



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: September 14, 2022

Common Council Meeting Date: September 21, 2022

Item: Special Use Permit #10-22 for a craft-distillery with a tasting room and an outdoor patio with alcohol sales and consumption

Case Manager: Don Harp, Principal Planner

GENERAL INFORMATION

Owner: Bela Development, LLC – Teresa Knuth

Applicant: Nick Charles, Wisconsin Distilling Company, LLC

Address/Parcel #: 516 West Lawrence Street (Tax Id #31-3-1006-00)

Petitioner's Request: The applicant is requesting a craft distillery manufacturing a total of not more than 100,000 proof gallons of intoxicating liquor per calendar year.

BACKGROUND

The existing building was originally constructed in 1953 as a warehouse.

On March 24, 2020, Ordinance #32-20 went into effect to allow craft-distilleries with a tasting room as a Special Use Permit in the Central Business District (CBD) per Chapter 23 Zoning of the Municipal Code.

On August 11, 2022, City staff from the Health Department, Building Inspections Division, Fire Department and Community & Economic Development Department conducted a courtesy inspection of the building with the applicant. Staff discussed the necessary steps to bring the property into compliance with applicable local and state codes related to a craft-distillery use. The courtesy inspection report was provided to the applicant.

STAFF ANALYSIS

Project Summary: The applicant is requesting to operate a craft-distillery with a tasting room within the existing building (upper & lower levels) which includes a proposed outdoor patio area with alcohol sales and consumption for a total gross area of 4,680 square feet. The applicant proposes to define the perimeter of the proposed outdoor patio area with a four (4) high fence. The applicant anticipates initially producing 5,000 proof gallons of intoxicating liquor per year per attached plan of operation. Additionally, the distillery does not use heavy machinery that makes significant noise. The distilling process itself is generally quiet (electric grain mills, electric mash pumps, etc.), and the noise will be contained within an enclosed building. The spent grains will be stored inside the distillery in 55-gallon stainless steel drums until being picked up.

Site Conditions: In addition to the existing building, twenty-eight (28) on-site surface parking spaces exist on the subject site. It is important to note, due to existing on-street parking spaces and parking ramps located within the downtown area and the walkability of the Central Business District (CBD), provisions for off-street parking and loading spaces are not required for uses in the CBD zoning district.

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

Zoning Ordinance Requirements: The subject property has a zoning designation of CBD Central Business District. Per Section 23-114(e) of the Municipal Code, craft-distilleries with a tasting room and an outdoor patio with alcohol sales and consumption require a Special Use Permit in the CBD District.

In order to permit the proposed use, 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.

A Special Use Permit will expire if a building permit and/or occupancy permit has not been obtained to commence the craft-distillery operations within twelve (12) months of the issuance of the Special Use Permit.

City of Appleton Zoning Ordinance Section 23-22 Includes the Following Definitions Related to Craft-Distilleries:

Craft-Distillery means a use which manufactures, bottles and packages a total of not more than 100,000 proof gallons of intoxicating liquor under the name of “whiskey”, “brandy”, “gin”, “rum”, “spirits”, “cordials” or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

Proof means the ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percentage of ethyl alcohol by volume.

Proof gallon means a gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof. Proof is a method of measuring the alcohol content of spirits (intoxicating liquor). You calculate the proof of a spirits product by multiplying the percent of alcohol by volume by two (2). For example, a spirits (intoxicating liquor) product that has a 40% alcohol content by volume is 80 proof [40 multiplied by 2 = 80]. Converting U.S. gallons into proof gallons:

1. Multiply U.S. gallons by the percent of alcohol by volume.
2. Multiply by 2.
3. Divide by 100.

Sample calculation:

1. 100 U.S. gallons x 40% alcohol by volume = 4000
2. 4000 x 2 = 8000
3. 8000/100 = 80 proof gallons

Tasting room means a use 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.

Applicable Special Use Regulations Related to Craft-Distilleries:

Section 23-66(h)(19) *Microbrewery/Brewpubs and Craft-Distilleries*.

