

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Moises Romo **FILE #** 16-016-050
  2. **APPLICANT:** Moises Romo **HEARING DATE:** March 24 & May 5, 2016
  3. **TYPE OF APPLICATION:** Nonconforming Use Permit - Reestablishment
  4. **LOCATION:** 419 Sherburne Ave, between Arundel and Western
  5. **PIN & LEGAL DESCRIPTION:** 36.29.23.24.0072; Smiths Sub of Stinsns Div, Lot 36, Blk 16
  6. **PLANNING DISTRICT:** 7
  7. **ZONING CODE REFERENCE:** § 62.109(e) **PRESENT ZONING:** R4
  8. **STAFF REPORT DATE:** March 17, 2016, updated 4-26-15 **BY:** Tony Johnson
  9. **DATE RECEIVED:** March 7, 2016 **60-DAY DEADLINE FOR ACTION:** May 6 13, 2016
- 

- A. **PURPOSE:** Reestablishment of nonconforming use as a triplex
- B. **PARCEL SIZE:** 5000 sq. ft. (40 ft. X 125 ft.), 13 ft. wide alley at rear
- C. **EXISTING LAND USE:** R-Single Family Dwelling
- D. **SURROUNDING LAND USE:** One- and two-family dwellings
- 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:** 1.5 off-street spaces/unit required (fractional space up to and including ½ round down) = 1 space for 1 unit, 3 spaces for 2 units, and 4 spaces for 3 units. Three parking spaces (8½ to 9 ft. wide) meeting the 4 ft. side setback requirement would fit off of the alley on this 40 ft. wide lot. The applicant submitted a photo showing 4 cars parked along the alley.

- G. **HISTORY/DISCUSSION:** The building was originally constructed as a single family dwelling in 1885. Based on historic Sanborn insurance maps, it appears that the house was converted to a duplex in 1912. Between 1922 and 1975 it was in the "C" residence zoning district, which allowed all residential uses. When the City adopted a new zoning code in 1975, it was rezoned to RT1 two-family residential. In RT1 a minimum lot area of 6000 sq. feet and a minimum lot width of 50 feet are required for a duplex, so the duplex became legally nonconforming as to lot area and lot width in 1975. The area was rezoned from RT1 to R4 one-family residential as part of a neighborhood zoning study in 1996, making the duplex legally nonconforming as to use.

It is unclear exactly when the duplex was converted to a triplex. The Polk City Directory showed 419 Sherburne as 2 units in 1955 and as "vacant upper, vacant lower" in 1965. It just shows one unit and one name in 1975, 1976 and 1981, and two resident names in 1985-1986. The house had a Certificate of Occupancy (C of O) for 3 units most of the time between 1981 and 2010. The Polk Directory shows 3 apartments and 2 names in 1991; but just one resident name in 1996. The Coles Directory shows 3 apartments and one name in 1996.

After a fire the property was on the vacant building list in 1999. The property was issued a new certificate of occupancy in 2001 for three units. The property was put back on the vacant building list in 2008. A code compliance report was done for the building on April 7, 2010, listing a number of deficiencies that needed to be corrected. On May 25, 2010, the former property owner, Kyle Colbert, submitted a residential use affidavit stating his intention to convert the triplex to a one-family dwelling and was issued a building permit to make the necessary code compliance repairs. The building was inspected and received final approval for the repairs and conversion back to a one-family dwelling, with only the first floor certified for occupancy, on November 11, 2010.

On May 14, 2013, the Dept. of Safety and Inspections (DSI) Fire Safety Division received a complaint that the property was being illegally converted back to a triplex. An inspection was conducted on May 22, 2013, which resulted in the Fire Safety Division revoking the C of O and putting the property back on the vacant building list as a category 2 vacant building. The former owner appealed this order and was given eight weeks to make the necessary repairs to have the building's C of O reinstated. On August 1, 2013, the property was reinspected and the first floor of the building was given a new Certificate of Occupancy 1 unit. On August 26, 2013 the property was sold to Moises Romo.

At the March 24, 2016, public hearing on his application to reestablish legal nonconforming use of the house as a triplex, Moises Romo said the house was set up as a triplex when he bought it; that each of the three units had a separate utility meter, entrance and bathroom; and that he simply reinstalled kitchen faucets and appliances that had been removed. He has lived in the third floor apartment and rented out the apartments on the first and second floors since 2013. When the applicant recently attempted to refinance his house, he learned that his triplex was legally considered a single family dwelling, resulting in the application for reestablishment of nonconforming use.

On April 7, 2016, the Zoning Committee reopened the public hearing and continued it to May 5, 2016, at the request of the applicant and the Frogtown Neighborhood Association to provide time for a neighborhood meeting on this case.

H. **DISTRICT COUNCIL RECOMMENDATION:** The District 7 Frogtown Neighborhood Association submitted a March 24 letter in support and an April 6 letter in support of the applicant's request to reopen the public hearing and continue it to May so the Frogtown Neighborhood Association could host a neighborhood discussion on this case prior to a Zoning Committee recommendation.

I. **FINDINGS:**

1. Section 62.106 (d) states: *When a nonconforming use changes to a use permitted in the district in which the property is located, a nonconforming use may not thereafter be resumed. When a nonconforming use changes to a use first permitted in a more restrictive district, nonconforming uses first permitted in less restrictive districts shall not thereafter be resumed.* A residential use affidavit was submitted to the zoning administrator on May 25, 2010 stating the owner's intention to convert the house to a single family dwelling. On November 11, 2010, the building was inspected and received final approval for necessary code compliance repairs for certification of only the first floor for occupancy as and conversion to a single family dwelling, with the second and third floors to remain vacant. ~~Therefore, under section 62.106 (d), the house cannot now legally be converted back to triplex.~~
2. The Planning Commission has adopted duplex and triplex conversion guidelines, which state that for applications for nonconforming use permits for triplexes (and duplexes) in residential districts, staff will recommend denial unless the following guidelines are met:
  - (a) Lot size of at least 6,000 square feet (5000 SF for a duplex) with a lot width or front footage of 50 feet (40 feet for a duplex). This guideline is not met for the reestablishment of a triplex. The property is 5,000 square feet with a 40 foot frontage width. ~~The Planning Commission's Duplex Conversion Guidelines for a lot size of at least 5,000 square feet and a lot width of 40 square ft. This guideline is met for the reestablishment of a duplex.~~
  - (b) Gross living area, after completion of triplex conversion, of at least 2,100 square feet (1500 SF for a duplex). No unit shall be smaller than 500 square feet. This guideline is met. According to Ramsey county property records, the finished floor area of the structure is 2,575 sq. ft. According to floor plans submitted by the applicant the smallest (the 3<sup>rd</sup> floor unit) is larger than 500 sq. feet. Under section R305.1 of the 2015 Minnesota State Building Code, habitable space shall have a minimum ceiling height of at least 7 ft.

For rooms with sloped ceilings, at least 50 percent of the required floor area of the room shall have a ceiling height of at least 7 feet and no portion of the required floor area may have a ceiling height of less than 5 feet. The third floor unit has 435 sq. ft. of floor area with at least 7 ft high ceilings and 621 sq. ft. of floor area with at least 5 ft. ceilings.

- (c) *Four off-street parking spaces (non-stacked) are preferred; three spaces are the required minimum.* This guideline is met. The site has a parking pad off of the alley that has space for 3 parking spaces meeting the 4 foot side setback requirement, and the applicant has submitted a photo showing 4 cars parked along the alley with 4 off-street parking spaces.
  - (d) *All remodeling work for the triplex is on the inside of the structure unless the plans for exterior changes are approved by the Planning Commission or Board of Appeals.* This guideline is met. No exterior changes are proposed.
  - (e) *For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a triplex 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 could be met. The 2013 certificate of occupancy only certified the first floor unit. If the planning commission approves the reestablishment of a nonconforming triplex, a new certificate of occupancy would need to be obtained for the whole building. If the planning commission approves the reestablishment of a duplex the building would have to be inspected for code compliance. The property would not need a certificate of occupancy if it is an owner occupied duplex. However, the Fire Safety Division of DSI has requested that the applicant take a Landlord 101 class as a condition of approval for the reestablishment of either a duplex or a triplex.
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 for a duplex, but not for a triplex. The structure was originally built as a single family home in 1885. It is a large house, with about 2500 sq. feet of finished floor area. It appears to have been converted to a duplex in 1912, with identical first and second floors laid out as a typical up-down duplex. It is unclear when a third unit was later added in the attic. The structure had a Certificate of Occupancy for three units most of the time from 1981 to 2010. On May 25, 2010, the former owner submitted a residential use affidavit to the Zoning Administrator stating his intention to convert the house back to a one-family dwelling, and took out a building permit to make necessary code compliance repairs for certification of only the first floor for occupancy as convert the house to a one-family dwelling, with the second and third floors to remain vacant. The building permit valuation to convert the house to a one-family dwelling and bring it up to code was \$12,500. It appears that The house has been used again as a triplex since it was sold in August of 2013. Converting the property back to a one-family dwelling would, at a minimum, require the property owner to remove two kitchens and remove any locks between the units. Because the building has been structured as a duplex, with identical first and second floor layouts for over a century, and because of the relatively large size of the first and second floor units, it cannot reasonably or economically be used as a one-family dwelling. The third floor unit is

much smaller and could reasonably and economically be used as part of the second floor unit.

- (2) The proposed use is equally appropriate or more appropriate to the district than the previous legal nonconforming use. This finding is met for both a duplex and triplex, which would be the same use as the previous legal nonconforming uses.
- (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 for both a duplex and triplex. The immediate area has a mix of one, two, and three unit dwellings. The property has adequate off street parking on the parcel.
- (4) The proposed use is consistent with the comprehensive plan. This finding is met for both a duplex and triplex. The Housing Chapter of the Comprehensive Plan supports an increase in housing choice (strategy H1.1) across the city to support economically diverse neighborhoods. The District 7 plan calls for "increasing the level of home ownership and rental property for people with a variety of income levels and housing needs (H6, p.4). At the March 24<sup>th</sup> public hearing, the applicant stated that the two rental units in his triplex are priced at 40% below market rate. Strategy 3.1 of the housing chapter of the comprehensive plan calls for the preservation of private affordable housing.
- (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 March 7, 2015: 18 parcels eligible; 12 parcels required; 12 parcels signed.

- J. **STAFF RECOMMENDATION:** Based on the findings 1, 2(a), and 3(1) above, staff recommends denial of reestablishment of nonconforming use as a triplex and approval of reestablishment of nonconforming use as a duplex at 419 Sherburne Avenue subject to the following conditions:
- 1) The applicant must submit plans to convert the property to a two-family dwelling and the property must be inspected for code compliance by July 1, 2016.
  - 2) Conversion of the entire structure to a duplex, for use of the entire structure as a duplex, and all code compliance work must be completed by January 1, 2017.
  - 3) The applicant must take the Landlord 101 class at the Department of Safety and Inspections by January 1, 2017.



**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 #: 16-016050

Fee: 700.00

Tentative Hearing Date:

3-24-16

PD=7

#3629 23 24 0072

**APPLICANT**

Name Moises Romo  
 Address 419 Sherburne Ave apt 3  
 City ST Paul St. MN Zip 55103 Daytime Phone 612 559-0507  
 Name of Owner (if different) N/A  
 Contact Person (if different) N/A Phone \_\_\_\_\_

**PROPERTY LOCATION**

Address/Location 419 Sherburne Ave  
 Legal Description lot 36 BLK 16  
 Current Zoning Single family  
 (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:
- Change from one nonconforming use to another (para. c)
  - Re-establishment of a nonconforming use vacant for more than one year (para. e)
  - Establishment of legal nonconforming use status for use in existence at least 10 years (para. a)
  - Enlargement of a nonconforming use (para. d)

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

Present/Past Use Triplex

Proposed Use Triplex

Attach additional sheets if necessary

CK5052  
700.00

Attachments as required  Site Plan

Consent Petition

Affidavit

Applicant's Signature [Signature]

Date 3-1-16

City Agent [Signature]  
3-2-16

- **The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose**

*Each unit has a front entrance, back entrance, kitchen, bathroom, separate electric and gas meters. To be converted to a single family home would not be reasonable because it would require a complete change of floor plans and would be very costly. It would also cause me serious financial hardship losing the income from my tenants on the first and second floors and I'm unable to bear the expense of reconstructing the floor plans. It's worth mentioning that I live at the property and keep the units in great shape (see photos).*

- **The proposed use is equally appropriate or more appropriate to the district than the previous nonconforming use**

*The proposed use is equally appropriate to the district. There are a good mixture of multi-family homes as well as single family homes in the area.*

- **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**

*When I bought the home in 2013, it was vacant and a complete eyesore to the community. I really put great effort to make it nice again. I have been living at this property and renting out the units since I bought it and it's proved to work out great. Many long term neighbors have complimented the improvements and have expressed contentment with me for carefully choosing responsible tenants. This home is one of the most attractive on the block with a nice landscaping and great curb appeal.*

419 Sherburne.

Each floor is a separate unit, each with a kitchen and bath.

I've lived on the 3rd floor for 3 years, and still live there. I bought the property on August 26, 2013.

Each unit has a front entrance and a back entrance.

Each unit entrance is accessed by common areas.

Each unit is completely private from the others.

Each unit has its own utility meters.

Heat and Electric are separated for each unit with a furnace serving the first floor, another furnace

serving the second floor, and a baseboard radiator serving the common areas.

Each unit has its own electric panel.

There is a separate electric panel for common areas.

Light-switches are located at the top and bottom of each staircase.

3 mail boxes are installed in front.

This building was a triplex previously.

When I bought it, it was vacant and had

been vacant for quite some time, so I believe

it automatically was rezoned to single family status.

Please feel free to call/email me with any questions.

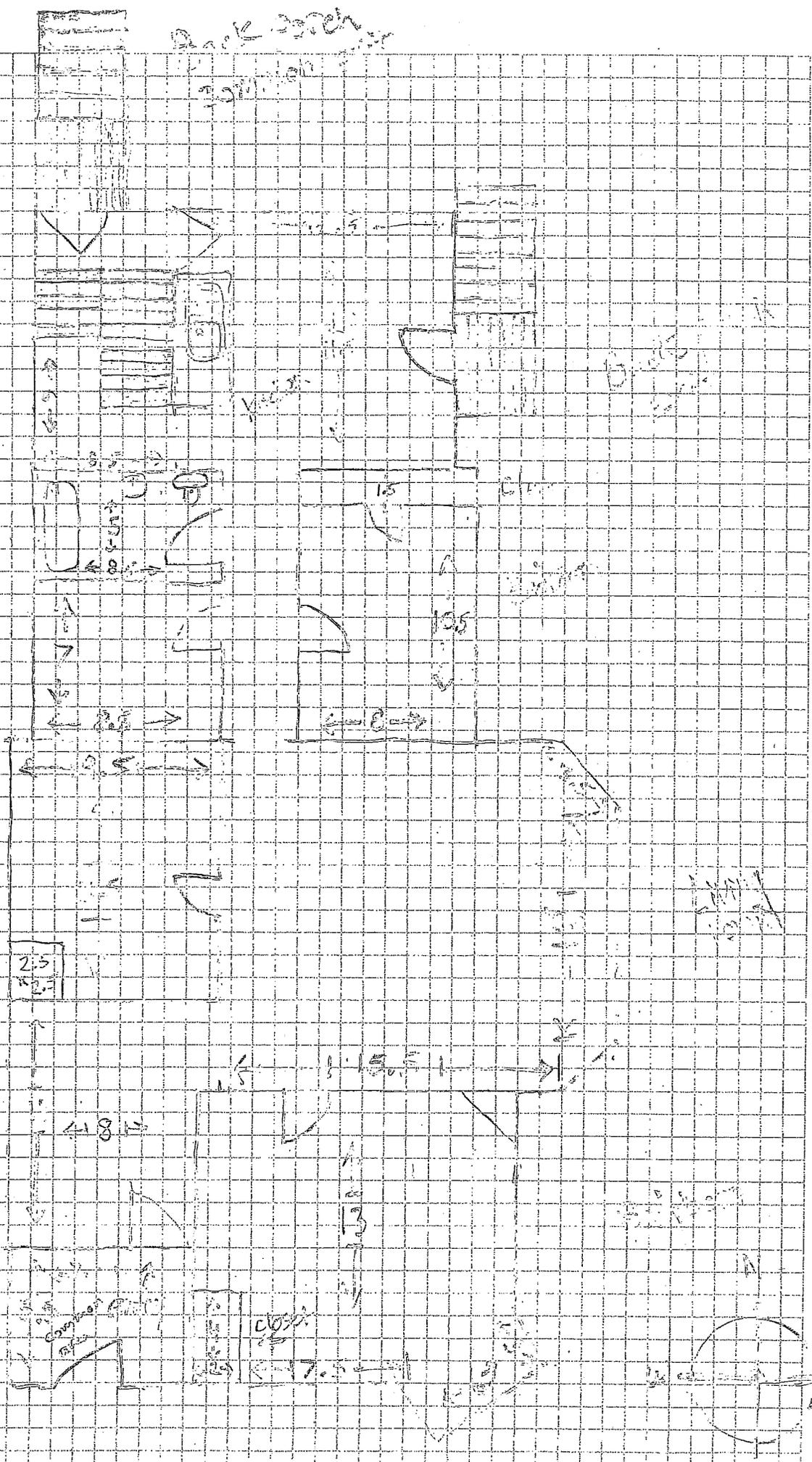
Moises

Phone 612-559-0507

moisesmo1@gmail.com

Back Entry

Handwritten notes in the top left corner, including "J.S." and "4/19/2011".



