



# City of Appleton

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

## Meeting Agenda - Final Common Council

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Wednesday, October 19, 2022

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

[22-1306](#) Common Council Meeting Minutes & Common Council Special Session Meeting Minutes of October 5, 2022

**Attachments:** [CC Minutes 10-5-22 Special Session.pdf](#)  
[CC Minutes 10-5-22.pdf](#)

- G. BUSINESS PRESENTED BY THE MAYOR
- H. PUBLIC PARTICIPATION
- I. PUBLIC HEARINGS

[22-1109](#) Public Hearing for Comprehensive Plan Text Amendment #3-22 for Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7 Soldier's Square/YMCA Parking Ramp

**Attachments:** [TA 3-22 Public Hearing Notice.pdf](#)

- J. SPECIAL RESOLUTIONS
- K. ESTABLISH ORDER OF THE DAY
- L. COMMITTEE REPORTS

## 1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[22-1280](#)

**Rankin Street**, from 200' south of Alton Street to College Avenue, be reconstructed with asphalt pavement and curb and gutter. The dimensions of the Rankin Street reconstruction project are as follows:

*200' south of Alton Street - Alton St:* New asphalt pavement to be constructed to a width of 25' from back of curb to back of curb, which is 1' narrower than the existing street within this portion of the project. Existing on-street parking to remain unchanged within this portion of the project.

*Alton St - College Ave:* New asphalt pavement to be constructed to a width of 31' from back of curb to back of curb, which is 2' narrower than the existing street within this portion of the project. Existing on-street parking to remain unchanged within this portion of the project.

**Legislative History**

10/10/22	Municipal Services Committee	recommended for approval
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[22-1292](#)

**Summit Street**, from Packard Street to Elsie Street, be reconstructed with asphalt pavement and concrete curb & gutter to a width of 26' from back of curb to back of curb, which is 2' narrower than the existing street. Existing on-street parking would be restricted along the west side of Summit Street, within the project limits.

**Legislative History**

10/10/22	Municipal Services Committee	recommended for approval
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## 2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[22-1267](#)

Cigarette License application for Pillow Talk-N-Wine LLC, Lisa Pitts, Applicant, located at 2310 W College Ave Unit C.

**Attachments:** [Pillow Talk n Wine S&L.pdf](#)

**Legislative History**

10/12/22	Safety and Licensing Committee	recommended for approval
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## 3. MINUTES OF THE CITY PLAN COMMISSION

[22-1132](#) Request to approve Comprehensive Plan 2010-2030 Text Amendment #3-22 to amend Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7 Soldier's Square/YMCA Parking Ramp on Pages 314, 318 and 319, as identified in the attached documents and approve attached Resolution

**Attachments:** [StaffReport SoldiersSquare CompPlanTextAmend For09-14-22.pdf](#)

**Legislative History**

9/14/22 City Plan Commission recommended for approval  
*Proceeds to Council on October 19, 2022.*

[22-1133](#) Request to approve the Trail View Estates South 3 Final Plat as shown on the attached maps and subject to the conditions in the attached staff report

**Attachments:** [StaffReport TrailViewEstatesSouth3 FinalPlat For10-12-22.pdf](#)

**Legislative History**

10/12/22 City Plan Commission recommended for approval

[22-1247](#) Request to approve Special Use Permit #11-22 for a restaurant with alcohol sales and service and associated outdoor area located at 2821 N. Ballard Road (Tax Id #31-1-6536-00), as shown on the attached materials and per attached plan of operation, to run with the land subject to the conditions in the attached staff report and approve attached Resolution (2/3 vote of Common Council required for approval)

**Attachments:** [StaffReport 2821NBallardRd\\_SUP For10-12-22.pdf](#)

**Legislative History**

10/12/22 City Plan Commission recommended for approval

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

**5. MINUTES OF THE FINANCE COMMITTEE**

[22-1278](#) Request to reject base bid from Staab Construction in the amount of \$643,600 for the 2022 AWWTP Blended Sludge Piping and Preliminary Heat Exchanger Replacement Project.

**Attachments:** [Finance Memo SSB Construction Project Bid Rejection.pdf](#)

**Legislative History**

10/10/22 Finance Committee recommended for approval

[22-1282](#) Request to award the 2022 AWWTP Biogas Boiler System Upgrades Project contract to Rohde Brothers, Inc. in the amount of \$333,450 with a 12% contingency of \$40,014 for a project total not to exceed \$373,464.

**Attachments:** [2022 AWWTP BIOGAS BOILER SYSTEM HVAC Upgrades Project\\_.pdf](#)

**Legislative History**

10/10/22 Finance Committee recommended for approval

[22-1283](#) Request to award the City of Appleton's 2022 Telulah Pavilion Repairs Project contract to RJM Construction, LLC. in the amount of \$158,572 with a 12% contingency of \$19,028 for a project total not to exceed \$177,600.

**Attachments:** [2022 Telulah Pavilion Repairs Project.pdf](#)

**Legislative History**

10/10/22 Finance Committee recommended for approval

[22-1284](#) Request to award the City of Appleton's 2022 AWWTP Painting Project contract to SDS Painting Co., Inc. in the amount of \$121,760 with a 8% contingency of \$10,000 for a project total not to exceed \$131,760.

**Attachments:** [2022 AWWTP Painting Project.pdf](#)

**Legislative History**

10/10/22 Finance Committee recommended for approval

[22-1288](#) Request to approve the following 2022 Budget amendment:

Public Works Capital Project Fund	-\$27,302
Facilities Capital Project Fund	+\$27,302

To record transfer of sidewalk costs from Public Works Capital Project Fund to Facilities Capital Project Fund.

**Attachments:** [Library Sidewalk Budget Amendment.pdf](#)

**Legislative History**

10/10/22 Finance Committee recommended for approval

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

[22-1264](#) Request to approve a variance to Section 4.H of the Deed Restrictions and Covenants for the Northeast Business Park Plat No. 3 to allow for an ancillary structure at 2331 E. Evergreen Drive (Tax Id #31-1-6510-41)

**Attachments:** [Parker Johns Variance Request Memo 10-12-22.pdf](#)

[Variance Request Narrative from Parker Johns.pdf](#)

[Storage Shed Sheet A1 Elevations Parker Johns.pdf](#)

[Bldg Remodel Plans Parker Johns.pdf](#)

[NEBP Plat 3 Declaration of Covenants + Restrictions.pdf](#)

[NEBP Map.pdf](#)

**Legislative History**

10/12/22 Community & Economic Development Committee recommended for approval

## 7. MINUTES OF THE UTILITIES COMMITTEE

[22-1249](#) Approve changes to Municipal Code Chapter 24, Erosion and Sediment Control.

**Attachments:** [2022 Sept ESC Ord revisions combined.pdf](#)

**Legislative History**

10/11/22 Utilities Committee recommended for approval

[22-1250](#) Approve changes to Erosion and Sediment Control Program.

**Attachments:** [2022 Sept ESC Program combined.pdf](#)

**Legislative History**

10/11/22 Utilities Committee recommended for approval

[22-1274](#) Request to approve 2023 Add-on Water Main Replacement Project List.

**Attachments:** [Utilities Committees - 10-11-22 - Project List - 2023 Add-on Water Main Replace](#)

**Legislative History**

10/11/22 Utilities Committee recommended for approval

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

[22-1240](#) Request to Approve the Fire Fighter 2023-2025 Contract.

**Attachments:** [Fire TA August 19, 2022 for HR Committee.pdf](#)  
[Fire Fighter Contract 2023.pdf](#)

**Legislative History**

10/12/22 Human Resources & Information Technology Committee recommended for approval

[22-1241](#) Request to Approve the Fringe Benefit Policy Changes.

**Attachments:** [Fringe Benefit Policy 2022.pdf](#)

**Legislative History**

10/12/22 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**

N. ITEMS HELD

O. ORDINANCES

[22-1307](#) Ordinances 57-22 & 58-22

**Attachments:** [Ordinances to Council 10-19-22.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.*

*Remote meeting attendance may be permitted pursuant to Section 2-29 of the Appleton Municipal Code and Rules of Council.*



# City of Appleton

100 North Appleton Street  
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## Meeting Minutes - Final Common Council

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Wednesday, October 5, 2022

6:00 PM

Council Chambers

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### SPECIAL SESSION

A. CALL TO ORDER

*The meeting was called to order by Mayor Woodford at 6:00 p.m.*

B. PLEDGE OF ALLEGIANCE TO THE FLAG

C. ROLL CALL OF ALDERPERSONS

**Present:** 16 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim, Alderperson Christopher Croatt, Alderperson Chad Doran and Mayor Jake Woodford

**D. PUBLIC PARTICIPATION**

*The following spoke during Public Participation:*

*Cindy Kort, 405 S Olde Oneida St. #203  
Laura Leimer, 720 E Washington St.  
Ronna Swift, 230 W Seymour St.  
Neo Medina, 2424 Main Ave, Kaukauna  
Christian Anderson, 1014 N Fair St.  
John Brogan, 2600 Riverside Dr Kaukauna  
Margret Mann, 821 S Pierce Ave  
Elisa DeGroot, 335 W Prospect Ave  
Kerry Williamsen, 209 N Mason St.  
Carla Mitchell, 4th Street  
Antoinette Powell, 401 W Prospect Ave  
Keith Powell, 401 W Prospect Ave  
Dane Schumacher, 3000 W Spencer St  
Jennifer Stephany, 333 W College Ave  
Linda Crowley, 7 Bracken Ct  
Gwen Sargeant, 2401 W Cherokee Dr  
Liz Garvey, 329 W Prospect Ave  
Anistasia Burkam, 303 S Memorial Dr  
Jason Dederling, 231 W Prospect Dr  
Evelyn Bowman, 1330 Oakcrest Ct  
Matthew Prom, 520 W 5th St  
Kaufman, Durkee St.  
Ballard, Wisconsin Ave  
Thomas Bowman, 1330 Oakcrest Ct  
Christine Williams, 1037 W Oklahoma St*

**E. PRESENTATION**

[22-1237](#)

Presentation by representatives of the Trout Museum of Art re: the relocation of the museum to Ellen Kort Peace Park

**F. ACTION ITEM**

[22-1238](#)

Authorize staff to proceed to Step No. 4 on the Process Map for Ellen Kort Peace Park Proposal

**Attachments:** [Trout - Updated Process Map.pdf](#)

**Aldersperson Fenton moved, seconded by Aldersperson Siebers, that the Item be held for two weeks, until another Special Session of the Council. Roll Call.**

**Motion failed by the following vote:**

**Aye:** 5 - Aldersperson William Siebers, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao and Aldersperson Christopher Croatt



**Nay:** 10 - Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim and Alderperson Chad Doran

**Abstained:** 1 - Mayor Jake Woodford

**Alderperson Hartzheim moved, seconded by Alderperson Thyssen, that the authorization of staff to proceed to Step. 4 on the Process Map be approved.**

**Roll Call. Motion carried by the following vote:**

**Aye:** 8 - Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Nate Wolff, Alderperson Sheri Hartzheim, Alderperson Christopher Croatt and Alderperson Chad Doran

**Nay:** 7 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Vaya Jones and Alderperson Kristin Alfheim

**Abstained:** 1 - Mayor Jake Woodford

G. OTHER COUNCIL BUSINESS

H. ADJOURN

**Alderperson Wolff moved, seconded by Alderperson Hartzheim, that the meeting be adjourned at 8:17 p.m. Roll Call. Motion carried by the following vote:**

**Aye:** 15 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim, Alderperson Christopher Croatt and Alderperson Chad Doran

**Abstained:** 1 - Mayor Jake Woodford

Kami Lynch, City Clerk



# City of Appleton

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## Meeting Minutes - Final Common Council

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Wednesday, October 5, 2022

7:00 PM

Council Chambers

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A. CALL TO ORDER

*The meeting was called to order by Mayor Woodford at 8:31 p.m.*

B. INVOCATION

*The Invocation was offered by Alderperson Hartzheim*

C. PLEDGE OF ALLEGIANCE TO THE FLAG

D. ROLL CALL OF ALDERPERSONS

**Present:** 16 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim, Alderperson Christopher Croatt, Alderperson Chad Doran and Mayor Jake Woodford

E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

*All Departments were represented.*

F. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[22-1235](#)

Common Council Meeting Minutes of September 21, 2022

**Attachments:** [CC Minutes 9-21-22.pdf](#)

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

**Aye:** 15 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim, Alderperson Christopher Croatt and Alderperson Chad Doran

**Abstained:** 1 - Mayor Jake Woodford

G. BUSINESS PRESENTED BY THE MAYOR

[22-1232](#)

Proclamations

- Indigenous Peoples' Day
- Coming Out Day
- White Cane Awareness Day
- Fire Prevention Week
- Domestic Violence Awareness Month
- Mental Health Day

**Attachments:**

[Indigenous Peoples' Day Proclamation.pdf](#)

[Coming Out Day Proclamation.pdf](#)

[White Cane Awareness Day Proclamation.pdf](#)

[Fire Prevention Week Proclamation.pdf](#)

[Domestic Violence Awareness Month.pdf](#)

[Mental Health Day Proclamation.pdf](#)

[22-1233](#)

2023 Executive Budget & Service Plan Presentation

**The 2023 Executive Budget and Service Plan was presented. More information and items related to the Budget are scheduled throughout October. The Public Hearing on the 2023 Proposed Executive Budget is November 2nd at 6:00 p.m. Budget adoption is November 9th at 6:00 p.m.**

H. PUBLIC PARTICIPATION

*April 4216 N Windcross Dr, spoke representing the League of Women Voters on Item 22-1212 Resolution supporting election officials.*

I. PUBLIC HEARINGS

J. SPECIAL RESOLUTIONS

K. ESTABLISH ORDER OF THE DAY

[22-1147](#)

Request from Mark Van Grinsven, 1610 W. Glendale Avenue, for a variance to Municipal Code Section 19-91(f) for a driveway widened more than 4 feet into the front yard.

**Attachments:**     [Driveway X.jpg](#)  
                                 [Driveway Extension.pdf](#)  
                                 [9-21 Van Grinsven Letter & Photos re driveway req.pdf](#)  
                                 [9-21 Taggart letter re Van Grinsven driveway req.pdf](#)

**Aldersperson Croatt moved, seconded by Aldersperson Thyssen, that the variance request be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 13 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Israel Del Toro, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao, Aldersperson Joss Thyssen, Aldersperson Alex Schultz, Aldersperson Vaya Jones, Aldersperson Kristin Alfheim, Aldersperson Nate Wolff and Aldersperson Christopher Croatt

**Nay:** 2 - Aldersperson Sheri Hartzheim and Aldersperson Chad Doran

**Abstained:** 1 - Mayor Jake Woodford

[22-1212](#)

Resolution #11-R-22, Resolution in Support of Election Officials

**Attachments:**     [#11-R-22 Resolution in Support of Election Officials.pdf](#)

**Aldersperson Doran moved, seconded by Aldersperson Hartzheim, that the Resolution be amended to strike paragraphs 4-7. Roll Call. Motion failed by the following vote:**

**Aye:** 2 - Aldersperson Sheri Hartzheim and Aldersperson Chad Doran

**Nay:** 13 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Israel Del Toro, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao, Aldersperson Joss Thyssen, Aldersperson Alex Schultz, Aldersperson Vaya Jones, Aldersperson Kristin Alfheim, Aldersperson Nate Wolff and Aldersperson Christopher Croatt

**Abstained:** 1 - Mayor Jake Woodford

**Aldersperson Croatt moved, seconded by Aldersperson Del Toro, that the Resolution be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 13 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Israel Del Toro, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao, Aldersperson Joss Thyssen, Aldersperson Alex Schultz, Aldersperson Vaya Jones, Aldersperson Kristin Alfheim, Aldersperson Nate Wolff and Aldersperson Christopher Croatt

**Nay:** 2 - Aldersperson Sheri Hartzheim and Aldersperson Chad Doran

**Abstained:** 1 - Mayor Jake Woodford

L. COMMITTEE REPORTS

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

**Aldersperson Hartzheim moved, Aldersperson Croatt seconded, to approve the balance of the agenda. The motion carried by the following vote:**

**Aye:** 15 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Israel Del Toro, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao, Aldersperson Joss Thyssen, Aldersperson Alex Schultz, Aldersperson Vaya Jones, Aldersperson Kristin Alfheim, Aldersperson Nate Wolff, Aldersperson Sheri Hartzheim, Aldersperson Christopher Croatt and Aldersperson Chad Doran

**Abstained:** 1 - Mayor Jake Woodford

1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[22-1208](#)

Award the 2022-2027 Sidewalk & Crosswalk Snow Removal Services Contract to Complete Flatwork Specialists in accordance with the hourly rates included in their proposal dated September 9, 2022. The term of this contract will be from October 2022 through June of 2027, conditioned upon satisfactory performance by the contractor.

**Attachments:** [2022-2027 College Ave Sidewalk & Crosswalk Snow Services.pdf](#)

**This Report Action Item was approved.**

[22-1209](#)

Approve the proposed handicap-accessible parking stall on the 100 block of S. Locust Street.

**Attachments:** [Handicap parking-100 block Locust St.pdf](#)

**This Report Action Item was approved**

2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[22-1138](#)

Class "A" Beer and "Class A" Liquor License Permanent Premise Amendment application for Ultimate Mart LLC d/b/a Pick N Save #8187, Lyndsey Lawrence, Agent, located at 511 W Calumet St.

**Attachments:** [Pick N Save 8187.pdf](#)

**This Report Action Item was approved.**

[22-1176](#)

Class "B" Beer and "Class B" Liquor License application for Bowlero Wisconsin LLC d/b/a Super Bowl Family Entertainment, Scott M Radtke, Agent, located at 2222 E Northland Ave, contingent upon approval from the Health department.

**Attachments:** [Super Bowl.pdf](#)

This Report Action Item was approved.

[22-1206](#)

Secondhand Article Dealer License application for Checkpoint Gaming, Dean J Farley, applicant, located at 609A W College Ave.

**Attachments:** [Checkpoint Gaming S&L.pdf](#)

This Report Action Item was approved.

[22-1224](#)

Request to Approve FEMA's Assistance to Firefighters Grant (AFG) for a Regional Radio Project.

**Attachments:** [09-22-22\\_AFG\\_County\\_Radio\\_Grant.pdf](#)  
[EMW-2021-FG-01241 - Regional Radio Grant - Budget Amendment - 09.22.2022.pdf](#)

This Report Action Item was approved.

[22-1225](#)

Request to Accept Emergency Medical Service (EMS) FLEX Grant.

**Attachments:** [09-22-22\\_EMS\\_Flex\\_Grant\\_Memo.pdf](#)  
[State of Wisconsin Health Services - EMS Flex Grant - Budget Amendment - 09.22.2022.pdf](#)

This Report Action Item was approved.

### 3. MINUTES OF THE CITY PLAN COMMISSION

[22-1195](#)

Request to approve Certified Survey Map #25-22, which crosses a plat boundary, for the F Street Phase III development located in Southpoint Commerce Park, west of S. Eisenhower Drive and south of E. Milis Drive (Tax Id #31-9-5714-00, 31-9-5714-01, 31-9-5714-02, 31-9-5712-30, 31-9-5712-31, 31-9-5712-32, and 31-9-5712-33) as shown on the attached map and subject to the conditions in the attached staff report

**Attachments:** [StaffReport\\_F Street Phase III\\_CrossingPlatBoundary\\_For09-28-22.pdf](#)

This Report Action Item was approved.

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

**5. MINUTES OF THE FINANCE COMMITTEE**

[22-1214](#)

Request to award the 2022 Lake Station Gate Improvements Project contract to Milbach Construction Services Co. in the amount of \$72,000 with a 10% contingency of \$7200 for a project total not to exceed \$79,200.

**Attachments:** [2022 Lake Station Gate Replacement Project.pdf](#)

**This Report Action Item was approved.**

[22-1217](#)

Request to deny all bids for the Appleton Public Library project received on September 20, 2022.

**Attachments:** [2022 Library Bids - Rejected.pdf](#)

**This Report Action Item was approved.**

[22-1218](#)

Request to approve Contract Amendment / Change Order No.4 to contract 133-21, Unit U-21 Apple Creek Ct & Plamann Park S&W Construction for additional measured quantities of water main/service quantities installed in the amount of \$23,105.22 resulting in a decrease in contingency from \$39,730 to \$0. Overall contract amount decreases from \$4,063,474.01 to \$4,046,849.23.

**Attachments:** [Unit U-21 Change Order No. 4.pdf](#)

**This Report Action Item was approved.**

[22-1229](#)

Request to approve the following 2022 Budget amendment:

**General Fund - Fire**

Misc State Aids	+\$51,270
Misc Equipment	+\$51,270

to record Emergency Medical Service (EMS) FLEX Grant funds from the State of Wisconsin and the related expenditures (2/3 vote of Council required)

**Attachments:** [09-22-22 EMS Flex Grant Memo.pdf](#)

**This Report Action Item was approved.**

[22-1230](#)

Request to accept FEMA's Assistance to Firefighters Grant (AFG) for a regional radio project and approve the related 2022 Budget amendment as follows:

**Public Safety Capital Projects Fund**

Federal Grants	+\$1,807,912
Machinery & Equipment	+\$1,807,912

to record AFG grant funds and the related expenditures (2/3 vote of Council required)

**Attachments:** [09-22-22\\_AFG\\_County\\_Radio\\_Grant.pdf](#)

This Report Action Item was approved.

**6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE**[22-1193](#)

Request to approve Resolution #2022-07 to authorize the submittal of a Community Development Investment (CDI) grant application on behalf of Urbane 115 LLC to Wisconsin Economic Development Corporation (WEDC) in an amount not to exceed \$250,000 for the redevelopment located at 115 E. Washington Street and the City accept the grant funds should they be awarded

**Attachments:** [WEDC\\_CDI\\_Grant\\_Urbane\\_115\\_LLC\\_Memo\\_to\\_CEDC\\_9-28-22.pdf](#)  
[Resolution\\_#2022-07\\_WEDC\\_CDI\\_Grant\\_Urbane\\_115\\_LLC.pdf](#)

This Report Action Item was approved.

[22-1226](#)

Request to approve the First Amendment to the Development Agreement with MF Housing Partners, LLC for redevelopment located on N. Oneida Street, E. Harris Street, and N. Appleton Street (Parcel Nos. 31-2-0441-00, 31-2-0443-00, 31-2-0437-00, and 31-2-0529-00) in Tax Increment Financing District No. 11

**Attachments:** [Rise\\_Apts\\_DA\\_1st\\_Amendment\\_Memo\\_to\\_CEDC\\_9-28-22.pdf](#)  
[0718 - Rise Apartments - First Amendment to Dev Agrm - 09-23-2022 \(clean\).pdf](#)

This Report Action Item was approved.

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



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

[22-1198](#)

Authorization to Award Scheduling and Planning Software Contract to Optibus Inc.

**Attachments:** [Award Recommendation Optibus.pdf](#)

This Report Action Item was approved.

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

M. CONSOLIDATED ACTION ITEMS

N. ITEMS HELD

O. ORDINANCES

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

**Aldersperson Hartzheim moved, seconded by Aldersperson Del Toro, that the meeting be adjourned at 9:45 p.m. Roll Call. Motion carried by the following vote:**

**Aye:** 15 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Israel Del Toro, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao, Aldersperson Joss Thyssen, Aldersperson Alex Schultz, Aldersperson Vaya Jones, Aldersperson Kristin Alfheim, Aldersperson Nate Wolff, Aldersperson Sheri Hartzheim, Aldersperson Christopher Croatt and Aldersperson Chad Doran

**Abstained:** 1 - Mayor Jake Woodford

Kami Lynch, City Clerk

**CITY OF APPLETON**

**NOTICE OF PUBLIC HEARING**

**PROPOSED COMPREHENSIVE PLAN TEXT AMENDMENT**

NOTICE IS HEREBY GIVEN of a Public Hearing to be held before the Common Council on Wednesday, October 19, 2022, at 7:00 P.M. in Council Chambers, 6th Floor, City Hall, 100 North Appleton Street, or as soon thereafter as can be heard, for the purpose of considering a Comprehensive Plan Text Amendment request.

Pursuant to Wisconsin State Statute 66.1001 and the City of Appleton Comprehensive Plan 2010-2030, Comprehensive Plan Text Amendments have been initiated by the City of Appleton Community and Economic Development Department, in the matter of the City Plan Commission to review the recommended text amendments to Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7 Soldier's Square/YMCA Parking Ramp, Pages 314, 318 and 319.

A copy of the proposed text amendment to the Comprehensive Plan 2010-2030 is available in the Appleton Community and Economic Development Department or the Office of the City Clerk from 8:00 a.m. until 4:30 p.m., Monday through Friday.

All persons interested are invited to attend this meeting and will be given an opportunity to be heard. Feedback can also be shared with Common Council members via written letter, email, or phone call. Any questions regarding this matter should be directed to Karen Harkness, Director of the Community and Economic Development Department at 920-832-6468 or by email at [karen.harkness@appleton.org](mailto:karen.harkness@appleton.org).

KAMI LYNCH  
CITY CLERK

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

RUN: September 19, 2022

# Application for Cigarette and Tobacco Products Retail License

Submit to municipal clerk.

MUNICIPAL USE ONLY

License Number
Period Covered
Date of Issuance

Applicant's Wisconsin 15-digit Sales Tax Account Number

← This must be issued in the same Legal Name of the licensee below.

Legal Name (corporation, limited liability company, partnership or sole proprietorship) Pitts Lisa		Federal Employer Identification No. (FEIN) 	
Trade or Business Name (if different than Legal Name) Pillow Talk N Wine LLC		Telephone Number 	
Business Address (License Location) 2310 W. College Suite, C		Business Located In <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Town	
Municipality	State WI	Zip Code 54914	of: APPLETON
Business Telephone (920) 939-0360		County Outagamie	
Mailing Address (if different than Business Address) 903 W. Taylor St		Municipality	State WI
		Zip Code 54914	

Organization (check one)

- Sole Proprietor       Wisconsin Corporation – Enter date incorporated: \_\_\_\_\_  
 Partnership       Out-of-State Corporation – Are you registered to do business in Wisconsin?     Yes     No  
 Other (describe)    LLC 6-14-22

- Yes     No    1. Does the applicant understand that they must purchase cigarettes and tobacco products only from distributors, jobbers, or subjobbers, who hold a permit with the Wisconsin Department of Revenue?  
 Yes     No    2. Does the applicant understand that they must obtain a Tobacco Products Distributor permit if purchasing untaxed tobacco products from an out-of-state company? (Tobacco Products Distributor permit is available from the Wisconsin Department of Revenue at 608-266-6701. See application form CTP-129, [revenue.wi.gov/dorforms/ctp-129.pdf](http://revenue.wi.gov/dorforms/ctp-129.pdf).)  
 Yes     No    3. Does the applicant understand that they cannot purchase/exchange cigarettes or tobacco products from another retailer, including transferring existing stock to a new owner?  
 Yes     No    4. Does the applicant understand that they must provide employees with tobacco sales training approved by the Wisconsin Department of Health Services? (<https://witobaccocheck.org>)  
 Yes     No    5. Does the applicant understand that they may not sell, give or otherwise provide cigarettes/tobacco products and nicotine products to minors (including electronic cigarettes containing nicotine)?  
 Yes     No    6. Does the applicant understand that they may not sell single cigarettes?  
 Yes     No    7. Does the applicant understand that cigarette and tobacco products invoices must be kept on the licensed premises for two years from the date of the invoice and be available for inspection by the Wisconsin Department of Revenue/law enforcement and that failure to comply can result in criminal penalties, including loss of cigarettes/tobacco products?  
 Yes     No    8. Does the applicant understand that only cigarettes and roll-your-own (RYO) tobacco products listed on the Wisconsin Department of Justice's website labeled "Directory of Certified Tobacco Manufacturers and Brands" at [www.doj.state.wi.us/dls/tobacco-directory](http://www.doj.state.wi.us/dls/tobacco-directory) may be sold in Wisconsin?

Cigarettes / Tobacco will be sold     over counter     through vending machine     both

**READ CAREFULLY BEFORE SIGNING:** Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the applicant. Applicant agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, cannot be assigned to another. Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000.

(Officer of Corporation / Member / Manager of Limited Liability Company / Partner / Individual)

## Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of September 19, 2019: Sections 134.65, 134.66, 139.321, 139.79, 139.76, 995.10, and 995.12, Wis. Stats.



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Public Hearing Meeting Date:** September 14, 2022

**Common Council Public Hearing Meeting Date:** October 19, 2022 (Class 1 Public Hearing Notice on Comprehensive Plan Text Amendment)

**Item:** City of Appleton *Comprehensive Plan 2010-2030* Text Amendment #3-22 Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7 Soldier's Square/YMCA Parking Ramp, Pages 314, 318 and 319

**Case Managers:** Karen Harkness, Director and Don Harp, Principal Planner

### GENERAL INFORMATION

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**Petitioner's Request:** City staff is initiating a text amendment to the Comprehensive Plan 2010-2030.

### BACKGROUND

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On March 15, 2017, the Common Council approved/adopted the 5-year update to the *Comprehensive Plan 2010-2030* and Future Land Use Map. This plan establishes a vision for future land use, physical development, and quality of life in the City and provides a comprehensive set of goals, policies, and initiatives to achieve that vision. Periodically, development proposals or changing circumstances within the City may trigger an amendment to the *Comprehensive Plan 2010-2030*.

On June 1, 2022, the Council discussed and rejected Resolution #6-R-22 "Revitalization of Soldier's Square". However, the discussion indicated that Council supports this project as a philanthropic public-private collaboration and would like to see a fundraising component.

### STAFF ANALYSIS

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**Amendment Procedure:** The Plan Commission will conduct a public hearing on the proposed amendment. The public hearing before Plan Commission will be noticed as a Class II notice. The Plan Commission will act on the proposed amendment by resolution and forward the recommendation to the Common Council. Common Council will conduct a public hearing in accordance with Wisconsin State Statutes (currently as a Class I notice requiring 30 days notice) and will then, by majority vote, accept or deny the amendment.

**Proposed Text Amendment:** In response to public input and Council action taken on Resolution #6-R-22 "Revitalization of Soldier's Square", staff proposes the following text amendments to Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7 Soldier's Square/YMCA Parking Ramp, Pages 314, 318 and 319.

**Proposed new text language in Red Font:**

Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7. Soldiers Square on Page 314

- 7. Soldiers Square **See Comp Plan Amend #3-22 Pages 318-319**

**Proposed text language to be deleted in ~~strikeout~~ and new proposed text language in underlined:**

Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7. Soldier's Square/YMCA Parking Ramp on Pages 318-319

**7. Soldier's Square/YMCA Parking Ramp, Page 318**

~~A mixed use concept would replace a portion of the YMCA parking ramp site with a public plaza, while preserving a portion of the site for a development which might include a mix of parking, office, and commercial uses. The concept illustrated in the perspective drawing below would allow for a combination of flexible outdoor pedestrian zones. Features of the proposed mixed use development could include:~~

- ~~• 4 story mixed use building could include a mix of residential, office, commercial, or parking uses~~
- ~~• Possible arcade with retail shops on ground floor~~
- ~~• Rooftop seating~~
- ~~• Green roof~~

**7. Soldier's Square/YMCA Parking Ramp, Page 319**

The right of way (ROW) known as Solider Square houses the historic civil war monument dedicated in 1911. This bronze and granite sculpture is currently undergoing much needed maintenance and restoration.

A philanthropic public-private partnership to restore the monument (public) and raise funds to undertake the expansion of a flexible outdoor pedestrian zone (private) that would include:

- An extended pedestrian area around the civil war monument, including benches, reflection area, informative plaques, etc.
- Maintain street parking to support a variety of businesses and public ingress/egress to area.
- Encourage sustainable elements.
- Environment support small group gatherings, place making and increase vibrancy.

The YMCA Parking Ramp is being replaced with a new parking ramp.



*Figure 42 Deleted per Comprehensive Plan Amendment #3-22. -Soldier's Square/YMCA Parking Lot Perspective*

**Technical Review Group (TRG) Report:** This item appeared on the August 23, 2022 Technical Review Group agenda. No negative comments were received from participating departments.

## **RECOMMENDATION**

Based upon the above analysis, staff recommends the proposed text amendments to Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7 Soldier's Square/YMCA Parking Ramp, Pages 314, 318 and 319 of the *City of Appleton Comprehensive Plan 2010-2030*, and the Resolution, **BE APPROVED**.

**RESOLUTION  
CITY OF APPLETON**

**ADOPTION OF THE RECOMMENDED TEXT AMENDMENTS TO THE  
COMPREHENSIVE PLAN AS PREPARED BY THE CITY OF APPLETON PLAN  
COMMISSION**

**WHEREAS**, the Common Council of the City of Appleton pursuant to Section 62.23 of the Wisconsin Statutes, has established a City Plan Commission; and

**WHEREAS**, on March 3, 2010, the Common Council adopted the City of Appleton Comprehensive Plan to promote public health, safety and welfare of the City by effectively guiding long-range growth and development within the city and its statutory extraterritorial planning jurisdiction; and

**WHEREAS**, Chapter 12: Implementation, Comprehensive Plan Update Procedures, of the Comprehensive Plan was created in the City of Appleton Code of Ordinances to provide procedures and criteria for amending and updating the City of Appleton Comprehensive Plan; and

**WHEREAS**, members of the public were invited to make comments at a meeting held on September 14, 2022, by the City Plan Commission, wherein the following Comprehensive Plan text amendments (Amendment #3-22) herein adopted were reviewed and commented upon by members of the public; and

**WHEREAS**, the City of Appleton Plan Commission has reviewed the recommended text amendments to the Comprehensive Plan Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7 Soldier's Square/YMCA Parking Ramp, Pages 314, 318 and 319 at a meeting held on September 14, 2022, and

**WHEREAS**, the City of Appleton Plan Commission reviewed the recommended text amendments to the Comprehensive Plan, found these amendments to meet the criteria outlined in Chapter 12: Implementation, Comprehensive Plan Update Procedures, warranting inclusion in this resolution;

1. Having been filed with the City Clerk by the City of Appleton Community and Economic Development Department requesting a Comprehensive Plan Amendment to change the text of Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7 Soldier's Square/YMCA Parking Ramp, Pages 314, 318 and 319.

**WHEREAS**, members of the public, adjacent and nearby local governmental units will be given a 30-day review and comment period prior to the public hearing, which will be conducted by the Common Council for the Comprehensive Plan proposed amendment; and

**WHEREAS**, after said public hearing, the Common Council will decide whether to adopt by ordinance the proposed text amendments to the Comprehensive Plan; and

**WHEREAS**, the Comprehensive Plan may be used as the basis for, among other things, updating the zoning ordinance, accomplishing extra-territorial zoning and as a guide for approving or disapproving actions affecting growth and development within the jurisdiction of the City of Appleton; and

**WHEREAS**, this Comprehensive Plan may from time to time be amended, extended, or added to in greater detail; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City of Appleton Plan Commission that the recommended Comprehensive Plan text amendments are hereby adopted as a part of the City of Appleton Comprehensive Plan 2010-2030 pursuant to §66.1001(4), Wis. Stats. and that the Plan Commission recommends said Comprehensive Plan text amendments to the City of Appleton Common Council for adoption by ordinance, after a 30-day public review and comment period and public hearing.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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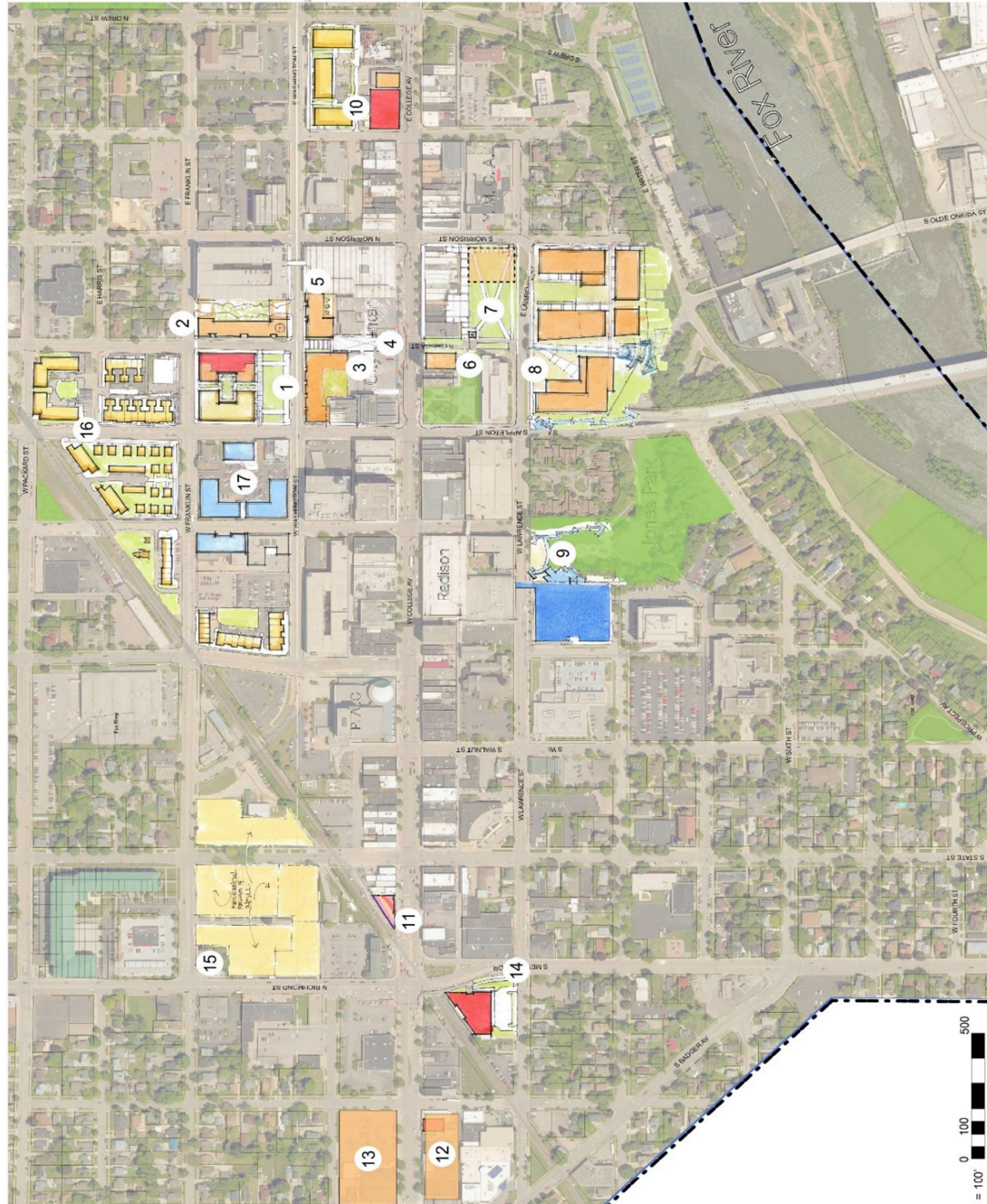
Jacob A. Woodford, Mayor

ATTEST:

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Kami Lynch, City Clerk





- Commercial (Shops, Dining, Services)
- Mixed Use (Office, Commercial, Residential)
- Residential (Stacked Flats, Row Houses, Cottage Homes)
- Professional Office
- Public/Institutional
- Redevelopment of library site into mixed use
- New mixed use transit center w/ green roof
- Commercial, residential, parking, mixed use
- Renovate City Center market arcade
- Residential stacked flats w/ rooftop deck
- Residential conversion of upper floors in Zuelke Bldg.
- Soldiers Square **See Comp Plan Amend #3-22 Pages 318-319**
- Mixed use public, office, residential and parking
- Expo Center w/ elevator access to Jones Park
- Expanded Heid Music & adjacent mixed use residential
- Conversion to artist studios and gateway enhancement
- Building Rehabilitation
- Former Thompson Center Rehab
- Commercial Redevelopment
- Residential Rehab and Infill
- Mix of new Infill Housing Types
- Professional Office



## Downtown Study

## Appleton, Wisconsin

Appleton, Wisconsin

## Redevelopment Framework



Square (left), with City Center Plaza taking on a public market character through targeted renovations.



Figure 41 Perspective from site of current Appleton Public Library looking south toward back side of City Center Plaza

## 6. Zuelke Building

The historic Zuelke building, completed in 1931, provides commercial office and retail space. At 12 stories, it provides exceptional views of the surrounding City and landscape. Its location in the heart of downtown Appleton is desirable from a residential standpoint. This conceptual plan envisions converting the upper floors of the building into residential uses, however it is recognized that several developers have completed due diligence on renovating the building to residential and have discovered significant cost and construction challenges. Therefore, converting the building to residential may require some degree of public investment and the use of Historic Tax Credits in order to be financially viable.

## 7. Soldier's Square/YMCA Parking Ramp

A mixed-use concept would replace a portion of the YMCA parking ramp site with a public plaza, while preserving a portion of the site for a development which might include a mix of parking, office, and commercial uses. The concept illustrated in the perspective drawing below would allow for a combination of flexible outdoor pedestrian zones. Features of the proposed mixed use development could include:

- 4 story mixed use building could include a mix of residential, office, commercial, or parking uses
- Possible arcade with retail shops on ground floor
- Rooftop seating
- Green roof

The right of way (ROW) known as Solider Square houses the historic civil war monument dedicated in 1911. This bronze and granite sculpture is currently undergoing much needed maintenance and restoration.

A philanthropic public-private partnership to restore the monument (public) and raise funds to undertake the expansion of a flexible outdoor pedestrian zone (private) that would include:

- An extended pedestrian area around the civil war monument, including benches, reflection area, informative plaques, etc.
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- Environment support small group gatherings, place making and increase vibrancy.

The YMCA Parking Ramp is being replaced with a new parking ramp.



Figure 42 Deleted per Comprehensive Plan Amendment #3-22. *Soldier's Square/ YMCA Parking Lot Perspective*



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** October 12, 2022

**Common Council Meeting Date:** October 19, 2022

**Item:** Final Plat – Trail View Estates South 3

**Case Manager:** David Kress, Principal Planner

### GENERAL INFORMATION

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**Owner/Applicant:** Emerald Valley Estates, LLC c/o Robert De Bruin

**Address/Parcel #:** Generally located between French Road and Cherryvale Avenue, south of the creek/trail corridor (Tax Id #31-1-6410-00, #31-1-6411-00, and #31-1-7513-00).

**Petitioner's Request:** The applicant is proposing to subdivide the property into 76 lots and one outlot for single-family residential development.

### BACKGROUND

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Parcel #31-1-7513-00 was annexed to the City in 1997 with the Northeast Annexation, parcel #31-1-6410-00 was annexed to the City in 2011 with the North French Road Annexation, and parcel #31-1-6411-00 was annexed in 2020 with the Trail View Estates South Annexation.

On September 2, 2020, Common Council approved Comprehensive Plan Amendment #1-20 and Rezoning #6-20. Comprehensive Plan Amendment #1-20 amended the City's Future Land Use Map from the Multi-Family Residential designation to the One and Two-Family Residential designation for parcels #31-1-6410-00 and #31-1-6411-00. Rezoning #6-20 rezoned parcels #31-1-6410-00, #31-1-7513-00, and #31-1-6411-00 from R-3 Multi-Family District, R-2 Two-Family District, and temporary AG Agricultural District to R-1B Single-Family District.

The Trail View Estates South Preliminary Plat, to subdivide all of parcels #31-1-6410-00, #31-1-7513-00, and #31-1-6411-00, was approved by Common Council on September 2, 2020.

On September 2, 2020, Common Council approved the Trail View South Development Agreement to set forth the City of Appleton, Village of Little Chute, and developer duties and responsibilities with respect to development of the subject land.

The Final Plat for Trail View Estates South, consisting of 25 lots, was approved by Common Council on November 4, 2020 for land located immediately east of the subject area (first phase of subdivision).

The Final Plat for Trail View Estates South 2, consisting of 26 lots, was approved by Common Council on September 1, 2021 for land located immediately east and south of the subject area (second phase of subdivision).

**STAFF ANALYSIS**

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**Existing Conditions:** The subject property consists of vacant, undeveloped land. The area to be platted for single-family residential development totals approximately 18.5096 acres, which will be divided into 76 lots and one outlot.

**Comparison between Final Plat and Preliminary Plat:** The Preliminary Plat covered a larger area (32.0110 acres), whereas the Final Plat is for the remaining parts of Tax Id #31-1-6410-00, #31-1-6411-00, and #31-1-7513-00 (18.5096 acres). One noteworthy change is that Outlot 1 has been added since the Preliminary Plat, based upon language included in the Trail View South Development Agreement. However, the Final Plat is generally consistent with the Preliminary Plat layout in terms of the shape, size, and location of the lots. This is the third phase of lots for the broader subdivision development area.

**Zoning Ordinance Review Criteria:** The current lot development standards for the R-1B Single-Family District (Section 23-93 of the Municipal Code) are as follows.

- Minimum lot area: 6,000 square feet.
  - *The proposed lots range in size from 2,160 square feet to 14,199 square feet. Outlot 1 (2,160 square feet) does not meet the lot area requirement. All other lots exceed this requirement.*
- Minimum lot width: 50 feet.
  - *The proposed lots range in width from 16 feet to approximately 177.37 feet. Outlot 1 (16 feet) does not meet the lot width requirement. All other lots exceed this requirement.*
- Minimum front, side, and rear yard setbacks: 20 feet front yard (25 feet on arterial street), 6 feet side yard, and 25 feet rear yard.
  - *Required front yard setback is shown on the Final Plat. Setbacks will be reviewed through the building permit review process.*
- Maximum building height: 35 feet.
  - *This will be reviewed through the building permit review process.*
- Maximum lot coverage: 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 as described below. The Trail View Estates South Preliminary Plat was approved by Common Council with conditions granting relief from certain requirements. The previously approved modification of regulations continues to apply to this Final Plat.

- Grant relief from the double frontage lot requirements for proposed Lots 62-64 (now identified as Lots 63-65).
- Grant relief from the minimum lot depth requirement for residential lots backing on arterials for proposed Lot 63 (now identified as Lot 64).
- Grant relief from the minimum right-of-way width requirement for a segment of proposed Gladiolus Place/Court.

## **Final Plat – Trail View Estates South 3**

**Page 3**

**October 12, 2022**

One additional modification of regulations is needed for this Final Plat. As stated previously in the staff report, proposed Outlot 1 does not comply with the minimum lot area and minimum lot width requirements. Zoning and subdivision regulations are typically written to deal with buildable sites, not sites for incidental features like a trail. The lot area and lot width deviation request for Outlot 1 represents an effort to establish buildable lots while also accommodating trail access. 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:** Vehicular access to the subject lots is provided by extensions of existing Gladiolus Place, Tulip Trail, Golden Gate Drive, and Callalilly Lane. The street right-of-way for Gladiolus Place, Gladiolus Court, Tulip Trail, Golden Gate Drive, and Callalilly Lane will be dedicated to the public with the Final Plat. All streets are shown as 60-foot-wide right-of-way, except for the segments of Gladiolus Place and Gladiolus Court, which are shown as 50-foot-wide right-of-way. No new street names are introduced with this phase of the subdivision.

### **Surrounding Zoning Classification and Land Uses:**

North: NC Nature Conservancy District and Town of Grand Chute. The adjacent land uses to the north are currently single-family residential and the Apple Creek corridor and recreational trail.

South: R-1B Single-Family District and Village of Little Chute. The adjacent land uses to the south are currently single-family residential.

East: R-1B Single-Family District. Previous phases of the subdivision, Trail View Estates South and Trail View Estates South 2, are located to the east and being developed with single-family residential.

West: P-I Public Institutional District and Town of Grand Chute. The adjacent land uses to the west are currently single-family residential and public open space uses, including the USA Youth Sports Complex.

**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.*

## Final Plat – Trail View Estates South 3

Page 4

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### *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. As specified in the Trail View South Development Agreement, the developer shall provide a 16-foot wide outlot between lots 91 and 110 connecting Golden Gate Drive and the existing Apple Creek Trail to accommodate pedestrian access to the public trail. The City will be responsible for all costs to construct and maintain this trail access corridor. The Development Agreement also indicates that the developer shall pay required park fees. 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 (TRG) Report:** This item appeared on the August 23, 2022 TRG agenda. Comments were received from participating departments and captured in the stipulations found below.

### **RECOMMENDATION**

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The Trail View Estates South 3 Final Plat, as shown on the attached maps, **BE APPROVED** subject to the following conditions:

1. 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.
2. For lots zoned R-1B Single-Family District, park fees are \$300 per lot. Park fees of \$22,800 shall be paid to the City of Appleton Finance Department prior to City signatures being affixed to the Final Plat.
3. Show or note an access control restriction along French Road.

## **Final Plat – Trail View Estates South 3**

**Page 5**

**October 12, 2022**

4. Show the contour line lying a vertical distance of two feet above the elevation of the 100-year recurrence interval flood. Per Section 17-26(i)(1) of the Municipal Code, subdivided lots shall have at least 50% of the minimum required lot area, based upon the respective zoning district, at least two feet above the elevation of the 100-year recurrence interval flood.
5. Grant relief from the minimum lot width and minimum lot area requirements for Outlot 1, per Section 17-3(f) of the Municipal Code and as stated previously in the staff report.
6. There are several errors in the Surveyor's Certificate:
  - a. "... along the South line of Outlot 1 of said Certified Survey Map 7878, S88°59'37"E, 65.44 feet ..." should refer to the north line.
  - b. "... to the Northwest corner of Lot 19 of said Trail View Estates ..." should refer to Trail View Estates South.
  - c. "... along a East line of said Lot 39; S00°52'57"W, 110.00 feet ..." should refer to the west line.
7. Near Lots 97 and 98, the label for the 12' utility easement appears to be in the wrong location. Revise as necessary.
8. Provide a 15-foot-wide sanitary sewer easement centered on the Lot 56/57 property line to accommodate future sanitary sewer extension from Gladiolus Place to lands north of the plat.
9. On Sheet 2 of the plat, modify the callout for Outlot 1 to read as follows: Dedicated to the public for trail and water main purposes.
10. For all "Storm Sewer" Easements shown on the plat, revise the description to read "Storm Sewer and Drainage" Easement.
11. Provide a Storm Sewer and Drainage Easement between Lots 62 and 63.
12. On the south side of Lots 69 and 70, revise the description of the "20' Drainage Easement" to read "20' Storm Sewer and Drainage Easement," to accommodate the proposed storm sewers.
13. On the south side of Lot 117, revise the description of the "15' Drainage Easement" to read "15' Storm Sewer and Drainage Easement," to accommodate the proposed storm sewers.
14. On the South side of Lot 127, revise the 15' drainage easement to read 15' Storm Sewer and Drainage Easement, to accommodate the proposed storm sewer.
15. On the North side of Lot 103 and 104, revise the 15' drainage easement to read 15' Storm Sewer and Drainage Easement, to accommodate the proposed storm sewer.



## Final Plat – Trail View Estates South 3

Page 6

October 12, 2022

16. The open circle symbol shown on the map portions of sheets 1 and 2 are missing from the corresponding legends, add a description for the open circle symbols to the legends.
17. The scale of some of the map symbols do not match the scale of the corresponding symbols shown in the legend, revise as necessary.
18. The exterior boundary map bearing/distance of N50°02'12"E 414.42' does not match the corresponding bearing/distance of N50°02'12"E 414.41' shown in the surveyor's certificate.
19. Any planned delay to set the plat monumentation should include an application for a monumentation waiver request.
20. A Stormwater Permit with Stormwater Management Plan (SWMP) was issued on 10/26/2020 based on the master SWMP developed per the overall Trail View South Preliminary Plat. The design engineer shall confirm whether any changes were made in relation to the Trail View Estates South 3 Final Plat that could impact the approved SWMP, and submit any required revisions to the SWMP to DPW for review and approval.
21. The Stormwater Permit and approved Stormwater Management Plan (SWMP) were issued based on DPW approval of the Engineering Plans, including the subdivision Drainage Plan, by Davel and Associates dated 11/30/2020. Please work with DPW Engineering to provide the following changes to the engineering drawings, and confirm whether any other changes were made in relation to the Trail View Estates South 3 Final Plat that could impact the approved Engineering Plans, and submit any required revisions to the SWMP to DPW for review and approval:
  - a. Provide an 8" water main stub within Outlot 1 from Golden Gate Drive to the north plat limits.
  - b. Provide an 8" sanitary sewer stub within the 15' sanitary sewer easement along lots 56/57 from Gladiolus Place to the north plat limits.
22. The following streets within the Final Plat are to be classified as follows:
  - a. Gladiolus Place: Local Street
  - b. Gladiolus Court: Local Street
  - c. Tulip Trail: Local Street
  - d. Golden Gate Drive: Local Street
  - e. Callalilly Lane: Local Street
23. Development is subject to conditions of the Intergovernmental Cooperation Agreement between the Village of Little Chute and City of Appleton that was approved in 2013 and amended in 2020.

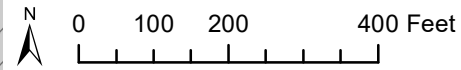
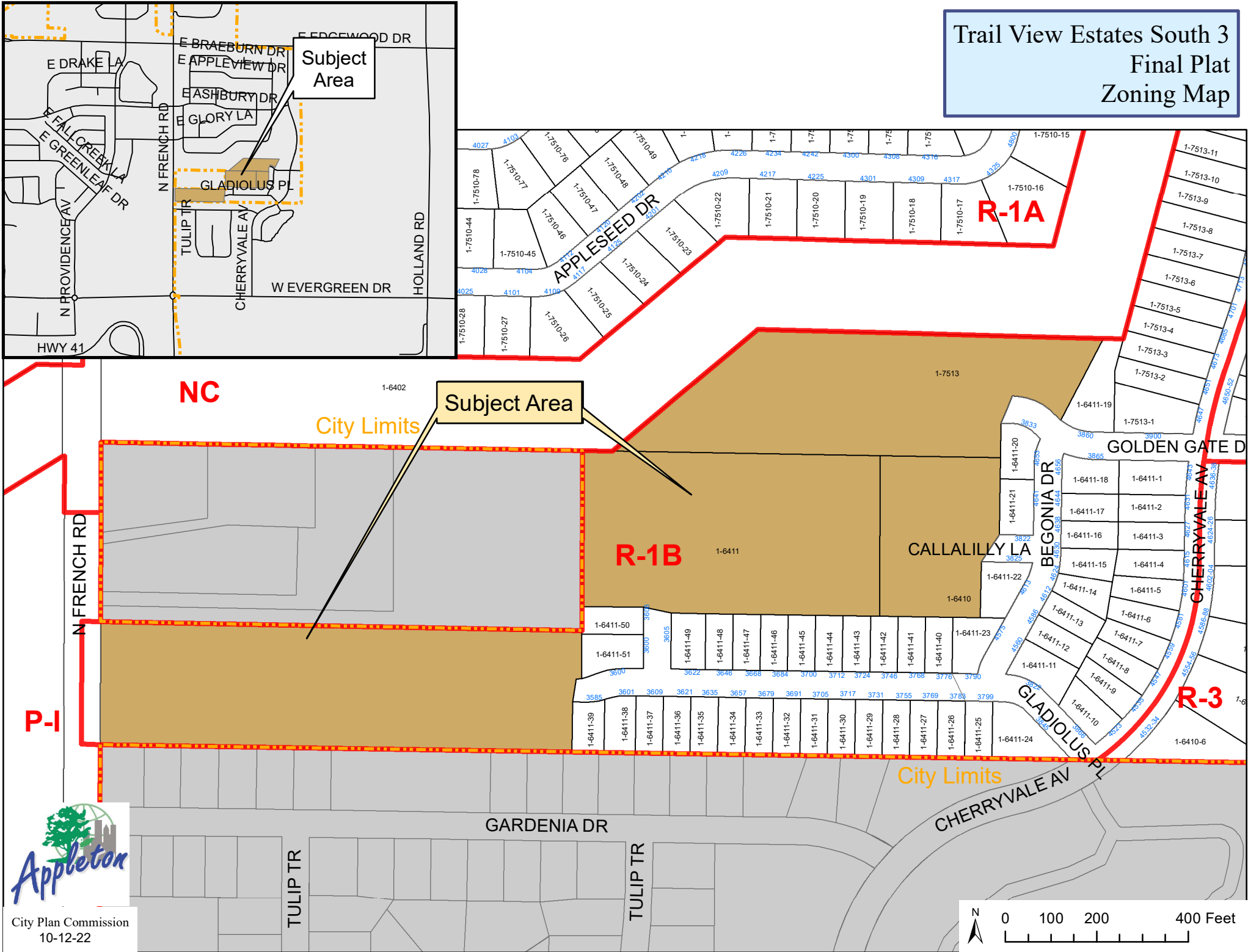
**Final Plat – Trail View Estates South 3**

**Page 7**

**October 12, 2022**

24. Development is subject to conditions of the Land Dedication Agreement between B&H Properties, Inc. and the City of Appleton that was approved by Common Council on June 5, 2013.
  
25. Development is subject to conditions of the Development Agreement between the City of Appleton, Village of Little Chute, and Emerald Valley Estates, LLC that was approved by Common Council on September 2, 2020.
  
26. 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.

# Trail View Estates South 3 Final Plat Zoning Map



Trail View Estates South 3  
Final Plat  
Aerial Map

Subject Area

City Limits

City Limits

FRENCH RD

N APPLE RD

E APPLESEED DR

APPLESEED DR

N FRENCH RD

CALLALILLY LA

BEGONIA DR

GLADIOLUS PL

BEGONIA DR

GLADIOLUS PL

GARDENIA DR

CHERRYVALE AV



City Plan Commission  
10-12-22

TULIP TR

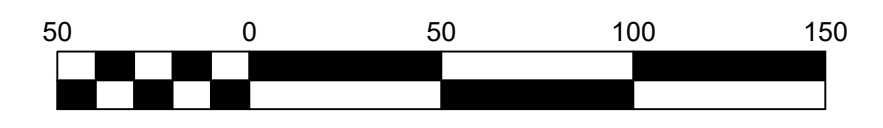
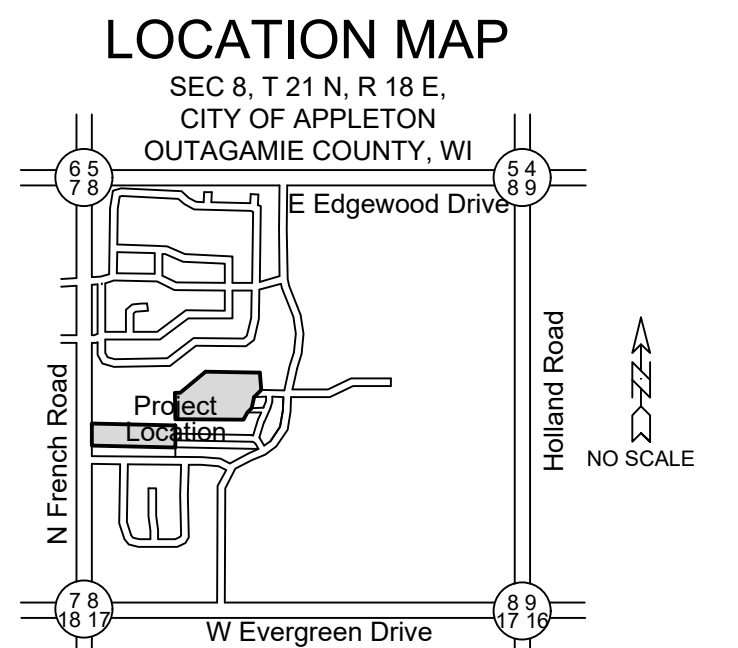
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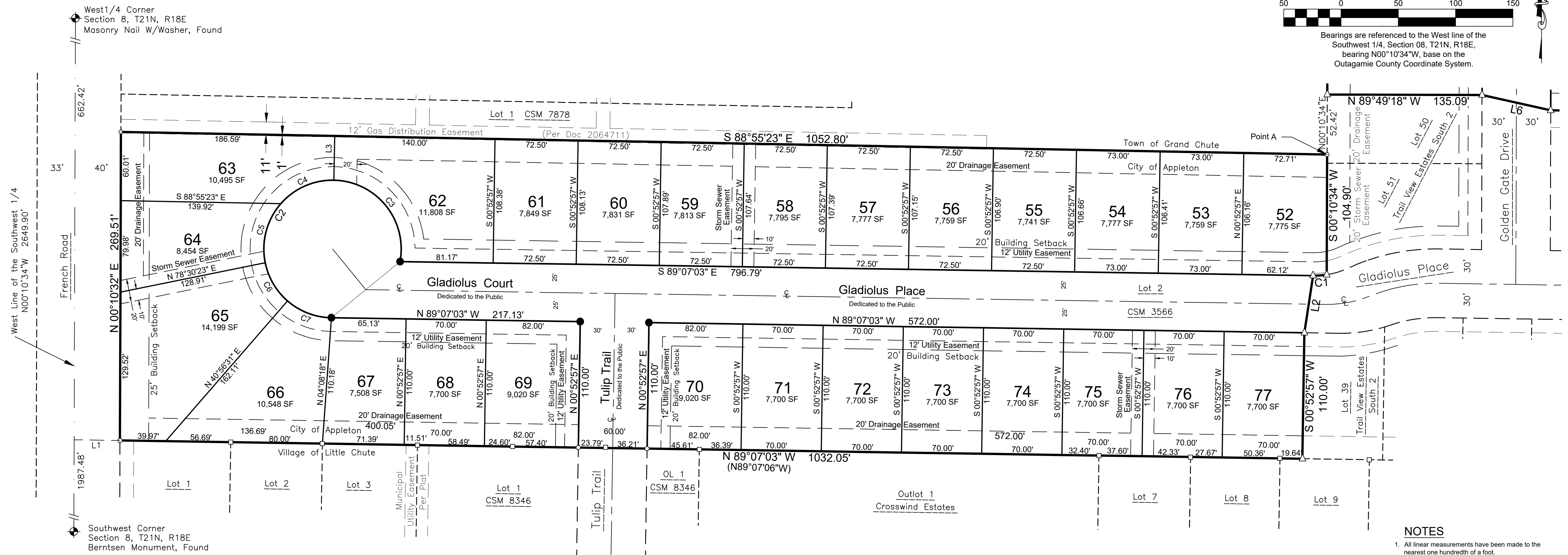
0 100 200 400 Feet

# Trail View Estates South 3

Part of Outlot 1, Trail View Estates, being part of the Southwest 1/4 of the Northwest 1/4 and part of the Southeast 1/4 of the Northwest 1/4; and part of Lot 2, Certified Survey Map 3566 & part of Outlot 1, Certified Survey Map 7878 both being located in part Northwest 1/4 of the Southwest 1/4 and part Northeast 1/4 of the Southwest 1/4, all located in Section 8, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin



Bearings are referenced to the West line of the Southwest 1/4, Section 08, T21N, R18E, bearing N00°10'34"W, base on the Outagamie County Coordinate System.



West 1/4 Corner  
Section 8, T21N, R18E  
Masonry Nail W/Washer, Found

Southwest Corner  
Section 8, T21N, R18E  
Bernsten Monument, Found

Curve	Radius	Chord Direction	Chord Length	Arc Length	Central Angle	Tangent Bearing-in	Tangent Bearing-out
C1	70.00'	S 85°59'38" W	11.93'	11.95'	9°46'38"	N 81°06'19" E	S 89°07'03" E
C2	60.00'	S 00°58'50" W	120.00'	188.70'	180°11'45"	S 88°55'18" E	N 89°07'03" W
C3	60.00'	N 39°13'21" W	91.52'	104.09'	99°23'54"	N 88°55'18" W	N 10°28'38" E
C4	60.00'	S 66°16'10" W	50.35'	51.96'	49°37'04"	S 41°27'38" W	N 88°55'18" W
C5	60.00'	S 14°59'01" W	53.50'	55.45'	52°57'15"	S 11°29'37" E	S 41°27'38" W
C6	60.00'	S 30°16'33" E	38.64'	39.34'	37°33'52"	S 49°03'29" E	S 11°29'37" W
C7	60.00'	S 69°05'16" E	41.10'	41.95'	40°03'34"	S 89°07'03" E	S 49°03'29" E
C8	120.00'	N 47°16'23" W	17.53'	17.54'	8°22'34"	S 51°27'40" E	S 43°05'06" E
C9	130.00'	N 66°06'05" W	101.66'	104.44'	46°01'57"	S 43°05'06" E	S 89°07'03" E
C10	130.00'	N 52°45'44" W	43.71'	43.91'	19°21'16"	N 62°26'22" W	N 43°05'06" W
C11	130.00'	N 73°30'32" W	49.92'	50.23'	22°08'20"	N 84°34'42" W	N 62°26'22" W
C12	130.00'	N 86°50'52" W	10.30'	10.30'	4°32'21"	N 89°07'03" W	N 84°34'42" W
C13	180.00'	N 70°27'34" E	125.62'	128.32'	40°50'45"	N 50°02'12" E	S 89°07'03" E
C14	180.00'	S 87°19'03" W	22.39'	22.40'	7°07'48"	S 83°45'09" W	N 89°07'03" W
C15	180.00'	S 75°19'25" W	52.77'	52.96'	16°51'29"	S 66°53'40" W	S 83°45'09" W
C16	180.00'	S 58°27'56" W	52.77'	52.96'	16°51'29"	S 50°02'12" W	S 66°53'40" W

Curve	Radius	Chord Direction	Chord Length	Arc Length	Central Angle	Tangent Bearing-in	Tangent Bearing-out
C17	230.00'	N 25°06'27" E	193.89'	200.14'	49°51'30"	N 00°10'42" E	N 50°02'12" E
C18	230.00'	S 45°38'23" W	35.27'	35.30'	8°47'37"	S 41°14'35" W	S 50°02'12" W
C19	230.00'	S 34°32'08" W	53.73'	53.85'	13°24'53"	S 27°49'41" W	S 41°14'35" W
C20	230.00'	S 21°07'15" W	53.73'	53.85'	13°24'53"	S 14°24'48" W	S 27°49'41" W
C21	230.00'	S 07°44'49" W	53.40'	53.52'	13°19'57"	S 01°04'51" W	S 14°24'48" W
C22	230.00'	S 00°37'46" W	3.62'	3.62'	0°54'09"	S 00°10'42" W	S 01°04'51" W
C23	170.00'	N 42°32'57" E	44.31'	44.43'	14°58'31"	N 35°03'41" E	N 50°02'12" E
C24	120.00'	N 70°27'34" E	83.75'	85.55'	40°50'45"	N 50°02'12" E	S 89°07'03" E
C25	120.00'	N 67°15'25" E	71.05'	72.13'	34°26'26"	N 50°02'12" E	N 84°28'38" E
C26	120.00'	N 87°40'47" E	13.41'	13.42'	6°24'19"	N 84°28'38" E	S 89°07'03" E
C27	70.00'	N 77°06'37" W	29.13'	29.34'	24°00'53"	N 89°07'03" W	N 65°06'10" W
C28	170.00'	N 07°27'20" E	43.07'	43.18'	14°33'17"	N 00°10'42" E	N 14°43'59" E
C29	130.00'	S 77°06'37" W	54.09'	54.49'	24°00'53"	S 65°06'10" E	S 89°07'03" E
C30	130.00'	S 75°52'14" E	48.58'	48.86'	21°32'08"	S 65°06'10" E	S 86°38'18" E
C31	130.00'	S 87°52'40" E	5.62'	5.63'	2°28'45"	S 86°38'18" E	S 89°07'03" E

Line	Bearing	Length
L1	N 89°07'03" W	40.00'
L2	S 08°39'16" W	50.46'
L3	S 01°04'42" W	38.85'
L4	S 22°41'34" W	64.63'
L5	N 33°41'16" E	71.38'
L6	S 77°23'19" E	61.44'
L7	S 39°57'48" E	31.66'

**NOTES**  
 1. All linear measurements have been made to the nearest one hundredth of a foot.  
 2. All bearings are computed and measured to the nearest second.

**LEGEND**  
 Δ 1 1/2" Rebar Found  
 □ 1.3" OD Iron Pipe Found  
 ● 1 1/2" x 30" Steel Rebar @ 4.30lbs/LF SET  
 All Other Corners  
 3/4" x 24" Steel Rebar @ 1.50lbs/LF SET  
 SF Lot Areas in Square Feet  
 ( ) Recorded As  
 --- Existing Lot Line

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

James R. Sehloff PLS 2692 Date \_\_\_\_\_

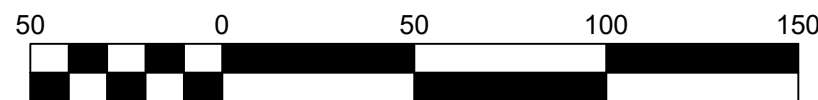
Revision Date: Jun 28, 2022  
 File: 6025Final3.dwg  
 Date: 06/28/2022  
 Drafted By: Jim  
 Sheet: 1 of 3

**DAVEL ENGINEERING & ENVIRONMENTAL, INC.**  
 Civil Engineers and Land Surveyors  
 1164 Province Terrace, Menasha, WI 54952  
 Ph: 920-991-1866 Fax: 920-441-0804  
 www.davel.pro

Jun 28, 2022 - 9:30am - J:\Projects\6025\6025.dwg Civil\_3D\_6025Final3.dwg Printed by: Jim

# Trail View Estates South 3

Part of Outlot 1, Trail View Estates, being part of the Southwest 1/4 of the Northwest 1/4 and part of the Southeast 1/4 of the Northwest 1/4; and part of Lot 2, Certified Survey Map 3566 & part of Outlot 1, Certified Survey Map 7878 both being located in part Northwest 1/4 of the Southwest 1/4 and part Northeast 1/4 of the Southwest 1/4, all located in Section 8, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin



Bearings are referenced to the West line of the Southwest 1/4, Section 08, T21N, R18E, bearing N00°10'34"W, base 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
- 1.3" OD Iron Pipe Found
- 1 1/2" x 30" Steel Rebar @ 4.30lbs/LF SET
- All Other Corners
- 3" x 24" Steel Rebar @ 1.50lbs/LF SET
- SF Lot Areas In Square Feet
- ( ) Recorded As
- - - Existing Lot Line



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

Revision Date: Jun 28, 2022  
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 Sheet: 2 of 3

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# Trail View Estates South 3

Part of Outlot 1, Trail View Estates, being part of the Southwest 1/4 of the Northwest 1/4 and part of the Southeast 1/4 of the Northwest 1/4; and part of Lot 2, Certified Survey Map 3566 & part of Outlot 1, Certified Survey Map 7878 both being located in part Northwest 1/4 of the Southwest 1/4 and part Northeast 1/4 of the Southwest 1/4, all located in Section 8, 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 Emerald Valley Estates, LLC, owner of said land, I have surveyed divided and mapped Trail View Estates South 3; that such plat correctly represents all exterior boundaries and the subdivision of the land surveyed; and that this land is part of Outlot 1, Trail View Estates, recorded as Document No 2133204, being part of the Southwest 1/4 of the Northwest 1/4 and part of the Southeast 1/4 of the Northwest 1/4; and part of Lot 2, Certified Survey Map 3566 recorded as Document No 1338412 and part of Outlot 1, Certified Survey Map 7878, recorded as Document No 2187534, both being located in part Northwest 1/4 of the Southwest 1/4 and part Northeast 1/4 of the Southwest 1/4, all located in Section 8, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin, containing 806,278 Square Feet (18.5096 Acres) of land more or less, described as follows:

Commencing at the Southwest 1/4 Corner of Section 8; thence, along the West line of the Southwest 1/4, N00°10'34"W, 1987.48 feet to the extension of the North line of Crosswinds Estates; thence, along said extension, S89°07'03"E, 40.00 feet to the Easterly right of way line of French Road said point also being the point of beginning; thence, along said East right of way line, N00°10'32"E 269.51 feet to the South line of Lot 1 Certified Survey Map 7878; thence, along said South line, S88°55'23"E 1052.80 feet to the Southeast corner said Lot 1; thence along the East line of said Lot 1, N00°10'34"E, 52.42 feet to the Northwest Corner of Trail View Estates South 2; thence, continuing along said East line of Certified Survey Map 7878, N00°10'34"E, 341.71 feet to the Northeast corner of said Lot 1; thence, along the South line of Outlot 1 of said Certified Survey Map 7878, S89°59'37"E, 65.44 feet to the Southwest corner of Outlot 1 Trail View Estates; thence, along the West line of said Outlot 1, N50°02'12"E, 414.41 feet to the Northwest Corner of said Outlot 1; thence, along the North line of said Outlot 1, S88°29'02"E, 756.81 feet to the Northwest corner of Lot 19 of said Trail View Estates; thence, along the West line of said Lot 19, S27°33'38"W, 201.43 feet to the Northerly right of way line of Golden Gate Drive; thence, along said Northerly right of way line, 17.54 feet, along the arc of a curve to the right with a radius of 120.00 feet and a chord of 17.53 feet which bears N47°16'23"W; thence, continuing along said Northerly right of way line, 104.44 feet, along the arc of a curve to the left with a radius of 130.00 feet and a chord of 101.66 feet which bears N66°06'05"W; thence, along a Westerly line of said Trail View Estates South, S22°41'34"W, 64.63 feet to the Northwest corner of Lot 20 Trail View Estates South; thence, along a Westerly line of said Trail View Estates South, S00°52'57"W, 244.00 feet to the Southwest corner of Lot 21 of said Trail View Estates South; thence, along a Westerly line of said Trail View Estates South, S33°41'16"W, 71.38 feet to the Northwest corner of Lot 22 of said Trail View Estates South; thence, along said North line of said Lot 22, S00°52'57"W, 122.50 feet to a point on the North line of Lot 23 of said Trail View Estates South; thence, along said North line of said Lot 23 and a North line of Trail View Estates South 2, N89°07'03"W, 676.51 feet to the Northwest corner of Lot 49 of said Trail View Estates South 2; thence, continuing along a North line of Trail View Estates South 2; N77°23'19"W, 61.44 feet to the Northeast corner of Lot 50 of said Trail View Estates South 2; thence, along the North line of said Lot 50, N89°49'18"W, 135.09 feet to said East line of Lot 1 of Certified Survey Map 7878; thence, along said East line, S00°10'34"W, 52.42 feet to said Southeast corner of said Lot 1; thence, along a West line of Trail View Estates South 2; S00°10'34"W, 104.90 feet to a point on the North right of way line of Gladiolus Place; thence, along said Northerly right of way line, 11.95 feet, along the arc of a curve to the right with a radius of 70.00 feet and a chord of 11.93 feet which bears S85°59'38"W; thence, along a West line of said Trail View Estates South 2; S08°39'16"W, 50.46 feet to the Northwest corner of Lot 39 of said Trail View Estates South 2; thence, along a East line of said Lot 39; S00°52'57"W, 110.00 feet; to the North line of Crosswind Estates as evidenced; thence, along said North line, N89°07'03"W, 1032.05 feet to the point of beginning, subject to all easements, and restrictions of record.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
James R. Sehloff, Wisconsin Professional Land Surveyor No. S-2692

## Owner's Certificate

Emerald Valley Estates, 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.

