



## REPORT TO CITY PLAN COMMISSION

**Informal Public Hearing Date:** February 24, 2014

**Common Council Public Hearing Date:** March 19, 2014

**Item:** Rezoning #2-14

**Case Manager:** Jeff Towne

### GENERAL INFORMATION

**Owner/Applicant:** Prospera Credit Union, owner / Nicolet Lumber, Inc., applicant

**Address/Parcel #:** North of Plank Road/ Parcel #31-9-4159-00

**Petitioner's Request:** The owner/applicant is requesting a rezoning from R-1A Single-Family District to R-3 Multi-Family District. "Applicant would like to develop apartments similar to those directly east of and adjacent to subject parcel of land. Rezoning request is in line with the City of Appleton Comprehensive Plan."

### BACKGROUND

The subject property is currently vacant and was annexed to the City in 1984 as part of the Jonen Annexation.

Special Use Permit #16-04 for a place of worship in an R-1A Single-Family District was approved in 2004. Site Plan #05-36 for a church was submitted, but the applicant did not complete the process. The church was never constructed and the SUP approval expired.

A rezoning request by Commonwealth Development from R-1A Single-Family District to R-3 Multifamily Residential District was withdrawn at the November 22, 2010 Plan Commission meeting.

A rezoning request from R-1A Single-Family District to PD/R-3 Planned Development/ Multifamily District by Bechard Group was approved at the April 9, 2012 Plan Commission meeting. The rezoning request was denied by the Common Council at the April 18, 2012 meeting.

### STAFF ANALYSIS

The subject site is a 16.207 acre vacant lot. It was annexed to the City of Appleton in 1984 with an R-1A Single-Family District designation per Ordinance #153-84. It has remained vacant for the past 30 years. The property retained this R-1A classification per the adoption of the Official Zoning Map as part of the 1994 Zoning Ordinance (#61-94).

Adjacent land uses include multi-family apartments to the east, single-family housing to the west and land currently used agriculturally to the south. State Trunk Highway 441 abuts the property to the north, Plank Road to the south and Bayberry Street to the west. Plank Road is designated as an arterial street and Bayberry Street is designated as a local street per the City's Arterial/Collector Plan.

The applicant has requested the rezoning to allow for the construction of multi-family housing on the site. The owner/applicant held a neighborhood meeting on February 12, 2014 to present their proposal for rezoning to residents of the neighborhood. A concept plan of the proposed development was shared at that meeting and the developer and City staff answered questions from the attendees.

The issue of the possible existence of wetlands was raised during the previous rezoning requests for this site. Any issues related to natural features that may exist on the property will need to be addressed prior to building permits being issued for any use of the property. If delineation is required, and determines that wetlands are present, any development will be subject to all local and State regulations related to wetlands. Wetlands or other natural features on a property have no bearing on the underlying base zoning district of a property.

The issue of impact on the Appleton Area School District was also previously discussed during the previous rezoning requests. The School District is notified of all pending Plan Commission public hearings and actions through the City's Technical Review Group (TRG). The Technical Review Group provides a forum for communication between several local entities and numerous City departments regarding pending Plan Commission items. This rezoning request was on a Technical Review Group agenda sent to the School District. The City has not received any comments from the School District regarding this proposal.

Prior to any building permits being issued, any proposed development will be reviewed by all agencies having authority and regulation responsibilities. This includes any local or State regulations. Any development other than one or two family residential dwellings may be subject to City of Appleton Site Plan Review and approval. This is an internal staff process that includes numerous City Departments. The development standards of the R-1A Single-Family District and the R-3 Multifamily District are attached.

**Surrounding zoning and land uses:**

- North: R-2 Two-Family District characterized by two-family homes.
- South: R-1A Single-Family District characterized by agricultural uses.
- East: R-3 Multi-Family District characterized by apartments.
- West: R-1B Single-Family District characterized by single-family homes.

**2010-2030 Comprehensive Plan:** The City of Appleton 2010-2030 Comprehensive Plan identifies this lot for future multi-family land uses. The proposed designation of the subject site as R-3 Multifamily Residential is consistent with the Future Land Use Map and the following goals and objectives of the 2010-2030 Comprehensive Plan:

**Overall Community Goals**

- **Goal 1 – Community Growth** (Chapter 10 – Land Use)  
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 2 – Neighborhood Development** (Chapter 10 – Land Use)  
Appleton will preserve and enhance existing City neighborhoods, and require quality design in newly developed areas, to continue to provide an attractive setting for living and raising a family.
- **Goal 3 – Housing Quality and Affordability** (Chapter 5)  
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.

