

**CITY OF DELAWARE**  
**HISTORIC PRESERVATION COMMISSION**  
**AGENDA**

**CITY COUNCIL CHAMBERS**  
**1 SOUTH SANDUSKY STREET**  
**7:00 P.M.**

REGULAR MEETING

APRIL 27, 2016

1. ROLL CALL
2. APPROVAL of the Motion Summary of the Historic Preservation Commission meeting held on March 23, 2016 as recorded and transcribed.
3. REGULAR BUSINESS
  - A. 2015-1768: A request by 12 WEST Restaurant for a Certificate of Appropriateness for a time extension to April 30, 2016 for the existing temporary vestibule and to request a permanent installation of the previously approved temporary vestibule for 12 West William Street which is zoned B-2 (Central Business District) and located in the Transitional Sub-District of the Downtown Historic District Overlay.
  - B. 2015-2345: A request by 12 WEST Restaurant for a revision to the November 18, 2015 Certificate of Appropriateness for restoration of the west elevation of 12 West William Street which is zoned B-2 (Central Business District) and located in the Transitional Sub-District of the Downtown Historic District Overlay.
4. COMMISSION MEMBER COMMENTS AND DISCUSSION
5. ELECTION OF OFFICERS
6. NEXT REGULAR MEETING: MAY 25, 2016
7. ADJOURNMENT

**HISTORIC PRESERVATION COMMISSION  
MOTION SUMMARY  
March 23, 2016**

ITEM 1. Roll Call

Chairman Koch called the Historic Preservation Commission meeting to order at 7:00 p.m.

Members Present: Erinn Nicley, Sherry Riviera, Councilman Kyle Rohrer, Vice-Chairman Mark Hatten, and Chairman Roger Koch

Members Absent: Joe Coleman and James Kehoe

**Motion to Excuse:** Vice-Chairman Hatten moved to excuse Mr. Coleman and Mr. Kehoe, seconded by Councilman Rohrer. Motion approved by a 5-0 vote.

Staff Present: Lance Schultz, Zoning Administrator and Dianne Guenther, Development Planner

ITEM 2. APPROVAL OF MOTION SUMMARY of the Historic Preservation Commission meeting held on January 27, 2016, as recorded and transcribed.

**Motion:** Vice-Chairman Hatten moved to approve the Motion Summary of the Historic Preservation Commission meeting held on January 27, 2016, as recorded and transcribed, seconded by Ms. Riviera. Motion approved by a 4-0-1(Rohrer) vote.

ITEM 3. REGULAR BUSINESS

A. 2016-0427: A request by Avenue Holdings LLC for a Certificate of Appropriateness for facade improvements at 4 North Sandusky Street / 5 East William Street which are zoned B-2 (Central Business District) and located in the Downtown Core and Transitional District of the Downtown Historic District Overlay, respectively.

Ms. Guenther provided a presentation that included the location of the property and photographs of both the outside façade and inside of the building. Ms. Guenther discussed the current floor access route. Ms. Guenther provided information regarding the storefront renovation proposal and other general improvements. A discussion was held regarding the intent of the applicant to preserve the existing ghost sign outside of the building.

**APPLICANT:**

Brad Blumensheid  
DKB Architects  
52 E. Lynn St.

Columbus, Ohio 43215

**Motion:** Vice-Chairman Hatten moved to approve 2016-0427 for the Certificate of Appropriateness for façade improvements at 4 North Sandusky Street/5 East William Street, along with all staff recommendations, seconded by Councilman Rohrer. Motion approved by a 5-0 vote.

B. 2016-0359: A request by 6 North Sandusky Street LLC for a Certificate of Appropriateness for facade improvements at 6 North Sandusky Street which is zoned B-2 (Central Business District) and located in the Downtown Core of the Downtown Historic District Overlay.

Ms. Guenther provided a presentation that included the zoning and location map. Ms. Guenther reviewed the storefront renovation proposal and reviewed the proposed color palette and proposed appurtenances. Information was also provided regarding interior modifications and replacement of roof and gutters. Ms. Guenther indicated that the final design for the signage will be approved through administrative approval.

**APPLICANT:**

Jake Ball  
1989 Stratford Road  
Delaware, Ohio 43015

Tom Vatsures  
15 W. Central Avenue  
Delaware, Ohio 43015

A discussion was held on the applicant's intention to uncover the columns and expose the original stone if the columns are in good condition.

**Motion:** Mr. Nicley moved to approve 2016-0359 for the Certificate of Appropriateness for the property at 6 North Sandusky Street with both staff recommendations included, seconded by Ms. Riviera. Motion approved with a 5-0 vote.

**ITEM 4. COMMISSION MEMBER COMMENTS AND DISCUSSION**

Ms. Guenther provided an update on efforts to remove noncompliant signage. Ms. Guenther discussed the plan for herself and the Economic Development Director to meet with each business desiring a sidewalk use permit to review patio and sign regulations in April. Mr. Schultz discussed the process to revise the code for signage in regard to the sidewalk signs per a request of the HPC Chairman.

ITEM 5. ELECTION OF OFFICERS

The Commission was in agreement to hold elections at the next meeting due to the absence of Mr. Kehoe and Mr. Coleman.

ITEM 6. NEXT REGULAR MEETING: April 27, 2016

ITEM 7. ADJOURNMENT

**Motion:** Mr. Nicley motioned to adjourn the meeting, seconded by Ms. Riviera. The Historic Preservation Commission meeting adjourned at 8:14 p.m.

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Roger Koch, Chairman

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Elaine McCloskey, Clerk

### **APPLICANT/OWNERS**

12 WEST Restaurant  
12 West William Street  
Delaware, OH 43015

### **REQUEST**

**2015-1768:** A request by 12 WEST Restaurant for a Certificate of Appropriateness for a time extension to April 30, 2016 for the existing temporary vestibule and to request a permanent installation of the previously approved temporary vestibule for 12 West William Street which is zoned B-2 (Central Business District) and located in the Transitional Sub-District of the Downtown Historic District Overlay.

### **LOCATION & DESCRIPTION**

The project is located at 12 West William Street, between Sandusky and Franklin Streets, in the Transitional Sub-District of the Downtown Historic District Overlay. The properties immediately to the north and south lie within the Downtown Core Sub-district, while the properties immediately to the east and west lie within the Transitional Sub-District. The zoning of the property is B-2 (Central Business) District, as are the surrounding properties. It is considered a 'background building' in the National Register Sandusky Street Historic District due to the stucco application to the façade, which was apparently applied along with the buildings to its east in the late 1950s-early 1960s and covers any pre-existing historical architectural features.

### **BACKGROUND/PROPOSAL**

At the September 30, 2015 Historic Preservation Commission (HPC) Meeting, HPC indicated to the Applicant that, overall, HPC is open to approving the concept of a 'temporary exterior sidewalk vestibule.' The vestibule would be installed on the city sidewalk, at the primary entrance, within the annually-approved revocable sidewalk permit patio area. The structure would be 'temporary,' installed on possibly October 1 and removed by March 31, with enforcement by City Staff. The Applicant would be responsible for maintenance, as well as removed by the dates indicated. Approval would be for one (1) year only and would be revocable at any time and at the full discretion of the City of Delaware, as with any other sidewalk permit use. At the October 28, 2015 meeting, HPC granted Approval of the application with the following Conditions that:

- 1) The Applicant maintains an approved sidewalk use permit for the outdoor patio area, current insurance coverage, and liability waiver in favor of the City of Delaware.
- 2) The Applicant understands and agrees the installation of the temporary sidewalk vestibule is on a one-time, one-year basis only, according to the specifications submitted with this request for a Certificate of Appropriateness. Future consideration is based upon a Staff and Applicant debriefing in the Spring of 2016. The subject will be revisited and brought before the HPC for approval at that time should Staff and the Applicant find the test to be successful.
- 3) The Applicant shall adhere to Historic District Architectural Standards and zoning and building code requirements for this installation.
- 4) The Applicant understands and agrees that, per the temporary sidewalk use regulations, this approval is fully revocable at any time for any reason at the sole discretion of the City of Delaware. The Applicant is responsible for any and all costs in this regard. The City may require, at its sole discretion, additional licensure, lease, or permits to be required for this proposed temporary occupation of its right-of-way.
- 5) The Applicant understands and agrees that, at the Applicant's sole expense, the Applicant shall restore the sidewalk as required by the City of Delaware and to the satisfaction of the City in its sole discretion.

The Certificate of Action is attached to this report for reference.

The selected awning company provided engineering drawings indicating all code details, including ADA requirements, for building plan and zoning review (attached to this report for reference). An installation permit was issued (Permit No. 2016-0026) with the following Conditions:

- 1) Subject to Conditions of HPC 2015-1768 Certificate of Appropriateness.
- 2) Subject to Temporary License

3) Contractor must have approved 2016 City of Delaware Contractor Registration.

The permit received final inspection on January 29, 2016 by the Chief Building Official. The Applicant also obtained a Revocable Sidewalk Use Permit (Permit No. 2015-1160) for the patio and vestibule. In addition, the City of Delaware issued a Temporary License allowing the temporary encroachment into the public right-of-way of the municipal sidewalk from October 1, 2015 through March 31, 2016, on which date the vestibule was to be removed. (A copy of the Temporary License is attached to this report for reference.)

The owners of 12 WEST Restaurant acknowledged that this is the initial pilot test case for the allowance of temporary sidewalk vestibules in the Downtown Historic District and the future of this and possibly other vestibule installations in the Historic District were dependent upon the successful implementation of this particular case. Despite a reminder on March 24, 2016, Staff found on April 6, 2016 that the vestibule, with only the door removed, was still on site. With receiving no communication from the Applicant up to that point, Staff contacted the Applicant on April 7, 2016 requesting the status of its removal. The Applicant acknowledged exceeding the removal date and indicated the awning company was contacted three times for its removal and storage. On that same date, the Applicant subsequently requested a time extension to April 30, 2016 for the existing Temporary License and also requested a License for permanent installation of the temporary exterior sidewalk entrance vestibule.

Sidewalk Vestibule at 12 WEST Restaurant – 4/6/2016 and 4/12/2016



The Applicants were advised that an appearance before the HPC was needed to accommodate those requests and that Staff would perform its in-house review of this test pilot case for discussion with the HPC members. The Applicant provided the following notes regarding this agenda item to share with HPC members, provided here verbatim:

*1) The Vestibule test case has been a great success with no reported downside to the public or the business. The previous statement is based on our five month experience with the vestibule. It has protected the public from the harsh winter weather and into the spring rain and high winds. It would do the same for the summer high heat, rain, and humidity.*

*Prior to installation of the vestibule and the front door open, 25% of our customers are immediately impacted by the outside air, high winds, and/or rain. This created an uncomfortable dining experience where we received complaints. Also realize, our customers not only open the front door, but most times hold it open when deciding to enter or saying goodbye when leaving. This only adds to the negative experience of those 25%.*

*Next, in an historic and aged building as 12 W William St., the vestibule helps in decreasing our high utility bills by controlling the airflow in and out of the building. The restaurant business is one of the most difficult small*

*businesses to operate with very slim margins. Therefore cost controls help us stay in business and allow us to continue to be a positive addition to the downtown community. We are striving to maintain that key balance with an historic building while operating a business that employs local people and contributes to the tax-base.*

*Last, as we have done with our entire business, we the owners of 12 West made certain to purchase a vestibule that blends into the HPC approved color concept and one of the highest quality. During the last five months, we've received only compliments and gratitude from the local community for improving their experience by adding the vestibule addition.*

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## **STAFF ANALYSIS**

The City of Delaware is experiencing an obvious uptick in the local economy, and with that, a substantial increase in the number of visitors and patrons to the Downtown Historic District. The techniques employed by local businesses to attract visitors and patrons (such as patios, sidewalk signs, planters, displays, etc.) are now creating an unfortunate side effect of becoming a deterrent to the free-flowing movement of pedestrians on the city sidewalks and the feeling and appearance, to a certain extent, of a "cluttered" sidewalk. Additionally, the entire regulatory premise that allows patios and the described temporary sidewalk intrusions (at Codified Ordinances Section 1149.13 Sidewalk Use & Occupation, Part (c) Temporary Displays and Occupations in the Historic District and Ohio Wesleyan University) is based upon the notation of the 'temporary' nature of these uses and intrusions into the public right-of-way.

To provide for a more enjoyable dining experience for patrons, the Applicant proceeded with the installation of the temporary sidewalk vestibule with the agreement and understanding that this was allowed by the HPC and the City of Delaware on a one-time, one-year basis only, and according to the specifications submitted with the request for a Certificate of Appropriateness. Future consideration for re-installing the vestibule for subsequent seasons is contingent upon a Staff and Applicant debriefing in the Spring of 2016, and the subject was to be brought before the HPC for approval at that time should Staff and the Applicant find the test to be successful. The Applicant, however, failed to fully disassemble the vestibule by the agreed-upon date, is approaching HPC for a time extension for the temporary vestibule currently installed, and, in addition, is requesting a permanent installation of the temporary sidewalk vestibule, which is contrary to the original agreement, understanding, and 1149.13 of the Codified Ordinances.

