



City of Appleton

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

Meeting Agenda - Final Community & Economic Development Committee

Monday, November 23, 2015

5:00 PM

Council Chambers, 6th Floor

THIS MEETING HAS BEEN RESCHEDULED FROM 11-25-15

1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting

[15-1949](#) CEDC Minutes from 11-11-15

Attachments: [CEDC Minutes 11-11-15.pdf](#)

4. Public Hearings/Apearances

5. Action Items

[15-1950](#) Request to approve a variance to the Deed Restrictions, Item 1.B and 3 for the Northeast Industrial Park, allowing for a 19' rear yard setback and 10' west side yard setback, and waiving the decorative masonry requirement for the proposed front portion of the building addition for Aluma Cast Foundry, Inc. at 3200 E. Pershing Street

Attachments: [Aluma Cast Variance Memo 11-23-15.pdf](#)

[Alumacast 11-23-15 Ex 1.pdf](#)

[Alumacast 11-23-15 Ex 2.pdf](#)

[NEIP H.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.

Any questions about items on this meeting are to be directed to Director Karen Harkness in the Community and Economic Development Department at 920-832-6468.

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
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Meeting Minutes - Final Community & Economic Development Committee

Wednesday, November 11, 2015

5:00 PM

Council Chambers, 6th Floor

1. Call meeting to order

Meeting called to order at 5:02 p.m.

2. Roll call of membership

Alderson Jirschele arrived at 5:07 p.m.

Present: 5 - Alderson Coenen, Alderson Jirschele, Alderson Baranowski,
Alderson Siebers and Alderson Williams

Others present:

Alderson Kyle Lobner, District #13

Alderson Christopher Croatt, District #14

Jane Tarr, 2916 N. Peachtree Lane, Compassionate Home Health Care

Jennifer Krikava, 1100 E. North Street, Harbor House

Ms. Estrada, Hispanic Chamber of Commerce, 1800 Menasha Rd, Appleton

Jerry Garcia, Hispanic Chamber of Commerce, 1800 Menasha Rd, Appleton

Sally Carpenter, 94 Spencer Village Court, Compassionate Home Health Care

Dr. Salem

Attorney Craig Kubiak

3. Approval of minutes from previous meeting

[15-1860](#)

CEDC Minutes from 10-28-15

Attachments: [CEDC Minutes 10-28-15.pdf](#)

Alderson Siebers moved, seconded by Alderson Baranowski, that the Minutes be approved. Roll Call. Motion carried by the following vote:

Aye: 4 - Alderson Coenen, Alderson Baranowski, Alderson Siebers and
Alderson Williams

Excused: 1 - Alderson Jirschele

4. Public Hearings/Appealances

5. Action Items

[15-1861](#)

Request to approve 2016 Community Development Block Grant Allocation Recommendations

Attachments: [Alloc Recs Memo to CEDC 11-11-15.pdf](#)
[2016 CDBG Summary of Recommendations.pdf](#)
[Board Members Attachment 2016.pdf](#)

Various people from the audience spoke on this item. Alderperson Williams amended the motion to change the public service distribution by dividing the total \$78,000 evenly among the 7 applicants to give them each \$11,142.86. Alderperson Baranowski seconded the amendment. It was pointed out that the new amount needs to be reduced by \$.02 to arrive at the \$78,000 total, and it was determined the Compassionate Home Health Care amount would be reduced by \$.02. After discussion, Alderperson Williams withdrew her amendment and Alderperson Baranowski withdrew his second.

Alderperson Baranowski moved, seconded by Alderperson Siebers, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 5 - Alderperson Coenen, Alderperson Jirschele, Alderperson Baranowski, Alderperson Siebers and Alderperson Williams

[15-1880](#)

The Community & Economic Development Committee may go into closed session pursuant to State Statute sec. 19.85(1)(e) for the purpose of discussions of real estate negotiations for Lot 4 of CSM #3490, Northeast Industrial Park

The Community & Economic Development Committee did not go into Closed Session.

[15-1881](#)

Request to approve the Offer to Purchase from Quantum Healthcare LLC for Lot 4 of CSM #3490 in the Northeast Industrial Park, comprised of approximately 2.69 acres for a price of \$100,000 (\$37,174.72 per acre) and affirm per Section 2.A.6 of the Deed Restrictions and Covenants and Section 23-22 of the Zoning Code that a medical office building including outpatient imaging and outpatient procedures is consistent with the development objectives of the City

Attachments: [Quantum OTP Memo 11-11-15.pdf](#)
[Offer to Purchase Lot #4.pdf](#)
[Quantum Map.pdf](#)
[CSM3490lot4 Rest and Cov.pdf](#)
[Section23-131_M-1_IndustrialParkDistrict.pdf](#)

Alderperson Baranowski moved, seconded by Alderperson Williams, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 5 - Alderperson Coenen, Alderperson Jirschele, Alderperson Baranowski,
Alderperson Siebers and Alderperson Williams

6. Information Items

[15-1883](#)

Director's Report
Exhibition Center Update
Downtown Plan Rewrite/5-Year Updates to Comp Plan Request for
Proposals Update

Attachments: [Announcement of Appleton Comp Plan and Downtown Plan RFP.pdf](#)
[RFP Appleton Downtown Plan and Comp Plan Update 2015](#)
[Final.pdf](#)

This Presentation was presented.

7. Adjournment

Alderperson Baranowski moved, seconded by Alderperson Jirschele, that the meeting be adjourned at 5:38 p.m. Roll Call. Motion carried by the following vote:

Aye: 5 - Alderperson Coenen, Alderperson Jirschele, Alderperson Baranowski,
Alderperson Siebers and Alderperson Williams



MEMORANDUM

TO: Community and Economic Development Committee

FROM: Matt Rehbein, Economic Development Specialist

DATE: November 23, 2015

RE: Variance to Deed Restrictions and Covenants for 3200 E. Pershing, Aluma Cast Foundry, Inc.

The City has received a request from R&R Steel Construction Co., Inc. on behalf of Aluma Cast Foundry (and Owner, Kowalczyk Properties LLC) for a variance to the Deed Restrictions regarding setbacks and front elevation material as outlined in the attached letter of November 18, 2015. Aluma Cast Foundry is located in the Northeast Industrial Park on the west side of State Highway 441, south of Northland Avenue, at 3200 E. Pershing Street. Being created in 1985, the lot is nonconforming to current park standards and is smaller than would be required today.

This request for a variance is being processed simultaneously to a request that is scheduled to go before the Board of Zoning Appeals on December 21, 2015, the application for which is attached as it outlines some overlapping issues.

Also attached to this memo is a copy of the Deed Restrictions and Covenants as applicable to this parcel.

