

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Reza Inc. **FILE #:** 19-003-730
 2. **APPLICANT:** Reza Inc. **HEARING DATE:** January 31, 2019
 3. **TYPE OF APPLICATION:** Rezoning
 4. **LOCATION:** 770 Grand Avenue, south side between Avon and Grotto
 5. **PIN & LEGAL DESCRIPTION:** 02.28.23.42.0079; Lot 8, Block 8, Summit Park Addition
 6. **PLANNING DISTRICT:** 16 **EXISTING ZONING:** BC
 7. **ZONING CODE REFERENCE:** § 61.801(b)
 8. **STAFF REPORT DATE:** January 24, 2019 **BY:** Kady Dadlez
 9. **DATE RECEIVED:** January 10, 2019 **60-DAY DEADLINE FOR ACTION:** March 10, 2019
-

- A. **PURPOSE:** Rezone from BC community business (converted) to T2 traditional neighborhood.
- B. **PARCEL SIZE:** The rectangular shaped parcel has about 40 feet of frontage on Grand Avenue and is about 150 feet in depth for a total lot area of about 6,000 square feet.
- C. **EXISTING LAND USE:** Commercial and residential uses in a residential structure in a BC zone. There is one dwelling unit in the structure and space for one commercial tenant.
- D. **SURROUNDING LAND USE:** The property is adjacent to single family (R4) uses on the south and a multifamily (RM2) use on the east. The property is surrounded by commercial uses on the north, east, and west that include restaurants, retail and service, and coffee and ice cream shops in BC, B2, and B3 zones.
- E. **ZONING CODE CITATION:** § 61.801(b) provides for changes to the zoning of property initiated by the property owner.
- F. **HISTORY/DISCUSSION:** A sign district permit was approved in 1984. The existing residential structure accommodates space for one commercial tenant and one dwelling unit. The commercial portion of the structure is currently vacant; the previous commercial use was a salon. The commercial space includes 700 square feet on the main level and 700 square feet in the basement; customers have access to the space on the main level. The commercial space is ADA accessible from the rear of the building via a ramp.
- G. **PARKING:** Zoning Code § 63.207 requires a minimum of 4 off-street parking spaces for the proposed uses in the building: 1 space for the dwelling unit and 3 spaces for commercial floor area (1 space per 400 square feet of gross floor area of 1,400 square feet). The previous residential/salon uses also required 4 spaces. There are 4 parking spaces on site; 1 space in the garage and 3 surface spaces at the rear of the property that are accessible from the alley.
- H. **DISTRICT COUNCIL RECOMMENDATION:** District 16 Summit Hill Association had not commented on the application at the time the staff report was drafted.
- I. **FINDINGS:**
 1. The applicant owns the property and is requesting rezoning to allow a prospective tenant to establish a tea house serving ice cream, treats, and hot beverages. The building on site is a single family home converted to commercial and residential use. The commercial space in the building is currently vacant but was most recently used as a salon. There is a single residential dwelling unit on the second floor of the building that is occupied and will continue to be occupied for residential use.
 2. The proposed zoning is consistent with the way this area has developed. Traditional neighborhood districts are intended to foster the development and growth of compact,

pedestrian-oriented mixed housing and commercial development along major streets. The districts are intended to encourage a compatible mix of commercial and residential uses within buildings, sites and blocks. The T2 traditional neighborhood district is designed for use in pedestrian and transit nodes. Its intent is to foster and support compact pedestrian-oriented development that in turn can support and increase transit usage. Grand Avenue is an existing transit corridor. The proposed T2 zoning is a more appropriate zone than a B2 zone because of the existing residential structure on the property. T2 allows both residential and commercial uses and offers greater flexibility for future use of the residential structure. If the property were rezoned to B2 there would be more restrictions on residential uses than there would be in T2.

3. The proposed zoning is consistent with the Comprehensive Plan. Grand Avenue is identified on the land use map as a mixed use corridor. It is a primary thoroughfare through the city that is served by public transit and includes areas where two or more uses could be located in the same building or in close proximity. Policy 1.23 in the land use plan calls for guiding development along mixed use corridors. Policy 1.24 calls for support of a mix of uses on mixed use corridors. Policy 1.47 supports compatible mixed use within single buildings and in separate buildings in close proximity.

