

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin 
DATE: May 21, 2013
RE: 13-0902CA/CU; 181-185 Pearl Street

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: D Ward: 3

Owner/Applicant: 181&185 Pearl St, LLC / Glenn Walter

Request: Demolish two unit residential building at rear, leave basement and slab and construct wood deck over to be outdoor patio for existing bar. Conditional use for housing replacement.

Applicable Regulations:

Article 3 (Applications and Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 9 (Inclusionary & Replacement Housing)

Background Information:

The applicant is requesting approval to demolish two apartment units and convert the area to additional outdoor seating space for the onsite bar. The former bar owners converted what was originally a garage into employee housing with one efficiency apartment and one 2-bedroom apartment. This building would be demolished with 10' of the cinderblock wall to be retained and lengthened to form an enclosure for expanded outdoor seating. The demolition of housing units and conversion to commercial space requires conditional use review.

Previous zoning actions for this property are listed below.

- 7/28/12, Approval to install exterior exhaust fan
- 6/30/12, Approval for new sign
- 6/30/12, Approval for front entry renovations
- 6/30/12, Approval to install HVAC condenser system
- 5/2/12, Approval of replacement windows
- 8/20/11, Approval for change in use from restaurant to bar/tavern
- 5/30/03, Approval of sign
- 2/26/03, Approval to establish gift shop
- 5/13/97, Approval of sign
- 11/12/96, Approval to enlarge windows
- 8/21/96, Approval to construct roof over seasonal seating area and reconstruction of decks

- 10/19/95, Approval of sign
- 7/25/91, Approval of mural
- 9/12/85, Approval to install canvas awnings
- 7/11/85, Approval for exterior renovations
- 7/2/85, Approval to replace windows
- 6/27/85, Approval to replace windows and add peak details
- 5/3/74, Approval for interior renovations of existing building and remodel front façade
- 7/9/76, Approval to use a portion of apartment to sell jewelry and watches

Recommendation: Consent approval as per, and subject to, the following findings and conditions:

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Sec. 3.5.6, Review Criteria

(a) Conditional Use Review Standards

1. *The capacity of existing or planned community facilities;*

Removing the two apartments will have no adverse impact on the capacity of existing or planned community facilities. **(Affirmative finding)**

2. *The character of the area affected;*

The subject property is located in the Downtown district. Dense mixed use development characterizes the neighborhood. The removal of two apartments will have little impact on the character of this Downtown neighborhood. **(Affirmative finding)**

3. *Traffic on roads and highways in the vicinity;*

No traffic information has been provided; however, little net change in traffic generation is anticipated. **(Affirmative finding)**

4. *Bylaws then in effect;*

As conditioned, the project is in compliance with all applicable bylaws. **(Affirmative finding)**

5. *Utilization of renewable energy resources;*

The utilization of alternative energy has not been incorporated into this proposal; however, the removal of two apartments does not preclude such utilization in the future. **(Affirmative finding)**

6. *Cumulative impacts of the proposed use;*

The removal of two apartments will be replaced by expanded outdoor bar seating. Cumulative impacts are not expected. **(Affirmative finding)**

7. *Functional family;*

This criterion does not apply to the subject permit request.

8. *Vehicular access points;*

No change in vehicular access is proposed or required. **(Affirmative finding)**

9. Signs;

No signs are included in this proposal.

10. Mitigation measures;

The proposed work is not expected to generate any noxious effects such as excessive noise, glare, or emissions.

11. Time limits for construction;

This project is modest in scope and does not require special time limits beyond the standard 2-year time frame for a zoning permit. **(Affirmative finding)**

12. Hours of operation and construction;

The bar is a permitted use downtown and need not have limited hours of operation. Hours of construction in this downtown location are limited by the city's Noise Ordinance. **(Affirmative finding as conditioned)**

13. Future enlargement or alterations;

As with anything else, any future enlargement or alteration to the development will require zoning review under the regulations in effect at that time.

14. Performance standards;

Performance standards relating to outdoor lighting and erosion control are addressed under Article 5 of these findings.

15. Conditions and safeguards;

Approval of this project will be conditioned to implement the purposes of the zoning regulations.

