



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
www.appleton.org

## Meeting Agenda - Final City Plan Commission

*Any questions about items on this meeting are to be directed to  
the Community and Economic Development Department,  
920-832-6468.*

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Tuesday, August 13, 2019

4:00 PM

Council Chambers, 6th Floor

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1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting  
[19-1150](#) City Plan Minutes from 7-23-19

**Attachments:** [City Plan Minutes 7-23-19.pdf](#)

#### 4. Public Hearings/Apearances

- [19-1151](#) Special Use Permit #8-19 to allow alcohol sales and service in conjunction with a pool hall located at 339 West Wisconsin Avenue, Lower Level Unit (Tax Id #31-6-0100-00), as shown on the attached maps and per attached plan of operation, to run with the land subject to the conditions in the attached staff report and approve attached Resolution (Associated with Action Item #19-1152)

**Attachments:** [ClassIIPublicHearingNoticeNewspaper\\_KKYPoolHall\\_SUP.pdf](#)  
[PublicHearingNoticeNeighborhood\\_KKYPoolHall\\_SUP.pdf](#)

- [19-1153](#) Rezoning #7-19 for the Perez Annexation, formerly part of Town of Grand Chute, consisting of approximately 0.8 acres located at 219 West Edgewood Drive, including all of the adjacent 1/2 right-of-way of West Edgewood Drive (Tax Id #31-6-5803-00, formerly Grand Chute Tax Id #101039314), as shown on the attached maps, from Temporary AG Agricultural District to R-1B Single-Family District (Associated with Action Item #19-1154)

**Attachments:** [InformalPublicHearingNotice\\_PerezAnnex\\_Rezoning.pdf](#)

[19-1155](#) The street discontinuance to vacate a portion of South Locust Street public right-of-way generally located north of the Wisconsin Central Railroad and approximately 136 feet south of West College Avenue (Associated with Action Item #19-1156)

**Attachments:** [InformalPublicHearingNotice\\_LocustSt\\_StreetVacation.pdf](#)

[19-1157](#) Text amendments to Chapter 23 Zoning Ordinance of the Municipal Code relating to Section 23-22 Words and Terms Defined related to Historic Preservation and Section 23-651 Historic Preservation, as identified in the attached staff report (Associated with Action Item #19-1158)

**Attachments:** [InformalPublicHearingNotice\\_ZOTextAmendments\\_Sec23-22+23-651.pdf](#)

## 5. Action Items

[19-1152](#) Request to approve Special Use Permit #8-19 to allow alcohol sales and service in conjunction with a pool hall located at 339 West Wisconsin Avenue, Lower Level Unit (Tax Id #31-6-0100-00), as shown on the attached maps and per attached plan of operation, to run with the land subject to the conditions in the attached staff report and approve attached Resolution (2/3 vote of Common Council required for approval)

**Attachments:** [StaffReport\\_KKYPoolHall\\_SUP\\_For08-13-19.pdf](#)

[19-1154](#) Request to approve Rezoning #7-19 for the Perez Annexation, formerly part of Town of Grand Chute, consisting of approximately 0.8 acres located at 219 West Edgewood Drive, including all of the adjacent 1/2 right-of-way of West Edgewood Drive (Tax Id #31-6-5803-00, formerly Grand Chute Tax Id #101039314), as shown on the attached maps, from Temporary AG Agricultural District to R-1B Single-Family District

**Attachments:** [StaffReport\\_PerezAnnex\\_Rezoning\\_For081319.pdf](#)

[19-1156](#) Request to approve the street discontinuance to vacate a portion of South Locust Street public right-of-way generally located north of the Wisconsin Central Railroad and approximately 136 feet south of West College Avenue and adopt the Initial Resolution and exhibit map

**Attachments:** [StaffReport\\_LocustSt\\_StreetVacation\\_For08-13-19.pdf](#)

[19-1158](#) Request to approve text amendments to Chapter 23 Zoning Ordinance of the Municipal Code relating to Section 23-22 Words and Terms Defined related to Historic Preservation and Section 23-651 Historic Preservation, as identified in the attached staff report

**Attachments:** [StaffReport\\_ZOTextAmendments\\_Sec23-22+23-651\\_For08-13-19.pdf](#)

## 6. Information Items

7. Adjournment

*Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.*

*Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.*



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
www.appleton.org

## Meeting Minutes - Final City Plan Commission

*Any questions about items on this meeting are to be directed  
to the Community and Economic Development Department,  
920-832-6468.*

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Tuesday, July 23, 2019

4:00 PM

Council Chambers, 6th Floor

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1. Call meeting to order

**Meeting called to order at 4:01 p.m.**

2. Roll call of membership

**Present:** 4 - Mayor Hanna, Buetow, Alderperson Meltzer and Robins

**Excused:** 1 - Palm

**Absent:** 1 - Rabec

3. Approval of minutes from previous meeting

[19-1044](#)

City Plan Minutes from 7-9-19

**Attachments:** [City Plan Minutes 7-9-19.pdf](#)

**Alderperson Meltzer moved, seconded by Buetow, that the Minutes be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Mayor Hanna, Buetow, Alderperson Meltzer and Robins

**Excused:** 1 - Palm

**Absent:** 1 - Rabec

4. **Public Hearings/Appearances**

5. **Action Items**



[19-1045](#)

Request to approve the Perez Annexation consisting of 1.3 acres m/l located at 219 West Edgewood Drive (which includes adjacent Edgewood Drive right-of-way), currently in the Town of Grand Chute, as shown on the attached maps, subject to the stipulation in the attached staff report

**Attachments:** [StaffReport\\_Perez Annexation\\_For07-23-19.pdf](#)

*Proceeds to Council on August 7, 2019.*

**Aldersperson Meltzer moved, seconded by Robins, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Mayor Hanna, Buetow, Aldersperson Meltzer and Robins

**Excused:** 1 - Palm

**Absent:** 1 - Rabec

[19-1046](#)

Request to approve Minor Amendment to Special Use Permit #3-19 for a sidewalk cafe with alcohol sales and service adjacent to 216 East College Avenue (Tax Id #31-2-0317-00) within the amenity strip along East College Avenue, as shown on the attached maps and per attached plan of operation, to run with the land subject to the conditions in the attached staff report and approve attached amended resolution (No Council action required)

**Attachments:** [StaffReport\\_216College\\_MinorAmendmentSUP\\_For7-23-19.pdf](#)

**Aldersperson Meltzer moved, seconded by Buetow, that the Report Action Item be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Mayor Hanna, Buetow, Aldersperson Meltzer and Robins

**Excused:** 1 - Palm

**Absent:** 1 - Rabec

## 6. Information Items

## 7. Adjournment

**Buetow moved, seconded by Robins, that the meeting be adjourned at 4:05 p.m. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Mayor Hanna, Buetow, Aldersperson Meltzer and Robins

**Excused:** 1 - Palm

**Absent:** 1 - Rabec

**CITY OF APPLETON**  
**NOTICE OF PUBLIC HEARING**  
**PROPOSED SPECIAL USE PERMIT**

NOTICE IS HEREBY GIVEN of a Public Hearing to be held before the City Plan Commission on Tuesday, August 13, 2019, at 4:00 P.M., in Council Chambers, 6th Floor, City Hall, 100 North Appleton Street, or as soon thereafter as can be heard, for the purpose of considering a Special Use Permit.

Pursuant to Sections 23-66 and 23-113 of the Appleton Municipal Code, to consider a request by Yer Xiong, applicant, and Phan Xiong, owner, for property located at 339 West Wisconsin Avenue, Lower Level Unit (Tax Id #31-6-0100-00) to obtain a Special Use Permit for a pool hall with alcohol sales and consumption. In the C-2 General Commercial District, a Special Use Permit is required for a pool hall with alcohol sales and consumption.

All persons interested are invited to attend this meeting and will be given an opportunity to be heard. Any questions regarding this matter should be directed to David Kress in the Community and Economic Development Department at (920) 832-6428.

CITY PLAN COMMISSION  
APPLETON, WISCONSIN

COMMUNITY & ECONOMIC DEVELOPMENT  
CITY HALL - 100 NORTH APPLETON STREET  
APPLETON, WISCONSIN 54911-4799  
(920) 832-6468

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

RUN: August 1, 2019  
August 6, 2019

**NOTICE OF PUBLIC HEARING**  
**OF THE**  
**APPLETON CITY PLAN COMMISSION**

Dear property owner(s):

The City of Appleton Plan Commission will conduct a Public Hearing on Tuesday, August 13, 2019, at 4:00 P.M., or as soon thereafter as can be heard, in Common Council Chambers, 6th Floor, City Hall, 100 North Appleton Street, for the purpose of considering the following proposed Special Use Permit:

- Pursuant to Sections 23-66 and 23-113 of the Appleton Municipal Code, to consider a request by Yer Xiong, applicant, and Phan Xiong, owner, for property located at 339 West Wisconsin Avenue, Lower Level Unit (Tax Id #31-6-0100-00) to obtain a Special Use Permit for a pool hall with alcohol sales and consumption. In the C-2 General Commercial District, a Special Use Permit is required for a pool hall with alcohol sales and consumption.
  
- ALDERMANIC DISTRICT: 1 – Alderperson William Siebers

You are being notified as a policy of the City of Appleton Community and Economic Development Department. This notification invites you to appear before the Appleton City Plan Commission, and you will be given an opportunity to express your views or concerns regarding the above-described request. You may also address the City Plan Commission by letter at the address below. The City Plan Commission makes a recommendation to the Common Council who makes the final decision on the matter.

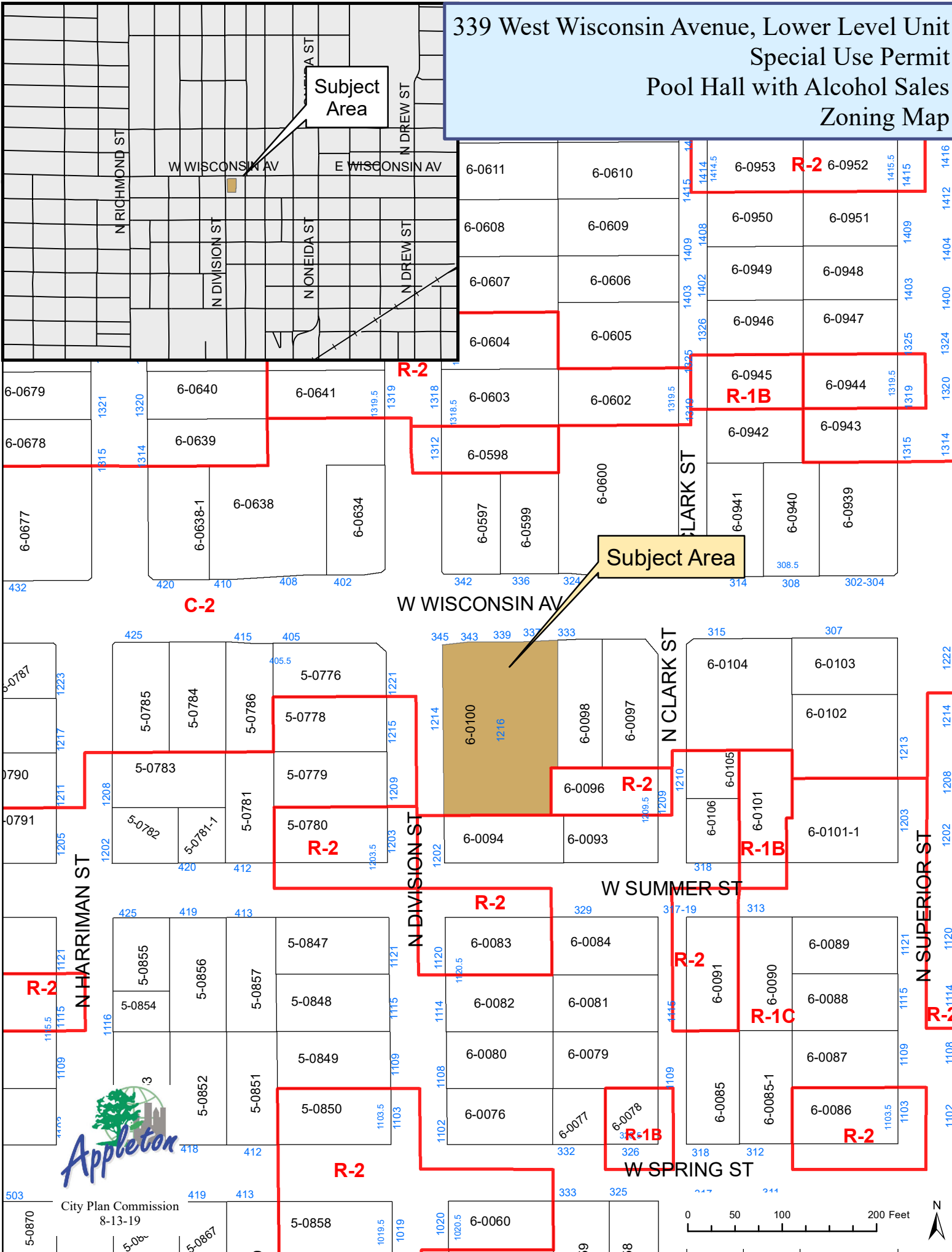
Any questions regarding this matter should be directed to David Kress, Principal Planner, in the Community and Economic Development Department at 920-832-6428.

