



Community and Economic Development

**Special Use Permit #8-95 Appleton Elks Lodge #337  
(Private club with a bar)  
1103 West College Avenue**

**Date:** March 11, 2022

**License Requested:** Class "B" Beer / "Class B" Liquor License Application - Mill City Public House.

**Applicants:** Jordan Banda and Russel Leary.

**Address Of Property:** 1103 West College Avenue.

**Parcel Zoning Classification:** C-2 General Commercial District.

**Past Land Use:** Appleton Elks Lodge #337 (Private club with a bar).

**Propose Land Use:** Mill City Public House (Restaurant with alcohol sales).

**Zoning Ordinance Requirements:** The current City of Appleton Zoning Ordinance specifies restaurants with alcohol sales located in the C-2 General Commercial District may be allowed by a Special Use Permit. A two-thirds (2/3) vote of the Common Council is required for approval of a Special Use Permit. It's important to note, restaurants that do not serve alcohol when located in the C-2 General Commercial District are permitted uses pursuant to staff approval.

**Prepared By:** Don Harp, Principal Planner – Community and Economic Development Department

**Background History:**

A. On August 2, 1995, the Common Council approved Special Use Permit (SUP) #8-95, to permanently run with the Appleton Elks Lodge #337 for a "private club with a bar" located at 1103 West College Avenue. with the follow three (3) conditions (See attached report date stamped Aug 2, 1995):

1. A liquor license be obtained.

- *Appleton Elks Lodge #337 held a Class B Beer/Liquor License prior to the sale of the property.*
- *The Appleton Elks Lodge #337 sold the subject site to Jordan Banda pursuant to Warranty Deed Document #2230993, executed on April 16, 2021.*

2. Joint parking easement between adjoining businesses as filed, shall be mutually recognized. Discontinuance of the joint parking agreement shall be grounds for revocation of the Special Use Permit (SUP #8-95).
  - *In 1995, Appleton Elks Lodge #337 (private club with a bar) was required to have 20 off-street parking spaces on their property pursuant to the off-street parking requirements listed in City of Appleton Zoning Ordinance. The subject property was only able to accommodate 14 off-street parking spaces.*
  - *Condition number 2 was satisfied by a mutual joint parking agreement executed on July 11, 1995, between the Appleton Elks Lodge #377 (1103 West College Avenue) and Impact Printing (1109 West College Avenue). (See attached parking agreements)*
  - *The parking agreement did not specify it was transferable to other entities. Pursuant to Warranty Deed Document #2230993, executed on April 16, 2021 (noted above), the joint parking agreement between the Appleton Elks Lodge #377 (1103 West College Avenue) and Impact Printing (1109 West College Avenue) is no longer valid.*
3. Garbage storage be interior or be located in an approved fully-enclosed outside storage area.
  - *The Elks Lodge placed trash receptacles outside of the building without being fully enclosed.*



#### **Analysis:**

Pursuant to the Common Council action, (SUP) #8-95 was approved to permanently run with the Appleton Elks Lodge #337 for a “private club with a bar” located at 1103 West College Avenue. As a result, SUP 8-95 **cannot be transferred to another entity or person.** Therefore, the applicants will need to apply for and receive approval of new Special Use Permit from the Common Council for a restaurant with alcohol sales at 1103 West College Avenue.

#### **Staff Recommendation:**

Based upon the above analysis, the applicants shall apply for a Special Use Permit for a restaurant with alcohol sales and consumption at 1103 West College Avenue. The Special Use Permit application materials and fee shall be submitted to the Community and Economic Development Department. The Common Council shall approve a Special Use Permit for a restaurant with alcohol sales located at 1103 West College Avenue prior to the issuance of the attached liquor license.

Please contact the Community and Economic Development Department at (920)832-6468 with questions or assistance with the Special Use Permit process.