Article 4: Maps & Districts

Sec. 4.4.1, Downtown Mixed Use Districts:

(a) Purpose

(1) Downtown (D)

The subject property is located in the Downtown District. This zone is the primary urban center of Burlington and allows for a diversity of uses and intense development. The loss of two apartments and expansion of capacity for the bar is consistent with the mix of uses allowed Downtown.

(Affirmative finding)

(b) Dimensional Standards & Density

No FAR number has been provided; however, the site is obviously nowhere near the FAR maximum of 5.5. The proposed demolition will reduce FAR onsite.

Lot coverage will remain unchanged. Building space will be replaced with patio space.

Setbacks will remain unchanged.

Overall building height onsite will remain unchanged. It will obviously lessen where the apartments are converted to outdoor seating space. **(Affirmative Finding)**

(c) Permitted & Conditional Uses

The bar is a permitted use Downtown. The removal and conversion of the apartments requires conditional use review. **(Affirmative Finding)**

(d) District Specific Regulations

Not applicable.

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.1 (b) above.

Sec. 5.2.4, Buildable Area Calculation

This criterion does not apply to properties in the DT zone.

Sec. 5.2.5, Setbacks

See Sec. 4.4.1 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.1 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.1 (b) above.

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to constitute a nuisance under this criterion. **(Affirmative finding)**

Sec. 5.5.2, Outdoor Lighting

Not applicable. (None proposed).

Sec. 5.5.3, Stormwater and Erosion Control

Not applicable. (Less than 400 sf area involved).

Article 6: Development Review Standards:

Part 1, Land Division Design Standards

Not applicable.

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

No trees or other significant vegetation will be removed as part of this proposal. There are no significant natural areas on the property. **(Affirmative finding)**

(b) Topographical alterations

No significant topographical alterations are proposed. The site is flat and will remain so. **(Affirmative finding)**

(c) Protection of important public views

The apartments to be demolished are located at the rear of the property. Their removal will not impact any identified public view shed. **(Affirmative finding)**

(d) Protection of important cultural resources

The apartments to be demolished are located in a building that was originally a garage. While the primary building onsite is historically significant, the building slated for demolition is not. The proposed demolition will not adversely impact Burlington's historically significant properties.

(Affirmative finding)

(e) Supporting the use of alternative energy

No provisions for the use of alternative energy are included in the project plans. The proposal does not adversely impact future use thereof. **(Affirmative finding)**

(f) Brownfield sites

The subject property is not included on the State of Vermont "Hazardous Sites List."

(Affirmative finding)

(g) Provide for nature's events

See Sec. 5.5.3 for stormwater management.

(h) Building location and orientation

The proposed demolition will take place at the rear of the lot and will be perceptible only from the adjacent surface parking lot for Rite Aid. The streetscape along Pearl Street will remain unchanged. **(Affirmative finding)**

(i) Vehicular access

See Sec. 3.5.6 (a) 8.

(j) Pedestrian access

Pedestrian access into the primary structure from Pearl Street will remain unchanged.

(Affirmative finding)

(k) Accessibility for the handicapped

No changes to handicap accessibility are proposed. **(Affirmative finding)**

(l) Parking and circulation

Parking and circulation will remain unchanged. **(Affirmative finding)**

(m) Landscaping and fences

No new landscaping or fencing are proposed or required. **(Affirmative finding)**

(n) Public plazas and open space

No public plaza or open space is included in this proposal.

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

No new mechanical equipment or other site infrastructure is proposed. **(Affirmative finding)**

Part 3, Architectural Design Standards

Not applicable.

