

City of Cape Girardeau
Liquor License Review Board

April 8, 2013
City Hall – City Council Chambers
401 Independence Street
4:00 p.m.

AGENDA

1. Call to Order
2. Introduction and Opening Comments
3. Approval of February 13, 2013 minutes
4. Review of appeal of recommended denial of license for That One Bar, 36 North Spanish Street
 - a. Public Comment
 - b. City Staff Comment
 - c. Applicant Comment
 - d. Board review, discussion, and possible action
5. Adjourn

The Liquor License Review Board of the City of Cape Girardeau, Missouri, may hold a closed session to discuss legal actions, causes of legal action or litigation, or confidential or privileged communications with its attorneys.

Liquor License Review Board

MEETING MINUTES

February 13, 2013

Present: Heather Brooks, Assistant City Manager; Anna Kangas, Plan Reviewer;
Charles "Speedy" Wagoner

City Staff Present: Lt. Barry Hovis, Police Department

Call to Order

Heather Brooks called the meeting to order at 4:00 p.m.

Introduction and Opening Comments

Ms. Brooks introduced the Board and explained the rules of order for addressing the Board.

Approval of Minutes

The minutes of the August 31, 2012 meeting were unanimously approved upon motion made by Ms. Brooks and seconded by Mr. Wagoner.

COMMENTS, DISCUSSION & VOTING

Review of appeal of recommended suspension of Amerimart #7, 1320 W. Cape Rock

- a. Ms. Brooks called for Public Comment from the floor. Seeing none;
- b. Ms. Brooks called for Applicant Comment.
Beth Bollinger, Administrative Manager for Midwest Energy addressed the Board. Ms. Bollinger presented information about the company's employee policy and employee training and the details regarding the incidents cited regarding the suspension. Ms. Bollinger continued by describing steps that the company had taken to improve employee compliance to liquor sale laws.
- c. Ms. Brooks asked City Police Department Lt. Barry Hovis to take the floor to clarify or explain the compliance check process and the recommendation for suspension and the communication with the licensee.
The Board reviewed and discussed information provided. Mr. Wagoner and Ms. Brooks addressed Ms. Bollinger concerning the company's challenge and responsibility to have employees comply with the laws and commended efforts to improve but that the Board stated that the history of violations had to be considered.
Ms. Brooks called for the question. Mr. Wagoner motioned to uphold the suspension. Ms. Brooks seconded. The vote was unanimous.

Ms. Brooks advised all appealing businesses that if the Board upholds the recommended suspension, a suspension letter would be sent to the business documenting the vote and that the suspension would be effective March 1, 2013.

Review of appeal of recommended suspension of Southern Convenience Stores, 612 S. Sprigg Street

- a. Ms. Brooks called for Public Comment from the floor. Seeing none;
- b. Ms. Brooks called for Applicant Comment.
Mr. Scott Blank, owner of Bi-State Oil Company operator Southern Convenience Store addressed the Board. Mr. Blank presented information about the company's employee policy and employee training and his request to meet with interim Police Chief Fields. Mr. Blank continued by describing steps that the company had taken to improve employee compliance to liquor sale laws.
- c. The Board reviewed and discussed information provided. The Board commended Mr. Blank on his steps to ensure compliance, but also felt the number of violations warranted action. Ms. Brooks called for the question. Ms. Kangas motioned to uphold the suspension. Ms. Brooks seconded. The vote was unanimous.

Review of appeal of recommended suspension of Slingers Nightclub and Lounge, 820 N. Sprigg Street, Ste. 6