AUG - 2 1995

ADDENDUM  
TO THE  
REPORT OF THE CITY PLAN COMMISSION

The Commission reports and recommends:

1. Special Use Permit #7-95 - Stix, Inc.

To establish a sports bar with TV's and billiards

THE CITY PLAN COMMISSION RECOMMENDS APPROVAL OF SPECIAL USE PERMIT #7-95 BE ISSUED PERMANENTLY TO RUN WITH THE LAND CONTINGENT UPON APPROVED GARBAGE HANDLING, AND THAT IF THE PETITIONER WANTS TO CONVERT THE PROPERTY INTO A BAR WITHOUT FOOD OR BILLIARD TABLE USES, A NEW SPECIAL USE PERMIT MUST BE FILED FOR CITY REVIEW. ANY SOCIAL PROBLEMS THAT MAY DEVELOP WITH THE PETITIONED PROPERTY MAY BE GROUNDS FOR REVOCATION. (4-0)

2. Special Use Permit #8-95 - Appleton Elks Lodge #337

To establish a private club with a bar

THE CITY PLAN COMMISSION RECOMMENDS APPROVAL OF SPECIAL USE PERMIT #8-95 BE ISSUED PERMANENTLY TO RUN WITH THE ELKS LODGE WITH THE FOLLOWING CONDITIONS: 1) A LIQUOR LICENSE BE OBTAINED, 2) JOINT PARKING EASEMENT BETWEEN ADJOINING BUSINESSES AS FILED, SHALL BE MUTUALLY RECOGNIZED. DISCONTINUANCE OF THE JOINT PARKING AGREEMENT SHALL BE GROUNDS FOR REVOCATION OF THE SPECIAL USE PERMIT, 3) GARBAGE STORAGE BE INTERIOR OR BE LOCATED IN AN APPROVED FULLY-ENCLOSED OUTSIDE STORAGE AREA. (4-0)

3. Resolution to Authorize Mayor <sup>362</sup> De Broux to sign an Annexation Petition for approximately ~~100~~ acres of land south of Calumet Street and west of Coop Road for a future Industrial Park

THE CITY PLAN COMMISSION RECOMMENDS AUTHORIZING THE MAYOR OF THE CITY OF APPLETON TO SIGN AN ANNEXATION OF LANDS TO THE CITY OF APPLETON THAT WILL BE KNOWN AS THE "SOUTHEAST INDUSTRIAL PARK" ANNEXATION. (4-0)

August 2, 1995

*Warren Utecht*  
Warren Utecht, Deputy Director  
Department of Community Development  
Planning Division

PRESENT: Mayor De Broux, Chairman; Alderman Swanson, Commissioners Connor, Fisher, and Herb

