

## ZONING COMMITTEE STAFF REPORT

**FILE NAME:** 1382 Payne Ave Deli

**FILE #** 19-071-756

**APPLICANT:** Maria Cruz

**HEARING DATE:** August 29, 2019

**TYPE OF APPLICATION:** Nonconforming Use Permit - Change

**LOCATION:** 1382 Payne Ave, NE corner at Cottage Ave

**PIN & LEGAL DESCRIPTION:** 202922420136, DENNY HILL ADDITION, LOT 8, BLK 1

**PLANNING DISTRICT:** 5

**PRESENT ZONING:** R4

**ZONING CODE REFERENCE:** §62.109(c)

**STAFF REPORT DATE:** August 20, 2019

**BY:** Timothy Scanlon-Johnson

**DATE RECEIVED:** August 1, 2019

**60-DAY DEADLINE FOR ACTION:** September 30, 2019

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- A. **PURPOSE:** Change of nonconforming use from a coffee shop to a deli with seating for up to 12 people
- B. **PARCEL SIZE:** 3,484 sq. ft.
- C. **EXISTING LAND USE:** Mixed use (vacant coffee shop 1<sup>st</sup> floor, residential 2<sup>nd</sup> floor)
- D. **SURROUNDING LAND USE:**  
Single-family and duplex residential immediately surrounding, with a mix of uses farther north and south on Payne Ave. including commercial and multi-family residential.
- E. **ZONING CODE CITATION:** §62.109(c) authorizes the planning commission to allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location upon making certain findings (see Section I below).
- F. **PARKING:** There is a legal nonconforming parking situation on the site. The site provides 2 off-street spaces on a parking pad accessed via Cottage Ave. Zoning Code § 63.207 requires a minimum of 4 to 6 parking spaces for the proposed use of the building, depending on the exact size of the commercial and the number of rooms in the 2<sup>nd</sup> floor residential unit. Both the previous coffee shop use and the proposed deli with seating for up to 12 people require 1 space per 400 square feet.
- G. **HISTORY/DISCUSSION:** The site has been zoned R4 since 1975. A Change in Nonconforming Use Permit was approved by the Zoning Committee in August of 2018 to allow a beauty salon in place of the vacant coffee shop. The beauty shop never opened for business, and the space has remained unused. The previous coffee shop use was legal nonconforming.
- H. **DISTRICT COUNCIL RECOMMENDATION:** As of this writing, the District 5 Council has not provided a recommendation.
- I. **FINDINGS:**
1. The application requests a change in nonconforming use to allow a deli with seating for up to 12 people on the first floor of 1382 Payne Avenue, where previously there had been a coffee shop that closed in late 2017.
  2. Section 62.109(c) states: *The planning commission may allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location if the commission makes the following findings:*
    - a. *The proposed use is equally appropriate or more appropriate to the neighborhood than the existing nonconforming use. This finding is met. A small-scale deli with seating for up to 12 people has similar parking and noise impacts to the coffee shop use.*
    - b. *The traffic generated by the proposed use is similar to that generated by the existing*

*nonconforming use.* This finding is met. The traffic generated by the deli with seating for up to 12 people is anticipated to be similar to the coffee shop, with the same Zoning Code parking requirement.

- c. *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is met. The small-scale deli with seating for up to 12 people will not be detrimental to the immediate area.
- d. *The use is consistent with the comprehensive plan.* This finding is met. This portion of Payne Avenue is designated by the Comprehensive Plan in Figure LU-B as a Residential Corridor, which prioritizes residential uses but does not preclude smaller commercial uses, especially along major streets. Comprehensive Plan Strategy LU-1.48 encourages mixed use projects that are compatible with their surroundings.

- J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the change of nonconforming use from a coffee shop to a deli with seating for up to 12 people.



