ZONING COMMITTEE STAFF REPORT

1. FILE NAME: Geneet Kidane Duplex

FILE # 18-057-614

2. APPLICANT: Geneet Kidane

HEARING DATE: May 24, 2018

3. TYPE OF APPLICATION: Nonconforming Use Permit - Reestablishment

4. LOCATION: 758 Charles Avenue, between Avon and Grotto

5. PIN & LEGAL DESCRIPTION: 35.29.23.13.0125; Chute Brothers Division No. 10. Lot 5.

6. PLANNING DISTRICT: 7

7. **ZONING CODE REFERENCE:** § 62.109(e); § 61.202(b); § 61.601 **PRESENT ZONING:** R4

8. **STAFF REPORT DATE:** May 17, 2018

BY: Tony Johnson

9. DATE RECEIVED: May 1, 2018

60-DAY DEADLINE FOR ACTION: June 30, 2018

- A. **PURPOSE:** Reestablishment of nonconforming duplex with a variance of the consent petition requirement (owners of 13 parcels required, 6 signed).
- B. **PARCEL SIZE:** 40 ft. frontage on Charles Avenue x 124 ft. = 4960 sq. feet, plus half of the adjacent alley for applying lot area requirements per Zoning Code § 63.101 = 5280 sq. feet.
- C. EXISTING LAND USE: Duplex
- D. SURROUNDING LAND USE:

North: Duplex (R4)

East: One-family dwelling (R4) South: One-family dwelling (R4)

West: Duplex (R4)

- E. **ZONING CODE CITATION:** § 62.109(e) lists the conditions under which the Planning Commission may grant a permit to reestablish a nonconforming use. § 61.202(b) authorizes the Planning Commission to grant variances when related to permits considered by the Planning Commission at the same public hearing. § 61.601 lists findings that must be made in order to grant variances from the strict enforcement of the provisions of the Zoning Code.
- F. PARKING: Zoning Code § 63.207 requires a minimum of 3 off street parking spaces for a duplex.
- G. **HISTORY/DISCUSSION:** The subject property was originally constructed in 1902 as a one-family dwelling. In 1922 when the first zoning code was enacted the property was zoned "B" residential, which permitted a two-family dwelling. According to city records the structure was converted to a duplex between 1955 and 1965. The property was rezoned to RT1 two-family residential when the City adopted a new zoning code in 1975. The parcel was rezoned to R4 one-family residential in the 1990s, making the duplex a legal nonconforming use. The property went on the vacant building list in 2012 and subsequently lost its legal nonconforming status. The property was purchased by the applicant on November 6, 2015 at a Ramsey County public auction. On March 22, 2016, the applicant submitted a residential use affidavit to the Department of Safety and Inspections stating the property would be converted to a one-family dwelling. Between May 2016 and June 2017 the applicant obtained the necessary permits for work to bring one of the units up to code, at a cost of nearly \$70,000. Although the applicant submitted a residential use affidavit, the structure has not been physically converted to a single family dwelling.
- H. **DISTRICT COUNCIL RECOMMENDATION:** The Frogtown Neighborhood Association has not made a recommendation at the time of this staff report.

I. FINDINGS:

1. The application requests a variance of the consent petition requirement for reestablishment of a nonconforming use. Zoning Code § 61.601 states that the Planning Commission shall have the power to grant variances from the strict enforcement of the provisions of the Zoning Code based on the following required findings.

