



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: October 26, 2022

Common Council Meeting Date: November 2, 2022

Item: Special Use Permit #12-22 for a bar/tavern

Case Manager: David Kress, Principal Planner

GENERAL INFORMATION

Owner: J.D. Boettcher & Company, LLC (Jeffrey Boettcher)

Applicant: Pillow Talk N Wine, LLC (Lisa Pitts)

Address/Parcel Number: 2310 West College Avenue, Unit C (Tax Id #31-7-0025-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for a bar/tavern.

BACKGROUND

The subject area, located near the intersection of West College Avenue and North Perkins Street, is a middle unit in a multi-tenant building. Based on Assessor's Office records, personal/professional services and retail business (pharmacy) was the previous use of the tenant space. The applicant recently applied for a Liquor License that includes Class B beer and Reserve Class B liquor, which is on track to go to Safety and Licensing Committee on October 26th and Common Council on November 2nd.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish a bar/tavern on the subject site, which would occupy approximately 4,815 square feet in the existing building. Based on the attached development plan, this request will not increase existing building area. Per the Inspections Division, the proposed layout and dimensions would allow a preliminary total of approximately 99 occupants for the subject tenant space.

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.

Existing Site Conditions: The existing multi-tenant building totals approximately 20,184 square feet, including other commercial uses in ground floor units. The 1.67-acre site also includes off-street parking north, east, and south of the building. Vehicular access is provided by curb cuts on North Perkins Street and the College Avenue frontage road.

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, a bar/tavern 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 and Town of Grand Chute. The uses are generally commercial in nature.

North: Town of Grand Chute. The adjacent land use to the north is currently vacant, undeveloped land.

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

East: C-2 General Commercial District and Town of Grand Chute. The adjacent land uses to the east are currently a mix of commercial uses, including a restaurant with alcohol sales and service.

West: C-2 General Commercial District. The adjacent land use to the west is currently vacant, undeveloped land.

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.

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.

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 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.

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.

Technical Review Group (TRG) Report: This item appeared on the October 4, 2022 TRG agenda. No negative comments were received from participating departments.

RECOMMENDATION

Staff recommends, based on the above analysis, that Special Use Permit #12-22 for a bar/tavern located at 2310 West College Avenue, Unit C (Tax Id #31-7-0025-00), 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. 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.

2. 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.

3. The site shall be kept free of litter and debris.

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.

4. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.

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.

5. The bar/tavern use is limited to the interior ground floor of the tenant space, 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.

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.

6. This Special Use Permit is needed for the bar/tavern use. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.

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.

**CITY OF APPLETON
RESOLUTION FOR SPECIAL USE PERMIT #12-22
BAR/TAVERN
2310 WEST COLLEGE AVENUE, UNIT C**

WHEREAS, Lisa Pitts, Pillow Talk N Wine LLC, has applied for a Special Use Permit for a bar/tavern located at 2310 West College Avenue, Unit C, also identified as Parcel Number 31-7-0025-00; and

WHEREAS, the location for the proposed bar/tavern 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 October 26, 2022 on Special Use Permit #12-22, at which all those wishing to be heard were allowed to speak or present written comments and other materials 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, as well as 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 #12-22 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 November 2, 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 under Sections 23-66(e)(1-8) of the Municipal Code are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #12-22 for a bar/tavern located at 2310 West College Avenue, Unit C, also identified as Parcel Number 31-7-0025-00, 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 #12-22 for a bar/tavern located at 2310 West College Avenue, Unit C, also identified as Parcel Number 31-7-0025-00, subject to the

following conditions as they are related to the purpose of the City of Appleton Municipal Code and based on substantial evidence:

CONDITIONS OF APPROVAL FOR SPECIAL USE PERMIT #12-22

- A. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.
 - B. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
 - C. The site shall be kept free of litter and debris.
 - D. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
 - E. The bar/tavern use is limited to the interior ground floor of the tenant space, 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.
 - F. This Special Use Permit is needed for the bar/tavern use. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.
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.