Article 9: Inclusionary and Replacement Housing

Sec. 9.2.2, Applicability

The 2-bedroom apartment is subject to the housing replacement requirements of Article 9. The studio apartment, as a ground level unit in a mixed use zoning district, is not subject to these requirements except for Sec. 9.2.4, *Relocation Requirements; Notice and Relocation Costs*. **(Affirmative finding)**

Sec. 9.2.4, Relocation Requirements; Notice and Relocation Costs

The 2-bedroom unit is vacant. As a result, the criteria of this section do not apply. The studio apartment is occupied and is, therefore, subject to these requirements. Prior to demolition, the property owner shall provide notice and relocation costs to the tenant per the standards of this section. **(Affirmative finding as conditioned)**

Sec. 9.2.5, Housing Replacement Requirement

Rather than construct a comparable new housing unit to replace the 2-bedroom unit to be demolished, the applicant has opted to provide a subsidy per subsection c of this criterion. The subsidy in this case has been calculated by CEDO to be \$16,519 and is payable to the Housing Trust Fund. This payment must be made prior to demolition. **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. Demolition and construction work associated with this project is subject to the provisions of the City's Noise Control Ordinance.
2. **Prior to demolition**, the property owner shall provide notice and relocation costs to the tenant of the studio apartment per Sec. 9.2.4, *Relocation Requirements; Notice and Relocation Costs*.
3. **Prior to demolition**, the property owner shall provide payment to the city's Housing Trust Fund in an amount of \$16,519 per Sec. 9.2.5, *Housing Replacement Requirement*.
4. Standard permit conditions 1-15.



COMMUNITY & ECONOMIC DEVELOPMENT PLANNING & ZONING

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RECEIVED
APR 22 2013
PLANNING & ZONING

TO: Scott Gustin *BTP*
RFOM: Brian Pine, Assistant Director for Housing
DATE: April 19, 2013
RE: Housing Preservation and Replacement/Demolition and Conversion for 11 South Winooski Avenue Conditional Use Approval

I have been in touch with Glenn Walter regarding the Housing Replacement requirements triggered by his planned demolition of 2 rental units in the above-captioned property.

As you know, the building consists of one ground-floor efficiency unit, and a 2 bedroom unit that occupies the second and third floors. Article 9, Section 9.2.2 states, "The conversion to a nonresidential use of any housing unit located on the ground floor of a building within a mixed-use zoning district shall be exempt from the provisions of this Part." The ground-floor unit is exempt from the replacement requirements of Article 9.

The 2-BR unit is currently vacant, thereby eliminating the need for following the relocation requirements found in Section 9.2.4. However, the efficiency unit is occupied and its demolition triggers Section 9.2.4 of the Comprehensive Development Ordinance (CDO). Costs shall include all reasonable costs of relocation of the displaced person or persons, including, but not limited to, moving expenses, required security deposits, required utility deposits and pro rata portion of any rent paid by the tenant for the month during which the relocation occurs.

Mr Walter has agreed to satisfy the replacement requirement for demolition of the 2-BR unit by making a payment to create the same number of affordable rental units that have not been affordable to low-income households for the twenty-four (24) months preceding the date of application for conditional use approval as provided in Section 9.2.5 of the CDO.

The total payment for meeting the requirement for the demolition of this unit is \$16,519. This payment, which should be sent or delivered to CEDO, should be made out to the City of Burlington and the "Housing Trust Fund" should be printed in the memo line. These funds will be allocated by the Housing Trust Fund Administrative Committee pursuant to the annual Request for Proposal process that occurs during the first quarter of fiscal year 2014.

Please contact me if you have any further questions regarding this matter.

Dear Scott,

I own a building at #11 South Winooski Ave.; originally this was the detached garage for the building located at 185 Pearl St., now the Three Needs. In the early 1990s when the owners of Parima purchased the property they totally renovated the building as owner's apartments and eventually turned them into employee housing.

The current layout of the property is as a two unit apartment building,

The first floor (ground floor) is an efficiency unit 20'x20' with an enclosed $\frac{3}{4}$ bath, but no kitchen.

The second apartment is a two bedroom, two $\frac{3}{4}$ bath unit consisting of a 20'x20' second floor with kitchen, living room, bedroom and $\frac{3}{4}$ bath and stairs to the third floor and a 10'x 20' third floor consisting of a bedroom and $\frac{3}{4}$ bath.

My plan is to demolish this building and convert the space into more outdoor seating for the Three Needs. This seating will be enclosed by the continuation of the cinderblock wall that now acts as the outside wall of the apartment building. This wall will be painted the same dark green color as the rest of the 3 Needs building. We will extend the current brick pavers as flooring for the entire outdoor area. The seating capacity will be set by fire marshal. No plans for lighting yet, will be established at a later time.