City Staff requested comments from City Departments regarding this test case. Extending the timeframe for temporary occupancy of the city sidewalk from October 1, 2015 to April 30, 2016 (rather than March 31, 2016) under the existing Temporary License for this particular pilot case was generally supported. Allowing the structure to be permanent was not. The vestibule is to be fully disassembled and removed from the public right-of-way by the end of April.

City Staff's support of temporary sidewalk vestibules is still not without reservation and concern surrounding the impact of possibly multiple vestibules within confined areas of a downtown city block as well as ensuring the temporary nature of these uses and structures. In addition, the quality of the vestibules themselves on the historic fabric of the commercial historic district, an increase in Staff time for monitoring vestibule installation and enforcement of conditions, and liability issues regarding placement of these structures in the public right-of-way are also important considerations.

If temporary vestibules are to be allowed, a formalized specific case-by-case review criteria would need to be established, taking into account such items as interior space limitations, exterior placement parameters, material and design details, city and state code requirements, and a current approved patio permit in place as previously approved by the HPC. Each new application would need to appear before HPC and an evaluation made of the circumstances specific to each applicant prior to approval. The temporary vestibule would fall under the jurisdiction of a Revocable Sidewalk Use Permit and must comply with construction permit requirements, including engineered drawings. In addition, City Staff recommends execution of a Temporary License allowing

the temporary encroachment into the public right-of-way for a specific timeframe which is revocable at the City's discretion. Staff recommends that the process be two-fold with (1) HPC reviewing the design and basic approach of the temporary nature of the improvement under the jurisdiction of approved sidewalk use permit and on qualifying environmental change, and (2) the City of Delaware must give approval for temporary occupancy of the sidewalk or right-of-way for this type of installation via both a Temporary License and a Revocable Sidewalk Use Permit (this would be potentially annually renewable). This entire process would need to be vetted and the proper legislative processes undertaken in order to incorporate this new use into the Architectural Standards for Downtown Delaware.

The Applicant expressed to Staff the understanding that the City is bound to review this pilot test case in terms of current legislative and legal parameters. That said, the Applicant's request for a License for permanent installation of the temporary sidewalk entrance vestibule enters the realm of a permanent structure erected within the city right-of-way and, therefore, is not in keeping with the temporary sidewalk permit-enabling legislation at Codified Ordinance Section 1149.13. The entire premise, legal basis, and administration of the sidewalk permit process relies upon the fact that intrusions are indeed temporary. Fences by definition are temporary and are not structures but rather separately regulated within the code. If the vestibule is to be permanent with its two sidewalls and an entry door, the entire basis of the sidewalk permit program could be jeopardized. The cap of the vestibule is described and designed as an 'awning' on the engineered drawings, which can remain permanently providing shade to the door and cover from the rain in the warmer months, thereby addressing that concern of the Applicant.

Jeopardizing the entire sidewalk permit program would not be advantageous for the downtown economy, especially for the dozens of other businesses that take advantage of the ability to use the temporary program. Holders of Revocable Sidewalk Use Permits report bringing in thousands of dollars of additional revenue from the temporary extension of their dining rooms and bars during the warmer months of the year. In this particular case, and in light of the fact that the City views each individual business as critical to the success of the central business district, logic would dictate that the needs of the many may outweigh the needs of the one and require a compromise for the common good of the community. Staff understands and has no objection to extending the timing of 'temporary,' in this case, to the end of April 2016. Staff also understands the rationale of the Applicant in this case and that the configuration of the building lends to the cold weather infiltration into the restaurant. Staff supported this request as a test pilot for the general concept of temporary vestibules since this is not the only storefront with this configuration in the downtown, thus it is likely that others may seek the same approvals. Staff is aware of a few other businesses to date that expressed interest, but are awaiting the results of the test pilot application. As a point of reference, a test pilot approach was used for the initial sidewalk patio (at Rudy Z's, now Typhoon at 10 North Sandusky Street) which proved successful because of the cooperative actions of the Applicant, thereby enabling the dozens of other establishments to take advantage of this sidewalk permit process (Ordinance 06-22). Had it not been successful, it would be very likely that the City would have no temporary sidewalk uses in the downtown today.

The Applicant executed a very well-designed vestibule with a capable awning company, and both the Applicant and the awning company were extended the same, and perhaps more, courtesies offered to other applicants and contractors navigating through the city review and permit processes. Staff recommends that the vestibule maintains its temporary status and believes this can be viewed as a tremendous business friendly compromise since it allows the continuation of the temporary sidewalk use permit process as written and conceived. It allows temporary intrusions into the downtown right-of-ways to continue, but with clear parameters that these are indeed temporary uses. The temporary vestibule will provide the Applicant (in this case) cold weather protection for patrons, as well as a pre-existing choice as to if the patio or vestibule is more or less important to use, given weather, business patterns, and business decisions for the space they chose (and continue to choose) to occupy. Allowing and integrating the cap of the vestibule, after the removal of the two sidewalls and entry door, as a permanent awning was expressly to provide for shade and weather cover during the warmer months, thereby addressing that issue. Staff contends this ultimately could not be a more business-friendly compromise as a result, while still being temporary.

A permanent intrusion into the public right-of-way, however, would rest within the confines of the existing parameters of the City Zoning Code. The HPC would play a role in the process as to design, use (a three-sided structure – a vestibule in this case), location, and timing. While a decision to move forward with permanent installation of the vestibule in the public right-of-way as requested by the Applicant could involve the dispensation of public property ultimately involving legal opinions (and other processes), as well as potential action by City Council. The City Engineer indicated creating permanent conditions could jeopardize state and federal roadway funding as well. Since existing code precludes this type of permanent sidewalk use, the City historically has operated within the auspices of a ‘temporary’ condition to date and these other issues and processes have not come into in play. If HPC approved the permanent condition from its perspective, then there would be more approval processes and steps required that would have to be determined. As an example, Section 1149.13 (c) of the Zoning Code – Temporary Displays and Occupations in the Historic District Overlay and Ohio Wesleyan University – at a minimum would require a zoning change to this enabling legislation. At this time and for the reasons stated above, Staff would not be in support of a change to that legislation, although ultimately this would be a decision made by City Council. The Applicant would be required to maintain the ‘temporary’ status of the sidewalk vestibule until such time a ‘permanent’ status could be established.

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**STAFF RECOMMENDATION (HPC 2015-1768 – CERTIFICATE OF APPROPRIATENESS)**

Staff recommends approval of the request by 12 WEST Restaurant for a Certificate of Appropriateness only for a time extension to April 30, 2016 for the existing Temporary License for the temporary exterior sidewalk entrance vestibule for 12 West William Street which is zoned B-2 (Central Business District) and located in the Transitional Sub-District of the Downtown Historic District Overlay, with the following conditions that:

- 1) The Applicant removes the temporary sidewalk vestibule by April 30, 2016, on which date the Temporary License expires.
- 2) The Applicant maintains an approved sidewalk use permit for the outdoor patio area, current insurance coverage, and liability waiver in favor of the City of Delaware.
- 3) The Applicant re-applies for a Temporary License and Revocable Sidewalk Use Permit for consideration by the City of Delaware for the installation of the temporary sidewalk vestibule for the time period of October 1, 2016 through April 30, 2017, according to the specifications previously approved by the October 28, 2015 Certificate of Appropriateness.
- 3) The Applicant understands and agrees that, per the temporary sidewalk use regulations; this approval is fully revocable at any time for any reason at the sole discretion of the City of Delaware. The Applicant is responsible for any and all costs in this regard. The City may require, at its sole discretion, additional licensure, lease, or permits to be required for this proposed temporary occupation of its right-of-way.
- 5) The Applicant understands and agrees that, at the Applicant’s sole expense, the Applicant shall restore the sidewalk as required by the City of Delaware and to the satisfaction of the City in its sole discretion.

**COMMISSION NOTES:**

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**CASE NUMBER:** 2015-1768 Temporary Sidewalk Vestibule for 12 West William Street

**MEETING DATE:** April 27, 2016

**PAGE:** 6 of 6

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*MOTION:*     \_\_\_\_\_ *1<sup>st</sup>*     \_\_\_\_\_ *2<sup>nd</sup>*     *approved*     *denied*     *tabled* \_\_\_\_\_

*CONDITIONS/MISCELLANEOUS:*

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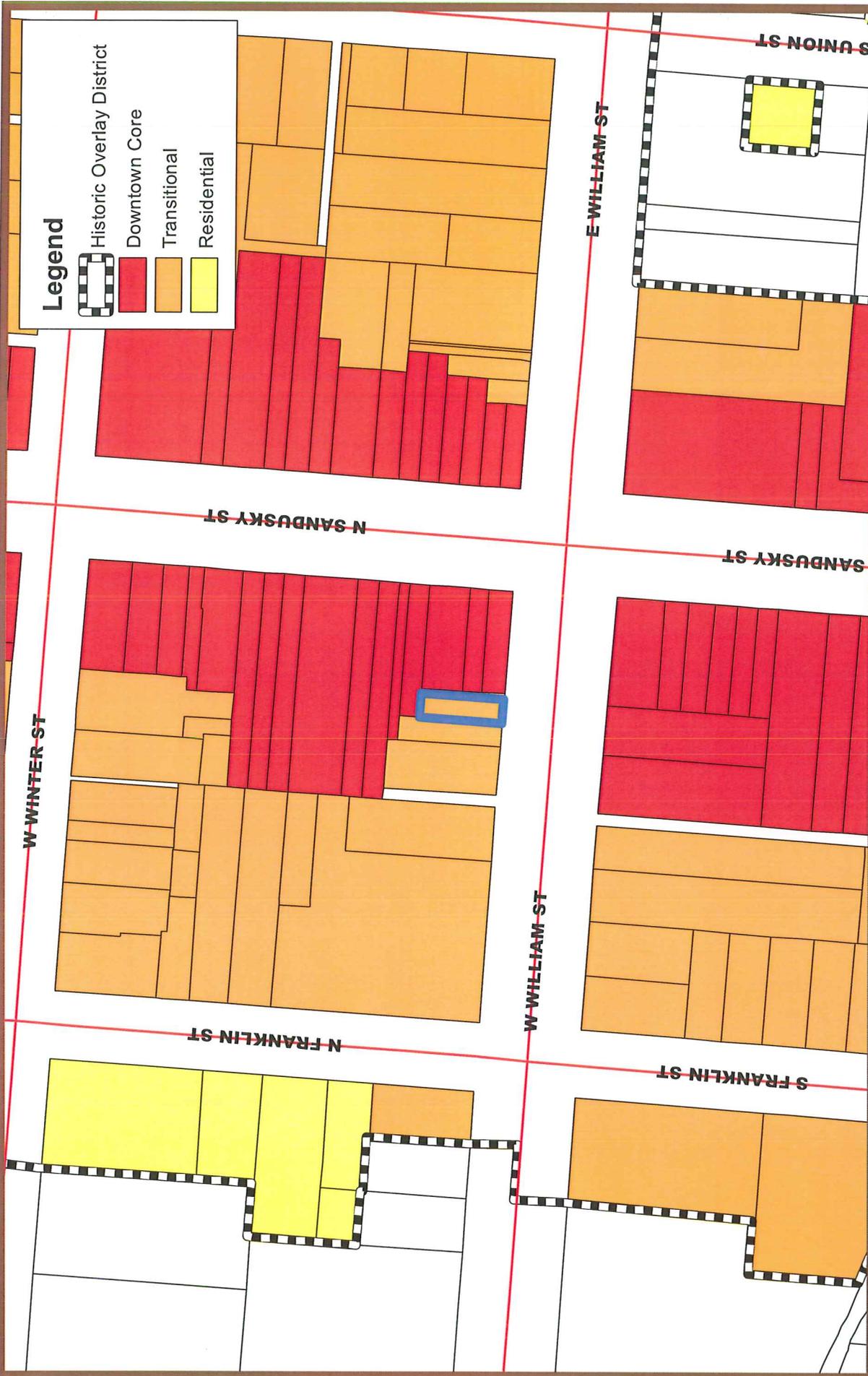
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FILE:                    PLANNING/HPC CASES/2015 CASES/2015-1768\_12 W WILLIAM SIDEWALK VESTIBULE  
ORIGINAL:            4/19/16  
REVISED:



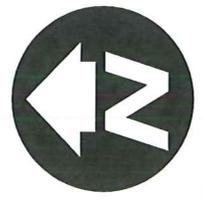
2015-1768  
Certificate of Appropriateness  
12 West Restaurant - 12 W. William Street  
Aerial (2013)