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. A total of not more than 100,000 proof gallons of intoxicating liquor shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- c. Tasting rooms require a Special Use Permit in the C-1, C-2 and CBD Zoning District.
- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

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 a mix of commercial uses including restaurants, a bar, and event space with alcohol sales and service.

South: CBD Central Business District. The adjacent land uses to the south are currently a mix of uses, including surfacing parking lot and a bar.

East: CBD Central Business District. The adjacent land uses to the east are currently a mix of uses, including surfacing parking lot and residential apartments.

West: CBD Central Business District. The adjacent land use to the west is a bank.

Appleton Comprehensive Plan 2010-2030: Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Central Business District 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 9.4 Economic Development: Ensure the continued vitality of downtown and the City's neighborhood commercial districts.

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

Strategy 4.8 – Support private sector efforts to redevelop and invest in downtown.

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 for granting a Special Use Permit under Section 23-66(e)(1-8) of the Municipal Code: (1. *proper zoning district:* CBD zoning allows this proposed use as a special use permit, 2. *zoning district regulations:* all applicable requirements will be verified as part of the building permit approval process, see condition #1, 3. *special regulations:* stipulations 1, 2, and 3 address the special regulations for craft-distilleries with a tasting room, 4. *consistent with comprehensive plan and other plans:* yes, see above analysis, 5. *traffic:* the existing off-street parking lot is served by one driveway entrance located on Lawrence Street with vehicles existing onto Kimball Alley, no concerns submitted by traffic engineer, 6. *landscaping and screening:* not applicable to this proposed use, 7. *neighborhood compatibility:* the proposed use is located near other commercial uses in this area of City; 8. *impact on services:* the City has existing utilities, services and equipment in place to serve this proposed use). These standards were found in the affirmative, as long as all stipulations are satisfied.

Technical Review Group (TRG) Report: This item appeared on the August 23, 2022 TRG agenda. No negative comments were received from participating departments.

- A Temporary Use Permit shall be applied for and issued by the Community and Economic Development Department prior to food trucks being parked on-site.

RECOMMENDATION

Staff recommends, based on the above, that Special Use Permit #10-22 for a craft-distillery with a tasting room and an outdoor patio with alcohol sales and consumption located at 516 West Lawrence Street (Tax Id #31-3-1006-00) 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. 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)(19)a. of the Zoning Ordinance for this particular use.

2. A total of not more than 100,000 proof gallons of intoxicating liquor shall be manufactured on the premises per calendar year in the CBD Zoning Districts.

Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(19)c. of the Zoning Ordinance for this particular use.

3. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(19)f. of the Zoning Ordinance for this particular use.

4. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.

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 #10-22
CRAFT-DISTILLERY WITH A TASTING ROOM AND AN OUTDOOR PATIO WITH ALCOHOL
SALES AND CONSUMPTION
516 WEST LAWRENCE STREET

WHEREAS, Nick Charles, Wisconsin Distilling Company, LLC has applied for a Special Use Permit for a craft-distillery with a tasting room and an outdoor patio with alcohol sales and consumption (craft-distillery) for a total gross area of 4,680 square feet located at 516 West Lawrence Street, also identified as Parcel Number 31-3-1006-00; and

WHEREAS, the location for the proposed craft-distillery 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 September 14, 2022 on Special Use Permit #10-22, 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 #10-22 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 September 21, 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 #10-22 for a craft-distillery located at 516 West Lawrence Street, also identified as Parcel Number 31-3-1006-00, 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 #10-22 for a craft-distillery located at 516 West Lawrence Street, also identified as Parcel Number 31-3-1006-00, 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 #10-22

