



MORGANTOWN BOARD OF ZONING APPEALS

November 20, 2013
6:30 PM
City Council Chambers

Board Members:

Bernie Bossio, Chair
Leanne Cardoso, Vice-Chair
George Papandreas
Tom Shamberger
Jim Shaffer

STAFF REPORT

CASE NO: CU13-19 / Lebanese Bistro, LLC / 156 Clay Street

REQUEST and LOCATION:

Request by George Tanios, on behalf of Lebanese Bistro, LLC, for conditional use approval of a "Restaurant, Private Club" use located at 156 Clay Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 28, Parcel 38; B-4, Service Business District

SURROUNDING ZONING:

B-4, Service Business District

BACKGROUND and ANALYSIS:

The petitioner seeks to establish a "Restaurant, Private Club" use that will include a license with the West Virginia Alcohol Beverage Control Administration to liquor. Addendum A of this report illustrates the location of the subject site.

Table 1331.05.01 "Permitted Land Uses" provides that the development of "Restaurant, Private Club" uses in the B-4 District requires conditional use approval by the Board of Zoning Appeals. Addendum B of this report contains related excerpts from Article 1331.06(27) of the Planning and Zoning Code.

According to the petitioner's application and exhibits, the *Lebanese Bistro* is approximately 3,500 square feet and will feature Middle Eastern and Lebanese cuisine.

Meals will be served with many appetizers and a main entree. All dishes will be made with fresh ingredients and several dishes will be vegetarian and gluten free. Service will be typical for a sit-down restaurant with a host seating guests; a server taking orders and delivering the food; and the guest will pay the server. A lunch buffet will be offered Monday through Friday from 11:30 AM to 2:00 PM for \$9.95. The buffet will consist of many cold dishes, soup, and a few hot items.

The *Lebanese Bistro* will be open seven (7) days a week; closing at 10:00 PM during the week; open until 12:00 AM on Friday and Saturday; and, closed Sunday at 4:00 PM.

The petitioner emailed Staff photo images of the lunch and dinner menus but the quality (resolution) of the images was not sufficient to attach hereto. However, the petitioner will be distributing copies of the menu at the Board's hearing.

The petitioner submitted floor plans to Staff. However, the physical size of the plans was too large to scan and attach hereto. The submitted floor plan will be available for review at the Board's hearing.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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The 18 NOV 2013 email from the petitioner to Staff and attached hereto provides additional information concerning the petitioner's bona fide restaurant operations and restaurant business background.

The subject restaurant space was previously occupied by *La Casa Mexican Grill and Synergy Chop House and Saloon*, both of which held liquor licenses grandfathered from present related conditional use approval and performance standard requirements.

STAFF RECOMMENDATION:

The Board of Zoning Appeals must first determine whether or not it will waive the one-year "bona fide restaurant" requirement [Article 1331.06(27)(c)] prior to the petitioner obtaining a liquor license from the West Virginia Alcohol Beverage Control Administration.

Should the Board decide to waive said one-year "bona fide restaurant" requirement, it must determine whether the proposed request meets the standard criteria for a conditional use by reaching a positive determination for each of the "Findings of Fact" submitted by the petitioner.

Addendum C of this report provides Staff recommended revisions to the petitioner's Findings of Fact (deleted matter struck through; new matter underlined).

Should the Board waive the one-year "bona fide restaurant" requirement and grant approval of the subject conditional use petition to Lebanese Bistro, LLC, Staff recommends the following conditions be included:

1. That the petitioner must maintain compliance with all supplemental regulations set forth in Article 1331.06(27) of the Planning and Zoning Code.
2. That the petitioner must obtain permitting as a "restaurant" from the Monongalia County Health Department under the *Monongalia County Clean Indoor Air Regulations*.
3. That the "Restaurant, Private Club" use shall be limited to the interior design and identified areas of the subject building as illustrated on the drawings submitted with the application and reviewed and approved by the Board of Zoning Appeals. Any expansion of the conditional use or significant deviation from said facility layout design, operations, or proposed dining experience must first be approved by the Board of Zoning Appeals.
4. That, to ensure that the petitioner's business description and plans are executed as described and considered in granting the one-year "bona fide restaurant" waiver, the subject "Restaurant, Private Club" use must:
 - a. Be open to the general public a minimum of 11:00 AM to 1:00 PM Monday through Friday for the purpose of serving lunch as generally described in the menu submitted with the petitioner's conditional use application.