Staff Recommendation:

A variance to the Deed Restrictions, Item 1.B and 3 for the Northeast Industrial Park, allowing for a 19' rear yard setback and 10' west side yard setback, and waiving the decorative masonry requirement for the proposed front portion of the building addition **BE APPROVED**.



To: City of Appleton
Dept. of Community and Economic Development
100 N. Appleton St.
Appleton, Wisconsin 54911

Date: November 18, 2015

Attention: Mr. Matthew Rehbein – Economic Development Specialist (TN: 920-832-6463)
(E-mail: matthew.rehbein@appleton.org)

RE: PROJECT No. 699 - Kowalczyk Properties LLC - Aluma Cast Foundry, Inc. - Building Addition
3200 E Pershing St. - Appleton, Wisconsin 54911.

SUBJECT: **Variance Request to Deed Restrictions Submittal**

Copies	Date	Description
1 Set	November 18, 2015	11" X 17" Format – Variance Request to Deed Restrictions Plans - Stamped and Dated November 18, 2015
1	November 18, 2015	Variance Request to Deed Restrictions for City of Appleton - Northeast Industrial Park Signed and Dated November 18, 2015

Are Transmitted Herewith:

X	<u>For Your Information</u>	X	<u>For Necessary Action</u>
X	<u>For Review</u>	X	<u>For Your Files</u>

REMARKS:

Dear Mr. Rehbein

Enclosed please find the documents as noted above for the Application for Variance. I will be attending the November 25, 2015 – 5:00 P.M. Community and Economic Development Committee meeting as well as the Dec. 2, 2015 – 7:00 P.M. City Council meeting to answer any questions. If you have any questions or need additional information, please do not hesitate to call me. Thank you for your continued cooperation, assistance and service.


Thomas J. Van Dalen, AIA, AICP, NCARB
Architect Manager & Project Supervising Professional 6230-5



Project No. 699: Kowalczyk Properties LLC - Building Addition
Aluma Cast Foundry, Inc.
3200 E. Pershing St. - Appleton, Wisconsin 54911

Variance Request to Deed Restrictions for City of Appleton - Northeast Industrial Park
to
City of Appleton - Department of Community and Economic Development
Mr. Matthew Rehbein - Economic Specialist

On behalf of the property Owner, we are requesting variances to the following Deed Restrictions for the subject project as noted above:

1. West Side and Rear Yard Setbacks: As per Deed Restrictions 1.B. – Minimum side and rear yards setbacks shall be twenty five (25) feet, provided that adjacent property owners may mutually agree to jointly construct common walls structures thereby eliminating any setback between buildings.

The Owner is requesting that the west side yard setback be reduced to 10 feet and the rear yard setback be reduced to 19 feet.

2. Front Elevation Material: As per Deed Restrictions 3. – Any building shall be masonry construction or enameled steel or equivalent thereof. The front of all building and rear of all buildings when facing a street shall be faced with decorative masonry.

The Owner is requesting that the building addition front elevation be faced with enameled steel siding to match the color of the existing steel siding that is on all building facades. The existing front facade is finished with enameled steel siding above a 4' high colored masonry base wall.

Please refer to the attached City of Appleton – Request for Variance dated Nov. 18, 2015 and signed by the Owner. The Questionnaire portion of that document addresses the reasons why the setback variances are required, their effects on surrounding properties, the special conditions that apply to this property and the hardship that will result if the variances are not granted.

Also attached to this document, please find a set of drawings prepared for this variance request. The drawings include:

- Title and Index - Sheet T1
- Site Plan – Sheet C1
- Building Addition Floor Plan, Exterior Elevations and Building Section – Sheet A1
- Google Earth Aerial Photo of the Site and Surrounding Properties – Sheet P1
- (3) Google Earth ground level photographs of the front of the building elevation from 3 different angles from E. Pershing St. Sheet P2, P3 & P4

The front elevation of the proposed building addition is set back 80' from the existing building front elevation and only has 18' lineal feet of direct front elevation exposure. Of that 18' lineal feet of front elevation exposure, 12 lineal feet is taken up by an overhead door opening and 3.33 lineal feet is taken up by a service door. That leaves a total of 2.67 lineal feet of direct front exposure for a 4' high colored masonry base wall to match the existing building front elevation finish. Given the setback distance of the proposed building addition front elevation from the existing building front elevation and the minimal length of the required masonry base wall would be to match the existing building front elevation, we feel that sheeting the entire front elevation wall of the building addition with all enameled steel siding is a better visual solution.



11/18/2015

Thomas J. Van Dalen, AIA, AICP, NCARB
Architect Manager / Project Supervising Professional

CC:

Mr. Robert Kowalczyk– President
Kowalczyk Properties, LLC & Aluma Cast Foundry, Inc.

Return to: Department of Public Works
Inspection Division
100 North Appleton Street
Appleton, Wisconsin 54911
(920) 832-6411

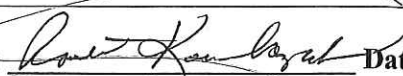
City of Appleton Application for Variance

Application Deadline **November 30, 2015** Meeting Date **December 21, 2015 7pm**

Please write legibly and also submit a complete reproducible site plan (maximum size 11" x 17"). A complete site plan includes, but is not limited to, all structures, lot lines and streets with distances to each. There is a non-refundable \$125.00 fee for each variance application. The non-refundable fee is payable to the City of Appleton and due at the time the application is submitted.

Property Information	
Address of Property (Variance Requested) 3200 E. Pershing St.	Parcel Number 31-1-4315-02
Zoning District M1	Use of Property Factory
Applicant Information	
Owner Name Kowalczyk Properties LLC	Owner Address 3200 E. Pershing St. Appleton, WI 54911
Owner Phone Number 920-739-6282 Office	Owner E Mail address (optional)
Agent Name Thomas J. Van Dalen Architect Manager – Project Supervising Professional	Agent Address R&R Steel Structures 5521 County Rd BB Appleton, WI 54914
Agent Phone Number 920-739-6521 Office / 920-858-2326 CP	Agent E Mail address (optional) t.vandalen@rrsteelconstruction.com
Variance Information	
Municipal Code Section(s) Project Does not Comply Section 23-131(h)(5) - Rear yard setback Section 23-131(h)(6) – Side yard setback Section 23-172(e)(3) – Maneuvering in the right of way Section 23-172(m) - Minimum parking spaces	
Brief Description of Proposed Project The proposed plans would place the building nineteen (19) feet from rear property line and ten (10) feet from the side yard property line. Section 23-131(h)(5) of the Zoning Ordinance requires a twenty-five (25) foot rear yard setback and a twenty (20) foot side yard setback. The plan also would require vehicles dropping off goods to maneuver in the street. Section 23-172(e)(3) requires all maneuvering to occur within the property lines. The plan also would provide six (6) parking spaces. Section 23-172(m) specifies that properties that are light manufacturing with five (5) employees would require eight (8) parking spaces.	