**NONCONFORMING USE PERMIT APPLICATION**  
 Department of Planning and Economic Development  
 Zoning Section  
 1400 City Hall Annex 25 West Fourth Street  
 Saint Paul, MN 55102-1634  
 (651) 266-6583

Zoning Office Use Only  
 File # 19-071756  
 Fee 730  
 Tentative Hearing Date: 8-29-19

PD=5  
 # 202922420136

**APPLICANT**

Name Lizmarbet Beauty Sabon Email \_\_\_\_\_  
 (must have ownership or leasehold interest in the property, contingent included)  
 Address 1189 Payne Ave.  
 City St Paul State MN Zip 55130 Daytime Phone 651-230-5233  
 Name of Owner (if different) Maria Dejesus Barvoza Cruz  
 Contact Person (if different) Yer Chang Phone 651-324-8578

**PROPERTY INFO**

Address/Location 1382 Payne Ave.  
 PIN(s) & Legal Description 202922420136  
 (attach additional sheet if necessary)  
 Lot Area 0.08 Current Zoning R4

**TYPE OF PERMIT:** Application is hereby made for a Nonconforming Use Permit under provisions of Zoning Code § 62.109.

The permit is for:  Establishment of legal nonconforming use status for use in existence at least 10 years (para. a)  
 Change of nonconforming use (para. c)  
 Expansion or relocation of nonconforming use (para. d)  
 Reestablishment of a nonconforming use vacant for more than one year (para. e)

Present/Past Use Coffee Shop  
 Proposed Use Deli / Restaurant

SUPPORTING INFORMATION: Demonstrate that each of the requirements in Zoning Code § 62.109 for the type of nonconforming use permit being requested is met. Attach additional sheets if necessary.

Please see attachment.

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.

eK 2627  
 730<sup>00</sup>

Applicant's Signature

Date 8/1/19 City Agent

add 8-2-19

To: City of Saint Paul, Department of Planning and Economic Development

Re: Opening of new Deli/Restaurant on

1382 Payne Ave, Saint Paul, MN 55130

I hope this message finds you in good order. Please accept this letter for my new business plan for 1382 Payne Ave Unit #2.

I am a woman of color, who owns and operates the 1189 and 1193 Payne Ave building since 2012. These building hosts three different businesses, a small beauty salon, a restaurant and a housing rental unit in the upper level.

I have successfully ran Lizmarbet Beauty Salon for the past 7 years and currently have a total of 7 employees, part-time and full-time. In addition, I currently lease out the next door restaurant. Cajun Life has been in operation since 2018 and Mexitalian for many years before 2018.

My current goal for this new location is to bring in a deli because I see there is a need for it in this neighborhood. The previous owner used the commercial space for a coffee shop. It was successful for many years. I am aware there are many other food locations in the Payne and Maryland area, but they are all south of Payne and none going north. The closest restaurant, in distance, is Asian Street Food and that is half a mile away on Arcade St.

The conversion of this place to a deli will generate the same amount of traffic as the coffee shop. In a coffee shop, customers order to go with very few sit downs. This is the same in the case of the deli. The purpose of a deli is to provide fast service/food to the customers coming in with an already made selection along with the option to order and take-out. Therefore, customers are in the store for only a short time. The seating for a deli will consist of up to 12 seats. This limited seating will help eliminate high traffic in the surrounding area and neighborhood.

This proposed deli will not be detrimental to the existing character of the immediate neighborhood. The deli will attract customers looking to buy quick and ready made food. I do not foresee any safety and general welfare associated with this business model.

In the Comprehensive Plan, economic development is a focus. As a woman of color, I want to provide a space for other like minded business owners a space to do business. In the pending 2040 Plan it states, "support business . . . that keeps more money locally." This proposed deli will attract residents all over the city so in return, the money will stay locally and support small businesses.

I have a pretty good understanding of my neighborhood and its needs. I feel very comfortable and quite excited about opening this new site which is a perfect fit for the type of business services offered on Payne Ave.

Sincerely,

A handwritten signature in black ink, appearing to read 'Maria B. Cruz', enclosed within a circular scribble.

