

ZONING COMMITTEE STAFF REPORT

FILE NAME: 964 Payne – Rezone

FILE #: 24-013-570

APPLICANT: Donalds, Inc.

HEARING DATE: March 7, 2024

TYPE OF APPLICATION: Rezone

LOCATION: NE corner of Payne Avenue and Case Avenue

PIN & LEGAL DESCRIPTION: 29-29-22-13-0187; 40-49 S. ft of Lots 16,17,18 & all of Lot 19, Blk.17, Arlington Hills Addition

PLANNING DISTRICT: 5

PRESENT ZONING: B2/H2

ZONING CODE REFERENCE: § 61.801(b)

STAFF REPORT DATE: February 29, 2024

BY: Chris Hong

DATE RECEIVED: February 9, 2024

60 DAY DEADLINE FOR ACTION: April 1, 2024

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- A. **PURPOSE:** Rezone from H2 residential to B2 community business.
- B. **PARCEL SIZE:** 10,454 sq. ft.
- C. **EXISTING LAND USE:** Parking lot
- D. **SURROUNDING LAND USE:**
North: Office building, general retail (B2)
East: Duplex (H2)
South: Office building, general retail, parking lot (B2)
West: Office building, general retail (B2)
- E. **ZONING CODE CITATION:** §61.801(b) provides for changes to the zoning of property initiated by the property owner. §63.303 lists the standards for the locations of parking spaces in relation to the buildings they are intended to serve. §69.508 lists the general requirements and design standards of lots.
- F. **HISTORY/DISCUSSION:** The parcel is split-zoned H2 and B2 (Attachment 2). The B2 portion of the parcel has been zoned B2 for its entire documented zoning history starting approximately in 1979 (Attachment 3). The H2 portion of the parcel had been zoned RT-1 for its entire documented zoning history until November 2023 with the passage of Ordinance 23-43, which eliminated the RT-1 zoning district. A plat book from 1928 (Attachment 4) and historic aerial photographs indicate that the subject parcel were once separate parcels and contained buildings. At some point after 1928, the buildings were removed for reasons unknown, and the parcel was merged. While it is not known when the parcel was converted, aerial photos show that the parcel was used for a parking lot since 1985.
- In December of 2023, the Applicant applied for an administrative lot split on in order to facilitate future changes in ownership. The Department of Safety and Inspections notified the Applicant that the parcel must be rezoned in order to be split (Finding 2).
- G. **DISTRICT COUNCIL RECOMMENDATION:** Payne Phalen Community Council recommends approval of the rezoning.
- H. **FINDINGS:**
1. The subject parcel is split-zoned B2 and H2. The existing land use is a parking lot, which serves the general retail stores at 972 and 968 Payne Avenue. These two stores are within the B2 zoning district.
 2. In December 2023, the Applicant requested that the subject parcel be split. The requested

lot split would result in a parking lot in an H2 district and a parking lot in a B2 district. Section 63.303 states that if off-street parking spaces are not on the same parcel as the building they are intended to serve, they must be in the same or a less restrictive zoning district. H2 is a more restrictive zoning district than B2, which means a parking lot on a parcel zoned H2 could not serve a building on a parcel zoned B2.

3. The Applicant is requesting the subject parcel be rezoned from H2 to B2 to allow the proposed lot split. There are no proposed development plans, but the rezoning and lot split would make future changes in ownership simpler.
4. The H2 portion of the parcel is legally non-conforming because this district does not allow parking facilities as a principal use. Allowing the lot split while maintaining the H2 zoning would require ceasing the use of the parking lot, which is logistically challenging. Developing the parcel for a residence would require significant pavement removal as paved parking spaces and driveways can only make up 15% of the parcel and there are few nonresidential uses permitted in H2. Not allowing the lot split would ensure that the parcel remain a parking lot unless it is redeveloped for a use that permitted in both H2 and B2 zoning districts: some congregate living developments (supportive housing, adult day care, etc.) and some institutional uses (churches, schools, libraries, etc.).
5. The proposed B2 zoning is consistent with the Comprehensive Plan. The 2040 Comprehensive Plan designates the future land use of this parcel as Mixed-Use and is within the Lawson-Payne-Wells Neighborhood Node. *“The main distinguishing characteristic [of Mixed-Use areas] is a balance of jobs and housing within walking distance of one another.”* B2 districts are *“generally characterized by a cluster of establishments generating large volumes of vehicular and pedestrian traffic.”* The B2 zoning district is more in line with the Mixed-Use designation as it allows for dense, clustered development and it allows most commercial uses as well as mixed residential and commercial buildings.

The intent of H2 districts is to provide for a “variety of housing options along with civic and institutional uses, public services and utilities that serve residents.” This aligns with the allowable uses in H2, which includes very few commercial uses. The H2 zoning district for this parcel is not consistent with the Mixed-Use designation in the Comprehensive Plan.

