

City of Huntington Board of Zoning Appeals

October 1st, 2020

Staff Report: A petition for a Conditional Use Permit to allow for a bar, particularly an outdoor dining area on the public right-of-way, in the C-3 Central Business District.

Legal Ad

BZA 20-C-10

Issue: A petition for an expansion of a conditional use permit. The permit is for Summit Beer Station to add an outdoor seating area to the public right-of-way in front of their bar. The property is located at 321 9th Street, Cabell County Tax Map 17, Parcel 181.

Property Owner: Joel Ward, 321 9th St, Unit B, Huntington, WV 25701

Petitioner: Jeffery McKay, 321 9th St, Huntington, WV 25701

Introduction

Jeff McKay is petitioning to expand a bar, Summit Beer Station, onto the adjacent right-of-way by building an outdoor dining area.

Existing Conditions / Background

The sidewalk where the outdoor dining area is proposed to be located is 12 feet in depth from the building to the street. There is an outdoor pedestrian level light within the area proposed to be used for the outdoor dining area.

Prior to the construction of Pullman Square in 2004, 9th Street at this location was a closed street used for pedestrian only activity.

Proposed Conditions

Summit Beer Station had already erected the outdoor dining area under the Executive Order passed in earlier this year to allow for such use of the sidewalk temporarily during the pandemic. Mr. McKay, owner of Summit Beer Station, is seeking this Conditional Use Permit to make this outdoor dining area permanent. In the interim, Mr. McKay has removed the outdoor dining area.

The area will include barriers, tables, chairs, and other amenities for customers.

Photos



Figure 1 - Picture of Summit and the sidewalk looking South; the planters on the sidewalk in front of Summit generally show where the outdoor dining area will be.



Figure 2 - Picture of Summit and the sidewalk



Figure 3 - Picture of Summit and the sidewalk looking North

Staff Comments

The staff does not perceive there to be any significant negative impacts for allowing a bar to expand onto the right-of-way.

Instead, we believe the further activation of 9th Street will increase safety and drive public engagement with this commercial area.

Zoning Ordinance

Article 1320 does allow for a Bar by Conditional Use. Article 1340 - Outdoor Dining requires that any bar expanding onto the public right-of-way obtain a Conditional Use Permit to do so. Article 1340 also sets

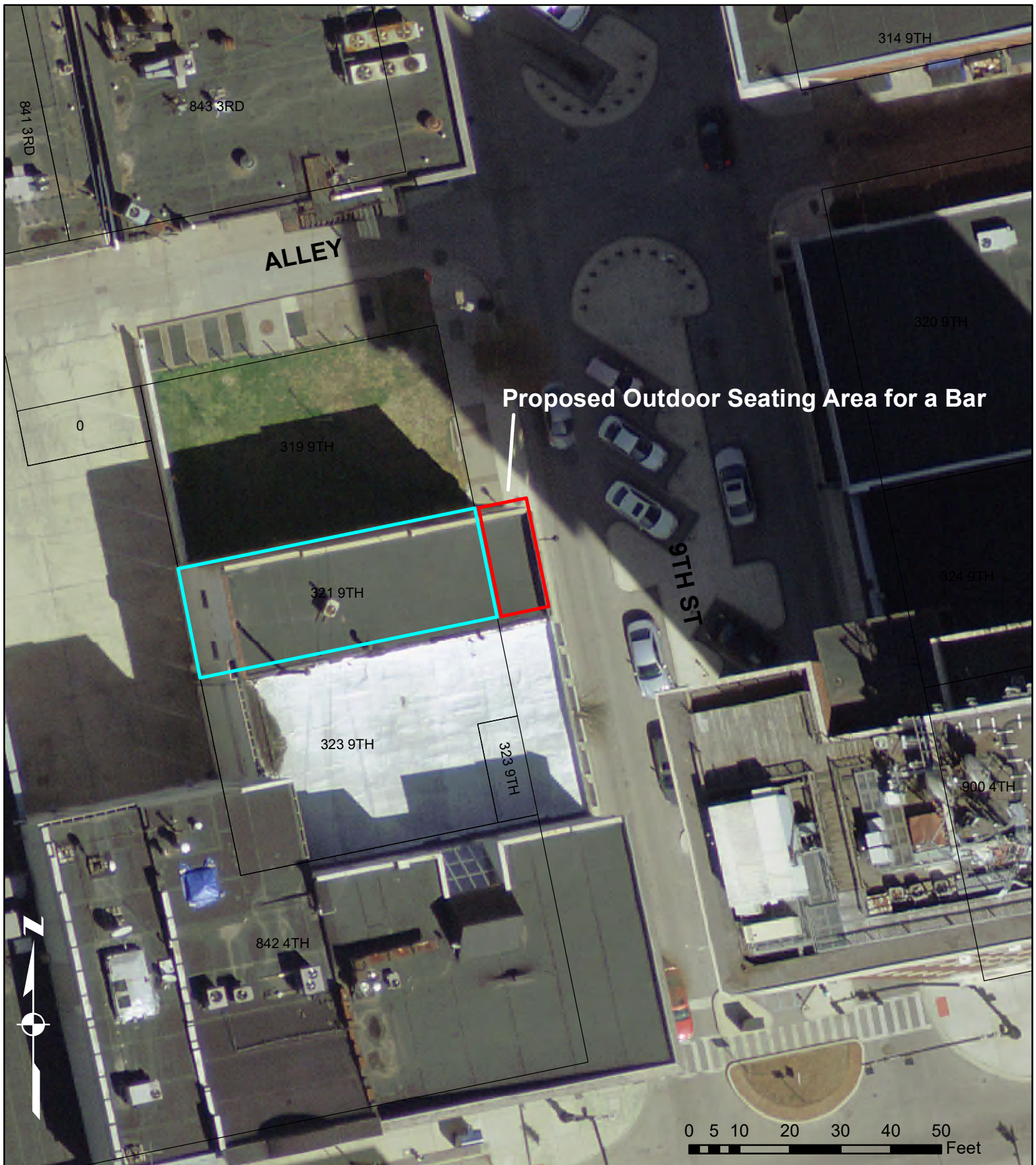
additional requirements such as unobstructed path of travel on the sidewalks and the creation of a barrier to separate the dining area from non-dining area on the sidewalk.

