

## ZONING COMMITTEE STAFF REPORT

11-255-877

1. **FILE NAME:** Rolando Aguilar, et. al. **FILE #:** ~~10-121-038~~
  2. **APPLICANT:** Rolando Aguilar, North Real Estate LLC, Cesar N Dominguez **HEARING DATE:** Aug. 25, 2011
  3. **TYPE OF APPLICATION:** Rezoning
  4. **LOCATIONS:** 902 Arcade, 908 Arcade, and 833 York Ave, NE Corner at York
  5. **PINS & LEGAL DESCRIPTIONS:** *Area to be rezoned* – portions of PIN 282922320134 and 282922320136, legally described as Lot 16, Blk 1 of William's Rearrangement of Blk 7 and part of Blk 4, Nelson Addition to the City of St. Paul (**908 Arcade** and **833 York**, respectively)
  6. **PLANNING DISTRICT:** 5 **EXISTING ZONING:** RT1
  7. **ZONING CODE REFERENCE:** §61.801(b)
  8. **STAFF REPORT DATE:** August 16, 2011 **BY:** Luis Pereira
  9. **DATE RECEIVED:** July 27, 2011 **60-DAY DEADLINE FOR ACTION:** September 25, 2011
- 

- A. **PURPOSE:** Rezoning existing and new portions of 908 Arcade Street from RT1 Two Family Residential to T2 Traditional Neighborhood.
- B. **PARCEL SIZES:** *Proposed, post-common boundary adjustment* - 902 Arcade: approximately 4,828 square feet (0.111 acres); 908 Arcade: approximately 6,166 square feet (0.142 acres); and 833 York: approximately 7,060 square feet (0.162 acres).
- C. **EXISTING LAND USES:** Rear yards for commercial and apartment properties at 902 and 908 Arcade St (T2); former western sideyard of residential property at 833 York Ave (RT1)
- D. **SURROUNDING LAND USES:**
  - North: Mixed use retail-residential (T2)
  - South: Seeger's Square shopping center (T2)
  - East: Duplex at 833 York Ave (RT1)
  - West: Single family detached home (T2)
- E. **ZONING CODE CITATION:** §61.801(b) provides for changes to the zoning of property initiated by the property owner.
- F. **HISTORY/DISCUSSION:** Minimal zoning history was found for this property; City records indicate a City approval in 1943 for a parking lot for the Atlas Theatre on Lots 16 and 17 of this block, suggesting a long history of commercial uses. One of the applicants and owner of the Los Gallo's 8 money transfer business at 902 Arcade St – Rolando Aguilar – has owned the commercial and multifamily properties at 902 and 908 Arcade since 2002.

The proposed the lot split and this rezoning are driven by Aguilar's plans for a future parking expansion to the rear of the Los Gallo's and apartment buildings.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The Payne Phalen District Five Planning Council had not provided a written recommendation at the time of this staff report.
- H. **FINDINGS:**
  1. One of the applicants, Rolando Aguilar/North Real Estate LLC, seeks to rezone from RT1 to T2 the rear portion of his property at 908 Arcade. In addition, a portion of 833 York Ave (part of Lot 16) is proposed to be transferred to 902 and 908 Arcade via a pending adjustment of common boundary (#11-241-408). This additional area for 908 Arcade (and 902 Arcade, post-boundary adjustment) is also proposed to be rezoned from RT1 to T2. The other applicant, Cesar N Dominguez, is the owner of 833 York Ave.

2. The adjustment of common boundary (lot split) involves three parcels. If the adjustment is approved, western portions of 833 York Ave (Lot 16) will become rear, eastern portions of 902 Arcade St (Lot 13/14) and 908 Arcade St (Lots 13/14/16).
3. The proposed future use of an expanded T2-zoned area to the rear of buildings at 902 Arcade and 908 Arcade is off-street parking. While the existing buildings at 902 Arcade and 908 Arcade will continue to be used for the money transfer business and apartment units (respectively), the owner of these properties (one of the applicants - Rolando Aguilar) has no construction plans for new off-street parking at this time.
4. The proposed zoning is consistent with the way this area has developed. The properties have long been used for a mix of commercial and residential purposes. The proposed T2 zoning allows for the continued use of the property for commercial, mixed use, or residential uses along a diverse commercial corridor, consistent with the way the area has developed.
5. The proposed zoning is consistent with the Comprehensive Plan. The Arcade Street Small Area Plan Summary, approved in 2007, promotes the creation of "parking at the rear of buildings along Arcade Street" by "acquiring parcels behind the commercial frontage, up to 120 feet, and demolishing the buildings on the parcels." It also calls for the installation of "buffers between the parking areas and the adjoining residential areas." The eastern boundary of the portion of 833 York Ave to be conveyed over to 902 and 908 Arcade St is located approximately 120 feet from the commercial frontage of the latter two properties; i.e. a rezoning to T2 is consistent with supporting off-street parking for the mixed commercial uses along Arcade in this location.

In addition, the Land Use Chapter of the Comprehensive Plan, adopted in 2010, also designates the properties as "Mixed Use Corridor," a future land use category described as "primary thoroughfares through the city that are served by public transit (or could be in the future). Includes areas where two or more of the following uses are or could be located: residential, commercial, retail, office, small scale industry, institutional, and open space. Uses may be within a building or in buildings that are in close proximity."

