



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Informal Hearing Meeting Date:** June 28, 2023

**Common Council Public Hearing Meeting Date:** July 19, 2023 (Public Hearing on Rezoning)

**Item:** Rezoning #4-23 – 2600 South Heritage Woods Drive from PD/R-3 Planned Development #G-98 Multi-family District to R-3 Multi-family District

**Case Manager:** Don Harp, Principal Planner

### GENERAL INFORMATION

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**Owner:** ThedaCare, Inc.

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

**Address/Parcels:** 2600 South Heritage Woods Drive / #31-8-2020-00 and #31-8-2025-00

**Petitioner's Request:** The owner/applicant is requesting to rezone the above-referenced parcels from PD/R-3 Planned Development #G-98 Multi-family District to R-3 Multi-family District, including to the centerline of the adjacent right-of-way for the purpose of conforming and expanding operations of the community living arrangement (CLA) a/k/a community based residential facility (CBRF) serving 51 persons on the subject site.

### BACKGROUND

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

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

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

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

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

On May 18, 1994, Ordinance 61-94 was adopted, which repealed and recreated the Zoning Ordinance and Official Zoning Map.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

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

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

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

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

On June 2, 2004, Ordinance 74-04 was adopted, which repealed and recreated the Zoning Ordinance that is currently in place. This Zoning Ordinance includes sections on transition rules and period of validity for overlay districts. Recording the Implementation Plan Document (IPD) in the County Register of Deeds' office constitutes approval of the IPD and Development Plan. Per Section 23-151(l) of the Municipal Code, a PD overlay district designation remains on PD parcels even if there is no approved IPD, or if the IPD has expired or been made invalid. Any future development requires approval of a Development Plan and IPD, or a request to rezone the property. In this case, the property owner elected to request a zoning map amendment to rezone the property from PD/R-3 Planned Development #G-98 Multi-family District to R-3 Multi-family District.

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

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

A separate request for a Special Use Permit has been filed and is also being presented at the June 28, 2023 Plan Commission meeting.

## **STAFF ANALYSIS**

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

**Surrounding Zoning Classification and Land Uses:**

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

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

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

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

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

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

**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. The development standards for the R-3 District are listed below:

- 1) **Minimum lot area:**
  - a. 6,000 square feet for single-family dwellings.
  - b. 7,000 square feet for two story two-family dwellings.
  - c. 9,000 square feet for single story two-family dwellings.
  - d. 1,500 square feet per dwelling unit for multi-family dwellings.
  - e. 3,000 square feet per zero lot line two-family dwellings.
  - f. 7,000 square feet for all other uses.
- 2) **Maximum lot coverage:** 70%, except 100% for zero lot line two-family dwellings.
- 3) **Minimum lot width:**
  - a. 50 feet for single-family dwellings.
  - b. 70 feet for two-family dwellings.
  - c. 30 feet for zero lot line two-family dwellings.
  - d. 80 feet for multi-family dwellings and all other uses.
- 4) **Minimum front yard:**
  - a. 20 feet.
  - b. 25 feet if located on an arterial street.
- 5) **Minimum rear yard:** 35 feet, except 25 feet for zero lot line two-family dwelling.
- 6) **Minimum side yard:**
  - a. 6 feet for single, two-family dwellings, and zero lot line two-family dwelling.
  - b. 0 feet for the common wall of a zero lot line two-family dwelling.
  - c. 20 feet for multi-family dwellings and all other uses

- 7) **Maximum building height:**
  - a. 35 feet for single, two-family dwellings and zero lot line two-family dwelling.
  - b. 45 feet for multi-family dwellings and all other uses.
- 8) **Minimum distance between multi-family buildings:** 12 feet.

**Zoning Ordinance Review Criteria:** The request is being made to accommodate the current proposed interior remodeling project to construct an 8-bed community based residential facility (CBRF) memory care unit, as well as a future expansion project of the CBRF facility. The proposed future total licensed CBRF capacity of the entire facility would be 51 beds.

Future development project 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 may be needed, pursuant to Section 23-570 of the Municipal Code, prior to the issuance of a building permit by the Inspections Division.

A rezoning is often triggered by development proposals or changing circumstances in the City. In this case, because no Implementation Plan was finalized and recorded for Planned Development Amendment #G-98, some type of zoning action is needed in order for future development to occur, pursuant to Section 23-151(l)(1) of the Municipal Code. The property owner elected to request a zoning map amendment to rezone the property from PD/R-3 Planned Development #G-98 Multi-family District to R-3 Multi-family District.

