



REPORT TO COMMON COUNCIL

Common Council Public Hearing & Meeting Date: April 22, 2020

Item: Special Use Permit #2-20 for an indoor recreational use with alcohol sales and consumption

Case Manager: Jessica Titel, Principal Planner

GENERAL INFORMATION

Owner/Applicant: William Roberts, et al. (owner) / Pat Van Abel, Appleton Axe (applicant)

Address/Parcel #: 1400 W. College Avenue – (Tax Id #31-5-1799-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for an indoor recreational use with alcohol sales and consumption.

BACKGROUND

This item would typically go to Plan Commission for the public hearing, review and a recommendation. However, to help prevent the spread of the COVID-19, standing committees will not meet and Common Council will conduct business as Committee of the Whole.

This space was most recently occupied by Barstools Direct, a retail use without alcohol sales.

The building was constructed in 1999, and the property contains a multi-tenant building with an off-street parking lot. The liquor license for Appleton Axe was conditionally approved by the Common Council on March 18, 2020.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish an indoor axe throwing facility with alcohol sales and service on the subject site, which would occupy approximately 3,553 square feet of the existing multi-tenant building.

Existing Site Conditions: The existing multi-tenant building totals approximately 15,840 square feet. The off-street parking lot contains 67 parking spaces. The required off-street parking spaces for the proposed special use is 18 parking spaces. The off-street parking lot serving the multi-tenant building can accommodate the required number of parking spaces needed for the proposed special use. Ingress and egress to the off-street parking lot is provided by curb cuts on North Outagamie Street and West College Avenue.

Outdoor Alcohol Consumption Area: No outdoor alcohol sales and consumption is requested as part of this application for a Special Use Permit.

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

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Current Zoning: The subject property has a zoning designation of C-2 General Commercial District. Per Section 23-113(e) of the Municipal Code, a restaurant with alcohol sales and service requires a Special Use Permit in the C-2 District. A two-thirds (2/3) 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.

Surrounding Zoning and Land Uses (continued):

North: R-1B Single Family Residential District, R-2 Two-Family Residential District. The adjacent land uses to the north are currently single family and two-family residential.

South: R-1B Single Family Residential District, R-2 Two-Family Residential District. The adjacent land uses to the south are currently single family and two-family residential.

East: PD/C-2 Planned Development General Commercial District. The adjacent land use to the east is currently multi-tenant commercial.

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

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.

Technical Review Group (TRG) Report: This item appeared on the March 24, 2020 TRG Agenda. No negative comments were received from participating departments.

Approval or Denial by Common Council:

When reviewing an application for a Special Use Permit, the City must look at the requirements and conditions found in the zoning ordinance and determine if the applicant has demonstrated that their proposed application for Special Use Permit satisfies all those requirements and conditions pursuant to Section 23-66(c)(5)c of the zoning ordinance. The 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.”*

Public comment that is based on personal opinion or speculation are not sufficient forms of evidence. All requirements and conditions listed for approval must be reasonable, and to the extent practicable, measurable.

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), which were found in the affirmative.

RECOMMENDATION

Staff recommends, based on the above analysis, that Special Use Permit #2-20 for an indoor recreational use with alcohol sales and consumption located at 1400 W. College Avenue, (Tax Id #31-5-1799-00), per attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. The applicant shall receive their Liquor License from the City Clerk prior to serving alcohol on the premises. The liquor license was conditionally approved by the Common Council on March 18, 2020.
 - **Substantial Evidence:** This condition provides notice to the applicant that they are required to receive their liquor license from the City Clerk’s office prior serving alcohol inside the building. The liquor license for Appleton Axe was conditionally approved by the Common Council on March 18, 2020.
2. The applicant shall comply with the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.
 - **Substantial Evidence:** This condition provides notice to the applicant that they are required to follow the standards for serving alcohol in the City of Appleton in order to promote the health, safety and general welfare of the City.
3. 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 assures the applicant understands they must follow

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the City's Municipal Code and all applicable State and Federal laws which they are required to follow while conducting business in the City; failure to follow City, State and Federal regulations may result in revocation of their special use permit to serve alcohol.

