

# AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

## Amended Findings of Fact

1. M F K Enterprise Inc. (MFK) holds an auto repair and second hand dealer license from the City.<sup>1</sup>
2. MFK conducts business at 830 Robert Street South in St. Paul.<sup>2</sup>
3. Another licensed business, Import Auto Enterprise Inc. (Import Auto), conducts business on the same premises.<sup>3</sup> Import Auto holds a second hand dealer license from the City.<sup>4</sup>
4. MFK's license has various conditions.<sup>5</sup> The license incorporates a site plan diagram<sup>6</sup>.
5. The site plan assigns certain parking spaces to MFK and certain parking spaces to Import Auto.<sup>7</sup> The site plan assigns to MFK ten (10) parking spaces for sale of cars and four (4) spaces for customers. The site plan assigns the same for Import Auto. License condition number one identifies the total number of cars on the lot are not to exceed twenty-eight (28). (Ex. 14; Test. E. Hudak at 0:36:15-0:38:45) There is a conflict between the number of cars MFK is allowed to have on the premises in the license (28) and the parking spaces assigned to MFK in site plan (14). This conflict is part of a pattern by the City of conflating MFK and Import Auto.<sup>8</sup>
6. MFK no longer employes a mechanic. Import Auto employs a mechanic who occasionally will perform work referred from MFK, but this has become less frequent.<sup>9</sup> Import Auto does not have a license to perform auto repair work. (Test. E. Hudak at 0:38:00) Mr. Kia primarily runs MFK on his own with occasional help from a friend and a female employee.<sup>10</sup>
7. The City Council passed a resolution for adverse action against MFK on January 12, 2024, for violations observed on July 23, 2023, and August 9, 2023.<sup>11</sup>

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<sup>1</sup> Testimony (Test.) Moe Kia.

<sup>2</sup> Exs. 1, 14, Test. Eric Hudak.

<sup>3</sup> Ex. 1.

<sup>4</sup> Test. E. Hudak.

<sup>5</sup> Ex. 13; Test. E. Hudak.

<sup>6</sup> Ex. 14; Test. E. Hudak.

<sup>7</sup> *Id.*

<sup>8</sup> ~~Compare Exs. 1 and 14.~~

<sup>9</sup> Test. M. Kia.

<sup>10</sup> ~~Test. M. Kia.~~

<sup>11</sup> Ex. 4.

8. On February 10, 2025, the City issued MFK a Notice of Violation and Request for Imposition of \$1000 Matrix Penalty (Notice of Violation).<sup>12</sup>
9. MFK timely contested the Notice of Violation.<sup>13</sup>
10. On May 28, 2025, the City Council passed a resolution referring this matter to the Court of Administrative Hearings.<sup>14</sup>
11. On July 1, 2025, the City filed with the Court and served a Notice of Prehearing Telephone Conference.<sup>15</sup>
12. ~~The Notice of Violation lists three separate violations related to inspections on October 3, November 14, and July 1, 2024.~~ The Notice of Violation identified violations of several license conditions and several sections of the Saint Paul Legislative Code over the course of several months in 2024. (Ex. 1) Mr. Hudak testified that the Department has received many complaints over the years about MFK's business. (Test. E. Hudak at 0:33:45) Mr. Hudak testified that the Department had spoken to Mr. Kia about the city ordinances and license conditions he must follow and how his conduct has violated these on many occasions, including prior to this inspection. (Test. E. Hudak at 1:01:00)
13. On October 3, 2024, Inspector Allan Vang conducted a site inspection at 830 Robert Street South in response to a complaint.<sup>17</sup>
14. Mr. Kia was not present at the premises on October 3, 2024. Another person, identified as Manny, was present.<sup>18</sup> Manny works for Import Auto.<sup>19</sup> ~~At the inspection Manny blamed every observed violation on MFK.~~<sup>20</sup>
15. On October 3, 2024, Inspector Vang interacted with ~~another person who either identified himself or was identified by Manny as being an MFK employee.~~<sup>24</sup> This person was not an MFK employee.<sup>22</sup> several employees who were working in the garage bays and on the parts of the property identified as MFK's, and who identified themselves to Inspector Vang as MFK employees. (Test. A. Vang at 1:15:00)
16. On October 3, 2024, Inspector Vang took pictures of various violations,<sup>23</sup> ~~and attributed all of them to MFK and none to Import Auto without appropriate investigation or justification.~~

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<sup>12</sup> Ex. 1.

