



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Meeting Date: June 28, 2023

Common Council Meeting Date: July 19, 2023 (to be reported out with Rezoning #4-23)

Item: Special Use Permit #8-23 – 2600 South Heritage Woods Drive for operation of a Community Living Arrangement (CLA) serving 51 persons in an R-3 Multi-family Residential District

Case Manager: Don Harp, Principal Planner

GENERAL INFORMATION

Owner: ThedaCare, Inc.

Applicant: Lisa Nebel, c/o ThedaCare, Inc.

Lot/Parcel: 2600 South Heritage Woods Drive / #31-8-2020-00 and #31-8-2025-00

Petitioner's Request: The owner/applicant is requesting a special use permit for the above-referenced parcels to conform and expand operations of community living arrangement (CLA) a/k/a community based residential facility (CBRF) serving 51 persons in the subject site. A Special Use Permit is required for CLA serving more than 16 persons in the R-3 Multi-family District.

BACKGROUND

On December 11, 1983, a portion of the subject property (\pm 28 acres) was annexed to the City pursuant to the Memorial Drive Annexation.

On February 15, 1984, a portion of the subject property (\pm 28 acres) was rezoned from R-1A One-family District (zoning classification assigned to annexed land pursuant to the Memorial Drive Annexation) to C-2 Commercial District, pursuant to Rezoning #46-83.

On November 11, 1984, a portion of the subject property (\pm 6.184 acres) was annexed to the City pursuant to the Hoffman Annexation.

On March 15, 1985, a building permit was issued for the construction of 147 condominium units and supporting buildings on the subject site.

On May 12, 1994, Site Plan #94-15 was approved for an assisted living facility addition to the existing Heritage Retirement Center.

On May 18, 1994, Ordinance 61-94 was adopted, which repealed and recreated the Zoning Ordinance and Official Zoning Map. This Zoning Ordinance introduced the Planned Development (PD) Overlay District. As a result, the subject property's zoning classification changed from R-1A One-family District and C-2 Commercial District to PD/R-3 Planned Development Multi-family District.

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On August 15, 1996, Site Plan #96-26 was approved for a 10-bed community based residential facility (CBRF) building addition on the subject site.

On December 2, 1998, the Common Council approved Planned Development Amendment #G-98. The approval included a 50-bed skilled nursing facility, 10-bed hospice facility, and future building expansions for a 20,000 square foot community health facility, 20-unit assisted living facility, and up to 208 residential units.

On September 9, 1999, Site Plan #99-29 was approved for a 60-bed skilled nursing facility building addition on the subject site. A time extension was approved to finalize and record the Implementation Plan Document (e.g. development regulations for Planned Development Amendment #G-98) as part of the site plan approval process. However, the Implementation Plan Document was not finalized and recorded in the Winnebago County Register of Deeds' office.

On March 1, 2000, the Common Council approved Certified Survey Map #4517.

On June 2, 2004, Ordinance 74-04 was adopted, which repealed and recreated the Zoning Ordinance that is currently in place. This Zoning Ordinance includes sections on transition rules and period of validity for overlay districts. Recording the Implementation Plan Document (IPD) in the County Register of Deeds' office constitutes approval of the IPD and Development Plan. Per Section 23-151(l) of the Municipal Code, a PD overlay district designation remains on PD parcels even if there is no approved IPD, or if the IPD has expired or been made invalid. Any future development requires approval of a Development Plan and IPD, or a request to rezone the property.

On May 20, 2008, Site Plan #08-11 was approved for a 34-stall parking lot expansion on the subject site.

On August 4, 2010, the Common Council approved the street vacation for Heritage Woods Drive.

STAFF ANALYSIS

Existing Site Conditions: The owner's/applicant's site is approximately 34.184 acres in size. The subject site is currently developed with skilled nursing, 20-bed community based residential facility (CBRF), residential care apartments, and surface parking.

