



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
www.appleton.org

## Meeting Agenda - Final City Plan Commission

---

Wednesday, August 9, 2023

3:30 PM

Council Chambers, 6th Floor

---

1. Call meeting to order
2. Pledge of Allegiance
3. Roll call of membership
4. Approval of minutes from previous meeting

[23-0932](#) City Plan Minutes from 7-26-23

**Attachments:** [City Plan Minutes 7-26-23.pdf](#)

### 5. Public Hearing/Appearances

[23-0933](#) Rezoning #5-23 to rezone the vacant land generally located along the extension of E. Sweetwater Way, south of E. Spartan Drive and east of N. Haymeadow Avenue, for the Fourth Addition to Clearwater Creek (Tax Id #31-6-6201-00 and part of #31-6-6200-00), as shown on the attached maps, from AG Agricultural District to R-1B Single-Family District (Associated with Action Item #23-0934)

**Attachments:** [InformalPublicHearingNotice\\_4thAddnClearwaterCreek\\_Rezoning#5-23.pdf](#)

### 6. Action Items

[23-0934](#) Request to approve Rezoning #5-23 to rezone the vacant land generally located along the extension of E. Sweetwater Way, south of E. Spartan Drive and east of N. Haymeadow Avenue, for the Fourth Addition to Clearwater Creek (Tax Id #31-6-6201-00 and part of #31-6-6200-00), as shown on the attached maps, from AG Agricultural District to R-1B Single-Family District

**Attachments:** [StaffReport\\_4th Addn Clearwater Creek Rezoning For8-9-23.pdf](#)

[23-0935](#) Request to approve the Fourth Addition to Clearwater Creek Preliminary Plat as shown on the attached maps and subject to the conditions in the attached staff report

**Attachments:** [StaffReport\\_4th Addn Clearwater Creek PreliminaryPlat For8-9-23.pdf](#)

## 7. Information Items

### [23-0936](#)

Proposed draft text amendments to Chapter 23 Zoning Ordinance of the Municipal Code relating to *Article II Definitions*: Section 23-22; *Article III General Provisions*: Sections 23-43, 23-47, and 23-49; *Article IV Administration*: Section 23-66; *Article V Residential Districts*: Sections 23-91, 23-92, 23-93, 23-94, 23-95, 23-96, 23-100, and 23-101; *Article VI Commercial Districts*: Sections 23-111, 23-112, 23-113, 23-114, and 23-115; *Article VII Industrial Districts*: Sections 23-131 and 23-132; *Article VIII Overlay Districts*: Section 23-152; *Article IX Off-Street Parking and Loading*: Section 23-172; *Article XIII Wireless Telecommunications Facilities*: Sections 23-420 thru 427; and *Article XV Site Plan Review and Approval*: Section 23-570

**Attachments:** [StaffReport\\_PC\\_Informational\\_DraftTextAmendment\\_2023Bundle.pdf](#)

## 8. Adjournment

*Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.*

*Any questions about items on this meeting are to be directed to Kara Homan, Director, Community and Economic Development Department at 920-832-6468.*

*Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.*



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
www.appleton.org

## Meeting Minutes - Final City Plan Commission

---

Wednesday, July 26, 2023

3:30 PM

Council Chambers, 6th Floor

---

1. Call meeting to order

**Meeting called to order by Chair Mayor Woodford at 3:30 p.m.**

2. Pledge of Allegiance

3. Roll call of membership

**Present:** 6 - Robins, Mayor Woodford, Dane, Uitenbroek, Neuberger and Fenton

**Excused:** 1 - Palm

*Others present:*

*Aldersperson Katie Van Zeeland, District #5*

4. Approval of minutes from previous meeting

[23-0876](#)

City Plan Minutes from 7-12-23

**Attachments:** [City Plan Minutes 7-12-23.pdf](#)

**Fenton moved, seconded by Robins, that the Minutes be approved. Roll Call.  
Motion carried by the following vote:**

**Aye:** 6 - Robins, Mayor Woodford, Dane, Uitenbroek, Neuberger and Fenton

**Excused:** 1 - Palm

5. Public Hearing/Appearances

6. Action Items

[23-0877](#)

Request to approve the Southpoint Commerce Park Plat No. 4 Preliminary Plat as shown on the attached maps and subject to the conditions in the attached staff report (Associated with File #23-0904)

**Attachments:** [StaffReport\\_SouthpointCommerceParkPlat4\\_PreliminaryPlat\\_For7-26-23.pdf](#)

**Fenton moved, seconded by Robins, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:**

**Aye:** 6 - Robins, Mayor Woodford, Dane, Uitenbroek, Neuberger and Fenton

**Excused:** 1 - Palm

[23-0904](#)

Resolution #8-R-23 Creating Appleton Conservancy Park

**Attachments:** [#8-R-23 Appleton Conservancy Park Resolution .pdf](#)

**Uitenbroek moved, seconded by Fenton, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:**

**Aye:** 6 - Robins, Mayor Woodford, Dane, Uitenbroek, Neuberger and Fenton

**Excused:** 1 - Palm

## 7. Information Items

## 8. Adjournment

**Fenton moved, seconded by Robins, that the meeting be adjourned at 3:35 p.m. Roll Call. Motion carried by the following vote:**

**Aye:** 6 - Robins, Mayor Woodford, Dane, Uitenbroek, Neuberger and Fenton

**Excused:** 1 - Palm

**NOTICE OF INFORMAL PUBLIC HEARING**  
**OF THE**  
**APPLETON CITY PLAN COMMISSION**

Dear property owner(s):

The City of Appleton Plan Commission will conduct an Informal Public Hearing on Wednesday, August 9, 2023, at 3:30 P.M., in Common Council Chambers, 6th Floor, City Hall, 100 North Appleton Street, or as soon thereafter as can be heard, for the following proposed rezoning request:

**COMMON DESCRIPTION:**

East of E. Sweetwater Way (Tax Id #31-6-6201-00 and part of #31-6-6200-00)

**Rezoning Request:** A rezoning request has been initiated by the owner, Clearwater Creek, LLC, and applicant, Jeff Schultz of Martenson & Eisele, in the matter of amending Chapter Twenty-three (Zoning Ordinance) of the Municipal Code of the City of Appleton for the above-described real estate, which is currently zoned AG Agricultural District. The owner & applicant propose to rezone the property to R-1B Single-family District (see attached maps). The R-1B Single-family District is intended to provide for and maintain residential areas characterized predominately by single-family, detached dwellings on medium sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential uses.

**Purpose of the Rezoning:** Facilitate the construction of a residential subdivision called the Fourth Addition to Clearwater Creek Subdivision along the extension of East Sweetwater Way and east of North Haymeadow Avenue.

**ALDERMANIC DISTRICT:** 7 – Alderperson Patrick Hayden

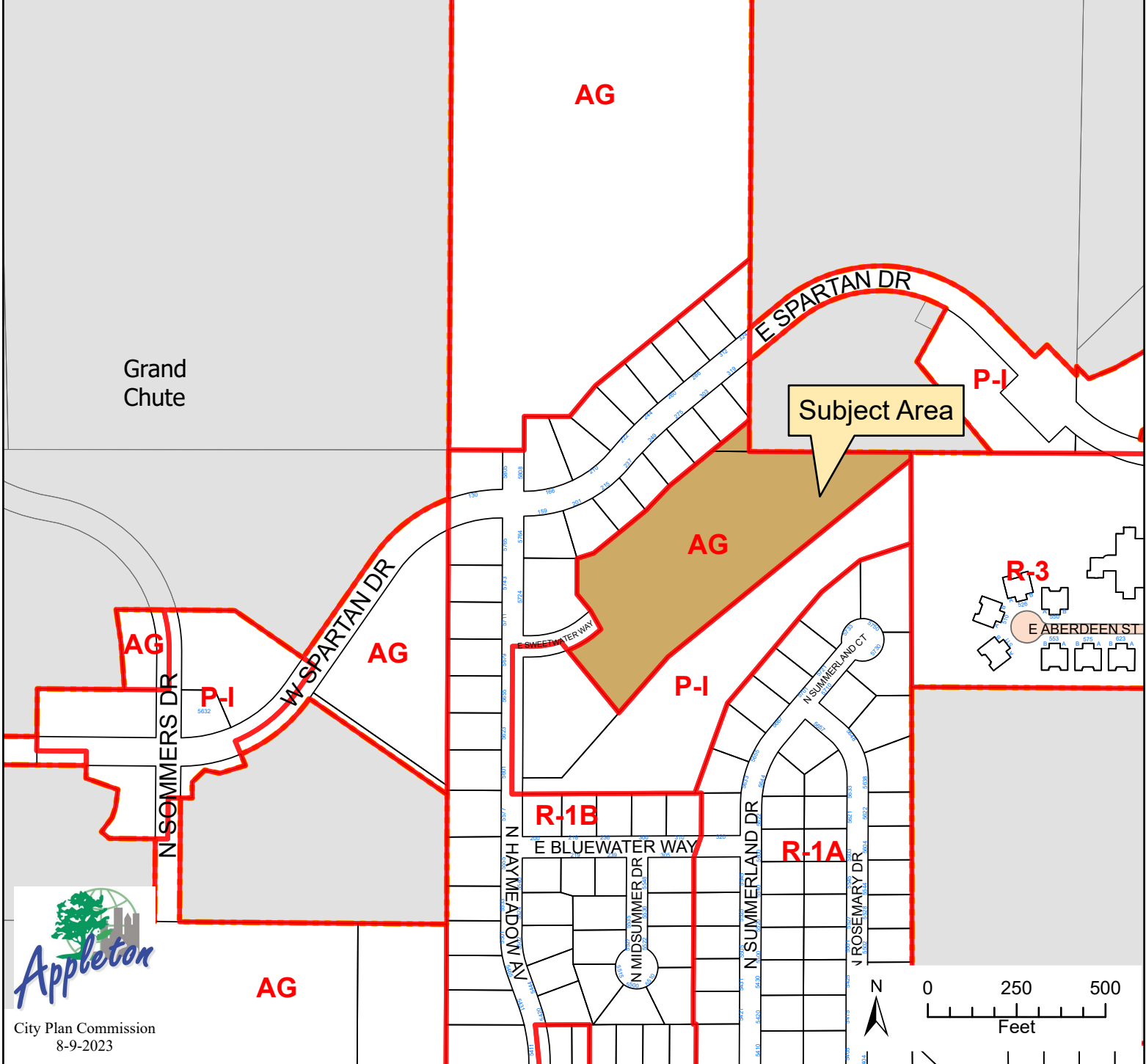
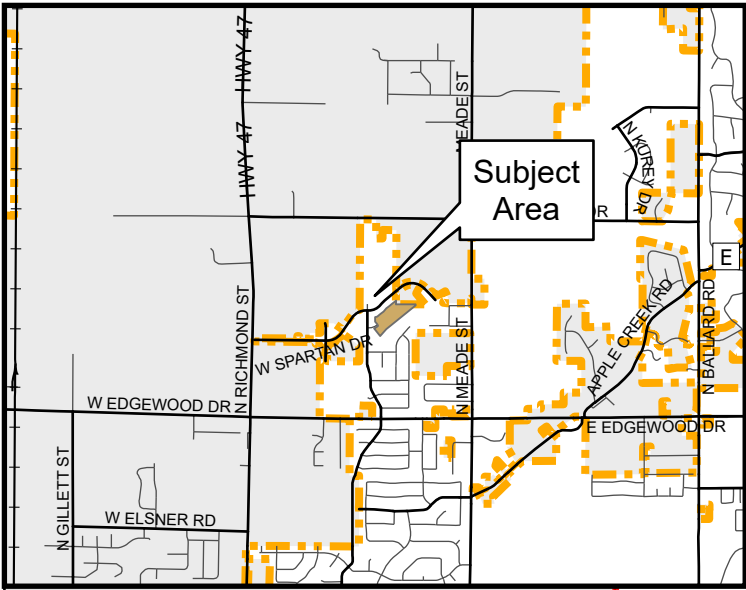
You are being notified as a policy of the City of Appleton Community and Economic Development Department. All persons interested are invited to attend this meeting and will be given an opportunity to be heard. Feedback can also be shared with Plan Commission members via written letter, email, or phone call. The Plan Commission makes a recommendation to the Common Council who makes the final decision on the matter. Any questions regarding this matter should be directed to Jessica Titel, Principal Planner, in the Community & Economic Development Department at 920-832-6476 or email at [jessica.titel@appleton.org](mailto:jessica.titel@appleton.org).

CITY PLAN COMMISSION  
APPLETON, WISCONSIN

COMMUNITY & ECONOMIC DEVELOPMENT  
CITY HALL - 100 NORTH APPLETON STREET  
APPLETON, WISCONSIN 54911-4799  
(920) 832-6468

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

4th Addition to Clearwater Creek  
 Rezoning  
 AG Agricultural District to  
 R-1B Single-Family District  
 Vicinity Map

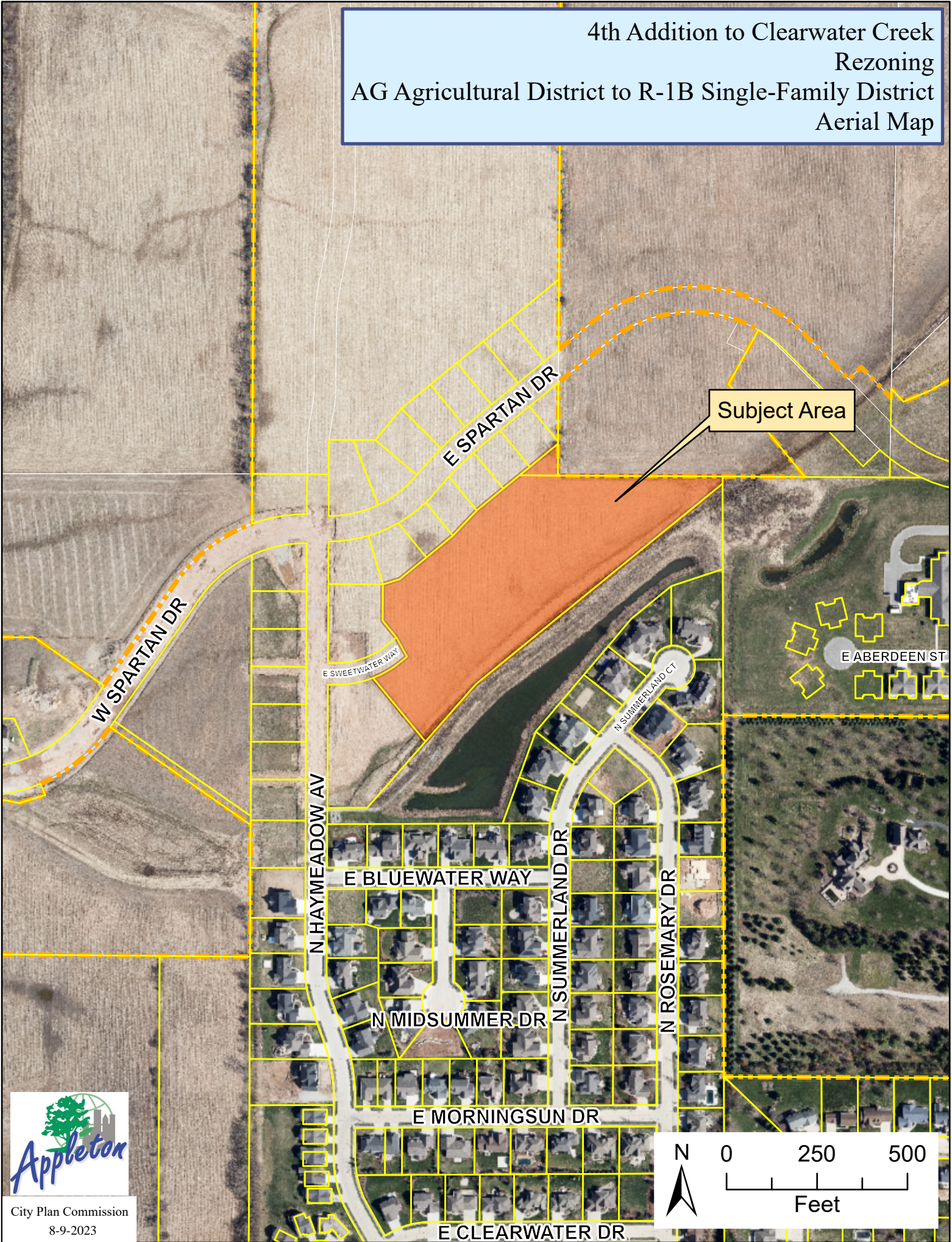


Grand Chute

Subject Area



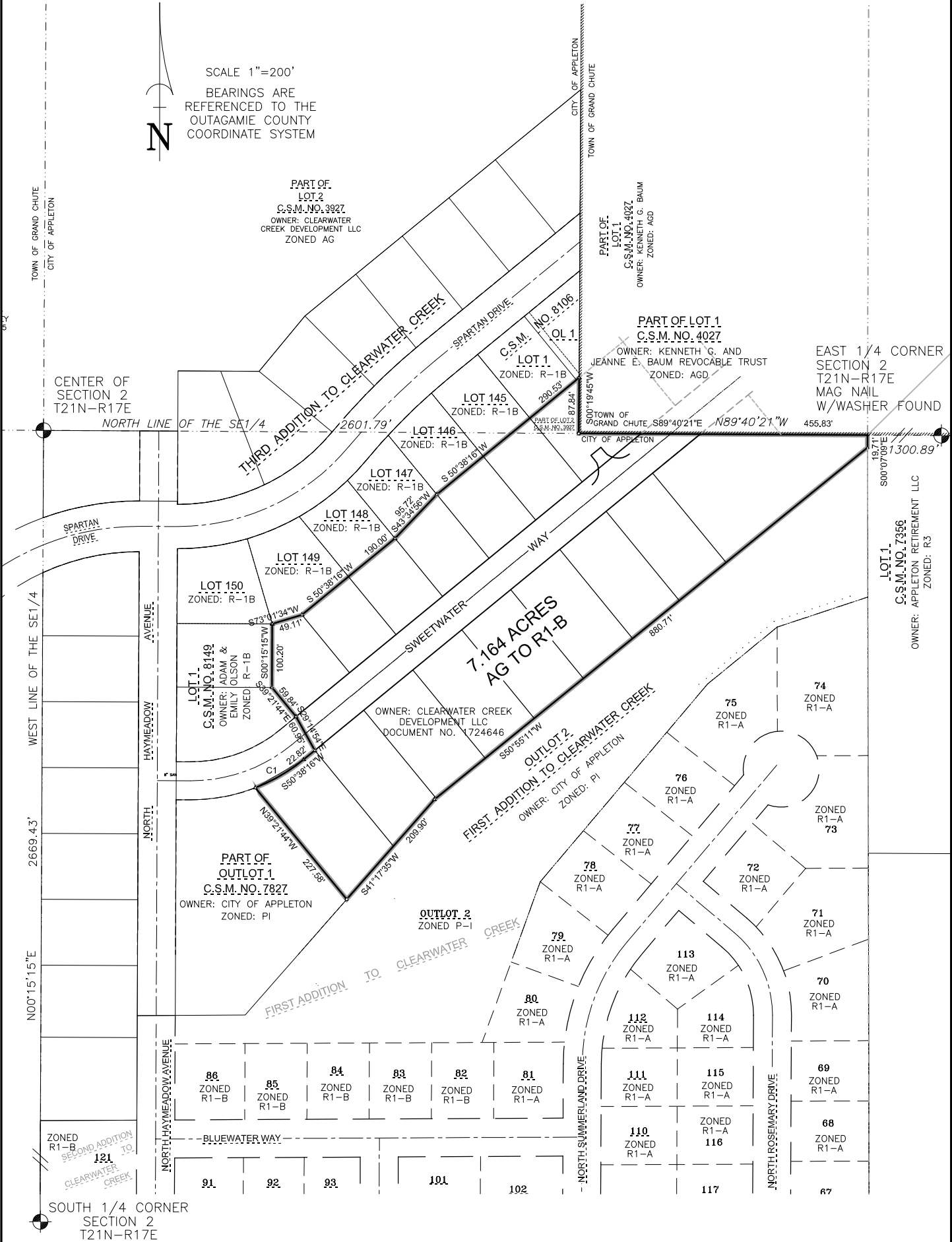
4th Addition to Clearwater Creek  
Rezoning  
AG Agricultural District to R-1B Single-Family District  
Aerial Map



# REZONING REFERENCE MAP

PART OF LOT 2 OF CERTIFIED SURVEY MAP NO. 3927 FILED IN VOLUME 21 OF CERTIFIED SURVEY MAPS ON PAGE 3927 AS DOCUMENT NO. 1388606, BEING PART OF THE SOUTHWEST 1/4 OF THE FRACTIONAL NORTHEAST 1/4; AND UNPLATTED LANDS BEING PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4; ALL IN SECTION 2, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.

