



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: March 23, 2022

Common Council Meeting Date: April 6, 2022

Item: Special Use Permit #3-22 for restaurant alcohol sales and service

Case Manager: Don Harp, Principal Planner

GENERAL INFORMATION

Owner: 320 East College Avenue, LLC – Jason Tadych

Applicant: Aaron Phillipson, All Tied Up Floral Cafe

Address/Parcel #: 324 East College Avenue, (Tax Id # 31-2-0343-00)

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

BACKGROUND

On September 18, 2020, Site Plan #13-20 was approved for a mixed-used commercial and multi-family residential building to be constructed on the subject site.

On December 9, 2020, Building Permit #B20-1084 was approved to allow for the construction of the mixed-used commercial and multi-family residential building on the subject site. The building is currently under construction.

STAFF ANALYSIS

Project Summary: All Tied Up Floral Café is a full-service florist, bakery, coffee house, retail gift shop, and café (light breakfast and lunch menu with light dinner menu expected). The business operations will occupy approximately 1,433 square feet of space on the 1st floor (Suite A) of the building.

Site Conditions (building under construction): The mixed-use building will consist of thirty-nine (39) residential dwelling units, two (2) ground floor commercial units, and forty-four (44) indoor parking spaces.

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

Outdoor Seating Area: A sidewalk café with alcohol sales is not proposed with this special use permit.

Zoning Development Standards: The zoning development standards of the CBD Central Business District have been reviewed and satisfied pursuant to Site Plan approval #13-20 and Building Permit B20-1084.

Special Use Permit #3-22

March 23, 2022

Page 2

Zoning Ordinance Requirements (Alcohol Sales): The subject property has a zoning designation of CBD Central Business District. Per Section 23-114(e) of the Municipal Code, a restaurant with alcohol sales and service requires a Special Use Permit in the CBD District. In order to permit alcohol sales and service in conjunction with the proposed restaurant, 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.

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 uses, including residential, drive-thru coffee and surface parking.

South: CBD Central Business District. The adjacent land uses to the south are currently a mix of uses, including Lawrence University Offices, 2nd floor dwelling units, restaurant with alcohol sales and service.

East: CBD Central Business District. The adjacent land use to the east is the Outagamie History Museum.

West: CBD Central Business District. The adjacent land uses to the west are currently a mix of commercial uses, including retail and a tavern.

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 restaurants with alcohol as a special use permit; 2. *zoning district regulations:* the district regulations were reviewed pursuant to Site Plan #13-20 and Building Permit B20-1084; 3. *special regulations:* stipulations 1, 2, 3 and 4 (below) address the special regulations for restaurants with alcohol sales; 4. *consistent with comprehensive plan and other plans:* yes, see above analysis; 5. *traffic:* the proposed use is not expected to create undue traffic congestion, it is anticipated customers will utilize on-street and ramp parking spaces to park their cars and other multi-modal transportation options are available too; 6. *landscaping and screening:* not applicable to this use, the CBD District allows 100% lot coverage; 7. *neighborhood compatibility:* the proposed use is located near similar commercial uses in this area of the 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 March 1, 2022 TRG agenda.

- **Department of Public Works Comments:** A street occupancy permit must be applied for and approved prior to the placement of tables and chairs within the amenity strip along College Avenue. Applications for a street occupancy permit can be obtained by contacting (920) 832-6474.

RECOMMENDATION

Staff recommends, based on the above, that Special Use Permit #3-22 for a restaurant with alcohol sales and service located at 324 East College Avenue, (Tax Id #31-2-0343-00), 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. The applicant shall 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 a Liquor License is also needed prior to serving alcohol.

2. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.

Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.

3. The site shall be kept free of litter and debris.

Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.

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 is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.

5. 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 #3-22
324 EAST COLLEGE AVENUE**

WHEREAS, Aaron Phillipson, All Tied Up Floral Cafe, has applied for a Special Use Permit for a restaurant with alcohol sales and service located at 324 East College Avenue also identified as Parcel Number 31-2-0343-00; and

WHEREAS, the location for the proposed restaurant with alcohol sales and service 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 March 23, 2022 on Special Use Permit #3-22, 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 #3-22 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 April 6, 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 #3-22 for a restaurant with alcohol sales and service located at 324 East College Avenue, also identified as Parcel Number 31-2-0343-00, 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 #3-22 for a restaurant with alcohol sales and service located at 324 East College Avenue, also identified as Parcel Number 31-2-

0343-00, 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 #3-22

- A. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.
 - B. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
 - C. The site shall be kept free of litter and debris.
 - D. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
 - E. 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

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business information:

Name of business: All Tied Up Floral Cafe LLC

Years in operation: 5

(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 retail

Detailed explanation of proposed business activities:

All Tied Up Floral Cafe is a full service florist, bakery, coffee house, retail & gift sales, and cafe. We offer a light breakfast menu, as well as lunch menu, and are hoping to expand to a light evening menu with wine and beer availability.