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

- (3) **Standards for map amendments.** 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 this zoning ordinance.
- 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 (1) of the four (4) standards.
    1. The request for a zone change is in conformance with the Comprehensive Plan for the City of Appleton.

The request is in conformance with the City of Appleton Comprehensive Plan. The Common Council adopted the 2010-2030 Comprehensive Plan, (Ordinance #54-10 (attached)), on December 16, 2009, which designated the subject property for future Multifamily Residential development.

- 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.

Staff has discussed traffic issues with the City Traffic Engineer. Driveway access from Plank Road will be toward the eastern portion of the property and to the east of the roundabout at the intersection of Plank and Midway Roads. Plank Road will be reconstructed from the roundabout to the intersection with South Lake Park Road in 2014. The new road will have one traffic lane and a bike lane in each direction.

Existing sidewalks on both sides of Plank Road will also be extended as part of this project along with lighting improvements. The Traffic Engineer confirmed that the property has been modeled for multi-family development in the Fox Cities Regional Transportation Demand Model developed by the East Central Wisconsin Regional Planning Commission. This means that the surrounding roadways have been designed to accommodate multi-family development of the size and density currently being proposed (eighty 2--bedroom and forty 1-bedroom apartments). A secondary access could be located at the end of Bayberry Street, which is an existing dedicated public street. Staff does not believe that a potential multi-family development will negatively impact traffic on Plank Road as it is designed as an arterial street.

2. The effect of the proposed rezoning on surrounding uses.

The proposed rezoning will not have a detrimental effect on existing land uses in the immediate area. It is compatible with existing multifamily development located to the east and the southwest. Adequate infrastructure is in place to accommodate multifamily development at this location.

**Public Comments:** Staff has received one (1) letter from the property owner (see attached) and multiple questions were asked by those in attendance at the neighborhood meeting held by the developer.

