

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Wilebski's Blues Saloon Parking Lot **FILE #** 15-022-097
  2. **APPLICANT:** Richard Defoe **HEARING DATE:** April 30, 2015
  3. **TYPE OF APPLICATION:** Conditional Use Permit – Revocation or Modification
  4. **LOCATION:** 92 California Ave W, SE corner at Camelot Street
  5. **PIN & LEGAL DESCRIPTION:** 192922220010, Merrills Division of Rice St Blk 4 Lots 8 and 9
  6. **PLANNING DISTRICT:** 6 **PRESENT ZONING:** RM2
  7. **ZONING CODE REFERENCE:** §61.105; §61.108; §62.109(b)
  8. **STAFF REPORT DATE:** April 23, 2015 **BY:** Bill Dermody
  9. **DATE RECEIVED:** March 30, 2015 **60-DAY DEADLINE FOR ACTION:** n/a
- 

- A. **PURPOSE:** Revocation or modification of a nonconforming use permit for a parking lot issued in 2012 (Zoning File #12-216269) due to noncompliance with the conditions of the permit.
- B. **PARCEL SIZE:** 80' (California) x 125' (alley) = 10,088 sq. ft.
- C. **EXISTING LAND USE:** P-Parking Lot
- D. **SURROUNDING LAND USE:** Multi-family residential (RM2) to the northeast, east, and south; Single-family residential (R4) to the southeast; Commercial to the west along Rice Street, including a saloon immediately to the west that is associated with the subject site.
- E. **ZONING CODE CITATION:** §61.108 establishes the process for revocation or modification of a nonconforming use permit when the use is not in compliance with the permit's conditions; §62.109(b) lists the conditions under which the Planning Commission may grant a permit to establish legal nonconforming use status for a commercial parking lot. §61.105 establishes a two-year period of decision after which a permit approved by the Planning Commission becomes invalid if the use is not established according to the conditions and requirements of the approval.
- F. **HISTORY/DISCUSSION:** In December 2012, the Planning Commission approved the establishment of legal nonconforming use for a parking lot at the subject site, serving the abutting commercial use, subject to two (2) conditions: (1) The parking lot shall be paved and striped in order to improve its appearance; and (2) The applicant shall submit a professional site plan to DSI for review. The first condition has not been complied with. In March 2015, upon notification by the Zoning Administrator of noncompliance with the conditions of the permit, the Planning Commission set a public hearing to consider revocation or modification of the nonconforming use permit for the parking lot at the subject site issued in 2012.
- G. **DISTRICT COUNCIL RECOMMENDATION:** As of this writing, the District 6 Council has not provided a recommendation.
- H. **FINDINGS:**
  1. On December 28, 2012, under the provisions of Zoning Code §62.109(b) for establishment of legal nonconforming use status for a parking lot, the Planning Commission approved a permit for establishment of legal nonconforming use for a parking lot at 92 California Ave. W., serving the abutting commercial use, subject to two conditions: (1) The parking lot shall be paved and striped in order to improve its appearance; and (2) The applicant shall submit a professional site plan to DSI for review.

2. §62.105 establishes a two-year period of decision after which a permit approved by the Planning Commission becomes invalid “unless... the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval”, language that is referenced in the nonconforming use permit for the parking lot at 92 California Ave. W. issued on December 28, 2012.
  3. A site plan for required parking lot improvements was approved on January 31, 2014, with a condition that work covered by the site plan must be completed no later than December 28, 2014.
  4. The Zoning Administrator mailed a violation notice, dated January 26, 2015, to the permit applicant and property owner, Richard Defoe, regarding noncompliance with Condition No. 1 of the nonconforming use permit approved by the Planning Commission on December 28, 2012, because the parking lot has not been paved and striped as required. The violation notice referred to the two-year period of decision for the nonconforming use permit, gave the applicant until February 13, 2015, to respond to the notice with plans to comply with the permit, and said that failure to comply would result in further legal action including permit revocation proceedings. No response was received by February 13, 2015.
  5. On March 11, 2015, under the requirements of Zoning Code §62.105, *Conditions violated, permit revocation*, the Zoning Administrator notified the Planning Commission of noncompliance with the conditions of the nonconforming use permit for the parking lot at 92 California Ave. W.
  6. Zoning Code §62.108, *Conditions violated, permit revocation*, states that the Planning Commission may, “upon determination that the conditions imposed by [permit] approval are not being complied with, revoke the authorization for such approval and require that such use be discontinued”, or “in lieu of revoking the permission, may impose additional conditions, modify existing conditions, or delete conditions which are deemed by the commission... to be unnecessary, unreasonable or impossible of compliance.” Paving and striping of parking lots, and keeping them in a good state of repair are reasonable and necessary requirements that apply to off-street parking facilities throughout the city to promote and protect the public health, safety, aesthetics, and general welfare of the community. There are no characteristics of the subject site that make this requirement unreasonable or impossible in this case.
- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends revocation of the nonconforming use permit for a parking lot at 92 California Ave. W. approved by the Planning Commission on December 28, 2012 (Zoning File #12-216269) due to noncompliance with the conditions of the permit.



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

March 11, 2015

Barbara A. Wencil, Planning Commission Chair  
c/o Donna Drummond, Director of Planning  
25 West 4th Street Suite 1400  
Saint Paul MN 55102

RE: Establishment of nonconforming use as a commercial parking lot at 92 California Avenue West (Zoning File 12-216269)

Dear Chair Wencil:

The Department of Safety and Inspections (DSI), Zoning Section is requesting the Planning Commission to review a nonconforming use permit under Zoning Code Section 61.108 which states,

The zoning administrator shall notify the planning commission or the board of zoning appeals when a development covered by a site plan, permit, variance, determination of similar use, or other zoning approval is not in compliance with any of the conditions imposed upon such use approval. The commission or the board may, at a public hearing, following notice to the owner of subject property and other adjacent property owners as specified in section 61.303(c), and upon determination that the conditions imposed by such approval are not being complied with, revoke the authorization for such approval and require that such use be discontinued. The commission or the board, in lieu of revoking the permission, may impose additional conditions, modify existing conditions, or delete conditions which are deemed by the commission or the board to be unnecessary, unreasonable or impossible of compliance.

On December 28, 2012, the Planning Commission approved the establishment of legal nonconforming use as a commercial parking lot for the property located at 92 California Avenue West, to Richard Defoe for Wilebski's Blues Saloon at 1638 Rice Street, subject to the following conditions:

1. The parking lot shall be paved and striped in order to improve its appearance.
2. The applicant shall submit a professional site plan to DSI for review.

On January 31, 2014, DSI Zoning approved the site plan (refer to attached copy) subject to the following conditions:

1. **Site improvements** The proposed site improvements must be constructed as shown on the approved site plan. This includes all paving, striping, landscaping, lighting, and fences.
2. **Visual screening fence** Since the neighboring residential use to the east has a fence along their west property line, you will not be required to provide a visual screen as required in Section 63.313. If at some time this fence is removed, you will be required to meet the visual screening requirements of Sections 63.313 and 63.114.
3. **Patching/repaving** As the parking lot is patched and repaved, the direction of drainage for stormwater runoff must be directed to the public right of way/alley. Stormwater runoff must not affect the neighboring properties.

