

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Wingspan Life Resources **FILE #** 17-019-179
  2. **APPLICANT:** Wingspan Life Resources **HEARING DATE:** March 30, 2017
  3. **TYPE OF APPLICATION:** NUP - Establishment
  4. **LOCATION:** 1239 Sherburne Ave, between Syndicate and Griggs
  5. **PIN & LEGAL DESCRIPTION:** 342923130085, Syndicate No 5 Addition Lot 26 Blk 25
  6. **PLANNING DISTRICT:** 11 **PRESENT ZONING:** R4
  7. **ZONING CODE REFERENCE:** Sec. 62.109 (a)
  8. **STAFF REPORT DATE:** March 20, 2017 **BY:** Josh Williams
  9. **DATE RECEIVED:** March 13, 2017 **60-DAY DEADLINE FOR ACTION:** May 12, 2017
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- A. **PURPOSE:** Establishment of legal nonconforming use status to use the house as an office for two employees who do not live in the house (along with use of the house as a residence for two people).
- B. **PARCEL SIZE:** 4791 sq. ft.
- C. **EXISTING LAND USE:** R One-Family Dwelling and Office
- D. **SURROUNDING LAND USE:**
  - North: One-Family Residential (R4)
  - South: One- and Two-Family Residential (R4)
  - East: One-Family Residential (R4)
  - West: One-Family Residential (R4)
- E. **ZONING CODE CITATION:** §62.109(a) lists the conditions under which the Planning Commission may grant a permit to establish legal nonconforming use status.
- F. **HISTORY/DISCUSSION:**
- G. **DISTRICT COUNCIL RECOMMENDATION:** The District 11 Council had not commented as of the date of this report.
- H. **FINDINGS:**
  1. According to the applicant, the subject property has been in use as office space since 1999. Prior to 2016, as many as nine employees worked from the location. Since that time, the number of employees working from the location has been two, with two separate employees of Wingspan Life Resources living at the property. Small (1-4 Wingspan clients) life skills training and social gatherings are also held at the subject property, sometimes during evening hours. A November 30, 2012 letter from a Saint Paul fire safety inspector notified the applicant that the use of the property as office space was not allowed under the R4 single-family zoning.
  2. Section 62.109(a) of the zoning code provides that the Planning Commission may grant legal nonconforming status to uses or structures that do not meet the standards for legal nonconforming status in section 62.102 if the commission makes the following findings:
    - (1) *The use or a nonconforming use of similar or greater intensity first permitted in the same zoning district or in a less restrictive zoning district has been in existence continuously for a period of at least ten (10) years prior to the date of the application.* This finding appears to be met. The applicant has stated that the property has been in use as office space since 1999, but no documentation to this effect has been submitted.
    - (2) *The off-street parking is adequate to serve the use.* This finding is met. On a floor plan provided by the applicant, two rooms totaling approximately 260 square feet are designated as office space. The off-street parking requirement for office uses is 1 space per 400 sq. ft. of gross floor area. The two unrelated adults currently living at the property are considered a family for occupancy purposes, and the off-street parking requirement for a single-family residential unit is 1.5 spaces. The property currently includes paved, off-street parking for three vehicles, plus a garage. To ensure compliance with this condition, approval of the application should limit the number of employees that can use the subject property for office space, limit on the combined number of residents and office users, and should restrict the

storage and/or overnight parking of Wingspan Life Resources vehicles at the site should also be a condition of approval.