Emerald Valley Estates, 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  
Outagamie County Planning & Zoning Committee  
Department of Administration

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

In the presence of: Emerald Valley Estates, LLC

\_\_\_\_\_  
Robert A. DeBruin, Managing Member

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 acknowledge the same.

\_\_\_\_\_  
My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public, Wisconsin

## Utility Easement Provisions

An easement for electric, natural gas, and communications service is hereby granted by

Emerald Valley Estates, 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.

Emerald Valley Estates, LLC

\_\_\_\_\_  
Robert A. DeBruin, Managing Member

\_\_\_\_\_  
Date

## Drainage Maintenance and Storm Sewer Easement Provisions

An easement for Drainage and Storm Sewer is hereby granted by:

Emerald Valley Estates, 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 storm sewer, drainage ditch/swale, 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 said storm sewer, drainage ditch/swale 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 Easement" or "Storm Sewer & Drainage 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.
- 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 owners 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.

Emerald Valley Estates, LLC

\_\_\_\_\_  
Robert A. DeBruin, Managing Member

\_\_\_\_\_  
Date

## City of Appleton Approval

Resolved, that the plat of Trail View Estates South 3, in the City of Appleton, Outagamie County, Emerald Valley Estates, 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, City 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 any of the land included in this plat.

\_\_\_\_\_  
City Treasurer

\_\_\_\_\_  
Date

\_\_\_\_\_  
County Treasurer

\_\_\_\_\_  
Date

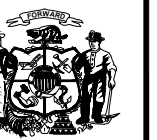
This Final Plat is contained wholly within the property described in the following recorded instruments:

The property owner of record:	Recording Information:	Parcel Number(s):
Emerald Valley Estates, LLC	Doc No. 2211550	311-6410-00
	Doc No. 2192218	311-6411-00
	Doc No. 2092715	311-7513-00

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



File: 6025Final3.dwg  
Date: 06/28/2022  
Drafted By: Jim  
Sheet: 3 of 3  
Revision Date: Jun 28, 2022



**DAVEL ENGINEERING & ENVIRONMENTAL, INC.**  
Civil Engineers and Land Surveyors

1164 Province Terrace, Menasha, WI 54952  
Ph: 920-991-1866 Fax: 920-441-0804  
www.davel.pro



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Public Hearing Date:** October 12, 2022

**Common Council Meeting Date:** October 19, 2022

**Item:** Special Use Permit #11-22 for restaurant with alcohol sales and service and associated outdoor seating area.

**Case Manager:** Jessica Titel, Principal Planner

### **GENERAL INFORMATION**

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**Owner/Applicant:** PNH Holdings, LLC / FOME Food & Company c/o Athanea Hahn

**Address/Parcel #:** 2821 N. Ballard Road (Tax Id #31-1-6536-00)

**Petitioner's Request:** The applicant is requesting a Special Use Permit for alcohol sales and service in conjunction with a restaurant and associated outdoor seating area.

### **BACKGROUND**

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The property currently consists of a single tenant commercial building and associated off-street parking lot. The existing building was previously used as a restaurant without alcohol sales. The applicant recently applied for a Liquor License that includes Class B beer and Class C wine.

### **STAFF ANALYSIS**

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**Project Summary:** The applicant proposes to establish a restaurant with alcohol sales and service on the subject site, which would occupy the existing building that is approximately 2,225 square feet in size. The applicant is also proposing an outdoor seating area.

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

**Outdoor Seating Area:** The outdoor seating area is approximately 13,500 square feet and will include a seating area, a playground, yard games, outdoor drink station and a garden. The applicant is proposing a fence around the outdoor area.

**Existing Site Conditions:** The existing single-story building totals approximately 2,225 square feet in size. The 27,025 square foot site also includes an off-street parking lot, with access from N. Ballard Road.

**Current Zoning and Procedural Findings:** The subject property has a zoning designation of C-2 General Commercial District. Per Section 23-113(e) of the Municipal Code, a restaurant with alcohol sales and service requires a Special Use Permit in the C-2 District. The Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds vote of the Common Council is required for approval.



**Special Use Permit #11-22**

**October 12, 2022**

**Page 2**

**Surrounding Zoning and Land Uses:** The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally commercial and public/institutional in nature.

North: C-2 General Commercial District. The adjacent land use to the north is commercial.

South: C-2 General Commercial District. The adjacent land use to the south is commercial.

East: C-2 General Commercial District. The adjacent land uses to the east are commercial.

West: P-I Public Institutional District. The adjacent land uses to the west are currently City of Appleton public/institutional uses (Memorial Park and Park, Recreation and Facilities Management offices and garage).

**Appleton Comprehensive Plan 2010-2030:** Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Commercial designation shown on the City's *Comprehensive Plan 2010-2030* Future Land Use Map. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

*Goal 1 – Community Growth*

*Appleton will continue to provide opportunities for residential, commercial, and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods, and greenfield development sites at the City's edge.*

*Goal 8 – Economic Development*

*Appleton will pursue economic development that retains and attracts talented people, brings good jobs to the area, and supports the vitality of its industrial areas, downtown, and neighborhood business districts.*

*OBJECTIVE 9.5 Economic Development:*

*Encourage new development and redevelopment activities that create vital and attractive neighborhoods and business districts.*

*OBJECTIVE 10.2 Land Use:*

*Encourage redevelopment to meet the demand for a significant share of future growth, and to enhance the quality of existing neighborhoods.*

*OBJECTIVE 10.5 Land Use:*

*Support the continued redevelopment and revitalization of land uses adjacent to Appleton's key transportation corridors and downtown.*

**Technical Review Group (TRG) Report:** This item appeared on the September 20, 2022 TRG agenda. No negative comments were received from participating departments.

**Zoning Ordinance Requirements and Substantial Evidence:** When reviewing an application for a Special Use Permit, the City must determine if the applicant's proposal satisfies Municipal Code requirements and conditions. Pursuant to Section 23-66(c)(5) of the Municipal Code, the Plan Commission and Common Council must provide substantial evidence supporting their decision to

approve, approve with conditions, or deny the Special Use Permit. Substantial evidence means “facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a Special Use Permit and that reasonable persons would accept in support of a conclusion.” Any requirements and conditions listed for approval must be reasonable, and to the extent practicable, measurable.

Section 23-47 of the Zoning Code regulates trash enclosures (location and materials). Trash enclosures are not allowed within the front yard. The applicant will need to relocate the proposed trash enclosure in compliance with Section 23-47. Staff will review the final trash enclosure location with the required building permits.

**Finding of Fact:** This request was reviewed in accordance with the standards (proper zoning district, district regulations, special regulations, comprehensive plan and other plans, traffic, landscaping and screening, neighborhood compatibility, and impact on services) for granting a Special Use Permit under Section 23-66(e)(1-8) of the Municipal Code, which were found in the affirmative, as long as all stipulations are satisfied.

### **RECOMMENDATION**

---

Staff recommends, based on the above analysis, that Special Use Permit #11-22 for a restaurant with alcohol sales and service and associated outdoor area located at 2821 N. Ballard Road (Tax Id #31-1-6536-00), as shown on the attached maps and per attached plan of operation, along with the attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.

*Substantial Evidence: This condition provides notice to the applicant that a Liquor License is also needed prior to serving alcohol.*

2. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.

*Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.*

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

*Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.*

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

*Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.*

**Special Use Permit #11-22**

**October 12, 2022**

**Page 4**

5. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.

*Substantial Evidence: Standardized condition that establishes parameters for the current application and identifies the process for review of any future changes to the special use.*

**CITY OF APPLETON  
RESOLUTION FOR SPECIAL USE PERMIT #11-22  
RESTAURANT WITH ALCOHOL  
2821 N. BALLARD ROAD**

**WHEREAS**, Athanea Hahn, FOME Food & Company, has applied for a Special Use Permit for a restaurant with alcohol sales and service and associated outdoor seating area located at 2821 N. Ballard Road, also identified as Parcel Number 31-1-6536-00; and

**WHEREAS**, the location for the proposed restaurant with alcohol sales and service is located in the C-2 General Commercial District, and the proposed use may be permitted by Special Use Permit within this zoning district pursuant to Chapter 23 of the Municipal Code; and

**WHEREAS**, the City of Appleton Plan Commission held a public hearing on October 12, 2022 on Special Use Permit #11-22, at which all those wishing to be heard were allowed to speak or present written comments and other materials at the public hearing; and

**WHEREAS**, the City of Appleton Plan Commission has reviewed and considered the Community and Economic Development Department's staff report and recommendation, as well as other spoken and written evidence and testimony presented at the public hearing; and

**WHEREAS**, the City of Appleton Plan Commission reviewed the standards for granting a Special Use Permit under Sections 23-66(e)(1-8) of the Municipal Code; and

**WHEREAS**, the City of Appleton Plan Commission reviewed the standards for imposing conditions on the Special Use Permit under Section 23-66(c)(5) of the Municipal Code, and forwarded Special Use Permit #11-22 to the City of Appleton Common Council with a favorable conditional or not favorable (CIRCLE ONE) recommendation; and

**WHEREAS**, the City of Appleton Common Council has reviewed the report and recommendation of the City of Appleton Plan Commission at their meeting on October 19, 2022.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the Common Council, based on Community and Economic Development Department's staff report and recommendation, as well as other spoken and written evidence and testimony presented at the public hearing and Common Council meeting, and having considered the recommendation of the City Plan Commission, that the Common Council:

1. Determines all standards listed under Sections 23-66(e)(1-8) of the Municipal Code are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #11-22 for a restaurant with alcohol sales and service and associated outdoor seating area located at 2821 N. Ballard Road, also identified as Parcel Number 31-1-6536-00, based upon the following standards and determinations: (List reason(s) why the Special Use Permit was denied)

3. If YES, the City of Appleton Common Council hereby approves Special Use Permit #11-22 for a restaurant with alcohol sales and service and associated outdoor seating area located at 2821 N. Ballard Road, also identified as Parcel Number 31-1-6536-00, subject to the following conditions as they are related to the purpose of the City of Appleton Municipal Code and based on substantial evidence:

**CONDITIONS OF APPROVAL FOR SPECIAL USE PERMIT #11-22:**

- A. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.
  - B. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
  - C. The site shall be kept free of litter and debris.
  - D. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
  - E. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.
4. The City Clerk's Office is hereby directed to give a copy of this resolution to the owner/applicant, Community and Economic Development Department, Inspections Division, and any other interested party.

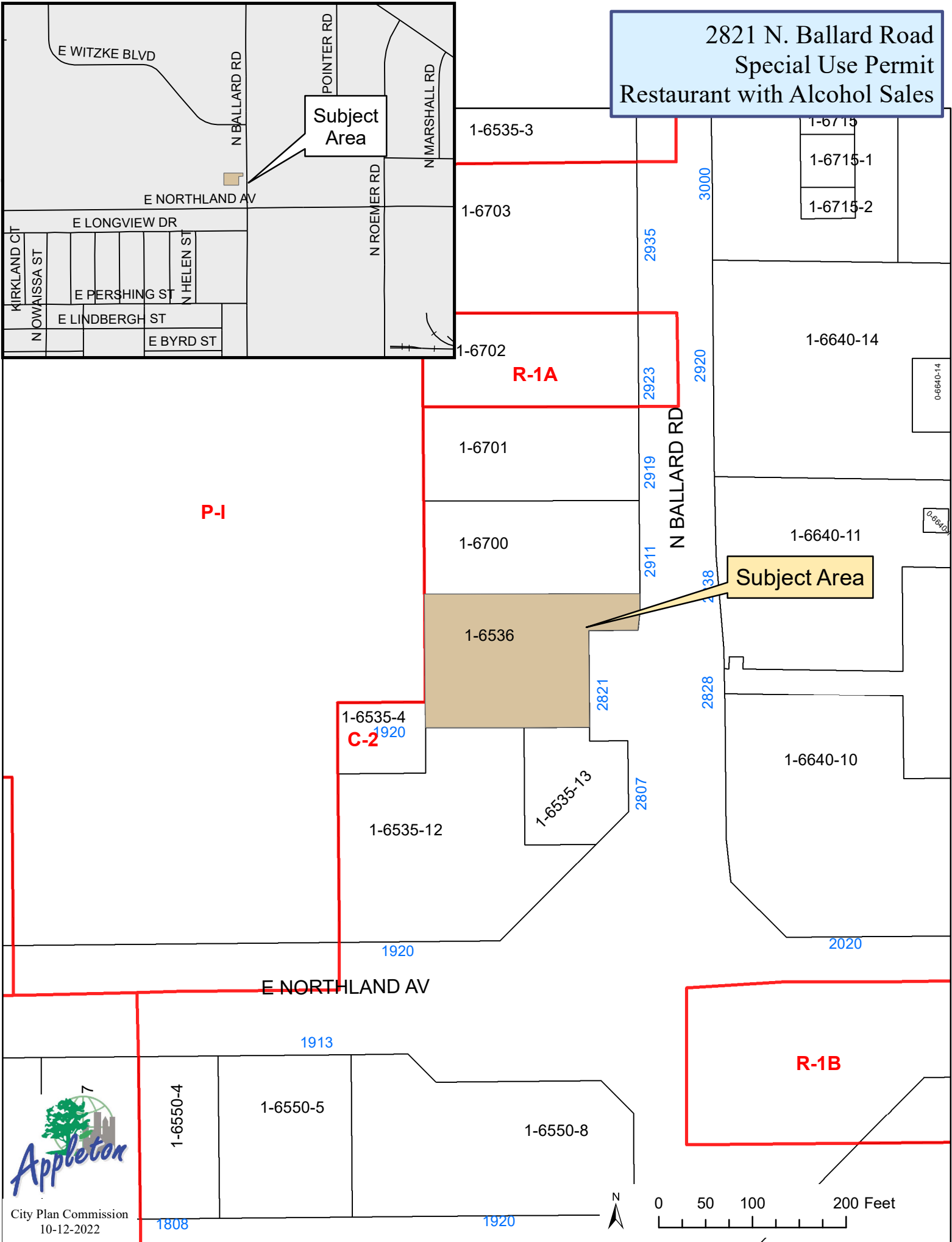
Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Jacob A. Woodford, Mayor

ATTEST:

\_\_\_\_\_  
Kami Lynch, City Clerk

2821 N. Ballard Road  
Special Use Permit  
Restaurant with Alcohol Sales



Subject Area

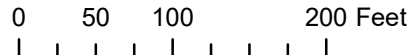
Subject Area

P-I

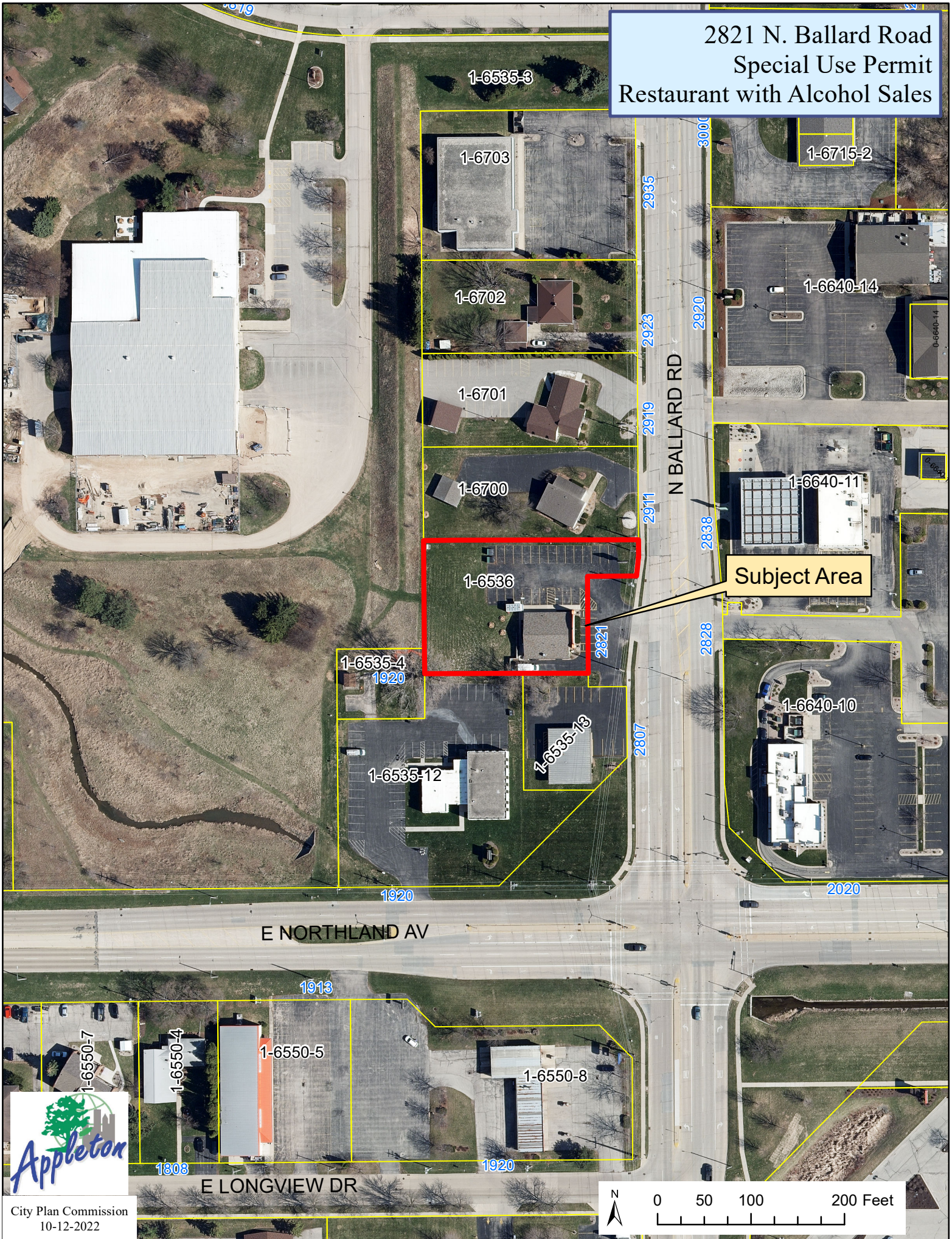
R-1A

R-1B

C-2



2821 N. Ballard Road  
Special Use Permit  
Restaurant with Alcohol Sales



1-6535-3

1-6703

1-6702

1-6701

1-6700

1-6536

1-6535-4  
1920

1-6535-12

1-6535-13

1-6715-2

1-6640-14

1-6640-11

Subject Area

1-6640-10

E NORTHLAND AV

N BALLARD RD

E LONGVIEW DR



City Plan Commission  
10-12-2022



0 50 100 200 Feet

**PLAN OF OPERATION AND LOCATIONAL INFORMATION**

**Business Information:**

Name of business: FOME Food & Company

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

- Restaurant
- Bar/Night Club
- Wine Bar
- Microbrewery
- Other \_\_\_\_\_

Years in operation: 0

Percentage of business derived from food service: 75% 25% coffee/beer/wine/non alcoholic beverages

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

FOME will be a breakfast + lunch place for people to take to-go or sit and eat, inside and out. Food will be all from scratch and feature local vendors. Alcohol will be available for purchase. Will host private/special events.

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

Day	From	To
Week Days Monday thru Thursday	7:00 AM	3:00 PM *
Friday	7:00 AM	3:00 PM *
Saturday	7:00 AM	3:00 PM *
Sunday	7:00 AM	3:00 PM *

\* FOME will be available to host private/special events after hours, 3:00 PM to 12:00 AM

**Building Capacity and Area:**

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 40 persons

Gross floor area of the existing building(s): 2,225 SQ FT (MAIN FLOOR)

Gross floor area of the proposed building(s): 2,225 SQ FT



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

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

Noise levels will be minimal from all equipment & other mechanical sources. It will not exceed 63 dB(A) from 7 AM - 10 PM, & 58 dB(A) from 10 PM - 7 AM

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

Outdoor: fence around property & closing by 12:00 AM. (for private events only)

Indoor: Keeping decibels between 60 dB(A) - 80 dB(A) with butcher block counters, wall paper, roller shades, & <sup>other</sup> sound absorbing materials,

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

No off-street parking is available, 30 parking spaces on property

as well as maintaining appropriate hours. (7:00 AM - 3:00 PM)

**Outdoor Space Uses:**

(Check applicable proposed area)

- Patio
- Deck
- Sidewalk Café
- Other 13,500 sq ft yard - picnic tables
- None

Size: 13,500 square feet.

Type of materials used and height of material to enclose the perimeter of the outdoor space:

Fencing  Landscaping  Other \_\_\_\_\_ Height 6 feet.

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

Are there plans for outdoor music/entertainment? Yes  No

If yes, describe how the noise will be controlled:

\_\_\_\_\_

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

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

Day	From	To
Week Days: Monday thru Thursday	7:00 AM	3:00 PM *
Friday	7:00 AM	3:00 PM *
Saturday	7:00 AM	3:00 PM *
Sunday	7:00 AM	3:00 PM *

\* FOME will be available to host private/special events after hours from 3:00 PM to 12:00 AM

**NOTE: Hours of Operation for Outdoor Uses (Sidewalk Café with Alcohol):**

**\*\*\*\*Municipal Code Section 9-262(b)(4): The permit holder can begin serving alcoholic beverages in the sidewalk café at 4:00 p.m. Monday through Friday and 11:00 a.m. on Saturday and Sunday. All alcoholic beverages must be removed from the sidewalk café by 9:30 p.m.**

**Off-Street Parking:** (parking lot)

Number of spaces existing: 30

Number of spaces proposed: 30

**Other Licensed Premises:**

The number of licensed premises within the immediate geographic area of the proposed location will be considered in order to avoid an undue concentration that may have the potential of creating public safety problems or deterring neighborhood development.

List nearby licensed premises:

Hide out Bar LLC, Ginge Kootz Asian Grille,  
Moto Man Gas Station, Super Bowl Family  
Entertainment Center

**Number of Employees:**

Number of existing employees: 0

Number of proposed employees: 12 - 20

Number of employees scheduled to work on the largest shift: 20



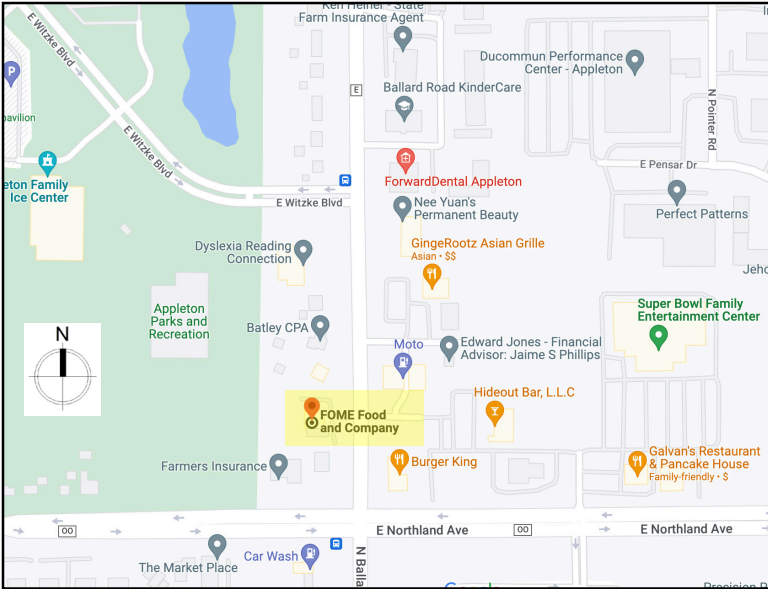
## **Application for Special Use Permit Development Plan Checklist**

On-Site Sales and Consumption and/or Manufacturing of Liquor,  
Fermented Malt Beverages, and Wine

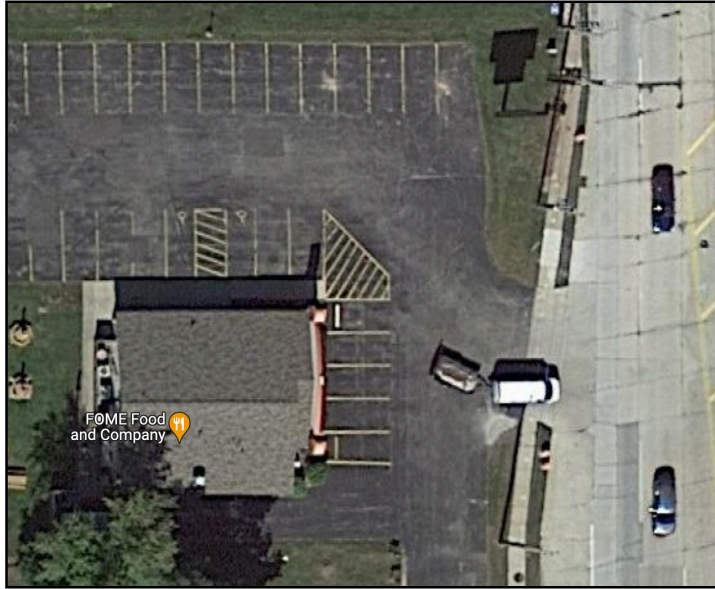
Community and Economic Development Department  
100 N. Appleton St.  
Appleton, WI 54911

2821 N BALLARD ROAD  
APPLETON WI, 54911  
ATHANEA HAHN: 920.915.3817

**MAP OF AREA 1.1**



**VIEW OF PARKING LOT ENTRY 1.2**



**ADJACENT SURROUNDING STREETS:**

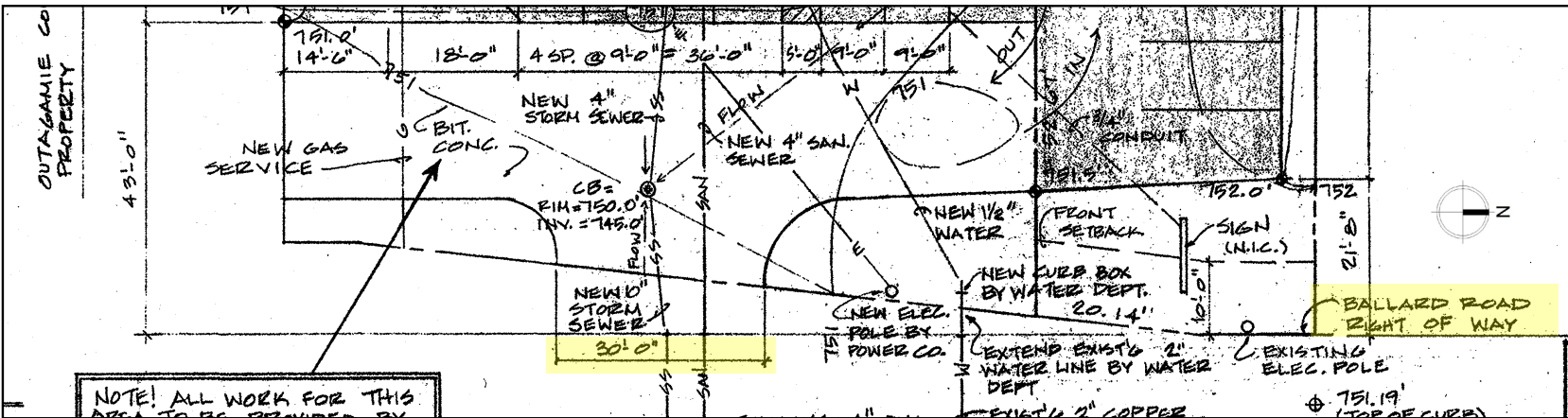
- E NORTHLAND AVE
- BALLARD RD
- E WITZKE BLVD

**RIGHT AWAY WIDTH(S):**

- 30' DRIVEWAY ENTRY INTO PARKING LOT

**NOTE: SITE PLAN CAN BE VIEWED IN FULL SCALE ON 18"X24" FROM 1993**

**DRAWING OF SITE PLAN 1.3**



**NOTE! ALL WORK FOR THIS AREA TO BE PROVIDED BY**

AUGUST jane INTERIOR DESIGN

PROJECT

**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

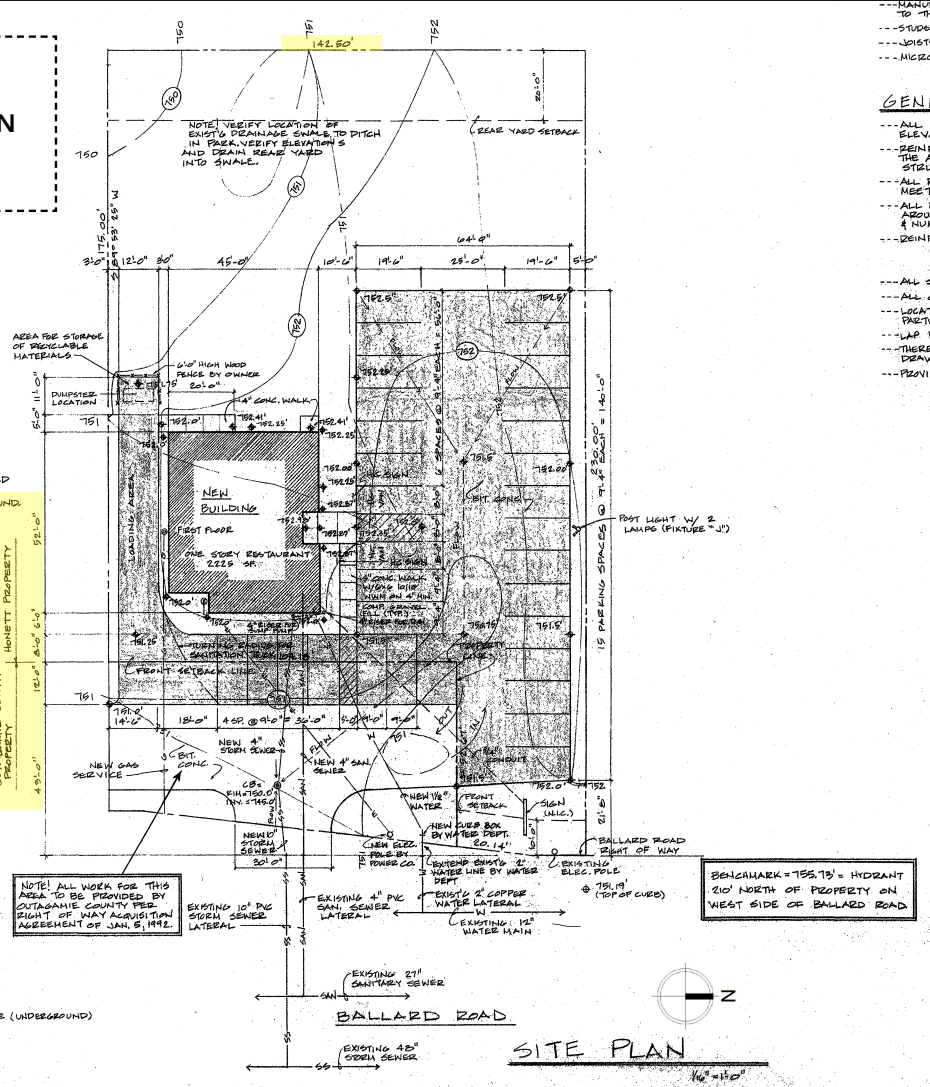
TITLE
ADJACENT OR SURROUNDING STREETS AND RIGHT-OF-WAY WIDTH(S)
DRAWING NO.
1

**DRAWING OF SITE PLAN 2.1**

**NOTE: SITE PLAN CAN BE VIEWED IN FULL SCALE ON 18"X24" FROM 1993**

**NOTES:**

- PARKING LOT PAVING SHALL BE 3" BITUMINOUS CONCRETE ON 4" MIN. COMPACTED GRAVEL FILL.
- PARKING LOT LIGHT FIXTURE SHALL HAVE (2) 250 W HIGH PRESSURE SODIUM FULL CUT-OFF TIRE LAMP.
- SIGN SHALL BE ILLUMINATED 10'0" W X 2'0" H (2), BOTTOM OF SIGN 10'0" ABOVE GRADE MIN.
- PARKING SPACES READ AS 1 PER 100 SF ± 25. 31 SPACES PROVIDED INCLUDING 2 HANDICAPPED VAN ACCESSIBLE SPACES.
- TELEPHONE SERVICE TO BE UNDERGROUND.



- KEY TO SITE PLAN**
- PROPERTY LINE
  - 751 EXISTING CONTOUR LINE
  - 751 PROPOSED CONTOUR LINE
  - 750.00' EXISTING SPOT ELEVATION
  - 750.00' PROPOSED SPOT ELEVATION
  - W WATER
  - SS STORM SEWER
  - SAN SANITARY SEWER
  - E PROPOSED ELECTRIC SERVICE (UNDERGROUND)
  - G PROPOSED GAS SERVICE
  - BIT CONG. BIT. CONG.
  - M GAS METER
  - E ELECTRIC METER

NOTE: ALL WORK FOR THIS AREA TO BE PROVIDED BY OUTAGAMIE COUNTY PER RIGHT OF WAY ACQUISITION AGREEMENT OF JAN. 5, 1993.



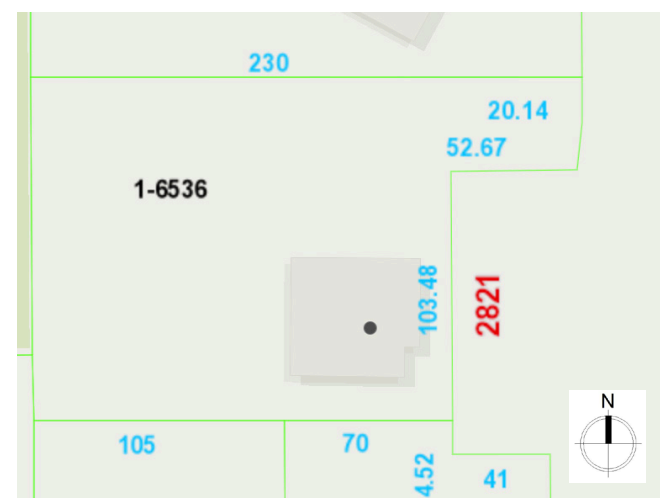
**SITE PLAN**

- GENE**
- HANG TO TH
  - STUB
  - JOIST
  - MICRO
  - ALL S ELEVATION
  - SENE THE A STRIP
  - ALL D MEST
  - ALL S AROUND NUM
  - SENE
  - ALL S
  - ALL C
  - LOCAL PARTY
  - LAP H
  - THERE DRAW
  - PREVI

**PROPERTY FACTS**

Property Type: Retail  
 Property Subtype: Restaurant  
 Building Class: C  
 Year Built/Renovated: 1993/2008  
 Percent Leased: 100%  
 Building Height: 1 Story  
 Building FAR: 0.08  
 Land Acres: 0.62 AC  
 Opportunity Zone: No  
 Parking: 30 Spaces (13.5 Spaces per 1,000 SF Leased)  
 Frontaged: 122 FT on North Ballard Road

**PROPERTY LINES VIA CITY OF APPLETON PROPERTY VIEWER**



**AUGUST**  
*jane*  
 INTERIOR DESIGN

PROJECT

**FOME**  
 FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

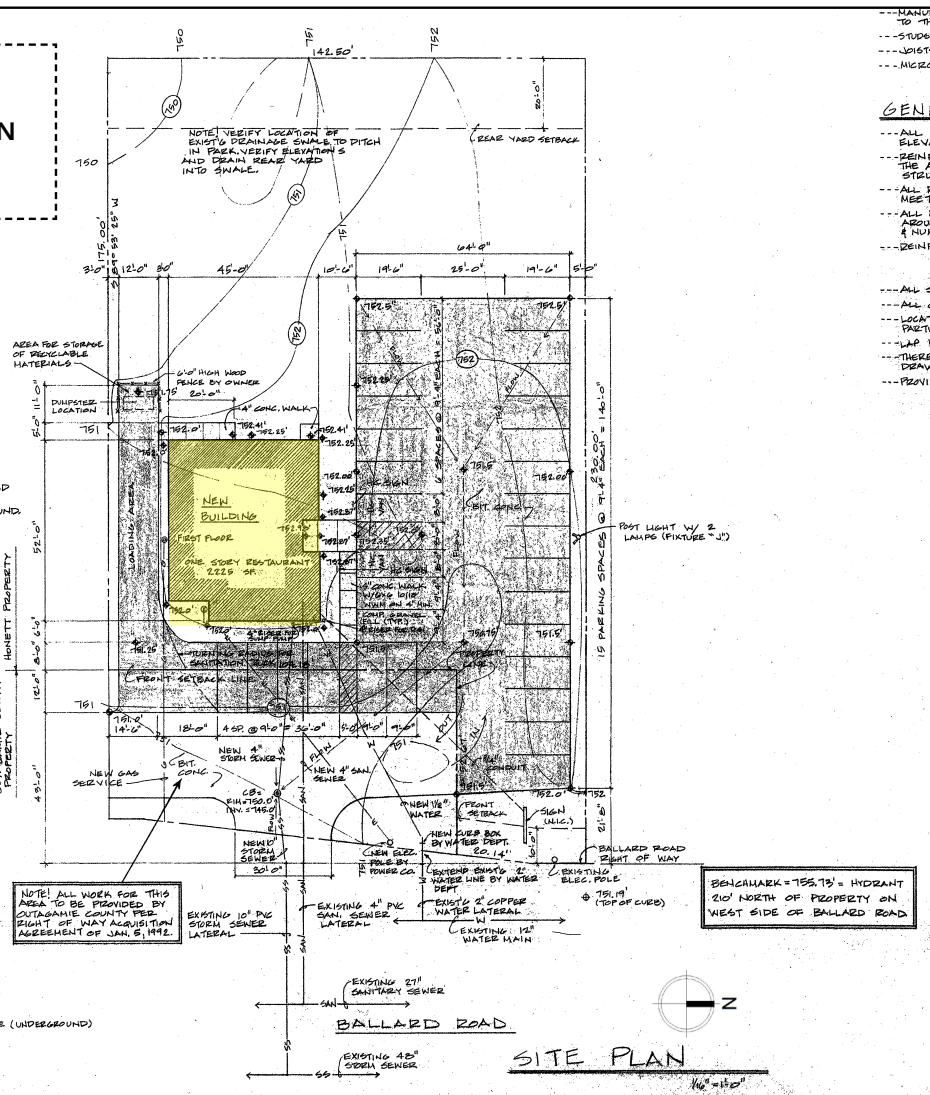
TITLE
RECORDED PROPERTY LINES AND THEIR DIMENSIONS
DRAWING NO.
2

**DRAWING OF SITE PLAN 2.1**

**NOTE: SITE PLAN CAN BE VIEWED IN FULL SCALE ON 18"X24" FROM 1993**

**NOTES:**

- PARKING LOT PAVING SHALL BE 3" BITUMINOUS CONCRETE ON 4" MIN. COMPACTED GRAVEL FILL.
- PARKING LOT LIGHT FIXTURE SHALL HAVE (2) 250 W HIGH PRESSURE SODIUM FULL CUT-OFF TUBE LAMPS.
- SIGN SHALL BE ILLUMINATED 10'0" W X 2'0" H (2), BOTTOM OF SIGN 10'0" ABOVE GRADE MIN.
- PARKING SPACES SHALL BE 1 PER 100 SF ± 25. 31 SPACES PROVIDED INCLUDING 2 HANDICAPPED VAN ACCESSIBLE SPACES.
- TELEPHONE SERVICE TO BE UNDERGROUND.



- KEY TO SITE PLAN**
- PROPERTY LINE
  - 791' EXISTING CONTOUR LINE
  - 791' PROPOSED CONTOUR LINE
  - 790.00' EXISTING SPOT ELEVATION
  - 790.00' PROPOSED SPOT ELEVATION
  - W WATER
  - SS STORM SEWER
  - SAN SANITARY SEWER
  - E PROPOSED ELECTRIC SERVICE (UNDERGROUND)
  - G PROPOSED GAS SERVICE
  - BIT CONC. BIT. CONC.
  - G GAS METER
  - E ELECTRIC METER

NOTE: ALL WORK FOR THIS AREA TO BE PROVIDED BY OUTAGAMIE COUNTY PER RIGHT OF WAY ACQUISITION AGREEMENT OF JAN. 5, 1993.

BENCHMARK = 795.73' = HYDRANT 210' NORTH OF PROPERTY ON WEST SIDE OF BALLARD ROAD

**SITE PLAN**

**EXISTING AND PROPOSED BUILDINGS + STRUCTURES MAIN BUILDING:**

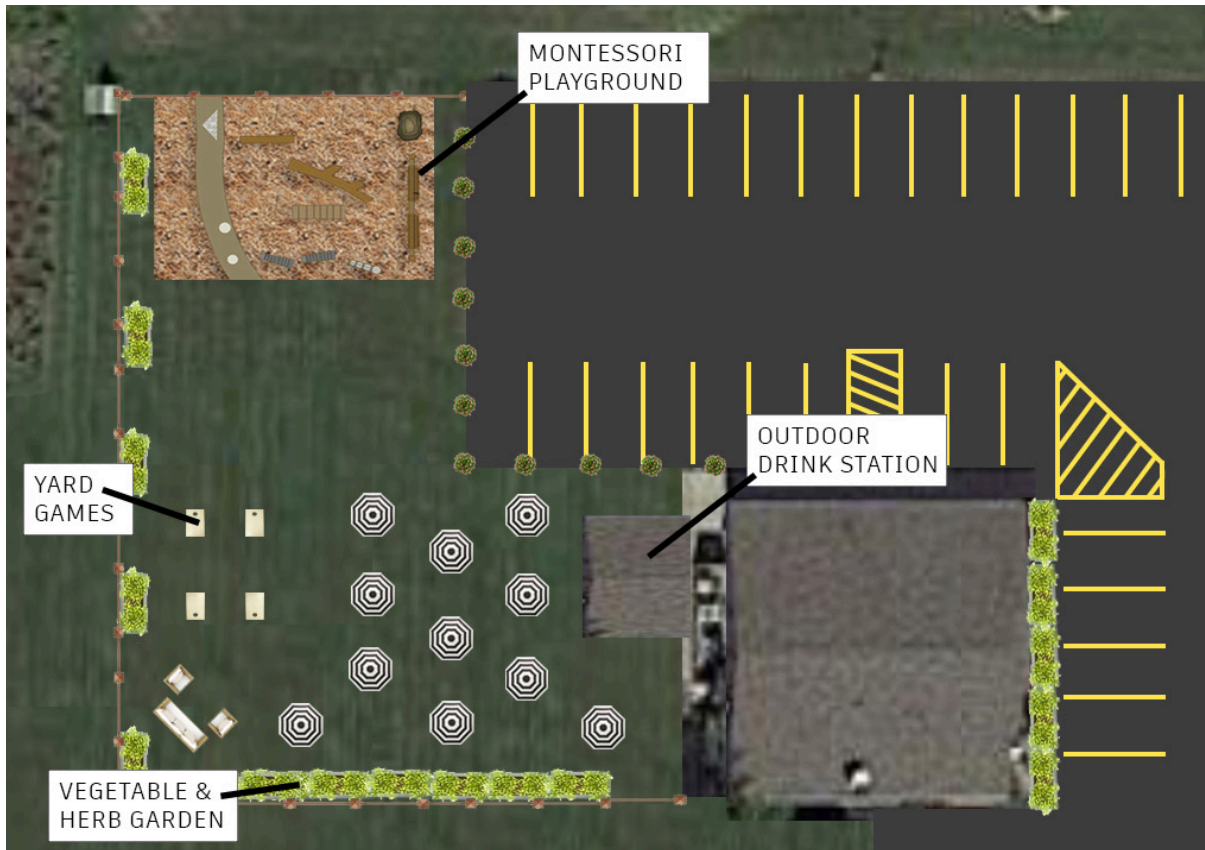
- BUILDING USE: RESTAURANT
- DIMENSIONS: 45'X52'
- LOCATION: SEE SITE PLAN



2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA	TITLE
DRAWN BY: HSKAAR		EXISTING AND PROPOSED BUILDINGS + STRUCTURES
PROJECT NO: 22-002		DRAWING NO.
ACCEPTED BY: _____		3
DATE: _____		

**PROPOSED OUTDOOR SPACE 3.1**



**EXISTING AND PROPOSED BUILDINGS + STRUCTURES**

**OUTDOOR DRINK PAVILION:**

- BUILDING USE: TO SERVE BEVERAGES AND PLACE ORDERS
- DIMENSIONS: TBD
- LOCATION: TBD, IN OUTDOOR SPACE



**PLEASE NOTE: THIS OUTDOOR SPACE WILL NOT BE COMPLETED UNTIL THE SPRING/SUMMER OF 2023. NO FORMAL DRAWINGS HAVE BEEN CREATED AT THIS TIME. THIS IS TO SHOW THE CONCEPT OF THE SPACE. LOCATION AND DIMENSIONS OF DRINK THE PAVILION HAVE NOT BEEN FINALIZED.**



PROJECT

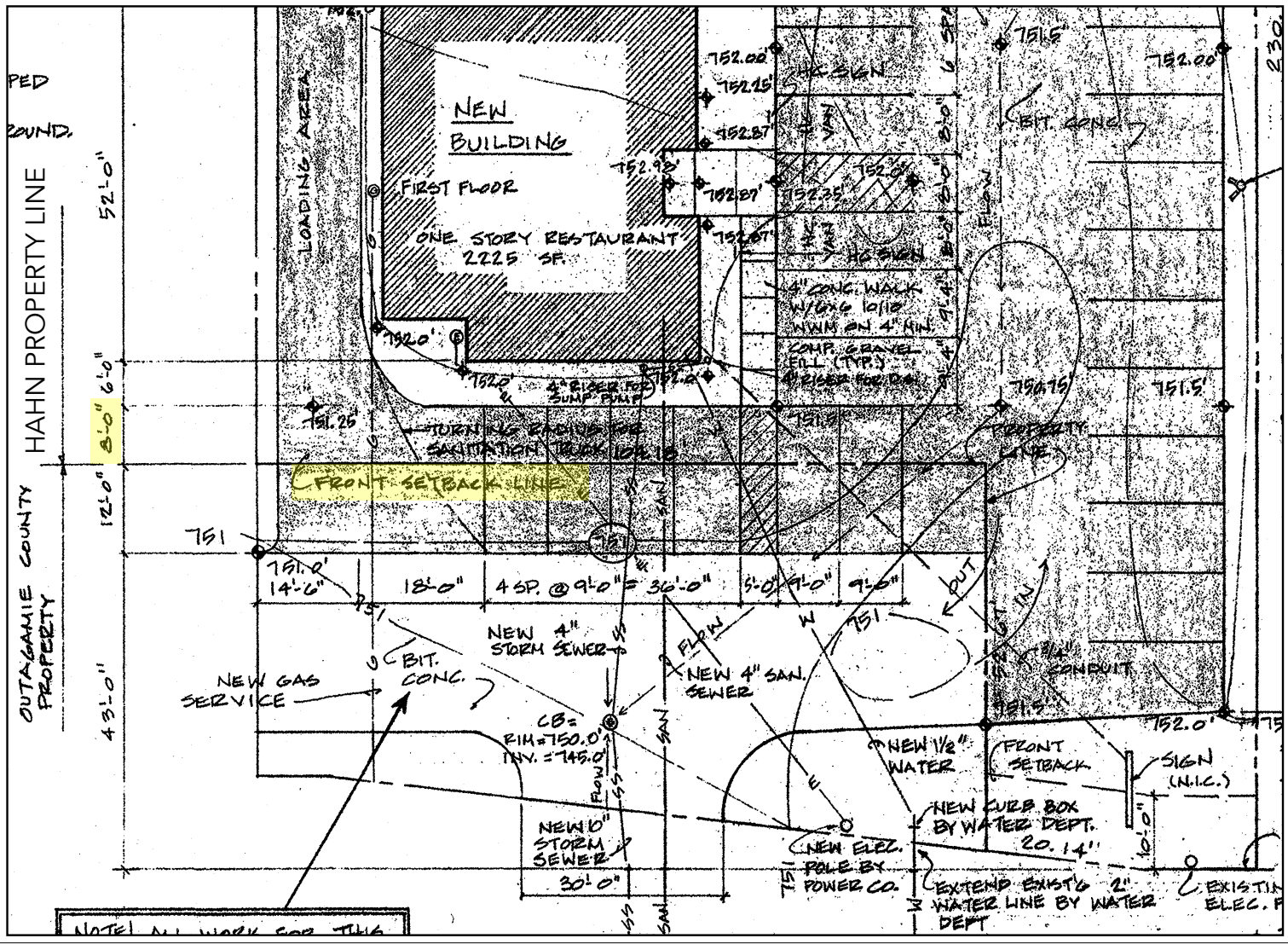
**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
EXISTING AND PROPOSED BUILDINGS + STRUCTURES
DRAWING NO.
<b>3.1</b>

DRAWING OF SITE PLAN 2.1



EXISTING AND PROPOSED YARD SETBACKS:

EXISTING FRONT YARD SETBACK IS 8' FROM OUTAGAMIE COUNTY PROPERTY LINE.

NOTE: SITE PLAN CAN BE VIEWED IN FULL SCALE ON 18"X24" FROM 1993

AUGUST  
*jane*  
INTERIOR DESIGN

PROJECT

**FOME**  
FOOD & COMPANY

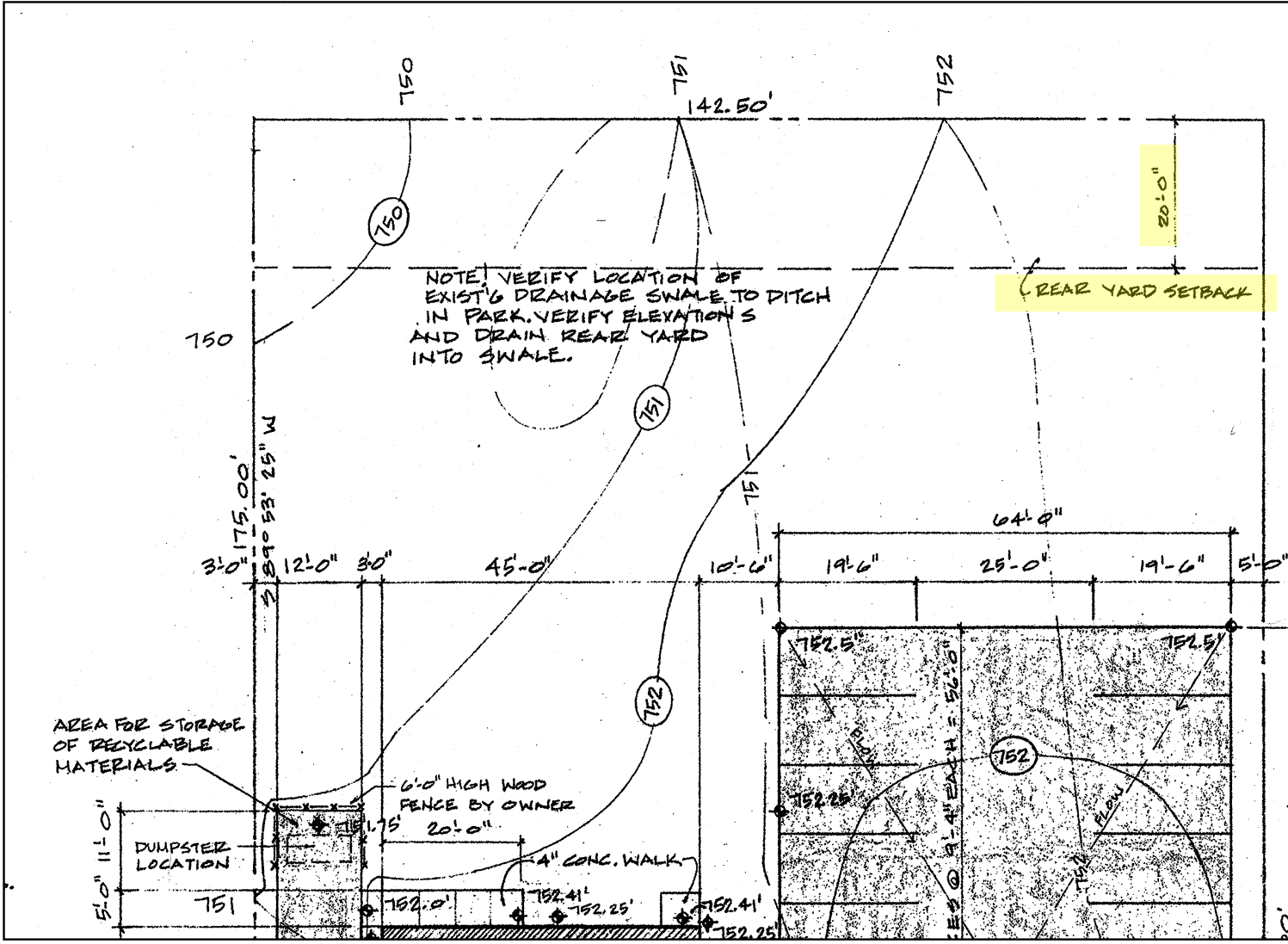
2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
EXISTING AND PROPOSED YARD SETBACKS
DRAWING NO.
4



DRAWING OF SITE PLAN 2.1



EXISTING AND PROPOSED YARD SETBACKS:

EXISTING REAR YARD SETBACK IS 20' FROM OUTAGAMIE COUNTY PROPERTY LINE.

NOTE: SITE PLAN CAN BE VIEWED IN FULL SCALE ON 18"X24" FROM 1993



PROJECT

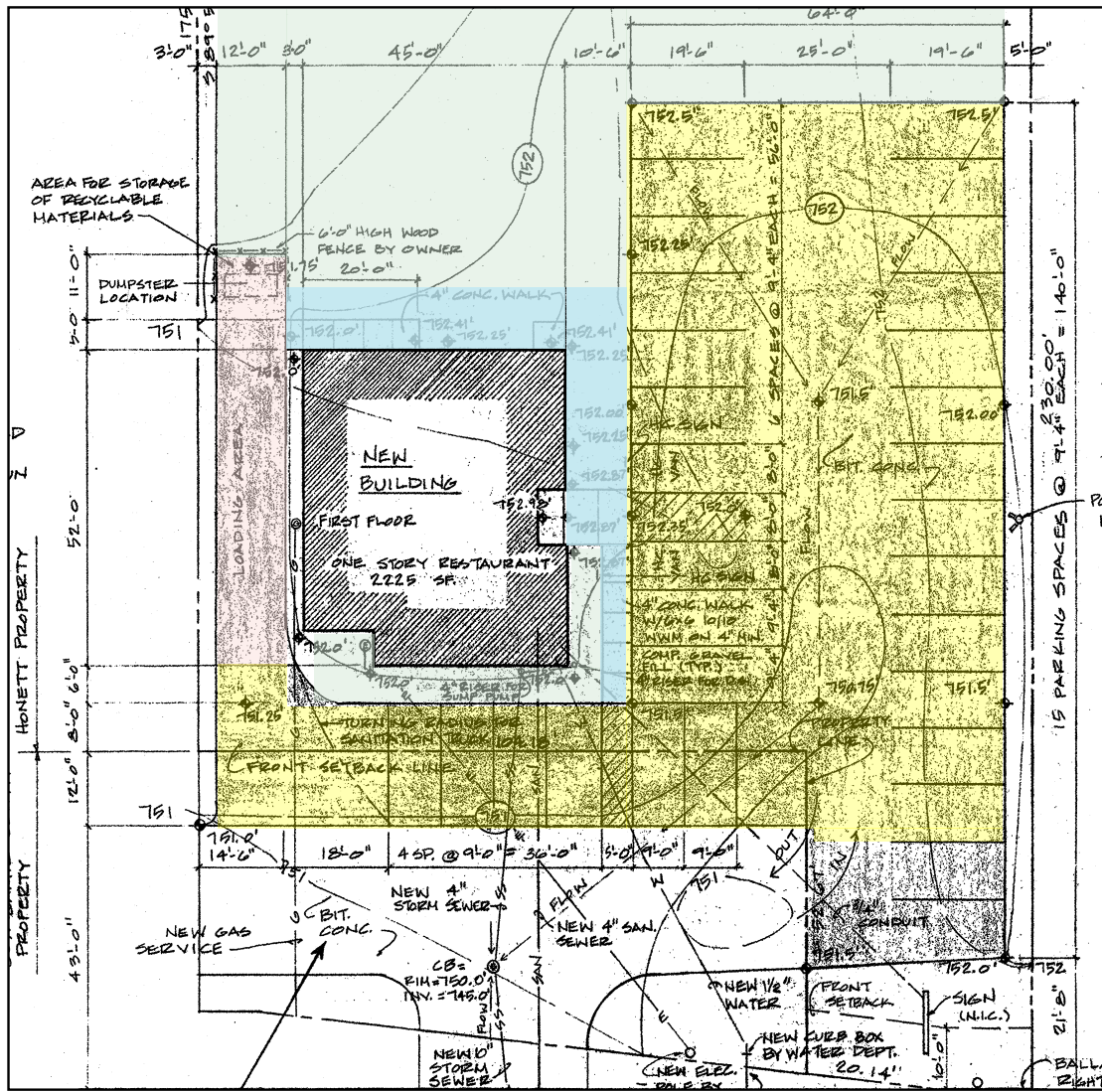
**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
EXISTING AND PROPOSED YARD SETBACKS
DRAWING NO.
4.1

**DRAWING OF SITE PLAN 2.1**



**PARKING:**

Parking: 30 Spaces (13.5 Spaces per 1,000 SF Leased)  
 Frontaged: 122 FT on North Ballard Road

DIMENSIONS OF EXISTING PARKING: 98'-8" x 64',  
 52'- 8 1/32" x 32", 103'- 5 3/4" x 20'

MATERIALS (EXISTING + PROPOSED): ASPHALT

**LOADING/UNLOADING:**

DIMENSIONS: 12' x 52'

MATERIALS (EXISTING + PROPOSED): ASPHALT

**SIDEWALK:**

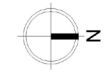
DIMENSIONS: ON NORTHSIDE OF BUILDING: 9'-9" x 60'-8", ON WESTSIDE OF BUILDING 4' x 45'-7"

MATERIALS (EXISTING + PROPOSED): CONCRETE

**KEY:**

- PARKING
- UNLOADING/LOADING
- SIDEWALK
- LANDSCAPING

**NOTE:** SITE PLAN CAN BE VIEWED IN FULL SCALE ON 18"X24" FROM 1993



A|U|G|U|S|T  
*jane*  
 INTERIOR DESIGN

PROJECT

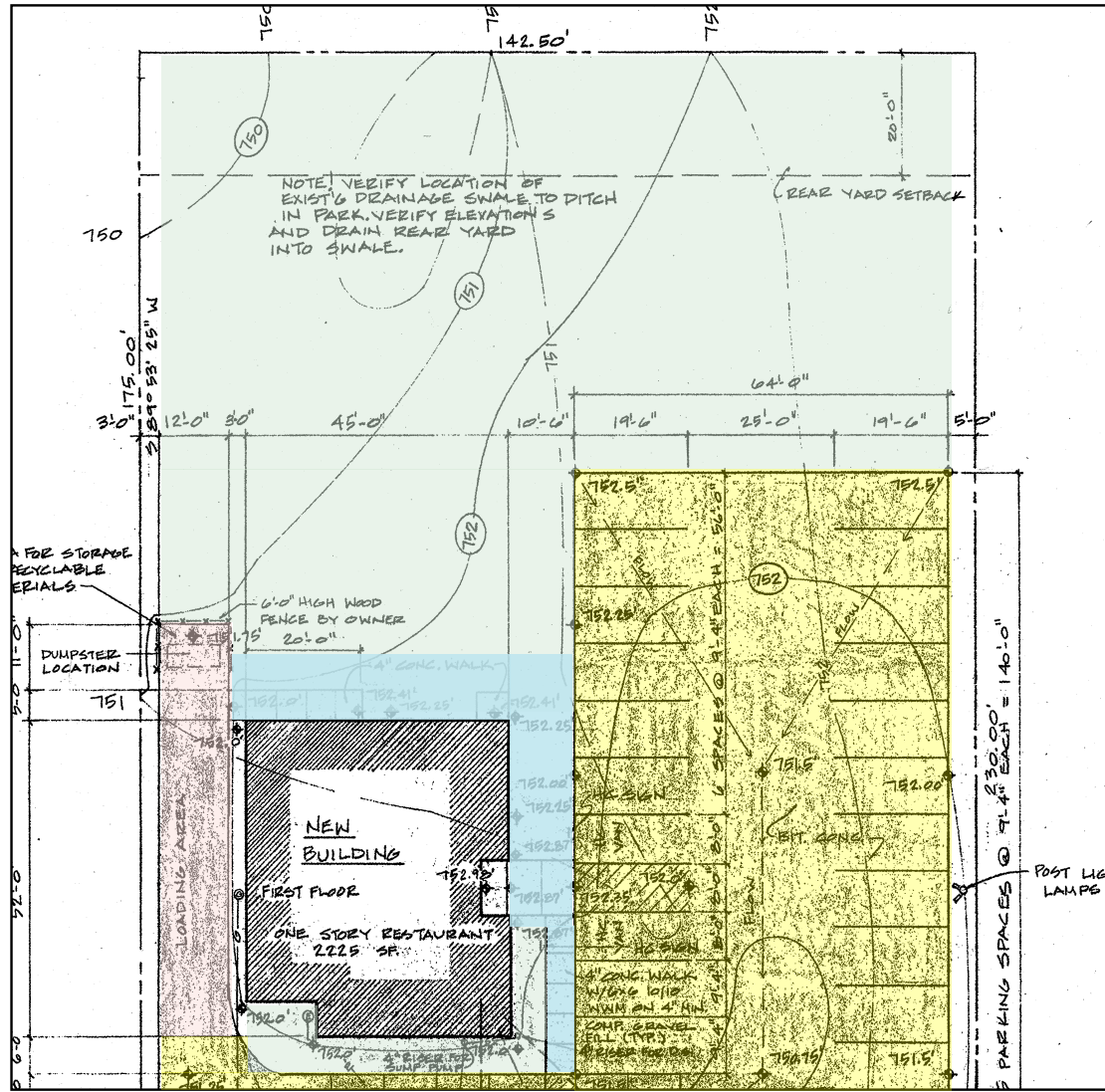
**FOME**  
 FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
EXISTING AND PROPOSED PARKING, LOADING/UNLOADING, SIDEWALKS + LANDSCAPING
DRAWING NO.
5

**DRAWING OF SITE PLAN 2.1**



**LANDSCAPING**

DIMENSIONS OF EXISTING PARKING: 142'-6" x 67'-0"

MATERIALS (EXISTING + PROPOSED): GRASS, VARIOUS FOILAGE

**KEY:**

- PARKING
- UNLOADING/LOADING
- SIDEWALK
- LANDSCAPING

NOTE: SITE PLAN CAN BE VIEWED IN FULL SCALE ON 18"X24" FROM 1993

A|U|G|U|S|T  
*jane*  
INTERIOR DESIGN

PROJECT

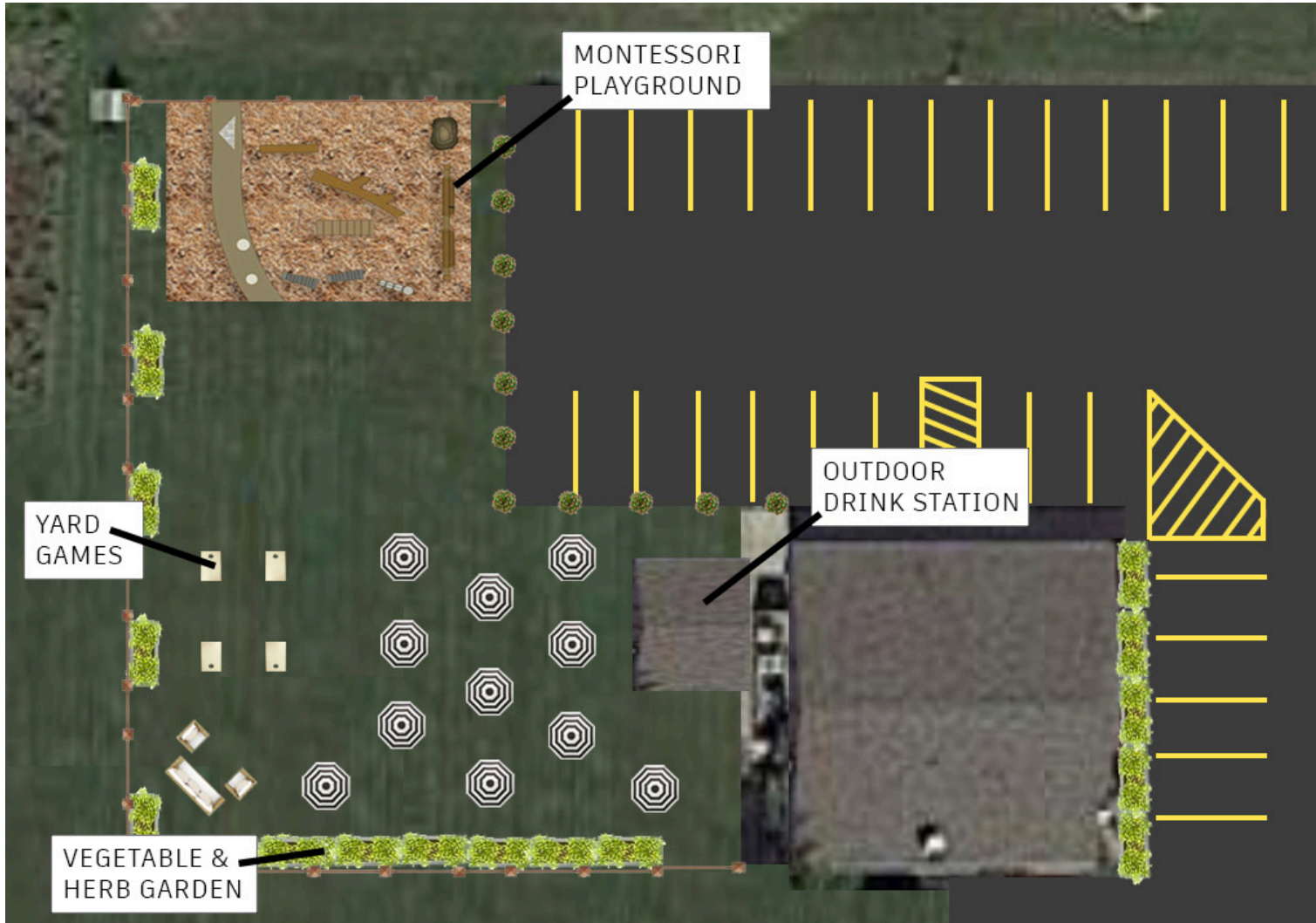
**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
EXISTING AND PROPOSED PARKING, LOADING/UNLOADING, SIDEWALKS + LANDSCAPING
DRAWING NO.
5.1

PROPOSED OUTDOOR SPACE 3.1



**PROPOSED LANDSCAPING:**  
GRASS, VARIOUS FOILAGE

OUTDOOR SEATING WILL BE SURROUNDED BY VEGETABLE + HERB GARDENS, GRASSY LOUNGING AREAS, AND VARIOUS BUSHES + FLOWERS.

