



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Public Hearing Date:** September 26, 2017

**Common Council Meeting Date:** October 4, 2017

**Item:** Special Use Permit #10-17 for restaurant with alcohol sales and service

**Case Manager:** David Kress

### GENERAL INFORMATION

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**Owner:** AMS Management LLC

**Applicant:** Harmony Pizza LLC c/o Oren Jakobson

**Address/Parcel #:** 432 West Wisconsin Avenue, Unit B (Tax Id #31-6-0677-00)

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

### BACKGROUND

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The subject area, located near the intersection of West Wisconsin Avenue and North Harriman Street, is the middle unit of a multi-tenant building. Building Permit E17-0480 was issued on August 2, 2017 for electrical work to remodel this unit of the building into a restaurant. The applicant has yet to apply for a Liquor License, but intends to do so after action is taken on this Special Use Permit request.

### STAFF ANALYSIS

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**Project Summary:** The applicant proposes to establish a restaurant with alcohol sales and service on the subject site, which would occupy approximately 1,650 square feet of the existing building. Based on the attached development plan, this request will not increase existing building area. Utilizing the Fire Code to review the attached seating diagram, the Fire Department could accept a maximum capacity of 75 persons for the proposal for Unit B.

**Existing Site Conditions:** The existing multi-tenant building totals approximately 3,900 square feet, including other commercial uses in Units A and C. The 0.33-acre site also includes off-street parking north and south of the building. Access is provided by curb cuts on West Wisconsin Avenue and North Harriman Street.

**Zoning Ordinance Requirements:** 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. In order to permit alcohol sales and service in conjunction with the proposed restaurant, the Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds (2/3) vote of the Common Council is required for approval.

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**September 26, 2017**  
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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 and building permit records. While the proposal would result in a change in tenancy, 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.

**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 for a Special Use Permit.

**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. The adjacent land uses to the north are currently single-family residential.

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

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

West: C-2 General Commercial 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 Mixed Use 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 15: Wisconsin Avenue Corridor Plan, General Plan:*

*Land Uses, Pedestrian-Oriented Commercial – This use and character is recommended between Richmond Street and Appleton Street, where it already exists to a substantial degree. It is typified by buildings constructed at or near the street right-of-way and oriented to the sidewalk. Ground floor uses are nearly always commercial, and residential uses may be located on upper floors or at the back of the property.*

**Finding of Fact:** This request was reviewed in accordance with the standards for granting a Special Use Permit under Sections 23-66(e)(1-6) and 23-66(h)(6) of the Municipal Code, which were found in the affirmative, as long as all stipulations are satisfied.

**Technical Review Group (TRG) Report:** This item was discussed at the September 5, 2017 Technical Review Group meeting. No negative comments were received from participating departments.

**Future Actions:** Any future expansion that increases the gross floor area of the existing multi-tenant, shopping center building may require additional off-street parking spaces to be provided.

**RECOMMENDATION**

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Staff recommends, based on the above, that Special Use Permit #10-17 for a restaurant with alcohol sales and service at 432 West Wisconsin Avenue, Unit B (Tax Id #31-6-0677-00), 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.
2. The applicant shall apply for and receive approval of a Liquor License from the City Clerk prior to serving or consuming alcohol on the premises.
3. The serving and consumption of alcohol is limited to the interior ground floor of the building, as identified on the attached development plan drawings. Any future expansions for the serving and/or consumption of alcohol, beyond the current limits of Unit B, may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.
4. Compliance with the plan of operation is required at all times. Changes to the plan of operation shall be submitted to the Community and Economic Development Department for review and approval.
5. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.