- a. Ms. Brooks called for Public Comment from the floor. Seeing none;
- b. Ms. Brooks called for Applicant Comment.
Attorney John Harding representing Slingers Nightclub and owner Shaun Langford addressed the Board. Mr. Harding stated that his client's business should not be penalized for the criminal acts of others. Mr. Harding further explained that in two incidents leading to the recommendation for suspension that the club's employees performed their legal obligation of checking the patrons' identifications and that the patrons had used fake IDs. Concerning these incidents, Mr. Harding stated that his client had asked police officers for advice to prevent this. Mr. Harding continued by describing another incident with an underage patron. Mr. Harding stated that at that time the business allowed 18 year old and older patrons into the bar and that the employees had not served this individual and that legal aged adults had provided the alcohol to the underage drinker. Mr. Harding then told the Board that the business changed its policy and no longer allows patrons under 21 years old and has started using an UV light to check IDs. Mr. Harding declared to the Board that a suspension would close the business and petitioned the Board to overturn the decision or change the penalty because the suspension recommendation was caused by third party activities.
Mr. Shaun Langford, owner and operator of Slingers addressed the Board. Mr. Langford reiterated the statements of Mr. Harding and declared he believed to have a good reputation and worked well with the Police Department. He ended with a plea to overturn the recommendation for suspension.
- c. The Board reviewed and discussed information provided. Mr. Wagoner directed comments to Mr. Langford concerning several police responses to the business location and stated that Mr. Langford was responsible for the activities on the premises including on the parking lot. In response to questions from Board member Ms. Brooks, Mr. Langford indicated that the UV light was implemented in late November or early December and during the period that 18-year olds were allowed in the business that they were identified with a bracelet and ink marking system. Ms. Brooks added that business practice of allowing underage patrons makes the business responsible. Ms. Brooks also stated that she found the levels of intoxication and number of police calls troubling (over 40 in one year); adding the number of police calls could be found to be a nuisance violation as well. Ms. Brooks went on to acknowledge that this nightclub review was

different than the earlier reviews of the convenience stores and that a suspension would have a different impact on a nightclub.

Ms. Brooks called for the question. Mr. Wagoner motioned to uphold the suspension. Ms. Brooks seconded. The vote was unanimous.

Adjournment

There being no further business, the meeting was adjourned at 4:55 p.m.

Respectfully submitted,
Bruce Taylor
Administrative Coordinator

DRAFT

LAYTON & SOUTHARD, LLC

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March 22, 2013

NOTICE OF APPEAL

Mr. C. Timothy Morgan
Chief Review Officer
City of Cape Girardeau Development Services
401 Independence
Cape Girardeau, MO 63703

RE: That One Bar
Jeff Koenig
36 N. Spanish St.
Cape Girardeau, MO 63701

TO WHOM IT MAY CONCERN:

Please let this letter serve as our formal Notice of Appeal by Mr. Koenig. Mr. Koenig's Notice of Appeal is timely, as he has received a letter from your office on March 19, 2013, stating the denial of his liquor license due to certain building code issues that need to be resolved before issuance and also various items the County Health Department has stated need to be corrected before an issuance of the liquor license. Mr. Koenig would like to reserve thirty (30) minutes of time to present to the CRO his position explaining why he believes his liquor license should be granted. Enclosed please find the City of Cape Girardeau's official Notice of Denial, as well as a list of items which need to be corrected.

Mr. C. Timothy Morgan
Page Two
March 22, 2013

Yours truly,


LAYTON & SOUTHARD, LLC

Daniel J. Grimm

DJG/ces

Enclosures

cc: Mr. Scott Meyer, City Manager

CITY of CAPE GIRARDEAU

CUSTOMER SERVICE

March 19, 2013

That One Bar
Jeff Koenig
36 N. Spanish St.
Cape Girardeau, MO 63701

Dear Mr. Koenig,

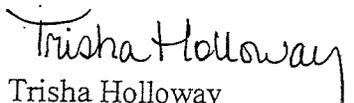
This letter is in regards to the recent submittal of a liquor license application for the above mentioned address. The Development Services Department is recommending denial of this license due to certain building code issues that need to be resolved before issuance. Also, the County Health Department stated various items that need to be corrected before they issue an approval for issuance. Based on this information, your application has been denied.

According to Sec. 5-35 (a) of the City Code of Ordinances, "when a license under this chapter is denied, the city manager shall send a letter to the applicant stating why the license was denied and how to appeal the denial. This letter shall be hand delivered or sent by first class mail. A mailed letter shall be presumed received three (3) days after it was mailed." This letter serves as this official notice of denial.

Also, according to Sec. 5-35 (b), "the applicant may appeal the denial to the liquor license review board by mailing or delivering a written notice of appeal to the chief review officer (CRO) and a copy to the city manager. The notice of appeal must be received by the CRO no later than ten (10) days after the applicant received the letter of denial. The applicant may submit to the CRO a position statement explaining why the applicant believes the license should be granted. The city manager may also submit to the CRO a position statement explaining why the manager believes the denial should be upheld."

If you have any questions concerning this matter, please contact me at (573) 339-6322.