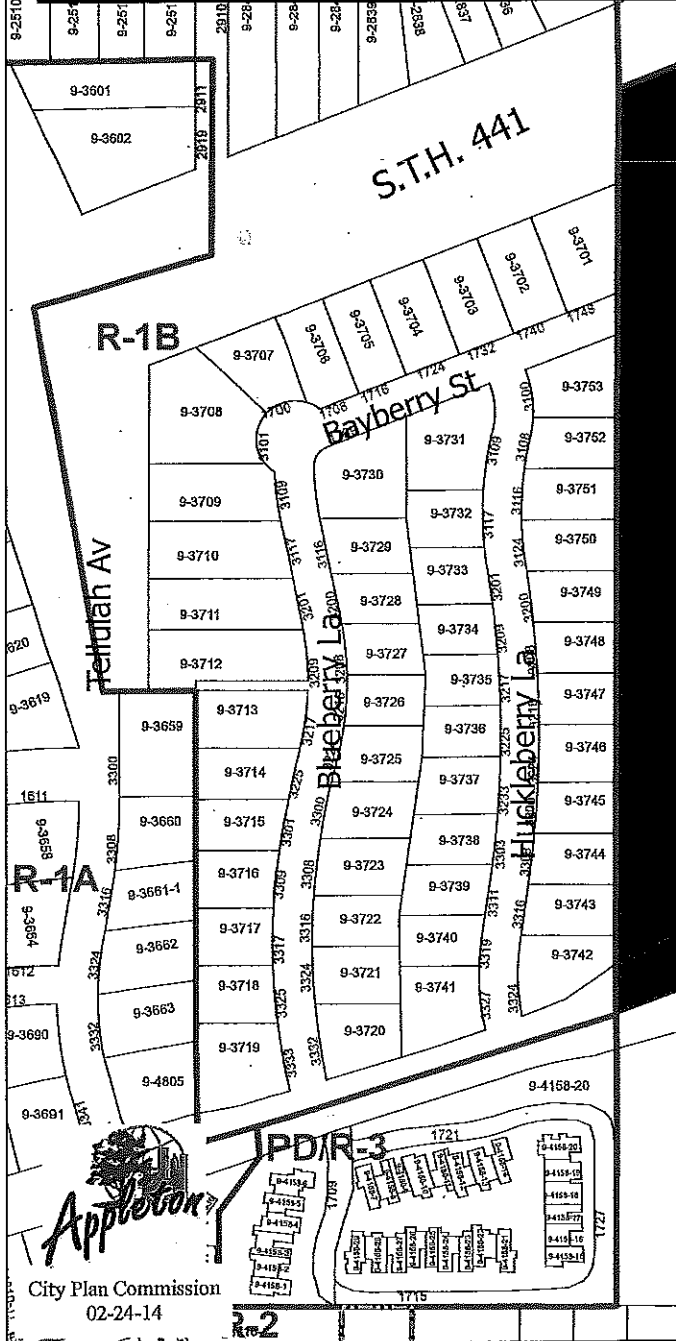
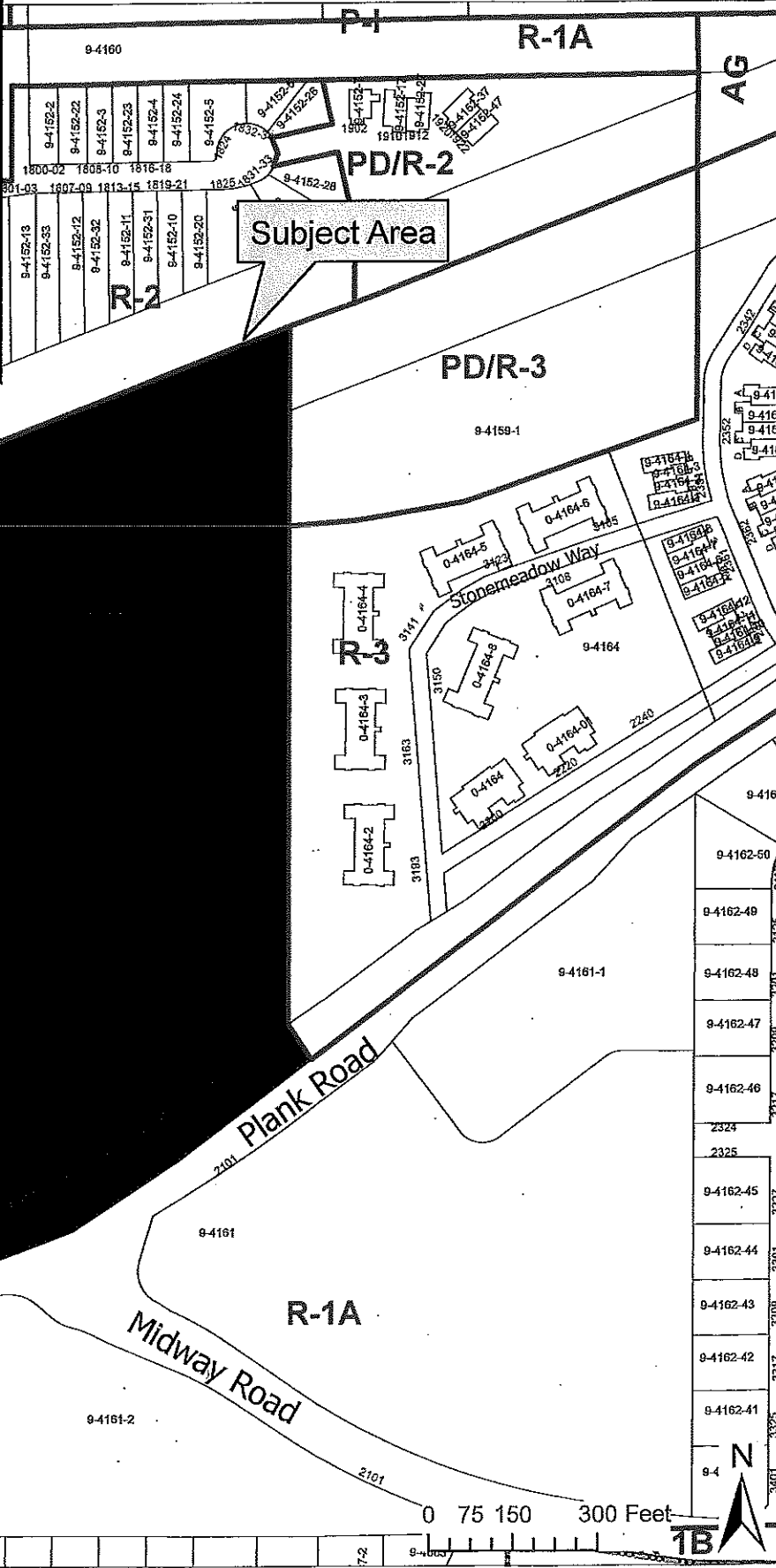
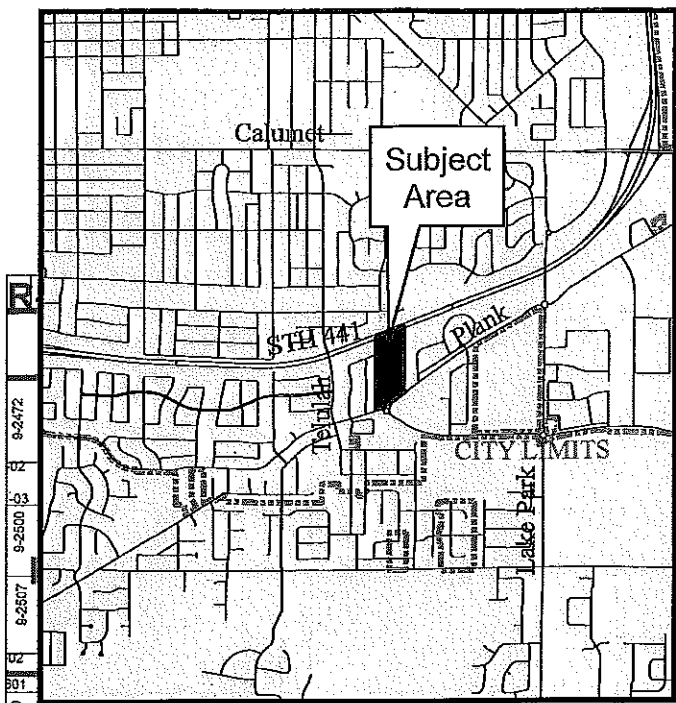
**Technical Review Group Report (TRG):** This item was discussed at the February 11, 2014 Technical Review Group Report meeting. No negative comments were received from the members of the group which includes the Appleton Area School District, Department of Public Works, Police Department, WE Energies, Building Inspections, Fire Department and others.

