

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Porchua Xiong **FILE #:** 17-009-938
 2. **APPLICANT:** Porchua Xiong **HEARING DATE:** March 2, 2017
 3. **TYPE OF APPLICATION:** Rezoning
 4. **LOCATION:** 1024 Ross Avenue, between E. 7th and Earl
 5. **PIN & LEGAL DESCRIPTION:** 282922340019; W 12 1/2 ft of Lot 7 and E 25 ft of Lot 8, Block 13, Terry's Addition
 6. **PLANNING DISTRICT:** 4 **EXISTING ZONING:** B3
 7. **ZONING CODE REFERENCE:** §61.801(b)
 8. **STAFF REPORT DATE:** February 23, 2017 **BY:** Jake Reilly
 9. **DATE RECEIVED:** February 8, 2017 **60-DAY DEADLINE FOR ACTION:** April 9, 2017
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A. **PURPOSE:** Rezone from B3 general business to T2 traditional neighborhood.

B. **PARCEL SIZE:** 0.11 acres (38 ft wide X 128 ft deep = 4,791.6 sq. ft.)

C. **EXISTING LAND USE:** Mixed residential and office use

D. **SURROUNDING LAND USE:**

North: Single Family Attached (B3)

East: Single Family Detached (B3)

South: Single Family Detached (RT1)

West: Single Family Detached (B3)

E. **ZONING CODE CITATION:** §61.801(b) provides for changes to the zoning of property initiated by the property owner.

F. **HISTORY/DISCUSSION:**

The property was built in 2004 and was permitted by the Department of Safety and Inspections (DSI) as a legal four-plex (letter dated 3/25/04). Multifamily dwellings were a permitted use in the B3 district at that time; they were specifically listed as a permitted use in the OS1 district, and the list of permitted uses in B3 referred to all the uses permitted in OS1. DSI's approval of the property as a four-plex included the following conditions:

- A parking easement with the adjacent property to the east to provide several of the required six off-street parking spaces for the four residential units
- Restriction of the ground floor space for uses by the tenants of the approved four units, such as for the storage of personal possessions, or as a laundry room
- A requirement to provide ground cover on the front yard and east side of the house (and other areas not paved)

On May 29, 2004, the zoning code was changed to limit residential uses in B3 to not more than 50 percent of the basement and first floor, and require that at least 50 percent of the basement and first floor be used for a principal use permitted in B3 other than a residential use. The original owner received a citation from a City fire inspector in July 2005 that identified unapproved remodeling work being done in the basement/ground floor space, at the time a use for which had not been specified.

A subsequent owner, Chai Lee, purchased it with the erroneous understanding that the basement/ground floor space was a legal, fifth residential unit. In April 2009, the applicant received a letter from the Department of Safety and Inspections stating that upon inspection, an illegal fifth unit was found on the ground floor (interior basement), including a kitchen, shower/bath facilities, stove and microwave, and refrigerator. The letter also indicated that interior basement is "condemned as unfit for human habitation," and that the inspector would send the owner a zoning packet to apply for a non-conforming use. The letter also specified several other deficiencies, including problems with downspouts, the exterior front steps, a sidewalk at the top of the hill, window screens, an un-approved paved area in the front yard, a decaying retaining wall, and an inadequate fire-rated door on the basement laundry room.

That owner applied for a rezoning of the property in May 2009 (ZF# 09-067-951), along with variances of lot area and off-street parking requirements (ZF# 09-067-959. Staff recommended approval of the rezoning, the District 4 Dayton's Bluff Community Council requested denial, and the Zoning Committee recommended denial. The Planning Commission, in Resolution 09-36, denied the application on an 11-3 vote.

G. DISTRICT COUNCIL RECOMMENDATION: District The Dayton's Bluff District 4 Community Council had not provided a written recommendation on this application at the time of this staff report.

H. FINDINGS:

1. The applicant seeks to rezone the property from B3 to T2 in order to accommodate a multi-family (five unit) residential use. The applicant will be combining the "office" and residential units on the ground level of the structure to create one, two-bedroom/two-bathroom residential use.
2. The proposed T2 zoning is more compatible and consistent with the existing use on the site than the current B3 zoning. A multifamily dwelling is a permitted use in TN2 and not in B3. B3 districts do not allow strictly residential uses. TN traditional neighborhood districts are intended to foster the development and growth of compact, pedestrian-oriented urban villages. All four (4) districts are intended to encourage a compatible mix of commercial and residential uses within buildings, sites and blocks; new development in proximity to major transit streets and corridors; and additional choices in housing. Specifically, the T2 traditional neighborhood district is designed for use in existing or potential pedestrian and transit nodes. Its intent is to foster and support compact, pedestrian-oriented commercial and residential development that, in turn, can support and increase transit usage. It encourages, but does not require, a variety of uses and housing types, with careful attention to the amount and placement of parking and transitions to adjacent residential neighborhoods. This property is located adjacent to other T2 zoned districts, and is located on a transit corridor.
3. The proposed T2 zoning is consistent with the Comprehensive Plan. This property falls within a "Corridor" designation in the Land Use Chapter of the 2010 Comprehensive

