



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.*

Tuesday, February 25, 2020

4:00 PM

Council Chambers, 6th Floor

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

[20-0236](#) City Plan Minutes from 2-11-20

Attachments: [City Plan Minutes 2-11-20.pdf](#)

4. Public Hearings/Apearances

[20-0237](#) Special Use Permit #1-20 for a restaurant and sidewalk cafe with alcohol sales and service located at 500 West College Avenue (Tax Id #31-5-1070-00), 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 #20-0238)

Attachments: [ClassIIPublicHearingNoticeNewspaper_ACOCACoffee_SUP.pdf](#)
[PublicHearingNoticeNeighborhood_ACOCACoffee_SUP.pdf](#)

[20-0239](#)

Proposed text amendments to Chapter 23 Zoning Ordinance of the Municipal Code relating to Sec. 23-21 Purpose, Sec. 23-22 Words and Terms Defined, Sec. 23-35 Transition Rules, Sec. 23-42 Nonconforming Buildings, Structures, Uses and Lots, Sec. 23-44 Fences and Walls, Sec. 23-50 Dimensional Exceptions and Modifications, Sec. 23-63 Board of Appeals, Sec. 23-65 Zoning Amendments, Sec. 23-66 Special Use Permits, Sec. 23-67 Variances, Sec. 23-91 AG Agricultural District, Sec. 23-92 R-1A Single-Family District, Sec. 23-93 R-1B Single-Family District, Sec. 23-94 R-1C Central City Residential District, Sec. 23-95 R-2 Two-Family District, Sec. 23-96 R-3 Multifamily District, Sec. 23-112 C-1 Neighborhood Commercial District, Sec. 23-113 C-2 General Commercial District, Sec. 23-114 CBD Central Business District, Sec. 23-131 M-1 Industrial Park District, Sec. 23-132 M-2 General Industrial District, Sec. 23-172 Off-Street Parking and Loading Standards, Sec. 23-422 Special Use Permit Requirements, Sec. 23-570 Site Plan Review and Approval, and Sec. 23-601 Landscaping and Screening Standards, as identified in the attached document (Associated with Action Item #20-0240)

Attachments: [InformalPublicHearingNotice_ZOTextAmendments_2020.pdf](#)

5. Action Items

[20-0238](#)

Request to approve Special Use Permit #1-20 for a restaurant and sidewalk cafe with alcohol sales and service located at 500 West College Avenue (Tax Id #31-5-1070-00), 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_ACOCACoffee_SUP_For02-25-20.pdf](#)

[20-0240](#)

Request to approve proposed text amendments to Chapter 23 Zoning Ordinance of the Municipal Code relating to Sec. 23-21 Purpose, Sec. 23-22 Words and Terms Defined, Sec. 23-35 Transition Rules, Sec. 23-42 Nonconforming Buildings, Structures, Uses and Lots, Sec. 23-44 Fences and Walls, Sec. 23-50 Dimensional Exceptions and Modifications, Sec. 23-63 Board of Appeals, Sec. 23-65 Zoning Amendments, Sec. 23-66 Special Use Permits, Sec. 23-67 Variances, Sec. 23-91 AG Agricultural District, Sec. 23-92 R-1A Single-Family District, Sec. 23-93 R-1B Single-Family District, Sec. 23-94 R-1C Central City Residential District, Sec. 23-95 R-2 Two-Family District, Sec. 23-96 R-3 Multifamily District, Sec. 23-112 C-1 Neighborhood Commercial District, Sec. 23-113 C-2 General Commercial District, Sec. 23-114 CBD Central Business District, Sec. 23-131 M-1 Industrial Park District, Sec. 23-132 M-2 General Industrial District, Sec. 23-172 Off-Street Parking and Loading Standards, Sec. 23-422 Special Use Permit Requirements, Sec. 23-570 Site Plan Review and Approval, and Sec. 23-601 Landscaping and Screening Standards, as identified in the attached document

Attachments: [StaffReport TextAmendment 2020Bundle For02-25-20.pdf](#)

[20-0241](#)

Request to approve the dedication of land for public right-of-way for a portion of West Lawrence Street and a portion of South Appleton Street, generally located south and east of their intersection (part of Tax Id #31-2-0142-00), as shown on the attached maps

Attachments: [StaffReport LawrenceStAppletonSt StreetDedication For02-25-20.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
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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.*

Tuesday, February 11, 2020

4:00 PM

Council Chambers, 6th Floor

1. Call meeting to order

Meeting called to order at 4:02 p.m.

2. Roll call of membership

Present: 5 - Mayor Hanna, Buetow, Rabec, Alderperson Meltzer and Robins

Absent: 1 - Palm

Others present:

Alderperson Corey Otis, District #15

Tony Kubek, W6129 Pilgrim Street, Appleton

Eric Beach, 1500 E. Longview Drive, Appleton

3. Approval of minutes from previous meeting

[20-0187](#)

City Plan Minutes from 1-21-20

Attachments: [City Plan Minutes 1-21-20.pdf](#)

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

Aye: 5 - Mayor Hanna, Buetow, Rabec, Alderperson Meltzer and Robins

Absent: 1 - Palm

4. Public Hearings/Appealances

5. Action Items

6. Information Items

[20-0188](#)

Proposed draft text amendments to Chapter 23 Zoning Ordinance of the Municipal Code relating to *Article II Definitions*: Sections 23-21 and 23-22; *Article III General Provisions*: Sections 23-35, 23-42, 23-44 and 23-50; *Article IV Administration*: Sections 23-63, 23-65, 23-66, and 23-67; *Article V Residential Districts*: Sections 23-91, 23-92, 23-93, 23-94, 23-95, and 23-96; *Article VI Commercial Districts*: Sections 23-112, 23-113, and 23-114; *Article VII Industrial Districts*: Sections 23-131 and 23-132; *Article IX Off-Street Parking and Loading*: Section 23-172; *Article XIII Wireless Telecommunications Facilities*: Section 23-422; *Article XV Site Plan Review and Approval*: Section 23-570; *Article XVI Landscaping and Screening*: Section 23-601

Attachments: [StaffReport_DraftTextAmendment_2020Bundle_For02-11-20.pdf](#)

Minor changes to be made and this will be brought back to the February 25 Plan Commission meeting as an informal public hearing and action item.

This item was presented and discussed.

[20-0189](#)

Photo to be taken of City Plan Commission members

This photo was taken after the meeting adjourned.

7. Adjournment

**Rabec moved, seconded by Robins, that the meeting be adjourned at 4:54 p.m.
Roll Call. Motion carried by the following vote:**

Aye: 5 - Mayor Hanna, Buetow, Rabec, Alderperson Meltzer and Robins

Absent: 1 - Palm

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, February 25, 2020, 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 23-114 of the Appleton Municipal Code, to consider a request by College Ave Legacy, LLC, owner/applicant, for property located at 500 and 502 West College Avenue (Tax Id #31-5-1070-00) to obtain a Special Use Permit for a restaurant and sidewalk café with alcohol sales and consumption (ACOCA Coffee). In the CBD Central Business District, a Special Use Permit is required for a restaurant and sidewalk café 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: February 11, 2020
February 18, 2020

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, February 25, 2020, 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 23-114 of the Appleton Municipal Code, to consider a request by College Ave Legacy, LLC, owner/applicant, for property located at 500 and 502 West College Avenue (Tax Id #31-5-1070-00) to obtain a Special Use Permit for a restaurant and sidewalk café with alcohol sales and consumption (ACOCA Coffee). In the CBD Central Business District, a Special Use Permit is required for a restaurant and sidewalk café 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.

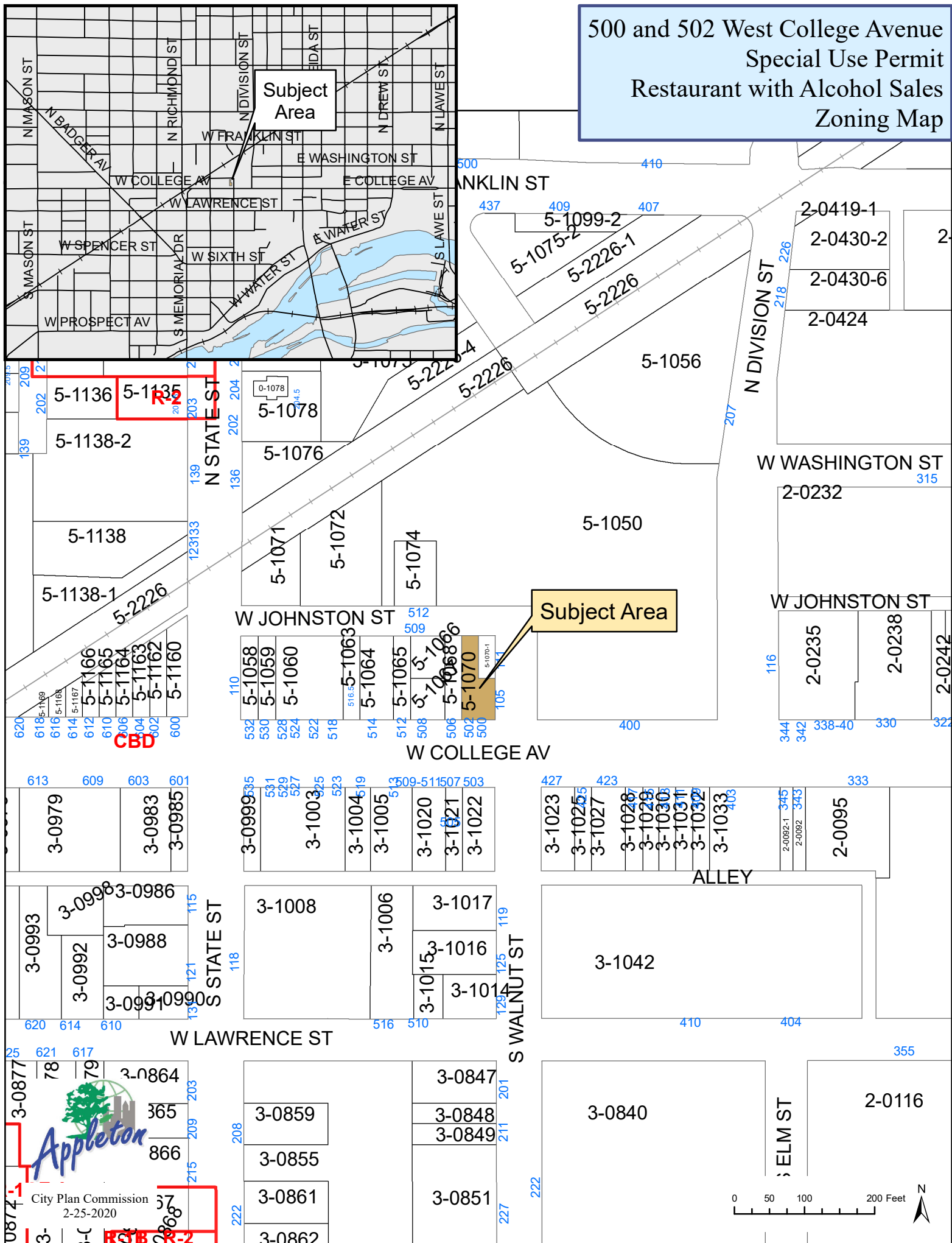
Any questions regarding this matter should be directed to David Kress, Principal Planner, in the Community and Economic Development Department at 920-832-6428.

CITY PLAN COMMISSION

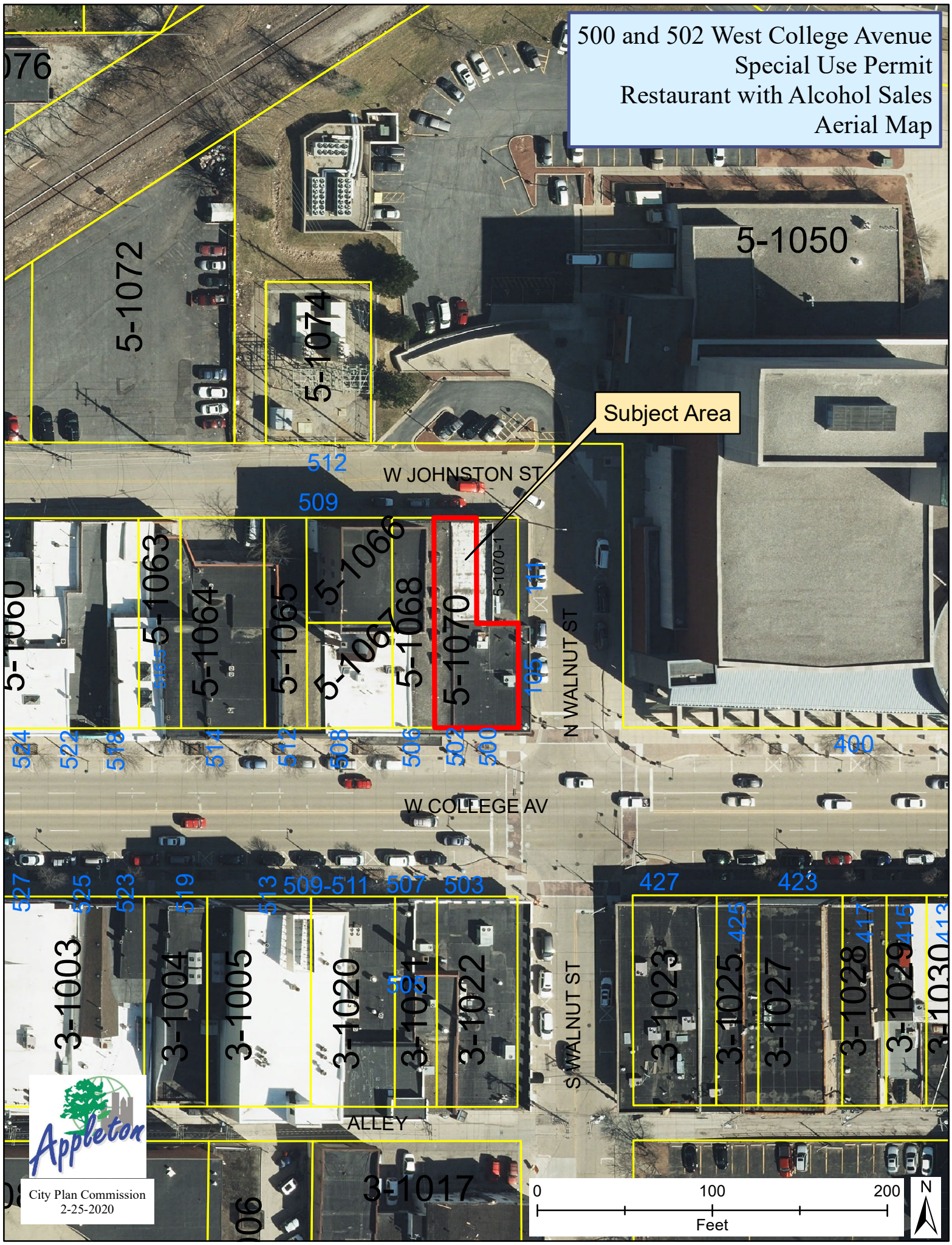
COMMUNITY & ECONOMIC DEVELOPMENT
CITY HALL - 100 NORTH APPLETON STREET
APPLETON, WISCONSIN 54911-4799
920-832-6468

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

Subject



500 and 502 West College Avenue
Special Use Permit
Restaurant with Alcohol Sales
Aerial Map

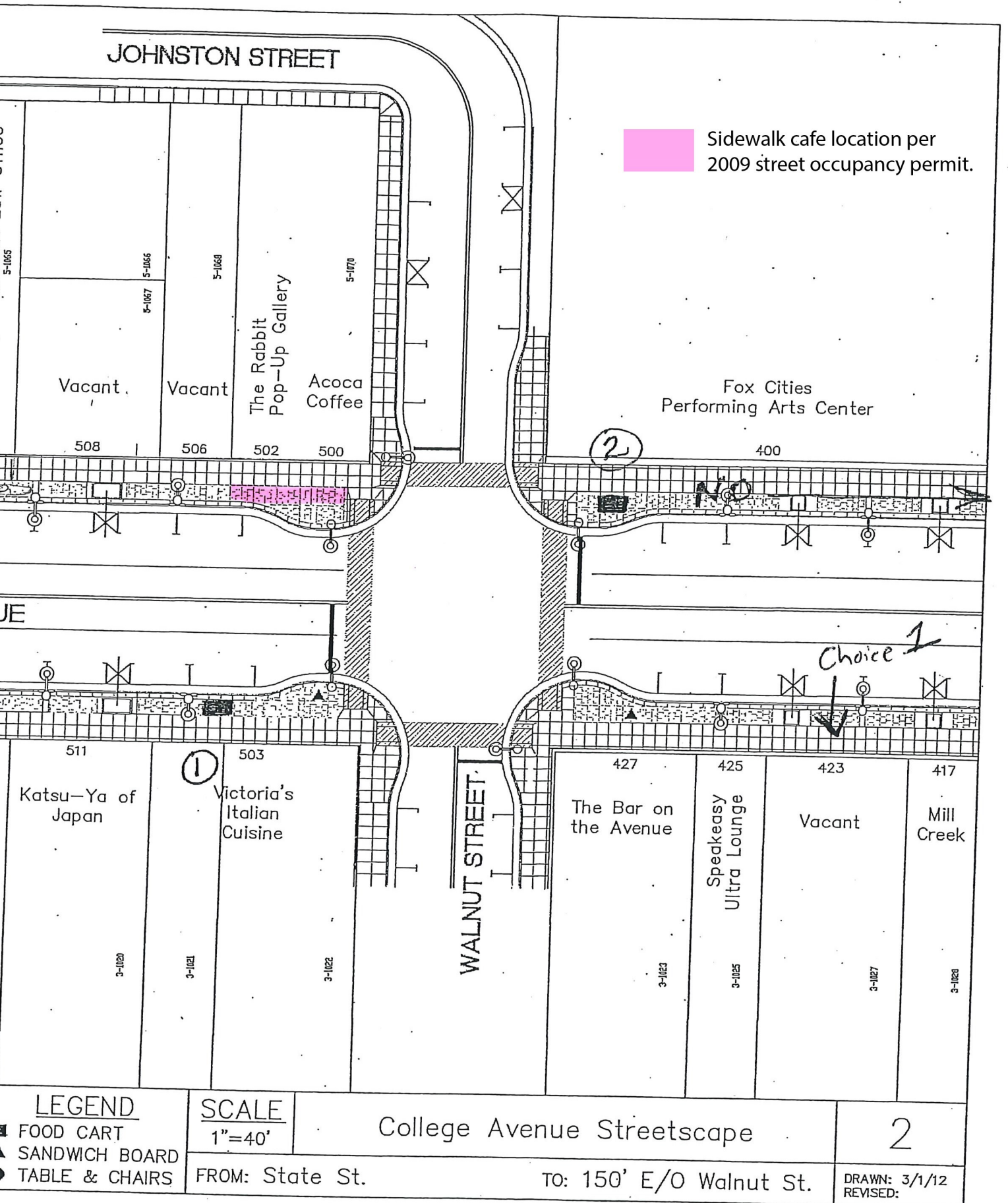


Subject Area



City Plan Commission
2-25-2020





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, February 25, 2020, 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 Sec. 23-21 Purpose, Sec. 23-22 Words and Terms Defined, Sec. 23-35 Transition Rules, Sec. 23-42 Nonconforming Buildings, Structures, Uses and Lots, Sec. 23-44 Fences and Walls, Sec. 23-50 Dimensional Exceptions and Modifications, Sec. 23-63 Board of Appeals, Sec. 23-65 Zoning Amendments, Sec. 23-66 Special Use Permits, Sec. 23-67 Variances, Sec. 23-91 AG Agricultural District, Sec. 23-92 R-1A Single-Family District, Sec. 23-93 R-1B Single-Family District, Sec. 23-94 R-1C Central City Residential District, Sec. 23-95 R-2 Two-Family District, Sec. 23-96 R-3 Multifamily District, Sec. 23-112 C-1 Neighborhood Commercial District, Sec. 23-113 C-2 General Commercial District, Sec. 23-114 CBD Central Business District, Sec. 23-131 M-1 Industrial Park District, Sec. 23-132 M-2 General Industrial District, Sec. 23-172 Off-Street Parking and Loading Standards, Sec. 23-422 Special Use Permit Requirements, Sec. 23-570 Site Plan Review and Approval, and Sec. 23-601 Landscaping and Screening Standards 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 the above-referenced Zoning Ordinance sections 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 should be directed to the Community and Economic Development Department at 832-6468.

CITY PLAN COMMISSION
APPLETON, WISCONSIN

COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT
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.



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: February 25, 2020

Common Council Meeting Date: March 4, 2020

Item: Special Use Permit #1-20 for restaurant and sidewalk café with alcohol sales and service

Case Manager: David Kress

GENERAL INFORMATION

Owner/Applicant: College Ave Legacy, LLC c/o William Wetzel

Address/Parcel #: 500 West College Avenue (Tax Id # 31-5-1070-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for alcohol sales and service in conjunction with an existing restaurant and sidewalk café.

BACKGROUND

The subject area is located at the northwest corner of West College Avenue and North Walnut Street. The subject area consists of space currently occupied by ACOCA Coffee and their proposed interior expansion area. ACOCA Coffee has operated at this location for years as a restaurant (without alcohol). 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 May 20, 2009, Common Council approved a Street Occupancy Permit for ACOCA Coffee to place tables and chairs in the amenity strip near the subject site. The sidewalk café location is identified on the attached map provided by the Department of Public Works.

STAFF ANALYSIS

Project Summary: According to the applicant, ACOCA Coffee has operated within the 500 West College Avenue tenant space since 1997. The other first floor tenant space (502 West College Avenue) was most recently used as a retail business. As shown on the attached development plan, the applicant proposes to expand within the existing building to create one first floor unit that totals approximately 4,314 square feet. The applicant proposes to establish alcohol sales and service at the expanded restaurant and existing sidewalk café area.

Existing Site Conditions: The existing multi-tenant building on the subject parcel totals approximately 7,156 square feet, including the ground floor and lower level units. The subject parcel represents one unit of a condominium declaration. No off-street parking is provided, which is allowable in the CBD Central Business District.

Zoning Ordinance Requirements: The subject property has a zoning designation of CBD Central Business District. Per Section 23-114(e) of the Municipal Code, a restaurant with alcohol sales and service requires a Special Use Permit in the CBD District. In order to permit alcohol sales and service in

Special Use Permit #1-20
February 25, 2020
Page 2

conjunction with an expanded restaurant and existing sidewalk café, 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.

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

Outdoor Seating Area: The existing sidewalk café location is identified on the attached map provided by the Department of Public Works. The sidewalk café shall comply with the previously-approved Street Occupancy Permit and applicable regulations identified in Chapter 9, Article VI, Division 4, Sidewalk Cafes, of the Municipal Code.

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 in nature.

North: CBD Central Business District. The adjacent land uses to the north are currently a mix of commercial uses, including a restaurant with alcohol.

South: CBD Central Business District. The adjacent land uses to the south are currently a mix of commercial uses.

East: CBD Central Business District. The adjacent land uses to the east are currently a mix of commercial uses, including the Fox Cities Performing Arts Center.

West: CBD Central Business District. The adjacent land uses to the west are currently a mix of commercial and multi-family residential uses.

Appleton Comprehensive Plan 2010-2030: Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Central Business District 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.

Chapter 14 Downtown Plan, Initiative 4 Downtown Development and Business Retention:
Strategy 4.8 – Support private sector efforts to redevelop and invest in downtown.

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 February 4, 2020 Technical Review Group meeting.

- Department of Public Works Comments: The sidewalk café location is limited to the amenity strip area shown in pink highlight on the attached map.

RECOMMENDATION

Staff recommends, based on the above, that Special Use Permit #1-20 for a restaurant and sidewalk café with alcohol sales and service at 500 West College Avenue (Tax Id #31-5-1070-00), 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.
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 interior ground floor of the building and sidewalk café area, as identified on the attached development plan drawing and map. 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 on-site alcohol sales and consumption. 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 project to remodel the existing tenant space and expand into the adjacent tenant space will require building permit(s) from the Inspections Division.
6. The sidewalk café shall comply with the regulations identified in Chapter 9, Article VI, Division 4, Sidewalk Cafes, of the Municipal Code and the previously-approved Street Occupancy Permit.
7. 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 #1-20

WHEREAS, William Wetzel, College Ave Legacy, LLC has applied for a Special Use Permit for a restaurant and sidewalk café with alcohol sales and service located at 500 West College Avenue, also identified as Parcel Number(s) 31-5-1070-00; and

WHEREAS, the location for the proposed restaurant and sidewalk café with alcohol sales and service is located in the CBD Central Business 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 February 25, 2020, on Special Use Permit #1-20 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 #1-20 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 _____, 2020 and found it to be acceptable.