- (3) *Hardship would result if the use were discontinued.* This finding is met. While office space is available at many locations, the applicant does not currently have alternative locations equally well-suited to providing like skills training and social gatherings that are a vital part of the services provide to their clients.
  - (4) *Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses.* This finding is met. Administrative office space and mixed residential and commercial uses are first allowed in the OS office service district. The subject property is located within an area of uniformly R4 single-family residential zoning, and rezoning to OS to accommodate the proposed use would result in spot zoning.
  - (5) *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 can be met. While not documented, it is likely that previous use of the property for office space for as many as nine employees likely resulted in overcrowding and traffic and parking impacts to the immediate neighborhood. This is supported by a comment letter received that cited previous problems with vehicle parking in the immediate neighborhood of the subject property. To ensure compatibility with surrounding residential uses, a limit on the number of employees that can use the subject property for office space and a limit on the combined number of residents and office users should be a condition of approval. Restrictions on the storage and/or overnight parking of Wingspan Life Resources vehicles at the site should also be a condition of approval.
  - (6) *The use is consistent with the comprehensive plan.* This finding is met. Strategy H3.4 of the Housing Chapter of the Saint Paul Comprehensive Plan directs the City to *Assist in the preservation and production of homeless and supportive housing.* The applicant provides support services that allow developmentally disabled individuals to live full, healthy lives in a variety of settings, including independently, in group homes, and in some cases with their families. The use of the subject property to provide services to those individuals is a vital part of that work.
  - (7) *A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet the subject property has been submitted stating their support for the use.* This finding is met. The petition was found sufficient on March 9, 2017: nineteen (19) parcels eligible; thirteen (13) parcels required; thirteen (13) parcels signed.
3. §62.109(a) states that the Planning Commission, in approving nonconforming use permits, may "allow a nonconforming use for a specified period of time and then require its removal by attaching an expiration date to the permit if the commission makes the following findings: (1) termination of the nonconforming use or the continued vacancy of the building in which the nonconforming use was located would cause significant hardship; (2) permitting the nonconforming use for a period of time will facilitate the transition to a conforming use; and (3) permitting the nonconforming use for a period of time is consistent with the public health, safety, comfort, morals, and welfare. The period of time for which the permit is valid shall be determined in each case by the commission and shall be based on the extent of the hardship." These findings are met. The termination of the use would leave the applicant without a site well-suited to provision of life skills training and social gatherings for the organization's client. The applicant has agreed to propose a reasonable timeline for the organization to transition the property to a permitted use or divest of the property. Provided a limit is placed on the number of employees that can use the subject property for office space and on the combined number of residents and office users is a condition of approval, and restrictions are placed on the storage and/or overnight parking of Wingspan Life Resources vehicles at the site, the continued use of the property for a limited period of time is consistent with public health, safety, comfort, morals, and welfare. Restrictions on the storage and/or overnight parking of Wingspan Life Resources vehicles at the site should also be a condition of approval.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the establishment of legal nonconforming use status to use the property at 1239 Sherburne as an office for two employees (along with use of the house as a residence for two people) subject to the following conditions:
  1. The number of employees working at the location shall be limited to no more than two (2) individuals at any time.
  2. Work duties of employees using the property at 1239 Sherburne as office space shall be directly related to use of the property to provide client services.
  3. The total number of individuals residing at or working from the property shall not exceed four (4) at any one time. An employee using the property at 1239 Sherburne as office space and residing at the property shall count as two (2) individuals for purposes of this condition.
  4. No more than two (2) vehicles owned or used for commercial purposes by Wingspan Life Resources shall be parked overnight at 1239 Sherburne. These vehicles shall be parked in an off-street parking space. No other storage of vehicles owned or used for commercial purposes by Wingspan Life Resources shall be allowed at 1239 Sherburne.
  5. Off street parking for at least one (1) private vehicle shall be provided at 1239 Sherburne.
  6. The property shall be vacated or returned to a use permitted in the R4 One Family Residential district on or before **<DAY MONTH YEAR>**.



**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 #: 17-019179  
 Fee: \_\_\_\_\_  
 Tentative Hearing Date: 3-30-17  
 # 342923130085

PD=11  
 #

**APPLICANT**

Name Wingspan Life Resources Email tdavis@wingspanlife.org  
 Address 30 East Plato Blvd  
 City St Paul St. MN Zip 55107 Daytime Phone 651 242 5840  
 Name of Owner (if different) \_\_\_\_\_  
 Contact Person (if different) Theresa Davis Phone 651 242 5840

**PROPERTY LOCATION**

Address/Location 1234 Sherburne Ave 646 3846  
4263  
 Legal Description Syndicate No. 5 addition  
Lot 26 Block 25 Current Zoning R4  
 (attach additional sheet if necessary)

- TYPE OF PERMIT:** Application is hereby made for a Nonconforming Use Permit under provisions of Chapter 62, Section 109 of the Zoning Code:
- The permit is for:  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)

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

Present/Past Use Services to people with developmental disabilities  
 Proposed Use same

OK 38099  
 700<sup>00</sup>

Attach additional sheets if necessary

Attachments as required  Site Plan  Consent Petition  Affidavit

Applicant's Signature [Signature] Date 3/1/17 City Agent add  
 Rev 9/4/14 3/1/17

CITY OF SAINT PAUL

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

STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY)

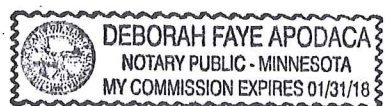
The petitioner, Theresa Davis/Wingspan, being first duly sworn, deposes and states that the consent petitioner is informed and believes the parties described on the consent petition are owners of the parcels of real estate described immediately before each name; each of the parties described on the consent 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.

Theresa Davis  
NAME

30 East Hob Blvd St Paul  
ADDRESS 55107

657 242 3840  
TELEPHONE NUMBER

Subscribed and sworn to before me this  
23 day of February, 2017.



Deborah Faye Apodaca  
NOTARY PUBLIC

## NONCONFORMING USE PERMIT

For 1239 Sherburne Avenue South

St. Paul, 55104

Wingspan Life Resources has owned the home at 1239 Sherburne Ave since 1995, having rented it from 1987 until we purchased it in 1995. For many years it was a group home for 4 developmentally disabled adults. In 1999 the group home was moved to another location and the house on Sherburne became additional office space for the Program Directors of our 24 group homes. The home was also used for activities by people with disabilities that were learning skills to live on their own or needed to socialize with others. By 2014, 9 people had office space at the Sherburne home. However, since most of their duties required them to be at one of our group homes, it was infrequent that all 9 people would be present.