**Legend**

- Historic Overlay District
- Downtown Core
- Transitional
- Residential



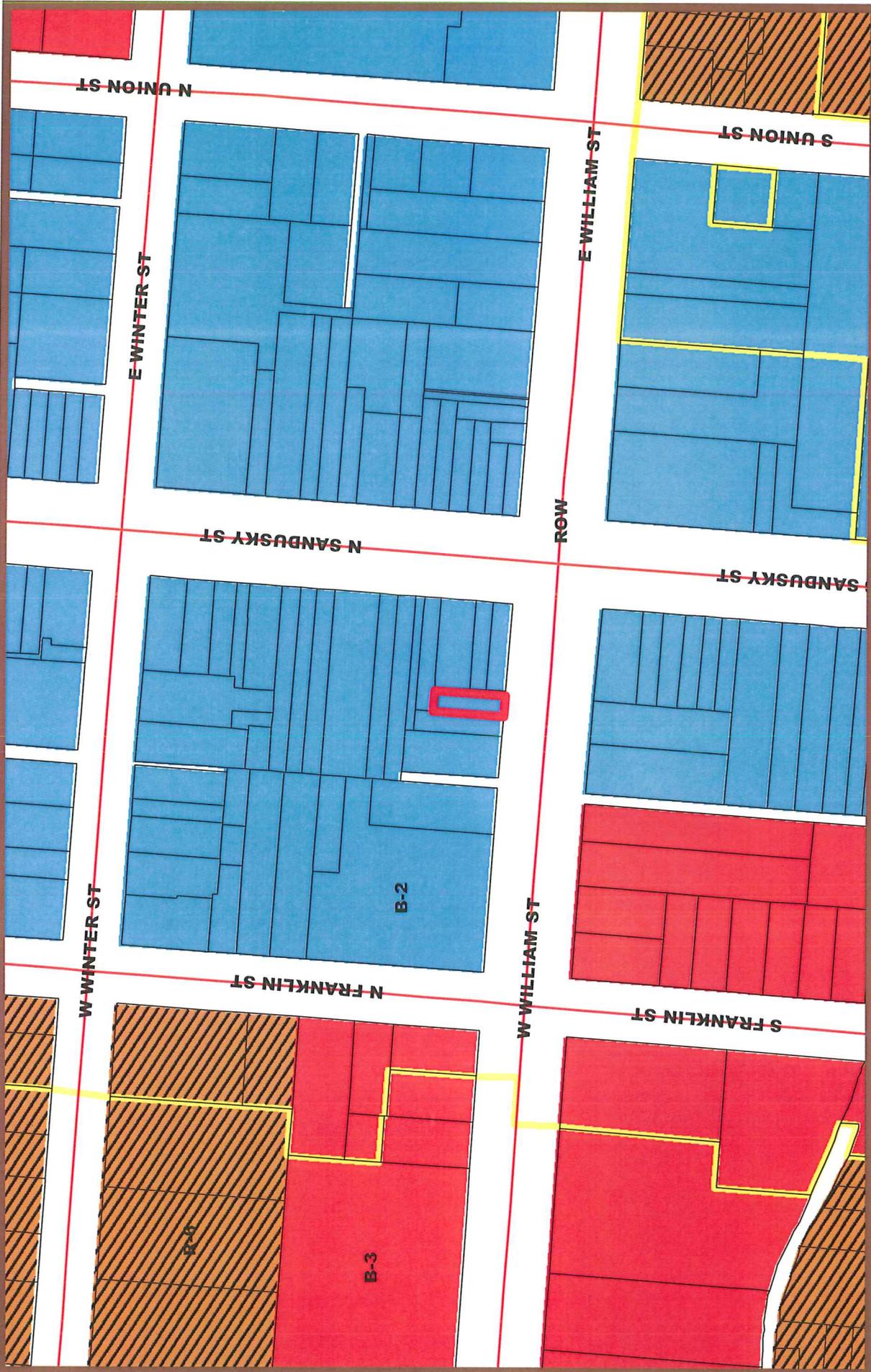
2015-1768  
 Certificate of Appropriateness  
 12 West Restaurant - 12 W. William Street  
 Historic District Map





2015-1768  
Certificate of Appropriateness  
12 West Restaurant - 12 W. William Street  
Location Map





2015-1768  
 Certificate of Appropriateness  
 12 West Restaurant - 12 W. William Street  
 Zoning Map





**COPY**

**CITY OF DELAWARE HISTORIC PRESERVATION COMMISSION ACTION  
CERTIFICATE OF ACTION  
CASE NO. 2015-1768 – 12 West William Street, 12 WEST Restaurant**

- Certificate Date:** October 28, 2015
- Case Number:** HPC 2015-1768
- Applicant:** 12 WEST Restaurant  
12 West William Street, Delaware, OH 43015
- Request:** A request by 12 WEST Restaurant for a Certificate of Appropriateness for a temporary exterior sidewalk entrance vestibule for 12 West William Street zoned B-2 (Central Business District) and located in the Transitional Sub-District of the Downtown Historic District Overlay.
- Public Hearing:** Notice of meeting posted on City of Delaware website with agenda.
- Exhibits provided:**
1. Staff Report dated 10/28/2015 and all attachments
  2. Certificate of Appropriateness Application and all attachments
- Staff Recommendation:** Approval of the application which adequately addressed zoning code and Historic District Architectural Standards to the satisfaction of the decision criteria contained within the regulation, with Conditions in Staff Report.
- Commission Action:** On 10/28/2015, the Historic Preservation Commission granted Approval of this application with the following Conditions that:
- 1) The Applicant maintains an approved sidewalk use permit for the outdoor patio area, current insurance coverage, and liability waiver in favor of the City of Delaware.
  - 2) The Applicant understands and agrees the installation of the temporary sidewalk vestibule is on a one-time, one-year basis only, according to the specifications submitted with this request for a Certificate of Appropriateness. Future consideration is based upon a Staff and Applicant debriefing in the Spring of 2016. The subject will be revisited and brought before the HPC for approval at that time should Staff and the Applicant find the test to be successful.
  - 3) The Applicant shall adhere to Historic District Architectural Standards and zoning and building code requirements for this installation.
  - 4) The Applicant understands and agrees that, per the temporary sidewalk use regulations, this approval is fully revocable at any time for any reason at the sole discretion of the City of Delaware. The Applicant is responsible for any and all costs in this regard. The City may require, at its sole discretion, additional licensure, lease, or permits to be required for this proposed temporary occupation of its right-of-way.

5) The Applicant understands and agrees that, at the Applicant's sole expense, the Applicant shall restore the sidewalk as required by the City of Delaware and to the satisfaction of the City in its sole discretion.

**Commission Findings:**

The Historic Preservation Commission reviewed all exhibits provided and Staff recommendations, and all applicable decision and review criteria given within Chapter 1190 of the Delaware City Zoning Code and determined beyond a reasonable doubt, that the decision criteria and standards for approval of a Certificate of Appropriateness had been met. Approval is granted, provided the project proceeds as presented and with Conditions noted.

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**STAFF SIGNATURE**



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Dianne L. Guenther  
Development Planner

This Certificate of Action is not a permit and does not authorize the commencement of any construction.  
Contact the City of Delaware Inspection Division at 740-203-1600 regarding required permits for this project.  
Retain this Certificate of Action for your project file.

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## TEMPORARY LICENSE

KNOW ALL MEN BY THESE PRESENTS that the City of Delaware, Ohio, an Ohio Municipal Corporation, does hereby grant unto the Grantee, 2ND HALF VENTURES LLC, its successors, assigns, lessees, employees, agents, consulting engineers, contractors, and subcontractors, the right to encroach upon the following described public right-of-way (ROW) for the purpose of construction, operation, maintenance, repair, removal, replacement, or reconstruction of a temporary sidewalk vestibule at the West William Street entrance of the building at 12 West William Street, Delaware, Ohio 43015 ("the Improvement") at said Grantee's real property being fully described as follows:

Street Address: 12 West William Street, Delaware, Ohio 43015

Situated in the State of Ohio, County of Delaware, and City of Delaware:

Parcel No.: 519-432-25-023-000

Deed Reference: Book No. 1279, Pages 388-389 in the Recorder's Office, Delaware County, Ohio

Situated in the County of Delaware, in the State of Ohio and in the City of Delaware and bounded and described as follows:

Being the southeast part of Lot No. Sixty-three (63) and beginning at a point in the north line of William Street, N. 88-1/2<sup>o</sup> W. One Hundred Five (105) feet west from the southeast corner of Inlet No. Sixty-four (64), being the southeast corner of Latimer (now M. Frank's estate) brick store building; thence N. 1-1/2<sup>o</sup> E. along the west line of a twelve (12) foot alley, eighty-four (84) feet and three and one-fourth (3-1/4) inches to a post; thence N. 88-1/2<sup>o</sup> W. parallel with William Street, twenty-three (23) feet; thence S. 1-1/2<sup>o</sup> W. eighty-four (84) feet three and one-fourth (3-1/4) inches to the north line of William Street; thence S. 88-1/2<sup>o</sup> E. along said north line of William Street twenty-three (23) feet to the place of beginning.

The licensed Improvement, as described and approved in Historic Preservation Commission Case No. 2015-1768 and Building and Zoning Permit 2016-0026 encroaches into the public right-of-way of the municipal sidewalk on West William Street between North Sandusky Street and North Franklin Street, along the southern property line of the subject building described above, and each description incorporated herein by their respective references.

The License shall be in effect between the dates of October 1, 2015 and March 31, 2016 only as long as the present building referenced above exists and serves a public purpose, and the Improvement serves its desired intention of controlling adverse airflow in that building. This license may be renewed for the same date ranges for additional years by the City.

The License rights granted herein are "non-exclusive," and Grantor reserves the right to use the area in any manner that will not prevent or interfere with the accessibility granted by this License. The Grantor also reserves the right to revoke this License at its discretion.

Grantee agrees to indemnify and hold harmless the Grantor from any and all claims which may result from the use of the License area by Grantee, or its successors, assigns, lessees, employees, agents, consulting engineers,

**COPY**

contractors, subcontractors, and customers in the construction, operation, maintenance, repair, removal, replacement, reconstruction, or use of the Improvement.

The Grantor hereby covenants with Grantee to be the true and lawful owner of the above described public property and having good right and full power to grant this License.

IN WITNESS WHEREOF, Grantor has hereunto set its hand this 13 day of January, 2016.

Signed in the presence of:

Michele Kohler

  
\_\_\_\_\_  
R. Thomas Homan, City Manager  
City of Delaware

State of Ohio, Delaware County, ss:

The foregoing instrument was acknowledged before me by R. Thomas Homan, City Manager, City of Delaware,  
this 13 day of January, 2016.

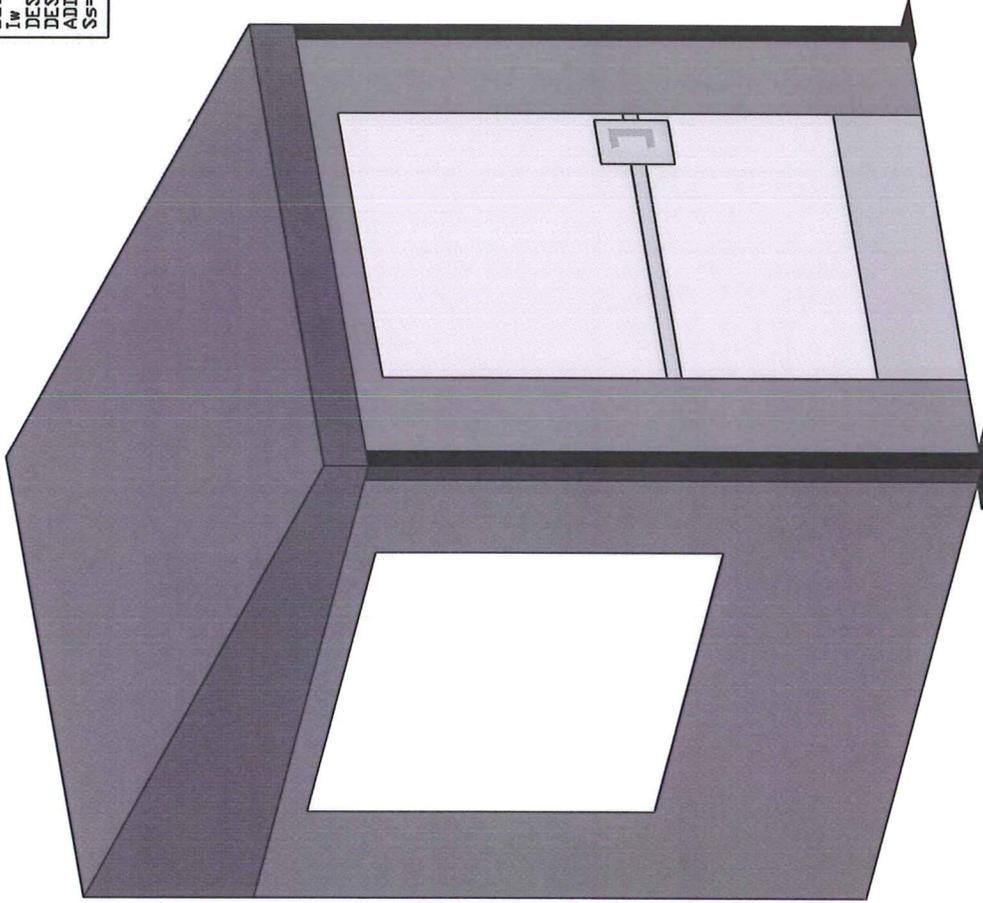
Michele A Kohler  
\_\_\_\_\_  
Notary Public

