



## REPORT TO CITY PLAN COMMISSION

**Plan Commission Informal Hearing Meeting Date:** October 24, 2016

**Common Council Public Hearing Meeting Date:** November 16, 2016  
(Public Hearing on Rezoning)

**Item:** Rezoning #6-16, Rezone 2830 East John Street from PD/C-O Planned Development Commercial Office District #3-93 to C-O Commercial Office District

**Case Manager:** Don Harp

### GENERAL INFORMATION

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**Owner:** Bytof Family LTD Partnership

**Applicants:** Ryan Fulcer, Regional Vice President, Coldwell Banker – The Real Estate Group, Inc.  
Joel Ehrurth, P.E., Mach IV Engineering & Surveying, LLC

**Address/Parcel:** 2830 East John Street / 31-4-5885-00

**Petitioner's Request:** Rezone 2830 East John Street from PD/C-O Planned Development Commercial Office District #3-93 to C-O Commercial Office District for an expansion of the existing office building to accommodate business growth.

### BACKGROUND

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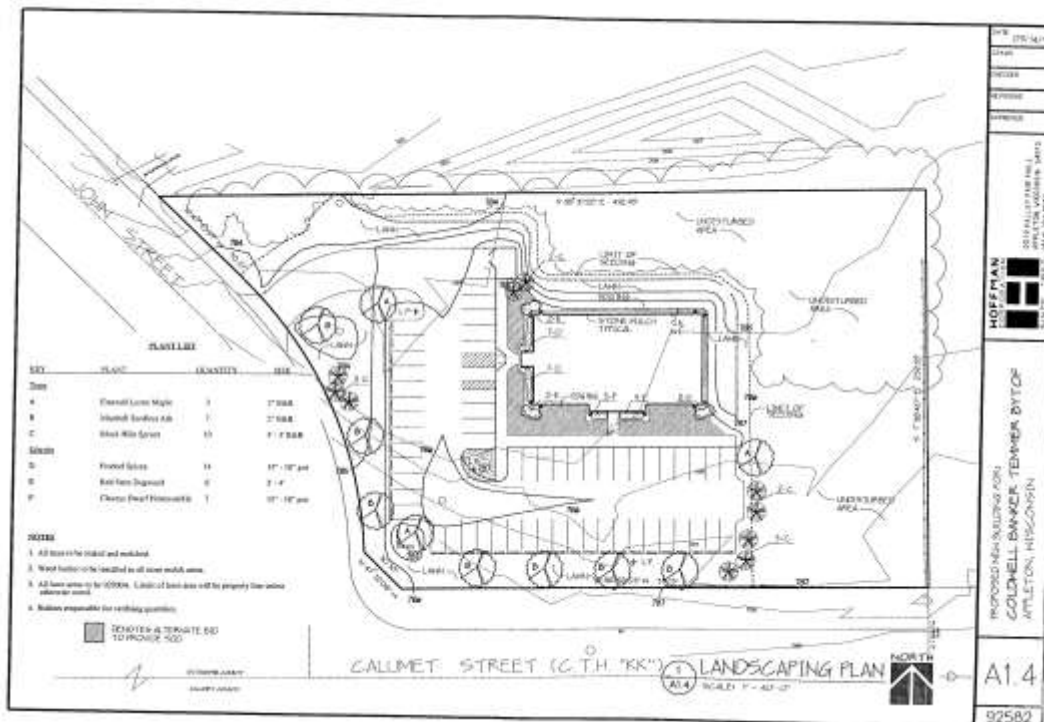
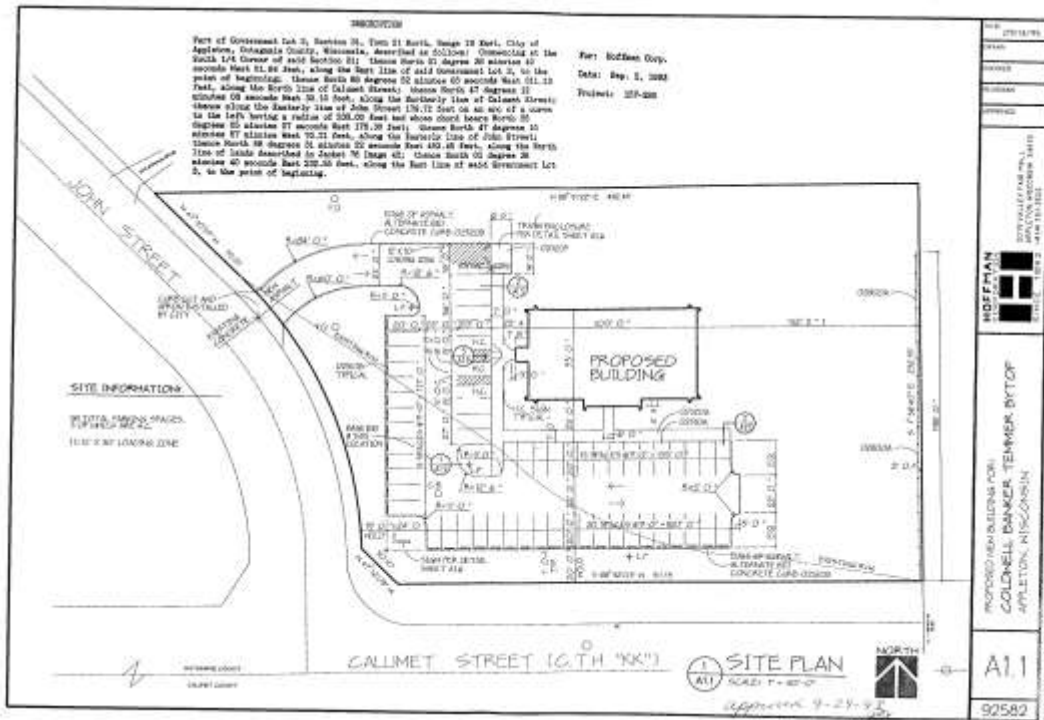
- In 1993, the original property owners began the process to rezone the subject property from R-1A Single-family District to P.D.D. Planned Development Overlay District #3-93 to construct a commercial real estate office building and surface parking on the subject property. The following is a summary of concerns raised by the adjacent property owners:
  1. The subject property was not suitable and appropriate for commercial development because the subject site is adjacent to residential properties.
  2. The rezoning would be creating an island of commercial property within residential properties.
  3. Decrease in property value of homes could occur.
  4. Other vacant land adjacent to the existing residential properties will also be rezoned from residential zoning to commercial zoning (domino effect). (See 1992-1993 Aerial Photograph)
  5. A gas station could be built on the property.