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

(square feet) 1433

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

(square feet) 1433

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: 25 persons.

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Monday thru Thursday	7am	8pm
Friday	7am	9pm
Saturday	7am	9pm
Sunday	9am	2pm

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:

N/A

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

N/A

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: **48** _____ 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	8am	5pm
Friday	8am	5pm
Saturday	8am-	5pm
Sunday	9am	2pm

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:
No loud noise is anticipated.

Describe how the crowd noise will be controlled inside and outside the building:
No crowd noise is anticipated other than mild conversation sounds.

Off-Street Parking:

Number of spaces existing on-site: 1 employee stall

Number of spaces proposed on-site: _____

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?
street access is currently sufficient

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:
Dr Jekylls, Taste of Thai

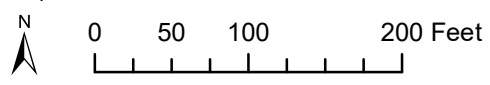
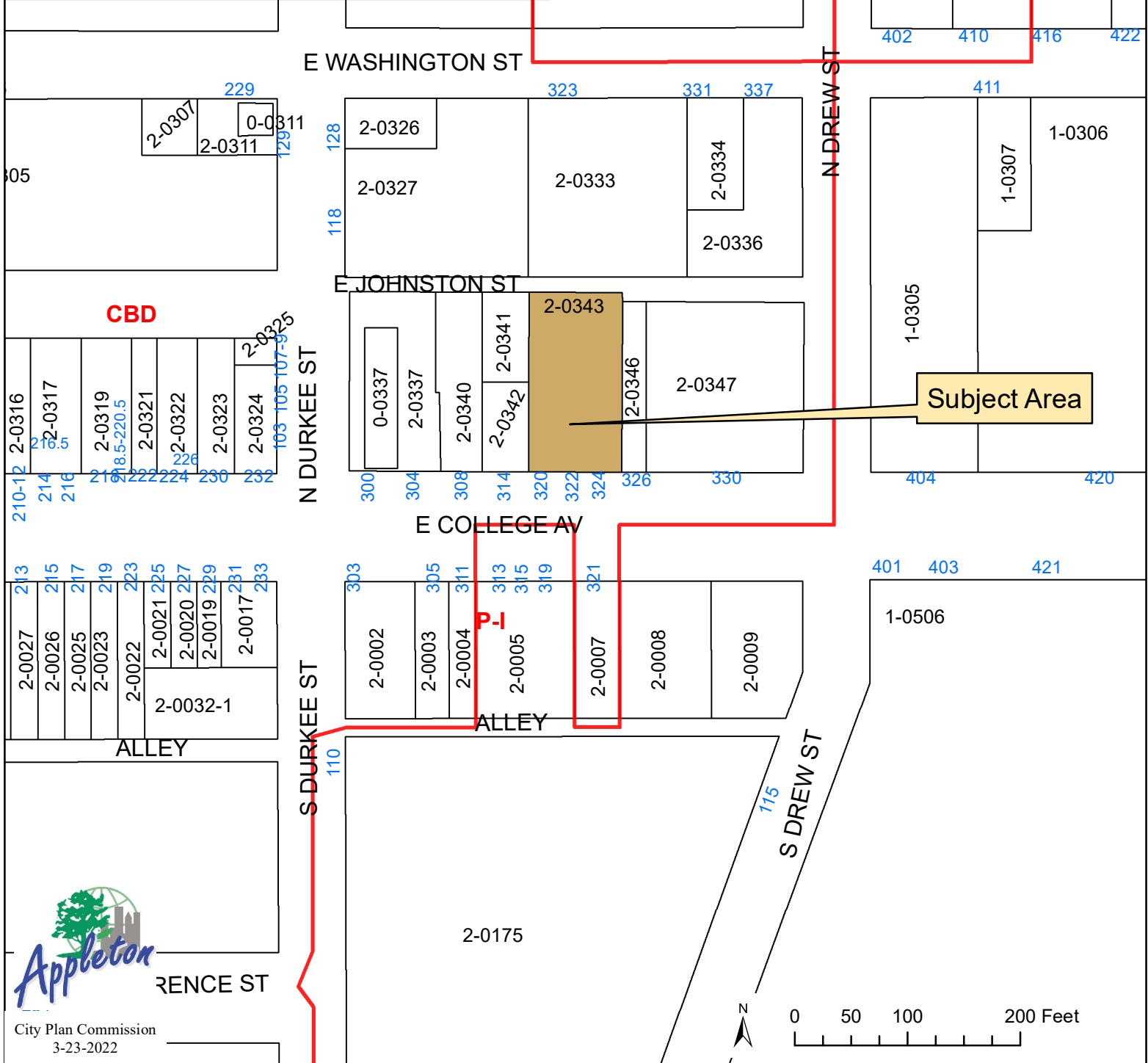
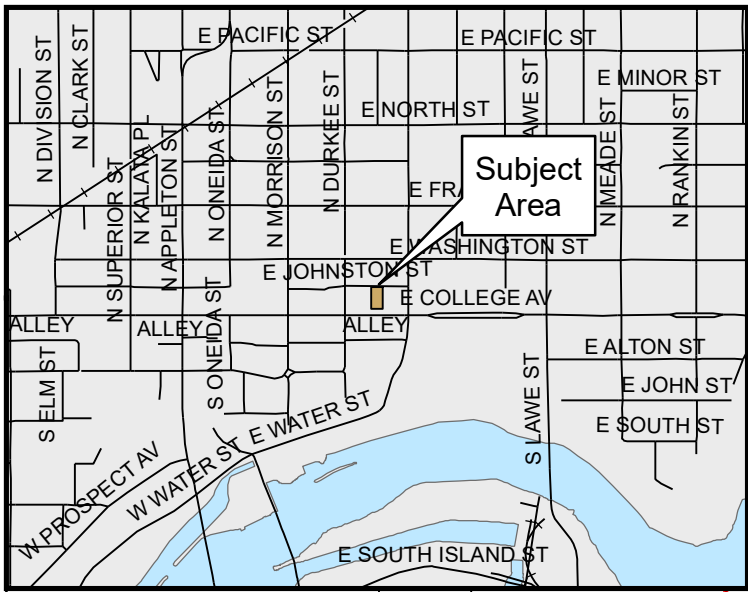
Number of Employees:

Number of existing employees: 4

Number of proposed employees: 8

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

Special Use Permit
 Restaurant with Alcohol Sales
 324 E College Avenue
 Zoning Map



Special Use Permit
Restaurant with Alcohol Sales
324 E College Avenue
Aerial Map

2-0

E JOHNSTON ST

2-0343

2-0341

2-0342

2-0340

2-0346

2-034

Subject Area

308

314

320

322

324

326

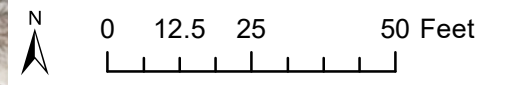
33

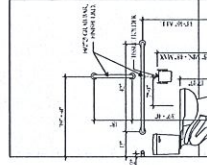
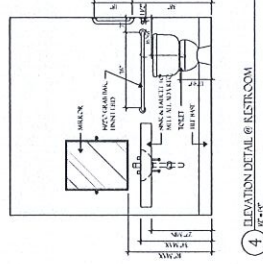
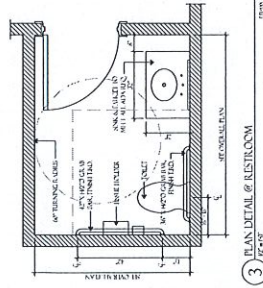
E COLLEGE AV



City Plan Commission
3-23-2022

13 15 19 21





CODE DATA

BUILDING CONSTRUCTION CLASSIFICATION
 RESTRICTIONS
 OCCUPANCY CLASSIFICATION

TYPE IIA
 SDAU (1) ONE- AND TWO-FAMILY RESIDUAL BUILDINGS TO BE REWORKED
 EMBLEMATIC SITE USE - A2, A3, A4, S

CALCULATIONS
 DINING 200 / 15 SF PER = 16 OCCUPANTS
 BREAK ROOM 100 / 15 SF PER = 7 OCCUPANTS
 KITCHEN 180 / 20 SF PER = 9 OCCUPANTS
 TOTAL 41 OCCUPANTS

