



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: May 24, 2023

Common Council Meeting Date: June 7, 2023

Item: Special Use Permit #4-23 for an indoor commercial entertainment use with alcohol sales and consumption (Lumberjack Johnny's, Axe Throwing)

Case Manager: Don Harp, Principal Planner

GENERAL INFORMATION

Owner: Northgate Five, LLC, Joe Vanevenhoven

Applicant: David Oshefsky, Newell Company, Inc.

Address/Parcel #: 2701 North Oneida Street (Tax Id #31-6-7651-00)

Petitioner's Request: The primary purpose of the use is axe throwing league play and axe throwing competitions. In addition, corporate team building events that begin at the Escape Room Wisconsin located in the adjacent tenant space followed up with axe throwing and a team building debrief. In our Ashwaubenon location, we have found axe throwing is a great tool to appeal to a broader audience and get our customers gathered in a relaxed environment to unwind and review the success and challenges of the team building exercises. We would seek a Class "B" fermented beverage license to serve.

BACKGROUND

This tenant space was most recently occupied by Bio-Medical Applications of Wisconsin.

The building was constructed in 1980, and the property contains a multi-tenant building with an off-street parking lot.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish an indoor commercial entertainment use (axe throwing facility) with alcohol sales and consumption on the subject site, which would occupy approximately 7,256 square feet of the existing multi-tenant building.

Operational Information: A plan of operation is attached to the staff report.

Outdoor Seating Area: No outdoor alcohol sales and consumption is requested with this application.

Existing Site Conditions: The existing multi-tenant building totals approximately 27,994 square feet, includes an 81-stall off-street parking lot. Access is provided by curb cuts on North Onieda Street and North Appleton Street.

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Off-Street Parking Requirements: 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 building, per Assessor's Office records. 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.

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, an indoor commercial entertainment use with alcohol sales 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 (north, south, east, and west). The uses are generally commercial and residential in nature.

North: C-2 General Commercial District. The adjacent land uses to the north are a gas station/convenience store with retail alcohol and automotive repair shop. (Future land use map recommends Commercial for the adjacent properties.)

South: C-2 General Commercial District. The adjacent land use to the south is The Grand Meridian banquet/event center. (Future land use map recommends Commercial for the adjacent property.)

East: P-I Public Institutional District. The adjacent land use to the east is St. Francis Xavier Middle School. (Future land use map recommends Public/Institutional for the adjacent property.)

West: R-1B Single-family Residential District. The adjacent land uses to the west are currently single-family residential. (Future land use map recommends Single/Two family for adjacent properties.)

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.

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Technical Review Group (TRG) Report: This item appeared on the May 2, 2023 TRG agenda. No negative comments were received from participating departments.

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.

Findings of Fact: This request was reviewed in accordance with the standards for granting a Special Use Permit under Section 23-66(e)(1-8) of the Municipal Code: *1. proper zoning district:* C-2 zoning allows indoor entertainment uses with alcohol sales as a special use permit; *2. zoning district regulations:* the district regulations appear to be satisfied pursuant to the attached development plan; *3. special regulations:* stipulations 1, 2, 3 and 4 (below) address the special regulations for alcohol sales; *4. consistent with comprehensive plan and other plans:* yes, see above analysis; *5. traffic:* the proposed use is not expected to create undue traffic congestion, it is anticipated customers will utilize existing on-site parking spaces to park their cars; *6. landscaping and screening:* not applicable to this use, changes to the existing parking are not being proposed with this request; *7. neighborhood compatibility with predominant land uses in this area:* the proposed use is located near other existing commercial uses in this area of the City, the proposed alcohol service is anticipated to be ancillary and subordinate (i.e., an amenity for the customers) to the primary use as an indoor commercial entertainment facility for axe throwing; *8. impact on services:* the City has existing utilities and services in place to serve this proposed use. These standards were found in the affirmative, as long as all stipulations are satisfied.