4. **Permits and Fees** The permits listed on the following page are required for the work shown on the approved site plan.
- **Building permit** A building permit for repaving is required from the Department of Safety and Inspections (651-266-9007). The cost of the permit is 1% of the cost of the project.
  - **Sidewalk permit** Any work on curbs, driveways and sidewalks in the public right-of-way must be done by a licensed contractor under a permit from Public Works Sidewalk Section (651-266-6120).

DSI Zoning staff has worked diligently to enforce the conditions of the nonconforming use permit and site plan to ensure compliance. However, as of today, condition 1 of the nonconforming use permit is not being met. The parking lot has not been paved or striped. Conditions 1, 3 and 4 of the site plan are not being met. The parking lot improvements for patching and repaving have not been completed. A building permit has not been obtained for repaving.

Please refer to the attached property history for detailed information of the actions taken on this property thus far. DSI Zoning staff is asking the Planning Commission to review this situation and determine if the nonconforming use permit should be revoked or decide to impose additional conditions, modify the existing conditions, or delete the conditions.

Regards,



Corinne A. Tilley  
DSI Zoning Inspector

Attachments: Property history  
Nonconforming use permit #12-216269  
Nonconforming use resolution  
10/20/2004 Enforcement letter  
01/02/2013 Email  
02/19/2013 Email  
08/30/2013 Email  
01/31/2014 Approved site plan  
01/02/2015 Site photos  
01/26/2015 Enforcement letter

Copy: Wendy Lane / DSI Zoning Administrator  
Allan Torstenson / PED  
DSI Licensing Staff

Current Liquor License holder at 1638 Rice Street -  
RICHARD A DEFOE ENTERPRISES INC doing business as WILEBSKI'S BLUES SALOON

Current Property Owner at 1638 Rice Street  
Richard A. Defoe

Current Property Owner at 92 California Avenue West  
Richard A. Defoe

92 California Avenue West  
RM2 medium density multiple family residential district

(62.109(b) nonconforming commercial parking use) for 1638 Rice Street  
Recent History – Compiled by Corinne Tilley

- 03/21/2012** DSI Licensing staff attempted to collect on required annual statement for shared parking between MEK Properties (owner of 1635 Rice Street) and Richard A Defoe (owner of 1638 Rice Street) for 38 off-street parking spaces required because, in 2004, 1638 Rice Street lost 23 parking spaces at 123 Wheelock and lost their shared parking with the mall across Rice Street.
- 03/30/2012** DSI Licensing staff received verbal communication from MEK Properties (owner of 1635 Rice Street) that there is not a current or active shared parking agreement with Richard A Defoe (owner of 1638 Rice Street).
- 04/05/2012** DSI Zoning staff mailed a letter to Richard A Defoe (mailed to 200 Concord, S St Paul; owner of 1638 Rice Street) regarding required parking for 1638 Rice Street; need to show proof of required parking by submitting a new shared parking agreement or obtaining a parking variance. Response required before 4/13/2012.
- 04/17/2012** Licensee has not provided required 38 additional parking spaces. DSI Licensing staff referred the liquor license to City Attorney's Office (CAO) for adverse action. Licensee cannot operate without the parking. DSI is requesting license revocation.
- 04/20/2012** City Attorney's Office sent out Notice of Intent to revoke licenses for failure to provide required parking spaces. Given til 04/30/2012 to respond.
- 05/22/2012** Meeting was held at DSI with Mr. Defoe and his attorney, Kirsten Libby, to discuss the parking situation. The decision made was: (from a 2004 enforcement letter (copy attached), Defoe needed to provide 23 parking spaces because of lost parking across the alley at 123 Wheelock plus 15 parking spaces because of the loss of shared parking with the mall across Rice Street.) Parking that now needs to be met is 38 parking spaces.  
Options given were to obtain a parking lease for shared parking (may need to go through PC) or to support a request for parking variance through the BZA, or apply to the Planning Commission to establish a NC parking lot at 92 California Avenue West (will need to go through site plan review). Defoe needs to decide which option to take by 5/31/2012.
- 05/31/2012** DSI Licensing staff received an email from Richard Defoe's attorney, Kirsten Libby, indicating that Mr. DeFoe will be applying for a nonconforming use permit to allow legitimate use of one of his lots for parking. This would provide enough parking for Mr. Defoe to meet his requirements.
- 08/30/2012** DSI Licensing staff sent an email to Richard Defoe's attorney, Kirsten Libby asking about the status of the application for nonconforming use permit. An application has not yet been submitted. Parking shortfall is 38.

- 09/05/2012** DSI Licensing staff received an email from Kirsten Libby stating that "It has taken more time than anticipated to get the signatures for the petition. I have the needed signatures, and the application is almost complete. "
- 10/18/2012** DSI Licensing staff sent an email to Kirsten Libby stating that "we have not yet seen the application for the nonconforming use at 92 California. Since the adverse action has been holding for many months, I think that it would be reasonable to expect that the application be submitted by November 1, 2012. If the application is not submitted by then, we will move forward with the adverse action as previously noticed."
- 10/23/2012** Application for nonconforming commercial parking use for 92 California Avenue West received by PED staff
- 10/24/2012** PED staff received email from Kirsten Libby to withdraw the application for NCUP, petition not sufficient
- 11/21/2012** Kirsten Libby resubmitted application for nonconforming commercial parking use for 92 California Avenue West received
- 12/28/2012** PC approved establishment of LNCU subject to conditions:  
  1. The parking lot shall be paved and striped in order to improve its appearance.
  2. The applicant shall submit a professional site plan to DSI for review.
- 01/02/2013** Email (copy attached) sent to Kirsten Libby (Richard Defoe' attorney) informing her that DSI has reviewed the site plan for legal nonconforming parking lot at 92 California Ave W. Conditions and comments were summarized in the email.
- 02/19/2013** Email (copy attached) sent to Kirsten Libby to followup on the comments emailed 01/02/2013. Response has not yet been received. So I continued to inform her of the time requirements for response per 61.402(d). Response must be submitted by 07/02/2013.
- 08/30/2013** Email (copy attached) sent to Richard Defoe' attorney Kirsten Libby informing her that a response was not received to address the comments of the site plan review. Site plan review application #13-139025 for the parking lot at 92 California Ave W has expired due to applicant's (licensee) failure to complete request for revised plans as per email dated 01/02/2013. At this time the licensee is in substantial (but not full) compliance with Zoning off-street parking requirements as per NCUP 12-216269 subject the following: compliance with the two (2) conditions of this NCUP within the time specified under the permit (12/28/2014).
- 09/08/2013** Police citation (CN13193962) indicates that this establishment still has customers after 1:30. Licensee does not have a 2AM license. State Liquor Control website indicates that the 2AM license was cancelled in 2009 for failure to renew. Without a 2AM license, the establishment must be closed by 1AM.
- 09/24/2013** DSI Licensing staff sent the liquor file to CAO for adverse action for operating after 1:30 AM without the proper license. \$500 matrix penalty and licensee must either immediately discontinue or obtain the appropriate 2 AM license.
- 10/15/2013** DSI Zoning Section received revised plans for parking lot at 92 California Ave W (NCUP 12-216269) for review.
- 01/31/2014** Site plan (copy attached) approved subject to conditions:  
  1. **Site improvements** The proposed site improvements must be constructed as shown on the approved site plan. This includes all paving, striping, landscaping, lighting, and fences.