In the evenings, group activities are held there involving from 1 to 4 clients of this program. The activities included cooking, laundry skills, job hunting, playing cards, crafts.

In 2016, Wingspan purchased an office building that provides office space for the Program Directors. At this time, the house at 1239 Sherburne offices only the In Home supervisor and assistant. Wingspan also has two employees living in the house.

The number of vehicles parking on the property or the street resulting from this change had decreased significantly with the exit of 9 managers who worked roughly Monday through Friday. Currently, and going forward, there are a few staff vehicles, parked in the back and, with the exception of the vehicle belonging to the residents of the home, these vehicles are gone by around 6pm.

The company has two St. Paul parking permits to be used directly in front of the house, and these are still in use. There is more than adequate space in the back of the house for staff vehicles. Wingspan owns 3 vehicles that are parked either in the back or on the street with approved permits.

As a result of staff living in the home, there is now a 24 hour presence at the house, such as in the single family dwellings on the street. This provides more eyes-on in the neighborhood. The neighbors have always told us they like our presence because of the coming and going in the evening hours, offering more safety to the street.

The home is always well maintained; lawn mowed, snow immediately shoveled, and the front and back yards are kept landscaped quite nicely.

Wingspan's central office is at 30 East Plato Blvd. The home on Sherburne has been used for office space and activities. We do not sell a product or have customer traffic. It is similar to a person working remotely from home, with the addition of activities

happening, as described above. We are not disruptive to the neighborhood in any way, nor do we endanger the health, safety or general welfare of the neighborhood or its residents.

A few years ago we became aware that we were not zoned properly. We were instructed at that time to get signatures from neighbors that they did not object to our presence in the neighborhood, which we did. Many calls were made and attempts to deliver these signatures to the proper person occurred. I finally left a message for the fire inspector at that time that I needed further direction to complete the process and never heard back from them until recently when we were instructed to complete this application.

We have been in the neighborhood since 1987. We have been using the home in the current manner since 1999. The only complaint we ever had was during a fire inspection we were told to repaint our garage because some paint was peeling which we immediately took care of. For the people of the in home program it is a home away from home.

We ask that you allow us to continue using the home at 1239 Sherburne Ave for services to people with developmental disabilities.

Thank you for your consideration.

## Evidence of Hardship

The in home program has been out of 1239 Sherburne for more than 10 years. The house is ideally suited to teaching and enhancing life skills needed for people with disabilities to live more independently.

Pat, a very isolated, morbidly obese man with an intellectual disability who suffered from depression for most of his life has been receiving services at the Sherburne house for about 8 years. He has attended cooking classes, a men's social group and worked with staff one on one to learn to do his laundry and budget his money. Pat had been evicted from several apartments prior to coming to Wingspan due to the condition of his apartment and his inability to manage his finances. He was in very poor health due to his weight and eating habits. He was close to being placed in a group home, a much more expensive type of service, and would lose the one thing he was very proud of, his independence.

Pat was referred to Wingspan. With the services he receives Pat has been able to maintain his independence. He has lost 75 pounds, his health has much improved; he has assistance in managing his money and keeping his apartment clean. Most importantly, he has friends and a sense of community for the first time in his life. Pat's story is one of many.

Losing our ability to serve people with disabilities in this environment, an environment that is ideally suited to the skills we are trying to teach, would be a great loss to people like Patrick. Our in home program currently serves 45 people with disabilities. About half of our clients utilize the house in a similar way that Patrick does.

We have documentation and records requirements from DHS resulting in the need for a home base for the staff that serve our in home clients. We have 2 people who oversee the program using the Sherburne house as their office. We currently have no office space to accommodate the staff and supervisors of this program.

Wingspan owns the home on Sherburne, we do not have a mortgage so our overhead expenses are quite low. Services to people like Patrick are funded by the state of Minnesota. That funding has diminished over the past few years due to the new Rate Management System DHS implemented in 2013. Moving these services to another location would be an extreme financial hardship for our organization and could result in our discontinuing this aspect of our services entirely. Currently we receive reimbursement for services that cover our basic costs. We have very little over the costs of our staff and program supplies, certainly not nearly enough to find a new location and relocate our program.

We make a contribution to our community and strive to be good neighbors. We hope you will allow us to continue this important work at our current location.





### History

Wingspan Life Resources is a 501(c)3 non-profit organization. We have served adults with developmental and other disabilities in the greater Twin Cities for 44 years. Currently Wingspan has 170 full and part time employees and 90 on-call employees. Our main campus is located at 30 East Plato Boulevard in St. Paul and our fast growing In-Home satellite office is located at 1239 Sherburne Avenue in St. Paul. We also have an adult day center for Hmong elders located at 948 Rice Street in St. Paul.