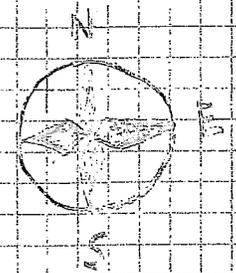
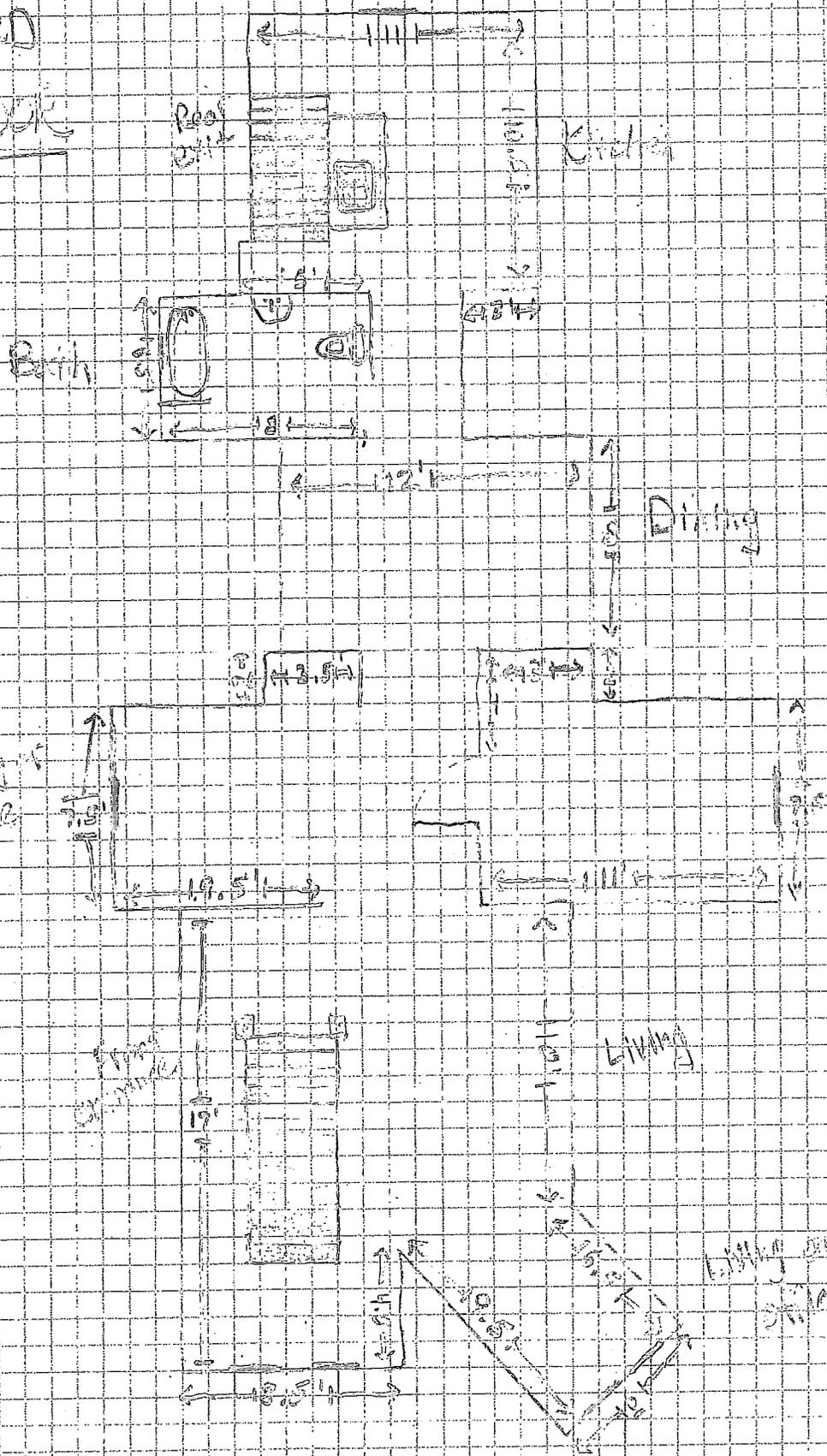
Handwritten notes on the left side, including "Back Entry" and "Handwritten notes".

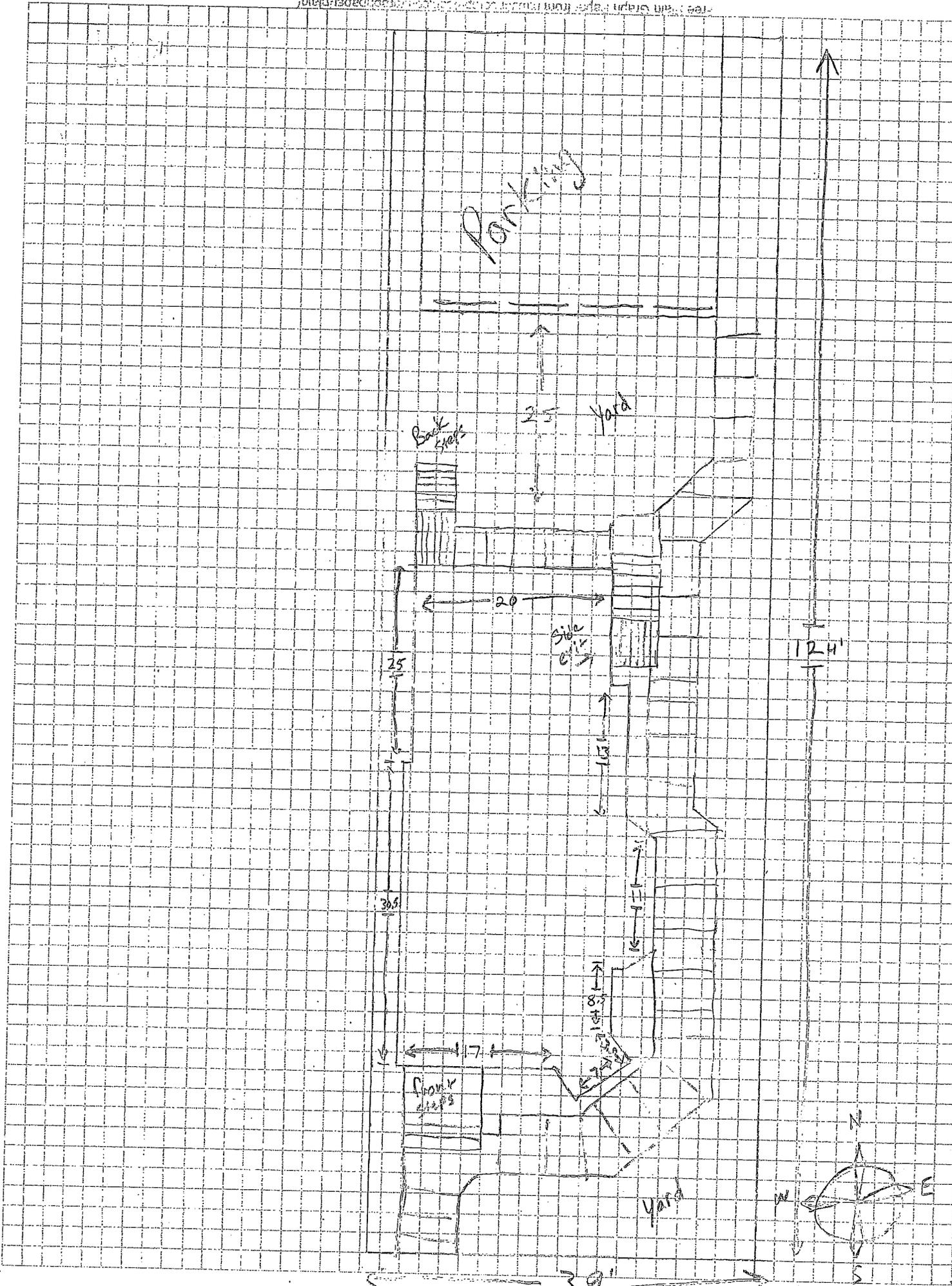
Handwritten notes at the bottom left, including "Handwritten notes" and "Handwritten notes".





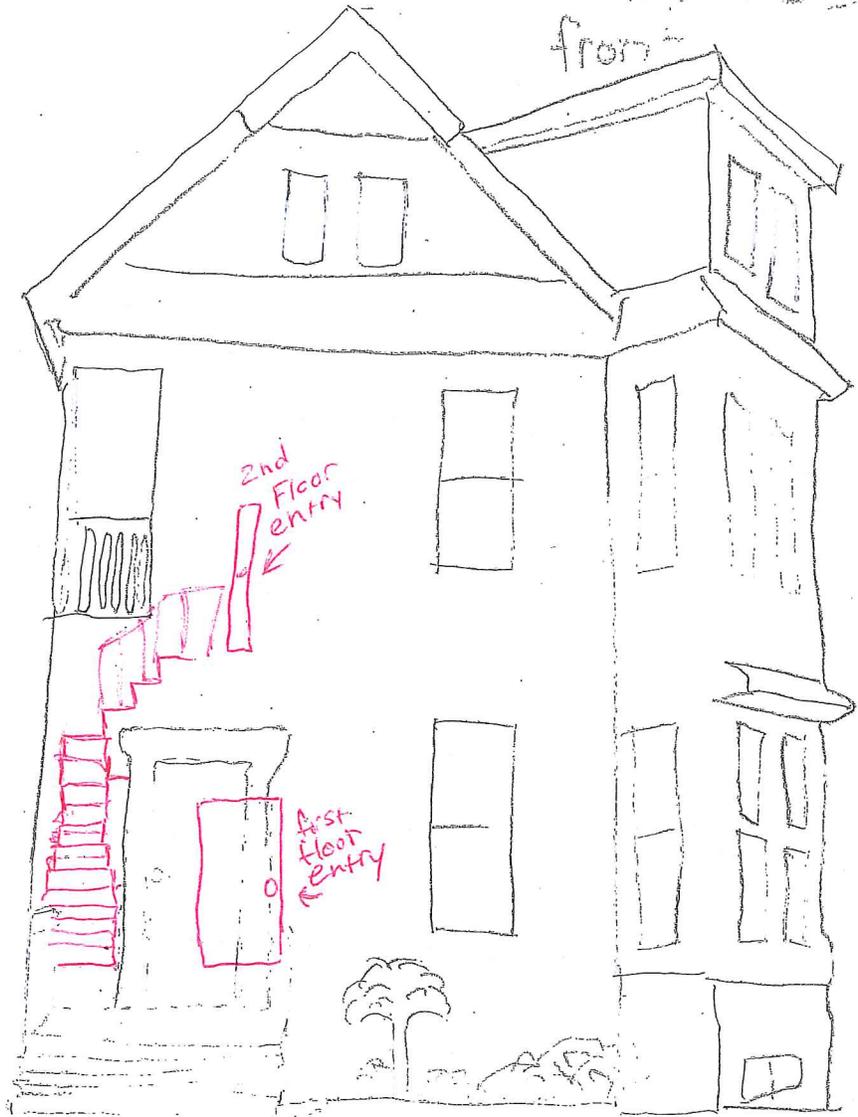
3RD FLOOR







410 Sterling  
1st & 2nd floor  
entrances  
front



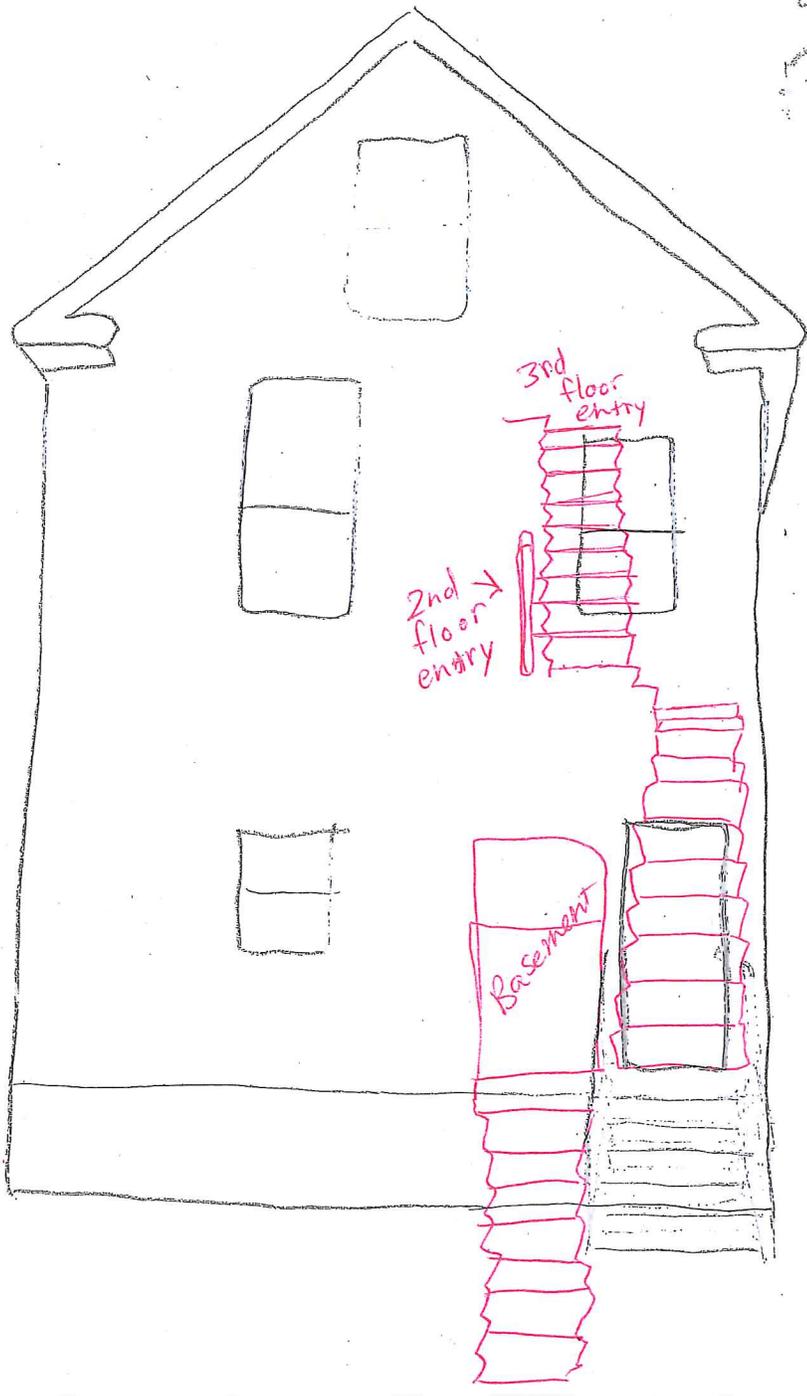
1119 Sherburne

3rd floor

ENTRANCE



419 Starbucke  
Back  
entrances



ZONING PETITION SUFFICIENCY CHECK SHEET

REZONING

SCUP

NCUP

FIRST SUBMITTED

RESUBMITTED

DATE PETITION SUBMITTED: 3/2/16

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

DATE OFFICIALLY RECEIVED: 3/7/16

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

PARCELS ELIGIBLE: 18

PARCELS ELIGIBLE: \_\_\_\_\_

PARCELS REQUIRED: 12

PARCELS REQUIRED: \_\_\_\_\_

PARCELS SIGNED: 12

PARCELS SIGNED: \_\_\_\_\_

CHECKED BY: Paul Dubruel DATE: 3/7/16

**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 Moises Romo  
(name of applicant)

to establish a Multi-family/triplex  
(proposed use)

located at 419 Sherburne Ave  
(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
415 Sherburne	Dde Wobbe		2-19-16
418 Sherburne	Dorothy Shurt		2-19-16
423 423	Isabelle Lee		Feb-19-16
428 CHARLES	Scott Brown		2-23-16
425 Sherburne	DABBY, Ue		2-23-16
422 CHARLES	Russ Brown		2/24/16
408 CHARLES	Simone Johnson		2/24/16
418 Charles	Twana Williams		2/25/16
404 Charles	Mark Thibault c/o Freedom Place		2-25-16
416 Charles Ave	Andrew Goke		2/25/16
429 Sherburne	Andrew Goke		2/25/16
419 Sherburne	Moises Romo		2-25-16

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

CITY OF SAINT PAUL

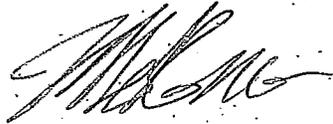
AFFIDAVIT OF PETITIONER FOR A CONDITIONAL  
USE PERMIT OR A NONCONFORMING USE  
PERMIT

STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY)

The petitioner, Moises Romo, 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.



