

## ZONING COMMITTEE STAFF REPORT

**FILE NAME:** Fred Niaz

**FILE #** 17-065-797

**APPLICANT:** Auto Sales USA/Fred Niaz

**HEARING DATE:** August 17, 2017

**TYPE OF APPLICATION:** Nonconforming Use Permit - Reestablishment

**LOCATION:** 847 Hudson Road, NE corner at Plum Street

**PIN & LEGAL DESCRIPTION:** 332922320156; Lot 1, Block 68, Subdivision of Block 68, Lyman Dayton's Addition by H.A. Boardman

**PLANNING DISTRICT:** 4

**ZONING CODE REFERENCE:** §62.109(e); §62.105

**PRESENT ZONING:** RT1

**STAFF REPORT DATE:** August 9, 2017

**BY:** Bill Dermody

**DATE RECEIVED:** August 2, 2017

**60-DAY DEADLINE FOR ACTION:** October 1, 2017

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- A. **PURPOSE:** Reestablishment of nonconforming use for auto sales.
- B. **PARCEL SIZE:** Triangular-shaped 120' (Plum) x 64' (Hudson), totaling approximately 4,791 sq. ft.
- C. **EXISTING LAND USE:** Vacant (former auto repair service)
- D. **SURROUNDING LAND USE:** Single-family, duplex, and multi-family residential to the north, east, and west (RT1); I-94 to the south.
- E. **ZONING CODE CITATION:** §62.109(e) lists the conditions under which the Planning Commission may grant a permit to reestablish a nonconforming use. §62.105 provides a two-year period to obtain building permits or establish a use under the terms of a Planning Commission decision, unless the Planning Administrator grants an extension not to exceed one year.
- F. **PARKING:** Zoning Code § 63.207 requires a total minimum of 4 spaces for customer and employee use (3 spaces for the 1,332 sq. ft. building and an additional space for the outdoor sales area). It is not clear whether the minimum parking provision is met by the submitted site plan. The site plan shows 8 spaces, but does not differentiate between outdoor sales display and customer/employee use. Also, the 5 spaces nearest the street corner are not dimensioned, and it appears that at least one of them (labeled "#3") is not a legal space. Furthermore, it appears that two spaces behind the building (labeled "#7" and "#8") have the required 12'-wide drive aisle (based on rough aerial photo measurements), but that must be confirmed. The Department of Safety and Inspections will need to review final plans to determine adequate parking provision.
- G. **HISTORY/DISCUSSION:** The site was rezoned to Commercial in 1929 as part of a larger rezoning, rezoned to RM2 Medium-Density Low-Rise Multiple-Family Residential in 1975 as part of a citywide rezoning, and rezoned to RT1 sometime after that. The site has historically contained an auto-related use. It is a contributing building in the Dayton's Bluff Historic District and was built in 1929 as a service station. It became a legal non-conforming use in the 1980s, according to records. It was an auto repair facility until 1999 when the business ceased operations. It has been on the Department of Safety and Inspections vacant building list since at least 2001. A complaint was filed on October 30, 2014 regarding work being done without a license or permit at this location. A reestablishment of nonconforming use permit for auto repair was approved by the Planning Commission on November 14, 2014. In October 2015, the Gold Line Station Area Plans, which apply to the subject site, were adopted as a Comprehensive Plan addendum. The property was sold on June 17, 2016. On September 1, 2016, the Department of Safety and Inspections provided a code compliance inspection report with 42 items needing to be addressed. On November 10, 2016, the Planning Administrator declined a request to extend the November 14, 2016 expiration date for the Planning Commission nonconforming use approval, citing the Gold Line Station Area Plans.

