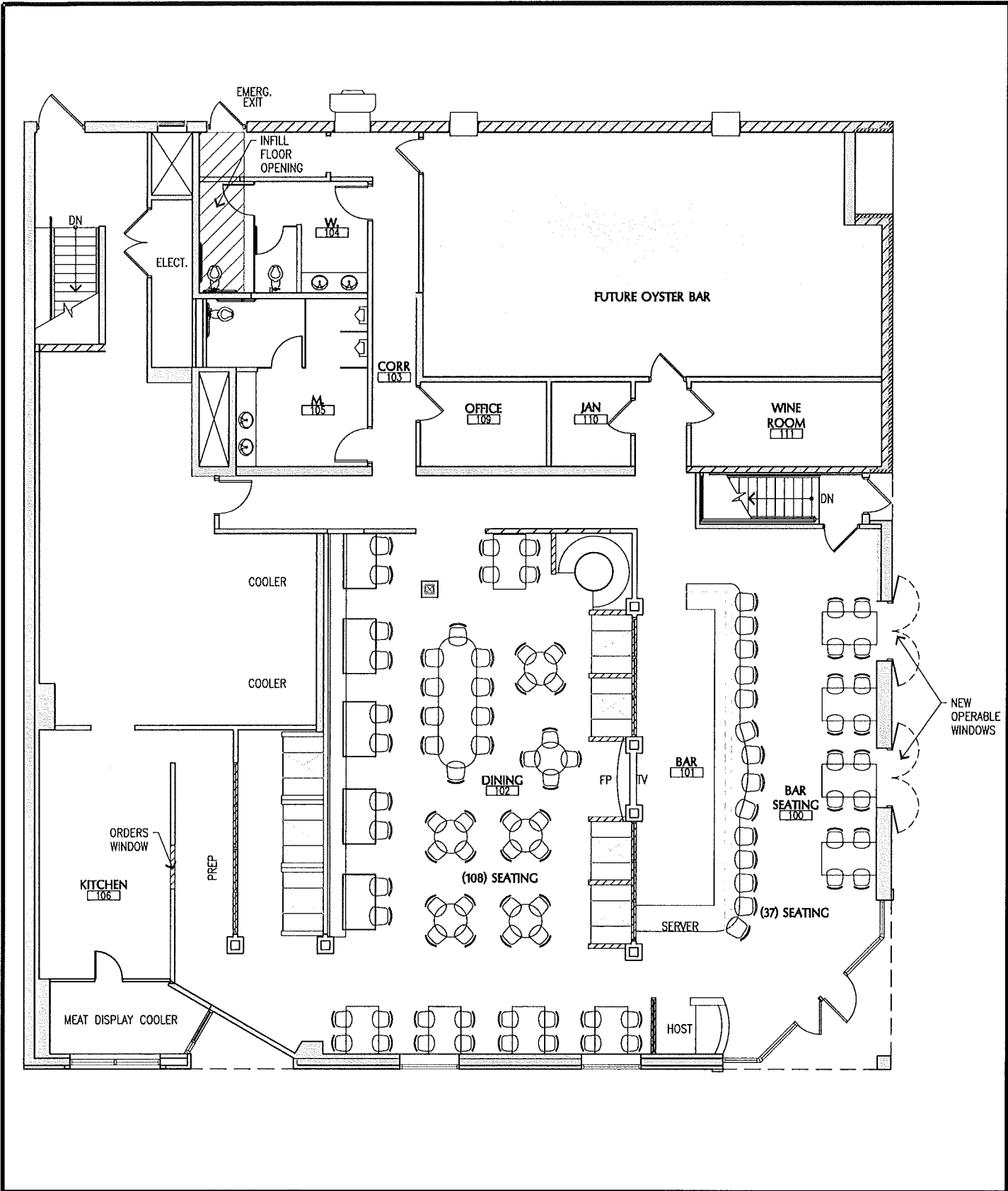


June 9, 2014

173 Western Avenue North
Owned by Selby Dayton LLC
01 28 23 21 0047
B2 zoning

Existing or last known use	Proposed
<p>College of Visual Arts 80 parttime students 6 staff = 33 nonconforming parking deficiency</p> <p><i>College parking is calculated based on 1 per 1 employees and 1 per 3 fulltime students or 1 per 3 parttime whichever is greater, plus required parking for other uses</i></p> <p><i>It appears that the College of Visual Arts occupied both the 1st floor and basement, no other uses</i></p> <p><i>1993 letter states that there are 21 off-street parking spaces (I can not find the site plan showing 21 off-street parking spaces)</i></p>	<p>Restaurant w/liq (midnight closing) 12600gfa/400 = 31 req</p> <p>This would reduce the nonconforming parking deficiency from 33 to 31</p> <p><i>If/when you decide to operate as a bar (restaurant w/liquor open past midnight)...</i> <i>According to 63.206(c)(1) – “In addition to the requirement of section 63.204 (change of use within a structure), there shall be provided off-street parking spaces for all