MICHELE KOHLER  
Notary Public, State of Ohio  
My Commission Expires August 8, 2017

This instrument prepared by:  
Darren Shulman  
Delaware City Attorney  
City Hall, 1 South Sandusky Street  
Delaware, OH 43015

# OVERVIEW OF VESTIBULE

DESIGNED IN STRICT ADHERENCE TO CHAPTER 16  
OF THE 2011 OHIO BUILDING CODE.  
DESIGN WIND SPEED = 90 MPH (3-SEC GUST)  
 $I_w = 1.00$   
DESIGN SNOW LOAD = 20 PSF  
DESIGN LIVE LOAD = 20 PSF  
ADD'L 5 PSF UNIFORM ICE LOAD  
 $S_s=0.175$ ,  $S_1=0.064$



12/8/2015

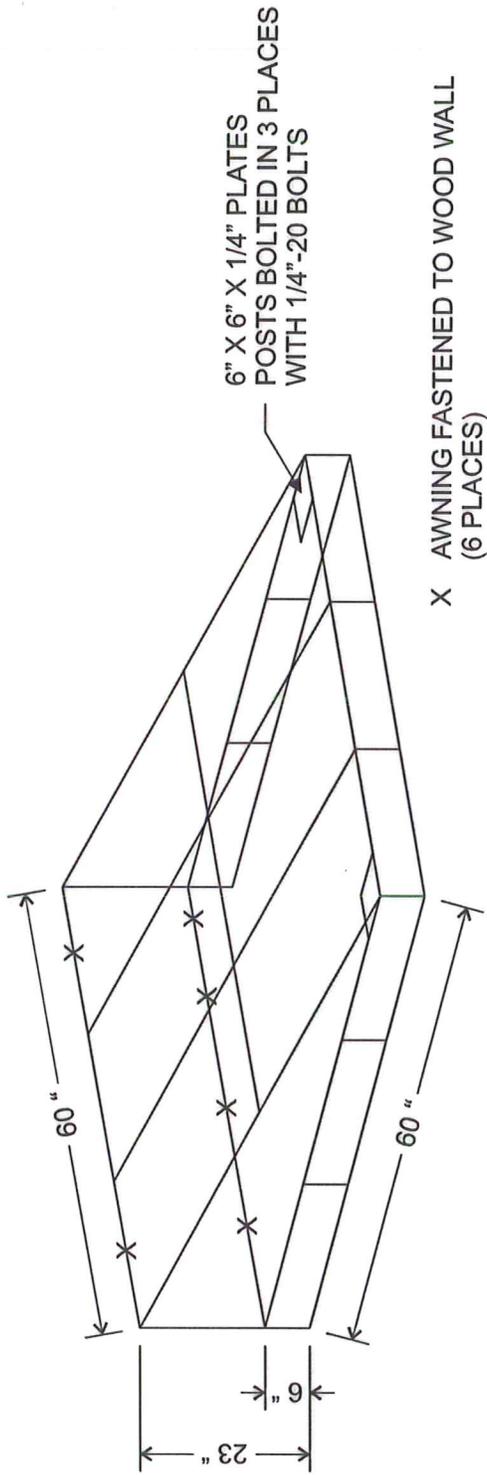


Columbus Awning Co.  
225C East Broadway  
Westerville, Ohio 43081

Project:  
12 West  
12 W Williams St.  
Delaware, OH

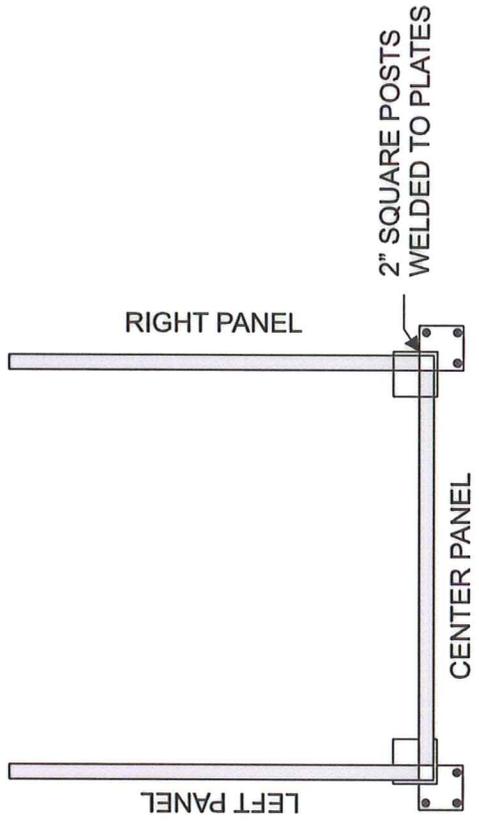
Vestibule  
Black Sunbrella with Clear Vinyl  
Aluminum Frame  
Posts Painted Black

**COPY**



1"=24"

PLAN VIEW OF PANELS



12/8/2015

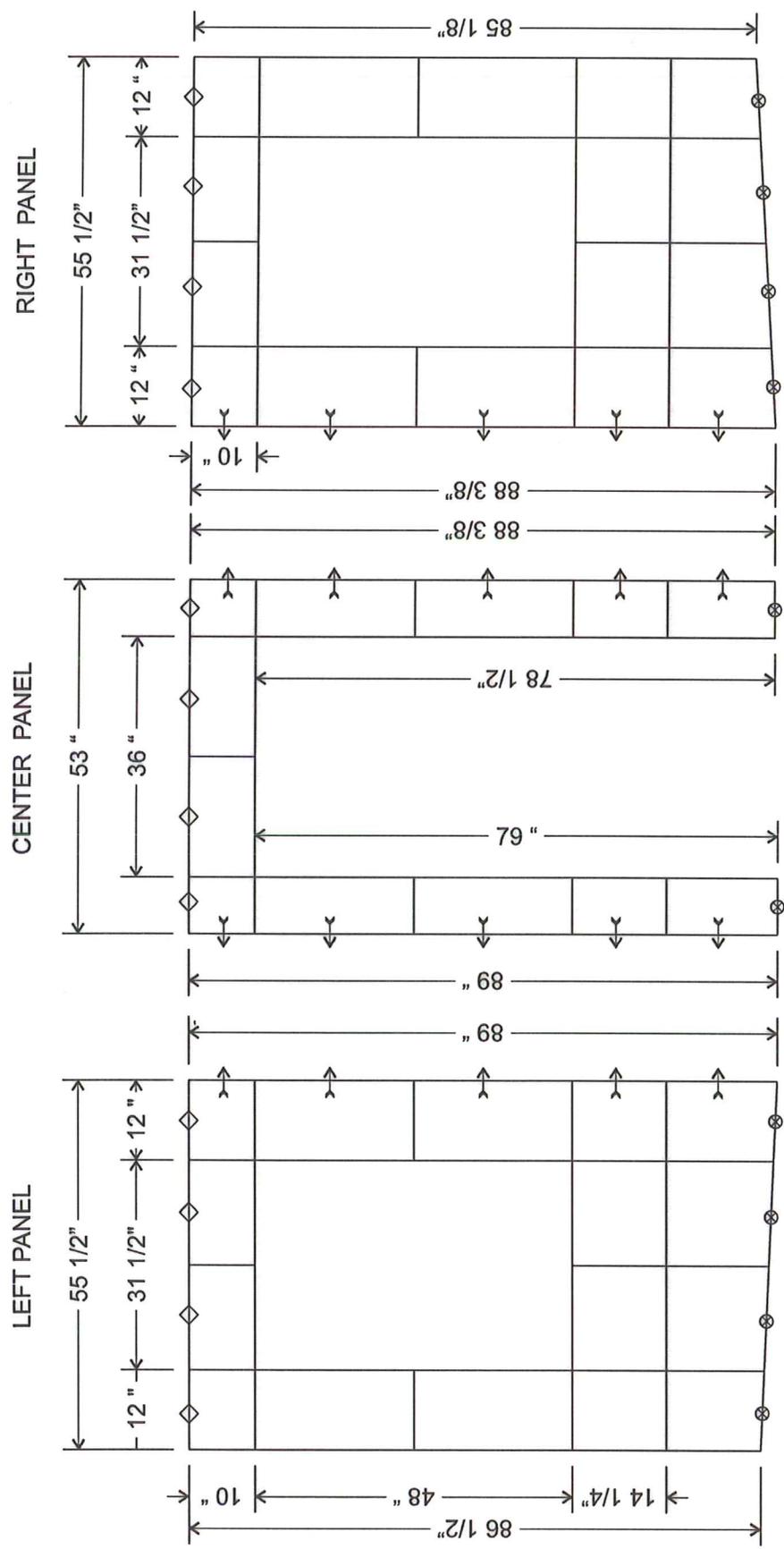


Vestibule  
Black Sunbrella with Clear Vinyl  
Aluminum Frame  
Posts Painted Black

Project:  
12 West  
12 W Williams St.  
Delaware, OH

Columbus Awning Co.  
225C East Broadway  
Westerville, Ohio 43081

**COPY**



1"=24"

1X2 ALUMINUM

**FASTENING POINTS**

- ⊗ FRAME TO CONCRETE
- ◇ FRAME TO AWNING
- FRAME TO POST



12/8/2015

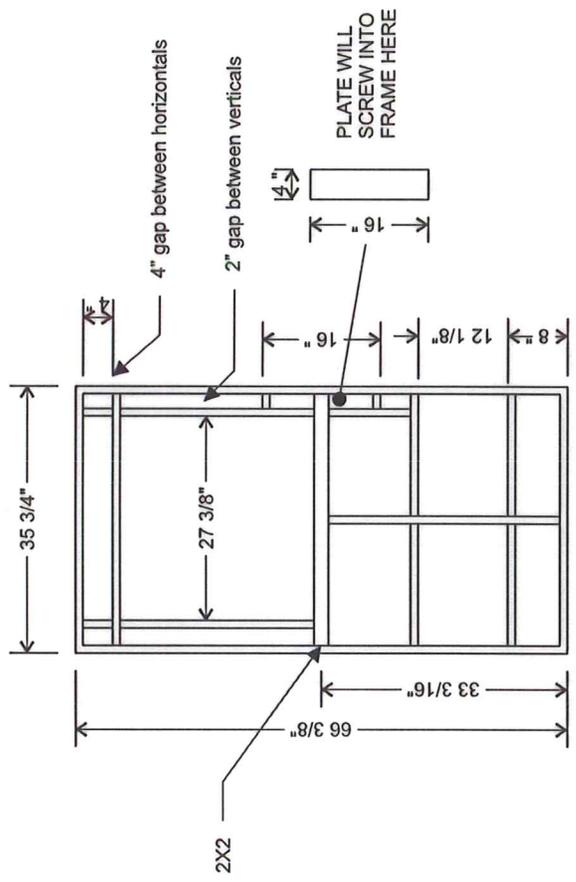
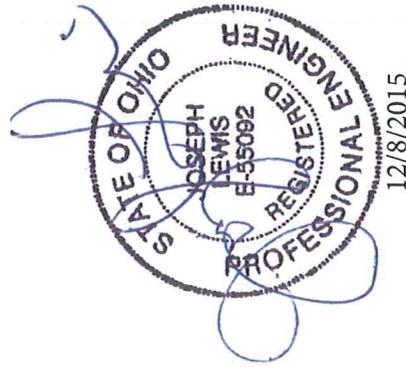


Columbus Awning Co.  
 225C East Broadway  
 Westerville, Ohio 43081

Project:  
 12 West  
 12 W Williams St.  
 Delaware, OH

Vestibule  
 Black Sunbrella with Clear Vinyl  
 Aluminum Frame  
 Posts Painted Black

