



CITY OF APPLETON

MEMORANDUM

Date: April 9, 2025
To: Plan Commission
From: Colin Kafka, Principal Planner
Subject: Special Use Permit #3-25 for a Landscape Business in the C-2 General Commercial District.

GENERAL INFORMATION

Owner/Applicant: John Samsa, JOHDE LLC. / David Witt, Down to Earth Landscaping LLC.

Address/Parcel Number: 727 West Weiland Avenue (Tax Id #31-5-4311-00 and 31-5-4312-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for a Landscape Business located in the C-2 General Commercial District

Plan Commission Public Hearing Date: April 9, 2025

Common Council Meeting Date: April 16, 2025

BACKGROUND

1940 Parcel #31-5-4312-00 platted as North Heights Subdivision Lot 5 Block 7 and Parcel #31-5-4311-00 platted as North Heights Subdivision Lot 4 Block 7

1979 2,400 square foot contractor office building constructed

2025 CSM #3-25 submitted by applicant, with owner approval, to combine the two parcels. Currently under staff review.

STAFF ANALYSIS

Existing Site Conditions: A 2,400 square foot building, built in 1979, is situated on parcel #31-5-4312-00 and was previously used as a contractor's office. The building consists of office space fronting W. Weiland Avenue with the remaining portion consisting of a service bay with an overhead door fronting N. Locust Street. Vehicle access to both parcels is provided by a curb cut on N. Locust Street. Parcel #31-5-4311-00 has remained vacant since being platted in 1940.

Project Summary: The applicant, with owner approval, proposes to use parcels #31-5-4312-00 and #31-5-4311-00 for a landscape business, Down to Earth Landscaping LLC. The applicant proposes to use the existing 2,400 square foot building on parcel #31-5-4312-00 as an office and indoor storage space for the landscape business. The applicant also intends to use the currently vacant parcel #31-5-4311-00 as a fenced, outdoor storage area for the storage of equipment, vehicles, and materials related to the landscape business. Prior to the issuance of any building permits for a fenced, outdoor storage area, the parcels will need to be combined via a Certified Survey Map (CSM) as an outdoor storage area is not permitted as a standalone use on a parcel zoned C-2 General Commercial. The applicant, with owner approval, intends to combine the adjacent vacant parcel #31-5-4311-00 with parcel #31-5-4312-00 via Certified Survey Map (CSM) to facilitate the development of an outdoor storage area that is compliant with Section 23-46(b) of the Municipal Code.

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

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 landscape business requires a Special Use Permit in the C-2 General Commercial District. To permit a landscape business, the Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds (2/3) vote of the Common Council is required for approval.

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

North: C-2 General Commercial District. The adjacent land use to the north is currently commercial (Pharmacy and Bank).

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

East: C-2 General Commercial District. The adjacent land use to the east is currently commercial (Gas Station).

West: R1-B Single Family District. The adjacent land use to the west is currently single family residential.

Appleton Comprehensive Plan 2010-2030: Community Development staff reviewed this proposal and determined it appears to be consistent 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 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.

Development Review Team (DRT) Report: This item appeared on the March 18, 2025 DRT agenda. No negative comments were received from participating departments.

Future Actions:

- The owner shall combine the two parcels via the CSM process prior to establishing an outdoor storage area. The CSM shall be signed and recorded prior to the issuance of any permits to establish an outdoor storage area.
- The applicant shall apply for, and receive approval of, a building permit from the Inspections Division prior to the construction of the fence for the purpose of screening the items stored in the outdoor storage area to comply with Section 23-46(b) of the Municipal Code.

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.

Finding of Fact: This request was reviewed in accordance with the standards for granting a Special Use Permit under Section 23-66(e)(1-8) of the Municipal Code: *1. proper zoning district:* C-2 zoning allows for a landscape business as a special use permit; *2. zoning district regulations:* the district regulations appear to be satisfied pursuant to the attached development plan; *3. special regulations:* there are no special regulations established in Section 23-66 for landscape business; *4. consistent with comprehensive plan and other plans:* yes, see above analysis; *5. traffic:* the proposed use is not expected to create undue traffic congestion; *6. landscaping and screening:* landscaping and screening of any future outdoor storage area shall be reviewed via the fence permit process to ensure compliance with section 23-46(b) of the Municipal Code; *7. neighborhood compatibility with predominant land uses in this area:* the proposed use is located near other similar uses in this area of City; *8. impact on services:* the City has existing utilities, services and equipment in place to serve this proposed use. These standards were found in the affirmative, as long as all stipulations are satisfied.

