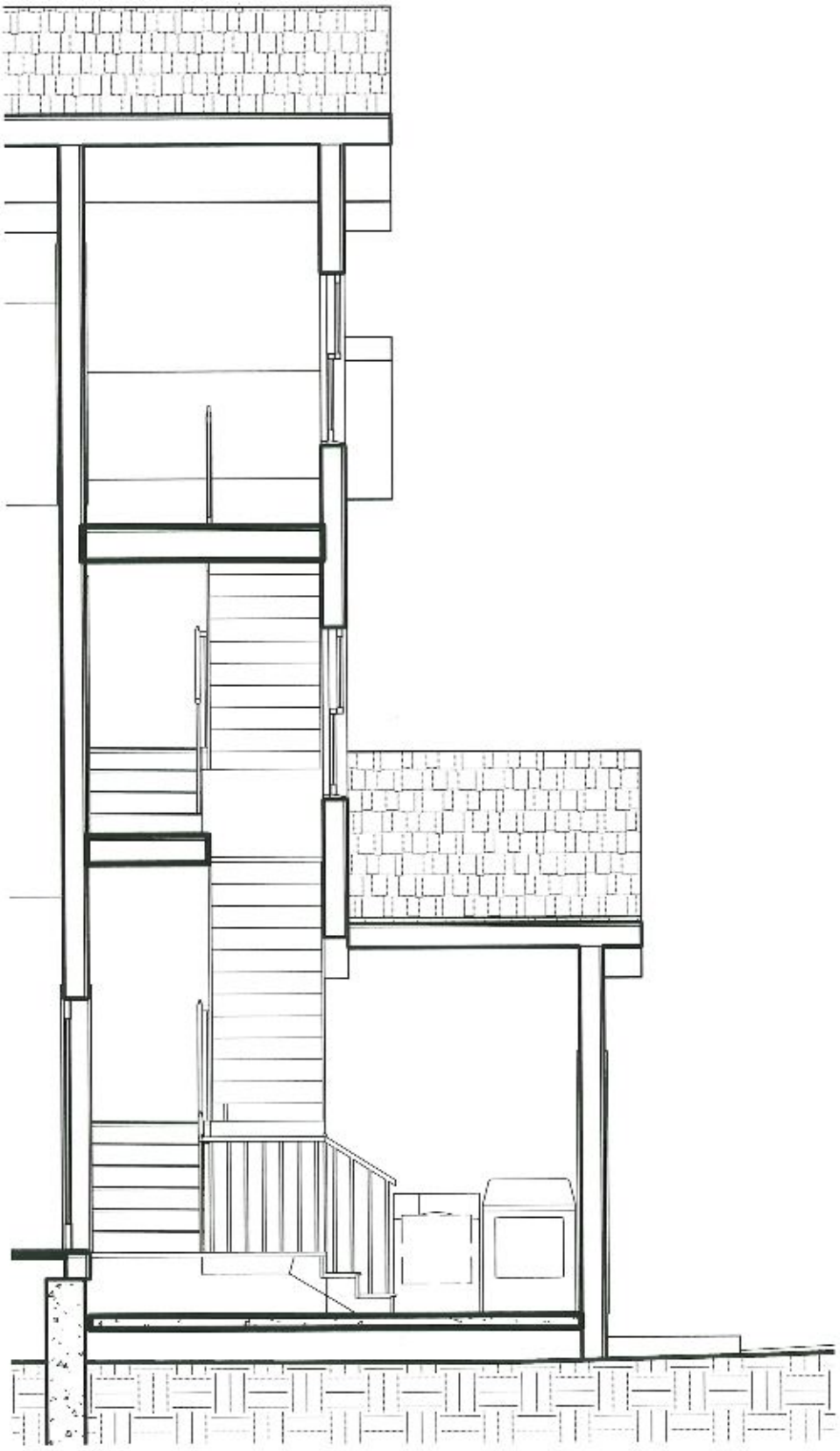


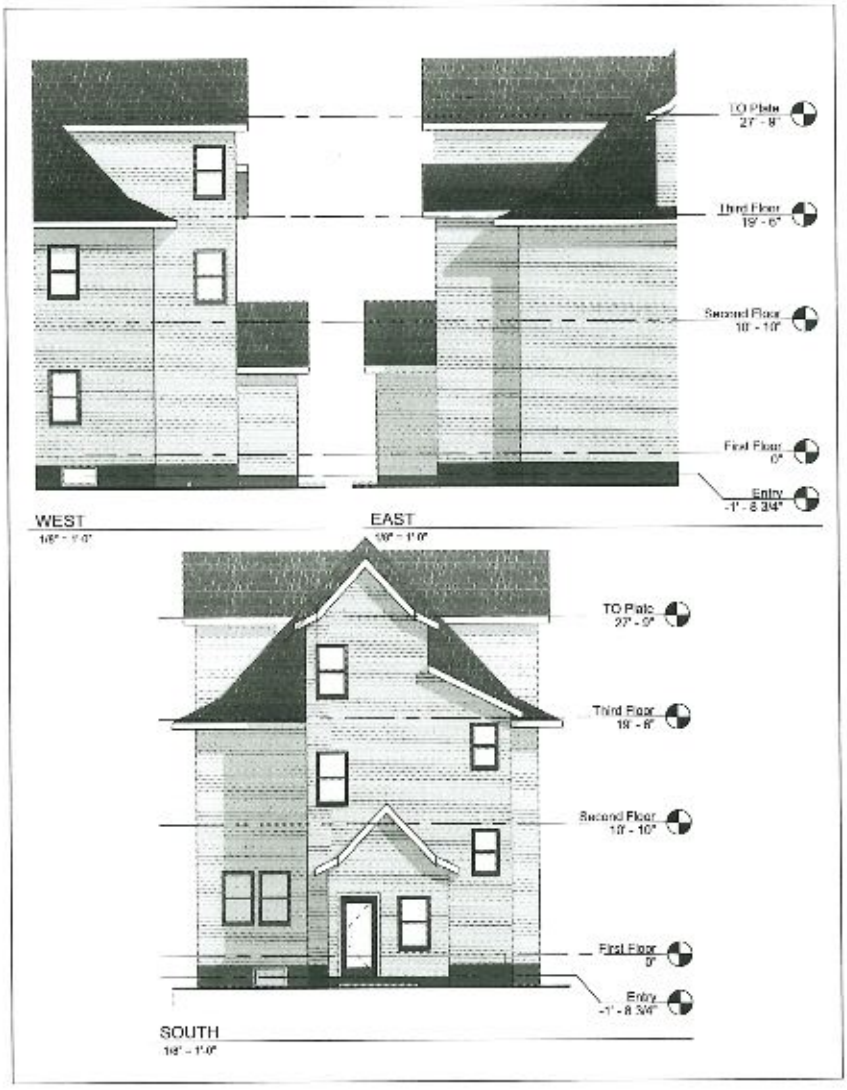
Section N/S

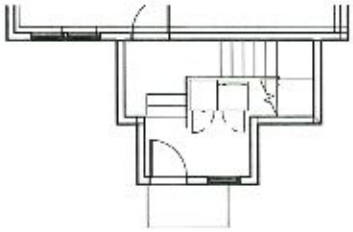
1/8" = 1'-0"

Section E/W

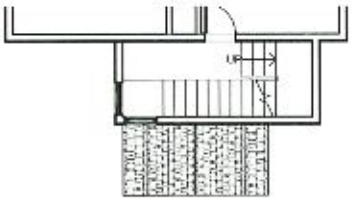
1/8" = 1'-0"



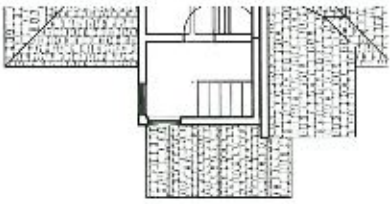

TO Plate
27' - 9"
Third Floor
19' - 6"
Second Floor
10' - 10"
First Floor
0"
Entry
-1' - 8 3/4"
WEST
1/8" = 1'-0"
EAST
1/8" = 1'-0"
TO Plate
27' - 9"
Third Floor
19' - 6"
Second Floor
10' - 10"
First Floor
0"
Entry
-1' - 8 3/4"
SOUTH
1/8" = 1'-0"



First Floor



Second Floor



Third Floor

1688 Dayton Avenue – Existing Triplex

Rear of 1688 Dayton Avenue – existing exterior stairway providing access to dwelling units on 2nd and 3rd floor

