



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: January 12, 2015

Common Council Meeting Date: No action required

Item: Minor Amendment Special Use Permit #16-05

Case Manager: David Kress

GENERAL INFORMATION

Owner: James Schaden

Applicant: Shirley Vandanelzen

Address/Parcel #: 211 South Walter Avenue (Tax Id #31-4-0025-03)

Petitioner's Request: The applicant is requesting to amend Special Use Permit #16-05, for a restaurant/bar with alcohol sales rather than a pool hall with alcohol sales (**beer only**) at this location.

BACKGROUND

Special Use Permit #16-05 for alcohol sales (beer only) in conjunction with a pool hall at 211 South Walter Avenue was approved by the Common Council on August 17, 2005. The approval was granted with seven (7) conditions listed as follows:

1. The applicant shall apply for and receive a Liquor License from the City Clerk prior to serving alcohol (beer only) on the subject site.
 - *Representatives from Shadows, the business operating at this location, have applied for a Liquor License that includes Class B beer and Class B liquor. This item was recommended for approval, contingent upon approvals from all departments, at the December 30, 2014 meeting of the Safety and Licensing Committee. This item appears before Common Council on January 7, 2015.*
2. The serving and consumption of alcohol (beer only) is limited to the area of the building shown on the Development Plan. Any future expansions into other portions of the building, and/or outside the building for serving and/or consumption of alcohol (beer only) will require a new Special Use Permit application to be applied for and approved.
 - *No expansions are proposed with this request, as the area of the building has not changed since 2005. If the Special Use Permit amendment is approved by the Plan Commission, the (beer only) language will be removed for this location.*
3. The use shall conform to the standards established on Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
 - *Ongoing condition. This condition continues to apply at this location.*

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4. All City of Appleton and State of Wisconsin Building and Fire Codes must be met.
 - *Ongoing condition. This condition continues to apply at this location.*
5. All City of Appleton and State of Wisconsin Health Codes must be met.
 - *Ongoing condition. This condition continues to apply at this location.*
6. All Noise Ordinances shall be adhered to at all times.
 - *Ongoing condition. This condition continues to apply at this location.*
7. Waive the 10-foot front yard requirements along Harriet Street per Section 23-113(g)(4) of the Zoning Ordinance.
 - *Ongoing condition. This condition continues to apply at this location.*

STAFF ANALYSIS

Existing Site Conditions: The subject site is located in a multi-tenant building with a shared parking lot. Shadows has operated at this location for the past 10 years. They have held a Class “B” Beer License since October 24, 2005, which has allowed them to serve beer only.

Operational Information: An operational plan is attached to the Staff Report. Over time, Shadows’ business operations have somewhat evolved, as more space is now dedicated to restaurant service.

Outdoor Seating with Alcohol Service Area: None proposed.

Surrounding Zoning and Land Uses: The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally residential and commercial in nature.

North: R-3 Multi-Family District. The adjacent land uses to the north are currently multi-family residential.

South: C-2 General Commercial District. The adjacent land uses to the south are currently commercial.

East: R-2 Two-Family District and R-1B Single-Family District. The adjacent land uses to the east are currently a mix of single and two-family residential.

West: PD/R-3 Planned Development Multi-Family District. The adjacent land uses to the west are currently multi-family residential.

Comprehensive Plan 2010-2030: Community & Economic Development staff has reviewed this proposal and determined it is compatible with the Commercial uses shown on the City’s *Comprehensive Plan 2010-2030* Future Land Use Map. Listed below are related excerpts from the City’s *Comprehensive Plan 2010-2030*.

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- Goal 1 – Community Growth
Appleton will continue to provide opportunities for residential, commercial and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods and greenfield development sites at the City's edge.
- Objective 9.3 Economic Development:
Ensure the continued vitality of downtown and the City's neighborhood commercial districts.

Ordinance Requirements: This item has been referred to the Plan Commission per Section 23-66(g) of the Zoning Ordinance, which states:

(1) **Minor change.** Minor changes shall be submitted to and reviewed by the Plan Commission. Minor changes include:

- a. Expansions of special uses of less than ten percent (10%).