Respectfully,


Trisha Holloway
Customer Service Manager

CAPE GIRARDEAU COUNTY PUBLIC HEALTH CENTER
 ENVIRONMENTAL SECTION
 FOOD ESTABLISHMENT INSPECTION REPORT

DATE: 3/14/13 PAGE 1 OF 2
 TIME IN: 1:30 TIME OUT: 2:10

Based on an inspection this day, the items noted below identify noncompliance in operations or facilities which must be corrected by the next routine inspection, or such shorter period of time as may be specified in writing by the regulatory authority. Failure to comply with any time limits for corrections specified in this notice may result in cessation of your food operations.

ESTABLISHMENT NAME: *That One Bar* OWNER: *Jeff Koenig* PERSON IN CHARGE: *Alicia Koenig*
 ADDRESS: *36 N Spanish* ESTABLISHMENT NO.: COUNTY: *D31-500* REGION: *D4*
 CITY/ZIP CODE: *Cape Girardeau* TELEPHONE NUMBER: FAX NUMBER: P.H. PRIORITY: H M A
 ESTABLISHMENT TYPE:
 Bakery C. Store Caterer Deli Grocery Store Institution Mobile
 Restaurant School Senior Center Summer F.P. Tavern Temporary Other
 SEWAGE DISPOSAL: Public Private WATER SUPPLY: Community Non-Community Private FROZEN DESSERT: Approved Disapproved Not applicable
 Date Sampled: Result: License Number:

PURPOSE:
 Pre-Opening Follow-Up Routine Complaint Other

FOOD PRODUCT	TEMP	LOCATION	FOOD PRODUCT	TEMP	LOCATION

FOOD CODE REFERENCES CRITICAL ITEMS

Code Reference	Description: These items relate directly to factors which lead to foodborne illness. These items MUST RECEIVE IMMEDIATE ACTION within 72 hours or as stated.	Correct by (date)	Initial
2 MANAGEMENT/ PERSONNEL			
2-1 Supervision			
2-2 Employee Health			
2-3 Personal Cleanliness			
2-4 Hygienic Practices			
3 FOOD			
3-1 Characteristics			
3-2 Sources, containers & Records			
3-3 Protection from Contamination			
3-4 Cooking & Reheating			
3-5 Limiting Growth of Organisms			
3-6 Food Presentation & Labeling			
3-7 Contaminated Food			
4 EQUIP, UTENSILS & LINENS			
4-1 Materials for Construction			
4-2 Design & Construction			
4-3 Numbers & Capacities			
4-4 Location & Installation			
4-5 Maintenance & Operation			
4-6 Cleaning			
4-7 Sanitation			
4-8 Laundering			
4-9 Protection of Clean Items			

NON-CRITICAL ITEMS

Code Reference	Description: These items relate to maintenance of food operations and cleanliness. These are to be corrected by the next regular inspection or as stated.	Correct by (date)	Initial
5 WATER, PLUMBING & WASTE			
5-1 Water	6-2015 light showing under back door		
5-2 Plumbing	6-501.11 mens room door is missing ✓		
5-3 Mobile Water Tanks			
5-4 Sewage & Liquid Waste			
5-5 Refuse & Recycle/Returnables			
6 PHYSICAL FACILITIES			
6-1 Materials for construction	6-201.11 Sinks in mens room are no longer sealed to wall ✓		
6-2 Design & Construction	6-501.11 toilet in ladies room is out of order. ✓		
6-3 Numbers & Capacities			
6-4 Location & Placement			
6-5 Maintenance & Operation			
7 POISONOUS OR TOXIC ITEMS			
7-1 Labeling & Identification	6-201.11 mop sink not sealed to wall ✓		
7-2 Supplies & Applications			
7-3 Storage & Display			

EDUCATION PROVIDED FOR COMMENTS

RECEIVED BY (PERSON IN CHARGE/TITLE): *Alicia Koenig* DATE: *3-14-13*
 INSPECTOR/TELEPHONE NUMBER: *Angela Nathan Bowman* EPHS NO.: *947/1450* FOLLOW-UP: YES NO DATE OF FOLLOW-UP: *Call*
 COHD (10-12) DISTRIBUTION: WHITE - OWNER'S COPY CANARY - FILE COPY PINK - CENTRAL OFFICE

April 2, 2013

RE: 36 N. Spanish Liquor License

Dear Liquor License Review Board:

We recently received a liquor license application for 36 N. Spanish. We recommended denial of the license based on building code issues.