RECOMMENDATION

Staff recommends, based on the above analysis, that Special Use Permit #4-23 for an indoor commercial entertainment use (axe throwing) with alcohol sales and consumption located at 2701 N. Oneida Street (Tax Id #31-6-7651-00) 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.

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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 (Article IV. Noise), 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.

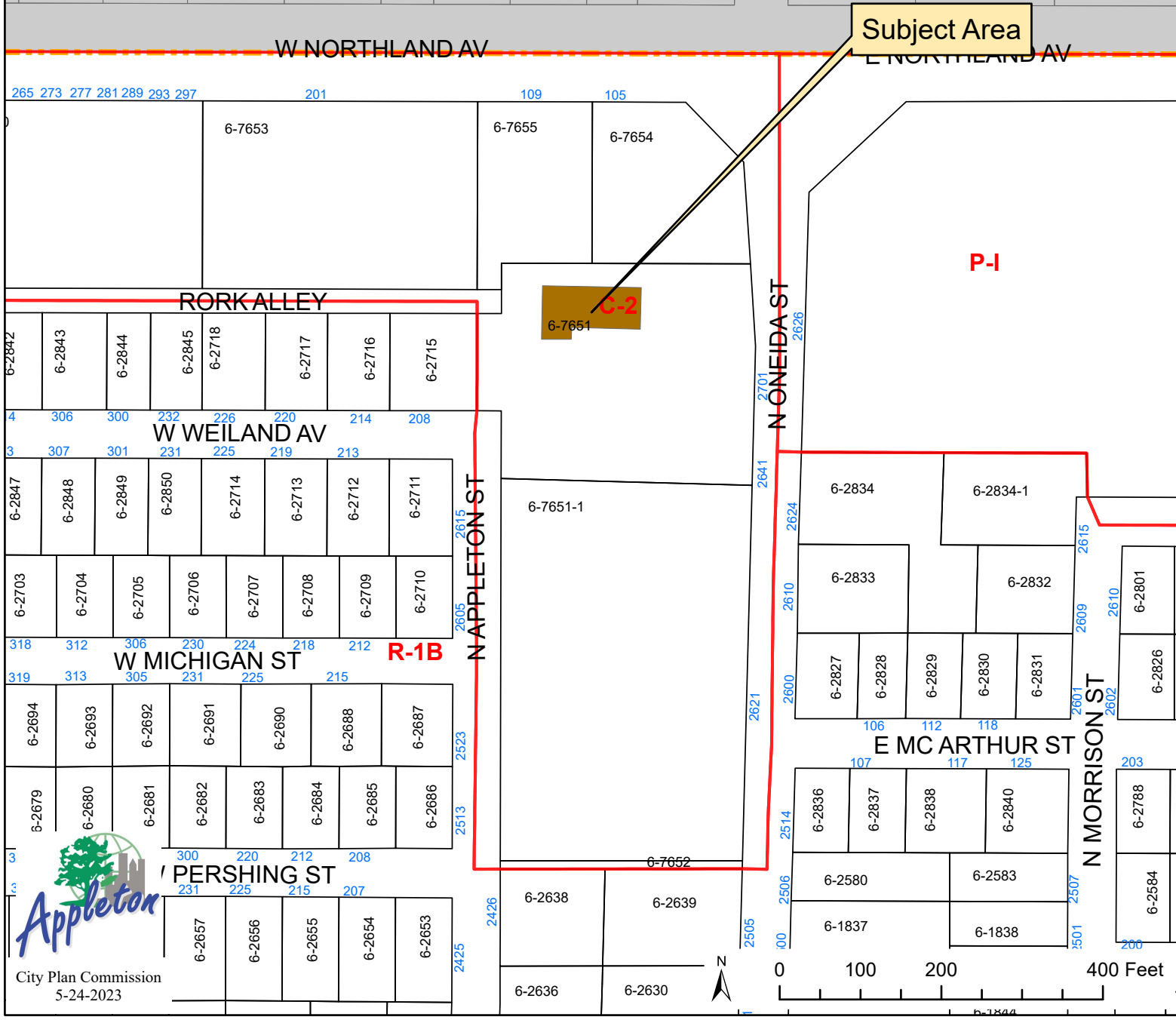
5. The serving and consumption of alcohol is limited to the interior tenant space, as identified on the attached development plan and floor plan drawings. Any future expansions for the serving and/or consumption of alcohol may require a major or minor amendment request to this Special Use Permit, pursuant 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. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.

