

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** James Kilau **FILE #** 18-120-737
 2. **APPLICANT:** James Kilau **HEARING DATE:** December 6, 2018
 3. **TYPE OF APPLICATION:** Nonconforming Use Permit - Reestablishment
 4. **LOCATION:** 749 Tatum Street, SW corner at Chelton Avenue
 5. **PIN & LEGAL DESCRIPTION:** 282923340130; MIDWAY HEIGHTS PART SELY OF A L RUN FROM SE COR OF LOT 2 TH NELY 45 7/10 FT TO PT 4 4/10 FT NWLY OF SELY L OF SD LOT TH NELY TO PT ON NELY L OF AND 55 5/10 FT CHORD MEASURE FROM NW COR OF SD LOT 2 AND ALL OF LOT 1 BLK 17
 6. **PLANNING DISTRICT:** 11
 7. **ZONING CODE REFERENCE:** §62.109(e) **PRESENT ZONING:** R4
 8. **STAFF REPORT DATE:** November 27, 2018 **BY:** Josh Williams
 9. **DATE RECEIVED:** November 6, 2018 **60-DAY DEADLINE FOR ACTION:** January 5, 2019
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- A. **PURPOSE:** Reestablishment of a nonconforming use as a paint studio for preparation of commercial signs
- B. **PARCEL SIZE:** 6534 sq. ft.
- C. **EXISTING LAND USE:** Mixed-use commercial and residential
- D. **SURROUNDING LAND USE:**
 - North: One-family residential (R4)
 - East: One- and multi-family residential (R4)
 - South: One- and multi-family residential (RM2)
 - West: One-family residential (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.
- F. **PARKING:** For purposes of parking demand generated, the proposed commercial use is most similar to limited production and processing. Zoning Code § 63.207 requires a minimum of one off-street space per 1,000 sq. ft. gross floor area. The commercial portion of the building is approximately 1,750 square feet, which would mean a requirement for two off-street spaces. In addition, the property has two residential units, with a requirement of one off-street space per unit. The property has a two-stall garage, and a parking apron off the alley which can accommodate at least one additional vehicle.
- G. **HISTORY/DISCUSSION:** A grocery previously operated in the commercial portion of the property. There is no zoning history for the property, with the exception of a recent odor complaint from a nearby property, and a subsequent finding by a zoning inspector of a nonconforming use of the property for commercial purposes. Both the complaint and the finding occurred in August 2018, leading to the current application.
- H. **DISTRICT COUNCIL RECOMMENDATION:** The District 11 Council had not made a recommendation at the time of this report.
- I. **FINDINGS:**
 1. The structure at 749 Tatum Street is currently divided into two residential units and a space used for production of hand-painted signs. The last legal nonconforming use of the commercial portion of the property was as a grocery store. It appears that the structure was originally constructed as storefront with a flat above.
 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 building currently has two units plus commercial space. Converting the building to a single residential unit would substantially reduce the value of the property, and would be unreasonable as the building was originally constructed for commercial 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 previous use as a grocery store, first allowed in the B1 district, generated greater traffic and impacts than the proposed use as a paint studio for production of commercial signs. This use is similar to a B1 use—with limited external impacts to adjoining properties—provided that odor impacts to adjacent properties can be prevented. Specific odor control measures and no odor impacts on adjacent properties should be conditions of approval.
- (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, provided that adjacent properties are not impacted by odors from the use. Specific odor control measures and no odor impacts on adjacent properties should be conditions of approval.
- (4) *The proposed use is consistent with the comprehensive plan.* This finding is met. Strategy 1 of the Land Use Chapter calls for the City to *Target Growth in Unique Neighborhoods*. Policy 1.7 calls for the City to *Permit neighborhood serving commercial businesses compatible with the character of Established Neighborhoods*. The proposed use results in limited traffic, similar to the neighborhood serving uses compatible with the character of an Established Neighborhood. The proposed use is also sought at a location previously used for neighborhood serving commercial uses.
- (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 November 6, 2018: 15 parcels eligible; 10 parcels required; 11 parcels signed.

J. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the reestablishment of a legal nonconforming use as a paint studio for preparation of commercial signs, subject to the following conditions:

1. All signs 4' x 8' and larger will be sent offsite for painting.
2. Ventilation fans will not be used to direct odors toward neighboring properties, and no odor impacts to adjacent properties, as evidenced by credible complaints, shall be allowed.



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 #: 18-120737
 Fee: 735⁰⁰
 Tentative Hearing Date: 12-6-18

PD=8

#282923340130

APPLICANT

Name JAMES KILAU
 Address 2225 ACORN ROAD
 City ROSEVILLE St. MN Zip 55113 Daytime Phone 612-842-6885
 Name of Owner (if different) JAMES KILAU
 Contact Person (if different) _____ Phone _____

PROPERTY LOCATION

Address/Location 749 TATUM STREET
 Legal Description _____
 Current Zoning RH
 (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 GROSEY STORE
 Proposed Use SIGN SHOP
 Attach additional sheets if necessary

Attachments as required Site Plan Consent Petition Affidavit

OK 11840
 735⁰⁰
 11-2-18

Applicant's Signature [Signature] Date 11-2-18 City Agent pdd 11-2-18

749 TATUM BUILDING

WHEN I PURCHASED THIS BUILDING IN OCTOBER 1990 THE BUILDING WAS IN TERRIBLE CONDITION AND AFTER REFURBISHING THE BUILDING THERE WERE MULTIPLE PEOPLE THAT CAME TO ME THAT LIVED ON TATUM STREET AND THANKED ME FOR ALL THE WORK I DID ON REPAIRING THE BUILDING THEY WERE SO HAPPY TO SEE THE GROCERY AND BUTCHER SHOP & BARBER SHOP THAT LOOKED NEW AGAIN.

