



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: November 12, 2019

Common Council Meeting Date: No formal action required

Item: Minor Amendment to Special Use Permit #23-04

Case Manager: Jessica Titel

GENERAL INFORMATION

Owner: Koroll Properties, LLC c/o Kelly Koroll

Applicant: Déjà vu Martini Lounge c/o Kelly Koroll

Address/Parcel #: 519 W. College Avenue (Tax Id #31-3-1004-00)

Petitioner's Request: The applicant is requesting to amend Special Use Permit #23-04 to allow alcohol sales and service within an outdoor patio area on the south side of the building.

BACKGROUND

Special Use Permit #7-01 for a cocktail/martini lounge with alcohol sales at 519 W. College Avenue was approved by Common Council on June 6, 2001. The approval was granted with the conditions listed as follows:

1. The applicant shall apply for and receive a liquor license from the City Clerk prior to serving alcohol on the subject site.
 - *Condition satisfied. Liquor license has been issued and is current.*
2. The applicant shall submit state approved plans to the City of Appleton Inspections Division prior to issuance of a building permits.
 - *Condition satisfied.*
3. The applicant shall contact Tim Mirkes at the City of Appleton Health Department to discuss interior remodeling plans for the bar area prior to building permit issuance.
 - *Condition satisfied.*
4. All building code violations must be rectified prior to the issuance of an occupancy permit.
 - *Condition satisfied. Occupancy permit was issued.*

Minor amendment to Special Use Permit #7-01, to increase occupancy from 94 to 180 persons, was approved by the Plan Commission on May 20, 2002.

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Special Use Permit #23-04 to expand an existing tavern with alcohol service was approved by Common Council on December 21, 2005. The approval allowed alcohol service on the second floor and was granted with the conditions listed as follows:

1. The serving and consumption of alcohol is limited to the interior ground floor and that area of the second floor identified by the submitted floor plan. Any future expansion of the building for the sale, serving and/or consumption of alcohol, will require a new Special Use Permit application to be applied for and approved.
 - *Development plan drawings included with Special Use Permit #23-04 identified the ground floor of the tavern to be approximately 4,262 square feet and the alcohol service area on the second floor to be 600 square feet, for a total area of 4,862 square feet. The applicant's request is to allow alcohol service and consumption within an outdoor patio area that is approximately 183 square feet in area. This represents an overall increase of approximately 3.8%.*
 - *On September 4, 2019, Common Council approved a street occupancy permit to allow the applicant to utilize a portion of the public alley for outdoor patio space. Special Use Permits do not regulate activities that occur within the public right-of-way; however, the amended premise description with the applicant's liquor license includes this area of public alley right-of-way to allow for alcohol service and consumption.*
2. The applicant shall apply to the City Clerk to amend the current Liquor License to include the expanded interior area of the building used for the serving and/or consumption of alcohol. Any expansion of tavern use requires approval of a premise description amendment of the existing liquor license from the Safety and Licensing Committee and Common Council.
 - *Déjà vu Martini Lounge has applied for a premise amendment for their current Liquor License. This item is was approved by the Safety and Licensing Committee on October 16, 2019 and will be placed on the November 20, 2019 Common Council agenda.*
3. All City of Appleton and State of Wisconsin Building Codes must be met.
 - *Ongoing condition. This condition continues to apply at this location.*
4. The applicant shall submit State approved plans to the City of Appleton Inspections Division prior to the issuance of any future building permits.
 - *Ongoing condition. Inspections Division will review any future building modifications to determine if State approved plans are needed.*
5. All City of Appleton Fire Code must be met, including the following stipulations of variance approval in regard to waiver of an automatic sprinkler system
 - That a complete NFPA 72 compliant alarm and detection system be installed throughout the facility prior to occupancy.
 - That the rated exit corridor leading to the rear of the building must be completed and maintained, and;
 - That the current occupancy of the building remains the same and not be increased with the

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addition of the “private party room” on the second floor.