- a) The variance is in harmony with the general purposes and intent of the zoning code. This finding is met. The applicant has made a good faith effort to contact property owners to obtain signatures on the consent petition, in harmony with the intent of this requirement. The applicant is requesting a variance from the strict enforcement of the consent petition requirement due to practical difficulties discussed in paragraph (c) below, in order to reestablish a duplex use that is consistent with the comprehensive plan and the general purposes and intent of the zoning code for this location. Two of the intentions of the Zoning Code are the following: § 60.103(i), to encourage a compatible mix of land uses, at densities that support transit, that reflect the scale, character and urban design of Saint Paul's existing traditional neighborhoods; and § 60.103(j), to provide housing choice and housing affordability. The subject parcel is within a quarter mile of light rail transit. The house has been a duplex since at least 1965. A duplex at this location is compatible with the surrounding mix of uses and development, and will add transit-supporting density within the central corridor.
- b) The variance is consistent with the comprehensive plan. This finding is met. The subject parcel is within an established neighborhood, which is defined by the comprehensive plan as areas characterized almost entirely by single family houses and duplexes. The proposed reestablishment of the duplex is consistent with this general land designation as well as a number of policies in the comprehensive plan. LU-1.41 calls for promoting the development of a range of housing types and housing values in each of the 17 planning districts. LU-1.42 calls for promoting the development of housing in mixed-use neighborhoods that supports walking and the use of public transportation. H-1.1 calls for increasing housing choices across the city to support economically diverse neighborhoods. Strategy H1 of the District 7 Neighborhood Plan calls for preserving the existing housing stock by rehabilitating units to accommodate future use. A variance of the petition requirement will allow the duplex use to be reestablished, consistent with the general land use designation and the policies listed above.
- c) The applicant has established that there are practical difficulties in complying with the provision; that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties. This finding is met. The applicant has attempted to obtain the required signatures of two thirds of the property owners_within 100 feet to satisfy the consent petition requirement for more than a year. There are practical difficulties in complying with this in a neighborhood where the majority of the residents cannot sign consent petitions to fulfil this requirement for various zoning applications because they are not property owners. According the last five year estimate from the American Community Survey (2012-2016), 62% of the households in Frogtown were renter occupied. Within 100 feet of the subject parcel 30% (6 of 19 eligible parcels) are non-owner occupied parcels. In order for the applicant to satisfy the petition requirement, she would need to obtain 100% consent from the owner occupied properties within 100 feet.
- d) The plight of the landowner is due to circumstances unique to the property not created by the landowner. This finding is met. The owner bought the property at auction from the county as a category II vacant building. In order to reestablish the duplex use, a number of code compliance repairs are required in addition to Planning Commission approval of a nonconforming use permit. The concentration of non-owner occupied properties, and the requirement that consent petitions can only be signed by property owners, is a unique circumstance that was not created by the landowner.
- e) The variance will not permit any use that is not allowed in the zoning district where the affected land is located. This finding is met. The variance will simply allow the Planning Commission to consider approval of the application for reestablishment of nonconforming

- use of the house as a duplex.
- f) The variance will not alter the essential character of the surrounding area. This finding is met. There is a mix of including housing types in the immediate area, including ten other nonconforming duplexes on the same block as the subject property. Varying the petition requirement in order to facilitate reestablishment of the nonconforming duplex will not alter the essential character of the surrounding area.
- 2. The duplex conversion guidelines adopted by the Planning Commission state that staff will recommend denial of applications for reestablishment of legal nonconforming status for a duplex in a residential district unless, in addition to the required findings in § 62.109(e) of the Zoning Code, the following guidelines are met:
 - A. Lot size of at least 5000 square feet with a lot width or front footage of 40 feet. This guideline is met. The lot has 40 feet of frontage on Charles Avenue and the total lot area with half of the alley applied to the lot area requirement is 5280 sq. feet.
 - B. Gross living area, after completion of duplex conversion, of at least 1500 square feet. Neither unit shall be smaller than 500 square feet. This guideline is met. The total square footage of the structure is 1818 sq. feet. It is an up-down duplex with roughly 900 sq. foot units.
 - C. Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum. This guideline met. There is a two car garage and a parking pad with two parking spaces on the property.
 - D. All remodeling work for the duplex is on the inside of the structure unless the plans for exterior changes are approved by the Board of Zoning Appeals as part of the variance. (The Planning Commission will approve these changes for the cases they handle.) This guideline is met. No changes exterior changes are proposed as a part of this application.
 - E. For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a duplex without the necessary permits, a code compliance inspection shall be conducted and the necessary permits obtained to bring the entire structure into conformance with building and fire code standards; or the property owner must, as a condition of the approval, make the necessary improvements to obtain the necessary permits and bring the entire structure into building and fire code compliance within the time specified in the resolution. This guideline is met. The property was a category II vacant building. The applicant has brought one of the units up to code and is currently residing at the residence.
- 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. City records indicate that the subject structure has been a duplex since at least 1965. The structure is configured as an up-down duplex with separate kitchens, utilities, and entrances. The applicant has spent nearly \$70,000 rehabbing the structure and has been approved to occupy one of the units. Because of the existing layout as an up-down duplex and the property's long history as a two unit structure, this property cannot reasonably or economically be converted to a conforming single family residential use.
 - (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 duplex use is the same as the previous duplex use.

