



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: May 26, 2021

Common Council Meeting Date: June 2, 2021

Item: Final Plat – 1st Addition to Broadway Hills Estates

Case Manager: Don Harp

GENERAL INFORMATION

Owner: North Appleton Properties, LLC – Gregory Gauerke – Member

Consulting Engineering Firm: Davel Engineering & Environmental, Inc. (James R. Sehloff, P.L.S.)

Location: The subject property is located on the west side of French Road at a distance of approximately 1,400 feet north of the intersection of French Road and Broadway Drive.

Tax Id Number: City Parcel #31-1-9210-14 (formerly Town of Freedom Parcel #090-0855-00)

Petitioner's Request: The applicant is proposing to subdivide the subject property into seven (7) single-family residential lots. (Phase 2 of Broadway Hills Estates)

BACKGROUND

The Preliminary Plat for 1st Addition to Broadway Hills Estates was approved by the Plan Commission on March 9, 2021 and by the Common Council on April 7, 2021. The Common Council granted relief to the following regulation: 1) The two (2) length to one (1) width ratio, per Section 17-26(g) of the Municipal Code for Lots 23 and 24. Proposed Lots 23 and 24 exceed the 2 depth to 1 width ratio (Lot 23 = 2.4 to 1 and Lot 24 = 4.2 to 1).

The subject property was rezoned from Temporary AG Agricultural District to R-1B Single-family District per Rezoning #3-21 which was approved by the Common Council on April 7, 2021.

The subject property was included in the 1st Addition to Broadway Hills Estates Annexation which was officially annexed to the City on March 9, 2021.

The Final Plat for Broadway Hills Estates (Phase 1) was approved by the Plan Commission on August 25, 2020 and by the Common Council on September 2, 2020. Phase 1 consisted of 20 single-family residential lots with an average size of 1.58 acres and 2 outlots for stormwater ponds.

STAFF ANALYSIS

Existing Conditions: The subject property is agricultural land with a building that is approximately 3,200 square feet in area. At the preliminary plat stage, staff indicated the existing building located on proposed Lot 24 will remain on site. Based upon information provided by the property owner (developer), building permit #2020-116 was issued on December 14, 2020 by Town of Freedom Building Inspector to allow this building to be placed at this location. Buildings lawfully existing at the time of annexation to the City may remain at their current location, although the use, size, and/or location does not conform to the provisions of the Municipal Code. As a result, this existing building (approximate size: 40' x 80' (3,200 square feet in area) is deemed to be a legal, nonconforming building due to its size and agricultural storage use of farming equipment and bales of hay per building permit #2020-116. The applicable provisions of Section 23-42 Nonconforming buildings, structures, uses and lots of the Municipal Code apply to this building. Prior to the issuance of building permit for a residential dwelling on Lot 24, the Inspections Division will ensure all applicable Municipal Code regulations are satisfied as it relates to location standards between a proposed residential dwelling and this existing building.

Comparison Between Final Plat and Preliminary Plat: The Final Plat is consistent with the Preliminary Plat layout in terms of the shape, size, and location of the lots.

Broadway Hills Estates Concept Plan: The lot and road layout shown on the Final Plat is generally consistent with Broadway Hills Estates Concept Master Plan dated April 21, 2020 which is on file with the City.

Zoning Ordinance Review Criteria: Lot development standards (Section 23-93 R-1B Single-family District of the Municipal Code) are as follows:

- Minimum lot area: Six thousand (6,000) square feet.
 - *The proposed lots range in size from 47,625 square feet (1.09 acres) to 354,635 square feet (8.14 acres). The average lot size for Lots 21-23 and 25-27 is 52,000 square feet (1.19 acres) with Lot 24 being the largest at 354,635 square feet (8.14 acres). All proposed lots satisfy this minimum requirement.*
 - *Phase 1 of the Broadway Hills Estates Development located to the south consisted of 20 single-family residential lots with an average size of 1.58 acres.*
- Minimum lot width: Fifty (50) feet.
 - *The lot width dimension for the proposed lots range from 80 feet to 217 feet wide. All proposed lots satisfy this minimum requirement.*

