



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: February 26, 2019

Common Council Meeting Date: March 6, 2019

Item: Special Use Permit #2-19 for expanded tavern/restaurant and outdoor area with alcohol sales and service

Case Manager: David Kress

GENERAL INFORMATION

Owner/Applicant: MIP, LLC (d/b/a McGuinness Irish Pub) c/o Matthew Miller

Address/Parcel #: 201 South Walnut Street (Tax Id #31-3-0847-00 and #31-3-0848-00)

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

BACKGROUND

The applicant's 0.248-acre site is located at the southwest corner of South Walnut Street and West Lawrence Street. Per Assessor's Office records, the two-story portion of the building was originally built in 1880, and numerous building additions have occurred over the years. TrimB's (restaurant with alcohol sales) operated in this building for over 20 years, until it closed in 2006.

On June 4, 2008, Common Council approved Special Use Permit #8-08 for the existing tavern at 201 S. Walnut Street. However, Special Use Permit #8-08 only included parcel #31-3-0847-00 and limits the serving and consumption of alcohol to 1,993 square feet of the interior first floor of the building. The entire first floor of the existing building is approximately 5,997 square feet. If approved, the current request would replace the previously issued Special Use Permit, resulting in an interior expansion of approximately 4,004 square feet and a new outdoor area of approximately 3,141 square feet.

STAFF ANALYSIS

Project Summary: McGuinness Irish Pub has operated within the subject building since 2008. The other part of the first floor was most recently used as a retail business (Mystic Ireland). The applicant proposes to expand alcohol sales and service within the existing building to include the entire first floor, which totals approximately 5,997 square feet. As shown on the attached development plan, the applicant also proposes to establish an outdoor beer garden at approximately 3,141 square feet in size.

Existing Site Conditions: The existing mixed-use building totals approximately 8,167 square feet, including the existing tavern, former retail space, and one dwelling unit on the second floor. Limited off-street parking is currently provided in the parking lot west of the building, with access provided by a curb cut on West Lawrence Street.

Major Changes to Special Uses: Per Section 23-66(g)(2) of the Municipal Code, all changes not identified as a "minor change" shall be deemed a major change in a special use and shall be submitted to

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Common Council for review through the typical Special Use Permit procedure. The original request was approved as Special Use Permit #8-08. The applicant's current request, Special Use Permit #2-19, is to expand the area of the tavern/restaurant and outdoor beer garden from 1,993 square feet to 9,138 square feet. This expansion is greater than 10% and therefore constitutes a major change. If approved, Special Use Permit #2-19 will replace Special Use Permit #8-08.

Zoning Ordinance Requirements: The subject property has a zoning designation of CBD Central Business District. Per Section 23-114(e) of the Municipal Code, a restaurant with alcohol sales and service requires a Special Use Permit in the CBD District. In order to permit alcohol sales and service in conjunction with an expanded tavern/restaurant and outdoor area, 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.

The existing building is built over two separate parcels (#31-3-0847-00 and #31-3-0848-00), which have been sold and owned together since at least 1981. Building permits approved in 1987 and 1988 resulted in building additions being constructed across the lot line, but based on available data, this issue was already in existence at that time. Alterations within the existing building footprint, such as opening up walls and installing kitchen equipment, will not require the lots to be combined, as it will not increase the degree of the existing nonconformity, pursuant to Section 23-42(b)(1) of the Municipal Code. However, any alteration beyond the existing building footprint, that crosses the lot line, will require a Certified Survey Map to combine the lots. Examples include a building addition or new accessory structure (e.g. outdoor patio).

Operational Information: A plan of operation is attached to the Staff Report.

Outdoor Seating Area: The applicant proposes to establish a beer garden with outdoor alcohol sales and service by repurposing part of the existing parking lot, as is shown on the development plan and described in the plan of operation. The outdoor beer garden would be located west of the building and enclosed with fencing and plantings.

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 institutional in nature.

North: CBD Central Business District. The adjacent land uses to the north are currently a mix of commercial and residential uses.

