



## REPORT TO CITY PLAN COMMISSION

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

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

**Item:** Rezoning #3-19 – Glenhurst Lane

**Case Manager:** Jessica Titel

### GENERAL INFORMATION

**Owner/Applicant:** Hung-Liang Chou – Doctors Properties, LLC

**Address/Parcel #:** E. Glenhurst Lane (Tax Id #31-1-6501-03 and 31-1-6501-04, Lots 3 and 4 of the Apple Creek Center plat)

**Petitioner's Request:** The applicant is requesting a zoning change from C-O Commercial Office District to R-3 Multi-Family District to facilitate the construction of a multi-family residential development.

### BACKGROUND

The subject property was annexed to the City in 1990 as part of the AAL Annexation. The property was rezoned to C-O Commercial Office District in February 2001. The subject parcels (Lots 3 and 4) are part of the Apple Creek Center Plat that was approved by the Common Council on June 5, 2002.

A change in development patterns from commercial/office uses to residential uses (such as residential condominiums, multi-family residential and community living arrangements) has been occurring in this area since it was originally platted in 2002. During the Rezoning and Comprehensive Plan amendment requests associated with the Pond View Estates development in 2015 (land immediately to the south of the subject parcels), the Staff Reports noted the anticipated transition of the subject parcels (Lots 3 and 4) to a residential use, or use other than commercial.

During the 5-year update to the City's *Comprehensive Plan 2010-2030*, the Future Land Use Designation for Lots 3 and 4 was amended to the Multi-Family land use. The overall update was approved by the Common Council in March 2017.

### STAFF ANALYSIS

**Existing Conditions:** The subject parcels are approximately 6.41 acres in size and located north of East Glenhurst Lane, between North Lightning Drive and East Milestone Drive. North Lightning Drive is classified as a collector street and East Glenhurst Lane is classified as a local street on the City's Arterial/Collector Plan. The parcels are undeveloped.

**Surrounding Zoning Classification and Land Uses:**

North: PD-R-3 Northbrook Crossing Planned Development Multi-Family District #19-01. The adjacent land uses to the north are currently multi-family residential.

South: R-1B Single-Family District. The adjacent land uses to the south are currently single-family residential.

East: R-1B Single-Family District. The adjacent land uses to the east are currently single-family residential.

West: R-3 Multi-Family District. The adjacent land use to the west is currently multi-family residential (Century Oaks Community Based Residential Facility).

**Proposed Zoning Classification:** The purpose of the R-3 Multi-family District is to provide for and maintain residential areas characterized by multiple family dwellings, while maintaining the basic qualities of a dense residential neighborhood, which may include other housing types and institutional and limited non-residential uses. Per Section 23-96(g) of the Municipal Code, the development standards for the R-3 District are listed below:

- 1) **Minimum lot area:**
  - Six thousand (6,000) square feet for single-family dwelling.
  - Seven thousand (7,000) square feet for two (2) story two- (2-) family dwellings.
  - Nine thousand (9,000) square feet for single story two- (2-) family dwelling.
  - Three thousand (3,000) square feet per dwelling unit for multi-family dwellings.
  - Seven thousand (7,000) square feet for all other uses.
- 2) **Maximum lot coverage.** Seventy percent (70%).
- 3) **Minimum lot width:**
  - Fifty (50) feet for single-family dwellings.
  - Seventy (70) feet for two- (2-) family dwellings.
  - Eighty (80) feet for all other uses.
- 4) **Minimum front yard:**
  - Twenty (20) feet.
  - Twenty-five (25) feet if located on an arterial street.
- 5) **Minimum rear yard:** Thirty-five (35) feet.
- 6) **Minimum side yard:**
  - Six (6) feet for single and two-family dwellings.
  - Twenty (20) feet all other uses.
- 7) **Minimum setback from single or two-family lot line:** Thirty (30) feet.
- 8) **Maximum building height:**
  - Thirty-five (35) feet for single- and two- (2-) family dwellings.
  - Forty-five (45) feet or all other uses.
- 9) **Minimum distance between multi-family buildings:** Twelve (12) feet.

**Zoning Ordinance Review Criteria:** The request is being made to accommodate a future multi-family residential development. The parcel is currently zoned C-O Commercial Office District, which does not allow for the proposed use. Therefore, a rezoning is necessary to accommodate the proposed use.

A multi-family residential development is a permitted use in the R-3 Multi-Family District. Any future development would need to conform to the R-3 District zoning regulations listed above and other sections of the Zoning Ordinance. Ultimately, Site Plan review and approval would be required, pursuant to Section 23-570 of the Municipal Code, prior to the issuance of a building permit by the Inspections Division.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton 2010-2030 Comprehensive Plan Map identifies this parcel for future Multi-Family residential land uses. The proposed R-3 Multi-Family District rezoning is consistent with the Future Land Use Map. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

*Goal 1 – Community Growth: Appleton will continue to provide opportunities for residential, commercial, and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods, and greenfield development sites at the City's edge.*

*Goal 3 – Housing Quality 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 5.1 Housing and Neighborhoods: Continue efforts to ensure an adequate supply of housing affordable to all income levels in the community.*

*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 7.1 Utilities and Community Facilities: Provide a pattern of development that minimizes impacts to municipal services and utilities.*

*OBJECTIVE 10.1 Land Use:*

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

*Policy 10.4.1 Land Use: 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. It would appear the criteria established by Section 23-65(d)(3) Zoning Amendments has been satisfied.

