



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
[www.appleton.org](http://www.appleton.org)

## Meeting Agenda - Final-revised Common Council

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Wednesday, April 21, 2021

7:00 PM

Council Chambers

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- A. CALL TO ORDER
- B. INVOCATION
- C. PLEDGE OF ALLEGIANCE TO THE FLAG
- D. ROLL CALL OF ALDERPERSONS
- E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS
- F. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[21-0485](#) Common Council Meeting Minutes of April 7, 2021

***Attachments:*** [CC Minutes 4-7-21.pdf](#)

- G. BUSINESS PRESENTED BY THE MAYOR

[21-0480](#) Commission and Board Reappointments

***Attachments:*** [Reappointments Confirmation Memo to Council 4-21-21.pdf](#)

[21-0481](#) Arbor Day Proclamation

***Attachments:*** [Arbor Day Proclamation.pdf](#)

[21-0482](#) Earth Day Proclamation

***Attachments:*** [Earth Day Proclamation.pdf](#)

[21-0483](#) COVID-19 Update

***Attachments:*** [COVID -19 Cases 4-21-21\(00F\).pdf](#)

- H. PUBLIC PARTICIPATION
- I. PUBLIC HEARINGS





[21-0405](#) Request from Creative Downtown Appleton Inc. for the Downtown Creates "Artful Chairs" event from June 18-20, 2021 to be located within the College Avenue amenity strip (Badger Avenue to Drew Street), as described in the attached documents and subject to the conditions in the attached staff report.

**Attachments:** [ADI-Artful Chairs.pdf](#)

**Legislative History**

4/12/21	Municipal Services Committee	recommended for approval
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[21-0406](#) Request from Creative Downtown Appleton Inc. for the Downtown Creates "Art Out - Plein Air Art" event on August 20, 2021 to be located within the College Avenue amenity strip (Badger Avenue to Drew Street), as described in the attached documents and subject to the conditions in the attached staff report.

**Attachments:** [ADI-Art Out-Plein Air Art.pdf](#)

**Legislative History**

4/12/21	Municipal Services Committee	recommended for approval
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[21-0420](#) Request from Appleton Downtown Inc. for a street occupancy permit for Sidewalk Sales on the College Avenue Beautification Strip from Richmond Street to Drew Street for May 22, June 19, July 17 and August 21, 2021.

**Attachments:** [ADI-Sidewalk Sale.pdf](#)

**Legislative History**

4/12/21	Municipal Services Committee	recommended for approval
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## 2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[21-0289](#) Resolution #3-R-21 Prohibition on Large Scale Commercial Dog and Cat Breeding

**Attachments:** [#3-R-21 Large Scale Dog & Cat Breeding Ord.pdf](#)

**Legislative History**

3/10/21	Safety and Licensing Committee	held
3/24/21	Safety and Licensing Committee	recommended for approval
4/7/21	Common Council	referred to the Safety and Licensing Committee

4/14/21 Safety and Licensing Committee recommended for approval

[21-0453](#)

Resolution #6-R-21- Resolution Condemning Xenophobia, Racism, and Violence Against The Asian Pacific Islander Desiamerican (APIDA) Community.

**Attachments:** [#6-R-21 AAPI Resolution.pdf](#)

**Legislative History**

4/14/21 Safety and Licensing Committee recommended for approval

4/14/21 Safety and Licensing Committee amended

*Amended to clarify that the reference to the Attorney General is the State of WI Attorney General.*

[21-0454](#)

Class "A" Beer License Change of Agent application for FKG Oil Company d/b/a Badger Motomart, Allexander J Stichman, New Agent, located at 1850 W Wisconsin Ave, contingent upon approval from Appleton Police Department.

**Attachments:** [Allexander J Stichman S&L.pdf](#)

**Legislative History**

4/14/21 Safety and Licensing Committee recommended for approval

[21-0455](#)

Class "B" Beer and "Class B" Liquor License Change of Agent application for Mark's East Side Inc d/b/a Mark's East Side, Alexander J Shea, New Agent, located at 1405 E Wisconsin Ave, contingent upon approval from Appleton Police Department.

**Attachments:** [Alex J Shea S&L.pdf](#)

**Legislative History**

4/14/21 Safety and Licensing Committee recommended for approval

### 3. MINUTES OF THE CITY PLAN COMMISSION

[21-0311](#)

Request to approve repealing and recreating Article X of Chapter 23 of the Municipal Code relating to Floodplain Zoning and the Official Map, as identified in the attached staff report, per the request of the Department of Public Works, Engineering Division

**Attachments:** [StaffReport\\_TextAmendments\\_FloodplainOrd\\_For3-23-21.pdf](#)

**Legislative History**

3/23/21 City Plan Commission recommended for approval  
*Proceeds to Council on April 21, 2021.*

- [21-0423](#) Request to approve the street discontinuance to vacate portions of West Prospect Avenue and South Douglas Street public right-of-way, generally located near the intersection of these streets, and adopt the Initial Resolution and exhibit map

**Attachments:** [StaffReport ProspectAvDouglasSt StreetVacation For04-13-21.pdf](#)

**Legislative History**

4/13/21 City Plan Commission recommended for approval

- [21-0424](#) Request to approve detachment of territory from the City of Appleton to the Village of Harrison, per the Intergovernmental Cooperation Agreement, for a portion of Coop Road, generally located north of Midway Road, described in the attached petition and shown on the attached maps

**Attachments:** [StaffReport CoopRd Detachment For04-13-21.pdf](#)

**Legislative History**

4/13/21 City Plan Commission recommended for approval

- [21-0425](#) Request to approve the Apple Ridge 2 Final Plat as shown on the attached maps and subject to the conditions in the attached staff report

**Attachments:** [StaffReport FinalPlat AppleRidge2 For4-13-21.pdf](#)

**Legislative History**

4/13/21 City Plan Commission recommended for approval

- [21-0426](#) Request to approve the Apple Fields Preliminary Plat as shown on the attached maps and subject to the conditions in the attached staff report

**Attachments:** [StaffReport PreliminaryPlat Apple Fields For4-13-21.pdf](#)

**Legislative History**

4/13/21 City Plan Commission recommended for approval

#### 4. MINUTES OF THE PARKS AND RECREATION COMMITTEE

- [21-0419](#) Action Item: Request to award contract to ISG for Master Planning design services for Lundgaard Park in the amount of \$27,700 with a design contingency of \$2,300 for a total contract not to exceed \$30,000

**Attachments:** [2021 Lundgaard Park Consultant.doc](#)

#### 5. MINUTES OF THE FINANCE COMMITTEE

[21-0435](#) Request to approve the following 2021 Budget adjustment:

**Sanitation Fund**

Consulting Services	+\$8,000
Fund Balance	- \$8,000

for gas monitoring as requested by WDNR to work towards a passive gas system (2/3 vote of Council required)

**Attachments:** [Sanitation Memo.pdf](#)

**Legislative History**

4/12/21 Finance Committee recommended for approval

[21-0436](#) Request to award the City of Appleton's 2021 Parks Hardscapes Project - Pierce Park Path Improvements Project contract to Sommers Construction Co, Inc in the amount of \$28,935 with a contingency of \$7,000 for a project total not to exceed \$35,935

**Attachments:** [2021 Pierce Park Path Improvements.pdf](#)

**Legislative History**

4/12/21 Finance Committee recommended for approval

[21-0444](#) Request to approve Finance Committee Report 1-P-21 for Concrete Pavement, Sidewalk Construction and Driveway Aprons

**Attachments:** [Report 1-P-21.pdf](#)

**Legislative History**

4/12/21 Finance Committee recommended for approval

[21-0445](#) Request to approve Finance Committee Report 2-P-21 for Sanitary Laterals, Storm Laterals and Storm Main

**Attachments:** [Report 2-P-21.pdf](#)

**Legislative History**

4/12/21 Finance Committee recommended for approval

[21-0446](#) Request to award Unit C-21 Sidewalk Sawcutting to ASTI Sawing, Inc in an amount not to exceed \$40,000

**Attachments:** [Award of Contract Unit C-21.pdf](#)

**Legislative History**

4/12/21 Finance Committee recommended for approval

[21-0447](#) Request to award Unit J-21 Mini Storm Sewer construction to Alfson Excavating, LLC, Inc in an amount not to exceed \$200,000

**Attachments:** [Award of Contract Unit J-21.pdf](#)

**Legislative History**

4/12/21 Finance Committee recommended for approval

**6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE**

**7. MINUTES OF THE UTILITIES COMMITTEE**

[21-0430](#) Preliminary Resolution 2-P-21 for Sanitary Laterals, Storm Laterals and Storm Main be adopted and refer the matter to the Finance Committee to determine the assessment rate.

**Attachments:** [Resolution 2-P-21.pdf](#)

**Legislative History**

4/13/21 Utilities Committee recommended for approval

[21-0431](#) Award of 2021F Stormwater Consulting Services Contract for Morrison Street and Glendale Avenue reconstruction with Brown and Caldwell in an amount not to exceed \$32,775.

**Attachments:** [2021 Morrison Glendale Award memo\\_\(002\).pdf](#)

**Legislative History**

4/13/21 Utilities Committee recommended for approval

[21-0438](#) Request to sole source contract to Patrick Engineering for professional services needed to complete the Wastewater Electrical Distribution Upgrades Phase 5 (Final Phase), for a contract fee of \$259,600 and a contingency of 5% not to exceed a total contract of \$272,580.

**Attachments:** [2021 Electrical Distribution System Upgrades Design for 480v cabling and Pow](#)

**Legislative History**

4/13/21 Utilities Committee recommended for approval

**8. MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE**

[21-0439](#) Request to approve overhire for Help Desk Analyst position in I.T.

**Attachments:** [Help Desk Over Hire Memo.pdf](#)

**Legislative History**



4/14/21

Human Resources &  
Information Technology  
Committee

recommended for approval

**9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION****10. MINUTES OF THE BOARD OF HEALTH****M. CONSOLIDATED ACTION ITEMS**

[21-0484](#) Consolidated Action Items Re: Prospect Ave & Douglas Street Vacation  
**21-0487 Special Resolutions**  
**21-0397 Municipal Services Committee**  
**21-0423 City Plan Commission**

**N. ITEMS HELD****O. ORDINANCES**

[21-0473](#) Ordinances #11-21, #12-21, #13-21, and #14-21 (Coop Road Detachment)

**Attachments:** [Ordinances going to Council 4-21-21.pdf](#)

**P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION****Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION****R. OTHER COUNCIL BUSINESS****S. ADJOURN**

Kami Lynch, City Clerk

*Reasonable accommodations for persons with disabilities will be made upon request and if feasible.*



# City of Appleton

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Appleton, WI 54911-4799  
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## Meeting Minutes - Final Common Council

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Wednesday, April 7, 2021

7:00 PM

Council Chambers

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A. CALL TO ORDER

*The meeting was called to order by Mayor Woodford at 7:05 p.m.*

B. INVOCATION

*The Invocation was offered by Alderperson Fenton*

C. PLEDGE OF ALLEGIANCE TO THE FLAG

D. ROLL CALL OF ALDERPERSONS

**Present:** 15 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Mike Smith, Alderperson Patti Coenen, Alderperson Nate Wolff, Alderperson Kyle Lobner, Alderperson Joe Prohaska, Alderperson Corey Otis and Mayor Jake Woodford

**Excused:** 1 - Alderperson Matthew Reed

E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

F. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[21-0355](#)

Common Council Meeting Minutes of March 17, 2021

**Attachments:** [CC Minutes 3-17-21.pdf](#)

**Alderperson Prohaska moved, seconded by Alderperson Otis, that the Minutes be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Mike Smith, Alderperson Patti Coenen, Alderperson Nate Wolff, Alderperson Kyle Lobner, Alderperson Joe Prohaska and Alderperson Corey Otis

**Excused:** 1 - Alderperson Matthew Reed

**Abstained:** 1 - Mayor Jake Woodford

G. BUSINESS PRESENTED BY THE MAYOR

[21-0371](#) Police & Fire Commission Reappointment

**Attachments:** [PFC Reappointment Memo.pdf](#)

**Aldersperson Fenton moved, seconded by Aldersperson Otis, that the Reappointment be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Joe Martin, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao, Aldersperson Alex Schultz, Aldersperson Mike Smith, Aldersperson Patti Coenen, Aldersperson Nate Wolff, Aldersperson Kyle Lobner, Aldersperson Joe Prohaska and Aldersperson Corey Otis

**Excused:** 1 - Aldersperson Matthew Reed

**Abstained:** 1 - Mayor Jake Woodford

[21-0306](#) Certificate of Recognition to Sandy Matz, Director of Human Resources

**This Item was presented**

[21-0372](#) Library Week Proclamation

**Attachments:** [Library Week Proclamation.pdf](#)

[21-0373](#) Golden Rule Day Proclamation

**Attachments:** [Golden Rule Day Proclamation.pdf](#)

[21-0374](#) Autism Acceptance Month Proclamation

**Attachments:** [Autism Acceptance Month Proclamation.pdf](#)

[21-0393](#) Public Health Week Proclamation

**Attachments:** [Public Health Week.pdf](#)

[21-0375](#) COVID-19 Update

**Attachments:** [COVID -19 Cases 4-7-21.pdf](#)

H. PUBLIC PARTICIPATION

*The following spoke during Public Participation via Zoom:*

*Item 21-0289 (Safety & Licensing):  
Hannah Herzog, 4313 N Windcross Dr  
Christin Schubert, WI Team Lead- Bailing Out Benji*

*Item 21-0310 (City Plan Commission):  
William Kloehn, 1834 Palisades Dr*

*Jennifer Stephany, ADI - Various Street Occupancy Requests*

I. PUBLIC HEARINGS

[21-0302](#) Public Hearing for Rezoning #3-21 at Broadway Hills Estates 1st Addition Annexation from Temporary AG Agricultural District to R-1B Single-Family District.

**Attachments:** [RZ #3-21\\_Notice of Public Hearing.pdf](#)

*The Public Hearing was held, no one spoke during the hearing.*

J. SPECIAL RESOLUTIONS

K. ESTABLISH ORDER OF THE DAY

[21-0289](#) Resolution #3-R-21 Prohibition on Large Scale Commercial Dog and Cat Breeding

**Attachments:** [#3-R-21 Large Scale Dog & Cat Breeding Ord.pdf](#)

**This Report Action Item was referred back to the Safety and Licensing Committee by Alderperson Smith.**

[21-0354](#) Approve Memorandum of Understanding with Bird Rides, Inc to initiate a Dockless, Stand-up Electric Scooter Pilot Program for 2021.

**Attachments:** [Bird Ride Inc.pdf](#)

**Alderperson Firkus moved, seconded by Alderperson Smith, that the MOU be amended at section 5.4.2 to read that electric scooters may not be allowed on the sidewalks along College Avenue between Drew Street & Badger Avenue . Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Matthew Reed, Alderperson Mike Smith, Alderperson Patti Coenen, Alderperson Nate Wolff, Alderperson Kyle Lobner, Alderperson Joe Prohaska and Alderperson Corey Otis

**Nay:** 1 - Alderperson Alex Schultz

**Abstained:** 1 - Mayor Jake Woodford

**Alderperson Prohaska moved, seconded by Alderperson Fenton, that the MOU be approved as amended. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Mike Smith, Alderperson Patti Coenen, Alderperson Nate Wolff, Alderperson Kyle Lobner, Alderperson Joe Prohaska and Alderperson Corey Otis

**Excused:** 1 - Alderperson Matthew Reed

**Abstained:** 1 - Mayor Jake Woodford

[21-0344](#)

Approve 15 MPH speed limit designation for the 800 block of W. Washington Street (Story Street to Bennett Street) for a six-month trial period.

**Attachments:** [800 W. Washington St-15 MPH speed limit.pdf](#)

**Alderperson Prohaska moved, seconded by Alderperson Otis, that the Speed Limit designation be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Mike Smith, Alderperson Patti Coenen, Alderperson Nate Wolff, Alderperson Kyle Lobner, Alderperson Joe Prohaska and Alderperson Corey Otis

**Excused:** 1 - Alderperson Matthew Reed

**Abstained:** 1 - Mayor Jake Woodford

[21-0336](#)

Operator's License for Michael Alger

**Attachments:** [MichaelAlgerDenial.pdf](#)  
[Michael Alger Application.pdf](#)

**Alderperson Prohaska moved, seconded by Alderperson Fenton, that the Committee's recommendation to deny the license be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Mike Smith, Alderperson Patti Coenen, Alderperson Nate Wolff, Alderperson Kyle Lobner, Alderperson Joe Prohaska and Alderperson Corey Otis

**Excused:** 1 - Alderperson Matthew Reed

**Abstained:** 1 - Mayor Jake Woodford

[21-0310](#)

Detachment of territory from the City of Appleton to the Village of Fox Crossing, per the request of the property owners, Ann Kloehn, William Kloehn and Julie Lapkoff, located at 1834 Palisades Drive (Tax Id #31-4-9003-00, 31-4-9004-00 and 31-4-9005-00)

**Attachments:** [StaffReport Detachment Kloehn WPalisadesDr For3-23-21.pdf](#)

**Alderperson Prohaska moved, seconded by Alderperson Otis, that the Detachment of territory be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Mike Smith, Alderperson Patti Coenen, Alderperson Nate Wolff, Alderperson Kyle Lobner, Alderperson Joe Prohaska and Alderperson Corey Otis

**Excused:** 1 - Alderperson Matthew Reed

**Abstained:** 1 - Mayor Jake Woodford

L. COMMITTEE REPORTS

**Balance of the action items on the agenda.**

**Alderperson Prohaska moved, Alderperson Otis seconded, to approve the balance of the agenda. The motion carried by the following vote:**

**Aye:** 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Mike Smith, Alderperson Patti Coenen, Alderperson Nate Wolff, Alderperson Kyle Lobner, Alderperson Joe Prohaska and Alderperson Corey Otis

**Excused:** 1 - Alderperson Matthew Reed

**Abstained:** 1 - Mayor Jake Woodford

1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[21-0340](#) Approve State/Municipal Financial Agreement for improvements to the CTH CE eastbound right turn lane as part of the WIS441 Improvement Project.

**Attachments:** [CTH CE to WIS 441.pdf](#)

**This Report Action Item was approved.**

[21-0341](#) Approve Three Party Design Contract with the State of Wisconsin Department of Transportation and EXP US Services, Inc. for the design of the Olde Oneida Street Bridge over the South Mill Race in an amount not to exceed \$259,800 (City share \$52,960).

**Attachments:** [Olde Oneida St Bridge-South Mill Race.pdf](#)

**This Report Action Item was approved.**

[21-0342](#) Approve Amendment No. 2 to Collins Engineers for Bridge Maintenance Design of the Lawe Street and Pacific Street Bridges in the amount of \$2,826 for a total revised not to exceed contract of \$61,303.80.

**Attachments:** [Bridge Maint. Design-Lawe St and Pacific St..pdf](#)

**This Report Action Item was approved.**

[21-0343](#) Approve parking restriction change on the 100 block of S. Morrison Street(Follow-up to Six-Month Trial Period).

**Attachments:** [Parking restrictions S. Morrison St.pdf](#)

**This Report Action Item was approved.**

[21-0345](#) Approve Intergovernmental Agreement with the Town of Grand Chute for the Apple Creek Court Resurfacing Project.

**Attachments:** [Town of Grand Chute-Apple Creek Court.pdf](#)

**This Report Action Item was approved.**

[21-0346](#) Request from Appleton Downtown Inc. for a street occupancy permit for Garden Art, May 21-23, 2021, in the College Avenue planters between Drew Street and Badger Avenue.

**Attachments:** [ADI-Garden Art May 21-23, 2021.pdf](#)

**This Report Action Item was approved.**

[21-0347](#)

Request from Appleton Downtown Inc. for a street occupancy permit for Artful Chairs, June 18-20, 2021, in the College Avenue beautification strip between Drew Street and Badger Avenue.

**Attachments:** [ADI-Artful Chairs June 18-20, 2021.pdf](#)

**This Report Action Item was approved.**

[21-0348](#)

Request from Appleton Downtown Inc. for a street occupancy permit for Chalk Walk, July 16-18, 2021, in the sidewalk area between Drew Street and Richmond Street.

**This Report Action Item was approved.**

[21-0349](#)

Request from Appleton Downtown Inc. for a street occupancy permit for Paint Out, August 20, 2021, in the College Avenue beautification strip between Drew Street and Badger Avenue.

**Attachments:** [ADI-Paint out August 20, 2021.pdf](#)

**This Report Action Item was approved.**

## 2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[21-0305](#)

Class "A" Beer and "Class A" Liquor License application for Appleton Liquor LLC d/b/a Appleton Liquor, Heidi Guta, Agent, located at 2727 N Meade St, contingent upon approval from all departments.

**Attachments:** [Appleton Liquor.pdf](#)

**This Report Action Item was approved.**

[21-0315](#)

Class "B" Beer and "Class B" Liquor License application for C Solutions 200 LLC d/b/a Uptown Chicken and Waffles, Sarah P Powell, Agent, located at 823 W College Ave, contingent upon approval from all departments.

**Attachments:** [Uptown Chicken & Waffles.pdf](#)

**This Report Action Item was approved.**



[21-0331](#)

Class "B" Beer and "Class B" Liquor License Change of Agent application for Old Bavarian Brau Haus Inc, d/b/a OB's Brau Haus, Christopher A Nelis, New Agent, located at 523 W College Ave, contingent upon approval from Appleton Police Department.

**Attachments:** [Christopher A Nelis S&L.pdf](#)

**This Report Action Item was approved.**

[21-0338](#)

Request from the Appleton Fire Department to update Section 6-56(b) of the city ordinance.

**Attachments:** [Changes to Sec 6-56\(b\).pdf](#)  
[2018 IFC adoption memo.pdf](#)  
[UPDATE 3-25-21 2018 IFC adoption memo.doc](#)

**This Report Action Item was approved.**

### 3. MINUTES OF THE CITY PLAN COMMISSION

[21-0244](#)

Request to approve Rezoning #3-21 to rezone the First Addition to Broadway Hills Estates Annexation (Tax Id #31-1-9210-14), formerly part of Town of Freedom, generally located approximately 1,400 feet north of the intersection of French Road and Broadway Drive, on the west side of French Road, including to the centerline of existing adjacent right-of-way, as shown on the attached maps, from Temporary AG Agricultural District to R-1B Single-Family District

**Attachments:** [StaffReport Rezoning 1stAddBroadwayHillsEstAnnex For3-9-21.pdf](#)

**This Report Action Item was approved.**

[21-0245](#)

Request to approve the First Addition to Broadway Hills Estates Preliminary Plat as shown on the attached maps and subject to the conditions in the attached staff report

**Attachments:** [StaffReport PrePlat 1stAddBroadwayHillsEstates For3-9-21.pdf](#)

**This Report Action Item was approved.**

### 4. MINUTES OF THE PARKS AND RECREATION COMMITTEE

[21-0316](#)

Action Item: Award the City of Appleton's "2021 Linwood Park Playground Equipment Project" contract to Lee Recreation, LLC in an amount not to exceed \$85,000

**Attachments:** [2021 Linwood Playground Parks and Rec. Comittee Memo.docx](#)

This Report Action Item was approved.

## 5. MINUTES OF THE FINANCE COMMITTEE

[21-0322](#)

Request to approve the following 2020 Budget amendments:

**Community Development Block Grant Fund**

Federal Grant	+\$ 56,549
Grant Payments	+\$ 56,549

to record federal funds received for COVID-19 mitigation (2/3 vote of Council required)

**Emergency Shelter Grant (ESG) Fund**

State Aids	+\$100,636
Grant Payments	+\$ 94,740
Salaries	+\$ 4,200
Fringe Benefits	+\$ 1,696

to record State funds received for COVID-19 mitigation (2/3 vote of Council required)

**Police Grants Fund**

Federal Grant	+\$ 56,620
Miscellaneous Supplies	+\$ 56,620

to record State funds received for COVID-19 mitigation (2/3 vote of Council required)

**Housing Rehabilitation Loan Fund**

Federal Grant	+\$ 51,452
Project Repayments	+\$ 34,058
Grant Payments	+\$ 66,190
Salaries	+\$ 15,220
Fringe Benefits	+\$ 4,100

to record additional funds received in 2020 in the Housing Rehab Loan program (2/3 vote of Council required)

**Police Grants Fund**

Federal Grant	+\$ 2,739
State Aids	+\$100,651
Overtime Wages	+\$ 63,395
Miscellaneous Equipment	+\$ 33,995
Other Contracts/Obligations	+\$ 6,000

to record additional Police grant funds received in 2020 (2/3 vote of Council required)

**Wheel Tax Fund**

Wheel Tax Proceeds	+ \$ 16,329
Transfer Out - General Fund	+\$ 16,329

to record Wheel Tax proceeds above budget amount (2/3 vote of Council required)

**TIF 6 Capital Projects Fund**

Other Contracts/Obligations	+\$ 72,967
Fund Balance	+\$ 72,967

to record additional cost of developer incentive payments (2/3 vote of Council required)

**TIF 8 Capital Projects Fund**

Other Contracts/Obligations	+\$ 47,445
Fund Balance	+\$ 47,445

to record additional cost of developer incentive payments (2/3 vote of Council required)

**General Fund - Finance Department**

Salaries	+\$ 6,675
Wage Reserve	+\$ 6,675

to record transfer of wage reserve funds (2/3 vote of Council required)

**General Fund - Information Technology Department**

Salaries	+\$ 7,730
Wage Reserve	+\$ 7,730

to record transfer of wage reserve funds (2/3 vote of Council required)

**Attachments:** [2020 Final Budget adjustments .pdf](#)

**This Report Action Item was approved.**

[21-0324](#)

Request to approve the 2020-2021 Budget carryover appropriations:

1. Items not under contract \$9,110,803
2. Items requesting Special Consideration \$500,471  
(2/3 vote of Council required)

**Attachments:** [Not under Contract 2020-2021 Carryover.pdf](#)  
[Special Consideration 2020-2021 Carryover.pdf](#)

**This Report Action Item was approved.**

[21-0326](#)

Request to award the City of Appleton's 2021 Pierce Park Lighting Upgrades Phase 2 Project contract to Elmstar Electric Corp in the amount of \$113,679 with a contingency of 10% for a project total not to exceed \$125,046

**Attachments:** [2021 Pierce Park Lighting upgrades Phase 2.pdf](#)

This Report Action Item was approved.

**6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE**

**7. MINUTES OF THE UTILITIES COMMITTEE**

[21-0313](#)

Anticipated award for Unit N-21, Spot Repairs, Protruding Tap and Mineral Deposit Removal (bids to be opened Monday, March 22, 2021).

**Attachments:** [Unit N-21.pdf](#)

This Report Action Item was approved as amended in Committee.

**8. MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE**

**9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION**

**10. MINUTES OF THE BOARD OF HEALTH**

**M. CONSOLIDATED ACTION ITEMS**

**N. ITEMS HELD**

**O. ORDINANCES**

[21-0356](#)

Ordinance #8-21 (Kloehn Detachment of Territory), Ordinance #9-21, and Ordinance #10-21

**Attachments:** [Ordinances going to Council 4-7-21.pdf](#)

**Aldersperson Coenen moved, seconded by Aldersperson Otis, that the Ordinances be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 14 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Joe Martin, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao, Aldersperson Alex Schultz, Aldersperson Mike Smith, Aldersperson Patti Coenen, Aldersperson Nate Wolff, Aldersperson Kyle Lobner, Aldersperson Joe Prohaska and Aldersperson Corey Otis

**Excused:** 1 - Alderperson Matthew Reed

**Abstained:** 1 - Mayor Jake Woodford

P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO  
COMMITTEES OF JURISDICTION

Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION

#5-R-21

*Political Signs on City-Owned Property*

*Date: April 7, 2021*

*Submitted By: Alderperson Lobner – District 13*

*Referred To: Finance Committee*

*WHEREAS municipal governments are responsible for administering local elections and must remain neutral in that process.*

*AND WHEREAS political signs posted on municipal property may create the impression that the municipality is not neutral in the election process.*

*THEREFORE BE IT RESOLVED that political signs shall not be posted on any city-owned property, including property leased from the city.*

*Resolution #6-R-21*

*RESOLUTION CONDEMNING XENOPHOBIA, RACISM, AND VIOLENCE AGAINST THE ASIAN PACIFIC ISLANDER DESIAMERICAN (APIDA) COMMUNITY.*

*Date: April 7, 2021*

*Submitted By: Ald. Thao – District 7, Ald. Meltzer – District 2, Ald. Van Zeeland – District 5, Ald. Fenton – District 6, Ald. Schultz – District 9, Ald. Wolff – District 12*

*Referred To: Safety & Licensing Committee*

*WHEREAS, 23 million Asian Americans and Pacific Islanders account for 7 percent of the population in the United States; and*

*WHEREAS, anti-Asian racism and hate are not new and have a long history in the United States; and*

*WHEREAS, Asian Americans have far too long been the target of xenophobic policies, labor exploitation, hate crimes, and systemic racism in the United States; and WHEREAS, the use of anti-Asian rhetoric, especially as it intensified this past year, has resulted in Asian Americans being harassed, assaulted, and scapegoated for the COVID-19 pandemic; and*

*WHEREAS, the Center for the Study of Hate and Extremism has found that anti-Asian hate crime in the 16 largest cities in the U.S. increased nearly 150% in 2020; and WHEREAS, according to the Stop AAPI Hate reporting center, nearly 4,000 hate incidents directed at AAPIs were reported between March 2020 and February 2021; and*

*WHEREAS, in the last year, Asian American and Pacific Islander women made up 68 percent of the 3,800 incidents against Asian Americans and Pacific Islanders; and WHEREAS, since the start of year 2021, there has been a surge in anti-Asian attacks targeting elderly Asian Americans; and*

*WHEREAS, the World Health Organization (WHO) and the Centers for Disease Control and Prevention (CDC) recognize that naming COVID-19 by its geographic location or linking it to a specific ethnicity perpetuates stigma; and*

*WHEREAS, this modern form of discrimination falls within a long-established historical pattern of scapegoating or characterizing Asians as foreign, invasive threats, or as “the other” that has contributed to demonstrated negative health effects in our AAPI communities; and*

*WHEREAS, the use of anti-Asian terminology and rhetoric related to COVID-19, such as the “Chinese Virus”, “Wuhan Virus”, and “Kung-flu” have perpetuated anti-Asian stigma; and*

*WHEREAS, no one should live in fear in our communities across Wisconsin and the United States; and*  
*WHEREAS, the City's AAPI residents are valued contributors to the City's workforce, economy, and political representation; and*  
*WHEREAS, in Appleton, our thriving AAPI community is a major proportion of all of our residents and a thriving diverse community that spans languages, nationalities, ethnicities, cultures and more; and*  
*WHEREAS, Mayor Jake Woodford and Appleton Police Department Chief Todd Thomas recently announced that "hate has no home" in Appleton and they stand with the AAPI community in condemning all acts of discrimination and violence; and*  
*NOW, THEREFORE, BE IT RESOLVED by the Appleton Common Council that the City of Appleton condemns violence of all forms against the APIDA community.*  
*BE IT FURTHER RESOLVED that the Appleton Common Council condemns all acts of racism, xenophobia, sexism, gender-based violence, discrimination, anti-Asian bias, scapegoating, and ethnic or religious intolerance.*  
*BE IT FURTHER RESOLVED that the Appleton Common Council encourages leaders at all levels to recommit the United States to serve as a world leader in building more inclusive, diverse, and tolerant communities.*  
*BE IT FURTHER RESOLVED that the Appleton Common Council encourages the Attorney General to work with State and local agencies and Asian American and Pacific Islander community-based organizations to prevent discrimination and expand culturally competent and linguistically appropriate education campaigns on public reporting of hate crimes.*  
*BE IT FURTHER RESOLVED that the Appleton Common Council recognizes the City of Appleton Police Department in its continuing work with local agencies and Asian American and Pacific Islander community-based organizations to prevent discrimination, expand culturally competent and linguistically appropriate education campaigns on public reporting of hate crimes, and build intentional relationships with the diverse communities.*  
*BE IT FURTHER RESOLVED that the Appleton Common Council encourages everyone to condemn anti-Asian bias, read, learn, and seek opportunities to experience cultures other than their own, review their practices that may create barriers or contribute to systemic racism, and in these ways and others seek to become a more welcoming, inclusive, anti-racist community.*

## R. OTHER COUNCIL BUSINESS

[21-0376](#)

Aldersperson Send-Off

*The following Alders were recognized for their service on the Council:*

*Aldersperson Coenen - District 11*

*Aldersperson Lobner - District 13*

*Aldersperson Otis - District 15*

## S. ADJOURN

**Aldersperson Lobner moved, seconded by Aldersperson Coenen, that the meeting be adjourned at 8:54 p.m. Roll Call. Motion carried by the following vote:**



**Aye:** 13 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Patti Coenen, Alderperson Nate Wolff, Alderperson Kyle Lobner, Alderperson Joe Prohaska and Alderperson Corey Otis

**Nay:** 1 - Alderperson Mike Smith

**Excused:** 1 - Alderperson Matthew Reed

**Abstained:** 1 - Mayor Jake Woodford

Kami Lynch, City Clerk



*"...meeting community needs...enhancing quality of life."*

**OFFICE OF THE MAYOR**  
Jacob A. Woodford  
100 North Appleton Street  
Appleton, Wisconsin 54911-4799  
Phone: (920) 832-6400  
Email: Mayor@Appleton.org

**TO:** Members of the Common Council  
**FROM:** Mayor Jacob A. Woodford  
**DATE:** April 16, 2021  
**RE:** Confirmation of Commission and Board Reappointments

---

It is with pleasure that I present the following appointments for your confirmation at the April 21 Common Council meeting.

**LIBRARY BOARD – Reappointment**

Greg Hartjes	3-year Term	Term Expires June 2024
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**FOX CITIES AREA ROOM TAX COMMISSION – Reappointments**

Karen Harkness	1-year Term	Term Expires May 2022
Tony Saucerman	1-year Term	Term Expires May 2022

**TRANSIT COMMISSION – Reappointment**

Dianne Dexter	3-year Term	Term Expires April 2024
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# PROCLAMATION



## Office of the Mayor

**WHEREAS**, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, now known as Arbor Day; and

**WHEREAS**, Arbor Day was first observed with the planting of more than one million trees in Nebraska, and is now observed throughout the nation and the world; and

**WHEREAS**, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and

**WHEREAS**, trees are a renewable resource that provide sustenance, energy, and building materials; and

**WHEREAS**, trees in Appleton increase property values, enhance the economic vitality of business areas, and beautify our community; and

**WHEREAS**, the City of Appleton has been recognized as a Tree City USA by the National Arbor Day Foundation and we plan to continue our tree-planting practices.

**NOW, THEREFORE, BE IT RESOLVED, THAT I, JACOB A. WOODFORD**, Mayor of the City of Appleton, Wisconsin, do hereby proclaim April 30, 2021 as

## Arbor Day

in Appleton and encourage residents to celebrate Arbor Day, support efforts to protect our trees and woodlands, and plant trees to gladden the heart and promote the wellbeing of this and future generations.

Signed and sealed this 15<sup>th</sup> day of April 2021.



**JACOB A. WOODFORD**  
MAYOR OF APPLETON

\*Pursuant to this Proclamation and in accordance with the Special Flag Policy, a special flag will be flown at City Hall on Friday, April 30, 2021.

# PROCLAMATION



## Office of the Mayor

**WHEREAS** all species play a unique role in the complex web of life and contribute to the ecosystem upon which all life on Earth depends; hence, protecting this ecosystem is crucial to the survival of this planet and its inhabitants; and

**WHEREAS**, wild animal populations are declining, and the Earth faces an era of mass extinction, which is in large part a result of human activity, including degradation of ecosystems, deforestation, pollution, and climate change; and

**WHEREAS**, by the year 2050, between 60-70% of all people will live in cities and biodiversity and the natural environment play an important part in city life, including generating oxygen, purifying the air, controlling pests and the spread of disease, pollination, and providing recreational opportunities and wellbeing; and

**WHEREAS**, many plants, wild animals, and pollinators live in urbanized landscapes, and cities thereby have a responsibility to examine the ecological impacts of their activities and ways to protect biodiversity; and

**WHEREAS**, it is more important than ever to cooperate locally and internationally to continue making progress, because sustainability will only be achieved by meeting the needs of the present without compromising the needs of the future; and

**WHEREAS**, Earth Day is an annual reminder of the constant need for environmental stewardship, advocacy, and sustainability efforts.

**NOW, THEREFORE, BE IT RESOLVED, THAT I, JACOB A. WOODFORD**, Mayor of the City of Appleton, Wisconsin, do hereby proclaim April 22, 2021 as

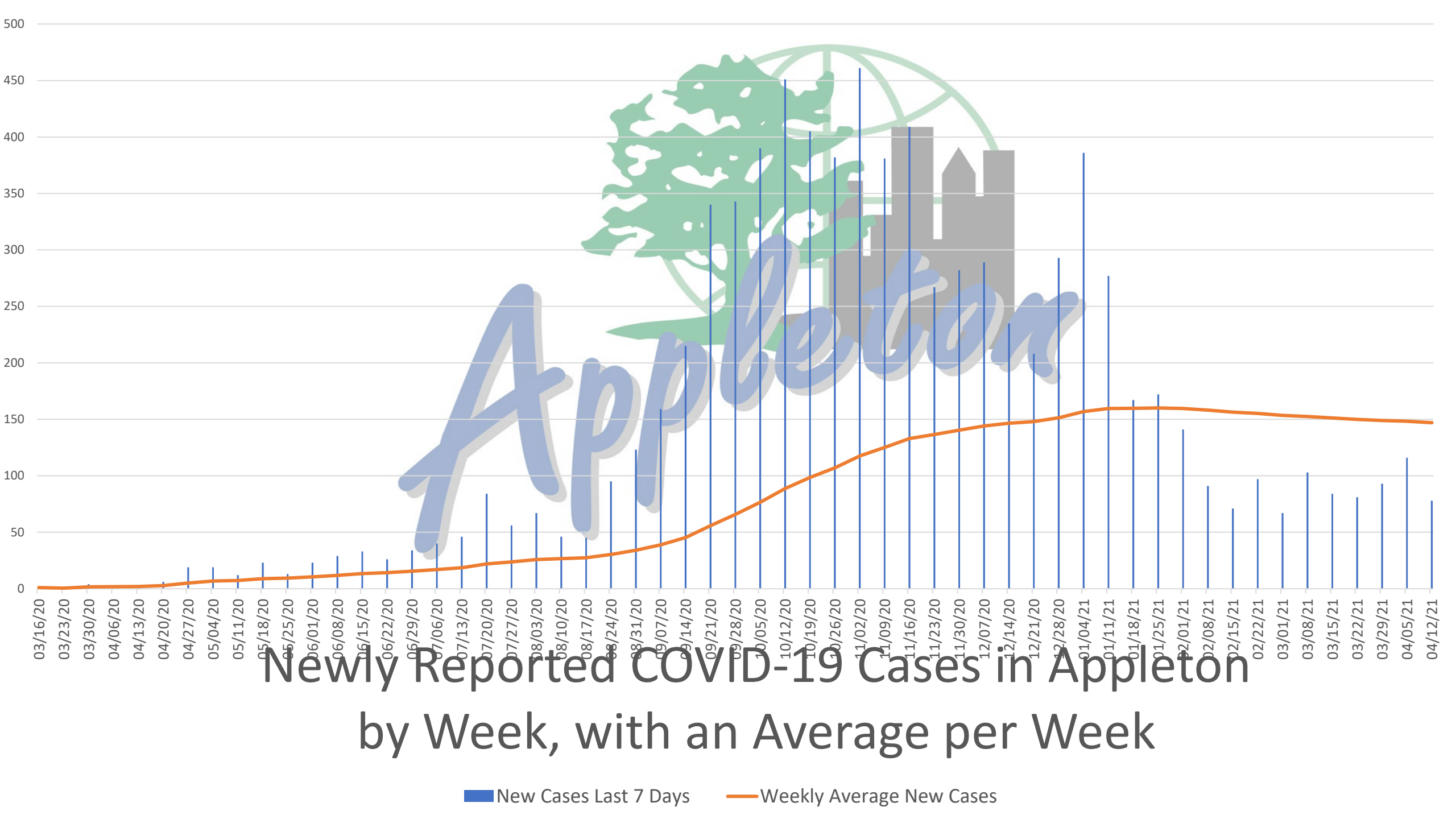
## Earth Day

in Appleton and encourage residents, businesses, and institutions to celebrate the Earth and promote the protection of our species and environment.

Signed and sealed this 5<sup>th</sup> day of April 2021.



  
**JACOB A. WOODFORD**  
MAYOR OF APPLETON



$116 + 78 = 194$  (2 week case counts)

$194 / 75,000 = .002586$  (Appleton population 75,000)

$.002586 \times 100,000 = 258.6$  (equals burden)

**Low** less than or equal to 10 per 100,000 people

**Moderate** greater than 10 but less than 50 per 100,000 people

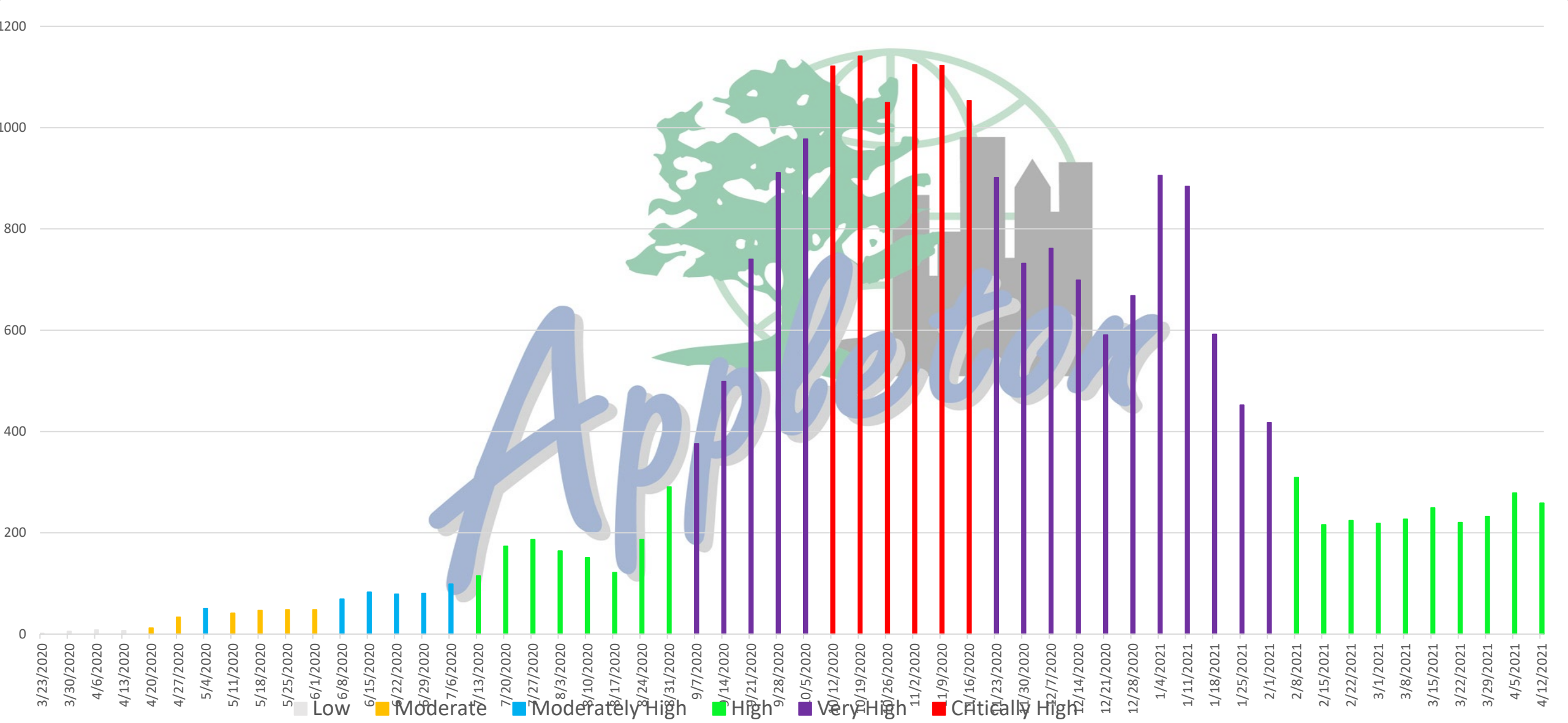
**Moderately High** greater than 50 but less than 100 per 100,000 people

**High** is greater than 100 per 100,000 people

**Very High** is greater than 350 per 100,000 people

**Critically High** is greater than 1,000 per 100,000 people

Table 1. Two indicators being based on confirmed cases: Burden and Trajectory. A third indicator maps Burden and Trajectory indicators into one composite indicator.					
Indicator	Definition	Classes			
Burden	Total number of cases per 100,000 in the last two weeks ( $B$ )	Low	$B \leq 10$		
		Moderate	$10 < B \leq 50$		
		Moderately High	$50 < B \leq 100$		
		High	$100 < B \leq 350$		
		Very High	$350 < B \leq 1000$		
		Critically High	$1000 < B$		
Trajectory	Percent change in the last two weeks ( $T$ ), p-value from a test against $T = 0$ ( $p$ )	Shrinking	$T \leq -10\%$ and $p < 0.025$		
		Growing	$10\% \leq T$ and $p < 0.025$		
		Not changing (No Call)	Otherwise		
Case status indicator(Composite of burden and trajectory)	Summary concern based on Burden and Trajectory classifications		Shrinking	No Call	Growing
		Low	Low	Low	Medium
		Moderate	Medium	Medium	High
		Moderately High	Medium	High	High
		High	High	High	High
		Very High	Very High	Very High	Very High
		Critically High	Critically High	Critically High	Critically High



Two Week Total New COVID-19 Cases in Appleton,  
 Rate per 100,000 Population, Risk Level Assessments per WDHS



**NOTICE OF PUBLIC HEARING**  
**OF THE**  
**APPLETON COMMON COUNCIL**

**NOTICE IS HEREBY GIVEN** of an Public Hearing to be held before the Common Council in Common Council Chambers, 6th Floor, City Hall, 100 North Appleton Street, on Wednesday, April 21, 2021, at 7:00 P.M., or as soon thereafter as can be heard, for the purpose of repealing and recreating Article X of Chapter 23 of the Municipal Code, relating to Floodplain Zoning and the Official Map that are required by state and federal law.

This notification invites you to express your views or concerns regarding the above-described request. The Common Council meeting is open to the public; however, considering the COVID-19 Health Emergency, you are strongly encouraged to consider sharing any feedback with Common Council members via written letter, email or phone call instead of appearing in person. Also, a copy of the proposed Floodplain Zoning Ordinance and Official Map Floodplain Zoning is available by contacting Pete Neuberger, P.E., Project Engineer in the Department of Public Works at 920-832-6474 or by email at [peter.neuberger@appleton.org](mailto:peter.neuberger@appleton.org) and Don Harp, Principal Planner in the Community and Economic Development Department at 920-832-6466 or by email at [don.harp@appleton.org](mailto:don.harp@appleton.org).

Alternatively, you can also contact the Mayor's Office at [mayor@appleton.org](mailto:mayor@appleton.org) and your comments will be forwarded to the Council.