In order to address the neighborhood concerns, the following twelve (12) conditions (deed restrictions) were approved as part of P.D.D. Planned Development Overlay District #3-93. As it stands now, City Staff acknowledges the conditions (deed restrictions) as binding to current and subsequent property owners. As a result, the existing building and surface parking lot cannot be expanded for any purpose unless a planned development amendment or rezoning is approved pursuant to Chapter 23 Zoning Ordinance of the Municipal Code.

**PD/C-O #3-93 Conditions of Approval:**

1. The property will be developed for a real estate office use.
  2. The building will be one story and contain up to approximately 7,200 square feet of space.
  3. The building will be set back a minimum of 100 feet from both John Street and Calumet Street right-of-way lines.
  4. The building will be set back a minimum of 120 feet from the east property line. The area within the 120 foot setback will be deed restricted to prevent any additional construction of buildings or parking being placed there.
  5. A maximum of 60 parking spaces will be created on the site.
  6. The site will be developed with one curb cut on John Street located at the northwest corner of the site.
  7. A four (4) foot berm with landscaping will be located to the east of the parking lot as to effectively block the view of the cars from the homes located adjacent to the property.
  8. Exterior lighting will be designed to direct light only in the area immediately adjacent to the building and in the parking lot. No lighting shall be allowed within the 120 foot building setback from the east property line.
  9. The property will be developed as shown on the approved development plan or as modified through the site plan review process.
  10. Freestanding signage will be limited to one sign and the sign will not be located within the 120 foot building setback from the east property line. The freestanding sign will be low-profile in design (monument-like) with a maximum height not to exceed eight feet and which conforms to the City's sign code.