Any other questions please feel free to ask,

Thanks,

Glenn



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Demolish and convert to outdoor seating

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● Demo area

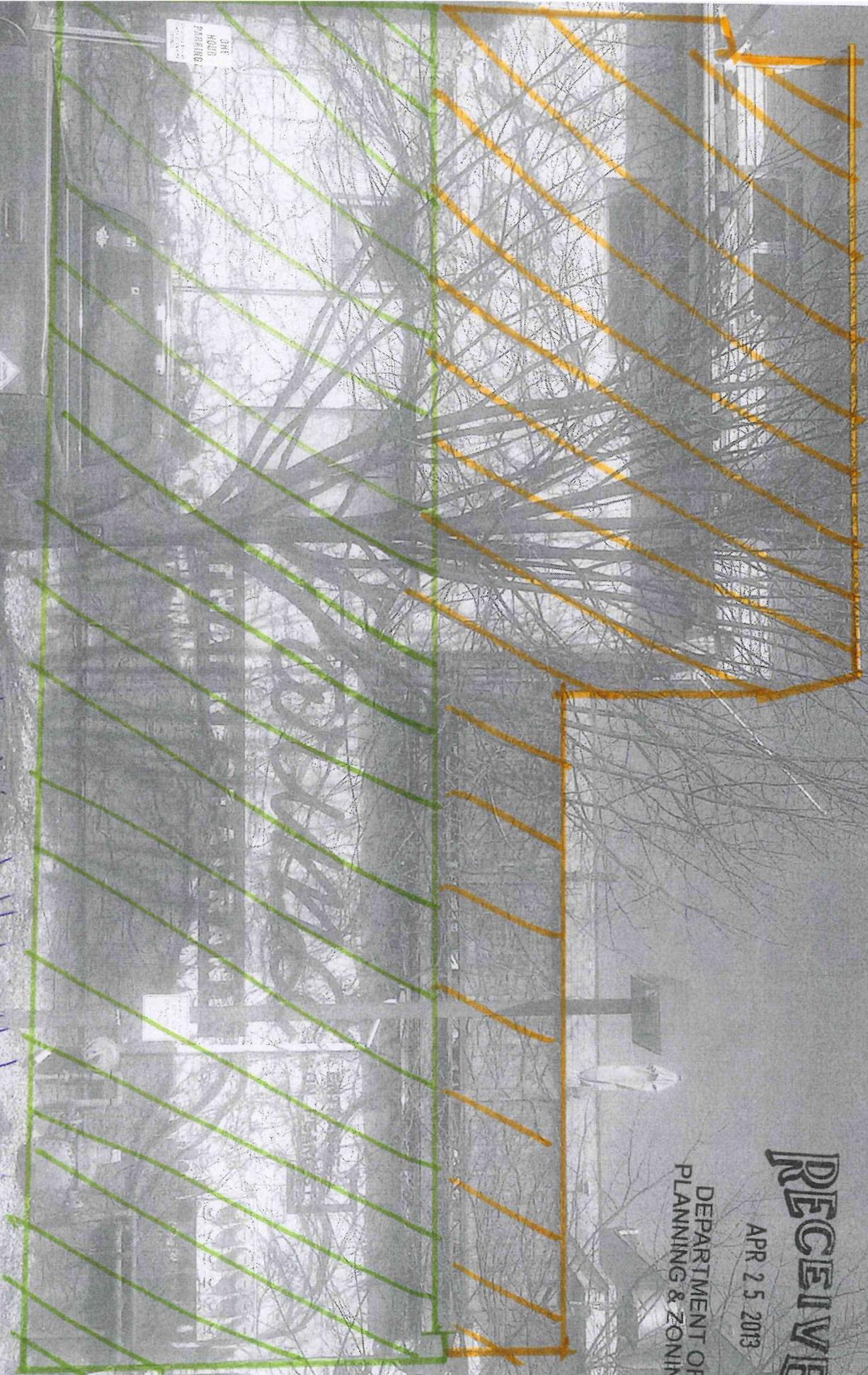
● 45'L x 10'H existing to remain (cinder block)