OPEN AREA FOR EVENTS

MONTESSORI PLAYGROUND TO BE ADDED

UPDATED BUSHES IN FRONT ON THE EAST SIDE OF THE BUILDING



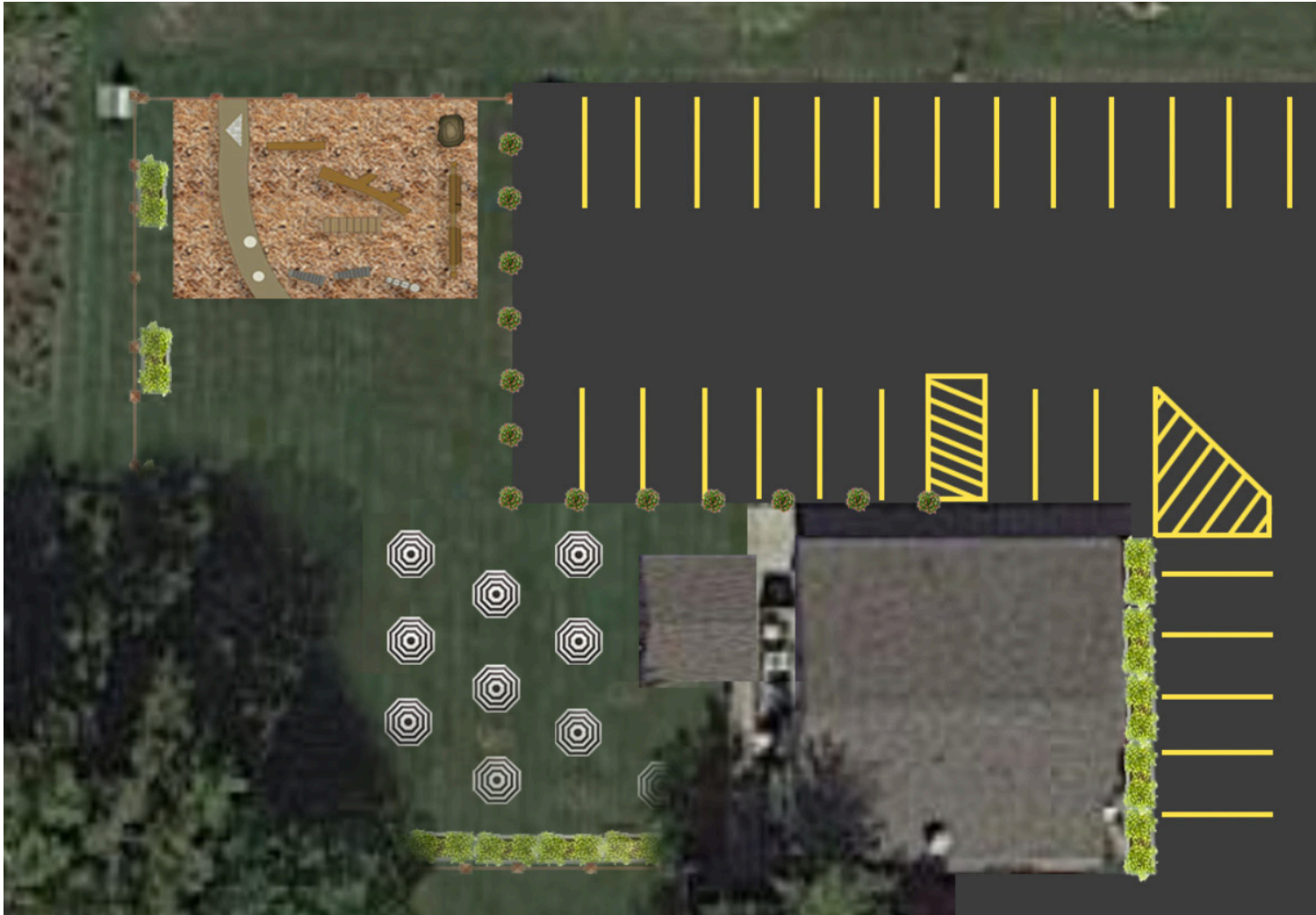
PROJECT

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
LANDSCAPING CONCEPT
DRAWING NO.
6

PROPOSED OUTDOOR SPACE 6.1



**PROPOSED  
LANDSCAPING:**  
EXISTING TREES  
WILL REMAIN



AUGUST  
*jane*  
INTERIOR DESIGN

PROJECT

**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
LANDSCAPING CONCEPT
DRAWING NO.
<b>6.1</b>

**EXISTING FENCE AND TREES**



**PROPOSED  
LANDSCAPING:**  
EXISTING TREES FENCE  
AND TREES WILL REMAIN.



PROJECT

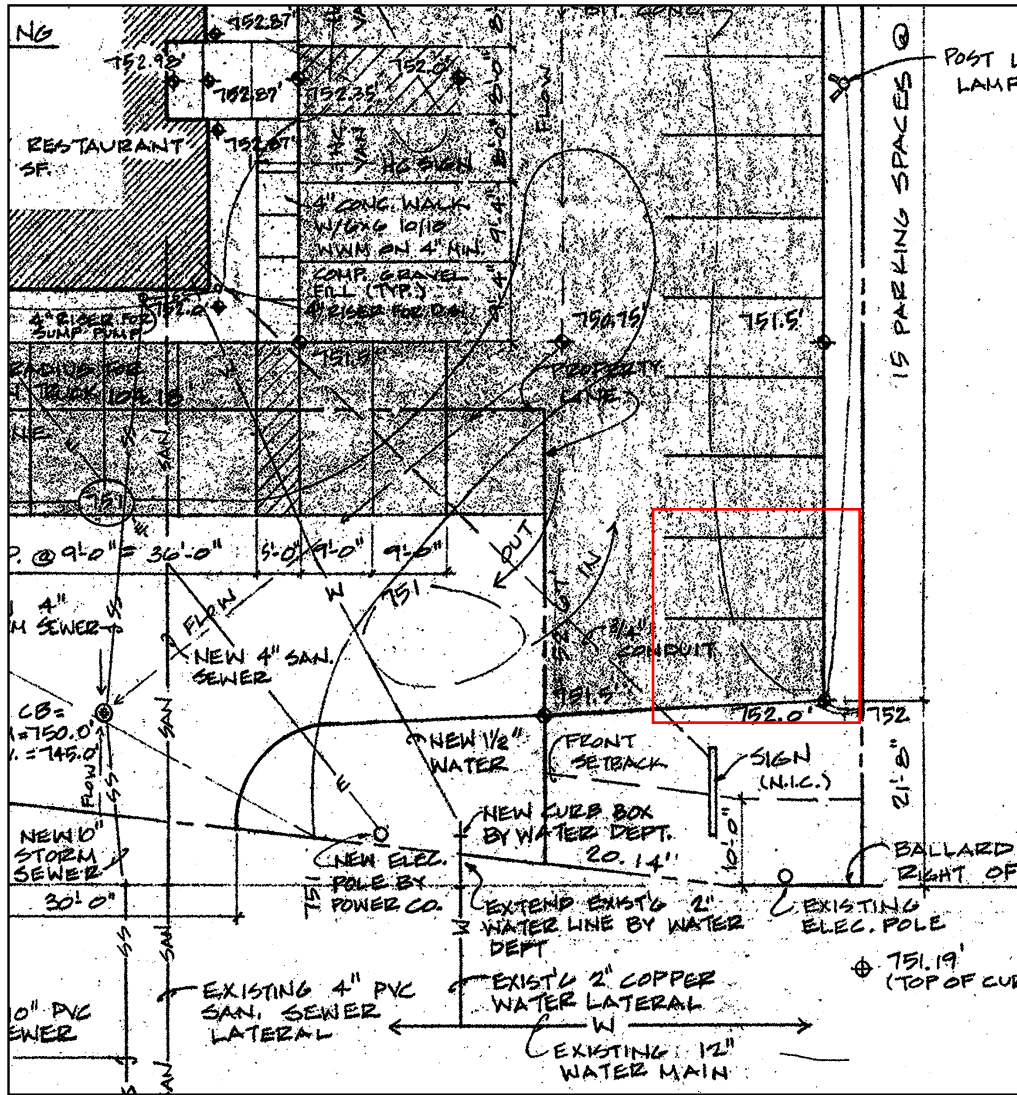
**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
LANDSCAPING CONCEPT
DRAWING NO.
6.2

DRAWING OF SITE PLAN 2.1

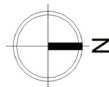


EXISTING/PROPOSED LOCATIONS OF REFUSE CONTAINERS

REFUSE CONTAINERS WERE LOCATED IN THE BACK CORNER OF THE PARKING LOT (NORTH-WEST CORNER) BUT WILL BE MOVED TO THE NORTH-EAST CORNER TO ENSURE AN ENJOYABLE ATMOSPHERE FOR OUR GUESTS OUTSIDE.

FENCE SURROUNDING REFUSE CONTAINERS WILL BE AT LEAST 6' TALL.

THE REFUSE CONTAINERS WILL BE ENCLOSED IN A SIMILAR GATE/FENCE AS SHOWN BELOW:



AUGUST  
*jane*  
INTERIOR DESIGN

PROJECT

**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

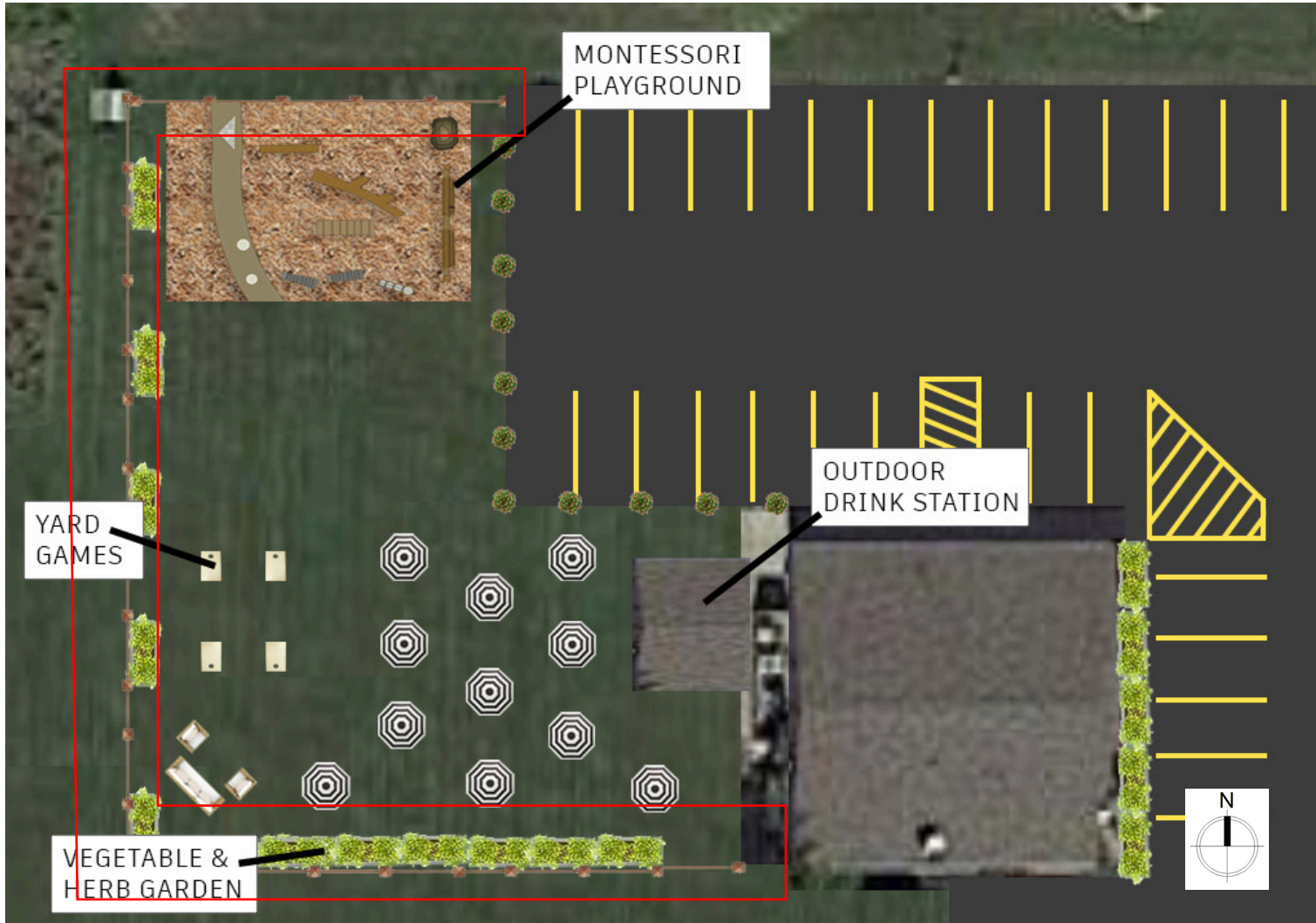
DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
LOCATION OF REFUSE CONTAINERS
DRAWING NO.
7





PROPOSED OUTDOOR SPACE 3.1



**PROPOSED LOCATION, HEIGHT, + MATERIAL OF FENCE:**

PROPOSED FENCE WILL FOLLOW THE SOUTH AND EAST PROPERTY LINES, AND PART OF THE NORTH PROPERTY LINE BY THE PARKING LOT.

THE FENCE WILL BE 6' TALL AND MADE OF ALUMINUM AND/OR COMPOSITE.

FINAL SELECTIONS HAVE NOT BEEN MADE. WILL BE CHOSEN IN SPRING/SUMMER 2023.

NO RETAINING WALLS ARE PRESENT ON THE PROPERTY.



PROJECT

**FOME** The location, height and materials of all proposed and existing fences or retaining walls.

FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
LOCATION, HEIGHT, + MATERIALS OF FENCE
DRAWING NO.
8

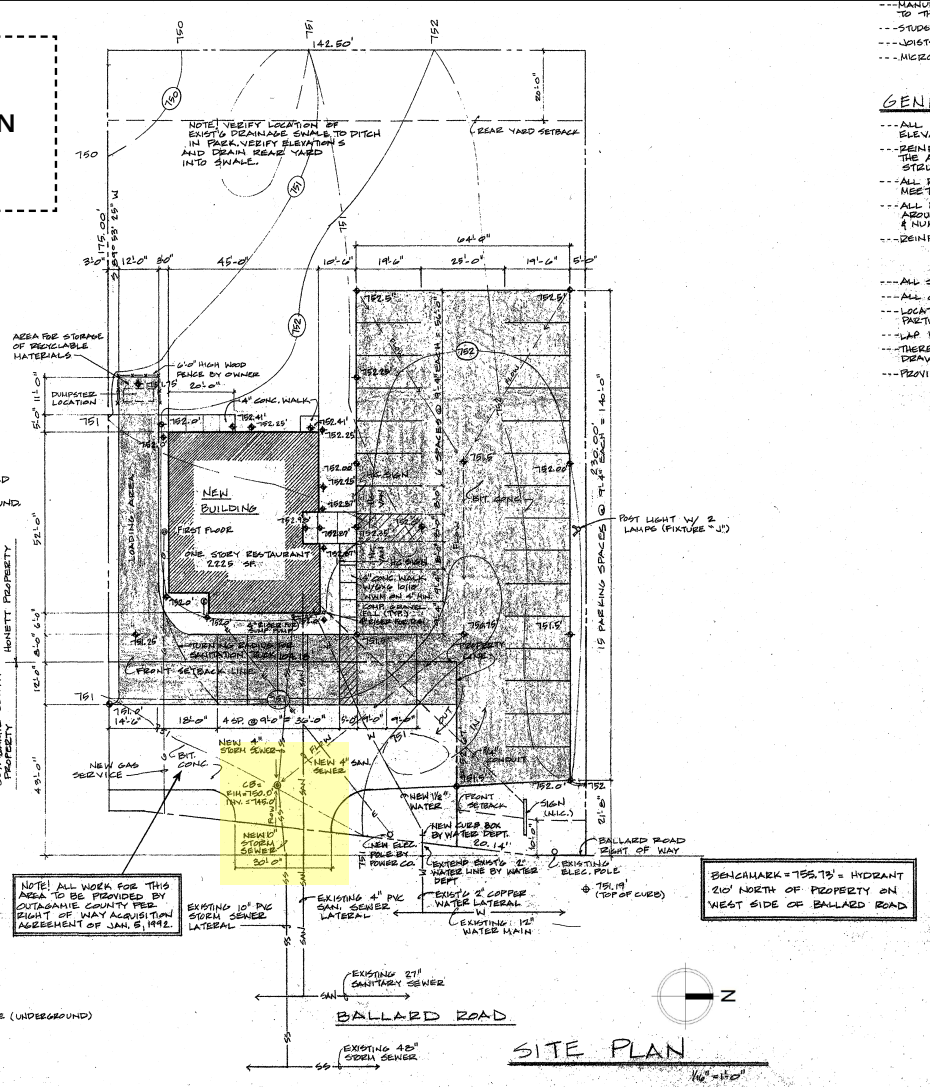
DRAWING OF SITE PLAN 2.1

LOCATION AND SIZE OF EXISTING DRIVEWAY

EXISTING DRIVEWAY FROM N BALLARD ROAD IS 30' WIDE. THIS DRIVEWAY WILL REMAIN.

NOTE: SITE PLAN CAN BE VIEWED IN FULL SCALE ON 18"X24" FROM 1993

- NOTES:**
- PARKING LOT PAVING SHALL BE 3" BITUMINOUS CONCRETE ON 8" MIN. COMPACTED GRAVEL FILL.
  - PARKING LOT LIGHT FIXTURE SHALL HAVE (2) 250 W HIGH PRESSURE SODIUM FULL CUT-OFF TUBE LAMPS.
  - SIGN SHALL BE ILLUMINATED 10'0" W X 2'0" H (2), BOTTOM OF SIGN 10'0" ABOVE GRADE MIN.
  - PARKING SPACES DEED AS 1 PER 100 SF ± 25. 31 SPACES PROVIDED INCLUDING 2 HANDICAPPED VAN ACCESSIBLE SPACES.
  - TELEPHONE SERVICE TO BE UNDERGROUND.



- KEY TO SITE PLAN**
- PROPERTY LINE
  - 791 EXISTING CONTOUR LINE
  - 791 PROPOSED CONTOUR LINE
  - 790.00' EXISTING SPOT ELEVATION
  - 790.00' PROPOSED SPOT ELEVATION
  - W WATER
  - SS STORM SEWER
  - SAN SANITARY SEWER
  - E PROPOSED ELECTRIC SERVICE (UNDERGROUND)
  - G PROPOSED GAS SERVICE
  - BIT. CONC. BIT. CONC.
  - G GAS METER
  - E ELECTRIC METER

NOTE! ALL WORK FOR THIS AREA TO BE PROVIDED BY OUTAGAMIE COUNTY PER RIGHT OF WAY ACQUISITION AGREEMENT OF JAN. 5, 1993.

BENCHMARK = 795.79' = HYDRANT 210' NORTH OF PROPERTY ON WEST SIDE OF BALLARD ROAD

SITE PLAN

- GENERAL NOTES:**
- HANG TO TH
  - STUDE
  - JOIST
  - MGR20
  - GENE
  - ALL S ELEV
  - SENE THE A STRU
  - ALL D MEST
  - ALL S ABOU 4 NUM
  - SENE
  - ALL S
  - ALL C
  - LOCAT
  - PART
  - LAP W
  - THERE DRAW
  - PRON



PROJECT

**FOME**

FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
LOCATION AND SIZE OF EXISTING DRIVEWAY
DRAWING NO.
9

**VIEW OF AREA AROUND FOME FOOD & COMPANY 10.1**



**LOCATION AND USE OF BUILDINGS ON ADJOINING LAND: SOUTH OF NORTHLAND AVE**

- "00" CAR WASH
- PICK'N SAVE: Grocery store
- COMMUNITY FIRST CREDIT UNION
- MJI BUILDING SERVICES: Construction

**LOCATION AND USE OF BUILDINGS ON ADJOINING LAND: NORTH OF NORTHLAND AVE**

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• APPLETON PARKS &amp; RECREATION</li> <li>• BATELY CPA: Certified public accounting firm</li> <li>• ACUPUNCTURE &amp; HERB CENTER: Traditional Chinese medicine, healthcare</li> <li>• BUXTON O'NEIL INSURANCE AGENCY: Insurance</li> <li>• FARMERS INSURANCE: Insurance</li> <li>• BURGER KING: Restaurant/fast food</li> </ul> | <ul style="list-style-type: none"> <li>• GINGERROOTZ: Asian cusine</li> <li>• BSI-BUILDING SERVICE: Office furniture</li> <li>• MOTOMART: Gas station</li> <li>• EDWARD JONES: Financial advisor</li> <li>• HIDEOUT BAR</li> <li>• CHASE BANK</li> </ul> |
|--|--|



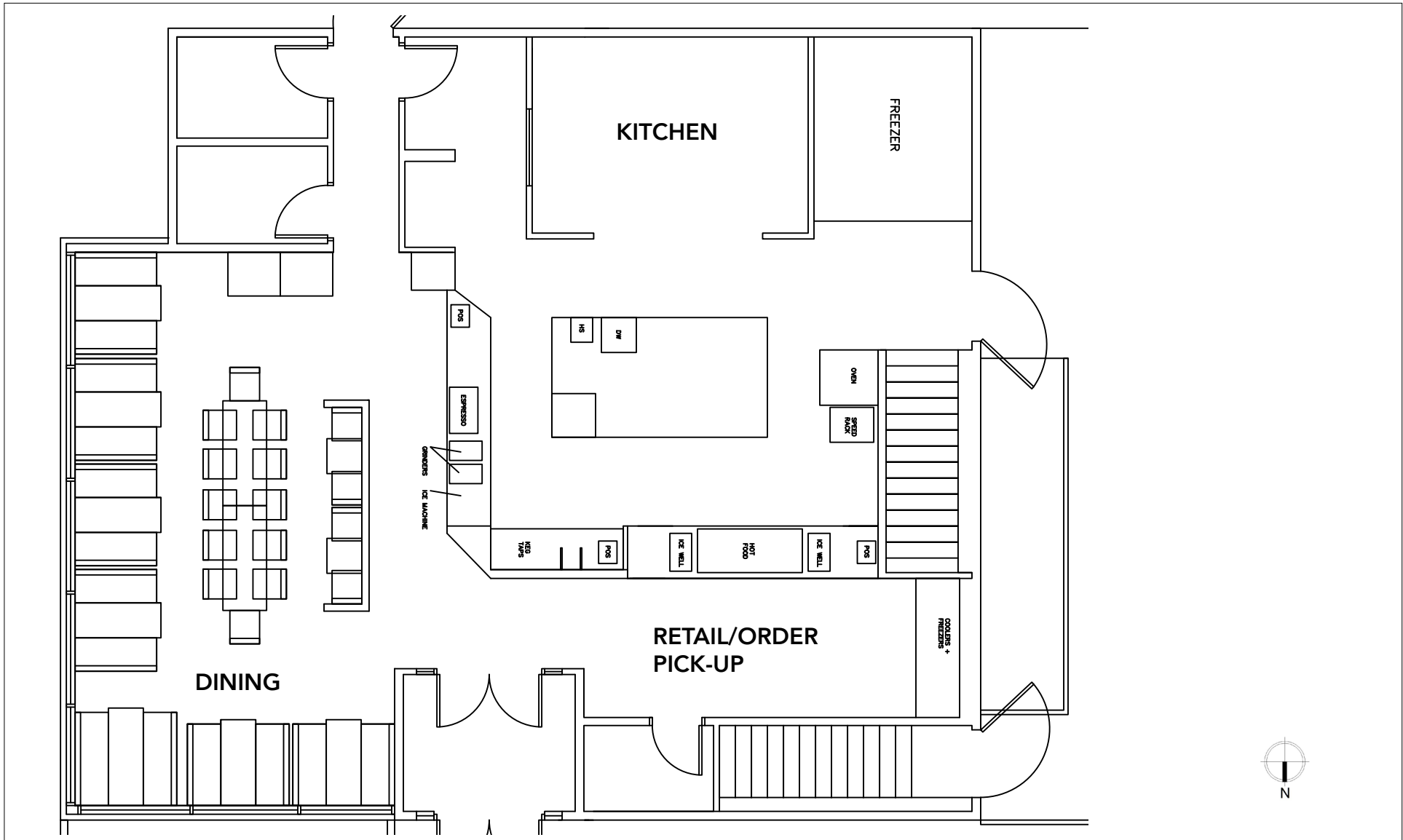
PROJECT

**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
LOCATION AND USE OF BUILDINGS ON ADJOINING LAND
DRAWING NO.
10



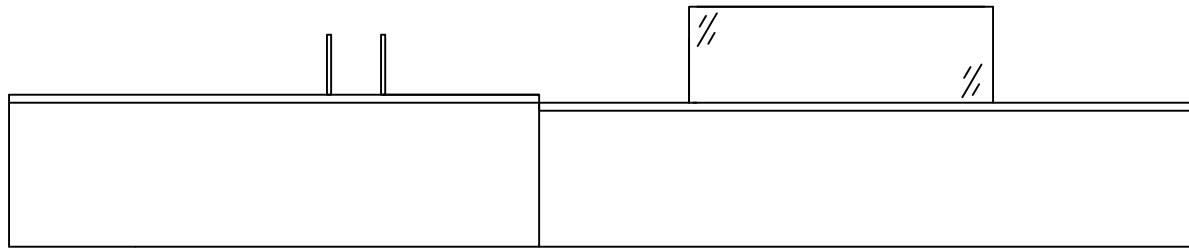
PROJECT

**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

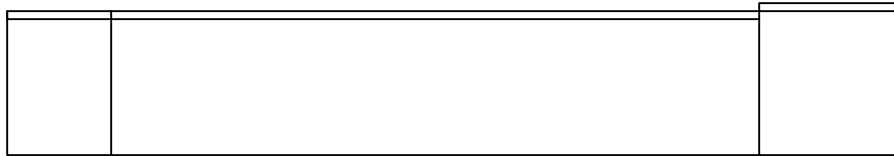
DATE: 9.12.22	SCALE: 1/8" = 1'-0"
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
PRELIMINARY ARCHITECTURAL PLANS
DRAWING NO.
<b>11</b>



VIEW 1 COUNTER ELEVATION

---



VIEW 2 COUNTER ELEVATION

---

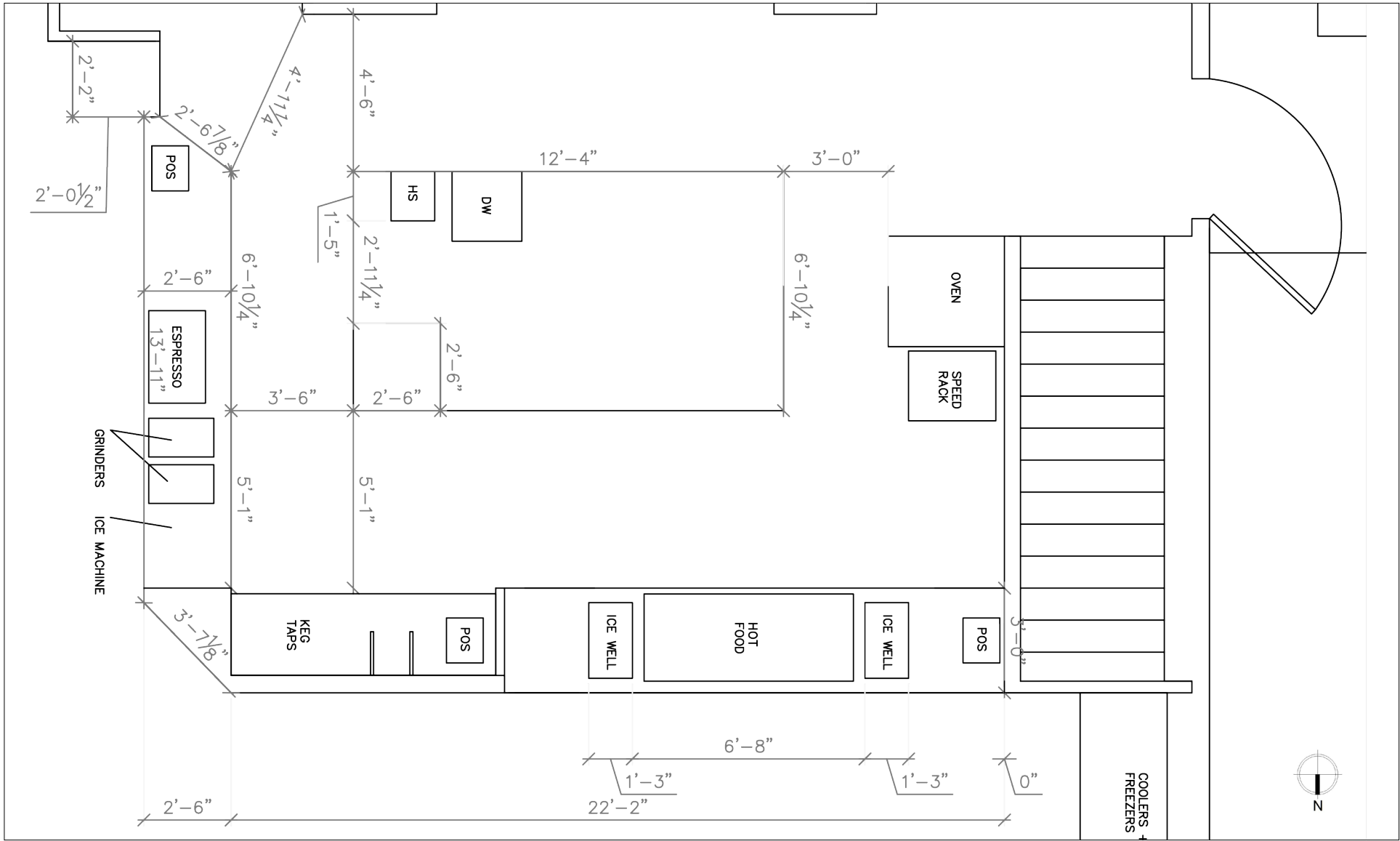


PROJECT

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: 1/4"=1'-0"
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
PRELIMINARY ARCHIECTURAL PLANS
DRAWING NO.
11.1



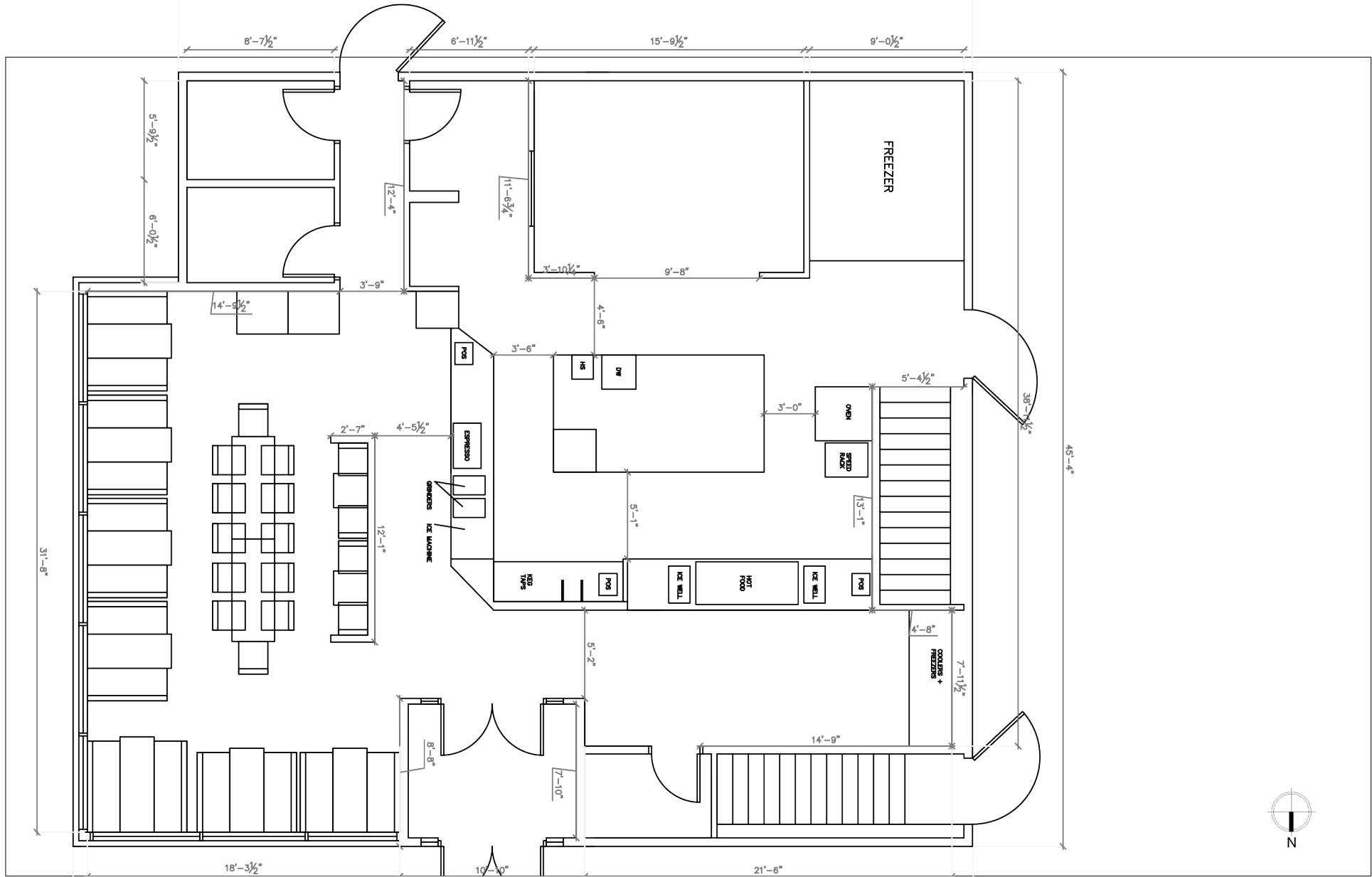
PROJECT

**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: 1/4" = 1'-0"
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
FLOOR PLAN OF THE BUILDING: COUNTER
DRAWING NO.
12



PROJECT

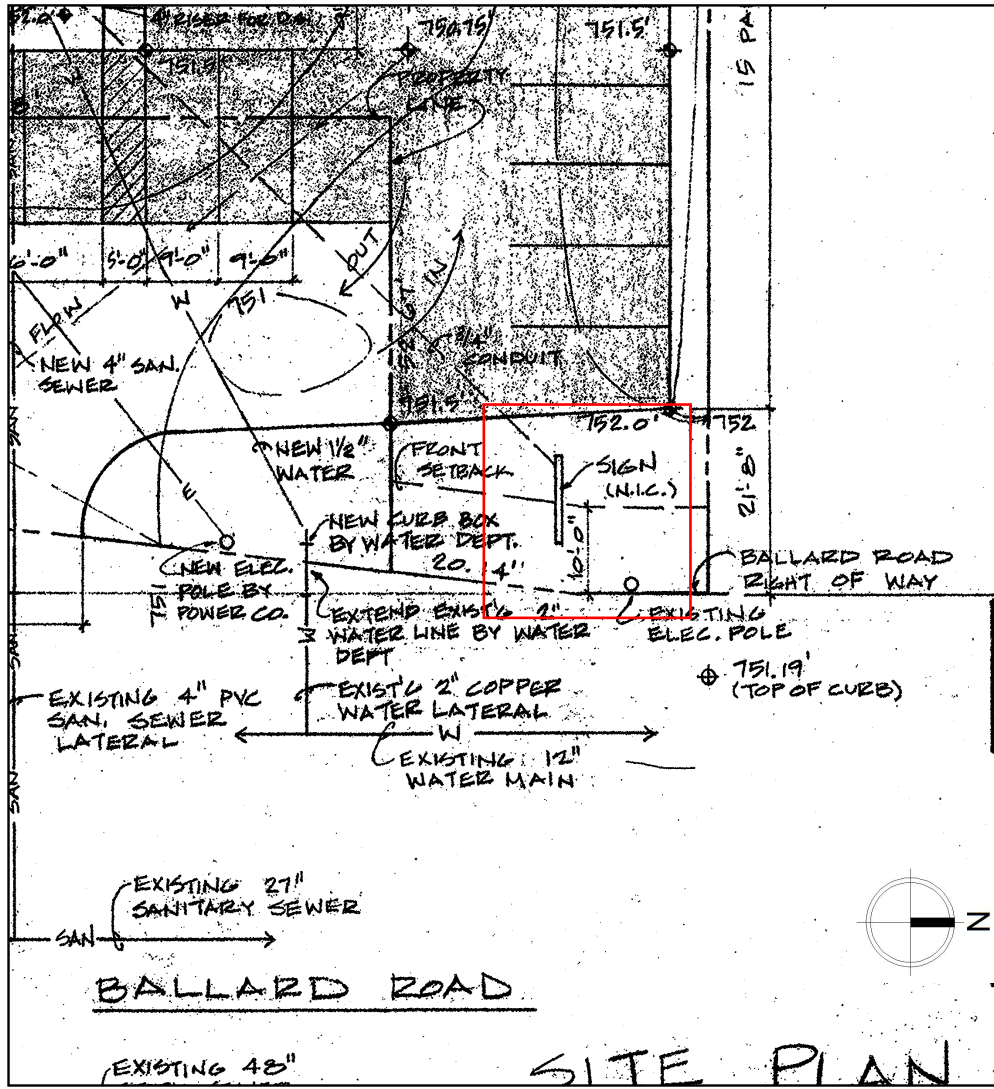
**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: 1/8" = 1'-0"
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE FLOOR PLAN OF THE BUILDING
DRAWING NO. <b>12.1</b>

DRAWING OF SITE PLAN 2.1



EXISTING/PROPOSED LOCATIONS OF SIGNAGE

NEW SIGNAGE WILL BE ADDED TO THE EXTERIOR OF THE BUILDING AND THE EXISTING SIGNAGE FROM PARADISE ISLAND WILL BE REPLACED BY APPLETON SIGN. SEE SIGN PROPOSAL ON PAGE 13.1.

SEE LOCATION OF EXISTING SIGNAGE TO BE UPDATED ON SITE PLAN 2.1

PLEASE NOTE: NO FORMAL DRAWINGS HAVE BEEN CREATED AT THIS TIME. THIS IS TO SHOW THE CONCEPT OF THE EXTERIOR.



EAST ELEVATION



PROJECT



**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
LOCATION OF PROPOSED SIGNAGE
DRAWING NO.
13



LOCATION VIEW



NIGHT VIEW



EXISTING VIEW



**A 1** DETAIL VIEW

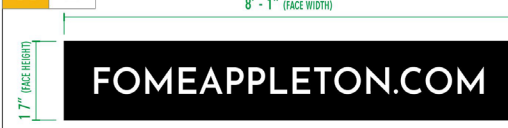


- EXISTING RETAINER: 4"
- NORTH SIDE FACE HINGES
- REVERSE ANGLE CLIPS

FULL COLOR DUAL LAYERED DIGITALLY PRINTED FLEX FACE REPLACEMENTS FOR D/F PYLON SIGN

SCALE: 3/8" = 1' 0"

**A 2** DETAIL VIEW



PREFINISHED WHITE ALUPANEL FACE REPLACEMENT  
W/ ONE COLOR CUT REVERSE WEEDED VINYL COPY

SCALE: 1/2" = 1' 0"

**PEEL S/S PRINTED VINYL AND VINYL BACKER  
REPLACE W/ TRANS. WHITE 48" X 95" VINYL S/S**

**Appleton SIGN**  
COMPANY

2400 Holly Road • Neenah, WI 54956  
Tel: 920.734.1601 • Fax: 920.734.1622  
[www.AppletonSIGN.com](http://www.AppletonSIGN.com)

CLIENT:	FOME
STREET ADDRESS:	2821 N BALLARD ROAD
CITY / STATE:	APPLETON, WI
DATE:	7/11/2022
SALES:	SARA KRKLJES
DESIGNER:	DANE SCHUMACHER

GENERAL SPECIFICATIONS	
VOLTAGE:	120v - 277v - POWER SUPPLIES USED
POWER DRAW:	NA - AMPS - TOTAL (AMPERAGE)
SQUARE FOOTAGE:	100 - APPROX.

REQUIRED ITEMS FROM CLIENT	
----------------------------	--

<input checked="" type="checkbox"/> BRANDING STANDARDS?	NO ART RESTORATION FEE MAY BE APPLIED TO PRODUCT IF PRODUCTION READY ARTWORK IS NOT PROVIDED BY CLIENT PRIOR TO PRODUCTION.
---	---

COLOR SCHEDULE	
1	ORACAL 751070 BLACK
2	ORACAL 850010 WHITE
3	COLOR CALL OUT
4	COLOR CALL OUT
5	COLOR CALL OUT
6	COLOR CALL OUT
7	COLOR CALL OUT
8	COLOR CALL OUT

SURVEY ITEMS REQUIRED	
-----------------------	--

<input checked="" type="checkbox"/> FIELD SURVEY?	ANY PRICE ASSOCIATED WITH THIS DESIGN CAN NOT BE GUARANTEED. THROUGHS BORING A FIELD SURVEY HAS IMPACT ESTIMATED THIS DATE/FILES.
---	---

<input checked="" type="checkbox"/> ON SITE COLOR MATCH	<input checked="" type="checkbox"/> TRUCK ACCESS?
<input checked="" type="checkbox"/> AVAILABLE AREA	YES <input type="checkbox"/> NO
<input checked="" type="checkbox"/> FACE DETAILS	<input checked="" type="checkbox"/> BEHIND WALL ACCESS?
<input checked="" type="checkbox"/> POLE DETAILS	YES <input type="checkbox"/> NO
<input checked="" type="checkbox"/> ALL SIGN DETAILS	<input checked="" type="checkbox"/> ELECTRICAL EXISTING?
<input checked="" type="checkbox"/> OTHER:	YES <input type="checkbox"/> NO
	ADDITIONAL SURVEY DETAILS HERE

SURVEY UPDATE	
APPROVED	CONTACTED

PLEASE SIGN BELOW STATING THAT THIS DESIGN IS APPROVED

**X**

BY SIGNING THIS DOCUMENT, YOU ARE AGREEING TO ALL SPECIFICATIONS/SCOPE OF WORK DESCRIBED ON THIS DRAWING & THE PROPOSAL MATCHING THE DESIGN ID #. PRODUCTION OF THIS PROJECT WILL NOT BE ALLOWED WITHOUT A SIGNATURE.

**A OPT. 2 220760-04**

**DETAILED DESIGN!  
CAN BE USED FOR PRODUCTION**

MANUFACTURE AND INSTALL THE FOLLOWING: A. FACE REPLACEMENTS FOR ONE(1) D/F LIT PYLON SIGN

DISCLAIMERS: THIS DOCUMENT IS OWNED BY APPLETON SIGN COMPANY. IT IS A CONCEPTUAL REPRESENTATION OF SERVICES PROVIDED BY APPLETON SIGN. CLIENT AGREES, BY RECEIPT OF THIS DESIGN, NOT TO SHARE CONCEPTS OR SPECIFICATIONS WITH ANY THIRD PARTY UNLESS PURCHASED BY PAYMENT OR GIVEN WRITTEN CONSENT. ANY VIOLATION WILL BE ENFORCED AND MAY CONSTITUTE DESIGN FEES. © COLORS SHOWN ON THIS DOCUMENT ARE A CONCEPTUAL REPRESENTATION OF ACTUAL COLORS USED IN THE PRODUCTION PROCESS. PAPER PRINT OUTS/COMPUTER SCREEN VISUALS MAY NOT ACCURATELY REPRESENT THE ACTUAL COLOR LISTED DUE TO DIFFERENT CAPABILITIES. IF YOU NEED TO SEE A SAMPLE OF THE ACTUAL COLOR BEFORE APPROVING, PLEASE REQUEST A PHYSICAL COLOR SAMPLE FROM YOUR SALES REPRESENTATIVE.

AUGUST  
*jane*  
INTERIOR DESIGN

PROJECT

**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22 SCALE: NA

DRAWN BY: HSKAAR

PROJECT NO: 22-002

ACCEPTED BY: \_\_\_\_\_

DATE: \_\_\_\_\_

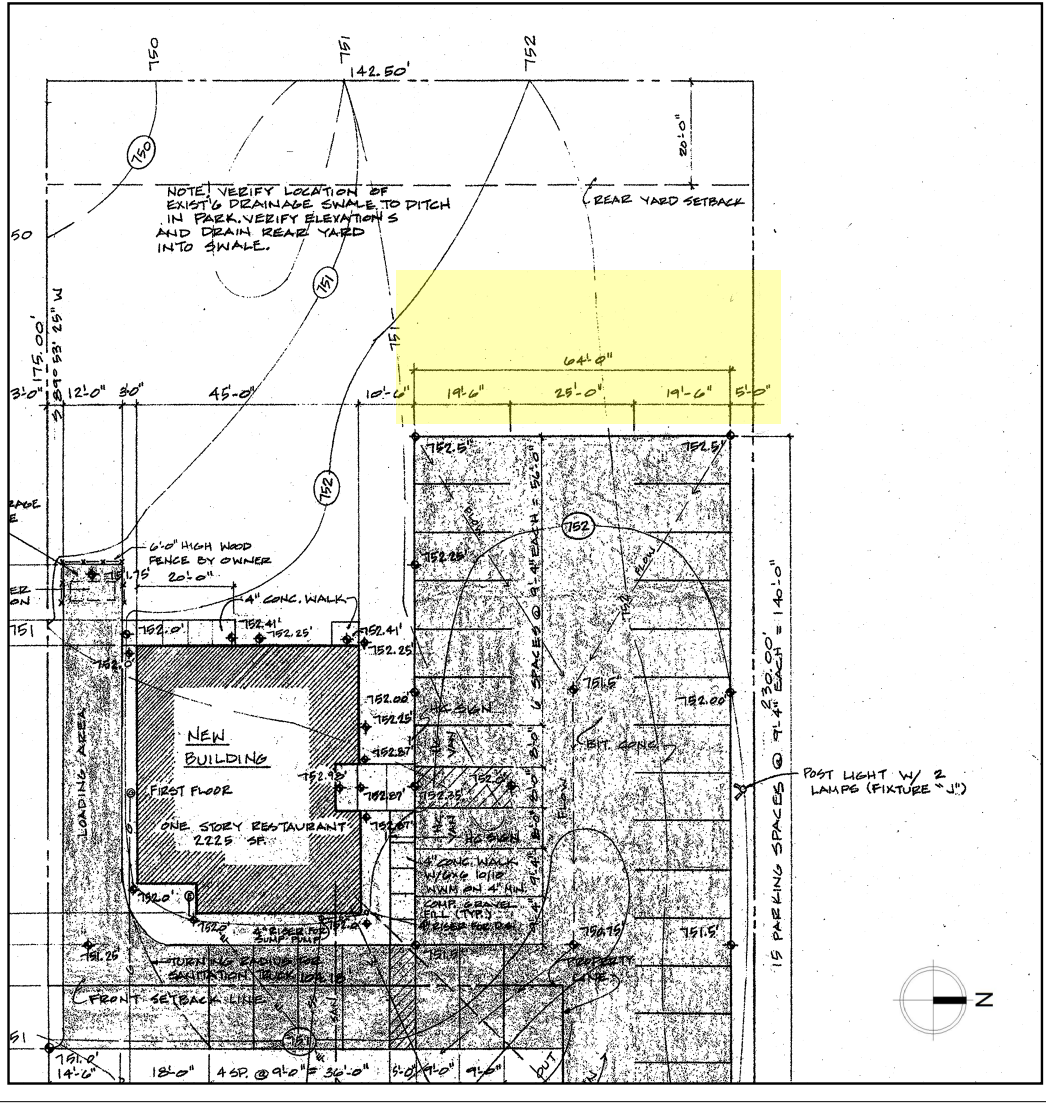
TITLE

LOCATION OF  
PROPOSED SIGNAGE

DRAWING NO.

13.1

DRAWING OF SITE PLAN 2.1



LOCATION OF SNOW STORAGE

SNOW WILL BE REMOVED FROM THE PARKING LOT AND PUT TOWARDS THE WEST SIDE OF THE PROPERTY (HIGHLIGHTED IN YELLOW).



PROJECT

**FOME**  
FOOD & COMPANY

2821 N BALLARD RD APPLETON, WI 54911

DATE: 9.12.22	SCALE: NA
DRAWN BY: HSKAAR	
PROJECT NO: 22-002	
ACCEPTED BY: _____	
DATE: _____	

TITLE
LOCATION OF SNOW STORAGE
DRAWING NO.
14

## PROPOSED HOURS OF OPERATION

FOME FOOD & COMPANY WILL BE OPEN WEDNESDAY THROUGH SUNDAY  
7:00 AM - 3:00 PM.

FOME WILL BE AVAILABLE TO HOST PRIVATE/SPECIAL EVENTS AFTER HOURS  
3:00 PM - 12:00 AM.

## PROPOSED NUMBERS OF EMPLOYEES

FOME FOOD & COMPANY WILL HAVE 12-20 EMPLOYEES

	PROJECT		DATE: 9.12.22	SCALE: NA	TITLE
	 2821 N BALLARD RD APPLETON, WI 54911		DRAWN BY: HSKAAR		PROPOSED HOURS OF OPERATION + NUMBER OF EMPLOYEES
			PROJECT NO: 22-002		DRAWING NO.
			ACCEPTED BY: _____	DATE: _____	



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

Department of Utilities  
Wastewater Treatment Plant  
2006 E Newberry Street  
Appleton, WI 54915-3128  
920-832-5945 tel.  
920-832-5949 fax

**TO:** Chairperson Brad Firkus and Members of the Finance Committee

**FROM:** Utilities Deputy Director, Chris Stempa

**DATE:** September 22, 2022

**RE:** *Action: Reject base bid from Staab Construction in the amount of \$643,600 for the 2022 AWWTP Blended Sludge Piping and Preliminary Heat Exchanger Replacement Project*

**BACKGROUND:**

The 2022 Capital Improvement Plan (CIP) includes \$450,000 to replace blended sludge pipe and the preliminary heat exchanger in MK-Tunnel at the AWWTP. McMahon and Associates (McMahon) was awarded the engineering services contract earlier in 2022 for \$26,300, leaving a balance of \$423,700 for construction. The public bid for this project included a base bid focused only on the blended sludge pipe and four alternate bids. One of the alternates Alternate Bid #2 was an independent CIP project (Grit Trap Vortex System Drive Replacement) that was bundled with this public bid. The balance of the alternate bids were elements of the original Blended Sludge Piping Replacement CIP that included the heat exchanger replacement, recladding of the Raw Sludge Blend Tank, and numerous architectural repairs in MK-Tunnel. The intent of the alternate bids was to provide flexibility and economy of scale with the goal of carrying at least a base bid project forward. The rationale for which was based on substantially higher costs from other recent public bid projects.

**BIDS:**

On Tuesday September 8, 2022 the City opened and reviewed the bids from two contractors which are summarized in the Table 1 below. Each bid met the submittal requirements.

**Table 1: Bid Tab Summary**

Item	Staab Construction Corporation	August Winter and Sons, Inc
Base Bid	\$643,000	\$835,864

Staab Construction provided the least cost base bid. However, their base bid exceeded the available budget by \$193,000. Contributing factors for higher bid costs appear to be the result of lingering supply chain issues, sustained high demand for various products and services, elevated costs for construction materials, and higher costs for labor.

After conferring with our consulting engineer, the Utilities Department is recommending rejecting the bid, reviewing the current project bidding documents for items that can be deferred to a future year, and re-bidding with a reduction in project scope.

**RECOMMENDATION:**

I am recommending the rejection of the base bid from Staab Construction in the amount of \$643,600 for the 2022 AWWTP Blended Sludge Piping and Preliminary Heat Exchanger Replacement Project.

The items reduced from the project scope will be addressed in as part of a 2023 CIP. If you have any questions or require additional information regarding this project please contact Chris Stempa at 920-832-5945.

**Attachment:**

September 8, 2022 Blended Sludge Pipe, Heat Exchanger & Grit System Replacement Project Bid Tab Summary



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

**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: 10/10/2022

RE: Action: Award the "2022 AWWTP Biogas Boiler System Upgrades Project" contract to Rohde Brothers, Inc. in the amount of \$333,450 with a contingency of 12% for a project total not to exceed \$373,464.

The 2022 Capital Improvement Plan includes \$750,000 to upgrade the HVAC systems for the H & J Buildings, the V-Buildings, and to make upgrades to the biogas boiler system at the Appleton Wastewater Treatment Plant. Of that amount \$48,000 has been utilized for design leaving a balance of \$702,000 for construction. Of that amount \$375,000 has been allocated for the Biogas Boiler System Upgrades. Bids were opened on September 28, 2022, for the Biogas Boiler System Upgrades portion of the 2022 AWWTP HVAC Upgrades Project.

The bids received were as follows:

<b>Rohde Brothers, Inc. (Low Bid)</b>	<b>\$333,450</b>
Great Lakes Mechanical, Inc.	\$345,000
August Winter and Sons, Inc.	\$370,205

Our consulting engineer has written the City of Appleton a formal letter of recommendation to award the contract to Rohde Brothers, 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 Rohde Brothers, Inc. in the amount of \$333,450 plus a contingency of 12% only to be utilized as needed

The Parks, Recreation and Facilities Management Department recommends rejecting these bids. Please contact me at 832-5572 or at [dean.gazza@appleton.org](mailto:dean.gazza@appleton.org) with any questions.



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

**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: 10/10/2022

RE: Action: Award the City of Appleton's "2022 Telulah Pavilion Repairs Project" contract to RJM Construction, LLC. in the amount of \$158,572 with a contingency of 12% for a project total not to exceed \$177,600.

The 2021 Capital Improvement Plan includes \$200,000 to renovate the pavilions at Telulah Park. The amount of \$21,850 has been utilized for design leaving a balance of \$178,150 for construction. We bid the original project scope in August of 2022 and the bids came in over budget and were subsequently rejected. We reduced the scope of work to only include renovation of the small pavilion and re-bid the project (bids below). The low bid is within our allocated budget. The remaining work needed for the large pavilion will be budgeted in a future year CIP.

The bids were received as follows:

<b>RJM Construction, LLC. (low bid)</b>	<b>\$158,572.00</b>
Cardinal Construction Co., Inc.	\$199,233.00
MJI Building Services	\$236,851.89

Our consulting engineer has written the City of Appleton a formal letter of recommendation to award the contract to RJM Construction, LLC. 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 RJM Construction, LLC. in the amount of \$158,572 plus a contingency of 12% 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.



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

**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: 10/10/2022

RE: Action: Award the City of Appleton's "2022 AWWTP Painting Project" contract to SDS Painting Co., Inc. in the amount of \$121,760 with a contingency of 10,000 for a project total not to exceed \$131,760.

The 2022 AWWTP Operating Budget has allocated monies to paint several interior sections of the V-Building. The existing wall paint is at the end of its useful life and is in need of replacement. Our annual facility inspection program identifies areas in need of repair and allocates resources to allow for proactive replacement to protect and preserve the facility's asset.

The bid was received as follows:

**SDS Painting Co., Inc. (low bid)                      \$121,760**

Although only one bid was received, the bid is in alignment with the engineers estimate and is within the allocated operating budget.

Our consulting engineer has written the City of Appleton a formal letter of recommendation to award the contract to SDS Painting Co., Inc. The Parks, Recreation, and Facilities Management Department has also reviewed the bid and is in agreement with the engineer's recommendation. Therefore, we recommend awarding the contract to SDS Painting Co., Inc. in the amount of \$131,760 plus a contingency of \$10,000 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.





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

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

TO: Members of the Finance Committee  
FROM: Ross Buetow, Deputy Director/City Engineer  
SUBJECT: Request to approve Budget Amendment – Appleton Street Sidewalk Funds  
DATE: October 10, 2022

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Earlier this summer, the Department of Public Works completed the reconstruction of Appleton Street from College Avenue to Atlantic Street. Included in the project bid was the replacement of existing sidewalks throughout the corridor. As the project progressed, DPW and Facilities staff discussed the feasibility of replacing the portion of sidewalk along the library's Appleton Street frontage. Based on these discussions, it was decided to postpone the installation of this sidewalk, as it would most likely be damaged during subsequent construction activities on the library site. It was further decided that the most efficient means to replace this sidewalk would be to incorporate the work as part of the library project scope. The bid amount on our paving project for this sidewalk replacement was \$27,301.89.

Therefore, we request that the following Budget Amendment be approved:

<b>Public Works Capital Projects Fund</b>	<b>-\$</b>	<b>27,301.89</b>
<b>Facilities and Construction Management Capital Projects Fund</b>	<b>+\$</b>	<b>27,301.89</b>

Thank you for your consideration of this request.



# MEMORANDUM

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

TO: Community & Economic Development Committee (CEDC)

FROM: Matt Rehbein, Economic Development Specialist

DATE: October 12, 2022

RE: Variance Request to the Declaration of Covenants and Restrictions for the Northeast Business Park Plat No. 3 – 2331 E. Evergreen Drive (Tax Id #31-1-6510-41)

---

The City has received a request from Quasius Construction on behalf of Parker Johns BBQ for a variance to the Declaration of Covenants and Restrictions, Section 4.H, to allow for an ancillary structure. The subject parcel is located in the Northeast Business Park, at 2331 E. Evergreen Drive.

The proposed structure will be 8' x 16' and located near the southeast corner of the existing building, near the dumpsters. In addition, the structure will be screened by a brick wall per the attached elevations and plan. The Declaration of Covenants and Restrictions as applicable to this parcel is attached.

## **Staff Recommendation:**

A variance to the Declaration of Covenants and Restrictions, Item 4.H, for the Northeast Business Park Plat No. 3 to allow for an ancillary structure at 2331 E. Evergreen Drive (Tax Id #31-1-6510-41) **BE APPROVED.**

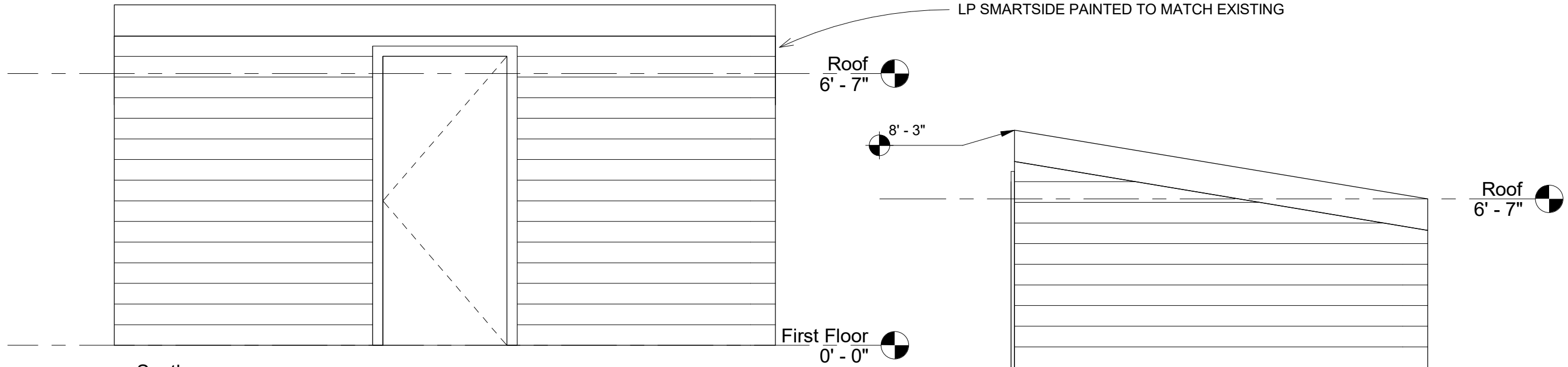
## **Parker John's - Community & Economic Development Committee Narrative**

Parker John's at future location (2331 E. Evergreen Dr.) is proposing an exterior renovation to the existing Beefeaters building. The intent of the project is to renovate the existing exterior as well as adding a new dumpster enclosure area to update and allow room for a prefabricated storage building. The exterior renovations will include the following: elimination of the existing EFIS, installation of corrugated panels in lieu of the EFIS, exterior awnings to be placed over existing windows, new dumpster enclosure configuration, replacement of rear patio concrete, repair of remaining EFIS, and repair of the existing chimney stone at garden room. These renovations will provide a face lift with incorporating the classic Parker John's Theme.

Dumpster enclosure access will be utilized by (2) large, gated entry doors for dumpster disposal and (1) man door in between the new dumpster enclosure and old dumpster location (see plan). This space will be constructed out of structural steel and composite panels.

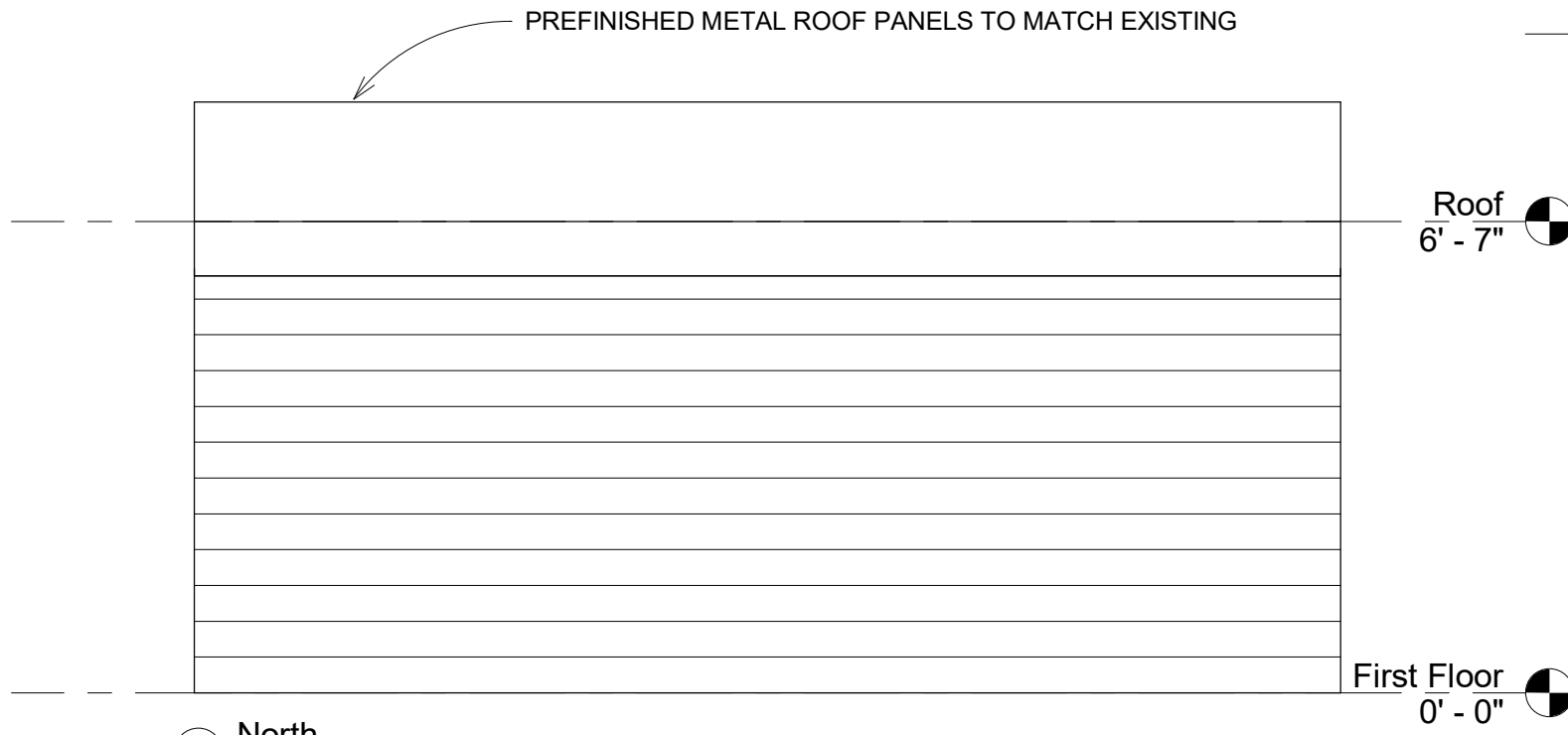
The additional 8'x16' pre-manufactured building will contain equipment and supplies for catering. This building's exterior walls will have LP wood engineered siding installed in the horizontal orientation. The roof will consist of black painted exposed fastener metal panels with all required trim. Entry point to this building will be allowed through one single 3/4 hr. fire rated hollow metal door and frame which will be located in the 16' side, facing towards the existing building. Orientation can be seen on plan. This storage building will have no electrical, HVAC or plumbing implemented in its design.

These areas will help extend the service offerings and will increase efficiency for the restaurant. The existing building façade will be taken into consideration when this renovation is being completed. This will be a significant upgrade to the building and the provided additional space will greatly help the day-to-day operations of Parker John's. This design has been well considered to preserve the integrity of the community and economic development vision.



② South  
3/8" = 1'-0"

③ East  
3/8" = 1'-0"



① North  
3/8" = 1'-0"

Elevations

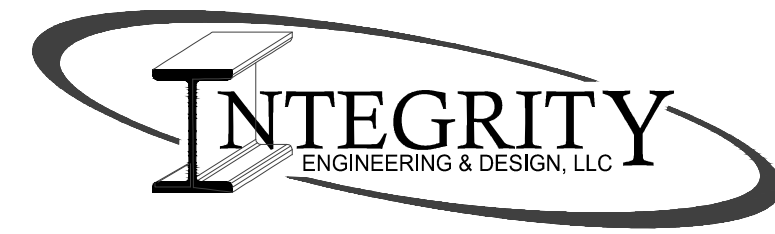
Project number 10/4/2022  
Date  
Drawn by SDL  
Checked by SDL

Parker Johns  
Storage Shed

A1

# BUILDING REMODEL FOR: PARKER JOHN'S

APPLETON, WISCONSIN



2637 Tulip Lane Green Bay, WI 54313  
Phone: (920) 469-9288 Fax: (920) 469-6809  
E-mail: Info@IntegrityEngineering.biz

### INTEGRITY MISSION STATEMENT

WE PROVIDE HIGH QUALITY ARCHITECTURAL DESIGN AND STRUCTURAL ENGINEERING. OUR PLANS MOVE SMOOTHLY THROUGH THE STATE REVIEW PROCESS AND MAKE BUILDING CONSTRUCTION MORE ENJOYABLE. OUR SERVICE IS UNMATCHED AND OUR INTEGRITY IS IMPECCABLE.

IF YOU HAVE ANY QUESTIONS OR COMMENTS ABOUT THE CONTENT OR PRESENTATION OF MATERIAL ON THIS PLAN, PLEASE CALL (920) 469-9288

### GENERAL CONDITIONS:

THESE PLANS ARE PRESENTED TO LEAD A HIGH QUALITY DESIGN/BUILD TEAM. EACH CONTRACTOR AND SUBCONTRACTOR IS RESPONSIBLE TO PROVIDE EXCELLENT DESIGN, BUILDING MATERIALS, AND CRAFTSMANSHIP WHICH WE CAN ALL BE PROUD OF. WE ENCOURAGE YOU TO PROVIDE EXPERTISE IN YOUR CHOSEN FIELD AND TO BRING IDEAS AND CONCERNS TO THE ATTENTION OF THE GENERAL CONTRACTOR.

THESE DRAWINGS COVER STRUCTURAL AND GENERAL CONSTRUCTION ONLY. ALL WORK SHALL CONFORM TO STANDARD PRACTICES AND APPLICABLE LAWS, WHETHER THEY ARE SPECIFICALLY STATED IN THESE PLANS OR NOT.

### EACH CONTRACTOR SHALL:

- VISIT THE SITE TO VERIFY EXISTING CONDITIONS, ACCESS, ETC. PRIOR TO BIDDING
- MAINTAIN A CLEAN JOB SITE AT ALL TIMES.
- OBTAIN AND PAY FOR PERMITS, LICENSES, FEES, ETC. AS MAY BE REQUIRED FOR COMPLETION OF HIS OWN PORTION OF THE PROJECT.
- FIELD VERIFY DIMENSIONS.
- REPORT ANY DISCREPANCY NOTED BETWEEN THESE PLANS AND APPLICABLE CODES TO THE GENERAL CONTRACTOR.
- PROVIDE ALL BARRIERS, FENCES, SAFETY EQUIPMENT AND PRECAUTIONS REQUIRED BY APPLICABLE LAWS AND STANDARD PRACTICES.

ALL MATERIALS SHALL BE INSTALLED PER MANUFACTURERS REQUIREMENTS AND RECOMMENDATIONS.

ANY HAZARDOUS MATERIALS ENCOUNTERED DURING DEMOLITION, REMODELING, OR EXCAVATION SHALL BE REMOVED AND/OR CONTAINED IN ACCORDANCE WITH GOVERNING LOCAL, STATE, AND FEDERAL REGULATIONS.

THIS DESIGN, THESE DRAWING, AND INCLUDED DETAILS ARE THE COPYRIGHTED PROPERTY OF INTEGRITY ENGINEERING & DESIGN, LLC. NO PART SHALL BE COPIED, DISTRIBUTED, OR MADE AVAILABLE TO ANYONE WITHOUT THE EXPRESS WRITTEN CONSENT OF INTEGRITY ENGINEERING & DESIGN, LLC.

### QUICK SPEC

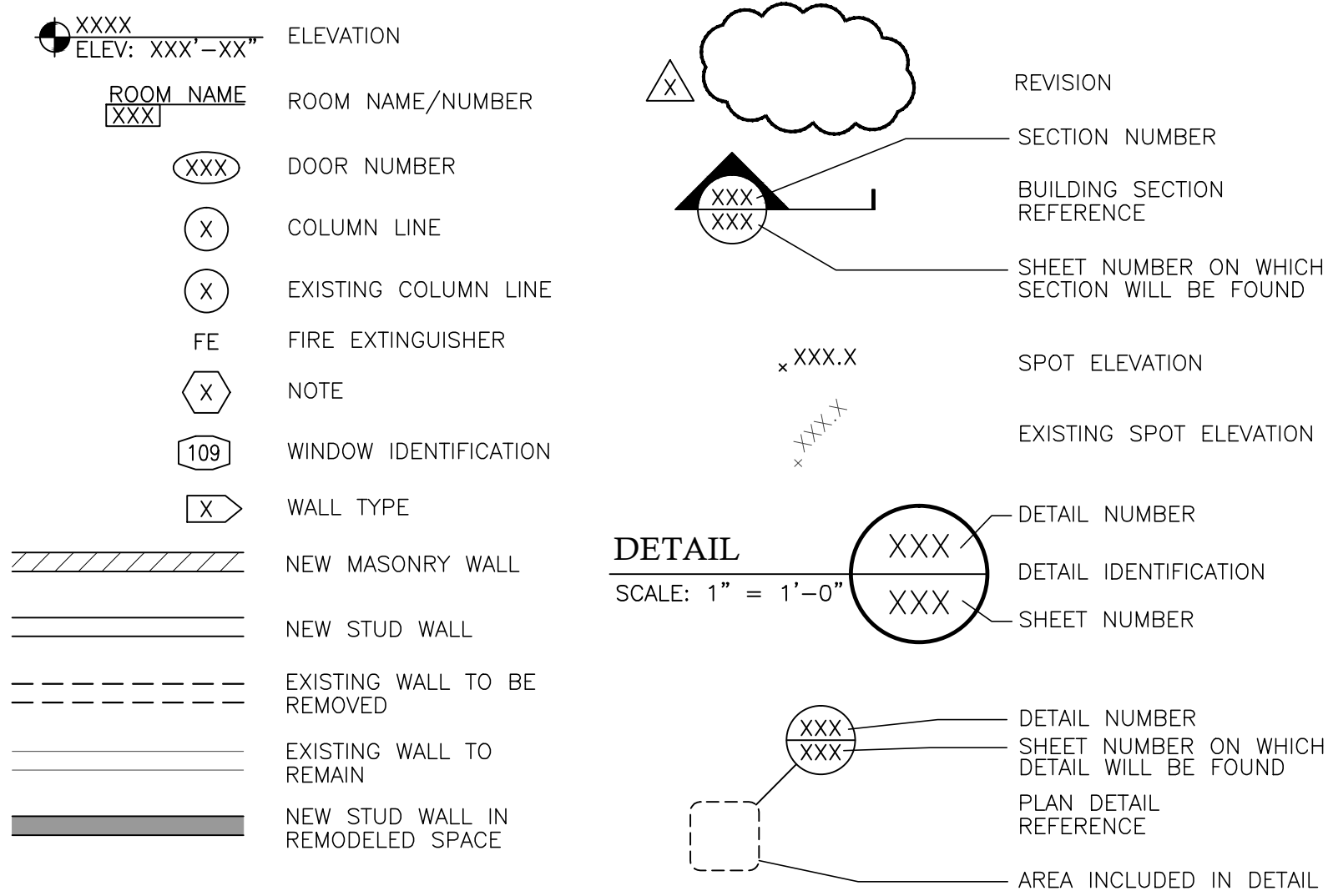
TO MAKE THIS PLAN MORE CONTRACTOR FRIENDLY, WE HAVE PREPARED IT WITH OUR QUICK SPEC SYSTEM.

THE WRITTEN SPEC IS GENERAL AND DOES NOT GO INTO DEPTH TO REITERATE STANDARD PRACTICES OR APPLICABLE LAWS. IT IS WRITTEN IN AN EASY TO READ FORMAT. THE SPECIFICATION IS SPLIT INTO APPROPRIATE SECTIONS AND LISTED ON THE PLAN WHERE IT IS NEEDED. YOU WILL FIND THESE SECTIONS QUICKLY BY THE SHADOW BOX AROUND IT (SIMILAR TO THIS ONE).

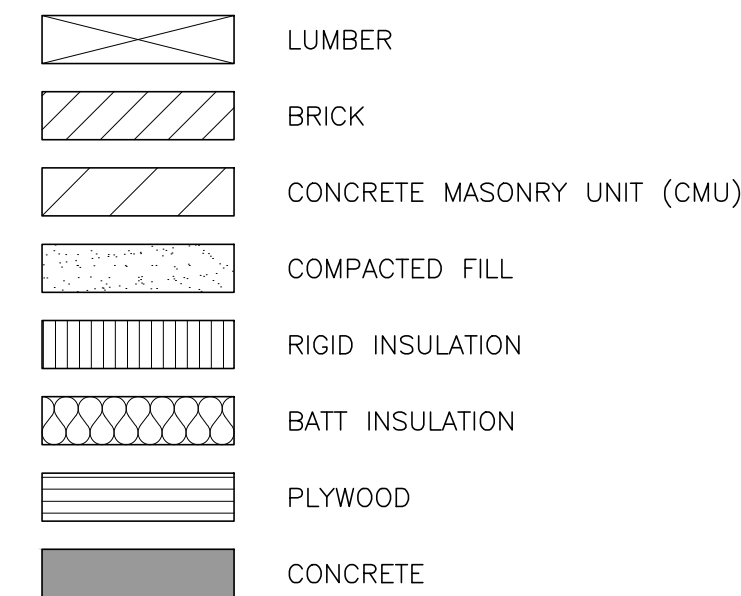
SPECIFIC CASES THAT CANNOT BE DESCRIBED IN A GENERAL SPEC ARE NOTED ON THE PLANS. IF THERE IS A DISCREPANCY BETWEEN THE PLAN AND THE GENERAL SPEC, THE PLAN NOTES WILL SUPERSEDE THE GENERAL SPEC.