CITY PLAN COMMISSION

COMMUNITY & ECONOMIC DEVELOPMENT  
CITY HALL - 100 NORTH APPLETON STREET  
APPLETON, WISCONSIN 54911-4799  
920-832-6468

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

# 339 West Wisconsin Avenue, Lower Level Unit Special Use Permit Pool Hall with Alcohol Sales Zoning Map



Subject Area

Subject Area



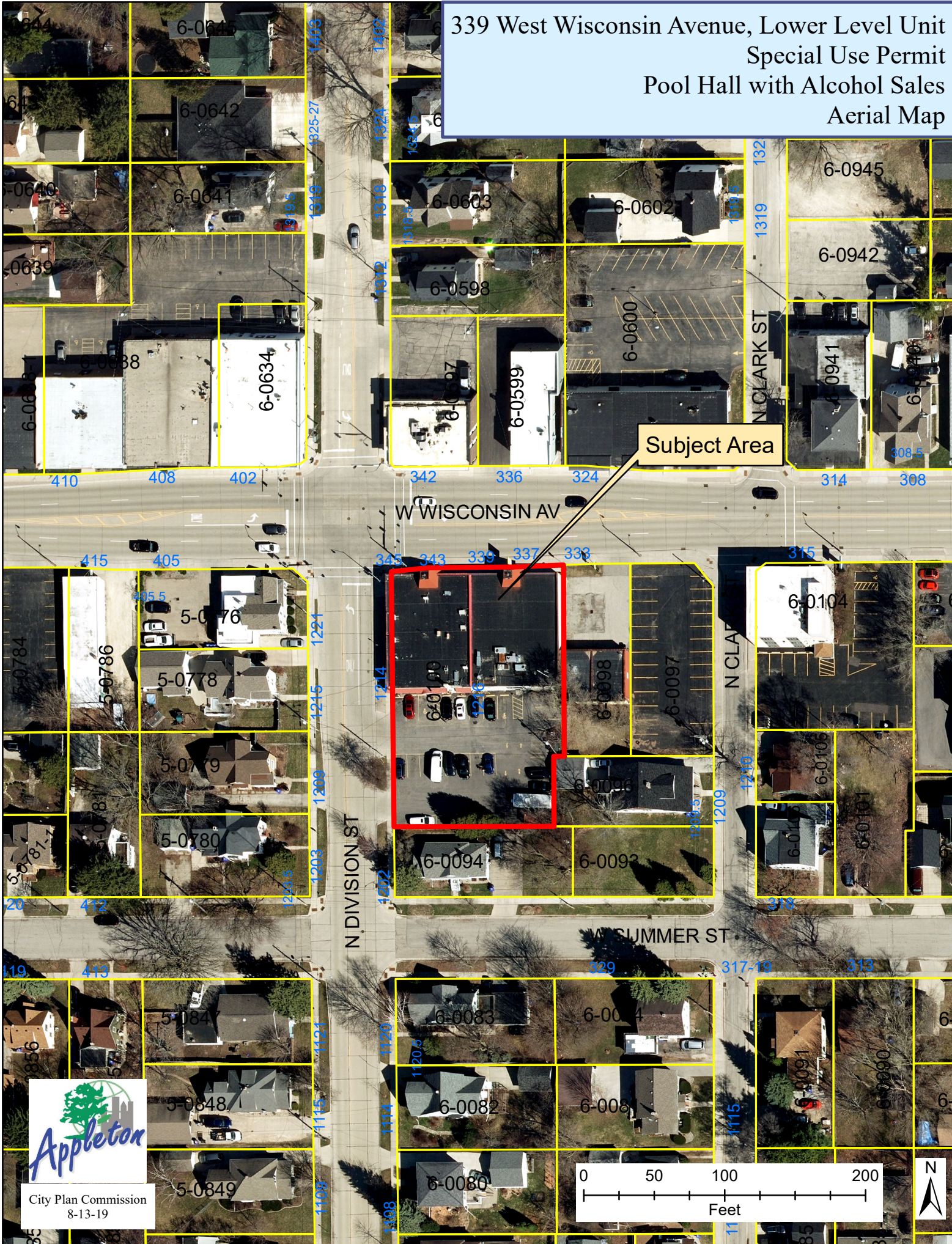
City Plan Commission  
8-13-19

0 50 100 200 Feet





339 West Wisconsin Avenue, Lower Level Unit  
Special Use Permit  
Pool Hall with Alcohol Sales  
Aerial Map



Subject Area

W WISCONSIN AV

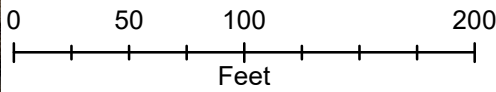
N DIVISION ST

N CLARK ST

W SUMMER ST



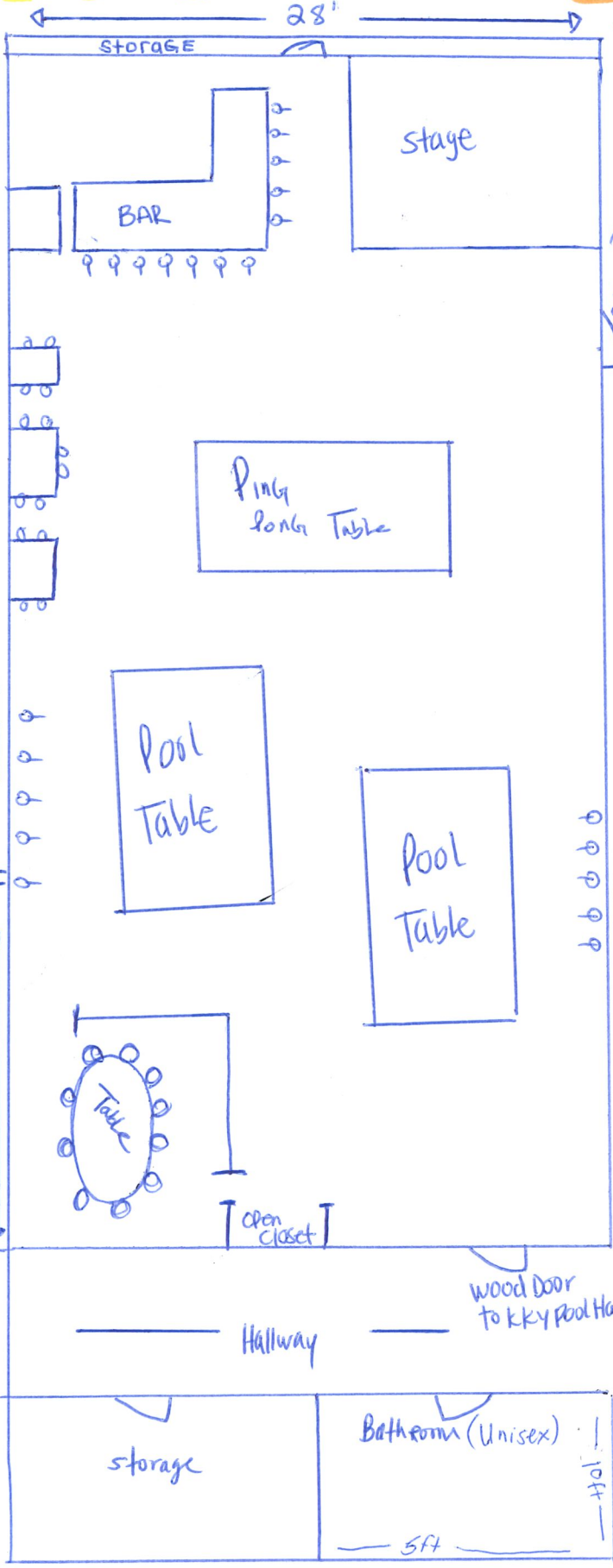
City Plan Commission  
8-13-19





LOWER LEVEL IS WHERE KKY Pool Hall BE.

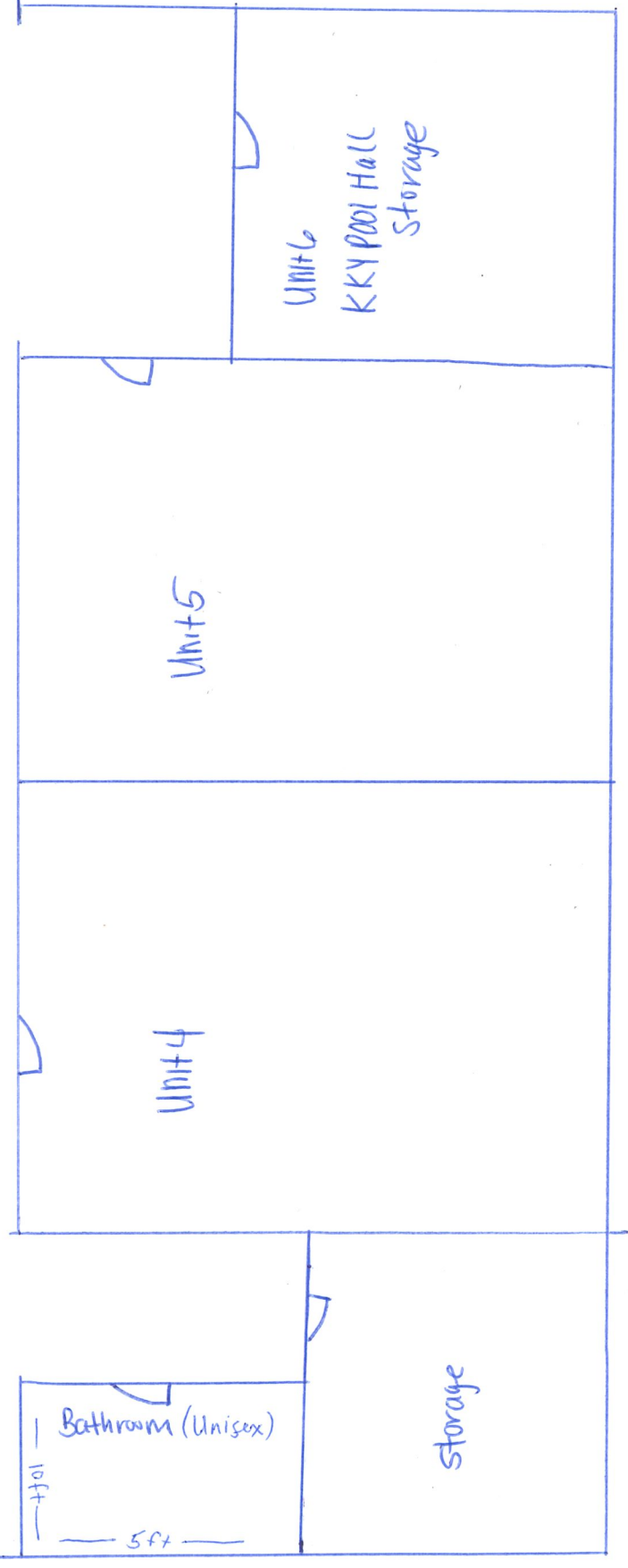
Exit stairs to WISCONSIN AVE street



Exit stairs to Parking Lot

Glass Door to kky Pool Hall

WALKWAY 1 EXIT PER SIDE



Unit 6  
KKY Pool Hall  
Storage

storage

**NOTICE OF INFORMAL PUBLIC HEARING**  
**OF THE**  
**APPLETON CITY PLAN COMMISSION**

The City of Appleton Plan Commission will conduct an Informal Public Hearing on Tuesday, August 13, 2019, at 4:00 P.M., in Common Council Chambers, 6th Floor, City Hall, 100 North Appleton Street, or as soon thereafter as can be heard, for the following proposed rezoning request:

**COMMON DESCRIPTION:**

Parcel #101039314 included in the “Perez” Annexation, located at 219 West Edgewood Drive.

**Rezoning Request:**

A rezoning request has been initiated by the City Plan Commission, in the matter of amending Chapter Twenty-three (Zoning Ordinance) of the Municipal Code of the City of Appleton for the above-described real estate, which will be zoned temporary AG Agricultural District following annexation. Pursuant to Sections 23-65(d)(1) and 23-65(e) of the Municipal Code, the City Plan Commission proposes to rezone the property to a permanent zoning classification of R-1B Single-Family District (see attached map). The R-1B District is intended to provide for and maintain residential areas characterized predominately by single-family, detached dwellings on medium sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential uses.

**Purpose of the Request:** To assign a permanent zoning classification following the “Perez (219 W. Edgewood Drive)” Annexation and allow the existing single-family residence to be connected to the City sanitary sewer system.

**ALDERMANIC DISTRICT:** 7 – Alderperson Maiyoua Thao

You are being notified as a policy of the City of Appleton Community and Economic Development Department. This notification invites you to appear before the Appleton City Plan Commission, and you will be given an opportunity to express your views or concerns regarding the above-described request. You may also address the City Plan Commission by letter at the address below. The City Plan Commission makes a recommendation to the Common Council who makes the final decision on the matter.

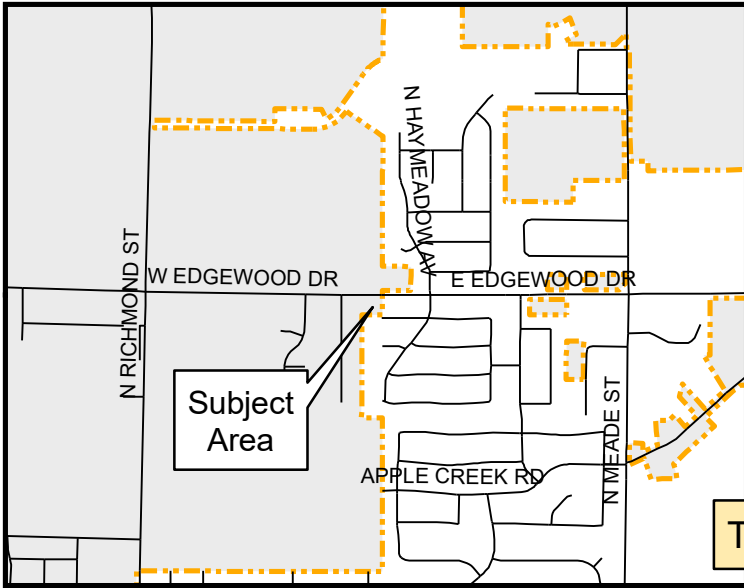
Any questions regarding this matter should be directed to Jessica Titel, Principal Planner, in the Community and Economic Development Department at 920-832-6476.

CITY PLAN COMMISSION

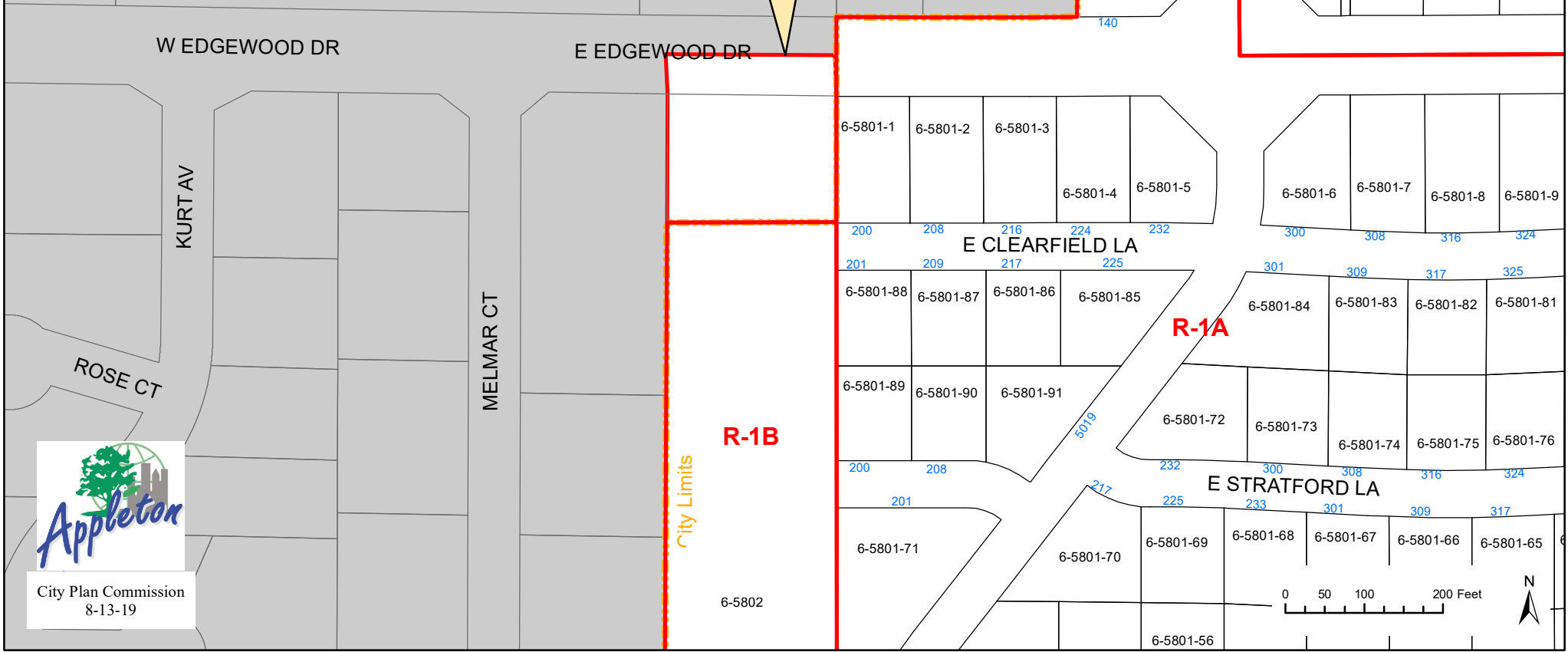
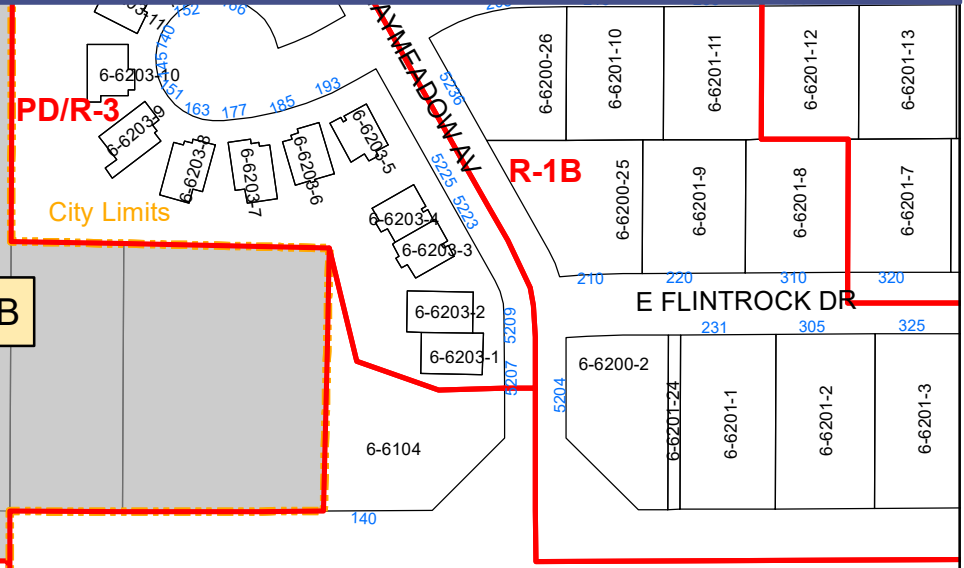
COMMUNITY & ECONOMIC DEVELOPMENT  
CITY HALL - 100 NORTH APPLETON STREET  
APPLETON, WISCONSIN 54911-4799  
920-832-6468

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

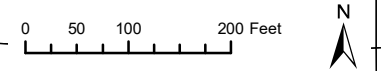
# Perez Annexation Rezoning Temporary AG Agricultural District to R-1B Single Family District Zoning Map



Temporary AG to R-1B



City Plan Commission  
8-13-19









# NOTICE OF INFORMAL PUBLIC HEARING

## OF THE

### APPLETON CITY PLAN COMMISSION

Dear property owner(s):

The City of Appleton Plan Commission will conduct an Informal Public Hearing on Tuesday, August 13, 2019, at 4:00 P.M., in Common Council Chambers, 6th Floor, City Hall, 100 North Appleton Street, or as soon thereafter as can be heard, for the purpose of considering the following proposed Street Vacation (discontinuance of a portion of public street right-of-way).

