



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Public Hearing Date:** January 12, 2022

**Common Council Meeting Date:** January 19, 2022

**Item:** Special Use Permit #4-21 for restaurant with alcohol sales and service

**Case Manager:** David Kress, Principal Planner

### **GENERAL INFORMATION**

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**Owner:** SNP Enterprises, LLC

**Applicant:** Alpine Swift c/o Adam Marty

**Address/Parcel #:** 1016 East Pacific Street (Tax Id #31-1-0843-00)

**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 northeast corner of East Pacific Street and North Tonka Street. Based on Assessor's Office records, personal services (photography studio) was the previous use of the property. The applicant recently applied for a Liquor License that includes Class B beer and Class C wine, which is on track to go to Safety and Licensing Committee on January 12<sup>th</sup> and Common Council on January 19<sup>th</sup>.

On November 15, 2021, the Board of Zoning Appeals approved a variance for the subject property. The variance allows a restaurant with an occupancy of 30 persons to provide no off-street parking. A variance was previously approved by the Board of Zoning Appeals on August 20, 2007 to allow a photography studio at this location with one off-street parking space.

### **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 the existing building that is approximately 1,008 square feet in size. Based on the attached development plan, this request will not increase existing building area. Per the Inspections Division, 30 persons (including staff) would be the maximum number of occupants for the space.

**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 1,008 square feet on the ground floor. The 0.03-acre site also includes a paved driveway east of the building, with a curb cut on East Vine Street.

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**Current Zoning and Procedural Findings:** The subject property has a zoning designation of C-2 General Commercial District. Per Section 23-113(e) of the Municipal Code, a restaurant with alcohol sales and service requires a Special Use Permit in the C-2 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.

**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 in nature.

North: R-1C Central City Residential District. The adjacent land uses to the north are currently single-family residential.

South: R-2 Two-Family District and R-1C Central City Residential District. The adjacent land uses to the south are currently a mix of duplexes and single-family residential.

East: R-1C Central City Residential District and R-2 Two-Family District. The adjacent land uses to the east are currently a mix of single-family residential and duplexes.

West: R-1C Central City Residential District. The adjacent land uses to the west are 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.*

**Technical Review Group (TRG) Report:** This item appeared on the December 7, 2021 TRG agenda.

- Inspections Division Comments: Had a chance to work with the applicant on total occupants. We determined based on code allowances that 30 would be the maximum for the space. That number includes his staff.
- Police Department Comments: There is parking available on Pacific Street eastbound and one side of Tonka Street and Vine Street; however, they will need to be aware of the possibility of patrons parking too close to driveways. On-street parking rules are as follows: Must be within one foot of the curb; Must stay four feet away from the driveway apron; Must have two feet between cars; Must be ten feet away from fire hydrant; Must be fifteen feet from a crosswalk.

**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.

Section 23-172(m) of the Municipal Code requires a minimum number of off-street parking spaces based on the use of a property. In this case, however, the Board of Zoning Appeals approved a variance that allows a restaurant with an occupancy of 30 persons to provide no off-street parking. Therefore, off-street parking spaces are not required for the applicant's request.

**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 #4-21 for a restaurant with alcohol sales and service located at 1016 East Pacific Street (Tax Id #31-1-0843-00), 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.*

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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.*

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 #4-21  
RESTAURANT WITH ALCOHOL  
1016 EAST PACIFIC STREET**

**WHEREAS**, Adam Marty, Alpine Swift, has applied for a Special Use Permit for a restaurant with alcohol sales and service located at 1016 East Pacific Street, also identified as Parcel Number 31-1-0843-00; and

**WHEREAS**, the location for the proposed restaurant with alcohol sales and service is located in the C-2 General Commercial 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 January 12, 2022 on Special Use Permit #4-21, 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 #4-21 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 January 19, 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 #4-21 for a restaurant with alcohol sales and service located at 1016 East Pacific Street, also identified as Parcel Number 31-1-0843-00, 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 #4-21 for a restaurant with alcohol sales and service located at 1016 East Pacific Street, also identified as Parcel Number 31-1-

0843-00, 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 #4-21**

- 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.