Owner's Signature (Required):


ROBERT KOWALCZYK

Date: Nov. 18, 2015

Return to: Department of Public Works
Inspection Division
100 North Appleton Street
Appleton, Wisconsin 54911
(920) 832-6411

Questionnaire

In order to be granted a variance each applicant must be able to prove that an unnecessary hardship would be created if the variance were not granted. The burden of proving an unnecessary hardship rests upon the applicant. The attached sheet provides information on what constitutes a hardship. (Attach additional sheets, if necessary, to provide the information requested. Additional information may be requested as needed.

1. Explain your proposed plans and why you are requesting a variance:

Currently all raw products and finished goods are transferred from delivery vehicles outdoors and stored in fenced off outdoor storage area. The raw products are taken into the building as needed for fabrication, then stored outside for pick-up and delivery. The transfer of the products onto and from the delivery vehicles occur throughout the year, even when seasonal severe weather conditions make it unsafe for those operations to occur.

All semi-trailer trucks back into the site from E. Pershing St., because the site is not wide enough to allow for on-site maneuvering to transfer their cargo. Longer semi-trailer trucks are too long to park on the site without sticking out into the road while cargo transfer occurs, so they just park on the side of the road just west of the site, which is a safer operation for them.

The proposed building addition alteration provides a safe, heated, indoor environment for the transfer and storage of raw product and finished goods, which is not possible without the granting of the requested variances. The setback variances will allow all semi-trailer trucks to back up to or into the building addition to allow for the safe transfer of cargo with the trailer inside or outside of the building. Longer semi-trailer trucks will no longer have to park in the street to transfer their cargo as they currently do.

Currently two garbage dumpster are visible from the street. The proposed building addition alteration will allow for relocation of outdoor dumpster storage area to a new area that is not visible from the street.

The facility employees a maximum of 4 people per shift. This is a small operation and there is never more than one visitor to the site at one time. Current ordinance requires 4 employee parking spaces and 3 visitor parking spaces for a total of 7 parking spaces. The proposed plan indicates a total of six parking spaces; 5 for employees and 1 for visitors for a total of 6 spaces. That is why a variance is required.

2. Describe how the variance would not have an adverse effect on the surrounding properties:

A City of Appleton regional storm water detention borders the north (rear) property line of the site. Allowing a 19' setback instead of the required 25' setback would have no visual or accessible impact on that site by granting a variance to 23-131(h).

The neighboring property to the west has a 15' wide storm water drainage ditch running completely along the west property line from E. Pershing St. to the City of Appleton regional

Return to: Department of Public Works
Inspection Division
100 North Appleton Street
Appleton, Wisconsin 54911
(920) 832-6411

storm water detention pond immediately north of this site as noted in the paragraph above. Immediately west of that drainage ditch on the same property is a very large, fenced in, gravel covered outdoor storage yard. A variety of equipment and materials are stored along that fence abutting the drainage ditch. Allowing a 10' setback instead of the required 25' setback along the west property line would have no visual or accessible impact to that site by granting a variance to 23-131(h)(6).

By granting the requested variance to 23-172(e)(3), would allow an operation that has always occurred due to the sub-standard size and configuration of the site. Semi-trailer trucks have always maneuvered on E. Pershing St. to back into the site, consequently there will be no new adverse effects to the surrounding properties. In fact the safety of the surrounding sites is improved, because long semi-trailer trucks will no longer have to park on the street in order to transfer their cargo.

By granting the variance to 23-172(m), and allowing the proposed plan to proceed, car parking spaces and dumpster storage areas are masked from the street and surrounding properties, thereby improving the effects of the current operation to the surrounding properties.

3. Describe the special conditions that apply to your lot or structure that do not apply to surrounding lots or structures:

The current development of the site occurred in 1985. It was the first development in the Appleton – Northeast Industrial Park, prior to it being re-zoned to the current Zoning District – M1 Industrial Park. The site is a Nonconforming lot of record.

Current zoning ordinance sections require a minimum lot width of 150' and a lot size of 1 acre (42,580 s.f.). The existing lot of record is 100' wide and has an area of 23,000 s.f., both nonconforming by current ordinance sections. All the surrounding properties are developed and exceed the current ordinance minimum size and width requirements, thus allowing future expansion or re-development without variances.

As detailed in Item 1 above, the only way to provide a safe and heated indoor environment for the transfer raw products and finish goods to occur on site, would require variances as detailed in Item 2 above. This is entirely due to the size and width of this nonconforming lot.

4. Describe the hardship that would result if your variance were not granted:

The existing hardship of the unsafe and unprotected transfer of goods to and from delivery vehicles will continue to occur if the variances are not granted. The proposed building addition that would provide an indoor transfer area for delivery vehicles completely on-site, cannot be provided without the requested variances being granted. Large semi-trailer trucks would continue to park on the street while they transfer their cargo as they do now without the variances being granted.

The site is too narrow for any semi-trailer trucks to back into or off of the site without maneuvering on E. Pershing St. The site is also too narrow for any on site maneuvering of any semi-trailer truck to back up to the existing building or proposed building addition. The granting of the variance is required to allow the maneuvering of semi-trailer trucks on E. Pershing St. to back on to the site.

