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October 21, 2014

City Council of Saint Paul
310 Ramsey County Courthouse
Saint Paul, MN 55102-1615

Re: Res-14-1729-Liquor License Application for The Eagle Street Grille, LLC
d/b/a The Salt Cellar at 173 Western Avenue North
On Agenda for October 22, 2014 at 3:30 P.M.

Dear Council Members:

I represent Marina and Naum Liberman who are the owners of Moscow on the Hill located at 371 Selby Avenue, just down the street from the proposed Salt Cellar located at 173 Western Avenue North (hereinafter the "Property").

I write for the purpose of opposing the granting of a Liquor License for the proposed Salt Cellar. It is our position that the Salt Cellar has legally insufficient parking to warrant the granting of a Liquor License.

The zoning administrator pursuant to Sec. 63.204 of the City Code is incorrect in determining how many parking spots existed was for the previous use of the Property. Also, the Site Plan Approved on September 11, 2014 provides for 13 parking spots when 13 spots do not exist. Finally, the calculations performed by the City in coming up with the required number of parking spots is incorrect.

I. The Previous Owners of the Property had 21 Parking Spaces: The Zoning Administrator has taken the position that the Salt Cellar need not provide any additional parking because the new use requires less parking than the old use. However the previous owners had 21 Parking Spaces.

Sec. 63.204 of the Zoning Code specifically directs the Zoning Administrator to review city records in making its determination of the parking required for the previous use. That is what I did.

It is unclear what document the Zoning Administrator relies on when coming up with the arbitrary number of 13 parking spots. It appears that the goal was to simply approve whatever parking the Salt Cellar had. I enclose for your information and review the following two pieces of correspondence that I obtained from the City File on 173 Western Avenue and I reference a third document that is part of your materials for this Hearing, a Special Condition Use Permit dated November 17, 1995;

- A. Correspondence dated November 18, 1993 from the City to the President of the previous property occupant, the College of Associated Arts;
- B. Correspondence dated January 30, 1995 from the College to the City outlining the current parking arrangement.

The November 18, 1993 correspondence sets forth the 21 spaces that the City is ultimately requiring of the College. The January 30, 1995 letter from the College outlines the 21 spaces that they claim they are providing per the City requirement. Admittedly, I am unable to point to where the 21 spaces are, but clearly both sides thought there were 21 spaces that exist.

The 21 spaces is further supported by the November 17, 1995 Special Conditional Use Permit (SCUP) for the College of Visual Arts adjacent Property at 394 Dayton Avenue. On pages Five and Six of the Resolution supporting the SCUP, in paragraph 4 e, there are two separate references to the 21 spaces required for the Selby and Western Campus.

The Zoning Administrator in his/her report acknowledges the 1993 letter but then ignores it. We do not know what has transpired in the 20 years since the College of Associated Arts opened its college, but clearly at one time it had 21 parking spaces. That 21 spaces should be required of the Salt Cellar prior to granting of the Liquor License (plus any additional spaces required).

II. Even The 13 Alleged Parking Spots Do Not Exist: Enclosed is the "Site Plan Approved" (2 Pages) that purportedly sets forth the 13 spots to be provided by Salt Cellar.

The Site Plan appears to show 9 parking spots on the west end of the Property and 4 spots on the in the northwest corner. The 4 alleged parking spots on the northwest part of the property are not parking spots under any realistic view of parking. The area where the 4 parking spots allegedly exist is used to access the parking for 394 Dayton Avenue. The parking lot that exists at 394 Dayton has no other exit in that there is not an exit on Dayton Avenue.

Furthermore, I enclose a copy of the Deed that covers the alleged 4 parking spots (I also enclose a copy of the current Certificate of Title for the Property showing that the easements still exist). An easement for ingress and egress exists over where the 4 parking spots purportedly exist.

Certainly, you cannot have parking over an area where an easement exists. Quite simply there are not the 13 parking spots even if that were the number required. Maybe there are 9.

III. The Calculations of the Zoning Administrator are Incorrect: The Staff Recommendation incorrectly calculates what the previous use of the Property by the College of Visual Arts would have required for their parking. Section 63.207 of the Zoning Code specifically states that “1 space for every 2 employees” meaning that one-half of a space is required for each employee. In making its calculation the Zoning Administrator states “College parking is calculated based on 1 per 1 employees” Even if we agreed with the numbers used by the Zoning Administrator***, the Zoning Administrator is not calculating the number based on the law. If the correct number were used, the previous use of the Property would have required 30 spaces, not 33. This would require the Salt Cellar to come up with an additional parking spot.