Plan. Policy 1.24 of the Land Use Plan states the City should “*promote the development of more intensive housing on Corridors where supported by zoning that permits mixed use and multifamily residential development.*” The proposed zoning is also consistent with the 2012 Near East Side Roadmap which seeks to improve the environment along and adjacent to East 7th Street, specifically on the south side of E. 7th Street, east of Forest, “*by filling vacant and under-utilized spaces with new, stand-alone multifamily housing, live-work opportunities, and additional small small-scale commercial-industrial uses.*”

4. The proposed rezoning to T2 Traditional Neighborhood is compatible with the surrounding residential, mixed residential-commercial, commercial, and institutional uses. These include single family detached homes, duplexes, small multifamily properties, mixed use and commercial/retail buildings, and a church.
5. Court rulings have determined that “spot zoning” is illegal in Minnesota. Minnesota courts have stated that this term “*applies to zoning changes, typically limited to small plots of land, which establish a use classification inconsistent with the surrounding uses and create an island of nonconforming use within a larger zoned property.*” A rezoning to TN2 district would not constitute “spot zoning,” in this case because TN2 is more consistent with the surrounding uses than the current B3 zoning. The residential uses on this site and block are not permitted uses under B3 zoning. The commercial uses permitted in TN2 are largely permitted in B3 zoning as well (a district that allows more intense and commercial uses than TN2). In addition, this property is very near a large T2 zoning district created following adoption of the 2012 Near East Side Roadmap and related 40-acre zoning study.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the proposed rezoning from B3 general business to T2 traditional neighborhood.



PETITION TO AMEND THE ZONING CODE
 Department of Planning and Economic Development
 Zoning Section
 1400 City Hall Annex
 25 West Fourth Street
 Saint Paul, MN 55102-1634
 (651) 266-6589

Zoning Office Use Only
 File #: 17-009938
 Fee: _____
 Tentative Hearing Date: 3-2-17

PD=4

28 29 22 34 00 19

APPLICANT

Property Owner(s) Porchua Xiong
 Address 1371 Ames Ave
 City St. Paul State MN Zip 55106 Phone (651) 278-9759
 Contact Person same as above Phone _____
 Email mizz-birdee-651@hotmail.com
 (Attach additional sheet if necessary to include all of the owners of at least 67% of the area of the property to be rezoned.)

PROPERTY LOCATION

Address/Location 1024 Ross Ave, St. Paul MN 55106
 Legal Description _____
 Current Zoning B3
 (Attach additional sheet if necessary.)

TO THE HONORABLE MAYOR AND CITY COUNCIL:

Pursuant to Saint Paul Zoning Ordinance § 61.801 and Minnesota Statutes § 462.357, _____
Porchua Xiong
 owner(s) of land proposed for rezoning, hereby petition(s) to rezone the above described property from a
B3 zoning district to a T2 zoning district, for the purpose of:

Residential use. Street level floor space contains unit 5 + unit 6.
 Unit 5 is 1 bed, 1 bath residential unit.
 Unit 6 is retail/office space with 1 bath.
 Would like to combine units 5 and 6 to make a single
 2 bed, 2 bath residential unit.

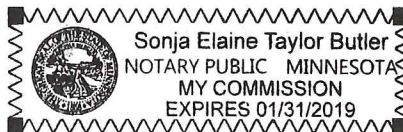
(Attach additional sheets if necessary.)