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.

Special Use Permit
 Indoor Commercial Entertainment
 with Alcohol Sales
 "Lumberjack Johnny's" Axe Throwing
 2701 North Oneida Street
 Vicinity Map



Special Use Permit
Indoor Commercial Entertainment with Alcohol Sales
"Lumberjack Johnny's" Axe Throwing
2701 North Oneida Street
Aerial Map



**CITY OF APPLETON
RESOLUTION FOR SPECIAL USE PERMIT #4-23
INDOOR COMMERCIAL ENTERTAINMENT USE WITH ALCOHOL SALES AND CONSUMPTION
2701 NORTH ONEIDA STREET**

WHEREAS, David Oshefsky has applied for a Special Use Permit to establish an indoor commercial entertainment use (axe throwing) with alcohol sales and consumption, also identified as Parcel Number 31-6-7651-00; and

WHEREAS, the proposed indoor commercial entertainment use (axe throwing) with alcohol sales and consumption, 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 May 24, 2023 on Special Use Permit #4-23, 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 #4-23 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 June 7, 2023.

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 #4-23 for an indoor commercial entertainment use (axe throwing) with alcohol sales and consumption, also identified as Parcel Number 31-6-7651-00, 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 #4-23 for an indoor commercial entertainment use (axe throwing) with alcohol sales and consumption, also identified as Parcel

Number 31-6-7651-00, 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 #4-23:

- 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 (Article IV. Noise) and all applicable State and Federal laws shall be complied with.
 - E. The serving and consumption of alcohol is limited to the interior tenant space, as identified on the attached development plan and floor 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. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.
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 _____, 2023.

Jacob A. Woodford, Mayor

ATTEST:

Kami Lynch, City Clerk

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business Information:

Name of business: ___Newell Company, Inc. DBA Lumberjack Johnny's

Years in operation: ___9 years

(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___ Entertainment including axe throwing and other team building exercises.

Detailed explanation of proposed business activities:

Axe Throwing, with secondary sports such as Darts and Cornhole for the purpose of teambuilding and family entertainment.

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

(square feet) 7,256 Sq feet

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

(square feet) 7,256 Sq Feet

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
Wednesday thru Thursday	5:00 pm	10:00 pm
Friday	11:00 AM	10:00 pm
Saturday	11:00 AM	10:00 PM
Sunday	11:00 AM	5:00 PM

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

X None. If none, leave the following two 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:

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

Outdoor Space Uses:

(Check applicable outdoor space uses)

Patio

Deck

Sidewalk Café

Other _____.

X 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 ___

If yes, please describe:

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

If yes, describe how the noise will be controlled:

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

Proposed Hours of Operation for Outdoor Space:

Day	From	To
Monday thru Thursday		
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:

Estimated 90 decibels at high point internally. No external impact expected.

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

No impact externally, internally we will be installing acoustical panels on the ceiling and utilizing sound absorbing materials in the design such as carpet.

Off-Street Parking:

Number of spaces existing on-site: 62

Number of spaces proposed on-site: N/A

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 improvements are planned. Ingress/egress is existing along North Oneida Street and North Appleton Street.