April 1, 2021

KAMI LYNCH  
CITY CLERK

*Reasonable accommodations for persons with disabilities will be made upon request and if feasible.*

**INITIAL RESOLUTION**

**WHEREAS**, the public interest requires that a part of West Prospect Avenue and a part of South Douglas Street, that have not previously been vacated, be vacated and discontinued,

**BE IT RESOLVED**, that the Common Council of the City of Appleton, Wisconsin, hereby determines that the public interest requires that a part of West Prospect Avenue and a part of South Douglas Street, City of Appleton, Outagamie County, Wisconsin, as hereinafter described, is hereby vacated and discontinued pursuant to §66.1003 of the Wisconsin Statutes.

**LEGAL DESCRIPTION**

A part of Douglas Street, being located in the Government Lot Three (3), Fractional Southwest Quarter (SW ¼) of Section Thirty-Four (34), Township Twenty-One (21) North, Range Seventeen (17) East, City of Appleton, Outagamie County, Wisconsin, containing 1,174 Sq. Ft. of land and being further described as follows:

Commencing at the West Quarter corner of said Section 34:

Thence South 89°45'50" East 1392.02 feet coincident with the North line of the Fractional SW ¼ of said Section 34;

Thence South 00°13'29" East 989.76 feet to the Southeast corner of Prospect Avenue and Douglas Street and being the Point of Beginning;

Thence continue South 00°13'29" East 101.34 feet coincident with the East line of Douglas Street;

Thence North 89°44'29" West 0.59 feet;

Thence Northwesterly 50.90 feet along the arc of curve to the left having a radius of 111.00 feet and the chord of which bears North 23°07'34" West 50.46 feet;

Thence North 36°15'46" West 12.20 feet;

Thence Northeasterly 52.82 feet along the arc of a curve to the left having a radius of 189.14 feet and the chord of which bears North 31°11'04" East 52.65 feet to the point of beginning.

And

A part of Prospect Avenue, being located in Government Lot Three (3) and Government Lot Four (4), Fractional Southwest Quarter (SW ¼) of Section Thirty-Four (34), Township Twenty-One (21) North, Range Seventeen (17) East, City of Appleton, Outagamie County, Wisconsin, containing 1,468 Sq. Ft. of land and being further described as follows:

Commencing at the West Quarter corner of said Section 34:

Thence South 89°45'50" East 1332.02 feet coincident with the North line of the Fractional SW ¼ of said Section 34;

Thence South 00°13'29" East 1109.23 feet to the Southwest corner of Prospect Avenue

and Douglas Street and also being the Northeast corner of Lot 20, Block 1, Rivercrest Subdivision and being the Point of Beginning;

Thence North  $89^{\circ}50'32''$  West 120.00 feet coincident with the North line of Lot 20 of said Block 1 to the Northwest corner thereof and also being coincident with the South line of Prospect Avenue;

Thence North  $00^{\circ}13'29''$  West 0.63 feet;

Thence North  $86^{\circ}23'57''$  East 13.47 feet;

Thence Northeasterly 99.73 feet along the arc of a curve to the left having a radius of 197.00 feet and the chord of which bears North  $71^{\circ}53'48''$  East 98.67 feet;

Thence South  $36^{\circ}15'46''$  East 5.27 feet;

Thence Southeasterly 30.28 feet along the arc of a curve to the right having a radius of 50.00 feet and the chord of which bears South  $18^{\circ}54'42''$  East 29.82 feet to the point of beginning.

See also attached Exhibit "A" for illustration.

### **EASEMENTS**

The City of Appleton their heirs, successors and or assigns (Grantee) hereby retain an easement for any and all existing utilities and also any future utilities deemed necessary or desirable by Grantee within the vacated right of way, including but not limited to, storm sewer, drainage, sanitary sewer, watermain, gas, electric, cable and fiber- optic within the entire length and width of the above described right of way.

It is further agreed that this easement shall be a permanent easement.

It is further agreed that Grantee shall have the right to install, regrade, replace, relocate, operate, maintain, resize and repair any and all of these utilities and their associated appurtenances. It is further agreed that after installing, regrading, replacing, relocating, operating, maintaining, resizing or repairing of these utilities and their associated appurtenances Grantee shall restore unimproved surfaces such as grass, gravel and dirt on said property, as closely as possible, to the condition previously existing. Grantee shall not be required to restore or compensate for any improvements or improved surfaces such as, but not limited to, curb and gutter, hard pavements, trees, shrubs and landscaping, disturbed as a result of the maintenance activities described herein. Buildings or any other type of permanent structure shall not be placed over Grantees' facilities or in, upon or over said easement area. This easement includes the right to operate any and all equipment deemed necessary by Grantee to perform said activities. Grantee agrees that it shall give timely notice to the Grantor of routine maintenance work.

### **COMMON DESCRIPTION:**

A part of West Prospect Avenue and a part of South Douglas Street

***FURTHER RESOLVED***, that the City Clerk of the City of Appleton be authorized and directed to give notice required by §66.1003 of the Wisconsin Statutes.

***FURTHER RESOLVED***, that according to §66.1005 of the Wisconsin Statutes, upon vacation and discontinuance of said part of West Prospect Avenue and part of South Douglas Street, title to the above-described streets shall belong to the adjoining property owners and shall acquire an ownership interest in the entire area being vacated as shown on the attached Exhibit Map.

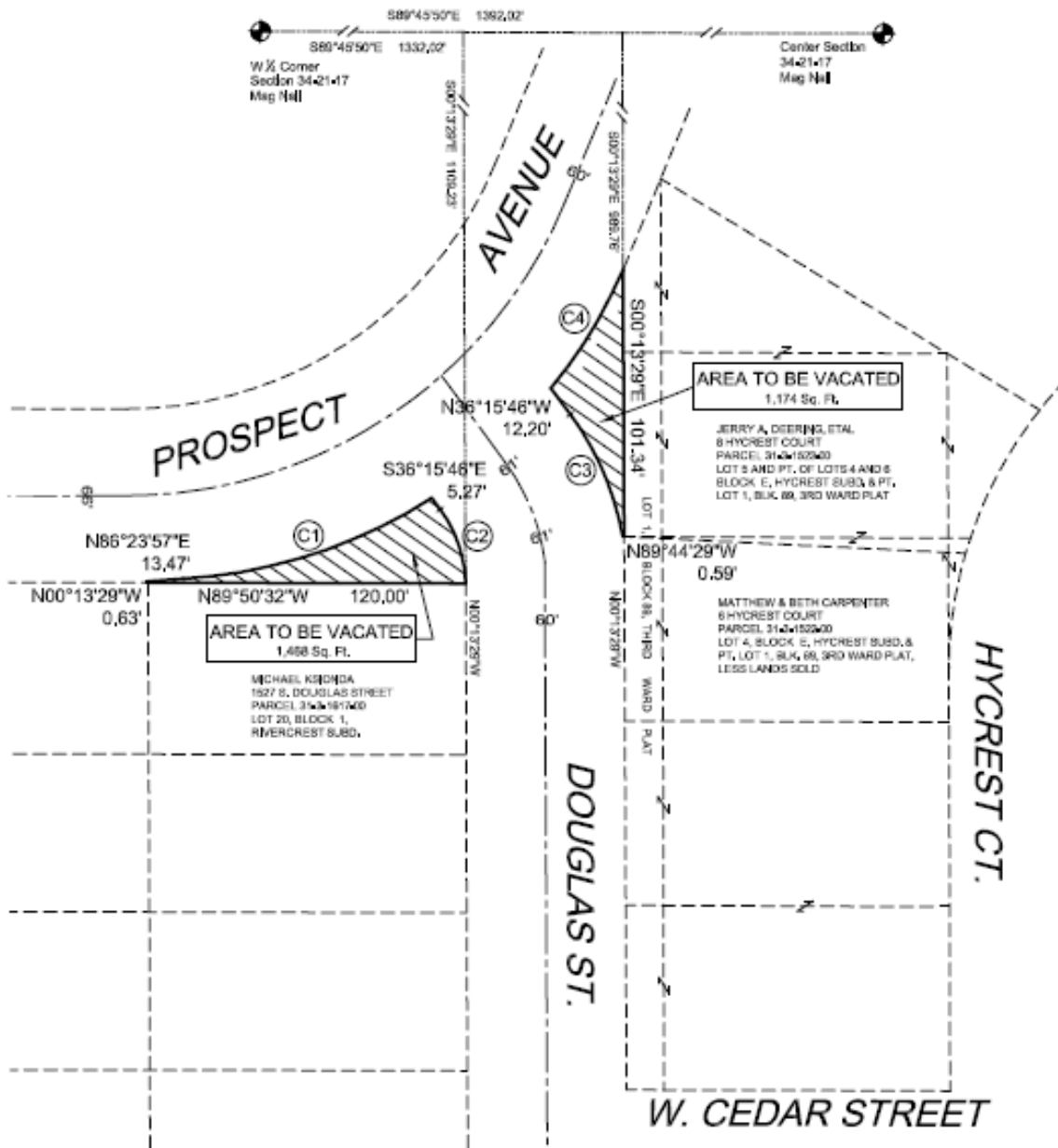
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Date

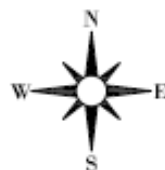
City Law A21-0230  
3/29/2021

# EXHIBIT "A"

A part of Prospect Avenue lying adjacent to Lot Twenty (20), Block One (1), RIVERCREST SUBD. and a part of Douglas Street lying adjacent to a part of Lot One (1), Block Eighty-Nine (89), THIRD WARD PLAT, according to the recorded Assessor's Map, all being located in the Government Lot Three (3) and Government Lot Four (4) of Section Thirty-Four (34), Township Twenty-One (21) North, Range Seventeen (17) East, City of Appleton, Outagamie County, Wisconsin



CURVE DATA TABLE				
CURVE	RADIUS	LENGTH	LC	LCB
C1	197.00'	99.73'	98.87'	N71°53'48"E
C2	50.00'	30.28'	29.82'	S18°54'42"E
C3	111.00'	50.90'	50.46'	N23°07'34"W
C4	189.14'	52.82'	52.85'	N31°11'04"E



**CITY OF APPLETON**  
 DEPT. OF PUBLIC WORKS  
 ENGINEERING DIVISION  
 100 NORTH APPLETON STREET  
 APPLETON, WI 54911  
 920-832-6474

BEARINGS ARE REFERENCED TO WISCONSIN COUNTY COORDINATES, OUTAGAMIE COUNTY

DRAFTED BY: T. KRÖMM

01-Asst/Vac and Dedicatn/0200ProspectAve\_DraftSet\_1030\_2020

CONCRETE PAVEMENT, DRIVEWAY APRONS, SIDEWALK CONSTRUCTION

RESOLUTION 1-P-21

PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POWERS UNDER SECTION 66.0703 (7) (a), WISCONSIN STATUTES OF 2011-2012.

RESOLVED, by the Common Council of the City of Appleton, Wisconsin:

1. The Common Council hereby declares its intention to exercise its powers under Section 66.0703, Wisconsin Statutes, to levy special assessments upon property within the following described area for benefits conferred upon such property by improvement of the following area.

CONCRETE PAVEMENT, SIDEWALK CONSTRUCTION AND DRIVEWAY APRONS

- Downs Ridge (Tiburon Dr to Purdy Pkwy)
- Grinnell Ct (Werner Rd to CDS)
- Thomas Ct (Purdy Pkwy to CDS)
- Trinity Ct (Downs Ridge to CDS)
- Alvin St (Evergreen Dr to CDS)
- Newberry St (Schaefer St to city limits) – sidewalk only

2. The total amount assessed against such property shall not exceed the total cost of the improvements. The Common Council determines that such improvements shall be made under the police power and the amount assessed against each parcel shall be on a cost per front foot, area or unit cost basis.

3. The assessments against any parcel may be paid to the Finance Department on receipt of Special Assessment Notice by one of the following:

- a. In cash, or if entered on the Tax Roll;
- b. One installment, if the assessment is \$1000 or less;
- c. In five equal annual installments, if the assessment is greater than \$1000;

Deferred payments shall bear an interest at the prime rate plus 3% per annum on the unpaid balance.

4. The Finance Committee is directed to prepare a report consisting of:

- a. Preliminary plans and specifications for said improvements.
- b. An estimate of the entire cost of the proposed street improvements.
- c. A schedule of proposed assessments showing the properties that are benefited by the work or improvements.

Upon completing such report, the Finance Committee is directed to file a copy thereof in the office of the City Clerk for public inspection.

5. Upon receiving the report of the Finance Committee, the City Clerk is directed to give notice of a public hearing on such report as specified in Section 66.0703 (7) (a), Wisconsin Statutes. The hearing shall be held at the Council Chambers in the City Hall at a time set by the City Clerk in accordance with Section 66.0703 (7) (a), Wisconsin Statutes.

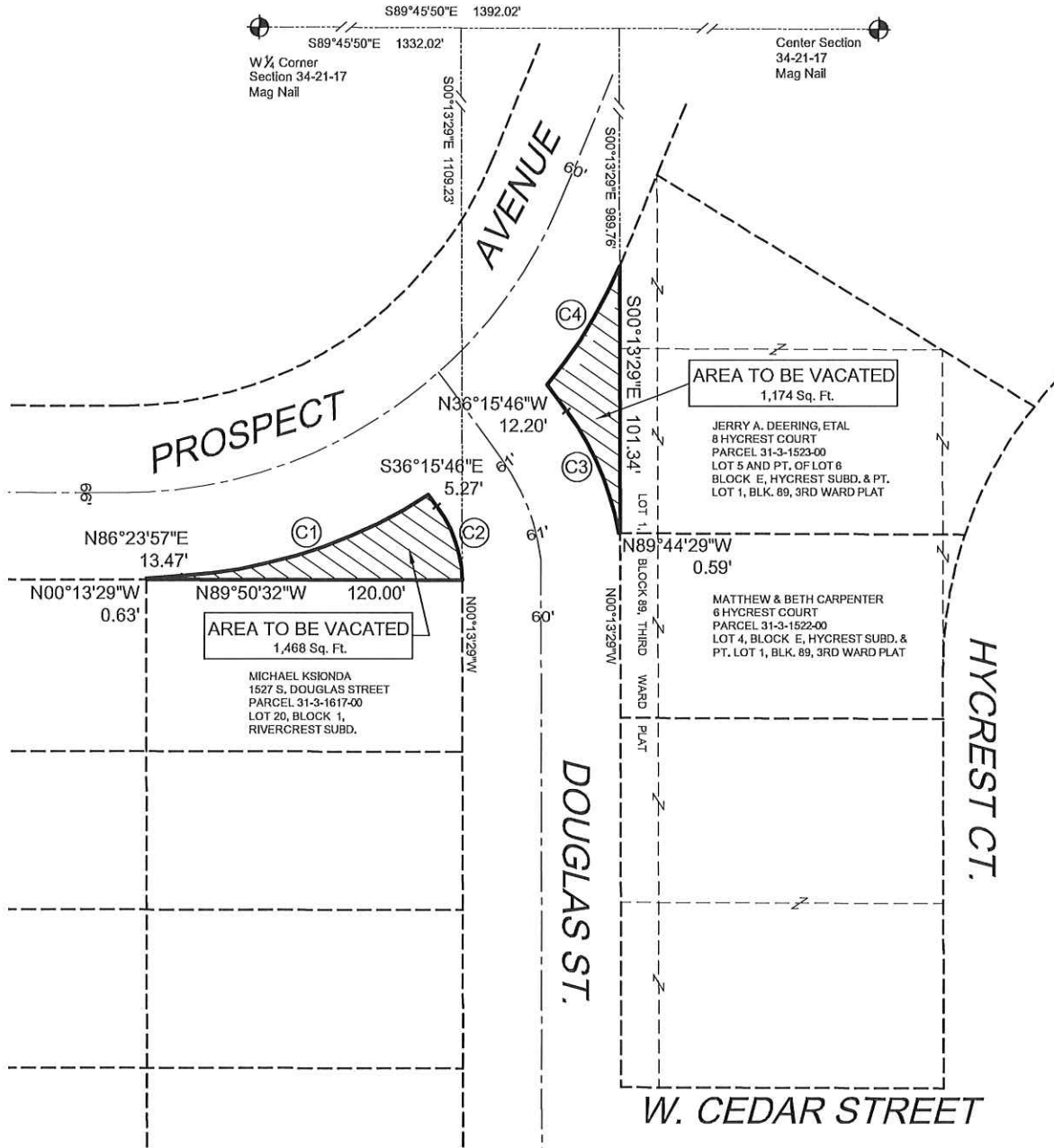
Jake Woodford (Mayor)

Adopted: April 21, 2021

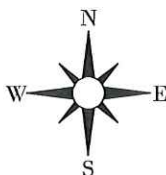
Attest: Kami L. Lynch (City Clerk)

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BEARINGS ARE REFERENCED TO WISCONSIN COUNTY COORDINATES, OUTAGAMIE COUNTY

**CITY OF APPLETON**  
 DEPT. OF PUBLIC WORKS  
 ENGINEERING DIVISION  
 100 NORTH APPLETON STREET  
 APPLETON, WI 54911  
 920-832-6474

DRAFTED BY: T. KROMM

H:\Acad\Wac.and Dedications\2020\ProspectAve\_DouglasSt\_1030\_2020

# PROSPECT AVENUE AND DOUGLAS STREET VACATION

## LEGAL DESCRIPTION

A part of Douglas Street, being located in the Government Lot Three (3), Fractional Southwest Quarter (SW ¼) of Section Thirty-Four (34), Township Twenty-One (21) North, Range Seventeen (17) East, City of Appleton, Outagamie County, Wisconsin, containing 1,174 Sq. Ft. of land and being further described as follows:  
Commencing at the West Quarter corner of said Section 34:  
Thence South 89°45'50" East 1392.02 feet coincident with the North line of the Fractional SW ¼ of said Section 34;  
Thence South 00°13'29" East 989.76 feet to the Southeast corner of Prospect Avenue and Douglas Street and being the Point of Beginning;  
Thence continue South 00°13'29" East 101.34 feet coincident with the East line of Douglas Street;  
Thence North 89°44'29" West 0.59 feet;  
Thence Northwesterly 50.90 feet along the arc of curve to the left having a radius of 111.00 feet and the chord of which bears North 23°07'34" West 50.46 feet;  
Thence North 36°15'46" West 12.20 feet;  
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And

A part of Prospect Avenue, being located in Government Lot Three (3) and Government Lot Four (4), Fractional Southwest Quarter (SW ¼) of Section Thirty-Four (34), Township Twenty-One (21) North, Range Seventeen (17) East, City of Appleton, Outagamie County, Wisconsin, containing 1,468 Sq. Ft. of land and being further described as follows:  
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Thence South 00°13'29" East 1109.23 feet to the Southwest corner of Prospect Avenue and Douglas Street and also being the Northeast corner of Lot 20, Block 1, Rivercrest Subdivision and being the Point of Beginning;  
Thence North 89°50'32" West 120.00 feet coincident with the North line of Lot 20 of said Block 1 to the Northwest corner thereof and also being coincident with the South line of Prospect Avenue;  
Thence North 00°13'29" West 0.63 feet;  
Thence North 86°23'57" East 13.47 feet;  
Thence Northeasterly 99.73 feet along the arc of a curve to the left having a radius of 197.00 feet and the chord of which bears North 71°53'48" East 98.67 feet;  
Thence South 36°15'46" East 5.27 feet;  
Thence Southeasterly 30.28 feet along the arc of a curve to the right having a radius of 50.00 feet and the chord of which bears South 18°54'42" East 29.82 feet to the point of beginning.

See also attached Exhibit "A" for illustration.

## EASEMENTS

The City of Appleton their heirs, successors and or assigns (Grantee) hereby retain an easement for any and all existing utilities and also any future utilities deemed necessary or desirable by Grantee within the vacated right of way, including but not limited to, storm sewer, drainage, sanitary sewer, watermain, gas, electric, cable and fiber-optic within the entire length and width of the above described right of way.

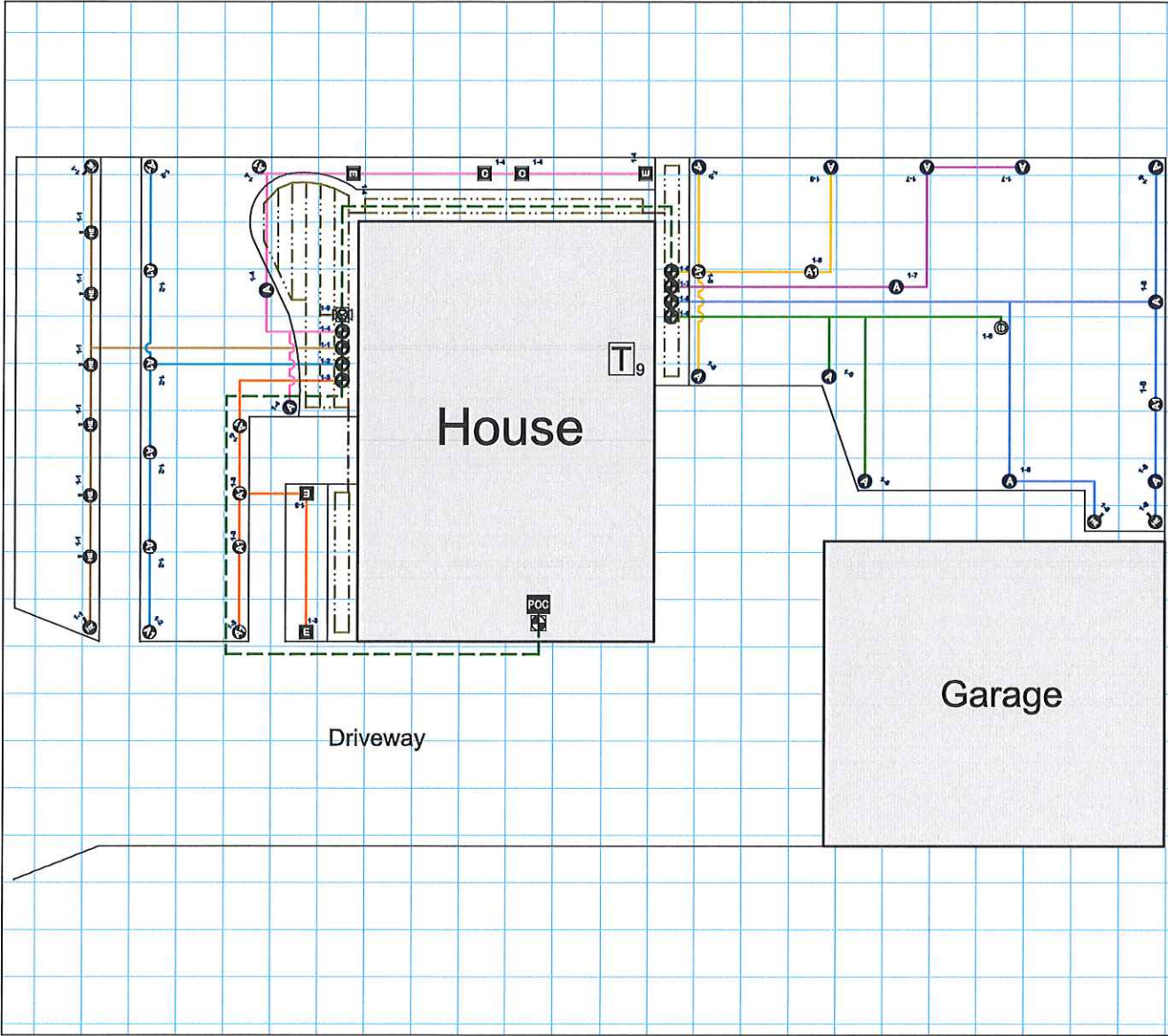
It is further agreed that this easement shall be a permanent easement.

It is further agreed that Grantee shall have the right to install, regrade, replace, relocate, operate, maintain, resize and repair any and all of these utilities and their associated appurtenances. It is further agreed that after installing, regrading, replacing, relocating, operating, maintaining, resizing or repairing of these utilities and their associated appurtenances Grantee shall restore unimproved surfaces such as grass, gravel and dirt on said property, as closely as possible, to the condition previously existing. Grantee shall not be required to restore or



## **PROSPECT AVENUE AND DOUGLAS STREET VACATION**

compensate for any improvements or improved surfaces such as, but not limited to, curb and gutter, hard pavements, trees, shrubs and landscaping, disturbed as a result of the maintenance activities described herein. Buildings or any other type of permanent structure shall not be placed over Grantees' facilities or in, upon or over said easement area. This easement includes the right to operate any and all equipment deemed necessary by Grantee to perform said activities. Grantee agrees that it shall give timely notice to the Grantor of routine maintenance work. Grantee shall also have the right to build and maintain a public trail in a mutually agreeable location within the vacated street area.



Homeowner to comply with local plumbing codes pertaining to backflow protection and service line connection. The accuracy of your drawing and how well you answer all related questions will determine the accuracy of your custom design.  
 RAIN BIRD OFFERS THIS DESIGN ONLY AS A GUIDELINE. NO GUARANTEE OF DESIGN ACCURACY, SYSTEM INSTALLATION OR OPERATION IS IMPLIED.

 <b>SPRINKLER SYSTEM DESIGN</b> <small>Registered trademark of Rain Bird Corporation        © 2009 Rain Bird Corporation</small>	<b>Scale:</b> Square = 5 x 5 ft <b>Sheet:</b> Circular/Piping <b>Date:</b> 3/18/2021 <b>Design No.:</b> S230116	<b>Custom Designed For:</b> <b>Bob McInnis</b> 616 S Theodore St Appleton, WI 54915 (920) 284-2985	<b>Designed By:</b> <b>Rain Bird Design Service</b> Questions About Your Design? Email to <a href="mailto:designservice@rainbird.com">designservice@rainbird.com</a> Call 1-800-426-7792	<b>Contact Rain Bird</b> for Product Questions 
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TIMER TO BE INSTALLED  
INSIDE OR IN A  
WATER PROOF CABINET



TIMER

**POLY PIPE SYSTEM  
ELEVATION PLAN**

WIRE

1" RAIN BIRD  
AUTOMATIC VALVE  
WITH FLOW CONTROL  
CPF-100



HOUSE

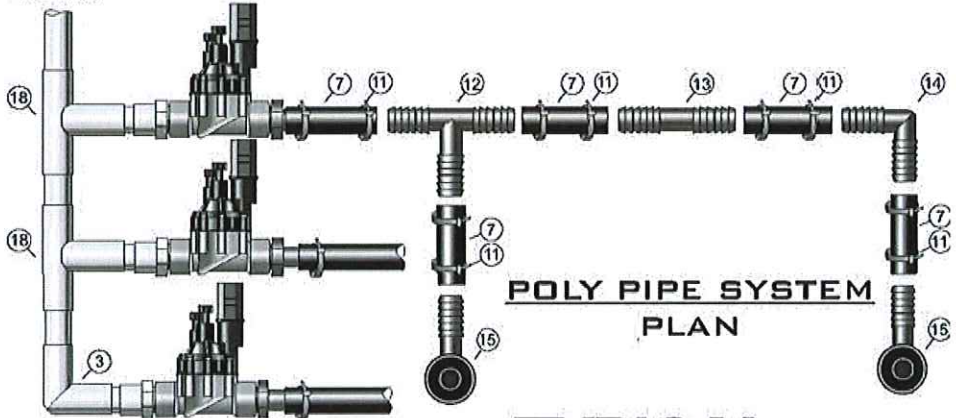
POC

WATER  
METER

- LEGEND:**
1. 1" MPT MALE ADAPTER, 1".
  2. INSERT X 1" MPT MALE ADAPTER, 1".
  3. SLIP X SLIP ELBOW, 1".
  4. 1" MASTER SHUTOFF VALVE.
  5. 1" FPT COMPRESSION TEE, FOR PVC 1".
  6. VALVES, WIRE @ SOLENOID.
  7. POLY PIPE 1".
  8. INSERT X INSERT X 1/2" FPT TEE, 1".
  9. INSERT X 1/2" FPT ELBOW, 1".
  10. 1/2" CUTOFF RISER.
  11. STAINLESS STEEL CLAMP FOR 1" POLY PIPE.
  12. INSERT X INSERT X INSERT TEE, 1".
  13. INSERT X INSERT COUPLER, 1".
  14. INSERT X INSERT ELBOW, 1".
  15. SPRINKLER HEAD.
  16. 1/2" PVC SCH. 80 RISER.
  17. SHRUB ADAPTER.
  18. SLIP X SLIP X SLIP TEE, 1".

- NOTES:**
1. CHECK WITH YOUR LOCAL CODES THAT A BACKFLOW DEVICE MAY BE REQUIRED.
  2. WHEN TOR-50 OR AG-5 ARE SPECIFIED A 3/4" CLOSE NIPPLE WITH INSERT X 3/4" TEE/ELBOW IS TO BE USED. (REFER TO 8, 9 & 10).
  3. STAINLESS CLAMPS TO BE USED AT ALL INSERT X INSERT

FROM  
WATER  
METER



**TYPICAL  
POLY PIPE SYSTEM  
W/IN-LINE VALVE**

Tables & Chairs  
in beautification strip area  
(not sidewalk area)



823 W. College Ave.



*"...meeting community needs...enhancing quality of life."*

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TO: Municipal Services Committee

FROM: Paula Vandehey, Director of Public Works  
Sue Olson, Staff Engineer

SUBJECT: Amend 2021 Contract for Operation, Maintenance, and Monitoring at the Closed City of Appleton Landfill to SCS Engineers, in an amount not to exceed \$8,000.

DATE: April 5, 2021

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The Department of Public Works requests amending the 2021 Contract for Operation, Maintenance, and Monitoring at the Closed City of Appleton Landfill to SCS Engineers in an amount not to exceed \$8,000. If this amendment is approved, the total contract amount will be \$105,447.

Staff had requested a \$19,679 carry-over from 2020 to 2021 to complete a well replacement and continue gas system monitoring, which were delayed due to COVID-19 and questions raised during a November 2020 site inspection by Wisconsin Department of Natural Resources (WDNR). The WDNR questions were related to vegetation and will be reviewed again this spring once the growing season is underway.

The well replacement will be re-budgeted for in 2022. To continue moving toward converting the gas system from active to passive, additional gas monitoring is needed. The requested funds will cover the gas system monitoring that was delayed and additional gas system monitoring requested by the WDNR.

This contract amendment is contingent upon approval of a corresponding budget adjustment request at the April 12, 2021 Finance Committee meeting.



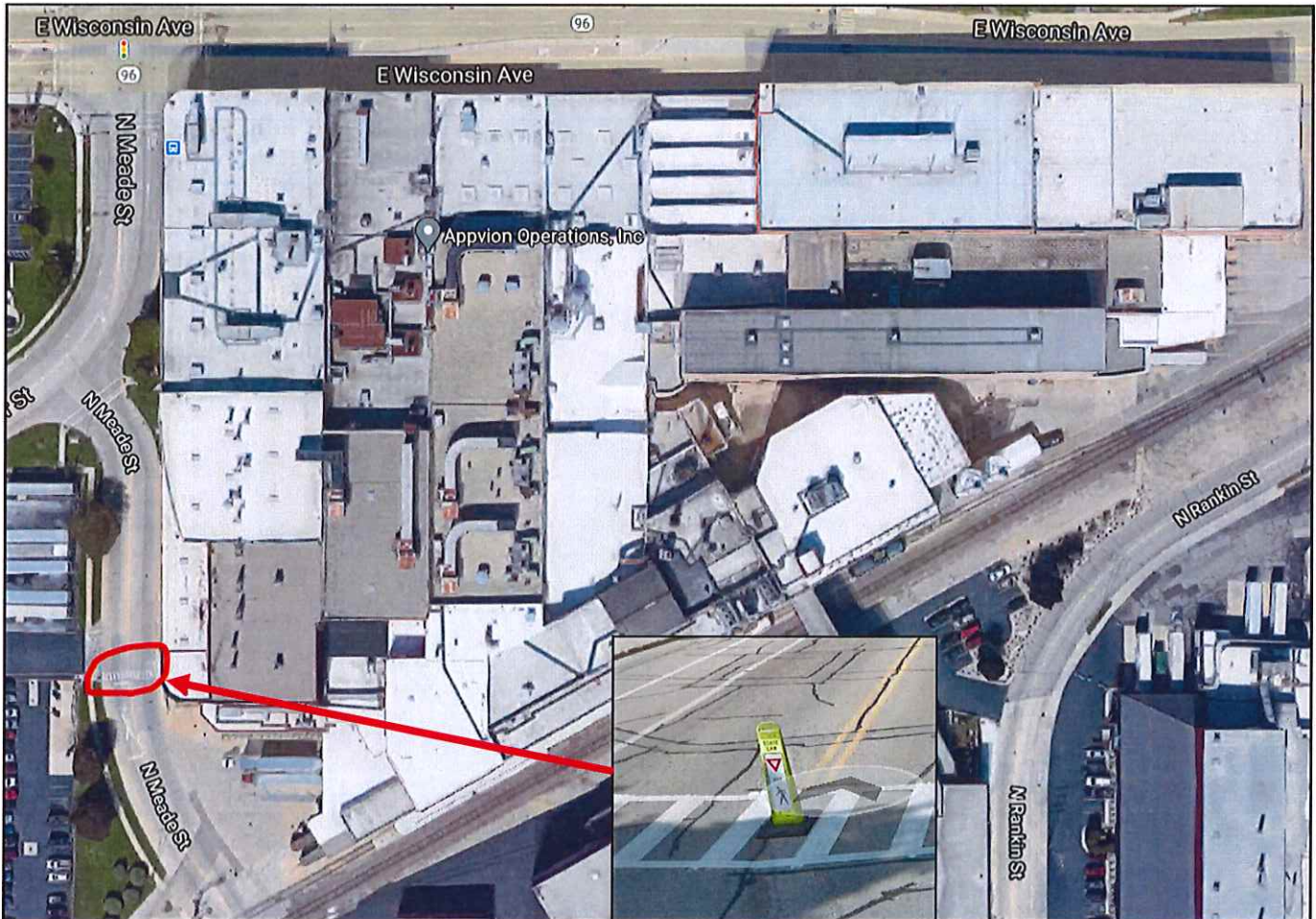
"... meeting community needs ... enhancing quality of life."

DEPARTMENT OF PUBLIC WORKS  
Engineering Division – Traffic Section  
2625 E. Glendale Avenue  
Appleton, WI 54911  
TEL (920) 832-5580  
FAX (920) 832-5570

To: Municipal Services Committee  
From: Eric S. Lom, City Traffic Engineer  
Date: April 6, 2021  
Re: Permanent Street Occupancy Permit for Appvion *In-Street Pedestrian Crossing Sign*

My office has recently been working with Appvion to improve pedestrian safety at their Appleton campus. As a part of that process, Appvion has requested a permit to place an *in-street pedestrian crossing sign* at the mid-block crosswalk on the Meade Street side of their complex (see diagram below). Appvion would be required to purchase and maintain the sign at their cost, and the permit would be revokable if unforeseen problems arise in the future.

We recommend approval of Appvion's request.





## MEMORANDUM

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“...meeting community needs...enhancing quality of life.”

TO: Paula Vandehey, Director of Public Works

FROM: Jessica Titel, Principal Planner

DATE: April 6, 2021

RE: Request from Creative Downtown Appleton Inc. for the Downtown Creates  
“Adopt-A-Planter to Create Garden Art” Event

The Appleton Public Arts Committee met on April 6, 2021 and recommended approval of the request from Creative Downtown Appleton Inc. for the Downtown Creates “Adopt-A-Planter to Create Garden Art” event from May 21-23, 2021 to be located within the planters along the College Avenue amenity strip **as described in the attached documents and subject to the following conditions.**

1. Per the Art in Public Places Policy, any artwork signage shall meet the parameters set forth in Zoning Code Section 23-531(e), which allows each artwork one plaque/sign not to exceed nine square feet in size.
2. A street occupancy permit is required.
3. The applicant shall provide the Department of Public Works with a final placement map prior to the event.
4. Placement of artwork within the planters will begin no sooner than Friday, May 21, 2021, and all items shall be removed from the planters no later than Sunday, May 23, 2021. Applicant is responsible to collect any remaining items left in or around the planters by the end of the day on Monday, May 24, 2021.

Per the Art in Public Places Policy, the recommendation from the Appleton Public Arts Committee is forwarded to the committee of jurisdiction, in this case, the Municipal Services Committee. Please place this item on the agenda for the April 12, 2021 Municipal Services Committee agenda. Their recommendation would then be forwarded to the Common Council for final consideration on April 21, 2021.

The Staff Report prepared for the Public Art Committee is attached as reference.



## REPORT TO PUBLIC ARTS COMMITTEE

**Appleton Public Arts Committee Meeting Date:** April 6, 2021

**Municipal Services Committee Date:** April 12, 2021

**Common Council Meeting Date:** April 21, 2021

**Item:** Garden Art (Downtown Creates Event Series)

**Case Manager:** Jessica Titel

### GENERAL INFORMATION

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**Applicant:** Creative Downton Appleton Inc., c/o Djuanna Hugdahl

**Property Owner:** City of Appleton – Public Right-of-Way

**Address/Parcel:** College Avenue Amenity Strip Planters

**Applicant's Request:** Applicant is requesting approval to temporarily showcase garden art creations within the planters in the College Avenue amenity strip as part of the Downtown Creates monthly event series.

### PROJECT DETAILS

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**Brief Description of Project and Location:** The applicant is proposing to hold an event titled "Garden Art" as part of the Downtown Creates event series. The event will feature garden art creations within the 72 planters in the College Avenue amenity strip. Individuals will register to participate in the event and will be assigned a planter. The artwork will be displayed Friday through Sunday, May 21-23, 2021. The public will be invited to view the artwork. The event will be coordinated by Creative Downtown Appleton, Inc. The applicant has been in contact with the City Forester regarding this proposal and has his support.

**Reason for Choosing the Proposed Location:** The walkability of downtown makes it accessible to all and allows the artwork to be spaced apart to promote distancing the full mile stretch of College Avenue.

**Description of How the Work is Installed/Anchored/Attached:** Displays will be mostly freestanding objects and some staked items for stability with placement directly into the dirt. Appleton Downtown, Inc.'s certificate of insurance is on file with the City.

**Timeline and Duration of Installation:** Set up will begin around 9:00 AM on Friday, May 21, and artists would remove their artwork by 6:00 PM on Sunday, May 23.

**Maintenance and Cost:** Artists will be made aware that their garden art is submitted at their own risk. Staff and volunteers will walk the Central Business District on Monday, May 24 to assess and remove any items that were left behind.



**Associated Signage:** Temporary signs (2'W x 1.5' H) will be placed out during the event. Per the Art in Public Places Policy, any artwork signage shall meet the parameters set forth in Zoning Code Section 23-531(e), which allows each artwork one plaque/sign not to exceed nine square feet in size.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* illustrates the importance of the arts community to Appleton and encourages the expansion and promotion of placemaking and arts in the City. The proposed public art project is consistent with the following goals and objectives of the *Comprehensive Plan 2010-2030*.

*Chapter 3 – Community Vision #12: Creative place making and public art enhance the public realm and contribute to a vibrant economy.*

*Chapter 14 – Downtown Plan*

- *Strategy 1.4 Install sculpture, murals, and other art in public locations throughout the downtown*
- *Strategy 2.1 Maintain and strengthen the vitality of the arts and entertainment niche*

## **RECOMMENDATION**

Based upon the guidelines outlined in the Art in Public Places Policy, staff recommends that the proposed Garden Art event, located within the College Avenue amenity strip planters, as described in the attached documents, **BE APPROVED** subject to the following conditions:

1. Per the Art in Public Places Policy, any artwork signage shall meet the parameters set forth in Zoning Code Section 23-531(e), which allows each artwork one plaque/sign not to exceed nine square feet in size.
2. A street occupancy permit is required.
3. The applicant shall provide the Department of Public Works with a final placement map prior to the event.
4. Placement of artwork within the planters will begin no sooner than Friday, May 21, 2021, and all items shall be removed from the planters no later than Sunday, May 23, 2021. Applicant is responsible to collect any remaining items left in or around the planters by the end of the day on Monday, May 24, 2021.

## **Month of May – Garden Art:**

2020 brought many challenges to our ability to host events and bring people downtown safely. To do so, we embraced the open air and walkability of our downtown, by offering our Downtown Creates series as a walk event only, connecting people and offering a place of artistic expression. With your support, we would like to showcase an exploration of art displays for the community to engage and connect. We often hear how the last twelve months have impacted the mental health of our community. Providing experiences of connection, even with strangers; is valuable and important to our overall well-being.

As you review this application, we look forward to any suggestions or comments from the Public Art Committee, in an effort to make this event the success that we hope it to be.

### **• Brief description of the proposed artwork**

Our May Downtown Creates event will feature “Garden Art” showcasing talents from the community. The “Adopt a Planter” concept will engage families, non-profits and local artists of all ages to create artful displays in the 72 planters on College Avenue. They will be encouraged to incorporate natural materials and inspiration into garden themed works of art.

Community participants will be engaged through a call for artists, Master Gardeners, Marigold Mile, Appleton Area School District, nonprofits, and family groups. Corporate sponsorships will also be made available.

### **• Photos/sketches of proposed work:**

See potential art creation images on attached page. Displays could feature Fairy Gardens, Garden Art, Flowers, Painted Rocks, etc. Each applicant will need to submit a “proposed” thought/sketch for approval, prior to receiving proposed planter location.

### **• Site plan/location map showing location of proposed work –**

College Avenue – Amenity Strip & Beautification Planters. Working closely with DPW, the Garden Art creations will be showcased prior to any planting done in the planters for the Spring/Summer season. A letter of request to occupy the public right of way to Paula VandeHey, Director of Public Works is attached.

A final placement map of art planter locations can be submitted to the committee, once all applicants have applied and sketch/proposed work is approved.

### **• Reason for choosing the proposed location:**

Areas will be spaced well apart to promote social distancing, within the full mile stretch of College Avenue. Offering distance between displays and features will assist with keeping the flow of foot traffic moving throughout the downtown district. Additionally, we would like this to be a full weekend offering, thus eliminating barriers of access to the arts. Free masks and hand sanitizer will be made available to attendees.

• **Description of how the work is installed/anchored/attached**

Displays will be mostly free standing objects and some staked items for stability with placement directly into the dirt of the beautification planters.

• **Installation specifications provided by a structural engineer**

N/A

• **Timeline and duration of installation**

Items would be placed during event timeframe:

Friday, May 21 - Set-up beginning around 9 am

Sunday, May 23 -- Artist Garden Art removal and clean-up finalized by 6 pm

• **How the artwork will be maintained (including any costs associated with the maintenance and who will be responsible for those costs)**

Artists will be made aware that submissions are being placed at own risk. A draft of our submission form is also attached.

Creative Downtown Appleton Inc. will provide volunteers & staff to assist with removal of any items that may have been left behind in or around the planters, on the morning of Monday, May 24.

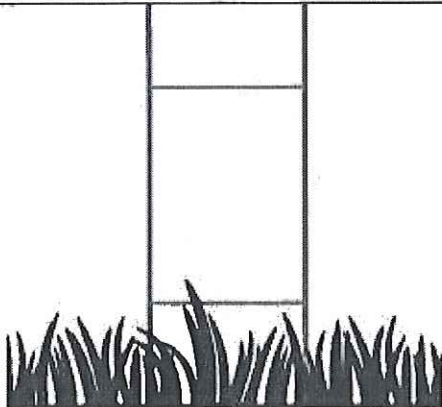
• **Description of any associated signage**

Planned signage consists of similar to image, placed in planters during event only. Signage would look similar with minor updates, (image is from 2020), showcasing event, Creative Downtown Logo and sponsor logos. Dimensions 2' W x 1.5' H

2 feet wide

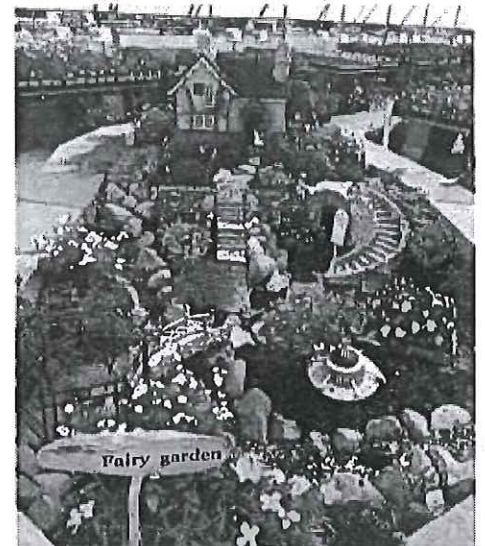
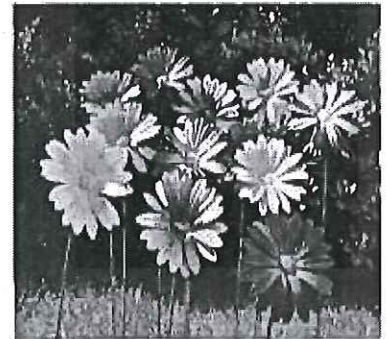
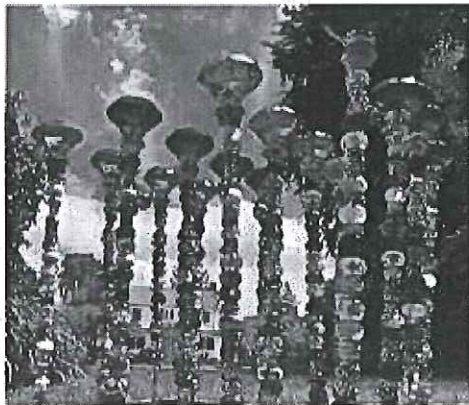
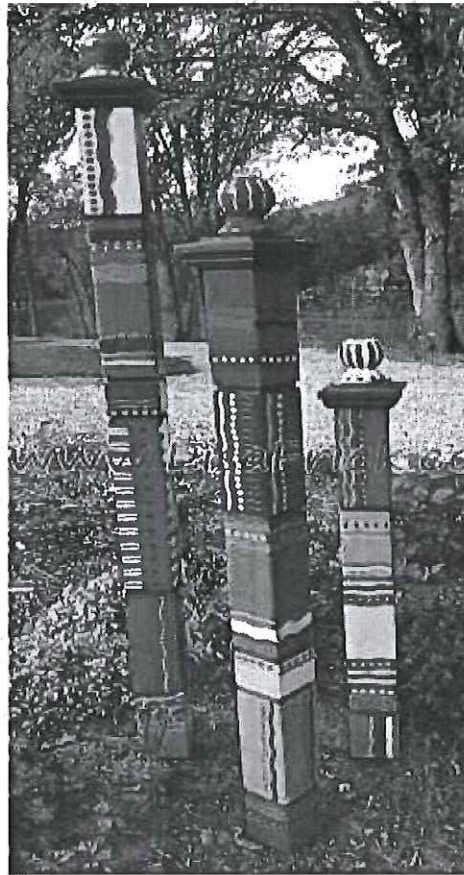


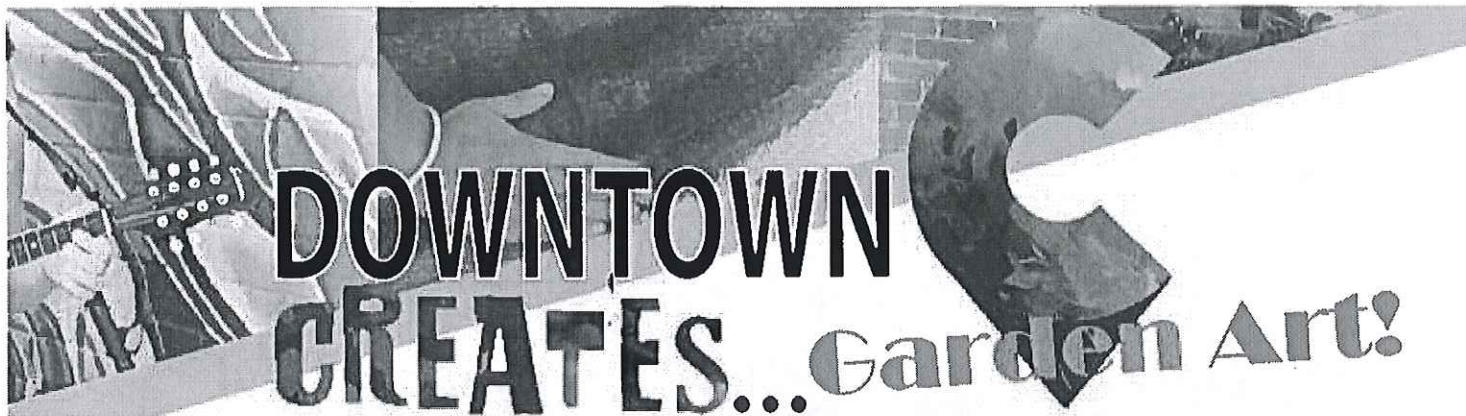
1.5 feet height



# **DOWNTOWN CREATES...** Featuring Garden Art

3<sup>rd</sup> weekend of June, 18-20, Friday through Sunday – College Avenue





## Adopt-A-Planter to Create Garden Art!

# DRAFT

### May 21 - 23

Want to Adopt-A-Planter and transform it into a temporary art piece? Register to participate in Downtown Creates...Garden Art, hosted Friday May 21 – Sunday, May 23 to create a garden masterpiece in one of the 72 planters along College Avenue. Submit a design/sketch of what your planter design will look like (ie: floral arrangements, fairy gardens, metal garden sculptures, etc.) to be reviewed by our selection committee for approval.