Attachments as required: Site Plan Consent Petition Affidavit

Subscribed and sworn to before me

Date February 6, 20 17

[Signature]
 Notary Public

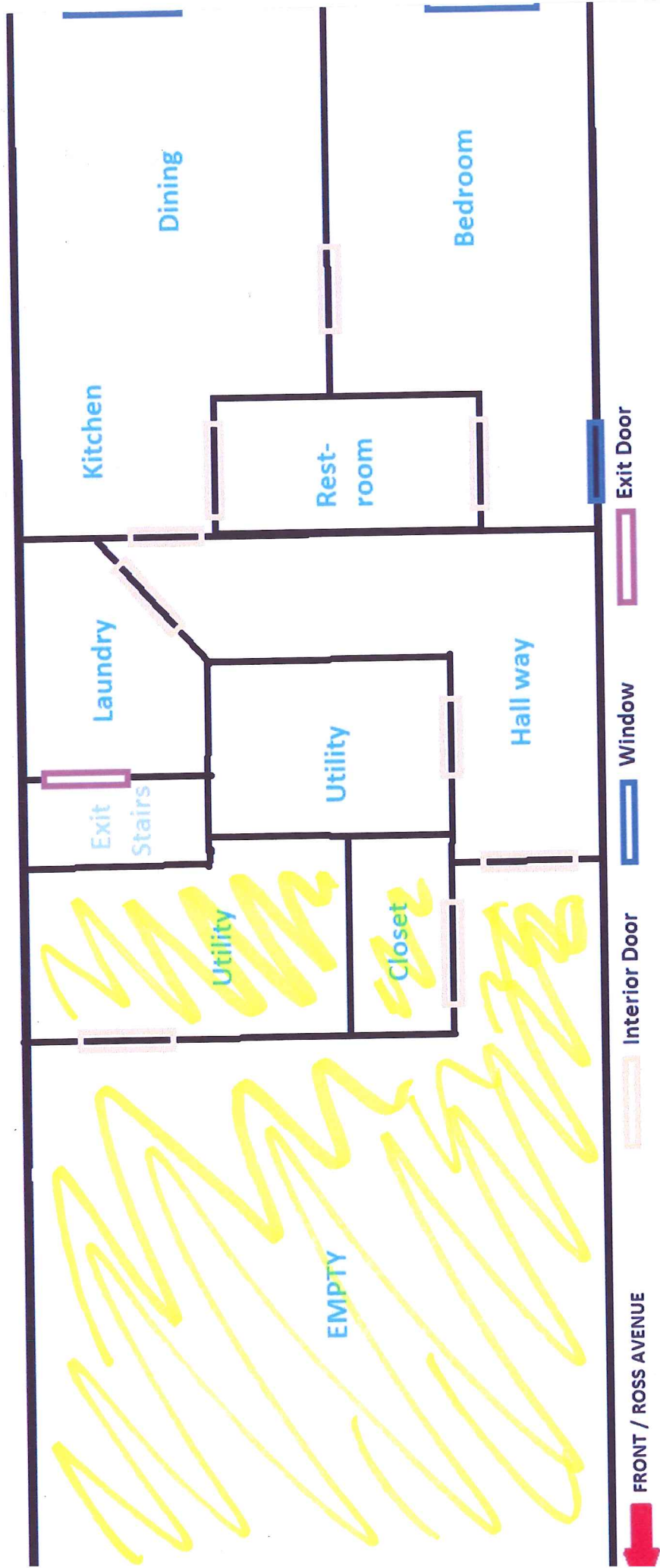


By: [Signature]
 Fee owner of property
 Title: Owner

Add = 16/17

Unit #5
proposal

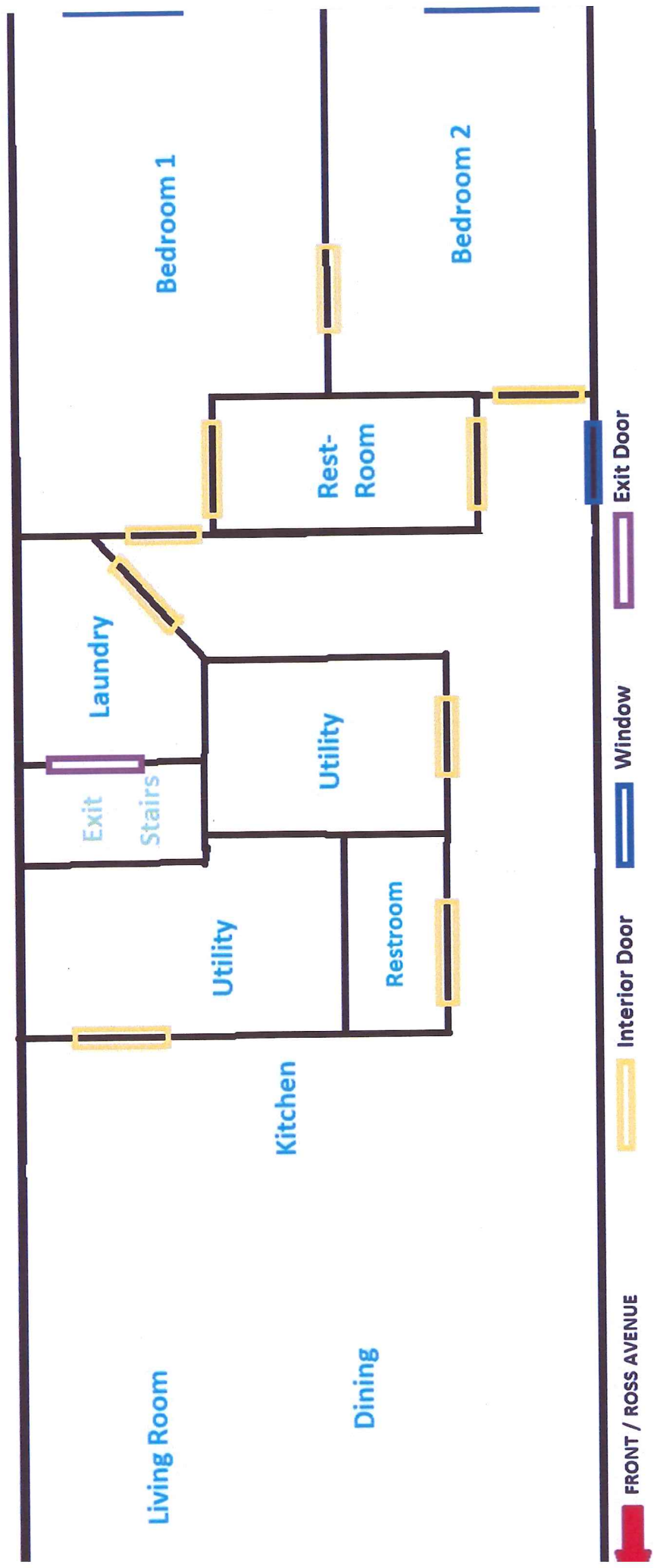
1024 Ross Ave
