



REPORT TO COMMON COUNCIL

Common Council Public Hearing & Meeting Date: April 22, 2020

Item: Special Use Permit #3-20 for a restaurant with alcohol sales and consumption

Case Manager: Don Harp, Principal Planner

GENERAL INFORMATION

Owner/Applicant: Grant Hoffman (owner) / Carlos Martinez, Taco House (applicant)

Address/Parcel #: 135 East Wisconsin Avenue – (Tax Id #31-6-0323-00)

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

BACKGROUND

This item would typically go to Plan Commission for review and a recommendation. However, to help prevent the spread of the COVID-19, standing committees will not meet and Common Council will conduct business as Committee of the Whole.

This space was most recently occupied by Los Tres Manantiales, a restaurant without alcohol sales.

On March 12, 2020, the Health Department and Inspections Division scheduled and conducted a courtesy inspection of the premises to ensure the tenant space and equipment complies with applicable Municipal Code regulations.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish a restaurant with alcohol sales and service on the subject site, which would occupy approximately 982 square feet of the existing multi-tenant building.

Existing Site Conditions: The existing multi-tenant building totals approximately 6,466 square feet. The off-street parking lot associated with the multi-tenant building is located on parcel number(s) 6-0323, 6-0324 and 6-0333. The required off-street parking spaces for the proposed special use is five (5) parking spaces. The off-street parking lot serving the multi-tenant building can accommodate the required number of parking spaces needed for the proposed special use. Ingress and egress to the off-street parking lot is provided by a curb cut on North Morrison Street and East Summer Street.

Outdoor Alcohol Consumption Area: No outdoor alcohol sales and consumption is requested as part of this application for a Special Use Permit.

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

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Current Zoning: 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. A two-thirds (2/3) 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 commercial and residential in nature.

North: C-2 General Commercial District. The adjacent land uses to the north are currently retail businesses and residential.

South: R-1C Central City Residential District. The adjacent land uses to the south are currently single-family residential uses and a surface parking lot.

East: PD/C-O Planned Development Commercial Office District. The adjacent land uses to the east are a place of worship and community garden.

West: C-2 General Commercial District. The adjacent land use to the west is currently an outdoor play area for Little Angels Child Day Care Center.

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 9.4 Economic Development:

Ensure the continued vitality of downtown and the City's neighborhood commercial districts.

OBJECTIVE 10.5 Land Use:

Support the continued redevelopment and revitalization of land uses adjacent to Appleton's key transportation corridors and downtown.

Chapter 15: Wisconsin Avenue Corridor Plan, General Plan:

Land Uses, Residential Mixed Use Area – As with the pedestrian-oriented commercial category, areas identified for residential mixed-use may contain both commercial and residential uses.

Technical Review Group (TRG) Report: This item appeared on the March 24, 2020 TRG Agenda. No negative comments were received from participating departments.

Ordinance Requirements and Substantial Evidence Regarding Conditions of Approval:

When reviewing an application for a Special Use Permit, the City must look at the requirements and conditions found in the zoning ordinance and determine if the applicant has demonstrated that their proposed application for Special Use Permit satisfies all those requirements and conditions pursuant to Section 23-66(5)c. of the zoning ordinance. The 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.”*

Public comment that is based on personal opinion or speculation are not sufficient forms of evidence. All 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), which were found in the affirmative.

RECOMMENDATION

Staff recommends, based on the above analysis, that Special Use Permit #3-20 for a restaurant with alcohol sales and consumption located at 135 East Wisconsin Avenue, (Tax Id #31-6-0323-00), per attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. The applicant shall apply for and 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 they are required to apply for a liquor license from the City Clerk’s office prior to serving alcohol inside the building located at 135 East Wisconsin Avenue in order to comply with Municipal Code and General Policy Statement on Beer/Liquor Licensing.