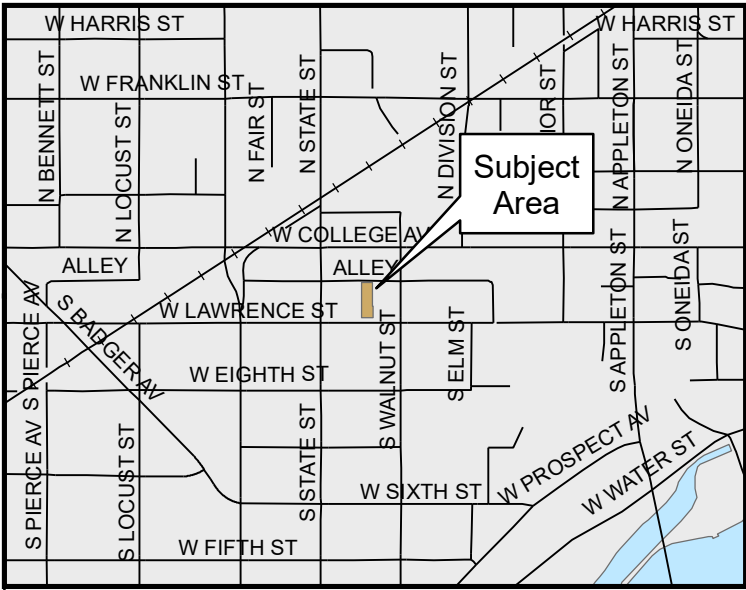
- A. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
 - B. A total of not more than 100,000 proof gallons of intoxicating liquor shall be manufactured on the premises per calendar year in the CBD Zoning Districts.
 - C. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.
 - D. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.
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.

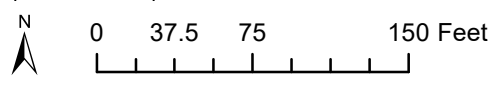
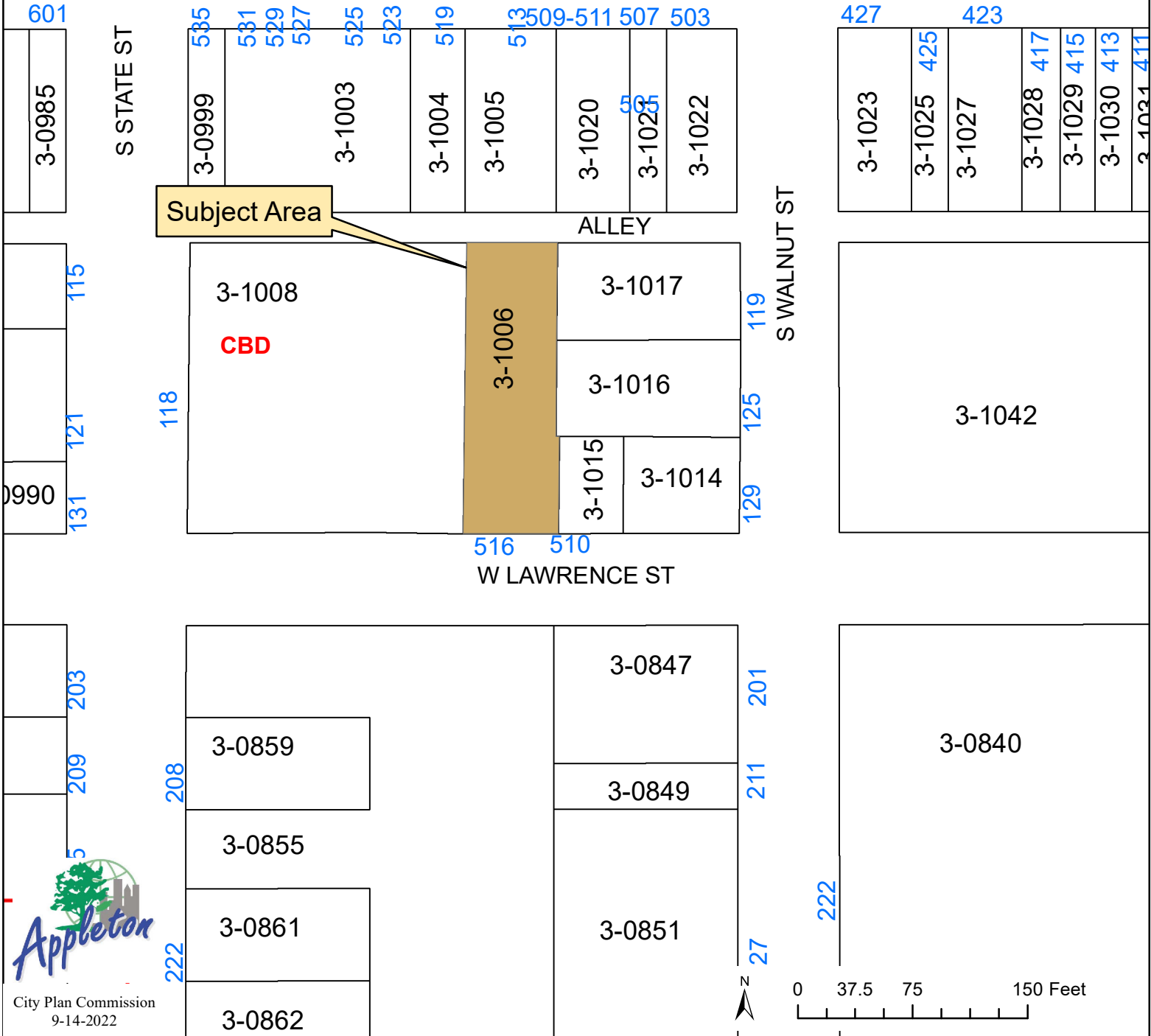
Jacob A. Woodford, Mayor

