



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** July 7, 2020

**Common Council Meeting Date:** July 15, 2020

**Anticipated Date Annexation Effective:** July 21, 2020 at 12:01 a.m.

**Item:** Broadway Hills Estates Annexation

**Case Manager:** Don Harp, Principal Planner

### GENERAL INFORMATION

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**Owner:** North Appleton Properties, LLC, Gregory Gauerke - Member

**Town Where Property is Located:** Town of Freedom

**Parcel Numbers:** 090-0865-00, 090-0865-02 and part of 090-0855-00

**Petitioner's Request:** Owners are requesting direct annexation by unanimous approval pursuant to Section 66.0217(2), Wisconsin State Statutes of land currently located in the Town of Freedom, Outagamie County.

**Purpose for Annexation:** To allow for the future development of a single-family subdivision.

**Population of Such Territory:** 0

**Annexation Area:** 39.427 acres m/l

### BACKGROUND

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On December 31, 2003, the City of Appleton and the Town of Freedom agreed to and entered into an initial 50 year Intermunicipal Cooperation Agreement pursuant to Section 66.0301, 66.0305 and 66.0225 of the Wisconsin State Statutes for the purpose of defining and expanding the provision of governmental services, including water and sewer services, by establishing the City's growth area and establishing provisions for annexation of land within the Town of Freedom to the City of Appleton.

On June 24, 2020, the Wisconsin Department of Administration (DOA) issued their review letter and has determined the proposed Broadway Hills Estates Annexation is in the public interest per Wisconsin State Statute 66.0217 (6), and the City can provide the needed municipal services to the annexation area. As a result, the Common Council may act on this request at their July 15, 2020 meeting. (See attached)

**STAFF ANALYSIS**

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The Community and Economic Development Department staff has reviewed the annexation petition and identifies the following:

- The area proposed for annexation is contiguous to the existing City boundary located to the west and south of the annexation area.
- Annexation of the site in question is consistent with the Intermunicipal Cooperation Agreement with the Town of Freedom.
- City sanitary sewer and water infrastructure is already installed along Broadway Drive and within an easement along west side of annexation area. Annexation to the City of Appleton is required before the subject property could connect to the City sewer and water.
- Currently, the subject property is agricultural land with a pole building.
- The owner has submitted a rezoning application for the annexation area. The owner has requested to rezone the annexation area from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District. This request is anticipated to be scheduled for an informal public hearing at the July 21, 2020 Plan Commission meeting. The temporary zoning classification must be made permanent in accordance with Section 23-65(d), Zoning Map Amendments, within 90 days, or the zoning will revert to AG Agricultural District.

**Surrounding Zoning Classification and Land Uses:**

North: Town of Freedom. The adjacent land use to the north is currently agricultural land.

South: Town of Freedom. The adjacent land uses to the south are currently a mix of single-family residential and agricultural uses.

City of Appleton - R-1B Single-Family District. The adjacent land use to the south is currently single-family residential.

East: Town of Freedom. The adjacent land uses to the east are currently a mix of single-family residential and agricultural uses.

**STAFF ANALYSIS (continued)**

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West: City of Appleton - AG Agricultural District. City of Appleton sanitary sewer and water easement parcel.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton 2010-2030 Comprehensive Plan Map identifies the subject area as future Single-Family/Two-Family residential and Commercial land uses. The area identified as future Commercial use will be utilized for stormwater detention purposes. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

*Goal 1 – Community Growth*

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

*Goal 3 – Housing Quality, Variety, and Affordability*

*Appleton will provide a variety of rental and ownership housing choices in a range of prices affordable to community residents, and ensure that existing housing is adequately maintained in terms of physical quality and market viability.*

**OBJECTIVE 5.3 Housing and Neighborhoods:**

*Provide a range of housing options that meet the needs and appeal to all segments of the community and allows residents to age in place.*

*Policy 5.3.3 Plan for a supply of developable land suitable for residential development.*

**OBJECTIVE 10.1 Land Use:**

*Provide an adequate supply of suitable land meeting the demand for development of various land uses.*

**Technical Review Group (TRG) Report:** This item appeared on the June 16, 2020 TRG Agenda. No negative comments were received from participating departments.