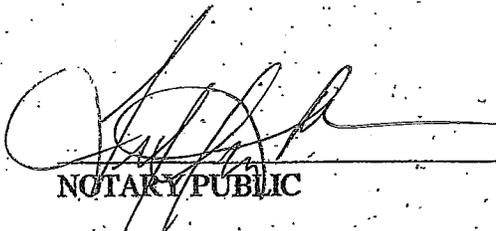
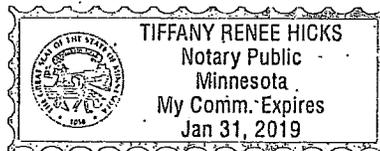
Moises Romo  
NAME

419 Sherbourne Ave Apt 3  
St Paul, MN 55103  
ADDRESS

612-559-0507  
TELEPHONE NUMBER

Subscribed and sworn to before me this

1 day of March, 2016

  
NOTARY PUBLIC

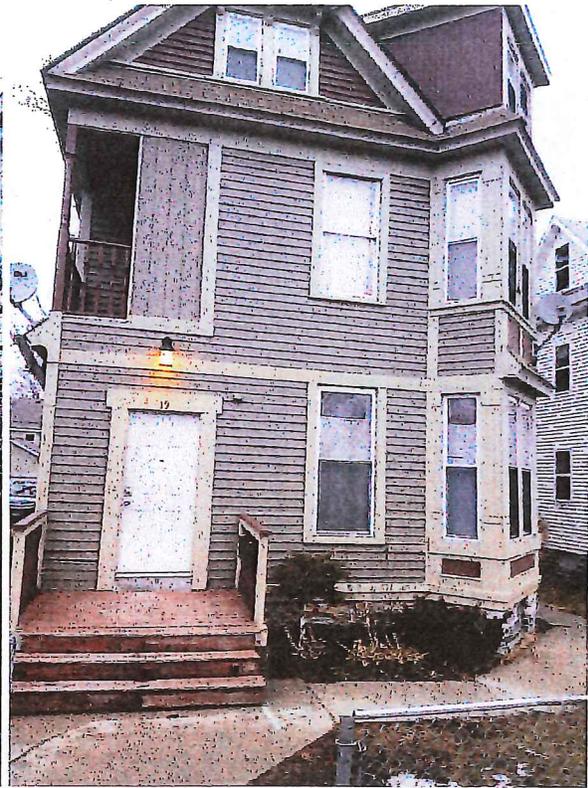
419 Sherburne



Main Entrance



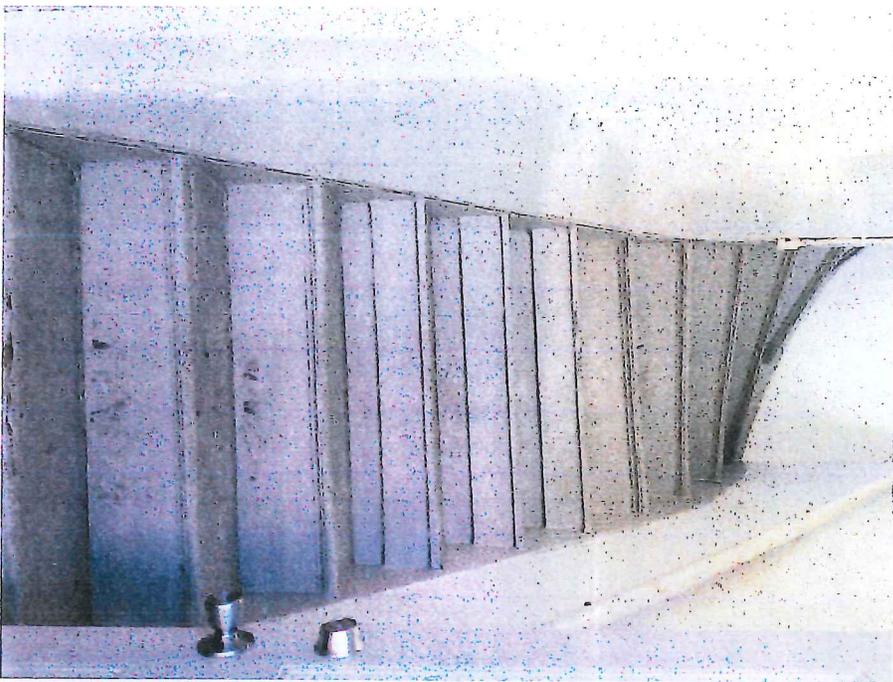
419  
Skerburne



off  
street  
parking

419 Sherburne

Back  
Entrances

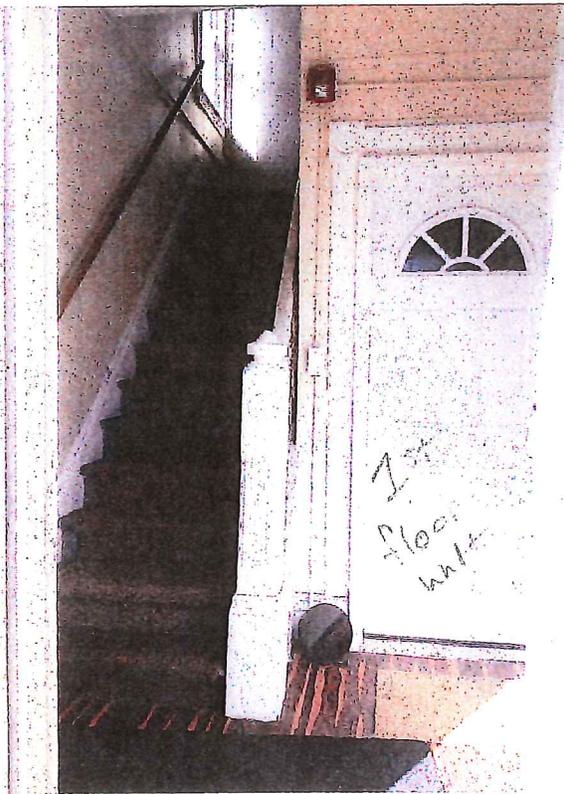


419  
Sherburne

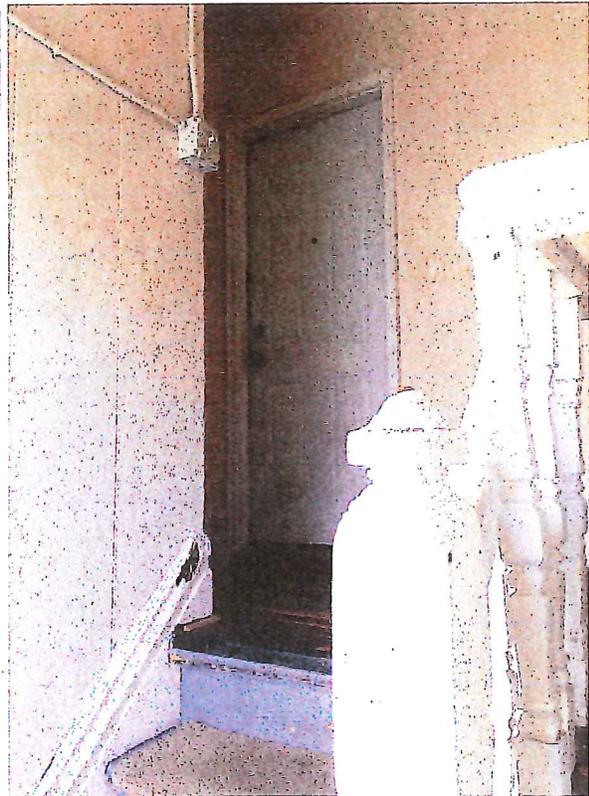


Back  
entrance  
3rd floor

front  
entrance



1st  
floor  
white



front  
entrance  
2nd  
floor

main  
entrance



UP to  
3rd floor  
and 3rd  
floor  
entries

3rd floor  
entry

419  
Skeltonne



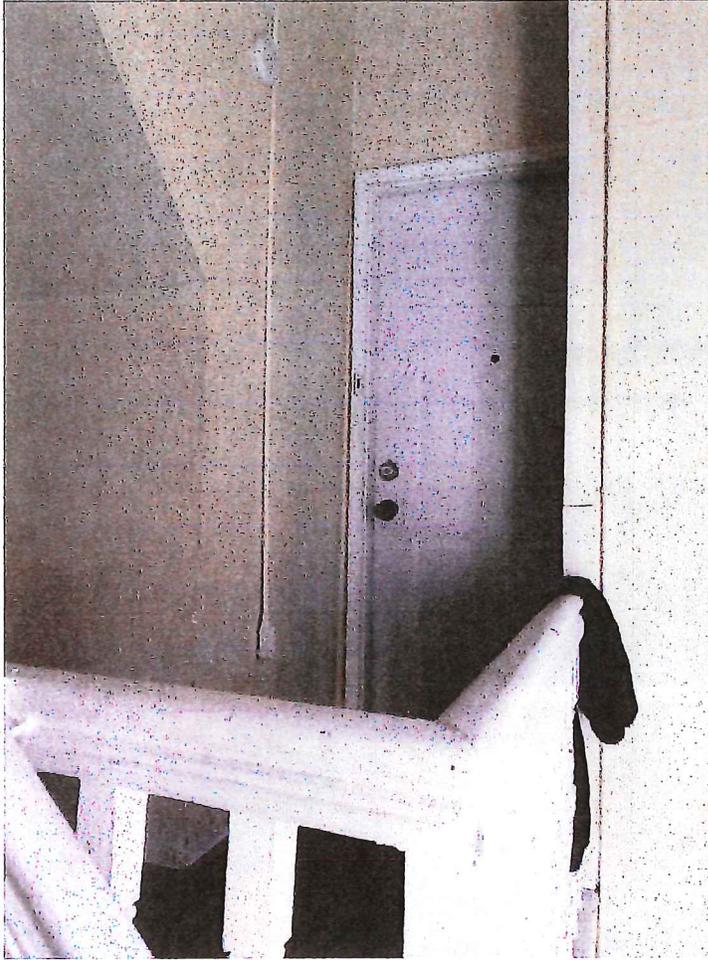
2

Staircase

1st floor  
entry door

2nd floor  
entry where  
photo was  
shot from  
↓

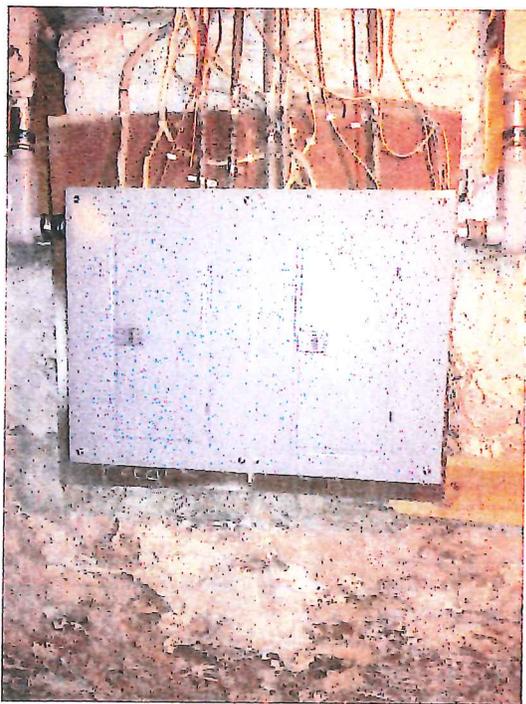
419  
Sherborne  
Ave.



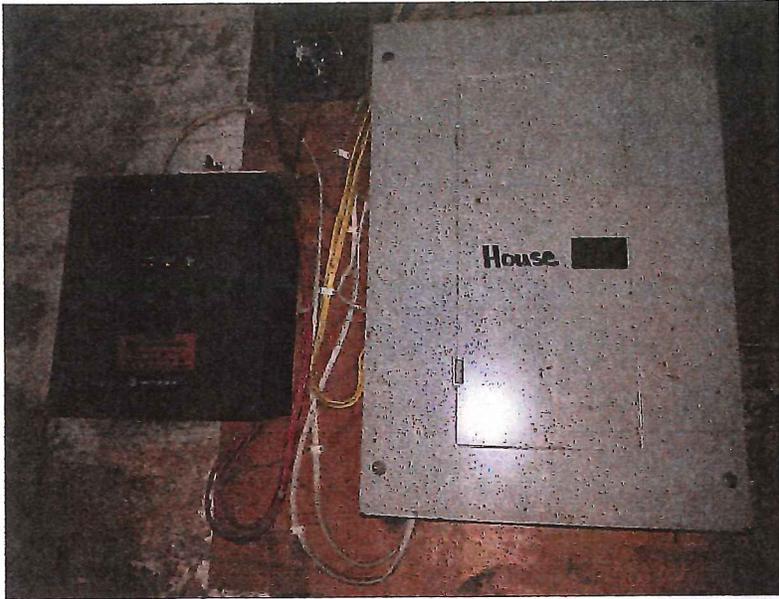
3rd  
floor  
entry

(at second floor level)