ATTEST:

Kami Lynch, City Clerk

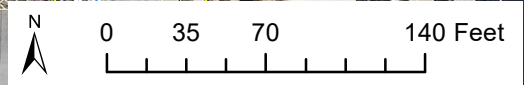
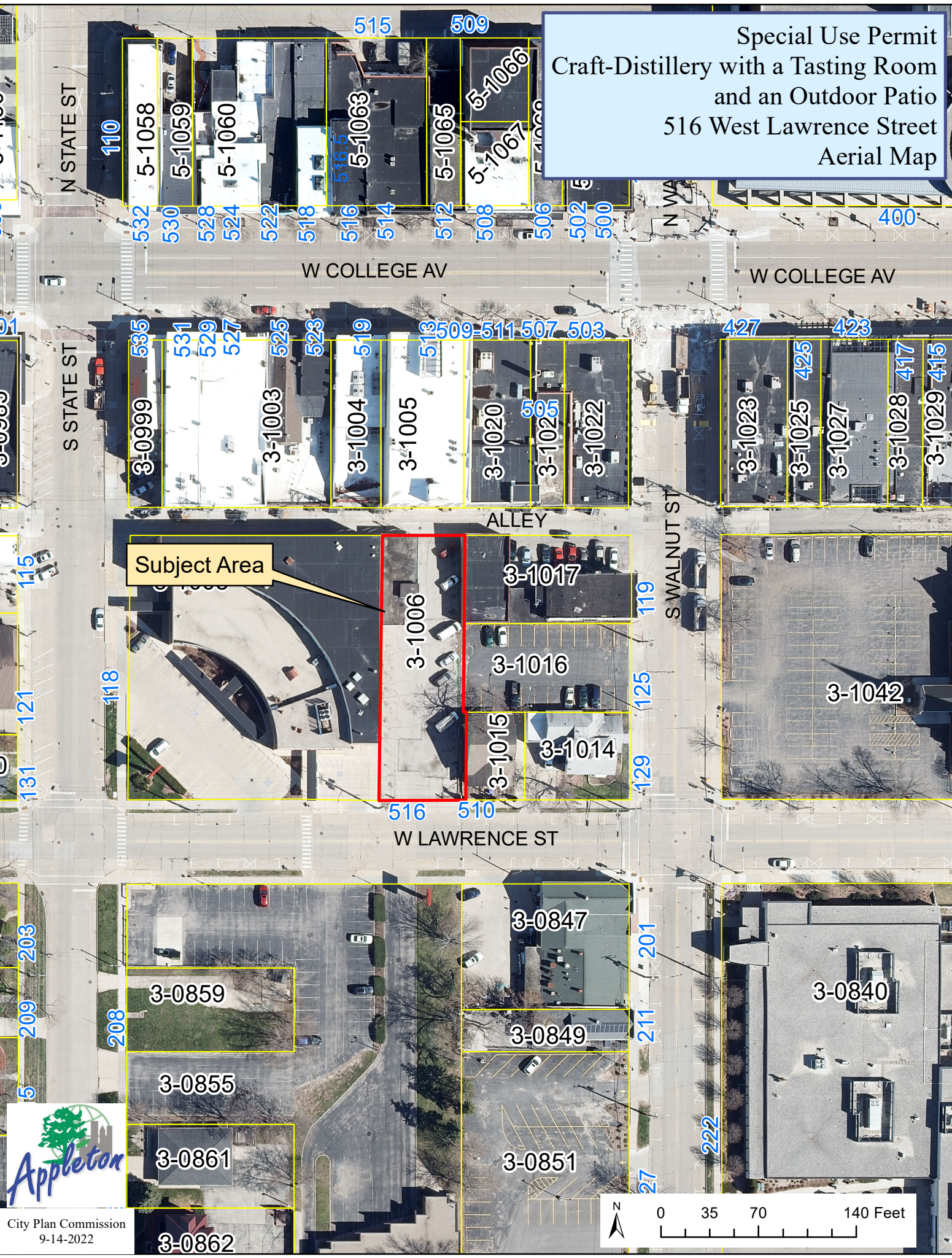