Attached is a floor plan for the renovation of the building that was completed in 2010. The 2003 International Building Code (IBC) was in effect at the time.

Required: Table IBC 1018.1 2 exits required for an area with 1-500 occupants.

Provided: Based on the Code Analysis listed on the plans, the occupant load of this business is 280. There are two exits shown on the plan, so the number of exits is acceptable.

Required: IBC 1014.2.1 Exits in areas requiring 2 or more exits must be placed at least one-half the diagonal distance of the space apart from each other. This typically means that an exit be provided at the front and rear of a building.

Provided: The attached plan indicates a double-door exit onto Spanish St. and a single-door exit into the alley behind the building, so the spacing of the exits is acceptable.

The issue is with the location of the rear exit in the alley. The door is several feet above grade, and stairs are required when exiting from this door.

On the following pages are some photographs taken from the alley behind 36 N. Spanish.

Photo 1 illustrates the stair landing in the folded/stored position.

Photo 2 illustrates the stair landing in the operating position. The stair treads, handrails and other components are typically stored in the alley, but were not found during our visit.

Photo 3 looks north in the alley, toward Themis. The white door on the left is the rear exit for 36 N. Spanish.

Photo 4 looks south in the alley.

At this business, the alley is 149.5" wide (12.45'). The stair projects 43" into the alley, which leaves less than 9' for a vehicle to pass. The alley is right-of-way; it is not private property. Trash receptacles for the businesses are in this alley. There is also an apartment that is accessed from the alley.