- For the assumed single-family development, consider that future structures MAY be required to contain electronically monitored smoke detection, or automatic fire sprinklers (owner's choice), as part of the City agreement to permit building based on travel distance to respond and time it takes to achieve effective water on a structure. Please consult with Fire Chief Jeremy Hansen (832-5810).

### **FUTURE ACTIONS**

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- Per Section 23-65(e) of the Municipal Code, a temporary zoning classification of AG Agricultural District is assigned to newly annexed territory, with the permanent rezoning process taking place after the subject site has been annexed to the City. All territory annexed to the City is assigned a zoning classification as recommended by Plan Commission.
- The owner has submitted a rezoning application for the annexation area. The owner has requested to rezone the annexation area from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District. This request is anticipated to be scheduled for an informal public hearing at the July 21, 2020 Plan Commission meeting.
- Review and approval of a Preliminary Plat and Final Plat will be needed to subdivide the subject site. Each of these items requires action by Plan Commission and Common Council.

### **RECOMMENDATION**

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Staff recommends that the Broadway Hills Estates Annexation and establishing a Temporary Zoning classification of AG Agricultural District pursuant to Section 23-65(e) of the Municipal Code, as shown on the attached maps, **BE APPROVED**.



TONY EVERS

GOVERNOR

JOEL BRENNAN

SECRETARY

**Municipal Boundary Review**

PO Box 1645, Madison WI 53701

Voice (608) 264-6102 Fax (608) 264-6104

Email: [wimunicipalboundaryreview@wi.gov](mailto:wimunicipalboundaryreview@wi.gov)

Web: <http://doa.wi.gov/municipalboundaryreview>

June 24, 2020

PETITION FILE NO. 14313

KAMI LYNCH, CLERK  
CITY OF APPLETON  
100 N APPLETON ST  
APPLETON, WI 54911-4702

COLLEEN LAHA, CLERK  
TOWN OF FREEDOM  
TOWN OF FREEDOM  
FREEDOM, WI 54131

Subject: BROADWAY HILLS ESTATES ANNEXATION

The proposed annexation submitted to our office on June 04, 2020, has been reviewed and found to be in the public interest. In determining whether an annexation is in the public interest, s. 66.0217 (6), Wis. Stats. requires the Department to examine "[t]he shape of the proposed annexation and the homogeneity of the territory with the annexing village or city...." so as, to ensure the resulting boundaries are rational and compact. The statute also requires the Department to consider whether the annexing city or village can provide needed municipal services to the territory. The subject petition is for territory that is reasonably shaped and contiguous to the **CITY OF APPLETON**, which is able to provide needed municipal services.

The Department reminds clerks of annexing municipalities of the requirements of s. 66.0217 (9)(a), Wis. Stats., which states:

"The clerk of a city or village which has annexed shall file immediately with the secretary of administration a certified copy of the ordinance, certificate and plat, and shall send one copy to each company that provides any utility service in the area that is annexed. The clerk shall record the ordinance with the register of deeds and file a signed copy of the ordinance with the clerk of any affected school district..."

State and federal aids based on population and equalized value may be significantly affected through failure to file with the Department of Administration. Please file a copy of your annexing ordinance, including a statement certifying the population of the annexed territory. **Please include your MBR number 14313 with your ordinance.** Ordinance filing checklist available at <http://mds.wi.gov/>, click on "Help on How to Submit Municipal Records". Email scanned copy of required materials (color scan maps with color) to [mds@wi.gov](mailto:mds@wi.gov) or mail to: Wisconsin Department of Administration, Municipal Boundary Review, PO Box 1645, Madison WI 53701-1645.

The petition file is available for viewing at: <http://mds.wi.gov/View/Petition?ID=2387>  
Please call me at (608) 264-6102, should you have any questions concerning this annexation review.