South: CBD Central Business District. The adjacent land uses to the south are currently a mix of institutional and commercial uses, including a tavern.

East: CBD Central Business District. The adjacent land uses to the east are currently a mix of institutional uses, including the Appleton Police Department.

West: CBD Central Business 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 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.

Chapter 14 Downtown Plan, Initiative 1 Urban Form and Design:

Strategy 1.6 – Add additional flexible outdoor space throughout the downtown area.

Chapter 14 Downtown Plan, Initiative 4 Downtown Development and Business Retention:

Strategy 4.8 – Support private sector efforts to redevelop and invest in downtown.

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 February 5, 2019 Technical Review Group meeting.

- Inspections Division Comments: We have reviewed the proposal and studied the juxtaposition of the entry to the beer garden and the exit stair landing as well as the relationship of each. We recommend that an area of the beer garden be delineated as an exit corridor from the stair landing to the public way. The gate to the public way can be locked for security purposes but have a panic bar for exiting.

RECOMMENDATION

Staff recommends, based on the above, that Special Use Permit #2-19 for a tavern/restaurant and outdoor area with alcohol sales and service at 201 South Walnut Street (Tax Id #31-3-0847-00 and #31-3-0848-00), 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.

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2. The serving and consumption of alcohol is limited to the interior ground floor of the building and outdoor beer garden area, 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.
3. 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. Work with the Fire Department and/or Inspections Division to update the building capacity information listed in the plan of operation.
4. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.
5. Any alteration beyond the existing building footprint, that crosses the lot line, will require a Certified Survey Map to combine the lots (#31-3-0847-00 and #31-3-0848-00). Examples include a building addition or new accessory structure.
6. The applicant shall receive approval of a Liquor License premise amendment from the City Clerk prior to serving or consuming alcohol in the expanded interior area and new outdoor area.
7. A building permit is required from the Inspections Division for the fence surrounding the outdoor beer garden. The building permit application must include details to delineate an area within the beer garden to serve as an exit corridor from the stair landing to the public way. The gate to the public way can be locked for security purposes but have a panic bar for exiting.
8. Special Use Permit #2-19 will replace Special Use Permit #8-08.

RESOLUTION

**CITY OF APPLETON
RESOLUTION APPROVING SPECIAL USE PERMIT #2-19**

WHEREAS, MIP, LLC (d/b/a McGuinness Irish Pub) has applied for a Special Use Permit for a tavern/restaurant and outdoor area with alcohol sales and service located at 201 South Walnut Street, also identified as Parcel Number(s) 31-3-0847-00 and 31-3-0848-00; and

WHEREAS, the location for the proposed tavern/restaurant and outdoor area with alcohol sales and service is located in the CBD Central Business 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 February 26, 2019, on Special Use Permit #2-19 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 #2-19 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 _____, 2019 and found it to be acceptable.

NOW, THEREFORE, BE IT RESOLVED, that the City of Appleton Common Council approves Special Use Permit #2-19 for a tavern/restaurant and outdoor area with alcohol sales and service located at 201 South Walnut Street, also identified as Parcel Number(s) 31-3-0847-00 and 31-3-0848-00 and orders as follows:

CONDITIONS OF SPECIAL USE PERMIT #2-19

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 serving and consumption of alcohol is limited to the interior ground floor of the building and outdoor beer garden area, 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.

3. 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. Work with the Fire Department and/or Inspections Division to update the building capacity information listed in the plan of operation.
4. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.
5. Any alteration beyond the existing building footprint, that crosses the lot line, will require a Certified Survey Map to combine the lots (#31-3-0847-00 and #31-3-0848-00). Examples include a building addition or new accessory structure.
6. The applicant shall receive approval of a Liquor License premise amendment from the City Clerk prior to serving or consuming alcohol in the expanded interior area and new outdoor area.
7. A building permit is required from the Inspections Division for the fence surrounding the outdoor beer garden. The building permit application must include details to delineate an area within the beer garden to serve as an exit corridor from the stair landing to the public way. The gate to the public way can be locked for security purposes but have a panic bar for exiting.
8. Special Use Permit #2-19 will replace Special Use Permit #8-08.