H. **DISTRICT COUNCIL RECOMMENDATION:** As of this writing, the District 4 Council has not provided a recommendation.

I. **FINDINGS:**

1. The application requests approval to reestablish a nonconforming use of auto sales at 847 Hudson Road, which contains a vacant building previously used for auto repair that is a contributing building within the Dayton's Bluff Historic District and is zoned RT1 Two-Family Residential. The previous auto repair use has been discontinued for more than one year.
2. A permit to reestablish a nonconforming use for auto repair was approved in 2014, but expired in 2016. The Gold Line Station Area Plans were adopted as a Comprehensive Plan addendum in 2015.
3. 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 is a single-story building with a garage bay door and a small office space and surrounding surface parking, originally designed for a service station.
  - (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 outdoor auto sales use and the previous auto repair use are both first permitted in the B3 General Business District with a conditional use permit.
  - (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. The site contains four curb cuts, three of which are very wide (in excess of 30' width) and connect to the parking area. Removal of at least one curb cut would improve the safety of individuals walking adjacent to the site. More specifically, the 42'-wide curb cut onto Hudson Road at the pointed intersection of three streets (Hudson/Bates/Plum) is a potential public safety hazard for street traffic and traffic entering/exiting the subject site. Removal of the corner curb cut, as is proposed in the submitted site plan, would preserve the safety of both pedestrians and vehicles, and would allow this finding to be met. Also, auto sales are usually limited by the Zoning Code to B3 General Business and IT-I2 Industrial districts, with a minimum lot size of 15,000 square feet. In order to prevent neighborhood detriment on this smaller (<5,000 sq. ft.) lot in a more residential area, the number of vehicles for sale should be limited, and storage of vehicles on the street should be prohibited.
  - (4) *The proposed use is consistent with the comprehensive plan.* This finding is not met. The District 4 Plan Summary (2009) calls for the reuse, rather than demolition, of existing commercial buildings (Strategy C3) as well as fostering neighborhood-scale commercial (Strategy C8.2). However, the Gold Line Station Area Plans calls for a "pedestrian orientation in any new development/redevelopment." Auto sales uses are by nature not pedestrian-oriented uses, as evidenced by the fact that they are not permitted (by-right or conditionally) in any Traditional Neighborhood zoning districts. Both plans are adopted as addenda to the Comprehensive Plan.
  - (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 August 2, 2017: 8 parcels eligible; 6 parcels required; 6 parcels signed.

J. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends denial of the reestablishment of nonconforming use for auto sales.



**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 #: 17-065787  
 Fee: 735.00  
 Tentative Hearing Date: 7-6-17

PD=4  
# = 332922320156

**APPLICANT**

Name Auto Sales USA Email fredniaz@yahoo.com  
 Address 847 Hudson Rd. St. Paul, MN 55106  
 City St. Paul St. Paul Zip 55106 Daytime Phone 651-206-8570  
 Name of Owner (if different) \_\_\_\_\_  
 Contact Person (if different) Fred Niazi Phone 651-206-8570

**PROPERTY LOCATION**

Address/Location 847 Hudson Rd. St. Paul, MN 55106  
 Legal Description Minneapolis St. Paul Realty LLC  
 Current Zoning RT1  
 (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 Auto Repair  
 Proposed Use Auto Sales office

ck. 118.00  
735.00

Attach additional sheets if necessary

Attachments as required  Site Plan  Consent Petition  Affidavit

Applicant's Signature [Signature] Date 6-6-17 City Agent [Signature]

add 67-17  
add 67-17  
7-27-17



## 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 Fred Niaz  
(name of applicant)

to establish a Auto Sale  
(proposed use)

located at 847 Hudson Rd. St. Paul, MN 55106  
(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
715 Plum St.	Cynthia Permon	Cynthia Permon	09-24-16
715 Plum St.	Nelson Ramos	<del>Nelson Ramos</del>	09-24-16
857 Hudson Rd.	Ashley Sebald-Berkman	Ashley Sebald-Berkman	9.25.2016
847 Hudson Rd.	Fred Niaz	Fred Niaz	9-25-16
204 Bates	Steve Kuehl	Steve Kuehl	9-25-16
812 Hudson rd	Mai Koo Vary	Mai Koo Vary	9-11-17

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

From: Lou Ann Norquist [<mailto:lanorquist1@gmail.com>]  
Sent: Friday, June 09, 2017 11:42 AM  
To: Dubruiel, Paul (CI-StPaul)  
Subject: 847 Hudson Rd.