2. The applicant shall comply with the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.
 - **Substantial Evidence:** This condition provides notice to the applicant that they are required to follow the standards for serving alcohol in the City of Appleton in order to promote the health, safety and general welfare of the City.
3. The premises shall be kept free of litter and debris.
 - **Substantial Evidence:** This requirement assures the applicant understands they must keep the premises free of litter and debris at all times in order to promote the health, safety, comfort and general welfare of the City.
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 assures the applicant understands they must follow the City's Municipal Code and all applicable State and Federal laws which they are required to follow while conducting business in the City; failure to follow City, State and Federal regulations may result in revocation of their special use permit to serve alcohol.
5. The applicant shall have twelve (12) months from the issuance of the Special Use Permit (SUP) to obtain a liquor license and commence use of the tenant space located at 135 East Wisconsin Avenue, or Special Use Permit #3-20 will expire.
 - **Substantial Evidence:** Standardized condition to encourage the applicant to proceed with applying for and obtaining the appropriate liquor license in a timely manner.
6. 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 a process for review and approval of future changes to the special use in order to promote the health, safety and welfare of the City.

RESOLUTION

CITY OF APPLETON RESOLUTION APPROVING SPECIAL USE PERMIT #3-20

WHEREAS, Carlos Martinez, owner of the Taco House restaurant has applied for a Special Use Permit for a restaurant with alcohol sales and consumption located at 135 East Wisconsin Avenue, and also identified as Parcel Number 31-6-0323-00; and

WHEREAS, the location for the proposed restaurant with alcohol sales and consumption is located in the C-2 General Commercial District, and the proposed use is permitted by special use within this zoning district; and

WHEREAS, the City of Appleton Common Council held a public hearing on April 22, 2020, on Special Use Permit #3-20 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 Common Council has reviewed and considered the Community and Economic Development Department's staff report and recommendation and other spoken and written evidence and testimony presented at the public hearing; and

WHEREAS, the City of Appleton Common Council may approve the proposed Special Use Permit provided all the standards listed in Section 23-66(e)(1-8) are found in the affirmative, and may impose any condition on the Special Use Permit provided the condition(s) are related to the purpose of the City of Appleton Municipal Code and are based on substantial evidence; and

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the City of Appleton Common Council, based on the special use permit application, Community and Economic Development Department's staff report, testimony and substantial evidence presented at the public hearing with regard the Special Use Permit #3-20, that the Common Council:

1. Determines all standards listed in Sections 23-66(e)(1-8) are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #3-20 for a restaurant with alcohol sales and consumption located at 135 East Wisconsin Avenue, also identified as Parcel Number #31-6-0323-00 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 #3-20 for a restaurant with alcohol sales and consumption located at 135 East Wisconsin Avenue, also identified as Parcel Number #31-6-0323-00 subject to the following conditions:

CONDITIONS OF SPECIAL USE PERMIT #3-20

1. The applicant shall apply for and receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.
2. The applicant shall comply with the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.
3. The premises shall be kept free of litter and debris.
4. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
5. The applicant shall have twelve (12) months from the issuance of the Special Use Permit (SUP) to obtain a liquor license and commence use of the tenant space located at 135 East Wisconsin Avenue, or Special Use Permit #3-20 will expire.
6. 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.