SCALE 1"=200'  
BEARINGS ARE REFERENCED TO THE OUTAGAMIE COUNTY COORDINATE SYSTEM



**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

CURVE	RADIUS	DELTA	LENGTH	CHORD BEARING	CHORD
1	280.00'	018°09'31"	88.74'	S 59°43'01.5" W	88.37'

PROJECT NO. 1-0822-003  
FILE 1-0822-003Rezone.dwg  
THIS INSTRUMENT WAS DRAFTED BY: C.Cleary





## REPORT TO CITY PLAN COMMISSION

**Plan Commission Informal Hearing Meeting Date:** August 9, 2023

**Common Council Public Hearing Meeting Date:** September 6, 2023  
(Public Hearing on Rezoning)

**Item:** Rezoning #5-23 – Fourth Addition to Clearwater Creek

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

### **GENERAL INFORMATION**

---

**Applicant:** Jeff Schultz – Martenson & Eisele, Inc.

**Owner:** Clearwater Creek, LLC

**Address/Parcel #:** E. Sweetwater Way (Tax Id #31-6-6201-00 & part of #31-6-6200-00). The subject property is located south of E. Spartan Drive and east of N. Haymeadow Drive.

**Petitioner's Request:** The owner/applicant proposes to rezone the subject parcels from AG Agricultural District to R-1B Single-Family District to construct the Fourth Addition to the Clearwater Creek subdivision. This phase consists of 14 single-family lots and 2 outlots.

### **BACKGROUND**

---

The subject properties were annexed to the City of Appleton through the Paltzer/Jacobs Annexation on May 10, 2004, and the subject parcels officially came into the City with AG Agricultural District zoning classification.

In 2005, Clearwater Creek was approved and consisted of 63 lots and 1 outlot.

In 2006, Replat of Lots 3-8, 20-24, 27-32, 36-41 and 44-48 of Clearwater Creek was approved and consisted of 23 lots.

In 2007, the First Addition to Clearwater Creek was approved and consisted of 56 lots and 2 outlots.

In 2014, the Second Addition to Clearwater Creek was approved and consisted of 6 lots.

In 2020, the Third Addition to Clearwater Creek was approved and consisted of 26 lots and 1 outlot.

The Preliminary Plat for the Fourth Addition to Clearwater Creek is also being presented at this August 9, 2023 Plan Commission meeting. If approved, the preliminary plat and the subject rezoning request will be reported out at the same Common Council meeting on September 6, 2023.

**STAFF ANALYSIS**

---

**Existing Site Conditions:** The subject area contains 7.164 acres and is currently undeveloped agricultural land.

**Surrounding Zoning Classification and Land Uses:**

North: R-1B Single Family Residential and Town of Grand Chute. The adjacent land uses to the north are currently residential (Third Addition to Clearwater Creek) and agricultural.

South: P-I Public Institutional. The adjacent land use to the south is currently a City-owned stormwater management facility.

East: P-I Public Institutional. The adjacent land use to the east is currently a City-owned stormwater management facility.

West: R-1B Single Family Residential and P-I Public Institutional. The adjacent land uses to the west are currently residential (Third Addition to Clearwater Creek) and a City-owned stormwater management facility.

**Proposed Zoning Classification:** The purpose of the R-1B Single-family District is to provide for and maintain residential areas characterized predominately by single-family, detached dwellings on medium sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential uses. Per Section 23-93(g) of the Municipal Code, the development standards for the R-1B District are listed below:

- 1) **Minimum lot area:** 6,000 square feet
- 2) **Maximum lot coverage:** 50%
- 3) **Minimum lot width:** 50 feet
- 4) **Minimum front yard:** 20 feet (25 feet on arterial street)
- 5) **Minimum rear yard:** 25 feet
- 6) **Minimum side yard:** 6 feet
- 7) **Maximum building height:** 35 feet

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton 2010-2030 Comprehensive Plan Map identifies the subject area as future One/Two-Family residential. The proposed rezoning is consistent with the following goals and objectives of the *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.*

## Rezoning #5-23 – Fourth Addition to Clearwater Creek

August 9, 2023

Page 3

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

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

#### **OBJECTIVE 10.1 Land Use:**

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

#### **OBJECTIVE 10.4 Land Use:**

*Plan for compact, efficient, and fiscally responsible growth of residential, commercial, and industrial development in new neighborhoods in order to implement the principles of smart growth.*

*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.*

**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 one and two family residential land 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.*

**Rezoning #5-23 – Fourth Addition to Clearwater Creek**

**August 9, 2023**

**Page 4**

2. The effect of the proposed rezoning on surrounding uses. *Single-family residential uses are already located and planned for construction in this area of the City. Therefore, the proposed rezoning request is unlikely to create adverse impacts in the surrounding uses.*

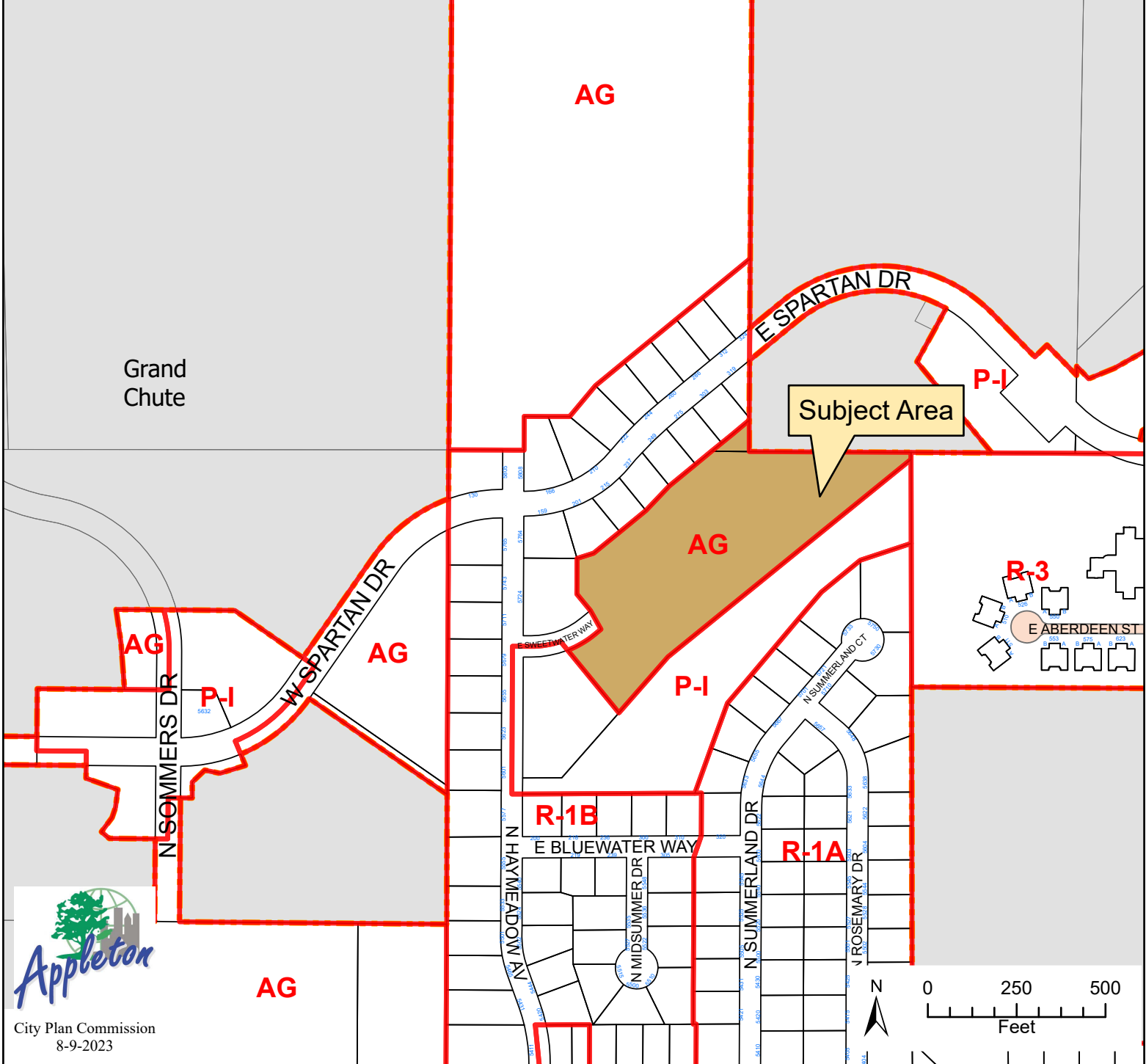
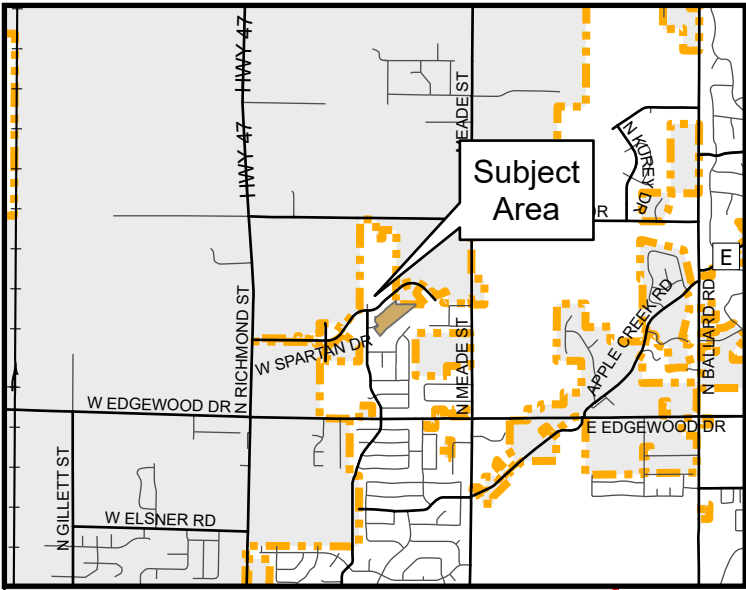
**Technical Review Group Report (TRG):** This item appeared on the July 18, 2023 TRG Agenda. No negative comments were received from participating departments.

**RECOMMENDATION**

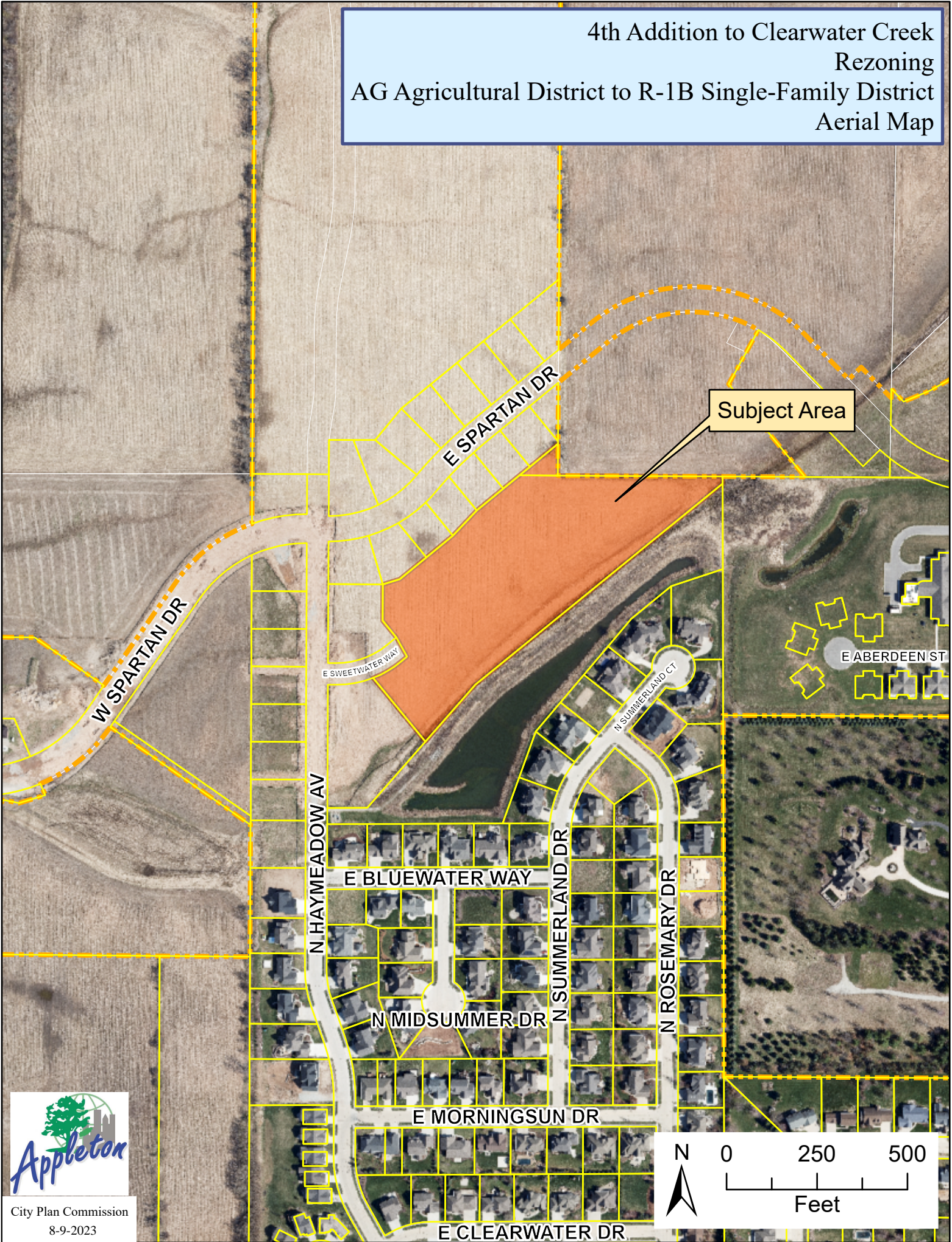
---

Staff recommends, based upon the standards for map amendments as required by Section 23-65(d)(3) of the Zoning Ordinance, that Rezoning Application #5-23 to rezone the subject property from AG Agricultural District to R-1B Single-Family District as shown on the attached maps, **BE APPROVED**.

4th Addition to Clearwater Creek  
 Rezoning  
 AG Agricultural District to  
 R-1B Single-Family District  
 Vicinity Map



4th Addition to Clearwater Creek  
Rezoning  
AG Agricultural District to R-1B Single-Family District  
Aerial Map



Subject Area

W SPARTAN DR

E SPARTAN DR

E SWEETWATER WAY

N SUMMERLAND CT

E ABERDEEN ST

N HAYMEADOW AV

E BLUEWATER WAY

N SUMMERLAND DR

N ROSEMARY DR

N MIDSUMMER DR

E MORNINGSUN DR

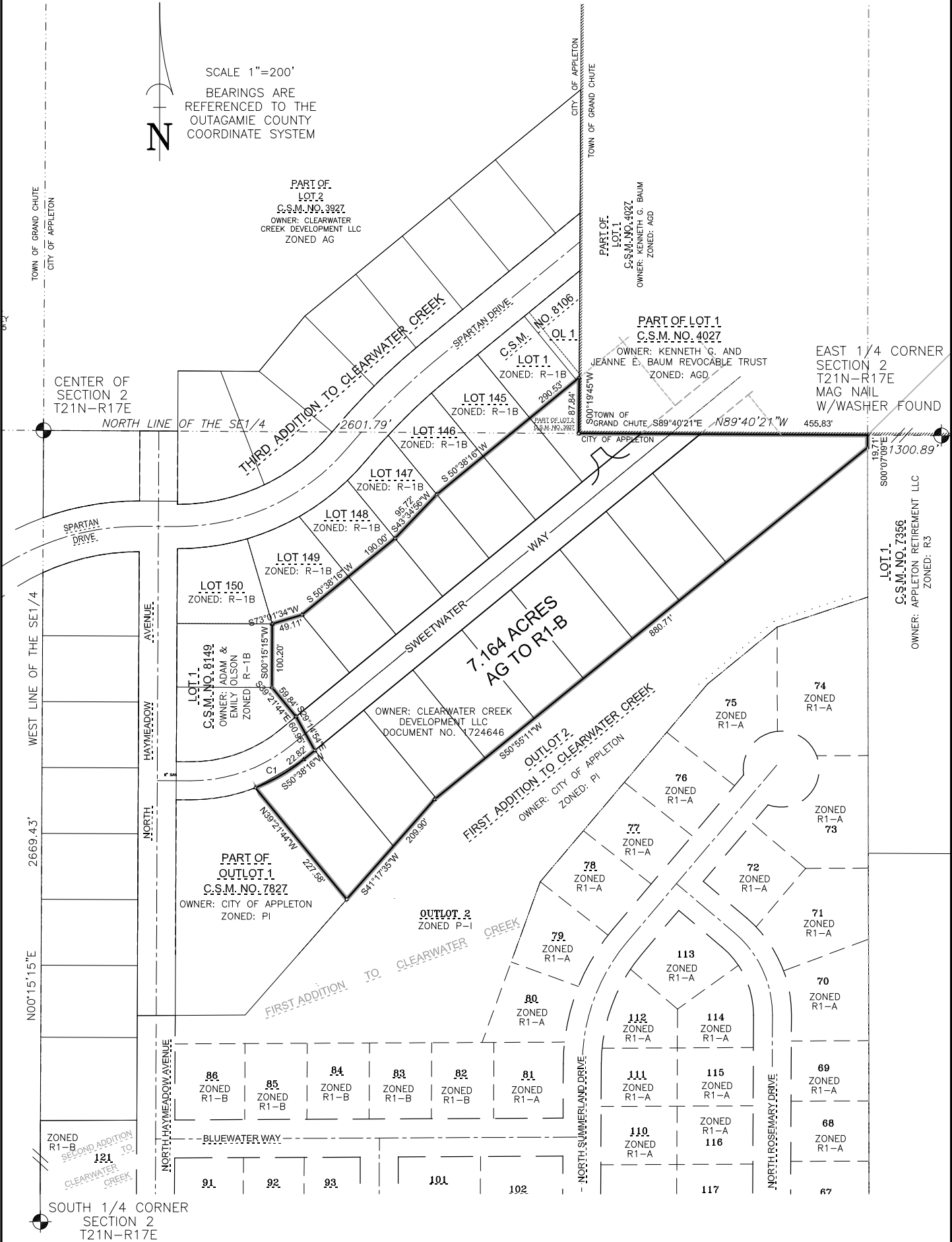
E CLEARWATER DR



# REZONING REFERENCE MAP

PART OF LOT 2 OF CERTIFIED SURVEY MAP NO. 3927 FILED IN VOLUME 21 OF CERTIFIED SURVEY MAPS ON PAGE 3927 AS DOCUMENT NO. 1388606, BEING PART OF THE SOUTHWEST 1/4 OF THE FRACTIONAL NORTHEAST 1/4; AND UNPLATTED LANDS BEING PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4; ALL IN SECTION 2, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.

SCALE 1"=200'  
 BEARINGS ARE REFERENCED TO THE OUTAGAMIE COUNTY COORDINATE SYSTEM



**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

CURVE	RADIUS	DELTA	LENGTH	CHORD BEARING	CHORD
1	280.00'	018°09'31"	88.74'	S 59°43'01.5" W	88.37'

PROJECT NO. 1-0822-003  
 FILE 1-0822-003Rezone.dwg  
 THIS INSTRUMENT WAS DRAFTED BY: C.Cleary



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** August 9, 2023

**Common Council Meeting Date:** September 6, 2023

**Item:** Preliminary Plat – Fourth Addition to Clearwater Creek

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

### GENERAL INFORMATION

**Applicant:** Jeff Schultz – Martenson & Eisele, Inc.

**Owner:** Clearwater Creek, LLC

**Address/Parcel #:** E. Sweetwater Way (Tax Id #31-6-6201-00 & part of #31-6-6200-00). The subject property is located south of E. Spartan Drive and east of N. Haymeadow Drive.