Current Project Summary: The property owner is proposing to remodel an interior space of the existing building to create an 8-bed community based residential facility (CBRF) memory care unit.

Future Project Summary: The property owner is planning to expand operations of the community based residential facility (CBRF) by serving a total of 51 persons per a future expansion project.

Operational Information: See attached plan of operation.

Zoning Ordinance Requirements: Community living arrangements (CLAs) a/k/a community based residential facilities (CBRFs) require a Special Use Permit in the R-3 Multi-family District provided one of the following is met:

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- The facility capacity is sixteen (16) or more persons (per Section 23-96(e) of the Municipal Code).
- The total capacity of all existing and proposed CLAs located in an aldermanic district may not exceed one percent (1%) of the total aldermanic district population (per Section 23-52(b)(2)(a) of the Municipal Code).
- The total capacity of all existing and proposed CLAs located in the City shall not exceed one percent (1%) of the total City population (per Section 23-52(b)(2)(b) of the Municipal Code).

Based on the owner's/applicant's proposal, the first of these conditions are met. Listed below are details explaining how the subject CLA relates to these Zoning Ordinance requirements and Aldermanic District No. 11.

- The proposed licensed capacity of the subject CLA is 51 persons.
- The population of Aldermanic District 11 is 5,112 people (2020 census).
- Maximum licensed CLA capacity (1% of the Aldermanic District 11 population) is 51 persons.
- Current licensed capacity of all existing CLAs in the aldermanic district is 20 persons.
- The subject CLA will elevate the licensed CLA capacity of Aldermanic District 11 to 51 persons.
- The proposed capacity of the subject CLA will not exceed the allowed 1% district capacity.

It is important to note the population of the City is approximately 75,880 people (2020 census). One percent of the total City population is 758. The licensed capacity of all existing CLAs in the City is 540, and the subject CLA will elevate the CLA licensed capacity of the City to 571. The proposed capacity of the subject CLA will not exceed the one percent City capacity.

The capacity limits were set by the Wisconsin legislature in 1978 and are intended to preserve the established character of a neighborhood and community.

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

North: City of Appleton. C-2 General Commercial District. The adjacent land uses to the north are currently a mix of commercial uses and undeveloped property.

South: City of Appleton. PD/R-3 #1-03 Planned Development Multi-family District. The adjacent land use to the south is multi-family residential.

Village of Fox Crossing and City of Menasha. The adjacent land uses to the south are single-family residential.

East: Village of Fox Crossing. The adjacent land uses to the east are single-family residential.

West: Village of Fox Crossing. The adjacent land uses to the west are single-family residential.

Street Classification: On the City's Arterial/Collector Plan, Valley Road is classified as a collector street. Heritage Woods Drive is a private street.

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Appleton Comprehensive Plan 2010-2030 and Official Zoning Map Community and Economic Development staff has reviewed this proposal and determined it is compatible with goals and objectives found in the City's *Comprehensive Plan 2010-2030*. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

Goal 1 – Community Growth

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

Goal 3 – Housing Quality, Variety, and Affordability

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

OBJECTIVE 5.3 Housing and Neighborhoods:

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

OBJECTIVE 10.1 Land Use

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

Zoning Ordinance Requirements and Substantial Evidence: When reviewing an application for a Special Use Permit, the City must determine if the owner's/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 owner/applicant must meet to obtain a Special Use Permit and that reasonable persons would accept in support of a conclusion." Any requirements and conditions listed for approval must be reasonable, and to the extent practicable, measurable.

