CITY OF PITTSBURGH
DEPARTMENT OF CITY PLANNING

ZONING & DEVELOPMENT REVIEW
ZBA REQUESTS SUPPLEMENT
Posse #DCP-ZDR-2020-03347

A. PROJECT INFORMATION

1. APPLICATION IS: ☒ Development Project ☐ Protest Appeal

2. STAFF REVIEW DATE: 7/8/2020

3. SITE INFORMATION

Development Address: 7111 Reynolds St.

Parcel ID(s)/Lot-and-Block Number(s): 0126-L-00051-0000-00

Project Description: Interior renovations to existing Public Assembly (Limited) space for change of use of 1,108 SF to Retail Sales and Services (Limited).

3. CONTACT INFORMATION

Applicant Name: Dennis Inserra

Applicant Contact (phone and email): (412) 805-4426, events@PointBreezeway.com

B. ZBA HEARING INFORMATION

Zone Case #152 of 2020

Date of Hearing: Sep 3, 2020

Time of Hearing: 10:00 a.m.

Zoning Designation: R1D-L

Neighborhood: Point Breeze

Zoning Specialist: Kathleen Oldrey

C. ZBA REQUESTS

Type of Request: Variance

Code Section: 911.02

Description: Retail Sales and Services (Limited) is not a permitted use in the R1D zoning district.

Type of Request: Special Exception

Code Section: 921.02.A.4

Description: There is an existing Certificate of Occupancy on file for the Public Assembly (Limited) use. (Certificate of Occupancy #17-B-01454, issued 6/5/2018, for "use of the first floor as Public Assembly (Limited), event space (parking conditions per ZBA 356 of 2016) and use of a 18' ramp at northerly rear of 2.5 story structure."). Based on the application materials provided, the intent is to continue operating the Public Assembly (Limited) use and add the Retail Sales and Services (Limited) use, not to replace one with the other, but this Special Exception is included in case that understanding is incorrect.

Parcel ID : 0126-L-00051-0000-00
Property Address : 7111 REYNOLDS ST
PITTSBURGH, PA 15208

Municipality : 114 14th Ward - PITTSBURGH
Owner Name : INSERRA DENNIS

Data displayed on this map is for informational purposes only. It is not survey accurate and is meant to only show a representation of property lines.

Print

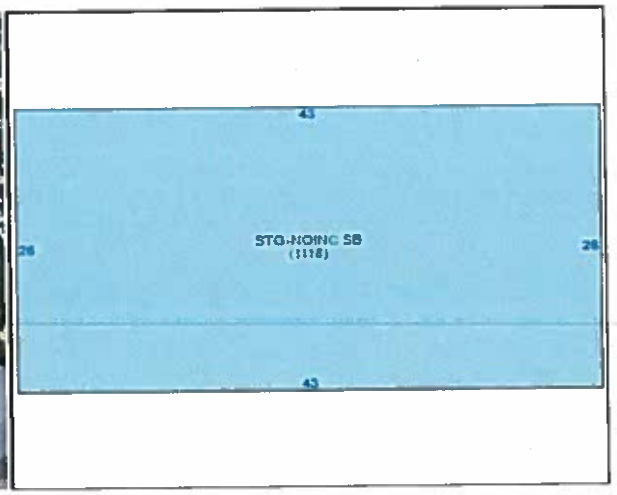
Note: This button uses pop-ups. Please click help button for further printing instructions.

Parcel ID : 0126-L-00051-0000-00

Property Address : 7111 REYNOLDS ST
PITTSBURGH, PA 15208

Municipality : 114 14th Ward - PITTSBURGH

Owner Name : INSERRA DENNIS



Change of Use Details:

PointBreezeway is currently occupied as "Public Assembly". We are hoping to keep that occupancy and add the coffee service production area. No cooking will be done, and no hot foods will be served.

PointBreezeway will continue to close for private events.
PointBreezeway will open to the public for coffee.

To All of PointBreezeway's Zoning Friends:

Thank you for taking the time to review our plan for a change of use. As you know, we host small events and weddings in the commercial portion of our family-home.

Due to the current state of the world, PointBreezeway and its ability to hold events is compromised. We've been hit hard and have lost a lot of income. The future of our space depends on what we can do to increase profit *without* relying on events.