### Mission

Creating community for those challenged by age, ability and health has been the core of Wingspan's mission for over 44 years. The mission of Wingspan Life Resources is to help people who are challenged by age, ability or health to realize their own unique gifts, talents, and dreams. We fulfill this mission by providing individualized support services that promote personal choice, independence, dignity, and fellowship with the community.

### Programs

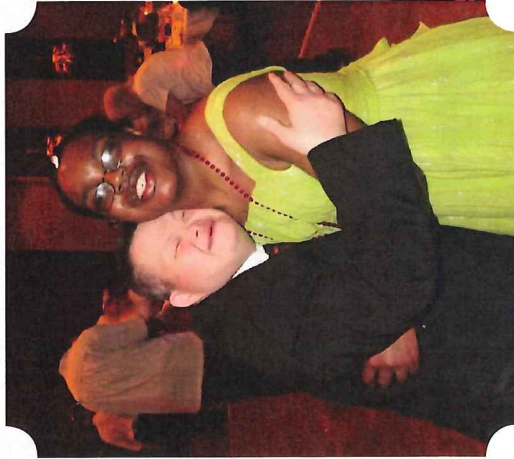
Those served by Wingspan Life Resources present with a wide variety of mental and physical challenges, often in combination and some quite profound. Conditions include schizophrenia, schizoaffective disorder, bipolar disorder, depression anxiety disorder, borderline personality disorder, explosive personality disorder, depression with psychotic features, atypical affective disorder, frontal lobe disorder, organic brain syndrome, antisocial personality disorder, autism, brain injury, Alzheimer's, Down's Syndrome and cerebral palsy—to name some of the more common conditions.

**Residential Program:** Wingspan currently operates 24 group homes in St. Paul and Minneapolis for adults. In each single family home environment, residents have the security and freedom to be themselves, enjoy life and take part in the community. Wingspan staff members assist each individual in developing a person centered support plan based specific needs, preferences and circumstances. Because no one's life stays the same, services are adapted to each resident's changing needs, making possible lasting relationships and a lifelong, stable environment.

**In-Home Program:** Provides personalized assistance and recreation to adults with developmental disabilities who do not live in a Wingspan home but with family, in foster care, or on their own. Because these individuals are often cut off from a supportive community outside their families, many have few opportunities to make friends, socialize or nurture a talent or skill. While providing a respite for family caregivers, the In-Home Program enriches the lives of those we serve. Demand for this service has grown exponentially. We have also been approved by the Minnesota Department of Health for crisis respite services at this vital Sherburne Avenue satellite.

**Tsev Laus Kaj Siab** (Wingspan Life Resources 2) is a culturally specific, licensed adult day program for frail Hmong elders at risk of nursing home placement. Tsev Laus Kaj Siab was the first licensed, culturally specific Adult Day Program in Minnesota and remains a leader and a consultant to those seeking to develop services that address needs within culturally diverse communities.

Wingspan's In-Home program was established in 2001 and operates out of our office at 1239 Sherburne Ave., St. Paul, MN. The In-Home program provides personalized service and recreation for adults with developmental disabilities of all ages. We support men and women, young adults and seniors. We support them in restaurants, parks, theatres, in the comfort of their home, or anywhere else life is happening for them. Our experienced and dedicated staff work with a consumer one-on-one, or in small groups with the consumer's friends, to help meet their life goals and dreams or to develop life skills.



Organized In-Home activities include:

Weekly:

- Cooking class, based upon healthy ingredients purchased by, or grown by the cooks, themselves
- Guys' Night Out
- Poker Night

Seasonally or by request:

- Formal dance
- Nutcracker Fantasy
- Short vacations
- Summer picnic
- Holiday parties
- \$2 Guthrie Theater tickets
- Ladie's Day In (Crafts)

One-on-one time: You decide!



For more info, contact:

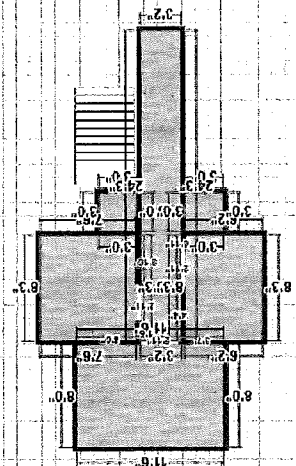
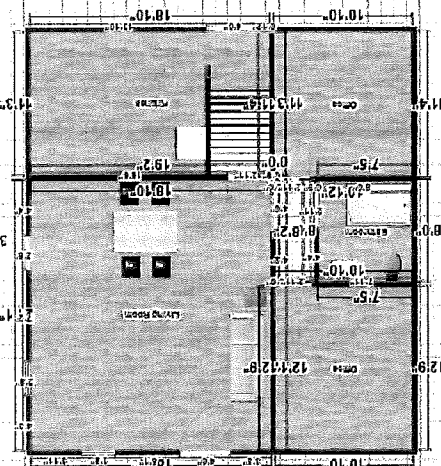
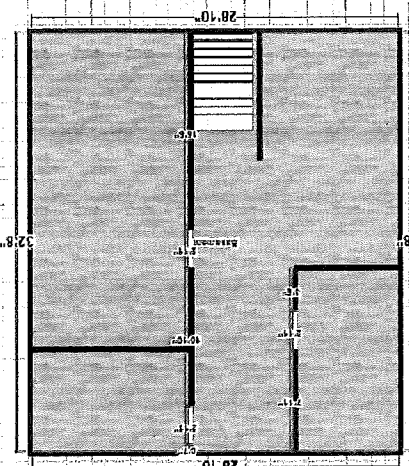
Karen Nelson

