



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: January 12, 2022

Common Council Meeting Date: January 19, 2022

Item: Special Use Permit #5-21 for an indoor recreational use with alcohol sales and consumption

Case Manager: Jessica Titel, Principal Planner

GENERAL INFORMATION

Owner: CNR, LLC c/o Craig Weborg

Applicant: The Breaking Point c/o Courtney Hayden

Address/Parcel #: 2009 & 2011 N. Richmond Street (Tax Id #31-5-2326-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for an indoor recreational use with alcohol sales and consumption.

BACKGROUND

The building was constructed in 1947 and the property contains a multi-tenant building with an off-street parking lot.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish an indoor recreational use with alcohol sales and service on the subject site, which would occupy approximately 2,400 square feet of the existing multi-tenant building. The uses include rage rooms, splatter room, air soft target shooting and a small bar area.

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

Existing Site Conditions: The 15,571 square foot site is currently developed with a multi-tenant building, which is approximately 5,856 square feet in size. The site provides off-street parking on the east and west sides of the building, including parking provided on the adjacent parcel (Tax Id #31-5-2327-00). Access is provided by curb cuts on North Richmond Street and West Glendale Avenue.

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, an indoor recreational use that also includes alcohol sales and consumption 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.

Special Use Permit #5-21

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North: C-2 General Commercial District. The adjacent land uses to the north are currently a mix of commercial uses.

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

East: R-1B Single-Family District. The adjacent land uses to the east are currently single-family residential.

West: M-2 General Industrial District. The adjacent land uses to the west are currently a mix of commercial uses.

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

Technical Review Group (TRG) Report: These items appeared on the December 7, 2021 Technical Review Group agenda. The following comments were received from participating departments and have been incorporated into the Conditions of Approval:

- Police Department: *Ensure the applicant is willing/able to comply with our noise ordinances with their proposed business plan, specifically "Sec. 12-87. Radio or other electric sound amplification device – prohibited. No person or business may use a radio or other similar electric sound amplification device so that sound emitting from said radio or amplification device is audible under normal conditions from a distance of seventy-five (75) or more feet."*
- Fire Department: *Please note the occupant loads provided by the applicant have not been verified through review by a representative of a Fire Department. We recommend the applicant supply the FD with a WI occupant worksheet when they want these numbers posted, as required in the Municipal Ordinance, whenever food & drink is served. Appleton Fire will print the sign for posting.*

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 (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 #5-21 for an indoor recreation use with alcohol sales and consumption located at 2009 & 2011 North Richmond Street (Tax Id #31-5-2326-00), 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. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.

Substantial Evidence: Standardized condition to ensure the applicant understands the City's Municipal Code and all applicable State and Federal laws must be followed.

2. This Special Use Permit is needed for the on-site alcohol sales and consumption, not the indoor recreational use. 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.