NOW, THEREFORE, BE IT RESOLVED, that the City of Appleton Common Council approves Special Use Permit #1-20 for a restaurant and sidewalk café with alcohol sales and service located at 500 West College Avenue, also identified as Parcel Number(s) 31-5-1070-00 and orders as follows:

CONDITIONS OF SPECIAL USE PERMIT #1-20

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.
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 interior ground floor of the building and sidewalk café area, as identified on the attached development plan drawing

and map. 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 on-site alcohol sales and consumption. 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 project to remodel the existing tenant space and expand into the adjacent tenant space will require building permit(s) from the Inspections Division.
6. The sidewalk café shall comply with the regulations identified in Chapter 9, Article VI, Division 4, Sidewalk Cafes, of the Municipal Code and the previously-approved Street Occupancy Permit.
7. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.

Adopted this _____ day of _____, 2020.

Timothy M. Hanna, Mayor

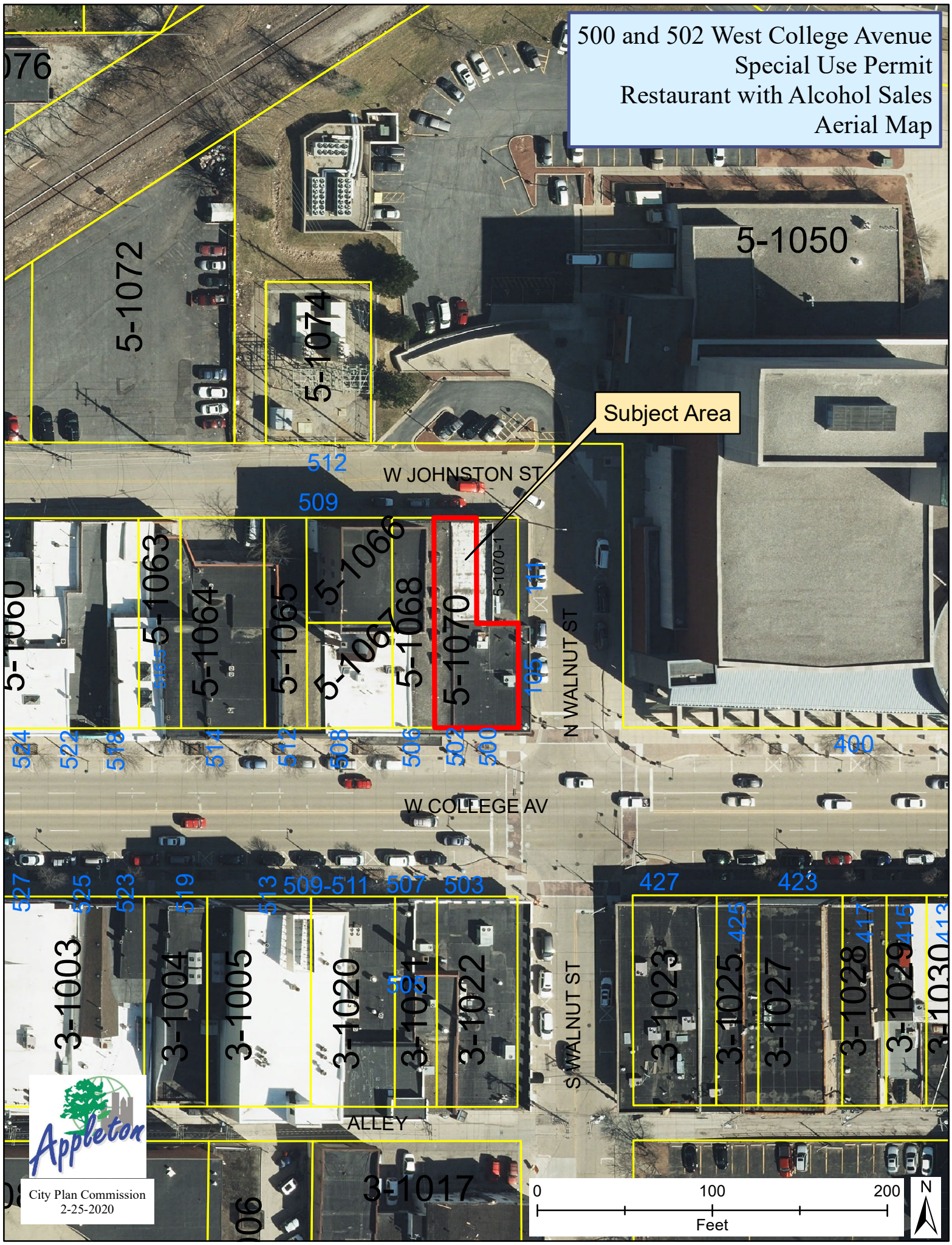
ATTEST:

Kami Lynch, City Clerk

Subject



500 and 502 West College Avenue
Special Use Permit
Restaurant with Alcohol Sales
Aerial Map

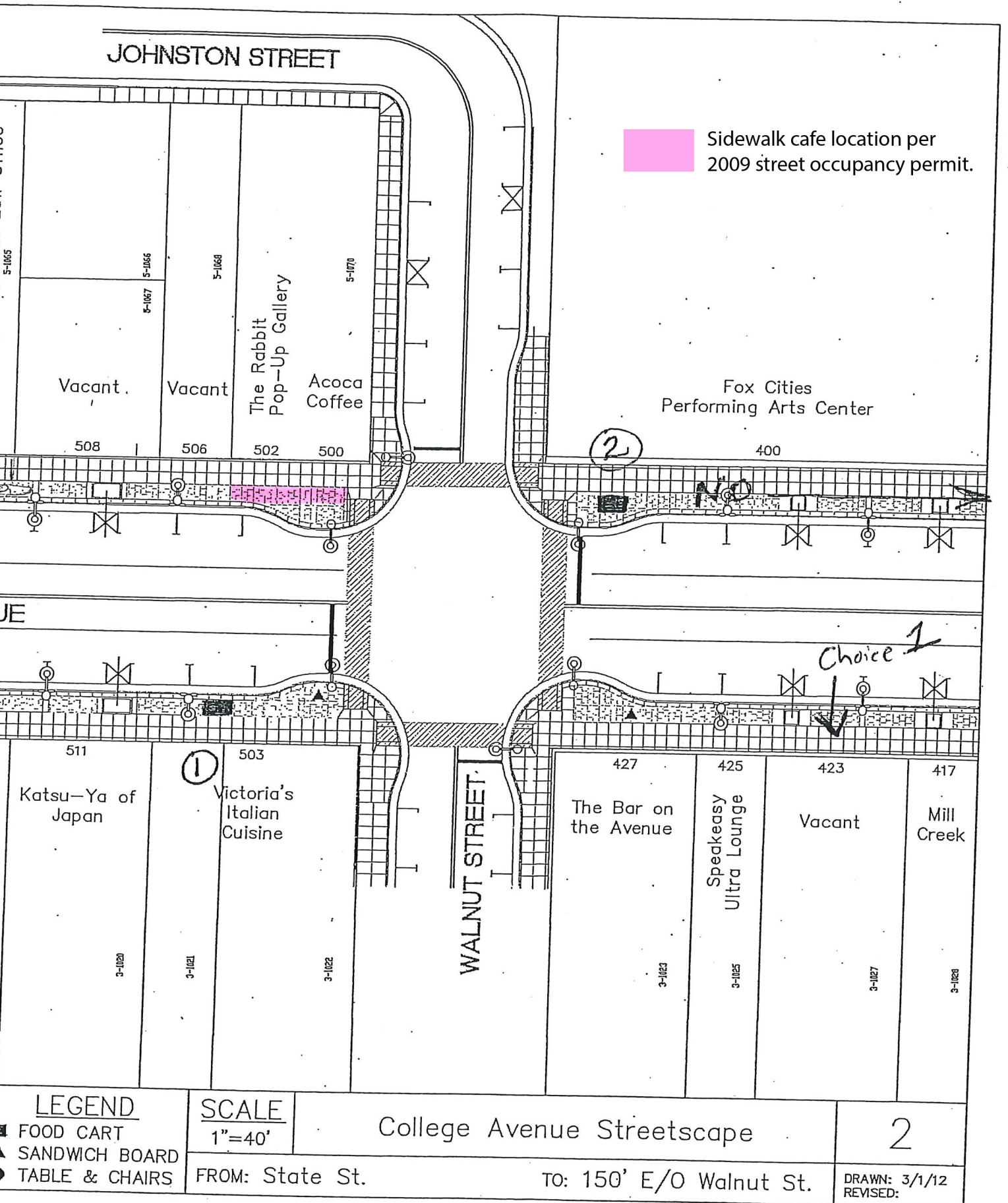


Subject Area



City Plan Commission
2-25-2020





PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business Information:

Name of business: _____WAAM Enterprises, LLC dba ACOCA Coffee

(Check applicable proposed business activity(s) proposed for the building or tenant space)

☒ Restaurant

☐ Bar/Night Club

☐ Wine Bar

☐ Microbrewery

☐ Other _____.

Years in operation: _____ Since 1997 _____.

Percentage of business derived from food service: less than 10% today, should go up considerably in future.

Type of proposed establishment (detailed explanation of business operations):

A coffee and breakfast/lunch café that serves fresh roasted (on site) Fair Trade Organic coffees and dishes up fresh, flavorful, breakfast and lunch sandwiches. In the evenings, light tapas-style plates and desserts will be served. Beer and wine will also be available.

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Week Days Monday thru Thursday	6:00 am	11:00 pm
Friday	6:00 am	11:00 pm
Saturday	7:00 am	11:00 pm
Sunday	7:00 am	9:00 pm

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: _____97_____ persons

Gross floor area of the existing building(s): _____ Current ACOCA Coffee space is
1200 sq.ft.

Gross floor area of the proposed building(s): _____ Expanding business into adjacent
502 W College will grow total space to 4314 sq.ft.

Describe Any Potential Noise Emanating From the Proposed Use:

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

 No additional noise should be generated except for kitchen exhaust hood that will
blow out onto the roof and far clear from local apartments and street level.

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

Chill crowd sipping great coffee, loose leaf teas, some mellow wines and local beers; I
think it will be a quiet and well-mannered clientele.

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

 Not applicable

Outdoor Space Uses:

(Check applicable proposed area)

- ☐ Patio
☐ Deck
☒ Sidewalk Café
☐ Other _____
☐ None

Size: _____ Approx 300 square feet.

Type of materials used and height of material to enclose the perimeter of the outdoor
space:

☐ Fencing ☐ Landscaping ☒ Other Temporary Stanchions. Height _____ feet.

Is there any alcohol service incorporated within the outdoor space? Yes ☒ No ☐

Are there plans for outdoor music/entertainment? Yes ☐ No ☒

If yes, describe how the noise will be controlled:

Is there any food service incorporated within the outdoor space? Yes ☒ No ☐

Proposed Hours of Operation for Outdoor Space:

Day	From	To
Week Days: Monday thru Thursday	6:00 am	9:30 pm
Friday	6:00 am	9:30 pm
Saturday	11:00 am	9:00 pm
Sunday	11:00 am	9:00 pm

NOTE: Hours of Operation for Outdoor Uses (Sidewalk Café with Alcohol):

*******Municipal Code Section 9-262(b)(4): The permit holder can begin serving alcoholic beverages in the sidewalk café at 4:00 p.m. Monday through Friday and 11:00 a.m. on Saturday and Sunday. All alcoholic beverages must be removed from the sidewalk café by 9:30 p.m.**

Off-Street Parking:

Number of spaces existing: n/a

Number of spaces proposed: n/a

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:

 The Bar; Fress, Victoria's; Cozzy Corner; Performing Arts Center

Number of Employees:

Number of existing employees: Eight (8)

Number of proposed employees: TBD; 12 - 18

Number of employees scheduled to work on the largest shift: 6 - 9

Business Enhancement Grant Application Narrative

20 November 2019

Improvements to both 500 & 502 W College avenue, to expand, remodel and re-create the brand experience of ACOCA Coffee, there will be enhancements to both the interior existing space and expansion space, as well as a refreshment of the North, East, and South street facades.

A full-scale interior revamping of the spaces will be undertaken in order to broadcast the ACOCA brand so as to contribute to a more engaging customer experience. Starting with the inclusion of a new commercial kitchen, which compliments an expanded menu, ACOCA coffee will transition its position to include not only a café, but also a new Bistro, Lounge, and fresh cuppings experience.

Interior themes will revolve around an 'industrial modern' language resulting in a maker-space feel which pulls in details from historical roots of Appleton, contrasted with a polished demeanor in materials that will demand a diverse array of visual aesthetic. A focus to the scope will be placed on sourcing local craftsmen for furnishings and detailed finishes, repurposed or reclaimed material pallet, and will also feature a tribute area for fire department professionals. Skylights and clerestory windows are planned in order to increase the amount of natural daylight that will flow to the space.

On the exterior, the scope calls for a renewed brush stroke over the façade which will result in a fresh paint scheme, consistent with the corporate brand language, industrial-modern solar shading devices (awnings), new exterior lighting, and an artistic blend of artisan-industrial made vs. craft style signage. Existing entryway masonry will yield to storefront glazing in order to increase the amount of daylight allowed through the Southern face of the building complex.



Aaron Gafner

Project Designer



REPORT TO CITY PLAN COMMISSION

Plan Commission Informal Public Hearing Date: February 25, 2020

Common Council Public Hearing Date: March 18, 2020

Item: Zoning Text Amendments – Chapter 23 of the Municipal Code:

Article II Definitions: Sections 23-21 and 23-22

Article III General Provisions: Sections 23-35, 23-42, 23-44, and 23-50

Article IV Administration: Sections 23-63, 23-65, 23-66, and 23-67

Article V Residential Districts: Sections 23-91, 23-92, 23-93, 23-94, 23-95, and 23-96

Article VI Commercial Districts: Sections 23-112, 23-113, and 23-114

Article VII Industrial Districts: Sections 23-131 and 23-132

Article IX Off-Street Parking and Loading: Section 23-172

Article XIII Wireless Telecommunications Facilities: Section 23-422

Article XV Site Plan Review and Approval: Section 23-570

Article XVI. Landscaping and Screening: Section 23-601

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PURPOSE OF THE 2020 TEXT AMENDMENT BUNDLE

1. Draft amendments in response to relevant Wisconsin State Statute Revisions to be consistent with the changes to Wisconsin's Local Land Use Enabling Laws.
2. Amend and create definition terms for consistent administration of the Zoning Ordinance.
3. Continue to improve usability and organization of the ordinance.
4. Further implement adopted goals and policies of the Comprehensive Plan listed below.

BACKGROUND

At the February 11, 2020 Plan Commission meeting, staff presented the proposed Zoning Ordinance text amendments to the Commission for review and discussion. At the conclusion of the presentation, the Plan Commission directed staff to schedule an Informal Public Hearing at the February 25, 2020 Plan Commission meeting.

Staff made a minor change to Section 23-66(c)(1) electronic filing application requirements for Special Use Permits as suggested by the Plan Commission.

On March 15, 2017, the Common Council adopted a 5-year update to the City of Appleton *Comprehensive Plan 2010-2030*. The Comprehensive Plan includes several recommendations on potential changes to the City's Zoning Ordinance. Listed below are related excerpts from the *Comprehensive Plan 2010-2030*. In order to align with these recommendations, Community and Economic Development Department staff has prepared draft amendments to various sections of the Zoning Ordinance.

Goal 3 – Housing Quality, Variety, and Affordability

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

OBJECTIVE 5.3 Housing and Neighborhoods:

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

OBJECTIVE 6.7 Transportation:

Maintain a balanced parking program which provides an adequate supply of parking without undermining economic development and neighborhood development efforts.

Policy 6.7.2 Review and revise as needed the minimum and maximum parking ratios by type of land use as found in the Zoning Ordinance.

Policy 6.7.3 Consider amending commercial district parking requirements in the Zoning Ordinance to encourage redevelopment in older commercial corridors such as Wisconsin Avenue, Richmond Street, and South Oneida Street.

OBJECTIVE 10.3 Land Use:

Support future changes to zoning and other regulatory tools which are necessary to achieve the type of urban form and development reflective of smart growth principles, including support for “complete” neighborhoods (neighborhoods where residents can meet the majority of their daily needs on foot and by bicycle) throughout the City and in growth areas.

Policy 10.3.1 Revise existing zoning districts or establish new districts that permit and regulate the uses intended for mixed use areas including but not limited to the central business district, Richmond Street, Wisconsin Avenue, South Oneida Street, and the industrial flats.

Policy 10.3.2 Amend the Zoning Ordinance to address parking and dimensional standards to provide added flexibility to redevelop commercial property in the Wisconsin Avenue, Richmond Street, and South Oneida Street corridors.

Chapter 14 Downtown Plan, Initiative 3 Neighborhood and Residential Development:

Strategy 3.4 – Evaluate the need to amend the Zoning Code and other tools to facilitate redevelopment in mixed use areas bordering the downtown Central Business District. A majority of the proposed mixed-use areas shown in the updated Future Land Use Map are zoned either CBD Central Business District or C-2 General Commercial District. The CBD district allows for full lot coverage, with no open space and no parking required, and permits building heights up to 200 feet. The C-2 district, on the other hand, establishes a less urban feel than may be desired in these areas, and requires substantial parking which may be difficult to provide on small sites.

Staff offers the following proposed text amendments. The text recommended to be added is underlined. The text recommended for deletion is identified by ~~strikethrough~~. Staff commentary is identified in *italics* to provide insight regarding that specific amendment/change.

Sec. 23-21. Purpose.

The following words and terms, wherever they occur in this chapter, shall be construed as herein defined. Words not defined in this zoning ordinance shall be interpreted in accordance with definitions in Municipal Code of the City of Appleton, *The New Illustrated Book of Development Definitions* by Harvey S. Moskowitz, the Wisconsin State Statutes, State Building Code or Uniform Dwelling Code. If a word or term is not defined as identified by the protocol above, it shall have the meaning set forth in the latest edition of Webster's New World College Dictionary.

Comments: Clarify, expand, and add definition terms to be consistent with Wisconsin State Statutes and industry practices.

Sec. 23-22. Words and terms defined.

Brewery means a use which manufactures, bottles and packages a total of more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages per calendar year on premises including storage and distribution of fermented malt beverages that have been manufactured on the premises.

Craft-Distillery means a use which manufactures, bottles and packages a total of not more than 100,000 proof gallons of intoxicating liquor under the name of "whiskey", "brandy", "gin", "rum", "spirits", "cordials" or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

Development regulations means the parts of a zoning ordinance that applies to elements including but not limited to parking, loading and unloading, building and structure height, lot coverage, design and yard setback requirements.

Distillery means a use which manufactures, bottles and packages a total of more than 100,000 proof gallons of intoxicating liquor under the name of "whiskey", "brandy", "gin", "rum", "spirits", "cordials" or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

Dwelling, multi-family means a ~~residential~~ building or portion thereof containing ~~more than~~ three (3) or more dwelling units, ~~or a building designed for occupancy by more than two (2) families.~~

Dwelling, single family detached means a ~~residential~~ building containing one (1) dwelling unit that is entirely surrounded by open space on the same lot. Typically referred to as a single-family home.

Dwelling, two-family (or duplex) means a ~~residential~~ building containing two (2) dwelling units. The dwelling units are attached and may be located on separate floors or side-by-side.

Dwelling, two-family zero lot line means two (2) single-family dwellings, attached by a common wall, each being on separate lots (a side-by-side duplex with each unit typically under separate ownership).

Microbrewery means use at which beer, fermented on the premises, is bottled and sold and where food may or may not be sold for eat in or carry out. The volume of production of such facility may not exceed one hundred thousand (100,000) gallons a year.

Microbrewery/Brewpub means a use which manufactures, bottles and packages a total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages per calendar year and may or may not operate restaurant on the premises including storage and distribution of fermented malt beverages that have been manufactured on the premises.

~~**Nonconforming building or structure** means any building or structure which was lawfully, existing under zoning ordinances preceding the effective date of this chapter or any subsequent amendments to this chapter, which do not comply with applicable regulations of this chapter.~~

Nonconforming building or structure means a dwelling, building or structure that existed lawfully before the current zoning ordinance was enacted, but does not conform with one or more of the development regulations in the current zoning ordinance.

~~**Nonconforming use** means a use which lawfully, occupied a lot building or structure under zoning ordinances preceding the effective date of this chapter or any subsequent amendments to this chapter, which does not comply with use regulations of the zoning district in which it is located.~~

Nonconforming use means a use of land, a dwelling, a building or a structure that existed before the current zoning ordinance was enacted or amended, but does not conform with the use restrictions in the current ordinance.

Painting/Craft Studio with alcohol sales means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and alcoholic beverages for consumption while they paint and/or make crafts.

Painting/Craft Studio without alcohol sales means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and non-alcoholic beverages for consumption while they paint and/or make crafts.

Proof means the ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percentage of ethyl alcohol by volume.

Proof gallon means a gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof. Proof is a method of measuring the alcohol content of spirits (intoxicating liquor). You calculate the proof of a spirits product by multiplying the percent of alcohol by volume by two (2). For example, a spirits (intoxicating liquor) product that has a 40% alcohol content by volume is 80 proof [40 multiplied by 2 = 80]. Converting U.S. gallons into proof gallons:

1. Multiply U.S. gallons by the percent of alcohol by volume.
2. Multiply by 2.
3. Divide by 100.

Sample calculation:

1. 100 U.S. gallons x 40% alcohol by volume=4000
2. 4000 x 2=8000
3. 8000/100= 80 proof gallons

Restoration means a construction process of repairing or renovating all or a portion of an existing building and/or structure, so as to restore it to its former or original appearance or condition.

Replacement means a construction process of completely removing all or a portion of an existing building and/or structure, so as to replace it with a new building or structure.

Tasting room means a use offering fermented malt beverages, wine or intoxicating liquor for consumption and/or retail sales on the premises where the fermented malt beverages, wine or intoxicating liquor is manufactured and/or at an off-premises location associated with premises. Tasting rooms may include food sales.

Use, special means a use that is permitted in a zoning district only if a special use permit is expressly authorized by the Common Council in accordance with the provisions in this zoning ordinance, but does not include a variance.

Winery means a use which manufactures, bottles and packages wine on premises including storage and distribution of wine that have been manufactured on the premises. The establishment shall hold the required liquor license issued by the state and/or city if, in addition to offering for sale fermented malt beverages manufactured on the premises, it also offers for sale fermented malt beverages and other alcohol manufactured by other producers other than the establishment.

Comments: Adding this provision is intended to clarify that all previously-approved special use permits remain in full effect under the terms of its original approval.

Sec. 23-35. Transition rules.

This section addresses the applicability of new substantive standards enacted by this ordinance to activities, actions, and other matters that are pending or occurring as of the effective date of this ordinance.

(f) **Previously Approved Special Use Permits.** All special use permits approved prior to the effective date of this chapter or subsequent amendments to this chapter shall remain in full force and effect under the terms and conditions of the special use permit approval. Any expansions or change of use of a previously approved special use permit may require compliance with the nonconforming building, structure, use and lot and/or special use permit provisions of this chapter.

Comments: As a result of 2015 Wisconsin Act 223 which amended Section 62.23(7)(hc)1. (intro.) of the Statutes, cities cannot prohibit the replacement of a nonconforming structure if the structure will be replaced at the size, location, and use that it had immediately before the damage or destruction occurred.

Create subsections and language to be consistent with State Statute Section 62.23(7)(ham). 2013 Wisconsin Act 347 added protections for licensed manufactured home communities. The Wisconsin State Statute provided that a legal nonconforming use continues to be a legal nonconforming use despite the repair or replacement of homes or infrastructure within the community. There is no limit on the value of the repair or replacement which may be undertaken. Chapter 11 of the Municipal Code includes definitions for manufactured and mobile home community, manufactured home and mobile home.

Sec. 23-42. Nonconforming buildings, structures, uses and lots.

(b) **Continuance of nonconforming principal or accessory buildings or structures.** A nonconforming principal or accessory building or structure existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming principal or accessory building or structure shall be subject to the following requirements:

(5) Restoration or replacement of certain nonconforming principal or accessory buildings or structures.