  11. To maximize the visual aesthetics and mitigate sound transmission the adjacent property owners, the office owners and the Department of Planning and Development will negotiate the feasibility of planting additional vegetation, installing a privacy fence and/or extending the berm prior to the City of Appleton granting final site plan approval. This will include, but not be limited to, the following:
    - a. Fencing: A decorative wooden privacy fence along the northern and/or eastern boundary of the site will be installed by the office owners if requested by the present property owners. The decorative side will face the adjacent property owners' residences. The request for the privacy fence must be made in writing to the office owners within six months of the issuance of the permanent office occupancy permit by the City of Appleton.
    - b. Vegetation: The office owner will supplement existing vegetation with trees and/or shrubs to improve the buffer of the real estate office from adjoining residential uses. This will involve the installation of additional vegetation of suitable size and species and the possible removal of existing vegetation.
    - c. Berm: A berm with landscaping will be considered for installation the entire length of the east property line from Calumet Street to the northern boundary of the property. Space shall be allowed in case fencing is requested.
  12. All rezoning conditions will be part of the rezoning ordinance and included as deed restrictions.
- On May 18, 1994, Ordinance 61-94 was adopted, which repealed and recreated the Zoning Ordinance and Zoning Map. This Zoning Ordinance introduced the Planned Development (PD) Overlay District. As a result, the subject property's zoning classification changed to PD/C-O Planned Development Commercial Office District #3-93 (PD/C-O #3-93). The twelve (12) conditions (deed restrictions) and the approved site plan and landscape plan remain in effect.

PD/C-O #3-93 Approved Site Plan and Landscaping Plan



PD/C-O #3-93 Approved Site Plan and Landscaping Plan

## PHYSICAL CHARACTERISTICS (1992-1993)

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Site Description: Undeveloped

Surrounding Land Uses: Residential and Undeveloped

1992-1993 Aerial Photograph

## PHYSICAL CHARACTERISTICS (2014-2016)

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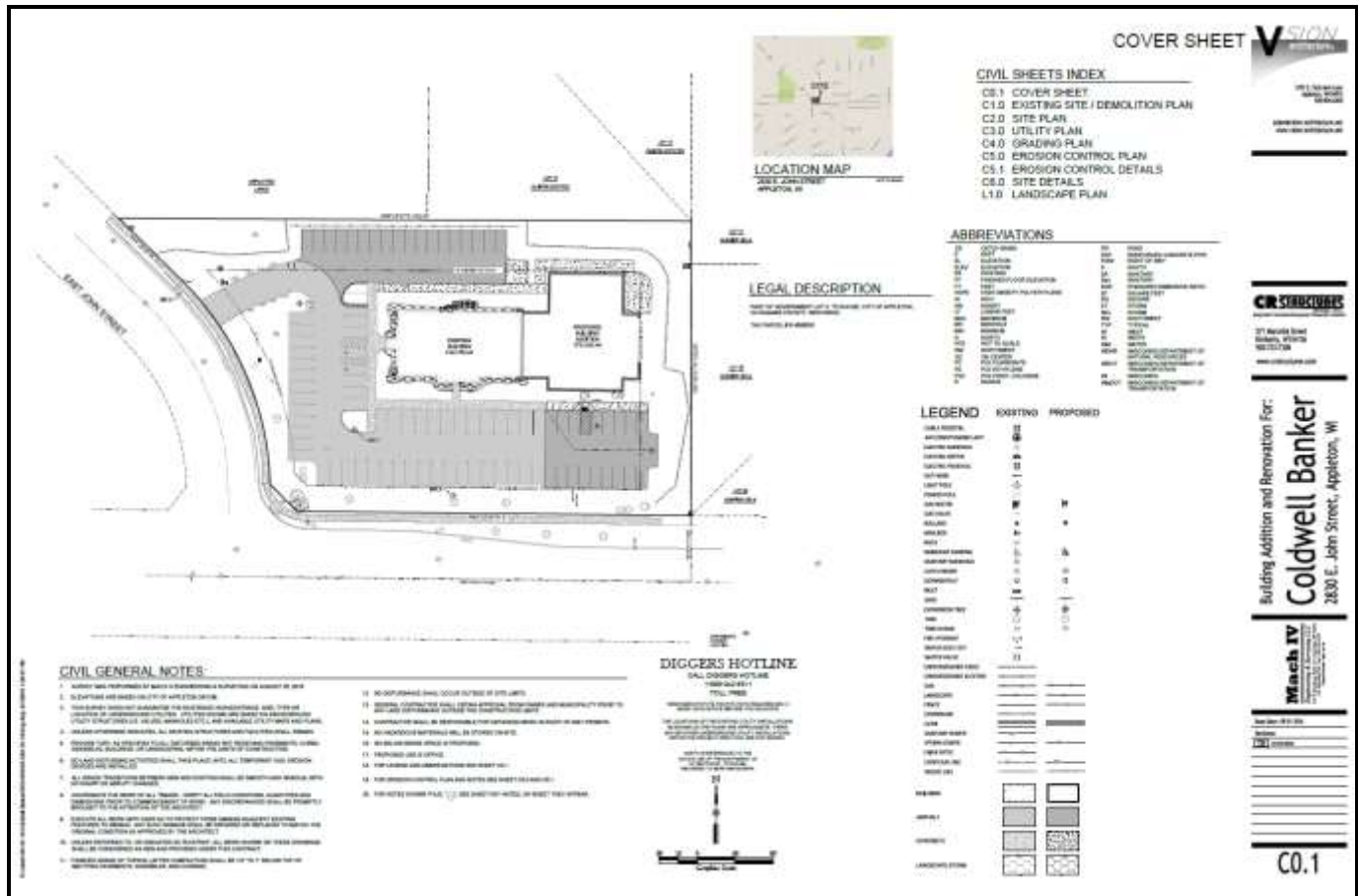