- *Condition satisfied. Occupancy has been issued. Fire Department staff are part of the Technical Review Group (TRG) that receives information and comments on items prior to appearing before Plan Commission. No comments were received from the Fire Department on this item.*
6. The applicant shall comply with the City of Appleton Noise Ordinances at all times.
- *Ongoing condition. This condition continues to apply at this location.*
7. That a set of plans, including equipment and finish schedules, be provided to Tim Mirkes of the City of Appleton Health Department.
- *Condition satisfied.*
8. The previously approved Special Use Permits, including stipulations of approvals for this property, are not negated by this approval.
- *Ongoing condition. This condition continues to apply at this location.*

STAFF ANALYSIS

Project Summary: Déjà vu Martini Lounge currently operates at this location. The applicant proposes to allow alcohol sales and service within an outdoor patio on the south side of the building. The applicant’s request is to allow alcohol service and consumption within an outdoor patio area that is approximately 183 square feet in area, as shown on the attached development plan.

On September 4, 2019, the Common Council approved a street occupancy permit to allow the applicant to utilize a portion of the public alley for outdoor patio space. Aside from Sidewalk Cafés, Special Use Permits do not regulate activities that occur within the public right-of-way; however, the amended premise description with the applicant’s liquor license includes this area of public alley right-of-way to allow for alcohol service and consumption.

Existing Site Conditions: The existing two-story building totals approximately 6,458 square feet, including residential unit on the second floor. The Central Business District zoning designation does not require on-site parking; therefore, no parking is provided on-site. Parking is available on the street and in nearby public parking ramps.

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

Outdoor Seating Area: The proposed outdoor patio is located south of the building. The portion of the patio that is located on private property is approximately 183 square feet. Approval has also been granted by the Municipal Services Committee to allow the applicant to utilize a portion of the public alley for outdoor patio space. The expanded outdoor area would also be enclosed with fencing. The applicant

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proposes to utilize the outdoor patio for alcohol sales and service, as shown on the development plan and described in the plan of operation.

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 use to the north is currently used for commercial purposes.

South: CBD Central Business District. The adjacent land use to the south is currently used for commercial purposes.

East: CBD Central Business District. The adjacent land use to the east is currently used for commercial purposes.

West: CBD Central Business District. The adjacent land use to the west is currently used for commercial purposes.

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.

Zoning Ordinance Requirements: The Central Business District zoning designation does not require on-site parking; therefore, no parking is provided on-site. Parking is available on the street and in nearby public parking ramps.

Changes to Special Uses: The subject property has a zoning designation of CBD Central Business District. Per Section 23-114(e) of the Municipal Code, a tavern with alcohol sales and service requires a Special Use Permit in the CBD District, but Special Use Permits #7-01 and #23-04 were approved previously. This item has been referred to the Plan Commission per Section 23-66(g) of the Municipal Code, which states:

- (1) **Minor change.** Minor changes shall be submitted to and reviewed by the Plan Commission. Minor changes include:

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- a. Expansions of special uses of less than 10%.

The outdoor patio, proposed at an additional 183 square feet, constitutes an expansion of less than 10%.

- b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.

This minor amendment request is consistent with the general intent and character of Special Use Permits #7-01 and #23-04, as the subject area will continue to be used as a tavern with alcohol sales and service.

Note: Minor amendments to an existing Special Use Permit do not require Common Council action.

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 October 22, 2019 Technical Review Group meeting.

- **Department of Public Works Comments:** Adhere to stipulations associated with Street Occupancy Permit. Applicant shall verify ownership of the dumpsters and coordinate the installation of the proposed fencing around the dumpsters with the adjacent owners/operators.

RECOMMENDATION

Staff recommends, based on the above, that Minor Amendment to Special Use Permit #23-04 for an outdoor patio with alcohol sales and service at 519 W. College Avenue (Tax Id #31-3-1004-00), as shown on the attached maps and per attached plan of operation, **BE APPROVED** to run with the land, subject to the following conditions:

1. The serving and consumption of alcohol is limited to the interior ground floor, the area of the second floor identified by the submitted floor plan and the proposed 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.
2. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.
3. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.
4. The applicant shall receive approval of a Liquor License premise amendment from the City Clerk prior to serving or consuming alcohol in the outdoor seating area.