- a. A nonconforming principal or accessory building or structure may be restored, replaced or repaired to the size, location and use that it had immediately before damage or destruction occurred, and without regard to the cost of such restoration, replacement, repairs or improvements if both of the following apply:
 1. The nonconforming principal or accessory building or structure was damaged or destroyed on or after March 2, 2006.

2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(g) **Special provisions for manufactured home communities.** A manufactured home community licensed under Section 101.935, Wis. Stats., that is a legal nonconforming use continues to be a legal nonconforming use notwithstanding the occurrence of any of the following activities within the community:

(1) Repair or replacement of any manufactured homes.

(2) Repair or replacement of infrastructure.

(h) **Special provisions for mobile home and manufactured homes not in a mobile home park.** A mobile home or a manufactured home not located in a mobile home park is considered a nonconforming use and must comply with Section 11-4 of the Municipal Code of the City of Appleton.

Comments: At the request of the Inspections Division, changes are proposed related to fences. One change would allow contractors to install fence sections (between posts) with a slight offset from the ground, while maintaining typical dimensions. The other changes clarify fence height regulations and include provisions for corner and double frontage lots on arterial/collector streets, which have been the subject of many previous variance requests.

Sec. 23-44. Fences and walls.

(a) **Fences and walls.** Fences and walls are subject to the provisions of this section.

(1) **Height.** The height of fences and walls shall be measured at grade, except as follows. Height may be measured two (2) inches above grade to allow for proper drainage and prevent rot of materials, when deemed appropriate by the Inspections Supervisor or designee. Berms may not be used to increase grade directly under a fence, unless otherwise stated in this chapter. Posts and post caps may project a maximum of four (4) inches above required fence height.

a. **Boundary fence.** A boundary fence or wall shall not be more than six (6) feet in height in residential districts and not more than twelve (12) feet in commercial and industrial districts, except that hedges may be permitted to grow to their natural height. No boundary fence or wall, including a hedge or row planting, shall be permitted in excess of three (3) feet in height between the front yard setback line and the abutting lot lines, unless otherwise stated in this chapter.

b. **Sound barrier/~~privacy~~ fence or wall on an arterial/collector roadway.** A sound barrier/~~privacy~~ fence or wall ~~constructed in a board to board or stone, masonry or brick and mortar style~~ may be erected on a residential property, that prevents sound penetration and decreases the noise levels along the access-restricted back or side lot line of a residential property abutting an arterial or collector street. It that has access restrictions and that is posted at no more than forty-five (45) miles per hour, shall not exceed eight (8) feet in height for double frontage lots and not exceed six (6) feet for corner lots, except in the vision corner.

c. **Sound barrier fence or wall on a freeway roadway.** A sound barrier fence, wall, or combination of fence and berm or wall and berm ~~constructed in a board to board or stone, masonry or brick and mortar style~~ may be erected that prevents sound penetration and decreases the noise levels along the back or side yard abutting a freeway. It highway that is posted with a speed greater than forty-five (45) miles per hour shall not be less than fourteen (14) feet nor more than twenty (20) feet in height, as measured from the grade of the adjacent freeway major roadway. Plans from a state certified engineer/architect that assure structural integrity may be required by the Community and Economic Development Director for fences higher than eight (8) feet

(2) **Materials.**

- a. Barbed wire fences, electrical fences, and single, double and triple strand fences are prohibited except in the AG agricultural, M-1 and M-2 industrial districts.
- b. For all zoning districts other than AG, fence material must be either naturally resistant or treated wood board, vinyl, galvanized and/or vinyl coated chain link material, wrought iron, brick, natural stone, masonry, or other material as approved by the Community and Economic Development Director. Chain link fence slats are subject to provisions of this ordinance.
- c. Fences and walls located in the front yard must be made of materials such as wood, brick, vinyl, wrought iron, or stone. Galvanized chain link material is prohibited in the front yard.
- d. The finished side of the fence shall be erected to face the adjoining property. The side with protruding studs or posts shall face the building of the lot responsible for the erection of the fence.
- e. Fences used for screening purposes for non-residential uses shall be subject to Crime Prevention Through Environmental Design (CPTED) standards. CPTED standards are reviewed and are available through the Appleton Police Department.

(3) **Exceptions.**

Protective security and boundary fences on industrial sites, publicly owned lands or semi-private lands such as places of worship, educational institutions, utility substations, etc. are excluded from the provisions of this section, except that where such fences incorporate the use of barbed wire, such barbed wire shall not be less than seven (7) feet above the ground level, and except such fences shall be a minimum of two-thirds (2/3) open to vision equally distributed throughout the fence length, and maintain allowable height when located within the defined vision corner.

- (4) **Setback.** No fence shall extend closer than five (5) feet from the right-of-way line of an improved public alley.
- (5) **Vision corner.** Fences and walls shall comply with vision corner requirements of §23-50(f)(g), Vision corner.
- (6) **Maintenance.** Both the fence and the property surrounding both sides of the fence shall be properly maintained at all times.

Comments: Specifications were added to this section pertaining to the vision corner at private driveways in order to be consistent with the figure within this section. A revised figure was also created to better illustrate the vision corner measurements. The vision corner at private driveways is an important safety consideration for pedestrians using the sidewalks.

Sec. 23-50. Dimensional exceptions and modifications.

(g) **Vision corner.** Vegetation or structures on private property (as per requirements of City Traffic Code, Chapter 19):

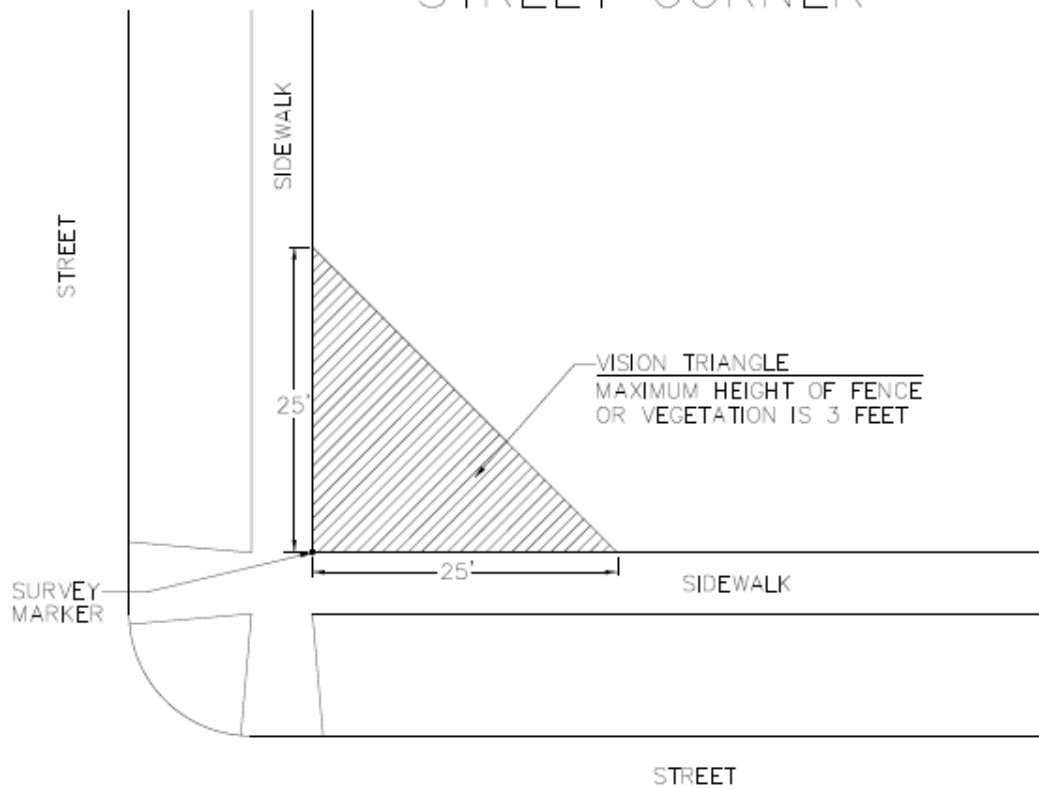
- (1) **Street Corner.** No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the street at its intersection with another street or public thoroughfare. There shall be a vision corner on all corner lots located in zoning districts that require a minimum twenty (20) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty-five (25) feet from the intersection of the right-of-way lines. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. ~~The fence, wall, sign or structure shall be a minimum of two thirds (2/3) open to vision, equally distributed throughout the fence length and height located within the defined vision corner.~~ Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the adjacent

property line elevation-centerline elevation of the abutting pavement to ten (10) feet above the adjacent property line-centerline elevation.

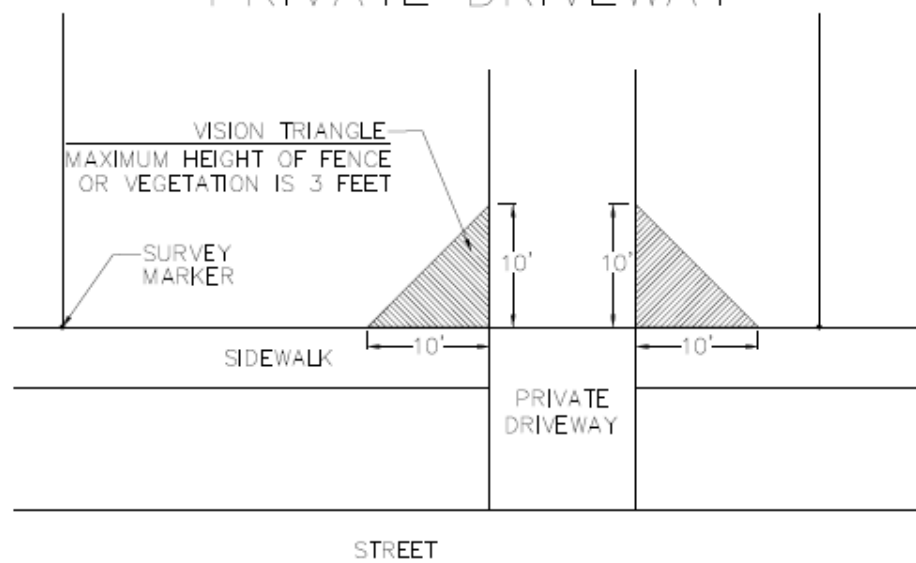
(2) Private Driveway. No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the driveway, street, or public thoroughfare. There shall be vision triangles on all driveways located in zoning districts that require a minimum ten (10) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting the point ten (10) feet from the intersection of the street-right-of-way and private driveway. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the adjacent property line elevation to ten (10) feet above the adjacent property line elevation.

~~(2)~~(3) The provisions above also apply to those corner lots located in zoning districts that require a ten (10) foot setback from street property lines, except in those cases the vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty (20) feet from the intersection of the street right-of-way.

VISION TRIANGLE AT STREET CORNER



VISION TRIANGLE AT PRIVATE DRIVEWAY



Comments: The proposed language to be deleted is intended to be consistent with the proposed amendments found in Section 23-67 Variances of Zoning Ordinance.

Sec. 23-63. Board of Appeals.

(b) **Powers and duties.** There is created a Board of Appeals with the powers and duties and qualifications as set forth in this chapter and in Wisconsin Statutes §62.23. Such powers and duties ~~generally~~ include:

- (2) To hear and decide upon applications for variances from the requirements of this chapter. ~~as will not be contrary to the public interest, where, owing to the special conditions of the property, a literal enforcement of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.~~

Comments: Section 8 of 2017 Wisconsin Act 243 repealed Section 62.23(7)(d)2m.a. of the Wisconsin Statutes effective January 1, 2019 (applicable to cities, villages, and towns exercising zoning under village powers). This is the section of the Statutes that required a three-fourths approval vote of the governing body in the case of neighboring property owners who filed a petition protesting a rezoning. Chapter 23 zoning ordinance has language that references the protest petition option pursuant to Wisconsin Statutes, therefore the language is recommended to be deleted.

Sec. 23-65. Zoning amendments.

(d) Map amendments.

- (7) **Action by Common Council.** Within forty-five (45) days of the public hearing, the Common Council shall either approve or deny the petition unless the applicant requests an extension. If Council action is to approve the change, it shall further act to formally amend the Official Zoning Map by adopting an ordinance. In the case where the Plan Commission, excluding the chairman, unanimously denies the change, ~~or in the case where a valid remonstrance as defined in Wisconsin Statutes §62.23(7)(d) is filed prior to the public hearing,~~ a three-fourths (¾) vote of the members of the Common Council is required for approval of the amendment to this chapter.

Comments: Wisconsin Act 67 was enacted on November 27, 2017. It amended the statutes pertaining to the way conditional uses (special uses) are regulated. These changes were in response to the Wisconsin Supreme Court's decision in All Energy Corp. v. Trempealeau County Environment & Land Use Committee 2017 WI 52 (May 31, 2017).

Previously, cities had broad authority to review conditional uses or special uses and determine whether to issue a permit. The Wisconsin Statute provides that "if an applicant for a conditional use permit (special use permit) meets or agrees to meet all the requirements and conditions specified in the zoning ordinance or imposed by the zoning board (Plan Commission), the city shall grant the conditional use permit (special use permit)."

The new law adds the following definition of "conditional use" to the Statutes: "'Conditional use' means a use allowed under a conditional use permit, special exception, or other zoning permission issued by a [city, village, town, county] but does not include a variance." Act 67 also includes the following definition of "substantial evidence," a term used in several places in the Act: "'Substantial evidence' means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion." This language softens the language of earlier versions of the bill that stated substantial evidence did not include "public comment that is based solely on personal opinion, uncorroborated hearsay, or speculation."

Public comment that provides reasonable facts and information related to the conditions of the permit is accepted under Act 67 as evidence.

Act 67 also provides that the conditions imposed “must be related to the purpose of the ordinance and be based on substantial evidence” and “must be reasonable and to the extent practicable, measurable” This new statutory language emphasizes the importance of having clear purpose statements in the zoning ordinance. In addition, since local comprehensive plans can help articulate the purpose of ordinances that implement the plan, local governments should consider including a requirement that the proposed conditional use furthers and does not conflict with the local comprehensive plan.

Act 67 states that permits “may include conditions such as the permit’s duration, transfer, or renewal.” In the past, sometimes there was confusion about whether local governments had the authority to place a time limit on the duration of a conditional use permit. This new statutory language clarifies that local governments have that authority.

Next, Act 67 provides that the applicant must present substantial evidence “that the application and all requirements and conditions established by the [city, village, town, county] relating to the conditional use are or shall be satisfied.” The city, village, town or county’s “decision to approve or deny the permit must be supported by substantial evidence.”

Under the new law, a local government must hold a public hearing on a conditional use permit application, following publication of a class 2 notice. If a local government denies an application for a conditional use, the applicant may appeal the decision to circuit court. The conditional use permit can be revoked if the applicant does not follow the conditions imposed in the permit.

Tasting Rooms are places that offer beer, wine, or liquor for consumption on the premises that was manufactured or rectified on the premises or at an off-site location associated with the Tasting Room. Under state law, as long as these establishments sell only the beer, wine, or liquor that they manufacture or rectify, they do not require a class A or B liquor license and, therefore, do not have regulatory oversight by the City like other similar alcohol and beverage uses. They are licensed by the Wisconsin Department of Revenue. Accordingly, this ordinance adds Tasting Room as a use and makes it a special use in the Agricultural, Neighborhood Commercial, General Commercial, Central Business and Industrial Districts. As a special use, the city will be able to exercise regulatory oversight similar to that provided to traditional licensed establishments.

Sec. 23-66. Special use permits and Special Regulations.

(a) **Authority.** The Common Council, by an affirmative two-thirds (2/3) vote of the entire Council, may by resolution, approve, approve with conditions, deny, or revoke ~~the issuance of~~ a special use permit for uses listed as special uses in ~~the manner set forth in this section~~ Chapter. The resolution functions as the special use permit that authorizes the recipient to establish a specific land use under specific terms and conditions.

(b) **Purpose.** The purpose of this section is to provide regulations which govern the procedure and requirements to review and approve, approve with conditions, deny, or revoke a special use permit. Special uses are those uses having some uniqueness or unusual impact which requires a careful review of their location, design, business process, and hours of operation and configuration to determine against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the community and neighborhood impact and effect as well as consistency to the comprehensive plan.

(c) **Procedure.**

- (1) **Application.** An owner or owner's designated agent wishing to ~~secure~~ obtain a special use permit for his property shall meet with the Community and Economic Development Director to discuss the proposal. If the owner or owner's designated agent desires to pursue the special use permit, they shall obtain, complete and file a special use permit application form with the ~~City Clerk's office~~ Community and Economic Development Department accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review. One (1) electronic document and one (1) paper copy of the application materials (completed application form, plan of operation and development plans) ~~with a digital copy of the development plan file in AutoCAD or compatible form by electronic mail, on diskette or compact disk, if applicable,~~ shall be submitted with the ~~written application fee~~ to the Director. After submittal and acceptance of a complete application through initial review by the Director, the complete application and supporting materials are then filed with the City Clerk. The special use permit application and supporting materials shall be referred to the Plan Commission.
- (2) **Public hearing.** ~~After receiving the request, the City Clerk shall refer the matter to the~~ The Plan Commission, ~~which shall hold a public hearing advertised by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.~~
- (3) **Action by Authority of the Plan Commission.** The Plan Commission shall within forty-five (45) days of the public hearing make a report and recommendation of approval or denial of the resolution which functions as the special use permit ~~with any conditions it may deem appropriate~~ to the Common Council pursuant to Section 23-66(c)(5). In making its decision, the Commission shall keep a written record of findings relative to the standards for considering special use permit applications as listed in ~~paragraph (e)~~ Sections 23-66 (c)(5) and (e).
- (4) **Action by Authority of the Common Council.** The Common Council shall within forty-five (45) days of Plan Commission action act to approve, approve with conditions or deny the special use permit by resolution pursuant to Section 23-66(c)(5) and (e). The resolution functions as the special use permit that authorizes the recipient to establish a specific land use under specific terms and conditions.
- (5) **Approval or Denial by Plan Commission and Common Council.**
 - a. **Definition of Substantial Evidence.** "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a special use permit and that reasonable persons would accept in support of a conclusion.
 - b. If a property owner or owner's designated agent for a special use permit meets or agrees to meet all of the requirements and conditions specified in the City of Appleton Municipal Code or those imposed by the Plan Commission and/or Common Council, the City shall grant the special use permit. Any condition imposed must be related to the purpose of the City of Appleton Municipal Code and be based on substantial evidence.
 - c. Any requirements and conditions for approval must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The property owner or owner's designated agent must demonstrate that the application and all requirements and conditions established by the city relating to the special use are or shall be satisfied, both of which must be supported by substantial evidence. The City's decision to approve or deny the permit must be supported by substantial evidence.
 - d. Once granted, a special use permit shall remain in effect as long as the conditions upon which the permit in the form of a resolution was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the Plan Commission and/or Common Council.
 - e. If a special use permit application is denied, the property owner or owner's designated agent may appeal the decision to the circuit court under the procedures contained in Wisconsin Statute §62.23(7)(e)(10) or as amended.

(d) ***Application requirements.*** The applicant shall provide the following information on the special use permit application form:

- (1) Applicant and property owner's name, address and telephone number.
- (2) Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.
- (3) ~~Description of special use being requested.~~ Completed Plan of Operation form.
- (4) Written justification for the special use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for special uses listed in subsection (e), Standards for granting special use permits, below.
- (5) Development plan of property being proposed for a special use permit which shall supply the information as identified below:
 - a. North arrows, date of preparation, and scale on 8½" x 11" size paper.
 - b. Name(s) of all adjacent or surrounding streets and right-of-way width(s).
 - c. Recorded property lines and their dimensions.
 - d. All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel.
 - e. Dimensions of existing and proposed yard setbacks for buildings and structures.
 - f. Dimensions of existing and proposed parking, loading, and unloading areas, sidewalks and interior and perimeter landscaping areas. Identify proposed and existing surface material(s).
 - g. The location of existing and proposed trees, shrubs and grass.
 - h. The location and details of proposed and existing refuse containers and their enclosures.
 - ~~i. The location of proposed and existing signage.~~
 - ~~j. i.~~ The location and type of all proposed and existing exterior lighting fixtures.
 - ~~k. j.~~ The location, height and materials of all proposed and existing fences or retaining walls.
 - ~~l. k.~~ The location and size of existing and proposed driveways.
 - ~~m. The location of snow storage areas.~~
 - ~~n. l.~~ The location and use of buildings and structures on adjoining land.
 - ~~o. m.~~ Show the general landscaping concept for the site.
 - ~~p. Indicate proposed hours of operation and number of employees.~~
 - ~~q. n.~~ Submit preliminary architectural plans for the existing and proposed buildings that show sufficient detail to permit an understanding of the style of the development and the design of the building(s).
 - ~~r. o.~~ Submit floor plan of the building(s), including room dimensions.

s. p. Other additional information that may be deemed appropriate by the Community and Economic Development Director.

(e) ***Standards for granting special use permits.*** No special use permit shall be recommended by the Plan Commission, or approved by the Common Council, unless ~~it shall find that~~ all of the following standards are found in the affirmative:

- ~~(1) ***Zoning.*** The proposed use conforms to the underlying zone district purpose and development standards and is in harmony with the general purposes and intent of the Appleton zoning ordinance. When there is an existing nonconforming structure, the development standards may be waived by the Common Council.~~ ***Proper Zoning District.*** The proposed special use is designated by this Chapter as a possible special use in the zoning district in which the property in question is located.
- ~~(2) ***District Regulations.*** The proposed special use will comply with all applicable development standards in the zoning district in which the property in question is located.~~
- ~~(3) ***Special Regulations.*** The proposed use will comply with all special regulations established by this chapter for such special use.~~
- ~~(2) (4) ***Comprehensive Plan or other Plans.*** The proposed use conforms to the VISION 20/20: Comprehensive Plan, any applicable urban design.~~ The proposed special use is consistent with the Comprehensive Plan or other plan officially adopted by Common Council.
- ~~(3) (5) ***Traffic.*** Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.~~
- ~~(4) (6) ***Landscaping and screening.*** Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed special use as established in §23-172(g), Perimeter parking lot and loading space landscaping and §23-601, Landscaping and screening standards.~~
- ~~(5) (7) ***Neighborhood compatibility.*** The proposed use is compatible with the predominant or prevailing land use of the neighborhood surrounding the proposed development. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height of buildings, walls and fences, landscaping, screening, and exterior lighting.~~
- ~~(6) (8) ***Impact on Services.*** Adequate facilities, access roads, drainage and/or necessary services have been or will be provided. The proposed special use will not substantially increase congestion in the public streets; will not place an undue burden on any other public utilities; or will not increase the danger of fire or endanger the public health or safety.~~

(f) ***Conditions, Guarantees, and validity period and revocation.***

- ~~(1) Prior to the granting of any special use permit, the Plan Commission may recommend and the Common Council may place such conditions and restrictions upon the establishment, location, construction, maintenance and method or hours of operation of the special use as is deemed necessary for the protection of the public interest and to secure compliance with the standards specified in paragraph (e). In all cases in which special uses are subject to conditions, the Plan Commission may recommend and the Common Council may require evidence and guarantees as it may deem necessary (as proof that the stipulated conditions are being and will be complied with).~~
- ~~(2) Special use permits shall be issued permanently or for a specified period of time as may be specified by the Common Council upon recommendation of the Plan Commission and shall be an obligation of any party to whom a property may be transferred or assigned.~~
- ~~(3) (1) ***Expiration of special use permits.***~~

a. A special use permit shall expire if the use is ~~discontinued~~ abandoned for a period of twelve (12) consecutive months.

b. A special use permit shall expire if a building permit and/or occupancy permit has not been obtained within twelve (12) months of the issuance of the special use permit.

c. A special use permit shall expire if the ~~special~~ use has not been established within twelve (12) months of the issuance of the special use permit. ~~the special use permit expires.~~

(4) (2) **Time extension of special use permits.** Any party who has been issued a special use permit by the City shall notify the ~~City~~ Community and Economic Development Director, in writing, that they are seeking a continuance or extension of any special use permit that has an expiration date as established by Common Council or this section. Such notification shall be submitted to the Community and Economic Development Director thirty (30) days prior to the special use permit expiration. The Community Development Director may grant one extension not to exceed 12 months.

(5) (3) **Effective date and filing of special use permits.** A special use permit shall become effective upon approval of the resolution by the Common Council. A record of the special use permit shall be kept in the City Clerk and Community and Economic Development Department's files.

