



REPORT TO CITY PLAN COMMISSION

New information is underlined. Old information is ~~struck thru~~.

Plan Commission Public Hearing Date: May 8, 2017 (Held)

Plan Commission Meeting Date: May 23, 2017

Common Council Meeting Date: ~~May 17, 2017~~ June 7, 2017

Item: Special Use Permit #3-17 to conform an existing bar and restaurant and add a new outdoor patio with alcohol sales and consumption

Case Manager: Jeff Towne

GENERAL INFORMATION

Owner/Applicant: Brian Tomaszewski – Property Owner & Applicant

Building Address/Parcel #: 2906 East Newberry Street/Tax Id #31-4-4317-00

Petitioner's Request: The owner/applicant is requesting a Special Use Permit to conform an existing bar and restaurant and add a new outdoor patio with alcohol sales and consumption.

BACKGROUND

The Mayor brought up the example of the outdoor patio associated with the Friends & Neighbors Bar and the neighborhood concerns about potential noise levels. Staff reviewed the Friends & Neighbors Bar files and provides the following information:

The Friends & Neighbors Bar is located at 148 South Walter Avenue. This bar is integrated into a residential neighborhood and is surrounded by residential uses. In 2006, the neighborhood residents objected to the special use permit regarding alcohol service on the patio because of the anticipated increase in noise levels that would occur later in the evening hours. In order to address the neighborhood concerns, the Plan Commission conditionally approved the Special Use Permit for a temporary period of time of four months for assessment of noise impacts on the neighborhood. It is important to note, the owner *did not* propose outdoor music or entertainment. The following were the conditions of approval for this outdoor patio with alcohol consumption.

1. All Noise Ordinances shall be adhered to at all times.

2. Friends & Neighbors personnel must monitor the patio by being present at all times with the patrons.
3. Hours of operation of the outdoor patio area are until 10:30 p.m. weekdays (Monday – Thursday) and until 11:30 p.m. weekends (Friday – Sunday).
4. The Special Use Permit is valid for four (4) months. It will have to be reapplied for to renew the Special Use Permit along with the fee.

This Special Use Permit was held at the May 8, 2017 City Plan Commission meeting.

No additional information was submitted by the applicant.

MT Pockets currently occupies this site. A tavern has operated at this location since at least 1963.

STAFF ANALYSIS

Existing Site Conditions: The site consists of the existing building, the proposed patio area which is currently a nonconforming gravel parking area, and an asphalt parking lot.

Zoning Ordinance Requirements: In order to obtain a Special Use Permit to conform an existing bar and restaurant and add a new outdoor patio with alcohol sales and consumption, the City Plan Commission makes a recommendation to the Common Council which makes the final decision on whether to approve or deny the request. A bar has been located on the site since at least 1963. The SUP will conform the existing bar and restaurant use and allow for an expansion of the sale and consumption of alcohol to an outdoor patio area.

Operational Information: The attached Plan of Operation states the business hours are 11:00 a.m.-2:00 a.m., Sunday-Thursday, and from 11:00 a.m.-2:30 a.m. on Friday and Saturday for the indoor space. The business hours that the patio will be open are from 11:00 a.m. – 11:00 p.m. seven days a week. The tavern capacity is 99 persons. The building capacity will not be increased with the addition of the patio area.

Indoor Alcohol Sales and Consumption Area: The existing first floor of the building.

Outdoor Alcohol Consumption Area: The proposed outdoor patio will be approximately 25 ½' x 28' (714 square feet), enclosed with a six (6') foot high fence enclosing an area located adjacent to the eastern wall of the building. An additional eight (8') foot high fence exists along the northern property line, which is adjacent to residential uses. The applicant stated that there may be music on the patio. The City Noise Ordinance must be adhered to at all times.

2010-2030 Comprehensive Plan: The 2010-2030 Future Land Use Map currently represents this area to be used for One and Two-Family Residential uses. Although the zoning classification is not consistent with the City's Comprehensive Plan, the existing use is consistent with the purpose and intent of the C-2 General Commercial District, which the property is currently zoned.

Overall Community Goals and Objectives:

Objective 10.1 - (Chapter 10 – Land Use)

- Provide an adequate supply of suitable land meeting the demand for development of various land uses.

Purpose of C-2 General Commercial District:

This district is intended to provide for businesses which serve city and regional markets, provide goods and services to other businesses, as well as consumers, provide services to automobiles and serve the traveling public.

Surrounding Zoning Classification and Current Land Uses:

- **North:** Zoning: R-1B, Single-Family Residential District
Current Land Use – Residential
- **South:** Zoning: C-2, General Commercial District
Current Land Use – Light Manufacturing
- **East:** Zoning: C-2, General Commercial District
Current Land Use – Commercial
- **West:** Zoning: PD/R-2, Planned Development/Two-Family Residential District
Current Land Use – Residential

Technical Review Group Report (TRG): This item was discussed at the April 18, 2017 Technical Review Group meeting. The Health Department advised that that City Noise Ordinance must be complied with at all times for both the indoor use and the proposed patio area. No other comments were received.

Finding of Fact: Prior to the granting of any Special Use Permit, the City Plan Commission may recommend and the Common Council may place such conditions and restrictions upon the establishment, location, construction, maintenance and method or hours of operation of the special use as is deemed necessary for the protection of the public interest and to secure compliance with the standards specified in 23-66 (e) (1-6). This request was reviewed in accordance with the standards for granting a Special Use Permit under 23-66 (e) (1-6), which were found in the affirmative.