6. The proposed T2 zoning is compatible with the existing T2 zoning along Arcade Street as well as RM2 and RT1 zoning in place on the mixed residential blocks that intersect with Arcade Street.
7. 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 creates an island of nonconforming use within a larger zoned district, and which dramatically reduce the value for uses specified in the zoning ordinance of either the rezoned plot or abutting property.*" The proposed rezoning to T2 of three small portions of parcels adjacent to existing T2-zoned commercial and residential property does not establish a use classification that is inconsistent with surrounding uses – a large T2-zoned Seeger Square commercial center, another T2-zoned mixed commercial-residential building, and an existing RT1-zoned duplex property.
8. The petition for rezoning was found to be sufficient on July 27, 2011: 15 parcels eligible; 10 parcels required; 10 parcels signed.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the rezoning of existing and proposed new portions of 908 Arcade St (and proposed new portion of 902 Arcade St) from RT1 Two Family Residential 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 # 11-255877  
 Fee 1200.00  
 Tentative Hearing Date 7-18-11 8-25-11

PD-5

# 282922320136

**APPLICANT**

Property Owner See attachment Appendix A 0135  
 Address " " " " 0134  
 City \_\_\_\_\_ St. \_\_\_\_\_ Zip \_\_\_\_\_ Daytime Phone \_\_\_\_\_  
 Contact Person (if different) \_\_\_\_\_ Phone \_\_\_\_\_

**PROPERTY LOCATION**

Address / Location See attachment Appendix B  
 Legal Description " " "  
 \_\_\_\_\_ Current Zoning RT1  
 (attach additional sheet if necessary)

**TO THE HONORABLE MAYOR AND CITY COUNCIL:**

Pursuant to Section 61.800 of the Saint Paul Zoning Ordinance and to Section 462.357(5) of Minnesota Statutes,  
(Espn Dominguez)  
Rolando Aguilar Estrada, North Real Estate, LLC., owner of land proposed for rezoning, hereby petitions you to  
 rezone the above described property from a RT-1 zoning district to a TN2

zoning district, for the purpose of:

Having enough space to build a parking lot on the future. that c

[Signature] member  
[Signature] owner

(attach additional sheets if necessary)

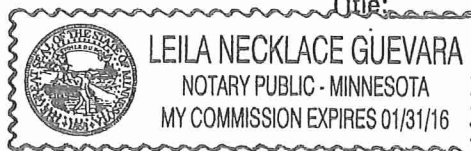
Attachments as required:  Site Plan  Consent Petition  Affidavit

Subscribed and sworn to before me  
 this 8 day  
 of June, 2011.

By: [Signature]  
 Fee Owner of Property owner

Title: \_\_\_\_\_

[Signature]  
 Notary Public



pdd 6/15/11  
 1200.00  
 Page 1 of \_\_\_\_\_

pdd 7-18-11

# ZONING PETITION SUFFICIENCY CHECK SHEET

REZONING

CUP

NCUP

2nd  
~~FIRST~~ SUBMITTED

RESUBMITTED

DATE PETITION SUBMITTED:

7-18-11

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

DATE OFFICIALLY RECEIVED:

7-27-11

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

PARCELS ELIGIBLE:

15

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

PARCELS REQUIRED:

10

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

PARCELS SIGNED:

10

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

CHECKED BY:

Paul Dubruel

DATE:

7-27-11

CITY OF SAINT PAUL

AFFIDAVIT OF PETITIONER FOR A REZONING

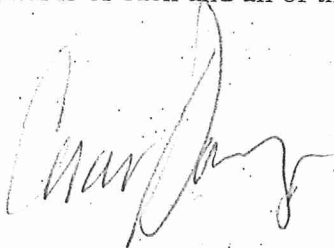
STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY)

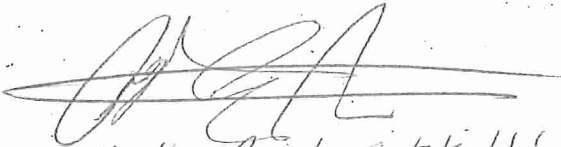
North Real Estate, LLC  
Cesar Dominguez

The petitioner, Rolando Aguilar Estrada, being first duly sworn, deposes and states that the consent petition contains signatures of the owners of at least two-thirds (2/3) of all eligible properties within 100 feet of the subject property described in the petition and all property contiguous to the subject property that was owned, purchased, or sold by the petitioner within one (1) year preceding the date of the petition; petitioner is informed that the consent petition must contain signatures from each and all owners of jointly-owned property in order to constitute consent from that property and that failure to obtain consent from each and all owners could invalidate the consent petition; petitioner believes that the consent petition was signed by each of said owners and that the signature are the true and correct signatures of each and all of the parties so described.



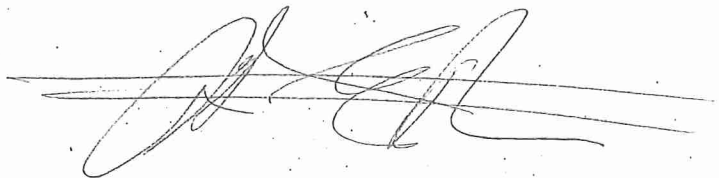
8160 Curtis Lane, Eden Prairie Mn.  
55347

612 761 8461



North Real Estate, LLC  
908 Arcade St.