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Director

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- b. The petitioner shall voluntarily submit all necessary financial information to the City for the subject establishment following its first twelve (12) months of operation as a "Restaurant, Private Club" use to ensure compliance with Article 1331.06(27)(e) provisions, which requires the sale of food and non-alcoholic beverages to comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.
5. That any regulated signage shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.
6. That the beneficiary of this conditional use approval is Lebanese Bistro, LLC, which may not be transferred without prior approval of the Board of Zoning Appeals.

Attachments: Application and submitted exhibits.

Development Services

Christopher Fletcher, AICP
Director

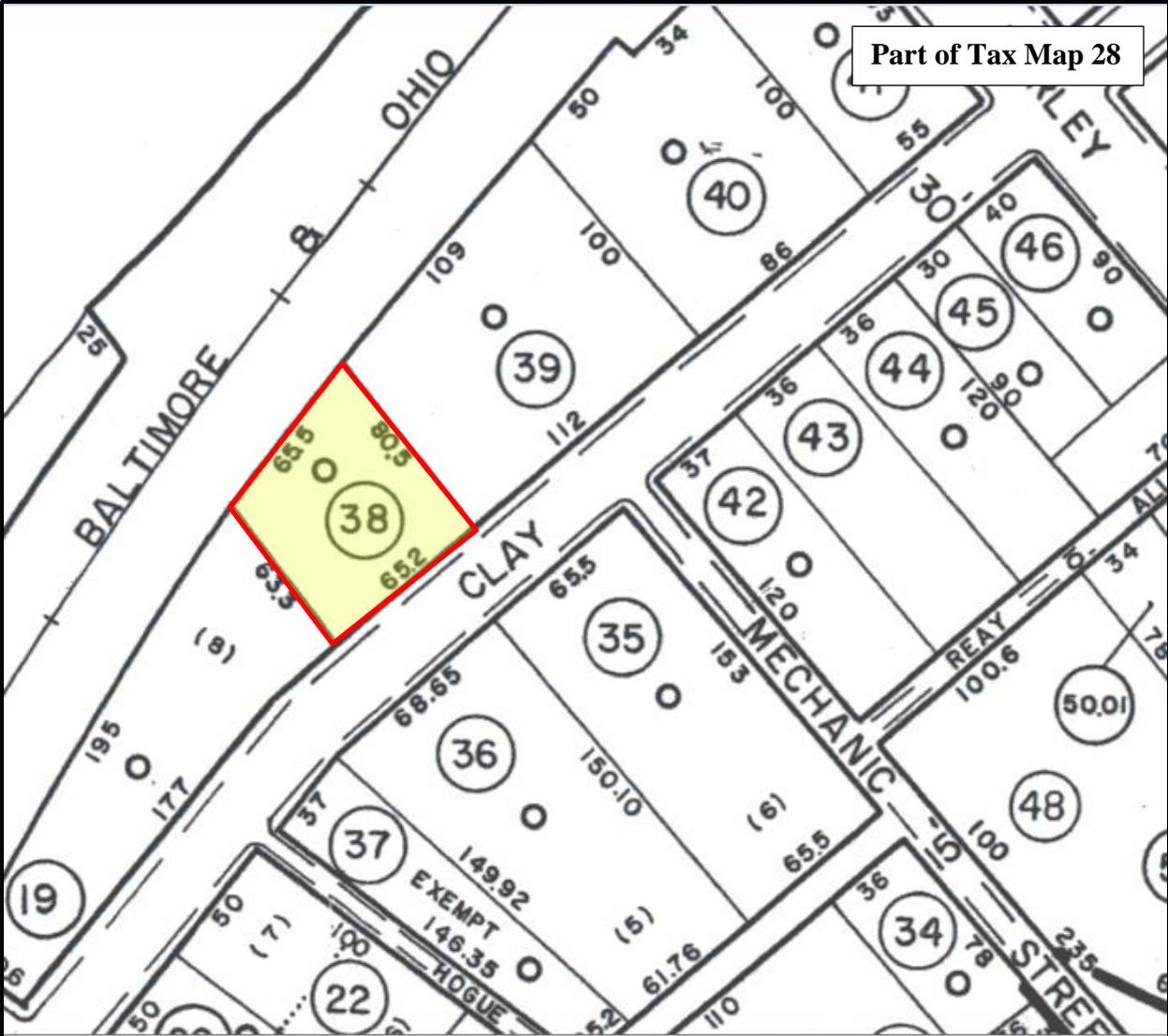
Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
CU13-19 / Lebanese Bistro / 156 Clay Street