bars or premises licensed for entertainment class C as provided herein:</i></p> <p style="padding-left: 40px;"><i>(1) Issuance of a license to an existing structure not previously licensed for a bar or entertainment class C during the twenty-four (24) months preceding the application, off-street parking pursuant to section 63.207.”</i></p> <p>The parking requirement would be: 12600gfa/150 = 84 required off street parking spaces</p>
<p>NOTE from CT: After visiting the site, I attempted to calculate the possible available legal off-street parking spaces on the neighboring property (385 Selby, owned by Selby Dayton LLC). The following page is an example of what I was able to come up with (10 (9x18) parking spaces including one ADA parking space).</p> <p>Additional Note: the lease agreement at 173 Western Avenue North must clearly state that the parking spaces at 385 Selby are for the exclusive use by the tenants, employees and customers of 173 Western Ave N.</p>	



Mohagen Hansen
 Architectural Group



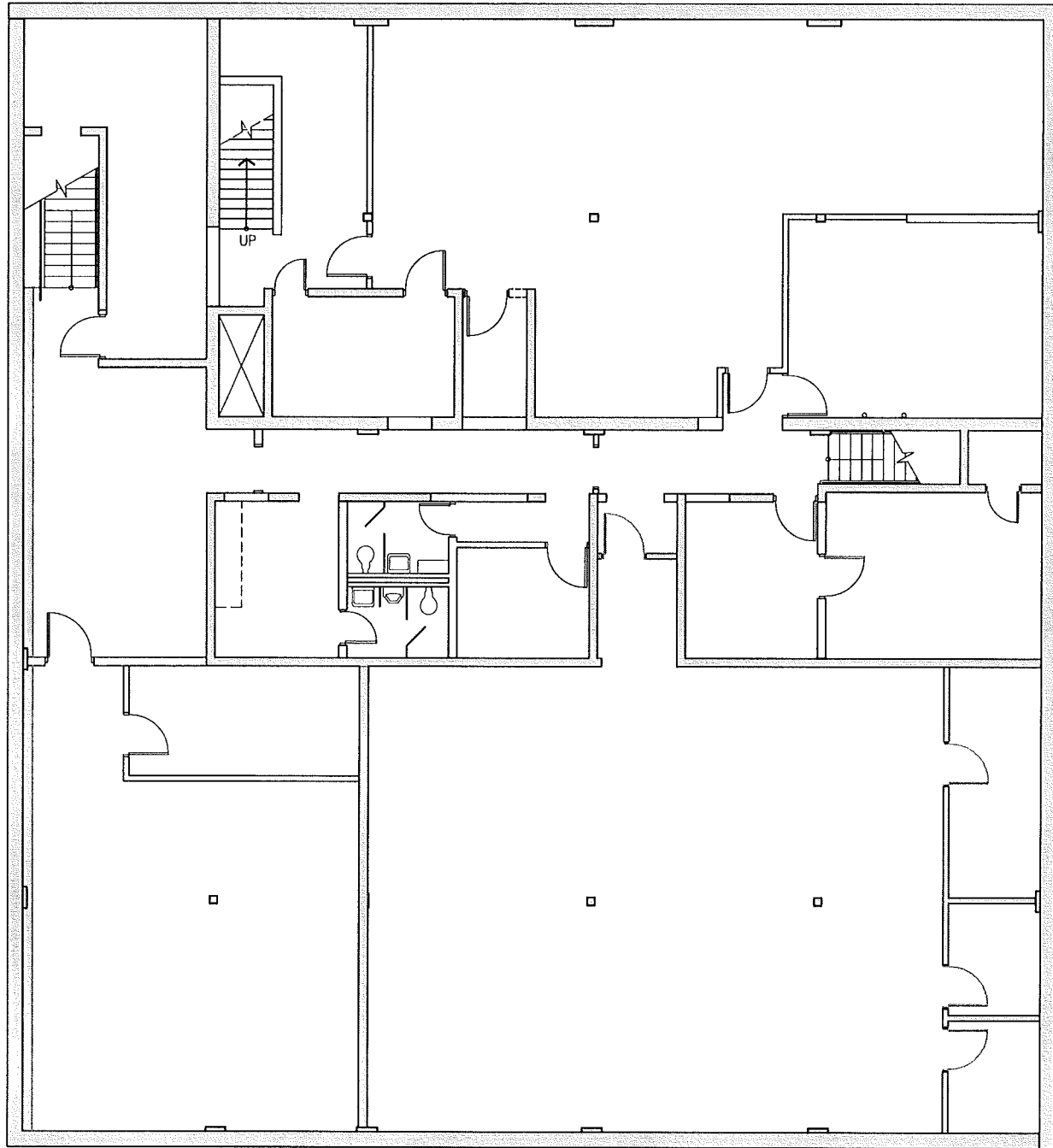
1000 Lake Oaks Center Dr.
 Suite 200
 Wayzata, MN 55391