**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 #2-14 to rezone the property generally located north of Plank Road (Parcel Number of 31-9-4159-00), from R-1A Single-Family District to R-3 Multi-Family District, including to the centerline of adjacent street right-of-way(s) and as shown on the attached maps, ***BE APPROVED.***

Prospera Credit Union  
 Rezoning - Lot 1 of CSM 2618 (Tax ID 31-9-4159-00)  
 R-1A Single-Family District to R-3 Multi-Family District  
 Zoning Map



**ADOPTED:** March 3, 2010  
**PUBLISHED:** March 8, 2010  
Office of the City Clerk

54 - 10

**AN ORDINANCE REPEALING AND  
RECREATING A COMPREHENSIVE  
PLAN FOR THE CITY OF APPLETON.**

The Common Council of the City of Appleton does ordain as follows:

Section 1: All ordinances of a general and permanent nature, relating to a Comprehensive Plan, adopted prior to March 3, 2010, are hereby repealed.

Section 2: The Comprehensive Plan entitled "City of Appleton Comprehensive Plan 2010 - 2030" as prepared by R.A. Smith Co. and approved by Council December 16, 2009, is hereby adopted as the Comprehensive Plan the City of Appleton.

Section 3: This ordinance shall be in full force and effect from and after its passage and publication.

Dated: March 4, 2010

  
Timothy M. Hanna, Mayor

  
Cynthia I. Hesse, City Clerk

## Multifamily Housing Status Report

Minimum development density standard for the R-3 Zoning District: 14.5 dwelling units per acre

Future Multifamily Land Use designated on 2010-2030 Future Land Use Map: 254.73 acres

### 20 year (2010-2030) Projected Multifamily Land Use

**\*Potential Multifamily dwelling units: (254.73 acres X 14.5 units per acre) = 3,694 dwelling units**

### Actual Multifamily dwelling units constructed from 2010-2013

**New Multifamily dwelling units constructed: 563 dwelling units**

**Total land area utilized: 56.21 acres**

**Average density: 10.01 dwelling units per acre**

### Notes:

\*Building out conditions – Assumes full development of multifamily dwelling units within and outside of the City limits under the recommended City 2010-2030 Future Land Use Map (page 141 of the Comprehensive Plan) applying current minimum R-3 Zoning District development standards.

## **Development Standards**

### ***R-1A Single-Family District***

(g) ***Development standards.*** The space limits applicable in the R-1A district are as follows:

- (1) ***Minimum lot area.*** Eight thousand (8,000) square feet.
- (2) ***Maximum lot coverage.*** Forty percent (40%).
- (3) ***Minimum lot width.*** Seventy (70) feet.
- (4) ***Minimum front yard.*** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- (5) ***Minimum rear yard.*** Twenty-five (25) feet.
- (6) ***Minimum side yard.*** Eight (8) feet.
- (7) ***Maximum building height.*** Thirty-five (35) feet.

