



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Public Hearing Date:** May 23, 2017

**Common Council Meeting Date:** June 7, 2017

**Item:** Special Use Permit #5-17 for restaurant and outdoor patio with alcohol sales and service

**Case Manager:** David Kress

### GENERAL INFORMATION

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**Owner:** RiverHeath Prairie, LLC

**Applicant:** Tempest Coffee Collective, LLC c/o Tyler Lonadier

**Address/Parcel #:** 181 South Riverheath Way, Suite 1100 (Tax Id #31-4-0828-06)

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

### BACKGROUND

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Common Council approved Planned Development (PD) Rezoning #12-08 on August 20, 2008, which rezoned the RiverHeath development from M-2 General Industrial District to PD/C-2 Planned Development General Commercial District. It was subsequently amended per PD Rezoning #1-11, which was approved by Common Council on May 4, 2011.

Site Plan #37-15 for the building and parking lot was approved on December 11, 2015, and construction was completed in 2016. Tempest Coffee Collective has already operated at the subject area, located near the intersection of South Riverheath Way and East Newberry Street, for six months as a restaurant (without alcohol). However, the applicant recently applied for a Liquor License that includes Class B beer and Class C wine, which was approved by Common Council on May 3, 2017.

### STAFF ANALYSIS

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**Project Summary:** The applicant proposes to establish alcohol sales and service at the existing restaurant and outdoor patio on the subject site. The existing restaurant occupies approximately 2,100 square feet, and the outdoor patio is approximately 1,335 square feet in size. Based on the attached development plan, this request will not increase existing building area.

**Existing Site Conditions:** The existing mixed-use building totals approximately 75,000 square feet, including other commercial space and 40 dwelling units. Off-street parking is provided in the parking lot north of the building, and residential tenants have access to parking within the indoor parking garage.

**Zoning Ordinance Requirements:** The subject property has a zoning designation of PD/C-2 Planned Development General Commercial District. Per the Implementation Plan Document for PD #1-11, a restaurant with alcohol sales and service requires a Special Use Permit in this PD/C-2 District. In order to

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permit alcohol sales and service in conjunction with an existing restaurant and outdoor patio, the Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds (2/3) vote of the Common Council is required for approval.

**Operational Information:** A plan of operation is attached to the Staff Report.

**Outdoor Seating Area:** The applicant proposes to utilize the existing outdoor patio for alcohol sales and service, as is shown on the development plan and described in the plan of operation. The outdoor patio is located adjacent to the western and southern walls of the building and is enclosed with a fence that is four feet in height. A fence permit was issued by the Inspections Division on April 18, 2017.

**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: PD/C-2 Planned Development General Commercial District. The adjacent land uses to the north are currently a mix of vacant land and commercial, including a hotel that is under construction.

South: PD/C-2 Planned Development General Commercial District. The adjacent land uses to the south are currently a mix of commercial and residential uses, including a mixed-use building containing a restaurant with alcohol sales and service.

East: PD/C-2 Planned Development General Commercial District. The adjacent land to the east is currently used as an off-street parking lot.

West: M-2 General Industrial District. The Fox River is immediately west of the subject property.

**Appleton Comprehensive Plan 2010-2030:** Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Mixed Use designation 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*.

### *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 9.6 Economic Development:**

*Create a vibrant environment that is conducive to attracting and retaining talented people.*

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*Policy 9.6.2 Encourage the creation of vibrant mixed-use urban areas in the downtown and along the Fox River that are both walkable and bicycle-friendly.*

**Finding of Fact:** This request was reviewed in accordance with the standards for granting a Special Use Permit under Sections 23-66(e)(1-6) and 23-66(h)(6) of the Municipal Code, which were found in the affirmative, as long as all stipulations are satisfied.

**Technical Review Group (TRG) Report:** This item was discussed at the May 2, 2017 Technical Review Group meeting. No negative comments were received from participating departments.

**RECOMMENDATION**

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Staff recommends, based on the above, that Special Use Permit #5-17 for a restaurant and outdoor patio with alcohol sales and service at 181 South Riverheath Way (Tax Id #31-4-0828-06), 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. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.
2. The serving and consumption of alcohol is limited to the interior ground floor of the building and outdoor patio area, 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.
3. Compliance with the plan of operation is required at all times. Changes to the plan of operation shall be submitted to the Community and Economic Development Department for review and approval.
4. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.