Adopted this _____ day of _____, 2019.

Timothy M. Hanna, Mayor

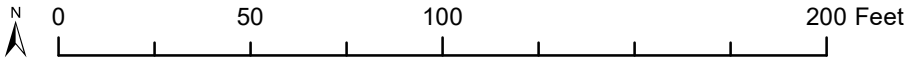
ATTEST:

Kami Lynch, City Clerk

201 South Walnut Street
Special Use Permit
Expand Tavern/Restaurant and Outdoor Area with Alcohol Sales
Aerial Map



Subject Area



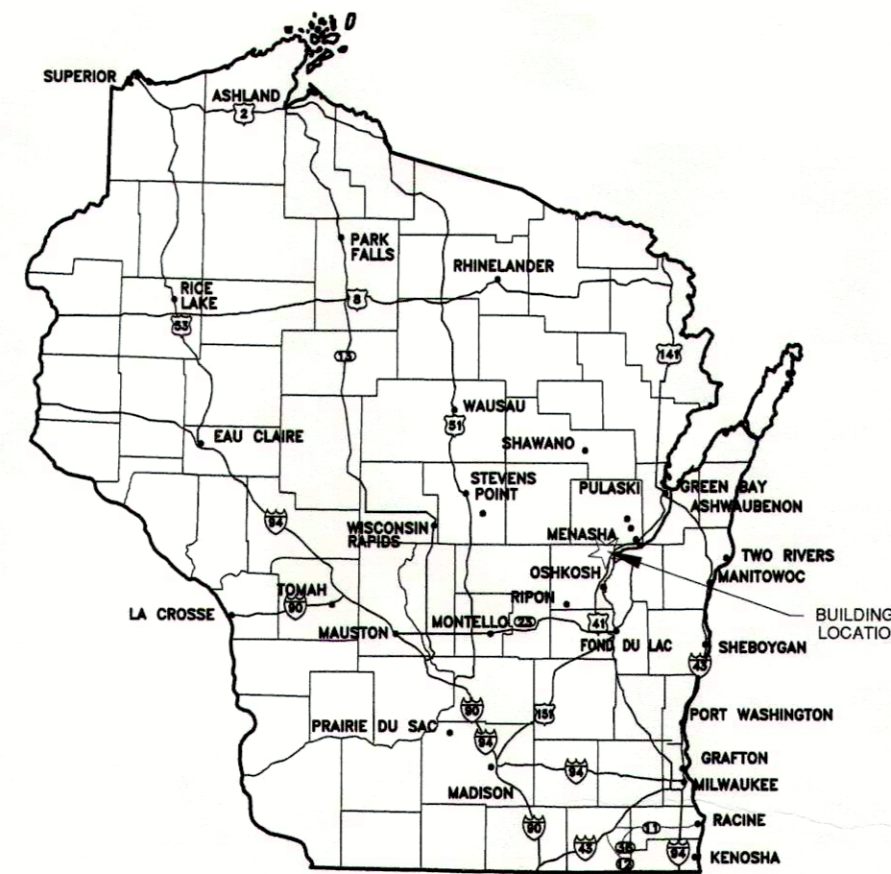
PROPOSED BUILDING RENOVATION FOR MYSTIC IRELAND

APPLETON,

WISCONSIN

SHEET INDEX

SHEET	SHEET TITLE
C-S	GENERAL COVER SHEET, INDEX, NOTES SITE PLAN
A1.0	ARCHITECTURAL FLOOR PLAN & SCHEDULES
A2.0	ADA DETAILS



LOCATION MAP

PROJECT INFORMATION

CONSTRUCTION CLASSIFICATION

TYPE VB NON-SPRINKLED

OCCUPANCY

NON-SEPARATED MIXED USE

EXISTING ASSEMBLY "A-2"

MERCANTILE "M"

EXITING

(2) 36" EXIT DOORS

CAPACITY

ASSEMBLY A-2 - 99 PEOPLE

MERCANTILE M - 3 PEOPLE

ALLOWABLE AREA

PER FLOOR, PER TABLE 503

ASSEMBLY TYPE "A-2" - 6,000 S.F.

