MORGANTOWN BOARD OF ZONING APPEALS

June 18, 2014
6:30 PM
City Council Chambers

Board Members:
Bernie Bossio, Chair
Leanne Cardoso, Vice-Chair
Bill Burton
George Papandreas
Jim Shaffer

STAFF REPORT

CASE NO: CU14-07 / Traugh / 344 High Street

REQUEST and LOCATION:

Request by Zachary Traugh for conditional use approval of a "Restaurant, Private Club" at 344 High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26A, Parcel 109; B-4, General Business District

SURROUNDING ZONING:

B-4, General Business District

BACKGROUND and ANALYSIS:

The petitioner seeks to establish a restaurant at the former *Lira Restaurant* and the former *Dancing Fig Restaurant* location at 344 High Street. The petitioner also seeks to obtain a license from the West Virginia Alcohol Beverage Control Administration to sell beer, wine, and liquor. Because the sale of liquor is proposed, the land use classification is a "Restaurant, Private Club." Addendum A of this report illustrates the location of the subject site.

Table 1331.05.01 "Permitted Land Uses" of the Planning and Zoning Code provides that the development of "Restaurant, Private Club" uses in the B-4 District requires conditional use approval by the Board of Zoning Appeals.

According to the petitioner's application and exhibits, the proposed restaurant will be called *The Bank*. The petitioner's exhibits include a preliminary menu with management and owner resumes and summaries of accomplishments for John Mann and owner Zachary Traugh. Mr. Traugh is also the owner and operator of Big Times located at 327 High Street.

The proposed establishment will be open for dinner. The proposed hours of operation are Tuesday through Saturday from 4:00 PM to 1:00 AM.

Addendum B of this report contains excerpts from Article 1331.06(27) of the Planning and Zoning Code pertaining to "Restaurant, Private Club" uses in the B-4 District.

It should be noted that Mr. Traugh was the petitioner for the "Restaurant, Private Club" use approved by the Board on 18 AUG 2010 under Case No. CU10-10 for the restaurant establishment that opened under the name *"Lira Restaurant"* located at 344 High Street. The resume submitted by the petitioner with the conditional use application presently before the Board states that Mr. Traugh was the owner of Lira Restaurant from 15 MAY 2012 to 30 DEC 2010. Mr. Traugh notes that he, "sold out of this business because of an unresolvable difference of opinion with the, at the time, owner of the building."

Development Services
Christopher Fletcher, AICP
Director

Planning Division
389 Spruce Street
Morgantown, WV 26505
304.284.7431

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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 restates the petitioner's Findings of Fact.

Should the Board waive the one-year "bona fide restaurant" requirement and grant approval of the subject conditional use petition to *The Bank*, Staff recommends that 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. 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 no later than 11:00 AM Monday through Friday for the purpose of serving lunch as described in the menu submitted with the petitioner's conditional use application.

   b. That 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.

4. 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.

5. That the beneficiary of this conditional use approval is specific to the business organization that will own *The Bank* restaurant establishment at the time of Certification of Occupancy issuance. Said beneficiary may not be transferred without prior approval of the Board of Zoning Appeals.