RECOMMENDATION

Staff recommends, based on the above analysis, that Special Use Permit #3-25 for landscape business at 727 West Weiland Avenue (Tax Id #31-5-4311-00 and 31-5-4312-00), as shown on the attached development plan and per attached plan of operation, along with the attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. All applicable codes, ordinances, and regulations, including but not limited to Fire and Building Codes, shall be complied with.

Substantial Evidence: Standardized condition that notifies the applicant that all Municipal Code, Ordinances, and Regulations must be complied with.

2. All required permits shall be applied for and obtained by the applicant prior to construction and/or occupancy of the subject site.

Substantial Evidence: This condition notifies the applicant that all required permits must be obtained before occupancy of the site and any future developments on the site.

3. The outdoor storage of landscape business-related equipment, vehicles, materials, etc. shall comply with Section 23-46(b)(1-4) of the Zoning Ordinance at all times.

Substantial Evidence: This condition notifies the applicant of the specific zoning code regulations that apply to the outdoor storage of business property, goods, wares or merchandise that is not located in a specific area for customer viewing or immediate sale. Any future outdoor storage must comply with all applicable codes.

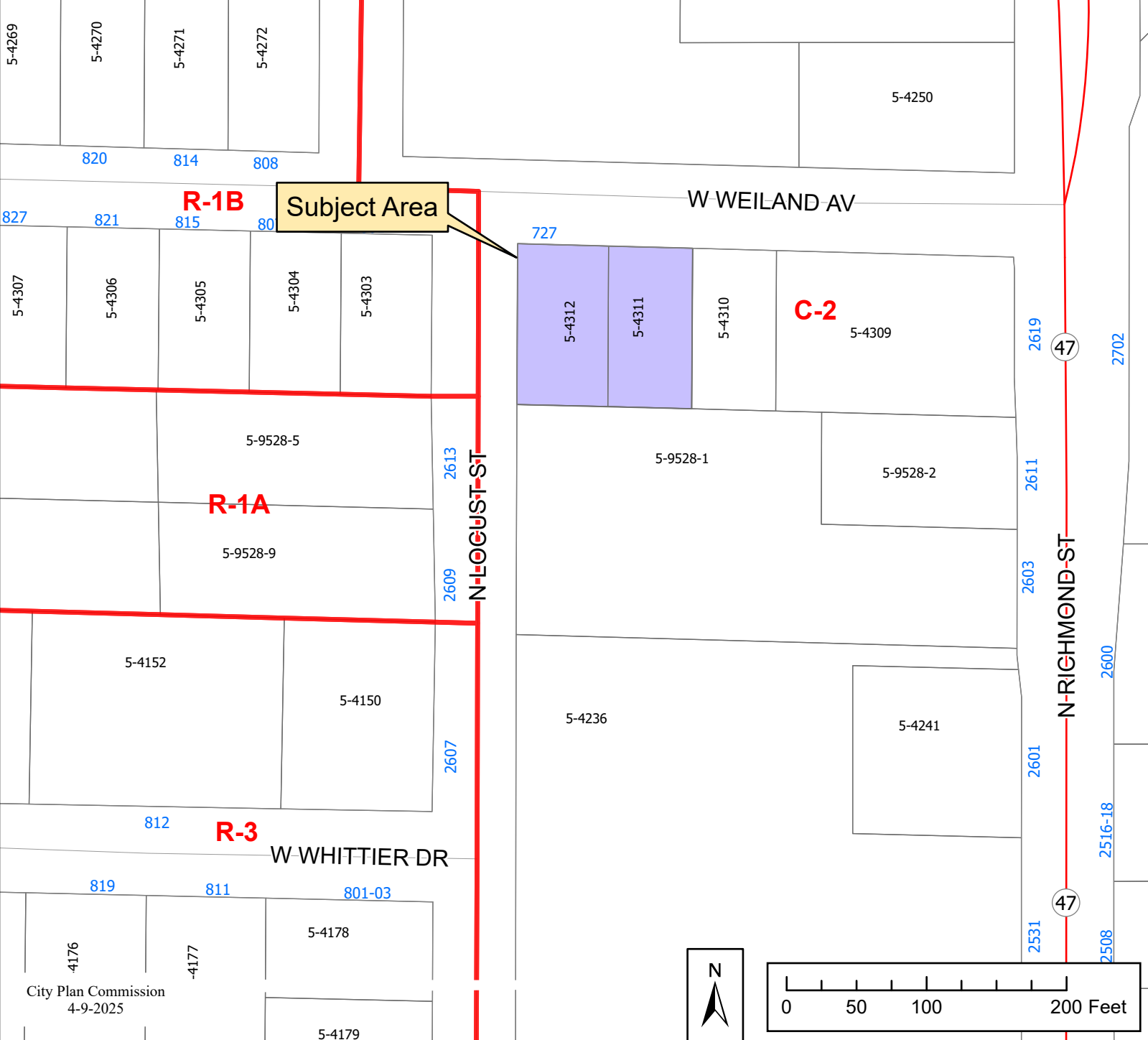
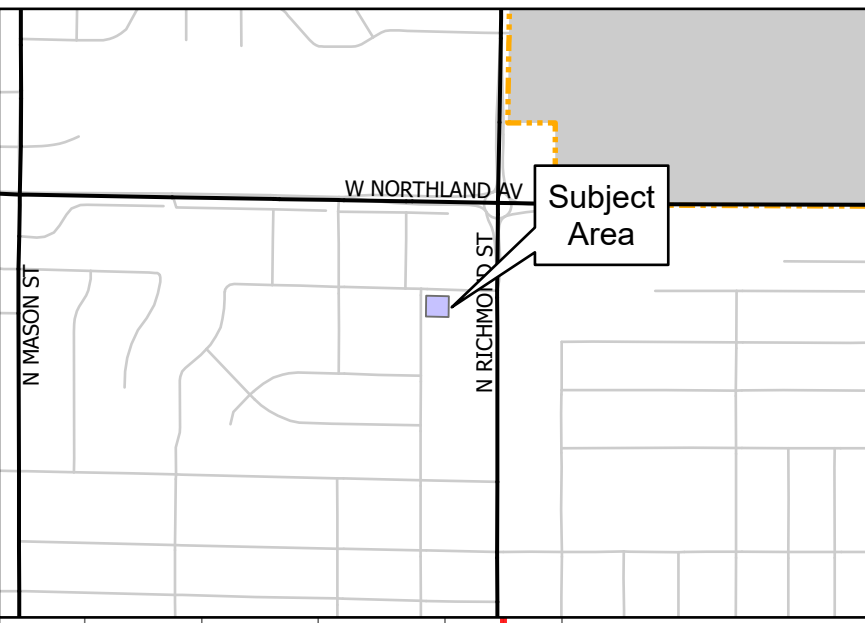
4. The Special Use Permit shall be deemed null and void if the use is abandoned for a period of twelve (12) consecutive months, a building permit and/or occupancy permit has not been obtained, or the use has not been established within twelve (12) months after Common Council approval, pursuant to Section 23-66(f)(1) of the Municipal Code.

Substantial Evidence: Standardized condition that establishes an expiration of twelve (12) months for the current application if a building permit has not been obtained or the use has not been established.

5. Any deviations from the approved development plan or plan of operation may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code. Exact location and height of any future fencing for an outdoor storage area shall be reviewed as part of the permitting process to ensure compliance with Section 23-46(b) of the Municipal Code.