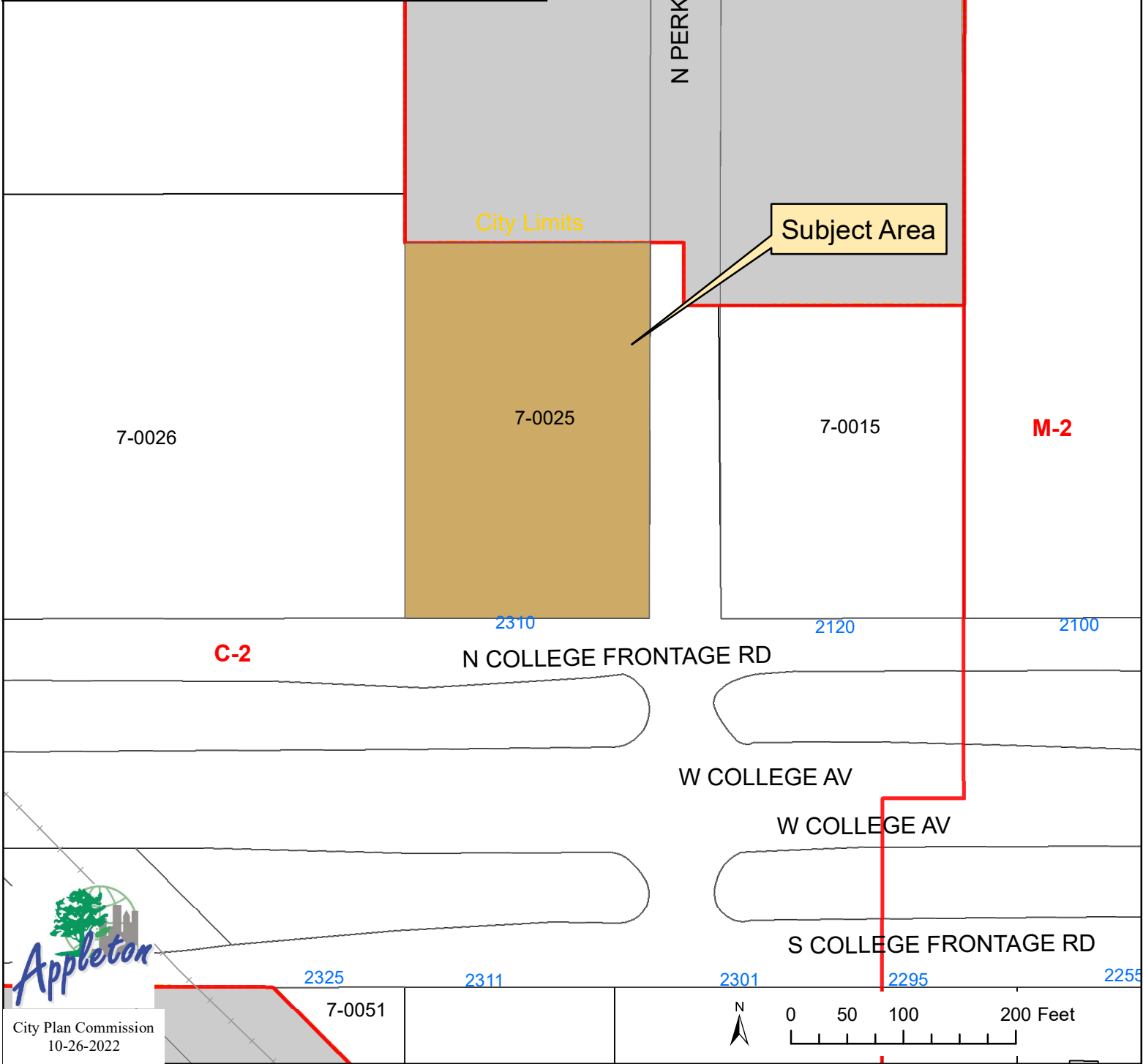
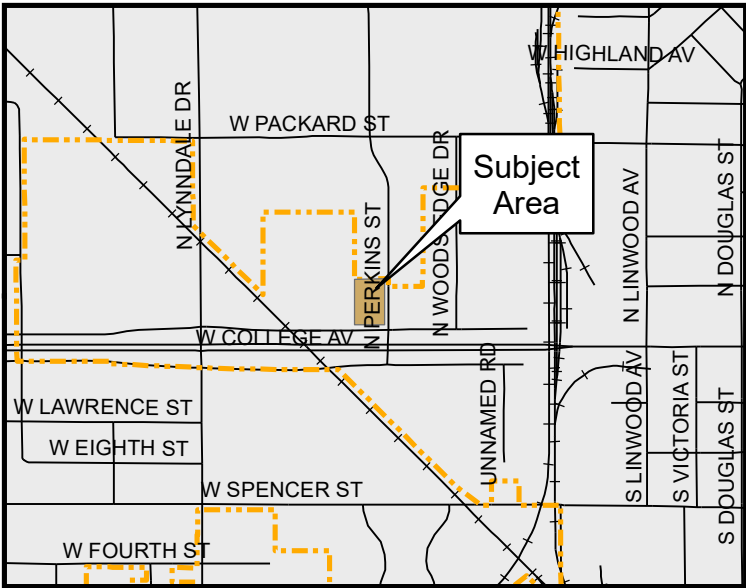
Adopted this _____ day of _____, 2022.