Site Description: Real Estate Office

Surrounding Land Uses: Residential, Office, General Commercial

2014 Aerial Photograph

PROPOSED DRAFT SITE PLAN:



Proposed Draft Site Plan

STAFF ANALYSIS

**Evaluation:** The request is to rezone the subject site from PD/C-O Planned Development Commercial Office District #3-93 to the base zoning classification of C-O Commercial Office District for the purpose of removing the twelve (12) conditions (deed restrictions), particularly conditions 2, 4, 5 and 8 (noted above) which prevent the existing building and surface parking lot from being expanded for any purpose.

Planned Development Overlay Districts are intended to permit flexibility and encourage innovative design by allowing a mixture or combination of residential, public institutional, commercial, and manufacturing uses in areas of the City where such development could positively contribute to the physical appearance with the existing and potential development of the surrounding neighborhood. The Planned Development District is a specially tailored zoning district which designates the zoning regulations for the accompanying project, sets specific development standards, and ensures that zoning and the Comprehensive Plan are consistent.

The purpose of the C-O Commercial Office District is to provide a buffer between commercial and residential areas by permitting professional or business offices that serve the general public. Stringent setback and landscaping standards required in this district are intended to create a visual screen for adjacent properties.

The Planned Development Overlay District #3-93 was utilized to impose land use and development restrictions more restrictive than the base C-O Commercial Office District on the subject site which is contrary to the purpose and intent of the Planned Development Overlay District as stated above.

Based upon the information submitted, the proposal is for the construction of a  $\pm 7,400$  square foot real estate office building addition to increase the amount of office space for anticipated employee growth, bringing the size of the building to  $\pm 13,000$  square feet. The proposed draft site plan indicates the proposed building addition will be setback a minimum of 40 feet from the north and east lot line and 95 feet from Calumet Street. The proposed building location is consistent with the C-O Commercial Office District principal building setbacks which are: 40 feet minimum from a residentially-zoned district and 20 feet minimum from the front lot line. The draft site plan indicates 17 new parking spaces along the front of the proposed building addition, with a potential of 18 parking spaces being added along the rear of the building, for a total of 87 parking spaces. The proposed parking spaces are setback a minimum of 26 feet from the east lot line and 8 feet from the north lot line. The parked vehicles will be screened in accordance with applicable City Ordinances and a proposed and existing 6 foot high fence. Landscape treatments are unknown at this time but will be reviewed during the site plan review process, if the rezoning request is approved. Vehicular access will come from John Street and will be toward the rear and front of the building. No new vehicle access points are proposed. Pedestrian access is along sidewalks on John Street and Calumet Street and a bike lane along John Street.

Based upon the above analysis, it appears the applicant has demonstrated the proposed development can meet the base C-O Commercial Office District zoning classification development standards and purpose statement.