Finding of Fact: This request was reviewed in accordance with the standards for granting a Special Use Permit under Sections 23-66(e)(1-8) of the Zoning Ordinance: 1. *proper zoning district:* R-3 zoning allows CLA as a special use permit pending approval of Rezone #4-23; 2. *zoning district regulations:* the district regulations were reviewed pursuant to the attached development plan; 3. *special regulations:* stipulations 3, and 4 (below) address the special regulations for this proposed use; 4. *consistent with comprehensive plan and other plans:* yes, see above analysis; 5. *traffic:* the proposed use is not expected to create undue traffic congestion; it is anticipated employees, residents and visitors will utilize existing on-site parking spaces to park their cars; 6. *landscaping and screening:* not applicable to this use, changes to the existing parking are not being proposed with this request; 7. *neighborhood compatibility with predominant land uses in this area:* the proposed use is already present on the site, future expansion of the CBRF facility will require Site Plan review and approval, pursuant to Section 23-570 of the Zoning Code, prior to the issuance of a building permit by the Inspections Division. The single-family residential uses located to the west, south, and east are buffered by the existing woods located on the subject site.; 8. *impact on services:* the City has existing utilities (storm sewer) and other services in place to serve this use. Existing water and sanity service is provided by the Village of Fox Crossing. These standards were found in the affirmative, as long as all stipulations are satisfied.

Technical Review Group (TRG) Report: This item was discussed at the June 6, 2023 Technical Review Group meeting. No negative comments were received from participating departments.

RECOMMENDATION

Staff recommends, based on the above, that Special Use Permit #8-23 for a Community Living Arrangement (CLA)/Community Based Residential Facility (CBRF) require serving 51 persons located at 2600 S. Heritage Woods Drive (Tax Id #31-8-2020-00 and #31-8-2025-00), as shown on the attached maps and per the attached plan of operation, along with the attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

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

Substantial Evidence: This condition is one of the special regulations included in Section 23-52(b)(3) of the Zoning Ordinance for this particular use.

2. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.

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. Prior to the issuance of a Certificate of Occupancy, the operator of the CLA/CBRF shall provide the Inspections Supervisor with a copy of a valid license from the Wisconsin Department of Health Services.

