



## REPORT TO CITY PLAN COMMISSION

New Information identified *Bold, Italic and strikethrough*

**Plan Commission Public Hearing Date:** November 10, 2021

**Plan Commission Meeting Dates:** *Held at November 10, 2021 meeting to December 8, 2021 meeting*

**Common Council Meeting Date:** ~~November 17, 2021~~ *December 15, 2021*

**Item:** Special Use Permit #3-21 for Paint/Craft Studio with Alcohol Sales

**Case Manager:** Don Harp, Principal Planner

### GENERAL INFORMATION

**Owner:** Alan Ament

**Applicant:** Timasha Thornton, Tee Tees Nachos, paint/craft studio with alcohol sales

**Address/Parcel #:** 550 North Morrison Street, Unit D – Rooms 3, 4, 5 and 6 (Tax Id #31-2-0586-00)

**Petitioner's Request:** The applicant is requesting a Special Use Permit for a paint/craft studio with alcohol sales.

### BACKGROUND

On March 18, 2020, the Common Council adopted ordinances 24-20 - 57-20 related to Chapter 23 of the Zoning Ordinance relating to allowing paint/craft studios with alcohol sales by Special Use Permit in the CBD Central Business District, C-2 General Commercial District and C-1 Neighborhood Mixed Use District.

*Painting/Craft Studio with alcohol sales* means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and alcoholic beverages for consumption while they paint and/or make crafts.

On October 8, 2021, the applicant applied for and filed a Class B Beer license with the City Clerk's Office.

*On November 10, 2021, the Plan Commission held this item until their December 8, 2021 meeting to allow time for the applicant to attend the Plan Commission meeting to address questions related to the daily business operations.*

*On November 16, 2021, staff contacted the applicant by telephone and via email to provide an update of what happened at the November 10, 2021 Plan Commission meeting. Staff recommended the applicant make arrangements to attend the December 8, 2021 Plan Commission meeting to answer any questions that may be asked about the daily business operations of the proposed paint/craft studio use.*

## **STAFF ANALYSIS**

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**Project Summary:** The applicant proposes to establish a painting/craft studio with alcohol sales. The proposed painting/craft studio with alcohol sales will occupy approximately 892 feet in a lower level tenant space (Unit D, Rooms 3, 4, 5, and 6) of the existing building. The operations of the business will primarily focus on the production of arts and crafts, and the service of beer is offered as an additional amenity (customers are not required to purchase alcohol). The proposed alcohol service will be ancillary and subordinate to the primary use as a painting/crafts studio (i.e., an amenity for the customers).

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

**Outdoor Seating Area:** No outdoor alcohol sales and service is requested with this application.

**Existing Site Conditions:** The existing multi-tenant building totals approximately 17,800 square feet, including other lower level, first and second floor commercial uses. The 32,288 square foot site also includes a 43 stall off-street parking lot. Access is provided by curb cuts on North Morrison Street and East Pacific Street.

**Current Zoning and Procedural Findings:** The subject property has a zoning designation of C-2 General Commercial District. Per Section 23-113(e) of the Municipal Code, a paint/craft studio with alcohol sales requires a Special Use Permit in the C-2 District. The Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds 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:** R-1C Central City Residential District and CBD Central Business District. The adjacent land uses to the north are currently a mix and single-family residential and the railroad.

**South:** R-2 Two-family District and R-1C Central City Residential District. The adjacent land uses to the south are currently a mix of single and two-family residential.

**East:** C-2 General Commercial District, R-2 Two-family District and R-1C Central City Residential District. The adjacent land uses to the east are currently a mix of single and two-family residential.

West: CBD Central Business District and P-I Public Institutional District. The adjacent land uses to the west are Appleton Area School District facility office building and railroad tracks.

**Appleton Comprehensive Plan 2010-2030:** Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Mixed Use 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.*

**Technical Review Group (TRG) Report:** This item originally appeared on the October 19, 2021 TRG agenda. No negative comments were received from participating departments.

