ORDINANCE NO. 12-02

A ORDINANCE RELATING TO A PROPERTY REZONE AUTHORIZING MAYOR TO EXECUTE SAID ORDINANCE, AND AUTHORIZING CITY SECRETARY TO AUTHENTICATE MAYOR'S SIGNATURE TO SAID ORDINANCE, GRANTING AUTHORITY TO THE CITY MANAGER OR HIS DESIGNATE TO AUTHORIZE ZONING CHANGE, AND AUTHORIZING CITY SECRETARY TO AUTHENTICATE CITY MANAGER'S SIGNATURE TO ANY AND ALL INSTRUMENTS REQUISITE IN IMPLEMENTING THIS ORDINANCE.

A regular meeting of the City Council of the City of Commerce, Texas, was held in Commerce, Texas, at City Hall, on the 20th day of December 2011 at 6:00 p.m., a majority of Council Members being present and constituting a quorum, the following Ordinance was adopted:

WHEREAS, the owners of the property located at 1111 Charlie's Drive in the City of Commerce, reference is made thereto for all purposes, said owners have made application for a zoning change to Neighborhood Services, for the use of said premises being more particularly described in said application, as well as in the minutes of the City of Commerce, Texas, Planning and Zoning Commission meeting of December 6, 2011, and which minutes are attached hereto, marked Exhibit "A" and made a part hereof just as if copied herein verbatim; and

WHEREAS, the Planning and Zoning Commission of the City of Commerce, Texas, in accordance with Section 10, Subsection 10-104 of the Zoning Ordinance of the City of Commerce, Texas, after conducting a public hearing on said request and all other prerequisites relating thereto, and after consideration of the grounds for a zoning change to Neighborhood Services, recommended to the City Council of the City of Commerce, Texas, that said application be approved, and that a zoning change to Neighborhood Services be authorized; and

WHEREAS, the City Council, after having reviewed the action of the Planning and Zoning Commission and this recommendation, as well as having complied with all prerequisites of the Zoning Ordinance of the City of Commerce, Texas, relative to a change in zoning to Neighborhood Services, deems it in the best interest and general welfare of the City of Commerce that said application for a Zoning Change to Neighborhood Services be granted and that Zoning Change should be authorized for the owners of the property shown on map, attached hereto and marked Exhibit "B", as provided for in Article 10, Subsection 10-411 through 10-415 of the Zoning Ordinance of the City of Commerce, Texas.

NOW, THEREFORE, BE IT RESOLVED that the Mayor of the City of Commerce, Texas, be authorized and he is hereby authorized to execute this Ordinance, and the City Manager or his designate in accordance with this Ordinance be authorized and he is hereby authorized to approve zoning change on such property described in said application.

BE IT FURTHER RESOLVED that the City Secretary be authorized and she is hereby authorized to attest to the signature of the Mayor to this Ordinance, and to attest to the signature of the City Manager to any instruments requisite to implementing this Ordinance.

PASSED AND APPROVED on the FIRST READING at a regular meeting of the City Council of the City of Commerce, Texas, on the 20th day of December 2011.

PASSED AND APPROVED on the SECOND READING at a regular meeting of the City Council of the City of Commerce, Texas on this the 17th day of January 2012.

ATTEST:

Marty Cunningham, City Secretary

CITY OF COMMERCE, TEXAS

Quay Throgmorton, Mayor

(seal)

I, Marty Cunningham, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of a Ordinance, and that the same has not been repealed and is in full force and effect.

(seal)

Marty Cunningham, City Secretary
City of Commerce, Texas

Sworn to and subscribed before me, on this the 18th day of January, 2012 to certify which witness my hand and seal of office.

(Seal)

BECKY PATTILLO
Notary Public
TE OF TEXAS
n. Exp. May 16, 2015

Notary Public, State of Texas

CharliesDr111Rezone.011712

MINUTES

PLANNING AND ZONING COMMISSION MEETING

December 6, 2011 -5:30 p.m.