4. The applicant shall have twelve (12) months from the issuance of the Special Use Permit (SUP) to obtain a liquor license and commence use of the tenant space located at 1400 West College Avenue, or Special Use Permit #2-20 will expire.
 - **Substantial Evidence:** Standardized condition to encourage the applicant to proceed with applying for and obtaining the appropriate liquor license in a timely manner.
5. This Special Use Permit is needed for the on-site alcohol sales and consumption, not the recreational use. 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 a process for review and approval of future changes to the special use in order to promote the health, safety and welfare of the City.

RESOLUTION

CITY OF APPLETON RESOLUTION APPROVING SPECIAL USE PERMIT #2-20

WHEREAS, Pat Van Abel, owner of Appleton Axe, has applied for a Special Use Permit for an indoor recreational use with alcohol sales and consumption located at 1400 West College Avenue, and also identified as Parcel Number 31-5-1799-00; and

WHEREAS, the location for the proposed indoor recreational use with alcohol sales and consumption is located in the C-2 General Commercial District, and the proposed use is permitted by special use within this zoning district; and

WHEREAS, the City of Appleton Common Council held a public hearing on April 22, 2020, on Special Use Permit #2-20 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 Common Council has reviewed and considered the Community and Economic Development Department's staff report and recommendation and other spoken and written evidence and testimony presented at the public hearing; and

WHEREAS, the City of Appleton Common Council may approve the proposed Special Use Permit provided all the standards listed in Section 23-66(e)(1-8) are found in the affirmative, and may impose any condition on the Special Use Permit provided the condition(s) are related to the purpose of the City of Appleton Municipal Code and are based on substantial evidence; and

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the City of Appleton Common Council, based on the special use permit application, Community and Economic Development Department's staff report, testimony and substantial evidence presented at the public hearing with regard the Special Use Permit #2-20, that the Common Council:

1. Determines all standards listed in Sections 23-66(e)(1-8) are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #2-20 for an indoor recreational use with alcohol sales and consumption located at 1400 West College Avenue, also identified as Parcel Number #31-5-1799-00 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 #2-20 for an indoor recreational use with alcohol sales and consumption located at 1400 West College Avenue, also identified as Parcel Number #31-5-1799-00 subject to the following conditions:

CONDITIONS OF SPECIAL USE PERMIT #2-20

1. The applicant shall receive their Liquor License from the City Clerk prior to serving alcohol on the premises. The liquor license was conditional approved by the Common Council on March 18, 2020.
2. The applicant shall comply with the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.
3. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
4. The applicant shall have twelve (12) months from the issuance of the Special Use Permit (SUP) to obtain a liquor license and commence use of the tenant space located at 1400 West College Avenue, or Special Use Permit #2-20 will expire.
5. This Special Use Permit is needed for the on-site alcohol sales and consumption, not the indoor recreational use. 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.

