



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Informal Hearing Meeting Date:** February 12, 2019

**Common Council Public Hearing Meeting Date:** March 6, 2019 (Public Hearing on Rezoning)

**Item:** Rezoning #4-19 – South Lawe Street and East Newberry Street

**Case Manager:** David Kress

### GENERAL INFORMATION

**Owners/Applicants:** Eagle Flats LLC, State of Wisconsin, and Fox River Navigational System Authority (FRNSA)

**Address/Parcel:** Generally located east of South Lawe Street and north of East Newberry Street (Tax Id #31-4-0296-01, #31-4-0296-02, #31-4-0296-03, and #31-4-0296-04)

**Petitioner's Request:** The applicant proposes to rezone the subject parcels from PD/C-2 Planned Development General Commercial District #9-10 and M-2 General Industrial District to CBD Central Business District. The adjacent Newberry Street right-of-way, currently zoned R-2 Two-Family District, R-1B Single-Family District, and P-I Public Institutional District, is also included in this request. The request is being made to establish zoning that is uniform for all four subject lots and allows for future mixed-use development, including a proposed FRNSA visitors center and residential units.

### BACKGROUND

On January 5, 2011, Common Council adopted Ordinance 24-11 for Rezoning #9-10, which rezoned part of the subject area from M-2 General Industrial District to PD/C-2 Planned Development General Commercial District. However, no corresponding Implementation Plan Document was approved and recorded with the Register of Deeds Office. Therefore, customized zoning requirements were never formalized for this particular planned development overlay district.

In 2018, the owners/applicants submitted a Certified Survey Map (CSM) for the subject property to divide and reconfigure parcel boundaries. The CSM was reviewed and administratively approved by City staff on September 24, 2018, with a stipulation that a rezoning application be submitted to resolve a "split zoning" issue. The CSM was formalized with the recording of Certified Survey Map 7648.

### STAFF ANALYSIS

**Existing Site Conditions:** The subject parcels total approximately 1.567 acres in size and are located at the northeast corner of South Lawe Street and East Newberry Street. Lawe Street and Newberry Street are classified as a collector street and local street, respectively, on the City's Arterial/Collector Plan. The property is also located adjacent to the Fox River Canal, with access to Lock #3. Currently, the site includes paved and gravel areas that have been used for off-street parking, with vehicular access provided by curb cuts on Newberry Street.

**Surrounding Zoning Classification and Land Uses:**

North: PD/C-2 Planned Development General Commercial District #9-10 and M-2 General Industrial District. The Fox River Canal is immediately north of the subject property.

South: R-2 Two-Family District, R-1B Single-Family District, and P-I Public Institutional District. The adjacent land uses to the south are currently a mix one and two-family residential and institutional uses, including a place of worship.

East: M-2 General Industrial District and P-I Public Institutional District. Railroad right-of-way and a segment of recreational trail (Newberry Trail) are immediately east of the subject property.

West: PD/C-2 Planned Development General Commercial District #9-10 and C-2 General Commercial District. The adjacent land uses to the west are currently a mix of public institutional and commercial uses.

**Proposed Zoning Classification:** The purpose of the CBD Central Business District is to provide a centrally located and readily accessible area that offers a wide variety of retail, service, financial, entertainment, governmental and residential uses. A broad range of uses is permitted to reflect downtown's role as a commercial, cultural and government center. Development is intended to be intense with maximum lot coverage, increased building scale and height density and buildings placed close together. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape. Per Section 23-114(i) of the Municipal Code, the development standards for the CBD District are listed below:

- 1) **Minimum lot area:** 2,400 square feet.
- 2) **Maximum lot coverage:** 100%.
- 3) **Minimum lot width:** 20 feet.
- 4) **Minimum front yard:** None.
- 5) **Minimum rear yard:**
  - a. None.
  - b. 10 feet when abutting a residentially-zoned district.
- 6) **Minimum side yard:**
  - a. None.
  - b. 10 feet when abutting a residentially-zoned district.
- 7) **Maximum building height:** 200 feet.