Not applicable. No expansions are proposed with this request.

- b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.

It is important to note the current Zoning Ordinance does not differentiate between an establishment that serves beer only and an establishment that serves a combination of beer and liquor or beer and wine. The Zoning Ordinance defines a restaurant with alcohol as "a use involving a business establishment, with a valid liquor license issued by the City, with or without table service, within which food is prepared and offered for sale and consumption on or off the premises, to the customer, in a ready to consume state in individual serving or in non-disposable containers." The Zoning Ordinance defines a tavern as "a use, licensed by the City, to sell retail alcoholic beverages to be consumed on or off premises and which may provide dancing, entertainment and food. The term tavern shall include bar, pub, nightclub and cocktail lounge."

Therefore, the proposed sales and service of the combination of beer and liquor rather than just beer only at this location does not change the general intent or character of the original Special Use Permit.

Note: Minor amendments to an existing Special Use Permit do not require Common Council action.

Finding of Fact: This request was reviewed in accordance with the standards for granting a Special Use Permit under Section 23-66(e)(1-6), which were found in the affirmative.

Technical Review Group (TRG) Report: This item was circulated via email, as the December 23, 2014 Technical Review Group meeting was cancelled. No negative comments were received from participating departments.

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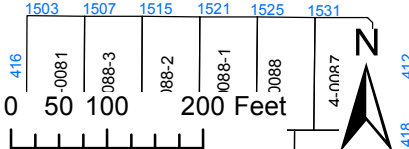
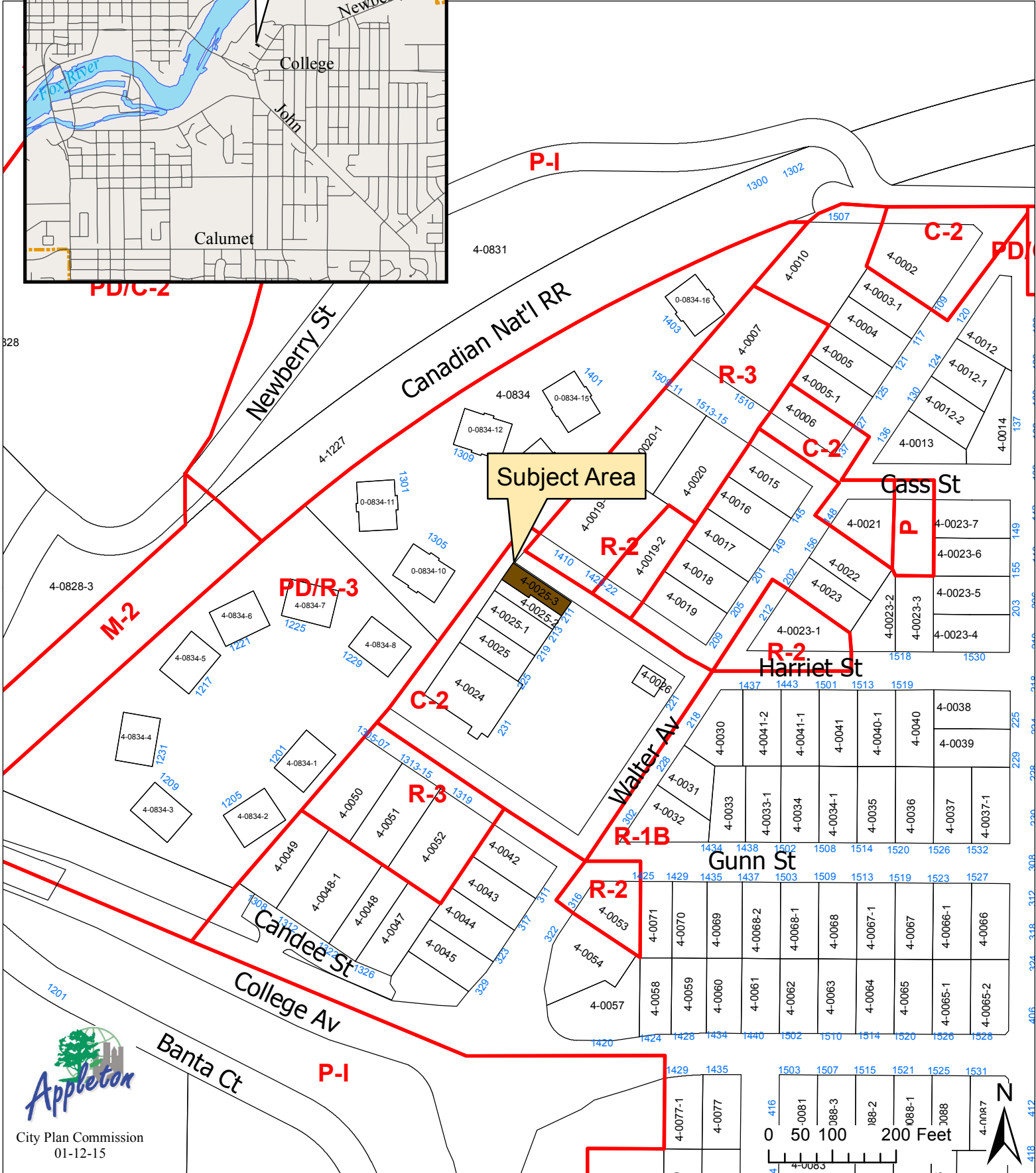
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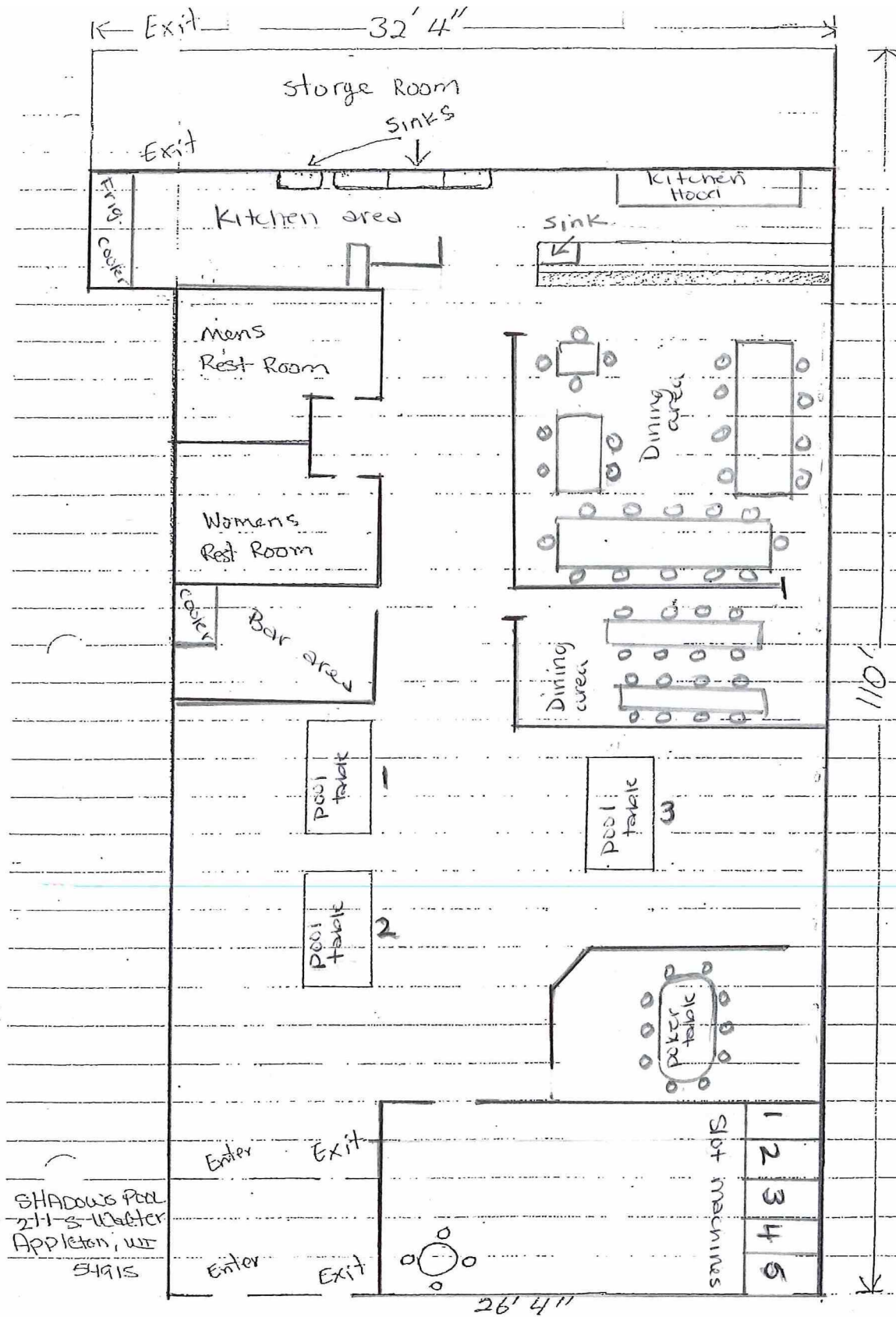
RECOMMENDATION