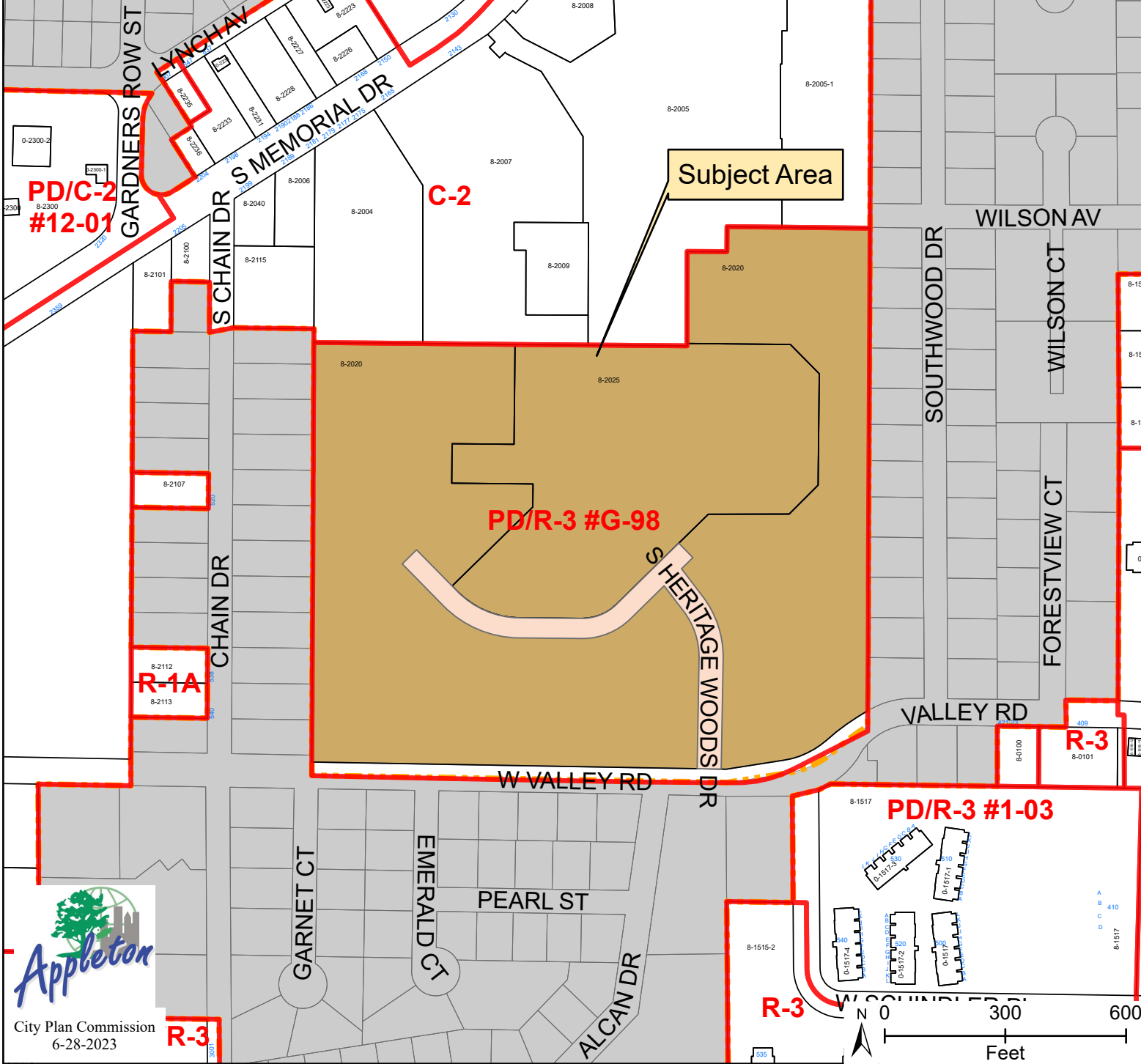
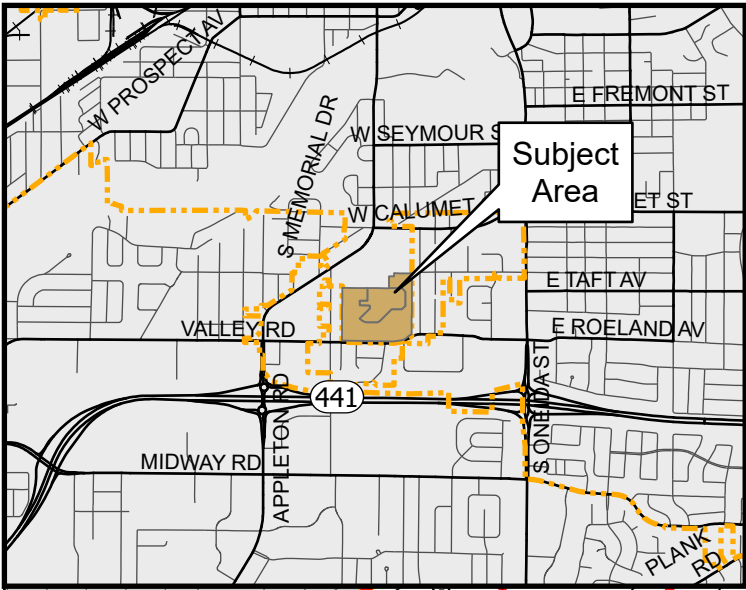
Substantial Evidence: This condition is one of the special regulations included in Section 23-52(b)(1) of the Zoning Ordinance for this particular use.

4. Future exterior expansion of the CLA/CBRF facility shall conform to the character of the residential dwellings in the neighborhood in which it is located.

