CITY OF CHARLES TOWN
BOARD OF ZONING APPEALS
AGENDA • APRIL 18, 2023

BZA Meeting **SMALL CONFERENCE ROOM** **7:00 PM**
101 E Washington Street, Charles Town, WV 25414

I. CALL TO ORDER

II. DETERMINATION OF QUORUM

III. APPROVAL OF MINUTES

: Board of Zoning Appeals Meeting Minutes - February 22, 2023
BZA Meeting Minutes - February 22, 2023.doc

IV. APPROVAL OF FINDINGS OF FACTS AND CONCLUSIONS OF LAW

V. PUBLIC HEARINGS

: BA2023-01: Alla Willa Road - Request for a Special Exception for a Casino
1. Staff Report.pdf
2. Application.pdf
3. Narrative.pdf
4. Site Plan.pdf

: BA2023-02: 219 N. Mildred Street - Request for a Special Exception Permit for apartments.
1. Staff Report.pdf
2. Application.pdf
3. Narrative.pdf
4. First floor unit 1 plan.pdf
5. First floor unit 2 plan.pdf
6. Second floor unit plan.pdf

VI. CONTINUED CASES

VII. OTHER BUSINESS

VIII. ADJOURNMENT

IX. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at:

https://www.charlestownwv.us/government/agendas-and-minutes/

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 04/18/23
Department: Board of Zoning Appeals
Category: Information Only
Initiator:

Board of Zoning Appeals Meeting Minutes - February 22, 2023

ATTACHMENTS:

- BZA Meeting Minutes - February 22, 2023.doc

CITY OF CHARLES TOWN

BOARD OF ZONING APPEALS

MINUTES • FEBRUARY 22, 2023

Regular Meeting **Council Chambers** **7:00 PM**

101 East Washington Street, Charles Town, WV 25414

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Locke Wysong	Chairman	Present	
James Thomas	Co-Chairman	Present	
Christopher Cox	Board Member	Absent	
Patrick Kratovil	Board Member	Present	
Steve Rogers	Board Member	Absent	

James Newman, City Planner and Mr. Mike Funk were also present at the meeting.

II. DETERMINATION OF QUORUM

A quorum was present.

III. MINUTES OF APPROVAL

1. BZA Meeting Minutes - December 20, 2022

Mr. Thomas moved to approve the minutes as presented. Mr. Kratovil seconded the motion, and it passed unanimously.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	James Thomas, Board Member
SECONDER:	Patrick Kratovil, Board Member
AYES:	Wysong, Thomas, Kratovil

IV. APPROVAL OF FINDINGS OF FACTS AND CONCLUSIONS OF LAW

There were no Findings of Facts and Conclusions of Law at this meeting.

V. PUBLIC HEARINGS

There were no public hearings at this meeting.

VI. CONTINUED CASES

There were no continued cases at this meeting.

VII. OTHER BUSINESS

1. Election of Officers

Mr. Thomas nominated Mr. Wysong for position of Chairman. Mr. Kratovil seconded the motion, and it passed unanimously.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	James Thomas, Board Member
SECONDER:	Patrick Kratovil, Board Member
AYES:	Wysong, Thomas, Kratovil

Mr. Wysong nominated Mr. Thomas for the position of Co-Chairman. Mr. Kratovil seconded the motion, and it passed unanimously.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Locke Wysong, Board Member
SECONDER:	Patrick Kratovil, Board Member
AYES:	Wysong, Thomas, Kratovil

VIII. ADJOURNMENT

Mr. Thomas moved to adjourn the meeting. Mr. Kratovil seconded the motion, and it passed unanimously.

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/18/23
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

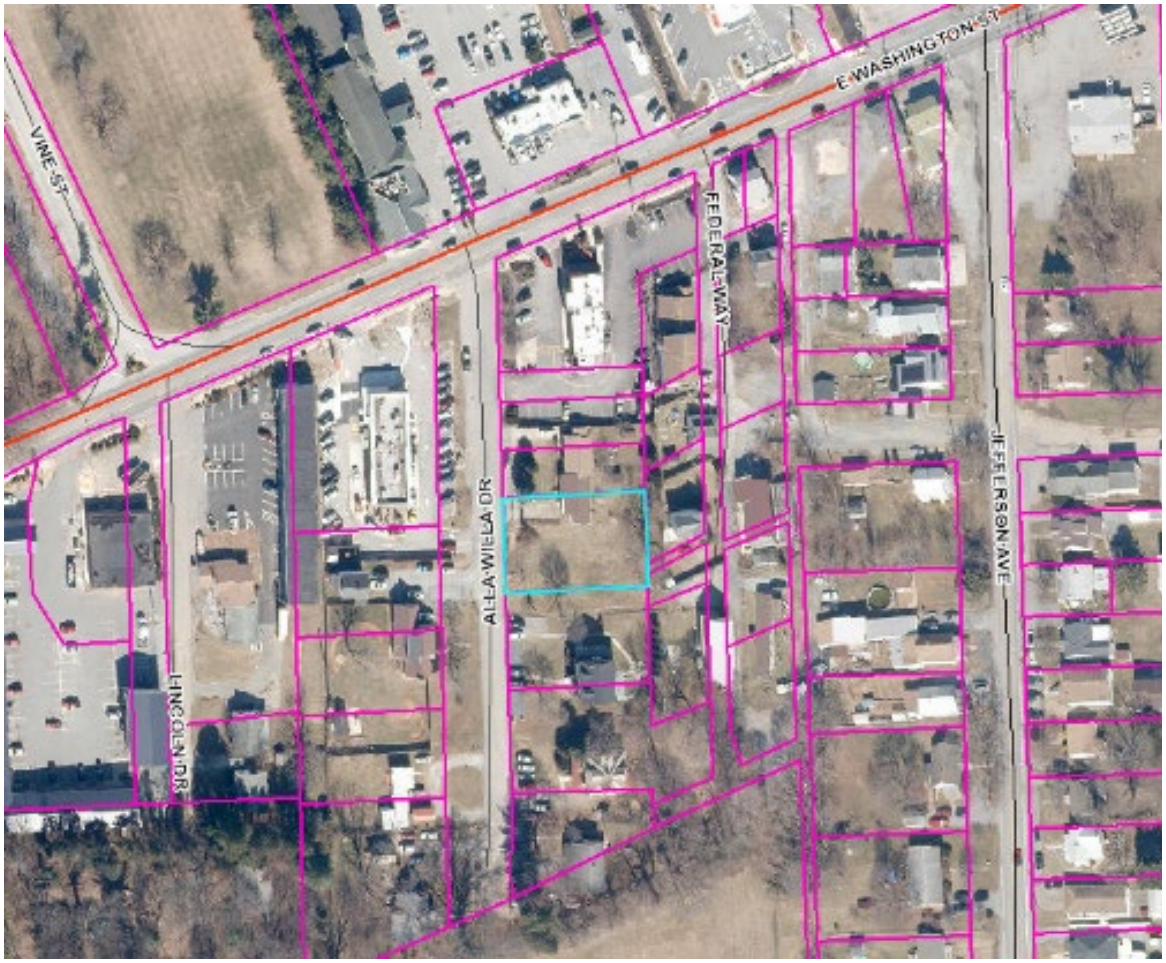
BA2023-01: Alla Willa Road - Request for a Special Exception for a Casino

ATTACHMENTS:

- 1. Staff Report.pdf
- 2. Application.pdf
- 3. Narrative.pdf
- 4. Site Plan.pdf

Public Hearing – Special Exception Use
BA-2023-01

Date: For the April 18, 2023 Board of Zoning Appeals meeting
Applicant: IRIS Property LLC
Property Owner: Shirley Rockwell
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.
Proposal: Special Exception for a casino
Property Location: TD 03 / Map: 7 / Pcl: 12, located on Alla Willa Drive.
Current Zoning: General Commercial (GC).



PROPOSAL

The applicant is seeking to build a casino on the property. The applicant owns a similar facility in the City at 106 Wall Street.

PLANNING COMMISSION

The applicant is in the process of having their land development plan reviewed by the Planning Commission. A public hearing for their sketch plan is currently scheduled for April 24th, 2023. The property, comprised of two parcels, must be merged into one parcel in order for the site to be developed per the applicant's plans. The merger process is handled by staff administratively.

SPECIAL USE OVERVIEW

Special Exception Uses are Uses that are conditionally permitted in a particular Zoning District. A Special Exception Use be may be commenced and carried on only after review by the Board of Zoning Appeals and its issuance of a Special Use Permit. The Board of Zoning Appeals shall consider a request for a Special Use Permit if the requested Use is expressly designated as a Special Exception Use in this Ordinance, or interpreted and classified as such by the Zoning Administrator, for the Zoning District in which the subject property is located.