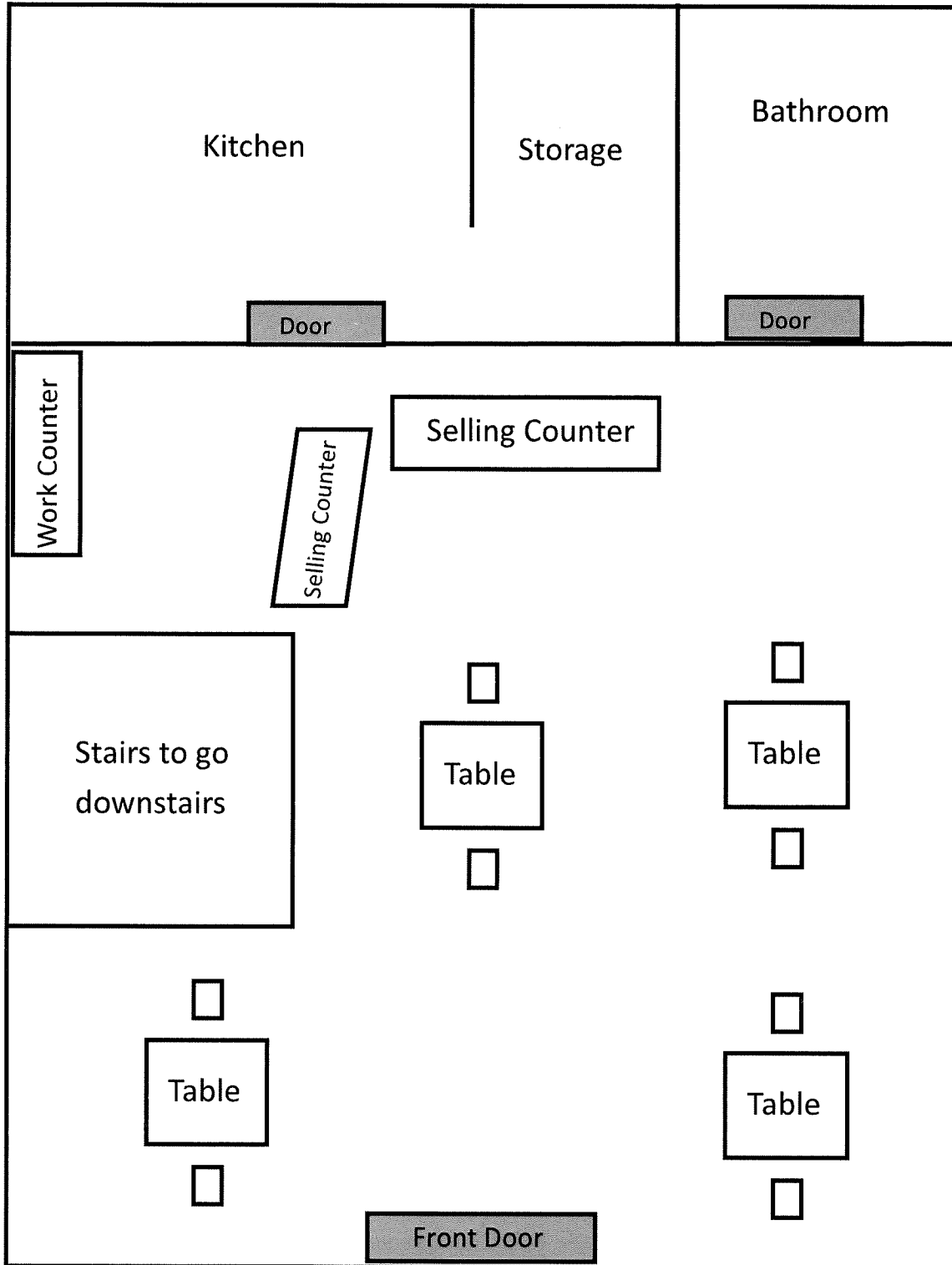
Maria Dejesus Barvoza Cruz

Lizmarbet Beauty Salon

