

**TO:** Committee of the Whole

**FROM:** Joel Strassman, Planning and Zoning Officer

**DATE:** August 2, 2021

**SUBJECT: Ordinance 21-38:** Conditional Use Permit for a Hotel in the DMU Downtown Mixed-Use District  
10-12 North River Street, 2 Rooms on the 2<sup>nd</sup> Floor – Laura O’Brien, applicant

**Summary:** At its remote meeting held on July 21, the Plan Commission conducted a public hearing to consider a Conditional Use Permit for a Hotel to allow two (2) existing loft apartment units to be rented for periods of less than 30 days (short-term rental). The property is in the DMU Downtown Mixed-Use District that allows Hotels with approval of a Conditional Use Permit; a “loft unit” rented for a period of less than 30 days qualifies as a Hotel. While the 2 units for which the Hotel is proposed seemingly can be rented as bed and breakfast rooms, the DMU District prohibits bed and breakfast establishments, except in single family residences.

**Background:** Ms. O’Brien rents 4 apartment units in upper floors of her building at 10-12 North River Street and is seeking to offer rentals of less than 30 days for one or both 2nd floor units. One unit would be rented with the second added if the demand is present. In her application material for the Conditional Use (attached), Ms. O’Brien identifies her sanitation practices and renter parking. Her reference to “Airbnb” is solely to identify an online booking platform used and not to establish these units as a Bed and Breakfast business. City staff is working with Ms. O’Brien to add needed safety information to be posted in each room for guests.

**ZBA Review and Action:** No members of the public spoke at the hearing. At the hearing, Ms. O’Brien identified a need for short-term rentals in Batavia and these units can bring additional restaurant, entertainment, and retail customers into the downtown area. The Commission confirmed that this proposed alternate use of this property would not affect parking requirements.

After closing the hearing, the ZBA made findings as listed in attached Ordinance 21-38. By a vote of 5-0 (1 absent, 1 vacancy), the ZBA recommended approval of the Conditional Use Permit subject to the conditions listed in Ordinance 21-38.

**Alternatives:** The Committee of the Whole (COW) can recommend approval or denial of Ordinance 21-38 as presented or consider amendments to the Ordinance before acting.

**Impacts:** Approval would allow for the proposed 2 units to be available for short-term Hotel rentals, consistent with the intent of allowing such rental units as a Hotel in the DMU District. Rentals can increase customer activity in Batavia. No negative impacts were identified or raised during the public hearing. No impact to staff or City services is anticipated.

**Timeline for Actions:** COW action will allow for final City Council action on August 16<sup>th</sup>.

**Recommendation:** Staff recommends approval of Ordinance 21-38 as presented.

Attachments

1. Conditional Use Permit application material
2. Ordinance 21-38

c Mayor  
Department Heads  
Laura O’Brien, applicant  
Media

## 10-12 N. River Street Project

Fall of 2020 the 10-12 Building Improvement project was completed. Two additional apartments were built out as part of this project.

In September of 2020, it was decided to test one of the two units as a short term rental, AirBnB. A family consultant assisted us with the design and set up of this venture.

We launched the short term rental late October, and to date have had an adequate response to continue this test for the remainder of 2021.

In anticipation of the AirBnB being a permanent venture, I've started a remodel of a 2<sup>nd</sup> short term rental, a 1 bdr unit hoping to complete summer of 2021.