651-644-2665, ext.107 (office)

612-275-2719 (cell phone)

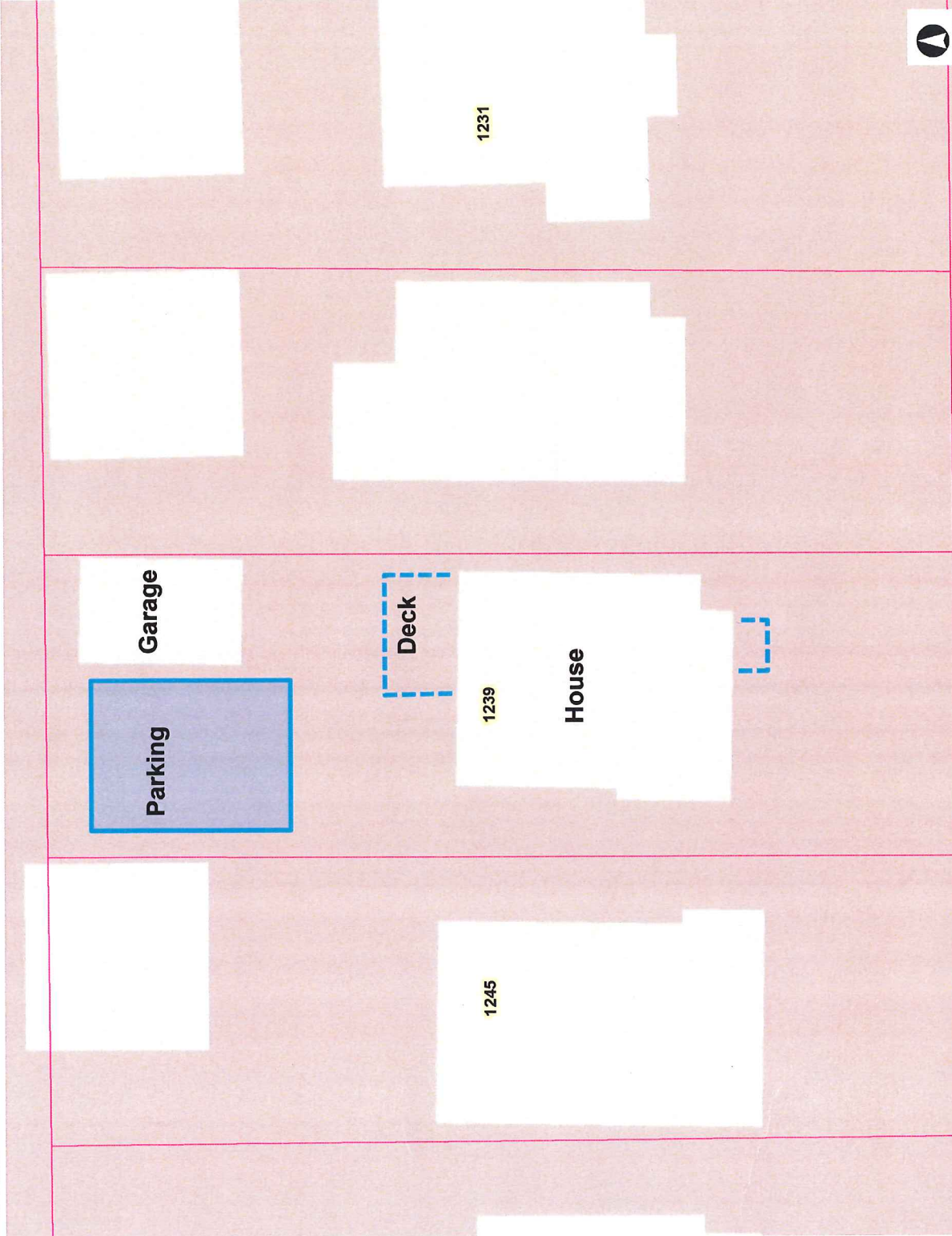
[knelson@wingspanlife.org](mailto:knelson@wingspanlife.org)

We will do everything we can to develop custom-fit programs. We start by asking you and your family what you want to achieve, build, improve or access. Whether the goal is to work out at the YMCA weekly, learn to cook healthy meals, get out and have fun, make friends, see baseball games, go on vacation, keep an apartment organized, get to doctor appointments or volunteer for a favorite cause, Wingspan can help. We understand that schedules and interests change, so we strive to be flexible. We would love to serve you, so call anytime for more information about how we can help you enhance your life.



