



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Public Hearing Date:** January 11, 2016

**Common Council Meeting Date:** January 20, 2016

**Item:** Special Use Permit #17-15 for restaurant with alcohol sales and service

**Case Manager:** David Kress

### **GENERAL INFORMATION**

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**Owner:** Louberts Properties, LLC

**Applicant:** Lou's Brew Cafe c/o Laura Loukidis

**Address/Parcel #:** 233 East College Avenue (Tax Id #31-2-0017-00)

**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 at the southwest corner of East College Avenue and South Durkee Street, was previously occupied by Harmony Cafe. This would be the second Lou's Brew Cafe location, as their Oshkosh, WI site has been in operation for three years. 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. Between the first floor, mezzanine level, and upper floor meeting space, the proposed restaurant with alcohol sales and service would occupy approximately 4,560 square feet of the existing building. Based on the attached development plan, this request will not increase existing building area. The applicant also proposes a sidewalk cafe, with alcohol sales and service, in the College Avenue amenity strip located directly in front of the subject property.

**Existing Site Conditions:** The existing mixed-use building totals approximately 7,250 square feet, including two apartment units. No off-street parking is provided, which is allowable in the CBD Central Business District.

**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 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.

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

**Proposed Outdoor Seating Area:** The proposed sidewalk cafe area is shown on the development plan and described in the plan of operation. The actual location, size, and hours of operation for the sidewalk cafe shall follow the regulations identified in Chapter 9, Article VI, Division 4, Sidewalk Cafes, of the Municipal Code. Some applicable provisions are listed below. Prior to establishing the sidewalk cafe, the applicant must also obtain a Street Occupancy Permit from the Department of Public Works.

- Section 9-262(a)(1) – The parameters of the sidewalk cafe shall be limited to the area of the amenity strip located immediately in front of the establishment and shall not extend beyond the width of the establishment’s property line.
- Section 9-262(a)(6) – A minimum width of twelve (12) feet between the back of curb and the building face must exist; with a minimum of eight (8) feet available for pedestrian traffic and four (4) feet available for tables and chairs.
- Section 9-262(b)(4) – The permit holder can begin serving alcoholic beverages in the sidewalk cafe 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 cafe by 9:30 p.m.

**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, institutional, and residential in nature.

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

South: CBD Central Business District. The adjacent land uses to the south are currently institutional, including the Appleton YMCA.

East: CBD Central Business District. The adjacent land uses to the east are currently a mix of commercial uses.

West: CBD Central Business District. The adjacent land uses to the west are currently a mix of commercial and institutional 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 use 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 brings good jobs to the area and supports the vitality of its industrial areas, downtown, and neighborhood business districts.*

**OBJECTIVE 9.3 Economic Development:**

*Ensure the continued vitality of downtown and the City's neighborhood commercial districts.*

**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.

**Technical Review Group (TRG) Report:** This item was discussed at the December 22, 2015 Technical Review Group meeting. No negative comments were received from participating departments.