2. **Visual screening fence** Since the neighboring residential use to the east has a fence along their west property line, you will not be required to provide a visual screen as required in Section 63.313. If at some time this fence is removed, you will be required to meet the visual screening requirements of Sections 63.313 and 63.114.

3. **Patching/repaving** As the parking lot is patched and repaved, the direction of drainage for stormwater runoff must be directed to the public right of way/alley. Stormwater runoff must not affect the neighboring properties.

4. **Permits and Fees** The permits listed on the following page are required for the work shown on the approved site plan.

- **Building permit** A building permit for repaving is required from the Department of Safety and Inspections (651-266-9007). The cost of the permit is 1% of the cost of the project.
- **Sidewalk permit** Any work on curbs, driveways and sidewalks in the public right-of-way must be done by a licensed contractor under a permit from Public Works Sidewalk Section (651-266-6120).

Work covered by this site plan must be completed no later than 12/28/2014.

- 01/02/2015** Site visit photos attached (2).
- 01/26/2015** Violation notice mailed (addressed to Richard Defoe at 1638 Rice) (copy attached). Parking lot does not comply with conditions of NCUP 12-216269 and conditions of site plan approval. Response required before 02/13/2015.
- 03/11/2015** No response from Richard Defoe. NCUP 12-216269 is sent back to Planning Commission for failure to comply with conditions as specified.



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## VIOLATION NOTICE

January 26<sup>th</sup>, 2015

Richard A Defoe  
1638 Rice Street  
Saint Paul MN 55117-3756

**Follow up of Non-Conforming Use Permit 12-216269 and Site Plan 13-139025  
1638 Rice Street - accessory parking lot at 92 California Ave W**

Dear Mr. Defoe:

On December 28, 2012, the Planning Commission approved the establishment of a legal nonconforming use of a commercial parking lot for the property located at 92 California Avenue subject to the following conditions being met:

1. The parking lot shall be paved and striped in order to improve its appearance.
2. The applicant shall submit a professional site plan for DSI for review.

On January 31st, 2014, DSI reviewed and approved the site plan as required by condition #2 of the nonconforming use permit.

**This permit was to expire two years from the date of approval if the use herein permitted is not established, subject to administrative extension not to exceed one year (Sec. 61.105).**

On December 28, 2014 a Site Review Follow-Up Inspection was performed. During the site visit it was observed that condition #1 of the nonconforming use permit on the approved site plan have not been met. **Therefore, this site is violation of the nonconforming use of a parking lot permit granted you and the approved site plan per Section 61.108 –**

### **Conditions violated, permit revocation:**

The zoning administrator shall notify the planning commission or the board of zoning appeals when a development covered by a site plan, permit, variance, determination of similar use, or other zoning approval is not in compliance with any of the conditions imposed upon such use approval. The commission or the board may, at a public hearing, following notice to the owner of subject property and other adjacent property owners as specified in [section 61.303\(c\)](#), and upon determination that the conditions imposed by such approval are not being complied with, revoke the authorization for such approval and require that such use be discontinued. The commission or the board, in lieu of revoking the permission, may impose additional conditions, modify existing conditions, or delete conditions which are deemed by the commission or the board to be unnecessary, unreasonable or impossible of compliance.

**You must respond in writing before February 13<sup>th</sup>, 2015 acknowledging receipt of this letter including details of your plans to come into compliance with city zoning regulations.**

**Failure to comply with this order will result in further legal action by this office including criminal citations to responsible parties and permit revocation proceedings.**

If you have any questions regarding this matter, you may contact me at (651) 266-9083 or [leah.bartizal@ci.stpaul.mn.us](mailto:leah.bartizal@ci.stpaul.mn.us)

Thank you for your cooperation.

Sincerely,

Leah Bartizal  
DSI Zoning Intern  
City of St. Paul



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
St Paul, Minnesota 55101-1806

Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

January 31, 2014

Richard A Defoe  
200 Concord Exchange North  
South Saint Paul MN 55075-1103

**RE: Approval of Site Plan 13-139025**  
**1638 Rice Street - accessory parking lot at 92 California Ave W**

Dear Mr. Defoe :

On December 28, 2012, the Planning Commission approved the establishment of legal nonconforming use as a commercial parking lot for the property located at 92 California Avenue West, subject to the following conditions:

1. The parking lot shall be paved and striped in order to improve its appearance.
2. The applicant shall submit a professional site plan to DSI for review.

DSI Zoning has reviewed the site plan for the legal nonconforming commercial parking lot located at 92 California Avenue West. **The site plan referenced above is approved subject to the following conditions:**

**Project**

The site plan submitted was reviewed for the repaving and striping of the off-street parking lot located at 92 California Avenue West that would be used in conjunction with and to serve the abutting commercial use located at 1638 Rice Street. The existing paved surface will **NOT** be removed.

1. **Site improvements** The proposed site improvements must be constructed as shown on the approved site plan. This includes all paving, striping, landscaping, lighting, and fences.
2. **Visual screening fence** Since the neighboring residential use to the east has a fence along their west property line, you will not be required to provide a visual screen as required in Section 63.313. If at some time this fence is removed. You will be required to meet the visual screening requirements of Sections 63.313 and 63.114.
3. **Patching/repaving** As the parking lot is patched and repaved, the direction of drainage for stormwater runoff must be directed to the public right of way/alley. Stormwater runoff must not affect the neighboring properties.
4. **Permits and Fees** The permits listed on the following page are required for the work shown on the approved site plan.

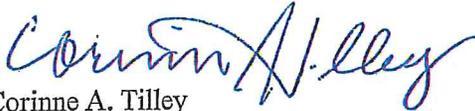
**Building permit** A building permit for repaving is required from the Department of Safety and Inspections (651-266-9007). The cost of the permit is 1% of the cost of the project.

**Sidewalk permit** Any work on curbs, driveways and sidewalks in the public right-of-way must be done by a licensed contractor under a permit from Public Works Sidewalk Section (651-266-6120).

5. **Time limit** Work covered by this site plan must be completed no later than December 28, 2014.

If you have questions regarding this site plan, please contact me at 651-266-9085 (office) or [corinne.tilley@ci.stpaul.mn.us](mailto:corinne.tilley@ci.stpaul.mn.us) (email).

Sincerely,



Corinne A. Tilley  
DSI Inspector – Zoning and Site Plan Review

copy: PED Planning Division  
PW Sewer Division  
PW Traffic Division  
Richard A Defoe, 7265 Main St, Centerville, MN  
Richard A Defoe Enterprises Inc, 1638 Rice St, St Paul, MN

Attachments: Copy of approved site plan dated 01/31/2014  
Copy of approved nonconforming use permit #12-216269

# PARKING EXHIBIT

of BLUES SALOON  
1638 RICE STREET  
ST. PAUL, MN 55108

## PROPERTY DESCRIPTION:

Lots 12, 13, 14, 15 and 16, Block 4, MERRILLS DIVISION OF RICE STREET VILLAS, according to the plat thereof and situate in Ramsey County, Minnesota.