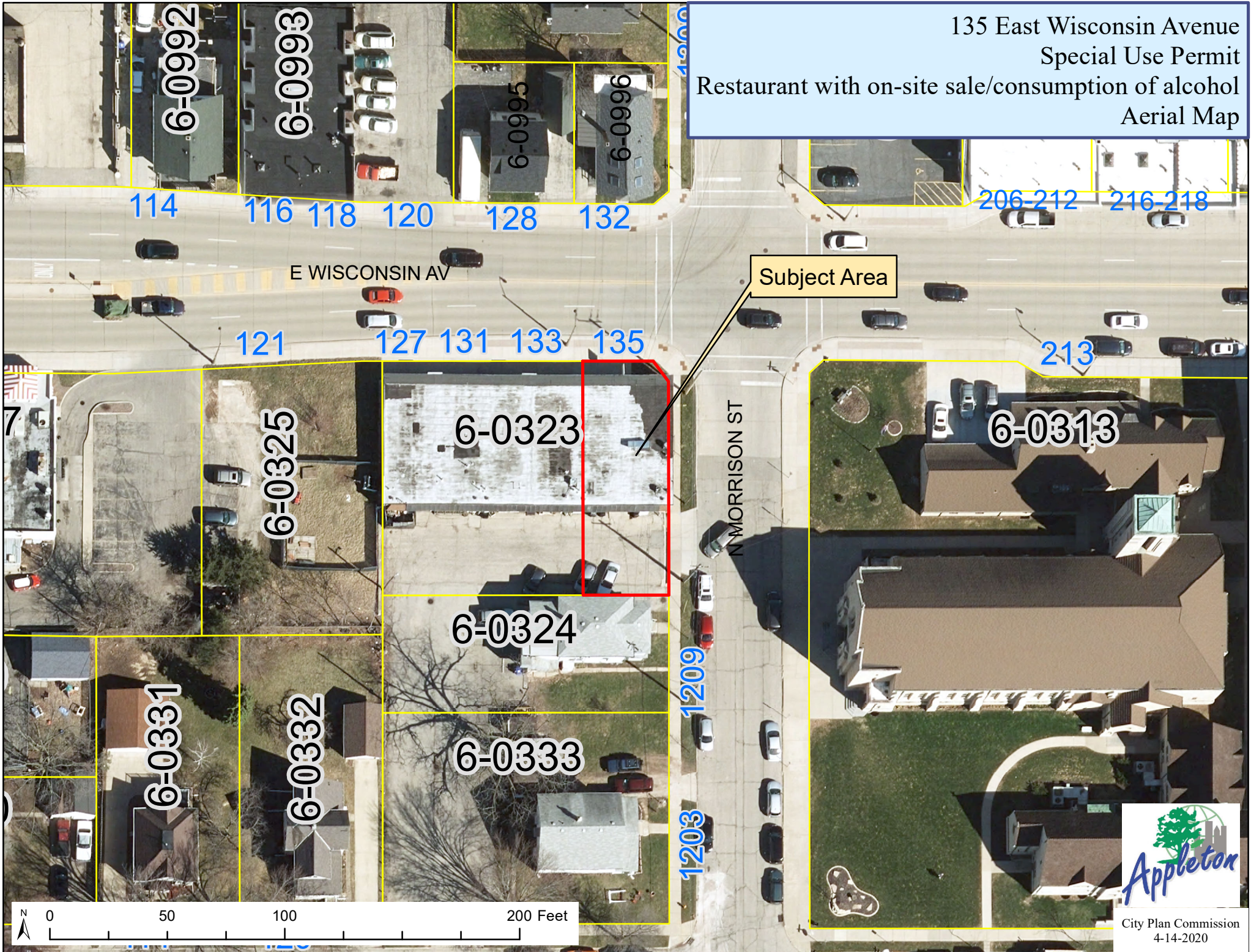
Adopted this 22nd day of April 2020.

(_____), Mayor

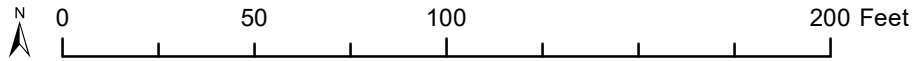
ATTEST:

Kami Lynch, City Clerk

135 East Wisconsin Avenue
Special Use Permit
Restaurant with on-site sale/consumption of alcohol
Aerial Map

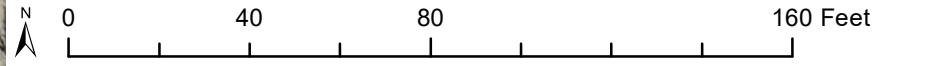
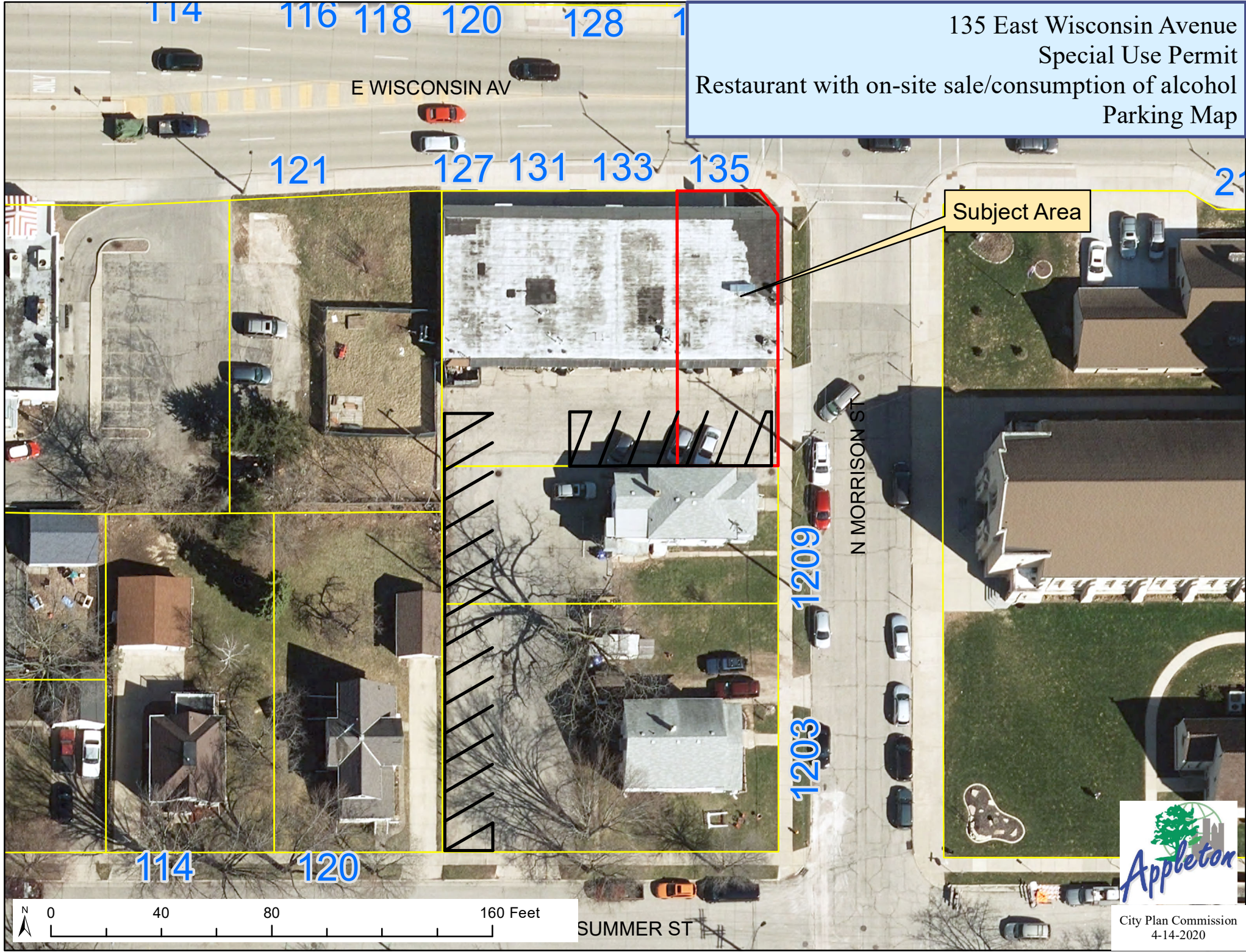