Subscribed and sworn to before me this  
8 day of June, 2011.



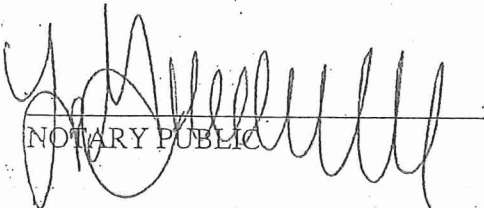
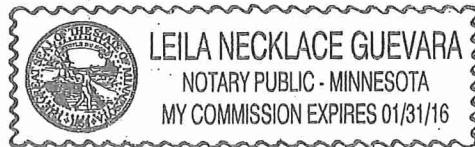
NAME

902 Arcade St. St Paul Mn

ADDRESS

612 270 6460

TELEPHONE NUMBER

  
NOTARY PUBLIC

CITY OF SAINT PAUL

AFFIDAVIT OF PERSON CIRCULATING CONSENT  
PETITION FOR A REZONING

STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY)

Fernando Aguilar, being first duly sworn, deposes and states that he/she is the person who circulated the consent petition consisting of 2 pages; that affiant is informed and believes the parties described on the consent petition are owners of the parcels of real estate described immediately before each name, and that 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 and all properties contiguous to the subject property that was owned, purchased or sold by the petitioner within one (1) year preceding the date of the petition; that 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.

Fernando Aguilar Estrada  
358 Bates Ave  
St Paul MN 55106

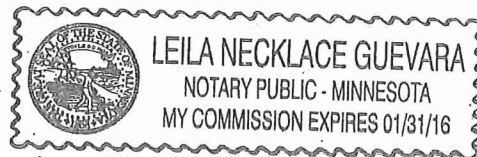
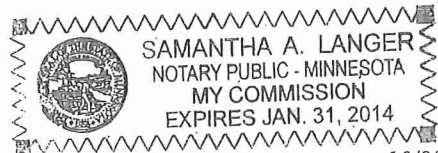
Fernando Aguilar  
NAME

25 Jackson Ave S  
ADDRESS

(609) 475-6537  
TELEPHONE NUMBER

Subscribed and sworn to before me this

8 day of June, 2011

  
NOTARY PUBLIC

Samantha Langer 7-18-11

# CITY OF SAINT PAUL

## CONSENT OF ADJOINING PROPERTY OWNERS FOR A REZONING

We, the undersigned, owners of the property within 100 feet of the total contiguous description of real estate owned, purchased, or sold by THE PETITIONER within one year preceding the date of this petition acknowledge that we have been presented with the following:

1. A copy of the petition of Cesar N. Dominguez  
Rolando Aguilar Estrada, North Real Estate, LLC  
(name of petitioner)

to rezone the property located at 833 York Ave E. St Paul, MN 55106  
902 Arcade St. & 908 Arcade St.  
from a RT-1 zoning district to a TN2 zoning district and

2. A copy of sections 66.321 through 66.343, inclusive of the Saint Paul Zoning Code.

We acknowledge that we are aware of all of the uses permitted in a TN2 zoning district, and we are aware that any of these uses can be established upon City Council approval of the rezoning. We hereby consent to the rezoning of the property in the petition of

Cesar Dominguez  
Rolando Aguilar Estrada  
North Real Estate, LLC to a TN2 zoning district.  
(name of petitioner)

We consent to the approval of this rezoning as it was explained to us by the applicant or his/her representative.

| ADDRESS OR PIN #   | RECORD OWNER          | SIGNATURE              | DATE     |
|--------------------|-----------------------|------------------------|----------|
| 902 Arcade St      | Rolando Aguilar       | <del>[Signature]</del> | 6/10/11  |
| 908 Arcade St      | North Real Estate LLC | <del>[Signature]</del> | 6/10/11  |
| 817 York Ave       | Barbara Hobbs         | Barbara Hobbs          | 6/7/11   |
| 840 Sims Ave       | Travis Haas           | Travis Haas            | 6/7/11   |
| 841 York Ave       | Ronald Croninger      | Ronald Croninger       | 6/7/11   |
| 840 Sims Ave       | TRAVIS HAAS           | [Signature]            | 6/7/11   |
| 923 Arcade St      | Joseph Lee            | Joseph Lee             | 6/8/11   |
| 923 Arcade St      | Cluckett Lee          | Cluckett Lee           | 6/8/11   |
| 912-916 Arcade St. | DONALD M. MOE         | Donald M. Moe          | 6/8/2011 |
| 828 Sims Ave E.    | WFM Properties LLC    | [Signature]            | 6/8/11   |
| 833 York Ave E.    | Cesar Dominguez       | [Signature]            | 6/9/11   |

NOTE: This petition shall not be considered as officially filed until the lapse of seven (7) working days after it is received by the Planning Division. Any signator of this petition may withdraw his/her name therefrom by written request within that time.