AND

Lots 6, 9 and 11 and the south 5 feet of Lot 10, except the north 4 feet of said south 5 feet, of the west 25 feet thereof, all in Block 4, MERRILLS DIVISION OF RICE STREET VILLAS, according to the plat thereof and situate in Ramsey County, Minnesota.

## NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 9/23/08.
- Bearings shown are on an assumed datum.
- City of St. Paul vertical datum (Benchmark shown on survey).
- Curve shots are taken at the top and back of curve.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. The surveyor assumes no responsibility for such matters, title commitment or an attorney's title opinion.

## LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- \* DENOTES HYDRANT
- DENOTES GAS METER
- DENOTES POWER POLE AND OVERHEAD WIRES QUANTIFIED UNLESS AN EMPLOYMENT AGREEMENT IS ISSUED FOR SUCH
- DENOTES FENCE
- DENOTES CONCRETE SURFACE
- DENOTES BITUMINOUS SURFACE
- \* DENOTES LIGHT POLE
- x DENOTES EXISTING SPOT ELEVATION
- DENOTES DRAINAGE DIRECTION

## PARKING INFORMATION

65 Total Parking Spaces for Block 4, Merrill's Division of Rice Street Villages. (See Parking Schedule on Drawing Sheet 100)

Some regulations and/or traffic on this property shall be subject to the property owner or contractor, outside of the public right-of-way, signs approved by Public Works Traffic Engineering regulating parking and/or traffic on the property. The contractor shall be responsible for any traffic signs and/or traffic signs on the property. The contractor shall be responsible for any traffic signs and/or traffic signs on the property.

651-266-8200 or, weeks in advance of needed sign(s).

All work on streets, sidewalks, and shoulders within the public right-of-way shall be done in accordance with the City of St. Paul's Public Works Department's "General Requirements - All Restorations" and "In-Street Maintenance" documents. The contractor shall be responsible for payment to the City for the cost of restorations. The contractor shall be responsible for payment to the City for the cost of restorations. The contractor shall be responsible for payment to the City for the cost of restorations.

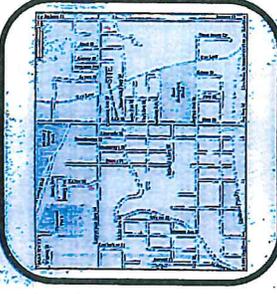
651-266-8200 or, weeks in advance of needed sign(s).

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CITY OF ST. PAUL  
BENCHMARK  
TOP SURF - 1912.05

RECEIVED IN DLSI  
OCT 16 2008

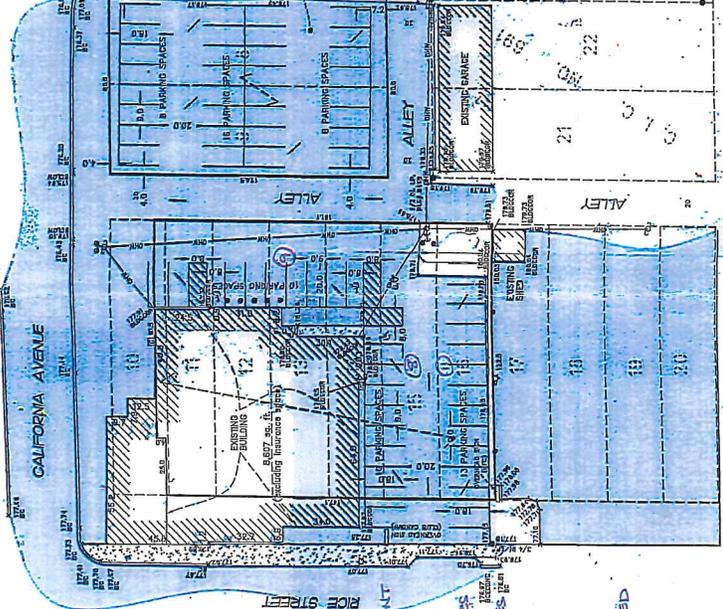
VICINITY MAP  
RAMP 14 OF SEC. 8, TWP. 23 S. R. 22 E. S. 22



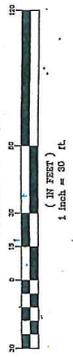
ST. PAUL, MINNESOTA  
(NO SCALE)

PARKING LAYOUT SUBMITTED MEETS CITY REQUIREMENTS. OWNER RESERVES THE OPTION OF PAVING SURF, NOT MAINTAIN STALL TO COUNT.

**SITE PLAN APPROVED**  
OFFICE OF ST. PAUL CITY ENGINEER & TRAFFIC ENGINEER  
APPROVED BY THE ST. PAUL CITY ENGINEER & TRAFFIC ENGINEER



GRAPHIC SCALE



NO.	DATE	DESCRIPTION	BY
1	9/23/08	ISSUED PARKING INFO	MRD
2	10/27/08	ISSUED PARKING INFO	MRD
3			

**E.G. RUD & SONS, INC.**  
Professional Land Surveyors  
6776 Lake Drive NE, Suite 110  
Lino Lakes, MN 55014  
Tel: (651) 381-8200 Fax: (651) 361-8701  
www.egrud.com

## Tilley, Corinne (CI-StPaul)

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**To:** Tilley, Corinne (CI-StPaul)  
**Subject:** RE: Site plan review (13-139025) 92 California Ave W

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**From:** Tilley, Corinne (CI-StPaul)  
**Sent:** Tuesday, February 19, 2013 10:57  
**To:** kirsten@libbylawoffice.com  
**Cc:** Schweinler, Kristina (CI-StPaul)  
**Subject:** Site plan review (13-139025) 92 California Ave W

Good morning Ms. Libby:

This email is a followup to the email comments sent to you on January 2, 2012 (refer to emails below) regarding the site plan review for the parking lot at 92 California Avenue West.

Since I have not yet received a revised site plan that addresses the comments of the email or any correspondence from you if you had any questions regarding the email, I thought it would be helpful to let you know of the time requirements with respect to the email comments to assure compliance with them.

When changes are required, the revised site plan shall be submitted within six (6) months from the date you were notified of required changes. ***A revised site plan addressing the email comments must be submitted by July 2, 2013.*** However, I would suggest that a revised site plan be submitted as soon as possible (before July 2) so that DSI Zoning has time to review the revised site plan and, if needed, send comments back to you. I would like to get a formal approval letter out to you before July 2 so that Mr. Defoe has enough time to make the required parking lot improvements before September 30, 2013 which would get us close to the next winter season.

Please contact me if you have any questions.



**Corinne A. Tilley**

DSI Inspector - Zoning and Site Plan Review

Department of Safety and Inspections

375 Jackson Street, Suite 220

Saint Paul, MN 55101-1806

P: 651-266-9085

[corinne.tilley@ci.stpaul.mn.us](mailto:corinne.tilley@ci.stpaul.mn.us)

The Most Livable  
City in America

## Tilley, Corinne (CI-StPaul)

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**To:** Tilley, Corinne (CI-StPaul)  
**Subject:** RE: Site plan review (13-139025) 92 California Ave W

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**From:** Tilley, Corinne (CI-StPaul)  
**Sent:** Friday, August 30, 2013 15:00  
**To:** Kirsten Libby  
**Cc:** Rozek, Christine (CI-StPaul)  
**Subject:** Site plan review (13-139025) 92 California Ave W

Ms. Kirsten Libby:

I am emailing you to inform you that Mr. Richard Defoe, applicant of the nonconforming use permit for 92 California Avenue West, did not submit a revised site plan before July 2, 2013. The site plan review is now expired.