- Minimum front, side, and rear yard setbacks (principal uses): Twenty (20) foot front yard [twenty-five (25) foot minimum on arterial street (French Road)], Six (6) foot side yard, and Twenty-five (25) foot rear yard.
 - *Required setbacks for buildings and structures will be reviewed through the building permit review process.*
- Maximum building height: Thirty-five (35) feet.
 - *This will be reviewed through the building permit review process.*
- Maximum lot coverage: Fifty percent (50%).
 - *This will be reviewed through the building permit review process.*

Compliance with the Appleton Subdivision Regulations:

- On April 7, 2021, the Common Council granted relief at the Preliminary Plat approval stage for the following regulation: 1) The two (2) length to one (1) width ratio, per Section 17-26(g) of the Municipal Code for Lots 23 and 24.
- Fritz Court is 500 feet in length, which satisfies Section 17-25(g) of the Subdivision Ordinance.

Access and Traffic: Vehicular access to the subject lots is provided by North French Road, which connects to proposed Fritz Court.

Surrounding Zoning Classification and Land Uses:

North: Town of Freedom. The adjacent land use to the north is currently residential and agricultural land.

South: City of Appleton - R-1B Single-Family District. The adjacent land use to the south is currently being developed as single-family residential (Broadway Hills Estates).

East: Town of Freedom. The adjacent land uses to the east are currently a mix of single-family residential and agricultural uses.

West: City of Appleton - AG Agricultural District. City of Appleton sanitary sewer and water easement parcel.

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

Goal 1 – Community Growth

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

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.

Policy 5.3.3 Plan for a supply of developable land suitable for residential development.

OBJECTIVE 10.1 Land Use:

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

Parks and Open Space: Section 17-29 of the Municipal Code requires parkland dedication or fee in lieu of dedication for residential subdivisions. Since no parkland will be dedicated on the subject property, park fees will be due prior to the City signing the Final Plat. For lots zoned R-1B Single-Family District, park fees are \$300 per lot for a total of \$2,100.

Technical Review Group (TRG) Report: This item appeared on the May 4, 2021 TRG Agenda. No negative comments were received from participating departments. The Final Plat was filed with the City Clerk on May 11, 2021.

Review and Decision by Plan Commission: The Plan Commission shall, within 30 days of the date of the filing of Final Plat with the City Clerk, recommend approval, conditional approval or denial of the plat to the Common Council, unless time is extended by agreement in writing between the City and Owner.

Review and Decision by Common Council: The Common Council shall, after receipt of the Plan Commission recommendation and within 60 days of the date of the filing of Final Plat with the City Clerk, approve, approve with conditions or deny the plat, unless time is extended by agreement in writing between the City and Owner.

RECOMMENDATION

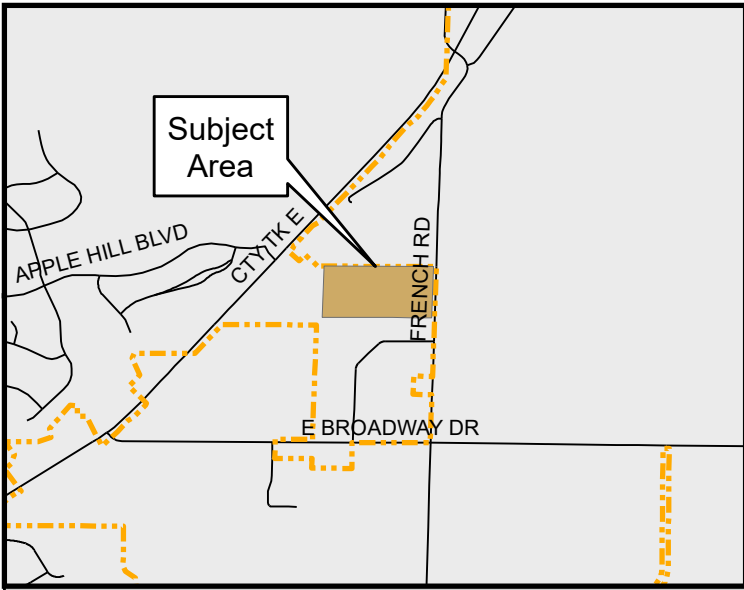
Staff recommends, based upon the above analysis, the 1st Addition to Broadway Hill Estates Final Plat, as shown on the attached maps, **BE APPROVED** subject to the following conditions:

1. A Development Agreement is required between the City and applicant that identifies the duties and responsibilities with respect to development of the subject land.
2. All requirements from the City of Appleton Department of Public Works, Engineering Division shall be met to the satisfaction of the City Engineer prior to the City affixing signatures on the Final Plat.