- (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 is met. According to city records this property has been a duplex since at least 1965 and there are ten other nonconforming duplexes on the block. The property was vacant since 2012 until the applicant purchased the property in 2015. Between 2002 and 2015, prior to the applicant obtaining the property, there were 40 complaints on record for the property for numerous property maintenance issues and crime. After the applicant acquired the property in 2015 there have only been two complaints against the property for rubbish, likely associated with the required construction to bring the property up to code. Considering the context of other nonconforming duplexes on the same block and the vast reduction in complaints filed against the property since the applicant acquired it, reestablishment of the nonconforming use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.
- (4) The proposed use is consistent with the comprehensive plan. This finding is met. The subject parcel is within an established neighborhood, which is defined by the comprehensive plan as areas characterized almost entirely by single family houses and duplexes. The proposed reestablishment of the duplex is consistent with this general land designation as well as a number of policies in the comprehensive plan. LU-1.41 calls for promoting the development of a range of housing types and housing values in each of the 17 planning districts. LU-1.42 calls for promoting the development of housing in mixed-use neighborhoods that supports walking and the use of public transportation. Policy H-1.1 calls for increasing housing choices across the city to support economically diverse neighborhoods. Strategy H1 of the District 7 Neighborhood Plan calls for preserving the existing housing stock by rehabilitating units to accommodate future use.
- (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. The application includes a request for a variance of this petition requirement, which is addressed in Finding 1 above.
- J. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the reestablishment of nonconforming duplex with a variance of the consent petition requirement (owners of 13 parcels required, 6 signed) subject to the following condition:
 - 1. The applicant shall adhere to all applicable code requirements and obtain a certificate of occupancy for the vacant second unit.

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

	7. 33 - 103 13 0 103	
	Name Geneet Kidane Email Geneet-Kidane OYahoo. Co	m.
APPLICANT	Address 758 Charles Ave	
	City St. Paul St. Zip 55/04 Daytime Phone 65/-399-0055	
	Name of Owner (if different)	
	Contact Person (if different)Phone	
PROPERTY	Address/Location 758 Charles Ave, St. Paul, Mn 55/04	

PROPERTY LOCATION

(a	Current Zoning R4
	pplication is hereby made for a Nonconforming Use Permit under provisions of Chapter 62, ection 109 of the Zoning Code:
The permit is for: L	Establishment of legal nonconforming use status for use in existence at least 10 years (para. a)
Walter Walter	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)

Legal Description

SUPPORTING INFORMATION: Supply the information that is applicable to your type of permit.
Present/Past Use Single family Duplex
Proposed Use Duplex
I'm requesting that this property to be registred
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This is a huge house Each floor has 3 bedrooms, buthroom on each floor and Kitchen on each floor also
Livery on each floor and Ritchen on each floor also
bothroom on each floor and Ritchen on each floor and two car garage and huge yard. At one Point it was
two Car garage and huge yard. At one forth it was two Car garage and huge yard. At one forth it was Vacent for two years therefor the city resistered it as Vacent for two years therefor the city resistered it as
Attach additional sheets if necessary to the Original.

Attachments as required Site Plan

Consent Petition

Applicant's Signature _



APPLICATION FOR ZONING VARIANCE

Department of Planning and Economic Development Zoning Section

Fee: \$ 315 Tentative hearing date: 5/24//8 Section(s):	Zoning office use only File number:	
Tentative hearing date: 5/24//8		10 / /
Section(s):	Herete 481118 has a line - and teach	5/24/18
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	Name of owner (if different)		, , , , , , , , , , , , , , , , , , ,	· ·
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PROPERTY	Address/Location 758 C	hell to	VAVES	+ , fire MN SVe
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Attachments as	required: Site Plan		Attachments	Pro Forma
Applicant's sign	ature			Pate 4/23/18

Dubruiel, Paul (CI-StPaul)

From:

Johnson, Tony (CI-StPaul)

Sent:

Wednesday, April 25, 2018 9:19 AM

To:

Dubruiel, Paul (CI-StPaul)

Cc: Subject: Torstenson, Allan (CI-StPaul) FW: Letter to City of Saint Paul

For the file.

