TOWN OF DELAFIELD PLAN COMMISSION MEETING
Tuesday, June 5, 2018, 7:00 p.m.
Town of Delafield Town Hall
W302 N1254 Maple Avenue, Delafield, WI 53018

AGENDA

1. Call to Order and Pledge of Allegiance

2. Approval of the minutes of May 1, 2018

3. Communications (for discussion and possible action): None

4. Unfinished Business:
   A. Town of Delafield, Re: Discussion, consideration and possible action on amendments to the Town Zoning Code related to regulation of Conditional Uses.

5. New Business:
   A. Church of the Resurrection, Randy Kohn, Council President on behalf of Lake Country Childcare, Corn Vincic, operator, Re: Consideration and possible action on the approval of a site plan and plan of operation for the operation of Lake Country Childcare located within the Church of the Resurrection W287 N3700 North Shore Drive.

6. Discussion: None

7. Announcements and Planning Items: Next meeting - To be determined (scheduled date is July 3, 2018)

8. Adjournment

Mary T. Elesner, CMC, WCMC
Town Clerk

The Plan Commission may take action on any item on the agenda. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice. Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact Mary Elesner, Town Clerk, at W302 N1254 Maple Avenue, Delafield, WI 53018-2117. This agenda is for informational purposes only. Posted on 5/31/18
May 14, 2018

Tim G. Barbeau, P.E., R.L.S.
Delafield Town Eng/Zoning Adm
R.A. Smith National, Inc.
16745 W. Bluemound Road
Brookfield, WI 53005

Re: Residential Planned Unit Development in Chapter 18
First Draft

Dear Mr. Barbeau:

I received your request that I prepare a first draft of the code changes that would be needed, if the Town would move Residential Planned Unit Development review into Chapter 18 of the Town Code. This follows from 2017 Act 67 that, among other things, significantly limited municipal authority concerning conditional uses, and raised concerns about review of residential planned unit developments. I have had an opportunity to carefully consider this matter.

Enclosed please find a first draft of the changes that I propose in this regard, if this is the direction chosen by the Town. As you will see, the substantive terms remain virtually identical to the existing terms. Instead of reviewing PUD’s through a conditional use process, PUD’s would be reviewed simply through plat approval procedures.

I understand that there is a related issue being debated by the Plan Commission, of whether use of Planned Unit Development should remain mandatory in the A-1 District, or be changed to permissive. I did not address that issue in the attached. If the policy decision is to make it permissive rather than mandatory, it would be a simple matter to remove the mandatory language from the Code.

Finally, keep in mind that most developments will still need to follow a rezoning process as part of any development of the land. Conditions can be placed on any rezoning to ensure that the development is adequately controlled as intended. For example, the rezoning could be granted subject to a PUD being approved per Section 18.16 of the Code; or the rezoning approval could be deferred until the plat that includes the PUD is ready for approval, so that the PUD and rezoning can be adopted together. By using land division controls such as described in the attached, in conjunction with careful consideration of any rezoning of land, we might approximate the discretionary authority that we previously exercised regarding PUD review.
If you should have any questions or concerns regarding these matters, please do not hesitate to contact me.

Yours very truly,
MUNICIPAL LAW & LITIGATION GROUP, S.C.

Eric J. Larson

EJL/egm
cc: Larry Krause, Town Chair
    Mary Elsner, Town Clerk/Treasurer
C:\Wy\Files\Delaf\Zoning Code\Barbeau Fr 5.14.18.docx
17.05. 5. AM. Residential Planned Unit Development.
[repeal this from conditional use section of zoning code]

17.04 5. F. A-1 AGRICULTURAL DISTRICT

1. STATEMENT OF INTENT AND DEVELOPMENT CONTROL

The A-1 Agricultural District is intended to provide for the needs of agriculture as a primary use as well as residential uses associated with such use, and to maintain in agricultural uses those lands generally suited for such use which may have the ultimate potential for other use. To maintain open space, it is intended that residential development be limited to planned unit development. To the extent that the setback, offset, height, minimum floor area, minimum lot size, density and open space requirements of this Section are more restrictive than those expressly permitted by a Residential Planned Unit Development duly approved pursuant to Section 18.16 of this Code, the requirements of this Section are hereby reduced accordingly.

17.04 4. DEVELOPMENT STANDARDS.

To the extent that the setback, offset, height, minimum floor area, minimum lot size, density and open space requirements of this Chapter are more restrictive than those expressly permitted by a Residential Planned Unit Development duly approved pursuant to Section 18.16 of this Code, the requirements of this Chapter are hereby reduced accordingly. The Subject to the foregoing limited exception, the following is a summary of the development standards as outlined in this chapter: ...

18.16. Residential Planned Unit Development

1. STATEMENT OF INTENT

A subdivision can be developed as a Residential Planned Unit Development pursuant to this Section. Residential Planned Unit Development is intended to provide for open space/cluster/conservation type residential developments. Such developments incorporate the preservation or enhancement of environmental areas into the development; provide a safe and efficient system for pedestrian and vehicular traffic; provide attractive permanent open spaces as integral part of the development; allow flexibility of overall development design, and ensure adequate standards of planning and construction are met. Residential Planned Unit Development application and review is
conducted through the plat approval procedures of this Chapter, in conjunction with the plat, subject to the additional requirements of this Section.