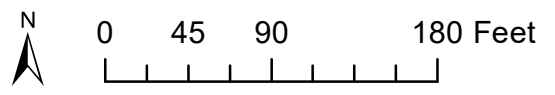
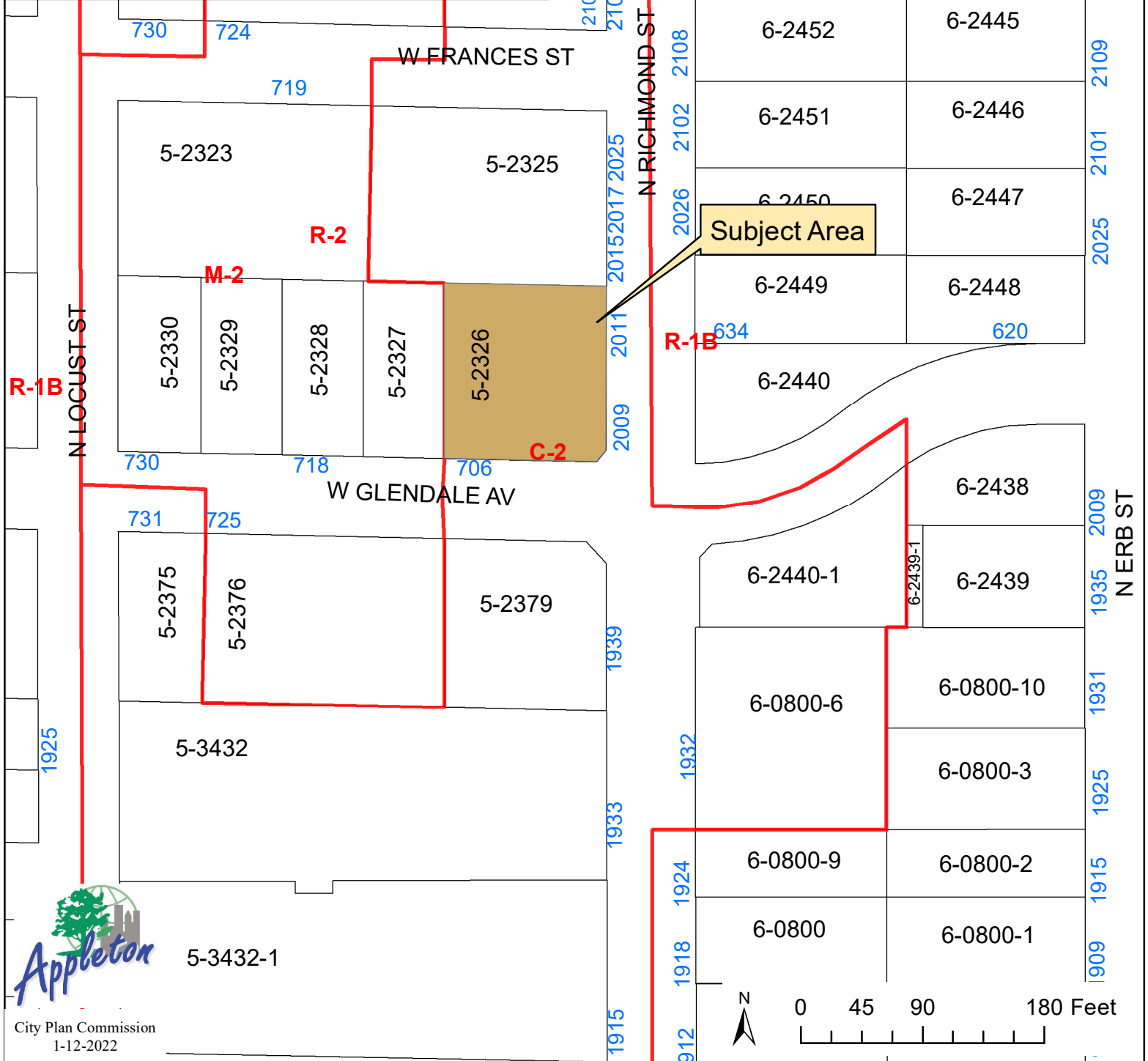
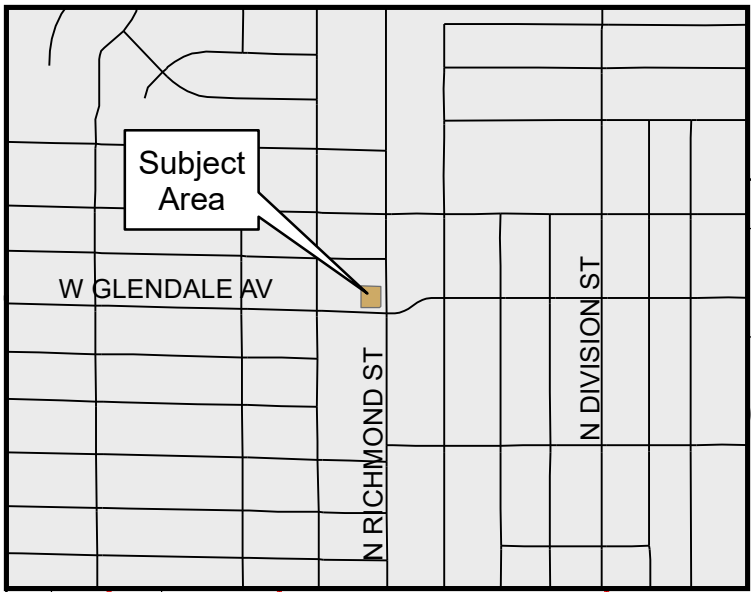
3. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.

Substantial Evidence: This condition provides notice to the applicant that a Liquor License is also needed prior to serving alcohol.

