



REPORT TO CITY PLAN COMMISSION

Public Hearing Date: June 24, 2013

Common Council Meeting Date: July 10, 2013

Item: Special Use Permit #6-13 to expand an existing restaurant and tavern with alcohol sales with 1,200 square feet of outdoor patio area (south side of building) with alcohol consumption.

Case Manager: Jeff Towne

GENERAL INFORMATION

Owner/Applicant: Mark Behnke - property owner, applicant

Address/Parcel #: 107 West College Avenue/31-2-0069-00

Petitioner's Request: The applicant is requesting a Special Use Permit to expand an existing restaurant and tavern with alcohol sales with 1,200 square feet of outdoor patio area (south side of building) with alcohol consumption within Houdini Plaza. The current size of the outdoor patio is 400 square feet.

BACKGROUND

Special Use Permit #14-05 was approved for a restaurant with alcohol sales at this location was approved in 2005 and will remain in effect for the interior of the building. This Special Use Permit (#6-13) covers the outdoor area only.

STAFF ANALYSIS

Existing Site Conditions: The property is developed with a restaurant and tavern that currently hold Reserve Class "B" liquor licenses which allow alcoholic beverages to be sold and consumed on premise and off premise.

Municipal Ordinance Regulations: The proposed outdoor area will be subject to the regulations of the Municipal Code and the lease agreement approved by Common Council. In order to expand the existing 400 square foot outdoor alcohol sales and service area by greater than 10%, a Special Use Permit must be applied for and approved per the current Zoning Ordinance regulations.

Operational Information for the Outdoor Seating Area: All dimensional and operational information is contained in the lease agreement between Basil's Pub and Provisions and the City of Appleton. This lease was approved by the Common Council on June 19, 2013. A copy of the Council memorandum and lease is attached to this staff report.

Overall Community Goals

- **9.3. Objective: Ensure the continued vitality of downtown and the City's neighborhood commercial districts.** (Chapter 9- Economic Development)

2010-2030 Comprehensive Plan: The Community Development staff has reviewed the City's 2010-2030 Comprehensive Plan which indicates this area is appropriate for commercial uses as part of the Central Business District/Arts and Entertainment area.