-Tony

From: Geneet Kidane [mailto:geneet.kidane@yahoo.com]

Sent: Tuesday, April 24, 2018 6:43 PM

To: Johnson, Tony (CI-StPaul) **Subject:** Letter to City of Saint Paul

Dear Department of Planning and Economic Development,

I am requesting a variance of the petition requirements for a reestablishment of a non-conforming use of an application. I'm requesting that 758 Charles Ave St. Paul Mn 55104 to be registered as a duplex. I purchased this property as a duplex after it was vacant for two years. The City of Saint Paul is trying to make this property a single family home. This property would be too big for a single family. It has two floors with 3 bedrooms, 1 bathroom, 1 living room and a 1 kitchen on both of them. It has a big yard with a two car garage. I hope the City of Saint Paul does the right decision and keeps it a duplex.

Thanks, Geneet

Dear City of Saint Paul,

I have gone around the neighborhood with my sister for the whole winter asking my neighbors to sign an agreement to make my property a duplex. 75% of my neighbors are renters not owners or most of the properties were duplex. 25% were owners of there property on Charles and all of the owners signed for me. I sent the renters a letter to give to the owners to sign as soon as possible. I got some of the owner's emails and personally asked them to sign but most of them didn't want to sign. I don't understand why I have to go through all of this trouble because it was already a duplex. It cost me a lot of money to make it passed category two. And I would love to not do that all over again.

Thanks, Geneet

03/02/2016

Hello, My name is Geneet Kidane, I recently purchase a property on 758 Charles Ave. This is a duplex, so I'm planning on living on the first floor and renting the second level. The city of St Paul wants me to collect a signature from the Neighbors. I would really appreciate it if you could sign it and mail it back to me to 906 Charles, St Paul MN 55104. If you have any questions please call me at 651-399-0055.

Thank you

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:

(name of applicant)

(proposed use)

A copy of the application of

to establish a

signatures on this petition.

_ located at / >/	(address	of property)	
requiring a nonconformi documentation.	ng use permit, along with any	relevant site plans, diagrams, c	r other
We consent to the appr his/her representative.	oval of this application as it	was explained to us by the ap	plicant or
ADDRESS OR PIN	RECORD OWNER	SIGNATURE	DATE
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163 CHARLES AU	66N	George Keys	2/20/16
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788 Charles Ave	Stephen Ellsworth	Miller College	2/23/10
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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:

(name of applicant)

(proposed use)

Continue

A copy of the application of

to establish a_

signatures on this petition.

located at	150 Charlo	AVE ST YOU!	My 55/0
	(address	of property)	
requiring a nonconform documentation.	ing use permit, along with any	relevant site plans, diagrams, o	or other
We consent to the app his/her representative	oroval of this application as it RECORD OWNER	was explained to us by the ap	oplicant or DATE
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195 Charlseme			
67 Charles Ave	George Schooley	Leoneschool	9/5/17
92 Charles	O O	Days Ideal	9/16/1
•		- 190	
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NOTE: All information on the upper portion of this application must be completed prior to obtaining eligible

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, <u>Chencel</u> <u>Hidane</u> that the consent petitioner is informed and believed are owners of the parcels of real estate described in parties described on the consent petition is an own property described in the petition; the consent petition-thirds (2/3) of all eligible properties within 10 petition; and the consent petition was signed by ea and correct signatures of each and all of the parties	s the parties described on the consent petition mmediately before each name; each of the er of property within 100 feet of the subject tion contains signatures of owners of at least 0 feet of the subject property described in the ch said owner and the signatures are the true
	General Kolune
	158 Charte AVE ADDRESS
	TELEPHONE NUMBER

NOTARY PUBLIC

5-1-18

Zoning Petition List

As requested, attached is a list of all property owners within 100 feet of the property which you are requesting a zoning application. As a condition of your application, you are required to submit with your application a consent petition signed by a minimum two-thirds of all the property owners within 100 feet on the attached list.

Only persons listed as "fee owner" or "homesteader" are eligible to sign your petition. Persons listed as "taxpayer" are <u>not</u> eligible to sign your petition since they do no have full ownership of the property. A property owner may sign the petition as many times as they are listed as an owner within 100 feet.

Also attached are the petition form, affidavit, and application materials.



Total properties are within 100 feet of the property for zoning action and eligible to sign your petition.



Total signatures are required for a minimum two-thirds consent and a sufficient petition to proceed with your zoning application.

Please return this list along with the original petition form, affidavit, application and any additional supporting information and material that is part of your application.

