



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: July 21, 2020

Common Council Meeting Date: August 19, 2020

Item: Preliminary Plat – Broadway Hills Estates

Case Manager: Don Harp

GENERAL INFORMATION

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

Applicant: Jeff Schutz, P.E., Martenson & Eisele, Inc.

Location: Broadway Drive and French Road.

Tax Id Numbers: City Parcel #31-1-9210-11, #31-1-9210-12, and #31-1-9210-13 (formerly Town of Freedom Parcel #090-0865-00, #090-0865-02 and part of #090-0855-00).

Petitioner's Request: The applicant is proposing to subdivide the property for single-family residential development.

BACKGROUND

The subject property was included in the Broadway Hills Estates Annexation that was approved by the Plan Commission on July 7, 2020 and by the Common Council on July 15, 2020. The subject property was officially annexed to the City on July 21, 2020 at 12:01 a.m.

Rezoning #5-20 is also being presented at this July 21, 2020 Plan Commission meeting. Rezoning #5-20 will need to be approved in order for the Preliminary Plat to be approved.

STAFF ANALYSIS

Existing Conditions: The subject lot to be subdivided is currently undeveloped. The area to be platted for single-family residential development totals 39.72 acres, which will be divided into 20 lots and 2 outlots.

STAFF ANALYSIS continued

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 44,100 square feet (1.01 acres) to 122,416 square feet (2.81 acres). The average lot size for this development is 68,716 square feet (1.58 acres). All proposed lots satisfy this requirement.*
- Minimum lot width: Fifty (50) feet.
 - *The typical lot dimensions for the proposed lots are 167 feet X 167 feet. All proposed lots satisfy this requirement.*
- Minimum front, side, and rear yard setbacks: 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.*
- The preliminary plat shows the existing metal shed located on proposed Lot 20 to remain. This building is approximately 40' x 80' (3,200 square feet in area). This building exceeds the maximum size requirement (1,600 square feet) for an accessory detached building located in a residential zoning district. As a result of annexing the building from the Town of Freedom, this building can continue to exist but will be regulated by the applicable nonconforming accessory building regulations in the Appleton Zoning Ordinance.

Compliance with the Appleton Subdivision Regulations: This subdivision complies with the Appleton Subdivision Regulations, except for the code section listed below. The applicant submitted a request for modification of Subdivision Ordinance regulations, which is attached to the staff report.

Per Section 17-26(g) of the Municipal Code, “Excessive lot depth in relation to width shall be avoided. A proportion of two (2) length to one (1) width shall normally be considered a desirable maximum for lot widths of sixty (60) feet or more.”

- A. Proposed lot length in relation to width ratio for Lots 1, 2, 3, 4, 16 and 17 are 2.19 to 1. The proposed ratio exceeds the two (2) length to one (1) width listed above.

Applicant’s Response: This ratio fit best across the property to allow one street to still pass thru without cul-de-sacs.

- B. Proposed lot length in relation to width ratio for Lots 5, 6, 7 and 8 range from 2.6 – 4.2 to 1. The proposed ratio exceeds the two (2) length to one (1) width listed above.

Applicant’s Response: Lots 5-8 are pie shaped lots on a corner that contains a large hill with nearly 24’ of elevation change in a rather short distance. The greater depth to width allows for enough buildable area in the front of the lots before the back of the lots fall off on the steeper grades.

- C. Proposed lot length in relation to width ratio for Lot 20 is 2.8 to 1. The proposed ratio exceeds the two (2) length to one (1) width listed above.

Applicant’s Response: Lot 20 has an irregular shape because of an existing property notched into the plat. All versions that were designed in concept had irregular shaped lots to go around this existing property.

Per Section 17-3(f) of the Municipal Code, when the Common Council finds that extraordinary hardship or injustice will result from strict compliance with this ordinance, it may vary the terms thereof to the extent deemed necessary and proper to grant relief to the above-referenced items A., B. and C., provided that the modification meets the following three standards:

- (1) The modification is due to physical features of the site or its location.

Applicant’s Response: The property contains steep topography on the Northwest corner containing Lots 5, 6, 7 and 8. Beyond this, there is 2.5 acre of wetlands we didn’t want to disturb which drove our ultimate design.