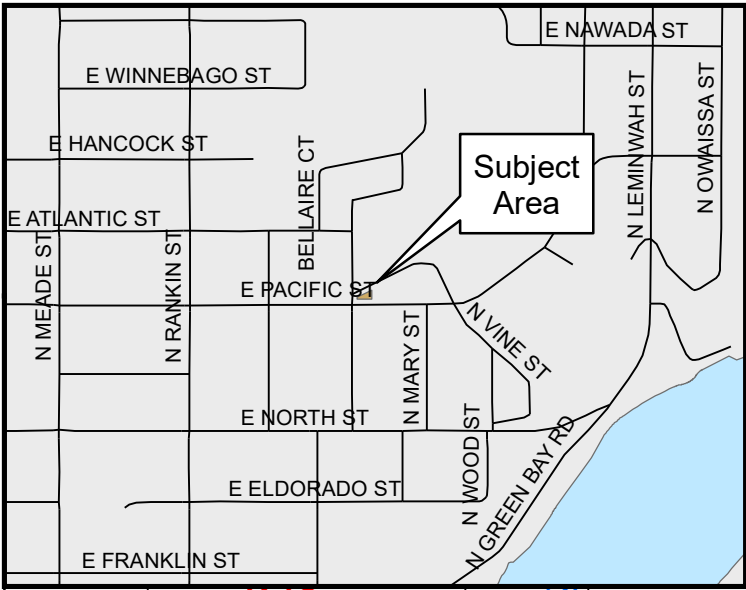
Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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

ATTEST:

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

1016 East Pacific Street  
 Special Use Permit  
 Restaurant with Alcohol Sales  
 Zoning Map







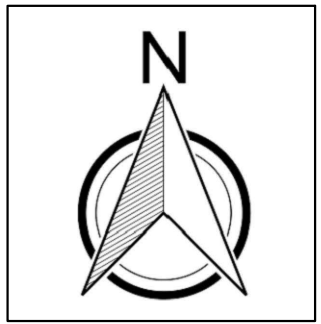
# SITE PLAN

1016 E Pacific Street  
Appleton, WI 54911

Parcel ID: 31-1-0843-00

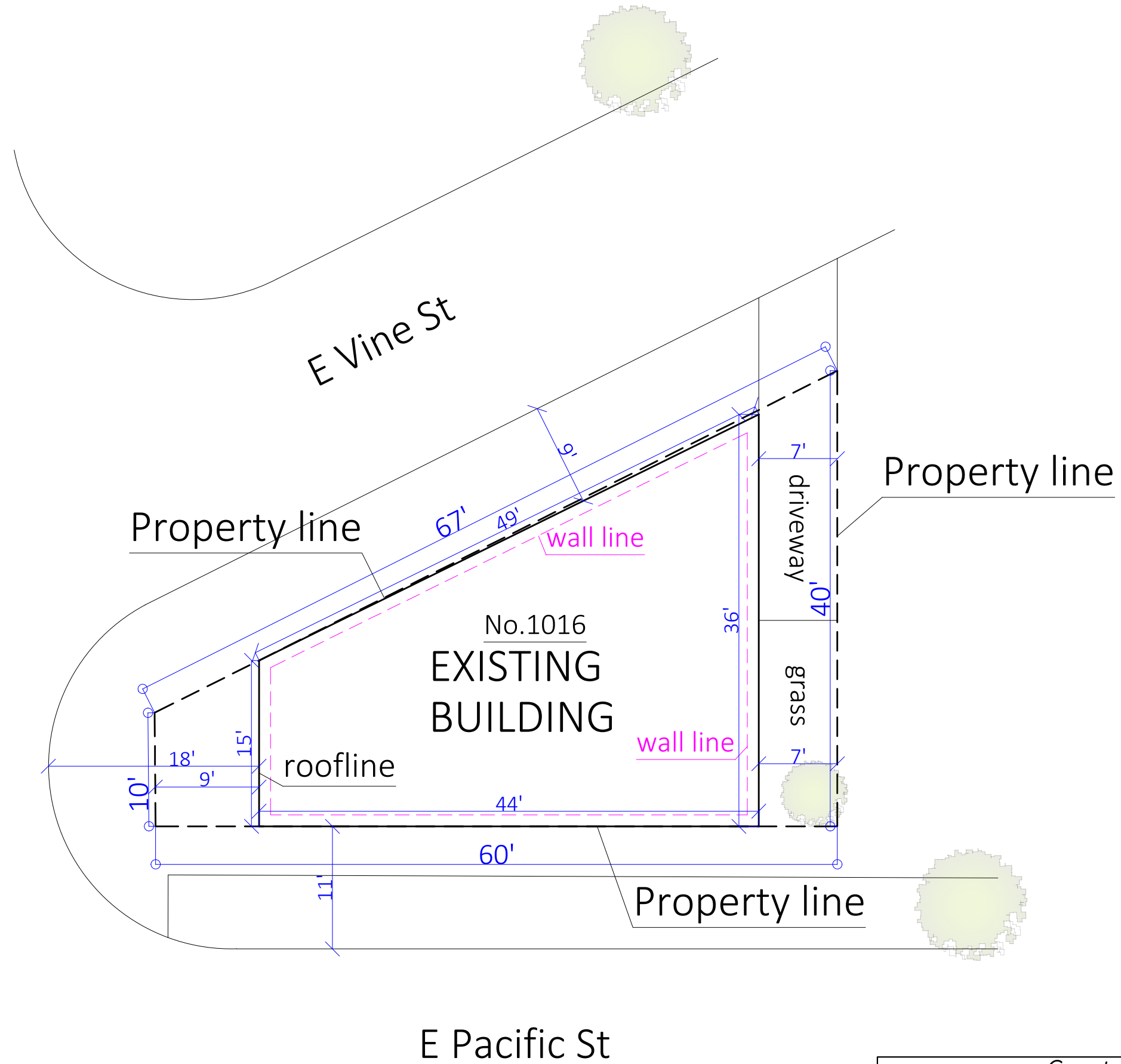
Lot area: 0.03 Acres

Plot Size: 11"x17"



scale 1"=10'

N Tonka St

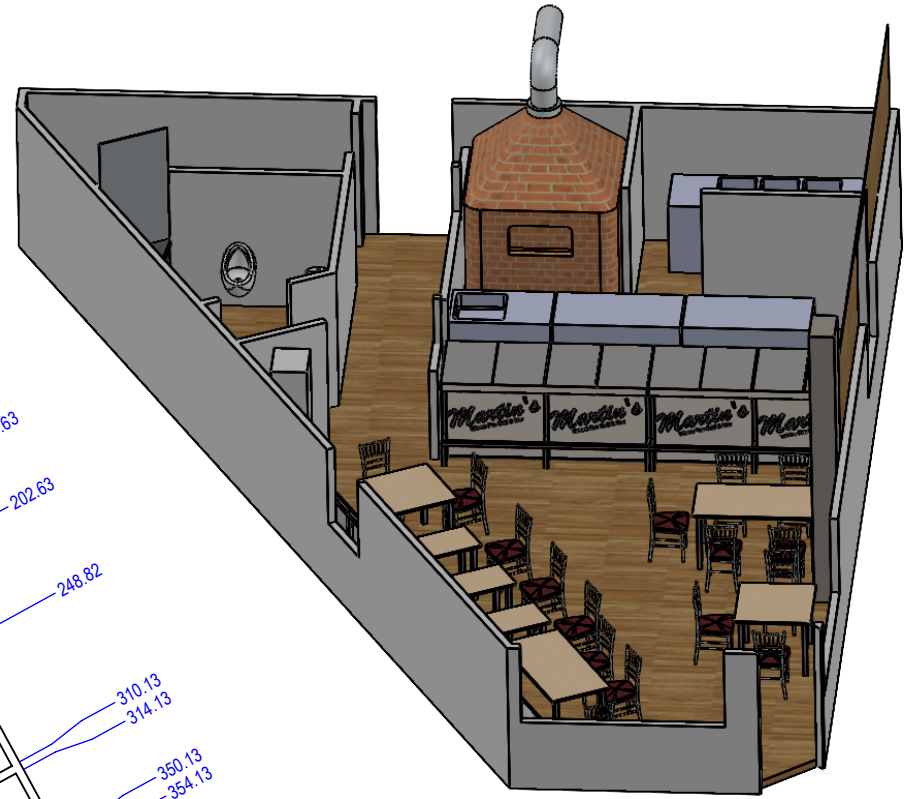
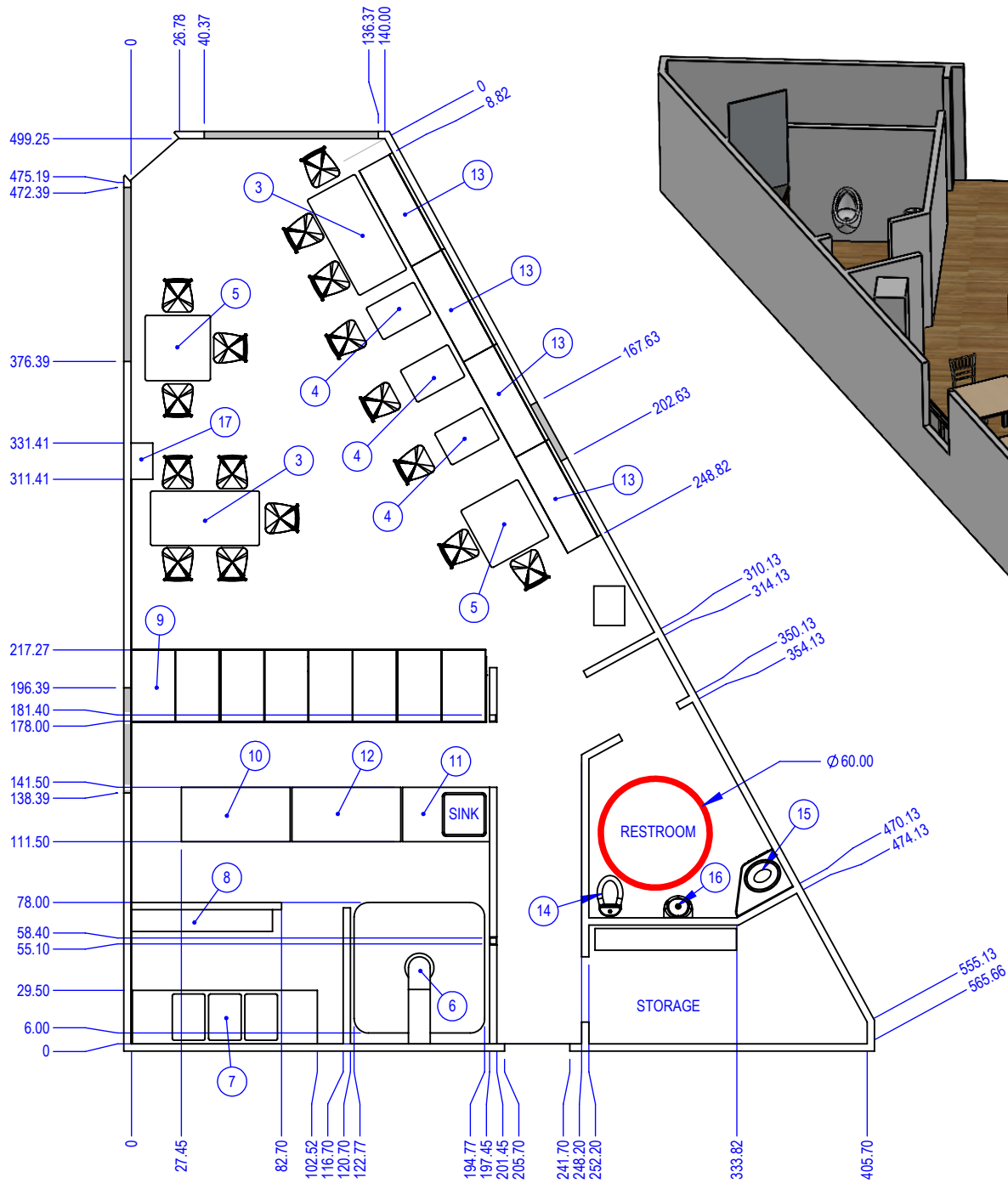