To get creative, we thought...why not sell coffee??

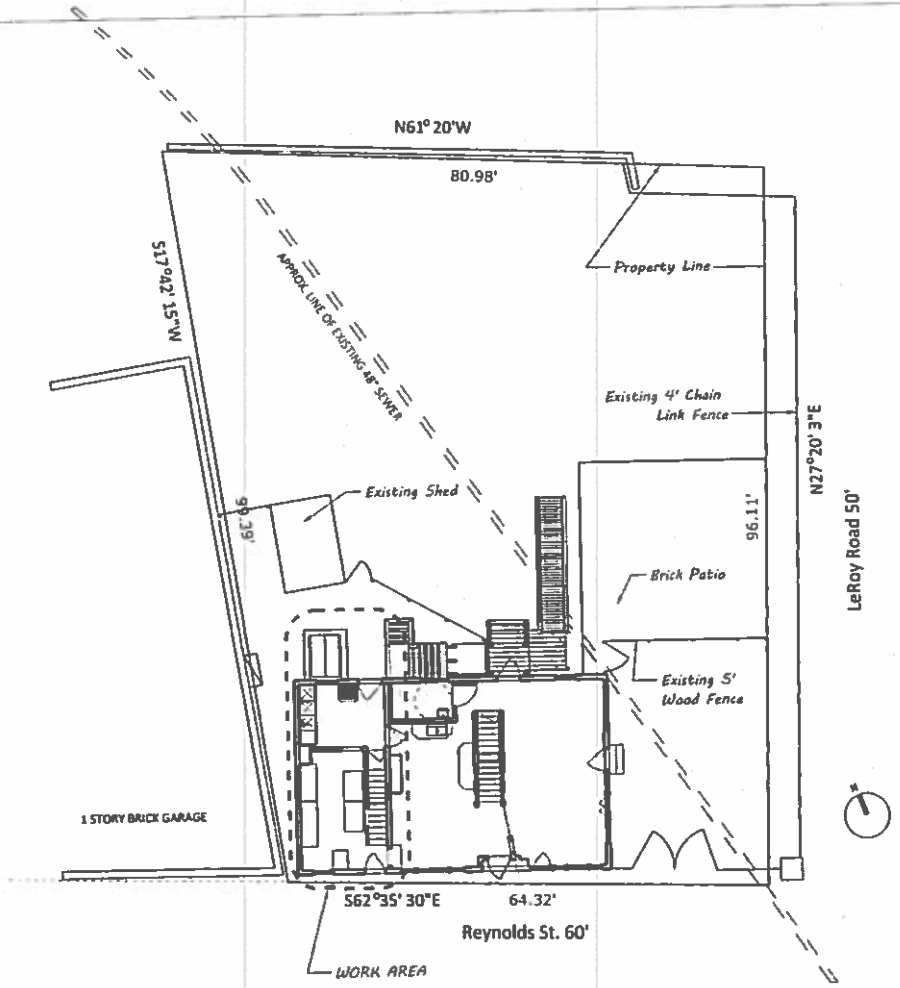
The community of Point Breeze has been begging us to be a café for years and years. The place is perfect for it. To meet our neighbors halfway, PointBreezeway still wants to hold events but we also want to offer coffee to the public, with open seating (inside and out) while we don't have an event going on.

Doing something like this, in the midst of a Pandemic may seem strange, we know, but it's also something very special for us: something to look forward to.

We are very eager and excited to get started so please let us know what you'll need from us.