### KEY TO SYMBOLS AND MATERIALS

#### SYMBOLS



#### MATERIALS



CALL 3 WORK DAYS BEFORE YOU DIG

**DIGGERS HOTLINE**

(800) 242-8511  
FAX (800) 388-3860  
WEBSITE: www.diggershotline.com

### BUILDING DATA

BUILDING CODE: IBC 2015

#### BUILDING SIZE:

REMODELED AREA (SQ. FT.):	6,671
NEW SHED BUILDING AREA (SQ. FT.):	128
EXISTING AREA (SQ. FT.):	6,671
ALLOWABLE AREA PER FLOOR (SQ. FT.):	EXISTING
NUMBER OF STORIES:	1
EAVE HEIGHT:	EXISTING
MAXIMUM OVERALL HEIGHT:	EXISTING
SHED ALLOWABLE AREA (SQ. FT.):	5,500
SHED EAVE HEIGHT:	8'-0"

#### CONSTRUCTION CLASSIFICATION:

EXISTING - TYPE VB  
NEW - TYPE VB

#### OCCUPANCY:

A-2, U (SHED, ACCESSORY OCCUPANCY)

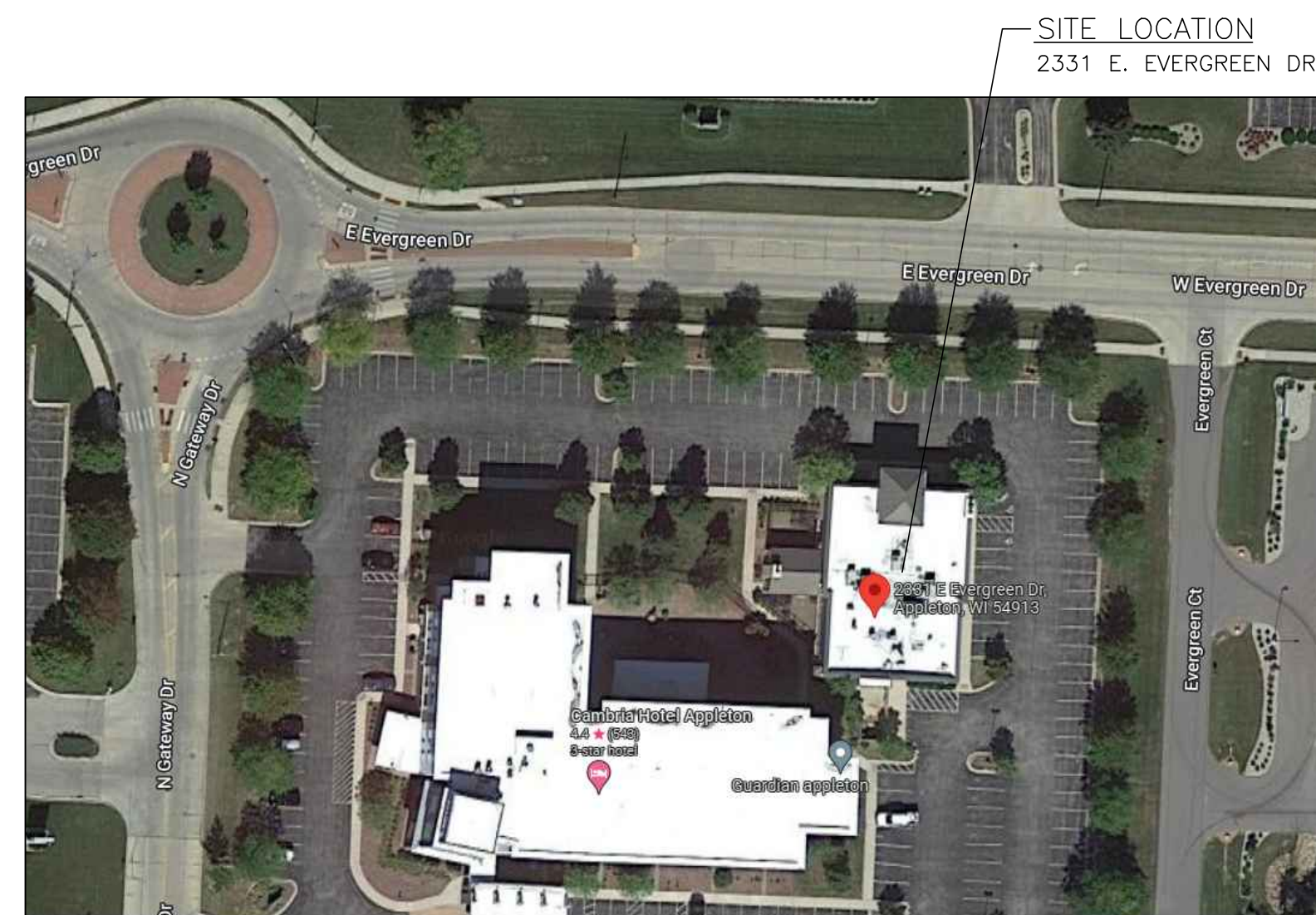
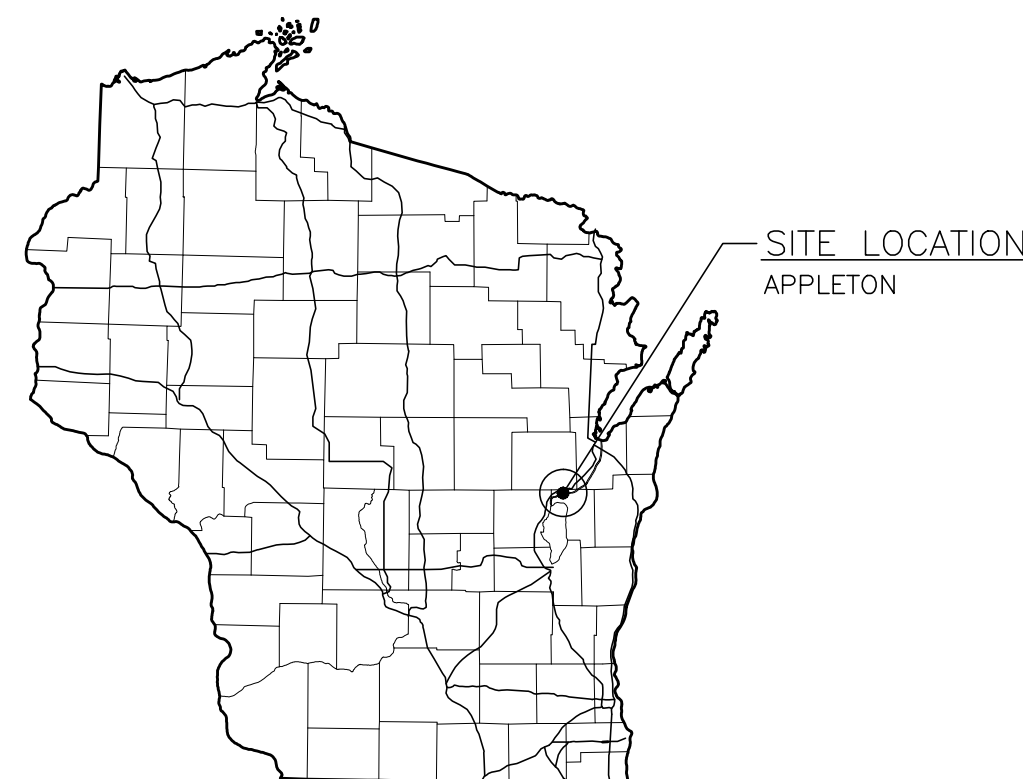
#### DESIGN LOADS: PER IBC 2015, CHAPTER 16

Pg =	40 PSF
ULTIMATE DESIGN WIND SPEED =	115 MPH
WIND EXPOSURE =	B
SEISMIC CATEGORY =	A
SOIL BEARING PRESSURE =	2000 PSF PRESUMED

#### FIRE PROTECTION SYSTEMS

AUTOMATIC FIRE SPRINKLER SYSTEM - EXISTING  
STANDPIPE SYSTEMS - NOT REQUIRED SEE IBC 905  
FIRE ALARM SYSTEM - NOT REQUIRED  
SMOKE DETECTORS - INSTALL PER APPLICABLE CODES  
EXIT SIGNS - PROVIDE EXIT SIGNS PER IBC SECTION 1013  
FIRE EXTINGUISHERS - INSTALL PER NFPA 1 AND APPLICABLE LOCAL CODES

### SITE LOCATION MAP



### DRAWING INDEX

- T1.0 COVER SHEET
- T1.1 RENDERINGS
- T1.2 RENDERINGS
- D1.0 EXISTING/DEMO FLOOR PLAN
- D2.0 EXISTING/DEMO ELEVATIONS
- S1.0 FOUNDATION AT DUMPSTER ENCLOSURE
- A1.0 REMODELED FLOOR PLAN
- A1.1 REFLECTED CEILING PLAN AND INTERIOR ELEVATIONS
- A2.0 ELEVATIONS
- A3.0 SECTIONS AND SECTION DETAILS
- A4.0 SCHEDULES / HEAD, JAMB, AND SILL DETAILS

#### NOTE:

THE STAMP OF INTEGRITY ENGINEERING'S SUPERVISING PROFESSIONAL ON THIS SET OF DRAWINGS IS IN NO WAY ATTESTING TO THE ACCURACY AND COMPLETENESS OF THE DRAWINGS PREPARED BY SUB-CONSULTANTS INCLUDED HEREIN. THE RESPONSIBILITY FOR THE DRAWINGS BY SUB-CONSULTANTS LIES WITH THE RESPECTIVE SUB-CONSULTANTS (CIVIL, MEPFP, ETC.) THEY ARE INCLUDED HERE FOR CONVENIENCE AND INFORMATIONAL PURPOSES ONLY.



ISSUE DATE	REVISIONS	ISSUE NO

BUILDING REMODEL FOR:  
**QUASIUS CONSTRUCTION**  
**PARKER JOHN'S**  
2331 E. EVERGREEN DR.  
APPLETON, WI

Project number 22145  
Date 29 August, 2022  
Drawn by A. WOLF  
Checked by K. KUEPER

**T1.0**

**ISSUED FOR CONSTRUCTION**



ISSUE NO	REVISIONS	ISSUE DATE

BUILDING REMODEL FOR:  
**QUASIUS CONSTRUCTION**  
**PARKER JOHN'S**  
 2331 E. EVERGREEN DR.  
 APPLETON, WI

Project number: 22145  
 Date: 29 August, 2022  
 Drawn by: A. WOLF  
 Checked by: K. KUEPER

**T1.1**



PRELIMINARY, NOT FOR CONSTRUCTION

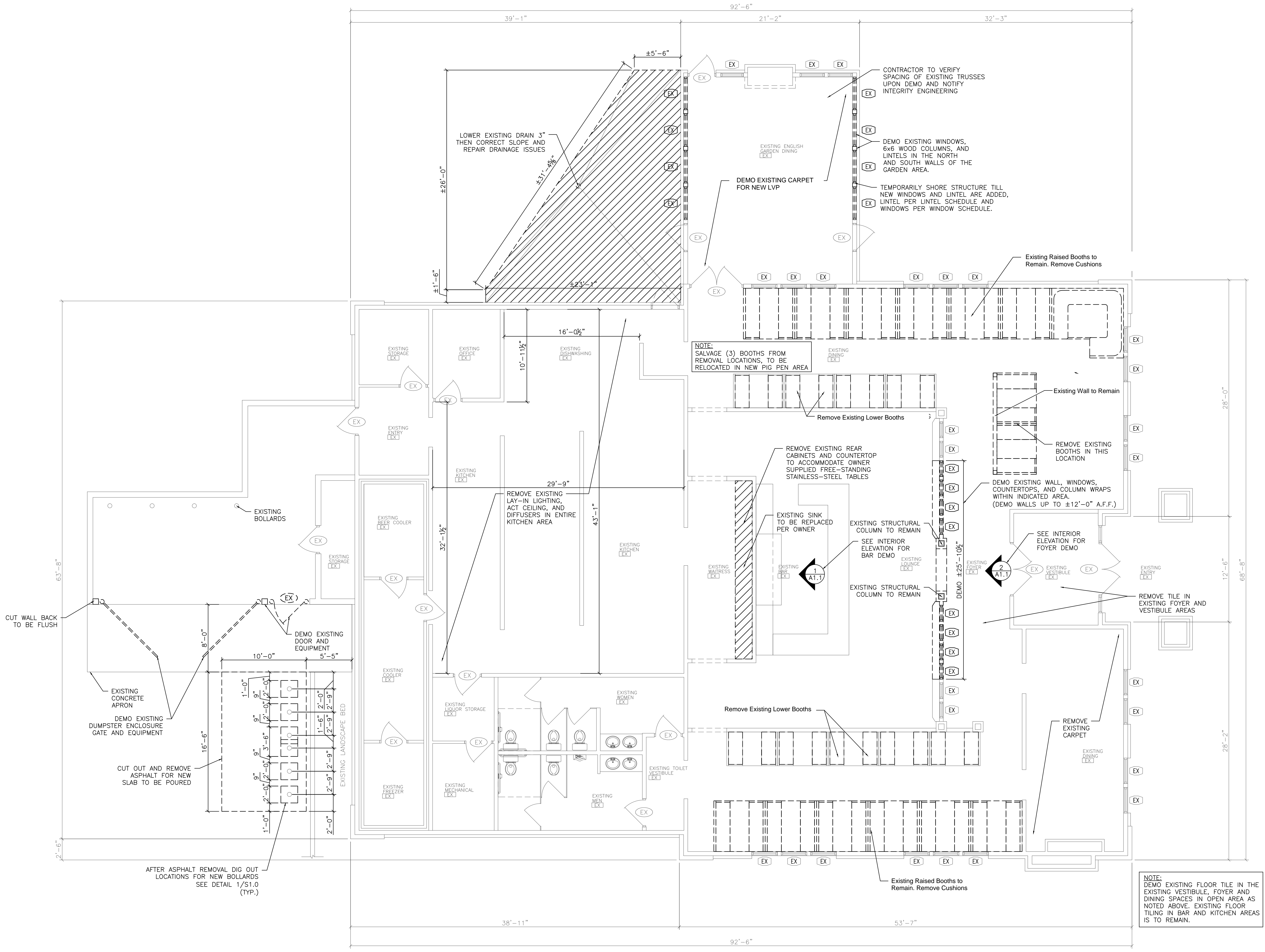


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 Drawn by: A. WOLF  
 Checked by: K. KUEPER

**T1.2**



EXISTING/DEMO FLOOR PLAN  
SCALE: 3/16" = 1'-0"

ISSUED FOR CONSTRUCTION

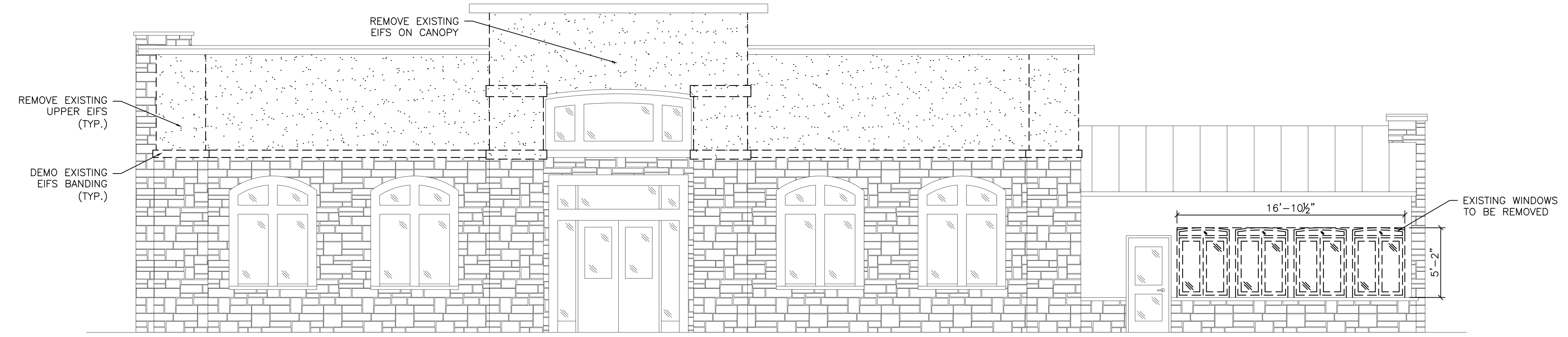
ISSUE NO	REVISIONS	ISSUE DATE

BUILDING REMODEL FOR:  
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2331 E. EVERGREEN DR.  
APPLETON, WI

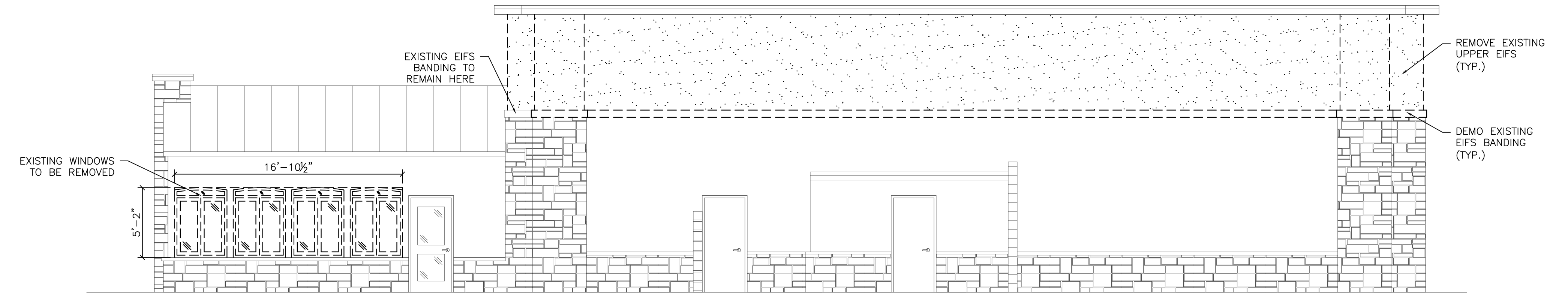
Project number: 22145  
Date: 29 August, 2022  
Drawn by: A. WOLF  
Checked by: K. KUEPER

**D1.0**

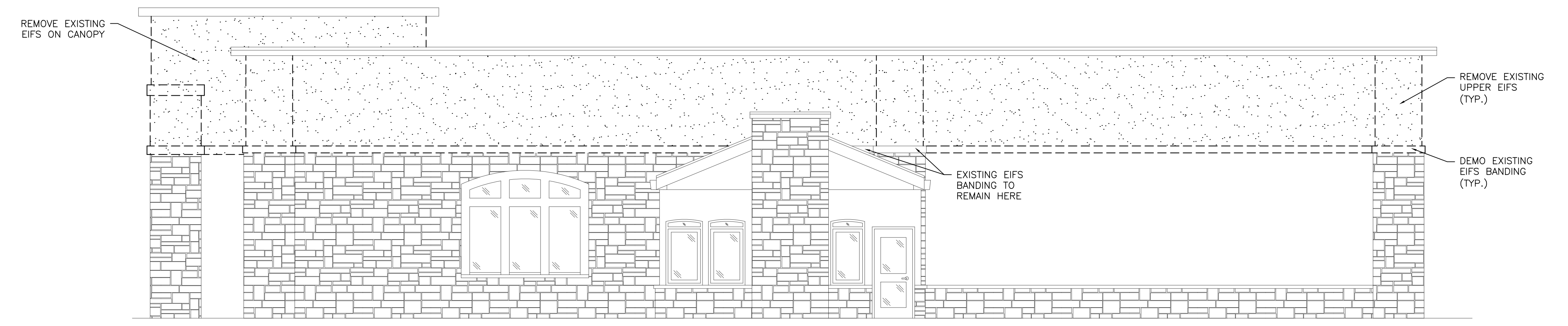




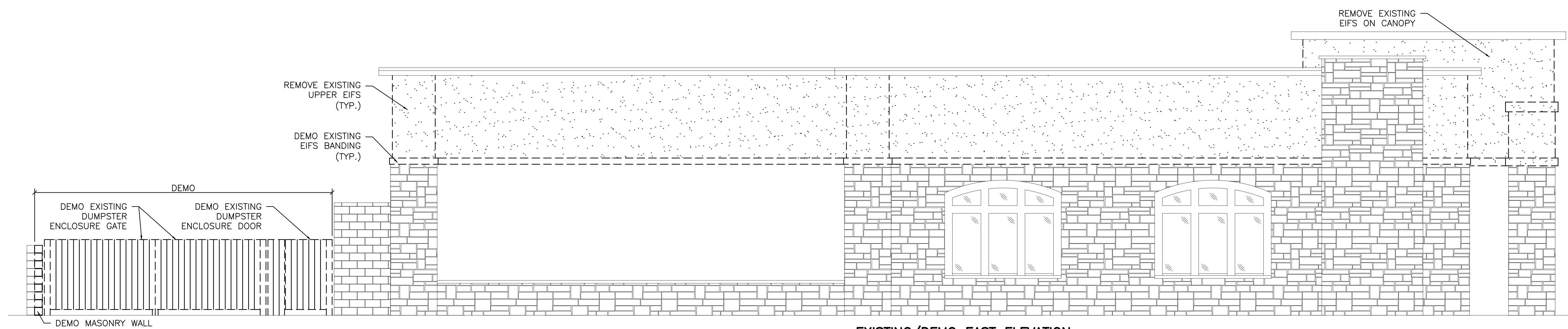
**EXISTING/DEMO NORTH ELEVATION**  
SCALE: 3/16"=1'-0"



**EXISTING/DEMO SOUTH ELEVATION**  
SCALE: 3/16"=1'-0"



**EXISTING/DEMO WEST ELEVATION**  
SCALE: 3/16"=1'-0"



**EXISTING/DEMO EAST ELEVATION**  
SCALE: 3/16"=1'-0"

ISSUE NO	REVISIONS	ISSUE DATE

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**QUASIUS CONSTRUCTION**  
**PARKER JOHN'S**  
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APPLETON, WI

Project number: 22145  
Date: 29 August, 2022  
Drawn by: A. WOLF  
Checked by: K. KUEPER

**D2.0**

**ISSUED FOR CONSTRUCTION**

**CONCRETE**

CONCRETE CONTRACTOR SHALL VERIFY SOIL CONDITIONS BEFORE PLACING FOUNDATIONS AND SLABS. NOTIFY THE GENERAL CONTRACTOR IF ANY SOIL CONDITIONS APPEAR OUT OF THE ORDINARY.

FOOTINGS SHALL BEAR ON UNDISTURBED SOIL OR STRUCTURAL FILL. DO NOT PLACE FOOTINGS ON FROZEN GROUND.

DESIGN MIXES SHALL BE IN ACCORDANCE WITH ASTM C94.

- 1) FOOTINGS AND WALLS SHALL HAVE STRENGTH EQUAL TO 3,000 PSI AT 28 DAYS.
- 2) SLABS ON GRADE SHALL HAVE STRENGTH EQUAL TO 4,000 PSI AT 28 DAYS.
- 3) EXTERIOR CONCRETE SHALL HAVE STRENGTH EQUAL TO 4,000 PSI AT 28 DAYS.
- 4) COLUMNS, BEAMS AND STRUCTURAL SLABS SHALL HAVE STRENGTH EQUAL TO 4,000 PSI AT 28 DAYS.
- 5) PRE CAST TOPPING SHALL HAVE STRENGTH EQUAL TO 4000 PSI AT 28 DAYS.
- 6) SLUMP SHALL NOT EXCEED 4".
- 7) ALL CONCRETE EXPOSED TO WEATHER SHALL BE AIR-ENTRAINED WITH 4-7% AIR CONTENT. NO OTHER ADMIXTURES SHALL BE USED WITHOUT THE APPROVAL OF THE GENERAL CONTRACTOR. CALCIUM CHLORIDE SHALL NOT BE USED.
- 8) MAXIMUM AGGREGATE SIZE FOR FOOTING TO BE 1 1/2" AND MAXIMUM AGGREGATE SIZE FOR ALL OTHER WORK TO BE 3/4".

PLACE FLOOR SLABS WITH CONSTRUCTION JOINTS OR SAW JOINTS NOT EXCEEDING A MAXIMUM OF 150 SQUARE FEET OR AS INDICATED ON THE PLANS. SAW CUTTING TO BE DONE AS SOON AS POSSIBLE, BUT NO LATER THAN 24 HOURS AFTER CONCRETE IS PLACED.

INTERIOR SLABS TO HAVE A TROWEL FINISH AND EXTERIOR SLABS TO HAVE A LIGHT BROOM FINISH. MAINTAIN FLOOR LEVEL AT WALLS AND FROTH SURFACES UNIFORM TO GRADE. CONCRETE TO BE SEALED OR WET CURED FOR 7 DAYS. FLOORS TO RECEIVE TILE OR EPOXY TO BE WET CURED ONLY. EXTERIOR SLABS SHALL BE SEPARATED FROM BUILDINGS WITH CONTINUOUS 1/2" FIBER EXPANSION JOINT.

DESIGN AND CONSTRUCTION OF CAST-IN-PLACE CONCRETE SHALL CONFORM TO ACI 318 AND CRSI STANDARDS.

ANCHOR BOLTS AND THREADED RODS TO BE ASTM F1554, MINIMUM GRADE A36.

**REINFORCING STEEL**

REINFORCING STEEL TO CONFORM TO ASTM-A615, GRADE 60. WELDED WIRE FABRIC SHALL CONFORM TO ASTM-A185. LAP ALL HORIZONTAL REINFORCING AT SPICES AND ROUND CORNERS 30 BAR DIAMETERS. WELDED WIRE FABRIC IS TO BE LAPPED 6" AND PLACED IN THE CENTER OF THE SLAB UNLESS OTHERWISE INDICATED. REINFORCING SHALL BE PLACED IN CONFORMANCE WITH CRSI "RECOMMENDED PRACTICES FOR PLACING BARS" AND ACI 318. THE REINFORCING SHALL NOT BE PAINTED AND MUST BE FREE OF GREASE, OIL OR DEEP RUST WHEN PLACED. PROVIDE CONCRETE PROTECTION FOR BARS PER ACI 318 SECTION 7.7.

**SITE WORK**

THE SITE WORK CONTRACTOR IS REQUIRED TO CONTACT DIGGER'S HOTLINE. ALL UTILITIES SHALL BE LOCATED PRIOR TO STARTING EXCAVATION.

ALL EXCAVATION AND BACK FILL FOR MECHANICALS ARE THE RESPONSIBILITY OF THE RESPECTIVE MECHANICAL CONTRACTOR. THESE TRENCHES ARE TO BE FILLED IN 8" LIFTS AND COMPACTED TO 95% OF THE MODIFIED PROCTOR VALUE. ENSURE TRENCH ROUTE IS CLEAR OF UTILITIES AND OTHER OBSTRUCTIONS PRIOR TO DIGGING.

THE EXCAVATION CONTRACTOR SHALL ADVISE THE GENERAL CONTRACTOR OF ANY SOIL CONDITIONS WHICH APPEAR OUT OF THE ORDINARY. THE SOIL BEARING CAPACITY IS LISTED ON THE COVER SHEET.

ALL ORGANIC TOPSOIL INSIDE THE BUILDING AREA, UNDER PAVED AREAS AND AT SITE FILL AREAS SHALL BE REMOVED. CONTRACTOR SHALL VERIFY TOPSOIL DEPTHS PRIOR TO CONSTRUCTION.

ALL SUB GRADE FILL UNDER PAVED AREAS AND BUILDING AREAS SHALL BE CLEAN GRANULAR FILL CONFORMING TO GRADE 1 OR 2 OF SECTION 209 WDOT STANDARD. PLACE IN 8" MAXIMUM LIFTS AND COMPACT TO 95% OF THE MODIFIED PROCTOR VALUE. GRAVEL BASE BENEATH FLOOR SLABS SHALL BE 6 INCHES OF 3/4" CRUSHED STONE OR SAND COMPACTED TO THE ABOVE STANDARD. GRAVEL BASE BENEATH DRIVES, PARKING AREAS, AND APRONS SHALL BE 12" OF COMPACTED CRUSHED STONE. TYRMS SHALL BE INSTALLED WHENEVER THIS 12" BASE RESTS ON CLAY OR LOOSE SOILS. FILL SHALL NOT BE PLACED ON FROZEN GROUND AND NO FROZEN MATERIALS MAY BE USED FOR BACKFILL.

FOUNDATION TRENCHES MUST BE BACK FILLED UNIFORMLY ON EACH SIDE WITH SAND. PLACE FILL IN 8" LIFTS AND COMPACT TO 95% OF THE MODIFIED PROCTOR VALUE. THE EXTERIOR SIDE MAY BE FILLED WITH COMPACTED NON-STRUCTURAL FILL IF THERE WILL NEVER BE A PARKING LOT OR ADDITION ON THAT SIDE. WHEN IN DOUBT, BACK FILL WITH SAND.

THE BUILDING SITE SHALL BE GRADED TO PROVIDE DRAINAGE AWAY FROM THE BUILDING AT A MINIMUM OF 2% SLOPE FOR 20'-0" AWAY FROM THE BUILDING, STARTING AT 5" BELOW THE FLOOR LINE OR AS INDICATED ON THE PLANS. PROVIDE 6" OF TOPSOIL AT ALL GRASS AND LANDSCAPED AREAS AND GRADE TO +/- 0.10 FEET.

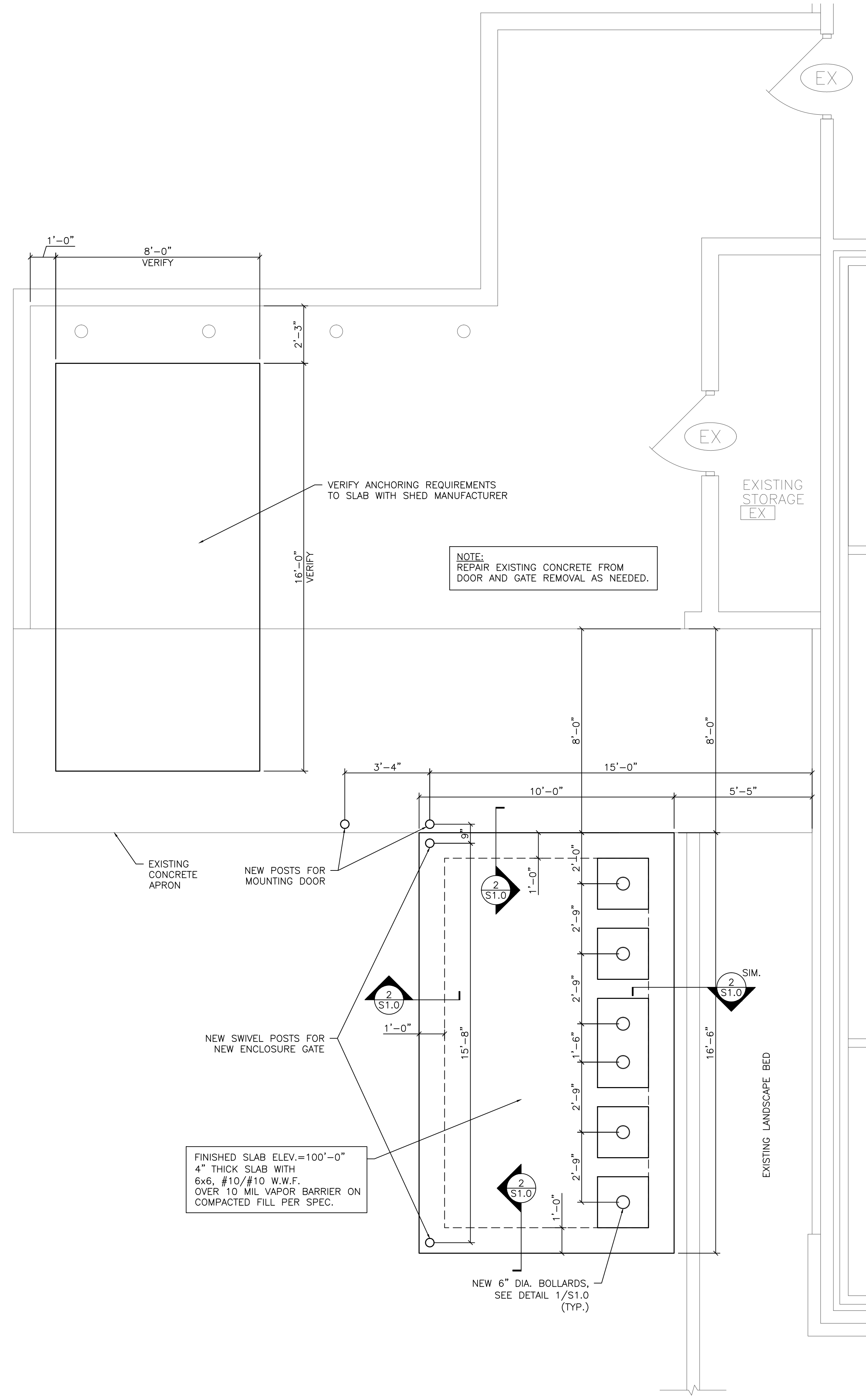
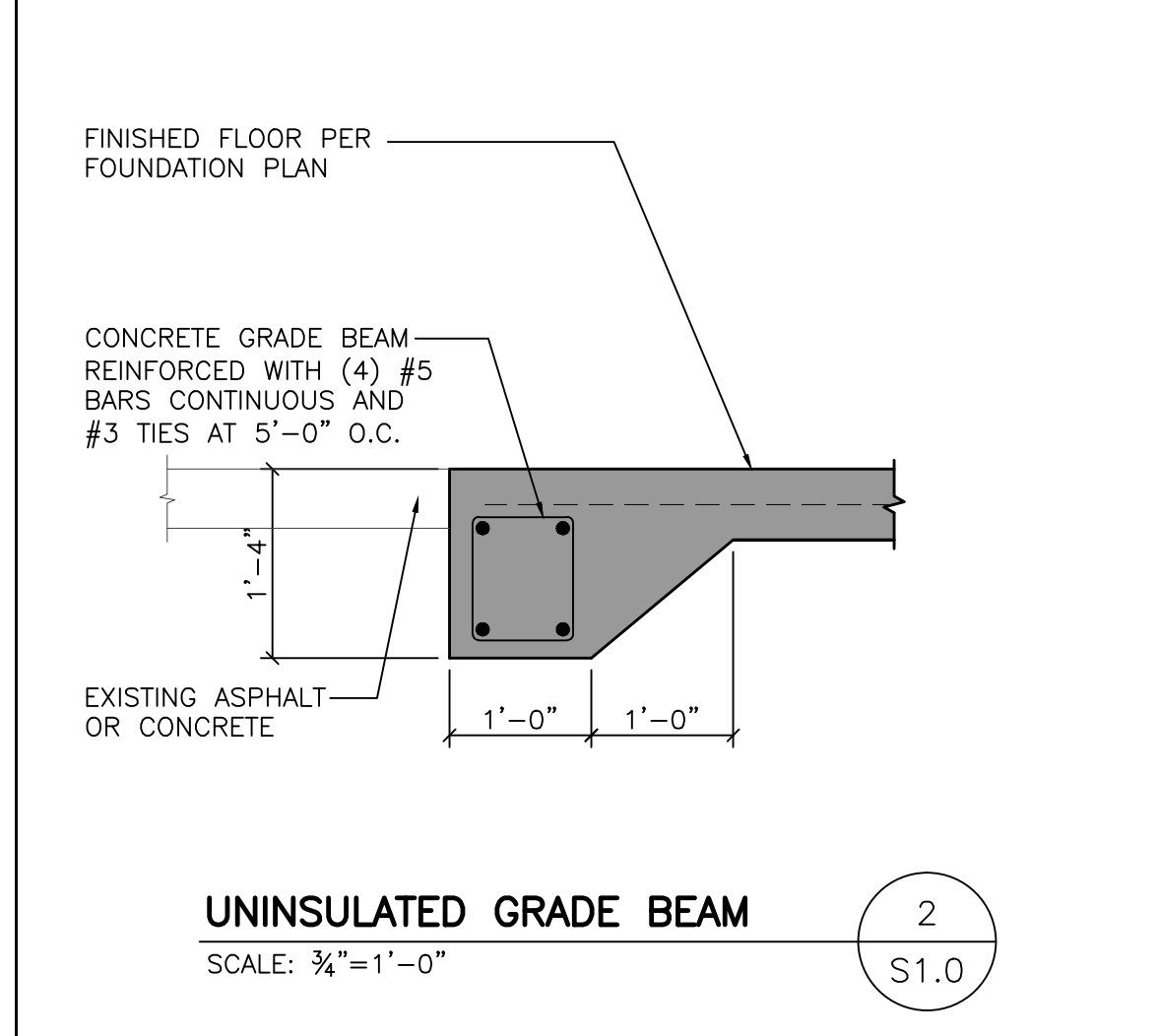
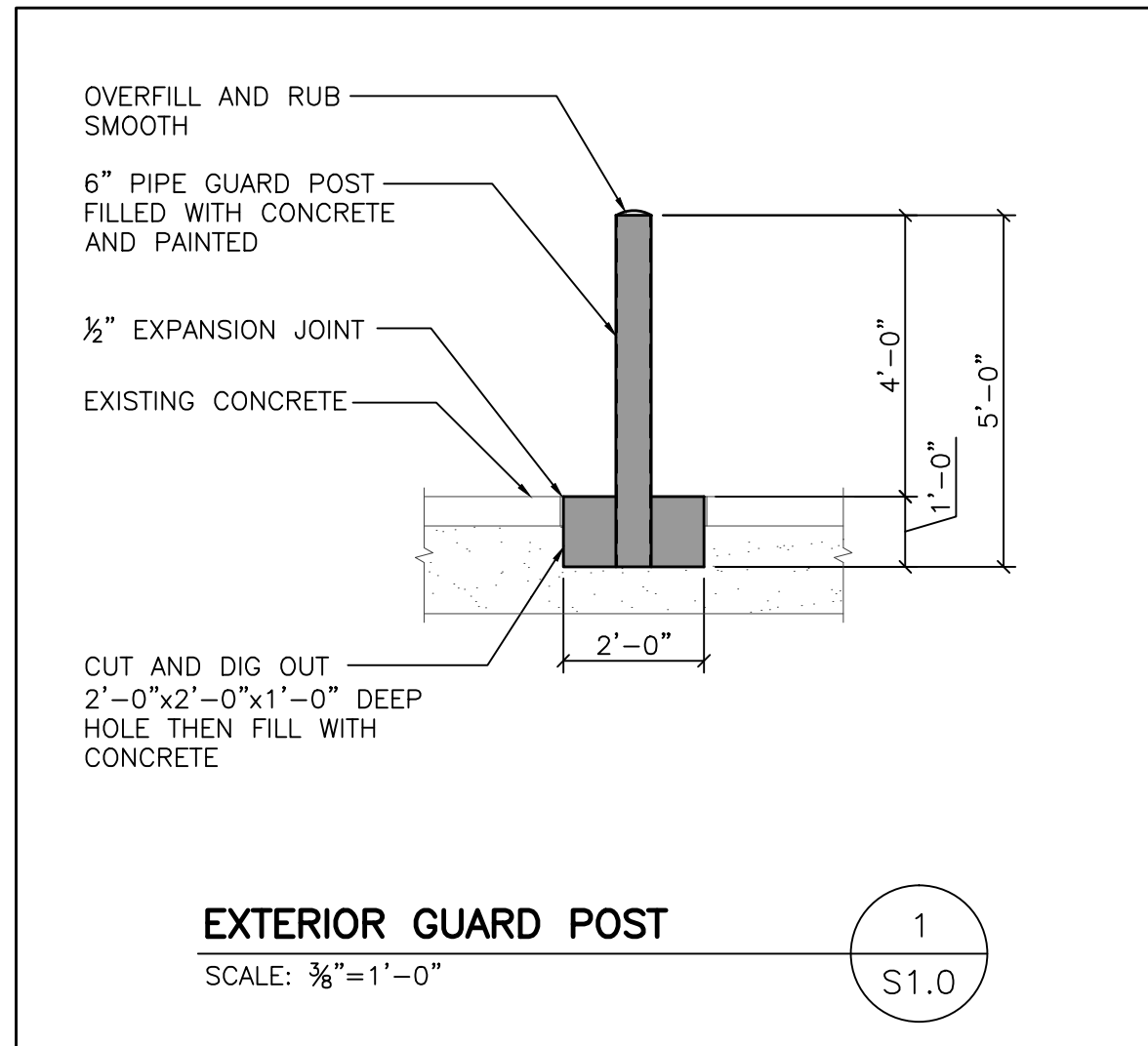
SPLASH BLOCKS ARE TO BE PLACED AT ALL DOWN SPOUTS WHICH DISCHARGE AT GRADE AND AT SPRINKLER DRAIN VALVES.

IF A CURRENT GEOTECHNICAL REPORT OR PLANS BY A CIVIL CONSULTANT ARE AVAILABLE, ALL REQUIREMENTS OF THAT REPORT AND PLANS MUST BE FOLLOWED. WHEN THE STRUCTURAL/ARCHITECTURAL PLANS OR THE INFORMATION ABOVE CONFLICT WITH THE GEOTECHNICAL REPORT OR THE CIVIL PLANS, THE INFORMATION IN THE GEOTECHNICAL REPORT AND CIVIL PLANS SUPERCEDES.

**SITE UTILITIES**

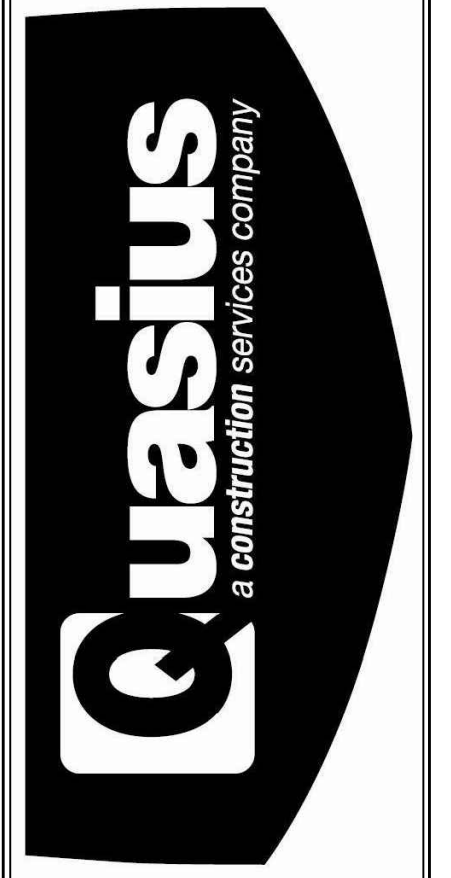
ALL UTILITIES SHALL BE INSTALLED PER INDUSTRY STANDARDS. WATER, SANITARY AND STORM SEWER SHALL BE INSTALLED PER "STANDARD SPECIFICATION FOR SEWER AND WATER CONSTRUCTION IN WISCONSIN". THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING, APPLYING FOR, SCHEDULING AND COORDINATING THE INSTALLATION OF GAS, ELECTRIC, AND COMMUNICATION SERVICES.

LOCATIONS OF SITE UTILITIES ON THIS PLAN ARE PRELIMINARY AND MUST BE VERIFIED BY THE SITE UTILITY CONTRACTOR.



REMODELED FOUNDATION PLAN  
AT DUMPSTER ENCLOSURE AREA  
SCALE: 3/8"=1'-0"

ISSUED FOR CONSTRUCTION



ISSUE NO	REVISIONS	ISSUE DATE

BUILDING REMODEL FOR:  
**QUASIUS CONSTRUCTION**  
**PARKER JOHN'S**  
2331 E. EVERGREEN DR.  
APPLETON, WI

Project number: 22145  
Date: 29 August, 2022  
Drawn by: A. WOLF  
Checked by: K. KUEPER

**S1.0**

**MASONRY**

COMPLY WITH REQUIREMENTS OF IBC CHAPTER 21 AND NCMA STANDARDS. UNITS SHALL MEET ASTM C90. ALL UNITS SHALL BE LAID IN RUNNING BOND UNLESS OTHERWISE SPECIFIED AND HAVE STANDARD GALVANIZED "DUR-O-WAL" OR EQUAL LADDER TYPE REINFORCING AT 16" ON CENTER LAP ALL REINFORCEMENT 6". MORTAR WILL BE TYPE "M" OR "S". TYPE "M" BELOW GRADE. JOINTS CONCAVE FOR WEATHER TIGHTNESS. CHIPPED AND BROKEN UNITS SHALL NOT BE USED. VERTICAL REINFORCING BARS SHALL BE ASTM A615 GRADE 60 AND SHALL HAVE LAP LENGTHS OF 48 BAR DIAMETERS. ALL CORES WITH REINFORCING ARE TO BE GROUTED SOLID.

THE TOP OF COURSE OF ALL BLOCK WALLS AND THE FIRST COURSE BELOW ALL PRECAST PLANKS SHALL BE A BOND BEAM WITH (2) #4 BARS CONTINUOUS.

MASONRY PRISM STRENGTH (f'm) SHALL BE 1500 PSI MINIMUM.

COVER BLOCK WALLS DURING ANY RAIN AND AT NIGHT TO ELIMINATE MOISTURE INSIDE THE BLOCK CAVITIES. THIS WILL HELP TO PREVENT EFFLORESCENCE.

INSULATE ALL EXTERIOR BLOCK WALL CAVITIES WITH FOAM IN PLACE OR LOOSE FILL PARTICLE INSULATION.

PROVIDE 3/8" DIA. x 8" ANCHOR BOLTS AT 4'-0" ON CENTER FOR ALL PRESSURE-TREATED ROUGH WOOD AT TOP OF MASONRY WALLS.

INSTALL PERM-A-BARRIER THRU-WALL FLASHING AT BOTTOM COURSE OF BLOCK, ABOVE LINTELS, AND ABOVE BOND BEAMS. INSTALL 16" LONG COTTON ROPE WEEP HOLES AT 32" ON CENTER AT ALL THRU-WALL FLASHING. PROVIDE MORTAR NET TO ENSURE WEEP HOLES REMAIN OPEN.

ALL EXTERIOR UNITS AND MORTAR SHALL BE TREATED WITH DRYBLOCK WATER REPELLENT.

CONTROL JOINTS SHALL BE SPACED AT A MAXIMUM OF 25' ON CENTER AND 10' FROM CORNERS. ALSO PLACE CONTROL JOINTS ON ONE SIDE OF OPENINGS 6" WIDE OR LESS AND ON BOTH SIDES OF OPENINGS MORE THAN 6" WIDE. DO NOT RUN CONTROL JOINTS THROUGH LINTELS. ALIGN CONTROL JOINTS WITH EXPOSED CONCRETE FOUNDATION WALL JOINTS IF APPLICABLE. BREAK REINFORCING AT ALL CONTROL JOINTS.

THE MASON MUST PROVIDE TEMPORARY BRACING OF ALL BLOCK WALLS TO PROVIDE SUPPORT UNTIL PERMANENT BRACING SYSTEMS ARE IN PLACE.

**WOOD FRAMING**

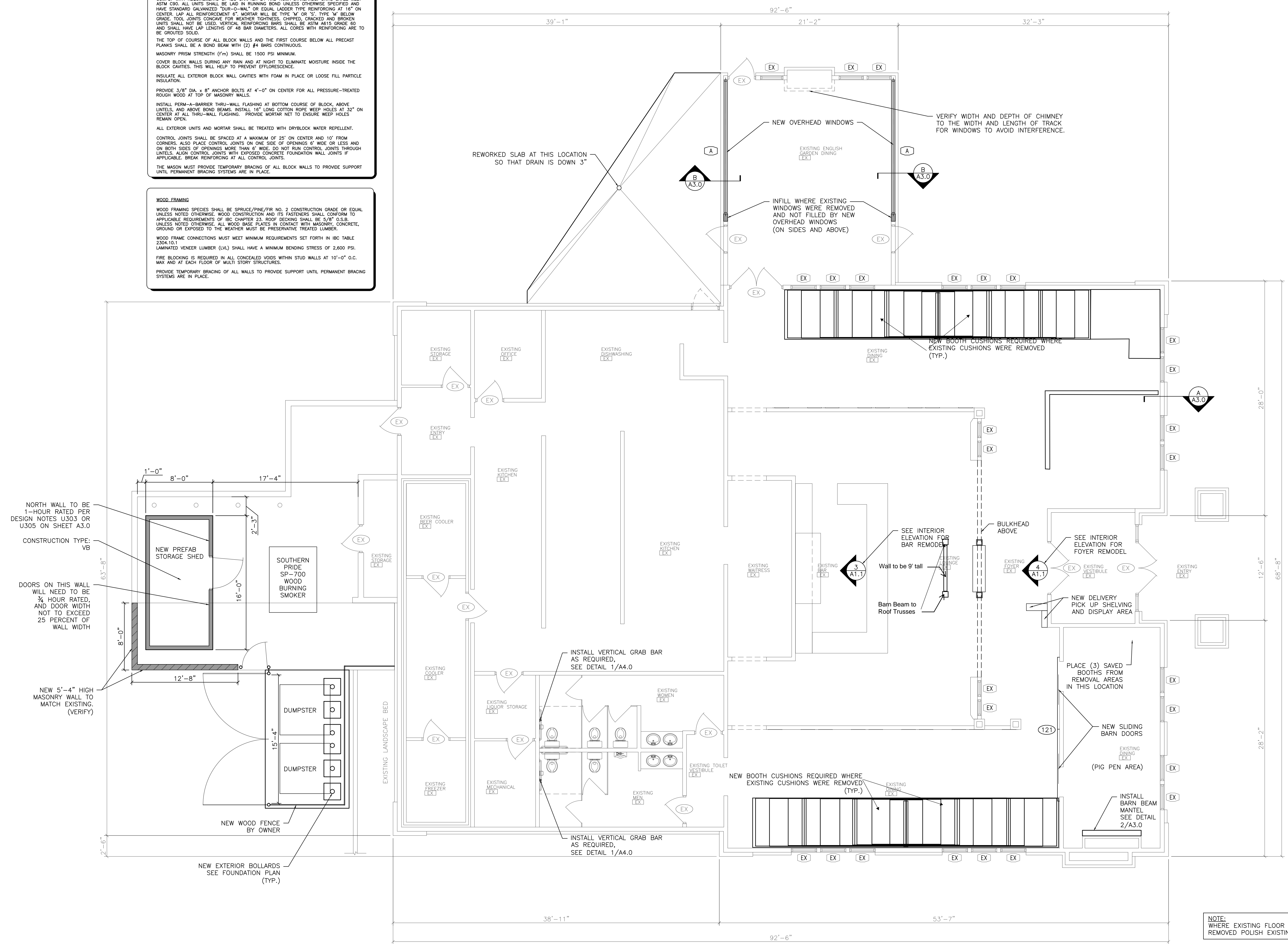
WOOD FRAMING SPECIES SHALL BE SPRUCE/PINE/FIR NO. 2 CONSTRUCTION GRADE OR EQUAL UNLESS NOTED OTHERWISE. WOOD CONSTRUCTION AND ITS FASTENERS SHALL CONFORM TO APPLICABLE REQUIREMENTS OF IBC CHAPTER 23. ROOF DECKING SHALL BE 5/8" O.S.B. UNLESS NOTED OTHERWISE. ALL WOOD BASE PLATES IN CONTACT WITH MASONRY, CONCRETE, GROUND OR EXPOSED TO THE WEATHER MUST BE PRESERVATIVE TREATED LUMBER.

WOOD FRAME CONNECTIONS MUST MEET MINIMUM REQUIREMENTS SET FORTH IN IBC TABLE 2304.10.1

LAMINATED VENEER LUMBER (LVL) SHALL HAVE A MINIMUM BENDING STRESS OF 2,600 PSI.

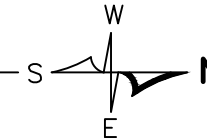
FIRE BLOCKING IS REQUIRED IN ALL CONCEALED VOIDS WITHIN STUD WALLS AT 10'-0" O.C. MAX AND AT EACH FLOOR OF MULTI STORY STRUCTURES.

PROVIDE TEMPORARY BRACING OF ALL WALLS TO PROVIDE SUPPORT UNTIL PERMANENT BRACING SYSTEMS ARE IN PLACE.



NOTE: WHERE EXISTING FLOOR TILE WAS REMOVED POLISH EXISTING SLAB.

REMODELED FLOOR PLAN  
SCALE: 3/16"=1'-0"



ISSUED FOR CONSTRUCTION

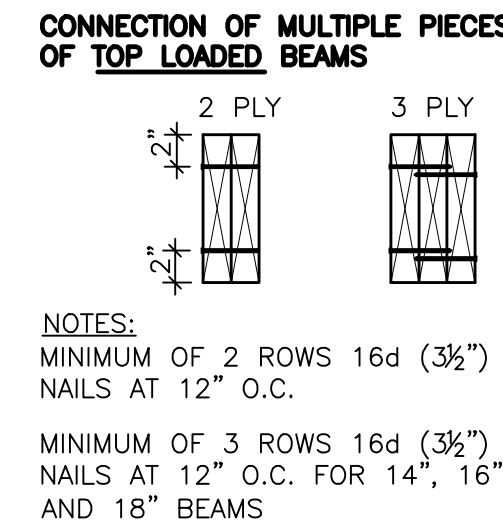
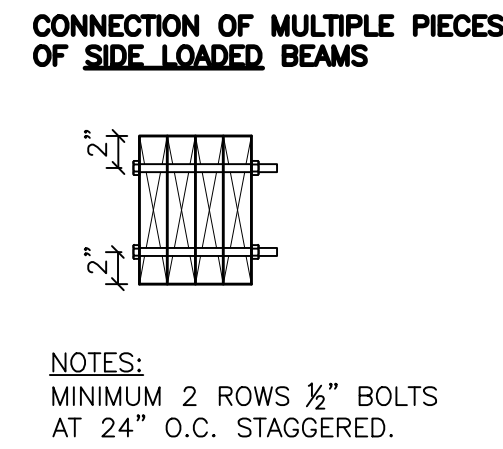
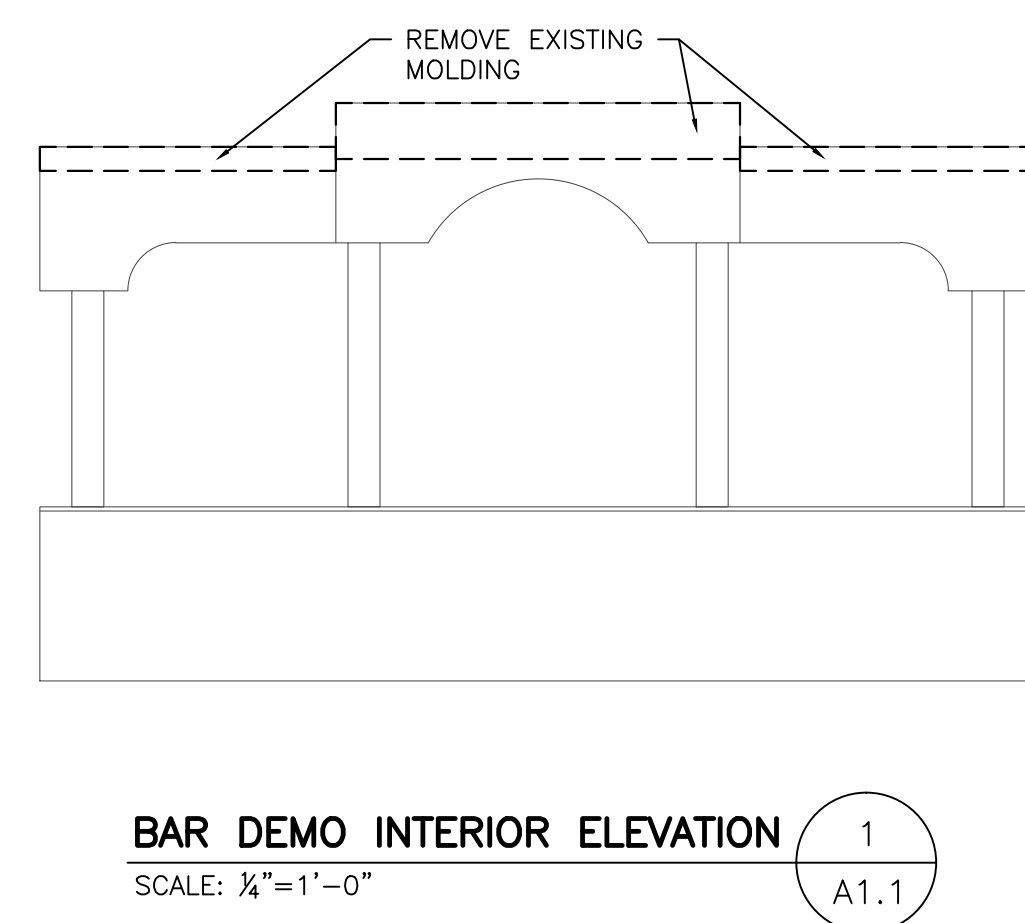
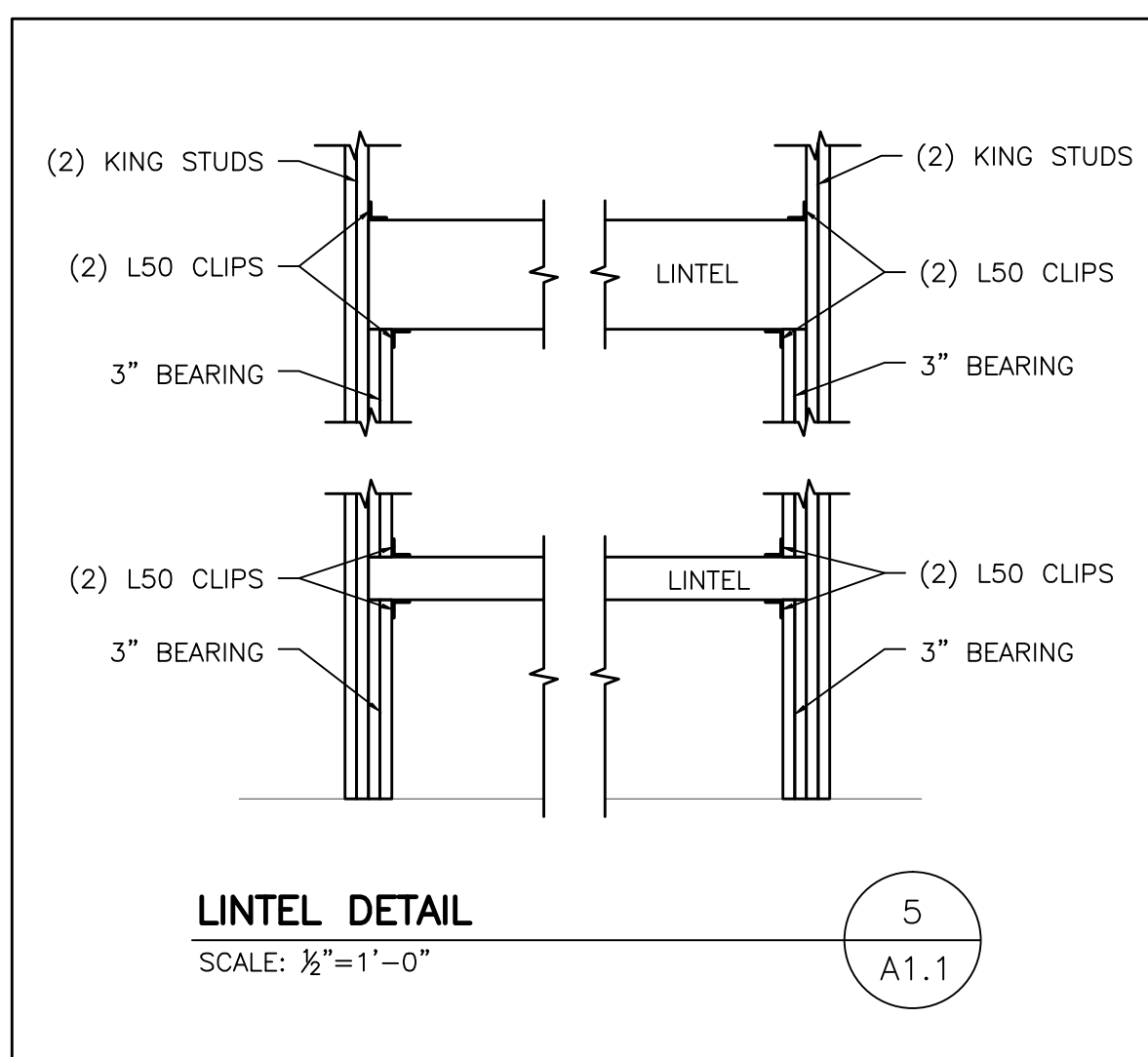


ISSUE NO	REVISIONS	ISSUE DATE

BUILDING REMODEL FOR:  
**QUASIUS CONSTRUCTION**  
**PARKER JOHN'S**  
2331 E. EVERGREEN DR.  
APPLETON, WI

Project number  
22145  
Date  
29 August, 2022  
Drawn by  
A. WOLF  
Checked by  
K. KUEPER

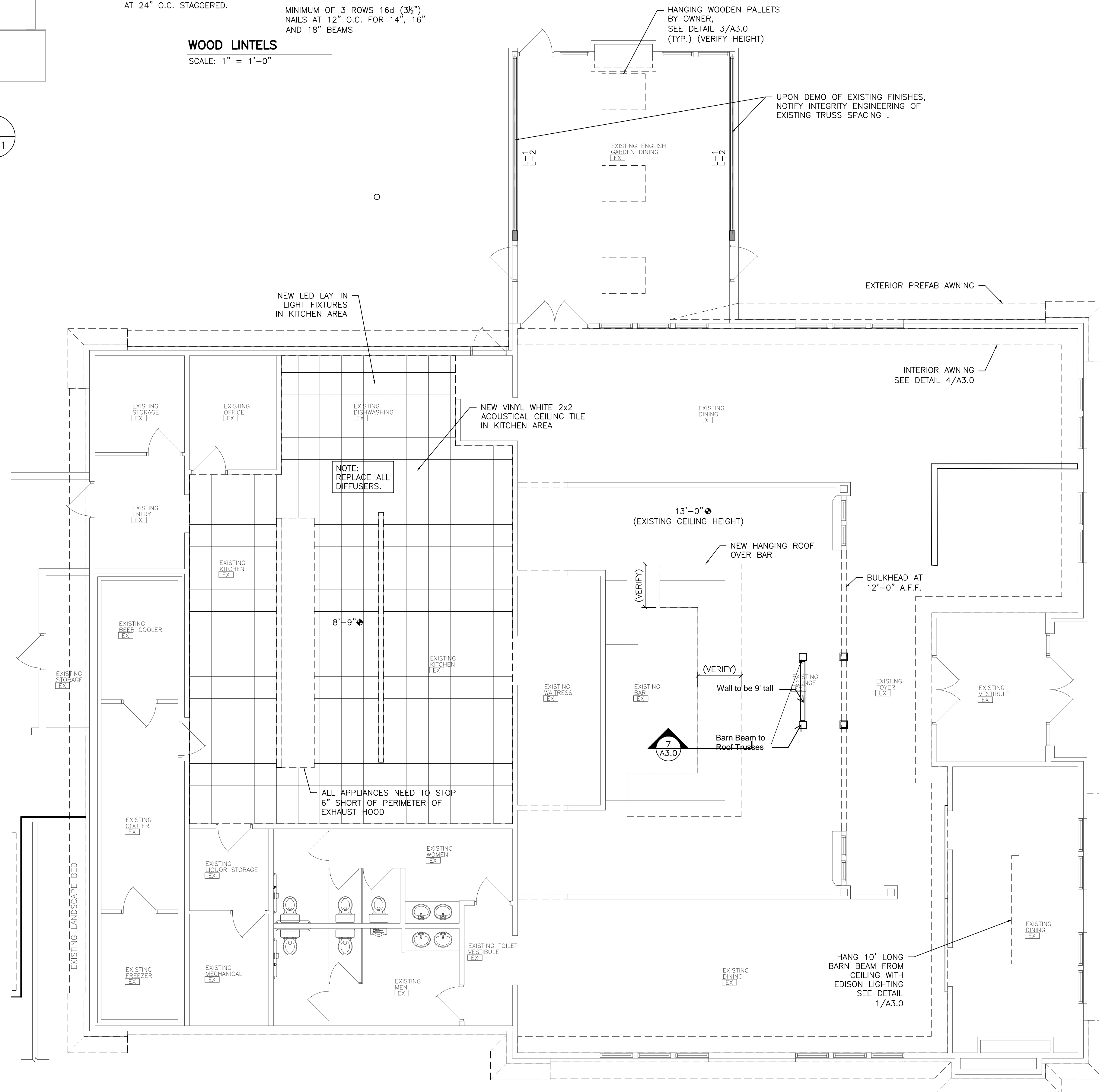
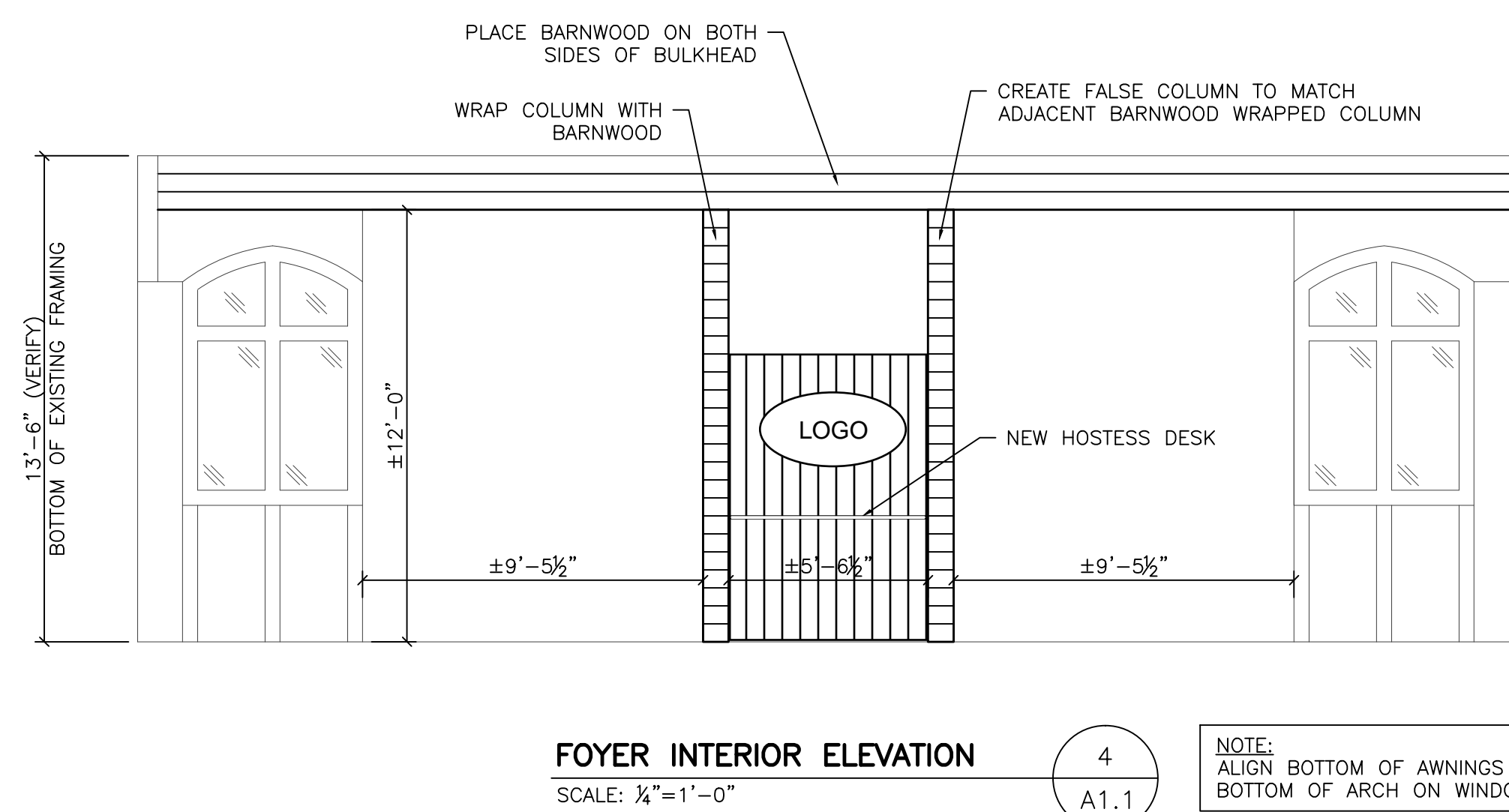
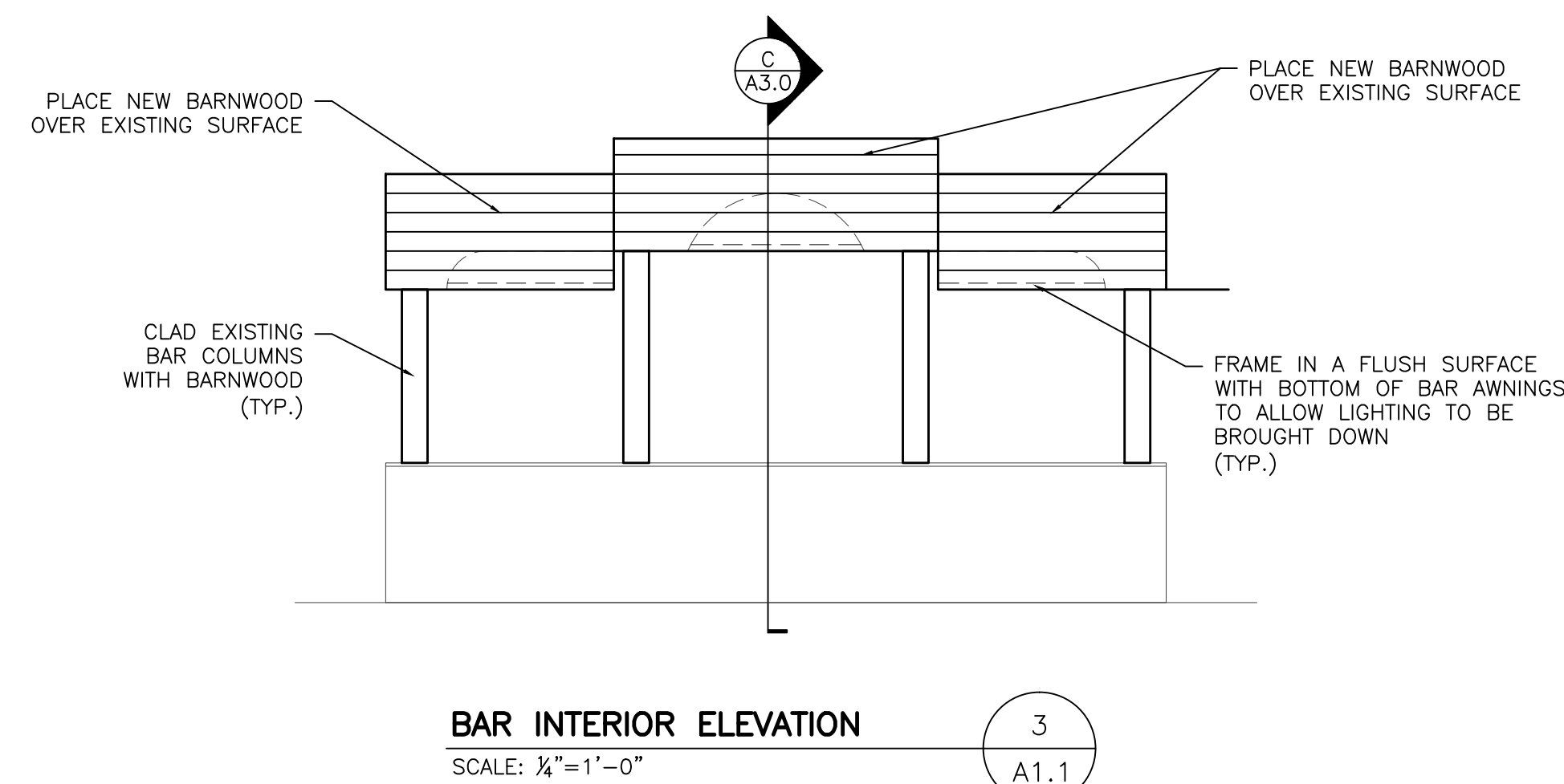
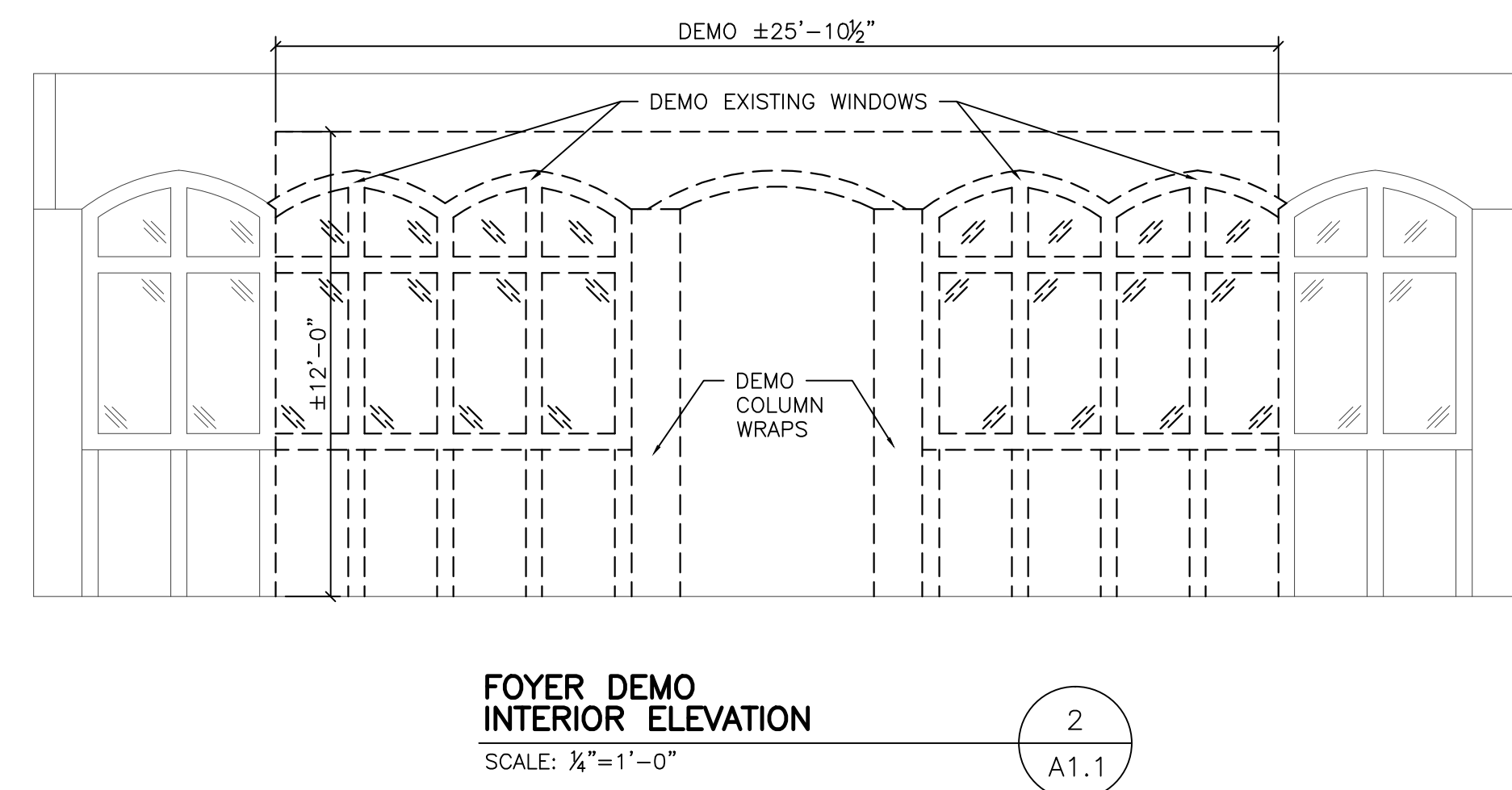
**A1.0**



**WOOD LINTELS**  
SCALE: 1" = 1'-0"

MARK	LINTEL	BEARING (EACH SIDE)	BEARING HEIGHT	REMARKS
L-1	(3) PLY 1 1/4"x14" LVL	3"	7'-9"	DOUBLE KING STUDS REQUIRED ON EACH SIDE. PROVIDE (2) SIMPSON L50 CLIPS ON EACH END OF THESE LINTELS. SEE DETAIL 5/A1.1.
L-2	(3) PLY 2x6 (SILL)	3"	LINTEL SILL AT WINDOW TYPE (A)	

NOTE: 1. PROVIDE A BOND BEAM WITH (2) #5 BARS AT ALL MASONRY OPENINGS NOT LISTED IN THIS SCHEDULE. USE 8" OF BEARING.  
2. PROVIDE (1) #5 BAR IN GROUTED SOLID CORE AT EACH SIDE OF ALL MASONRY OPENINGS UNLESS NOTED OTHERWISE IN THE REMARKS ABOVE. VERTICAL BARS TO BE CONTINUOUS THROUGH LINTEL TO TOP OF WALL.  
3. OTHER OPENINGS NOT LISTED IN THIS SCHEDULE REQUIRE NO SPECIAL STRUCTURAL HEADERS.