Companies interested in sponsoring a planter with a local artist can contact us direct at email below to coordinate.

#### Materials:

Items used in your creation should include at least one natural material; such as flowers, wood, rocks, also encouraged are upcycled/found objects, and more.

#### Size of Planters Available:

Small: enter dimensions here

Large: enter dimensions here

#### Timeframe of Creation:

**DUE WEDNESDAY, APRIL 14:** Submit an application with design concept.

**WEDNESDAY, APRIL 21:** Applications reviewed by committee and approval sent to you (once approved, you can start creating items on your own time to be part of your display in the planter).

**FRIDAY, MAY 21:** Begin assembling your display in your ASSIGNED planter on College Avenue at 9am. Must be completed by 4pm.

**SUNDAY, MAY 23:** Take down your display between 4-6pm.

#### Prize Categories: Four \$200 prizes will be awarded in each of the following categories -

**Artist | Non-Profit Organizations | Commercial (For-Profit) | Group (neighbors, teams, families, etc.)**

*Prizes will be awarded based on creativity, use of space, use of natural elements, etc. by a panel of judges.*

Beginning the week following (May 24-31) pictures of all completed Adopt-A-Planter creations will be posted on Facebook allowing the public to vote ("like") their favorite. The top 2 will receive a \$50 People's Choice Award.

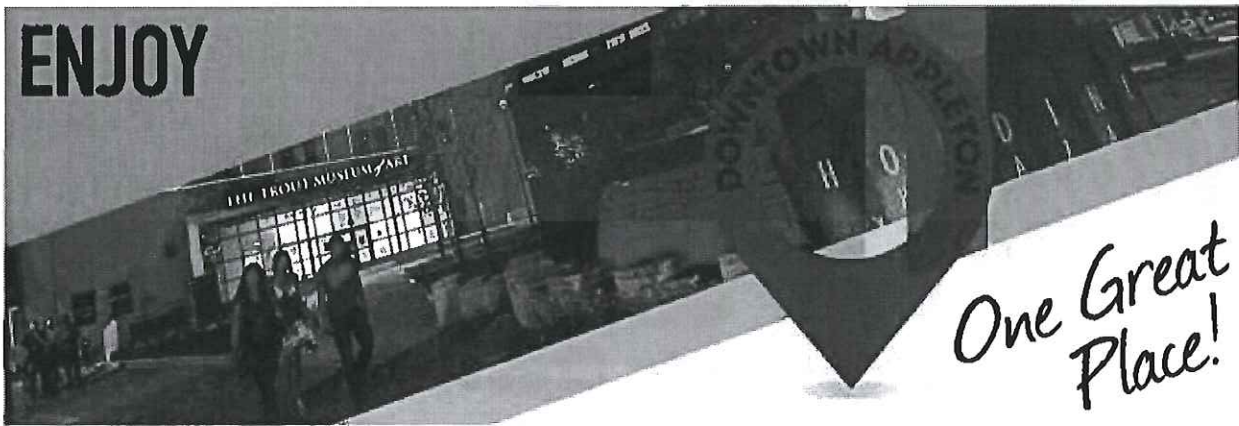
*Please note: Your displays will not be secured or closely monitored. Any damage that may occur is at your own risk.*

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Direct all questions to [Meghan@appletondowntown.org](mailto:Meghan@appletondowntown.org) or call 920-954-9112.

Please submit your application by April 14 for your chance to Adopt-A-Planter!

**[CLICK HERE TO REGISTER NOW](#)**



***DOWNTOWN CREATES...*** is an open air, walkable, event series that focuses on smaller outdoor areas and eliminates large group gathering by spreading out activities throughout the mile stretch of the Downtown. The Downtown Creates series is proposed as free community events beginning on the third Friday in April through August, and continuing through the weekend. The events are designed to engage local artists, downtown businesses, nonprofits, attractions, outdoor spaces, alleyways and Houdini Plaza to participate in curating a Creative open-air experience.

Themes:

April 16 – Fiber Rain\* - yarn pieces displayed on planters, way-finding signage, poles, etc.

May 21 – Garden Art – natural elements turned into works of art; 3-D sculptures, painted windows, flower displays, upcycled sculptures and more.

June 18 – Upcycled Chairs – upcycled wooden and/or plastic chairs. An empty chair is a sign of welcoming or an invitation.

July 16 – Chalk Art\* - invitation to artists to create chalk art for fun, or as part of a competition for prizes.

August 20 – Plein Air Painting – invitation for painters of all abilities to paint throughout the day and join the online auction to sell their painted piece, if they choose. Offering them an opportunity to sell their artwork to the community.

\*Public Art application not required due to grandfathered clause.



## MEMORANDUM

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“...meeting community needs... enhancing quality of life.”

TO: Paula Vandehey, Director of Public Works

FROM: Jessica Titel, Principal Planner

DATE: April 6, 2021

RE: Request from Creative Downtown Appleton Inc. for the Downtown Creates “Artful Chairs” Event

The Appleton Public Arts Committee met on April 6, 2021 and recommended approval of the request from Creative Downtown Appleton Inc. for the Downtown Creates “Artful Chairs” event from June 18-20, 2021 to be located within the College Avenue amenity strip (Badger Avenue to Drew Street) **as described in the attached documents and subject to the following conditions.**

1. Per the Art in Public Places Policy, any artwork signage shall meet the parameters set forth in Zoning Code Section 23-531(e), which allows each artwork one plaque/sign not to exceed nine square feet in size.
2. A street occupancy permit is required.
3. Designate who is responsible to replace chairs to assigned areas throughout the weekend.
4. The applicant shall provide the Department of Public Works with a final placement map prior to the event. DPW shall have the ability to modify any locations that are not acceptable.
5. Placement of the chairs shall not impede pedestrian traffic along the sidewalk, and the chairs shall be placed only within the amenity strip.
6. Placement of the chairs will begin no sooner than Friday, June 18, 2021, and all chairs shall be removed from the public right-of-way no later than Sunday, June 20, 2021. Applicant is responsible to collect any remaining items left behind by the end of the day on Monday, June 21, 2021.

Per the Art in Public Places Policy, the recommendation from the Appleton Public Arts Committee is forwarded to the committee of jurisdiction, in this case, the Municipal Services Committee. Please place this item on the agenda for the April 12, 2021 Municipal Services Committee agenda. Their recommendation would then be forwarded to the Common Council for final consideration on April 21, 2021.

The Staff Report prepared for the Public Art Committee is attached as reference.





## REPORT TO PUBLIC ARTS COMMITTEE

**Appleton Public Arts Committee Meeting Date:** April 6, 2021

**Municipal Services Committee Date:** April 12, 2021

**Common Council Meeting Date:** April 21, 2021

**Item:** Artful Chairs (Downtown Creates Event Series)

**Case Manager:** Jessica Titel

### GENERAL INFORMATION

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**Applicant:** Creative Downton Appleton Inc., c/o Djuanna Hugdahl

**Property Owner:** City of Appleton – Public Right-of-Way

**Address/Parcel:** College Avenue Amenity Strip - 900 West to 300 East blocks of College Avenue (Badger Avenue to Drew Street)

**Applicant's Request:** Applicant is requesting approval to use the College Avenue amenity strip for the Artful Chairs event as part of the Downtown Creates monthly event series.

### PROJECT DETAILS

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**Brief Description of Project and Location:** The applicant is proposing to hold an event titled "Artful Chairs" as part of the Downtown Creates event series. The event will feature up to 100 chairs repurposed and upcycled to be painted or decorated pieces of art. The chairs will be placed in designated locations within the College Avenue amenity strip. Individuals will register to participate in the event and will be assigned a location for the chair to be displayed Friday through Sunday, June 18-20, 2021. The public will be invited to view, sit on and touch the chairs. The event will be coordinated by Creative Downtown Appleton, Inc.

**Reason for Choosing the Proposed Location:** The walkability of downtown makes it accessible to all and allows the artwork to be spaced apart to promote distancing the full mile stretch of College Avenue.

**Description of How the Work is Installed/Anchored/Attached:** The chairs will be free standing on the sidewalk. The business owners would have the option to bring the chairs in each night, if desired. Appleton Downtown, Inc.'s certificate of insurance is on file with the City.

**Timeline and Duration of Installation:** Chairs will be placed by noon on Friday, June 18, and artists would pick up their chairs by 6:00 PM on Sunday, June 20.

**Maintenance and Cost:** Artists will be made aware that artful chairs are submitted at their own risk. There is potential to work with the business owners to bring the chairs in each night. Staff and volunteers will walk the Central Business District on Monday, June 21 to assess and remove any items that were left behind.

**Associated Signage:** Temporary signs (2'W x 1.5' H) will be placed out during the event. Per the Art in Public Places Policy, any artwork signage shall meet the parameters set forth in Zoning Code Section 23-531(e), which allows each artwork one plaque/sign not to exceed nine square feet in size.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* illustrates the importance of the arts community to Appleton and encourages the expansion and promotion of placemaking and arts in the City. The proposed public art project is consistent with the following goals and objectives of the *Comprehensive Plan 2010-2030*.

*Chapter 3 – Community Vision #12: Creative place making and public art enhance the public realm and contribute to a vibrant economy.*

*Chapter 14 – Downtown Plan*

- *Strategy 1.4 Install sculpture, murals, and other art in public locations throughout the downtown*
- *Strategy 2.1 Maintain and strengthen the vitality of the arts and entertainment niche*

## **RECOMMENDATION**

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Based upon the guidelines outlined in the Art in Public Places Policy, staff recommends that the proposed Artful Chairs event, located within the College Avenue amenity strip (Badger Avenue to Drew Street), as described in the attached documents, **BE APPROVED** subject to the following conditions:

1. Per the Art in Public Places Policy, any artwork signage shall meet the parameters set forth in Zoning Code Section 23-531(e), which allows each artwork one plaque/sign not to exceed nine square feet in size.
2. A street occupancy permit is required.
3. Designate who is responsible to replace chairs to assigned areas throughout the weekend.
4. The applicant shall provide the Department of Public Works with a final placement map prior to the event. DPW shall have the ability to modify any locations that are not acceptable.
5. Placement of the chairs shall not impede pedestrian traffic along the sidewalk, and the chairs shall be placed only within the amenity strip.
6. Placement of the chairs will begin no sooner than Friday, June 18, 2021, and all chairs shall be removed from the public right-of-way no later than Sunday, June 20, 2021. Applicant is responsible to collect any remaining items left behind by the end of the day on Monday, June 21, 2021.

## **Month of June – Artful Chairs:**

With the many challenges of 2020, and our inability to host events and bring people downtown safely; we embraced the open air and walkability of our downtown. Our Downtown Creates series offered the community a walk event that connected people and showcased artistic expression. With your support, we would like to feature art displays for the community, again. The last twelve months have impacted the mental health of our community. Providing experiences of connection, even with strangers; is valuable and important to our overall well-being.

As you review this application, we look forward to any suggestions or comments from the Public Art Committee, in an effort to make this event the success that we hope it to be.

### **• Brief description of the proposed artwork**

The June Downtown Creates event will feature up to 100 wooden chairs repurposed and upcycled to be painted or decorated pieces of art. Each chair will showcase talent from the community and must allow the opportunity to touch and the ability sit on.

In art, the chair implies presence as well as an absence. The chair is a stand-in for people, to occupy an otherwise empty space. The chair can symbolize loss or the hope of a return, a welcome sign or an invitation for one to sit.

We are currently working with the Boys & Girls Club of the Fox Valley to assist with decorating a portion of the chairs. An additional call for participation will reach local artists, Renee Ulman of Appleton Area School District, as well as nonprofits and family groups to participate, all in an effort to engage the community.

### **• Photos/sketches of proposed work:**

Each applicant will need to submit a “proposed” thought/sketch for approval, prior to receiving designated sidewalk location and to be entered for prize consideration. See images of potential artful chair creations on attached page.

### **• Site plan/location map showing location of proposed work –**

College Avenue amenity strip area. The area will consist of the Central Business District of College Ave., 900 West to 300 East blocks, (Badger Ave. to Drew St.).

A letter of request to occupy the public right of way to Paula VandeHey, Director of Public Works is attached.

A final placement map would be submitted to the Public Art Committee, once all applicants have applied and sketch/proposed work is approved. We welcome your participation.

### **• Reason for choosing the proposed location:**

The walkability of the Downtown makes it accessible to all and allows for artwork to be spaced apart to promote social distancing within the full mile stretch of College Avenue. Offering distance between displays and features assists with keeping the flow of foot traffic moving throughout the downtown district. Additionally, we would like this to be a full weekend

offering, thus eliminating barriers of access to the arts. Free masks and hand sanitizer will be made available to attendees.

- **Description of how the work is installed/anchored/attached**

The chairs would not be anchored in and would be free standing with placement directly into the sidewalk amenity strip area. Our goal is to have the chairs displayed outside during the entire weekend.

If permitted, anchoring of the chairs to the planters with zip ties, could be facilitated. There is also potential to work with the business owners to bring the chairs in each night.

- **Installation specifications provided by a structural engineer**

N/A

- **Timeline and duration of installation**

Friday, June 18 - Installation of chair placement by noon.

Sunday, June 20 -Artists pick up of chairs by 6 p.m.

Monday, June 21 – Staff and volunteer team will walk the Central Business District to assess and remove any items that were left behind.

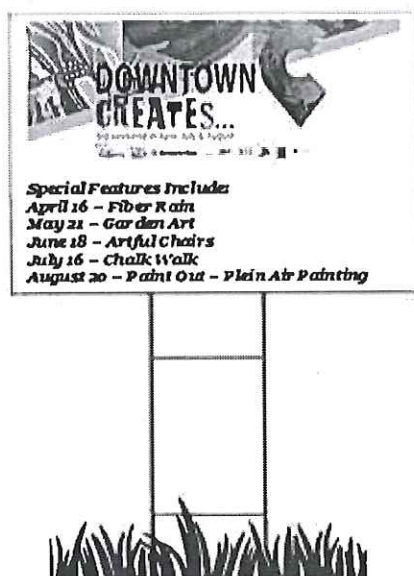
- **How the artwork will be maintained (including any costs associated with the maintenance and who will be responsible for those costs)**

Artists will be made aware that artful chairs are submitted at own risk. There is also potential to work with the business owners to bring the chairs in each night.

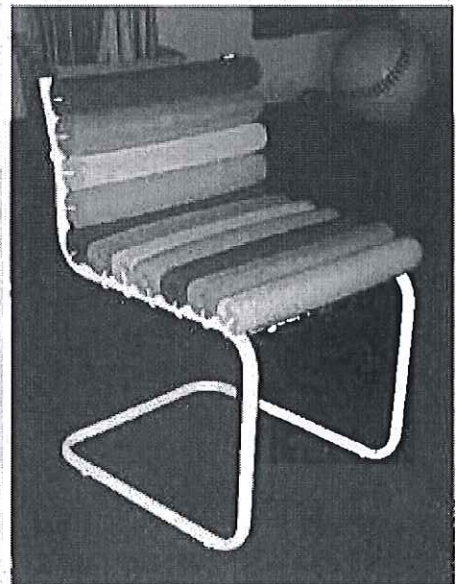
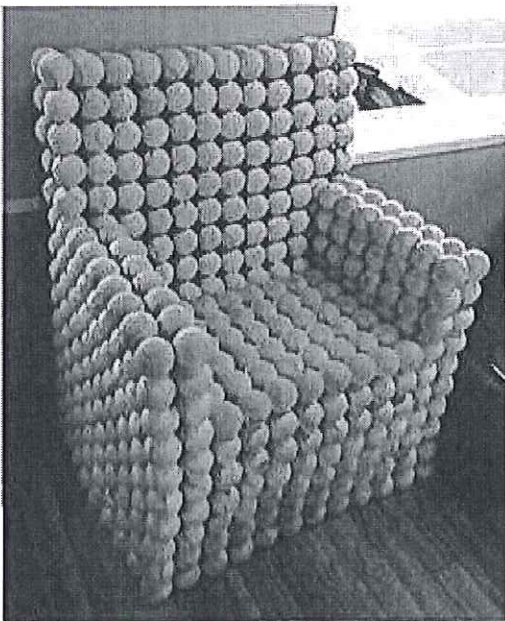
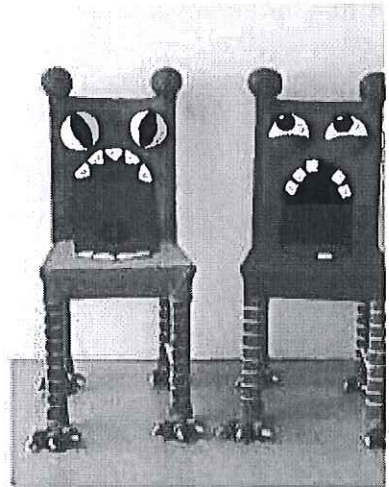
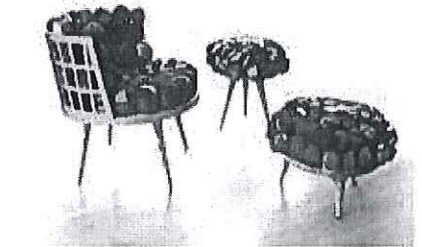
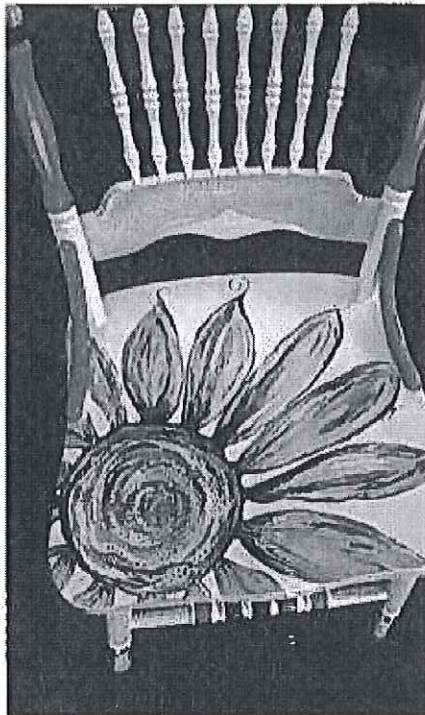
- **Description of any associated signage**

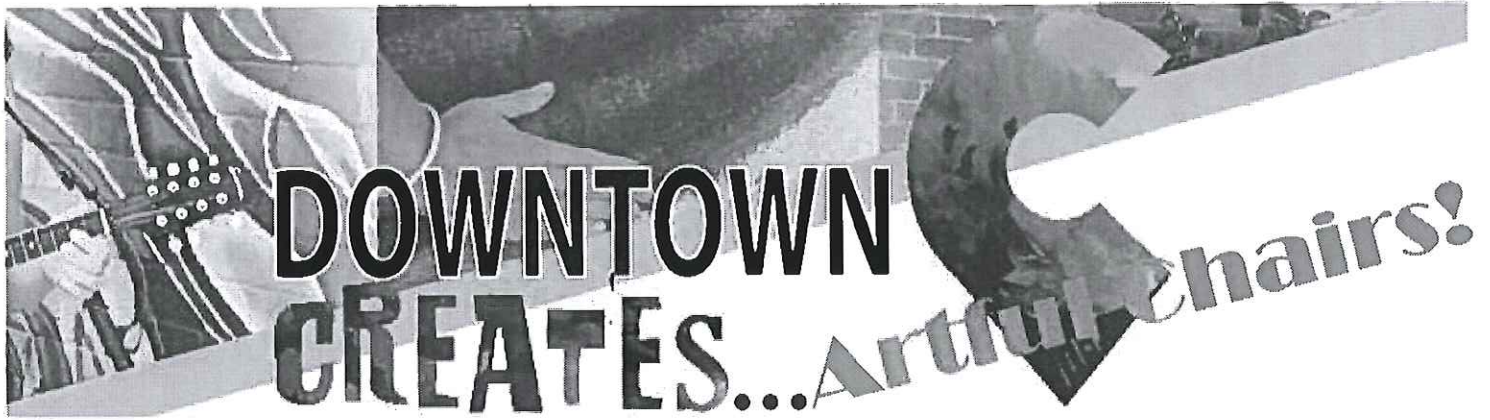
Planned signage consists of similar image, with minor updates (image is from 2020); placed in planters during event only. Signage would showcase event, feature Creative Downtown Logo and those of sponsors; along with listing of upcoming dates for walk events.

Dimensions 2' W x 1.5' H



***DOWNTOWN CREATES...*** Featuring Upcycled Art Chairs  
3<sup>rd</sup> weekend of May, 21-23, Friday through Sunday – College Avenue





# DOWNTOWN CREATES...

Artful chairs!

Join us to create an ARTFUL CHAIR

## DRAFT

June 18-20

Want to transform a wooden chair into an art piece? Register to participate in Downtown Creates...Artful Chairs, Friday June 18 – Sunday, June 20 to have your recreated artful chair on display along College Avenue. Submit a design/sketch of what your finished chair will look like to be reviewed by our selection committee for approval. Our goal is to feature 100 chairs!

### Materials:

You must supply your OWN wooden chair. Chairs must be solid wood but can be any "type of chair" (ie: stools, dining room chair, rocking chair, etc.)

You can decorate, paint, renovate, upcycle, and repurpose your wooden chair using any materials you choose as long as the finished piece is both safe to sit on and touch.

### Timeframe of Creation:

**DUE WEDNESDAY, MAY 12:** Submit an application with design concept.

Submit in one of two categories: Just for Fun! (not part of the judging) or In it to Win It!

**WEDNESDAY, MAY 19:** Applications reviewed by committee and approval sent to you (once approved, you can begin creating our Artful Chair on your own time).

**FRIDAY, JUNE 18:** Deliver your completed chair to your ASSIGNED location on College Avenue by noon. (Assigned locations will be shared with you the week of the event).

**SUNDAY, JUNE 20:** Pick up your chair between 4-6pm.

### Prize Categories:

**1<sup>st</sup> Place: \$250 | 2<sup>nd</sup> Place: \$100 | 3<sup>rd</sup> Place: \$75**

Prizes will be awarded based on creativity, artistic skill/technique, etc. by a panel of judges.

Beginning the week following (May 24-31) pictures of all completed Adopt-A-Planter creations will be posted on Facebook allowing the public to vote ("like") their favorite. The top 2 will receive a \$50 People's Choice Award.

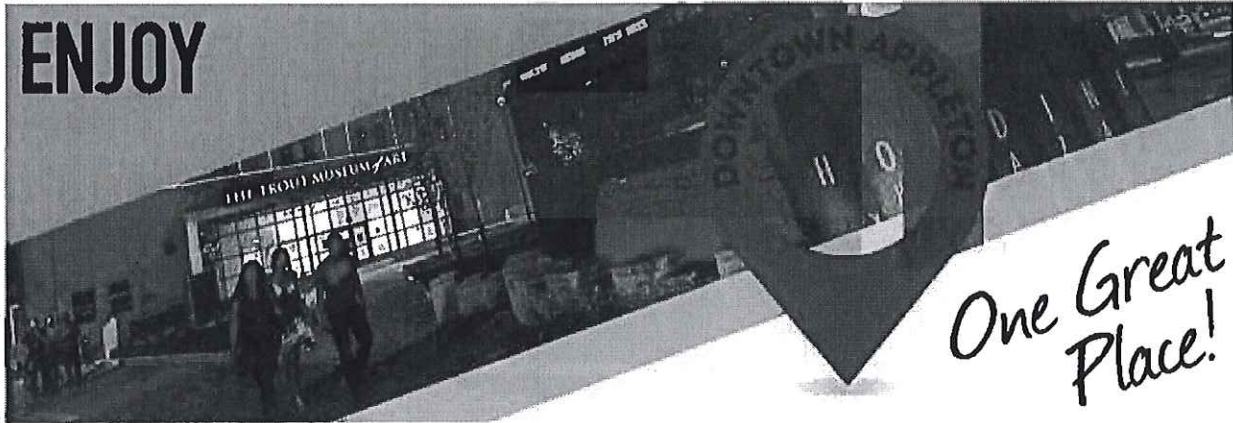
Please note: Your chairs will not be secured or closely monitored. Any damage that may occur is at your own risk.

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Direct all questions to [lynn@appletondowntown.org](mailto:lynn@appletondowntown.org) or call 920-954-9112.

Please submit your application by May 12 for your chance to have your Artful Chair on display!

[CLICK HERE TO  
REGISTER NOW](#)



***DOWNTOWN CREATES...*** is an open air, walkable, event series that focuses on smaller outdoor areas and eliminates large group gathering by spreading out activities throughout the mile stretch of the Downtown. The Downtown Creates series is proposed as free community events beginning on the third Friday in April through August, and continuing through the weekend. The events are designed to engage local artists, downtown businesses, nonprofits, attractions, outdoor spaces, alleyways and Houdini Plaza to participate in curating a Creative open-air experience.

Themes:

April 16 – Fiber Rain\* - yarn pieces displayed on planters, way-finding signage, poles, etc.

May 21 – Garden Art – natural elements turned into works of art; 3-D sculptures, painted windows, flower displays, upcycled sculptures and more.

June 18 – Upcycled Chairs – upcycled wooden and/or plastic chairs. An empty chair is a sign of welcoming or an invitation.

July 16 – Chalk Art\* - invitation to artists to create chalk art for fun, or as part of a competition for prizes.

August 20 – Plein Air Painting – invitation for painters of all abilities to paint throughout the day and join the online auction to sell their painted piece, if they choose. Offering them an opportunity to sell their artwork to the community.

\*Public Art application not required due to grandfathered clause.







## MEMORANDUM

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“...meeting community needs...enhancing quality of life.”

TO: Paula Vandehey, Director of Public Works

FROM: Jessica Titel, Principal Planner

DATE: April 6, 2021

RE: Request from Creative Downtown Appleton Inc. for the Downtown Creates “Art Out – Plein Air Art” Event

The Appleton Public Arts Committee met on April 6, 2021 and recommended approval of the request from Creative Downtown Appleton Inc. for the Downtown Creates “Art Out – Plein Air Art” event on August 20, 2021 to be located within the College Avenue amenity strip (Badger Avenue to Drew Street) **as described in the attached documents and subject to the following conditions.**

1. Per the Art in Public Places Policy, any artwork signage shall meet the parameters set forth in Zoning Code Section 23-531(e), which allows each artwork one plaque/sign not to exceed nine square feet in size.
2. A street occupancy permit is required.
3. The applicant shall provide the Department of Public Works with a final placement map prior to the event. DPW shall have the ability to modify any locations that are not acceptable.
4. Artists will use the sidewalk in the amenity strip from 9:00 AM until 7:30 PM on Friday, August 20, 2021. Applicant is responsible to collect any remaining items left behind by the end of the day on Monday, August 23, 2021.

Per the Art in Public Places Policy, the recommendation from the Appleton Public Arts Committee is forwarded to the committee of jurisdiction, in this case, the Municipal Services Committee. Please place this item on the agenda for the April 12, 2021 Municipal Services Committee agenda. Their recommendation would then be forwarded to the Common Council for final consideration on April 21, 2021.

The Staff Report prepared for the Public Art Committee is attached as reference.



## REPORT TO PUBLIC ARTS COMMITTEE

**Appleton Public Arts Committee Meeting Date:** April 6, 2021

**Municipal Services Committee Date:** April 12, 2021

**Common Council Meeting Date:** April 21, 2021

**Item:** Art Out - Plein Air Art (Downtown Creates Event Series)

**Case Manager:** Jessica Titel

### GENERAL INFORMATION

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**Applicant:** Creative Downton Appleton Inc., c/o Djuanna Hugdahl

**Property Owner:** City of Appleton – Public Right-of-Way

**Address/Parcel:** College Avenue Amenity Strip - 900 West to 300 East blocks of College Avenue (Badger Avenue to Drew Street)

**Applicant's Request:** Applicant is requesting approval to use the College Avenue amenity strip for the Art Out – Plein Air Art event as part of the Downtown Creates monthly event series.

### PROJECT DETAILS

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**Brief Description of Project and Location:** The applicant is proposing to hold an event titled “Art Out – Plein Air Art” as part of the Downtown Creates event series. The event will feature plein air painting that will showcase artists painting on canvas or storefront windows throughout the day on Friday, August 20. Individuals will register to participate in the event and will be stationed on the sidewalk within the College Avenue amenity strip. Some participants may also paint storefront windows. The public will be invited to view the finished paintings. The event will be coordinated by Creative Downton Appleton, Inc.

**Reason for Choosing the Proposed Location:** The walkability of downtown makes it accessible to all and allows the artwork to be spaced apart to promote distancing the full mile stretch of College Avenue.

**Description of How the Work is Installed/Anchored/Attached:** Artists will use free standing easels and canvas, with placement on the sidewalk amenity strip. Items will be displayed during the entire weekend utilizing storefront windows to showcase the art. Appleton Downton, Inc.’s certificate of insurance is on file with the City.

**Timeline and Duration of Installation:** Artists will use the sidewalk in the amenity strip from 9:00 AM until 7:30 PM on Friday, August 20.

**Maintenance and Cost:** Any business that wishes to have an artist paint their windows will be responsible for clean-up. No other clean-up is expected.

**Art Out – Plein Air Art**  
**April 6, 2021**  
**Page 2**

**Associated Signage:** Temporary signs (2'W x 1.5' H) will be placed out during the event. Per the Art in Public Places Policy, any artwork signage shall meet the parameters set forth in Zoning Code Section 23-531(e), which allows each artwork one plaque/sign not to exceed nine square feet in size.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* illustrates the importance of the arts community to Appleton and encourages the expansion and promotion of placemaking and arts in the City. The proposed public art project is consistent with the following goals and objectives of the *Comprehensive Plan 2010-2030*.

*Chapter 3 – Community Vision #12: Creative place making and public art enhance the public realm and contribute to a vibrant economy.*

*Chapter 14 – Downtown Plan*

- *Strategy 1.4 Install sculpture, murals, and other art in public locations throughout the downtown*
- *Strategy 2.1 Maintain and strengthen the vitality of the arts and entertainment niche*

**RECOMMENDATION**

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Based upon the guidelines outlined in the Art in Public Places Policy, staff recommends that the proposed Art Out – Plein Air Art event, located within the College Avenue amenity strip (Badger Avenue to Drew Street), as described in the attached documents, **BE APPROVED** subject to the following conditions:

1. Per the Art in Public Places Policy, any artwork signage shall meet the parameters set forth in Zoning Code Section 23-531(e), which allows each artwork one plaque/sign not to exceed nine square feet in size.
2. A street occupancy permit is required.
3. The applicant shall provide the Department of Public Works with a final placement map prior to the event. DPW shall have the ability to modify any locations that are not acceptable.
4. Artists will use the sidewalk in the amenity strip from 9:00 AM until 7:30 PM on Friday, August 20, 2021. Applicant is responsible to collect any remaining items left behind by the end of the day on Monday, August 23, 2021.

## **Month of August: Art Out - Plein Air Art:**

2020 brought many challenges to our ability to host events and bring people downtown safely. To do so, we embraced the open air and walkability of our downtown, by offering our Downtown Creates series as a walk event only, connecting people and offering a place of artistic expression. With your support, we would like to showcase an exploration of art displays for the community to engage and connect. We often hear how the last twelve months have impacted the mental health of our community. Providing experiences of connection, even with strangers; is valuable and important to our overall well-being.

### **• Brief description of the proposed artwork**

Downtown Creates August event will feature plein air painting, showcasing local talent from the community. The Paint-Out competition will be a special feature offering artists the opportunity to paint beautiful masterpieces on canvas or storefront windows throughout the day-long event on College Avenue.

Paint-Out artists can choose to be "In It to Win It" or "Just for Fun". A 16 x 20 canvas will be provided free, along with an easel, if needed. Each level has their own series of prize opportunities, as well as an online auction component the following week; allowing the participating artists another revenue opportunity. Together, community members will be able to support local artists directly and enhance the creative economy.

### **• Photos/sketches of proposed work:**

Applicants will be given a theme. They will need to pre-register, in order to receive their designated sidewalk location and to be entered for prize consideration. See attached photos of Plein Air artists samples.

### **• Site plan/location map showing location of proposed work –**

College Avenue amenity strip area. The area consists of the Central Business District of College Ave., 900 West to 300 East blocks, (Badger Ave. to Drew St.). A letter of request to occupy the public right of way to Paula VandeHey, Director of Public Works is attached.

### **• Reason for choosing the proposed location:**

The walkability of the Downtown makes it accessible to all and allows for artwork to be spaced apart to promote social distancing within the full mile stretch of College Avenue. Offering distance between displays and features assists with keeping the flow of foot traffic moving throughout the downtown district. Additionally, we would like this to be a full weekend offering, thus eliminating barriers of access to the arts. Free masks and hand sanitizer will be made available to attendees.

### **• Description of how the work is installed/anchored/attached**

Artists will use free standing easels and canvas, with placement on the sidewalk amenity strip area. We will also encourage painted windows. Items will be displayed during the entire weekend, utilizing storefront windows to showcase the art.

- **Installation specifications provided by a structural engineer**

N/A

- **Timeline and duration of installation**

Friday, August 20 – Artists pick up canvas and sidewalk location at ADI office, starting at 9 am. Pieces will remain out on the sidewalks until 7:30pm for the community to walk downtown and see the finished works in person.

Monday, August 23 – ADI staff and volunteers will walk the Central Business District to assess and remove any items that were left behind.

- **How the artwork will be maintained (including any costs associated with the maintenance and who will be responsible for those costs)**

Any business that wishes to have an artist paint windows, will be required to do their own clean-up. No other clean-up is expected.

- **Description of any associated signage**

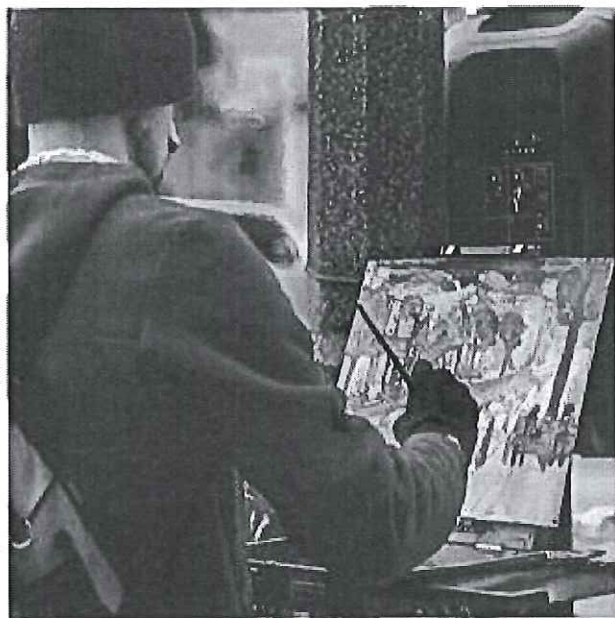
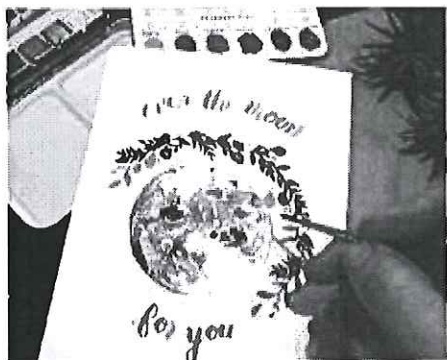
Planned signage consists of similar image, with minor updates (image is from 2020); placed in planters during event only. Signage would showcase event, feature Creative Downtown Logo and those of sponsors; along with listing of upcoming dates for walk events.

Dimensions 2' W x 1.5' H

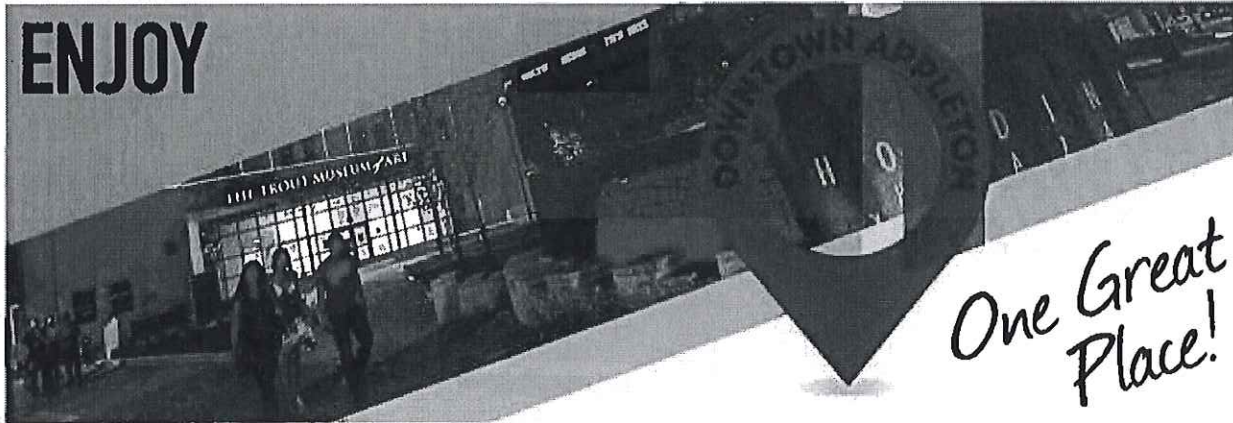


# **DOWNTOWN CREATES...** Featuring Plein Air Art

3<sup>rd</sup> weekend of August, 20-22, Friday through Sunday – College Avenue



**LAST  
CALL  
FOR  
ARTISTS!**



***DOWNTOWN CREATES...*** is an open air, walkable, event series that focuses on smaller outdoor areas and eliminates large group gathering by spreading out activities throughout the mile stretch of the Downtown. The Downtown Creates series is proposed as free community events beginning on the third Friday in April through August, and continuing through the weekend. The events are designed to engage local artists, downtown businesses, nonprofits, attractions, outdoor spaces, alleyways and Houdini Plaza to participate in curating a Creative open-air experience.

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\*Public Art application not required due to grandfathered clause.





## Paula Vandehey

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**From:** Meghan Warner <Meghan@appletondowntown.org>  
**Sent:** Tuesday, April 6, 2021 2:16 PM  
**To:** Paula Vandehey  
**Cc:** Jennifer Stephany  
**Subject:** Street Occupancy Permit - Downtown Creates Series - Sidewalk Sale

Paula,

We would like to request a street occupancy permit for our Downtown Creates series to include a sidewalk sale for the following dates: May 21-23, June 18-20, July 16-18 and August 20<sup>th</sup> from College Ave. to Richmond St. to Drew St.

Please let me know if you have any questions.

Thank you,

Meghan Warner  
Event Coordinator/Farm Market Manager  
Appleton Downtown Inc.  
920.954.9112  
[www.appletondowntown.org](http://www.appletondowntown.org)  
Follow us on facebook or twitter @DwtNAppleton



Sent from [Mail](#) for Windows 10

Attention: This message was sent from a source external to the City of Appleton. Please use caution when opening attachments or clicking links.



*"...meeting community needs...enhancing quality of life."*

**DEPARTMENT OF PUBLIC WORKS**  
**Engineering Division**  
**100 North Appleton Street**  
**Appleton, WI 54911**  
**(920) 832-6474**  
**FAX (920) 832-6489**

## **CITY OF APPLETON**

### **COLLEGE AVENUE SIDEWALK SALE PERMIT POLICY**

This policy has been developed to provide opportunities for downtown retailers to sell merchandise within the College Avenue beautification strip.

#### Requirements for College Avenue Sidewalk Sale Permit

1. Approval of the temporary street occupancy permit is required by the Municipal Services Committee and the City Common Council.
2. All merchandise must be within the beautification strip in front of the business selling merchandise (but not allowed within the bump out area).
3. No merchandise can be within the sidewalk area.
4. Permit shall be approved for specified dates, not exceeding 20 per year.
5. Permit is not valid on any "Special Event Days" listed in City Code.
6. Merchandise and racks must be removed by the end of each business day.
7. Temporary Street Occupancy Permit must be renewed annually with an annual fee of \$40.
8. Property owner must annually provide Certificate of Insurance.

## Resolution #3-R-21

### PROHIBITION ON LARGE SCALE COMMERCIAL DOG AND CAT BREEDING

March 3, 2020

Submitted By: Maiyoua Thao District 7, Denise Fenton District 6, Vered Meltzer District 2

Referred To: Safety & Licensing Committee

WHEREAS, most puppies and kittens sold in pet stores come from large-scale, commercial breeding facilities where the health and welfare of the animals is disregarded in order to maximize profits (“puppy mills” and “kitten mills”, respectively). According to The Humane Society of the United States an estimated 10,000 puppy mills produce more than 2 million puppies per year in the United States.

WHEREAS, according to the U.S. Centers for Disease Control and Prevention pet store puppies pose a health risk to consumers, as over one hundred Americans have contracted an antibiotic-resistant *Campylobacter* infection from contact with pet store puppies.

WHEREAS, current federal and state regulations do not adequately address the animal welfare and consumer protection problems that the sale of puppy and kitten mill dogs and cats in pet stores pose. Federal oversight of the commercial breeding industry is severely lacking.

WHEREAS, it is in the best interest of the City of Appleton, Wisconsin to adopt reasonable regulations to reduce costs to Appleton, Wisconsin and its residents, protect citizens who may purchase cats or dogs from a pet store, help prevent inhumane breeding conditions, promote community awareness of animal welfare, and foster a more humane environment in Appleton.

THEREFORE be it resolved that the City of Appleton create Section 3-25 of the Municipal Code to include the following:

Sec. 3-25. Prohibition on large scale commercial dog or cat breeding.

(a) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this paragraph:

"Animal care facility" means an animal control facility or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations.

"Animal rescue organization" means any not-for-profit organization that has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include an entity that is a breeder or broker or one that obtains animals from a breeder or broker for profit or compensation.

"Breeder" means a person that maintains a dog or cat for the purpose of breeding and selling their offspring.

"Broker" means a person that transfers a dog or cat from a breeder for resale by another person.

"Cat" means a member of the species of domestic cat, *Felis catus*.

"Dog" means a member of the species of domestic dog, *Canis familiaris*.

"Pet store" means a retail establishment where companion animals are sold, exchanged, bartered, or offered for sale to the general public. Such definition shall not include an animal care facility or animal rescue organization.

(b) Restrictions on the sale of animals. No pet store shall sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of cats or dogs. Nothing in this section shall prohibit pet stores from collaborating with animal care facilities or animal rescue organizations to offer space for such entities to showcase adoptable dogs or cats provided the pet store shall not have any ownership interest in the animals offered for adoption and shall not receive a fee for providing space for the adoption of any of these animals. Dogs may not be kept overnight.

(c) Penalty. A violation of this section shall be subject to a penalty as provided in §1-16, and each dog or cat in violation of this section shall constitute a separate violation.

(d) Effective date. This section shall become effective July 1, 2021.

**Resolution #6-R-21**

**RESOLUTION CONDEMNING XENOPHOBIA, RACISM, AND VIOLENCE AGAINST THE ASIAN PACIFIC ISLANDER DESIAMERICAN (APIDA) COMMUNITY.**

*Date: April 7, 2021*

*Submitted By: Ald. Thao – District 7, Ald. Meltzer – District 2, Ald. Van Zeeland – District 5, Ald. Fenton – District 6, Ald. Schultz – District 9, Ald. Wolff – District 12*

*Referred To: Safety & Licensing Committee*

WHEREAS, 23 million Asian Americans and Pacific Islanders account for 7 percent of the population in the United States; and

WHEREAS, anti-Asian racism and hate are not new and have a long history in the United States; and

WHEREAS, Asian Americans have far too long been the target of xenophobic policies, labor exploitation, hate crimes, and systemic racism in the United States; and

WHEREAS, the use of anti-Asian rhetoric, especially as it intensified this past year, has resulted in Asian Americans being harassed, assaulted, and scapegoated for the COVID-19 pandemic; and

WHEREAS, the Center for the Study of Hate and Extremism has found that anti-Asian hate crime in the 16 largest cities in the U.S. increased nearly 150% in 2020; and

WHEREAS, according to the Stop AAPI Hate reporting center, nearly 4,000 hate incidents directed at AAPIs were reported between March 2020 and February 2021; and

WHEREAS, in the last year, Asian American and Pacific Islander women made up 68 percent of the 3,800 incidents against Asian Americans and Pacific Islanders; and

WHEREAS, since the start of year 2021, there has been a surge in anti-Asian attacks targeting elderly Asian Americans; and

WHEREAS, the World Health Organization (WHO) and the Centers for Disease Control and Prevention (CDC) recognize that naming COVID-19 by its geographic location or linking it to a specific ethnicity perpetuates stigma; and

WHEREAS, this modern form of discrimination falls within a long-established historical pattern of scapegoating or characterizing Asians as foreign, invasive threats, or as “the other” that has contributed to demonstrated negative health effects in our AAPI communities; and

WHEREAS, the use of anti-Asian terminology and rhetoric related to COVID-19, such as the “Chinese Virus”, “Wuhan Virus”, and “Kung-flu” have perpetuated anti-Asian stigma; and

WHEREAS, no one should live in fear in our communities across Wisconsin and the United States; and

WHEREAS, the City's AAPI residents are valued contributors to the City's workforce, economy, and political representation; and

WHEREAS, in Appleton, our thriving AAPI community is a major proportion of all of our residents and a thriving diverse community that spans languages, nationalities, ethnicities, cultures and more; and

WHEREAS, Mayor Jake Woodford and Appleton Police Department Chief Todd Thomas recently announced that "hate has no home" in Appleton and they stand with the AAPI community in condemning all acts of discrimination and violence; and

NOW, THEREFORE, BE IT RESOLVED by the Appleton Common Council that the City of Appleton condemns violence of all forms against the APIDA community.

BE IT FURTHER RESOLVED that the Appleton Common Council condemns all acts of racism, xenophobia, sexism, gender-based violence, discrimination, anti-Asian bias, scapegoating, and ethnic or religious intolerance.