All Our Best,

Lauren McMillen and Dennis Inserra
PointBreezeway

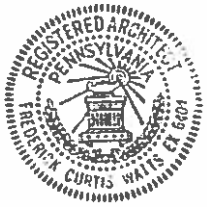


POINT BREEZEWAY RENOVATIONS 2020
7113 REYNOLDS ST.
PITTSBURGH, PA 15208
OWNER: Lauren McMillen

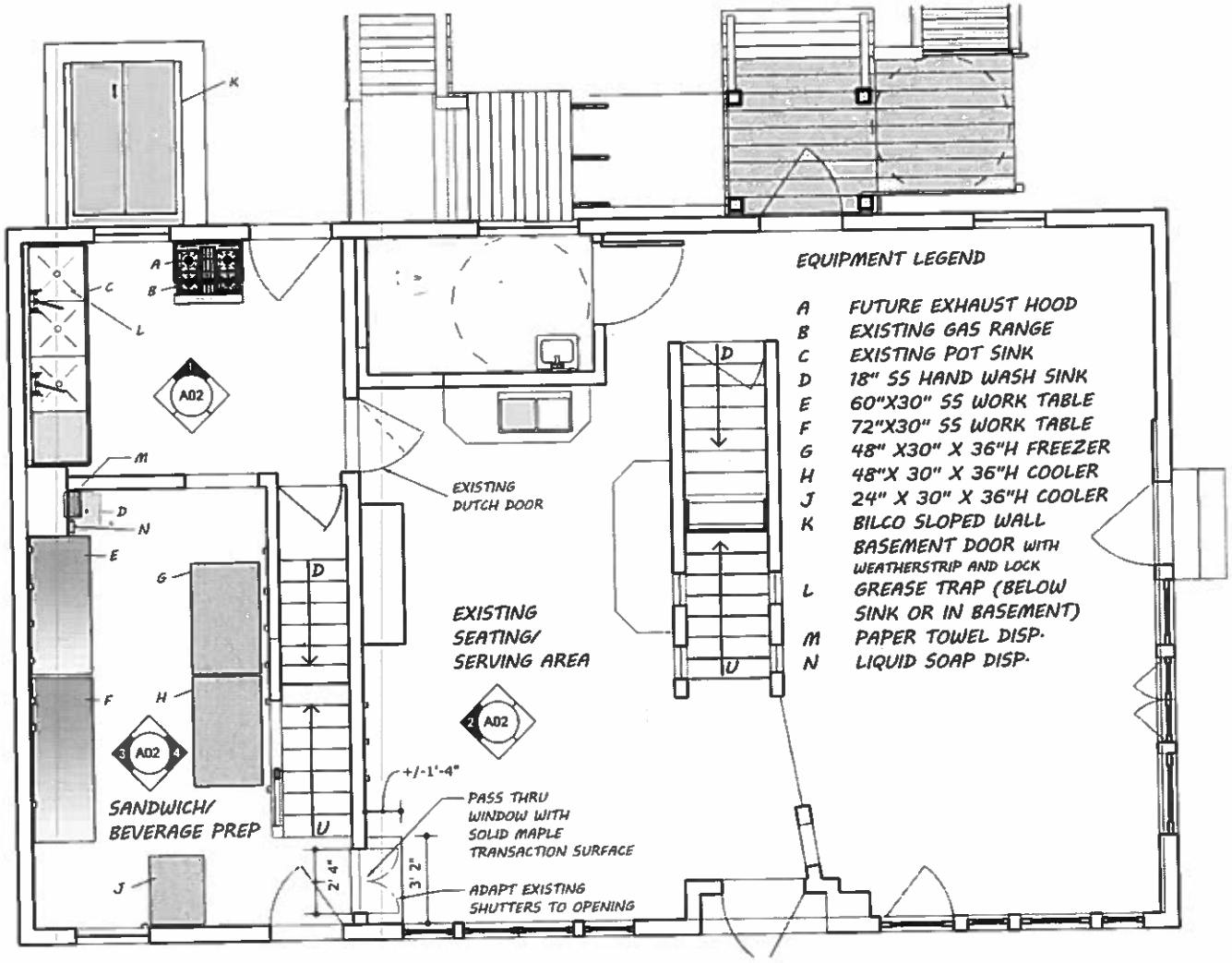
INDEX OF DRAWINGS:

COVER SHEET: SITE PLAN

A 01: FIRST FLOOR PLAN
A 02: INTERIOR ELEVATIONS
A 03: ELECTRICAL AND PLUMBING WORK



June 1, 2020



1 A01 FIRST FLOOR PLAN
Scale: 1/4" = 1'-0"

REGISTERED ARCHITECT PENNSYLVANIA FREDERICK CURTIS WATTS CA 4011

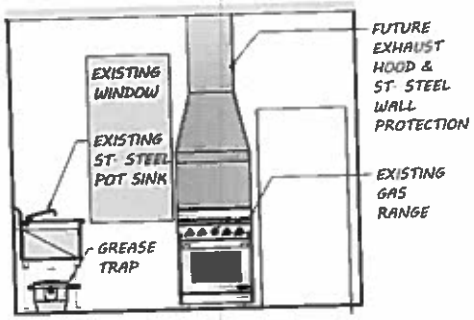
FREDERICK C. WATTS, AIA

Rev:June 1, 2020

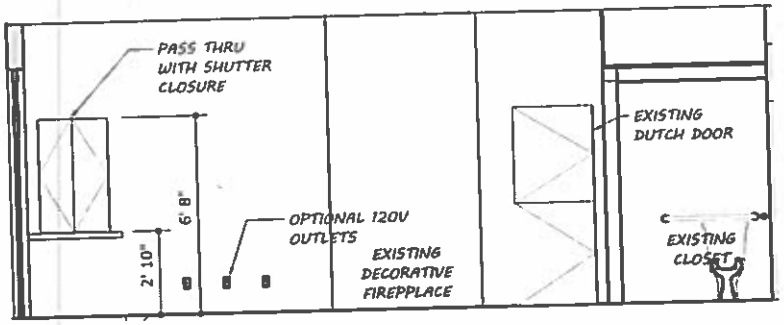
June 1, 2020

7111 and 7113 Reynolds St. Pittsburgh, PA 15208 | Point Breezeway Renovations 2020

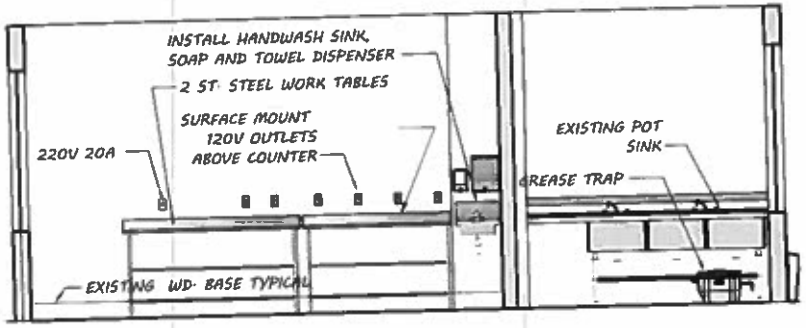
A | 01



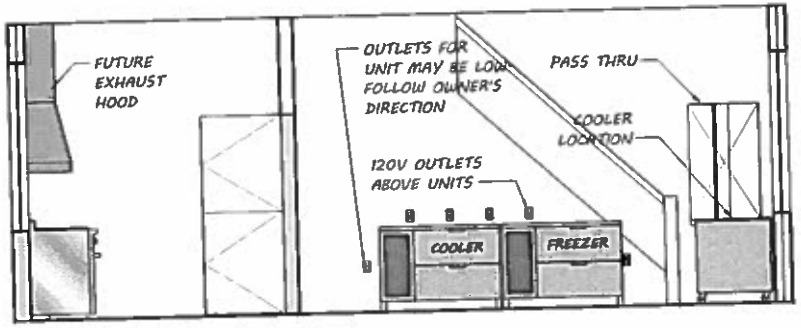
1 A03 Interior Elevation
Scale: 1/4" = 1'-0"