St. Paul MN 55106



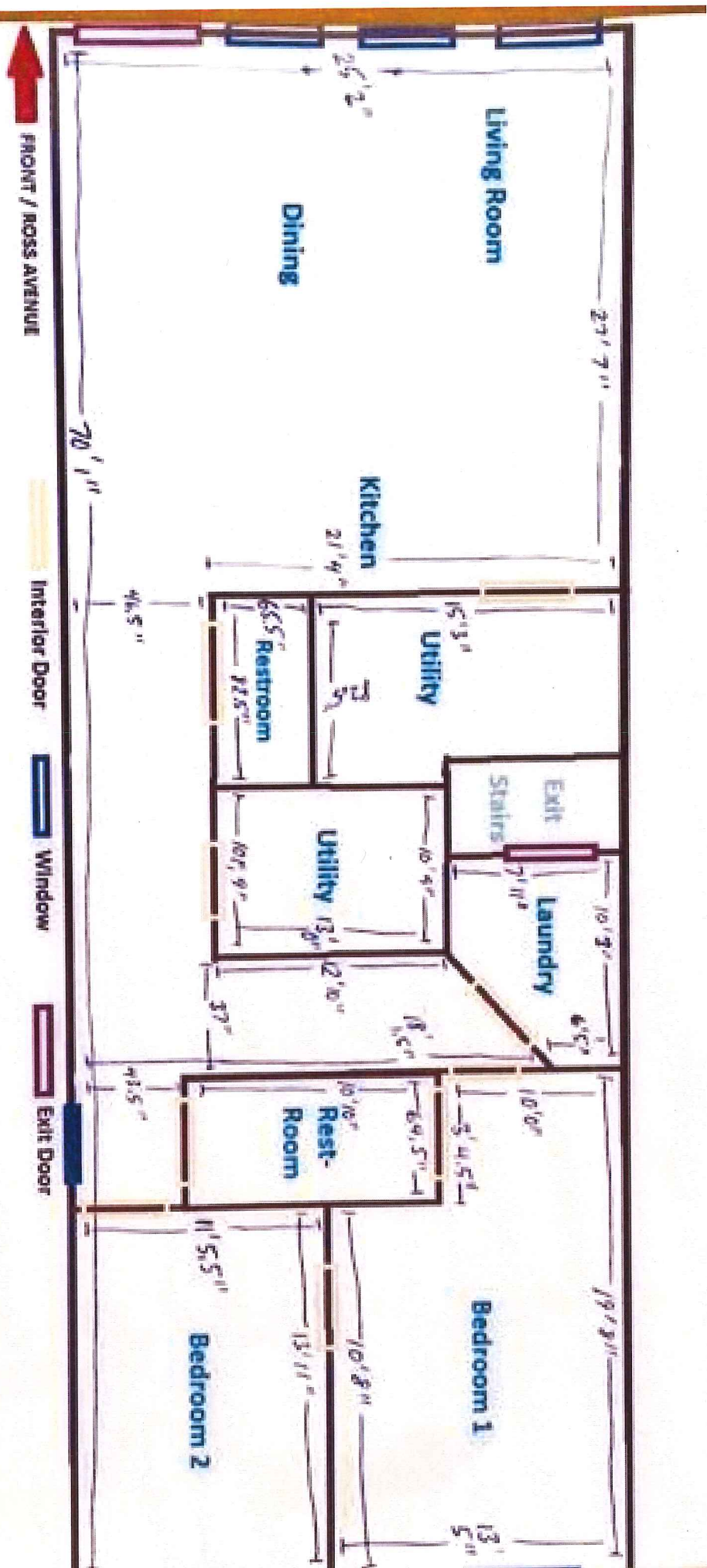
m = Unit 6
Retail/office

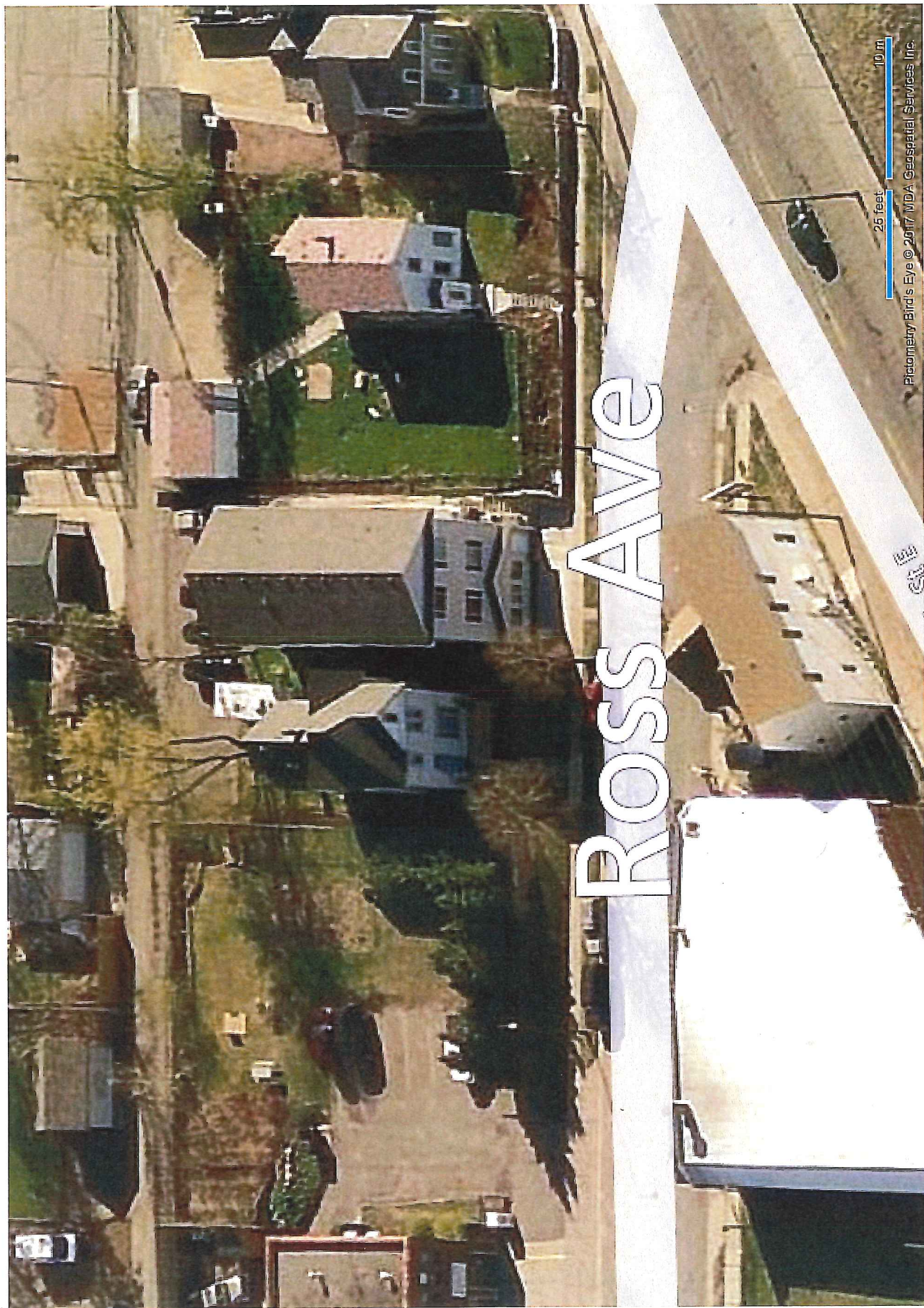
Before
EXISTING CONDITION