**Written Public Comments:** No questions, concerns, or comments have been received from the surrounding neighborhood.

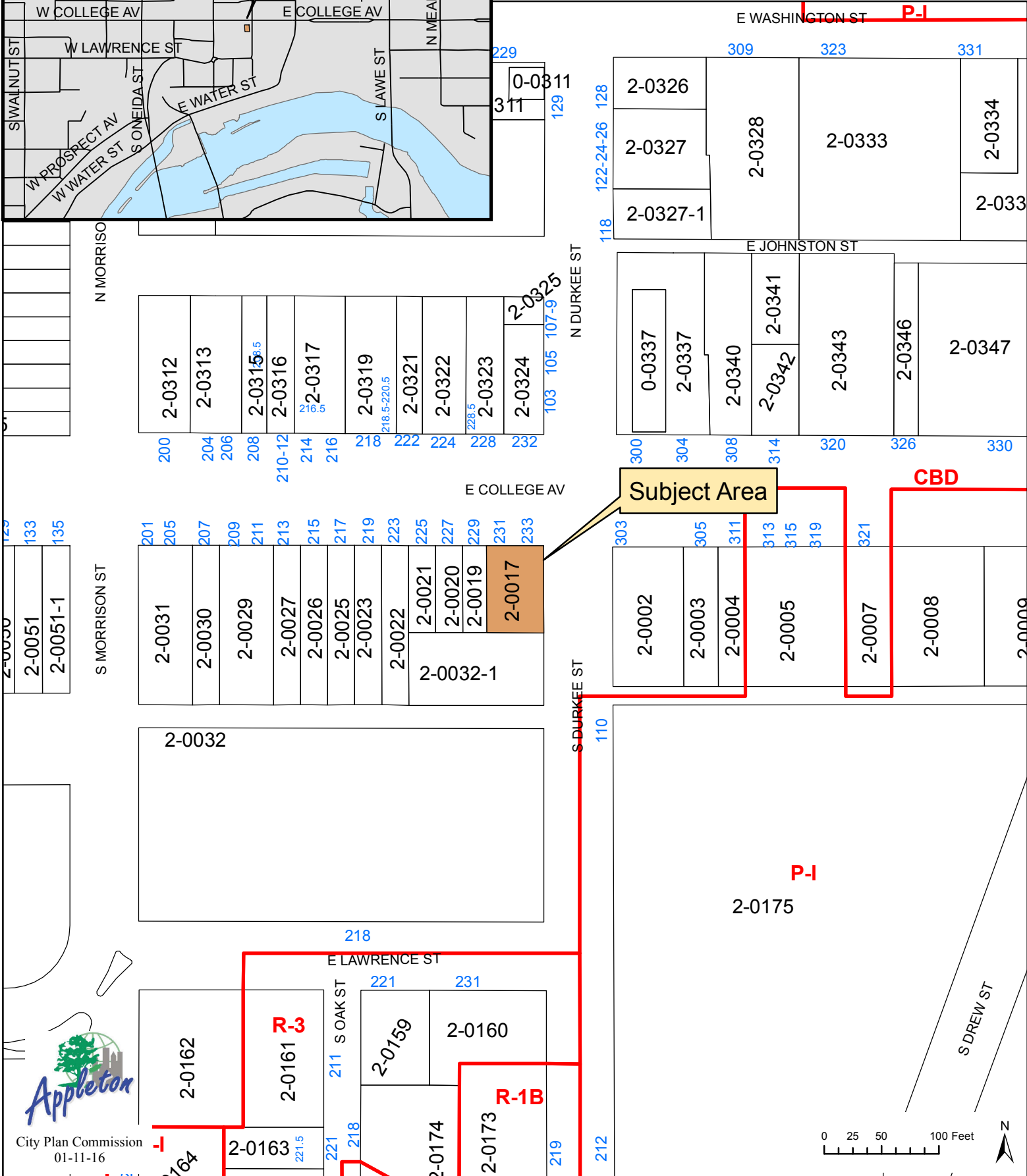
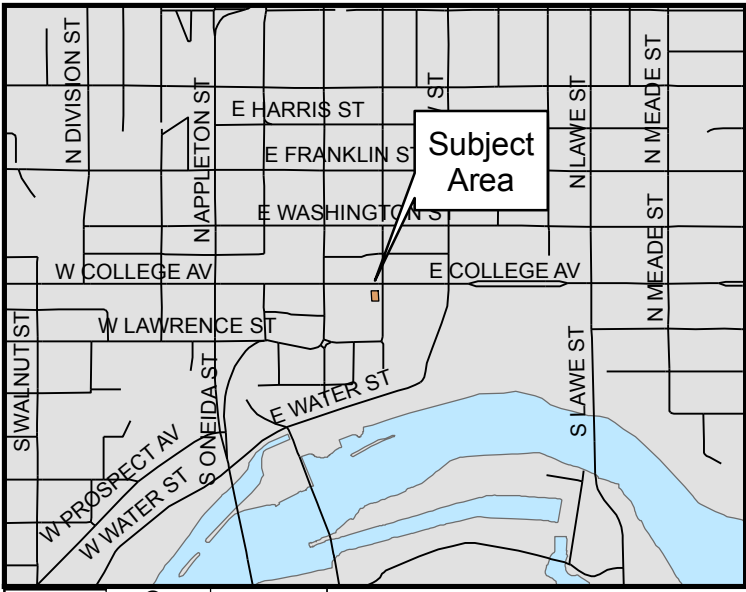
**RECOMMENDATION**

