



Division of Zoning & Development Review  
City of Pittsburgh, Department of City Planning  
200 Ross Street, Third Floor  
Pittsburgh, Pennsylvania 15219

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November 14, 2016

310 of 2016

Dave Breingan  
4839 Butler St  
Pittsburgh, PA 15201

Dear Appellant and/or Hearing Participant:

Enclosed is your copy of the decision by the Zoning Board of Adjustment. **Note: This decision is not a zoning voucher or a permit.** Both a zoning voucher and a permit from the Department of Permits, Licenses and Inspections must be obtained prior to the start of work or occupancy.

If the decision has been approved, the applicant must complete the following steps before a zoning voucher can be issued:

1. If the decision has been **approved with conditions**, the appropriate documentation to satisfy those conditions must be submitted to Zoning staff for review.
2. **All other applicable Zoning Code requirements must be completed** (such as Site Plan Review, Planning Commission or environmental reviews).

Once the above are satisfied, contact Svetlana Ipatova, Zoning Case Review Specialist, at 412-255-2214 or email the Zoning staff assigned to the project review to schedule an appointment for the final staff review process.

This decision expires one year after the decision date as shown on the enclosed copy. A permit should be obtained and substantial construction or occupancy should begin within one year of approval. If additional time is needed, the applicant may request a one-year extension by writing the Board within the one-year time period. Include the zone case number and the address of the subject property with a brief explanation, and send it to: Zoning Board of Adjustment, Department of City Planning, 200 Ross Street 3rd Floor, Pittsburgh, PA 15219.

If you or any affected person are dissatisfied with the Board's decision, an appeal may be made to the Court of Common Pleas of Allegheny County within thirty (30) calendar days of the above mailing date. The appeal process is conducted at the Prothonotary's Office located on the main floor of the City County Building. A transcript of this hearing will be required and can be obtained by calling our reporting agency, Network Deposition Services, at (412) 281-7908. Please have the zone case number and the date of the hearing available. We encourage you to consult an attorney if you choose to appeal.

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**ZONING BOARD OF ADJUSTMENT**

**Date of Hearing:** August 4, 2016  
**Date of Decision:** November 10, 2016

**Zone Case:** 310 of 2016  
**Address:** 3701 Charlotte Street  
**Zoning District:** UI  
**Ward:** 6  
**Neighborhood:** Lower Lawrenceville

**Owner:** The John Schneider Loresche Foundation  
**Applicant:** Eleventh Hour Brewing  
**Appellant:** Alina del Pino

**Request:** Protest Appeal – Issuance of permit for use as brewery with taproom.

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| <b>Protest Appeal</b> | 923.01.B.1 | Appeal to the Zoning Board of Adjustment |
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**Appearances:**

**Applicant:** Matt McMahon  
**Protestant:** Alina del Pino,  
**In attendance:** Hector Corante, Carol Moore, Keith Cochran, Anne Davis, Dave Breingan, David Hartman, Matt McMahon, Jeffrey Morris, Mark Chachula, Carol K., Mike M.

**Findings of Fact:**

***Procedural and Factual Background***

1. The Subject Property is located at 3701 Charlotte Street in a UI (Urban Industrial) District in the Lower Lawrenceville neighborhood. The Subject Property also abuts 37<sup>th</sup> Street and Yazoo Way on the sides, and Melville Way at the rear.
2. Properties zoned R1A-VH (Residential Single-Unit Attached, Very High-Density) are located across Yazoo Way, 37<sup>th</sup> Street, and Charlotte Street from the Subject Property. Properties zoned UI (Urban Industrial) are located across Melville Street and Charlotte Street from the Subject Property. Properties zoned LNC (Local Neighborhood Commercial) are located one block from the Subject Property.

3. Located on the Subject Property is a one-story building, portions of which are constructed to the property lines on 37<sup>th</sup> Street, Melville Way, and Yazoo. A parking area for 12 vehicles extends from the building front to the front property line on Charlotte Street. A wood deck also extends from the building front to Charlotte Street.

4. An October 14, 1992 Occupancy Permit allows "Continued use of the existing 1-story structure as storage and sales of gas grills, lights and accessories with an incidental office and 12-stall existing parking in front of structure."

5. On March 31, 2016, the Applicant, Eleventh Hour Brewing, submitted a Development Review Application to the Zoning Administrator's office to develop the Leased Premises as a brewery with an associated tasting room.

