

**VARIANCE FEES**

MGO \$50.00  
COMM \$490.00  
Priority - Double above

**PETITION FOR VARIANCE APPLICATION**

**City of Madison  
Building Inspection  
Division**  
215 Martin Luther King Jr. Blvd.  
Madison, WI 53703  
(608) 266-4568

Amount Paid 490.00 <sup>11/16/15</sup> FOUR

Name of Owner Carlos Osorio	Project Description New Second Floor Pass Thru between 23 & 25 Pinckney	Agent, architect, or engineering firm McFadden & Company LLC
Company (if applies) Osorio Investments LLC		No. & Street 380 West Washington Ave
No. & Street 19 N Pinckney	Tenant name (if any) The Old Fashioned	City, State, Zip Code Madison, WI 53703
City, State, Zip Code Madison, WI 53703	Building Address 23 & 25 N Pinckney	Phone 608.251.1350
Phone 608.658.1728	Madison, WI 53703	Name of Contact Person James McFadden
e-mail carlososorio@me.com		e-mail mcfadden@mailbag.com

1. The rule being petitioned reads as follows: (Cite the specific rule number and language. Also, indicate the nonconforming conditions for your project.)

TABLE 705.8

MAXIMUM AREA OF EXTERIOR WALL OPENINGS BASED ON FIRE SEPARATION DISTANCE AND DEGREE OF OPENING PROTECTION

0 to less than 3' - Protected (P) - Not Permitted

2. The rule being petitioned cannot be entirely satisfied because:

An opening is required to allow food prepared the second floor kitchen in 25 to be served in newly remodeled space in 23 N Pinckney.

There is a property line between 23 & 25 N Pinckney. Please see attached for a fuller explanation.

3. The following alternatives and supporting information are proposed as a means of providing an equivalent degree of health, safety, and welfare as addressed by the rule:

The proposed opening is small and protected with a 3 hour rolling door interconnected with the building's detection & alarm system

The existing buildings are and the remodeled space will be compartmentalized into separate fire areas

The remodeled space will have independent access and egress via a reconfigured stair

The aggregate second floor area of the buildings is 8,541 GSF that is less than the 9,500 GSF allowed per Table 503

There would be no need for a variance if the buildings had a single owner

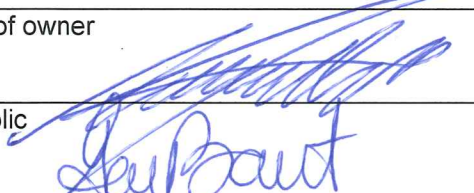

Please see attached for a fuller explanation

Note: Please attach any pictures, plans, or required position statements.

**VERIFICATION BY OWNER – PETITION IS VALID ONLY IF NOTARIZED AND ACCOMPANIED BY A REVIEW FEE AND ANY REQUIRED POSITION STATEMENTS.**

Note: Petitioner must be the owner of the building. Tenants, agents, contractors, attorneys, etc may not sign the petition unless a Power of Attorney is submitted with the Petition for Variance Application.

\_\_\_\_\_, being duly sworn, I state as petitioner that I have read the foregoing petition, that I believe it to be true, and I have significant ownership rights in the subject building or project.

Signature of owner 	Subscribed and sworn to before me this date: November 4, 2015
Notary public 	My commission expires: 05/15/16



**NOTE: ONLY VARIANCES FOR COMMERCIAL CODES ARE REQUIRED TO BE NOTARIZED.**

**City of Madison Fire Department Position Statement**

Owner: Carlos Osorio Osorio Investments, LLC	Project Name: The Old Fashioned Second Floor Expansion	Contact: James McFadden McFadden & Company LLC
Address: 19 N Pinckney Street Madison, WI 53703	Building Location: 23 & 25 N Pinckney Street	Address: 380 W Washington Ave Madison, WI 53703
Owner Phone: 608-658-1728 Email: carlososorio@me.com	Building Occupancy or Use: Assembly A-2 Restaurant	Phone: 608-251-1350 Email: mcfadden@mailbag.com