Photo 1



Photo 2

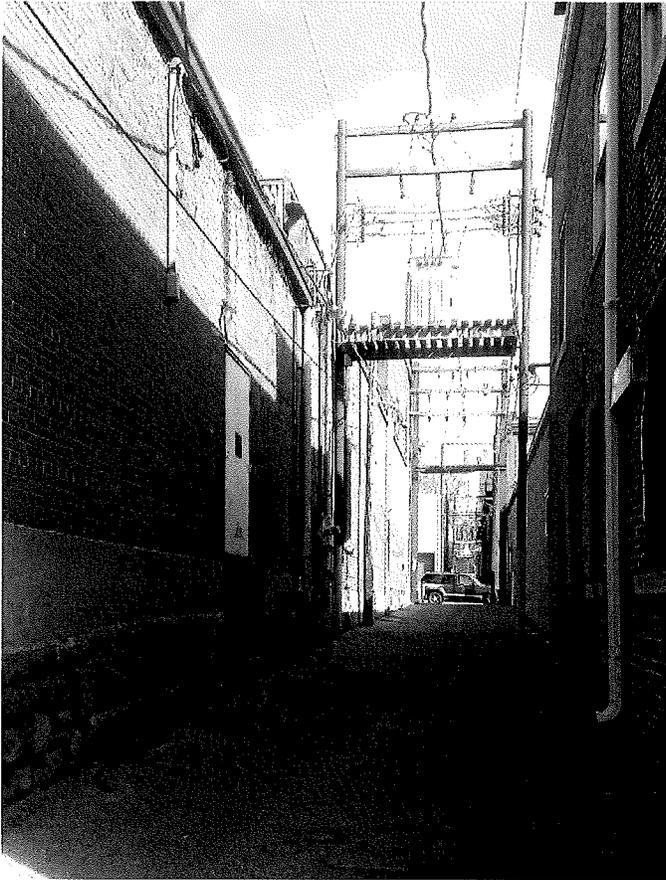


Photo 3

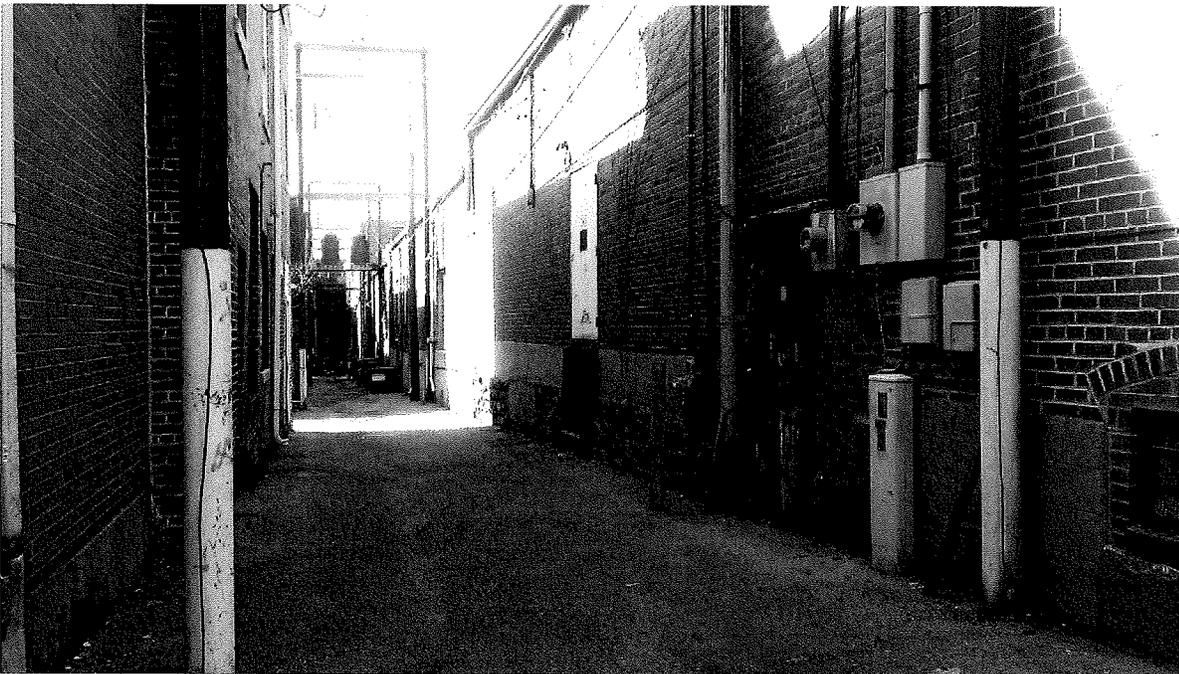


Photo 4

CITY *of* CAPE GIRARDEAU

DEVELOPMENT SERVICES

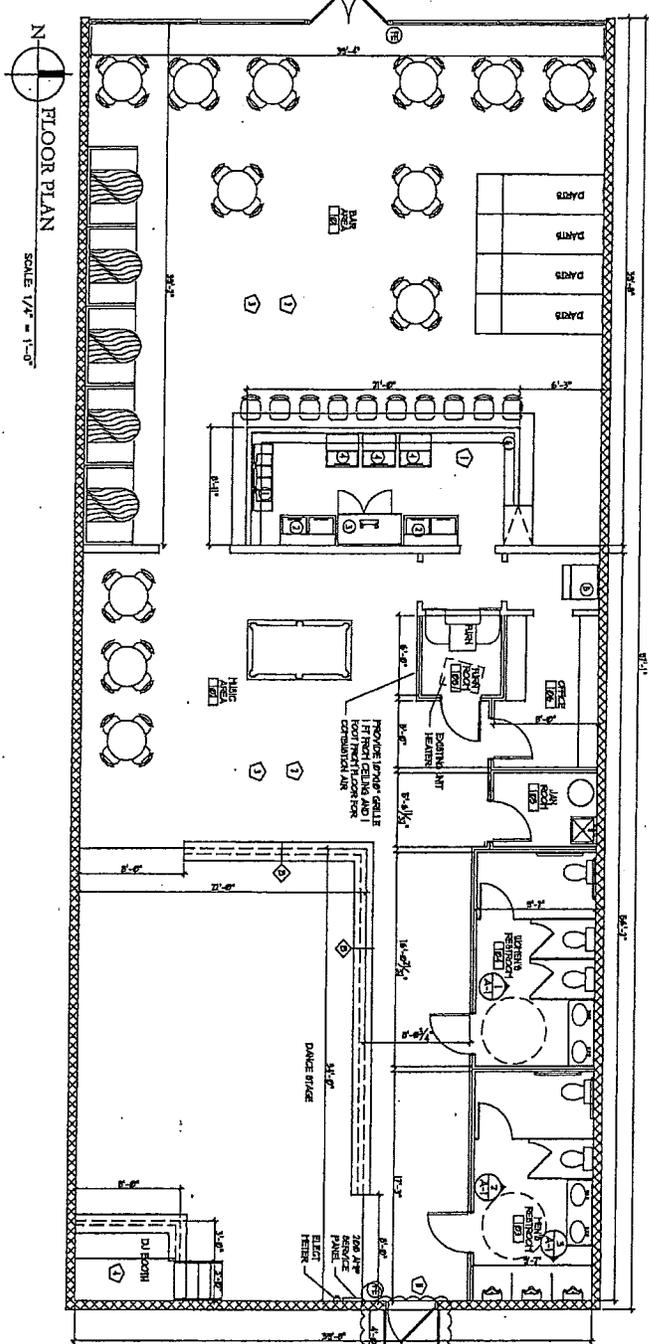
In 2010, the City agreed to allow a temporary stair in the alley. The stair would be erected during business hours and disassembled when the business was not open. Concern has been expressed regarding accessing the apartment from the alley. When the stairs are erected, it is difficult for a car or trash truck to drive down the alley.