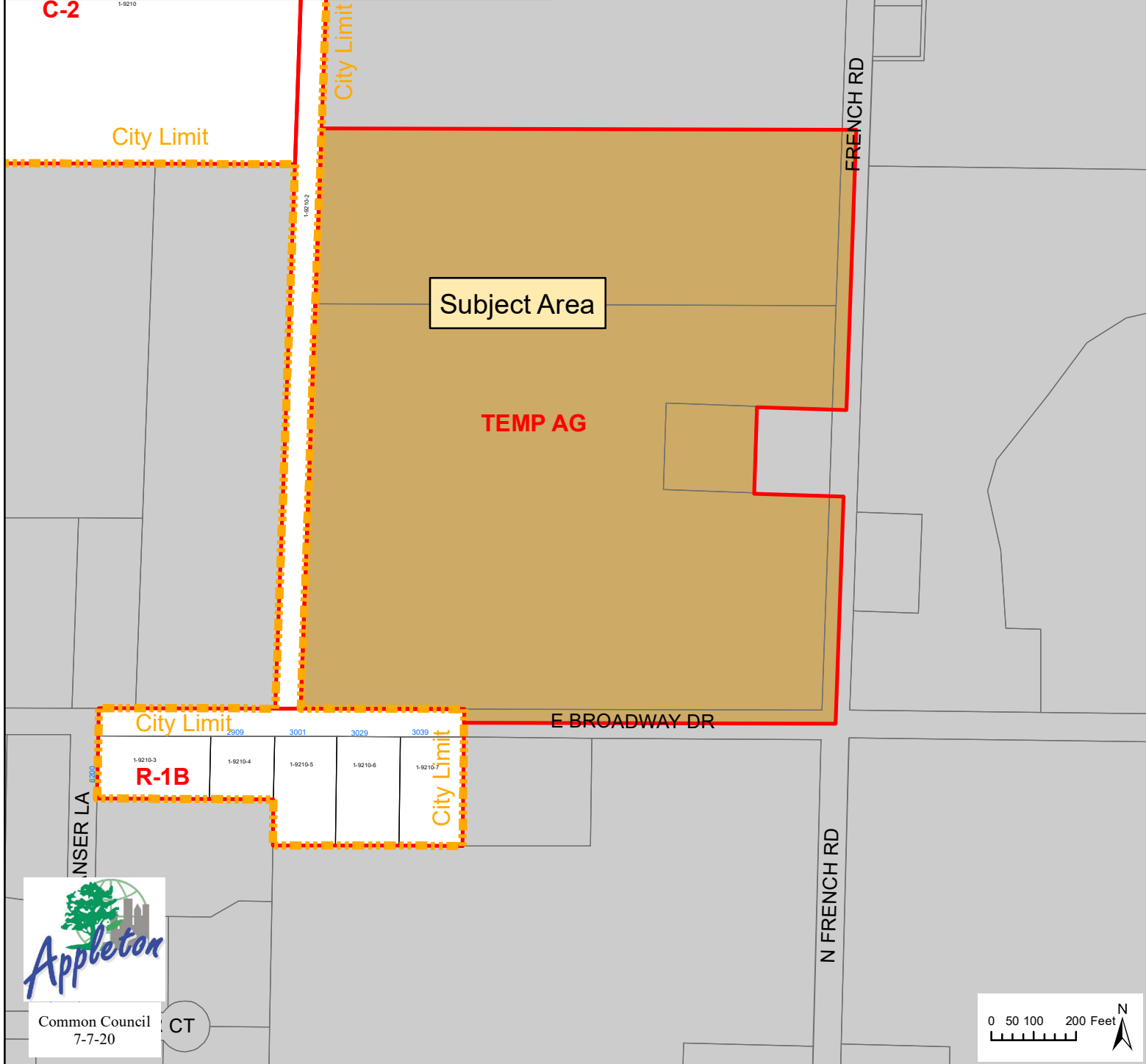
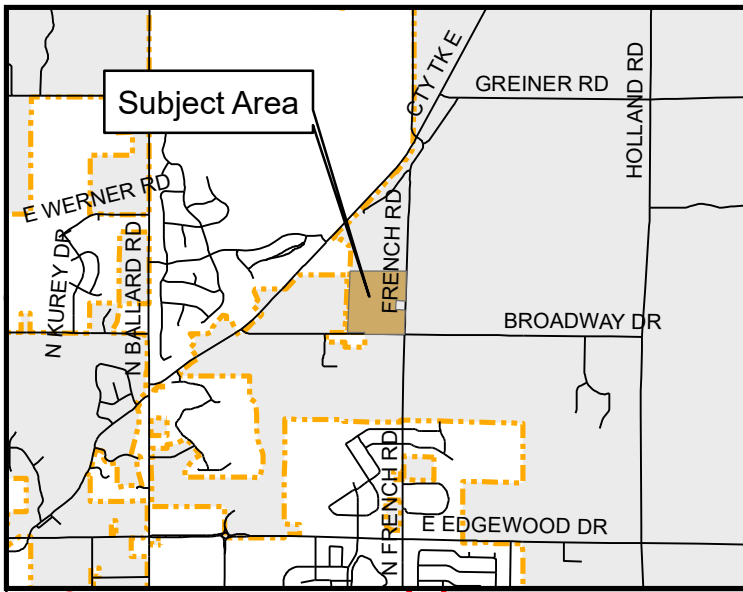
Sincerely,