*The following TRG comments are provided for additional background history:*

*Health Department and City Clerk's Office: On September 29, 2021, staff met with the applicant to obtain clarification on the responses listed on the initial liquor license application. In this meeting, the applicant was informed to contact the Community and Economic Development Department to discuss the Special Use Permit process.*

*Community and Economic Development Department: On September 30, 2021, staff had an initial conversation with the applicant and an email follow up explaining the Special Use Permit process for the proposed paint/craft studio with alcohol sales. Staff assisted the applicant with completing the Special Use Permit application form and provided the applicant with written correspondence on October 11, 2021, October 27, 2021, and November 4, 2021, of the initial date, time and location of the Plan Commission meeting held on November 10, 2021.*

*Inspections Division and Health Department: An on-site inspection of the premises was conducted on October 1, 2021 by the Inspections Division and Health Department staff. The following items were discussed with the applicant:*

- 1. Food Preparation: The need for a grease hood. The applicant decided to use pre-cooked ground beef for the nachos. Since no longer planning to cook from raw meat, a grease hood would no longer needed.*

2. *Kitchen Area Improvements: The carpeting will need to be replaced with an approved floor covering, the installation of approved warewashing sinks, prep sink, mop sink, handwash sink, a grease trap and other equipment requirements.*
3. *Scaled floor plan: A scaled floor plan identifying room dimensions, restroom location with fixtures, room exits and details about the proposed use of the respective lease area would need to be prepared and be submitted to the Inspections Division for review.*
4. *Occupancy limits: Inspections indicated, 15 person maximum occupant limit for Units C and D – Rooms numbers 1, 2, 3, 4, 5 and 6 because the lease area only has one toilet fixture in the restroom. Adding an additional toilet, restroom, would allow a total of 80 occupants per DSPS building codes (Table 2902.1).*
5. *Exit Doors: The maximum number occupants that can occupy the lease area for one exit door is 49 persons per DSPS building codes (DSPS Table 1006.2.1). Two code compliant exit doors within the lease area would require additional review to establish maximum number of occupants.*

*NOTE: The second door located on south wall of Unit 4 is labeled as an exit but is not a legal exit as it leads through an adjacent,/independent lease space to reach the actual exit door.*

6. *Expectations: The applicant was asked to submit a scaled floor plan to the Inspections Division for their review so further assistance can be provided related to satisfying the applicable Building Codes.*

*Health Department: On November 16, 2021, staff contacted the applicant. The applicant indicated the carpeting in the proposed kitchen area was replaced with new floor covering. A plumbing contractor was hired and is in the process of drawing up plans to submit to the Health Department and the Plumbing Inspector for review.*

**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.

Section 23-172(m) of the Municipal Code requires a minimum number of off-street parking spaces based on the use of a property. In this case, the property has historically functioned as a shopping center building, per Assessor's Office records. The proposal will not increase the gross floor area of the existing multi-tenant building. Therefore, additional off-street parking spaces are not required for the applicant's request.

**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) of the Municipal Code, which were found in the affirmative, as long as all stipulations are satisfied.

The proposed alcohol service will be ancillary and subordinate to the primary use as a painting/crafts studio (i.e., an amenity for the customers). With the implementation of proposed stipulations of approval, the proposed use is not expected to cause or aggravate any problems in the neighborhood created by the sale of alcohol such as disturbance of the peace, excessive loud noises, traffic violations, or impact on city services.

### **RECOMMENDATION**

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Staff recommends, based on the above analysis, that Special Use Permit #3-21 for a paint/craft studio with alcohol sales located at 550 North Morrison Street Unit D – Rooms 3, 4, 5 and 6 (Tax Id #31-2-0586-00) 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. The serving and consumption of alcohol is limited to the interior lower level tenant space, as identified on the attached development plan and floor 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.

*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.*

6. The serving and consumption of alcohol is limited to customers who are participating in the production of an arts and crafts project.

*Substantial Evidence: This condition provides notice to the applicant that alcohol can only be consumed by customers when they paint and/or make crafts which is specified in the definition term for "Painting/Craft Studio with alcohol sales" pursuant to Section 23-22 of the Zoning Ordinance.*

7. This Special Use Permit is needed for a paint/craft studio with on-site alcohol sales and consumption. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.