Part of Tax Map 28



STAFF REPORT ADDENDUM B
CU13-19 / Lebanese Bistro / 156 Clay Street

Article 1331.06 (27) of the Planning and Zoning Code, Supplemental Regulation Pertaining to Permitted Land Use Table provides the following applicable performance standards:

- (a) Such private club shall have as its principal purpose the business of serving meals on its premises to its patrons and to members of such club and their quests. For the purposes of this section, the term “meal” shall be consistent with that of the State of West Virginia as defined in its Legislative Rules and Regulations pertaining to Private Club License and shall not include packaged potato chips and similar products; packaged crackers; packaged nuts; packages desserts (fruit pies, cakes, cookies, etc.); and bar sausages and similar products.
- (b) Such private club with a bar shall post a sign not smaller than three (3) square feet in a prominent location near the bar that states the following: “It is a violation of City Ordinance to serve wine or liquor beverages after 1:00 a.m.” (Amended by Ord. 06-14, Passed 06-06-2006.)
- (c) No such applicant may be licensed as a private club under this conditional use that has not been in operation for at least one year as a bona fide restaurant before making application for a license under this conditional use. However when an applicant owns another bona fide restaurant the same as the one being proposed, the Board of Zoning Appeals may consider the proposed restaurant application on the basis of the existing restaurant which has been in operation for at least one year. In the B-4 district the Board of Zoning Appeals may waive the requirement, to be in business for one year as a bona fide restaurant, when the applicant’s written description of the business operations, plus floor plans, demonstrate clearly that the establishment will meet the criteria in this subsection of the ordinance.
- (d) NOT APPLICABLE
- (e) Food and non-alcoholic beverages shall comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.
- (f) Such private club shall provide a seating capacity for at least fifty (50) persons, at a table or counter maintained for the principal purpose of serving meals. Seats at a bar, which is primarily for the serving of alcoholic beverages, shall not be counted as meeting the minimum seating capacity of the establishment. Liquor or wine may be served either at seats intended primarily for dining, or at any bar area within the restaurant, with or without an accompanying meal.
- (g) Liquor or wine shall not be served later than 1:00 a.m., except on New Year’s Eve.
- (h) The private club shall, at the time of each sale or at the time of payment, record the amount of revenue derived from the sale of liquor and wine beverages separately from the amount of revenue derived from the sale of food and non alcoholic beverages.
- (i) During each calendar month, the private club shall maintain and preserve accurate and adequate records including those required by paragraphs (e) and (h) above, to prove compliance to the City’s Finance Director, and shall make all such records available for review and audit promptly upon request by the Finance Director. The records for each month shall be preserved for not less than twenty-four (24) months next following.
- (j) Quarterly, the private club shall send to the City Finance Director summaries showing the amount of revenue derived from liquor and wine beverages versus the amount derived from the sale of food and non-alcoholic beverages.
- (k) NOT APPLICABLE

STAFF REPORT ADDENDUM C
CU 13-19 / Lebanese Bistro / 156 Clay Street

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined).