2 A02 Interior Elevation
Scale: 1/4" = 1'-0"



3 A02 Interior Elevation
Scale: 1/4" = 1'-0"

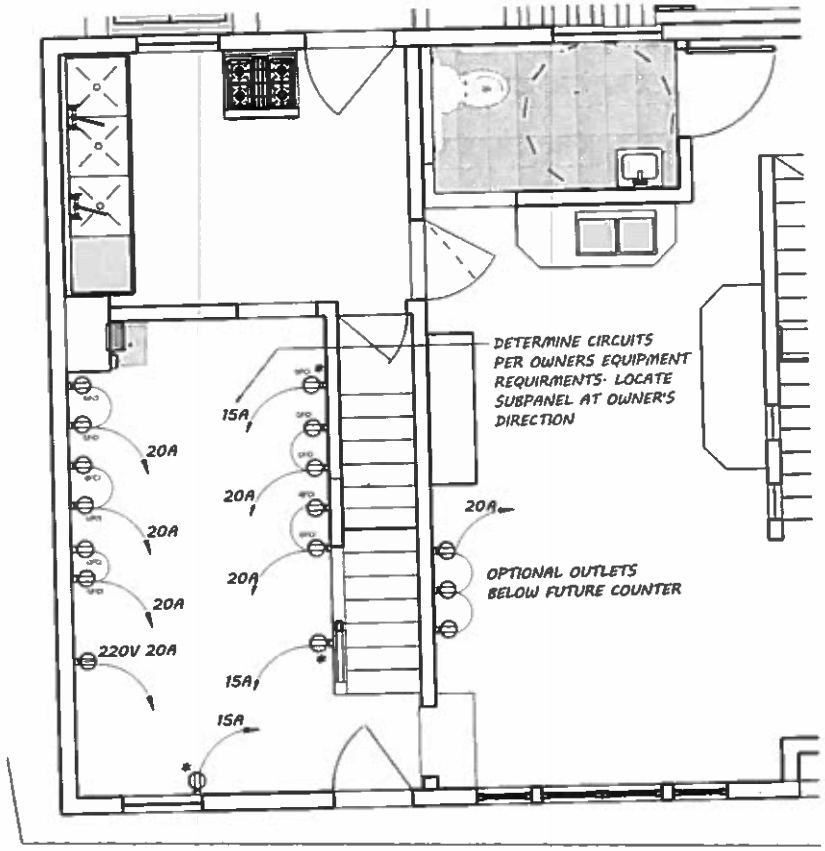


4 A02 Interior Elevation
Scale: 1/4" = 1'-0"

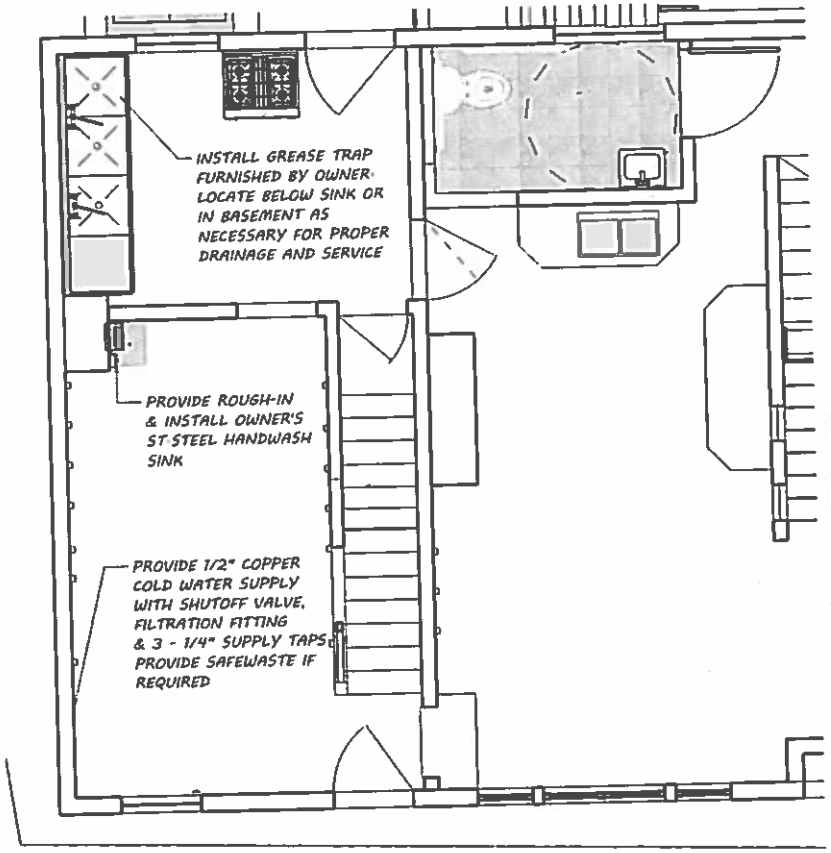
FREDERICK C. WATTS, AIA

Rev:June 1, 2020

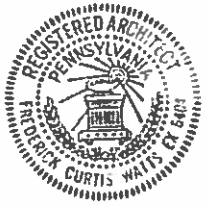
June 1, 2020



2 A03 CONCEPTUAL POWER LAYOUT
Scale: 1/4" = 1'-0"



1 A03 PLUMBING REQUIREMENTS
Scale: 1/4" = 1'-0"



FREDERICK C. WATTS, AIA

VERIFY ALL POWER REQUIREMENTS FOR OWNER'S EQUIPMENT

CERTIFICATE OF OCCUPANCY
CITY OF PITTSBURGH

Location: 7111 REYNOLDS ST
Parcel ID: 0126L00051000000 Ward: 14

Certificate Number: 17-B-01454
Date Issued: 06/05/2018

Permitted Occupancy:
USE OF THE FIRST FLOOR AS PUBLIC ASSEMBLY (LIMITED), EVENT SPACE (parking conditions per ZBA 356 of 2016)
AND USE OF A 18' RAMP AT NORTHERLY REAR OF 2.5 STORY STRUCTURE

Construction Code Edition: IEBC 2009
Construction Type: VB

Permit Number: 17-B-01454

Final Inspection Date: 05/25/2018
Use Group(s): B

Conditions: ZBA #: 356 OF 2016
Sprinkler System Provided: NONE

BOA #: N/A

L&I AB#: N/A
HRC#: N/A

Owner: INSERRA DENNIS
7113 REYNOLDS ST
PITTSBURGH, PA 15208

Lessee:

Permission is hereby granted for the occupancy described above.

HURLESS

BCO, Department of Permits, Licenses, and Inspections

Division of Development Administration and Review
City of Pittsburgh, Department of City Planning
200 Ross Street, Third Floor
Pittsburgh, Pennsylvania 15219

ZONING BOARD OF ADJUSTMENT

Date of Hearing: December 1, 2016
Date of Decision: March 9, 2017

Zone Case: 356 of 2016
Address: 7111-7113 Reynolds Street
Zoning Districts: R1D-L
Ward: 14
Neighborhood: Point Breeze

Owner/Applicant: Dennis Inserra

Request: Use of the first floor of the existing structure as public assembly (limited), event space.

Special Exception	921.02.A.4	Change from a one nonconforming use to another is a Special Exception

Appearances:

Applicant: Dennis Inserra, Lauren McMillen, Hilary Taylor, Esq.

In-favor: Gerarld T. Coyle, Mary Beth Doheny

