



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** June 9, 2014

**Common Council Meeting Date:** No formal action required.

**Item:** Minor Amendment to Special Use Permit #1-03 for a sidewalk café with alcohol sales, service and consumption within the College Avenue amenity strip.

**Case Manager:** Don Harp

### GENERAL INFORMATION

**Owner/Applicant:** Appleton Hotel Group, LLC - property owner; Miguel Hernandez - applicant

**Address/Parcel #:** 100 East College Avenue/31-2-0287-00

**Petitioner's Request:** The applicant is requesting a Minor Amendment to Special Use Permit #1-03 for a sidewalk café with alcohol sales, service and consumption within the College Avenue amenity strip located directly in front of EL Patron Restaurant. The size of the sidewalk café is approximately 144 square feet in area.

### BACKGROUND

Special Use Permit #1-03 was approved for a restaurant with alcohol sales at this location by the Plan Commission on February 10, 2003, and approved by the Common Council on February 19, 2003 subject to the following:

1. The applicant shall apply for and receive a Liquor License from the City Clerk prior to serving alcohol on the subject site.
  - *On-going condition. This condition applied to the previous restaurants and continues to apply to the operation of this restaurant.*
2. All City of Appleton and State of Wisconsin Building Codes must be met.
  - *On-going condition. This condition applied to the previous restaurants and continues to apply to the operation of this restaurant.*
3. The applicant shall submit State-approved plans to the City of Appleton Inspections Division prior to issuance of a building permit.
  - *This condition applied to the previous restaurants. This condition does not apply to the operation of this restaurant.*

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4. The applicant shall apply for and receive a building permit from the City of Appleton Inspections Division prior to commencing construction of any interior remodeling.
  - *This condition applied to the previous restaurants. This condition does not apply to the operation of this restaurant.*
5. The applicant shall apply for and receive a sign permit from the City of Appleton Inspections Division prior to installing any signage on the building.
  - *This condition applied to the previous restaurants. This condition does not apply to the operation of this restaurant.*
6. Deliveries must use the rear entrance of the City Center Plaza property so College Avenue traffic flow is not interrupted.
  - *On-going condition. This condition applied to the previous restaurants and continues to apply to the operation of this restaurant.*
7. All City of Appleton Fire Codes must be met, and a fire inspection must be conducted prior to issuance of an occupancy permit.
  - *On-going condition. This condition applied to the previous restaurants and continues to apply to the operation of this restaurant.*
8. The applicant shall apply for and receive a Certificate of Occupancy from the City of Appleton Inspections Division prior to occupying the subject site for the proposed special use.
  - *This condition applied to the previous restaurants. This condition does not apply to the operation of this restaurant.*

A Street Occupancy Permit for the placement of tables and chairs within the beautification strip was approved by the Municipal Services Committee on May 27, 2014.

**STAFF ANALYSIS**

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**Existing Site Conditions:** The property is developed with a restaurant that currently holds a Reserve Class "B" liquor license which allows alcoholic beverages to be sold and consumed on the premises.

**Operational Information for the Restaurant:** An operational plan is attached to the Staff Report. The proposed sidewalk café area is shown on the Development Plan. The hours of operations are 11:00 a.m. to 9:00 p.m. Monday through Saturday. The hours of operation for serving alcoholic beverages in the

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sidewalk café area shall follow the restrictions identified in the Sidewalk Café Ordinance, as identified below:

- 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 area by 9:30 p.m.

### Surrounding zoning and land uses:

North: CBD Central Business District – Bagelicious

South: CBD Central Business District – Tropical Smoothie Cafe

West: CBD Central Business District – Joseph’s Shoes

East: CBD Central Business District – Murray Photo

**2010-2030 Comprehensive Plan:** The Community Development staff have reviewed the City’s 2010-2030 Comprehensive Plan which indicates this area is appropriate for commercial uses as part of the Central Business District.

### Overall Community Goals

- **9.3. Objective: Ensure the continued vitality of downtown and the City’s neighborhood commercial districts.** (Chapter 9- Economic Development)
- **Goal 1 – Community Growth** (Chapter 10 – Land Use)  
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.