MEMBERS PRESENT:	Carolyn Trezevant, Greg Hulsey, Henry Ross, Mark Malloy.
MEMBERS ABSENT:	Russell Lutes, Terry Harris, Charles Elliott.
OTHERS PRESENT:	Director of Community Development Steve Wilson, Community Development Office Manager Lisa Ibarra, Mr. and Mrs. Billy Reed, Tony Henry, George Henry, Shane Milhorn.

1. **Call to Order.**
Acting Chairman Carolyn Trezevant called the meeting to order at 5:33 p.m.

2. **Approval of Minutes.**
Acting Chairman Carolyn Trezevant entertained a motion to approve the minutes of October 4, 2011. Member Mark Malloy moved for approval with Member Henry Ross seconding, and the vote in favor was unanimous.

3. **Public hearing and consideration on a Rezoning application for the property located at 1111 Charlie's Drive from Apartment Dwellings (A-2) to Neighborhood Service (NS).**
Acting Chairman Carolyn Trezevant asked Director of Community Development Steve Wilson to explain the agenda item. Mr. Wilson said that the plan was to extend Neighborhood Service up to 1111 Charlie's Dr. There are two properties in between that have been notified and one property owner is here. The two properties must be changed in order to prevent spot zoning which is illegal by state laws. Member Mark Malloy stated that since the Neighborhood Service area was surrounded by the A-2 zone, he thought the board should be eliminating spot zones instead of adding to them. Mr. Wilson said that this particular Neighborhood Service Zone is not a one property spot, but one that encompasses many properties already. Acting Chairman Carolyn Trezevant asked Tony Henry, the applicant, to explain what he intended to with the property. Mr. Henry stated that he wanted to open a walk up BBQ stand. Mr. Billy Reed, a property owner, told the board that he was in support of this business opening, saying that he thought it would be good for the neighborhood and would do well to improve the area's future. Acting Chairman Carolyn Trezevant asked if anyone had any opposition and after there was none, entertained a motion for the agenda item. Member Henry Ross moved to approve the rezoning application for the property located at 1111 Charlie's Dr from Apartment Dwelling zone to Neighborhood Service zone, with Member Greg

Hulsey seconding. The vote resulted with three to one in favor of, with Member Mark Malloy opposing.

4. **Public hearing and consideration on a Conditional Use application for the property located at 900 Main Street for use as a private club within the Corridor Zone (CD).**
Acting Chairman Carolyn Trezevant asked Mr. Wilson to explain the agenda item. Mr. Wilson stated that this agenda item was almost identical to The Spot's request a few meetings ago, that The Rail wants to sell mixed drinks and needs to be classified as a private club to do so, and a private club has to have a Conditional Use Permit to operate in the City of Commerce. Acting Chairman Carolyn Trezevant asked if food would need to be sold in order to sell mixed drinks, and applicant Shane Milhorn answered that yes they would have to sell some kind of hot food item but they are not required to sell 51% as restaurants are, they just have to offer it. Member Henry Ross asked what type of hot food item they would be offering, and Mr. Milhorn answered that right now you can purchase pizza, and he has plans to offer burgers and fries in the future. Member Henry Ross asked if his hours of operation would be changing, to which Mr. Milhorn answered no. Member Mark Malloy asked Mr. Milhorn about The Rail's history of selling to minors, and Mr. Milhorn explained that there was only one incident involving a minor. A patron purchased a beverage, set it down, walked away, and the minor picked it up and started drinking it. The incident was witnessed by a police officer, who arrested the people involved. Since The Rail was not at fault, there was no citation issued from TABC. Mr. Milhorn further added that he has never had a citation issued from TABC, and had only one verbal warning about a sign that was not properly displayed in the men's bathroom. Member Mark Malloy then asked about an incident involving a drunken girl in the snow, and Mr. Milhorn said that it was the same incident and no fines were issued from TABC. Member Mark Malloy asked if there were any instances in from his place of business in Greenville in which citations were issued from serving to minors, and Mr. Milhorn answered no, and the only citation he received there was when one of his bartenders checked a driver's license but did not scan it into their system, so they received an open saloon citation. Member Mark Malloy asked if driver's licenses were scanned here, and Mr. Milhorn said that they already have a system in place that is approved by TABC. Member Mark Malloy then asked about fight procedures, and Acting Chairman Carolyn Trezevant asked what the relevance of all these questions were to the agenda item, and Member Mark Malloy interjected that there were a lot of fights at The Rail and TABC has a law about that and wanted to know what Mr. Milhorn's procedures were. Mr. Milhorn said the statement about there being a lot of fights was not true, and his procedure was to ask those fighting to leave, have their names put in their database as banned, and they are not allowed to return to The Rail. Then, after each occurrence, TABC is notified within 24 hours of the incident. Acting Chairman Carolyn Trezevant asked if there were any more questions and after there was none, entertained a motion. Member Henry Ross moved to approve the Conditional Use Application for the property located at 900 Main Street for use as a private club within the Corridor Zone, with member Greg