BE IT FURTHER RESOLVED that the Appleton Common Council encourages leaders at all levels to recommit the United States to serve as a world leader in building more inclusive, diverse, and tolerant communities.

BE IT FURTHER RESOLVED that the Appleton Common Council encourages the Attorney General to work with State and local agencies and Asian American and Pacific Islander community-based organizations to prevent discrimination and expand culturally competent and linguistically appropriate education campaigns on public reporting of hate crimes.

BE IT FURTHER RESOLVED that the Appleton Common Council recognizes the City of Appleton Police Department in its continuing work with local agencies and Asian American and Pacific Islander community-based organizations to prevent discrimination, expand culturally competent and linguistically appropriate education campaigns on public reporting of hate crimes, and build intentional relationships with the diverse communities.

BE IT FURTHER RESOLVED that the Appleton Common Council encourages everyone to condemn anti-Asian bias, read, learn, and seek opportunities to experience cultures other than their own, review their practices that may create barriers or contribute to systemic racism, and in these ways and others seek to become a more welcoming, inclusive, anti-racist community.

**AUXILIARY QUESTIONNAIRE  
ALCOHOL BEVERAGE LICENSE APPLICATION**

Submit to municipal clerk

Individual's Full Name (please print) (last name) <u>Stichman</u> (first name) <u>Alexander</u> (middle name) <u>Joseph</u>	
Home Address (street/route) <u>1212 W Jennings Apt G</u>	Post Office _____ City <u>New London</u> State <u>WI</u> Zip Code <u>54961</u>
Home Phone Number <u>[REDACTED]</u>	Date of Birth <u>[REDACTED]</u> Place of Birth <u>[REDACTED]</u>

The above named individual provides the following information as a person who is (check one):

- Applying for an alcohol beverage license as an individual.
  - A member of a partnership which is making application for an alcohol beverage license.
  - Agent of FKG Oil Company  
(Officer/Director/Member/Manager/Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)
- which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

1. How long have you continuously resided in Wisconsin prior to this date? 23 years
2. Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality?  Yes  No  
If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
3. Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?  Yes  No  
If yes, describe status of charges pending.
4. Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?  Yes  No  
If yes, identify. \_\_\_\_\_  
(Name, Location and Type of License/Permit)
5. Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin?  Yes  No  
If yes, identify. \_\_\_\_\_  
(Name of Wholesale Licensee or Permittee) (Address By City and County)

6. Named individual must list in chronological order last two employers.

Employer's Name <u>FKG Oil Company</u>	Employer's Address <u>721 W Main St Belleville IL</u>	Employed From <u>April 2016</u>	To <u>Current</u>
Employer's Name	Employer's Address	Employed From	To

The undersigned, being first duly sworn on oath, deposes and says that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application.

Subscribed and sworn to before me

this 26 day of March, 2021  
[Signature]  
(Clerk/Notary Public)

[Signature]  
(Signature of Named Individual)

My commission expires 10-1-2021



**SCHEDULE FOR APPOINTMENT OF AGENT BY CORPORATION/NONPROFIT ORGANIZATION OR LIMITED LIABILITY COMPANY**

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by the officer(s) of the corporation/organization or members/managers of a limited liability company and the recommendation made by the proper local official.

To the governing body of:  Town  Village of APPLETON County of OUTAGAMIE  
 City

The undersigned duly authorized officer(s)/members/managers of FKG OIL COMPANY  
(registered name of corporation/organization or limited liability company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as  
MOTOMART

(trade name)  
located at 1850 W. WISCONSIN AVENUE APPLETON, WI. 54914

appoints ALLEX STICHMAN  
(name of appointed agent)  
1212 W Jennings St Apt 6, New London, WI, 54961  
(home address of appointed agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes  No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course?  Yes  No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 2 years

Place of residence last year 111037 State Rd 22 Clintonville WI 54929

For: FKG OIL CO.  
(name of corporation/organization/limited liability company)

By: \_\_\_\_\_  
(signature of Officer/Member/Manager)

And: \_\_\_\_\_  
(signature of Officer/Member/Manager)

**ACCEPTANCE BY AGENT**

I, ALLEX STICHMAN, hereby accept this appointment as agent for the

(print/type agent's name)  
corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

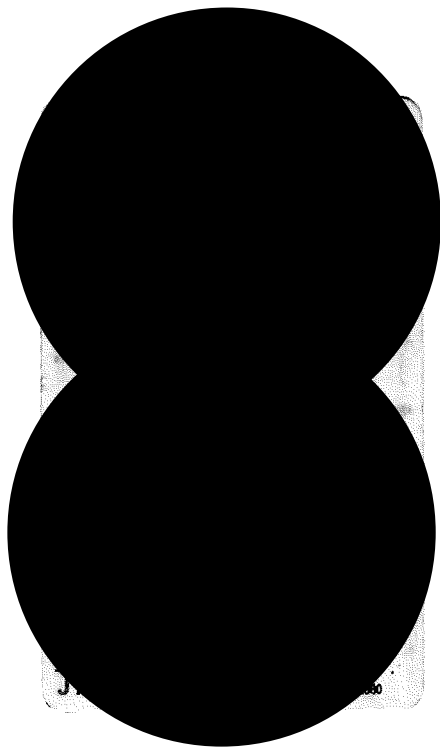
Allex Stichman 3/26/21 Agent's age 22  
(signature of agent) (date)  
1212 W Jennings St Apt 6, New London WI, 54961 Date of birth 01/01/99  
(home address of agent)

**APPROVAL OF AGENT BY MUNICIPAL AUTHORITY**  
(Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on \_\_\_\_\_ by \_\_\_\_\_ Title: \_\_\_\_\_  
(date) (signature of proper local official) (town chair, village president, police chief)





## Auxiliary Questionnaire Alcohol Beverage License Application

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
Shea		Alex		Joseph	
Home Address (street/route)		Post Office		City	
1206 N Plateau Street		Appleton		Appleton	
Home Phone Number		Age		Date of Birth	
●●●●●●●●		●		●●●●●●●●	
				State	
				WI	
				Zip Code	
				54911	
				Place of Birth	
				●●●●●●●●	

The above named individual provides the following information as a person who is (check one):

- Applying for an alcohol beverage license as an **individual**.
- A member of a **partnership** which is making application for an alcohol beverage license.
- Agent** of Mark's East Side Inc  
(Officer / Director / Member / Manager / Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)


which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

- How long have you continuously resided in Wisconsin prior to this date? ● Years
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality?  Yes  No  
 If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?  Yes  No  
 If yes, describe status of charges pending.
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?  Yes  No  
 If yes, identify. (Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin?  Yes  No  
 If yes, identify. (Name of Wholesale Licensee or Permittee) (Address By City and County)
- Named individual must list in chronological order last two employers.

Employer's Name	Employer's Address	Employed From	To
Mark's East Side	1405 E Wisconsin Ave 54911	09/15/2015	04/09/2021
Evergreen LLC	3105 S Washburn ST. 54904	08/30/2006	09/15/2015

**READ CAREFULLY BEFORE SIGNING:** Under penalty provided by law, the undersigned states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. The signer agrees that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000.



(Signature of Named Individual)

## Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of:  Town  
 Village of Appleton County of Outagamie  
 City

The undersigned duly authorized officer/member/manager of Mark's East Side Inc  
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as Mark's East Side  
(Trade Name)

located at 1405 E Wisconsin Ave Appleton WI. 54911

appoints Alex Shea  
(Name of Appointed Agent)  
1206 N Plateau Street Appleton WI. 54911  
(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes  No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course?  Yes  No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 0 years

Place of residence last year 1206 N Plateau Street Appleton WI 54911

For: Mark's East Side Inc  
(Name of Corporation / Organization / Limited Liability Company)


By:   
(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

### ACCEPTANCE BY AGENT

I, Alex Shea, hereby accept this appointment as agent for the  
(Print / Type Agent's Name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

 04/09/21 Agent's age 0  
(Signature of Agent) (Date)  
1206 N. Plateau Street Appleton WI 54911 Date of birth 00/00/00  
(Home Address of Agent)

### APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on \_\_\_\_\_ by \_\_\_\_\_ Title \_\_\_\_\_  
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)

## REPORT TO CITY PLAN COMMISSION



**Plan Commission Informal Public Hearing Date:** March 23, 2021

**Common Council Public Hearing Date:** April 21, 2021

**Item:** Repeal and Recreate Chapter 23 Zoning Ordinance of the Municipal Code Relating to Article X Floodplain Zoning

**Original Ordinance No. and Effective Date:** Ordinance No. 54-06, effective March 21, 2006

**Initiated by:** Department of Public Works, Engineering Division

**Case Managers:** Don Harp, Principal Planner and Pete Neuberger, P.E. Project Engineer

### GENERAL INFORMATION

In 2017, the Wisconsin Department of Natural Resources (WDNR) revised the Wisconsin model floodplain zoning ordinance. City staff worked with the WDNR to update the current floodplain zoning ordinance to be consistent with the 2017 model floodplain zoning ordinance. As a result, the Appleton Public Works Department – Engineering Division have requested Article X of Chapter 23 of the Municipal Code relating to Floodplain Zoning be repealed and recreated to reflect recent revisions made to the Wisconsin model floodplain zoning ordinance.

### SUMMARY OF PROPOSED AMENDMENTS

- Reformatting of ordinance to match 2017 model floodplain ordinance format.
- Update definitions to match current WDNR and Federal Emergency Management Agency (FEMA) definitions.
- Add Official Map: Winnebago County Flood Insurance Rate Map (FIRM) panel number 55139C0110E dated March 17, 2003, missing from current version of ordinance.
- Add Official Map: LOMR – Case #20-05-2300P (Effective 04/28/2021). Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Apple Creek North and, FIRM panel 55087C0328D. This reflects new changes in the vicinity of Apple Ridge.
- Update Official Map: Additional Information for Kensington Pond Dam Failure analysis approved by the Wisconsin Department of Natural Resources on January 7, 2008, to meet new DNR and FEMA requirements.

**ATTACHMENTS**

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- Proposed text and map amendments (repealing and recreating the entire Article X) to Article X Floodplain Zoning.

**RECOMMENDATION**

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Pending public comments, staff recommends Chapter 23 Zoning Ordinance of the Municipal Code relating to Article X Floodplain Zoning be repealed and recreated as attached to this report, **BE APPROVED.**

**ADOPTED:  
PUBLISHED:  
Office of the City Clerk**

**XX-21**

**AN ORDINANCE REPEALING AND RECREATING ARTICLE X. OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO FLOODPLAIN ZONING.**

(Name of Committee Generated From – XX-XX-2021)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Article X. of Chapter 23 of the Municipal Code of the City of Appleton, relating to floodplain zoning, is hereby repealed and recreated as follows:

**ARTICLE X. FLOODPLAIN ZONING**

**DIVISION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS**

**Sec. 23-201. Statutory authorization.**

This ordinance is adopted pursuant to the authorization in s. 61.35 and 62.23 and the requirements in s. 87.30, Stats.

**Sec. 23-202. Finding of fact.**

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

**Sec. 23-203. Statement of purpose.**

This ordinance is intended to regulate floodplain development to:

- (a) Protect life, health and property;
- (b) Minimize expenditures of public funds for flood control projects;
- (c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (d) Minimize business interruptions and other economic disruptions;
- (e) Minimize damage to public facilities in the floodplain;

- (f) Minimize the occurrence of future flood blight areas in the floodplain;
- (g) Discourage the victimization of unwary land and homebuyers;
- (h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

**Sec. 23-204. Title.**

This ordinance shall be known as the Floodplain Zoning Ordinance for City of Appleton, Wisconsin.

**Sec. 23-205. General provisions.**

(a) ***Areas to be regulated.*** This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(b) ***Official maps and revisions.*** The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see Division 8 *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Department of Public Works, City of Appleton. If more than one map or revision is referenced, the most restrictive information shall apply.

(1) ***Official maps based on the FIS:***

- a. Calumet County Flood Insurance Rate Map (FIRM), panel numbers 55015C0007E, 55015C0026E and 55015C0027E dated February 4, 2009; with corresponding profiles that are based on the Calumet County Flood Insurance Study (FIS), dated February 2009, volume number 55015CV000A.
- b. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0304E, and 55087C0308E dated January 20,

2016; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated January 20, 2016, volume number 55087CV000B.

- c. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0309D, 55087C0314D, 55087C0316D, 55087C0317D, 55087C0318D, 55087C0319D, 55087C0330, 55087C0338D, 55087C0427D, 55087C0431D and 55087C451D dated July 22, 2010; with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A.
- d. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0328D, 55087C0329D, 55087C0336D, 55087C0337D dated July 22, 2010 and revised August 23, 2013 with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A, all revised and annotated pursuant to FEMA Letter of Map Revision Determination Document Case No: 12-05-6032P, Issue Date April 10, 2013, Effective Date August 23, 2013.

Approved by: The DNR and FEMA

- (2) ***Official maps based on other studies.*** Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.
  - a. LOMR – Case #11-05-7670P, Floodway and Floodplain revisions between Flood Insurance Study (FIS) Cross Section AW to BA, Outagamie County Flood Insurance Rate Map (FIRM) panels 55087C0318D and 55087C0319D, dated July 22, 2010. This reflects changes on the Fox River from just downstream of the Private Middle Dam to approximately 250 feet upstream of the Appleton Upper Dam.
  - b. LOMR – Case #13-05-7920P, Floodplain revisions between Flood Insurance Study (FIS) Cross Section AN to AM, Outagamie County Flood Insurance Rate panels 55087C0319D, dated July 22, 2010. This reflects changes along the south side of the Fox River from the College Avenue Bridge to approximately 850 feet downstream.
  - c. LOMR – Case #17-05-1963P. Floodplain revisions on Outagamie County Flood Insurance Study (FIS) AAL Tributary Cross Section C, Outagamie County Flood Insurance Rate Map (FIRM) panel



55087C0336D, effective September 29, 2017. This reflects changes along the AAL Tributary from just downstream of Lightning Drive to approximately 200 feet upstream of East Glenhurst Lane.

- d. LOMR – Case #17-05-3854P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Fox River Cross Section AS through AW, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0319D, effective February 16, 2018. This reflects changes along the Fox River from just upstream of railroad to just downstream of South Oneida Street.
- e. LOMR – Case #20-05-2300P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Apple Creek North Cross Section H through J, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0328D, effective July 22, 2010. This reflects changes along Apple Creek North from approximately 1,440 feet downstream of Harrier Lance to approximately 160 feet downstream of Ballard Road.
- f. Kensington Pond Dam Failure analysis approved by the Department of Natural Resources on January 7, 2008, including:
  - 1. Map dated July 2007 and titled “Figure 2, City of Appleton, Kensington Pond Dam Break Analysis, Hydraulic Shadow” (Hydraulic Shadow boundary from Cross Section 0.001 to 4.84).
  - 2. Floodway data table dated 8/28/2007 and titled “Table F-10, Maximum Water Surface Elevations, Kensington Pond Dam Break Analysis, City of Appleton”.
  - 3. Flood profiles dated 7/10/2007 and titled “Figure 3, Maximum Water Surface Profiles” (Hydraulic Shadow profile from Garners Creek Sta 0 to Sta 25000). Revisions made as a result of DNR review and received from Pete Neuberger via email 2/23/2021.
- g. Outagamie County Flood Storage District Map Panel 1 of 2 approved by Wisconsin Department of Natural Resources and dated January 20, 2016. Prepared by DNR, approved by DNR.

(c) ***Establishment of floodplain zoning districts.*** The regional floodplain areas are divided into four districts as follows:

- (1) The Floodway District (FW), is the channel of a river or stream and those

portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.

- (2) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
- (3) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.
- (4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(d) ***Locating floodplain boundaries.*** Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (1) or (2) below. If a significant difference exists, the map shall be amended according to Division 8 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to Sec. 23-293(c) and the criteria in (1) and (2) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Division 8 *Amendments*.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(e) ***Removal of lands from floodplain.*** Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Division 8 *Amendments*.

(f) ***Compliance.*** Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(g) ***Municipalities and state agencies regulated.*** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and

obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

(h) ***Abrogation and greater restrictions.***

- (1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) ***Interpretation.*** In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(j) ***Warning and disclaimer of liability.*** The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(k) ***Severability.*** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(l) ***Annexed areas for cities and villages.*** Respective of the County in which a given parcel is located, the Outagamie County, Calumet County, and Winnebago County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

**Secs. 23-207 – 23-219. Reserved.**

## **DIVISION 2. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.**

### **Sec. 23-220. General standards.**

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in Sec. 23-291(b). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

### **Sec. 23-221. Hydraulic and hydrologic analyses.**

- (a) No floodplain development shall:
  - (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
  - (2) Cause any increase in the regional flood height due to floodplain storage area lost.

(b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Division 8 *Amendments* are met.

### **Sec. 23-222. Watercourse alterations.**

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of Sec. 23-221 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Division 8 *Amendments*, the community shall apply for a

Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

**Sec. 23-223. Chapter 30, 31, Wis. Stats. Development.**

Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to Division 8 *Amendments*.

**Sec. 23-224. Public or private campgrounds.**

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

(a) The campground is approved by the Department of Agriculture, Trade, and Consumer Protection;

(b) A land use permit for the campground is issued by the zoning administrator;

(c) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;

(d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;

(e) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (d) - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations;

(f) Only camping units that are fully licensed, if required, and ready for highway use are allowed;

(g) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;

(h) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to

exceed 180 days and shall ensure compliance with all the provisions of this section;

(i) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

(j) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Divisions 3, 4, or 5 for the floodplain district in which the structure is located;

(k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and

(l) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

**Secs. 23-225 – 23-235. Reserved.**

### **DIVISION 3. FLOODWAY DISTRICT (FW)**

#### **Sec. 23-236. Applicability.**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Sec. 23-266(d).

#### **Sec. 23-237. Permitted uses.**

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
- they meet the standards in Sec. 23-238 and Sec. 23-239; and
- all permits or certificates have been issued according to Sec. 23-291.

(a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of Sec. 23-238(d).

(d) Uses or structures accessory to open space uses, or classified as historic structures

that comply with Sec. 23-238 and Sec. 23-239.

(e) Extraction of sand, gravel or other materials that comply with Sec. 23-238(d).

(f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.

(g) Public utilities, streets and bridges that comply with Sec. 23-238(c).

**Sec. 23-238. Standards for developments in the floodway.**

(a) ***General.***

- (1) Any development in the floodway shall comply with Division 2 and have a low flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to Sec. 23-221 and Sec. 23-291(b)(3):
  - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (2) above.

(b) ***Structures.*** Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- (2) Shall either have the lowest floor elevated to or above the flood protection elevation shall meet all the following standards:
  - a. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;

- b. Have structural components capable of meeting all provisions of Sec. 23-238(b)(7) and;
  - c. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Sec. 23-238(b)(7).
- (3) Must be anchored to resist flotation, collapse, and lateral movement;
- (4) Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
- (5) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (6) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets or exceeds the following standards:
- a. The lowest floor must be elevated to or above the flood protection elevation;
  - b. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - c. The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
- (7) *Certification:* Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
- a. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
  - b. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sec. 23-239(d) and 23-239(e);



- c. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
- d. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
- e. Placement of utilities above the flood protection elevation.

(c) ***Public utilities, streets and bridges.*** Public utilities, streets and bridges may be allowed by permit, if:

- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of Sec. 23-221.

(d) ***Fills or deposition of materials.*** Fills or deposition of materials may be allowed by permit, if:

- (1) The requirements of Sec. 23-221 are met;
- (2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous material.

**Sec. 23-239. Prohibited uses.**

All uses not listed as permitted uses in Sec. 23-237 are prohibited, including the following uses:

- (a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;

(e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(f) Any solid or hazardous waste disposal sites;

(g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and

(h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

**Secs. 23-240 – 23-250. Reserved.**

#### **DIVISION 4. FLOODFRINDGE DISTRICT (FF)**

##### **Sec. 23-251. Applicability.**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Sec. 23-266(d).

##### **Sec. 23-252. Permitted uses.**

Any structure, land use, or development is allowed in the Floodfringe District if the standards in Sec. 23-253 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in Sec. 23-291 have been issued.

##### **Sec. 23-253. Standards for development in the floodfringe.**

Sec. 23-221 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Division 6 *Nonconforming Uses*;

(a) **Residential uses.** Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Division 6 *Nonconforming Uses*;

(1) The elevation of the lowest floor shall be at or above the flood protection

elevation on fill unless the requirements of Sec. 23-253(a)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.

- (2) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. However, no floor of any kind is allowed below the regional flood elevation.
- (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (4).
- (4) In developments where existing street or sewer line elevations make compliance with subd. (3) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
  - a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
  - b. The municipality has a DNR-approved emergency evacuation plan.

(b) ***Accessory structures or uses.*** Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(c) ***Commercial uses.*** Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of Sec. 23-253(a). Subject to the requirements of Sec. 23-253(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) ***Manufacturing and industrial uses.*** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in Sec. 23-295. Subject to the requirements of Sec. 23-253(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) ***Storage of materials.*** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with Sec. 23-295. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(f) ***Public utilities, streets and bridges.*** All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with Sec. 23-295.
- (2) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(g) ***Sewage systems.*** All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to Sec. 23-295(c), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(h) ***Wells.*** All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to Sec. 23-295(c), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(i) ***Solid waste disposal sites.*** Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(j) ***Deposition of materials.*** Any deposited material must meet all the provisions of this ordinance.

(k) ***Manufactured homes.***

- (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
  - a. have the lowest floor elevated to the flood protection elevation; and
  - b. be anchored so they do not float, collapse or move laterally during a flood.
- (3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in Sec. 23-253(a).

(1) **Mobile recreational vehicles.** All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Secs. 23-253(k)(2) and (3). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

**Secs. 23-254 – 23-265. Reserved.**

## **DIVISION 5. OTHER FLOODPLAIN DISTRICTS.**

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

### **Sec. 23-266. General floodplain district (GFP).**

(a) **Applicability.** The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

(b) **Permitted uses.** Pursuant to Sec. 23-266(d), it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (Sec. 23-237) and Floodfringe (Sec. 23-252) Districts are allowed within the General Floodplain District, according to the standards of Sec. 23-266(c), provided that all permits or certificates required under Sec. 23-291 have been issued.

(c) **Standards for development.** Division 3 applies to floodway areas, Division 4 applies to floodfringe areas. The rest of this ordinance applies to either district.

- (1) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:
  - a. At or above the flood protection elevation; or
  - b. Two (2) feet above the highest adjacent grade around the structure;  
or
  - c. The depth as shown on the FIRM.
- (2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

(d) ***Determining floodway and floodfringe limits.*** Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.
- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
  - a. A Hydrologic and Hydraulic Study as specified in Sec. 23-291(b)(3).
  - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
  - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

**Sec. 23-267. Flood storage district.**

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

(a) ***Applicability.*** The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

(b) ***Permitted uses.*** Any use or development which occurs in a flood storage district must meet the applicable requirements in Sec. 23-253.

(c) ***Standards for development in flood storage districts.***

- (1) Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.

- (2) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
- (3) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per Division 8 *Amendments* of this ordinance.
- (4) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

**Secs. 23-268 – 23-280. Reserved.**

## **DIVISION 6. NONCONFORMING USES**

### **Sec. 23-281. General.**

(a) ***Applicability.*** If these standards conform with s. 87.30, Stats. and ch. NR 116.15, Wis. Adm. Code and 44 CFR 59-72, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words “modification” and “addition” include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance.
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the fifty percent (50%) provisions of this paragraph.
- (5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a).
- (6) If on a per event basis the total value of the work being done under (4) and (5) equals or exceeds fifty percent (50%) of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a).
- (7) Except as provided in subd. (8), if any nonconforming structure or any



structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty percent (50%) of the structure's present equalized assessed value.

- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

a. Residential Structures

1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Sec. 23-295(b).
2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
5. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 23-266(c).
6. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. Nonresidential Structures

1. Shall meet the requirements of Sec. 23-281(b)(8)a1-6.
2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Sec. 23-295(a) or (b).
3. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 23-266(c).

(c) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with Sec. 23-238(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with Sec. 23-295 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Sec. 23-281(b)(8)a if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

**Sec. 23-282. Floodway district.**

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

- (1) Has been granted a permit or variance which meets all ordinance requirements;
- (2) Meets the requirements of Sec. 23-281;
- (3) Shall not increase the obstruction to flood flows or regional flood height;
- (4) Any addition to the existing structure shall be floodproofed, pursuant to Sec. 23-295, by means other than the use of fill, to the flood protection elevation; and
- (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
  - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

- b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
- c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
- d. The use must be limited to parking, building access or limited storage.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, Sec. 23-295(c) and ch. SPS 383, Wis. Adm. Code.

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, Sec. 23-295(c) and chs. NR 811 and NR 812, Wis. Adm. Code.

**Sec. 23-283. Floodfringe district.**

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of Sec. 23-253 except where Sec. 23-283(b) is applicable.

(b) Where compliance with the provisions of subd. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in Sec. 23-293, may grant a variance from those provisions of subd. (a) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
- (2) Human lives are not endangered;
- (3) Public facilities, such as water or sewer, shall not be installed;
- (4) Flood depths shall not exceed two feet;
- (5) Flood velocities shall not exceed two feet per second; and

- (6) The structure shall not be used for storage of materials as described in Sec. 23-253(e).

(c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, Sec. 23-295(c) and ch. SPS 383, Wis. Adm. Code.

(d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, Sec. 23-295(c) and ch. NR 811 and NR 812, Wis. Adm. Code.

**Sec. 23-284. Flood storage district.**

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in Sec. 23-267(c) are met.

**Sec. 23-285 – 23-289. Reserved.**

**SECTION 7. ADMINISTRATION**

**Sec. 23-290. Administration.**

Where a zoning administrator, planning agency or a Board of Appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

**Sec. 23-291. Zoning administrator.**

(a) *Duties and powers.* The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (2) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (4) Keep records of all official actions such as:
  - a. All permits issued, inspections made, and work approved;

- b. Documentation of certified lowest floor and regional flood elevations;
  - c. Floodproofing certificates.
  - d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
  - e. All substantial damage assessment reports for floodplain structures.
  - f. List of nonconforming structures and uses.
- (5) Submit copies of the following items to the Department Regional office:
- a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
  - b. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
  - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- (7) Submit copies of amendments to the FEMA Regional office.

(b) ***Land use permit.*** A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

- (1) ***General information***
  - a. Name and address of the applicant, property owner and contractor;
  - b. Legal description, proposed use, and whether it is new construction or a modification;
- (2) ***Site development plan.*** A site plan drawn to scale shall be submitted with

the permit application form and shall contain:

- a. Location, dimensions, area and elevation of the lot;
- b. Location of the ordinary highwater mark of any abutting navigable waterways;
- c. Location of any structures with distances measured from the lot lines and street center lines;
- d. Location of any existing or proposed on-site sewage systems or private water supply systems;
- e. Location and elevation of existing or future access roads;
- f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
- h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Divisions 3 or 4 are met; and
- i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Sec. 23-221. This may include any of the information noted in Sec. 23-238(a).

(3) *Hydraulic and hydrologic duties to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

a. Zone A floodplains:

1. Hydrology.

- i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge.*

2. Hydraulic modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
  - i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
  - ii. Channel sections must be surveyed.
  - iii. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
  - iv. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
  - v. The most current version of HEC\_RAS shall be used.
  - vi. A survey of bridge and culvert openings and the top of road is required at each structure.
  - vii. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
  - viii. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.

ix. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

3. Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.

ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

b. Zone AE Floodplains

1. Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

2. Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

i. Duplicate Effective Model.  
The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that



duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

- ii. **Corrected Effective Model.**  
The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
  - iii. **Existing (Pre-Project Conditions) Model.**  
The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
  - iv. **Revised (Post-Project Conditions) Model.**  
The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
  - v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
3. **Mapping.** Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
- i. Consistency between the revised hydraulic models,

the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

- ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
- iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- vii. Both the current and proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

- (4) *Expiration.* All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

(c) *Certificate of compliance.* No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of Sec. 23-295 are met.

(d) ***Other permits.*** Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

**Sec. 23-292. Zoning agency.**

- (a) The Plan Commission shall:
  - (1) Oversee the functions of the office of the zoning administrator; and
  - (2) Review and advise the governing body on all proposed amendments to this ordinance, maps and text.
- (b) The Plan Commission shall not:
  - (1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
  - (2) Amend the text or zoning maps in place of official action by the governing body.

**Sec. 23-293. Board of Appeals.**

The Board of Appeals, created under s. 62.23(7)(e), Stats., is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning

administrator shall not be the secretary of the Board.

(a) ***Powers and duties.*** The Board of Appeals shall:

- (1) *Appeals.* Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
- (2) *Boundary Disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
- (3) *Variances.* Hear and decide, upon appeal, variances from the ordinance standards.

(b) ***Appeals to the Board.***

(1) Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.

(2) *Notice and hearing for appeals including variances.*

a. Notice. The Board shall:

1. Fix a reasonable time for the hearing;
2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

b. Hearing. Any party may appear in person or by agent. The Board shall:

1. Resolve boundary disputes according to Sec. 23-293(c);
2. Decide variance applications according to Sec. 23-293(d);

and

3. Decide appeals of permit denials according to Sec. 23-294.

- (3) *Decision.* The final decision regarding the appeal or variance application shall:
- a. Be made within a reasonable time;
  - b. Be sent to the Department Regional office within 10 days of the decision;
  - c. Be a written determination signed by the chairman or secretary of the Board;
  - d. State the specific facts which are the basis for the Board's decision;
  - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
  - f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) *Boundary disputes.* The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;
- (2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
- (3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Division 8 *Amendments*.

(d) *Variance.*

- (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

- a. Literal enforcement of the ordinance will cause unnecessary hardship;
- b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
- c. The variance is not contrary to the public interest; and
- d. The variance is consistent with the purpose of this ordinance in Sec. 23-203.

(2) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

- a. The variance shall not cause any increase in the regional flood elevation;
- b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
- c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(3) A variance shall not:

- a. Grant, extend or increase any use prohibited in the zoning district;
- b. Be granted for a hardship based solely on an economic gain or loss;
- c. Be granted for a hardship which is self-created.
- d. Damage the rights or property values of other persons in the area;
- e. Allow actions without the amendments to this ordinance or map(s) required in Division 8 *Amendments*; and
- f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

- (4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

**Sec. 23-294. To review appeals of permit denials.**

(a) The Zoning Agency (Sec. 23-292) or Board shall review all data related to the appeal. This may include:

- (1) Permit application data listed in Sec. 23-291(b);
- (2) Floodway/floodfringe determination data in Sec. 23-266(d);
- (3) Data listed in Sec. 23-238(a)(2) where the applicant has not submitted this information to the zoning administrator; and
- (4) Other data submitted with the application, or submitted to the Board with the appeal.

(b) For appeals of all denied permits the Board shall:

- (1) Follow the procedures of Sec. 23-293;
- (2) Consider zoning agency recommendations; and
- (3) Either uphold the denial or grant the appeal.

(c) For appeals concerning increases in regional flood elevation the Board shall:

- (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of *Division 8 Amendments*; and
- (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

**Sec. 23-295. Floodproofing standards for nonconforming structures or uses.**

(a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing

Certificate.

(b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

- (1) Certified by a registered professional engineer or architect; or
- (2) Meets or exceeds the following standards:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - b. The bottom of all openings shall be no higher than one foot above grade; and
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) Floodproofing measures shall be designed, as appropriate, to:

- (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
- (2) Protect structures to the flood protection elevation;
- (3) Anchor structures to foundations to resist flotation and lateral movement;
- (4) Minimize or eliminate infiltration of flood waters; and
- (5) Minimize or eliminate discharges into flood waters.

**Sec. 23-296. Public information.**

(a) Place marks on structures to show the depth of inundation during the regional flood.

(b) All maps, engineering data and regulations shall be available and widely distributed.

(c) Real estate transfers should show what floodplain district any real property is in.

**Secs. 23-297 – 23-303. Reserved.**



## **DIVISION 8. AMENDMENTS.**

### **Sec. 23-304. Amendments.**

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 23-305.

(a) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 23-305. Any such alterations must be reviewed and approved by FEMA and the DNR.

(b) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Sec. 23-305.

### **Sec. 23-305. General.**

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in Sec. 23-306 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

(a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

(b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;

(c) Any changes to any other officially adopted floodplain maps listed in Sec. 23-205(b)(2);

(d) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;

(e) Correction of discrepancies between the water surface profiles and floodplain maps;

(f) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

(g) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from

a FIRM requires prior approval by FEMA.

**Sec. 23-306. Procedures.**

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats. The petitions shall include all data required by Sec. 23-266(d) and Sec. 23-291(b). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

(a) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats.

(b) No amendments shall become effective until reviewed and approved by the Department.

(c) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

**Secs. 23-307 – 23-310. Reserved.**

**DIVISION 9. ENFORCEMENT AND PENALTIES**

**Sec. 23-311. Enforcement and penalties.**

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

**Secs. 23-312 – 23-314. Reserved.**

**DIVISION 10. DEFINITIONS.**

**Sec. 23-315. Definitions.**

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word “may” is permissive, “shall” is mandatory and is not

discretionary.

**A Zones.** Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

**AH Zone.** See *Area of shallow flooding*

**AO Zone.** See *Area of shallow flooding*

**Accessory structure or use.** A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

**Alteration.** An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

**Area of shallow flooding.** A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent (1%) or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

**Base flood.** Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

**Basement.** Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

**Building.** See *Structure*.

**Bulkhead line.** A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

**Campground.** Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

**Camping unit.** Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

**Certificate of compliance.** A certification that the construction and the use of land or a

building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

***Channel.*** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

***Crawlways or crawl space.*** An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

***Deck.*** An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

***Department.*** The Wisconsin Department of Natural Resources.

***Development.*** Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

***Dryland access.*** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

***Encroachment.*** Any fill, structure, equipment, use or development in the floodway.

***Federal Emergency Management Agency (FEMA).*** The federal agency that administers the National Flood Insurance Program.

***Flood Insurance Rate Map (FIRM).*** A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

***Flood or flooding.*** A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- The overflow or rise of inland waters;
- The rapid accumulation or runoff of surface waters from any source;
- The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- The sudden increase caused by an unusually high water level in a natural body of

water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

***Flood frequency.*** The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

***Floodfringe.*** That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

***Flood hazard boundary map.*** A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

***Flood insurance study.*** A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

***Floodplain.*** Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

***Floodplain island.*** A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

***Floodplain management.*** Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

***Flood profile.*** A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

***Floodproofing.*** Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

***Flood protection elevation.*** An elevation of two feet of freeboard above the water

surface profile elevation designated for the regional flood. (Also see: *Freeboard*.)

***Flood storage.*** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

***Floodway.*** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

***Freeboard.*** A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

***Habitable structure.*** Any structure or portion thereof used or designed for human habitation.

***Hearing notice.*** Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

***High flood damage potential.*** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

***Highest adjacent grade.*** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

***Historic structure.*** Any structure that is either:

- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

***Increase in regional flood height.*** A calculated upward rise in the regional flood

elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

***Land use.*** Any nonstructural use made of unimproved or improved real estate. (Also see *Development*.)

***Lowest adjacent grade.*** Elevation of the lowest ground surface that touches any of the exterior walls of a building.

***Lowest floor.*** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

***Maintenance.*** The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

***Manufactured home.*** A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle".

***Mobile/manufactured home park or subdivision.*** A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

***Mobile/manufactured home park or subdivision, existing.*** A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

***Mobile/manufactured home park, expansion to existing.*** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

***Mobile recreational vehicle.*** A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or

carried, including park model homes, do not fall within the definition of “mobile recreational vehicles”.

***Model, corrected effective.*** A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

***Model, duplicate effective.*** A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

***Model, effective.*** The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

***Model, existing (pre-project).*** A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

***Model, revised (post-project).*** A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

***Municipality or municipal.*** The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

***NAVD or North American Vertical Datum.*** Elevations referenced to mean sea level datum, 1988 adjustment.

***NGVD or National Geodetic Vertical Datum.*** Elevations referenced to mean sea level datum, 1929 adjustment.

***New construction.*** For floodplain management purposes, “new construction” means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

***Nonconforming structure.*** An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection



elevation, the structure is nonconforming.)

***Nonconforming use.*** An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

***Obstruction to flow.*** Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

***Official floodplain zoning map.*** That map, adopted and made part of this ordinance, as described in Sec. 23-205(b), which has been approved by the Department and FEMA.

***Open space use.*** Those uses having a relatively low flood damage potential and not involving structures.

***Ordinary highwater mark.*** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

***Person.*** An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

***Private sewage system.*** A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

***Public utilities.*** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

***Reasonably safe from flooding.*** Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

***Regional flood.*** A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

***Start of construction.*** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of

permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure.** Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

**Subdivision.** Has the meaning given in s. 236.02(12), Wis. Stats.

**Substantial damage.** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent (50%) of the equalized assessed value of the structure before the damage occurred.

**Substantial improvement.** Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent (50%) of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**Unnecessary hardship.** Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

**Variance.** An authorization by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

**Violation.** The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

**Watershed.** The entire region contributing runoff or surface water to a watercourse or body of water.

**Water surface profile.** A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

**Well.** An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

\*Editor’s Note\*: Article X of Chapter 23, Floodplain Zoning, was repealed and recreated by Ordinance \_\_\_\_\_, adopted by Council on April 24, 2021, published on April 28, 2021, and became effective April 28, 2021

**Section 2:** This ordinance shall be in full force and effect from and after its passage and publication.

Dated: \_\_\_\_\_

---

Jacob A. Woodford, Mayor  
21-0028 | 21-0130  
Last revision: March 3, 2021 (clean draft)

---

Kami Lynch, City Clerk



## REPORT TO CITY PLAN COMMISSION

**Municipal Services Committee Meeting Date:** April 12, 2021

**Plan Commission Informal Public Hearing Date:** April 13, 2021

**Common Council Meeting Date – Initial Resolution:** April 21, 2021

**Common Council Meeting Date – Public Hearing (40-day waiting period):** June 2, 2021

**Item:** Street discontinuance to vacate portions of West Prospect Avenue and South Douglas Street

**Case Manager:** David Kress, Principal Planner

### GENERAL INFORMATION

**Owner/Applicant:** City of Appleton / Tom Kromm, Department of Public Works

**Location:** Part of Prospect Avenue and part of Douglas Street, generally located near the intersection of these streets

**Owner/Applicant's Request:** The applicant is requesting a street discontinuance to vacate portions of right-of-way near the intersection of West Prospect Avenue and South Douglas Street.

### BACKGROUND

In 2020, the configuration of the Prospect Avenue and Douglas Street intersection changed as part of the Prospect Avenue reconstruction project. Through this project, the street and sidewalk alignment was adjusted. As a result, the areas proposed for vacation are no longer needed for public right-of-way.

### STAFF ANALYSIS

**Title to Vacated Street:** When vacated, the land reverts to its original source, which in this case includes the parcels located adjacent to the proposed vacation areas. Title to the vacated part of Prospect Avenue will belong to the adjoining property owner to the south. As shown on the attached map, the owner of parcel #31-3-1617-00 will acquire the vacated right-of-way totaling approximately 1,468 square feet. Title to the vacated part of Douglas Street will belong to the adjoining property owner to the east. As shown on the attached map, the owner of parcel #31-3-1523-00 will acquire the vacated right-of-way totaling approximately 1,174 square feet.

**Existing Public Utilities:** The City will retain an easement for all existing utilities and any future utilities deemed necessary within the entire length and width of the vacated right-of-way.

**Street Classification:** The City's Arterial/Collector Plan Map identifies this portion of Prospect Avenue as a collector street and this portion of Douglas Street as a local street.

**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 residential and institutional in nature.

## Street Vacation – West Prospect Avenue and South Douglas Street

April 13, 2021

Page 2

North: R-1B Single-Family District and P-I Public Institutional District. The adjacent land uses to the north are currently residential and institutional (Xavier High School).

South: R-1B Single-Family District. The adjacent land uses to the south are currently single-family residential.

East: R-1B Single-Family District. The adjacent land uses to the east are currently single-family residential.

West: R-1B Single-Family District and P-I Public Institutional District. Existing Prospect Avenue and Douglas Street right-of-way is immediately west of the subject areas.

**Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* Future Land Use Map identifies this area with a future One and Two-Family Residential designation. The proposed street vacation is consistent with the following excerpts from the *Comprehensive Plan 2010-2030*.

### *OBJECTIVE 6.8 Transportation:*

*Implement transportation improvements which also support the City's desired land use, housing and neighborhood goals, objectives, and policies.*

*Policy 6.8.3 Design neighborhood streets that will serve local transportation needs, enhance safety and livability, and improve neighborhood quality.*

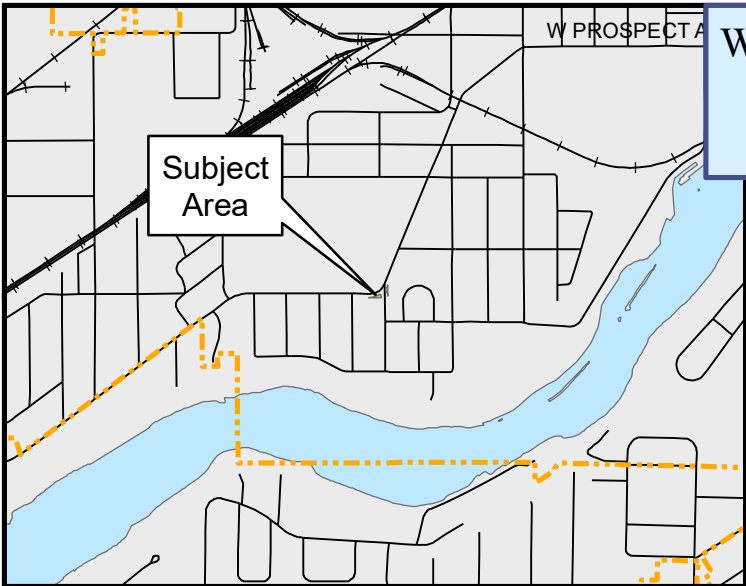
**Technical Review Group (TRG) Report:** This item appeared on the March 23, 2021 TRG agenda. No negative comments were received from participating departments.

## **RECOMMENDATION**

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Staff recommends the discontinuance of portions of West Prospect Avenue and South Douglas Street public right-of-way, as shown on the attached map and legal description, pending approval by the Municipal Services Committee, and the adoption of the Initial Resolution, **BE APPROVED**.

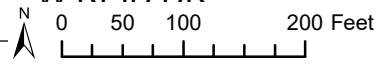
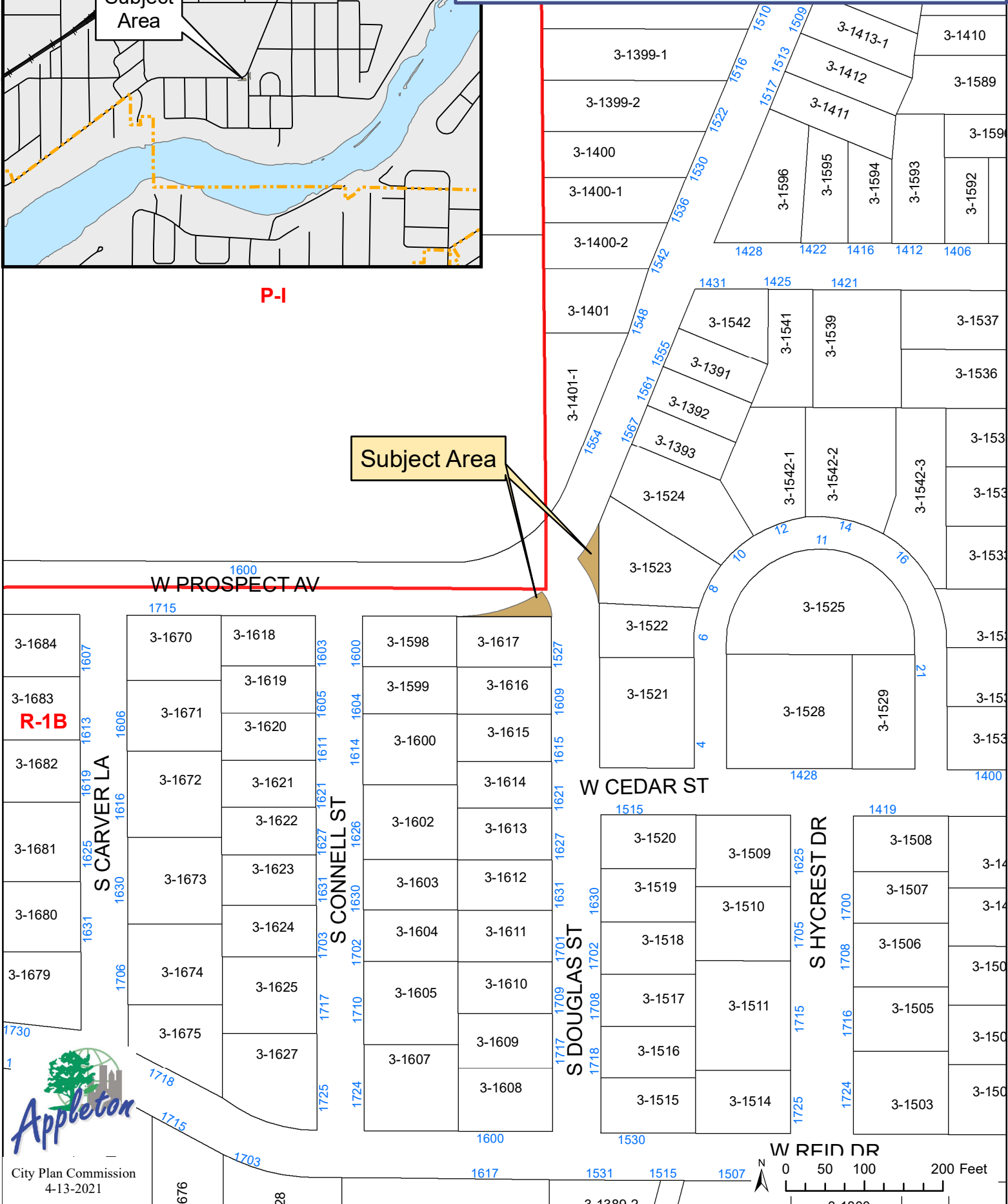
# West Prospect Avenue and South Douglas Street Partial Street Vacation Zoning Map



Subject Area

P-I

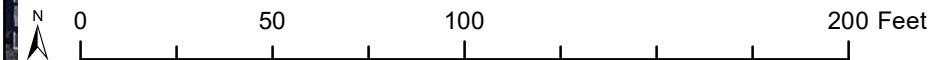
Subject Area



West Prospect Avenue and South Douglas Street  
Partial Street Vacation  
Aerial Map



Subject Area



City Plan Commission  
4-13-2021

**INITIAL RESOLUTION**

**WHEREAS**, the public interest requires that a part of West Prospect Avenue and a part of South Douglas Street, that have not previously been vacated, be vacated and discontinued,

**BE IT RESOLVED**, that the Common Council of the City of Appleton, Wisconsin, hereby determines that the public interest requires that a part of West Prospect Avenue and a part of South Douglas Street, City of Appleton, Outagamie County, Wisconsin, as hereinafter described, is hereby vacated and discontinued pursuant to §66.1003 of the Wisconsin Statutes.

