



Charleston Board of Zoning Appeals

AGENDA

8:30 a.m., Thursday, February 23, 2023

City Service Center Conference Room · 915 Quarrier Street

I. Items for Review

VAR-23-3021 & CUP-22-3018

Application of Mike Medley on behalf of Fernbank LLC for a conditional use permit and a parking variance in order to establish a restaurant serving alcohol on the property located at **1034 Bridge Road**.

CUP-23-0231

Application of Erin Dydland requesting a conditional use permit in order to establish a bar and nightclub on the property located at **10 Capitol Street**.

II. Approval of minutes for the February 9, 2023 hearing.



**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Case Description

VAR-23-3021 & CUP-22-3018: Application of Mike Medley on behalf of Fernbank LLC for a conditional use permit and a parking variance in order to establish a restaurant serving alcohol on the property located at **1034 Bridge Road**.

The file (including the application, site plan and other supporting documentation) is available for your inspection online at <https://charlestonwv.civicclerk.com/>. If you have questions, email lori.brannon@cityofcharleston.org or call 304-348-8105.

Hearing Details

WHEN: 8:30 a.m.
Thursday, February 23, 2022

WHERE: City Service Center Conference Room
915 Quarrier Street

Public Participation

Anyone who wishes to comment on the case described above is encouraged to do so in one of the following ways:

1. Send a written statement to lori.brannon@cityofcharleston.org. These statements will become a part of the record and will be shared with members of the Board prior to the hearing.
2. Speak directly to the Board by joining the meeting.

As a matter of general policy these proceedings will not be transcribed by the Board. Anyone wishing a legal transcript must provide a court reporter at his/her own expense.

Alcohol Related Conditional Uses in Charleston, WV

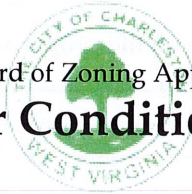
Application for Conditional Use Permit
Release of Information
Security & Operations Plan

FERNBANK Public House

(Name of Proposed Business)

Board of Zoning Appeals

Application for Conditional Use Permit



CU # _____

Hearing Date: _____

Applicant Information	Property Information
Name: <u>Mike Medley</u>	Address: <u>1034 Bridge Road 25314</u>
Address: <u>4611 Greenhill Drive 25302</u>	Tax Map and Parcel: <u>145 159 145 159</u>
Phone: <u>304-741-8293</u>	Zoning District: <u>C4 C4</u>
Agent Name, Address and Phone Number: (if other than applicant)	Property Owner and Mailing Address: (if other than applicant) <u>GHEEN JOHNSON 881 Sherwood Rd 25314</u> <u>1034 BRIDGE RD</u>

IMPORTANT: This application must be typed or legibly printed and filed with the Planning Department in person or by mail to 915 Quarrier Street, Suite 1 Charleston, WV 25301, or by email to planning@cityofcharleston.org. The following items must accompany this application: 1) a site plan drawn to scale; 2) \$125.00 filing fee in the form of a check or money order made payable to City of Charleston; 3) any additional information, including photographs, elevations, testimonials or other documentation, which may support your application. You or your representative must be present at the scheduled public hearing in order to present your request and answer questions. THE PLANNING DEPARTMENT WILL NOT ACCEPT ANY INCOMPLETE APPLICATIONS.

Please describe the proposed use. Include information such as the activities to be conducted on the site, hours these activities will be conducted, and any other data pertinent to the proposed use. If the proposed use is a business, please attach a list of the officers and their contact information. _____

Applicable Section(s) of the Zoning Ordinance Sec 3-050

Does the proposed use comply with the conditions set forth in the Zoning Ordinance? _____

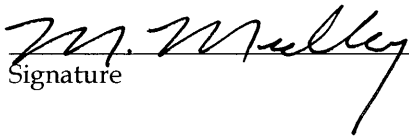
Please describe any proposed work to be done on the property. _____

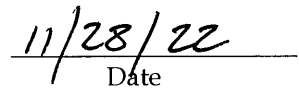
If your request for a conditional use permit is granted, how will others in the area be affected? _____

Will your request devalue the property of others in the vicinity by altering land use characteristics or diminishing the marketable value of adjacent land and structures or increasing congestion on public streets? _____

Is your request consistent with the purposes and intent of the Zoning Ordinance of the City of Charleston? _____

I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.


Signature


Date

Application for Conditional Use

Fernbank LLC
1034 Bridge Road
Charleston, WV 25314
fernbankph@gmail.com

Proposed Use:

We are intending on leasing the property at 1034 Bridge Road to open a full service restaurant. We will serve lunch and dinner seven days a week (11am to 11pm) and brunch on Saturdays and Sundays. The menu will consist of locally sourced appetizers, salads, sandwiches, burgers and desserts. We are applying for the conditional use permit to enhance our menu with sale of legal adult beverages. No type of live entertainment is planned.

Zoning Ordinance Sections:

Complying with Zoning Ordinance Conditions:

After reviewing the City of Charleston ordinances, we believe there are no areas that we would be out of compliance. We are aware of all demands of the city including but not limited to, parking (spots required per square foot), signage (location and size), ADA requirements (entrances and restrooms), insurance (coverage and bonds), Kanawha County Health Department and building code regulations.