# CITY OF SAINT PAUL

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Cesar Dominguez  
Rolando Aguilar Estrada  
North Real Estate, LLC to a TN2 zoning district.  
(name of petitioner)

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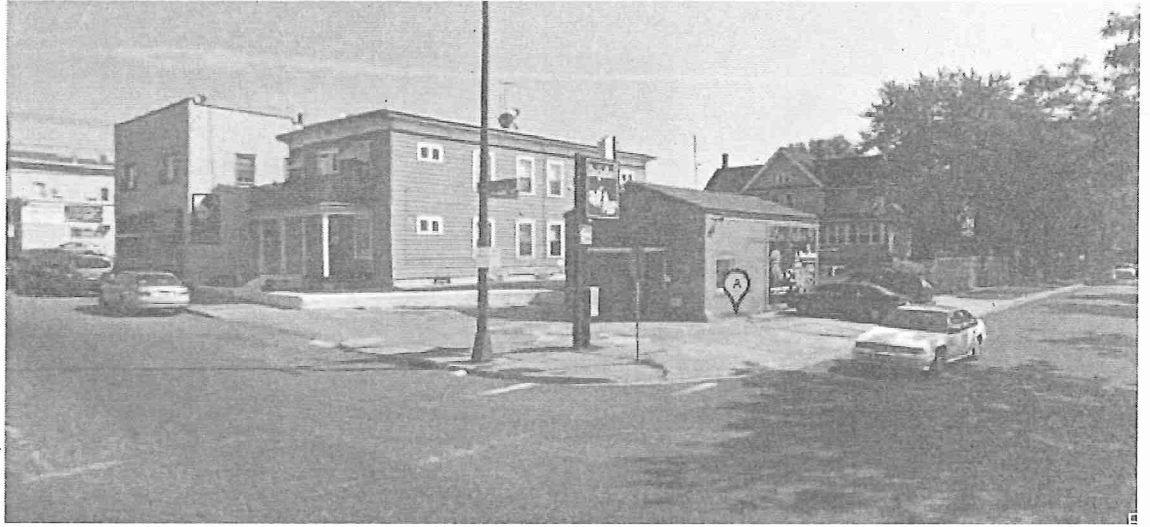
| ADDRESS OR PIN #   | RECORD OWNER           | SIGNATURE | DATE     |
|--------------------|------------------------|-----------|----------|
| 902 Arcade St      | Rolando Aguilar        |           | 06/07/11 |
| 908 Arcade St      | North Real Estate, LLC |           | 06/07/11 |
| 817 York Ave       | Barbara Hobbs          |           | 6/7/11   |
| 840 Sims Ave       | Travis Haas            |           | 6/7/11   |
| 841 York Ave       | Ronald Groninger       |           | 6/7/11   |
| 840 Sims Ave       | TRAVIS HAAS            |           | 6/7/11   |
| 923 Arcade St      | Joseph Chu             |           | 6/8/11   |
| 923 Arcade St      | Cluckee Lee            |           | 6/8/11   |
| 912-916 Arcade St. | DONALD M. MOE          |           | 6/8/2011 |
| 828 Sims Ave E.    | WFM Properties LLC     |           | 6/8/11   |
| 833 York Ave E.    | Cesar Dominguez        |           | 6/9/11   |
| 844 Sims Ave       | John Yang              |           | 6-28-11  |

NOTE: This petition shall not be considered as officially filed until the lapse of seven (7) working days after it is received by the Planning Division. Any signator of this petition may withdraw his/her name therefrom by written request within that time.