AND THEY WERE HAPPY TO SEE THE LOWER APT WAS AGAIN TAKEN CARE OFF.

I ALSO I HAVE HAD MANY PEOPLE THANK ME FOR THE GREAT JOB I HAVE DONE ON KEEPING THE SIDEWALK SHOVELED WHICH THEY SAID IS ALLWAY SHOVELED IN THE WINTER.

I MYSELF HAVE USED THIS BUILDING FOR STORAGE FOR MANY YEARS.

JAMES KILAN

- (1) I FEEL IT IS APPROPRIATE TO THE NEIGHBORHOOD TO HAVE IT OCCUPIED RATHER THAN VACANT TO LESSEN THE CHANCE FOR VANDALISM.

- (2) THE TRAFFIC GENERATED WILL BE FAR LESS BECAUSE IT IS A PART TIME BUSINESS MAINLY PHONE ORDERS AND ON OCCASION A CUSTOMER WILL PICK UP AN ORDER MOST ORDERS ARE SEND OUT BUY UPS AND THE POST OFFICE

- (3) THERE IS NO DANGER WHAT SO EVER TO THE PUBLIC OR THE NEIGHBORHOOD BECAUSE THE BUILDING IS MAINLY USED FOR STORAGE AND A PART TIME BUSINESS

JAMES KILAU

749 TATUM

THE SIGN SHOP HAS CHANGED HIS PAINTING OF THE 4X8 PANELS WHICH CAUSED THE SMELL OUTSIDE WHEN HE USED THE EXHAUST FAN, HE NOW SENDS THE 4X8 PANELS OUT FOR PAINTING AND NO LONGER HAS A NEED FOR THE EXHAUST FAN, WHICH HAS CAUSED A SMELL OUTSIDE WHICH BOTHERED THE NEXT DOOR NEIGHBORS, WHICH WILL NEVER HAPPEN AGAIN

JAMES KILAU



CITY OF SAINT PAUL

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

Telephone: 651-266-9008
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

August 30, 2018

James Kilau
2225 Acorn Road
Roseville, MN 55113-3853

Re: 749 Tatum Street

Dear Property Owner:

This property has recently been inspected in response to a complaint regarding potential businesses being conducted out of the above referenced property.

Upon inspecting the site on August 20, 2018, I saw business signs made for Mike's customers throughout the interior of the building, smelled a strong odor of paint, and saw paint splattered throughout the dwelling. I spoke with Mike, the business owner of Mike's Signs, and tenant on the first floor of this building. Mike admitted that he has been operating his sign contracting business out of this residence since his previous business location at 593 Snelling Avenue North, Suite A, closed due to property damage. During our conversation, you confirmed being aware that your tenant, Mike Brockway, has been operating his business out of this property for some time, and that you have had at some point sold merchandise out of the garage of this building.

As you were informed, this property had a legal nonconforming mixed commercial (grocery store) and residential use (single family dwelling) status. However, a sign contracting business is not one of the uses that would be permitted at this location under Sec. 62.106(b) of the Saint Paul Legislative Code which reads: "A legal nonconforming use may be changed to a use permitted in the district in which it is located or to a new nonconforming use if the new nonconforming use is listed on the same line of the use tables in Chapter 66 as the most recent nonconforming use."

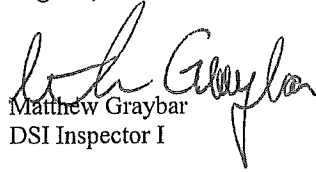
Alternatively, you may apply for a Change of Nonconforming Use from the Planning Commission under the provision that states: "A legal nonconforming use may be changed to a use permitted in the district in which the most recent nonconforming use is first allowed, or a principal use permitted in a district that is more restrictive than the district in which the most recent nonconforming use is first allowed, provided the planning commission approves a permit for the change as set forth in section 62.109(c)." Please, contact Paul Dubruiel at 651-266- 6586 for more information about this process. An application must be received by Paul no later than September 13, 2018.

If your request is denied, you must bring this property into compliance with the zoning code by ceasing all use of this property that is in violation of the code by September 13, 2018. A re-inspection of this property will be conducted after this date to ensure compliance with this order.