## RESOLUTION

### CITY OF APPLETON RESOLUTION APPROVING SPECIAL USE PERMIT #10-17

**WHEREAS**, Harmony Pizza LLC has applied for a Special Use Permit for a restaurant with alcohol sales and service located at 432 West Wisconsin Avenue, Unit B, also identified as Parcel Number(s) 31-6-0677-00; 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 is permitted by special use within this zoning district; and

**WHEREAS**, the City of Appleton Plan Commission held a public hearing on September 26, 2017, on Special Use Permit #10-17 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 considered the application, the staff reports, oral and written, the Comprehensive Plan and zoning on the subject property, the testimony, written comments, and other materials 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)(1-6) and 23-66(h)(6) of the Municipal Code, and forwarded Special Use Permit #10-17 to the City of Appleton Common Council with a favorable 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 \_\_\_\_\_, 2017 and found it to be acceptable.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Appleton Common Council approves Special Use Permit #10-17 for a restaurant with alcohol sales and service located at 432 West Wisconsin Avenue, Unit B, also identified as Parcel Number(s) 31-6-0677-00 and orders as follows:

#### CONDITIONS OF SPECIAL USE PERMIT #10-17

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.
2. The applicant shall apply for and receive approval of a Liquor License from the City Clerk prior to serving or consuming alcohol on the premises.
3. The serving and consumption of alcohol is limited to the interior ground floor of the building, as identified on the attached development plan drawings. Any future expansions for the serving and/or consumption of alcohol, beyond the current limits of Unit B, may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.

4. Compliance with the plan of operation is required at all times. Changes to the plan of operation shall be submitted to the Community and Economic Development Department for review and approval.
5. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.

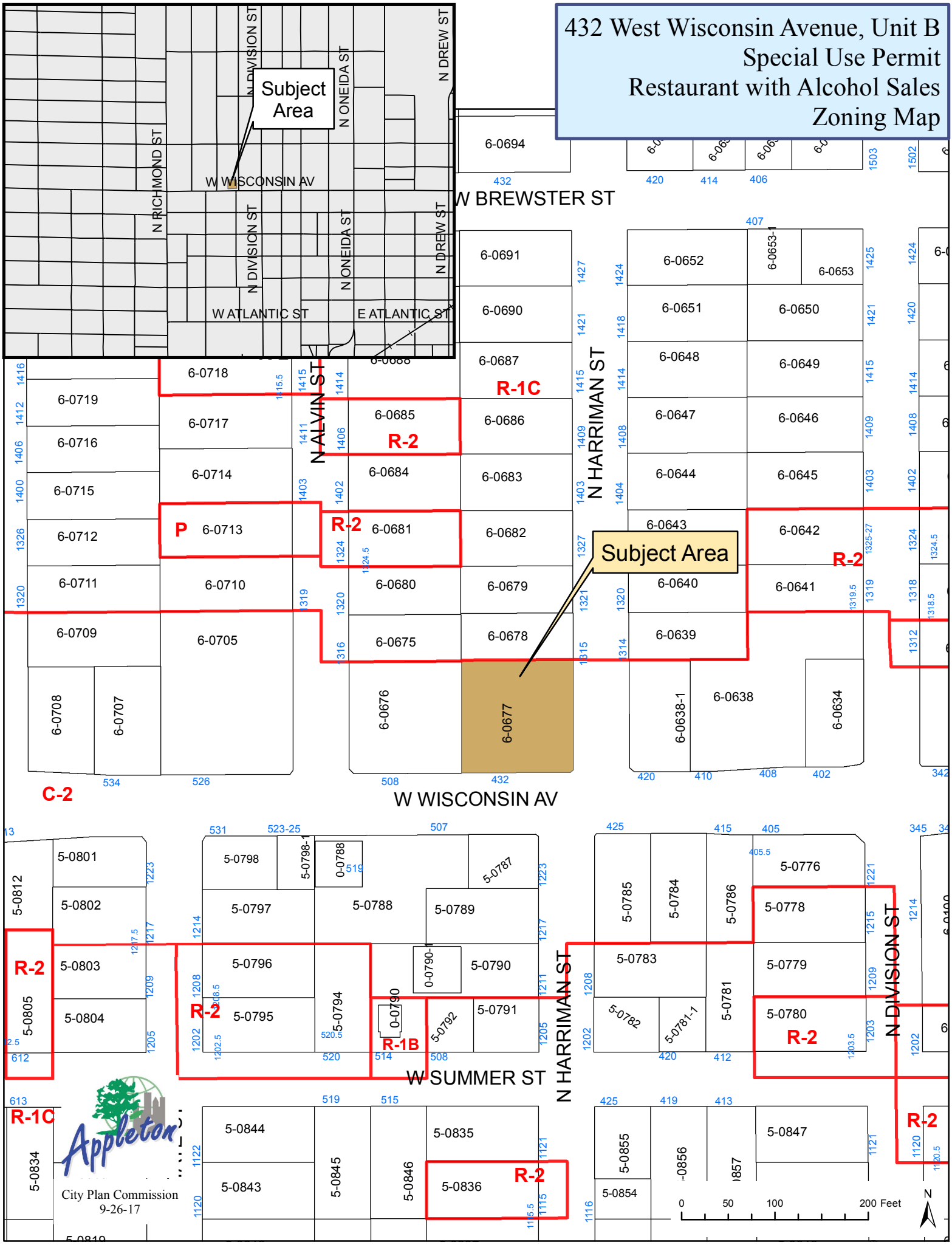
Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Timothy M. Hanna, Mayor