6. The Applicant proposes to use 6,500 sf of the 15,000 sf building as brewery with a taproom. The brewery would occupy 4,700 sf of the space and the taproom would occupy 1,800 sf of the building. The rest of the building is intended for use as an office for a separate tenant.

7. The Applicant further proposes to provide 11 off-street parking spaces for patrons, some of which would be shorter than 19'.

8. On June 16, 2016, Department of City Planning Staff approved the Applicant's site plan and issued Commercial Building Permit Application – Voucher Number: 16-BB-01936, which permitted "...use of 4,700 sf brewery, (manufacturing/assembly) with additional 1,800 sf as accessory tap room...Continued use of existing deck in the southeast corner with steps. 5 car parking spaces to the front (4 regular, 1 accessible) and 4 new spaces to the rear. 2 bike racks (4 spaces) to the front."

9. On that same date, Department of City Planning Staff issued Commercial Occupancy Only Permit Application – Voucher Number: 16-OCC-00459, which permitted "Use of one story building as office (7400 sf) with accessory car parking (4 regular and 1 accessible) and 2 bike racks (4 spaces) to the front."

10. The Appellant, Alina del Pino, resident and owner of 4721 Charlotte Street, filed the present appeal on July 15, 2016.

#### ***Evidence Presented at Hearing***

11. The proposed taproom would operate from 5:00 p.m. to 10:00 p.m., Thursday through Sunday, 12:00 p.m. to 10:00 p.m., on Saturdays, and 12:00 p.m. to 6:00 p.m. on Sundays.

12. The taproom could accommodate as many as 75 people.

13. The brewery would operate from 7:00 a.m. to 5:00 p.m. At the hearing, the Applicant indicated that brewery hours could be expanded as demand increased.

14. The brewery will employ as many as five people.

15. The taproom would not include a kitchen or any on-site food preparation. At the hearing, the Applicant stated an intent to invite food trucks to the Subject Property to serve patrons, and indicated that all necessary legal guidelines would be followed for such activities.

16. The Applicant does not propose to offer outside seating or live entertainment as a part of the taproom use.

17. The Applicant submitted a site plan demonstrating that 14 car parking spaces and 4 bicycle parking spaces are proposed for the Subject Property. 10 of the proposed parking spaces would be located in the front parking area mentioned on the 1992 Certificate of Occupancy and four would be located in the rear, off of Melville Way.

18. Some of the front parking spaces are less than 19' in length.

19. Mark Chachula, the Applicant's architect, testified that the dimensions of the parking spaces depicted on Eleventh Hour Brewing's Site Plan were below the customary 19 feet, but that 19 foot parking spaces could not be placed on the site for all spaces, that the spaces provided could adequately fit most vehicles, and that these spaces' dimensions were fully disclosed to the Zoning Administrator as part of the Application and the Parking Demand Analysis before receiving approval.

20. As a part of the Application, the Applicant submitted a Parking Demand Analysis prepared by 71A Consulting, LLC, which finds that the proposed would require 10 parking spaces.

21. The Appellant asserted that the proposed parking arrangement would be "issues," but did not provide non-speculative evidence in support of that position.

22. A number of the residents of the surrounding neighborhood appeared at the hearing in opposition to the proposed use, citing concerns related to potential noise, traffic, parking, and safety impacts on the surrounding neighborhood.

23. A number of residents of the surrounding neighborhood appeared at the hearing in support of the proposed used.

24. Lawrenceville United and Lawrenceville Corporation submitted letters offering support for the Applicant's proposed used, with a number of proposed operational conditions.

#### **Conclusions of Law:**

##### ***Relevant Provisions of Law***

1. Pursuant to Code Section 904.07.A, the UI (Urban Industrial) District, is intended to: "1. Allow mid-sized to large industries with lower external impacts on surrounding properties and districts; 2. Provide a flexible district that addresses the growing need for easily adaptable and flexible spaces, including office parks, incubator spaces, high technology and service sector industries; 3. Allow multi-use buildings that permit assembly, inventory, sales, and business functions within the same space; and 4. Encourage adaptive reuse of manufacturing buildings and allow the development of high density multi-unit residential buildings."

2. Section 911.01.B states that uses permitted within a given district, shall be subject to the specific approval criteria detailed in the Code.