**RESOLUTION**

**CITY OF APPLETON  
RESOLUTION APPROVING SPECIAL USE PERMIT #5-17**

**WHEREAS**, Tempest Coffee Collective, LLC has applied for a Special Use Permit for a restaurant and outdoor patio with alcohol sales and service located at 181 South Riverheath Way, also identified as Parcel Number(s) 31-4-0828-06; and

**WHEREAS**, the location for the proposed restaurant and outdoor patio with alcohol sales and service is located in the PD/C-2 Planned Development General Commercial District and the proposed use is permitted by special use within this zoning district; and

**WHEREAS**, the City of Appleton Plan Commission held a public hearing on May 23, 2017, on Special Use Permit #5-17 at which all those wishing to be heard were allowed to speak or present written comments, and other materials presented at the public hearing; and

**WHEREAS**, the City of Appleton Plan Commission has considered the application, the staff reports, oral and written, the Comprehensive Plan and zoning on the subject property, the testimony, written comments, and other materials 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)(1-6) and 23-66(h)(6) of the Municipal Code, and forwarded Special Use Permit #5-17 to the City of Appleton Common Council with a favorable 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 \_\_\_\_\_, 2017 and found it to be acceptable.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Appleton Common Council approves Special Use Permit #5-17 for a restaurant and outdoor patio with alcohol sales and service located at 181 South Riverheath Way, also identified as Parcel Number(s) 31-4-0828-06 and orders as follows:

**CONDITIONS OF SPECIAL USE PERMIT #5-17**

1. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.
2. The serving and consumption of alcohol is limited to the interior ground floor of the building and outdoor patio area, 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.

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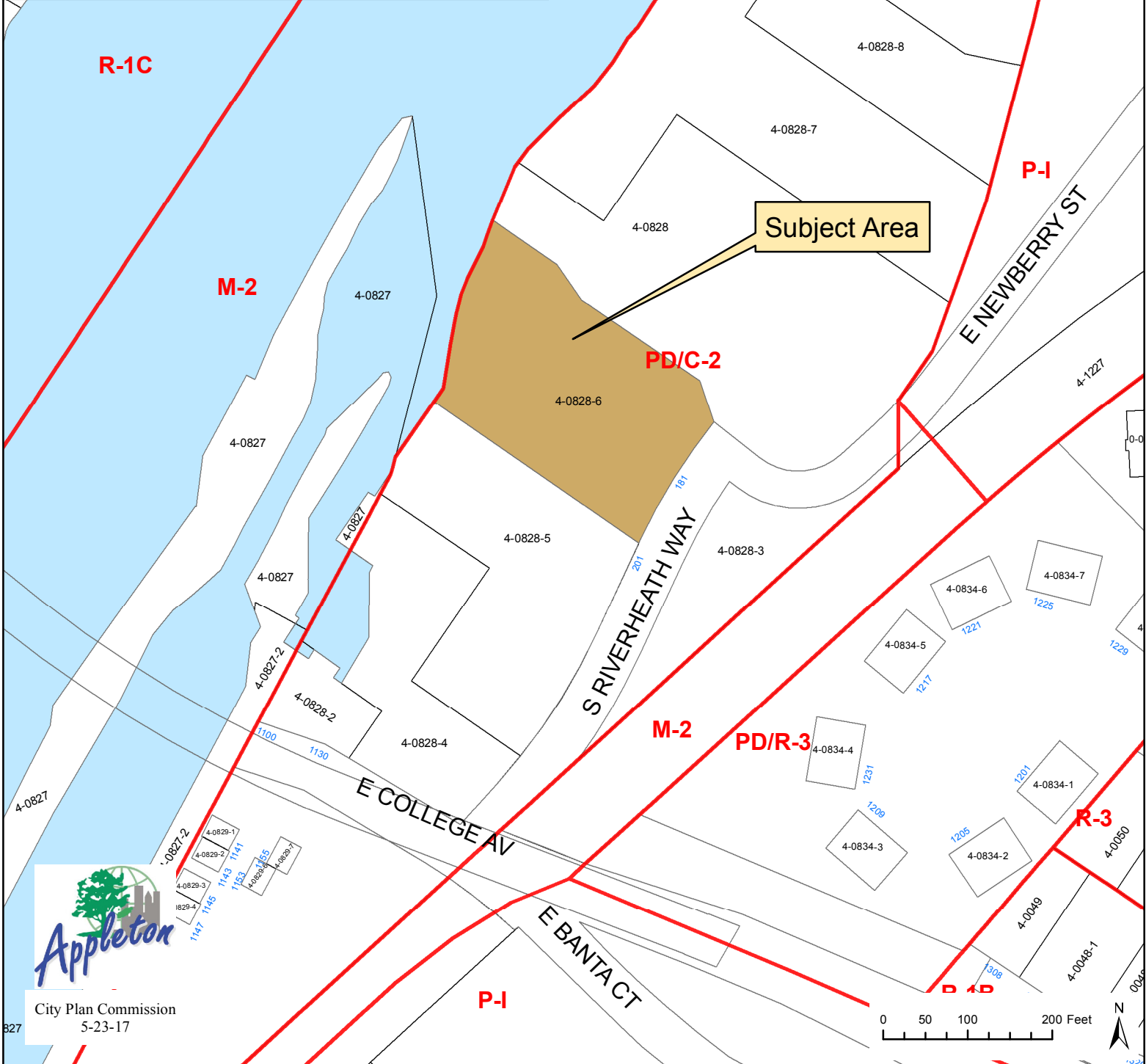
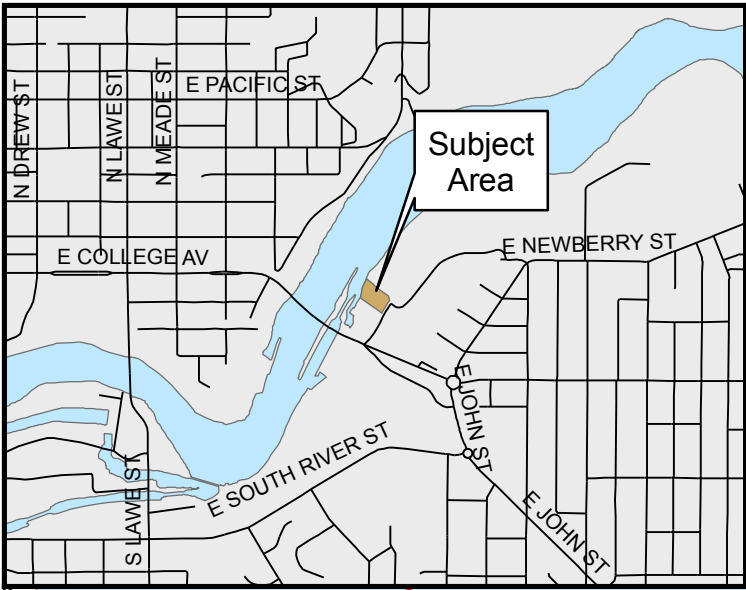
Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Timothy M. Hanna, Mayor