COPY



1X2 ALUMINUM

FASTENING POINTS

- ⊗ FRAME TO CONCRETE
- ◇ FRAME TO AWNING
- FRAME TO POST

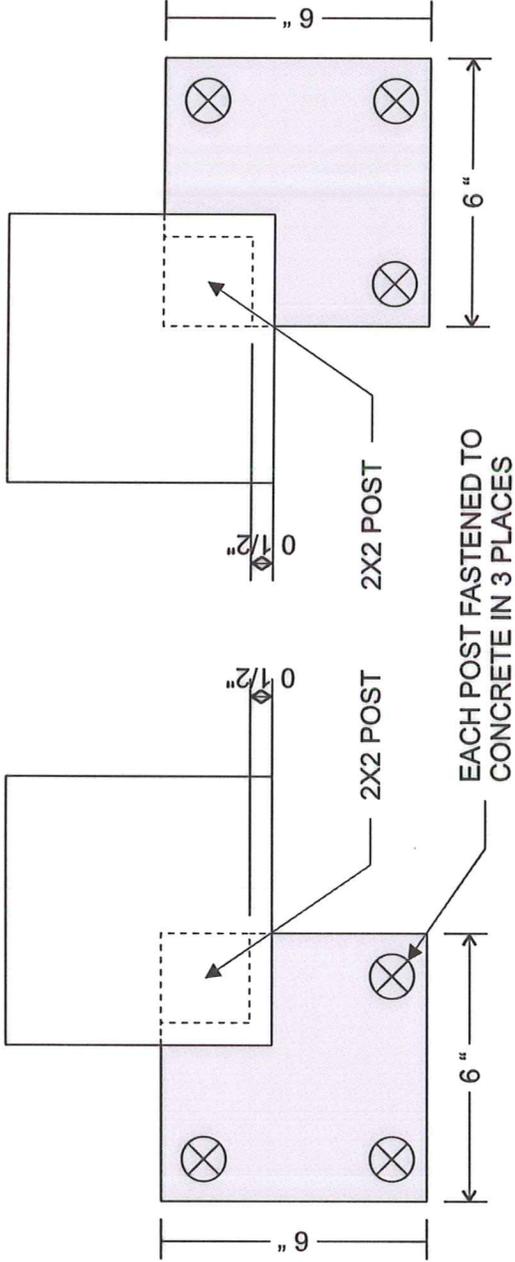


Columbus Awning Co.  
 225C East Broadway  
 Westerville, Ohio 43081

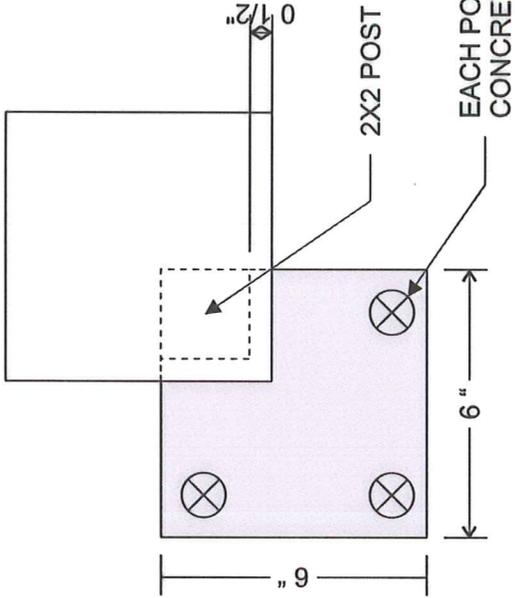
Project:  
 12 West  
 12 W Williams St.  
 Delaware, OH

Vestibule  
 Black Sunbrella with Clear Vinyl  
 Aluminum Frame  
 Posts Painted Black

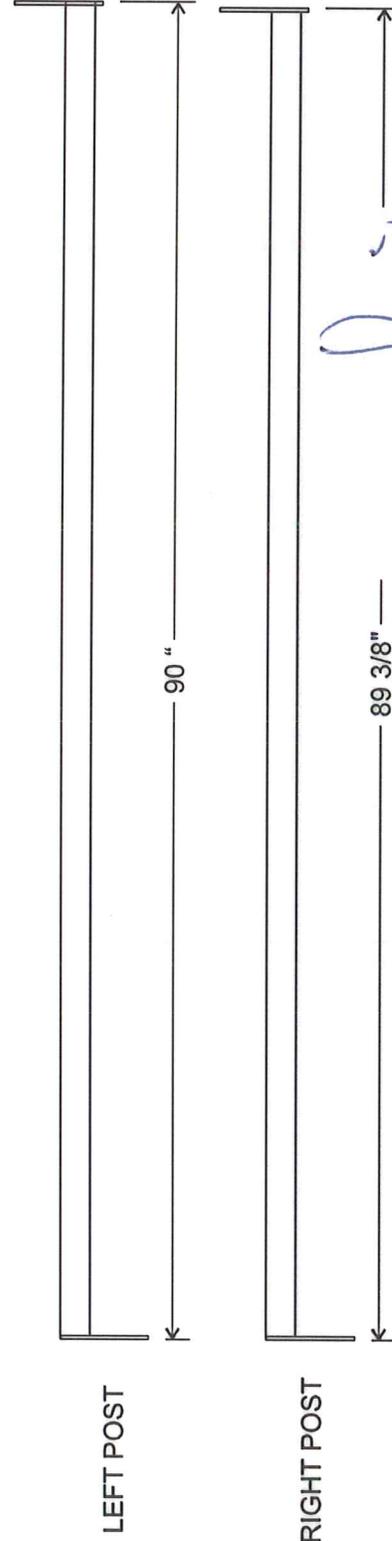
RIGHT POST



LEFT POST



1"=4"



LEFT POST

RIGHT POST



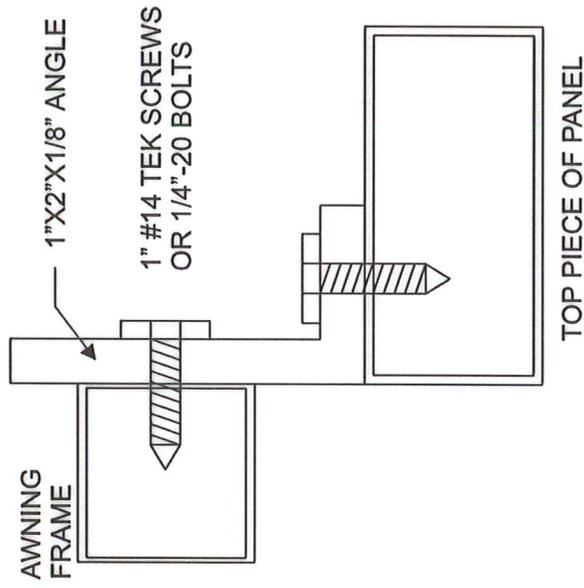
Project:  
 Columbus Awning Co.  
 225C East Broadway  
 Westerville, Ohio 43081  
 12 W Williams St.  
 Delaware, OH



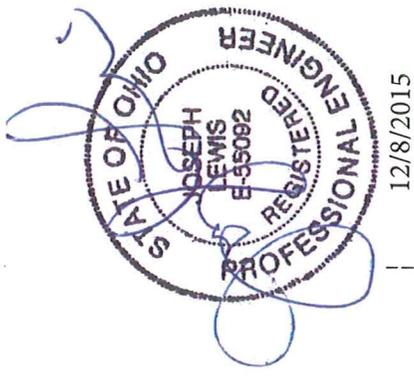
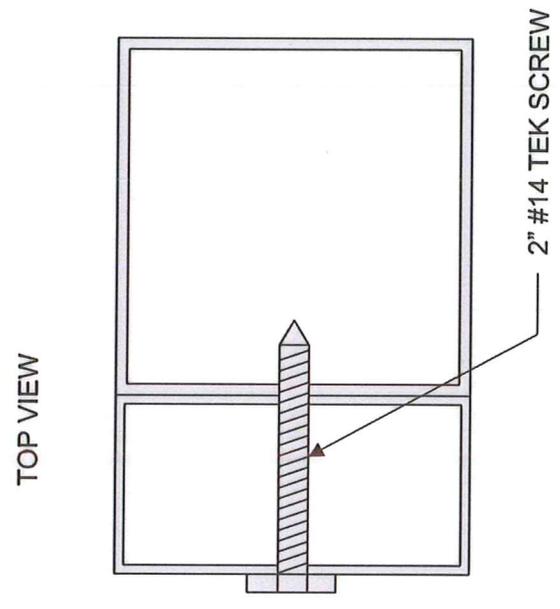
Vestibule  
 Black Sunbrella with Clear Vinyl  
 Aluminum Frame  
 Posts Painted Black

12/8/2015

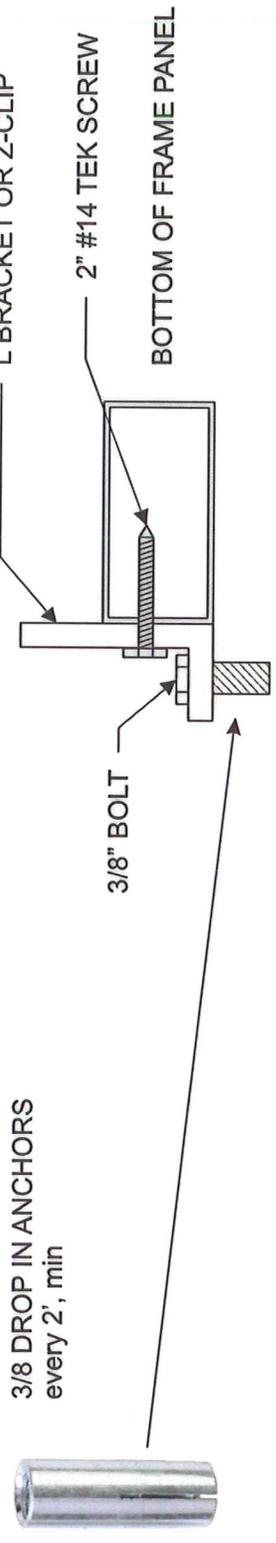
◇ FRAME TO AWNING



➤ FRAME TO POST



⊗ FRAME TO CONCRETE



Columbus Awning Co.  
225C East Broadway  
Westerville, Ohio 43081

Project:  
12 West  
12 W Williams St.  
Delaware, OH

Vestibule  
Black Sunbrella with Clear Vinyl  
Aluminum Frame  
Posts Painted Black



CITY OF DELAWARE  
PLANNING & COMMUNITY DEVELOPMENT

FOR STAFF USE ONLY:  
2015-  
HPC 1768

Certificate of Appropriateness Application

Applicant Information (please type or print legibly)

Historic Subdistrict  Downtown Core  Residential  Transitional

Address 12 West William Street

Parcel Number(s) 519-432-25-023-000

Applicant Name/Contact Person David DiStefano Phone 202-674-1516

\*if the applicant is not the owner, the property owner is required to sign the application to authorize proposed changes.

Address 2nd Half Ventures, 261 Lee St, Columbus, OH 43266

Fax \_\_\_\_\_ Email daved@colombus.rr.com

Property Owner SAME Phone \_\_\_\_\_

Address \_\_\_\_\_

Fax \_\_\_\_\_ Email \_\_\_\_\_

Project Type

- Signs or Graphics
- Demolition Permit(s)
- New Construction
- Other (specify): Awning + vestibule installation
- Exterior Building/Site Alterations

Work Description (please type or print legibly)

Describe the proposed project in detail, describing materials and colors proposed, including all changes to the building, site or lot. Include all features to be removed, altered, or added and provide a narrative of why the particular type of construction or other environmental changes are being proposed. Indicate all materials to be used. Attach additional sheets as needed.

Installation of awning with black sunbrella fabric.  
White lettering with "12 West" will be added to center of  
valance, same font as window signs. Also requesting temporary  
vestibule for use during winter months

**Materials to submit with application** (as needed):

- **Photographs**, digital copies or copied from a negative, not photocopied.
- **Site Plans** showing view from above plus elevation plans showing the view from front, sides, and rear;
- **Drawings for New Construction, Modifications or Signs**, showing dimensions, setbacks, colors, and specifications of any window, door, trim, lintel, sign, base, header, or other element to be installed/modified.
- **Material Samples/Manufacturers Brochures**: which show/describe materials to be used.
- **Interior floor plans**, where appropriate.
- **OHPO Submission**: if applicant submits the same project to Ohio Historic Preservation Office, all information contained in that application shall be submitted with the City application.
- **Variance Explanations**: If the Applicant believes that strict application of the Standards and Guidelines for the Historic District will create a substantial economic hardship or that there is an unusual and compelling circumstance, a narrative to support a Variance from, or waiver of, the Code requirements may be submitted. The Variance or waiver shall be granted only if the Commission deems that at least one of the following 6 criteria is met:
  - There would be substantial economic reduction in the value of the property due to application of the Standards and Guidelines;
  - The property cannot be maintained in its current form and substantial economic burden would result from the application of the Standards and Guidelines;
  - No reasonable alternative exists;
  - The property has little or no historical or architectural significance;
  - The property cannot be reasonably maintained in a manner consistent with Standards and Guidelines; or
  - No reasonable means of saving the property from deterioration, demolition, or collapse exists.
- **Nine (9) copies** of all items should be submitted with the application.