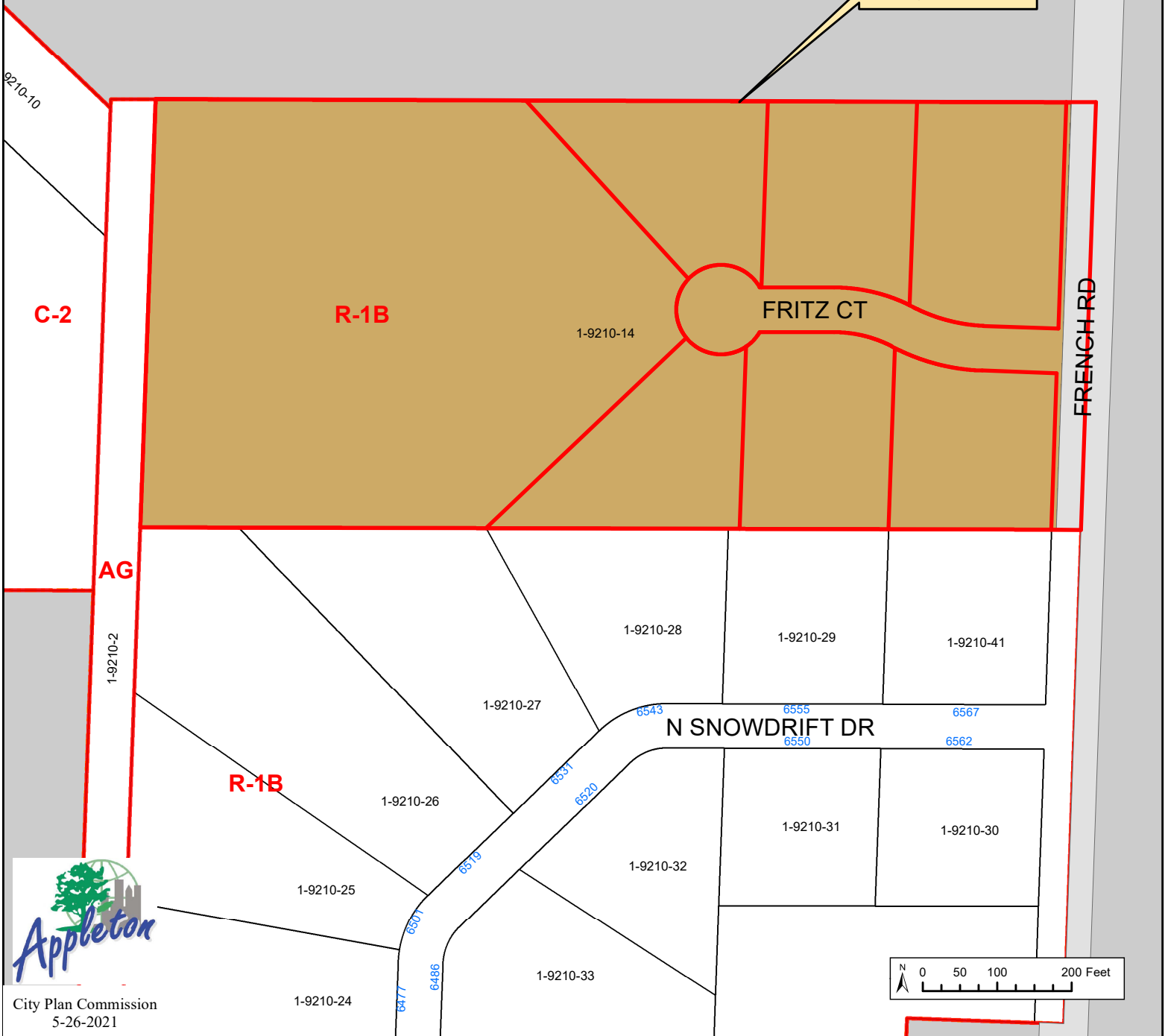
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3. The following street within the Final Plat is to be classified as follows:
 - a. Fritz Court: Local Street
4. Show and label a 50-foot Wetland Protective Area Setback associated with the wetland at the rear of Lot 24.
5. Prior to City signatures being affixed to the Final Plat, park fees shall be paid to the City of Appleton Finance Department pursuant to Section 17-29 of the Municipal Code. For lots zoned R-1B Single-Family District, park fees are \$300 per lot for a total of \$2,100.
6. The Final Plat shall be recorded within 12 months from the approval date of the last approving authority and within 36 months from the approval date of the first approving authority. Failure to do so requires the subdivider to recommence the entire procedure for Final Plat approval.