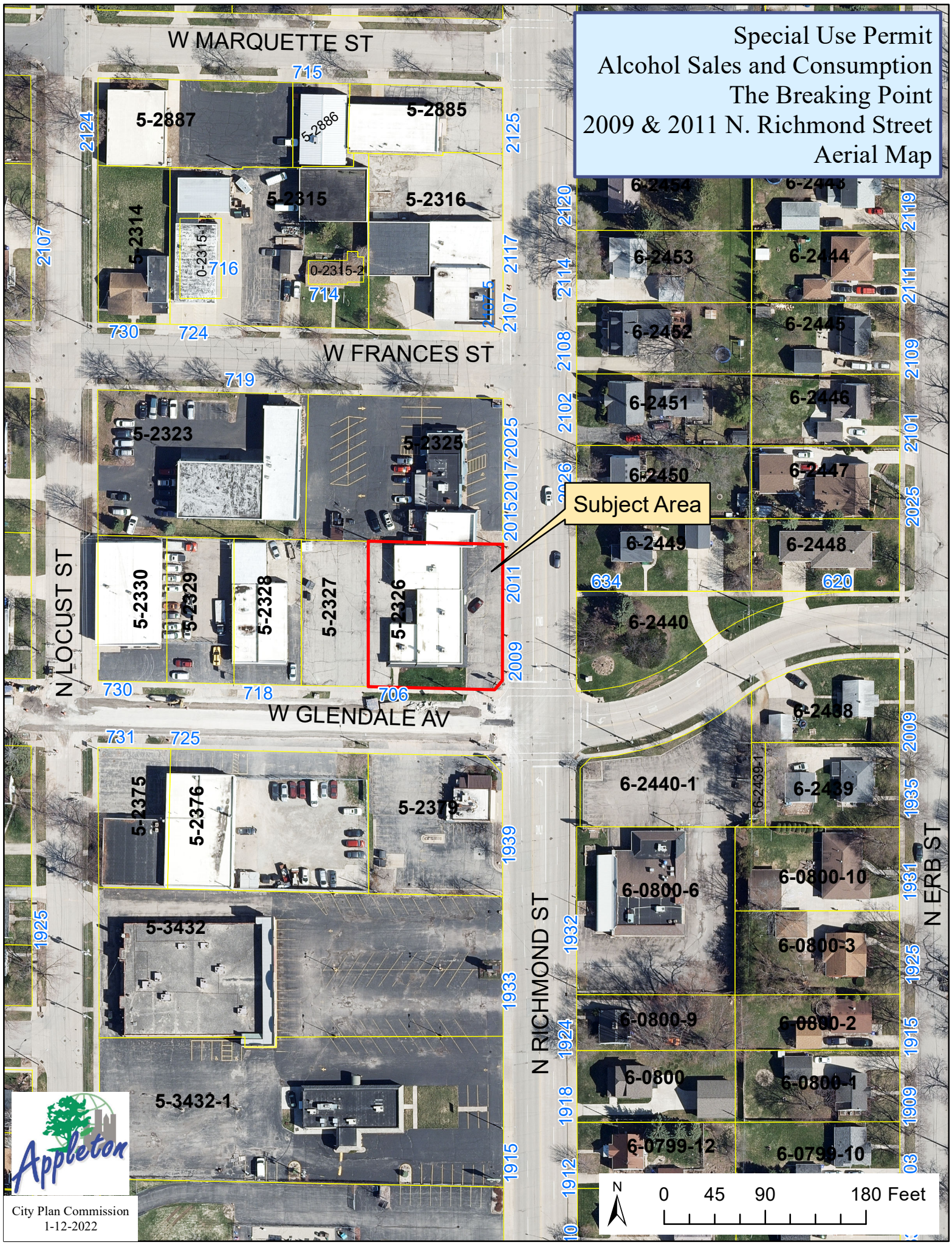
4. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.

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.

Special Use Permit
Alcohol Sales and Consumption
The Breaking Point
2009 & 2011 N. Richmond Street
Zoning Map



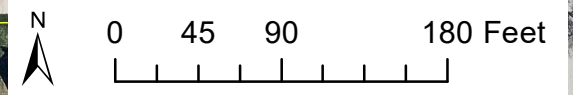
Special Use Permit
 Alcohol Sales and Consumption
 The Breaking Point
 2009 & 2011 N. Richmond Street
 Aerial Map



Subject Area



City Plan Commission
 1-12-2022



RESOLUTION

**CITY OF APPLETON
RESOLUTION APPROVING SPECIAL USE PERMIT #5-21**

WHEREAS, Courtney Hayden, owner of The Breaking Point has applied for a Special Use Permit to allow alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, and

WHEREAS, the location for the proposed indoor recreational use 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 January 12, 2022 on Special Use Permit #5-21 at which all those wishing to be heard were allowed to speak or present written comments and other materials presented 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 and 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 #5-21 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 January 19, 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 in Sections 23-66(e)(1-8) are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #5-21 for alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, 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 #5-21 for alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, subject to the following conditions:

CONDITIONS OF SPECIAL USE PERMIT #5-21:

- A. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.
 - B. This Special Use Permit is needed for the on-site alcohol sales and consumption, not the indoor recreational use. 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.
 - C. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.
 - D. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
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 19th day of January 2022.