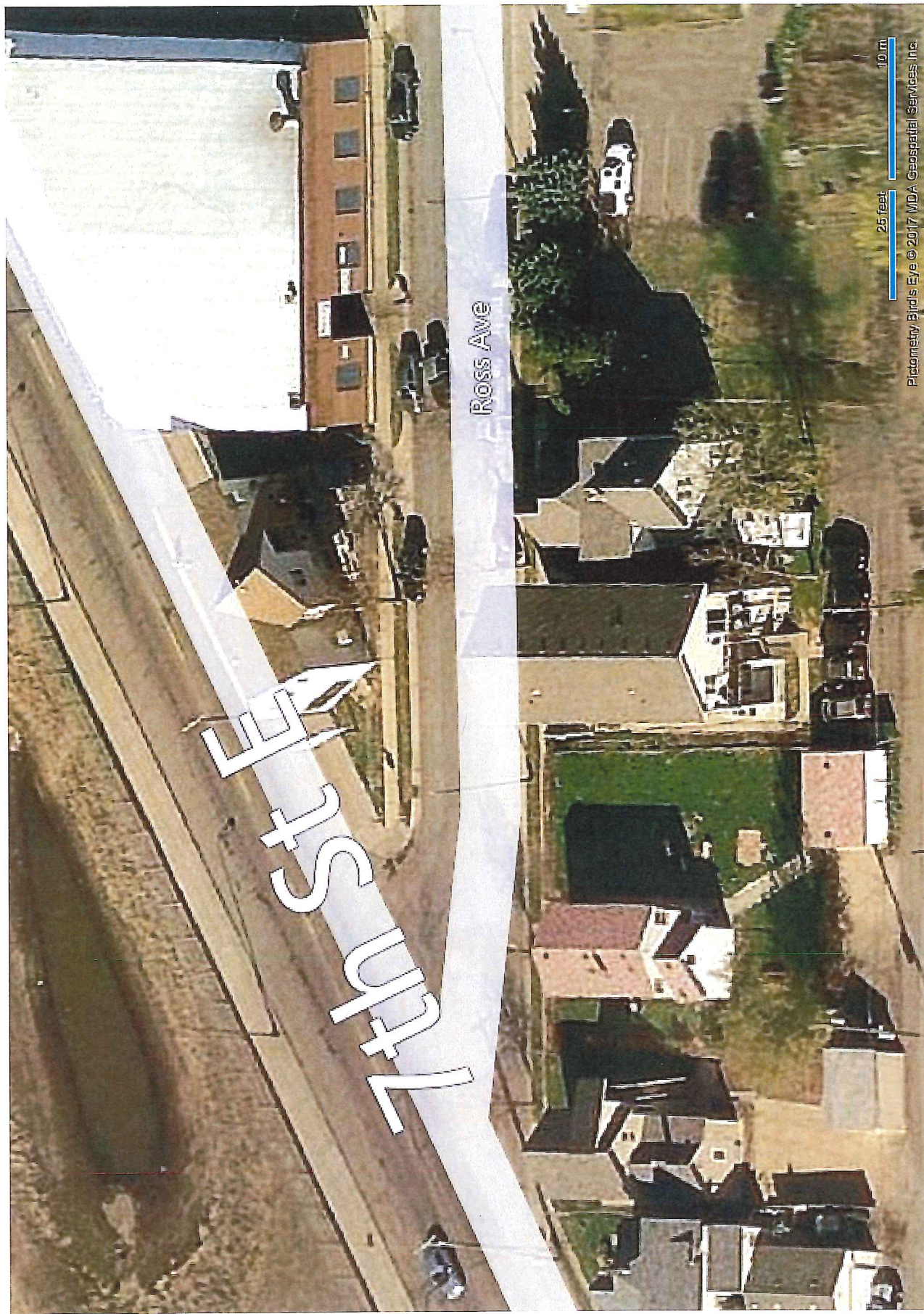
Unit 5 & 6
is now one single
unit. (Residential)
only

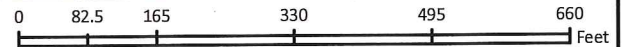
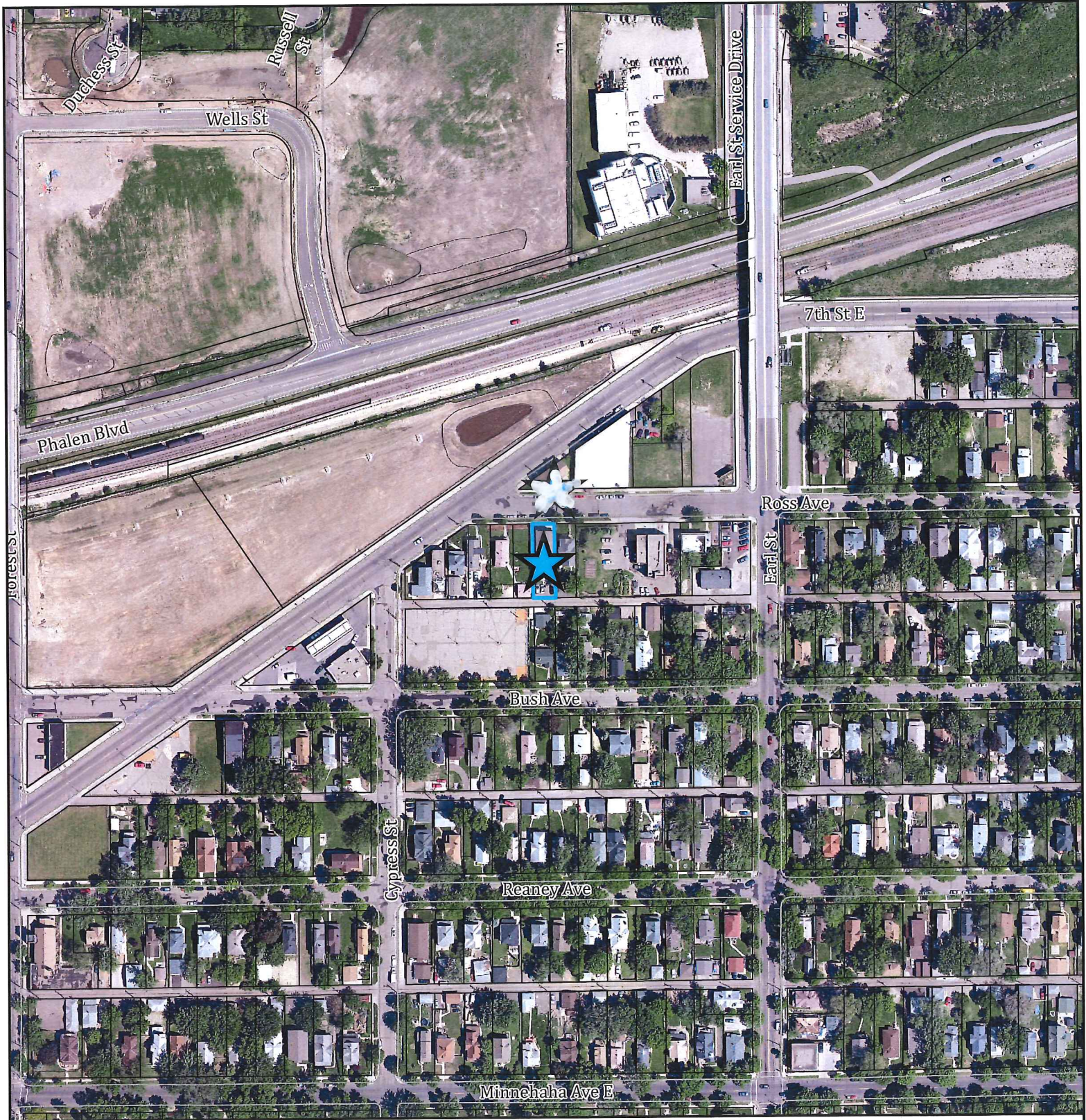