*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 #3-21  
PAINT/CRAFT STUDIO WITH ALCOHOL SALES  
550 NORTH MORRISON STREET, UNIT D – LOWER LEVEL ROOMS 3, 4, 5 and 6**

**WHEREAS**, Timasha Thornton has applied for a Special Use Permit for Paint/Craft Studio with Alcohol Sales located at 550 North Morrison Street, Unit D – Lower Level Rooms 3, 4, 5 and 6 (Tax Id #31-2-0586-00); and

**WHEREAS**, the location for the proposed Paint/Craft Studio with Alcohol Sales is located in the C-2 General Commercial District, and the proposed use may be permitted by Special Use Permit within this zoning district pursuant to Chapter 23 of the Municipal Code. As defined by Chapter 23 of the Municipal Code, a Painting/Craft Studio with Alcohol Sales means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and alcoholic beverages for consumption while they paint and/or make crafts; and

**WHEREAS**, the City of Appleton Plan Commission held a public hearing on November 10, 2021 on Special Use Permit #3-21, 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 subsequent City Plan Commission meeting on December 8, 2021; 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 #3-21 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 December 15, 2021.

**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 #3-21 for a Paint/Craft Studio with alcohol sales located at 550 North Morrison Street, Unit D – Lower Level Rooms 3, 4, 5 and 6

(Tax Id #31-2-0586-00), 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 #3-21 for a Paint/Craft Studio with Alcohol Sales located at 550 North Morrison Street, Unit D – Lower Level Rooms 3, 4, 5 and 6 (Tax Id #31-2-0586-00), 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 #3-21**

- 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. The serving and consumption of alcohol is limited to the interior lower level tenant space, as identified on the attached development plan and floor 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.
  - F. The serving and consumption of alcohol is limited to customers who are participating in the production of an arts and crafts project.
  - G. This Special Use Permit is needed for a paint/craft studio with on-site alcohol sales and consumption. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.
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 \_\_\_\_\_, 2021.

\_\_\_\_\_  
Jacob A. Woodford, Mayor

ATTEST:

\_\_\_\_\_  
Kami Lynch, City Clerk



## PLAN OF OPERATION AND LOCATIONAL INFORMATION

### Business information:

Name of business: TEE TEES NACHOS LLC

Years in operation: New Business

(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:

Proposed to operate a painting/craft studio with alcohol sales by providing customers instruction in the art of painting and/or making crafts and offering customers the opportunity to purchase alcoholic beverages for consumption on-site while they paint and/or make crafts.

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

(square feet) 892 sq.ft. Unit D, Lower Level of Building Unit D, Room# 3,4,5 and 6. See floor plan

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

(square feet) Same as existing, no change

**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	9AM	10PM
Friday	9AM	10PM
Saturday	9AM	10PM
Sunday	N/A	N/A

**Production/Storage information:**

(Check applicable proposed business activity(s) proposed for the premises)

- Current production of fermented malt beverages: N/A U.S. gallons per year
- Proposed production of fermented malt beverages: N/A U.S. gallons per year
- Current production of wine: N/A U.S. gallons per year
- Proposed production of wine: N/A U.S. gallons per year
- Current production of intoxicating liquor: N/A proof gallons per year
- Proposed production of intoxicating liquor: N/A 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:

Not Applicable to the proposed use.

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

Not Applicable to the proposed use.

**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: \_\_\_\_\_ 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:  
The noise level will be a medium level

Describe how the crowd noise will be controlled inside and outside the building:  
by posting signs in and out the building, as well as reminding by staff

**Off-Street Parking:**

Number of spaces existing on-site: 43.00

Number of spaces proposed on-site: 0.00

**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?

Existing driveway access is from North Morrison Street and Pacific Street. No accesses improvements are proposed with this request.

