



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: July 14, 2021

Common Council Meeting Date: July 21, 2021

Item: Special Use Permit #2-21 for restaurant with alcohol sales and service

Case Manager: David Kress, Principal Planner

GENERAL INFORMATION

Owner: Christensen Land Company, LLP

Applicant: Jimmy's Chicken and Fish c/o James Jackson

Address/Parcel #: 205 North Richmond Street (Tax Id #31-5-1184-00)

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

BACKGROUND

The subject area is located along North Richmond Street, in between West Franklin Street and West Washington Street. The subject area consists of space currently occupied by Jimmy's Chicken and Fish, which is in a middle unit of a multi-tenant building. Jimmy's Chicken and Fish has operated at this location since 2020 as a restaurant (without alcohol). The applicant recently applied for a Liquor License that includes Class B beer, which is on track to go to Safety and Licensing Committee on July 14th and Common Council on July 21st.

Common Council has previously approved Special Use Permits #20-05 and #6-16 for restaurants with alcohol sales at 139 and 207 N. Richmond Street (Emmett's Bar and Grill and Lindo Michoacan Authentic Mexican Restaurant), which are located in different tenant spaces of the multi-tenant building.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish alcohol sales and service at the existing restaurant on the subject site. The restaurant occupies approximately 1,233 square feet in a first-floor tenant space of the existing building. Based on the attached development plan, this request will not increase existing building area.

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 20,914 square feet, including other ground floor commercial uses and second floor apartment units. The 0.87-acre site also

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includes off-street parking east and west of the building. Access is provided by curb cuts on North Richmond Street and West Washington 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 restaurant with alcohol sales and service 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: C-2 General Commercial District and R-2 Two-Family District. The adjacent land uses to the north are currently a mix of commercial uses and duplexes.

South: CBD Central Business District and C-2 General Commercial District. The adjacent land uses to the south are currently a mix of commercial uses.

East: CBD Central Business District. The adjacent land uses to the east are currently a mix of commercial uses.

West: C-2 General Commercial District and R-1C Central City Residential District. The adjacent land uses to the west are currently a parking lot that serves the subject property and single-family residential.

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.

OBJECTIVE 10.5 Land Use:

Support the continued redevelopment and revitalization of land uses adjacent to Appleton's key transportation corridors and downtown.

Chapter 16: Richmond Street Corridor Plan, General Plan:

Land Uses, Pedestrian-Oriented Commercial – This use and character is recommended between College Avenue and Atlantic Street, where it already exists to a substantial degree. It is typified by buildings constructed at or near the street right-of-way. Ground floor uses are nearly always commercial.

Technical Review Group (TRG) Report: This item appeared on the June 22, 2021 TRG agenda. No negative comments were received from participating departments.

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” use, per Assessor’s Office records. Given that Jimmy’s Chicken and Fish already occupies the tenant space, the nature and intensity of the use remains unchanged, as 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.

RECOMMENDATION

Staff recommends, based on the above analysis, that Special Use Permit #2-21 for a restaurant with alcohol sales and service located at 205 North Richmond Street (Tax Id #31-5-1184-00), 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 ground floor of the tenant space, 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.

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. This Special Use Permit is needed for 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 #2-21
RESTAURANT WITH ALCOHOL
205 NORTH RICHMOND STREET**

WHEREAS, James Jackson, Jimmy’s Chicken and Fish, has applied for a Special Use Permit for restaurant with alcohol sales and service located at 205 North Richmond Street, also identified as Parcel Number 31-5-1184-00; and

WHEREAS, the location for the proposed restaurant with alcohol sales and service 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; and

WHEREAS, the City of Appleton Plan Commission held a public hearing on July 14, 2021 on Special Use Permit #2-21, 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

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 #2-21 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 July 21, 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 #2-21 for a restaurant with alcohol sales and service located at 205 North Richmond Street, also identified as Parcel Number 31-5-1184-00, 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 #2-21 for a restaurant with alcohol sales and service located at 205 North Richmond Street, also identified as Parcel Number 31-5-1184-00, 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 #2-21