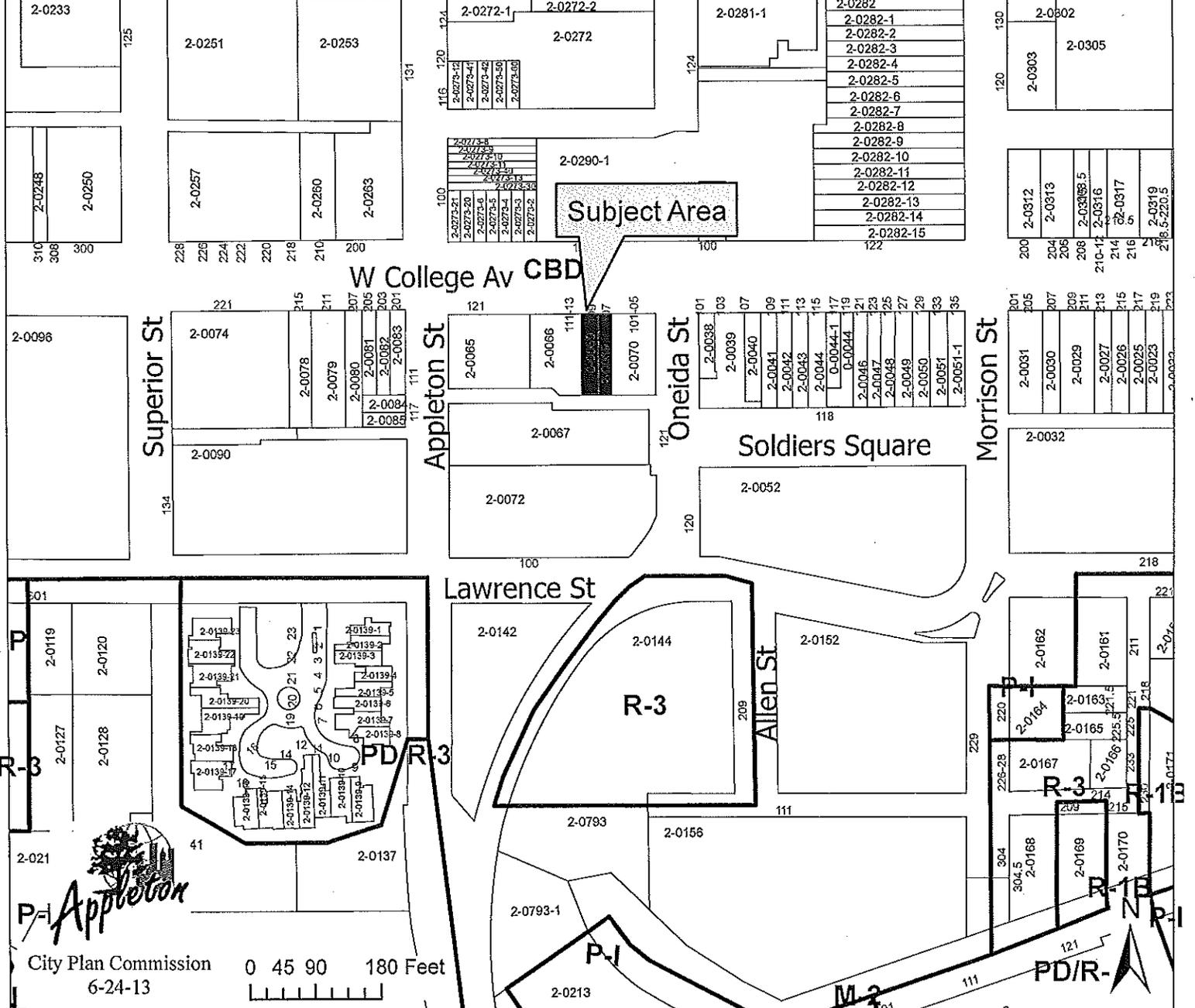
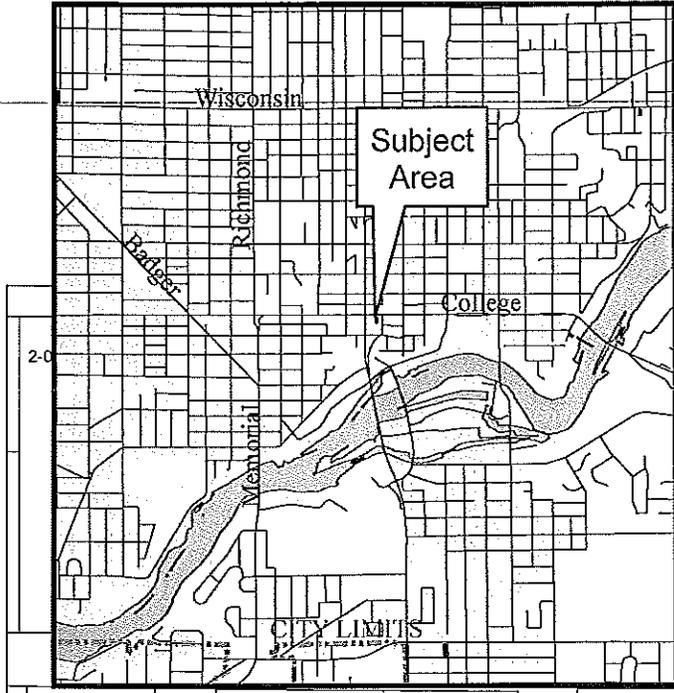
Finding of Fact: This request was reviewed in accordance with the standards for granting a Special Use Permit under 23-66 (e) (1-6), which were found in the affirmative.

Technical Review Group Report (TRG): This item was discussed at the June 11, 2013 Technical Review Group meeting. No negative comments were received from any of the participants.

RECOMMENDATION

Staff recommends, based on the above, that Special Use Permit #6-13 to expand an existing restaurant and tavern with alcohol sales with 1,200 square feet of outdoor patio area (south side of building) with alcohol consumption within Houdini Plaza, as shown on the attached maps and per the attached lease agreement, **BE APPROVED:**