Hello Paul,

Here's my thought on the proposed business use for 847 Hudson Rd.

No, Thank you!

The lot is tiny. Cars are large. I don't know if Mr. Niaz is involved but Plum Street is already being used as a used car lot.

I'm all for returning to the days of mixed zoning and little shops but I don't think a used car lot is the "best and highest possible use" for this small plot on an ever increasing traffic route.

If we are trying to keep this area as a historic preservation district, it really doesn't work.

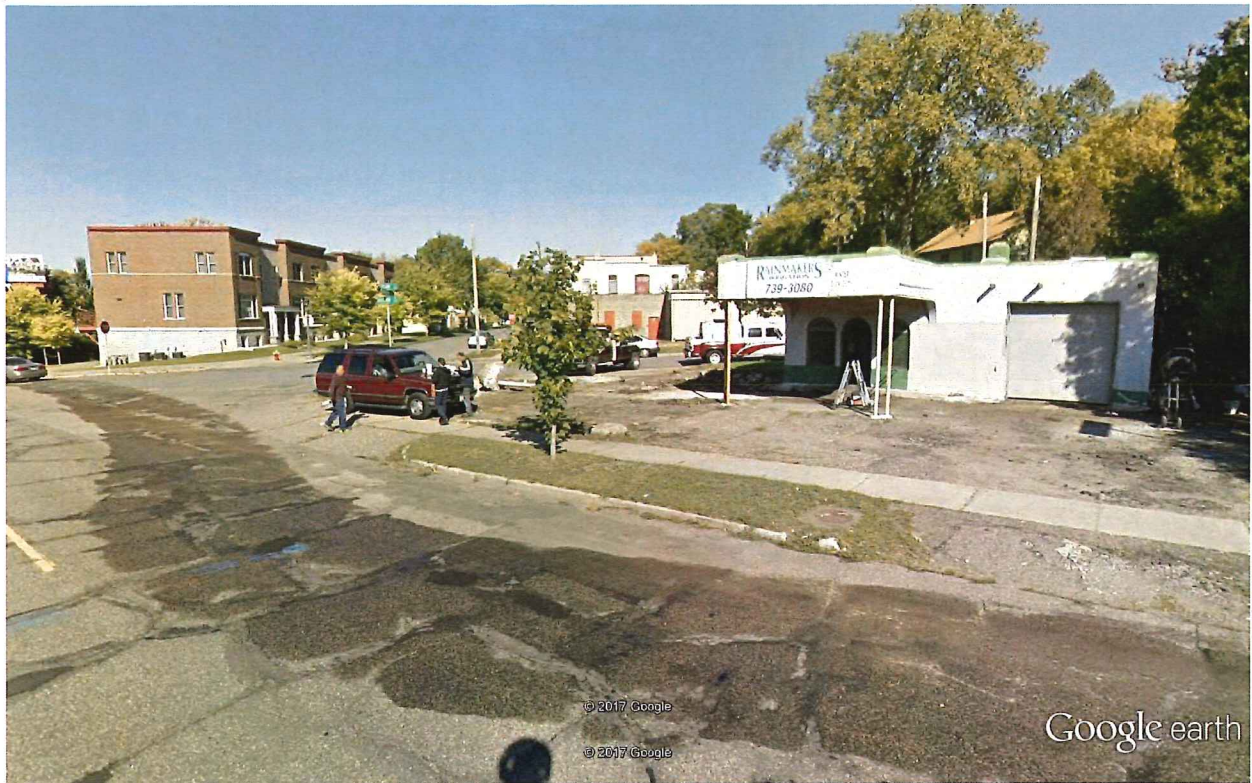
I for one think we could lose the H.P.D. designation and get on with promoting green housing using the latest technologies the world has to offer, but that is lamentation for another day.

I live at 507 Arcade Street and walk by this property on a regular basis.