#### **LEGAL DESCRIPTION OF AREA TO BE VACATED:**

A strip of land 62 feet in width and 157 feet m/l in length along its centerline, containing 9,717 square feet of land m/l and being further described by:

Commencing at the Northeast corner of Lot 1 of Certified Survey Map No. 6031, said point also being coincident with the South line of a 16 foot wide Alley at the West line of Locust Street and being the point of beginning;

Thence S.86°05'40"E. 62.15 feet to a point on the West line of Lot 4 of Certified Survey Map No. 583, said point being 10 feet South of the Northwest corner thereof, said point also being coincident with the South line of a 20 foot wide vacated Alley at the East line of Locust Street;

Thence S.00°05'54"E. 134.57 feet m/l coincident with the West line of said Lot 4 and also being coincident with the East line of Locust Street to a point 20.00 feet Northwesterly of the center of the main track of the Wisconsin Central Railroad, as measured at a right angle to said track;

Thence S.56°54'36"W. 73.92 feet parallel to the center of the main track of the Wisconsin Central Railroad to the Southerly extension of the West line of Locust Street;

Thence N.00°05'54"W. 178.87 feet m/l coincident with the Southerly extension of the West line of Locust Street and then the West line thereof to the point of beginning.

See also attached Exhibit "A" for illustration.

**COMMON DESCRIPTION:** A portion of South Locust Street right-of-way, north of the Wisconsin Central Railroad and 136' m/l south of West College Avenue.

**ALDERMANIC DISTRICT:** 9 – Alderperson Alex Schultz

#### **PARTIAL SOUTH LOCUST STREET VACATION REQUEST:**

A partial Street Vacation request has been initiated by the applicant, City of Appleton. The proposed street vacation will help facilitate future expansion plans for the Boys and Girls Club to program this space along with the property they own on either side of the proposed street vacation for outdoor recreational activities. The adjoining property owner (Boys and Girls Club Fox Valley, Inc.) will acquire ownership to the afore-described and vacated portion of South Locust Street right-of-way, as shown on the attached maps.

You are being notified as a policy of the City of Appleton Community and Economic Development Department. This notification invites you to appear before the Appleton City Plan Commission, and you will be given an opportunity to express your views or concerns regarding the above-described request. You may also address the City Plan Commission by letter at the address below. The City Plan Commission makes a recommendation to the Common Council who makes the final decision on the matter.

Any questions regarding this matter should be directed to Don Harp, Principal Planner, with the Community and Economic Development Department at 920-832-6466.

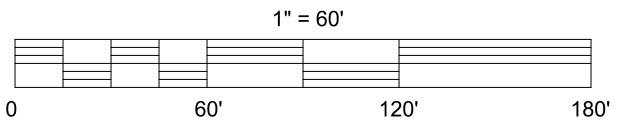
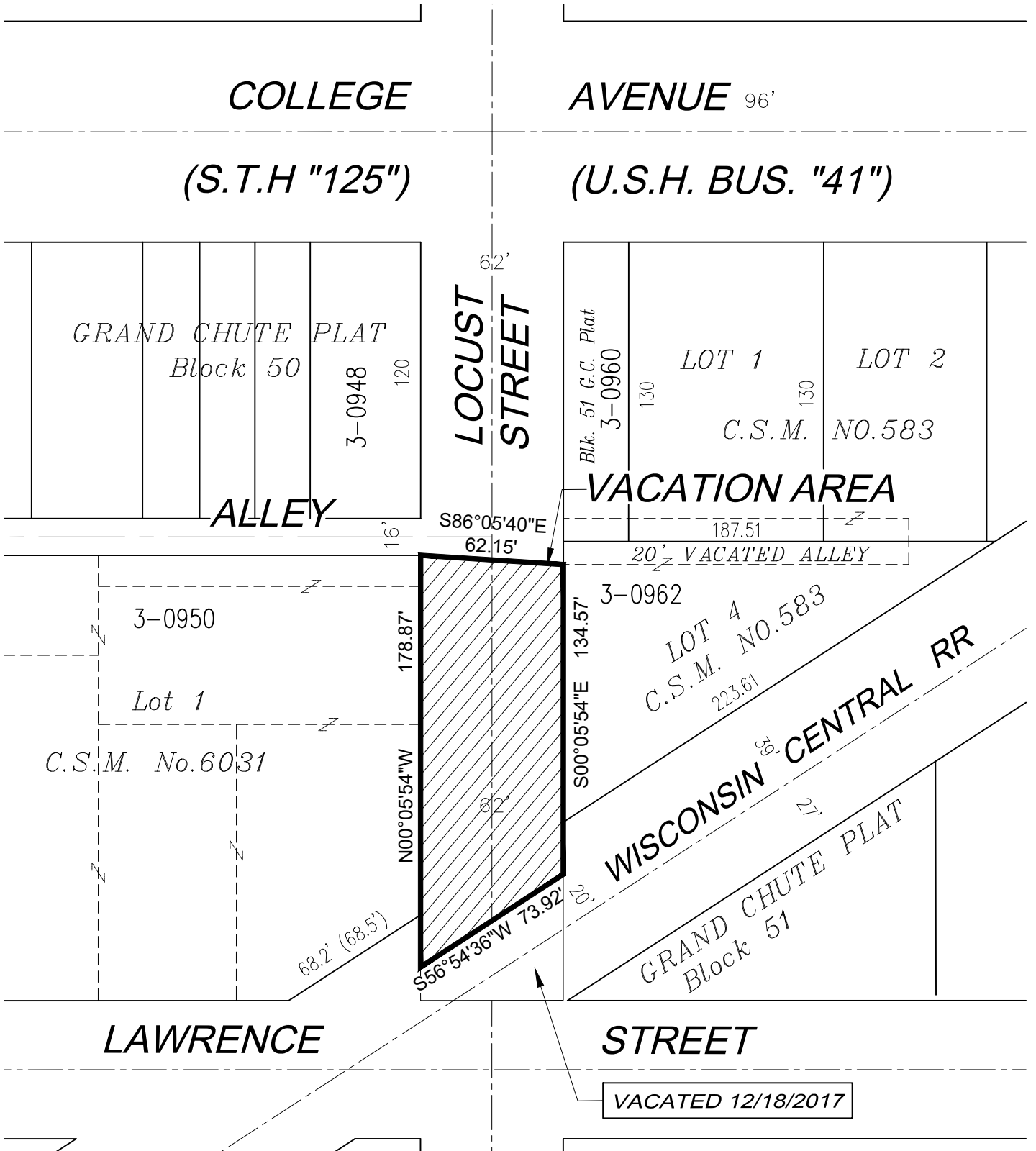
CITY PLAN COMMISSION

COMMUNITY & ECONOMIC DEVELOPMENT  
CITY HALL – 100 NORTH APPLETON STREET  
APPLETON, WISCONSIN 54911  
920-832-6468

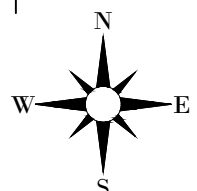
*Reasonable accommodations for persons with disabilities will be made upon request and if feasible.*

# EXHIBIT "A"

## LOCUST STREET VACATION



H:\Autocad dwgs\Vacation and Dedication\2019\Locust St 0628\_2019



**CITY OF APPLETON**  
 DEPT. OF PUBLIC WORKS  
 APPLETON, WI 54911  
 DRAFTED BY: T. KROMM





South Locust Street  
Street Vacation  
Aerial Map

820

700

N LOCUST ST

W COLLEGE AV

819 815 813 809 807 801 745 743 741 733 719

3-0944

3-0945

3-0945-1

3-0946

3-0947

3-0948

S LOCUST ST

110

3-0960

3-0961

3-0963-1

3-096

Subject Area

ALLEY

0950

117

3-0962

3-0965

3-0966

Closed

728

W LAWRENCE ST

745 741 737-39 733 727

0900

3-0902

S LOCUST ST

3-0892

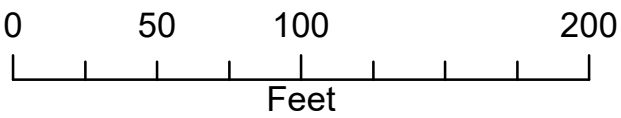
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395

96





**NOTICE OF INFORMAL PUBLIC HEARING**

**OF THE**

**APPLETON CITY PLAN COMMISSION**

NOTICE IS HEREBY GIVEN of an Informal Public Hearing to be held before the City Plan Commission in Common Council Chambers, 6th Floor, City Hall, 100 North Appleton Street, on Tuesday, August 13, 2019, at 4:00 P.M., or as soon thereafter as can be heard, for the purpose of the following proposed text amendments to Chapter 23 Zoning Ordinance of the Municipal Code:

The City of Appleton is considering amending Section 23-22 Words and terms defined related to Historic Preservation and Section 23-651 Historic Preservation of Chapter 23 Zoning Ordinance of the Municipal Code.

A copy of the proposed text amendments to Chapter 23 Zoning Ordinance of the Municipal Code relating to Sec. 23-22 and 23-651 is available in the Appleton Community and Economic Development Department or the Office of the City Clerk from 8:00 a.m. until 4:30 p.m., Monday through Friday.

All persons interested are invited to attend this meeting and will be given an opportunity to be heard. You may also address the Plan Commission by letter at the address below. The Plan Commission makes a recommendation to the Common Council who makes the final decision on the matter.

Any questions regarding the proposed text amendments to Chapter 23 Zoning Ordinance of the Municipal Code relating to Historic Preservation should be directed to Don Harp, Principal Planner of the Community and Economic Development Department at 832-6466.

CITY PLAN COMMISSION  
APPLETON, WISCONSIN

COMMUNITY AND ECONOMIC DEVELOPMENT  
DEPARTMENT  
CITY HALL - 100 NORTH APPLETON STREET  
APPLETON, WISCONSIN 54911-4799  
(920) 832-6468

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## REPORT TO CITY PLAN COMMISSION

**Plan Commission Public Hearing Date:** August 13, 2019

**Common Council Meeting Date:** August 21, 2019

**Item:** Special Use Permit #8-19 for pool hall with alcohol sales and service

**Case Manager:** David Kress

### GENERAL INFORMATION

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**Owner:** Phan Xiong

**Applicant:** KKY Pool Hall c/o Yer Xiong

**Address/Parcel #:** 339 West Wisconsin Avenue, Lower Level Unit (Tax Id #31-6-0100-00)

**Petitioner's Request:** The applicant is requesting a Special Use Permit for alcohol sales and service in conjunction with a pool hall.

### BACKGROUND

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The subject area, located near the intersection of West Wisconsin Avenue and North Division Street, is a lower level unit of a multi-tenant building. The applicant has yet to apply for a Liquor License, but intends to do so after action is taken on this Special Use Permit request. On February 5, 2014, Common Council approved Special Use Permit #1-14 for a restaurant with alcohol sales at 1216 N. Division Street, which is located in a different tenant space of the multi-tenant building.

### STAFF ANALYSIS

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**Project Summary:** The applicant proposes to establish a pool hall with alcohol sales and service on the subject site, which would occupy approximately 1,372 square feet in the lower level of the existing building. Based on the attached development plan, this request will not increase existing building area. Per the Inspections Division, the proposed layout and dimensions would allow a preliminary total of approximately 40 occupants for the subject tenant space.

**Existing Site Conditions:** The existing multi-tenant building totals approximately 14,640 square feet, including other commercial uses in ground floor and lower level units. The 0.50-acre site also includes off-street parking south of the building. Access is provided by curb cuts on North Division Street.

**Zoning Ordinance Requirements:** The subject property has a zoning designation of C-2 General Commercial District. Per Section 23-113(e) of the Municipal Code, a pool hall with alcohol sales and service requires a Special Use Permit in the C-2 District. In order to permit alcohol sales and service in conjunction with the proposed pool hall, the Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds (2/3) vote of the Common Council is required for approval.

**Special Use Permit #8-19**  
**August 13, 2019**  
**Page 2**

Section 23-172(m) of the Municipal Code requires a minimum number of off-street parking spaces based on the use of a property. In this case, the property has historically functioned as a “shopping center” use, per Assessor’s Office records. While the proposal would result in a change in tenancy, the nature and intensity of the use remains unchanged, as the proposal will not increase the gross floor area of the existing multi-tenant building. Therefore, additional off-street parking spaces are not required for the applicant’s request.

**Operational Information:** A plan of operation is attached to the Staff Report.

**Outdoor Seating Area:** No outdoor alcohol sales and service is requested with this application for a Special Use Permit.

**Surrounding Zoning and Land Uses:** The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally commercial and residential in nature.

North: C-2 General Commercial District. The adjacent land uses to the north are currently a mix of commercial uses, including a tavern.

South: R-1C Central City Residential District. The adjacent land uses to the south are currently single-family and two-family residential.

East: C-2 General Commercial District and R-2 Two-Family District. The adjacent land uses to the east are currently a mix of commercial and two-family residential.

West: C-2 General Commercial District and R-1C Central City Residential District. The adjacent land uses to the west are currently a mix of commercial and single-family residential.

**Appleton Comprehensive Plan 2010-2030:** Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Mixed Use designation shown on the City’s *Comprehensive Plan 2010-2030 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 8 – Economic Development*

*Appleton will pursue economic development that retains and attracts talented people, brings good jobs to the area, and supports the vitality of its industrial areas, downtown, and neighborhood business districts.*

**OBJECTIVE 9.4 Economic Development:**

*Ensure the continued vitality of downtown and the City’s neighborhood commercial districts.*



**Special Use Permit #8-19**  
**August 13, 2019**  
**Page 3**

*OBJECTIVE 10.5 Land Use:*

*Support the continued redevelopment and revitalization of land uses adjacent to Appleton's key transportation corridors and downtown.*

*Chapter 15: Wisconsin Avenue Corridor Plan, General Plan:*

*Land Uses, Pedestrian-Oriented Commercial – This use and character is recommended between Richmond Street and Appleton Street, where it already exists to a substantial degree. It is typified by buildings constructed at or near the street right-of-way and oriented to the sidewalk.*

**Finding of Fact:** This request was reviewed in accordance with the standards for granting a Special Use Permit under Sections 23-66(e)(1-6) and 23-66(h)(6) of the Municipal Code, which were found in the affirmative, as long as all stipulations are satisfied.

**Technical Review Group (TRG) Report:** This item was discussed at the July 23, 2019 Technical Review Group meeting.

- Health Department Comments: With beer sales, would be a tavern with no food and need to meet the food code requirements. At a minimum, would need a handwash sink in bar area.
- Inspections Division Comments: With the plan as shown, the layout and the dimensions provided, the total net area would allow a preliminary total of approximately 40 occupants. Require HVAC plan to be developed and approved.
- Fire Department Comments: If the submittal is approved by Common Council, the Fire Department is required to be notified by the business owner so that we can do an occupancy inspection prior to opening.

**Future Actions:** Any future expansion that increases the gross floor area of the existing multi-tenant, shopping center building may require additional off-street parking spaces to be provided.

**RECOMMENDATION**

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Staff recommends, based on the above, that Special Use Permit #8-19 to allow alcohol sales and service at 339 West Wisconsin Avenue, Lower Level Unit (Tax Id #31-6-0100-00), as shown on the attached maps and per attached plan of operation, along with the attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with. This includes working with applicable City staff to address the comments found in the TRG Report above.
2. The applicant shall apply for and receive approval of a Liquor License from the City Clerk prior to serving or consuming alcohol on the premises.
3. The serving and consumption of alcohol is limited to the lower level tenant space, as identified on the attached development plan drawings (approximately 28' x 49'). Any future expansions for the serving and/or consumption of alcohol may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.

**Special Use Permit #8-19**

**August 13, 2019**

**Page 4**

4. This Special Use Permit is needed for the on-site alcohol sales and consumption, not the pool hall. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.
  
5. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.

