



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: July 12, 2023

Common Council Meeting Date: July 19, 2023

Item: Special Use Permit #9-23 for an automobile sales and display lot

Case Manager: Jessica Titel, Principal Planner

GENERAL INFORMATION

Owner: Unicorn Holdings, LLC c/o Scott DeWitt

Applicant: DLG Auto, LLC c/o Daniel Gueths

Address/Parcel Number: 1524 W. Civic Street (Tax Id #31-3-0124-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for an automobile sales and display lot.

BACKGROUND

Special Use Permit #2-09 was approved by the Common Council on May 20, 2009 to allow for automobile sales at this location but did not allow an outdoor sales and display lot. Special Use Permit #2-09 stipulated that all vehicles would be stored indoors. At the time of approval, the Zoning Code required a Special Use Permit for all automobile sales, whether they were proposing an outdoor sales and display lot or not.

The Board of Zoning Appeals granted a variance on July 19, 2010 to the automobile sales and display lot landscaping and buffering standards in Section 23-66(h)(5). The applicant did not follow-through with applying for a new or amended Special Use Permit for the outdoor sales and display lot; therefore, a Special Use Permit is required.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish an automobile sales and display lot on the south side of the subject site. As shown on the attached development plan, the applicant proposes to utilize approximately 6 existing parking spaces as the display area. Based on the information supplied, the total display area would be approximately 1,500 square feet in size. The applicant also indicates the interior building space will be used for an office and general vehicle maintenance.

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

Existing Site Conditions: The 1.09-acre site is currently developed with an existing single-story building, which is approximately 24,080 square feet in size. The site also includes off-street parking south and east of the building. Access is provided from W. Civic Street.

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Current Zoning and Procedural Findings: The subject property has a zoning designation of M-2 General Industrial District. An automobile maintenance shop is a permitted use in the M-2 District.

Per Section 23-132(e) of the Municipal Code, an automobile sales and display lot requires a Special Use Permit in the M-2 District. The Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds vote of the Common Council is required for approval.

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

North: Railroad Right-of-Way. The adjacent land use to the north is currently railroad right-of-way.

South: M-2 General Industrial District. The adjacent land uses to the south are currently a mix of industrial uses.

East: M-2 General Industrial District. The adjacent land uses to the east are currently a mix of industrial uses.

West: M-2 General Industrial District. The adjacent land uses to the west are currently a mix of industrial uses.

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

Goal 1 – Community Growth

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

Goal 8 – Economic Development

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

Technical Review Group (TRG) Report: This item appeared on the June 20, 2023 TRG agenda. No negative comments were received from participating departments.

Zoning Ordinance Requirements and Substantial Evidence: When reviewing an application for a Special Use Permit, the City must determine if the applicant's proposal satisfies Municipal Code requirements and conditions. Pursuant to Section 23-66(c)(5) of the Municipal Code, the Plan Commission and Common Council must provide substantial evidence supporting their decision to approve, approve with conditions, or deny the Special Use Permit. Substantial evidence means "facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a Special Use Permit and that reasonable persons would

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accept in support of a conclusion.” Any requirements and conditions listed for approval must be reasonable, and to the extent practicable, measurable.

As part of the special regulations for an automobile sales and display lot, perimeter landscaping is required pursuant to Section 23-66(h)(5) of the Municipal Code. For the subject site, the Board of Zoning Appeals granted a variance on July 19, 2010 to the automobile sales and display lot landscaping and buffering standards in Section 23-66(h)(5).

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

RECOMMENDATION

Staff recommends, based on the above analysis, that Special Use Permit #9-23 for an automobile sales and display lot located at 1524 W. Civic Street (Tax Id #31-3-0124-00), as shown on the attached maps and per attached plan of operation, along with the attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

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

Substantial Evidence: Standardized condition to ensure the applicant understands the City’s Municipal Code and all applicable State and Federal laws must be followed.

2. The automobile sales and display lot use is limited to the parts of parcel #31-3-0124-00 shown on the attached development plan drawings and maps. Vehicles displayed for sale outdoors shall be kept within the identified areas. Any future expansions or deviations from the approved development plan may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.