Jacob A. Woodford, Mayor

ATTEST:

Kami Lynch, City Clerk

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business Information:

Name of business: The Breaking Point LLC

(Check applicable proposed business activity(s) proposed for the building or tenant space)

- Restaurant
- Bar/Night Club
- Wine Bar
- Microbrewery
- Other amusement

Years in operation: 2 years

Percentage of business derived from food service: 0 %

Type of proposed establishment (detailed explanation of business operations):

amusement
2 rage rooms
1 paint splatter room, air soft target shooting
small beer/seltzer bar

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Week Days Monday thru Thursday	4pm	9pm
Friday	4pm	11pm
Saturday	11am	11pm
Sunday	closed	

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: 16-18 persons

Gross floor area of the existing building(s): 2,400

Gross floor area of the proposed building(s): 2,400

Describe Any Potential Noise Emanating From the Proposed Use:

Describe the noise levels anticipated from all equipment or other mechanical sources:

Mostly evening hrs (4pm-9pm)
On a noise scale from 1-10, I'd rate
our noise level a 5.

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

no anticipated outside crowds
Inside gatherings will be kept
to minimum

If off-street parking is available for the business, describe how noise from the parking lot will be controlled:

~~_____~~
~~_____~~
~~_____~~

Outdoor Space Uses:

(Check applicable proposed area)

- Patio
- Deck
- Sidewalk Café
- Other _____
- None

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 service incorporated within the outdoor space? Yes ___ No ___

Are there plans for outdoor music/entertainment? Yes ___ No ___

If yes, describe how the noise will be controlled:

Is there any food service incorporated within the outdoor space? Yes ___ No ___

Proposed Hours of Operation for Outdoor Space:

Day	From	To
Week Days: 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.**

Off-Street Parking:

Number of spaces existing: 30

Number of spaces proposed: 30

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:

~~Bark at the Moon - dog grooming~~
~~Just Pets - pet store~~

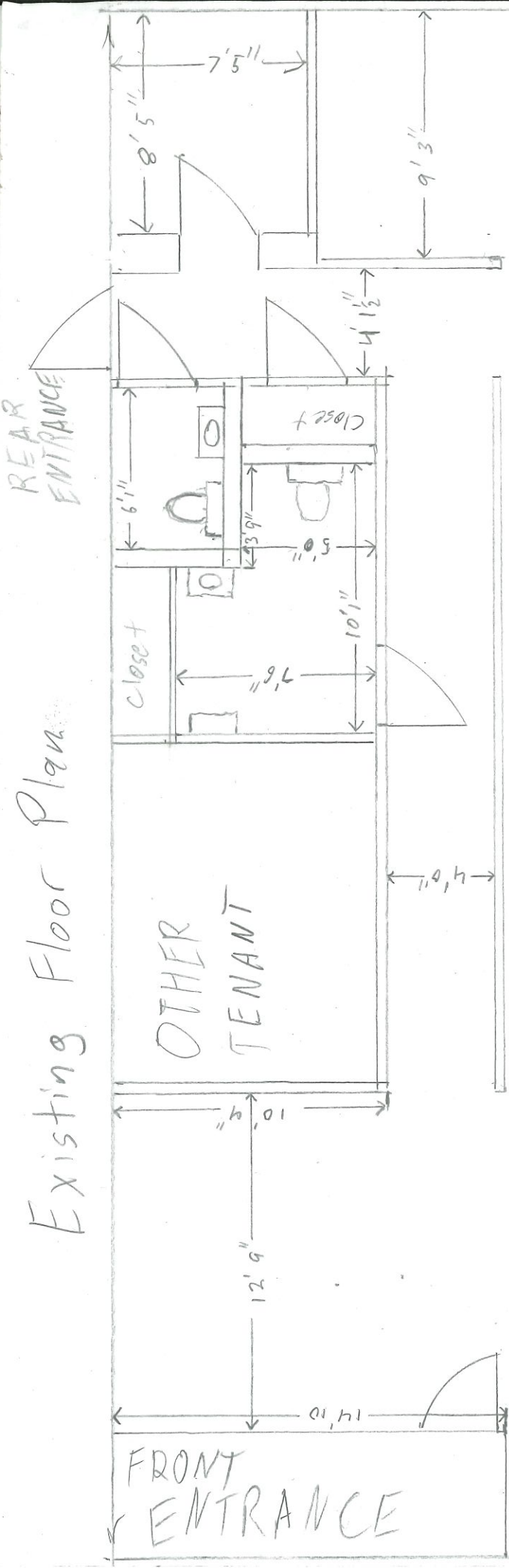
Number of Employees:

Number of existing employees: 4

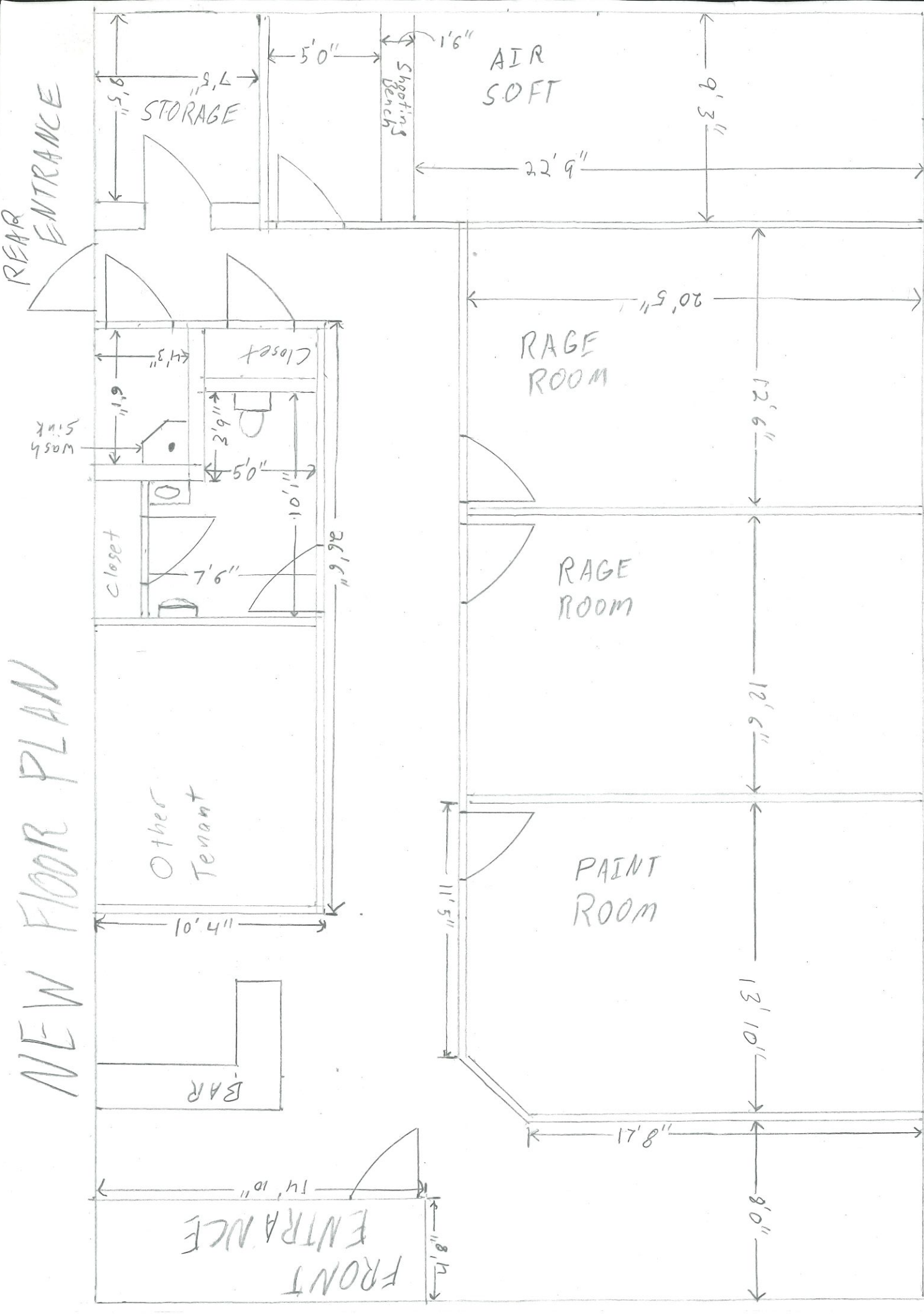
Number of proposed employees: 4

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

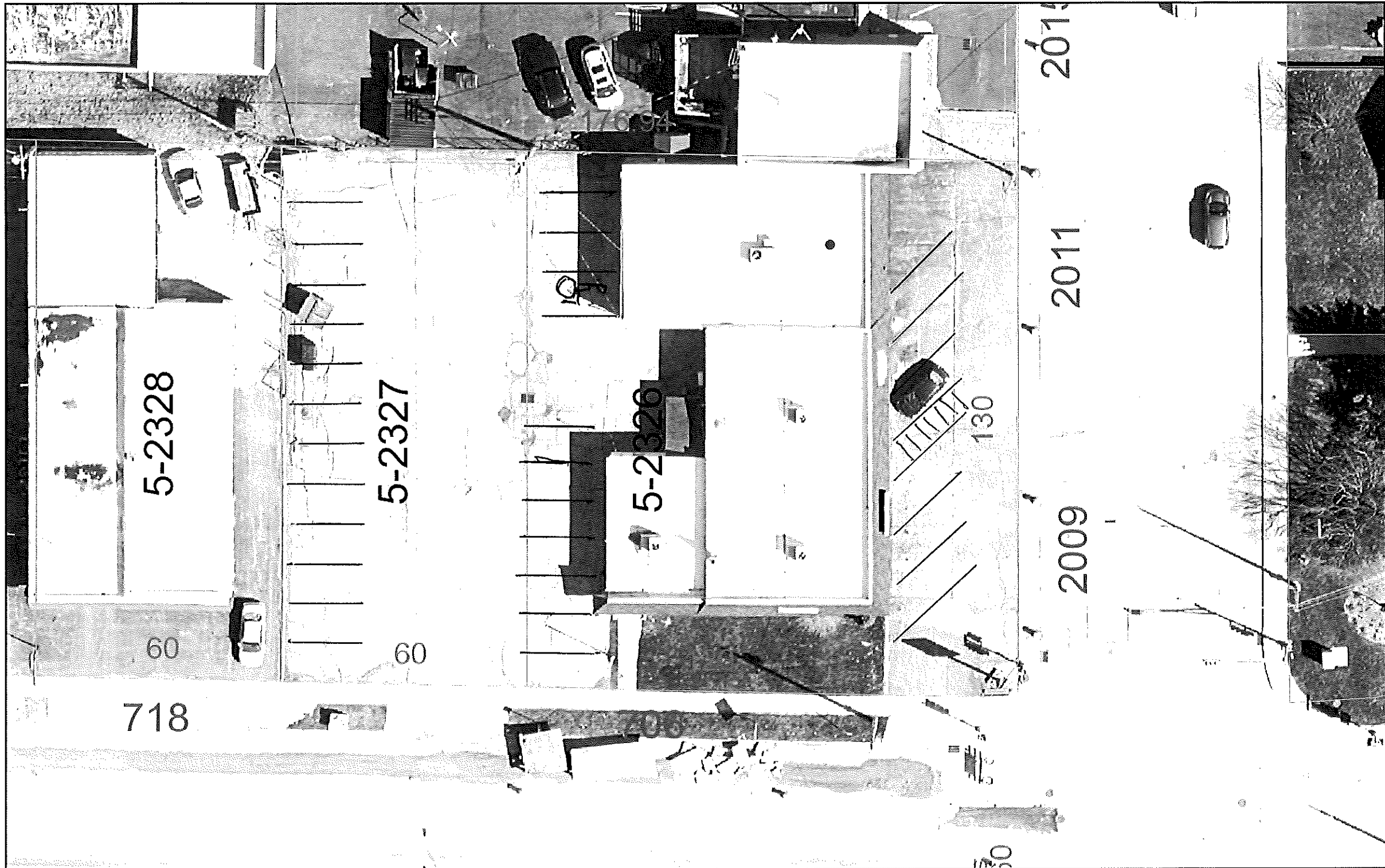
Existing Floor Plan



NEW FLOOR PLAN



ArcGIS Web Map



11/29/2021, 10:39:01 AM

 City Limits  City Parcels  Easements

1:564
0 0 0.01 0.01 mi
0 0.01 0.01 0.02 km