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:

The Grand Meridian

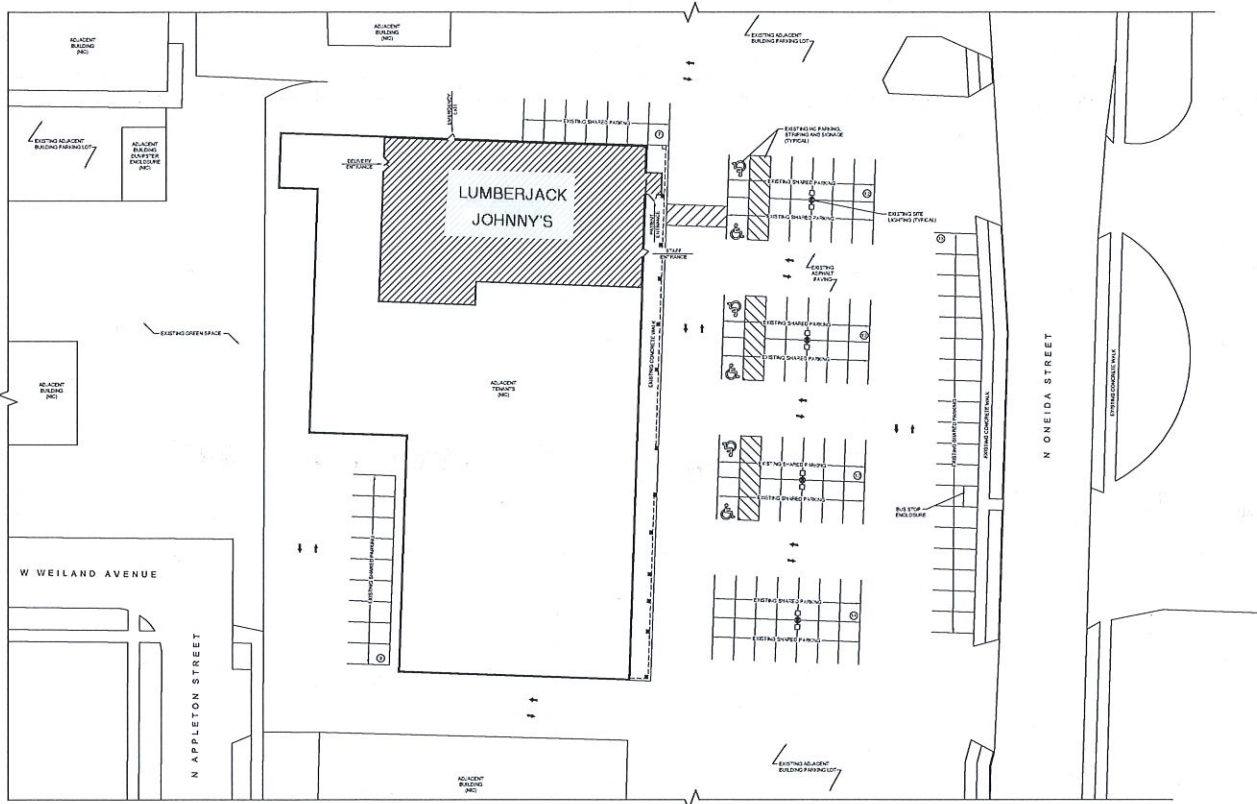
Number of Employees:

Number of existing employees: 8

Number of proposed employees: 16 by end of year 2023

Number of employees scheduled to work on the largest shift: Typically 4

WHAT IS A SPECIAL USE PERMIT?



GENERAL NOTES

1. EXISTING CONDITIONS SHOWN OR NOT SHOWN FIELD SURVEY AND THE ACCURACY OF THE SITE PLAN DRAWINGS SHALL BE THE RESPONSIBILITY OF THE CLIENT. THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR VERIFYING THE EXISTING CONDITIONS PRIOR TO BE.