419  
Sherburne



419  
Sherburne

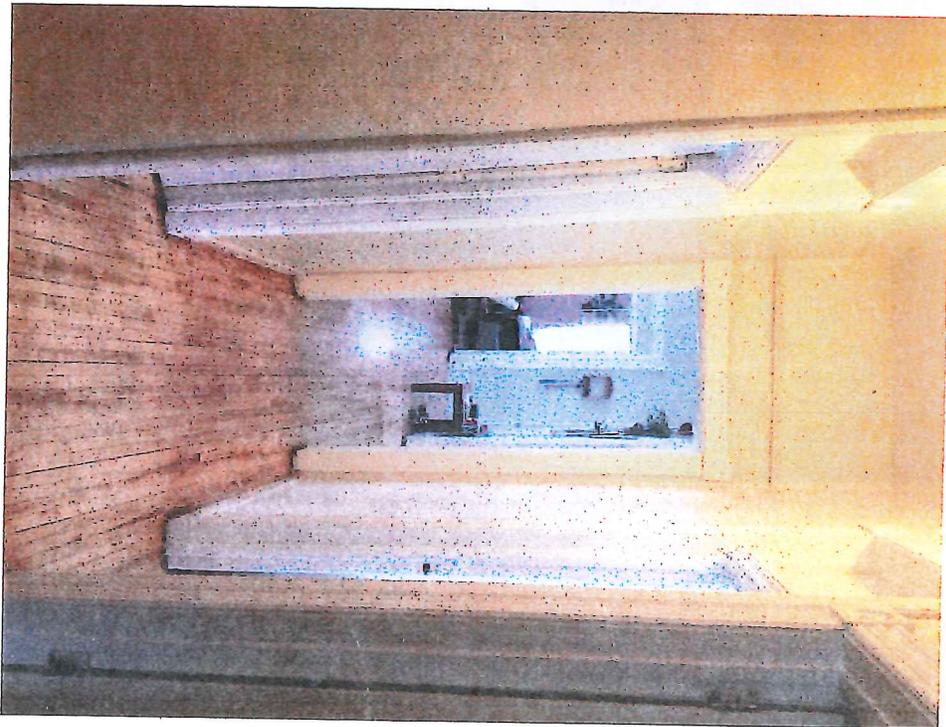


Back

1st floor  
414 Sherburne



Kitchen



Hall

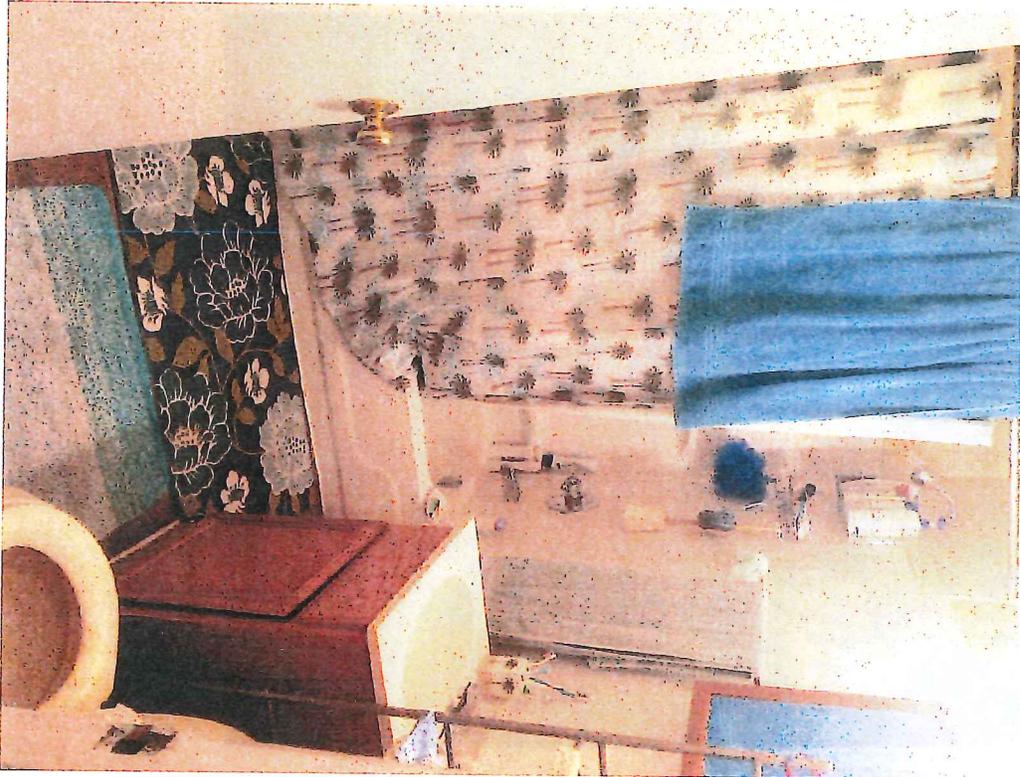
1st floor  
419 Sherburne



Kitchen

1st floor

419 Sherburne



Bath

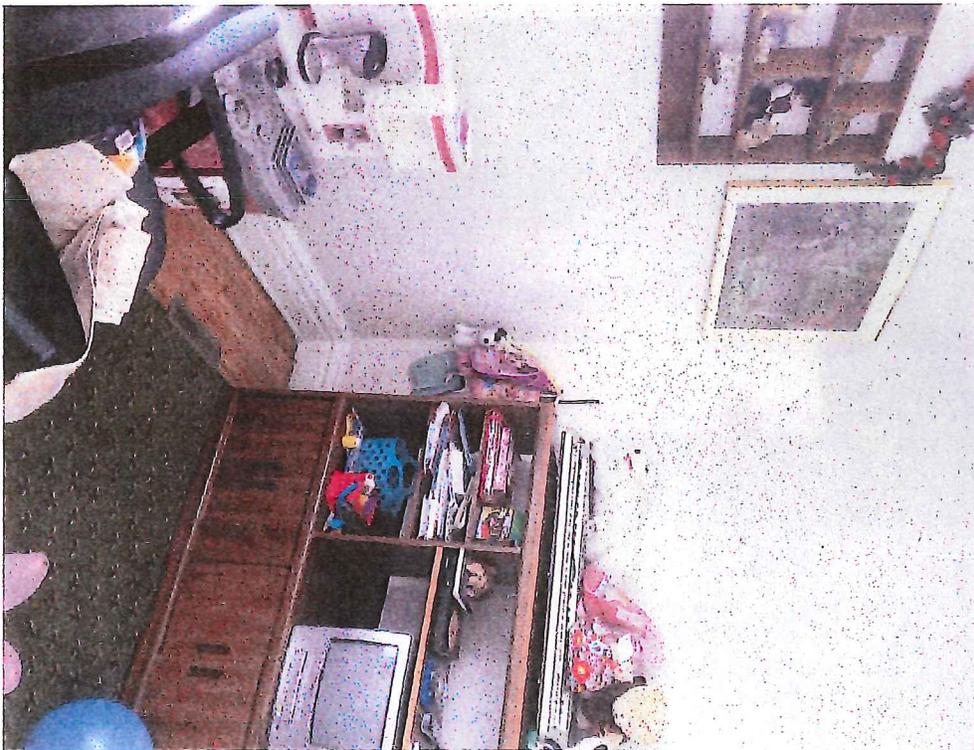


office

1st Floor  
419 Sherburne



Living

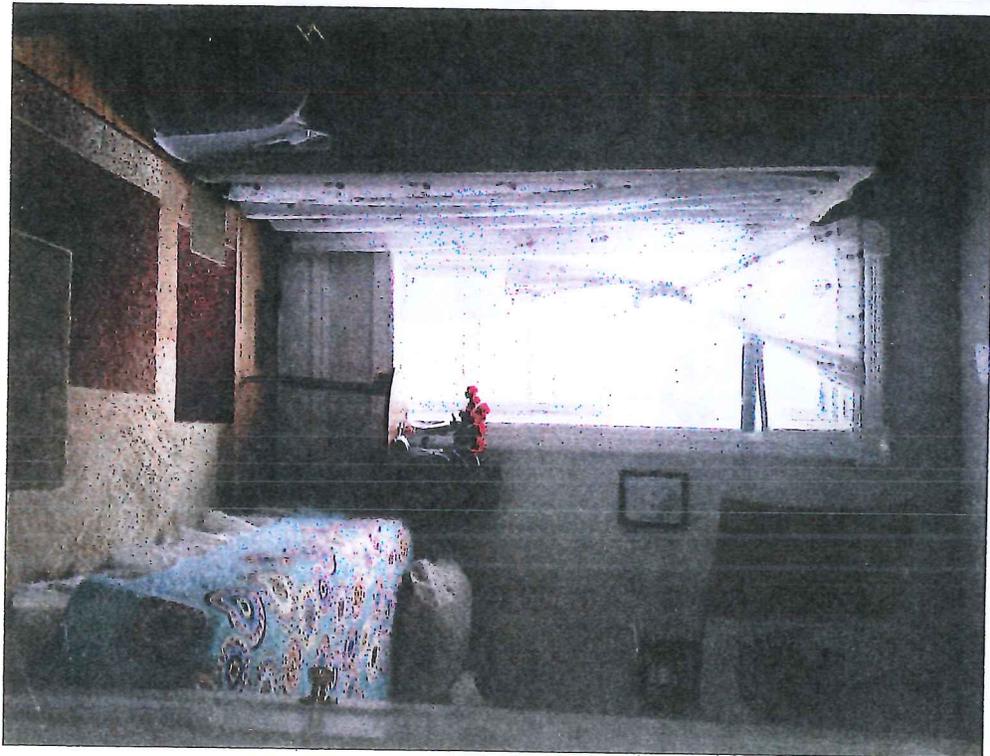


East  
Bedroom

1st floor  
yr 5 kerburwe



East  
Bedroom

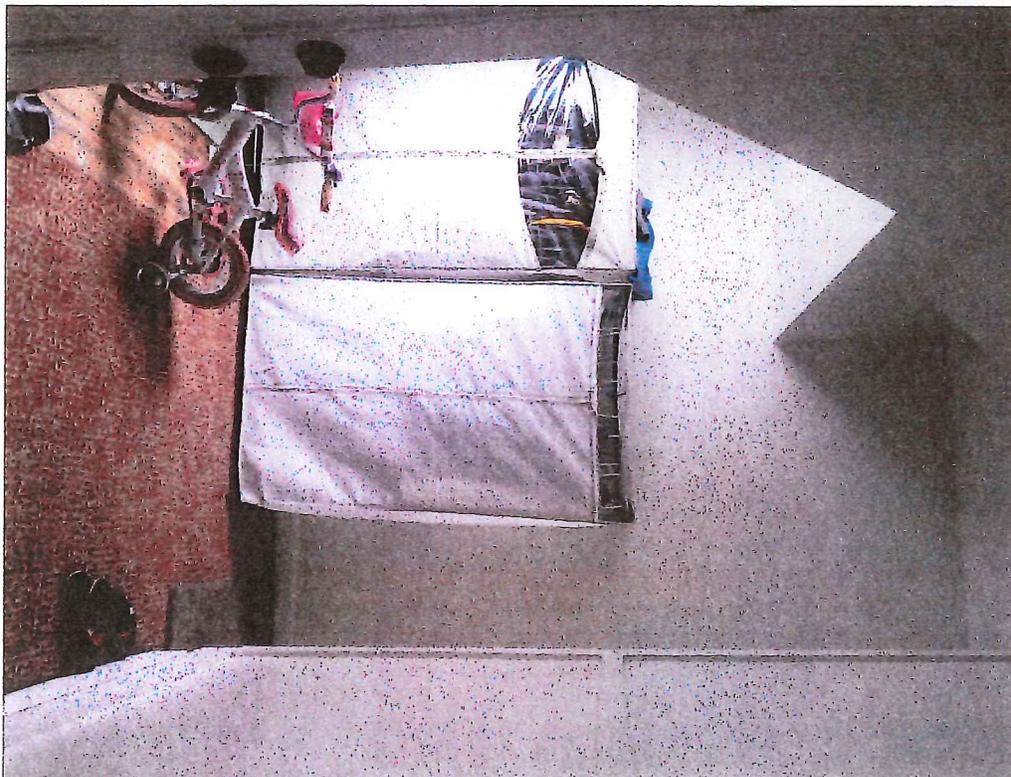


West  
Bedroom

1st floor  
419 Sherburne Ave

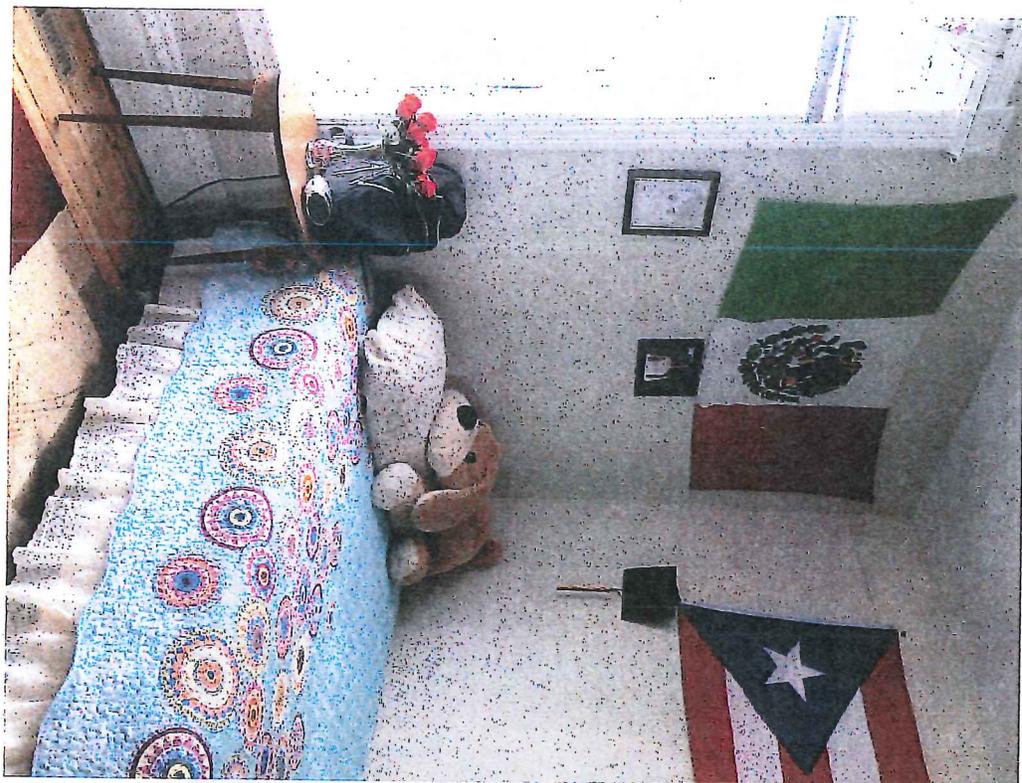


South  
Bedroom

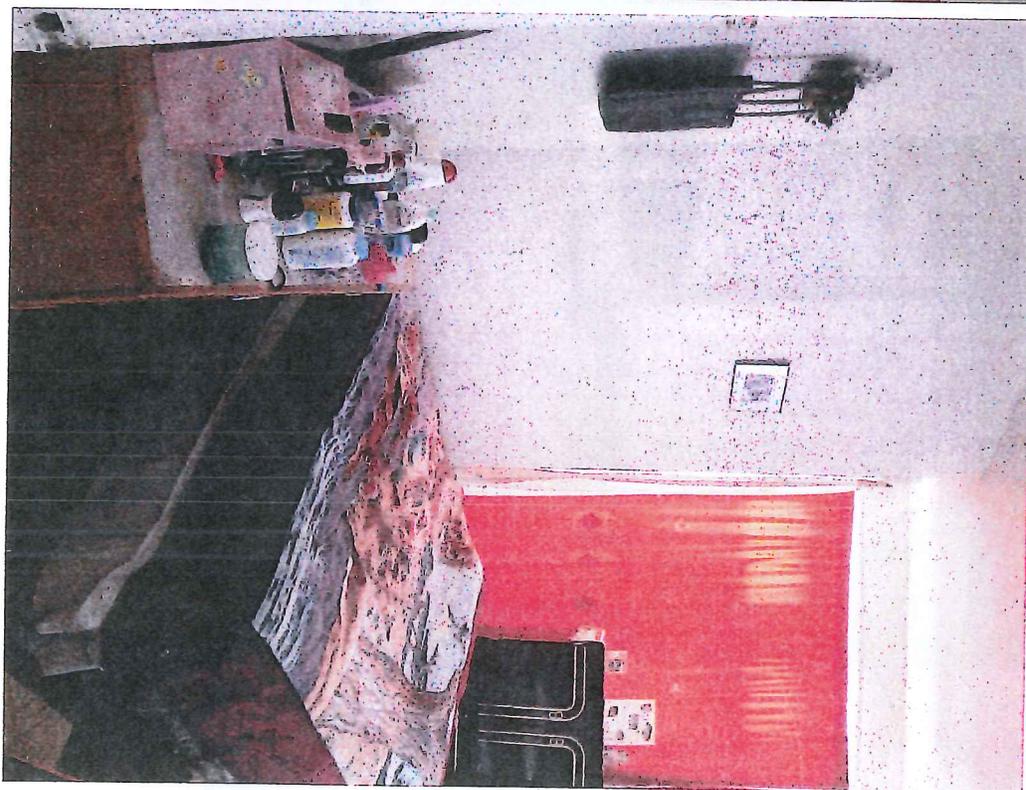


entry  
Storage  
area

1st floor  
419 Sherburne



West  
Bedroom

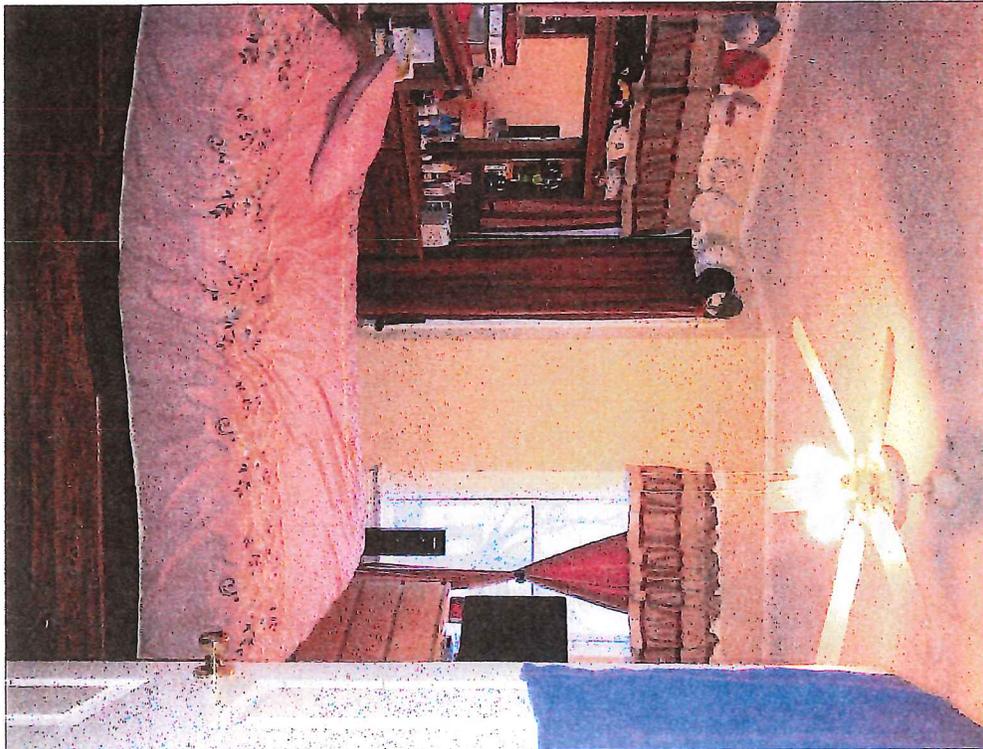


South  
bedroom

2nd floor  
419 Sherburne

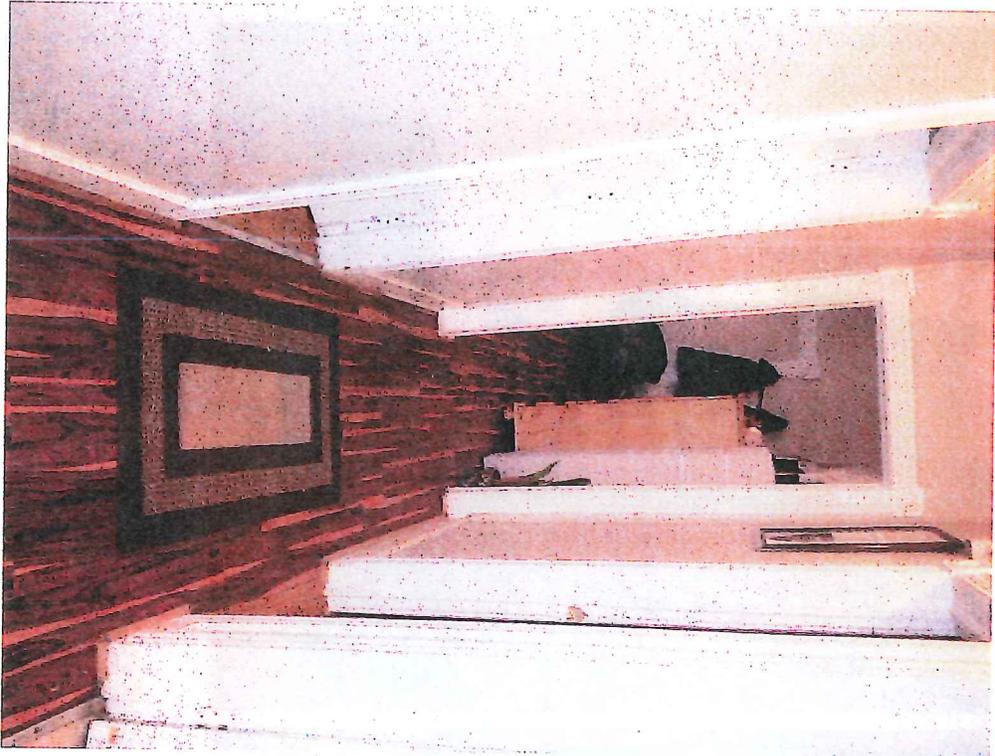