**Petitioner's Request:** The owner/applicant is proposing to subdivide property for single-family residential development.

### BACKGROUND

The subject properties were annexed to the City of Appleton through the Paltzer/Jacobs Annexation on May 10, 2004, and the subject parcels officially came into the City with AG Agricultural District zoning classification.

In 2005, Clearwater Creek was approved and consisted of 63 lots and 1 outlot.

In 2006, Replat of Lots 3-8, 20-24, 27-32, 36-41 and 44-48 of Clearwater Creek was approved and consisted of 23 lots.

In 2007, the First Addition to Clearwater Creek was approved and consisted of 56 lots and 2 outlots.

In 2014, the Second Addition to Clearwater Creek was approved and consisted of 6 lots.

In 2020, the Third Addition to Clearwater Creek was approved and consisted of 26 lots and 1 outlot.

The applicant has also filed an application to rezone the subject property from AG Agricultural District to R-1B Single-family Residential District. The Preliminary Plat will be presented at the September 6, 2023 Common Council meeting so the proposed lots are in compliance with the Zoning Code.

### STAFF ANALYSIS

**Existing/Proposed Conditions:** The subject area to be subdivided is currently undeveloped. The Fourth Addition to Clearwater Creek consists of 7.164 acres and will be divided into 14 single-family lots and 2 outlots.



**Preliminary Plat – Fourth Addition to Clearwater Creek**

**August 9, 2023**

**Page 2**

**Zoning Ordinance Review Criteria:** R-1B Single-Family District lot development standards (Section 23-93) are as follows:

- Minimum lot area: Six thousand (6,000) square feet.
  - *The proposed average lot size is 15,290 square feet. All lots exceed the minimum lot area requirement.*
- Minimum lot width: Fifty (50) feet.
  - *All lots exceed this minimum requirement.*
- Minimum front, side and rear yard setbacks: Twenty (20) foot front yard, Six (6) foot side yard, and Twenty-five (25) foot rear yard.
  - *Required front yard setback has been shown on the Preliminary Plat. Required setbacks will be reviewed through the building permit review process.*
- Maximum building height: Thirty-five (35) feet.
  - *This will be reviewed through the building permit review process.*
- Maximum lot coverage. Fifty percent (50%).
  - *This will be reviewed through the building permit review process.*

**Compliance with the Appleton Subdivision Regulations:** This subdivision complies with the Appleton Subdivision Regulations.

**Access and Traffic:** The primary vehicular access to the Fourth Addition to Clearwater Creek is via East Sweetwater Way. The proposed public right-of-way within the subdivision will be dedicated to the City with the Final Plat.

**Surrounding Zoning and Land Uses:**

North: R-1B Single Family Residential and Town of Grand Chute. The adjacent land uses to the north are currently residential (Third Addition to Clearwater Creek) and agricultural.

South: P-I Public Institutional. The adjacent land use to the south is currently a City-owned stormwater management facility.

East: P-I Public Institutional. The adjacent land use to the east is currently a City-owned stormwater management facility.

West: R-1B Single Family Residential and P-I Public Institutional. The adjacent land uses to the west are currently residential (Third Addition to Clearwater Creek) and a City-owned stormwater management facility.

**Appleton Comprehensive Plan 2010-2030:** Community Development staff has reviewed this proposed subdivision and determined it is compatible with the One and Two-Family Residential use shown on the City's 2010-2030 Comprehensive Plan Future Land Use Map. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

## **Preliminary Plat – Fourth Addition to Clearwater Creek**

**August 9, 2023**

**Page 3**

### *Goal 1 – Community Growth*

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

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

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

#### **OBJECTIVE 10.1 Land Use:**

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

#### **OBJECTIVE 10.4 Land Use:**

*Plan for compact, efficient, and fiscally responsible growth of residential, commercial, and industrial development in new neighborhoods in order to implement the principles of smart growth.*

*Policy 10.4.1 Continue to guide residential growth to locations either contiguous to or within presently urbanized areas. As peripheral development occurs, it should be at a compact, urban density to ensure new neighborhoods can be efficiently served by public infrastructure.*

**Parks and Open Space:** The Appleton Subdivision Regulations do require parkland dedication or fee in lieu for residential subdivisions. Since no parkland will be dedicated on the subject property, park fees will be required pursuant to Section 17-29 of the Municipal Code and the final Development Agreement (once approved).

**Technical Review Group Report (TRG):** This item appeared on the July 18, 2023 TRG Agenda. No negative comments were received. The following comments were provided by the Fire Department.

- The drive from Spartan to Richmond would count as a secondary access for the fourth phase of Clearwater Creek. This drive would need to be maintained as such. For the fifth phase of Clearwater Creek, this access will not be acceptable as a secondary access.
- The fire apparatus turnaround at the northern limits of East Sweetwater Way is acceptable as long as it is designed to meet the standards defined in Appendix D from the 2018 IFC. The applicant has been provided with the design standards and has incorporated them into the design as shown on the preliminary plat.

## **RECOMMENDATION**

The Preliminary Plat for the Fourth Addition to Clearwater Creek, **BE APPROVED** subject to the following conditions and as shown on the attached maps:

1. Park fees shall be paid to the City of Appleton Finance Department pursuant to Section 17-29 of the Municipal Code and the final Development Agreement (once approved).
2. Property shall be rezoned from AG Agricultural District to R-1B Single-family Residential District (see Rezoning #5-23) for the proposed lots to comply with the Zoning Code.

**Preliminary Plat – Fourth Addition to Clearwater Creek**

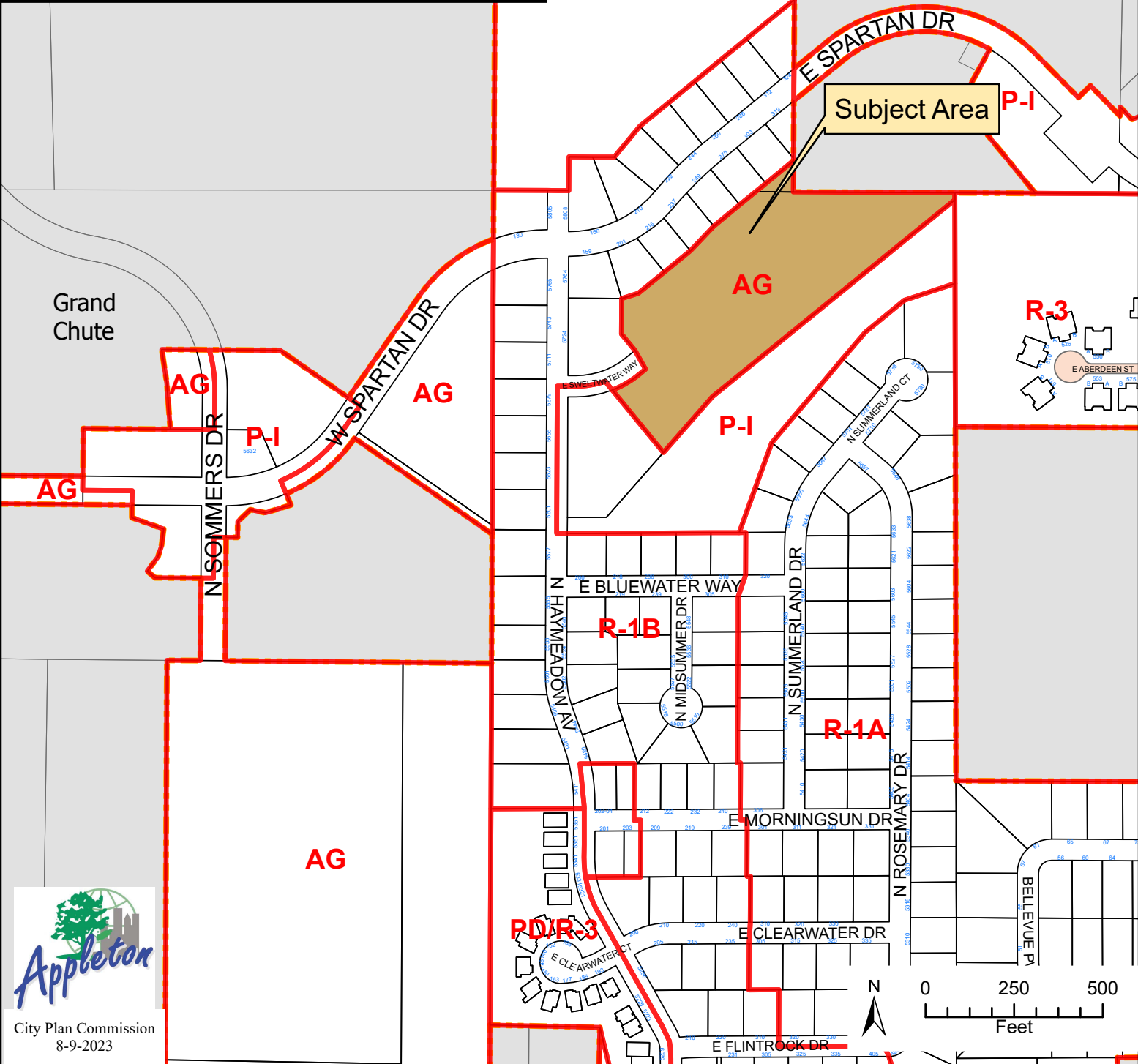
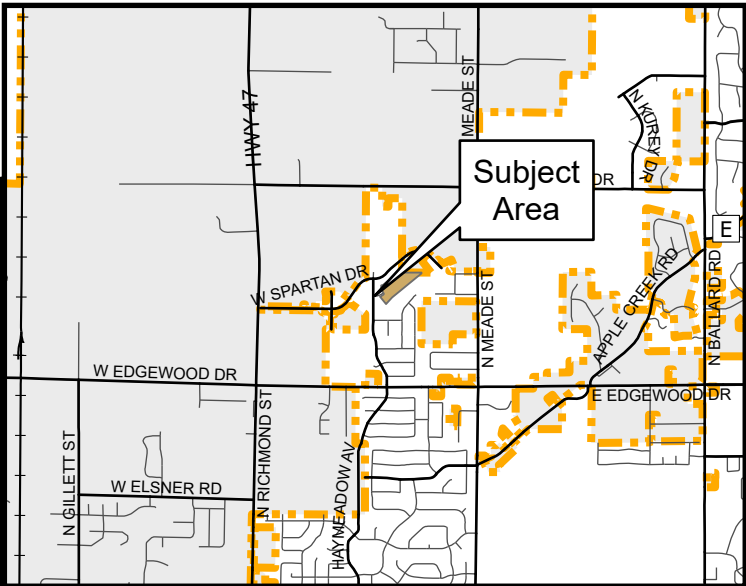
**August 9, 2023**

**Page 4**

3. Show the extents of the Protective Area per the stormwater management requirement and verify that Lots 160 -162 are buildable.
4. Add the necessary drainage easements per the stormwater management review comments.
5. Show the Normal Water Level and 100-yr Water Level of the stormwater pond.
6. Show the overland flow paths.
7. List the intended purpose/uses for Outlots 1 and 2 on the Final Plat.
8. Hydrant benchmarks should specify the benchmark location on the hydrant, for Waterous type hydrants the “City” location is the “Top shoulder” of the hydrant.
9. The “Fire Apparatus Access Road” shown across a portion of Outlot 1 should have an easement area specified on the Final Plat. One option could be a Temporary Turn Around Easement, with verbiage similar to: Temporary Turn Around Easement, shall be released automatically upon the dedication, construction, acceptance, and Northeasterly extension of Sweetwater Way.
10. A Development Agreement is required between the City and applicant that identifies the duties and responsibilities with respect to development of the subject land.
11. A Stormwater Permit Application, Stormwater Management Plan and Engineering Plans have been submitted for review. Technical review comments have been provided to the consultant and all such comments must be addressed on the Final Plat.
12. 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.
13. The owner/applicant shall submit to the City the Final Plat within 36 months after the last required approval of the Preliminary Plat. If the Final Plat is not submitted within said 36 months, the City (and any other approving authority) may refuse to approve the Final Plat and shall recommence the procedure for Preliminary Plat approval or may extend the time for submission of the Final Plat.

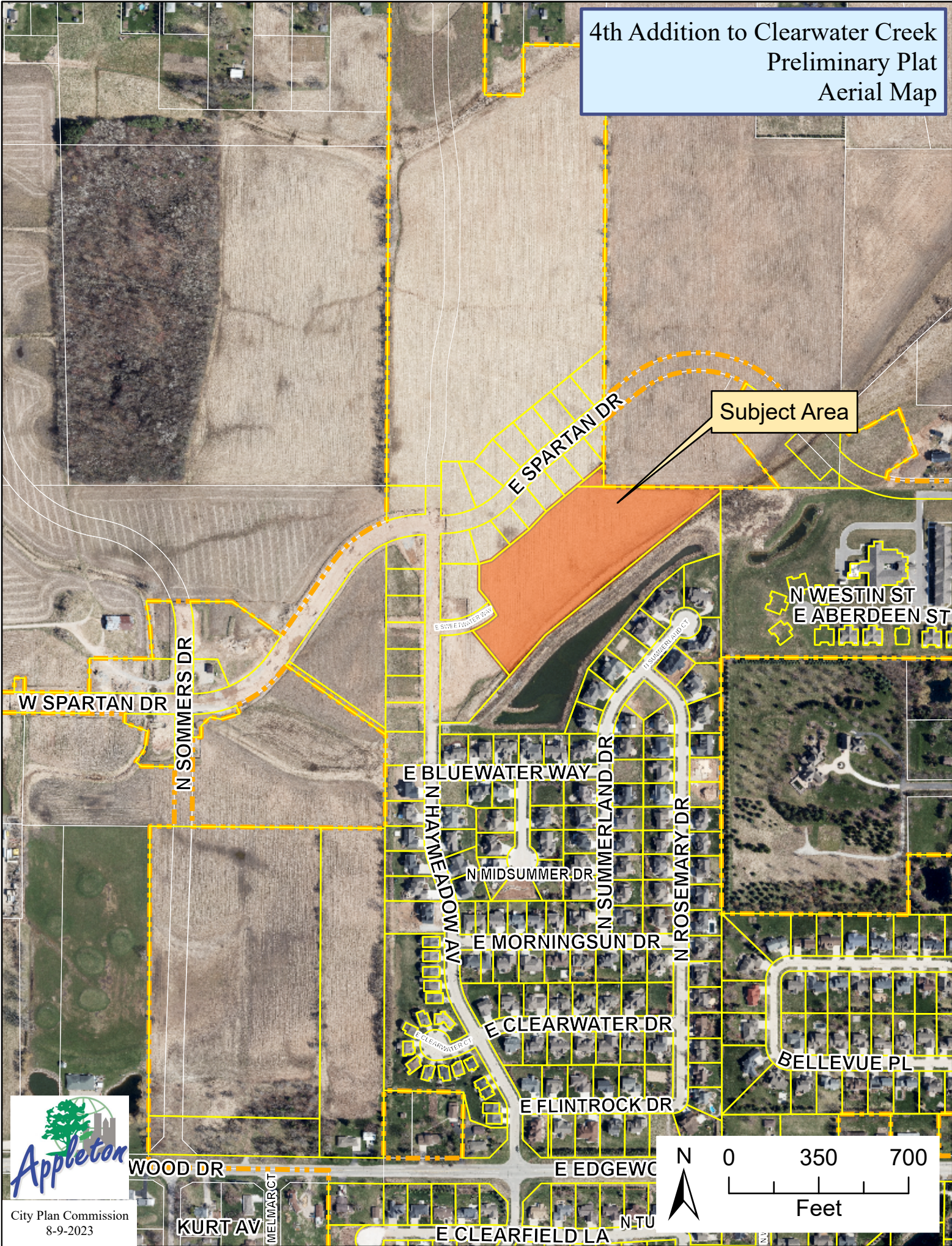
**NOTE:** If approved, the Preliminary Plat for the Fourth Addition to Clearwater Creek and Rezoning #5-23 from AG Agricultural District to R-1B Single-family District will be reported out at the same Common Council meeting on September 6, 2023.

# 4th Addition to Clearwater Creek Preliminary Plat Vicinity Map



4th Addition to Clearwater Creek  
Preliminary Plat  
Aerial Map

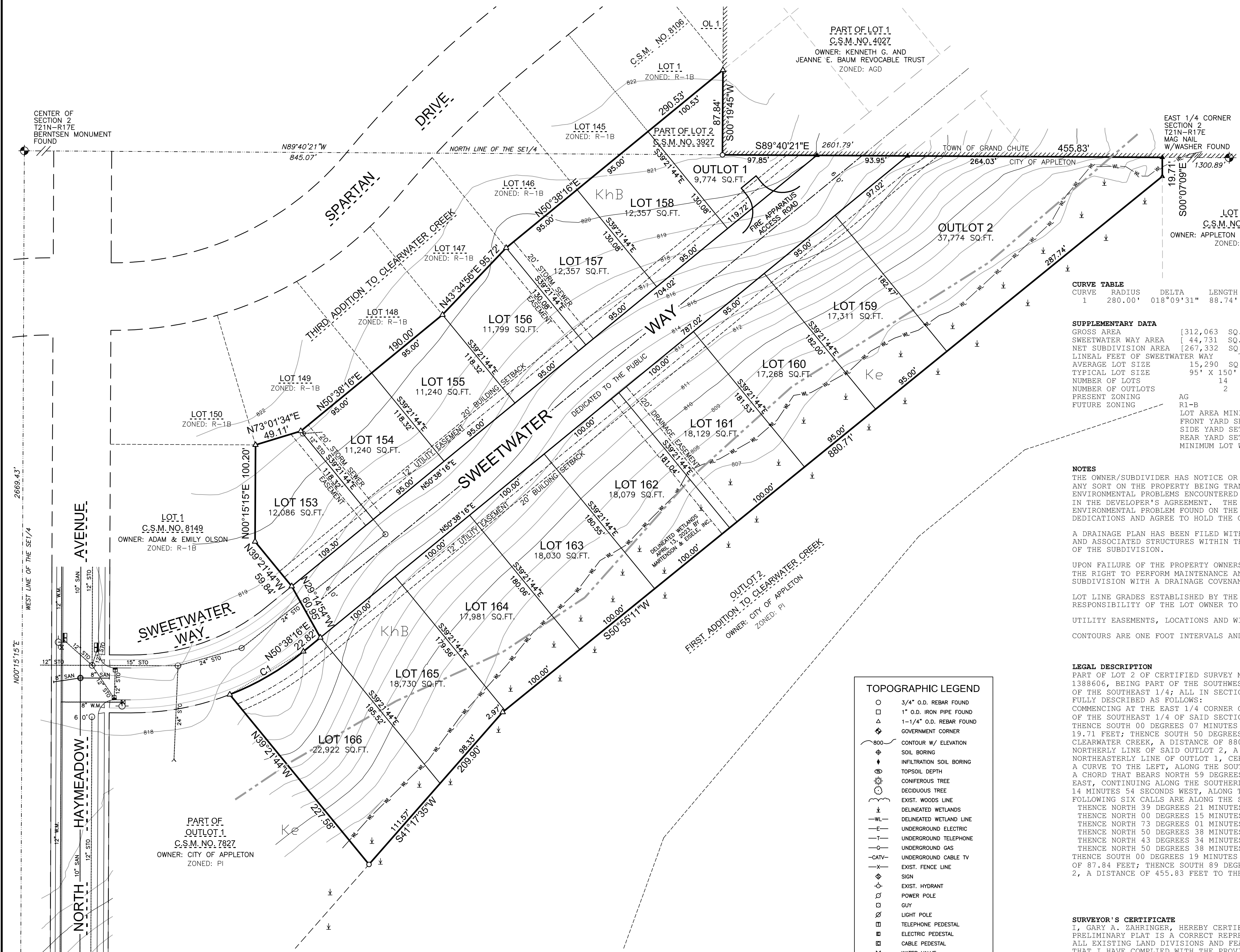
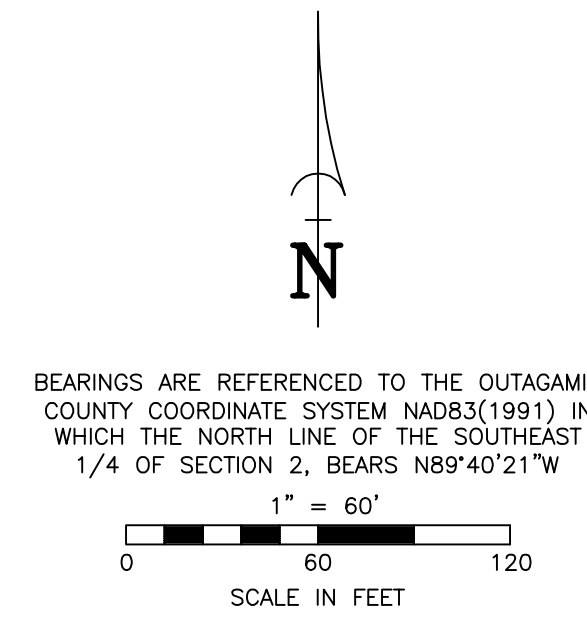
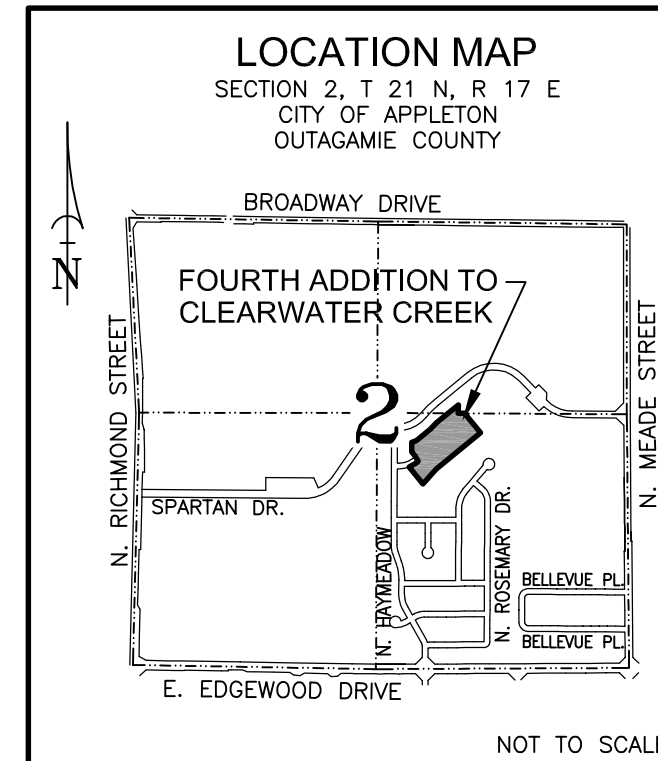
Subject Area