Tel: 952.426.7400
 Fax: 952.426.7440
 www.mohagenhansen.com

SCALE:	NOT TO SCALE
DATE:	5/28/2014
PROJECT NO.:	14167.0 DBB
DRAWN BY:	B. BAILEY
COMPUTER PATH:	Jobs\.....

SHEET DESCRIPTION:
ST. PAUL RESTAURANT
FIT PLAN B
173 WESTERN AVE
ST. PAUL, MN

SHEET NUMBER:
 1
 A2.0



**Mohagen
Hansen**
Architectural
Group



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SCALE: NOT TO SCALE

DATE: 5/28/2014

PROJECT NO. 14167.0 DBB

DRAWN BY: B. BAILEY

COMPUTER PATH:
Jobs\.....

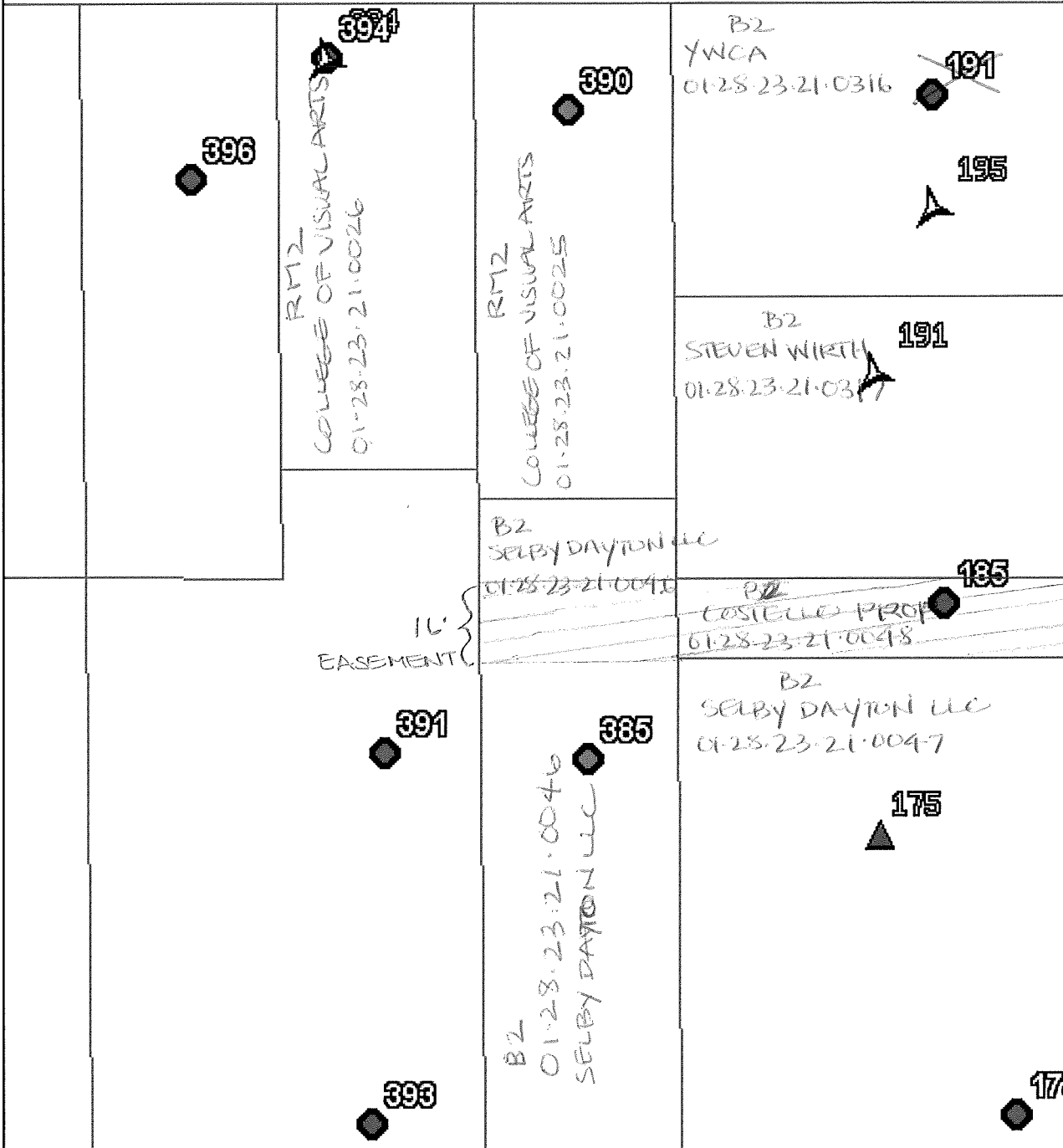
SHEET DESCRIPTION:

**ST. PAUL RESTAURANT
LOWER LEVEL
173 WESTERN AVE
ST. PAUL, MN**

SHEET NUMBER:

**1
A2.0**

DAYTON-AVE



394
 RM12
 COLLEGE OF VISUAL ARTS
 01-28-23-21-0026

390
 RM12
 COLLEGE OF VISUAL ARTS
 01-28-23-21-0025

B2
 YWCA
 01-28-23-21-0316

B2
 STEVEN WIRTH
 01-28-23-21-0317

B2
 SELBY DAYTON LLC
 01-28-23-21-0048

PO
 COSTELLO PROP
 01-28-23-21-0048

B2
 01-28-23-21-0046
 SELBY DAYTON LLC

B2
 SELBY DAYTON LLC
 01-28-23-21-0047

16'
 EASEMENT

16'
 EASEMENT

40

40

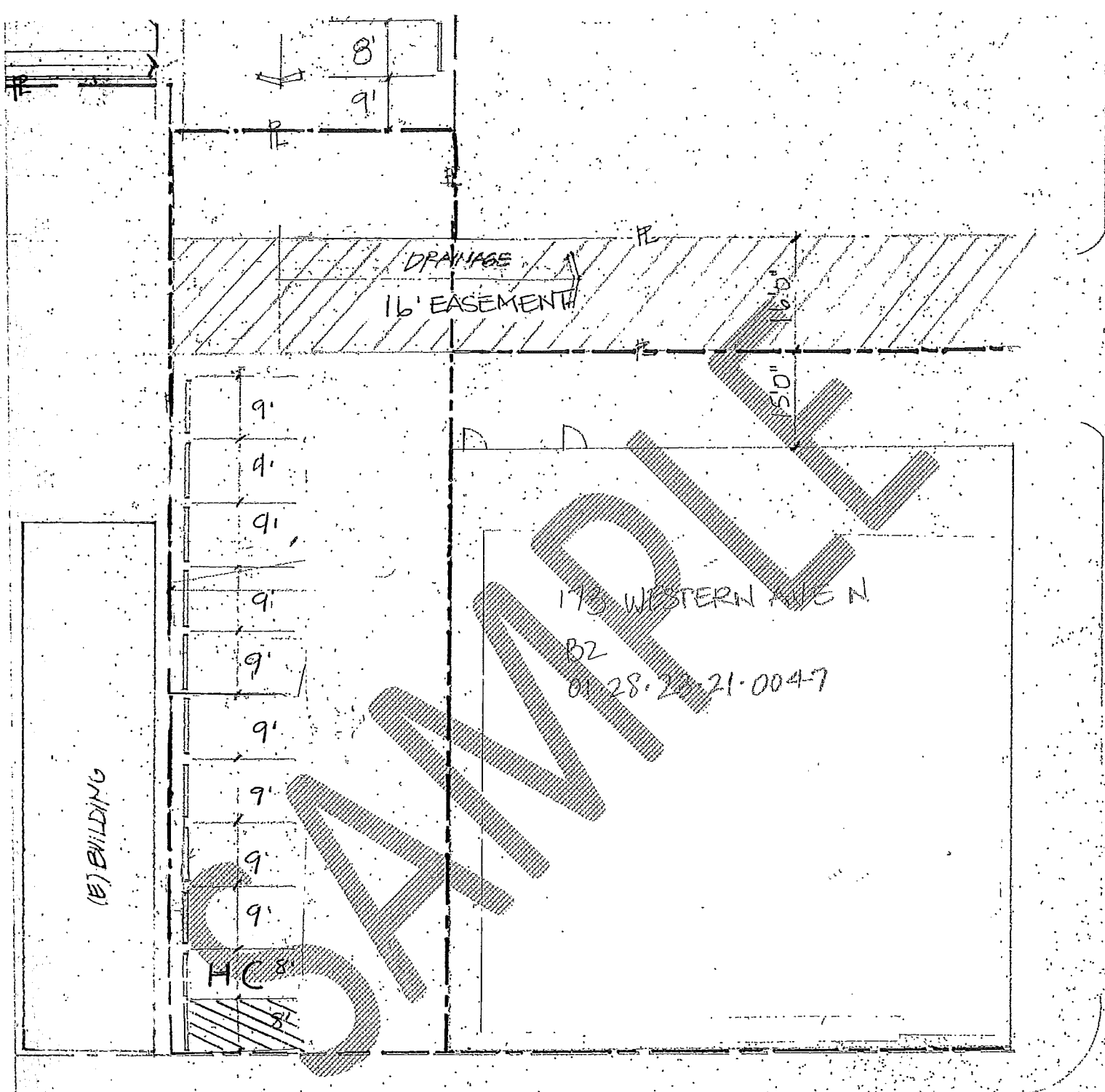
40

SELBY-AVE

0 17 34 51 68 ft

THIS IS NOT A LEGAL DOCUMENT





ELEY AVE.
 SITE PLAN

CITY OF SAINT PAUL, MINNESOTA
SPECIAL CONDITION USE PERMIT

ZONING FILE # 95-221

APPLICANT: COLLEGE OF VISUAL ARTS

PURPOSE: Special condition use permit to allow a new campus for the College of Visual Arts (formerly the College of Associated Arts).

LOCATION: 394 Dayton Avenue; southside between Western & Arundel

LEGAL DESCRIPTION: Lot 3, except the South 16 feet thereof; and Lot 4, except the South 22 feet thereof, Block 2; Kern's Addition.

ZONING COMMITTEE ACTION: Recommend approval with conditions.

PLANNING COMMISSION ACTION: Approval with conditions.

CONDITIONS OF THIS PERMIT:

1. The campus boundary for the College of Visual Arts' 394 Dayton Avenue campus shall be legally described and shown on the map in Attachment B, dated November 17, 1995. The college shall not expand a school use to any property outside the described campus boundary unless a change in the boundary is approved by the Planning Commission.

*check
File*

Every January 31, beginning in 1997, the college will report in writing to the Planning Division staff the numbers of employees, dormitory beds (if any), full-time and part-time students, and available parking spaces for the previous fall term.

3. When the base level of employees, dormitory beds (if any), and the greater of full-time students living off-campus or part-time students increases by more than 10 percent to 245.3, the college will provide the required parking for that increase. For purposes of calculating the number of students, faculty, and staff, and for monitoring parking requirements, the figures for all of the college's facilities shall be added together and considered one campus.