Uses to the east – single family

Uses to the west – single family

Uses to the north – one and two-family

Garage and house south of the alley - single

SAINT PAUL

FILE #21-309-190 Aerial Map

Application of Brian Nofzinger & Jane

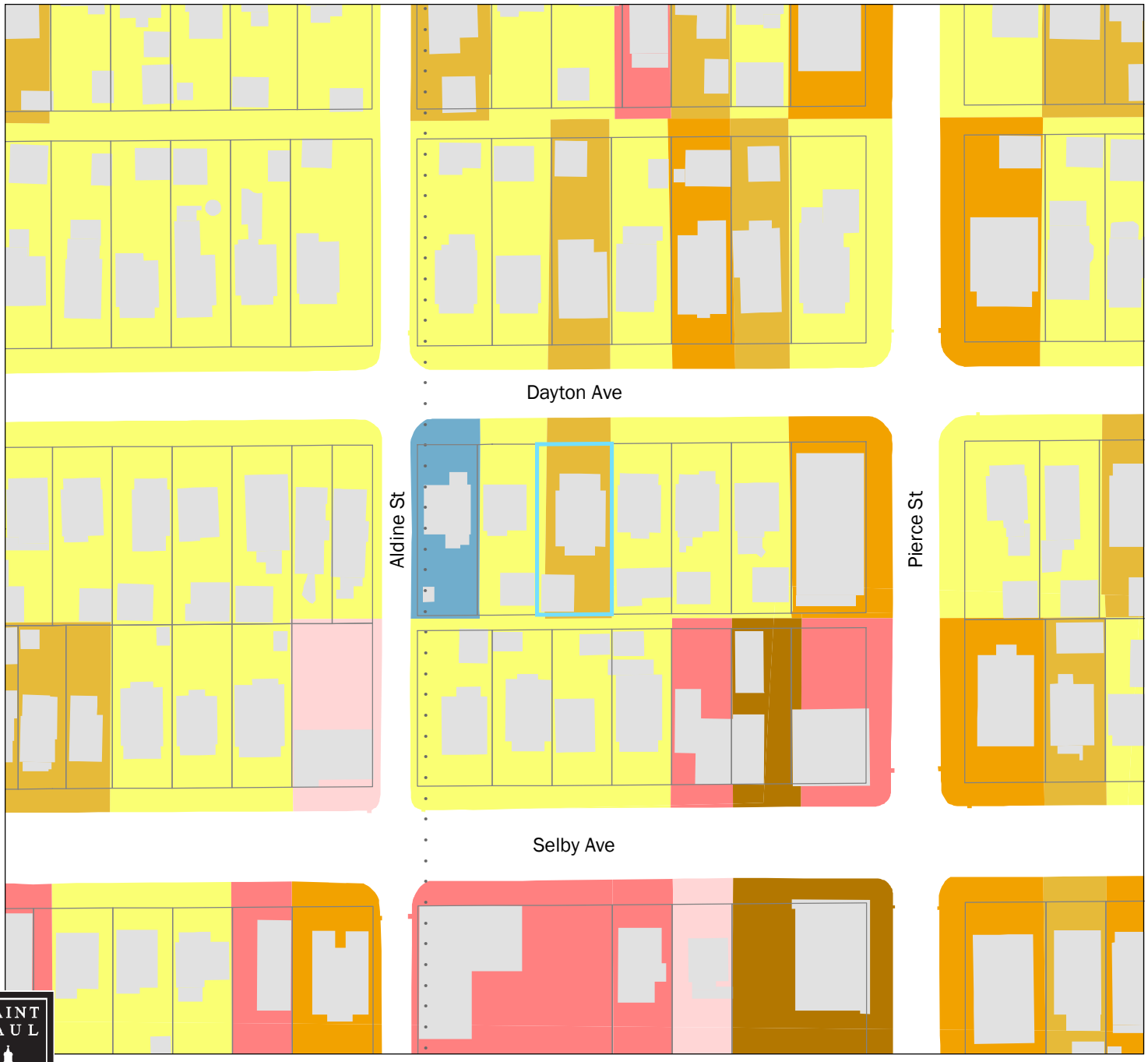
Application Type: NCUP
Application Date: October 6, 2021
Planning District: 13

0 20 40 80 120 160 Feet

This document was prepared by the Saint Paul Planning and Economic Development Department and is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, survey, official tax map or engineering schematic and is not intended to be used as such. Data sources: City of Saint Paul, Ramsey County, Metropolitan Council, State of Minnesota.