ATTEST:

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

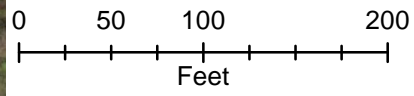
181 South Riverheath Way, Suite #1100  
Special Use Permit  
Restaurant and Outdoor Patio  
with Alcohol Sales  
Zoning Map



181 South Riverheath Way, Suite #1100  
Special Use Permit  
Restaurant and Outdoor Patio  
with Alcohol Sales  
Aerial Map



City Plan Commission  
5-23-17



(fence 48 in high)

54 ft fence

36 ft fence

108 ft fence

fence  
fence

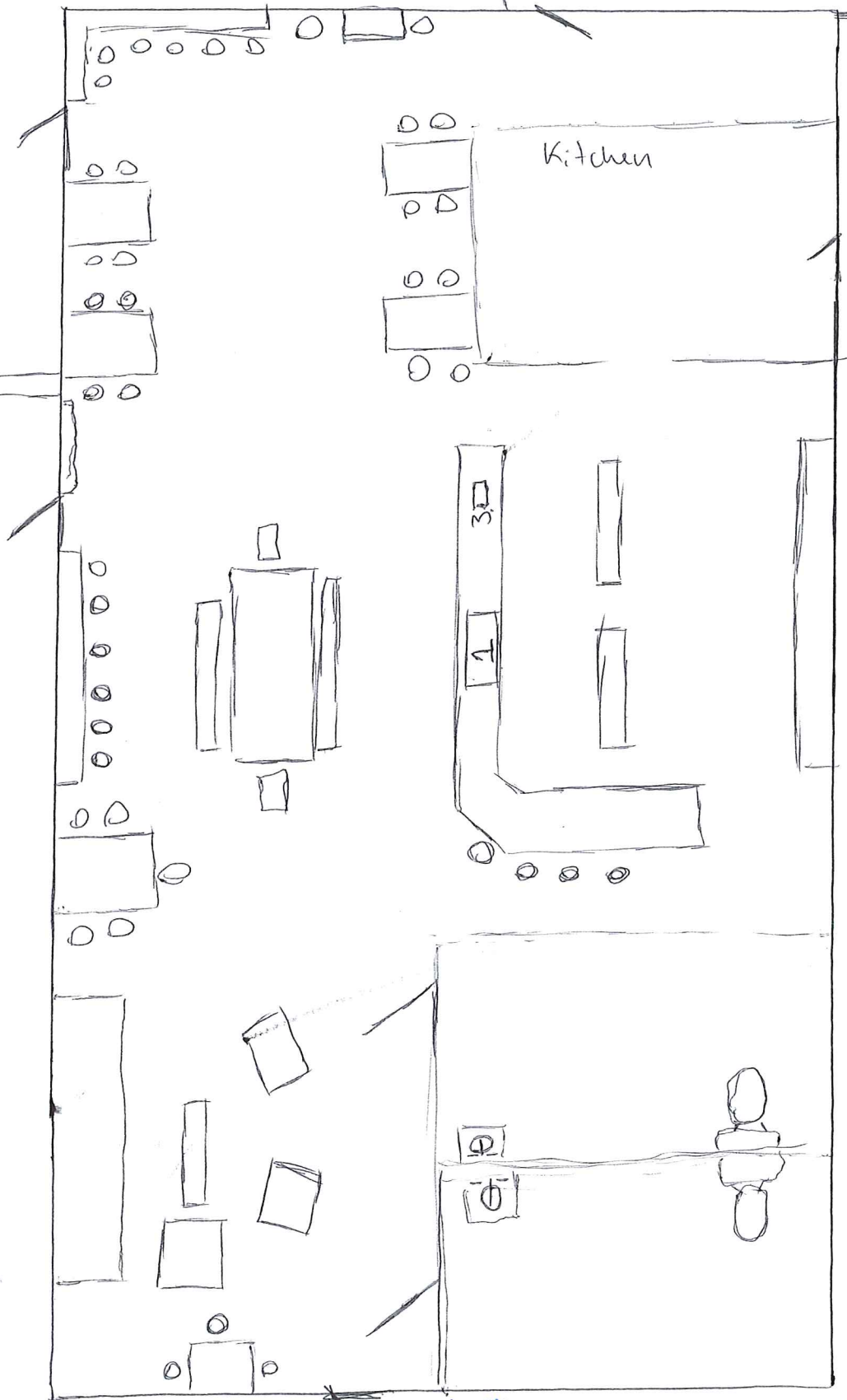
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proposed fence  
1. Primary beer/wine  
Storage

2. Secondary Storage

3. Point of Sale

portable pergolas  
in fence as well  
as outdoor  
furniture + a  
outdoor gas  
fire feature.