EXCUSED: Commissioners Swain and Vaclavik

# EXHIBIT 1

## ArcGIS Web Map



3/29/2021 8:58:32 AM

City Parcels

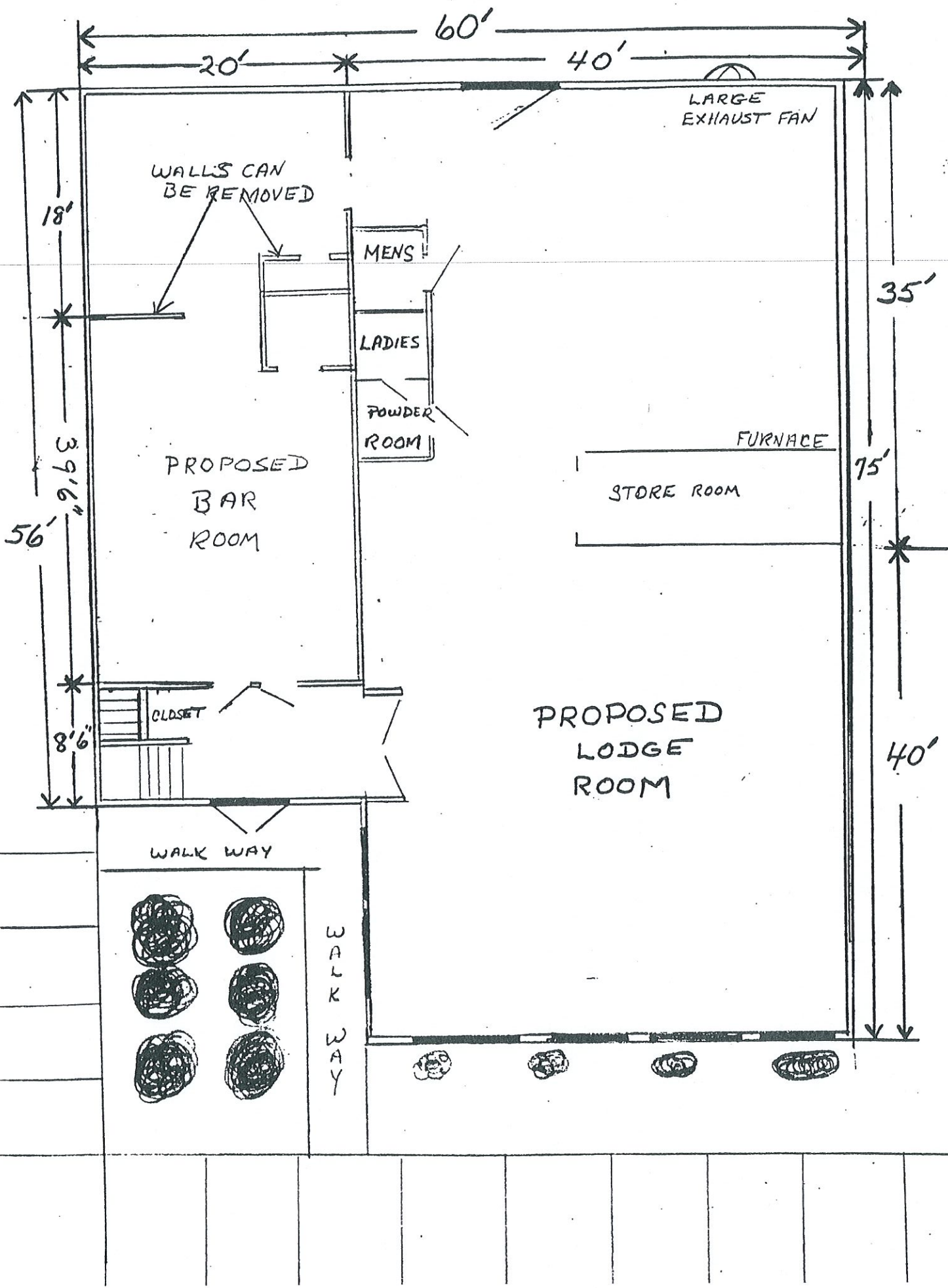
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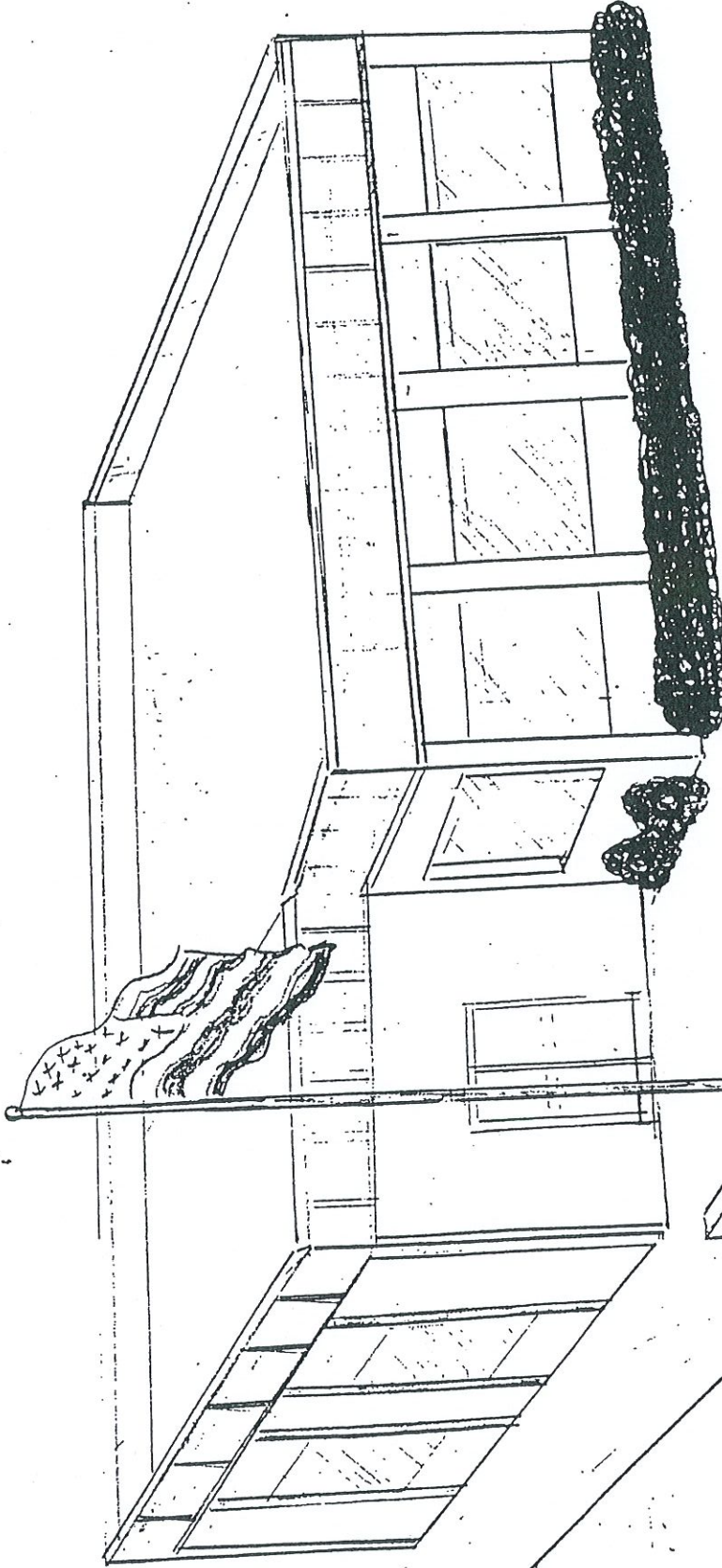
X