Furthermore, in calculating the parking required for the Salt Cellar, it is unclear where the Zoning Administrator came up with the “gross floor area” as required by the code. The gross floor area listed with the County is 13,728 square feet (see enclosed). The Zoning Administrator has used 12,600 square feet. Again, we do not know where that figure came from. The difference is 3 parking spots. The Zoning Administrator has found a requirement for 31 spots, the higher figure shows a need for 34 spots. This is another 3 parking spots that are not available.

*** (Specifically the November 17, 1995 Special Conditional Use Permit states that the required parking for the Western Campus was 24 spaces-See 4 e-it is unclear why this number was not used-if used, the Salt Cellar would be required to provide with another 6-9 spaces.

Summary of Spaces Required: The previous owner was required to have 21 parking spaces. The Salt Cellar’s use of the Property requires 4 additional parking spots (increase from 30 to 34). Accordingly they are required to have 25 spaces. They have 9.

Conclusion: In recent years the City Council has liberalized the parking requirements for restaurants that are technically not bars. That is fine and my client accepts that. **However, even with the more liberalized rules, the Salt Cellar would be required to have 34 parking spaces. They have 9.**

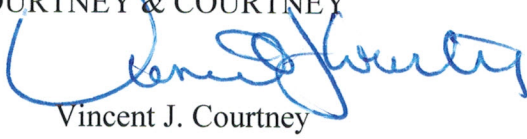
There is significant opposition to the opening of the Salt Cellar because parking is already at a premium in the area. The College of Visual Arts was primarily a day program. The Salt Cellar is a restaurant that can be expected to have significant traffic at night. If it is allowed to operate without the required parking, an already difficult parking situation will become a disaster. It is simply unfair to the existing businesses.

October 21, 2014
City Council of Saint Paul
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The Staff Report/the decision of the Zoning Administrator is not supported by the evidence. The Salt Cellar's application for a Liquor License should be denied and it should be required to apply for a variance.

Yours very truly,
COURTNEY & COURTNEY

By



Vincent J. Courtney

cc: Moscow on the Hill



CITY OF SAINT PAUL

James Schelbel, Mayor

Division of Planning
25 West Fourth Street
Saint Paul, MN 55102Telephone: 612-228-3200
Facsimile: 612-228-3220

November 18, 1993

Chris Kabella
President
College of the Associated Arts
344 Summit Avenue
Saint Paul, MN 55102

RE: Parking requirements for Selby Western

Dear Mr. Kabella:

The Planning Division and the Zoning Administrator have reviewed the proposal by the College of the Associated Arts to use the existing building at the northwest corner of Selby Western. We have determined that there is enough off-street parking on the site to meet the zoning requirements for the use proposed by the College as well as the continued use by Geraldo's.

This was determined as follows:

- There are 21 off-street parking spaces on the property.
- The parking requirement for the property is currently 30 spaces. This is based on the current use of the building by Geraldo's and a convenience store and the remaining space being most recently used for a restaurant. (A summary of the square footage occupied by each use and a floor plan of the building that was used for the parking calculations is on file with the Planning Division.)
- The proposed use of the building by the College and Geraldo's would require 27 spaces. The College's parking requirement would be 22 spaces, based on 60 students and 4 faculty using this location as is specified in the Special Condition Use Permit for the College's main facility at 344 Summit Avenue. Geraldo's requirement would remain at 5.
- Although the proposed uses by the College and Geraldo's require more parking spaces than are being provided, the uses are permitted because they require less than the current uses.

(These figures are based on the parking requirements in the zoning code as of the date of this letter. It is likely that amendments to parking requirements will be adopted by the end of the year. The College's use of the building would also be permitted under the pending amendments: The current parking requirement would be 29 parking spaces compared to a requirement of 23 spaces if the College uses the building.)

PED PLANNING DIV.

TEL:9-228-3314

Nov 18 '93 14:12 No.003 P.03

Please call me at 266-6581 if you have any questions on this.