**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: 4

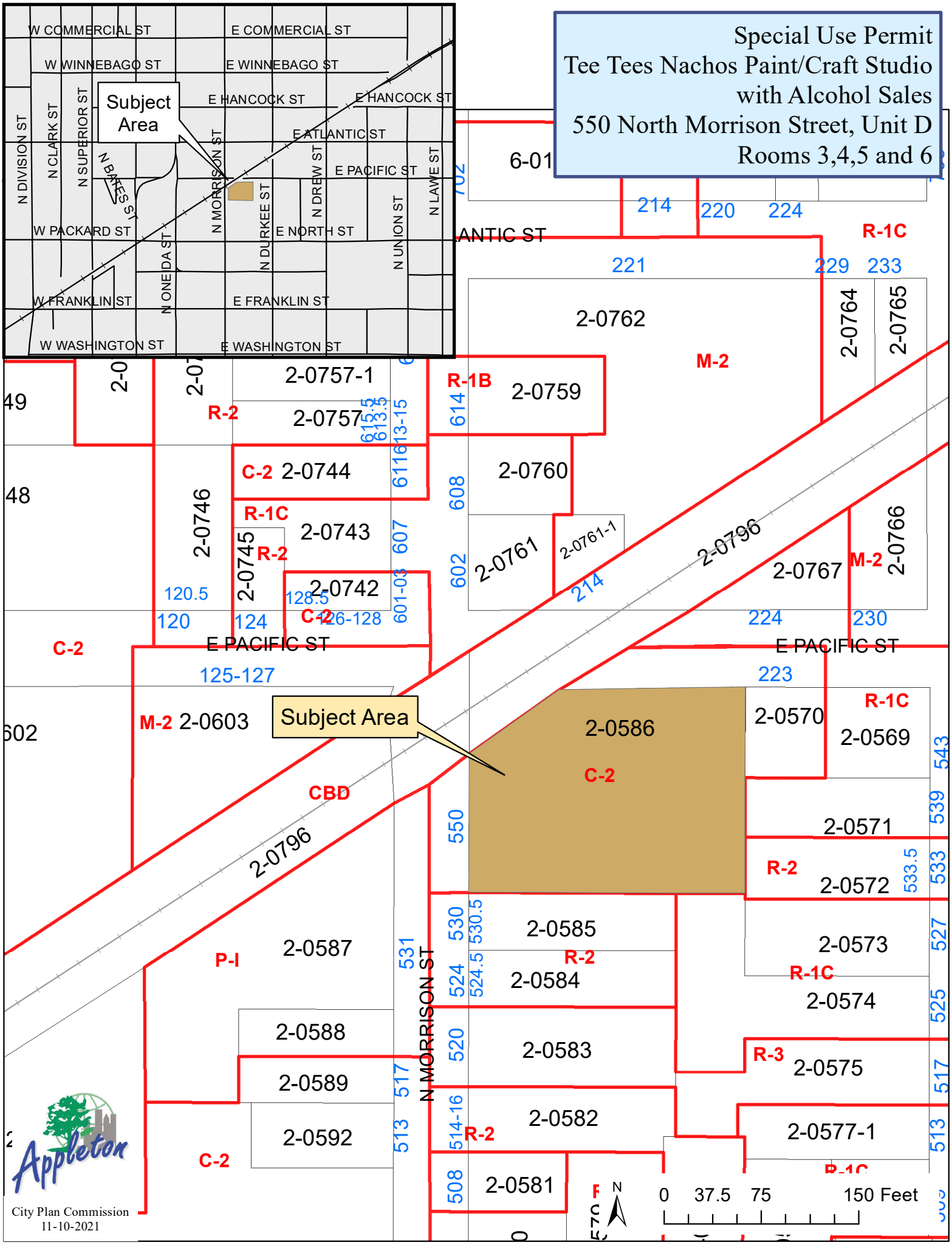
Number of proposed employees: 2

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

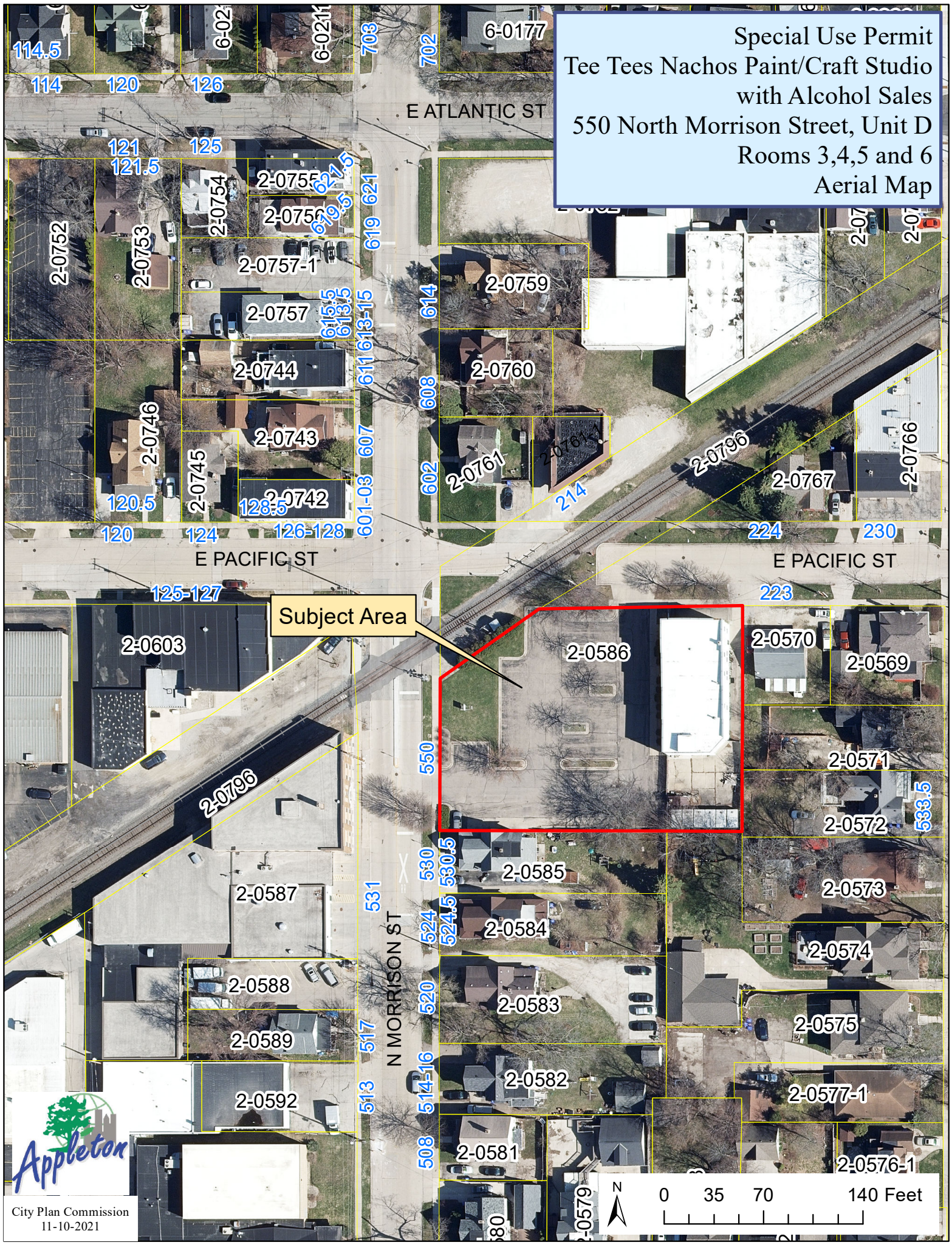
Special Use Permit  
 Tee Tees Nachos Paint/Craft Studio  
 with Alcohol Sales  
 550 North Morrison Street, Unit D

Subject Area

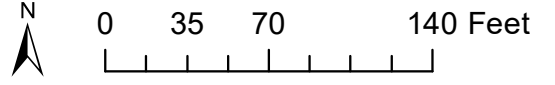
Subject Area



Special Use Permit  
 Tee Tees Nachos Paint/Craft Studio  
 with Alcohol Sales  
 550 North Morrison Street, Unit D  
 Rooms 3,4,5 and 6  
 Aerial Map