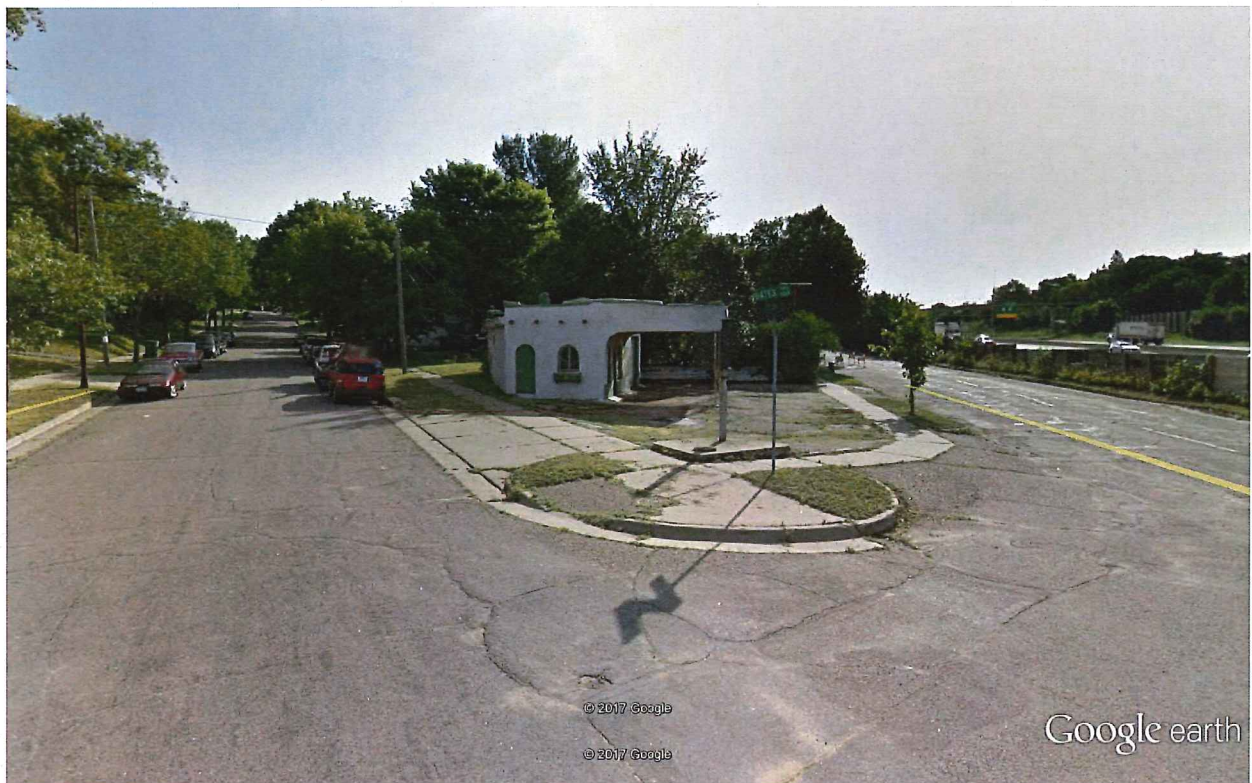
Thank you and kind regards,

Lou Ann Norquist





Looking northwest from Hudson Road (2014)



Looking east from intersection (2014)