(4) **Continuation of a special use permit.** Once approved, a special use permit shall be allowed to continue and may be transferred to any entity, unless specified otherwise as a condition of approval, as long as all conditions placed on the special use are followed.

(6) (5) A special use permit may be revoked by the Common Council for failure to comply with all of such permit provided that thirty (30) days notice has been given by first class mail to the operator or owner of such use of the intent to revoke. **Revocation of special use permits.** Upon inspection by the Inspections Supervisor of any complaint against any condition upon which the special use permit was approved, such permit may be subject to revocation if the violation is not corrected with 30 days of written notice to the owner of the use by the Inspections Supervisor. Such written notice shall specify the violation and the means necessary to correct it. If the violation is not corrected within the specified time, the Common Council shall have the authority to revoke the special use permit upon recommendation of the Plan Commission after holding a public hearing by advertising a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

(g) ***Major and minor changes to special uses.*** When an applicant requests a change in special use, the City shall review such change or modification to assure compatibility and compliance with the purpose of this section.

(1) ***Minor change.*** Minor changes shall be submitted to and be reviewed and approved by the Plan Commission amending the previously approved resolution (special use permit) or adopting a new resolution (special use permit) to those special uses that were not approved by a resolution. Minor changes include:

a. Expansions of special uses of less than ten percent (10%).

b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.

(2) ***Major change.*** All other changes not identified as a "minor change" shall be deemed a major change in a special use and shall be submitted to Common Council for review per §23-66(c), Special use permits, procedure.

(h) ~~Minimum standards.~~ **Special Regulations.** The following ~~minimum standards~~ special regulations shall apply to uses listed below, whether listed a principal permitted use, special use or accessory use in this chapter. ~~In such cases where the Common Council attaches more restrictive conditions, the more restrictive conditions shall apply.~~

(1) ***Electronic towers.*** Radio, television, broadcasting tower or station, microwave and other electronic transmission or receiving tower in excess of sixty (60) feet (from ground level) in height in any zone shall be subject to the following standards as illustrated on a site plan submitted with the application for special use permit. Electronic

towers shall not include wireless telecommunication towers or facilities that are regulated in Article XIII, Wireless telecommunication facilities, of this zoning ordinance.

- a. Distance of each freestanding tower base footing from any residentially zoned lot line shall have a horizontal distance equal to at least fifty percent (50%) of the height of the tower, or fifty (50) feet, whichever is greater.
 - b. Distance of any guyed tower anchor shall be twenty-five (25) feet from an adjoining lot line, public property or street right-of-way line.
 - c. The applicant shall demonstrate that the location of the tower will not cause electrical interference or health hazards to adjoining properties. If electrical interference occurs after the tower begins operation or if interference is anticipated, the applicant shall provide appropriate steps to eliminate said interference.
 - d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.
 - e. Minimum landscaping features for all tower sites when abutting residential properties shall consist of at least one (1) row of staggered evergreen trees or shrubs, at least four (4) feet high at the time of planting, which are spaced not more than ten (10) feet apart and planted within twenty-five (25) feet of the site boundary.
 - f. The plans submitted for a building permit for tower construction shall be certified by a ~~registered~~ structural engineer licensed in Wisconsin, ~~and shall meet the standards of the Federal Aviation Administration and the Federal Communications Commission.~~
 - g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- (2) ***Utility substations and other utility structures.*** Utility substations or other utility structures in any zone shall be subject to the following additional standards:
- a. All buildings and structures shall ~~either have exteriors which give the appearance of a structure permitted in the zone where located or shall be screened from view from any adjacent property; any such the screening located in a residential district shall include a minimum five (5) foot high staggered row of evergreen vegetation which provides an effective year-round screening in addition to any fencing which may be deemed appropriate to provide additional screening from any adjacent property.~~
 - b. All such uses shall be enclosed with a minimum six (6) foot high fence ~~fenced~~ where any hazard to the safety of human life is anticipated. ~~present~~
 - c. No service or storage yard for such facility shall be permitted, unless screened in accordance with the outdoor storage requirements to this chapter. ~~which is not entirely enclosed with a fence and screened from public view.~~
 - d. ~~Yards shall be provided as required for the zone in which the facility is to be located.~~ All buildings and structures shall comply with the minimum principal building front, side and rear yard standards of the underlying zoning district.
 - e. The level of noise emanating from such use shall not exceed sixty (60) decibels measured at any lot line of the subject property.
 - f. ~~Electromagnetic radiation shall be effectively shielded to prevent any detrimental effect on adjacent residential properties.~~
 - g. ~~f.~~ No special use permit is required if the utility substation is proposed to be located fully inside an existing building and is accessory to the primary use of the building.

(3) ***Sexually-oriented establishment.***

Sexually-oriented establishments shall be as regulated in Article XII, Sexually-oriented establishments, of this zoning ordinance.

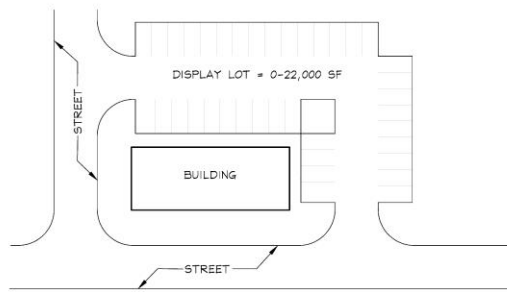
(4) ***Body repair and/or paint shop.***

- a. All repair, painting and service of vehicles shall occur within a completely enclosed building.
- b. ~~No~~ All vehicles awaiting repair shall be located within the ~~front~~ side and rear yard ~~of the lot and shall be visible from any right of way or adjacent property and must be completely screened from view from any public street, alley and adjacent property.~~
- c. All outdoor ~~display and storage areas must be screened to their full height from view from adjacent property in the side and rear yard~~ shall comply with the outdoor storage area requirements identified in this chapter.
- d. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws. ~~No off-site impacts regarding noise, odor, hazardous materials discharge or vibration shall occur on adjacent properties.~~

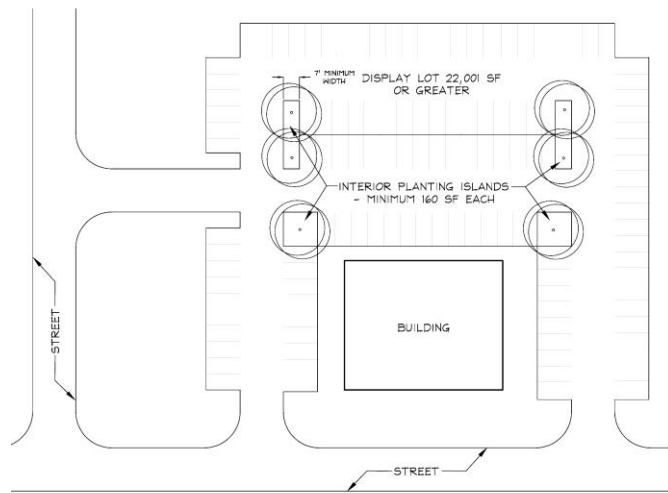
(5) ***New and used automobile, RV, truck, cycle, boat sales and display lot.***

- a. All outdoor lighting shall ~~project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall~~ comply with the standards in §23-53, Outdoor lighting.
- b. The minimum landscaping for display lots shall consist of the following landscaping standards:
 1. Perimeter setbacks.
 - i. Side and rear yards shall be a minimum of a five (5) foot wide buffer except when abutting a residential or public-institutional district, then ten (10) feet.
 - ii. Front yards shall be a minimum of a five (5) foot wide buffer.
 2. Perimeter landscape material.
 - i. Side and rear yards shall have a minimum six (6) foot high, staggered row of evergreens when abutting a residential or public-institutional zoned district. The property owner may request a waiver from the Community and Economic Development Director to reduce the setback and provide a six (6) foot high alternating board on board fence with landscaping.
 - ii. Perimeters adjacent to the right-of-way (front yards) shall have a minimum one (1) foot high, staggered row of evergreen and deciduous shrubs across eighty percent (80%) of the lot frontage, excluding driveway openings. Furthermore, one (1) shade tree shall be provided at approximately every forty (40) feet on center when the site abuts a dedicated public street.
 3. Interior landscaping.
 - i. Display lots 0-22,000 square feet in area – No interior planting islands required.
 - ii. Display lots 22,001 square feet in area or greater – Not less than two percent (2%) of the display lot area shall be devoted to interior planting islands. The planting islands may be centrally located within the display lot and contain a minimum of one hundred sixty (160) square feet and be a minimum of seven (7) feet in width.

NO INTERIOR PLANTING ISLAND REQUIRED
DISPLAY LOT = 0-22,000 SF



NOT LESS THAN 2 PERCENT OF DISPLAY LOT
DEVOTED TO INTERIOR PLANTING ISLANDS
DISPLAY LOT = 22,001 SF OR GREATER



4. Interior landscape material.

The primary plant materials shall be deciduous trees with at least one (1) deciduous tree for every one hundred sixty (160) square feet of interior planting island area.

- c. The outdoor display of merchandise and vehicles for sale shall not be located in areas intended for traffic circulation according to the site plan and development plan.
- d. No outdoor loudspeakers shall be in use between the hours of 8:00 p.m. and 8:00 a.m. when adjacent to a residential district.

(6) **Bars, taverns, painting/craft studios and restaurants with alcohol sales.**

- a. Such establishments shall conform to the standards established in Chapter 9, Article III, Alcoholic beverages, of the Appleton Municipal Code.
- b. The site shall be kept free of litter and debris.
- c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(7) ***Circus or carnivals.***

- a. In no case shall carnival rides or midways be within three hundred (300) feet of any residential zoning district or residence.
- b. All other approved temporary structures associated with the circus or carnival shall comply with the standards of §23-54.

(8) ***Gasoline sales.***

- a. A minimum ~~building site~~ lot area of eighteen thousand (18,000) square feet ~~is shall be~~ required. Lot frontage shall be a minimum of one hundred twenty (120) feet if located on a designated arterial street.
- b. A canopy constructed over gas pumps islands shall architecturally match the design of the main building and shall not exceed twenty-two (22) feet in height.
- c. All canopy lighting must project downward and shall be of full cutoff design unless indirect lighting is to be used whereby light is directed upward and then reflected down from the ceiling of the structure. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the ceiling of the canopy and shall comply with the standards in §23-53, Outdoor lighting.
- d. All gas pumps and canopies constructed over gas pumps shall be ~~located~~ setback a minimum of at forty (40) feet from any adjacent residentially zoned district.
- e. All outdoor storage and outdoor sales display areas shall comply with §23-46, Outdoor storage and display in non-residential districts, of this chapter.
- f. All gas pumps and canopies shall comply with the ~~principal building setback requirements of the underlying zoning district~~ minimum principal building front, side and rear yard standards of the underlying zoning district.
- g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(9) ***Helicopter landing pad.***

- a. Setbacks, landscaping and fencing appropriate to the specific nature of the use proposed shall be established during the special use permit review process.
- b. All areas for active use, including above ground fuel storage tanks shall be fully screened with a fence or evergreen shrubs. ~~from public view.~~
- c. ~~All helicopter landing pads shall be approved by the Federal Aviation Administration (FAA).~~ Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- d. Unless necessary for medical or emergency purposes, the hours for operation shall be between 7:00 a.m. – 8:00 p.m.

(10) ***Mobile home parks.*** Mobile home parks shall meet the standards and requirements of the City of Appleton's Manufactured and Mobile Homes and Manufactured and Mobile Home Communities Ordinance (Ch. 11).

(11) ***Outdoor commercial entertainment.***

- a. All buildings, structures, viewing areas or seating areas shall be setback at least two hundred (200) feet from any residentially zoned district.
- b. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.
- c. The hours of operation shall be identified by the applicant and approved by the Common Council as part of the special use permit process.

(12) *Outdoor kennels.*

Such uses shall conform to the standards established in Chapter 3, Animals, of the Appleton Municipal Code and as established below:

- a. All outdoor areas for dogs ~~Outdoor kennels~~ shall be fully enclosed with a six (6) foot high opaque fence. ~~to prevent animals from escaping the kennel.~~
- b. All outdoor areas for dogs shall be located in the rear yard only and be setback from a minimum of twenty (20) feet from the lot lines. ~~Outdoor kennels shall not be located in any front or side yard.~~
- c. Outdoor kennels shall be located no closer than twenty (20) feet from any rear or side property line. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- d. ~~Any portion of an outdoor kennel facing an adjacent property shall be screened from view by a solid fence, hedge or similar plant material not to exceed six (6) feet in height.~~

(13) *Recycling and waste recovery center.*

- a. All processing operations shall occur within a completely enclosed structure or building.
- b. Outdoor storage shall be limited to drop-off recycling bins and shall comply with the applicable outdoor storage requirements of this chapter.

(14) *Recycling collection point.*

- a. Recycling collection points ~~must be located in such a manner to prevent obstruction to~~ shall not be located in areas intended for pedestrian and motor vehicle traffic and emergency service vehicle flow and circulation on the premises.
- b. No processing of materials shall occur on premises.
- c. Collection points ~~should~~ shall not be located on a vacant lot, in public or semi-public areas such as shopping center parking lots, place of worship parking lots or City owned lots.

(15) *Towing business.*

- a. No servicing or maintenance of vehicles shall occur within the designated impound area. ~~on premises.~~
- b. All designated impound areas located outside of an enclosed building ~~storage areas~~ shall be fully screened ~~from view~~ by an opaque fence, hedge or similar evergreen planting.
- c. No vehicles shall be located outside of ~~a storage area~~ the designated impound area.

- d. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.

(16) *Custom manufacturing.*

- a. All custom manufacturing processes shall occur within a completely enclosed building.
- b. No off-site impacts including noise, odor, heat generation, glare or vibration shall occur on adjacent properties.
- c. The products or goods manufactured on premise shall be displayed or sold on premises.
- d. The on-site production area and materials storage area for the products or goods manufactured on premises shall not occupy more than thirty percent (30%) of the gross floor area of the space occupied by the custom manufacturing use.

(17) *Urban farm.*

- a. **Use of produce and sales.** Retail sales of plants and produce grown on-site and other public use of the urban farm may occur between the hours of 8:00 a.m. and 8:00 p.m. every day of the week unless otherwise adjusted and stipulated by the Special Use Permit.
- b. **Mechanical Equipment.** The operating of mechanical equipment or motor vehicle, including but not limited to lawn mowers, roto-tillers, garden tractors, motorized weed trimmers, “farm tractor”, “all terrain vehicle” or any similar device, necessary for the maintenance of property shall only take place between the hours of 7:00 a.m. and 10:00 p.m. standard time or daylight savings time when in effect with the exception of snow removal equipment.
- c. **Signs.** One identification sign is permitted not exceeding eight (8) feet in height or forty-eight (48) square feet per sign face, and shall be subject to other applicable provisions of ARTICLE XIV. SIGNS including, but not limited to, setback and clearance standards.
- d. **Agricultural chemicals and seeds.** All seed and fertilizer shall be stored in a secured, rodent-proof container and housed within an enclosed structure.
- e. **Accessibility.** The urban farm must comply with Americans with Disabilities Act design standards for accessible entrance routes and accessible routes between its different components and must follow universal design principles whenever possible.
- f. **Planting area and principal building setbacks.** Development Standards. (See applicable zoning district for principal building/structure development standards).
- g. **Size of buildings/structures.** All buildings, including but not limited to, tool sheds, rest-room facilities, composting toilets, and planting preparation houses, hoopouses and greenhouses may have a combined area of all buildings and structures not to exceed twenty-five percent (25%) percent of the lot area. Roof top gardens on buildings are exempt from this standard.
- h. **Fences.** Fences are permitted as regulated in the underlying district unless otherwise authorized and stipulated by the Special Use Permit.
- i. **Compost and waste management.** Composting and waste management must be managed according to the farm management plan. Compost material is limited only to the materials generated on-site and must be maintained on-site. Compost materials from the garden or gardeners shall be stored in a manner that is not visible from adjacent property (shielded from view by shrubbery or an enclosure). Composting shall be conducted in a manner that controls odor, prevents infestation, and minimizes runoff into waterways and onto

adjacent properties. No compost material generated off site shall be composted at an urban farm unless specifically approved by the City.

- j. **Site design.** The site must be designed so that water and fertilizers will not drain onto adjacent property or into the City's waste water system.
- k. **Management plan.** Urban farms must prepare a management plan, to be reviewed as part of the special use process, to address how activities will be managed to avoid impacts on surrounding land uses and natural systems and includes any proposed mitigation measures. The management plan must include:
 - i. A description of the type of equipment and vehicles necessary or intended for use in each season and the frequency and duration of anticipated use.
 - ii. Disclosure of any intent to spray or otherwise apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests or other purposes they are intended for.
 - iii. Disclosure of the spreading of manure or any other waste generated by the agricultural use.
 - iv. Disclosure of parking impacts related to the number of staff on-site during work hours, and the number of potential visitors regularly associated with the site.
 - v. Disclosure of whether the operation of the urban farm would involve two thousand (2,000) square feet or more of land-disturbing activity, or would otherwise require drainage and/or erosion control approval under Chapter 24 of the Municipal Code.
 - vi. A composting and waste management plan.
 - vii. Disclosure of any intent to invite the public to a program of events on the site.
 - viii. Site Plan contains, but is not limited to, the following:
 - Parking facilities;
 - Planting area including plant types;
 - Location and number of rest room/sanitary facilities;
 - Fence type, height and location;
 - Sign size and location;
 - Area to be utilized for produce cleaning and preparation;
 - Area to be utilized for sales;
 - Equipment, materials and fuel storage area;
 - Composting location.
 - ix. Identification of water source.
 - x. Any additional information that may be deemed appropriate by the Director of Community and Economic Development or designee.
 - xi. Lighting.

xii. Security.

- l. **Standard conditions of approval.** In addition to complying with Section 23-66 Special use permits of this ordinance and in determining whether to approve, approve with conditions or deny the application, the City shall consider the potential impacts, including:
 - i. **Water quality and soils.** Impacts of irrigation run-off on adjacent properties, water bodies and environmentally critical areas, and proposed sediment and erosion control measures.
 - ii. **Traffic and parking.** Impacts related to the number of staff onsite during work hours, and the number of potential visitors regularly associated with the site.
 - iii. **Visual impacts and screening.** Visual impacts relating to the proposed nature, location, design, and size of proposed buildings, structures and activities, including the location of composting activities and planting areas, and any existing or proposed screening.
 - iv. **Noise and odor.** Impacts related to the location on the lot of the proposed urban farm, any trash or compost storage areas, any farm stand or additional accessory structure, and any other noise-generating or odor-generating equipment and practices.
 - v. **Agricultural chemicals.** Impacts related to the use of chemicals, including any fertilizer and pesticide.
 - vi. **Mechanical equipment.** Impacts related to the operation of equipment, including noise, odors, and vibration.
- m. **Compliance with laws.** All urban farms and their owners, lessees, employees, volunteers, and visitors must comply with all federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the farm premises. Site users may not use materials such as inappropriate fill that introduce heavy metals or other harmful contaminants to garden or farm sites. Site users may use pesticides only to the extent permitted by law.

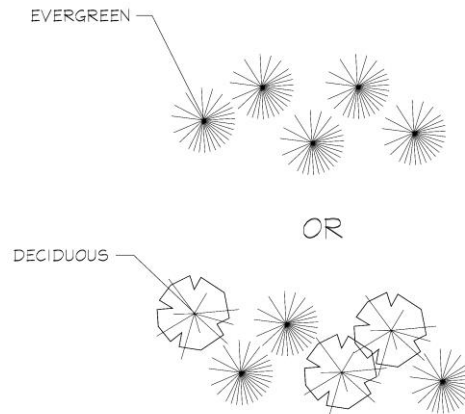
These Urban Farm standards and requirements are intended to work in concert with other applicable Municipal Codes including, but not limited to, Chapter 3 Animals, Chapter 4 Building, Chapter 7 Health, Chapter 9, Licenses, Permits, and Chapter 21 Vegetation and any other applicable Appleton Municipal Code Chapter. These and any other applicable local, state and federal regulations shall also apply.

(18) ***Outdoor storage area for recreational vehicles.***

- a. **Purpose.** The purpose of these regulations is to provide adequate and convenient areas for such outdoor storage of recreational vehicles while minimizing the visual, noise and environmental impacts to adjacent properties and public and private streets.
- b. **Requirements.** Outdoor storage areas for recreational vehicles are accessory uses to personal storage facilities (self-storage/mini-warehouses) and shall be ~~a special use in the C-2 District~~ and a permitted accessory use in the M-2 District. No outdoor storage areas for recreational vehicles shall be constructed or established on a lot unless a personal storage (self-storage/mini-warehouse) facility has already been constructed on the same lot. In addition, all of the following requirements shall apply to outdoor storage areas for recreational vehicles:
 - i. **Applicable Outdoor Storage.** Outdoor storage shall be limited only to the following recreational vehicles: “camping trailer”, “fifth-wheel trailer”, or “motor home” as those terms are defined by §340.01, Wis. Stats., as well as boat trailers and boats, trailered snowmobiles, trailered jet-ski(s). All other vehicles, equipment and other items are prohibited from being stored within such outdoor storage area and on the lot.
 - ii. **Location.** No outdoor storage area shall be located between the principal building(s) and a front lot line.

- iii. **Outdoor lighting.** All outdoor lighting used to illuminate such outdoor storage area shall comply with the outdoor lighting requirements of this chapter.
- iv. **Surface material.** The surface material of the outdoor storage area and driveway leading from the lot line to such outdoor storage area shall be concrete or asphalt.
- v. **Setbacks requirements.** The surface material of the outdoor storage area shall be located a minimum of fifteen (15) feet from a side and/or rear lot line.
- vi. **Security requirements.** The perimeter (outer boundary) of the outdoor storage areas shall be secured with a continuous (with no break points) minimum eight (8) foot high fence or with continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to outdoor storage area, unless otherwise specified in this subsection.
- vii. **Screening requirements.**
 - 1. The perimeter (outer boundary) of the outdoor storage areas shall be screened with a continuous (with no break points) minimum eight (8) foot high opaque fence or continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high opaque fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to the outdoor storage area and minimize visual impact of recreational vehicles stored in such area, unless otherwise specified in this subsection.
 - 2. Where outdoor storage areas for recreational vehicles are proposed on parcels which abut a residential zoning district, a continuous staggered row of evergreens plantings shall be installed between the entire length of the opaque fencing and the lot line which abuts a residential zoning district but not including a gate, to soften the visual effect of the fencing. Evergreens shall be a minimum of six (6) feet high at the time of planting. The number of evergreens shall be determined and installed in accordance with the requirements with the species spacing and care requirements.
 - 3. The following shall apply to opaque fences abutting a street:
 - a. **Front lot line setback:** Eight (8) feet minimum.
 - b. **Fence height:** Eight (8) feet minimum.
 - c. **Vision corner:** Fences shall comply with vision corner requirements of this chapter.
 - d. **Design:** Chain-link or cyclone fences constructed of woven wire are not allowed.
 - e. **Landscaping:** A continuous staggered row of evergreens and deciduous plantings shall be installed between the entire length of the opaque fence and the front lot line but not including a gate, to soften the visual effect of the fencing and use. Evergreens and deciduous plantings shall be a minimum of four (4) to five (5) feet high at the time of planting. The number of evergreens and deciduous plantings shall be determined and installed in accordance with the requirements with the species spacing and care requirements.

STAGGERED PLANTINGS



4. **Exceptions to perimeter fence and landscaping location.** Any request or necessity for locating a fence, opaque fence and/or evergreens and deciduous plantings other than along perimeter of the outdoor storage area, shall require review and approval of an alternate location as part of the ~~special use permit for outdoor storage areas located in the C-2 Zoning District~~ or site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action of alternate fence, opaque fence and/or evergreen and deciduous planting locations, shall be based upon the following criteria:
 - a. The ability of the fence or opaque fence to maintain a continuous flow (with no break points) beyond the perimeter of the outdoor storage area.
 - b. Effectiveness of the opaque fence and/or landscape plantings to effectively screen the outdoor storage area in an alternate location; and
 - c. Effectiveness of the fence and/or opaque fence to effectively secure the outdoor storage area in an alternate location;
 - d. Impact an alternative location may have on overall site appearance, vehicular traffic circulation and the functional well-being of the development proposed for the parcel.
5. **Modifications or waivers to screening and landscaping requirements.** Any request for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall require review and approval of such modification or waiver as part of the ~~special use permit for outdoor storage areas located in the C-2 Zoning District~~ site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall be based upon one (1) or more of the following conditions exist:
 - a. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to topography or the location of the outdoor storage area on the lot.
 - b. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to the presence of required screening,

opaque fencing and/or landscaping on the lot.