### ***R-3 Multifamily District***

(g) ***Development standards.*** The space limits applicable in the R-3 district are as follows:

- (1) ***Minimum lot area.***
  - a. Six thousand (6,000) square feet for single-family dwelling.
  - b. Seven thousand (7,000) square feet for two (2) story two- (2-) family dwellings.
  - c. Nine thousand (9,000) square feet for single story two- (2-) family dwelling.
  - d. Three thousand (3,000) square feet per dwelling unit for multi-family dwellings.
  - e. Seven thousand (7,000) square feet for all other uses.
- (2) ***Maximum lot coverage.*** Seventy percent (70%).
- (3) ***Minimum lot width.***
  - a. Fifty (50) feet for single-family dwellings.
  - b. Seventy (70) feet for two- (2-) family dwellings.
  - c. Eighty (80) feet for all other uses.



(4) ***Minimum front yard.***

- a. Twenty (20) feet.
- b. Twenty-five (25) feet if located on an arterial street.

(5) ***Minimum rear yard.*** Thirty-five (35) feet.

(6) ***Minimum side yard.***

- a. Six (6) feet for single and two-family dwellings.
- b. Twenty (20) feet all other uses.

(7) ***Minimum setback from single or two-family lot line.*** Thirty (30) feet.

(8) ***Maximum building height:***

- a. Thirty-five (35) feet for single- and two- (2-) family dwellings.
- b. Forty-five (45) feet or all other uses.

(9) ***Minimum distance between multi-family buildings.*** Twelve (12) feet.



City Plan Commission  
100 North Appleton Street  
Appleton, WI 54911

Dear City Plan Commission Members:

My name is Sheila Schinke and I'm the CEO of Prospera Credit Union, the current owner of the 16.2 acre property on Plank Road south of 441. The proposed rezone of this property from R1-A, Single Family District, to R-3, Multifamily District, is scheduled to appear on the agenda of your February 24, 2014 Plan Commission Meeting.

We acquired this property with the notion that the land would be zoned multifamily in the future. This business decision was based on the city of Appleton's long-term Comprehensive Plan approved in December 2010. We have a developer with an accepted offer to purchase contingent on a rezone and we continue to believe that following the comprehensive plan, designating it for multifamily development, is what is best for this land and in the community's best interest.

The developer, Nicolet Lumber, is known for exceptional construction projects and subsequent management of the complexes through Premier Real Estate Management, LLC, once complete. Nicolet Lumber completed the adjacent apartments to the East – Stone Meadows Apartments, which have over 90% occupancy. They place a high priority on including green space within their developments and ensuring they are well under density requirements. In addition, we recently held a neighborhood meeting where the developer presented a concept plan that covered many of the neighbor's previous concerns and spent two hours answering questions. The developer displayed a clear willingness to listen and work with the neighbors throughout the development process.

Prospera Credit Union is a not-for-profit organization. We are member-owned and very committed to giving back to the communities that we live and work in. We are not in the business of buying and selling real estate or developing land. We are in the business of helping our 16,000 plus members meet their financial goals. Nearly 11,000 of those members are Appleton residents, a very large portion being city of Appleton taxpayers. One of the points of differentiation for a credit union is that the mission is to help people, not make a profit.

Our goal is to serve all our members and every member counts. The decisions that we make as a business are on behalf of our members and they trust us to make decisions that are best for our entire membership which is made up of homeowners, apartment dwellers and more.

In March of 2011 we entered into a real estate transaction with Christ Church of the Fox Valley, the previous owner of the Plank Road property. This transaction was to facilitate a larger transaction that we believed was in the best interest of the credit union at the time. As stated above, prior to the acquisition of this parcel, we performed proper due diligence and determined that the City of Appleton's approved Comprehensive Plan had designated this parcel as R-3, Multifamily District, for future development. Again, it is not the mission of the credit union to hold property, so we immediately listed the property for sale with Bechard Group, Inc. The property had been listed by two different Realtors for the previous owner for five years prior to this transaction. We have now had it listed for three years and have had three offers to purchase the property, all from multifamily developers.

The Comprehensive Plan passed by the City recognizes that multifamily is the most appropriate use for this property given its highway location and other neighborhood characteristics including existing multifamily on one side.

To our knowledge there have been no offers to buy and develop this property from any single family developers in the entire eight year history that we have been aware of the property and know it has been listed for sale with professional real estate brokers. We believe this clearly demonstrates that the "market" agrees with the City's Comprehensive Plan of multifamily rather than the current default zoning classification of single family.

As a business in the City of Appleton, we respectfully request that you as a committee fulfill your fiduciary responsibility to all residents of the City, and give us the opportunity to sell this property by voting in favor of a zoning change that is consistent with the City of Appleton's Comprehensive Plan which was unanimously approved in 2010.

Thank you in advance for your consideration.

Sincerely,



Sheila Schinke  
CEO  
Prospera Credit Union