**Rule Being Petitioned: IBC 705.8 Exterior Wall Openings**

**I have read the application for variance and recommend:** (check appropriate box)

Approval     Conditional Approval     Denial     No Comment

- Project proposes adding an opening in a party wall between parcels under different ownership.
- The proposed opening would be a 36-inch x 24-inch x 21-inch pass-through protected with a 3-hour fire shutter. The pass-through would be consistently obstructed by its designed use of passing food and other serving items through the wall; thereby, preventing the shutter from fully closing when activated.
- A condition of a 2010 Petition for Variance approval was there will not be any other penetrations. MFD opposed the variance request in 2010 as well.
- The project includes a change of use on the second floor of 23 N Pinckney Street. This change of use would require the installation of fire sprinklers, which neither building currently has nor has the project indicated fire sprinklers would be installed. An additional petition for variance would be required unless the first floor and assembly occupancy on the second floors of 23 N Pinckney is sprinklered.
- The change of use also requires a second exit from the remodeled space which does not exist. An additional petition for variance would be required unless the design is reconfigured to provide an additional compliant means of egress.
- Many times a single element does not conform entirely to the building code requirements; however, when there are multiple non-conforming elements, history has shown the impact is compounding and a factor in all tragic large loss events.
- The documents provided with this variance highlight many nonconforming openings in walls along property lines and/or openings not having the same level of protection as the wall. Some of these nonconforming issues could be resolved by eliminating existing property lines.
- Madison Fire Department is concerned with the potential Mifflin St to E Washington Street burn out by a large fire due to the existing openings and penetrations. Additional openings only make the risk that much larger.

Name of Fire Chief or Designee (type or print)

Bill Sullivan, Fire Protection Engineer

City of Madison Fire Department

Telephone Number  
608-261-9658

Signature of Fire Chief or Designee

Date Signed  
November 16, 2015

## **Petition for Variance Attachment**

**Owner:** Carlos Osorio, Carlos Osorio Investments LLC, 19 N Pinckney, Madison, WI 53703

**Project Description:** Add a protected opening in the fire-walls either side the property between the 23 and 25 N Pinckney buildings

**Tenant:** The Old Fashioned Tavern and Restaurant, 23 & 25 N Pinckney, Madison, WI 53703

**Architect:** James McFadden, McFadden & Company LLC, 380 W Washington, Madison, WI 53703

### **The rule being petitioned reads as follows:**

#### TABLE 705.8

MAXIMUM AREA OF EXTERIOR WALL OPENINGS BASED ON FIRE SEPARATION DISTANCE AND DEGREE OF OPENING PROTECTION

0' to less than 3' - Protected (P) - Not Permitted

**Project Conditions:** The Old Fashioned currently occupies the basement and ground floors of 23 N Pinckney owned by Osorio Investments and the basement, ground, first and second floors of 25 N Pinckney owned by Crescent LLC. The buildings were constructed separately with independent solid brick 18" (for 23) and 11" (for 25) thick four-hour rated masonry fire-walls. A variance was granted on April 20, 2010 to allow two openings (3' & 5' wide x 7' high) through the two walls and across the property line to connect the ground floors of 23 & 25 N Pinckney. These openings are protected with three-hour fire doors with magnetic releases interconnected with the buildings' fire detection and alarm system.

Proposed is an expansion of the Old Fashioned into a remodeled 1,115 SF space on the street side of second floor of 23 N Pinckney. The new space will be served from the existing kitchen on the second floor of 25 N Pinckney that will require an additional small opening between the two buildings. The new opening will be a 36" wide 24" high and 21" deep pass thru and will be protected with a three hour rated rolling fire shutter that will be interconnected with the buildings' fire detection and alarm system.

The proposed second floor expansion space will be compartmentalized with a minimum two-hour fire barrier vertically and horizontally. A new fire detection and alarm system interconnected with the buildings' existing one will be installed in the space and the existing stair will be reconfigured to provide independent access and egress.

**The rule being petitioned cannot be entirely satisfied because:** A property line separates the two buildings with 23 N Pinckney owned by Osorio Investments LLC and 25 N Pinckney owned by Crescent LLC. There would be no need for a variance to allow the proposed opening if the two buildings were owned by a single party.