109 West College Avenue
 Special Use Permit
 Outdoor Patio with Alcohol Consumption
 Zoning Map



Subject Area

W College Av CBD





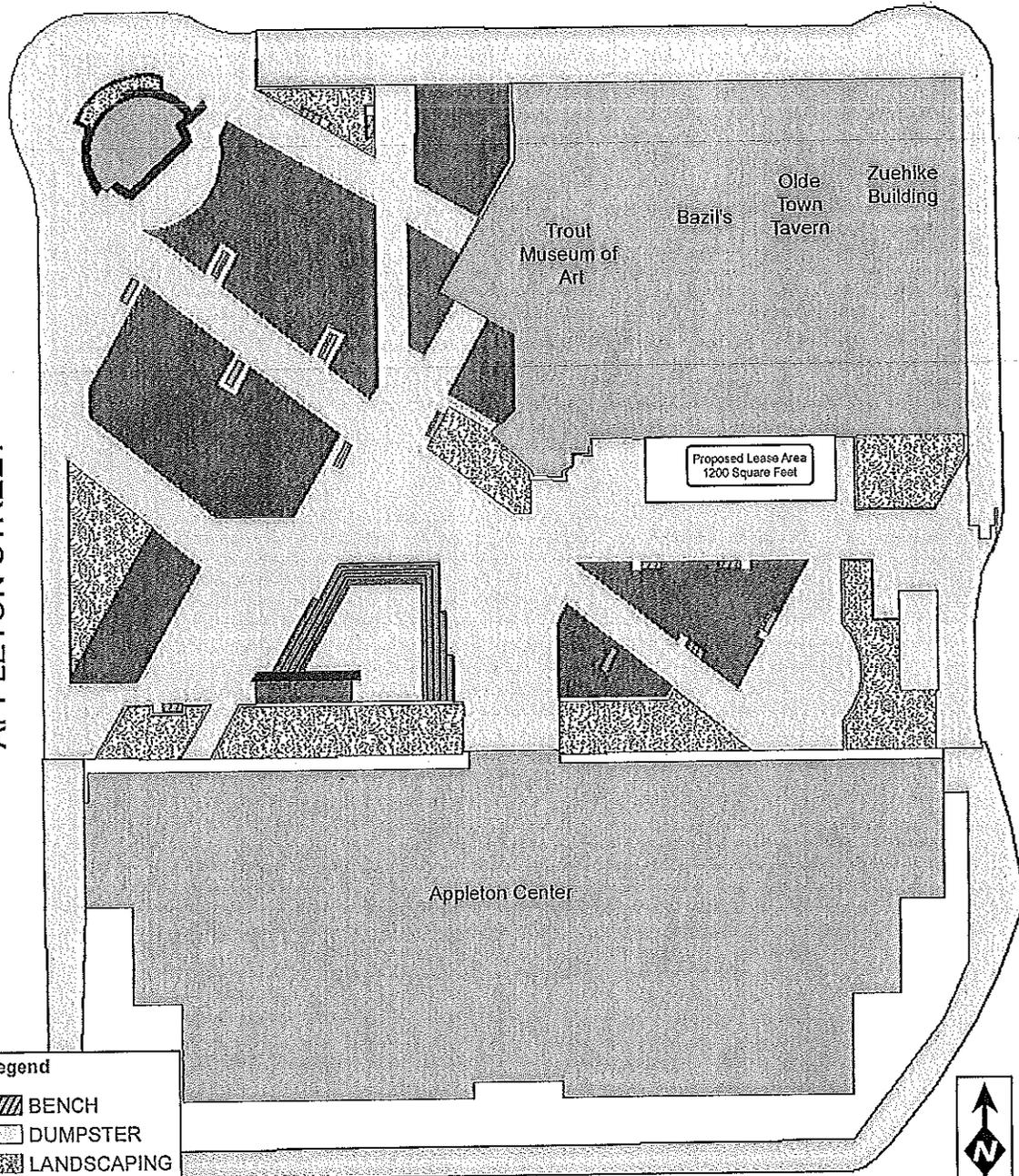
HOUDINI PLAZA



COLLEGE AVENUE

APPLETON STREET

ONEIDA STREET



- Legend**
- BENCH
 - DUMPSTER
 - LANDSCAPING
 - SIDEWALK
 - SOD
 - STEPS & RAMP