Proposed Work:

The 1st floor is already a fully functional commercial kitchen (\$150,000 investment) with prior inspections from the Kanawha County Health Department and only minor equipment changes will be made. The 2nd floor will have 610 square feet of seating for approximately 34 seats and will need to be completely built out. Work will include two ADA restrooms and ramps for entry, new flooring, framing, and finishing of the dining and bar area. The property (2nd floor) has stood vacant for over 15 plus years and has only been used for storage. We will also be converting 320 square feet (approximately 20 seats) of existing deck space to outdoor seating. New commercial windows, doors and lighting will also be installed.

How will others be affected:

The property is located in the C-4 Neighborhood Business District which demands a balance between homeowners, property owners and business owners. We intend on being a neighborhood establishment and will not hinder anyone's well-being or right to services and will work to improve the issues some of the homeowners are already dealing with, namely parking. The parking lot that is included in our lease has the required space for our intended purpose (one parking spot for every 100 square foot of seating) and will be organized, posted and lined to avoid parking confusion. We will also, at our own expense, post signage dictating private property / no parking areas along Glen and Forest Road. We also plan on approaching the Bridge Road Association to help define, mark and post signage behind Walgreens to try to designate specific parking spots for residents.

Property / Characteristics/Land Use/Market Value:

Our land use should be defined by the existence of the our commercial kitchen. Few other businesses could be of use for this space. We will increase our leased property value with an estimated \$50, 000 investment to repairs inside and out. This store front has been unused/vacant for at least 15 years and our improvements will help make the South Hills shopping and dining district a more attractive destination for all of the area's guests and consumers. With an increase in business means an increase in traffic but have measures (listed above) to help with this issue.

Consistency with purpose and intent:

Yes. We believe all proper issues have been addressed, the correct channels have been followed and await the City of Charleston approval.

Description of Operations:

We will be a full-service restaurant. We will serve lunch and dinner seven days a week (11am to 11pm) and brunch on Saturdays and Sundays. We will also be available for private parties. The menu will consist of locally sourced appetizers, salads, sandwiches, burgers, desserts and legal adult beverages. No live entertainment, gambling or karaoke will be offered.

Hours of Operation:

We will open Monday through Sunday 11am until 11pm for lunch and dinner with brunch being offered from 10 until 3 on Saturdays and Sundays.

Food Service Narrative:

Our menu will be available for all hours of operation. A focus on locally sourced ingredients will help round out our lunch, dinner, and brunch service (see attached menu).

Security & Operations Plan

Submittal Requirements

Exterior Site Plan indicating the location of the following:

- | | |
|---|--|
| ☒ Entrances/exits | ☐ Exterior lighting |
| ☒ Parking area, if applicable | ☒ Surveillance cameras |

Interior Floor Plan indicating location of the following:

- | | |
|---|--|
| ☒ Bar | ☒ Food service/preparation areas |
| ☒ Fixed seating | ☐ Movable seating |
| ☐ Stage and/or DJ platform | ☐ Dance floor, if applicable |
| ☐ Security personnel | ☒ Interior cameras |

Description of Operations

Please provide a narrative description of the business operations, including the type and frequency of entertainment to be provided.

Hours of Operation

Full meal service should be available during normal meal times, and snacks/appetizers must be available during all other operating hours. Please provide a narrative description of the business's plans for food service. Include as an attachment the menu to be offered, and written agreements with any restaurant, off-site kitchen, or delivery service.

Responsibilities of the Establishment

Please initial after each statement indicating understanding and acknowledgement of responsibilities of the business owner.

Provide an adequate number of management staff, security personnel, and employees to effectively manage the establishment.

M (initial)

Use reasonable measures to provide a safe and clean environment for guests and employees.

M (initial)

Maintain both the interior and exterior of the establishment in a safe, well-maintained condition that is inviting to the public.

M (initial)

Ensure all managers, bartenders, and servers complete the Professional Server Certification Corporation's On-Premises Responsible Serving Course. Copies of staff certification must be kept on site and made available to City staff upon request.

M (initial)

Security Personnel

Please initial after each statement indicating understanding and acknowledgement of responsibilities of the business owner.

A minimum one of security personnel shall be provided for every 35-50 patrons during any time when entertainment is provided on the premises. It is the responsibility of the establishment to monitor and adjust the number of security personnel provided based on business operations.

M (initial)

The approximate locations of security personnel must be shown on the floor plan submitted with this application. Security personnel should be stationed in strategic locations throughout the establishment to ensure adequate oversight and management of the entire premises.

M (initial)

Security staff should be easily identifiable to customers. Apparel clearly identifying security personnel is recommended. Other equipment recommended for security personnel includes flashlight, manual counter, black light, and a communication device.

 (initial)

Security personnel should be stationed at all points of entry into the establishment in order to check IDs, enforce establishment dress codes when applicable, ensure that alcoholic beverages do not enter or leave the establishment, and to deny entry to anyone who has been barred from the establishment or is obviously intoxicated.