City Plan Commission  
8-9-2023

PRELIMINARY PLAT  
**FOURTH ADDITION TO CLEARWATER CREEK**

PART OF LOT 2 OF CERTIFIED SURVEY MAP NO. 3927 FILED IN VOLUME 21 OF CERTIFIED SURVEY MAPS ON PAGE 3927 AS DOCUMENT NO. 1388606, BEING PART OF THE SOUTHWEST 1/4 OF THE FRACTIONAL NORTHEAST 1/4; AND UNPLATTED LANDS BEING PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; ALL IN SECTION 2, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.



**CURVE TABLE**

CURVE	RADIUS	DELTA	LENGTH	CHORD BEARING	CHORD	TANGENT IN	TANGENT OUT
1	280.00'	018°09'31"	88.74'	N 59°43'01.5" E	88.37'	N 68°47'47" E	N 50°38'16" E

**SUPPLEMENTARY DATA**

GROSS AREA	[312,063 SQ. FT.]	7.164 ACRES
SWEETWATER WAY AREA	[44,731 SQ. FT.]	1.027 ACRES
NET SUBDIVISION AREA	[267,332 SQ. FT.]	6.137 ACRES
LINEAL FEET OF SWEETWATER WAY	745	LINEAL FT.
AVERAGE LOT SIZE	15,290 SQ. FT.	0.351 ACRES
TYPICAL LOT SIZE	95' X 150'	
NUMBER OF LOTS	14	
NUMBER OF OUTLOTS	2	
PRESERVE ZONING	AG	
FUTURE ZONING	R1-B	
LOT AREA MINIMUM	= 6,000 SQ. FT.	
FRONT YARD SETBACK	= 20 FT.	
SIDE YARD SETBACK	= 6 FT.	
REAR YARD SETBACK	= 25 FT.	
MINIMUM LOT WIDTH	= 50 FT.	

**SOIL TYPES LOCATED WITHIN SUBDIVISION**

KhB - Kewaunee Silt Loam  
 Ke - Keweenaw Silt Loam

**OWNER AND DEVELOPER**  
 BOB DEBRUIN  
 CLEARWATER CREEK, LLC  
 2100 FREEDOM ROAD  
 LITTLE CHUTE, WI 54140  
 PHONE: 920-731-8111

**OBJECTING AND APPROVING AUTHORITIES**  
 DEPARTMENT OF ADMINISTRATION  
 CITY OF APPLETON  
 OUTAGAMIE COUNTY

**NOTES**  
 THE OWNER/SUBDIVIDER HAS NOTICE OR KNOWLEDGE OF ANY ENVIRONMENTAL PROBLEM (THE EXISTENCE OF HAZARDOUS OR TOXIC SUBSTANCES) OF ANY SORT ON THE PROPERTY BEING TRANSFERRED. THE OWNER/SUBDIVIDER UNDERSTANDS THAT IT WILL PAY FOR ANY COSTS TO REMEDY ANY ENVIRONMENTAL PROBLEMS ENCOUNTERED DURING CONSTRUCTION OF ANY OF THE PUBLIC IMPROVEMENTS REQUIRED BY THE CITY ON THE PLAT OR IN THE DEVELOPER'S AGREEMENT. THE OWNER/SUBDIVIDER UNDERSTANDS THAT THEY SHALL BE INDIVIDUALLY RESPONSIBLE FOR ANY ENVIRONMENTAL PROBLEM FOUND ON THE LAND, TRANSFERRED TO THE CITY ON THE PLAT DURING THE CONSTRUCTION OF ROADS OR OTHER DEDICATIONS AND AGREE TO HOLD THE CITY HARMLESS UNTIL CONSTRUCTION, INSTALLATION OR GRADING IS COMPLETE.

A DRAINAGE PLAN HAS BEEN FILED WITH THE DEPARTMENT OF PLANNING, ZONING & SANITATION OFFICE. MAINTENANCE OF ALL DRAINAGE WAYS AND ASSOCIATED STRUCTURES WITHIN THE SUBDIVISION OR SERVING THE SUBDIVISION IS THE SOLE RESPONSIBILITY OF THE PROPERTY OWNERS OF THE SUBDIVISION.

UPON FAILURE OF THE PROPERTY OWNERS TO PERFORM MAINTENANCE OF THE DRAINAGE WAYS AND ASSOCIATED STRUCTURES, THE CITY RETAINS THE RIGHT TO PERFORM MAINTENANCE AND/OR REPAIRS WHICH SHALL BE EQUALLY ASSESSED AMONGST THE PROPERTY OWNERS OF THE SUBDIVISION WITH A DRAINAGE COVENANT.

LOT LINE GRADES ESTABLISHED BY THE DRAINAGE PLAN FOR FOURTH ADDITION TO CLEARWATER CREEK ARE MANDATORY. IT IS THE RESPONSIBILITY OF THE LOT OWNER TO COMPLY WITH THESE ESTABLISHED ELEVATIONS.

UTILITY EASEMENTS, LOCATIONS AND WIDTHS WILL BE SHOWN ON THE FINAL PLAT.

CONTOURS ARE ONE FOOT INTERVALS AND BASED ON CITY OF APPLETON DATUM.

**LEGAL DESCRIPTION**

PART OF LOT 2 OF CERTIFIED SURVEY MAP NO. 3927 FILED IN VOLUME 21 OF CERTIFIED SURVEY MAPS ON PAGE 3927 AS DOCUMENT NO. 1388606, BEING PART OF THE SOUTHWEST 1/4 OF THE FRACTIONAL NORTHEAST 1/4; AND UNPLATTED LANDS BEING PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; ALL IN SECTION 2, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN, MORE FULLY DESCRIBED AS FOLLOWS:  
 COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 2; THENCE NORTH 89 DEGREES 40 MINUTES 21 SECONDS WEST, ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION, A DISTANCE OF 1300.89 FEET TO THE POINT OF BEGINNING;  
 THENCE SOUTH 00 DEGREES 09 MINUTES 09 SECONDS EAST, ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION, A DISTANCE OF 19.71 FEET; THENCE SOUTH 50 DEGREES 55 MINUTES 11 SECONDS WEST, ALONG THE NORTHERLY LINE OF OUTLOT 2, FIRST ADDITION TO CLEARWATER CREEK, A DISTANCE OF 880.71 FEET; THENCE SOUTH 41 DEGREES 17 MINUTES 35 SECONDS WEST, CONTINUING ALONG THE NORTHERLY LINE OF SAID OUTLOT 2, A DISTANCE OF 209.90 FEET; THENCE NORTH 39 DEGREES 21 MINUTES 44 SECONDS WEST, ALONG THE NORTHEASTERLY LINE OF OUTLOT 1, CERTIFIED SURVEY MAP NO. 7827, A DISTANCE OF 227.58 FEET; THENCE 88.74 FEET ALONG AN ARC OF A CURVE TO THE LEFT, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SWEETWATER WAY, SAID CURVE HAVING A RADIUS OF 280.00 FEET AND A CHORD THAT BEARS NORTH 59 DEGREES 43 MINUTES 01.5 SECONDS EAST, 88.37 FEET; THENCE NORTH 50 DEGREES 38 MINUTES 16 SECONDS EAST, CONTINUING ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SWEETWATER WAY, A DISTANCE OF 22.82 FEET; THENCE NORTH 29 DEGREES 14 MINUTES 54 SECONDS WEST, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SWEETWATER WAY, A DISTANCE OF 60.95 FEET; THENCE THE FOLLOWING SIX CALLS ARE ALONG THE SOUTHERLY LINE OF THE THIRD ADDITION TO CLEARWATER CREEK AND CERTIFIED SURVEY MAP NO. 8106:  
 THENCE NORTH 39 DEGREES 21 MINUTES 44 SECONDS WEST, 59.84 FEET;  
 THENCE NORTH 73 DEGREES 01 MINUTES 34 SECONDS EAST, 49.11 FEET;  
 THENCE NORTH 50 DEGREES 38 MINUTES 16 SECONDS EAST, 190.00 FEET;  
 THENCE NORTH 43 DEGREES 34 MINUTES 56 SECONDS EAST, 95.72 FEET;  
 THENCE NORTH 50 DEGREES 38 MINUTES 16 SECONDS EAST, 290.53 FEET;  
 THENCE SOUTH 00 DEGREES 19 MINUTES 45 SECONDS WEST, ALONG THE EAST LINE OF LOT 2, CERTIFIED SURVEY MAP NO. 3927, A DISTANCE OF 87.84 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 21 SECONDS EAST, ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 2, A DISTANCE OF 455.83 FEET TO THE POINT OF BEGINNING. CONTAINING 312,063 SQ. FT. [7.164 ACRES].

**SURVEYOR'S CERTIFICATE**

I, GARY A. ZARRINGER, HEREBY CERTIFY THAT THIS PRELIMINARY PLAT IS A CORRECT REPRESENTATION OF ALL EXISTING LAND DIVISIONS AND FEATURES, AND THAT I HAVE COMPLIED WITH THE PROVISIONS OF OUTAGAMIE COUNTY AND CITY OF APPLETON SUBDIVISION ORDINANCE.

DATED THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 2023

GARY A. ZARRINGER, PROFESSIONAL LAND SURVEYOR NO. S-2098

**TOPOGRAPHIC LEGEND**

- 3/4" O.D. REBAR FOUND
- 1" O.D. IRON PIPE FOUND
- △ 1-1/4" O.D. REBAR FOUND
- GOVERNMENT CORNER
- 800' CONTOUR W/ ELEVATION
- SOIL BORING
- ⊕ INFILTRATION SOIL BORING
- TOPSOIL DEPTH
- ⊙ CONIFEROUS TREE
- ⊙ DECIDUOUS TREE
- EXIST. WOODS LINE
- DELINEATED WETLANDS
- DELINEATED WETLAND LINE
- UNDERGROUND ELECTRIC
- UNDERGROUND TELEPHONE
- UNDERGROUND GAS
- UNDERGROUND CABLE TV
- EXIST. FENCE LINE
- SIGN
- ⊕ EXIST. HYDRANT
- POWER POLE
- GUY
- LIGHT POLE
- ⊕ TELEPHONE PEDESTAL
- ⊕ ELECTRIC PEDESTAL
- ⊕ CABLE PEDESTAL
- ⊕ WATER VALVE
- ⊕ GAS VALVE
- ⊕ WATER STOP BOX
- ⊕ EXIST. STORM MANHOLE
- ⊕ STORM INLET
- ⊕ YARD DRAIN
- ⊕ EXIST. SANITARY MANHOLE
- EXIST. SAN. SEWER
- EXIST. STO. SEWER
- EXIST. WATER MAIN
- SOIL TYPE DEMARCATION LINE
- CORPORATE LIMITS

**BENCHMARK DATA**

I.D.	DESCRIPTION:	ELEVATION:
232	HYDRANT @ SE CORNER OF NORTH HAYMEADOW AVENUE & SPARTAN DRIVE	823.77
350	HYDRANT @ SE CORNER OF NORTH HAYMEADOW AVENUE & SWEETWATER WAY	821.50

BENCHMARKS ARE ON NAVD83 DATUM

**Martenson & Eisele, Inc.**  
 Planning  
 Environmental  
 Surveying  
 Engineering  
 Architecture

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

DRAWN BY	CRC	DATE	NO.	CHECKED	GAZ	APPROVED
						GAZ

**PRELIMINARY PLAT**  
**FOURTH ADDITION TO CLEARWATER CREEK**  
 PART OF LOT 2 OF CERTIFIED SURVEY MAP NO. 3927 FILED IN VOLUME 21 OF CERTIFIED SURVEY MAPS ON PAGE 3927 AS DOCUMENT NO. 1388606, BEING PART OF THE SOUTHWEST 1/4 OF THE FRACTIONAL NORTHEAST 1/4; AND UNPLATTED LANDS BEING PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; ALL IN SECTION 2, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.

SCALE	DATE
1" = 60'	06-30-2023

COMPUTER FILE  
 1-0822-003pp.dwg

DRAWING NO.  
 1-0822-003



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Meeting Date:** August 9, 2023

**Item:** Informational Presentation of Draft Zoning Text Amendments – Chapter 23 of the Municipal Code

Article II Definitions: Section 23-22

Article III General Provisions: Sections 23-43, 23-47 and 23-49

Article IV Administration: Section 23-66

Article V Residential Districts: Sections 23-91, 23-92, 23-93, 23-94, 23-95, 23-96, 23-100 and 23-101

Article VI Commercial Districts: Sections 23-111, 23-112, 23-113, 23-114 and 23-115

Article VII Industrial Districts: Sections 23-131 and 23-132

Article VIII Overlay Districts: Section 23-152

Article IX Off-Street Parking and Loading: Section 23-172

Article XIII Wireless Telecommunications Facilities: Sections 23-420-427

Article XV Site Plan Review and Approval: Section 23-570

**Case Managers:** Don Harp, Principal Planner (Group A: Text amendments)  
Jessica Titel, Principal Planner (Group B & C: Text amendments)  
Lindsey Smith, Principal Planner (Group D: Text amendments)

### **PURPOSE OF THE CHAPTER 23 ZONING TEXT AMENDMENT BUNDLE 2023**

**GROUP A** Text Amendments (Pages 1 to 31): Mobile Service Support Structures and Facilities.

The following is a summary of the proposed recommended text amendments:

1. Repeal Article XIII. Wireless Telecommunication Facilities and create Section 23-66(h)(22) Mobile Service Support Structures and Facilities to be consistent with Section(s) 66.0404 and 66.0406 of the Wisconsin State Statutes related to Mobile Service Support Structures and Facilities.
2. List Mobile Service Support Structures and Facilities as principal permitted uses in all base zoning districts since the City does not have a great deal of discretion to deny a Special Use Permit application for Mobile Service Support Structures and Facilities. In addition, the state law outlines a standardized regulatory framework and mandatory application process pertaining to Mobile Service Support Structures and Facilities.
3. Approve new Mobile Service Support Structures and Facilities (Cell Towers) and Class 1 Collocations by administrative site plan approval. Administrative site plan approval requires notification to Alderperson of the district when staff receives a site plan application.

4. Amend the site plan application review fee from \$300.00 to \$3,000.00 for new cell towers and Class 1 collocations pursuant to the Wisconsin State Statutes. Delete the \$2,700 Special Use Permit fee.
5. Amend Section 23-66(h)(1), Electronic Tower landscaping and fencing requirements to be consistent with Mobile Service Support Structures and Facilities (Cell Towers).
6. Amend definitions terms for consistent administration of the Zoning Ordinance.

**GROUP B** Text Amendments (Pages 32 to 39): Refuse Container and Dumpster Enclosure Standards.

The following is a summary of the proposed recommended text amendments:

1. The existing standards for dumpster enclosures are antiquated and were adopted when the City collected trash on commercial and multi-family properties. The trash enclosure standards were written to accommodate City trash collection vehicles. The City no longer collects trash on commercial and multi-family properties; therefore, the specific design standards are no longer needed.
2. The amendments also update the location and setback standards for trash enclosures to reduce the number of variances that are being brought to the Board of Zoning Appeals.
3. The proposed amendments allow for more flexibility that better represent current development patterns, while also continuing to require the screening of dumpsters and maintaining the aesthetics of the City's commercial properties.

**GROUP C** Text Amendments (Pages 40 to 42): Drive Through Facilities.

The following is a summary of the proposed recommended text amendments:

1. The proposed amendments clarify the drive through requirements to ensure consistent application and straightforward standards.
2. The amendments update the location standards for the ordering stations, service windows and maneuvering lanes to reduce the number of variances that are being brought to the Board of Zoning Appeals.
3. The proposed amendments allow for more flexibility that better represent current development patterns, while also continuing to maintain efficient and safe drive through services.
4. The permitted principal use tables were updated in Section 23-114(b) to eliminate drive through facilities as an allowed use in the CBD Central Business District. The CBD is intended to be a pedestrian oriented district. The proposed amendment supports the shift away from auto-centric design in our downtown area. Existing drive throughs in these zoning districts can remain as legal non-conforming, but future drive throughs will not be a permitted use.
5. Because the C-2 General Commercial district is intended to provide more "suburban" like services and development, which are accessed typically in automobiles, the drive through location standard was removed from this section to allow additional options for site circulation and drive through facilities located in the C-2 district. The amendments also maintain pedestrian safety on the site.



6. The proposed amendments also create new minimum vehicle stacking standards based upon the type of drive through facility/use.

#### **GROUP D Text Amendments (Page 43): Off-Street Parking and Loading.**

The following is a summary of the proposed recommended text amendments:

1. The existing minimum off-street parking requirement for elementary, middle, and high school is based on classrooms, gymnasiums, and auditorium being occupied concurrently. During recent site plan reviews of the Appleton Area School District middle school additions, it was determined the existing parking requirements were excessive. The proposed amendment removes parking requirements based on gymnasium and auditorium capacity. The minimum parking requirements for elementary and middle schools will be based on the number of employees and additional stacking spaces for drop off. The proposed amendment for high schools will be based on number of employees plus classroom capacity and additional stacking spaces for drop off.
2. The amendment removes the minimum off-street parking requirement for personal storage facilities. If personal storage facilities have office space, parking stalls will be required based on the office parking requirements.
3. Off-street parking requirements for veterinarian clinic will be amended to mimic the personal service use, which is one space for each two hundred fifty square feet of gross floor area.
4. The text amendment is consistent with Appleton Comprehensive Plan 2010-2030: Objective 6.7.2 Review and revise as needed the minimum and maximum parking ratios by type of land use as found in the Zoning Ordinance.