The Board of Zoning Appeals shall issue a Special Use Permit (granting the special exception) if the required findings specified in Section 1321.11(D)(3) are made or deny issuance of a permit if all required findings cannot be made. The Board of Zoning Appeals may attach reasonable conditions to the issuance of a Special Use Permit to insure the Special Exception Use's compatibility with other Uses permitted in the Zoning District. If any conditions required or imposed as part of a Special Use Permit are not maintained or carried out or cease to exist, the Board shall revoke the Special Use Permit and the Use shall thereafter be in violation of this Ordinance.

VESTED RIGHT

A Special Use Permit shall be valid for two (2) years in the event that the use is not acted upon, or a Subdivision and/or Land Development Plan has not received approval.

REVIEW CRITERIA

In order to issue a Special Use Permit, the Board must make the following written findings regarding the Special Exception Use sought:

a. The Use will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved;

The Zoning Ordinance defines a *Nuisance* as:

A thing, act, occupation, condition or use of property which shall continue for such length of time as to:
1. Substantially annoy, injure or endanger the comfort, health, repose, or safety of the public; or
2. In any way render the public insecure in life or in the use of the property; or
3. Greatly offend the public morals or decency; or
4. Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

The property and adjacent ones are zoned for commercial use. The adjacent E. Washington Street is a major commercial thoroughfare, and nearby commercial uses include a motel and fast-food establishments.

The structure will be one-story, with a parking lot located between it and the street. Exterior lighting will be limited, and the use is required to have a buffer between it and adjacent residences.

b. ***The Use will not substantially diminish the value of Adjacent Property unless the Use is a public necessity*;**

Casinos generally have a negative impact on directly adjacent residential property. However, the value impact of a commercial use in commercial area should not have a major impact.

For comparison, every use listed in the *Retail* and *Service* use categories is permitted by-right in the General Commercial Zoning District, such as liquor stores, 24-hour convenience markets, gas stations, and car repair establishments.

c. The location and character of the Use, if developed according to the plans and information approved, will be in harmony with proximate land Uses, and consistent with the purposes of the Zoning District.

The property is zoned General Commercial. Per the Zoning Ordinance, the purpose of that district is:

"…To provide locations for businesses of a more general nature that may not be found in a neighborhood and can be served with adequate water and sewer service. The businesses proposed include retail, wholesale, and some light processing operations"

The 2040 Comprehensive Plan designates this property as *Mixed Use Commercial.* The character of the proposed use is keeping with the purpose of the zoning district, and the Comprehensive Plan, and the commercial character of the wider neighborhood.

OTHER FACTORS

Parking

Per Subdivision Ordinance Section 1333.23:

In order to decrease congestion in the Streets, permanent off-street automobile parking spaces shall be provided for (1) all new Structures or uses of land, (2) existing Structures or uses of land that are increased in size by 20 percent or more after the adoption of this Ordinance, and (3) a change of use of land after the adoption of this Ordinance.

Required parking for a casino is listed in the Subdivision Ordinance at 35.3 spaces per 1,000 sq. ft. gross floor area, plus 1.42 spaces per gaming position. A waiver from the gross floor area parking requirements will be necessary. The Planning Commission issues such waivers.

The applicant proposes to have 7-10 gaming positions. At 7 positions, the parking requirement would be 10 spaces. At 10 positions, the parking requirement would be 14 spaces. The applicant is proposing 11 on-site parking spaces.

Lighting

One exterior light is proposed, to be placed above the building entrance. Lighting must be downcast and shielded.

Building Design
Non-residential structures are subject to design criteria in Section 1333.29 *Commercial Design Review Standards*. Requirements include having primary entrances face streets, specific façade material such as brick, stone, or wood, and screening requirements for mechanical units. These are enforced at the building permit stage.

Landscaping/Buffers
A 6ft. opaque buffer is required between residential and non-residential uses. This may take the form of a fence, vegetated landscaping, or some other material.

CONDITIONS
The Board of Zoning Appeals, in issuing Special Use Permits, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other Uses in the same Zoning District.

There are two proposed conditions:

1. The site must be developed in accordance with the application, subject to the requirements of the City's Ordinances and to modification by the requirements of the Planning Commission.

2. In the event the use is discontinued for a period of two years, the use is revoked.

CONCLUSION
The application is for a Special Exception use permit for a casino. The property has commercial zoning, and the proposed use is in keeping with the broader commercial character of the area, though directly adjacent uses are primarily residential. The proposed structure will be one story, with a parking lot between the structure and the road.

RECOMMENDATION
Approval subject to conditions.

BZA Special Exception No. _____

Board of Zoning Appeals

Application for Special Exception

To assist staff in the review of a special exception application to the Board of Zoning Appeals (BZA), the applicant must supply all of the information contained in this application form. This application must be signed by **all owners** of the real estate which is the subject of the application. The owners may designate one or more professional agents to represent them in the application process using the spaces provided on this form.

Incomplete applications will be subject to scheduling delay. Applicants are encouraged to meet with staff prior to filing. A public hearing will be scheduled within 45 days of the receipt of a completed application.

Approval of a special exception by the BZA does not relieve the applicant from other requirements including, but not limited to, sign(s), building, zoning and use permits or site plans.

As part of this application, the following must be provided:

1. $150.00 Application Fee.

2. A plat or building location survey of the subject property drawn to scale (see requirements below on Page 3 or Page 4).

3. As applicable, Building Permit, Zoning Permit, and Sign Permit Applications. Site plans (where applicable) may be submitted after the BZA application has been approved at the public hearing.

It is the **applicant's responsibility** to make a good-faith effort to provide the Zoning Administrator, as applicable, with a current list containing the accurate names and mailing addresses of all interested parties. For purposes of this provision, "interested parties" shall mean Landowners of Adjacent Property. The applicant shall provide the addresses in order to comply with Section 1321.10.G of the Zoning Ordinance.

Legal Notices

The following shall occur at least 15 days prior to the Public Hearing: notice of the hearing shall be advertised by the Board of Zoning Appeals as a Class I legal advertisement in the local newspaper, posting of a sign upon the property, and letters to adjacent and confronting land owners within 100 feet of the subject property.

Definition of a Special Exception Use

A Use conditionally permitted in a particular Zoning District under this Ordinance that may be undertaken only following the issuance of a Special Use Permit by the Board of Zoning Appeals pursuant to standards and criteria established in this Ordinance.

The Charles Town Zoning Ordinance

To grant a Special Exception Use as permitted in the Zoning Ordinance, the Board of Zoning Appeals makes findings as specified in Section 1321.11(D)(3).

In order to issue a Special Use Permit, the Board must make the following written findings regarding the Special Exception Use sought and **all** of the following can be met:

1. The Use will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved;
2. The Use will not substantially diminish the value of Adjacent Property unless the Use is a public necessity; **and**
3. The location and character of the Use, if developed according to the plans and information approved, will be in harmony with proximate land Uses, and consistent with the purposes of the Zoning District.

BZA Special Exception No. _____

Site/Plat Requirements

As Detailed in 1332.04(D) of the Subdivision Ordinance

A plat or building location survey must contain the following information in order for the property to be thoroughly evaluated for a Special Exception:

1. Plat must be drawn to scale (Can be hand drawn).
   a. Existing conditions/structures on the site
   b. Location/arrangement of proposed uses, *as applicable*.
2. Name of Engineer, Surveyor, or Architect who prepared plat*, if applicable*.
3. Signature and Seal of Engineer, Surveyor, or Architect, *if applicable*.
4. Date of plat and dates of any revisions.
5. Legend/Table on plat listing the following:
   a. Name of Proposed Project.
   b. Zoning of Subject Parcel.
   c. Tax Map and Parcel Number.
   d. Parcel Address.
   e. Owner/Applicant's name and address.
   f. Scale.
6. North arrow.
7. Size of parcel.
8. Names of adjacent streets.
9. Site/Development layout, *as applicable*:
   a. Maximum and proposed density.
   b. Location of proposed Street layout, including connections to adjoining streets or vacant lots.
   c. The location of sidewalks, trails and crosswalks.
   d. General layout of any proposed number of Lots, average Lot sizes and any proposed commercial uses, including any associated parking. Include proposed height of structures.
   e. Proposed open space and/or recreation areas, including notes on the plan describing the proposed use, activity area and/or improvement.
   f. Parking spaces/parking lots with calculations showing what is required and proposed.
   g. Landscaping as required in the Zoning Ordinance.
10. Site/Development utilities, *as applicable*:
    a. Available utilities.
    b. All existing sanitary sewer facilities and combined sewer facilities.
    c. Depict location or statement of proposed water and sewer supply and other utility improvements.
11. Existing covenants, *if applicable*.
12. List with any documentation of any previously approved variances, special exceptions, appeals, court decisions, conditions, proffers, or waivers granted for the subject property.
13. Any other information requested by the Subdivision Administrator in order for the Subdivision Administrator to make an accurate determination.