Staff recommends, based on the above, that Minor Amendment to Special Use Permit #16-05 for alcohol sales in conjunction with a restaurant/bar located at 211 South Walter Avenue, as shown on the attached maps and per attached plan of operation, ***BE APPROVED*** subject to the following conditions:

1. The applicant shall apply for and receive approval of a Liquor License from the City Clerk.
2. The serving and consumption of alcohol is limited to the interior ground floor of the building, as identified on the attached maps. Any future expansions for the serving and/or consumption of alcohol will require a new Special Use Permit application to be applied for and approved.
3. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
4. All City of Appleton and State of Wisconsin Building and Fire Codes must be met.
5. All City of Appleton and State of Wisconsin Health Codes must be met.
6. All Noise Ordinances shall be adhered to at all times.
7. Waive the 10-foot front yard requirements along Harriet Street per Section 23-113(h)(4) of the Zoning Ordinance.

211 South Walter Avenue
 Minor Amendment to Special Use Permit #16-05
 Restaurant/Bar with Alcohol Sales
 Zoning Map





SHADOWS POOL
211 S. Walter
Appleton, WI
54915

211 S. Walter Avenue
Minor Amendment to Special Use Permit #16-05
Restaurant/Bar with Alcohol Sales

TAVERN AND/OR RESTAURANT WITH ALCOHOL SALES
PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business information:

Name of Business: Shadows Food + Spirit

Years in operation: 10

Percentage of business derived from restaurant service: 75 %

Type of the proposed establishment (detailed explanation of business): restaurant

with pool tables, bar that serves beer

Hours of Operation: 9 hrs Days of Operation: 6 days

Noise, crowd, parking lot control methods: most of our customers are older

and all like/respect our rules. When we see them get out of control, we like to address the issue early before it gets out of hand.

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 99 persons.

Outdoor uses:

Location, type, size and design of outdoor facilities: n/a

Type and height of screening: plantings/fencing/gating _____

Is there any alcohol service incorporated in this outdoor facility proposal? Yes No

Hours of Operation: _____ Days of Operation: _____

Are there plans for outdoor music/entertainment? Yes No

If yes, describe soundproofing measures: _____

Is there any food service incorporated in this outdoor facility proposal? Yes No

Outdoor lighting:

Type: parking lights

Location: in the parking lot and by the front door

Off-street parking:

Number of spaces provided 35.

Other Licensed Premises:

The number of licensed premises within the immediate geographic area of the proposed location will be considered in order to avoid an undue concentration that may have the potential of creating public safety problems or deterring neighborhood development.

List nearby taverns: Friends and neighbors

Amusement Devices:

Number of video games: 6 Pool Tables: 3

Other amusement devices: n/a