A handwritten signature in black ink, appearing to read "Erich Schmidtke". The signature is fluid and cursive.

Erich Schmidtke, Municipal Boundary Review

cc: petitioner

# Annexation Broadway Hills Estates Town of Freedom Zoning Map



C-2 1-9210

City Limit

City Limit

Subject Area

TEMP AG

City Limit

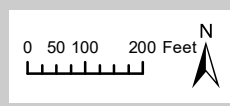
R-1B

City Limit



Common Council  
7-7-20

CT



Annexation  
Broadway Hills Estates  
Town of Freedom  
Aerial Map



Subject Area

FRENCH RD

RENCH RD

E BROADWAY DR

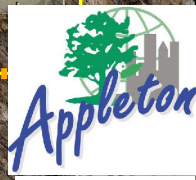
E RUBYRED DR

City Limit

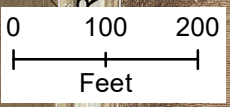
City Limit

City Limit

City Limit



Common Council  
7-7-20





**PETITION FOR DIRECT ANNEXATION BY UNANIMOUS APPROVAL  
PURSUANT TO SECTION 66.0217(2), WISCONSIN STATUTES  
WHERE NO ELECTORS RESIDE IN TERRITORY**

I/We, the undersigned, constituting all of the owners of the real property in which no electors reside in the following territory of the Town of Freedom, Outagamie County, Wisconsin, lying contiguous to the City of Appleton petition the Common Council of the City of Appleton to annex the territory described below and shown on the attached scale map to the City of Appleton, Outagamie County, Wisconsin.

PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 AND PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 31, TOWNSHIP 22 NORTH, RANGE 18 EAST, TOWN OF FREEDOM, OUTAGAMIE COUNTY, WISCONSIN, MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 31; THENCE NORTH 89 DEGREES 51 MINUTES 17 SECONDS WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION, A DISTANCE OF 877.00 FEET; THENCE NORTH 00 DEGREES 43 MINUTES 43 SECONDS EAST, 33.01 FEET, TO THE NORTH RIGHT-OF-WAY LINE OF BROADWAY DRIVE; THENCE NORTH 89 DEGREES 51 MINUTES 17 SECONDS WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF BROADWAY DRIVE, A DISTANCE OF 386.28 FEET; THENCE NORTH 02 DEGREES 03 MINUTES 47 SECONDS EAST, ALONG THE EAST LINE OF OUTLOT 1 OF CERTIFIED SURVEY MAP NO. 5664, A DISTANCE OF 1371.59 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 17 SECONDS EAST, 1262.37 FEET, TO THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION; THENCE SOUTH 01 DEGREES 59 MINUTES 41 SECONDS WEST, ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION, A DISTANCE OF 662.89 FEET; THENCE NORTH 88 DEGREES 00 MINUTES 19 SECONDS WEST, 210.94 FEET; THENCE SOUTH 01 DEGREES 59 MINUTES 41 SECONDS WEST, 204.50 FEET; THENCE SOUTH 88 DEGREES 00 MINUTES 19 SECONDS EAST, 210.94 FEET, TO THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION; THENCE SOUTH 01 DEGREES 59 MINUTES 41 SECONDS WEST, ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION, A DISTANCE OF 537.16 FEET TO THE POINT OF BEGINNING.