ARCHITECTURAL SITE PLAN
SCALE 1/8" = 1'-0"

Proposed Renovation for:
FKC - Appleton
 FKC Location #06055-1-RN-W-RN-2017
 2701 N Oneida Street, Suite E
 Appleton, Wisconsin 54911

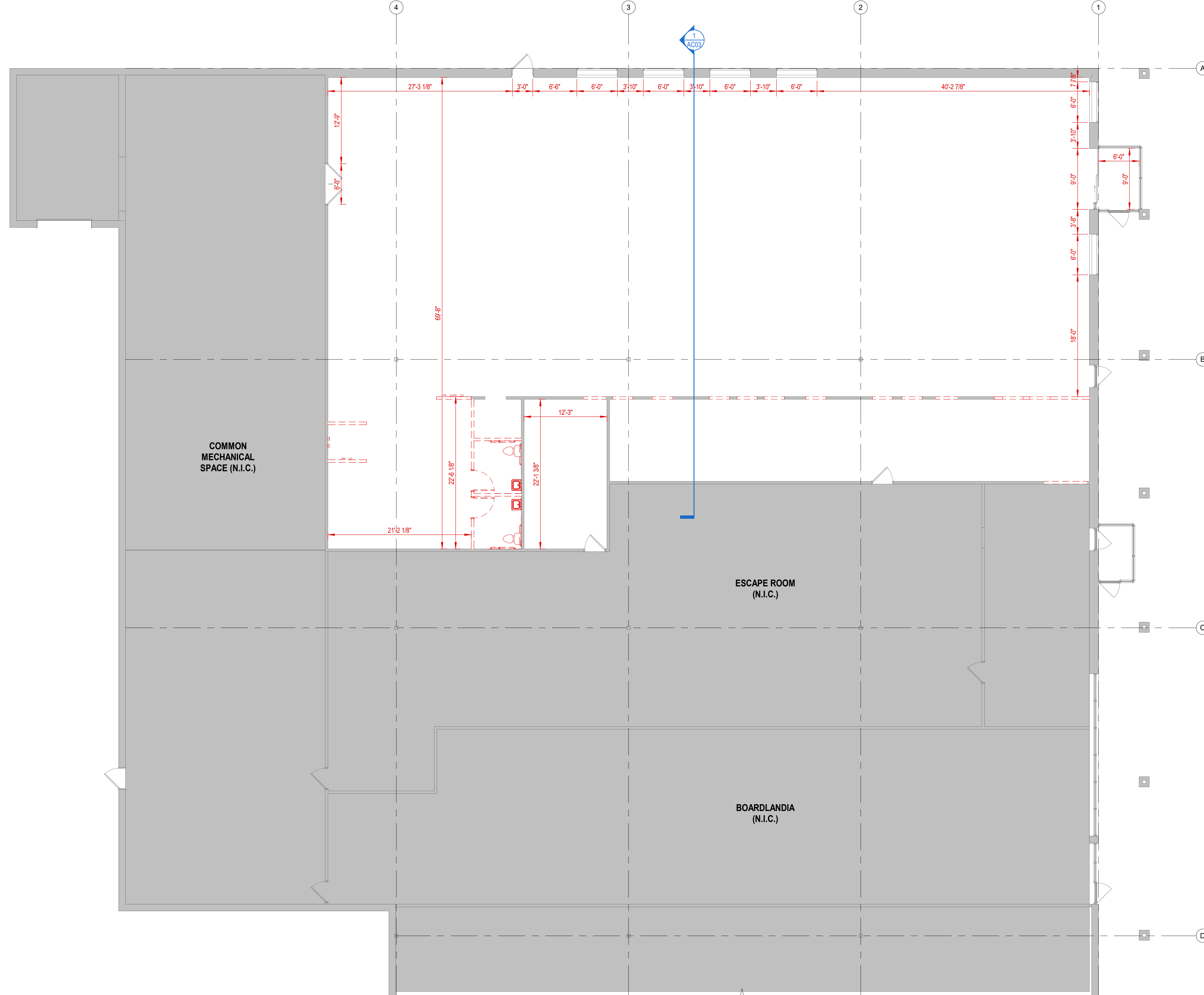
FRESENIUS KIDNEY CARE

Project No. 17048-01

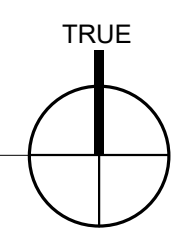
Drawn By: NMA
 Checked By: ESM
 Date Drawn: 02/23/2017
 Project #: 17048-01

NO.	REVISION DESCRIPTION	DATE

Architectural Seal: Christopher Kidd, No. 100000, State of Wisconsin, dated 2/22/2017.