Neighborhood Nodes are designated for “locations planned for higher-density, mixed-use development,” which require the uses allowed by the B2 district.

While there are no immediate plans for development at the subject parcel, the lot split would allow for changes in ownership and commercial redevelopment in the future.

The following policies apply:

2040 Comprehensive Plan:

Policy LU-8. Ensure that zoning and infrastructure support environmentally and economically efficient, resilient land use development.

Policy LU-27. Provide for land use change and rezoning of land adjacent to Mixed-Use areas to allow for commercial redevelopment and/or expansion fronting arterial and collector streets.

Policy LU-30. Focus growth at Neighborhood Nodes using the following principles:

1. Increase density toward the center of the node and transition in scale to surrounding land uses.

Additionally, the City's Zoning Code and Zoning Map are implementation tools of the Comprehensive Plan. While the Comprehensive Plan does not specifically address split zoning, Section 69.508 in the Zoning Code prohibits them outright.

6. 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.*" Rezoning to B2 would not be considered spot zoning because many of the adjacent parcels are zoned B2.

I. STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the rezoning from H2 residential to B2 community business at 964 Payne Avenue.

ATTACHMENTS:

1. Application materials
2. 2024 Zoning Map
3. 1979 Zoning Map
4. 1928 Plat Book
5. Land Use Map
6. Aerial Map



REZONING APPLICATION

Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex, 25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-5583

PD = 5

Zoning _____

Received By / Date _____

Tentative Hearing Date 2-9-24

292922-13018.7

APPLICANT

Property Owner(s) Robert C Anderson, Peter Amundson, Donalds Inc.

Address 964 PAYNE AVE City ST PAUL State MIN Zip 55130

Email RANDER2@COMCAST.NET Phone 651-776-7064

Contact Person (if different) _____ Email _____

Address _____ City _____ State _____ Zip _____

(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 INFO

Address/Location 964 PAYNE AV.

Pin(s) & Legal Description So. 29' of Lots 16, 17, & 18 AND ALL LOT 19 Block 17
(Attach additional sheet if necessary.)

Lot Area _____ Current Zoning H2

TO THE HONORABLE MAYOR AND CITY COUNCIL:

Pursuant to Saint Paul Zoning Code § 61.801 and Minnesota Statutes § 462.357, Robert C Anderson, Peter Amundson & Donalds Inc.

owner(s) of land proposed for rezoning, hereby petition(s) to rezone the above described property from a H2 zoning district to a B2 zoning district, for the purpose of:

Attach additional sheets if necessary. Attachments as required: Site Plan Consent Petition Affidavit
 If you are a religious institution you may have certain rights under RLUIPA. Please check this box if you identify as a religious institution.

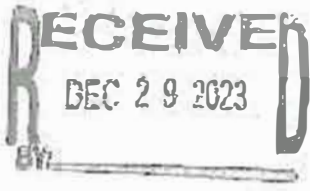
Subscribed and sworn to before me
Date November 8 2023
Thomas G. Muellner
Notary Public



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

Subscribed and sworn to before me
Date _____ 20____

Notary Public



By: _____
Fee owner of property
Title: _____

CITY OF SAINT PAUL

AFFIDAVIT OF PERSON CIRCULATING CONSENT
PETITION FOR A REZONING

STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY)

Robert C Anderson, being first duly sworn, deposes and states that he/she is the person who circulated the consent petition consisting of ___ 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.

Robert C Anderson
NAME

1796 E. Shore Dr
ADDRESS

651-774-7717
TELEPHONE NUMBER

Subscribed and sworn to before me this

29 day of Dec, 2013.

Karoline M Finlay
NOTARY PUBLIC



CITY OF SAINT PAUL

AFFIDAVIT OF PETITIONER FOR A REZONING

STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY)

Robert C ANDERSON, Peter A. Amundson & Donald's Inc

The petitioner, _____, 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 signatures are the true and correct signatures of each and all of the parties so described.

Peter A. Amundson
Peter A. Amundson
168 E. 6th St. #3704
St. Paul, Mn. 55101
651-278-5811

Donald's Inc
NAME Jenny Feughlin
1206 WATSON AVE
St Paul Minn
ADDRESS
612-970-9805
TELEPHONE NUMBER

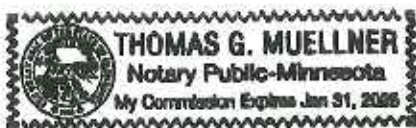
Subscribed and sworn to before me this
9th day of NOVEMBER, 2023

Robert C Anderson
Robert C Anderson
968 PAYNE AVE
ST PAUL, MN 55130
651-776-7064

Thomas G. Mueller Jr.
NOTARY PUBLIC



SUBSCRIBED AND SWORN TO BEFORE ME
A NOTARY PUBLIC ON NOVEMBER 23, 2023
Thomas G. Mueller Jr.