Opposed: Paul Steif, Michelle Collins, Courtney Petrov, Oksana Olkhouyx, Lisa Clark, Beverly Doyle

Observing: Dan Laughlin

Findings of Fact:

1. The Subject Property is located at 7111 and 7113 Reynolds Street in an R1D-L (Residential Single-Unit Detached, Low-Density) District in Point Breeze, at the entrance to the LeRoi Road cul-de-sac.

2. A two-and-one-half-story structure is located on the Subject Property. A May 18, 1973 Certificate of Occupancy permits use of the building as "2 family dwelling and antique sales in storeroom on first floor."

3. Several other properties, within the same block of Reynolds Street and also within the R1D District, are used for nonconforming commercial uses, including a local market and an automotive repair business. An elementary school, with an outdoor playing field, is located across Reynolds Street from the property. Other uses in the area include a church at the end of the LeRoi Road cul-de-sac, the Frick Museum/Clayton House and portions of Frick Park and Homewood Cemetery.

4. At issue here is the Applicant's request to use the first floor of the building on the Subject Property and an adjacent outdoor patio space as a venue for events including baby and bridal showers, luncheons, workshops and weddings.

5. The Applicant acknowledged that he had renovated the first floor space for this use and, although aware of the need for zoning review, has used it for events since 2014, without seeking the required zoning approval.

6. The Applicant now asserts that the event space use should be deemed appropriate as the change of a nonconforming use.

7. The Applicant provided evidence that first floor space had been used for a number of commercial uses since 1975, including antique sales, as permitted in the 1973 Certificate of Occupancy, video game rentals, a sewing shop, a prop rental shop, a massage therapy office, an artist's studio and small public gatherings. The permitted two unit residential use also does not conform in the R1D-L District.