 - FOUNTAIN



0 20 40 Feet

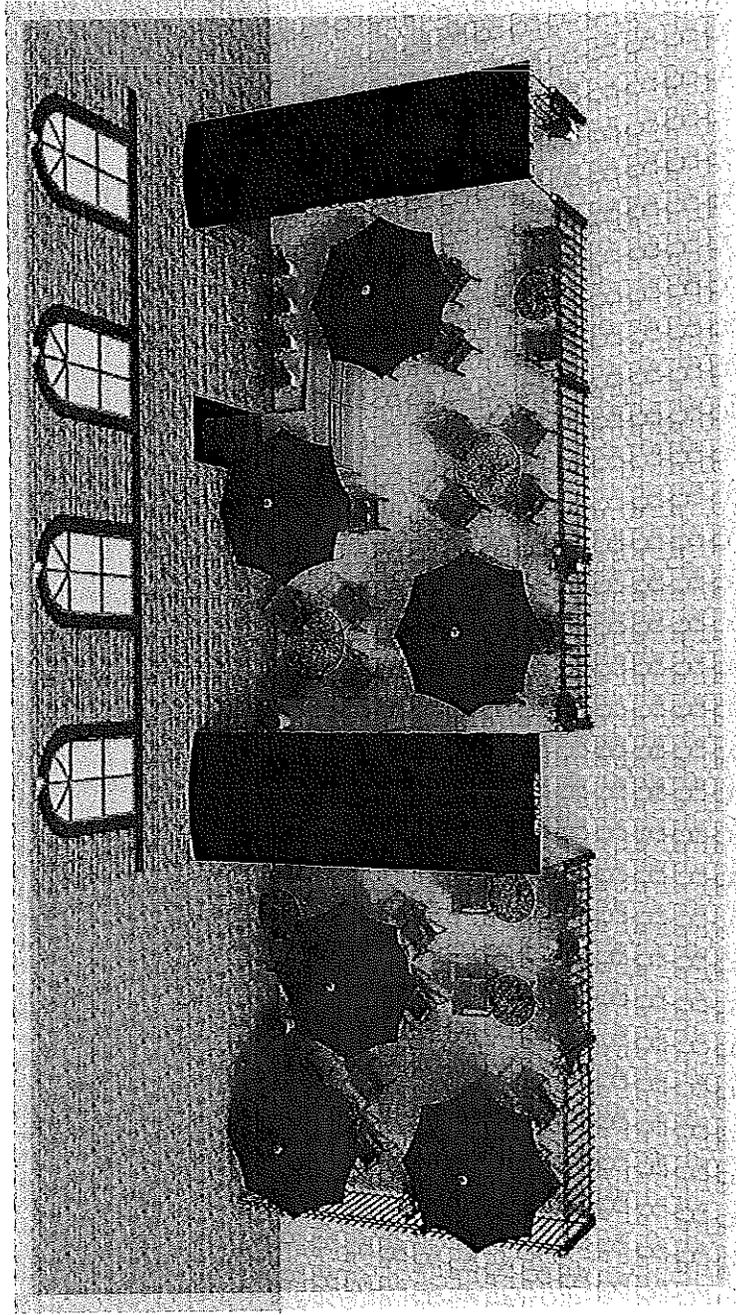
LAWRENCE STREET



City Plan Commission
06-24-13

109 West College Avenue
Special Use Permit
Outdoor Patio with Alcohol Consumption

BAZIL'S PATIO



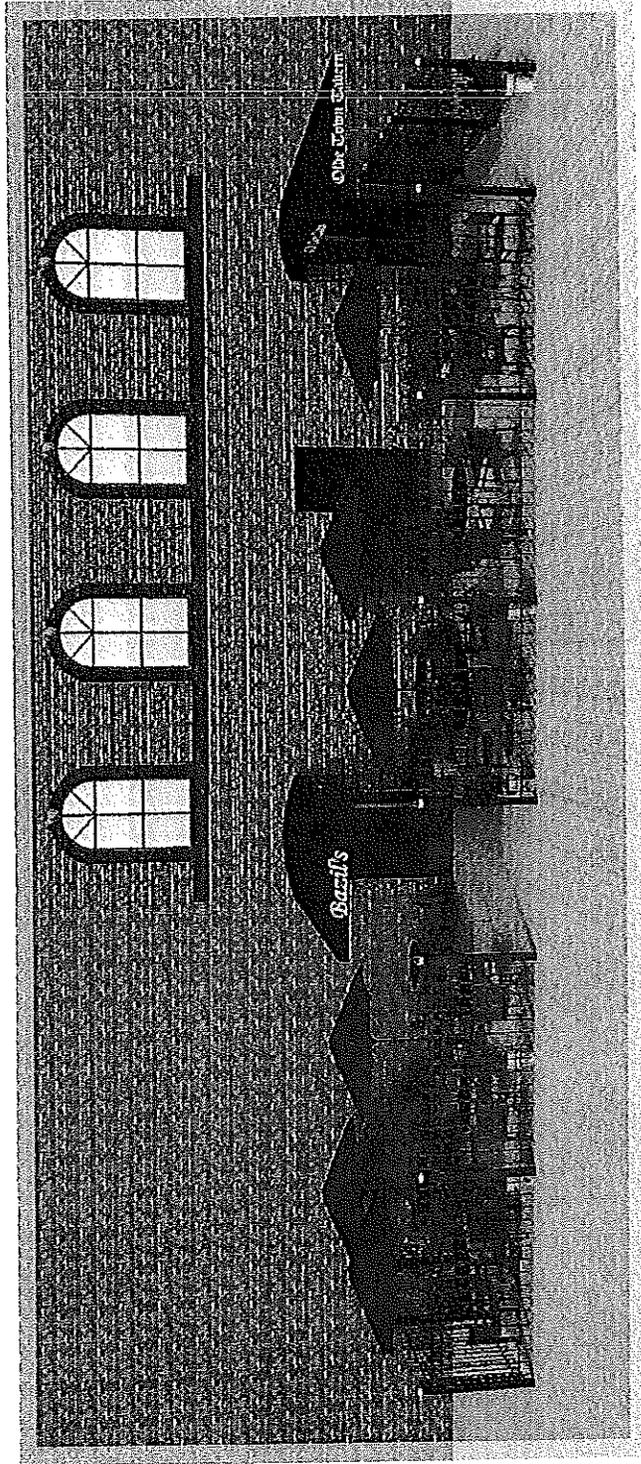
Bazil's Patio | Appleton, WI | March 24, 2013 | Created by Kristie Behnke