● 19'L x 10'H new cinder block wall

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● 45' L x 10' cinder block wall for screen

● Demo Area

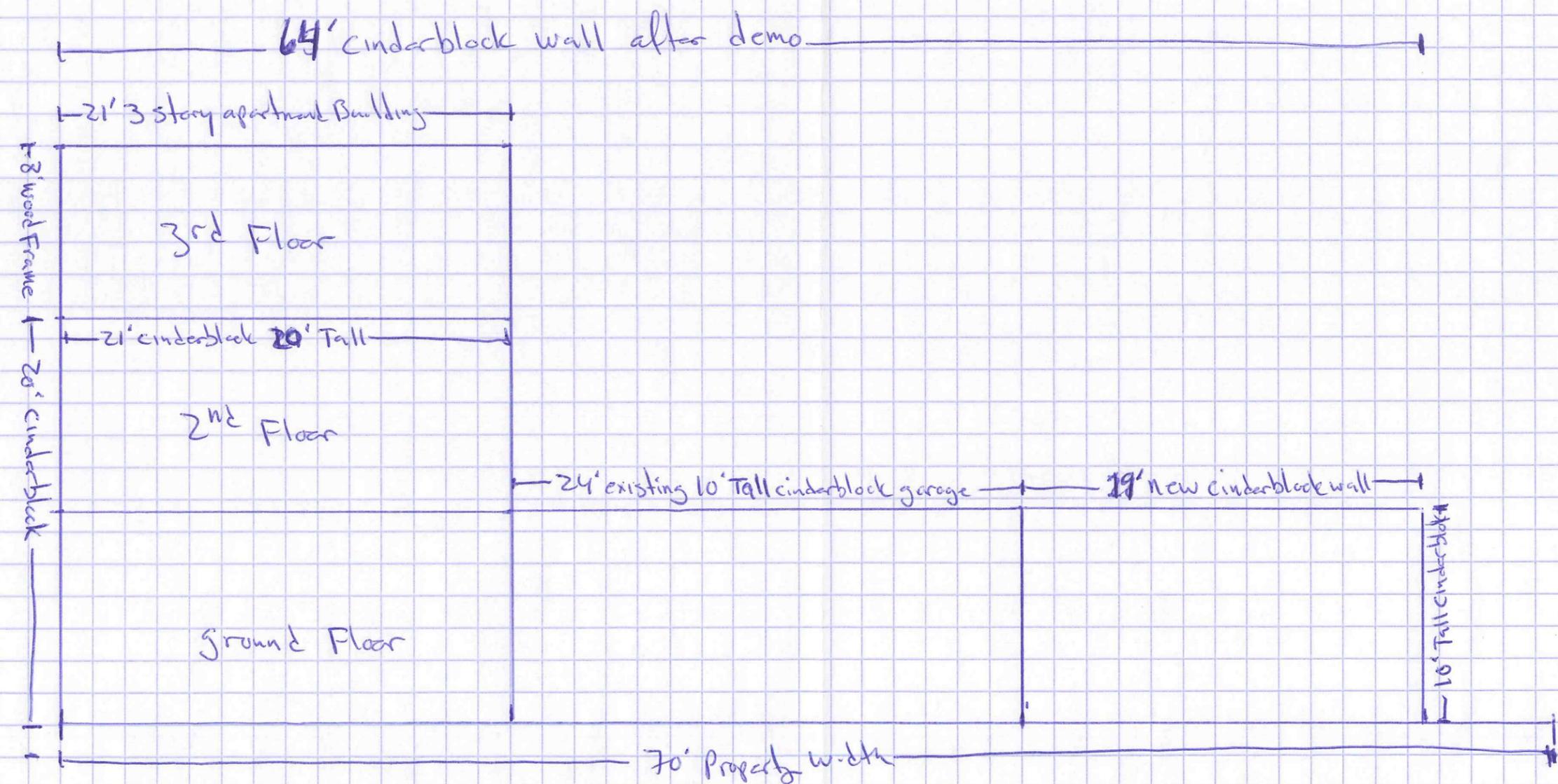
ONE
HARD
PARKING

APR 9 2013

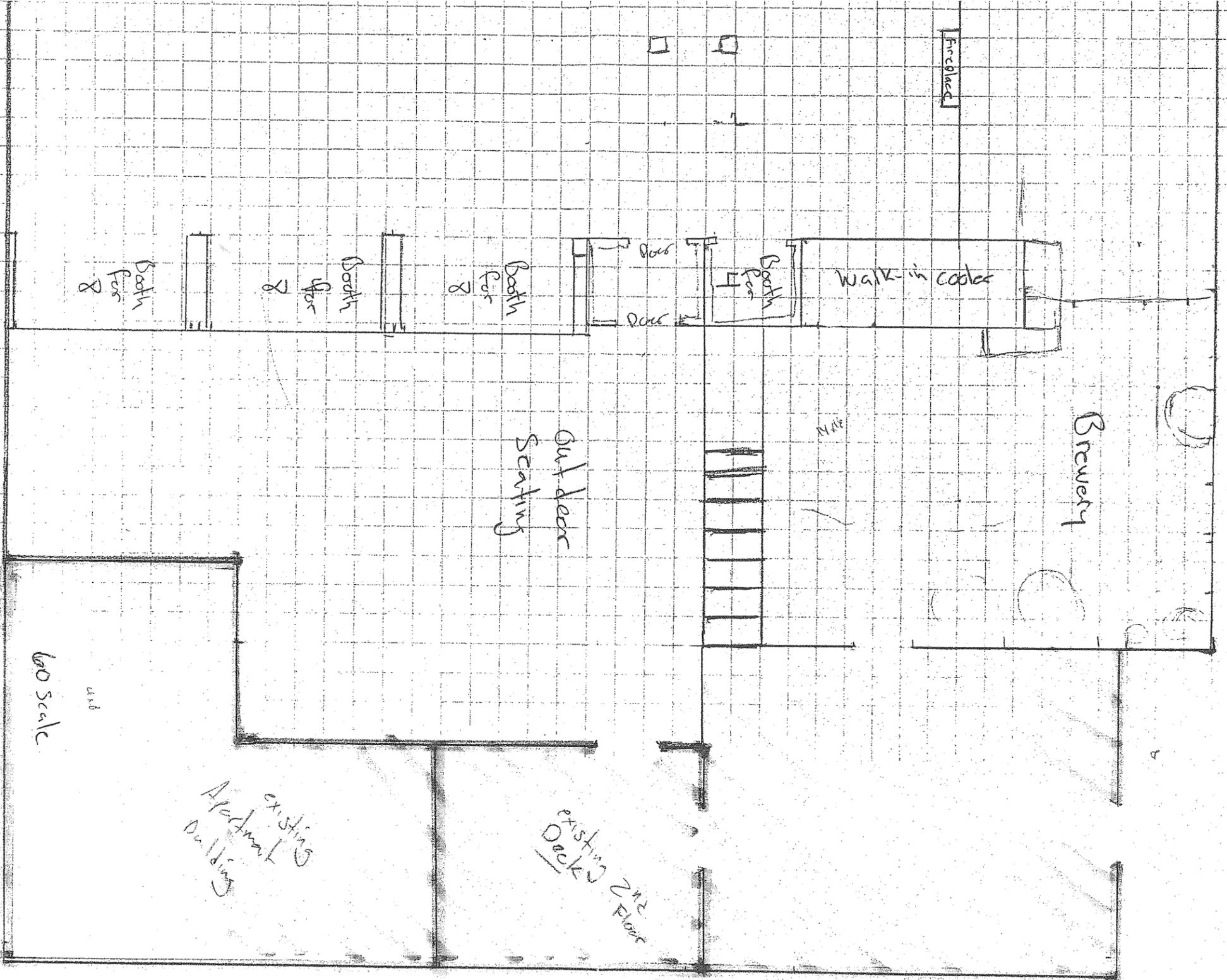
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3 Needs Southern Wall adjacent to Rick Aid Parking Lot.



- /// New outdoor area to be covered by pavers to match existing
- existing walls cinderblock walls to be removed
- new cinderblock wall to 10' tall
- cinderblock wall lowered from 20' to 10' area to be covered by wood decking