 (initial)

Additional security personnel should be positioned strategically around the establishment to monitor the crowd, identify patrons who are becoming unruly or visibly over-intoxicated, and maintain open walkways.

 (initial)

Last Call Process

Last call occurs at least 30 minutes prior to closure.

Entertainment is terminated and house lights are turned up 15 minutes prior to closure.

Customers are asked to leave the business 10 minutes prior to closure.

Security personnel should assist in the dispersal of customers from the premises and prevent loitering in the vicinity of the establishment.

 (initial)

Addressing Customers with Bad Behavior/Over-consumption

In the event that security personnel determines that there is a need to address a customer who is over-intoxicated or behaving badly, the following protocols should be undertaken:

1. Immediately and discreetly explain the rules to the customer and then promptly enforce the rule. If possible and appropriate, separate the customer from any group. It is the responsibility of security personnel to assess the situation to determine if a warning is appropriate prior to taking corrective action.
2. Notify the bar and wait staff that they are not to serve the customer any additional alcoholic beverages. In the event that the customer is observed with an alcoholic beverage, the customer should be asked to leave the premises.

3. If the customer is not violent or aggressive, provide the customer time to collect their belongings and pay any open tabs. If necessary, escort the customer out of the premises. It may be appropriate to allow the customer to close a tab once outside of the establishment.

 (initial)

Employees are not to serve alcohol to any person who shows signs of being visible intoxicated, nor should any such person be allowed to enter the establishment. If a patron is "cut off" by a staff member, all other staff members are to be notified immediately. If a patron is too impaired to leave safely, the establishment will make reasonable efforts to arrange transportation on his or her behalf.

 (initial)

Emergency Contact Information

Please list responsible parties to contact in case of emergency. Include name, cell phone number, and email address.

MIKE MEDLEY 304-741-8293 mikemedley965@gmail.com
BRIAN HENDERSON 304-590-4696 byzguitar@gmail.com

ACKNOWLEDGEMENT

I have read and understand the policies, procedures, and standards expected of myself, my staff and my establishment. By signing below, I acknowledge that I understand and will abide by this Security & Operations Plan.

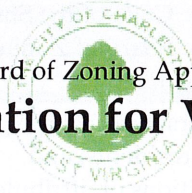
Signature: Michael E. Medley

Print Name: Michael E. Medley

Title: owner / PARTNER

Date: 11/28/22

Board of Zoning Appeals
Application for Variance



BZA # _____

Hearing Date: _____

Applicant Information	Property Information
Name: <u>Fernbank LLC</u>	Address: _____
Address: <u>1034 BRIDGE ROAD 25314</u>	Tax Map and Parcel: _____
Phone: <u>304-741-8293</u>	Zoning District: <u>C4</u>
Agent Name, Address and Phone Number: (if other than applicant)	Property Owner and Mailing Address: (if other than applicant) <u>4611 GREEN HILL DR.</u> <u>CHAR. WV 25302</u>

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A variance is a method by which a property owner receives permission to vary from the development standards established in the Zoning Ordinance governing such matters as building location, building dimensions, setback requirements, placement and quantity of parking, landscaping, signage, and other features included in site design. **Please describe your variance request.** _____

Applicable Section(s) of the Zoning Ordinance _____

Please describe the proposed work to be done on the property. _____

IMPORTANT: According to Section 8A of the Code of the State of West Virginia and Section 29-040 of the City of Charleston's Zoning Ordinance, the Board of Zoning Appeals may grant a variance if and only if **ALL** of the following four criteria can be satisfied:

- 1.) The variance, if granted, will not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents; and,
- 2.) The variance arises from special conditions or attributes which pertain to the property for which a variance is being sought and which were not created by the person or entity seeking the variance; and,
- 3.) The variance, if granted, would eliminate an unnecessary hardship and permit a reasonable use of the land; and,
- 4.) The variance, if granted, will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

1.) If granted, your variance must not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents. For example, public safety cannot be compromised by limiting access for emergency vehicles, and neighboring property owners must not be hindered in the use their properties in any manner permitted in the Zoning Ordinance. If your variance request is granted, how will others in the area be affected? _____

2.) Your request must arise from special conditions or attributes which pertain to the subject property and which you did not create. The size, shape and topography of your lot are examples of the physical conditions on a property that may create an unnecessary hardship and prevent reasonable use of the land. The following three questions help to determine if there is an unnecessary hardship with regard to your property.

Is your situation due to unique circumstances that are not shared by other land in the district? _____

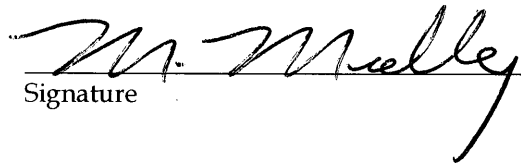
Without a variance, are you deprived of all beneficial use of your land? _____

Would approval of your variance request alter the essential character of the surrounding neighborhood or community? _____

4.) The general purpose and intent of the Zoning Ordinance of the City of Charleston is to protect and promote the public health, safety, convenience, morals and general welfare. For more specific information in regard to the scope and intent of the Zoning Ordinance, please see Section 1-020 as well as the section from which you are requesting this variance. Will approval of the variance allow the intent of the Zoning Ordinance to be observed? _____

5.) Substantial justice is the idea that a standard of fairness has been satisfied according to the substance of the law. Does your variance request represent the least deviation from the Zoning Ordinance necessary to achieve an outcome that is fair to both you and to your community? _____

I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.