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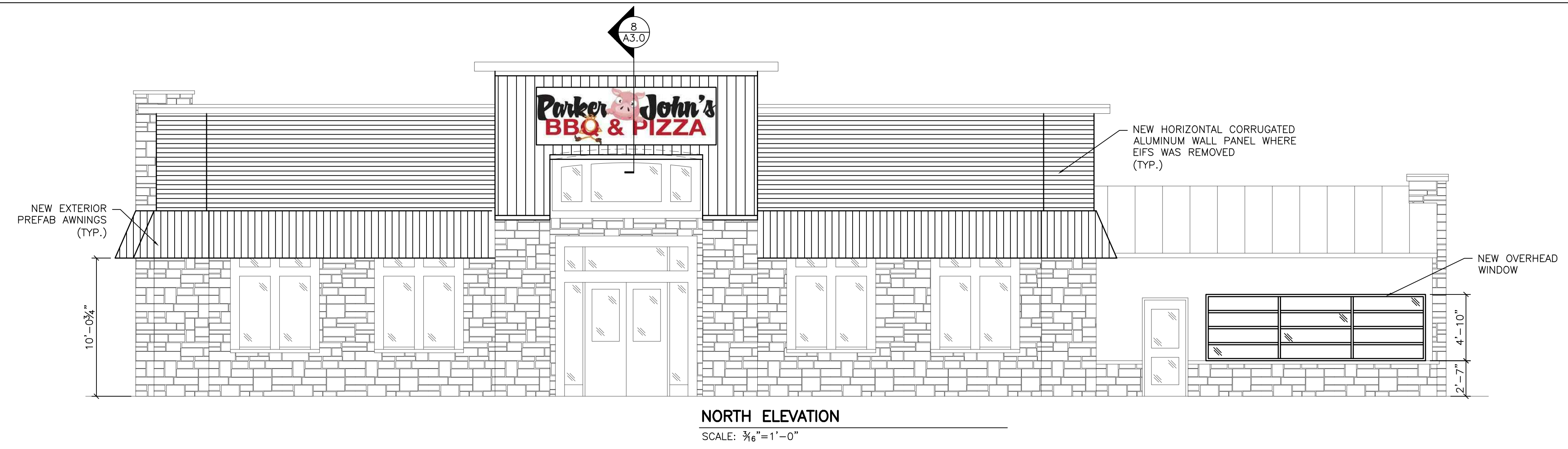
**BUILDING REMODEL FOR:**  
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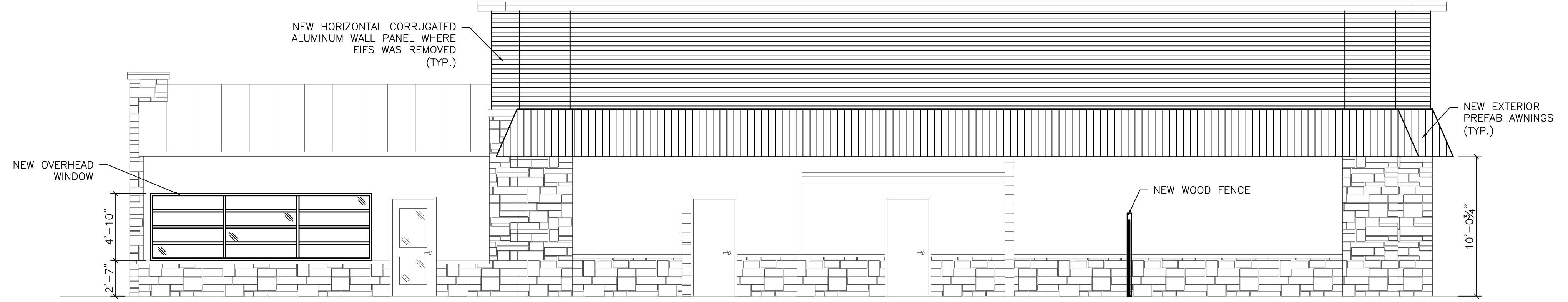
**A1.1**

**ISSUED FOR CONSTRUCTION**

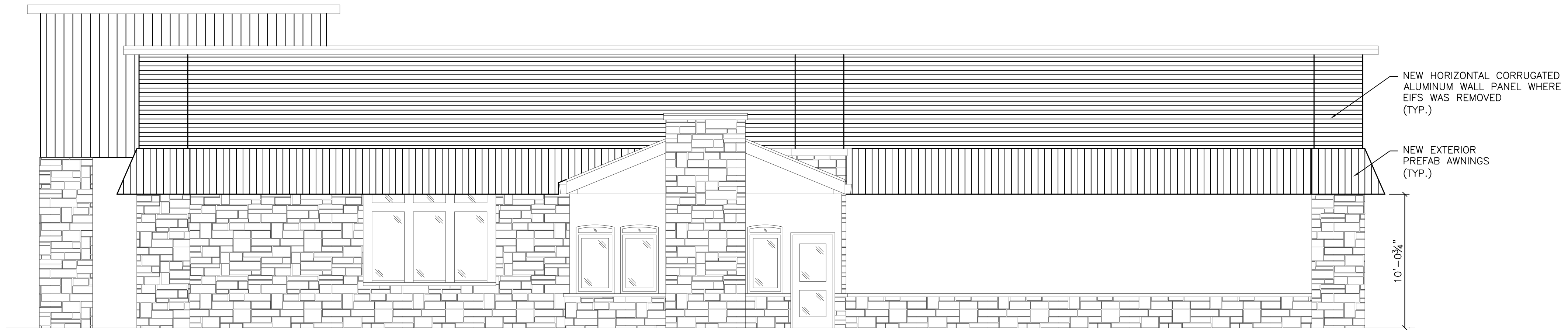
AWNINGS  
AWNINGS AND CANOPIES MUST MEET THE REQUIREMENTS OF IBC 3105.



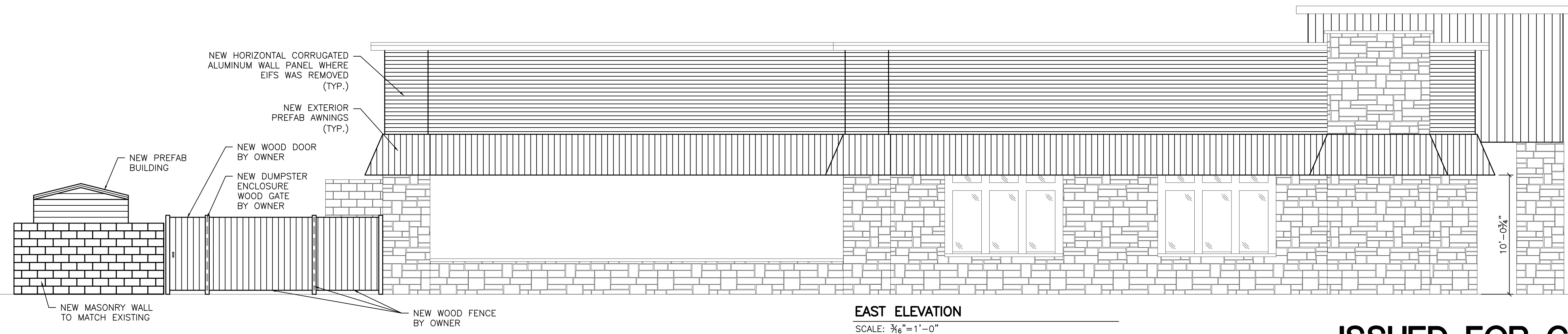
**NORTH ELEVATION**  
SCALE: 3/16"=1'-0"



**SOUTH ELEVATION**  
SCALE: 3/16"=1'-0"



**WEST ELEVATION**  
SCALE: 3/16"=1'-0"



**EAST ELEVATION**  
SCALE: 3/16"=1'-0"

NOTE:  
ALIGN BOTTOM OF AWNINGS WITH  
BOTTOM OF ARCH ON WINDOWS.



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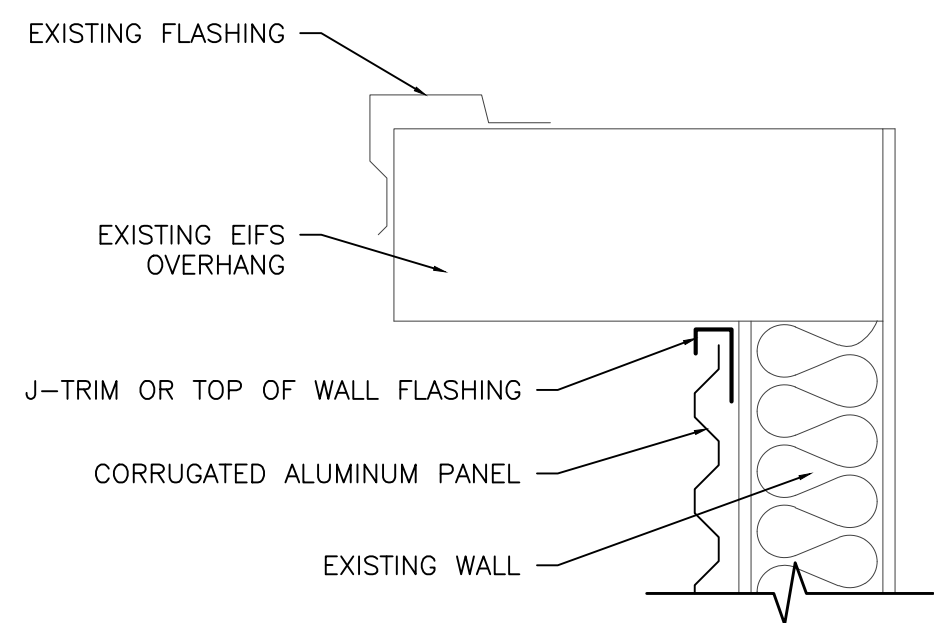
BUILDING REMODEL FOR:  
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2331 E. EVERGREEN DR.  
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Checked by

22145  
29 August, 2022  
A. WOLF  
K. KUEPER

**A2.0**

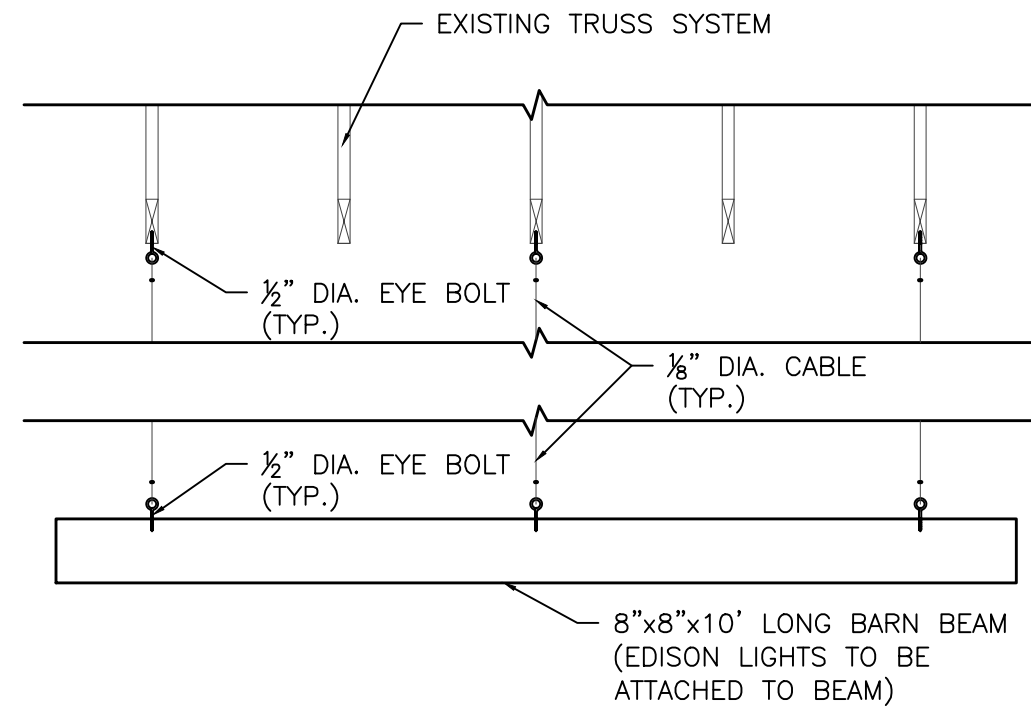
**ISSUED FOR CONSTRUCTION**



**ALUMINUM WALL PANEL AT TOP OF WALL**

SCALE: 1"=1'-0"

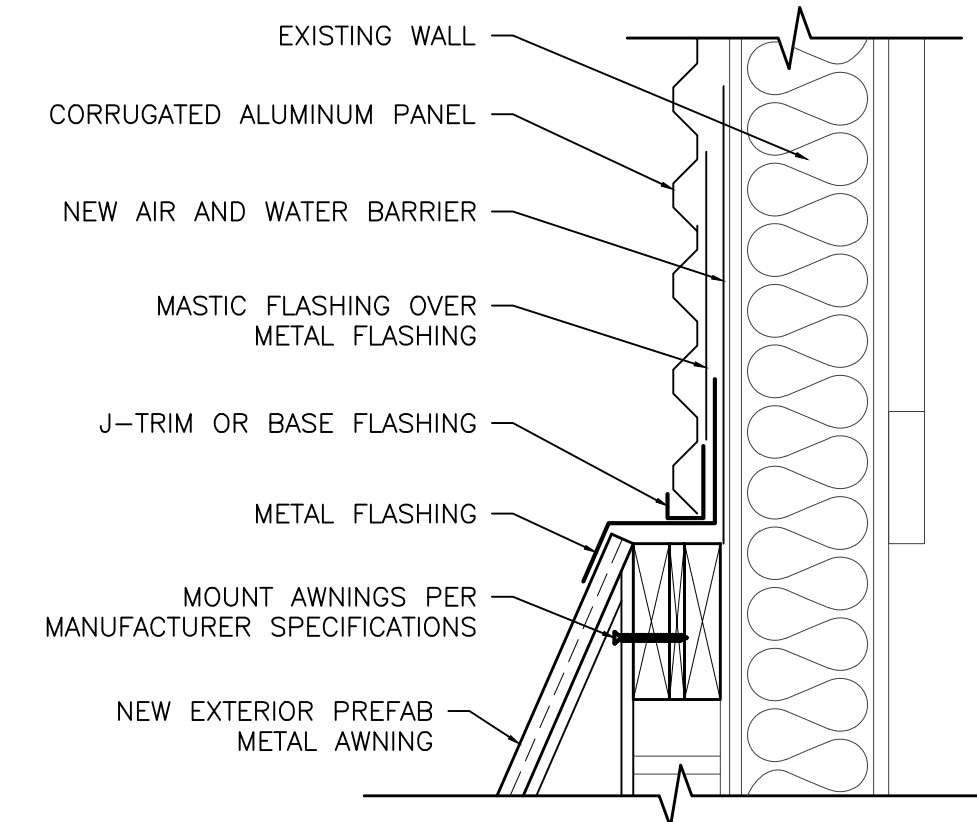
5  
A3.0



**HANGING BARN BEAM DETAIL**

SCALE: 1/2"=1'-0"

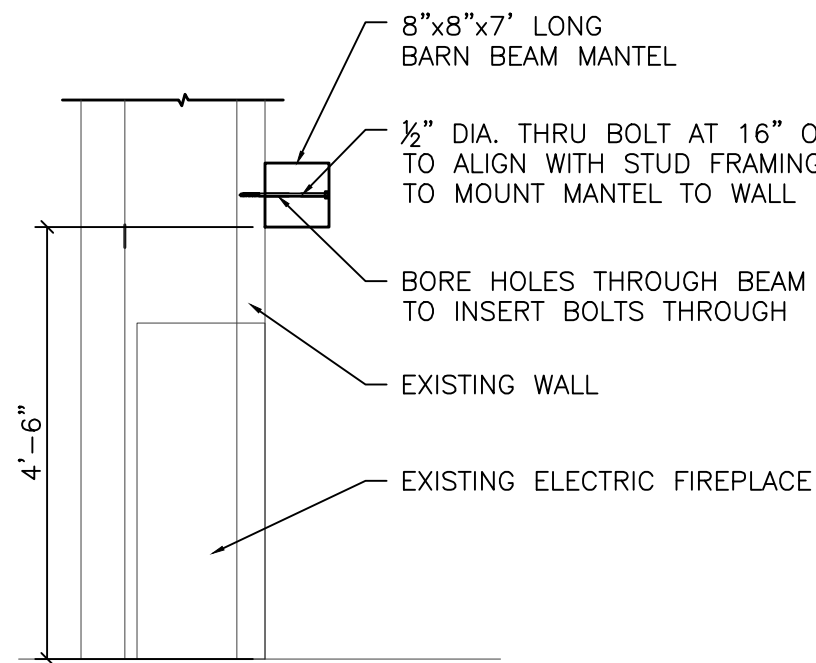
1  
A3.0



**ALUMINUM WALL PANEL AT BOTTOM OF WALL**

SCALE: 1"=1'-0"

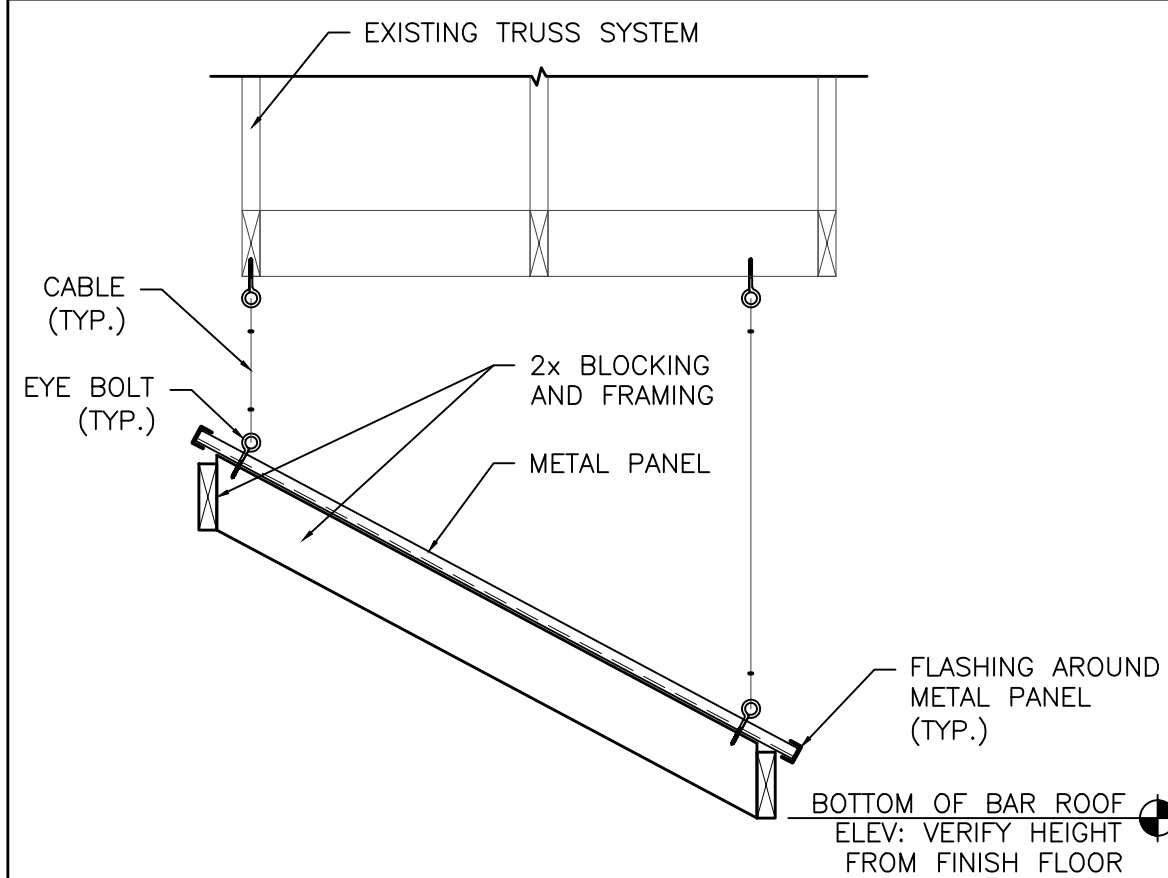
6  
A3.0



**BARN BEAM MANTEL DETAIL**

SCALE: 1/2"=1'-0"

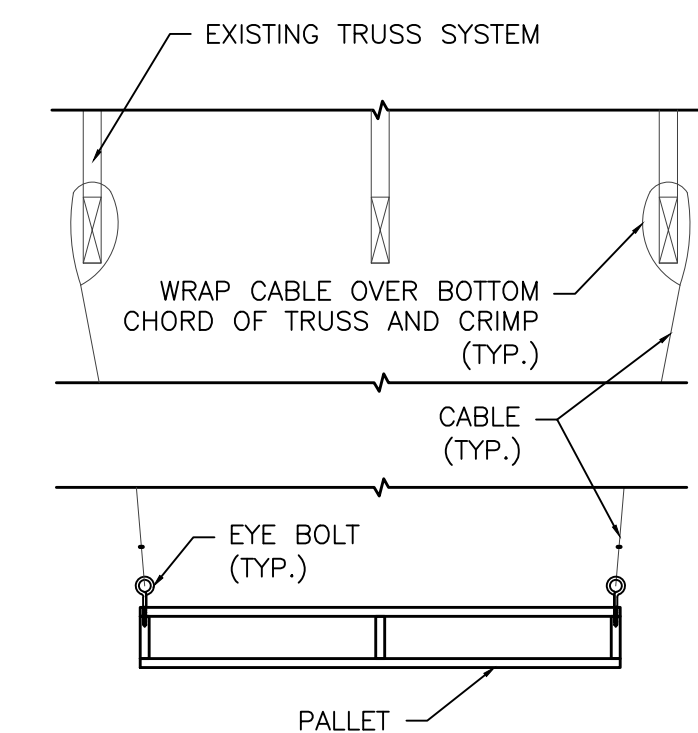
2  
A3.0



**BAR ROOF CONNECTION DETAIL**

SCALE: 3/4"=1'-0"

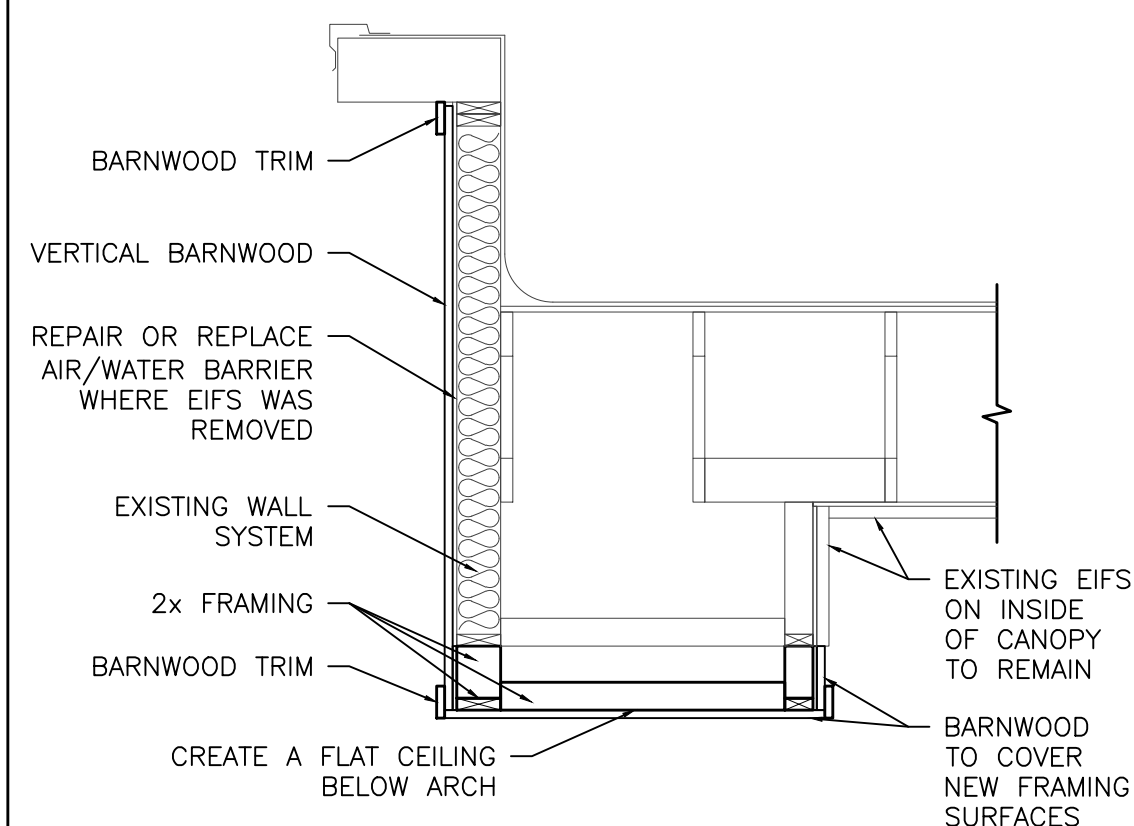
7  
A3.0



**PALLET CONNECTION TO TRUSS SYSTEM ABOVE**

SCALE: 3/4"=1'-0"

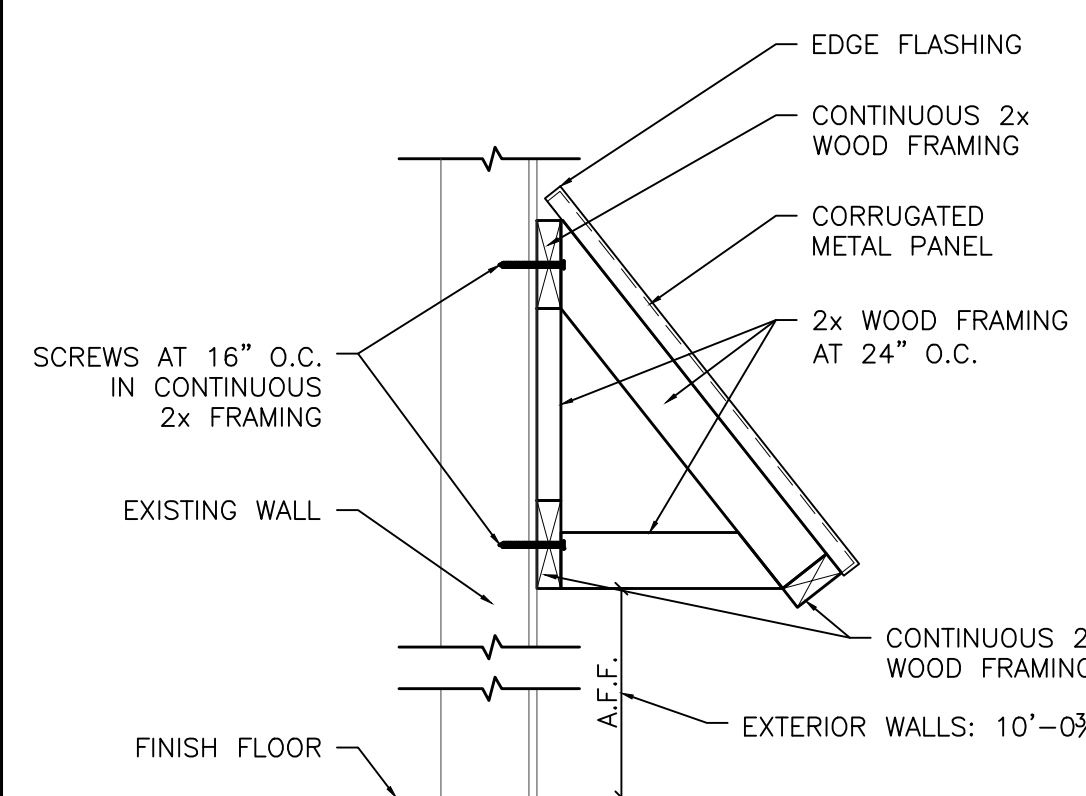
3  
A3.0



**CANOPY SECTION DETAIL**

SCALE: 1/2"=1'-0"

8  
A3.0



**AWNING DETAIL**

SCALE: 1"=1'-0"

4  
A3.0

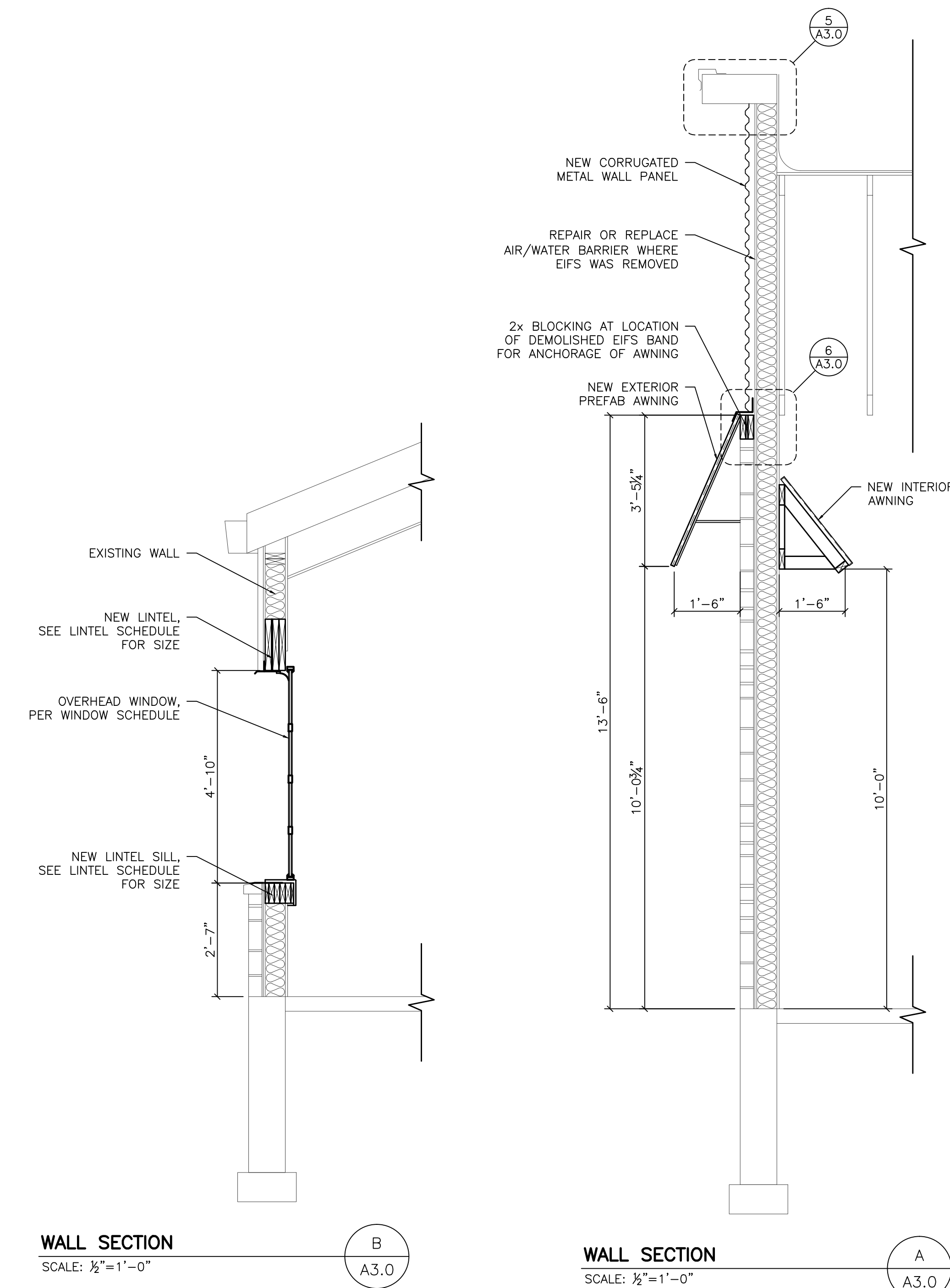
**Design No. U303**  
Bearing Wall Rating — 1 Hr

- Wood Studs** — Nom 2 by 4 in. spaced 16 in. OC, effectively cross-braced.
- Gypsum Board** — 5/8 in. thick, with square or tapered edges, applied vertically or horizontally with vertical joints centered over studs. Horizontal joints need not be backed by framing. Fastened to studs and plates with 1-7/8 in. long 6d cement coated nails spaced 7 in. OC or with 1-7/8 in. long Type S or Type W screws spaced 8 in. OC. 54 in. widths applied horizontally.  
CANADIAN GYPSUM COMPANY —Types AR, C, IP-AR, IP-X1, IP-X2, IPC-AR, SCX, WRC, WRX.  
UNITED STATES GYPSUM CO —Types AR, C, ERX-G, IP-AR, IP-X1, IP-X2, IPC-AR, SCX, WRC or WRX.  
USG MEXICO S A DE C V —Types AR, C, IP-AR, IP-X1, IP-X2, IPC-AR, SCX, WRC or WRX.
- Joints** — When tapered edge gypsum board is used, joints covered with joint compound and paper tape. As an alternate, gypsum veneer plaster may be applied to the entire surface of Classified veneer base-board with joints reinforced. When square-edge gypsum board is used, treatment of joints is optional.
- Batts and Blankets** — Min 3 in. thick mineral wool batts, friction fit between studs.  
THERMAFIBER LLC —Type SAFB
- Sheathing** — Min 15/32 in. thick, 4 ft wide, wood structural panels, min grade "sheathing" applied vertically, with vertical joints centered over studs. Attached to studs with 10d galv nails 6 in. OC at the perimeter and 12 in. OC in the field. Sheathing fully covered with a weather resistive barrier.
- Cementitious Backer Units** — 1/2 or 5/8 in. thick, installed vertically or horizontally over the sheathing with vertical joints centered over studs. All joints offset min 12 in. from underlying sheathing joints. Fastened to studs and plates with corrosion resistant 2-1/4 in. long chamfered, ribbed washer head screws with a minimum head diameter of .400 inches or 2-1/4 in. hot-dipped galvanized roofing nails spaced 8 in. OC.  
UNITED STATES GYPSUM CO — DUROCK Exterior Cement Board or DUROCK Brand Cement Board.
- Joints** — Cement board joints need not be treated.
- Vapor Retarder, Water Barrier or Weather Resistive Barrier** — (Optional, not shown) — As required

\*Bearing the UL Classification Mark

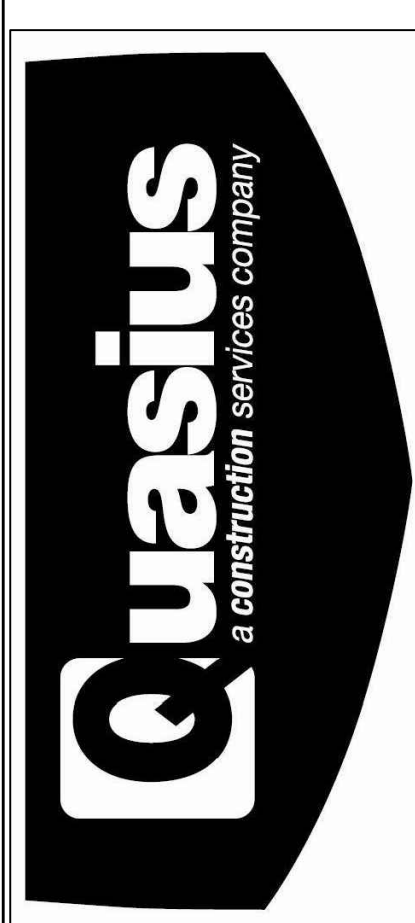
**1-Hour Fire Rating**  
Design Reference: UL U305, U337, WHI 495-0702, GA WP 8130

**30-34 STC Sound Trans.**  
Test Reference: OR 64-8  
Wall Thickness: 4-3/4" (121 mm)  
Weight per Sq. Ft.: 7.5 psf (37 Kg/m<sup>2</sup>)  
Exterior: 5/8" (15.9 mm) DensGlass® Fireguard® Sheathing applied vertically (U337, U305) or horizontally (U305) to 2" (51 mm) x 4" (102 mm) wood studs 16" (406 mm) o.c. with 1-3/4" (45 mm) galvanized roofing nails 7" (178 mm) o.c. for all framing members. Exterior surface covered with weather exposed cladding or finish system.  
Interior: 5/8" (15.9 mm) DensArmor Plus® Fireguard® interior panels or 5/8" (15.9 mm) ToughRock® Fireguard X® gypsum board applied vertically (U337, U305) or horizontally (U305) to studs with 1-7/8" (48 mm) 6d coated nails 7" (178 mm) o.c. Stagger joints each side.



**WALL SECTION B**  
SCALE: 1/2"=1'-0"  
A3.0

**WALL SECTION A**  
SCALE: 1/2"=1'-0"  
A3.0



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2331 E. EVERGREEN DR.  
APPLETON, WI

Project number: 22145  
Date: 29 August, 2022  
Drawn by: A. WOLF  
Checked by: K. KUEPER

**A3.0**

**ISSUED FOR CONSTRUCTION**

**DOORS, WINDOWS AND FRAMES**  
 FURNISH AND INSTALL ALL DOORS AND WINDOW ASSEMBLIES AS INDICATED ON THE PLANS. INCLUDE ALL HARDWARE INDICATED AND THAT MAY BE REQUIRED FOR A COMPLETE JOB. DOORS AND WINDOWS SHALL OPERATE SMOOTHLY WITHOUT BINDING AND BE INSTALLED PLUMB AND TRUE. HARDWARE SHALL FIT PROPERLY AND BE ADJUSTED AS REQUIRED. PROVIDE INSECT SCREENS ON ALL OPERABLE WINDOW UNITS.

**HARDWARE**  
 UNLESS SPECIFIED IN THE HARDWARE SCHEDULE:  
 -ALL LOCK SETS SHALL BE LEVER TYPE AS REQUIRED TO MEET REQUIREMENTS OF THE A.D.A.  
 -ALL OTHER HARDWARE SHALL CONFORM TO THE REQUIREMENTS OF THE A.D.A.  
 -ALL EXIT DOORS SHALL BE EQUIPPED WITH LEVER TYPE EXIT HARDWARE OPERABLE FROM THE INSIDE WITHOUT THE USE OF A LATCH, KEY, OR BOLT.

**FINISHES**  
 PROVIDE AND INSTALL ALL FINISHES AS INDICATED ON PLANS. INSTALL ALL MATERIALS PER MANUFACTURER'S RECOMMENDATIONS AND SPECIFICATIONS. FINISH INSTALLER INSPECT SURFACE AND PREPARE AS REQUIRED PRIOR TO INSTALLATION OF THE PRODUCT.  
 INTERIOR FINISHES TO MEET THE REQUIREMENTS OF IBC CHAPTER 8.

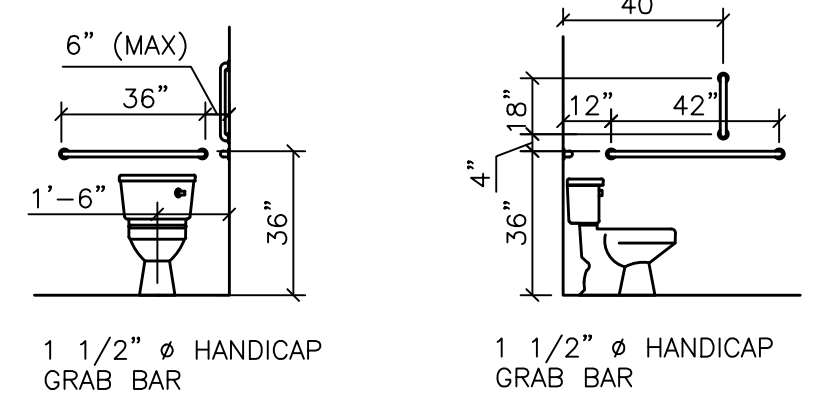
**PAINTING**  
 PAINT ALL AREAS REQUIRED FOR A COMPLETE JOB.  
 APPLY PAINT AS RECOMMENDED BY STANDARD PRACTICE AND MANUFACTURER'S RECOMMENDATIONS.  
 REMOVE OR PROTECT HARDWARE, PLATES, LIGHT FIXTURES, SPRINKLER HEADS, ETC. THAT ARE NOT INTENDED TO BE PAINTED. PROVIDE MASKING AS REQUIRED.

DISPOSAL OF EXCESS PAINT MATERIALS IS THE RESPONSIBILITY OF THE PAINTING CONTRACTOR. DISPOSAL MUST BE IN ACCORDANCE WITH APPLICABLE LAWS AND CODES.

**SEALANTS**  
 PROVIDE CAULKING AND BACKER ROD AS RECOMMENDED BY THE MANUFACTURER TO SEAL EXTERIOR AND INTERIOR JOINTS, AT EXPANSION JOINTS, FRAMES OF DOORS, WINDOWS, AND OTHER EXTERIOR OPENINGS. ALSO CAULK AROUND PLUMBING FIXTURES, COUNTERTOPS, ROOF OPENINGS, ETC. AND AS REQUIRED FOR A COMPLETE JOB. CAULK TO BE INSTALLED AFTER FINISH IS APPLIED TO SURFACES. PENETRATIONS THROUGH FIRE RATED ASSEMBLIES MUST MEET U.L. REQUIREMENTS.

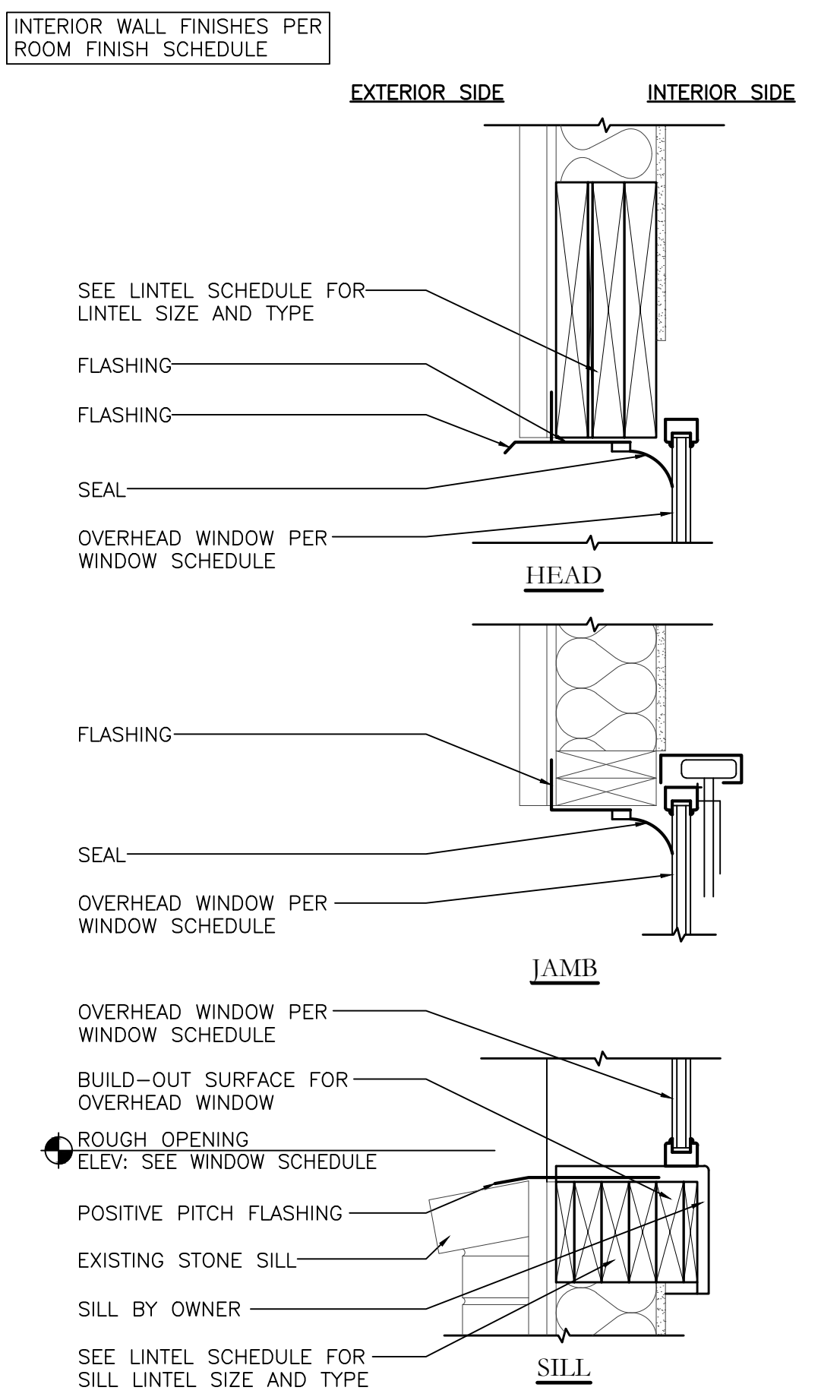
**SIGNAGE**  
 SIGNAGE SHALL MEET THE REQUIREMENTS OF THE A.D.A.  
 WHERE PERMANENT IDENTIFICATION IS PROVIDED FOR ROOMS AND SPACES, SIGNS SHALL BE INSTALLED ON THE WALL ADJACENT TO THE LATCH SIDE OF THE DOOR. WHERE THERE IS NO WALL SPACE TO THE LATCH SIDE OF THE DOOR, INCLUDING AT DOUBLE-LEAF DOORS, SIGNS SHALL BE PLACED ON THE NEAREST ADJACENT WALL.

MOUNTING HEIGHT SHALL BE 60" ABOVE FINISH FLOOR TO THE CENTERLINE OF THE SIGN UNLESS INDICATED OTHERWISE.  
 PROVIDE HANDICAP PARKING SIGNS AS INDICATED ON THE PLANS AND AS REQUIRED BY APPLICABLE LAWS.

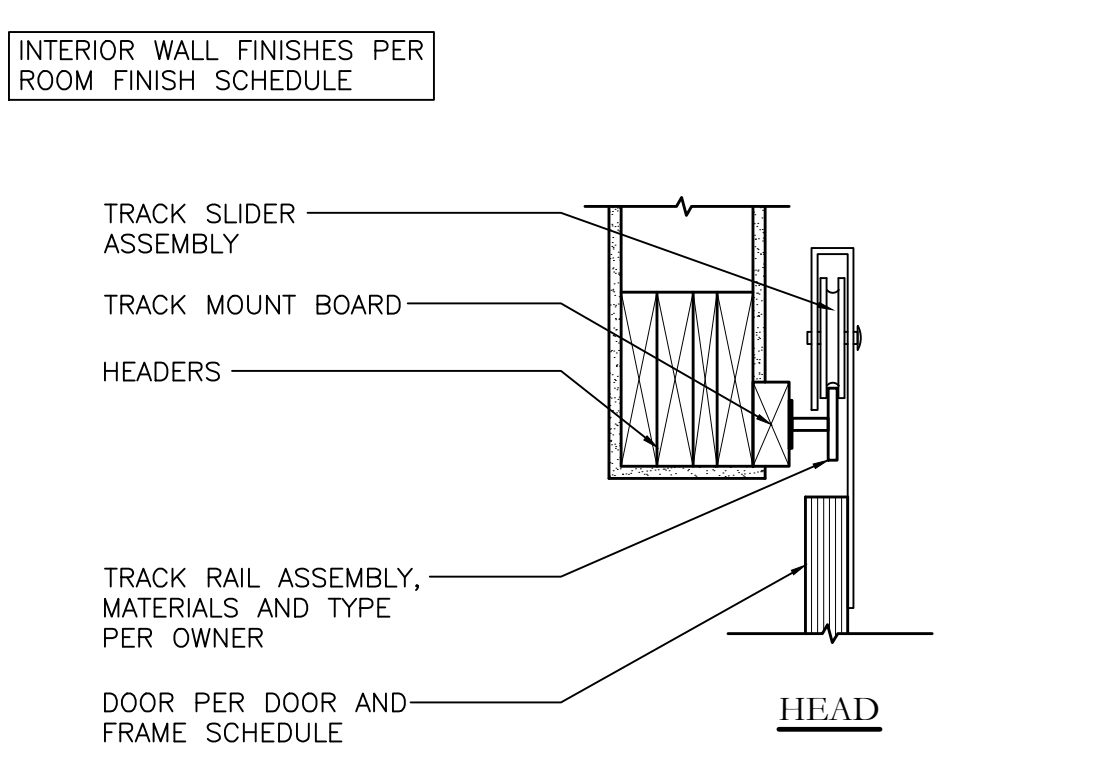


NOTE: STANDARDS SHOWN ARE PER ANSI A117.1

**TYP. TOILET ROOM ACCESSORIES**  
 SCALE: 1/4"=1'-0" 1  
A4.0



SHIM, FLASH, AND CAULK AS REQUIRED  
**ALUMINUM WINDOW**  
 SCALE: 1/2"=1'-0" 2  
A4.0



SHIM, FLASH, AND CAULK AS REQUIRED  
**WOOD SLIDING RAIL MOUNT**  
 SCALE: 1/2"=1'-0" 3  
A4.0

**DOOR SCHEDULE**

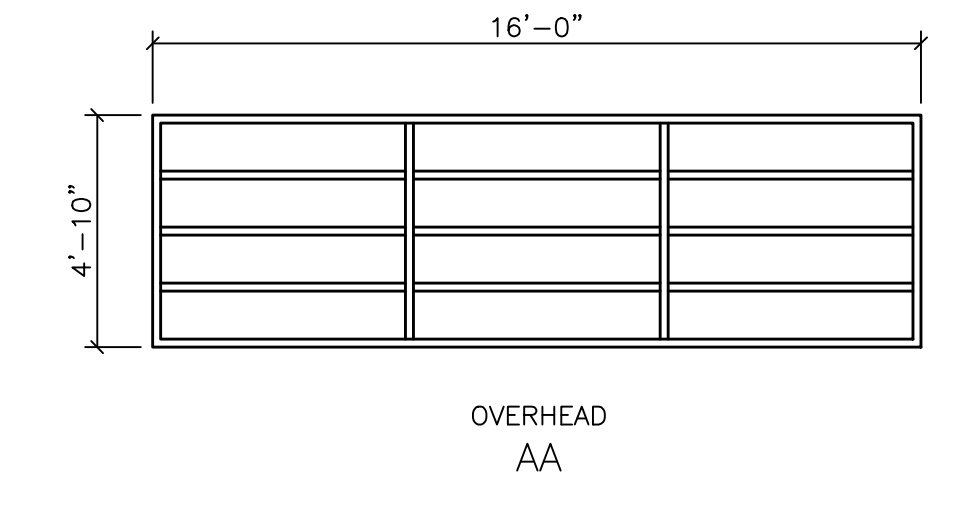
NO.	DOOR DESCRIPTION			FRAME			HARDWARE			REMARKS
	SIZE (WxH)	DIAGRAM	MATERIAL	DIAGRAM	MATERIAL	DETAIL	FUNCTION	PANIC	CLOSER	
121	(2) 3'-7"x7'-2"	A	WOOD	-	-	3/A4.0	SLIDING	-	-	SLIDING DOOR ON RAIL
	<b>PASSAGE</b> Both levers always unlocked.			<b>SINGLE DUMMY TRIM</b> Single dummy trim for one side of door. Used for door pull or as molding, inactive trim.			<b>OFFICE</b> Push-button locking. Push-button locks outside lever until unlocked with key or by rotating inside lever.			<b>CLASSROOM</b> Outside lever locked and unlocked by key, inside lever always unlocked.
	<b>EXIT</b> Blank plate outside. Inside lever always unlocked.			<b>PRIVACY</b> Push-button locking. Can be opened from outside with small screwdriver. Turning inside lever or closing door releases button.			<b>ENTRANCE</b> Turn/push-button locking: pushing and turning button locks outside lever requiring use of key until button is manually unlocked.			<b>STOREROOM</b> Outside lever fixed. Entrance by key only. Inside lever always unlocked.
	<b>PUSH/PULL</b> Blank plate on push side. Lever on pull side.			<b>STOREFRONT</b> Blank plate on push side. Handle on pull side. Deadbolt lock.						

NOTES: 1. ALL EXTERIOR DOORS TO BE INSULATED AND HAVE WEATHER-STRIPPING AND A THRESHOLD.  
 2. THE GLAZING CONTRACTOR IS REQUIRED TO PROVIDE TEMPERED GLASS WHERE REQUIRED BY CODE.  
 3. COLOR OF DOOR, FRAME AND HARDWARE TO BE DETERMINED BY OWNER.  
 4. DOOR PROVIDER MUST MEET ALL APPLICABLE CODES.  
 5. DOCK DOORS INTO CONDITIONED SPACES ARE REQUIRED TO HAVE WEATHERSEALS PER IECC 502.4.6.  
 6. FIRE RATED ROLLING SHUTTER DOORS REQUIRE A SMOKE ACTIVATED CLOSER PER IBC 716.5.9.3 AND APPLICABLE CODES.

**WINDOW SCHEDULE**

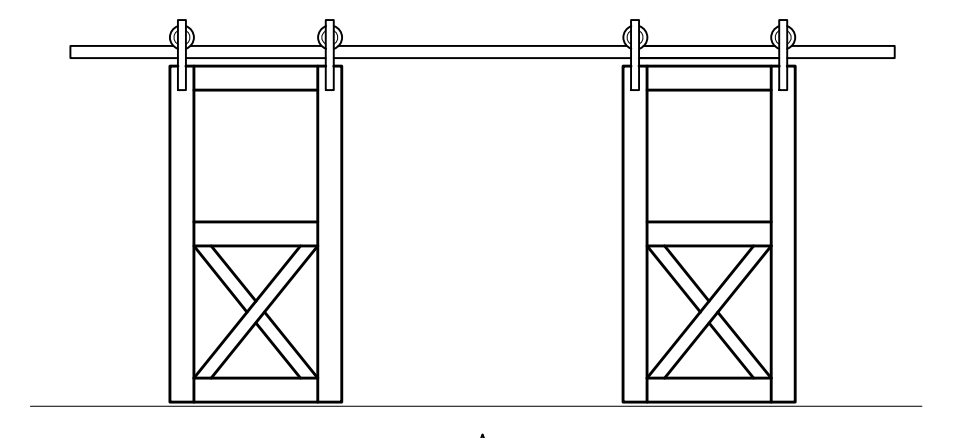
NO.	QTY.	WINDOW		FRAME			GLAZING			REMARKS
		SIZE (WxH)	HEAD HEIGHT	MATERIAL	DIAGRAM	DETAIL	THICKNESS	TINT	LOW-E	
A	2	16'-0" x 4'-10"	4'-10"	ALUM.	AA	2/A4.0	1"	-	-	

NOTES: 1. THE GLAZING CONTRACTOR IS REQUIRED TO PROVIDE TEMPERED GLASS WHERE REQUIRED BY CODE.  
 2. THE GLAZING CONTRACTOR SHALL PROVIDE ALL FLASHING AND CAULK AS REQUIRED FOR A COMPLETE JOB.  
 3. THE COLOR OF THE FRAME IS TO BE DETERMINED BY THE OWNER.



**WINDOW DIAGRAMS**  
 NOT TO SCALE

NOTE:  
 • ALL OVERALL DIMENSIONS INDICATE ROUGH OPENING SIZE.  
 • ALL METAL FRAMES AND MULLIONS ARE DRAWN AS 2" UNLESS DIMENSIONED OTHERWISE.



**DOOR DIAGRAMS**  
 NOT TO SCALE



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 2331 E. EVERGREEN DR.  
 APPLETON, WI

Project number  
 Date  
 Drawn by  
 Checked by

22145  
 29 August, 2022  
 A. WOLF  
 K. KUEPER

**A4.0**

**ISSUED FOR CONSTRUCTION**



# NORTHEAST BUSINESS PARK

QUALITY ATTRACTS QUALITY

## DECLARATION OF COVENANTS AND RESTRICTIONS

APPLICABLE TO ALL PROPERTIES SOLD IN  
NORTHEAST BUSINESS PARK NO. 3

This conveyance is made subject to the following conditions, covenants, and understandings, which shall be binding upon the vendee and his/her heirs, successors, and assigns:

1. ***Statement of Purpose:***

The general purpose of this Declaration is to help assure that the Development will become and remain an attractive place to do business; to insure the most appropriate improvement of each Lot; to guard against the erection thereon of poorly designed or poorly proportioned structures; and to promote and maintain the highest and best uses of the lands commensurate with the zoning and the use classifications and demographics of this Development.

2. ***Land Uses and Development Standards:***

Lots 27, 28, 32, 33, 34

6510-27      6510-32  
6510-49      6510-33  
6510-47      6510-34  
6510-28

A. **Permitted Uses** include:

1. Offices;
2. Professional Services, except as provided for in Section 23-113(e), special uses;
3. Personal Services, except as provided for in Section 23-113(e), special uses;
4. Medical Clinic;
5. Optical and Pharmaceutical Sales Incidental to a Clinic;
6. Parking Lot, Surface.

B. **Accessory Uses** include:

1. Refuse containers and enclosures.

C. **Special Uses** include:

1. Any building that exceeds 35 feet in height.
2. Day Care as an accessory use to office.

D. **Building Height** shall not exceed 35 feet.



E. **Setbacks** shall be as follows: \*

1. Front - 20 feet
2. Rear - 25 feet
3. Sides - 10 feet
4. Parking - 15 feet

\* All buildings must be set back a minimum of 80' from U. S. 41 street right of way.

Lots 29, 30

6510-29      6622  
6510-38  
6510-30  
6510-39

A. **Permitted Uses** include:

1. Offices;
2. Professional Services, except as provided for in Section 23-113(e), special uses;
3. Personal Services, except as provided for in Section 23-113(e), special uses;
4. Parking Lot, Surface.

B. **Accessory Uses** include:

1. Refuse containers and enclosures.

B. **Special Uses** include:

1. Any building that exceeds 35 feet in height.
2. Day Care as an accessory use to office.

D. **Building Height** shall not exceed 35 feet.

E. **Setbacks** shall be as follows:\*

1. Front - 50 feet
2. Rear - 50 feet
3. Sides - 25 feet
4. Parking - 15 feet

\* All buildings must be set back a minimum of 80' from U. S. 41 street right of way.

Lot 31

6510-41  
6510-31  
6510-36  
6510-37

A. **Permitted Uses** include:

1. Offices;
2. Professional Services, except as provided for in Section 23-113(e), special uses;
3. Personal Services, except as provided for in Section 23-113(e), special uses;
4. Medical Clinic;
5. Optical and Pharmaceutical Sales Incidental to a Clinic;
6. Full Service Hotel;
7. Full Service Restaurant with or without alcohol (No Drive Through);
8. Parking Lot, Surface.

- B. **Accessory Uses** include:
  - 1. Refuse containers and enclosures.
  
- C. **Special Uses** include:
  - 1. Any building that exceeds 35 feet in height.
  - 2. Microbrewery Incidental to a Full Service Restaurant.
  - 3. Day Care as an accessory use to office.
  
- D. **Building Height** shall not exceed 35 feet.
  
- E. **Setbacks** shall be as follows:
  - 1. Front - 20 feet
  - 2. Rear - 25 feet
  - 3. Sides - 10 feet
  - 4. Parking - 15 feet

Other land uses may be considered for approval by the Community Development Committee if a determination is made that the project fits the development objectives of the City.

3. ***Nuisance Factors and Hazards:***

- A. In order to protect the interests of all Tenants, no operation shall be conducted which emits offensive or objectionable noise, vibration, smoke, odors, dust, or gases. Precautions should be taken in all research and other approved operations for radiation, radioactivity, fire, and explosion hazards.
  
- B. No fuel or chemical in-ground or outdoor storage shall be allowed in the Park.

4. ***Building Standards:***

- A. Any building erected shall be at least 7,500 square feet in area and have a gross floor area equal to at least 10 percent of the land area.
  
- B. The maximum ratio of building area (footprint) to total parcel size shall in no event exceed forty (40) percent, exclusive of parking and loading areas. The building footprint, all parking, driveways, and loading areas, when combined, may not exceed seventy (70) percent of the total Parcel size.
  
- C. Buildings shall be designed by an Architect or Engineer. Complete architectural design must be given to all façades of all buildings with all sides and rear elevations being given architectural treatment compatible with the front elevation of the building.
  
- D. This Business Park encourages a variety of architectural styles. However, it is intended that a basic harmony of architecture prevail among the buildings so that no one structure detract from the attractiveness of the overall development.

- E. The majority of exterior and externally visible opaque surfaces shall be constructed of not more than three of the following types of materials (provided, however, that such list shall not be deemed to exclude the use of other accent or exterior trim materials, glass and glazing, and earth berms):
1. Brick;
  2. Architectural precast concrete panels (surface finish to be painted, stained or exposed aggregate). When using concrete panels as an exterior surface the architect should be careful to avoid a monolithic or monotonous appearance and the use of various textures, colors and accents will be encouraged.
  3. Decorative face concrete block. When using decorative face concrete block as an exterior surface the architect should be careful to avoid a monolithic or monotonous appearance and the use of different types and textures (split face, fluted, scored or striated ) to provide variety and relief will be encouraged.
  4. Cut natural stone;
  5. Exterior insulation and finish systems (EFIS);
  6. Other building materials being developed and to be developed by the construction industry. The use of such materials will be reviewed by the Site Plan Review Committee on a case-by-case basis.
- F. Building materials will be selected for their ability to present a visual statement of a building or structure's strength, attractiveness, and permanence. The building materials used shall be harmonious with the natural environment and with the general character of other buildings and structures in the Park.
- G. Metal trim materials may be used when in keeping with the architectural and aesthetic character of the building or structure.
- H. Ancillary structures will be approved by the Community Development Committee. Approval may be granted only if such structures are necessary to the principal use of the building site, are in architectural and aesthetic conformance with other buildings or structures on the site, are properly screened, meet all requirements of these covenants and are otherwise satisfactory to the Community Development Committee at its sole discretion.

5. ***Site Plan Requirements:***

- A. No lot shall contain more than one primary commercial or office building, and no more than one attached or detached storage structure. Any storage structure shall be of like design and building components as the primary structure. Storage structures shall be single story and not less than 250 square feet or more than 1,000 square feet.

Storage structures shall be located on the rear side of the primary Building (street address side being front).

- B. Each lot in the Plat shall be limited to two driveway accesses to the public street fronting the lot. Two or more lots shall not provide ingress/egress easements across lot lines for common use of more than one driveway.
- C. Each lot is require to maintain a minimum of 30% of the total square footage of the lot as green space planted with mowed grass or landscaped plantings of tress and shrubs.
- D. Fencing shall be limited to decorative fencing. Security fencing and chain link fencing are prohibited. No fencing is allowed on the street side of the Building.

6. *Landscaping:*

- A. *Landscape Plan:* The landscaping upon any building site or lot shall be carried out in accordance with a detailed landscaping plan which has been reviewed and approved in writing by the City's Site Plan Review Committee. The landscape plan shall include, but not be limited to, plant location, common and botanical names of plant material, planting size, root condition, and quantity of all plant material. The plan shall show all ground cover and mulch areas, landscape and construction materials, and construction details.
- B. *Landscaping Methods:* Landscaping may include grading, earth berms, seeding, sodding, raised planters, architectural decorative walls or fencing, trees and shrubs, ground cover and other landscape materials including permanent sprinkler systems, fountains, storm run-off retention ponds, reflective ponds, and landscape lighting.
- C. *Plant Material:* Selected plant material should provide for a variety of shade trees, evergreen trees, and shrubs, ornamental trees and shrubs and ground covers. Plant material selection shall take into consideration the following:
  - 1. Disease and insect resistance;
  - 2. Hardiness to the area;
  - 3. The ability to provide seasonal interest;
  - 4. Future maintenance considerations;
  - 5. Ability of plant material to accomplish its intended purpose in each placement.
- D. *Time for Completion:* All landscaping shall be completed within ninety (90) days following occupancy, or as soon thereafter as weather will allow if such period occurs within winter months.

- E. **Maintenance:** The owner shall be responsible for maintaining all landscaping as approved on the original plan for his site. Any variation or changes to the landscape plan must be reviewed and approved in writing by the Department of Planning. Landscaped areas, materials, fixtures, and improvements shall be maintained by the owner of the building site, or by such owner's long-term lessee(s) in good condition at all times. Such maintenance shall include watering, mowing, trimming, pruning, spraying, fertilizing, repairing, replacement of dead plantings, planting, transplanting, dusting, treating, and other common landscape maintenance activities necessary to keep the building site landscaping in a healthy state of growth and visually attractive in appearance.

All ground surfaces on each lot not covered by hard surface composed of driveways, parking lots, pedestrian walk ways, and building surface shall be landscaped, mowed, and maintained substantially free from the accumulation or growth of weeds or other wild vegetation.

If the owner or the owner's assigns fail to maintain the landscaping and site per the approved landscaping plan in this section, the City of Appleton or its Agent may seek an inspection warrant to enter the site and conduct such maintenance and to seek full reimbursement.

7. **Utility Controls:**

All utility lines shall be located underground where feasible except for high voltage lines. In the event high voltage lines are required, rear locations nearest and parallel with rear lot lines shall be encouraged.

8. **Parking, Loading:**

Off-street parking and loading areas shall be provided on each building site and shall be of sufficient size to accommodate all planned or anticipated parking and loading needs of all site occupants and visitors and comply with the City's Zoning Ordinance regarding parking standards.

1. All truck maneuvering must be confined within the boundaries of the property.
2. All parking, driveways, and loading areas shall be paved.
3. Parking shall be permitted within the minimum front yard setback area, however, it shall be located no closer than fifteen (15) feet to the public right-of-way line.

Truck loading and receiving areas shall occur in the rear of any buildings or structures on any lot except for the lots abutting U.S. 41 where it shall be located on the side. Truck loading and receiving areas shall be permitted on the side of such building if sufficient visual screening is installed to screen the dock area from the street.

Truck loading and receiving is normally not permitted in the front of such building unless dictated by the site conditions and only if fully screened from the street. In that event, the Community Development Committee shall review and approve the location of the loading dock. The Community Development Committee may assign this review of plans to the Economic Development Department.

9. ***Outdoor Storage:***

No outside storage of any kind shall be permitted.

10. ***Exterior Equipment:***

- A. Roof mounted equipment shall be so located and/or screened, and painted to minimize visibility from the street and adjacent owners.
- B. Exterior antennas, towers, poles, dishes, and solar collector panels are expressly prohibited excepting only satellite dish antenna not greater than 24 inches in diameter, flag poles, and light poles.

11. ***Signs:***

Identification signs shall be permitted to promote only the name and/or trademark of the owner or tenant of the parcel on which the sign is placed. The signs shall not advertise business services. Signs, lighting, etc., are to be indicated on the final site plan submitted to the Site Plan Review Committee for review.

- 1. Ground signs must be set back a minimum of 10 feet from the right-of-way line and must be of a low profile design subject to approval by the Committee.
- 2. Signs may not be of unusual size or shape when compared to the improvements situated on the site on which the sign is located.
- 3. Signs may not be installed above the roof line of a building.
- 4. Pole signs are prohibited.
- 5. Signs may not contain or utilize any flashing, blinking, intermittent or moving light as source of illumination.
- 6. No signs shall be located in or painted on any window.
- 7. Building signs must comply with the City Sign Code.

12. ***Maintenance Responsibilities:***

- A. Each owner shall keep its property, all contiguous street right-of-way to the edge of the pavement, and all drainage and easement areas in a well-maintained, safe, clean, and attractive condition at all times. Such maintenance includes, but is not limited to the following:
1. The removal of all litter, trash, refuse, and wastes;
  2. Compliance with the City's noxious weed control ordinance, including the regularly mowing of all grass areas to a height not over 4";
  3. The maintenance of exterior lighting, signs, and mechanical facilities;
  4. The keeping of all exterior building surfaces in a cleaned, well-maintained condition;
  5. The maintenance of all drainage ways including the removal of all debris, weeds, and silt.
- B. The owner of any undeveloped lands shall maintain said lands free of rubbish, noxious weeds, and mosquito breeding pond conditions.

13. ***Site Plan Review:***

Before commencing the construction or alterations of any buildings, additions, enclosures, fences, loading docks, parking facilities, or any other structures or permanent improvements on or to the real estate conveyed hereby, the owner shall first submit its building plans, specifications, site and landscape plans, elevations of all sides of the building, samples of materials proposed for all external surfaces including colors and textures, and an artist's rendering of the project or a scale model to the Site Plan Review Committee in accordance with Section 23-171 of the City Zoning Code. Renderings should show adjacent buildings, landscaping, screening, signs etc.