**SUBJECT SITE**

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

Small Street Names





SUMMIT STREET

COLLEGE AVENUE

Elks LODGE

July 11, 1995

Appleton City Planning  
100 N. Appleton St.  
Appleton, WI 54911

Re: Property on 1103 W. College Ave.

The Appleton Elks Lodge #337 hereby requests a variance in accordance with Section 23-172 (k), regarding joint parking with Impact Printing, Inc., 1109 W. College Ave.

The Appleton Elks have an accepted offer to purchase the property, and have agreed to share the joint parking lot with Impact Printing, Inc.

Our hours of operation are from 5 p.m. to 10:30 p.m. on Tuesdays, Fridays, and Saturdays. This leaves our 12-space lot empty during the day for use by Impact Printing, Inc.

They have agreed to allow us the use of their 12-spaces for our needs, which will give us a total of 24 parking spaces.

Robert D. Hanna - Secretary.  
Appleton Elks Lodge #337

July 11, 1995

Appleton City Planning  
100 N. Appleton St.  
Appleton, WI 54911

Re: Property on 1109 W. College Ave.

Impact Printing, Inc. hereby requests a variance in accordance with Section 23-172 (k), regarding joint parking with the Appleton Elks Lodge #337.

The Appleton Elks have an accepted offer to purchase the property located at 1103 W. College Ave., and have agreed to share the joint parking lot with Impact Printing, Inc.

The hours of operation for Impact Printing, Inc. are days -- Monday through Friday. This leaves our 12-space lot available for the Elks during evening hours.

They have agreed to allow us the use of their 12-spaces for our needs, which will give us a total of 24 parking spaces.

  
Impact Printing, Inc.



# Original Alcohol Beverage Retail License Application

(Submit to municipal clerk.)