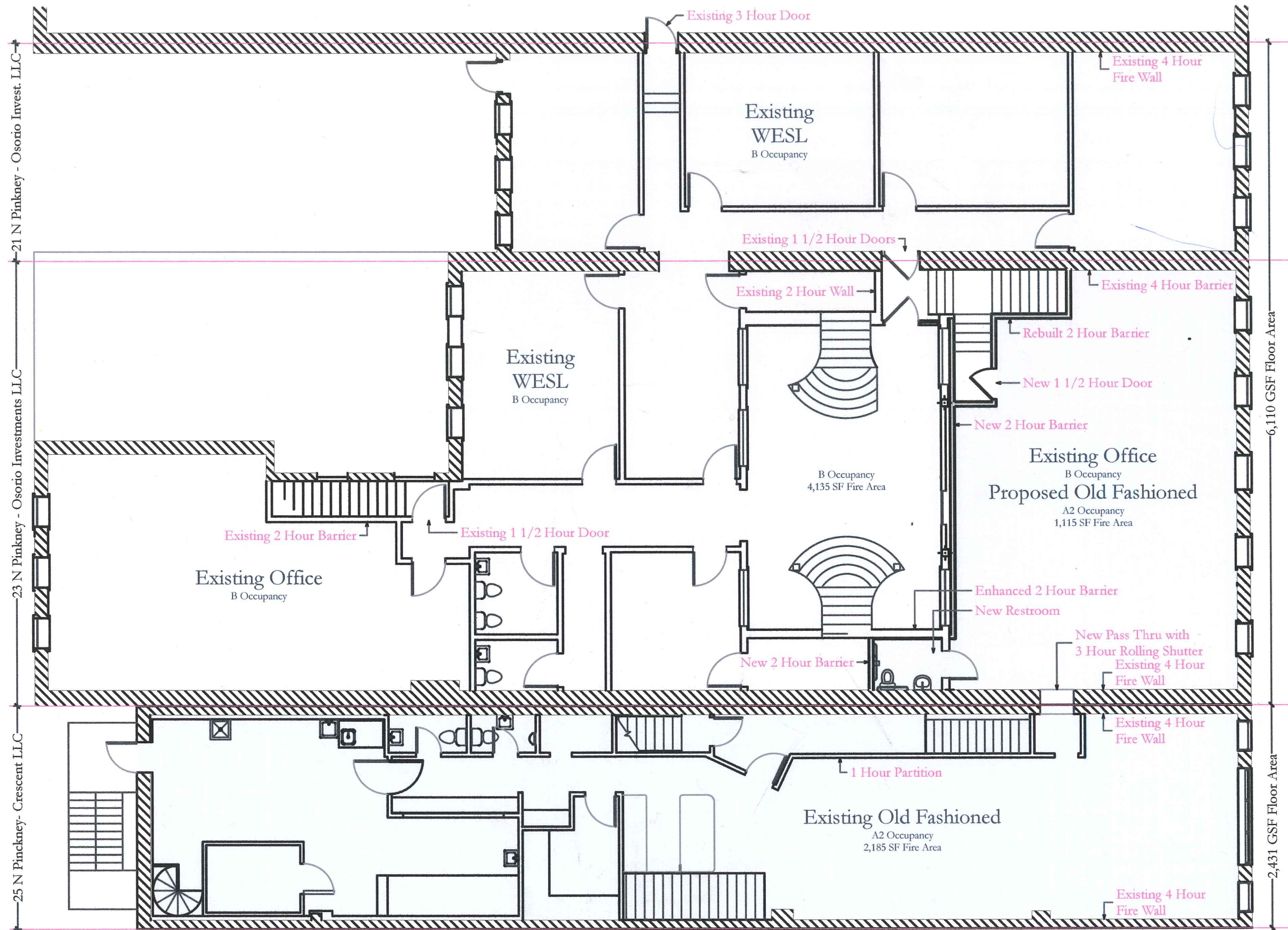
**The following alternatives and supporting information are proposed as means of providing an equivalent degree of health, safety and welfare addressed by the rule:**

The proposed opening is small and will be protected with a three hour rated rolling counter door interconnected with the buildings' fire detection & alarm system.