- 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 ground floor of the tenant space, 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.
 - F. This Special Use Permit is needed for 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

205 North Richmond Street
Special Use Permit
Restaurant with Alcohol Sales
Aerial Map



INTERIOR ALTERATIONS FOR JIMMY'S CHICKEN

APPLETON,

WISCONSIN

ACS
Architectural &
Construction
Services, Inc.
327 Randolph Drive Suite C
APPLETON, WI 54915
TELE: 920-574-2657 FAX: 920-574-2660

INTERIOR ALTERATIONS FOR,
JIMMY'S CHICKEN
APPLETON, WISCONSIN

DATE: JULY 28, 2020
ARCH. K. SPERL
D. BY: S. BURTON
JOB: 20-037
REV: _____

T
1.0

GENERAL NOTES

THESE DRAWINGS COVER STRUCTURAL AND GENERAL CONSTRUCTION WORK ONLY. ALL WORK SHALL CONFORM TO STATE AND LOCAL CODES WHICH GOVERN FOR THE BUILDING SITE, AND SHALL BE DONE IN A WORKMANLIKE MANNER.

THE CONTRACTOR SHALL FAMILIARIZE HIMSELF WITH ALL ARCHITECTURAL, MECHANICAL AND ELECTRICAL DRAWINGS TO VERIFY THE LOCATION AND DIMENSIONS OF CHASES, INSERTS, OPENINGS, SLEEVES, REGLETS, DEPRESSIONS AND OTHER PROJECT REQUIREMENTS NOT SHOWN ON THE STRUCTURAL DRAWINGS.

OPENINGS SHOWN ON THE STRUCTURAL DRAWINGS SHALL NOT BE REVISED WITHOUT WRITTEN APPROVAL FROM THE ARCHITECT.

CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS, ELEVATIONS AND CONDITIONS AND NOTIFY ARCHITECT OF ANY DISCREPANCIES.

THE TYPICAL DETAILS SHOWN ON THE DRAWINGS SHALL BE APPLICABLE TO ALL PARTS OF THE CONTRACT DRAWINGS UNLESS SPECIFICALLY NOTED OTHERWISE.

THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR JOB SAFETY DURING CONSTRUCTION.