Special Use Permit
 Craft-Distillery with a Tasting Room
 and an Outdoor Patio
 516 West Lawrence Street



Special Use Permit
Craft-Distillery with a Tasting Room
and an Outdoor Patio
516 West Lawrence Street
Aerial Map

Subject Area



PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business information:

Name of business: Wisconsin Distilling Company LLC
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:

Wisconsin Distilling Company LLC will produce craft spirits on site in the Bonded Area. The spirits will then be sold in the Tasting Room packaged in bottles or sold in cocktails.

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

(square feet) 3,120 s.f. - Upper Level with Patio Area
1,560 s.f. - Lower Level

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

(square feet) 4,680 s.f. - Upper Level + Lower Level w/ Patio Area

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: _____ persons.

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Monday thru Thursday	4 pm	12 am
Friday	4 pm	12 am
Saturday	11 am	12 am
Sunday	11 am	12 am

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: 0 proof gallons per year
- Proposed production of intoxicating liquor: 10,000 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:

Storage of all contents will be in 55 gal stainless steel drums. Drums will be stored in the Bonded Area.
Storage of aging spirits will be in wood barrels.

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

Storage of all spent contents will be in 55 gal stainless steel drums. Drums will be stored in the Bonded Area.

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: 1,560 square feet

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

- Fencing Landscaping Other _____ Height 4 feet

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

If yes, please describe: There will be a 26' x 60' patio with lounge chairs where patrons can enjoy cocktails made in the Tasting Room.

Are there plans for outdoor music/entertainment? Yes No

If yes, describe how the noise will be controlled: Music Events will be periodic. Noise will be contained to the patio area.

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

Proposed Hours of Operation for Outdoor Space:

Food Trucks

Day	From	To
Monday thru Thursday	4 pm	12 am
Friday	4 pm	12 am
Saturday	11 am	12 am
Sunday	11 am	12 am

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:

Noise from manufacturing spirits is extremely minimal.

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

Any music and/or crowd noise will be closely monitored and controlled by employees. The goal is to create a calm, quiet, welcoming environment for guests.

Off-Street Parking:

Number of spaces existing on-site: 28

Number of spaces proposed on-site: 28

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?