The Summit Hill/District 16 Neighborhood Plan's vision for Grand Avenue is as an eclectic mix and balance of housing, and small-scale shops, restaurants, and services, both locally and nationally owned, for residents and visitors. Strategy G1 of the plan states, *Maintain Grand Avenue as a continuous neighborhood retail and residential corridor and contain commercial uses and accessory parking within existing boundaries.* Strategy G4 states, *Retain BC (commercial uses in residential structures) and residential zoning on Grand Avenue. Discourage rezoning of residential uses on Grand Avenue to more intensive uses.* Strategy G7 states, *the Summit Hill Association recommends implementing mechanisms for supporting and retaining small, locally-owned businesses.*

4. The proposed zoning in this stretch of Grand Avenue is compatible with surrounding uses which include restaurants, retail, service, and coffee and ice cream shops. The zoning is also compatible with the transit corridor that runs along Grand Avenue. While the T2 dimensional standards allow building heights of 35 feet, and a maximum height of 45 feet with a conditional use permit, the East Grand Avenue Overlay District, § 67.602, limits commercial building heights to three stories and 30 feet, mixed commercial-residential building heights to three stories and 36 feet, and residential or institutional building heights to three stories and 40 feet. No additional height based on setbacks is allowed.
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.*" Uses permitted under the proposed T2 zoning are similar to the residential uses permitted in the adjacent RM2 multiple-family residential district on one side, and to the commercial uses permitted in the adjacent B2 community business district on the other side. T2 zoning is consistent with the comprehensive plan and compatible with surrounding land uses and zoning and is not spot zoning.

- J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the petition to rezone from BC community business (converted) to T2 traditional neighborhood at 770 Grand Avenue.



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 #: 19-003730
 Fee: 1260⁰⁰
 Tentative Hearing Date: 1-31-19

PD-16

#022823420079

APPLICANT

Property Owner(s) REZA INC.
 Address 2933 HWY 13 W
 City BURNSVILLE State MN Zip 55337 Phone 952-800-0911
 Contact Person SHAB SHAKIBI Phone 952-800-0911
 Email REZAINCPROPERTY@GMAIL.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 770 GRAND AVE., ST. PAUL, MN 55105
 Legal Description Lot 8, Block 8, Summit Park Addition to St. Paul Current Zoning BC
 (Attach additional sheet if necessary.)

TO THE HONORABLE MAYOR AND CITY COUNCIL:

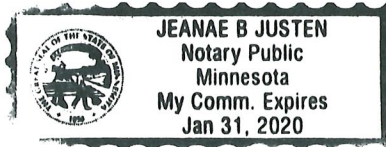
Pursuant to Saint Paul Zoning Ordinance § 61.801 and Minnesota Statutes § 462.357, Reza Inc. owner(s) of land proposed for rezoning, hereby petition(s) to rezone the above described property from a BC zoning district to a T2 zoning district, for the purpose of: Sales of ice cream, treats, and hot beverages. (Tea house).
 (Attach additional sheets if necessary.)

Attachments as required: Site Plan Consent Petition Affidavit

Subscribed and sworn to before me

Date January 10 2019

Jeanae Justen
 Notary Public



Subscribed and sworn to before me

Date Jan 10 2019

[Signature]
 Notary Public

[Signature]
 By: SHAB SHAKIBI
 Fee owner of property

Title: OFFICER

By: _____
 Fee owner of property

Title: _____

Treats

CEREAL BAR & BOBA

We provide a nostalgic experience within every bite. We pursue to invite many different cultures to intermix in one familiarity, which are our childhood memories and new ones as we take on our favorite cereal choices. Most of us have an early memory of grabbing our favorite cereal box in the pantry and pouring ourselves a generous bowl of cereal and milk. The best part? Slurping the last bit of cereal milk. If you don't recall, we've got you covered. At Treats, we have ice cream, cereal, milk, shakes, and bubble tea. You can pick from your favorite cereals and we'll blend it into a delicious ice cream swirl. We value community and we invite the neighborhood to take a stroll down memory lane. Bring your love ones to share an incredible experience and most importantly a good treat! We look forward to being a part of the community and bringing good synergy.



860 St Clair Ave
St Paul MN 55105
651.222.1222
SummitHillAssociation.org

Kady Dadlez, Senior City Planner, City of Saint Paul: Kady.Dadlez@ci.stpaul.mn.us
Paul Dubruiel, Planning Tech for Zoning, City of Saint Paul: paul.dubruiel@ci.stpaul.mn.us

CC: Shab Shakibi, Reza Inc.: RezaIncProperty@gmail.com

RE: Zoning Application file #19-003-730 for 770 Grand Ave

January 29, 2019

Ms. Dadlez and Mr. DuBruiel,

At a public meeting of the Zoning and Land Use (ZLU) Committee held on January 27, 2019,
by a vote of 3-2, the **ZLU committee voted in support of the rezoning of 770 Grand Ave from BC to T2.**

Neighbors present at the meeting raised several concerns that we would like to bring to your attention:

- Is there adequate space on the property to store snow without infringing on the public right of way in the alley behind the business?
- Is there adequate space on the property for the storage of new, larger garbage bins (as will be required for food service) and for garbage trucks to access the bins without infringing on the right of way in the alley behind the business?
- Is the existing ADA parking space and wheelchair ramp/access compliant with applicable codes?