SCENARIO 1: SUITE 101, 102, 103, 104, 105
 STAIRS 400 / 40 SF PER = 10 OCCUPANTS
 LOBBY / RESTROOM 400 / 20 SF PER = 20 OCCUPANTS
 LAUNDRY / STORAGE 120 / 20 SF PER = 6 OCCUPANTS
 29 TOTAL OCCUPANTS

OVERALL BUILDING DATA

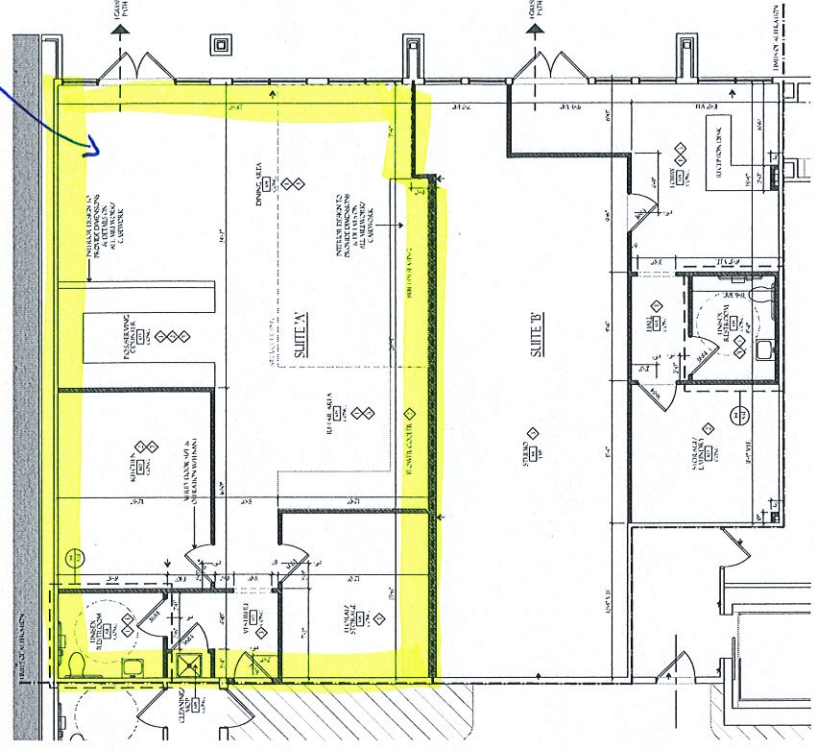
BUILDING HEIGHT 69'-0" OVER ALL
 BUILDING CLASSIFICATION M
 OCCUPANT CALCULATIONS 62 200 OCCUPANTS
 GROSS FLOOR AREA 212 200 SQ. FEET
 FLOOR AREA
 LOWER FLOOR (1-2) 8041 CSF
 UPPER FLOOR (3-4) 5396 CSF
 MANUFACTURING 10400 CSF
 2ND FLOOR (5-6) 20726 CSF
 3RD FLOOR (6-7) 20726 CSF
 4TH FLOOR (6-7) 20726 CSF
 5TH FLOOR (6-7) 20726 CSF
 6TH FLOOR (6-7) 20726 CSF
 MEZZANINE 3088 CSF
 TOTAL 147489 CSF
 (147489 CSF) (147489 CSF)

CODE KEY

1 HOUR INFILTRATION PARTITION
 2 HOUR INFILTRATION PARTITION
 1 HOUR FIRE RATED
 2 HOUR FIRE RATED
 EXIT DISTANCE

1 TENANT BUILDING PLAN - SHEET Y
 1/8" = 1'-0"

GENERAL NOTES:
 1. ALL WALLS SHALL BE CONCRETE OR CMU WITH 1/2" Gypsum Board on both sides.
 2. ALL INTERIORS SHALL BE FINISHED WITH 1/2" Gypsum Board on both sides.
 3. ALL INTERIORS SHALL BE FINISHED WITH 1/2" Gypsum Board on both sides.
 4. ALL INTERIORS SHALL BE FINISHED WITH 1/2" Gypsum Board on both sides.