Rezoning to the R-3 District would allow for the existing skilled nursing, CBRF, and residential care apartments and the proposed use CBRF expansion on the subject lot. A CBRF with a capacity greater than 16 persons in the R-3 District is listed as a Special Use Permit under 23-96(e).

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* identifies this area for future multi-family residential 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, Variety, and Affordability*

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

**OBJECTIVE 5.3 Housing and Neighborhoods:**

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

*OBJECTIVE 10.1 Land Use:*

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

**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. 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, as the Future Land Use Map identifies this area for future multi-family residential uses.*
  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.*
  2. The effect of the proposed rezoning on surrounding uses. *Residential care apartments (independent living), CBRF and skilled nursing facility (assisted living), public and semi-public uses are already present on the subject site. The single-family residential uses located to the east and west are buffered by the existing woods located on the subject site. The single-family and multi-family residential uses located to the south are buffered by the existing woods located on the subject site and separated by street right-of-way. Therefore, the proposed rezoning request is unlikely to create adverse impacts in the surrounding neighborhood.*

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

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

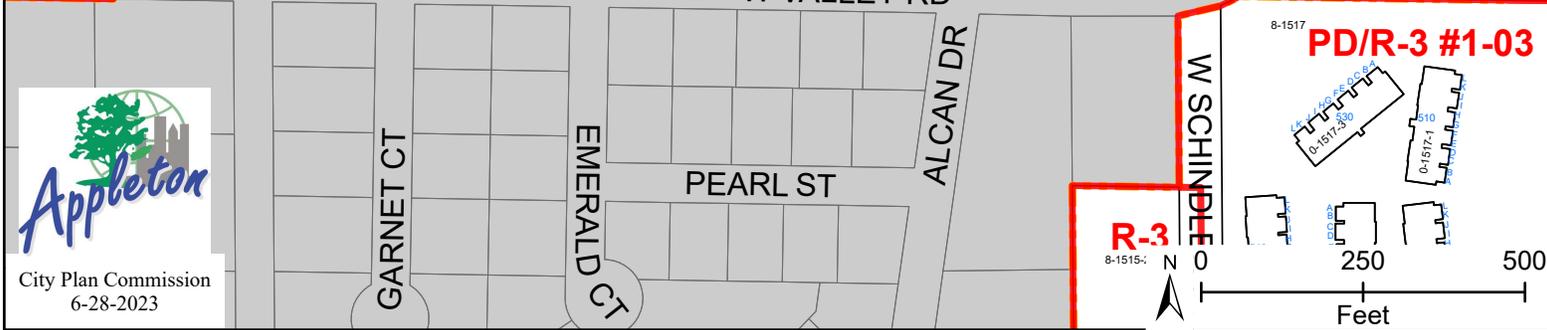
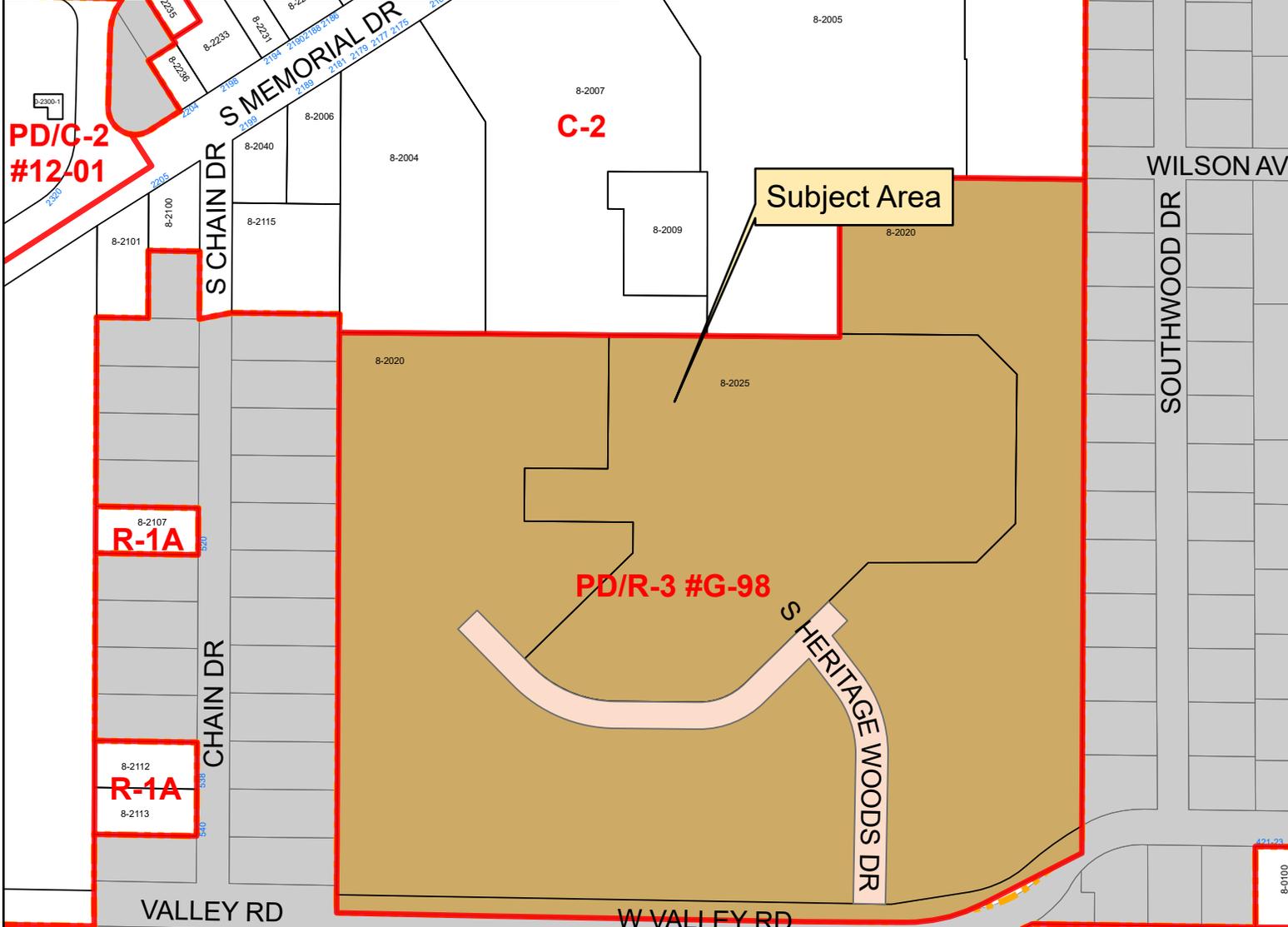
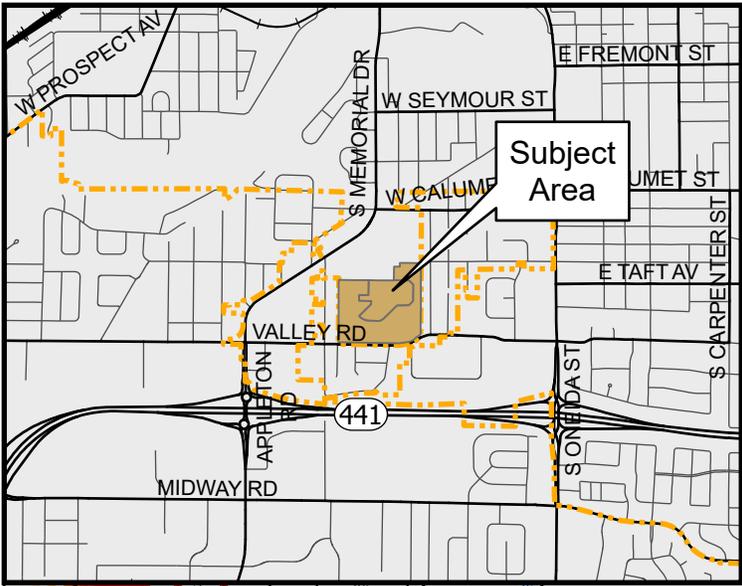
**RECOMMENDATION**