Here's a recap of the history of this site:

On November 21, 2012, Mr. Richard DeFoe submitted an application to establish legal nonconforming use status of a commercial parking lot at 92 California Avenue West. This parking lot was to be used in conjunction with Wilebski's Blues Saloon (also known as Club Cancun) at 1638 Rice Street. The saloon is in need of this parking lot in order to meet city parking regulations.

On December 28, 2012, the Planning Commission approved the establishment of legal nonconforming use subject to the following conditions:

1. The parking lot shall be paved and striped in order to improve its appearance.
2. The applicant shall submit a professional site plan to DSI for review.

On January 2, 2013, Zoning staff reviewed a site plan and approved the site plan subject to complying with the conditions of approval.

Per Zoning Code Section 61.402(d) Compliance and time requirements, ... When changes are required, the revised site plan shall be submitted within six (6) months from the date the applicant was notified of required changes. July 2, 2013 was the due date, six (6) months from the date the applicant was notified of required changes.

As of today, Zoning has not received a revised site plan showing the required changes. The parking lot has not been paved or striped.

In order to bring the site at 92 California Avenue West into compliance, Mr. DeFoe must meet the requirements in accordance with the conditions of the nonconforming use permit:

- submit a site plan that can be reviewed by DSI Zoning staff.
- apply for the appropriate building permit to pave and stripe the parking lot.

Please respond within 15 days of receiving this email to address Mr. DeFoe's timeline for bringing the site into compliance. Failure to respond may result in adverse action against the certificate of occupancy and business license at 1638 Rice Street.

If you have any questions, please contact me:

## Tilley, Corinne (CI-StPaul)

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**To:** Tilley, Corinne (CI-StPaul)  
**Subject:** RE: DSI Zoning comments regarding 92 California Avenue West site plan

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**From:** Tilley, Corinne (CI-StPaul)  
**Sent:** Wednesday, January 02, 2013 12:45  
**To:** kirsten@libbylawoffice.com  
**Cc:** Schweinler, Kristina (CI-StPaul); Dermody, Bill (CI-StPaul); Kerry Antrim (district6ed@dist6pc.org)  
**Subject:** DSI Zoning comments regarding 92 California Avenue West site plan

The Planning Commission has approved the establishment of legal nonconforming use as a commercial parking lot for the property located at 92 California Avenue West, subject to the following conditions:

1. The parking lot shall be paved and striped in order to improve its appearance.
2. The applicant shall submit a professional site plan to DSI for review.

DSI Zoning has reviewed the site plan for the legal nonconforming parking lot located at 92 California Avenue West. A copy of the site plan submitted for review is attached to this email for your reference. Conditions and comments are summarized below.

### Project description

The site plan submitted was reviewed for the repaving and striping of the off-street parking facility located at 92 California Avenue West. The existing paved surface will **NOT be removed**.

### Revised Plans

You must send me five (5) half-sized sets of the site plan revised to reflect the comments in this email. If available, in addition to the five (5) half-sized sets, please send a PDF version on a CD or as an email to [corinne.tilley@ci.stpaul.mn.us](mailto:corinne.tilley@ci.stpaul.mn.us).

### Zoning

Submit a revised site plan for the parking lot located at 92 California Avenue West that reflects the following:

1. Lot 11, as shown on the survey drawing (but not in the property description), has been combined with Lots 12, 13, 14, 15, and 16. Submit a document from Ramsey County showing that this has been formally recorded.
2. Submit a revised site plan for 92 California Avenue West, showing the off-street parking spaces are a minimum of 4' from any lot line.
3. Submit a revised site plan for 92 California Avenue West, reflecting the minimum layout dimensions for a standard parking space at 9'x18'. Also, you may designate up to 50% of the parking spaces for compact cars only, in which case, the minimum layout dimensions may be reduced to 8'x16'. The compact spaces shall be designated by signs with a minimum of one sign per every four compact spaces.
3. Submit a revised site plan that shows at least three van accessible ADA parking spaces where each space is reserved for the exclusive use of persons with mobility impairments. These parking spaces must have signage designated with the international wheel chair symbol. An informational document is attached to this email.
4. Since the neighboring residential use to the east has a fence along their west property line, you will not be required to provide a visual screen as required in Section 63.313. If at some time this fence is removed. You will be required to meet the visual screening requirements of Sections 63.313 and 63.114.
5. The site plan must reflect that when the parking lot is repaved, the direction of drainage for stormwater runoff is directed to the public right of way/alley. Stormwater runoff must not affect neighboring properties.

### Building Permit

A building permit is required for the repaving of this parking lot (where the existing paved surface is **NOT removed**). The cost of the permit is **1% of the cost of the project**.

### Traffic

A note must be added to the plan stating, "Signs regulating parking and/or traffic on private property shall be installed by the property owner or contractor outside of the public right-of-way. Signs approved by Public Works Traffic Engineering

regulating parking and/or traffic in the public right-of-way for this development shall be installed by City forces at the expense of the development. Contact Traffic Engineering 651-266-6200 six weeks in advance of needed sign(s)."

### Sidewalks

A note must be added to the plan stating, "All work on curbs, driveways, and sidewalks within the public right of way must be done to City Standards and Specifications by a licensed and bonded contractor under a permit from Public Works Sidewalk Section (651-266-6120). Sidewalk grades must be carried across driveways."

A note must be added to the plan stating, "Restoration of asphalt and concrete pavements are performed by the Public Works Street Maintenance Division. The contractor is responsible for payment to the City for the cost of these restorations. The contractor shall contact Public Works Street Maintenance to set up a work order prior to beginning any removals in the street at 651-292-6600. Procedures and unit costs are found in Street Maintenance's "General Requirements - All Restorations" and are available at the permit office."

### Street Lights

A note must be added to the plan stating, "The Contractor shall contact John McNamara, General Foreman, Lighting - Signal Maintenance, (651-487-7209), if removal or relocation of existing facilities is required or in the event of damage to the lighting or signal utilities. The Contractor shall assume responsibility (and related costs) for any damage or relocations. The installation of private electrical wiring, conduit, receptacles and/or lighting is strictly prohibited in the City's ROW (Right of Way)."

### Signs

Business signs will require a separate review and Sign Permit from the Department of Safety and Inspections. Site plan approval does not constitute approval of business signs shown on the site plan. Contact Yaya Diatta of DSI Zoning (651-266-9080) if you have any questions about signs.

### District Council

A copy of this site plan is being shared with the District 6 Planning Council for comment. City staff reserves the right to make additional comments and conditions once we have heard from them.