Summary / Findings of Fact

1. Joel Ward is the owner.
2. Jeffery McKay is the petitioner.
3. The proposed use is a bar on the sidewalk on the public right-of-way.
4. The property is zoned C-3 Central Business District.
5. The property is the public right-of-way of 9th Street.
6. The existing bar adjacent is approximately 1,320 sf.
7. The sidewalk is 12 feet in depth.
8. The required width to be maintained free of obstructions for pedestrian travel is 5 feet.
9. The outdoor dining area must comply with all requirements from the ABCA.

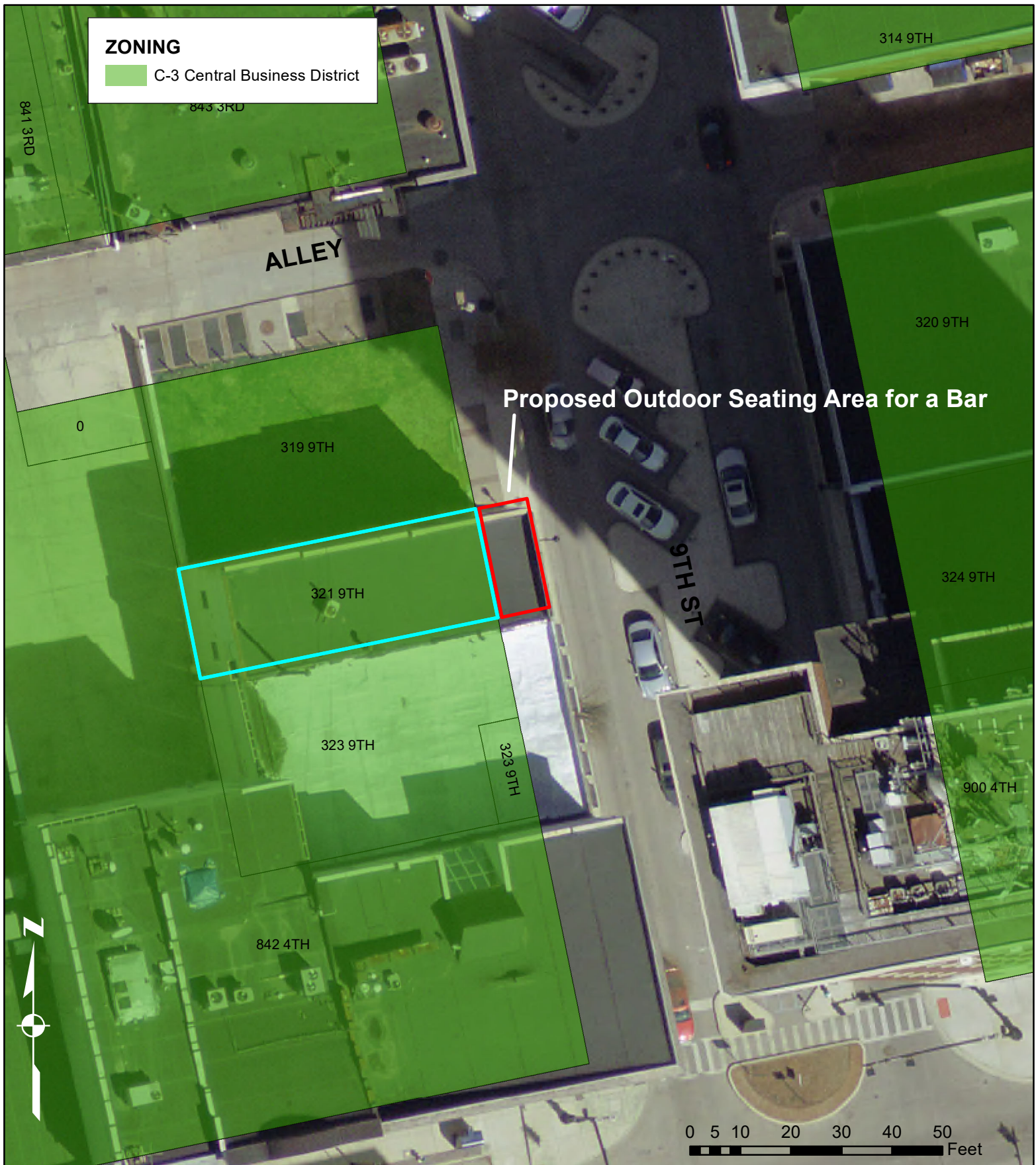
Attachments

Please see attached Aerial, Location, and Zoning Maps for reference.



321 9th Avenue Outdoor Seating for a Bar





321 9th Avenue Outdoor Seating for a Bar





321 9th Avenue Outdoor Seating for a Bar





**APPLICATION FOR
CONDITIONALLY
PERMITTED USE**

Huntington City Hall
800 Fifth Avenue, Rm 2
P.O. Box 1659
Huntington, WV 25717

All applications to be submitted typed or legibly written in blue or black ink.

Applicant (Person or Organization to whom the license will be granted.)

Full Legal Name: Jeffrey McKay Phone: (304) 532-4990
Address: 419 9th St. #301 Huntington, WV Email (optional): _____
25701

Property Owner

Full Legal Name: Joe Powell Ward Phone: _____
Address: _____ Email (optional): _____

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

321 9th St. Huntington, WV 25701

Description

Under the terms and conditions indicated in Article 1359 of the Zoning Ordinance, application is hereby made for a Conditional Use pursuant to Article _____ to allow the following:

Outdoor seating area in front of Summit Beer Station.

The following exhibits are to be attached and made part of this application:

- Site Plan of Real Estate involved (if applicable): **Drawn to Scale** with scale shown, with the direction of North clearly indicated on the drawing, showing all boundary lines and placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, etc).
- Valid State or Federal Photo ID.
- Treasurers Receipt for One Hundred Sixty Dollars (\$160.00) filing fee for each Conditional Use sought.