- (2) The modification is the least deviation from this ordinance which will mitigate the hardship.

Applicant’s Response: Surrounding properties are rural and have large and irregular shapes because of both topography and wetlands.

- (3) The modification is not detrimental to the public interest and is in keeping with the general spirit and intent of this ordinance.

Preliminary Plat – Broadway Hills Estates

July 21, 2020

Page 4

Applicant's Response: The deviations were reviewed with key City members before the property was purchased, and this rough design was given their approval.

- (a) The modifications improve public health and safety by allowing the street to be a thru street instead of cul-de-sac's as originally proposed. This allows for better emergency access, refuse collection, and snow removal.*
- (b) The modification allows these specific lot owners to enjoy a larger piece of property without disturbing its natural hills by forcing the building of homes, streets and infrastructure directly on the steep topography. The modification to the standard protects the majority of the natural landscape, increasing the property value for both the owner and the city.*
- (c) The modification provides a good transition from smaller, densely populated neighborhoods to the South, with the rural setting on the properties' North, East and West sides.*
- (d) The property promotes orderly growth and development by matching traits of the similar neighborhood to its West, Apple Hills Estates. The property is in the future residential development area as shown by the Appleton growth map and has relatively straight North/South and East/West streets for an orderly layout.*
- (e) The thru street allows for safe and convenient means of both pedestrian and vehicular traffic thru the property and allows for egress on two streets, should one be closed for an emergency or maintenance.*
- (f) The thru street allows for safe ingress and egress to the property, away from other intersections and hills that may pose potential hazards. The less densely populated lots allow for better light and air. The lower density also allows for more pervious area compared to a standard, densely populated neighborhood, lessening the probability for flood and providing adequate area for snow storage. Two ponds will also enhance the properties beauty and attract wildlife, while being sized to accept runoff from surrounding undeveloped property. There is adequate water and sewer service to the property currently and room to improve on the public utilities for this, and other surrounding properties.*

Stormwater Regulations: The Department of Public Works, Engineering Division indicated a Stormwater Permit Application with Stormwater Permit has been submitted. Review is pending. Pending stormwater review comments could result in changes to the plat.

Access and Traffic: Vehicular access to the subject lots is provided by North French Road and East Broadway Drive, which connects to proposed Snowdrift Drive.

Surrounding Zoning Classification and Land Uses:

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

Preliminary Plat – Broadway Hills Estates

July 21, 2020

Page 5

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

City of Appleton - R-1B Single-family District. The adjacent land use to the south is currently single-family residential.

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 Single-Family/Two-Family residential and Commercial land uses. The area identified as future Commercial use will be utilized for stormwater detention purposes. 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.

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.

Technical Review Group (TRG) Report: This item appeared on the June 30, 2020 TRG Agenda. No negative comments were received from participating departments.

- For the assumed single-family development, consider that future structures MAY be required to contain electronically monitored smoke detection, or automatic fire sprinklers (owner's choice), as part of the City agreement to permit building based on travel distance to respond and time it takes to achieve effective water on a structure. Please consult with Fire Chief Jeremy Hansen (832-5810).

RECOMMENDATION

The Broadway Hill Estates Preliminary Plat, as shown on the attached maps, **BE APPROVED** subject to the following conditions:

1. The following information is to be provided on the Final Plat:
 - a. A note shall be placed on the face of the final plat noting ownership, use and maintenance of all outlots.
2. Grant relief from the two (2) length to one (1) width ratio, per Section 17-26(g) of the Municipal Code as stated in the staff report for Lots 1-8, 16, 17, and 20.
3. Park fees shall be paid to the City of Appleton Finance Department pursuant to Section 17-29 of the Municipal Code prior to City signatures being affixed to the Final Plat. 20 Lots x \$300 = \$6,000 in Park Fees.
4. 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.
5. A Development Agreement is required between the City and applicant that identifies the duties and responsibilities with respect to development of the subject land.
6. The Preliminary Plat and Rezoning #5-20 being acted on at the same Common Council meeting. Rezoning #5-20 must be approved by Common Council in order for the R-1B Single-Family District zoning to take effect.
7. The owner/applicant shall submit to the City the Final Plat within 36 months after the last required approval of the Preliminary Plat. If the Final Plat is not submitted within said 36 months, the City (and any other approving authority) may refuse to approve the Final Plat and shall recommence the procedure for Preliminary Plat approval or may extend the time for submission of the Final Plat.