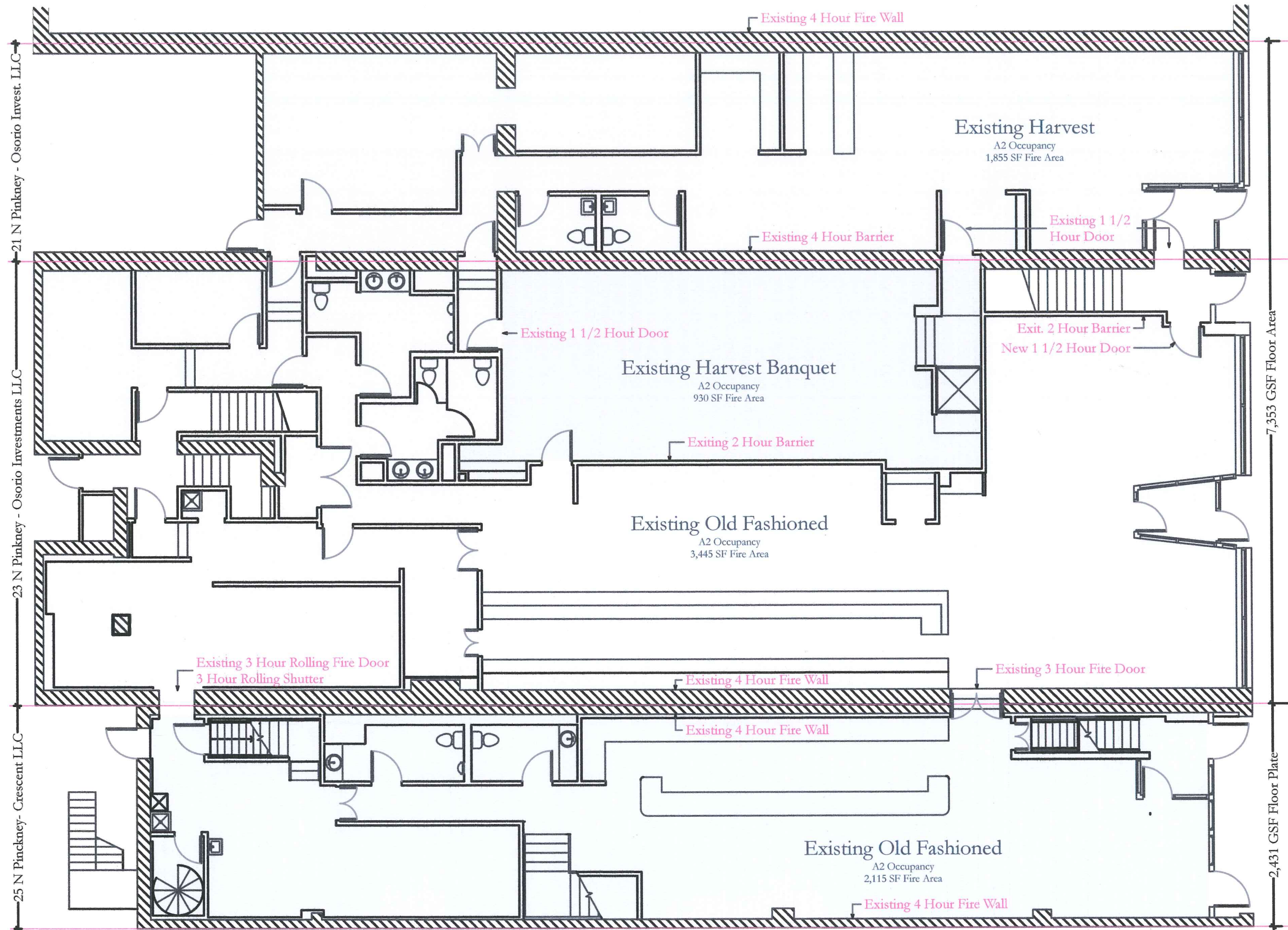
The buildings are currently compartmentalized vertically and horizontally into fire areas. Additional fire barriers will be installed to separate the remodeled space from the remainder of the building.

Additional protection will be gained by making the remodeled space functionally independent of the remainder of the second floor (with the exception of the pass thru) by reconfiguring the existing stairs to provide separate access and egress to the remodeled space.