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109 West College Avenue
Special Use Permit
Outdoor Patio with Alcohol Consumption

BAZIL'S PATIO



Basil's Patio | Appleton, WI | March 24, 2013 | Created by Kristle Behnke



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06-24-13

109 West College Avenue
Special Use Permit
Outdoor Patio with Alcohol Consumption



PARKS, RECREATION & FACILITIES MANAGEMENT

 Facilities & Grounds
1819 E. Witzke Boulevard
Appleton, Wisconsin 54911-8401
(920) 832-5514 Fax (920)993-3103
www.appleton.org

Memorandum

To: Parks and Recreation Committee
From: Dean Gazza, Parks, Recreation and Facilities Management Department
Date: May 17, 2013
Re: Action: Agreement with Bazil's Pub and Provisions for use of Houdini Plaza

Since 2005, the Parks and Recreation Committee and the City Council have approved a lease agreement with Mark Behnke, owner of Bazil's Pub and Provisions and Olde Town Tavern, to lease approximately 400 sq. ft. in Houdini Plaza behind Bazil's for an outdoor seating/serving area. With the renovations to Houdini Plaza scheduled for completion in mid-June, Mr. Behnke has requested leasing 1,200 sq. ft of space in Houdini Plaza behind both Bazil's and Olde Town Tavern. A diagram of Houdini Plaza is attached and the proposed lease space is noted.

The leasing of space in Houdini Plaza by Mr. Behnke was presented to the Parks and Recreation Committee on April 24, 2013 and May 8, 2013, for review and comment. Based on feedback provided by the Committee and continued discussions with Mr. Behnke, the following terms of a lease agreement are being presented to the Committee for review and consideration. Mr. Behnke has agreed to the terms of the agreement

The terms of the lease agreement are generally consistent with previous agreements and also include additional and/or amended terms based on the input provided at the Committee meeting on April 24th and May 8th. (The additional and/or amended terms are noted in **BOLD**.)