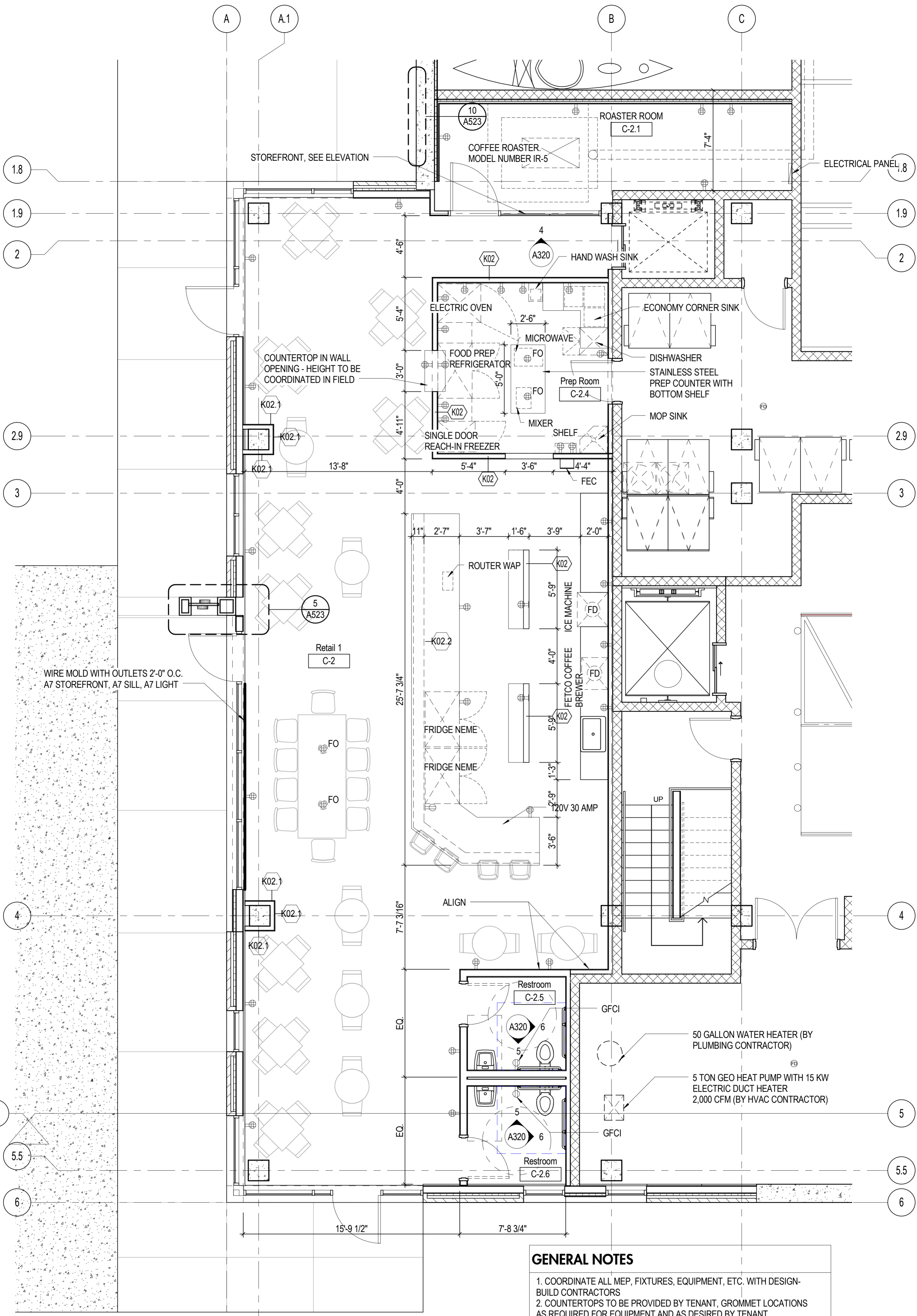


Kitchen

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**GENERAL NOTES**

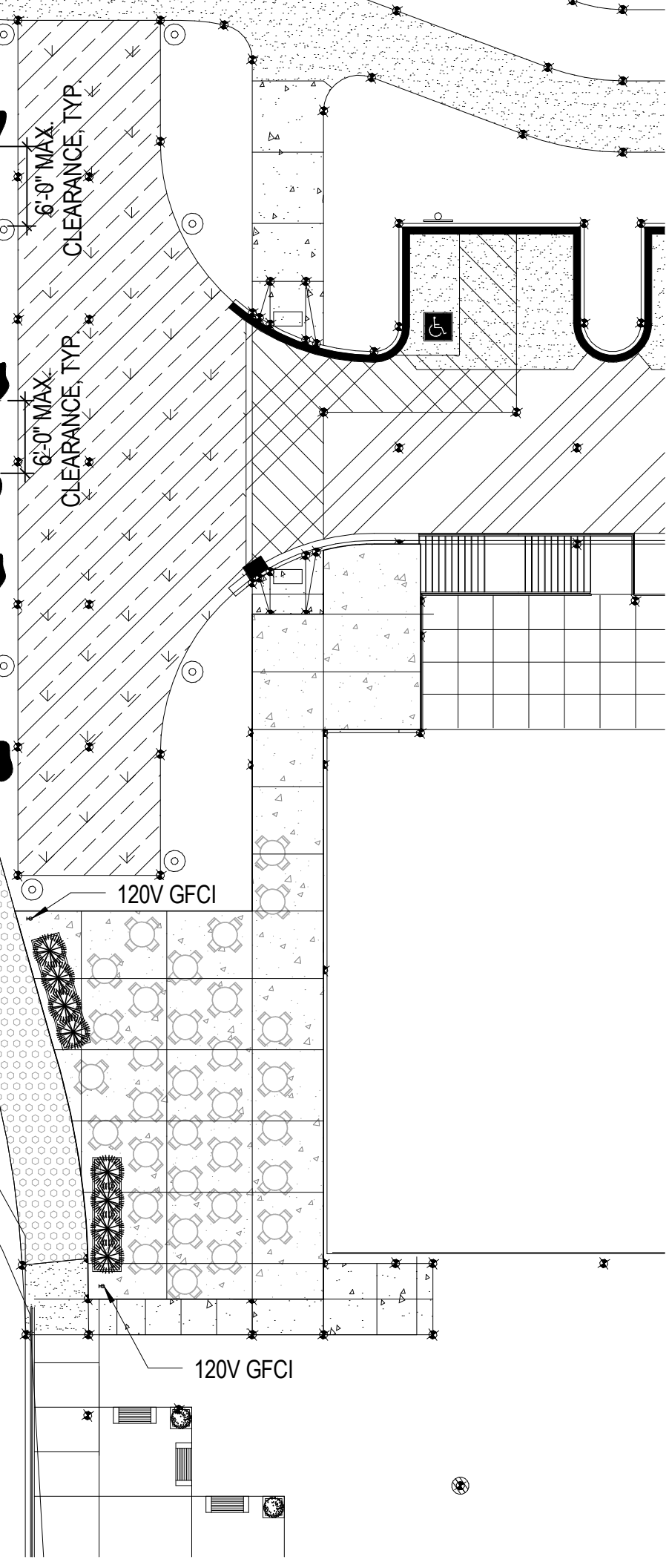
1. COORDINATE ALL MEP, FIXTURES, EQUIPMENT, ETC. WITH DESIGN-BUILD CONTRACTORS
2. COUNTERTOPS TO BE PROVIDED BY TENANT, GROMMET LOCATIONS AS REQUIRED FOR EQUIPMENT AND AS DESIRED BY TENANT

**1 TEMPEST CAFE FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

(2) BOLLARDS WITH SIGN ABOVE - SIGN TO HAVE NO BIKE GRAPHIC AND TO READ, "NO BIKES ON STONE TRAIL"

STONE BOULDER FIELD - 30" HIGH MINIMUM, PROVIDE VARYING HEIGHTS, STONES TO BE FLAT TOP LOOK

3" CRUSHED GRANITE (COLOR: RUSTIC GRANITE) PATHWAY OVER 6" CRUSHED STONE OVER COMPACTED SUBGRADE



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

**Business Information:**

Name of business: Tempest Coffee Collective

Years in operation: 6 months

Percentage of business derived from restaurant service: 100 %

Type of proposed establishment (detailed explanation of business):

Tempest is a specialty coffee shop serving breakfast + lunch; homemade bakery + coffee from spyhouse coffee roasters

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

Day	From	To
Week Day	7 am	6 pm
Friday	7 am	9 pm
Saturday	7 am	9 pm
Sunday	8 am	6 pm

**Building Capacity and Area:**

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: 70 persons

? Gross floor area of the existing building(s): ~~2100~~ 2100 sf

Gross floor area of the proposed building(s): \_\_\_\_\_

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

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