#### **Surrounding Zoning Classification and Land Uses:**

North: R-1A Single-Family District. The adjacent land uses to the north are currently single-family residential uses.

South: R-2 Two-Family District. The adjacent land uses to the south are currently two-family residential and Community Based Residential facility.

East: R-1B Single-Family District. The adjacent land uses to the east are currently single-family residential uses.

West: PD/C-2 Planned Development General Commercial District. The adjacent land uses to the west are currently commercial.

**Proposed C-O Zoning District:** The development and use standards for the C-O Commercial Office District are listed below:

(b) *Principal permitted uses.*

<ul style="list-style-type: none"> <li>• Clubs.</li> <li>• Educational institutions; business, technical or vocational school.</li> <li>• Educational institutions; college or university.</li> <li>• Governmental facilities.</li> <li>• Museums.</li> <li>• Places of worship.</li> <li>• Public parks or playgrounds.</li> <li>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building.</li> </ul>	<ul style="list-style-type: none"> <li>• Multi-tenant building.</li> <li>• Offices.</li> <li>• Personal services.</li> <li>• Professional services.</li> <li>• Veterinarian clinics.</li> </ul>
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(e) *Special uses.*

<ul style="list-style-type: none"> <li>• Educational institutions; elementary school, junior high school or high school.</li> <li>• Essential services.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• Electronic towers pursuant to §23-66(h)(1).</li> <li>• Helicopter landing pads pursuant to §23-66(h)(9).</li> <li>• Parking garages.</li> <li>• Recycling collection point pursuant to §23-66(h)(14).</li> <li>• Tower or antenna for telecommunication services, pursuant to Article XIII.</li> </ul>
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(h) *Development standards.*

- (1) **Minimum lot area.** Nine thousand (9,000) square feet.
- (2) **Maximum lot coverage.** Sixty percent (60%).
- (3) **Minimum lot width.** Eighty (80) feet.
- (4) **Minimum front yard.** Twenty (20) feet.
- (5) **Minimum rear yard:**
  - a. Twenty-five (25) feet.
  - b. Forty (40) feet if abutting a residentially-zoned district.
- (6) **Minimum side yard:**
  - a. Ten (10) feet.
  - b. Forty (40) feet if abutting a residentially-zoned district.
- (7) **Maximum building height.** Thirty-five (35) feet.

**Appleton Comprehensive Plan 2010-2030:** The City of Appleton *Comprehensive Plan 2010-2030* identifies this area for future commercial uses. The proposed C-O Commercial Office District rezoning is consistent with the Future Land Use Map. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

*Goal 1 – Community Growth*

*Appleton will continue to provide opportunities for residential, commercial, and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods and greenfield development sites at the City's edge.*

*Chapter 7 Utilities and Community Facilities:*

7.1 *OBJECTIVE: Provide a pattern of development that minimizes impacts to municipal services and utilities.*

*Goal 8 – Economic Development*

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

*Chapter 9 Economic Development:*

9.4 *OBJECTIVE: Encourage new development and redevelopment activities that create vital and attractive neighborhoods and business districts.*

*Chapter 10 Land Use:*

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

**Standards for Zoning Map Amendments:** Per Section 23-65(d)(3) of the Municipal Code, all recommendations for Official Zoning Map amendments shall be consistent with the adopted plans, goals, and policies of the City and with the intent of the Zoning Ordinance. Related excerpts are listed below.

- a. Prior to making a recommendation on a proposed rezoning, the Plan Commission shall make a finding to determine if the following conditions exist. No rezoning of land shall be approved prior to finding at least one of the following:
  1. The request for a zone change is in conformance with the Comprehensive Plan for the City of Appleton.

***Findings:*** *The rezoning request is in conformance with the above stated goals and objectives of the Comprehensive Plan 2010-2030 and the Future Land Use Map, which identifies this area for future commercial uses.*

2. A study submitted by the applicant that indicates that there has been an increase in the demand for land in the requested zoning district, and as a result, the supply of land within the City mapped as such on the Official Zoning Map, is inadequate to meet the demands for such development.
  3. Proposed amendments cannot be accommodated by sites already zoned in the City due to lack of transportation, utilities or other development constraints, or the market to be served by the proposed use cannot be effectively served by the location of the existing zoning district(s).
  4. There is an error in the code text or zoning map as enacted.
- b. In addition to the findings required to be made by subsection (a), findings shall be made by the Plan Commission on each of the following matters based on the evidence presented:
1. The adequacy of public facilities such as transportation, utilities and other required public services to serve the proposed site.