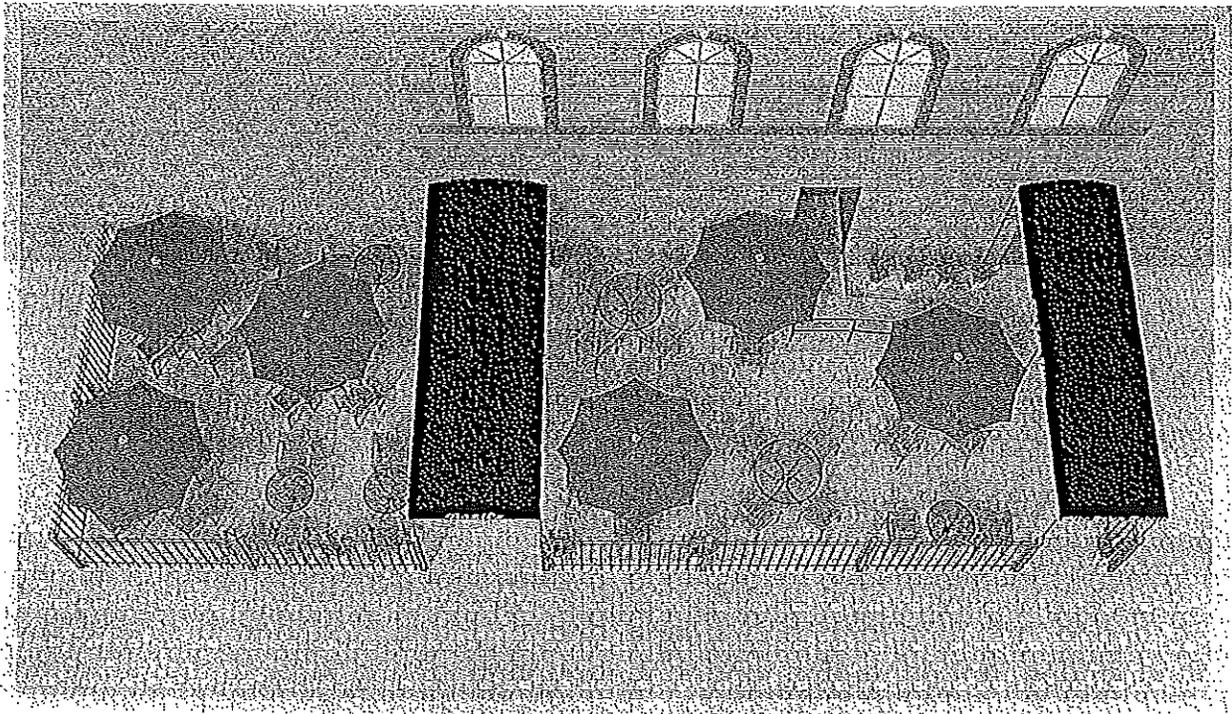
The terms of the lease agreement with Mr. Behnke would include the following:

- Behnke will lease 1,200 sq. ft immediately south of Bazil's and Olde Town Tavern in Houdini Plaza as identified in Attachment B:
- Behnke will lease the area beginning upon signing of the agreement and ending **December 31, 2017**.
- Behnke will provide a prorated payment based on \$3,000 for 2013, a payment of \$3,000 in 2014 and a payment of \$4,000 in 2015, 2016 and 2017 to the City of Appleton for the term of the lease. Payment shall be due at the signing of the lease and on or before January 31 of each year thereafter.
- Food and beverage service shall be limited to the Leased Premise only between 11:00 A.M. and 12:00 A.M. Monday thru Friday and Sunday; and, between 9:00 A.M. and 12:00 A.M. Saturday.
- Behnke will provide food and beverage service that meets all applicable licenses and permits.
- Behnke will obtain all applicable licenses and approvals for the service of food and beverage in the leased area.
- Behnke will provide trained wait staff during all food service hours.
- Behnke will provide all furniture for the leased area. Furniture shall be restaurant quality outdoor furniture and shall be consistent with the current amenities in the plaza.
- Behnke will complete renovations to the back wall of the restaurants/bars by 8/31/2013. Prior to lease execution, Mr. Behnke will detail his plans for these improvements and are to be similar to the drawings presented to the Parks & Recreation Committee.
- Behnke will be solely responsible for the furniture.
- Behnke will provide the fencing necessary to separate the leased area from the remainder of Houdini Plaza as depicted in the renditions (Attachment C). A street occupancy permit must be obtained if fencing and/or canopies are permanently affixed to the plaza.
- The lease area may only be used after the fencing has been installed.
- Behnke will be solely responsible for removal of fencing and/or canopies and associated costs to repair/restore Houdini Plaza at the end of the agreement.
- Behnke will maintain the leased area on a daily basis (12 months).
- Behnke will address daily maintenance issues in Houdini Plaza directly related to the activities related to the leased area. Maintenance issues shall include, but are not limited to, waste and litter disposal, walkway cleaning, snow removal and general site inspection consistent with standards established by the Parks, Recreation and Facilities Management Department.
- Lease agreement is non-transferable to any other party without written agreement by all parties.
- Behnke shall permit the general public to use the Leased Patio Premises, including use of restroom facilities, during regular service hours provided such use does not conflict with Tenant's food and beverage licensing.
- Behnke will be present written notice of any violations of agreement and will have 10 days to correct the violation. If the violation is not corrected after ten (10) days, the City shall have the right to terminate the agreement.

This lease agreement will appear on the Parks and Recreation Committee meeting agenda as an action item on Wednesday, May 22, 2013.

Please contact me at 832-5572 with any questions or concerns.

BAZIL'S PATIO



Bazil's Patio | Appleton, WI | March 24, 2013 | Created by Kistler Behnke