PROPOSED









FILE NAME: Porchua Xiong

Aerial

APPLICATION TYPE: Rezone

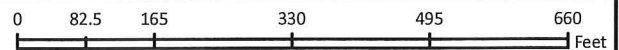
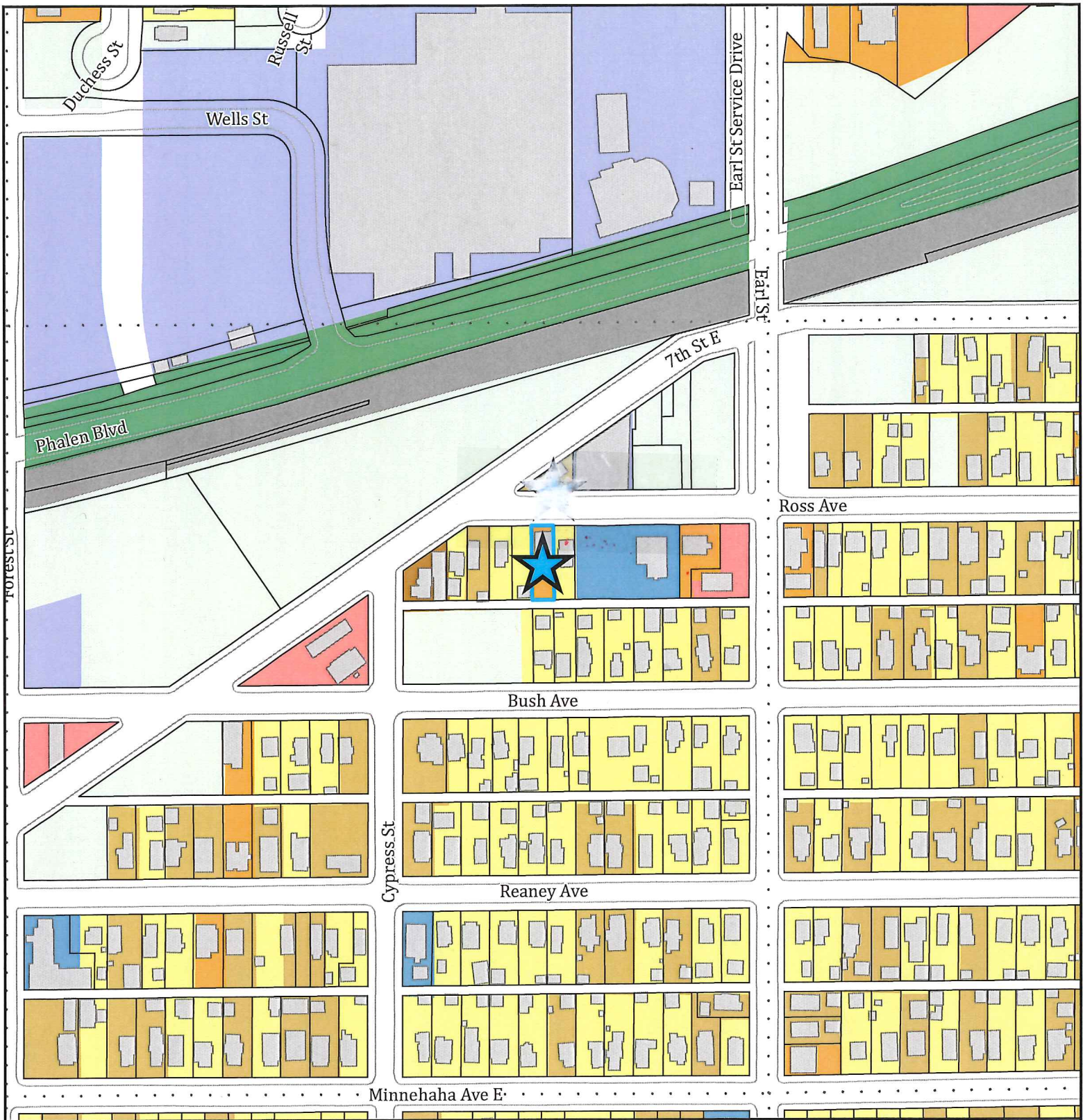
 Subject Parcels