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 ROBERT C. ANDERSON, DONALDS, INC.
964 PAYNE (name of petitioner) PARCEL B LOT 19
 to rezone the property located at PARKING LOT BEHIND DONALDS
 from a RT1 zoning district to a B2 zoning district and;
2. A copy of sections 66.40 through 66.445, inclusive of the Saint Paul Zoning Code.

We acknowledge that we are aware of all of the uses permitted in a B2 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

R. C. Anderson to a B2 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
960 PAYNE AVE	JAND PROPERTIES LLC	<i>Engene R. Stibull</i>	12-4-20
946 Payne Ave	Cookie Cart	<i>C. J. R.</i>	12-5-23

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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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 Robert Anderson, Donald's Inc. (name of petitioner) to rezone the property located at 968 PAYNE AVE PARCEL B LOT 19 from a RT1 zoning district to a B2 zoning district and
2. A copy of sections 66.40 through 66.45, inclusive of the Saint Paul Zoning Code.

We acknowledge that we are aware of all of the uses permitted in a B2 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

Robert Anderson to a B2 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
972 Payne	LARRY LAUGHLIN	[Signature]	10/25/23
657 Case	LARRY LAUGHLIN	[Signature]	10/25/23
657 Case	Laura Laughlin	[Signature]	10/25/23
964 Payne	LARRY LAUGHLIN	[Signature]	10/25/23
968 PAYNE	Robert C Anderson	[Signature]	10/25/23
990 Payne	Rico Duran	[Signature]	10-25-23
660 Jenks	Rico Duran	[Signature]	10-25-23
656 Jenks	Rico Duran	[Signature]	10-25-23
980 Payne	Mai Vang	[Signature]	10-27-23
959 Payne Ave	James Latta Cheryl Latta	[Signature]	10-27-23
961 PAYNE	Dimitri Hatzigeorgiou	[Signature]	11/2/2023
967 PAYNE	Dimitri Hatzigeorgiou	[Signature]	11/2/2023

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(name of petitioner)
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~~PARKING LOT BEHIND DONALD'S~~
 from a RT1 zoning district to a B2 zoning district and;
2. A copy of sections 66.40 through 66.445, inclusive of the Saint Paul Zoning Code.

We acknowledge that we are aware of all of the uses permitted in a B2 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

Robert Anderson to a B2 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
972 Payne	LARRY LAUGHLIN	Larry Laughlin	10/25/09
857 Case	LARRY LAUGHLIN	Larry Laughlin	10/26/09
657 Case	Laura Laughlin	Laura Laughlin	10/25/09
964 Payne	LARRY LAUGHLIN	Larry Laughlin	10/25/09
968 PAYNE	Robert C Anderson	Robert Anderson	10/25/09
990. Pauc	Rico Duran	Rico Duran	10-25-09
660 Jenks	Rico Duran	Rico Duran	10-25-09
656 Jenks	Rico Duran	Rico Duran	10-25-09
980 Payne	Mai Vang	Mai Vang	10-27-09
959 Payne Inc	Thomas Lott Ching Lott	Thomas Lott	10-27-09
961 PAYNE			
967 PAYNE			

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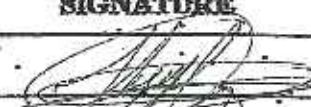
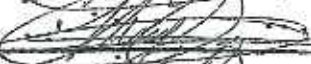

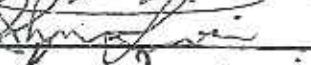
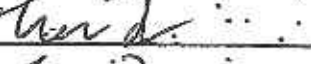
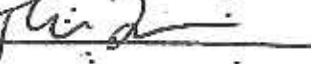
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 to rezone the property located at PARKING LOT BEHIND DONALD'S
 from a RT1 zoning district to a B2 zoning district and
2. A copy of sections 66.40 through 66.45, inclusive of the Saint Paul Zoning Code.

We acknowledge that we are aware of all of the uses permitted in a B2 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

Robert Anderson to a B2 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
977 Payne Ave St Paul	Heron Lopez		10/30/23
981 Payne Ave St Paul	Heron Lopez		10/30/23
983 Payne Ave St Paul	Heron Lopez		10/30/23
661 Case Ave St Paul	Sheng Lien		10/02/23
956 Payne Ave S 5130	Tom & Fleck		11/07/23
658 Case Ave S 5130	Tom & Fleck		11/07/23

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1. A copy of the petition of Robert ANDERSON, DONALD'S INC. (name of petitioner) to rezone the property located at 968 PAYNE AVE PARCEL B LOT 19 from a RT1 zoning district to a B2 zoning district and PARKING LOT BEHIND DONALD'S
2. A copy of sections 66.40 through 66.495, inclusive of the Saint Paul Zoning Code.