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

This location has been operated as a restaurant for several years with no change in patterns proposed from previous restaurant occupants of the subject site. The Wharf Parking Garage is located approximately 600 feet from the proposed "Restaurant, Private Club" use.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

All fire systems and sprinkler system has been tested. CO was permitted from fire marshall. The establishment and building will be required to meet all related life safety building and fire code provisions.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

The subject structure already exists and should therefore not affect present light distribution and air flow patterns.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

It has never happened before. No expansion of the existing building is proposed that would increase its building footprint or building height.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

There is more than enough room for everyone. Maximum occupancy will be regulated by related building and fire code provisions. There is no residential use proposed as a part of the conditional "Restaurant, Private Club" use.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The previous restaurants never had a problem and we should be the same. The subject conditional "Restaurant, Private Club" establishment will be located in a space that has already been used and occupied as a restaurant and should therefore not require any further public services or utilities.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The property has been cleaned painted, and fixed all issues. Property is now in prime shape. The location of the proposed "Restaurant, Private Club" has been occupied by various restaurant uses for a several years, which do not appear to have adversely impacted property values within the immediate area.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

The location of the proposed "Restaurant, Private Club" has been occupied by restaurant uses for several years and is located in close proximity to other various restaurant uses within the downtown Wharf District.



City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN - CONDITIONAL USE

OFFICE USE	
CASE NO.	CU13-19
RECEIVED:	10/11/2013
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT						
Name:	Lebanese Bistro LLC	Phone:	(304) 381-2127			
Mailing Address:	156 Clay Street	Mobile:				
	Street					
	Morgantown WV 26501	Email:	LebaneseBistro@gmail.com			
City	State	Zip				
II. AGENT / CONTACT INFORMATION						
Name:	George Iancos	Phone:	814 3082305			
Mailing Address:	156 Clay Street	Mobile:				
	Street					
	Morgantown WV 26501	Email:				
City	State	Zip				
Mailings -	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input type="checkbox"/> Agent/Contact					
III. PROPERTY						
Owner:	Mike Vecchio	Phone:	304 319 0660			
Mailing Address:	142 Vecchio Lane	Mobile:				
	Street					
	Morgantown WV 26508	Email:				
City	State	Zip				
IV. SITE						
Street Address (if assigned):		Tax Map #:	Parcel #:			
Zoning:						
Lot Dimensions:	Width:	Ft.	Depth:	Ft.	Square Footage:	ft. ²
Shape of Lot:	<input type="checkbox"/> Corner <input type="checkbox"/> Interior <input type="checkbox"/> Through <input type="checkbox"/> Flag <input type="checkbox"/> Irregular <input type="checkbox"/> Non-conforming					
Existing Use of Structure or Land:						
Proposed Use of Structure of Land:						

REC
10/11/2013
09:48:06

CRYSTAL
12/15/13
SITE PLAN

P. R. D.
10/11/2013

Finance Office
Morgantown, WV 26505
(304) 284-7400



APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU13-19
RECEIVED:	10/11/2013
COMPLETE:	

V. STRUCTURE

Proposed Setbacks: Front: _____ ft. Rear: _____ ft. Side A: _____ ft. Side B: _____ ft.

Proposed Height of Structure: _____ No. of Proposed Off-Street Parking Spaces: _____

No. of Dwelling Units (if applicable): _____ No. of Bedrooms: _____ No. of Employees: _____

Square Footage of all Proposed Structures (please explain):

please see drawing.

VI. SITE PLAN

A Site Plan (8 copies), drawn to scale, that includes the following elements must accompany the application if not provided above in Sections IV and V:

- (a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a registered design professional licensed by the State of West Virginia.
- (b) The exact sizes and locations on the lot of existing structures, if any;
- (c) The location, square footage, and dimensions of the proposed structure or alteration;
- (d) The location of the lot with respect to adjacent rights-of-way;
- (e) The existing and proposed uses of the structure and land;
- (f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;
- (g) The location and dimensions of off-street parking and means of ingress and egress for such space;
- (h) Height of structure;
- (i) Setbacks;
- (j) Buffer yard and screening, if applicable;
- (k) Location of garbage collection area and screening;
- (l) Location of existing and/or proposed signs, if applicable;
- (m) Roadway typical detail for internal roadways, if applicable;
- (n) Location and size of stormwater management facilities; and,
- (o) Utility lines and easements, if applicable.



City of Morgantown, West Virginia

APPLICATION FOR
TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE

CASE NO.