**Zoning Ordinance Review Criteria:** A rezoning is often triggered by development proposals or changing circumstances in the City. In this case, the request is being made to establish uniform zoning for the subject lots and accommodate future mixed-use development, which is permitted in the CBD Central Business District. The existing site appears to satisfy the development standards for the CBD District listed above, as an easement was recorded to provide ingress/egress to parcel #31-4-0296-03. If approved, any future development would need to conform to the CBD District zoning regulations and other sections of the Zoning Ordinance. Ultimately, any new building would require Site Plan review and

approval, pursuant to Section 23-570 of the Municipal Code, prior to the issuance of a building permit by the Inspections Division.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* identifies this area with a future Mixed Use designation. The proposed CBD Central Business District rezoning is consistent with the 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.*

**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 5.3.2 Identify preferred locations and encourage urban infill and redevelopment to meet the needs of retirees and Generation X and Millennial buyers or renters, such as redevelopment sites along the Fox River Corridor, including the industrial flats, that are suited to a variety of living options.*

**OBJECTIVE 5.5 Housing and Neighborhoods:**

*Promote downtown housing as a means to grow the tax base, support local businesses, and increase the overall vitality and image of the area.*

*Policy 5.5.4 Consider utilizing the CBD zoning district in other areas of the City such as along Wisconsin Avenue in order to promote denser in-fill and housing development.*

**OBJECTIVE 8.3 Agriculture, Natural, Historic, and Cultural Resources:**

*Continue and expand efforts to preserve, restore, and interpret important features of Appleton's rich history.*

*Policy 8.3.8 Support development of the proposed Fox River Locks Visitor Center on the Fox River.*

**OBJECTIVE 9.6 Economic Development:**

*Create a vibrant environment that is conducive to attracting and retaining talented people.*

*Policy 9.6.2 Encourage the creation of vibrant mixed-use urban areas in the downtown and along the Fox River that are both walkable and bicycle-friendly.*

**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 13.3 Fox River Corridor Plan:**

*Promote an economically viable mix of existing and redeveloped uses along the riverfront.*

*Policy 13.3.2 Most of the new development occurring within the corridor is expected to be commercial and residential. Commercial uses will primarily consist of restaurant and small retail uses serving the neighborhood and visitors attracted to the river. Residential uses are expected to include mid- to high-density rental and owner-occupied housing.*

**Standards for Zoning Map Amendments:** Per Section 23-65(d)(3) of the Municipal Code, all recommendations for Official Zoning Map amendments shall be consistent with the adopted plans, goals, and policies of the City and with the intent of the Zoning Ordinance. Related excerpts are listed below.

- a. Prior to making a recommendation on a proposed rezoning, the Plan Commission shall make a finding to determine if the following conditions exist. No rezoning of land shall be approved prior to finding at least one of the following:
  1. The request for a zone change is in conformance with the Comprehensive Plan for the City of Appleton. *The rezoning request is in conformance with the Comprehensive Plan 2010-2030 goals and objectives stated above and the Future Land Use Map, which identifies this area for future mixed uses.*
  2. A study submitted by the applicant that indicates that there has been an increase in the demand for land in the requested zoning district, and as a result, the supply of land within the City mapped as such on the Official Zoning Map, is inadequate to meet the demands for such development.
  3. Proposed amendments cannot be accommodated by sites already zoned in the City due to lack of transportation, utilities or other development constraints, or the market to be served by the proposed use cannot be effectively served by the location of the existing zoning district(s).
  4. There is an error in the code text or zoning map as enacted.
- b. In addition to the findings required to be made by subsection (a), findings shall be made by the Plan Commission on each of the following matters based on the evidence presented:
  1. The adequacy of public facilities such as transportation, utilities and other required public services to serve the proposed site. *The subject area is served by existing infrastructure, and the transportation network should be able to accommodate the proposed rezoning.*
  2. The effect of the proposed rezoning on surrounding uses. *Commercial uses are already located to the north and west of the subject area. The single-family and two-family residential uses located to the south are separated from the subject parcels by street right-of-way and a change in topography. Therefore, the proposed rezoning request is unlikely to create adverse impacts in the surrounding neighborhood.*

**Review Criteria:** Based upon the above analysis, it would appear the criteria established by Section 23-65(d)(3) Zoning Amendments has been satisfied.