#### **GENERAL INFORMATION**

---

The Community and Economic Development staff collaborated with the City Attorney's Office on the draft Zoning Ordinance text amendments.

The attached draft Zoning Ordinance text amendments were discussed at the August 1, 2023 Technical Review Group meeting. No negative comments were received from participating departments.

#### **PROPOSED TEXT AMENDMENTS**

---

Text amendments initiated directly by Plan Commission will be processed in accordance with Section 23-65(c), Zoning Text Amendments. This process would include future review and action by Plan Commission (after informal public hearing), as well as review and action by Common Council (after public hearing).

The text recommended to be added is underlined. The text recommended for deletion is identified by ~~strike through~~. Staff commentary is identified in *italics* to provide insight regarding that specific amendment/change. The proposed language can be modified upon direction of the Plan Commission.

## **RECOMMENDATION**

---

Staff recommends the Plan Commission review the draft text amendments attached to this report, discuss and receive public input on the proposed changes, and direct staff to make any revisions and prepare the necessary public hearing notices for Zoning Ordinance text amendments to Sec. 23-22 Words and Terms Defined, Sec. 23-43 Accessory uses, buildings and structures, Sec. 23-47 Refuse containers and dumpster enclosure standards, Sec. 23-49 Drive through facility, Sec. 23-66 Special Use Permits, Sec. 23-91 AG Agricultural District, Sec. 23-92 R-1A Single-Family District, Sec. 23-93 R-1B Single-Family District, Sec. 23-94 R-1C Central City Residential District, Sec. 23-95 R-2 Two-Family District, Sec. 23-96 R-3 Multifamily District, Sec. 23-100 P-I Public Institutional District, Sec. 23-101 NC Nature Conservancy District, Sec. 23-111 C-O Commercial Office District, Sec. 23-112 C-1 Neighborhood Commercial District, Sec. 23-113 C-2 General Commercial District, Sec. 23-114 CBD Central Business District, Sec. 23-115 P Parking District, Sec. 23-131 M-1 Industrial Park District, Sec. 23-132 M-2 General Industrial District, Sec. 23-152 TND Traditional Neighborhood Development Overlay District, Sec. 23-172 Off-Street Parking and Loading Standards, Sec. 23-570 Site Plan Review and Approval, and Article XII. Wireless Telecommunications Facilities Sec. 420-427.

## GROUP A

### PROPOSED TEXT AMENDMENTS

#### MOBILE SERVICE SUPPORT STRUCTURES AND FACILITIES

---

#### ARTICLE XIII. WIRELESS TELECOMMUNICATIONS FACILITIES

#### ARTICLE IV. ADMINISTRATION

#### PROPOSED TEXT AMENDMENTS RELATED TO:

- *Proposing to Repeal Article XIII. Wireless Telecommunication Facilities and create Section 23-66 (h)(22) Mobile Service Support Structures and Facilities (Cell Towers) in order to comply with Wisconsin Act 20 that established a standardized regulatory framework for local governments to follow pertaining to the placement of new wireless telecommunication structures and class 1 collocations and class 2 collocation pursuant to Section 66.0404 and 66.0406 of the Wisconsin State Statutes.*
- *Proposing to amend Section 23-66(h)(1), Electronic Tower landscaping and fencing requirements consistent with Mobile Service Support Structures and Facilities (Cell Towers).*

#### HISTORY:

- *2013 Wisconsin Act. 20. AN ACT; relating to: state finances and appropriations, constituting the executive budget act of the 2013 legislature 66.0404 Mobile tower siting regulations.*
- *2013 Wisconsin Act. 173. AN ACT relating to: revising various provisions of the statutes to make corrections and reconcile conflicts (Correction Bill).*
- *2019 Wisconsin Act. 14. AN ACT to create 66.0404(4e) and 66.0414 of the statutes; relating to: limiting the authority of the state and political subdivisions to regulate certain wireless facilities and authorizing political subdivisions to impose setback requirements for certain mobile service support structures*
- *An ordinance that prohibits a mobile service support structure where the structure is not compatible with the adjacent land's current use does not violate sub. (4) (c). Eco-Site, LLC v. Town of Cedarburg, 2019 WI App 42, 388 Wis. 2d 375, 933 N.W.2d 179, 18-0580.*
- *Denial of a conditional use permit on the basis of lost property values and the detrimental effect on public health and safety and general welfare does not equate to a denial based on aesthetic concerns, which is prohibited by sub. (4) (g) if it is the sole reason. Eco-Site, LLC v. Town of Cedarburg, 2019 WI App 42, 388 Wis. 2d 375, 933 N.W.2d 179, 18-0580.*

*A summary of the law is available at:*

[https://docs.legis.wisconsin.gov/misc/lc/information\\_memos/2013/im\\_2013\\_14](https://docs.legis.wisconsin.gov/misc/lc/information_memos/2013/im_2013_14)

- *Limitations upon authority for Mobile Service Support Structures (Cell Towers) pursuant to current Wisconsin State Statutes.*

***Cannot adopted regulations that do the following:***

- (1) Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.*
- (2) Enact an ordinance imposing a moratorium on the permitting, construction, or approval of any such activities.*
- (3) Enact an ordinance prohibiting the placement of a mobile service support structure in particular zoning districts within the City.*
- (4) Charge a mobile radio service provider any recurring fee for an activity.*
- (5) Disapprove an application to conduct an activity described based solely on aesthetic concerns.*
- (6) Enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.*
- (7) Prohibit the placement of emergency power systems.*
- (8) Require that a mobile service support structure be placed on property owned by the City.*
- (9) Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.*
- (10) Condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the City at less than the market rate or to provide the City other services via the structure or facilities at less than the market rate.*
- (11) Limit the duration of any commercial communication structure permit that is granted.*
- (12) Require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in co-location.*

(13) *Require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.*

(14) *Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the City's in connection with the City's exercise of its authority to approve the application.*

(15) *Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the City to place at or co-locate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the City or an entity in which the City has a governance, competitive, economic, financial or other interest.*

### **ARTICLE XIII. RESERVED. WIRELESS TELECOMMUNICATIONS FACILITIES**

#### **Sec. 23-420. Purpose.**

~~— In order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, these regulations are necessary in order to:~~

~~— (a) Facilitate the provision of wireless telecommunication services to the residents and businesses of the City;~~

~~— (b) Minimize adverse visual effects of towers through careful design and siting standards;~~

~~— (c) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;~~

~~— (d) Maximize the use of existing towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community and encourage co-location; and,~~

~~— (e) Encourage the location of towers in non-residential areas and minimize the total number of towers throughout the City.~~

#### **Sec. 23-421. Definitions.**

~~— As used in this section of the zoning ordinance, the following terms shall have the meanings indicated:~~

~~— **Antenna** means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunications signals, including, but not limited to, directional antennas, such as panel(s), microwave and satellite dishes, and omni-directional antennas, such as whip antennas.~~

~~— **Co-location** means the location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.~~

~~— **FAA** means the Federal Aviation Administration.~~

~~— **FCC** means the Federal Communications Commission.~~

~~— **Height** means when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.~~

~~— **Personal communications service (PCS)** means a provider of personal wireless service facilities as now defined in Section 704 of the Telecommunications Act of 1996, 47 U.S.C. par. 332, and as the same may be amended from time to time.~~

~~— **Personal wireless facilities** means transmitters, antenna structures and other types of installations used to provide personal wireless services.~~

~~— **Pre-existing towers** shall have the meaning set forth in §23-422 of this chapter.~~

~~— **Tower** means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes personal communication service towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like.~~

~~— **Tower site** means the area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing and other items used in connection with said tower.~~

~~— **Wireless telecommunication services** means licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.~~

**Sec. 23-422. Special use permit requirements.**

~~— (a) A telecommunication antenna system that requires construction of a new tower or co-location on an existing tower not previously granted a special use permit will require the petitioner to apply for a special use permit.~~

~~— (b) Exceptions to a special use permit would apply to the following circumstances, subject to application for a building permit:~~

~~(1) Water towers or other municipally owned structures, provided a license or lease authorizing such antenna has been approved by the Common Council;~~

~~— (2) Structures in the Central Business District zoning in excess of four (4) stories (seventy (70) plus feet);~~

~~— (3) Pre-existing tower that was granted a special use permit prior to the effective date of this ordinance. (Ord 54-20, §1, 3-24-20)~~

**Sec. 23-423. Building permit requirements.**

~~— (a) A building permit shall be required prior to commencement of work on any antennas or supporting structures exceeding sixty (60) feet in height. Application for a building permit shall be made to the Inspections Supervisor by the owner or the owner's authorized representative. A building permit shall be issued by the administrator when all the following requirements are met. All plans, calculations, and specifications shall be dated. Plan submittal shall include the state plan approval application (SBD-118) or equivalent, plus the following information:~~

~~(1) Except as provided below, all plans, calculations and specifications shall be prepared, signed and sealed by an architect or engineer registered in Wisconsin. Plans, calculations and specifications shall show compliance with all state and local codes. *Exception:* Plans, calculations and specifications may be prepared by an architect or engineer registered outside the State of Wisconsin provided (1) the plans, calculations and specifications shall bear the signature and seal or stamp of a registered architect or engineer; and~~

~~— (2) A certificate dated, signed and sealed by an architect or engineer registered in Wisconsin is attached to the plans, calculations and specifications. The certificate shall indicate the plans, calculations and specifications were prepared in a state other than Wisconsin by an architect or professional engineer registered in that state, describe the work performed by the Wisconsin registered architect or engineer,~~

~~and include statements to the effect that plans and specifications have been reviewed and comply with all applicable local and state building codes, and the reviewing architect or engineer will be responsible for the supervision of construction. (2) When antennas and supporting towers are submitted to the state for examination, two (2) sets of plans bearing the state approval stamp and copies of all approval correspondence shall be included with submittals to the Inspections Supervisor.~~

~~———— (3) Plan submittal shall include an intermodulation study that provides technical evaluation of existing and proposed transmissions and indicates all potential interference problems. No new telecommunications service shall interfere with public safety telecommunications.~~

~~———— (4) Construction or installation of antennas or supporting structures exceeding sixty (60) feet in height shall be supervised by a Wisconsin registered architect or engineer in the manner called out in the Wisconsin Building Code ILHR 50.10. A compliance statement shall be provided by the supervising professional upon completion of the project.~~

~~———— (5) Plans must describe tower height and design, including a cross section and evaluation. The plans shall also describe the number, height and mounting positions for co-location antennas.~~

~~———— (b) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of a tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.~~

**~~Sec. 23-424. Tower/structure design requirements.~~**

~~———— All towers constructed after September 17, 1997 or wireless telecommunication antennas affixed to buildings shall comply with the following requirements:~~

~~———— (a) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.~~

~~———— (b) Wireless telecommunication service towers shall be of a monopole design unless the City determines that an alternative design would better blend into the surrounding environment.~~

~~———— (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.~~

~~———— (d) The placement of wireless telecommunication antennas on roofs or walls shall include submittal of a report prepared by a qualified and licensed professional engineer indicating the existing structure's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.~~

~~———— (e) Towers shall not be artificially lighted, unless required by the FAA or the City. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.~~

~~———— (f) Towers shall be set back a distance equal to the height of the tower from any residential structure.~~

~~———— (g) Towers, guy wires and accessory facilities must satisfy the minimum zoning district setback requirements.~~

~~———— (h) Tower sites shall be enclosed by security fencing and shall be equipped with an appropriate anti-climbing device sufficient to deter the general public from obtaining access to the site.~~

~~———— (i) The following site plan review requirements shall govern landscaping surrounding towers:~~

~~— (1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower site from adjacent property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the security fencing.~~

~~— (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.~~

~~— (3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.~~

~~— (j) The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.~~

~~— (k) All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment. Site plan review per §23-570, Site plan review and approval, shall be required for these types of buildings.~~

~~— (l) All towers shall be shielded, filtered and grounded to meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal and State government with the authority to regulate towers and antennas so as to minimize the possibility of interference with locally received transmissions.~~

#### **Sec. 23-425. Co-location requirements.**

~~— No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Inspections Supervisor that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence must be submitted to demonstrate that the telecommunications equipment cannot be accommodated on an existing or approved tower or building within a one (1) mile search radius (one-half (1/2) mile search radius for towers under one hundred twenty (120) feet in height, one-quarter (1/4) mile search radius for towers under eighty (80) feet in height) of the proposed tower due to one or more of the following reasons:~~

~~— (a) The planned equipment would exceed the structural capacity of the existing tower or building, as documented by a licensed professional engineer, and the existing tower cannot be reinforced, modified or replaced.~~

~~— (b) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna. This interference would have to be documented by a licensed professional engineer. Documentation would have to show that the interference cannot be prevented at a reasonable cost.~~

~~— (c) Existing towers and buildings within the search radius are not of sufficient height to function reasonably as documented by a licensed professional engineer.~~

~~— (d) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.~~

#### **Sec. 23-426. Accommodation of other uses (co-location).**

~~(a) Any proposed telecommunication tower and tower site shall be designed, structurally, electrically and in all respects to accommodate co-location of both the applicant's antenna(s) and comparable antenna(s), for at least two (2) additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights and to accommodate supporting buildings and equipment on the antenna site.~~

~~(b) The holder of a special use permit for a tower shall not make co-location on the tower and tower site for the additional users economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a tower permit has made co-location on such tower and tower site economically unfeasible, then the tower permit shall become null and void.~~



**Sec. 23-427. Removal of abandoned antennas and towers.**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the following shall apply:

~~(a) The owner of such antenna or tower or owner(s) of the property where the tower site is located shall remove the antenna and/or tower including all supporting equipment and building(s) within ninety (90) days of receipt of an abandonment notice from the City Inspection Division. If removal to the satisfaction of the Inspections Supervisor does not occur within the ninety (90) days, the City may remove and salvage the antenna or tower and all supporting equipment and building(s) at the property owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.~~

~~(b) The applicant for a permit under this ordinance shall submit a copy of a signed agreement between the property owner and owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for abandonment and subsequent removal based on the provisions of (h)(1). The agreement shall also identify that the agreement shall be binding on future property owner(s) and future owner(s) of a tower, antenna and all supporting equipment and building(s).~~

~~(Ord 80-97, §1, 9-17-97)~~

**Sec. 23-66. Special use permits and special regulations.**

(h) *Special regulations.* The following special regulations shall apply to uses listed below, whether listed a principal permitted use, special use or accessory use in this chapter. This subsection shall not be construed to conflict with or modify the provisions contained in Wisconsin Statutes §§66.0404 and 66.0406 (2021-22), as amended from time to time.

- (1) *Electronic towers.* Radio, television, broadcasting tower or station, microwave and other electronic transmission or receiving tower in excess of sixty (60) feet (from ground level) in height in any zone shall be subject to the following standards as illustrated on a site plan submitted with the application for special use permit. Electronic towers shall not include wireless telecommunication towers or facilities that are regulated in Article XIII, Wireless telecommunication facilities, of this zoning ordinance. Mobile Service Support Structures and Facilities pursuant to Section 23-66(h)(22).
  - a. Distance of each freestanding electronic tower base footing from any residentially zoned lot line shall have a horizontal distance equal to at least fifty percent (50%) of the height of the electronic tower, or fifty (50) feet, whichever is greater.
  - b. Distance of any guyed tower anchor shall be twenty-five (25) feet from an adjoining lot line, public property or street right-of-way line.
  - c. The applicant shall demonstrate that the location of the electronic tower will not cause electrical interference or health hazards to adjoining properties. If electrical interference occurs after the electronic tower begins operation or if interference is anticipated, the applicant shall provide appropriate steps to eliminate said interference.
  - d. All electronic towers and associated ground equipment shall be equipped with an anti-climbing device or fence to prevent unauthorized access shall be enclosed with a fence at least eight (8) feet in height with a locked gate to discourage trespass. No fence and gate including any anti-climbing fence shall exceed twelve (12) feet in height. The anti-climbing fence and gate may be equipped with barbed wire or some other appropriate anti-climbing product to keep people from climbing over the fence. Guy anchors of guyed towers shall be similarly protected with anti-climbing fence.
  - e. Minimum landscaping features for all tower sites when abutting residential properties shall consist of at least one (1) row of staggered evergreen trees or shrubs, at least four (4) feet high at the time

~~of planting, which are spaced not more than ten (10) feet apart and planted within twenty five (25) feet of the site boundary. All electronic towers and associated ground equipment shall be landscaped with plantings being placed outside and along the perimeter of the ground equipment compound fencing and shall consist of the following:~~

- ~~1. The landscaping buffer shall include a staggered row of mature landscaping to minimize the visual impact on adjacent properties and from public streets. For purposes of this subsection, "mature landscaping" shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet at the time of planting, which are spaced not more than eight (8) feet apart that will provide the appropriate level of visual screening immediately upon installation.~~
  - ~~2. The landscaping buffer shall consist of a landscaped strip at least ten (10) feet wide outside and along the perimeter of equipment compound fencing.~~
- f. The plans submitted for a building permit for tower construction shall be certified by a structural engineer licensed in Wisconsin.
- g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

**(22) Mobile Service Support Structures and Facilities.**

a. **Purpose.** The purpose of this subsection is to:

1. Regulate by Site Plan Review pursuant to Section 23-570 of this chapter, Building/Electrical Permits and Certificate of Occupancy for: (1) The siting and construction of any new mobile service support structure (cell towers) and facilities; (2) Class 1 collocation which involves the placement of a new mobile service facility on an existing support structure without constructing a free standing support structure for the facility but does need to engage in substantial modification.

Substantial modification includes any of the following:

- i. For structures with an overall height of 200 feet or less, increases the overall height of the structure more than 20 feet.
- ii. For structures with an overall height of more than 200 feet, increases in the overall height of the structure by 10 percent or more.
- iii. Measured of the appurtenance add the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless the increase is necessary for collocation.
- iv. Increases the square footage of an existing equipment compound to a total area by more than 2,500 square feet.

2. Regulate by Building/Electrical Permits and Certificate of Occupancy for: (1) Class 2 collocation which involves the placement of a new mobile service facility on an existing support structure which does not require the need to construct a free standing support structure or engage is a substantial modification of an existing support structure and mobile service facilities.

b. **Intent.** The intent of this subsection is to:

1. Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high-quality telecommunications infrastructure, consistent with the Federal Telecommunications Act of 1996 and Wisconsin State Statutes §66.0404 is provided to serve the community, as well as serve as an important and effective part of the City's law enforcement, fire, rescue and emergency response network.

2. Provide a process for obtaining necessary permits for mobile service support structures and facilities while protecting the interests of City citizens.

**c. Definitions.** All definitions identified in Wisconsin Statutes §66.0404(1) and §66.0406(1) (2021-22), as amended from time to time, are hereby incorporated by reference.

**d. Exemptions.** The following are exempt from the provisions of this subsection. However, exemptions under this subsection are subject to all other applicable provisions of the Municipal Code.

1. Amateur radio antennas and towers licensed by the Federal Communications Commission (FCC).

2. Electronic towers, broadcast towers and broadcasting or receiving antennas and satellite dishes that are an accessory use to agricultural, residential, railroad, temporary, public institutional, commercial, or industrial uses.

3. Electronic towers, broadcast towers and broadcasting or receiving antennas and satellite dishes including the placement of equipment buildings, shelters or cabinets that are associated with a broadcast station.

4. Mobile services providing public information coverage of news events of a temporary or emergency nature.

**e. Additional procedures and special regulations for siting and construction of any New Mobile Service Support Structure (cell tower) and facilities and Class 1 collocations.**

1. Application Requirements. Applications for Site Plan Review (New Mobile Service Support Structures (cell tower) and Class 1 Collocation) must be completed by any applicant and submitted to the Community and Economic Development Department along with the application fee. The application materials must contain all of the following information:

i. The name and business address of, and the contact individual for, the property owner and applicant.

ii. The location of the proposed or affected support structure.

iii. The location of the proposed mobile service facility.

iv. All information contained on the application form(s) for Site Plan Review (New Mobile Service Support Structures (cell tower) and Class 1 Collocation) as prescribed by the City. The Community and Economic Development Director or their designee may require additional information in writing which is necessary for effective review of the application(s). Such required additional information may be issued at a pre-submittal meeting or at any time during the review process.

v. Construction of a new mobile service support structure (cell tower). If the application is to construct a new mobile service support structure (cell tower), a construction plan which describes the proposed mobile service support structure (cell tower) and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the new mobile service support structure (cell tower).