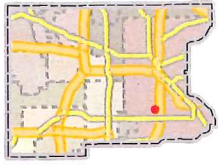


# 1239 Sherburne Avenue



This map is a user generated static output from an Internet mapping site, and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
 THIS MAP IS NOT TO BE USED FOR NAVIGATION

## Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries
- Airports

## Notes

Enter Map Description

## Dubruiel, Paul (CI-StPaul)

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**From:** Billy Collins <wlcjr1948@gmail.com>  
**Sent:** Tuesday, February 14, 2017 9:58 AM  
**To:** Dubruiel, Paul (CI-StPaul)  
**Subject:** 1239 Sherburne Ave.

We live at 1231 Sherburne Ave., & have lived there for soon to be 47 years.

We have supported the use of the property in the past. We're not sure if this Nonconforming Use Permit is for the same purpose. If it is (& only for that same purpose) we COULD support it **ONLY if they find ALTERNATIVE PARKING** for their two to three VANS AND EMPLOYEES VEHICLES.

They have been very disrespectful to property owners and residents by leaving multiple vehicles parked for long periods of time and sometimes days (in front of several properties) affecting access to our properties. If this cannot be accomplished WE DO NOT SUPPORT THIS PERMIT.

William L. Collins

Billy Collins  
612-670-8346

ZONING PETITION SUFFICIENCY CHECK SHEET

REZONING

SCUP

NCUP

FIRST SUBMITTED

RESUBMITTED

DATE PETITION SUBMITTED: 1-19-17

DATE PETITION RESUBMITTED: \_\_\_\_\_

DATE OFFICIALLY RECEIVED: \_\_\_\_\_

DATE OFFICIALLY RECEIVED: \_\_\_\_\_

PARCELS ELIGIBLE: 19

PARCELS ELIGIBLE: 19

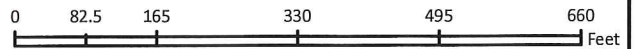
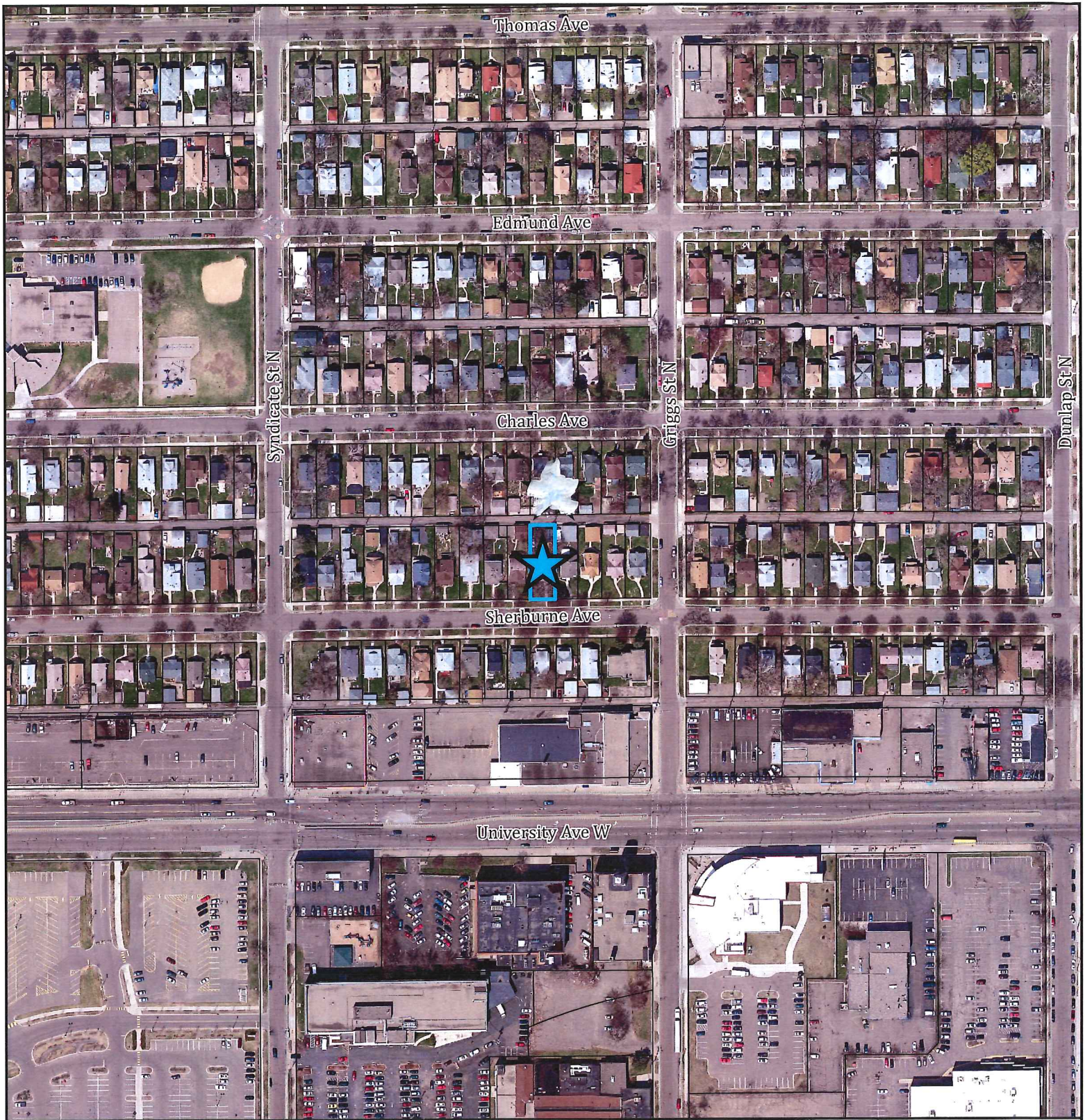
PARCELS REQUIRED: 13