Jacob A. Woodford, Mayor

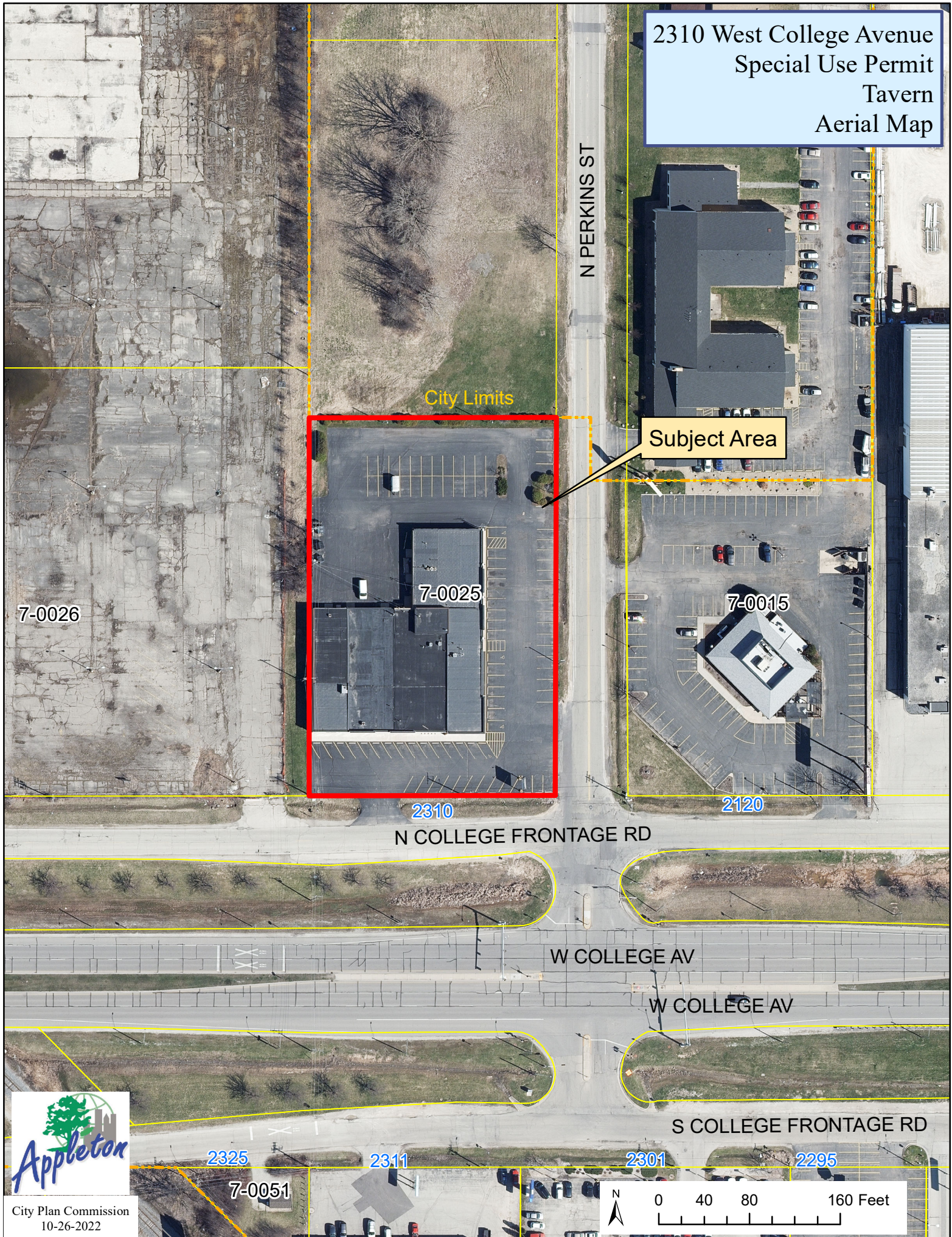
ATTEST:

Kami Lynch, City Clerk

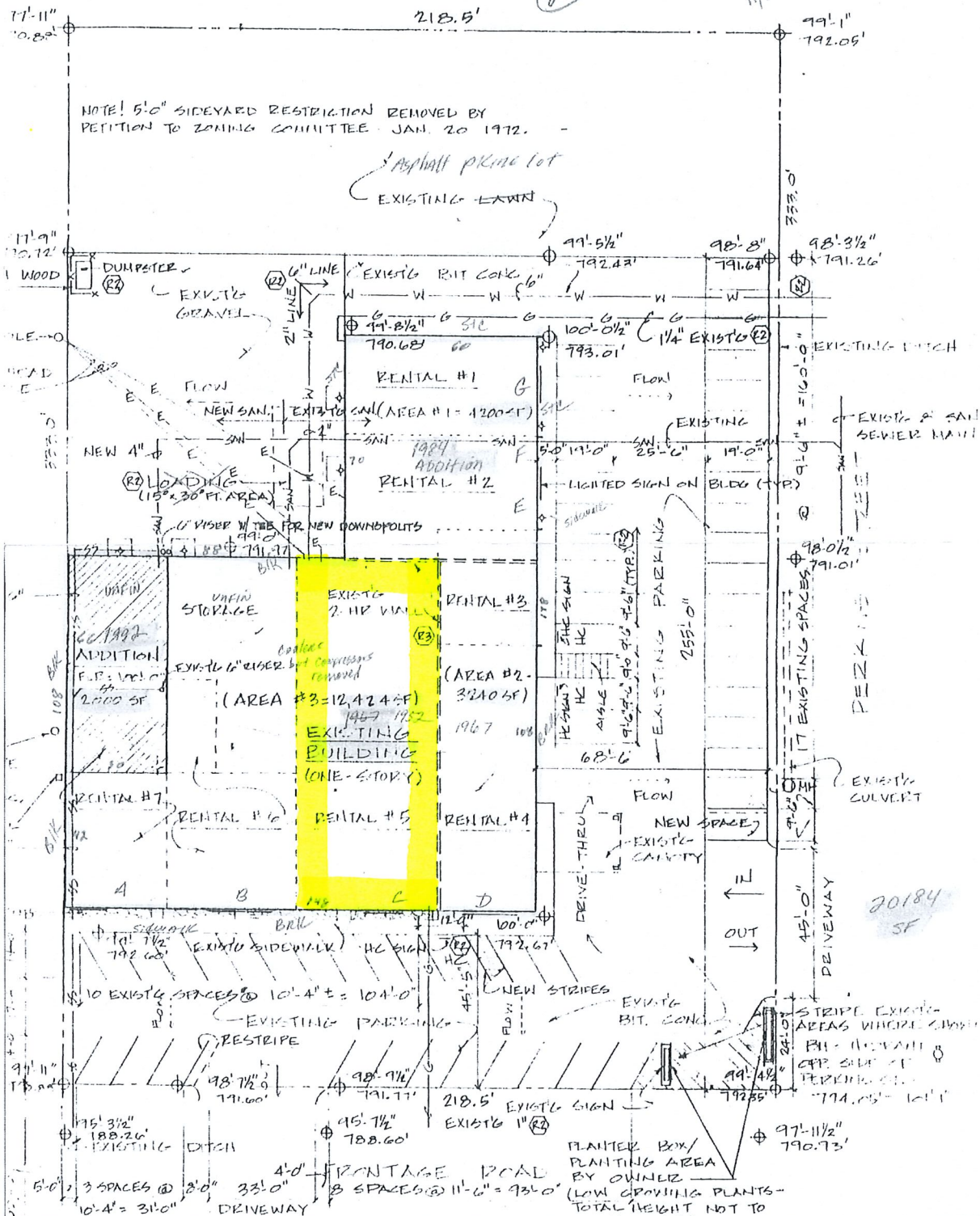
2310 West College Avenue
Special Use Permit
Tavern
Zoning Map