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 objectives and policies stated above and the Future Land Use map.*
  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 (see Technical Review Group comments below).*
  2. The effect of the proposed rezoning on surrounding uses. *Multi-family and single-family uses are already present surrounding the subject site. The rezoning request is being made to accommodate a future multi-family residential development. Therefore, the proposed rezoning request is unlikely to create adverse impacts on the surrounding uses.*

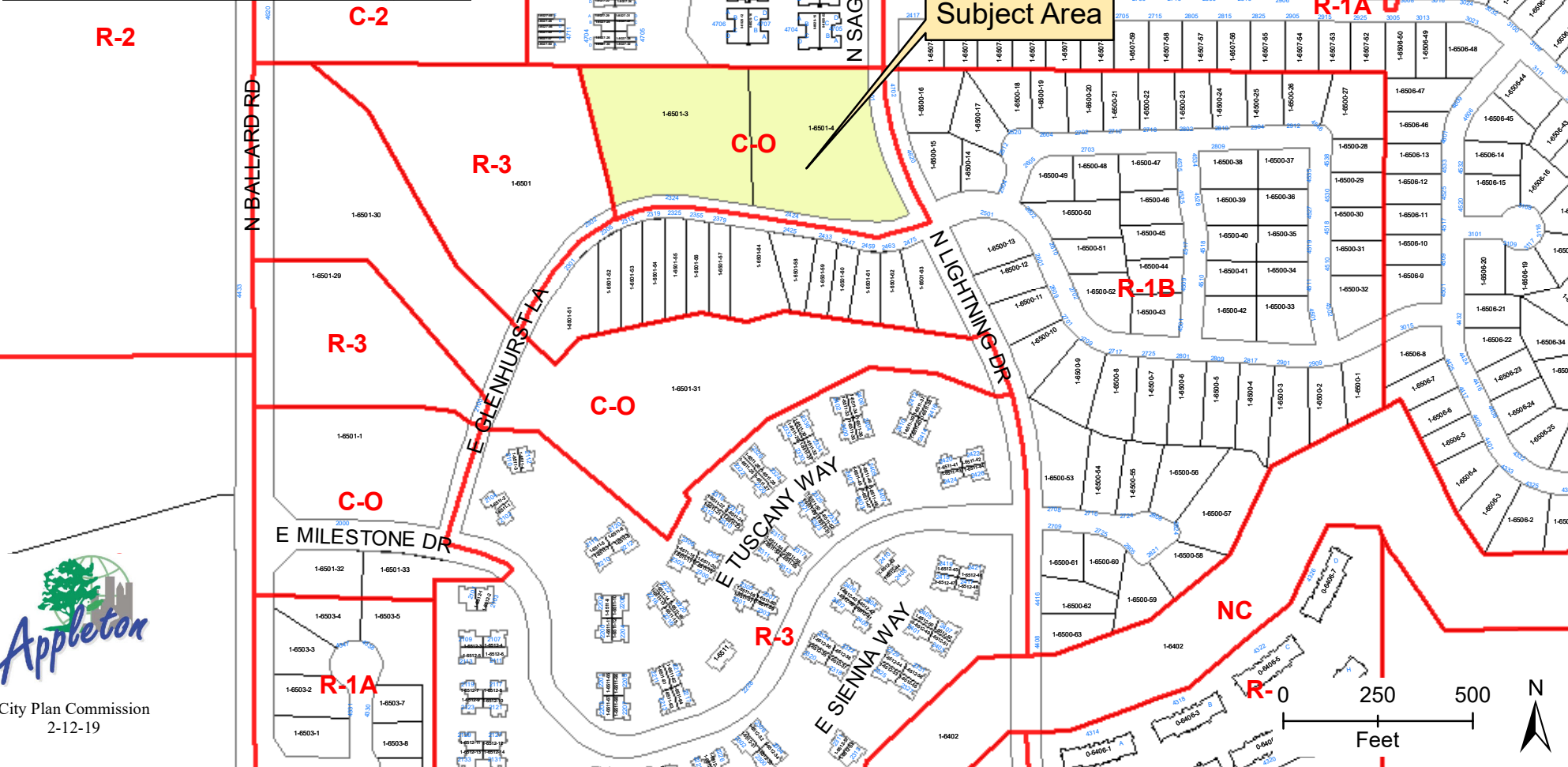
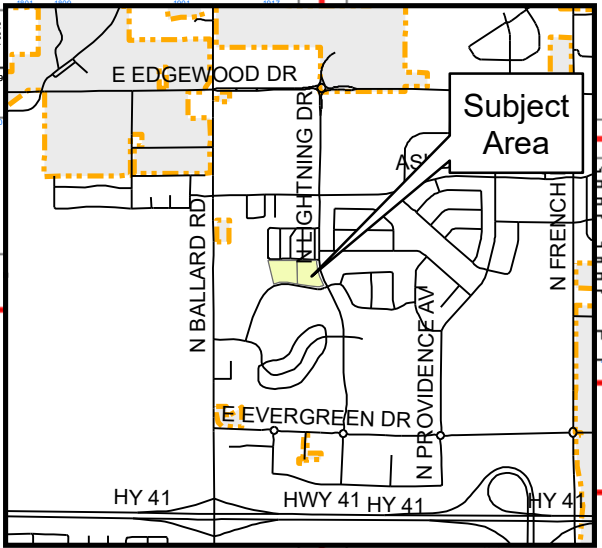
**Technical Review Group Report (TRG):** This item was discussed at the January 22, 2019 Technical Review Group meeting. No negative comments were received from participating departments. The following was provided via email by the Department of Public Works Traffic Engineer regarding the ability of the adjacent roadway network to accommodate the proposed use: *Irrespective of the zoning that is selected for the lots in question, the roadway network can safely accommodate the resulting traffic. That section of Glenhurst Drive is currently estimated to carry about 1500 vehicles per day on an average weekday. Similar "neighborhood collector"-type roadways throughout the city safely and efficiently handle far greater volumes of traffic.*

**RECOMMENDATION**

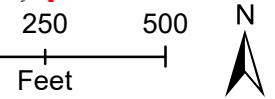
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Staff recommends, based upon the standards for map amendments as required by Section 23-65(d)(3) of the Zoning Ordinance, that Rezoning Application #3-19 to rezone the subject property from C-O Commercial Office District to R-3 Multi-Family District, including all of the adjacent one-half right-of-way of East Glenhurst Lane and North Lightning Drive, as shown on the attached maps, **BE APPROVED.**