Living



South  
Bedroom

2nd floor  
499 Sherburne

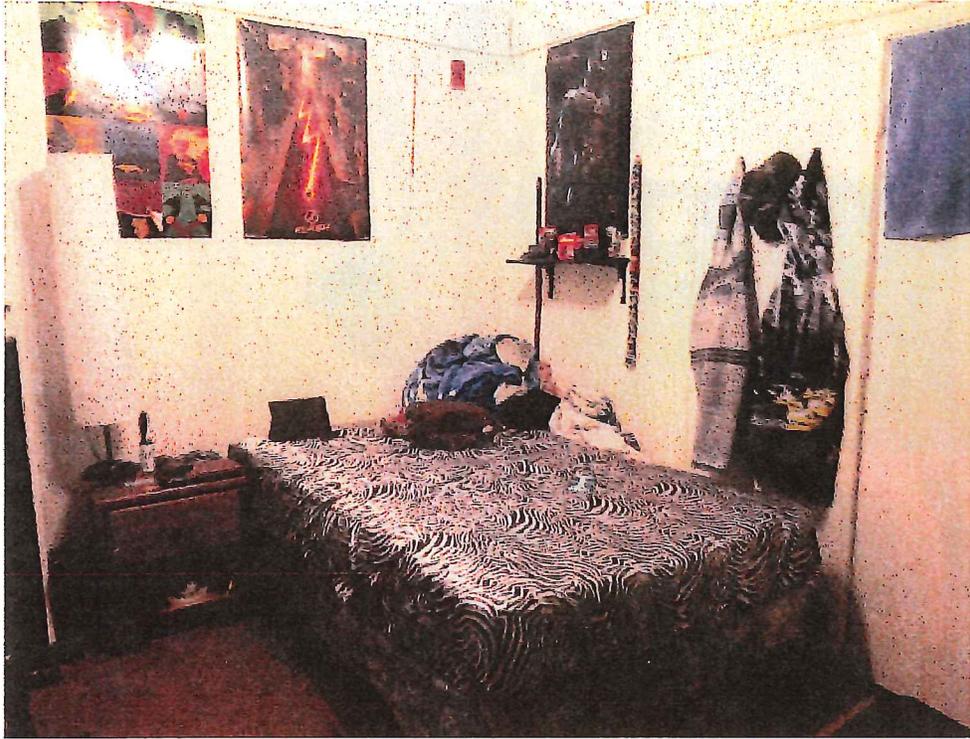


Hall



Bath

2nd floor  
419 Sherburne



West  
Bedroom

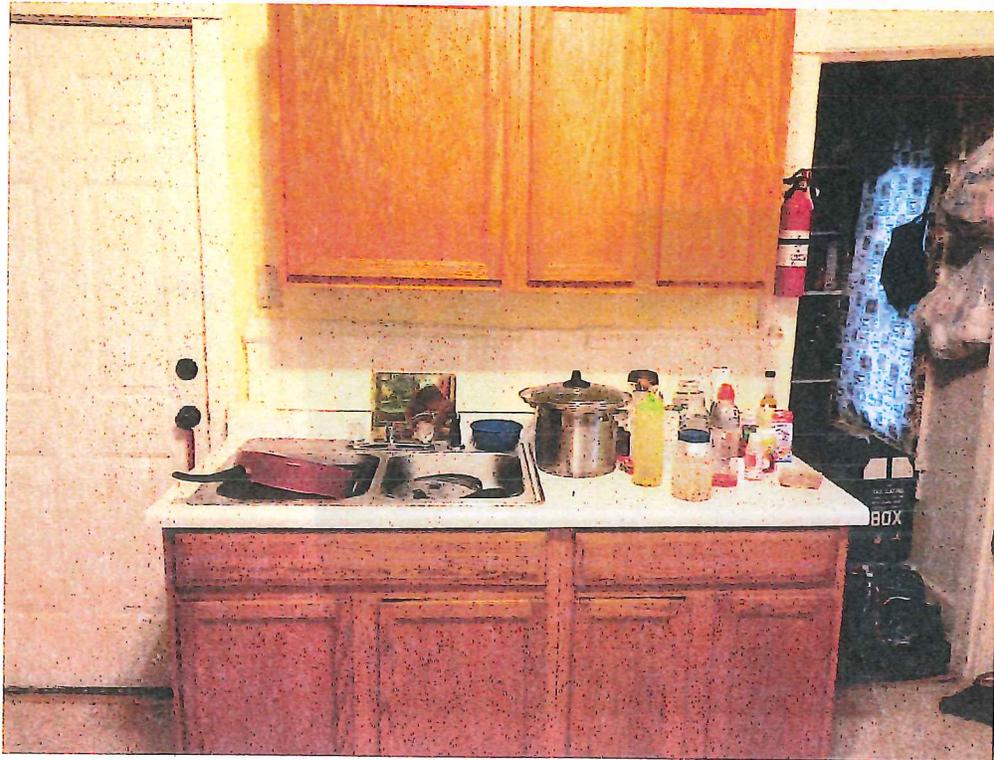


Living

2nd floor  
419 Sherburne



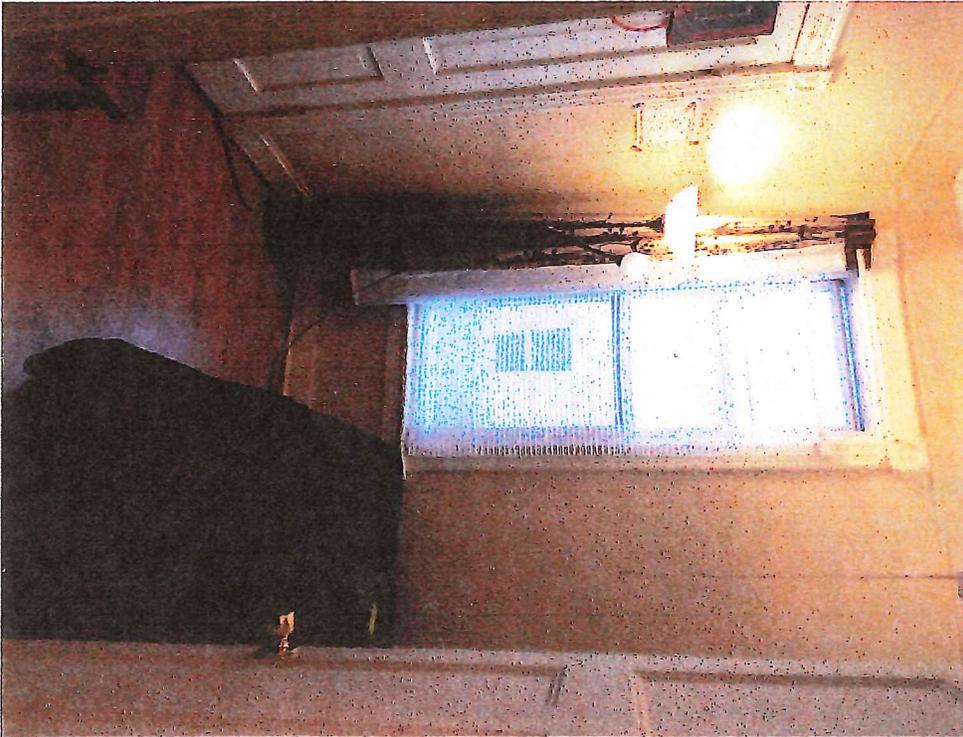
Kitchen



2nd floor  
419 Sherburne

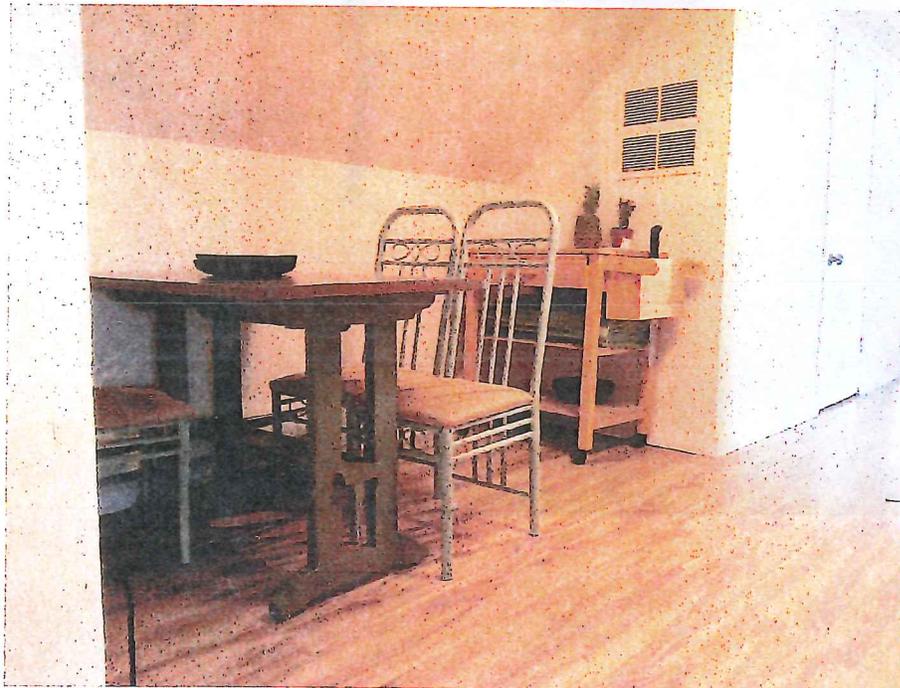
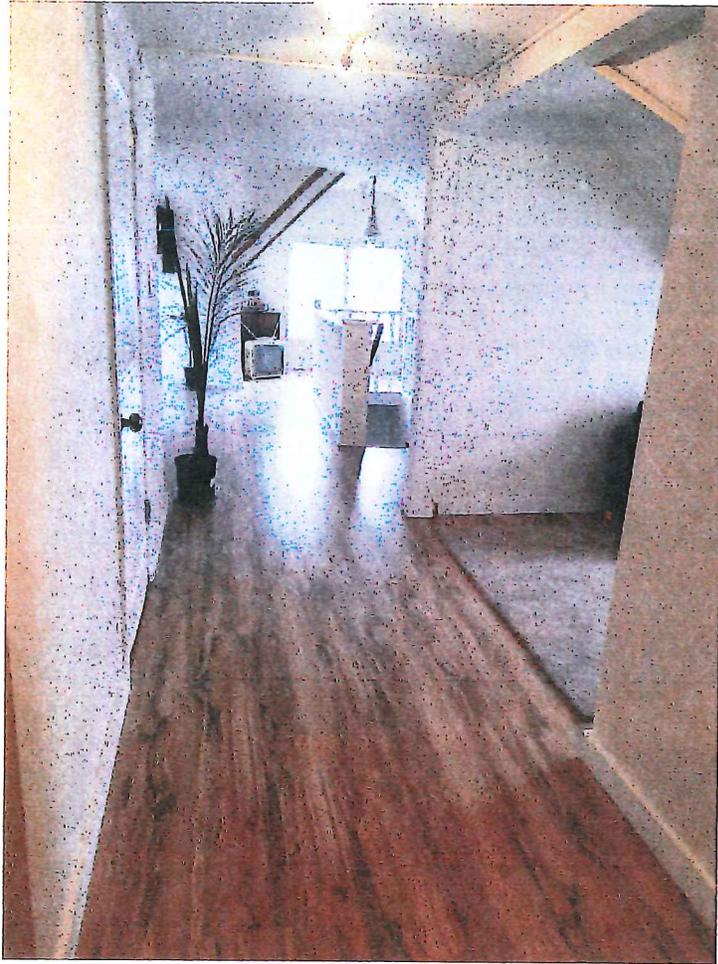


office



East  
Bedroom

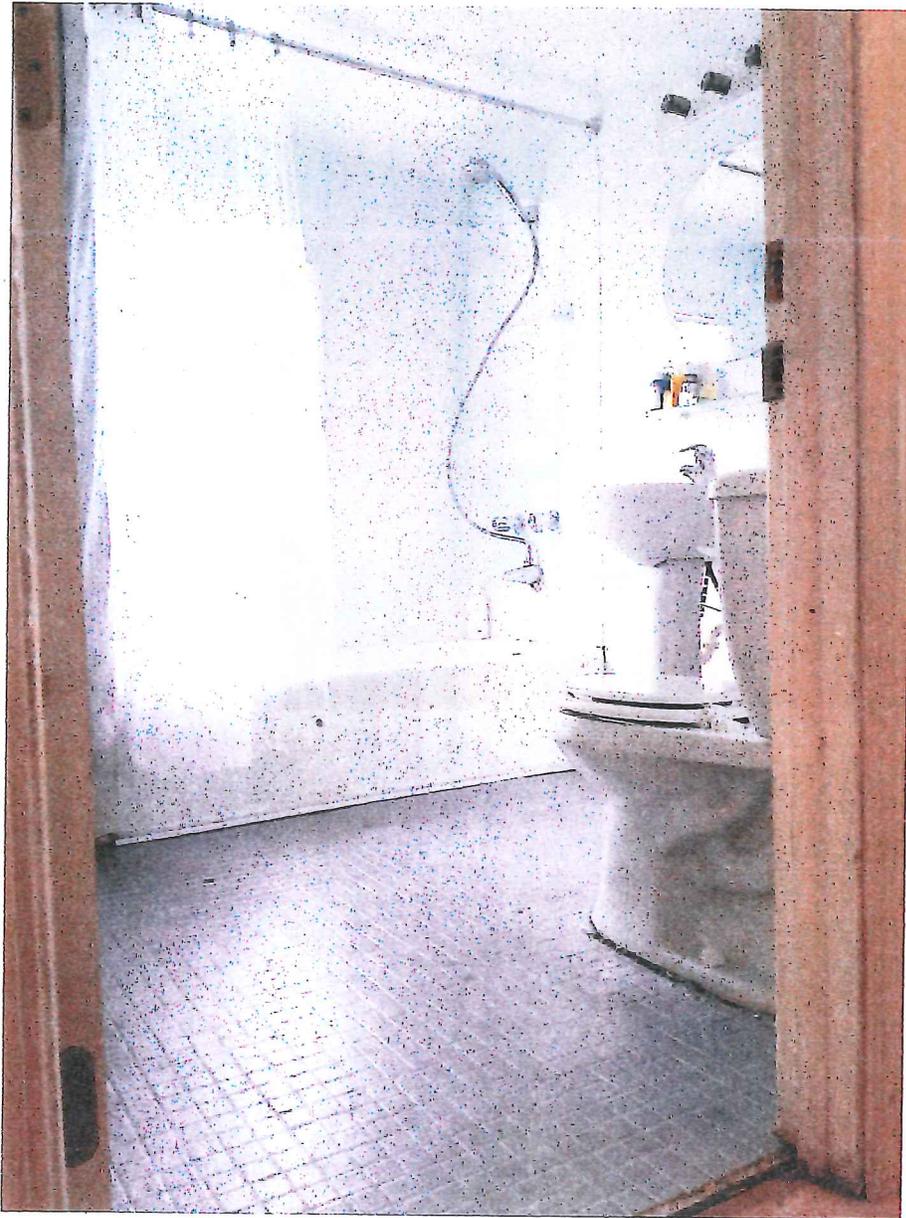
3rd floor  
419  
Sherburne



3rd floor  
419 Sherburne



3rd floor  
419 Sherburne



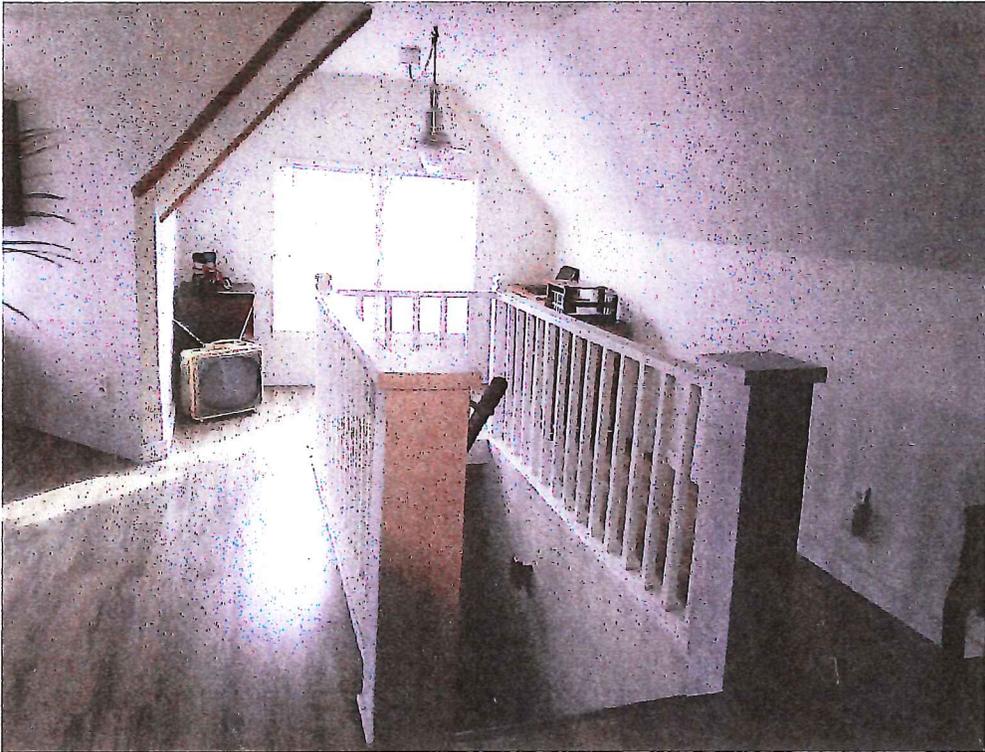
3rd floor  
419 Sherburne



3rd floor  
419  
Sherbourne



3rd floor  
419 Sherburne



3rd floor

419 Sherburne



3rd floor  
419 Starburne



The balcony  
is at 2nd floor  
level, but is only  
accessed by third  
floor unit.