*check
File*

4. The twelve space parking lot at 394 Dayton Avenue shall be paved according to a site plan approved by the Planning Administrator.

*1091
+ 2 Hand: checked*

APPROVED BY: David McDonell, 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 November 17, 1995 and on record in the Saint Paul Planning Office, 25 West Fourth Street, Saint Paul, Minnesota.

This permit will expire one year from the date of approval if the use herein permitted is not established.

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, 1100 City Hall Annex, 25 West Fourth Street. Any such appeal must be filed within 15 calendar days of the mailing date noted below.

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

Donna M. Sanders
Donna M. Sanders
Secretary to the Saint Paul
Zoning Committee

OK. 12/4/97 R. J. [signature]

Copies to: Applicant
File #95-221
Zoning Administrator
License Inspector
District Council 8

Mailed: November 17, 1995

city of saint paul
planning commission resolution
file number 95-81
date November 17, 1995

WHEREAS, THE COLLEGE OF VISUAL ARTS, file #95-221, has applied for a Special Condition Use Permit under the provisions of Sections 60.413(7) and 64.300(d) of the Saint Paul Legislative Code, to establish a campus for the college, on property located at 394 DAYTON AVENUE, legally described as Lot 3, except the South 16 feet thereof; and Lot 4, except the South 22 feet thereof, Block 2; Kern's Addition; and

WHEREAS, the Zoning Committee of the Planning Commission held a public hearing on November 9, 1995, at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of Section 64.300 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 College of Visual Arts is an independent, non-profit, four-year college of art and design. The college's main offices are located at 344 Summit Avenue. The college also owns and maintains property at 173 and 175 Western Avenue and 385 Selby Avenue which is used to house classrooms, studios, an art gallery, faculty offices, and a student lounge.