Subject Area



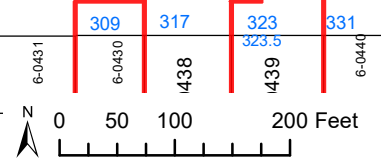
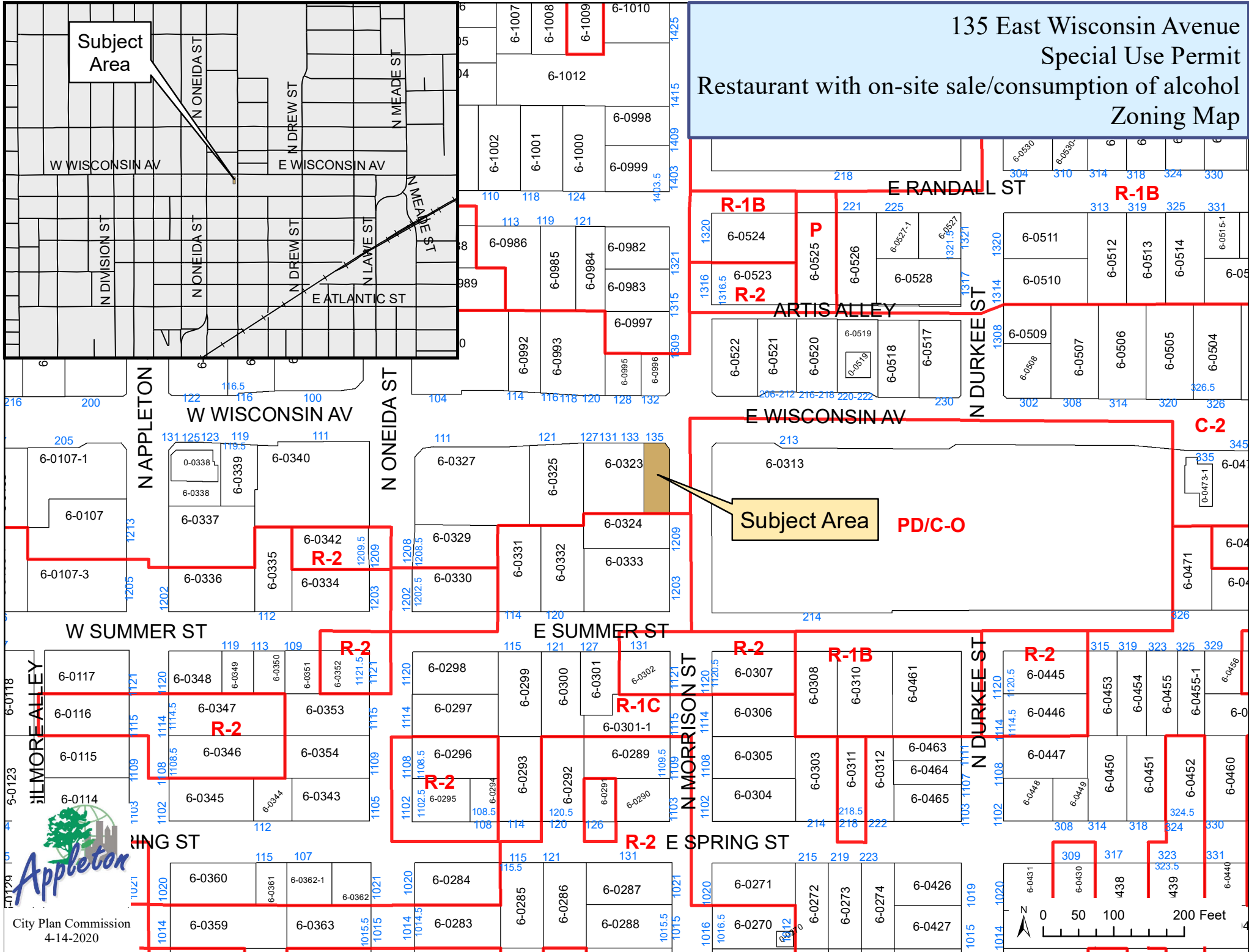
135 East Wisconsin Avenue
Special Use Permit
Restaurant with on-site sale/consumption of alcohol
Parking Map