BZA Special Exception No. _____

1. DATE _____ 1/19., 20 23

2. APPLICANT'S NAME* IRIS Property LLC

   Address: 1927 Rock Cliff Dr Martinsburg WV 25401

   Telephone Number (304) 279-4747 Fax Number (___)

   Email Address hadavand1979@gmail.com

3. PROPERTY OWNER'S NAME shirley rockwell

   Address: _____

   Telephone Number (___) Fax Number (___)

   Email Address _____

4. LEGAL DESCRIPTION OF THE SUBJECT PROPERTY (List all parcels that apply)

   Property Address: _____

   Tax Map # and Parcel(s): _____

   Deed Book and Page #: lot 3a and 4a deed book 390 page 85

   Property Area in Square Feet or Acres: _____

What is this request for?

[ ] Home Occupation, Major
[ ] Bed and Breakfast
[ ] Child Care Center
[ ] Apartments/Condominiums/Townhouses
[ ] Adult Day Care Center/Assisted Living/Attached Senior Housing/Congregate Care Facility/ Continuing Care Retirement Community/Group Home
[ ] Liquor Store
[x] Casino/Video Lottery
[ ] Other;_____

5. DESCRIPTION OF THE EXISTING (OR FORMER) USE(S) OF THE PROPERTY AND CURRENT ZONING:

pretty sure it's commercial zoning and there is just land there now.

*Applicants include: Property owner(s), Engineer(s), Surveyor(s), or Consultant(s)

6. DESCRIPTION OF THE PROPOSED USE(S) OF THE PROPERTY: (Include the hours of operation and the activities to be conducted on the site. Be as specific about your proposed use as possible.)

IRIS Property LLC intends to build a building and to lease to Julia's which is a slot machine parlor. Julia's will be open 7am to 3am.

7. LIST THE APPLICABLE SECTION(S) OF THE CITY OF CHARLES TOWN ZONING ORDINANCE FOR WHICH THE SPECIAL EXCEPTION USE IS BEING REQUESTED:

8. IS THIS REQUEST CONSISTENT WITH THE PURPOSES AND INTENT OF THE CITY OF CHARLES TOWN ZONING ORDINANCE? Why or why not?

Yes it is.

9. PLEASE DESCRIBE HOW THE PROPOSED USE WOULD AFFECT TRAFFIC CONDITIONS SURROUNDING THE SUBJECT PROPERTY:

We only need 1-10 customers at a time so traffic will be very minimal.

10. PLEASE DESCRIBE HOW THIS PROPOSED USE WOULD CHANGE THE EXISTING LAND USE CHARACTERISTICS: (i.e. – from residential to incidental home occupation.)

The land is currently unoccuppied. It will change from that to a slot parlor.

11. JUSTIFICATION FOR THE REQUEST:

A) The Use will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved;

Julia's customer base is 30 year olds to senior citizens. These customers like a quiet environment where they just go and sit down and play machines without being bothered.

B) The Use will not substantially diminish the value of Adjacent Property unless the Use is a public necessity; and

This will not happen. Julia's has another location on E wall st next to the police department. They have not bothered any customers or police during the time they have been open there.

C) The location and character of the Use, if developed according to the plans and information approved, will be in harmony with proximate land Uses, and consistent with the purposes of the Zoning District.

Yes

12. PLEASE DESCRIBE ANY PROPOSED WORK TO BE DONE TO THE PROPERTY: (i.e. – new structures, building additions, ADA compliance, etc.)

Will have a new building with ada compliance bathrooms and entrances.

13. HOW WOULD GRANTING THE SPECIAL EXCEPTION AFFECT THE FOLLOWING?

a. The number of people residing or working in the immediate area and the orderly growth of the community?

No change.

b. The most appropriate use of land and structure?

Slot parlor

c. The peaceful enjoyment of people in their homes and the conservation of property values?

No change

d. The use of surrounding property and property values caused by the existence of odors, dust, gas, smoke, fumes, vibrations, glare, and noise?

No change

14. HAS THE PROPERTY BEEN THE SUBJECT OF ANY COURT ACTION?

☐ Yes (Please specify nature of all proceedings and current status and attach any documents showing court decisions, etc.)

☒ No

15. PARCEL HISTORY (List all pending or previously approved applications on the subject parcels inventoried above, including previous site plan applications if this application is a site plan amendment)

Application No.	Project Name and Phase	Status	Approval Date
NONE			

16. INTERESTED PARTY ADDRESSES, FOR PUBLIC NOTICE (including across street) (Interested parties are defined as adjacent properties within 100 feet).

Owner	# and Street	City, State, Zip
Wendy	764 East Washington	St. charles town wv
McDonalds	732 E Washington St	Charles Town, WV 25414

RECEIVED

FEB 28 2023

BY:_____

FEBRUARY 27,2023

LOTS 3A & 4A ALLA WILLA DRIVE

I, SHIRLEY J. ROCKWELL DO HEREBY GRANT ALI HADAVAND AUTHORIZATION TO APPLY FOR A SPECIAL EXCEPTION USE FOR MY LOTS 3A & 4A, MAP 7 PARCEL 12 ON ALLA WILLA DRIVE IN CHARLES TOWN, WV 25414

SHIRLEY J. ROCKWELL Shirley J. Rockwell

111 ALLA WILLA DRIVE

CHARLES TOWN, WV 25414

OFFICIAL SEAL
STATE OF WEST VIRGINIA
NOTARY PUBLIC
JACKIE SMITH
28 MILLWRIGHT ROAD
KEARNEYSVILLE, WV 25430
MY COMM. EXP. SEPTEMBER 24, 2023

BZA Special Exception No. _____

APPLICANT CERTIFICATION

I certify that, to the best of my knowledge, the submitted information and statements are true and correct. I also certify that I have received and read Article 1321 and relevant provisions of the Charles Town Zoning Ordinance outlining the City's Board of Zoning Appeals application and approval procedures.

Signature of Applicant

_____ Date 1/19/2023

Signature of Owner(s) (If different than Applicant)

_____ Date _____

Please submit an original completed petition to the following:

Zoning Administrator
City of Charles Town
101 E. Washington Street
Charles Town, WV 25414

FOR CITY USE ONLY

Application Number:_____ Date Application Received:_____

Zoning District: _____

Fee: $_____ Check No._____ Receipt No._____

BZA Hearing Date:_____ Decision:_____

Comments:_____

_____

_____

_____

_____

From: ali hadavand
To: James Newman
Subject: narative
Date: Tuesday, February 28, 2023 10:21:25 AM

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2) I would only have 1 person working during each of the 3 shifts. The only time I would have 2 people there is during shift change.

3) My ***"Julia's"*** locations are strictly for gambling. We do offer food and drinks too. We only give out a maximum of 2 drinks. The locations are super quiet. My employees are told to not bother the customers and leave them alone on the machines. We don't partake in the "bar scene" and it's not a typical bar.

4) I currently have another Julia's in Charles town in a area where there is residential housing next to it and we have had a complaint from anyone there. Our lighting is directed only towards our parking lot to make sure customers do not trip or are not scared at night. You can not hear anything from the outside of slot parlors, it's totally quiet. There will be light traffic coming in and out as we only cater to a limited number of customers at a time. We don't handle any waste material so there is no concern for smell.