PROJECT INFORMATION

CONSTRUCTION CLASSIFICATION

BUILDING IS EXISTING - TYPE IIB

OCCUPANCY

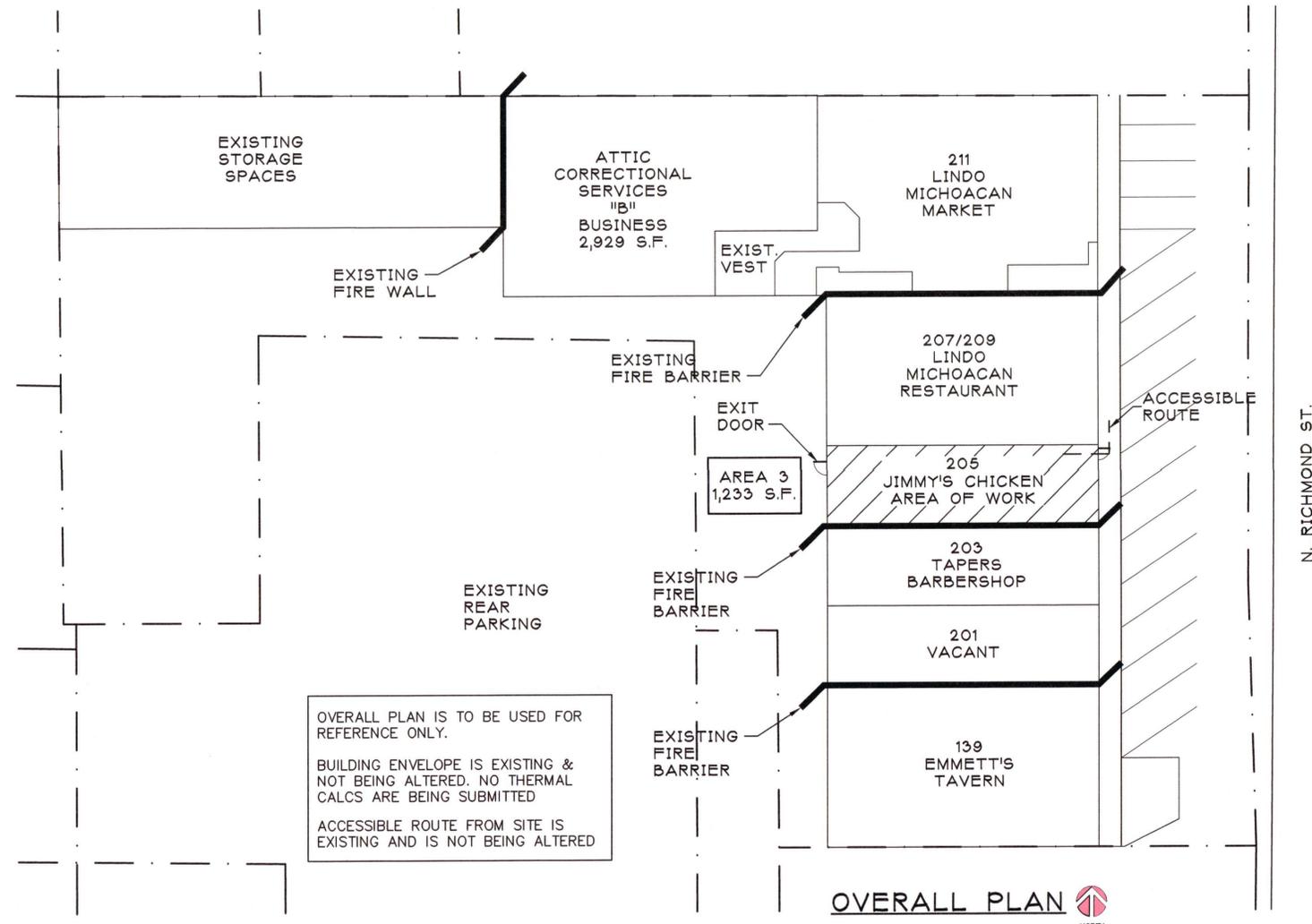
"B" BUSINESS (A-2 < 50 PEOPLE)