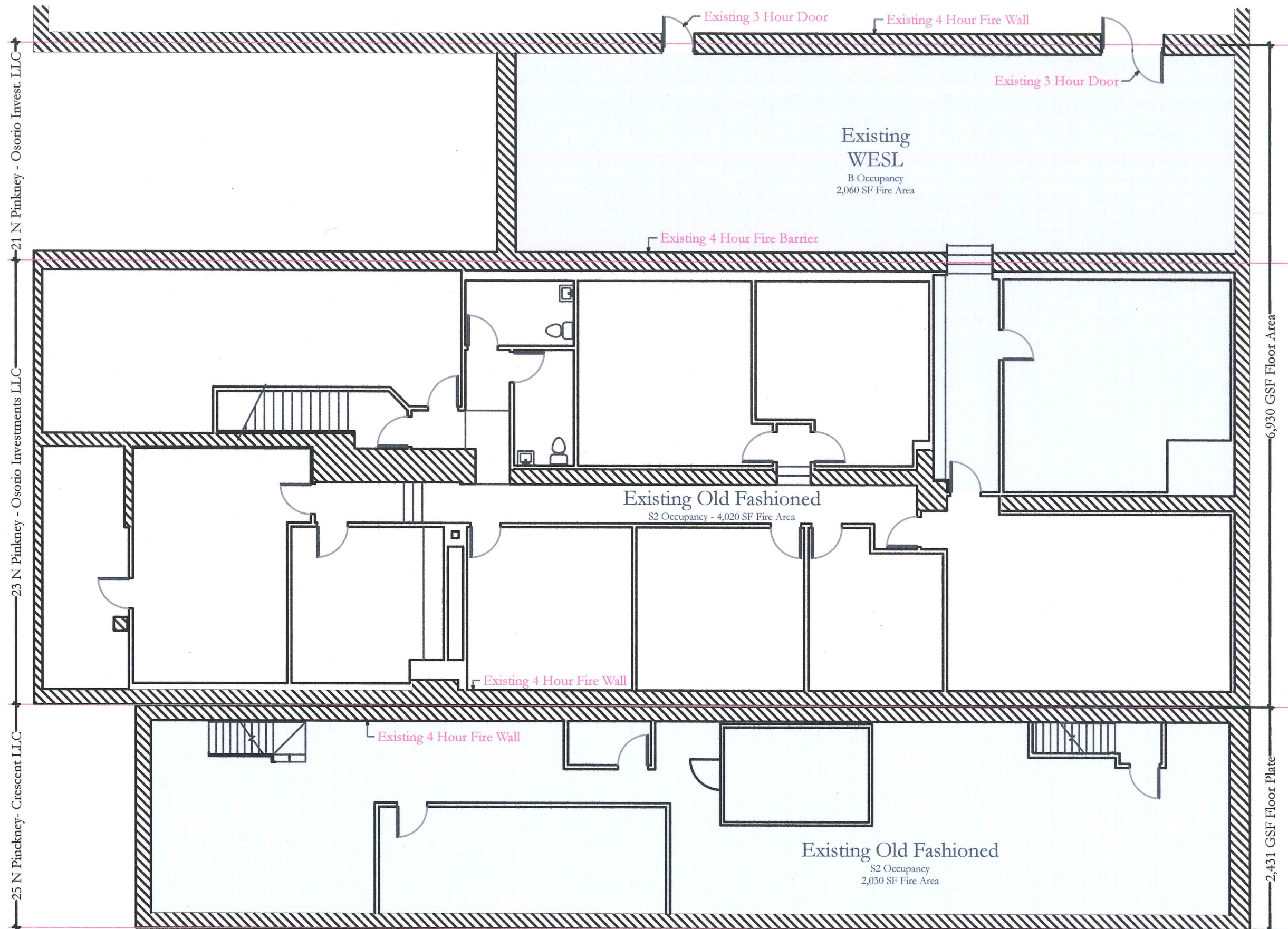
The buildings feature Type 3B construction and have mixed A2, B and S2 occupancies. For A2, the most restrictive occupancy, the maximum aggregate allowable building floor area is 9,500 SF (Table 503). 21/23 N Pinckney at 6,110 GSF and 25 N Pinckney at 2,431 GSF combined have an aggregate second floor area of 8,541 GSF. A fire-wall would not be required if the buildings had a single owner and any opening of any size protected or not would be compliant.



Second Floor Plan @ 1" = 10'  
 Proposed Old Fashioned Expansion  
 23 & 25 N Pinckney  
 October 31, 2015



First Floor Plan @ 1" = 10'  
Proposed Old Fashioned Expansion  
23 & 25 N Pinckney  
October 31, 2015



Basement Plan @ 1" = 10'  
Proposed Old Fashioned Expansion  
23 & 25 N Pinckney  
October 31, 2015