14. ***Repurchase Rights:***

**Failure to Build:** In the event the owner of land purchased from the City of Appleton does not commence construction of a building within one (1) year after the date of purchase, the City has the option to repurchase said property. The City shall pay the following repurchase price: the sum of the original purchase price and all special assessments which may have been paid by the buyer or levied against the property after the date of purchase minus the sum of any unpaid property taxes, pro-ration of the current years property taxes to date of closing, title insurance policy premium, real estate commission paid at time of original closing, and any liens and encumbrances on the property of a definite or ascertainable amount. Further, repurchase price shall be adjusted by the amount equal to the amount of an option fee for that

year had the property been under option between the City and the Buyer. Conveyance shall be by warranty deed.

**Resale of Vacant Land:** In the event the owner of land purchased from the City of Appleton elects to sell any portion thereof which is vacant, the property shall first be offered, in writing, to the City of Appleton. The City of Appleton shall have sixty (60) days from date of receipt of such offer to accept or reject repurchase of the property unless an extension of time may be mutually agreed upon and set forth in writing. The purchase price shall be computed as in the paragraph above (Failure to Build). Conveyance shall be by warranty deed. The seller shall furnish a title insurance policy at the seller's expense. In the event the City does not elect to repurchase the property, the owner may sell the land, but these Declarations of Covenants and Restrictions shall run with the land and be binding on the subsequent owner.

15. *Subdivision of Lots:*

After a lot has been purchased, such lot shall not be further subdivided without the written consent of the Community Development Committee. No owner may sell, lease or rent less than all of the lot without the prior written consent of the Community Development Committee. The Community Development Committee may delegate this approval authority to the Economic Development Department. The foregoing prohibition shall not apply to occupancy leases of space in a building made in the ordinary course of business.

16. *Waiver of Notice:*

All land sold before major assessable improvements are completed in the business park site shall be subject to the purchaser's waiving notice of assessments and hearings, and such waiver shall be part of the negotiations.

17. *Variances:*

Notwithstanding anything contained herein to the contrary, the City of Appleton expressly reserves the right at any time to authorize in writing variances from the strict applications of these covenants and restrictions, or any one or more of them, where the circumstances, in its sole and exclusive judgement, justifies the granting of same.

18. *Enforcement:*

The Community Development Committee has the responsibility to ensure compliance with the covenants and restrictions through any and all lawful means. In the event that the owner fails to perform in accordance with these covenants and restrictions, the Common Council, upon recommendation of the Community Development Committee, may take whatever corrective measures it deems appropriate and assess the cost thereof against the property in the same manner as a special charge. The Common Council shall give at least thirty (30) days notice to the vendee of any violation and the steps required to correct it prior to taking any action to cure such violation.



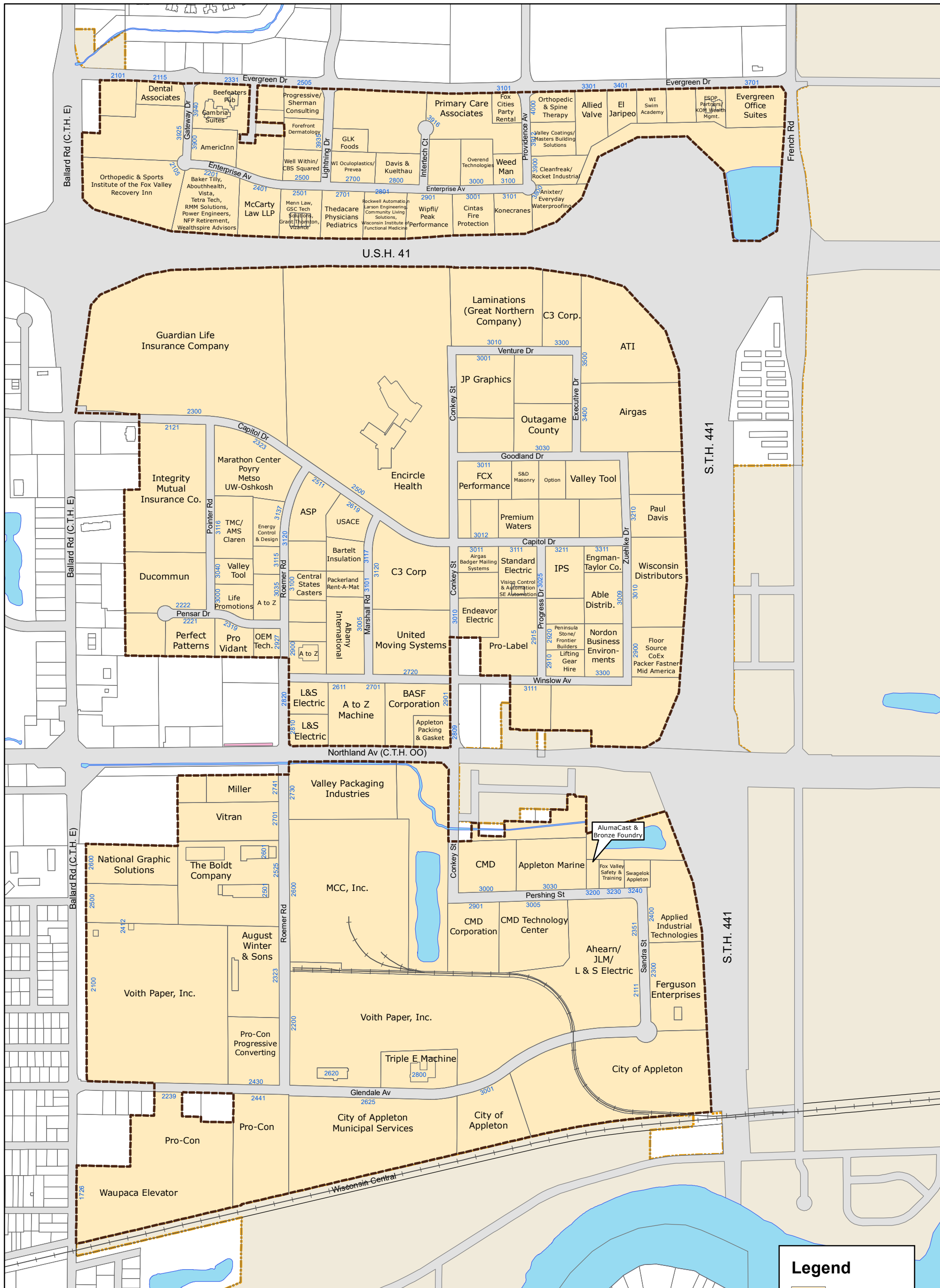
19. ***Invalidation:***

The invalidation of any one of the covenants or restrictions herein set forth or the failure to enforce any of said covenants and restrictions at the time of its violation shall in no way affect any of the other covenants or restrictions nor be deemed a waiver of the right to enforce the same thereafter.

20. ***Term:***

Each lot shall be conveyed subject to the covenants and restrictions set forth herein, all of which are to run with the land and shall be binding on all parties and all persons claiming them for a period of thirty (30) years from the date of this Declaration of Covenants and Restrictions is recorded, after which time said covenants and restrictions as are then in force and effect shall be automatically renewed for successive periods of ten (10) years each, unless an instrument terminating such covenants and restrictions is recorded with the Outagamie County Register of Deeds by the Common Council as evidenced by a resolution duly adopted by a majority of all members of the Common Council.

# Northeast Business Park Appleton, Wisconsin



## Legend

- Park Parcels
- Cparcel
- Park Boundary
- City Limits

0 0.25 0.5 Miles



## Department of Public Works – Engineering Division

### MEMO

**TO:** Utilities Committee

**FROM:** Danielle Block, Director of Public Works  
Kurt Craanen, Inspections Supervisor  
Sue Olson, Staff Engineer

**DATE:** October 4, 2022

**RE:** Approve changes to Municipal Code Chapter 24, Erosion and Sediment Control

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The Department of Public Works requests approval of changes to Municipal Code Chapter 24, Erosion and Sediment Control. Strike and bold language of the proposed changes is shown on the attached document. The proposed changes are requested to address staffing and workload issues by eliminating most permitting for small projects. Changes are also required to the Erosion and Sediment Control Program. These are presented as two separate action items but are not independent documents.

There are two sets of erosion control requirements from the State imposed onto the City. The Wisconsin Department of Natural Resources WPDES Permit No. WI-S050075-3 requires erosion control plan review and inspection for sites of one acre or more disturbed area. These are the requirements covered under City of Appleton Municipal Code Chapter 24. The WPDES permit also specifies the minimum frequency of inspections on these sites, which at times can be difficult to achieve. Historically the City has issued permits for sites much smaller than the State requires down to 2,000 square feet of disturbed area.

Wisconsin DSPS Uniform Dwelling Code section SPS 321.125 requires plan review and inspection of one- and two-family dwellings. The City of Appleton Erosion Control Inspector reviews plans and performs site inspections for both WDNR and DSPS requirements. Permits issued for one and two-family homes have doubled in recent years and require a significant amount of inspection time. Below are the number of one and two-family permits issued since 2018:

2018 – 59  
2019 – 56  
2020 – 83  
2021 – 112  
2022 - 109 (to date)

Adding to the workload are new WDNR requirements for private stormwater practices that have been constructed since 2004. The Erosion Control Inspector assists the Engineering Division with this program which was implemented in late 2021.

The on-going staffing issues related to vacant positions and continued retirements, as well as a high volume of plan review and construction inspection, are not expected to change soon. The proposed changes to the ordinance will eliminate plan review and permitting of most sites less than one acre of disturbed area, since this is not required by the State. Erosion and Sediment Control is still required at these sites, and staff

continue to have authority to address problems with any site, regardless of size. This will provide additional time for staff to perform field inspections at the required frequency, assist the Engineering Division with the new program, and remain in compliance with permit requirements.

**Sec. 24-1. Authority.**

(a) This ordinance is adopted under the authority granted by §62.234, Wis. Stats. This ordinance supersedes all provisions of any ordinance previously enacted under §62.23, Wis. Stats., that relates to erosion and sediment control. Except as otherwise specified in §62.234 Wis. Stats., §62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(b) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City of Appleton.

(c) The City of Appleton hereby designates the Director of Public Works or his/her designee as the administering authority to enforce the provisions of this ordinance.

(d) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:

- (1) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under §281.16 and §283.33, Wis. Stats.
- (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.  
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Sec. 24-2. Purpose.**

The City of Appleton acknowledges that runoff from land disturbing construction activity and improper land management carries sediment and other pollutants to the waters of the state.

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing activity to waters of the state within the City of Appleton.

It is also the purpose of this ordinance to meet the performance standards in subchapters III and IV of Ch. NR 151, Wis. Adm. Code and to meet the requirements for construction site pollutant control in the General Permit to Discharge under the Wisconsin Pollutant Discharge Elimination System WPDES Permit No. WI S050075-2 administered by the Wisconsin Department of Natural Resources (WDNR).  
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-3 – 24-9. Reserved.**

**Sec. 24-10. Applicability and jurisdiction.**

(a) *Applicability.*

- (1) This ordinance applies to all land disturbing activities, including transportation facilities, within the City of Appleton except as provided under sub. (3).
- (2) Land disturbing activities meeting any one of the following are required to prepare a plan and obtain a permit:
  - a. Building on lots in subdivisions, certified survey maps or unplatted lands.

- b. Land disturbing activities involving grading, removal of protective ground cover or vegetation, excavation, land filling, scraping or other land disturbing activity affecting a surface of ~~two thousand (2,000) square feet~~ one (1) acre or more.
- ~~e. Land disturbing activities involving excavation or filling or a combination of excavating and filling affecting two hundred (200) cubic yards or more of soil, dirt, sand or other excavation or fill material.~~
- ~~d.c.~~ Land disturbing activities involving street, highway, road or bridge construction, enlargement, relocation or reconstruction affecting a surface area of one (1) acre or more.
- ~~e. Land disturbing activities involving the laying, repairing, replacing or enlarging of an underground pipe, wire, cable or facility for a distance of three hundred (300) feet or more.~~
- ~~f. Land disturbing activities within protective areas as defined in City of Appleton Municipal Code Sec. 20-312(f).~~
- ~~g. Routine ditch maintenance for a continuous distance of one hundred (100) feet or more.~~
- h.d. Notwithstanding the previously listed applicability requirements, this ordinance applies to any sites which, in the opinion of the City of Appleton, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that cause undue erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property or public safety.

(3) This ordinance does not apply to the following:

- a. Land disturbing construction activity that includes the construction of one- (1-) and two- (2-) family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one (1) acre of disturbance. These construction sites are regulated by the Wisconsin Department of Safety and Professional Services under s. SPS 321.125 Wis. Adm. Code.
- b. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under Chapter 40, Code of Federal Regulations, part 122, for land disturbing activity.
- c. Nonpoint discharges from agricultural facilities and practices.
- d. Nonpoint discharges from silviculture activities.
- e. Activities conducted by a state agency, as defined under §227.01 (1), Wis. Stats., but also including the office of the district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under §281.33 (2), Wis. Stats.

(b) ***Jurisdiction.***

- (1) This ordinance applies to land disturbing activities located within the boundaries of the City of Appleton.
- (2) *County and town ordinances.* This ordinance supercedes any county or town erosion and sediment control ordinance for lands annexed to the City after the effective date of the county's or town's ordinance, except when the county's or town's ordinance is more restrictive than this ordinance; then the more restrictive provisions set forth in the county or town ordinance shall become part of this ordinance and apply to the annexed lands. In such cases, the City may grant a variance from the more restrictive requirements provided that the criteria for a variance as set forth in the county ordinance is met.

(3) *Waivers.* Requests to waive the erosion and sediment control requirements, or a portion thereof, shall be submitted to the City of Appleton, in writing, with the application and fee, for review. Written waivers may be granted administratively by the City for erosion and sediment control requirements that are required by the City if it is demonstrated to the satisfaction of the City that it is reasonable to expect that the objectives of this ordinance will be met without an erosion and sediment control plan or portion thereof.

(4) *Applicability of maximum extent practicable.* Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City of Appleton's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other completing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

(Ord 180-04, §1, 1-1-05; Ord 181-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16; Ord 9-20, §1, 2-11-20))

**Secs. 24-11 – 24-14. Reserved.**

#### **Sec. 24-15. Definitions.**

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administering authority* means the Director of Public Works, or a designee.

*Agricultural facilities and practices* has the meaning in §281.16(1), Wis. Stats.

*Average annual rainfall* means a calendar year of precipitation, excluding snow, which is considered typical. An average annual rainfall for Green Bay, 1969 (March 29 - November 25) is applicable for the City of Appleton.

*Best management practice* or *BMP* means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff.

*Business day* means a day the offices of the City of Appleton are routinely and customarily open for business.

*Cease and desist order* means a court-issued order to halt land disturbing activity that is being conducted without the required permit or not in conformance with an existing permit.

*City* means the City of Appleton.

*Common plan of development or sale* means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one (1) plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

*Construction site* means an area upon which one (1) or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one (1) common plan of development.

*Design storm* means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall. Rainfall amounts for 24-hour design rainfall events in Appleton are: 100-year, 5.50 inches; 10-year, 3.51 inches; 5-year, 3.01 inches; 2-year, 2.45 inches, and 1-year 2.14 inches. The distribution shall be NOAA Atlas 14 MSE4.

**Erosion** means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

**Erosion and sediment control plan** means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

**Final stabilization** means that all land disturbing activities at the site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least seventy percent (70%) of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

**Land disturbing activity** means any man-made alteration resulting in a change in the topography, existing vegetative or non-vegetative soil cover, or drainage pattern, that may result in runoff and lead to an increase in soil erosion and movement of sediment. Land disturbing activities include, but are not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, an unstable pipe outfall, or an unstable slope.

**Landowner** means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of stormwater BMPs on the property.

**Maximum extent practicable** means the highest level of performance that is achievable, but is not equivalent to a performance standard, taking into account the best available technology, cost effectiveness and other competing issues such as human welfare, endangered and threatened resources, historic properties, and geographic features, pursuant to Sec. 20-10(b)(4) of the Appleton Municipal Code.

**Performance standard** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

**Permit** means a written authorization made by the City of Appleton to the applicant to conduct land disturbing activity.

**Pollutant** has the meaning given in §283.01(13), Wis. Stats.

**Pollution** has the meaning given in §281.01(10), Wis. Stats.

**Responsible party** means any person holding fee title to the property or other entity performing services to meet the requirements of this ordinance through a contract or other agreement.

**Runoff** means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

**Performance security** means cash, or an irrevocable letter of credit submitted to the City of Appleton by the responsible party to assure that requirements of the ordinance are carried out in compliance with the approved erosion and sediment control plan and to recover any costs incurred by the City for designing, engineering, preparation, checking and review of plans and specifications, regulations and ordinances, and legal, administrative and fiscal work undertaken to assure and implement such compliance.

**Permit application fee** means a sum of money paid to the City of Appleton by the responsible party for the purpose of recouping expenses incurred by the City in administering the permit.

**Sediment** means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.



**Silviculture activity** means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

**Site** means the entire area included in the legal description of the land on which the land disturbing activity is proposed in the permit application or has occurred.

**Stop work order** means an order issued by the City of Appleton, which requires that all construction activity on the site be stopped.

**Stormwater conveyance system** means any method employed to carry stormwater runoff within and from a land development or redevelopment activity to the waters of the state. Examples of methods include: swales, channels and storm sewers.  
(Ord 182-11, §1, 1-1-12)

**Technical standard** means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

**Transportation facility** means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under §85.095(1)(b), Wis. Stats. Transportation facility does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to §281.33, Wis. Stats.

**Waters of the state** has the meaning in §283.01(20), Wis. Stat.  
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-16 – 24-19. Reserved.**

#### **Sec. 24-20. Technical standards.**

(a) **Design criteria, standards and specifications.** All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

- (1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of Chapter NR 151, Wis. Adm. Code.
- (2) Soil loss prediction tools (such as the Universal Soil Loss Equation [USLE] or its successors RUSLE and RUSLE2) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.

(b) **Other standards.** Other technical standards not identified or developed in sub. (a), may be used provided that the methods have been approved by the City of Appleton.  
(Ord 180-04, §1, 1-1-05; Ord 183-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Secs. 24-21 – 24-23. Reserved.**

#### **Sec. 24-24. Performance standards for non-permitted sites.**

(a) **Responsible party.** The responsible party shall comply with this section.

(b) **Requirements.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

- (1) The deposition of soil from being tracked onto streets by vehicles.

- (2) The discharge of sediment from disturbed areas into on-site storm water inlets.
- (3) The discharge of sediment from disturbed areas.
- (4) The discharge of sediment from drainage ways that flow off the site.
- (5) The discharge of sediment by dewatering activities.
- (6) The discharge of sediment eroding from soil stockpiles existing for more than seven (7) days.
- (7) The transport, by runoff [from the site](#), of chemicals, cement and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

(c) **Location.** The BMPs used to comply with this section shall be located so that treatment occurs before runoff leaves the site or enters a storm conveyance system, any drainage channel or waters of the state.

(d) **Implementation.** The BMPs used to comply with this section shall be implemented as follows:

- (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
- (2) Erosion and sediment control practices shall be maintained until final stabilization.
- (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (4) Temporary stabilization activity shall commence when land disturbing activities cease and will not resume for a period exceeding fourteen (14) calendar days.
- (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.
- (6) All off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site deposits occurring as a result of land disturbing activities shall be cleaned up by the end of the workday. Flushing is not allowed.

(e) **Alternate requirements.** The City of Appleton may establish erosion and sediment control requirements more stringent than those set forth in this section if the City determines that an added level of protection is needed to protect resources.

(Ord 184-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

#### **Sec. 24-25. Performance standards for permitted sites.**

(a) **Responsible party.** The responsible party shall implement an erosion and sediment control plan, developed in accordance with Sec. 24-35, that incorporates the requirements of this section.

(b) **Plan.** A written site specific erosion and sediment control plan shall be developed in accordance with Sec. 24-35 and implemented for each construction site.

(c) **Erosion and other pollutant control requirements.** The plan required under sub. (b) shall include the following:

- (1) Erosion and sediment control practices shall be used to prevent or reduce all of the following:

- a. The deposition of soil from being tracked onto streets by vehicles.
- b. The discharge of sediment from disturbed areas into on-site storm water inlets.
- c. The discharge of sediment from disturbed areas into adjacent waters of the state.
- d. The discharge of sediment from drainage ways that flow off the site.
- e. The discharge of sediment by dewatering activities.
- f. The discharge of sediment eroding from soil stockpiles existing for more than seven (7) days.
- g. The discharge of sediment from erosive flows at outlets and in downstream channels.
- h. The transport, by runoff from the site, of chemicals, cement and other building compounds and materials from the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
- i. The transport by runoff of untreated wash water from vehicle and wheel washing from the construction site. Wastewaters, such as concrete truck washout, shall be properly managed to limit the discharge of pollutants.

~~(2) For permitted sites with less than one (1) acre disturbed activity, BMPs that, by design, achieve to the maximum extent practicable, a reduction of eighty percent (80%) of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the site has undergone final stabilization. No person shall be required to exceed an eighty percent (80%) sediment reduction to meet the requirements of this paragraph.~~

~~(3) For permitted sites with one (1) acre or more disturbed area, BMPs that, by design, discharge no more than five (5) tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization, as determined by the WDNR construction site soil loss and sediment discharge guidance.~~

~~(4) Erosion and Sedimentation BMPs may be combined to meet the requirements of this section. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing activity, or other appropriate mechanism. The method of calculating the percent reduction in sediment shall be a method approved by the City of Appleton.~~

~~(5) No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with MEP.~~

~~(6) Notwithstanding sub. (2) and (3), if BMPs cannot be designed and implemented to meet these requirements, the plan shall include a written and site-specific explanation as to why the requirements are not attainable and how the sediment load shall be reduced to the maximum extent practicable.~~

~~(7) Preventative measures. The plan shall incorporate all of the following:~~

- a. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
- b. Minimization of soil compaction and preservation of topsoil.
- c. Minimization of land disturbing construction activity on slopes of twenty percent (20%) or more.
- d. Development of spill prevention and response procedures.

(87) All off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site deposits occurring as a result of land disturbing activities shall be cleaned up by the end of the workday. Flushing is not allowed.

(d) **Location.** The BMPs used to comply with this section shall be located so that treatment occurs prior to runoff leaving the site or entering the storm conveyance system, any drainage channel or waters of the state.

(e) **Implementation.** The BMPs used to comply with this section shall be implemented as follows:

- (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with plan developed under Sec. 24-35.
- (2) Erosion and sediment control practices shall be maintained until final stabilization.
- (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (4) Temporary stabilization activity shall commence when land disturbing activities cease and will not resume for a period exceeding fourteen (14) calendar days.
- (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

(f) **Alternate requirements.** The City of Appleton may establish erosion and sediment control requirements more stringent than those set forth in this section if the City determines that an added level of protection is needed to protect sensitive resources.

(Ord 180-04, §1, 1-1-05; Ord 185-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Secs. 24-26 – 24-29. Reserved.**

### **Sec. 24-30. Permitting requirements, procedures and fees.**

(a) **Permit required.** No responsible party may commence any land disturbing activity subject to this ordinance without first receiving approval of an erosion and sediment control plan for the site and a permit from the City of Appleton.

(b) **Permit application and fees.** The responsible party desiring to undertake a land disturbing activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of Sec. 24-35 and shall pay an application fee to the City of Appleton. By submitting an application, the applicant is authorizing the City of Appleton to enter the site to obtain information required for the review of the erosion and sediment control plan.

(c) **Review and approval of permit application.** The City of Appleton shall review any complete permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

- (1) Within twenty (20) business days of the receipt of a complete permit application, as required by sub. (b), the City of Appleton shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.
- (2) If the permit application and plan are approved, the City of Appleton shall issue the permit.
- (3) If the permit application or plan is disapproved, the City of Appleton shall state in writing the reasons for disapproval.

- (4) The City of Appleton may request additional information from the applicant. If additional information is submitted, the City of Appleton shall have twenty (20) business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
- (5) Failure by the City of Appleton to inform the permit applicant of a decision within twenty (20) business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(d) **Performance security.** The City of Appleton may, at its discretion, require the submittal of a cash escrow, irrevocable letter of credit, or performance security prior to issuance of the permit to ensure that the practices are installed and maintained by the responsible party as required by the approved erosion and sediment control plan and any conditions attached to the permit. The amount of the installation performance security shall be determined by the City of Appleton, not to exceed the total estimated construction cost of the erosion and sediment control practices approved under the permit unless otherwise specified in the permit. The amount of any required maintenance performance security shall be determined by the City of Appleton. Any performance securities shall contain forfeiture provisions for failure to complete work specified in the plan.

Conditions for the release of performance security are as follows:

- (1) The installation performance security shall be released in full only upon submission of “as built plans” and written certification by a professional engineer registered in the State of Wisconsin that the practice(s) were installed in accordance with the approved plan and other applicable provisions of this ordinance. The City of Appleton may make provisions for a partial pro-rata release of the performance security based on the completion of various development stages including the final inspection of landscaping material.
- (2) The maintenance performance security, minus any costs incurred by the City of Appleton to conduct required maintenance, design, engineering, preparation, checking and review of designs, plans and specifications; supervision and inspection to ensure that construction is in compliance with applicable plans, specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance, shall be released at such time that the responsibility for practice maintenance is passed on to another private entity, via an approved maintenance agreement, or to the City of Appleton.

(e) **Permit requirements.** All permits shall require the responsible party to:

- (1) Notify the City of Appleton no less than two (2) business days prior to commencing any land disturbing construction activity.
- (2) Notify the City of Appleton of completion of any BMPs within two (2) business days after their installation.
- (3) Notify the City of Appleton no less than two (2) business days prior to leaving the site at the completion of the project or seasonal shutdown.
- ~~(34)~~ Obtain permission in writing from the City of Appleton prior to any modification pursuant to Sec. 24-35 of the erosion and sediment control plan.
- ~~(45)~~ Install all BMPs as identified in the approved erosion and sediment control plan.
- ~~(56)~~ Maintain and repair all road drainage systems, storm conveyance systems, BMPs and other facilities, both on and off site, identified in the approved erosion and sediment control plan.
- ~~(67)~~ Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.

(78) Inspect the BMPs within twenty-four (24) hours after each rain of 0.5 inches or more and at least once each week. Make needed repairs, install additional BMPs as necessary and document the findings of the inspections in an erosion control log kept on site with the date of inspection, the name of the person conducting the inspection, a description of the present phase of the construction, a description of any repairs needed and documentation of the completed repairs.

(89) *Winter dormant inspection requirements.* When a permitted construction site is shut down and dormant over the winter season, the applicant shall be exempt from weekly inspections as required in Sec. 24-30(e)(7) upon approval of the Director of Public Works. In order for a permitted site to be classified as winter dormant, the applicant must install erosion control measures to the satisfaction of the Director of Public Works, provide an inspection of these measures and then cease all construction activities except for minor maintenance activities. Once a site is classified as winter dormant by the Director of Public Works, inspections are only required within twenty-four (24) hours of a rain or thaw event as determined by the Director of Public Works. If at any time construction resumes or an erosion control failure occurs at the site, the site shall lose the winter dormant classification and the applicant must resume normal inspection.

(910) *Documentation of inspection.* When required by the City of Appleton, erosion control inspections, including any repairs needed and/or actions taken at the site, shall be documented on the City of Appleton online erosion control self-reporting system. The permittee will be given access to this website, which contains documentation and forms for use in the erosion control inspections. Digital photographs of each of the erosion control practices and the site conditions shall be submitted and shall be required to meet the minimum inspection requirements of this section.

(4011) Allow the City of Appleton to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the plan. Keep a copy of the erosion and sediment control plan at the construction site.

(f) **Permit conditions.** Permits issued under this section may include conditions established by City of Appleton in addition to the requirements set forth in sub. (e), where needed to assure compliance with the performance standards in Sec. 24-25.

(g) **Permit duration.** Permits issued under this section shall be valid for a period of one (1) year, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance.

(h) **Maintenance.** The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization and final acceptance by the City of Appleton. Upon failure to perform the necessary maintenance of the erosion control practices, the City of Appleton retains the right to perform maintenance and/or repairs. The costs shall be assessed to the responsible party.

(i) All sites covered under this ordinance shall implement a long-term stormwater management plan per Wis. Adm. Code s. NR 216.47. For sites not subject to the Stormwater Management Standards and Planning Ordinance in Article VI of Chapter 20 of the Appleton Municipal Code, a stormwater management acknowledgement form, accepting the long-term stormwater management requirements, shall be required prior to receiving an erosion and sediment control permit.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-31 – 24-34. Reserved.**

**Sec. 24-35. Erosion and sediment control plan, statement and amendments.**

(a) **Erosion and sediment control plan.**

- (1) An erosion and sediment control plan shall be prepared and submitted to the City of Appleton Department of Public Works, ~~unless the project is required to also submit a site plan. If a site plan is required, the complete erosion and sediment control permit application and appropriate fee shall be submitted to the City of Appleton Community Development Department with the site plan submittal.~~
- (2) The complete erosion and sediment control plan shall be submitted in both hard copy and .pdf format.
- (3) The erosion and sediment control plan shall be prepared by a person who holds a registration issued by the Wisconsin Department of Regulation and Licensing in one (1) of the following categories:
  - a. Architect.
  - b. Engineer.
  - c. Land Surveyor.
  - d. Landscape Architect.
- (4) The erosion and sediment control plan shall be designed to meet the performance standards in Sec. 24-25 and other requirements of this ordinance.
- (5) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
  - a. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's contact at such firm. The application shall also include start and end dates for construction.
  - b. Description of the site and the nature of the land disturbing activity. Sites of one (1) acre or more shall include the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
  - c. The intended sequence of land disturbing construction of the development site, including stripping; clearing and grubbing; excavation; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date when clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, establishment of permanent vegetation and removal of erosion and sediment controls.
  - d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
  - ~~e. For sites less than one (1) acre of disturbed area, include BMPs meeting the provisions of Sec. 24-25(c)(2).~~
  - ~~f. For sites with one (1) acre or more of disturbed area, provide calculations per WDNR Soil Loss Guidelines per Sec. 24-25(c)(3).~~
  - ~~g. Location and description of the existing surface soil as well as subsoils, as indicated by USDA Natural Resource Conservation Service Soil Survey information.~~
  - ~~h. Whenever permanent infiltration devices will be employed or were evaluated, the depth to the nearest seasonal high groundwater elevation or top of bedrock shall be identified per appropriate on-site testing.~~

- h. Name of the immediate named receiving water from the United States Geological Services 7.5 minute series topographic maps.
- (6) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than one hundred (100) feet per inch and at a contour interval not to exceed two (2) feet.
- a. Existing topography, vegetative cover, natural and engineered drainage patterns and systems, roads, and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on the site and on adjacent lands shall be shown. Any identified 100-year flood plains, flood fringes, floodways, and flood storage areas shall also be shown.
  - b. Boundaries of the parcel and the construction site.
  - c. Drainage patterns and approximate slopes before and after major grading activities.
  - d. Areas of soil disturbance.
  - e. Location, dimensions and descriptions of major structural and non-structural controls identified in the erosion and sediment control plan.
  - f. Location of areas where stabilization BMPs will be employed.
  - g. Areas that will be vegetated following land disturbing construction activity.
  - h. Area(s) and location(s) of wetland acreage on the site and locations where stormwater is discharged to a surface water or wetland, within one-quarter mile downstream of the construction site.
  - i. Water courses and wetlands that may affect or be affected by runoff from the site.
  - j. On sites one (1) acre or larger an alphanumeric or equivalent grid overlying the entire construction site map.
  - k. Topography and drainage network of enough of the contiguous properties to show runoff patterns onto, through, and from the site.
  - l. Location, dimensions and description of utilities, structures and pavements.
  - m. Area(s) used for infiltration of post-construction stormwater runoff.
- (7) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:
- a. Description of interim and permanent stabilization practices, including a BMP implementation schedule. Erosion and sediment control plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
  - b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the City of Appleton, structural measures shall be installed on upland soils.



- c. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
  - d. Trapping of sediment in channelized flow.
  - e. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
  - f. Protection of downslope drainage inlets where they occur.
  - g. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
  - h. Clean up of off-site sediment deposits.
  - i. Proper disposal of building and waste materials, including but not limited to designated sites for concrete truck washout.
  - j. Stabilization of drainage ways.
  - k. Control of soil erosion from stockpiles.
  - l. Installation of permanent stabilization practices within ten (10) days after final grading.
  - m. Minimization of dust to the maximum extent practicable.
- (Ord 187-11, §1, 1-1-12)

- (8) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(b) ***Erosion and sediment control plan statement.*** For each land disturbing construction site identified under Sec. 24-15, an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the City of Appleton. The control plan statement shall briefly describe the site, the development schedules and the best management practices that will be used to meet the requirements of the ordinance.

(c) ***Amendments.*** The applicant shall amend the plan if any of the following occur:

- (1) There is a change in design, construction, operation or maintenance at the site that has the reasonable potential for the discharge of pollutants and has not otherwise been addressed in the erosion and sediment control plan.
  - (2) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.
  - (3) The City of Appleton notifies the applicant of changes needed in the plan.
- (Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16; Ord 10-20, §1, 2-11-20)

**Secs. 24-36 – 24-39. Reserved.**

**Sec. 24-40. Fee schedule.**

Fees for the erosion and sediment control permits will be in such amount as may be established by the City of Appleton Common Council from time to time by separate resolution. Fees will be on file with the City Clerk.  
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-41 – 24-44. Reserved.**

**Sec. 24-45. Site inspections.**

Whenever land disturbing activities are being carried out, the City of Appleton may enter the land pursuant to the provisions of §§66.0119(1), (2), and (3), Wis. Stats. (Ord 180-04, §1, 1-1-05; Ord 188-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Secs. 24-46 – 24-49. Reserved.**

**Sec. 24-50. Enforcement and penalties.**

(a) Any land disturbing activity initiated after the effective date of this ordinance by any person, firm, association or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with these ordinance provisions.

(b) The City of Appleton shall notify the responsible party in writing of any non-complying activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action and additional enforcement action, which may be taken.

(c) Upon receipt of written notification from the City of Appleton, the responsible party shall make the necessary corrections within the time period established by the City of Appleton.

(d) If the violations issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City of Appleton may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of Appleton plus interest and legal costs shall be billed to the responsible party.

(e) The City of Appleton is authorized to post a stop work order on all land development or redevelopment activity in violation of this ordinance, or to request the Appleton City Attorney to obtain a cease and desist order.

(f) The City of Appleton may revoke a permit issued under this ordinance for noncompliance with ordinance provisions.

(g) Any permit revocation, stop work order or cease and desist order shall remain in effect unless retracted by the City of Appleton or by a court of competent jurisdiction.

(h) The City of Appleton is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Appleton City Attorney for the commencement of further legal proceedings.

(i) Any person, firm, association or corporation who does not comply with the provisions of this ordinance shall be subject to the general penalty provisions of the Appleton Municipal Code Sec. 1-16. Each day that the violation exists shall constitute a separate offense.

(j) Violations of this ordinance deemed to be a public nuisance shall be subject to abatement under Sec. 12-32 of the Appleton Municipal Code or compliance with this ordinance may be enforced by injunctive order in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

(k) When the City of Appleton determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the erosion and sediment control plan submitted and approved pursuant to this ordinance, or has failed to comply with schedules set forth in said erosion and sediment control plan, the City of Appleton or a party designated by the City of Appleton may enter upon the land and perform the work or other

operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City of Appleton shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance security posted pursuant to this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property.

(l) No building occupancy may be issued if there is noncompliance of any provision herein.

(m) No building permit may be issued in any subdivision when the subdivision is not in compliance with the requirements of this chapter.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-51 – 24-54. Reserved.**

### **Sec. 24-55. Appeals**

(a) The Utilities Committee of the Appleton Common Council shall hear and recommend to Council appeals where it is alleged that there is error in any order, decision or determination made by the City of Appleton in administering this ordinance except for cease and desist orders obtained under Sec. 24-50(e).

Upon appeal, the Committee may recommend to Council relief from the provisions of this ordinance that are not contrary to the public interest or provisions of state regulations, and where owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship.

(b) *Who may appeal.* Appeals to the Utilities Committee of the City of Appleton may be taken by any aggrieved person or by an officer, department, board or bureau of the City of Appleton affected by any decision of the City of Appleton. Written appeals shall be filed with the City Clerk. The Utilities Committee will make a recommendation within forty-five (45) calendar days of filing of the appeal. If the Utilities Committee takes no action within forty-five (45) calendar days, the appeal will automatically be sent to Council with a recommendation for approval. Either party may file a written request for a time extension with the City Clerk.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-56 – 24-59. Reserved.**

### **Sec. 24-60. Severability.**

If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portion thereof of the ordinance which shall remain in full force and effect.

(Ord 180-04, §1, 1-1-0; Ord 49-16, §1, 6-21-16)

\*Editor's Note: Chapter 24 was repealed and recreated by ordinance 180-04. This ordinance is effective as of January 1, 2005.

\*Editor's Note: Chapter 24 was repealed and recreated by ordinance 49-16. This ordinance is effective as of June 21, 2016.

City Law: 21-0961  
Revised: 09-02-2022

City of Appleton  
Construction Site Pollutant Control Program  
Section 2.4 WPDES Permit No. WI-S050075-3  
Permit Start Date May 1, 2019  
February 2020  
Revised September 2022

Since 1998, the City of Appleton has progressively addressed erosion control issues. The City has an Erosion and Sediment Control Ordinance, an established program and a full-time erosion control inspector assigned to administer the program. This document describes the program as required in the Permit from the Wisconsin Department of Natural Resources (WDNR). This revision addresses current and expected long-term workload and staffing issues.

Funding for this program is through the City of Appleton Stormwater Utility.

This document will be kept in the Inspections Division of the Department of Public Works (DPW) located on the fifth floor of City Center, 100 N. Appleton Street, Appleton, Wisconsin.

Bold text is permit language.

## **2.4 Construction Site Pollutant Control**

**The permittee shall continue to implement and enforce its program to reduce the discharge of sediment and construction materials from construction sites. The permittee shall implement the following measureable goals:**

### **2.4.1 Construction Site Ordinance**

**An ordinance or other regulatory mechanism to require erosion and sediment control at construction sites and establish sanctions to ensure compliance. At a minimum, the ordinance or other regulatory mechanism shall establish or include:**

- a. Applicability and jurisdiction, pursuant to the authority provided to the permittee under Wisconsin statutes, the ordinance shall apply to all construction sites with one acre or more of land disturbance, and to sites of less than one acre if they are part of a larger common plan of development or sale.**
- b. Requirements for design and implementation of erosion and sediment control practices consistent with the criteria of those approved by the Department.**
- c. Construction site performance standards equivalent to those in ss. NR 151.11(6m), (7) and (8) and 151.23(4m), (5) and (6) Wis. Adm Code, to achieve the following measurable goals:**

**(1) BMPs for construction sites that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.**

**(2) BMP's for transportation facilities that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from the initial grading to final stabilization.**

**d. Erosion and sediment control plan requirements for landowners of construction sites equivalent to those contained in s. NR 216.46 Wis. Adm. Code.**

**e. Inspection and enforcement authority.**

**f. Requirements for construction site operators to manage waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste at the construction site to reduce adverse impacts to waters of the state.**

The City of Appleton Erosion and Sediment Control Ordinance was originally effective January 1, 1999 and subsequently updated January 2005, January 2012 and June 2016. Ordinance updates followed the model WDNR ordinance available at the time. The ordinance has **always traditionally** been more stringent than the WDNR model ordinance, requiring permits for disturbed areas of two thousand (2,000) square feet or larger. The 2020 ordinance update includes **d** the new requirements of Section 2.4.1. **This revision and the associated ordinances changes require plan review and permits for sites disturbing one acre or more, continuing to meet the permit requirements.**

The ordinance is Chapter 24 of the Municipal Code. It is available at DPW - Inspections and on the City's website, as periodically updated.

#### **2.4.2 Erosion and Sediment control plan review.**

**Written procedures for construction site plan review which incorporate consideration of potential water quality impacts. Preconstruction erosion control plan reviews shall be conducted for all construction sites with greater than one acre of land disturbance.**

Erosion and sediment control permits are required for all land disturbing activities exposing **2000 sq. ft. one acre** or more of the soil surface, including but not limited to, clearing/grubbing, demolition, excavating, filling and grading activities, **with the exception of one and two family construction, where permits are required only when land disturbance is one acre or more.** DPW - Inspections addresses one and two family construction for sites disturbing less than one acre per the Uniform Dwelling Code. Permit applications are available at DPW - Inspections, **the Community & Economic Development Department—Planning Division,** and on the City of Appleton website. The City of Appleton Erosion Control Inspector is responsible for reviewing all plans requiring a permit, **with assistance from the DPW-Engineering Division and consultants as needed.** Plans are submitted to the **Community & Economic Development**

~~Department—Planning Division when the project is required to go through the City site plan review process, and directly to DPW - Inspections when no site plan is required~~Division.

The City uses a checklist that is consistent with the ordinance to review and prepare plans. The checklist is attached to this document. The checklist was updated per the 2020 ordinance update and has been reviewed and updated again with this 2022 revision.

Once a plan is received by DPW - Inspections, the plan review process is as follows:

- A. The Erosion Control Inspector reviews the plan for conformance with the erosion and sediment control ordinance within 20 working days of receipt and responds one of the following ways:
1. Contacts the applicant in writing and requests revisions necessary for approval. Reviews re-submittals within 20 working days of receipt.
  2. Approves the plan, assigns permit number, signs the permit application and enters plan information into the PermiTrack on-line system (generally sites one acre or more) or the AS400 system (generally sites less than one acre) for tracking purposes.
  3. Notifies the Community & Economic Development Department – Planning Division of the erosion & sediment plan approval when the plan is part of the City site plan review process. Notifies the permit applicant of approval when the City site plan is not required.
  4. Returns a copy of the approved permit application to the applicant, which indicates the plan and permit are approved.

The duration of the permit is for a period of one (1) year, or the length of any corresponding building permit, whichever is longer, from the date of issuance.

- B. Plans for DPW - Engineering projects requiring a permit are prepared by the Project Engineer with the assistance of the Erosion Control Inspector in accordance with the erosion and sediment control ordinance and City of Appleton standard construction specifications. For projects designed by a consultant for DPW-Engineering, the consultant prepares the plan and submits it to the Erosion Control Inspector for review. The Erosion Control Inspector issues permits for DPW - Engineering projects and enters the information into the AS400 system for tracking. The Erosion Control Inspector is invited to all preconstruction meetings for DPW projects.

Appleton standard construction specifications for Erosion Control and Vegetative Restoration are based on the WDNR technical standards and updated every two years. Any necessary changes between official updates of the specifications are included in project Special Provisions.

### **2.4.3 Administrative procedures.**

**Written procedures for the administration of the construction site pollutant control program including the process for obtaining local approval, managing and responding to complaints, tracking regulated construction sites, and construction site plan receipt and consideration of information submitted by the public.**

- A. Administration of the erosion & sediment control program is by DPW– Inspections under the authority and requirements of Chapter 24 of the City of Appleton Municipal Code (Erosion & Sediment Control Ordinance). All revisions to the ordinance are reviewed and approved by the Utilities Committee and Common Council.
- B. The process for obtaining plan approval is documented in Section 2.4.2.
- C. Complaints are logged into the AS400 system and routed to the erosion control inspector for a site inspection and any necessary follow up action. Inspection notes and follow up activities are documented in the AS400 system.
- D. Regulated construction sites are tracked on either the PermiTrack or the AS400 system. Non-compliance orders are entered into the AS400 system and tracked through weekly code enforcement meetings.
- E. Plan received for review are logged into a Word chart under the DPW - Inspections drive on the City’s server. This log is available for a limited amount of staff to edit and ~~various~~ additional staff as “read only”.
- F. Information submitted by the public regarding this program can be submitted many ways. In general, this information would be reviewed by the Erosion Control Inspector and the Inspections Supervisor. Any changes to the program resulting from this information would be documented and provided to the WDNR.

**2.4.4 Construction site inspections and enforcement.**

**Written procedures for construction site inspection and enforcement of erosion and sediment control measures. By April 1, 2020, at a minimum, the procedures shall establish:**

- a. Municipal departments or staff responsible for construction site inspections and enforcement.**

The DPW - Inspections is responsible for inspection and enforcement of the Erosion and Sediment Control Ordinance. A full time Erosion Control Inspector position has been in place and staffed since 1999.

- b. **Construction site inspection frequency.** The permittee shall inspect all construction sites, at a minimum, in accordance with the frequency specified in [the following table:]

Site	Inspection Frequency
<b>(1) All sites one acre or more in size</b>	<ul style="list-style-type: none"> <li>• <b>New projects shall be inspected within the first two weeks of commencement of land disturbing activity</b></li> <li>• <b>All active sites shall be inspected at least once every 45 days</b></li> <li>• <b>All inactive sites shall be inspected at least once every 60 days</b></li> </ul>
<b>(2) Follow up inspection</b>	<ul style="list-style-type: none"> <li>• <b>Follow up inspections are required within 7 days of any sediment discharge or inadequate control measure, unless corrections were made and observed by the inspector during the initial inspection or corrections were verified via photographs submitted to the inspector</b></li> </ul>
<b>(3) Final Inspection</b>	<ul style="list-style-type: none"> <li>• <b>Confirm that all graded areas have reached final stabilization and that all temporary control measures are removed, and permanent stormwater management BMPs are installed as designed.</b></li> </ul>

New projects of one acre or more are inspected within the first two weeks of the beginning of construction. Routine inspection of active sites occurs every 45 days, monthly when possible. Inactive sites are inspected every 60 days. Priority is given to sensitive or high risk areas, with the size of the site not necessarily corresponding to the risk. When DPW – Inspections is notified of a discharge or when an inspection identifies deficiencies in on-site erosion control measures, the responsible party is notified of needed corrections and deadlines for making corrections. Follow up inspections are made within 7 days. Inspections continue until final site stabilization occurs and erosion control measures are removed.



Verification that permanent stormwater BMPs are installed as designed is handled by DPW - Engineering under section 2.5 of the permit.

**c. Construction site inspection documentation. Compliance with the inspection requirements in 2.4.4.a and b. above, shall be determined by proper documentation and maintenance of records of an established inspection program designed to inspect all sites.**

Inspections are documented on the PermiTrack or the AS400 system. Inspection information includes the inspection date, address of site, reason for inspection, permit number, whether it passed or failed, and details of any violations or miscellaneous information. Enforcement action is documented in the AS400 system.

Photos are taken of practices not in compliance with the approved plan and stored on the City server.

**d. Enforcement mechanisms that will be used to obtain compliance.**

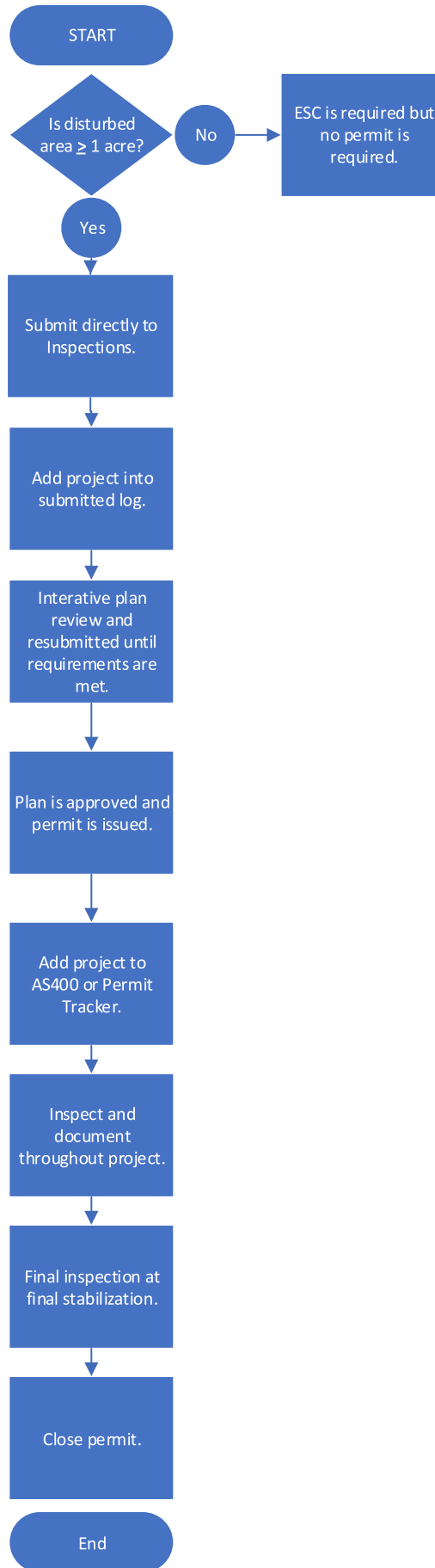
The stepped enforcement process is as follows:

1. Verbal notice is immediately given to the construction manager along with the list of required corrections and the date of compliance. A formal written notice of non-compliance is issued to the owner of the property, with a copy to the construction manager. The compliance date and required corrections are listed on the notice. The compliance time may vary from immediate action to typically 2 or 3 days, depending on the severity of the violation or impending weather.
2. A re-inspection will take place to determine if adequate corrections have been made, and one of the following will occur:
  - a. The corrections are made and approved – case will be closed.
  - b. If no corrective action has been made, a stop work order will be issued. If corrections still have not been made within 1 week of the Stop Work Order, or a weather event has caused sediment runoff offsite, a citation will be issued. Further citations will be issued until corrective action is taken and approved.
  - c. If a significant amount of time has passed and the corrections are still not made, the City of Appleton may make the required corrections and assess the costs to the property owner in order to bring the site into compliance.

ATTACHMENTS

Flow Chart  
Checklist  
Ordinance

## 2.4 Construction Site Pollutant Control Revised September 2022





## 2022 EROSION & SEDIMENT CONTROL PLAN REVIEW CHECKLIST

Site Name: \_\_\_\_\_ Address: \_\_\_\_\_

Date: \_\_\_\_\_ Site Plan #: \_\_\_\_\_ Reviewed By: \_\_\_\_\_

Review comments in red.

1. Erosion & Sediment Control Application

Shown	Shown But Incomplete	Not Shown	N/A	Required Item
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a.Fee (Less than 1 ac. - \$100, 1 to 10 acs. - \$150, 10+ acs. - \$200)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b.Owner name, address, phone, e-mail, and signature
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	c.Applicant name, address, phone, e-mail, and signature
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	d.Consulting professional and firm name, address, phone, and e-mail
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	e.Start and end date for construction
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	f.Description of construction activity
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	g.Total area of site and estimated area of disturbance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	h.Contractor - Project Manager & Superintendent, phone & e-mail

2. Erosion & Sediment Control Plan Statement -Written Narrative & Attachments–Code Sec. 24-35(a)(1-5 and 7) and (b)

Shown	Shown But Incomplete	Not Shown	N/A	Required Item
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a.Description of the site, project, & development schedule
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b.List all BMP's to be used, including corresponding DNR Technical Standard (if applicable).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	c.Intended sequence of major land disturbing activities with anticipated dates including construction & erosion/sediment control activities. Include at a minimum: trackout control, inlet protection, ditch checks (check proper separation distance considering slope, soil type and flow velocity), channel stabilization, clean water diversions, overland flow BMPs, sediment traps/basins, stockpile management, permanent stabilization, waste management, etc
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	d.Describe temporary and permanent soil stabilization practices. Include anticipated schedule for implementation (e.g., phasing of construction, temporary stabilization (seed, mulch, etc.), stockpile management, final stabilization, erosion matting, etc).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	e.Phasing of project to limit amount of disturbed soil at any one time
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	f.Description of existing surface/subsurface soil (USDA–NRCS Soil Survey).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	g.Show limits of land disturbance shown on USGS 7.5 minute series topographic map (for sites 1 or more acre in size).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	h.Name of immediate receiving water from 7.5 minute series USGS topographic map.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	i.Depth to nearest seasonal high groundwater elevation/top of bedrock on sites where permanent infiltration is to occur.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	j.Verification of DNR WRAPP (NOI) permit application for projects where one or more acres will be disturbed.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	k.DNR Soil Loss Worksheet & DNR required attachments (NOI sites only)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	l.Submit ALL supporting calculations for structural BMPs to demonstrate that BMP designs meet standards. Include calculated dewatering times for sediment basins, etc.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	m.Verify BMP's designed per DNR Technical standards

3. Erosion & Sediment Control Site Map/Plan View – Code Sec. 24-35(a)(6)

Shown	Shown But Incomplete	Not Shown	N/A	Required Item
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a.Scaled at 100 feet per inch or less and contour interval at 2 feet or less.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b.Alphanumeric or equivalent grid overlying site map.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	c.Existing topography, surface cover, drainage systems, and surface waters on and adjacent to the site (show enough of adjacent properties to show runoff patterns onto, through, and from the site).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	d.Locations and delineation of on-site and potentially impacted adjacent wetlands.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	e.Existing and planned buildings, roads, and all utilities.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	f.Location of soil types (USDA – NRCS Soil Survey).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	g.Boundary of the project site.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	h.Boundary of the disturbed area (phasing boundaries shown if applicable).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	i.Existing and planned locations where storm water is discharged from site (surface and subsurface).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	j.Trackout control at all egress driveways.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	k.Concrete truck washout containment location
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	l.Perimeter control measures (silt fencing, earthen berms, etc.).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	m.Storm drain inlet protection (on-site and off-site if needed).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	n.Ditch checks.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	o.Stackpile locations and control measures.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	p.Clean water diversions.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	q.Sediment traps or sediment basins.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	r.Velocity dissipation at outfalls.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	s.Stabilization of steep slopes (erosion mat needed?).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	t.Stabilization of drainage ways (erosion mat needed?).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	u.Detail sheets of <u>all</u> BMP's as applicable (inlet protection, tracking pad, perimeter control, concrete truck washout containment, sediment basins or traps with all design parameters shown, ditch checks, etc.)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	v.Temporary and permanent soil stabilization practices (seed, mulch, etc.).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	w.Roof water downspout protection.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	x.Site dewatering provisions per DNR technical standard.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	y.Provisions for cleaning up off-site sediment deposits and list how often.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	z.Provisions to minimize airborne dust leaving site.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	aa.Provisions for disposal of construction and waste materials.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	bb.Planned final site conditions, including landscaping.

4. Stormwater Management Plan (Post Construction) – As Required in Code Sec. 24-30(i)

Identified	Identified but Not Complete	Not Identified	Not Applicable	Required Item
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a.Long-term Stormwater Management Acknowledgement form signed by the owner of the site. This form simply acknowledges that the owner is aware of the stormwater requirements for the site per Wis. Adm. Code NR 216. <i>This is required for sites that require a permit but are not subject to the stormwater management standards and planning ordinance.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b.Sites of one (1) or more acres are subject to the Stormwater Management Standards and Planning Ordinance requirements in Article VI of Chapter 20 of the City of Appleton Municipal Code.

## Department of Public Works – Engineering Division

### MEMO

**TO:** Utilities Committee

**FROM:** Danielle Block, Director of Public Works  
Kurt Craanen, Inspections Supervisor  
Sue Olson, Staff Engineer

**DATE:** October 4, 2022

**RE:** Approve changes to Erosion and Sediment Control Program

---

The Department of Public Works requests approval of changes to the Erosion and Sediment Control Program. Strike and bold language of the proposed program changes along with a revised flow chart and review checklist are attached. The proposed changes are requested to address staffing and workload issues by eliminating most permitting for small projects. Changes are also required to the Erosion and Sediment Control ordinance. These are presented as two separate action items but are not independent documents.

There are two sets of erosion control requirements from the State imposed onto the City. The Wisconsin Department of Natural Resources WPDES Permit No. WI-S050075-3 requires erosion control plan review and inspection for sites of one acre or more disturbed area. These are the requirements covered under City of Appleton Municipal Code Chapter 24. The WPDES permit also specifies the minimum frequency of inspections on these sites, which at times can be difficult to achieve. Historically the City has issued permits for sites much smaller than the State requires down to 2,000 square feet of disturbed area.

Wisconsin DSPS Uniform Dwelling Code section SPS 321.125 requires plan review and inspection of one- and two-family dwellings. The City of Appleton Erosion Control Inspector reviews plans and performs site inspections for both WDNR and DSPS requirements. Permits issued for one and two-family homes have doubled in recent years and require a significant amount of inspection time. Below are the number of one and two-family permits issued since 2018:

2018 – 59  
2019 – 56  
2020 – 83  
2021 – 112  
2022 - 109 (to date)

Adding to the workload are new WDNR requirements for private stormwater practices that have been constructed since 2004. The Erosion Control Inspector assists the Engineering Division with this program, which was implemented in late 2021.

The Program revision also establishes a consistent submittal process, with all submittals going directly to the Inspections Division, rather than some plans submitted to Inspections and some submitted to Community Development. This will allow staff to better schedule their time for plan review with time for field inspections. The timeline for plan review in the ordinance is not proposed to be changed.

The on-going staffing issues related to vacant positions and continued retirements, as well as a high volume of plan review and construction, are not expected to change soon. The proposed changes will eliminate plan review and permitting of most sites less than one acre of disturbed area, since this is not required by the State. Erosion and Sediment Control is still required at these sites, and staff continue to have authority to address problems with any site, regardless of size. This will provide additional time for staff to perform field inspections at the required frequency, assist the Engineering Division with the new program, and remain in compliance with permit requirements.

City of Appleton  
Construction Site Pollutant Control Program  
Section 2.4 WPDES Permit No. WI-S050075-3  
Permit Start Date May 1, 2019  
February 2020  
Revised September 2022

Since 1998, the City of Appleton has progressively addressed erosion control issues. The City has an Erosion and Sediment Control Ordinance, an established program and a full-time erosion control inspector assigned to administer the program. This document describes the program as required in the Permit from the Wisconsin Department of Natural Resources (WDNR). This revision addresses current and expected long-term workload and staffing issues.

Funding for this program is through the City of Appleton Stormwater Utility.

This document will be kept in the Inspections Division of the Department of Public Works (DPW) located on the fifth floor of City Center, 100 N. Appleton Street, Appleton, Wisconsin.

Bold text is permit language.

## **2.4 Construction Site Pollutant Control**

**The permittee shall continue to implement and enforce its program to reduce the discharge of sediment and construction materials from construction sites. The permittee shall implement the following measureable goals:**

### **2.4.1 Construction Site Ordinance**

**An ordinance or other regulatory mechanism to require erosion and sediment control at construction sites and establish sanctions to ensure compliance. At a minimum, the ordinance or other regulatory mechanism shall establish or include:**

- a. Applicability and jurisdiction, pursuant to the authority provided to the permittee under Wisconsin statutes, the ordinance shall apply to all construction sites with one acre or more of land disturbance, and to sites of less than one acre if they are part of a larger common plan of development or sale.**
- b. Requirements for design and implementation of erosion and sediment control practices consistent with the criteria of those approved by the Department.**
- c. Construction site performance standards equivalent to those in ss. NR 151.11(6m), (7) and (8) and 151.23(4m), (5) and (6) Wis. Adm Code, to achieve the following measurable goals:**

**(1) BMPs for construction sites that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.**

**(2) BMP's for transportation facilities that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from the initial grading to final stabilization.**

**d. Erosion and sediment control plan requirements for landowners of construction sites equivalent to those contained in s. NR 216.46 Wis. Adm. Code.**

**e. Inspection and enforcement authority.**

**f. Requirements for construction site operators to manage waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste at the construction site to reduce adverse impacts to waters of the state.**

The City of Appleton Erosion and Sediment Control Ordinance was originally effective January 1, 1999 and subsequently updated January 2005, January 2012 and June 2016. Ordinance updates followed the model WDNR ordinance available at the time. The ordinance has **always traditionally** been more stringent than the WDNR model ordinance, requiring permits for disturbed areas of two thousand (2,000) square feet or larger. The 2020 ordinance update includes **d** the new requirements of Section 2.4.1. **This revision and the associated ordinances changes require plan review and permits for sites disturbing one acre or more, continuing to meet the permit requirements.**

The ordinance is Chapter 24 of the Municipal Code. It is available at DPW - Inspections and on the City's website, as periodically updated.

#### **2.4.2 Erosion and Sediment control plan review.**

**Written procedures for construction site plan review which incorporate consideration of potential water quality impacts. Preconstruction erosion control plan reviews shall be conducted for all construction sites with greater than one acre of land disturbance.**

Erosion and sediment control permits are required for all land disturbing activities exposing **2000 sq. ft. one acre** or more of the soil surface, including but not limited to, clearing/grubbing, demolition, excavating, filling and grading activities, **with the exception of one and two family construction, where permits are required only when land disturbance is one acre or more.** DPW - Inspections addresses one and two family construction for sites disturbing less than one acre per the Uniform Dwelling Code. Permit applications are available at DPW - Inspections, **the Community & Economic Development Department - Planning Division,** and on the City of Appleton website. The City of Appleton Erosion Control Inspector is responsible for reviewing all plans requiring a permit, **with assistance from the DPW-Engineering Division and consultants as needed.** Plans are submitted to the **Community & Economic Development**



~~Department—Planning Division when the project is required to go through the City site plan review process, and directly to DPW - Inspections when no site plan is required~~Division.

The City uses a checklist that is consistent with the ordinance to review and prepare plans. The checklist is attached to this document. The checklist was updated per the 2020 ordinance update and has been reviewed and updated again with this 2022 revision.

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- A. The Erosion Control Inspector reviews the plan for conformance with the erosion and sediment control ordinance within 20 working days of receipt and responds one of the following ways:
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  2. Approves the plan, assigns permit number, signs the permit application and enters plan information into the PermiTrack on-line system (generally sites one acre or more) or the AS400 system (generally sites less than one acre) for tracking purposes.
  3. Notifies the Community & Economic Development Department – Planning Division of the erosion & sediment plan approval when the plan is part of the City site plan review process. Notifies the permit applicant of approval when the City site plan is not required.
  4. Returns a copy of the approved permit application to the applicant, which indicates the plan and permit are approved.

The duration of the permit is for a period of one (1) year, or the length of any corresponding building permit, whichever is longer, from the date of issuance.

- B. Plans for DPW - Engineering projects requiring a permit are prepared by the Project Engineer with the assistance of the Erosion Control Inspector in accordance with the erosion and sediment control ordinance and City of Appleton standard construction specifications. For projects designed by a consultant for DPW-Engineering, the consultant prepares the plan and submits it to the Erosion Control Inspector for review. The Erosion Control Inspector issues permits for DPW - Engineering projects and enters the information into the AS400 system for tracking. The Erosion Control Inspector is invited to all preconstruction meetings for DPW projects.

Appleton standard construction specifications for Erosion Control and Vegetative Restoration are based on the WDNR technical standards and updated every two years. Any necessary changes between official updates of the specifications are included in project Special Provisions.

### **2.4.3 Administrative procedures.**

**Written procedures for the administration of the construction site pollutant control program including the process for obtaining local approval, managing and responding to complaints, tracking regulated construction sites, and construction site plan receipt and consideration of information submitted by the public.**

- A. Administration of the erosion & sediment control program is by DPW– Inspections under the authority and requirements of Chapter 24 of the City of Appleton Municipal Code (Erosion & Sediment Control Ordinance). All revisions to the ordinance are reviewed and approved by the Utilities Committee and Common Council.
- B. The process for obtaining plan approval is documented in Section 2.4.2.
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- E. Plan received for review are logged into a Word chart under the DPW - Inspections drive on the City’s server. This log is available for a limited amount of staff to edit and various additional staff as “read only”.
- F. Information submitted by the public regarding this program can be submitted many ways. In general, this information would be reviewed by the Erosion Control Inspector and the Inspections Supervisor. Any changes to the program resulting from this information would be documented and provided to the WDNR.

**2.4.4 Construction site inspections and enforcement.**

**Written procedures for construction site inspection and enforcement of erosion and sediment control measures. By April 1, 2020, at a minimum, the procedures shall establish:**

- a. Municipal departments or staff responsible for construction site inspections and enforcement.**

The DPW - Inspections is responsible for inspection and enforcement of the Erosion and Sediment Control Ordinance. A full time Erosion Control Inspector position has been in place and staffed since 1999.

- b. **Construction site inspection frequency.** The permittee shall inspect all construction sites, at a minimum, in accordance with the frequency specified in [the following table:]

Site	Inspection Frequency
<b>(1) All sites one acre or more in size</b>	<ul style="list-style-type: none"> <li>• <b>New projects shall be inspected within the first two weeks of commencement of land disturbing activity</b></li> <li>• <b>All active sites shall be inspected at least once every 45 days</b></li> <li>• <b>All inactive sites shall be inspected at least once every 60 days</b></li> </ul>
<b>(2) Follow up inspection</b>	<ul style="list-style-type: none"> <li>• <b>Follow up inspections are required within 7 days of any sediment discharge or inadequate control measure, unless corrections were made and observed by the inspector during the initial inspection or corrections were verified via photographs submitted to the inspector</b></li> </ul>
<b>(3) Final Inspection</b>	<ul style="list-style-type: none"> <li>• <b>Confirm that all graded areas have reached final stabilization and that all temporary control measures are removed, and permanent stormwater management BMPs are installed as designed.</b></li> </ul>

New projects of one acre or more are inspected within the first two weeks of the beginning of construction. Routine inspection of active sites occurs every 45 days, monthly when possible. Inactive sites are inspected every 60 days. Priority is given to sensitive or high risk areas, with the size of the site not necessarily corresponding to the risk. When DPW – Inspections is notified of a discharge or when an inspection identifies deficiencies in on-site erosion control measures, the responsible party is notified of needed corrections and deadlines for making corrections. Follow up inspections are made within 7 days. Inspections continue until final site stabilization occurs and erosion control measures are removed.

Verification that permanent stormwater BMPs are installed as designed is handled by DPW - Engineering under section 2.5 of the permit.

**c. Construction site inspection documentation. Compliance with the inspection requirements in 2.4.4.a and b. above, shall be determined by proper documentation and maintenance of records of an established inspection program designed to inspect all sites.**

Inspections are documented on the PermiTrack or the AS400 system. Inspection information includes the inspection date, address of site, reason for inspection, permit number, whether it passed or failed, and details of any violations or miscellaneous information. Enforcement action is documented in the AS400 system.

Photos are taken of practices not in compliance with the approved plan and stored on the City server.

**d. Enforcement mechanisms that will be used to obtain compliance.**

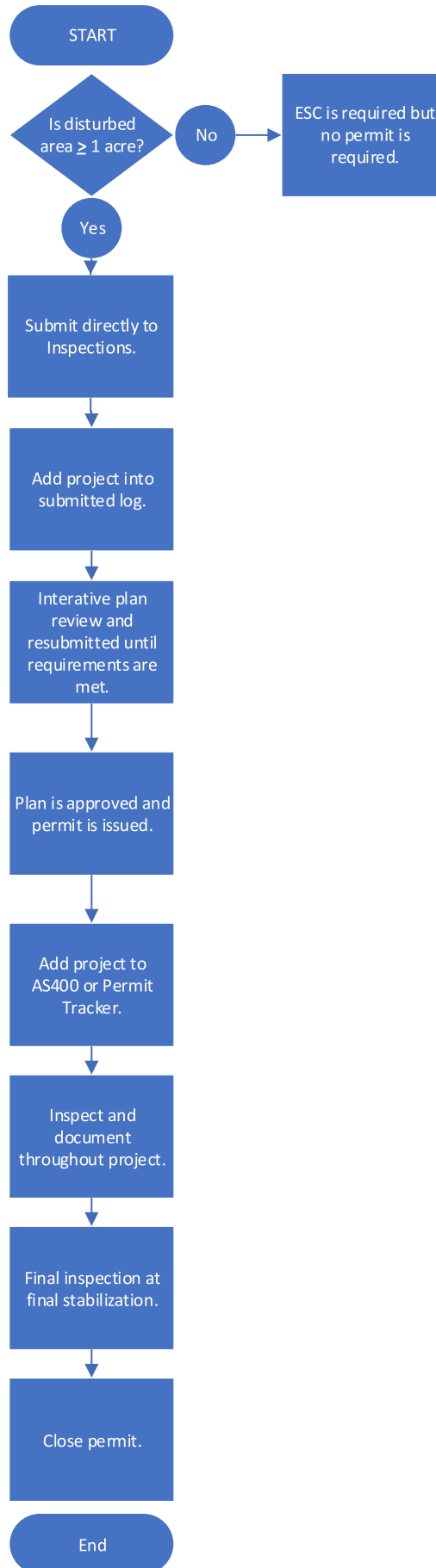
The stepped enforcement process is as follows:

1. Verbal notice is immediately given to the construction manager along with the list of required corrections and the date of compliance. A formal written notice of non-compliance is issued to the owner of the property, with a copy to the construction manager. The compliance date and required corrections are listed on the notice. The compliance time may vary from immediate action to typically 2 or 3 days, depending on the severity of the violation or impending weather.
2. A re-inspection will take place to determine if adequate corrections have been made, and one of the following will occur:
  - a. The corrections are made and approved – case will be closed.
  - b. If no corrective action has been made, a stop work order will be issued. If corrections still have not been made within 1 week of the Stop Work Order, or a weather event has caused sediment runoff offsite, a citation will be issued. Further citations will be issued until corrective action is taken and approved.
  - c. If a significant amount of time has passed and the corrections are still not made, the City of Appleton may make the required corrections and assess the costs to the property owner in order to bring the site into compliance.

ATTACHMENTS

Flow Chart  
Checklist  
Ordinance

## 2.4 Construction Site Pollutant Control Revised September 2022





## 2022 EROSION & SEDIMENT CONTROL PLAN REVIEW CHECKLIST

Site Name: \_\_\_\_\_ Address: \_\_\_\_\_

Date: \_\_\_\_\_ Site Plan #: \_\_\_\_\_ Reviewed By: \_\_\_\_\_

Review comments in red.

1. Erosion & Sediment Control Application

Shown	Shown But Incomplete	Not Shown	N/A	Required Item
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a.Fee (Less than 1 ac. - \$100, 1 to 10 acs. - \$150, 10+ acs. - \$200)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b.Owner name, address, phone, e-mail, and signature
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	c.Applicant name, address, phone, e-mail, and signature
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	d.Consulting professional and firm name, address, phone, and e-mail
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	e.Start and end date for construction
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	f.Description of construction activity
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	g.Total area of site and estimated area of disturbance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	h.Contractor - Project Manager & Superintendent, phone & e-mail

2. Erosion & Sediment Control Plan Statement -Written Narrative & Attachments–Code Sec. 24-35(a)(1-5 and 7) and (b)

Shown	Shown But Incomplete	Not Shown	N/A	Required Item
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a.Description of the site, project, & development schedule
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b.List all BMP's to be used, including corresponding DNR Technical Standard (if applicable).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	c.Intended sequence of major land disturbing activities with anticipated dates including construction & erosion/sediment control activities. Include at a minimum: trackout control, inlet protection, ditch checks (check proper separation distance considering slope, soil type and flow velocity), channel stabilization, clean water diversions, overland flow BMPs, sediment traps/basins, stockpile management, permanent stabilization, waste management, etc
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	d.Describe temporary and permanent soil stabilization practices. Include anticipated schedule for implementation (e.g., phasing of construction, temporary stabilization (seed, mulch, etc.), stockpile management, final stabilization, erosion matting, etc).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	e.Phasing of project to limit amount of disturbed soil at any one time
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	f.Description of existing surface/subsurface soil (USDA–NRCS Soil Survey).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	g.Show limits of land disturbance shown on USGS 7.5 minute series topographic map (for sites 1 or more acre in size).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	h.Name of immediate receiving water from 7.5 minute series USGS topographic map.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	i.Depth to nearest seasonal high groundwater elevation/top of bedrock on sites where permanent infiltration is to occur.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	j.Verification of DNR WRAPP (NOI) permit application for projects where one or more acres will be disturbed.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	k.DNR Soil Loss Worksheet & DNR required attachments (NOI sites only)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	l.Submit ALL supporting calculations for structural BMPs to demonstrate that BMP designs meet standards. Include calculated dewatering times for sediment basins, etc.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	m.Verify BMP's designed per DNR Technical standards

3. Erosion & Sediment Control Site Map/Plan View – Code Sec. 24-35(a)(6)

Shown	Shown But Incomplete	Not Shown	N/A	Required Item
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a.Scaled at 100 feet per inch or less and contour interval at 2 feet or less.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b.Alphanumeric or equivalent grid overlying site map.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	c.Existing topography, surface cover, drainage systems, and surface waters on and adjacent to the site (show enough of adjacent properties to show runoff patterns onto, through, and from the site).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	d.Locations and delineation of on-site and potentially impacted adjacent wetlands.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	e.Existing and planned buildings, roads, and all utilities.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	f.Location of soil types (USDA – NRCS Soil Survey).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	g.Boundary of the project site.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	h.Boundary of the disturbed area (phasing boundaries shown if applicable).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	i.Existing and planned locations where storm water is discharged from site (surface and subsurface).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	j.Trackout control at all egress driveways.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	k.Concrete truck washout containment location
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	l.Perimeter control measures (silt fencing, earthen berms, etc.).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	m.Storm drain inlet protection (on-site and off-site if needed).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	n.Ditch checks.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	o.Stackpile locations and control measures.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	p.Clean water diversions.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	q.Sediment traps or sediment basins.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	r.Velocity dissipation at outfalls.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	s.Stabilization of steep slopes (erosion mat needed?).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	t.Stabilization of drainage ways (erosion mat needed?).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	u.Detail sheets of <u>all</u> BMP's as applicable (inlet protection, tracking pad, perimeter control, concrete truck washout containment, sediment basins or traps with all design parameters shown, ditch checks, etc.)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	v.Temporary and permanent soil stabilization practices (seed, mulch, etc.).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	w.Roof water downspout protection.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	x.Site dewatering provisions per DNR technical standard.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	y.Provisions for cleaning up off-site sediment deposits and list how often.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	z.Provisions to minimize airborne dust leaving site.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	aa.Provisions for disposal of construction and waste materials.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	bb.Planned final site conditions, including landscaping.