Attached is an aerial photograph of the area. The red area is 36 N. Spanish. The blue area is the location of an apartment, which has off-street parking accessed from the alley. The only way to access the parking for the apartment is from Themis, as the alley does not continue south to Independence.

On March 5, 2013, Anna Kangas, Plan Review Specialist, held a conversation with Jeff Koenig, the applicant for "That One Bar". She explained that the alley exit as it exists currently would no longer be allowed because the stairs project into the right of way. An option was discussed for moving the stairs to the inside of the building, so the exit door would be at grade. He seemed open to the idea.

Sincerely,

C. Timothy Morgan
Inspection Services Director



FLOOR PLAN
SCALE 1/8" = 1'-0"

NO.	DESCRIPTION	QUANTITY	UNIT	LOCATION	REMARKS
1	1.000 BUSHING	30	EA	BAR	FOR USE WITH THE BAR STUOLS
2	2.000 BUSHING	30	EA	BAR	FOR USE WITH THE BAR STUOLS
3	3.000 BUSHING	30	EA	BAR	FOR USE WITH THE BAR STUOLS
4	4.000 BUSHING	30	EA	BAR	FOR USE WITH THE BAR STUOLS
5	5.000 BUSHING	30	EA	BAR	FOR USE WITH THE BAR STUOLS

EQUIPMENT SCHEDULE

- KEYNOTES**
1. ALL WORK SHALL BE COMPLETED BY OWNER.
 2. ALL MATERIALS SHALL BE NEW UNLESS OTHERWISE NOTED.
 3. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL ELECTRICAL CODE (NEC) AND THE NATIONAL FIRE ALARM AND SIGNAL CODE (NFPA 72).
 4. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL MECHANICAL CODE (NMC) AND THE NATIONAL PLUMBING CODE (NPC).
- GENERAL NOTES**
1. ALL WORK SHALL BE COMPLETED BY OWNER.
 2. ALL MATERIALS SHALL BE NEW UNLESS OTHERWISE NOTED.
 3. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL ELECTRICAL CODE (NEC) AND THE NATIONAL FIRE ALARM AND SIGNAL CODE (NFPA 72).
 4. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL MECHANICAL CODE (NMC) AND THE NATIONAL PLUMBING CODE (NPC).

Building Codes

2003 INTERNATIONAL BUILDING CODE
 2003 INTERNATIONAL FIRE CODE
 2003 INTERNATIONAL PLUMBING CODE
 2003 INTERNATIONAL MECHANICAL CODE
 2003 INTERNATIONAL ELECTRICAL CODE

Code Analysis

USE GROUP: RESTAURANT (2) (GROUP 2)
 FINE SUSTAINED EXTERIOR EXPOSURE
 AREA OF SPACED INTERIOR: 1,778 SQUARE FEET
 OCCUPANT LOAD: ASSEMBLY 15 S.F. TABLE/CHAIRS
 1239 S.F. / 15 = 83 OCCUPANTS
 1239 S.F. / 7 = 177 OCCUPANTS
 TOTAL OCCUPANTS: 260 OCCUPANTS
 PROVIDED: 2

LEGEND

NEW WALL
 EXISTING WALL
 NEW DOOR
 EXISTING DOOR
 WALL TO BE REMOVED AT VERTICAL CURVE (SEE SECTION)

Project: THE INTERIOR REMODEL FOR SPANISH STREET BAR
 36 N. SPANISH
 CAPE GIRARDEAU, MISSOURI

Scale: 1/8" = 1'-0"