We acknowledge that we are aware of all of the uses permitted in a B2 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

Robert Anderson to a B2 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.

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657 Case	Laura Laughlin	[Signature]	10/25/23
964 Payne	LARRY LAUGHLIN	[Signature]	10/25/23
968 PAYNE	Robert C Anderson	[Signature]	10/25/23
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660 Jenks	Rico Duran	[Signature]	10-25-23
656 Jenks	Rico Duran	[Signature]	10-25-23
980 Payne	Mai Vang	[Signature]	10-27-23
959 Payne Inc	James Lopez Cheryl Lopez	[Signature]	10-29-23
961 PAYNE	Dimitri Hatzigeorgiou	[Signature]	11/2/2023
967 PAYNE	Dimitri Hatzigeorgiou	[Signature]	11/2/2023

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660 JUKS	Rico Duran	[Signature]	10-25-22
656 JUKS	Rico Duran	[Signature]	10-25-22
980 Payne	Mai Vang	[Signature]	10-27-22
959 Payne Inc	Jonas Lettke Cheryl Lettke	[Signature]	10-27-22
961 PAYNE		[Signature]	
967 PAYNE		[Signature]	

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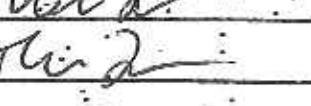

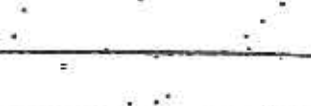
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981 Payne Ave St Paul	Heron Lopez		10/30/23
983 Payne Ave St Paul	Heron Lopez		10/30/23
661 Case Ave St Paul	Shang Lee		10/02/23
956 Payne Ave 55130	Tom LaFleche		11/07/23
658 Case Ave 55130	Tom LaFleche		11/07/23

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From: Jack Byers <jackb@paynephalen.org>
Sent: Tuesday, January 30, 2024 9:47 AM
To: Chris Hong <Chris.Hong@ci.stpaul.mn.us>
Cc: Bill Dermody <bill.dermody@ci.stpaul.mn.us>; Rebecca Nelson <swimminbeckyann@yahoo.com>
Subject: RE: Zoning Case: 964 Payne - PPCC support

Think Before You Click: This email originated **outside** our organization.

Sounds good, Chris. Thank you for explaining. PPCC supports this rezoning. Jack

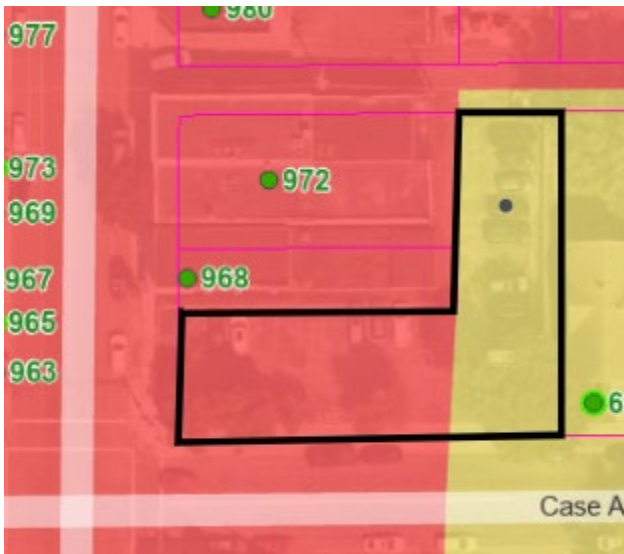
Jack Byers
Executive Director

Payne Phalen Community Council
567 Payne Ave, Saint Paul, MN 55130

Office: (651) 774-5234
Mobile: (651) 724-7647
jackbyers@paynephalen.org

From: Chris Hong <Chris.Hong@ci.stpaul.mn.us>
Sent: Tuesday, January 30, 2024 9:26 AM
To: Jack Byers <jackb@paynephalen.org>
Subject: RE: Zoning Case: 964 Payne

The lot in question (964 Payne) is split-zoned so part of it is zoned B2 (red) and part of it is zoned H2 (yellow). The property owner wants to do a lot split essentially along the zoning district line.



However, if a parking lot is on a separate parcel from the building it is intended to serve, the parking lot must be in a less restrictive zoning district than the building. If the lot is split, there would be a parking lot in a B2 district and another parking lot in an H2 district. The buildings that are being served by the parking lots are in a B2 district. Because H2 is more restrictive than B2, it is not permitted to function as a parking lot serving the same buildings. The applicant is rezoning the parcel so the entire parcel is B2 and he can do his lot split.

From: Jack Byers <jackb@paynephalen.org>
Sent: Monday, January 29, 2024 5:06 PM
To: Chris Hong <Chris.Hong@ci.stpaul.mn.us>
Subject: RE: Zoning Case: 964 Payne

Think Before You Click: This email originated **outside** our organization.