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

Special Use Permit
Landscape Business in
C-2 General Commercial District
727 W. Weiland Ave

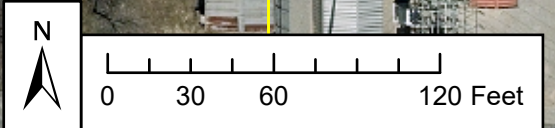


Special Use Permit
Landscape Business in
C-2 General Commercial District
727 W. Weiland Ave
Aerial Map

Subject Area

W WEILAND AV

N LOCUST ST



**CITY OF APPLETON
RESOLUTION FOR SPECIAL USE PERMIT #3-25
LANDSCAPE BUSINESS
727 WEST WEILAND AVENUE**

WHEREAS, David Witt, has applied for a Special Use Permit to establish a Landscape Business located at 727 West Weiland Avenue, also identified as Parcel Numbers #31-5-4311-00 and 31-5-4312-00; and

WHEREAS, the proposed use 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 April 9, 2025 on Special Use Permit #3-25, 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 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 #3-25 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 April 16, 2025.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Common Council, based on Community 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 #3-25 to establish a Landscape Business located at 727 West Weiland Avenue, also identified as Parcel Numbers #31-5-4311-00 and 31-5-4312-00 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 #3-25 to establish a Landscape Business located at 727 West Weiland Avenue, also identified as Parcel Numbers #31-5-4311-00 and 31-5-4312-00, 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 #3-25:

- A. All applicable codes, ordinances, and regulations, including but not limited to Fire and Building Codes, shall be complied with.
- B. All required permits shall be applied for and obtained by the applicant prior to construction and/or occupancy of the subject site.
- C. The outdoor storage of landscape business-related equipment, vehicles, materials, etc. shall comply with Section 23-46(b)(1-4) of the Zoning Ordinance at all times.
- D. The Special Use Permit shall be deemed null and void if the use is abandoned for a period of twelve (12) consecutive months, a building permit and/or occupancy permit has not been obtained, or the use has not been established within twelve (12) months after Common Council approval, pursuant to Section 23-66(f)(1) of the Municipal Code.
- E. Any deviations from the approved development plan or plan of operation may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code. Exact location and height of any future fencing for an outdoor storage area shall be reviewed as part of the permitting process to ensure compliance with Section 23-46(b) of the Municipal Code.

Adopted this _____ day of _____, 2025.

Jacob A. Woodford, Mayor

ATTEST:

Kami Lynch, City Clerk

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business Information:

Name of business: Down to Earth Landscaping

Years in operation: 13

Type of proposed establishment (detailed explanation of business):

Day to Day office work

Equipment and tool storage

Loading and unloading tools and equipment during and between jobs

Proposed Hours of Operation:

Day	From	To
Monday thru Thursday	7:00 am	5:00 pm
Friday	7:00 am	5:00 pm
Saturday	7:00 am	Noon
Sunday		

Building Capacity and Storage Areas:

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

Gross floor area of the existing building(s):

2400 sq ft

Gross floor area of the proposed building(s):

2400 sq ft

Identify location, number, capacity and flammable liquid materials stored in storage tanks or containers:

a 43 x 34 x 65" gas safety storage cabinte that holds gas cans (up to 90 gals.) will be stored in the shop area

Odor:

Describe any potential smoke, odors emanating from the proposed use and plans to control them:
diesel trucks starting and coming and going occasionally. Most jobs are larger and don't take place at the shop

Noise:

Describe the noise levels anticipated from the proposed use and all mechanical equipment:
Just trucks loading and unloading equipment during business hours

How will the noise be controlled?
noise will not be constant and only vehicles and equipment moving once in a while. A majority of work takes place off of site.

Outdoor Lighting:

Type: _____
Location: Just the pre-existing lights on the building

Off-Street Parking:

Number of spaces existing on-site: 4
Number of spaces proposed on-site: 4

Street Access:

Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?
Everything is adequate. Traffic will not be increasing.

Outdoor Uses:

Size: 9,425 square feet

Type and location of outdoor storage area(s) of business property, goods, or merchandise not intended for customer viewing or immediate sale:
on side of building behind the privacy fence

Type and height of screening of plantings/fencing/gating for outdoor storage area(s):
6' foot chainlink fencing with black privacy slats
also landscaping in front of fencing to make it look pretty

Type, location, size of outdoor display area(s) of merchandise for sale or other business property:
no outdoor display or merchandise for sale

Number of Employees:

Number of existing employees: 4

Number of proposed employees: 4

Number of employees scheduled to work on the largest shift: 4

Special Use Permit

Landscape Business in C-2
General Commercial District

727 W. Weiland Ave.

Development Plan

727 W Weiland Ave
Site Plan