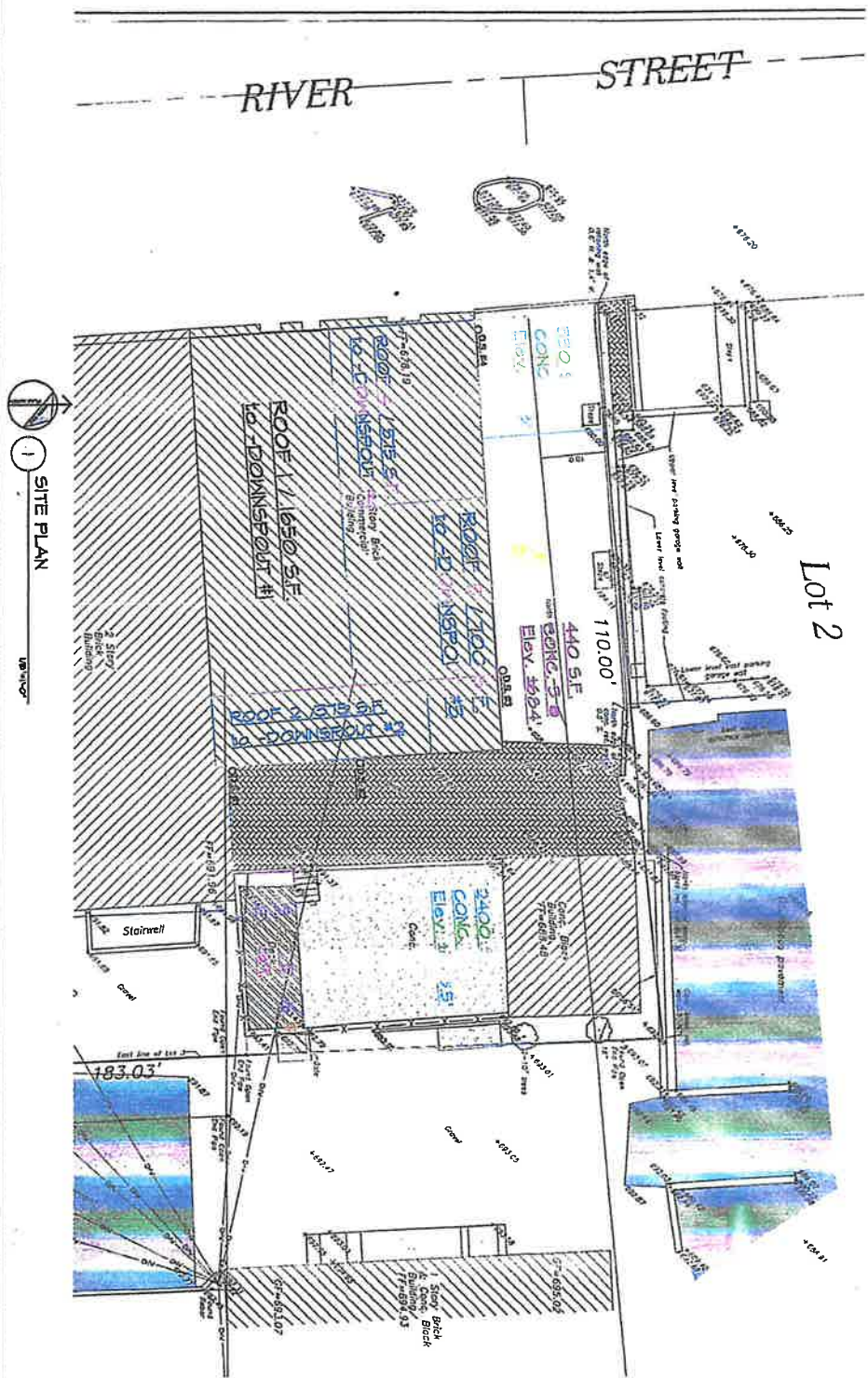
Both AirBnB units would be on the 2<sup>nd</sup> floor of the building. The 3<sup>rd</sup> floor would remain rentable long term apartments.

The current short term rental apartment is 2 bdr and 2 bathrooms, full kitchen and living area. There is also laundry room inside the unit.

AirBnB has a cleaning/sanitizing protocol that is followed once the party is checked out . The reservations and any handling of funds is done through AirBnB, they administer payment to O'Brien Prop Management and the State of Illinois for the State Taxes. The Batavia police department issued two overnight parking passes for this current unit.

Thank you, Laura O'Brien

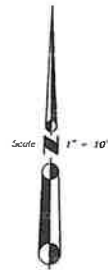
PROPERTY LINE EXHIBIT  
 BLOCK 7 ORIGINAL TOWN (NOW CITY) OF  
 BATAVIA, KANE COUNTY, ILLINOIS.