**LEGAL DESCRIPTION**

A part of Douglas Street, being located in the Government Lot Three (3), Fractional Southwest Quarter (SW ¼) of Section Thirty-Four (34), Township Twenty-One (21) North, Range Seventeen (17) East, City of Appleton, Outagamie County, Wisconsin, containing 1,174 Sq. Ft. of land and being further described as follows:

Commencing at the West Quarter corner of said Section 34:

Thence South 89°45'50" East 1392.02 feet coincident with the North line of the Fractional SW ¼ of said Section 34;

Thence South 00°13'29" East 989.76 feet to the Southeast corner of Prospect Avenue and Douglas Street and being the Point of Beginning;

Thence continue South 00°13'29" East 101.34 feet coincident with the East line of Douglas Street;

Thence North 89°44'29" West 0.59 feet;

Thence Northwesterly 50.90 feet along the arc of curve to the left having a radius of 111.00 feet and the chord of which bears North 23°07'34" West 50.46 feet;

Thence North 36°15'46" West 12.20 feet;

Thence Northeasterly 52.82 feet along the arc of a curve to the left having a radius of 189.14 feet and the chord of which bears North 31°11'04" East 52.65 feet to the point of beginning.

And

A part of Prospect Avenue, being located in Government Lot Three (3) and Government Lot Four (4), Fractional Southwest Quarter (SW ¼) of Section Thirty-Four (34), Township Twenty-One (21) North, Range Seventeen (17) East, City of Appleton, Outagamie County, Wisconsin, containing 1,468 Sq. Ft. of land and being further described as follows:

Commencing at the West Quarter corner of said Section 34:

Thence South 89°45'50" East 1332.02 feet coincident with the North line of the Fractional SW ¼ of said Section 34;

Thence South 00°13'29" East 1109.23 feet to the Southwest corner of Prospect Avenue



and Douglas Street and also being the Northeast corner of Lot 20, Block 1, Rivercrest Subdivision and being the Point of Beginning;

Thence North 89°50'32" West 120.00 feet coincident with the North line of Lot 20 of said Block 1 to the Northwest corner thereof and also being coincident with the South line of Prospect Avenue;

Thence North 00°13'29" West 0.63 feet;

Thence North 86°23'57" East 13.47 feet;

Thence Northeasterly 99.73 feet along the arc of a curve to the left having a radius of 197.00 feet and the chord of which bears North 71°53'48" East 98.67 feet;

Thence South 36°15'46" East 5.27 feet;

Thence Southeasterly 30.28 feet along the arc of a curve to the right having a radius of 50.00 feet and the chord of which bears South 18°54'42" East 29.82 feet to the point of beginning.

See also attached Exhibit "A" for illustration.

### **EASEMENTS**

The City of Appleton their heirs, successors and or assigns (Grantee) hereby retain an easement for any and all existing utilities and also any future utilities deemed necessary or desirable by Grantee within the vacated right of way, including but not limited to, storm sewer, drainage, sanitary sewer, watermain, gas, electric, cable and fiber- optic within the entire length and width of the above described right of way.

It is further agreed that this easement shall be a permanent easement.

It is further agreed that Grantee shall have the right to install, regrade, replace, relocate, operate, maintain, resize and repair any and all of these utilities and their associated appurtenances. It is further agreed that after installing, regrading, replacing, relocating, operating, maintaining, resizing or repairing of these utilities and their associated appurtenances Grantee shall restore unimproved surfaces such as grass, gravel and dirt on said property, as closely as possible, to the condition previously existing. Grantee shall not be required to restore or compensate for any improvements or improved surfaces such as, but not limited to, curb and gutter, hard pavements, trees, shrubs and landscaping, disturbed as a result of the maintenance activities described herein. Buildings or any other type of permanent structure shall not be placed over Grantees' facilities or in, upon or over said easement area. This easement includes the right to operate any and all equipment deemed necessary by Grantee to perform said activities. Grantee agrees that it shall give timely notice to the Grantor of routine maintenance work.

### **COMMON DESCRIPTION:**

A part of West Prospect Avenue and a part of South Douglas Street

***FURTHER RESOLVED***, that the City Clerk of the City of Appleton be authorized and directed to give notice required by §66.1003 of the Wisconsin Statutes.

***FURTHER RESOLVED***, that according to §66.1005 of the Wisconsin Statutes, upon vacation and discontinuance of said part of West Prospect Avenue and part of South Douglas Street, title to the above-described streets shall belong to the adjoining property owners and shall acquire an ownership interest in the entire area being vacated as shown on the attached Exhibit Map.

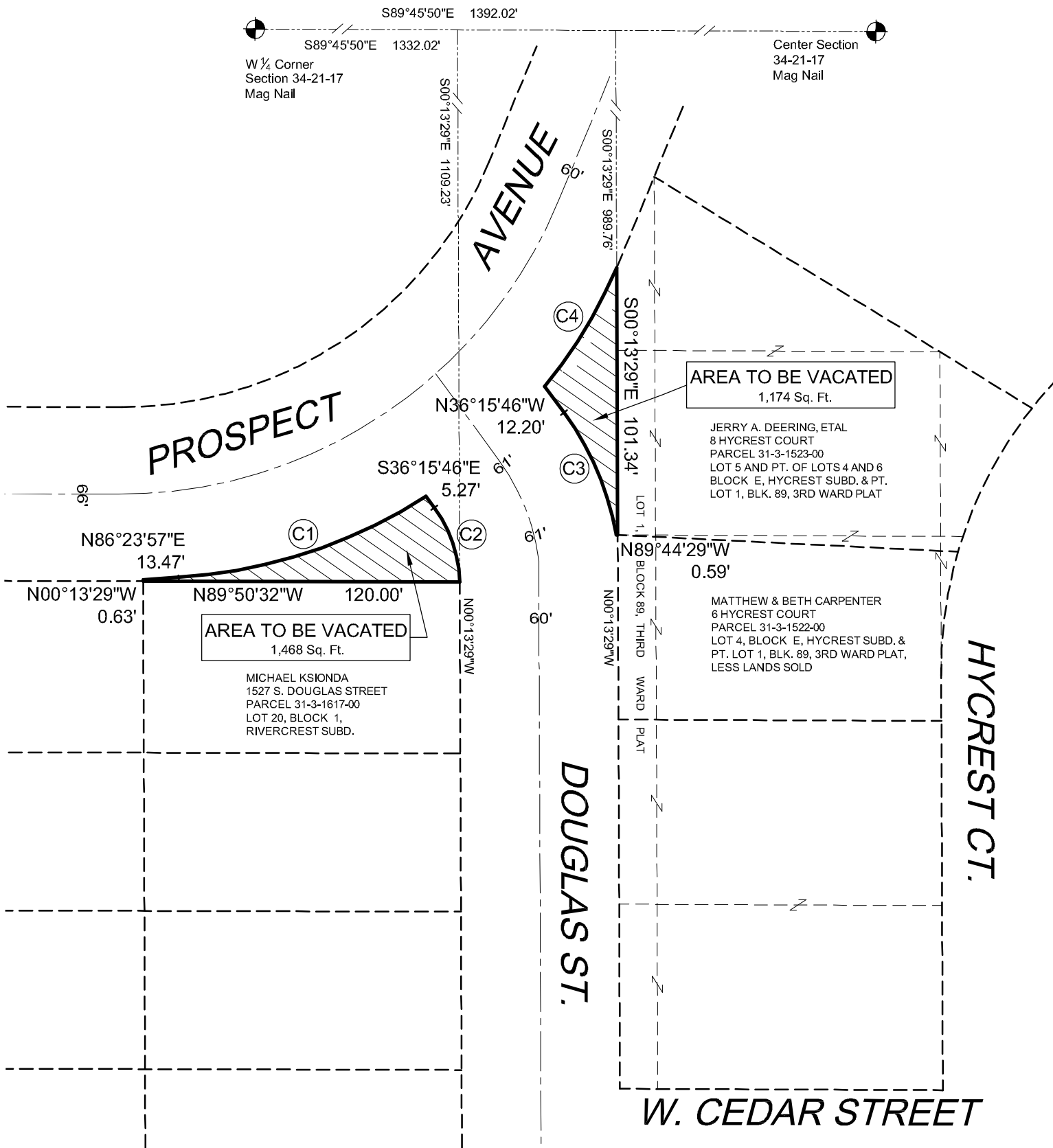
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Date

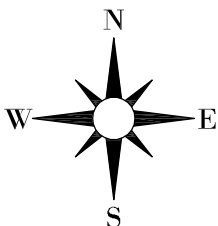
City Law A21-0230  
3/29/2021

# EXHIBIT "A"

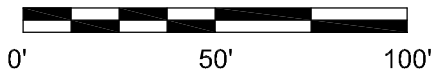
A part of Prospect Avenue lying adjacent to Lot Twenty (20), Block One (1), **RIVERCREST SUBD.** and a part of Douglas Street lying adjacent to a part of Lot One (1), Block Eighty-Nine (89), **THIRD WARD PLAT**, according to the recorded Assessor's Map, all being located in the Government Lot Three (3) and Government Lot Four (4) of Section Thirty-Four (34), Township Twenty-One (21) North, Range Seventeen (17) East, City of Appleton, Outagamie County, Wisconsin



CURVE DATA TABLE				
CURVE	RADIUS	LENGTH	LC	LCB
C1	197.00'	99.73'	98.67'	N71°53'48"E
C2	50.00'	30.28'	29.82'	S18°54'42"E
C3	111.00'	50.90'	50.46'	N23°07'34"W
C4	189.14'	52.82'	52.65'	N31°11'04"E



SCALE IN FEET



BEARINGS ARE REFERENCED TO WISCONSIN COUNTY COORDINATES, OUTAGAMIE COUNTY

**CITY OF APPLETON**  
 DEPT. OF PUBLIC WORKS  
 ENGINEERING DIVISION  
 100 NORTH APPLETON STREET  
 APPLETON, WI 54911  
 920-832-6474

DRAFTED BY: T. KROMM

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## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** April 13, 2021

**Common Council Meeting Date:** April 21, 2021

**Item:** Detachment of Territory – Coop Road

**Case Manager:** David Kress, Principal Planner

### GENERAL INFORMATION

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**Owner/Applicant:** City of Appleton

**Location:** Portion of Coop Road, generally located north of Midway Road

**Petitioner's Request:** Owner is requesting to detach land from the City of Appleton to the Village of Harrison, pursuant to Section 66.0227 of the Wisconsin State Statutes.

**Purpose for Detachment:** To carry out a responsibility identified in an Intergovernmental Cooperation Agreement between the City of Appleton and Village of Harrison.

**Population of Such Territory:** 0

**Detachment Area:** 4.0 acres m/l

### BACKGROUND

---

The subject area was annexed to the City with the Southeast Industrial Park #3 Annexation, which was approved by Common Council in 1995. The land was annexed from the Town of Harrison at that time.

On December 2, 2020, Common Council approved an Intergovernmental Cooperation Agreement between the City of Appleton and Village of Harrison. The agreement deals with the pavement resurfacing project for Coop Road. The fully executed agreement is attached for reference. Stipulation #2 of the agreement states that the City shall undertake the tasks required for detachment of the subject road right-of-way.

### STAFF ANALYSIS

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The Community and Economic Development Department staff has reviewed the detachment petition and identifies the following:

- The area proposed for detachment is adjacent to parcels currently located in the Village of Harrison. Detachment of the area in question is consistent with the Intergovernmental Cooperation Agreement between the City and Village.

**Detachment of Territory – Coop Road**  
**April 13, 2021**  
**Page 2**

- Currently, the subject area consists of an existing asphalt rural road within the road right-of-way. The City has not installed sewer and water infrastructure within this right-of-way.
- In this area, the proposed detachment would result in roughly half of the existing Coop Road right-of-way being located in the Village of Harrison. The area west of the Coop Road centerline would remain in the City.
- After detachment, the existing zoning district boundary lines would be shifted to the centerline of the road right-of-way to account for the change in municipal boundaries.
- The detachment of territory is governed by Section 66.0227(2) of State Statutes. This statute indicates that if Common Council approves the detachment as proposed, the Village must then adopt an ordinance accepting the territory within 60 days after enactment.

**Surrounding Zoning Classification and Land Uses:**

North: Village of Harrison. Existing Coop Road right-of-way is immediately north of the subject area.

South: Village of Harrison. Existing Coop Road right-of-way is immediately south of the subject area.

East: Village of Harrison. The adjacent land uses to the east are currently a mix of residential uses.

West: M-1 Industrial Park District. The adjacent land use to the west is currently agricultural (undeveloped, for sale lots located in Southpoint Commerce Park).

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* identifies this area with the future Business / Industrial designation. The proposed detachment is consistent with the following objective and policy of the *Comprehensive Plan 2010-2030*.

*OBJECTIVE 11.1 Intergovernmental Cooperation:*

*Maintain a positive relationship with local area governments to foster collaboration on issues of mutual concern.*

*Policy 11.1.1 Ensure continued discussion between Appleton and neighboring municipalities and counties, including both elected officials and department staff. Continue to partner with Outagamie, Winnebago, and Calumet counties to serve City residents in an efficient manner.*

**Technical Review Group (TRG) Report:** This item appeared on the March 23, 2021 TRG agenda. No negative comments were received from participating departments.

**FUTURE ACTIONS**

If Common Council approves the detachment as proposed, the Village must then adopt an ordinance for attachment of said lands within 60 days, pursuant to Section 66.0227(2) of State Statutes. The anticipated

**Detachment of Territory – Coop Road**  
**April 13, 2021**  
**Page 3**

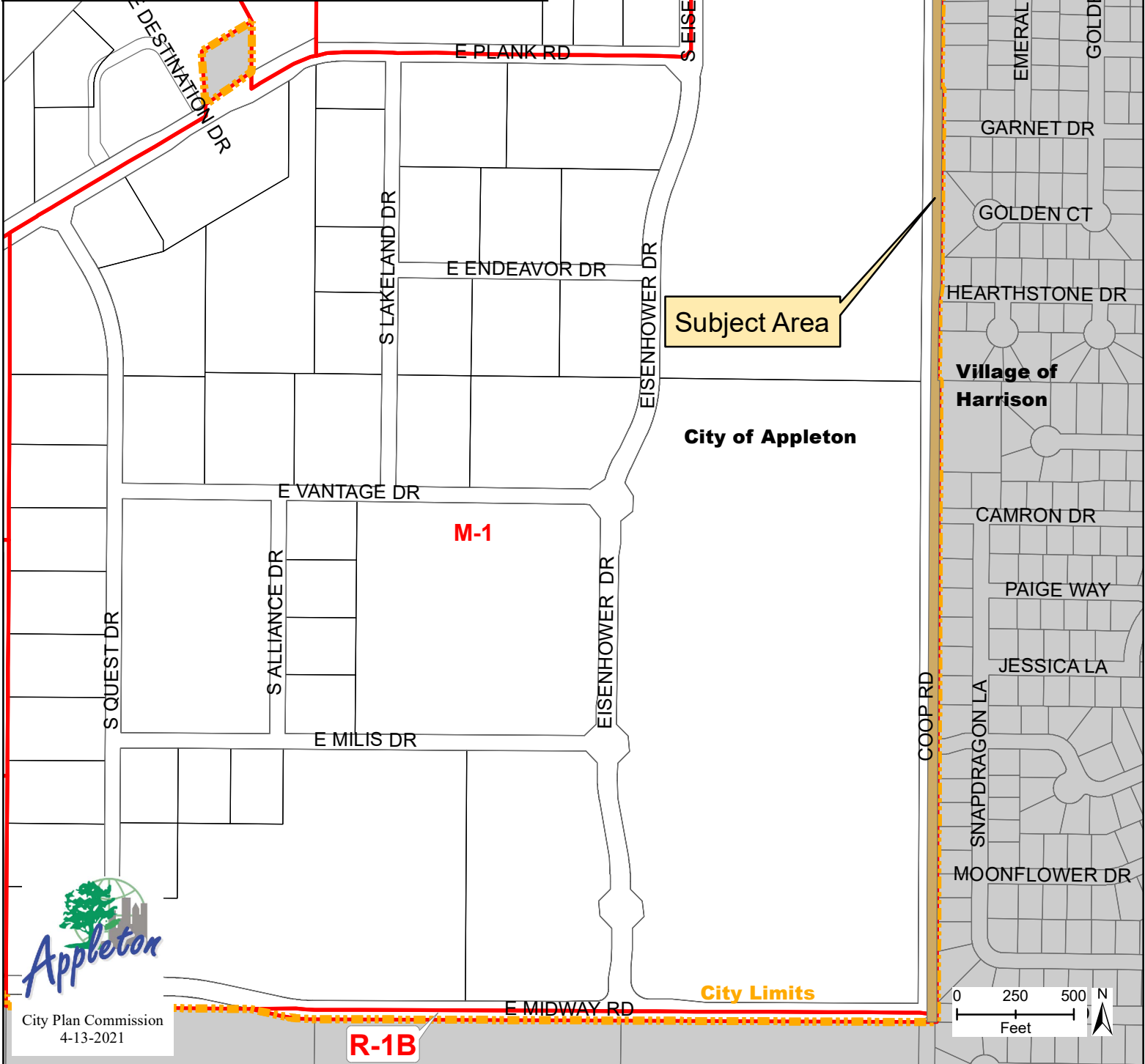
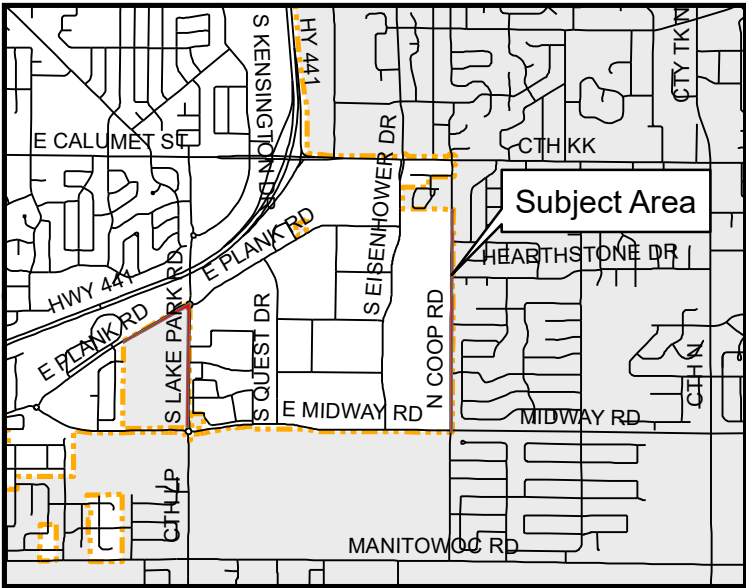
timeline for completion of the City’s tasks has been shared with Village representatives and is set forth in the agreement between the municipalities.

**RECOMMENDATION**

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Staff recommends that the detachment of territory from the City of Appleton to the Village of Harrison, for the part of Coop Road described in the attached petition and shown on the attached maps, **BE APPROVED.**

# Detachment of Territory City of Appleton to Village of Harrison Coop Road Zoning Map

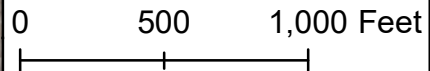


R-1B

Detachment of Territory  
City of Appleton to Village of Harrison  
Coop Road  
Aerial Map



City Plan Commission  
4-13-2021





**PETITION FOR DETACHMENT OF LAND FROM THE CITY OF APPLETON  
TO THE VILLAGE OF HARRISON**

The undersigned, representing all owners of the land lying within the area described below and shown on the attached scale map, in accordance with s. 66.0227 Wis. Stats., petition to detach said land from the City of Appleton, Calumet County, Wisconsin to the Village of Harrison, Calumet County, Wisconsin, to-wit:

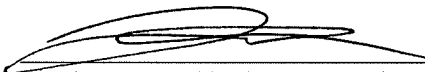
A part of the West One-Half (W ½) of the Northwest Quarter (NW ¼) of Section 3, part of the West One-half (W ½) of the Southwest Quarter (SW ¼) of Section 3 and a part of the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) of Section 10, Township 20 North, Range 18 East, City of Appleton, Calumet County, Wisconsin, containing 4.0 Acres m/l of road right of way and being all that part of the City of Appleton lying East of the following described line:

Commencing at a point on the West line of the Northwest ¼ corner of said Section 3, lying North 00°31'53" East 1,798.73 feet from the West ¼ corner thereof and being the point of beginning;  
Thence South 00°31'53" West 1,798.73 feet along the West line of the NW ¼ of said Section 3 to the West ¼ corner thereof;  
Thence South 00°14'16" West 2,636.69 feet along the West line of the SW ¼ of said Section 3 to the Southwest corner thereof;  
Thence South 00°30'32" West 40.00 feet along the West line of the NW ¼ of said Section 10 to the terminus of the afore described line.

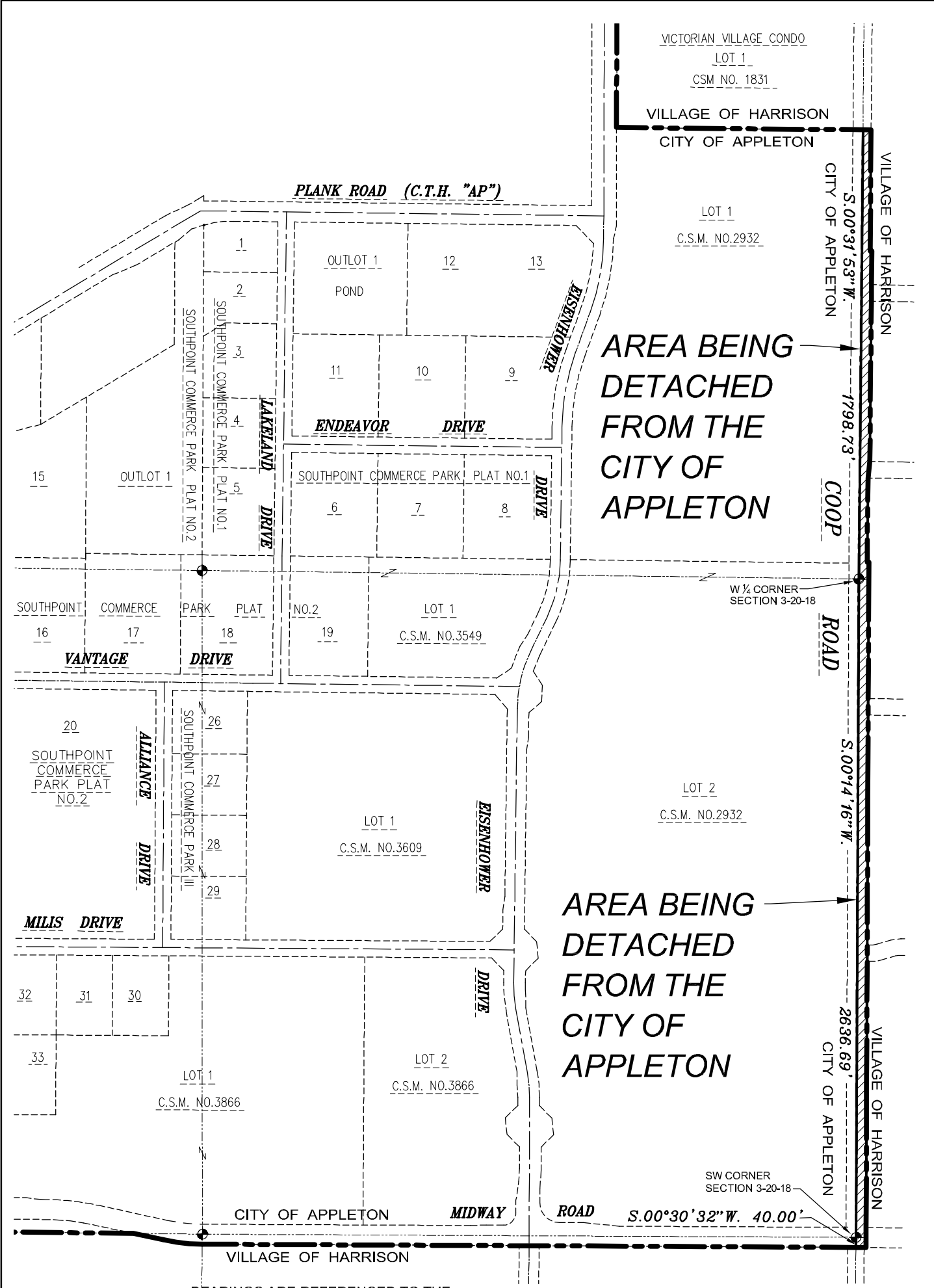
Area of land (public right-of-way) to be detached contains 4.0 acres m/l.

The current population of such territory is 0.

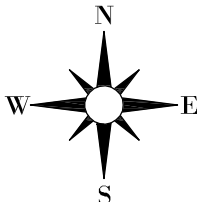
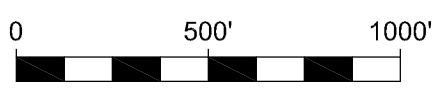
Dated the 24<sup>th</sup> day of March, 2021.

  
\_\_\_\_\_  
Jacob A. Woodford, Mayor, City of Appleton

# EXHIBIT "A"



BEARINGS ARE REFERENCED TO THE WISCONSIN COUNTY COORDINATE SYSTEM, CALUMET COUNTY, WEST LINE OF THE SW 1/4 SECTION 3, T.20N., R.18E.; WHICH BEARS N00°14'16"E  
 H:\Acad\Annex\2021\Coop Road\_Detach\_0302\_2021



**CITY OF APPLETON**  
 DEPT. OF PUBLIC WORKS  
 ENGINEERING DIVISION  
 100 NORTH APPLETON STREET  
 APPLETON, WI 54911  
 920-832-6474  
 DRAFTED BY: T. KROMM

**INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN  
CITY OF APPLETON AND VILLAGE OF HARRISON  
COOP ROAD**

The Parties to this Intergovernmental Cooperation Agreement (hereinafter the "Agreement") are the City of Appleton (hereinafter the "City") and the Village of Harrison (hereinafter the "Village").

**RECITALS**

**WHEREAS**, the boundaries between the City and Village have been established with the incorporation of the Village; and

**WHEREAS**, Coop Road is a significant boundary along the eastern edge of the City; and

**WHEREAS**, the majority of the Coop Road boundary is in the City;

**NOW THEREFORE**, the parties agree as follows:

1. The statutory authority for this Agreement is under Wis. Stat. §§66.0301(1)-(5).
2. Within 60 days of this Agreement, the City shall begin the process to detach from its incorporated boundaries, from the centerline of Coop Road to the Village limits and extending from Lorna Lane to Midway Road, said stretch shall thereafter be attached to the Village. As "owner" of the lands under said area to be detached, the City shall undertake the tasks required for detachment identified in Wis. Stat. §66.0227(1); and thereafter as soon as reasonably possible and practical adopt an ordinance for detachment pursuant to Wis. Stat. §66.0227(2); thereafter, within 60 days, the Village shall adopt an ordinance for attachment of said land pursuant to Wis. Stat. §66.0227(2).
3. The City shall resurface Coop Road, from Midway Road to Lorna Lane, with asphalt pavement in 2021.
4. In exchange for the foregoing, the Village shall pay the City \$120,000 towards the Coop Road asphalt resurfacing project based on the overall percentage of the project within the new Village boundary (56%). Said payment from the Village to the City shall be made within thirty (30) days of the resurfacing project's substantial completion.
5. The posted speed limit for the shared portion of Coop Road shall be mutually agreed upon by the City and Village.

Dated this 9 day of February, 2020.

SIGNATURES BEGIN ON THE FOLLOWING PAGE

VILLAGE OF HARRISON

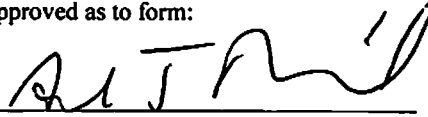
By:   
Kevin M. Hietpas, Village President

By:   
Jennifer Weyenberg, Village Clerk

Provision has been made to pay the liability that will accrue under this contract

Approved as to form:

  
Jennifer Weyenberg, Clerk-Treasurer

  
Andrew J. Rossmeissl, Village Attorney

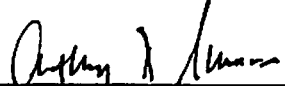
CITY OF APPLETON

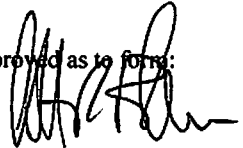
By:   
Jacob A. Woodford, Mayor

By:   
Kami Lynch, City Clerk

Provision has been made to pay the liability that will accrue under this contract

Approved as to form:

  
Anthony D. Saucerman, Finance Director  
City Law: 20-0263

  
Christopher R. Behrens, City Attorney



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** April 13, 2021

**Common Council Meeting Date:** April 21, 2021

**Item:** Final Plat – Apple Ridge 2

**Prepared By:** Don Harp, Principal Planner

### GENERAL INFORMATION

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**Owner/Applicant:** Apple Tree - Appleton Four, LLC c/o Jason Mroz

**Consulting Engineering Firm:** Davel Engineering & Environmental, Inc. (John Davel, P.E. and James R. Sehloff, P.L.S.)

**Location:** East of the first phase of Apple Ridge subdivision (See zoning and aerial maps)

**Tax Id Numbers:** 31-1-8307-00, 31-1-8307-03, 31-1-8307-04, and 31-1-8307-05

**Petitioner's Request:** The applicant is proposing to subdivide the property for single-family residential development (Phase 2 of the Apple Ridge Community).

### BACKGROUND

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The subject property was included in the Apple Ridge Annexation that was approved by the Plan Commission on August 7, 2018 and by the Common Council on August 15, 2018. The subject property was officially annexed to the City on August 21, 2018.

Rezoning #9-18 from Temporary AG Agricultural District to R-1B Single-Family District was approved by the Common Council on September 19, 2018.

The Final Plat for Apple Ridge (Phase 1) was approved by the Plan Commission on October 9, 2018 and by the Common Council on October 17, 2018.

Special Use Permit #7-18 for a private recreational facility constructed on Lot 1 of Apple Ridge (Phase 1) subdivision was approved on December 5, 2018 by the Common Council.

The Preliminary Plat for Apple Ridge 2 was approved by the Plan Commission on February 9, 2021 and by the Common Council on February 17, 2021.

## **STAFF ANALYSIS**

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**Existing Conditions:** The subject area to be subdivided is currently undeveloped. The land area to be platted for single-family residential development totals 34.3711 acres, which will be divided into 92 lots and 3 outlots. Outlots 8 and 10 will be used for stormwater management purposes. Outlot 9 will be deed restricted, in regard to ownership, to Lot 8 of Apple Ridge (Phase 1).

**Comparison between Final Plat and Preliminary Plat:** The Final Plat is consistent with the Preliminary Plat layout in terms of the shape, size, and location of the lots.

**Zoning Ordinance Review Criteria:** Lot development standards (Section 23-93 R-1B Single-family district of the Municipal Code) are as follows:

- Minimum lot area: Six thousand (6,000) square feet.
  - *Proposed lot numbers 79-170 range in size from 8,236 square feet to 36,283 square feet. The size of the outlots are as follows: Outlot 8 (17,110 square feet), Outlot 9 (482 square feet, per modification granted by the Common Council on February 17, 2021) and Outlot 10 (100,319 square feet).*

*Note: Per Final Plat Note #1, Outlot 9 will be deed restricted in regard to ownership to Lot 8 of Apple Ridge (Phase 1). If, in the future, these lots are combined together by a Certified Survey Map, Plan Commission and Council approval will be required because the lots were platted in different plats.*

- Minimum lot width: Fifty (50) feet.
  - *The typical lot dimensions for the proposed lots are 57 feet x 150 feet. All lots and outlots appear to satisfy this requirement.*
- Minimum front, side, and rear yard setbacks: Twenty (20) foot front yard [twenty-five (25) foot minimum on arterial street], Six (6) foot side yard, and Twenty-five (25) foot rear yard.
  - *Required setbacks for buildings and structures will be reviewed through the building permit review process.*
- Maximum building height: Thirty-five (35) feet.
  - *This will be reviewed through the building permit review process.*
- Maximum lot coverage: Fifty percent (50%).
  - *This will be reviewed through the building permit review process.*

**Compliance with the Appleton Subdivision Regulations:**

- On February 17, 2021, the Common Council granted relief at the Preliminary Plat approval stage for the following regulations: 1) The two (2) length to one (1) width ratio, per Section 17-26(g) of the Municipal Code for Lots 87-89, 109-110, 116, 120-123, 133 and 159-169, 2) The minimum lot area requirement of 6,000 square feet, per Section 17-3(c)(6) and Section 23-93(g)(1) of the Municipal Code for Outlot 9 which is 482 square feet, and 3) The requirement which says lots shall abut on a public street or an approved access, per Section 17-26 (c)(1) for Outlot 8 that does not abut a dedicated public street but will be accessed from Outlot 7 (stormwater pond site) located in Apple Ridge (Phase 1).

**Access and Traffic:** Vehicular access to the subject lots will be provided by extending Baldeagle Drive and Harrier Lane from Apple Ridge (Phase 1), which will allow the construction of Kestrel Circle. Ultimately, Baldeagle Drive will connect to Lighting Drive extended.

**Surrounding Zoning Classification and Current Land Uses:**

**North:** City Zoning: R-1B Single-Family District  
Town of Grand Chute Zoning: AGD General Agricultural District  
Current Land Uses – Undeveloped single family lot and Agricultural

**South:** Town of Grand Chute Zoning: AGD General Agricultural District  
Current Land Uses – Residential and Agricultural

**East:** Town of Grand Chute Zoning: AGD General Agricultural District  
Current Land Use – Agricultural

**West:** City Zoning: R-1B Single-Family District  
Current Land Use – Single-family residential and wetland/floodplain/navigable stream corridor

**Appleton Comprehensive Plan 2010-2030:** Community and Economic Development staff has reviewed this proposal and determined it is compatible with the One and Two-Family Residential 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 3 – Housing Quality, Variety, and Affordability*

*Appleton will provide a variety of rental and ownership housing choices in a range of prices affordable to community residents, and ensure that existing housing is adequately maintained in terms of physical quality and market viability.*

**OBJECTIVE 5.3 Housing and Neighborhoods:**

*Provide a range of housing options that meet the needs and appeal to all segments of the community and allows residents to age in place.*

*Policy 5.3.3 Plan for a supply of developable land suitable for residential development.*

**OBJECTIVE 10.1 Land Use:**

*Provide an adequate supply of suitable land meeting the demand for development of various land uses.*

**OBJECTIVE 10.4 Land Use:**

*Plan for compact, efficient, and fiscally responsible growth of residential, commercial, and industrial development in new neighborhoods in order to implement the principles of smart growth.*

*Policy 10.4.1 Continue to guide residential growth to locations either contiguous to or within presently urbanized areas. As peripheral development occurs, it should be at a compact, urban density to ensure new neighborhoods can be efficiently served by public infrastructure.*

**Parks and Open Space:** Section 17-29 of the Municipal Code requires parkland dedication or fee in lieu of dedication for residential subdivisions. Since no parkland will be dedicated on the subject property, park fees will be due prior to the City signing the Final Plat. For lots zoned R-1B Single-Family District, park fees are \$300 per lot for a total of \$27,600.

**Plat Progress and Technical Review Group (TRG) Report:**

- 3-15-21 - Preliminary Plat Application, Plat Review Fee and Plat Maps submitted to City Hall.
- 3-19-21 - Item added to the March 23, 2021 TRG Agenda and distributed to City staff.
- 4-6-21 - City Surveyor conditions of approval 4-13 in the recommendation section of the report received.
- 4-8-21 - DPW (Engineering): The Stormwater Management Plan is currently under review and comments from the stormwater consultant are pending. The Final Plat can proceed to Plan Commission and Common Council with understanding that any major changes to the Final Plat as a result of the stormwater review comments may require a revised Final Plat to be acted on by the Plan Commission and Common Council.
- 4-8-21 - Final Plat filed with City Clerk's Office.



**Review and Decision by Plan Commission:** The Plan Commission shall, within 30 days of the date of the filing of Final Plat with the City Clerk, recommend approval, conditional approval or denial of the plat to the Common Council, unless time is extended by agreement in writing between the City and Owner.

**Review and Decision by Common Council:** The Common Council shall, after receipt of the Plan Commission recommendation and within 60 days of the date of the filing of Final Plat with the City Clerk, approve, approve with conditions or deny the plat, unless time is extended by agreement in writing between the City and Owner.

### **RECOMMENDATION**

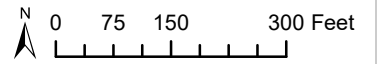
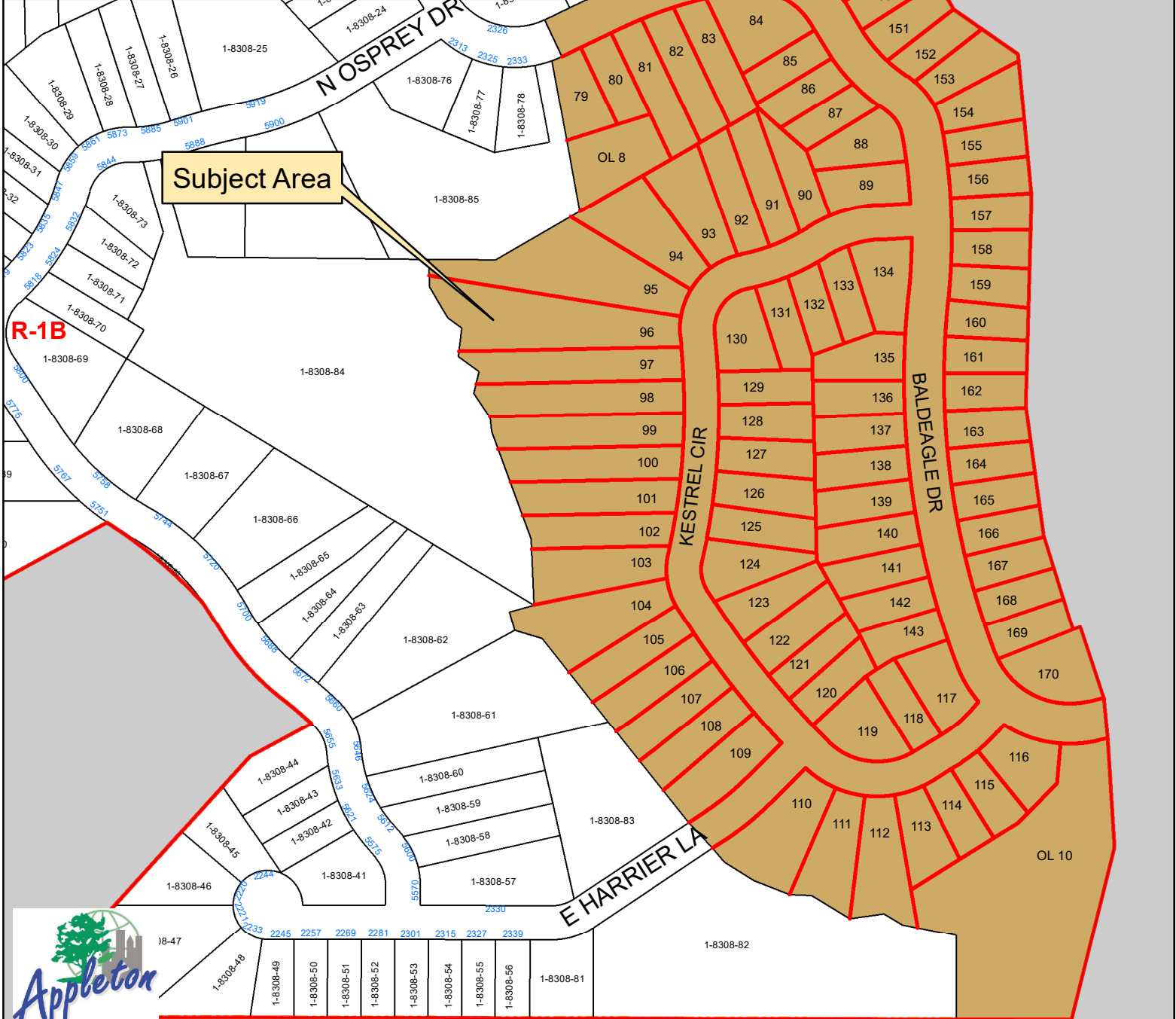
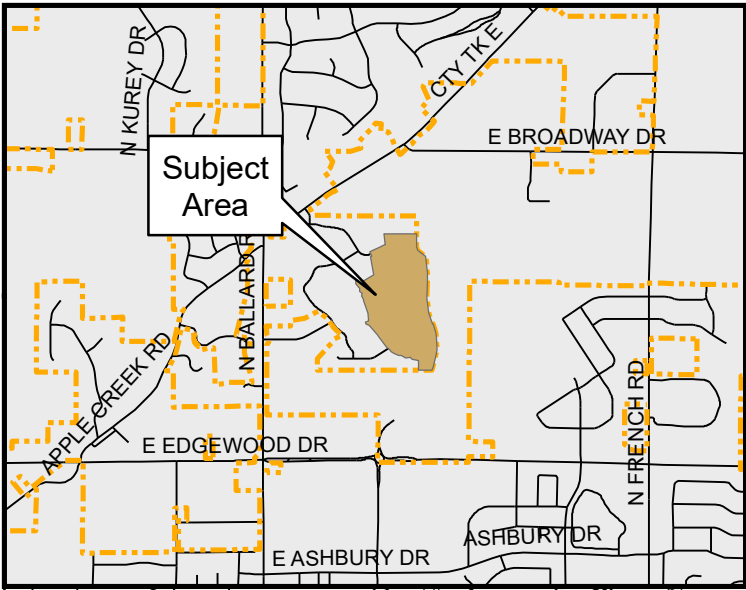
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The Apple Ridge 2 Final Plat, as shown on the attached maps, **BE APPROVED** subject to the following conditions:

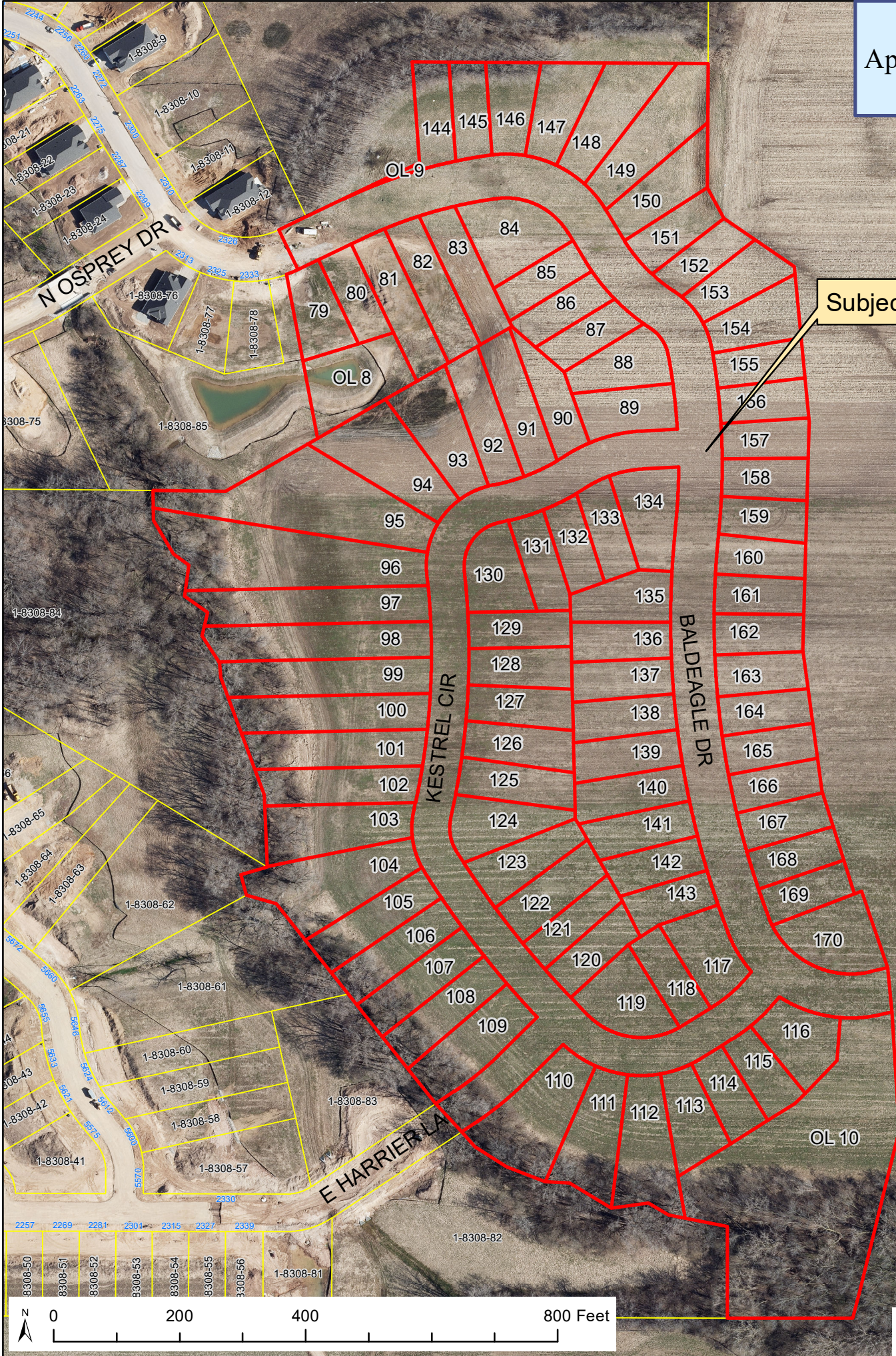
1. A Development Agreement is required between the City and applicant that identifies the duties and responsibilities with respect to development of the subject land.
2. All requirements from the City of Appleton Department of Public Works, Engineering Division shall be met to the satisfaction of the City Engineer prior to the City affixing signatures on the Final Plat.
3. The following streets within the Final Plat are to be classified as follows:
  - a. Baldeagle Drive: Collector Street
  - b. Kestrel Circle: Local Street
  - c. Harrier Lane: Local Street
4. Remove all instances of the phrase “Dedicated to the Public for Storm Water Management” from all the sheets of the plat that are shown within the proposed outlots. The City prefers to have these storm water management areas deeded to the City based on the conditions outlined in the Development Agreement.
5. The monument lengths listed on Sheet 1 do not comply with City Municipal Code Section 17-12(e), revise as necessary.
6. Label Outlot 9 on Sheet 1.
7. Label the East/West line running through Lots 93, 94, 95, 133, 134 and 158 or identify it in the Legend on Sheet 1.
8. Label the North/South dashed line running through Baldeagle Drive, Lots 80, 81, OL 8, and 94-107 or identify it in the Legend on Sheet 1.

9. Ordinary High Water Mark (OHWM) is not legible on Sheets 1-4, revise as necessary.
10. Remove Note 2 from Sheet 6.
11. A cursory review of the line and curve data tables on Sheet 5 revealed errors in L6 and C118, revise as necessary.
12. Provide additional dimensions for the Landscape Easement shown running through Lot 170. The additional dimensions should be sufficient enough to map the limits of the easement.
13. There is a 20' drainage easement shown along the East side of Lots 154 and 155 and possibly Lot 158. It appears that some of the line work may be missing for this easement, revise as necessary.
14. Prior to City signatures being affixed to the Final Plat, park fees shall be paid to the City of Appleton Finance Department pursuant to Section 17-29 of the Municipal Code. For lots zoned R-1B Single-Family District, park fees are \$300 per lot for a total of \$27,600.
15. The Final Plat shall be recorded within 12 months from the approval date of the last approving authority and within 36 months from the approval date of the first approving authority. Failure to do so requires the subdivider to recommence the entire procedure for Final Plat approval.