4. Stormwater Management Plan (Post Construction) – As Required in Code Sec. 24-30(i)

Identified	Identified but Not Complete	Not Identified	Not Applicable	Required Item
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a.Long-term Stormwater Management Acknowledgement form signed by the owner of the site. This form simply acknowledges that the owner is aware of the stormwater requirements for the site per Wis. Adm. Code NR 216. <i>This is required for sites that require a permit but are not subject to the stormwater management standards and planning ordinance.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b.Sites of one (1) or more acres are subject to the Stormwater Management Standards and Planning Ordinance requirements in Article VI of Chapter 20 of the City of Appleton Municipal Code.

**Sec. 24-1. Authority.**

(a) This ordinance is adopted under the authority granted by §62.234, Wis. Stats. This ordinance supersedes all provisions of any ordinance previously enacted under §62.23, Wis. Stats., that relates to erosion and sediment control. Except as otherwise specified in §62.234 Wis. Stats., §62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(b) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City of Appleton.

(c) The City of Appleton hereby designates the Director of Public Works or his/her designee as the administering authority to enforce the provisions of this ordinance.

(d) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:

- (1) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under §281.16 and §283.33, Wis. Stats.
- (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.  
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Sec. 24-2. Purpose.**

The City of Appleton acknowledges that runoff from land disturbing construction activity and improper land management carries sediment and other pollutants to the waters of the state.

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing activity to waters of the state within the City of Appleton.

It is also the purpose of this ordinance to meet the performance standards in subchapters III and IV of Ch. NR 151, Wis. Adm. Code and to meet the requirements for construction site pollutant control in the General Permit to Discharge under the Wisconsin Pollutant Discharge Elimination System WPDES Permit No. WI S050075-2 administered by the Wisconsin Department of Natural Resources (WDNR).  
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-3 – 24-9. Reserved.**

**Sec. 24-10. Applicability and jurisdiction.**

(a) *Applicability.*

- (1) This ordinance applies to all land disturbing activities, including transportation facilities, within the City of Appleton except as provided under sub. (3).
- (2) Land disturbing activities meeting any one of the following are required to prepare a plan and obtain a permit:
  - a. Building on lots in subdivisions, certified survey maps or unplatted lands.



- b. Land disturbing activities involving grading, removal of protective ground cover or vegetation, excavation, land filling, scraping or other land disturbing activity affecting a surface of ~~two thousand (2,000) square feet~~ one (1) acre or more.
- ~~e. Land disturbing activities involving excavation or filling or a combination of excavating and filling affecting two hundred (200) cubic yards or more of soil, dirt, sand or other excavation or fill material.~~
- ~~d.c.~~ Land disturbing activities involving street, highway, road or bridge construction, enlargement, relocation or reconstruction affecting a surface area of one (1) acre or more.
- ~~e. Land disturbing activities involving the laying, repairing, replacing or enlarging of an underground pipe, wire, cable or facility for a distance of three hundred (300) feet or more.~~
- ~~f. Land disturbing activities within protective areas as defined in City of Appleton Municipal Code Sec. 20-312(f).~~
- ~~g. Routine ditch maintenance for a continuous distance of one hundred (100) feet or more.~~
- h.d. Notwithstanding the previously listed applicability requirements, this ordinance applies to any sites which, in the opinion of the City of Appleton, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that cause undue erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property or public safety.

(3) This ordinance does not apply to the following:

- a. Land disturbing construction activity that includes the construction of one- (1-) and two- (2-) family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one (1) acre of disturbance. These construction sites are regulated by the Wisconsin Department of Safety and Professional Services under s. SPS 321.125 Wis. Adm. Code.
- b. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under Chapter 40, Code of Federal Regulations, part 122, for land disturbing activity.
- c. Nonpoint discharges from agricultural facilities and practices.
- d. Nonpoint discharges from silviculture activities.
- e. Activities conducted by a state agency, as defined under §227.01 (1), Wis. Stats., but also including the office of the district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under §281.33 (2), Wis. Stats.

(b) ***Jurisdiction.***

- (1) This ordinance applies to land disturbing activities located within the boundaries of the City of Appleton.
- (2) *County and town ordinances.* This ordinance supercedes any county or town erosion and sediment control ordinance for lands annexed to the City after the effective date of the county's or town's ordinance, except when the county's or town's ordinance is more restrictive than this ordinance; then the more restrictive provisions set forth in the county or town ordinance shall become part of this ordinance and apply to the annexed lands. In such cases, the City may grant a variance from the more restrictive requirements provided that the criteria for a variance as set forth in the county ordinance is met.

(3) *Waivers.* Requests to waive the erosion and sediment control requirements, or a portion thereof, shall be submitted to the City of Appleton, in writing, with the application and fee, for review. Written waivers may be granted administratively by the City for erosion and sediment control requirements that are required by the City if it is demonstrated to the satisfaction of the City that it is reasonable to expect that the objectives of this ordinance will be met without an erosion and sediment control plan or portion thereof.

(4) *Applicability of maximum extent practicable.* Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City of Appleton's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other completing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

(Ord 180-04, §1, 1-1-05; Ord 181-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16; Ord 9-20, §1, 2-11-20))

**Secs. 24-11 – 24-14. Reserved.**

**Sec. 24-15. Definitions.**

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administering authority* means the Director of Public Works, or a designee.

*Agricultural facilities and practices* has the meaning in §281.16(1), Wis. Stats.

*Average annual rainfall* means a calendar year of precipitation, excluding snow, which is considered typical. An average annual rainfall for Green Bay, 1969 (March 29 - November 25) is applicable for the City of Appleton.

*Best management practice* or *BMP* means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff.

*Business day* means a day the offices of the City of Appleton are routinely and customarily open for business.

*Cease and desist order* means a court-issued order to halt land disturbing activity that is being conducted without the required permit or not in conformance with an existing permit.

*City* means the City of Appleton.

*Common plan of development or sale* means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one (1) plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

*Construction site* means an area upon which one (1) or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one (1) common plan of development.

*Design storm* means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall. Rainfall amounts for 24-hour design rainfall events in Appleton are: 100-year, 5.50 inches; 10-year, 3.51 inches; 5-year, 3.01 inches; 2-year, 2.45 inches, and 1-year 2.14 inches. The distribution shall be NOAA Atlas 14 MSE4.

**Erosion** means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

**Erosion and sediment control plan** means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

**Final stabilization** means that all land disturbing activities at the site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least seventy percent (70%) of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

**Land disturbing activity** means any man-made alteration resulting in a change in the topography, existing vegetative or non-vegetative soil cover, or drainage pattern, that may result in runoff and lead to an increase in soil erosion and movement of sediment. Land disturbing activities include, but are not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, an unstable pipe outfall, or an unstable slope.

**Landowner** means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of stormwater BMPs on the property.

**Maximum extent practicable** means the highest level of performance that is achievable, but is not equivalent to a performance standard, taking into account the best available technology, cost effectiveness and other competing issues such as human welfare, endangered and threatened resources, historic properties, and geographic features, pursuant to Sec. 20-10(b)(4) of the Appleton Municipal Code.

**Performance standard** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

**Permit** means a written authorization made by the City of Appleton to the applicant to conduct land disturbing activity.

**Pollutant** has the meaning given in §283.01(13), Wis. Stats.

**Pollution** has the meaning given in §281.01(10), Wis. Stats.

**Responsible party** means any person holding fee title to the property or other entity performing services to meet the requirements of this ordinance through a contract or other agreement.

**Runoff** means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

**Performance security** means cash, or an irrevocable letter of credit submitted to the City of Appleton by the responsible party to assure that requirements of the ordinance are carried out in compliance with the approved erosion and sediment control plan and to recover any costs incurred by the City for designing, engineering, preparation, checking and review of plans and specifications, regulations and ordinances, and legal, administrative and fiscal work undertaken to assure and implement such compliance.

**Permit application fee** means a sum of money paid to the City of Appleton by the responsible party for the purpose of recouping expenses incurred by the City in administering the permit.

**Sediment** means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

**Silviculture activity** means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

**Site** means the entire area included in the legal description of the land on which the land disturbing activity is proposed in the permit application or has occurred.

**Stop work order** means an order issued by the City of Appleton, which requires that all construction activity on the site be stopped.

**Stormwater conveyance system** means any method employed to carry stormwater runoff within and from a land development or redevelopment activity to the waters of the state. Examples of methods include: swales, channels and storm sewers.  
(Ord 182-11, §1, 1-1-12)

**Technical standard** means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

**Transportation facility** means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under §85.095(1)(b), Wis. Stats. Transportation facility does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to §281.33, Wis. Stats.

**Waters of the state** has the meaning in §283.01(20), Wis. Stat.  
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-16 – 24-19. Reserved.**

#### **Sec. 24-20. Technical standards.**

(a) **Design criteria, standards and specifications.** All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

- (1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of Chapter NR 151, Wis. Adm. Code.
- (2) Soil loss prediction tools (such as the Universal Soil Loss Equation [USLE] or its successors RUSLE and RUSLE2) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.

(b) **Other standards.** Other technical standards not identified or developed in sub. (a), may be used provided that the methods have been approved by the City of Appleton.  
(Ord 180-04, §1, 1-1-05; Ord 183-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Secs. 24-21 – 24-23. Reserved.**

#### **Sec. 24-24. Performance standards for non-permitted sites.**

(a) **Responsible party.** The responsible party shall comply with this section.

(b) **Requirements.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

- (1) The deposition of soil from being tracked onto streets by vehicles.

- (2) The discharge of sediment from disturbed areas into on-site storm water inlets.
- (3) The discharge of sediment from disturbed areas.
- (4) The discharge of sediment from drainage ways that flow off the site.
- (5) The discharge of sediment by dewatering activities.
- (6) The discharge of sediment eroding from soil stockpiles existing for more than seven (7) days.
- (7) The transport, by runoff [from the site](#), of chemicals, cement and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

(c) **Location.** The BMPs used to comply with this section shall be located so that treatment occurs before runoff leaves the site or enters a storm conveyance system, any drainage channel or waters of the state.

(d) **Implementation.** The BMPs used to comply with this section shall be implemented as follows:

- (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
- (2) Erosion and sediment control practices shall be maintained until final stabilization.
- (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (4) Temporary stabilization activity shall commence when land disturbing activities cease and will not resume for a period exceeding fourteen (14) calendar days.
- (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.
- (6) All off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site deposits occurring as a result of land disturbing activities shall be cleaned up by the end of the workday. Flushing is not allowed.

(e) **Alternate requirements.** The City of Appleton may establish erosion and sediment control requirements more stringent than those set forth in this section if the City determines that an added level of protection is needed to protect resources.

(Ord 184-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

#### **Sec. 24-25. Performance standards for permitted sites.**

(a) **Responsible party.** The responsible party shall implement an erosion and sediment control plan, developed in accordance with Sec. 24-35, that incorporates the requirements of this section.

(b) **Plan.** A written site specific erosion and sediment control plan shall be developed in accordance with Sec. 24-35 and implemented for each construction site.

(c) **Erosion and other pollutant control requirements.** The plan required under sub. (b) shall include the following:

- (1) Erosion and sediment control practices shall be used to prevent or reduce all of the following:

- a. The deposition of soil from being tracked onto streets by vehicles.
- b. The discharge of sediment from disturbed areas into on-site storm water inlets.
- c. The discharge of sediment from disturbed areas into adjacent waters of the state.
- d. The discharge of sediment from drainage ways that flow off the site.
- e. The discharge of sediment by dewatering activities.
- f. The discharge of sediment eroding from soil stockpiles existing for more than seven (7) days.
- g. The discharge of sediment from erosive flows at outlets and in downstream channels.
- h. The transport, by runoff from the site, of chemicals, cement and other building compounds and materials from the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
- i. The transport by runoff of untreated wash water from vehicle and wheel washing from the construction site. Wastewaters, such as concrete truck washout, shall be properly managed to limit the discharge of pollutants.

~~(2) For permitted sites with less than one (1) acre disturbed activity, BMPs that, by design, achieve to the maximum extent practicable, a reduction of eighty percent (80%) of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the site has undergone final stabilization. No person shall be required to exceed an eighty percent (80%) sediment reduction to meet the requirements of this paragraph.~~

~~(3) For permitted sites with one (1) acre or more disturbed area, BMPs that, by design, discharge no more than five (5) tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization, as determined by the WDNR construction site soil loss and sediment discharge guidance.~~

~~(4) Erosion and Sedimentation BMPs may be combined to meet the requirements of this section. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing activity, or other appropriate mechanism. The method of calculating the percent reduction in sediment shall be a method approved by the City of Appleton.~~

~~(5) No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with MEP.~~

~~(6) Notwithstanding sub. (2) and (3), if BMPs cannot be designed and implemented to meet these requirements, the plan shall include a written and site-specific explanation as to why the requirements are not attainable and how the sediment load shall be reduced to the maximum extent practicable.~~

~~(7) Preventative measures. The plan shall incorporate all of the following:~~

- a. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
- b. Minimization of soil compaction and preservation of topsoil.
- c. Minimization of land disturbing construction activity on slopes of twenty percent (20%) or more.
- d. Development of spill prevention and response procedures.

(87) All off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site deposits occurring as a result of land disturbing activities shall be cleaned up by the end of the workday. Flushing is not allowed.

(d) **Location.** The BMPs used to comply with this section shall be located so that treatment occurs prior to runoff leaving the site or entering the storm conveyance system, any drainage channel or waters of the state.

(e) **Implementation.** The BMPs used to comply with this section shall be implemented as follows:

- (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with plan developed under Sec. 24-35.
- (2) Erosion and sediment control practices shall be maintained until final stabilization.
- (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (4) Temporary stabilization activity shall commence when land disturbing activities cease and will not resume for a period exceeding fourteen (14) calendar days.
- (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

(f) **Alternate requirements.** The City of Appleton may establish erosion and sediment control requirements more stringent than those set forth in this section if the City determines that an added level of protection is needed to protect sensitive resources.

(Ord 180-04, §1, 1-1-05; Ord 185-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Secs. 24-26 – 24-29. Reserved.**

### **Sec. 24-30. Permitting requirements, procedures and fees.**

(a) **Permit required.** No responsible party may commence any land disturbing activity subject to this ordinance without first receiving approval of an erosion and sediment control plan for the site and a permit from the City of Appleton.

(b) **Permit application and fees.** The responsible party desiring to undertake a land disturbing activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of Sec. 24-35 and shall pay an application fee to the City of Appleton. By submitting an application, the applicant is authorizing the City of Appleton to enter the site to obtain information required for the review of the erosion and sediment control plan.

(c) **Review and approval of permit application.** The City of Appleton shall review any complete permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

- (1) Within twenty (20) business days of the receipt of a complete permit application, as required by sub. (b), the City of Appleton shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.
- (2) If the permit application and plan are approved, the City of Appleton shall issue the permit.
- (3) If the permit application or plan is disapproved, the City of Appleton shall state in writing the reasons for disapproval.

- (4) The City of Appleton may request additional information from the applicant. If additional information is submitted, the City of Appleton shall have twenty (20) business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
- (5) Failure by the City of Appleton to inform the permit applicant of a decision within twenty (20) business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(d) **Performance security.** The City of Appleton may, at its discretion, require the submittal of a cash escrow, irrevocable letter of credit, or performance security prior to issuance of the permit to ensure that the practices are installed and maintained by the responsible party as required by the approved erosion and sediment control plan and any conditions attached to the permit. The amount of the installation performance security shall be determined by the City of Appleton, not to exceed the total estimated construction cost of the erosion and sediment control practices approved under the permit unless otherwise specified in the permit. The amount of any required maintenance performance security shall be determined by the City of Appleton. Any performance securities shall contain forfeiture provisions for failure to complete work specified in the plan.

Conditions for the release of performance security are as follows:

- (1) The installation performance security shall be released in full only upon submission of “as built plans” and written certification by a professional engineer registered in the State of Wisconsin that the practice(s) were installed in accordance with the approved plan and other applicable provisions of this ordinance. The City of Appleton may make provisions for a partial pro-rata release of the performance security based on the completion of various development stages including the final inspection of landscaping material.
- (2) The maintenance performance security, minus any costs incurred by the City of Appleton to conduct required maintenance, design, engineering, preparation, checking and review of designs, plans and specifications; supervision and inspection to ensure that construction is in compliance with applicable plans, specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance, shall be released at such time that the responsibility for practice maintenance is passed on to another private entity, via an approved maintenance agreement, or to the City of Appleton.

(e) **Permit requirements.** All permits shall require the responsible party to:

- (1) Notify the City of Appleton no less than two (2) business days prior to commencing any land disturbing construction activity.
- (2) Notify the City of Appleton of completion of any BMPs within two (2) business days after their installation.
- (3) Notify the City of Appleton no less than two (2) business days prior to leaving the site at the completion of the project or seasonal shutdown.
- ~~(34)~~ Obtain permission in writing from the City of Appleton prior to any modification pursuant to Sec. 24-35 of the erosion and sediment control plan.
- ~~(45)~~ Install all BMPs as identified in the approved erosion and sediment control plan.
- ~~(56)~~ Maintain and repair all road drainage systems, storm conveyance systems, BMPs and other facilities, both on and off site, identified in the approved erosion and sediment control plan.
- ~~(67)~~ Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.



(78) Inspect the BMPs within twenty-four (24) hours after each rain of 0.5 inches or more and at least once each week. Make needed repairs, install additional BMPs as necessary and document the findings of the inspections in an erosion control log kept on site with the date of inspection, the name of the person conducting the inspection, a description of the present phase of the construction, a description of any repairs needed and documentation of the completed repairs.

(89) *Winter dormant inspection requirements.* When a permitted construction site is shut down and dormant over the winter season, the applicant shall be exempt from weekly inspections as required in Sec. 24-30(e)(7) upon approval of the Director of Public Works. In order for a permitted site to be classified as winter dormant, the applicant must install erosion control measures to the satisfaction of the Director of Public Works, provide an inspection of these measures and then cease all construction activities except for minor maintenance activities. Once a site is classified as winter dormant by the Director of Public Works, inspections are only required within twenty-four (24) hours of a rain or thaw event as determined by the Director of Public Works. If at any time construction resumes or an erosion control failure occurs at the site, the site shall lose the winter dormant classification and the applicant must resume normal inspection.

(910) *Documentation of inspection.* When required by the City of Appleton, erosion control inspections, including any repairs needed and/or actions taken at the site, shall be documented on the City of Appleton online erosion control self-reporting system. The permittee will be given access to this website, which contains documentation and forms for use in the erosion control inspections. Digital photographs of each of the erosion control practices and the site conditions shall be submitted and shall be required to meet the minimum inspection requirements of this section.

(4011) Allow the City of Appleton to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the plan. Keep a copy of the erosion and sediment control plan at the construction site.

(f) *Permit conditions.* Permits issued under this section may include conditions established by City of Appleton in addition to the requirements set forth in sub. (e), where needed to assure compliance with the performance standards in Sec. 24-25.

(g) *Permit duration.* Permits issued under this section shall be valid for a period of one (1) year, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance.

(h) *Maintenance.* The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization and final acceptance by the City of Appleton. Upon failure to perform the necessary maintenance of the erosion control practices, the City of Appleton retains the right to perform maintenance and/or repairs. The costs shall be assessed to the responsible party.

(i) All sites covered under this ordinance shall implement a long-term stormwater management plan per Wis. Adm. Code s. NR 216.47. For sites not subject to the Stormwater Management Standards and Planning Ordinance in Article VI of Chapter 20 of the Appleton Municipal Code, a stormwater management acknowledgement form, accepting the long-term stormwater management requirements, shall be required prior to receiving an erosion and sediment control permit.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-31 – 24-34. Reserved.**

**Sec. 24-35. Erosion and sediment control plan, statement and amendments.**

(a) *Erosion and sediment control plan.*

- (1) An erosion and sediment control plan shall be prepared and submitted to the City of Appleton Department of Public Works, ~~unless the project is required to also submit a site plan. If a site plan is required, the complete erosion and sediment control permit application and appropriate fee shall be submitted to the City of Appleton Community Development Department with the site plan submittal.~~
- (2) The complete erosion and sediment control plan shall be submitted in both hard copy and .pdf format.
- (3) The erosion and sediment control plan shall be prepared by a person who holds a registration issued by the Wisconsin Department of Regulation and Licensing in one (1) of the following categories:
  - a. Architect.
  - b. Engineer.
  - c. Land Surveyor.
  - d. Landscape Architect.
- (4) The erosion and sediment control plan shall be designed to meet the performance standards in Sec. 24-25 and other requirements of this ordinance.
- (5) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
  - a. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's contact at such firm. The application shall also include start and end dates for construction.
  - b. Description of the site and the nature of the land disturbing activity. Sites of one (1) acre or more shall include the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
  - c. The intended sequence of land disturbing construction of the development site, including stripping; clearing and grubbing; excavation; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date when clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, establishment of permanent vegetation and removal of erosion and sediment controls.
  - d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
  - ~~e. For sites less than one (1) acre of disturbed area, include BMPs meeting the provisions of Sec. 24-25(c)(2).~~
  - ~~f. For sites with one (1) acre or more of disturbed area, provide calculations per WDNR Soil Loss Guidelines per Sec. 24-25(c)(3).~~
  - ~~g. Location and description of the existing surface soil as well as subsoils, as indicated by USDA Natural Resource Conservation Service Soil Survey information.~~
  - ~~h. Whenever permanent infiltration devices will be employed or were evaluated, the depth to the nearest seasonal high groundwater elevation or top of bedrock shall be identified per appropriate on-site testing.~~

- h. Name of the immediate named receiving water from the United States Geological Services 7.5 minute series topographic maps.
- (6) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than one hundred (100) feet per inch and at a contour interval not to exceed two (2) feet.
- a. Existing topography, vegetative cover, natural and engineered drainage patterns and systems, roads, and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on the site and on adjacent lands shall be shown. Any identified 100-year flood plains, flood fringes, floodways, and flood storage areas shall also be shown.
  - b. Boundaries of the parcel and the construction site.
  - c. Drainage patterns and approximate slopes before and after major grading activities.
  - d. Areas of soil disturbance.
  - e. Location, dimensions and descriptions of major structural and non-structural controls identified in the erosion and sediment control plan.
  - f. Location of areas where stabilization BMPs will be employed.
  - g. Areas that will be vegetated following land disturbing construction activity.
  - h. Area(s) and location(s) of wetland acreage on the site and locations where stormwater is discharged to a surface water or wetland, within one-quarter mile downstream of the construction site.
  - i. Water courses and wetlands that may affect or be affected by runoff from the site.
  - j. On sites one (1) acre or larger an alphanumeric or equivalent grid overlying the entire construction site map.
  - k. Topography and drainage network of enough of the contiguous properties to show runoff patterns onto, through, and from the site.
  - l. Location, dimensions and description of utilities, structures and pavements.
  - m. Area(s) used for infiltration of post-construction stormwater runoff.
- (7) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:
- a. Description of interim and permanent stabilization practices, including a BMP implementation schedule. Erosion and sediment control plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
  - b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the City of Appleton, structural measures shall be installed on upland soils.

- c. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
  - d. Trapping of sediment in channelized flow.
  - e. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
  - f. Protection of downslope drainage inlets where they occur.
  - g. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
  - h. Clean up of off-site sediment deposits.
  - i. Proper disposal of building and waste materials, including but not limited to designated sites for concrete truck washout.
  - j. Stabilization of drainage ways.
  - k. Control of soil erosion from stockpiles.
  - l. Installation of permanent stabilization practices within ten (10) days after final grading.
  - m. Minimization of dust to the maximum extent practicable.
- (Ord 187-11, §1, 1-1-12)

- (8) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(b) ***Erosion and sediment control plan statement.*** For each land disturbing construction site identified under Sec. 24-15, an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the City of Appleton. The control plan statement shall briefly describe the site, the development schedules and the best management practices that will be used to meet the requirements of the ordinance.

(c) ***Amendments.*** The applicant shall amend the plan if any of the following occur:

- (1) There is a change in design, construction, operation or maintenance at the site that has the reasonable potential for the discharge of pollutants and has not otherwise been addressed in the erosion and sediment control plan.
  - (2) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.
  - (3) The City of Appleton notifies the applicant of changes needed in the plan.
- (Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16; Ord 10-20, §1, 2-11-20)

**Secs. 24-36 – 24-39. Reserved.**

**Sec. 24-40. Fee schedule.**

Fees for the erosion and sediment control permits will be in such amount as may be established by the City of Appleton Common Council from time to time by separate resolution. Fees will be on file with the City Clerk.  
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-41 – 24-44. Reserved.**

**Sec. 24-45. Site inspections.**

Whenever land disturbing activities are being carried out, the City of Appleton may enter the land pursuant to the provisions of §§66.0119(1), (2), and (3), Wis. Stats. (Ord 180-04, §1, 1-1-05; Ord 188-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Secs. 24-46 – 24-49. Reserved.**

**Sec. 24-50. Enforcement and penalties.**

(a) Any land disturbing activity initiated after the effective date of this ordinance by any person, firm, association or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with these ordinance provisions.

(b) The City of Appleton shall notify the responsible party in writing of any non-complying activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action and additional enforcement action, which may be taken.

(c) Upon receipt of written notification from the City of Appleton, the responsible party shall make the necessary corrections within the time period established by the City of Appleton.

(d) If the violations issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City of Appleton may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of Appleton plus interest and legal costs shall be billed to the responsible party.

(e) The City of Appleton is authorized to post a stop work order on all land development or redevelopment activity in violation of this ordinance, or to request the Appleton City Attorney to obtain a cease and desist order.

(f) The City of Appleton may revoke a permit issued under this ordinance for noncompliance with ordinance provisions.

(g) Any permit revocation, stop work order or cease and desist order shall remain in effect unless retracted by the City of Appleton or by a court of competent jurisdiction.

(h) The City of Appleton is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Appleton City Attorney for the commencement of further legal proceedings.

(i) Any person, firm, association or corporation who does not comply with the provisions of this ordinance shall be subject to the general penalty provisions of the Appleton Municipal Code Sec. 1-16. Each day that the violation exists shall constitute a separate offense.

(j) Violations of this ordinance deemed to be a public nuisance shall be subject to abatement under Sec. 12-32 of the Appleton Municipal Code or compliance with this ordinance may be enforced by injunctive order in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

(k) When the City of Appleton determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the erosion and sediment control plan submitted and approved pursuant to this ordinance, or has failed to comply with schedules set forth in said erosion and sediment control plan, the City of Appleton or a party designated by the City of Appleton may enter upon the land and perform the work or other

operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City of Appleton shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance security posted pursuant to this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property.

(l) No building occupancy may be issued if there is noncompliance of any provision herein.

(m) No building permit may be issued in any subdivision when the subdivision is not in compliance with the requirements of this chapter.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-51 – 24-54. Reserved.**

### **Sec. 24-55. Appeals**

(a) The Utilities Committee of the Appleton Common Council shall hear and recommend to Council appeals where it is alleged that there is error in any order, decision or determination made by the City of Appleton in administering this ordinance except for cease and desist orders obtained under Sec. 24-50(e).

Upon appeal, the Committee may recommend to Council relief from the provisions of this ordinance that are not contrary to the public interest or provisions of state regulations, and where owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship.

(b) *Who may appeal.* Appeals to the Utilities Committee of the City of Appleton may be taken by any aggrieved person or by an officer, department, board or bureau of the City of Appleton affected by any decision of the City of Appleton. Written appeals shall be filed with the City Clerk. The Utilities Committee will make a recommendation within forty-five (45) calendar days of filing of the appeal. If the Utilities Committee takes no action within forty-five (45) calendar days, the appeal will automatically be sent to Council with a recommendation for approval. Either party may file a written request for a time extension with the City Clerk.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-56 – 24-59. Reserved.**

### **Sec. 24-60. Severability.**

If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portion thereof of the ordinance which shall remain in full force and effect.

(Ord 180-04, §1, 1-1-0; Ord 49-16, §1, 6-21-16)

\*Editor's Note: Chapter 24 was repealed and recreated by ordinance 180-04. This ordinance is effective as of January 1, 2005.

\*Editor's Note: Chapter 24 was repealed and recreated by ordinance 49-16. This ordinance is effective as of June 21, 2016.

City Law: 21-0961  
Revised: 09-02-2022



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

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

TO: Members of the Utilities Committee  
 FROM: Ross Buetow, Deputy Director/City Engineer  
 SUBJECT: Project List – 2023 Add-on Water Main Replacements  
 DATE: October 11, 2022

On July 20, 2022 the Common Council authorized a transfer of \$2,900,000 from the Second Raw Water Line Improvements Project to the DPW 2022 Watermain Program. These funds became available after bids for the second raw water line project came in well below the budgeted amount. Since the July 2022 Council action, DPW staff has reviewed our water system records to identify and prioritize water main relay projects best suited for use of these funds. The primary criteria used in the selection process was to replace undersized mains and/or mains with extensive maintenance and break histories. Another important factor was to find locations where the water mains could be replaced with as little damage as possible to existing street pavement. The scope of this project is limited to water main replacement only. The only water services that will be replaced are lead services encountered during construction.

The following is a summary of planned replacements:

Street	From	To	Existing Water Main	Issue(s)
Briarcliff Dr	Crestview Dr	Edgemere Dr	Exist 8" CIP '64 Tyton jt.	Multiple leaks, breaks. High maintainance.
Crestview Dr	Lynn Dr (south leg)	White Oak Dr	Exist 8" CIP '61	Multiple leaks, breaks. High maintainance.
Julie St	Crestview Dr	Lynn Dr	Exist 8" CIP '51	Numerous Main breaks, holes in pipe.
Kay St	Viola St	Racine St	Exist 6" CIP '54 (Viola to Graceland); 1- 1/2" Copper w/o Racine)	Undesized main. Flow/pressure concerns.
Lee St	Fremont St	Robin Way	Exist 8" CIP '70 (Fremont to Blueberry); 8" DIP '76 (Blueberry to Robin Way)	Multiple leaks, breaks. High maintainance.
Lynn Dr	Crestview Dr (north leg)	Newberry St	Exist 8" CIP '51	Main breaks, holes in pipe.
Capitol Dr	Lawe St	McDonald St	Exist 12" DIP '78 (Unwrapped)	28 main breaks. High Maintenance
Franklin St	Badger Ave	Richmond St	Exist 4" CIP 1913	Undesized main. Flow/pressure issues.
Atlantic St	Richmond St	Oneida St	Exist 4" CIP Pre 1930. Exist 6" CIP '38	Numerous main breaks. 2 major since 2008.

This work will be bid in 2022 for construction in 2023. Thank you for your consideration.

Tentative Agreements  
City of Appleton & IAFF Local 257  
August 19, 2022

ARTICLE 10 – VACATIONS

- A. Fire Operations personnel shall be eligible for vacations on the following basis:
1. Three (3) working days vacation after one (1) year of service.
  2. Six (6) working days vacation after two (2) years of service.
  3. Ten (10) ~~Nine (9)~~ working days vacation after eight (8) years of service.
  4. Twelve (12) working days vacation after twelve (12) years of service.
  5. Sixteen (16) ~~Fifteen (15)~~ working days vacation after twenty (20) years of service.

ARTICLE 11 – LEAVES OF ABSENCE

- A. Banked Sick Leave:

1. Severance Pay: Accumulated and unused sick leave not to exceed 720 hours shall be paid to an employee or their beneficiary at their retirement or death at their base rate of pay at the time of such retirement or death as follows:

**In Event of Retirement,**

If the City offers a PEHP the employee will be eligible for 50% of the eligible sick leave to be paid to PEHP. The remaining amount will be paid in cash.	
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2020	<del>10% of eligible amount paid to PEHP. The remaining amount will be paid in cash.</del>
2021	<del>20% of eligible amount paid to PEHP. The remaining amount will be paid in cash.</del>
2022	<del>25% of eligible amount paid to PEHP. The remaining amount will be paid in cash.</del>

ARTICLE 12 – HEALTH AND DENTAL INSURANCE

Health Insurance

**Provided the employer offers a Health Plan**, employees shall pay the same contribution as non-represented employees on plans offered by the City to non-represented employees.

Dental Insurance

**Provided the employer offers a Dental Plan**, employees shall pay the same contribution as non-represented employees on plans offered by the City to non-represented employees.

ARTICLE 13– POST EMPLOYMENT HEALTH PLAN

**Provided the employer offers the Post Employment Health Plan**, the employer shall contribute for each Eligible Employee the amount of \$10 per month. Additionally, upon retirement, 100% of the Eligible



Employee's earned vacation and holiday balance, that would have otherwise been paid to the Eligible Employee, had the Employer not participated in the Plan, shall be contributed to the Plan. The parties further agree that annually, 100% of the Eligible Employee's earned and unused PTO shall be contributed to the Plan.

ARTICLE 17 – PROMOTIONS (side letter incorporated into the contract, whereas promotions to Captain are offered to best qualified vs. senior qualified)

The Fire Department will train on departmental seniority basis Fire Operations Fire fighters from each shift to fully assume the duties of Driver-Engineer and will maintain a list of those Fire fighters who have successfully completed a training program as attested by the Training Officer and the Chief. Seniority will not prevail if an employee is found unable to adapt and apply him or herself in a manner applicable to the standards of handling and operating Fire Department apparatus.

All positions within the Fire Department other than that of Fire Fighter and Captain shall be promotional and shall be offered to qualified existing employees on the basis of seniority. Qualifications for each position shall not be arbitrary or capricious, shall be reasonably related to the work involved, shall be in writing, and copies of said qualifications shall be supplied to the Union as and when qualifications are established or changed. Only in the event that such promotion is refused by all qualified employees, shall the City hire a new employee to fill such vacancy or newly created position.

Vacancies for Captain shall be promotional and shall be offered to the best qualified employee based on the City's promotional process for Captain. Changes to this promotional process shall be agreed to by both Management and the Union.

ARTICLE 36 – LONGEVITY PAY (elimination of longevity pay)

~~All employees with a minimum of 10 years of service hired prior to 6/9/2015 shall receive \$200 annually in bi-weekly payments.~~

ARTICLE 37 – ADVANCED LIFE SUPPORT (ALS) ENGINE (new to the contract)

ALS Engines:

1. Each frontline emergency response vehicle, engines, and ladders, with the exception of 9300, will be staffed with a minimum of one paramedic and one Emergency Medical Technician (EMT) under the ALS Engine Company EMS Plan.
2. The Fire Department will need a minimum of 30 paramedics to ensure coverage 24/7/365.
  - a. Note: The State of Wisconsin Department of Health Services allows for a two-year phase in period. ALS Engines can begin with less than 30 paramedics and build up to that number over time.

All locally offered courses required by Medical Control to maintain a paramedic license will be sponsored utilizing on- and off-duty hours. Off duty training will be paid in accordance with the labor agreement. Any out-of-town training course will be considered on a case-by-case basis and should not be the primary source of recertification course work.

Once the Fire Department exceeds the minimum number of paramedics (30). A paramedic may choose to be removed from the active paramedic pool (process outlined below). Open Fire Fighter/Paramedic positions will be filled by the most senior Fire Fighter/Paramedic in the Fire Fighter ranks.

Fire Fighter/Paramedics that choose to drop their paramedic designation must maintain an EMT license. To drop their status, the employee will provide a written request to the Deputy Chief of Operations by July 31st of each calendar year. The Fire Chief or designee will determine if staffing allows the change from active status. Approvals will be made based on the number of active status years as a paramedic first, followed by department seniority. Any approved changes will take place the following January during shift alignments. The employee's pay will be reduced to the appropriate pay scale.

A Fire Fighter/Paramedic may request immediate withdrawal from active status if there is a Fire Fighter/Paramedic that can fill the future opening and the Fire Chief approves.

#### EXHIBIT A – WAGES

- 2023 = 2.25% increase on 12/1/23
- 2024 = 1% increase on 7/1/24
- 2024 = 2% increase on 12/1/24
- 2025 = 2.50% increase on 12/1/25
- Paramedic pay 2.75% over Fire Fighter/EMT

#### ADDITIONAL ITEMS:

- Management/union joint reviewed of contract. Administrative and cleanup changes were made.
- Side Letter Agreement Related to Specialties was incorporated into the contract.
- Side Letter Agreement Related to Hours of Work was incorporated into the contract.
- Side Letter Vacation Selection was incorporated into the contract.

2023-2025  
INTERNATIONAL ASSOCIATION  
OF  
FIRE FIGHTERS  
LOCAL 257

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## AGREEMENT

### ARTICLE 1 – PURPOSE OF AGREEMENT

This Agreement made and entered into by and between the City of Appleton, Appleton, Wisconsin, and the International Association of Fire fighters, AFL-CIO-CLC, Local 257.

It is the intent and purpose of the parties hereto that this Agreement shall promote and improve working conditions between the CITY and the UNION set forth herein rates of pay, hours of work and other terms and conditions of employment to be observed by the parties hereto. It shall be inherent in this Agreement that all Articles and provisions thereof are binding on both parties to the Agreement except in cases where a provision may be invalidated by law or other jurisdiction as provided in Article 25 of this Contract.

### ARTICLE 2 – RECOGNITION

This Agreement made and entered into at Appleton, Wisconsin, pursuant to the provisions of Chapter 111.70 and 62.13 of the Wisconsin Statutes by and between the CITY OF APPLETON, a municipal corporation, as municipal employer with the Fire Chief as its agent, hereinafter referred to as the CITY and APPLETON FIRE FIGHTERS, Local 257, AFL-CIO-CLC, as sole and exclusive bargaining agent for Appleton Fire fighters, Municipal employees hereinafter referred to as the UNION.

The terms “officer in charge”, “CITY” and “Appleton Fire Department” as used herein shall be interpreted to mean the Fire Chief or their designee.

### ARTICLE 3 – DUES DEDUCTION

The Association, as the exclusive representative of all the employees in the bargaining unit, will represent all such employees, Association and non-Association fairly and equally. No employee shall be required to join the Association, but membership in the Association shall be available to all employees who apply consistent with the Association constitution and by-laws. No employee shall be denied Association membership because of race, color, religion, age, disability, marital status, family status, national origin, sexual orientation or sex.

The Employer agrees that it will deduct from the monthly earnings of all employees in the collective bargaining unit, who have an Authorization and Consent to Deduct Union Dues on file with Employer, such amount being the monthly dues certified by the Association and uniformly required of all members, and pay said amount to the treasurer of the affiliated local on or before the end of the month following the month in which said deduction was made. Changes in the amount of dues to be deducted shall be certified by the Association thirty (30) days before the effective date of the change.

For all new employees, after filing an Authorization and Consent to Deduct Union Dues with Employer, said deduction shall be made from the first paycheck from which said deductions are normally made. The City shall be held harmless in the event a dispute arises between an employee and the Association regarding the interpretation and/or application of this provision.

### ARTICLE 4 – HOURS OF WORK

A. The basic work week for the following categories of employees (hereinafter called “Fire Operations personnel”) shall consist of fifty-six (56) hours to be worked in twenty-four (24) hour tours on the basis of two days on, four days off.

1. Captains
2. Lieutenants
3. Driver-Engineers
4. Fire fighters
5. Fire fighter/Inspectors

Employees in the above categories may be changed to a 40-hour per week schedule defined as a seven (7) day period beginning and ending on the same day, at the discretion of the Chief, for the following reasons:

1. Accommodating light duty assignments following an injury or illness, provided, however, that employees who are eligible for such assignment as a result of off-duty injury or illness shall have the option of accepting or refusing such light duty assignment. Pre-scheduled vacation which falls during the term of such assignment shall be granted based on the employee's original schedule. Sick leave and vacation requests, which are approved after the schedule change has been made, shall be based on the employee's new schedule.
  2. In order for newly hired employees to receive and complete the required recruit school training.
  3. Conducting Driver training limited to a two-week period.
  4. To attend the Acting Fire Officer Academy limited to a two-week period.
- B. The duty day shall begin at 0700 hours for Operations Personnel. The Chief or their designee shall determine staffing needs during that period.
- C. Employees may exchange workdays between themselves.
1. Provided, however, the City shall not be liable for overtime or temporary assignment pay which accrues solely due to the exchange of work hours.
  2. Provided it does not interfere with scheduled mandatory training.
    - a. Mandatory training shall be defined as:
      1. One city-wide mandatory training day per shift, unless training can be completed virtually at a different agreed upon time.
      2. If unable to attend the original dates, the make-up days for both EMS training and physical fitness testing and,
      3. One day per shift per year at the discretion of the Chief or designee with 45 days notice.
  3. Provided there are no documented active performance issues.
  4. Provided both exchanging employees are fit for full unrestricted duty.
  5. Provided the maximum consecutive trade period shall be three two working day blocks. Employees trading to the maximum allowance must work one two working day block prior to the trade period and must work one two working day block upon returning.
  6. Provided they are qualified for the assignment as outlined below:
    - a. Officers will be allowed to exchange with Officers and with other qualified acting officers subject to the discretion of the Chief or their designee.
    - b. Driver Engineers will be allowed to exchange with Driver Engineers and with other qualified employees designated as relief drivers subject to the discretion of the Chief or their designee.
    - c. Fire Fighters will be allowed to exchange with Fire fighters subject to the discretion of the Chief or their designee.
    - d. Paramedics will be allowed to exchange with Paramedics subject to the discretion of the Chief or their designee.
    - e. When scheduling, a person working a duty exchange will be assigned, if qualified, to the position in which the initiator of the exchange would have been assigned. In addition, they may be preassigned to any classification for which they are qualified, when there is no regularly scheduled, qualified, employee available.
  7. Provided that only one Fire fighter/Inspector can exchange with a non-Fire fighter/Inspector subject to the discretion of the Chief or their designee.

It is the requesting employee's responsibility to ensure that the request for duty exchange has been received by the Chief or their designee.

- D. Whenever necessary because of insufficient staffing to fill crews, the Chief or their designee may call in off-duty personnel. Such call-ins shall be completed using technology systems using rankings within the classification. In the event that all available employees are notified and such vacancies cannot be filled as a result of employees refusing, such vacancies shall be filled by assigning the employees with the least seniority by job classification. In cases where contact cannot be made with an employee, the employee will be by-passed for that day but will again be eligible for the next vacancy or emergency.
- E. The duty day for the purpose of training procedures and other regular, routine duties shall commence at 0700 and terminate at 1630. A lunch period shall generally be provided between 1130 and 1300. Maintenance and servicing of vehicles, equipment, and other fire department property after 1630 shall be limited to items necessary for efficient response to alarms. The balance of the tour of duty shall be to provide service in matters of responding to emergency and non-emergency calls. If the lunch period needs to be altered to meet the needs of the organization, a lunch period of a continuous one and one half hours shall be scheduled between 1030 and 1430.
- F. The routine duty schedule for Saturday shall be from 0700 until 1200. Sunday and holidays, as designated in Article 9, shall be limited to the past customary practice of those duties necessary for efficient responses to alarms, housework, and vehicle checks.
- G. If routine duties are assigned outside the above stated duty schedule, the following alternatives shall apply and are subject to the employees discretion for compensation:

WEEKDAYS: Routine duties may be assigned between 1630 and 2200 hours. A meal break of continuous one and one half-hours shall be scheduled between 1600 hours and 2000 hours. Employees will be compensated for hours worked. Compensation can be in the form of either half-time pay or time back during an employee's scheduled shift.

SATURDAYS: Routine duties may be assigned from 0700 –1800 hours. A lunch break of a continuous one and one half-hours shall be scheduled between 1100 hours and 1400 hours. Employees will be compensated for hours worked. Compensation can be in the form of either half-time pay or time back during an employee's scheduled shift.

SUNDAYS AND HOLIDAYS: Employees assigned routine duties on Sundays and Holidays shall be compensated at an additional straight time rate for hours worked. A lunch break of a continuous one and one half-hours shall be scheduled between 1100 hours and 1400 hours. Routine duties shall not be assigned beyond 1630.

- H. The duty day for the Fire fighter/Inspector for the purpose of training procedures and other regular, routine duties shall commence at 0700 and terminate at 1130, recommence at 1300 and terminate at 1630. Additional routine inspection activities may be assigned after 1630 as required but no later than 2400 on weekdays and Saturdays and 2200 on Sundays and Holidays. (Activities such as fire investigation, occupancy inspections, public education events, special event inspection, PAC inspection, emergency inspection issues and juvenile fire setter education.) All meal parameters in are applicable to the position of Fire fighter/Inspector.

## ARTICLE 5 – OVERTIME

- A. Subject to the provisions of sub-paragraphs 1 and 2 of this paragraph, all time worked over forty (40) hours per week shall be considered overtime and be paid for at the rate of time and one-half such employee's base rate. When employees are required to work beyond their normal scheduled hours for any reason, they shall be paid overtime at time and one-half for actual time worked.
  - 1. Fire Operations personnel shall be paid overtime for all hours worked over twenty-four hours per shift and for any hours worked on a scheduled day off when the employee has worked all of their scheduled hours in that pay

period. When staffing apparatus, the employee will be paid the regular base rate as outlined in Exhibit A. When not staffing apparatus such as attending meetings or training including mandatory training, the employee's base rate will be computed by taking the regular base rate as outlined in Exhibit A, multiplied by eighty (80) and divided by 112.

2. a. Employees who are required by the City to attend training or whose attendance at such training is mandatory to maintain their position, shall be paid for reasonable travel time at the 56-hour overtime rate in lieu of any mileage reimbursement. This provision shall not apply to training held within a 10-mile radius of Station 1.
  - b. Travel Time – Employees who elect to attend or participate in training sessions on their off-duty time, with prior approval of the Chief, shall be granted paid time off, in twelve-hour blocks, if required for travel. Travel for multi-day classes that include one or more duty days is deemed to be required if one of the following conditions exist:
    1. If the class occurs within a regularly scheduled two day block the following conditions do not apply. The existence of the following conditions will be determined by the employer.
    2. The employee must leave the workplace prior to 0700 hours to arrive at the training site on time they shall be granted the preceding 12 hours off.
    3. The employee cannot reasonably be expected to return to Fire Station #1 at 1700 hours or earlier, following the training then the employee shall not be required to work for the remainder of that shift. Employees who can reasonably be expected to return to Fire Station #1 prior to 1700 hours shall return to duty at 1900 hours.
    4. Employees who cannot reasonably be expected to return to Fire Station #1 by 2200 hours or earlier following training shall be granted the first 12 hours off if they are scheduled to work the next day.
- B. Overtime shall be computed to the next one-quarter hour. Deductions for tardy employees shall also be to the next one-quarter hour.
- C. Employees recalled for a period of less than ten (10) hours of overtime will not be charged with time worked on the overtime schedule.
- D. Employees who are pre-scheduled to work overtime shall receive payment for time actually worked at the appropriate rate or three (3) hours at straight time, whichever is greater. Employees notified of pre-scheduled overtime shall have their choice of all available openings in that classification.
- E. Extended Shift will be defined as when an employee is authorized to work beyond their normal scheduled hours for any reason. The employee will be paid at time and one-half for all hours worked.
- F. All overtime will be filled subject to senior qualified from the call list, except where herein specifically stated otherwise. All personnel will be numbered according to seniority on the department. Call lists shall be divided by classifications and overtime call-back of personnel shall be made on a rotating basis using a technology messaging system
- Seniority lists are available to employees via the use of scheduling technology.
- G. In the event of a defined specialty emergency, personnel will be called in at the discretion of the Shift Commander, in rotation according to rank; specialty Officer, specialty Driver, specialty Firefighter.
- H. A call list will be created for the purpose of allocating overtime for all Fire fighter/Inspectors for the purpose of assigning fire prevention/investigation work. Overtime shall be allocated in the following manner:
1. Fire cause investigation and other emergency call-ins: The call list will be rotated monthly. The employee at the top of the list will be called first for any such overtime during that month.



2. Prescheduled overtime: Overtime will be offered on an alternating basis, by event subject to the provisions below.

An event is defined as any prescheduled overtime occurrence (evening inspection, special community events, etc.) More than one event could occur on the same day or at the same time depending on the staffing levels determined by management.

#### ARTICLE 6 – SALARIES (See Exhibit A)

- A. Pay Period: Pay day shall be every other Thursday and shall include compensation for all hours worked the preceding two (2) week period (Operations personnel weekly rate to be based on an average), ending Sunday at 0700 hours. If a holiday falls on a day Monday through Thursday, payday shall be Friday.
- B. All employees are required to participate in direct deposit.

#### ARTICLE 7 – UNIFORM ALLOWANCE

Employees shall be paid a uniform allowance as follows:

- A. Annual Maintenance Allowance: Fire Operations employees shall receive \$520 annually as a uniform allowance. This allowance will be paid in \$20 bi-weekly payments.
- B. New Employees:
  - 1. Initial Clothing Allowance: All new employees shall receive a one-time \$550 initial clothing allowance, which will be added to the employees first paycheck. This allowance shall be considered a loan to each probationary employee. Employees who fail to complete probation shall re-pay the City this allowance. Employees who complete probation shall not re-pay the City any initial allowance.
  - 2. Dress Uniform: New employees will be issued their dress uniform upon graduation of the recruit school training. New employees who fail to complete their probationary period will be required to turn their dress uniform over to the Fire department.
- C. Union Logo:

The Union will be allowed to place a union sticker on helmets provided by the Appleton Fire Department. Specific location of the sticker is to be mutually agreed upon and to be uniform.

#### ARTICLE 8 – PENSION FUND CONTRIBUTIONS

Employees agree to pay the same contribution as general municipal employees for funding benefits under the Wisconsin Retirement Fund.

#### ARTICLE 9 – HOLIDAYS

A holiday shall be considered as starting at 0700 hours on the date of such holiday and shall remain in effect for the succeeding twenty-four (24) hour period.

- A. Operations Employees:

The following holidays are included in this Agreement for all Operations employees:

New Year's Day  
Easter Sunday  
Memorial Day  
Independence Day  
Labor Day  
Thanksgiving Day  
Friday after Thanksgiving Day  
Christmas Eve  
Christmas Day

1. If a Fire Operations person is scheduled to work overtime on a holiday, the employee shall be paid double time for all such hours worked.
2. In lieu of further compensation for the above holidays, Fire Operations personnel shall receive one hundred twenty (120) hours pay per year at their regular straight time rate as outlined in Exhibit A. Such payment shall be made on the last payday of December and shall only be made to employees on the payroll as of that date. Employees leaving the department for any reason after that date shall not be required to reimburse the City for any holiday pay. Provided, however, retirees shall have their holiday pay prorated upon retirement at any time during the year. New employees who have worked less than one year as of the last payday of December shall receive a prorated payment.

An employee, at their option, may elect to convert any or all of the 120 hours compensation described above to actual time off in full day increments. Holiday payout shall be reduced by twelve (12) hours for each conversion day taken. Selection of these days shall be in accordance with the provisions of Article 10 (D) (2) a-c, and shall be made after all employees have passed on their regular and floater vacation picks. All selections shall be completed no later than November 15. Holiday conversions for the fourth slot cannot be submitted for a date after December 14<sup>th</sup>.

#### ARTICLE 10 – VACATIONS

- A. Fire Operations personnel shall be eligible for vacations on the following basis:
  1. Three (3) working days vacation after one (1) year of service.
  2. Six (6) working days vacation after two (2) years of service.
  3. Ten (10) working days vacation after eight (8) years of service.
  4. Twelve (12) working days vacation after twelve (12) years of service.
  5. Sixteen (16) working days vacation after twenty (20) years of service.
- B. Regular employees shall be entitled to paid vacation benefits as of January 1<sup>st</sup> of each year based upon their length of continuous service. For purposes of determining future vacation eligibility, the year of hire shall be treated as a full year of service.
- C. Vacation allowances shall not be cumulative and after the qualifications have been met for vacation, it must be taken between January 1 and December 31, or be lost, with the City not being liable for any compensation, or up to three days (13.3 hours per day) can be deposited into the PEHP or HSA.
- D. The Chief shall have the vacation schedule available for employees on or before November 1 preceding the year vacations are to run so that picking of vacations can be completed by January 1, where applicable. The order of picking vacations shall be by seniority on each shift. The seniority to be determined by the number of full-time years an

employee has on the Fire Department and being assigned to the same shift, the senior member of the hiring class shall always pick first.

The second or following vacations cannot be selected until all personnel have picked in each round.

1. The Fire Operations personnel that have qualified for more than three (3) days of vacation will be allowed to split their vacation into one or more blocks. However, requests for more than three consecutive blocks must be approved by the Chief or their designee
2. Fire operations personnel shall pick their vacation on the basis of two (2) working day blocks, not to exceed the number of working days each person has accrued in accordance with Section A.
  - a. Personnel with 3 days remaining to select may either:
  - b. Select a 2 day block and select the remaining day the next round
  - c. Select a 2 day block and keep the remaining day as a floater
  - d. Select all 3 days in one pick, but those days must be consecutive
3. After employees select the number of blocks to which they are entitled, any vacation days allowed but not scheduled, shall be permitted to be used as "floater" days. Such use shall be in accordance with the following:
  - a. In the event two or more employees choose the same floater, seniority will prevail.
  - b. After a floater is picked, under no circumstances will a more senior employee be able to remove him/her.
  - c. Use of a floater day shall require prior approval of the Chief or his/her designee and will not be granted if, at the time of the request, the approval of such day will result in overtime or if the function of the Department will be curtailed. The Chief may grant exceptions to this provision on a case-by-case basis.
4. After vacation periods have been selected, no changes will be made unless, due to duty injuries, transfers to another shift, division or program, or permission is obtained from the Chief or their designee.
5. A total of nine (9) employees, but only three (3) from each shift, can be on vacation at any one time unless an employee has been transferred to another shift after vacations have been picked. (Article 10- E will prevail.)
6. A fourth vacation slot for each shift may be approved under the following provisions;
  - a. Approval will not be granted more than fourteen (14) days from the date of the leave that is being requested.
  - b. Request for the 4<sup>th</sup> slot will not be approved if the approval will cause overtime.
  - c. Approval may be granted for requests with less than fourteen (14) days' notice from the date of the leave that is being requested with approval of the Chief or their designee.

E. Employees permanently transferred during the year to a different shift or position, shall have the option to change the dates they have chosen for vacation, which option shall be exercised within thirty (30) days of such transfer. The exercise of this option shall not affect the vacations of other employees in any way and shall not be granted if more than four (4) employees are on vacation at any given time per shift.

F. Retiring employees shall be paid for their vacation based on the number of weeks such vacation would represent if it were taken within their schedule. Employees who are terminated for any other reason shall be paid on the basis of eight hours per vacation day at their regular hourly rate.

## ARTICLE 11 – LEAVES OF ABSENCE

### A. Sick Leave:

1. Operations employees shall be entitled to accumulate five (5) hours sick leave per month to a maximum of 1080 hours. Operations employees hired after 1/1/11 shall receive four (4) hours per month until January 1 following the year said employee qualifies for top step Fire Fighter. On January 1 following that year the employee will receive five (5) hours accumulation per month. Any employee who has reached the maximum accumulation of sick leave (1080) hours and who has used twelve (12) hours or less of sick leave in a calendar year shall be permitted to increase the maximum accumulation of sick leave by the unused amount of sick leave for that year to a maximum accumulation of 1440 hours. Family Medical qualifying sick leave will count as sick leave used when determining the criteria for adding sick leave beyond the 1080 maximum.
  - a. Fire Operations personnel shall be charged with one-half (1/2) hours of sick leave for each hour taken.
  - b. Probationary employees shall accumulate, but shall not be paid sick leave until they have completed six (6) months of service.
  - c. Employees shall accumulate sick leave while they remain on the payroll. Employees in an unpaid leave or non-FMLA status for a full month will not accumulate sick leave.
2. An employee may use and be paid sick leave for absences required by their off duty injury, illness or required dental care, or serious illness or injury at home, (including, but not limited to, the hospitalization of his wife for birth of child.)
3. Sick leave may also be used by employees for non-medical emergencies at the employee's home. An emergency shall be defined for purposes of this paragraph, as a situation where the employee's presence at home is required to protect or maintain the health or safety of their family or to prevent serious property damage. Paid leave for emergencies shall not exceed twelve hours per incident without approval of the Chief or their designee.
4. In order to be granted sick leave with pay, an employee must:
  - a. Report immediately to the Chief or their designee the reason for their absence and the expected duration of such absence.
  - b. Keep the Chief or their designee informed of the circumstances if absence is of more than two working days duration.
  - c. Submit a medical certificate for any absence of more than two (2) working days, if required by the City.
  - d. The City may make such medical examinations or nursing visits as it deems desirable. All costs associated with the medical examination shall be paid solely by the employer.

The medical examination may be outside the residence, provided that:

    1. Costs of transportation are paid by the City; and
    2. The examination is conducted at a medical facility, including by way of example but not limitation, a hospital or physician's office, reasonably near the employee; and
    3. The employee's illness or injury is one which reasonably permits travel; and
    4. The employee is required to drive unless the illness, injury or medications impair the employee's ability to drive.
5. Employees shall not be eligible for paid sick leave for absences resulting from injury or illness incurred while working for another employer for pay, when such absence is compensable under Worker's Compensation through the other employer. This provision shall not apply to Family Medical Leave Act (FMLA) qualifying absences.
6. Fire Operations Personnel: Doctor and dental appointments, which are not emergencies, must be made on off-duty days.

B. Banked Sick Leave:

1. Severance Pay: Accumulated and unused sick leave not to exceed 720 hours shall be paid to an employee or their beneficiary at their retirement or death at their base rate of pay at the time of such retirement or death as follows:

**In Event of Retirement,**

If the City offers a PEHP the employee will be eligible for 50% of the eligible sick leave to be paid to PEHP. The remaining amount will be paid in cash.

**In Event of Death:**

100% of eligible amount will be paid to the employee's beneficiary in cash.

C. Funeral Leave: All employees will receive time off without loss of pay, if normally scheduled to work, for a death in the immediate family, beginning from the time of notification of death to the next scheduled day after interment, except however, that such time off without loss of pay is limited to two (2) work days for Fire Operations personnel.

1. Immediate family is defined as spouse, son, daughter, mother or stepmother, father or stepfather, legal guardian, sister, brother, mother-in-law, and father-in-law.
2. Fire Operations personnel shall be granted 24 hours off without loss of pay to attend the funeral or wake (not both) of grandparents, spouse's grandparents or grandchildren, brother-in-law, or sister-in-law, if scheduled to work on that day.
3. Employees shall be permitted to exchange hours for additional funeral experiences not covered by the above paragraphs (funeral leave), pursuant to the provisions of Article 4C.
4. Additional time off shall not be granted for funeral leave if death in the family relationships outlined above occurs while the employee is absent because of sick leave, vacation or leave of absence.

D. Leave of Absence Without Pay: Requests for leave of absence without pay for justifiable reasons shall be made by written application on a form provided by the Human Resources Office and be submitted at least two (2) days prior to the anticipated leave.

1. For a leave not to exceed two (2) consecutive days, their request shall be made to and approved by the Chief.
2. For a leave in excess of two (2) consecutive days, the employee shall make his request to the Director of Human Resources after securing the approval of the Chief.
3. No employee shall be granted a leave of absence without pay unless such employee makes arrangements in advance with the Director of Human Resources for payment of health and dental insurance premiums during the period of the absence.
4. Failure to comply with the regulations of this Article shall result in disciplinary action in accordance with the provisions of Article 21 and Exhibit B of this contract.

E. An employee shall be given time off without loss of pay when performing jury duty or when subpoenaed to appear before a court, public body or commission in connection with City business. In the case of jury duty, the employee shall remit their fee to the City.

F. Operations employees on the payroll on 1/1/11 shall receive 3 PTO days each year to be used as paid time off. Any PTO days not used as of December 31<sup>st</sup> will be paid pursuant to Article 13 – Post Employment Health Plan or to the employee’s Health Savings Account. The employee shall notify the department by December 31<sup>st</sup> of their selection.

For those employees eligible for 3 PTO Days. PTO days shall be pro-rated in the year of termination/resignation as follows:

January-April	0
May-August	1
September-December	2

Operations employees hired after 1/1/11 shall receive 2 PTO days each year until January 1 following the year said employee obtains top step Fire Fighter (Over 8-year step). On January 1 following that year the employee will receive 3 PTO days each year to be used as paid time off. Any PTO days not used as of December 31<sup>st</sup> will be paid pursuant to Article 13 – Post Employment Health Plan or to the employee’s Health Savings Account. The employee shall notify the department by December 31<sup>st</sup> of their selection.

For those employees eligible for 2 PTO Days – PTO days shall be pro-rated in the year of hire/ termination/resignation as follows:

	Hired	Leaving
January-June	1	0
July-December	0	1

At the time of retirement employees who qualify for an annuity under the Wisconsin Retirement fund shall receive their full unused balance of PTO pursuant to the PEHP.

ARTICLE 12 – HEALTH AND DENTAL INSURANCE

Note: Retirees cannot stay on the City plan after they are eligible for Medicare. Provided the employer offers a health plan, retirees will be offered a group plan, but not necessarily the same plan as active employees.

Health Insurance

Provided the employer offers a Health Plan, employees shall pay the same contribution as non-represented employees on plans offered by the City to non-represented employees.

Dental Insurance

Provided the employer offers a Dental Plan, employees shall pay the same contribution as non-represented employees on plans offered by the City to non-represented employees.

ARTICLE 13– POST EMPLOYMENT HEALTH PLAN

Provided the employer offers the Post Employment Health Plan, the employer shall contribute for each Eligible Employee the amount of \$10 per month. Additionally, upon retirement, 100% of the Eligible Employee’s earned vacation and holiday balance, that would have otherwise been paid to the Eligible Employee, had the Employer not participated in the Plan, shall be contributed to the Plan. The parties further agree that annually, 100% of the Eligible Employee’s earned and unused PTO shall be contributed to the Plan.

ARTICLE 14 – DUTY INCURRED DISABILITY PAY

- A. An employee, while performing within the scope of their employment as provided by Chapter 102 of the Wisconsin Statutes (Worker’s Compensation Act), shall receive the difference between their prevailing straight time salary and their Worker’s Compensation Benefits described herein as “Injury Pay” for the period of time the employee may be temporarily totally or temporarily partially disabled because of said injury, not to exceed thirty (30) weeks from date of injury.
- B. Special cases may be extended by mutual agreement between the Union and the City.
- C. Operations employees will remain on their assigned shift for light duty assignment if the injury is a work-related injury, if the employee’s physician certifies that they may return to a light duty assignment on a twenty-four-hour shift and if the employee’s restrictions allow them the return. No more than one employee/shift shall remain on their 56-hour schedule. Order of availability shall be first come, first serve and if more than one injury on the same day, then by seniority.

ARTICLE 15 – POSTING OF JOBS

- A. Vacancies in existing positions:
  - 1. Before any vacancy is filled, other than that of Fire Fighter Inspector, a notice shall be provided at least one (1) week in advance of the application deadline date. The notice shall clearly state the application requirements, an outline of job requirements, pay classifications applicable to the positions, and/or any other information applicable.
- B. Vacancies for newly created positions:
  - 1. Before any vacancy is filled, a notice shall be posted at all fire stations and remain posted for a period of not less than one (1) week. The notice shall clearly state the application requirements, an outline of job requirements, pay classifications applicable to the position, and/or any other information applicable.
- C. The Union will be furnished a copy of such notice.
- D. A “promotional vacancy” as used herein shall be deemed to mean vacancies created by newly created positions or by promotions but shall not include the position of Fire Fighter. Employees appointed to temporarily fill such vacancies or performing the duties required of such vacant position, shall be paid not less than the rate of pay applicable to such position.

Time spent on temporary assignment from the time of vacancy until it is filled shall be used in determining step progression for the employee who is selected to fill that vacancy.

ARTICLE 16 – TEMPORARY ASSIGNMENTS

- A. Temporary assignments to driver positions of more than 12 hours shall go to senior qualified, on duty Operations personnel. Temporary assignments to officer positions of more than 12 hours shall go to senior qualified, on duty Operations personnel. An employee’s seniority for temporary assignments will be based on departmental seniority. An employee working a duty exchange will assume the seniority of the employee they are working for. Senior qualified employees who are working a duty exchange will not displace an employee previously scheduled for temporary assignment.

For the purpose of training as a qualified acting officer, by mutual agreement of the involved employees, the department may allow an acting officer to temporarily fill the role of officer with a qualified Lieutenant or Captain on the apparatus as a training opportunity with no additional compensation.

Should the acting officer be serving as the driver of the apparatus when placed in the acting officer training position, any placement of a relief driver to operate the apparatus must be by mutual agreement for the training purpose of the relief driver with no additional compensation.

- B. When a vacancy will require calling in off-duty personnel, such vacancy will be assigned to off-duty Operations personnel of the same classification causing such vacancy and in accordance with the overtime call in provisions in Article 5.

An employee temporarily assigned to a higher classification within the bargaining unit having a higher rate of pay shall receive the next higher rate of the new classification for the period of time worked in that higher classification.

- C. Employees temporarily assigned to a management position shall receive \$1.00 per hour more than the over one (1) year step of Captain. Employees so assigned shall be paid this higher rate for eight hours or for the actual time assigned, whichever is greater.

- D. Temporary Assignment to the position of Relief Firefighter/Inspector (RFFI) shall be filled by a qualified RFFI. The department will qualify one individual per shift to the position of RFFI. For the purpose of temporary assignment the RFFI will first serve in the Firefighter/Inspector (FFI) over any other temporary assignments. An RFFI can be temporarily assigned as relief driver or acting officers when not functioning as an FFI.

Firefighter/Inspectors (FFI) can be temporarily assigned as acting officers once they have qualified as such and have been in their position as an FFI for a minimum 3 years. Both FFI's on each shift may be qualified to be an acting officer, but only one FFI may be assigned to be an acting officer on a shift day. Should a FFI be working on a duty exchange for a non-FFI and they have qualified as an acting officer, the FFI on the duty exchange could also be assigned as an acting officer.

- E. Temporary Assignment of a Lieutenant to the position of Acting Captain for extended absences shall be handled in the following way:

1. Extended absence is defined for the purpose of this article, as a period of time in excess of a normal approved vacation block(s) and identified by the Fire Chief or his designee.
2. The temporary assignment will be made to the senior Lieutenant, based on departmental seniority, assigned to the station where the extended Captain vacancy has occurred.
3. Compensation for the temporary assignment will be in accordance with the provisions of "B" above.

## ARTICLE 17 – PROMOTIONS

All positions within the Fire Department other than that of Fire Fighter and Captain shall be promotional and shall be offered to qualified existing employees on the basis of seniority. Qualifications for each position shall not be arbitrary or capricious, shall be reasonably related to the work involved, shall be in writing, and copies of said qualifications shall be supplied to the Union as and when qualifications are established or changed. Only in the event that such promotion is refused by all qualified employees, shall the City hire a new employee to fill such vacancy or newly created position.

Vacancies for Captain shall be promotional and shall be offered to the best qualified employee based on the City's promotional process for Captain. Changes to this promotional process shall be agreed to by both Management and the Union.



Vacancies in the Firefighter Inspector (FFI) position will be filled on the basis of departmental seniority from the current qualified Relief Firefighter Inspectors (RFFI), however, to qualify for promotion to FFI, RFFI must have filled the role of an RFFI for a period of two years. If none of the current RFFI's have the two years' experience, the most senior RFFI based on department seniority shall be offered the promotion. Should a qualified RFFI refuse promotion when offered, the RFFI will relinquish their position of RFFI.

The Fire Department will train Fire Fighters, based on department seniority, from each shift to fully assume the duties of Driver-Engineer and will maintain a list of those Fire Fighters who have successfully completed a training program as attested by the Training Officer and the Chief. Seniority will not prevail if an employee is found unable to adapt and apply themselves in a manner applicable to the standards of handling and operating Fire Department apparatus.

#### ARTICLE 18 – LOSS OR DAMAGE

- A. City Property: Employees shall not be assessed or charged for loss or damage of City property of materials unless such loss or damage occurred as a result of the willful and malicious act of an employee.
- B. Third Parties: The City shall authorize the City Attorney to defend actions brought against any Fire Fighter or shall pay reasonable attorney's fees and costs of defending such action, growing out of any acts done in the course of their employment or out of any alleged breach of their duty as such Fire Fighter.
- C. Any judgment obtained against such Fire Fighter shall be paid by the City provided the Fire Fighter acted within the scope of their employment as provided in Section 895.46 Wisconsin Statutes.

#### ARTICLE 19 – PUBLIC ELECTIONS

Any employee entitled to vote in any public election shall be afforded the necessary time off to do so in accordance with the provision of Section 6.76 of the Wisconsin Statutes or by any other means that is satisfactory to the City, the Chief and the Union.

#### ARTICLE 20 – UNION ACTIVITIES

- A. Negotiations: The City agrees to allow time off with no loss of pay to negotiation committee members, if and when negotiations are scheduled at a time when committee members are on duty.

#### ARTICLE 21 – DISCIPLINARY ACTION

- A. Infractions of any rules of conduct established by the City of which the Union has been duly notified shall be subject to disciplinary action. The employee and the Union shall be notified not more than ten (10) days (excluding Saturdays, Sundays and holidays) from the date the City knew or should have known of the infraction or incident and unless so notified, no disciplinary action shall be taken thereon.
- B. The nature and extent of the disciplinary action taken shall be limited to that specified in Exhibit "B" which is attached hereto and made a part hereof.
- C. It is understood and agreed by the parties to this agreement that an employee who has been disciplined may elect to appeal such discipline through Article 22, except in those cases that the exclusive lawful procedure for appeal of such discipline is that provided by State Statutes Sec. 62.13.

#### ARTICLE 22 – GRIEVANCE PROCEDURE

- A. Both the Union and the City recognize that grievances and complaints should be settled promptly and at the earliest possible stage and that the grievance process must be initiated within ten (10) days of the date that the employee knew or should have reasonably known of the incident giving rise to the grievance. Any grievance not reported or filed within ten (10) days shall be invalid.
- B. It is expected and understood that grievances and complaints between Fire Fighters shall be resolved by oral discussion between the parties involved. To the extent that such grievances or complaints are required to be reported to the Chief, or their designee, the matter will be resolved as hereinafter set forth.
- C. Any difference of opinion, misunderstanding, complaint or grievance, the subject matter of which is itself a mandatory subject of bargaining which may arise, with the exception of disputes within the exclusive jurisdiction of the Police and Fire Commission under Section 62.13 shall be processed as follows:

Step 1: The aggrieved employee shall present the grievance orally to their Battalion Chief or Deputy Chief as appropriate, accompanied by a Union representative. The Battalion Chief or Deputy Chief shall discuss the grievance with the employee and the Union representative and shall furnish the employee and the Union with a response to the grievance within ten (10) days of such discussion.

Step 2: If the grievance is not settled at the first step, the grievance shall be presented, in writing, to the Chief within ten (10) days of the Battalion Chief's or Deputy Chief's answer pursuant to Step 1. Such grievance shall make specific reference to the contract Article alleged to be violated. The Chief shall, within ten (10) days after such grievance is presented, hold an informal meeting with the aggrieved employee and the Union representative. The Chief shall reduce their decision to writing and furnish a copy of the same within ten (10) days of such meeting to all parties.