844 Sims Ave mee bid up mee bid 7-15-11



**Fig. 1.** View of 902  
Arcade St & 908 Arcade  
St, looking northeast  
from York/Arcade  
intersection



**Fig. 2.** View of rear  
of 902 Arcade St &  
908 Arcade St,  
looking north  
along boundary  
with 833 York Ave  
E.

Fig. 3. View of current sideyard of 833 York Ave E, looking north

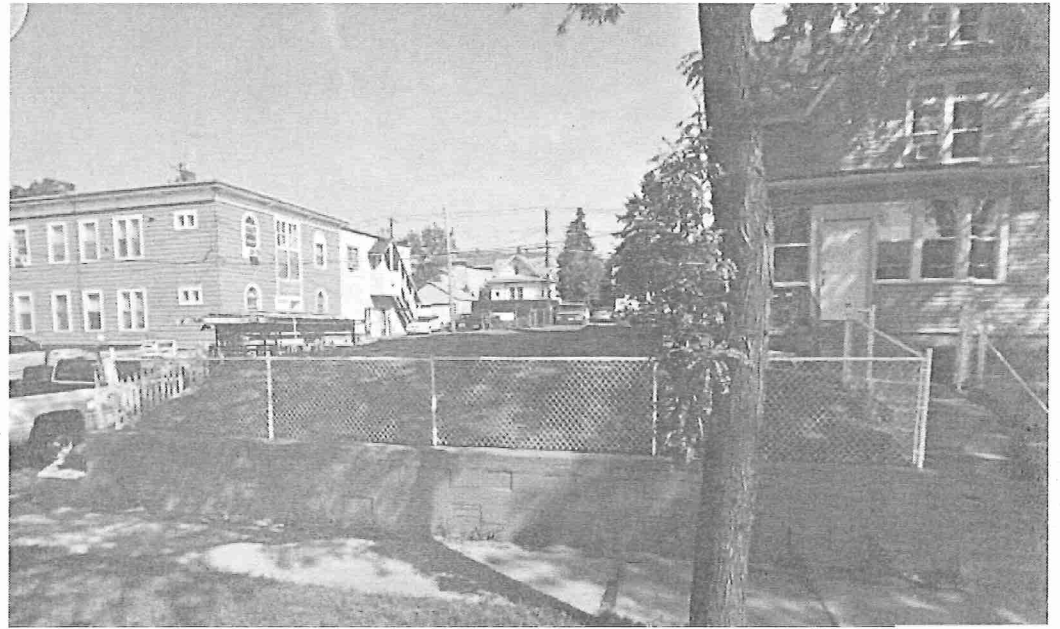
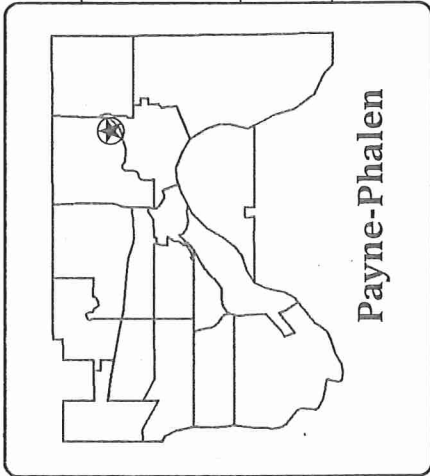
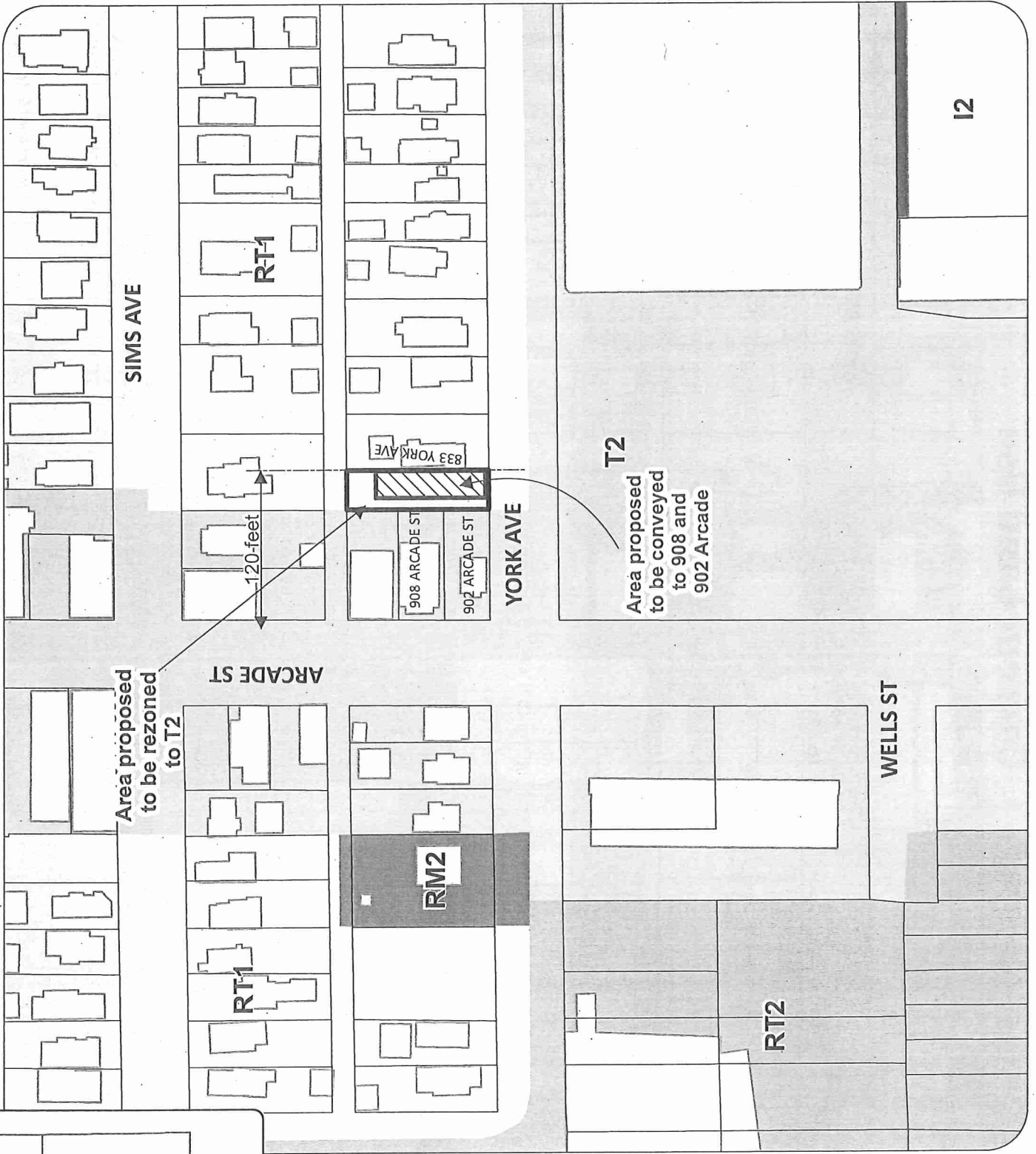