**Deadline:** Applications must be submitted 30 days prior to the Historic Preservation Commission meeting.

**Public Notification:** Staff will notify property owners within 150' of the site.

**Meeting Date/Time:** 4<sup>th</sup> Wednesday of each month at 7:00 pm in Council Chambers at 1 South Sandusky Street.

\*Please Note the Commission might table the application if the applicant is not present to answer questions.

  
\_\_\_\_\_  
Signature of Applicant

9/3/15  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Owner (if not the Applicant)

\_\_\_\_\_  
Date

Application Fee \$50.00    Fees Received \$ 50.00    Received by dlg    Date 9/3/15

### APPLICANT/OWNERS

12 WEST Restaurant  
12 West William Street  
Delaware, OH 43015

### REQUEST

**2015-2345:** A request by 12 WEST Restaurant for a revision to the November 18, 2015 Certificate of Appropriateness for restoration of the west elevation of 12 West William Street which is zoned B-2 (Central Business District) and located in the Transitional Sub-District of the Downtown Historic District Overlay.

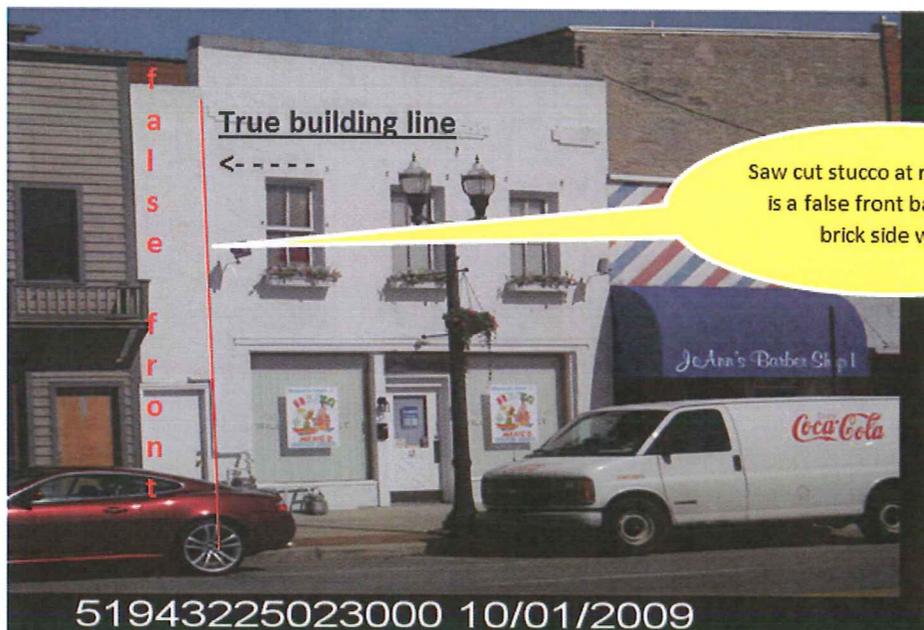
### LOCATION & DESCRIPTION

The project is located at 12 West William Street, between Sandusky and Franklin Streets, in the Transitional Sub-District of the Downtown Historic District Overlay. The properties immediately to the north and south lie within the Downtown Core Sub-district, while the properties immediately to the east and west lie within the Transitional Sub-District. The zoning of the property is B-2 (Central Business) District, as are the surrounding properties. It is considered a 'background building' in the National Register Sandusky Street Historic District due to the stucco application to the façade, which was apparently applied along with the buildings to its east in the late 1950s-early 1960s and covers any pre-existing historical architectural features.

### BACKGROUND/PROPOSAL

As a result of the demolition of the adjacent building at 14 West William Street (HPC 2015-1859), completed in December 2015, the west (side) elevation of 12 West William Street became exposed to the elements after approximately 100 years. A thriving restaurant, the Applicant presented a proposed restoration plan of the unentombed west elevation to the HPC at its November 18, 2015 meeting (HPC 2015-2345) to preserve the structural integrity of this building. The plan presented by the Applicant to City Staff and the HPC included removing the stucco false 'wing wall' at the front of the building which formed an enclosure between the two buildings (12 and 14 West William Street).

12 West William Street – Illustration of Stucco 'Wing Wall'



Based on structural evidence observed by the City Chief Building Official and the Applicant's project engineer (at that time), it was apparent that 12 West William was built prior to 14 West William. After 14 West William was constructed, the exterior stair of 12 West William was apparently enclosed with the wood frame and stucco false front to span the gap between the two buildings and anchored to 14 West William. An entry door was installed at sidewalk level to access the stairs to the second floor. Thus, the east wall of 14 West William became the west wall of 12 West William's stairwell to the second floor. HPC approved the west elevation restoration plan as presented by the Applicant at its November 18, 2015 meeting, which included the stucco 'wing wall' removal, and authorized a Certificate of Appropriateness with the following conditions:

- 1) The west elevation restoration shall be constructed per the plans presented. Any significant revisions to the approved plans would need, at a minimum, administrative approval by the Historic Preservation Commission or appearance at another Historic Preservation Commission meeting, depending on the magnitude of any future revisions.
- 2) The Applicant shall adhere to Historic District Architectural Standards and zoning and building code requirements for this restoration project.
- 3) The Applicant shall obtain any required building permits and right-of-way permits to undertake the proposed restoration.
- 4) The northwest portion of the west wall face at the back of the property which is proposed to be sided in metal shall be sided in hardi-plank or equivalent to match the proposed siding at the front of the west elevation of the building.

With the demolition of 14 West William and the proposed new building with an open patio area fronting West William Street that was approved by HPC, Staff contends there is nothing in place to anchor and fully support the stucco 'wing wall.' Therefore, as a safety concern, In accordance with HPC approval, Staff authorized the demolition contractor for 14 West William to saw and completely remove the stucco and wood framing of the false storefront portion approximately 19 feet back to the existing second story landing. The Applicant, however, approached the owner of 14 West William and requested that the east wall of 14 West William and the stucco 'wing wall' be left intact until such time the Applicant was prepared to proceed with the west wall restoration of 12 West William Street. The adjacent building owner agreed to this request (Reference: February 18, 2016 email correspondence).

The Applicant secured a different project engineer to prepare final design construction drawings for commercial alteration permit application. During plan review, it was noted by Staff that no provision was made for either the removal or stabilization of the stucco 'wing wall.' Upon inquiry, Staff was informed by the Applicant that current plans did not include removal of the stucco 'wing wall,' which it is now desired to remain in place. The commercial alteration permit was issued (Permit 2015-2362) so that work may commence, with the following Conditions:

- 1) See Notations in RED on Drawings
- 2) Property Owner must comply with 11/18/2015 Historic Preservation Commission (HPC) actions regarding west elevation wall reconstruction proposal presented, per details & Conditions outlined in HPC 2015-2345 Certificate of Action
- 3) Property Owner indicated this permit does not include removal of stucco false storefront 'wing wall,' which is now to remain in place. There does not appear to be a plan in place to stabilize this section of storefront wall to prevent movement & possible damage to storefront facade. This is considered a significant revision to the plans approved by HPC. Property Owner requested to re-appear before HPC at 4/27/16 meeting with such a plan.

The Applicant was advised that an appearance before the HPC was needed since the non-performance of the stucco 'wing wall' removal is considered a significant revision to the plans approved by HPC. In addition, Staff is expressing concern about the stability of this section of wall and possible long-term damage to the façade of 12 West William Street. As of this writing, the project has commenced to the point that the wall materials from 14 West William which had acted as the second floor stairwell wall have been removed. The new wall has been constructed to enclose the stairwell. The Applicant is currently in the process of investigating remedies for the remaining inset brick wall at the front of the building, between the enclosed stairwell and the stucco 'wing wall.'

The Applicant recently informed Staff that a Reciprocal Easement Agreement (Delaware County Recorder's Office, Vol 1412, Pg 1644) has been entered into between the owners of 12 West William and 14 West William. The easement essentially grants an encroachment easement to the owners of 12 West William for the second floor stairwell and an easement to the owner of 14 West William for the construction and use of an outdoor patio within the 3 foot by 19 foot inset brick wall area in between the second floor stairwell and the stucco 'wing wall.'

**Current Condition of Stucco 'Wing Wall' – April 21, 2016**



The Applicant provided the following notes regarding this agenda item to share with HPC members, provided here verbatim:

*We were asked last fall by the HPC to remove the "winged wall" area of the west end portion of our front wall. We were instructed to remove this area as it was not secure or stable.*

*However, since the demolition of 14 W William st., the winged portion of the front wall has remained not only intact but stable. Additionally, our licensed and bonded builder, whose city approved west wall building plans are now underway, has inspected the winged wall and stated it is secure. Understand that 24 boards, from top to bottom of the winged wall, run horizontally into the front wall and are secured by the building itself.*

*Last, we've had severe weather these last few months. Weather that has included 25 mph winds and wind gusts over 40 mph. Yet, this winged wall is still secure and stable.*

*Finally, as the HPC knows, the 12 W William building has been a significant challenge to maintain. From our original renovation, a complete rebuild after the 2014 fire, our most recent issue with having to replace the building's original clay sewer pipes, to being located next to a condemned building and replacing the exterior west wall.*

*We appreciate the HPC taking this information into consideration. We look forward to speaking with you on April 27th.*

**STAFF ANALYSIS**

City Staff is supportive of the overall project and the Applicant's efforts to date. This process has been complicated by the fact that the buildings at 12 and 14 West William have been physically tied together for over 100 years, and property lines and easements have become convoluted over the years. In the spirit of cooperation, and valuing the presence and investment of downtown enterprises, the owners of both properties at 12 West William and 14 West William and their respective engineers, architects, and contractors have been extended the same, and perhaps more, courtesies by City Staff offered to other owners, design professionals, and contractors navigating through the city review and permit processes. Given the current substandard condition of the stucco 'wing wall,' and given the fact that the Reciprocal Easement Agreement is apparently allowing direct public access to the front and back of the stucco 'wing wall,' Staff's concern surrounding public safety has substantially increased. The existing condition of the stucco 'wing wall' to be left intact is not acceptable; this section of wall should not be left in place in its current condition as requested by the Applicant. Staff is expressing concern about the stability of this section of wall and possible long-term damage to the façade of 12 West William Street. Minute movements over time could eventually create stress fractures throughout the stucco application covering the façade. The entry door and frame area needs to be secured. The exposed edge of protruding wall needs to be properly trimmed out in an exterior wood product to deter weather infiltration and further deterioration of the wall. Staff recommends a sealed structural engineer's report and recommendation for the bracing and support of the wall, as well as a plan for use of appropriate materials and colors to provide a finished appearance according to the Architectural Standards. To date, Staff has not been provided such a plan by the Applicant. The alternative is for the Applicant to proceed with its removal as presented to the HPC at its November 18, 2015 meeting.

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**STAFF RECOMMENDATION (HPC 2015-2345 – CERTIFICATE OF APPROPRIATENESS)**

Staff recommends approval of a Certificate of Appropriateness for 12 WEST Restaurant for a revision to the November 18, 2015 Certificate of Appropriateness for restoration of the west elevation of 12 West William Street which is zoned B-2 (Central Business District) and located in the Transitional Sub-District of the Downtown Historic District Overlay, with the following Conditions that:

- 1) If Applicant intends to leave the stucco 'wing wall' intact, the Applicant shall provide a sealed structural engineer's report and recommendation for the bracing and support of the wall that shall be approved by the City Chief Building Official, as well as a plan for use of appropriate materials and colors to provide a finished appearance according to the Architectural Standards.
- 2) Any significant revisions to the approved plans would need, at a minimum, administrative approval by the Historic Preservation Commission or appearance at another Historic Preservation Commission meeting, depending on the magnitude of any future revisions.
- 3) The Applicant shall adhere to Historic District Architectural Standards and zoning and building code requirements for this restoration project.
- 4) The Applicant shall obtain any required building permits and right-of-way permits to complete the proposed restoration.
- 5) The northwest portion of the west wall face at the back of the property which is proposed to be sided in metal shall be sided in hardi-plank or equivalent to match the proposed siding at the front of the west elevation of the building.