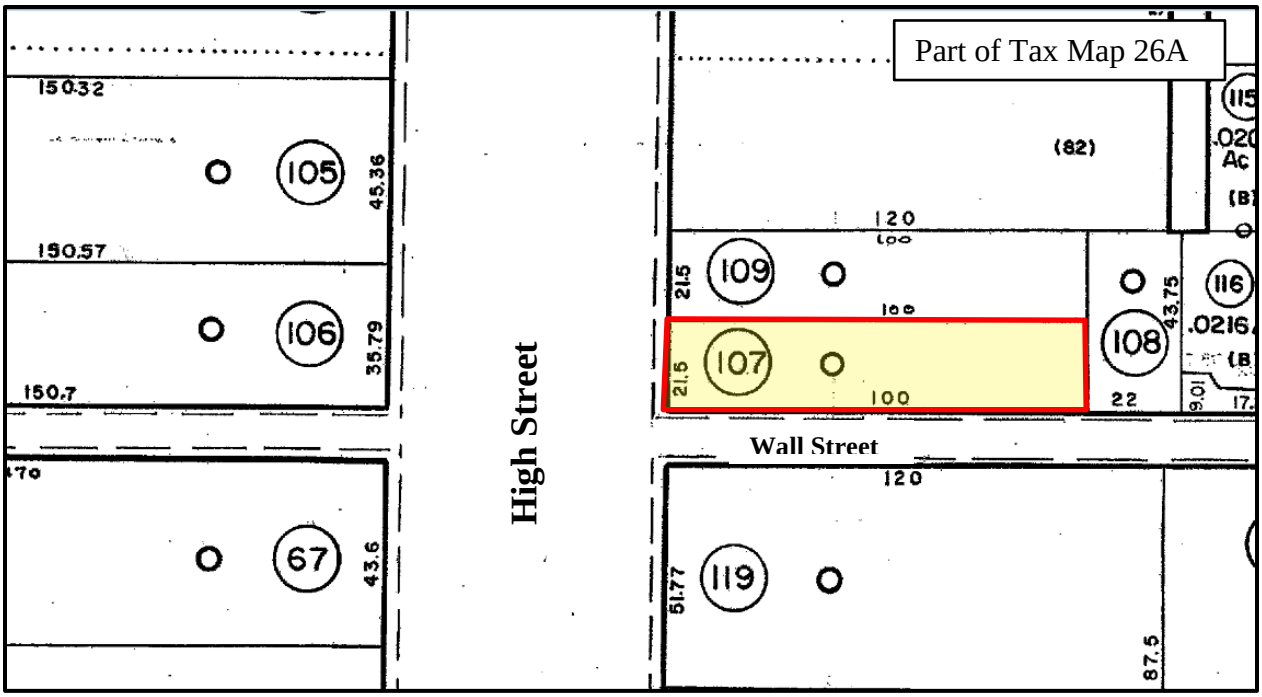
Attachments: Application and exhibits

Development Services
Christopher Fletcher, AICP
Director

Planning Division
389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

CU14-07 / Traugh / 344 High Street


Part of Tax Map 26A
High Street
Wall Street
105
106
67
109
107
108
119
116
115
150.32
45.36
150.57
35.79
150.7
43.6
120
100
21.5
43.75
22
61.77
87.5
(82)

STAFF REPORT ADDENDUM B

CU14-07 / Traugh / 344 High 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

CU14-07 / Traugh / 344 High Street

Petitioner's submitted Findings of Fact responses.

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

A restaurant is currently on the same property as the proposed restaurant.

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

The site is currently in use for the same purpose.

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

The site is currently operates in the same capacity.

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

No new structures will be built.

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

The site is currently operating in the same capacity.

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:

We are replacing a business of the same type.

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

We are replacing a business of the same type.

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

The site is currently operating in the same capacity.

City of Morgantown, West Virginia

APPLICATION FOR
TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU14-07
RECEIVED:	5/2/14
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT

Name:	Zachary Trawick	Phone:	304-685-8879
Mailing Address:	300 Mississippi St (Street)	Mobile:	
	Morgantown (City) WV (State) 26505 (Zip)	Email:	Ztrawick@hotmail.com

II. AGENT / CONTACT INFORMATION

Name:		Phone:	
Mailing Address:		Mobile:	
	Street	Email:	
	City State Zip		
Mailings –	Send all correspondence to (check one): ☐ Applicant OR ☐ Agent/Contact		

III. PROPERTY

Owner:	Brandon Kupec	Phone:	304-629-0378
Mailing Address:	344 High St (Street)	Mobile:	
	Morgantown (City) WV (State) 26505 (Zip)	Email:	

IV. SITE

Street Address (if assigned):	344 High St	Tax Map #:	26A	Parcel #:	107
Zoning:	B-4				
Lot Dimensions:	Width: Ft.	Depth: Ft.		Square Footage:	ft.^{2}
Shape of Lot:	☒ Corner ☐ Interior ☐ Through ☐ Flag ☐ Irregular ☐ Non-conforming				
Existing Use of Structure or Land:	Restaurant				
Proposed Use of Structure of Land:	Restaurant				

1332

City of Morgantown, West Virginia

APPLICATION FOR
TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU14-07
RECEIVED:	
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):

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.