- c. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to the presence of required screening, opaque fencing and/or landscaping on adjacent developed property and/or the presence of existing street trees located within the adjacent street right-of-way.
- c. **General Conditions.** The following general conditions shall apply to outdoor storage areas for recreational vehicles:
 - i. Recreational vehicles shall not be parked outside of the designated outdoor storage area.
 - ii. Recreational vehicles shall not be used for business, living, sleeping or human habitation purposes.
 - iii. Recreational vehicles shall not be permanently connected to sewer lines, water lines, or electricity.
 - iv. No recreational vehicles are allowed to be stored within the designated outdoor storage area which is not currently licensed or operable.
 - v. The area between the property line and the opaque security fence shall be landscaped and suitable ground cover, such as grass, bark, ornamental gravel or combination thereof.
 - vi. The total combined square foot area of the outdoor storage area but not including the drive aisles within the perimeter of the outdoor storage area shall not exceed the total combined gross floor area of all personal storage (self-storage/mini-warehouse) buildings on the site or parcel.

(19) Microbrewery/Brewpubs and Craft-Distilleries.

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. A total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- c. A total of not more than 100,000 proof gallons of intoxicating liquor shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- d. Tasting rooms require a Special Use Permit in the C-1, C-2 and CBD Zoning District.
- e. Tasting rooms are accessory uses to a Microbrewery/Brewpubs and Craft-Distilleries located in the M-1 and M-2 Zoning District and requires a Special Use Permit.
- f. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(20) Brewery and Distilleries.

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. Tasting rooms are accessory uses to a Brewery and Distilleries located in the M-1 and M-2 Zoning District and requires a Special Use Permit.
- c. Retail sales of business merchandise on the brewery and distillery premises shall be an accessory use to the brewery and distillery manufacturing operations or an accessory use to an use approved off-premises by Special Use Permit pursuant to Section 23-66(h)(20)b.

- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(21) Winery.

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. Tasting rooms are accessory uses to a Winery located in the Ag, M-2 and M-1 Zoning District and requires a Special Use Permit.
- c. Retail sales of business merchandise on the winery premises shall be an accessory use to the winery manufacturing operations or an accessory use to an use approved off-premises by Special Use Permit pursuant to Section 23-66(h)(21)b.
- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

Comments: 2017 Wisconsin Act 67 amends the zoning enabling law for counties, cities, villages, and towns zoning under village powers to provide a statutory definition for “area variances” and “use variances.”

Act 67 defines an “area variance” as “a modification to a dimensional, physical, or locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of [adjustment/appeals] under this subsection.

The Act defines “use variance” as “an authorization by the board of [adjustment/appeals] under this subsection for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.”

Act 67 then specifies that the property owner bears the burden of proving “unnecessary hardship” for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

Sec. 23-67. Variances.

(a) **Purpose.** The purpose of a variance is to allow relief from the strict application of this zoning ordinance as will not be contrary to the public interest and, where owing to special characteristics of the property or use, the literal enforcement of this ordinance would result in unnecessary hardship or in a practical difficulty for the property owner.

(b) **Definitions of Variance Type:**

- (1) Area Variance – In this section, an “area variance” means a modification to a development standard, dimensional, physical, or locational requirement including be not limited to setbacks, lot coverage, area, building height, or density restriction for a use, building and/or structure that is granted by the Board of Appeals under this paragraph.

- (2) Use Variance – In this section, a “use variance” means an authorization by the Board of Appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

~~(b)~~ (c) ***Initiation of Request for Approval of a Variance.*** A variance request may be taken to the Board of Appeals by any person, firm, corporation, by any officer, department, board, bureau or commission with a legal or equitable interest in the property for which the variance is requested.

(d) ***Standards for Granting a Variance:***

- (1) Area Variance – A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this section, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.
- (2) Use Variance – A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this section, for a use variance by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance.
- (3) In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

~~(e)~~ (e) ***Procedure.***

- (1) Application. Application for a variance shall be filed with the Inspections Supervisor accompanied by a non-refundable application fee that may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review.
- (2) Public hearing. After receiving an application, the Board of Appeals shall hold a public hearing on the application for variance which:
- The Board of Appeals shall advertise the request by a Class 2 notice for public hearing;
 - The Board of Appeals shall notify all property owners located within one hundred (100) feet of the subject site a minimum of ten (10) days prior to the public hearing.

~~(d) ***Jurisdiction.*** In hearing and deciding variances, the Board shall have the power to grant relief from the terms of this chapter only in the following instances:~~

- ~~(1) Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, is shown upon the maps fixing the several districts, accompanying and made a part of this chapter, where the street layout actually on the ground varies from the street layout as shown on the aforesaid maps.~~
- ~~(2) Permit the reconstruction of a nonconforming building that has been damaged by explosion, fire, act of God or the public enemy, to the extent of more than fifty percent (50%) of the City of Appleton’s market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming building.~~
- ~~(3) Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an undue hardship upon the use of a lot, as contrasted with merely granting an advantage or a convenience and there is an acceptable parking alternative available.~~
- ~~(4) Permit a variation in the yard requirements of any district where there are unusual and practical difficulties or undue hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical, or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare.~~

- (5) ~~Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change the zoning ordinance or the zoning map, such power and authority being reserved to the Common Council of Appleton as provided in §23-65, Zoning amendments.~~

~~(e) (f) **Review by the Board of Appeals, criteria.** In considering all appeals and all proposed exceptions or variations to this chapter, the Board shall, before making any exceptions or variations from this chapter in a specific case, first determine that it will not: The requested variance shall be reviewed by the Board of Appeals with the standards below:~~

- ~~(1) Impair an adequate supply of light and air to adjacent property; or **(Area Variances) Unique Physical Property Limitations Standard:** What exceptional or extraordinary circumstances or special factors or unique property limitations including but not limited to an irregular shape of the lot, topography, soil conditions, wetlands, flood plain, environmental contamination or other conditions that are present which apply only to the subject property? In what manner do the factors listed prohibit the development of the subject property?~~
- ~~(2) Unreasonably increase the congestion in a public street; or~~
- ~~(3) (2) Increase the danger of fire or endanger the public safety; or **(Area Variances) No Harm to Public Interests Standard:** Would granting of the proposed variance result in a substantial or undue adverse impact on the public or character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property, or other matters affecting the public health, safety, or general welfare?~~
- ~~(4) (3) Unreasonably diminish or impair established property values within the surrounding area; or **(Area Variances) Self-Created Hardships Standard:** Have factors which present the reason for the proposed variance been created by the act of the applicant or previous property owner or their agent?~~
- ~~(5) (4) In any other respect impair the public health, safety, comfort, morals, appearance or welfare of the inhabitants of the City. **(Area Variances) Unnecessary Hardships Standard:** Would compliance with this Chapter unreasonably prevent the owner from using the property for a permitted purpose or would conformity with this Chapter create an unnecessary burden on the property owner?~~
- ~~(5) **(Area Variances) Undue Off-Street Parking and Loading Hardships Standard:** Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unnecessary hardship upon the use of a lot, as contrasted with merely granting an advantage or a convenience and there is an acceptable parking alternative available.~~

Furthermore, no variance from the provisions or requirements of this chapter shall be authorized by the Board of Appeals unless the Board finds that ALL of the following facts and conditions exist:

- ~~(6) **Exceptional circumstances.** Where, by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the effective date of this code, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property, that do not apply generally to other properties or classes of uses on the same zoning district. **(Use Variances) No Reasonable Use Standard:** Has the applicant or owner demonstrated that they have “no reasonable use of the property” in absence of a variance?~~
- ~~(7) **Preservation of property rights.** That such variance is necessary for the preservation and enjoyment of substantial property rights which are possessed by other properties in the same zoning district and in the same vicinity.~~
- ~~(8) **Absence of detriment.** That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this code or the public interest.~~

- (9) ~~**Not of general nature.** That the condition or situation of the subject property, or the intended use of the property, for which variance is sought, is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulations for such conditions or situation.~~

(f) (g) **Decisions Review and Determination by Board of Appeals.**

- (1) The Board of Appeals must determine whether a variance request is seeking an area variance or seeking a use variance.
- (2) The Board of Appeals must determine the standard that applies for the grant of the variance.
- (3) The Board of Appeals must require the property owner bear the burden of proof.
- (4) Any variance granted must be due to conditions unique to the property rather than considerations personal to the property owner.
- (5) The variance cannot be granted if the hardship was created by the property owner.
- (6) The concurring vote of four (4) members of the Board shall be necessary to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. A variance granted under this section runs with the land.

(g) (h) **Relief.** Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City, shall have recourse to such relief as is provided by Wisconsin Statutes §62.23(7)(e)(10) or as amended.

Comments: Add winery as permitted use with a cross reference to special regulations listed in the Zoning Ordinance to be consistent with Wisconsin Act 67 which amended the Wisconsin State Statutes pertaining to the way conditional uses (special uses) are regulated for on-site consumption of wine/alcohol. Other sections were updated to refer readers directly to the site plan section of the zoning code rather than listing specific uses that require site plan review.

Sec. 23-91. AG Agricultural district.

- (b) **Principal permitted uses.** The following uses are permitted as of right in the AG district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none">• Dwelling, single family, detached.	<ul style="list-style-type: none">• Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52.• Governmental facilities.• Public parks or playgrounds.	<ul style="list-style-type: none">• Agriculture.• Community garden.• Greenhouse or greenhouse nursery.• Nursery, orchards or tree farm.• Urban farm pursuant to §23-66(h)(17).• <u>Winery pursuant to §23-66(h)(21).</u>

(f) **Site plan.** ~~Prior to obtaining a permit for site plan uses as listed below, a site plan shall be required in accordance with Site Plan requirements are set forth in~~ §23-570, Site plan review and approval.

- ~~(1) Governmental facilities.~~
- ~~(2) Earthen berms over three (3) feet in height.~~

Comments: The single-family residential sections were updated to refer readers directly to the site plan section of the zoning code rather than listing specific uses that require site plan review (which is how the non-residential districts are set up). The list currently within the residential zoning district section is not inclusive of all the uses, that may be located within the residential zoning districts, where site plan would be appropriate. The new provision exempts one and two family dwellings and their accessory uses from site plan review, but refers all other uses to the site plan section for determination of whether site plan review is required.

Sec. 23-92. R-1A single-family district.

~~(f) *Site plan.* Prior to obtaining a building permit for site plan uses as listed below, a site plan shall be required in accordance with Site Plan requirements are set forth in §23-570, Site plan review and approval.~~

- ~~(1) Governmental facilities.~~
- ~~(2) Place of worship.~~
- ~~(3) Educational institution; elementary school, junior high school, high school.~~
- ~~(4) Educational institution; college or university.~~
- ~~(5) Educational institution; business, technical or vocational school.~~
- ~~(6) Earth berms over three (3) feet in height.~~

Sec. 23-93. R-1B single-family district.

~~(f) *Site plan.* Prior to obtaining a building permit for site plan uses as listed below, a site plan shall be required in accordance with Site Plan requirements are set forth in §23-570, Site plan review and approval.~~

- ~~(1) Governmental facilities.~~
- ~~(2) Place of worship.~~
- ~~(3) Educational institution; elementary school, junior high school, high school.~~
- ~~(4) Educational institution; college or university.~~
- ~~(5) Educational institution; business, technical or vocational school.~~
- ~~(6) Earth berms over three (3) feet in height.~~

Sec. 23-94. R-1C central city residential district.

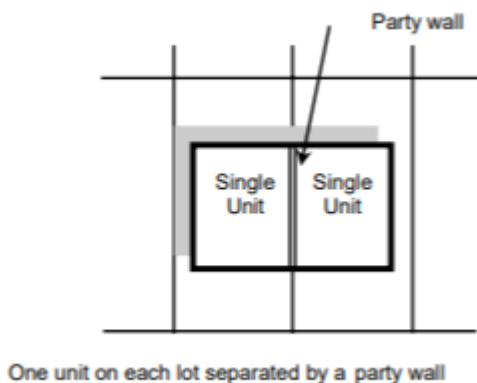
~~(f) *Site plan.* Prior to obtaining a building permit for site plan uses as listed below, a site plan shall be required in accordance with Site Plan requirements are set forth in §23-570, Site plan review and approval.~~

- ~~(1) Governmental facilities.~~
- ~~(2) Place of worship.~~
- ~~(3) Earth berms over three (3) feet in height.~~

Comments: In response to the public's interest (local realtors, property owners and stakeholders) to amend the City's Zoning Ordinance by including provisions to permit zero lot line duplexes in the R-2 and R-3 Zoning District. A zero-lot-line duplex is a side-by-side duplex built on two separate lots with the common wall separating the two units placed.

In a zero-lot-line duplex, each owner typically owns one lot and the dwelling unit that sits upon that lot, subject to the proposed zoning regulations. Each owner is responsible for the care and upkeep of his or her lot and the portion of the duplex structure. It is best to have a dispute resolution, so staff recommends zero-lot-line duplexes have operating agreements assigning responsibility for maintenance, repair or operating costs related to the property, especially shared components like the common wall and roof. Just because a duplex property is subject to restrictive covenants or the owners pay monthly fees, does not make the property a condominium.

The proposed zero-lot line duplex and increased dwelling unit density provisions will meet this goal and objective by creating the potential for a much wider range of housing types than are currently available within the City, in theory creating an increased mix of housing types within the City.



Sec. 23-95. R-2 two-family district.

(a) **Purpose.** The R-2 district is intended to provide for and maintain residential areas characterized by single-family detached and two- (2-) family dwelling units. Increased densities and the introduction of two- (2-) family housing types are intended to provide for greater housing options for owners and renters while maintaining the basic qualities of a moderately dense residential neighborhood.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Dwelling, single-family, detached. • Dwelling, two-family (<u>duplex</u>). • Dwelling, zero lot line two-<u>family</u>. 	<ul style="list-style-type: none"> • Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52. • Day care, adult; serving five (5) or fewer persons. • Day care, family. • Family home, adult (A) and (D), pursuant to §23-22. • Family home, adult (B) and (C), pursuant to §23-22 and §23-52. • Governmental facilities. 	<ul style="list-style-type: none"> • None.

(c) **Accessory uses.** Accessory uses in the R-2 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-2 district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-2 District.

(e) **Special uses.** Special uses in the R-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery. Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52. Day care, group, when located and operated in an educational institution, place of worship or semi-public building. Educational institution; business, technical or vocational school. Educational institution; college or university. Educational institution; elementary school, junior high school, or high school. Essential services. Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure. Marina and/or boat landing. Place of worship. Public parks or playgrounds. Recreation facility, non-profit. Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. 	<ul style="list-style-type: none"> Electronic towers pursuant to §23-66(h)(1) Recycling collection point pursuant to §23-66(h)(14). Urban farms pursuant to §23-66(h)(17).

(f) **Site plan.** ~~Prior to obtaining a building permit for site plan uses as listed below, a site plan shall be required in accordance with~~ Site Plan requirements are set forth in §23-570, Site plan review and approval.

- ~~(1) Governmental facilities.~~
- ~~(2) Place of worship.~~
- ~~(3) Educational institution; elementary school, junior high school, high school.~~
- ~~(4) Educational institution; college or university.~~

~~(5) Educational institution; business, technical or vocational school.~~

~~(6) Earth berms over three (3) feet in height.~~

(g) *Development standards.* The space limits applicable in the R-2 district are as follows:

~~(1) *Minimum lot area:*~~

~~a. Six thousand (6,000) square feet for single family dwelling.~~

~~b. Seven thousand (7,000) square feet for two story two family dwellings.~~

~~c. Nine thousand (9,000) square feet for single story two family dwelling.~~

~~d. Seven thousand (7,000) square feet for all other uses.~~

~~(2) *Maximum lot coverage.* Sixty percent (60%).~~

~~(3) *Minimum lot width:*~~

~~a. Fifty (50) feet for single family dwellings.~~

~~b. Seventy (70) feet for all other uses.~~

~~(4) *Minimum front yard.* Twenty (20) feet (twenty five (25) feet minimum on arterial street).~~

~~(5) *Minimum rear yard.* Twenty five (25) feet.~~

~~(6) *Minimum side yard.* Six (6) feet.~~

~~(7) *Maximum building height.* Thirty five (35) feet.~~

(1) *Two-family dwellings (duplex) and Other uses.*

a. *Minimum lot area, Single-family dwelling (detached):* Six thousand (6,000) square feet.

b. *Minimum lot area, Two-family dwellings (two-story duplex):* Seven thousand (7,000) square feet.

c. *Minimum lot area, Two-family dwellings (single story duplex):* Nine thousand (9,000) square feet.

d. *Minimum lot area, All other uses:* Seven thousand (7,000) square feet.

e. *Minimum lot width, Single-family dwelling:* Fifty (50) feet.

f. *Minimum lot width, All other uses:* (70 feet).

g. *Minimum front lot line setback:* Twenty (20) feet (twenty-five (25) feet minimum on arterial street).

h. *Minimum rear lot line setback:* Twenty-five (25) feet.

i. *Minimum side lot line setback:* Six (6) feet.

j. *Maximum lot coverage:* Sixty percent (60%).

k. *Maximum building height:* Thirty-five (35) feet.

(2) Zero lot line Two-family dwellings.

- a. Minimum lot area: Three thousand (3,000) square feet per dwelling.
- b. Minimum lot width: Thirty (30) feet per dwelling.
- c. Minimum front lot line setback: Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- d. Minimum rear lot line setback: Twenty-five (25) feet.
- e. Minimum side lot line setback: Zero (0) feet on one (1) side with a common wall provided that:
 - i. The opposite side yard being a minimum of six (6) feet.
 - ii. Patios and decks may have a zero setback from the zero lot line side yard setback.
 - iii. Driveways may be separate or shared.
 - iv. All state and local building code requirements shall be met for a zero-lot line two-family dwelling.
 - v. Every zero lot line two-family dwelling constructed after (insert ordinance effective date) shall be constructed with identical materials.
 - vi. For the purpose of this subsection the term “identical materials” 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.
 - vii. For the purpose of this subsection the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, 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.
 - viii. Restrictive covenants shall be recorded at the county register or deeds, providing declarations and or bylaws similar to those typically recorded on a declaration of condominium.
 1. If the driveway is shared, the maintenance and use standards for the shared driveway shall be part of said covenants.
 2. Include a note that reads, “The parties hereto agree that the aesthetics of the units are important to the value of the building. Therefore, any subsequent repairs or maintenance performed by a unit owner to the exterior of their portion of the zero lot line two-family dwelling shall use at a minimum materials similar with those materials already incorporated into the building if identical materials are not incorporated into the repair or maintenance project. Each party may agree in writing to change the original color of the building so long as the color change applies to each unit. No party may change the color of the building so that it is different than the other unit.”
 3. Said covenants shall provide for mediation of any and all disputes between owners of each dwelling unit and third party with regard to construction, use and maintenance of the real property.
 4. Said covenants shall specifically state the City of Appleton and all approving authorities shall not be held responsible for same, and that said covenants shall insure to all heirs and assigns.

5. Proof of said recorded covenants or subsequently amended shall be submitted to the Community and Economic Development Department.

ix. Each dwelling unit shall have separate sewer and water lines and other separate utility lines entering each dwelling unit and also separate sump pump.

x. Easements shall be provided upon each lot as may be necessary for ingress and egress, water, sewer and all other utility services.

xi. The zero lot line parcel shall be divided by certified survey map or subdivision plat pursuant to Chapter 17 Subdivisions of the Municipal Code.

1. A restrictive endorsement shall be placed on the face of the CSM or plat that reads, "When zero lot line two-family dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, use, repair and maintenance shall be guarded against by private/restrictive covenants and deed restrictions, and no approving authority shall be held responsible for the enforcement of same."

2. A copy of said Restrictive covenants shall be submitted with the initial application for certified survey map or subdivision plat approval.

f. **Maximum building height:** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

Comments: In response to the public's interest (local realtors, property owners and stakeholders) to amend the City's Zoning Ordinance by including provisions to permit zero lot line duplexes in the R-2 and R-3 Zoning District. A zero-lot-line duplex is a side-by-side duplex built on two separate lots with the common wall separating the two units placed.

Sec. 23-96. R-3 multifamily district.

(a) **Purpose.** The R-3 district is intended to provide for and maintain residential areas characterized by multiple family dwellings, while maintaining the basic qualities of a dense residential neighborhood, which may include other housing types and institutional and limited non-residential uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-3 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none">• Assisted living facility or retirement home.• Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse.• Dwelling, single-family, detached.• Dwelling, two-family (duplex).• <u>Dwelling, zero lot line two-family.</u>• Nursing or convalescent home.• Residential care apartment complex.	<ul style="list-style-type: none">• Community living arrangements serving fifteen (15) or fewer persons, pursuant to §23-22 and §23-52.• Day care, adult; serving five (5) or fewer persons.• Day care, family.• Family home, adult (A) and (D), pursuant to §23-22.• Family home, adult (B) and (C), pursuant to §23-22 and §23-52.• Governmental facilities.	<ul style="list-style-type: none">• None.

(c) **Accessory uses.** Accessory uses in the R-3 district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-3 district, except for boats or boat trailers greater than twenty-six (26) feet in length.

(2) Bed and breakfast establishments pursuant to §23-48.

(3) Home occupation pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-3 District.

(e) **Special uses.** Special uses in the R-3 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none">Manufactured and mobile home communities; pursuant to §23-66(h)(10) and Chapter 11 of the Municipal Code.	<ul style="list-style-type: none">Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40) foot setback from any lot line of the cemetery.Community living arrangements serving sixteen (16) or more persons, pursuant to §23-22 and §23-52.Day care, group, when located and operated in an educational institution, place of worship or semi-public building.Educational institution; business, technical or vocational school.Educational institution; college or university.Educational institution; elementary school, junior high school or high school.Essential services.Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure.Group home, adult.Group housing.Marina and/or boat landing.Place of worship.Public parks or playgrounds.Recreation facility, non-profit.Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building.	<ul style="list-style-type: none">Electronic towers pursuant to §23-66(h)(1)Recycling collection point pursuant to §23-66(h)(14).Shelter facility.Urban farms pursuant to §23-66(h)(17).

(f) **Site plan.** Prior to obtaining a building permit for any use except for one- (1-) and two- (2-) family dwellings on land in the R-3 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the R-3 district are as follows:

~~(1) Minimum lot area.~~

- a. ~~Six thousand (6,000) square feet for single family dwelling.~~
 - b. ~~Seven thousand (7,000) square feet for two (2) story two (2) family dwellings.~~
 - e. ~~Nine thousand (9,000) square feet for single story two (2) family dwelling.~~
 - d. ~~Three thousand (3,000) square feet per dwelling unit for multi family dwellings.~~
 - e. ~~Seven thousand (7,000) square feet for all other uses.~~
- (2) ~~**Maximum lot coverage.** Seventy percent (70%).~~
- (3) ~~**Minimum lot width.**~~
- a. ~~Fifty (50) feet for single family dwellings.~~
 - b. ~~Seventy (70) feet for two (2) family dwellings.~~
 - e. ~~Eighty (80) feet for all other uses.~~
- (4) ~~**Minimum front yard.**~~
- a. ~~Twenty (20) feet.~~
 - b. ~~Twenty five (25) feet if located on an arterial street.~~
- (5) ~~**Minimum rear yard.** Thirty five (35) feet.~~
- (6) ~~**Minimum side yard.**~~
- a. ~~Six (6) feet for single and two family dwellings.~~
 - b. ~~Twenty (20) feet all other uses.~~
- (7) ~~**Minimum setback from single or two family lot line.** Thirty (30) feet.~~
- (8) ~~**Maximum building height:**~~
- a. ~~Thirty five (35) feet for single and two (2) family dwellings.~~
 - b. ~~Forty five (45) feet or all other uses.~~
- (9) ~~**Minimum distance between multi-family buildings.** Twelve (12) feet.~~
- (1) **Single-Family Dwelling, Detached:**
- a. **Minimum lot area:** Six thousand (6,000) square feet.
 - b. **Minimum lot width:** Fifty (50) feet.
 - c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
 - d. **Minimum rear lot line setback:** Twenty-five (25) feet.
 - e. **Minimum side lot line setback:** Six (6) feet.

f. Maximum lot coverage: Seventy percent (70%).

g. Maximum building height: Thirty-five (35) feet.