Minimal equipment noise: esp machine; oven; blender

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

Manager/shift supervisor will address  
rowdy / disruptive customers as needed. Beer/wine sales  
will likely be less than 25% of sales. Few noise concerns ~~at~~

If off-street parking is available for the business, describe how noise from the parking lot will be controlled:

consumption limited to fenced in  
patio, minimal parking lot noise exists

**Outdoor Uses:**

Location, type, size and design of outdoor facilities:

see drawings

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

113' powder coated alum. black 48" tall

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

Are there plans for outdoor music/entertainment? Yes  No

If yes, describe how the noise will be controlled:

(special events only for music)  
Music will be limited to designated stage area/over by 9pm

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

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

Day	From	To
Week Day	7am	6pm
Friday	7am	9pm
Saturday	7am	9pm
Sunday	8am	6pm

**Outdoor Lighting:**

Type: plug in, led rope lighting

Location: string on top of pergola

**Off-Street Parking:**

Number of spaces existing: 50

Number of spaces proposed: \_\_\_\_\_

**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:

Mr Brews Taphouse, Salon Elan, The Recyclist, Regency Wealth  
management

**Number of Employees:**

Number of existing employees: 12

Number of proposed employees: \_\_\_\_\_

Number of employees scheduled to work on the largest shift: 10