For the license period beginning: 07/01/2021 ending: 06/30/2022  
(mm dd yyyy) (mm dd yyyy)

To the Governing Body of the:  Town of } Appleton  
 Village of }  
 City of }

County of Outagamie Aldermanic Dist. No. \_\_\_\_\_  
(if required by ordinance)

Check one:  Individual  Limited Liability Company  
 Partnership  Corporation/Nonprofit Organization

Applicant's Wisconsin Seller's Permit Number ●●●●●●●●	
FEIN Number ●●●●●●	
TYPE OF LICENSE REQUESTED	FEE
<input type="checkbox"/> Class A beer	\$
<input checked="" type="checkbox"/> Class B beer	\$ 100
<input type="checkbox"/> Class C wine	\$
<input type="checkbox"/> Class A liquor	\$
<input type="checkbox"/> Class A liquor (cider only)	\$ N/A
<input checked="" type="checkbox"/> Class B liquor	\$ 500
<input type="checkbox"/> Reserve Class B liquor	\$
<input type="checkbox"/> Class B (wine only) winery	\$
Publication fee	\$ 60
<b>TOTAL FEE</b>	<b>\$ 660</b>

Name (individual / partners give last name, first, middle; corporations / limited liability companies give registered name)  
Mill City Public House LLC

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the full name and place of residence of each person.

President / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
<u>Banda</u>	<u>Jordan</u>	<u>Vincent</u>	<u>608 Emerson St Neenah, WI 54956</u>
Vice President / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
Secretary / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
Treasurer / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
Agent Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
<u>Leary</u>	<u>Russell</u>	<u>Timothy</u>	<u>3608 E Lexington Dr. Appleton, WI 54915</u>
Directors / Managers Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)

1. Trade Name Mill City Public House Business Phone Number 920-740-5573

2. Address of Premises 1103 W College Ave Post Office & Zip Code Appleton, WI 54914

3. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.)

Single story building with basement storage. Alcohol served in bar area and dining room. Tap beer cooler and primary alcohol storage in basement, additional alcohol storage in office (access through kitchen).




4. Legal description (omit if street address is given above): \_\_\_\_\_

5. (a) Was this premises licensed for the sale of liquor or beer during the past license year? .....  Yes  No

(b) If yes, under what name was license issued? Elks Club #337

6. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? **If yes, explain**  Yes  No  
Agent previously held city of Appleton Alcohol Beverage server's license, proof of recertification is attached.
7. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant?  Yes  No  
**If yes, explain.**
8. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? **If yes, explain**  Yes  No
9. (a) **Corporate/limited liability company applicants only:** Insert state WI and date 05/21/21 of registration.
- (b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? **If yes, explain**  Yes  No
- (c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? **If yes, explain.**  Yes  No
10. Does the applicant understand they must register as a Retail Beverage Alcohol Dealer with the federal government, Alcohol and Tobacco Tax and Trade Bureau (TTB) by filing (TTB form 5630.5d) before beginning business? [phone 1-877-882-3277]  Yes  No
11. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776]  Yes  No
12. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs?  Yes  No

**READ CAREFULLY BEFORE SIGNING:** Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000. Signer agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants, or one member of a partnership applicant must sign; one corporate officer, one member/manager of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

Contact Person's Name (Last, First, M.I.) <b>Leary, Russell T</b>	Title/Member <b>Manager / Agent</b>	Date <b>02/28/2022</b>
Signature 	Phone Number 	Email Address 

**TO BE COMPLETED BY CLERK**

Date received and filed with municipal clerk <b>3-1-2022</b>	Date reported to council / board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	



# City of Appleton

## Alcohol License Questionnaire

1. Name of Applicant: Russell T. Leary, Agent

2. Name of Business: Mill City Public House LLC

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
- Tavern/Night Club/Wine Bar
- Microbrewery/Brewpub
- Painting/Craft Studio
- Other (describe) \_\_\_\_\_

3. Address of Business: 1103 W College Ave

4. Have you or any member of your organization ever been convicted of a misdemeanor or ordinance violation? Yes  No \_\_\_\_\_

AND/OR been convicted of a felony? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes to either question, please explain in detail below:

346.63(1)(a) OWI 1<sup>st</sup> OFFENSE 09/00/18

5. List all partners, shareholders or investors of your business. Include full name, middle initial and date of birth. Please use additional sheets if necessary.