ATTEST:

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

432 West Wisconsin Avenue, Unit B  
 Special Use Permit  
 Restaurant with Alcohol Sales  
 Zoning Map



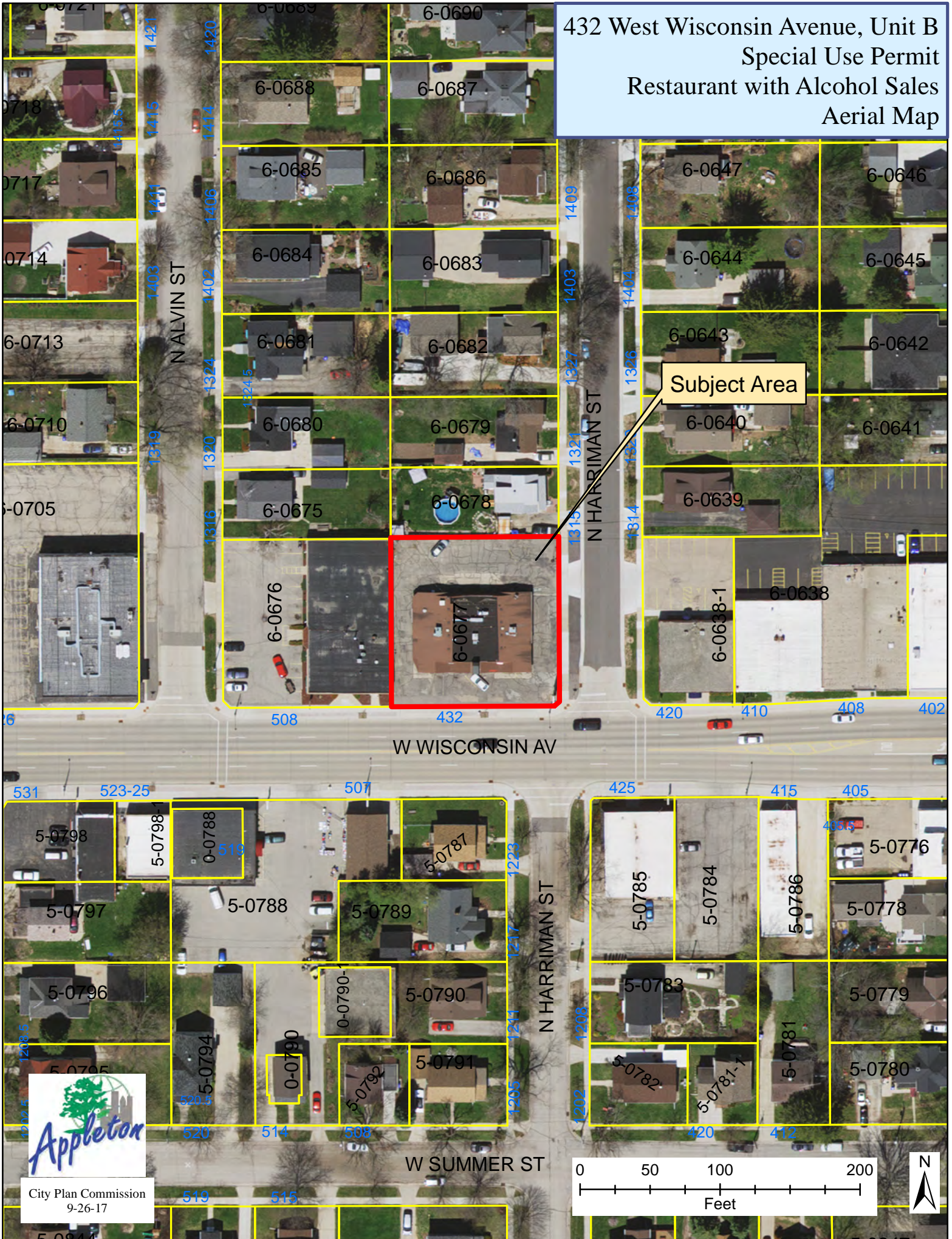
Subject Area

Subject Area



0 50 100 200 Feet

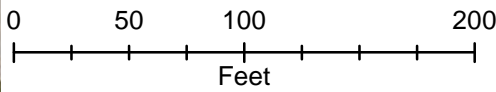
432 West Wisconsin Avenue, Unit B  
Special Use Permit  
Restaurant with Alcohol Sales  
Aerial Map