- vi. Construction of a new mobile service support structure (cell tower). If the application is to construct a new mobile service support structure (cell tower), an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure (cell tower) attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- vii. Substantial modification (Class 1 Collocation). If the application is to substantially modify an existing mobile service support structure (cell tower), a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

2. **Response Required.** Determination of completeness within ten (10) days of submittal date of the Site Plan Review Application.

- i. The Community and Economic Development Director or their designee shall review the Site Plan Review application materials and determine whether the application is complete. If the application includes all of the information required under this subsection, the application shall be considered complete. If the Community and Economic Development Director or their designee finds the application is incomplete, the Community and Economic Development Director or their designee shall notify the applicant in writing, within 10 days from the date of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.

3. Authority of the Community and Economic Development Director or their designee.

- i. Limitations upon authority. The City review and action for siting and construction of any new mobile service support structure (cell tower) and facilities and Class 1 collocations shall be subject to the limitations imposed by Wisconsin Statutes §66.0404(4).
- ii. Within 90 days of its receipt of a complete application, the Community and Economic Development Director or their designee shall complete all of the following or the applicant may consider the site plan application materials approved, except that the applicant and the Community and Economic Development Director or their designee may agree in writing to an extension of the 90 day period:
  - 1. Make a final decision whether to approve, approve with conditions or deny the site plan application materials pursuant to the applicable regulations contained in the Municipal Code and this subsection.
  - 2. Review of Collocation Statement. The Community and Economic Development Director or their designee may deny site plan application materials if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described below:
    - *If an application is to construct a new mobile service support structure (cell tower), an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn*

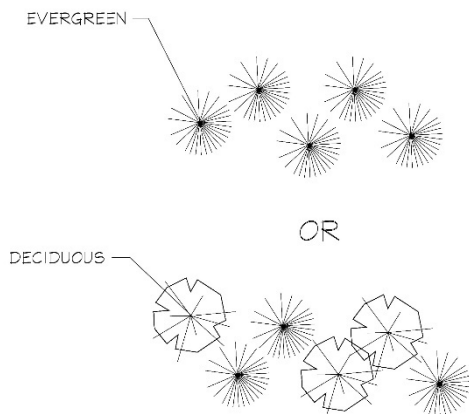
statement from an individual who has responsibility over the placement of the mobile service support structure (cell tower) attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

3. Review of Height and Setbacks. The Community and Economic Development Director or their designee shall not approve the site plan application materials unless the mobile service support structure (cell tower), including *substantial modifications (Class 1 Collocations)* complies with the following setback requirements:
    - a. Any mobile service support structure (cell tower) that is constructed on to or substantially modified on a parcel of land that *allows* a single-family detached dwelling as a permitted principal use shall be setback from the lot line(s) a distance that equals or exceeds the height of the cell tower;
    - b. Any mobile service support structure (cell tower) that is constructed or substantially modified on a parcel of land that is *adjacent* to a parcel of land that allows a single-family detached dwelling as permitted principal use shall be setback from the lot line(s) a distance that equals or exceeds the height of the cell tower;
    - c. Any mobile service support structure (cell tower) that is constructed on to or substantially modified on a parcel of land that *does not allow* a single-family detached dwelling as permitted principal shall be setback from lot lines a distance equal to the setback(s) of a principal building/structure pursuant to the underlying zoning district development standards;
    - d. Setback modification. Setbacks may be *reduced* to a lesser specified distance if the applicant submits a report stamped by a Wisconsin Registered Professional Engineer that certifies that the mobile service support structure (cell tower) is designed and engineered to collapse upon failure within the lesser specified distance unless the City has and provides the applicant with substantial evidence that the engineering certification is flawed.
  4. Notify the applicant, in writing, of the final decision.
  5. If the site plan materials are approved, provide the applicant with the approved site plan application materials.
  6. If the decision is to deny the site plan materials, include with the written notification substantial evidence which supports the decision.
- iii. The City may hire expert consultants to review any technical information submitted with the application. Costs incurred by the City will be billed to the applicant, except that applicant shall not be billed for any travel expenses incurred in the consultant's review of the application materials.
4. Appeal. A party who is aggrieved by the final decision of the Community and Economic Development Director or their designee may bring an action in the circuit court of the county in which the proposed development project is to be located.

5. Special regulations. The following special regulations shall apply to all mobile service support structures (cell towers) and mobile service facilities, including substantial modifications (Class 1 Collocations) and Class 2 Collocations:

- i. Federal Requirements. Each mobile service support structure (cell tower) and mobile service facility must meet or exceed all applicable regulations and standards of the Federal Aviation Administration, Federal Communications Commission, and any other federal agency with authority over the structure and facility that are in effect at the time the structure or facility is placed in service.
- ii. Fence Requirements. All mobile service support structures (cell tower) and mobile service facilities shall be enclosed with a fence at least eight (8) feet in height with a locked gate to discourage trespass on the equipment compound. No fence and gate including any anti-climbing fence shall exceed twelve (12) feet in height. The anti-climbing fence and gate may be equipped with barbed wire or some other appropriate anti-climbing product to keep people from climbing over the fence. Guy anchors of guyed towers shall be similarly protected with anti-climbing fence.
- iii. Landscaping Buffer Requirements. All mobile service support structures (cell towers) and mobile service facilities shall be landscaped with plantings being placed outside and along the perimeter of the equipment compound fencing and shall consist of the following:
  3. The landscaping buffer shall include a staggered row of mature landscaping to minimize the visual impact on adjacent properties and from public streets. For purposes of this subsection, "mature landscaping" shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet at the time of planting, which are spaced not more than eight (8) feet apart that will provide the appropriate level of visual screening immediately upon installation.
  4. The landscaping buffer shall consist of a landscaped strip at least ten (10) feet wide outside and along the perimeter of equipment compound fencing.

STAGGERED PLANTINGS



- iv. Identification. Mobile service support structures (cell towers) and mobile service facilities may only display identifying information, such as call letters, frequencies, or

Federal Communications Commission registration numbers, if required by federal or state law, regulation, rule, or order.

- v. Generators. Back-up generators shall not be used as a primary electrical power source. Back-up generators shall only be operated during power outages or for testing and maintenance purposes.
- vi. Off-street parking and driveway access. Service vehicle parking areas for one (1) vehicle and driveway shall be concrete, asphalt, or another permeable hard surface.
- vii. Non-Interference. Mobile service facilities shall comply with all relevant Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) standards and shall not interfere with or obstruct existing or proposed public safety, fire protection and other city and private telecommunication operations and facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the City.
- viii. Other requirements. Mobile service support structures (cell towers) and mobile service facilities shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- ix. Abandonment and Removal. A mobile service facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the following shall apply:
  - 1. The owner of such mobile service facility or owner(s) of the property where the mobile service facility is located shall remove such structure(s) and foundations and restore the site to its original condition or a condition approved by the Zoning Administrator within ninety (90) days of receipt of an abandonment notice from the Inspections Division. If removal to the satisfaction of the Zoning Administrator does not occur within the ninety (90) days, the City may remove and salvage the mobile service facility at the property owner's expense. If there are two (2) or more users of a single mobile service support structure (cell tower), then this provision shall not become effective until all users cease using the mobile service support structure (cell tower) and mobile service facility.
  - 2. The recipient of a permit allowing a mobile service support structure (cell tower) and mobile service facility under this subsection, or current owner or operator, shall notify the Inspections Division and the Community and Economic Development Department within 45 days of the date when the mobile service facility is no longer in operation.
- x. Enforcement and Violations; penalty. Any person, partnership, corporation or other legal entity that fails to comply with the provisions of this subsection shall be subject to penalty provisions as prescribed in §23-69 of this chapter. Enforcement of this subsection is prescribed in §23-69 of this chapter.

f. **Procedures and special regulations for a Class 2 Collocation on existing support structure and other modifications.**

- 1. Applicability. A building and/or electrical permit is required for the placement and construction of the following:

- i. A Class 2 collocation which includes, the placement of a new equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and associated equipment on an existing support structure.
  - ii. Any other modification to a mobile service facility not classified as a substantial modification which includes any of the following:
    1. For structures with an overall height of 200 feet or less, increases the overall height of the structure up to 20 feet.
    2. For structures with an overall height of more than 200 feet, increases in the overall height of the structure by less than 10 percent.
    3. Measured of the appurtenance add the structure as a result of the modification, increases the width of the support structure by less than 20 feet.
    4. Increases the square footage of an existing equipment compound to a total area by 2,500 square feet or less.
2. Application Requirements. A building and/or electrical permit must be completed by the applicant and be submitted to the Inspections Division. In addition to the information required to be submitted for a building and/or electrical permit pursuant the Chapter 4 of the Municipal Code, the applications must contain the following information:
  - i. The name and business address of, and the contact individual for, the property owner and applicant.
  - ii. The location of the proposed or affected support structure.
  - iii. Construction and site plan drawing set pursuant to Chapter 4 of the Municipal Code. The site plan drawing set shall show the applicable information listed for Sheet 1. on the Site Plan Application. Site Plan Layout and elevations drawings showing the applicable information listed for Sheet 2. on the Site Plan Application. Exterior Elevation pursuant to the Application for Site Plan Review (New Mobile Service Support Structures (cell towers) and Class 1 Collocation).
3. **Response Required.** Determination of completeness within five (5) days of submittal.
  - i. The Inspections Supervisor or their designee shall review the application for a building and/or electrical permit and determine whether the application is complete. If the application includes all of the information required under this subsection, the application shall be consider complete. If the Inspection Supervisor or their designee finds the application is incomplete, the Inspection Supervisor or their designee shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.
4. Authority of the Inspections Supervisor or their designee.



- i. Limitations upon authority. The City review and action for Class 2 collocations shall be subject to the limitations imposed by Wisconsin Statutes §66.0404(4).
  - ii. Within 45 days of its receipt of a complete application, the Inspections Supervisor or their designee shall complete all of the following or the applicant may consider the building and/or electrical permit approved, except that the applicant and the Inspections Supervisor or their designee may agree in writing to an extension of the 45 day period:
    1. Make a final decision whether to approve, approve with conditions or deny the application pursuant to the applicable regulations contained in the Municipal Code and Section 23-66(h)(22).
    2. Notify the applicant, in writing, of the final decision.
    3. If the application is approved, provide the applicant with the approved relevant building and/or electrical permit(s) and materials.
    4. If the decision is to deny the application(s), include with the written notification substantial evidence which supports the decision.
  - iii. The City may hire expert consultants to review any technical information submitted with the application. Costs incurred by the City will be billed to the applicant, except that applicant shall not be billed for any travel expenses incurred in the consultant's review of the application materials.
5. Appeal. A party who is aggrieved by the final decision of the Inspections Supervisor or their designee may bring an action in the circuit court of the county in which the proposed development project is to be located.

**ARTICLE V. RESIDENTIAL DISTRICTS**

**PROPOSED TEXT AMENDMENTS RELATED TO:**

- *Proposing to list Mobile Service Support Structures and Facilities as principal permitted uses the AG, R-1A, R-1B, R-1C, R-2, R-3, P-I and NC zoning district and reference where to find the special requirements pursuant to Section 23-66(h)(22) to be consistent with Wisconsin State Statute, Section 66.0404(4)(c). Section 66.0404(4)(c). states, the city may not enact an ordinance prohibiting the placement of a mobile service support structure in any particular zoning districts.*
- *The state law creates a standardized regulatory framework and mandatory application process pertaining to Mobile Service Support Structures and Facilities (cell towers). Since the City does not have a great deal of discretion to deny a Special Use Permit application for a new cell tower, staff is proposing list cell towers as a principal permitted use rather than by special use permit which requires newspaper and neighborhood notices and a public hearing. Staff approval would be pursuant to the Site Approval process, which requires notification to Alderperson of the District.*
- *Proposing to delete Tower or antenna for telecommunication services, pursuant to Article XIII as a Special Use in the P-I District.*

**Sec. 23-91. AG Agricultural district.**

(b) *Principal permitted uses.* The following uses are permitted as of right in the AG district:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• Dwelling, single family, detached</li> </ul>	<ul style="list-style-type: none"> <li>• Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52</li> <li>• Governmental facilities</li> <li>• Public parks or playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>• Agriculture</li> <li>• Community garden</li> <li>• Greenhouse or greenhouse nursery.</li> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> <li>• Nursery, orchards or tree farm</li> <li>• Urban farm pursuant to §23-66(h)(17)</li> <li>• Winery pursuant to §23-66(h)(21)</li> </ul>

**Sec. 23-92. R-1A single-family district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the R-1A district:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• Dwelling, single family, detached</li> </ul>	<ul style="list-style-type: none"> <li>• Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52</li> <li>• Day care, adult; serving five (5) or fewer</li> </ul>	<ul style="list-style-type: none"> <li>• <del>None</del></li> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	<ul style="list-style-type: none"> <li>persons</li> <li>• Day care, family</li> <li>• Family home, adult (A) and (D), pursuant to §23-22</li> <li>• Family home, adult (B) and (C), pursuant to §23-52</li> <li>• Governmental facilities</li> </ul>	

**Sec. 23-93. R-1B single-family district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the R-1B district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• Dwelling, single-family, detached</li> </ul>	<ul style="list-style-type: none"> <li>• Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52</li> <li>• Day care, adult; serving five (5) or fewer persons</li> <li>• Day care, family</li> <li>• Family home, adult (A) and (D), pursuant to §23-22</li> <li>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52</li> <li>• Governmental facilities</li> </ul>	<ul style="list-style-type: none"> <li>• <del>None</del></li> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> </ul>

**Sec. 23-94. R-1C central city residential district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the R-1C district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• Dwelling, single-family, detached</li> </ul>	<ul style="list-style-type: none"> <li>• Community living arrangements service eight (8) or fewer persons, pursuant to §23-22 and §23-52</li> <li>• Day care, adult; serving five (5) or fewer persons</li> <li>• Day care, family</li> <li>• Family home, adult (A) and (D), pursuant to §23-22</li> <li>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52</li> <li>• Governmental facilities</li> </ul>	<ul style="list-style-type: none"> <li>• <del>None</del></li> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> </ul>

**Sec. 23-95. R-2 two-family district.**

(a) *Purpose.* The R-2 district is intended to provide for and maintain residential areas characterized by single-family detached and two- (2-) family dwelling units. Increased densities and the introduction of two- (2-) family housing types are intended to provide for greater housing options for owners and renters while maintaining the basic qualities of a moderately dense residential neighborhood.

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the R-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• Dwelling, single-family, detached</li> <li>• Dwelling, two-family (duplex)</li> </ul>	<ul style="list-style-type: none"> <li>• Community living arrangements serving eight (8) or fewer persons,</li> </ul>	<ul style="list-style-type: none"> <li>• <del>None</del></li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>Dwelling, zero lot line two-family.</li> </ul>	<p>pursuant to §23-22 and §23-52</p> <ul style="list-style-type: none"> <li>Day care, adult; serving five (5) or fewer persons</li> <li>Day care, family</li> <li>Family home, adult (A) and (D), pursuant to §23-22</li> <li>Family home, adult (B) and (C), pursuant to §23-22 and §23-52</li> <li>Governmental facilities</li> </ul>	<ul style="list-style-type: none"> <li><u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> </ul>

**Sec. 23-96. R-3 multifamily district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the R-3 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>Assisted living facility or retirement home</li> <li>Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse.</li> <li>Dwelling, single-family, detached</li> <li>Dwelling, two-family (duplex)</li> <li>Dwelling, zero lot line two-family.</li> <li>Nursing or convalescent home</li> <li>Residential care apartment complex</li> </ul>	<ul style="list-style-type: none"> <li>Community living arrangements serving fifteen (15) or fewer persons, pursuant to §23-22 and §23-52</li> <li>Day care, adult; serving five (5) or fewer persons</li> <li>Day care, family</li> <li>Family home, adult (A) and (D), pursuant to §23-22</li> <li>Family home, adult (B) and (C), pursuant to §23-22 and §23-52</li> <li>Governmental facilities</li> </ul>	<ul style="list-style-type: none"> <li><del>None</del></li> <li><u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> </ul>

**Sec. 23-100. P-I public institutional district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the P-I district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>Assisted living facility or retirement home</li> <li>Nursing or convalescent home</li> </ul>	<ul style="list-style-type: none"> <li>Community living arrangements serving one (1) or more persons, pursuant to §23-22 and §23-52</li> <li>Educational institution; business, technical or vocational school</li> <li>Educational institution; college or university</li> <li>Educational institution; elementary</li> </ul>	<ul style="list-style-type: none"> <li><u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> <li>Multi-tenant buildings</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	school, junior high school, or high school <ul style="list-style-type: none"> <li>• Family home, adult (A) and (D), pursuant to §23-22</li> <li>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52</li> <li>• Governmental facility</li> <li>• Group housing</li> <li>• Hospital</li> <li>• Marina and/or boat landing</li> <li>• Museum</li> <li>• Place of worship</li> <li>• Public parks or playgrounds</li> <li>• Recreation facility, non-profit</li> <li>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</li> </ul>	

(e) *Special uses.* Special uses in the P-I district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery</li> <li>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building</li> <li>• Essential services</li> <li>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure</li> </ul>	<ul style="list-style-type: none"> <li>• Circus or carnival. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7)</li> <li>• Community garden</li> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Helicopter landing pads pursuant to §23-66(h)(9)</li> <li>• Parking garage</li> <li>• Recycling collection point pursuant to §23-66(h)(14)</li> <li>• Recycling and waste recovery center pursuant to §23-66(h)(13)</li> <li>• Shelter facility</li> <li>• <del>Tower or antenna for telecommunication services, pursuant to Article XIII</del></li> <li>• Urban farms pursuant to §23-66(h)(17)</li> </ul>

**Sec. 23-101. NC nature conservancy district.**

(b) *Principal permitted uses.* The following uses are permitted within the NC nature conservancy district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Bicycle or hiking trails</li> <li>• Dams, power stations, transmission lines</li> <li>• Fishing</li> <li>• Harvesting of wild crops such as marsh hay, mushrooms, moss, berries, fruit trees and tree seeds</li> </ul>	<ul style="list-style-type: none"> <li>• <del>None</del></li> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> </ul>

	<ul style="list-style-type: none"> <li>• Management of forestry and fish</li> <li>• Public or private parks which provide passive recreation pursuits</li> <li>• Water pumping and storage facilities</li> </ul>	
--	--	--

**ARTICLE VI. COMMERCIAL DISTRICTS**

**PROPOSED TEXT AMENDMENTS RELATED TO:**

- *Proposing to list Mobile Service Support Structures and Facilities as principal permitted uses the C-O, C-1, C-2, CBD, and P zoning district and reference where to find the special requirements pursuant to Section 23-66(h)(22) to be consistent with Wisconsin State Statute, Section 66.0404(4)(c). Section 66.0404(4)(c). states, the city may not enact an ordinance prohibiting the placement of a mobile service support structure in any particular zoning districts.*
- *The state law creates a standardized regulatory framework and mandatory application process pertaining to Mobile Service Support Structures and Facilities. Since the City does not have a great deal of discretion to deny a Special Use Permit application for a new cell tower, staff is proposing list cell towers as a principal permitted use rather than by special use permit which requires newspaper and neighborhood notices and a public hearing. Staff approval would be pursuant to the Site Approval process, which requires notification to Alderperson of the District.*
- *Proposing to delete Tower or antenna for telecommunication services, pursuant to Article XIII as a Special Use since Article XIII is proposed to be repealed pursuant the C-1, C-2, and CBD Districts.*
- *Proposing to correct and incorrect subsection number in the C-2 District for Painting/Craft studio with alcohol sales pursuant to §23-66(H) to (6).*

**Sec. 23-111. C-O commercial office district**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the C-O district.

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Clubs</li> <li>• Educational institutions; business, technical or vocational school</li> <li>• Educational institutions; college or university</li> <li>• Governmental facilities</li> <li>• Museums</li> <li>• Places of worship</li> <li>• Public parks or playgrounds</li> <li>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> <li>• Multi-tenant building</li> <li>• Offices</li> <li>• Personal services</li> <li>• Professional services</li> <li>• Veterinarian clinics</li> </ul>