Thanks for reaching out, Chris. I'm not sure if we need a call, I think I understand that this is a lot split. But maybe you could tell me why the property owners is doing this? Jack

Jack Byers
Executive Director

Payne Phalen Community Council
567 Payne Ave, Saint Paul, MN 55130

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jackbyers@paynephalen.org

From: Chris Hong <Chris.Hong@ci.stpaul.mn.us>
Sent: Friday, January 26, 2024 1:49 PM

To: Director <director@paynephallen.org>

Subject: Zoning Case: 964 Payne

Hello,

I am the planner working on the rezoning case on 964 Payne Avenue. Paul Dubriel had sent you the case information on January 12th. I wanted to get in touch to see if you had any questions or had an official recommendation to the Zoning Committee. I'd be happy to schedule a call to discuss the case if you'd like.

Thanks,



Chris Hong

City Planner

Pronouns: she/her

Department of Planning and Economic Development

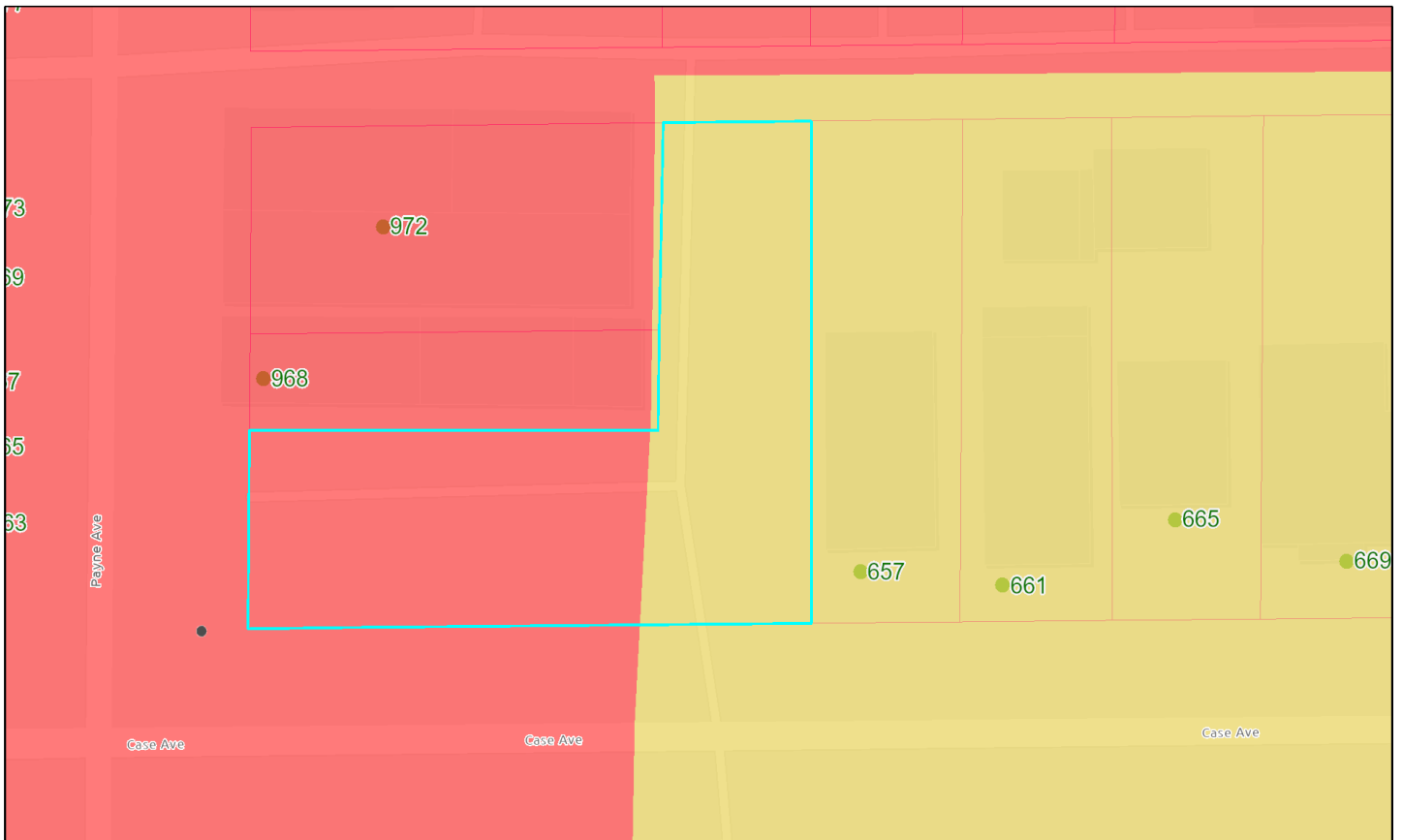
1400 City Hall Annex, 25 West 4th St.