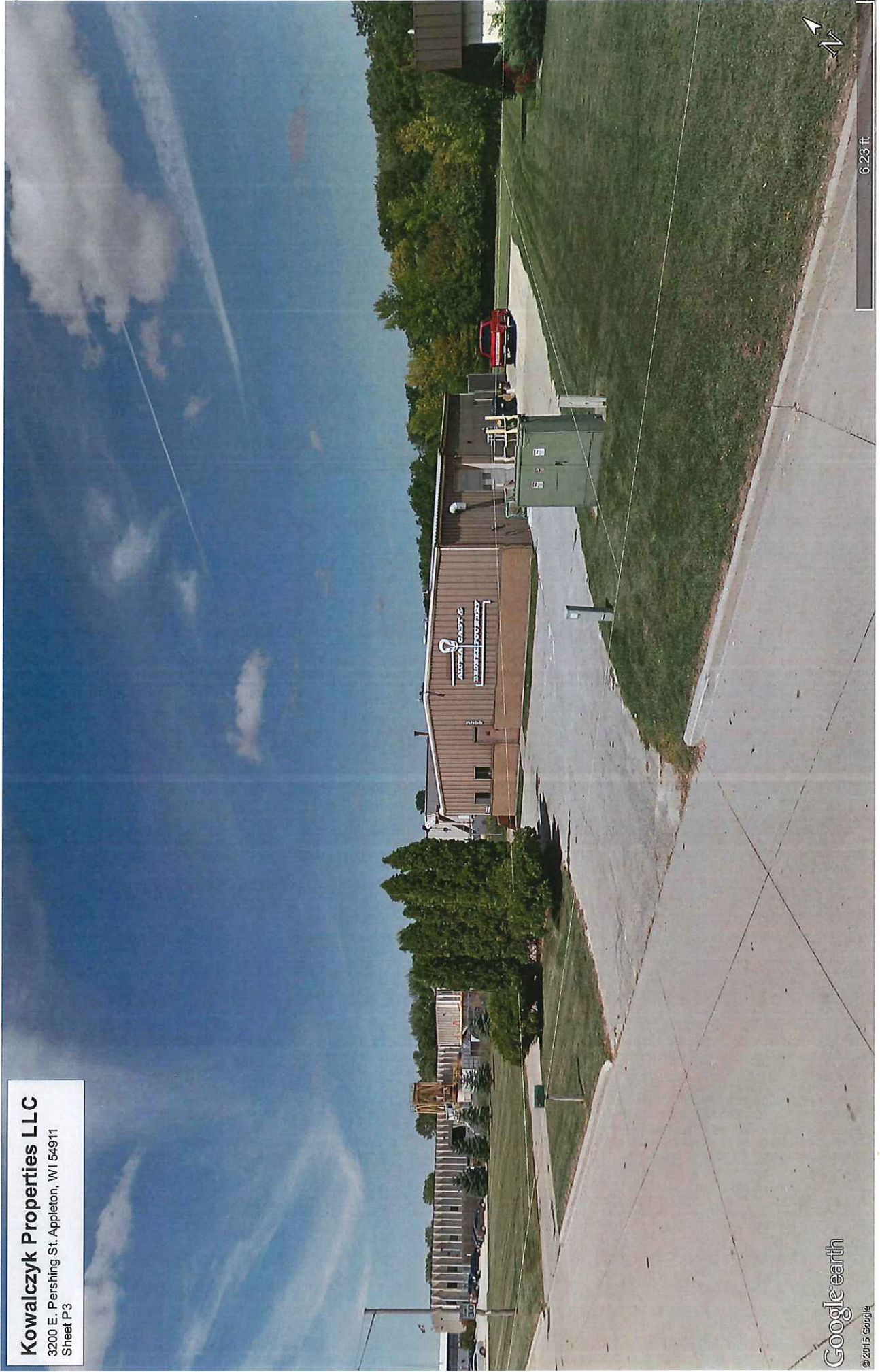
Kowalczyk Properties LLC

3200 E. Pershing St. Appleton, WI 54911
Sheet P4



Kowalczyk Properties LLC

3200 E. Pershing St. Appleton, WI 54911
Sheet P3

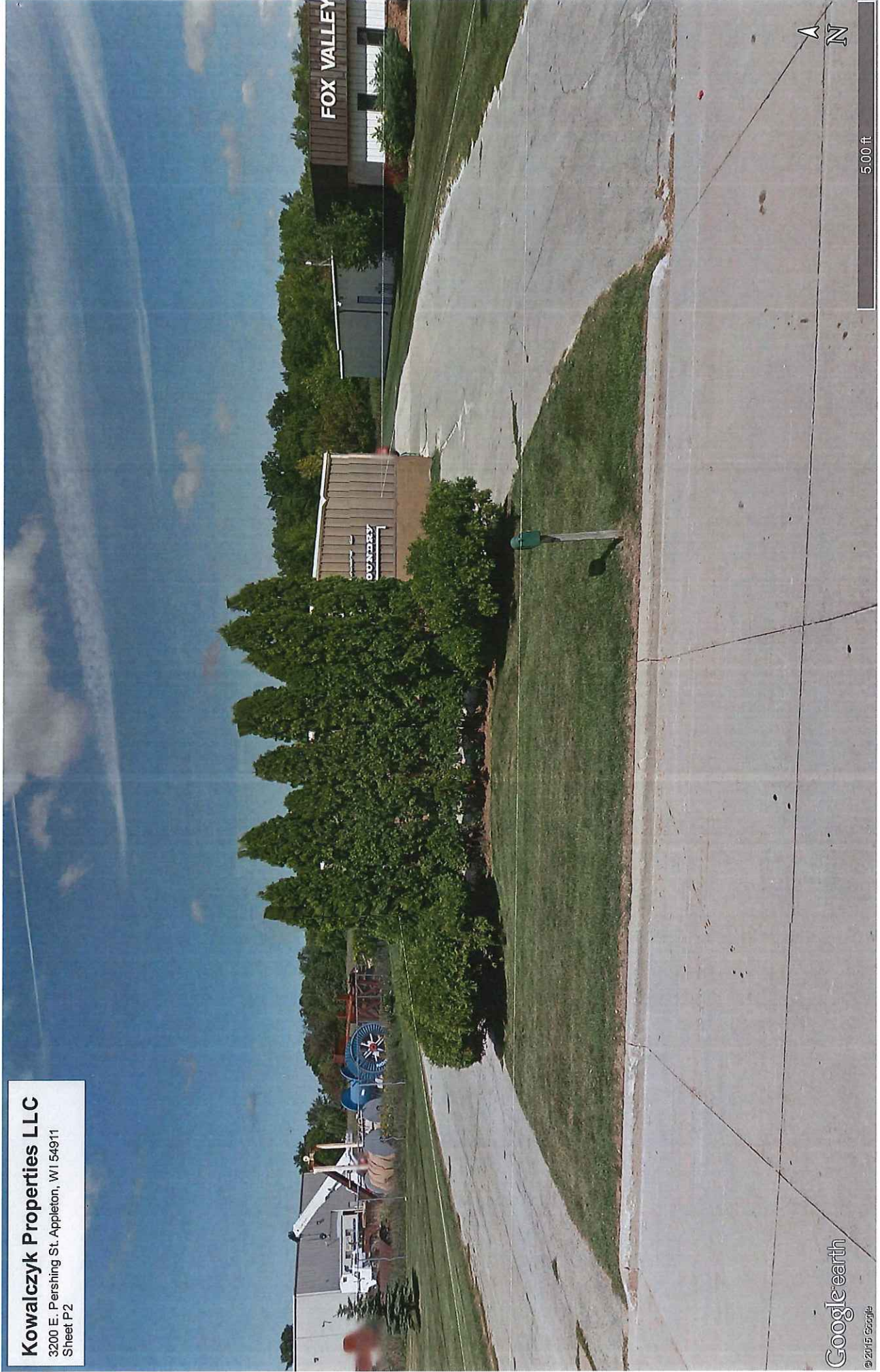


Google Earth

© 2015 Google

Kowalczyk Properties LLC

3200 E. Pershing St. Appleton, WI 54911
Sheet P2



Google Earth

© 2015 Google

RR STEEL
CONSTRUCTION CO., INC.
DESIGNERS, BUILDERS,
AND GENERAL CONTRACTORS

551 COUNTY ROAD BB APPALACHIA, VA 54814
(828) 739-6521 FAX (828) 739-3776 (800) 331-6521

"YOU WON'T BUILD ANY OTHER WAY UNTIL YOU KNOW WHO WE ARE!"