**APPLICATION FOR SUBDIVISION ORDINANCE
CHAPTER 17, MODIFICATION OF REGULATIONS**

Community and Economic Development Department
100 N. Appleton St. PH: 920-832-6468
Appleton, WI 54911 FAX: 920-832-5994

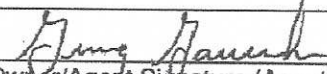
6-23-20
Stamp date received

PROPERTY OWNER		APPLICANT (owner's agent)	
Name	North Appleton Properties, LLC	Name	Martenson & Eisele, Inc.
Mailing Address	4226 E. Appleseed Drive Appleton, WI 54913	Mailing Address	1377 Midway Road Menasha, WI 54952
Phone	920-213-4550	Phone	920-731-0381
	Fax		Fax
E-mail	greg.gauerke@gmail.com	E-mail	jeffs@martenson-eisele.com

PROPERTY INFORMATION		
Property Tax # (31-0-0000-00)	090-0865-00 and part of 090-0855-00	
Site Address/Location	Northwest corner of Broadway Drive and French Road	
Legal Description of Land (may be attached as separate sheet) Part of the NE1/4 and SE1/4 of the SE1/4, Section 31, T22N, R18E		
Current Zoning: Temporary AG	Proposed Zoning: R1-B	Proposed lot area: 687,716 sq.ft. / 1.58 acres (Ave.)
Current Uses: Agricultural	Proposed Uses: Residential	Proposed Lot dimensions: 167' x 367' (Typ.)

THIS REQUEST IS FOR A MODIFICATION UNDER THE TERMS OF SECTION(S) OF THE SUBDIVISION ORDINANCE.

Lots 1-8, 16, 17, and 20 exceed the 2:1 lot depth to width ratio per Section 17-26(g) of the subdivision ordinance. Any modifications to the subdivision ordinance regulations will need to be attached to or written on the preliminary plat application form with justification stating the reasons why the standard cannot be satisfied. Modifications are reviewed by city staff in accordance with 3 standards listed in Section 17-3(f) of the Subdivision Ordinance. The Common Council has the final authority to approve or deny such modification when they take action on the preliminary plat

6-19-20
Date 
Owner/Agent Signature (Agents must provide written proof of authorization)

OFFICE USE ONLY			
FILE # <small>Preliminary Plat Broadway Hills Estates</small>	Application Complete <i>Don Harp</i>	6 / 23 / 20	Date Filed 7 / 15 / 20
Fee \$0			

Reasonable accommodations for persons with disabilities will be made upon request and if feasible.

**APPLICATION FOR SUBDIVISION ORDINANCE CHAPTER 17,
MODIFICATION OF REGULATIONS**

Please provide the following information:

1. A scaled map of the existing subject property showing all lands for which the modification is proposed, and all other lands within 200 feet of the boundaries of the subject property. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
2. Written justification for the requested modification(s) consisting of the reasons why the applicant/property owner believes the proposed modification(s) is or are appropriate.

In all circumstances, an applicant/property owner bears the burden of proving that extraordinary hardship or injustice will result from strict compliance with the subdivision ordinance regulations.