* Rezoning petitions must be received and held in the Zoning office 7 working days prior to any application cut-off date.

If you have questions about this list or any questions regarding this process, please call the Zoning office at 266-6589.

ZONING PETITION SUFFICIENCY CHECK SHEET

REZONING

SCUP



FIRST SUBMITTED	RESUBMITTED
11-22-10	
DATE PETITION SUBMITTED: 41-23-18	DATE PETITION RESUBMITTED:
DATE OFFICIALLY RECEIVED: 5-1-18	DATE OFFICIALLY RECEIVED:
PARCELS ELIGIBLE: 19	PARCELS ELIGIBLE:
PARCELS REQUIRED:	PARCELS REQUIRED:
PARCELS SIGNED:	PARCELS SIGNED:
CHECKED BY:	DATE:



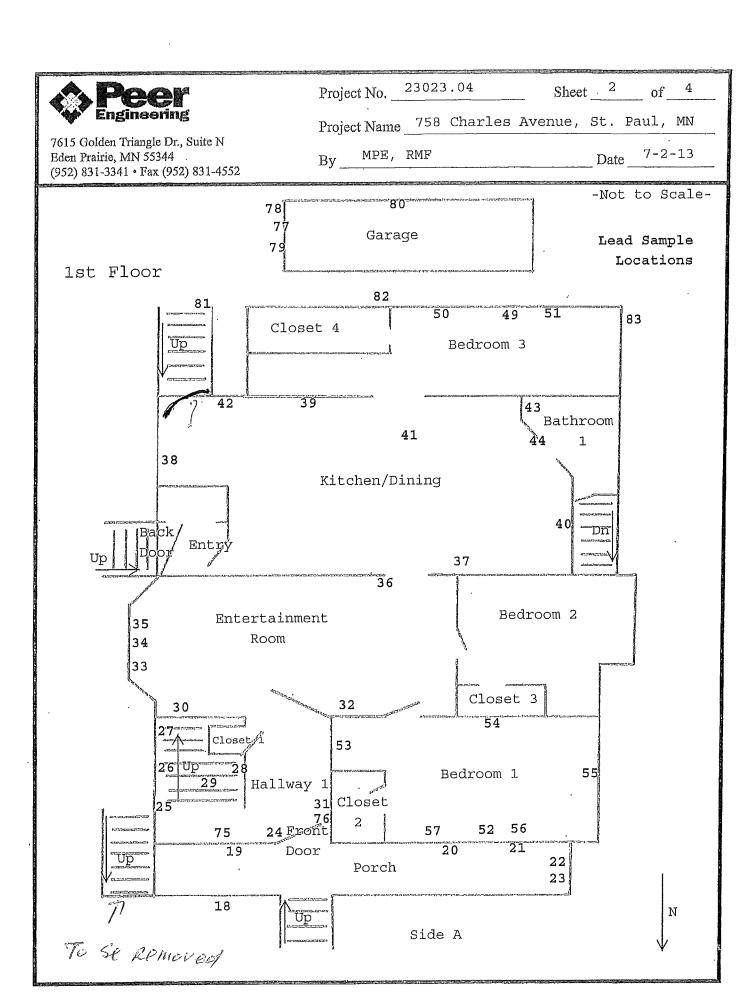
CITY OF SAINT PAUL Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220 St Paul, Minnesota 55101-1806

Telephone: 651-266-9090 Facsimile: 651-266-1919 Web: <u>www.stpaul.gov/dsi</u>

Residential Use Affidavit For Prospective Owners of Category II Registered Vacant Buildings

I, (printed name): Prot Kildanie, the undersigned, certify
that I intend to purchase the residence at (street address): ——————————————————————————————————
This property currently is (describe the number of units and kitchens): Auplex with 2 kitchens
I acknowledge my understanding that this property's use as a (describe the current number of units and kitchens):
I affirm that I will convert this property to a legal conforming use as a (describe the number of units and kitchens):
I acknowledge that this property can reasonably and economically be used for a legal conforming purpose. Signature of Prospective Owner Date
Zoning Information (To be completed by Zoning staff only)
Action taken hitchen on 2nd floor to 50 pm wes of fluings ago.
Zoning staff YATA DIATTA Date 03/22/16.