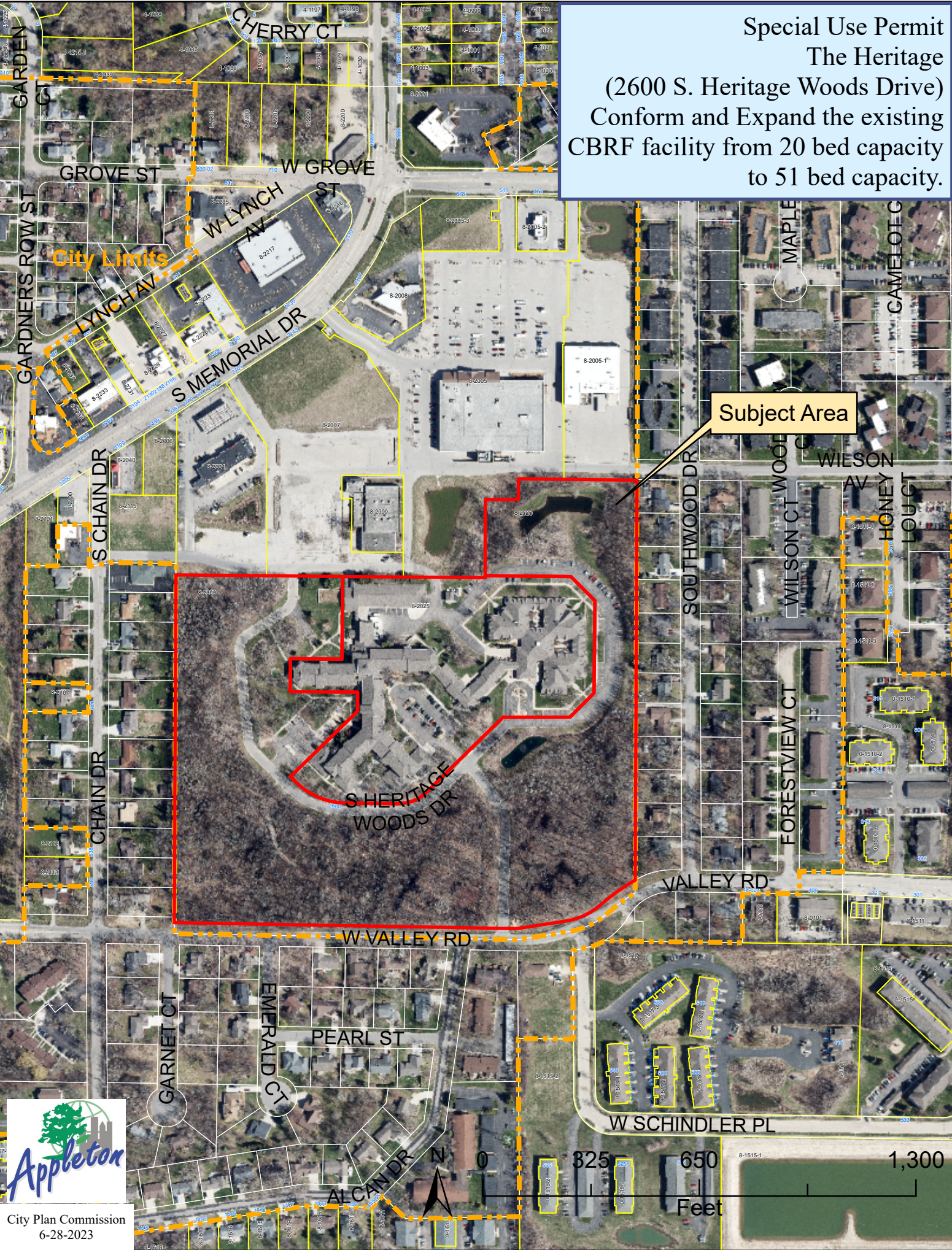
Substantial Evidence: This condition is one of the special regulations included in Section 23-52(b)(4) of the Zoning Ordinance for this particular use.

NOTE: If approve, Special Use Permit #8-23 will be reported out at the same Common Council meeting as the proposed Rezoning #4-23 to accurately reflect the change in zoning classification from PD/R-3 Planned Development Amendment #G-98 Multi-family District to R-3 Multi-family District.