Final Plat
First Addition to Broadway Hills Estates
Zoning Map

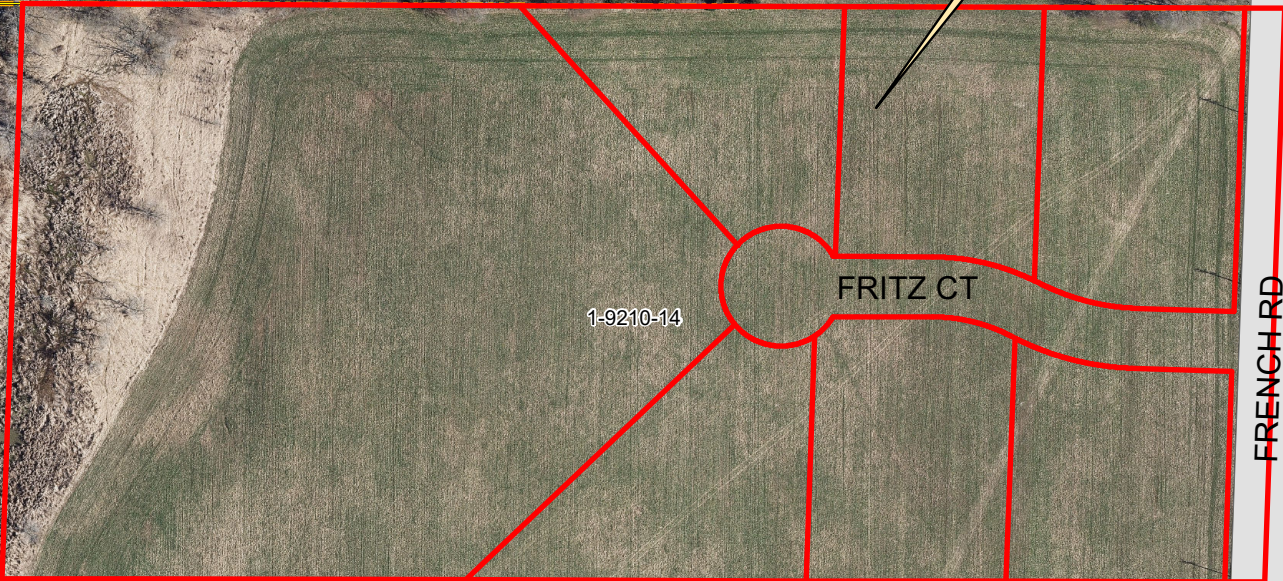


Subject Area



Final Plat
First Addition to Broadway Hills Estates
Aerial Map

Subject Area



E APPLE CREEK RD

1-9210-10

1-9210-2

1-9210-14

FRITZ CT

FRENCH RD

1-9210-28

1-9210-29

1-9210-41

1-9210-27

6543

6555

6567

N SNOWDRIFT DR

6550

6562

1-9210-26

1-9210-33

1-9210-31

1-9210-30

1-9210-25

1-9210-32

6501

6519