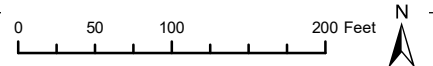
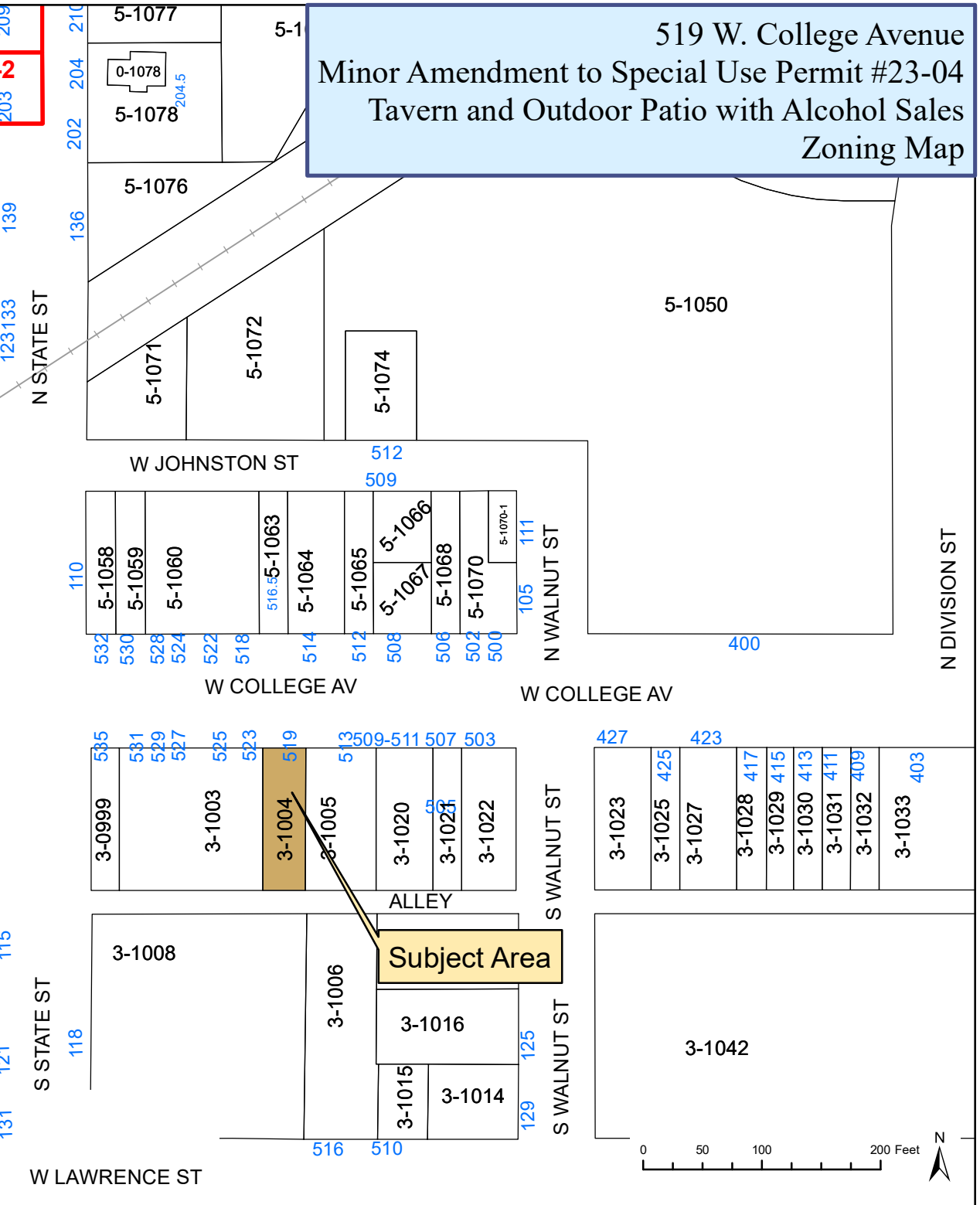
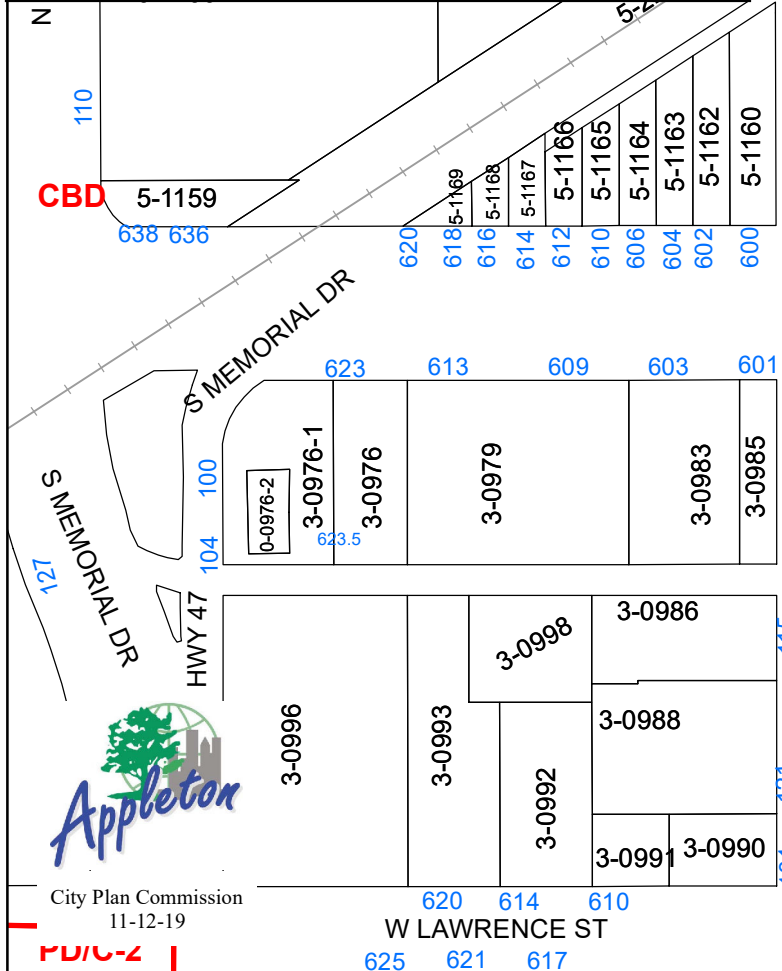
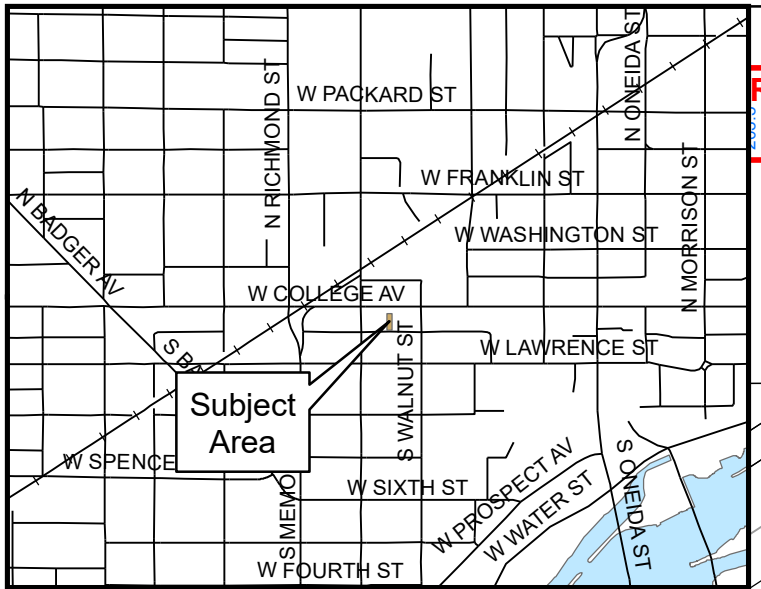
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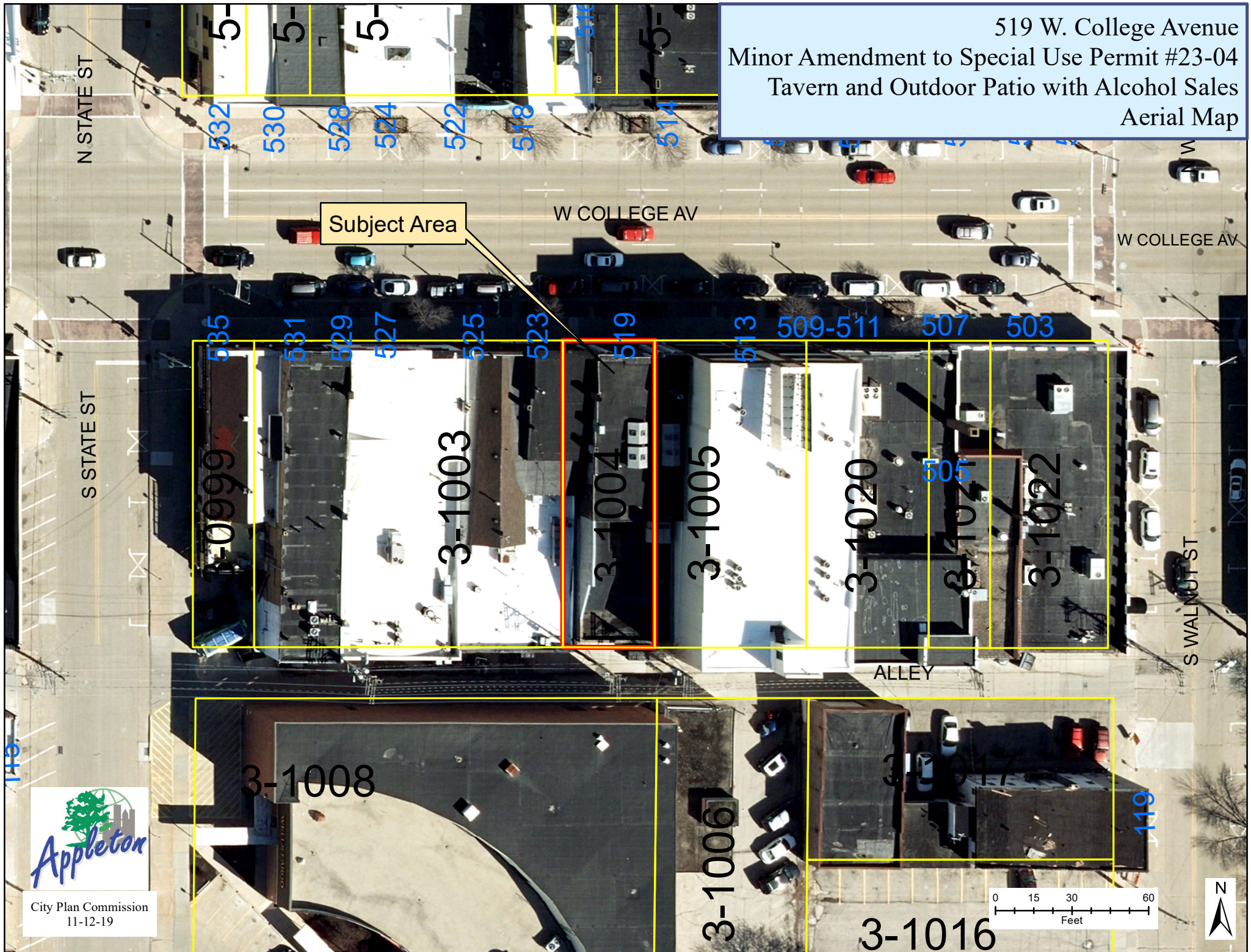
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5. Building permits are required from the Inspections Division for the fence surrounding the outdoor patio.
6. Compliance with the plan of operation is required at all times. Changes to the plan of operation shall be submitted to the Community and Economic Development Department for review and approval.
7. Special Use Permit #23-04, as now amended, will replace Special Use Permit #7-01 to cover the interior ground floor, the area of the second floor identified by the submitted floor plan and the proposed outdoor patio area.