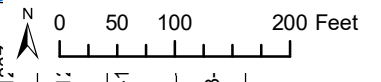
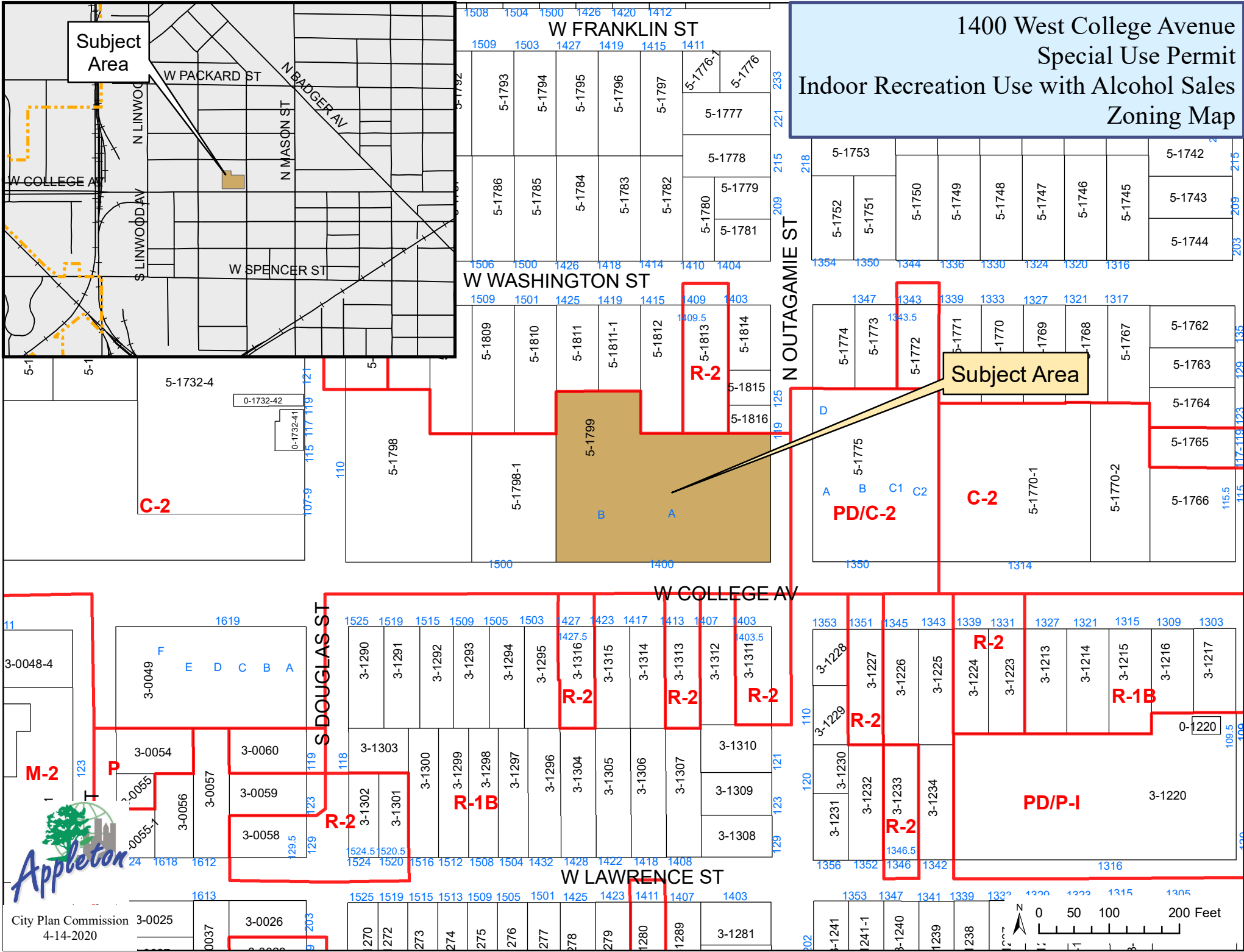
Adopted this 22nd day of April 2020.

(), Mayor

ATTEST:

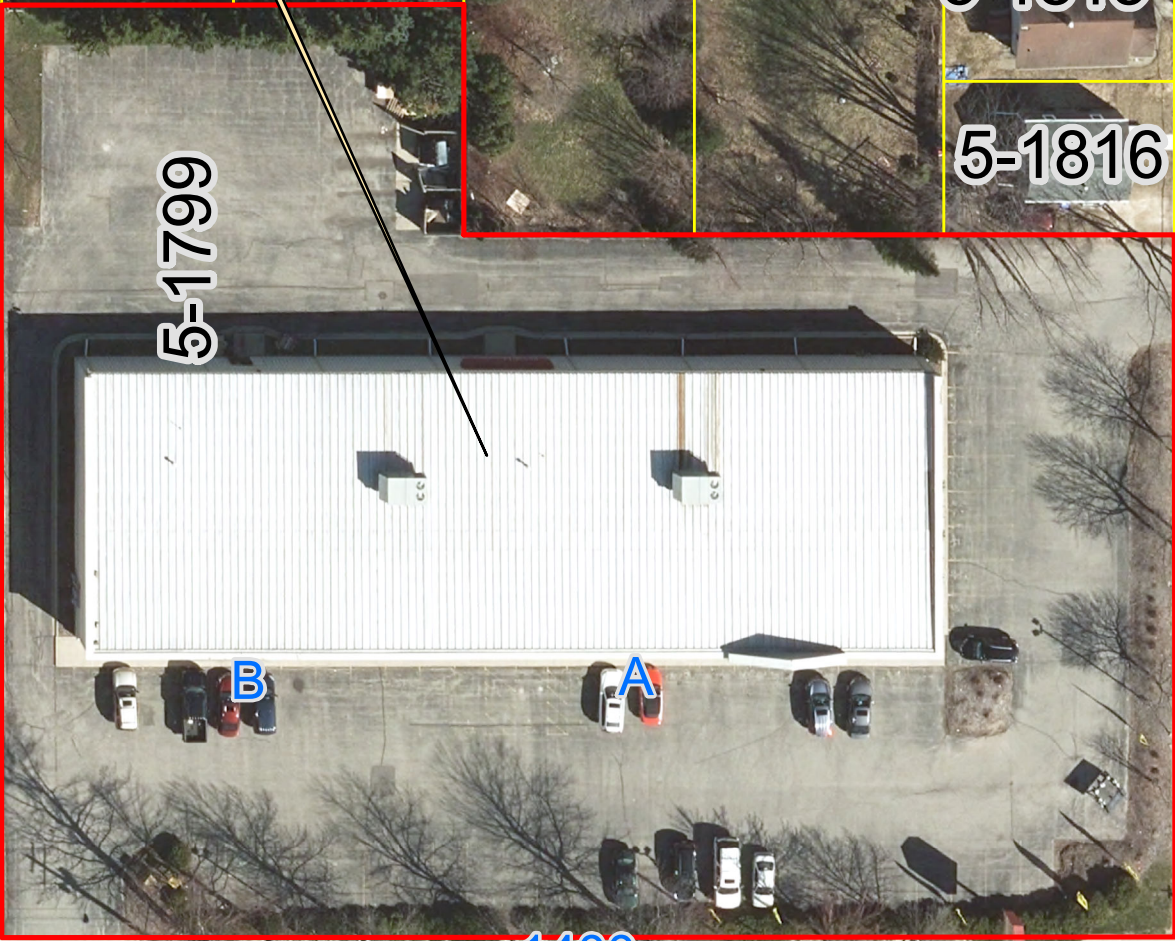
Kami Lynch, City Clerk

1400 West College Avenue Special Use Permit Indoor Recreation Use with Alcohol Sales Zoning Map



1400 West College Avenue
Special Use Permit
Indoor Recreation Use with Alcohol Sales
Aerial Map

Subject Area



5-18

5-18

5-18

5-181

5-18

5-18

5-1815

5-1816

125

119

N OUTAGAMIE ST

D

A

5-1798-1

5-1799

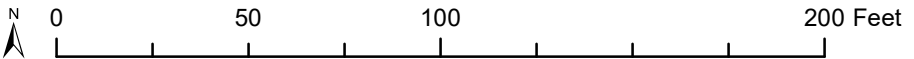
B

A

1500

1400

W COLLEGE AV



City Plan Commission
4-14-2020

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business Information:

Name of business: DBA. APPLETON AXE BREAKOUT GREEN Bivy LLC

(Check applicable proposed business activity(s) proposed for the building or tenant space)

- Restaurant
- Bar/Night Club
- Wine Bar
- Microbrewery
- Other COMMERCIAL INDOOR ENTERTAINMENT

Years in operation: 4 YEARS / MAY 2016

Percentage of business derived from food service: 0 %

Type of proposed establishment (detailed explanation of business operations):

AXE THROWING FACILITY WITH 8 THROWING LANES. OPEN FOR PUBLIC & PRIVATE USE. BEER, HARD CIDER & SODA & WATER WILL BE AVAILABLE. PATRONS ENJOY 75 MINUTE AXE THROWING EXPERIENCE. WE DO MANY FAMILY, COMPANY PARTIES & TEAM BUILDING. WE ALSO WILL OFFER HAMMERSCHLAGEN GAME.

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Week Days Monday thru Thursday	4 PM	10 PM
Friday	4 PM	10:30 PM
Saturday	11 AM	10:30 PM
Sunday	12 PM	5 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: 91 persons

Gross floor area of the existing building(s): Total Building: 15,840 SF Tenant Space: 3553 SF

Gross floor area of the proposed building(s): N/A

Describe Any Potential Noise Emanating From the Proposed Use:

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

NO NOISES WILL EMANATE OUTSIDE THE SUITE
ALL ACTIVITY INDOOR

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

ALL ACTIVITY INSIDE SUITE

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

N/A

Outdoor Space Uses:

(Check applicable proposed area)

- Patio
- Deck
- Sidewalk Café
- Other _____
- None

Size: N/A 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 service incorporated within the outdoor space? Yes ___ No ___

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

If yes, describe how the noise will be controlled:

Is there any food service incorporated within the outdoor space? Yes ___ No

Proposed Hours of Operation for Outdoor Space:

Day	From	To
Week Days: 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.**

Off-Street Parking:

Number of spaces existing: 67

Number of spaces proposed: 67

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: N/A

Number of proposed employees: 10

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

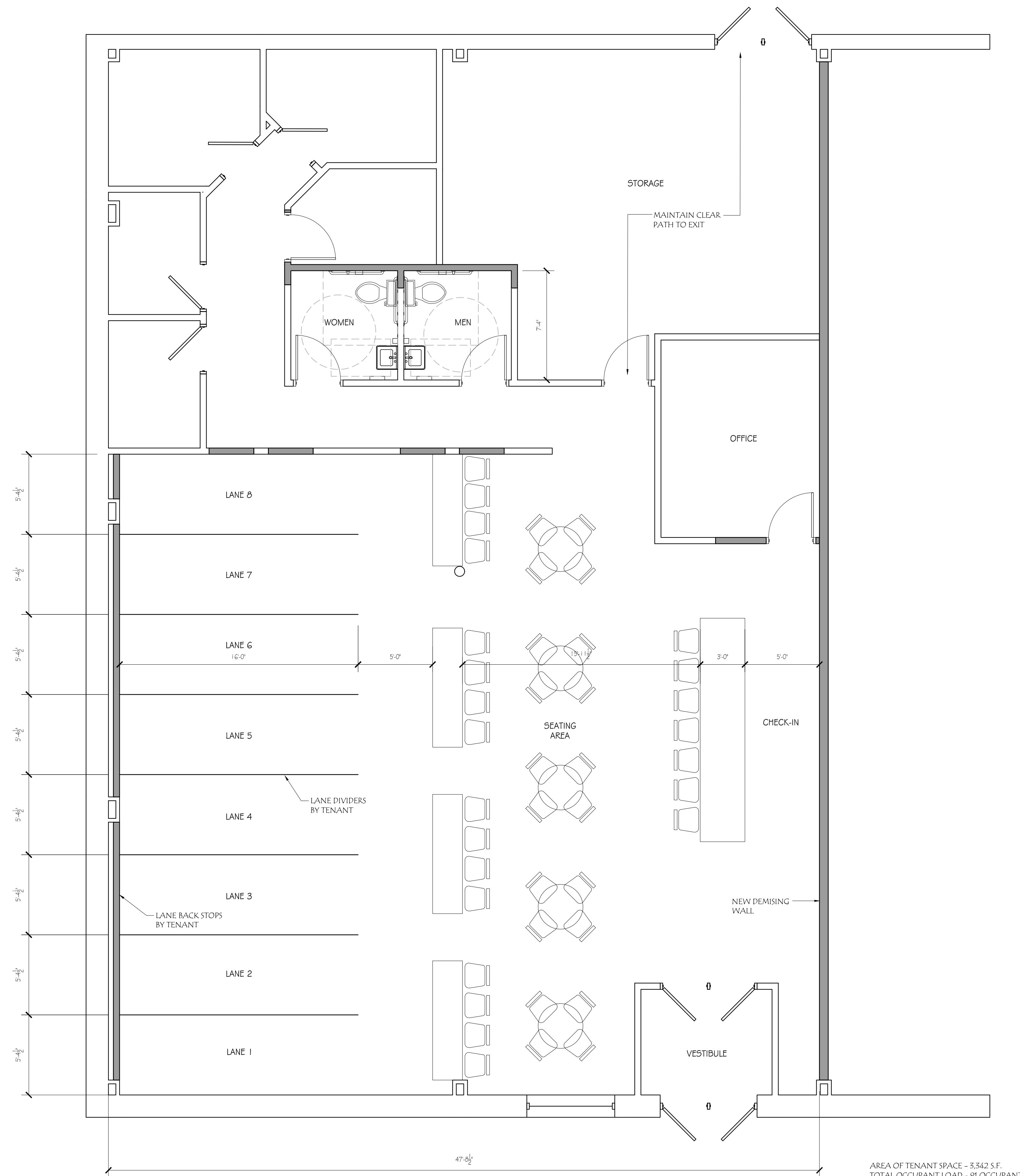




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AREA OF TENANT SPACE - 3,342 S.F.
TOTAL OCCUPANT LOAD - 91 OCCUPANTS



FLOOR PLAN

SCALE: 1/4" = 1'-0"

Tenant Build-Out Plan For:

Appleton Axe

Appleton, Wisconsin

Issue Date: 3/4/2020
Revisions:

A1.0