RENOVATION AREA - 1,136 SF

ALTERATION

LEVEL II ALTERATION

EXISTING BUILDING CODE ITEMS

TABLE COMPARISONS

912.4 (MEANS OF EGRESS)

NEW "M" OCCUPANCY = PREVIOUS "A"
OCCUPANCY (LEVEL 3)

912.5 (HEIGHTS AND AREAS)

NEW "M" OCCUPANCY (LEVEL 3) IS LOWER
HAZARD THAN PREVIOUS "A" OCCUPANCY (LEVEL 2)

912.6 (EXPOSURE OF EXTERIOR WALLS)

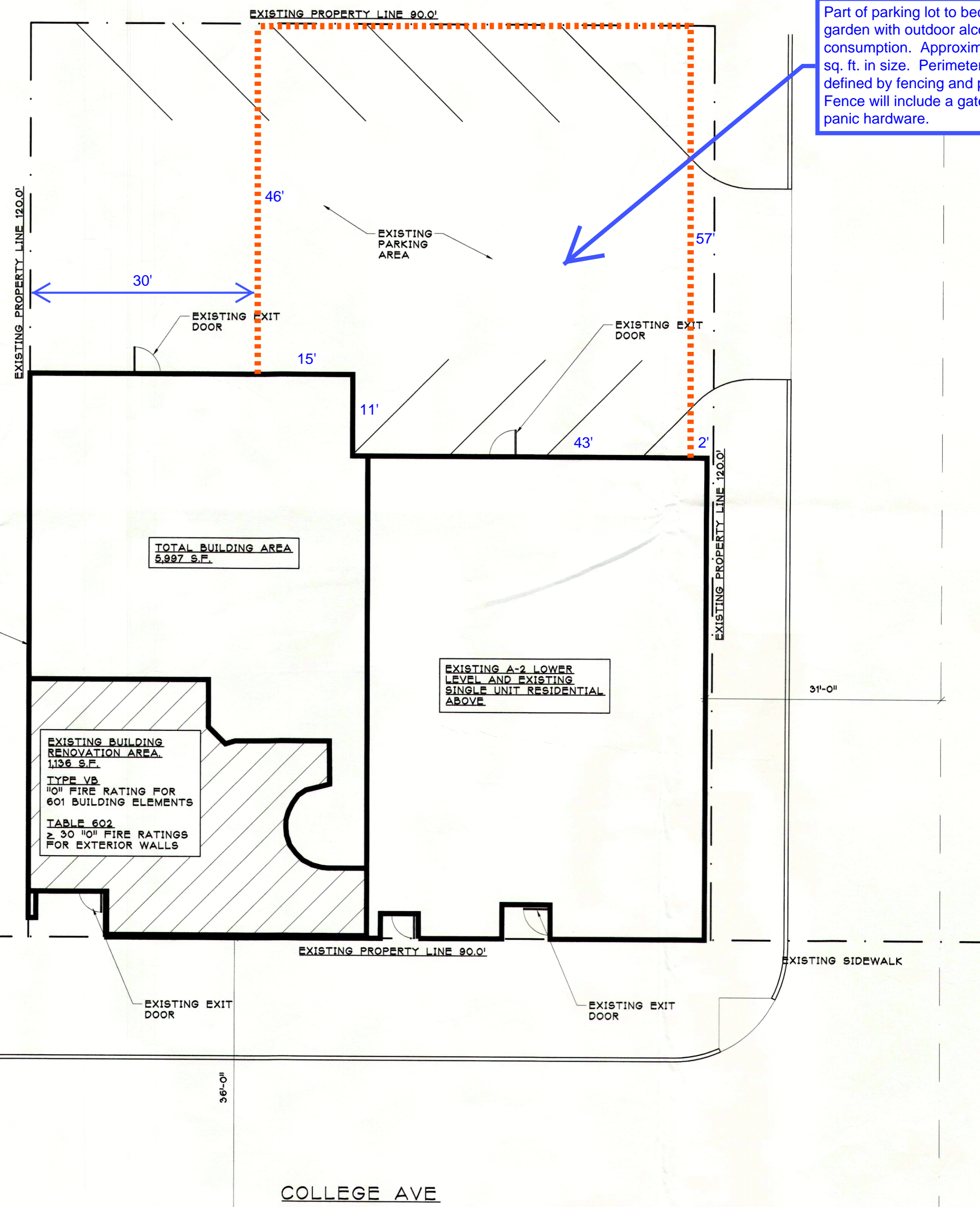
NEW "M" OCCUPANCY (LEVEL 2) IS HIGHER
HAZARD THAN PREVIOUS "A" OCCUPANCY (LEVEL 3)