519 W. College Avenue
 Minor Amendment to Special Use Permit #23-04
 Tavern and Outdoor Patio with Alcohol Sales
 Zoning Map



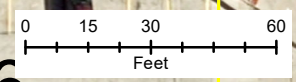
519 W. College Avenue
Minor Amendment to Special Use Permit #23-04
Tavern and Outdoor Patio with Alcohol Sales
Aerial Map



Subject Area



City Plan Commission
11-12-19



PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business Information:

Name of business: Deja vu Martini Lounge

Years in operation: 18 years

Type of proposed establishment (detailed explanation of business):

Bar / Taverna / Restaurant

Proposed Hours of Operation:

Day	From	To
Week Day	5:00pm	2:00am
Friday	5:00pm	2:30am
Saturday	3:00pm	2:30am
Sunday	3:00pm	2:00am

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: 198 persons

Gross floor area of the existing building(s):

Gross floor area of the proposed building(s):

(outdoor) approx. 100 square feet

Identify location, number, capacity and flammable liquid materials stored in storage tanks or containers:

N/A

Describe any potential smoke, odors emanating from the proposed use and plans to control them:

N/A

Describe Any Potential Noise Emanating From the Proposed Use:

Describe the noise levels anticipated from all mechanical equipment:

N/A

How will the noise be controlled?