**Technical Review Group (TRG) Report:** This item was discussed at the January 22, 2019 Technical Review Group meeting.

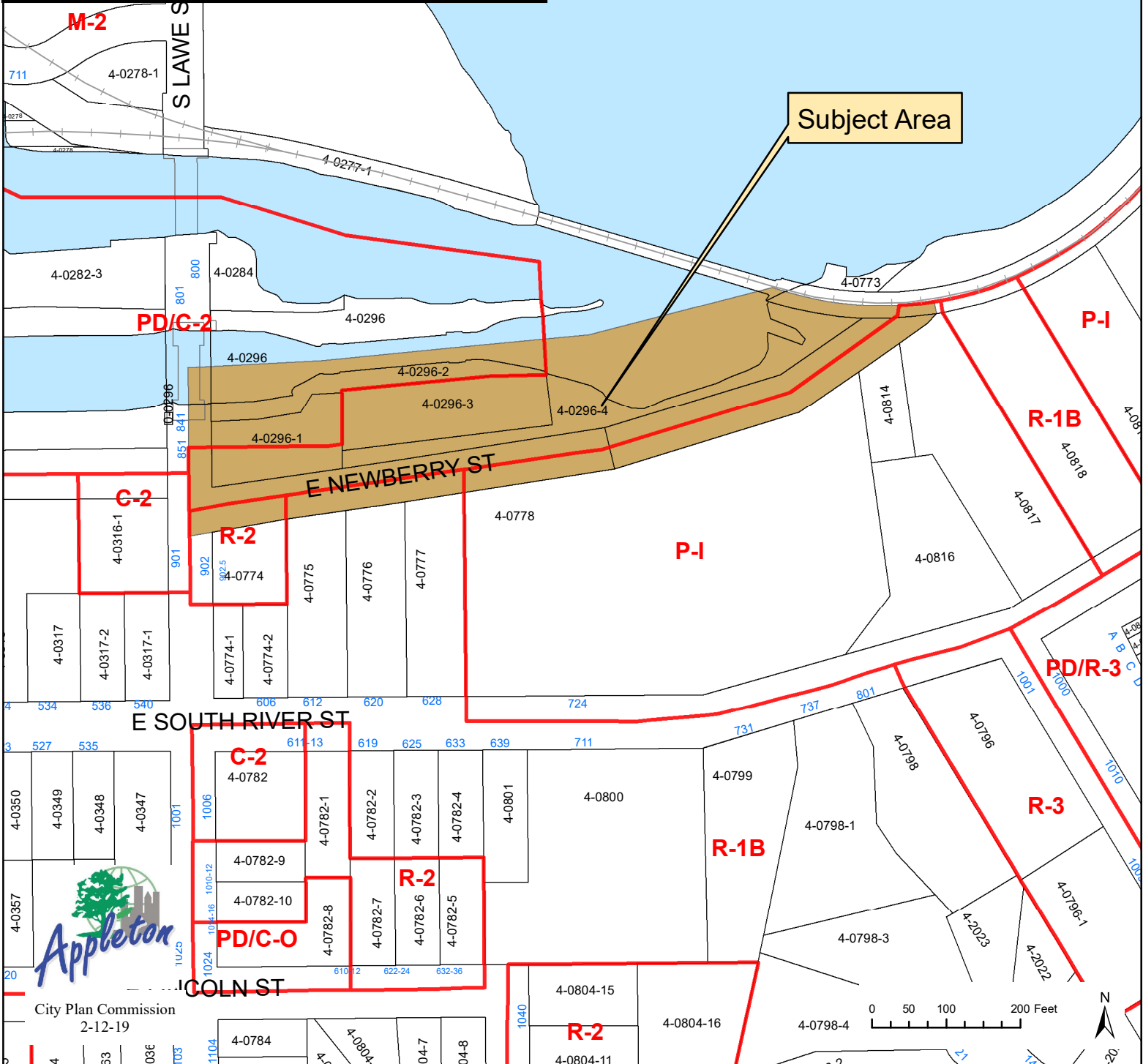
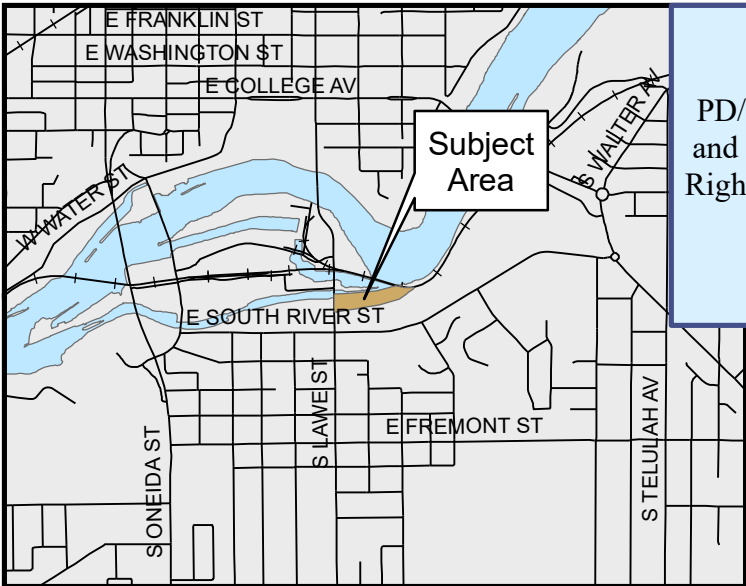
- Department of Public Works Comments: Include the entire Newberry Street right-of-way in the rezoning.  
*Revisions were made to the attached maps and legal description to address this comment.*