Sheet No.: A-1

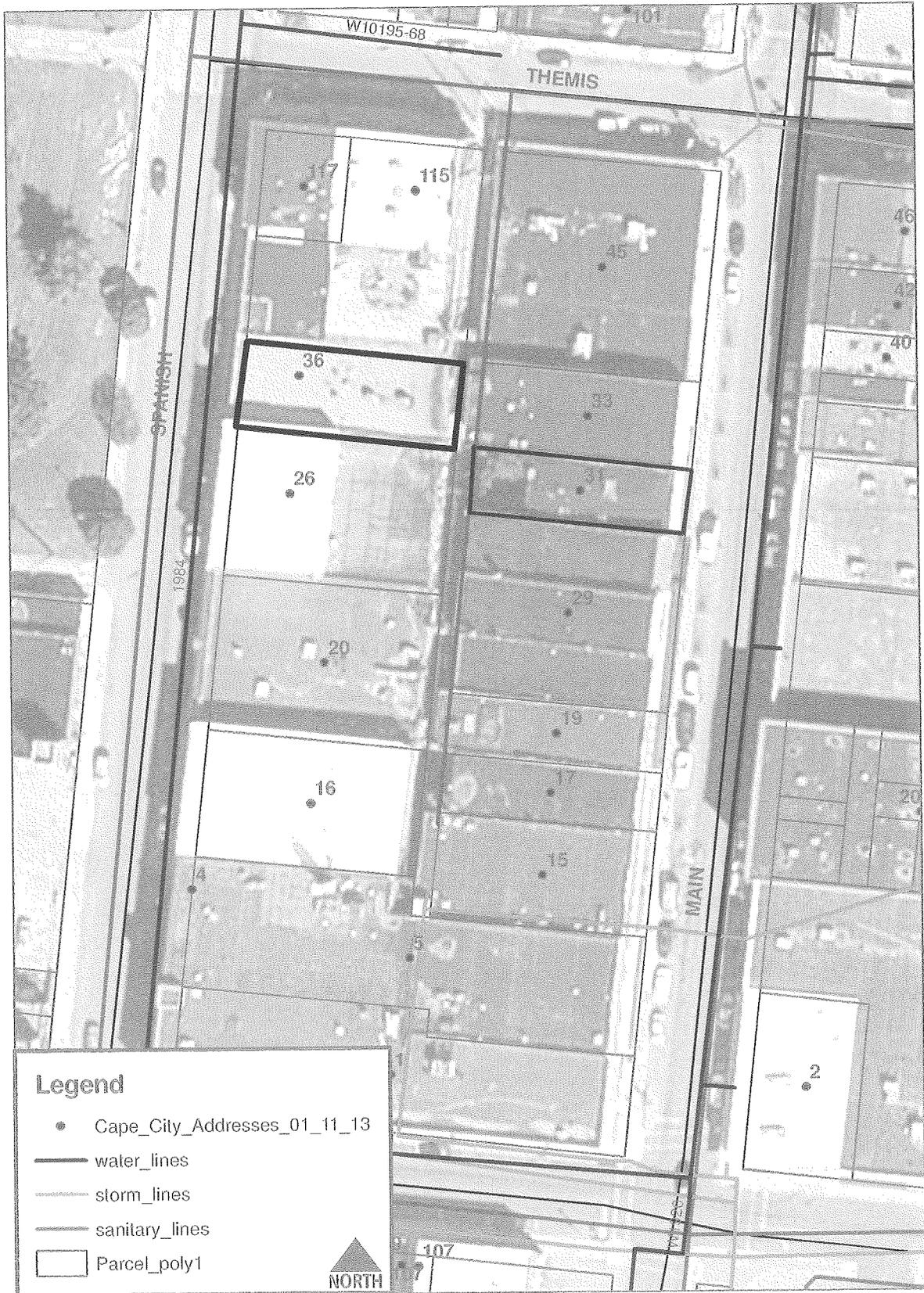
10020K

DATE: 1-28-16
 DRAWN BY: JRS
 CHECKED BY: JRS

GARY R. SMITH ARCHITECT
 10020K

JKD
 JAMES K. DUNN, INC.
 10020K

WALL TO BE REMOVED AT VERTICAL CURVE (SEE SECTION)



Legend

- Cape_City_Addresses_01_11_13
- water_lines
- storm_lines
- sanitary_lines
- Parcel_poly1