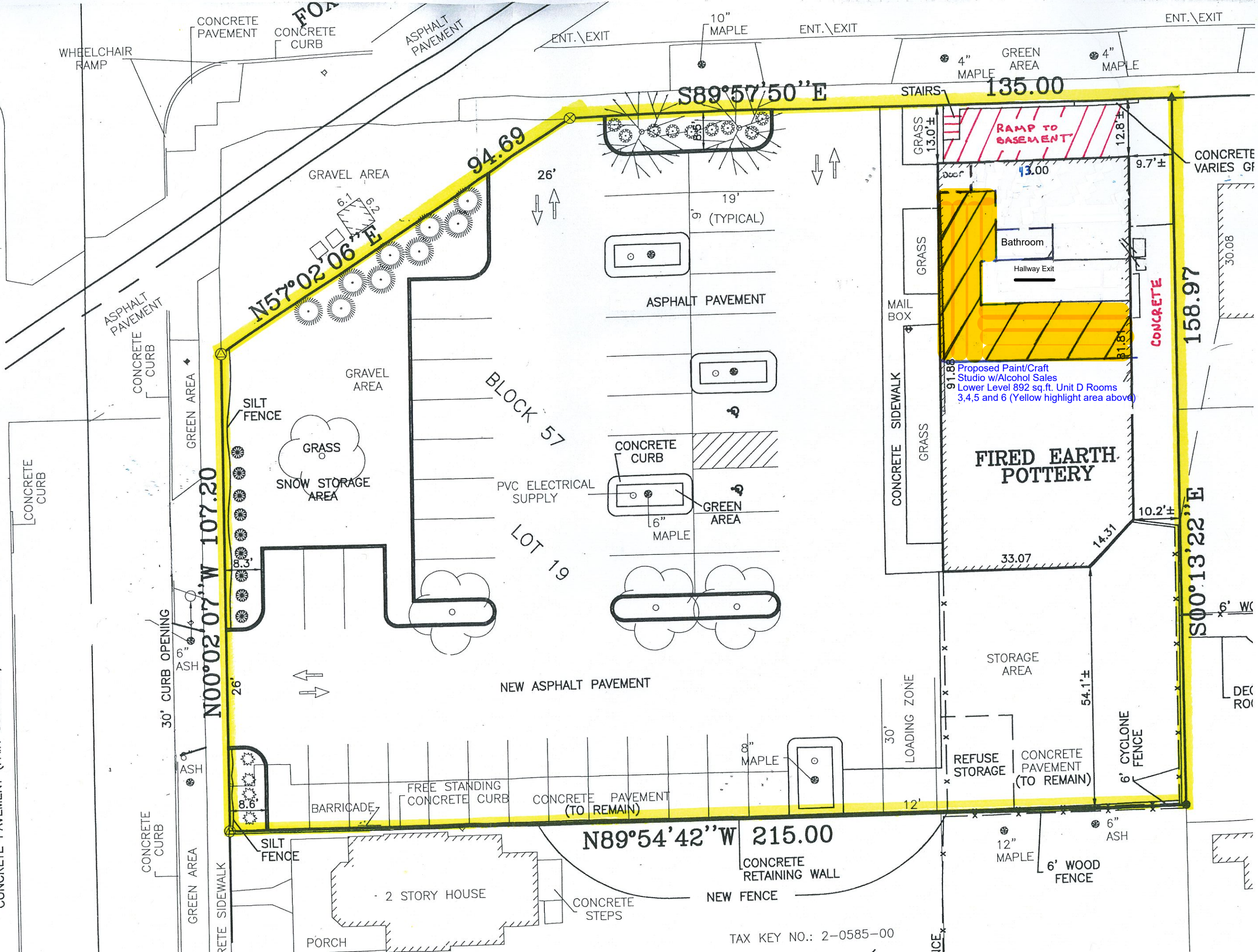


Subject Area

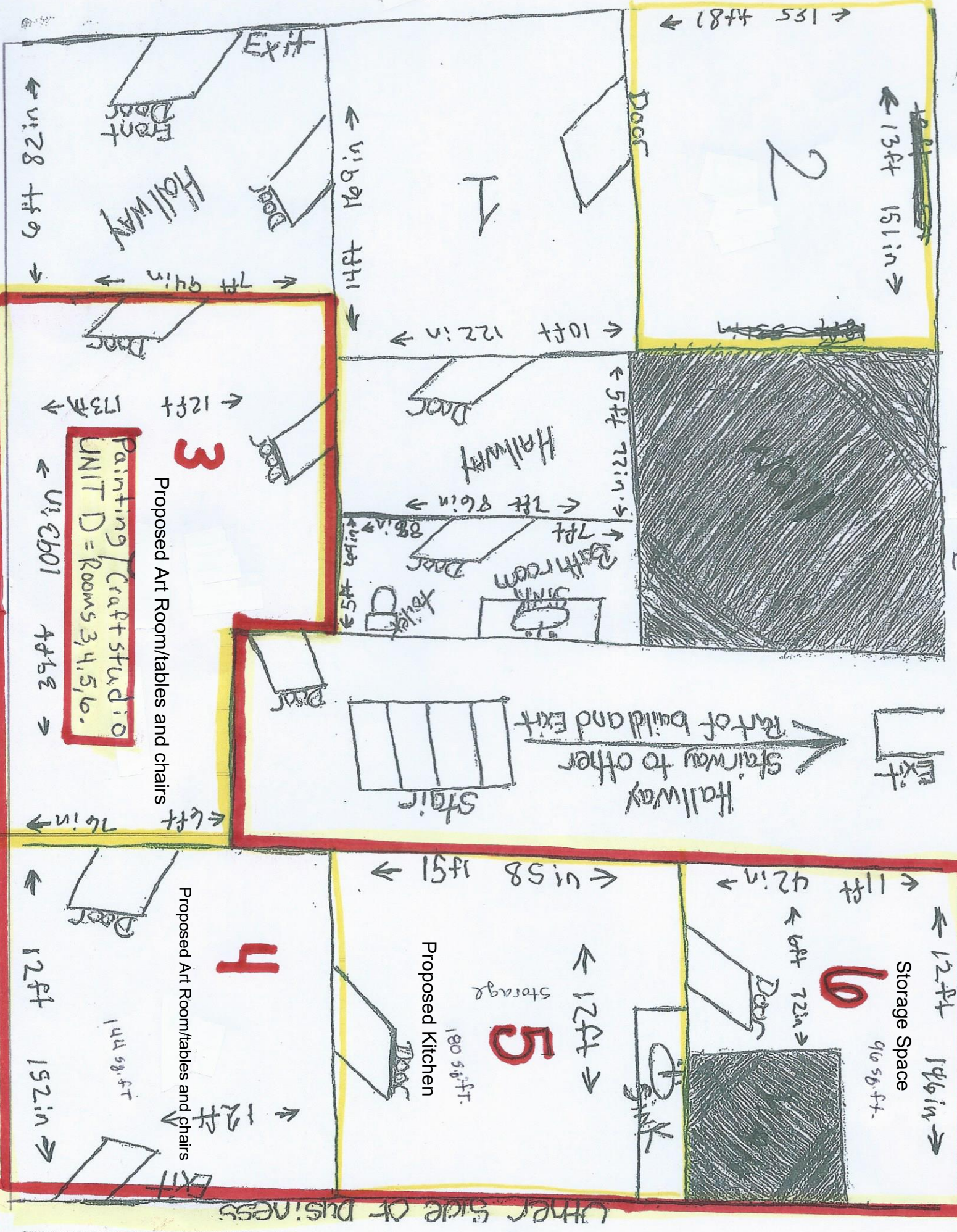


# MORRISON STREET (60')

CONCRETE PAVEMENT (FAIR CONDITION) PUBLIC ROADWAY



TAX KEY NO.: 2-0585-00



← 13ft 151in →

2

← 18ft 531 →

Door

← 10ft 122in →

← 5ft 72in →

Hallway

← 7ft 86in →

← 7ft →

Bathroom

← 8ft 86in →

Door

← 5ft 45 →

Door

Door

Stair

Hallway  
Stairway to other  
Part of building and Exit

Exit

3

Proposed Art Room/tables and chairs

Painting Craft Studio  
UNIT D = Rooms 3, 4, 5, 6.

← 12ft →

← 173in →

← 112601 4ft 52 →

← 6ft →

← 76in →

4

Proposed Art Room/tables and chairs

← 12ft →

← 144 sq. ft →

← 152in →

← 12ft →

Exit

Proposed Kitchen

180 sq. ft.

Storage

← 12ft →

← 158 1451 →

6

Storage Space

96 sq. ft.

← 12ft →

← 146in →

← 11ft →

← 6ft 72in →

Door

Door

Other side of business