 _____
Signature

1-12-23
Date

Please describe your variance request:

We request a variance concerning section 23-040-05 (Traffic Flow on Public Rights-of-Way). Pending the City's inquiry into property lines and existing parking spaces we would ask for vehicles to be able to back out of our parking area. If City's finds we are not able to use our entire property due to existing parking spaces we would then like to ask for a variance of section 23-060-01 (Parking Space Requirements) to be reduced from the required 9 spaces to 6.

Sections of Zoning Ordinance:

Sec. 23-040-05 Traffic Flow on Public Rights-of-Way

Sec. 23-060-01 Parking Space Requirements

Proposed work to be done:

The lot is already paved but unmarked. We intend to line the lot according to City code and tidy up our existing green space.

- 1) Our request will help organize and define the parking to be more effective and help control the flow of traffic. However, it will also block three existing spots and will need the City's attention for access and rehab of current green space.

- 2) A- Yes. We do not have access to our entire property (parking lot) due to the City's existing parking stalls and the space needed to access them.

B- Yes. We need a certain amount of parking for our proposed square footage and are unable to move forward without this variance. The City's parking and its requirements overflows onto our property approximately 30 feet and therefore make a large portion of our property useless to us.

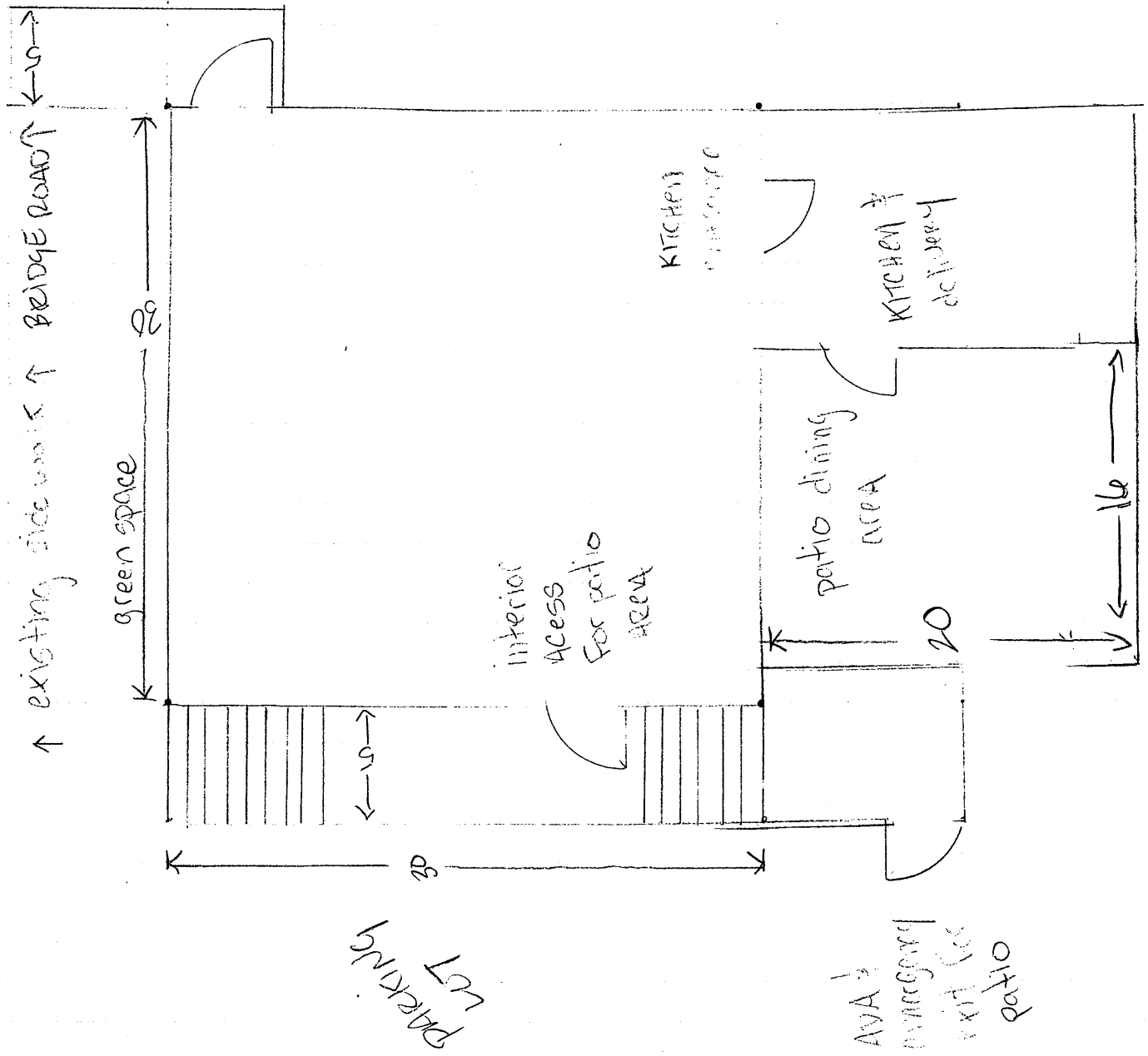
C- No. We are only asking to either, 1. Be able to efficiently use the parking area that's included in our lease or 2. Be permitted to have 3 less spots that are required for our square footage.