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Staff recommends, based on the above, that Special Use Permit #17-15 for a restaurant with alcohol sales and service at 233 East College Avenue, as shown on the attached maps and per attached plan of operation, **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 premise.
3. The serving and consumption of alcohol is limited to the first floor, mezzanine level, upper floor meeting space, and sidewalk cafe area, as identified on the attached maps. 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.
4. Prior to establishing the sidewalk cafe, the applicant must obtain a Street Occupancy Permit from the Department of Public Works. All aspects of the sidewalk cafe, including its location, size, and hours of operation for serving alcoholic beverages, shall comply with the regulations identified in Chapter 9, Article VI, Division 4, Sidewalk Cafes, of the Municipal Code.
5. 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.
6. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.

233 East College Avenue  
 Special Use Permit  
 Restaurant with Alcohol Sales  
 Zoning Map



233 East College Avenue  
Special Use Permit  
Restaurant with Alcohol Sales  
Aerial Map

E COLLEGE AV

N D

225

227

229

231

233

2-0021

2-0020

2-0019

2-0017

Subject Area

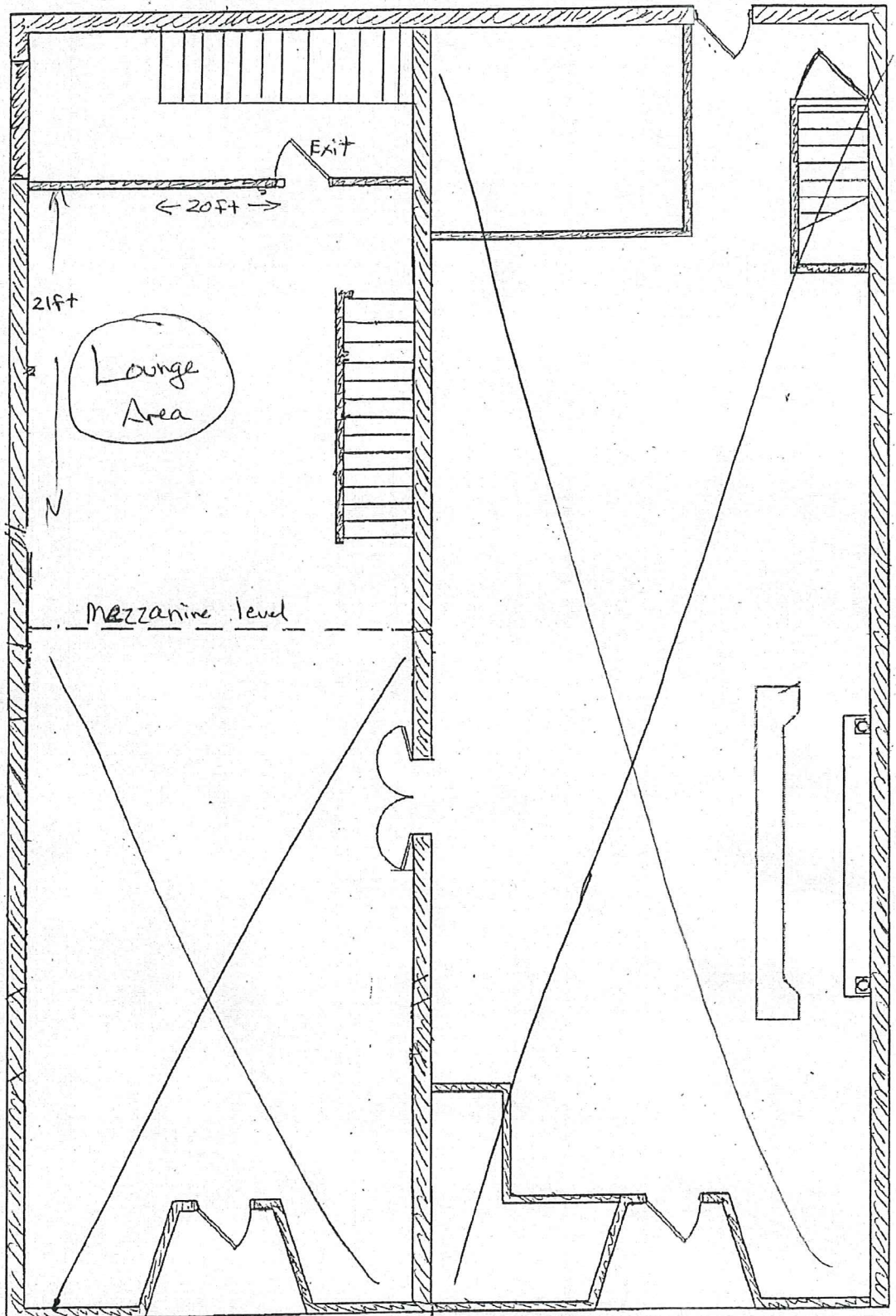
S DURKEE ST

2-0032-1





Mezzanine  
Level only  
21 x 20



Sidewalk  
Cafe  
Dimensions

We currently  
have 4-5 tables  
so seating  
would be for  
20-30  
people

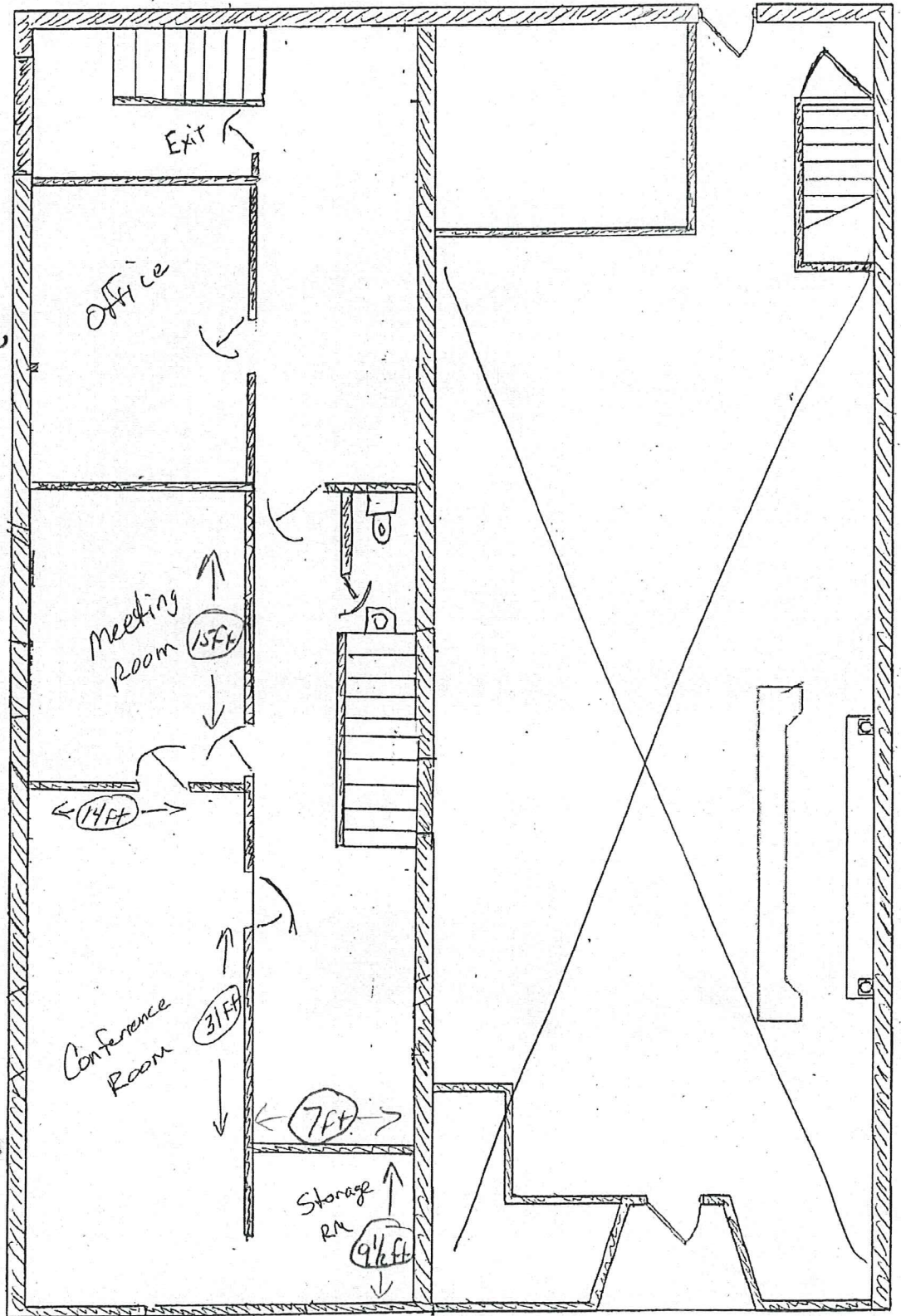
15 FT

50 FT

Office = Private

Meeting Rm  
15 x 14

Conference Rm  