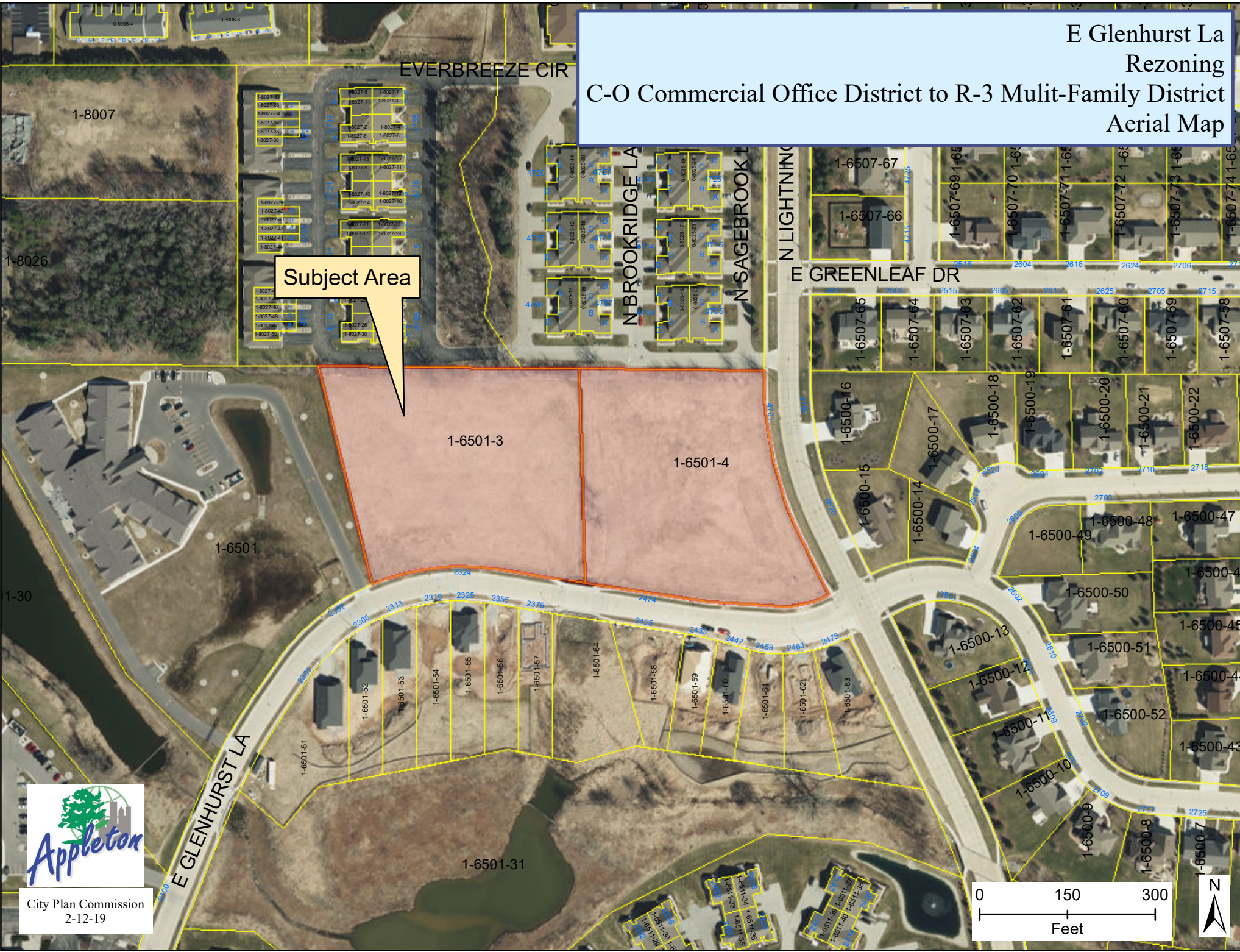
# E Glenhurst La Rezoning C-O Commercial Office District to R-3 Mult-Family District Zoning Map



City Plan Commission  
2-12-19



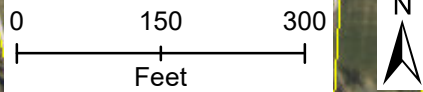
# E Glenhurst La Rezoning C-O Commercial Office District to R-3 Mult-Family District Aerial Map



Subject Area



City Plan Commission  
2-12-19



Legal Description – E. Glenhurst Lane

Tax Id: 31-1-6501-03

APPLE CREEK CENTER LOT 3, including all of the adjacent one-half (1/2) right-of-way of East Glenhurst Lane.

Tax Id: 31-1-6501-04

APPLE CREEK CENTER LOT 4, including all of the adjacent one-half (1/2) right-of-way of East Glenhurst Lane and North Lightning Drive.



## Jessica L. Titel

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**From:** Jessica L. Titel  
**Sent:** Tuesday, February 5, 2019 4:47 PM  
**To:** 'Jason Mroz'  
**Cc:** Treasurer Stephanie Qualls; Gordon & Karen Hale; Jeff & Jane Luebke; Mary Ann O Connor; Jeff Drake; Kathi Drake; Jack Simpson; 'Gary Rosenbeck'; Rachel Rogowski; jmorales@coldwellhomes.com  
**Subject:** RE: Opposition to Rezoning Request for Apple Creek Center Lots 3 & 4r  
**Attachments:** release of deed restrictions.pdf

Good Afternoon Jason-

Thank you for sharing your comments regarding the Glenhurst Lane rezoning request. Attached to this email is a recorded "Release of Deed Restrictions" that you signed on October 22, 2018 allowing for residential development on Lots 3 & 4 of Apple Creek Center (the lots subject to the rezoning request).

When reviewing rezoning requests, the Plan Commission and Common Council review the requests for consistency and compliance with the City's Comprehensive Plan and the Zoning Code. The subject parcels are identified in the City's Comprehensive Plan for use as Multi-Family and the parcels meet the minimum R-3 Multi-family District development standards stated within the Zoning Code, therefore the proposed rezoning is consistent with both of these documents.

I would also clarify that the City does not enforce deed restrictions between private parties.

A copy of your email and the Release of Deed Restrictions will be provided to the Plan Commission ahead of the February 12<sup>th</sup> meeting via the agenda. You can find the published agenda on the City's website beginning Friday, February 11, 2019 after 4:00 PM.

Please feel free to contact me with any questions.

Sincerely,  
Jessica

### Jessica Titel

Principal Planner  
Community & Economic Development  
City of Appleton  
100 N. Appleton Street  
Appleton, WI 54911  
(920) 832-6476 Direct  
[www.appleton.org](http://www.appleton.org)

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**From:** Jason Mroz <jmroz@new.rr.com>  
**Sent:** Tuesday, February 5, 2019 1:50 PM  
**To:** Jessica L. Titel <Jessica.Titel@Appleton.org>  
**Cc:** Treasurer Stephanie Qualls <qualls\_stephanie@yahoo.com>; Gordon & Karen Hale <khales1@new.rr.com>; Jeff & Jane Luebke <jluebke6@new.rr.com>; Mary Ann O Connor <maryann.oconnor@comcast.net>; Jeff Drake <jdrake@new.rr.com>; Kathi Drake <drakeneenah@new.rr.com>; Jack Simpson <jsimmy47@gmail.com>; 'Gary Rosenbeck' <GRosenbeck@mcmgrp.com>; Rachel Rogowski <rachel.rogowski05@gmail.com>;

jmorales@coldwellhomes.com

**Subject:** Opposition to Rezoning Request for Apple Creek Center Lots 3 & 4r

Hi Jessica,

The email serves to convey my strong opposition to rezoning lots 3 and 4 of Apple Creek Center. When I purchased the land for Pond View Estates as a site for upscale single family homes with an HOA, I did so with the knowledge and expectation that lots 3 and 4 across Glenhurst Ln would remain commercial and be built out with similar businesses/offices to what was built on Evergreen Dr, which has the same zoning. That is also what we conveyed to prospective buyers who asked what would likely be built across the street.