Owner

Propose  
Floor plan

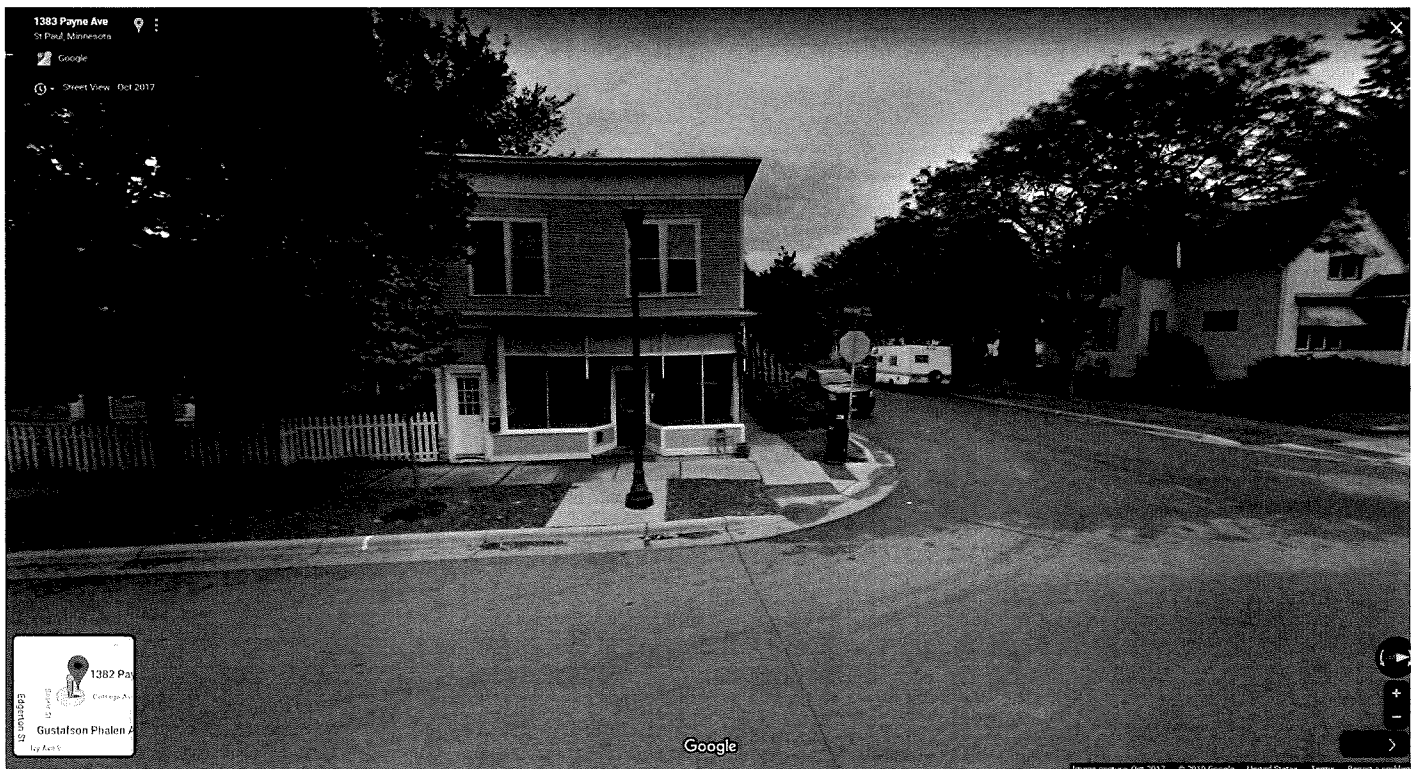
# 1382 Payne Ave