C113-19

RECEIVED:

10/11/2013

COMPLETE:

VII. SUPPLEMENTAL PLANS AND EXHIBITS

Applicants **MUST** also submit the following plans and exhibits, unless waived by the Planning Director:

- (a) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer licensed by the State of West Virginia, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets.
- (b) If applicable, design of stormwater management facilities and drainage calculations that bear the name, address, and seal of a registered professional engineer licensed by the State of West Virginia that meet the requirements of the City Zoning Ordinance, the City Stormwater Management Ordinance, and all other applicable local, state and federal regulations.
- (c) Parking and Landscaping Plan
- (d) Sign Plan
- (e) Approved WV Division of Highways Access Permit, if applicable
- (f) Sediment and erosion control plan as approved by the West Virginia Department of Environment Protection and the City of Morgantown
- (g) Approved State of West Virginia NPDES General Permit for Storm Water Associated with Industrial (Construction) Activity, if applicable
- (h) A traffic impact study, if required by the City Engineer
- (i) The Planning Director may require the applicant to submit additional information concerning the lot or neighboring lots to determine conformance with, and provide for the enforcement of, the City Zoning Ordinance.
- (j) The Planning Director may require the applicant to submit, in the case of accessory structures or minor additions, dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey prepared a registered design professional licensed by the State of West Virginia.

Applicants submitting a conditional use application in accordance with Article 313.05 "Building Height and Use" within the B-4 General Business District **MUST** also submit the following analyses:

- (a) An air flow analysis conducted by a licensed architect or profession engineer, describing the estimated impact of the proposed building on existing patterns of air flow in the general vicinity; and how those impacts may affect existing properties with a 300 foot radius of the site.
- (b) An analysis of the impacts of the proposed building on sunlight distribution in the general vicinity, with special emphasis on predicting light blockage and shadow casting onto all properties with a 300 foot radius of the site. Such analysis shall be conducted by a licensed architect or professional engineer.
- (c) An analysis of the potential of "stepping back" upper floors as a technique to avoid negative impacts with respect to light and airflow, and to minimize the canyon effect of non-recess tall buildings. Such analysis shall be conducted by a licensed architect or professional engineer.
- (d) An infrastructure and traffic analysis predicting the impacts of the building on water, sewer, drainage, electrical and gas infrastructure, on transportation levels of service (including transit) for impacted streets, and on fire suppression capabilities of the city. Such analysis shall be conducted by a licensed architect or professional engineer.



APPLICATION FOR
TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE

CASE NO.

CU13-19

RECEIVED:

10/11/2013

COMPLETE:

VIII. FINDINGS OF FACT

The Board of Zoning Appeals may grant the request only if each of the Conditional Use Findings of Fact Criteria is determined to be in the positive. Applicants must give their own responses to the criteria statements provided below.

This Conditional Use is within the fitting character of the surrounding area and is consistent with the spirit, purpose, and intent of the Zoning Ordinance, because,

1. Congestion in the streets is not increased, in that: This location has been operated as a restaurant for several years with no change in patterns.

2. Safety from fire, panic, and other danger is not jeopardized, in that: All fire systems and sprinkler system has been tested. CO was permitted from fire Marshall.

3. Provision of adequate light and air is not disturbed, in that:

4. Overcrowding of land does not result, in that: It has never happened before.

5. Undue congestion of population is not created, in that: There is more than enough room for everyone.



APPLICATION FOR
TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	C413-19
RECEIVED:	10/11/2013
COMPLETE:	

VIII. FINDINGS OF FACT (cont.)

6. Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The previous restaurants never had a problem and we should be the same

7. Value of buildings will be conserved, in that:

The property has been cleaned, painted, and fixed all issues. Property is now in prime shape.

8. The most appropriate use of land is encouraged, in that:

IX. ATTEST

I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and I agree to conform to all applicable laws of this jurisdiction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.

George Tanios

10/11/13

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

- Conditional Use Petition Fee of \$75 must accompany application

Zimbra

cfletcher@cityofmorgantown.org

Re: Lebanese Bistro - Conditional Use Application

From : George Tanios <lebanesebistro@gmail.com>

Mon, Nov 18, 2013 08:48 AM

Subject : Re: Lebanese Bistro - Conditional Use Application 2 attachments**To :** Christopher Fletcher <cfletcher@cityofmorgantown.org>

A detailed written description of the proposed restaurant including type, style, service, operations, lunch and dinner menus, hours of operation, floor plans, etc.