Hulsey seconding. The vote for approval resulted in three to one, with Member Mark Malloy opposing.

5. **Public hearing and consideration to reduce the minimum front yardage requirement in Single-Family Dwelling District (R-7) from 30 feet to 25 feet.** Director of Community Development Steve Wilson explained that even though this had already been voted on by the board, he felt that he should bring it back as a specific agenda item so that the public could be properly notified and voice any concerns that they may have. Member Mark Malloy moved to approve the agenda item with Member Henry Ross seconding, resulting in a unanimous vote.

6. **Other Business.**
   There was none.

7. **Adjourn.**
   Acting Chairman Carolyn Trezevant entertained a motion to adjourn at 6:07 p.m. Member Henry Ross moved to do so with Member Mark Malloy seconding. The vote in favor of adjournment was unanimous.

____
Chairman Charles Elliott

____
Lisa Ibarra, Community Development Office Manager

____
Date

Rezoning Application

Case No.____________
Fee Paid____________

Property Address: 1111 CHARLIES DR.

Legal Description: NORTH OF EXISTING HOME IN FENCED IN AREA.

Area in Acres: 3/4 ACRE

Present Zoning Classification: A-2

Present Use: EMPTY LOT

Proposed Use: SMALL BUSINESS

Proposed Zoning Classification: ~~GENERAL BUSINESS/OTHER~~ Neighborhood Service

Applicant's Name: ANTHONY, KEN, + MIKE HENRY

Address: 17717 CHURCH ST. **Zip:** 75428

Phone Number: 903-886-3304

I hereby certify that all information contained herein is true and correct, and that all required submissions (see reverse) have been submitted.

APPLICANT SIGNATURE: Anthony Henry **DATE:** 10-7-11

OWNER SIGNATURE (if other than applicant): George Henry

NOTE: SEE REVERSE SIDE FOR INSTRUCTIONS.