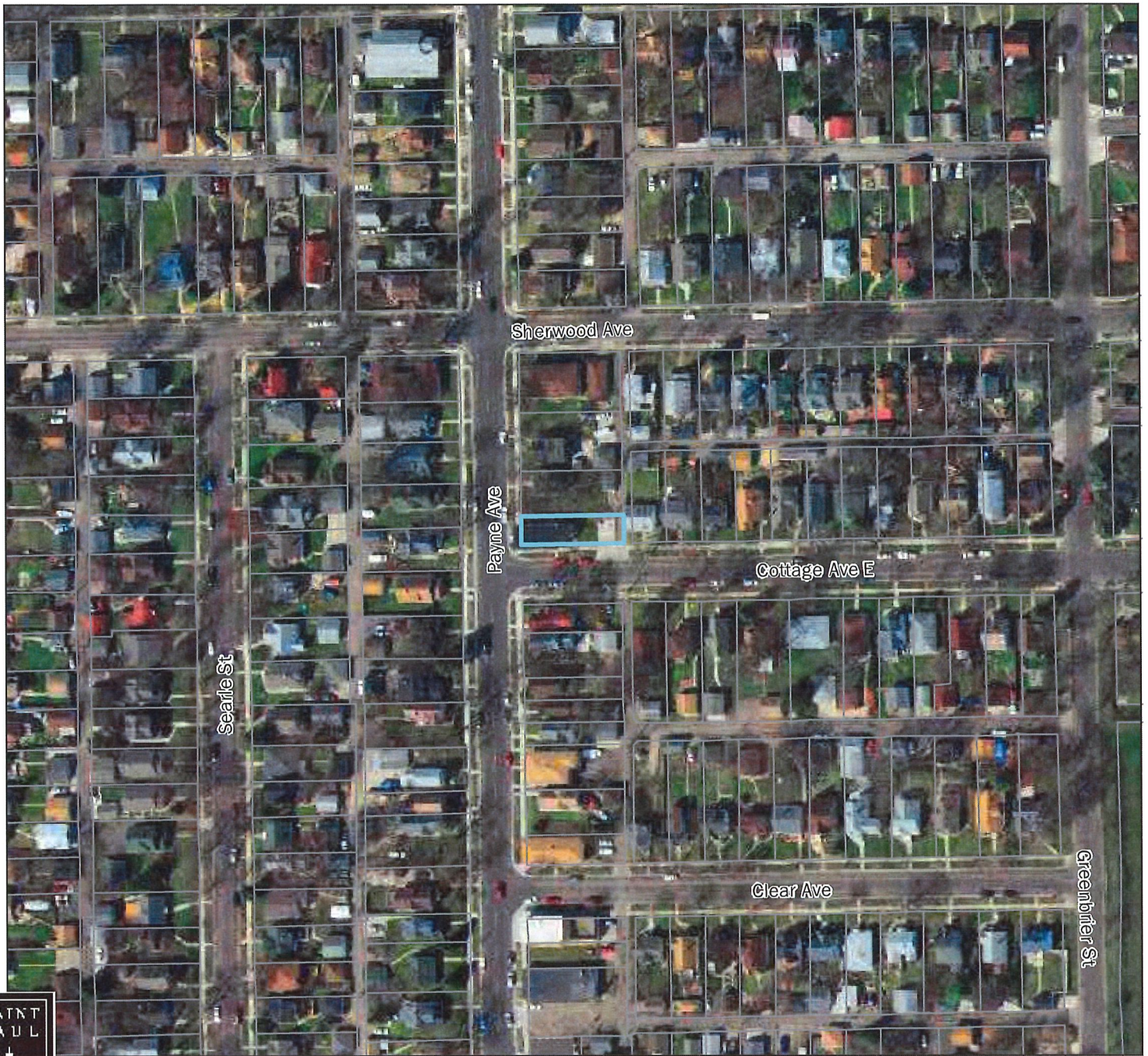
1382 Payne Ave – Photos for Reference  
Page 1 of 2