7615 Golden Triangle Dr., Suite N Eden Prairie, MN 55344 (952) 831-3341 • Fax (952) 831-4552

Project No	2302	3.04	Shee	st1	of	4	
Project Name	758	Charles	Avenue,	st.	Paul,	MN	
By MPE,	RMF			Dat	e 7-2	2-13	

-Not to Scale-

Lead Sample Locations

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7615 Golden Triangle Dr., Suite N Eden Prairie, MN 55344 (952) 831-3341 • Fax (952) 831-4552 Project No. __23023.04 Sheet 3 of 4 Project Name 758 Charles Avenue, St. Paul, MN MPE, RMF 7-2-13

Date

-Not to Scale-

By

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Side A



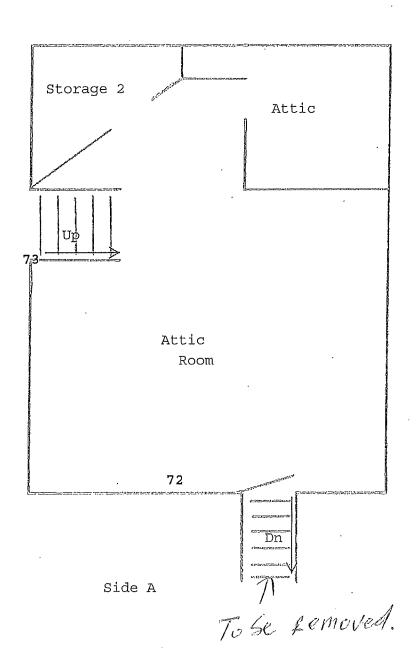
7615 Golden Triangle Dr., Suite N Eden Prairie, MN 55344 (952) 831-3341 • Fax (952) 831-4552

Project No		23023.04		Sheet 4		of _	4
Project Name		758	Charles	Avenue,	st.	Paul,	MN
Ву	MPE,	RMF			Date	7-2-	13

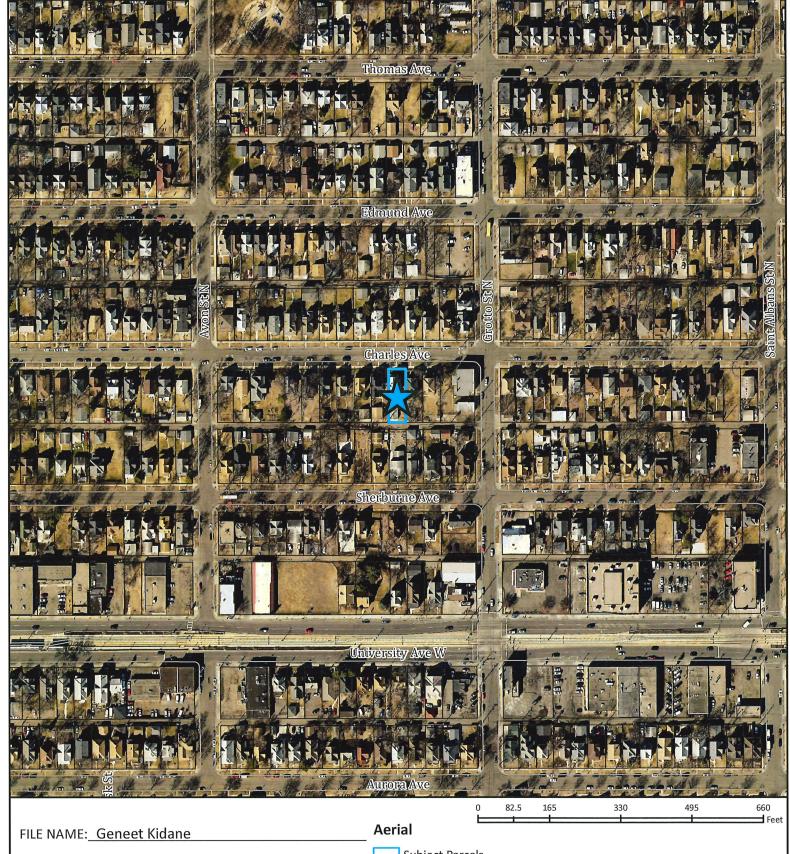
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3rd Floor

Lead Sample Locations



N



APPLICATION TYPE: Reest. NCUP w/variance

FILE #: 18-057614 DATE: 5/1/2018

PLANNING DISTRICT: 7

ZONING PANEL: 9

 ${\it Saint Paul Department of Planning and Economic Development and Ramsey County}$

Subject Parcels