Apartments will bring substantially more traffic, along with numerous renters, which can come with a host of issues, all of which will decrease the value of the homes at Pond View Estates. For those reasons, and because apartments would be a substantial departure from the expectation based on current zoning, please pass along my opposition to this rezoning to the Plan Commission. I will also be attending the Plan Commission meeting on 7/12 at 4pm to express my strong opposition to this rezoning and the construction of apartments across from the single family homes in Pond View Estates.

Best regards,

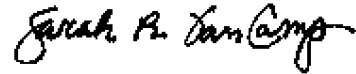
Jason Mroz

Apple Tree Real Estate, LLC

[jason@appletree-homes.com](mailto:jason@appletree-homes.com)

*After recordation this instrument  
should be returned to:*

First American Title Insurance Co.  
330 W. College Avenue  
P.O. Box 1234  
Appleton, WI 54912



SARAH R VAN CAMP, REGISTER OF DEEDS  
This document has been electronically recorded  
Returned to: First American Title Insurance Company

*This instrument was drafted by:*

Daniel Itzkowitz  
Thrivent Financial for Lutherans  
625 Fourth Avenue South  
Minneapolis, MN 55415

*(Above space reserved for recording information.)*

## RELEASE OF DEED RESTRICTION

WHEREAS, North Meadows Investment Ltd. executed a Deed Restriction, dated February 10, 2006, which was recorded on February 14, 2006, in the office of the Register of Deeds for Outagamie County, as Document No. 1699157, a copy of which is attached hereto as Exhibit A (hereinafter referred to as the “**Deed Restriction**”) to impose restrictions against the “**Lots**” described as follows:

Lots 1, 2, 3, 4, 5, 6, and 25, Apple Creek Center, located in the Southwest ¼ of Section Seven (7), Township Twenty-one (21) North, Range Eighteen (18) East, City of Appleton, Outagamie County, Wisconsin.

WHEREAS, the Deed Restriction provides that the Lots are not to be developed and/or used in any manner that competes with the development of Lot 7, Apple Creek Center and/or Lots 1 and 2, CSM No. 5211, Outagamie County, Wisconsin (hereinafter referred to as the “**Benefitted Lots**”) as an Epcn Condominium Community or for any other residential use (hereinafter referred to as the “**Protected Uses**”); and

WHEREAS, Doctors Properties, LLC, or its assigns, has entered into an WB-13 Vacant Land Offer to Purchase with North Meadows Investment Ltd. to purchase Lots 3 and 4 of Apple Creek Center, as further described above, hereinafter referred to as the “**Released Lots**”; and

WHEREAS, Doctors Properties, LLC, or its assigns, contemplates utilizing the Released Lots for residential uses.

NOW THEREFORE, the undersigned hereby determine and agree as follows:

- 1) The utilization of the Released Lots for residential uses will not compete with the Protected Uses; and
- 2) The Released Lots are hereby released from the **Deed Restriction**; and
- 3) The undersigned, hereinafter referred to as the “**Releasers**” comprises all of the persons or entities, legally affected by this Release of Deed Restriction. The Releasers are as follows:
  - a. North Meadows Investment Ltd. (Declarant under the Deed Restriction and owner of Lots 3 and 4).
  - b. Apple Tree-Appleton One, LLC (developer of the Epcon Condominium Community: The Villas at Apple Creek Condominium, Outagamie County, WI).
- 4) This Release shall be binding on the heirs, successors and assigns of the Releasers.

**Dated:** October 22, 2018

*[Signatures follow]*

**SIGNATURE PAGE TO  
RELEASE OF DEED RESTRICTION**

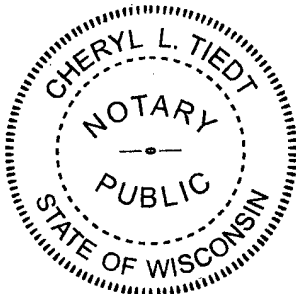
**NORTH MEADOWS INVESTMENT LTD.**  
a Wisconsin corporation

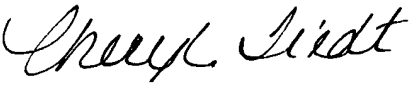
By:   
Name: Peter Rohe  
Title: Vice President

STATE OF WISCONSIN    )  
  ) ss.  
OUTAGAMIE COUNTY    )

On October 18, 2018, before me personally appeared **PETER ROHE**, the Vice-President of NORTH MEADOWS INVESTMENT LTD., a Wisconsin corporation, who is personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same as the free and voluntary act of such party in his duly authorized capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



  
Cheryl Tiedt  
(print or type name of Notary)  
Notary Public, State of Wisconsin

My commission expires: 8-14-20

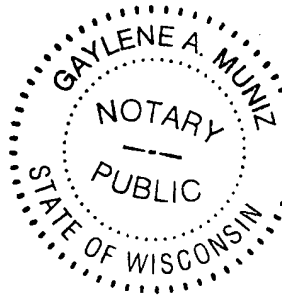
APPLE TREE-APPLETON ONE, LLC,  
a Wisconsin limited liability company

By: [Signature]  
Name: Jason Mroz  
Title: President

STATE OF Wisconsin )  
  ) ss.  
Outagamie COUNTY )

On October 22nd, 2018, before me personally appeared **JASON MROZ**, the President of APPLE TREE-APPLETON ONE, LLC, a Wisconsin limited liability company, who is personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same as the free and voluntary act of such party in his duly authorized capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Gaylene A. Muniz  
(print or type name of Notary)  
Notary Public, State of Wisconsin

My commission expires: 10/25/19

**Exhibit A**

1699157

Recorded  
FEB. 14, 2006 AT 11:38AM  
OUTAGAMIE COUNTY  
JANICE FLENTZ  
REGISTER OF DEEDS  
Fee Amount: \$13.00



**DEED RESTRICTION**

Document No.