NOTE TO PLAN REVIEWER


NEW BUILDING OWNER IS GOING TO CONTINUE OPERATION OF A PORTION OF THE EXISTING A-2 ASSEMBLY SPACE AND WILL BE CONVERTING THE EXISTING DINING AREA INTO A RETAIL STORE. OWNERSHIP OF BOTH BUSINESS OPERATIONS WILL BE BY THE SAME OWNER. THE ONLY WORK TO BE COMPLETED AS PART OF THIS SUBMITTAL IS TO PROVIDE CONTROL POINT FROM THE A-2 SPACE TO THE NEWLY CREATED RETAIL AREA.

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.



Part of parking lot to become beer garden with outdoor alcohol sales and consumption. Approximately 3,141 sq. ft. in size. Perimeter will be defined by fencing and plantings. Fence will include a gate with push panic hardware.

EXISTING SITE PLAN 
SCALE: 1" = 10'-0"

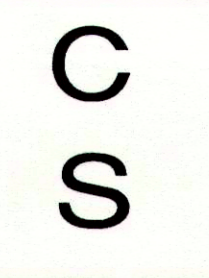
SITE PLAN IS EXISTING AND IS TO BE USED FOR REFERENCE ONLY



571 MARCELLA STREET
KIMBERLY, WI 54136
TELE: 920-574-2657 FAX: 920-574-2660

PROPOSED BUILDING RENOVATION FOR
MYSTIC IRELAND
APPLETON, WISCONSIN

date: 5-27-08
job: 08-023
d. by: K.S.
rev: _____



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

Business Information:

Name of business: McGUINNESS IRISH PUB

Years in operation: 11

Percentage of business derived from restaurant service: 20 %

Type of proposed establishment (detailed explanation of business):

BUILDING WAS SPLIT IN 2008 TO INCLUDE
RETAIL SPACE. I WOULD LIKE TO
RESTORE BACK TO ORIGINAL USE,
DINING ROOM W/ ALCOHOL SALES

Proposed Hours of Operation for Indoor Uses: ALSO ADD BEER GARDEN
IN PARKING LOT

Day	From	To
Week Day	11:00 AM	12:30 AM
Friday	11:00 AM	CLOSE
Saturday	11:00 AM	CLOSE
Sunday	9:00 AM	10:00 PM

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 - NEEDS NEW ASSESSMENT

Gross floor area of the existing building(s): 5,997 sq. ft. interior ground floor

Gross floor area of the proposed building(s): 5,997 sq. ft. interior ground floor

Describe Any Potential Noise Emanating From the Proposed Use:

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

N/A

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

INSIDE - NOT AN ISSUE

OUTSIDE - WITHIN ALL CITY ORDINANCES
WILLING TO ERECT NOISE DAMPENERS IF RECOMMENDED

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

WE INTEND TO TRANSFORM EXISTING
PARKING LOT TO BEER GARDEN

Outdoor Uses:

Location, type, size and design of outdoor facilities:

Approx 3,141 sq. ft. in size (see Sheet C-S)

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

WE WILL INSTALL FENCING & PLANTINGS - UNLESS STAFFED
↑ OPENING
GATE ONLY ACCESSIBLE FROM INSIDE

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

Are there plans for outdoor music/entertainment? Yes No

If yes, describe how the noise will be controlled:

WE WILL ABIDE BY ALL NOISE ORDINANCES

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

Proposed Hours of Operation for Outdoor Uses:

Day	From	To
Week Day	11 AM	10 PM
Friday	11 AM	11 PM
Saturday	11 AM	11 PM
Sunday	9 AM	4 PM

Outdoor Lighting:

Type: ELECTRICAL FIXTURES

Location: ON BLOG

Off-Street Parking:

Number of spaces existing: 20

Number of spaces proposed: 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 licensed premises:

FOX RIVER HOUSE

Number of Employees:

Number of existing employees: 7

Number of proposed employees: 12-15

Number of employees scheduled to work on the largest shift: 5-6

February 4, 2019

ATTN: City of Appleton

RE: MIP, LLC /dba McGuinness Irish Pub, 201 S. Walnut St, downtown Appleton

To whom it may concern:

This letter is to better explain our application for Special Use Permit.

As the newest owner of 201 S. Walnut St, I am very proud to be associated with this building and our ties to downtown Appleton. Originally constructed in 1880, this building has a lot of great stories and incredible history attached to it. For example, hopefully you are aware that the apartment upstairs was the childhood home of NFL Hall of Famer Rocky Bleier. The business was at that time known as Bleier's Bar. ESPN Films recently paid us a visit to film our pub as part of a documentary on Rocky's life. This is just one of the many interesting stories.

You may also know that this building was formerly Trim-B's restaurant for many years, a popular family restaurant. Trim-B's closed somewhere around 2002. To give perspective, Mystic Ireland retail store occupied the former Trim-B's dining room. This dining room was an addition to the property sometime in the 1970's.

My goal is to add a new page to the history of 201 S. Walnut St. I envision the business continuing to grow as more of a destination point for visitors, especially with the proximity to the new Expo center, Jones Park and the PAC. I intend to keep the business as an authentic Irish Pub, and utilize our new "Harp Room" as extended dining when needed and a private event space for parties and celebrations.

McGuinness Irish Pub and Mystic Ireland Gift Store opened in 2008 owned and operated by John and Anna McGuinness. These separate businesses have been operating out of the same building, separated by walls and a corridor with two doors. When the businesses opened, no alcohol was allowed in the retail side of the business and the original kitchen area was being used as a storage area for the store.

On January 1, 2015, MIP, LLC, with myself as a principal, started leasing McGuinness Irish Pub from the family. And, on January 1, 2018, we purchased the building under a land contract agreement from the McGuinness family. The retail store closed on April 1, 2018 and that space has been vacant since, while the pub continued with food and alcohol sales.

My hope is that we can again move back into the old dining area and kitchen, which was the original use.

In addition to utilizing the original kitchen and dining room, our intent this summer is to also transform our existing parking lot into a fenced-in beer garden. We would like to serve food and alcohol outside. Construction plans are to add a fence, a temporary bar (on wheels so it can be moved inside afterhours) and some planters with large shrubs or plants. We hope to host outdoor music during the summer months, but will, of course, abide by all the city ordinances and respond accordingly if there are complaints from neighbors. We are familiar with issues from music at our neighboring Fox River House; however, the music genre we usually play is Traditional Irish music, which is intended more as background music. These are not normally

rock shows where noise would be a concern. That being said, we would be open to install some sound deafening devices if recommended.

We understand that our building currently sits on two separate property lots. Our goal is to eventually combine the properties but are asking for a change in our Special Use Permit so we may have use of the additional space in time for the upcoming St. Patrick's Day weekend, obviously our busiest days of the year.

We have already been in discussion with the Planning Department, Building Inspections, Fire Inspection and Health Dept to investigate what is needed to combine these properties. Steve Patterson, Dan Meissner, and Tim Mirkes visited the property on Friday, February 1st for an informal discussion of what would be needed. I am well aware that no construction can cross the property line until the combination of lots into one property is complete.

Hopefully this better explains our plans to improve our location, adding to the appeal of downtown Appleton.

Please let me know of any questions or additional information needed.

Matthew Miller
McGuinness Irish Pub
920-573-0959
Matt@McGuinnessIrishPub.com