Please answer the following questions (On separate paper):

1. What physical features of the site (steep topography, environmental features, wetlands, restricted access etc.) or its location (make use of an infill site, located adjacent to lakes or rivers) apply only to the property that the create the hardship?
2. Would granting the proposed modification be the least deviation from this ordinance which will mitigate the hardship?
3. Would the modification be detrimental to the public interest and is the modification in keeping with the general spirit and intent of the subdivision ordinance? (The public interest includes the interests of the public at large, not just that of nearby property owners)

These interests are listed as objectives in the purpose statement of the subdivision ordinance:

- Describe how the modification promotes public health, safety, comfort, convenience, prosperity and general welfare.
- Describe how the modification conserves, protects and enhances the property and property values.
- Describe how the modification promotes the most appropriate use of land.
- Describe how the modification promotes orderly growth and development and furthers the orderly layout and use of land;
- Describe how the modification promotes adequate, safe, convenient means of traffic circulation for the public; to lessen congestion in the streets and highways;
- Describe how the modification provides for proper ingress and egress to the property; to provide for adequate light and air; to facilitate adequate but economical provisions for water, sewerage and other public improvements; and to safeguard the public against flood damage.

Preliminary Plat Information:

Lots 1-8, 16, 17, and 20 all appear to exceed the 2:1 lot depth to width ratio per Section 17-26(g) of the subdivision ordinance.

Any modifications to the subdivision ordinance regulations will need to be attached to or written on the preliminary plat application form with justification stating the reasons why the standard cannot be satisfied.

Modifications are reviewed by city staff in accordance with 3 standards listed in Section 17-3(f) of the Subdivision Ordinance. The Common Council has the final authority to approve or deny such modification when they take action on the preliminary plat

Written Justification

Overall, the subdivision is made of similarly sized larger lots, creating a good transition from densely populated standard City lots, to rural larger country lots. The lots are similar in design to the nearby transitional neighborhood Apple Hills Estates, also containing similar topography. The lots have been attractive to public, having presold half of them in the past month alone.

Lots 1-4, 16-17 have a ratio of nearly 2:1, measuring 367'/167', actual ratio is 2.19:1. This ratio fits best across the property to allow one street to still pass through without cul-de-sacs.

Lots 5-8 are pie shaped lots on a corner that contains a large hill with nearly 24' of elevation change in a rather short distance. The greater depth to width allows for enough buildable area in the front of the lots before the back of the lots fall off on the steeper grades.

Lot 20 has an irregular shape because of an existing property notched into the plat. All versions that were designed in concept had irregular shaped lots to go around this existing property.