### Ordinance Requirements:

This item has been referred to the Plan Commission per Section 23-66(g) of the Zoning Ordinance, which states:

(1) *Minor change.* Minor changes shall be submitted to and reviewed by the Plan Commission. Minor changes include:

- a. Expansions of special uses of less than ten (10) percent.

*The proposed sidewalk café constitutes an approximate 1.5 percent expansion. The proposed sidewalk café expansion will be less than ten (10) percent of the currently approved area within the building for alcohol sales and consumption.*



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- b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.

*The use of the premise and beautification will continue to be a restaurant with alcohol sales. This minor amendment request is consistent with the general intent and character of Special Use Permit #1-03.*

Note: Minor amendments to existing Special Use Permits do not require Common Council action.

**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.

**Department Comments:** The Department of Public Work Department indicated the table and chairs are not allowed to be placed within the bump area near the cross walk for the following reason: The bump out area does not have a marked on-street parking stall to provide a physical barrier between the proposed sidewalk café area and vehicle traffic per the current sidewalk café ordinance.

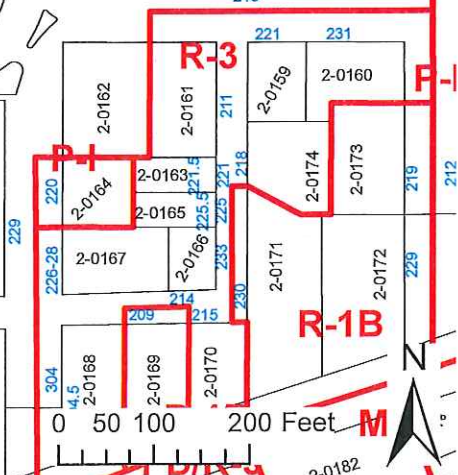
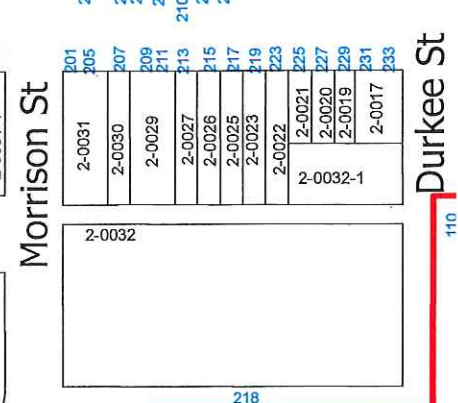
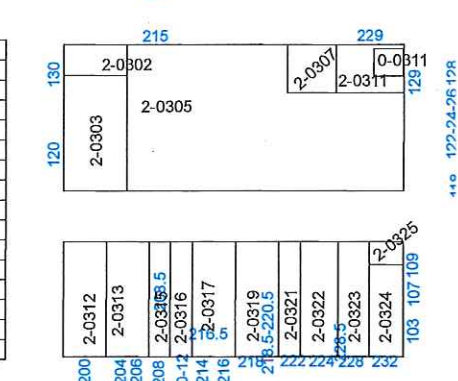
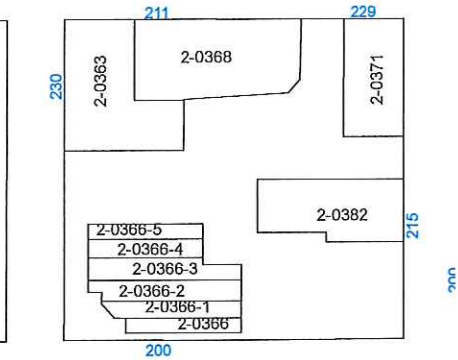
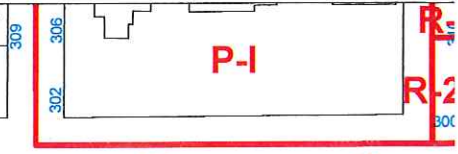
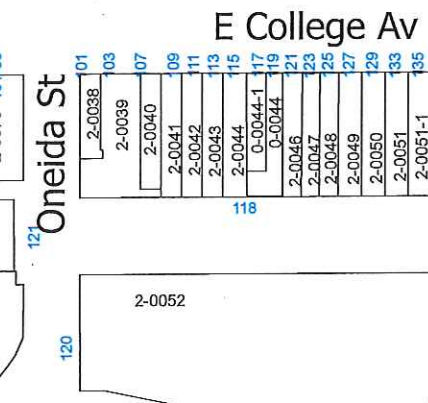
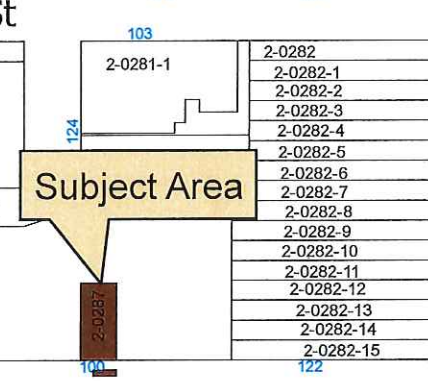
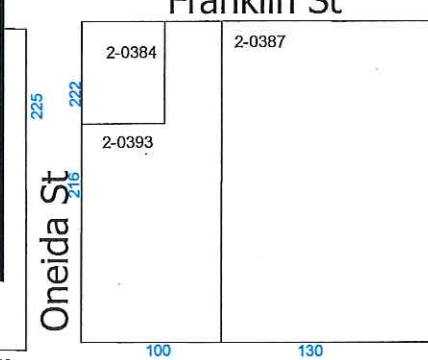
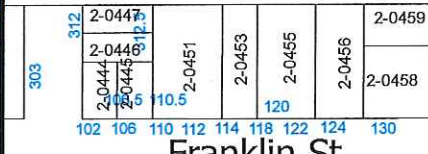
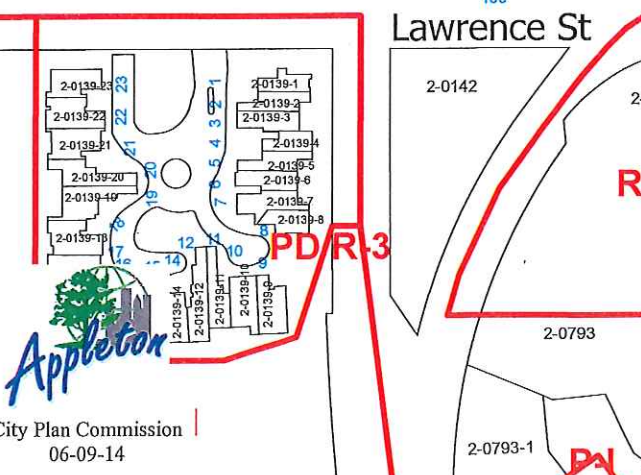
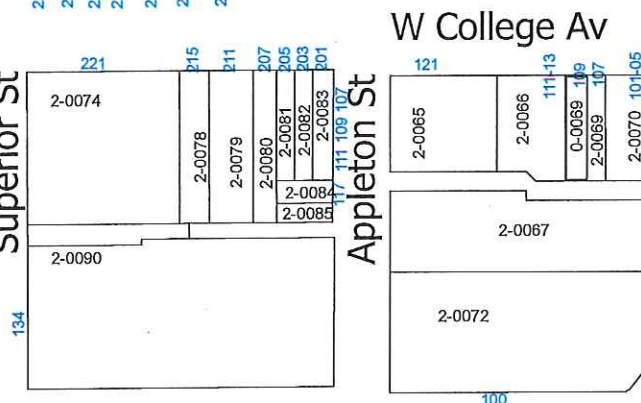
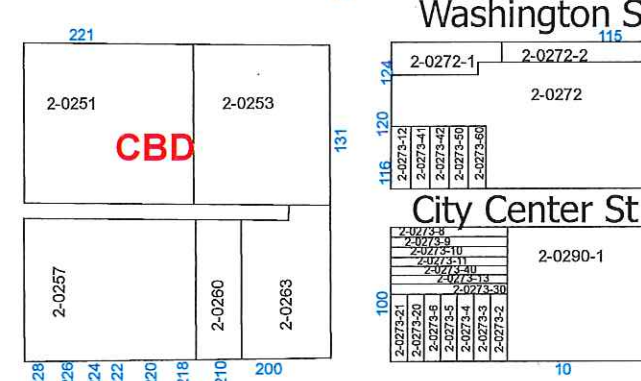
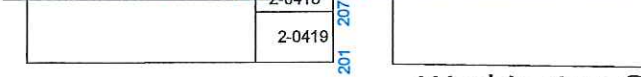
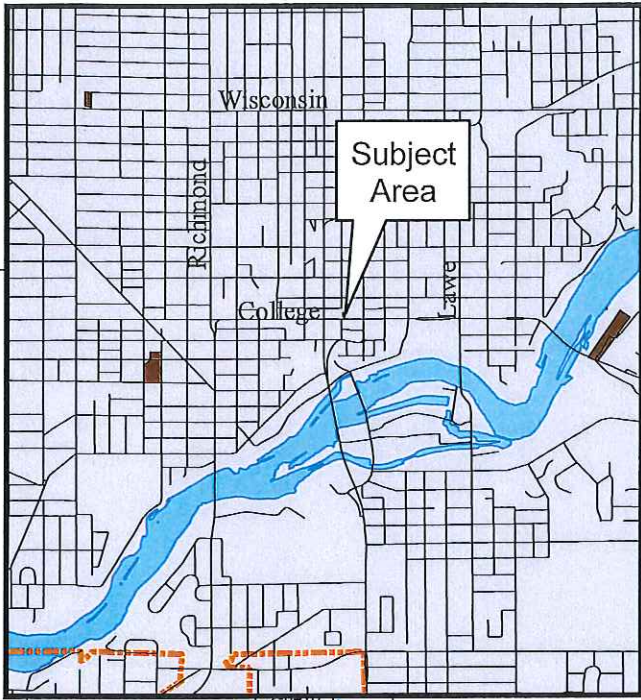
**RECOMMENDATION**