Step 3: If the grievance is not settled at the second step, the grievance shall be presented in writing to the Director of Human Resources within ten (10) days of the Chief's written decision as required in Step 2. The Director of Human Resources shall within ten (10) days of receipt of such grievance set up an informal meeting to be attended by all parties and their representatives. Within ten (10) days after such meeting the Director of Human Resources shall reduce their decision to writing and forward copies to all parties.

Step 4: If any grievance relative to interpretation or application of this Agreement is not settled at the third step, mediation may be the next step of the grievance procedure if requested or agreed upon by both parties.

Step 5: If the grievance is not settled in the third or fourth step, arbitration is the next and final step, but must be requested in writing within ten (10) days of the receipt of the Director of Human Resources' decision as in Step 3 or mediation as in Step 4. The decision of the arbitrator is to be final and binding upon both parties to the grievance.

- D. The term "Arbitrator" as used herein shall refer to a single arbitrator.
- E. Final and binding arbitration may be initiated by a notification in writing to the Wisconsin Employment Relations Commission. Said notice shall identify the Agreement provisions, the grievance or grievances, the department and the employees involved.
- F. All expenses, which may be involved in the arbitration proceedings, shall be borne by the parties equally. However, expenses relating to the calling of witnesses or the obtaining of depositions or any other similar expense associated with such proceedings shall be borne by the party at whose request such witnesses or depositions are required.
- G. The arbitrator so selected shall hold a hearing at a time and place convenient to the parties. Statements of positions may be made by the parties, and witnesses may be called.

- H. For purposes of receiving testimony and evidence, the provisions of Section 788.06 and 788.07 of the Wisconsin Statutes shall apply. The arbitration award shall be reduced to writing, subject to Section 788.08 through and including 788.15 of the Wisconsin Statutes.
- I. All records pertinent to the grievance of the aggrieved employee covered by this Agreement shall be made available to the Union upon request for the purpose of handling grievances.
- J. Any period of time specified in this Article for the giving of notice or taking any action shall be interpreted to exclude Saturdays, Sundays and holidays and may be extended by mutual agreement.
- K. In the event that the grievance arises out of the direct act of the Chief, the first step of this grievance procedure shall be automatically waived.
- L. In the event that any individual named to hear the grievance of a Fire Fighter in Steps 1 through 3 is unavailable within the period of time prescribed to present the grievance to him/her, the time limitation of the grievance procedures shall be satisfied if such grievance is presented in writing, addressed to the appropriate Battalion Chief, the Chief or the Human Resources Director at the Chief's office at Station #1 within the time period prescribed. In the event that the Fire Fighter against whom action is pending under Article 21 or to whom a notice or communication must be addressed under this Article 22, is unavailable, the time limitations of Article 21 and 22 shall be satisfied if such notice or communication is forwarded to the Secretary of the Union within the time limitation prescribed. Provided further, however, that the period required for such Fire Fighter's response shall be extended for a period equal to such Fire Fighter's vacation or other authorized leave.
- M. The Union may appoint stewards and shall inform the City of the names of the individual(s) so appointed and of any change thereafter made in such appointments. The City shall allow a steward the necessary time to process grievances during the course of the duty day. Union Stewards will be allowed reasonable use of the City's computer system for the processing of grievance forms and documents. The Chief or their designee shall make necessary transfers.
- N. All grievances shall be numbered in a manner acceptable to both parties for reference purposes throughout the process.

#### ARTICLE 23 – MILITARY LEAVE

- A. All employees who are duly enrolled members of the National Guard, the State Guard, the Officers Reserve Corps, the Enlisted Reserve Corps, Naval Reserve Corps, Naval Reserve, the Marine Corps Reserve, or any other reserve component of the military or naval forces of the United States, of the State of Wisconsin, now, or hereafter organized or constituted under Federal law, are entitled to leave of absence without loss of seniority, to enable them to attend military or naval schools, field camps of instruction and naval exercises which have been duly ordered held but not to exceed twenty (20) days, in the calendar year in which so ordered and held. All military leave, including active duty shall be governed by USERRA.
- B. The difference in pay between the military pay during the time of attendance and the employee's regular pay during the same period shall be paid by the City.
- C. The leave granted is in addition to other leaves.

#### ARTICLE 24 – WAIVER

The waiver or any breach, term or condition of this Agreement by either the City or the Union shall not constitute a precedent in the future enforcement of all its terms and conditions.

#### ARTICLE 25 – SAVINGS CLAUSE

If any article or section of this Agreement or any addendums thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction or if compliance with or enforcement of any article or section should be restrained by such tribunal, the remainder of this Agreement and addendums shall not be affected thereby and the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement for such article or section.

#### ARTICLE 26 – NO OTHER AGREEMENT

The employer agrees not to enter into any other agreement written or verbal, with employees individually or collectively, which in any way conflicts with the provisions of this Agreement.

#### ARTICLE 27 – CHANGES IN THE TERMS OF THIS AGREEMENT

If either party desires to negotiate any changes in this Agreement to become effective after the end of the term of this Agreement or any extension thereof, they shall notify the other party in writing of its desire to enter into such negotiating one hundred-eighty (180) days prior to the end of the contract period. The other party shall acknowledge receipt of such notice, in writing, within five (5) days, excluding Saturdays, Sundays and holidays.

#### ARTICLE 28 – TERM OF AGREEMENT

This Agreement expresses the complete agreement and understanding of the parties on all matters pertaining to wages, hours and working conditions and constitutes the full settlement of all bargaining issues for the term of the Agreement.

This Agreement shall become effective as of January 1, 2023, and remain in full force and effect to and including December 31, 2025, and shall renew itself for additional one year periods thereafter unless either party pursuant to Article 27 had notified the other party in writing that it desires to alter or amend this Agreement at the end of the contract period.

#### ARTICLE 29 – FUNCTION OF MANAGEMENT

Except as herein otherwise provided, the Management of the Department and the direction of the working forces, including the right to hire, promote, demote, layoff, suspend without pay, discharge for proper cause, transfer, determine the number of employees to be assigned to any job classification, and to determine the job classifications needed to operate the Employer's jurisdiction is vested exclusively in the Employer.

It is further agreed, except as herein otherwise provided, that the responsibilities of Management include, but are not limited to those outlined in this Agreement. In addition to any specified herein, the Employer shall be responsible for fulfilling all normal managerial obligations, such as planning, changing or developing new methods of work performance, establishing necessary policies, organizations and procedures, assigning work and establishing work schedules and of applying appropriate means of administration and control. Provided however, that the exercise of the foregoing rights by the City will not be used for the purpose of discrimination against any member of the Union or be contrary to any other specific provisions of this Agreement, and provided that nothing herein shall be construed to abrogate the provisions of the grievance procedure contained in Article 22.

#### ARTICLE 30 – AMENDMENT

This Agreement is subject to amendment, alteration or addition only by a subsequent written agreement between and executed by the City and the Union when mutually agreeable.

#### ARTICLE 31 – PROBATIONARY STATUS, NEW EMPLOYEES, TRANSFERS

- A. The Chief shall establish order at the time of hire. New employees shall be considered probationary employees until they have been in the employ of the City for 18 months. At the end of such period, the employee shall acquire seniority from the date hired. Probationary employees shall have all benefits and conditions of work afforded to employees with seniority, except tenure and as otherwise expressly noted herein.
- B. Promotions: Employees promoted to a higher classification shall serve in a probationary status for six (6) months, during which period they may be reduced to their previous position if they do not demonstrate their ability to perform the duties of the new position to the Employer's satisfaction. During this period, the employee retains the option to return to their previous position. This period may be extended for an additional six (6) months or up to an additional twelve (12) months to satisfy Specialty requirements of the promotion by mutual agreement of the Employer and the Union. The employee involved has the right to be present during discussions between the parties relative to such extensions.
- C. Fire fighter/Inspectors who have completed five (5) years of service in the position, or as otherwise approved by the City, may request to return to the position of Fire fighter by submitting a request to the Chief. The employee will be required to remain in the Fire fighter/Inspector position until the department can transition a new employee to the appropriate training level. Returning employees will be subject to the following conditions:
  1. Must be qualified as a relief driver for a period of two years. Prior to December 31, 2019, candidates that successfully complete the driver's academy must be qualified as a relief driver for 6-months. After January 1, 2020, candidates that successfully complete the driver's academy must be qualified as a relief driver for 2-years.
  2. If the employee was previously qualified as an Acting Company Officer, or a Company Officer, the employee must return to the acting list for a minimum period of two (2) years and at least six (6) months immediately preceding the promotion to Company Officer. Any time served on the acting list prior to transferring to the Fire fighter/Inspector position shall count toward the acting requirement as posted on the vacancy announcement and such time served in the position of Fire fighter/Inspector shall not count as an interruption to the acting requirement timeframe.

ARTICLE 32 – CONTINUING EDUCATION

The City will reimburse employees for one-half of the cost of tuition and books for continuing education courses or programs, provided that the employee submits evidence of a passing grade and further provided that the Chief or their designee has approved, in advance, the employee's participation in such course or program. Such approval shall not entitle the employee to payment or time off pursuant to Articles 5A and 4E of this Agreement.

ARTICLE 33 – PHYSICAL FITNESS

- A. Effective January 1, 1991, all Protective Status employees must participate in the following program. If they do so, and later decide to again participate, their continued participation shall be mandatory. All employees participating in the program shall be required to maintain a fitness level of "III" or better, in accordance with the agreed upon Fitness Standards.
- B. All employees will be tested for fitness levels annually, except that those who fall below the "III" level shall be tested monthly until they reach and maintain a "III" level. The employer shall schedule one test date and one make-up date for each shift. Employees unable to test with their assigned shift may test on alternative test dates. Employees who test on their off-duty time shall not be compensated for attendance at the testing procedure.
- C. Employees whose fitness level falls below the "III" level must show progress toward the "III" level in their monthly testing and must reach the "III" level within one year.
- D. Employees may be subject to progressive discipline for failure to comply with "3" above.
- E. All employees who test above the "III" level shall be compensated based upon the physical fitness schedule in Exhibit "A". The results of the annual testing shall be reflected in pay rates during the subsequent calendar

- year.
- F. Nothing contained herein shall be construed as a waiver of any employee's rights under State Statutes 62.13 or Article 22 or this agreement.
  - G. Any employee who is certified by a physician as being unable to perform any of the aspects of this program, due to a temporary physical condition, shall be excused from the testing process until the employee is able to participate fully. Employees shall suffer no loss of pay under this provision for a period not to exceed 180 days from the date of the testing process. The employee may re-test, upon being released to participate by the physician, within that payment period and shall be responsible for coordinating the re-test. Employees who elect to re-test will be placed in the appropriate pay schedule from the date of the successful re-test until the end of the payment period. Upon being released to participate by the physician, the employee shall participate in the next scheduled test opportunity.

#### ARTICLE 34 – NON-DISCRIMINATION

The Employer and the Union agree not to discriminate against any individual with respect to hiring, compensation, terms or conditions of employment because of such individual's race, color, religion, sex, age, disability, marital status, family status, sexual orientation or national origin, nor will they limit, segregate or classify employees in any way to deprive any individual employee of employment opportunities because of race, color, religion, sex, age, disability, marital status, family status, sexual orientation or national origin.

It is agreed that the use of any word in this Agreement which refers to employees in the masculine gender shall be considered to refer to employees of both sexes.

#### ARTICLE 35 – PART-TIME EMPLOYEES

Part-Time employees are defined as those employees who are normally scheduled to work less than 1456 hours per year. Part-time employees shall not receive any fringe benefits of this Agreement except that any part-time employee who works more than 1000 hours in a calendar year shall be eligible for pro-rata benefits, provided the employee meets any other eligibility requirements for such benefits.

Pro-rata calculations shall be made by dividing actual hours worked in the calendar by 2912.

Part-time employees shall not be used to circumvent the hiring of new employees for full-time positions.

Any employment opportunity whether caused by a bargaining unit employee's absence or by a temporary or permanent vacancy, shall be offered first to full-time employees. The offer shall be in accordance with terms of this contract and the parties' past practice. In the event that no full-time employee accepts the offer of work, then, and only then, may the work be offered to any part-time employee. Nothing in this section shall be construed to require the employer to fill a vacancy, or otherwise employ anyone. However, if employment is offered to any employee, it shall be provided pursuant to the terms of this section.

#### ARTICLE 36 – SPECIALTY PAY

The department retains the right to set the number and classifications needed for Specialties.

- A. The department will solely determine whether or not to participate in Specialties.
- B. Employees, who are required by the department to maintain skills or competencies as outlined below will receive specialty pay.
- C. Employees electing to participate in a Specialty must make a minimum five (5) year commitment to the Specialty. The five years will commence from the date of assignment.
- D. Employees wishing to withdraw from participation must submit a letter of intent to withdraw from the Specialty to the Battalion Chief Resource Development and Special Operations or Deputy Fire Chief as appropriate. The employee will be required to remain in the Specialty until the department can transition a new member to the appropriate

training level.

- E. Employees may be compensated for up to two (2) Specialties.\*
- F. Employees must be able to obtain & maintain required training and competencies to satisfy the designated level and to the satisfaction of the Fire Chief.
- G. Employees in the position of Fire Fighter/Inspector will be allowed to maintain one specialty at the employee's option.
- H. **Specialty Teams:** All team members must obtain and maintain Technician level training.
- I. **Hazmat Team Compensation:** Each Hazmat Team Technician Member will be paid \$10 bi-weekly as specialty pay.
- J. **Technical Rescue Team Compensation:** Each Technical Rescue Technician Team Member will initially be paid \$10 bi-weekly as specialty pay, for completion of any two (2) of the four (4) Technical Rescue Elements (Collapse, Confined Space, Ropes, Trench). Participants must make steady progress towards obtaining the needed training and skills and are to achieve the full qualifications within two (2) years. Upon completion of all four (4) elements, each Technical Rescue Technician Team Member will be paid \$20 bi-weekly as specialty pay.
- K. **Swift Water/Ropes Rescue Team Compensation:** Each Swift Water Rescue Technician Team Member will be paid \$10 Bi-weekly as specialty pay.
- L. **Confined Space/Ropes Technician level Compensation:** Each employee required to have Confined Space/Ropes Technician level training will be paid \$10 Bi-weekly as specialty pay.

#### ARTICLE 37 – ADVANCED LIFE SUPPORT (ALS) ENGINE

ALS Engines:

- 1. Each frontline emergency response vehicle, engines, and ladders, with the exception of 9300, will be staffed with a minimum of one paramedic and one Emergency Medical Technician (EMT) under the ALS Engine Company EMS Plan.
- 2. The Fire Department will need a minimum of 30 paramedics to ensure coverage 24/7/365.
  - a. Note: The State of Wisconsin Department of Health Services allows for a two-year phase in period. ALS Engines can begin with less than 30 paramedics and build up to that number over time.

All locally offered courses required by Medical Control to maintain a paramedic license will be sponsored utilizing on- and off-duty hours. Off duty training will be paid in accordance with the labor agreement. Any out-of-town training course will be considered on a case-by-case basis and should not be the primary source of recertification course work.

Once the Fire Department exceeds the minimum number of paramedics (30). A paramedic may choose to be removed from the active paramedic pool (process outlined below). Open Fire Fighter/Paramedic positions will be filled by the most senior Fire Fighter/Paramedic in the Fire Fighter ranks.

Fire Fighter/Paramedics that choose to drop their paramedic designation must maintain an EMT license. To drop their status, the employee will provide a written request to the Deputy Chief of Operations by July 31st of each calendar year. The Fire Chief or designee will determine if staffing allows the change from active status. Approvals will be made based on the number of active status years as a paramedic first, followed by department seniority. Any approved changes will take place the following January during shift alignments. The employee's pay will be reduced to the appropriate pay scale.

A Fire Fighter/Paramedic may request immediate withdrawal from active status if there is a Fire Fighter/Paramedic that can fill the future opening and the Fire Chief approves.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

CITY OF APPLETON

BY: \_\_\_\_\_  
Jacob Woodford, Mayor

INTERNATIONAL ASSOCIATION OF  
FIRE FIGHTERS, LOCAL 257

Attest:

\_\_\_\_\_  
President

BY: \_\_\_\_\_  
Kami Lynch, City Clerk

\_\_\_\_\_  
Vice President

Approved as to form:

\_\_\_\_\_  
Chris Behrens, City Attorney

Provision has been made to pay any liability  
which may accrue under this contract.

\_\_\_\_\_  
Jeri Ohman, Director of Finance  
City of Appleton



EXHIBIT A

**2023 - 2025 FIRE FIGHTER/EMR SALARY SCHEDULE**

12/1/23 - 2.25%  
7/1/24 - 1%  
12/1/24 -2%  
12/1/25 - 2.5%

	1/1/2023* Hourly Rate	12/1/2023 Hourly Rate	7/1/2024 Hourly Rate	12/1/2024 Hourly Rate	12/1/2025 Hourly Rate
<b>FIRE FIGHTER</b>					
Start step 0 - 1 year	\$29.3000	\$29.9593	\$30.2589	\$30.8641	\$31.6357
1 - 2 years	\$30.1500	\$30.8284	\$31.1367	\$31.7594	\$32.5534
2 - 3 years	\$31.1000	\$31.7998	\$32.1178	\$32.7602	\$33.5792
3 - 4 years	\$31.9800	\$32.6996	\$33.0266	\$33.6871	\$34.5293
4 - 5 years	\$32.8900	\$33.6300	\$33.9663	\$34.6456	\$35.5117
5 - 6 years	\$33.8800	\$34.6423	\$34.9887	\$35.6885	\$36.5807
6 - 7 years	\$34.9400	\$35.7262	\$36.0835	\$36.8052	\$37.7253
7 - 8 years	\$35.9600	\$36.7691	\$37.1368	\$37.8795	\$38.8265
Over 8 years	\$37.3900	\$38.2313	\$38.6136	\$39.3859	\$40.3705

<b>FIRE FIGHTER/INSPECTOR</b>					
Start Step	\$38.6900	\$39.5605	\$39.9561	\$40.7552	\$41.7741
1 Year Step	\$39.8700	\$40.7671	\$41.1748	\$41.9983	\$43.0483

<b>FIRE DRIVER ENGINEER</b>					
Start Step	\$38.2000	\$39.0595	\$39.4501	\$40.2391	\$41.2451
1 Year Step	\$39.0100	\$39.8877	\$40.2866	\$41.0923	\$42.1196

<b>FIRE LIEUTENANT</b>					
Start Step	\$39.8700	\$40.7671	\$41.1748	\$41.9983	\$43.0483
1 Year Step	\$40.7500	\$41.6669	\$42.0836	\$42.9253	\$43.9984

<b>FIRE CAPTAIN</b>					
Start Step	\$41.5700	\$42.5053	\$42.9304	\$43.7890	\$44.8837
1 Year Step	\$42.3500	\$43.3029	\$43.7359	\$44.6106	\$45.7259

\*1/1/2023 rate is the 10/1/2022 rate from the 2020-2022 contract and rounded to four digits.

New employees possessing career firefighting experience, at the discretion of the Chief, may be hired at any step up to and including the 4-5 year step of the pay schedule. For purposes of future pay advancement, such employees shall be deemed to have the years of service which their pay step represents. For all other purposes, seniority shall be determined from the actual date that the employee was hired.

Physical Fitness Pay - Employees will be paid an additional 1% or 2% which will be added to their hourly base wage as outlined in Article 33.

## 2023 - 2025 FIRE FIGHTER/EMT SALARY SCHEDULE

12/1/23 - 2.25%  
7/1/24 - 1%  
12/1/24 - 2%  
12/1/25 - 2.5%

	1/1/2023* Hourly Rate	12/1/2023 Hourly Rate	7/1/2024 Hourly Rate	12/1/2024 Hourly Rate	12/1/2025 Hourly Rate
<b>FIRE FIGHTER</b>					
Start step 0 - 1 year	\$29.5930	\$30.2589	\$30.5615	\$31.1727	\$31.9521
1 - 2 years	\$30.4515	\$31.1367	\$31.4481	\$32.0770	\$32.8789
2 - 3 years	\$31.4110	\$32.1178	\$32.4390	\$33.0878	\$33.9150
3 - 4 years	\$32.2998	\$33.0266	\$33.3569	\$34.0240	\$34.8746
4 - 5 years	\$33.2189	\$33.9663	\$34.3060	\$34.9921	\$35.8668
5 - 6 years	\$34.2188	\$34.9887	\$35.3386	\$36.0454	\$36.9465
6 - 7 years	\$35.2894	\$36.0835	\$36.4443	\$37.1733	\$38.1026
7 - 8 years	\$36.3196	\$37.1368	\$37.5082	\$38.2583	\$39.2148
Over 8 years	\$37.7639	\$38.6136	\$38.9997	\$39.7798	\$40.7742

<b>FIRE FIGHTER/INSPECTOR</b>					
Start Step	\$39.0769	\$39.9561	\$40.3557	\$41.1628	\$42.1918
1 Year Step	\$40.2687	\$41.1748	\$41.5865	\$42.4183	\$43.4788

<b>FIRE DRIVER ENGINEER</b>					
Start Step	\$38.5820	\$39.4501	\$39.8446	\$40.6415	\$41.6576
1 Year Step	\$39.4001	\$40.2866	\$40.6895	\$41.5032	\$42.5408

<b>FIRE LIEUTENANT</b>					
Start Step	\$40.2687	\$41.1748	\$41.5865	\$42.4183	\$43.4788
1 Year Step	\$41.1575	\$42.0836	\$42.5044	\$43.3546	\$44.4384

<b>FIRE CAPTAIN</b>					
Start Step	\$41.9857	\$42.9304	\$43.3597	\$44.2269	\$45.3325
1 Year Step	\$42.7735	\$43.7359	\$44.1733	\$45.0567	\$46.1832

New employees possessing career firefighting experience, at the discretion of the Chief, may be hired at any step up to and including the 4-5 year step of the pay schedule. For purposes of future pay advancement, such employees shall be deemed to have the years of service which their pay step represents. For all other purposes, seniority shall be determined from the actual date that the employee was hired.

EMT pay started on 1/1/2021 for union personnel who have their EMT certification. Once this EMT certification is obtained, it must be maintained. EMT pay is 1% over the employees base wage under the Fire Fighter EMR wage schedule.

\*1/1/2023 rate is the 10/1/2022 rate from the 2020-2022 contract with the EMT of 1% added to the base rate vs. being based on the over 8-year Fire Fighter rate.

Physical Fitness Pay - Employees will be paid an additional 1% or 2% which will be added to their hourly base wage as outlined in Article 33

## 2023 - 2025 FIRE FIGHTER/PARAMEDIC ASSIGNED TO ALS ENGINE SALARY SCHEDULE

12/1/23 - 2.25%  
7/1/24 - 1%  
12/1/24 - 2%  
12/1/25 - 2.5%

	1/1/2023* Hourly Rate	12/1/2023 Hourly Rate	7/1/2024 Hourly Rate	12/1/2024 Hourly Rate	12/1/2025 Hourly Rate
<b>FIRE FIGHTER</b>					
Start step 0 - 1 year	\$30.3988	\$31.0828	\$31.3936	\$32.0215	\$32.8220
1 - 2 years	\$31.2806	\$31.9845	\$32.3043	\$32.9504	\$33.7742
2 - 3 years	\$32.2663	\$32.9923	\$33.3222	\$33.9887	\$34.8384
3 - 4 years	\$33.1793	\$33.9258	\$34.2651	\$34.9504	\$35.8241
4 - 5 years	\$34.1234	\$34.8911	\$35.2400	\$35.9448	\$36.8434
5 - 6 years	\$35.1505	\$35.9414	\$36.3008	\$37.0268	\$37.9525
6 - 7 years	\$36.2503	\$37.0659	\$37.4366	\$38.1854	\$39.1400
7 - 8 years	\$37.3085	\$38.1479	\$38.5294	\$39.3000	\$40.2825
Over 8 years	\$38.7921	\$39.6650	\$40.0616	\$40.8629	\$41.8844

<b>FIRE FIGHTER/INSPECTOR</b>					
Start Step	\$40.1409	\$41.0440	\$41.4545	\$42.2835	\$43.3406
1 Year Step	\$41.3651	\$42.2959	\$42.7189	\$43.5732	\$44.6626

<b>FIRE DRIVER ENGINEER</b>					
Start Step	\$39.6325	\$40.5242	\$40.9295	\$41.7481	\$42.7918
1 Year Step	\$40.4729	\$41.3835	\$41.7973	\$42.6333	\$43.6991

<b>FIRE LIEUTENANT</b>					
Start Step	\$41.3651	\$42.2959	\$42.7189	\$43.5732	\$44.6626
1 Year Step	\$42.2781	\$43.2294	\$43.6617	\$44.5350	\$45.6483

<b>FIRE CAPTAIN</b>					
Start Step	\$43.1289	\$44.0992	\$44.5403	\$45.4311	\$46.5668
1 Year Step	\$43.9381	\$44.9268	\$45.3760	\$46.2835	\$47.4406

New employees possessing career firefighting experience, at the discretion of the Chief, may be hired at any step up to and including the 4-5 year step of the pay schedule. For purposes of future pay advancement, such employees shall be deemed to have the years of service which their pay step represents. For all other purposes, seniority shall be determined from the actual date that the employee was hired.

Paramedic pay will begin when the AFD operates ALS Engines. Once this paramedic certification is obtained, it must be maintained. Paramedic pay is 3.75% over the employees base wage under the Fire Fighter/EMR wage schedule.

\*1/1/2023 rate is the 10/1/2022 rate from the 2020-2022 contract with the paramedic pay of 3.75% added to the base rate.

Physical Fitness Pay - Employees will be paid an additional 1% or 2% which will be added to their hourly base wage as outlined in Article 33

EXHIBIT "B"

DISCIPLINARY ACTION SCHEDULE

The following shall generally constitute the penalties to be imposed for violation of the Department's rules of conduct. The Chief shall furnish copies of all written reprimands to the Union.

A. Generally, an employee will be subject to discharge or such lesser penalty or punishment as the Chief in their discretion may impose, for violations of the following rules:

1. Dishonesty, theft of personal property of another employee or City property.
2. Drunkenness, drinking, being under the influence or in possession of alcoholic beverages while on duty and/or on City property or when in uniform in a public place provided, however, that having such beverages in a locked personal vehicle shall not be considered "possession" for purposes of this Paragraph.

Notwithstanding the above, the following provisions shall generally be utilized when test results for breath alcohol are positive:

- a. If test results demonstrate the presence of any breath alcohol concentration, the employee shall be subject to discipline without receipt of a prior warning letter based on the following schedule:
  1. Concentration equal to or above the State legal limit as set forth in Wis. Stats. § 340.01 (46m)(a) - discharge.
  2. Concentration equal to or above .04% but less than the State legal limit as set forth in Wis. Stats. § 340.01 (46m)(a) - one week suspension without pay
  3. Any concentration less than .04% - suspension without pay for the balance of the workday plus one day.
- b. In addition to the above, any employee who has a breath alcohol concentration of less than the State legal limit as set forth in Wis. Stats. § 340.01 (46m)(a) shall be required as a condition of continued employment, to submit to assessment under the Employee Assistance Program and to comply fully with any recommendations made under that program.
- c. Any employee who has been suspended pursuant to the above and who subsequently has a positive breath alcohol test shall be subject to discharge.

3. Use of, being under the influence or in possession of any controlled substance while on duty and/or on City property or when in uniform in a public place, unless such substance has been legally prescribed.
4. Refusal to comply with direct orders of supervisor.
5. Absence of two (2) consecutive working days without authorization by Operations personnel.
6. Immoral or indecent conduct, rape, attempted rape, or felony sexual assault.
7. Willfully endangering others while on duty.
8. Willful or malicious damage to vehicle or equipment.

B. Generally, an employee shall be subject upon the first offense to a written reprimand; upon second offense, twenty-four (24) hours suspension without pay; upon third offense, discharge or such lesser penalty or punishment as the Chief in their discretion may impose for violation of the following rules:

1. Being absent from duty, without authorization (employee has not arrived at their duty station nor has the employee called in to the officer in charge with a valid excuse within one hour of the start of their shift.)
  2. Sleeping on duty during unauthorized rest periods or without permission of officer in charge. Such unauthorized times shall be 0700 hours to 1200 hours and 1300 hours to 2100 hours and any other time a Fire Fighter is performing assigned duties but does not include authorized lunch periods.
  3. Gambling while on duty.
  4. Violation of safety rules or common-sense safety practices.
  5. Failure to report vehicle accident to supervisor.
  6. Performance of services or obligations of a personal nature while on duty and without permission.
  7. Carrying unauthorized passengers in City owned vehicles.
  8. Failure to check in and out with the officer in charge when leaving station during duty hours.
  9. For violation of any rules of conduct not specifically addressed elsewhere in this exhibit "B".
- C. Generally, operations employees shall be subject to no penalty or punishment whatsoever for the first two offenses, upon third offense, a written reprimand, upon fourth offense, twenty-four (24) hours suspension without pay, upon fifth offense, forty-eight (48) hours suspension without pay, upon sixth offense, discharge or such lesser penalty or punishment as the Chief in their discretion may impose for violation of the following rules:
1. Tardiness. Tardiness shall be defined as an absence from duty less than one (1) hour after an employee's shift starting time.  
  
 Provided, however, that all previous warnings or penalties will be stricken from an employee's record after one (1) year from previous tardy offense to the extent they apply to disciplinary decisions that are not subject to Secs. 62.13(5)(em) and (5)(i), Stats. Stricken shall not imply that this will be physically removed from the employee's file; rather, that it will not be used to determine future discipline.  
  
 And further provided that all previous warnings or penalties shall not be stricken from an employee's record after one (1) year from previous tardy offense to the extent they apply to disciplinary decisions that are subject to Secs. 62.13(5)(em) and (5)(i), Stats.
- D. The term "24 hours suspension without pay" shall be defined to mean the employee will be suspended 24 work hours and be deducted 24 hours pay provided, however, this section shall not be implemented in a manner that violates the Fair Labor Standards Act. For this purpose, the hourly rate is established by dividing the wage rate shown in Exhibit A by 80.
- E. Prior disciplinary action for a related offense shall not be used as a basis for progressive discipline when one year or more has elapsed since the previous related offense to the extent they apply to disciplinary decisions that are not subject to Secs. 62.13(5)(em) and (5)(i), Stats.  
  
 And further provided that all prior disciplinary action for a related offense shall be used as a basis for progressive discipline when one year or more has elapsed since the previous related offense to the extent they apply to disciplinary decisions that are subject to Secs. 62.13(5)(em) and (5)(i), Stats.

**City of Appleton  
and  
Fire Fighters Local 257  
Side Letter Agreement-  
Implementation of N.F.P.A. Physicals  
August 23, 2002**

The City of Appleton will pay the cost of the annual medical evaluations. Any follow-up evaluation or treatment for medical conditions identified during the annual physical will be paid for in accordance with the health insurance benefits provided in the bargaining agreement.

1. In accordance with NFPA 1582 Section 1-3.2, the requirements of NFPA 1582 will be phased in based upon employees hiring dates. The standard will be utilized as a recommendation for all employees hired prior to January 1, 2002. In addition, employees hired prior to January 1, 2002, the following language will be followed, in accordance with NFPA section 2-5.3, the fire department physician shall not medically certify any current member for return to duty if any Category A or B medical conditions specified in Chapter 3 of the standard is present, that is determined to be severe enough to affect the member's performance. For employees hired after January 1, 2002, in accordance with section 2-5.2, the fire department physician shall not medically certify the current member for return to duty if any Category A medical condition specified in Chapter 3 of the standard is present.
2. The City will make every attempt to schedule the medical evaluation on duty. If the medical evaluation needs to be performed off-duty, the employee shall be paid according to the Collective Bargaining Agreement, ARTICLE 5 – Overtime-D. Such compensation will not offset the employee's FLSA time.
3. The City agrees to comply with the NFPA Standard recommendations and State Statutes with regard to medical evaluation records, results, reporting and confidentiality.
4. The intent of the NFPA annual physical is not to institute a random drug-screening program.
5. When the City physician determines that an employee is not fit for duty, the employee may, at his or her own expense, choose to seek a medical opinion from another physician. After the second physician has rendered their opinion, and if, the opinions of the City's physician and the employee's physician are in conflict, the employee will be asked to sign a release so that the two physicians can discuss their opinions. (The most current copy of the Patient Registration Release form will be provided). Should the two physicians be unable to resolve those conflicts, the City will agree to pay for another medical exam conducted by a physician practicing in the field related to the disputed medical condition. This third physician will be mutually agreed upon by both the City's and employee's physicians and the opinion of this third physician shall be final. Should the employee refuse to sign a release allowing the City's physician to communicate with the employee's physician, the third opinion shall not be obtained and the decision of the City's physician shall be final.  
  
Once the City physician and employee's physician have agreed on a third physician, the City Human Resources Department shall be notified of the selection. The Human Resources Department will schedule the appointment with the selected physician's office and notify the employee of the scheduled time. The employee shall be placed on paid administrative leave pending the decision of the third physician. In the event the employee does not keep the scheduled appointment, absent an unusual emergency, the employee will be placed on unpaid administrative leave from the date of the original appointment until the third opinion is rendered.
6. In the event an employee is determined to be unfit for full duty, the employee may be offered alternate duty.
7. In the event that the employee is determined to be unfit for full duty the employee may utilize paid leave under the collective bargaining agreement and any leave available by law. In the event that an employee has exhausted all available paid leave, said employee shall be placed on a leave of absence without pay. An employee placed on unpaid leave pursuant to this letter, will receive up to a total of three (3) months continued Health and Dental Insurance benefits, paid for by the City, in addition to the employees' entitlement under the FMLA. This three (3) month extension of Health and Dental Insurance benefits is based upon the condition resulting in the employee being determined to be

unfit for full duty, and, unlike FMLA benefits, does not result in a new entitlement with the beginning of a new calendar year.

8. In accordance with the NFPA standard, the Department shall provide encouragement and resources to the employee so as to expedite their return to full duty. Such resources shall include: the City's Employee Assistance Program, recommendations from the City's physician, access to the Fire Department's fitness facility-with a physician's release and a signed consent/waiver form (attached).
9. A copy of NFPA 1582 shall be utilized as a reference.

<b>CITY OF APPLETON POLICY</b>	<b>TITLE: FRINGE BENEFITS</b>	
<b>ISSUE DATE:</b> April 6, 2000	<b>LAST UPDATE:</b> December 18, 2002, April 17, 2003 September 11, 2003, July 2004, February 2006 November 2006, September 2009, January 2010 November 2011, August 2012, April 2014, December 2015, September 2016, December 2017, April 2019, February 2021	<b>SECTION:</b> Human Resources
<b>POLICY SOURCE:</b> Human Resources Department	<b>POLICY AUDIENCE:</b> All Employees Excludes Valley Transit, Police and Fire protective employees covered by a collective bargaining agreement.	<b>TOTAL PAGES:</b> 17
<b>Reviewed by Legal Services Date:</b> March 2000 July 21, 2004 September 2009 June 27, 2014 December 2015 May 2021	<b>Committee Approval Date:</b> March 28, 2000 July 28, 2004 March 22, 2006 October 28, 2009 December 12, 2011 August 20, 2012 July 21, 2014 December 7, 2015 December 11, 2019 May 12, 2021	<b>Council Approval Date:</b> April 5, 2000 August 4, 2004 April 5, 2006 November 4, 2009 December 21, 2011 September 5, 2012 August 6, 2014 December 16, 2015 December 18, 2019 May 19, 2021

I. PURPOSE

To outline for employees the fringe benefits available to all employees, excluding represented Valley Transit, Police and Fire protective employees.

II. POLICY

It is the policy of the City of Appleton to make available fringe benefits as outlined in this policy. It is also the policy of the City of Appleton to provide incentives, recognize significant levels of responsibilities, and to attract and retain qualified employees by offering comparable benefits.

III. DISCUSSION

This policy provides the current fringe benefits available. These benefits are subject to change with approval of the Common Council.

IV. DEFINITIONS

A. Regular Full-Time (exempt): Employees who work a minimum of 2080 hours per year or 80 hours bi-weekly and not eligible for overtime or compensatory time for any hours worked beyond 40 hours per week. A full-time exempt employee is expected to work whatever hours necessary to complete the job they have been hired for. Employees who are classified as exempt are paid on a "salaried basis" meaning that the person will be paid the same full salary for any week in which work is performed without regard to the number of hours worked.



- B. Regular Full-Time (non-exempt): Employees who work 2080 hours per year and are eligible for overtime after working 40 hours per week.
- C. Regular Part-Time (exempt): Employees who are normally scheduled to work a minimum 1040 hours per year but less than 2080 hours per year and are not eligible for overtime or compensatory time for any hours worked beyond their standard bi-weekly hours.
- D. Regular Part-Time (non-exempt): Employees who are normally scheduled to work a minimum 1040 hours per year but less than 2080 hours per year and are eligible for straight time pay for hours worked beyond their standard biweekly hours and for overtime after working 40 hours per week.
- E. Non-represented: All employees whose benefits are not covered by a Collective Bargaining Agreement.
- F. Represented: Employees whose benefits are covered by a Collective Bargaining Agreement. Those include: Valley Transit Teamster Local 662, Appleton Professional Police Non-supervisory Unit and the Appleton International Association of Firefighters Local 257.
- G. Domestic Partner: Persons without registration that meet the following criteria:
  - a. Each individual is at least 18 years old and competent to enter into a contract;
  - b. Neither individual is married to, or in a domestic partnership with, another;
  - c. They share a common residence
  - d. Their partnership must not violate Wisconsin Statutes which bar marriage between certain persons based on kinship and divorce;
  - e. They must consider themselves to be members of each other's immediate family and
  - f. They must agree to be responsible for each other's basic living expenses.

Employees who wish to utilize the funeral leave benefits available for domestic partners must submit in writing to the Human Resources Department proof that the criteria listed above in (a-f) are met. Human Resources will make a determination on eligibility based on the information provided by the employee.

- H. Look-Back Measurement Period: Rules set by Health Care Reform to offer coverage to an employee who at time of hire wasn't eligible for medical insurance coverage. If during measurement period the employee's hours increase to over 30 hours per week on average then must be offered medical insurance. Measurement Period is the 12 months the City will use to review hours worked in the calculation. Administrative Period is the 60 day period for the City to administratively compute hours work to know if insurance should be offered. Stability Period is the 12 month period of time that once an employee qualifies must be allowed to stay on medical insurance.

## V. BENEFITS

### A. Health and Dental Insurance

#### 1. Health Insurance:

Regular full-time and part-time employees working 30 hours or more per week, shall be eligible for health insurance benefit plan options as outlined in Attachment A.

Effective January 1, 2013 part-time employees who are enrolled in the City health insurance program shall be grandfathered and will continue to be eligible for health insurance benefits

provided they maintain their enrollment in the plan. If said employee chooses to drop coverage the part-time employee must work 30 hours per week to re-enroll.

Health insurance is effective upon the 31<sup>st</sup> calendar day of employment. Employees not enrolling at this time will be required to provide a certificate of previous insurance coverage or will have to wait until the open enrollment period for coverage the following calendar year.

Premiums will be deducted from the employee's payroll check. All premiums will be taken on a pre-tax basis unless the employee notifies the Human Resources Department in writing of their desire to have the premium deducted on a taxable basis. Any payments for insurance premiums that cannot be taken through payroll, are due on or before the first of the month for the month of coverage to the Human Resources Department. Failure to make timely payments may cause cancellation of coverage.

Employees who have a spouse who also work for the City must select either one family plan or two single plans.

The City will follow the Health Care Reform Act look-back provision in order to determine if a previously not eligible employee becomes eligible for medical insurance. The Measurement Period will be November 1 through October 31. The Administrative Period will be November 1 through December 31. The Stability Period will be January 1 through December 31.

## 2. Dental Insurance:

Regular full-time and part-time employees shall be eligible for a dental insurance benefit plan as outlined in Attachment B.

Premiums will be deducted from the employee's payroll check. All premiums will be taken on a pre-tax basis unless the employee notifies the Human Resources Department in writing of their desire to have the premium deducted on a taxable basis. Any payments for insurance premiums that cannot be taken through payroll, are due on or before the first of the month for the month of coverage to the Human Resources Department. Failure to make timely payments may cause cancellation of coverage.

Dental insurance is effective upon the 31<sup>st</sup> calendar day of employment. Employees not enrolling at this time will have to wait until the open enrollment period for coverage the following calendar year.

Employees who have a spouse who also work for the City must select either one family plan or two single plans.

## Life Insurance

1. Basic Life Insurance: Regular full-time and regular part-time employees are eligible for term life insurance in an amount equal to one times the employee's annual salary rounded to the next even thousand increment to a maximum of \$50,000. The City shall pay the full cost of the premium.

2. Optional Life Insurance: In addition to the \$50,000 term life insurance, regular full-time and regular part-time employees can purchase optional life insurance in \$10,000 increments. Optional life insurance can be purchased for spouse and dependent children. The employee must pay the full premium for all optional life insurance.

Life insurance is effective on the first of the month after thirty-one (31) calendar days of employment.

B. Long-Term Disability Insurance

Regular full-time and regular part-time employees will be eligible for long-term disability insurance. Coverage will be provided at 60 % of the employee's salary for non-work related injuries or illnesses after a ninety (90)-calendar day waiting period. The carrier must deem employees eligible. The City shall pay the full cost of the premium.

Long-term disability insurance is effective on the first of the month after ninety (90) (uninterrupted) calendar days of employment.

C. Wisconsin Retirement System

The City shall pay one half of all actuarially required contribution for funding benefits under the retirement system for regular full-time and regular part-time employees, this excludes Police and Fire protective employees. Participation in the Wisconsin Retirement System is mandatory.

D. Deferred Compensation Program (Section 457 Plan)/Roth

Regular full-time and regular part-time employees are eligible to participate in the City Deferred Compensation Program upon enrollment into the program anytime on or after their first day of employment. Any amounts contributed to the program, which must be by payroll deduction, are paid for fully by the employee. Under this plan, you may contribute money (on a pre-tax basis) in a tax deferred investment of your choice to earn tax deferred interest until you are ready to receive distributions, usually at retirement. There is also a Roth option that must be by payroll deduction and is paid for fully by the employee. This allows you to contribute money (on an after tax basis) to investments of your choice.

E. Post Employment Health Plan (PEHP)

The City of Appleton participates in the PEHP for Non-Represented Public Employees in accordance with the terms and conditions of the Plan's Participation Agreement.

1. Monthly Contributions:

The City agrees to contribute to the Plan on behalf of all regular full-time non-represented employees. The City shall contribute for each Eligible Employee the amount of ten dollars (\$10) per month.

The City shall pay the annual administration fee on behalf of the eligible active employee. The procedure for payment of the administration fee shall be accomplished by a deduction and reimbursement directly into the employee's account.

Regular part-time employees are not eligible for payment of the annual administration fee or the monthly contribution to the PEHP.

2. Additional Contributions:

In addition to the monthly contribution amount, the City will contribute upon retirement, the value of unused sick leave of an Eligible Employee's accumulated sick leave balance to the

maximum as follows:

- 90 days for formerly represented AFSCME employees;
  - 90 days plus any accumulated physical fitness bonus incentive for Police Captains and Lieutenants and;
  - 120 days plus any accumulated physical fitness bonus incentive for Police/Fire administrative protective status personnel and
  - 120 days for all other employees
- (For purposes of the additional contribution, an Eligible Employee is an employee who is qualified for an annuity under the Wisconsin Retirement System.)

PEHP contributions are not reportable earnings to the Wisconsin Retirement System.

Contributions to the PEHP may only be used after an employee leaves employment with the City of Appleton. Monthly contributions are placed into an account that may be used to pay for IRS qualified expenses. The additional contributions are placed into an account that may be used to pay for premium contributions only.

- F. **Flexible Spending Account:** All regular full-time and regular part-time employees are eligible to participate in the flexible spending account program. Enrollment shall be January 1 of each year for existing employees or within thirty (30) calendar days for newly hired employees or for qualifying status changes. This program allows the employee to use pre-tax funds to pay for IRS qualified expenses. It also allows pre-tax funds for dependent day care expenses for children under the age of thirteen (13) or day care expenses for disabled dependents.
- G. **Worker's Compensation:** Regular full-time employees and regular part-time employees shall receive worker's compensation benefits based on state worker's compensation laws, with the exception's that there shall be no cap on the weekly (TTD) temporary total disability payments and they be compensated for the first three days at 66 2/3% following the date of injury, after the 7 day period is met. All protected police and fire personnel shall receive the same benefit afforded to the represented employees in the department.
- H. **Tuition Reimbursement:** All regular full-time non-represented employees who successfully complete job related continuing education courses toward a degreed program shall be reimbursed for fifty percent (50%) of the cost of tuition and books. The total amount reimbursed will not exceed fifty percent (50%) of the amount charged by the University of Wisconsin system for similar courses that is paid by the employee.

Library employees shall be reimbursed for up to 25% of the cost of tuition and books, paid by the employee, not to exceed that charged by the University of Wisconsin system for similar courses for graduate Library education.

The department head and the Director of Human Resources must approve participation in such courses, in advance. Successful completion shall mean a passing grade if the course or program is graded on a pass/fail basis or a grade of "C" or better if letter grades are issued. Class participation will be on the employee's own time.

All tuition reimbursement requests shall be subject to available departmental funds. Reimbursements from other sources will offset City contributions. (ie; grants).

- I. **Direct Deposit:** All employees are required to have their payroll checks direct deposited into a bank or credit union of their choice. The full amount of the deposit must go into one account.

J. Employee Assistance Program (EAP): The City sponsors an EAP to help employees and those living in their households maintain healthy levels of emotional, work-life, and physical well-being, and to limit the effect of personal problems on job performance. All employees and those living in their households are eligible to utilize resources and services offered through the EAP. This benefit comes at no cost to the employee or participant and is designed to provide short-term confidential counseling and referral services, financial information and resources, legal support and resources, work-life solutions, and Guidance Resources Online. Services rendered by the EAP are provided through a contract with a private employee assistance consulting firm.

K. Other Benefits: Other voluntary benefits may be offered based on the City's discretion.

VI. PAID LEAVE

Employees shall receive a total of twelve (12) holidays per year (this includes scheduled holidays, as listed below). When a holiday falls on Saturday or Sunday, it shall be determined by the Mayor in November of the previous year, if service to the public will be required on the Friday or Monday. If it is determined that service will be provided to the public, employees shall work those days as part of their normal workweek and will be given a floating holiday off in lieu of the Friday before and/or the Monday after a holiday to be scheduled with supervisory approval. Department Directors will inform employees the November prior to the beginning of the following year of any variations of the following schedules. For those employees who are not required to service the public as noted above, when New Years, Independence Day, or Christmas falls on Saturday they shall be observed on the preceding Friday and when they fall on Sunday they shall be observed on the following Monday.

A. Holidays: the City (excluding Valley Transit and Library) shall observe the following holidays:

1. New Year's Day
2. Memorial Day
3. Independence Day
4. Labor Day
5. Thanksgiving Day
6. Day after Thanksgiving
7. Last working day before Christmas
8. Christmas Day
9. Four floating holidays
10. Any additional holidays granted by the Common Council

Valley Transit shall observe the following holidays:

1. New Year's Day
2. Memorial Day
3. Independence Day
4. Labor Day
5. Thanksgiving Day
6. Christmas Day
7. Six floating holidays
8. Any additional holidays granted by the Common Council.

The Appleton Public Library shall observe the following holidays:

1. New Year's Day
2. Memorial Day
3. Independence Day
4. Labor Day
5. Thanksgiving Day
6. Christmas Eve
7. Christmas Day
8. New Year's Eve
9. Four floating holidays
10. Any additional holidays granted by the Common Council and Library Board

Regular full-time employees are eligible for holidays based on eight (8) hours for each of the above listed holidays. Police Lieutenants and Captains who are required to work (minimum staffing) on Thanksgiving Day, Day after Thanksgiving, Christmas Eve or Christmas Day shall be entitled to receive \$100 compensation and will be allowed to take an alternative day off.

Regular part-time employees are eligible for holidays pro-rated based on the approved budgeted position. If one of the above listed holidays falls on a regularly scheduled day off for a regular part-time employee, the employee may have the option, with department head approval, of taking pay for the holiday, taking an additional day off during the pay period or scheduling the holiday as a floating holiday to be used by December 31.

Floating Holidays may be charged in one quarter hour increments and/or pursuant to departmental policy. Floating Holidays must be used during the calendar year or they will be lost. Department directors/ or designee shall approve the number of employees off on a floating holiday at any one given time, as well as how employees will pick floating holidays and whether or not employees will be allowed to cancel scheduled floating holidays.

In order for regular full-time and regular part-time employees to be eligible for holiday pay, they must work their regularly scheduled work day immediately preceding and following the holiday, except in the case of an employee on an approved paid leave. Floating holidays will be pro-rated in the year of hire and termination/resignation/retirement as follows:

	Hired	Leaving
January-March	3	0
April-June	2	1
July-September	1	2
October-December	0	3

Non-exempt employees who work on any of the scheduled holidays shall receive double time pay for all hours worked on the holiday unless otherwise noted in departmental policies or have received an additional day off as noted above.

When an exempt employee is required to work one of the holidays listed above, that supervisor shall be given an additional floating holiday off, to be scheduled with supervisory approval. This provision shall not apply to Fire personnel working a 24-hour shift.

Non-represented Fire Personnel working a 24-hour shift shall be granted pay for scheduled holidays in accordance with the current International Association of Fire Fighters Local 257 collective bargaining agreement. In addition to the pay for scheduled holidays, 24-hour shift

personnel shall be entitled to floating holidays based on the following schedule:

Upon promotion or year of hire:	one (1) floating holiday
After five (5) years of city service:	two (2) floating holidays
After eight (8) years of city service:	three (3) floating holidays

Floating Holidays shall be charged in one quarter hour increments and/or pursuant to departmental policies or guidelines.

B. Vacation: All regular full-time employees shall be entitled to paid vacation benefits as of January 1 of each year based upon their length of continuous service. For purposes of determining future vacation eligibility, the year of hire shall be treated as a full year of service.

Regular part-time employees are eligible for vacation pro-rated based on the approved budgeted position. Regular part-time employees shall use vacation based on the number of hours scheduled to work on the day or days for which the vacation is requested.

Paid vacations shall be provided in accordance with the following:

Vacation Schedules: Existing employees shall be placed on the schedule below effective January 1, 2012. Employees will not lose earned vacation as a result of that placement and shall move to the next increment based on their years of service on the schedule below.

Year of hire: Persons hired prior to July 1 of any year shall receive one week (5 working days) of vacation during their year of hire subject to approval of their department head or Mayor if appropriate and in accordance with department policies.

1. Non-exempt:

After one year of continuous service: one week of vacation (five working days.)  
After two years of continuous service: two weeks of vacation (ten working days.)  
After six years of continuous service: two weeks plus two days of vacation (twelve working days.)  
After eight years of continuous service: three weeks of vacation (fifteen working days.)  
After twelve years of continuous service: four weeks of vacation (twenty working days.)  
After fifteen years of continuous service: four weeks plus two days of vacation (twenty-two working days.)  
After twenty-years of continuous service: five weeks

2. Exempt:

After one year of continuous service: two weeks (ten working days.)  
After five years of continuous service: three weeks (fifteen working days)  
After eight years of continuous service: three weeks plus three days of vacation (eighteen working days.)  
After twelve years of continuous service: four weeks plus two-days of vacation (twenty- two working days.)  
After twenty years of continuous service: five weeks plus four days of vacation (twenty-nine working days.)

3. Fire Personnel working a 24-hour shift:

After one year of continuous service: three days of vacation.  
After two years of continuous service: six days of vacation.  
After five years of continuous service: seven days of vacation.  
After eight years of continuous service: ten days of vacation.  
After twelve years of continuous service: thirteen days of vacation.  
After sixteen years of continuous service: fourteen days of vacation.  
After twenty years of continuous service: sixteen days of vacation.

Administration of Vacation:

Department directors/or designee shall approve the number of employees off on vacation at any one given time, as well as how employees will pick vacations and whether or not employees will be allowed to cancel vacations.

With the exception of the year of hire, vacation credits are earned in one year and are available for use in the following year. All employees entitled to three (3) weeks or more of vacation must schedule and take at least two (2) weeks of vacation during the year of entitlement. All employees entitled to less than three (3) weeks of vacation must schedule and take at least one (1) week of vacation during the year of entitlement. Employees who do not schedule the minimum required vacation will have it scheduled for them at a time determined by the department. If a department is unable to schedule the minimum required vacation for the employee, the time will be lost.

Vacation benefits shall be charged in one quarter hour increments and/or pursuant to departmental policies or guidelines.

When a holiday falls during an employee's vacation, he/she shall not be required to use a vacation day in lieu of the holiday.

In the event an employee or family member becomes ill during an employee's vacation, the employee will not be allowed to substitute sick leave for vacation unless the need for sick leave commences prior to the start of the approved vacation.

Regular employees who move from one position to another by transfer, promotion, or demotion, in the City, shall be credited with accumulated vacation leave in their new position. An employee whose employment status is changed from temporary to regular status without a break in service shall receive vacation credits from the original date of hire. Library employees whose status is changed from temporary to regular status will have their vacation based on their status effective date change.

No credit for vacation leave shall be granted for time worked by an employee in excess of their normal workweek.

Use of vacation time must be approved in advance by the department head.

Vacation Carry-Over:

Any employee may carry over, from one year to the next, up to a maximum of five (5) days (forty hours) vacation.

Non-represented Fire employees working a 24-hour shift may carry over, from one year to the



next, three (3) days.

Any vacation time that is carried over into a subsequent year shall be considered the first vacation time used by the employee in the subsequent year. The process at year end for employees who have unused vacation will be as follows:

1. Any unused eligible balance up to forty hours will automatically be carried over to the next year.
2. Any remaining balance up to forty hours may be paid to the employees PEHP or H.S.A. account. (No more than a total of up to 40 hours for the two plans combined)

Any employee wishing to have their remaining balance paid to the PEHP (up to 40 hours maximum), must enter the hours of the remaining balance in the payroll system on the payroll that includes 12/31 and use a code of "VT" in Iseries or 822 in Munis.

Any employee wishing to have their remaining balance paid to their H.S.A. account (up to 40 hours maximum), must enter the hours of the remaining balance in the payroll system on the payroll that includes 12/31 and use the code of "XV" in Iseries or 818 in Munis.

Fire personnel employees who have vacation balances as of December 31, will have the unused eligible balance up to three days for Fire personnel working a 24 hour shift, automatically carried over to the next year and any remaining balance up to three days for Fire personnel working a 24 hour shift may be paid to their PEHP account or their H.S.A. account: (No more than a total of up to 40 hours for the two plans combined)

In both payout options, Fire employees working a 24-hour shift will have their shift hours converted to a 40 hour paid work week.

All eligible vacation not used in the year in which it is available and not carried over, must be entered into the payroll system with the VT or XV codes for payment to their PEHP or H.S.A. account or the vacation time will be lost.

At termination or retirement, any unused vacation will be paid to the employee in a lump sum. Vacation cannot be used over payroll periods to extend the last day of employment.

Exceptions to the above vacation carryover and PEHP/H.S.A. contribution beyond forty hours and three days for Fire personnel working a 24 hour shift, may be made in unusual circumstances as pre-approved by the Department Director or Mayor as appropriate and the Human Resources Director.

The Human Resources Director may request exceptions to the vacation provisions as it relates to placement on the schedule, on a case-by-case basis with a report to the Human Resources Committee.

- C. Paid Time Off: (PTO) Employees shall receive six (6) PTO days January 1 of each year to be used as paid time off. Part-time employees shall receive a pro-rated amount based on their approved budgeted position. For newly hired employees, PTO days shall be pro-rated based on the month hired. Employees will be allowed to carryover three (3) PTO days not used as of December 31<sup>st</sup>. Any request made for PTO days shall follow the normal procedure for the type of leave being requested. (e.g. vacation, floating holidays and sick leave must follow the normal

guidelines used for requesting that type of benefit)

PTO days shall be pro-rated in the year of hire/termination/resignation/retirement as follows:

	Hired	Leaving
January-February	5	0
March-April	4	1
May-June	3	2
July-August	2	3
September-October	1	4
November-December	0	5

Fire employees working a 24-hour shift shall receive four (4) PTO days on January 1<sup>st</sup> of each year to be used as paid time off. Fire employees will be allowed to carryover two (2) PTO days not used as of December 31<sup>st</sup>.

PTO days for Fire employees working a 24-hour shift shall be pro-rated in the year of hire/termination resignation/retirement as follows:

	Hired	Leaving
January-March	3	0
April-June	2	1
July-September	1	2
October-December	0	3

Employees who use more PTO than they are entitled to in the year they leave employment shall owe the City the time back, unless the employee leaves employment as a result of physician certified disability.

PTO days shall be charged in one quarter hour increments and/or pursuant to departmental policies or guidelines.

- D. Sick Leave: Employees who have sick leave on the books will have that balance grandfathered as of December 31, 2011 and employees will no longer earn sick leave.

Sick leave that has been grandfathered may be used for an absence due to illness of, or injury to, the employee or an immediate family member living in the employee's residence, unless otherwise qualified under the Family Medical Leave Act.

Sick leave cannot be used until all Paid Time Off (PTO) days have been exhausted unless otherwise qualified under the Family Medical Leave Act. Employees must use the 2<sup>nd</sup> sick leave bank before accessing the regular bank;

1. PTO
2. 2<sup>nd</sup> sick leave bank
3. Regular sick leave bank

Sick leave and PTO may be used for doctor or dental appointments, which cannot be scheduled during an employee's regular time off. Employees are encouraged to schedule routine appointments that minimize the operational impact to the department.

Sick leave and PTO shall be charged in no less than one quarter-hour increments provided it is pre-approved by the employee's supervisor and/or pursuant to departmental policies or guidelines

A regular employee who moves from one position to another by transfer, promotion, or demotion, in the City, shall have their total sick leave credits transferred to the new department.

Employees who wish to utilize the sick leave benefits available for domestic partners must submit in writing to the Human Resources Department proof that the criteria listed above in (a-f) under Definitions (G) are met. Human Resources will make a determination on eligibility based on the information provided by the employee.

- E. Funeral Leave: In the case of the death of the employee's spouse, domestic partner, child, or stepchild, regular full-time employees may be paid for scheduled time lost up to ten (10) working days, but not to exceed (80) eighty hours, at the employee's regular straight time rate. Leave must be taken within 60 days of the death.

In the case of death in the immediate family of a regular full-time employee, the employee will be paid for the scheduled time lost up to three (3) scheduled workdays, but not to exceed (24) twenty-four hours at the employee's regular straight time hourly rate.

For purposes of funeral leave, immediate family shall be defined as the employee's grandchild; mother or step-mother; father or step-father; legal guardian; sister or brother; mother-in-law or father-in-law; any other relative living in the employee's residence at the time of death; or the mother or father of the employee's domestic partner.

In the event of death of the grandparent of the employee, employee spouse, or domestic partner, the employee will be given leave for the day of the funeral, but not to exceed (8) hours at the employee's straight time hourly rate.

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Fire employees working a 24-hour shift shall be eligible for funeral leave based on the following:

Spouse, domestic partner, child or stepchild: 5 workdays without loss of pay

Immediate Family: 2 workdays

Grandparent: 1 workday

Employees who wish to utilize the funeral leave benefits available for domestic partners must submit in writing to the Human Resources Department proof that the criteria listed above in (a-f) under Definitions (G) are met. Human Resources will make a determination on eligibility based on the information provided by the employee.

Regular part-time employees are eligible for funeral leave pro-rated based on the approved budgeted position.

- F. Compensatory Time: Non-exempt regular full-time employees will be paid-overtime at time and one-half for all hours in excess of forty hours worked in a pay week. Non-exempt regular full-time employees, with the prior approval of their supervisor, may have the option of converting additional time worked to compensatory time off up to a maximum of 40 hours. Request for usage of compensatory time shall be pursuant to departmental policies.
- G. Jury Duty/Witness Duty: Regular full-time and regular part-time employees shall receive full pay

for any work day the employee serves as a juror or if subpoenaed on witness duty if the employee was scheduled for work. In order for an employee to be eligible for witness duty pay, the reason for being a witness must be related to their employment with the City of Appleton. As a condition for such payment, the employee shall report for work for their regularly scheduled hours immediately before and following such duty when reasonably possible and shall immediately notify the Employer upon receipt of the jury summons or subpoena. The employee shall complete a Jury Duty Request form and submit it to their supervisor as soon as they are notified by subpoena of their requested appearance.

In order to receive full pay the employee is required to, upon receipt of jury or witness pay, submit their jury or witness pay to the City payroll office. The payroll office will cash the employees check, retain the portion of the check representing per diem payments, and give the employee the mileage and meal reimbursement portions of the check.

Employees, at their option, may use paid time off for a day of jury or witness duty and thereby retain the jury or witness pay as well as full pay for the day(s).

## VII. LEAVE OF ABSENCE

Leaves of absence may be granted without pay subject to the following conditions:

~~Leave without pay shall be granted at the City's discretion. Leaves will be granted at the total discretion of the Department Head and the Human Resources Director. Any leave request from a Library employee must also be approved by the Library Board. A Request for leave of absence must be requested at least 30 days prior to the taking of such leave, or in emergency cases as soon as reasonable or practicable. An acceptable physician's certification shall be required for all medical leaves of absences. No leave of absence shall be granted for more than one calendar year.~~

~~A leave of absence may be considered for up to one calendar year. If leave is needed beyond one calendar year and it is related to a medical condition, then employee may be placed on an inactive status. Inactive status may only be considered if:~~

- ~~• The employee is not permanently restricted from returning to their position.~~
- ~~• There is no financial impact to the City (e.g. salary or fringe benefits) while on an inactive status.~~
- ~~• The position will not be held vacant.~~
- ~~• All other requirements under Leave of Absence in this policy are followed.~~

~~Employees returning from an inactive status will be eligible to return to the same or a like position in that department, if one exists, when they are deemed fit for duty. The inactive status will end no later than three years from the date of leave, at which point employment will terminate.~~

~~When such leave is requested as an extension of medical leave, an acceptable physician's certificate shall be required.~~

The employee must exhaust all available paid time off benefits prior to the commencement of an

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unpaid leave of absence.

Return to work earlier than the scheduled termination of leave date may be arranged by the department head and the employee with the approval of the Human Resources Director, provided it does not conflict with the physician's certification.

Employees on an unpaid leave of absence with the City may not be employed elsewhere unless otherwise approved by the Human Resources Director.

If an employee is unable to return to work on the date stipulated, ~~they~~ he/she may submit a written request to extend their leave of absence, subject to the approval of the Human Resources Director. If, on the date following the expiration of the leave of absence, an extension is not requested and granted and the employee has not returned to their position, the employee shall be considered to have voluntarily resigned from City employment.

~~The appropriate Department Head may approve leaves of absence without pay for a period of less than 3 days in a given year provided that all available paid time off benefits have been exhausted prior to the requested leave dates.~~

~~Any employee absent from work without approval shall receive no pay for the duration of the absence, and shall be subject to corrective action up to and including discharge.~~

#### VIII. BENEFIT STATUS DURING LEAVE OF ABSENCE

Employees on an approved leave of absence without pay may elect to continue health, dental, and life insurance coverage during the period they are on leave beyond the first thirty days in addition to any voluntary insurance policies they may have elected. The employee shall be responsible for paying the full premium(s), due on or before the first of the month, in the Human Resources Department for all of the desired coverage. Failure to make timely payments will cause cancellation of coverage.

Paid time off and vacation shall not be earned by an employee during a leave of absence without pay, a suspension without pay, or when the employee is otherwise in a non compensable status, excluding approved FMLA, should such period without pay exceed thirty calendar days in any calendar month. In this case, the employee's vacation, floating holiday and PTO entitlement for the following year shall be pro-rated.

#### IX. PHYSICAL FITNESS PROGRAM-POLICE & FIRE SWORN PERSONNEL

Exempt non-represented protective status personnel shall have the option of participating in the Physical Fitness Salary Incentive and Physical Fitness Bonus Incentive program.

All participating protective status personnel will be tested on the schedule for the represented employees within their respective departments, either annually (Fire) or bi-annually (Police).

##### A. Physical Fitness Salary Incentive:

Annual Testing: Participating employees receiving a score of "excellent" will be paid a physical fitness salary incentive of 2% of base pay and those receiving a score of "good" will be paid a physical fitness salary incentive of 1% of their base pay until the next testing date. Such payment shall be in a lump sum payable within thirty (30) days of the finalization of the testing results and shall be calculated on the basis of 2% or 1% of the employee's annual base pay, calculated on

the rate of pay at the time of the test. Employees receiving a score of “adequate” or “poor” will not be eligible for a physical fitness salary incentive.

Bi-Annual Testing: Participating employees receiving a score of “excellent” will be paid a physical fitness salary incentive of 2% of base pay and those receiving a score of “good” will be paid a premium of 1% of their base pay until the next testing date. Such payment shall be in a lump sum payable within thirty (30) days of the finalization of the testing results and shall be calculated on the basis of 2% or 1% of one half of the employee’s annual base pay, calculated on the rate of pay at the time of the test. Employees receiving a score of “adequate” or “poor” will not be eligible for a physical fitness salary incentive.

B. Physical Fitness Bonus Incentive:

Annual Testing: Participating employees shall be eligible for eight (8) hours of physical fitness bonus pay for each testing period that the employee receives a score of “excellent” and four (4) hours of physical fitness bonus pay for each testing period that the employee receives a score of “good”. Employees who score as “adequate” or “poor” will not be eligible for a physical fitness bonus incentive.

Bi-Annual Testing: Participating employees shall be eligible for four (4) hours of physical fitness bonus pay for each testing period that the employee receives a score of “excellent” and two (2) hours of physical fitness bonus pay for each testing period that the employee receives a score of “good”. Employees who score as “adequate or “poor” will not be eligible for a physical fitness bonus incentive.

The accumulated total physical fitness bonus incentive shall be paid to the eligible employee upon retirement (as defined by WRS) to the PEHP. Such payment will be made in accordance with and in addition to the retirement benefits outlined in section V. (Benefits) E. (Post Employment Health Plan) and section XI. (Termination Benefits) of this policy.

X. TERMINATION BENEFITS

- A. Retirement: Employees retiring, with proper notice, at or above the normal retirement age established under the Wisconsin Retirement System and/or eligible for a retirement annuity from the Wisconsin Retirement System shall be eligible for the following benefits:
- a. A lump sum pay-out of their accumulated and carry-over vacation balance \*
  - b. A lump sum pay-out of floating holiday and PTO based upon the proration outlined in, Section IV-Paid Leave, of this policy.\*\*
  - c. A lump sum pay-out of their accumulated compensatory time.
  - d. Accumulated and unused sick leave to a maximum of one hundred and twenty (120) days, (90 days maximum for formerly represented AFSCME employees and Police Captains and Lieutenants), shall be paid to the Post Employment Health Plan. Additionally, any accumulated physical fitness bonus incentive for protective status personnel shall be paid to the PEHP).
  - e. If the employee has completed at least five (5) years of service with the City, the employee may be eligible for a medical plan option exclusive of Dental. Such medical option may be made available to employees and spouses at their own expense, up to the time the employee

and/or spouse turns age 65 or becomes eligible for Medicare, provided they exercise this option prior to their last day of work.

- f. The option of continuing dental coverage for a period of eighteen (18) months following the month in which their retirement occurred, in accordance with state and federal laws.

B. Resignation: Employees who resign their employment with proper notice shall be eligible for the following benefits:

- a. A lump sum pay-out of their accumulated and carry-over vacation balance. \*
- b. A lump sum pay-out of floating holiday and PTO based upon the proration outlined in, Section IV Paid Leave, of this policy.\*\*
- c. A lump sum pay-out of their accumulated compensatory time.
- d. The option of continuing the medical and dental coverage for a period of eighteen (18) months following the month in which their resignation occurred, in accordance with state and federal laws.

C. Retirement or Resignation without proper notice: Employees who retire or resign their employment without proper notice (unless the reason for lack of proper notice is due to a physician certified disability) may be eligible for the following benefits:

- a. A lump sum pay-out of any carry-over vacation balance.\*
- b. A lump sum pay-out of any accumulated vacation balance based upon the following proration
  - 1. Employees required to give a (2) week notice will have a reduction of 10 days.
  - 2. Employees required to give a (30) thirty day notice will have a reduction of 30 days.
- c. Floating holiday and/or PTO\*\*
- d. Employees will receive a lump sum pay-out of their accumulated compensatory time.
- e. The option of continuing the medical and dental coverage for a period of up to eighteen (18) months following the month in which their retirement or resignation occurred, in accordance with state and federal laws.
- f. Accumulated and unused sick leave to a maximum of one hundred and twenty (120) days, (90 days maximum for formerly represented AFSCME employees and Police Captains and Lieutenants), shall be paid to the Post Employment Health Plan. Additionally, any accumulated physical fitness bonus incentive for protective status personnel shall be paid to the PEHP).

D. Termination: Employees benefits:

- a. A lump sum pay-out of any carry-over vacation \*
- b. Floating holiday and/or PTO\*\*
- c. Employees will receive a lump sum pay-out of their accumulated compensatory time.

- d. The option of continuing the medical and dental coverage for a period of up to eighteen (18) months following the month in which their termination occurred, in accordance with state and federal laws.
- E. Death of an employee: In the event of the death of an employee, the following benefits shall be direct deposited into the employee's account:
- a. A lump sum pay-out of their accumulated and carry-over vacation balance.\*
  - b. A lump sum pay-out of floating holiday and PTO based upon the proration outlined in, Section VI Paid Leave, of this policy.
  - c. A lump sum pay-out of their accumulated compensatory time.
  - d. A lump sum pay-out of accumulated and unused sick leave to a maximum of ninety (90) working days. For those employees who are eligible, up to an additional thirty (30) days of accumulated sick leave (beyond the 90 days) and any accumulated physical fitness bonus incentive for protective status personnel shall be paid to the employee's spouse and if no spouse is living, the employee's estate.
  - e. A medical plan option exclusive of Dental, may be made available to the employee's spouse at their own expense, up to the time the spouse turns age sixty-five (65) or becomes eligible for Medicare, provided they exercise this option within thirty days of the employee's death.
  - f. The spouse shall have the option of continuing dental coverage for a period of eighteen (18) months following the month in which the employee's death occurred, in accordance with state and federal laws.

\*Employees leaving with less than ~~twelve~~<sup>eighteen</sup> (12<sup>8</sup>) months of service shall owe the City back all vacation time used, have vacation prorated based on the following formula:

~~5/6 vacation day for each month of completed service minus any vacation time used between their date of hire and their last day of work. In the event the employee has used more vacation than they were entitled, based on this formula, the employee shall have an amount equal to the paid but unearned vacation deducted from their final pay (unless the employee leaves employment as a result of a physician certified disability).~~

\*\*Employees who have used more floating holiday and/or PTO benefit than they were entitled pursuant to Section VI Paid Leave, of this policy in the last year of their employment will have an amount equal to the paid but unearned benefit deducted from their final pay (unless the employee leaves employment as a result of a physician certified disability).



57-22

AN ORDINANCE AMENDING THE  
COMPREHENSIVE PLAN FOR THE  
CITY OF APPLETON.

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

Section 1: The *Comprehensive Plan 2010-2030* – Chapter 14: Downtown Plan, Section 4: Downtown Development Concept, Opportunity Site #7 Soldier’s Square/YMCA Parking Ramp, pages 314, 318, and 319 be amended to read as follows:

7. Soldiers Square See Comp Plan Amend #3-22 Pages 318-319, Page 314

**7. Soldier’s Square/YMCA Parking Ramp, Pages 318 and 319**

The right of way (ROW) known as Solider Square houses the historic civil war monument dedicated in 1911. This bronze and granite sculpture is currently undergoing much needed maintenance and restoration.

A philanthropic public-private partnership to restore the monument (public) and raise funds to undertake the expansion of a flexible outdoor pedestrian zone (private) that would include:

- An extended pedestrian area around the civil war monument, including benches, reflection area, informative plaques, etc.
- Maintain street parking to support a variety of businesses and public ingress/egress to area.
- Encourage sustainable elements.
- Environment support small group gatherings, place making and increase vibrancy.

The YMCA Parking Ramp is being replaced with a new parking ramp.

Figure 42 deleted per Comprehensive Plan Amendment #3-22.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

58-22

**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 10/5/2022)

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.

Parking be restricted to vehicles displaying handicapped license plates or Wisconsin Handicapped permit only on the west side of Locust Street from a point 15 feet south of College Avenue to a point 40 feet south of College Avenue.

**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.

Dated: October 19, 2022