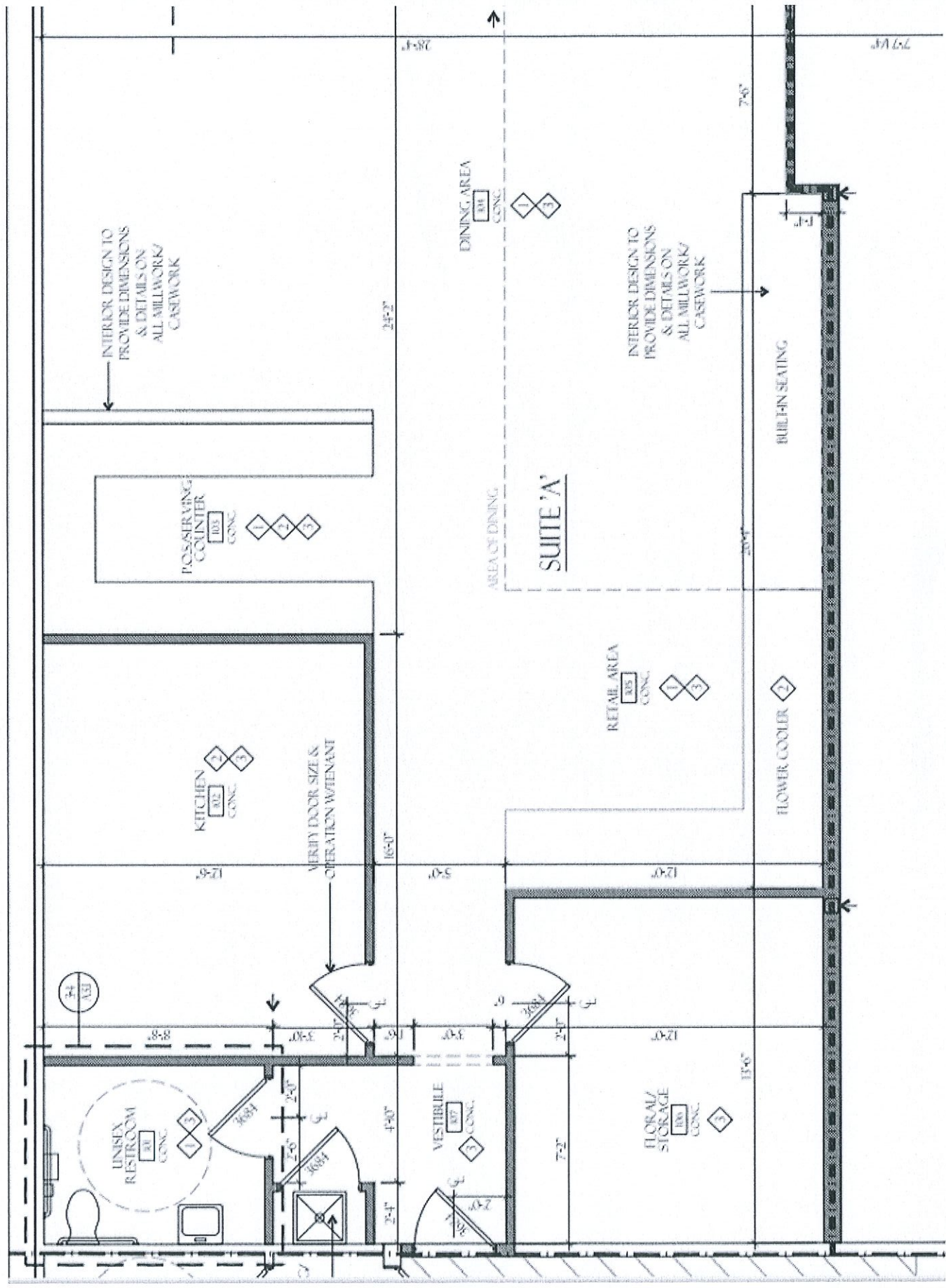
2 TENANT BUILDING PLAN - SHEET Y
 1/8" = 1'-0"

GENERAL NOTES:
 1. ALL WALLS SHALL BE CONCRETE OR CMU WITH 1/2" Gypsum Board on both sides.
 2. ALL INTERIORS SHALL BE FINISHED WITH 1/2" Gypsum Board on both sides.
 3. ALL INTERIORS SHALL BE FINISHED WITH 1/2" Gypsum Board on both sides.
 4. ALL INTERIORS SHALL BE FINISHED WITH 1/2" Gypsum Board on both sides.

FIRE WALL DISCONTINUITY
 1 HOUR INFILTRATION PARTITION
 2 HOUR FIRE RATED
 2 HOUR FIRE RATED

324E College Ave
 SUBJECT SITE





E. College Ave.

