



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Public Hearing Date:** March 23, 2022

**Common Council Meeting Date:** April 6, 2022

**Item:** Special Use Permit #2-22 for restaurant with alcohol sales and service

**Case Manager:** Jessica Titel, Principal Planner

### GENERAL INFORMATION

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**Owner:** ZCF QOZB, LLC

**Applicant:** Topsy Taco c/o Sarah Gregory

**Address/Parcel #:** 127 S. Memorial Drive (Tax Id #31-3-0972-00)

**Petitioner's Request:** The applicant is requesting a Special Use Permit for alcohol sales and service in conjunction with a restaurant.

### BACKGROUND

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The subject area is located at the southwest corner of West College Avenue and South Memorial Drive. The property currently consists of a multi-tenant building and associated off-street parking lot. The existing building is approximately 17,670 square feet in size. The building was remodeled and the parking lot was reconstructed in 2018/2019. Dollar Tree occupies an existing tenant space within the building and the second tenant space is currently vacant. The applicant recently applied for a Liquor License that includes Class B beer and Reserve Class B Liquor.

### STAFF ANALYSIS

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**Project Summary:** The applicant proposes to establish a restaurant with alcohol sales and service on the subject site, which would occupy an existing tenant space that is approximately 7,758 square feet in size.

**Operational Information:** A plan of operation is attached to the staff report.

**Outdoor Seating Area:** No outdoor alcohol sales and service is requested with this application.

**Existing Site Conditions:** The existing single-story building totals approximately 17,670 square feet in size. The 1.03 acre site also includes an off-street parking lot, with right-in and right-out only access from South Memorial Drive and full access from West Lawrence Street.

**Current Zoning and Procedural Findings:** The subject property has a zoning designation of CBD Central Business District. Per Section 23-114(e) of the Municipal Code, a restaurant with alcohol sales and service requires a Special Use Permit in the CBD District. The Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds vote of the Common Council is required for approval.

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**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 commercial and residential in nature.

North: CBD Central Business District. The adjacent land uses to the north are currently railroad right-of-way and a mix of commercial uses.

South: R-2 Two-Family District and PD/C-2 Planned Development General Commercial District #F-01. The adjacent land uses to the south are currently duplexes and an existing restaurant (Sangrias).

East: CBD Central Business District. The adjacent land uses to the east are currently a mix of commercial uses.

West: CBD Central Business District. The adjacent land use to the west is currently single-family residential.

**Appleton Comprehensive Plan 2010-2030:** Community and Economic Development staff has reviewed this proposal and determined it is compatible with goals and objectives found in the City's *Comprehensive Plan 2010-2030*. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

*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.*

*Goal 8 – Economic Development*

*Appleton will pursue economic development that retains and attracts talented people, brings good jobs to the area, and supports the vitality of its industrial areas, downtown, and neighborhood business districts.*

*OBJECTIVE 9.5 Economic Development:*

*Encourage new development and redevelopment activities that create vital and attractive neighborhoods and business districts.*

*OBJECTIVE 10.2 Land Use:*

*Encourage redevelopment to meet the demand for a significant share of future growth, and to enhance the quality of existing neighborhoods.*

*Chapter 14 Downtown Plan, Initiative 3 Neighborhood and Residential Development:*

*Strategy 3.3 – Promote development of neighborhood serving businesses and amenities to meet the basic shopping and service needs of downtown and nearby residents.*

*Chapter 14 Downtown Plan, Initiative 4 Downtown Development and Business Retention:*

*Strategy 4.4 – Add depth to retail nodes beyond College Avenue by encouraging new businesses on side streets and fronting Soldier's Square*

**Technical Review Group (TRG) Report:** This item appeared on the March 1, 2022 TRG agenda. No negative comments were received from participating departments.

**Zoning Ordinance Requirements and Substantial Evidence:** When reviewing an application for a Special Use Permit, the City must determine if the applicant's proposal satisfies Municipal Code requirements and conditions. Pursuant to Section 23-66(c)(5) of the Municipal Code, the Plan Commission and Common Council must provide substantial evidence supporting their decision to approve, approve with conditions, or deny the Special Use Permit. Substantial evidence means "facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a Special Use Permit and that reasonable persons would accept in support of a conclusion." Any requirements and conditions listed for approval must be reasonable, and to the extent practicable, measurable.