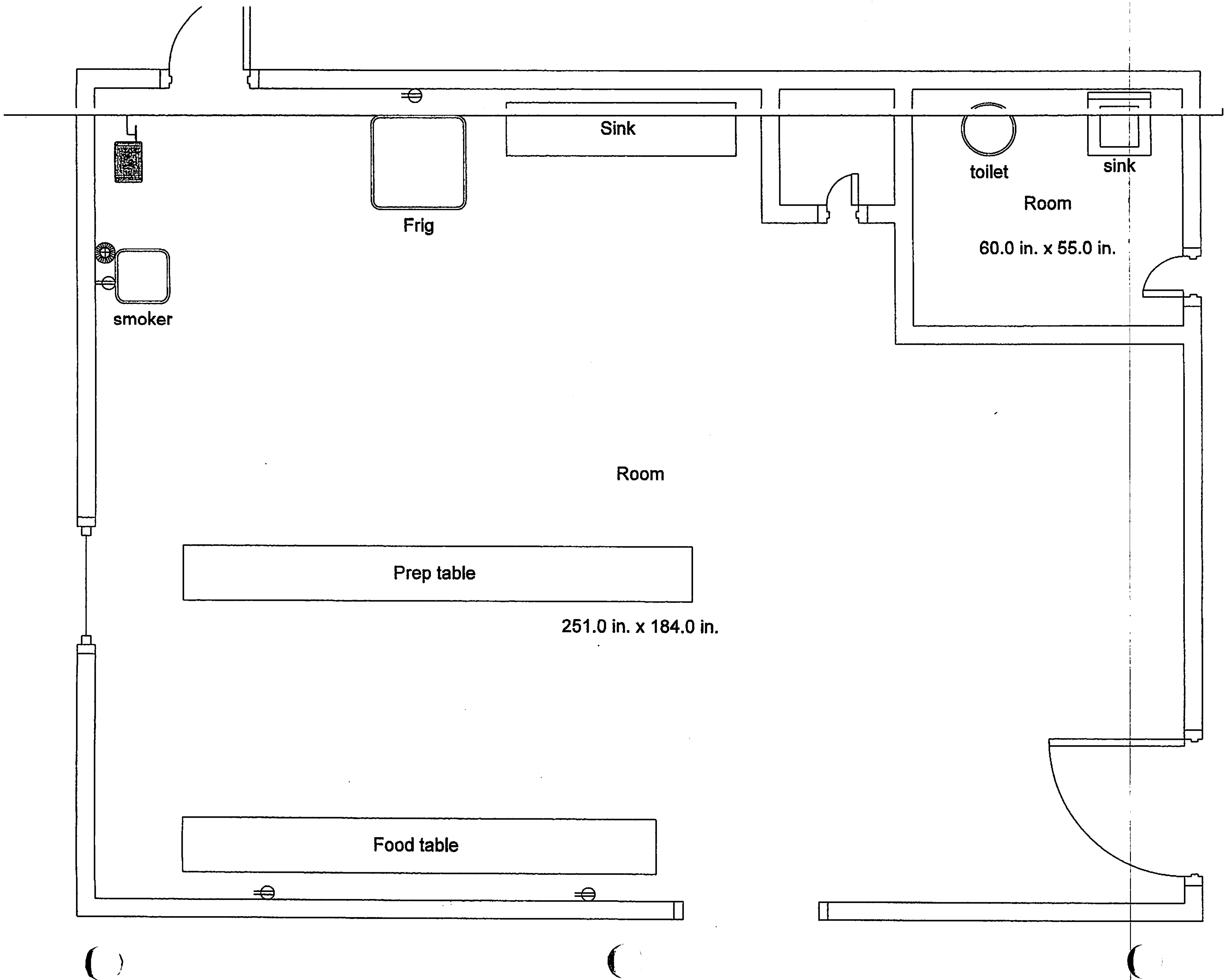
PERMIT **(To be completed by the City)**

☐ The rezoning request is hereby approved based on Ordinance No. _______.

☐ The rezoning request was disapproved by the City Council.