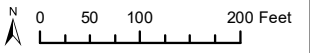
1-9210-33

1-9210-24

6477

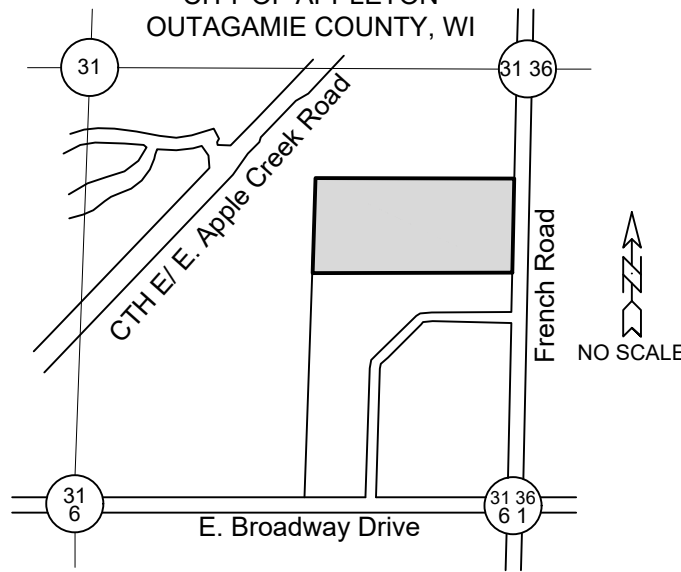
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1-9210-39



LOCATION MAP

SE1/4 SEC 31, T 22 N, R 18 E,
CITY OF APPLETON
OUTAGAMIE COUNTY, WI



First Addition to Broadway Hills Estates

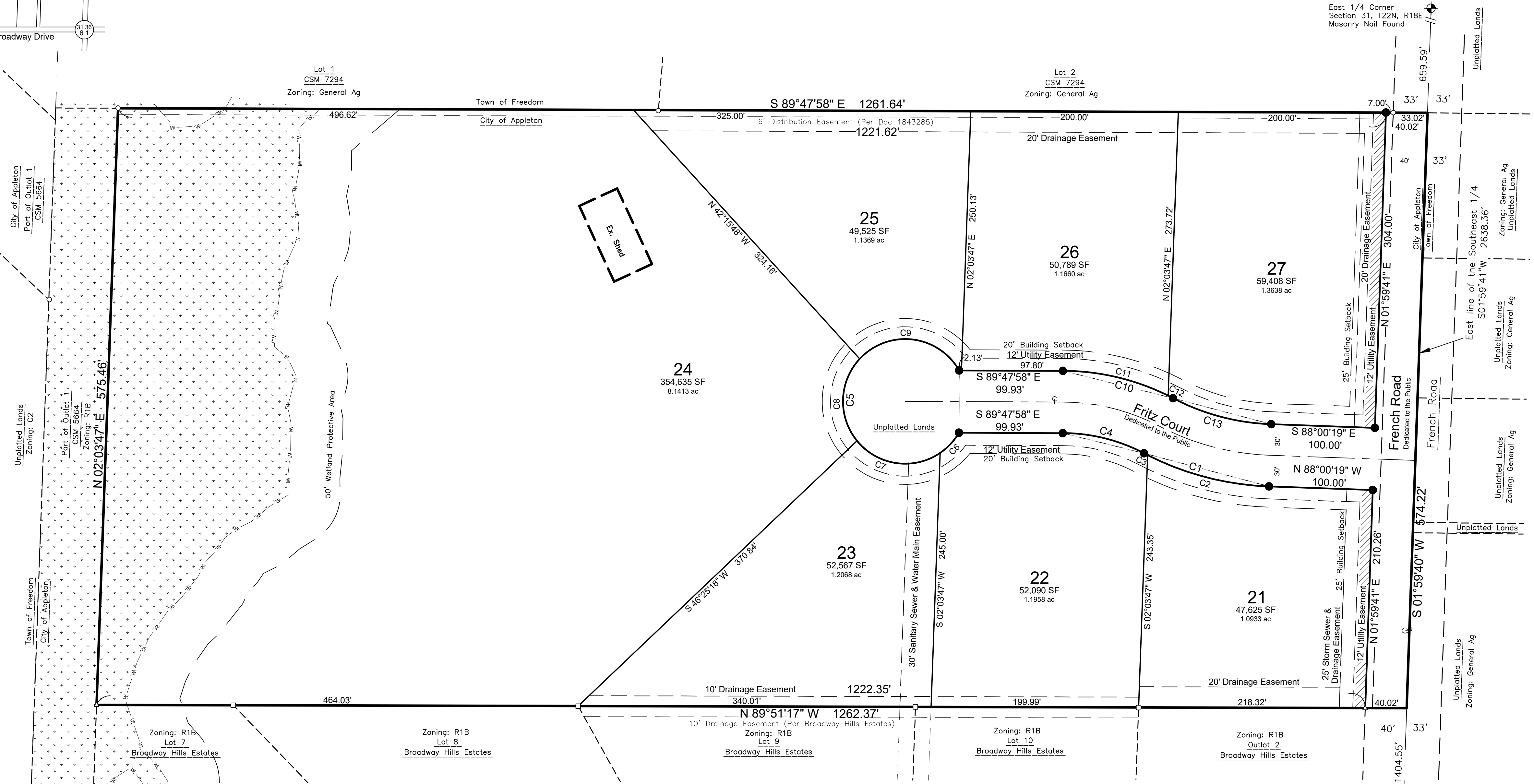
Part of the Northeast 1/4 of the Southeast 1/4 of Section 31,
Township 22 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin

There are no objections to this plat with respect to
Sees. 236.15, 236.16, 236.20 and 236.21(1) and (2),
Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified _____, 20____



Department of Administration



Wetland Protected Area:

The following requirements apply as excerpted from City of Appleton Municipal Code 20-312(f):

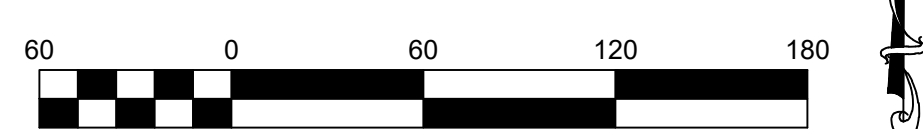
(3) The following requirements shall be met:

- a. Impervious surfaces shall be kept out of the protective area entirely or [as may be approved by the City of Appleton] to the maximum extent practicable.
- b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining native vegetative cover of seventy percent (70%) or greater shall be established and maintained. The self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. (Subject to the issuance of all applicable permit), nonvegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
- c. Best management practices such as filter strips, treatment swales, or wet detention basins, that are designed to control pollutants from nonpoint sources may be located in the protective area.
- (5) Protective areas do not apply to:
 - d. Post-construction sites from which runoff does not enter the surface water, including wetlands, without first being treated by a [Stormwater Management Practice that has been approved by the City of Appleton], except to the extent that vegetative ground cover is necessary to maintain bank stability.

Access Restriction Note:

As owners, we hereby restrict Lot 21 and Lot 27 in that no owner, possessor, user, nor licensee, nor other person shall have any right of direct vehicular ingress or egress with French Road, as shown on the plat; it being expressly intended that this restriction shall constitute a restriction for the benefit of the public according to Section 236.293, Wisconsin State Statutes, and shall be enforceable by the City of Appleton.

CURVE TABLE						
Curve	Radius	Chord Direction	Chord Length	Arc Length	Central Angle	Tangent Bearing-in / Tangent Bearing-out
C1	280.00'	N 75°09'18" W	124.55'	125.60'	25°42'03"	N 88°00'19" W / N 62°18'17" W
C2	280.00'	S 75°33'09" E	120.76'	121.71'	24°54'21"	S 88°00'19" E / S 63°05'59" E
C3	280.00'	S 62°42'08" E	3.89'	3.89'	0°47'42"	S 63°05'59" E / S 62°18'17" E
C4	170.00'	S 76°03'07" E	80.80'	81.58'	27°29'41"	S 89°47'58" W / N 62°18'17" W
C5	60.00'	N 00°12'02" E	60.00'	314.16'	300°00'00"	S 30°12'02" W / S 29°47'58" E
C6	60.00'	S 43°00'11" W	26.59'	26.81'	25°36'18"	S 30°12'02" W / S 55°48'20" W
C7	60.00'	N 81°43'37" W	81.02'	88.94'	84°56'05"	S 55°48'20" W / N 39°15'35" W
C8	60.00'	N 01°56'09" E	79.04'	86.28'	82°23'27"	N 39°15'35" W / N 43°07'52" E
C9	60.00'	S 83°20'03" E	96.51'	112.12'	107°04'10"	N 43°07'52" E / S 29°47'58" E
C10	230.00'	S 76°03'07" E	109.32'	110.37'	27°29'41"	S 89°47'58" E / S 62°18'17" E
C11	230.00'	S 76°42'53" E	104.14'	105.05'	26°10'09"	S 89°47'58" E / S 63°37'49" E
C12	230.00'	S 62°58'03" E	5.32'	5.32'	1°19'32"	S 63°37'49" E / S 62°18'17" E
C13	220.00'	S 75°09'18" E	97.86'	98.68'	25°42'03"	S 62°18'17" E / S 88°00'19" E



Bearings are referenced to the East line of the Southeast 1/4, Section 31, T22N, R18E, assumed to bear S01°59'40"W, base on the Outagamie County Coordinate System.