# Final Plat Apple Ridge 2 Zoning Map



# Final Plat Apple Ridge 2 Aerial Map



Subject Area



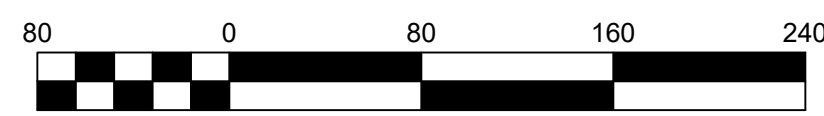
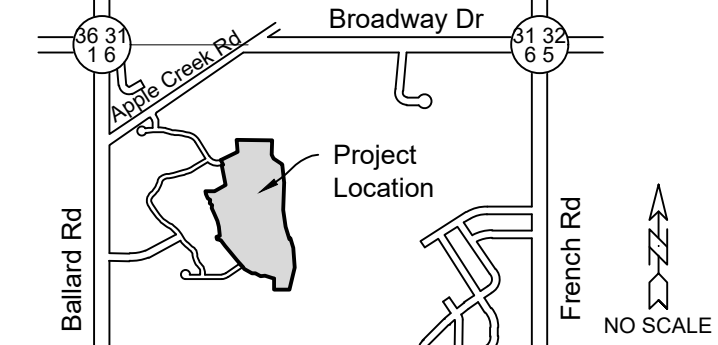
City Plan Commission  
4-13-2021

# Apple Ridge 2

Part of the Southwest 1/4 of the Fractional Northwest 1/4; part of the Southeast 1/4 of the Fractional Northwest 1/4; part of Northeast 1/4 of the Fractional Southwest 1/4 and part of Lot 2 CSM 3863, located in part of the Northwest 1/4 of the fractional Southwest 1/4 all being part of Section 06, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin.

## LOCATION MAP

NW 1/4 SEC 6, T 21 N, R 18 E,  
TOWN/CITY OF GRAND CHUTE  
OUTAGAMIE COUNTY, WI



Bearings are referenced to the West line of the Southwest 1/4, Section 06, T21N, R18E, assumed to bear N00°09'08"W, based on the Outagamie County Coordinate System.

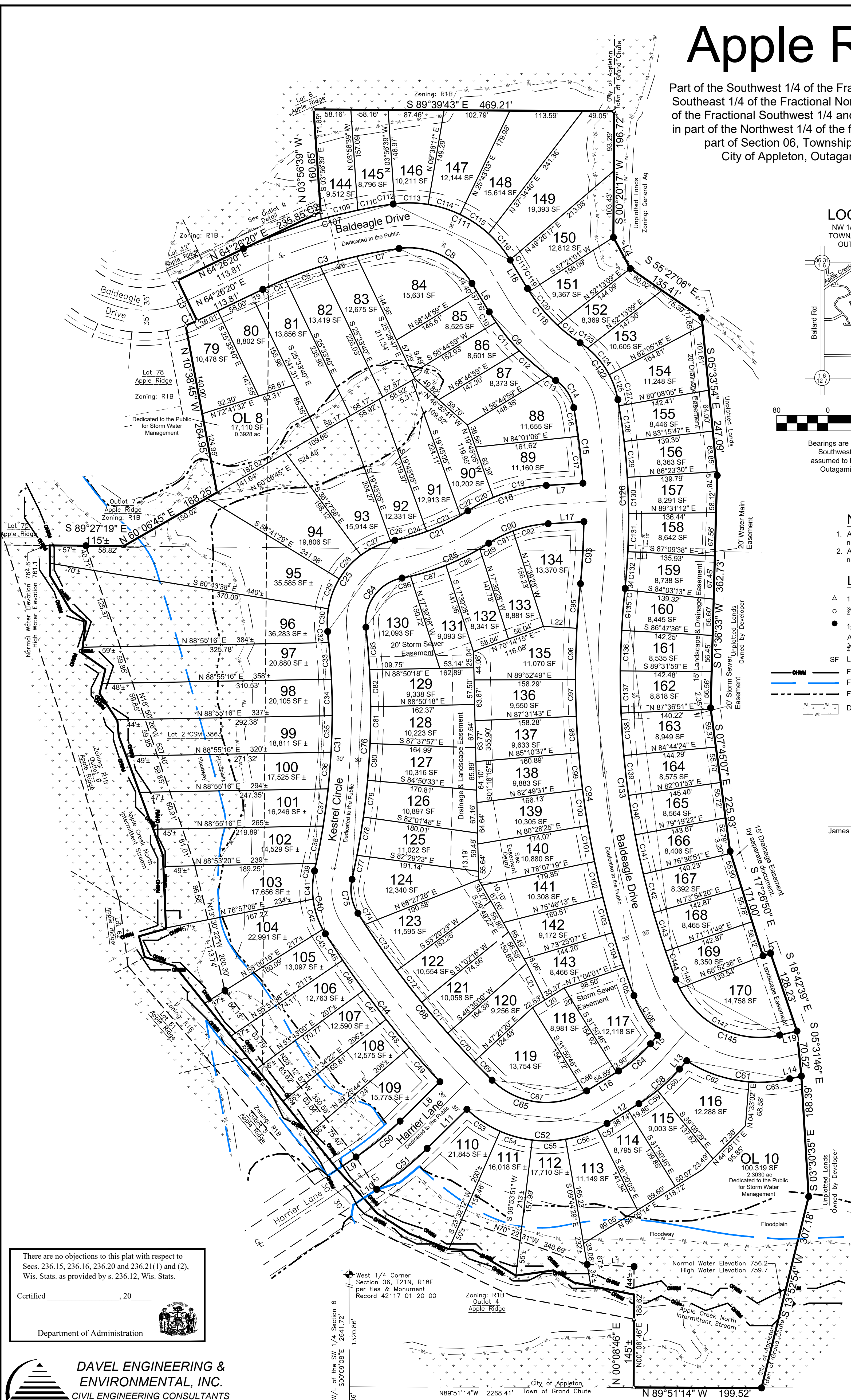
## NOTES

- All linear measurements have been made to the nearest one hundredth of a foot.
- All bearings are computed and measured to the nearest second.

## LEGEND

- △ 1 1/2" Rebar Found
- 3/4" Rebar Found
- 1 1/2" x 18" Steel Rebar @ 4.30lbs/LF SET
- All Other Corners
- 3/4" x 18" Steel Rebar @ 1.50lbs/LF SET
- SF Lot Areas In Square Feet
- Floodway
- Floodway
- Floodplain
- Delineated Wetlands

James R. Sehloff PLS 2692 Date



There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified \_\_\_\_\_, 20\_\_

Department of Administration

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 1811 Racine Street, Menasha, WI 54952  
 Ph: 920-991-1866 Fax: 920-830-9595  
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File: 6363Final2.dwg  
 Date: 03/11/2021  
 Drafted By: jim  
 Sheet: 1 of 6  
 Revision Date: Mar 11, 2021

# Apple Ridge 2

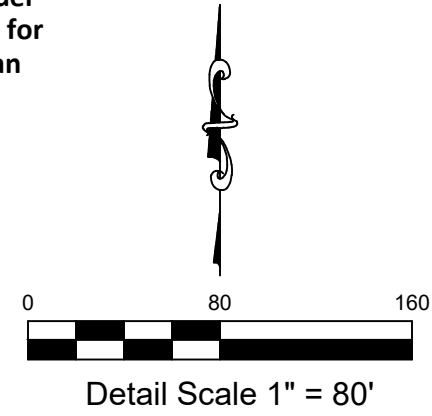
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## Shoreland Zoning Setback Exhibit:

- Construction or placement of structures is prohibited within the shoreland setback area. The following requirements apply as excerpted from Appleton Municipal Cod Sec. 23-754:
- (a) There shall be established a shoreland setback area of at least fifty (50) feet from the ordinary high water mark.
  - (c) A person who owns shoreland property that contains vegetation, shall maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending thirty-five (35) inland from the ordinary high water mark of a navigable water.
  - (d) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation the owner of the shoreland property may remove the vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.
  - (e) The person who is required to maintain or establish a vegetative buffer zone under paragraph (c) above, may remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no more than thirty (30) feet wide for every one hundred (100) feet of shoreland frontage and that extends no more than thirty-five (35) feet inland from the ordinary high water mark.

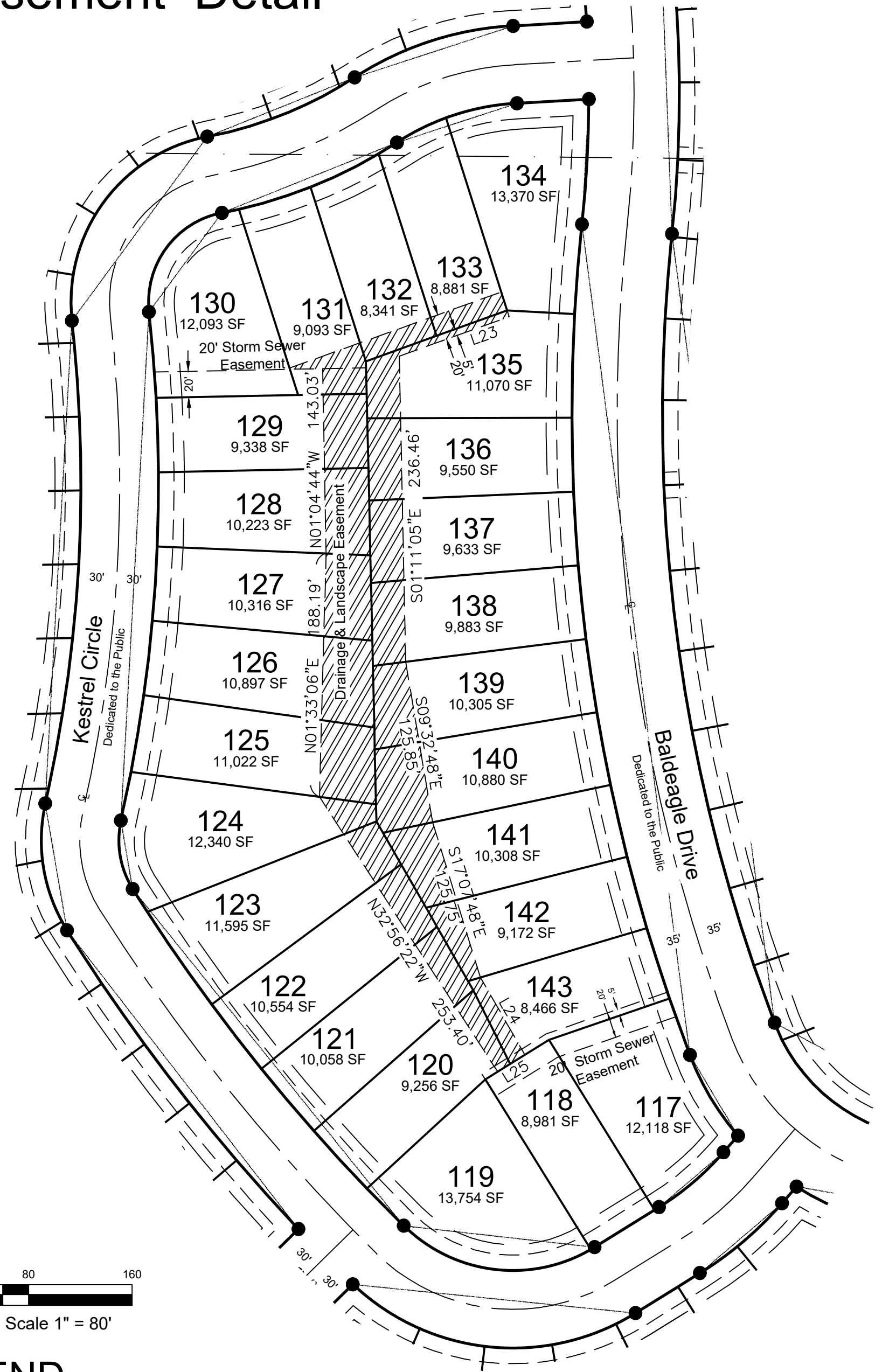
## LEGEND

- 50' Setback From OHWM
- Meets & Bounds linework



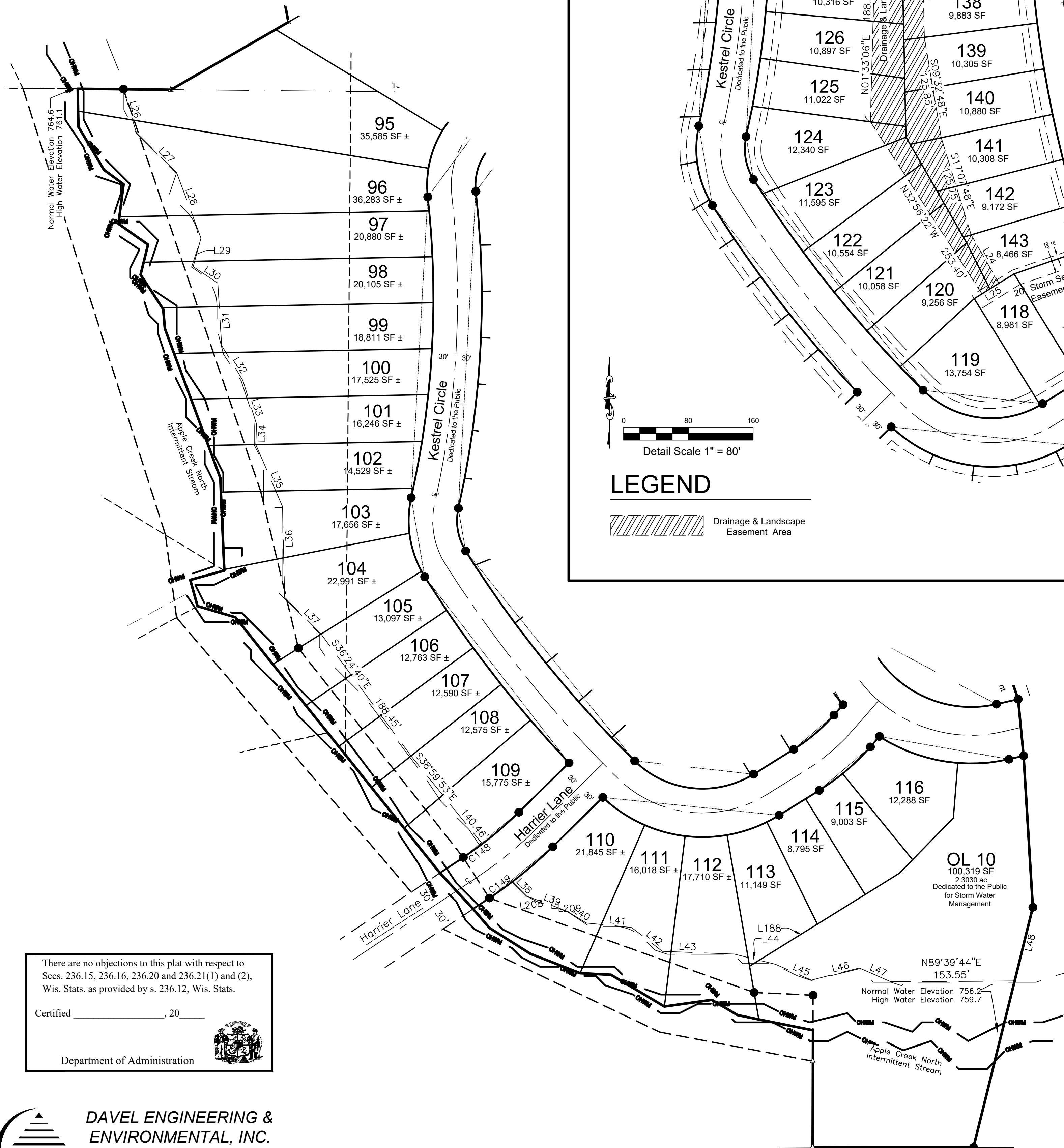
This exhibit is a representation of current conditions and regulations, at the time of platting. Per the City's current interpretation of City of Appleton code 17.12(b)(2) dimensioned location of these lines is required. Due to changing nature of environmental conditions and regulatory nature of wetlands, flood plain and ordinary high water mark these dimensions should only act as a guide and actual field conditions and/or legislative regulations are held over dimensions shown on this map.

## Drainage & Landscape Easement Detail



## LEGEND

- Drainage & Landscape Easement Area



There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

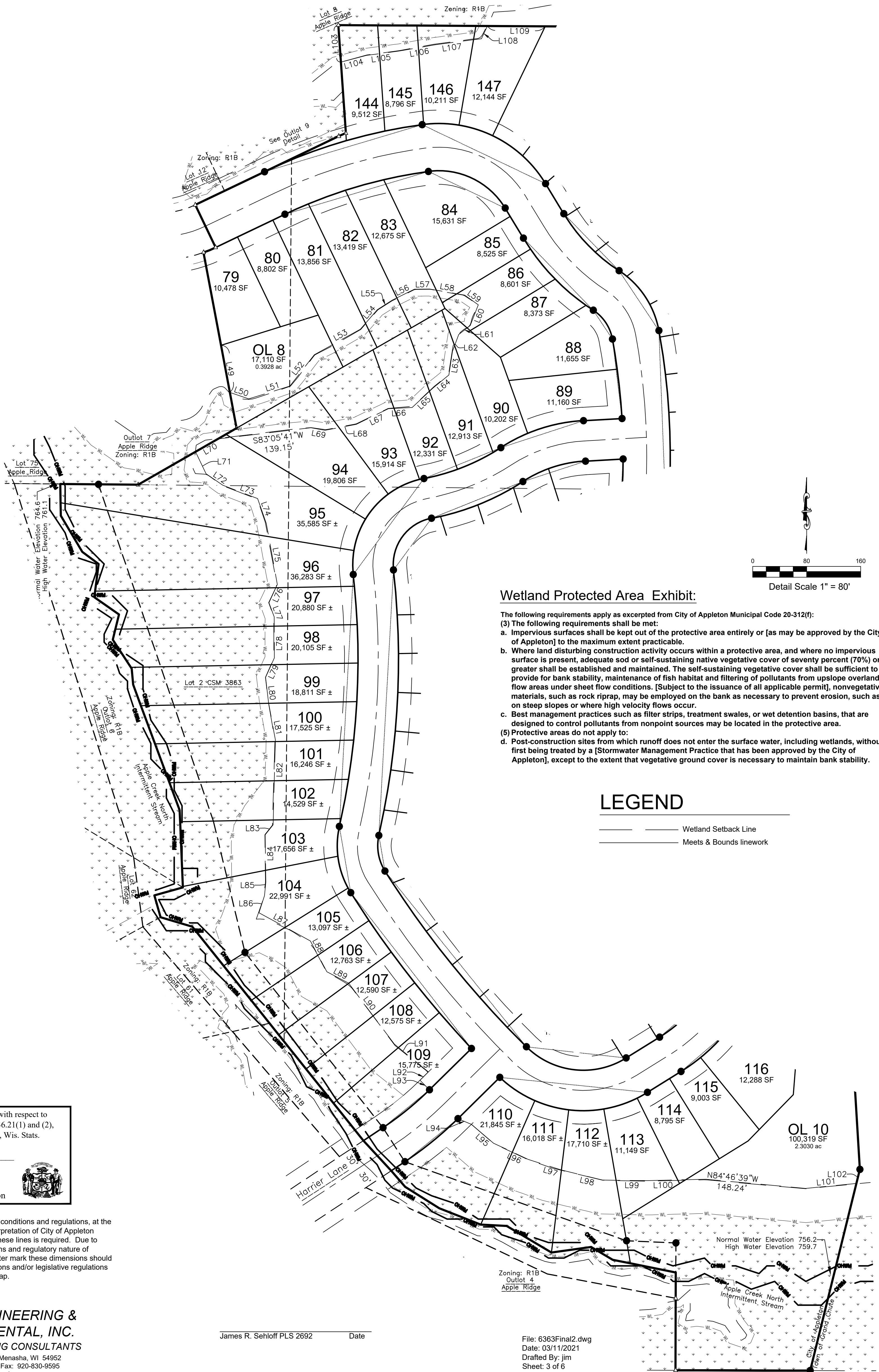
Certified \_\_\_\_\_, 20\_\_

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Part of the Southwest 1/4 of the Fractional Northwest 1/4; part of the Southeast 1/4 of the Fractional Northwest 1/4; part of Northeast 1/4 of the Fractional Southwest 1/4 and part of Lot 2 CSM 3863, located in part of the Northwest 1/4 of the fractional Southwest 1/4 all being part of Section 06, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin.



### Wetland Protected Area Exhibit:

- The following requirements apply as excerpted from City of Appleton Municipal Code 20-312(f):
- (3) The following requirements shall be met:
- Impervious surfaces shall be kept out of the protective area entirely or [as may be approved by the City of Appleton] to the maximum extent practicable.
  - Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining native vegetative cover of seventy percent (70%) or greater shall be established and maintained. The self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. [Subject to the issuance of all applicable permit], nonvegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
  - Best management practices such as filter strips, treatment swales, or wet detention basins, that are designed to control pollutants from nonpoint sources may be located in the protective area.
- (5) Protective areas do not apply to:
- Post-construction sites from which runoff does not enter the surface water, including wetlands, without first being treated by a [Stormwater Management Practice that has been approved by the City of Appleton], except to the extent that vegetative ground cover is necessary to maintain bank stability.

### LEGEND

- Wetland Setback Line
- Meets & Bounds linework

There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified \_\_\_\_\_, 20\_\_



Department of Administration

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James R. Sehloff PLS 2692 Date

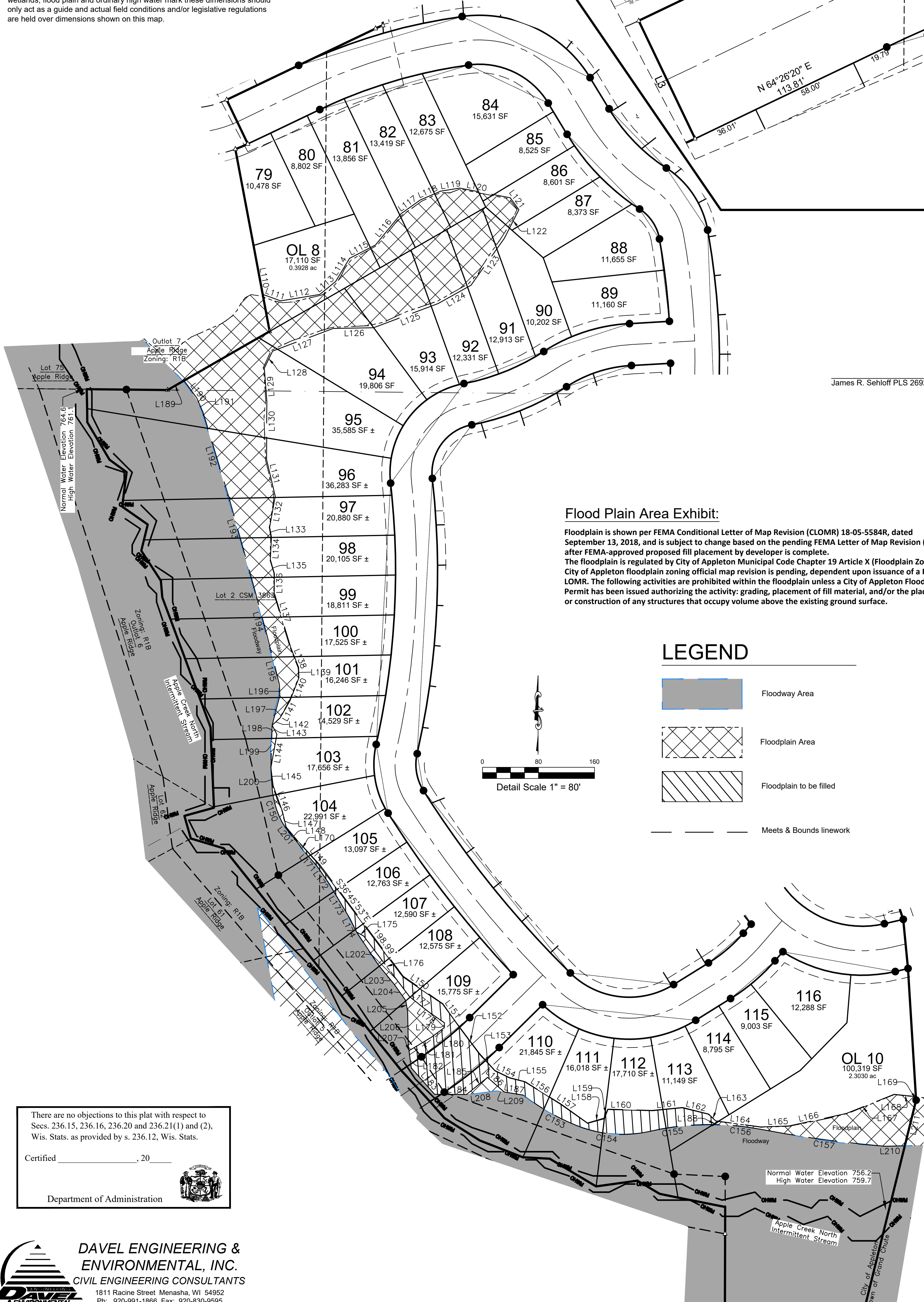
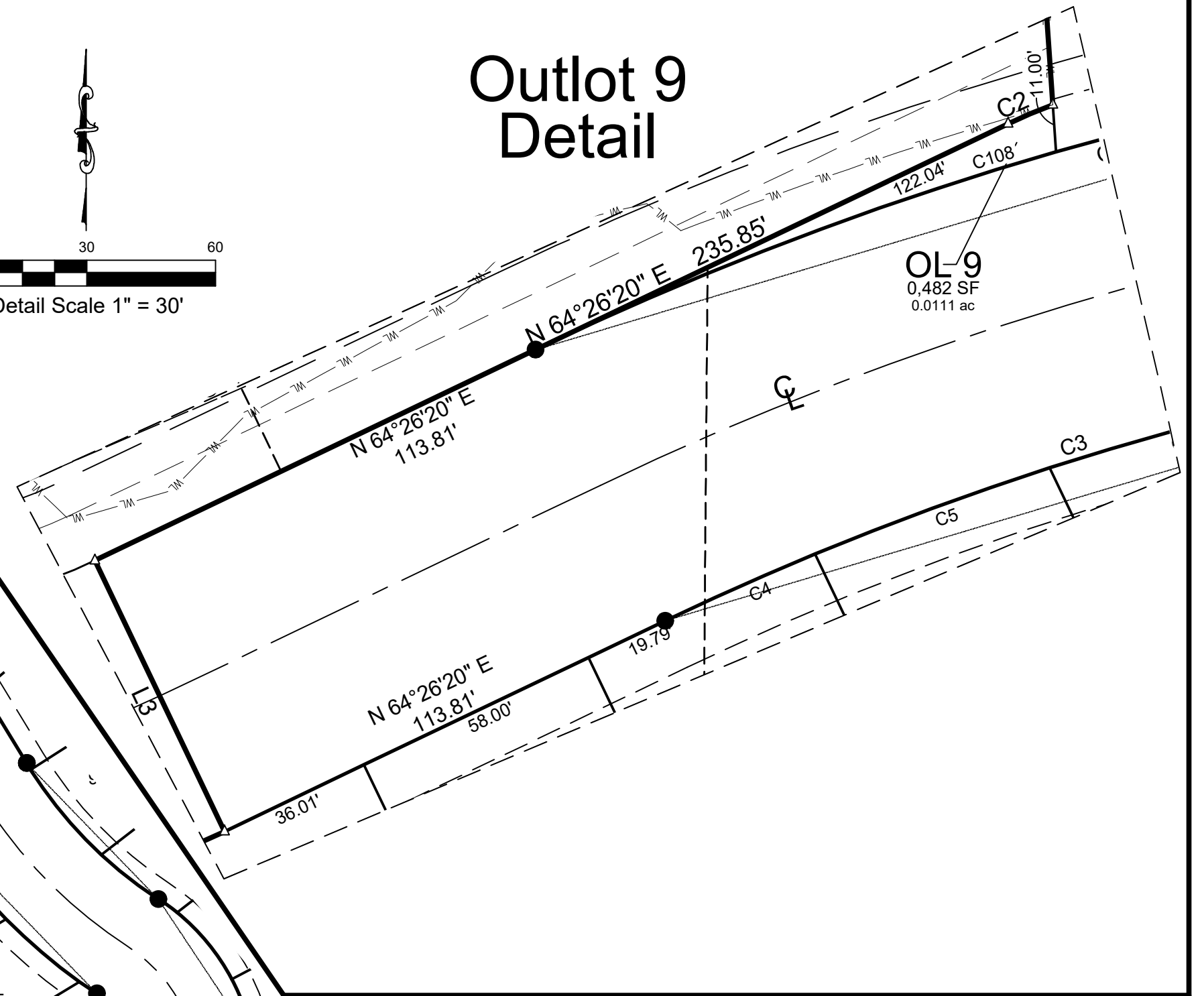
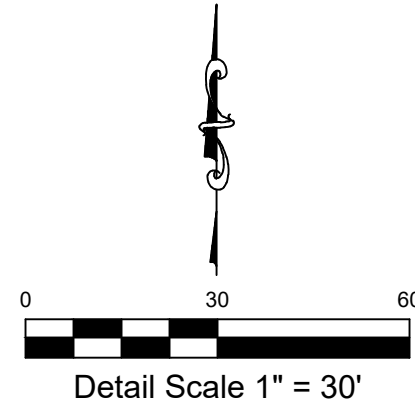
File: 6363Final2.dwg  
 Date: 03/11/2021  
 Drafted By: jim  
 Sheet: 3 of 6  
 Revision Date: Mar 11, 2021

# Apple Ridge 2

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## Outlot 9 Detail



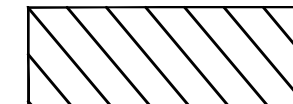
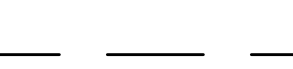


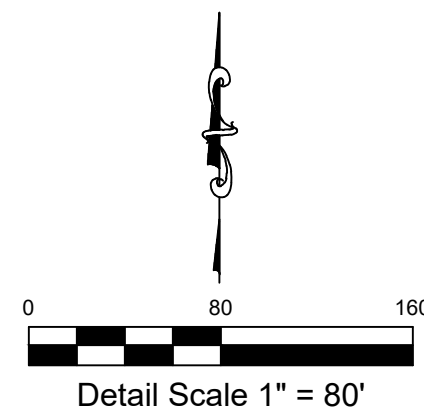
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### Flood Plain Area Exhibit:

Floodplain is shown per FEMA Conditional Letter of Map Revision (CLOMR) 18-05-5584R, dated September 13, 2018, and is subject to change based on the pending FEMA Letter of Map Revision (LOMR) after FEMA-approved proposed fill placement by developer is complete. The floodplain is regulated by City of Appleton Municipal Code Chapter 19 Article X (Floodplain Zoning). A City of Appleton floodplain zoning official map revision is pending, dependent upon issuance of a FEMA LOMR. The following activities are prohibited within the floodplain unless a City of Appleton Floodplain Permit has been issued authorizing the activity: grading, placement of fill material, and/or the placement or construction of any structures that occupy volume above the existing ground surface.

### LEGEND

-  Floodway Area
-  Floodplain Area
-  Floodplain to be filled
-  Meets & Bounds linework



There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified \_\_\_\_\_, 20\_\_

Department of Administration



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LINE TABLE		
Line	Bearing	Length
L1	S 87°23'17" E	73.24'
L2	S 32°45'52" E	60.01'
L3	N 25°33'40" W	70.00'
L4	S 28°25'33" E	55.45'
L5	S 71°17'21" W	12.59'
L6	S 31°15'01" E	37.76'
L7	N 86°40'29" E	57.13'
L8	N 45°25'37" E	67.37'
L9	N 56°23'11" E	33.93'
L10	S 56°23'11" W	24.26'
L11	S 45°25'37" W	87.19'
L12	N 58°09'14" E	38.74'
L13	N 41°02'27" E	17.14'
L14	N 76°55'16" E	18.68'
L15	N 41°02'27" E	17.14'
L16	N 86°40'27" E	55.81'
L17	S 31°15'01" W	52.16'
L18	N 77°06'07" E	27.72'
L19	N 58°00'14" E	35.37'
L20	S 26°32'14" E	63.71'
L21	S 87°00'46" E	52.27'
L22	N 70°14'15" E	90.27'
L23	S 29°49'22" E	68.87'
L24	S 58°00'14" W	24.75'
L25	S 16°32'17" E	56.47'
L26	S 45°15'07" E	70.31'
L27	S 20°25'15" E	86.80'
L28	S 15°24'36" W	36.65'
L29	S 56°11'20" E	36.93'
L30	S 03°27'25" E	77.68'
L31	S 03°09'54" E	50.80'
L32	S 17°30'45" E	56.49'
L33	S 01°57'18" W	25.78'
L34	S 23°20'51" E	83.63'
L35	S 01°22'57" E	112.76'
L36	S 44°49'35" E	63.64'
L37	S 44°34'52" E	25.13'
L38	S 69°32'37" E	53.45'
L39	S 58°33'53" E	28.11'
L40	S 84°19'28" E	56.46'
L41	S 52°14'55" E	48.28'
L42	S 87°45'49" E	89.41'
L43	S 76°01'40" E	52.54'
L44	S 66°17'36" E	48.65'
L45	N 75°46'21" E	61.40'
L46	S 66°18'44" E	42.74'
L47	S 13°52'54" W	94.27'
L48	N 10°38'45" W	71.01'
L49	S 70°57'23" E	29.60'
L50	N 57°38'28" E	63.87'
L51	S 37°56'50" E	58.95'
L52	N 61°05'19" E	77.85'
L53	N 40°54'44" E	38.42'
L54	N 57°20'02" E	25.94'
L55	N 63°40'07" E	37.13'
L56	N 89°22'32" E	22.50'
L57	N 80°03'31" E	52.53'
L58	S 54°44'18" E	24.98'
L59	S 21°27'24" W	33.16'
L60	S 52°18'56" W	21.43'
L61	S 20°27'49" W	26.50'
L62	S 08°45'15" W	35.70'
L63	S 50°45'02" W	30.74'
L64	S 46°38'13" W	41.83'
L65	S 07°06'30" W	35.40'
L66	S 64°09'45" W	52.93'
L67	S 79°09'17" W	47.08'
L68	N 79°37'09" W	21.18'
L69	N 60°06'45" W	37.95'
L70	N 25°31'44" W	36.15'
L71	N 55°36'45" W	30.15'
L72	N 68°55'31" W	55.20'
L73	N 19°24'25" W	38.76'
L74	N 10°14'26" W	92.21'
L75	N 24°44'40" W	29.65'
L76	N 20°19'36" W	22.41'
L77	N 00°13'37" W	60.83'
L78	N 24°20'34" W	31.62'
L79	N 06°36'40" W	37.93'
L80	N 10°26'33" W	56.18'
L81	N 01°32'06" W	125.64'
L82	N 38°26'13" E	19.10'
L83	N 00°50'50" W	70.15'
L84	N 05°38'51" E	19.96'
L85	N 17°49'51" E	26.70'
L86	N 61°10'13" W	86.89'
L87	N 28°16'31" W	51.87'
L88	N 62°20'19" W	36.58'
L89	N 36°49'51" W	112.70'
L90	N 50°46'28" W	65.03'
L91	N 44°57'32" E	17.54'
L92	N 44°34'23" W	20.00'
L93	S 67°34'34" E	21.73'
L94	N 49°17'30" W	43.18'
L95	N 65°07'28" W	56.74'
L96	N 72°11'09" W	51.51'
L97	N 76°16'30" W	63.00'
L98	N 89°17'16" W	66.14'
L99	S 88°39'41" W	86.98'

LINE TABLE		
Line	Bearing	Length
L101	S 84°30'49" W	75.71'
L102	N 13°52'54" E	21.50'
L103	S 03°56'39" E	55.03'
L104	N 75°18'52" E	39.37'
L105	N 82°20'10" E	49.87'
L106	N 80°01'00" E	52.38'
L107	N 82°34'12" E	69.76'
L108	N 25°28'25" E	20.89'
L109	S 89°39'43" E	85.54'
L110	S 10°38'45" E	71.15'
L111	S 70°06'41" E	27.45'
L112	N 80°32'50" E	56.58'
L113	N 50°36'42" E	29.29'
L114	N 31°08'53" E	38.36'
L115	N 62°42'02" E	41.87'
L116	N 39°18'03" E	57.64'
L117	N 54°18'28" E	34.02'
L118	N 66°44'56" E	31.42'
L119	N 80°52'04" E	27.35'
L120	S 79°19'01" E	73.60'
L121	S 36°03'21" E	21.10'
L122	S 26°56'07" W	45.91'
L123	S 35°19'17" W	82.31'
L124	S 60°58'58" W	53.77'
L125	S 69°25'35" W	98.53'
L126	S 88°54'58" W	57.71'
L127	S 69°34'39" W	92.43'
L128	S 25°42'56" W	27.15'
L129	S 04°22'00" E	46.63'
L130	S 00°11'02" W	83.84'
L131	S 13°09'28" E	54.11'
L132	S 10°08'36" E	44.90'
L133	S 17°30'45" E	14.46'
L134	S 03°04'49" W	31.95'
L135	S 16°16'11" E	21.24'
L136	S 00°28'22" W	27.19'
L137	S 16°40'09" E	81.29'
L138	S 21°46'56" E	30.99'
L139	S 00°52'52" E	15.10'
L140	S 21°20'45" W	35.19'
L141	S 29°47'02" W	28.24'
L142	S 47°35'45" W	15.16'
L143	S 27°02'44" E	14.63'
L144	S 10°09'20" W	48.32'
L145	S 07°04'41" E	26.19'
L146	S 20°01'42" E	38.13'
L147	S 13°21'30" E	23.93'
L148	S 39°47'14" E	26.45'
L149	S 42°55'58" E	45.66'
L150	S 55°23'57" E	69.12'
L151	S 35°00'57" E	28.91'
L152	S 36°50'13" E	59.34'
L153	S 42°11'58" E	32.92'
L154	S 64°15'50" E	23.30'
L155	S 75°21'54" E	22.91'
L156	S 57°58'23" E	60.86'
L157	S 54°36'22" E	46.07'
L158	N 73°51'57" E	24.65'
L159	N 22°20'39" E	13.92'
L160	S 88°20'34" E	63.11'
L161	N 84°28'47" E	43.94'
L162	S 75°45'27" E	38.48'
L163	S 45°44'40" E	13.99'
L164	S 82°22'56" E	65.06'
L165	N 87°51'43" E	40.43'
L166	N 77°44'24" E	83.67'
L167	N 66°11'05" E	73.66'
L168	S 84°02'40" E	31.17'
L169	S 03°40'49" E	5.09'
L170	S 31°57'14" E	18.64'
L171	S 41°38'22" E	25.82'
L172	S 34°32'49" E	30.76'
L173	S 30°44'10" E	58.50'
L174	S 26°02'38" E	21.06'
L175	S 60°35'12" E	11.67'
L176	S 37°09'20" E	108.73'
L177	S 51°17'00" E	33.51'
L178	S 55°25'24" E	28.78'
L179	S 02°06'00" W	7.15'
L180	S 53°56'23" W	23.58'
L181	S 58°58'35" W	36.62'
L182	S 07°24'24" E	24.76'
L183	S 41°36'24" E	50.49'
L184	S 89°38'42" E	45.47'
L185	N 50°48'35" E	38.71'
L186	S 48°32'11" E	31.54'
L187	S 81°01'39" E	27.55'
L188	S 56°42'45" W	9.07'
L189	N 60°06'45" E	37.12'
L190	S 36°21'09" E	20.71'
L191	S 23°50'26" E	22.43'
L192	S 16°48'24" E	128.00'
L193	S 15°41'20" E	133.63'
L194	S 15°06'14" E	69.05'
L195	S 14°09'48" E	73.79'
L196	S 02°14'22" E	15.47'
L197	S 14°34'01" W	43.81'
L198	S 01°45'57" W	60.62'
L199	S 01°45'57" W	60.62'
L200	S 03°45'14" E	33.87'

LINE TABLE		
Line	Bearing	Length
L201	S 38°04'43" E	46.86'
L202	S 33°31'42" E	57.85'
L203	S 39°34'43" E	33.96'
L204	S 35°20'18" E	28.70'
L205	S 10°44'12" E	15.72'
L206	S 00°57'53" E	48.39'
L207	S 07°24'24" E	8.00'
L208	N 83°00'26" E	43.25'
L209	S 81°01'39" E	10.85'
L210	N 88°49'19" E	29.04'
L211	N 13°52'54" E	67.21'

CURVE TABLE								
Curve	Radius	Chord Direction	Chord Length	Arc Length	Central Angle	Tangent Bearing-in	Tangent Bearing-out	
C1	190.00'	N 67°21'15" E	19.33'	19.33'	5°49'49"	N 70°16'10" E	N 64°26'20" E	
C2	130.00'	N 66°56'21" E	11.34'	11.34'	5°00'00"	N 64°26'20" E	N 69°26'21" E	
C3	715.00'	N 73°22'11" E	221.99'	222.89'	17°51'41"	N 64°26'20" E	N 82°18'01" E	
C4	715.00'	N 65°58'14" E	38.22'	38.22'	3°03'47"	N 64°26'20" E	N 67°30'07" E	
C5	715.00'	N 69°50'13" E	58.26'	58.27'	4°40'11"	N 67°30'07" E	N 72°10'19" E	
C6	715.00'	N 74°31'58" E	58.91'	58.93'	4°43'20"	N 72°10'19" E	N 76°53'38" E	
C7	715.00'	N 79°35'50" E	67.44'	67.47'	5°24'23"	N 76°53'38" E	N 82°18'01" E	
C8	115.00'	S 64°28'30" E	126.02'	133.37'	66°26'58"	N 82°18'01" E	S 31°15'01" E	
C9	335.00'	S 44°04'34" E	148.74'	149.98'	25°39'08"	S 31°15'01" E	S 56°54'08" E	
C10	335.00'	S 32°53'48" E	19.25'	19.26'	3°17'36"	S 31°15'01" E	S 34°32'36" E	
C11	335.00'	S 39°28'28" E	57.59'	57.66'	9°51'44"	S 34°32'36" E	S 44°24'20" E	
C12	335.00'	S 49°32'48" E	60.04'	60.12'	10°16'54"	S 44°24'20" E	S 54°41'15" E	
C13	335.00'	S 55°47'42" E	12.95'	12.95'	2°12'54"	S 54°41'15" E	S 56°54'08" E	
C14	65.00'	S 33°39'14" E	51.31'	52.75'	46°29'48"	S 56°54'08" E	S 10°24'20" E	
C15	960.00'	S 06°51'56" E	118.56'	118.63'	7°04'49"	S 10°24'20" E	S 03°19'31" E	
C16	960.00'	S 09°03'33" E	45.11'	45.12'	2°41'34"	S 10°24'20" E	S 07°42'46" E	
C17	960.00'	S 05°31'09" E	73.50'	73.51'	4°23'15"	S 07°42'46" E	S 03°19'31" E	
C18	250.00'	N 71°55'16" E	128.42'	129.87'	29°45'54"	N 57°02'19" E	N 86°48'13" E	
C19	250.00'	N 77°05'48" E	84.31'	84.71'	19°24'51"	N 67°23'22" E	N 86°48'13" E	
C20	250.00'	N 62°12'50" E	45.10'	45.16'	10°21'04"	N 57°02'19" E	N 67°23'22" E	
C21	320.00'	N 68°06'21" E	122.86'	123.62'	22°08'05"	N 79°10'23" E	N 57°02'19" E	
C22	320.00'	N 58°15'34" E	13.64'	13.64'	2°26'31"	N 59°28'49" E	N 57°02'19" E	
C23	320.00'	N 64°42'16" E	58.27'	58.35'	10°26'53"	N 69°55'42" E	N 59°28'49" E	
C24	320.00'	N 74°33'03" E	51.58'	51.63'	9°14'41"	N 79°10'23" E	N 69°55'42" E	
C25	130.00'	N 36°21'29" E	176.70'	194.29'	85°37'48"	N 06°27'25" W	N 79°10'23" E	
C26	130.00'	N 77°42'47" E	6.63'	6.63'	2°55'13"	N 76°15'10" E	N 79°10'23" E	
C27	130.00'	N 64°53'36" E	51.21'	51.55'	22°43'08"	N 53°32'02" E	N 76°15'10" E	
C28	130.00'	N 42°25'17" E	50.11'	50.43'	22°13'31"	N 31°18'31" E	N 53°32'02" E	
C29	130.00'	N 20°17'27" E	49.69'	50.00'	22°02'10"	N 09°16'22" E	N 31°18'31" E	
C30	130.00'	N 01°24'28" E	35.58'	35.69'	15°43'47"	N 06°27'25" W	N 09°16'22" E	
C31	1120.00'	N 03°09'13" E	373.97'	375.72'	19°13'15"	N 12°45'50" E	N 06°27'25" W	
C32	1120.00'	S 06°00'41" E	17.41'	17.41'	0°53'27"	S 05°33'58" E	S 03°12'25" E	
C33	1120.00'	N 04°08'21" W	57.08'	57.09'	2°55'13"	N 02°38'45" W	N 05°33'58" W	
C34	1120.00'	N 01°11'15" W	57.00'	57.01'	2°54'59"	N 00°16'14" E	N 02°38'45" W	

# Apple Ridge 2

Part of the Southwest 1/4 of the Fractional Northwest 1/4; part of the Southeast 1/4 of the Fractional Northwest 1/4; part of Northeast 1/4 of the Fractional Southwest 1/4 and part of Lot 2 CSM 3863, located in part of the Northwest 1/4 of the fractional Southwest 1/4 all being part of Section 06, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin.