____________________ **Date**____________
Director of Community Development

forms\zoning.app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toilet
sink
Frig
Room
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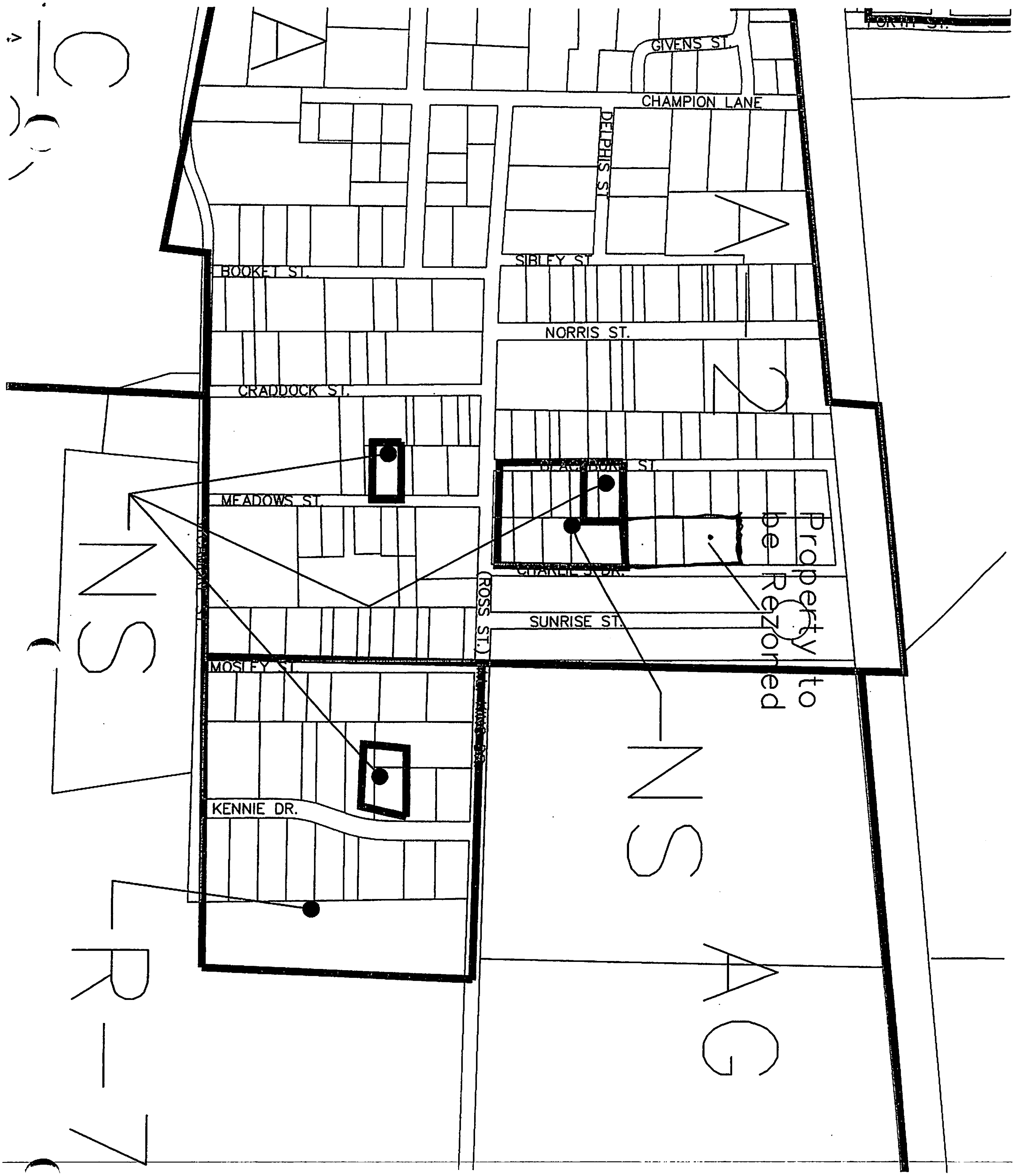
smoker
Room
Prep table
251.0 in. x 184.0 in.
Food table



GIVENS ST.
CHAMPION LANE
DELPHIS ST.
SIBLEY ST.
BOOKET ST.
NORRIS ST.
CRADDOCK ST.
MEADOWS ST.
(ROSS ST.)
SUNRISE ST.
MOSLEY ST.
KENNIE DR.
Property to be Rezoned
NS
NS
NS AG
R-7