E Pacific St

Created by:



ITEM NO.	DESCRIPTION	
1	FLOOR BASE	1
2	WALLS	1
3	TABLE ASSEMBLY 60X30	2
4	TABLE ASSEMBLY 30X20	3
5	TABLE ASSEMBLY 36X36	2
6	OVEN	1
7	TRIPPLE SINK	1
8	SHELVING	2
9	BAR ASSEMBLY	1
10	WORK TABLE - 60 X 30	1
11	WORK TABLE - 48 X 30	1
12	COOLER - 60 X 30	1
13	BENCH ASSEMBLY	2
14	TOILET	1
15	BATHROOM SINK	1
16	URINAL	1
17	AIR DUCT	1
18	WOOD PANEL WALL	1



**JD Industries LLC**  
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 justin@jd-industries.com

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Unless Otherwise Stated:  
 Linear Tol.: ±0.005", Angular Tol.: 1°  
 Surface Finish: 0.8µm  
 All Dimensions: INCHES

Scale: 1:90  
 Sheet: 1 of 1  
 Sheet Size: A4



Third Angle  
 Config: Default  
 Weight: 70108.0  
 65

Title **Building Assembly**  
 Assembly:  
 Location: D:\OneDrive\Solidworks\Martin's\FloorPlan\

Part No.: **NA**

Client:  
 Updated: 10/13/2021  
 Drawn By: justin  
 Drawn Date: 8/20/2021  
 Revision: 0

## PLAN OF OPERATION AND LOCATIONAL INFORMATION

### Business information:

Name of business: Alpine Swift

Years in operation: 0

(Check applicable proposed business activity(s) proposed for the premises)

- Restaurant
- Tavern/Night Club/Wine Bar
- Painting/Craft Studio
- Microbrewery/Brewpub (manufacturing a total of not more than 310,000 U.S. gallons of fermented malt beverages per calendar year)
- Brewery (manufacturing a total of more than 310,000 U.S. gallons of fermented malt beverages per calendar year)
- Winery (manufacturing of wine)
- Craft-Distillery (manufacturing a total of not more than 100,000 proof gallons of intoxicating liquor per calendar year)
- Distillery (manufacturing a total of more than 100,000 proof gallons of intoxicating liquor per calendar year)
- Tasting room offering fermented malt beverages, wine or intoxicating liquor for consumption and/or retail sales on the premises where the fermented malt beverages, wine or intoxicating liquor is manufactured and/or at an off-premises location associated with premises. Tasting rooms may include food sales.
- Other \_\_\_\_\_

Detailed explanation of proposed business activities:

We propose to open a community based restaurant serving Pizza, Shareables, Salads and dessert. We plan to be open 4 days a week serving Beer and wine only.

Existing gross floor area of building/tenant space, including outdoor spaces:

(square feet) 1000

Proposed gross floor area of building/tenant space, including outdoor spaces:

(square feet) no change

**Occupancy limits:**

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: 30 persons.

**Proposed Hours of Operation for Indoor Uses:**

Day	From	To
Monday thru Thursday	4 pm	9 pm
Friday	4 pm	10 pm
Saturday	4 pm	10 pm
Sunday	Closed	Closed

**Production/Storage information:**

(Check applicable proposed business activity(s) proposed for the premises)

- Current production of fermented malt beverages: \_\_\_\_\_ U.S. gallons per year
- Proposed production of fermented malt beverages: \_\_\_\_\_ U.S. gallons per year
- Current production of wine: \_\_\_\_\_ U.S. gallons per year
- Proposed production of wine: \_\_\_\_\_ U.S. gallons per year
- Current production of intoxicating liquor: \_\_\_\_\_ proof gallons per year
- Proposed production of intoxicating liquor: \_\_\_\_\_ proof gallons per year
- None. If none, leave the following 2 storage questions blank.

Identify location of grains and/or juice, grapes, other fruits or other agricultural product storage and type of storage container(s) used:

Identify the storage location of spent grains and/or grapes, other fruits or other agricultural products and type of storage container(s) used:

**Outdoor Space Uses:**

(Check applicable outdoor space uses)

- Patio
- Deck
- Sidewalk Café
- Other \_\_\_\_\_

None. If none, leave the following questions in this section blank.

Size: \_\_\_\_\_ square feet

Type of materials used and height of material to enclose the perimeter of the outdoor space:

Fencing  Landscaping  Other \_\_\_\_\_ Height \_\_\_\_\_ feet

Is there any alcohol consumption incorporated within the outdoor facility? Yes  No

If yes, please describe:

Are there plans for outdoor music/entertainment? Yes  No

If yes, describe how the noise will be controlled:

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

**Proposed Hours of Operation for Outdoor Space:**

Day	From	To
Monday thru Thursday		
Friday		
Saturday		
Sunday		

**NOTE: Hours of Operation for Outdoor Uses (Sidewalk Café with Alcohol):**

**\*\*\*\*Municipal Code Section 9-262(b)(4): The permit holder can begin serving alcoholic beverages in the sidewalk café at 4:00 p.m. Monday through Friday and 11:00 a.m. on Saturday and Sunday. All alcoholic beverages must be removed from the sidewalk café by 9:30 p.m.**

**Describe Any Potential Noise Emanating From the Proposed Use:**

Describe the noise levels anticipated from all equipment or other mechanical sources:

A minimal exhaust fan noise

Describe how the crowd noise will be controlled inside and outside the building:

Staff will monitor crowd noise levels inside and outside premises.

**Off-Street Parking:**

Number of spaces existing on-site: 1

Number of spaces proposed on-site: 1

**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?

yes, street access is adequate to minimize impacts on traffic flow.

**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 licensed premises:

None

**Number of Employees:**

Number of existing employees: 1

Number of proposed employees: 5

Number of employees scheduled to work on the largest shift: 5