***Findings:** The subject area is served by existing infrastructure, and the transportation network should be able to accommodate the proposed development.*

2. The effect of the proposed rezoning on surrounding uses.

***Findings:** The commercial and associated parking uses are already present on the subject site and located to the west as well. Development standards for the C-O District, including minimum setbacks, are intended to create a separation from the single-family residential uses located to the east and north. Therefore, the proposed rezoning request is unlikely to create adverse impacts in the surrounding neighborhood.*

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

**Technical Review Group (TRG) Report:** This item was discussed at the October 4, 2016 Technical Review Group meeting. No negative comments were received from participating departments.

The Fire Department indicated that if the owner plans to construct the project as shown on the draft site plan, a conflict with the State's adopted building code, NFPA-1, 2012 edition may occur.

- Chapter 18, and specifically 18.2.3.4.4 "Dead Ends" fire department access roadways in excess of 150 feet in length shall be provided with an approved means to turn around.

**Neighborhood Meeting:** A neighborhood meeting was held on October 12, 2016 by the owner/applicant (See attached correspondence)

**RECOMMENDATION**

Staff recommends, based upon the standards for zoning map amendments as required by Section 23-65(d)(3) of the Zoning Ordinance, that Rezoning Application #6-16 to rezone the subject site located at 2830 East John Street (Tax Id #31-4-5885-00) from PD/C-O Planned Development Commercial Office District #3-93 to C-O Commercial Office District, including to the centerline of the adjacent right-of-way and as shown on the attached map, **BE APPROVED**.

Rezoning PD/CO # 3-93  
Planned Development Commercial Office District  
to C-O Commercial Office District

Subject Area

Subject Area

R-1A

PD/C-2

PD/C-O

R-1B

P-I

R-2

R-1B

C-O



City Plan Commission  
10-24-2016

0 50 100 200 Feet



VISION  
aligncentres

**LOCATION MAP**  
2830 E. JOHN STREET  
APPLETON, WI

## L1.0 LANDSCAPE PLAN

[illegible]

## TAX PARCEL #014600300

[illegible]

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1-800-242-8511  
TOLL FREE

[illegible]

## CO.1

571 Marcella Street  
Kimberly, WI 54136  
920-733-7305  
www.crsstructures.com

**Mach IV**  
Engineering & Surveying LLC  
211 K. Broadway, Suite 114, Green Bay, WI 53101  
Ph: 820-340-5767 Fax: 820-340-5762  
Project Number: 1305-05-04

Issue Date: 09-01-2016  
Revised:  
City: XXX-XX-XXXX

# Mach IV

*Engineering & Surveying LLC*

October 4, 2016

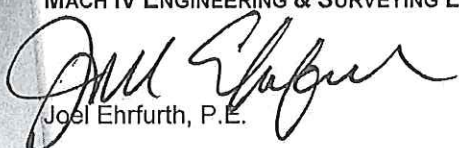
Dear Neighbor,

You are cordially invited to a community information session regarding the proposed addition to the Coldwell Banker office at 2830 E. John St. Representatives of Coldwell Banker, Vision Architecture LLC, CR Structures, and Mach IV Engineering & Surveying will be available to provide information and answer questions. The short meeting will be held on Wednesday, October 12, 2016 at the Coldwell Banker offices at 2830 E. John St. at 5:30pm.

We look forward to seeing you on the 12<sup>th</sup>.

Regards,

**MACH IV ENGINEERING & SURVEYING LLC**

  
Joel Ehrfurth, P.E.

## COLDWELL BANKER BUILDING EXPANSION COMMUNITY INFORMATION MEETING LIST OF ATTENDEES

**Date: October 12, 2016**

**Time: 5:30 pm**

**Location:** 2830 E John Street, Appleton, WI 54915

Name

**Address**

**Phone**

Pete/Karla Wallace 2810 E John 920-731-4204

Mark + Ann Peterson 1840 Quintic Ct 734-1060