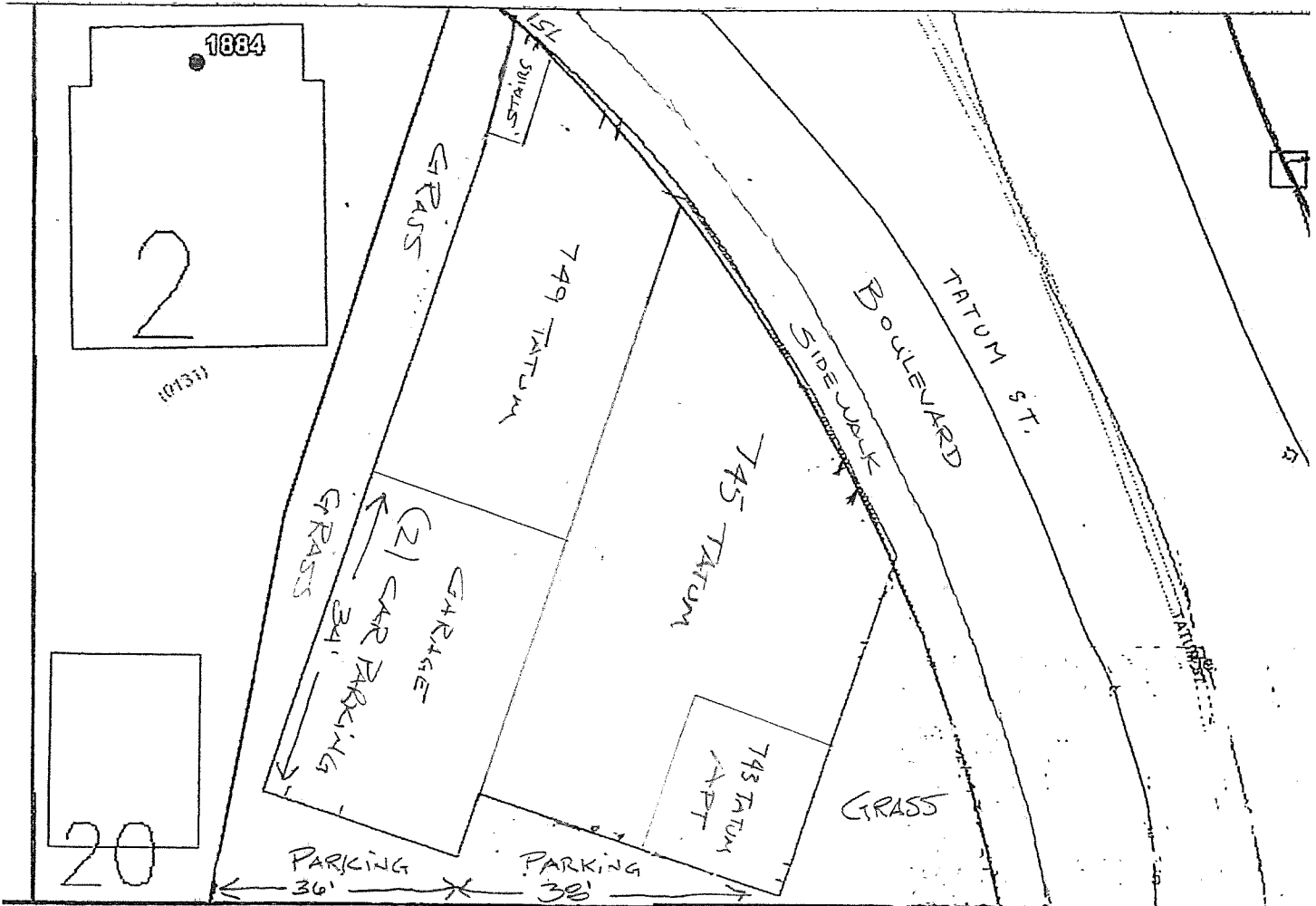
You may appeal my decision to the Board of Zoning Appeals (BZA). The BZA has the power to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator in carrying out or enforcing any provision of the Zoning Code. You can review the application materials and process on the City of St. Paul's Zoning website at <https://www.stpaul.gov/departments/safety-inspections/city-information-complaints/resident-handbook/zoning/administrative>

If you have any questions regarding this letter, please contact me at matthew.graybar@ci.stpaul.mn.us or (651) 266-9089.