All of the above documentation is to be submitted to the Planning Commission office by _____.
Incomplete documentation will delay applicants review by the Board of Zoning Appeals.

Notice of Procedure

I/We, the undersigned am/are aware that the Board of Zoning Appeals will hold a public hearing on the request for a Conditional Use on Tuesday, September 15 at **5:30pm** in City Hall Council Chambers. It is my responsibility to attend (or send a representative/agent) to this meetings to present plans and to answer any questions regarding the request for a Conditional Use.

Signature of Applicant (include title if applicable) Date

8/12/20

Signature of Property Owner (Required)

Date

8/12/20

Attachment A & B

For Office Use:

Received: _____

Staff Initials: _____



Attachment A

In making its decision to approve or deny a request for Conditional Use, the Board of Zoning Appeals must consider the following six issues. Please provide a written statement how the proposed Conditional Use will affect each of these considerations.

1. Effect upon the Comprehensive Plan. (Available online or from the Planning and Zoning Office)

This will have a positive effect upon the Comprehensive Plan and improve the appearance of the area.

2. Public health, safety, morals, and general welfare.

The seating area will improve the livability of area and the contained seating will maintain the safety of customers and pedestrians

3. Potential injury to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

No potential injury to the use and enjoyment of other property.

4. Effect upon the normal and orderly development and improvement of surrounding property for uses already permitted in the District.

Will improve the appearance of the area and surrounding property

5. Adequate provisions for utilities, access roads, drainage, and other necessary facilities.

Adequate provisions will be made for all necessary facilities.

6. Adequate ingress and egress so designed to minimize traffic congestion in the public street.

Adequate ingress and egress will be maintained