Sincerely,



Tom Beach
Planning Division

cc: Zoning File 93-116
Wendy Lane

SCHOOL: College of Associated Arts

DATE: 1-27-95

President or Director: Chris R. Kabella

Person Completing Form: Chris R. Kabella

Phone: (612) 224-3416

-----Fall 1994-----

(Include data for Saint Paul campus location only.)	<u>Total</u>	<u>Daytime*</u>	<u>Evening or Weekend*</u>
1. Number of employees (both full-time and part-time).	<u>54</u>	<u>43</u>	<u>11</u>
2. Number of full-time students.	<u>182</u>	<u>109</u>	<u>73</u>
3. Number of part-time students (def.: taking less than 75% of a normal credit load).	<u>18</u>	<u>11</u>	<u>7</u>
4. Dormitory Beds			
a. Total	<u>0</u>		
b. Occupied	<u>0</u>		
c. Full-time students living on-campus	<u>0</u>		
d. Employees living on-campus in dormitory beds listed under a.	<u>0</u>		
5. Number of off-street parking spaces.	<u>27 (see attached)</u>		

(Also please attach a map showing the number and location of parking spaces on the Campus. This can be an informal hand drawn map. The spaces indicated on the map should equal the total on line 5. If there is no change from last year in the number or location of spaces, you need not include a map.)

Please return this form by February 10, 1995 to:

Donna Drummond
Department of Planning and Economic Development
1100 City Hall Annex
25 West Fourth Street
Saint Paul, Minnesota 55102
Phone: 266-6556

* Estimates are O.K. for breakdown of total into daytime and evening/weekend.