FILE #: 17-009938 DATE: 2/9/2017

PLANNING DISTRICT: 4

ZONING PANEL: 11





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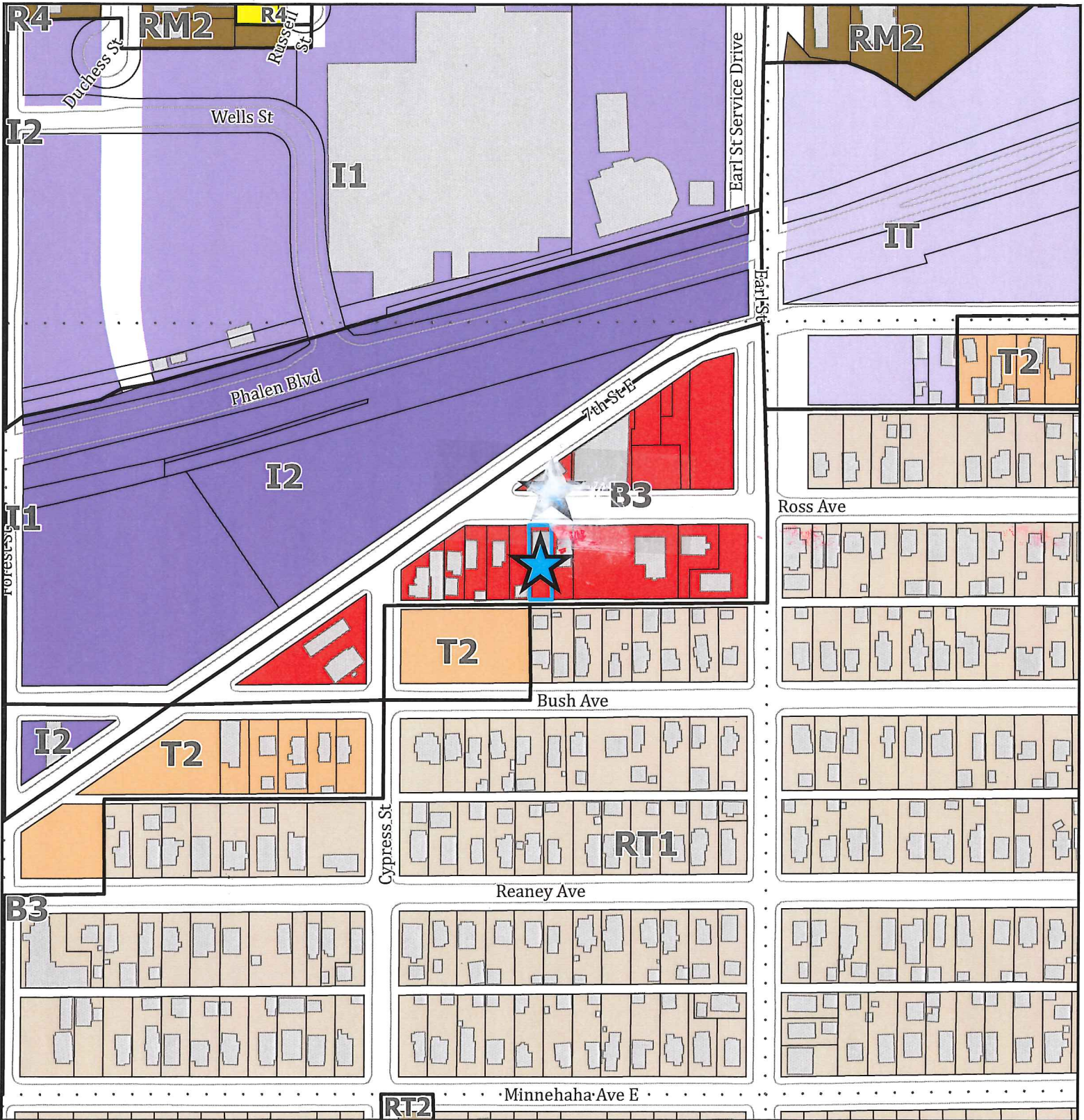
PLANNING DISTRICT: 4

ZONING PANEL: 11

Land Use

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





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Zoning

- Subject Parcels
- Section Lines
- R4 One-Family
- RT1 Two-Family
- RT2 Townhouse
- RM2 Multiple-Family
- T2 Traditional Neighborhood
- B3 General Business
- IT Transitional Industrial
- I1 Light Industrial
- I2 General Industrial