**Finding of Fact:** This request was reviewed in accordance with the standards (proper zoning district, district regulations, special regulations, comprehensive plan and other plans, traffic, landscaping and screening, neighborhood compatibility, and impact on services) for granting a Special Use Permit under Section 23-66(e)(1-8) of the Municipal Code, which were found in the affirmative, as long as all stipulations are satisfied.

## **RECOMMENDATION**

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Staff recommends, based on the above analysis, that Special Use Permit #2-22 for a restaurant with alcohol sales and service located at 127 S. Memorial Drive (Tax Id #31-3-0972-00), as shown on the attached maps and per attached plan of operation, along with the attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.  
*Substantial Evidence: This condition provides notice to the applicant that a Liquor License is also needed prior to serving alcohol.*
2. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.  
*Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.*
3. The site shall be kept free of litter and debris.  
*Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.*
4. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.  
*Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.*

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5. The serving and consumption of alcohol is limited to the interior ground floor of the building, as identified on the attached development plan drawings. Any future expansions for the serving and/or consumption of alcohol may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.

*Substantial Evidence: Standardized condition that establishes parameters for the current application and identifies the process for review of any future changes to the special use.*

6. This Special Use Permit is needed for on-site alcohol sales and consumption. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.

*Substantial Evidence: Standardized condition that establishes parameters for the current application and identifies the process for review of any future changes to the special use.*

**CITY OF APPLETON  
RESOLUTION FOR SPECIAL USE PERMIT #2-22  
RESTAURANT WITH ALCOHOL  
127 SOUTH MEMORIAL DRIVE**

**WHEREAS**, Sarah Gregory, Topsy Taco, has applied for a Special Use Permit for a restaurant with alcohol sales and service located at 127 South Memorial Drive, also identified as Parcel Number 31-3-0972-00; and

**WHEREAS**, the location for the proposed restaurant with alcohol sales and service is located in the CBD Central Business District, and the proposed use may be permitted by Special Use Permit within this zoning district pursuant to Chapter 23 of the Municipal Code; and

**WHEREAS**, the City of Appleton Plan Commission held a public hearing on March 23, 2022 on Special Use Permit #2-22, at which all those wishing to be heard were allowed to speak or present written comments and other materials at the public hearing; and

**WHEREAS**, the City of Appleton Plan Commission has reviewed and considered the Community and Economic Development Department’s staff report and recommendation, as well as other spoken and written evidence and testimony presented at the public hearing; and

**WHEREAS**, the City of Appleton Plan Commission reviewed the standards for granting a Special Use Permit under Sections 23-66(e)(1-8) of the Municipal Code; and

**WHEREAS**, the City of Appleton Plan Commission reviewed the standards for imposing conditions on the Special Use Permit under Section 23-66(c)(5) of the Municipal Code, and forwarded Special Use Permit #2-22 to the City of Appleton Common Council with a favorable conditional or not favorable (CIRCLE ONE) recommendation; and

**WHEREAS**, the City of Appleton Common Council has reviewed the report and recommendation of the City of Appleton Plan Commission at their meeting on April 6, 2022.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the Common Council, based on Community and Economic Development Department’s staff report and recommendation, as well as other spoken and written evidence and testimony presented at the public hearing and Common Council meeting, and having considered the recommendation of the City Plan Commission, that the Common Council:

1. Determines all standards listed under Sections 23-66(e)(1-8) of the Municipal Code are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #2-22 for a restaurant with alcohol sales and service located at 127 South Memorial Drive, also identified as Parcel Number 31-3-0972-00, based upon the following standards and determinations: (List reason(s) why the Special Use Permit was denied)
3. If YES, the City of Appleton Common Council hereby approves Special Use Permit #2-22 for a restaurant with alcohol sales and service located at 127 South Memorial Drive, also identified as Parcel Number 31-3-