STATE OF WISCONSIN REGISTRATION ID NUMBER 1105412

Kowalczyk Properties
APPLETON, WISCONSIN

699 PLAN DATE.

NOVEMBER

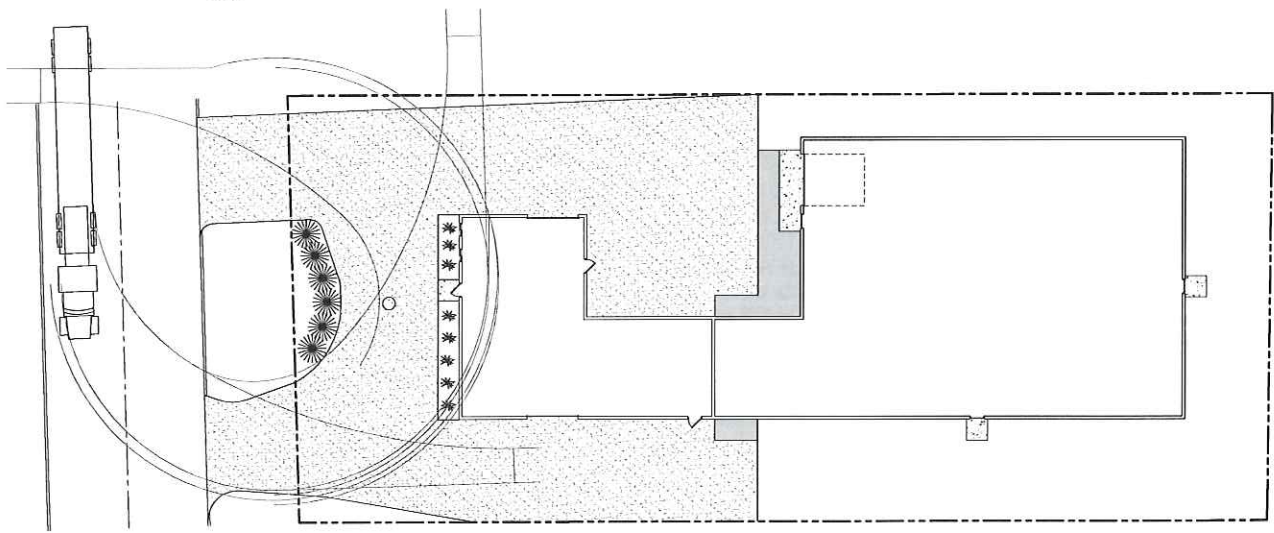
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DATE	DESCRIPTION
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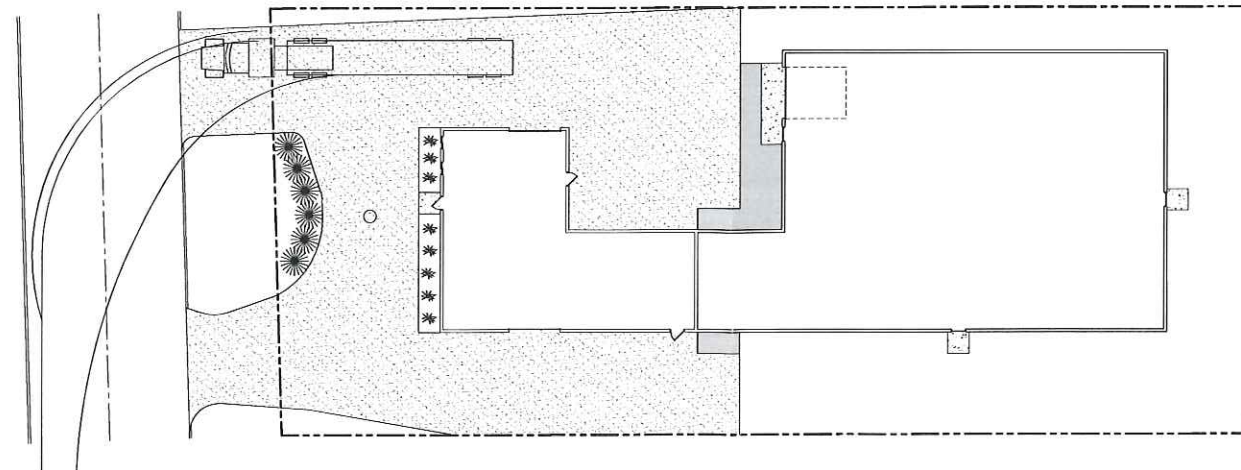
SHEET TITLE:
TITLE SHEET

T1

T1 - TITLE SHEET
C1 - SITE PLAN
A1 - ADDITION FLOOR PLAN, ELEVATIONS & BUILDING SECTION
P1 - EXISTING SATELLITE AREA IMAGE
P2 - EXISTING ROAD SIDE PHOTO
P3 - EXISTING ROAD SIDE PHOTO
P4 - EXISTING ROAD SIDE PHOTO