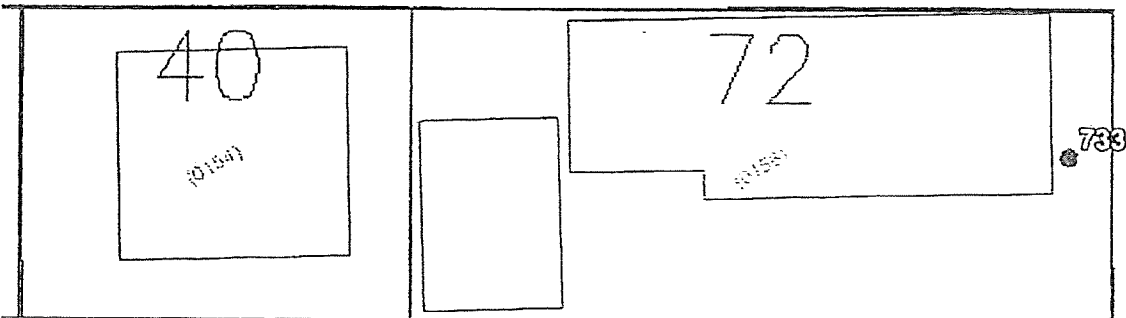
Regards,


Matthew Graybar
DSI Inspector I

Copy sent to: Michael Brockway
749 Tatum Street
St. Paul, MN 55104-1044



ALLEY



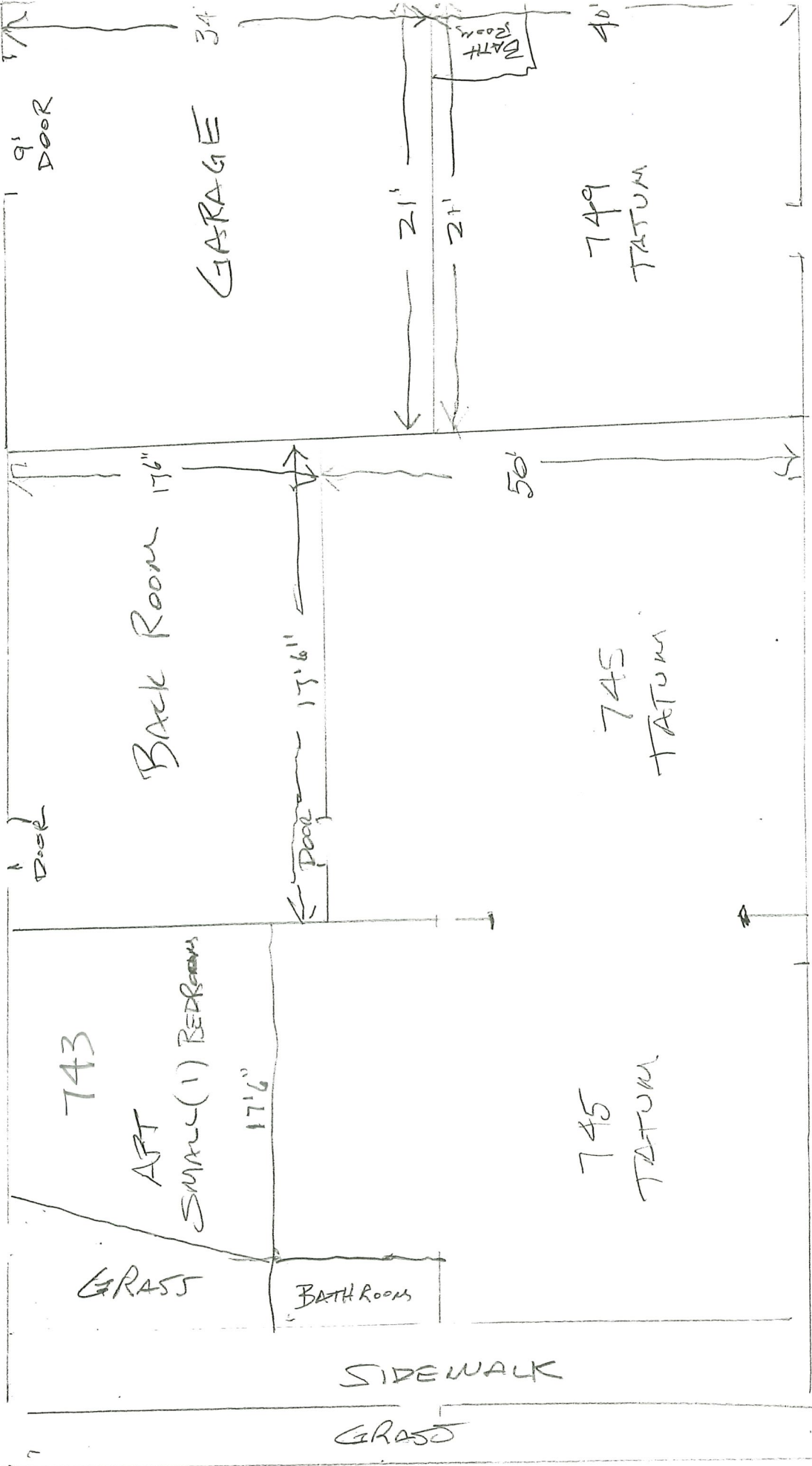
SCALE
1"=20'