HUDSON RD

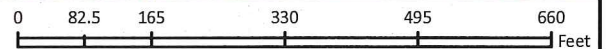
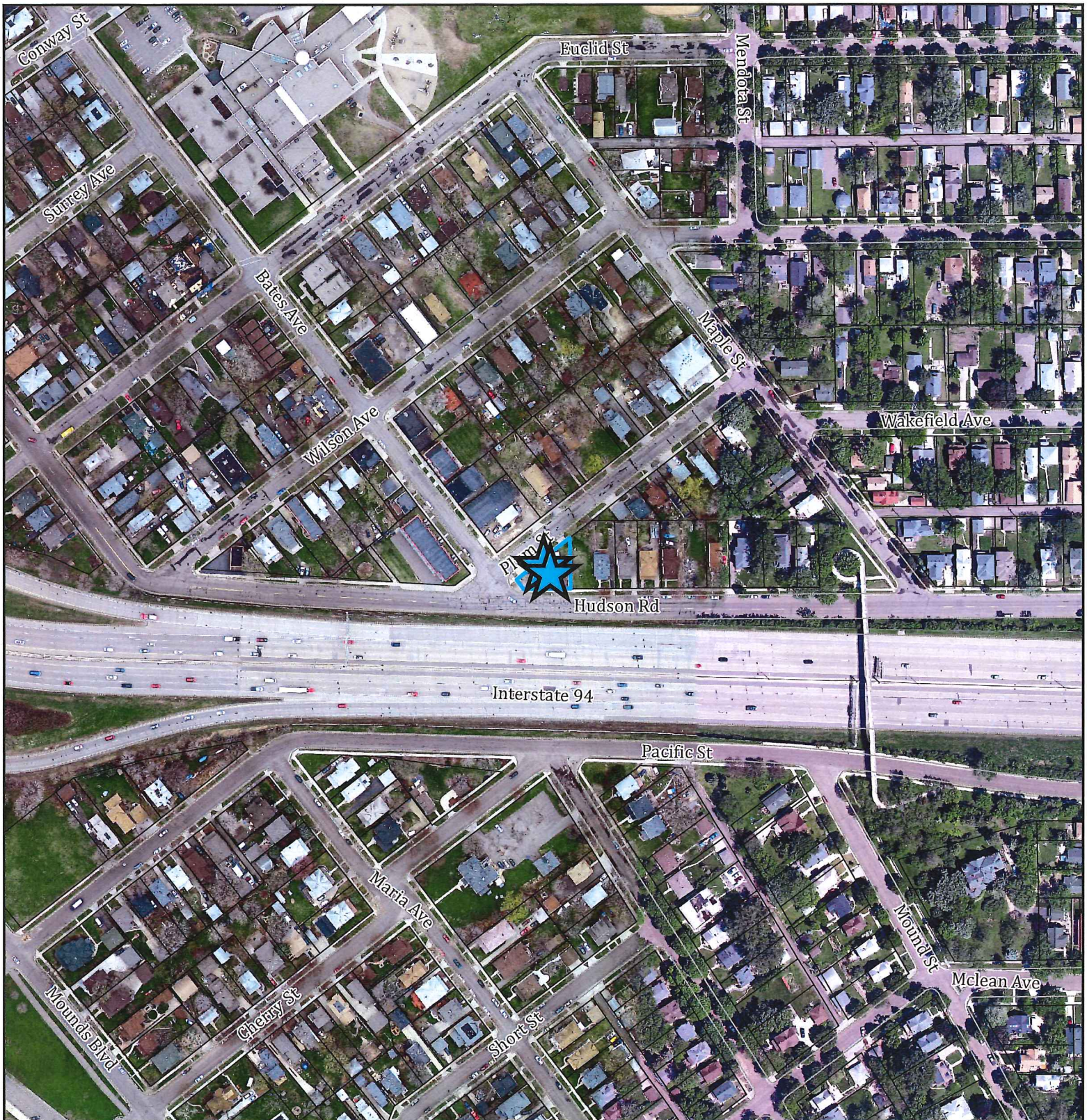
BATES AVE

PLUM ST

HUDSON RD

This is not an official document or survey.