Adequate

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: 2

Number of proposed employees: 10

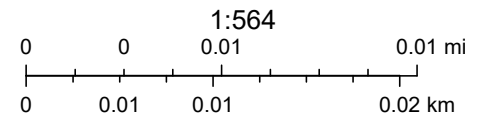
Number of employees scheduled to work on the largest shift: 5

ArcGIS Web Map

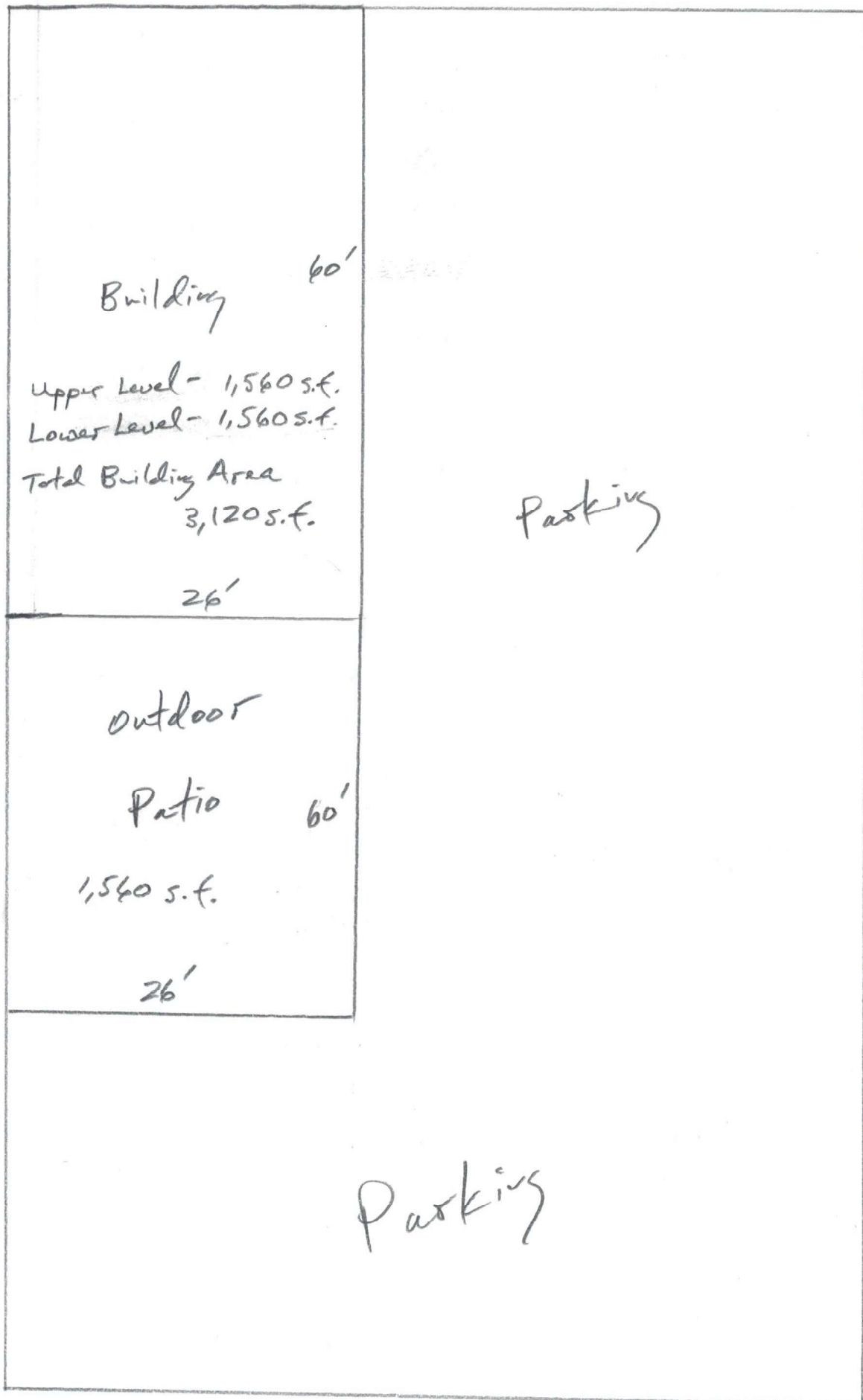


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 Override 1  City Limits  City Parcels



** NOT DRAWN TO SCALE **



Building 60'

Upper Level - 1,560 s.f.
Lower Level - 1,560 s.f.

Total Building Area
3,120 s.f.

26'

Parking

Outdoor

Patio 60'

1,560 s.f.