<sup>13</sup> Ex. 15.

<sup>14</sup> Ex. 17.

<sup>15</sup> Notice of Prehearing Telephone Conference (July 1, 2025).

<sup>16</sup> ~~Id.~~

<sup>17</sup> Exs. 8-9.

<sup>18</sup> Ex. 8.

<sup>19</sup> Ex. 8; Test. M. Kia.

<sup>20</sup> ~~Test. Allan Vang.~~

<sup>21</sup> ~~Exs. 8-9.~~

<sup>22</sup> ~~Test. M. Kia.~~

<sup>23</sup> Ex. 9.

17. During the inspection, Inspector Vang spoke with Manny and several people who identified themselves as MFK employees. Inspector Vang testified that he believed Manny's statements because he had interacted with Manny on several other occasions, Manny has always been respectful, and Manny had never given Inspector Vang a reason not to believe him. (Test. A. Vang at 1:34:45) The car depicted in Exhibit 9-3 was parked in front of Import Auto's garage and is the responsibility of Import Auto.<sup>24</sup>
18. Mr. Kia was not present when Inspector Vang arrived despite his visit during business hours and Mr. Kia's testimony at the hearing that he had no employees. (Test. A. Vang at 1:34:45; Test. M. Kia at 3:51:00) The car depicted in Exhibit 9-4 was the responsibility of MFK. However, there is no evidence that MFK was repairing the car rather than simply storing the vehicle for transfer. Mr. Kia credibly testified that MFK does not perform body work and the car was not repaired on the premises.<sup>25</sup> The City failed to prove that Exhibit 9-4 is a violation of License Condition 4 or St. Paul Leg. Code § 65.705.
19. During the hearing, Mr. Kia took responsibility for several violations observed during the October 3, 2024, inspection and recorded in Exhibit 9. These violations are 9-4, 9-5, 9-11, 9-12, 9-14. (Test. M. Kia at 3:35:20-3:41:15) The car depicted in Exhibit 9-5 was near MFK's parking spots. Mr. Kia acknowledged that he leaves cars in that location at night sometimes to prevent theft and could not say the car was not MFK's responsibility. Exhibit 9-5 is a violation of License Conditions 1 and 2.
20. Inspector Vang testified that the violation observed during the inspection and recorded in exhibit 9-4 is of a car parked in a customer parking stall for MFK that is damaged and in need of repair, this was a violation of license condition number 4, which requires all repair of vehicles to be completed inside the garage and not on the exterior of the lot. (Test. A. Vang at 1:22:00-1:23:00; Ex. 13; Ex. 9-4) Exhibit 9-6 indicates a violation for lack of parking lot striping. However, these parking spots are assigned to Import Auto on the site plan. The inspector alleges that Manny again told the inspector that MFK was responsible for striping Import Auto's parking lot. As described in the memo, Manny's hearsay statements are not reliable. Furthermore, MFK does not own Import Auto's lot.<sup>26</sup> MFK is not responsible for the parking spots in Exhibit 9-6.<sup>27</sup>
21. Inspector Vang testified that the violation observed during the inspection and recorded in exhibit 9-5 is of a car parked between MFK's parking stalls, its office, and the garage, which is a violation of license condition number 2, parked in violation of the site plan and obstructing the drive through lane. (Test. A. Vang at 1:23:10-1:24:35; Ex. 13; Ex. 9-5) The

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<sup>24</sup> Test. M. Kia:

<sup>25</sup> Test. M. Kia:

<sup>26</sup> Test. M. Kia:

<sup>27</sup> Ex. 14; Test. M. Kia:

~~vehicles and seats in Exhibit 9-7 are likewise in Import Auto's parking spots.<sup>28</sup> MFK is not responsible for the vehicles and seats in Exhibit 9-7.<sup>29</sup>~~