**COMMISSION NOTES:**

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**CASE NUMBER:** 2015-2345 12 West William Street West Elevation Restoration

**MEETING DATE:** April 27, 2016

**PAGE:** 5 of 6

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*MOTION:*     \_\_\_\_\_ *1<sup>st</sup>*     \_\_\_\_\_ *2<sup>nd</sup>*     *approved*     *denied*     *tabled* \_\_\_\_\_

*CONDITIONS/MISCELLANEOUS:*

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FILE:                    PLANNING/HPC CASES/2015 CASES/2015-2345\_12 W WILLIAM WEST ELEVATION RESTORATION  
ORIGINAL:            4/21/2016

**EXPOSED WEST ELEVATION OF 12 WEST WILLIAM STREET – NOVEMBER 12, 2015**



**Dianne Guenther**

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**From:** Ron Criswell <roncriswell1969@gmail.com>  
**Sent:** Thursday, February 18, 2016 11:56 AM  
**To:** james.manos@ubs.com  
**Cc:** David DiStefano; redhawklaw@aol.com; Jerry Warner; David M. Efland; Dianne Guenther; Sean Hughes; Lance Schultz; patm@manleyarchitects.us  
**Subject:** Re: 14 West Williams

Jim.

Thanks' for the update. As we stated in our last email, Our building is secure. We have submitted our plans to the city and we are awaiting approval. We have selected a contractor and are scheduled to begin work on March 1st. If you have any further questions don't hesitate to email or call me. Please share my phone # with your builder if there is a need to coordinate.

Ron

On Thu, Feb 18, 2016 at 10:36 AM, <james.manos@ubs.com> wrote:

Dave and Ron,

After speaking with my attorney and city officials I am leaving the siding and starting construction on my building as soon as the city gets me the proper permits. I just want to reiterate that the wall and siding you ask me to leave was left to support your building and you were to support your own building then reside your building wall. It has been 3 months since the building has come down, the city has had no plans nor HPC meetings regarding your new intended wall. I feel this is going to be a much greater expense on your end when my building is up for you to build your wall and especially pour your separate footer. I am sending you this email to inform you that if you have any concern regarding your outside wall its best to bring it to light now so consider this an open forum for anyone to speak their concerns. I am excited to get started.

Regards,

**Jim Manos**

James P. Manos

First Vice President

Manos Wealth Management Group

UBS Financial Services

6055 Tain Dr.

Dublin, OH 43017

Office: 614-793-3184

Fax: 855-462-0841

Toll Free: 877-326-1262

Please visit my website at

<http://financialservicesinc.ubs.com/fa/jamesmanos>

**COPY**

*2012, 2013 and 2014 UBS Director's Council Member*

*The greatest compliment our clients can give us is their referral of others...*

You can also bookmark this page as your portal from which you can sign on to your accounts online. The login box is on the right side of the page. Your financial plan referred to as Financial Goal Analysis is a separate login site and can be accessed through our website or by clicking this link  
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for important disclosures and information about our e-mail policies. For your protection, please do not transmit orders or instructions by e-mail or include account numbers, Social Security numbers, credit card numbers, passwords, or other personal information.

Delaware County  
The Grantor Has Complied With  
Section 319.202 Of The R.C.  
DATE 4-5-16 Transfer Tax Paid 0  
~~TRANSFERRED OR TRANSFER NOT NECESSARY~~  
Delaware County Auditor By SL

 **COPY**  
Doc ID: 011028220009 Type: OFF  
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Recorded: 04/05/2016 at 10:11:13 AM  
Fee Amt: \$84.00 Page 1 of 9  
Workflow# 0000115067-0001  
Delaware County, OH  
Melissa Jordan County Recorder  
File# 2016-00008707

BK **1412** PG **1644-1652**

12 WEST  
12 W WILLIAM ST  
DELAWARE, OH 43015

### RECIPROCAL EASEMENT AGREEMENT

THIS RECIPROCAL EASEMENT AGREEMENT (this "Agreement") is made effective as of March \_\_\_\_, 2016 (the "Effective Date"), by and between **MANOS PROPERTIES-14 W WILLIAM ST, LLC**, an Ohio limited liability company ("Manos"), and **2<sup>ND</sup> HALF VENTURES, LLC**, an Ohio limited liability company ("2<sup>nd</sup> Half").

#### Background Information

A. Manos owns that certain parcel of real property located at 14 West William Street, Delaware, Ohio 43015, which is more particularly described on Exhibit A attached hereto and made a part hereof (the "Manos Property").

B. 2<sup>nd</sup> Half owns that certain parcel of real property located at 12 West William Street, Delaware, Ohio 43015, which is adjacent to the Manos Property and is more particularly described on Exhibit B attached hereto and made a part hereof (the "2<sup>nd</sup> Half Property"; collectively, the Manos Property and the 2<sup>nd</sup> Half Property are sometimes referred to as the "Properties" and individually as a "Property").

C. In order to provide for, among other things, the coordinated development and operation of the Properties, Manos and 2<sup>nd</sup> Half have agreed to grant to each other certain easements upon the terms and conditions specifically provided for herein.

**AGREEMENT**

NOW, THEREFORE, in consideration of the premises, as set forth in the foregoing Background Information, and of the mutual promises herein set forth, and other good and valuable consideration paid, the Parties do hereby agree as follows:

**ARTICLE I**  
**Easements**

0

1.01. Encroachment Easement to 2<sup>nd</sup> Half. Subject to the terms and conditions set forth in this Agreement, Manos hereby grants and conveys to 2<sup>nd</sup> Half and its successors and assigns, a perpetual, exclusive easement appurtenant to the 2<sup>nd</sup> Half Property in, on, over and under that certain portion of the Manos Property that is approximately twelve inches (12") in width within and along the eastern boundary of the Manos Property, for the purpose of encroachments of certain foundations, footers, concrete piers and exterior wall to be constructed to enclose the existing staircase on the western facing side of the building situated on the 2<sup>nd</sup> Half Property (the "Encroachment Easement"). The Encroachment Easement shall also include the right of ingress/egress by 2<sup>nd</sup> Half and its successors onto the Manos Property for the purpose of repairing, maintaining and/or replacing such foundations, footers and wall within the Encroachment Easement (the "2<sup>nd</sup> Half Improvements"). 2<sup>nd</sup> Half's use of the easement granted hereby must not in any manner interfere with Manos' use and enjoyment of the remainder of the Manos Property.

1.02 Construction, Maintenance and Repair of 2<sup>nd</sup> Half Improvements. 2<sup>nd</sup> Half shall, at its sole cost and expense, maintain, repair and/or replace the 2<sup>nd</sup> Half Improvements located within the Encroachment Easement area. 2<sup>nd</sup> Half shall perform its construction and

maintenance obligations hereunder in a manner so as not to impair, interfere with or block the access to the Manos Property or the business operations thereon. 2<sup>nd</sup> Half hereby releases and agrees to hold harmless and indemnify Manos from and against any loss, cost, damage, liability or expense (including reasonable attorneys' fees and litigation costs) ever suffered or incurred by Manos as a result of, in connection with or in any way related to 2<sup>nd</sup> Half's utilization of the Easement Encroachment Area. 2<sup>nd</sup> Half shall at all times while the Encroachment Easement is in effect maintain a commercial general liability policy with commercially reasonable limits covering 2<sup>nd</sup> Half's use of, and activities in, on or about the Encroachment Easement Area.

1.03 Easement to Manos. Subject to the terms and conditions set forth in this Agreement, 2<sup>nd</sup> Half hereby grants and conveys to Manos and its successors and assigns, an exclusive easement appurtenant to the Manos Property in and over that certain portion of the 2<sup>nd</sup> Half Property that is approximately three feet (3') in width running within and along the front nineteen feet (19') of the western boundary of the 2<sup>nd</sup> Half Property, as generally depicted on Exhibit C attached hereto and made a part hereof, for the construction and use of an outdoor patio utilized in conjunction with a business to be operated on the Manos Property, (such easement, the "Patio Easement"; such area, the "Patio Easement Area"). Manos' use of the easement granted hereby must not in any manner interfere with 2<sup>nd</sup> Half's use and enjoyment of the remainder of the 2<sup>nd</sup> Half Property.

1.04 Construction, Maintenance and Repair of Patio Easement Area.

(a) Manos' use of the Patio Easement Area, and the number, placement, style, quality and design of any Outdoor Seating Area tables and chairs shall be subject to Manos' receipt of approvals required <sup>un</sup>der, and compliance with, all applicable municipal zoning codes and other applicable laws and regulations. Manos shall, at Manos' sole expense, maintain the Outdoor Seating Area at all times in a clean, neat and orderly condition.

(b) Manos hereby releases and agrees to hold harmless and indemnify 2<sup>nd</sup> Half from and against any loss, cost, damage, liability or expense (including reasonable attorneys' fees and litigation costs) ever suffered or incurred by 2<sup>nd</sup> Half as a result of, in connection with or in any way related to Manos' utilization of the Outdoor Seating Area. Manos shall at all times while the Patio Easement is in effect maintain a commercial general liability policy with commercially reasonable limits covering Manos' use of, and activities in, on or about the Patio Easement Area.

**ARTICLE II**  
**Notices**

2.01. Notices. Any notice or other communication required under this Agreement shall be in writing and shall be deemed when transmitted by one of the following methods to such Party at the address set forth at the end of this Section 2.01: (a) via a nationally recognized overnight delivery service (such as FedEx or UPS) or (b) by certified mail, postage prepaid, return receipt requested. Either Party may change its address for notice by giving at least ten (10) business days' written notice thereof to the other Party. The address of each Party for notice initially is as follows:

If intended for Manos: [INSERT NOTICE ADDRESS]

If intended for 2<sup>nd</sup> Half: 261 Lear Street  
Columbus, Ohio 43026

**ARTICLE III**  
**Miscellaneous Provisions**

3.01. Successors and Assigns; Covenants Run With Land. This Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of each Party hereto. It is intended that the covenants, easements, agreements, promises and duties of each party hereto, as set forth in this Agreement, shall be construed as covenants that shall run with the land. Upon conveyance by a Party of all or a portion of its Property, such Party shall be released from any maintenance or other obligations for the Property (or portion thereof) actually conveyed.

3.02. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of Ohio. In the event either party hereto brings or commences legal proceedings to enforce any of the terms of this Agreement, the successful Party shall then be entitled to receive from the other party(s), in every such action commenced, a reasonable sum as attorneys' fees and costs, including all fees and costs incurred upon any appeals, to be fixed by the court in the same action.

3.03. Duplicate Originals; Severability and Amendments in Writing. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, taken together, shall constitute a single instrument. If any provision of this Agreement or the application of any provision to any Person or any circumstance shall be determined to be invalid or unenforceable, then such determination shall not affect any other provision of this Agreement or the application of said provision to any other Person or circumstance, all of which other provision shall remain in full force and effect. No change, amendment, termination or attempted waiver of any of the provisions of this Agreement shall be binding upon any Party unless in writing and signed by the Parties.

3.04. No Dedication. Nothing in this Agreement shall be deemed to constitute a gift, grant or dedication of any portion of the Manos Property or the 2<sup>nd</sup> Half Property to the general public or for any public purpose.

3.05. Definition of Certain Terms. As used in this Agreement, the term "Person" means a corporation, association, partnership, limited liability company, trust, estate, governmental agency or other entity, as well as an individual or natural person, unless the context otherwise requires, and the term "Party" means Manos and 2<sup>nd</sup> Half individually (or "Parties" shall mean Manos and 2<sup>nd</sup> Half collectively) and their respective successors and assigns.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives, to be effective as of the date first above written.

**RECIPROCAL EASEMENT AGREEMENT**  
(Manos Signature and Acknowledgment Page)

MANOS PROPERTIES-14 W WILLIAM ST., LLC,  
an Ohio limited liability company

By: *owner*

*JAMES P. MANOS*

Name:

*[Signature]*

*3-28-16*

Its:

STATE OF OHIO,

**ACKNOWLEDGMENT**

COUNTY OF Franklin, ss:

The foregoing instrument was acknowledged before me this 27 day of March, 2016, by James Manos the owner of MANOS PROPERTIES-14 W WILLIAM ST., LLC, on behalf of such limited liability company.

**COPY**



**Thomas Jagels**  
Notary Public, State of Ohio  
My Commission Expires 09/20/2016

Notary Public *[Signature]*

My Commission expires: 09/20/2016

**RECIPROCAL EASEMENT AGREEMENT**  
(2<sup>ND</sup> HALF Signature and Acknowledgment Page)

**2<sup>nd</sup> HALF VENTURES, LLC**  
an Ohio limited liability company

By: *President*

Name: *David M. Distefano* 4/1/16

Its: *David M. Distefano*

STATE OF OHIO

**ACKNOWLEDGMENT**

COUNTY OF *Delaware*

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of April, 2016, by David M. Distefano the President of 2<sup>ND</sup> HALF VENTURES, LLC, on behalf of such limited liability company.