CONTAINING A TOTAL OF 1,717,423 SQUARE FEET [39.427 ACRES].

I/We, the undersigned, elect that this annexation shall take effect to the full extent consistent with outstanding priorities of other annexation, incorporation, or consolidation proceedings, if any.


I/We understand the subject property will be assigned a temporary zoning classification of AG Agricultural District, pursuant to Section 23-65(e)(3) of the Appleton Zoning Ordinance. I/We, will initiate a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-family District.

Area of lands to be annexed contains 39.427 acres m/l.



Tax Parcel number of lands to be annexed: 090-0865-00, 090-0865-02 and part of 090-0855-00.

The current population of such territory is 0.

Signature of Petitioner	Owner	Date of Signing	Address of Petitioner (Include Zip Code)
	North Appleton Properties, LLC Gregory Gauerke, Member	5-27-20	4226 E. Appleseed Drive Appleton, WI 54913
Gregory Gauerke, Member			

# ANNEXATION MAP

PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 AND PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 31, TOWNSHIP 22 NORTH, RANGE 18 EAST, TOWN OF FREEDOM, OUTAGAMIE COUNTY, WISCONSIN.

EAST 1/4 CORNER  
SECTION 31  
T22N, R18E

UNPLATTED LANDS  
OWNER: YMCA OF FOX CITIES  
DOCUMENT NO. 1752668  
PART OF TAX PARCEL  
NO. 311-9210-00

NE 1/4-SE 1/4

UNPLATTED LANDS  
OWNER: NORTH APPLETON PROPERTIES, LLC  
DOCUMENT NO. 2191480  
PART OF TAX PARCEL NO. 090-0855-00

UNPLATTED LANDS  
OWNER: THOMAS & MARY VANHANDEL  
JOINT REVOCABLE TRUST  
DOCUMENT NO. 2169262  
TAX PARCEL NO. 090-0860-00

ANNEXATION AREA  
1,717,423 SQ.FT.  
39.427 ACRES

SE 1/4-SE 1/4

TAX PARCEL  
NO. 090-0865-00

UNPLATTED LANDS  
OWNER: CLARENCE &  
SUSAN SCHMIDT  
VOL.993 PG.677  
TAX PARCEL NO.  
090-0865-01

SOUTH 1/4  
CORNER  
SECTION 31  
T22N, R18E

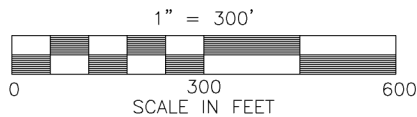
SOUTHEAST CORNER  
SECTION 31  
T22N, R18E

BROADWAY

DRIVE

FRENCH  
ROAD

BEARINGS ARE REFERENCED TO THE OUTAGAMIE COUNTY COORDINATE SYSTEM WHICH HAS THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 31, RECORDED TO BEAR S 01°59'41" W



Martenson & Eisele, Inc.



1377 Midway Road  
Menasha, WI 54952  
www.martenson-eisele.com  
info@martenson-eisele.com  
920.731.0381 1.800.236.0381

Planning  
Environmental  
Surveying  
Engineering  
Architecture

DATED: MAY 11, 2020  
REVISED: MAY 22, 2020

PROJECT NO. 1-1306-001  
FILE 1-1306-001Annex.dwg  
THIS INSTRUMENT WAS DRAFTED BY: A.Sedlar