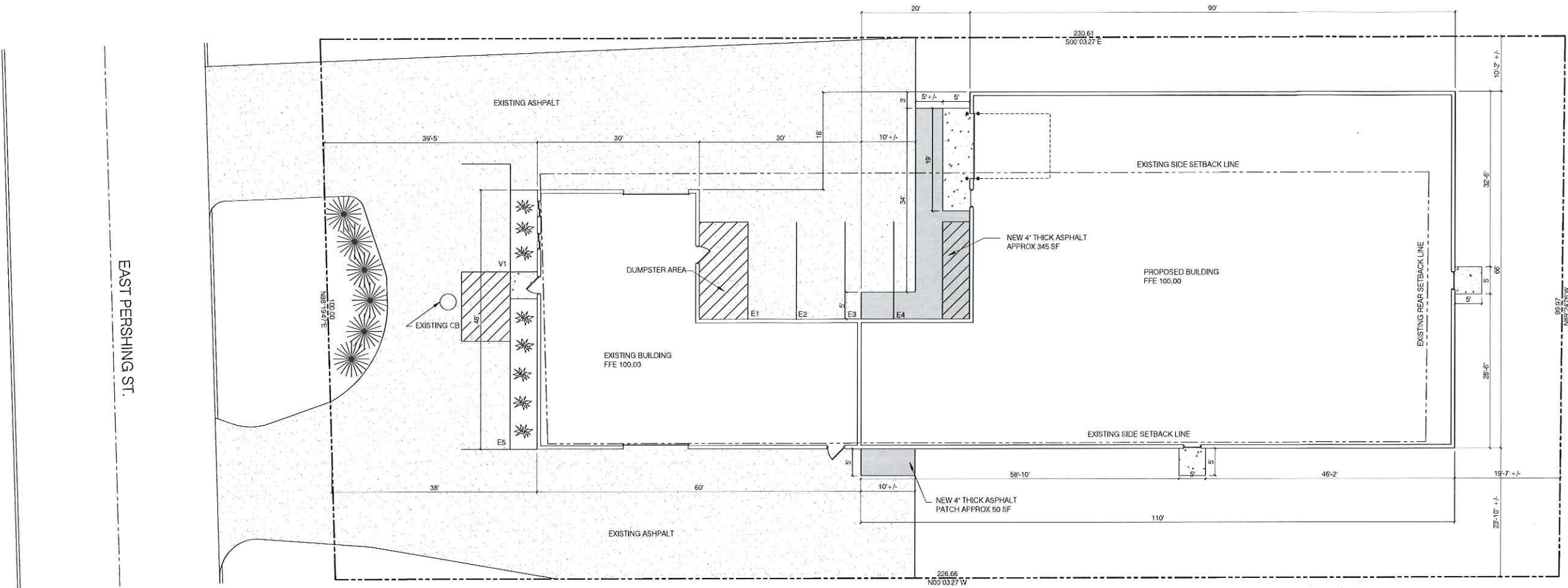


COMMERCIAL TRUCK TURNING RADIUS REQUIRMENTS - NON FUNCTIONAL
SCALE: 1"=20'-0"



COMMERCIAL TRUCK TURNING RADIUS REQUIRMENTS - FUNCTIONAL
SCALE: 1"=20'-0"

SITE PLAN
SCALE: 1"=10'-0"