**COPY**



Notary Public *Teresa M. Bonvechio*

My Commission expires: **09.15.18**

This Instrument Prepared By:

**Poor Copy As Presented To The  
DELAWARE COUNTY RECORDER**

Kayne Law Group, Co., P.A.  
Attn: Evan Weidenhamer, Esq.  
612 Park Street, Suite 100  
Columbus, Ohio 43215

**EXHIBIT A**

**MANOS PROPERTY LEGAL DESCRIPTION**

Situated in the County of Delaware, in the State of Ohio, and in the City of Delaware, and bounded and described as follows:

Being a part of Lot Number 63 as situated on the north side of West William Street and bounded and described as follows:

Beginning at a point in the north line of West William Street and to the south line of Lot Number 63 said point being indicated by a cross in sidewalk and being 128.54 feet west of the intersection of the north line of West William Street and the west line of North Sandusky Street; thence north and parallel to the west lot line of Lot Number 63 a distance of 105.30 feet to a half inch pipe; thence westerly and parallel to the north line of West William Street, a distance of 23.04 feet to a iron pipe; thence southerly and parallel to the west lot line of Lot 63, a distance of 105.30 feet to the north line of West William Street, said point being indicated by cross on street; thence easterly with the north line of West William Street and the south line of Lot 63, a distance of 23.04 feet to the place of beginning.

Said tract fronts 23.04 feet on the north side of West William Street and is 105.30 feet in depth.

PIN: 519-432-25-022-000

Premises known as: 14 West William Street, Delaware, Ohio 43015

**COPY**

**EXHIBIT B**  
**2<sup>ND</sup> HALF PROPERTY LEGAL DESCRIPTION**

Street Address of Property: 12 West William Street, Delaware, Ohio 43015

**Legal Description:**

Situated in the County of Delaware, in the State of Ohio and in the City of Delaware and bounded and described as follows:

Being the southeast part of Lot No. Sixty-three (63) and beginning at a point in the north line of William Street, N 88-1/2° W One Hundred Five (105) feet west from the southeast corner of Inlet No. Sixty-four (64), being the southeast corner of Latimer (now M Frank's estate) brick store building; thence N. 1-1/2° E. along the west line of a twelve (12) foot alley, eighty-four (84) feet and three and one-fourth (3-1/4) inches to a post; thence N. 88-1/2° W. parallel with William Street, twenty-three (23) feet; thence S. 1-1/2° W. eighty-four (84) feet three and one-fourth (3-1/4) inches to the north line of William Street; thence S. 88-1/2° E. along said north line of William Street twenty-three (23) feet to the place of beginning.

Parcel Number: 519-432-25-023-000

**Prior Instrument References:**

Book 1237, Page 2200, recorded on August 1, 2013, in the Delaware County Records.  
Book 1237, Page 2203, recorded on August 1, 2013, in the Delaware County Records.  
Book 1237, Page 2205, recorded on August 1, 2013, in the Delaware County Records.

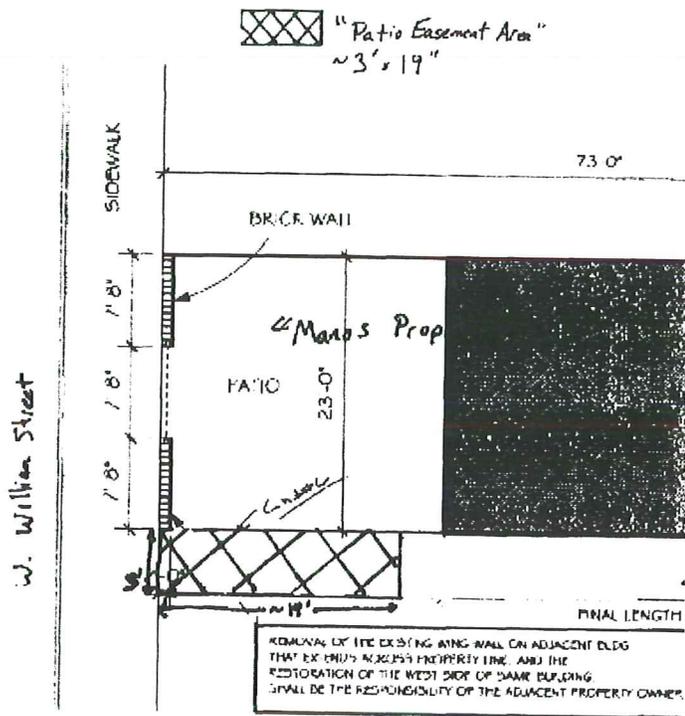
**EXHIBIT C**

**PATIO EASEMENT AREA**

[NOTE: THE DEPICTION BELOW IS APPROXIMATE AND NOT TO SCALE – IT IS INTENDED FOR GENERAL REFERENCE PURPOSES ONLY]

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DELAWARE COUNTY RECORDER

COPY



PRELIMINARY

→ North

14 WEST WILLI.

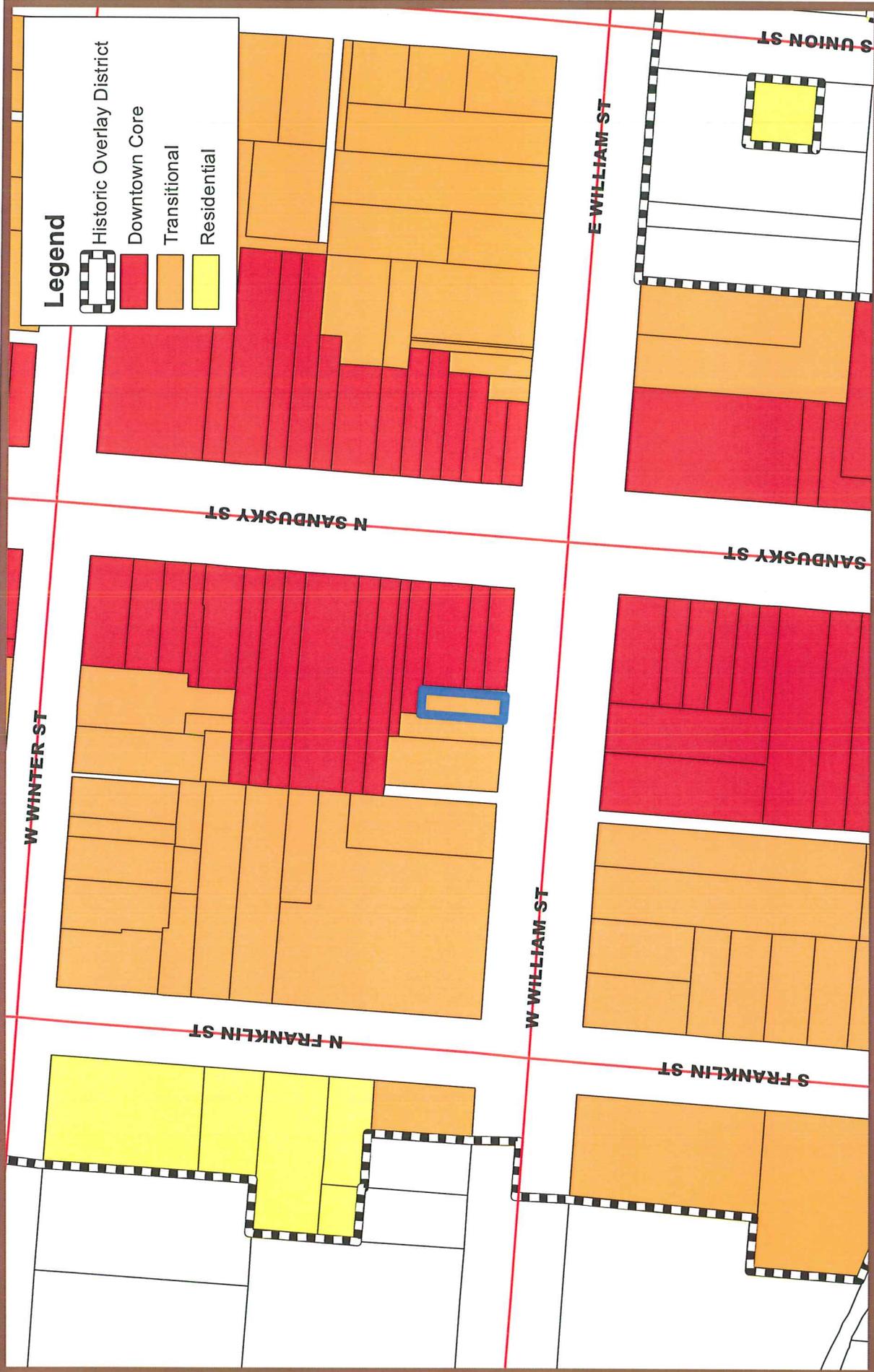
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DELAWARE COUNTY RECORDER



2015-1768  
Certificate of Appropriateness  
12 West Restaurant - 12 W. William Street  
Aerial (2013)

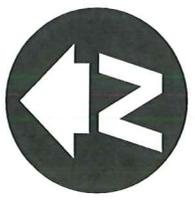




**Legend**

Historic Overlay District

- Historic Overlay District
- Downtown Core
- Transitional
- Residential



2015-1768  
 Certificate of Appropriateness  
 12 West Restaurant - 12 W. William Street  
 Historic District Map





2015-1768  
Certificate of Appropriateness  
12 West Restaurant - 12 W. William Street  
Location Map





2015-1768  
 Certificate of Appropriateness  
 12 West Restaurant - 12 W. William Street  
 Zoning Map





CITY OF DELAWARE  
PLANNING & COMMUNITY DEVELOPMENT

FOR STAFF USE ONLY:  
2015-  
HPC 2345

Certificate of Appropriateness Application

Applicant Information (please type or print legibly)

Historic Subdistrict  Downtown Core  Residential  Transitional

Address 12 WEST WILLIAM ST.

Parcel Number(s) 519 4322 5023 000

Applicant Name/Contact Person ROY CRISWELL Phone 614-949-4564

\*if the applicant is not the owner, the property owner is required to sign the application to authorize proposed changes.

Address 12 WEST WILLIAM ST. DELAWARE, OH 43015

Fax \_\_\_\_\_ Email 12 WEST CAFE @ GMAIL, COM

Property Owner DAVID DISEEFANO Phone 202-674-1516

Address 12 WEST WILLIAM ST. DELAWARE, OH 43015

Fax - Email DAVEDE@COLUMBUS,RR.COM

Project Type

- Signs or Graphics
- Demolition Permit(s)
- New Construction
- Other (specify): \_\_\_\_\_
- Exterior Building/Site Alterations

Work Description (please type or print legibly)

Describe the proposed project in detail, describing materials and colors proposed, including all changes to the building, site or lot. Include all features to be removed, altered, or added and provide a narrative of why the particular type of construction or other environmental changes are being proposed. Indicate all materials to be used. Attach additional sheets as needed.

PUTTING UP NEW EXTERIOR WALL

(Restoration of west elevation wall upon demolition of 14 W. William)

**Materials to submit with application** (as needed):

- **Photographs**, digital copies or copied from a negative, not photocopied.
- **Site Plans** showing view from above plus elevation plans showing the view from front, sides, and rear;
- **Drawings for New Construction, Modifications or Signs**, showing dimensions, setbacks, colors, and specifications of any window, door, trim, lintel, sign, base, header, or other element to be installed/modified.
- **Material Samples/Manufacturers Brochures**: which show/describe materials to be used.
- **Interior floor plans**, where appropriate.
- **OHPO Submission**: if applicant submits the same project to Ohio Historic Preservation Office, all information contained in that application shall be submitted with the City application.
- **Variance Explanations**: If the Applicant believes that strict application of the Standards and Guidelines for the Historic District will create a substantial economic hardship or that there is an unusual and compelling circumstance, a narrative to support a Variance from, or waiver of, the Code requirements may be submitted. The Variance or waiver shall be granted only if the Commission deems that at least one of the following 6 criteria is met:
  - There would be substantial economic reduction in the value of the property due to application of the Standards and Guidelines;
  - The property cannot be maintained in its current form and substantial economic burden would result from the application of the Standards and Guidelines;
  - No reasonable alternative exists;
  - The property has little or no historical or architectural significance;
  - The property cannot be reasonably maintained in a manner consistent with Standards and Guidelines; or
  - No reasonable means of saving the property from deterioration, demolition, or collapse exists.
- **Nine (9) copies** of all items should be submitted with the application.

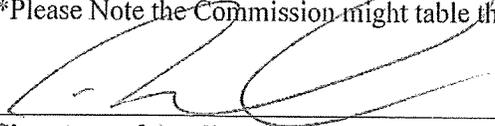
One (1) copy of

**Deadline:** Applications must be submitted 30 days prior to the Historic Preservation Commission meeting.

**Public Notification:** Staff will notify property owners within 150' of the site.

**Meeting Date/Time:** 4<sup>th</sup> Wednesday of each month at 7:00 pm in Council Chambers at 1 South Sandusky Street.

\*Please Note the Commission might table the application if the applicant is not present to answer questions.

  
\_\_\_\_\_  
Signature of Applicant

11-11-15  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Owner (if not the Applicant)

\_\_\_\_\_  
Date

Application Fee \$50.00    Fees Received \$ 50.00    Received by dlj    Date 11/11/15