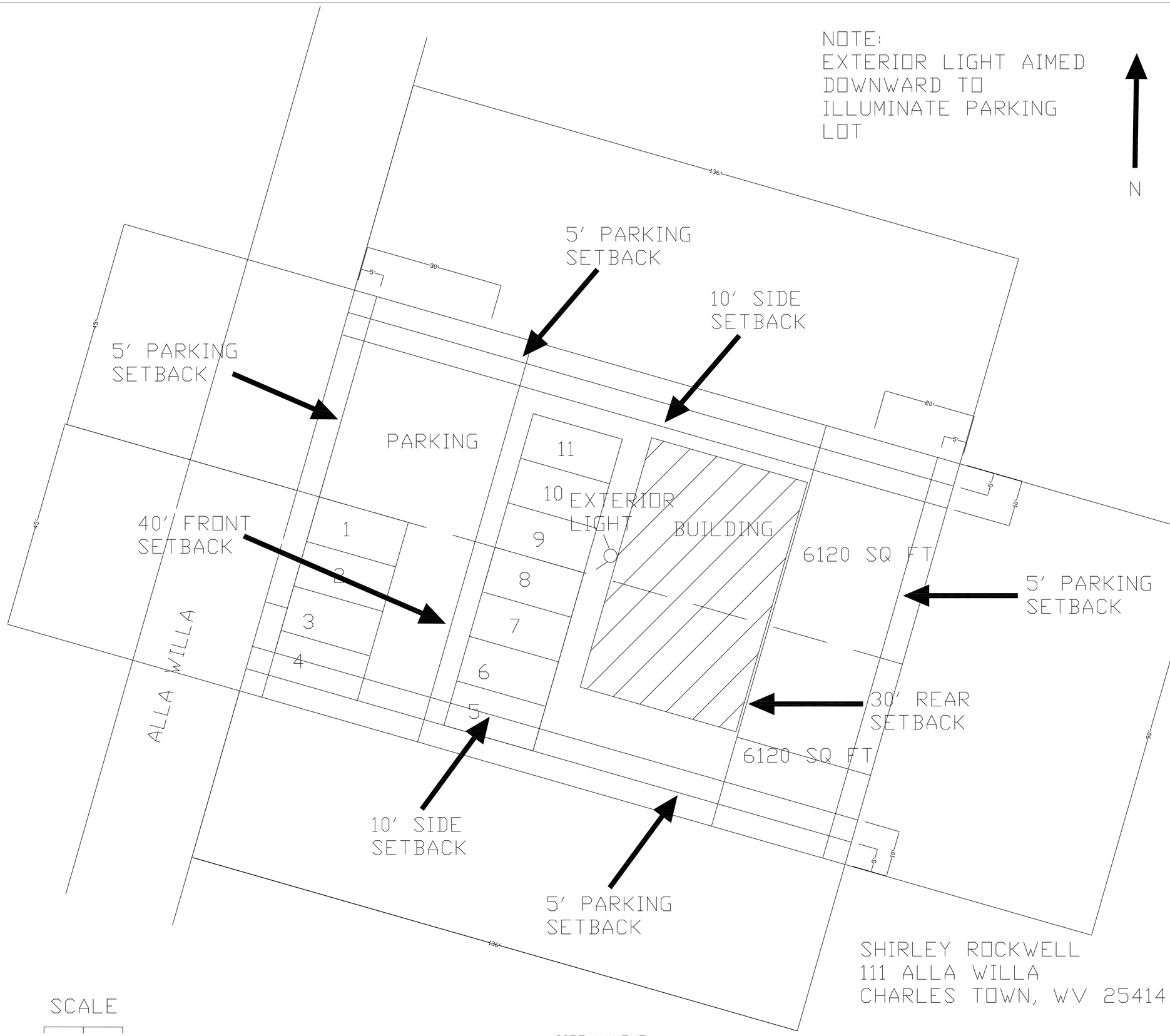
5) In order to build our building on this property we will need to merge the lots so we will be merging them.

Ali Hadavand
304-279-4747
https://www.linkedin.com/in/ali-hadavand-b21b705

Patient Care Transportation - COO
http://patienttrans.com/site/index.html
https://m.facebook.com/patientcaretrans/

RydeWizz - Founder/Owner
http://www.rydewizz.com/
https://www.facebook.com/RydeWizz-105677941167297/

Dice LLC - Founder/Owner
Beware - This email comes from outside the City of Charles Town.



SITE LAYOUT

GENERAL COMMERCIAL ZONING

DISTRICT 3, TAX MAP 7, PARCEL 0012

DATE: FEBRUARY 24, 2022

ENGINEER:

JIM GOLDEN
304-261-4931

SEALS



2/27/2023

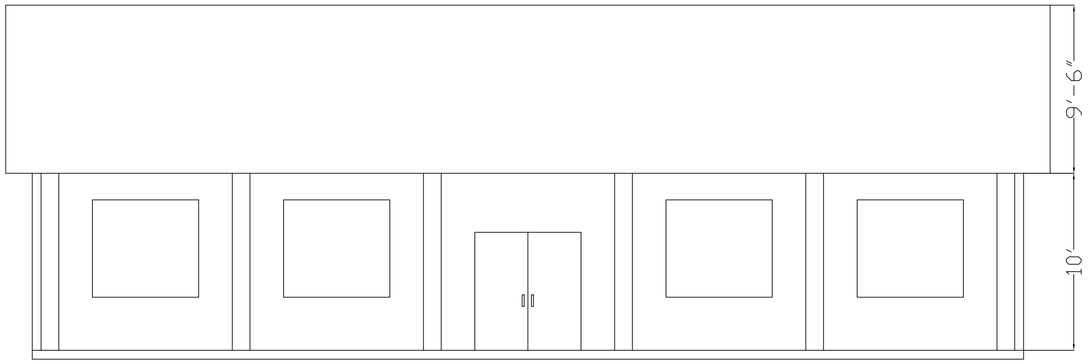
ADDRESS:
ALI HADAVAND
316 FONTANA CIRCLE
MARTINSBURG, WV 25401

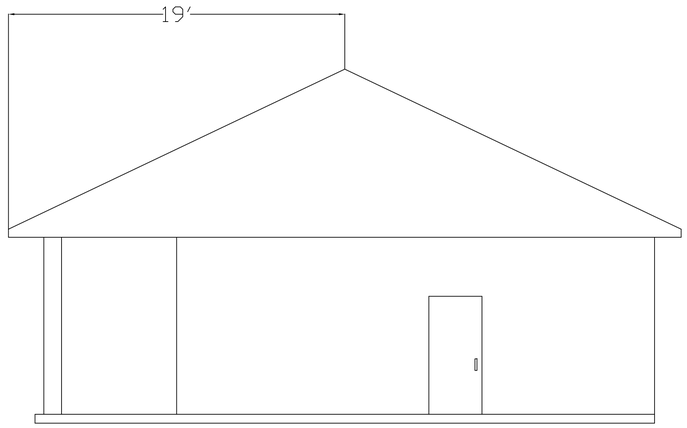
REVISIONS

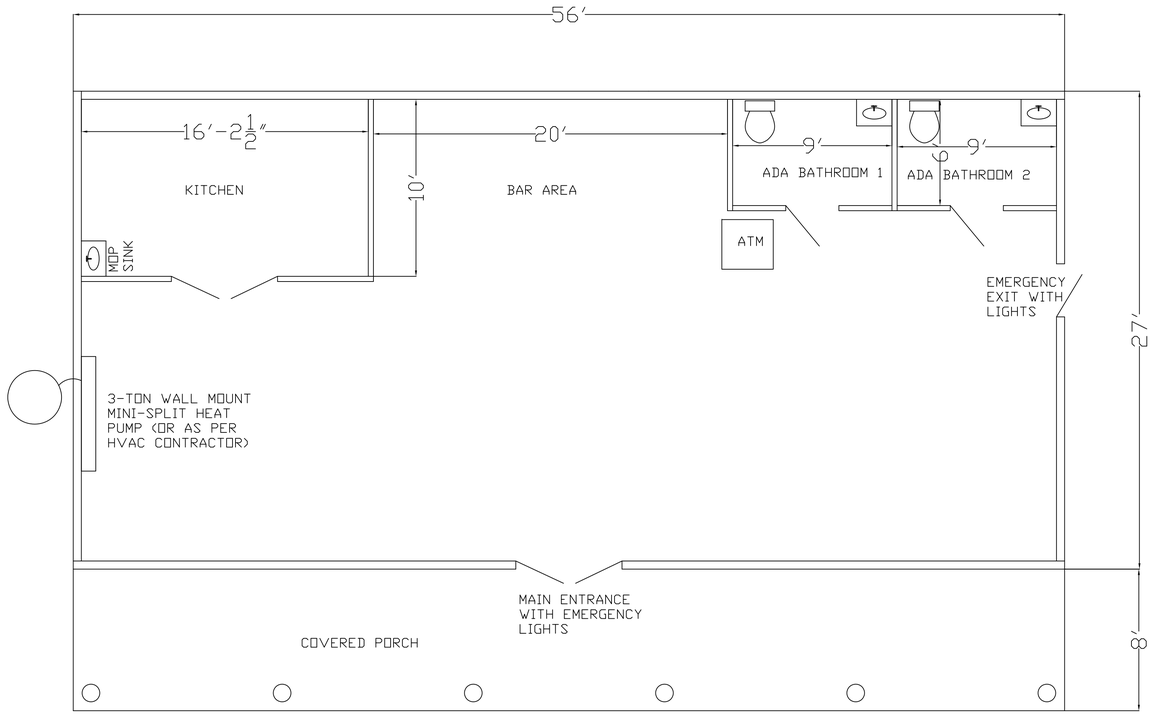
DATE	REMARKS

NOTES

SITE







CASINO

DESCRIPTION:

27′ X 56′ BUILDING
8′ COVERED PORCH

DOUBLE DOORS ON FRONT
SIDE EMERGENCY DOOR
EMERGENCY SIGNAGE AND LIGHTS ON BOTH
ALSO OUTDOOR EMERGENCY LIGHTS

SMOKE/CO DETECTION AS REQUIRED
SPRINKLERED AS REQUIRED

TWO ADA BATHROOMS
ATM AREA
KITCHEN WITH MOP AREA
BAR AREA

THE REST IS OPEN

WINDOWS AS DESIRED.