Saint Paul, MN 55102

P: 651-266-6572

chris.hong@ci.stpaul.mn.us

Attachment 2: City of Saint Paul Zoning Map (2024)



2/1/2024, 10:54:36 AM

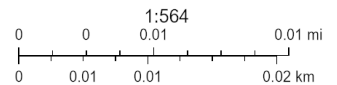
Principal Zoning

- H2 Residential
- B2 Community Business

- Minor Streets
- Saint Paul City Boundary

Address Points (Active)

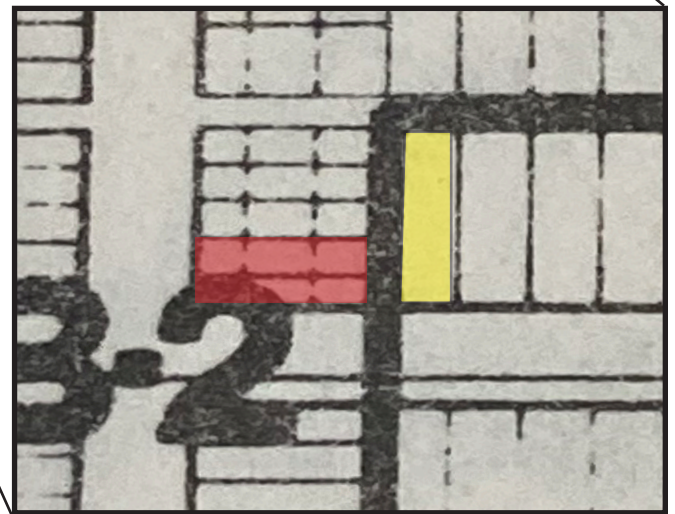
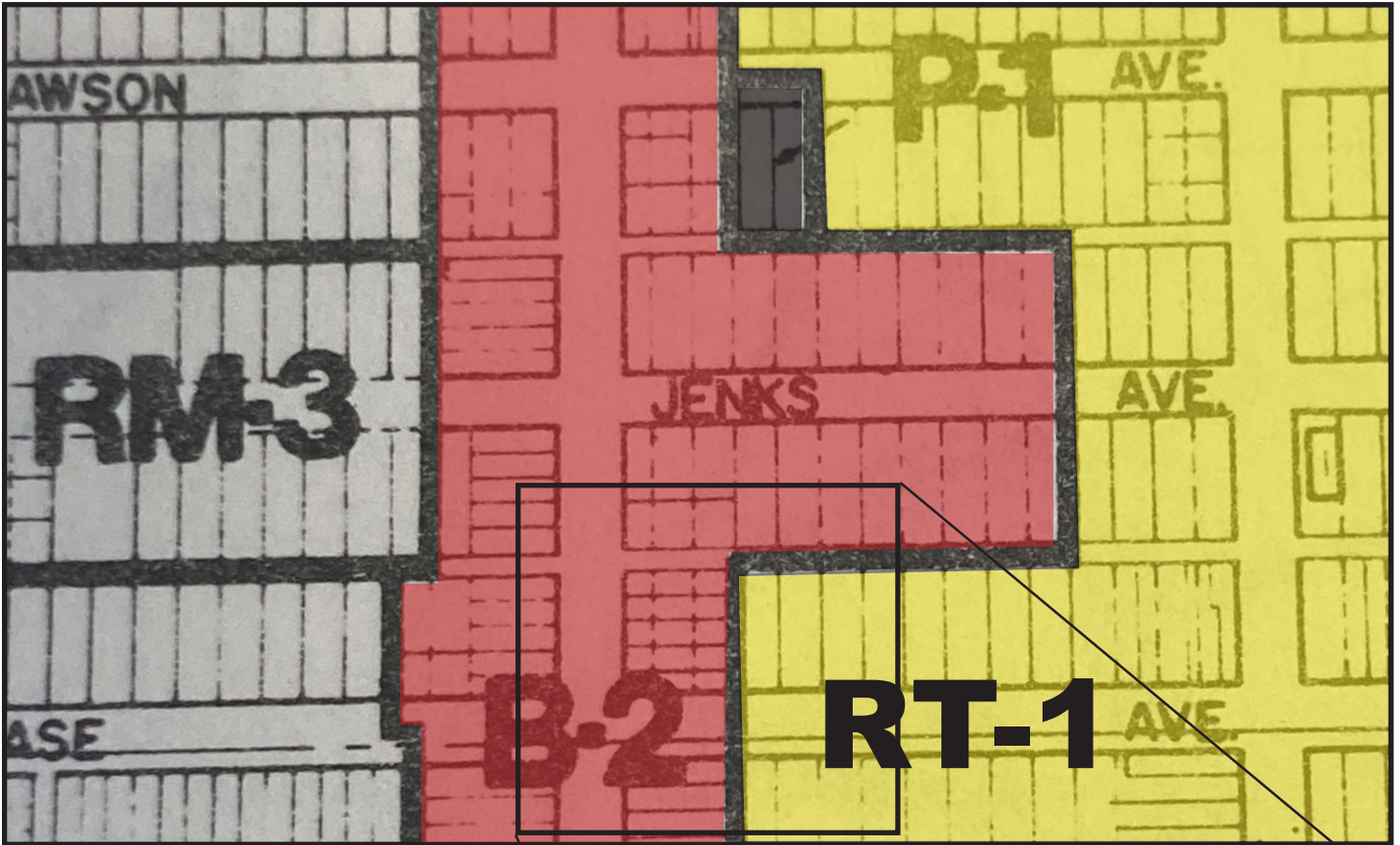
- Primary
- Parcel Boundaries