**RESOLUTION**

**CITY OF APPLETON  
RESOLUTION APPROVING SPECIAL USE PERMIT #8-19**

**WHEREAS**, Yer Xiong, KKY Pool Hall, has applied for a Special Use Permit for a pool hall with alcohol sales and service located at 339 West Wisconsin Avenue, Lower Level Unit, also identified as Parcel Number(s) 31-6-0100-00; and

**WHEREAS**, the location for the proposed pool hall with alcohol sales and service is located in the C-2 General Commercial District and the proposed use is permitted by special use within this zoning district; and

**WHEREAS**, the City of Appleton Plan Commission held a public hearing on August 13, 2019, on Special Use Permit #8-19 at which all those wishing to be heard were allowed to speak or present written comments, and other materials presented at the public hearing; and

**WHEREAS**, the City of Appleton Plan Commission has considered the application, the staff reports, oral and written, the Comprehensive Plan and zoning on the subject property, the testimony, written comments, and other materials presented at the public hearing; and

**WHEREAS**, the City of Appleton Plan Commission reviewed the standards for granting a Special Use Permit under Sections 23-66(e)(1-6) and 23-66(h)(6) of the Municipal Code, and forwarded Special Use Permit #8-19 to the City of Appleton Common Council with a favorable or not favorable (CIRCLE ONE) recommendation; and

**WHEREAS**, the City of Appleton Common Council has reviewed the report and recommendation of the City of Appleton Plan Commission at their meeting on \_\_\_\_\_, 2019 and found it to be acceptable.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Appleton Common Council approves Special Use Permit #8-19 to allow alcohol sales and service located at 339 West Wisconsin Avenue, Lower Level Unit, also identified as Parcel Number(s) 31-6-0100-00 and orders as follows:

**CONDITIONS OF SPECIAL USE PERMIT #8-19**

1. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with. This includes working with applicable City staff to address the comments found in the TRG Report above.
2. The applicant shall apply for and receive approval of a Liquor License from the City Clerk prior to serving or consuming alcohol on the premises.

3. The serving and consumption of alcohol is limited to the lower level tenant space, as identified on the attached development plan drawings (approximately 28' x 49'). Any future expansions for the serving and/or consumption of alcohol may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.
4. This Special Use Permit is needed for the on-site alcohol sales and consumption, not the pool hall. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.
5. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.

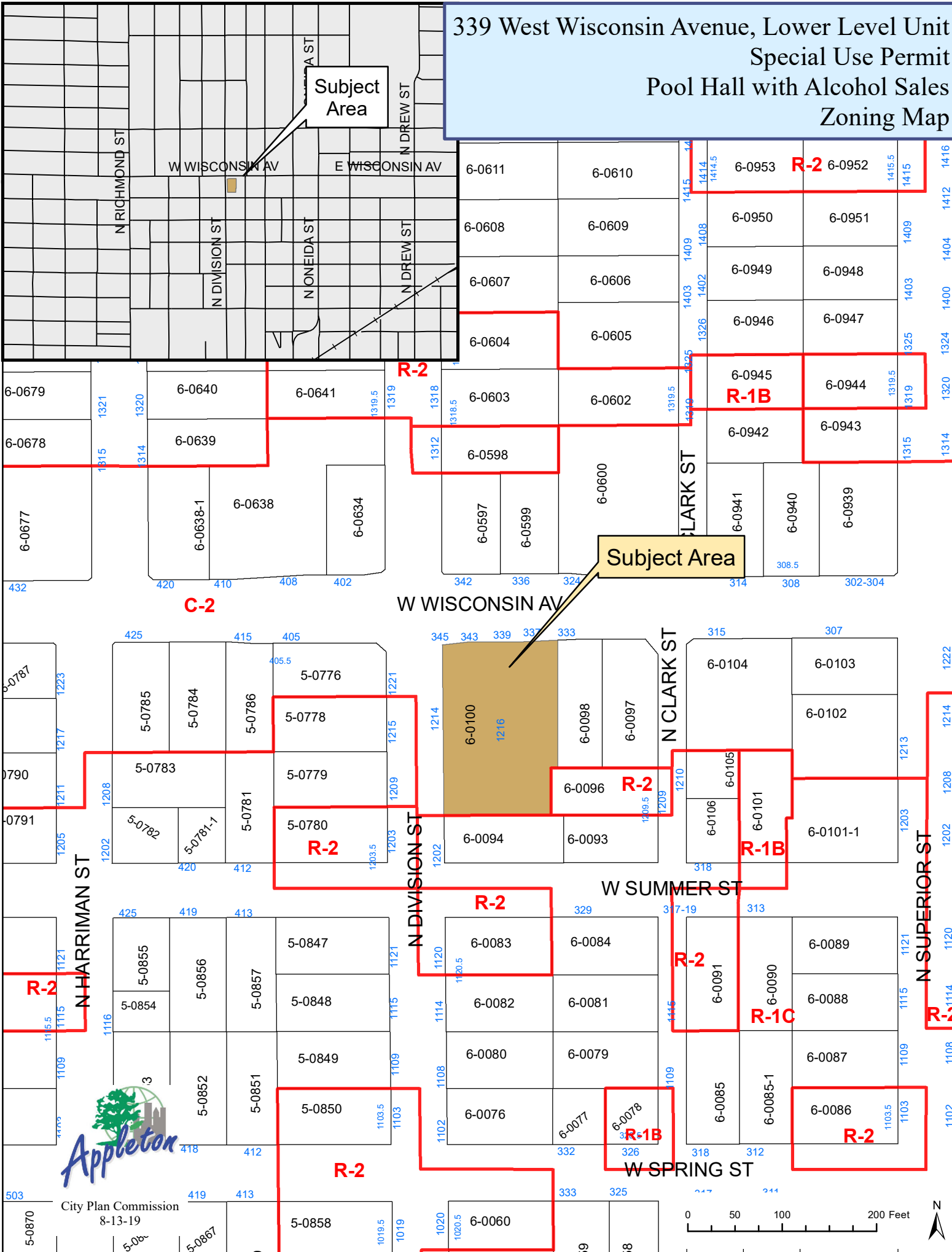
Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Timothy M. Hanna, Mayor

ATTEST:

\_\_\_\_\_  
Kami Lynch, City Clerk

# 339 West Wisconsin Avenue, Lower Level Unit Special Use Permit Pool Hall with Alcohol Sales Zoning Map

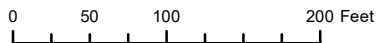


Subject Area

Subject Area

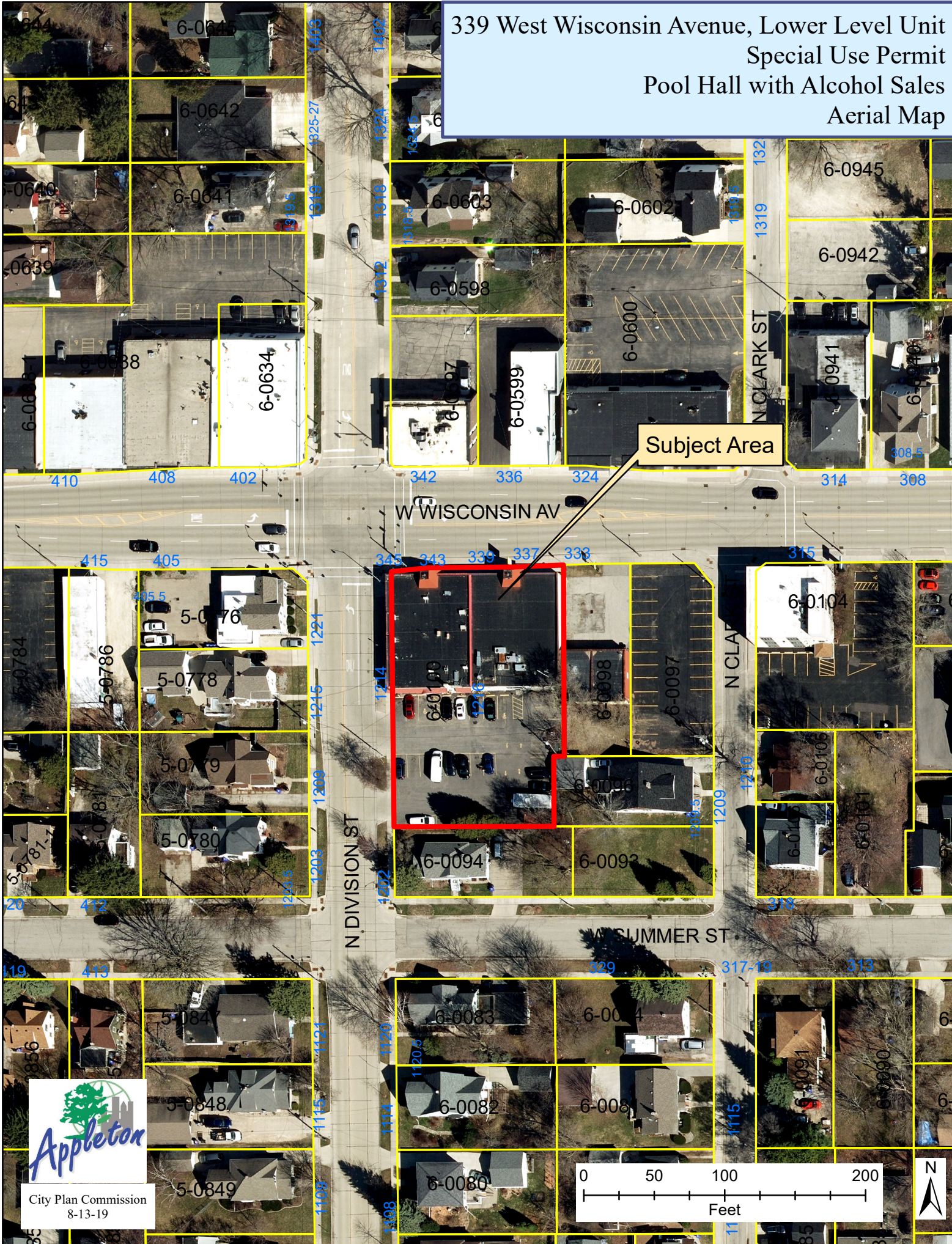


City Plan Commission  
8-13-19





339 West Wisconsin Avenue, Lower Level Unit  
Special Use Permit  
Pool Hall with Alcohol Sales  
Aerial Map



Subject Area

W WISCONSIN AV

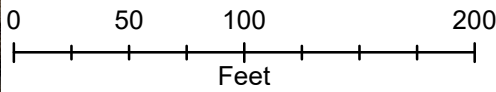
N DIVISION ST

N CLARK ST

W SUMMER ST



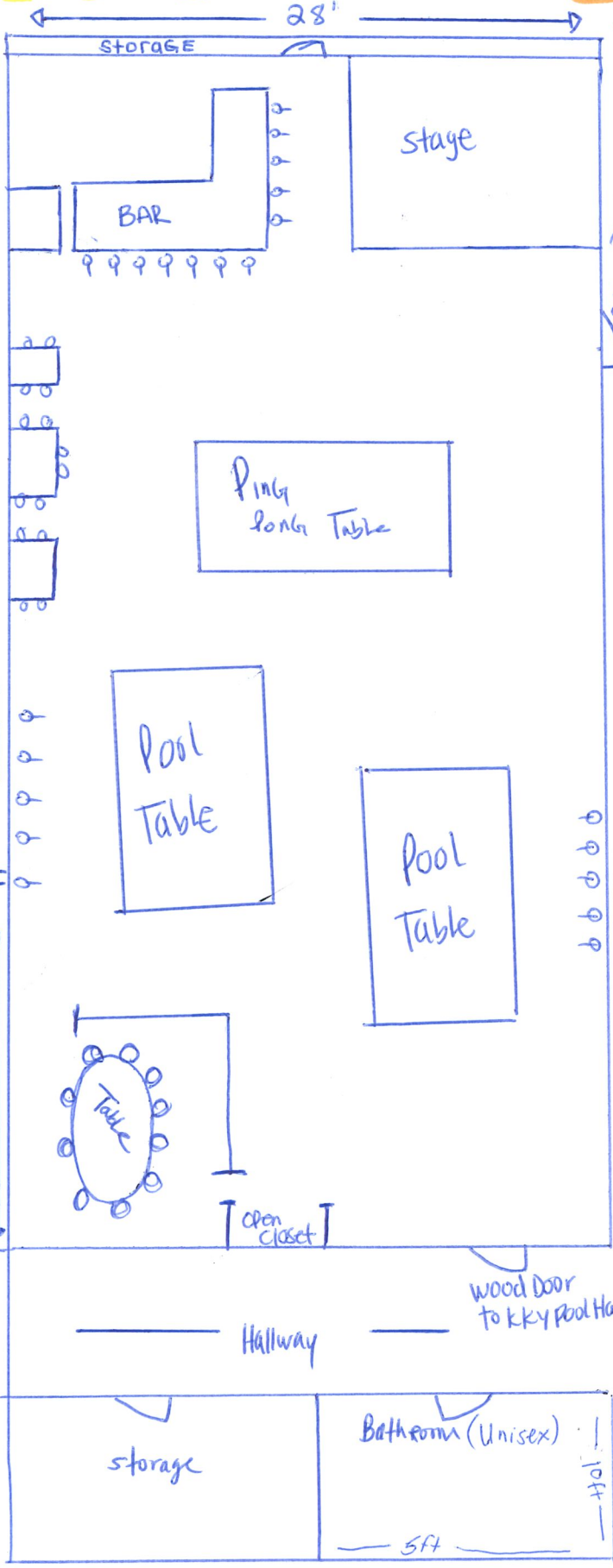
City Plan Commission  
8-13-19



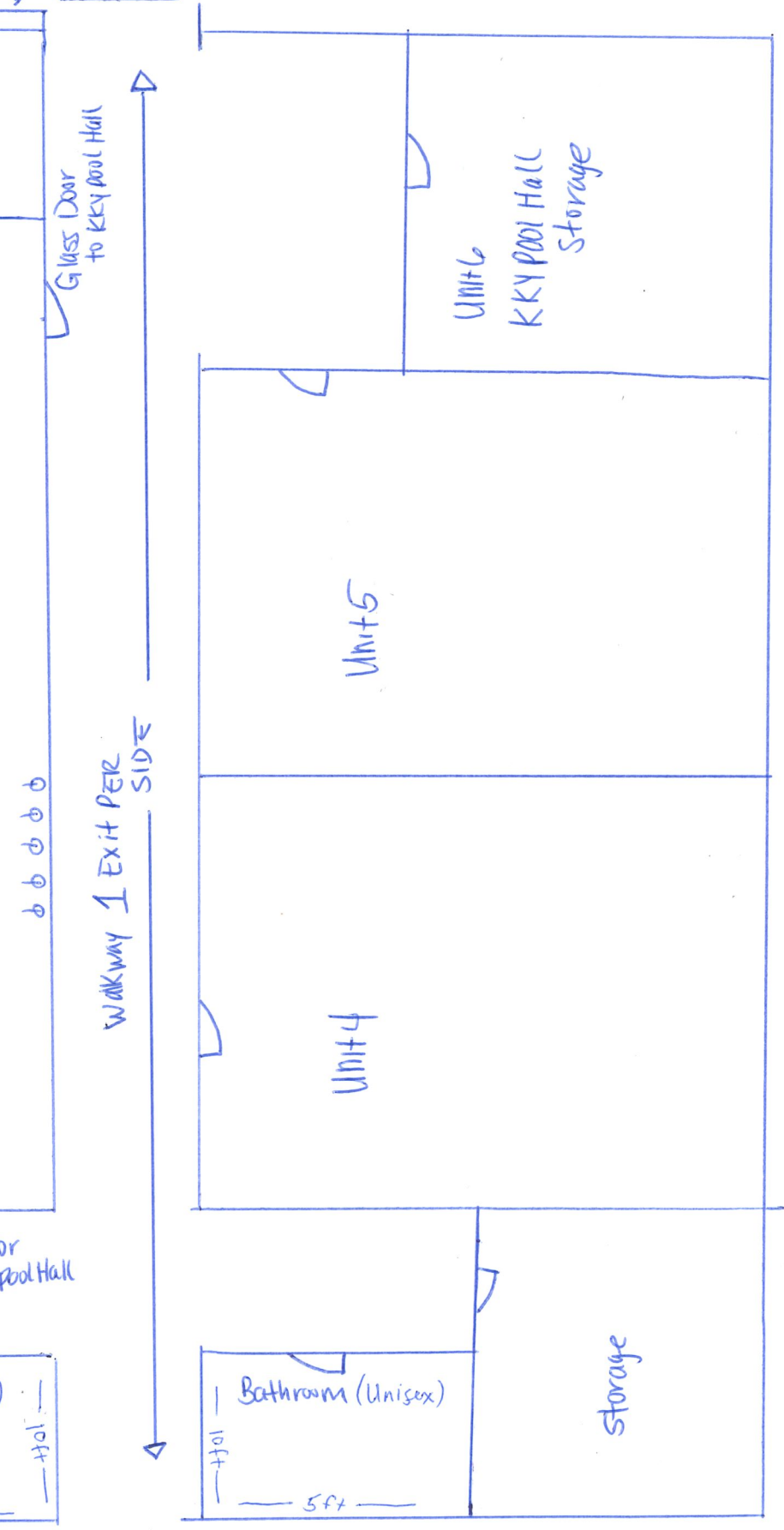


LOWER LEVEL IS WHERE KKY Pool Hall BE.