3)

- 4) Yes. All conditions of Zoning Ordinances are being met and have been listed accordingly.

- 5) Yes. With the property line and City parking stall issue we believe that these variances are fair and proper requests.

ADA 1-1
main
entrance
to dining
room

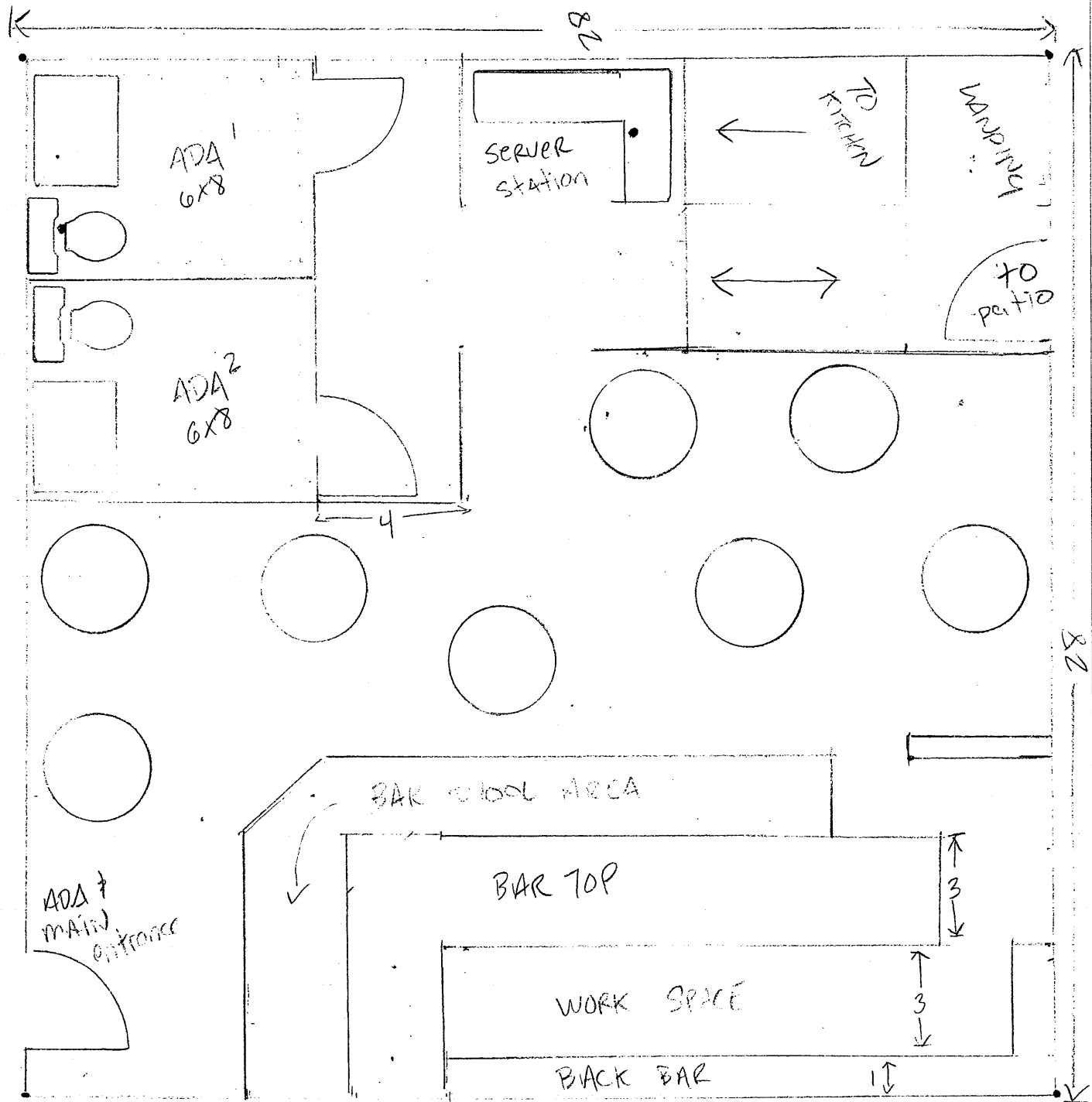


Praktikum
W7

10/10/2010

320 ☒

2ND
FLOOR
SEATING
PLAN



Mobile Home Unit Floor Plan

Overall Dimensions: 28'-0" (width) x 23'-3" (depth)

Room Layout and Dimensions:

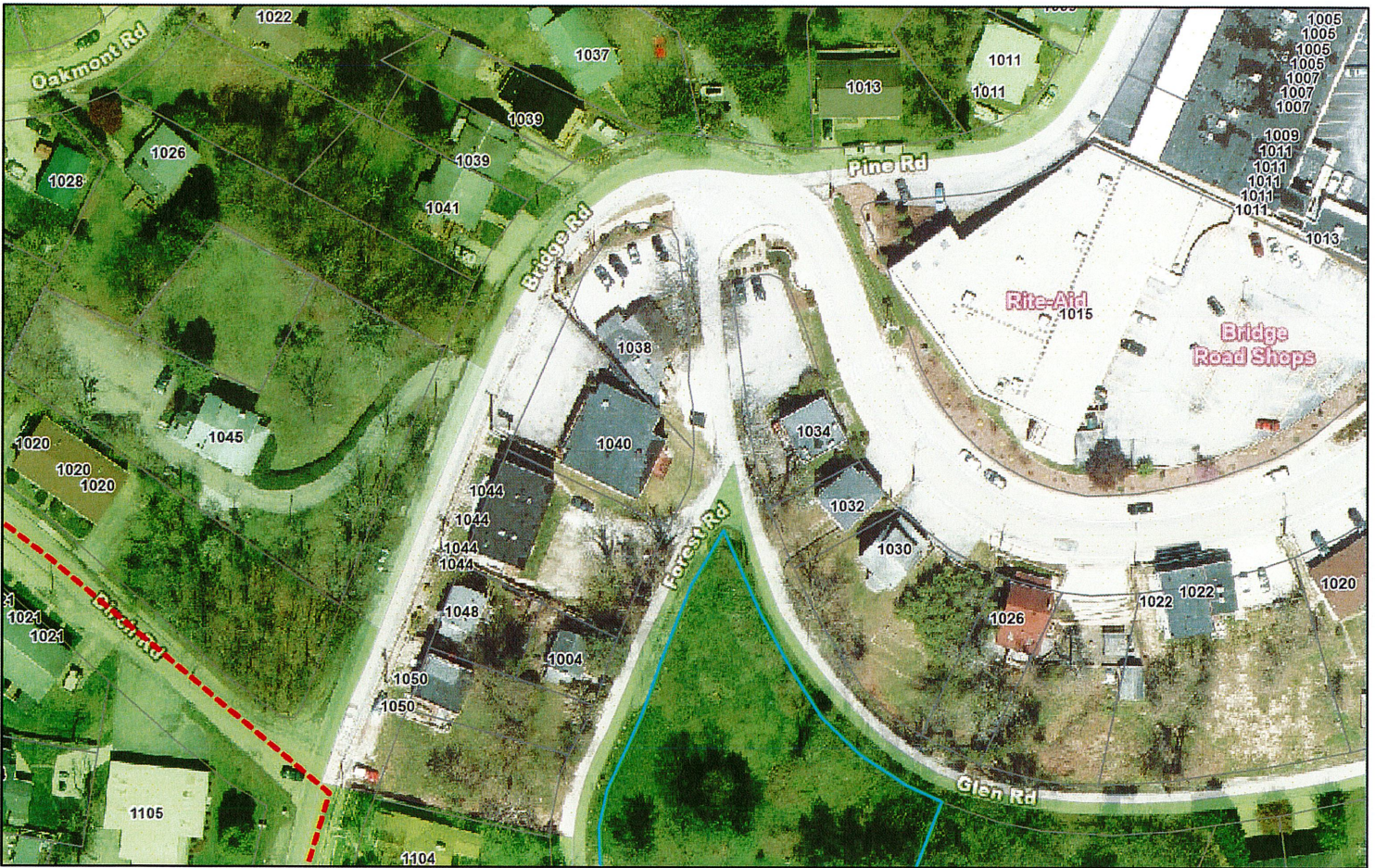
- Office:** 10'-0" x 7'-8"
- Restroom:** 5'-7 1/2" x 3'-0"
- Kitchen:** 12'-0" x 6'-5 1/2"
- Living Area:** 12'-0" x 10'-0"

Room Numbers and Features:

- 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17:** Individual room or area numbers.
- WASHER/ DRYER:** Located in the kitchen area.
- ELEC. PANELS:** Located near the restrooms.
- SHOWER:** Located in the restrooms.
- MECH. CLOSET:** Mechanical closet located near the restrooms.
- UNDER STAIR:** Staircase area with "UP" and "DOWN" directions.
- WINDOW:** Located in the office area.

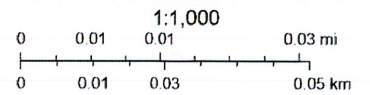
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1/4/2023, 2:22:38 PM

- Site Addresses - Current
- Parcels with Assessment Data
- Wards
- Zoning Districts
- R-O
 - R-4
 - R-6
 - C-4
 - Interstate Exits (Numbers)



GIS Department, City of Charleston, West Virginia, Esri, Inc.

Author
For Internal Use



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Repair Services

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Repair





**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Case Description

CUP-23-0231: Application of Erin Dydland requesting a conditional use permit in order to establish a bar and nightclub on the property located at **10 Capitol Street**.