1 CONCEPTUAL EXISTING/
DEMO PLAN
1/8" = 1'-0"



THESE RENDERINGS ARE FOR ILLUSTRATIVE PURPOSES ONLY AND ARE NOT MEANT TO BE AN EXACT DEPICTION OF THE RENDITION SHOWN. ANY RELIANCE ON THESE RENDERINGS SHALL BE AT THE USER'S SOLE RISK. ALLIANCE CONSTRUCTION & DESIGN, INC. IS NOT RESPONSIBLE FOR ANY RELIANCE OR MISUSE OF THESE RENDERINGS AND/OR DAMAGES, CLAIMS, LOSSES OR LIABILITY THAT MAY RESULT.



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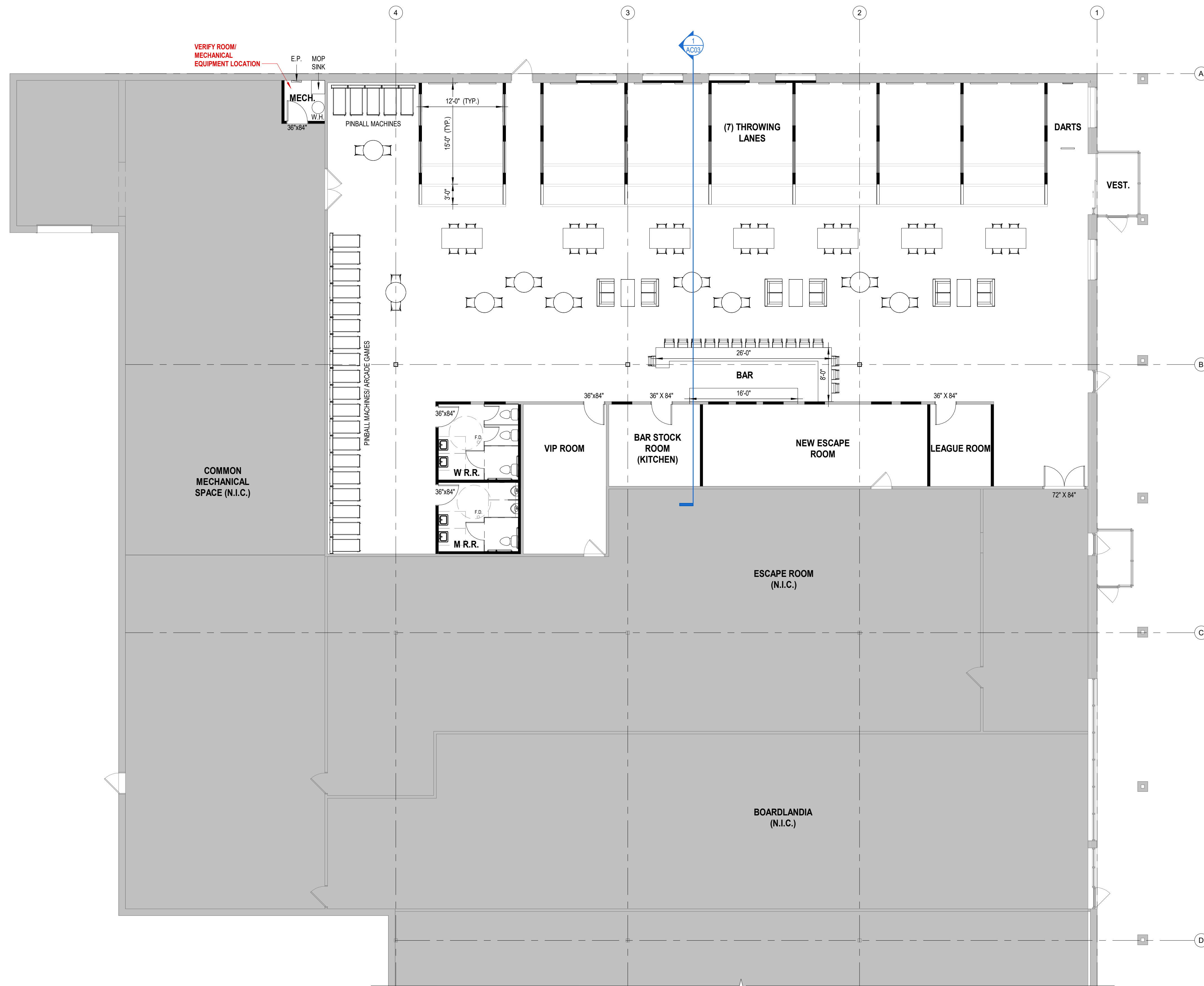
AXE THROWING TENANT