FILE NAME: Fred Niaz

**Aerial**

APPLICATION TYPE: Reest. NCUP

 Subject Parcels

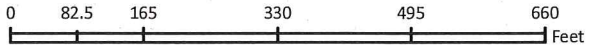
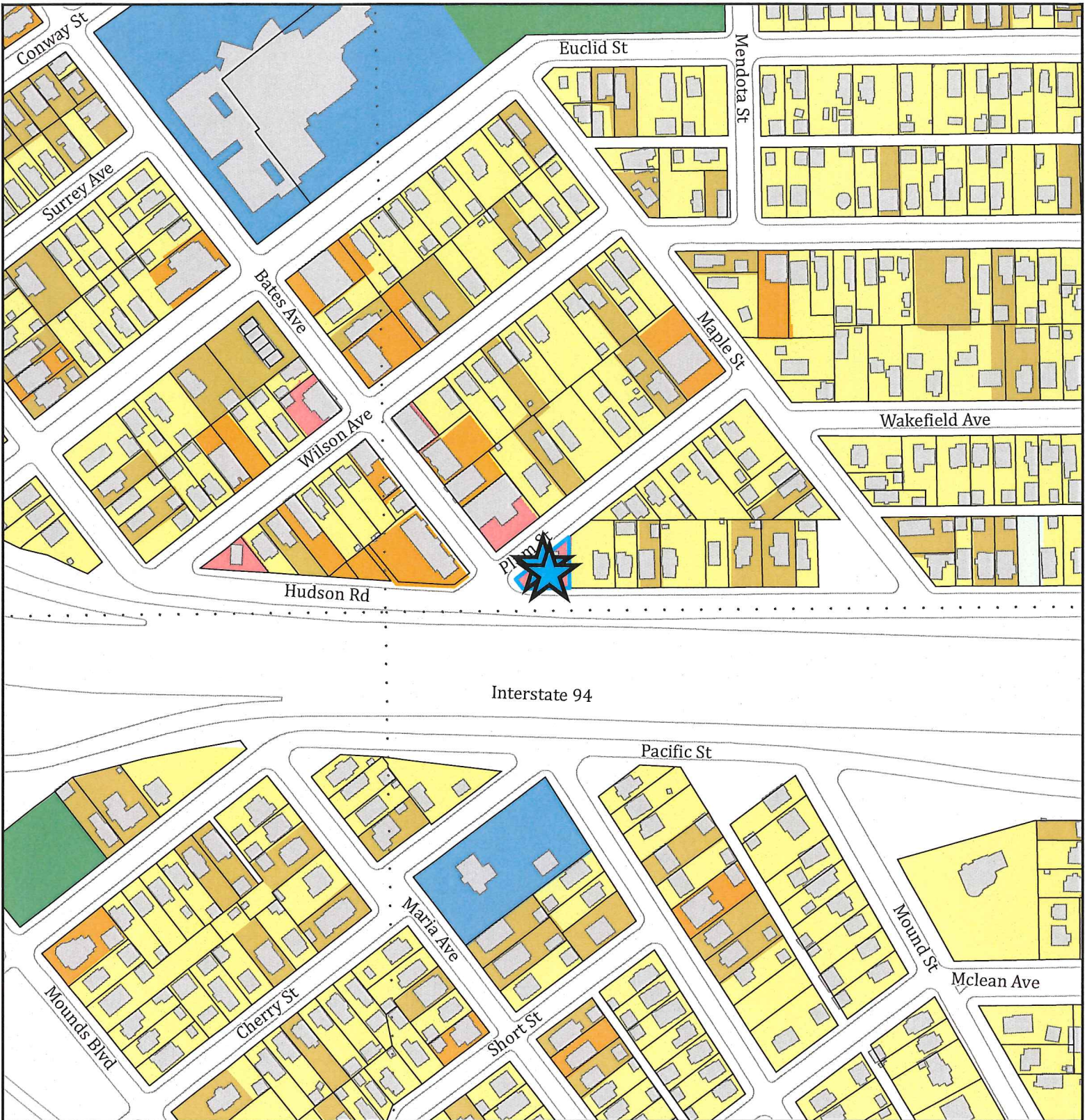
FILE #: 17-065797 DATE: 8/2/2017