AULT

PARKING

PARKING

GRASS



TATUM STREET

GRASS

GRASS

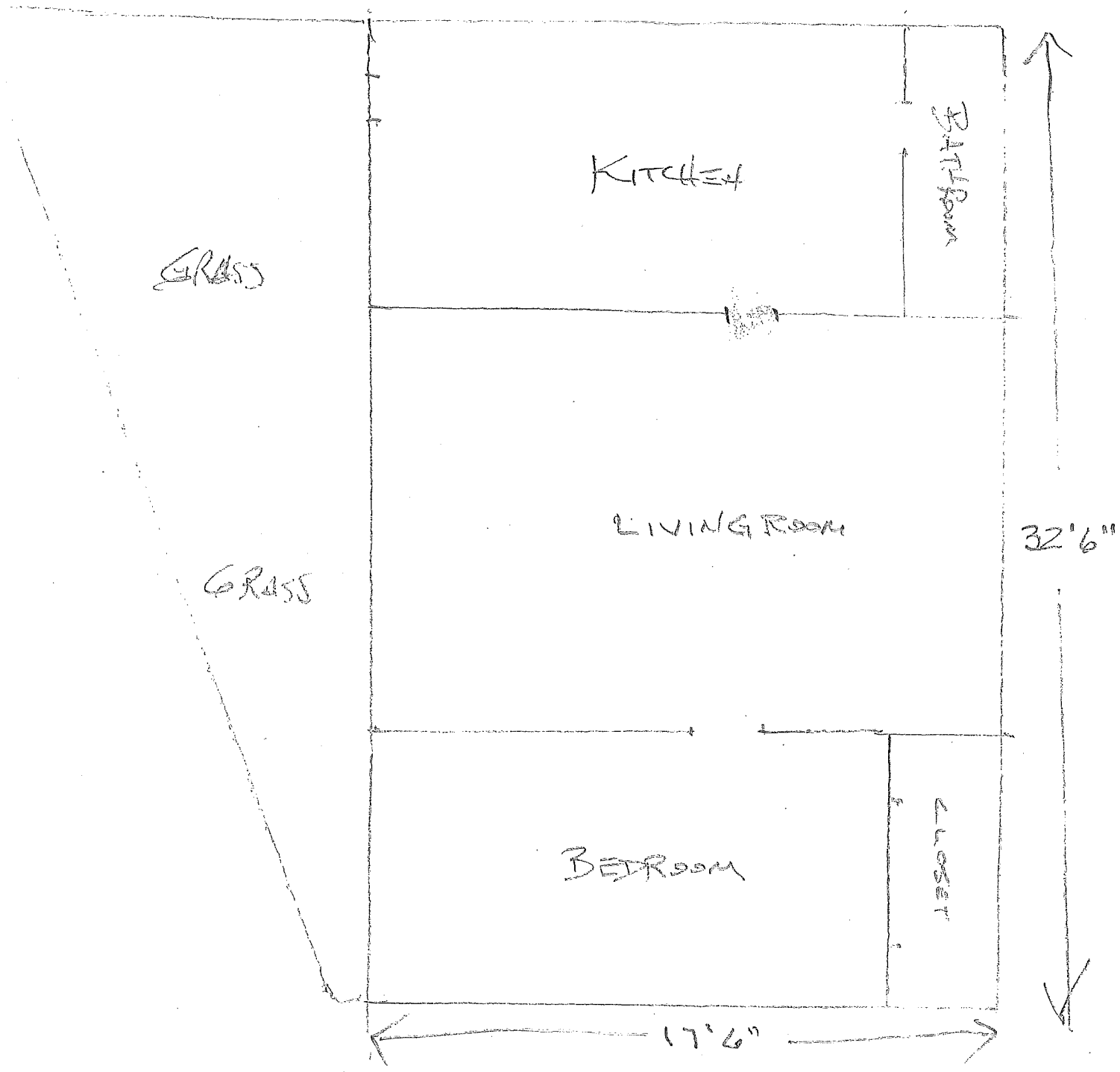
SIDEWALK

TATUM STREET

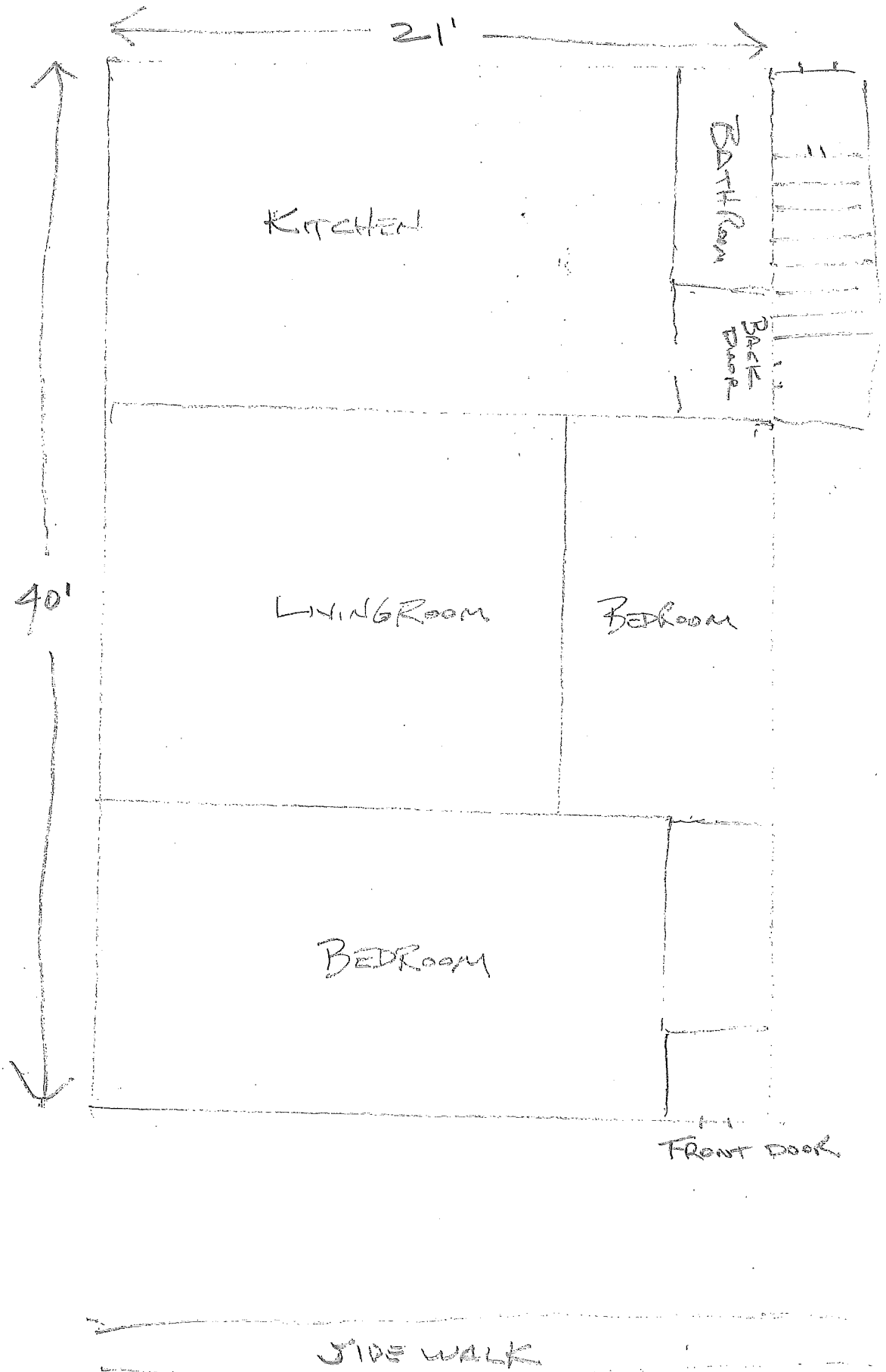
743 TATUM COURNER APT
LOWER (S) BEDROOM APT. 1ST FLOOR

ALLEY

PARKING



(2) BEDROOM UPPER LEVEL
APT



ZONING PETITION SUFFICIENCY CHECK SHEET

REZONING

SCUP

NCUP

FIRST SUBMITTED

RESUBMITTED

DATE PETITION SUBMITTED: _____

DATE PETITION RESUBMITTED: 11-2-18

DATE OFFICIALLY RECEIVED: _____

DATE OFFICIALLY RECEIVED: 11-6-18

PARCELS ELIGIBLE: _____

PARCELS ELIGIBLE: 15

PARCELS REQUIRED: _____

PARCELS REQUIRED: 10

PARCELS SIGNED: _____

PARCELS SIGNED: 11

CHECKED BY: Paul Dubrard

DATE: 11-6-18

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, JAMES KILAU, 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.

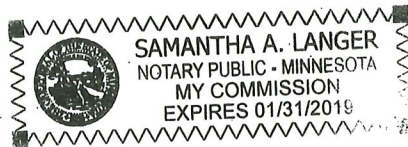
[Signature]
NAME

2225 ACORN ROAD ROSEVILLE MN 55113
ADDRESS

612-868-6685
TELEPHONE NUMBER

Subscribed and sworn to before me this
2 day of November, 2018.