8. The event venue business, as operated without approval, has resulted in a number of impacts on the neighborhood.

9. In the course of this proceeding, the Applicant offered the following operational restrictions:

- **Number of guests**: Not to exceed 65;
- **Hours of operation**: All operations to end no later than 10 p.m. (including clean-up);
- **Music**: Acoustic and amplified music permitted; no dance floors or disc jockeys permitted;
- **Food Preparation**: No food preparation on-site; limited use of food trucks, parked on Reynolds Street; and
- **Parking**: Reliance on on-street parking, with a parking attendant to direct guests away from residential streets and the potential for an agreement to allow parking in Homewood Cemetery.

10. Several residents of the neighborhood offered support for the Applicant's proposed use.

11. A number of neighboring residents appeared at the hearing to oppose the use, citing specific examples of the detrimental effects from the ongoing and unauthorized event space use, including noise, parking and traffic impacts.

12. Although some testimony indicated that the use of the first floor space had changed over the years and that it may have been used on a more limited basis at some times, no substantial evidence was presented of an intent to abandon or actual abandonment of the mixed residential and commercial use permitted under the 1973 Certificate of Occupancy.

Conclusions of Law:

1. The Applicant seeks a special exception pursuant to Code Section 921.02.A.4, which authorizes the Board to allow a change from one non-conforming use to another.

2. In addressing a request to change a nonconforming use under Section 921.02.A.4, the Board is to consider the general character of the proposed use, as compared to the permitted nonconforming use and is to determine whether it is more or less intensive than the permitted use based on several factors, including hours of operation; the number of parking spaces provided; the number of employees; the physical size of the building relative to surrounding buildings; design characteristics of building relative to design features of surrounding buildings; and traffic generation. The Board is also to consider the general criteria for special exceptions set forth in Code Section 922.07.D.

3. Under Pennsylvania law, a special exception, unlike a variance, is a form of a permitted use. By designating a use as a "special exception," the governing body has determined that the use is one that is appropriate in the zoning district and is thus presumptively consistent with the promotion of health, safety, and general welfare. *Bray v. Zoning Board of Adjustment*, 410 A.2d 909 (Pa. Commw. Ct. 1980); *In re Brickstone Realty Corp.*, 789 A.2d 333 (Pa. Commw. Ct. 2001).

4. A nonconforming use is one that existed before the enactment of a new zoning restriction, with which the use does not conform. Robert S. Ryan, *Pennsylvania Zoning Law and Practice*, § 7.1.1. A nonconforming use creates a vested property right in the landowner. *Pappas v. Zoning Bd. of Adj. of the City of Philadelphia*, 589 A.2d 675, 676 (Pa. 1991), citing *Gross v. Zoning Bd. of Adj. of the City of Philadelphia*, 227 A.2d 824, 827 (Pa. 1967); *see also Domeisen v. Zoning Hearing Bd. of O'Hara Twp.*, 814 A.2d 851, 856 (Pa. Commw. Ct. 2003).

5. Property rights in a nonconforming use cannot be abrogated unless the use is intentionally "abandoned." *Metzger v. Bensalem Twp. Zoning Hearing Bd.*, 645 A.2d 369, 370 (Pa. Commw. Ct. 1994). The protections afforded to nonconforming uses are of "constitutional dimension." *Smalley v. Zoning Hearing Bd. of Middletown Twp.*, 834 A.2d 535, 539 (Pa. 2003). Nonconforming uses are allowed to continue because to provide otherwise would allow a new zoning ordinance to work an uncompensated deprivation of property interests. *Smalley*, 834 A.2d at 539; *see also Jenkintown Towing Serv. v. Zoning Hearing Bd. of Upper Moreland Twp.*, 446 A.2d 716, 718 (Pa. Commw. Ct. 1982), quoting *Silver v. Zoning Bd. of Adj.*, 255 A.2d 506, 507 (Pa. 1969).