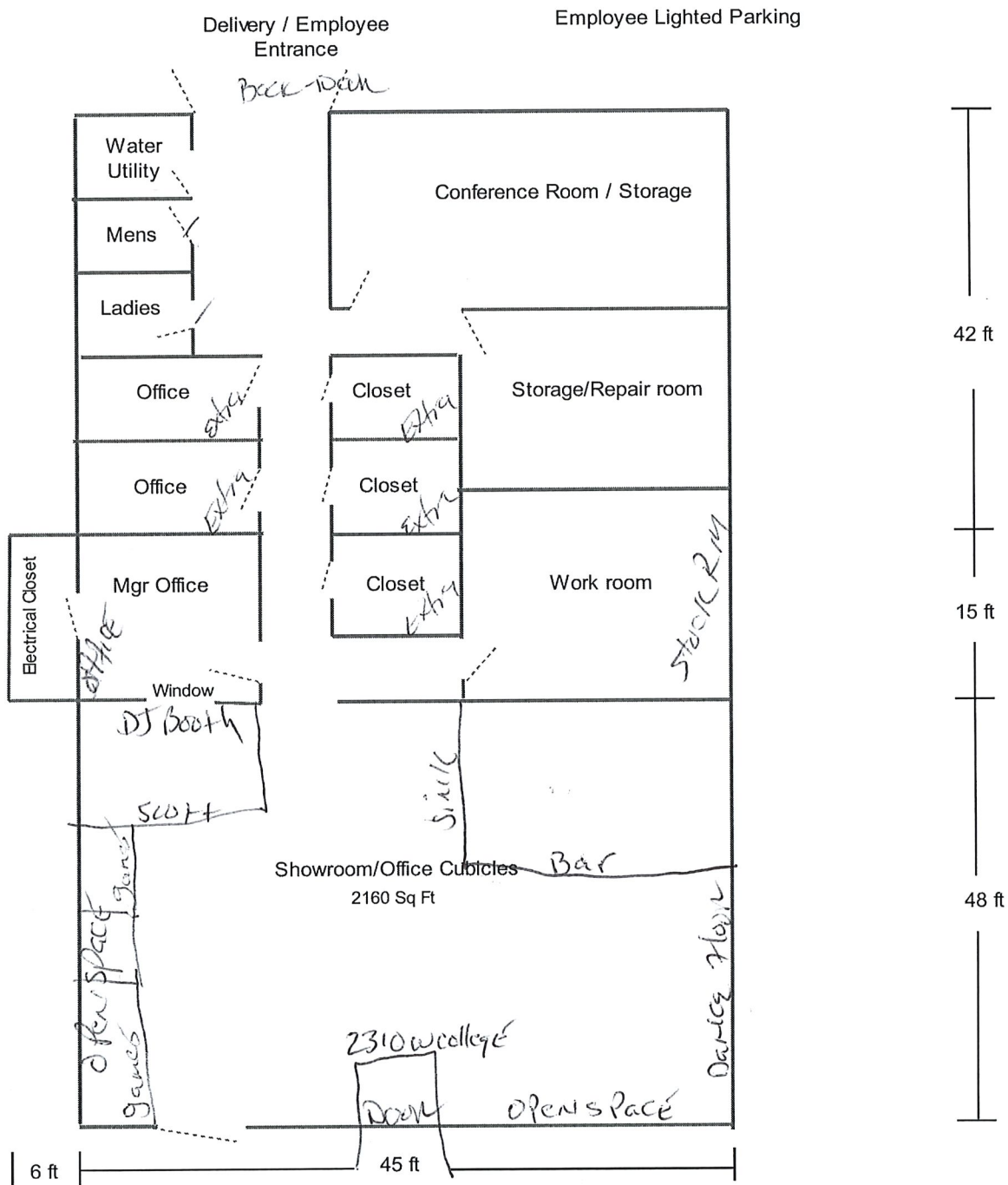
2310 West College Avenue
Special Use Permit
Tavern
Aerial Map