- ~~22. Inspector Vang testified that the violation observed during the inspection and recorded in exhibit 9-11 is of car seat between two storage sheds and that this is a violation of license condition number 5, which prohibits exterior storage of car parts. (Test. A. Vang at 1:28:30-1:29:00; Ex. 13; Ex. 9-11) The trash depicted in Exhibit 9-8 is outside the Import Auto office and is the responsibility of Import Auto. While Import Auto staff blamed MFK for the trash, these accusations are not admissible or credible.<sup>30</sup>~~
- ~~23. Inspector Vang testified that the violation observed during the inspection and recorded in exhibit 9-12 is of trash and debris and car parts piled up on the exterior of the garage and that this is a violation of condition number 5, which prohibits exterior storage of car parts. (Test. A. Vang at 1:29:00-1:29:35; Ex. 13; Ex. 9-12) Mr. Kia credibly testified that the car in Exhibit 9-9 belonged to Import Auto.<sup>31</sup> Likewise the auto carpet in Exhibit 9-9 and 9-10 came from the car that Import Auto was detailing and is not the responsibility of MFK.<sup>32</sup>~~
- ~~24. Inspector Vang testified that the violation observed during the inspection and recorded in exhibit 9-14 is of a vehicle with collision damage parked in a customer parking stall and that this is a violation of condition number 4, which prohibits repairing any vehicle outside of the garage. (Test. A. Vang at 1:30:00-1:30:50; Ex. 13; Ex. 9-14) The auto seats in Exhibit 9-11 belong to Import Auto.<sup>33</sup>~~
- ~~25. After an inspection is complete and if violations are found, the Department contacts the licensee to inform them of the results of the inspection, explains the violations discovered, and provides the licensee with an opportunity to correct the violations. (Test. J. Voyda at 2:34:55) The trash and items depicted in Exhibit 9-12 were the responsibility of MFK.<sup>34</sup> The City cited MFK for the exterior storage of auto parts related to 9-12. However, the items in 9-12 do not appear to be auto parts, but rather general rubbish. Mr. Kia testified this is the area where trash pickup occurs and the items were left there for trash pickup.<sup>35</sup> There is currently no license condition that covers the items in 9-12.~~

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<sup>28</sup> The inspector attributed every "auto part" to MFK because MFK holds an auto repair license and Import Auto does not. However, many of the items characterized as auto parts could be attributed to cleaning rather than repair. Further, Mr. Kia alleged that Import Auto is conducting repair despite not having a license and indicated a willingness to surrender his auto repair license to help resolve the issues. Business may conduct unlicensed activities, and it is inappropriate to attribute all auto parts to MFK, particularly when they are in Import Auto's designated parking spots:

<sup>29</sup> *Id.*

<sup>30</sup> Test. A. Vang.

<sup>31</sup> Test. M. Kia.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Test. M. Kia.

<sup>35</sup> *Id.*

26. ~~The City proved that these were violations of the license conditions, which is a basis for adverse action pursuant to Saint Paul Legislative Code § 310.04(b)(5). The City did not prove that the items in Exhibit 9-12 left for trash pickup create a serious danger to the public health, safety, or welfare.<sup>36</sup> The City also did not prove the items unreasonably annoy, injure, or engage the safety, health, morals, comfort, or repose of any considerable number of members of the public.<sup>37</sup>~~
27. ~~The vehicle depicted in Exhibit 9-13 was the responsibility of Import Auto.<sup>38</sup>~~
28. ~~The car depicted in Exhibit 9-14 was the responsibility of MFK Auto.<sup>39</sup> However, there is no evidence that MFK was repairing the car rather than simply storing the vehicle. Mr. Kia credibly testified that MFK does not perform body work and the car was not repaired on the premises.<sup>40</sup> The City failed to prove that Exhibit 9-14 is a violation of License Condition 4 or St. Paul Leg. Code § 65.705.~~
29. ~~Of all the items cited in Violation 1, only the violation depicted in Exhibit 9-5 is the responsibility of MFK and properly considered a violation of the cited license condition.~~
27. ~~30. On November 14, 2024, Inspector Allan Vang and Inspector Joseph Voyda conducted a reinspection site inspection at 830 Robert Street South.<sup>41</sup> The inspectors visited the property during business hours. (Test. A. Vang at 1:40:45)~~
28. ~~31. Upon arrival, the inspectors found an auto transport trailer parked in the middle of Robert Street in front of the premises. A man went into the MFK office via the locked office door, retrieved an item, walked to the transport trailer, and removed a jeep from the transport trailer. A man named Ali and an Import Auto employee were present.<sup>42</sup> Inspectors witnessed Ali back a Jeep SUV off the transport trailer and jump the man attempt to start the vehicle in the street with a portable jumper cable pack he items retrieved from a vehicle parked on the street.<sup>43</sup> (Test. A. Vang at 1:39:30-1:40:30)~~
29. ~~32. Mr. Kia testified that the jeep and the man seen were not connected with MFK but did not provide any evidence to support this statement other than his own testimony. (Test. M. Kia at 2:11:15-2:11:25) The inspector assumed Ali was an MFK employee because he went into the MFK office, however, the MFK office is accessible from the garage and Import Auto has access to the MFK office.<sup>44</sup>~~