0972-00, subject to the following conditions as they are related to the purpose of the City of Appleton Municipal Code and based on substantial evidence:

**CONDITIONS OF APPROVAL FOR SPECIAL USE PERMIT #2-22:**

- A. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.
  - B. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
  - C. The site shall be kept free of litter and debris.
  - D. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
  - E. The serving and consumption of alcohol is limited to the interior ground floor of the building, as identified on the attached development plan drawings. Any future expansions for the serving and/or consumption of alcohol may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.
  - F. This Special Use Permit is needed for on-site alcohol sales and consumption. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.
4. The City Clerk’s Office is hereby directed to give a copy of this resolution to the owner/applicant, Community and Economic Development Department, Inspections Division, and any other interested party.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Jacob A. Woodford, Mayor

ATTEST:

\_\_\_\_\_  
Kami Lynch, City Clerk





127 S. Memorial Drive  
Special Use Permit  
Restaurant with Alcohol Sales  
Aerial Map



Subject Area



City Plan Commission  
3-23-2022





## PLAN OF OPERATION AND LOCATIONAL INFORMATION

### Business Information:

Name of business: Tipsy Taco LLC

Years in operation: 8 Current restaurant 14 years

Type of proposed establishment (detailed explanation of business):

Full service bar & restaurant.  
catering capability  
private dining space.

### Proposed Hours of Operation:

Day	From	To
Monday thru Thursday	11am	9pm
Friday	11am	10pm
Saturday	11am	10pm
Sunday	11am	8pm

### Building Capacity and Storage Areas:

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: 320 persons

Gross floor area of the existing building(s):

17,670 square feet

Gross floor area of the proposed building(s):

7,758 square feet

Identify location, number, capacity and flammable liquid materials stored in storage tanks or containers:

Kitchen - grills, stovetop

**Odor:**

Describe any potential smoke, odors emanating from the proposed use and plans to control them:

N/A

**Noise:**

Describe the noise levels anticipated from the proposed use and all mechanical equipment:

all indoor space, contained

How will the noise be controlled?

N/A

**Outdoor Lighting:**

Type: parking lot lighting, signage

Location: \_\_\_\_\_

**Off-Street Parking:**

Number of spaces existing on-site: 48

Number of spaces proposed on-site: 48

**Street Access:**

Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

~~NONE~~ Yes, use existing access points.

**Outdoor Uses:**

Size: 0 square feet

Type and location of outdoor storage area(s) of business property, goods, or merchandise not intended for customer viewing or immediate sale:

NA

Type and height of screening of plantings/fencing/gating for outdoor storage area(s):

NA

Type, location, size of outdoor display area(s) of merchandise for sale or other business property:

NA

**Number of Employees:**

Number of existing employees: \_\_\_\_\_

Number of proposed employees: 25

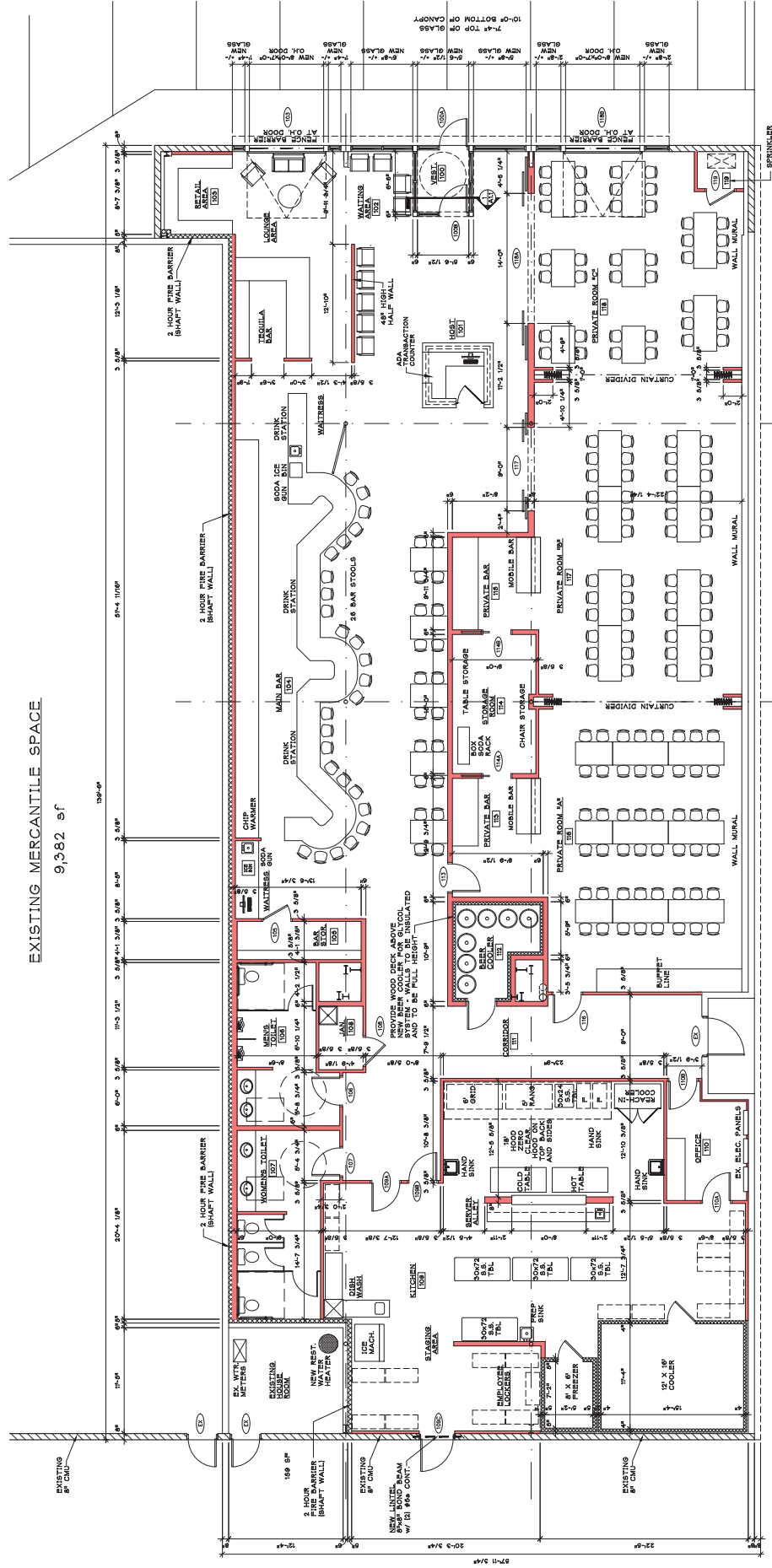
Number of employees scheduled to work on the largest shift: 12



**SANGRIA'S MEXICAN GRILL**  
 SCHEMATIC DESIGN FOR,  
 APPLETON, WISCONSIN

DATE: JAN 10, 2022  
 ARCH: K. BUCK  
 D. BY: S. BERTON  
 JOB: \_\_\_\_\_  
 REV: \_\_\_\_\_

**A**  
**1.0**



EXISTING MERCANTILE SPACE  
 9,382 sf

**300 MAX CAPACITY**  
 7,758 sf  
**FLOOR PLAN**  
 SCALE: 3/16"=1'-0"

ALL INTERIOR COLUMNS AND PARTS OF THE PLAN ARE EXISTING

THE EXISTING WEST WALL NON-BEARING ST. CMU WHICH ARE EQUIVALENT TO A RATING MINIMUM OF A 1 HOUR

NEW WINDOWS TO HAVE A PER TABLE C402.4 OF THE 2016 IBC

NEW DOOR TO HAVE A U-VALUE OF 0.77 OR BETTER PER TABLE C402.4 OF THE 2016 IBC

FINAL GLAZING DIMENSIONS BY SELECTED CONTRACTOR

ALL INTERIOR WALLS ARE DIMENSIONED FOR STUDS CAN ALSO BE UTILIZED