Please let me know if you have any questions.

Monica Haas
Director,
Summit Hill Association

Hayden Howland
President,
Summit Hill Association

Dadlez, Kady (CI-StPaul)

From: Lori Brostrom <lbrostrom@comcast.net>
Sent: Wednesday, January 30, 2019 3:35 PM
To: Dadlez, Kady (CI-StPaul); dan.edgerton@stantec.com
Subject: 770 Grand Avenue Proposed Rezoning

Dear Ms. Dadlez and Commissioner Edgerton;

I am writing to express my concern about the proposed rezoning of 770 Grand Avenue from BC to TN2 for the purpose of allowing the current building's use as a teahouse, ahead of the Zoning Commission meeting scheduled for tomorrow, January 31.

My reasons are several:

- Any upzoning is at odds with the recommendations of the current Summit Hill Neighborhood Comprehensive Plan, which states:

G4 Commercial and Housing Mix. Retain B2-C (commercial uses in residential structures) and residential zoning on Grand Avenue.

- Changing the zoning to TN2 would open the door to a much more intensive use of a property which has minimal on-site parking (accessible only through the alley, which abuts a residential-only neighborhood to the south). Furthermore, it is at odds with this stretch of Grand Avenue which is already extensively burdened by a known parking deficit, traffic, and pedestrian safety issues.
- The practice of spot-zoning is at best detrimental and per Minnesota case law, potentially illegal. In this case, zoning allowing a more intensive use would be detrimental to the public welfare, as it clearly opens the door for the existing building, which is emblematic of and critical to the unique character of Grand Avenue, to be torn down and replaced by something larger and more burdensome to the surrounding infrastructure, not to mention at odds with the adjacent commercial and residential properties. In fact, the City of Saint Paul's website, in the Zoning section, specifically states with regard to nonconforming use permits:

Before the Planning Commission can grant a Nonconforming Use Permit, they must make the following findings:

- *The use occurs entirely within an existing structure;*
- *The use is similar to other uses permitted within the district;*
- *The use has been in existence continuously for a period of at least 10 years prior to the application;*
- *The off-street parking is adequate to serve the use;*
- *Hardship would result if the use were discontinued;*
- ***Rezoning the property would result in "spot" zoning or a zoning inappropriate to the surrounding land uses;***
- *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare;*

- *The use is consistent with the comprehensive plan; and*
- *That a notarized petition of two-thirds of the property owners within 100 feet of the property has been obtained stating support for the use.*

*The Planning Commission may impose such **reasonable conditions and limitations in granting an approval as are determined to be necessary to fulfill the spirit and purpose of the zoning code and to protect adjacent properties.***

Per the bolded sections, there is acknowledgement that this request is at odds with the current zoning and past use. Given that a nonconforming use permit is a tool which by its nature can be granted or rescinded--with or without conditions--and is specific and limited to a property and owner, the bar for rezoning which runs with the land and thus, gives a much more expansive permission that could lead to outcomes at odds with the intent of the current zoning, should be much higher.

In fact, there is a better solution that would address the applicant's desire to put this building to a new use as a teahouse, namely to rezone this property not to TN2, but rather B1, for which a teahouse would be either a permitted or conditional use. B1 zoning is much more congruent with the intent and impact of the current BC zoning. Per the St. Paul Legislative Code:

Sec. 66.412. - Intent, B1 local business district.

The B1 local business district is intended to permit those uses as are necessary to satisfy the basic convenience shopping or service needs of persons residing in nearby residential areas.

Sec. 66.413. - Intent, BC community business (converted) district.

The BC community business (converted) district is a business district expressly for existing residential structures in commercial areas, which will permit the operation of businesses which do not generate large amounts of traffic and at the same time will retain the visual character of the building forms and open space associated with residential uses. This includes a limited height on buildings and front and side yards. It is further the intent of this district to provide parking for employees who work in buildings which are converted from residential to business use.

Finally, before any change in use of this property is approved, I would suggest that a comprehensive parking and traffic study be done before any more intensive zoning or use is allowed and, specific to this property, that sufficient off-street parking be required per the code, taking into consideration that access to whatever exists will be burdensome and potentially present a hazard to the adjacent residents on Lincoln Avenue who share and rely upon that alley.

Thank you for your consideration.

Lori Brostrom
710 Summit Avenue



Virus-free. www.avast.com

Langer, Samantha (CI-StPaul)

From: Mike Killa <mkill@authconst.com>
Sent: Thursday, January 31, 2019 3:27 PM
To: Langer, Samantha (CI-StPaul)
Subject: 770 Grand Ave.