- PROPERTY LINE
- - - BUILDING SET BACK LINE
- NEW ASPHALT
- EXISTING ASPHALT



PROPOSED BUILDING FOR:
Kowalczyk Properties
APPLETON, WISCONSIN

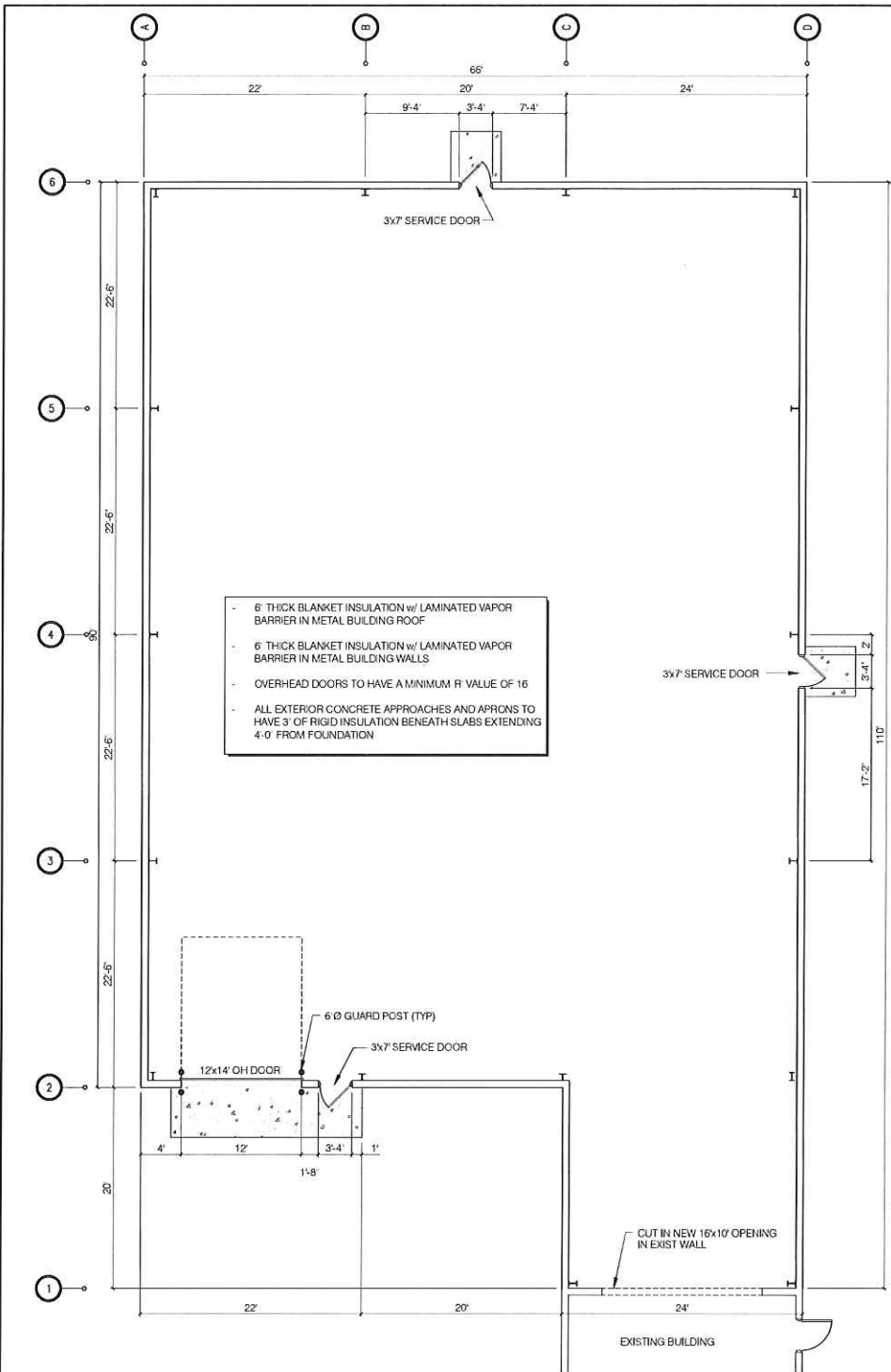
PRELIMINARY DRAWINGS - NOT FOR CONSTRUCTION

PROJECT NO.	699
PLAN DATE:	NOVEMBER 18, 2015
DRAWN BY:	DJN

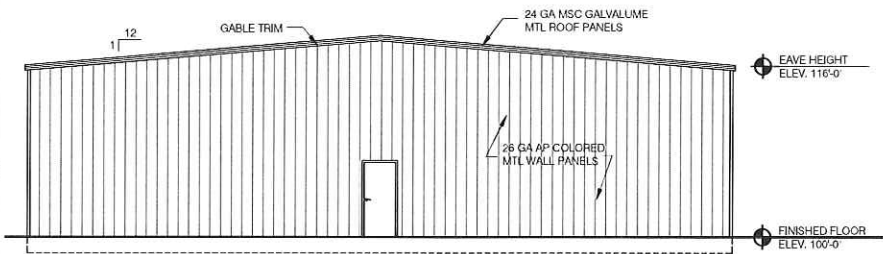
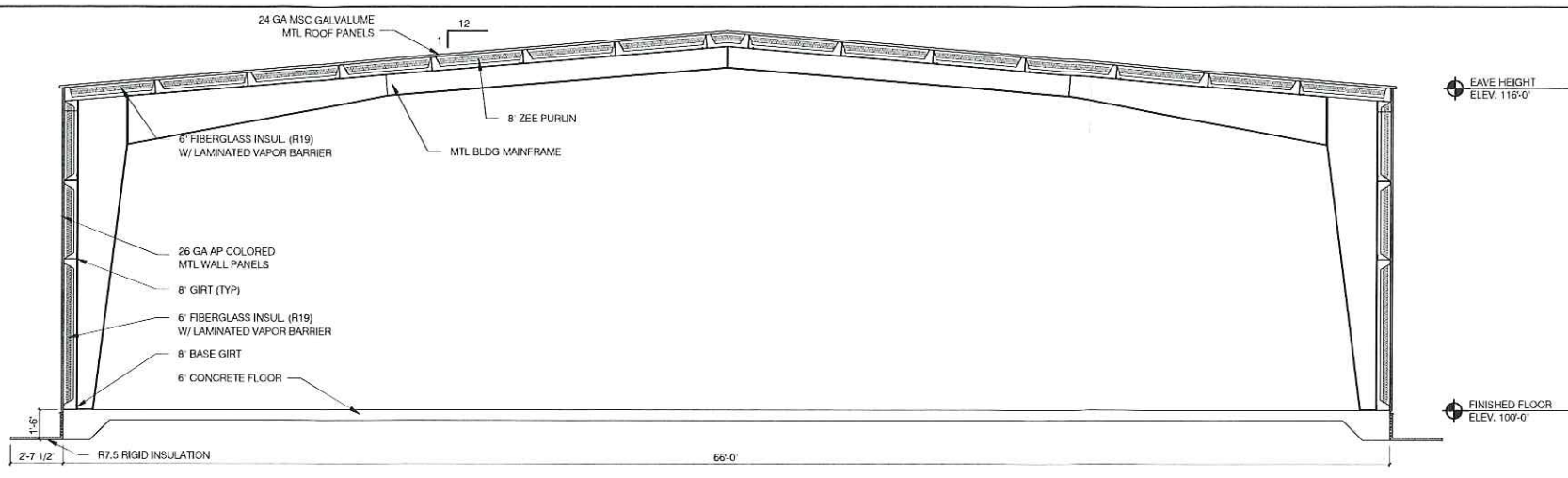
MARK	DATE	DESCRIPTION

SHEET TITLE:
PROPOSED SITE PLAN

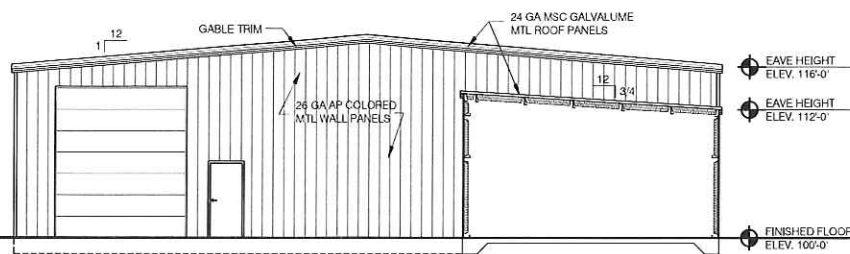
SHEET:
C1



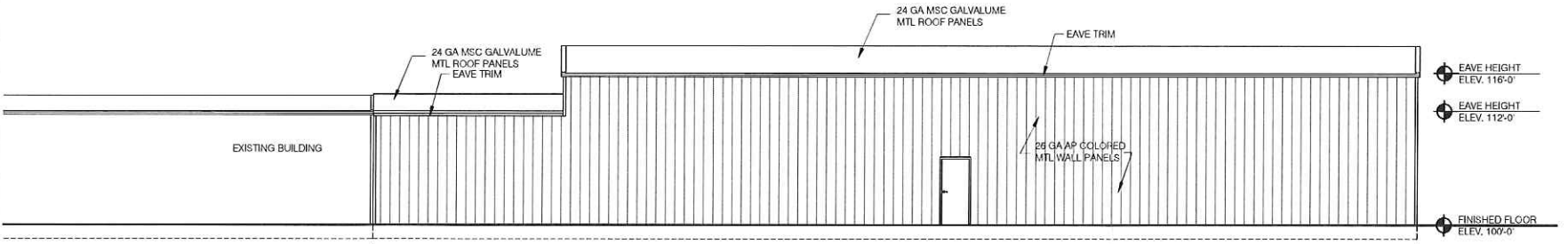
FLOOR PLAN
SCALE: 1/8" = 1'-0"



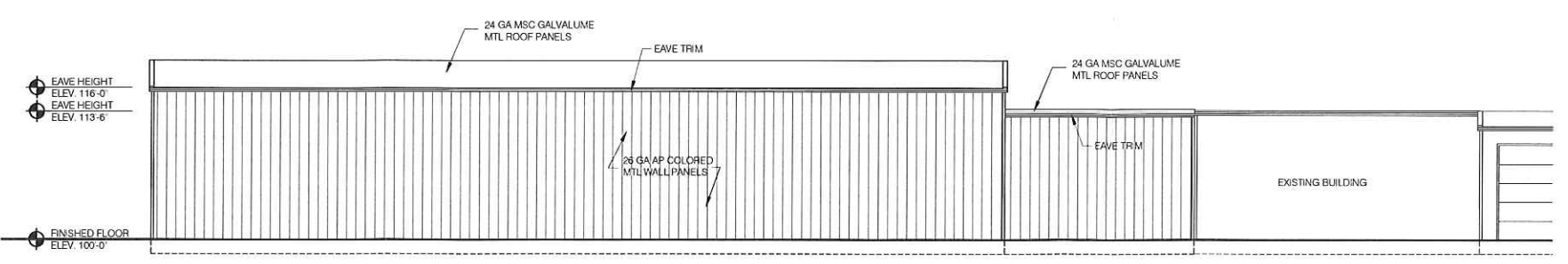
NORTH ELEVATION
SCALE: 1/8" = 1'-0"



SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



EAST ELEVATION
SCALE: 1/8" = 1'-0"



WEST ELEVATION
SCALE: 1/8" = 1'-0"



PROPOSED BUILDING FOR:
Kowalczyk Properties
APPLETON, WISCONSIN

PRELIMINARY DRAWINGS - NOT FOR CONSTRUCTION

PROJECT NO.	699
PLAN DATE:	NOVEMBER 18, 2015
DRAWN BY:	DJN

SHEET TITLE:
FLOOR PLAN
ELEVATIONS

SHEET:
A1

Kowalczyk Properties LLC

3200 E. Pershing St. Appleton, WI 54911
Sheet P1



Aluma Cast Foundry, Inc.