Subject Area

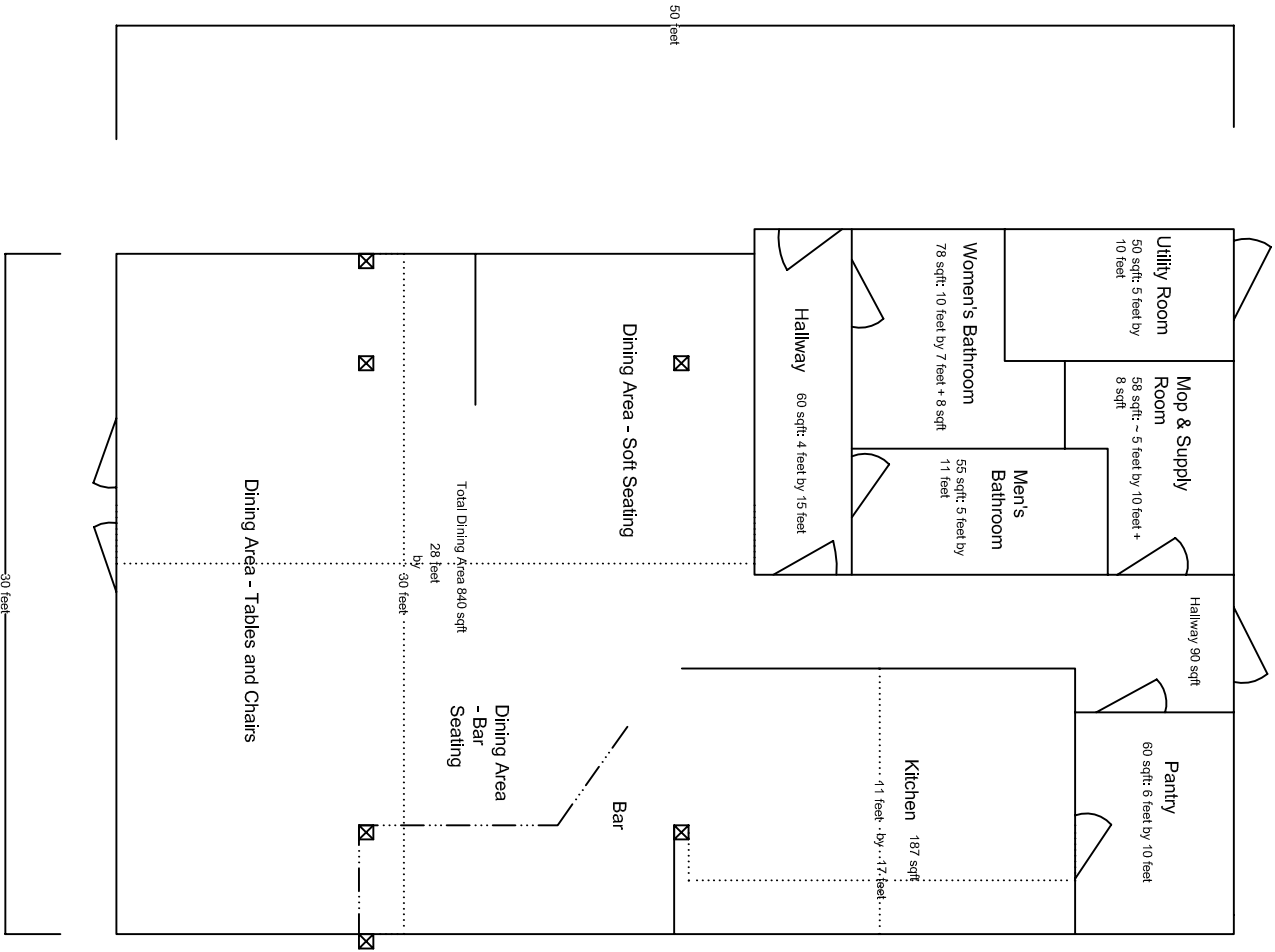


City Plan Commission  
9-26-17

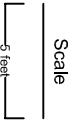


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North

432 W Wisconsin Ave Unit B: Harmony Pizza LLC  
Floor Plan 8/26/2017

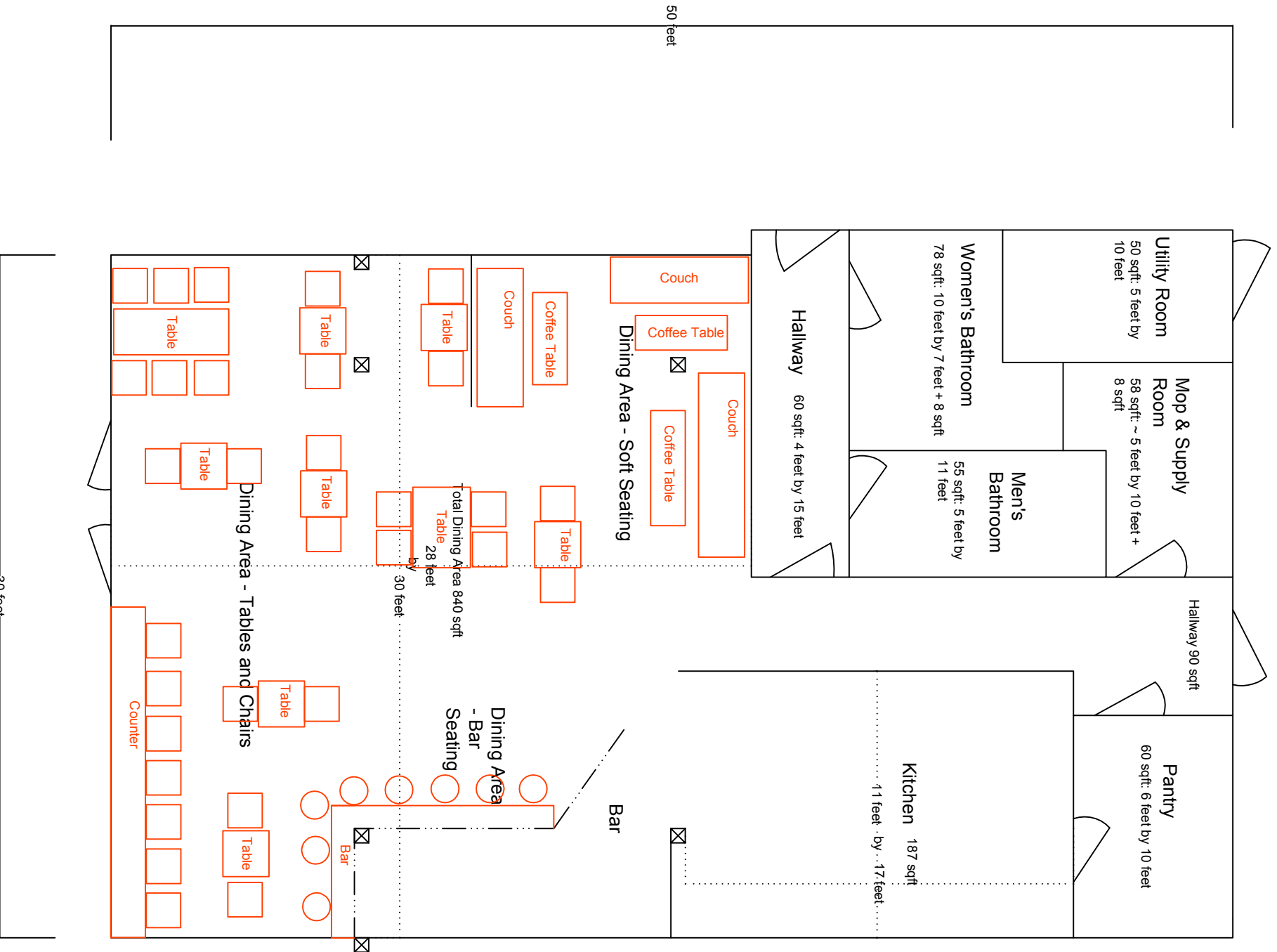


North Harriman Street

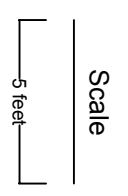


West Wisconsin Avenue





North Harriman Street

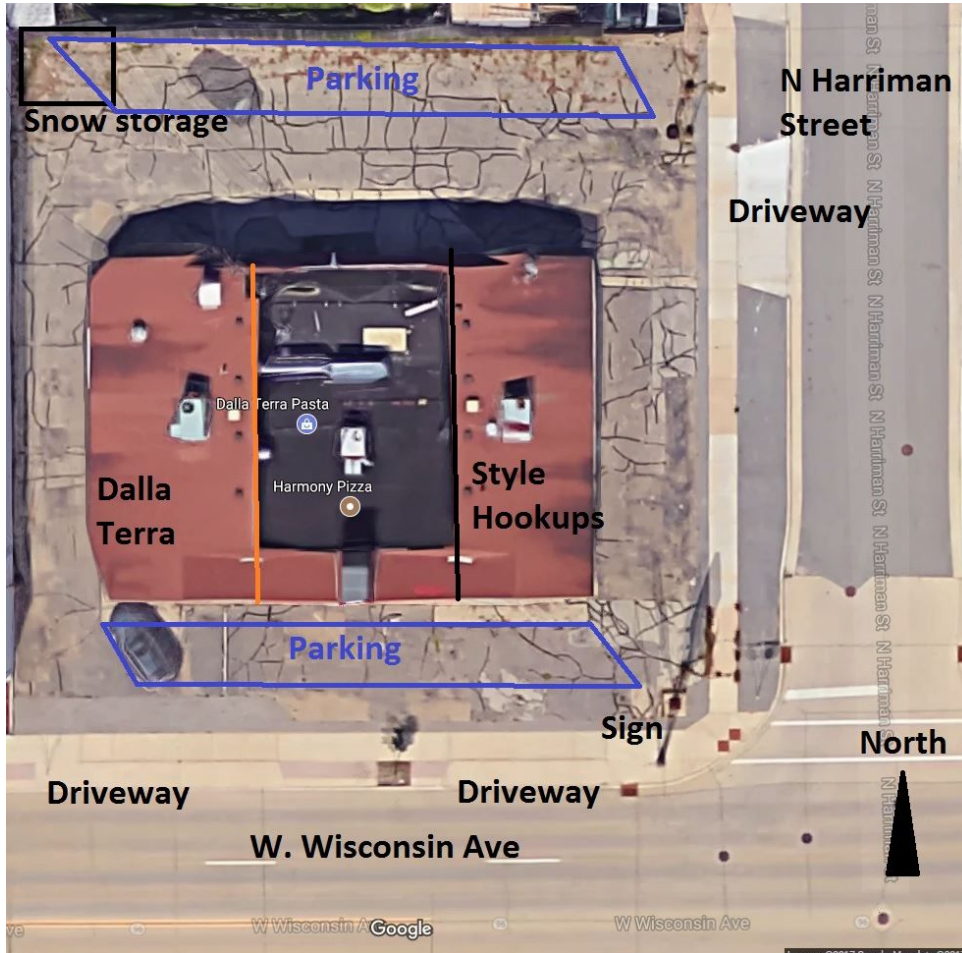


West Wisconsin Avenue

432 B West Wisconsin Avenue Development Plan Checklist for Special Use Permit

8/29/2017

**A. North Arrows, Date of Preparation and scale on 8 1/2" x 11" paper.**



**B. Name(s) of all adjacent or surround streets and right-of-way width(s).**

a. See description and image under C.

**C. Recorded property lines and their dimensions.**

a. N Harriman Street is to the east and is ~60 feet wide. W Wisconsin Avenue is to the south and is ~65 feet wide. The property lines are 116.5' and 118' as shown below.