The College of Visual Arts intends to purchase property at 394 Dayton, rehabilitate the building, and establish a college use there. The college anticipates multiple uses for the building including a library, computer lab, artist studios, and office space. The basement will be used for storage. Students and faculty will move freely from the Summit Avenue, Western Avenue, and Dayton Avenue campuses. At any one time it is expected that three to four employees and 14 to 16 students will use the Dayton Avenue facility.

More specifically, the library would be staffed by one full-time librarian and one half-time assistant who would share one of the offices. The second office would be shared by two faculty members. Based on experience with their current library, they expect the library at the Dayton facility to serve four to six students at any one time. The computer lab would accommodate up to five students at any one time.

moved by Morton
seconded by _____
in favor Unanimous
against _____

2. This current permit application is to allow the college to establish a new campus, separate from the Summit Avenue location and also separate from the Selby & Western location. The Dayton campus is not part of the Summit Campus since the two are not contiguous; the Western Avenue Campus is a permitted use without a special condition use permit since it is located in a commercial zoning district.
3. The Dayton Avenue property is currently comprised of an eight-unit apartment building and adjacent surface parking for 12 vehicles. The building has been vacant for more than two years and was recently declared a nuisance property. It is deteriorated and in need of substantial repairs and will be demolished unless improvements are made.
4. Section 60.413(7) of the zoning code identifies colleges, universities, and seminaries as permitted uses subject to special conditions in the R-1 through R-4 (single family) zoning districts, as they are in all subsequent residential zoning districts except RM-3 (high density multiple-family). They are subject to six conditions, as follows:

- a. *The campus boundary as defined under subparagraph d. below at some point shall be adjacent to a major thoroughfare as designated on the major thoroughfare plan.*

This condition is not met. The college requests a modification of this condition. The college states that while the proposed campus is not located on a major thoroughfare, it is contiguous to a portion of the existing campus which fronts on Selby Avenue. Selby Avenue is designated as a "Minor Arterial Level B" in the **Streets and Highways Plan**, a chapter of the city's comprehensive plan. The zoning code defines a "minor arterial" as a major thoroughfare (Section 60.213.M.). Therefore, Selby Avenue is considered a major thoroughfare. The parking lot for the Dayton Avenue campus will be accessible from Selby Avenue.

- b. *Buildings shall be set back a minimum of fifty (50) feet from every property line, plus an additional two (2) feet for every foot the building's height exceeds fifty (50) feet.*

This condition is not met. The college requests a modification of this condition given that the existing structure on the site cannot meet this condition. The existing building on the property is not set back 50 feet as required by the code.

- c. *On a campus of five (5) acres or more, no building shall exceed ninety (90) feet in height; on a campus smaller than five (5) acres, no building shall exceed forty (40) feet in height.*

This condition is met. The college states that the height of the existing structure does not and will not exceed 40 feet.

- d. The boundaries of the institution shall be as defined in the permit, and may not be expanded without prior approval of the planning commission, as evidenced by an amended special condition use permit. The campus that is defined by the boundaries shall be a minimum of three (3) acres, and all property within the campus boundaries must be contiguous.*

The college requests that this condition be modified. The proposed campus is significantly smaller than the required three acres. The campus on Dayton Avenue is about 7,800 square feet, the Western Avenue campus is about 12,640 square feet, and the Summit Avenue campus is about 52,270 square feet. The total area of all the campuses is about 1.7 acres.

The applicant shall submit an "anticipated growth and development statement" for approval of a new or expanded campus boundary, which statement shall include but not be limited to the following elements:

1. *Proposed new boundary or boundary expansion.*

The college plans to establish a campus at 394 Dayton Avenue. They have no plans at the present time for boundary expansion beyond the Dayton Avenue property.