### Right of Way

The following comments must be included on the revision of your plan, "INSPECTION CONTACT: The developer shall contact the Right of Way inspector (one week prior to beginning work) to discuss traffic control, pedestrian safety and coordination of all work in the public right of way. SAFE WORK SITE REQUIREMENTS: The Contractor shall provide a continuous, accessible and safe pedestrian walkway that meets ADA and MN MUTCD standards if working in a sidewalk area, and traffic control per MN MUTCD requirements for work in the public right of way. FAILURE TO SECURE PERMITS: Failure to secure Obstruction Permits or Excavation Permits **will result in a double-permit fee and other fees required under City of St. Paul Legislative Codes.** REQUIREMENTS TO WORK IN THE PUBLIC RIGHT OF WAY: All utilities and contractors working in the public right of way must to be **registered, insured and bonded**, as recognized by the Public Works Service Desk. (651-266-6151)"

### Site Plan Approval

The site plan is approved subject to you meeting the conditions and comments in this email. This decision can be appealed to the Planning Commission within 10 days of this email.

If you have any questions, please reach me at 651-266-9085 or [corinne.tilley@ci.stpaul.mn.us](mailto:corinne.tilley@ci.stpaul.mn.us).



The Most Livable  
City in America

**Corinne A. Tilley**  
DSI Inspector - Zoning and Site Plan Review  
Department of Safety and Inspections  
375 Jackson Street, Suite 220  
Saint Paul, MN 55101-1806  
P: 651-266-9085  
[corinne.tilley@ci.stpaul.mn.us](mailto:corinne.tilley@ci.stpaul.mn.us)

**CITY OF SAINT PAUL, MINNESOTA**  
(NUP - Establishment)

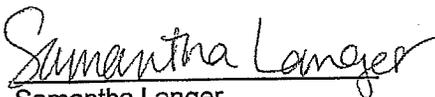
ZONING FILE NO: 12-216-269  
APPLICANT: Richard Defoe  
PURPOSE: Establishment of legal nonconforming use as a commercial parking lot  
LOCATION: 92 California Ave W  
LEGAL DESCRIPTION: PIN 192922220010, Merrills Division Of RiceStre Lots 8 And Lot 9 Blk 4  
ZONING COMMITTEE ACTION: Recommended approval with conditions on December 20, 2012  
PLANNING COMMISSION ACTION: Approved with conditions on December 28, 2012  
CONDITIONS OF THIS PERMIT:  
1. The parking lot shall be paved and striped in order to improve its appearance.  
2. The applicant shall submit a professional site plan to DSI for review.  
APPROVED BY: Barabara Weincl, Commission Chairperson

I, the undersigned Secretary to the Zoning Committee of the Planning Commission for City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on minutes of the Saint Paul Planning Commission meeting held on December 28, 2012, and on record in the Saint Paul Planning Office, 25 West Fourth Street, Saint Paul, Minnesota.

**This permit will expire two years from the date of approval if the use herein permitted is not established, subject to administrative extension not to exceed one year (Sec. 61.105).**

The decision to grant this permit by the Planning Commission is an administrative action subject to appeal to the City Council. Anyone affected by this action may appeal this decision by filing the appropriate application and fee at the Zoning Office, 1400 City Hall Annex, 25 West Fourth Street. **Any such appeal must be filed within 10 calendar days of the date of the Planning Commission's decision.**

**Violation of the conditions of this permit may result in its revocation.**



Samantha Langer  
Secretary to the Saint Paul  
Zoning Committee

Copies to:  
Applicant Richard Defoe (Wilebski's Blues Saloon)  
File No. 12-216-269  
District Council 6

Mailed: December 28, 2012

city of saint paul  
planning commission resolution

file number 12-79

date December 28, 2012

WHEREAS, Richard Defoe, File # 12-216-269, has applied for an establishment of legal nonconforming use as a commercial parking lot under the provisions of §62.109(b) of the Saint Paul Legislative Code, on property located at 92 California Ave W, Parcel Identification Number (PIN) 192922220010, legally described as Merrills Division Of RiceStre Lots 8 And Lot 9 Blk 4; and

WHEREAS, the Zoning Committee of the Planning Commission, on December 20, 2012, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The application proposes to establish an existing parking lot as a legal nonconforming use. The parking lot contains 40 spaces according to the application materials.
2. If approved, the parking lot would be used in conjunction with Wilebski's Blues Saloon, 1638 Rice Street, which is located immediately across the alley to the west of the subject site. The saloon formerly contracted for spaces in a parking lot west of Rice Street, but no longer has rights to those spaces and is in need of additional parking capacity in order to meet city regulations.
3. Section 62.109(b) of the zoning code provides that the Planning Commission may grant legal nonconforming use status to allow the use of land without completely enclosed buildings as a parking lot to serve abutting property in OS-B5 Business and IR-I1 industrial districts if the commission makes six findings. The findings and the applicant's ability to meet them are as follows:
  - (1) *The commercial or industrial parking lot has been paved, maintained and used for commercial or industrial parking for at least ten (10) consecutive years prior to the date of the application.* This finding is met. The applicant testifies in the application materials that the site has been used as a parking lot for the adjacent saloon since he purchased the property in 1997. Aerial photographs appear to show that the site has been a parking lot since at least 1985.
  - (2) *The parking lot occupies a legally subdivided parcel that is too small for development and has not been owned by a different adjoining property owner for at least ten (10) years prior to the date of the application.* This finding is met. The parcel has not been owned by a different adjoining property owner in the last 10 years. Though the parcel is large enough to build on by code regulations, it is not practical to develop the lot due to its specific location. Also, the applicant testifies that he has received no offers to buy the property for development.
  - (3) *The parking lot is to serve abutting commercially or industrially zoned property.* This finding is met. The parking lot is to serve the abutting commercial use to the west at 1638 Rice Street.

moved by Perrus

seconded by \_\_\_\_\_

in favor Unanimous

against \_\_\_\_\_

- (4) *The parking lot will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding could be met if the parking lot is properly maintained and free of litter.
- (5) *The parking lot is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan designates the site as an Established Neighborhood, as shown in the Generalized 2030 Future Land Use Map (Figure LU-B). The Comprehensive Plan states, "Established Neighborhoods are residential areas of predominately single-family housing and adjacent neighborhood-serving commercial uses. These are areas of stability where the existing character will be essentially maintained." The District 6 Plan does not contain any provisions specific to the site or surrounding area.
- (6) *A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the parking lot.* This finding is met. Proper notarization was provided on December 17, 2012, at which time the petition was certified as complete. The petition information is as follows: 9 parcels eligible; 6 parcels required; 7 parcels signed.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Richard Defoe for an establishment of legal nonconforming use as a commercial parking lot at 92 California Ave W is hereby approved subject to the following condition:

1. The parking lot shall be paved and striped in order to improve its appearance.
2. The applicant shall submit a professional site plan to DSI for review.

3

OFFICE OF LICENSE, INSPECTIONS AND  
ENVIRONMENTAL PROTECTION  
Janeen E. Rosas, Director



CITY OF SAINT PAUL  
Randy C. Kelly, Mayor

LOWRY PROFESSIONAL BUILDING  
350 St. Peter Street, Suite 300  
Saint Paul, Minnesota 55102-1510

Telephone: 651-266-9090  
Facsimile: 651-266-9124  
Web: [www.ci.stpaul.mn.us/liep](http://www.ci.stpaul.mn.us/liep)

October 20, 2004

Richard De Foe  
DBA Club Cancun  
1638 Rice Street  
St. Paul, MN 55117

**COPY**

Re: 1638 Rice St

Dear Mr. DeFoe:

I'm sorry you did not receive the documents I sent you three weeks ago. I am enclosing another copy of the approved site plan and parking requirements from the North End Depot at 1638 Rice Street. The parking requirements were added when an addition was built in 1980 and the new lot was developed in 1985.