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

3. This Special Use Permit is needed for the automobile sales and display lot use. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.

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

4. The minimum standards for an automobile sales and display lot found in Section 23-66(h)(5) of the Municipal Code shall be complied with, as applicable.

Substantial Evidence: This condition provides notice to the applicant that they are required to comply with special regulations included in the Zoning Ordinance for this particular use.

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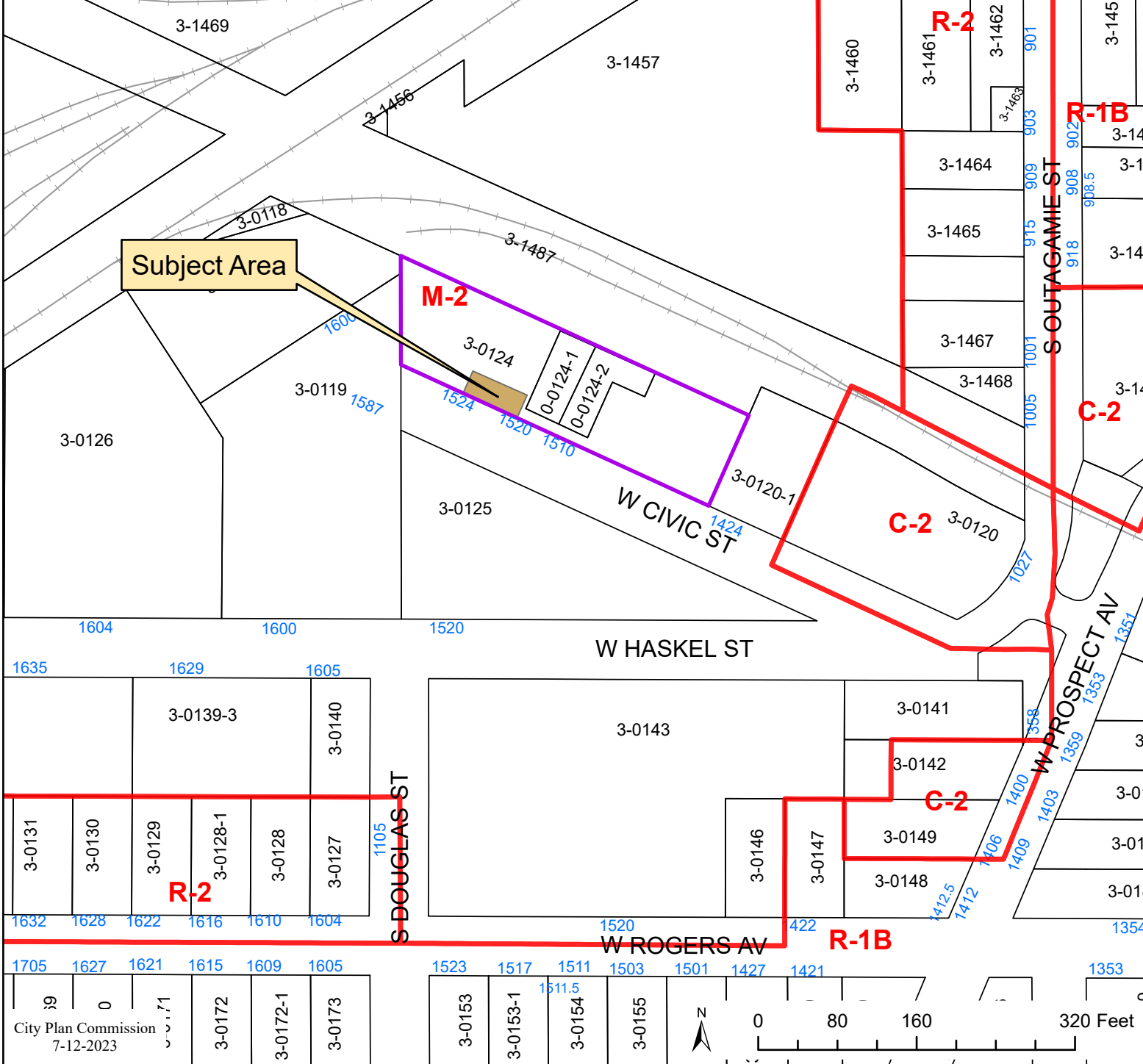
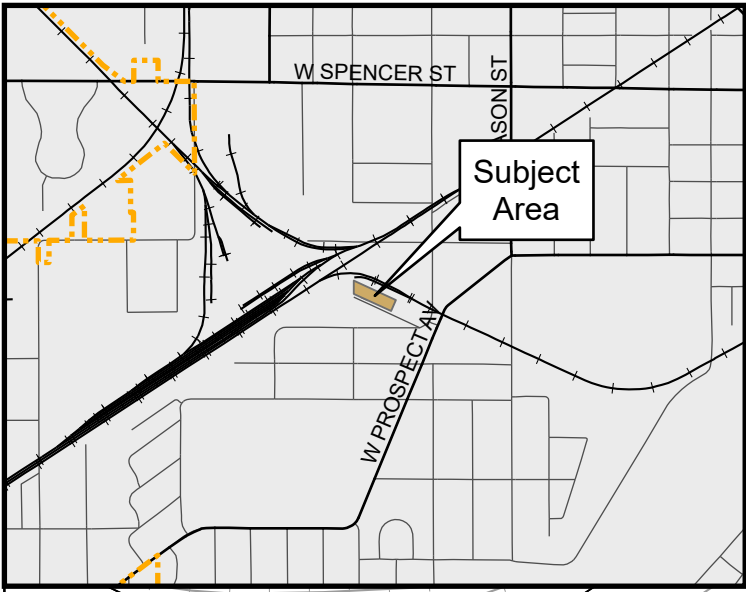
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5. Prior to displaying vehicles for sale, the operator shall provide the Inspections Supervisor with a valid copy of their State of Wisconsin Motor Vehicle Dealer License, if required.