REVIEW SET

<p><b>North's Architects Inc.</b>                  301 N. 1st St.                  Batavia, IL 60010                  Tel: 815.336.1100                  Fax: 815.336.1101                  www.northsarchitects.com</p>	<p><b>PROJECT INFORMATION</b></p> <p>PROJECT: <b>10 RIVER ST. 2nd Flr.</b>                  DATE: <b>6/1/18</b></p>
	<p><b>DATE:</b> 6/1/18</p> <p><b>SCALE:</b> C1.0</p>

**PROPERTY LINE EXHIBIT**  
**BLOCK 7 ORIGINAL TOWN (NOW CITY) OF**  
**BATAVIA, KANE COUNTY, ILLINOIS.**



RIVER STREET ————— WILSON STREET

PLAN PREPARED FEBRUARY 15E, 2017

*Shawn E. Conaway*  
 SHAWN E. CONAWAY  
 SURVEYOR  
 ILLINOIS  
 LICENSE NO. 184007413  
 DECEASED EXPIRATION DATE: NOVEMBER 30TH, 2016



Prepared for:  
 W.C. Harms Surveyors  
 License No. 184007413  
 1008 Park Street  
 Batavia, Illinois 61710  
 (815) 726-2189  
 Fax: 726-7445  
 www.wcshawn.com

FILED COPY OF ORIGINAL  
 JUNE 14TH 1878 1872/28

# GENERAL NOTES

- ALL DESIGN AND WORK SHALL BE PERFORMED IN STRICT COMPLIANCE WITH FEDERAL, STATE, AND LOCAL BUILDING CODE REQUIREMENTS, AND EXECUTED IN ACCORDANCE WITH ACCEPTED INDUSTRY STANDARDS. IT SHALL BE THE GENERAL CONTRACTOR'S RESPONSIBILITY TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS PRIOR TO THE COMMENCEMENT OF ANY WORK.
- UNLESS NOTED OTHERWISE, ALL NEW WALLS LOCATED BY ALIGNMENT NOTATIONS AND ALL NEW FLOORING SHALL BE PARALLEL AND/OR PERPENDICULAR TO EXISTING BUILDING WALLS.
- CONTRACTOR IS RESPONSIBLE FOR CHECKING ALL FIELD CONDITIONS AND DIMENSIONS FOR ACCURACY AND CONFIRMING THAT THE WORK IS AS SHOWN AND NOTED. ALL FIELD CONDITIONS AS SHOWN AND NOTED ARE TO BE CONSIDERED AS PART OF THE CONTRACT. ANY QUESTIONS REGARDING THESE OR ANY COORDINATION ISSUES, THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING A CLARIFICATION FROM OWNER AND ARCHITECT.
- ALL FLOORS TO BE PREPARED AS REQUIRED TO ACCEPT SEALER.
- OUTLETS AND UTILITIES INDICATED ON THE PLAN ARE THE MINIMUM REQUIREMENTS. ADDITIONAL TELEPHONE OR ELECTRICAL OUTLETS MAY BE ADDED AS OPTIONS. GENERAL CONTRACTOR TO VERIFY LOCATION OF ALL UTILITIES IN THE FIELD.
- OWNER TO PROVIDE AND INSTALL FIRE SUPPRESSORS AS REQUIRED BY THE LOCAL FIRE CODES.
- ALL PAINTED SURFACES SHALL RECEIVE A PRIME COAT WITH A FINISH COAT(S) AS REQUIRED TO OBTAIN PROPER COVERAGE AND UNIFORM APPEARANCE.
- THE GENERAL CONTRACTOR AND EACH SUBCONTRACTOR SHALL BE RESPONSIBLE FOR CHECKING EXISTING CONDITIONS AT THE JOB SITE PRIOR TO COMMENCEMENT OF WORK. SUPERVISION OF PROPOSALS SHALL BE TAKEN AS EVIDENCE THAT SUCH INSPECTIONS HAS BEEN MADE.