2X6 WALLS WITH R-20 INSULATION

TRUSS ROOF WITH R-49 INSULATION
TRUSSES BY OTHERS.

ROOF PITCH = 6/12

BUILDING WILL BE FULLY SHEETED WITH $\frac{3}{4}$″
PLYWOOD FOR LATERAL BRACING.

DATE: JANUARY 24, 2022

ENGINEER:

JIM GOLDEN
304-261-4931

SEALS



1/24/2023

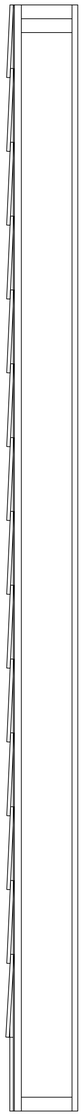
JOB ADDRESS:
ALI HADAVAND
ALLA WILLA
CHARLES TOWN, WV 25414

REVISIONS

DATE	REMARKS

NOTES

S1



EXTERIOR WALL DETAIL

2X6 @ 16" CENTERS

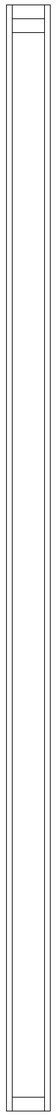
¾" PLYWOOD EXTERIOR SHEETING

TYPAR HOUSE WRAP

SIDING

R20 FIBERGLASS INSULATION

⅝" THICK FIRE RATED SHEET ROCK INSIDE



INTERIOR WALL DETAIL

2X4 @ 16" CENTERS

R15 FIBERGLASS SOUND INSULATION

⅝" THICK FIRE RATED SHEET ROCK INSIDE

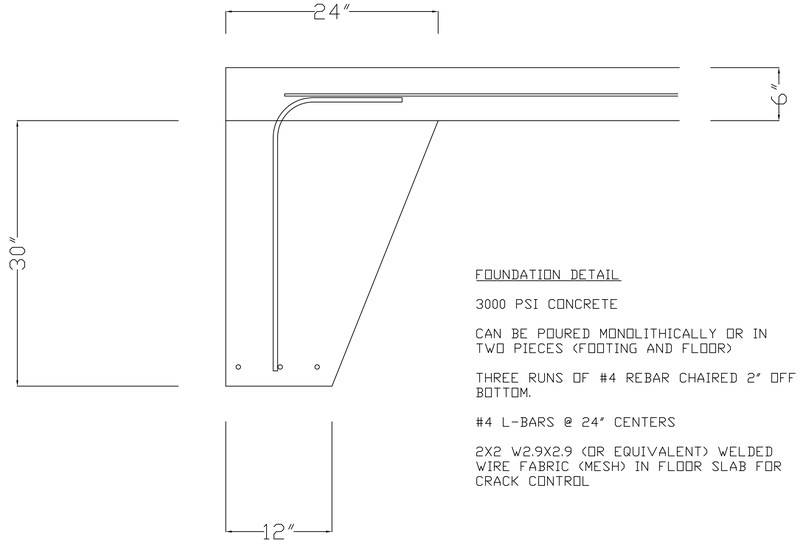
NOTES:

HEADERS

DOOR AND WINDOW HEADERS WILL BE WEYERHAUSER 14"X5.25" VERSA-LAM 3100 2.0 OR EQUIVALENT.

ROOF TRUSSES

ROOF TRUSSES ON 24" CENTERS, DESIGN AS PER TRUSS SUPPLIER.



FOUNDATION DETAIL

3000 PSI CONCRETE

CAN BE POURED MONOLITHICALLY OR IN TWO PIECES (FOOTING AND FLOOR)

THREE RUNS OF #4 REBAR CHAIRED 2" OFF BOTTOM.

#4 L-BARS @ 24" CENTERS

2X2 W2.9X2.9 (OR EQUIVALENT) WELDED WIRE FABRIC (MESH) IN FLOOR SLAB FOR CRACK CONTROL

DETAILS

DATE: JANUARY 24, 2022

ENGINEER:

JIM GOLDEN
304-261-4931

SEALS



1/24/2023

JOB ADDRESS:
ALI HADAVAND
ALLA WILLA
CHARLES TOWN, WV 25414

REVISIONS

DATE	REMARKS

NOTES

S2

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/18/23
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

BA2023-02: 219 N. Mildred Street - Request for a Special Exception Permit for apartments.

ATTACHMENTS:

- 1. Staff Report.pdf
- 2. Application.pdf
- 3. Narrative.pdf
- 4. First floor unit 1 plan.pdf
- 5. First floor unit 2 plan.pdf
- 6. Second floor unit plan.pdf

Public Hearing – Special Exception Use
BA-2023-02

Date: For the April 18, 2023 Board of Zoning Appeals meeting
Applicant: Alexander Salgado
Property Owner: Zales Construction, LLC.
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.
Proposal: Special Exception for apartments/multifamily units
Property Location: 219 N. Mildred St. Property is located at the intersection of North Street ad North Mildred Street. Tax Map 2, Parcel 138, Deed Book 1224, page 505.
Current Zoning: Old Town Residential (OTR) and Historic Overlay District (HOD)



PROPOSAL
The applicant is seeking to build three dwelling units in the structure. This use is best classified as Apartments in the Zoning Use Table, and defined as multi-family dwellings in the Zoning Ordinance.

HISTORIC SURVEY BUILDING INFORMATION: Old Charles Town Historic District.
221 N. Mildred Street. (Including 219, 217, and 216 N. Mildred Street). Antiques store. Formerly general store with hotel and rooming house above. Three stages of construction, all in the federal/ Adam center hall I-house motif. Standing seam metal roof, clapboard siding 2/2 double-hung sash, foundation

obscured, but probably stone. One and two story sections with boarded over store front. This locale served passengers traveling along the original stage route into Charles Town, and later the Winchester and Potomac Railroad depot. Construction began in 1842, with additions in 1846, 48, 50, and later. Original balcony and railings lost. Building is located at the intersection with North Street, and abuts the Webb property. Circa 1840. Four contributing buildings.

HISTORIC LANDMARKS COMMISSION REVIEW

On February 13, 2023, the Historic Landmarks Committee approved a request by the applicant to clad the exterior of the building in fibrous cement board, with two conditions:

1. The material be narrow ,textured fiber cement siding around the entirety of the structure.
2. Restoration of the architectural awning on the North Mildred Street side of the building.

The proposed Special Use is compatible with those conditions.

SPECIAL USE OVERVIEW

Special Exception Uses are Uses that are conditionally permitted in a particular Zoning District. A Special Exception Use be may be commenced and carried on only after review by the Board of Zoning Appeals and its issuance of a Special Use Permit. The Board of Zoning Appeals shall consider a request for a Special Use Permit if the requested Use is expressly designated as a Special Exception Use in this Ordinance, or interpreted and classified as such by the Zoning Administrator, for the Zoning District in which the subject property is located.

The Board of Zoning Appeals shall issue a Special Use Permit (granting the special exception) if the required findings specified in Section 1321.11(D)(3) are made or deny issuance of a permit if all required findings cannot be made. The Board of Zoning Appeals may attach reasonable conditions to the issuance of a Special Use Permit to insure the Special Exception Use's compatibility with other Uses permitted in the Zoning District. If any conditions required or imposed as part of a Special Use Permit are not maintained or carried out or cease to exist, the Board shall revoke the Special Use Permit and the Use shall thereafter be in violation of this Ordinance.

VESTED RIGHT

A Special Use Permit shall be valid for two (2) years in the event that the use is not acted upon, or a Subdivision and/or Land Development Plan has not received approval.

REVIEW CRITERIA

In order to issue a Special Use Permit, the Board must make the following written findings regarding the Special Exception Use sought:

a. The Use will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved;

The project is for three units of residential housing. This multi-family apartment building is located in a residential -zoned district, which allows for apartments via the Special Exception permit. The proposed use will not be a nuisance to the neighborhood; adjacent uses included residences, an auto parts store, and other commercial or non-residential establishments.

b. ***The Use will not substantially diminish the value of Adjacent Property unless the Use is a public necessity*;**

The value impact of three additional 2-bedroom units in this area with a mix of residential and non-residential establishments should be minimal.

c. The location and character of the Use, if developed according to the plans and information approved, will be in harmony with proximate land Uses, and consistent with the purposes of the Zoning District.