PROJECT NUMBER: 23-039
STATUS: CONCEPTUAL

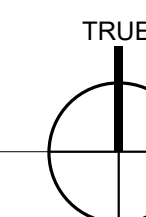
**NOT FOR
CONSTRUCTION**

CONCEPTUAL EXISTING/
DEMO PLAN

AC01



1
CONCEPTUAL FLOOR PLAN
 1/8" = 1'-0"



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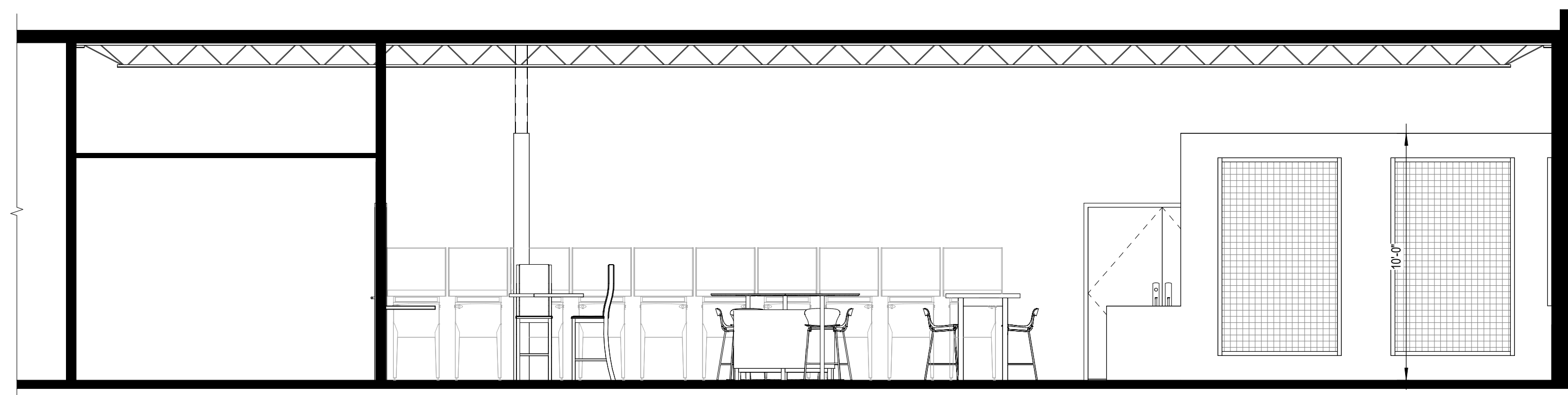
AXE THROWING TENANT

PROJECT NUMBER: 23-039
 STATUS: CONCEPTUAL

NOT FOR CONSTRUCTION

CONCEPTUAL PLAN

AC02



1 TRANSVERSE BUILDING SECTION
1/4" = 1'-0"

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AXE THROWING TENANT

PROJECT NUMBER: 23-039
STATUS: CONCEPTUAL

**NOT FOR
CONSTRUCTION**

CONCEPTUAL SECTION

AC03