Exit stairs to WISCONSIN AVE street



Exit stairs to Parking Lot



Back Entrance (PARKING LOT)



1216  
N. Division St.

FOR LEASE	
Call for more info or call 414-924-1111	Kajiah Shop
Wisconsin Radio	Busy Thai

ACCESSIBLE  
PARKING

♿

WISCONSIN  
14P5559

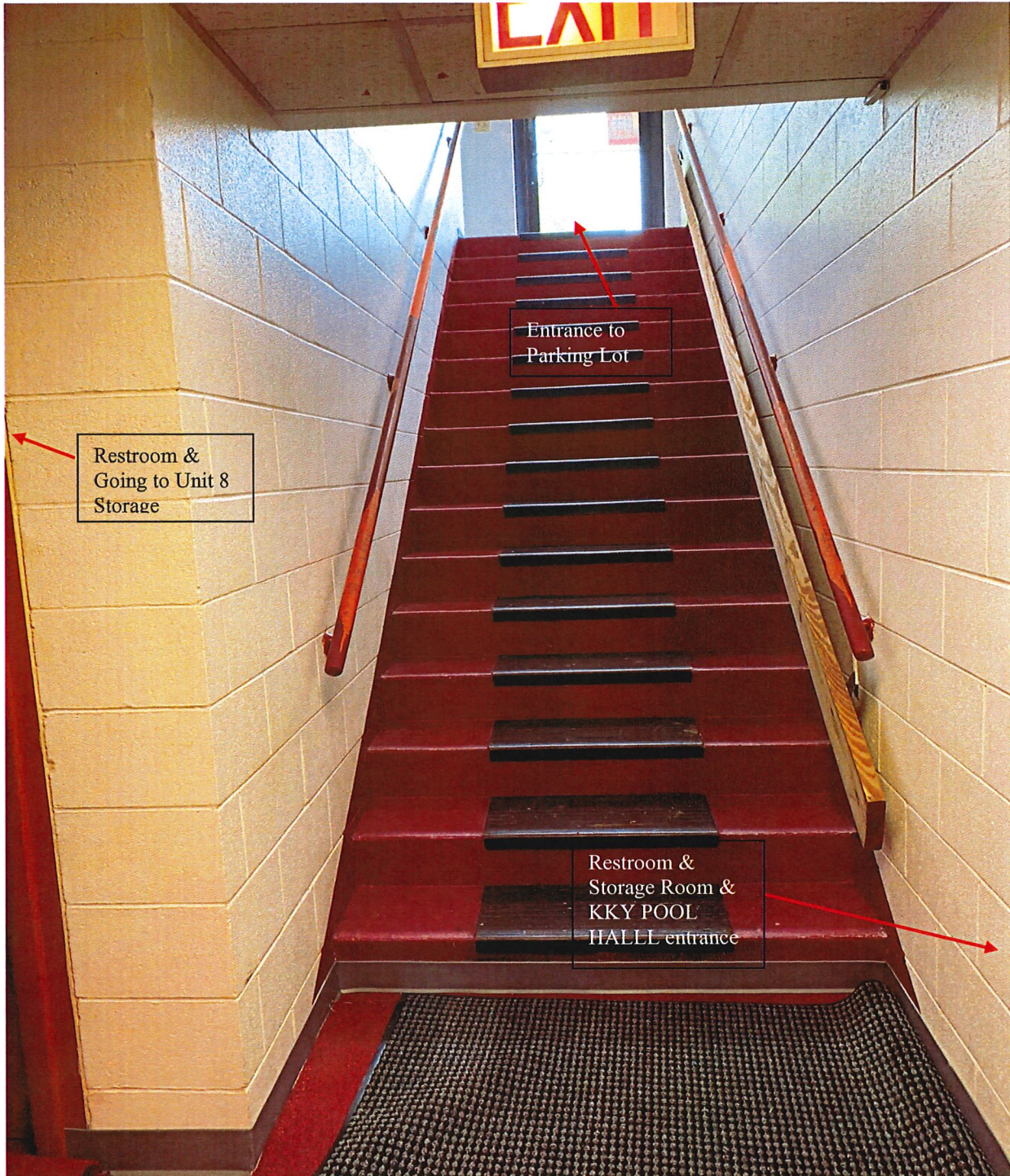


Picture of entrance from Parking Lot (KKY POOL HALL will be downstairs in the LOWER LEVEL)





Picture looking up to entrance door from bottom of lower level – standing next to KKY POOL HALL







KKY  
POOL  
HALL

KKY  
POOL  
HALL

Entrance  
to Street  
Wisconsin  
Ave

Unit 4





EXIT

Entrance to Street  
Wisconsin Ave

KKY POOL  
HALL entrance

Unit 6 (for lease)  
&  
Unit 5 (KKY  
storage or relax  
room with  
couches and tv)

Unit 6 (for lease)  
&  
Unit 5 (KKY  
storage or relax  
room with  
couches and tv)



**TAVERN AND/OR RESTAURANT WITH ALCOHOL SALES  
PLAN OF OPERATION AND LOCATIONAL INFORMATION**

**Business Information:**

Name of business: KKY Pool Hall

Years in operation: NA (New)

Percentage of business derived from restaurant service: 0 % NO Food sales

Type of proposed establishment (detailed explanation of business):

Pool Hall relaxing place for customers and simple open mics to share their voices and meet new people around the area to hangout while having a drink. Growing within the location to attract more customers to the location.

**Proposed Hours of Operation for Indoor Uses:**

Day	From	To
Week Day	4:00 pm	2:00 am
Friday	4:00 pm	2:00 am
Saturday	4:00 pm	2:00 AM
Sunday	4:00 pm	2:00 AM

**Building Capacity and Area:**

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 40 persons

Gross floor area of the existing building(s): 2 exits

Gross floor area of the proposed building(s): \_\_\_\_\_

**Describe Any Potential Noise Emanating From the Proposed Use:**

Describe the noise levels anticipated from all equipment or other mechanical sources:

With this pool hall being downstairs a lower level we are not concern with noise level, But we will keep noise to a minimal and will be controlled by owners.

Describe how the crowd noise will be controlled inside and outside the building:

~~NA~~ Crowd noise will be controlled by owners inside and outside building and keep @ a minimal. Maximum capacities followed and doors remain closed to control noise.

If off-street parking is available for the business, describe how noise from the parking lot will be controlled:

~~NA~~ Noise will be controlled by owners - will do a routine check for noise and make sure customers are getting inside to avoid additional outside noise.

**Outdoor Uses:**

Location, type, size and design of outdoor facilities:

NA

Type and height of screening of plantings/fencing/gating:

NA

Is there any alcohol service incorporated in this outdoor facility proposal? Yes \_\_\_ No

Are there plans for outdoor music/entertainment? Yes \_\_\_ No

If yes, describe how the noise will be controlled:

NA

Is there any food service incorporated in this outdoor facility proposal? Yes \_\_\_ No

**Proposed Hours of Operation for Outdoor Uses:** NA

Day	From	To
Week Day	NA	NA
Friday	NA	NA
Saturday	NA	NA
Sunday	NA	NA

**Outdoor Lighting:**

Type: NA

Location: NA

**Off-Street Parking:**

Number of spaces existing: 25 parking lot

Number of spaces proposed: 25 parking lot.

**Other Licensed Premises:**

The number of licensed premises within the immediate geographic area of the proposed location will be considered in order to avoid an undue concentration that may have the potential of creating public safety problems or deterring neighborhood development.

List nearby licensed premises:

Phenghou Deli

Maritime Tavern

**Number of Employees:**

Number of existing employees: 2

Number of proposed employees: NA

Number of employees scheduled to work on the largest shift: family volunteer to help maintain full staff.



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Informal Hearing Meeting Date:** August 13, 2019

**Common Council Public Hearing Meeting Date:** September 4, 2019  
(Public Hearing on Rezoning)

**Item:** Rezoning #7-19 – Perez Annexation (219 W. Edgewood Drive)

**Case Manager:** Jessica Titel

### GENERAL INFORMATION

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**Owner:** Alejandro & Imelda Perez

**Applicant:** City of Appleton Plan Commission

**Address/Parcel:** 219 W. Edgewood Drive (Tax Id #31-6-5803-00, formerly Tax Id. #101039314 in the Town of Grand Chute)

**Petitioner's Request:** To assign a permanent zoning classification to newly annexed property, pursuant to Section 23-65(e) of the Municipal Code, from temporary AG Agricultural District to R-1B Single-Family District, including all of the adjacent one-half (1/2) right-of-way of West Edgewood Drive.

### BACKGROUND

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On August 7, 2019, Common Council adopted Ordinance 76-19, to annex the subject area from the Town of Grand Chute to the City of Appleton. The subject property was officially annexed to the City on August 13, 2019 at 12:01 a.m.

The subject property was annexed to the City with a Temporary AG Agricultural District zoning classification. During review of the Perez Annexation, the Plan Commission initiated the process to rezone the subject property from Temporary AG Agricultural District to R-1B Single-Family District at the July 23, 2019 meeting.

The north half of the Edgewood Drive right-of-way was annexed into the City with the recent Perez Annexation, but is not included with this rezoning request. Zoning District boundaries typically go to the centerline of the adjacent right-of-way, in this case, the southern half of West Edgewood Drive.

### STAFF ANALYSIS

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**Existing Site Conditions:** The subject parcel is approximately 0.8 acres in size and located south of West Edgewood Drive and west of North Haymeadow Avenue. The subject property connects to the City of Appleton at West Edgewood Drive, which is identified as an arterial street on the City's Arterial/Collector Plan. Currently, the subject property consists of one single-family home.



**Surrounding Zoning Classification and Land Uses:**

North: Town of Grand Chute. The adjacent land use to the north is currently residential.

South: R-1B Single Family District. The adjacent land use to the south is currently undeveloped.

East: R-1A Single Family District. The adjacent land use to the east is currently single-family residential.

West: Town of Grand Chute. The adjacent land use to the west is currently single-family residential.

**Proposed Zoning Classification:** The purpose of the R-1B Single-Family District is to provide for and maintain residential areas characterized predominately by single-family, detached dwellings on medium sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential uses. The development standards for the R-1B District are listed below:

- 1) **Minimum lot area:** 6,000 square feet.
- 2) **Maximum lot coverage:** 50%.
- 3) **Minimum lot width:** 50 feet.
- 4) **Minimum front yard:** 20 feet (25 feet on arterial street).
- 5) **Minimum rear yard:** 25 feet.
- 6) **Minimum side yard:** 6 feet.
- 7) **Maximum building height:** 35 feet.

**Zoning Ordinance Review Criteria:** Per Section 23-65(e) of the Municipal Code, a temporary zoning classification is assigned to newly annexed territory, with permanent zoning taking place following the annexation process. All territory annexed to the City is assigned a zoning classification as recommended by Plan Commission. The Plan Commission shall consider the following criteria in selection of an appropriate zoning district for the annexed land:

- The existing land uses within the territory to be annexed;
- The surrounding land uses that exist on adjacent properties regardless of municipal boundary lines;
- The comprehensive plan of the City.

In this case, the Plan Commission initiated a rezoning for the subject property, from temporary AG Agricultural District to a permanent zoning classification of R-1B Single-Family District. A rezoning initiated directly by Plan Commission is processed in accordance with Section 23-65(d), Zoning Map Amendments, which includes review and action by the Common Council. If approved, any future development would need to conform to the R-1B District zoning regulations listed above and other sections of the Zoning Ordinance.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* identifies this area for future One and Two-Family Residential uses. The proposed R-1B Single-Family

District zoning classification 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.*

*5.1 OBJECTIVE: Continue efforts to ensure an adequate supply of housing affordable to all income levels in the community.*

*5.3 OBJECTIVE: 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.*

**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 goals and objectives stated above and the Future Land Use Map, which identifies this area for future one and two family residential land 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. *City sanitary sewer infrastructure is already installed within West Edgewood Drive. The property may have the potential to connect to City water infrastructure when the property to the south develops.*
2. The effect of the proposed rezoning on surrounding uses. *Single-family residential uses are already located to the north, west and east of the subject site. Property to the south of the subject area primarily consists of vacant, undeveloped land. 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 July 2, 2019 Technical Review Group meeting. No negative comments were received from participating departments.

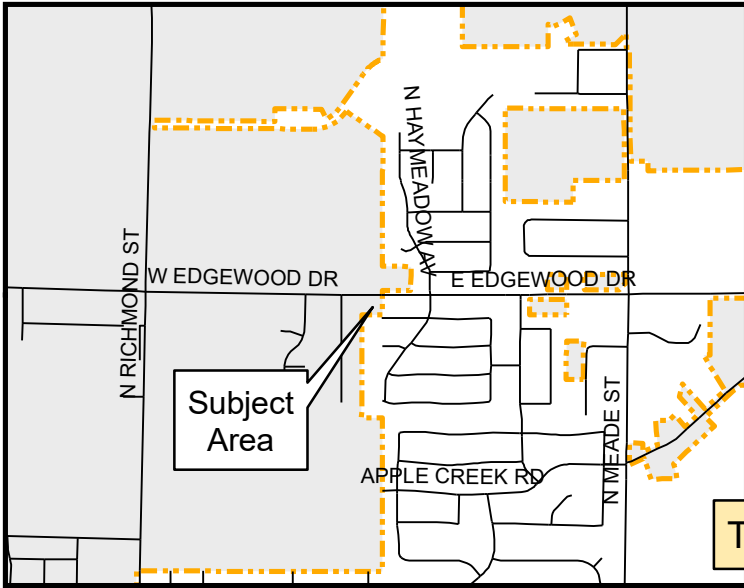
## **RECOMMENDATION**

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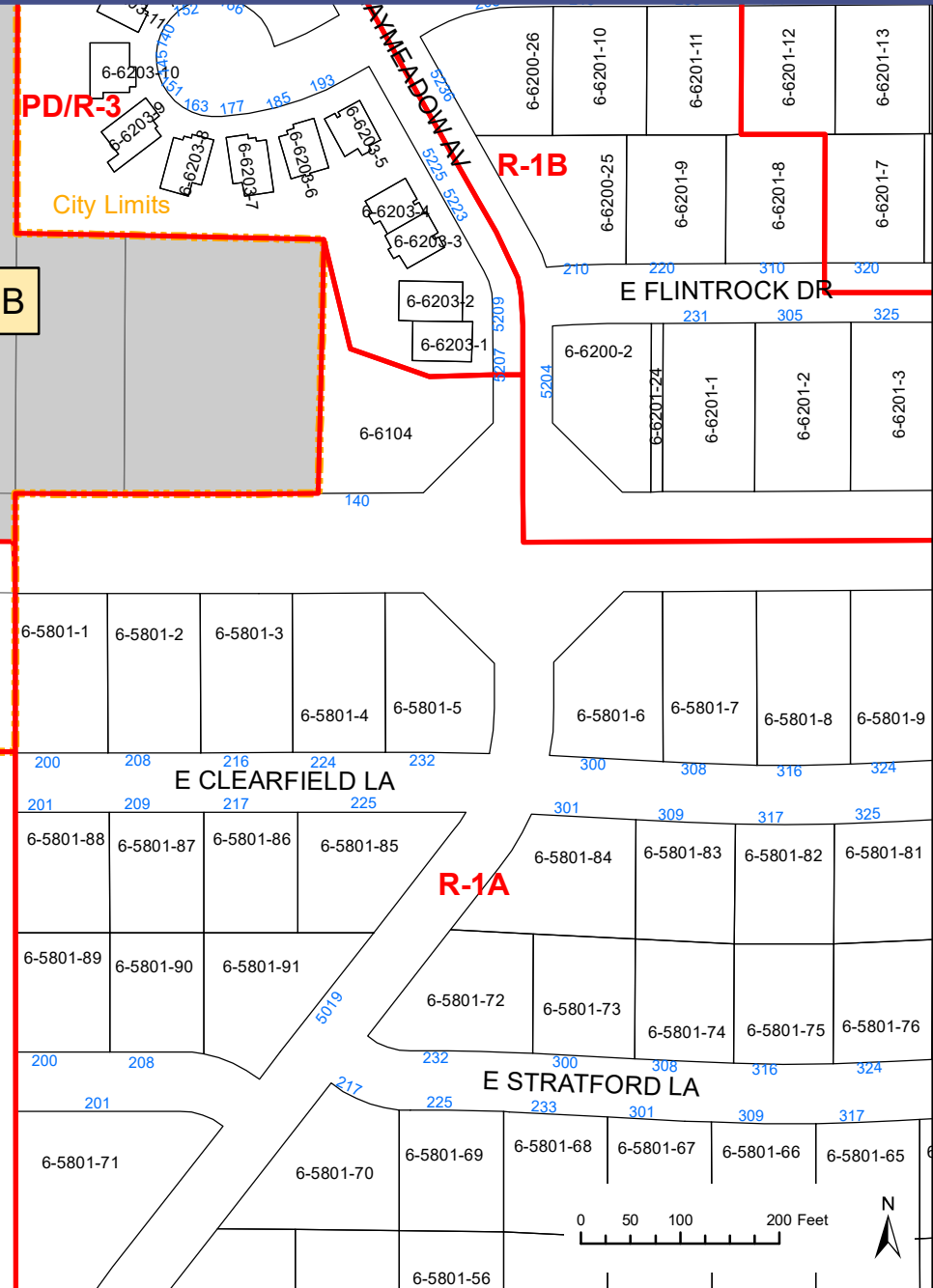
Staff recommends, based upon the standards for zoning map amendments as required by Section 23-65(d)(3) of the Zoning Ordinance, that Rezoning Application #7-19 to rezone the subject parcel located at 219 W. Edgewood Drive (Tax Id #31-6-5803-00, formerly Tax Id. #101039314 in the Town of Grand Chute) from temporary AG Agricultural District to R-1B Single-Family District, including all of the adjacent one-half (1/2) right-of-way of West Edgewood Drive, as shown on the attached map, **BE APPROVED.**