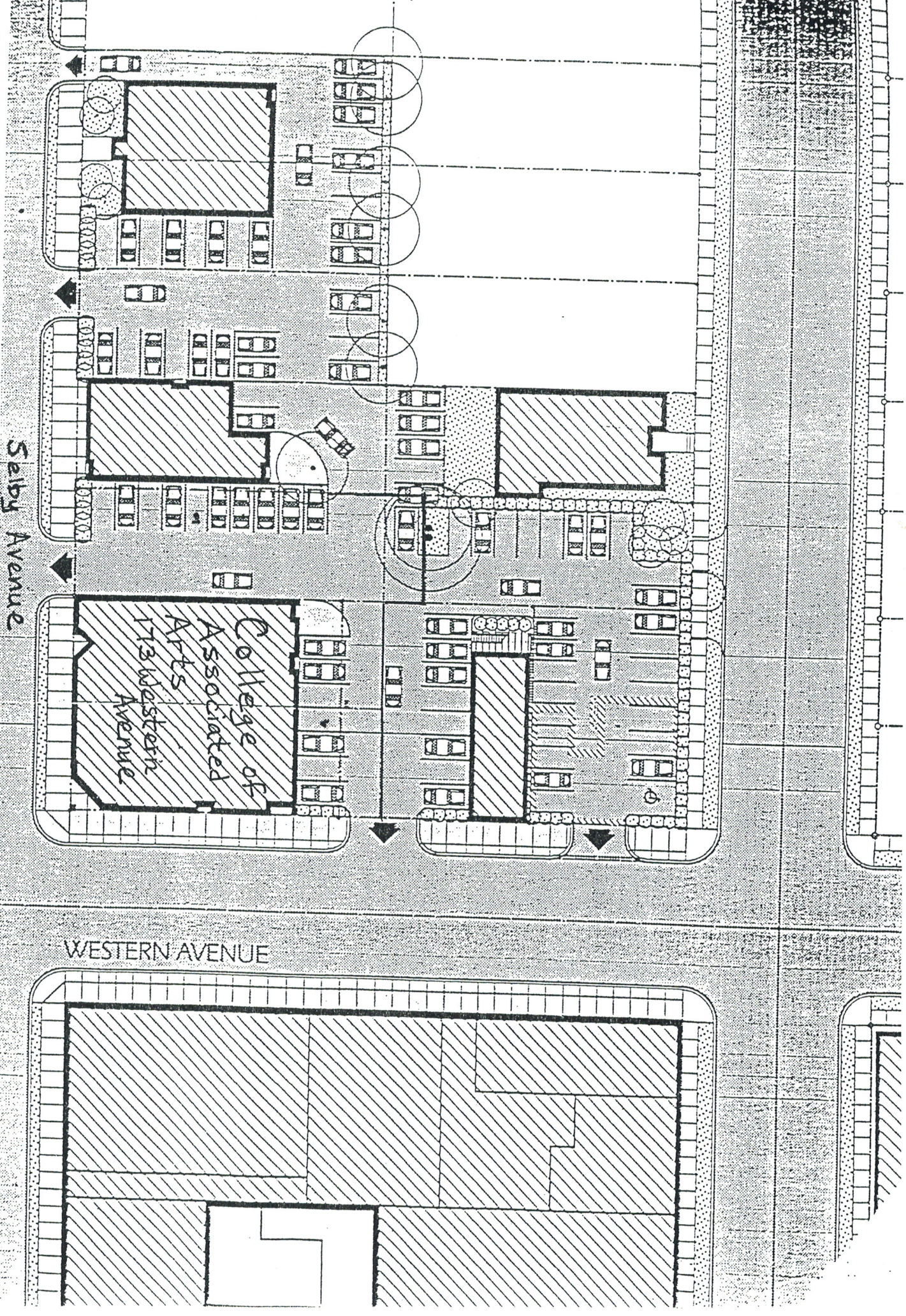
COLLEGE OF ASSOCIATED ARTS
OFF-STREET PARKING SUMMARY

February, 1995

<u>Campus Location</u>	<u>No. Off-Street Spaces</u>
1. 344 Summit Avenue	6 spaces (no change from 1994)
2. 173 Western Avenue	21 spaces (see attached map*)

* The attached map of off-street parking at 173 Western Avenue is from a concept plan and does not, in all cases, reflect the exact location of each parking space as currently configured at that location. It does, however, present the general layout of the 21 existing spaces on the property and, in most instances, the current location of these spaces. If further location information is needed, please contact the College.

/ MARSHALL / SELBY PARKING



2

1

32.00

MANEUVERING LANE IRON FOUND

S89°58'44"E 79.81

SOUTH LINE NORTH 16 FT LOTS 29 & 30

ASPHALT

DUMPSTER ENCLOSURE WOOD OBSCURING FENCE 6'-0" HIGH FENCE PERMIT REQUIRED

29

30

1 STORY BRICK & BLOCK BUILT

BLDG COR 0.59 S OF LINE & PILASTER 0.81 S OF LINE

BLDG LINE 0.17 N OF LINE & PILASTER 0.04 S OF LINE

5 FILASTERS ALONG THIS LINE 0.38 TO 0.41 E OF LINE

S0°37'00"E 100.20

EAVE ABOVE 1.83 E OF LINE

N89°57'42"W 119.61

EAVE ABOVE 1.47 S OF LINE

CONC WALK

CONC CURB

SELBY AVENUE

9" SANITARY SEWER

EAVE ABOVE 1.86 E OF LINE

CONC WALK

CONC CURB

12" WATER MAIN

12" SANITARY SEWER

24" STORM SEWER

WESTERN AVENUE

SITE PLAN APPROVED

OFFICE OF DSI CITY OF ST. PAUL

By *Lawrence* File # 14-328008 Date 9/11/2014

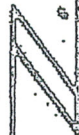
Any alterations from this plan must be approved by the Zoning Administrator.

4

3

S89°58'44"
39.71

NORTH LINE
16 FT LOT 3
9x18'
TYPICAL



132.17



40.38

1. @ ← 2

N0°35'31"W

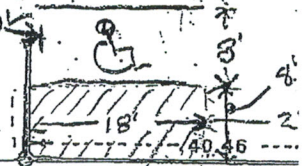
9x18'
TYPICAL

27

ASPHALT

28

POST SIGN
DISPLAY
INTERNATIONAL
WHEEL
SYMBOL



SCALE 1"=20'
173 N WESTERN AVE
SALT CELLAR
09/10/2014

EAVE ABOVE
2.34 S OF

6" WATER

493784

This Indenture, Made this 3rd day of December, 1965, between William O. McCann and Milred M. McCann, husband and wife,

of the County of Ramsey and State of Minnesota, parties of the first part, and Leaska Drugs Inc.,

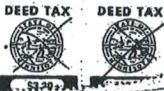
a corporation under the laws of the State of Minnesota, party of the second part,

WITNESSETH, That the said parties of the first part, in consideration of the sum of One Dollar and other good and valuable consideration to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell, and Convey unto the said party of the second part, its successors and assigns, Forever, all the tract or parcel of land lying and being in the County of Ramsey and State of Minnesota, described as follows, to-wit:

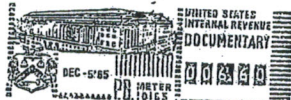
Lot Twenty-eight (28), and the South Sixteen (So. 16) feet of Lot Three (3) in Block Two (2) of Kern's Addition to St. Paul, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Ramsey County, Minnesota.