The file (including the application, site plan and other supporting documentation) is available for your inspection online at <https://charlestonwv.civicclerk.com/>. If you have questions, email lori.brannon@cityofcharleston.org or call 304-348-8105.

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WHERE: City Service Center Conference Room
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2. Speak directly to the Board by joining the meeting.

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Alcohol Related Conditional Uses in Charleston, WV

Application for Conditional Use Permit
Release of Information
Security & Operations Plan

(Name of Proposed Business)

 Board of Zoning Appeals
Application for Conditional Use Permit

CU # _____

Hearing Date: 2/23/23

Applicant Information	Property Information
Name: <u>Erin Dydland</u>	Address: <u>10 Capital Street, Charleston WV 25301</u>
Address: <u>4401 Washington Ave SE</u>	Tax Map and Parcel: <u>EC 7 63</u>
Phone: <u>Charleston WV 25304</u> <u>304-395-8368</u>	Zoning District: <u>CBD</u>
Agent Name, Address and Phone Number: (if other than applicant)	Property Owner and Mailing Address: (if other than applicant) <u>Scott Miller</u> <u>2106 Kanawha Blvd East Unit A-702</u> <u>Charleston WV 25311</u>

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Please describe the proposed use. Include information such as the activities to be conducted on the site, hours these activities will be conducted, and any other data pertinent to the proposed use. If the proposed use is a business, please attach a list of the officers and their contact information.

Restaurant and Bar. operating hours 11am - 2am

Business: TYWED22, LLC

Erin Dydland - owner/manager.

Applicable Section(s) of the Zoning Ordinance _____

Does the proposed use comply with the conditions set forth in the Zoning Ordinance? _____

Yes

Please describe any proposed work to be done on the property. _____

NONE

If your request for a conditional use permit is granted, how will others in the area be affected? _____

We will open a restaurant/bar, food will be available
to the community

Will your request devalue the property of others in the vicinity by altering land use characteristics or diminishing the marketable value of adjacent land and structures or increasing congestion on public streets? _____

NO

Is your request consistent with the purposes and intent of the Zoning Ordinance of the City of Charleston? _____

YES

I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.


Signature

1/12/23
Date

Security & Operations Plan

Submittal Requirements

Exterior Site Plan indicating the location of the following:

☒ Entrances/exits

☐ Exterior lighting

☐ Parking area, if applicable

☐ Surveillance cameras

Interior Floor Plan indicating location of the following:

☒ Bar

☒ Food service/preparation areas

☐ Fixed seating

☒ Movable seating

☐ Stage and/or DJ platform

☐ Dance floor, if applicable

☐ Security personnel

☐ Interior cameras

Description of Operations

Please provide a narrative description of the business operations, including the type and frequency of entertainment to be provided.

Restaurant Bar operating 11am - 2am Monday - Sunday.

Entertainment - will hold a weekly trivia and an occasional
karaoke.

Hours of Operation

11am - 2am Monday - Sunday

Full meal service should be available during normal meal times, and snacks/appetizers must be available during all other operating hours. Please provide a narrative description of the business's plans for food service. Include as an attachment the menu to be offered, and written agreements with any restaurant, off-site kitchen, or delivery service.

We are still working on a menu. Will have burgers,
sandwiches, wings, salads, and pizza. Brunch to be offered on
weekends

Responsibilities of the Establishment

Please initial after each statement indicating understanding and acknowledgement of responsibilities of the business owner.

Provide an adequate number of management staff, security personnel, and employees to effectively manage the establishment.

ED (initial)

Use reasonable measures to provide a safe and clean environment for guests and employees.

ED (initial)

Maintain both the interior and exterior of the establishment in a safe, well-maintained condition that is inviting to the public.

ED (initial)

Ensure all managers, bartenders, and servers complete the Professional Server Certification Corporation's On-Premises Responsible Serving Course. Copies of staff certification must be kept on site and made available to City staff upon request.

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Security Personnel

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The approximate locations of security personnel must be shown on the floor plan submitted with this application. Security personnel should be stationed in strategic locations throughout the establishment to ensure adequate oversight and management of the entire premises.

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ED (initial)

Additional security personnel should be positioned strategically around the establishment to monitor the crowd, identify patrons who are becoming unruly or visibly over-intoxicated, and maintain open walkways.

ED (initial)

Last Call Process

Last call occurs at least 30 minutes prior to closure.

Entertainment is terminated and house lights are turned up 15 minutes prior to closure.

Customers are asked to leave the business 10 minutes prior to closure.

Security personnel should assist in the dispersal of customers from the premises and prevent loitering in the vicinity of the establishment.

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Addressing Customers with Bad Behavior/Over-consumption

In the event that security personnel determines that there is a need to address a customer who is over-intoxicated or behaving badly, the following protocols should be undertaken:

1. Immediately and discreetly explain the rules to the customer and then promptly enforce the rule. If possible and appropriate, separate the customer from any group. It is the responsibility of security personnel to assess the situation to determine if a warning is appropriate prior to taking corrective action.
2. Notify the bar and wait staff that they are not to serve the customer any additional alcoholic beverages. In the event that the customer is observed with an alcoholic beverage, the customer should be asked to leave the premises.