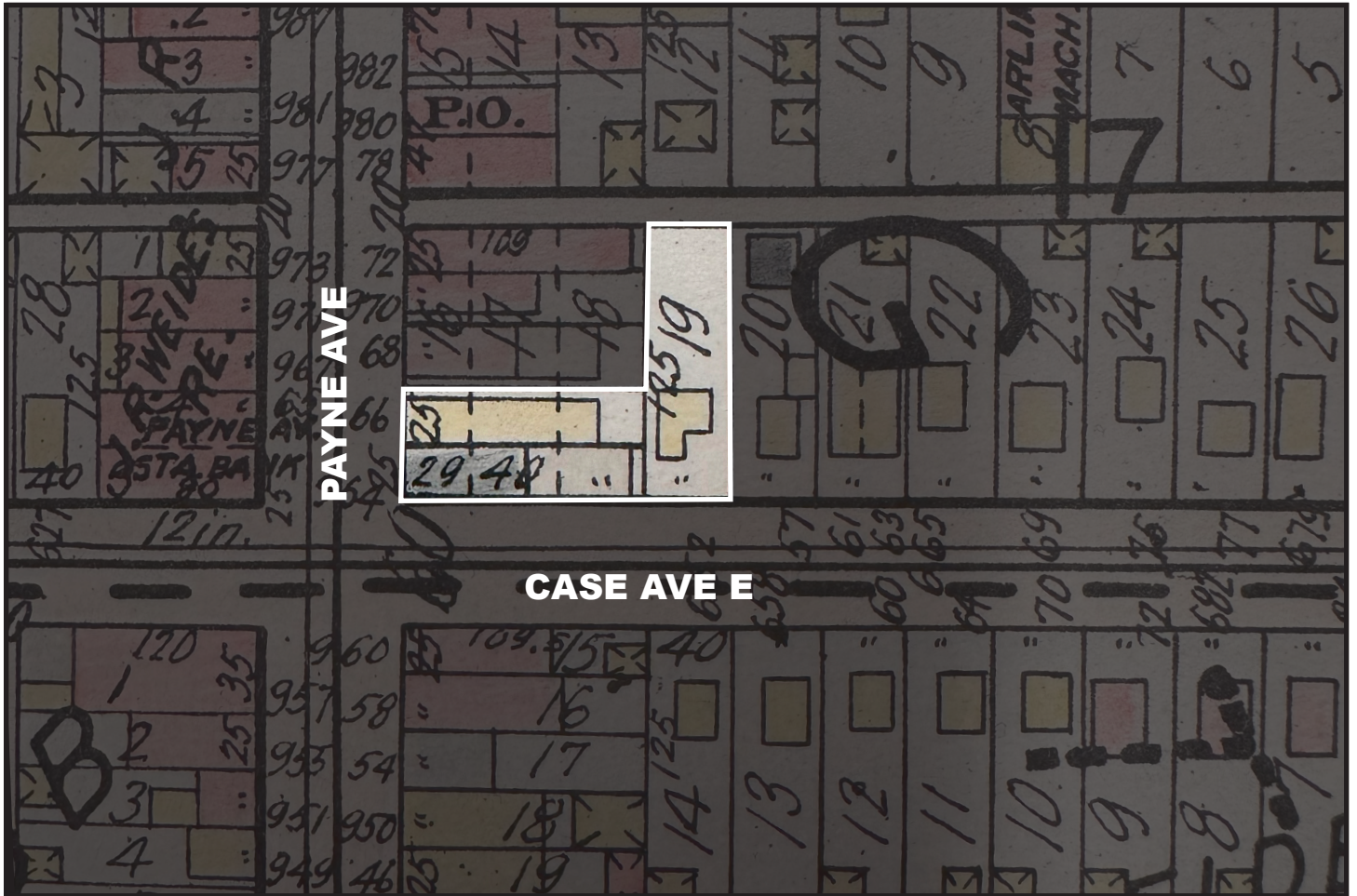
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ArcGIS Web AppBuilder

Attachment 3: City of Saint Paul Zoning Map (1979)



Attachment 4: Plat Book of the City of Saint Paul (1928)



Application of Robert Anderson et. al.