No.	Revision/Issue	Date
6	REVISED $\Delta$ 3	2/15/19
5	REVISED $\Delta$ 2	10/15/18
4	REVISED $\Delta$ 1	9/27/18
3	ISSUED FOR PERMIT	9/10/18
2	REVISED	6/1/18
1	OWNER'S REVIEW	4/28/16
No.	Revision/Issue	Date

FIRM NAME AND ADDRESS:  
**Norris Architects Inc.**  
 209 Auburn Ct.  
 St. Charles, Illinois 60174  
 Ph. # 630/476-0044  
 norris@norrisarch.com

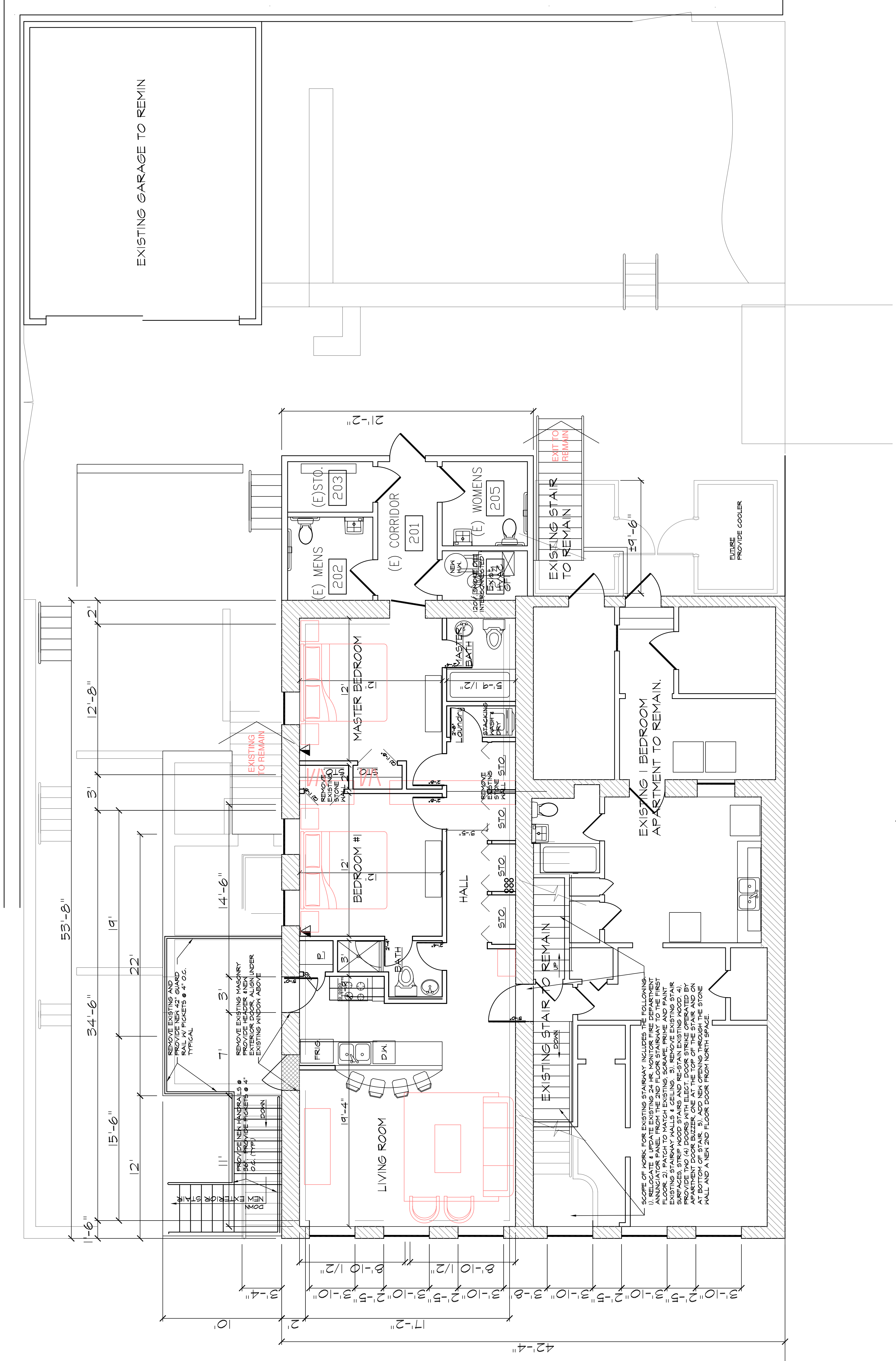
PROJECT NAME AND ADDRESS:  
**NEW INTERIOR REMODEL FOR:**  
 10 River St. 2nd Flr.  
 10 River Street  
 Batavia, IL