3. Pursuant to Code Sections 911.01.B and 911.02, Restaurants with more than 2,400 sf in gross floor area are permitted by-right in the UI District. Sections 911.04.A.56 and 911.04.A.57 detail the approval criteria for restaurants located within GI, EMI, LNC, NDI, UNC, and P Districts. The Code does not provide specific standards for the approval of restaurants in the UI District.

4. Pursuant to Code Sections 911.01.B and 911.02, Retail Sales and Services uses with more than 10,000 sf in gross floor area are permitted by-right in the UI District. Sections 911.04.A.58 and 911.04.A.59 detail the approval criteria for Retail Sales and Services uses located within GI, EMI, LNC, NDI, and UNC Districts. The Code does not provide specific standards for the approval of Retail Sales and Services uses in the UI District.

5. Pursuant to Code Sections 911.01.B and 911.02, Manufacturing and Assembly (limited) uses less than 20,000 sf in gross floor area are permitted by-right in the UI District. Section 911.04.A.39 detail the approvals criteria for Manufacturing and Assembly (limited) uses located within GT, DR, ND, and UNC Districts. The Code does not provide specific standards for the approval of Manufacturing and Assembly (limited) uses in the UI District.

6. The Code does not provide minimum lot size standards for restaurant, retail, and manufacturing uses located within the UI District.

7. The UI District site development standards, found in Code Section 904.07.C, do not include a minimum lot size.

### ***Taproom Use***

8. The Applicant maintains that the Board should deny the Applicant's proposed use because the taproom use does not meet Code Section 904.07.B.2's standards for permitting accessory uses, particularly the provision stating that such uses shall "not exceed twenty-five" (25) percent of the gross floor area of the primary use.

9. The Board does not agree. The accessory use standard is not controlling under these circumstances. Both of the proposed uses, brewery and tasting room are individually permitted as of right in the UI District. As neither the UI District nor the proposed uses are subject to minimum lot size requirements, the Subject Property could be subdivided into three separate lots for separate use as a restaurant, retail establishment, and a manufacturing facility. Therefore, the Board finds that that the Administrator's did not act in err in granting the Applicant's building permit.

10. The Board further concludes that that the Applicant failed to submit credible, non-speculative evidence concerning to the potential impact of the proposed use.

### ***Parking Area***

11. Code Section 914.09.H.1 specifies that standard size parking stalls are to have a depth of 19'. Code Section 914.09.C requires wheel stops or curbing to be placed within 2' to 3' from the end of the parking spaces such that the 19' depth required for a parking space includes the 2' to 3' required for wheel stops.

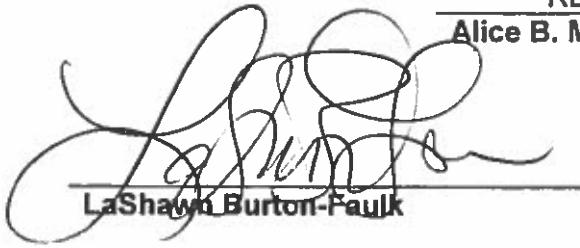
12. Code Sections 9.14.07.G.1 and 9.13.02.E.4 specifically empower the Zoning Administrator to consider and approve alternatives to parking dimensional standards on the site of the subject development if the applicant demonstrates to the satisfaction of the Zoning Administrator that the proposed plan will result in a better provision of parking.

13. The Board concludes the Protestant's testimony regarding the potential impact of the proposed parking arrangement to be speculative. Further, the parking area had been in use for a number of years as part of the prior uses. Therefore, the Zoning Administer did not err in allowing the Applicant to utilize the existing parking spaces on the Subject Property.

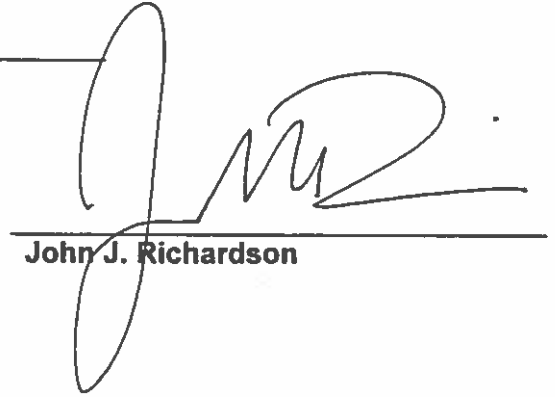
**Decision: For the foregoing reasons, the Protestants' appeal is DENIED.**

**RECUSED**

**Alice B. Mitinger, Chair**



**LaShawn Burton-Faulk**



**John J. Richardson**