Questions Answered

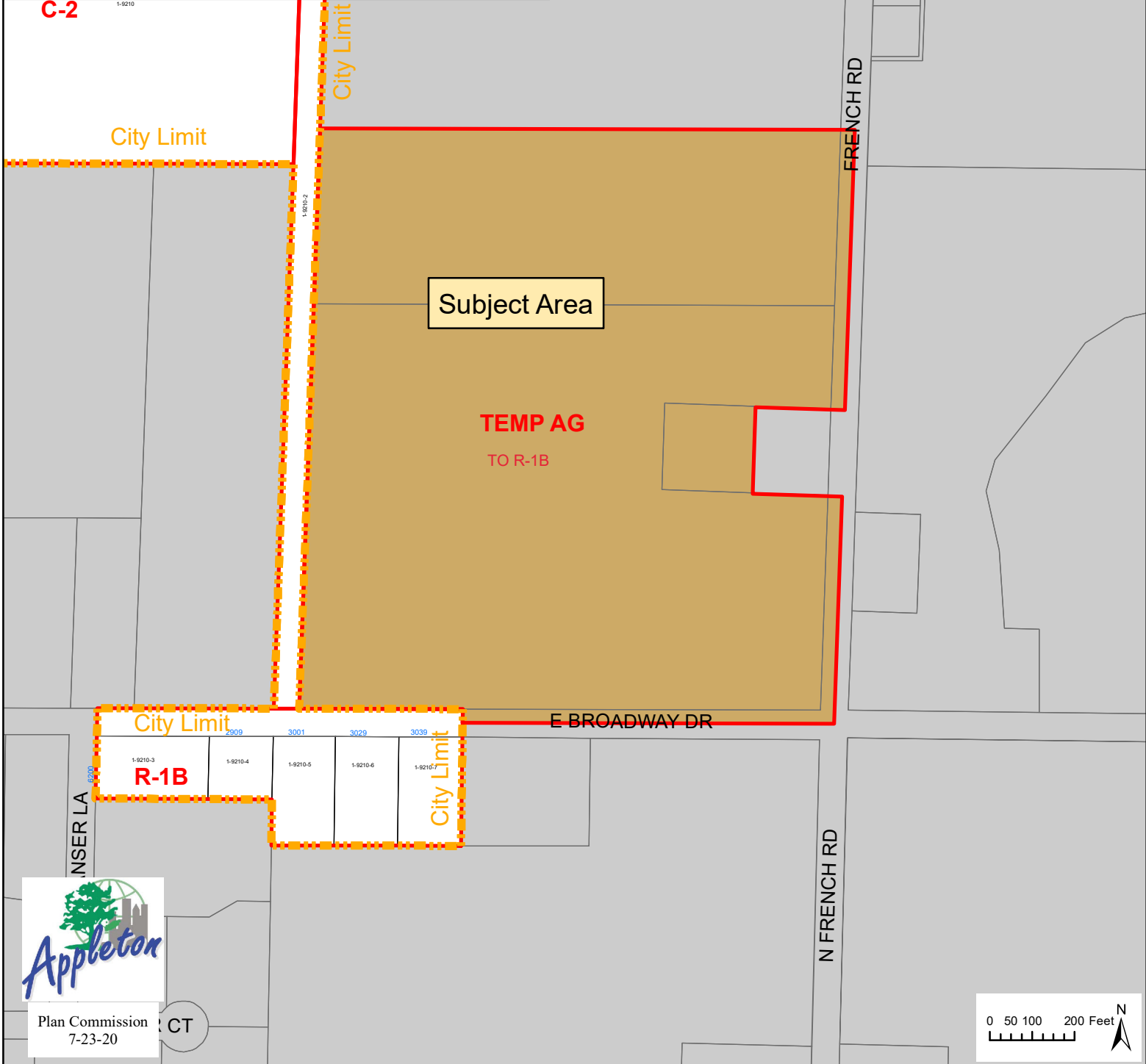
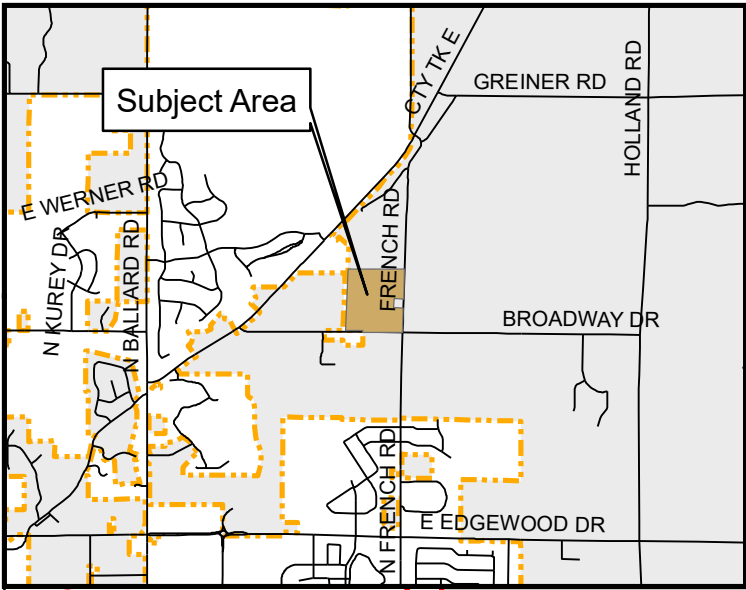
#1. The property contains steep topography on the NW corner containing lots 5-8. Beyond this, there is 2.5 acres of wetlands we didn't want to disturb which drove our ultimate design.

#2. Granting the hardship is only a minor deviation to the current standard and still makes an aesthetically pleasing neighborhood. Surrounding properties are rural and have large and irregular shapes because of both topography and wetlands.

#3. The modifications (length to width ratio) are not detrimental to the public and are only slight deviations, which are even less noticeable because of the larger lot size. The deviations were reviewed with key City members before the property was purchased, and this rough design was given their approval.