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<sup>36</sup> See St. Paul Leg. Code 310.04(b)(7).

<sup>37</sup> See St. Paul Leg. Code 310.04(b)(8).

<sup>38</sup> Test. M. Kia; Test. A. Vang.

<sup>39</sup> Test. M. Kia.

<sup>40</sup> Test. M. Kia.

<sup>41</sup> Exs. 10-12; Test. A. Vang.

<sup>42</sup> *Id.*

<sup>43</sup> Exs. 10-11

<sup>44</sup> Test. M. Kia.

- ~~30. 33. During the inspection, Inspector Vang and Inspector Voyda observed violations of the license conditions and city code. (Ex. 10) Ali is not an employee or associate of MFK but does have some affiliation with Import Auto.<sup>45</sup>~~
31. 34. During the hearing, Mr. Kia took responsibility for several violations observed during the November 14, 2024 inspection and recorded in Exhibit 12. These violations are 12-7, 12-10, 12-11, 12-16, 12-17, 12-18, 12-19, 12-20, 12-21, and 12-22. (Test. M. Kia at 3:41:15-3:46:00) MFK did not sell or repair the Jeep SUV from the transport trailer.<sup>46</sup>
- ~~32. 35. Inspector Vang testified that the violation observed during the inspection and recorded in exhibit 12-7 is for exterior storage placed outside of the storage sheds. This was a violation of license condition number 5, which prohibits exterior storage of car parts, and a violation of the code section that prohibits storage or placement of rubbish outside of collection bins. (Test. A. Vang at 1:43:00-1:43:30; Ex. 13; Ex. 12-7) MFK was not responsible for the auto transport trailer or the Jeep SUV depicted in Exhibits 12-25 to 12-30~~
- ~~33. 36. Inspector Vang testified that the violation observed during the inspection and recorded in exhibit 12-9 and 12-10 is for improper storage and disposal of hazardous waste (coolant). This was a violation of the code sections that prohibit storage or placement of rubbish outside of collection bins and improper disposal of hazardous waste. (Test. A. Vang at 1:44:40-1:45:30; Ex. 12-9, 12-10) At the November 14, 2024 site inspection, inspectors observed various trash, auto parts, and items being stored on the property. These violations were noted in shared storage areas of the property and in Import Auto's assigned parking areas.<sup>47</sup> However, inspectors improperly attributed every violation to MFK and none to Import Auto based on assumptions and representations by Manny, Import Auto's employee.<sup>48</sup>~~
34. 37. Inspector Vang testified that the violation observed during the inspection and recorded in exhibit 12-11 is for exterior storage, here chairs stacked and stored outside of the storage sheds. This was a violation of the code section that prohibits exterior storage on business property. (Test. A. Vang at 1:46:50-1:48:40; Ex. 12-11) MFK took responsibility for certain items depicted in Exhibits 12-10, 12-14, 12-16, 12-17, 12-18, and 12-20.<sup>49</sup> While not all of these items constitute garbage, refuse, or mixed municipal solid waste (such as the usable chairs in Exhibits 12-14 and 12-23), the City established a violation of License Condition 6 and St. Paul Leg. Code § 34.08.
- ~~35. 38. Inspector Vang testified that the violation observed during the inspection and recorded in exhibits 12-16, 12-17, and 12-18 is for improper disposal of debris, here containers of food and water. This was a violation of the code section that prohibits storage or placement of rubbish outside of collection bins. (Test. A. Vang at 1:50:25-1:51:35; Ex. 12-16, 12-17, 12-~~

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<sup>45</sup> Test. M. Kia.