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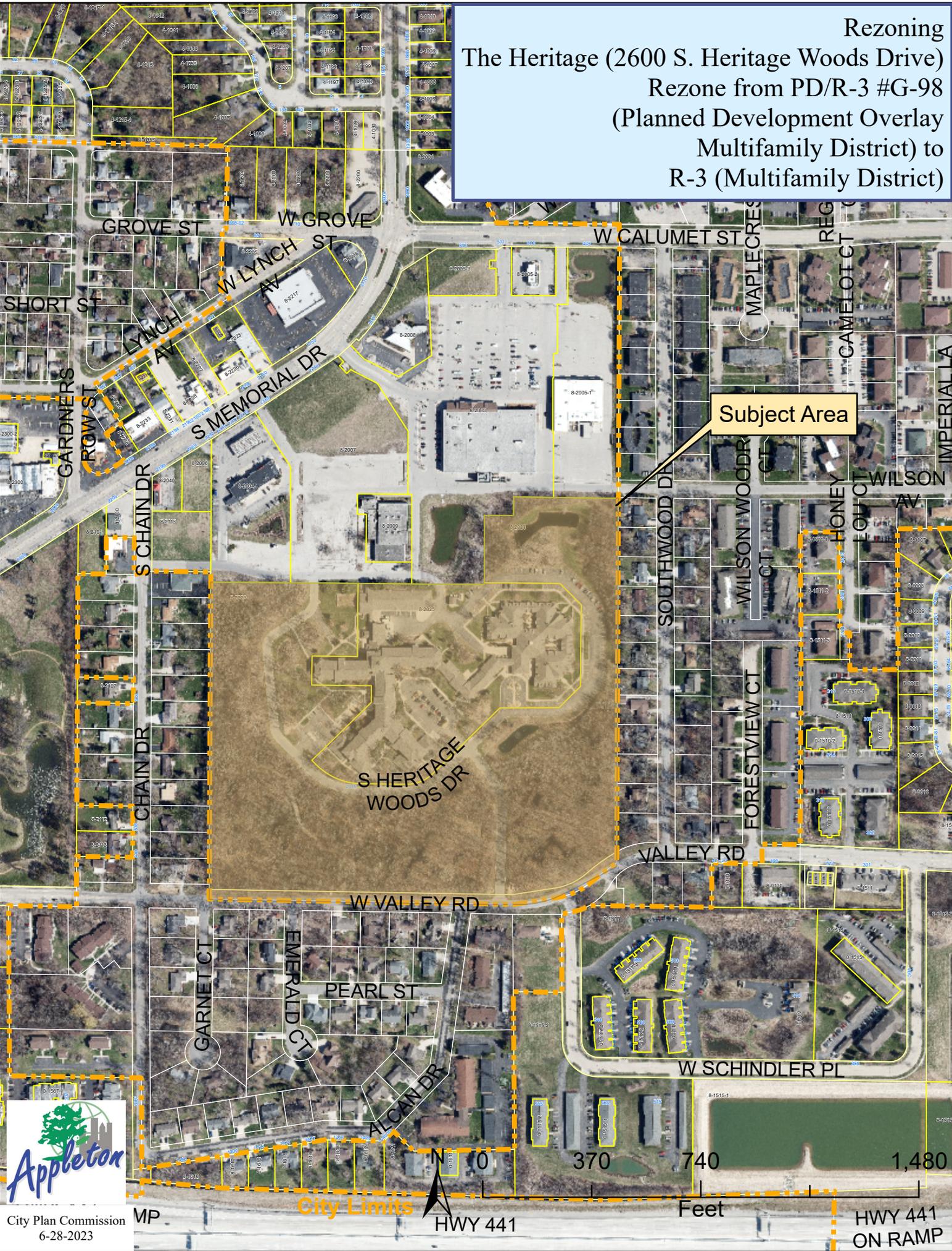
Staff recommends, based upon the standards for zoning map amendments as required by Section 23-65(d)(3) of the Zoning Ordinance, that Rezoning Application #4-23 to rezone the subject site located at 2600 S. Heritage Woods Drive (Tax Id #31-8-2020-00 and #31-8-2025-00) from PD/R-3 Planned Development Amendment #G-98 Multi-family District to R-3 Multi-family District, including to the centerline of the adjacent right-of-way and as shown on the attached map, **BE APPROVED**.

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

Rezoning  
 The Heritage  
 (2600 S. Heritage Woods Drive)  
 Rezone from PD/R-3 #G-98  
 (Planned Development Overlay  
 Multifamily District) to  
 R-3 (Multifamily District)  
 Vicinity Map



Rezoning  
The Heritage (2600 S. Heritage Woods Drive)  
Rezone from PD/R-3 #G-98  
(Planned Development Overlay  
Multifamily District) to  
R-3 (Multifamily District)



Subject Area



City Plan Commission  
6-28-2023

MP



City Limits

Feet

HWY 441  
ON RAMP