PLANNING DISTRICT: 4

ZONING PANEL: 17







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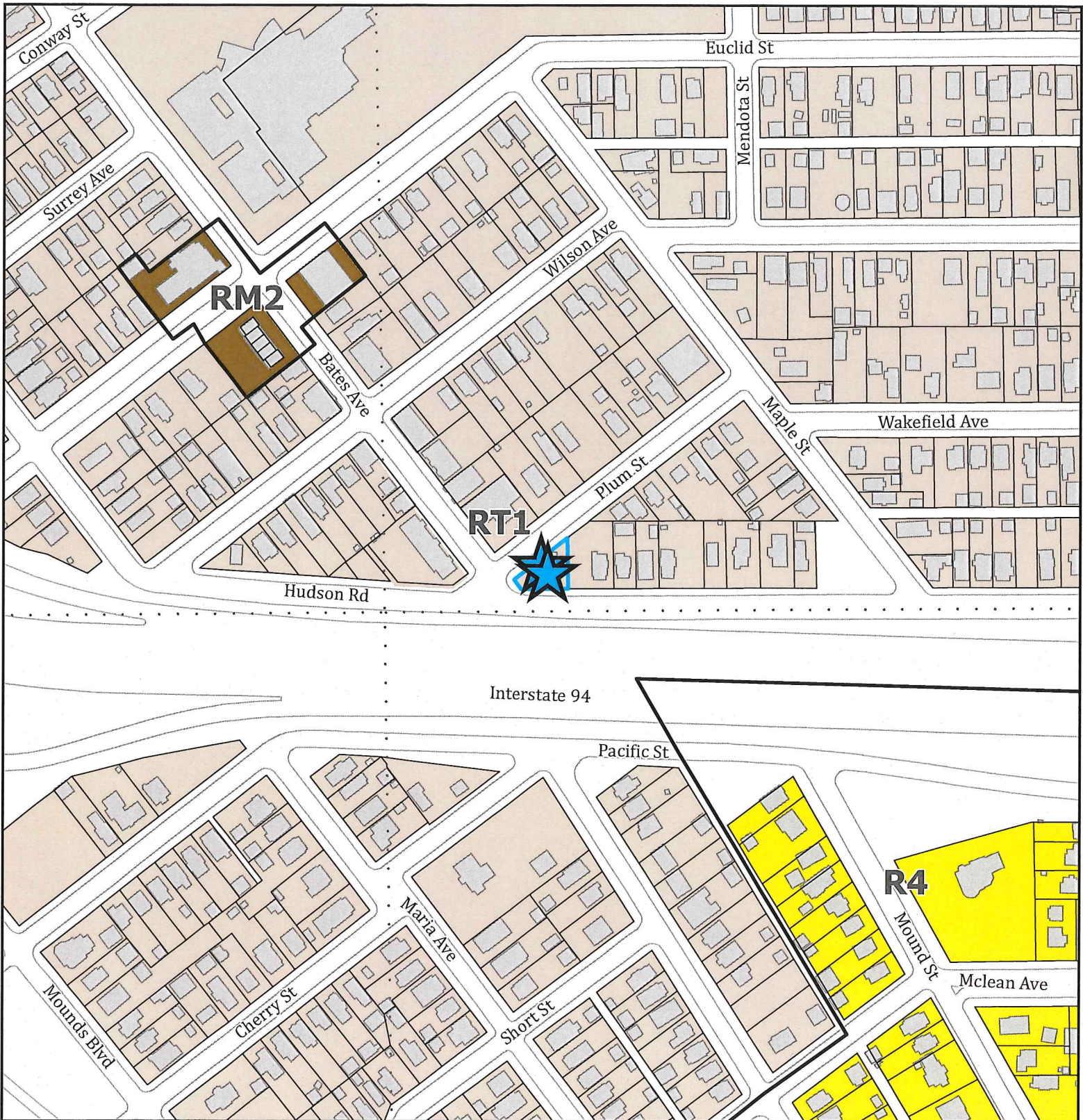
PLANNING DISTRICT: 4

ZONING PANEL: 17

- Land Use**
- Single Family Detached
  - Single Family Attached
  - Multifamily
  - Retail and Other Commercial
  - Institutional
  - Park, Recreational or Preserve
  - Undeveloped
- Subject Parcels
  - Section Lines







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DATE: 8/2/2017

PLANNING DISTRICT: 4

ZONING PANEL: 17

**Zoning**

-  Subject Parcels
-  Section Lines
-  R4 One-Family
-  RT1 Two-Family
-  RM2 Multiple-Family