The property is zoned Old Town Residential. Per the Zoning Ordinance, the purpose of that district is:

"…*To recognize existing and older residential neighborhoods within the City of Charles Town that are characterized as having smaller Lots, smaller Setbacks, traditional grid Street pattern and access by Street or alley. These provisions for the OT-R District are designed to protect the character of these residential neighborhoods while permitting their maintenance and improvement. These standards also seek to encourage sensitively designed infill in keeping with the existing character of the OT-R District*."

The 2040 Comprehensive Plan designates this property as *Old Town Residential*. The character of the proposed use is keeping with the existing neighborhood character, the purpose of the zoning district, and the Comprehensive Plan.

OTHER FACTORS

Parking

Per Subdivision Ordinance Section 1333.23:

In order to decrease congestion in the Streets, permanent off-street automobile parking spaces shall be provided for (1) all new Structures or uses of land, (2) existing Structures or uses of land that are increased in size by 20 percent or more after the adoption of this Ordinance, and (3) a change of use of land after the adoption of this Ordinance.

Required parking for multi-family housing is 1.2 spaces per unit: 4 spaces would be required, and only 10% of required parking an use on-street parking.

This property is a historic, contributing structure. The only path to adding off-street parking would require partial demolition of the structure to make room for parking.

A strict reading of the Code would require that in order for this historic structure to be reused it would have to be partially demolished; otherwise, it would have to remain vacant. Such an interpretation would prevent reuse or rehabilitation of any vacant structure that did not have sufficient lot area to permit off-street parking.

CONDITIONS

The Board of Zoning Appeals, in issuing Special Use Permits, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other Uses in the same Zoning District.

There are two proposed conditions:

1. The Special Use of apartments is limited to no more than three units, as shown in the application.
2. In the event the use is discontinued for a period of two years, the use is revoked. The use is considered discontinued if all three units are uninhabited.

CONCLUSION

The application is for a Special Exception use permit for apartments. The property has residential zoning, and the proposed use is in keeping with existing character. The structure is historic and no exterior site modifications are proposed as part of the application.

RECOMMENDATION

Approval subject to conditions.

BZA Special Exception No. _____

Board of Zoning Appeals

Application for Special Exception

To assist staff in the review of a special exception application to the Board of Zoning Appeals (BZA), the applicant must supply all of the information contained in this application form. This application must be signed by **all owners** of the real estate which is the subject of the application. The owners may designate one or more professional agents to represent them in the application process using the spaces provided on this form.

Incomplete applications will be subject to scheduling delay. Applicants are encouraged to meet with staff prior to filing. A public hearing will be scheduled within 45 days of the receipt of a completed application.

Approval of a special exception by the BZA does not relieve the applicant from other requirements including, but not limited to, sign(s), building, zoning and use permits or site plans.

As part of this application, the following must be provided:

1. $150.00 Application Fee.

2. A plat or building location survey of the subject property drawn to scale (see requirements below on Page 3 or Page 4).

3. As applicable, Building Permit, Zoning Permit, and Sign Permit Applications. Site plans (where applicable) may be submitted after the BZA application has been approved at the public hearing.

It is the **applicant's responsibility** to make a good-faith effort to provide the Zoning Administrator, as applicable, with a current list containing the accurate names and mailing addresses of all interested parties. For purposes of this provision, "interested parties" shall mean Landowners of Adjacent Property. The applicant shall provide the addresses in order to comply with Section 1321.10.G of the Zoning Ordinance.

Legal Notices

The following shall occur at least 15 days prior to the Public Hearing: notice of the hearing shall be advertised by the Board of Zoning Appeals as a Class I legal advertisement in the local newspaper, posting of a sign upon the property, and letters to adjacent and confronting land owners within 100 feet of the subject property.

Definition of a Special Exception Use

A Use conditionally permitted in a particular Zoning District under this Ordinance that may be undertaken only following the issuance of a Special Use Permit by the Board of Zoning Appeals pursuant to standards and criteria established in this Ordinance.

The Charles Town Zoning Ordinance

To grant a Special Exception Use as permitted in the Zoning Ordinance, the Board of Zoning Appeals makes findings as specified in Section 1321.11(D)(3).

In order to issue a Special Use Permit, the Board must make the following written findings regarding the Special Exception Use sought and **all** of the following can be met:

1. The Use will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved;
2. The Use will not substantially diminish the value of Adjacent Property unless the Use is a public necessity; **and**
3. The location and character of the Use, if developed according to the plans and information approved, will be in harmony with proximate land Uses, and consistent with the purposes of the Zoning District.

Site/Plat Requirements

As Detailed in 1332.04(D) of the Subdivision Ordinance

A plat or building location survey must contain the following information in order for the property to be thoroughly evaluated for a Special Exception:

1. Plat must be drawn to scale (Can be hand drawn).
   a. Existing conditions/structures on the site
   b. Location/arrangement of proposed uses, *as applicable*.
2. Name of Engineer, Surveyor, or Architect who prepared plat*, if applicable*.
3. Signature and Seal of Engineer, Surveyor, or Architect, *if applicable*.
4. Date of plat and dates of any revisions.
5. Legend/Table on plat listing the following:
   a. Name of Proposed Project.
   b. Zoning of Subject Parcel.
   c. Tax Map and Parcel Number.
   d. Parcel Address.
   e. Owner/Applicant's name and address.
   f. Scale.
6. North arrow.
7. Size of parcel.
8. Names of adjacent streets.
9. Site/Development layout, *as applicable*:
   a. Maximum and proposed density.
   b. Location of proposed Street layout, including connections to adjoining streets or vacant lots.
   c. The location of sidewalks, trails and crosswalks.
   d. General layout of any proposed number of Lots, average Lot sizes and any proposed commercial uses, including any associated parking. Include proposed height of structures.
   e. Proposed open space and/or recreation areas, including notes on the plan describing the proposed use, activity area and/or improvement.
   f. Parking spaces/parking lots with calculations showing what is required and proposed.
   g. Landscaping as required in the Zoning Ordinance.
10. Site/Development utilities, *as applicable*:
    a. Available utilities.
    b. All existing sanitary sewer facilities and combined sewer facilities.
    c. Depict location or statement of proposed water and sewer supply and other utility improvements.
11. Existing covenants, *if applicable*.
12. List with any documentation of any previously approved variances, special exceptions, appeals, court decisions, conditions, proffers, or waivers granted for the subject property.
13. Any other information requested by the Subdivision Administrator in order for the Subdivision Administrator to make an accurate determination.

BZA Special Exception No. _____

1. DATE 03-01, 2023

2. APPLICANT'S NAME* Alexander Salgado

   Address: 854 W. Washington Street Charles town WV 25414

   Telephone Number (703) 675-6193 Fax Number (___)

   Email Address alexsalgato@gmail.com

3. PROPERTY OWNER'S NAME Zales Construction, LLC

   Address: 854 W. Washington Street Charles town WV 25414

   Telephone Number (703) 675-6193 Fax Number (___)

   Email Address alexsalgato@gmail.com

4. LEGAL DESCRIPTION OF THE SUBJECT PROPERTY (List all parcels that apply)

   Property Address: 219 North Mildred Street Charles Town WV 25414

   Tax Map # and Parcel(s): 03 2013800000000

   Deed Book and Page #: 1286/134

   Property Area in Square Feet or Acres: 2196.5

What is this request for?

- [ ] Home Occupation, Major
- [ ] Bed and Breakfast
- [ ] Child Care Center
- [x] Apartments/Condominiums/Townhouses
- [ ] Adult Day Care Center/Assisted Living/Attached Senior Housing/Congregate Care Facility/ Continuing Care Retirement Community/Group Home
- [ ] Liquor Store
- [ ] Casino/Video Lottery
- [ ] Other;_____

5. DESCRIPTION OF THE EXISTING (OR FORMER) USE(S) OF THE PROPERTY AND CURRENT ZONING:

   This property was use a apartment in the past, and antique shop

   current zoning is residential

*Applicants include: Property owner(s), Engineer(s), Surveyor(s), or Consultant(s)

6. DESCRIPTION OF THE PROPOSED USE(S) OF THE PROPERTY: (Include the hours of operation and the activities to be conducted on the site. Be as specific about your proposed use as possible.)