## Surveyor's Certificate

I, James R. Sehloff, Professional land surveyor, hereby certify: That in full compliance with the provisions of Chapter 236 of the Wisconsin Statutes and the subdivision regulations of the City of Appleton, and under the direction of Apple Tree Appleton Four, LLC, owner of said land, I have surveyed divided and mapped Apple Ridge 2; that such plat correctly represents all exterior boundaries and the subdivision of the land surveyed; and that this land is part of the Southwest 1/4 of the Fractional Northwest 1/4; part of the Southeast 1/4 of the Fractional Northwest 1/4; part of Northeast 1/4 of the Fractional Southwest 1/4 and part of Lot 2 CSM 3863, located in part of the Northwest 1/4 of the fractional Southwest 1/4 all being part of Section 06, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin, containing 1,497,204 Square Feet (34.3711 Acres) of land, including all lands lying between the described meander line and the centerline of the Navigable Stream described as follows:

Commencing at the West 1/4 corner of Section 06; thence S00°09'08"E, 1320.86 feet to the East/West 1/4 line of the Fractional Southwest 1/4; thence, along said East/West 1/4 Line, N89°51'14"E, 2268.41 feet to the Southeast corner of Outlot 4, Apple Ridge said point also being the point of beginning; thence, N00°08'46"E, 188.62 feet to a meander point being N00°08'46"E, 44 feet more or less from the Center line of Navigable Stream; thence, along a meander line, N87°23'17"W, 73.24 feet to a meander point being N096°44'29"W, 67 feet more or less, from said Centerline of a Navigable Stream; thence, along a meander line, N70°22'31"W, 348.69 feet to a meander point being N56°23'11"E, 24 feet more or less, from said Centerline of a Navigable Stream; thence, continuing along a meander line, N32°45'52"W, 60.01 feet to a meander point being N56°23'11"E, 34 feet more or less, from said Centerline of a Navigable Stream; thence, along a meander line, N38°12'57"W, 330.58 feet to a meander point being N58°00'16"E, 37 feet more or less, from said Centerline of a Navigable Stream; thence, along a meander line, N13°30'22"W, 200.30 feet to a meander point being N88°53'20"E, 49 feet more or less, from said Centerline of a Navigable Stream; thence, along a meander line, N18°50'26"W, 527.40 feet to a meander point on the South line of Outlot 7 of said Apple Ridge, being S89°27'19"E, 57 feet more or less, from said Centerline of a Navigable Stream; thence along said South line, S89°27'19"E, 58.82 feet; thence, continuing along said South line, N60°06'45"E, 168.25 feet to the Southeast corner of said Outlot 7; thence, along the East line of said Outlot 7, N10°38'45"W, 264.95 feet to the South right of way line of Baldeagle Drive; thence, along said South right of way line, 19.33 feet along the arc of a curve to the left with a radius of 130.00 feet and a chord of 19.33 feet which bears N67°21'15"E; thence N25°33'40"W, 70.00 feet to the South line of Lot 12 of said Apple Ridge; thence, along said South line and the South line of Lot 8 of said Apple Ridge, N64°26'20"E, 235.85 feet; thence, continuing along said South line of said Lot 8, 11.34 feet along the arc of a curve to the right with a radius of 130.00 feet and a chord of 11.34 feet which bears S66°56'21"W; thence, along the East line of said Lot 8, S03°56'39"E, 160.65 feet; thence, along the South line of said Lot 8; S89°39'43"E, 469.21 feet; thence S00°20'17"W, 196.72 feet; thence S28°25'33"E, 55.45 feet; thence S55°27'06"E, 135.41 feet; thence S05°33'54"E, 247.09 feet; thence S01°36'33"W, 362.73 feet; thence S07°45'07"E, 225.93 feet; thence S17°26'50"E, 171.00 feet; thence N71°17'21"E, 12.59 feet; thence S18°42'39"E, 128.23 feet; thence S05°31'46"E, 70.52 feet; thence S03°30'35"E, 188.39 feet; thence S13°52'54"W, 307.18 feet to the East/West 1/4 line of said Fractional Southwest 1/4; thence, along said 1/4 line, N89°51'14"W, 199.52 feet to the point of beginning.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

James R. Sehloff, Wisconsin Professional Land Surveyor No. S-2692

## Utility Easement Provisions

An easement for electric, natural gas, and communications service is hereby granted by

Apple Tree Appleton Four, LLC, Grantor, to:

Wisconsin Electric Power Company and Wisconsin Gas, LLC, Wisconsin corporations doing business as We Energies, Grantee, SBC, Grantee, and Time Warner Cable, Grantee

their respective successors and assigns, to construct, install, operate, repair, maintain and replace from time to time, facilities used in connection with overhead and underground transmission and distribution of electricity and electric energy, natural gas, telephone and cable TV facilities for such purposes as the same is now or may hereafter be used, all in, over, under, across, along and upon the property shown within those areas on the plat designated as "Utility Easement Areas" and the property designated on the plat for streets and alleys, whether public or private, together with the right to install service connections upon, across within and beneath the surface of each lot to serve improvements, thereon, or on adjacent lots; also the right to trim or cut down trees, brush and roots as may be reasonably required incident to the rights herein given, and the right to enter upon the subdivided property for all such purposes. The Grantees agree to restore or cause to have restored, the property, as nearly as is reasonably possible, to the condition existing prior to such entry by the Grantees or their agents. This restoration, however, does not apply to the initial installation of said underground and/or above ground electric facilities, natural gas facilities, or telephone and cable TV facilities or to any trees, brush or roots which may be removed at any time pursuant to the rights herein granted. Structures shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "Utility Easement Areas" without the prior written consent of Grantees. After installation of any such facilities, the grade of the subdivided property shall not be altered by more than four inches without written consent of grantees.

The grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

Apple Tree Appleton Four, LLC

Jeff Straubel, Managing Member \_\_\_\_\_ Date \_\_\_\_\_

## Owner's Certificate

Apple Tree Appleton Four, LLC, a limited liability company duly organized and existing under and by virtue of the laws of the State of Wisconsin, as the property owner, does hereby certify that said limited liability company caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on this plat.

Apple Tree Appleton Four, LLC, does further certify this plat is required by s.236.10 or s.236.12 to be submitted to the following for approval or objection:

City of Appleton  
Department of Administration

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

In the presence of: Apple Tree Appleton Four, LLC

Jeff Straubel, Managing Member \_\_\_\_\_ Date \_\_\_\_\_

State of Wisconsin

\_\_\_\_\_ County) ss

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above the property owner(s) to me known to be the persons who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Notary Public, Wisconsin My Commission Expires \_\_\_\_\_

## Drainage, Water Main and Storm Sewer Easement Provisions

An easement for Drainage, Water Main and Storm Sewer Easement Provisions is hereby granted by:

Apple Tree Appleton Four, LLC, Grantor, to:

THE CITY OF APPLETON, Grantee,

- Purpose:** The purpose of this easement is for the Grantee to access, install, regrade, replace, relocate, operate, maintain, resize and repair Drainage, Water Main and Storm Sewer Easement and associated appurtenances. Grantee does hereby agree to compensate Grantor fully for any damage caused directly or indirectly from said maintenance, repair, replacement or relocation of Drainage, Water Main and Storm Sewer and associated appurtenances that occur outside of the easement area. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with grantee's use of the easement area.
- Access:** Grantee or its agents shall have the right to enter the grantor's land for the purpose of exercising its rights in the easement area.
- Buildings or Other Structures:** Buildings or any other type of structure shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "Drainage, Water Main or Storm Sewer Easement".
- Elevation:** The grantor agrees that the elevation of the existing ground surface within the easement area will not be altered without the written consent of grantee.
- No landscaping** will be installed in the Combined Drainage & Landscape Easements that interferes with the drainage as designed on the approved drainage plan for Apple Ridge 2.
- Restoration:** Grantee agrees that it will restore subsurface materials on grantor's land, as nearly as is reasonably possible, to the prior existing condition when conducting all future maintenance, resizing or repair activities. Grantor shall be responsible for all surface restoration. Grantee shall not be required to restore or compensate for any improvements or improved surfaces such as, but not limited to, curb and gutter, hard pavements, sidewalks, structures, trees, shrubs and landscaping, disturbed as a result of the maintenance activities described herein.
- Notification:** Grantee agrees that it shall give timely notice to the Grantor of routine maintenance work. Grantee and Grantor agree to cooperate in good faith to minimize interference or disruption to the normal facility operations. Grantee shall provide advance notice to Grantor (except in emergency situations, in which event notice shall be provided as soon as is practical) of any activity with a reasonable likelihood of interfering or disrupting the operation Grantor's facility, and to conduct such activities at mutually agreeable times.
- Drainage easements** are conveyance paths for storm water. The placement of fill in a drainage easement, which interferes with the flow or changes to the shape of the drainage easement by the lot owner or his agent, is prohibited. Upon failure of lot owner's to maintain said drainage ways and easements as designed; the City of Appleton retains the right to perform maintenance and or repairs. The payment of said maintenance and or repairs shall be equally assessed to the adjacent lot owners.

This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

Apple Tree Appleton Four, LLC

Jeff Straubel, Managing Member \_\_\_\_\_ Date \_\_\_\_\_

## City of Appleton Approval

Resolved, that the plat of Apple Ridge 2, in the City of Appleton, Outagamie County, Apple Tree Appleton Four, LLC, owners, is hereby approved by the Common Council of the City of Appleton.

Jacob A. Woodford, Mayor \_\_\_\_\_ Date \_\_\_\_\_

I hereby certify that the foregoing is a copy of a resolution adopted by the the Common Council of the City of Appleton.

Kami Lynch, Clerk \_\_\_\_\_ Date \_\_\_\_\_

## Treasurer's Certificate

We, being the duly elected, qualified and acting Treasurer's of the City of Appleton and Outagamie County, do hereby certify that in accordance with the records in our office, there are no unredeemed tax sales and unpaid taxes, or special assessments on and of the land included in this plat.

City Treasurer \_\_\_\_\_ Date \_\_\_\_\_

County Treasurer \_\_\_\_\_ Date \_\_\_\_\_

This Final Plat is contained wholly within the property described in the following recorded instruments:

The property owner of record:	Recording Information:	Parcel Number(s):
Apple Tree Appleton Four, LLC	Doc No. 2146276	31-1-8307-00 31-1-8307-03
	Doc No. 2146253	31-1-8307-04 31-1-8307-05

## Notes:

- Outlot 9 will be owned and maintained the owner of Lot 8 Apple Ridge. Said Outlot 9 may not be transferred separately from said Lot 8, Apple Ridge.
- Outlots 8 & 10 are Dedicated to the Public, pre this document, for storm water management.
- All elevations shown are NVGD 88, per City Datum.
- Ordinary High Water Mark was determined by Steve Swanson of Outagamie County Land Services Department May of 2018.
- Lots 106-113 are subject to additional restrictions related to floodplain. Impervious areas from rear yards of lots adjacent to wetlands may drain via sheet flow to the wetlands by permission of WDNR.
- 100 Year floodplain elevations are based on FEMA LOMR, Case 20-05-2300P, effective April 28, 2021.

There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified \_\_\_\_\_, 20\_\_\_\_\_

Department of Administration



1811 Racine Street Menasha, WI 54952  
Ph: 920-991-1866 Fax: 920-830-9595  
www.davel.pro

James R. Sehloff PLS 2692 \_\_\_\_\_ Date \_\_\_\_\_

File: 6363Final2.dwg  
Date: 03/12/2021  
Drafted By: jim  
Sheet: 6 of 6  
Revision Date: Mar 12, 2021



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** April 13, 2021

**Common Council Meeting Date:** April 21, 2021

**Item:** Preliminary Plat – Apple Fields

**Case Manager:** Jessica Titel, Principal Planner

### GENERAL INFORMATION

**Applicant:** Jim Sehloff – Davel Engineering and Environmental

**Owner:** Doctor Properties, LLC c/o Henry Chou

**Address/Parcel #:** E. Glenhurst Lane (Tax Id #31-1-6501-03 and #31-1-6501-04, Lots 3 and 4 of the Apple Creek Center plat)

**Petitioner's Request:** The owner/applicant is proposing to subdivide property for single-family residential development.

### BACKGROUND

The subject property was annexed to the City in 1990 as part of the AAL Annexation. The property was rezoned to C-O Commercial Office District in February 2001. The subject parcels (Lots 3 and 4) are part of the Apple Creek Center Plat that was approved by the Common Council on June 5, 2002.

On March 20, 2019, the Common Council denied a request to rezone the subject parcels from C-O Commercial Office District to R-3 Multi-Family District.

City of Appleton *Comprehensive Plan 2010-2030* Future Land Use Map Amendment #3-19 (Multi-Family Residential designation to the One and Two-Family Residential designation) and Rezoning #13-19 (C-O Commercial Office District to R-1B Single-Family District) were approved by the Common Council on March 4, 2020.

### STAFF ANALYSIS

**Existing/Proposed Conditions:** The subject area to be subdivided is currently undeveloped. Apple Fields consists of 6.4136 acres and will be divided into nineteen (19) single-family lots.

**Zoning Ordinance Review Criteria:** R-1B Single-Family Residential District lot development standards (Section 23-93) are as follows:

- Minimum lot area: Six thousand (6,000) square feet.
  - *The proposed average lots size ranges from 10,000 square feet to 18,243 square feet. All lots exceed this minimum requirement.*

## **Preliminary Plat – Apple Fields**

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- Minimum lot width: Fifty (50) feet.
  - *The proposed lots average lot width is 70 feet. All lots exceed this minimum requirement.*
- Minimum front, side and rear yard setbacks: Twenty (20) foot front yard, Six (6) foot side yard, and Twenty-five (25) foot rear yard.
  - *Required front yard setback has been shown on the Preliminary Plat. Required setbacks will be reviewed through the building permit review process.*
- Maximum building height: Thirty-five (35) feet.
  - *This will be reviewed through the building permit review process.*
- Maximum lot coverage. Fifty percent (50%).
  - *This will be reviewed through the building permit review process.*

**Compliance with the Appleton Subdivision Regulations:** This subdivision complies with the Appleton Subdivision Regulations, except for the code sections listed below.

Per Section 17-25(g) of the Municipal Code, “Cul-de-sacs. Streets designed to have one (1) end permanently closed shall not exceed five hundred (500) feet in length from centerline of intersecting street to center of turnaround and shall terminate with a turnaround of not less than one hundred and ten (110) feet in diameter of right-of way and a roadway turnaround of ninety (90) feet in diameter. The Public Works Director may waive this requirement where it is unnecessary to fulfill the purposes and intent of this ordinance and undo hardship would result from strict application thereof.”

*Analysis: The Department of Public Works supports the proposed cul-de-sac length. A water main loop will be installed to avoid an excessively long dead-end water main.*

Per Section 17-26(c)(2) of the Municipal Code, “Double frontage lots shall not be permitted except as required by the Common Council where they are desirable to provide separation of development from traffic arterials or inharmonious uses, or to overcome disadvantages of topography or situation. A planting screen easement of at least twenty (20) feet, and across which there shall be no right of access, may be required along the line of lots abutting such traffic arteries or other inharmonious use.”

*Analysis: Lots 2-9 of Apple Fields are double frontage lots. The proposed subdivision layout is limited by the depth of the existing parcels and does not allow for 3 tiers of lots, which would be needed to eliminate the double fronting lots. The proposed layout will eliminate driveways onto Glenhurst Lane along this development, as all proposed driveways will be located on the new Baldwin Court. An access restriction will be required along the south side of the lots to prevent driveways on Glenhurst Lane.*

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Pursuant to Section 17-3(f) of the Municipal Code, when the Common Council finds that extraordinary hardship or injustice will result from strict compliance with this ordinance, it may vary the terms thereof to the extent deemed necessary and proper to grant relief, provided that the modification meets the following three standards:

- (1) The modification is due to physical features of the site or its location.
- (2) The modification is the least deviation from this ordinance which will mitigate the hardship.
- (3) The modification is not detrimental to the public interest and is in keeping with the general spirit and intent of this ordinance.

Based upon the above analysis, it would appear the standards established by Section 17-3(f) Modification of Regulations have been met.

**Access and Traffic:** The primary vehicular access to Apple Fields is via Lightning Drive. Proposed Baldwin Court will intersect with Lightning Drive. The full 60-foot road right-of-way widths for the proposed street will be dedicated to the City with the Final Plat.

**Surrounding Zoning and Land Uses:**

North: PD-R-3 Northbrook Crossing Planned Development Multi-Family District #19-01– Multi-family residential

South: R-1B Single-Family District – Single-family dwellings

East: R-1B Single-Family District – Single-family dwellings

West: R-3 Multi-Family District – Multi-family residential (Century Oaks Community Based Residential Facility)

**2010-2030 Comprehensive Plan:** Community Development staff has reviewed this proposed subdivision and determined it is compatible with the One and Two-Family Residential use shown on the City’s 2010-2030 Comprehensive Plan 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 3 – Housing Quality, Variety, and Affordability*

*Appleton will provide a variety of rental and ownership housing choices in a range of prices affordable to community residents, and ensure that existing housing is adequately maintained in terms of physical quality and market viability.*

**OBJECTIVE 10.1 Land Use:**

*Provide an adequate supply of suitable land meeting the demand for development of various land uses.*

**OBJECTIVE 10.4 Land Use:**

*Plan for compact, efficient, and fiscally responsible growth of residential, commercial, and industrial development in new neighborhoods in order to implement the principles of smart growth.*

## Preliminary Plat – Apple Fields

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*Policy 10.4.1 Continue to guide residential growth to locations either contiguous to or within presently urbanized areas. As peripheral development occurs, it should be at a compact, urban density to ensure new neighborhoods can be efficiently served by public infrastructure.*

**Parks and Open Space:** The Appleton Subdivision Regulations do require parkland dedication or fee in lieu for residential subdivisions. Since no parkland will be dedicated on the subject property, park fees will be due prior to the City signing the Final Plat. For lots zoned R-1B Single-Family District, park fees are \$300 per lot.

**Technical Review Group Report (TRG):** This item appeared on the March 23, 2021 TRG Agenda. No negative comments were received from participating departments.

### **RECOMMENDATION**

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The Preliminary Plat for Apple Fields, **BE APPROVED** subject to the following conditions and as shown on the attached maps:

1. Prior to City signatures being affixed to the Final Plat, park fees shall be paid to the City of Appleton Finance Department pursuant to Section 17-29 of the Municipal Code. For lots zoned R-1B Single-Family District, park fees are \$300 per lot.
2. Grant relief from the double frontage lot requirements for proposed Lots 2-9, per Section 17-26(c)(2) of the Municipal Code and as stated in the staff report.
3. Grant relief from the maximum cul-de-sac length requirements for proposed Baldwin Court, per Section 17-25(g) of the Municipal Code and as stated in the staff report.
4. Re-calculate average lot size stated on the plat and update accordingly.
5. Update Civil Plan Sheet 1.4 with correct zoning information. Property is zoned R-1B single-family residential.
6. A Development Agreement is required between the City and applicant that identifies the duties and responsibilities with respect to development of the subject land.
7. A Stormwater Permit Application, Stormwater Management Plan and Engineering Plans have been submitted for review. Technical review comments have been provided to the consultant and all such comments must be addressed on the Final Plat.
8. All requirements from the City of Appleton Department of Public Works, Engineering Division shall be met to the satisfaction of the City Engineer prior to the City affixing signatures on the Final Plat.
9. Label the dark/heavy line work running through Lots 4, 5, 6, 15, 16 and Baldwin Court or identify it in the legend.
10. Add the following to the plat or provide exhibits to ensure information is clear and easily readable:
  - Label the existing and proposed floodplain
  - Label and dimension the wetland protective areas

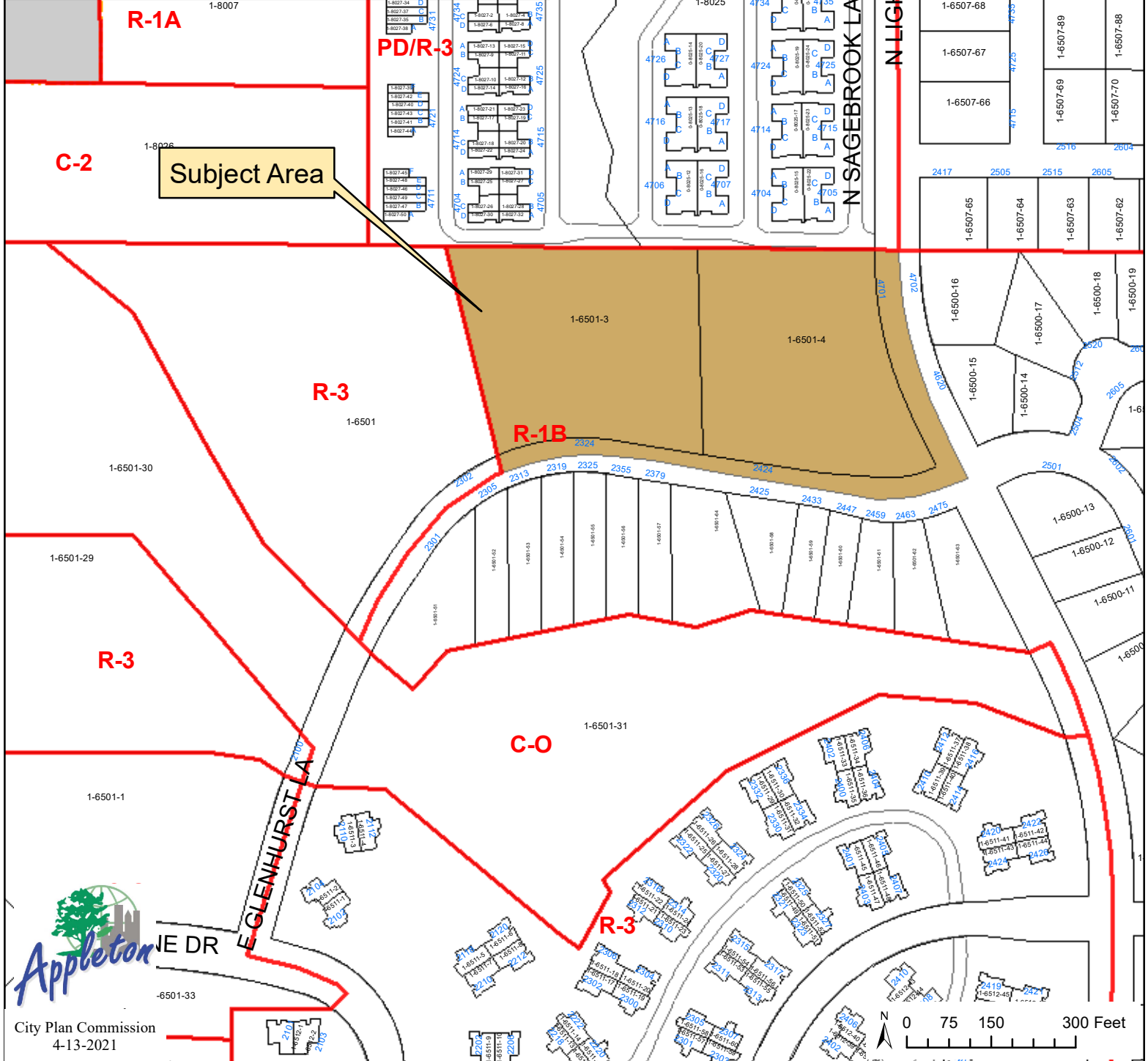
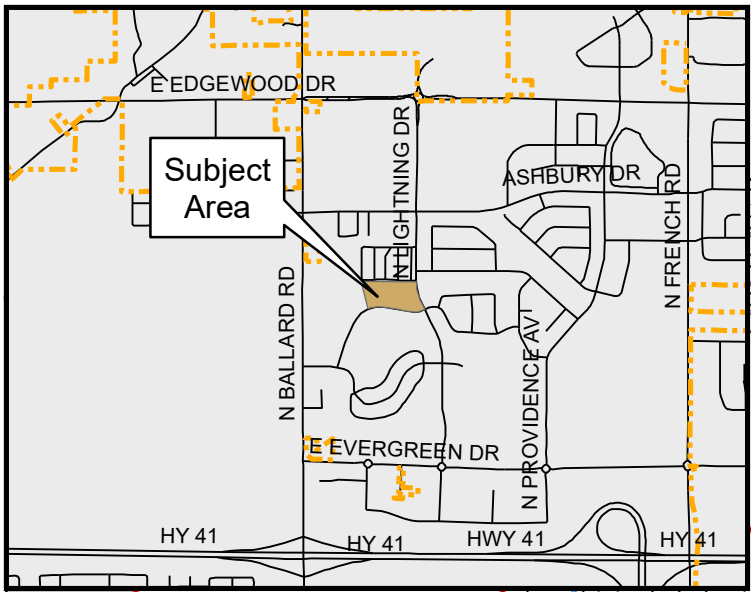
**Preliminary Plat – Apple Fields**

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- Show and label Everbreeze Circle on the north side of the plat and label as a private road
  - Show and label the sanitary and water easement along the north side of the plat
  - Show dimension and label easements on Lots 4 and 5 for the proposed swale to convey runoff to the dry pond
  - Provide a dimension for the storm sewer easement on Lot 1
  - Provide additional information to define the drainage easement on Lots 19, 12, 11, and 9 where the drainage swale is outside of the 20 foot dimension.
  - Provide a statement of access restriction to Glenhurst Lane, Lightning Drive and Everbreeze Circle
  - If the Developer intends City to own and maintain the three storm pipes under Baldwin Court at the wetland, provide easements for the pipes and long term maintenance access on Lots 5, 6, 15, and 16. The easement should be 15 feet from the outside of the pipe. If a homeowner's association will own and maintain these pipes, this is not necessary.
  - Provide dimensions for the Stormwater Pond Easement on Lots 1, 2 and 3
  - For long term maintenance purposes, the City prefers the water main pipe and easement between Lots 12 and 13 and the storm sewer pipe and easement between Lots 9 and 10 be centered on the property line. Revise or clarify the reasoning for the proposed layout.
11. The owner/applicant shall submit to the City the Final Plat within 36 months after the last required approval of the Preliminary Plat. If the Final Plat is not submitted within said 36 months, the City (and any other approving authority) may refuse to approve the Final Plat and shall recommence the procedure for Preliminary Plat approval or may extend the time for submission of the Final Plat.

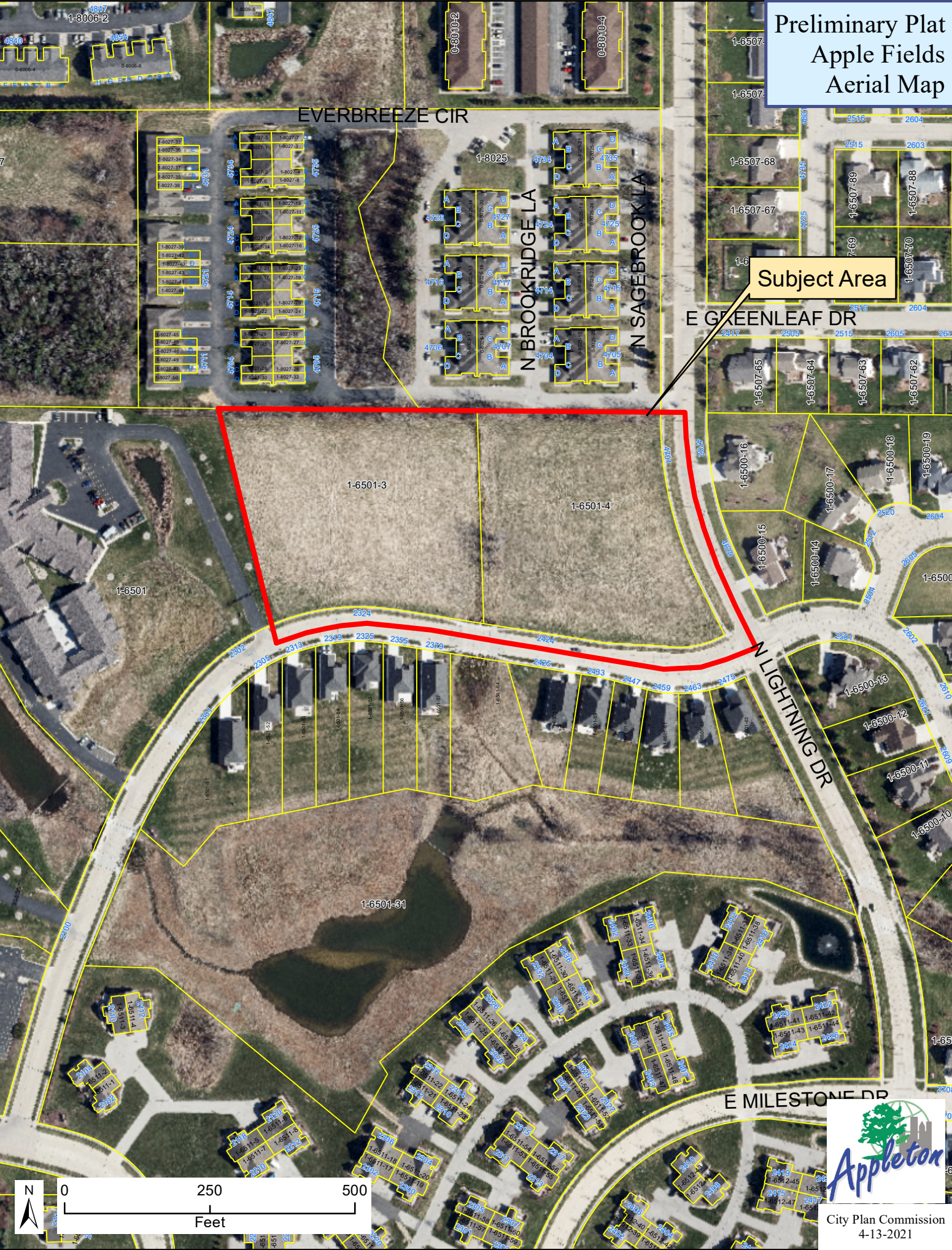
# Preliminary Plat Apple Fields Zoning Map





# Preliminary Plat Apple Fields Aerial Map

Subject Area

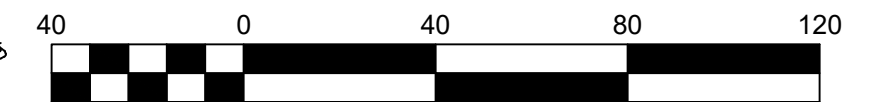
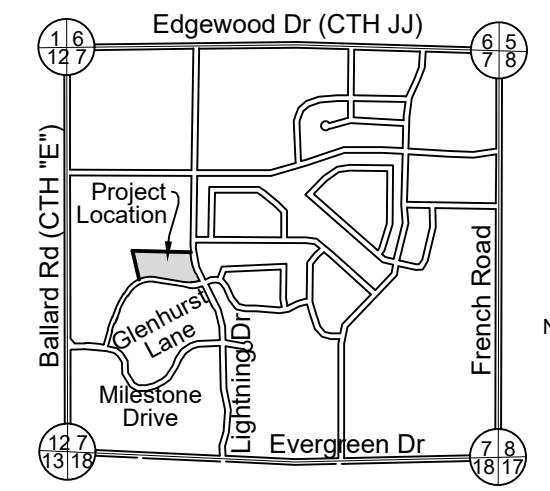


# Preliminary Plat of Apple Fields

All of Lot 3 and Lot 4, Apple Creek Center, being located in part of the Fractional Northwest 1/4 of the Southwest 1/4 and part of the Northeast 1/4 of the Southwest 1/4 of Section 7, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin

## LOCATION MAP

SEC 7, T 21 N, R 18 E,  
CITY OF APPLETON,  
OUTAGAMIE COUNTY, WI



Bearings are referenced to the West line of the Northwest 1/4, Section 07, T21N, R18E, bearing N00°02'21"W, based on the Outagamie County Coordinate System.

### Owner/Developer

Doctors Properties LLC  
PO Box 265  
Neenah, WI 54957

### SUPPLEMENTARY DATA

Total Area = 279,377 SF 6.4136 acres  
R/W Area = 41,334 SF 0.9489 acres  
Net Area = 238,043 SF 5.4647 acres  
Number of Lots = 19  
Average lot size = 10,000 SF  
Typical lot dimension = 70' x 143'  
Lineal feet of street = 598 LF  
Existing zoning = R1B  
Proposed zoning = R1B  
Approving Authorities  
City of Appleton  
Objecting Authorities  
Department of Administration

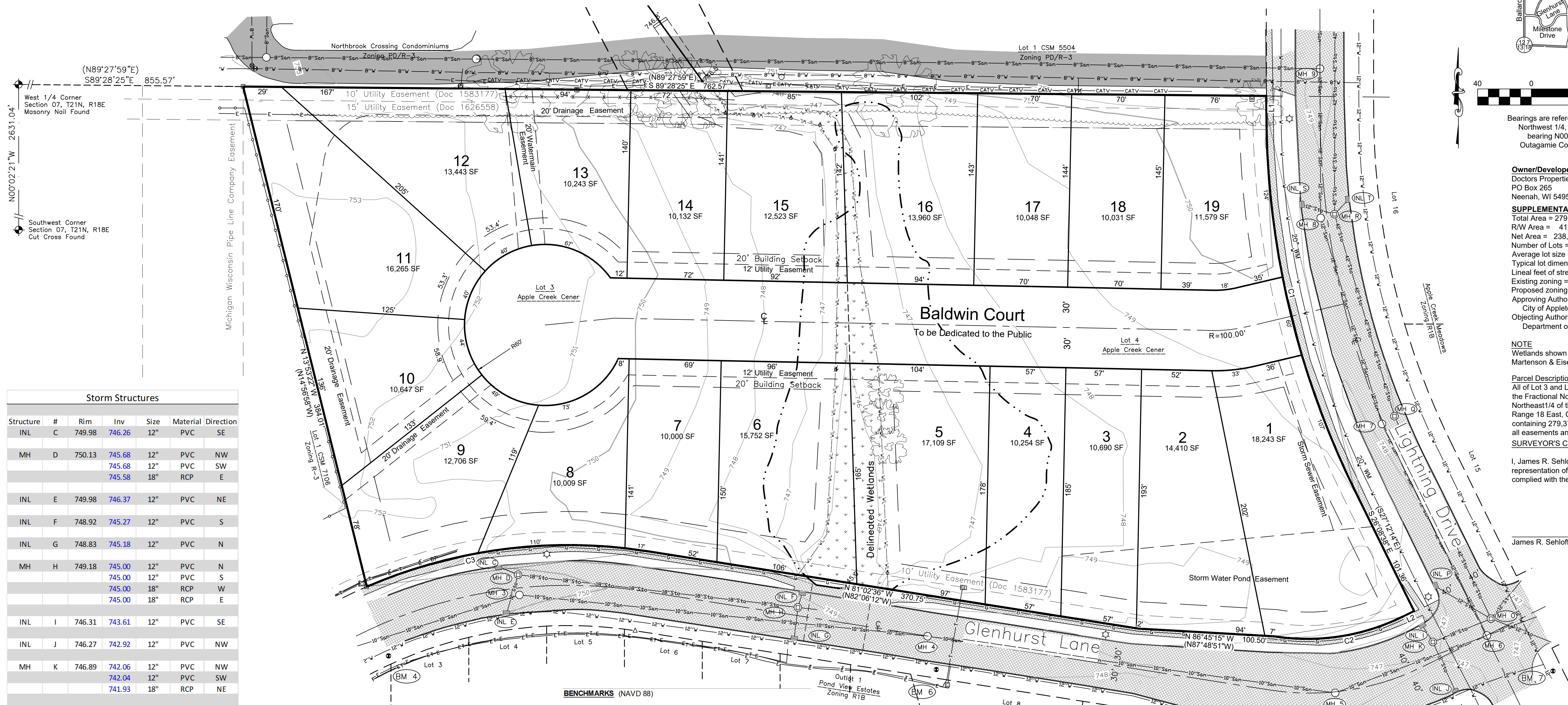
**NOTE**  
Wetlands shown are per a Wetland Delineation prepared by Martenson & Eisele, Inc. Date October 18, 2018.

**Parcel Description:**  
All of Lot 3 and Lot 4, Apple Creek Center, being located in part of the Fractional Northwest 1/4 of the Southwest 1/4 and part of the Northeast 1/4 of the Southwest 1/4 of Section 7, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin containing 279,377 Square Feet (6.4136 Acres) of land, subject to all easements and restrictions of record.

### SURVEYOR'S CERTIFICATE

I, James R. Schloff, hereby certify that this Preliminary Plat is a correct representation of all existing land divisions and features, and that I have complied with the preliminary plat requirements for the City of Appleton.

James R. Schloff, P.L.S. No. S-2692 Date



### Storm Structures

Structure	#	Rim	Inv	Size	Material	Direction
INL	C	749.98	746.26	12"	PVC	SE
MH	D	750.13	745.68	12"	PVC	NW
			745.68	12"	PVC	SW
			745.58	18"	RCP	E
INL	E	749.98	746.37	12"	PVC	NE
INL	F	748.92	745.27	12"	PVC	S
INL	G	748.83	745.18	12"	PVC	N
MH	H	749.18	745.00	12"	PVC	N
			745.00	12"	PVC	S
			745.00	18"	RCP	W
			745.00	18"	RCP	E
INL	I	746.31	743.61	12"	PVC	SE
INL	J	746.27	742.92	12"	PVC	NW
MH	K	746.89	742.06	12"	PVC	NW
			742.04	12"	PVC	SW
			741.93	18"	RCP	NE
INL	L	746.38	742.65	12"	PVC	E
INL	M	746.37	742.77	12"	PVC	S
MH	N	746.69	740.87	12"	PVC	SE
			740.97	12"	PVC	N
			740.90	12"	PVC	W
MH	O	747.36		12"	PVC	NW
				12"	PVC	NE
				12"	PVC	SE
			741.92	42"	RCP	N
			741.92	18"	RCP	W
INL	P	747.14		12"	PVC	SE
MH	Q	748.01	742.49	42"	RCP	N
			742.49	42"	RCP	S
MH	R	748.67	742.98	42"	RCP	N
			742.98	42"	RCP	S
				12"	PVC	NE
				12"	PVC	NW

### Sanitary Structures

Structure	#	Rim	Inv	Size	Material	Direction
MH	3	750.28	738.48	10"	PVC	SW
			738.65	10"	PVC	E
MH	4	748.77	737.55	10"	PVC	W
			737.55	10"	PVC	E
MH	5	747.40	736.04	10"	PVC	W
			736.25	10"	PVC	NE
MH	6	747.43	733.67	10"	PVC	SW
			733.69	10"	PVC	NE
			734.24	12"	PVC	NW
MH	7	748.18	735.38	12"	PVC	N
			735.38	12"	PVC	S
MH	8	748.69	735.72	12"	PVC	S
			735.72	12"	PVC	N

### BENCHMARKS (NAVD 88)

- BM 1 Fire Hydrant, Shoulder of Hydrant NE of bridge on Glenhurst Ln. Elev. 753.05
- BM 2 Fire Hydrant, Shoulder of Hydrant NE corner of Glenhurst Ln. & Milestone Dr. Elev. 755.23
- BM 3 Fire Hydrant, Shoulder of Hydrant ±200' W of entrance for Thrivent Elev. 755.62
- BM 4 Fire Hydrant, Shoulder of Hydrant ±800' W of Intersection of Glenhurst Ln. & Lightning Dr. Elev. 753.42
- BM 5 Fire Hydrant, Shoulder of Hydrant ±31' SW of SW Cor of 4711 Everbreeze Cir. Elev. 754.10
- BM 6 Fire Hydrant, Shoulder of Hydrant ±410' W. of Intersection of Glenhurst Ln. & Lightning Dr. Elev. 751.53
- BM 7 Fire Hydrant, Shoulder of Hydrant SE Corner of Intersection of Glenhurst Ln. & Lightning Dr. Elev. 750.37

### LEGEND

- CATV CATV Underground Cable TV
- FD FD Underground Fiber Optic
- OH OH Overhead Electric Lines
- San San Utility Guy Wire
- San San Sanitary Sewer
- Sto Sto Storm Sewer
- E E Undergound Electric
- G G Undergound Gas Line
- T T Undergound Telephone
- W W Water Main
- F F Fence - Steel
- Tr Treeline
- 900 900 Index Contour
- 799 799 Intermediate Contour
- W W Delineated Wetlands
- Sanitary MH / Tank / Base
- Clean Out / Curb Stop / Pull Box
- Storm Manhole
- Inlet
- Catch Basin / Yard Drain
- Water MH / Well
- Hydrant
- Utility Valve
- Utility Meter
- Utility Pole
- Light Pole / Signal
- Electric Pedestal
- Electric Transformer
- Air Conditioner
- Telephone Pedestal
- Telephone Manhole
- CATV Pedestal
- Gas Regulator
- Sign
- Deciduous Tree
- Coniferous Tree
- 1 1/2" Rebar Found
- 1.3" O.D. Iron Pipe Found
- Government Corner
- Recorded As
- Benchmark
- Asphalt Pavement
- Concrete Pavement
- Gravel

### LINE TABLE

Line	Bearing	(Recorded)	Length
L1	S 00°02'51" E	(S01°06'27"E)	11.51'
L2	S 63°51'22" W	(S62°47'46"W)	10.00'

### CURVE TABLE

Curve	Radius	Chord Direction	(Recorded)	Chord Length	Arc Length	Central Angle	Tangent Bearing-in	Tangent Bearing-out
C1	640.00'	S 13°05'45" E	(S14°09'20.5"E)	288.99'	291.50'	26°05'47"	S 00°02'51" E	S 26°08'38" E
C2	160.00'	S 81°24'23" W	(S80°20'47"W)	98.49'	98.02'	35°05'57"	S 63°51'25" W	N 81°02'38" W
C3	380.00'	S 82°49'18" W	(S81°45'39.5"W)	211.21'	214.03'	32°16'13"	N 81°02'36" W	S 66°41'11" W

File: 5629Plat.dwg  
Date: 02/05/2021  
Drafted By: jim  
Sheet: 1 of 1

**DAVEL ENGINEERING & ENVIRONMENTAL, INC.**  
CIVIL ENGINEERING CONSULTANTS  
1811 Racine Street Menasha, WI 54952  
Ph: 920-991-1866 Fax: 920-830-9595  
www.davel.com



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**PARKS, RECREATION & FACILITIES  
MANAGEMENT**

**Dean R. Gazza, Director**

1819 East Witzke Boulevard  
Appleton, Wisconsin 54911-8401  
(920) 832-5572 FAX (920) 993-3103  
Email - [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org)

TO: Parks & Recreation Committee

FROM: Dean R. Gazza, Director of Parks, Recreation and Facilities Management

DATE: 4/21/2021

RE: Action Item: Request to award contract to ISG for master planning design services for Lundgaard Park in the amount of \$27,700 with a design contingency of \$2,300 for a total contract not to exceed \$30,000.

On February 24, 2021, Request for Proposals were received from five firms for master planning and design services for Lundgaard Park. After review of the proposals by a seven-person panel including Fire Department staff, Parks, Recreation and Facilities Management staff and Lindsey Lundgaard, ISG was unanimously selected by the review team to be recommended for award of the contract.

The process to get to this step began during the 2020 city budget process when the Common Council approved funding to begin master planning and design for the new park. The parkland was acquired in 1999 and dedicated as Lundgaard Park in 2020.

The Request for Proposals were evaluated for relevant experience, project success, project team, project understanding/study methodology, project schedule, and cost. It was important that the firms clearly demonstrated experience in the planning and design of parks and memorials. Additionally, the firms had to present an ability to foster strong public engagement throughout the design process.

The work will include a master plan for the park including a final conceptual design. Input will be gathered by the community and numerous stakeholders. A final design is anticipated to be completed by fall.

Please feel free to contact me at 832-5572 with any questions, or by email at [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org).



## MEMO

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*"...meeting community needs...enhancing quality of life."*

**TO:** Finance Committee

**FROM:** Paula Vandehey, Director of Public Works

**DATE:** April 6, 2021

**SUBJECT: Request to approve the following 2021 Budget adjustment:**

Sanitation Fund Balance	- \$8,000
Sanitation Landfill Maintenance Fund (Consulting Services)	+\$8,000

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The Department of Public Works continues to work towards the conversion from an active gas extraction system at the closed Mackville Landfill to a passive system. Gaining approval from the Wisconsin Department of Natural Resources (WDNR) for the conversion to a passive system would save hundreds of thousands of dollars in the near future as the active system needs major repairs to the wells, pumps, pipes and blowers.

During a November 2020 site inspection by the WDNR, concerns were raised regarding some vegetation that could be showing the impact of released gas from the active system. To continue moving toward converting the system from active to passive, additional gas monitoring is needed. The requested funds will cover the gas system monitoring requested by the WDNR.

Therefore, we are requesting a 2021 budget adjustment to reallocate \$8,000 from the Sanitation Fund Balance to the Sanitation Landfill Maintenance Fund (consulting services).



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**PARKS, RECREATION & FACILITIES  
MANAGEMENT**

**Dean R. Gazza, Director**

1819 East Witzke Boulevard  
Appleton, Wisconsin 54911-8401  
(920) 832-5572 FAX (920) 993-3103  
Email - [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org)

TO: Finance Committee

FROM: Dean R. Gazza

DATE: 4/12/2021

RE: Action: Award the City of Appleton’s “2021 Parks Hardscapes Project – Pierce Park Path Improvements Project” contract to Sommers Construction Co., Inc. in the amount of \$28,935 with a contingency of \$7,000 for a project total not to exceed \$35,935.

The 2021 Capital Improvement Plan includes \$700,000 to repair hardscapes at various city parks. Of that amount, \$50,000 has been allocated to renovate the Pierce Park Pathway. The balance of the 2021 Parks Hardscape Improvements budget will be utilized at several other parks including, but not limited to: Pierce Park, Appleton Memorial Park, and the Highview Trail. The recommendations for repairs were determined by our consulting engineer after a hardscape audit was completed at the site.

The bids were received as follows:

<b>Sommers Construction Co., Inc. (low bid)</b>	<b>\$28,935.00</b>
Radtke Contractors, Inc	\$30,950.22
Jahnke General Contractors	\$39,491.75
Highway Landscapers, Inc.	\$41,259.05
Vinton Construction Co.	\$41,562.00
Gene Fredrickson Trucking and Excavating.	\$42,330.20

Our consulting engineer has written the City of Appleton a formal letter of recommendation to award the contract to Sommers Construction Co., Inc. The Parks, Recreation, and Facilities Management Department has also reviewed the bids and is in agreement with the engineer’s recommendation. Therefore, we recommend awarding the contract to Sommers Construction Co., Inc. in the amount of \$28,935.00 plus a contingency of \$7,000 only to be utilized as needed.

Please contact me at 832-5572 or at [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org) with any questions.

REPORT OF THE FINANCE COMMITTEE

PROJECT LIMITS:

1-P-21

CONCRETE PAVEMENT, SIDEWALK CONSTRUCTION AND DRIVEWAY APRONS

- Downs Ridge (Tiburon Dr to Purdy Pkwy)
- Grinnell Ct (Werner Rd to CDS)
- Thomas Ct (Purdy Pkwy to CDS)
- Trinity Ct (Downs Ridge to CDS)
- Alvin St (Evergreen Dr to CDS)
- Newberry St (Schaefer St to city limits) – sidewalk only

In accordance with the preliminary resolution of the Common Council dated April 21, 2021, we herewith submit our report on the assessment of benefits on the above named construction.

This report consists of the following:

Schedule A - Preliminary plans and specifications on file in the office of the Director of Public Works.

Schedule B - The total cost within the project limits in accordance with the plans and specifications in Schedule A is **\$4,614,694.74**.

Schedule C - Proposed Assessments. The properties included within the project limits are benefited and the work or improvements constitute an exercise of the police power. The total value of assessments is **\$549,402.49**.


REPORT OF THE FINANCE COMMITTEE

PROJECT LIMITS:

2-P-21

SANITARY LATERALS, STORM LATERALS AND STORM MAIN

- Appleton St (College Ave to Atlantic St)
- Atlantic St (Oneida St to Lawe St)
- Douglas St (Commercial St to Wisconsin Ave)
- Elsie St (Mason St to Richmond St)
- Jackson St (Calumet St to Fremont St)
- Lawrence St (Walnut St to Elm St)
- Madison St (Calumet St to Taft Ave)
- Meade St (Pacific St to Commercial St)
- Minor St (Meade St to Rankin St)
- Opechee St (Green Bay Rd to east)
- Owaissa St (Opechee St to Pacific St)

In accordance with the preliminary resolution of the Common Council dated April 21, 2021, we herewith submit our report on the assessment of benefits on the above named construction.

This report consists of the following:

Schedule A - Preliminary plans and specifications on file in the office of the Director of Public Works.

Schedule B - The total cost within the project limits in accordance with the plans and specifications in Schedule A is **\$4,140,105.**

Schedule C - Proposed Assessments. The properties included within the project limits are benefited and the work or improvements constitute an exercise of the police power. The total value of assessments is **\$566,139.**




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**DEPARTMENT OF PUBLIC WORKS - Engineering Division  
MEMO**

TO: Members of the Finance Committee  
FROM: Ross Buetow, Deputy Director of Public Works / City Engineer  
SUBJECT: Award of Contract - Unit C-21 Sidewalk Sawcutting  
DATE: April 8, 2021

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Over the past ten years, the Department of Public Works has solicited public bids on an annual basis for sidewalk sawcutting, which allows us to eliminate potential trip hazards and extend the life of our sidewalks without having to remove and replace individual sidewalk blocks. Due to the specialized equipment required to perform the work, we have historically only received one bid each year.