Document Name:

**THIS DEED RESTRICTION, is made and imposed by North Meadows Investment Ltd., a Wisconsin corporation ("Declarant") on this 10<sup>th</sup> day of February, 2006.**

**Declarant is the owner of the real estate legally described as follows ("Lots"):**

**Lots 1, 2, 3, 4, 5, 6, and 25, Apple Creek Center, located in the Southwest 1/4 of Section Seven (7), Township Twenty-one (21) North, Range Eighteen (18) East, City of Appleton, Outagamie County, Wisconsin.**

**In addition to all other covenants and conditions already on file against the Lots, Declarant hereby imposes the following additional deed restriction on each of the above-described Lots:**

**The Lots shall not be developed and/or used in any manner that competes with the development of Lot 7, Apple Creek Center, and/or Lots 1 and 2, CSM No. 5211, Outagamie, County, Wisconsin, as an Epeon Condominium Community or for any other residential use.**

**This Deed Restriction shall run with the title to the Lots and shall burden all future owners and occupants of the Lots.**

Recording Area



Name and Return Address:

Dean Bussey, Esq.  
Thrivent Financial for Lutherans  
625 Fourth Avenue South  
Minneapolis, MN 55415

Parcel Identification Numbers:

- 311 650101
- 311 650102
- 311 650103
- 311 650104
- 311 650105
- 311 650106
- 311 650125

This Property is NOT homestead property

February 10, 2006

**NORTH MEADOWS INVESTMENT LTD.,**  
a Wisconsin corporation

By:   
Name: Terry Timon  
Title: President

STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF OUTAGAMIE)

On February 10, 2006, before me personally appeared Terry Timm, President of NORTH MEADOWS INVESTMENT LTD., a Wisconsin corporation, who is personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same as his free and voluntary act in his duly authorized capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

*Chris Judd*  
Notary Public, State of Wisconsin  
My Commission Expires: 10-19-08

Drafted by Dean Bussey, Esq.





## Jessica L. Titel

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**From:** Operations Department <operations@newstylesalons.com>  
**Sent:** Wednesday, February 6, 2019 6:31 AM  
**To:** Jessica L. Titel  
**Cc:** Jeff Drake; qualls\_stephanie@yahoo.com  
**Subject:** Opposition to Rezoning Request for Apple Creek Center Lots 3 & 4

Jessica:

Please share with the plan commission my opposition to the rezoning request for Apple Creek Center Lots 3 & 4.

I am particularly concerned about the increased traffic this will generate on Glenhurst Lane. This street is curved, meaning that drivers have poor visibility as they come around the corner past my home. Glenhurst is already used as a commuter artery by many in the neighboring subdivisions. The addition of multi family housing, with both increased motor and pedestrian traffic, will create a difficult and dangerous situation. The plan commission should consider use options for Lots 3 & 4 that better match the road infrastructure and driver use patterns.

Please keep our street safe and reject the proposal to rezone Apple Creek Center Lots 3 & 4.

Gordon Hale, homeowner  
2319 E Glenhurst Lane  
Appleton WI 54913

## Jessica L. Titel

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**From:** jsimmy47 <jsimmy47@gmail.com>  
**Sent:** Wednesday, February 6, 2019 12:43 PM  
**To:** Jessica L. Titel  
**Subject:** Rezoning On Glenhurst lane

Hello Jessica,

I would like my opposition to the rezoning of the lots across from pond view estates on Glenhurst Lane to be noted.

Thank you,  
Jack Simpson  
2463 east Glenhurst Lane  
Appleton wi

Sent from my Galaxy Tab® A

## Jessica L. Titel

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**From:** Jeff Drake <jdrake@new.rr.com>  
**Sent:** Tuesday, February 5, 2019 4:31 PM  
**To:** Jessica L. Titel  
**Cc:** jason@appletree-homes.com; Stephanie Qualls; operations@newstylesalons.com  
**Subject:** Opposition to Rezoning Request for Apple Creek Center Lots 3 & 4

Jessica,

Please communicate our opposition to the request to change the zoning of the lots directly across the street from our new home on East Glenhurst Lane. We will not be able to attend the February 12 hearing.

One of the key reasons we purchased this home in Appleton was the reassurance that the undeveloped lots across the street were zoned commercial and any development would be like the well landscaped Thrivent and Century Oaks buildings. We thought this type of building would not detract too much from the single family home neighborhood on our side of East Glenhurst Lane. Further, we expected the city of Appleton would enforce zoning requirements more rigorously than a township with lower tax rates.

One concern we do have with the neighborhood is the traffic, especially the high speed of the traffic on East Glenhurst Lane. The city installed for a few weeks a speed monitoring sign, but it had limited impact. We believe the change in zoning will exasperate this problem.

As city of Appleton tax payers, we appreciate your support to maintain East Glenhurst Lane as a single family home neighborhood.

Thank you,

Jeff Drake  
2433 East Glenhurst Lane  
Appleton WI  
jdrake@new.rr.com

TO: Jessical Titel, Principal Planner  
FROM: Melvin and Lisa Kohl  
4702 N. Lightning Dr., Appleton  
Date: February 6, 2019

RE: REZONING REQUEST – GLENHURST AND LIGHTNING DR.

Please accept this memo as our opposition to the rezoning request noted above. In 2015, we specifically selected this location to build our home with the knowledge that the property directly across the street was zoned commercial.

Lightning Drive is already becoming a high traffic area for the children and elderly directly surrounding this property. We feel adding a complex of apartments would disturb our neighborhood and create chaos for our quiet and safe neighborhood. Lightning Drive has become a main street in our area and we already struggle with speeding vehicles, including City buses, and the local fire department. Adding more traffic would only generate worse situations for the us, and the local fire department to travel through, and multiply the safety risks for our residents, children and pets who enjoy our walking trails and urban areas. There are plenty of other suitable acreage plots outside of our residential area to build these apartment complexes.

Thank you for your consideration.