   We would like to use the 2 story long building as a 3 unit 2bedroom apartment. Charles Town is in great need of affordable housing and the requested proposal will fill the need

7. LIST THE APPLICABLE SECTION(S) OF THE CITY OF CHARLES TOWN ZONING ORDINANCE FOR WHICH THE SPECIAL EXCEPTION USE IS BEING REQUESTED:

8. IS THIS REQUEST CONSISTENT WITH THE PURPOSES AND INTENT OF THE CITY OF CHARLES TOWN ZONING ORDINANCE? Why or why not?

   I Believed it does

9. PLEASE DESCRIBE HOW THE PROPOSED USE WOULD AFFECT TRAFFIC CONDITIONS SURROUNDING THE SUBJECT PROPERTY:

   I dont believe there it would affect traffic. parking will be street parking on E. North Street or by the railroad track common areas

10. PLEASE DESCRIBE HOW THIS PROPOSED USE WOULD CHANGE THE EXISTING LAND USE CHARACTERISTICS: (i.e. – from residential to incidental home occupation.)

    The proposed used would not change the existing, since it is zone for residential, rather we ask to have it to be occupy as aparments since at one point it was use as aparments

11. JUSTIFICATION FOR THE REQUEST:

A) The Use will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved;

no it will not

B) The Use will not substantially diminish the value of Adjacent Property unless the Use is a public necessity; and

It will not diminish the value of adjancet property in fact we believe that will contribute property value and the need for housing

C) The location and character of the Use, if developed according to the plans and information approved, will be in harmony with proximate land Uses, and consistent with the purposes of the Zoning District.

Yes

12. PLEASE DESCRIBE ANY PROPOSED WORK TO BE DONE TO THE PROPERTY: (i.e. – new structures, building additions, ADA compliance, etc.)

there will be no addition or any changes to structure, we will however replace siding and some windows that are damage

13. HOW WOULD GRANTING THE SPECIAL EXCEPTION AFFECT THE FOLLOWING?

a. The number of people residing or working in the immediate area and the orderly growth of the community?

It will not affect negatively the residents of this apartments, since this is already a residential area the growth will not negatively impact

b. The most appropriate use of land and structure?

We believe an apartment units will be perfect since its already zone for residential

c. The peaceful enjoyment of people in their homes and the conservation of property values?

This will create harmony with its currents surrounding resident since it convieniet for resident to shop in dowtonw charles town

d. The use of surrounding property and property values caused by the existence of odors, dust, gas, smoke, fumes, vibrations, glare, and noise?

none of would be an issues

14. HAS THE PROPERTY BEEN THE SUBJECT OF ANY COURT ACTION?

☐ Yes (Please specify nature of all proceedings and current status and attach any documents showing court decisions, etc.)

NO

☒ No

15. PARCEL HISTORY (List all pending or previously approved applications on the subject parcels inventoried above, including previous site plan applications if this application is a site plan amendment)

Application No.	Project Name and Phase	Status	Approval Date
N/A			

16. INTERESTED PARTY ADDRESSES, FOR PUBLIC NOTICE (including across street) (Interested parties are defined as adjacent properties within 100 feet).

Owner	# and Street	City, State, Zip
FRIENDS OF THE WEBB-BLESSING HOUSE INC	PO BOX 643	Charles Town WV 25414
TINGLEY GARY R & BONITA B	211 North Mildred Street	Charles Town WV 25414

BZA Special Exception No. _____

APPLICANT CERTIFICATION

I certify that, to the best of my knowledge, the submitted information and statements are true and correct. I also certify that I have received and read Article 1321 and relevant provisions of the Charles Town Zoning Ordinance outlining the City's Board of Zoning Appeals application and approval procedures.

Signature of Applicant

Alexander Salgado Digitally signed by Alexander Salgado Date: 2023.03.01 10:57:58 -05'00' Date 03-01-2023

Signature of Owner(s) (If different than Applicant)

_____ Date _____

Please submit an original completed petition to the following:

Zoning Administrator
City of Charles Town
101 E. Washington Street
Charles Town, WV 25414

FOR CITY USE ONLY

Application Number:_____ Date Application Received:_____

Zoning District: _____

Fee: $_____ Check No._____ Receipt No._____

BZA Hearing Date:_____ Decision:_____

Comments:_____

_____

_____

_____

_____

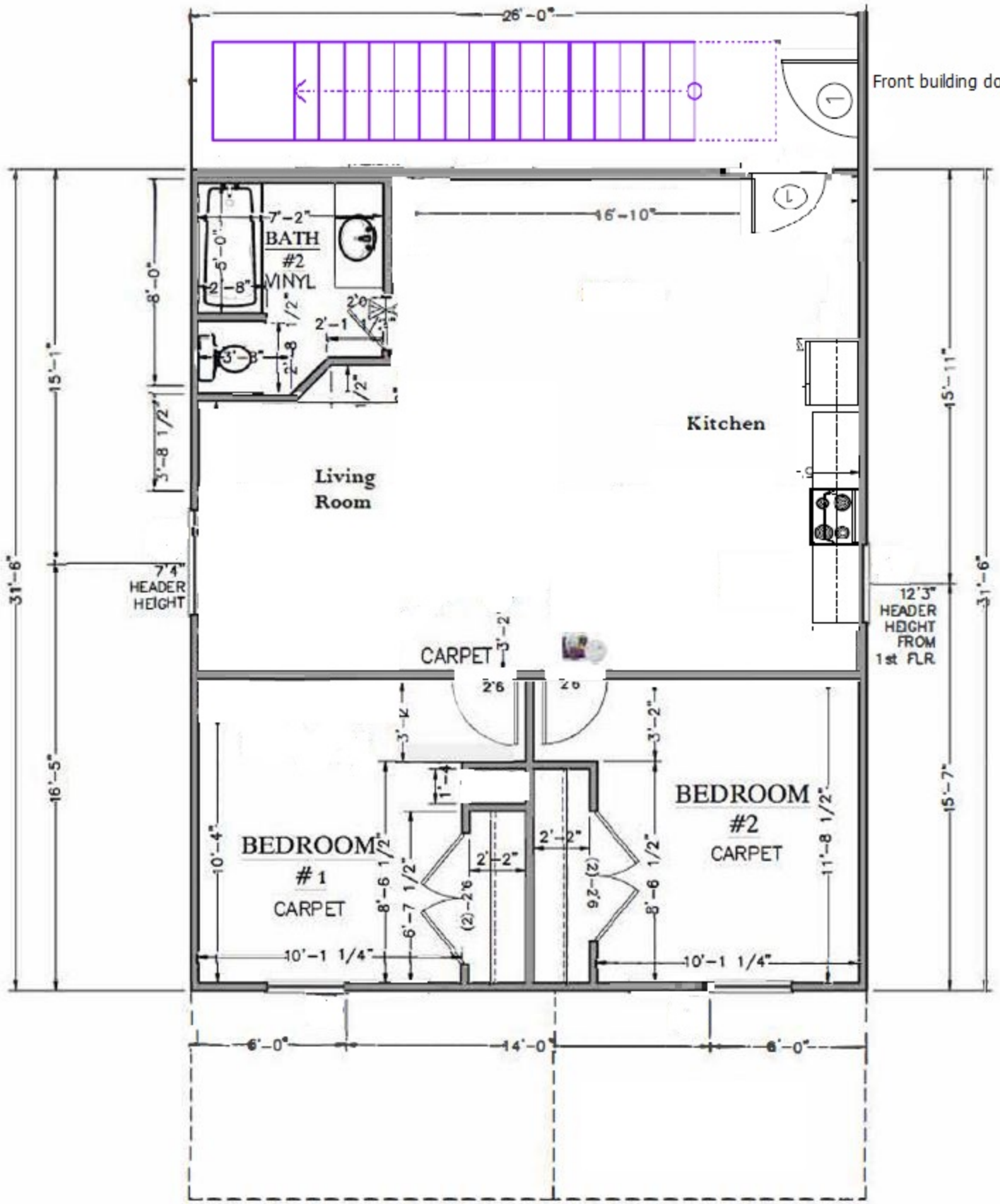
My Name is Alex Salgado and I own 219 North Mildred Street. I have been a resident of Charles Town for 28 years and I have seen a big demand for affordable house over the years. I have seen 219 north Mildred for more 10 years and that building and was not use to its fullest potential. I would like contribute to Charles Town by requesting to allow to fill the need of affordable house by bringing this building by to life and provide a 3 unit 2 bedroom apartment with street parking either on North Street. Please allow me to be a contributor by helping provide affordable house in our beautiful Charles Town.