Southeast Corner Section 31, T22N, R18E
Masonry Nail Found

File: 6405Final.dwg
Date: 05/13/2021
Drafted By: jim
Sheet: 1 of 2
Revision Date: May 13, 2021

DAVEL ENGINEERING & ENVIRONMENTAL, INC.
Civil Engineers and Land Surveyors
1164 Province Terrace, Menasha, WI 54952
Ph: 920-991-1866 Fax: 920-441-0804
www.davel.pro

James R. Sehloff, Professional Land Surveyor 2692 Date _____

First Addition to Broadway Hills Estates

Part of the Northeast 1/4 of the Southeast 1/4 of Section 31,
Township 22 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin

Surveyor's Certificate

I, James R. Sehloff, Professional land surveyor, hereby certify: That in full compliance with the provisions of Chapter 236 of the Wisconsin Statutes and the subdivision regulations of the City of Appleton, and under the direction of North Appleton Properties, LLC, owners of said land, I have surveyed divided and mapped First Addition to Broadway Hills Estates; that such plat correctly represents all exterior boundaries and the subdivision of the land surveyed; and that this land is located in part of the Northeast 1/4 of the Southeast 1/4 of Section 31, Township 22 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin, containing 725.074 Square Feet (16.6454 Acres) of land described as follows:

Commencing at the East 1/4 corner of Section 31; thence, along the East line of the Southeast 1/4 of said Section 31, S01°59'40"W, 659.59 feet to the point of beginning; thence, continuing along said East line, S01°59'40"W, 574.22 feet to the Northeast corner of Broadway Hills Estates; thence, along the North line of said Broadway Hills Estates, N89°51'17"W, 1262.37 feet to the East line of Outlot 1, Certified Survey Map, 5664; thence, along said East line, N02°03'47"E, 575.46 feet to the South line of Certified Survey Map 7294; thence, along said South line, S89°47'58"E, 1261.64 feet to the point of beginning, subject to all easements, and restrictions of record.

Given under my hand this ____ day of _____, 20 ____.

James R. Sehloff, Wisconsin Professional Land Surveyor No. S-2692

Owner's Certificate

North Appleton Properties, LLC., a limited liability company duly organized and existing under and by virtue of the laws of the State of Wisconsin, as the property owner, does hereby certify that said limited liability company caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on this plat.

North Appleton Properties, LLC, does further certify this plat is required by s.236.10 or s.236.12 to be submitted to the following for approval or objection:

City of Appleton
Department of Administration

Dated this ____ day of _____, 20 ____.

Gregory Gauerke, Member Date

State of Wisconsin)

County) ss

Personally came before me this ____ day of _____, 20 ____, the above the property owner(s) to me known to be the persons who executed the foregoing instrument and acknowledge the same.

My Commission Expires _____

Notary Public, Wisconsin

Utility Easement Provisions

An easement for electric, natural gas, and communications service is hereby granted by

North Appleton Properties, LLC, Grantor, to:

Wisconsin Electric Power Company and Wisconsin Gas, LLC, Wisconsin corporations doing business as We Energies, Grantee,
SBC, Grantee,
and
Time Warner Entertainment Company, L.P., Grantee

their respective successors and assigns, to construct, install, operate, repair, maintain and replace from time to time, facilities used in connection with overhead and underground transmission and distribution of electricity and electric energy, natural gas, telephone and cable TV facilities for such purposes as the same is now or may hereafter be used, all in, over, under, across, along and upon the property shown within those areas on the plat designated as "Utility Easement Areas" and the property designated on the plat for streets and alleys, whether public or private, together with the right to install service connections upon, across within and beneath the surface of each lot to serve improvements, thereon, or on adjacent lots; also the right to trim or cut down trees, brush and roots as may be reasonably required incident to the rights herein given, and the right to enter upon the subdivided property for all such purposes. The Grantees agree to restore or cause to have restored, the property, as nearly as is reasonably possible, to the condition existing prior to such entry by the Grantees or their agents. This restoration, however, does not apply to the initial installation of said underground and/or above ground electric facilities, natural gas facilities, or telephone and cable TV facilities or to any trees, brush or roots which may be removed at any time pursuant to the rights herein granted. Structures shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "Utility Easement Areas" without the prior written consent of Grantees. After installation of any such facilities, the grade of the subdivided property shall not be altered by more than four inches without written consent of grantees.

The grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

North Appleton Properties, LLC

Gregory Gauerke, Member Date

Drainage, Water Main and Storm Sewer Easement Provisions

An easement for Drainage, Sanitary Sewer, Water Main and Storm Sewer Easement Provisions is hereby granted by:

North Appleton Properties, LLC, Grantor, to:

THE CITY OF APPLETON, Grantee,

1. Purpose: The purpose of this easement is for the Grantee to access, install, regrade, replace, relocate, operate, maintain, resize and repair Drainage, Sanitary Sewer, Water Main and Storm Sewer Easement and associated appurtenances. Grantee does hereby agree to compensate Grantor fully for any damage caused directly or indirectly from said maintenance, repair, replacement or relocation of Drainage, Sanitary Sewer, Water Main and Storm Sewer and associated appurtenances that occur outside of the easement area. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with grantee's use of the easement area.
2. Access: Grantee or its agents shall have the right to enter the grantor's land for the purpose of exercising its rights in the easement area.
3. Buildings or Other Structures: Buildings or any other type of structure shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "Drainage, Sanitary Sewer & Water Main or Storm Sewer Easement".
4. Elevation: The grantor agrees that the elevation of the existing ground surface within the easement area will not be altered without the written consent of grantee.
5. Restoration: Grantee agrees that it will restore subsurface materials on grantor's land, as nearly as is reasonably possible, to the prior existing condition when conducting all future maintenance, resizing or repair activities. Grantor shall be responsible for all surface restoration. Grantee shall not be required to restore or compensate for any improvements or improved surfaces such as, but not limited to, curb and gutter, hard pavements, sidewalks, structures, trees, shrubs and landscaping, disturbed as a result of the maintenance activities described herein.
6. Notification: Grantee agrees that it shall give timely notice to the Grantor of routine maintenance work. Grantee and Grantor agree to cooperate in good faith to minimize interference or disruption to the normal facility operations. Grantee shall provide advance notice to Grantor (except in emergency situations, in which event notice shall be provided as soon as is practical) of any activity with a reasonable likelihood of interfering or disrupting the operation Grantor's facility, and to conduct such activities at mutually agreeable times.
7. Drainage easements are conveyance paths for storm water. The placement of fill in a drainage easement, which interferes with the flow or changes to the shape of the drainage easement by the lot owner or his agent, is prohibited. Upon failure of lot owner's to maintain said drainage ways and easements as designed, the City of Appleton retains the right to perform maintenance and or repairs. The payment of said maintenance and or repairs shall be equally assessed to the adjacent lot owners.

This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

North Appleton Properties, LLC

Gregory Gauerke, Member Date

City of Appleton Approval

Resolved, that the plat of First Addition to Broadway Hills Estates, in the City of Appleton, Outagamie County, North Appleton Properties, LLC, owners, is hereby approved by the Common Council of the City of Appleton.

Jacob A. Woodford, Mayor Date

I hereby certify that the foregoing is a copy of a resolution adopted by the the Common Council of the City of Appleton.

Kami Lynch, Clerk Date

Treasurer's Certificate

We, being the duly elected, qualified and acting Treasurer's of the City of Appleton and Outagamie County, do hereby certify that in accordance with the records in our office, there are no unredeemed tax sales and unpaid taxes, or special assessments on and of the land included in this plat.

City Treasurer Date


County Treasurer

This Final Plat is contained wholly within the property described in the following recorded instruments:

The property owner of record: North Appleton Properties, LLC	Recording Information: Doc No. 2191480	Parcel Number(s): 31-1-9210-14
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There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified _____, 20 ____

Department of Administration 

File: 6405Final.dwg
Date: 04/26/2021
Drafted By: jim
Sheet: 2 of 2
Revision Date: Apr 26, 2021

DAVEL ENGINEERING & ENVIRONMENTAL, INC.
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