[Signature]
NOTARY PUBLIC

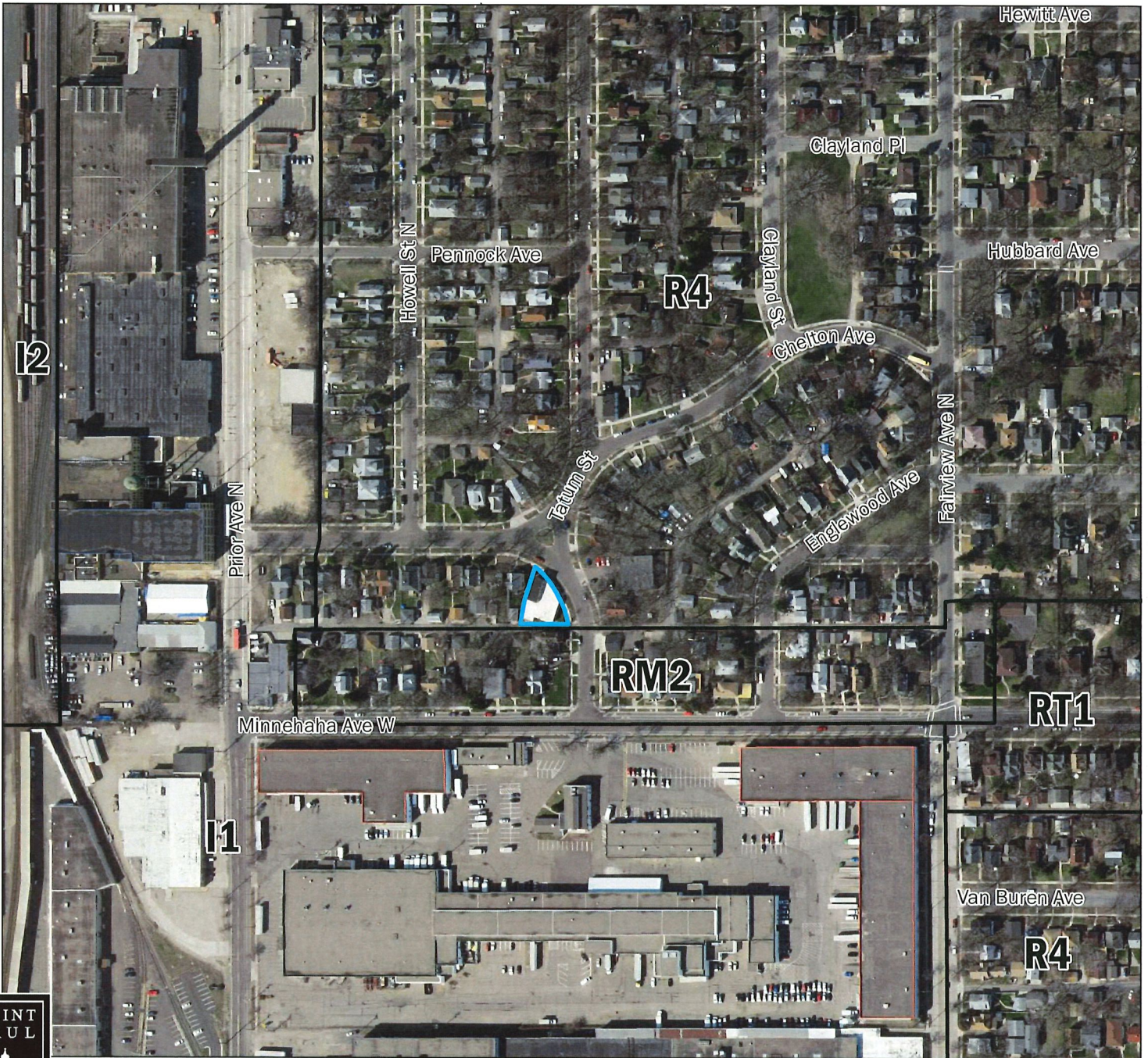








749



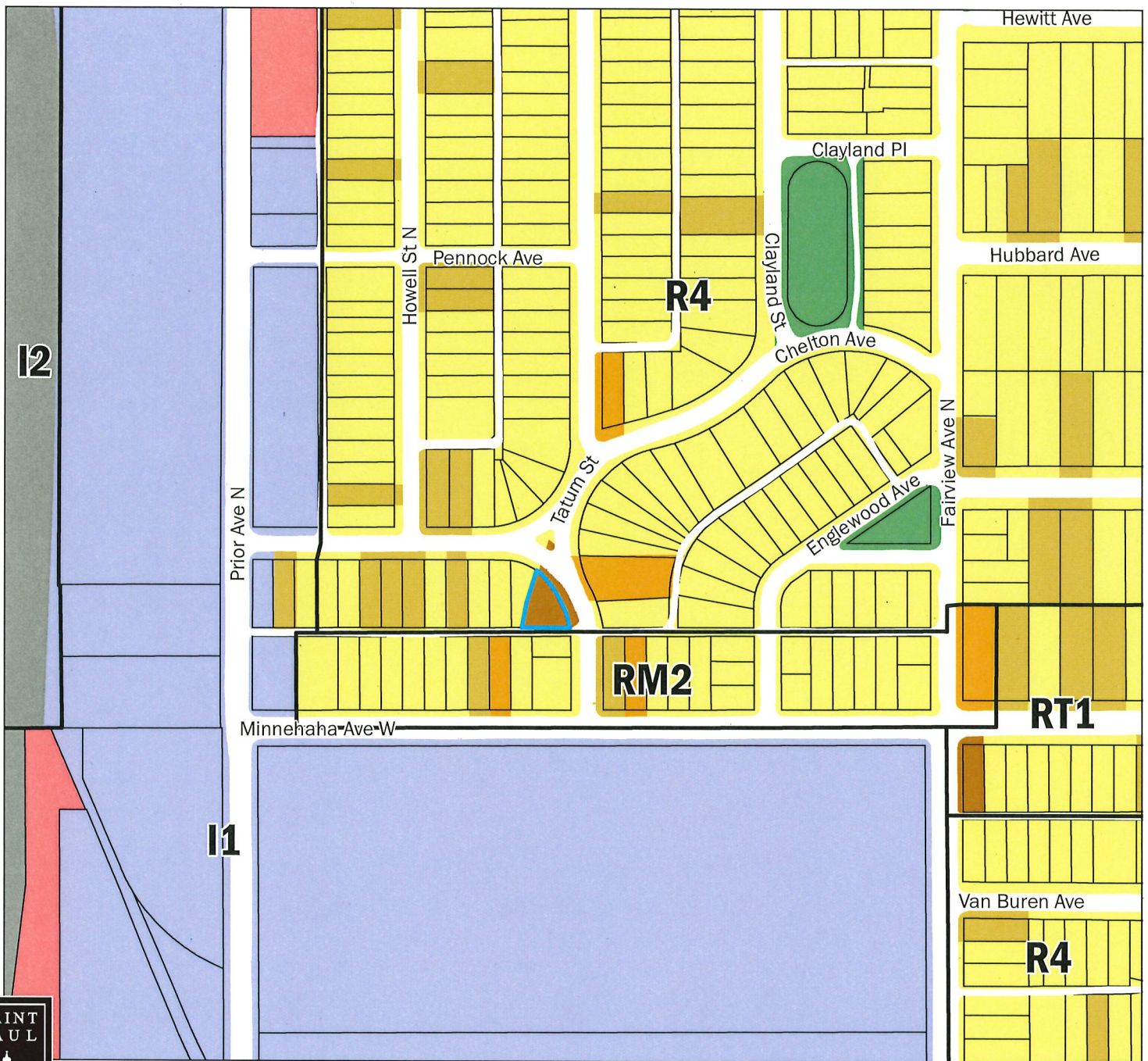
FILE #18-120737 | AERIAL MAP
Application of James Kilau