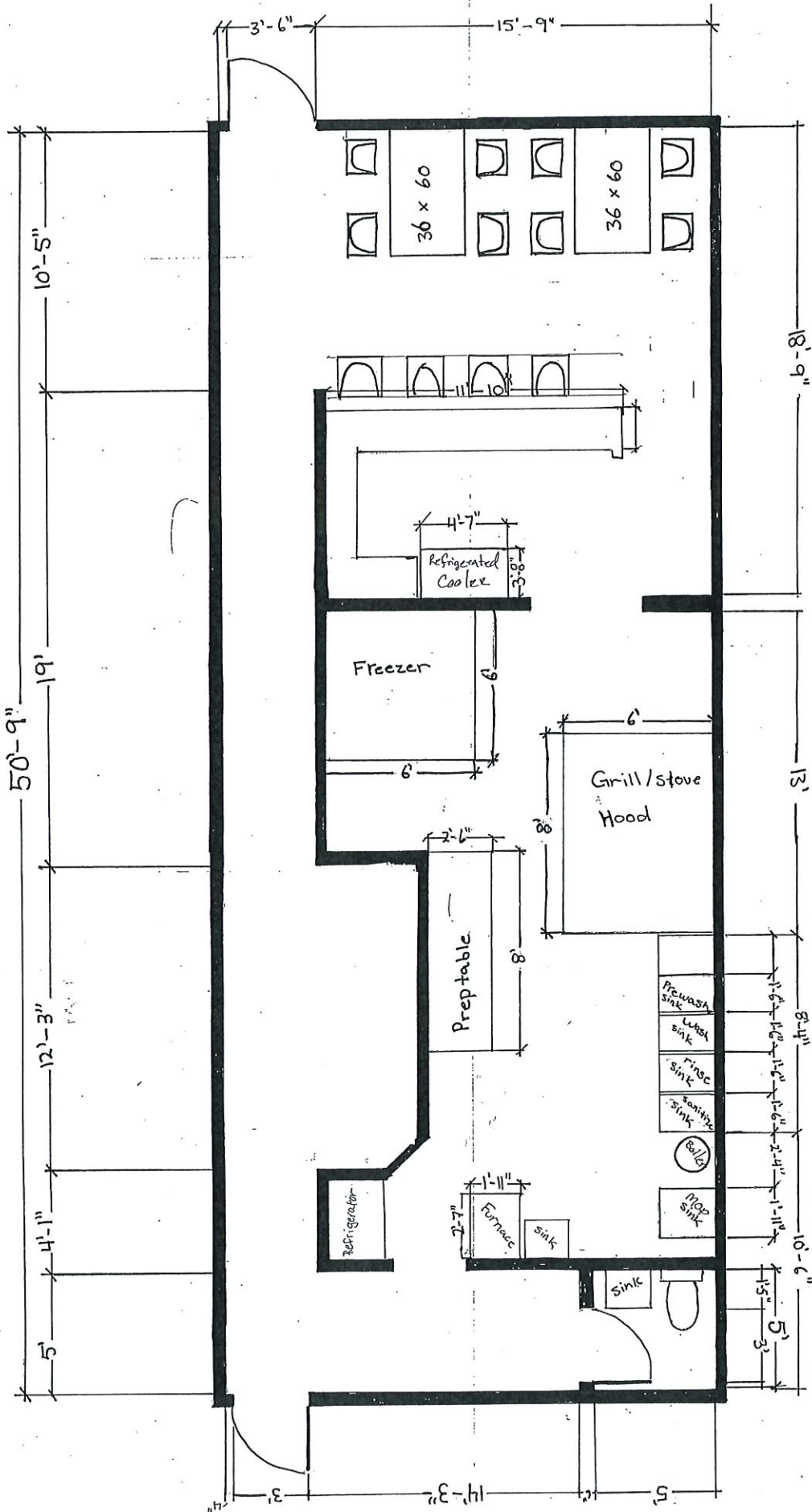
Subject Area



City Plan Commission
4-14-2020

135 East Wisconsin Avenue
 Special Use Permit
 Restaurant with on-site sale/consumption of alcohol
 Zoning Map





135 ← WILSONS IN
 10.10-3-12

Scale 1/4" = 1'

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business information:

Name of Business: Taco House

Years in operation: New Restaurant

(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 business activities:

This location will be serving Taco, Burritos,
Tortas, Quesadillas ext. also Beverages.

Existing Gross Floor Area of building/tenant space, including outdoor spaces

(square feet) 982.37 sf

Proposed Gross Floor Area of building/tenant space, including outdoor spaces

(square feet) 982.37 sf

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: 15 persons.

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Monday thru Thursday	11 AM	9 pm
Friday	11 AM	3 AM
Saturday	11 AM	3 AM
Sunday	11 AM	9 pm

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.

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:

I would say it would be a Low Level.
only thing would be appliances & music.

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

Building doors will be closed at all times

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

By staff

Off-Street Parking:

Number of spaces existing on-site: + 20

Number of spaces proposed on-site: —

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:

—
—
—

Number of Employees:

Number of existing employees: —

Number of proposed employees: 3

Number of employees scheduled to work on the largest shift: 3