3. If the customer is not violent or aggressive, provide the customer time to collect their belongings and pay any open tabs. If necessary, escort the customer out of the premises. It may be appropriate to allow the customer to close a tab once outside of the establishment.

ED (initial)

Employees are not to serve alcohol to any person who shows signs of being visible intoxicated, nor should any such person be allowed to enter the establishment. If a patron is "cut off" by a staff member, all other staff members are to be notified immediately. If a patron is too impaired to leave safely, the establishment will make reasonable efforts to arrange transportation on his or her behalf.

ED (initial)

Emergency Contact Information

Please list responsible parties to contact in case of emergency. Include name, cell phone number, and email address.

Erin Didland	304-395-8368
Les Paay	304-444-1414

ACKNOWLEDGEMENT

I have read and understand the policies, procedures, and standards expected of myself, my staff and my establishment. By signing below, I acknowledge that I understand and will abide by this Security & Operations Plan.

Signature:



Print Name:

Erin Dydland

Title:

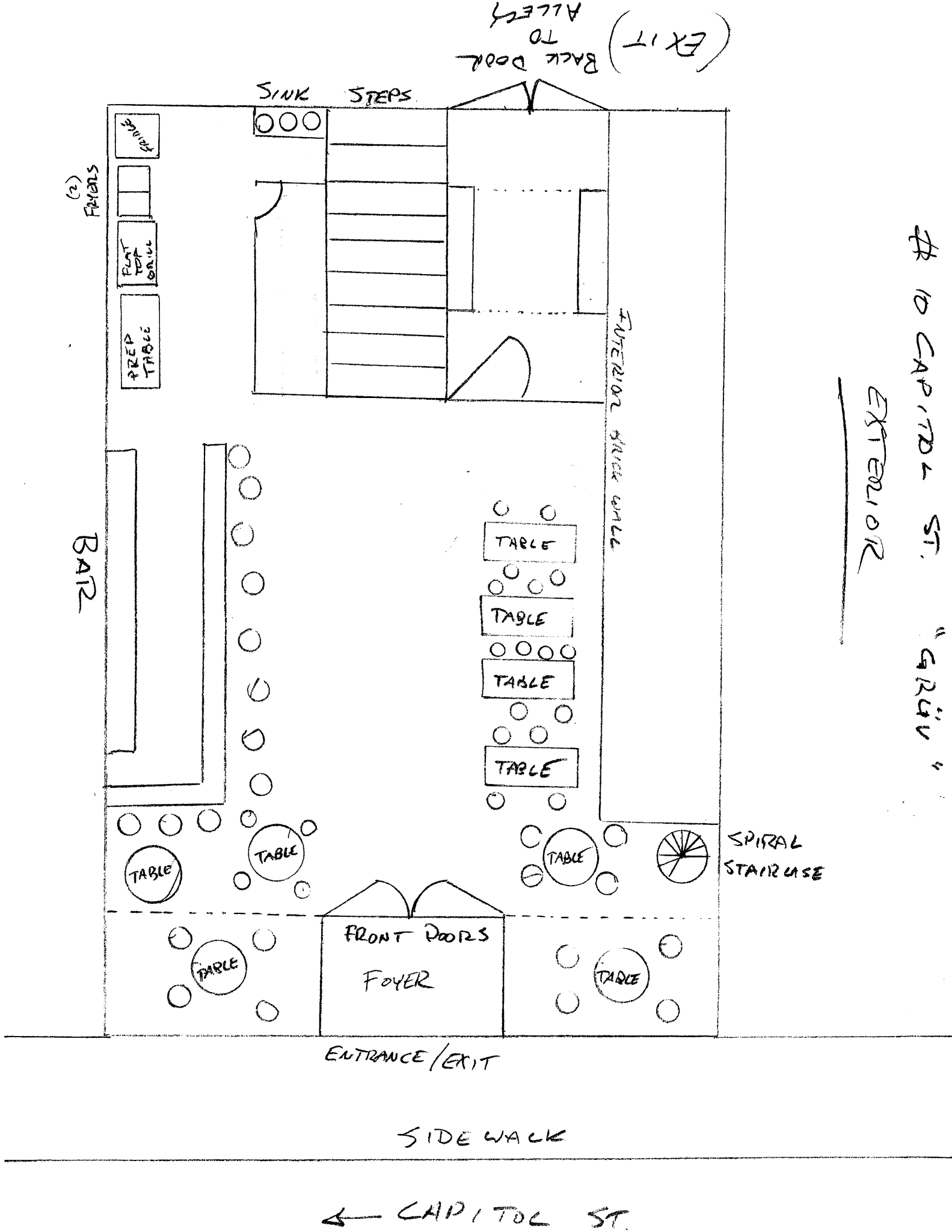
owner/manager

Date:

11/12/23

10 CAPITOL ST. "GRILL"

EXTERIOR



10 CAPITAL ST. "GARAGE"

INTERIOR