Subject however, to a permanent easement in favor of the parties of the first part, their successors, heirs and assigns, for ingress and egress over, across and upon the North Sixteen (No. 16) feet of said Lot 28 in Block 2 of Kern's Addition to St. Paul.

Together with a permanent easement in favor of the party of the second part, its successors and assigns, for ingress and egress over, across and upon the North Sixteen (No. 16) feet of Lots Twenty-nine (29) and Thirty (30) in Block Two (2) of Kern's Addition to St. Paul.



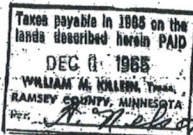
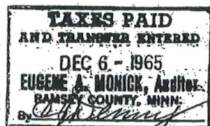
00663



State deed tax due hereon is \$6.60

TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, to the said party of the second part, its successors and assigns, Forever. And the said William O. McCann and Milred M. McCann, husband and wife,

parties of the first part, for themselves and their heirs, executors and administrators, do covenant with the said party of the second part, its successors and assigns, that they are well seized in fee of the lands and premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid, and that the same are free from all incumbrances,



And the above bargained and granted lands and premises, in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, subject to incumbrances, if any, heretofore mentioned, the said parties of the first part will Warrant and Defend.

IN TESTIMONY WHEREOF The said parties of the first part do hereby set their hands the day and year first above written.

In Presence of

Handwritten signatures of witnesses: J. J. Malinski and George S. Brown.

Handwritten signatures of the parties: William O. McCann and Milred M. McCann.

493784

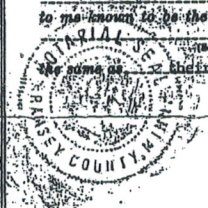
State of Minnesota,

County of RAMSEY

On this 3rd day of December, 1955, before me,
a Notary Public within and for said County, personally appeared
William O. McCann and Milred M. McCann, husband and wife,

to me known to be the persons described in, and who executed the foregoing instrument,
and acknowledged that they executed

free act and deed



Francis J. Mahutski
Notary Public, Ramsey County, Minn.
My commission expires April 20, 1969

NOTE: The blank lines marked "See Note" are for use when the instrument is executed by an attorney in fact.

FILED 219028
 2008 # 455 PAGE 25
 COUNTY OF RAMSEY, MINN.
 REGISTER OF TITLES
 I hereby certify that this instrument was
 filed in this office for record on the
 day of Dec, A. D. 1955
 at 10 o'clock A.M.
ROBERT T. GIBBONS
 Register of Titles
W. H. Miller
 Deputy

Minnesota Form No. 22

Doc. No. 493784

WARRANTY DEED

Individual or Corporation

William O. McCann, Guy
to
Laska Design, Inc.

Office of Registrar of Deeds,
State of Minnesota,
2 Kern's Add.

County of _____
I hereby certify that this within Deed
was filed in this office for record on the
19____ day of _____ M.
and was duly recorded in Book _____
of Deeds, page _____

By _____
Register of Deeds, Deputy

Taxes for the year 19____ on the lands
described within, paid this _____
day of _____ 19____

By _____
County Treasurer, Deputy

Taxes paid and Transfer entered this
19____ day of _____ 19____

By _____
County Auditor, Deputy

Recording Fee \$1.25

651-227-

Peters.

4571

~~FILE~~ # 227-4576

blids

0025

lot 3 block
2 Kerns. Add.

CVA.

2247—Sec. 5 Ch. 305 Laws 1965

493784

RDS 1202-2M-1-55

Affidavit of Purchaser of Registered Land (Corporation)

State of Minnesota }
COUNTY OF RAMSEY } ss.

Harry P. Strong, Jr. being first duly sworn, says that he is the attorney
for ~~XPCXGX~~ Lask Drugs Inc.

a corporation organized and existing under the laws of the State of Minnesota
having its principal place of business at St. Paul, Minnesota.

That said corporation is the purchaser of registered land, situated in Ramsey County, Minnesota, from the holder of certificate No. 018761

That pursuant to the articles and by-laws of said corporation, the officers authorized to execute deeds are the President and the Secretary
of said corporation, and that said corporation has a corporate seal.