## **RECOMMENDATION**

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Staff recommends, based upon the standards for zoning map amendments as required by Section 23-65(d)(3) of the Zoning Ordinance, that Rezoning Application #4-19 to rezone the subject parcels located on South Lawe Street and East Newberry Street (Tax Id #31-4-0296-01, #31-4-0296-02, #31-4-0296-03, and #31-4-0296-04) from PD/C-2 Planned Development General Commercial District #9-10, M-2 General Industrial District, R-2 Two-Family District, R-1B Single-Family District, and P-I Public Institutional District to CBD Central Business District, including to the centerline of the adjacent railroad line and canal, the adjacent one-half (1/2) right-of-way of South Lawe Street, and all of the adjacent East Newberry Street right-of-way, as shown on the attached map, **BE APPROVED**.

South Lawe Street & East Newberry Street  
 Rezoning  
 PD/C-2 Planned Development General Commercial District #9-10  
 and M-2 General Industrial District, including the Newberry Street  
 Right-Of-Way from R-2 Two-Family District, R-1B Single-Family  
 District, and P-I Public Institutional District  
 to CBD Central Business District  
 Zoning Map



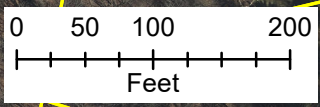
South Lawe Street & East Newberry Street  
Rezoning  
PD/C-2 Planned Development General Commercial District #9-10  
and M-2 General Industrial District, including the Newberry Street  
Right-Of-Way from R-2 Two-Family District, R-1B Single-Family  
District, and P-I Public Institutional District  
to CBD Central Business District  
Aerial Map



Subject Area



City Plan Commission  
2-12-19



**LEGAL DESCRIPTION**

LOTS 1, 2, 3 AND 4 OF CSM 7648 (Tax Id #31-4-0296-01, #31-4-0296-02, #31-4-0296-03, #31-4-0296-04), City of Appleton, Outagamie County, Wisconsin. Including to the centerline of the adjacent railroad line and canal, the adjacent one-half (1/2) right-of-way of South Lawe Street, and all of the adjacent East Newberry Street right-of-way.