Application Type: Re-establishment of NCUP
 Application Date: November 2nd, 2018
 Planning District: 11

Subject Parcel(s) Outlined in Blue



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FILE #18-120737 | LAND USE MAP
Application of James Kilau

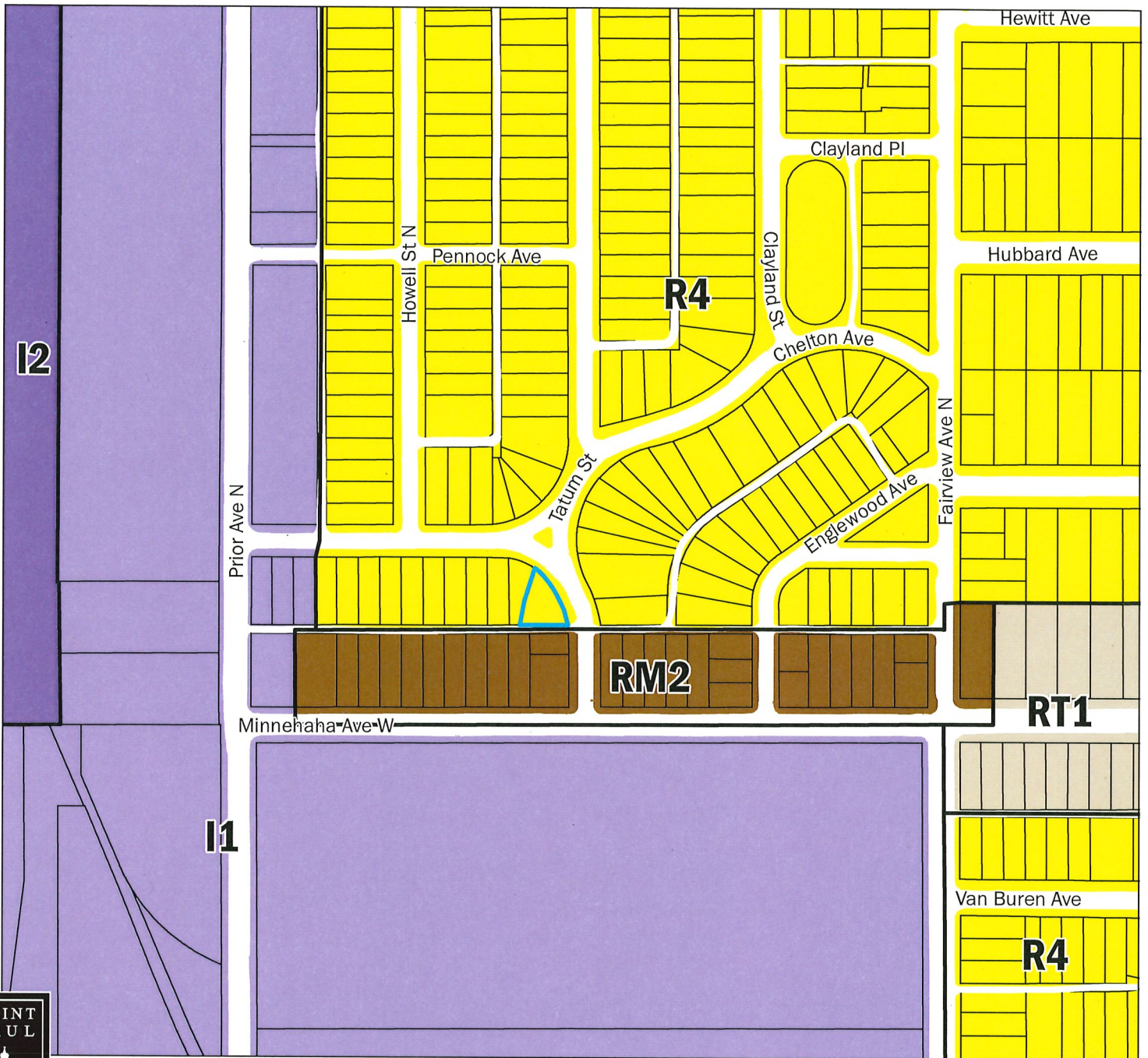
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Subject Parcel(s) Outlined in Blue

- | | | | |
|---------------------------|--------------------------------|--------------------------------|--------------|
| 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 | |
| Multifamily | Industrial and Utility | Railway | |



FILE #18-120737 | ZONING MAP
Application of James Kilau

Application Type: Re-establishment of NCUP
 Application Date: November 2nd, 2018
 Planning District: 11



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Subject Parcel(s) Outlined in Blue

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