The proposed restaurant will serve Middle Eastern, Lebanese food. The meals are served with many appetizers and a main entree. All dishes are made with fresh ingredients in house. Several of the dishes are Vegetarian and Gluten Free. Service will be typical for a sit down restaurant. Host will seat guests, a server comes and takes the order, brings the food over to the guest, guest will pay the server.

Lebanese Bistro will be open 7 days a week. Closing at 10pm during the week, Open till 12am on Friday & Saturday, closed Sunday at 4pm. A Lunch Buffet will be offered Monday - Friday 11:30am - 2:00pm for \$9.95. Buffet will consist of many cold dishes, Soup and a few hot items. Sandwiches and full menu are attached to e-mail. Floor plans have been given.

- A detailed written explanation that the proposed "Restaurant, Private Club" establishment will operate as a bona fide restaurant. In other words, the sale of food and non-alcoholic beverage will be 60% or more of the restaurant's total gross sales of all food and drink items.

The Lebanese Bistro will run as a Full Scale Restaurant with Food, Wine, Beer and Alcohol. Our focus is our food. We will be doing a happy hour with food and drink specials. Lebanese Bistro has been open for nearly a month now without beer, wine, and liquor and we have had a great response so far. A lot of time, money, and energy has been put into our kitchen and prep areas which should prove that the bar comes secondary to that. However several of our customers would like to enjoy their meal with a drink. We do not foresee sales of Alcohol exceeding 40% because many of our guests are older, more educated, not of the heavy drinking type and also Muslim who do not drink because of their religion.

- A detailed written explanation of your personal experience in owning another bona fide restaurant the same as or similar to the one being proposed.

The Lebanese Bistro is owned and operated by George Tanios. George Tanios has been self employed since 2001 and has owned several businesses. A landscaping company, ice cream business, 3 restaurants, (2 in State College PA, 1 in Morgantown), the franchisor of Sandwich University LLC, a sports bar named 4th & Goal, and 3 Convenience Stores which sell Beer & Wine. He has moved his parents to Morgantown from New Jersey to cook and help manage operations. His parents, Pierre & Maggie, owned and operated G & P Lebanese Restaurant in New Brunswick NJ for 30 years (second longest running restaurant in town) Several of his family members also own restaurants in the New Jersey area. To say "He was born into it" would be an understatement.

Working in the family businesses growing up, being self employed since high school, owning and operating several long standing businesses, experience with employees, vendors, and customers, George is confident enough to put his money and efforts into the Lebanese Bistro and make it a success.

The Lebanese Bistro has been open and is seeing many returning guests and has had great reviews. The Wine, Beer, and Liquor would just be a side dish to the main one, the food.

Chris,

I hope this answers your questions in more detail. I apologize for any inconvenience and thank you for giving me the opportunity to resolve the issue today. Please let me know what else I need to do.

On Sun, Nov 17, 2013 at 8:15 PM, Christopher Fletcher <cfletcher@cityofmorgantown.org> wrote:

Email it to me as soon as possible so I can review to ensure all the elements are addressed.

Christopher M. Fletcher, AICP

Director of Development Services

From: "Lebanese Bistro" <lebanesebistro@gmail.com>
To: "Cfletcher" <cfletcher@cityofmorgantown.org>
Sent: Sunday, November 17, 2013 10:17:43 AM
Subject: Re: Lebanese Bistro - Conditional Use Application

Yes, I will have something typed tonight and emailed over to you? Or do I print and bring over.

George Tanios
President
Lebanese Bistro LLC
Sent from my iPhone

On Nov 16, 2013, at 7:27 PM, Cfletcher <cfletcher@cityofmorgantown.org> wrote:

Can you submit all the elements listed by noon on Monday?

Christopher M. Fletcher, AICP
Director of Development Services

Sent from smartphone...please excuse typos.

Lebanese Bistro <lebanesebistro@gmail.com> wrote:



Bistro Menu.JPG
53 KB



Bistro Sandwich Menu.JPG
53 KB