<sup>46</sup> Test. M. Kia.

<sup>47</sup> Ex. 12; Test. M. Kia.

<sup>48</sup> Test. A. Vang.

<sup>49</sup> Test. M. Kia.

~~18) MFK also took responsibility for the vehicle in Exhibits 12-21, and 12-22. However, there is no evidence that the vehicle was being repaired in the lot. Mr. Kia credibly testified that MFK does not perform body repair work and the car was not repaired on the premises.<sup>50</sup> The mere fact that body of the car is damaged does not indicate repair work is being done in the parking lot.~~

- ~~36. 39. Inspector Vang testified that the violation observed during the inspection and recorded in exhibits 12-19 and 12-20 is for exterior storage placed outside of the storage sheds and improper disposal of debris. These are a violation of the code section that prohibits exterior storage on business property or placement of rubbish outside of collection bins. (Test. A. Vang at 1:51:35-1:53:10; Ex. 12-19, 12-20) Violation 3 relates to a Correction Notice sent to MFK on July 1, 2024. The Correction Notice alleges that MFK violated License Conditions 1, 2, 4, and 5.<sup>51</sup>~~
- ~~37. 40. Inspector Vang testified about a violation observed during the inspection and recorded in exhibits 12-21 and 12-22. The image is of a car parked in front of the customer parking stalls, which is a violation of license condition number 2, parked in violation of the site plan and obstructing the drive through lane. Additionally, the car was damaged and in need of repair and is a violation of license condition number 4, which requires all repair of vehicles to be completed inside the garage and not on the exterior of the lot. (Test. A. Vang at 1:53:10-1:55:00; Ex. 13; Ex. 12-21, 12-22) The City produced no photographs or other documents evidencing the alleged violations cited in the Correction Notice, and the next inspection noted in the record is the October 2, 2024 inspection discussed in Violation 1. Given the serious problems with the evidence relied on to issue Violations 1 and 2, The City did not prove the alleged violations in Violation 3 by a preponderance of evidence.~~
38. 41. The City established violations occurred in October and November 2024, but not in July of 2024.
39. 42. The prior resolution for adverse action was for conduct occurring in July and August 2023, approximately fourteen months prior to the violations in October and November 2024.
40. The Department proposed the addition or modification of three (3) license conditions, identified as 4, 6, and 8, based on observed violations and concerns about the license type. (Test. E. Hudak at 0:42:20-0:43:00; Ex. 13)
41. The Department proposed condition 4 because of the inspectors' observations on November 14, 2024, specifically the delivery of a vehicle in the middle of Robert Street. The Department believes this condition is reasonable to ensure safety of travelers on the public roadway. (Test. E. Hudak at 0:43:00-0:44:15; Ex. 13)
42. The Department proposed condition 6 to protect public safety and eliminate nuisance activity that has been reported throughout the City of auto repair businesses using public

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<sup>50</sup> Test. M. Kia.

<sup>51</sup> Ex. 1.

streets for parking and maintenance of vehicles receiving services at the business. (Test. E. Hudak at 0:44:15-0:45:00; Ex. 13)

43. The Department proposed condition 8 because of items observed during the inspections, including car parts and antifreeze, are hazardous substances, and can be dangerous to animals and people on the property if ingested or accidentally encountered. The Department believes this condition is reasonable and necessary to protect public safety and eliminate dangerous conditions on the property. (Test. E. Hudak at 0:45:00-0:46:05; Ex. 13)