(e) **Special uses.** Special uses in the C-O district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Educational institutions; elementary school, junior high school, or high school</li> <li>• Essential services</li> <li>• Golf courses. However the clubhouse, practice driving range, practice greens or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure</li> </ul>	<ul style="list-style-type: none"> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Helicopter landing pads pursuant to §23-66(h)(9)</li> <li>• Parking garages</li> <li>• Recycling collection point pursuant to §23-66(h)(14)</li> <li>• <del>Tower or antenna for telecommunication services, pursuant to Article XIII</del></li> </ul>

**Sec. 23-112. C-1 neighborhood mixed use district.**

(a) **Purpose.** The C-1 district is intended to provide for mixed use areas, including a range of commercial and denser residential uses. Development is intended to be pedestrian-oriented, with businesses and services that are part of the fabric of the neighborhood and allow residents to meet daily needs on foot, bicycle, and public transit. Development standards provide added flexibility to encourage redevelopment along commercial corridors, without being detrimental to established residential neighborhoods.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-1 district.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse.</li> </ul>	<ul style="list-style-type: none"> <li>• Clubs</li> <li>• Day care, group</li> <li>• Governmental facilities</li> <li>• Museums</li> <li>• Places of worship</li> <li>• Public parks or playgrounds</li> <li>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</li> </ul>	<ul style="list-style-type: none"> <li>• Commercial entertainment; excluding sexually-oriented establishments</li> <li>• Hotel or motels</li> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> <li>• Multi-tenant building</li> <li>• Offices</li> <li>• Painting/Craft studio without alcohol sales</li> <li>• Personal services</li> <li>• Printing</li> <li>• Professional services</li> <li>• Restaurants (without alcohol)</li> <li>• Restaurants, fast foods</li> <li>• Retail businesses</li> <li>• Shopping centers</li> <li>• Urban farms pursuant to §23-66(h)(17)</li> <li>• Veterinarian clinics, with all activity within enclosed buildings and with no animals boarded overnight</li> </ul>

(e) *Special uses.* Special uses in the C-1 district may include:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Educational institutions; elementary school, junior high school or high school</li> <li>• Essential services</li> <li>• Recreation facilities, non-profit</li> </ul>	<ul style="list-style-type: none"> <li>• Amusement arcade</li> <li>• Bar or Tavern pursuant to §23-66(h)(6)</li> <li>• Craft-Distillery pursuant to §23-66(h)(19)</li> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Manufacturing, custom pursuant to §23-66(h)(16)</li> <li>• Microbrewery/Brewpub pursuant to §23-66(h)(19)</li> <li>• Outdoor commercial entertainment pursuant to §23-66(h)(11)</li> <li>• Painting/Craft studio with alcohol pursuant to §23-66(h)(6)</li> <li>• Parking garages</li> <li>• Recycling collection points pursuant to §23-66(h)(14)</li> <li>• Research laboratories or testing facilities</li> <li>• Restaurants with alcohol pursuant to §23-66(h)(6)</li> <li>• Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21)</li> <li>• <del>Tower or antenna for telecommunication services pursuant to Article XIII</del></li> <li>• Winery pursuant to §23-66(h)(21)</li> </ul>

**Sec. 23-113. C-2 general commercial district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the C-2 district:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• Assisted living or retirement homes</li> <li>• Nursing or convalescent homes</li> </ul>	<ul style="list-style-type: none"> <li>• Clubs</li> <li>• Day care, group</li> <li>• Educational institutions; business, technical or vocational school</li> <li>• Educational institutions; college or university</li> <li>• Governmental facilities</li> <li>• Hospitals</li> <li>• Marina or boat landings</li> <li>• Museums</li> <li>• Places of worship</li> <li>• Public parks or playground</li> <li>• Recreation facilities; non-profit</li> <li>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</li> </ul>	<ul style="list-style-type: none"> <li>• Automobile maintenance shops</li> <li>• Commercial entertainment; excluding sexually-oriented establishments</li> <li>• Drive through facilities pursuant to §23-49</li> <li>• Greenhouses or greenhouse nurseries</li> <li>• Hotel or motels</li> <li>• Manufacturing, custom pursuant to §23-66(h)(16)</li> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> <li>• Multi-tenant building</li> <li>• Offices</li> <li>• Painting/Craft studio without alcohol sales</li> </ul>



		<ul style="list-style-type: none"> <li>• Parking lots</li> <li>• Personal services</li> <li>• Printing</li> <li>• Professional services</li> <li>• Restaurants (without alcohol)</li> <li>• Restaurants, fast food</li> <li>• Retail businesses</li> <li>• Shopping centers</li> <li>• Towing businesses pursuant to §23-66(h)(15)</li> <li>• Urban farms pursuant to 23-66(h)(17)</li> <li>• Veterinarian clinics</li> </ul>
--	--	---

(e) *Special uses.* Special uses in the C-2 district may include:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Educational institutions; elementary school, junior high school or high school</li> <li>• Essential services</li> <li>• Golf courses. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure</li> </ul>	<ul style="list-style-type: none"> <li>• Amusement arcades</li> <li>• Any principal building that exceeds thirty-five (35) feet in height</li> <li>• Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5)</li> <li>• Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to §23-66(h)(5)</li> <li>• Bar or taverns pursuant to §23-66(h)(6)</li> <li>• Body repair and/or paint shops pursuant to §23-66(h)(4)</li> <li>• Bus terminals</li> <li>• Car washes</li> <li>• Circus or carnivals. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7)</li> <li>• Craft-Distillery pursuant to §23-66(h)(19)</li> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Freight distribution and/or moving centers</li> <li>• Gasoline sales pursuant to §23-66(h)(8)</li> <li>• Helicopter landing pads pursuant to §23-66(h)(9)</li> <li>• Indoor kennels</li> <li>• Landscape business</li> <li>• Manufacturing, light</li> <li>• Microbrewery/Brewpub pursuant to §23-66(h)(19)</li> <li>• Mobile home sales lots</li> <li>• Outdoor commercial entertainment pursuant to §23-66(h)(11)</li> <li>• Painting/Craft studio with alcohol sales pursuant to §23-66(11)(6)</li> <li>• Parking garages</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> <li>• Recycling collection points pursuant to §23-66(h)(14)</li> <li>• Recycling and waste recovery centers pursuant to §23-66(h)(13)</li> <li>• Research laboratories or testing facilities</li> <li>• Restaurants with alcohol pursuant to §23-66(h)(6)</li> <li>• Sexually-oriented establishments pursuant to Article XII</li> <li>• Shelter facility</li> <li>• Tasting rooms pursuant to §23-66(H)(19, 20, 21, or 21)</li> <li>• <del>Towers or antennas for wireless telecommunication services, pursuant to Article XIII.</del></li> <li>• Wholesale facilities</li> <li>• Winery pursuant to §23-66(h)(21)</li> </ul>

**Sec. 23-114. CBD central business district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the CBD:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• Assisted living or retirement homes</li> <li>• Nursing or convalescent homes</li> <li>• Dwelling, multi-family and of three (3) or more units, apartment building, or townhouse; however, residential uses are prohibited on the ground floor for any lot with frontage on College Avenue or within 120 feet of College Avenue frontage.</li> </ul>	<ul style="list-style-type: none"> <li>• Clubs</li> <li>• Day care, group</li> <li>• Educational institutions; college or university</li> <li>• Governmental facilities</li> <li>• Museums</li> <li>• Places of worship</li> <li>• Public park or playgrounds</li> <li>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building</li> </ul>	<ul style="list-style-type: none"> <li>• Automobile maintenance shops</li> <li>• Commercial entertainment; excluding sexually-oriented establishments</li> <li>• Drive through facilities pursuant to §23-49</li> <li>• Hotel or motels</li> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> <li>• Multi-tenant building</li> <li>• Offices</li> <li>• Painting/Craft studio without alcohol sales</li> <li>• Personal services</li> <li>• Printing</li> <li>• Professional services</li> <li>• Restaurants (without alcohol)</li> <li>• Restaurant, fast foods</li> <li>• Retail businesses</li> <li>• Shopping centers</li> <li>• Urban farms pursuant to §23-66(h)(17)</li> <li>• Veterinarian clinics</li> </ul>

(e) *Special uses.* Special uses in the CBD district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Educational institution; elementary school, junior high school or high school</li> <li>• Essential services</li> <li>• Hospital</li> <li>• Marina and/or boat landing</li> </ul>	<ul style="list-style-type: none"> <li>• Amusement arcade</li> <li>• Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5)</li> <li>• Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles pursuant to §23-66(h)(5)</li> <li>• Bar or Tavern pursuant to §23-66(h)(6)</li> <li>• Body repair and/or paint shop pursuant to §23-66(h)(4)</li> <li>• Bus terminal</li> <li>• Craft-Distillery pursuant to §23-66(h)(19)</li> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Gasoline sales pursuant to §23-66(h)(8)</li> <li>• Indoor kennel</li> <li>• Manufacturing, custom pursuant to §23-66(h)(16).</li> <li>• Microbrewery/Brewpub pursuant to §23-66(h)(19)</li> <li>• Outdoor commercial entertainment pursuant to §23-66(h)(11)</li> <li>• Painting/Craft studio with alcohol sales pursuant to §23-66(h)(6)</li> <li>• Parking garage</li> <li>• Parking lot; however, surface lots are prohibited on lots fronting on College Avenue</li> <li>• Recycling collection point pursuant to §23-66(h)(14)</li> <li>• Research laboratories or testing facilities</li> <li>• Restaurant with alcohol pursuant to §23-66(h)(6)</li> <li>• Shelter facility</li> <li>• Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21)</li> <li>• <del>Towers or antennas for wireless telecommunication services pursuant to Article XIII.</del></li> <li>• Wholesale facility</li> <li>• Winery pursuant to §23-66(h)(21)</li> </ul>

**Sec. 23-115. P parking district.**

(b) *Permitted uses.* Principal uses permitted as of right in the parking district include:

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> <li>• Parking garage</li> <li>• Parking lot</li> </ul>

**ARTICLE VII. INDUSTRIAL DISTRICTS**

**PROPOSED TEXT AMENDMENTS RELATED TO:**

- *Proposing to list Mobile Service Support Structures and Facilities as principal permitted uses the M-1 and M-2 zoning district and reference where to find the special requirements pursuant to Section 23-66(h)(22) to be consistent with Wisconsin State Statute, Section 66.0404(4)(c). Section 66.0404(4)(c). states, the city may not enact an ordinance prohibiting the placement of a mobile service support structure in any particular zoning districts.*
- *The state law creates a standardized regulatory framework and mandatory application process pertaining to Mobile Service Support Structures and Facilities. Since the City does not have a great deal of discretion to deny a Special Use Permit application for a new cell tower, staff is proposing list cell towers as a principal permitted use rather than by special use permit which requires newspaper and neighborhood notices and a public hearing. Staff approval would be pursuant to the Site Approval process, which requires notification to Alderperson of the District.*
- *Proposing to delete Tower or antenna for telecommunication services, pursuant to Article XIII as a Special Use since Article XIII is proposed to be repealed pursuant the M-1 and M-2 Districts.*

**Sec. 23-131. M-1 industrial park district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the M-1 district, subject to any contracts, agreements, covenants, restrictions and leases the City maintains on City-owned industrial properties.

<b>Residential Uses</b>	<b>Public and Semi Public Uses</b>	<b>Non-Residential Uses</b>
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Governmental facilities</li> <li>• Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building</li> </ul>	<ul style="list-style-type: none"> <li>• Agriculture</li> <li>• Brewery pursuant to §23-66(h)(20)</li> <li>• Commercial entertainment</li> <li>• Community garden</li> <li>• Craft-Distillery pursuant to §23-66(h)(19)</li> <li>• Distillery pursuant to §23-66(h)(20)</li> <li>• Freight distribution or moving centers</li> <li>• Manufacturing, light</li> </ul>

		<ul style="list-style-type: none"> <li>• Microbrewery/Brewpub pursuant to §23-66(h)(19)</li> <li>• Offices</li> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> <li>• Multi-tenant buildings</li> <li>• Printing</li> <li>• Research laboratory or testing facilities</li> <li>• Urban farms pursuant to §23-66(h)(17)</li> <li>• Warehouses</li> <li>• Wholesale facilities</li> <li>• Winery pursuant to §23-66(h)(21)</li> </ul>
--	--	--

(e) *Special uses.* Special uses in the M-1 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Essential services</li> </ul>	<ul style="list-style-type: none"> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Helicopter landing pads pursuant to §23-66(h)(9)</li> <li>• Manufacturing, heavy</li> <li>• Outdoor commercial entertainment pursuant to §23-66(h)(11)</li> <li>• Parking garages</li> <li>• Recycling centers</li> <li>• Recycling collection points pursuant to §23-66(h)(14)</li> <li>• Recycling and waste recovery centers pursuant to §23-66(h)(13)</li> <li>• Sexually-oriented establishments pursuant to Article XII</li> <li>• <del>Towers or antennas for wireless telecommunication services pursuant to Article XIII</del></li> </ul>

**Sec. 23-132. M-2 general industrial district**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the M-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Governmental facilities</li> <li>• Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building</li> </ul>	<ul style="list-style-type: none"> <li>• Automobile maintenance shops</li> <li>• Body repair and/or paint shops pursuant to §23-66(h)(4)</li> <li>• Brewery pursuant to §23-66(h)(20)</li> <li>• Bus terminals</li> <li>• Commercial entertainment</li> <li>• Commercial truck body repair or paint shops</li> <li>• Commercial truck maintenance shops</li> <li>• Community garden</li> <li>• Craft-Distillery pursuant to §23-66(h)(19)</li> <li>• Distillery pursuant to §23-66(h)(20)</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> <li>• Freight distribution or moving centers</li> <li>• Landscape businesses</li> <li>• Manufacturing, light</li> <li>• Microbrewery/Brewpub pursuant to §23-66(h)(19)</li> <li>• <u>Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)</u></li> <li>• Multi-tenant buildings</li> <li>• Offices</li> <li>• Personal storage facility (self storage/mini-warehouse), including outdoor storage areas for recreational vehicles pursuant to §23-66(h)(18)</li> <li>• Printing</li> <li>• Research laboratories or testing facilities</li> <li>• Towing businesses pursuant to §23-66(h)(15)</li> <li>• Truck or heavy equipment sales or rental</li> <li>• Urban farms pursuant to §23-66(h)(17)</li> <li>• Warehouses</li> <li>• Wholesale facilities</li> <li>• Winery pursuant to §23-66(h)(21)</li> </ul>

(e) *Special uses.* Special uses in the M-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Essential services</li> <li>• Marina or boat landing</li> </ul>	<ul style="list-style-type: none"> <li>• Asphalt plant</li> <li>• Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5)</li> <li>• Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles only pursuant to §23-66(h)(5)</li> <li>• Bulk flammable or combustible liquid storage or distribution facility</li> <li>• Concrete mixing</li> <li>• Electronic towers pursuant to §23-66(h)(1)</li> <li>• Gasoline sales, pursuant to §23-66(h)(8)</li> <li>• Manufacturing, heavy</li> <li>• Indoor or outdoor kennel pursuant to §23-66(h)(12)</li> <li>• Mobile home sales and display lot</li> <li>• Parking garage</li> <li>• Parking lot</li> <li>• Recycling collection point pursuant to §23-66(h)(14)</li> <li>• Recycling and waste recovery center pursuant to §23-66(h)(13)</li> <li>• Salvage yard or junk facility</li> <li>• Sexually-oriented establishments pursuant to Article XII</li> <li>• Towed vehicle storage</li> </ul>

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> <li>• <del>Towers or antennas for wireless telecommunication services pursuant to Article XIII</del></li> </ul>

**ARTICLE VIII. OVERLAY DISTRICTS**

**PROPOSED TEXT AMENDMENTS RELATED TO:**

- *Proposing to delete the reference to Tower or antenna for telecommunication services, because Article XIII is proposed to be repealed.*

**Sec. 23-152. TND traditional neighborhood development overlay district.**

Sec 23-152 (h)(2) *Special uses.*

d. All C-O commercial office district special uses, except the following:

~~3. Towers or antennas for wireless telecommunication services, pursuant to Article XIII.~~

e. All C-1 neighborhood commercial district special uses, except the following:

~~2. Towers or antennas for wireless telecommunication services, pursuant to Article XIII.~~

f. All C-2 general commercial district special uses, except the following.

~~9. Towers or antennas for wireless telecommunication services, pursuant to Article XIII.~~

**ARTICLE XV. SITE PLAN REVIEW AND APPROVAL.**

**PROPOSED TEXT AMENDMENTS RELATE TO:**

- *Proposing to add language to allow administrative site plan approval for Mobile Service Support Structures and Facilities and Mobile Service Support Structures and Facilities Substantial modification (Class 1 Collocation).*

**Sec. 23-570 (c)(2)a. *Development subject to site plan review.***

5. Mobile Service Support Structures and Facilities and Mobile Service Support Structures and Facilities Substantial modification (Class 1 Collocation) pursuant to Section 23-66(h)(22).



## ARTICLE II. DEFINITIONS

### PROPOSED TEXT AMENDMENTS RELATE TO:

- *Proposing to add and delete definitions terms for consistent administration of the proposed zoning text amendments.*

#### Section 23-22 Definitions

**Building Code** means the various adopted codes of the City of Appleton, that regulate construction and required building, electrical, HVAC permits, plumbing permits and other permits to do work regulated and adopted by the Appleton Municipal Code pertaining to building/structure and building/structure regulation.

**Broadcasting towers** means a freestanding structure designed to support broadcast or receiving antennas.

**Radio and television broadcasting stations** means a use engaged in transmitting verbal and visual programs to the public and that consists of a studio, transmitter, antennas and towers.

**Broadcast Equipment Building, Shelter or Cabinet** means a cabinet or building used to house equipment used by broadcast station or an owner.

**Broadcasting and receiving antennas** means any broadcasting and receiving device mounted on a broadcast tower, building or structure and used in broadcasting or receiving audio or visual programming materials by a Radio & television broadcasting station or communications between individuals. This broadcasting or receiving devise includes but is not limited to omni –directional antennas, such as whip antennas, satellite dishes and microwaves.

**Certificate of Occupancy** means a document issued by the proper authority certifying that a proposed development project complies with the provisions of this chapter.

**Development project** means the construction of a new building or other structures on a lot, the change in use of any building, structure or land, the expansion or alteration of an existing building or structure, the relocation of an existing building or structure on a lot or another lot, or the use of open land for a new use.

**Grade, Finished** means the elevation of the finished surface of the ground adjacent to the building or structure after final grading.

**Height of towers** means the vertical distance of the broadcast tower, mobile service support structure (cell tower) or other similar structure. Measurement of height shall include antenna, base pad and other appurtenances and shall be measured from finished grade below the center of the base of said tower to the highest point of the tower even if said highest point is an antenna or piece of equipment attached thereto.

**Satellite dish** means a dish shaped antenna designed to receive radio or television broadcasts relayed by microwave signals from earth orbiting communication satellites.

~~**Tower and antenna for telecommunications services** means a tower, pole, or similar structure that supports or acts as a transmission or reception device for licensed commercial wireless communications service including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.~~

**GROUP B**  
**PROPOSED TEXT AMENDMENTS**  
**REFUSE CONTAINER AND DUMPSTER ENCLOSURE STANDARDS**

---

**Sec. 23-43. Accessory uses, buildings and structures.**

(d) *General regulations for accessory uses, buildings and structures.* All accessory uses, buildings and/or structures shall abide by the following general regulations:

- (1) No accessory use, building and/or structure shall be constructed or established on a lot prior to the principal use or building being present or under construction.
  - (2) When attached to the principal building, accessory buildings and/or structures shall comply with all requirements of this chapter applicable to the principal building, unless otherwise stated, including, but not limited to setback requirements, building height limits, maximum lot coverage standards.
  - (3) No truck, truck tractor, truck trailer, canopy or bus, or portion thereof, shall be used for, storage purposes, as a principal use and/or structure or an accessory use and/or structure in any zoning district, unless otherwise stated in this chapter.
  - (4) Accessory uses, buildings and/or structures, ~~shall not~~ may contain toilet facilities that are installed in accordance with applicable Municipal Code regulations, including but not limited to, State of Wisconsin Uniform Dwelling Code, Water Utility, Sewer and Wastewater Disposal regulations, ~~unless specifically authorized by the Board of Appeals~~
- Note: Update this provision to allow bathroom facilities in response to resident requests, building trends (pool houses, hobby shops, workshops, etc.) and to reduce the number of variance requests.*
- (5) Accessory uses, buildings and/or structures shall be located on the same lot as the principal use, structure or building.
  - (6) Only one (1) detached garage or detached carport shall be permitted on a lot whose principal use is a single or two-family dwelling.
  - (7) Detached accessory buildings shall not be used as a secondary dwelling, unless the provisions of Sec. 23-55 are met.
  - (8) Dumpster enclosures are exempt from (5) above, refer to 23-47 Refuse container and dumpster enclosure standards.