N/A

Outdoor Lighting:

Type: String lighting

Location: Back Area

Off-Street Parking:

Number of spaces existing: 0

Number of spaces proposed: 0

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?

No.

Outdoor Uses:

Type, location, size of outdoor storage area(s) of business property, goods, or merchandise not intended for customer viewing or immediate sale:

N/A

Type and height of screening of plantings/fencing/gating for outdoor storage area(s):

N/A

Type, location, size of outdoor display area(s) of merchandise for sale:

N/A

Number of Employees:

Number of existing employees: 14

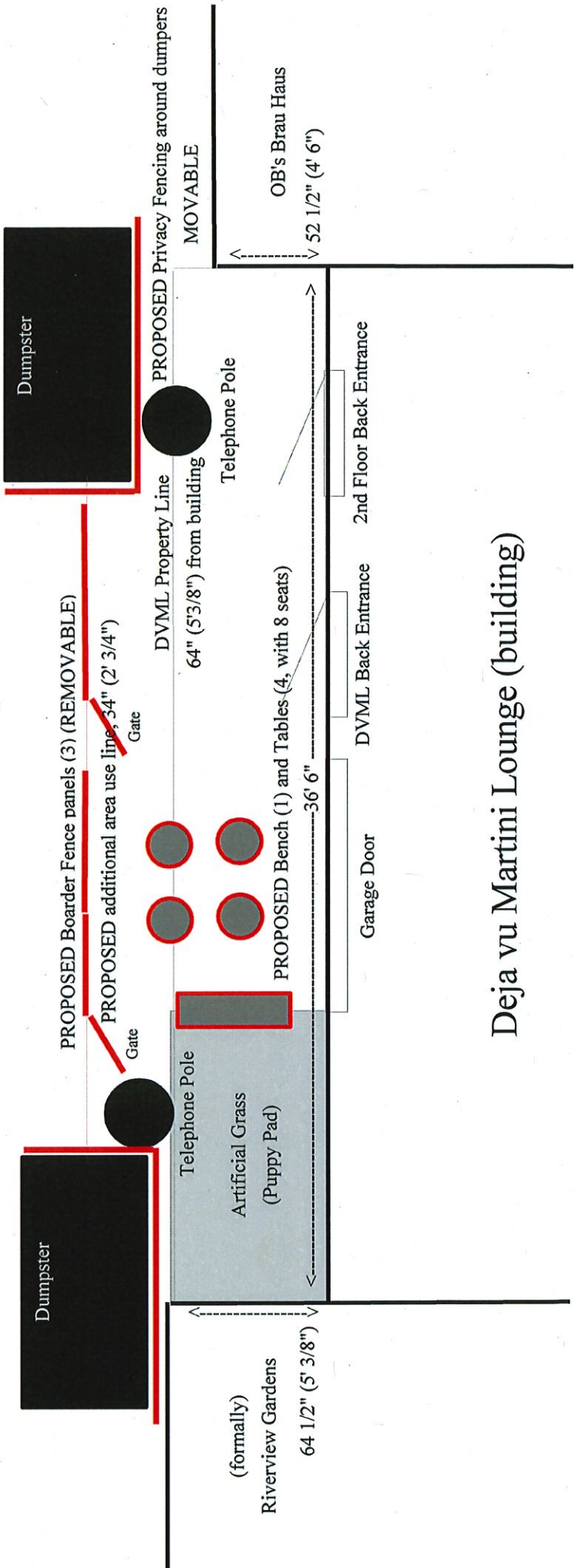
Number of proposed employees: 0

Number of employees scheduled to work on the largest shift: N/A

Wells Fargo Bank (building)

Alley Sidewalk

197" (16" 3/8")
Clearance between dumpster and sidewalk



Deja vu Martini Lounge (building)