I am also sending a copy of the ownership documents we received last month. You are welcome to make an appointment to view the originals and the entire file for 1638 Rice Street.

Please review all these documents and send your shared parking agreement or request for a parking variance of the 38 parking spaces in question to LIEP by Monday, November 1<sup>st</sup>, 2004.

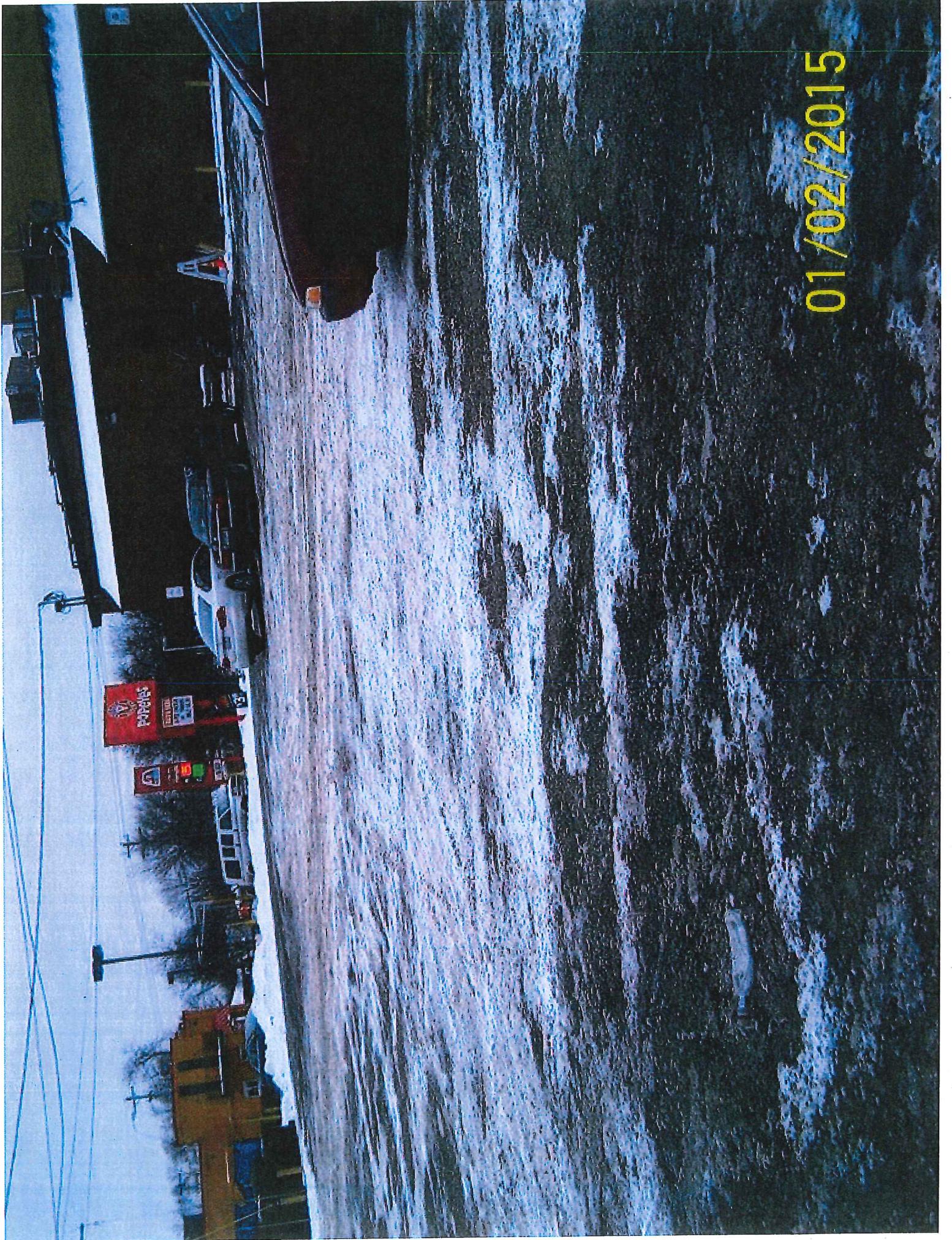
**Failure to comply with this order or repeat violations will result in further legal action by this office, including criminal citations and possible adverse action against your license.**

If you have any questions, please call me at 651-266-9083.

Sincerely,

Jeffrey J. Hawkins  
LIEP Inspector III

Appeals: You may appeal this order and obtain a hearing before the Board of Zoning Appeals by filing an Application for Appeal and paying the application fees to the Zoning Administrator within thirty(30) days of the date these orders were mailed. No appeals may be filed after that date. You may obtain an application from the Zoning Administrator's Office, 350 St. Peter Street, Suite 300, St. Paul, MN 55102. You must submit a copy of this order with your application.

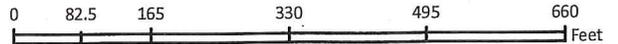


01/02/2015

01/02/2015

Staff Photograph (taken April 22, 2015)