PARCELS REQUIRED: 13

PARCELS SIGNED: 7 1/20/17

PARCELS SIGNED: 13

CHECKED BY: Paul Dubrion DATE: 3-9-17



FILE NAME: Wingspan Life Resources

**Aerial**

APPLICATION TYPE: Est. NCUP

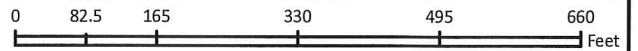
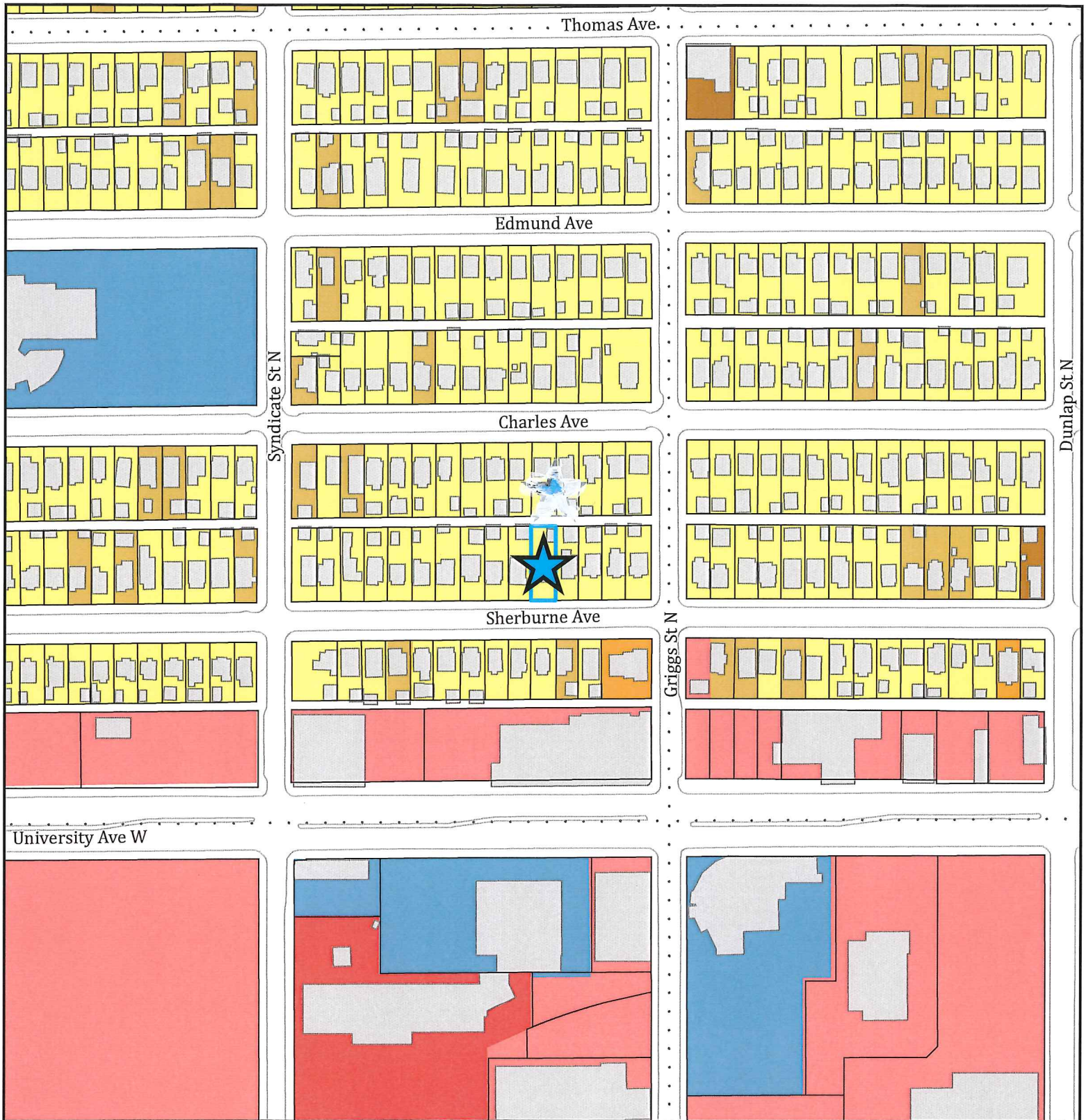
 Subject Parcels