**D. All existing and proposed building and structures and accessory to the principal use, including the use of each building or structure, dimensions and their locations on parcel.**

- a. The property has one existing building. The building is 78 feet by 50 feet and features 3 units. The west unit is occupied by Della Terra Pasta, a wholesale pasta manufacturer. The east unit is occupied by Style Hookups, a beauty salon. This special use permit application is for a restaurant with alcohol sales in the center unit. A sign for all 3 businesses exists at the southeast corner of the property.

**E. Dimensions of existing and proposed yard setbacks for buildings and structures.**

- a. No Change to existing setbacks. 35 feet rear, 14 feet west side, 20 feet east side, 25 feet front.



**F. Dimensions of existing and proposed parking, loading and unloading areas, sidewalks and interior and perimeter landscaping areas. Identify proposed and existing surface material(s).**

- a. The rear (north side of building) existing pavement is approximately 37 feet by 118 feet. The front (south side of building) existing pavement is approximately 25 feet by 118 feet. Angled parking will occupy the front lot with 27 feet of clearance at 30 degrees. Angled parking will occupy the rear lot with enough room for unloading at the back door without blocking the parking stalls (leaving 27 feet of clearance for the stalls). Both lots and driveways are currently asphalt. The property owner plans to repair/paint the lots in the spring. There are no landscaped areas.

Rear parking lot (facing northeast)



Rear parking lot (facing northwest)



**G. The location of existing and proposed trees, shrubs, and grass.**

- a. The property does not currently have any trees, shrubs, or grass. It is completely paved. No changes are planned (other than potted flowers in front).

**H. The location and details of proposed and existing refuse containers and their enclosures.**

- a. Property currently served by 90 gallon waste receptacles at rear of building (north side). This operation will be low waste. Recycling will be kept inside the building in a utility room and taken to a recycling center as needed.

**I. The location of proposed and existing signage.**

- a. No change to signage location on corner of Wisconsin and Harriman. See draft (left) and existing (right) below.



**J. The location and type of all proposed and existing exterior lighting fixtures.**

- a. Front and rear existing lighting above entryways.

**K. The location, height and materials of all proposed and existing fences or retaining walls.**

- a. The neighbor to the north has a 6' privacy fence along the entire north property line.

**L. The location and size of existing and proposed driveways.**

- a. No changes to existing driveways. There are 2 30' wide driveways off of Wisconsin Ave and 1 30' driveway off of Harriman Street.

**M. The location of snow storage areas.**

- a. No change AMS Management owns the property and provides snow removal services. Snow is piled in the northwest corner of the property.