1382 Payne Ave – Photos for Reference  
Page 2 of 2







FILE #19-071756 | AERIAL MAP

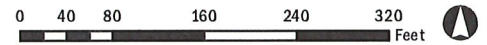
# Application of Maria Dejesus Barvoza

Application Type: Change of Nonconforming Use

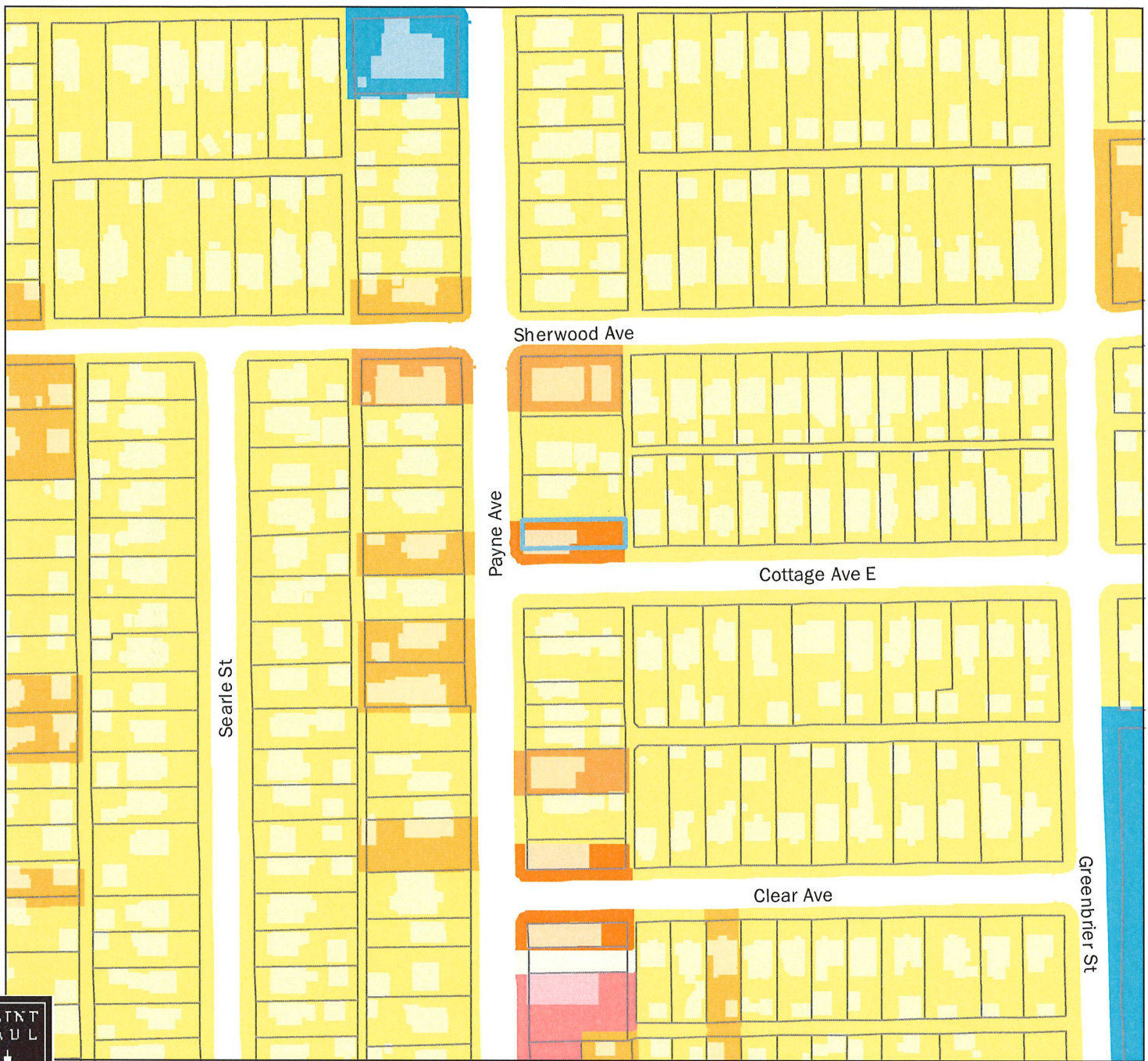
Application Date: August 1, 2019

Planning District: 5

**Subject Parcel(s) Outlined in Blue**

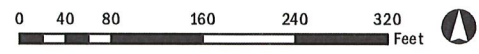


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FILE #19-071756 | LAND USE MAP  
**Application of Maria Dejesus Barvoza**