## Jessica L. Titel

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**From:** Kathi Drake <drakeneenah@new.rr.com>  
**Sent:** Wednesday, February 6, 2019 5:08 PM  
**To:** Jessica L. Titel  
**Cc:** jdrake@new.rr.com  
**Subject:** GlenhurstLn. Rezoning

Jessica, I wanted to express my opinion on rezoning the lot across the street from us to allow apartments. My husband Jeff and I chose our new home on Glenhurst Ln. in July, 2018. We moved in August 18, after living 29 years in Neenah. Before purchasing our new home, we questioned what might happen to the vacant lot across the street. We were told then that the lot was zoned for commercial but not residential use.

Over the past year while living on Glenhurst, all has been delightful with our new home, with the exception of traffic on Glenhurst Ln. We experience many cars at excessive speed almost every day. Several times per week I will slow to turn into my driveway, only to find someone driving behind me is going so fast that I barely miss being rear-ended while turning into my driveway, with my turn signal on.

Additional apartments will not only affect the value of our home, but the increased traffic that will occur is quite concerning also.

I am absolutely opposed to this rezoning. All of the new homeowners on Glenhurst Ln. were misled as to what would happen to the property in dispute.

Thank You,  
Sent from my iPad  
Kathi Drake  
Drakeneenah@new.rr.com  
920-205-2794

maryann.oconnor@comcast.net

Reply all |

Yesterday, 4:40 PM

Jessica L. Titel;

Paula Vandehey;

qualls\_stephanie@yahoo.com;

khales1@new.rr.com;

jluebke6@new.rr.com;

jdrake@new.rr.com;

drakeneenah@new.rr.com;

+4 more

Jessica and others,

I, too, am a resident of Pond View estates (2379 E Glenhurst Lane) and strongly object to the proposed re-zoning of the lots across the street from us for all the reasons previously stated. I have additional concerns for the wetlands that are adjacent to our homes and the wildlife being supported there. Our current traffic situation puts many species at risk as they travel through this neighborhood. Adding more people, traffic, and pollution will significantly impact the delicate balance already established here. Has the WI DNR weighed in on this? We homeowners take pride in our community and are already aware of the negative impact of apartments and truly believe we will lose the significant investment we, and the city of Appleton, and the state of Wisconsin have made here.

Mary Ann O'Connor

# RE: Opposition to Rezoning Request for Apple Creek Center Lots 3 & 4r

Jason Mroz <jason@appletree-homes.com>

Thu 2/7/2019 2:08 PM

To: Jessica L. Titel <Jessica.Titel@Appleton.org>;

Cc: Treasurer Stephanie Qualls <qualls\_stephanie@yahoo.com>; Gordon & Karen Hale <khales1@new.rr.com>; Jeff & Jane Luebke <jluebke6@new.rr.com>; Mary Ann O Connor <maryann.oconnor@comcast.net>; Jeff Drake <jdrake@new.rr.com>; Kathi Drake <drakeneenah@new.rr.com>; Jack Simpson <jsimmy47@gmail.com>; 'Gary Rosenbeck' <GRosenbeck@mcmgrp.com>; Rachel Rogowski <rachel.rogowski05@gmail.com>; jmorales@coldwellhomes.com <jmorales@coldwellhomes.com>;

Jessica,

For background, Apple Tree acquired 35 acres of land from Thrivent for The Villas at Apple Creek in 2006. One of the terms of that sale was a deed restriction preventing Thrivent from rezoning the remaining lots to residential to avoid creating competition for The Villas at Apple Creek on adjacent lots. As part of that transaction, Apple Tree agreed to remove that deed restriction after completion of The Villas at Apple Creek and I honored my word by signing the document removing the deed restriction in October.

Your email below seems to convey that my signing the deed restriction removal document somehow supports putting apartments across the street from \$300,000-\$500,000 single family homes. It most certainly does not. In fact, part of the reason I was willing to honor the agreement we had with Thrivent and sign the deed restriction release is because of my comfort level knowing that city planning staff, the Plan Commission and Common Council would recognize and agree that allowing apartments literally across the street from \$300,000-\$500,000 single family homes is not only incongruous but that rezoning to allow apartments would be extraordinarily unlikely based on accepted norms of master planning and housing transitions.

When I discussed Pond View Estates with Planning Staff prior to acquiring the land from Thrivent, I made it clear that part of what made me comfortable doing so was that the lots across the street were zoned Commercial, with the biggest departure being the potential for an assisted living facility. No mention was made at that time that staff would support a rezoning change to allow apartments, so staff support of rezoning to allow apartments now feels like a bait and switch for me to develop Pond View Estates (and realize the corresponding increase in tax base) with the agreement and expectation that the adjacent lots would remain commercial, only to turn around later and support an incongruous rezoning to multi-family.

I can state factually and unequivocally that rezoning lots 3 and 4 will substantially reduce the value of the homes in Pond View Estates and make them much more difficult to sell. I'm able to factually state that because Apple Tree had 18-20 parties ready to purchase a home at Cherryvale Estates, a proposed project nearly identical to Pond View Estates, on Cherryvale Ave, until each of those parties contacted the City, found out apartments were planned for across the street and withdrew their interest in purchasing a home. These were people who had come and toured the homes at Pond View Estates (or the same homes at The Preserve in Green Bay), had obtained projected pricing and seen a proposed plat and were ready to purchase... until they elected to contact the City to determine what was proposed across the street and elected, without exception, to withdraw from the purchase process.

Frankly, I am shocked and disappointed that Planning Staff would support rezoning for a clearly incongruous project of apartments directly across from \$300,000-\$500,000 single family homes, knowing full well the destructive impact that rezoning would have on the value of those single family homes. Would planning staff support rezoning vacant land across the street from their personal \$300,000-\$500,000 single family home to allow for apartments knowing the impact it would have on their investment? That answer seems self-evident.

Please refrain from representing the signing of the deed restriction removal document as support for rezoning lots 3 and 4. It was not.

Please also convey this email, to Plan Commission members who should be aware that Pond View Estates was developed with the expectation that lots 3 and 4 would remain commercial based on prior conversations with planning staff while discussion development of Pond View Estates where no mention was ever made of staff's intention to allow for apartments, which would have killed my plan to develop Pond View Estates on the spot. Plan Commission members should also be aware that rezoning lots 3 and 4 to allow apartments will substantially decrease the value of homes at Pond View Estates and make them significantly more difficult to sell.

Allowing apartments across from costly single family homes is simply and unequivocally incongruous in master planning and would be an "anything goes for added tax base" decision.