I, as a business owner and homeowner with-in the same block as 770 Grand Ave. oppose to a rezoning of this property.

Mike Killa

740 Grand Avenue



This email has been checked for viruses by Avast antivirus software.

www.avast.com

Submitted by
Chuck Repke at
the public hearing
on January 31, 2019

Proposed Replacement language

Findings:

1. – Same as staff findings
2. The proposed zoning is not consistent with how the area has developed. The Community Business converted (BC) Zoning on Grand Avenue is unique in the City of Saint Paul. **Sec. 66.413. - Intent, BC community business (converted) district.** *The BC community business (converted) district is a business district expressly for existing residential structures in commercial areas, which will permit the operation of businesses which do not generate large amounts of traffic and at the same time will retain the visual character of the building forms and open space associated with residential uses. This includes a limited height on buildings and front and side yards. It is further the intent of this district to provide parking for employees who work in buildings which are converted from residential to business use.*

As Grand Avenue went through a renaissance in the 1970's and early 1980's concern about the pressures to demo Victorian Styled homes for commercial development or parking became a major concern. After a long planning process and considerable discussion and efforts in the business and residential communities the BC zoning designation was developed. The BC designation allowed the structures to be either mixed use residential and commercial or commercial uses that have limited parking requirements and low impact on the adjacent residential properties on Summit or Lincoln. The types of uses allowed were retail and office in nature that anticipated limited hours of operation. Restaurant uses are prohibited. T2 zoning district is not as narrow in scope and will allow more intense uses than are allowed in the BC zoning district.

3. The proposed zoning is not consistent with the Comprehensive Plan. Grand Avenue is a primary thoroughfare through the city that is served by public transit and includes areas where two or more uses could be located in the same building or close proximity. Policy 1.23 in the land use plan calls for guiding development along mixed use corridors. Policy 1.24 calls for a mix of uses on mixed used corridors. Policy 1.47 supports compatible mixed use within single buildings and in separate buildings in close proximity. The BC zoning district was designed for Grand Avenue to accomplish all of those goals in this neighborhood. To eliminate BC zones threatens that guided/planned development of the area.

The Summit Hill/District 16 Neighborhood Plan's vision for Grand Avenue is an eclectic mix and balance of housing and small scale shops, restaurants and services, both locally and nationally owned for residents and visitors. Strategy G1 of the plan states, Maintain Grand Avenue as a continuous neighborhood retail and residential corridor and contain commercial uses and accessory parking with existing boundaries. **Strategy G4 states, retain BC (commercial uses in residential structures) and residential zoning on Grand Avenue. Discourage rezoning of residential uses to more intensive uses.** Rezoning from BC to T2 directly violates strategy G4 and would be inconsistent with the neighborhood plan. Every owner of BC property on Grand Avenue who loses an existing tenant may find it more profitable to rent to a coffee house or restaurant use. Rezoning to T2 further could allow the demolition of the Victorian styled home and replace with a more modern office/retail or mixed use building.

4. – Same as staff findings
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 surrounding uses and create an island of nonconforming use within a larger zoned property."* Grand Avenue within the District 16 area has been consistent in how it was developed mixed use development exists in the BC zoning districts. Piecemeal rezoning of one parcel of 40 foot wide BC zoned property to T2 which does not exist on the block could be considered spot zoning.

Based on findings 2, 3 and 5, the petition to rezone from BC community business (converted) to T 2 traditional neighborhood at 770 Grand Avenue should be denied.

Dadlez, Kady (CI-StPaul)

From: chuckrepke@aol.com
Sent: Thursday, February 07, 2019 8:44 AM
To: Dadlez, Kady (CI-StPaul)
Subject: 770 W Grand Ave

I noticed that the photos I submitted to the zoning committee are included in the summary packet which I assume will be forwarded to the Planning Commission. Can you please submit to the Commission this brief explanation of the photos?

Six of the photos in your packet show examples of the residential style structures that have been preserved in the area because of the BC zoning requirement that the properties maintain the residential front yard set backs. The other photo of 814 Grand shows the destruction of the facade that is allowed when BC zoning becomes T2. 814 Grand is the only T2 zoned land in District 16 and is an excellent example of the difference between BC and T2.

By definition BC requires front yard set backs and T2 encourages buildings to be located near the sidewalk with a desire to create an urban street scape. The eclectic co-mingling of residential styled structures that sit back away from the street is incompatible with T2 zoning which encourages zero set backs and all properties in a neat row.