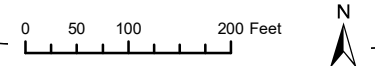
# Perez Annexation Rezoning Temporary AG Agricultural District to R-1B Single Family District Zoning Map



Temporary AG to R-1B

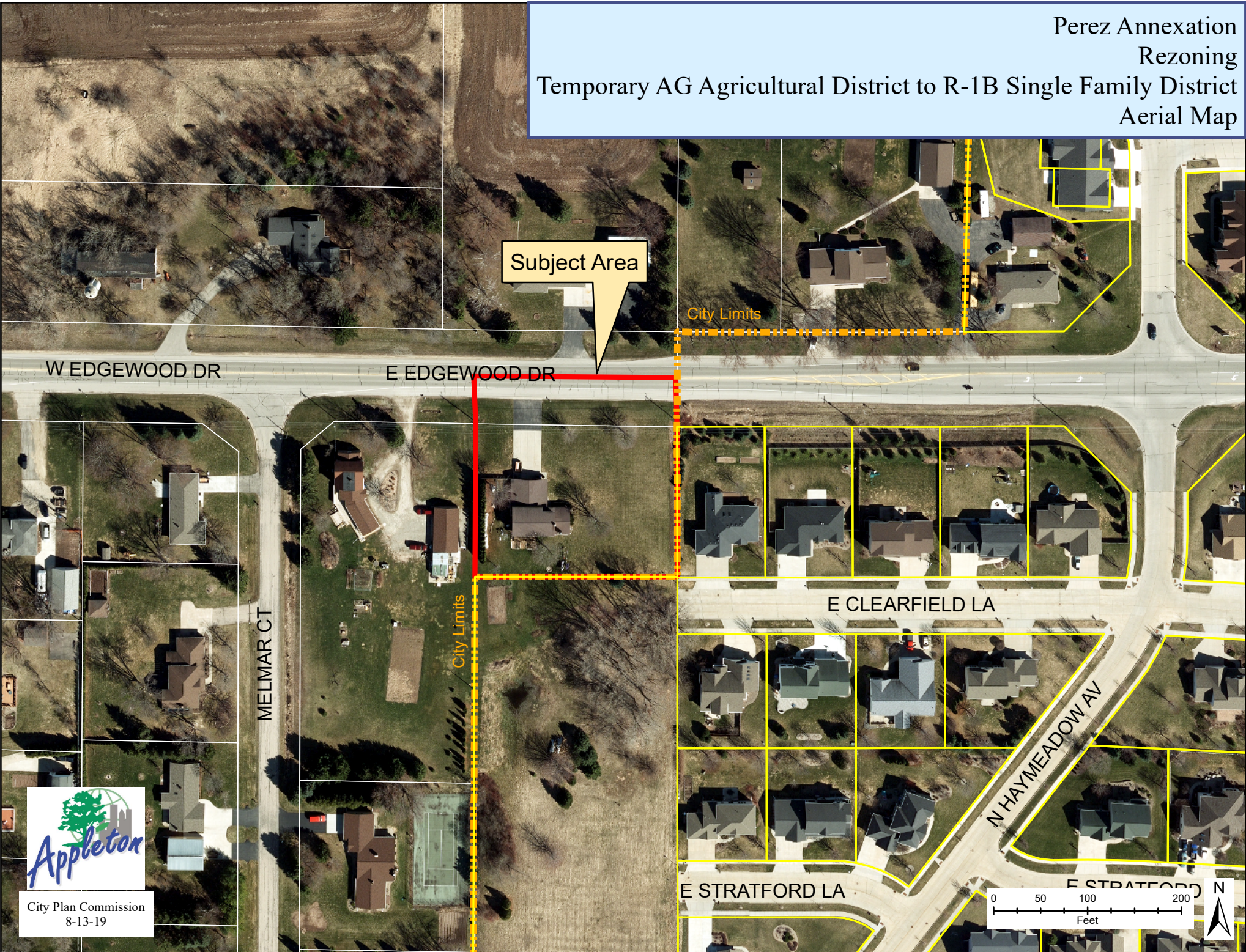


City Plan Commission  
8-13-19





Perez Annexation  
Rezoning  
Temporary AG Agricultural District to R-1B Single Family District  
Aerial Map



Subject Area

City Limits

W EDGEWOOD DR

E EDGEWOOD DR

MELMAR CT

City Limits

E CLEARFIELD LA

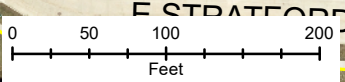
N HAYMEADOW AV

E STRATFORD LA

E STRATFORD LA



City Plan Commission  
8-13-19





**PEREZ ANNEXATION - REZONING**

**Tax Key #31-6-5803-00**

Lot 1 of Certified Survey Map No. 7013 filed in Volume 42 of Certified Survey Maps on Page 7013 as Document No.2047169, located in and being a part of the Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 11, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin, including all of the adjacent one-half (1/2) right-of-way of West Edgewood Drive.





## REPORT TO CITY PLAN COMMISSION

**Municipal Services Committee Meeting Date:** August 12, 2019

**Plan Commission Informal Public Hearing Date:** August 13, 2019

**Common Council Meeting Date - Initial Resolution:** August 21, 2019

**Common Council Public Hearing Meeting Date:** October 2, 2019

**Item:** Street Discontinuance of Public Right-of-Way for Locust Street north of the Wisconsin Central Railroad and approximately 136 feet south of West College Avenue

**Case Manager:** Don Harp

### GENERAL INFORMATION

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**Owner/Applicant:** City of Appleton c/o Paula Vandehey, Director of Public Works

**Location:** Generally located in the 100 block of South Locust Street north of the Wisconsin Central Railroad and approximately 136 feet south of West College Avenue

**Petitioner's Request:** A partial Street Vacation request has been initiated by the applicant, City of Appleton. The proposed street vacation will help facilitate future expansion plans for the Boys and Girls Club to program this space along with the property they own on either side of the proposed street vacation for outdoor recreational activities.

### BACKGROUND

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On October 4, 2017, the Common Council approved the closing of South Locust Street crossing at the Wisconsin Central Railroad pursuant to the Railroad Quiet Zone Implementation Plan.

### STAFF ANALYSIS

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**Street Classification:** The City's Arterial/Collector Plan Map identifies this portion of Locust Street as a local street.

**Title to Discontinued Street:** When vacated, the land must revert to its original source, which in this case includes the parcels located west and east of the proposed vacation area. Consequently, title to the portion of this street being discontinued will belong to the Boys and Girls Club Fox Valley, Inc and C.N. Wisconsin Central Railroad LTD.

**Existing Public Utilities:** The City will retain an easement for all existing utilities and any future utilities deemed necessary within the entire length and width of the vacated right-of-way.

**STAFF ANALYSIS (continued)**

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**General Information:**

The proposed street vacation will not affect vehicular access to the existing 10/20-foot wide private ingress/egress easement used in common for driveway purposes by owners and visitors of Boys and Girls Club, Dong Po, Spats, and Shooting Star Photo & Framing.

The proposed street vacation will not affect vehicular access to the existing public alley located west of South Locust Street.

Approximately 12 on-street parking spaces will be eliminated within the area proposed for vacation.

Representatives from the Boys and Girls Club reached out to the business and residential property owners to discuss their expansion plans. As a result, the Boys and Girls Club proposed to move their fence which is located on parcel number 3-0962 to the south and construct approximately 7 parallel off-street parking spaces to address the reduction of on-street parking spaces related to this portion of Locust Street being vacated. Site plan review and approval is required, prior to constructing additional parking spaces on the site.

**On-Street Parking Space Inventory near the proposed street vacation:**

- Approximately 6 parking spaces are located on the west side of Locust Street between College Avenue and Public Alley.
- Approximately 6 parking spaces are located on the east side of Locust Street between College Avenue and Public Alley.
- Approximately 7 parking spaces are located on the west side of Locust Street between College Avenue and Washington Street.
- Approximately 5 parking spaces are located on the east side of Locust Street between College Avenue and Washington Street.
- Approximately 15 parking spaces are located on the north side of College Avenue between Locust Street and Bennett Street.
- Approximately 15 parking spaces are located on the south side of College Avenue between Locust Street and Bennett Street.
- Approximately 7 proposed parking spaces will be constructed on the Boys and Girls Club property (Property number 3-0962) south of 733, 741, 743 and 745 West College Avenue.

In summary, there are approximately a total of 54 on-street parking spaces located near the proposed street vacation and businesses in this part of the City.

**Surrounding Zoning and Land Uses:** The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are a mix of residential and commercial in nature.

**STAFF ANALYSIS (continued)**

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North: CBD Central Business District – Existing Locust Street right-of-way is immediately north of the subject area.

South: CBD Central Business District – Existing C.N. Wisconsin Central Ltd. Railroad right-of-way is immediately south of the subject area with street closure devices in place.

East: CBD Central Business District – The adjacent property to the east is currently the outdoor program area for the Boys and Girls Club Fox Valley, Inc.

West: CBD Central Business District – The adjacent property to the west is currently occupied by the indoor facility for the Boys and Girls Club Fox Valley, Inc.

**Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* identifies this area for future central business district uses. The proposed street right-of-way discontinuance is consistent with the following goals and polices 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.*

- *(This partial street vacation will provide an opportunity for the Boys and Girls Club to merge the land they own on either side of the proposed street vacation and develop and program this space for outdoor recreational activities for their members.)*

*Policy 9.2.2 Work with the existing business community to help identify and tap opportunities for expansion.*

- *(This partial street vacation will facilitate future expansion plans for the Boys and Girls Club to program this space along with the property they own on either side of the proposed street vacation for outdoor recreational activities.)*

**OBJECTIVE 10.1 Land Use:**

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

- *(This partial street vacation will provide additional land area and will facilitate future expansion plans for the Boys and Girls Club to program this space along with the property they own on either side of the proposed street vacation for outdoor recreational activities.)*

**Technical Review Group (TRG) Report:** This item was discussed at the July 23, 2019 Technical Review Group meeting. No negative comments were received from participating departments.

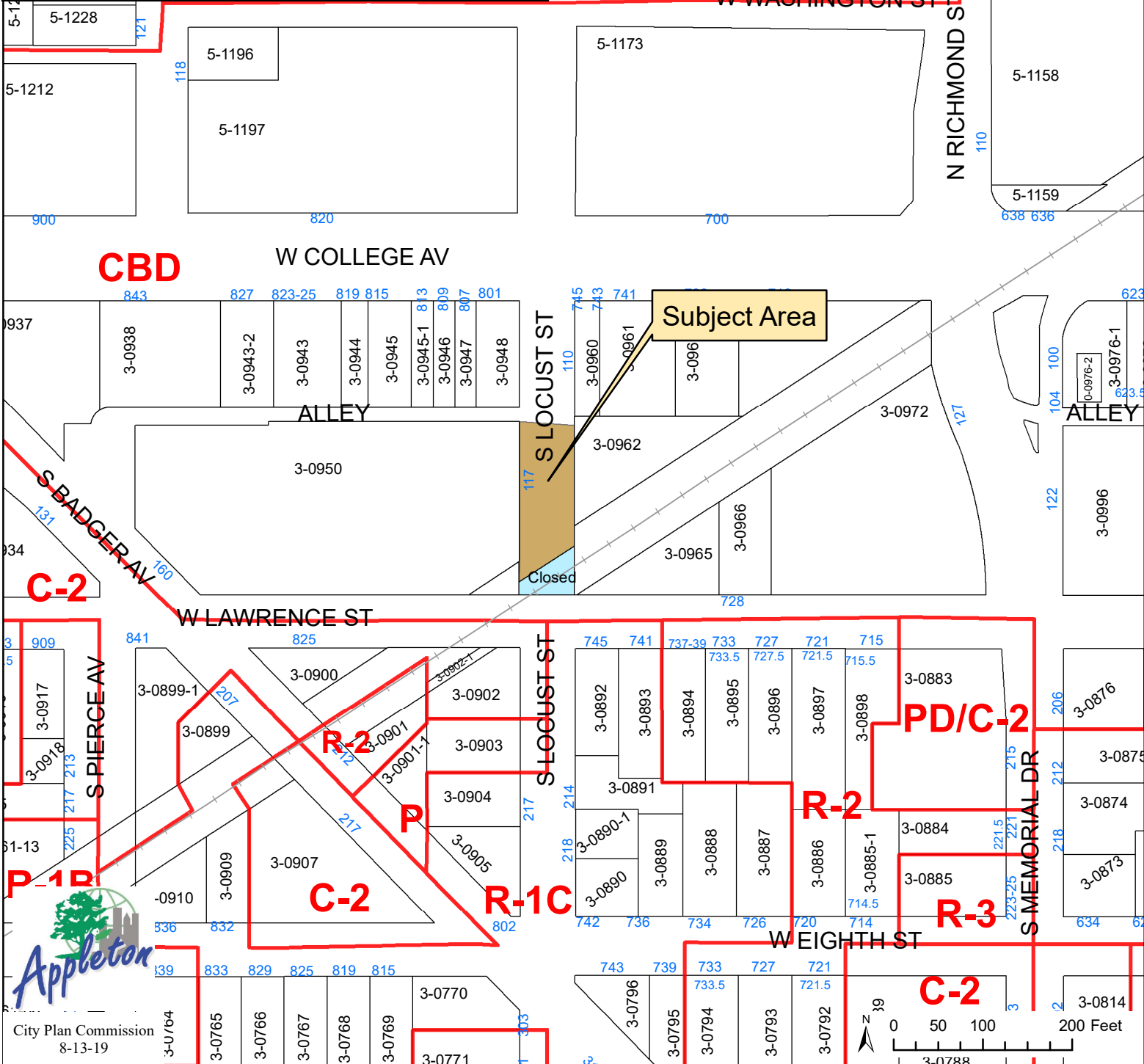
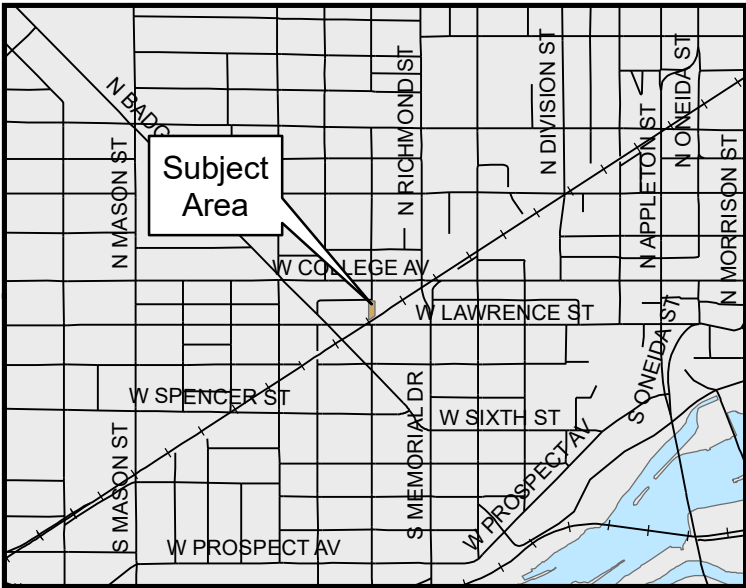


**RECOMMENDATION**

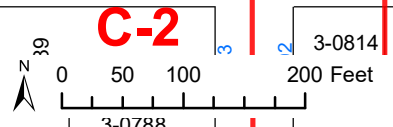
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Staff recommends the discontinuance of South Locust Street, north of the Wisconsin Central Railroad and approximately 136 feet south of West College Avenue, per the attached maps and the adoption of the Initial Resolution, **BE APPROVED.**

# South Locust Street Street Vacation Zoning Map



City Plan Commission  
8-13-19





South Locust Street  
Street Vacation  
Aerial Map

820

700

N LOCUST ST

W COLLEGE AV

819 815 813 809 807 801 745 743 741 733 719

3-0944

3-0945

3-0945-1

3-0946

3-0947

3-0948

S LOCUST ST

110

3-0960

3-0961

3-0963-1

3-096

Subject Area

ALLEY

0950

117

3-0962

3-0965

3-0966

Closed

W LAWRENCE ST

728

745 741 737-39 733 727

0900

3-0902

S LOCUST ST

3-0892

3-0893

3-0894

733.5 727.5





## ***INITIAL RESOLUTION***

***WHEREAS***, the public interest requires that a portion of South Locust Street, from south side of alley to north line of railroad, that has not previously been vacated, be vacated and discontinued,

***BE IT RESOLVED***, that the Common Council of the City of Appleton, Wisconsin, hereby determines that the public interest requires that a portion of South Locust Street, City of Appleton, Outagamie County, Wisconsin, as hereinafter described, is hereby vacated and discontinued pursuant to §66.1003 of the Wisconsin Statutes.