Subject Parcel(s) Outlined in Blue

Subject Parcel(s)
ParcelPoly



SAINT PAUL

FILE #21-309-190 Existing Land Use

Application of Brian Nofzinger & Jane

Application Type: NCUP
Application Date: October 6, 2021
Planning District: 13

0 20 40 80 120 160 Feet

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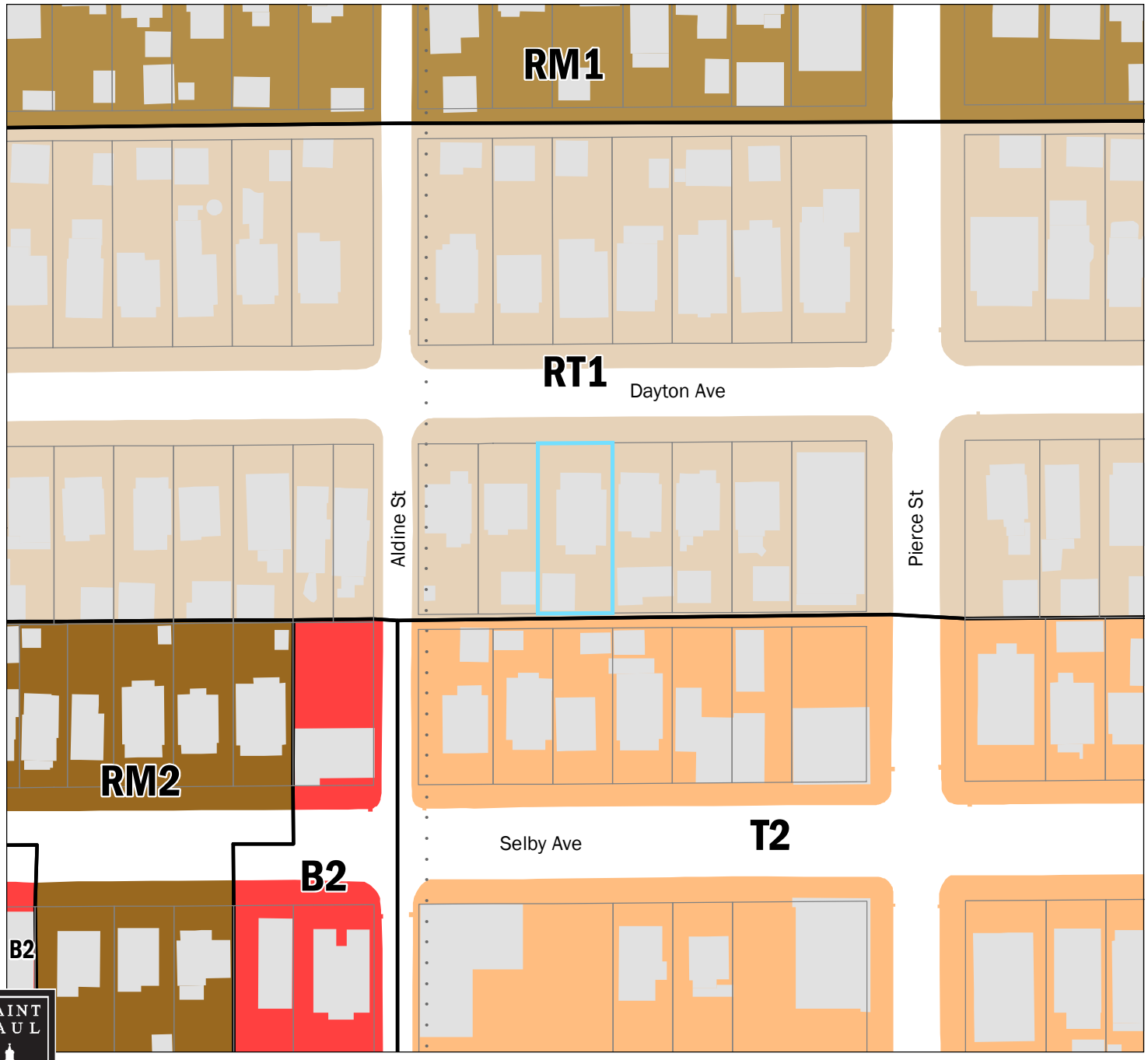
Subject Parcel(s) Outlined in Blue

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



SAINT PAUL

FILE #21-309-190 Zoning Map

Application of Brian Nofzinger & Jane

Application Type: NCUP
Application Date: October 6, 2021
Planning District: 13

0 20 40 80 120 160 Feet

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Subject Parcel(s) Outlined in Blue

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