(2) Two-family Dwellings (duplex):

a. Minimum lot area, Two-family dwellings (two-story duplex): Seven thousand (7,000) square feet.

b. Minimum lot area, Two-family dwellings (single story duplex): Nine thousand (9,000) square feet.

c. Minimum lot width: Seventy (70) feet.

d. Minimum front lot line setback: Twenty (20) feet (twenty-five (25) feet minimum on arterial street).

e. Minimum rear lot line setback: Twenty-five (25) feet.

f. Minimum side lot line setback: Six (6) feet.

g. Maximum lot coverage: Seventy percent (70%).

h. Maximum building height: Thirty-five (35) feet.

(3) Multi-family Dwellings and Other Uses:

a. Minimum lot area, Multi-family dwellings: One thousand five-hundred (1,500) square feet per dwelling unit.

b. Minimum lot area, All other uses: Seven thousand (7,000) square feet.

c. Minimum lot width: Eighty (80) feet.

d. Minimum front lot line setback: Twenty (20) feet (twenty-five (25) feet minimum on arterial street).

e. Minimum rear lot line setback: Thirty-five (35) feet.

f. Minimum side lot line setback: Twenty (20) feet.

g. Minimum distance between multi-family buildings: Twelve (12) feet.

h. Maximum lot coverage: Seventy percent (70%).

i. Maximum height: Forty-five (45) feet.

(4) Zero Lot Line Two-family Dwelling:

a. Minimum lot area: Three thousand (3,000) square feet per dwelling.

b. Minimum lot width: Thirty (30) feet per dwelling.

c. Minimum front lot line setback: Twenty (20) feet (twenty-five (25) feet minimum on arterial street).

d. Minimum rear lot line setback: Twenty-five (25) feet.

e. Minimum side lot line setback: Zero (0) feet on one (1) side with a common wall provided that:

i. The opposite side yard being a minimum of six (6) feet.

- ii. Patios and decks may have a zero setback from the zero lot line side yard setback.
- iii. Driveways may be separate or shared.
- iv. All state and local building code requirements shall be met for a zero-lot line two-family dwelling.
- v. Every zero lot line two-family dwelling constructed after (insert ordinance effective date) shall be constructed with identical materials.
- vi. For the purpose of this subsection the term “identical materials” 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.
- vii. For the purpose of this subsection the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, 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.
- viii. Restrictive covenants shall be recorded at the county register or deeds, providing declarations and or bylaws similar to those typically recorded on a declaration of condominium.
 - 1. If the driveway is shared, the maintenance and use standards for the shared driveway shall be part of said covenants.
 - 2. Include a note that reads, “The parties hereto agree that the aesthetics of the units are important to the value of the building. Therefore, any subsequent repairs or maintenance performed by a unit owner to the exterior of their portion of the zero lot line two-family dwelling shall use at a minimum materials similar with those materials already incorporated into the building if identical materials are not incorporated into the repair or maintenance project. Each party may agree in writing to change the original color of the building so long as the color change applies to each unit. No party may change the color of the building so that it is different than the other unit.”
 - 3. Said covenants shall provide for mediation of any and all disputes between owners of each dwelling unit and third party with regard to construction, use and maintenance of the real property.
 - 4. Said covenants shall specifically state the City of Appleton and all approving authorities shall not be held responsible for same, and that said covenants shall insure to all heirs and assigns.
 - 5. Proof of said recorded covenants or subsequently amended shall be submitted to the Community and Economic Development Department.
- ix. Each dwelling unit shall have separate sewer and water lines and other separate utility lines entering each dwelling unit and also separate sump pump.
- x. Easements shall be provided upon each lot as may be necessary for ingress and egress, water, sewer and all other utility services.
- xi. The zero lot line parcel shall be divided by certified survey map or subdivision plat pursuant to Chapter 17 Subdivisions of the Municipal Code.
 - 1. A restrictive endorsement shall be placed on the face of the CSM or plat that reads, “When zero lot

line two-family dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, use, repair and maintenance shall be guarded against by private/restrictive covenants and deed restrictions, and no approving authority shall be held responsible for the enforcement of same.”

2. A copy of said Restrictive covenants shall be submitted with the initial application for certified survey map or subdivision plat approval.

f. **Maximum building height:** Thirty-five (35) feet.

(h) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

Comments: The proposed changes to the C-1 District are intended to implement recommendations from the Comprehensive Plan 2010-2030, which are aimed at creating a zoning district to accommodate mixed-use infill and redevelopment. The proposed changes are meant to find the middle ground between the CBD and C-2 Districts. Currently, there are only two parcels in the City with C-1 zoning, and the proposed changes should not create any nonconformities.

Sec. 23-112. C-1 neighborhood ~~commercial~~ mixed use district.

(a) ***Purpose.*** The C-1 district is intended to provide for mixed use areas, including a range of commercial and denser residential uses. Development is intended to be pedestrian-oriented, with businesses and services that are part of the fabric of the neighborhood and allow residents to meet daily needs on foot, bicycle, and public transit. Development standards provide added flexibility to encourage redevelopment along commercial corridors, enclosed in buildings and that are small in size; to provide convenience goods and services to local residents; and to identify businesses that can be located close to residential properties without being detrimental to the established residential neighborhoods.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the C-1 district.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None. • <u>Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse.</u> 	<ul style="list-style-type: none"> • Clubs. • Day care, group. • Governmental facilities. • Museums. • Places of worship. • Public parks or playgrounds. • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. 	<ul style="list-style-type: none"> • <u>Commercial entertainment; excluding sexually-oriented establishments.</u> • <u>Hotel or motels.</u> • Multi-tenant building. • Offices. • <u>Painting/Craft Studio without alcohol sales.</u> • Personal services. • <u>Printing.</u> • Professional services. • <u>Restaurants (without alcohol).</u> • <u>Restaurant, fast foods.</u> • Retail businesses <u>under 5,000 square feet in floor area.</u> • <u>Shopping centers.</u> • Urban farms pursuant to §23-66(h)(17). • Veterinarian clinics, <u>with all activity within enclosed buildings and with no animals boarded overnight.</u>

(c) ***Accessory uses.*** Accessory uses in the C-1 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-1 district;

however, new or expanded driveways, parking lots, and loading areas shall not be located between the principal building and the front lot line.

(2) Residential dwellings at least ten (10) feet above the street grade of the building.

~~(3) Drive-through facility pursuant to §23-49.~~

~~(4) (3)~~ Home occupation pursuant to §23-45.

~~(5) (4)~~ Outdoor storage and display pursuant to §23-46.

~~(6) (5)~~ Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-1 district.

(e) **Special uses.** Special uses in the C-1 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None. 	<ul style="list-style-type: none"> • Educational institutions; elementary school, junior high school or high school. • Essential services. • Recreation facilities, non-profit. 	<ul style="list-style-type: none"> • <u>Amusement arcade.</u> • <u>Bar or Tavern pursuant to §23-66(h)(6).</u> • Commercial entertainment; excluding sexually-oriented establishments. • <u>Craft-Distillery pursuant to §23-66(h)(19).</u> • Electronic towers pursuant to §23-66(h)(1) • <u>Manufacturing, custom pursuant to §23-66(h)(16).</u> • <u>Microbrewery/Brewpub pursuant to §23-66(h)(19).</u> • Outdoor commercial entertainment pursuant to §23-66(h)(11). • <u>Painting/Craft Studio with alcohol pursuant to §23-66(h)(6).</u> • Parking garages. • Recycling collection points pursuant to §23-66(h)(14). • <u>Research laboratories or testing facilities.</u> • <u>Restaurants (without alcohol) with alcohol pursuant to §23-66(h)(6).</u> • Restaurants, fast food. • <u>Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21)</u> • Tower or antenna for telecommunication services pursuant to Article XIII. • <u>Winery pursuant to §23-66(h)(21).</u> • Veterinarian clinics, with all activity within enclosed buildings and with no animals boarded overnight.

(f) **Site plan.** Prior to obtaining a building permit on any land in the C-1 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards; however, the number of off-street parking and loading spaces required are reduced by fifty percent (50%) for uses in the C-1 district. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(h) ***Development standards.*** The space limits applicable in the C-1 district are as follows:

(1) ***Minimum lot area.*** ~~Nine thousand (9,000)~~ Six thousand (6,000) square feet.

(2) ***Maximum lot coverage.*** ~~Seventy percent (70%)~~ Ninety percent (90%).

(3) ***Minimum lot width.*** ~~Seventy (70)~~ Forty (40) feet.

(4) ***Minimum front yard.*** ~~Twenty (20) feet.~~ None.

(5) ***Minimum rear yard:***

a. Twenty (20) feet.

~~b. Twenty five (25) feet if abutting a residentially zoned district.~~

(6) ***Minimum side yard:***

a. ~~Ten (10) feet.~~ None.

b. ~~Twenty (20)~~ Ten (10) feet if abutting a residentially zoned district.

(7) ***Maximum building height.*** ~~Thirty five (35)~~ Sixty (60) feet.

(i) ***District location.*** The C-1 district shall be utilized in areas identified with a future Mixed Use designation on the Comprehensive Plan Future Land Use Map.

Comments: The proposed change would remove the personal storage facility use from the C-2 General Commercial District. After much consideration, staff determined that this particular use is better suited for industrial areas. Staff finds that the personal storage facility use does not conform with the areas identified with a future Commercial or Mixed Use designation on the Comprehensive Plan Future Land Use Map. A provision is proposed for the Transition Rules section in order to clarify that all previously-approved special use permits remain in full effect under the terms of its original approval.

Add craft-distillery, microbrewery/brewpub, painting/craft studio and winery as special uses with a cross reference to special regulations listed in the Zoning Ordinance to be consistent with Wisconsin Act 67 which amended the Wisconsin State Statutes pertaining to the way conditional uses (special uses) are regulated. Painting/Craft Studio without alcohol sales will be identified as a permitted use.

Sec. 23-113. C-2 general commercial district.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the C-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Assisted living or retirement homes. • Nursing or convalescent homes. 	<ul style="list-style-type: none"> • Clubs. • Day care, group. • Educational institutions; business, technical or vocational school. • Educational institutions; college or 	<ul style="list-style-type: none"> • Automobile maintenance shops. • Commercial entertainment; excluding sexually-oriented establishments. • Drive through facilities pursuant

	<ul style="list-style-type: none"> university. Governmental facilities. Hospitals. Marina or boat landings. Museums. Places of worship. Public parks or playground. Recreation facilities; non-profit. Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. 	<ul style="list-style-type: none"> to §23-49. Greenhouses or greenhouse nurseries. Hotel or motels. Manufacturing, custom pursuant to §23-66(h)(16). Multi-tenant building. Offices. <u>Painting/Craft Studio without alcohol sales.</u> Parking lots. Personal services. Printing. Professional services. Restaurants (without alcohol). Restaurants, fast food. Retail businesses. Shopping centers. Towing businesses pursuant to §23-66(h)(15). Urban farms pursuant to 23-66(h)(17). Veterinarian clinics.
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(e) *Special uses.* Special uses in the C-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> Educational institutions; elementary school, junior high school or high school. Essential services. Golf courses. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure. 	<ul style="list-style-type: none"> Amusement arcades. Any principal building that exceeds thirty-five (35) feet in height. Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5). Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to §23-66(h)(5). Bar or taverns pursuant to §23-66(h)(6). Body repair and/or paint shops pursuant to §23-66(h)(4). Bus terminals. Car washes. Circus or carnivals. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7). <u>Craft-Distillery pursuant to §23-66(h)(19).</u> Electronic towers pursuant to §23-66(h)(1) Freight distribution and/or moving centers. Gasoline sales pursuant to §23-66(h)(8). Helicopter landing pads pursuant to §23-66(h)(9).

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> • Indoor kennels. • Landscape business. • Manufacturing, light. • Microbreweries <u>Microbrewery/Brewpub pursuant to §23-66(h)(19).</u> • Mobile home sales lots. • Outdoor commercial entertainment pursuant to §23-66(h)(11). • <u>Painting/Craft Studio with alcohol sales pursuant to §23-66(h)(6).</u> • Parking garages. • Personal storage facility (self storage/mini warehouse), including outdoor storage areas for recreational vehicles pursuant to §23-66(h)(18). • Recycling collection points pursuant to §23-66(h)(14). • Recycling and waste recovery centers pursuant to §23-66(h)(13). • Research laboratories or testing facilities. • Restaurants with alcohol pursuant to §23-66(h)(6). • Sexually-oriented establishments pursuant to Article XII. • Shelter facility. • <u>Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21)</u> • Towers or antennas for wireless telecommunication services, pursuant to Article XIII. • Wholesale facilities. • <u>Winery pursuant to §23-66(h)(21).</u>

Comments: Add craft-distillery, microbrewery/brewpub, painting/craft studio and winery as special uses with a cross reference to special regulations listed in the Zoning Ordinance to be consistent with Wisconsin Act 67 which amended the Wisconsin State Statutes pertaining to the way conditional uses (special uses) are regulated. Painting/Craft Studio without alcohol sales will be identified as a permitted use.

Sec. 23-114. CBD central business district.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the CBD:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Assisted living or retirement homes. • Nursing or convalescent homes. • Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse; however, residential uses are prohibited on the ground floor for any lot with frontage on College Avenue or within 120 feet of College Avenue 	<ul style="list-style-type: none"> • Clubs. • Day care, group. • Educational institutions; college or university. • Governmental facilities. • Museums. • Places of worship. • Public park or playgrounds. • Registered historic places open to 	<ul style="list-style-type: none"> • Automobile maintenance shops. • Commercial entertainment; excluding sexually-oriented establishments. • Drive through facilities pursuant to §23-49. • Hotel or motels. • Multi-tenant building. • Offices.

frontage.	the public and having retail space occupying not more than 10% of the gross floor area of the building.	<ul style="list-style-type: none"> • <u>Painting/Craft Studio without alcohol sales.</u> • Personal services. • Printing. • Professional services. • Restaurants (without alcohol). • Restaurant, fast foods. • Retail businesses. • Shopping centers. • Urban farms pursuant to §23-66(h)(17) • Veterinarian clinics.
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(e) *Special uses.* Special uses in the CBD district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None. 	<ul style="list-style-type: none"> • Educational institution; elementary school, junior high school or high school. • Essential services. • Hospital. • Marina and/or boat landing. 	<ul style="list-style-type: none"> • Amusement arcade. • Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5). • Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles pursuant to §23-66(h)(5). • Bar or Tavern pursuant to §23-66(h)(6). • Body repair and/or paint shop pursuant to §23-66(h)(4). • Bus terminal. • <u>Craft-Distillery pursuant to §23-66(h)(19).</u> • Electronic towers pursuant to §23-66(h)(1) • Gasoline sales pursuant to §23-66(h)(8). • Indoor kennel. • Manufacturing, custom pursuant to §23-66(h)(16). • <u>Microbrewery Microbrewery/Brewpub pursuant to §23-66(h)(19).</u> • Outdoor commercial entertainment pursuant to §23-66(h)(11). • <u>Painting/Craft Studio with alcohol sales pursuant to §23-66(h)(6).</u> • Parking garage. • Parking lot; however, surface lots are prohibited on lots fronting on College Avenue. • Recycling collection point pursuant to §23-66(h)(14). • Research laboratories or testing facilities. • Restaurant with alcohol pursuant to §23-66(h)(6). • Shelter facility. • <u>Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21)</u> • Towers or antennas for wireless telecommunication services pursuant to Article XIII.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> Wholesale facility. Winery pursuant to §23-66(h)(21).

Comments: Add craft-distillery, distillery, microbrewery/brewpub, brewery and winery as permitted uses for the manufacturing and distribution operations with a cross reference to special regulations listed in the Zoning Ordinance to be consistent with Wisconsin Act 67 which amended the Wisconsin State Statutes pertaining to the way conditional uses (special uses) are regulated for on-site consumption of alcohol.

Sec. 23-131. M-1 industrial park district.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the M-1 district, subject to any contracts, agreements, covenants, restrictions and leases the City maintains on City-owned industrial properties.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> Governmental facilities. Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building. 	<ul style="list-style-type: none"> Agriculture. Brewery pursuant to §23-66(h)(20). Commercial entertainment. Community garden. Craft-Distillery pursuant to §23-66(h)(19). Distillery pursuant to §23-66(h)(20). Freight distribution or moving centers. Manufacturing, light. Microbrewery/Brewpub pursuant to §23-66(h)(19). Offices. Multi-tenant buildings. Printing. Research laboratory or testing facilities. Urban farms pursuant to §23-66(h)(17). Warehouses. Wholesale facilities. Winery pursuant to §23-66(h)(21).

(c) **Accessory uses.** Accessory uses in the M-1 district may include:

(6) Showrooms and incidental retail sales provided ~~that~~ as follows, unless otherwise stated in this chapter:

- a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
- b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
- c. The industrial character of the property is maintained.

Comments: Add craft-distillery, distillery, microbrewery/brewpub, brewery and winery as permitted uses for the manufacturing and distribution operations with a cross reference to special regulations listed in the Zoning Ordinance to be consistent with Wisconsin Act 67 which amended the Wisconsin State Statutes pertaining to the way conditional uses (special uses) are regulated for on-site consumption of alcohol.

Sec. 23-132. M-2 general industrial district.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the M-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None. 	<ul style="list-style-type: none"> • Governmental facilities. • Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building. 	<ul style="list-style-type: none"> • Automobile maintenance shops. • Body repair and/or paint shops pursuant to §23-66(h)(4). • <u>Brewery pursuant to §23-66(h)(20).</u> • Bus terminals. • <u>Craft-Distillery pursuant to §23-66(h)(19).</u> • Commercial entertainment. • Commercial truck body repair or paint shops. • Commercial truck maintenance shops. • Community garden. • <u>Distillery pursuant to §23-66(h)(20).</u> • Freight distribution or moving centers. • Landscape businesses. • Manufacturing, light. • <u>Microbrewery/Brewpub pursuant to §23-66(h)(19).</u> • Multi-tenant buildings. • Offices. • Personal storage facility (self storage/mini-warehouse), including outdoor storage areas for recreational vehicles pursuant to §23-66(h)(18). • Printing. • Research laboratories or testing facilities. • Towing businesses pursuant to §23-66(h)(15). • Truck or heavy equipment sales or rental. • Urban farms pursuant to §23-66(h)(17). • Warehouses. • Wholesale facilities. • <u>Winery pursuant to §23-66(h)(21).</u>

(c) ***Accessory uses.*** Accessory uses in the M-2 district may include:

(7) Showrooms and incidental retail sales provided ~~that~~ as follows, unless otherwise stated in this chapter:

- a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
- b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
- c. The industrial character of the property is maintained.

Comments: The proposed changes to the Off-Street Parking and Loading section are intended to implement recommendations from the Comprehensive Plan 2010-2030, which are aimed at providing greater flexibility for

redevelopment. The most significant change introduces an administrative adjustment process for reducing minimum parking space requirements. Other changes are intended to include minimum parking spaces for new uses added to the Zoning Ordinance and clarify and simplify language related to the CBD District and interior landscaping. In light of recently approved variances, another change would allow vehicles to back into an alley from a parking space.

Sec. 23-172. Off-street parking and loading standards.

(d) **Exceptions to design standards.** The following are exempt from the design standards of this chapter.

- (1) Due to the primarily pedestrian orientation of the Central Business District (CBD), provision for off-street parking and loading spaces are not required for uses in the CBD. However, new or expanded parking lots and loading areas in the CBD shall comply with the off-street parking and loading requirements of this section, including standards governing design, interior landscaping, and perimeter landscaping do not apply to uses within the Central Business District CBD zoning district unless otherwise stated in this chapter.

(e) **Design standards.** All off-street parking spaces and off-street parking lots or areas shall conform to the following design requirements, unless otherwise stated in this chapter:

- (3) **Maneuvering.** All off-street parking spaces shall be designed to provide all maneuvering to occur within the property line(s). Vehicles shall not back into the public right-of-way from an off-street parking lot or parking space. Alleys are an exception to this provision, as maneuvering may occur within alley right-of-way when authorized by the Director of the Department of Public Works or designee.

(f) **Interior parking lot landscaping.**

- (1) All parking lots designed for twenty (20) or more parking spaces shall be landscaped in accordance with the following interior parking lot standards.

- a. Five percent (5%) of the minimum square footage of the paved area of the off-street parking lot shall be devoted to interior landscape islands.

~~1. The landscape islands shall contain a minimum of one hundred sixty (160) square feet.~~

- b. The primary plant materials shall be shade or ornamental trees with at least one (1) shade tree for every ~~one hundred sixty (160)~~ two hundred (200) square feet of interior landscape island area, except in cases where drainage, stormwater, or utility features preclude the planting of trees.

- c. The interior landscape islands shall be dispersed throughout the off-street parking lot to the satisfaction of the Community and Economic Development Director.

- (2) All off-street parking lots designed for nineteen (19) off-street parking spaces or less shall provide landscaping as deemed appropriate by the Community and Economic Development Director.

(j) **Determination of required off-street parking spaces.** In computing the number of off-street parking spaces required by this chapter, the following shall apply:

- (1) Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross square footage of all floors that may be occupied of a building.
- (2) Where maximum capacity is designated as the standard for determining off-street parking space requirements, the maximum capacity shall mean the maximum number of persons permitted to occupy the building under the International Building Code (IBC) and the International Fire Code (IFC), whichever is more restrictive, currently used by the City.

- (3) Where the number of employees is designated as the standard for determining off-street parking space requirements, the number of employees on the largest shift shall be used for calculation purposes.
- (4) Fractional numbers shall be increased to the next highest whole number.
- (5) An applicant may request an administrative adjustment for a reduction in the number of parking spaces required by §23-172(m). The request shall be submitted in writing and provide justification for the reduction, including estimates of parking demand or other acceptable data as approved by the Community and Economic Development Director. Sources of data may include, but are not limited to, the Institute of Transportation Engineers or Urban Land Institute. Community and Economic Development staff may approve up to a twenty percent (20%) reduction. Any reductions greater than 20% shall require a variance from the Board of Appeals.

(m) **Required spaces for specific uses.** All vehicles connected with the following uses shall be accommodated for on the property in addition to the requirements stated below unless otherwise stated in this chapter. Additional parking as determined by the Community and Economic Development Director may be required to meet these standards. The table on the following page identifies the minimum number of off-street parking spaces to be provided.

Use Type	Minimum Off-Street Parking Spaces Required
Residential	
Dwelling, single-family detached and zero lot line two-family dwellings	Up to three (3) bedrooms - Two (2) spaces for each dwelling unit Four (4) or more bedrooms – Three (3) spaces for each dwelling unit

Use Type	Minimum Off-Street Parking Spaces Required
Commercial	
Craft-Distillery	<u>One (1) space for each three (3) persons based on maximum capacity.</u>
Microbrewery/Brewpub	One (1) space for each three (3) persons based on maximum capacity
Painting/Craft Studios	<u>One (1) space for each three (3) persons allowed based on maximum capacity.</u>
Tasting Room	<u>One (1) space for each three (3) persons allowed based on maximum capacity.</u>
Winery	<u>One (1) space for each three (3) persons based on maximum capacity.</u>

Use Type	Minimum Off-Street Parking Spaces Required
Industrial	
Brewery	<u>One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith.</u>
Distillery	<u>One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith.</u>

Comments: Section 66.0404(4)(c) of the Wisconsin State Statutes indicates, the City cannot prohibit telecommunication towers from particular locations within the City. In order to clean up this conflicted between the Zoning Ordinance and the Wisconsin State Statues, we recommend the following language be deleted.

Sec. 23-422. Special use permit requirements.

(a) A telecommunication antenna system that requires construction of a new tower or co-location on an existing tower not previously granted a special use permit will require the petitioner to apply for a special use permit. ~~Proposed telecommunication towers are only allowed in commercial and industrial zoning districts.~~

Comments: The edits reflect updates to the Site Plan process and requirements. The edits are intended to streamline the process, eliminate certain items that require site plan review and reflect our current practices. In addition to clarifying certain areas and minor “clean up,” the more significant changes to the Site Plan Section 23-570 are summarized as follows:

- *Accessory buildings less than 2,500 square feet do not require site plan review. Only a building permit would be required. Any accessory building or structures greater than 2,500 square feet would require minor site plan review.*
- *Clarified that one and two family uses do not require Site Plan review and refer the reader to the Site Plan section for all other uses in the single and two-family districts.*
- *Removed the list of minor site plan and site plan requirements from the zoning code and refer readers to our application form for site plan submittal requirements. This will allow staff more flexibility if/when the list needs to be updated since it won’t be imbedded in the zoning code.*

Sec. 23-570. Site plan review and approval.