E Pershing St

Google earth

© 2015 Google

200 ft

DEED RESTRICTIONS

APPLICABLE TO ALL PROPERTIES SOLD IN THE THE NORTHEAST AND SOUTHEAST INDUSTRIAL PARKS (Except for Northeast Industrial Park Plat No. 1 and Plat No. 2)

This conveyance is made subject to the following conditions, covenants, and understandings which shall be binding upon the vendee, his heirs, successors, and assigns:

1. ***Setbacks:***

- A. ***Front Yard:*** No building shall be constructed on the site nearer than forty (40) feet of the right-of-way of any public street or highway. In the case of corner lots, both forty (40) feet setbacks will apply.
- B. ***Side and Rear Yards:*** Minimum side and rear yards shall be twenty-five (25) feet, provided that adjacent property owners may mutually agree to jointly construct common wall structures thereby eliminating any setback between buildings.

2. ***Land Use:***

Uses in the Industrial Parks shall be limited to manufacturing, warehousing, or distribution activities, and administrative offices directly related thereto. Retail sales and retail services shall not be permitted.

3. ***Construction and Materials:***

Any building erected shall be of masonry construction or enameled steel or the equivalent thereof. The front of all buildings and the rear of all buildings when facing a street shall be faced with decorative masonry.

4. ***Landscaping:***

The front yard area of the site shall be graded, landscaped, and planted with trees, shrubs, ground cover, and appropriate natural landscaping materials, and shall be in place within one year after occupancy of building. Landscaping shall relate to buildings and paved surfaces as to scale, massing, size, shape, and color. At the time of planting, vegetation shall be of sufficient size as to noticeably enhance the site (i.e., whips are inappropriate as primary landscaping elements). Existing trees shall be preserved whenever possible and may be substituted for part of the required landscaping. Plant material shall be of hardy quality, preferably native of Wisconsin. Weedy or short-lived trees such as Box Elder, Poplar, American Elm, or Willow shall not be acceptable. Vendee shall be responsible for maintenance of vegetation and replacement of any defective plant material.

5. ***Parking:***

All parking areas for trucks, automobiles, and construction equipment shall be paved. Parking shall be permitted within the minimum front yard setback area, however, it shall be located no closer than fifteen (15) feet to the public right-of-way line. The purchaser agrees to provide off-street parking for employees, clients, and visitors.

6. ***Outdoor Storage:***

No outside storage of any kind shall be permitted unless such stored materials are visually screened from all streets with a six foot high suitable fence, vegetation, berm, or combination thereof. Screening shall be attractive in appearance and in keeping with the architectural quality of the main structure. Said storage shall be limited to behind the front line of the building on the property, and within the building setback lines (25 foot side and rear yard, 40 foot front yard). No waste material or refuse may be dumped or permitted to remain on any part of the property outside of the buildings. Storage of fuel oil or other bulk fluids must be underground. Storage areas shall be maintained in an orderly and dust free condition.

7. ***Signs:***

Identification signs shall be permitted to promote only the name and/or trademark of the owner or tenant of the parcel on which the sign is placed. Signs, lighting, etc., are to be indicated on the final site plan submitted to the Community Development Committee for review. Ground signs must be set back 10 feet from the right-of-way line and must be of a low profile design subject to approval by the Committee. Building signs must comply with the City Zoning Ordinance.

8. ***Approval of Plans:***

Before commencing the construction or alterations of any buildings, additions, enclosures, fences, loading docks, parking facilities, storage yards, or any other structures or permanent improvements on or to the real estate conveyed hereby, the vendee shall first submit its building plans, specifications, site and landscape plans, and an elevation sketch of all improvements to be placed thereon to the Community Development Committee for its written approval. In the event the Committee or its assigns shall fail to approve or disapprove in writing such building plans, specifications, site and landscape plans, and elevation sketch within thirty (30) days after they have been submitted to them, such approval will not be required and these restrictions will be deemed to have been complied with. The Community Development Committee may assign this review of plans to Economic Development.

9. ***Repurchase Rights:***

Failure to Build: In the event the owner of land purchased from the City of Appleton does not commence construction of a building within one (1) year after the date of purchase, ownership reverts to the City. The price paid to repurchase shall be the sum of the original purchase price and all special assessments which may have been paid by the buyer or levied against the property after the date of purchase minus the sum of any unpaid property taxes, proration of the current years property taxes to date of closing, title insurance policy premium or cost of warranty abstract, and any liens and encumbrances on the property of a definite or ascertainable amount. Further, repurchase price shall be adjusted by the amount equal to the amount of an option fee for that year had the property been under option between the City and the Buyer. Conveyance shall be by warranty deed.

Resale of Vacant Land: In the event the owner of land purchased from the City of Appleton elects to sell any portion thereof which is vacant, the property shall first be offered, in writing, to the City of Appleton. The City of Appleton shall have sixty (60) days from date of receipt of such offer to accept or reject, unless an extension of time may be mutually agreed upon and set forth in writing. The purchase price shall be computed as in the Article above. Conveyance shall be by warranty deed. The seller shall furnish title insurance policy at the seller's expense.

10. ***Reciprocal Switching:***

The vendee shall agree to request what is known as "reciprocal switching" from the railroad spur line constructed on or across any property in the industrial park site.

11. ***Waiver of Notice:***

All land sold before major assessable improvements are completed in the industrial park site shall be subject to the purchaser's waiving notice of assessments and hearings, and such waiver shall be part of the negotiations.

12. ***Variances:***

Notwithstanding anything contained herein to the contrary, the City of Appleton expressly reserves the right at any time to authorize in writing variances from the strict applications of these Deed Restrictions or any one or more of them where the circumstances, in its sole and exclusive judgement, justifies the granting of same.

13. ***Enforcement:***

In the event that the vendee fails to perform in accordance with these restrictions, the Common Council, upon recommendation of the Community Development Committee, may take whatever corrective measures it deems appropriate and assess the cost thereof against the property in the same manner as a special assessment. The Common Council shall give at least thirty (30) days notice to the vendee of any violation and the steps required to correct it prior to taking any action to cure such violation.

14. ***Invalidation:***

The invalidation of any one of the covenants or restrictions herein set forth or the failure to enforce any of said restrictions at the time of its violation shall in no way affect any of the other restrictions nor be deemed a waiver of the right to enforce the same thereafter.