**N. The location and use of buildings and structures on adjoining land.**

- a. To the north is a residential property with a single family home and accessory buildings. A 6 foot privacy fence separates the home's yard from the rear parking

lot. A commercial office building is directly adjacent to the west featuring a windowless cinder-block wall. Additional commercial offices are located across Harriman Street and a residential home is located across Wisconsin Avenue.

**O. Show the general landscaping concept for the site.**

- a. No change. Entire surface lot is paved.

**P. Indicate the proposed hours of operation and number of employees.**

- a. Proposed Hours: 8am to 12am, Daily
- b. Planned number of employees: 3

**Q. Submit preliminary architectural plans for the existing and proposed buildings that show sufficient detail to permit an understanding of the style of the development and the design of the building(s).**

- a. No Changes to building design or architecture.



**R. Submit floor plan of the building(s), including room dimensions.**

- a. Currently working on floor plan with Daniel Meissner from Inspection. Will be submitting for Plan Review. See Attached PDF  
"432b\_wwisc\_ave\_special\_use\_permit floor plan"

**TAVERN AND/OR RESTAURANT WITH ALCOHOL SALES  
PLAN OF OPERATION AND LOCATIONAL INFORMATION**

**Business Information:**

Name of business: Harmony Pizza LLC

Years in operation: 6 months (Restaurant is not yet operating)

Percentage of business derived from restaurant service: 100 %

Type of proposed establishment (detailed explanation of business):

Pizza restaurant with dine in and take out options. Beer, wine, and cider for dine in only.

**Proposed Hours of Operation for Indoor Uses:**

Day	From	To
Week Day	8am	12am
Friday	8am	12am
Saturday	8am	12am
Sunday	8am	12am

**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: 99 persons

Gross floor area of the existing building(s): Unit B: 1650sqft. Building: 3900sqft.

Gross floor area of the proposed building(s): No Change

**Describe Any Potential Noise Emanating From the Proposed Use:**

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

The proposed use will not substantially differ from prior uses with respect to equipment and mechanical noise. All re Fridgeration units will be inside the building. The oven will make minimal noise.



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

The restaurant staff will post signage and maintain a family friendly atmosphere. Within the building, staff will monitor patrons' sound levels.

If off-street parking is available for the business, describe how noise from the parking lot will be controlled: Parking spaces outside the building will be monitored and checked regularly by staff. Anyone causing disruption or demonstrating unruly behavior will be asked to stop. If behavior continues, they will be asked to leave the property. If the situation warrants, authorities will be called.

**Outdoor Uses:**

Location, type, size and design of outdoor facilities:

Outdoor facilities will only include parking spaces and entranceway.

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Type and height of screening of plantings/fencing/gating:

None.

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Is there any alcohol service incorporated in this outdoor facility proposal? Yes \_\_\_ No x

Are there plans for outdoor music/entertainment? Yes \_\_\_ No x

If yes, describe how the noise will be controlled:

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Is there any food service incorporated in this outdoor facility proposal? Yes \_\_\_ No x

**Proposed Hours of Operation for Outdoor Uses:**

Day	From	To
Week Day	None	
Friday		
Saturday		
Sunday		

**Outdoor Lighting:**

Type: \_\_\_\_\_

Location: \_\_\_\_\_

**Off-Street Parking:**

Property owner plans to re-strip the parking lot in the spring.  
The lot currently has 15 spaces.

Number of spaces existing: \_\_\_\_\_

Number of spaces proposed: Front Parking spaces to include 7 angled stalls (63 feet length)  
Rear Parking spaces to include 8 angled stalls (81 feet length)  
These stalls are shared by the 3 tenants in the building.

**Other Licensed Premises:** (see Image below)

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:

- Maritime Tavern - 336 W Wisconsin Ave
- 10th Frame Sports Bar - 618 W Wisconsin Ave
- The Cold Shot - 633 W Wisconsin Ave

**Number of Employees:**

Number of existing employees: \_\_\_\_\_ 0

Number of proposed employees: \_\_\_\_\_ 3

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