6. Abandonment of a nonconforming use cannot be established "by mere proof of a failure for a time to use the property or of a temporary use of the property not inconsistent with an intention to use it for the original purpose." *Pappas*, 589 A.2d at 677, *citing Appeal of Twp. of Upper Darby*, 138 A.2d 99 (Pa. 1958), *citing Haller Baking Co.'s Appeal*, 145 A. at 77, 79 (Pa. 1928); *see also Estate of Barbagallo v. Zoning Hearing Bd. of Ingram Borough*, 544. A.2d. 1171, 1173 (Pa. Commw. Ct. 1990) (Actual abandonment of a non-conforming use cannot be inferred from or established by a period of non-use alone; it must be shown by the landowner's overt acts or failure to act).

7. Here, the Applicant presented sufficient evidence to demonstrate that the use of the property for a 2-unit residential use, with a limited commercial use on the first floor, was nonconforming and was not abandoned. Some of the objectors also acknowledged that the property had been used for limited commercial uses and they did not prove an intent to abandon or actual abandonment of the nonconforming use of the property.

8. However, the Applicant, who was aware of the need for zoning approval, converted the property for use as an event space and began operation of that business, without seeking the necessary review and approval. Had the Applicant sought review at the outset, the detrimental impacts of operating an event business, in the context of the residential neighborhood, could have been addressed before they were imposed on the neighborhood. From the credible testimony the neighboring residents presented, it is clear that the Applicant gave little consideration to the impacts of the business on the surrounding area, particularly with regard to parking and noise.

9. The Board also recognizes that the area is zoned R1D-L but that a number of non-residential uses are located in the immediate vicinity of the Subject Property. These uses, in addition to the event space use, all contribute to noise, traffic and parking issues in the area.

10. For these reasons, the Board concludes that approval of the special exception to allow the change of a nonconforming use is appropriate, subject to the following conditions:

- **Number of guests**: Not to exceed 65;
- **Number of events**: Unlimited events for no more than 30 guests; no more than 2 events per week with more than 30 guests (not to exceed 65);
- **Hours of operation**: All operations to end no later than 10 p.m. (including clean-up);
- **Music**: Acoustic and amplified music permitted; no dance floors or disc jockeys permitted. Any amplification equipment must be located inside the structure and shall not be permitted outside;
- **Food Preparation**: No food preparation on-site permitted; Food trucks shall only be permitted for events with more than 30 guests, and must cease operations by 9 p.m.
- **Parking (for events for no more than 30 guests)**: A parking attendant must direct guests away from residential streets; and
- **Parking (for all events for more than 30 guests)**: Parking shall be in accordance with an enforceable off-site parking management plan that has been reviewed and approved by the appropriate City Planning personnel and shall include locations of intended off-site parking areas and documentation of authorization to use those sites. The plan may include use of off-site parking, a valet service, shuttle services and/or shared parking arrangements, depending on the size of event and the location of the off-site parking areas. Any off-site parking management plan may be updated from time to time and the City may require revision of the plan, as necessary.

Decision: **The Applicant's request for a special exception to change one nonconforming use to another pursuant to Section 921.02.A.4, is APPROVED, subject to the following conditions:**

- **Number of guests**: Not to exceed 65;
- **Number of events**: Unlimited events for no more than 30 guests; no more than 2 events per week for more than 30 guests (not to exceed 65);
- **Hours of operation**: All operations to end no later than 10 p.m. (including clean-up);
- **Music**: Acoustic and amplified music permitted; no dance floors or disc jockeys permitted. Any amplification equipment must be located inside the structure and shall not be permitted outside;
- **Food Preparation**: No food preparation on-site permitted; Food trucks shall only be permitted for events with more than 30 guests, and must cease operations by 9 p.m.;
- **Parking (for events for no more than 30 guests)**: A parking attendant must direct guests away from residential streets; and

- **Parking (for all events for more than 30 guests):** Parking shall be in accordance with an enforceable off-site parking management plan that has been reviewed and approved by the appropriate City Planning personnel and shall include locations of intended off-site parking areas and documentation of authorization to use those sites. The plan may include use of off-site parking, a valet service, shuttle services and/or shared parking arrangements, depending on the size of event and the location of the off-site parking areas. Any off-site parking management plan may be updated from time to time and the City may require revision of the plan, as necessary.

Alice B. Mitinger, *Chair*

LaShawn Burton-Faulk

John J. Richardson