Google Maps ~~769 W Grand Ave~~
770 Grand



Image capture: Sep 2017 © 2019 Google

St Paul, Minnesota



Street View - Sep 2017



Google Maps 764 W Grand Ave



Image capture: Sep 2017 © 2019 Google

St Paul, Minnesota



Street View - Sep 2017





649 W Grand Ave

Three properties on the north side of Grand between St Albans and Grotto



Image capture: Oct 2017 © 2019 Google

St Paul, Minnesota



Street View - Oct 2017



Google Maps

841 Grand Ave

840 and 844 Grand

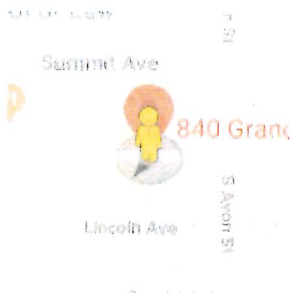


Image capture: Sep 2017 © 2019 Google

St Paul, Minnesota



Street View - Sep 2017



Google Maps 818 Grand Ave

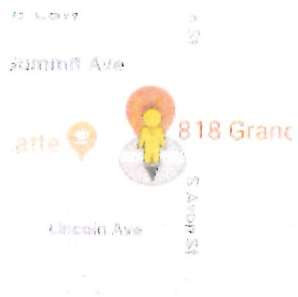


Image capture: Sep 2017 © 2019 Google

St Paul, Minnesota



Street View - Sep 2017



Google Maps 841 Grand Ave



Image capture: Sep 2017 © 2019 Google

St Paul, Minnesota



Street View - Sep 2017

School of Law

Summit Ave

Grand Ave

S. Mallon St

Lincoln Ave





814
821 Grand Ave
816 Grand Ave

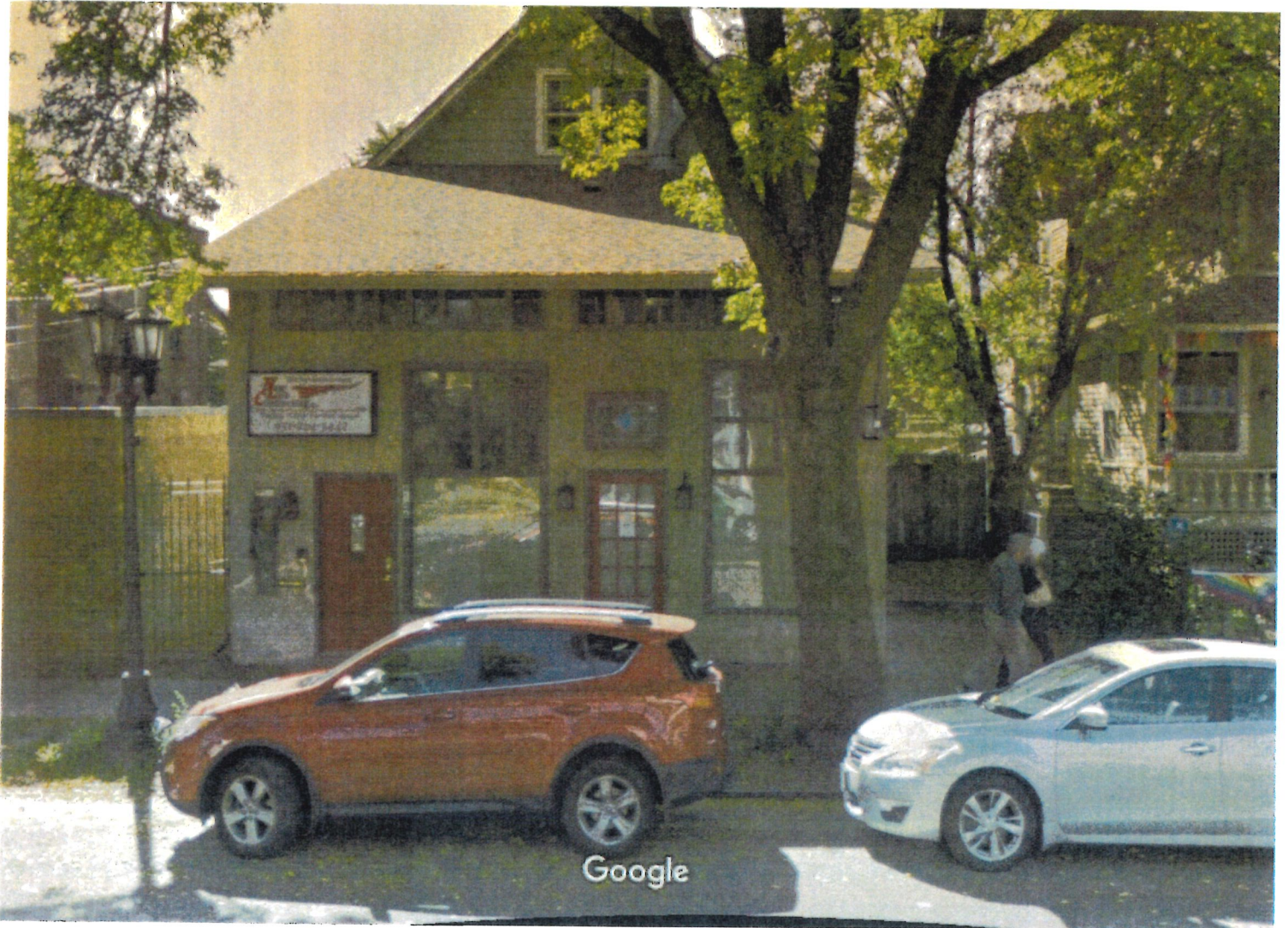
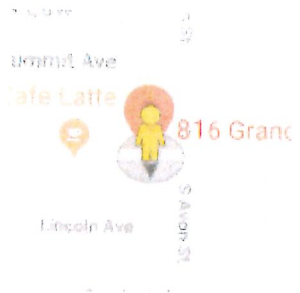