Substantial Evidence: This condition provides notice to the applicant that a new or amended State license may also be needed prior to operating.

1524 W. Civic Street Special Use Permit Automobile Sales and Display Lot Vicinity Map

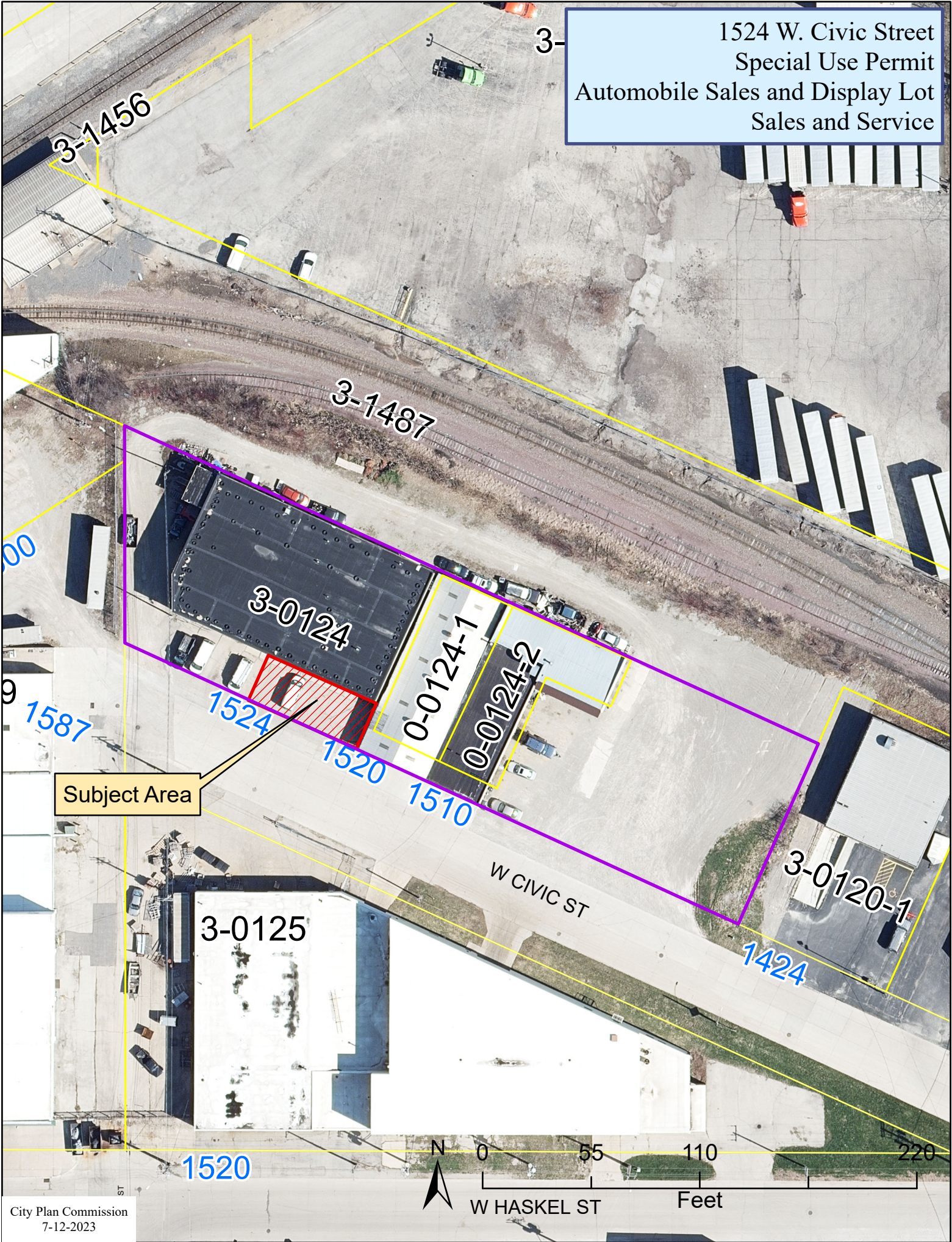


City Plan Commission
7-12-2023



0 80 160 320 Feet

1524 W. Civic Street
Special Use Permit
Automobile Sales and Display Lot
Sales and Service



Subject Area

**CITY OF APPLETON
RESOLUTION FOR SPECIAL USE PERMIT #9-23
AUTOMOBILE SALES AND DISPLAY LOT
1524 W. CIVIC STREET**

WHEREAS, DLG Auto, LLC has applied for a Special Use Permit for an automobile sales and display lot located at 1524 W. Civic Street, also identified as Parcel Number 31-3-0124-00; and

WHEREAS, the location for the proposed automobile sales and display lot is located in the M-2 General Industrial District, and the proposed use may be permitted by Special Use Permit within this zoning district pursuant to Chapter 23 of the Municipal Code; and

WHEREAS, the City of Appleton Plan Commission held a public hearing on July 12, 2023 on Special Use Permit #9-23, at which all those wishing to be heard were allowed to speak or present written comments and other materials at the public hearing; and

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

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

WHEREAS, the City of Appleton Plan Commission reviewed the standards for imposing conditions on the Special Use Permit under Section 23-66(c)(5) of the Municipal Code, and forwarded Special Use Permit #9-23 to the City of Appleton Common Council with a favorable conditional or not favorable (CIRCLE ONE) recommendation; and

WHEREAS, the City of Appleton Common Council has reviewed the report and recommendation of the City of Appleton Plan Commission at their meeting on July 19, 2023.

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

1. Determines all standards listed under Sections 23-66(e)(1-8) of the Municipal Code are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #9-23 for an automobile sales and display lot located at 1524 W. Civic Street, also identified as Parcel Number 31-3-0124-00, based upon the following standards and determinations: (List reason(s) why the Special Use Permit was denied)
3. If YES, the City of Appleton Common Council hereby approves Special Use Permit #9-23 for an automobile sales and display lot located at 1524 W. Civic Street, also identified as Parcel Number 31-3-0124-00, subject to the following conditions as they are related to the purpose of the City of Appleton Municipal Code and based on substantial evidence:

CONDITIONS OF APPROVAL FOR SPECIAL USE PERMIT #9-23

- A. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.
 - B. The automobile sales and display lot use is limited to the parts of parcel #31-3-0124-00 shown on the attached development plan drawings and maps. Vehicles displayed for sale outdoors shall be kept within the identified areas. Any future expansions or deviations from the approved development plan may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.
 - C. This Special Use Permit is needed for the automobile sales and display lot use. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.
 - D. The minimum standards for an automobile sales and display lot found in Section 23-66(h)(5) of the Municipal Code shall be complied with, as applicable.
 - E. Prior to displaying vehicles for sale, the operator shall provide the Inspections Supervisor with a valid copy of their State of Wisconsin Motor Vehicle Dealer License, if required.
4. The City Clerk’s Office is hereby directed to give a copy of this resolution to the owner/applicant, Community and Economic Development Department, Inspections Division, and any other interested party.

Adopted this _____ day of _____, 2023.

Jacob A. Woodford, Mayor

ATTEST:

Kami Lynch, City Clerk

PLAN OF OPERATION AND LOCATIONAL INFORMATION

NEW/USED AUTOMOBILE SALES (more than 5 vehicles each year)

Trade Name: DLG Auto LLC (DLG Auto DBA)

Building Address: 1524 W. CIVIC ST

Years in Operation: NEW 2023

Type of proposed establishment (detailed explanation of business):

USED VEHICLE SALES/MOTORCYCLE

Dealer Type (check applicable boxes):

- Retail dealer of ~~new~~ and/or used automobiles and trucks to the general public.
- Retail dealer of new and/or used mopeds to the general public.
- Retail dealer of ~~new~~ and/or used motorcycles to the general public.
- Retail dealer of new and/or used boats to the general public.
- Retail dealer of new and/or used recreational vehicles to the general public.
- Wholesale auction dealer in which you hold auctions in which you display and sell automobiles and trucks owned by someone other than licensed dealers, or in which you display and auction off vehicles to the general public.
- Wholesale dealer in which you purchase and resell used vehicles to licensed dealers only, never to the public.

Indoor Building Uses (check applicable boxes):

OFFICE
15' x 30'
Display Area
25' x 60'

- Office Space. Please identify the area of this space: 450 square feet.
- Vehicle Display Area (Retail to general public). Please identify the area of this space: 1500 square feet.
- Service Department (check applicable services).
 - General Maintenance Repairs (exhaust system, transmission, brakes, tires repair/installation, electrical, engine repair/tune up)
 - Painting
 - Body Work

Please describe other services provided within Service Department space: NONE

Other. If other, please describe other indoor use activities: N/A

Building Capacity and Storage Areas:

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

Gross floor area of the existing building(s): 24,080

Gross floor area of the proposed building(s): _____

Employees:

Number of existing employees: 1 - SELF only

Number of proposed employees: 0

Number of employees scheduled to work on the largest shift: 0

Proposed Business Hours of Operation:

Day	From	To
Monday - Friday	10 - AM	2 PM
Saturday	10 - AM	2 PM
Sunday	CLOSED	CLOSED

Outdoor Uses (check applicable boxes):

2.5' X 60'

Vehicle Sales and Display Lot is proposed. Please identify the area of this space 1,500 square feet.

Vehicle Sales and Display Lot is not proposed.

Other. If other, please describe other outdoor areas: _____

Outdoor Display Lot Screening/Landscaping:

Type and height of screening with plantings/fencing/gating: N/A. Variance received 7/19/10 for screening requirements.

Outdoor Music/Speakers:

Are there plans for outdoor music/speakers? Yes _____ No

If yes, describe type how will the noise be controlled: _____

Outdoor lighting:

Type: night lights already on building

Location: _____

Off-street parking:

Number of customer spaces existing: 3.

Number of customer spaces proposed: _____.

Number of employee spaces existing: _____.

Number of employee spaces proposed: _____.

Street Access:

Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

adequate

Describe any potential noise emanating from the proposed use:

A. Describe the noise levels anticipated from all the proposed use: None

B. How will the noise be controlled? None

Identify location, number, capacity and flammable liquid materials stored on site:

None

Describe any potential smoke, odors emanating from the proposed use and plans to control them:

None