2. *Enrollment growth plans that include planned or anticipated maximum enrollment by major category (full-time, part-time, undergraduate, graduate) over the next ten (10) years and also the anticipated maximum enrollment over the next twenty (20) years.*

The college's full-time enrollment currently stands at just under 200 students. A five year growth plan recently approved by the College's Board of Trustees would cap the college's enrollment in the year 2000 at 250 full-time students. All of these students are undergraduates as the college does not have a graduate degree program. The college expects the enrollment to remain at or near 250 full-time students for a considerable period of time.

The College's Board of Trustees has not adopted a formal growth plan which extends 10 to 20 years into the future, but no significant increases in enrollment beyond 250 students are anticipated at this time.

3. *Plans for parking facilities over the next ten (10) years, including potential locations and approximate time of development.*

The college expects to use the existing surface parking lot (12 spaces) provided at 394 Dayton Avenue and in the future to be able to share the parking lot being

developed by the YWCA. The college also expressed interest in sharing the proposed parking lot at the southeast corner of Marshall & Western, if it is ever developed.

Access to the parking lot at 394 Dayton would be from Dayton Avenue and through the college's existing parking lot on the Western Avenue campus which can be accessed from both Selby and Western Avenues.

4. *Plans for the provision of additional student housing, either on-campus or off-campus in college control housing.*

The college is primarily a commuter school and has no plans to develop on- or off-campus housing. The college is exploring guaranteed rent arrangements with existing apartment unit owners in the Selby & Western area as a means of assuring the availability of housing for out-of-town students, but it has no plans to own or otherwise control such housing.

5. *Plans for use of land and buildings, new construction and changes affecting major open space.*

As mentioned previously, the college intends to remodel the Dayton Avenue building and use it for school purposes, including library, computer lab, offices, and artists studios. In addition, the existing parking area will be resurfaced and used for student and faculty parking. These plans will not affect any existing major open spaces. Existing trees and landscaping on the property will be preserved.

6. *An analysis of the effect this expansion will have on the economic, social, and physical well-being of the surrounding neighborhood, and how expansion will benefit the broader community.*

The college states that their use of the property on Dayton Avenue will have a number of positive effects on the economic, social, and physical well-being of the surrounding neighborhood. First, the presence of the college in the Selby & Western area has helped provide substantial support for businesses operating in the area. Students and staff who work in the area often frequent the local restaurants and retail and service establishments. They add that the college's presence creates occasional burdens on the available parking in the area. The proposed new campus would move more of this traffic into off-street parking areas and improve efficiency of the off-street parking which already exists or is being developed.

Second, the college's presence, with its students and staff, has contributed substantially to a safer neighborhood environment. The physical presence and activity at the campus will provide the type of interaction which helps to deter crime.

Third, the improvement to the property at 394 Dayton Avenue can have nothing but a positive impact on the well-being of the surrounding neighborhood. Since the time the property has sat vacant, the building has deteriorated, the parking area has become overgrown, and vandalism has occurred. The improvement of this property and its use as a campus for the college will be a dramatic improvement for this area and will bring with it a vitality which has long been absent from the corner near which it is located.

Fourth, the new campus will allow for additional growth in the college's enrollment which is necessary if the college is to maintain a sufficient critical mass of students and faculty to remain a vital and active part of Saint Paul. While the college intends to maintain a relatively small enrollment, the college needs to be permitted some growth to remain competitive. Approval of this application will allow that growth to take place in Saint Paul.

- e. *The institution shall not exceed by more than ten (10) percent or three hundred (300), whichever is less, the student enrollment, staff and employee size and/or dormitory bed levels identified in the permit unless required off-street parking is provided and approved by the planning commission.*

The zoning code parking requirement for colleges, universities, and seminaries is one space for every two employees, plus one space for every three full-time students living off-campus or part-time students, whichever is greater.

The college states that it will not exceed by more than 10 percent or 300 the number of students, faculty, and staff allowed in the permit without acquiring additional off-street parking.

During the 1995-96 school year, the College of Visual Arts expects to have, at its Summit Avenue campus, 95 full-time students, 15 part-time students, and 42 employees. At its Western Avenue campus there will be 63 full-time students, 3 part-time students, and 6 employees. At its new campus on Dayton Avenue the college expects to have 14 full-time students, 2 part-time students, and 4 employees. The total enrollment and employees at all of the college's facilities is expected to be 244.