Fig. 4. View from 833 York Ave, looking south at Seeger Square commercial center

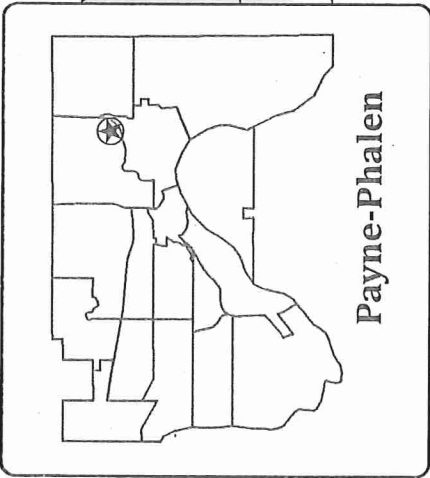
# Current Zoning



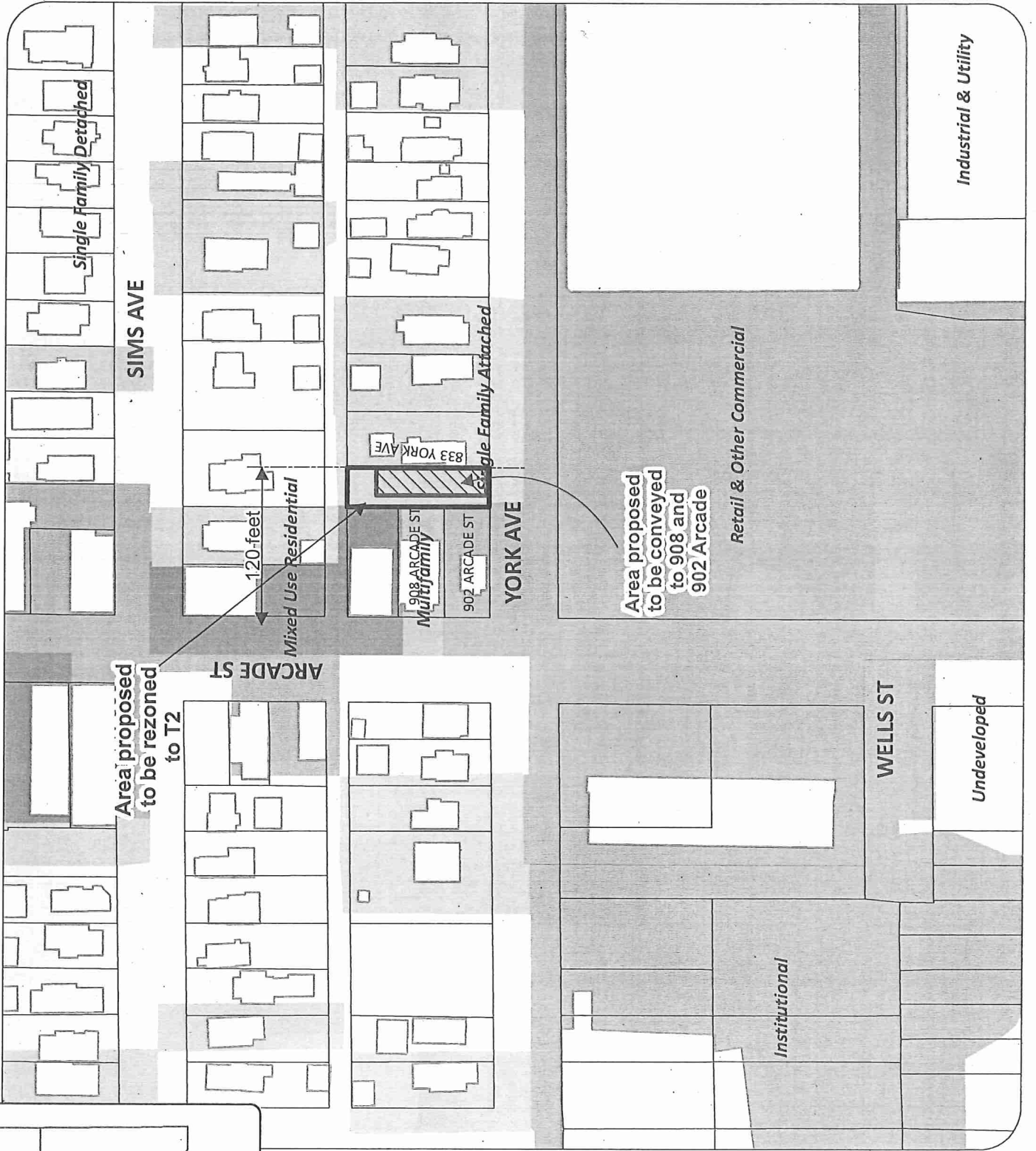
- Properties for rezoning:
- \*908 Arcade (existing and proposed new portions of)
  - \*902 Arcade (proposed new portion of)



# Current Land Use



Properties for rezoning:  
 \*908 Arcade (existing and proposed new portions of)  
 \*902 Arcade (proposed new portion of)