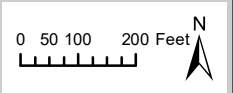
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Broadway Hills Estates Preliminary Plat Zoning Map

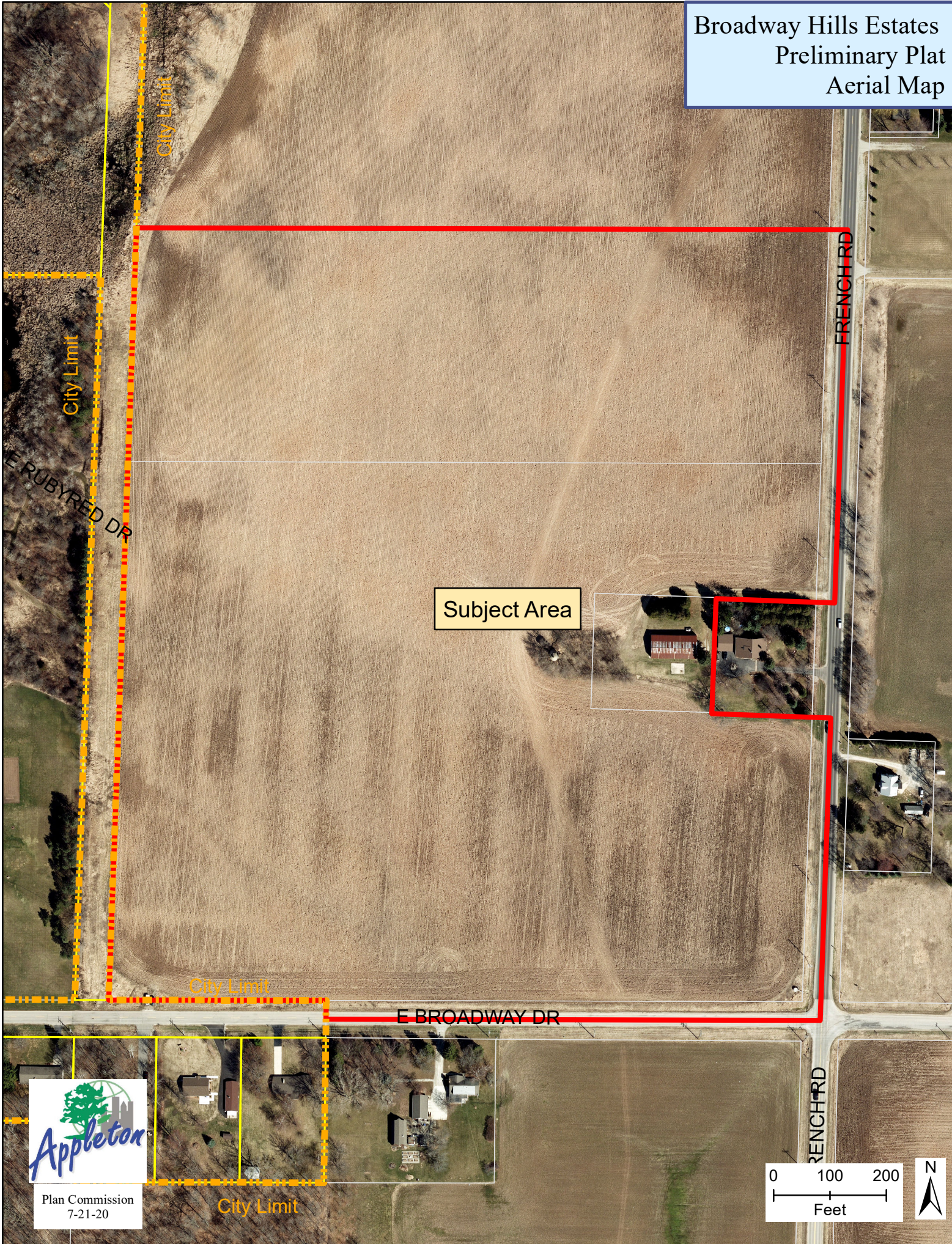


Plan Commission
7-23-20

CT



Broadway Hills Estates
Preliminary Plat
Aerial Map



Subject Area

FRENCH RD

FRENCH RD

E BROADWAY DR

E RUBYRED DR

City Limit

City Limit

City Limit

City Limit



Plan Commission
7-21-20