Image capture: Sep 2017 © 2019 Google

St Paul, Minnesota



Street View - Sep 2017



Google Maps 770 Grand Ave



Imagery ©2019 Google, Map data ©2019 Google 20 ft

770 Grand Avenue and low density residential and retail/service uses to the east



Parking, restaurant, and retail uses to the west



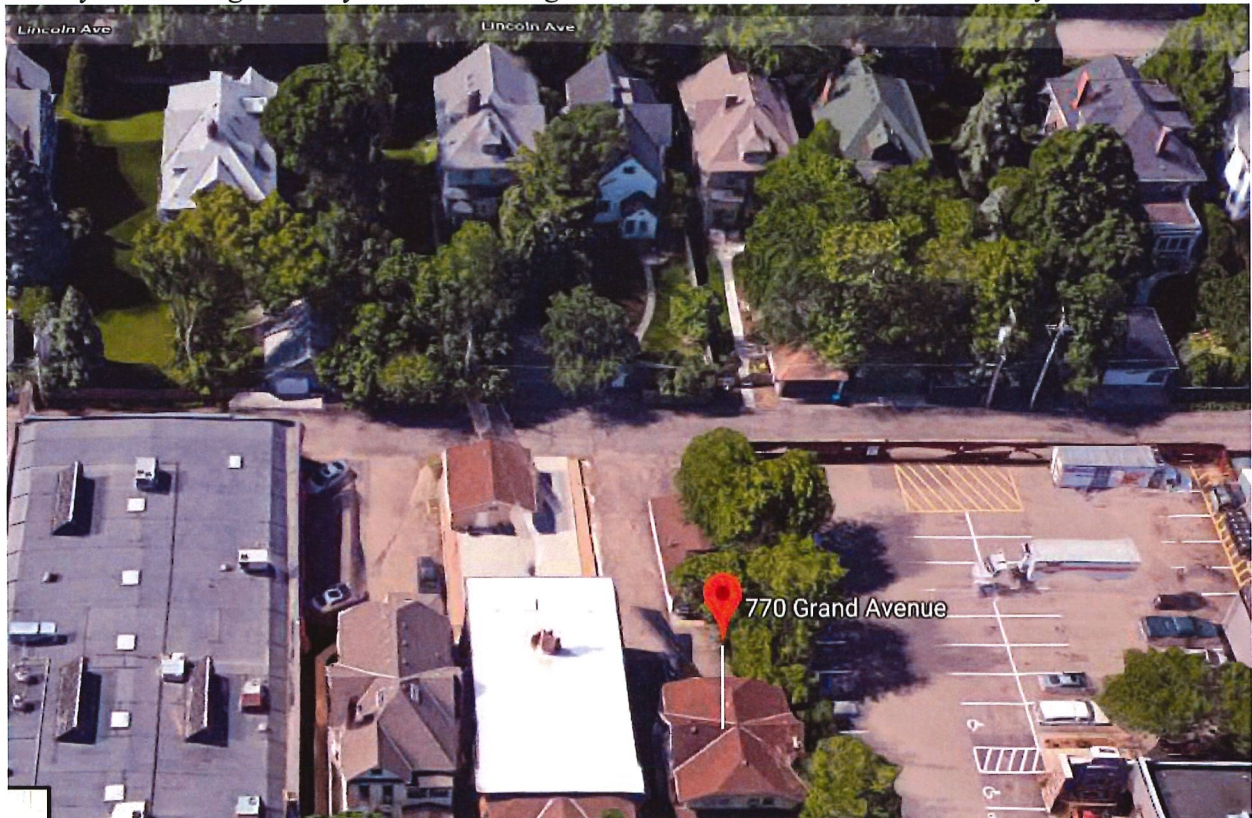
Restaurant, coffee shop, and medium density residential uses to the south