26'

Parking

189.44'

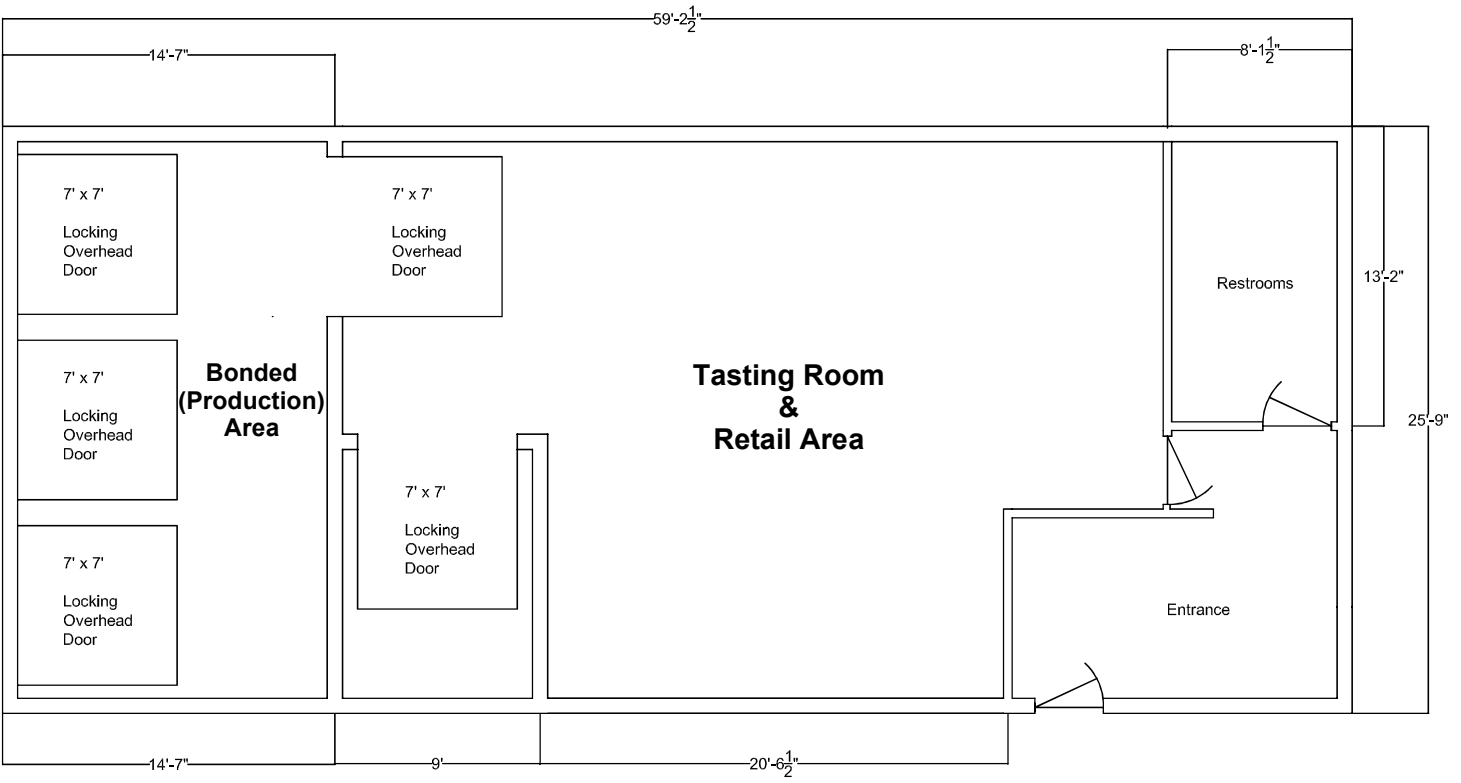
60'

UPPER LEVEL

West

North

East



LOWER LEVEL

West

59'-2 $\frac{1}{2}$ "

Future Bonded (Production) Area

7' x 7'

Locking
Overhead
Door

25'-9"

North

14'-7"

9'

East