OFFICE USE	
CASE NO.	CU14-07
RECEIVED:	
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.

City of Morgantown, West Virginia

APPLICATION FOR
TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
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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:
A restaurant is currently on the same property as the proposed restaurant.

2. Safety from fire, panic, and other danger is not jeopardized, in that:
The site is currently in use for the same purpose

3. Provision of adequate light and air is not disturbed, in that:
the site is currently operating ~~for the same~~ pur. In the same capacity

4. Overcrowding of land does not result, in that: No new structures will be built

5. Undue congestion of population is not created, in that:
the site is currently operating in the same capacity

City of Morgantown, West Virginia

APPLICATION FOR
TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU14-07
RECEIVED:	
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:** we are Replacing a buisness of the same type

7. **Value of buildings will be conserved, in that:** we are Replacing a buisness of the Same type

8. **The most appropriate use of land is encouraged, in that:**
the site Is currently operating In the Same Capacity

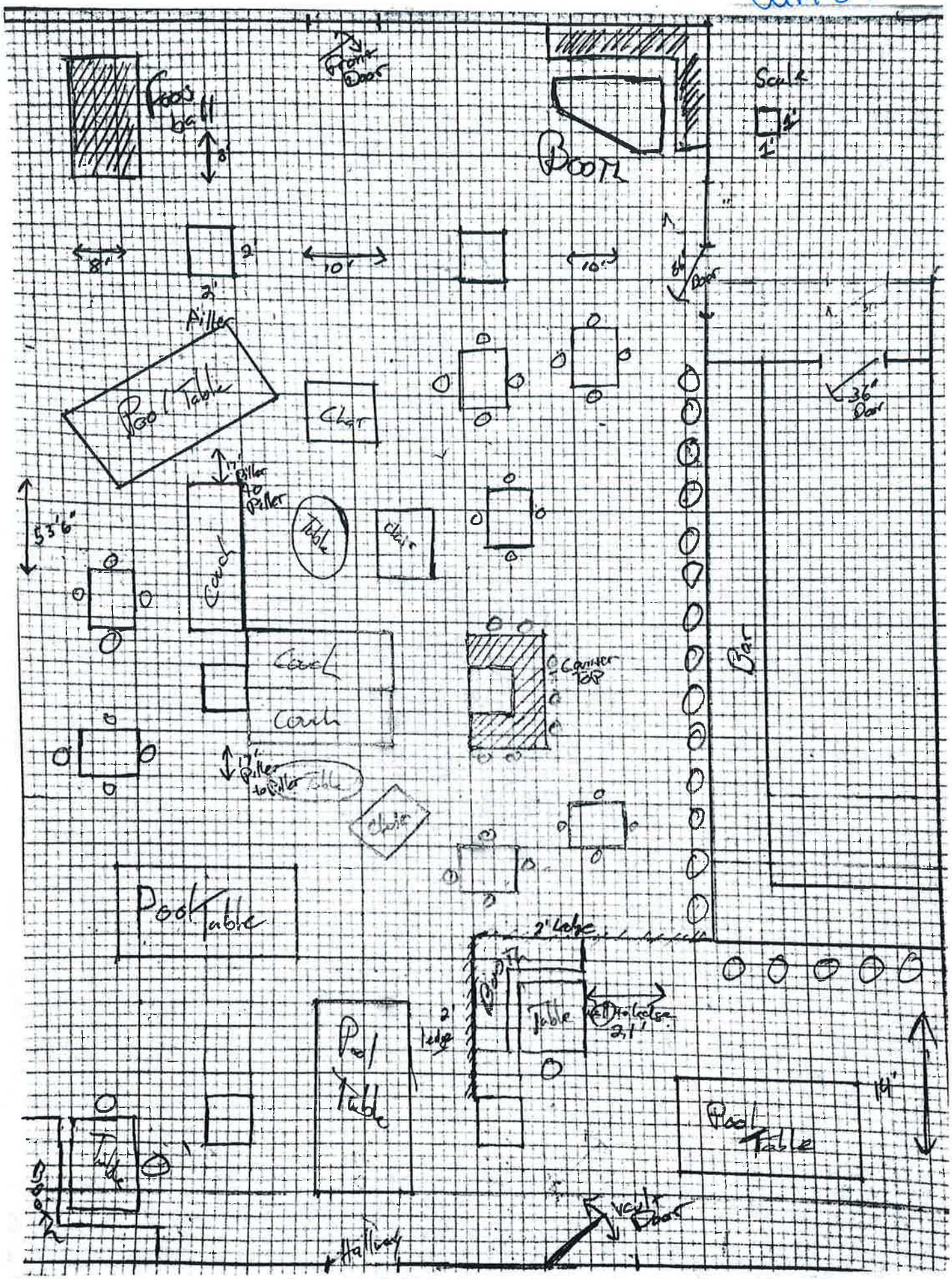
IX. ATTEST

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.

Zachary Trovik		5/2/14
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date

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

CU14-07


Front Door
Foosball
3'
Scale
1'
Booth
8'
2'
10'
3'
10'
8'
Door
Pillar
Pool Table
Chair
36" Door
1' Pillar to Pillar
53'6"
Table
Chair
Couch
Couch
Couch
Counter Top
Bar
1' Pillar to Pillar
Table
Chair
Pool Table
2' Ledge
Table
2' ledge
Table
2'1"
Pool Table
14'
Pool Table
Table