SEPARATION

EXISTING FIRE BARRIERS

SHEET INDEX

SHEET	SHEET TITLE
T1.0	GENERAL COVER SHEET
A1.0	ARCHITECTURAL FLOOR PLAN
A2.0	ARCHITECTURAL ADA DETAILS

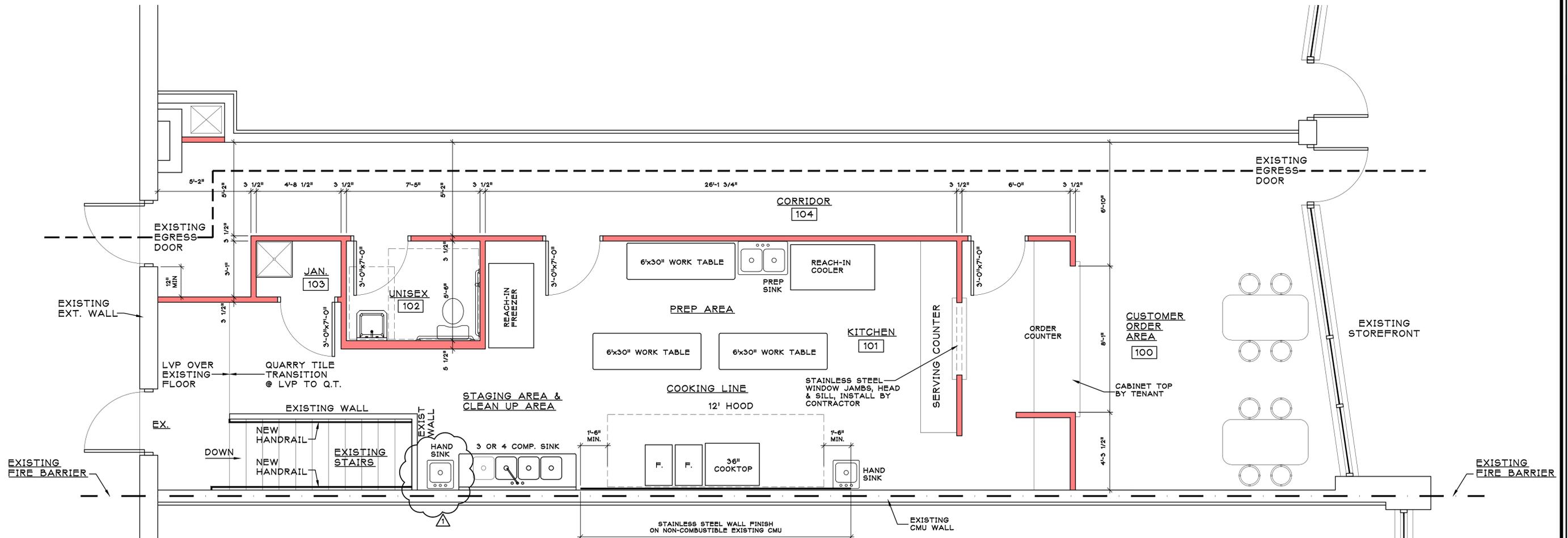


OVERALL PLAN IS TO BE USED FOR REFERENCE ONLY.
BUILDING ENVELOPE IS EXISTING & NOT BEING ALTERED. NO THERMAL CALCS ARE BEING SUBMITTED
ACCESSIBLE ROUTE FROM SITE IS EXISTING AND IS NOT BEING ALTERED

OVERALL PLAN

WISCONSIN
KELLY S. SPERL
A-7897
APPLETON, WI
ARCHITECT
8-6-2020

INTERIOR ALTERATIONS FOR,
JIMMY'S CHICKEN
APPLETON, WISCONSIN



CAPCITIES
 EMPLOYEES - 4 PEOPLE
 SEATING - 8 PEOPLE

 SPACE HAS EXISTING
 BASEMENT WHICH
 IS NOT BEING ALTERED

FLOOR PLAN
 SCALE: 3/8" = 1'-0"


GENERAL NOTES
 VINYL BASE BY TENANT
 PAINTED WALLS

KITCHEN
 FLOOR - NON-SLIP QUARRY TILE
 TENANT PROVIDED, INSTALLED BY CONTRACTOR
 WALLS - FRP

JANITOR
 FLOOR - QUARRY TILE & VINYL BASE
 TENANT PROVIDED, INSTALLED BY CONTRACTOR
 WALLS - PAINTED GWB

UNISEX
 FLOOR - CERMIC TILE FLOOR & BASE
 PROVIDED & INSTALLED BY CONTRACTOR
 WALLS - PAINTED GWB

CEILINGS
 KITCHEN, JANITOR, UNISEX - VINYL COVERED GWB
 ORDER AREA, CORRIDOR - 2x2 A.C.T.

 *JANITOR, UNISEX & KITCHEN TO RECIEVE
 5/8" CEMENT BOARD TO ACCEPT NEW
 QUARRY TILE ON CERAMIC TILE

DATE: JULY 28, 2020
 ARCH. K. SPERL
 D. BY: S. BURTON
 JOB: 20-037
 REV.  ADDITIONAL HAND SINK 8-12-20

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business information:

Name of business: Jimmy's Chicken & Fish

Years in operation: 7mo

(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:

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

(square feet) 1233 sq ft

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

(square feet) SAME

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: 50 persons.

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Monday thru Thursday	Mon. closed 11am	9 pm
Friday	11 am	9 pm
Saturday	11 am	9 pm
Sunday	12 pm	8 pm

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:

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

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:

NO CHANGE FOR ALCOHOL SALES AND SERVICE.

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

RESTAURANT EMPLOYEES WILL BE PRESENT.

Off-Street Parking:

Number of spaces existing on-site: 10

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?

yes

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:

Emmett's Bar & Grill
Lindo michoacan Mexican Restaurant

Number of Employees:

Number of existing employees: 5

Number of proposed employees: _____

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