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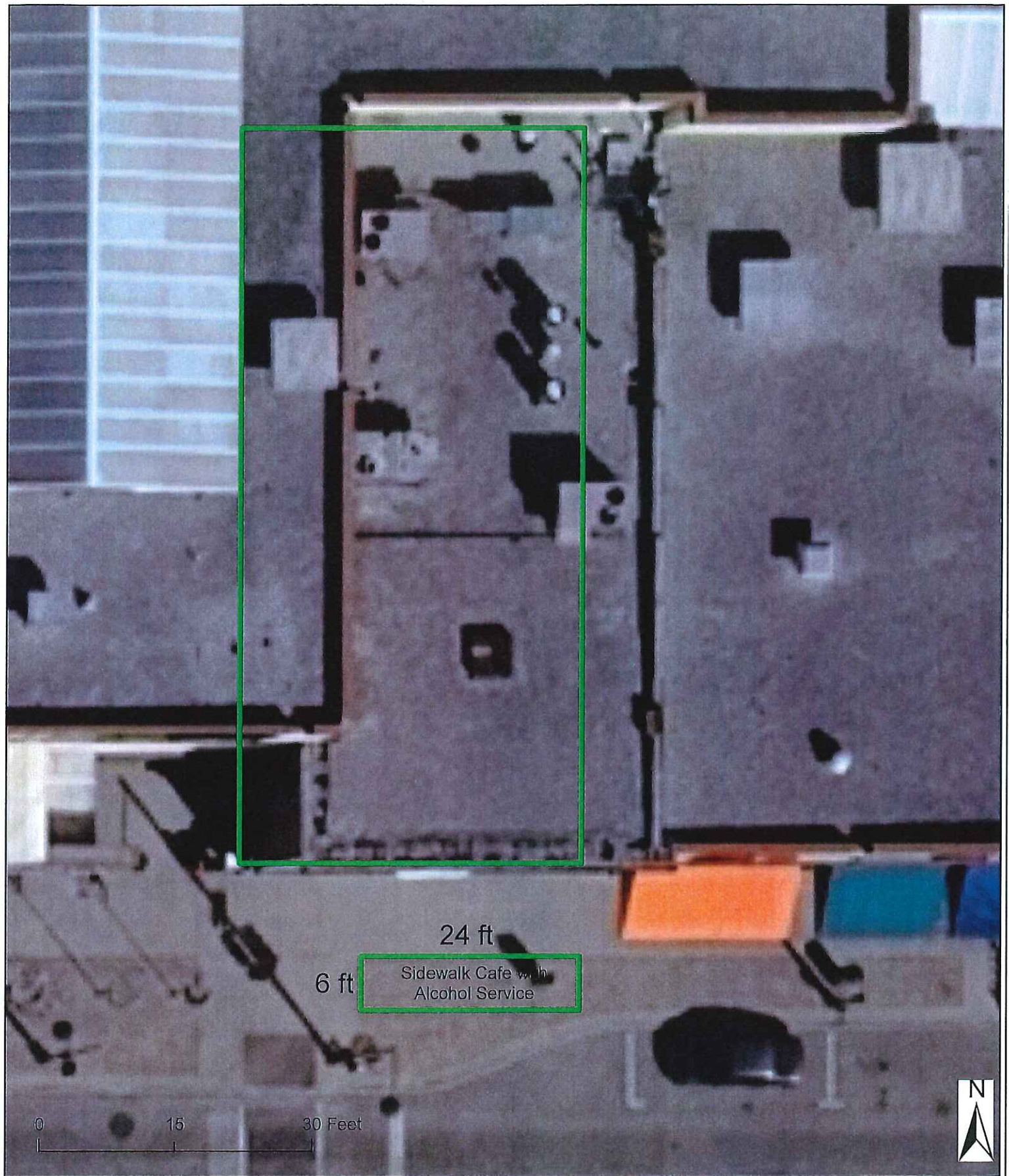
Staff recommends, based on the above, that Minor Amendment to Special Use Permit #1-03, for a sidewalk café with alcohol sales, service and consumption within the College Avenue amenity strip adjacent to 100 East College Avenue, as shown on the attached map and per attached plan of operation, **BE APPROVED** subject to the following original conditions:

1. The applicant shall apply for and receive a Liquor License from the City Clerk prior to serving alcohol on the subject site.
2. All City of Appleton and State of Wisconsin Building Codes must be met.
3. Deliveries must use the rear entrance of the City Center Plaza property so College Avenue traffic flow is not interrupted.
4. All City of Appleton Fire Codes must be met, and a fire inspection must be conducted prior to issuance of an occupancy permit.

100 East College Avenue  
 Minor Amendment to Special Use Permit #1-03  
 Sidewalk Cafe with Alcohol Service  
 El Patron Restaurant  
 Zoning Map







24 ft  
6 ft  
Sidewalk Cafe with  
Alcohol Service

0 15 30 Feet



City Plan Commission  
06-09-14

100 East College Avenue  
Minor Amendment to Special Use Permit #1-03  
Sidewalk Cafe with Alcohol Service  
El Patron Restaurant

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

Business information:

Name of Business: EL PATRON RESTAURANT

Years in operation: 1 1/2 yrs.

Percentage of business derived from restaurant service: 80 %

Type of the proposed establishment (detailed explanation of business): MEXICAN

Hours of Operation: 11:00 AM 9:00PM Days of Operation: MON - SATURDAY

Noise, crowd, parking lot control methods: staff

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: 10 persons.

Outdoor uses:

Location, type, size and design of outdoor facilities: 3 tables 6 by 24 feet

100 E. COLLEGE AVE

Type and height of screening: plantings/fencing/gating freestanding decorative barrier.

Is there any alcohol service incorporated in this outdoor facility proposal? Yes + No per side walk café

Hours of Operation: per sidewalk Days of Operation: Regulations  
café regulations

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

If yes, describe soundproofing measures: N/A

Is there any food service incorporated in this outdoor facility proposal? Yes X No +

Outdoor lighting:

Type: N/A

Location: N/A



**Off-street parking:**

Number of spaces provided 0.

**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 taverns: N/ BASIL'S PUB & PROVISIONS NO IDEA  
OLD TOWN TAVERN

**Amusement Devices:**

Number of video games: NO Pool Tables: NO

Other amusement devices: PATIO TABLES