Regards,  
Jason Mroz

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**From:** Jessica L. Titel [mailto:Jessica.Titel@Appleton.org]

**Sent:** Tuesday, February 5, 2019 4:47 PM

**To:** Jason Mroz <jmroz@new.rr.com>

**Cc:** Treasurer Stephanie Qualls <qualls\_stephanie@yahoo.com>; Gordon & Karen Hale <khales1@new.rr.com>; Jeff & Jane Luebke <jluebke6@new.rr.com>; Mary Ann O Connor <maryann.oconnor@comcast.net>; Jeff Drake <jdrake@new.rr.com>; Kathi Drake <drakeneenah@new.rr.com>; Jack Simpson <jsimmy47@gmail.com>; 'Gary Rosenbeck' <GRosenbeck@mcmgrp.com>; Rachel Rogowski <rachel.rogowski05@gmail.com>; jmorales@coldwellhomes.com

**Subject:** RE: Opposition to Rezoning Request for Apple Creek Center Lots 3 & 4r

Good Afternoon Jason-

Thank you for sharing your comments regarding the Glenhurst Lane rezoning request. Attached to this email is a recorded "Release of Deed Restrictions" that you signed on October 22, 2018 allowing for residential development on Lots 3 & 4 of Apple Creek Center (the lots subject to the rezoning request).

When reviewing rezoning requests, the Plan Commission and Common Council review the requests for consistency and compliance with the City's Comprehensive Plan and the Zoning Code. The subject parcels are identified in the City's Comprehensive Plan for use as Multi-Family and the parcels meet the minimum R-3 Multi-family District development standards stated within the Zoning Code, therefore the proposed rezoning is consistent with both of these documents.

I would also clarify that the City does not enforce deed restrictions between private parties.

A copy of your email and the Release of Deed Restrictions will be provided to the Plan Commission ahead of the February 12<sup>th</sup> meeting via the agenda. You can find the published agenda on the City's website beginning Friday, February 11, 2019 after 4:00 PM.



Please feel free to contact me with any questions.

Sincerely,  
Jessica

**Jessica Titel**

Principal Planner  
Community & Economic Development  
City of Appleton  
100 N. Appleton Street  
Appleton, WI 54911  
(920) 832-6476 Direct  
[www.appleton.org](http://www.appleton.org)

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**From:** Jason Mroz <[jmroz@new.rr.com](mailto:jmroz@new.rr.com)>  
**Sent:** Tuesday, February 5, 2019 1:50 PM  
**To:** Jessica L. Titel <[Jessica.Titel@Appleton.org](mailto:Jessica.Titel@Appleton.org)>  
**Cc:** Treasurer Stephanie Qualls <[qualls\\_stephanie@yahoo.com](mailto:qualls_stephanie@yahoo.com)>; Gordon & Karen Hale <[khales1@new.rr.com](mailto:khales1@new.rr.com)>; Jeff & Jane Luebke <[jluebke6@new.rr.com](mailto:jluebke6@new.rr.com)>; Mary Ann O Connor <[maryann.oconnor@comcast.net](mailto:maryann.oconnor@comcast.net)>; Jeff Drake <[jdrake@new.rr.com](mailto:jdrake@new.rr.com)>; Kathi Drake <[drakeneenah@new.rr.com](mailto:drakeneenah@new.rr.com)>; Jack Simpson <[jsimmy47@gmail.com](mailto:jsimmy47@gmail.com)>; 'Gary Rosenbeck' <[GRosenbeck@mcmgrp.com](mailto:GRosenbeck@mcmgrp.com)>; Rachel Rogowski <[rachel.rogowski05@gmail.com](mailto:rachel.rogowski05@gmail.com)>; [jmorales@coldwellhomes.com](mailto:jmorales@coldwellhomes.com)  
**Subject:** Opposition to Rezoning Request for Apple Creek Center Lots 3 & 4r

Hi Jessica,

The email serves to convey my strong opposition to rezoning lots 3 and 4 of Apple Creek Center. When I purchased the land for Pond View Estates as a site for upscale single family homes with an HOA, I did so with the knowledge and expectation that lots 3 and 4 across Glenhurst Ln would remain commercial and be built out with similar businesses/offices to what was built on Evergreen Dr, which has the same zoning. That is also what we conveyed to prospective buyers who asked what would likely be built across the street.

Apartments will bring substantially more traffic, along with numerous renters, which can come with a host of issues, all of which will decrease the value of the homes at Pond View Estates. For those reasons, and because apartments would be a substantial departure from the expectation based on current zoning, please pass along my opposition to this rezoning to the Plan Commission. I will also be attending the Plan Commission meeting on 7/12 at 4pm to express my strong opposition to this rezoning and the construction of apartments across from the single family homes in Pond View Estates.

Best regards,

Jason Mroz  
Apple Tree Real Estate, LLC  
[jason@appletree-homes.com](mailto:jason@appletree-homes.com)

## Jessica L. Titel

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**From:** Stephanie Qualls <qualls\_stephanie@yahoo.com>  
**Sent:** Monday, February 11, 2019 6:04 AM  
**To:** Jessica L. Titel  
**Subject:** Opposition to Rezoning Request for Apple Creek Center Lots 3 & 4

Hello Jessica,

Please share with the plan commission my opposition to the rezoning request for Apple Creek Center Lots 3 & 4. I am a resident of Lot 2, Pond View Estates, 2313 E Glenhurst Ln.

I am very concerned about the increased traffic this will generate on Glenhurst Lane. Glenhurst Lane serves as a major traffic route for many residents who reside east of Ballard. This street is curved, meaning that drivers have poor visibility as they come around the corner past my home making it at times very scary to even get my mail much less back out of my driveway.

Back in June of 2018 a few of our Home Owners Association board members approached Paula Vandehey with the city in regards to the speed on Glenhurst Lane to see if there was anything they could do to help. It was and continues to be a dangerous road with the high speeds people drive on it.

The addition of multi family housing, with both increased motor and pedestrian traffic, will create a even more difficult and dangerous situation.

Please keep our street safe and reject the proposal to rezone Apple Creek Center Lots 3 & 4.