Once I get your approval I will submit a permit to complete the inside of building and will be working the City OF Charles Town to comply with Permit and building requirements

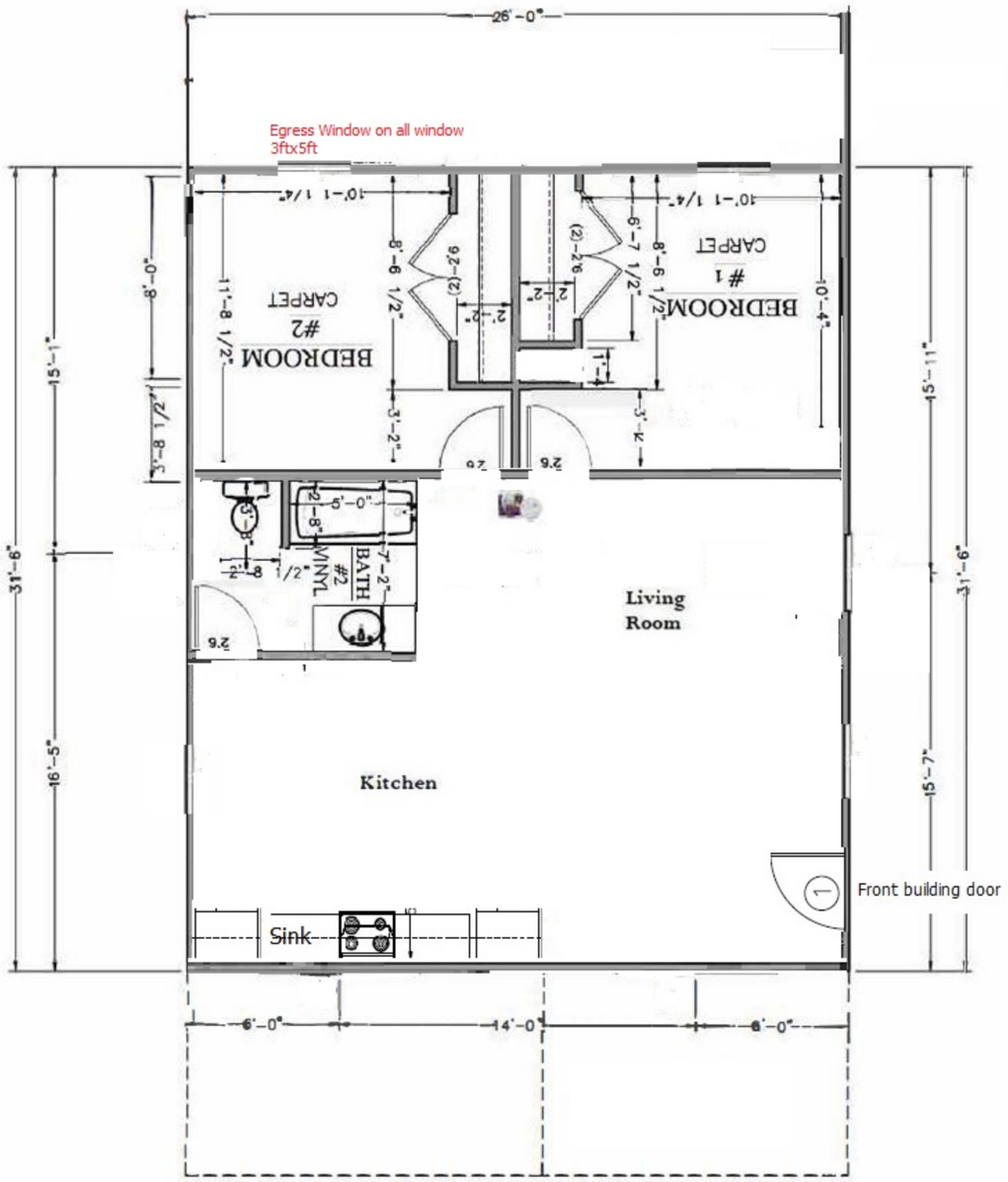
Alexander Salgado

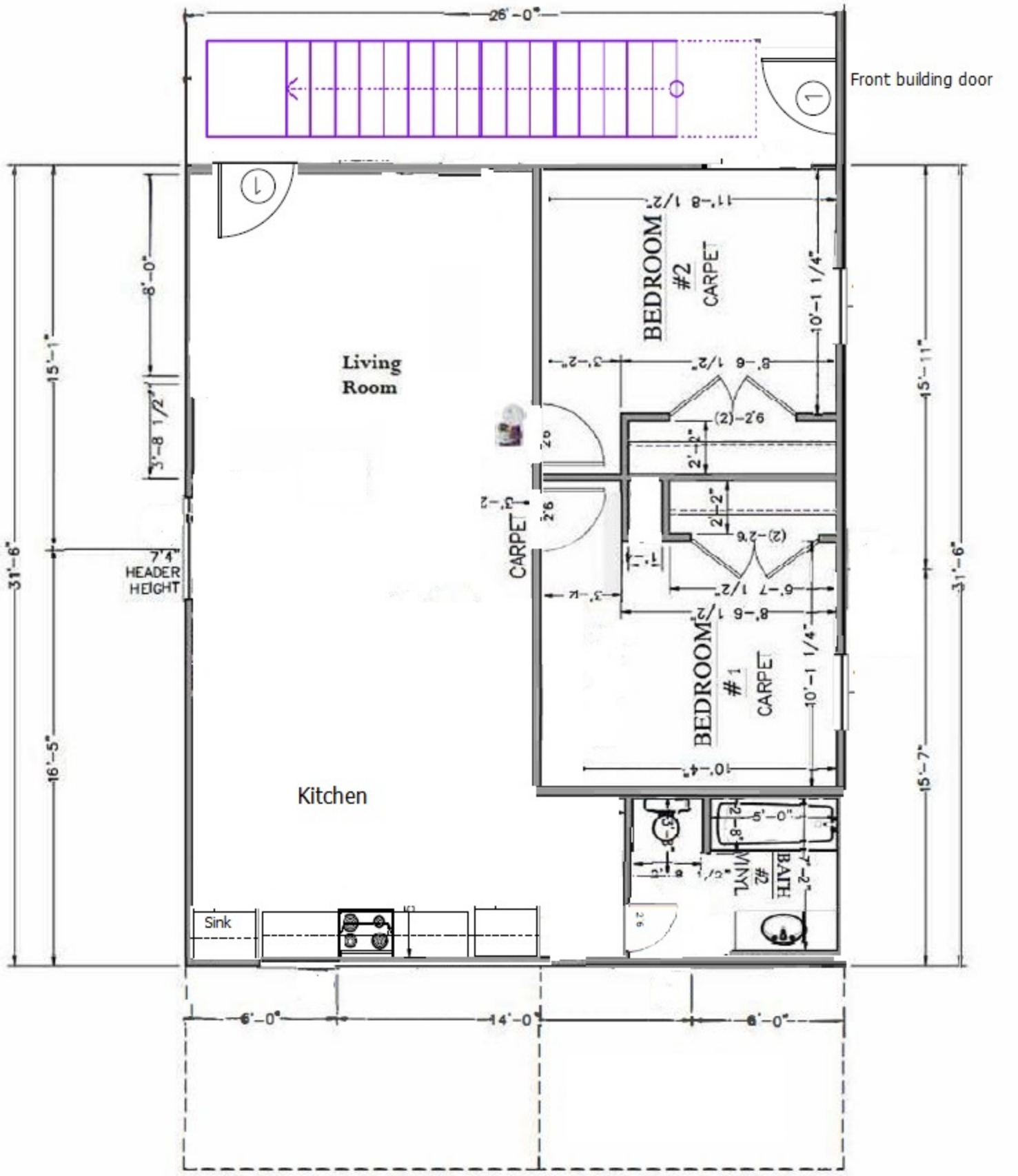


March 1st, 2023



26'-0"
Front building door
16'-10"
7'-2"
BATH
#2
VINYL
5'-0"
2'-8"
2'-1
3'-8"
8'-0"
15'-1"
3'-8 1/2"
Kitchen
Living
Room
15'-11"
31'-6"
7'4"
HEADER
HEIGHT
12'3"
HEADER
HEIGHT
FROM
1st FLR
CARPET
3'-2"
2'6
3'-2"
16'-5"
15'-7"
BEDROOM
#2
CARPET
BEDROOM
#1
CARPET
10'-4"
8'-6 1/2"
6'-7 1/2"
2'-2"
(2)-2'6
11'-8 1/2"
10'-1 1/4"
6'-0"
14'-0"
6'-0"


26'-0"
Egress Window on all window
3ftx5ft
BEDROOM
#2
CARPET
BEDROOM
#1
CARPET
BATH
#2
VINYL
Living
Room
Kitchen
Sink
Front building door
31'-6"
15'-1"
16'-5"
15'-11"
15'-7"
6'-0"
14'-0"
6'-0"



26'-0"
Front building door
Living Room
BEDROOM #2 CARPET
BEDROOM #1 CARPET
CARPET
Kitchen
Sink
BATH #2 VINYL
7'4" HEADER HEIGHT
31'-6"
15'-1"
16'-5"
8'-0"
3'-8 1/2"
15'-11"
15'-7"
6'-0"
14'-0"
6'-0"