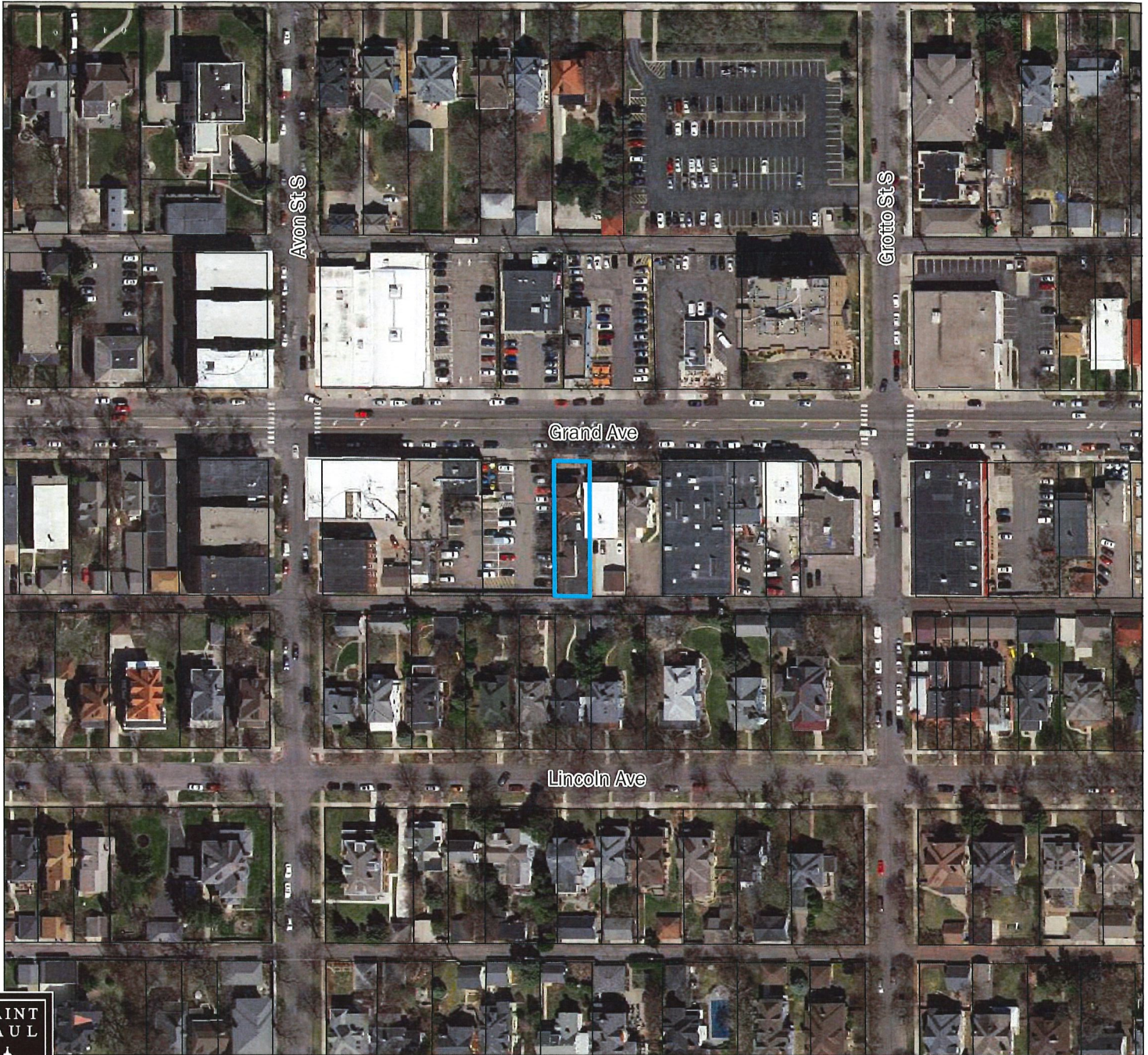


View of 770 Grand Avenue from the alley



Back yards of single family homes fronting on Lincoln Avenue that abut the alley of 770 Grand





FILE #19-003730 | AERIAL MAP
Application of Reza Inc.

Application Type: Rezone
Application Date: January 10, 2019
Planning District: 16

Subject Parcel Outlined in Blue



This document was prepared by the Saint Paul Planning and Economic Development Department and is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, survey, official tax map or engineering schematic and is not intended to be used as such. Data sources: City of Saint Paul, Ramsey County, Metropolitan Council, State of Minnesota.



FILE #19-003730 | LAND USE MAP
Application of Reza Inc.