kitchen

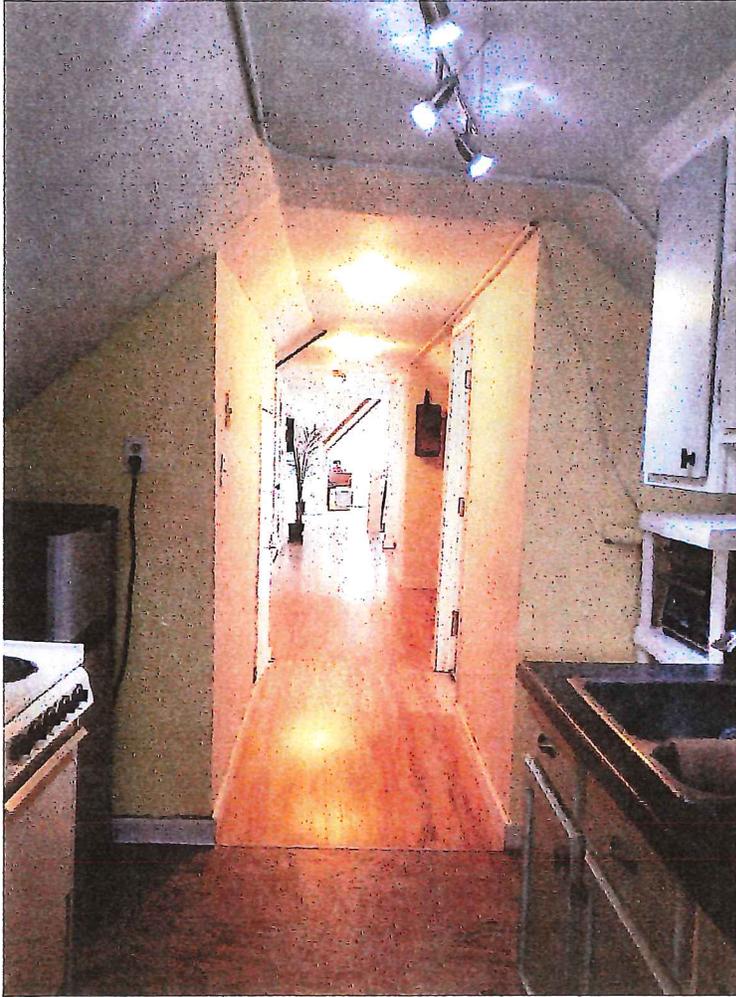
3rd floor  
419 Sherburne



kitchen

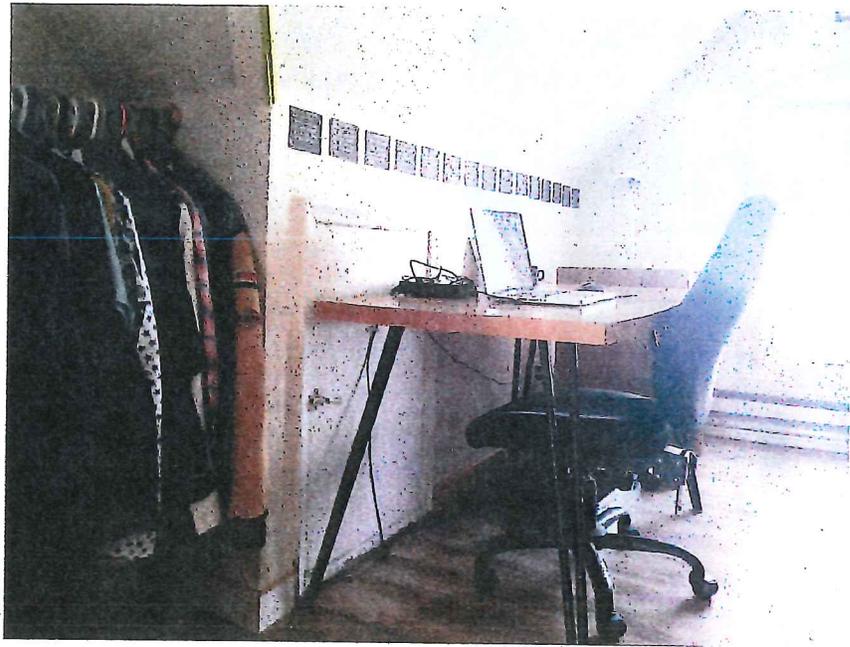
3rd floor

419 Sherburne



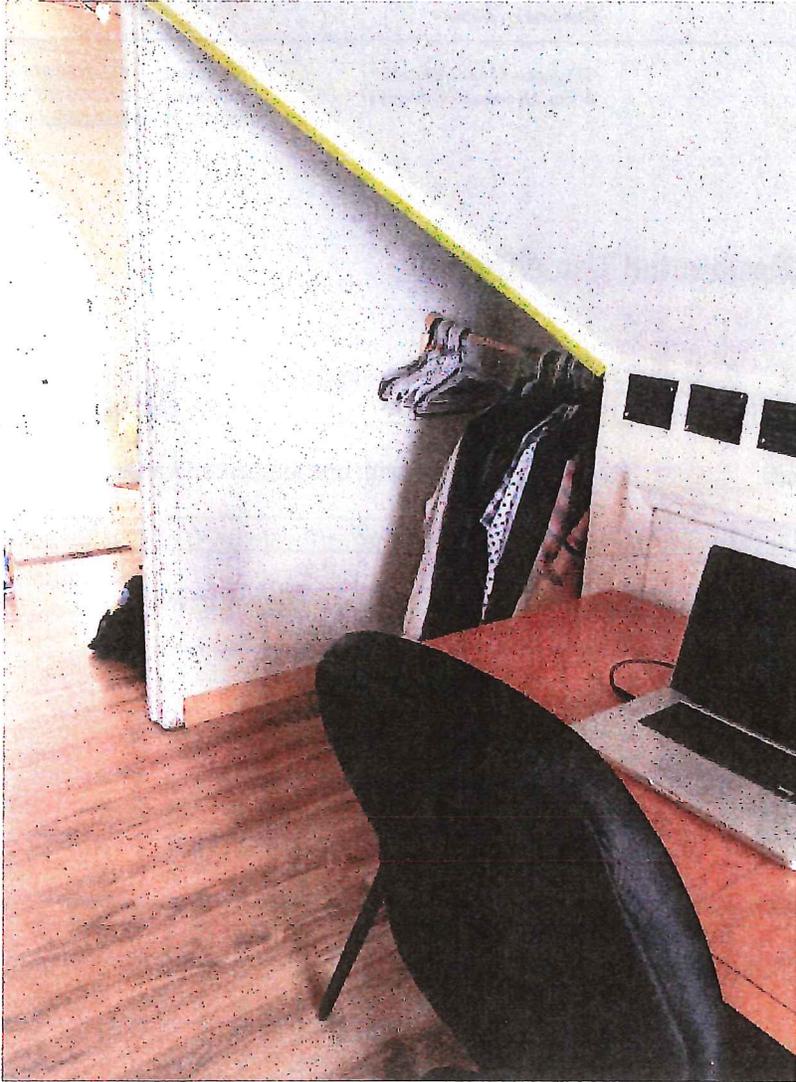
Sleeping area/office

3rd  
floor  
419 Sherbourne



3rd floor

419  
Sherburne Ave





CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
St Paul, Minnesota 55101-1024

Telephone: 651-266-9090  
Facsimile: 651-266-9099  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

### Residential Use Affidavit

I, (Printed Name) YIC Colbert, the undersigned, certify that I own the residence at (address) 419 Sherburne Ave in St. Paul, MN.

I purchased this property in (year) 2010 as a (Single Family with one kitchen or Duplex with two kitchens).

Other The property is currently duplex and I intend to convert to a single family

This property has been converted to a (Single family with one kitchen or Duplex with two kitchens)

This property has been used since purchase as a (Single family or Duplex)

Yic Colbert  
Signature (Homeowner)

5-25-10  
Date

#### Zoning Information

(To be filled in by zoning staff only)

Property zoning: R4

AMANDA status Originally NC 3 unit

Truth in Housing Info

Certificate of Occupancy Inspected prior - was a 3 unit bldg

History Check

Address Folder

Ramsey County 3 units

Action taken Per owner request to convert to SFD, removal of additional units will be field verified by bldg insp.

Zoning Staff Karen Zaehle

Date 5.25.10



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

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

Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

## Code Compliance Report

April 07, 2010

BANK UNITED/REMAX C/O CHAD BAKER  
419 SHERBURNE AVE  
ST PAUL MN 55103

Re: 419 Sherburne Ave  
File#: 08 117399 VB2

Dear Property Owner:

The following is the Code Compliance report you requested on March 17, 2010.

Please be advised that this report is accurate and correct as of the date April 07, 2010. All deficiencies identified by the City after this date must also be corrected and all codes and ordinances must be complied with. This report is valid for 365 days from April 07, 2010. This report may be used in lieu of a Truth in Housing Report required in St Paul Legislative Code 189. This building must be properly secured and the property maintained at all times.

In order to sell or reoccupy this property the following deficiencies must be corrected:

**BUILDING**                      **Inspector: Ken Eggers**                      **Phone: 651-266-9047**

- Insure basement cellar floor is even, cleanable and all holes are filled
- Install plinth blocks under posts in basement
- Tuck Point interior/exterior of foundation as necessary
- Dry out basement and eliminate source of moisture
- Permanently secure top and bottom of support posts in an approved manner
- Install handrails and guardrails at all stairways, including basement stairways, and return handrail ends to the wall or newel post per attachment.
- Strap or support top of stair stringers
- Install tempered or safety glass in window over stair landing to code
- Install tempered or safety glass in window over bathtub to code
- Repair or Replace any deteriorated window sash, broken glass, sash holders, re-putty, etc as necessary
- Provide complete storms and screens, in good repair for all door and window openings
- Provide operable hardware at all doors and windows
- Repair or replace damaged doors and frames as necessary, including storm doors

Re: 419 Sherburne Ave

Page 2

**BUILDING**

**Inspector: Ken Eggers**

**Phone: 651-266-9047**

- Install floor covering in bathroom and kitchen that is impervious to water
- Repair walls, ceiling and floors throughout, as necessary
- Prepare and paint interior and exterior as necessary. Observe necessary abatement procedure if lead base paint is present (See St Paul Legislative Code, Chap. 34 for additional information).
- Where wall and ceiling covering is removed install full thickness or code-specified insulation
- Provide smoke detectors per the MN Building Code and carbon monoxide detectors per State Law.
- Habitable rooms with new usage and replaced windows shall have glass area equal to 8% of floor area, or a minimum of 8 sq. ft, one-half of which shall operate; and all bedroom windows shall meet emergency escape requirements (20 inch minimum opening width, 24 inch minimum opening height, and minimum net glazed area of 5.7 sq. ft.)
- Install water-proof enclosure in shower area TOTAL 50
- Replace or repair landing and stairway per code
- Repair siding, soffit, fascia, trim, etc. as necessary
- Provide proper drainage around house to direct water away from foundation of house.
- Repair chimney in an approved manner.
- Install address numbers visible from street and alley.
- Close in open stair risers to maintain an opening no greater than 4 inches
- Remove and replace front deck boards, existing are badly cracked and checked.
- Repair kitchen cabinets and counter tops or replace.
- Install footings and plinth blocks at all support posts in basement. Footings shall be 18 x 18 x 8.
- Place a new concrete floor at south end of basement where existing floor is dirt. Place concrete in the other areas of the basement where dirt is exposed next to the boilers and water heaters.
- Repair treads at rear stairwell.
- See Plan Review for egress window appeals process. Top floor windows are 24 1/2 x 17.5 x 17 AFF; two total in bedrooms. —
- Clean out triangular space at top floor on both sides of house and insulate to code. Existing has debris in it.
- Remove carpeting throughout house.
- House has signs of a possible roof leak at rear entry stairway. Investigate and repair.
- Prep and paint interior and exterior of house.
- Remove trees at house foundation and in fence line.
- Repair chimney in basement, chinking required.
- One kitchen allowed, remove all others.
- A building permit is required to correct the above deficiencies.

**ELECTRICAL**      **Inspector: Mike Popovich**      **Phone: 651-266-9035**

- Ground the electrical service to the water service with a copper conductor within 5 feet of the entrance point of the water service
- Bond around water meter with a copper wire sized for the electrical service per Article 250 of the NEC
- Provide a complete circuit directory at service panel indicating location and use of all circuits.
- Install listed circuit breakers
- Verify that circuit breaker amperage matches wire size
- Close openings in service panel/junction box with knock out seals, breaker blanks and/or junction boxes
- Properly strap cables and conduits in basement
- Provide one (1) light for each 200 square feet in unfinished basement. One light must be switched on from the top of the stairs
- Remove all cord wiring
- Repair or Replace all broken, missing or loose light fixtures, switches and outlets, covers and plates
- Check all outlets for proper polarity and verify ground on 3-prong outlets
- Remove any 3-wire ungrounded outlets and replace with 2-wire or ground 3-wire to code
- Install hard-wired, battery backup smoke detector per bulletin 80-1 and other smoke detectors as required by the IRC. Also, Install carbon monoxide detector(s) within 10 feet of all bedrooms
- Remove and or/ re-wire all illegal, improper or hazardous wiring in basement
- Check building write-up for fire resistance requirements if all panels are in the common area in a basement or move 2nd unit electrical panel board to the second unit
- Replace all painted-over receptacles.
- Throughout building, install outlets and light fixtures as specified in Bulletin 80-1.
- Repair bell box on rear of house. Install missing set screw in stairway EMT coupling, add third outlet in first floor front room.
- No basement access
- All added receptacles must be grounded, tamper-resistant and be on an Arc-Fault Circuit Interrupter-protected circuit.
- Any open walls or walls that are opened as part of this project must be wired to the standards of the 2008 NEC.
- All buildings on the property must meet the St. Paul Property Maintenance Code (Bulletin 80-1).
- All electrical work must be done by a Minnesota-licensed electrical contractor under an electrical permit.

**PLUMBING**      **Inspector: Tom Schweitzer**      **Phone: 651-266-9055**

- Basement - Water Heater - not fired or in service
- Basement - Water Meter - meter is removed or not in service

**PLUMBING**      **Inspector: Tom Schweitzer**      **Phone: 651-266-9055**

- Basement - Water Meter - support meter properly
- Basement - Water Piping - add appropriate hangers and pipe relief to 9D
- Basement - Gas Piping - replace corroded piping
- Basement - Soil and Waste Piping - improper connections, transitions, fittings or pipe usage
- Basement - Soil and Waste Piping - no front sewer clean out
- Basement - Laundry Tub - washer box not vented
- First Floor - Lavatory - fixture is broken or parts missing
- First Floor - Tub and Shower - provide stopper
- Second Floor - Lavatory - fixture is broken or parts missing
- Second Floor - Tub and Shower - provide stopper. Also, provide air gap on tub outlet
- Third Floor - Lavatory - fixture is broken or parts missing
- Third Floor - Tub and Shower - Provide a vacuum breaker for the handheld shower
- Third Floor - Tub and Shower - provide stopper
- Obtain plumbing permits prior to commencement of work.

**HEATING**      **Inspector: Paul Lauer**      **Phone: 651-266-9041**

- Clean and Orsat test both boiler burners. Check all controls for proper operation. Provide documentation from a licensed contractor that the heating units are safe.
- Provide appropriate size operable window in bathrooms or provide exhaust system vented to outside. A mechanical ventilation permit is required if an exhaust system is installed.
- Install boiler pressure relief valve in vertical position.
- Install isolation valves on each side of the back flow preventer on city water fill line to heating system and pipe vent to an approved location.
- Verify that the third floor electric heating is operable and adequately sized for the heat loss of the area it serves.
- A hydronic mechanical permit is required for the above work.

**ZONING**

1. This property is in a (n) R4 zoning district.
2. This property was inspected as a Single Family Dwelling.

**Notes:**

- See attachment for permit requirements and appeals procedure.
- The building is approved for 1 dwelling units but contains 3 dwelling units. Obtain approval for additional units or remove the excess dwelling units. If the additional units are approved, maintain the required fire-separation between dwelling units and between units and common area.

Re: 419 Sherburne Ave  
Page 5

**This is a registered vacant building. In order to sell or reoccupy this building, all deficiencies listed on this code compliance report must be corrected within six (6) months of the date of this report. One (1) six-month time extension may be requested by the owner and will be considered if it can be shown that the code compliance work is proceeding and is more than fifty (50) percent complete in accordance with Legislative Code Section 33.03(f).**

You may file an appeal to this notice by contacting the City Clerk's Office at 651-266-8688. Any appeal must be made in writing within 10 days of this notice. (You must submit a copy of this notice when you appeal, and pay a filing fee.)

If you have any questions regarding this inspection report, please contact Ken Eggers between 7:30 - 9:00 AM at 651-266-8989 or leave a voice mail message.