Special Use Permit
 The Heritage
 (2600 S. Heritage Woods Drive)
 Conform and Expand the existing
 CBRF facility from 20 bed capacity
 to 51 bed capacity.
 Vicinity Map



Special Use Permit
The Heritage
(2600 S. Heritage Woods Drive)
Conform and Expand the existing
CBRF facility from 20 bed capacity
to 51 bed capacity.



City Plan Commission
6-28-2023

CITY OF APPLETON
RESOLUTION FOR SPECIAL USE PERMIT #8-23
COMMUNITY LIVING ARRANGEMENT(CLA) a/k/a
COMMUNITY BASED RESIDENTIAL FACILITY (CBRF)
2600 S. HERITAGE WOODS DRIVE

WHEREAS, ThedaCare, Inc. has applied for a Special Use Permit to establish a Community Living Arrangement (CLA) a/k/a Community Based Residential Facility (CBRF) serving 51 persons, also identified as Parcel Numbers 31-8-2020-00 and 31-8-2025-00; and

WHEREAS, the proposed Community Living Arrangement (CLA)/Community Based Residential Facility (CBRF) serving 51 persons is proposed to be located in the R-3 Multi-family 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 June 28, 2023 on Special Use Permit #8-23, 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 23-52(b) and Section 23-66(c)(5) of the Municipal Code, and forwarded Special Use Permit #8-23 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 #8-23 for a Community Living Arrangement (CLA)/Community Based Residential Facility (CBRF) serving 51 persons also identified as Parcel Numbers 31-8-2020-00 and 31-8-2025-00, 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 #8-23 for a Community Living Arrangement (CLA)/Community Based Residential Facility (CBRF) serving 51 persons, also identified as Parcel Numbers 31-8-2020-00 and 31-8-2025-00, 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 #8-23:

- A. All applicable codes, ordinances, and regulations, including but not limited to Fire and Building Codes, shall be complied with.
 - B. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.
 - C. Prior to the issuance of a Certificate of Occupancy, the operator of the CLA/CBRF shall provide the Inspections Supervisor with a copy of a valid license from the Wisconsin Department of Health Services.
 - D. Future exterior expansion of the CLA/CBRF facility shall conform to the character of the residential dwellings in the neighborhood in which it is located.
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
COMMUNITY LIVING ARRANGEMENT (CBRF)**

Name of business: The Heritage

Years in operation: 38

Licensed Capacity of the Community Living Arrangement (CBRF):

Proposed Licensed Capacity: **51 Persons/beds.**

Existing Licensed Capacity: 20 Persons/beds.

Gross floor area of the existing buildings(s): 293,000 square feet.

Gross floor area of the proposed building(s): 35,000 square feet interior remodel.

Describe Services provided by the Community Living Arrangement (CBRF):

The Heritage is a long term care facility with both an RCAC and CBRF license. We currently have 147 beds and serve seniors 55 and older. We serve residents who are ambulatory, semi-ambulatory or non-ambulatory but one or more of whom are not physically or mentally capable of responding to an electronic fire alarm and exiting the facility without help or verbal or physical prompting.

Client Group Served: Advanced Aged, Irreversible Dementia/Alzheimer's
Each resident will have an Individual Service Plan (ISP), which addresses his/her needs and sets forth specific goals to be accomplished through services provided by Heritage Assisted Living.

Proposed Hours of Operations:

Day	From	To
Monday - Friday	12:00 am	11:59 am
Saturday	12:00 am	11:59 am
Sunday	12:00 am	11:59 am

Number of Employees:

Number of proposed employees: 140

Number of existing employees: 105

Number of employees scheduled to work on the largest shift: 30

Off-street parking:

Number of spaces proposed one-site: 150

Number of spaces existing on-site: **150**

Outdoor Lighting:

Type: **LED-pole lights**

Location: **All sidewalks, entrances, exits, garages and buildings.**



Development Plan: The Heritage