### **Amended Conclusions of Law**

1. The Saint Paul City Council and the Administrative Law Judge have jurisdiction over this matter under the City of St. Paul's Legislative Code §§ 310.03 and .04 (2025).
2. The hearing was conducted in accordance with the requirements of Minn. Stat. §§ 14.57-62 (2025), and applicable portions of the procedures set forth in section 310.03 of the St. Paul Legislative Code.
3. The City has given proper and timely notice of the hearing in this matter and has fulfilled all procedural requirements of law and rule.
4. The St. Paul Legislative Code authorizes the City Council to take adverse action against a license when the licensee "has failed to comply with any condition set forth in the license, or set forth in the resolution granting or renewing the license."<sup>52</sup>
5. The St. Paul Legislative Code also authorizes the City Council to take adverse action against a license when the licensee has violated a provision of the St. Paul City Code.<sup>53</sup>
6. "Adverse action" is defined in the Code to include the imposition of a fine<sup>54</sup> and license conditions.
7. The City has the burden of proving that Licensee violated a condition of its license<sup>55</sup> or a section of the code.
8. On October 3, 2024~~5~~, MFK violated License Conditions 1, and 2, 4, and 5.
9. On November 146, 2024~~5~~, MFK violated License Conditions 2, 5, and 6 and St. Paul Leg. Code § 34.08.
10. The Saint Paul Legislative Code § 65.705(d) prohibits the external storage of any items by auto repair shops and § 34.32 prohibits the presence of garbage, solid waste, and refuse outside of collection bins on a business's property.

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<sup>52</sup> St. Paul Leg. Code § 310.04(b)(5).

<sup>53</sup> St. Paul. Leg. Code § 310.04(b)(6).

<sup>54</sup> St. Paul Leg. Code § 310.01.

<sup>55</sup> Minn. R. 1400.7300, subp. 5.

11. On October 3, 2024, MFK violated sections 34.32 and 65.705(d) of the Saint Paul Legislative Code.
12. On November 14, 2024, MFK violated sections 34.32 and 65.705(d) of the Saint Paul Legislative Code.
13. ~~10.~~ A second license condition violation is a violation that occurs within twenty-four (24) months of a prior violation.<sup>56</sup>
14. ~~11.~~ The St. Paul Legislative Code prescribes a presumptive ~~fine~~ penalty of \$1000.00 for second violations of license conditions or of any section of the code.<sup>57</sup>
15. ~~12.~~ The St. Paul Legislative Code permits the imposition of license conditions if there is a reasonable basis for the conditions and the conditions are to be imposed “for the purpose of promoting public health, safety and welfare, of advancing the public peace and the elimination of conditions or actions that constitute a nuisance or a detriment to the peaceful enjoyment of urban life, or promoting security and safety in nearby neighborhoods.”<sup>58</sup>
16. ~~13.~~ The City proposed amending current license condition 5 so that it reads as follows: “There shall be no exterior storage of vehicle part, tires, oil or any other materials. Storage of vehicle fluids, batteries, etc. shall be in accordance with the Ramsey County Hazardous Waste regulations.” The proposed condition related to vehicle fluids is related to the November 6, 2024 violation and will promote public health and safety.
17. ~~14.~~ The City proposed adding two license conditions that read as follows. First, “The delivery of towed or trailered vehicles shall take place entirely within the approved site plan and cannot take place in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.).” Second, “No customer vehicles under the control of the licensee can be parked and or stored in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.). This includes vehicles waiting for repairs and vehicles waiting to be picked up by the customer.” These conditions are supported by a reasonable basis ~~While the proposed conditions related to delivery of vehicles and not parking customer vehicles in the public right of way are not related to violations proven by the City, there is a reasonable basis for the conditions and they will advance the public peace.~~
18. An error was identified during the contested case hearing and the correction of license condition number one will be useful for MFK and the Department. That condition is amended to read as follows: “The number of vehicles on the lot for sale shall not exceed twenty (20). Ten (10) vehicle spaces are designated on the site plan for each licensee. There shall be eight (8) customer/employee parking spaces provided on the property. Four (4) vehicle

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<sup>56</sup> Test. E. Hudak.

<sup>57</sup> St. Paul Leg Code § 310.03(m).

<sup>58</sup> St. Paul Leg. Code § 310.04(c).

spaces are designated on the site plan for each licensee. The arrangement of sales display area and off-street parking shall be as shown on site plan on file with DSI.”

### **Amended Recommendation**

The St. Paul City Council may take adverse action against Licensee’s license and ~~assess a fine~~ impose the matrix penalty of \$1000.00. The City may ~~add the proposed conditions to~~ amend the license conditions. ~~However, future inspections and adverse actions need to rest on reliable evidence and appropriately differentiate between the two businesses on the property.~~