There are 6 off-street parking spaces at the Summit Avenue Campus, 21 spaces at the Selby & Western campus, and 12 spaces at the Dayton Avenue campus. In addition, the college has a legal non-conformance of 49 off-street parking spaces. The legal

non-conformance dates from the time the city first established parking requirements for colleges in 1975 and also when the parking requirement for employees was increased in 1989. The college is required to provide parking only for the increases in enrollment and number of employees that have occurred subsequent to these changes.

The zoning code requires that additional off-street parking be provided when a college increases its "base" number of employees, dorm beds, and students by more than 10 percent. The current base for the College of Associated Arts, for students and employees is 223. If the base number cumulatively increases by more than 10 percent to 245.3, the college will be required to provide the off-street parking for that increase. The projected number of students and staff in the 1995-1996 school year, for purposes of computing parking, is 224, less than a 10 percent increase from the 1993 base.

The Office of License, Inspections, and Environmental Protection determined that the college's use of the Dayton Avenue facility will not require an increase the college's parking requirement since parking requirements for colleges are determined by the number of students and employees rather than the size of buildings themselves. Since there is no anticipated increase in enrollment or employees the parking requirement will stay the same.

The parking requirement for the number of students (32) and staff (21) spaces at the Summit location is 53 spaces. The requirement for the Selby & Western location for students (21) and staff (3) is 24 spaces. The requirement for students (5) and staff (2) at the Dayton location is 7. The school's total parking requirement for all students and employees is 84 spaces.

In summary, the school's total parking requirement for all students and staff at all facilities is 84 spaces. There is a 49 space shortfall grandfathered-in so they are required to provide 35 spaces. They have 6 spaces at the Summit campus, 21 spaces at the Western campus, and will have 12 spaces at the Dayton campus, for a total of 39 off-street parking spaces.

f. This condition relates to required parking for theaters, auditoriums, and sports arenas on college campuses.

There are no such facilities at the College of Visual Arts.

5. Section 64.300(d) of the zoning code states that before the planning commission may grant approval of a permitted use subject to special conditions, the commission shall find that:

- a. *The extent, location, and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.*
- b. *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.*
- c. *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.*
- d. *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*
- e. *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.*

All of these issues have already been adequately addressed above in the staff report. The recommended permit would be in conformance with these general standards.

6. Section 64.300(f) of the zoning code states that the planning commission, after public hearing, may modify any or all special conditions, when strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property. The requirements of Sections 61.100 through 61.105 (schedule of regulations, i.e., setbacks, etc.) and 62.103 (parking requirements) shall remain in force and effect and shall not be superseded or waived by any such modification of a special condition.

Generally speaking, the criteria for campuses were devised with larger schools in mind, not for those with a relatively small campus. The proposed use as a college is a reasonable use of the property and the conditions otherwise restrict this lawful use. Therefore, modifications should be granted in this case.

The alternative to granting these modifications is having the college rezone the property to B-2 to make the college a permitted use. The disadvantages of this are that once rezoned any use allowed in B-2 would be permitted and if the school ever found itself leaving the property, a variety of commercial uses would be permitted. In addition the commercial zoning would be extended even further into a local residential street; currently, just the property at the corner of Dayton & Western is zoned B-2.

By allowing for modifications and issuance of a SCUP the zoning stays the same so that if the school leaves the property, only residential uses would be permitted in the building. If the property were then to be used for commercial purposes, it would have to be rezoned. Presumably, the most likely reuse of the building would be for office use. This would be permitted in an OS-1 zoning district, much more restrictive than a B-2 commercial zoning district.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, that under the authority of the City's Legislative Code, the application for a Special Condition Use Permit to establish a campus for the College of Visual Arts and modification of conditions 2a,b, and d, at 394 DAYTON AVENUE is hereby approved, subject to the following conditions:

1. The campus boundary for the College of Visual Arts's 394 Dayton Avenue campus shall be legally described and shown on the map in Attachment B, dated November 17, 1995. The college shall not expand a school use to any property outside the described campus boundary unless a change in the boundary is approved by the planning commission.
2. Every January 31st, beginning in 1997, the college will report in writing to the planning division staff the numbers of employees, dormitory beds (if any), full-time and part-time students, and available parking spaces for the previous fall term.
3. When the base level of employees, dormitory beds (if any), and the greater of full-time students living off-campus or part-time students increases by more than 10 percent to 245.3, the college will provide the required parking for that increase. For purposes of calculating the number of students, faculty, and staff, and for monitoring parking requirements, the figures for all of the college's facilities shall be added together.
4. The twelve space parking lot at 394 Dayton Avenue shall be paved according to a site plan approved by the planning administrator.