### **LEGAL DESCRIPTION**

A strip of land 62 feet in width and 157 feet m/l in length along its centerline, containing 9,717 square feet of land m/l and being further described by:  
Commencing at the Northeast corner of Lot 1 of Certified Survey Map No. 6031, said point also being coincident with the South line of a 16 foot wide Alley at the West line of Locust Street and being the point of beginning;  
Thence S.86°05'40"E. 62.15 feet to a point on the West line of Lot 4 of Certified Survey Map No. 583, said point being 10 feet South of the Northwest corner thereof, said point also being coincident with the South line of a 20 foot wide vacated Alley at the East line of Locust Street;  
Thence S.00°05'54"E. 134.57 feet m/l coincident with the West line of said Lot 4 and also being coincident with the East line of Locust Street to a point 20.00 feet Northwesterly of the center of the main track of the Wisconsin Central Railroad, as measured at a right angle to said track;  
Thence S.56°54'36"W. 73.92 feet parallel to the center of the main track of the Wisconsin Central Railroad to the Southerly extension of the West line of Locust Street;  
Thence N.00°05'54"W. 178.87 feet m/l coincident with the Southerly extension of the West line of Locust Street and then the West line thereof to the point of beginning.

See also attached Exhibit "A" for illustration.

### **EXISTING LOT LINE PROJECTIONS**

The properties abutting the right of way line of said Locust Street shall acquire a land title interest to the centerline of this vacated street right of way.

### **EASEMENTS**

The City of Appleton their heirs, successors and or assigns (Grantee) hereby retain an easement for any and all existing utilities and also any future utilities



deemed necessary or desirable by Grantee within the vacated right of way, including but not limited to, storm sewer, drainage, sanitary sewer, watermain, gas, electric, cable and fiber optic within the entire length and width of the above described right of way.

It is further agreed that this easement shall be a permanent easement.

It is further agreed that Grantee shall have the right to install, regrade, replace, relocate, operate, maintain, resize and repair any and all of these utilities and their associated appurtenances. It is further agreed that after installing, regrading, replacing, relocating, operating, maintaining, resizing or repairing of these utilities and their associated appurtenances Grantee shall restore unimproved surfaces such as grass, gravel and dirt on said property, as closely as possible, to the condition previously existing. 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, trees, shrubs and landscaping, disturbed as a result of the maintenance activities described herein. Buildings or any other type of permanent structure shall not be placed over Grantees' facilities or in, upon or over said easement area. This easement includes the right to operate any and all equipment deemed necessary by Grantee to perform said activities. Grantee agrees that it shall give timely notice to the Grantor of routine maintenance work.

**COMMON DESCRIPTION:**

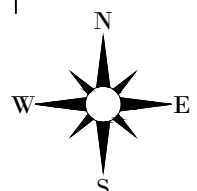
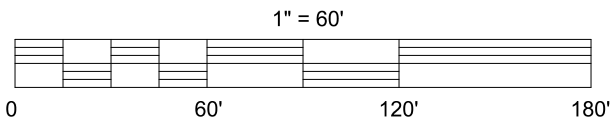
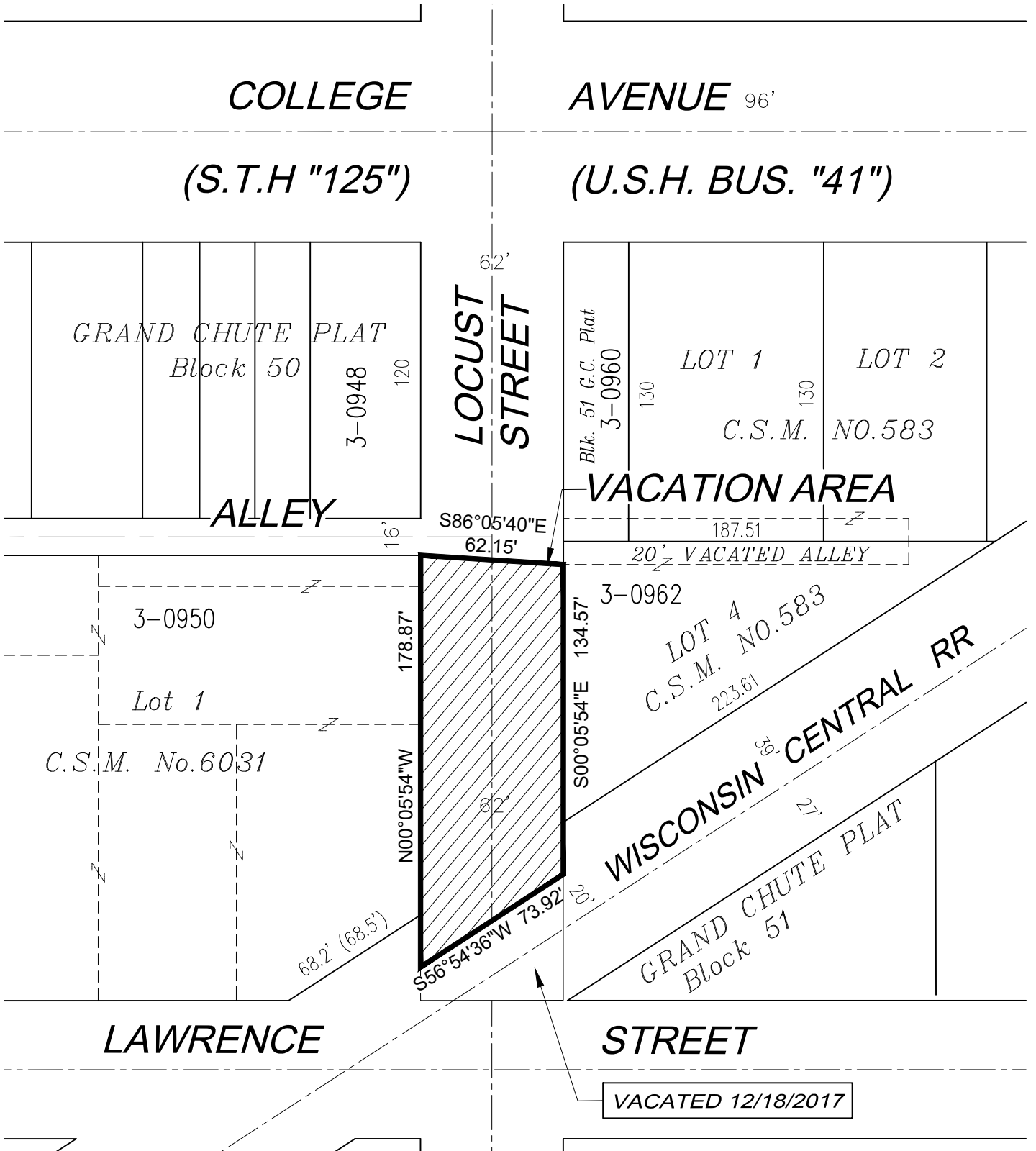
A portion of South Locust Street, from south side of alley to north line of railroad

***FURTHER RESOLVED***, that the City Clerk of the City of Appleton be authorized and directed to give notice required by §66.1003 of the Wisconsin Statutes.

***FURTHER RESOLVED***, that according to §66.1005 of the Wisconsin Statutes, upon vacation and discontinuance of said portion of South Locust Street, title to the above-described street shall belong to the adjoining property owners and shall acquire an ownership interest in the entire area being vacated as shown on the attached Exhibit Map.

# EXHIBIT "A"

## LOCUST STREET VACATION



**CITY OF APPLETON**  
 DEPT. OF PUBLIC WORKS  
 APPLETON, WI 54911  
 DRAFTED BY: T. KROMM



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Informal Public Hearing Date:** August 13, 2019

**Common Council Public Hearing Date:** September 4, 2019

**Item:** Text Amendments – Section 23-22 Words and terms defined, and 23-651 Historic Preservation of Chapter 23 Zoning Ordinance of the Municipal Code

**Case Manager:** Don Harp

### **BACKGROUND**

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Planning Staff worked with the Historic Preservation Commission on several occasions in 2019 to develop the proposed amendments to Section 23-22 Words and terms defined and 23-651 Historic Preservation of Chapter 23 Zoning Ordinance of the Municipal Code.

### **GENERAL INFORMATION**

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The proposed amendments to Section 23-22 Words and terms defined and 23-651 Historic Preservation of Chapter 23 Zoning Ordinance of the Municipal Code are in response to:

1. 2015 Wisconsin Act 176 requires cities, villages, towns, and counties hold a public hearing before designating a historic landmark or establishing a new historic district and to notify, by 1<sup>st</sup> class mail, any affected owner of the proposed designation or establishment (Wis. Stat. 62.23(7)(em)2). The Act also allows a property owner affected by a decision of a historic preservation commission to appeal the decision to the governing body of the local unit of government, and allows that governing body (Common Council) to overturn the historic preservation commission's decision by a simple majority vote (Wis. Stat. 62.23(7)(em)3).
2. 2017 Wisconsin Act 317 (62.23(7)(em)2m) which states, "In the repair or replacement of a property that is designated as a historic landmark or included within a historic district or neighborhood conservation district under this paragraph, a city shall allow an owner to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities." This language was drawn from the Secretary of the Interior's Standards for Rehabilitation and gives very specific guidance to commissions that only apply to repairs and replacements.
3. Interpretation memo dated February 21, 2019 from the Wisconsin Historical Society.
4. Based on the recommendation of the Wisconsin Historical Society, all the 180 historic preservation ordinances across the State of Wisconsin should be updated to address this legislative action affecting local historic preservation ordinances.



## SUMMARY OF PROPOSED AMENDMENTS

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1. Update historic preservation regulations to be consistent with Wisconsin State Statutes:
  - Hold a public hearing before designating a historic landmark or establishing a new historic district and notify, by 1<sup>st</sup> class mail, any affected owner of the proposed designation or establishment.
  - Allow the property owner affected by a decision of the Historic Preservation Commission to make an appeal to the Common Council rather than the Community and Economic Development Committee to overturn the Historic Preservation Commission's decision by a simple majority vote.
2. Clarify, expand, and add definition terms to be consistent with Wisconsin State Statutes.
3. Make certain amendments to the standards for granting a Certificate of Appropriateness for exterior construction, reconstruction and alterations consistent with the interpretation written by the Wisconsin Historical Society (attached memo dated February 21, 2019).

## ATTACHMENTS

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1. The text recommended for deletion will be identified by ~~striketrough~~. Proposed text to be added within the ordinance will be underlined.
2. Memo prepared by the Wisconsin Historical Society dated February 21, 2019.

## RECOMMENDATION

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Pending public comments, staff recommends the text amendments identified by ~~striketrough~~ be deleted and underlined be added to Section 23-22 Words and terms defined and Section 23-651 Historic Preservation of Chapter 23 Zoning Ordinance of the Municipal Code as attached to this report **BE APPROVED**.



DATE: February 21, 2019  
TO: Wisconsin Local Historic Preservation/Landmark Commissions  
FROM: State Historic Preservation Office  
RE: Interpretation of Recently Enacted Commission Review Legislation

State Statutes grant units of government the authority to enact ordinances to regulate historic places for the purpose of preserving these properties' significant characteristics. To do so, units of government may pass ordinances creating landmark commissions to designate historic places. Subject to these provisions, commissions may designate and regulate historic landmarks and all property within landmark historic districts to preserve the character of both individual historic landmarks as well as the character of each district.

Effective April 2018 new language related to commission review of historic properties was added to State Statutes:

*In the repair or replacement of a property that is designated as a historic landmark or included within a historic district or neighborhood conservation district under this section, the [unit of government] shall allow an owner to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities.*

This language was drawn from the Secretary of the Interior's Standards for Rehabilitation, and gives very specific guidance to commissions that only apply to repairs and replacements.

Questions have arisen about whether this language requires commissions to approve all new materials. In our interpretation, this new language does not change the role of the commission, but rather empowers it to determine if a material or product is an appropriate replacement. All other powers of commissions under their local ordinances remain.

During the commission's COA review process, the commission should first determine if repair or replacement is a component of the application. If no, proceed according to established process. If yes, the commission, using its expertise, should determine if the repair or replacement materials are sufficiently "similar" to original materials. The commission, not the owner, makes this determination. If the commission rules that the material is not similar, it has the authority to deny a certificate of appropriateness. In the commission's decision documentation, it should clearly state that it reviewed this question and give factual reasons why the material is or is not similar in design, color, scale, architectural appearance, and other visual qualities.

This legislation does not give an owner unilateral approval for any material or project they propose. Ultimately it is the commission's responsibility to review each project application objectively against their ordinance and to provide a professional opinion of appropriateness.

## ARTICLE XVII. HISTORIC PRESERVATION

### Section 23-22. Words and terms defined.

#### *Historic Preservation*

(20) **Historic preservation repair** means the act or process of applying measures, except for painting, necessary to prolong or replace deteriorated, decayed or damaged existing exterior features of a local historic structure, local historic site or contributing structure or any part thereof by using ~~the like~~ materials that are identical in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or where possible, to original materials. The term “historic preservation repair” includes the installation of roof singles, windows, doors or other architectural features where the original opening will not be enlarged, reduced or altered.

(24) **Identical (materials)** means for the purpose of Section 23-651, means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.

~~(24)~~ (25) **Important person or persons** means an individual or a group of individuals who has made significant contributions to Appleton, the state or the nation, including but not limited to medicine, politics, commerce, history, engineering and/or architecture.

~~(25)~~ (26) **Improvement** means any building, structure, or object constituting a physical betterment of real property, or any part of such betterment.

~~(26)~~ (27) **Improvement parcel** means a lot or parcel of land together with the buildings and structures thereon, which has been assigned a tax parcel number by the City Assessor’s Office. The term “improvement parcel” shall also include any unimproved area of land which has been assigned a tax parcel number by the City Assessor’s Office.

~~(27)~~ **Like materials** means the use of materials that are nearly identical in shape, size and design of existing materials.

(35) **Similar (materials)** means for the purpose of Section 23-651, means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.

~~(35)~~ (36) **Work** means demolition or historic preservation alteration or repair.

### Sec. 23-651. Historic preservation.

(a) **Purpose.** It is hereby declared a matter of public policy that the protection, enhancement, preservation and use of improvements or sites of special character or special architectural, archeological or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this section is to:

- (1) Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of Appleton’s cultural, social, economic, political, artistic and architectural history;



- (2) Safeguard Appleton’s historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts;
- (3) Foster civic pride in the notable accomplishments of the past;
- (4) Stabilize and improve property values and enhance the visual and aesthetic character of Appleton;
- (5) Protect and enhance Appleton’s attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

(b) **General.** This section shall in no way be construed to undermine or supersede and shall be consistent with the existing adopted City of Appleton Municipal Code which protects the public health, safety and welfare of Appleton residents. Ordinary maintenance and repairs shall be made to ensure compliance with Article 4 of Chapter 4 of the Municipal Code.

(c) **Definitions.** See Section 23-22 Words and terms defined, under the reference “HISTORIC PRESERVATION”.

(d) **Organization.** The Historic Preservation Commission is hereby created and shall consist of five (5) regular members and two (2) alternates appointed by the Mayor and subject to approval by the Common Council as vacancies occur or terms expire.

(e) **Members and qualifications.** If possible, one (1) regular member shall be an architect; one (1) shall be an alderperson; two (2) regular members shall have historian, restoration craftsman, or architectural history credentials or expertise, or other historic preservation related disciplines such as urban planning, American Studies, American Civilization, cultural geography or cultural anthropology; one (1) regular member shall be a licensed real estate broker with two (2) alternates appointed from any of the above qualifications. All members shall be selected for their knowledge of and interest in matters pertaining to this section. Alternate members shall have full voting power in the event one (1) or more regular members have declared a conflict of interest or in the event one (1) or more regular members are absent.

(f) **Terms.** The term for each member shall be three (3) years on staggered terms except, the alderperson will be appointed annually at the Common Council annual reorganizational meeting. The term for each member shall expire May 1 of each year.

(g) **Reorganizational meeting.** The Historic Preservation Commission shall reorganize in May of each year by electing a chair, vice-chair, contact person and secretary. All meetings of the Commission shall be held at the call of the chairman or at such times as the Commission determines.