Thanks,  
Stephanie Qualls  
2313 E Glenhurst Ln

## Jessica L. Titel

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**From:** Guy Bull <guytbull@gmail.com>  
**Sent:** Monday, February 11, 2019 3:44 PM  
**To:** Jessica L. Titel  
**Subject:** Rezoning issue

Sent from my iPhone

**From:** Guy Bull <[guytbull@gmail.com](mailto:guytbull@gmail.com)>  
**Date:** February 11, 2019 at 2:39:30 PM MST

**Subject: Rezoning issue**

Hello Jessica,

We are residents in Pondview Estates, 2459 E. Glenhurst Lane Lot 11. My wife Sylvia and I, are very concerned about the possibility of the lots directly across Glenhurst Lane from our new home becoming multiple family housing. One of the reasons we moved from Darboy to this very fine part of Appleton was to avoid the relatively unplanned urban sprawl and overcrowding, speeding, and lack of pedestrian/bicycle safe streets. In our opinion as well as our neighbors the added congestion would make this area more like the place we just left! We am so worried about this situation we have asked our long time friend for his opinion in this matter because he can explain our opinion more precisely. We are currently out of town, after that, I will be having surgery and will be unable to attend any of the related meetings.

Guy and Sylvia Bull  
2459 E. Glenhurst Lane  
Appleton, Wi 54913

**To:** Guy Bull <[guytbull@gmail.com](mailto:guytbull@gmail.com)>  
**Subject: 2459 E Glenhurst**

Dear Mr. Bull, You have asked me to advise you on a proposed rezoning of land located directly across the street from your home from commercial to R3 multiple family. The City Planner indicates the land is designated multiple family in the Comprehensive Plan. The Plan is a general concept for community development and does not determine the approved land use. Permitted uses are determined by the Zoning Ordinance. The land across from your new home was zoned commercial when your neighborhood was planned. That use was intended as a transitional zone separating you from the multiple family development behind the subject property. In this case uses anticipated across from you were probably

office or light convenience commercial. These uses would be less intrusive than R3 multiple family to your single family homes. This means that your property values could be adversely affected by the proposed rezoning. Your views, traffic congestion, noise pollution, and public safety would also be adversely affected based upon a variety of professional and academic planning studies . You are retired and are probably not concerned about the impact of multiple family development on schools and parks, but a future buyer of your property could be adversely affected if multiple family is allowed. In summary, my advice to you is to oppose a rezoning from commercial to multiple across the street from your home. It is not unusual for developers to attempt to modify development plans when it is convenient. Hopefully, the City will discourage this sort of proposal. Feel free to contact me if you require additional information. Bill Brehm, AICP, former Appleton Director of Planning and Development.

Sent from my Bell Samsung device over Canada's largest network.

## Jessica L. Titel

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**From:** Rachel Rogowski <rachel.rogowski05@gmail.com>  
**Sent:** Monday, February 11, 2019 4:11 PM  
**To:** Jessica L. Titel  
**Subject:** Rezoning Opposition

Jessica,

I am owner of Pond View Estates lot number 10, 2447 E. Glenhurst Lane. I am unable to attend tomorrow's meeting and therefore would ask that this email of opposition be shared in my absence.

Prior to submitting an offer on my home in August of 2017, I did research the zoning of lots 3 and 4 of Apple Creek Center. That fact that they were zoned C-O played a major factor in my purchasing decision. I would not have purchased my home had it been zoned R-3. The potential rezoning and development on lots 3 and 4 of Apple Creek Center has me very concerned about my investment from a value and future salability standpoint.

In addition to the negative financial impact this will have on me and my neighbors, we already experience heavy and high-speed traffic on Glenhurst Lane between Ballard and Lightning. If this rezoning is approved and the planned development completed, the I believe we will witness a dramatic increase in traffic, which will lead to more accidents, injuries, and fatalities.

I strongly oppose the referenced rezoning and ask that the City staff take in to account mine, my neighbors and the community's consideration when reviewing this request.

Best Regards,

Rachel Rogowski

## Jessica L. Titel

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**From:** Thomas Schrei <tjflyer11@gmail.com>  
**Sent:** Tuesday, February 12, 2019 11:30 AM  
**To:** Jessica L. Titel  
**Subject:** Opposition to Rezoning

Jessica,

I currently live at 2301 E Glenhurst Lane. I would like to express my opposition to the rezoning of lots across from Pond View Estates.

I feel that this rezoning would allow the construction of apartment complexes across from our estates which would decrease the value of our property, increase the already unsafe traffic flow and make our property less appealing to prospective future buyers should we decide to sell.

Please convey my strong opposition to proposed rezoning to the planning commission.

Sincerely,

Thomas Schrei

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## Jessica L. Titel

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**From:** Cathy Van Deurzen & Jean Kessler <jeankessler2@gmail.com>  
**Sent:** Tuesday, February 12, 2019 3:11 PM  
**To:** Jessica L. Titel  
**Cc:** Jason Mroz; Jeff Drake  
**Subject:** Zoning Lot 3 & 4 Glenhurst Ln, Apple Creek

Dear Jessica Titel, Principal Planner

We are writing to express our extreme concern over the future plans for the lots on Glenhurst Ln, Apple Creek Development. When we built our home last year our expectation was that it would be commercial development of some kind. At the time there was an agreement with the city on what would happen to those lots, and they would be developed under the present zoning.

We understand the city is looking for a bigger tax base and would benefit with any development of the land. First and foremost, the city holds meetings on any change of zoning to assure the Zoning Commission understands the risks and benefits of changing the present zoning. So with that said, I am sure you are looking for open communication from the surrounding homes.

We have built a \$300,000 plus home in the Apple Creek Sub-Division just over one year ago. Of course, we are concerned about losing the value of our home. Our question to you is how will the change in zoning affect the value of our home. What would do if this was your home? We would expect you, Jessica, to support us in doing the right thing to not change the zoning. We are sure we will meet at the meeting face to face and discuss this issue in what would be best for the present home owners and tax payers.

The taxes on our home are extremely expensive. If the city changes the present zoning is the city prepared to lower our tax rate because the city made a decision to lower our property value? Is the city being pressured by Thrivent Financial to change the zoning? Does the city have a schematic diagram on the purposed future multi-family development to assure the styled is comparable to the existing properties? Exactly what research has the city done to assure the local property owners are not harmed with any decision made?

We look forward to meeting you to get details on the questions on the table regarding the rezoning on Lots 3 & 4 Glenhurst Ln, Apple Creek Development.

Respectfully,

Cathy Van Deurzen,  
Jean Kesler  
2355 E. Glenhurst Ln  
Appleton, Wi 54913

Sent from [Mail](#) for Windows 10