# PAYNE PHALEN DISTRICT FIVE PLANNING COUNCIL

STRONG  SAFE  WELCOMING  CONNECTED  NEIGHBORHOODS

August 24, 2011

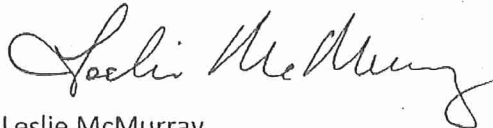
Mr. Luis Pereira, Senior City Planner  
Planning and Economic Development  
25 4th St W, 1200 City Hall Annex  
Saint Paul, MN 55102

**Re: 11-266-877 Rolando Aguilar et al: Rezoning from RT1 Two-Family Residential to T2  
Traditional Neighborhood 833 York Avenue, NE Corner of Arcade at York**

Dear Luis Pereira:

The Payne Phalen Community Planning & Economic Development Committee (CPED) met on August 23, 2011. The Committee voted unanimously to support this rezoning matter. The applicant, Rolando Aguilar and his business partner were present and responded to the Committee's questions. The CPED Committee concurred with the City staff recommendation on the matter.

Sincerely,



Leslie McMurray  
Executive Director / Organizer

506 KENNY ROAD, SUITE 130, SAINT PAUL, MINNESOTA 55130-4554

TEL # (651) 774-5234  FAX # (651) 774-9745

E-MAIL: DISTRICT5@PAYNEPHALEN.ORG

WWW.PAYNEPHALEN.ORG



# CERTIFICATE OF SURVEY

~For~ Rolando Aguilar

**EXISTING LEGAL DESCRIPTION** p 33 York

(Proposed Property Area = 8,186.41)  
 (Per Warranty Deed 4212684)  
 (Per Warranty Deed 4212685)  
 Lot 18, except the West 25.30 feet and except the North 25 feet thereof, and all of Lot 17, Block 1, Nelson's Rearrangement of Block 7 and Part of Block 4, Nelson's Addition to the City of St. Paul, and the West 1/2 of Block 4, Nelson's Addition to the City of St. Paul, Ramsey County, Minnesota.

**PROPOSED LEGAL DESCRIPTION**

(Proposed Property Area = 7,058.61)  
 Lot 18, except the West 25.30 feet and except the North 25 feet thereof, and all of Lot 17, Block 1, Nelson's Rearrangement of Block 7 and Part of Block 4, Nelson's Addition to the City of St. Paul, and the West 1/2 of Block 4, Nelson's Addition to the City of St. Paul, Ramsey County, Minnesota.

**EXISTING LEGAL DESCRIPTION** 902 Arcade

(Prop 28-29-22-22-0130)  
 (Easting Property Area = 3,815.21)  
 The South 40 feet of Lots 13 and 14, Block 4, Nelson's Addition, North of the South 40 feet thereof and long Southeastward of a line running or bearing S 89° 03' 40" E 44.95 feet distant to a point on the West line of said Lot 13 distant 45.4 feet North of and South 40 feet distant 171 feet East of the West line of said Lot 13.

**PROPOSED LEGAL DESCRIPTION**

(Proposed Property Area = 4,222.41)  
 The South 40 feet of Lots 13 and 14, Block 4, Nelson's Addition, North of the South 40 feet thereof and long Southeastward of a line running or bearing S 89° 03' 40" E 44.95 feet distant to a point on the West line of said Lot 13 distant 45.4 feet North of and South 40 feet distant 171 feet East of the West line of said Lot 13.

**EXISTING LEGAL DESCRIPTION** 905 Arcade

(Prop 28-29-22-22-0130)  
 (Easting Property Area = 3,023.17)  
 The North 25 feet of Lot 16 and the West 18 feet of Lot 16, which has Rearrangement of Block 7 and Part of Block 4, Nelson's Addition to the City of St. Paul, Ramsey County, Minnesota (Abstract)

**PROPOSED LEGAL DESCRIPTION**

(Proposed Property Area = 8,186.41)  
 The North 25 feet of Lot 16 and the West 25.30 feet of Lot 16, which has Rearrangement of Block 7 and Part of Block 4, Nelson's Addition to the City of St. Paul, Ramsey County, Minnesota (Abstract)

**EXISTING LEGAL DESCRIPTION** 905 Arcade  
 (Prop 28-29-22-22-0130)  
 (Easting Property Area = 3,023.17)  
 The North 25 feet of Lot 16 and the West 18 feet of Lot 16, which has Rearrangement of Block 7 and Part of Block 4, Nelson's Addition to the City of St. Paul, Ramsey County, Minnesota (Abstract)

**PROPOSED LEGAL DESCRIPTION**

(Proposed Property Area = 8,186.41)  
 The North 25 feet of Lot 16 and the West 25.30 feet of Lot 16, which has Rearrangement of Block 7 and Part of Block 4, Nelson's Addition to the City of St. Paul, Ramsey County, Minnesota (Abstract)

**E. G. RUD & SONS, INC.**  
 Professional Land Surveyors  
 6776 Lake Drive NE, Suite 110  
 Lino Lakes, MN 55014  
 Tel: (651) 361-9200 Fax: (651) 361-4901

I hereby certify that this survey, plan or map was made by me or under my direct supervision and that I am a duly Registered Professional Land Surveyor under the laws of the State of Minnesota.