(a) ***Purpose and intent.*** A site plan review of certain new construction, rehabilitation of buildings, additions to structures, related site work and landscape development is required in order to further promote the safe and efficient use of land and to further enhance the value of property in the City. The site plan review process is intended to help ensure that newly developed properties, expanded structures or redeveloped properties are compatible with adjacent development and safety, traffic, overcrowding and environmental problems are minimized to the extent possible.

The site plan review requirements of this section are designed to ensure the orderly and harmonious development of property in the City in a manner that shall:

- (1) Promote the most beneficial relationship between adjacent land uses.
- (2) Facilitate efficient and safe circulation of traffic both on the site and as it interfaces with the public right-of-way and adjacent properties.
- (3) Permit development to a level commensurate with the availability and capacity of public facilities and services.
- (4) Encourage adequate provision for surface and subsurface drainage.
- (5) Provide appropriate screening of parking, truck loading, refuse containers, mechanical equipment and outdoor storage areas from adjacent residential districts and public rights-of-way.

(b) ***No minor site plan or site plan review is required.***

(1) ***Change in existing building or structure:***

When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . .	And the proposed gross floor area of the addition or expansion of the existing building, structure or use, except for parking lots or parking spaces is . . .
0-10,000 square feet	Less than 1,000 square feet
10,001-25,000 square feet	Less than 2,500 square feet
25,001-50,000 square feet	Less than 5,000 square feet
50,001 square feet and over	Less than 7,500 square feet

- a. While no minor site plan or site plan review is required for the above addition or expansions, the addition or expansion is still subject to all applicable provisions of this chapter including but not limited to: lot coverage, setbacks, building height, parking, loading, signage and lighting.
- b. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for the above referenced addition or expansions pursuant to this section shall submit all proposed plans and specifications

to the Inspection Division along with the completed building permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(2) ***Maintenance, overlay, resurfacing of an existing off-street parking lot and loading area.***

- a. While no minor site plan or site plan review is required for maintenance, overlay and resurfacing of an existing off-street parking lot and loading area, the maintenance, overlay or resurfacing activity is still subject to all applicable provisions of this chapter.
- b. Off-street parking lot and loading area maintenance (patching). Fifteen percent (15%) or less than the total square foot area of an existing off-street parking lot and/or loading area is allowed to be patched per calendar year without submittal of a minor site plan or site plan.
- c. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for maintenance, overlay or resurfacing of an off-street parking lot and loading area pursuant to this section shall submit all proposed plans and specifications to the Inspection Division along with the completed permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(c) ***Minor site plan review and site plan review.*** In order to minimize submission requirements and expedite final approval for certain projects, there shall be two (2) types of site plan review: minor and major.

Minor site plan review shall be subject to review and approval by the Community and Economic Development Director and will require only that information identified in §23-570(g), Minor site plan required information, as deemed necessary by the Community and Economic Development Director to make an informed decision.

Site plan review shall be subject to the review and approval of the Community and Economic Development Director pursuant to ***all*** submission requirements of this section.

(1) ***Development subject to minor site plan review.***

- a. ~~The following in the AG, R 1A, R 1B, R 1C and R 2 zoning districts:~~
 1. ~~Accessory buildings, uses and structures when associated with the following:~~
 - a. ~~Governmental facilities.~~
 - b. ~~Places of worship.~~
 - c. ~~Educational institution; elementary school, junior high school, high school.~~
 - d. ~~Educational institution; college or university.~~
 - e. ~~Educational institution; business, technical or vocational school.~~
 - f. ~~Earth berms over three (3) feet in height.~~
- b. ~~The following in the R 3, P 1, N C, C O, C 1, C 2, CBD, parking, M 1 and M 2 zoning districts:~~

- a. ~~1. Accessory uses and structures. Accessory buildings and/or structures, not including off-street parking lots or loading areas, that are 2,500 square feet or greater in size; except when associated with one-(1) or two-(2) family dwellings, unless when required per Certified Survey Map, Subdivision Plat, or the like.~~
- b. ~~2. Personal wireless facilities as identified in §23-422(b)(1)-(3).~~
- c. ~~3. Construction, reconstruction, rehabilitation and expansion of off-street parking lots and loading areas that consist of less than twenty (20) parking spaces or loading spaces.~~

(2) *Development subject to site plan review.*

- a. The following new principal buildings, uses, building additions, or structures in ~~the AG, R-1A, R-1B, R-1C and R-2~~ any zoning districts; except for one-(1) and two-(2) family dwellings or accessory buildings, structures, or uses when associated with or located within one-(1) and two-(2) family dwellings, unless required per Certified Survey Map, Subdivision Plat, or the like:

- ~~1. Governmental facilities.~~
- ~~2. Places of worship.~~
- ~~3. Educational institution; elementary school, junior high school, high school.~~
- ~~4. Educational institution; college or university.~~
- ~~5. Educational institution; business, technical or vocational school.~~
- ~~6. Earth berms over three (3) feet in height.~~

- b. ~~The following buildings, building additions, uses and structures in the R-3, P-I, N-C, C-O, C-1, C-2, CBD, P, M-1 and M-2 zoning districts:~~

- 1. Any new principal buildings or structures ~~except single and two (2) family dwellings and accessory buildings, structures, or uses when associated with single and two (2) family dwellings.~~
- 2. Additions to existing principal buildings, structures or uses except single and two (2) family dwellings and accessory buildings, structures, or uses ~~when associated with single and two (2) family dwellings~~ as established in the table below:

When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . .	And the proposed gross floor area of the addition or expansion of the existing building, structure or use except for parking lots or parking spaces is . . .
0-10,000 square feet	1,000 square feet or greater
10,001-25,000 square feet	2,500 square feet or greater
25,001-50,000 square feet	5,000 square feet or greater
50,001 square feet and over	7,500 square feet or greater

- ~~3. Internal function of a building is changed which requires ten percent (10%) more in the number of off-street parking spaces.~~
- 4. Construction, reconstruction, rehabilitation and/or expansion of off-street parking lots and loading areas that consist of twenty (20) or more parking spaces or loading spaces.

5. Off-street parking lot and loading area reconstruction (patching). Reconstruction (patching) of off-street parking lots and loading areas that affects greater than fifteen percent (15%) of the total square foot area of an existing off-street parking lot and/or loading area per calendar year.
6. ~~Storage tanks over five thousand (5,000) gallons or over twelve (12) feet high.~~
7. ~~When a building or structure is destroyed by more than fifty percent (50%) of the City of Appleton's fair market value and the property owner desires to rebuild, except in the case of single and two (2) family dwellings and accessory buildings, structure or uses when associated with single and two (2) family dwellings.~~
8. ~~Earthen berm over three (3) feet in height.~~

(d) **Authority.** The Community and Economic Development Director is hereby charged with the duty of performing site plan review and granting site plan approval for minor site plans and site plans.

(e) **Procedure.** Whenever any property owner or individual having a contractual interest proposes to develop/redevelop any tract or parcel of land where site plan review is required, that person shall submit to the Community and Economic Development Director a request for minor site plans or site plan approval.

- (1) **Presubmittal meeting.** To ensure the correct submission of a minor site plan or site plan and to identify the requirements for a complete application, applicants shall attend a presubmittal meeting with the City Community and Economic Development staff prior to submitting an application for site plan review. The applicant will discuss with staff the submission requirements for minor site plan and site plan review. The Community and Economic Development Director shall have the authority to waive the presubmittal meeting, if necessary.
- (2) **Submission of application.** All required information shall be submitted to the Community and Economic Development Director for review and processing. Within fifteen (15) business days after the submittal and acceptance of a complete application, and after notification to the Alderperson of the appropriate district and in consultation with other City officials, the Community and Economic Development Director shall, in a written decision, state the findings of the Site Plan Review Committee. Upon approval, approval with modifications or conditional approval, a building permit may be issued.
- (3) **Request of additional information.** If in the judgment of the reviewing authority, the site plan application does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the fifteen (15) business day period referred to above shall be suspended pending the receipt of all information requested.
- (4) **Issuance of Building Permit.** No building permit shall be issued by the City until site plan approval has been granted as provided in this section, unless otherwise authorized by the Director of the Department of Public Works.

(f) **Fees and structure.** Fees for site plan review shall be established by the City to cover the cost of this review. This fee may include passing along review costs of consultants or agencies that may be requested for review of site plans under unique circumstances such as traffic impact studies or stormwater management plans.

(g) **Minor site plan required information.** Minor Site Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 11"x17" or a previously approved site plan may be used and submitted. A total of ~~twelve (12)~~ five (5) complete sets shall be submitted to the Community and Economic Development Director.

- (1) All Minor Site Plans shall include as a minimum all of the information as required on a form provided by the Department of Community and Economic Development. ~~following items of information. The Community and Economic Development Director may waive any of the following submission requirements as deemed unnecessary for review, at the time of the presubmittal conference.~~

- (2) The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.
- ~~(1) Name of project, address, legal description of property, tax key number of each lot, description of proposed use and both existing and proposed zoning descriptions.~~
- ~~(2) Name, address and phone number of the record property owner and site plan preparer (include fax number if available).~~
- ~~(3) North arrow, date of preparation, revision dates and scale.~~
- ~~(4) Name(s) of adjacent or surrounding streets.~~
- ~~(5) Recorded property lines and their dimensions.~~
- ~~(6) The total land area in the development.~~
- ~~(7) All existing and proposed buildings and structures accessory to the principal use, including use of each structure, dimensions, identification of the class of construction (per State Building Code), and their location on the parcel.~~
- ~~(8) Dimensions of existing and proposed yard setbacks of the buildings and structures.~~
- ~~(9) Dimensions of existing and proposed parking, loading and unloading areas, and sidewalks. Identify proposed and existing surface materials.~~
- ~~(10) Show existing and proposed landscaping. Identify size and variety of existing and proposed landscaping including the preservation of existing trees on site.~~
- ~~(11) Identify by list the type of roof, wall and all trim materials, colors and textures and submit color samples and building material samples.~~
- ~~(12) If buildings are to be removed, the site plan shall so indicate.~~
- ~~(13) A note shall appear on the minor site plan that indicates the calculations for parking and loading requirements per §23-172(m), Required spaces for specific uses.~~
- ~~(14) Existing and proposed driveways and parking lots including: pavement markings to show traffic flow; parking stall sizes and layout; handicap stalls and ramps; loading zones, driveways widths and radii or flares on driveway aprons to public streets.~~
- ~~(15) If existing curb cuts are to be abandoned, the statement "curb cut will be closed per City of Appleton standards" shall be clearly noted on the site plan.~~
- ~~(16) Identify all proposed sidewalks with grade elevations and handicap access at driveways.~~
- ~~(17) Identify snow storage areas located outside of setbacks, in required parking areas, landscaped areas and vision clearance triangles.~~
- ~~(18) The location and extent of all existing and proposed outdoor storage and outdoor display.~~
- ~~(19) The location and detail of refuse containers and their enclosures.~~
- ~~(20) The location of all mechanical equipment and the type of screening provided.~~

- (21) Location, heights, elevations and materials of all fences or retaining walls.
- (22) Show on site fire hydrants.
- (23) Identify as needed, any public right of way with accurate locations for existing and proposed facilities such as streets, curbs, sidewalks, sidewalk planters, street trees, utility poles, traffic signs and signals, median islands, project driveways, driveways on opposite street frontages, bus stops and other improvements. Elevations of sidewalks at property lines and elevations to indicate handicap accessibility shall be identified. A statement that "Any existing sidewalk damaged during construction will be replaced as a part of this project" shall be clearly noted on the site plan.
- (24) Calculate drainage area for each catch basin. Indicate the size and slope of utility lines that will be tapped into in the adjacent streets.
- (25) Identify as needed, all existing and proposed public and private easements for utility, drainage, sewer, parking, access and other purposes, and all easements on surrounding properties benefiting the subject property. If existing utilities are to be abandoned, clearly state the method of abandonment.
- (26) Identify, as needed, all existing and proposed sanitary sewer mains and laterals including method of connection to public main, easements, size, materials, slope, manholes, rim elevation, invert elevations, clean outs, plumbing code calculations, how many drainage fixture units and public mains for connection.
- (27) Identify, as needed, all existing and proposed water mains and laterals, including easements, size, depth, materials, tracing wires, hydrants, method of connection valves, meters, plumbing code calculations, how many water supply fixture units and public mains for connection.
- (28) Identify, as needed, all existing and proposed storm sewer mains and laterals, including method of connection to public main, easements, size, materials, slope, manholes, inlets, catch basins, yard drains, rim elevations, invert elevations, area map for drainage to each catch basin, square feet draining to each catch basin, plumbing code calculations, roof drain discharges and/or connections, square foot of roof area and public systems for connection.
- (29) Identify, as needed, all existing and proposed surface run off features, including easements, swales, open channels, type of surface, rip rap, flow path of runoff from upstream areas and flow path for runoff leaving the site including the public system adjacent to or for connection.
- (30) Identify, as needed, existing topography (by dashed lines) at one (1) foot intervals and proposed grade elevations per city elevations (City datum) for the building, parking lot, catch basin inlet, rim and invert elevations, drives, surrounding open areas and including all property within fifty (50) feet using contour lines and spot elevations and drainage flow areas as needed to define drainage patterns.
- (31) List all existing and proposed grades for first floor elevations.
- (32) Provide all erosion control information as required in Chapter 24 of the Appleton Municipal Code.
- (33) Identify all exterior lighting fixtures, either mounted on the building or freestanding light along with dispersion pattern, intensity of light and cut off shielding that reflects light downward and in which the light source is not visible from adjacent properties.
- (34) Identify type of all surfaces, including seeded grass, sod, type of mulch in planting beds, pavers, concrete and asphalt, including pavement thickness.
- (35) Identify streams, wetlands, channels, ditches and other watercourses on the site and on adjacent properties.
- (36) Identify the 100 year flood plain, including flood fringe, floodway and flood storage areas.

~~(37) Identify the size of basement/below grade space or clearly mark “no below grade space” on the site plan.~~

~~(38) Calculate lot coverage percentage of impervious surface areas.~~

~~The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary at the presubmittal conference for thorough and efficient review.~~

(h) ***Site plan required information.*** Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 24” x 36”. A total of ~~twelve (12)~~ five (5) complete folded sets shall be submitted to the Community and Economic Development Director.

(1) All Site Plans shall include, as a minimum, all of the information as required on a form provided by the Department of Community and Economic Development.

(2) The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.

~~All site plans shall include as a minimum all of the following items of information:~~

~~(1) Name of project, address, legal description of property, tax key number of each lot, description of proposed use and both existing and proposed zoning descriptions.~~

~~(2) Location map.~~

~~(3) Name, address and phone number of the record property owner and site plan preparer (include fax number if available).~~

~~(4) The signature of the surveyor, engineer or architect who is responsible for site plan preparation along with the revision date(s) clearly marked on the plan.~~

~~(5) North arrow, date of preparation and revision.~~

~~(6) Dates and scale.~~

~~(7) Name(s) of adjacent or surrounding streets.~~

~~(8) Recorded property lines and their dimensions.~~

~~(9) The total land area in the development including the percentage of lot coverage for all impervious surface areas.~~

~~(10) The schedule of phasing for this project if to be completed in phases.~~

~~(11) The location and architectural features of all existing and proposed structures, including occupancy classification of each structure as identified in the State Building Code, dimensions, number of stories and their locations on the parcel.~~

~~(12) Identify what types of products will be manufactured, sold and/or stored on site.~~

~~(13) Identify all types of hazardous materials to be stored on site. If none, state “No hazardous materials will be stored on site”.~~

~~(14) Identify if there will be food and/or beverage sales, a public swimming pool or whirlpool, or overnight lodging at this location.~~

~~(15) If buildings are to be removed, the site plan shall so indicate.~~

- (16) ~~A note shall appear on the of the site plan that indicates the calculations for parking and loading requirements which must identify: All existing uses on the property, the number of existing, proposed and future employees based on a five (5) year projection, the gross floor area and useable floor area for existing buildings, expanded buildings and proposed buildings and a calculation of required handicapped accessible parking spaces. Any joint use of parking must be in writing, approved by the Community and Economic Development Director, signed by both parties involved and attached and recorded in the Registrar of Deeds Office.~~
- (17) ~~Show barriers, curbing or wheel stops.~~
- (18) ~~Existing and proposed driveways and parking lots including: pavement markings to show traffic flow; parking stall sizes and layout; handicap stalls and ramps; loading zones; driveway widths and radii or flares on driveway aprons to public streets. For parking areas, identify all proposed and existing stop signs at all private driveway exits onto public roadways. If stop signs are required, add a note on the site plan identifying: "Stop signs shall be installed and maintained in accordance with the Federal Highway Administration Manual of Uniform Traffic Control Devices, latest version."~~
- (19) ~~If existing curb cuts are to be abandoned, the statement "Curb cut will be closed per City of Appleton standards" shall be clearly noted on the site plan.~~
- (20) ~~For drive through uses, show vehicle stacking spaces and pedestrian access to entry doors that do not cross drive-through lanes.~~
- (21) ~~Provide recycling calculations and locations according to the State Building Code.~~
- (22) ~~Identify all existing and proposed sidewalks with grade elevations and handicap access at driveways.~~
- (23) ~~Identify snow storage areas located outside of setbacks, in required parking areas and vision clearance triangles.~~
- (24) ~~Dimensions of all required yard setbacks for buildings and off street parking (any variances approved by the Board of Appeals attached).~~
- (25) ~~The location and extent of all existing and proposed outdoor storage and outdoor display.~~
- (26) ~~The location and detail of refuse containers and their enclosures, sidewalks, other pedestrian type walkways, bicycle storage racks, traffic control dividers, tree islands and other similar improvements.~~
- (27) ~~The location of all mechanical equipment and the type of screening provided.~~
- (28) ~~Location of existing and proposed signage, sign elevation showing the height of sign to grade, height and face dimensions, colors, typeset, materials, lighting and orientation of signage.~~
- (29) ~~Location, height, elevations and materials of all fences or retaining walls.~~
- (30) ~~Location, size and use of any buildings, driveways and public rights-of-ways within fifty (50) feet of property lines and driveways, including those located across the street.~~
- (31) ~~Identify the types of fire protection/detection systems will be used.~~
- (32) ~~Show on site fire hydrants, Fire Department hose connections, and the respective flow calculations to meet the International Fire Code for installed fire protection systems.~~
- (33) ~~The statement "A Knox Box will be provided at the front entrance" shall be included on the site plan.~~
- (34) ~~Identify the location and presence of all fire related wall assemblies.~~
- (35) ~~Identification of the class of construction in accordance with State Building Code.~~

- (36) When abutting a site plan project, any public right of way shall be identified with accurate locations for existing and proposed facilities such as streets, curbs, sidewalks, sidewalk planters, street trees, utility poles, traffic signs and signals, median islands, project driveways, driveways on opposite street frontages, bus stops and other improvements. Elevations of sidewalks at property lines and elevations to indicate handicap accessibility shall be identified. A statement that "Any existing sidewalk damaged during construction will be replaced as a part of this project" shall be clearly noted on the site plan.
- (37) Locate and label, whether underground or overhead, all existing and proposed utility lines and easements with sizes and material designations, and slopes (as needed), including sanitary sewer (manholes, laterals and clean outs), storm sewer (manholes, laterals and catch basins), water (laterals, fire lines, valves and meters), fire hydrants, gas, telephone, cable and electric lines.
- (38) Calculate drainage area for each catch basin. Indicate the size and slope of utility lines that will be tapped into in the adjacent street.
- (39) Show all existing and proposed public and private easements for utility, drainage, sewer, parking, access and other purposes, and all easements on surrounding properties benefiting the subject property. If existing utilities are to be abandoned, clearly state the method of abandonment.
- (40) State the provider of sanitary and water if not provided by the City of Appleton and provide written documentation of approval from said provider.
- (41) Identify all existing and proposed sanitary sewer mains and laterals, including: methods of connection to public mains, easements, size, materials, slope, manholes, rim elevation, invert elevations, clean outs, plumbing code calculations, how many drainage fixture units and public mains for connection.
- (42) Identify all existing and proposed water mains and laterals, including easements, size, depth, materials, tracing wires, hydrants, method of connection valves, meters, plumbing code calculations, how many water supply fixture units and public mains for connection.
- (43) Identify all existing and proposed storm sewer mains and laterals, including the method of connection to the public main, easements, size, materials, slope, manholes, inlets, catch basins, yard drains, rim elevations, invert elevations, area map for drainage to each catch basin, square feet draining to each catch basin, plumbing code calculations, roof drain discharges and/or connections, square foot of roof area and public systems for connection.
- (44) Identify all existing and proposed surface run off features, including easements, swales, open channels, type of surface, rip rap, flowpath of runoff from upstream areas, and flowpath for run off leaving the site including the public system adjacent to or for connection.
- (45) Identify existing topography (by dashed lines) at one (1) foot intervals and proposed grade elevations per City elevations (City datum) for the building, parking lot, catch basin inlet, rim and invert elevations, drives, surrounding open areas and including all property within fifty (50) feet using contour lines and spot elevations and drainage flow arrows as needed to define drainage patterns.
- (46) List all existing and proposed grades for first floor elevations and catch basin inlet rim and invert elevations.
- (47) Show details of all existing and proposed retaining walls, swales and inlets.
- (48) Provide all erosion control information as required in Chapter 24 of the Appleton Municipal Code.
- (49) Identify all exterior lighting fixtures, either mounted on the building or freestanding light along with dispersion pattern, intensity of light and cut off shielding that reflects light downward and in which the light source is not visible from adjacent properties.

- ~~(50) Provide cross sections for all pavement and identify depth of base gravel base and thickness of hard surfaced pavement (concrete or asphalt compacted).~~
- ~~(51) Locate all trees over six (6) inches in diameter and indicate whether they will remain, be relocated or be removed. Identify any other significant vegetation that is to remain and the means of protection during construction.~~
- ~~(52) Identify the location, size, species and variety of proposed trees, shrubs, ground cover and other landscape features that will be used to control erosion, or screen parking, truck loading, refuse disposal, and outdoor storage from adjacent residential districts and the public right of way.~~
- ~~(53) Identify the finished height and width of landscape elements.~~
- ~~(54) Provide a planting schedule that includes a key abbreviation, graphic symbol of vegetation, botanical name of plants, common name of plants, quantity of plants, size of plant at planting and size of plant at maturity.~~
- ~~(55) Identify type of temporary and finishing materials, including seeded grass, sod, type of mulch in planting beds, pavers, concrete and asphalt.~~
- ~~(56) Identify streams, wetlands, channels, ditches and other watercourses on the site and on adjacent properties.~~
- ~~(57) Identify the 100 year floodplain, including flood fringe, floodway and flood storage areas.~~
- ~~(58) Identify the predominate soil types.~~
- ~~(59) Identify all open space that will remain undisturbed and undeveloped. _____~~
- ~~(60) Provide dimensioned elevations of all exterior walls (photographs may be substituted for existing elevations to remain unchanged).~~
- ~~(61) Identify the size of basement/below grade space or clearly mark "not below grade space" on the site plan.~~
- ~~(62) Identify by list the type of roof, wall and all trim materials, colors and textures and submit color samples and building material samples.~~
- ~~(63) Changes or additions to existing buildings or materials clearly identified.~~
- ~~(64) Identify the location(s) of outdoor display areas and/or outdoor storage areas.~~
- ~~(65) Multifamily residential projects shall include additional information that identifies the total acres of subject property, the total number of dwelling units and density per acre and the percentage of proposed site coverage for buildings and hard surfaced areas as opposed to green space and landscaping.~~
- ~~(66) The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.~~

(i) **Scope of review.** The Department of Community and Economic Development ~~Director~~, when evaluating minor site plans or site plans, will review:

- (1) The relationship of the site plan to adopted land use plans and policies.
- (2) Parking layout so as to:
 - a. Minimize dangerous traffic movements.
 - b. Achieve efficient traffic flow in accordance with standards in the Institute of Traffic Engineers Transportation and Traffic Engineering Handbook.