OK
11/18/04



The Boettcher Building
2310 W. College Ave, Appleton, WI 54914
Suitable for Retail, Office, Wholesale Zoned C-2
Suite C Schematic 4815 Square Feet
 (Measurements are approximate, drawing is not to scale)



26 Lighted Angle Parking Spaces in Front of Bldg (total spaces 89)

There will also be pool Table,
 & a dart board.
 seating will be located at the
 Bar, and games?

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business information:

Name of business: Pillow Talk N-Wine LLC

Years in operation: 0

(Check applicable proposed business activity(s) proposed for the premises)

- ☐ Restaurant
- ☒ Tavern/Night Club/Wine Bar
- ☐ Painting/Craft Studio
- ☐ Microbrewery/Brewpub (manufacturing a total of not more than 310,000 U.S. gallons of fermented malt beverages per calendar year)
- ☐ Brewery (manufacturing a total of more than 310,000 U.S. gallons of fermented malt beverages per calendar year)
- ☐ Winery (manufacturing of wine)
- ☐ Craft-Distillery (manufacturing a total of not more than 100,000 proof gallons of intoxicating liquor per calendar year)
- ☐ Distillery (manufacturing a total of more than 100,000 proof gallons of intoxicating liquor per calendar year)
- ☐ Tasting room offering fermented malt beverages, wine or intoxicating liquor for consumption and/or retail sales on the premises where the fermented malt beverages, wine or intoxicating liquor is manufactured and/or at an off-premises location associated with premises. Tasting rooms may include food sales.
- ☐ Other _____

Detailed explanation of proposed business activities:

social club gatherings
to drink & Talk & Dance, play Narts

Existing gross floor area of building/tenant space, including outdoor spaces:

(square feet) 4815 sq ft

Proposed gross floor area of building/tenant space, including outdoor spaces:

(square feet) 4815 sq. ft

Occupancy limits:

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: _____ persons.

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Monday thru Thursday	6 pm	2 AM
Friday	6 pm	2 AM
Saturday	6 pm	2 AM
Sunday	6 pm	2 AM

Production/Storage information:

(Check applicable proposed business activity(s) proposed for the premises)

- ☐ Current production of fermented malt beverages: _____ U.S. gallons per year
- ☐ Proposed production of fermented malt beverages: _____ U.S. gallons per year
- ☐ Current production of wine: _____ U.S. gallons per year
- ☐ Proposed production of wine: _____ U.S. gallons per year
- ☐ Current production of intoxicating liquor: _____ proof gallons per year
- ☐ Proposed production of intoxicating liquor: _____ proof gallons per year
- ☒ None. If none, leave the following 2 storage questions blank.

Identify location of grains and/or juice, grapes, other fruits or other agricultural product storage and type of storage container(s) used:

N/A

Identify the storage location of spent grains and/or grapes, other fruits or other agricultural products and type of storage container(s) used:

N/A

Outdoor Space Uses:

(Check applicable outdoor space uses)

- ☐ Patio
☐ Deck
☐ Sidewalk Café
☐ Other _____.

☒ None. If none, leave the following questions in this section blank.

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 consumption incorporated within the outdoor facility? Yes ___ No X

If yes, please describe:

N/A

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

If yes, describe how the noise will be controlled:

N/A

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

Proposed Hours of Operation for Outdoor Space:

Day	From	To
Monday thru Thursday	N/A	
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.**

Describe Any Potential Noise Emanating From the Proposed Use:

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

OS, speakers

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

Music will be controlled by OS. Inside
& Staff will monitor noises.

Off-Street Parking:

Number of spaces existing on-site: 89

Number of spaces proposed on-site: 89

Street Access:

Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

NO

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:

Glass Xlickel pizza
Mealed pot
Quinito-Sol

Number of Employees:

Number of existing employees: 1

Number of proposed employees: 8

Number of employees scheduled to work on the largest shift: 8