31 x 14





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

**Business Information:**

Name of business: Lou's BREW CAFE AND LOUNGE, INC.

Years in operation: 3 (Oshkosh location)

Percentage of business derived from restaurant service: 80 %

Type of proposed establishment (detailed explanation of business):

Cafe / Restaurant / Bar - Lou's Brew  
mainly focuses on coffee, tea, bakery, wraps,  
salads and sandwiches, our Oshkosh location also  
offers beer & wine. We would also like to offer beer,  
wine, and limited alcohol in our Appleton location.  
**Proposed Hours of Operation for Indoor Uses:**

| Day      | From                 | To       |
|----------|----------------------|----------|
| Week Day | 6:30 am              | 11:00 pm |
| Friday   | <del>6:30</del> 6:30 | 11:00 pm |
| Saturday | 7:00                 | 11:00 pm |
| Sunday   | 8:00                 | 9:00 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: \_\_\_\_\_ persons

Gross floor area of the existing building(s): 7,250 sq ft (includes <sup>(2)</sup> apartments)

Gross floor area of the proposed building(s): \_\_\_\_\_ ▲ First floor is 3,500 sq ft

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

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

Noise levels will be kept minimal. Our overall  
environment will not be loud such as in a  
typical bar like atmosphere. Any activities such  
as open mic, bands will be limited to 11 pm.

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

Inside- Music volume controlled, maximum capacities followed and doors remain closed to control noise outside building.

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

No parking lot, all on street parking, parking structure or foot traffic

**Outdoor Uses:**

Location, type, size and design of outdoor facilities:

\_\_\_\_\_

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

No screening

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:

Outdoor speakers with volume control kept at a minimum  
If live music we will keep volume controlled and follow  
Is there any food service incorporated in this outdoor facility proposal? Yes  No  *city guideline on timing later (MN)*

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

*Same as cafe hours except weekends may be later (MN)*

| Day      | From    | To       |
|----------|---------|----------|
| Week Day | 6:30 am | 11:00 pm |
| Friday   | 6:30 am | MN       |
| Saturday | 7:00 am | MN       |
| Sunday   | 8:00 am | 9:00 pm  |

**Outdoor Lighting:**

Type: Unsure at this point - See below.

Location: We will either be doing several lamp post type non permanent, individual table lights or make cafe seating not available after dark

Off-Street Parking: N/A

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

Number of spaces proposed: \_\_\_\_\_

**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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Number of Employees:**

Number of existing employees: 10

Number of proposed employees: 12-15

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

We are still in the process of hiring and realizing employee needs at this time. If Appleton similar to Oshkosh with about a 25%-35% increase in need for staff, the above numbers would reflect this.