Land use map

application no. 18-0000000-7



Subject parcel(s) are outlined in blue Other parcels are outlined in pink

- Single Family Residential**
- Farmstead
 - Seasonal/Vacation
 - Single Family Detached
 - Manufactured Housing Park

- Multifamily Residential**
- Single Family Attached
 - Multifamily
- Commercial**
- Office
 - Retail and Other Commercial

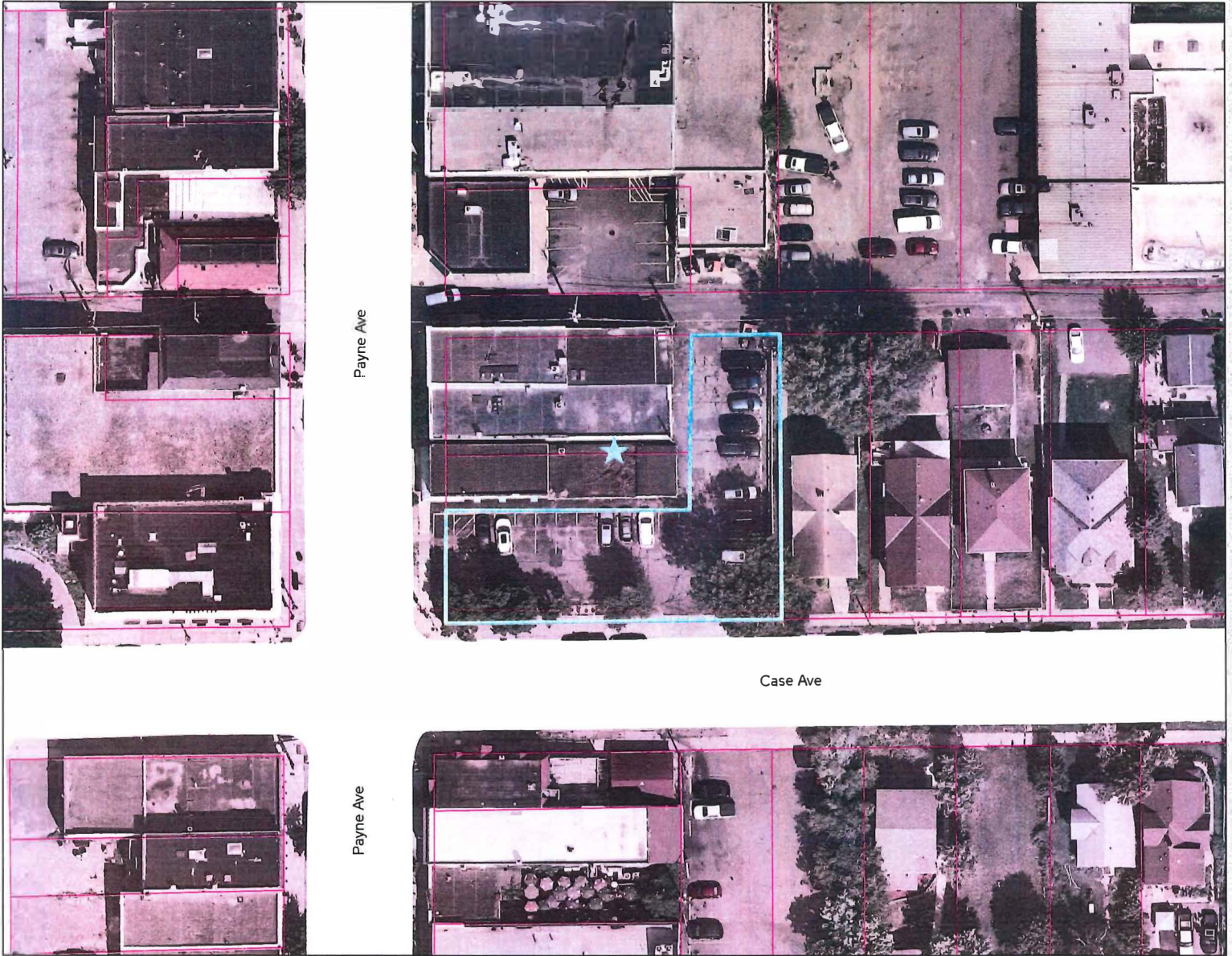
- Mixed Use**
- Mixed Use Residential
 - Mixed Use Industrial
 - Mixed Use Commercial and Other

- Other Uses**
- Industrial and Utility
 - Extractive
 - Institutional

- Park, Recreational or Preserve
- Golf Course
- Major Highway
- Railway
- Airport
- Agricultural
- Undeveloped
- Water



Application of
Robert Anderson et. al.
Aerial map



Subject parcel(s) are outlined in blue

Other parcels are outlined in pink