Hallway
Vault Door

The BANK

Menu

Appetizers

$6.50

- **Cajun Shrimp Dip** Shrimp, onions, peppers, & Cajun spices all in a creamy dip. Served with bread & celery.

- **Spinach Artichoke Dip** Just what you think it is creamy & delicious served in a bread bowl with crostini.

- **Mozzarella Tomato Salad To Share** Sliced Tomato & Mozzarella Cheese, Seasoned and marinated in olive oil, balsamic reduction, salt, pepper, & Basil

- **Sweet Potato Chips with Blue Cheese Sauce**
  Fresh Made Chips topped with our homemade blue cheese sauce covered in bacon, & green onion.

- **Grilled Bruschetta Flatbread** Whole wheet flatbread, with smoked provolone, tomato, onion, grilled zuchinni, basil, & white balsamic reduction.

- **Smoked BBQ Chicken Dip** Smoky pulled chicken with tangy BBQ sauce all in a creamy dip. Served with crostini.

- **Chips with Salsa & Guacamole**

- **House Smoked Bacon and Horseradish Warm Cheese Dip**
  Served with crispy flatbread, vegetables, fried tortilla

- **Fire Cracker Shrimp** Black tiger shrimp bathed in hot sauce, lightly breaded and flash fried, served with a zesty horse radish sauce

- **Shrimp Martini** Poached black tiger shrimp served chilled tossed with cocktail sauce, lemon zest, crisp celery and Grey Goose vodka

- **Short Rib Nachos** Boneless short ribs braise for hours in a Jim Beam bbq sauce until fork tender piled high on fresh fried tortilla chips finished with melted cheddar jack cheese, diced tomato, and green onions

Salads & Entres
$9.50

Grilled Vegetable Salad
baby greens, roasted garlic and fusilli
tossed with balsamic vinaigrette

ChexMix Crusted Chicken Tenders
pickled scallions, fresh fruit, baby greens
tequila lime vinaigrette

Pressed Flatbread Sandwiches
shredded Beef or Chicken, diced tomato , scallions
and house made herbed farmers cheese