Sincerely,

James L. Seeger  
Code Compliance Officer  
JLS:ml  
Attachments



# BUILDING PERMIT

**PERMIT#:** 20 10 499352  
**Issued Date:** June 01, 2010

**CITY OF SAINT PAUL**  
 Department of Safety & Inspections  
 375 Jackson Street, Suite 220  
 Saint Paul, MN 55101- 1806  
 www.stpaul.gov/dsi  
 Phone: 651- 266- 8989  
 Fax: 651- 266- 9124

<b>CONTRACTOR:</b>	<b>OWNER:</b>
KYLE COLBERT 745 CRYSTAL LAKE ROAD E BURNSVILLE MN 55306	KYLE COLBERT 745 CRYSTAL LAKE ROAD E BURNSVILLE MN 55306
<b>PERMIT ADDRESS:</b> 419 SHERBURNE AVE ST PAUL MN 55103- 1942	<b>Inspector:</b> Jim S. <b>Phone:</b> 651- 266- 9046 <b>Schedule Inspection:</b> 7:30- 9:00 AM Monday - Friday
<b>SUB TYPE:</b> Single Family Dwelling	<b>WORK TYPE:</b> Repair

The following "Trade" Permits are required for this project: Electrical, W.Air Vent, Plumbing,

State Valuation	\$12,500.00	Vacant Building	Category 2
Scope of Repair Work	Code Compliance Repairs	Interior/Exterior?	Both Int. and Ext.
Structural Work?	No Structural Work	Change/Expansion of Use?	No
Plan Number	V- 2010- 0857	Valuation Override	No
# of Existing Dwelling Units	1	Existing Primary Use (Single Family)	R- Single Family Dwelling

<b>FEES</b>	
Permit Fee	271.04
Plan Check Fee	35.00
Surcharge B	6.25
<b>TOTAL</b>	<b>\$312.29</b>

VACANT BLDG CAT#2 - CLEAN PROP, FINISH FLOOR, CLEAN YARD, PAINT EXT, INT \*Smoke Alarms are required in all sleeping rooms and outside of each sleeping area in the immediate vicinity of the sleeping rooms. In multi- story or multi- level homes, a smoke alarm is required on each story and in basements. The State Code requires all smoke alarms to be inter- connected and hard wired as per new dwellings unless the exceptions to R317 apply. Exception 1:.....where the alterations or repairs do not result in the removal of the interior wall or ceiling finishes exposing the structure, unless there is a crawlspace, attic or basement available which could provide access for hard- wiring & interconnection without the removal of interior finishes. Exception2: Work on the exterior which does not require entry into the interior for inspection. Note, however, that the St. Paul Legislative Code requires at least one (1) "hard- wired" smoke detector connected to the house wiring. Battery backup must be provided for newly installed "hard- wired" detectors. NOTE ALSO: New or remodeled bedrooms must have electrical outlets with Arc- Fault Circuit Interrupter Protection (AFCI)



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

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

Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

April 09, 2013

MOMO LLC  
Kyle Colbert  
745 Crystal Lake Rd E  
Burnsville MN 55306-5174

To Whom It May Concern:

The building or portion of building identified below has been inspected and is in compliance with applicable code requirements for the occupancy classification and use listed below.

**RE-ISSUE**

**Certificate of Code Compliance as Single Family Dwelling**

<b>Property Address</b>	419 SHERBURNE AVE	
<b>Property Owner</b>	Kyle Colbert	
<b>Owner's Address</b>	745 Crystal Lake Rd E Burnsville MN 55306-5174	
<b>Use of Building</b>	<b>Single Family Dwelling</b>	<b>Vacant Building Category: Category 2</b>
If occupancy is restricted, in the box to the right, describe the portion of the building approved for occupancy or any conditions limiting use of the building:		

Sincerely,

Steve J. Ubl  
Building Official

Enclosure

SJU/ml

*Inspector gave waiver on VB fee to get permits finalized.*

**Withdrawn**

**23**     [RLH VBR 13-28](#)

Appeal of Kyle Colbert to a Vacant Building Registration Notice, DSI letter, plus Revocation of Fire Certificate of Occupancy and Order to Vacate at 419 SHERBURNE AVENUE.

**Sponsors:**     Carter III

*Waive the VB fee for 8 weeks and revert the VB status from Category 2 to a Category 1 to work off the Fire C of O list.*

*RE: 419 Sherburne Ave (Single Family)*

*Kyle Colbert, owner, appeared.*

*Fire Inspector A. J. Neis:*

- received a complaint May 22, 2013 that someone may be trying to convert this single family back into a triplex*
- formerly was a Cat 2 Vacant Building in 2008; was finalized and approved Oct 2010 as a single family*
- Mr. Neis accompanied Fire Inspector Scott Perrier to investigate the issue; they didn't know whether or not it was occupied*
- there were no window coverings on the bay windows; saw that the house was vacant*
- the exterior has not been maintained since the Code Compliance*
- chipped paint on house; garbage in yard; rotting window sills; grass and weeds were unkept*
- they Revoked the Fire Certificate of Occupancy and referred it to the Vacant Building Program as a Cat 2*
- the deficiencies were for the exterior of the building only; they did not make an interior inspection*
- during their complaint inspection cycle, Mr. Perrier got a phone call asking what they can do to turn the house back into a triplex*
- Truth in Sale of Housing (TISH) Report done in Jan 2013 that they reviewed; looks as though some work was being attempted without permits: bathroom of the upper floor (was being remodeled at the time of evaluation); power off on upper level - can't evaluate missing plumbing fixtures; water shut-off in upper level*
- looking at the TISH Report, not seeing any permits on file and receiving a complaint about it being turned into a triplex (can't be converted to either a duplex or triplex because of the lot size, per zoning)*
- photos in file (exterior of the property has deteriorated significantly since Code Compliance in 2008)*
- Mr. Colbert did the rehab; currently not occupied*

*Inspector Matt Domfeld, Vacant Buildings:*

- Inspector Senty opened a Cat 2 VB May 23, 2013; he issued a Summary Abatement for some general debris: tires, discarded furniture, tall grass and weeds and to secure an east side door (those violations were abated as of May 29, 2013)*

*Mr. Colbert:*

- bought building 2 years ago for \$27,000; put \$30,000 into it; it was a Cat 2 VB; he got his C of O*
- rented the bottom of the building*
- initially, he wanted to convert it to a duplex; got the signatures and went to City Council; things got to be too much so he decided to rent it out as a single family*

- he rented it to a woman for almost 20 months; she was Section 8 and trashed some of the inside
- he got her out and went in and re-painted, etc.
- got new tenant this past Nov-Dec, 2012 and had problems so they evicted and decided to sell
- repainted the inside; got the furnace up and running
- the yard is a dumping ground - everyday
- the exterior needs attention but is selling it for a low price; they scraped and painted 3 years ago
- the house could be a 9-bedroom but they never used all that; it's just too big
- the attic doors have been screwed shut; the 2nd floor doors have also been screwed shut
- it will not work out for the neighborhood to be a duplex or triplex
- he shut-off the water to protect the house from broken lines
- has a video of deck and porch and the interior
- looking for it to be taken off the VB list
- they have straight cash investors; closing scheduled for Fri, Jun 7, 2013
- has CO detectors, smoke detectors and fuel burning test
- he won't be able to sell it on Fri if it's on the VB list, Cat 2
- has a copy of the Purchase Agreement
- house has gone through Section 8 inspections
- house has been empty since Dec 27, 2012; trying to get rid of it

Ms. Moermond:

- is torn
- it's been vacant for almost 6 months; interior looks alright; window sills on the outside are probably bad
- paint covered up problems on the outside 3 years ago so she wonders if paint is covering up problems on the interior now? Doesn't see surface problems

Mr. Colbert:

- he has between 25-30 properties in Saint Paul and has been in front of the hearing officer only twice in 4 1/2 years

Ms. Moermond:

- should have Orders on this exterior
- the rule is: if we found the building vacant and there weren't any problems, it would be a Cat 1 Registered VB; this building was found empty but it does have code problems, which kicks it into a Cat 2 status; these problems seem to be nearly all exterior, which can be converted into Orders in a couple different ways, the easiest of which is for Fire to refer it to Vacant Buildings; they roll it into the Code Compliance
- this has a special circumstance
- would like to get a code enforcement person or someone to write Orders on the exterior of the house and have criminal citation be the problem at the end of the line

Mr. Dornfeld:

- he can make this property a Cat 1 and issue Orders on the exterior and follow-up
- there would still be VB fee issues and they would still require a C of O for occupancy

Mr. Neis:

- another option: we could remove the VB status if it's as turn-key as Mr. Colbert indicates (lift the Revocation and just do a complete Fire C of O inspection and determine if the inside is ready to go)

Ms. Moermond:

*- if we can figure out how to address the exterior more quickly, it would be better for the neighborhood*

*Mr. Neis:*

*- if we take it back, it will have a valid C of O*

*Ms. Moermond:*

*- will recommend the Council revert this to a Category 1 Registered VB for 8 weeks; if C of O can't be re-instated by then, it will be a Cat 2 Registered VB*

*- will waive the VB fee for 8 weeks*

*- Mr. Colbert can sell the property as a Cat 1 VB; whoever buys it has 8 weeks to get their C of O*

**Referred to the City Council due back on 6/19/2013**

April 5, 2016

Mr. Gaius Nelson, Chair  
Zoning Committee, City of Saint Paul  
1400 City Hall Annex  
Saint Paul, MN 55102

Re: 419 Sherburne Avenue, Zoning file # 16-016-050, Request for Continuance

Dear Mr. Nelson,

I am the applicant for this zoning file to reestablish legal nonconforming use of my house at 419 Sherburne Avenue as a triplex. I am writing to request a continuance of the Zoning Committee consideration of my application, which is presently scheduled before the Zoning Committee on April 7, 2016.

I understand that a continuance of this case before the Zoning Committee means the decision of the Planning Commission on this application, which is presently scheduled for April 15, 2016, will also be continued.

I have discussed my application with the Frogtown Neighborhood Association and they are planning a community forum regarding my application. We would like to gather information from the neighborhood residents that we think would contribute to this case.

I request that the zoning committee reopen the public hearing on my application so we can provide information from the community forum to the Zoning Committee at your meeting on May 5, 2016. I understand that the Planning Commission would then be scheduled to make their decision on May 13, 2016.

I am aware and understand statutory requirements found in Minn. Statue § 15.99 requiring the City of Saint Paul to approve or deny this application within sixty days of its submission. I desire to extend the sixty day period for a city decision under Minn. Stat § 15.99 to May 13, 2016, to accommodate the continuance I am requesting.

Sincerely,



Moises Romo.

## Frogtown Neighborhood Association (District 7)

---

685 Minnehaha Avenue West · Saint Paul, MN · 55104  
Tel: 651-789-7407 · Fax: 651-789-7482 · www.frogtownmn.org

April 6, 2016

Gaius Nelson, Chair  
Zoning Committee, City of Saint Paul  
1400 City Hall Annex  
Saint Paul, MN 55102

RE: Continuance for 419 Sherburne, Zoning File # 16-016-050

Dear Mr. Nelson,

I am writing in strong support of the applicant's request to reopen the public hearing for a continuance until May for his nonconforming use permit application for the property located at 419 Sherburne. The Frogtown Neighborhood Association will host a community-wide discussion related to the request being made by Mr. Romo to operate the property as a triplex.

I believe that the community discussion will be a vital piece of the puzzle for the decision that is centered around 419 Sherburne but will have implications far beyond just this one property. Frogtown has seen drastic increase in rents and increased interest by outside investors; a set up for gentrification. FNA and community leaders see the question of density and owner occupied rental housing as key forces that can counteract the forces of gentrification while allowing the community to experience growth and market stability.

Having the information gleaned from a strong community process would add weight and significance to the decision making process around 419 Sherburne, I believe the Planning Commission will welcome.

Our request is to continue the Planning Commission hearing and the 15.99 timeline until May to allow for that community engagement process to occur.

Please feel free to contact me with any questions. 651-236-8699.

Very Sincerely,  
Caty Royce  
Executive Director

**MINUTES OF THE ZONING COMMITTEE**  
**Thursday, March 24, 2016 - 3:30 p.m.**  
**City Council Chambers, 3rd Floor**  
**City Hall and Court House**  
**15 West Kellogg Boulevard**

PRESENT: Edgerton, Makarios, Nelson, Reveal, and Wickiser  
EXCUSED: Merrigan, Padilla, and Wencil  
STAFF: Tony Johnson, Samantha Langer, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Nelson.

**Moises Romo - 16-016-050 - Reestablishment of nonconforming use as a triplex, 419 Sherburne Ave, between Arundel and Western**

Tony Johnson presented the staff report with a recommendation of denial for the reestablishment of nonconforming use as a triplex. He noted a District 7 Frogtown Neighborhood Association letter in support, and 1 letter in opposition.

Commissioner Nelson noted that District 7 will not have a meeting on this until April. He asked if the finding regarding the 3<sup>rd</sup> floor unit meeting the 500 SF floor area standard accounts for the sloped ceilings and ceiling height having to be at least 7 feet.

Mr. Johnson said he had just calculated floor area based on the floor plan submitted.

Commissioner Makarios asked what would have prompted the previous property owner to convert the house from a triplex to a single family dwelling and only use the first floor.

Mr. Johnson responded that the property had been on the vacant building list and the owner would have had to do more work to bring it up to code and reestablish it as a triplex.

The applicant, Moises Romo, 419 Sherburne Ave., Apt. 3, said he purchased the property in 2013 and has lived in the 3<sup>rd</sup> floor apartment since that time. The floor plan was set up as a triplex at the time of purchase. He believes it wasn't legally considered a triplex because the kitchen faucets and appliances were removed from the 2<sup>nd</sup> and 3<sup>rd</sup> floor units, but each of the 3 units had a separate utility meter, entrance, and bathroom. It was basically still a triplex. The house had been a duplex since 1912 and had a certificate of occupancy for a triplex since 1981. He has been renting to the same tenants on the 1<sup>st</sup> and 2<sup>nd</sup> floors since 2013. His tenants are responsible, courteous neighbors who work full-time jobs and spend a considerable amount of time volunteering. Living here has been a pleasant experience for his tenants and himself. He has fixed up the house and landscaping so that it has gone from a vacant eyesore to one of the most attractive homes on the block, for which he has received compliments from his neighbors.

Mr. Romo said he depends on the income he receives from his tenants and would lose his home if he is unable to rent the 1<sup>st</sup> and 2<sup>nd</sup> floors of this house. His tenants would also face financial hardship, considering he charges 40% less than market rates for comparable rental units in the area. His tenants are hard-working immigrant families who would have to move. Mr. Romo provided property details (attached) and referred to pictures showing 3<sup>rd</sup> floor ceiling slopes.

Upon questions from the Commissioners, Mr. Romo stated he was aware of the single-family zoning when he purchased the house but did not think renting space would be an issue if he was living in the house. He became aware of the problem when an appraiser noted the nonconforming status of the triplex and he was unable to refinance. His original mortgage was a private and there had been no inspection.

In response to Commissioner Makarios, Mr. Romo said he would not be able to economically turn this property back into a single family dwelling, stating it would be an awkward floor plan.

Fred Schussler, 446 Charles Ave., spoke in opposition. He said Mr. Romo is moving the house in the right direction, but the last thing Sherburne Ave. need is another triplex. The property next door at 415 Sherburne meets minimum requirements for section 8 housing, has had many police calls, and has been nothing but trouble. He said 419 Sherburne could end up being another rental which meets minimum requirements for section 8 and the owner milks the county for his house payments. He believes people receiving section 8 benefits deserve better. He also noted that parking in the back of the house is a mud pile, with no paving. He said if they decide to change anything they should consider granting Mr. Romo a rezoning to a duplex.

Mr. Romo responded he has lived at this property for 3 years. He clarified that Mr. Schussler was not referring to his house, but rather to the house next door that has had a significant number of police calls. He has had one police call due to a noise disturbance, and was not home at the time of the incident. The parking area still has old pavement and is not beautiful.

The public hearing was closed.

Commissioner Wickiser made a motion to deny the application based on findings of 1, 2(a) and 3(1). Commissioner Reveal seconded the motion.

Commissioner Makarios expressed his sympathy for the applicant and stated we may not get over all the hurdles on the legal findings but that he thinks the requirements laid out in finding 3(1) can be met. He said he thinks it would not be reasonable to turn this dwelling back into a single family home.

Mr. Johnson clarified that finding 2(a) refers to a guideline does not need to be met.

Commissioner Wickiser expressed his sympathy for the applicant and talked about a state law requirement for disclosure when purchasing a home. All information is listed on the City of St. Paul's website.

Chair Nelson said the house was minimally modified by closing off the 2<sup>nd</sup> and 3<sup>rd</sup> floors to pass the requirements as a single family dwelling in 2010. It was a single family home with a lot of unused space. It was done this way to get it off of the vacant building list so it could become marketable or occupied in some form.

Mr. Johnson stated the Department of Safety and Inspection (DSI), Fire Safety Division was alerted that the house was being illegally converted back to a triplex. At that time, the certificate

of occupancy had been revoked and DSI recertified only the first floor as a single family dwelling. He said permits were not pulled for re-installation of the 2<sup>nd</sup> and 3<sup>rd</sup> floor kitchens.

In response to a question about finding H(1), Mr. Warner said § 62.106(d) requires that if a nonconforming use changes to a permitted use it shall not thereafter revert back to a nonconforming use. § 62.109(e) provides for reestablishment of a nonconforming use when a legal nonconforming use had been discontinued for more than a year, which is the permit before the commission. If a nonconforming use converts to a conforming use so you cannot go back. If a legal nonconforming use has simply been discontinued for more than a year, § 62.109(e) provides that the Planning Commission may permit reestablishment of a nonconforming use if the standards for this in § 62.109(e) are met.

Commissioner Reveal understood the reestablishment of a nonconforming use to be available in cases where the nonconforming use lapsed for more than a year and then it could be reestablished through a process like this. She said she did not understand that if it had returned to a conforming use that you could then subsequently return it to a nonconforming use.

Mr. Warner confirmed that is correct, and discussed notes in the packet from the legislative hearing officer and the explanation from the then property owner to the legislative hearing officer about the status of the building.