RECOMMENDATION

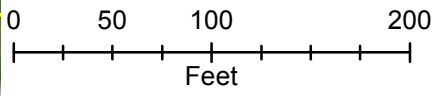
Staff recommends, based on the above, that Special Use Permit #3-17 to conform an existing bar and restaurant and add a new outdoor patio with alcohol sales and consumption at 2906 East Newberry Street (Tax Id #31-4-4317-00) and attached Resolution, **BE APPROVED** as shown on the attached maps and per attached plan of operation, to run with the land, subject to the following conditions:

1. Any deviations from the approved Development Plan or Operational Plan may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance.
2. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
3. Building permits will be required for the fence/patio area.
4. All applicable Codes, Ordinances, and regulations, including but not limited to, Fire and Building Codes and the Health and Noise Ordinances, shall be complied with.

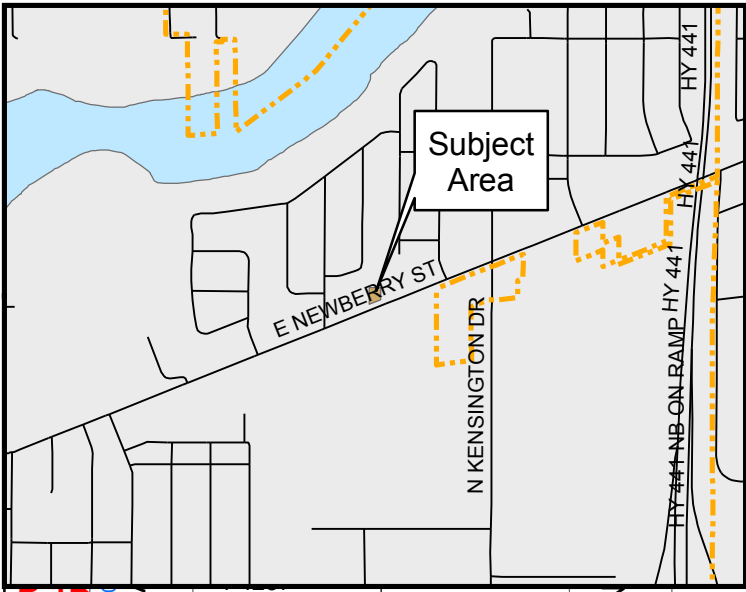
MT Pockets
2906 E. Newbery St.
Special Use Permit
Conform & Expand Bar/Restaurant &
Outdoor Patio with Alcohol Consumption
Aerial Map



City Plan Commission
5-8-17



MT Pockets
 2906 E. Newberry St.
 Special Use Permit
 Conform & Expand Bar/Restaurant &
 Outdoor Patio with Alcohol Consumption
 Zoning Map



City Plan Commission
 5-8-17

M-2

Lot Line with 6' Easement

21'10"

28'

15'

8' Solid Perimeter Fencing

6"

25'6"

Service Entrance

Equipment Pad

84.4

Gate

Gas Fire Pit

Existing Gravel Parking

Proposed Patio

New Concrete 4' Landing

2906 East Newberry St.

Side Entrance

Gate/Exit Only

15'

New Concrete Ramp

Existing Ramp

6'

4-4317

MT Pockets

2906

Lot Line with 6' Easement

123.97

Existing Parking

89.61

side walk

91.13

Newberry St.

40

10 5 0 10 Feet



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

Business Information:

Name of business: Fox Valley Rentals + Investments LLC
 dba m.t. Pockets

Years in operation: 17

Percentage of business derived from restaurant service: 35 %

Type of proposed establishment (detailed explanation of business):

Established tavern looking to add a concrete patio for eating and lounging purposes.

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Week Day	11 am	2 am
Friday	11 am	2:30 am
Saturday	11 am	2:30 am
Sunday	11 am	2 am

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: 99 persons

Gross floor area of the existing building(s): 1200 sq. ft

Gross floor area of the proposed building(s): 715 sq. ft.

Describe Any Potential Noise Emanating From the Proposed Use:

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

2 - Ac. unit

1 - make up air unit

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

Staff will monitor customers

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

Outdoor Uses:

Location, type, size and design of outdoor facilities:

East side of building concrete patio

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

Wood fence 8' in height along back of building, 6' surrounding patio

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:

The type and height of fencing will help absorb the sound

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	11 am	11 pm
Friday	11 am	11 pm
Saturday	11 am	11 pm
Sunday	11 am	11 pm

Outdoor Lighting:

Type: Outdoor String lights

Location: around proposed patio

Off-Street Parking:

Number of spaces existing: _____

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:

Wishing Well

Friend + Neighbors

Number of Employees:

Number of existing employees: 5

Number of proposed employees: 7

Number of employees scheduled to work on the largest shift: 4

RESOLUTION
CITY OF APPLETON
RESOLUTION APPROVING SPECIAL USE PERMIT #3-17

WHEREAS, Brian Tomaszewski (MT Pockets) has applied for a Special Use Permit to conform an existing bar and restaurant and add a new outdoor patio with alcohol sales and consumption located at 2906 East Newberry Street, also identified as Parcel Number 31-4-4317-00; and

WHEREAS, the location for the proposed bar, restaurant and outdoor patio 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 Plan Commission held a public hearing on May 8, 2017 on Special Use Permit #3-17 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 #3-17 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 #3-17 to conform an existing bar and restaurant and add a new outdoor patio with alcohol sales and consumption located at 2906 East Newberry Street, also identified as Parcel Number 31-4-4317-00 and orders as follows:

CONDITIONS OF SPECIAL USE PERMIT #3-17

1. Any deviations from the approved Development Plan or Operational Plan may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance.
2. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
3. Building permits will be required for the fence/patio area.

4. All applicable Codes, Ordinances, and regulations, including but not limited to, Fire and Building Codes and the Health and Noise Ordinances, shall be complied with.

Adopted this _____ day of _____, 2017.

Timothy M. Hanna, Mayor

ATTEST:

Kami Lynch, City Clerk