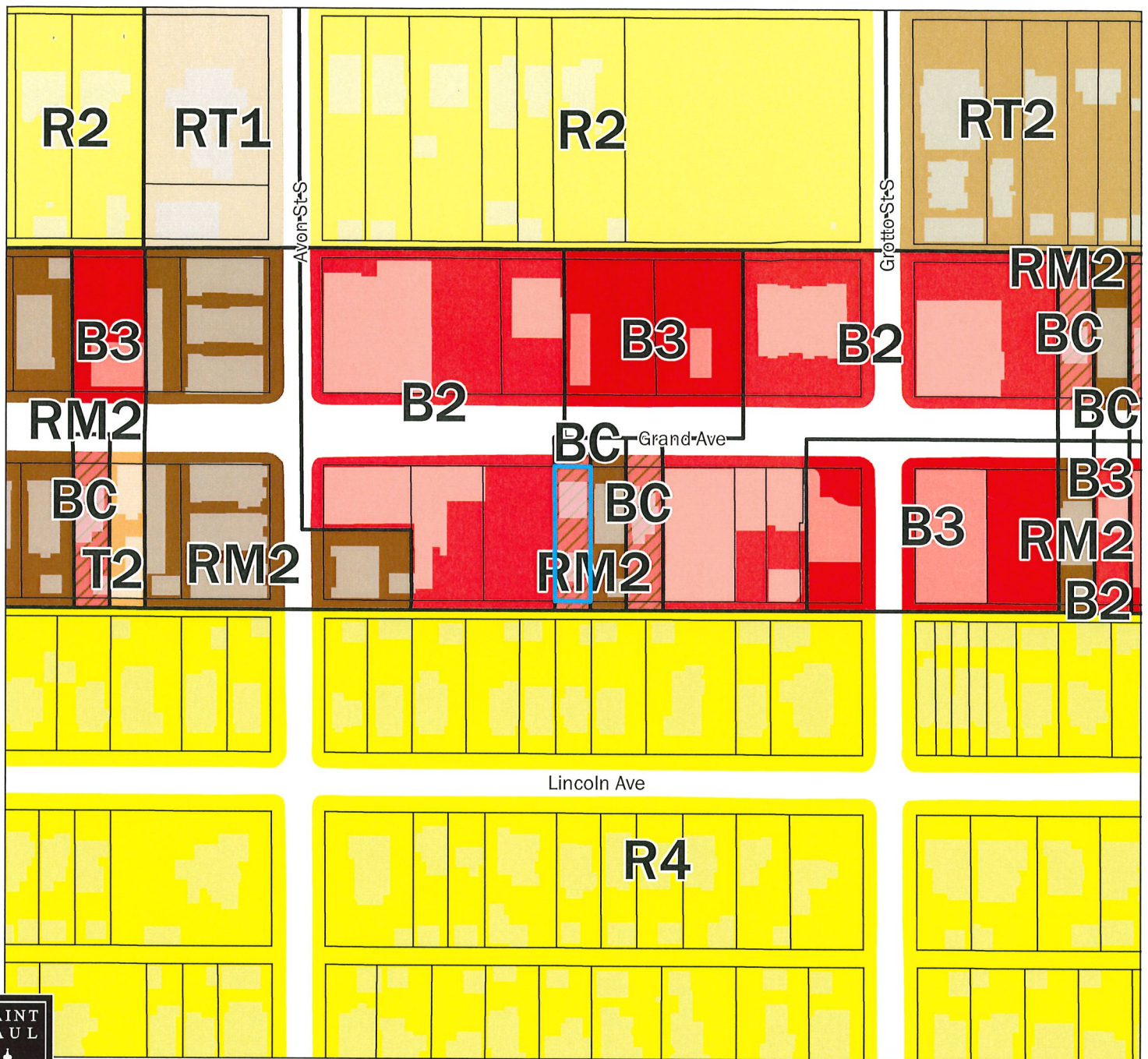
Application Type: Rezone
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Subject Parcel Outlined in Blue

- | | | | |
|---------------------------|--------------------------------|--------------------------------|--------------|
| Farmstead | Office | Extractive | Airport |
| Seasonal/Vacation | Retail and Other Commercial | Institutional | Agricultural |
| Single Family Detached | Mixed Use Residential | Park, Recreational or Preserve | Undeveloped |
| Manufactured Housing Park | Mixed Use Industrial | Golf Course | Water |
| Single Family Attached | Mixed Use Commercial and Other | Major Highway | |
| Multifamily | Industrial and Utility | Railway | |



FILE #19-003730 | ZONING MAP
Application of Reza Inc.

Application Type: Rezone
 Application Date: January 10, 2019
 Planning District: 16



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Subject Parcel Outlined in Blue

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