Commissioner Reveal asked if it was designated a single family dwelling and had been so designated for more than a year before it was resold in 2013.

Mr. Johnson answered that it was certified for occupancy of the first floor as a one-family dwelling on November 11, 2010.

Chair Nelson asked if Commissioner Reveal was asking about the difference between a nonconforming use simply lapsing for more than a year vs. affirmatively being changed to a conforming use.

Commission Makarios asked if finding H(1) precludes the applicant applying for reestablishment of a nonconforming use permit.

Mr. Warner said application can be made but the required standards must be met in order to have the application approved. The issue is the use and occupancy since a certificate of occupancy was issued for single family use, and whether the nonconforming use was changed to a conforming use by virtue of the certificate of occupancy. He noted that there are no building permits for the second and third units and that was a problem. He advised that the matter could be laid over to sort the issues out.

Mr. Torstenson said the staff report stays conservative about the facts we know what the code says. The certificate of occupancy was only for the first floor unit. They didn't look at the 2<sup>nd</sup> and 3<sup>rd</sup> floors because they were vacant, and the whole house was not converted to one unit.

Mr. Johnson referred to June 4, 2013 Legislative Hearing minutes regarding short term rental and eviction of two different tenants.

Commissioner Makarios said this property was never turned into a functioning single family dwelling. He thinks the required finding for reestablishment of a nonconforming use are met and he will vote against the motion to deny the application.

Commissioner Wickiser expressed his sympathy for people in this position, and also his concern about code compliance that building permits need to be applied for. He could vote for reestablishment of a duplex.

Commissioner Edgerton said he seconded the point of Commissioner Makarios about the required findings. The process was not followed by the previous owner. It is up to us to determine whether the current application should be denied because there were no permits in the past.

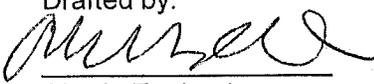
Commissioner Makarios asked about the eligibility of the house for reestablishment as a duplex.

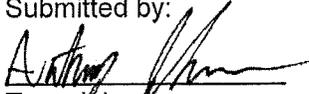
Mr. Johnson referenced the duplex conversion guidelines in finding 2(a) and stated he did not go into detail because of finding H(1).

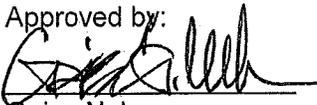
Upon inquiry from the Commissioners regarding the draft ordinance for accessory dwelling units, Mr. Torstenson said that if this were a single family home this property would be eligible to have an accessory dwelling unit under the draft ordinance.

The motion to deny the application for reestablishment of nonconforming use as a triplex failed on a vote of 2-3-0.

Commissioner Reveal moved to lay the matter over to April 7, 2016. Commissioner Edgerton seconded the motion. The motion passed by a vote of 5-0-0.

Drafted by:  
  
Cherie Englund  
Recording Secretary

Submitted by:  
  
Tony Johnson  
Zoning Section

Approved by:  
  
Gaius Nelson  
Chair

**MINUTES OF THE ZONING COMMITTEE**  
**Thursday, April 7, 2016 - 3:30 p.m.**  
**City Council Chambers, 3rd Floor**  
**City Hall and Court House**  
**15 West Kellogg Boulevard**

**PRESENT:** Edgerton, Merrigan, Reveal, and Wickiser  
**EXCUSED:** Makarios, Nelson, Padilla, and Wencil  
**STAFF:** Tony Johnson, Cherie Englund, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Reveal.

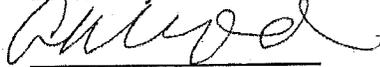
**Moises Romo - 16-016-050 - Reestablishment of nonconforming use as a triplex, 419 Sherburne Ave, between Arundel and Western**

Allan Torstenson noted the applicant's request for reopening the public hearing and continuing it to May 5, 2016. The letter from the applicant explained that the Frogtown Neighborhood Association is planning to have a neighborhood meeting on his request, and he is extending the decision deadline under MN Stat. 15.99 to provide for that.

Commissioner Edgerton moved to reopen the public hearing. Commissioner Merrigan seconded the motion. The motion passed by a vote of 3-1-0 (Wickiser).

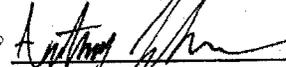
Commissioner Edgerton moved to lay the matter over to May 5, 2016. Commissioner Merrigan seconded the motion. The motion passed by a vote of 3-1-0 (Wickiser).

Drafted by:



Cherie Englund  
Recording Secretary

Submitted by:



Tony Johnson  
Zoning Section

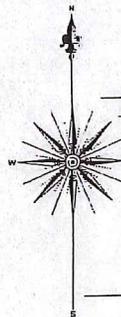
Approved by:



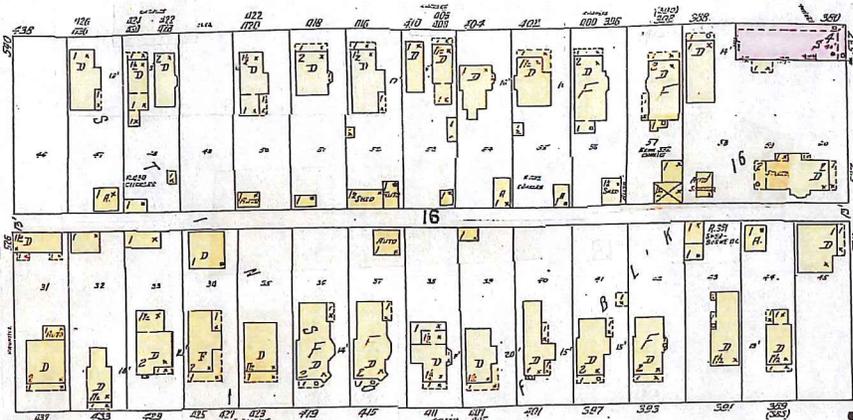
Betsy Reveal  
Chair

329  
ST PAUL VOL. 3

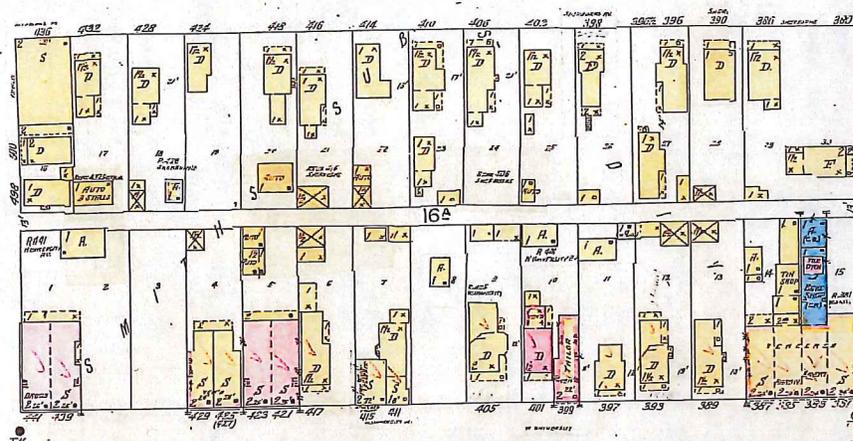
339



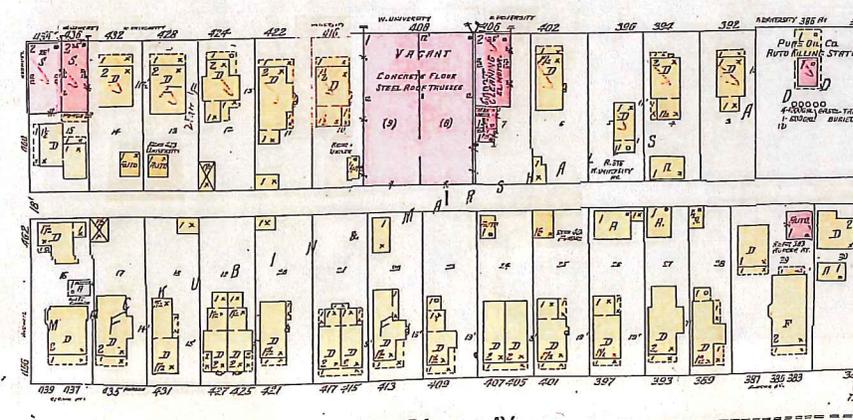
CHARLES



SHERBURNE AV.



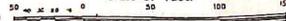
W. UNIVERSITY AV.

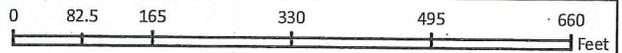
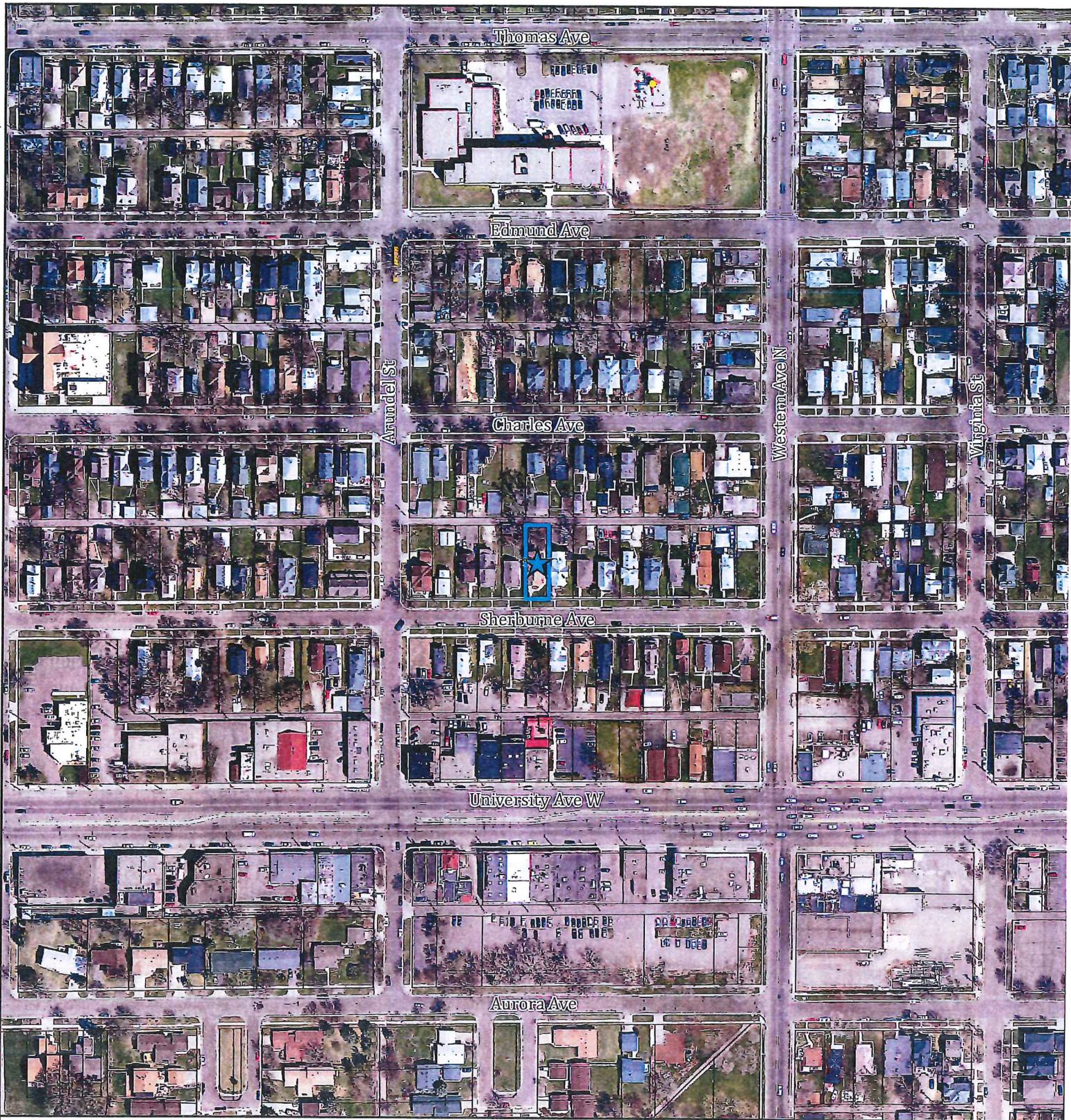


AURORA AV.

319

Scale of Feet.





FILE NAME: Moises Romo

Aerial

APPLICATION TYPE: Reestablishment of NCUP

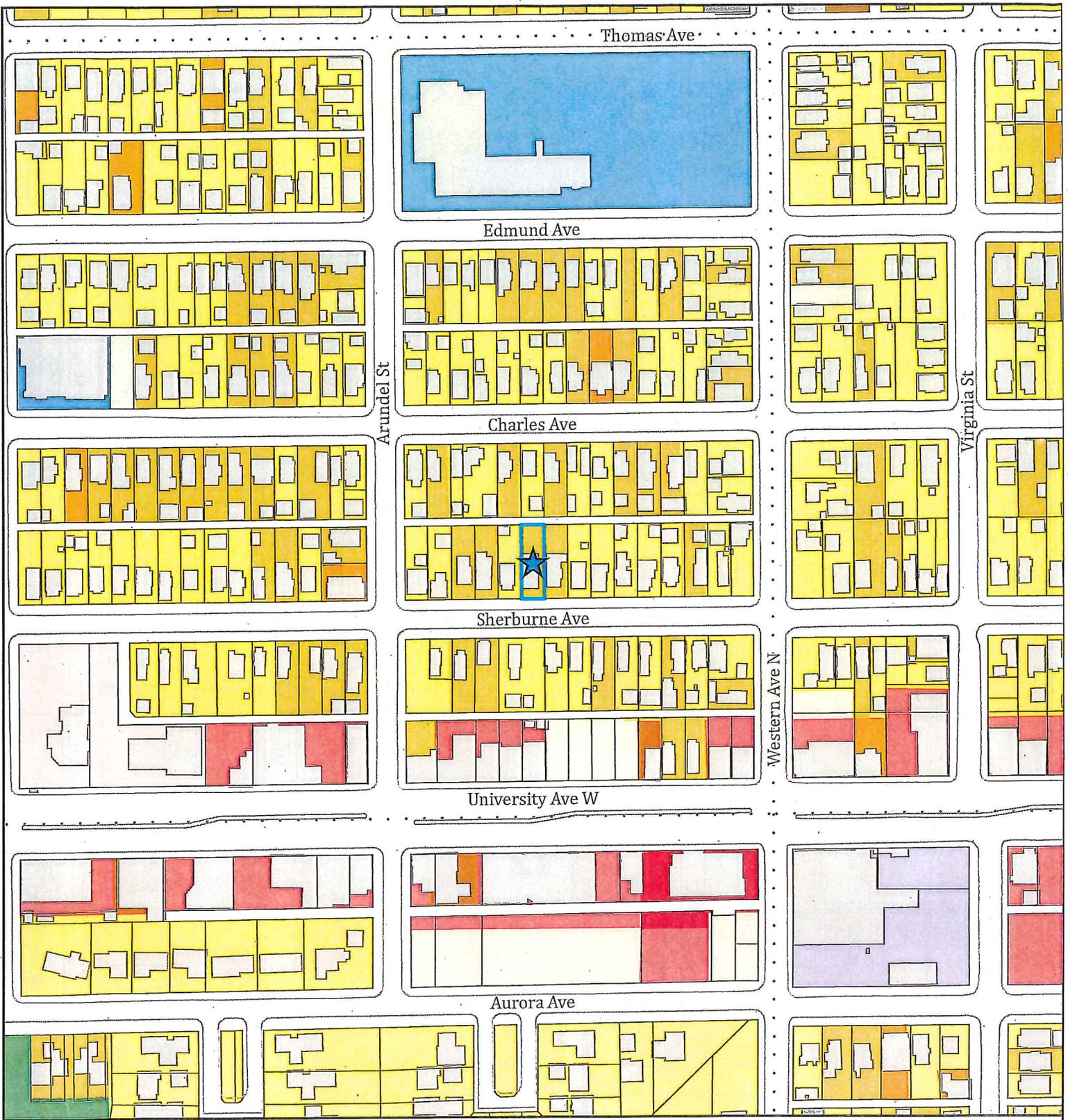
 Subject Parcels

FILE #: 16-016050 DATE: 3/7/2016

PLANNING DISTRICT: 7

ZONING PANEL: 9





FILE NAME: Moises Romo

APPLICATION TYPE: Reestablishment of NCUP

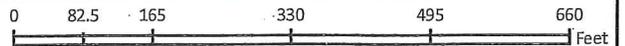
FILE #: 16-016050 DATE: 3/7/2016

PLANNING DISTRICT: 7

ZONING PANEL: 9

**Land Use**

- Single Family Detached
- Single Family Attached
- Multifamily
- Office
- Retail and Other Commercial
- Mixed Use Residential
- Mixed Use Commercial and Other
- Industrial and Utility
- Institutional
- Park, Recreational or Preserve
- Undeveloped
- Subject Parcels
- Section Lines





FILE NAME: Moises Romo

APPLICATION TYPE: Reestablishment of NCUP

FILE #: 16-016050

DATE: 3/7/2016

PLANNING DISTRICT: 7

ZONING PANEL: 9

**Zoning**

-  Subject Parcels
-  Section Lines
-  R4 One-Family
-  RT1 Two-Family
-  RT2 Townhouse
-  RM1 Multiple-Family
-  T2 Traditional Neighborhood
-  B2 Community Business
-  VP Vehicular Parking