SHEET TITLE:  
**SCOND FLOOR**

PLOT DATE:  
**2/ 15/ 19**

SHEET NUMBER:  
**A1.1C**

REVIEW SET



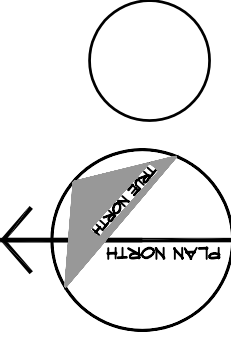
SCOPE OF WORK FOR EXISTING STAIRWAY INCLUDES THE FOLLOWING:  
 1) RELOCATE & UPDATE EXISTING 24 HR. MONITOR FIRE DEPARTMENT ANNUNCIATOR PANEL FROM THE 2ND FLOOR STAIRWAY TO THE FIRST FLOOR.  
 2) PATCH TO MATCH EXISTING SCRAPE, PRIME AND PAINT SURFACES.  
 3) STRIP WOOD STAIRS AND RE-STAIN EXISTING WOOD.  
 4) PROVIDE TWO (2) DOORS WITH ELECT. DOOR STRIKE OPERATED BY APARTMENT DOOR BUZZER, ONE AT THE TOP OF THE STAIR AND ON AT BOTTOM OF STAIRS.  
 5) ADD NEW OPENING THROUGH THE STONE WALL AND A NEW 2ND FLOOR DOOR FROM NORTH SPACE.

EXISTING GARAGE TO REMAIN

EXISTING I BEDROOM APARTMENT TO REMAIN.

EXISTING STAIR TO REMAIN

EXISTING STAIR TO REMAIN



**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 21-38**

**CONDITIONAL USE PERMIT  
FOR A  
HOTEL ON THE SECOND FLOOR OF 10-12 NORTH RIVER STREET  
IN THE  
DMU DOWNTOWN MIXED-USE DISTRICT**

**Laura O'Brien, Applicant  
(10-12 North River Street)**

**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
THIS 16<sup>th</sup> DAY OF AUGUST, 2021**

Published in pamphlet form  
by authority of the Mayor  
and City Council of the City of Batavia,  
Kane & DuPage Counties, Illinois,  
This 17<sup>th</sup> day of August, 2021

Prepared by:  
  
City of Batavia  
100 N. Island Ave.  
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 21-38**

**CONDITIONAL USE PERMIT  
FOR A  
HOTEL ON THE SECOND FLOOR OF 10-12 NORTH RIVER STREET  
IN THE  
DMU DOWNTOWN MIXED-USE DISTRICT**

**Laura O'Brien, Applicant  
(10-12 North River Street)**

**WHEREAS**, Laura O'Brien, owner of the subject property, has submitted an application requesting a Conditional Use Permit to allow the operation of Hotel containing 2 short-term rental living units in the second floor of the property located at 10-12 North River Street, in the DMU Downtown Mixed-Use zoning district that is legally described as:

THAT PART OF LOTS 2 AND 3, BLOCK 7, ORIGINAL TOWN OF BATAVIA, KANE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID LOT 2, 10.0 FEET; THENCE NORTHEASTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 2, 109.46 FEET TO A LINE DRAWN PARALLEL WITH THE EASTERLY LINE OF SAID LOT 2 FROM THE NORTHEAST CORNER OF SAID LOT 3; THENCE SOUTHERLY PARALLEL WITH SAID EASTERLY LINE 10.0 FEET TO SAID NORTHEAST CORNER; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LOT 3, 52.18 FEET TO THE NORTH FACE OF A BRICK WALL (AS DESCRIBED IN DOCUMENT 418110) EXTENDED EASTERLY; THENCE WESTERLY ALONG SAID NORTH FACE EXTENDED AND SAID NORTH FACE 70.97 FEET TO THE EAST FACE OF A STONE BUILDING; THENCE SOUTHERLY ALONG SAID EAST FACE 1.10 FEET TO THE SOUTH FACE OF SAID STONE BUILDING; THENCE WESTERLY ALONG SAID SOUTH FACE 37.96 FEET TO THE WESTERLY LINE OF SAID LOT 3; THENCE NORTHERLY ALONG SAID WESTERLY LINE 50.85 FEET TO THE POINT OF BEGINNING, IN THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS (PIN 12-22-276-003); AND

**WHEREAS**, public notice for the public hearing was duly executed and the Batavia Plan Commission held a public hearing on July 21, 2021; and

**WHEREAS**, following said Plan Commission public hearing, the Plan Commission made the following findings:

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.