- c. Provide for the optimum number of parking spaces, while maintaining City design standards.
 - d. Provide for pedestrian safety.
- (3) Provisions for surface and subsurface drainage and for connections to water and sewer lines, so not to overload existing public utility lines nor increase the danger of erosion, flooding, landslide or other endangerment of adjacent or surrounding properties.
- (4) Landscaping, so as to:
- a. Maintain existing mature trees and shrubs to the maximum extent practicable. Where practical, the property owner shall make every effort to preserve and retain existing trees and vegetation on the site when designing for the development or redevelopment of the site during design, construction and after construction.
 - b. Buffer adjacent incompatible uses.
 - c. Screen unsightly activities from public view.
 - d. Break up large expanses of asphalt and buildings with plant material.
 - e. Provide an aesthetically pleasing landscaping design.
 - f. Provide plant materials and landscaping designs that can withstand the City's climate and the microclimate on the property.
- (5) Location of principal structures, accessory structures, lighting, freestanding signs, refuse containers, mechanical equipment, etc. so that their location and proportion does not impede safe and efficient traffic flow or adversely impact the development of adjacent property or the character of the surrounding neighborhood.
- (6) All electrical, telephone and cable lines shall be placed underground whenever practical.
- (7) Compliance with this chapter, the subdivision regulations, ~~and~~ the stormwater management ordinance, erosion control ordinance and stormwater utility of the City of Appleton.

(j) ***Validity of approval, expiration and revisions to site plan.*** A site plan shall become effective upon obtaining certification of approval by the Community and Economic Development Director on the minor site plan or site plan application and the signature of the Director on the approved plans (revised if necessary).

The approval of any site plan required by this section shall remain valid for one (1) year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this article, "actual construction" shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property or stockpiling of materials on the site shall not constitute actual construction.

An approved site plan shall remain in effect until it is supplanted by a new site plan or is deemed null and void as identified above. A revision to a site plan may be requested by submitting the changes in writing or on a copy of the approved site plan to the Community and Economic Development Director. The Community and Economic Development Director may approve, approve with conditions, deny the requested revision(s) or determine that a new site plan is needed.

Cases that require an extension of time by the applicant can be submitted to the Community and Economic Development Director, in writing, for consideration. In no case, however, shall an extension of time exceed one (1) year.

(k) ***Appeal.*** If the Community and Economic Development Director denies the application for a site plan or approves the site plan with conditions, the applicant may appeal the decision to the Plan Commission. A notice of appeal must be filed with

the Community and Economic Development Director no later than fifteen (15) days after receipt by the applicant of the decision of the Community and Economic Development Director. Failure by an applicant to file an appeal in accordance with the foregoing provisions shall be deemed to constitute a withdrawal of the application for a site plan.

The Plan Commission shall act as promptly as practical on any appeal taken in connection with the proposed site plan. The Plan Commission shall approve, approve with conditions or disapprove the site plan by action taken by a majority of the Plan Commission present at any meeting at which a quorum is present. If the Plan Commission approves the site plan, a building permit may then be issued, provided that all other requirements of all other applicable City codes and ordinances are satisfied.

(l) **Violation.** Construction or other activities contrary to the approved site plan, or in the absence of an approved plan, shall be a violation of this section.

Comments: This section was updated to make the vision corner measurements consistent with the Vision Corner updates to Section 23-50.

Sec. 23-601 Landscaping and Screening Standards.

(f) **Design Criteria.** Landscape plans shall be prepared, evaluated and approved based on design criteria as identified below.

- (2) Any landscaping located within the front setback, in a required vision corner or within ~~fifteen (15)~~ ten (10) feet of a private driveway (§23-50~~(f)~~(g), Vision corner), shall have the following restrictions:
 - a. Shrubs shall be maintained at a height of no greater than three (3) feet.
 - b. Trees must have a clearance from the ground to the bottom of the first branch of a minimum of six (6) feet.
- (3) Side yard screening located within ~~fifteen (15)~~ ten (10) feet of the street right-of-way or private driveway must not exceed three (3) feet in height. For other side and rear yard screening requirements, see §23-50~~(f)~~(g), Vision corner.

RECOMMENDATION

Staff recommends, pending public comments that the proposed text amendments to Chapter 23 Zoning Ordinance of the Municipal Code, **BE APPROVED** as noted and identified in this staff report for the following Articles and Sections:

Article II Definitions: Sections 23-21 and 23-22, Article III General Provisions: Sections 23-35, 23-42, 23-44, and 23-50, Article IV Administration: Sections 23-63, 23-65, 23-66, and 23-67, Article V Residential Districts: Sections 23-91, 23-92, 23-93, 23-94, 23-95, and 23-96, Article VI Commercial Districts: Sections 23-112, 23-113, and 23-114, Article VII Industrial Districts: Sections 23-131 and 23-132, Article IX Off-Street Parking and Loading: Section 23-172, Article XIII Wireless Telecommunications Facilities: Section 23-422, Article XV Site Plan Review and Approval: Section 23-570, and Article XVI. Landscaping and Screening: Section 23-601.



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: February 25, 2020

Common Council Meeting Date: March 4, 2020

Item: Dedication of Public Right-of-Way for Lawrence Street and Appleton Street

Case Manager: David Kress

GENERAL INFORMATION

Owner/Applicant: City of Appleton c/o Tom Kromm

Location: Generally located south and east of the intersection of Lawrence Street and Appleton Street (part of parcel #31-2-0142-00)

Petitioner's Request: The applicant is requesting a dedication of land for public right-of-way for Lawrence Street and Appleton Street.

BACKGROUND

In 2019, the Department of Public Works completed a project to convert Appleton Street to two-way traffic near the subject area. Additional land area was needed to accommodate this project. The proposed right-of-way dedication would account for the new configuration of Appleton Street.

The Downtown Appleton Mobility Plan includes recommendations for future reconstruction of Lawrence Street and identifies a need for additional right-of-way near the subject area. The proposed right-of-way dedication would provide for a widened Lawrence Street cross section.

STAFF ANALYSIS

Public Right-of-Way Dedication: Approximately 12,360 square feet of land is included in the proposed right-of-way dedication. This includes part of parcel #31-2-0142-00 (width varies).

Street Classification: The City's Arterial/Collector Plan Map identifies this portion of Lawrence Street as a collector street and this portion of Appleton Street as an arterial street.

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: CBD Central Business District. The adjacent land uses to the north are currently a mix of commercial uses.

South: CBD Central Business District. The adjacent land use to the south is currently the public open space where the "Hadzi sculpture" (formally titled "Fox River Oracle") is located.

East: CBD Central Business District. The adjacent land uses to the east are currently a mix of commercial uses.

Street Dedication – Lawrence Street and Appleton Street

February 25, 2020

Page 2

West: PD/R-3 Planned Development Multi-Family District. The adjacent land uses to the west are currently multi-family residential.

Comprehensive Plan 2010-2030: The City of Appleton *Comprehensive Plan 2010-2030* identifies this area for future Public Parks and Open Space uses. The proposed public right-of-way dedication is consistent with the following goal of the *Comprehensive Plan 2010-2030*.

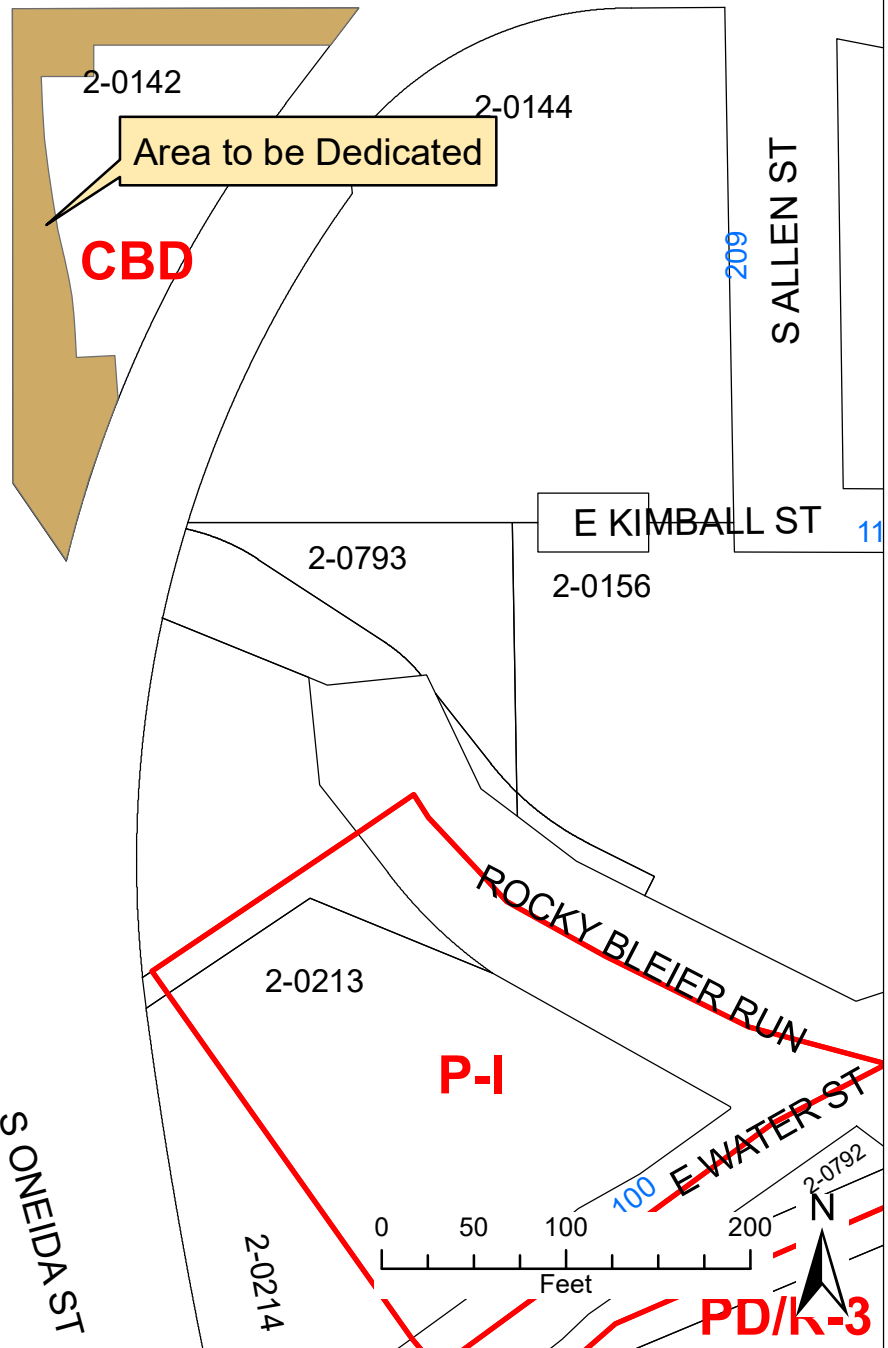
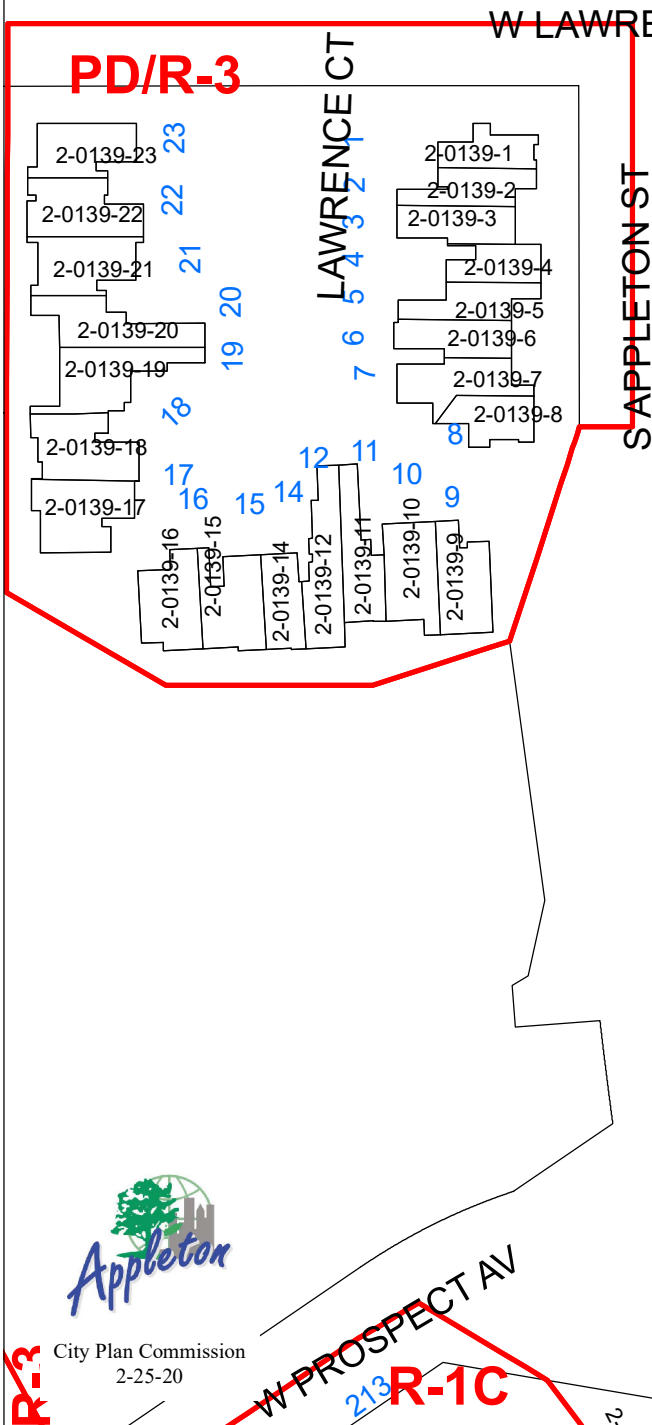
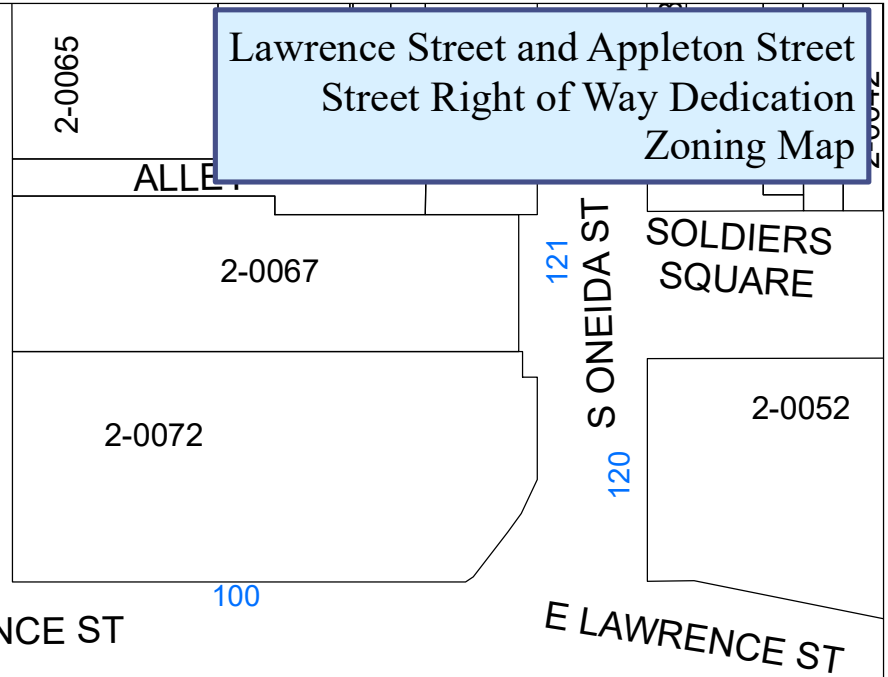
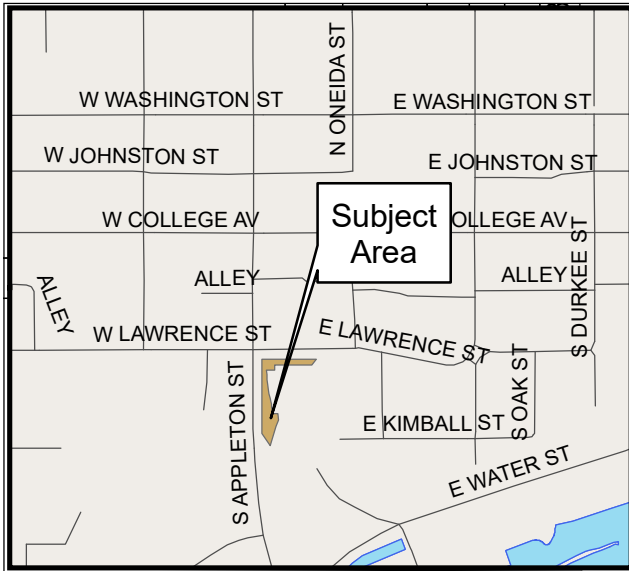
Goal 4 – Transportation

Appleton will support a comprehensive transportation network that provides viable options for pedestrian, bicycle, highway, rail, and air transportation, both locally and within the region.

Technical Review Group (TRG) Report: This item was discussed at the February 4, 2020 Technical Review Group meeting. No negative comments were received from participating departments.

RECOMMENDATION

Staff recommends the dedication of land for public right-of-way for Lawrence Street and Appleton Street, as shown on the attached maps, **BE APPROVED**.



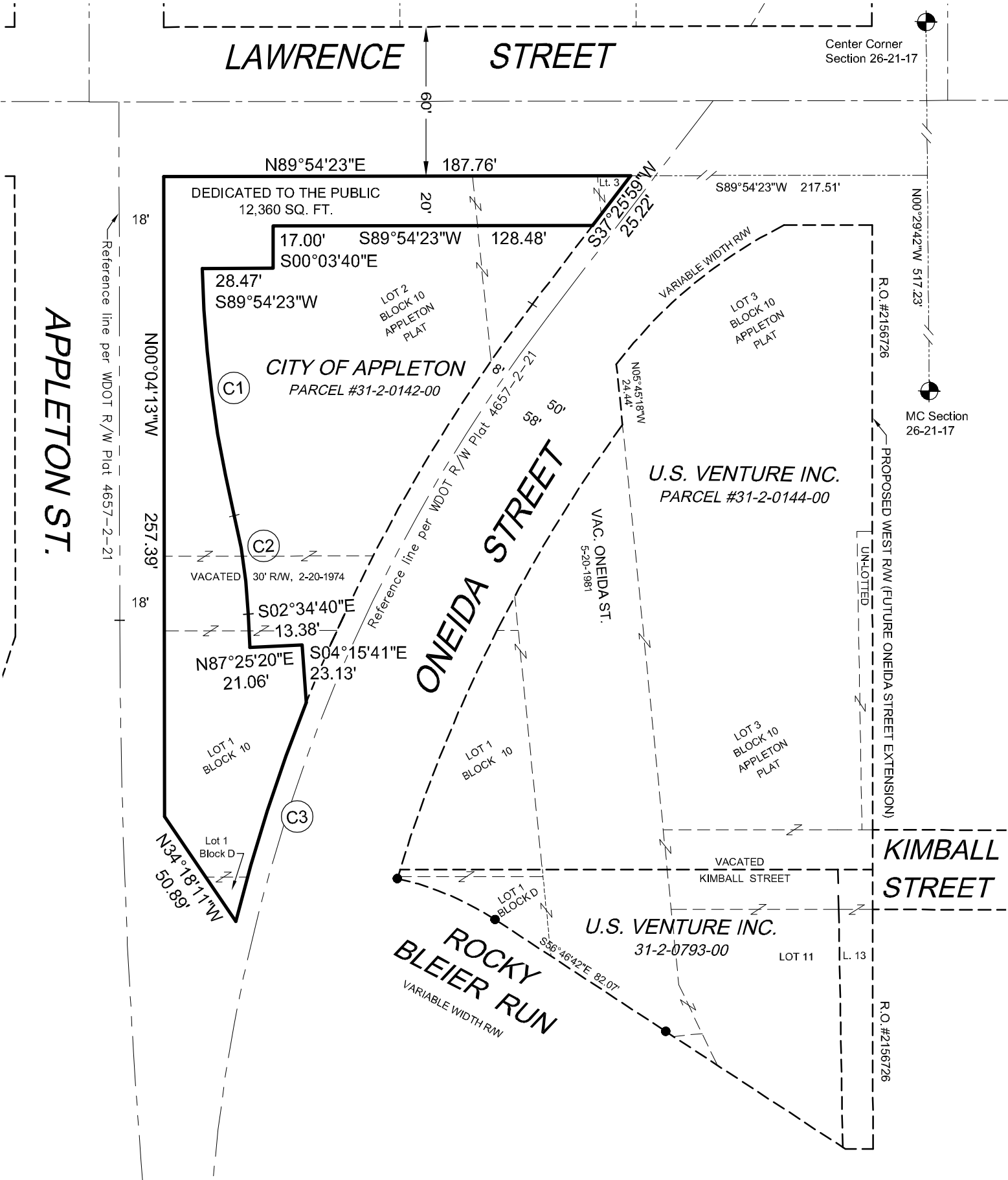
Lawrence Street and Appleton Street
Street Right-of-Way Dedication
Aerial Map



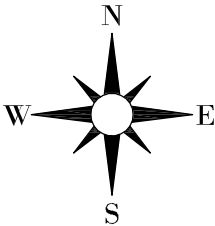
City Plan Commission
2-25-20

EXHIBIT "A"

A part of Lot One (1), Two (2) and Three (3), in Block Ten (10) and a part of Lot One (1), in Block D and a part of vacated Oneida Street lying between said Blocks Ten (10) and a part of a vacated 30 foot wide Alley lying between Lots One (1) and Two (2) of said Block Ten (10) , **SECOND WARD PLAT (AKA APPLETON PLAT)**, according to the recorded Assessor's Plat of the City of Appleton, all being located in the Southeast Quarter (SE ¼) of the Southwest Quarter (SW ¼) of Section Twenty-Six (26), Township Twenty-One (21) North, Range Seventeen (17) East, City of Appleton, Outagamie County, Wisconsin



CURVE DATA TABLE				
CURVE	RADIUS	LENGTH	LC	LCB
C1	459.50'	100.41'	100.21'	S07°21'02"E
C2	208.00'	40.05'	39.99'	S08°05'40"E
C3	675.54'	92.49'	92.42'	S17°50'12"W



BEARINGS ARE REFERENCED TO WISCONSIN COUNTY COORDINATES, OUTAGAMIE COUNTY

SCALE IN FEET



0' 50' 100'

CITY OF APPLETON
DEPT. OF PUBLIC WORKS
ENGINEERING DIVISION
100 NORTH APPLETON STREET
APPLETON, WI 54911
920-832-6474

DRAFTED BY: T. KROMM
H:\Acad\Vac.and Dedications\2020\Lawrence_Appleton_0120_2020

TAX PARCEL: 31-2-0142-00

Owner: City of Appleton

A portion of land for street right way being a part of Lot One (1), Two (2) and Three (3), in Block Ten (10) and a part of Lot One (1), in Block D and a part of vacated Oneida Street lying between said Blocks Ten (10) and a part of a vacated 30 foot wide Alley lying between Lots One (1) and Two (2) of said Block Ten (10) , **SECOND WARD PLAT (AKA APPLETON PLAT)**, according to the recorded Assessor's Plat of the City of Appleton, all being located in the Southeast Quarter (SE ¼) of the Southwest Quarter (SW ¼) of Section Twenty-Six (26), Township Twenty-One (21) North, Range Seventeen (17) East, City of Appleton, Outagamie County, Wisconsin, containing 12,360 square feet of land and being further described by :

Commencing at the Northwest Corner of Block 10 of said Second Ward Plat and being coincident with the Southeast corner of Lawrence Street and Appleton Street and being the point of beginning;
Thence North 89°54'23" East 187.76 feet along the North line said Block 10 and being coincident with the South line of Lawrence Street;
Thence South 37°25'59" West 25.22 feet along the Westerly line of Oneida Street;
Thence South 89°54'23" West 128.48 feet;
Thence South 00°03'40" East 17.00 feet;
Thence South 89°54'23" West 28.47 feet;
Thence Southerly 100.41 feet along the arc of a curve to the left having a radius of 459.50 feet and the chord of which bears South 07°21'02" East 100.21 feet;
Thence Southerly 40.05 feet along the arc of a curve to the right having a radius of 208.00 feet and the chord of which bears South 08°05'40" East 39.99 feet;
Thence South 02°34'40" East 13.38 feet;
Thence North 87°25'20" East 21.06 feet;
Thence South 04°15'41" East 23.13 feet to the Westerly line of Oneida Street;
Thence Southerly 92.49 feet, along the Westerly line of Oneida Street, along the arc of a curve to the left having a radius of 675.54 feet and the chord of which bears South 17°50'12" West 92.42 feet;
Thence North 34°18'11" West 50.89 feet along the Easterly line of Appleton Street to the West line of said Block 10;
Thence North 00°04'13" West 257.39 feet along West line of said Block 10 and being coincident with the East line of Appleton Street to the point of beginning.