**J. S. RUD**  
 Date: 8/10/2011 License No. 41278

| DATE      | DESCRIPTION | BY     |
|-----------|-------------|--------|
| 8/10/2011 | RECORD      | J.S.R. |
| 8/10/2011 | RECORD      | J.S.R. |

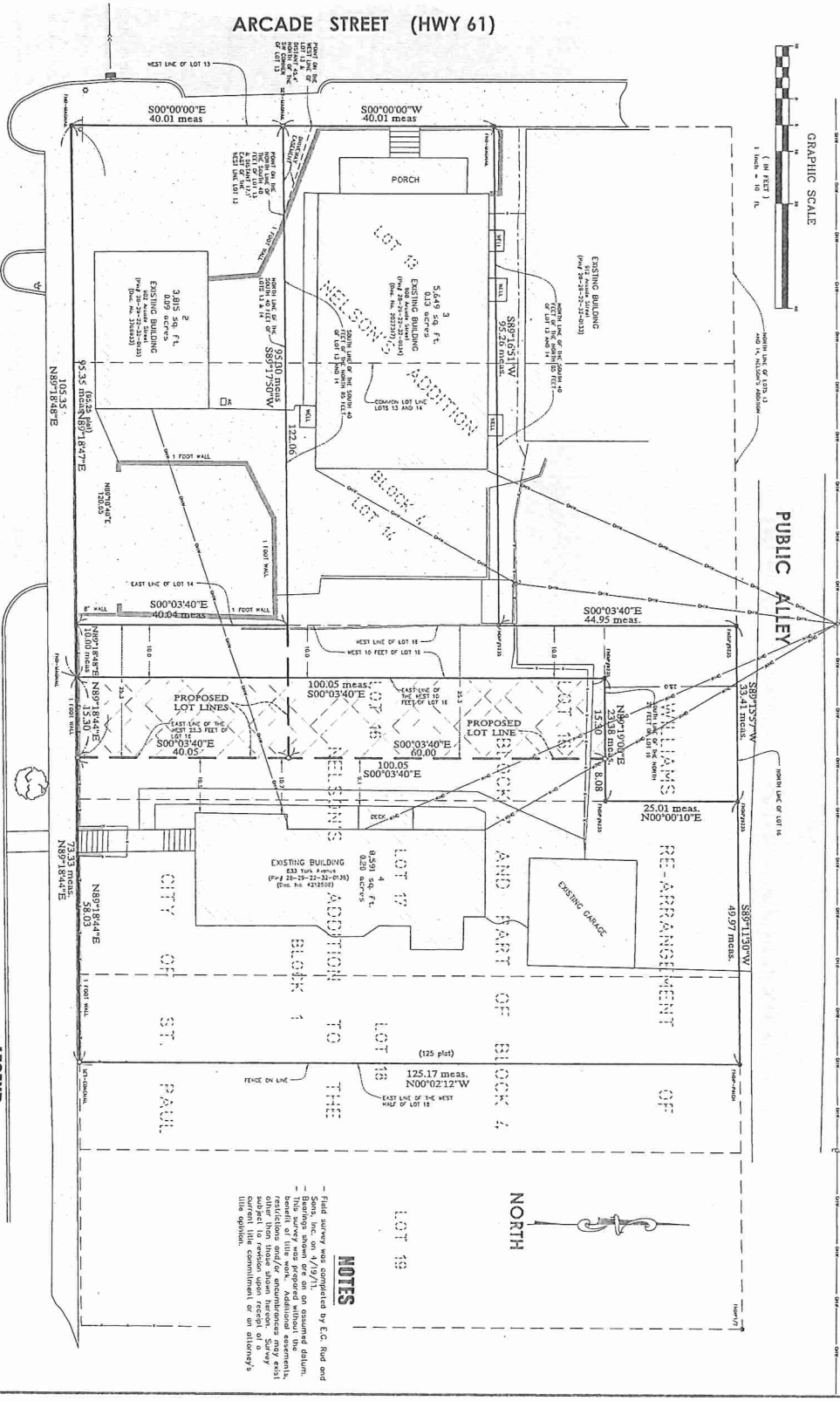
**DESCRIPTION OF AREA TO BE REZONED**

That part of the East 15.3 feet of the West 25.3 feet of Lot 18, Block 1, Nelson's Rearrangement of Block 7 and Part of Block 4, Nelson's Addition to the City of St. Paul, Ramsey County, Minnesota (Abstract) (Proposed Rearrange Area = 1,314.0)

DENOTES AREA TO BE REZONED

**LEGEND**

- DENOTES IRON MONUMENT FOUND AS LABELED
- DENOTES 1/2" BY 1/4" IRON MONUMENT SET, MARKED R59 1137A
- DENOTES UNLIT POLE & OVERHEAD LINE
- DENOTES CANON BRASS
- DENOTES LIGHT POLE
- DENOTES IRONBANK
- DENOTES FENCE
- DENOTES CONCRETE SURFACE
- DENOTES BRIMMING SURFACE
- DENOTES REMAINING WALL WITH WALL WIDTH



**NOTES**

- Field notes were authenticated by E.G. Rud and Sons, Inc. on 4/19/11.
- References shown are on an assumed datum.
- Benefit of title work, and/or additional assessments, reductions and/or encumbrances may exist subject to review upon receipt of a copy of the current title commitment or an attorney's title opinion.