**FINDING:** As proposed, the Hotel units would not be detrimental to persons living or working in the vicinity, to the surrounding area, or to the public in general. All Zoning Code requirements would be met.

2. The proposed use, as conditioned, conforms with the purposes, intent, and policies of the Comprehensive Plan and any applicable area, neighborhood, or other plan adopted by the City Council.

**FINDING:** Goal 1 of the Batavia Comprehensive Plan's Land Use Element stresses the need to maintain Batavia as an attractive place to shop and play. Goal 8 of the Economic Development & Redevelopment Element seeks to increase customer and visitor activity. The proposed use will provide an opportunity for visitors to Batavia to extend their visit to additional days without leaving. This can increase economic activity, particularly in the City's downtown.

3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.

**FINDING:** The proposed use includes a use that is allowed with Conditional Use approval. The business would operate in accordance with applicable laws.

4. The proposed use, as conditioned, would not unreasonably interfere with the enjoyment of nearby properties.

**FINDING:** As conditioned for approval, the proposed use would not interfere with the enjoyment of nearby properties and can increase customer visits; and

**WHEREAS,** after making its findings, the Plan Commission recommended to the City Council approval of a Conditional Use Permit being granted to Laura O'Brien subject to the following conditions:

1. The Conditional Use is granted to Laura O'Brien and is not transferrable;
2. The Conditional Use is limited to the existing two (2) living units on the building's second floor; and
3. The Hotel units shall be approved for occupancy as Hotel units by the City's Building Commissioner and/or Fire Marshall; and

**WHEREAS,** on August 10, 2021, the City Council's Committee of the Whole reviewed the application, the record of the public hearing, and the actions and findings of the Plan Commission and recommended approval of a Conditional Use Permit being granted to Laura O'Brien subject to certain conditions; and

**WHEREAS,** the City Council of the City of Batavia has considered the recommendations of both the Plan Commission and the Committee of the Whole.

**NOW THEREFORE, BE IT ORDAINED,** by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:



CITY OF BATAVIA, ILLINOIS ORDINANCE 21-38

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**SECTION 1:** The application for a Conditional Use Permit submitted by Laura O’Brien to allow the operation of Hotel containing 2 short-term rental sleeping units on the second floor of the property located at 10-12 North River Street, in the DMU Downtown Mixed-Use Zoning District, under City Code Title 10, Chapter 5.4, is hereby approved subject to the following conditions:

1. The Conditional Use is granted to Laura O’Brien and is not transferrable;
2. The Conditional Use is limited to the existing two (2) living units on the building’s second floor; and
3. The Hotel units shall be approved for occupancy as Hotel units by the City’s Building Commissioner and/or Fire Marshall; and

**SECTION 2:** That this Ordinance 21-38 shall be in full force and effect upon its presentation, passage and publication according to the law.

**PRESENTED** the City Council of the City of Batavia, Illinois, this 16<sup>th</sup> day of August, 2021.

**PASSED** by the City Council of the City of Batavia, Illinois, this 16<sup>th</sup> day of August, 2021.

**APPROVED** by me as Mayor of said City of Batavia, Illinois, this 16<sup>th</sup> day of August, 2021.

\_\_\_\_\_  
Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	Baerren					Solfa				
2	Leman					Wolff				
3	Ajazi					Chanzit				
4	Malay					Knopp				
5	Uher					Beck				
6	Cerone					Russotto				
7	Vogelsinger					Miller				
Mayor Schielke										
<b>VOTE:</b>		Ayes	Nays	Absent	Abstentions					
Total holding office: Mayor and 14 aldermen										

ATTEST:

\_\_\_\_\_  
Kate Garrett, City Clerk