Subscribed and sworn to before me this 6th

Harry P. Strong, Jr.

December, 1965 year

Notary Public,
Ramsey County, Minnesota.

G. E. VON FOLDT
My Commission Expires Dec. 17, 1971

Certificate of Title

Certificate Number: **597919**

Created by Document Number: **2228460**

Transfer From Certificate Number: **369414**

Originally registered June 30, 1919 Book 74, Page 245, District Court No: 2176

State of Minnesota } s.s. Registration
 County of Ramsey }

This is to certify that

Selby Dayton LLC, a Minnesota limited liability company, whose address is c/o Rosemary A. Korgard 29 South Deep Lake Road, North Oaks, Minnesota, 55127
 is now the owner of an estate in fee simple

of the following described land situated in the County of Ramsey and State of Minnesota:

The South 16 feet of Lot 3, Block 2, Kern's Addition;
 Lot 28, Block 2, Kern's Addition;

Subject to and together with a permanent easement in favor of the party of the second part, its successors and assigns, for ingress and egress over, across and upon the North 16 feet of Lots 29 and 30, Block 2, Kern's Addition. See Document Number 493784.

Subject to a permanent easement in favor of the parties of the first part, their successors, heirs and assigns, for ingress and egress over, across and upon the North 16 feet of said Lot 28 in Block 2 of Kern's Addition to St. Paul.

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes Chapter 508, namely:

- 1. Liens, claims, or rights arising under the laws of the Constitution of the United States, which the statutes of this state cannot require to appear of record;
- 2. Any real property tax or special assessment;
- 3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
- 4. All rights in public highways upon the land;
- 5. Such right of appeal or right to appear and contest the application as is allowed by law;
- 6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
- 7. Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

Memorials

Document Number	Document Type	Date Received	Amount (\$)	Running in Favor Of
2067233	Appointment of Agent	Mar 25, 2009 1:00 PM		Old Republic National Title Insurance Company appoints Commercial Partners Title, LLC as agent. Memorial entered as of August 28, 2014
2143753	Mortgage	Jun 7, 2011 11:00 AM	\$457,000.00	Wells Fargo Bank, National Association, 670 McKnight Road North, City of Saint Paul, County of Ramsey, State of Minnesota
2144647	Mortgage	Jun 20, 2011 8:00 AM	\$457,000.00	Wells Fargo Bank, National Association, 670 KcNight Road North, City of Saint Paul, County of Ramsey, State of Minnesota
2228461	Mortgage	Dec 3, 2013 2:00 PM	\$780,000.00	American Bank of St Paul, PO Box 64206, City of St. Paul, State of Minnesota Also covers unregistered land.
2228462	Assignment of Leases and/or Rents	Dec 3, 2013 2:00 PM		American Bank of St Paul - Assigns Rents
2229963	Satisfaction	Dec 23, 2013 8:00 AM		Satisfies document no. 2143753.
2510107	Release	Aug 8, 2014 9:57 AM		Releases document no. 2143753 and 2144647.



IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 3rd day of December, 2013.

Mark E Oswald

Registrar of Titles,

In and for the County of Ramsey and State of Minnesota.

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Tax & Property Look Up Information - Structure Description

[Home](#) || [Information](#) || [Property Look Up](#) || [Property Record Search-RecordEASE](#) || [Contact Us](#)[New Property Search](#) > Structure Description[Back to Search Results](#)[Quick Info](#)[Property Information](#)[Taxpayer Name and Address](#)[Value Information](#)[Value History](#)[Structure Description](#)[Sale Information](#)[Special Assessments](#)[Property Tax Payment Information](#)[Property Tax Payment History](#)[2014 Value Notice](#)[2014 Property Tax Statement](#)[2014 Payment Stubs](#)[2013 Value Notice](#)[2013 Property Tax Statement](#)[2012 Value Notice](#)[2012 Property Tax Statement](#)[2011 Value Notice](#)[2011 Property Tax](#)**Property Identification Number (PIN)** 01.28.23.21.0047**Property Address** 173 Western Ave N**Municipality** St. Paul**Watershed** Capital Region W/S**School District Number** 625**Commercial Property:****Parcel Size** .1800 Acres**Parcel Width****Parcel Depth****Land Use Code** 433**Land Use Description** C - Mixed Retail/commercial**# of Buildings** 1

Building#	Bldg Area	# of Stories	Year Built
1	13,728	1.00	1963