(h) **Designation of local historic structures, local historic sites and local historic districts.** The Historic Preservation Commission shall have the power to recommend local designation of historic structures, historic sites and historic districts within the City of Appleton limits. Such designation shall be made based on the review of the local historic structure, local historic site and local historic district designation criteria identified in subsection (i) of this section. Local designation of historic sites, historic structures and historic districts shall be recommended to the ~~Community and Economic Development Committee who will review and recommend to the~~ Common Council for a final approval. Once designated, such local historic structures, local historic site and local historic district shall be subject to all the provisions of this chapter.

(i) **Local historic structure, local historic site and local historic district designation criteria.** For purposes of this chapter, a local historic structure, local historic site or local historic district designation may be placed on any improvement parcel, natural area, improvement, or any area of particular historic, architectural, archeological or cultural significance to the City of Appleton, the state or the nation, which is determined to have historical significance by meeting at least one (1) of the following criteria:

- a. Criterion 1: Are identified with important events that exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
- b. Criterion 2: Are identified with an important person or persons that have made specific contributions to national, state or local history; or
- c. Criterion 3: Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship, or that represents a significant and distinguishable entity whose components lack individual distinction; or
- d. Criterion 4: Are representative of the notable work of a master builder, designer or architect who influenced his age; or
- e. Criterion 5: Have yielded, or may be likely to yield, information important to prehistory or history.

(j) **Operating guidelines.** The Historic Preservation Commission may adopt specific operating guidelines subject to Common Council approval for local historic structure, local historic site and local historic district designation, providing such operating guidelines are in conformance with the provisions of this chapter. It is important to ensure that these operating guidelines are reviewed on a regular basis to ensure they are appropriate to the architectural and site characteristics of the full range of the City of Appleton's designated local historic structures, local historic sites and local historic districts and that they adequately reflect current understandings of appropriate restoration and rehabilitation techniques.

(k) **Procedure for designation of local historic structures and sites.**

- (1) **Application process.** Application forms for designation of local historic structures and local historic sites shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.
- (2) **Informal Public hearing at Historic Preservation Commission.** At least fourteen (14) days prior to such informal public hearing, the Community and Economic Development Department shall mail the informal public hearing notice, by 1<sup>st</sup> Class mail, to the alderperson of the aldermanic district, owners of record of the proposed local historic structure designation or local historic site designation and owners situated within one hundred (100) foot radius of the nominated local historic structure or site, as listed in the Office of the City Assessor. The informal public hearing notice shall identify the purpose, date, time and place of the informal public hearing.
  - ~~a. Notice of public hearing for designation of local historic structures and local historic sites shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.~~
  - ~~b. At least ten (10) days prior to such hearing, the Community and Economic Development Department shall notify the alderperson of the aldermanic district and property owners of record and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated structure or site, as listed in the Office of the City Assessor.~~
  - e. a. The Historic Preservation Commission shall then conduct such informal public hearing and, in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.
- (3) **Action by the Historic Preservation Commission.** After the close of the informal public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this

section and either recommend approval or denial of the proposed local historic structure designation or local historic site designation to the ~~Community and Economic Development Committee~~ Common Council, unless time is extended by agreement between the Historic Preservation Commission and the owner or owner's agent in charge of the property.

~~(4) **Action by the Community and Economic Development Committee.** After receiving and reviewing the report and recommendation of the Historic Preservation Commission, the Community and Economic Development Committee may either approve or deny the proposed local historic structure designation or local historic site designation, or refer the matter back to the Historic Preservation Commission. The Community and Economic Development Committee's recommendation and report to approve or deny such designation shall be forwarded to the Common Council who will make the final decision.~~

~~(5)~~ (4) **Action by the Common Council.**

a. ~~After receiving and reviewing the report and recommendation of the Community and Economic Development Committee, the Common Council shall either approve or deny the proposed local historic structure designation or local historic site designation, or refer the matter back to the Historic Preservation Commission. Notice of public hearing for proposed local historic structure designation or local historic site designation shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.~~

b. ~~The City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor. At least fourteen (14) days prior to such public hearing, the City Clerk shall mail the public hearing notice by 1<sup>st</sup> Class mail, to the alderperson of the aldermanic district, owners of record of the proposed local historic structure designation or local historic site designation and owners situated within one hundred (100) foot radius of the nominated local historic structure or site, as listed in the Office of the City Assessor. The public hearing notice shall identify the purpose, date, time and place of the public hearing.~~

c. ~~After the close of the public hearing, the Common Council shall review the report and recommendation of the Historic Preservation Commission. The Common Council shall either approve or deny the proposed local historic structure designation or local historic site designation, or refer the matter back to the Historic Preservation Commission.~~

d. ~~City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.~~

(1) **Procedure for designation of local historic districts.**

(1) **Historic district designation criteria.** For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the city of Appleton to be designated as a local historic district and shall, in cooperation with the property owner(s) or owner's agent prepare a Historic Preservation Plan for each area. A local historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city of Appleton, after review of the criteria in subsection (i) a., b., c., d. and e. of this section.

a. **Local Historic Preservation Plan.** Each local historic preservation plan shall include the following:

1. a brief description of the district,



2. identification of the current property owners of record, of the contributing structures,
  3. identification of the uses/functions of each property in the district,
  4. a legal description of the district boundaries,
  5. a map showing the legal boundaries of the district,
  6. current photographs of the contributing structures,
  7. a historical/cultural and architectural analysis supporting the historic/cultural significance of the district, and
  8. a statement of preservation objectives and specific guidelines for future historic preservation alterations, historic preservation repairs or demolition activities within the district.
- (2) **Application process.** Application forms for local historic district designations shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application, the Local Historic Preservation Plan and supporting materials are then filed with the City Clerk.
- (3) **Informal public hearing at Historic Preservation Commission.** At least ~~ten (10)~~ fourteen (14) days prior to such hearing, the Community and Economic Development Department shall mail the informal public hearing notice, by 1<sup>st</sup> Class mail, notify to the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated local historic district, as listed in the Office of the City Assessor. The notice of informal public hearing shall identify the purpose, date, time and place of the informal public hearing.
- (4) **Action by the Historic Preservation Commission.** After the close of the informal public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this section and either recommend approval or denial of the proposed local historic district designation and adoption of the proposed Local Historic Preservation Plan to the ~~Community and Economic Development Committee~~ Common Council, unless time is extended by agreement between the Historic Preservation Commission and the owner(s) or owner's agent in charge of the property.
- ~~(5) Action by the Community and Economic Development Committee. After receiving and reviewing the report and recommendation of the Historic Preservation Commission, the Community and Economic Development Committee may either approve or deny the proposed local historic district designation and adopt the proposed Local Historic Preservation Plan, or refer the matter back to the Historic Preservation Commission. The Community and Economic Development Committee's recommendation and report to approve or deny such designation and adoption of the Local Historic Preservation Plan shall be forwarded to the Common Council who will make the final decision.~~
- ~~(6)~~ (5) **Action by the Common Council.**
- a. Notice of public hearing for designation of local historic districts and adoption of the Local Historic Preservation Plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
  - b. At least ~~ten (10)~~ fourteen (14) days prior to such hearing, the City Clerk shall mail the public hearing notice by 1<sup>st</sup> Class mail, notify to the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district, and owners of property

in whole or in part situated within a one hundred (100) foot radius of the nominated local historic district, as listed in the Office of the City Assessor.

- c. ~~After the close of the public hearing, the Common Council shall review~~ After receiving and reviewing the report and recommendation of the ~~Community and Economic Development Committee, Historic Preservation Commission.~~ Historic Preservation Commission. ~~†~~The Common Council shall either approve or deny the proposed local historic district designation and the proposed Local Historic Preservation Plan, or refer the matter back to the Historic Preservation Commission. Designation of the local historic district shall constitute adoption of the proposed Local Historic Preservation Plan prepared for that local historic district and denotes the implementation of said plan.
- d. The City Clerk shall send written notice of the action taken by the Common Council to the property owners or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(m) ***Recognition of locally designated historic structures, historic sites and historic districts.*** At such time as a locally designated historic structure, historic site or historic district has been properly designated, the Historic Preservation Commission, in cooperation with the property owner(s) or owner's agent, may allow a suitable plaque, marker or other appropriate identifier declaring that such property is a local historic structure, local historic site, local historic district, or a contributing structure.

(n) ***Certificate of Appropriateness provision: Regulation for exterior construction, reconstruction, historic preservation alteration and demolition.***

- (1) No owner or owner's agent in charge of a local historic structure, local historic site or contributing structure shall be issued a permit by the Division of Inspections for any work identified in subsection (n)(2) a. and b. of this section, unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission.
- (2) An owner or owner's agent in charge of a local historic structure, local historic site or contributing structure shall apply for and receive approval of a Certificate of Appropriateness from the Historic Preservation Commission prior to performing any of the following work:
  - a. Historic preservation alterations or demolition of all or any part of a local historic structure, local historic site or contributing structure;
  - b. Historic preservation alterations or demolition of any improvement upon a local historic structure, local historic site or contributing structure.
- (3) ***Application process.*** Application forms for a Certificate of Appropriateness shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then forwarded to the Historic Preservation Commission.
  - a. ***Standards for granting Certificate of Appropriateness for exterior construction, reconstruction and historic preservation alterations.*** In determining whether to approve or deny a Certificate of Appropriateness for a historic preservation alteration, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:
    1. In the case of a local historic structure, local historic site or a contributing structure, the proposed work utilizes materials that are similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the

~~construction of such local historic structure, local historic site, or contributing structure; and would not detrimentally change, destroy or adversely affect any exterior feature of such local historic structure, local historic site, or contributing structure upon which said work is to be done;~~

2. In the case of the construction of a new improvement upon a local historic structure, local historic site, or a contributing structure, the exterior materials of such improvement are similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure;
3. In the case of any improvement made to a contributing structure, the proposed exterior historic preservation alteration shall conform to the purpose of this section and to the objectives and design criteria of the local historic preservation plan for the applicable local historic district.

- b. ***Standards for granting Certificate of Appropriateness for demolition.*** In determining whether to approve or deny a Certificate of Appropriateness for any demolition of all or part of a local historic structure, a local historic site or a contributing structure, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:

1. The local historic structure or local historic site or contributing structure is in such deteriorated condition that it is not economically feasible to renovate or restore it, provided that any economic hardship or difficulty claimed by the owner or owner's agent has not been self-created or is not the result of any failure to maintain the local historic structure, local historic site or contributing structure in good repair.
2. The local historic structure, local historic site or contributing structure is of such local architectural or historical significance that its demolition would not be detrimental to the public interest and would not be contrary to the general welfare of the people of the city of Appleton and the state;
3. The denial of the demolition permit would result in the loss of reasonable and beneficial use of or economic return from the property.

- (4) ***Review and decision by the Historic Preservation Commission.*** The Historic Preservation Commission, within twenty-five (25) business days from the date the Certificate of Appropriateness application was accepted by the Director, shall either approve or deny the application, unless the time is extended by agreement between the Historic Preservation Commission and the owner or owner's agent in charge of the property. The Historic Preservation Commission shall clearly state the reasons why the exterior materials are similar or are not similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure.

(5) ***Appeals.***

- a. If the Historic Preservation Commission denies the Certificate of Appropriateness, the Historic Preservation Commission shall, at the request of the owner or person in charge of such property,



work with the owner or owner's agent in charge of such property in an attempt to obtain a Certificate of Appropriateness within the standards of this section.

b. In addition, if the Historic Preservation Commission denies the application for a Certificate of Appropriateness due to the proposal failing to conform to the standards for granting a Certificate of Appropriateness as identified in this section, the owner or owner's agent may appeal such decision to the ~~Community and Economic Development Committee~~ Common Council.

1. The owner or owner's agent in charge of such property shall file a written appeal specifying the grounds for such an appeal with the Director no later than thirty (30) days from the date of the decision of the Historic Preservation Commission. Failure by the owner or owner's agent in charge of such property to file a written appeal in accordance with the abovementioned provisions shall be deemed to constitute a withdrawal of the application for a Certificate of Appropriateness.

2. After consideration of the appeal, the ~~Community and Economic Development Committee,~~ Common Council by majority vote may either affirm the decision of the Historic Preservation Commission or approve the issuance of the Certificate of Appropriateness, in which case the Director shall issue the Certificate of Appropriateness.

(6) ***Other permits and approvals.*** The approval of a Certificate of Appropriateness shall not relieve the property owner or owner's agent from applying for and obtaining all necessary permits and approvals pursuant to the Municipal Code prior to the commencement of such proposed work.

(7) ***Violation; penalty.*** Failure to comply with the approved Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness prior to the issuance of a building permit shall be a violation of this section. Administration and enforcement shall be as prescribed in the enforcement section of this chapter.

(o) ***Exempt work from Certificate of Appropriateness provisions.*** Historic preservation repairs ~~not including painting,~~ made to a local historic structure or local historic site or contributing structure may be undertaken without a Certificate of Appropriateness, provided the work involves repairs to existing exterior features of a local historic structure or local historic site, or the replacement of existing exterior features of a local historic structure, local historic site or contributing structure with ~~like~~ materials that are identical in design, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure and provided the work does not change the exterior appearance of the local historic structure, local historic site or contributing structure and does not require the issuance of a building permit. Painting is exempt from the Certificate of Appropriateness provisions.

(p) ***Procedure to rescind a local historic structure designation, local historic site designation and local historic district designation.***

(1) ***Application process.***

a. ***Rescind a local historic structure designation or local historic site designation.*** The property owner or owner's agent in charge of a local historic structure or local historic site shall submit an application form to rescind a local historic structure designation or local historic site designation to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

b. ***Rescind a local historic district designation.*** The majority (greater than fifty percent (50%)) of the property owners and/or owner's agents in charge of a contributing structure shall submit an

application form to rescind a local historic district designation and the applicable local historic preservation plan to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

(2) **Public Hearing at Historic Preservation Commission.**

- a. Notice of public hearing to rescind a local historic structure designation, local historic site designation, or local historic district designation and the applicable local historic preservation plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
- b. At least ~~ten (10)~~ fourteen (14) days prior to such hearing, the Community and Economic Development Department shall mail the public hearing notice, by 1<sup>st</sup> Class mail, notify to the alderperson of the aldermanic district, owners of record, and owners of property in whole or in part situated within a one hundred (100) foot radius of the local historic structure, local historic site or local historic district, as listed in the Office of the City Assessor.
- c. The Historic Preservation Commission shall then conduct such public hearing, and in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.

(3) **Action by the Historic Preservation Commission.** After the close of the public hearing, the Historic Preservation Commission shall review the rescission criteria in subsection (p)(3)a.1., 2., 3., and 4. of this section and either recommend approval or denial of the proposed rescission to the ~~Community and Economic Development Committee~~ Common Council.

- a. **Rescission Criteria.** Rescission can occur for any one (1) or more of the following:
  1. The property owner has requested the designation to be rescinded for economic hardship or health reasons;
  2. For the failure to adhere to the specific standards of the historic district in which the property is located;
  3. For the failure to adhere to the specific standards of the zoning district the property is located; or
  4. The designated historic structure, site or district no longer meets the criteria of designation or retains the integrity necessary for designation.

~~(4) Action by the Community and Economic Development Committee.~~ After receiving and reviewing the report and recommendation of the Historic Preservation Commission, the ~~Community and Economic Development Committee~~ may either approve or deny the proposed application to rescind a local historic site designation, local historic structure designation or local historic district designation and the applicable local historic preservation plan, or refer the matter back to the Historic Preservation Commission. The ~~Community and Economic Development Committee's~~ recommendation and report shall be forwarded to the Common Council who will make the final decision.

~~(5)~~ (4) **Action by the Common Council.**

- a. After receiving and reviewing the report and recommendation of the ~~Community and Economic Development Committee~~, Historic Preservation Commission the Common Council shall either approve, deny, or postpone the proposed application to rescind a local historic site designation, a local historic structure designation or a local historic district designation and

the applicable local historic preservation plan, or refer the matter back to the Historic Preservation Commission.

- b. The City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(q) ***Building permit.***

- (1) No building permit shall be issued by the Division of Inspections for historic preservation alteration, demolition or removal of a nominated local historic structure, local historic site, or a structure identified as contributing to a nominated local historic district, from the initial meeting date when the Historic Preservation Commission has been presented with a nomination through the date of final disposition of the nomination by the Common Council. No building permit shall all be issued for the following reasons: historic preservation alteration, removal or demolition. An exception shall be permitted when historic preservation alteration, repair, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety. In no event shall the delay be for more than sixty (60) days.

(Ord 139-95, §1, 12-20-95, Ord 45-00, §1, 6-10-00; Ord 98-12, §1, 10-9-12)