<u>Jordan</u>	<u>V</u>	<u>Banda</u>	<u>●●●●</u>
First name	M.I.	Last name	Date of Birth
			/ /

6. Name of person/corporation you are buying the premise and equipment from?

Name: \_\_\_\_\_  
First name Middle Initial Last name

Address: \_\_\_\_\_  
City State ZIP

7. What was the previous name and primary nature of the business operating at this location?

Name: Ellie's Lodge # 837

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
- Tavern/Night Club/Wine Bar
- Microbrewery/Brewpub
- Painting/Craft Studio
- Other (describe) Non Profit Organization

8. Was this premise licensed for alcohol sales/consumption during the past license year?

Yes  *If yes, please contact the Community and Economic Development Department at 832-6468 about obtaining a copy of an existing Special Use Permit and related requirements that may run with property.* See attached report. Special Use Permit #8-95 cannot be transferred to another entity or person pursuant to Common Council action.

No  *If no, please contact the Community and Economic Development Department at 832-6468 about obtaining a Special Use Permit. A Special Use Permit may be required for your business activity prior to the issuance of a Liquor License, pursuant to the City of Appleton Zoning Ordinance.*

9. If alcohol sales were a previous use in this building, when did the operation cease?

18 months ago.

10. Seating capacity: Inside 75 Outside 0

11. Operating hours (Inside the building): 11a-10p Wed-Sat  
Operating hours (Outdoor seating areas): n/a

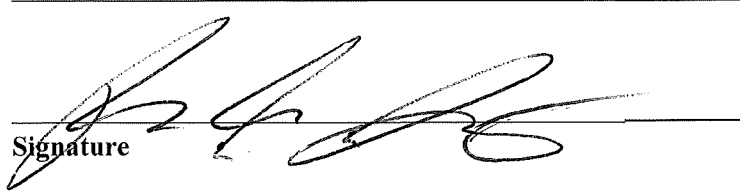
12. Employees/Staff

Number of floor personnel 6 Number of door checkers 1

13. In general, state the size and operational details of the proposed establishment:

- a. Gross floor building area of the premises to be licensed: ≈ 3,500 square feet.
- b. Gross outdoor seating areas of the premises to be licensed: 0 square feet.
- c. Below, identify the operational details of the proposed establishment:

Burger Bar with private event space. Full  
Bar. Neighborhood Bar & Grill

Signature 

Date 07/27/22

# Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of:  Town  Village of Appleton County of Outagamie  
 City

The undersigned duly authorized officer/member/manager of Mill City Public House LLC  
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as Mill City Public House  
(Trade Name)

located at 1103 W College Avenue Appleton, WI 54915

appoints Russell T. Leary  
(Name of Appointed Agent)  
3608 E Lexington Drive, Appleton, WI 54915  
(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

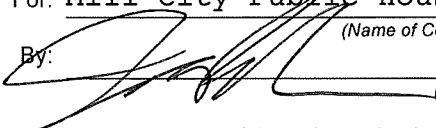
Yes  No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course?  Yes  No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 13 years

Place of residence last year 811 W Franklin St 54914 // 3608 E Lexington Drive 54915

For: Mill City Public House LLC  
(Name of Corporation / Organization / Limited Liability Company)


By:   
(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

## ACCEPTANCE BY AGENT

I, Russell T Leary, hereby accept this appointment as agent for the  
(Print / Type Agent's Name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

 02/07/02  
(Signature of Agent) (Date)

Agent's age     

3608 E Lexington Drive Appleton, WI 54915  
(Home Address of Agent)

Date of birth      /      /     

## APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on \_\_\_\_\_ by \_\_\_\_\_ Title \_\_\_\_\_  
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)