FILE NAME: Wilebski's Blues Saloon Parking Lot

Aerial

APPLICATION TYPE: Revocation/Modification of NCUP

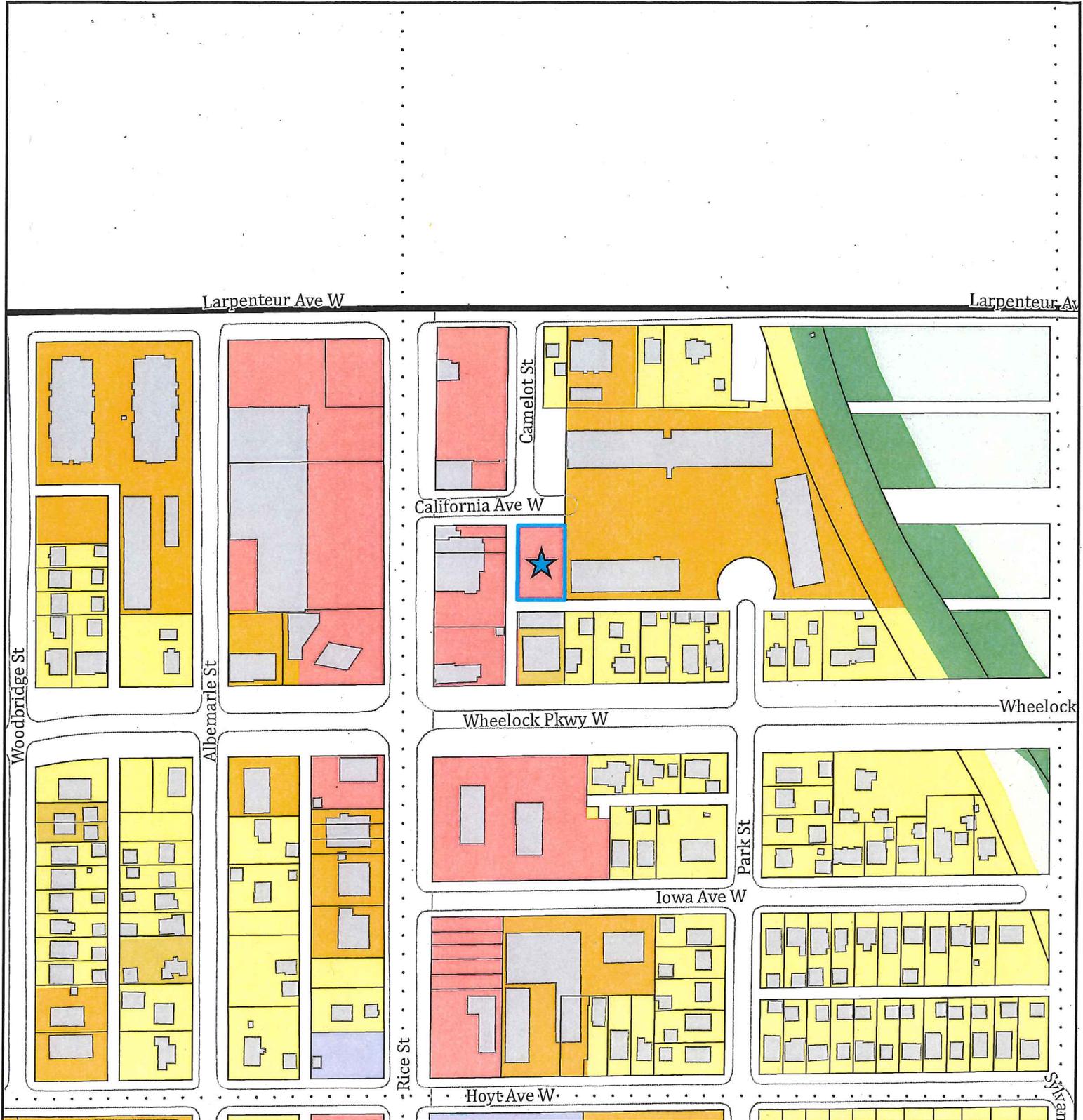
 Subject Parcels

FILE #: 15-022097      DATE: 3/31/2015

PLANNING DISTRICT: 6

ZONING PANEL: 4





FILE NAME: Wilebski's Blues Saloon Parking Lot

APPLICATION TYPE: Revocation/Modification of NCUP

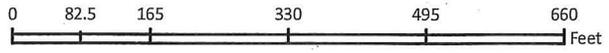
FILE #: 15-022097      DATE: 3/31/2015

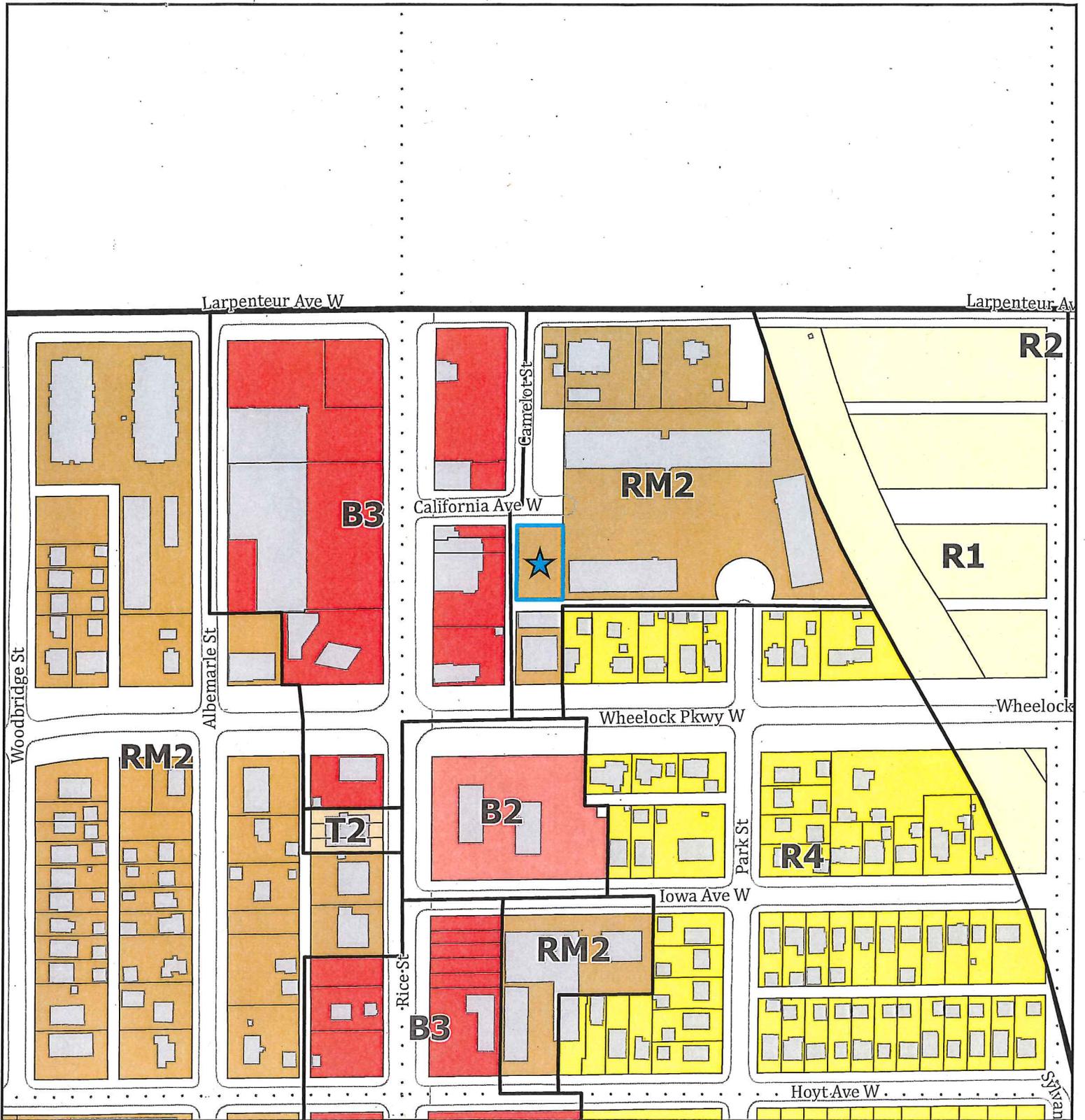
PLANNING DISTRICT: 6

ZONING PANEL: 4

- Land Use**
- Single Family Detached
  - Single Family Attached
  - Multifamily
  - Retail and Other Commercial
  - Industrial and Utility
  - Park, Recreational or Preserve
  - Undeveloped

- Subject Parcels
- Section Lines





FILE NAME: Wilebski's Blues Saloon Parking Lot

APPLICATION TYPE: Revocation/Modification of NCUP

FILE #: 15-022097 DATE: 3/31/2015

PLANNING DISTRICT: 6

ZONING PANEL: 4

**Zoning**

-  R1 One-Family
-  R2 One-Family
-  R4 One-Family
-  RM2 Multiple-Family
-  T2 Traditional Neighborhood
-  B2 Community Business
-  B3 General Business

 Subject Parcels

 Section Lines