In an effort to improve the efficiency of procuring these services (for both the City and potential bidders), our 2021 bid documents requested pricing for a three year period (2021 through 2023). Bids were opened on March 22, 2021 and one bid was received from ASTI Sawing, Inc. (see attached bid summary).

The 2021 bid prices provided by ASTI Sawing are consistent with previous years' prices and show reasonable increases for future work to be performed in 2022 and 2023.

Therefore, we recommend award of Unit C-21 Sidewalk Sawcutting to ASTI Sawing, Inc. in an amount not to exceed \$40,000.00 (our approved 2021 funding). Subsequent contracts for years 2022 and 2023 will be prepared for committee and council approval based on the attached bid prices, assuming continued satisfactory performance by ASTI Sawing, Inc.

Thank you for your consideration.



**CITY OF APPLETON**  
**Department of Public Works**  
**MEMORANDUM**

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**TO:**  **Finance Committee**  
 **Municipal Services Committee**  
 **Utilities Committee**

**SUBJECT: Award of Contract**

---

**The Department of Public Works recommends that the following described work:**  
C-21 Sidewalk Sawcutting

---

**Be awarded to:**

Name: ASTI Sawing, Inc.  
Address: 7454 HWY 18-151  
Barneveld, WI 53507

---

**In the amount of :** \_\_\_\_\_

**With a \_\_\_\_\_ % contingency of :** \_\_\_\_\_

**For a project total not to exceed :** \_\_\_\_\_

**\*\* OR \*\***

**In an amount Not To Exceed :** \_\_\_\_\_ \$40,000.00

Budget: \_\_\_\_\_ \$40,000.00

Estimate: \_\_\_\_\_

Committee Date: \_\_\_\_\_ 04/12/21

Council Date: \_\_\_\_\_ 04/21/21

## Bid Tabulation

### C-21 Concrete Sidewalk Sawcutting

03/22/2021 01:45 PM CDT

Bid Item	Item Description	Quantity	Unit	ASTI Sawing, Inc.	
				Unit Price	Item Total
1	2021 Sawcut Sidewalk	1700	inch-ft	\$14.95	\$25,415.00
2	2021 Sawcut Sidewalk (Miscellaneous Locations)	400	inch-ft	\$19.25	\$7,700.00
3	2022 Sawcut Sidewalk	1700	inch-ft	\$15.25	\$25,925.00
4	2022 Sawcut Sidewalk (Miscellaneous Locations)	400	inch-ft	\$19.55	\$7,820.00
5	2023 Sawcut Sidewalk	1700	inch-ft	\$15.45	\$26,265.00
6	2023 Sawcut Sidewalk (Miscellaneous Locations)	400	inch-ft	\$19.75	\$7,900.00

**CITY OF APPLETON**  
**Department of Public Works**  
**MEMORANDUM**

---

**TO:**  **Finance Committee**  
 **Municipal Services Committee**  
 **Utilities Committee**

**SUBJECT: Award of Contract**

---

**The Department of Public Works recommends that the following described work:**  
Unit J-21 Mini Storm Sewer Construction

---

**Be awarded to:**

Name: Alfson Excavating, LLC  
Address: P.O. Box 117  
14523 Clarks Mills Road  
Valders, WI 54245

**In the amount of :** \_\_\_\_\_

**With a \_\_\_\_\_ % contingency of :** \_\_\_\_\_

**For a project total not to exceed :** \_\_\_\_\_

**\*\* OR \*\***

**In an amount Not To Exceed :** \_\_\_\_\_ \$200,000.00

Budget: \_\_\_\_\_ \$200,000.00  
Estimate: \_\_\_\_\_ \$218,650.00  
Committee Date: \_\_\_\_\_ 04/12/21  
Council Date: \_\_\_\_\_ 04/21/21

**Bid Tabulation****J-21 Mini Storm Sewer Construction**

03/29/2021 01:45 PM CDT

Bid Item	Item Description	Quantity	Unit	Alfson Excavating LLC		Wood Sewer & Excavating	
				Unit Price	Total	Unit Price	Total
1	Furnish & Install 6" Storm Sewer	4000	lin.ft.	\$33.50	\$134,000.00	\$38.00	\$152,000.00
2	Furnish & Install 6" Storm Lateral	850	lin.ft.	\$40.00	\$34,000.00	\$38.00	\$32,300.00
3	Furnish & Install 4" Storm Riser	600	lin.ft.	\$45.00	\$27,000.00	\$36.00	\$21,600.00
4	Furnish & Install 6" Storm Riser	100	lin.ft.	\$45.00	\$4,500.00	\$38.00	\$3,800.00
5	Connect Sump Pump	10	each	\$100.00	\$1,000.00	\$155.00	\$1,550.00
6	Furnish & Install Auger Section	800	lin.ft.	\$35.00	\$28,000.00	\$22.00	\$17,600.00
7	Furnish & Construct PVC Yard Drain (Special Provisions 5.04.2)	5	each	\$500.00	\$2,500.00	\$875.00	\$4,375.00
8	Furnish & Construct Concrete Yard Drain (Special Provisions 5.04.1)	1	each	\$1,000.00	\$1,000.00	\$7,350.00	\$7,350.00

**Base Bid Total:****\$232,000.00****\$240,575.00**

**Bid Tabulation****J-21 Mini Storm Sewer Construction**

03/29/2021 01:45 PM CDT

Bid Item	Item Description	Quantity	Unit	Highway Landscapers, Inc.		Robert Immel Excavating	
				Unit Price	Total	Unit Price	Total
1	Furnish & Install 6" Storm Sewer	4000	lin.ft.	\$49.70	\$198,800.00	\$46.85	\$187,400.00
2	Furnish & Install 6" Storm Lateral	850	lin.ft.	\$52.10	\$44,285.00	\$66.00	\$56,100.00
3	Furnish & Install 4" Storm Riser	600	lin.ft.	\$48.00	\$28,800.00	\$48.00	\$28,800.00
4	Furnish & Install 6" Storm Riser	100	lin.ft.	\$48.95	\$4,895.00	\$50.00	\$5,000.00
5	Connect Sump Pump	10	each	\$220.00	\$2,200.00	\$180.00	\$1,800.00
6	Furnish & Install Auger Section	800	lin.ft.	\$1.00	\$800.00	\$41.00	\$32,800.00
7	Furnish & Construct PVC Yard Drain (Special Provisions 5.04.2)	5	each	\$1,430.00	\$7,150.00	\$1,035.00	\$5,175.00
8	Furnish & Construct Concrete Yard Drain (Special Provisions 5.04.1)	1	each	\$2,100.00	\$2,100.00	\$1,650.00	\$1,650.00

**Base Bid Total:****\$289,030.00****\$318,725.00**

**Bid Tabulation****J-21 Mini Storm Sewer Construction**

03/29/2021 01:45 PM CDT

Bid Item	Item Description	Quantity	Unit	Advance Construction Inc.	
				Unit Price	Total
1	Furnish & Install 6" Storm Sewer	4000	lin.ft.	\$56.00	\$224,000.00
2	Furnish & Install 6" Storm Lateral	850	lin.ft.	\$52.00	\$44,200.00
3	Furnish & Install 4" Storm Riser	600	lin.ft.	\$30.00	\$18,000.00
4	Furnish & Install 6" Storm Riser	100	lin.ft.	\$30.00	\$3,000.00
5	Connect Sump Pump	10	each	\$165.00	\$1,650.00
6	Furnish & Install Auger Section	800	lin.ft.	\$60.00	\$48,000.00
7	Furnish & Construct PVC Yard Drain (Special Provisions 5.04.2)	5	each	\$962.00	\$4,810.00
8	Furnish & Construct Concrete Yard Drain (Special Provisions 5.04.1)	1	each	\$1,150.00	\$1,150.00

**Base Bid Total:****\$344,810.00**

SANITARY LATERALS, STORM LATERALS AND STORM MAIN

RESOLUTION 2-P-21

PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POWERS UNDER SECTION 66.0703 (7) (a), WISCONSIN STATUTES OF 2011-2012.

RESOLVED, by the Common Council of the City of Appleton, Wisconsin:

1. The Common Council hereby declares its intention to exercise its powers under Section 66.0703, Wisconsin Statutes, to levy special assessments upon property within the following described area for benefits conferred upon such property by improvement of the following area.

SANITARY LATERALS, STORM LATERALS AND STORM MAIN

- Appleton St (College Ave to Atlantic St)
- Atlantic St (Oneida St to Lawe St)
- Douglas St (Commercial St to Wisconsin Ave)
- Elsie St (Mason St to Richmond St)
- Jackson St (Calumet St to Fremont St)
- Lawrence St (Walnut St to Elm St)
- Madison St (Calumet St to Taft Ave)
- Meade St (Pacific St to Commercial St)
- Minor St (Meade St to Rankin St)
- Opechee St (Green Bay Rd to east)
- Owaissa St (Opechee St to Pacific St)

2. The total amount assessed against such property shall not exceed the total cost of the improvements. The Common Council determines that such improvements shall be made under the police power and the amount assessed against each parcel shall be on a cost per front foot, area or unit cost basis.

3. The assessments against any parcel may be paid to the Finance Department on receipt of Special Assessment Notice by one of the following:

- a. In cash, or if entered on the Tax Roll;
- b. One installment, if the assessment is \$1000 or less;
- c. In five equal annual installments, if the assessment is greater than \$1000;

Deferred payments shall bear an interest at the prime rate plus 3% per annum on the unpaid balance.

4. The Finance Committee is directed to prepare a report consisting of:

- a. Preliminary plans and specifications for said improvements.
- b. An estimate of the entire cost of the proposed street improvements.
- c. A schedule of proposed assessments showing the properties that are benefited by the work or improvements.

Upon completing such report, the Finance Committee is directed to file a copy thereof in the office of the City Clerk for public inspection.

5. Upon receiving the report of the Finance Committee, the City Clerk is directed to give notice of a public hearing on such report as specified in Section 66.0703 (7) (a), Wisconsin Statutes. The hearing shall be held at the Council Chambers in the City Hall at a time set by the City Clerk in accordance with Section 66.0703 (7) (a), Wisconsin Statutes.

Jake Woodford (Mayor)

Adopted: April 21, 2021

Attest: Kami L. Lynch (City Clerk)

## Department of Public Works – Engineering Division

### MEMO

**TO:** Utilities Committee

**FROM:** Paula Vandehey, Director of Public Works  
Sue Olson, Staff Engineer  
Pete Neuberger, Staff Engineer

**DATE:** April 7, 2021

**RE:** Award of 2021F Stormwater Consulting Services Contract for Morrison Street and Glendale Avenue reconstruction with Brown and Caldwell in an amount not to exceed \$32,775.

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The Department of Public Works is requesting approval of the 2021F Stormwater Consulting Services Contract with Brown and Caldwell for stormwater management services related to the reconstruction of Morrison Street and Glendale Avenue in an amount not to exceed \$32,775. After this contract, \$343,464 will remain in the 2021 stormwater consulting services budget.

Morrison Street from Wisconsin Avenue to Glendale Avenue is programmed for reconstruction in 2023, with underground utility updates in 2022. This street is in the 2013 Bellaire Ravine study area. Glendale Avenue from Meade Street to Ballard Road is programmed for reconstruction in 2024 with underground utility updates in 2023. This street is in the 2013 Northland Creek study area. City staff will be designing the street and the underground utilities for both of these projects. These projects were included in one scope of services because of the proximity of the two projects and the overflow between the two watersheds in larger events. The scope for the selected consultant includes:

- Updating portions of the water quantity models for portions of the Bellaire Ravine and Northland Creek study areas where these streets are located, including inflow from upstream areas and tailwater impacts from downstream areas.
- Inlet capacity analysis
- Evaluating water quality practices to assist the City in meeting the 2012 Lower Fox River TMDL goals.
- Working iteratively with City staff on Morrison Street storm sewer and street design to ensure flood control and water quality goals are met.

DPW solicited proposals from four engineering firms and received proposals from two of them. Proposals were rated on a 100-point scale on the following criteria: Similar Project Experience, Project Team, Project Understanding and Approach, and Schedule. Technical Proposals were



evaluated by a City review team consisting of Ross Buetow, City Engineer; Pete Neuberger, Staff Engineer; and Sue Olson, Staff Engineer. The ranking below is based on the technical scores.

<u>Rank</u>	<u>Firm</u>	<u>Score</u>	<u>Price</u>
1.	raSmith	81.00	\$19,760
2.	Brown and Caldwell	93.33	\$28,019

Brown and Caldwell's proposal ranked significantly higher because they provided a more detailed approach, a larger team of qualified staff with experience on similar City projects, a communications plan with meetings at critical milestones, more hours and a broader scope of design assistance and optional tasks for the City to consider. The requested amount of award is larger than the proposal amount because it includes the optional task of conducting an inlet capacity analysis.

Based on the quality of work on other City projects and the strong technical proposal provided, staff recommends award of the Stormwater Consulting Services contract for Morrison Street and Glendale Avenue reconstruction to Brown and Caldwell.



“...meeting community needs...enhancing quality of life.”

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**PARKS, RECREATION & FACILITIES  
MANAGEMENT**

**Dean R. Gazza, Director**

1819 East Witzke Boulevard  
Appleton, Wisconsin 54911-8401  
(920) 832-5572 FAX (920) 993-3103  
Email - [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org)

**To:** Utilities Committee

**From:** Dean R. Gazza, Director of Parks, Recreation and Facilities Management

**Date:** April 13, 2021

**Re:** Action: Request to sole source contract to Patrick Engineering for professional services needed to complete the Wastewater Electrical Distribution Upgrades Phase 5 (Final Phase), for a contract fee of \$259,600 and a contingency of 5% not exceed a total contract of \$272,580.

---

This memo is a request to sole source a contract to Patrick Engineering to fully design, create construction documents, provide construction services, and complete a power system study for the Wastewater Electrical Distribution Upgrades Phase 5 project (Final Phase). Construction phases 1-4 were also sole sourced to Patrick Engineering.

This project includes a complete upgrade of the electrical distribution at the Wastewater Plant. The current system is over 40 years old and the Plant has experienced so many changes that an upgrade is necessary to continue a smooth operation and to ensure dependability of the plant.

Due to the size and complexity of this project it was broken into multiple phases over multiple years. The City of Appleton selected Patrick Engineering for the entire project. Phase 5 (Final Phase) design, bidding, and construction oversight will cost \$216,600 which is competitive for this type of work and includes: Design, Bid Documents, Bid Review, Approval Drawing Review, Factory Acceptance Testing, Commissioning of all Components, Assistance with Start-Up, and Onsite Construction Oversight Services.

Once Phase 5 has been implemented and completed, we will require Patrick Engineering to complete a facility-wide Power System Study. The Power System Study is needed because of the significant changes made to the entire electrical system. The Power System study will include Field Investigation, short circuit per ANSI standards utilizing SKM's a-fault module, protective device coordination study utilizing SKM's captor module, arc flash analysis per IEEE 1584 and NFPA 70E, and arc flash labels. The cost for the Power System Study is \$43,000, which is competitive for this type of work.

On a large complex multi-year project the process of issuing contracts is different than issuing a one-time contract. In this case PRFMD and the Utilities Department fully evaluated and selected a company from the beginning to see the City through the entire project. The City issues contracts as the work is being performed year to year to align with the City of Appleton's budget. Unless the design firm does not deliver, meet expectations, or their fees are not in alignment with previous contracts, the City will sole

source the contracts until the work is completed. For the project to be successful it is necessary to only have one design firm involved from beginning to end.

Patrick Engineering has as unsurpassed knowledge of the current electrical system from the five previous projects (four construction phases and one master planning contract). Based upon Patrick Engineering's previous experience along with the proposals and selection process from the five previous years, PRFMD is requesting sole sourcing. PRFMD believes that the department's choice of Patrick Engineering will ensure that the investment is fully maximized based on their past work and continuity throughout a highly complex and technical project.

**RECOMMENDATION:**

Award Wastewater Electrical Distribution Upgrades Phase 5 Project (Final Phase) to Patrick Engineering in the amount of \$259,600 with a contingency of 5% only to be utilized as needed.

Please feel free to contact me at 832-5572 with any questions, or by email at [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org).



*"...meeting community needs...enhancing quality of life."*

Information Technology Department  
100 N. Appleton Street  
Appleton, WI 54911

## MEMO

To: Alderperson Thao and Members of the HR / IT Committee  
From: Dean J. Fox, Information Technology Director  
Date: 4/7/2021

Re: Request to Over Hire – Help Desk Analyst

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The Information Technology Department's current Table of Organization includes two Help Desk Analysts. We recently received notification that one of our Analyst's is planning to retire August 2, 2021.

In order for us to have a successful transition of the duties and projects, I believe the City would greatly benefit from having the incumbent transfer their significant institutional knowledge over a 60 day period. The financial impact for this proposal is approximately \$20,000. Sufficient 2021 salary dollars will be available to accommodate this overlap based on the lower salary of the new hire.

If you have any questions regarding this recommendation, please contact Dean Fox.

**11-21**

**AN ORDINANCE AMENDING SECTION 19-86 OF CHAPTER 19 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PARKING RESTRICTIONS.**

(Municipal Services Committee 4/7/2021)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Section 19-86 of Chapter 19 of the Municipal Code of the City of Appleton, relating to parking restrictions, is hereby created as follows. This ordinance supersedes and repeals any conflicting ordinance regarding parking in the designated area.

*A 10-Minute Loading Zone* be established on the east side of Morrison Street from Lawrence Street to a point 135 feet north of Lawrence Street.

**Section 2:** This ordinance shall be in full force and effect from and after its passage and publication, and upon its passage and publication, the Traffic Engineer is authorized and directed to make the necessary changes in the Parking District Map in accordance with this Ordinance.

**12-21**

**AN ORDINANCE AMENDING SECTION 6-56(b) OF CHAPTER 6 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO ADOPTION OF CODES AND STANDARDS.**

(Safety and Licensing Committee – 4/7/2021)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Section 6-56(b) of Chapter 6 of the Municipal Code of the City of Appleton, relating to adoption of codes and standards, is hereby amended to read as follows:

**Sec. 6-56. Adoption of codes and standards.**

(b) The International Fire Code 2018 Edition, hereinafter “IFC” is hereby adopted as though fully set forth herein, with the following exceptions:

(1) Chapter 1 and Chapter 57 are not included in the adoption of the 2018 edition of the IFC.

(2) Appendices A, J, K, L, and M are not included as part of the adoption of the 2018 IFC.

**Section 2:** This ordinance shall be in full force and effect from and after its passage and publication.

### **13-21**

## **AN ORDINANCE REPEALING AND RECREATING ARTICLE X. OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO FLOODPLAIN ZONING.**

(City Plan Commission – 4/21/2021)

The Common Council of the City of Appleton does ordain as follows:

**Section 1:** That Article X. of Chapter 23 of the Municipal Code of the City of Appleton, relating to floodplain zoning, is hereby repealed and recreated as follows:

### **ARTICLE X. FLOODPLAIN ZONING**

#### **DIVISION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS**

##### **Sec. 23-201. Statutory authorization.**

This ordinance is adopted pursuant to the authorization in s. 61.35 and 62.23 and the requirements in s. 87.30, Stats.

##### **Sec. 23-202. Finding of fact.**

Uncontrolled development and use of the floodplains and rivers of this municipality would

impair the public health, safety, convenience, general welfare and tax base.

**Sec. 23-203. Statement of purpose.**

This ordinance is intended to regulate floodplain development to:

- (a) Protect life, health and property;
- (b) Minimize expenditures of public funds for flood control projects;
- (c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (d) Minimize business interruptions and other economic disruptions;
- (e) Minimize damage to public facilities in the floodplain;
- (f) Minimize the occurrence of future flood blight areas in the floodplain;
- (g) Discourage the victimization of unwary land and homebuyers;
- (h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

**Sec. 23-204. Title.**

This ordinance shall be known as the Floodplain Zoning Ordinance for City of Appleton, Wisconsin.

**Sec. 23-205. General provisions.**

(a) ***Areas to be regulated.*** This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(b) ***Official maps and revisions.*** The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see Division 8 *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the

DNR. These maps and revisions are on file in the office of the Department of Public Works, City of Appleton. If more than one map or revision is referenced, the most restrictive information shall apply.

(1) ***Official maps based on the FIS:***

- a. Calumet County Flood Insurance Rate Map (FIRM), panel numbers 55015C0007E, 55015C0026E and 55015C0027E dated February 4, 2009; with corresponding profiles that are based on the Calumet County Flood Insurance Study (FIS), dated February 2009, volume number 55015CV000A.
- b. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0304E, and 55087C0308E dated January 20, 2016; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated January 20, 2016, volume number 55087CV000B.
- c. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0309D, 55087C0314D, 55087C0316D, 55087C0317D, 55087C0318D, 55087C0319D, 55087C0330, 55087C0338D, 55087C0427D, 55087C0431D and 55087C451D dated July 22, 2010; with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A.
- d. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0328D, 55087C0329D, 55087C0336D, 55087C0337D dated July 22, 2010 and revised August 23, 2013 with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A, all revised and annotated pursuant to FEMA Letter of Map Revision Determination Document Case No: 12-05-6032P, Issue Date April 10, 2013, Effective Date August 23, 2013.

Approved by: The DNR and FEMA

(2) ***Official maps based on other studies.*** Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

- a. LOMR – Case #11-05-7670P, Floodway and Floodplain revisions between Flood Insurance Study (FIS) Cross Section AW to BA, Outagamie County Flood Insurance Rate Map (FIRM) panels 55087C0318D and 55087C0319D, dated July 22, 2010. This reflects changes on the Fox River from just downstream of the Private Middle Dam to approximately 250 feet upstream of the Appleton Upper



Dam.

- b. LOMR – Case #13-05-7920P, Floodplain revisions between Flood Insurance Study (FIS) Cross Section AN to AM, Outagamie County Flood Insurance Rate panels 55087C0319D, dated July 22, 2010. This reflects changes along the south side of the Fox River from the College Avenue Bridge to approximately 850 feet downstream.
- c. LOMR – Case #17-05-1963P. Floodplain revisions on Outagamie County Flood Insurance Study (FIS) AAL Tributary Cross Section C, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0336D, effective September 29, 2017. This reflects changes along the AAL Tributary from just downstream of Lightning Drive to approximately 200 feet upstream of East Glenhurst Lane.
- d. LOMR – Case #17-05-3854P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Fox River Cross Section AS through AW, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0319D, effective February 16, 2018. This reflects changes along the Fox River from just upstream of railroad to just downstream of South Oneida Street.
- e. LOMR – Case #20-05-2300P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Apple Creek North Cross Section H through J, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0328D, effective July 22, 2010. This reflects changes along Apple Creek North from approximately 1,440 feet downstream of Harrier Lance to approximately 160 feet downstream of Ballard Road.
- f. Kensington Pond Dam Failure analysis approved by the Department of Natural Resources on January 7, 2008, including:
  - 1. Map dated July 2007 and titled “Figure 2, City of Appleton, Kensington Pond Dam Break Analysis, Hydraulic Shadow” (Hydraulic Shadow boundary from Cross Section 0.001 to 4.84).
  - 2. Floodway data table dated 8/28/2007 and titled “Table F-10, Maximum Water Surface Elevations, Kensington Pond Dam Break Analysis, City of Appleton”.
  - 3. Flood profiles dated 7/10/2007 and titled “Figure 3, Maximum Water Surface Profiles” (Hydraulic Shadow profile from Garners Creek Sta 0 to Sta 25000). Revisions made as a result of DNR review and received from Pete Neuberger via

email 2/23/2021.

- g. Outagamie County Flood Storage District Map Panel 1 of 2 approved by Wisconsin Department of Natural Resources and dated January 20, 2016. Prepared by DNR, approved by DNR.

(c) ***Establishment of floodplain zoning districts.*** The regional floodplain areas are divided into four districts as follows:

- (1) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.
- (2) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
- (3) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.
- (4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(d) ***Locating floodplain boundaries.*** Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (1) or (2) below. If a significant difference exists, the map shall be amended according to Division 8 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to Sec. 23-293(c) and the criteria in (1) and (2) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Division 8 *Amendments*.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(e) ***Removal of lands from floodplain.*** Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Division 8 *Amendments*.

(f) **Compliance.** Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(g) **Municipalities and state agencies regulated.** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

(h) **Abrogation and greater restrictions.**

(1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) **Interpretation.** In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(j) **Warning and disclaimer of liability.** The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(k) **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(l) **Annexed areas for cities and villages.** Respective of the County in which a given parcel is located, the Outagamie County, Calumet County, and Winnebago County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of

administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

**Secs. 23-207 – 23-219. Reserved.**

**DIVISION 2. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.**

**Sec. 23-220. General standards.**

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in Sec. 23-291(b). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

**Sec. 23-221. Hydraulic and hydrologic analyses.**

- (a) No floodplain development shall:
  - (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
  - (2) Cause any increase in the regional flood height due to floodplain storage area lost.
- (b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Division 8 *Amendments* are met.

**Sec. 23-222. Watercourse alterations.**

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The

standards of Sec. 23-221 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Division 8 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

**Sec. 23-223. Chapter 30, 31, Wis. Stats. Development.**

Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to Division 8 *Amendments*.

**Sec. 23-224. Public or private campgrounds.**

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

(a) The campground is approved by the Department of Agriculture, Trade, and Consumer Protection;

(b) A land use permit for the campground is issued by the zoning administrator;

(c) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;

(d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;

(e) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (d) - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations;

(f) Only camping units that are fully licensed, if required, and ready for highway use are allowed;

(g) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a

minimum of 24 hours;

(h) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;

(i) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

(j) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Divisions 3, 4, or 5 for the floodplain district in which the structure is located;

(k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and

(l) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

**Secs. 23-225 – 23-235. Reserved.**

### **DIVISION 3. FLOODWAY DISTRICT (FW)**

#### **Sec. 23-236. Applicability.**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Sec. 23-266(d).

#### **Sec. 23-237. Permitted uses.**

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
- they meet the standards in Sec. 23-238 and Sec. 23-239; and
- all permits or certificates have been issued according to Sec. 23-291.

(a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges,

picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of Sec. 23-238(d).

(d) Uses or structures accessory to open space uses, or classified as historic structures that comply with Sec. 23-238 and Sec. 23-239.

(e) Extraction of sand, gravel or other materials that comply with Sec. 23-238(d).

(f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.

(g) Public utilities, streets and bridges that comply with Sec. 23-238(c).

**Sec. 23-238. Standards for developments in the floodway.**

(a) ***General.***

(1) Any development in the floodway shall comply with Division 2 and have a low flood damage potential.

(2) Applicants shall provide the following data to determine the effects of the proposal according to Sec. 23-221 and Sec. 23-291(b)(3):

a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow;  
or

b. An analysis calculating the effects of this proposal on regional flood height.

(3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (2) above.

(b) ***Structures.*** Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

(1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;

(2) Shall either have the lowest floor elevated to or above the flood protection elevation shall meet all the following standards:

- a. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
  - b. Have structural components capable of meeting all provisions of Sec. 23-238(b)(7) and;
  - c. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Sec. 23-238(b)(7).
- (3) Must be anchored to resist flotation, collapse, and lateral movement;
- (4) Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
- (5) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (6) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets or exceeds the following standards:
- a. The lowest floor must be elevated to or above the flood protection elevation;
  - b. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - c. The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
- (7) *Certification:* Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
- a. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;



- b. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sec. 23-239(d) and 23-239(e);
- c. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
- d. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
- e. Placement of utilities above the flood protection elevation.

(c) **Public utilities, streets and bridges.** Public utilities, streets and bridges may be allowed by permit, if:

- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of Sec. 23-221.

(d) **Fills or deposition of materials.** Fills or deposition of materials may be allowed by permit, if:

- (1) The requirements of Sec. 23-221 are met;
- (2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous material.

**Sec. 23-239. Prohibited uses.**

All uses not listed as permitted uses in Sec. 23-237 are prohibited, including the following uses:

- (a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (b) Storing materials that are buoyant, flammable, explosive, injurious to property, water

quality, or human, animal, plant, fish or other aquatic life;

(c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;

(e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(f) Any solid or hazardous waste disposal sites;

(g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and

(h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

**Secs. 23-240 – 23-250. Reserved.**

#### **DIVISION 4. FLOODFRINDGE DISTRICT (FF)**

##### **Sec. 23-251. Applicability.**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Sec. 23-266(d).

##### **Sec. 23-252. Permitted uses.**

Any structure, land use, or development is allowed in the Floodfringe District if the standards in Sec. 23-253 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in Sec. 23-291 have been issued.

##### **Sec. 23-253. Standards for development in the floodfringe.**

Sec. 23-221 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Division 6 *Nonconforming Uses*;

(a) ***Residential uses.*** Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Division 6 *Nonconforming Uses*;

- (1) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of Sec. 23-253(a)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
- (2) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. However, no floor of any kind is allowed below the regional flood elevation.
- (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (4).
- (4) In developments where existing street or sewer line elevations make compliance with subd. (3) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
  - a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
  - b. The municipality has a DNR-approved emergency evacuation plan.

(b) ***Accessory structures or uses.*** Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(c) ***Commercial uses.*** Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of Sec. 23-253(a). Subject to the requirements of Sec. 23-253(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) ***Manufacturing and industrial uses.*** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in Sec. 23-295. Subject to the requirements of Sec. 23-253(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) ***Storage of materials.*** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with Sec. 23-295. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(f) ***Public utilities, streets and bridges.*** All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- (1) When failure of public utilities, streets and bridges would endanger public

health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with Sec. 23-295.

- (2) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(g) ***Sewage systems.*** All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to Sec. 23-295(c), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(h) ***Wells.*** All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to Sec. 23-295(c), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(i) ***Solid waste disposal sites.*** Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(j) ***Deposition of materials.*** Any deposited material must meet all the provisions of this ordinance.

(k) ***Manufactured homes.***

- (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

- (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

- a. have the lowest floor elevated to the flood protection elevation; and
- b. be anchored so they do not float, collapse or move laterally during a flood.

- (3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in Sec. 23-253(a).

(l) ***Mobile recreational vehicles.*** All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Sec. 23-253(k)(2) and (3). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect

utilities and security devices and has no permanently attached additions.

**Secs. 23-254 – 23-265. Reserved.**

## **DIVISION 5. OTHER FLOODPLAIN DISTRICTS.**

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

### **Sec. 23-266. General floodplain district (GFP).**

(a) ***Applicability.*** The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

(b) ***Permitted uses.*** Pursuant to Sec. 23-266(d), it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (Sec. 23-237) and Floodfringe (Sec. 23-252) Districts are allowed within the General Floodplain District, according to the standards of Sec. 23-266(c), provided that all permits or certificates required under Sec. 23-291 have been issued.

(c) ***Standards for development.*** Division 3 applies to floodway areas, Division 4 applies to floodfringe areas. The rest of this ordinance applies to either district.

- (1) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:
  - a. At or above the flood protection elevation; or
  - b. Two (2) feet above the highest adjacent grade around the structure; or
  - c. The depth as shown on the FIRM.
- (2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

(d) ***Determining floodway and floodfringe limits.*** Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on

the FIRM.

- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
  - a. A Hydrologic and Hydraulic Study as specified in Sec. 23-291(b)(3).
  - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
  - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

#### **Sec. 23-267. Flood storage district.**

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

(a) ***Applicability.*** The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

(b) ***Permitted uses.*** Any use or development which occurs in a flood storage district must meet the applicable requirements in Sec. 23-253.

(c) ***Standards for development in flood storage districts.***

- (1) Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
- (2) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
- (3) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is

rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per Division 8 *Amendments* of this ordinance.

- (4) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

**Secs. 23-268 – 23-280. Reserved.**

## **DIVISION 6. NONCONFORMING USES**

### **Sec. 23-281. General.**

(a) ***Applicability.*** If these standards conform with s. 87.30, Stats. and ch. NR 116.15, Wis. Adm. Code and 44 CFR 59-72, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words “modification” and “addition” include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance.
- (3) The municipality shall keep a record which lists all nonconforming uses and

nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.

- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the fifty percent (50%) provisions of this paragraph.
- (5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a).
- (6) If on a per event basis the total value of the work being done under (4) and (5) equals or exceeds fifty percent (50%) of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a).
- (7) Except as provided in subd. (8), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty percent (50%) of the structure's present equalized assessed value.
- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.



a. Residential Structures

1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Sec. 23-295(b).
2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
5. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 23-266(c).
6. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. Nonresidential Structures

1. Shall meet the requirements of Sec. 23-281(b)(8)a1-6.
2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Sec. 23-295(a) or (b).
3. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 23-266(c).

(c) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with Sec. 23-238(a), flood resistant materials are used, and construction practices and floodproofing methods that

comply with Sec. 23-295 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Sec. 23-281(b)(8)a if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

**Sec. 23-282. Floodway district.**

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

- (1) Has been granted a permit or variance which meets all ordinance requirements;
- (2) Meets the requirements of Sec. 23-281;
- (3) Shall not increase the obstruction to flood flows or regional flood height;
- (4) Any addition to the existing structure shall be floodproofed, pursuant to Sec. 23-295, by means other than the use of fill, to the flood protection elevation; and
- (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
  - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
  - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  - d. The use must be limited to parking, building access or limited storage.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, Sec. 23-295(c) and ch. SPS 383, Wis. Adm. Code.

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, Sec. 23-295(c) and chs. NR 811 and NR 812, Wis. Adm. Code.

**Sec. 23-283. Floodfringe district.**

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of Sec. 23-253 except where Sec. 23-283(b) is applicable.

(b) Where compliance with the provisions of subd. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in Sec. 23-293, may grant a variance from those provisions of subd. (a) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
- (2) Human lives are not endangered;
- (3) Public facilities, such as water or sewer, shall not be installed;
- (4) Flood depths shall not exceed two feet;
- (5) Flood velocities shall not exceed two feet per second; and
- (6) The structure shall not be used for storage of materials as described in Sec. 23-253(e).

(c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, Sec. 23-295(c) and ch. SPS 383, Wis. Adm. Code.

(d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, Sec. 23-295(c) and ch. NR 811 and NR 812, Wis. Adm. Code.

**Sec. 23-284. Flood storage district.**

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in Sec. 23-267(c) are met.

**Sec. 23-285 – 23-289. Reserved.**

## **SECTION 7. ADMINISTRATION**

### **Sec. 23-290. Administration.**

Where a zoning administrator, planning agency or a Board of Appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

### **Sec. 23-291. Zoning administrator.**

(a) ***Duties and powers.*** The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (2) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (4) Keep records of all official actions such as:
  - a. All permits issued, inspections made, and work approved;
  - b. Documentation of certified lowest floor and regional flood elevations;
  - c. Floodproofing certificates.
  - d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
  - e. All substantial damage assessment reports for floodplain structures.
  - f. List of nonconforming structures and uses.
- (5) Submit copies of the following items to the Department Regional office:
  - a. Within 10 days of the decision, a copy of any decisions on variances,

appeals for map or text interpretations, and map or text amendments;

- b. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
- c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(7) Submit copies of amendments to the FEMA Regional office.

(b) ***Land use permit.*** A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(1) *General information*

- a. Name and address of the applicant, property owner and contractor;
- b. Legal description, proposed use, and whether it is new construction or a modification;

(2) *Site development plan.* A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- a. Location, dimensions, area and elevation of the lot;
- b. Location of the ordinary highwater mark of any abutting navigable waterways;
- c. Location of any structures with distances measured from the lot lines and street center lines;
- d. Location of any existing or proposed on-site sewage systems or private water supply systems;
- e. Location and elevation of existing or future access roads;
- f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- g. The elevation of the lowest floor of proposed buildings and any fill

using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

- h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Divisions 3 or 4 are met; and
- i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Sec. 23-221. This may include any of the information noted in Sec. 23-238(a).

(3) *Hydraulic and hydrologic duties to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

a. Zone A floodplains:

1. Hydrology.

- i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge.*

2. Hydraulic modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

- i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
- ii. Channel sections must be surveyed.
- iii. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
- iv. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional

intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.

- v. The most current version of HEC\_RAS shall be used.
  - vi. A survey of bridge and culvert openings and the top of road is required at each structure.
  - vii. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
  - viii. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
  - ix. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
3. Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
  - ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed

conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

b. Zone AE Floodplains

1. Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
2. Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
  - i. Duplicate Effective Model.  
The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
  - ii. Corrected Effective Model.  
The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
  - iii. Existing (Pre-Project Conditions) Model.  
The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
  - iv. Revised (Post-Project Conditions) Model.  
The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.



- v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
3. Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
  - ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
  - iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
  - iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
  - v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.

- vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- vii. Both the current and proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(4) *Expiration.* All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

(c) ***Certificate of compliance.*** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of Sec. 23-295 are met.

(d) ***Other permits.*** Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

**Sec. 23-292. Zoning agency.**

- (a) The Plan Commission shall:

- (1) Oversee the functions of the office of the zoning administrator; and
  - (2) Review and advise the governing body on all proposed amendments to this ordinance, maps and text.
- (b) The Plan Commission shall not:
- (1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
  - (2) Amend the text or zoning maps in place of official action by the governing body.

**Sec. 23-293. Board of Appeals.**

The Board of Appeals, created under s. 62.23(7)(e), Stats., is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

- (a) ***Powers and duties.*** The Board of Appeals shall:
- (1) *Appeals.* Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
  - (2) *Boundary Disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
  - (3) *Variances.* Hear and decide, upon appeal, variances from the ordinance standards.
- (b) ***Appeals to the Board.***
- (1) Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.
  - (2) *Notice and hearing for appeals including variances.*

- a. Notice. The Board shall:
  - 1. Fix a reasonable time for the hearing;
  - 2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
  - 3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
- b. Hearing. Any party may appear in person or by agent. The Board shall:
  - 1. Resolve boundary disputes according to Sec. 23-293(c);
  - 2. Decide variance applications according to Sec. 23-293(d); and
  - 3. Decide appeals of permit denials according to Sec. 23-294.

(3) Decision. The final decision regarding the appeal or variance application shall:

- a. Be made within a reasonable time;
- b. Be sent to the Department Regional office within 10 days of the decision;
- c. Be a written determination signed by the chairman or secretary of the Board;
- d. State the specific facts which are the basis for the Board's decision;
- e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
- f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) **Boundary disputes**. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;
- (2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
- (3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Division 8 *Amendments*.

(d) ***Variance.***

- (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
  - a. Literal enforcement of the ordinance will cause unnecessary hardship;
  - b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  - c. The variance is not contrary to the public interest; and
  - d. The variance is consistent with the purpose of this ordinance in Sec. 23-203.
- (2) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
  - a. The variance shall not cause any increase in the regional flood elevation;
  - b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
  - c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (3) A variance shall not:
  - a. Grant, extend or increase any use prohibited in the zoning district;

- b. Be granted for a hardship based solely on an economic gain or loss;
  - c. Be granted for a hardship which is self-created.
  - d. Damage the rights or property values of other persons in the area;
  - e. Allow actions without the amendments to this ordinance or map(s) required in *Division 8 Amendments*; and
  - f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

**Sec. 23-294. To review appeals of permit denials.**

(a) The Zoning Agency (Sec. 23-292) or Board shall review all data related to the appeal. This may include:

- (1) Permit application data listed in Sec. 23-291(b);
  - (2) Floodway/floodfringe determination data in Sec. 23-266(d);
  - (3) Data listed in Sec. 23-238(a)(2) where the applicant has not submitted this information to the zoning administrator; and
  - (4) Other data submitted with the application, or submitted to the Board with the appeal.
- (b) For appeals of all denied permits the Board shall:
- (1) Follow the procedures of Sec. 23-293;
  - (2) Consider zoning agency recommendations; and
  - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the Board shall:
- (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all

adversely affected property owners as per the requirements of Division 8 *Amendments*; and

- (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

**Sec. 23-295. Floodproofing standards for nonconforming structures or uses.**

(a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

(b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

- (1) Certified by a registered professional engineer or architect; or
- (2) Meets or exceeds the following standards:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - b. The bottom of all openings shall be no higher than one foot above grade; and
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) Floodproofing measures shall be designed, as appropriate, to:

- (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
- (2) Protect structures to the flood protection elevation;
- (3) Anchor structures to foundations to resist flotation and lateral movement;
- (4) Minimize or eliminate infiltration of flood waters; and
- (5) Minimize or eliminate discharges into flood waters.

**Sec. 23-296. Public information.**

- (a) Place marks on structures to show the depth of inundation during the regional flood.
- (b) All maps, engineering data and regulations shall be available and widely distributed.
- (c) Real estate transfers should show what floodplain district any real property is in.

**Secs. 23-297 – 23-303. Reserved.**

**DIVISION 8. AMENDMENTS.**

**Sec. 23-304. Amendments.**

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 23-305.

(a) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 23-305. Any such alterations must be reviewed and approved by FEMA and the DNR.

(b) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Sec. 23-305.

**Sec. 23-305. General.**

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in Sec. 23-306 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- (a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (c) Any changes to any other officially adopted floodplain maps listed in Sec. 23-205(b)(2);
- (d) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;



- (e) Correction of discrepancies between the water surface profiles and floodplain maps;
- (f) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
- (g) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

**Sec. 23-306. Procedures.**

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats. The petitions shall include all data required by Sec. 23-266(d) and Sec. 23-291(b). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

(a) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats.

(b) No amendments shall become effective until reviewed and approved by the Department.

(c) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

**Secs. 23-307 – 23-310. Reserved.**

**DIVISION 9. ENFORCEMENT AND PENALTIES**

**Sec. 23-311. Enforcement and penalties.**

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

**Secs. 23-312 – 23-314. Reserved.**

## **DIVISION 10. DEFINITIONS.**

### **Sec. 23-315. Definitions.**

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word “may” is permissive, “shall” is mandatory and is not discretionary.

**A Zones.** Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

**AH Zone.** See *Area of shallow flooding*

**AO Zone.** See *Area of shallow flooding*

**Accessory structure or use.** A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

**Alteration.** An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

**Area of shallow flooding.** A designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent (1%) or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

**Base flood.** Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

**Basement.** Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

**Building.** See *Structure*.

**Bulkhead line.** A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

**Campground.** Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is

advertised or represented as a camping area.

***Camping unit.*** Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

***Certificate of compliance.*** A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

***Channel.*** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

***Crawlways or crawl space.*** An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

***Deck.*** An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

***Department.*** The Wisconsin Department of Natural Resources.

***Development.*** Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

***Dryland access.*** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

***Encroachment.*** Any fill, structure, equipment, use or development in the floodway.

***Federal Emergency Management Agency (FEMA).*** The federal agency that administers the National Flood Insurance Program.

***Flood Insurance Rate Map (FIRM).*** A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

***Flood or flooding.*** A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- The overflow or rise of inland waters;
- The rapid accumulation or runoff of surface waters from any source;
- The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

***Flood frequency.*** The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

***Floodfringe.*** That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

***Flood hazard boundary map.*** A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

***Flood insurance study.*** A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

***Floodplain.*** Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

***Floodplain island.*** A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

***Floodplain management.*** Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

***Flood profile.*** A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

***Floodproofing.*** Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

***Flood protection elevation.*** An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: ***Freeboard.***)

***Flood storage.*** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

***Floodway.*** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

***Freeboard.*** A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

***Habitable structure.*** Any structure or portion thereof used or designed for human habitation.

***Hearing notice.*** Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

***High flood damage potential.*** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

***Highest adjacent grade.*** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

***Historic structure.*** Any structure that is either:

- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

***Increase in regional flood height.*** A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which

is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

***Land use.*** Any nonstructural use made of unimproved or improved real estate. (Also see *Development*.)

***Lowest adjacent grade.*** Elevation of the lowest ground surface that touches any of the exterior walls of a building.

***Lowest floor.*** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

***Maintenance.*** The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

***Manufactured home.*** A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle".

***Mobile/manufactured home park or subdivision.*** A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

***Mobile/manufactured home park or subdivision, existing.*** A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

***Mobile/manufactured home park, expansion to existing.*** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

***Mobile recreational vehicle.*** A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles".

**Model, corrected effective.** A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

**Model, duplicate effective.** A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

**Model, effective.** The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

**Model, existing (pre-project).** A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

**Model, revised (post-project).** A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

**Municipality or municipal.** The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

**NAVD or North American Vertical Datum.** Elevations referenced to mean sea level datum, 1988 adjustment.

**NGVD or National Geodetic Vertical Datum.** Elevations referenced to mean sea level datum, 1929 adjustment.

**New construction.** For floodplain management purposes, “new construction” means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

**Nonconforming structure.** An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

**Nonconforming use.** An existing lawful use or accessory use of a structure or building

which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

***Obstruction to flow.*** Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

***Official floodplain zoning map.*** That map, adopted and made part of this ordinance, as described in Sec. 23-205(b), which has been approved by the Department and FEMA.

***Open space use.*** Those uses having a relatively low flood damage potential and not involving structures.

***Ordinary highwater mark.*** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

***Person.*** An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

***Private sewage system.*** A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

***Public utilities.*** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

***Reasonably safe from flooding.*** Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

***Regional flood.*** A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

***Start of construction.*** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include



excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure.** Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

**Subdivision.** Has the meaning given in s. 236.02(12), Wis. Stats.

**Substantial damage.** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent (50%) of the equalized assessed value of the structure before the damage occurred.

**Substantial improvement.** Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent (50%) of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**Unnecessary hardship.** Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

**Variance.** An authorization by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

**Violation.** The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

**Watershed.** The entire region contributing runoff or surface water to a watercourse or body of water.

**Water surface profile.** A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

**Well.** An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

\*Editor's Note\*: Article X of Chapter 23, Floodplain Zoning, was repealed and recreated by Ordinance 12-21, adopted by Council on April 21, 2021, published on April 26, 2021, and became effective April 27, 2021

**Section 2:** This ordinance shall be in full force and effect from and after its passage and publication.

## **14-21**

AN ORDINANCE DETACHING TERRITORY  
FROM THE CITY OF APPLETON, WISCONSIN.  
(Coop Road Detachment)

The Common Council of the City of Appleton does ordain as follows:

**Section 1: Territory Detached.** In accordance with Section 66.027(2) of the Wisconsin Statutes for 2019 – 2020, the following described territory in the City of Appleton, Calumet County, Wisconsin, lying contiguous to the City of Appleton, is hereby detached to the Village of Harrison, Wisconsin.

*A part of the West One-Half (W ½) of the Northwest Quarter (NW ¼) of Section 3, part of the West One-half (W ½) of the Southwest Quarter (SW ¼) of Section 3 and a part of the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) of Section 10, Township 20 North, Range 18 East, City of Appleton, Calumet County, Wisconsin, containing 4.0 Acres m/l of road right-of-way and being all that part of the City of Appleton lying East of the following described line:*

*Commencing at a point on the West line of the Northwest ¼ corner of said Section 3, lying North 00°31'53" East 1,798.73 feet from the West ¼ corner thereof and being the point of beginning;*

*Thence South 00°31'53" West 1,798.73 feet along the West line of the NW ¼ of said Section 3 to the West ¼ corner thereof;*

*Thence South 00°14'16" West 2,636.69 feet along the West line of the SW ¼ of said Section 3 to the Southwest corner thereof;*

*Thence South 00°30'32" West 40.00 feet along the West line of the NW ¼ of said Section 10 to the terminus of the afore described line.*

Area of Property to be detached contains 4.0 acres m/l.

The population of such territory is 0.

This territory lies within the City of Appleton, Calumet County, Wisconsin.

**Section 2: Effect of Detachment.** From and after the date of this ordinance the territory described in Section 1 shall be a part of the Village of Harrison for any and all purposes provided by law and all persons coming or residing within such territory shall be subject to all ordinances, rules and regulations governing the Village of Harrison.

**Section 3: Severability.** If any provisions of this ordinance are invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of this ordinance which can be given without the invalid or unconstitutional provision or application.

**Section 4: Effective Date.** This ordinance shall take effect upon passage and publication.