Grilled Tuna Salad
tomato , green beans , new potato , egg
baby greens , balsamic vinaigrette , lemon garlic aioli

Pot Roast Pierogies
brown onion and sage sour cream
crispy fried leeks

Roast Chicken
new potatoes, green beans
lemon rosemary glaze

Black Pepper Crusted Tri Tip Steak
creamed leek mashed potatoes
bourbon mushroom butter

Grilled Chicken Fusilli
with broccoli and roasted peppers in
fontina cream

Pork Belly Tacos
spicy sweet with marinated cabbage
shaved red onion and cilantro sour cream

The Bank

The Bank is High Street's first and finest gastrolounge. Combining modern interpretations of classic dishes and cocktails with an old-timey parlor atmosphere, including things like an old fashioned Shoe Shine stand in the lobby. The Bank truly caters to the modern Lady and Gentleman. Always changing, The Bank's "living menu" contains a variety of fresh, seasonal, affordable, and locally-sourced items to adequately serve multiple local demographics including college students, couples and business professionals. Knowing that High Street has a very budget concise clientele, student-friendly pricing combined with a comfortable, yet upscale environment offers a lasting experience sure to bring repeat business.

Using the expansive interpersonal relationships developed by management and staff with the local community, The Bank will use word of mouth to create local buzz and maintain those relationships. With the use of guerilla social media tools like Facebook, Twitter, and Instagram, as well as local promotional companies including, but not limited to, The RubberU and Dub V Menus. Despite The BANK's marketing and promotions, its ultimate success as a business is achieved by providing unique and superior products and services to the downtown Morgantown community at a reasonable sustainable price.

Zachary Traugh

300 Mississippi St. Morgantown WV 26501
304.685.8879 ztraugh@hotmail.com

Experience

Owner – Big Times 9/22/13 - Present

Currently the owner, operator of Big Times on 327 High St

General Manager – Fat Daddy's Bar & Grill 5/1/11 – 10/5/13

Planned, designed, and constructed the restaurant. Responsible for the staffing, organizing, and day-to-day operation of the business. Included in this was the food orders, menu planning and implementation, specials planning, all alcohol and other inventories, Payroll, and I was responsible for the maintenance of the building.

General Manager - Dragonfly 12/1/2010 – 5/1/11

Responsible for the staffing, organizing, and day-to-day operation of the business. Included in this were the food orders, menu planning and implementation, specials planning, all alcohol and other inventories, Payroll, and I was responsible for the maintenance of the building.

Owner – Lira 5/15/10 -12/30/10

Planned, designed and built the business. I sold out of this business because of an unresolvable difference of opinion with the, at the time, owner of e building.

Skills

During my time in the service industry I have learned many Important skills, and ways to be successful. Some of these things include proper inventory control, payroll, small business accounting, minor construction and mechanical repairs, and the many way to properly market to your target market audiences. While all of these things are important, the most important skill I have learned is the proper way to treat customers making them feel welcome and want to come back to the establishment.

Contact Information
and
Recent Work History
for

John L. Mann

411 Boyers Ave, Star City, W.V.
jlmann966@yahoo.com
304-216-1875

Education

Loyola University, New Orleans, L.A.
Culinary Institute of America, New Hyde Park, N.Y.

Training

Apprenticed under Jean-Louis Palladin
Apprenticed under Alain Ducaisse
Apprenticed under Suni Oh

Work History

Fresh Hospitality, Tazikis mediterreanean cafe
Executive Chef
Menu Development in Extremely fast paced environment. Responsible for day to day operations,
Training and managment of Tazikis Mountian Lair store . As well as, Menu development on the corporate
level.

Richwood Grill, Morgantown, W.V. Chef
operated 75 seat establishment with "Farm to Table" concept.

Dragonfly, Morgantown , W.V.-Executive Chef
Responsible for day to day operation ,Ordering and inventory controls
Menu Development and managment of BOH employees. Instituted
training system for front of house employees unfamiliar with asian food.