**Sec. 23-47. Refuse container and dumpster enclosure standards.**

The following standards shall apply to refuse container and dumpster enclosures:

(a) ~~Refuse containers and dumpster enclosures of appropriate size are required for all non-residential and multifamily properties. Refuse containers and dumpster enclosures are exempt from Section 23-43(d)(5) and Section 23-50(d)(4). These are required to be located outside of the street right of way and front yard. Refuse containers and dumpster enclosures shall be designed for front end loading trucks.~~

(b) Refuse containers shall be screened from public view, unless otherwise specified in this chapter, and located in accordance with the standards outlined in this section.

(c) Refuse containers and dumpster enclosures located on an AG, R-3, P-I, NC, C-O, C-1, C-2, CBD, P, M-1 or M-2 zoned lot shall comply with the following location and setback requirements:

(1) Location:

- a. Side and rear yard, unless otherwise specified in this chapter.
- b. Refuse containers and dumpster enclosures are allowed to be placed within the front yard adjacent to a public alley.
- c. Refuse containers and dumpster enclosures can be placed on a parking lot, even if it is a separate parcel, that is associated with, or adjacent to, the principal use.
- d. Refuse containers and dumpster enclosures may be shared between adjacent properties.
- e. Refuse containers and dumpster enclosures are not permitted on vacant properties that do not have an established principal use.
- f. On corner lots and double frontage lots, if it is demonstrated that is it impractical to place the dumpster enclosure in the side or rear yard, the Community & Economic Development Director can approve the enclosure to be located in the front yard. The dumpster enclosure shall meet the front yard setback requirement of the principal structure.

(2) Setbacks:

- a. AG, R-3, P-I, NC, C-O, C-1, C-2, P, M-1 or M-2 zoning districts: minimum five (5) foot setback from the side and rear lot lines.
- b. CBD zoning district: none
- c. Dumpster enclosures placed within the yard facing a public alley shall have a minimum five (5) foot setback from the public right-of-way.
- d. Dumpster enclosures attached to the principal structure shall meet the setback requirements for the principal structure.

(3) Refuse containers and/or dumpsters shall be screened accordingly:

- a. Materials used for screening the refuse containers and/or dumpsters shall be alternating board on board fence, chain link fence with slats, brick, masonry, staggered evergreens or equivalent material to sufficiently screen the refuse containers and/or dumpster(s).
- b. The height of the screening materials must be sufficient to screen the refuse containers and/or dumpsters.
- c. Refuse containers and/or dumpsters located adjacent to public alleys are not required to be screened.
- d. Refuse containers and/or dumpsters shall be placed on a paved surface.

~~(b) Refuse containers and dumpster enclosures shall be located at the rear or side of the building, screened from public view, and easily accessible for refuse pickup. A dumpster must have at least one (1) foot of separation from another dumpster. This distance must be measured from the outside of the pocket where the forks are inserted for dumpster pickup.~~

~~— (c) Enclosures shall be designed to the minimum dimensions as follows:~~

~~— (1) Option 1 — This preferred option does not include a gate and can only be used when the opening is not visible from the public right of way or from adjoining residential properties.~~

~~— (2) Option 2 — This option includes a gate with a one (1) foot vertical clearance, both gates to have the ability to be latched in the open position, and both gates to have the ability to be opened beyond ninety (90) degrees to at least a 145 degree angle.~~

~~— (3) The following is required for both options:~~

~~— a. — No overhead obstructions (wires, trees, roof overhangs, etc.) are permitted;~~

~~— b. — The height must be sufficient to screen the dumpster;~~

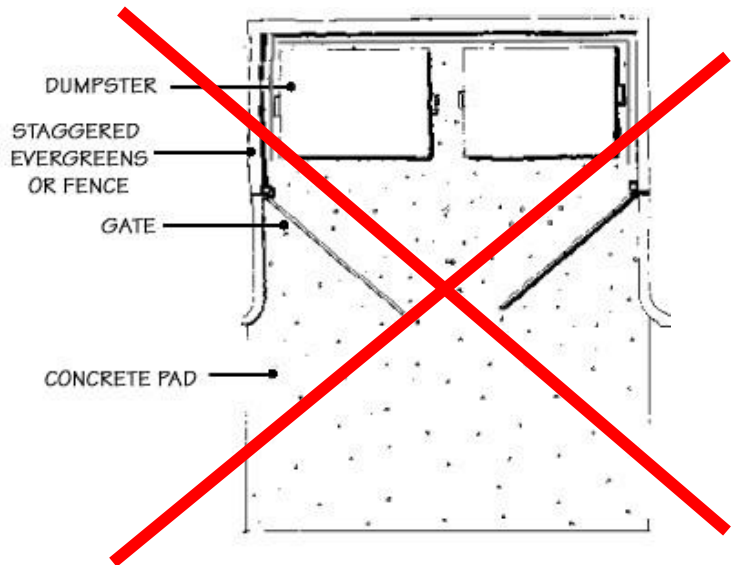
~~— c. — Materials used for screening the dumpster shall be alternating board on board fence, chain link fence with PDS slats or staggered evergreens. Such PDS slats shall complement the exterior color of the principal building;~~

~~— d. — The depth of the enclosure shall be two (2) feet greater than the size of the dumpster;~~

~~— e. — The concrete pad for the dumpster must be the same level as the lot and able to support the weight of a City front load truck; and~~

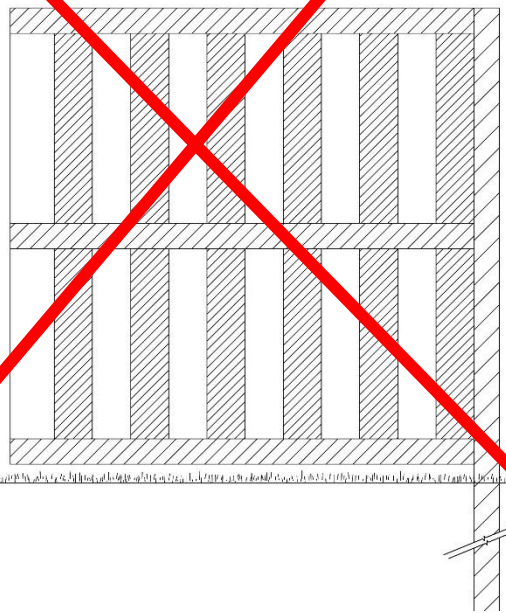
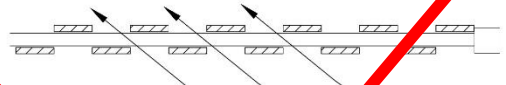
~~— f. — A minimum fifty (50) foot direct front access on the approach to the dumpster is needed.~~

*Dumpster Enclosure Graphic*



BOARD ON BOARD FENCE

INTERIOR VIEWING POSSIBLE AT ANGLE  
AS PER CITY ADOPTED CRIME PREVENTION  
THROUGH ENVIRONMENTAL DESIGN STANDARDS



**Sec. 23-91. AG Agricultural district.**

(c) Accessory uses. Accessory uses in the AG district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the AG district.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Refuse containers and dumpster enclosures pursuant to §23-47.

**Sec. 23-96. R-3 multifamily district.**

(c) Accessory uses. Accessory uses in the R-3 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-3 district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Accessory dwelling units pursuant to §23-55.
- (6) Junior accessory dwelling units pursuant to §23-56.
- (7) Refuse containers and dumpster enclosures pursuant to §23-47.

**Sec. 23-100. P-I public institutional district.**

(c) Accessory uses. Accessory uses in the P-I district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the P-I district.
- (2) Fences and walls pursuant to §23-44.
- (3) Refuse containers and dumpster enclosures pursuant to §23-47.

**Sec. 23-101. NC nature conservancy district.**

(c) Accessory uses. The accessory use, buildings and structures set forth in §23-43 may be permitted as of right in the NC district.

- (1) Refuse containers and dumpster enclosures pursuant to §23-47.

**Sec. 23-111. C-O commercial office district**

(c) Accessory uses. Accessory uses in the C-O district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-O district.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (4) Drive through facility pursuant to §23-49.
- (5) Home occupation pursuant to §23-45.
- (6) Fences and walls pursuant to §23-44.
- (7) Refuse containers and dumpster enclosures pursuant to §23-47.

**Sec. 23-112. C-1 neighborhood mixed use district.**

(c) Accessory uses. Accessory uses in the C-1 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-1 district; however, new or expanded driveways, parking lots, and loading areas shall not be located between the principal building and the front lot line.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Home occupation pursuant to §23-45.
- (4) Outdoor storage and display pursuant to §23-46.
- (5) Fences and walls pursuant to §23-44.
- (6) Refuse containers and dumpster enclosures pursuant to §23-47.

**Sec. 23-113. C-2 general commercial district.**

(c) Accessory uses. Accessory uses in the C-2 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-2 district.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Home occupation pursuant to §23-45.
- (4) Outdoor storage and display pursuant to §23-46.
- (5) Fences and walls pursuant to §23-44.
- (6) Refuse containers and dumpster enclosures pursuant to §23-47.

**Sec. 23-114. CBD central business district.**

(c) Accessory uses. Accessory uses in the CBD district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the CBD district.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Home occupations pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Refuse containers and dumpster enclosures pursuant to §23-47.

**Sec. 23-115. P parking district.**

(c) Accessory uses. Accessory uses, buildings and structures permitted in the parking district include:

- (1) Earthen berm.
- (2) Fences and walls pursuant to §23-44.
- (3) Private drives.
- (4) ~~Refuse containers, which shall be screened from view from adjacent properties and the public street pursuant to §23-43 and §23-47.~~ Refuse containers and dumpster enclosures pursuant to §23-47.

**Sec. 23-131. M-1 industrial park district.**

(c) Accessory uses. Accessory uses in the M-1 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the M-1 district.
- (2) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (3) Drive through facility pursuant to §23-49.
- (4) Personal service occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (5) Outdoor storage pursuant to §23-46.
- (6) Showrooms and incidental retail sales provided as follows, unless otherwise stated in this chapter:
  - a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
  - b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
  - c. The industrial character of the property is maintained.



(7) Fences and walls pursuant to §23-44.

(8) Refuse containers and dumpster enclosures pursuant to §23-47.

**Sec. 23-132. M-2 general industrial district**

(c) Accessory uses. Accessory uses in the M-2 district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the M-2 district.

(2) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

(3) Drive through facility pursuant to §23-49.

(4) Outdoor display pursuant to §23-46.

(5) Outdoor storage pursuant to §23-46.

(6) Personal service; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

(7) Showrooms and incidental retail sales provided as follows, unless otherwise stated in this chapter:

a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,

b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and

c. The industrial character of the property is maintained.

(8) Fences and walls pursuant to §23-44.

(9) Refuse containers and dumpster enclosures pursuant to §23-47.

## GROUP C

### PROPOSED TEXT AMENDMENTS

#### DRIVE THROUGH FACILITY

---

##### Sec. 23-22 Words and terms defined.

Ordering station, drive through means a remote station from the building and along the vehicular drive-thru lane from which the order is taken.

##### Sec. 23-49. Drive through facility.

~~(a) **Location.** Drive through facilities shall not be located in the front of the principal building~~

~~(a) **Site Design.**~~

~~(1) A drive through facility shall not be provided a separate curb cut except as may be recommended as part of a site plan review recommendation. Stacking and drive through lanes identified. All stacking and drive through lanes shall be identified by asphalt or concrete curbing and/or paint striping.~~

~~(2) Maneuvering space for drive through facilities shall be provided to the side and rear of the principal building except as may be recommended as part of a site plan review recommendation.~~

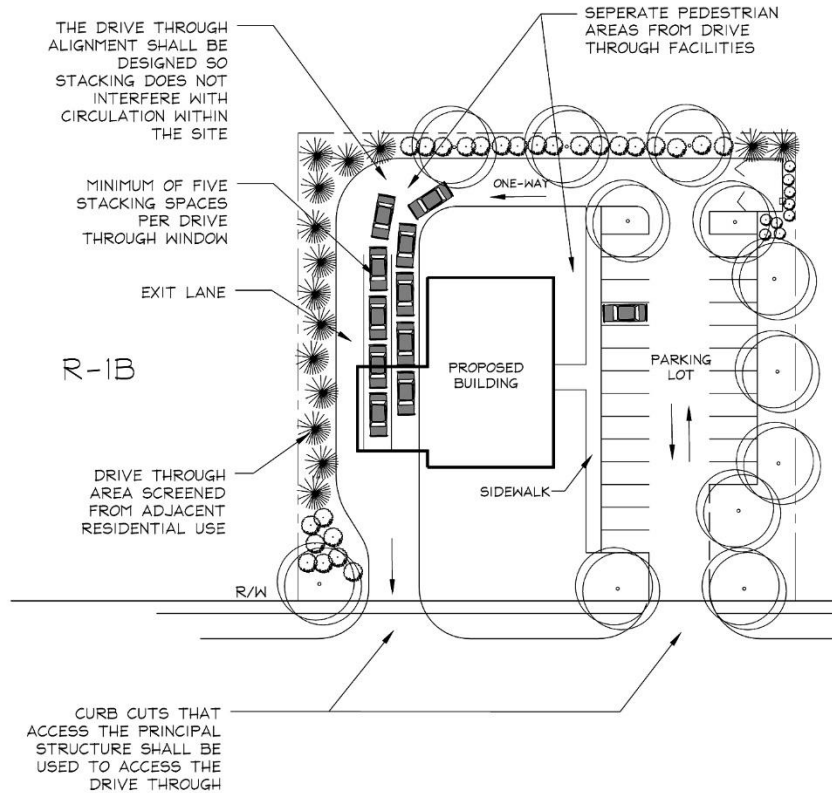
~~(2) The design of maneuvering and stacking aisles for the drive through shall not interfere with circulation or visibility for traffic either on or off site.~~

~~(4) A minimum of five (5) stacking spaces shall be provided for each drive through window.~~

~~(3) Where abutting residential districts, drive through facilities shall be fully screened from view. Landscaping of stacking spaces. When stacking spaces abut a residential zoning district, the entire length of the stacking spaces shall be fully screened. Screening materials shall consist of at least one row of staggered evergreen trees or shrubs, at least two (2) to three (3) feet high at the time of planting.~~

~~(4) A drive through facility shall not conflict with pedestrian circulation on site. Pedestrian traffic. Stacking spaces and stacking lanes should avoid conflicts with on-site pedestrian traffic between the parking lot and the building(s) entrances. When impractical to avoid, a marked crosswalk shall be provided. These crosswalks shall be delineated by paint striping, raised walkways, or alternative materials as approved by the City.~~

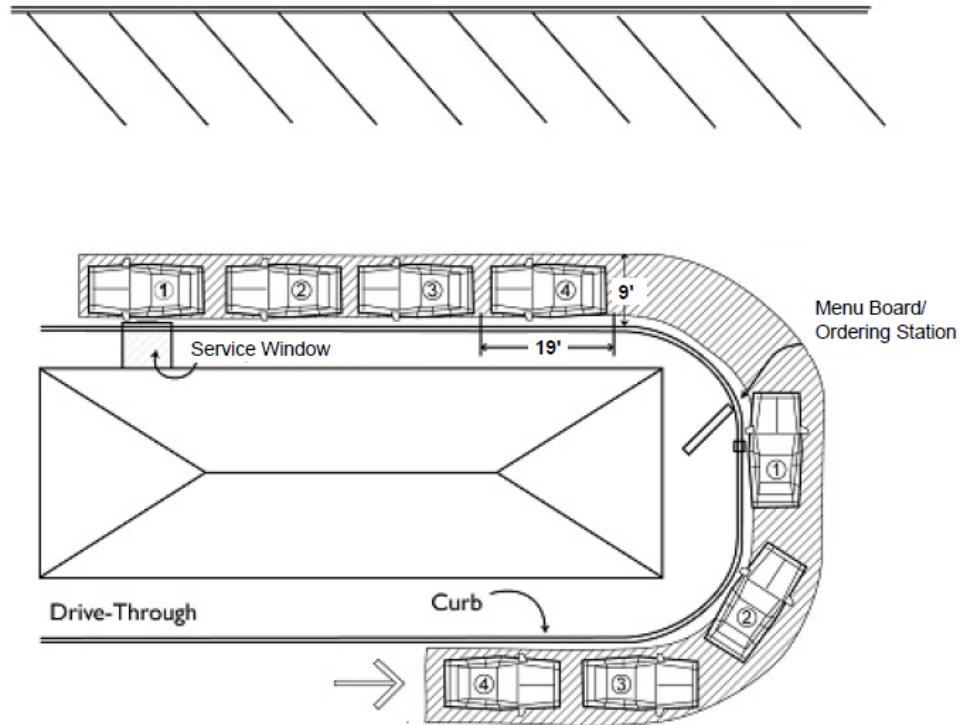
Drive Through Graphic **REMOVE THIS GRAPHIC**



(b) **Stacking spaces.** Stacking spaces shall be a minimum of nine (9) feet wide by nineteen (19) feet in length. Uses that include drive through service shall provide the following minimum number of stacking spaces:

- (1) **Financial institutions, drive-through convenience retail, pharmacies or other similar drive through uses:** 3 (three) stacking spaces per drive through service window.
- (2) **Drive through restaurants with ordering stations and service windows:**
  - a. **Four (4) stacking spaces for each ordering station.**
  - b. **Four (4) stacking spaces between the furthest service window and the ordering station.**
- (3) **Car wash:**
  - a. **Self-service – Three (3) stacking spaces for each washing bay.**
  - b. **Drive-in automatic – Six (6) stacking spaces for each washing bay, located behind the car wash entrance.**

*Drive through graphic*



**Sec. 23-114. CBD central business district.**

(b) *Principal permitted uses.* The following principal uses are permitted as of right in the CBD:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> <li>• Drive through facilities pursuant to §23-49</li> </ul>

**ARTICLE IX. OFF-STREET PARKING AND LOADING**

**Sec. 23-172. Off-street parking and loading standards.**

(m) *Required spaces for specific uses.* All vehicles connected with the following uses shall be accommodated for on the property in addition to the requirements stated below unless otherwise stated in this chapter. Additional parking as determined by the Community and Economic Development Director may be required to meet these standards. The table on the following page identifies the minimum number of off-street parking spaces to be provided.

<b>Use Type</b>	<b>Minimum Off-Street Parking Spaces Required</b>
<b>Public/Institutional</b>	
Educational institution; elementary school or middle school	<del>Classrooms</del> – One (1) space for each <del>employee classroom</del>
	<del>Gymnasiums/auditoriums</del> – One (1) space for every five (5) persons based on <del>maximum capacity</del>
	Stacking spaces – A minimum of two (2) stacking spaces shall be provided for busses and five (5) for automobiles in a designated drop off area
Educational institution; high school	<del>Classrooms</del> – <del>Three (3) spaces for each classroom</del> One (1) space per <del>employee plus 1 space per ten (10) students based on classroom capacity</del>
	<del>Gymnasiums/auditoriums</del> – One (1) space for every five (5) persons based on <del>maximum capacity</del>
	Stacking spaces – A minimum of two (2) stacking spaces shall be provided for busses and five (5) for automobiles in a designated drop off area

<b>Use Type</b>	<b>Minimum Off-Street Parking Spaces Required</b>
<b>Commercial</b>	
<del>Personal storage</del>	One (1) space for every five (5) rental or leasable storage units
Veterinarian clinic	One (1) space for each examination room plus one (1) space for each two hundred <del>fifty (2050)</del> square feet of gross floor area