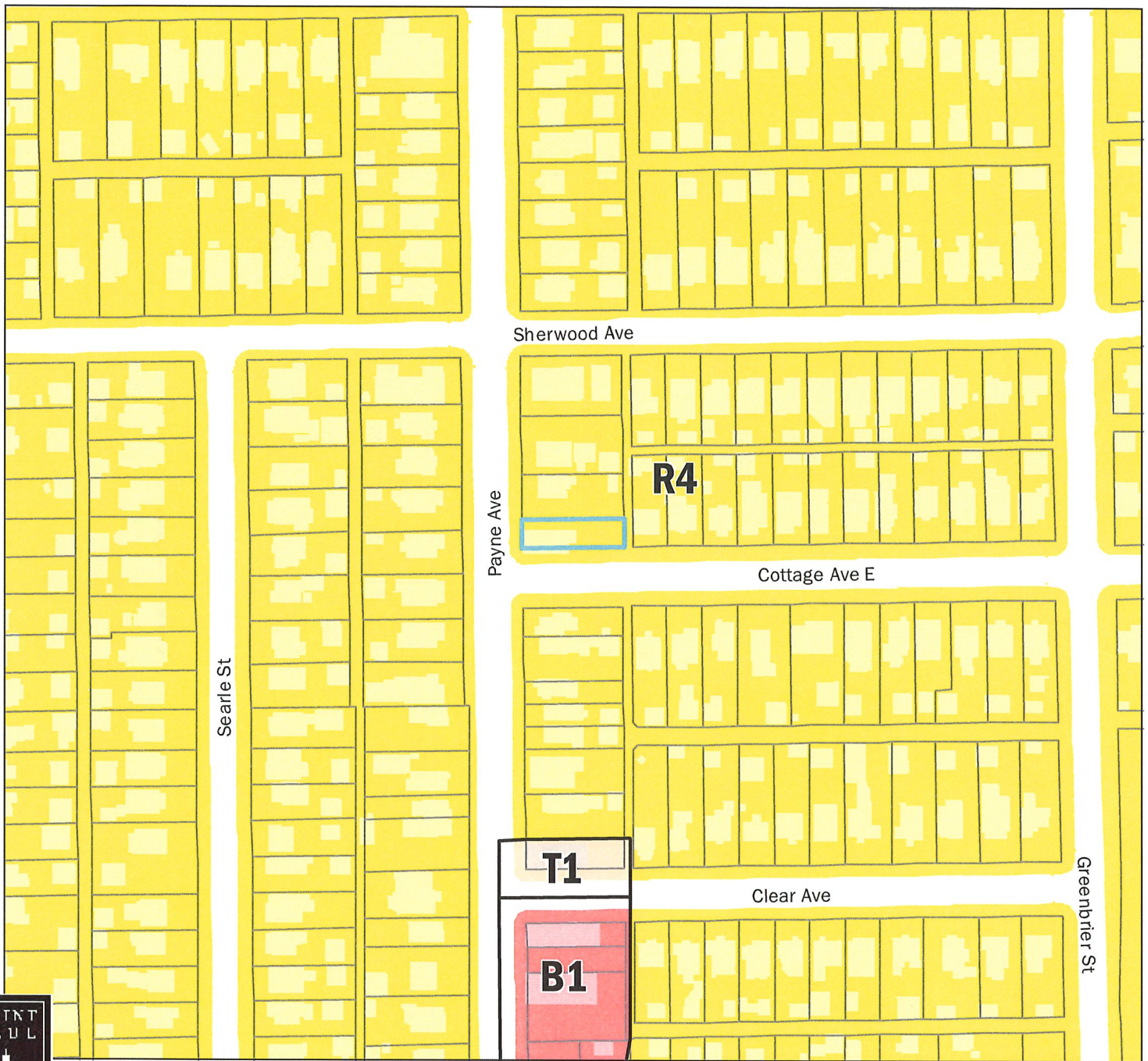
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**Subject Parcel(s) Outlined in Blue**

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



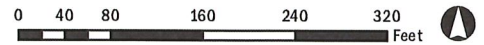
FILE #19-071756 | ZONING MAP

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### Subject Parcel(s) Outlined in Blue

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