FILE #: 17-019179      DATE: 3/15/2017

PLANNING DISTRICT: 11

ZONING PANEL: 8





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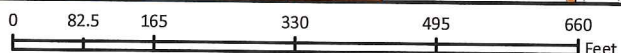
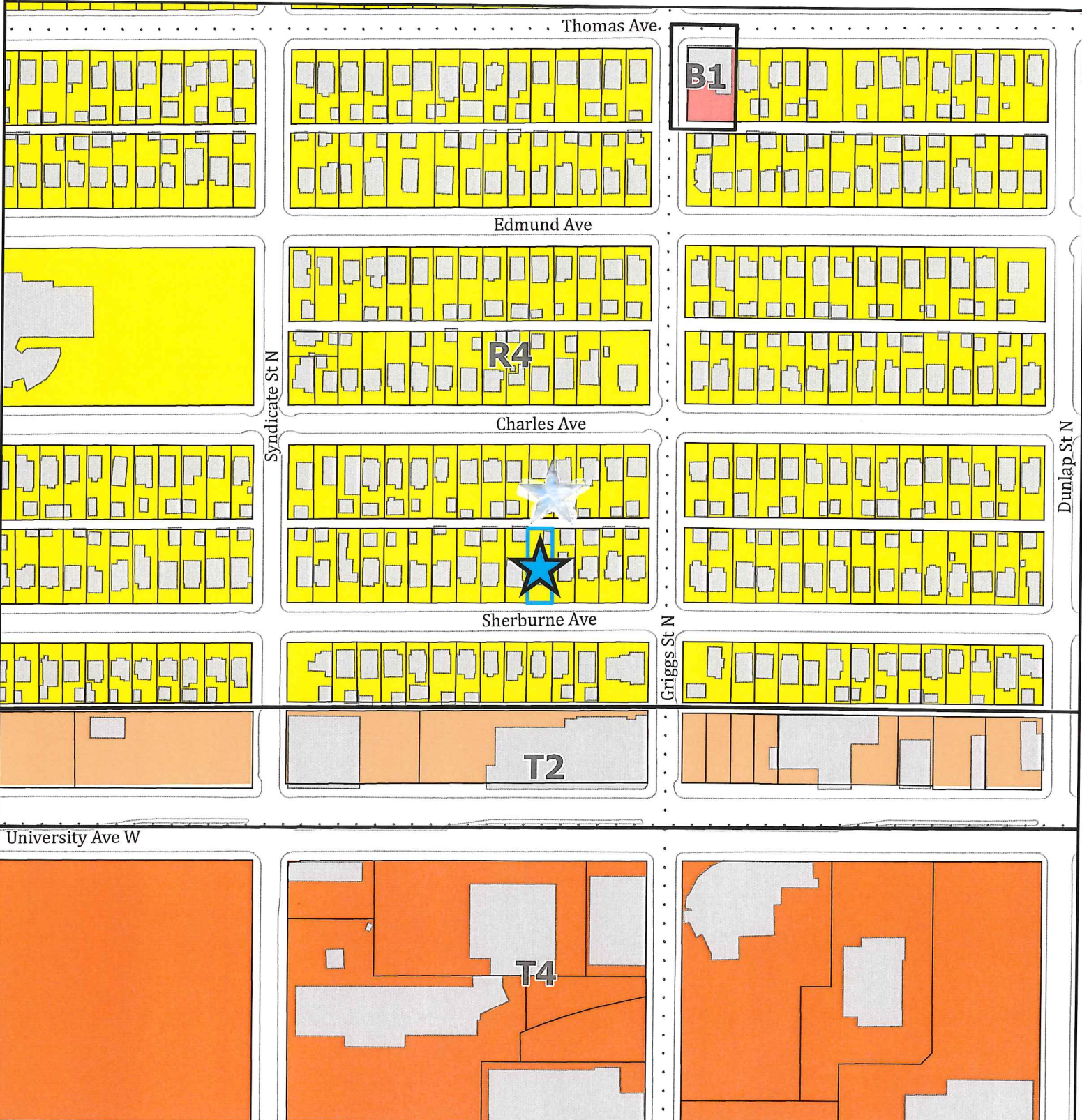
**Land Use**

- Single Family Detached
- Single Family Attached
- Multifamily
- Retail and Other Commercial
- Mixed Use Residential
- Mixed Use Commercial and Other
- Institutional

- Subject Parcels
- Section Lines







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ZONING PANEL: 8

- Zoning**
- Subject Parcels
  - · Section Lines
  - R4 One-Family
  - T2 Traditional Neighborhood
  - T4 Traditional Neighborhood
  - B1 Local Business