2. **MINIMUM ACREAGE**

Areas designated as Residential Planned Unit Overlay District shall be under single corporate ownership or control and shall contain a minimum development area of:

1. Residential PUD, not in A-1 zoning district 20 acres
2. Residential PUD in A-1 zoning district 40 acres

3. **BUILDING LOCATION**

   (a) Setback 50 feet minimum.

   (b) Offset 20 feet minimum.

4. **BASE HEIGHT REGULATIONS**

   (a) Principal Residence 30 feet maximum.

   (b) Accessory Structures 12 feet maximum.

5. **LOT AREA REGULATIONS**

   (a) Lot size and open space: in accordance with table 18-2 herein

   (b) Lot width: in accordance with table 18-3

   (c) Floor Area: (1) Single Floor: 1,500 square feet.

       (2) All Other: See Zoning Code §17.03 5. A.

6. **STANDARDS UNDER WHICH PERMITTED**

   Residential Planned Unit Development approval shall not be granted to a development unless all of the following standards are met:

   a. The land must be divided by subdivision plat, pursuant to the plat approval procedures of this Chapter.

   a-b. No structures or sewage disposal systems shall be allowed in the Wetland-Floodplain District or within 100' of the district.

   b-c. A minimum of 40% of the total PUD area shall be set aside as permanent common open space. The overall density shall not exceed the maximum density allowed under these regulations.

   e-d. The unified and planned development of a site, in single or corporate ownership at the time of development, may be permitted in a planned development without the customary division into individual lots and without requiring strict compliance with the specific district regulations, subject to the requirements of this section.
Lot size, offset, setback and open space and floor area requirements may be modified according to the following conditions:

(1) All sanitary provisions must conform to the requirements of the State Department of Industry, Labor and Human Relations, the County Health Department, the local sanitary district and the Town;

(2) The proposed development must be in conformity with any local comprehensive plan, must not be contrary to the general welfare or economic balance of the community and the benefits and amenities of the resultant development must justify the variation from the normal requirements of the district in which it is located;

(3) All other requirements of the Planned Development must be met as set forth in this subparagraph;

(4) The provisions of sections 18.06 and 18.07 of this General Code shall govern the design and construction of all roads and public improvements. Any modification of these standards must be consistent with good engineering practices and be approved in writing by the Town Board;

(5) The provisions of section 18.07 shall govern with respect to dedication of public sites or payment in lieu of dedication; and

(6) Except as specifically provided in subsection (7)(a) (7)(b) or (8)(a), below, the application of these regulations shall be limited to parcels of not less than 20 acres in area.

(7) In areas designated as "Pewaukee Lake Non-Shoreline Redevelopment Overlay District" the following conditions, in addition to those conditions above that are not in conflict, shall apply:

(a) The parcel shall be at least 5 acres in area, and shall be identified in the Land Use Plan as being within the Pewaukee Lake Non-Shoreline Redevelopment Overlay District.

(b) The Plan Commission in making its recommendation and the Town Board in making its decision shall take into consideration the following: that although a planned unit development is permitted in this district, it is the intent that such development be designed to preserve to the greatest extent reasonably possible, lake views and vistas, woodlands, steep slopes, and other natural features.

(8) In a PUD with an A-1 Agricultural base district the following conditions, in addition to those conditions above that are not in conflict, shall apply:

(a) Preserve to the greatest extent reasonably possible, farm fields, pastures and open lands suited to general farming in addition to orchards, woods, bodies of water, marshes and other natural features.

(b) The open space shall be owned by the subdivision Homeowner's
Association. The open space may be used for agricultural purposes by any entity who will actively engage in farming on the land. Any farmstead remaining on the property shall be designated and constitute one (1) lot of the subdivision.

**e.f.** Table 18-1 shall be utilized to compute the maximum dwelling unit density that may be allowed for the development and shall be referred to as the residential density factor.

**TABLE 18-1**

<table>
<thead>
<tr>
<th>District Type</th>
<th>Density Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1 Agricultural Districts</td>
<td>120,000 s.f./dw. unit</td>
</tr>
<tr>
<td>A-2 Rural Home District</td>
<td>120,000 s.f./dw. unit</td>
</tr>
<tr>
<td>A-3 Suburban Home District</td>
<td>78,000 s.f./dw. unit</td>
</tr>
<tr>
<td>C-1 Upland Environmental Corridor Overlay</td>
<td>217,800 s.f./dw. unit</td>
</tr>
<tr>
<td>R-1 Residential District</td>
<td>60,000 s.f./dw. unit</td>
</tr>
<tr>
<td>R-(A) Residential District</td>
<td>41,000 s.f./dw. unit</td>
</tr>
<tr>
<td>R-2 Residential District</td>
<td>30,000 s.f./dw. unit</td>
</tr>
<tr>
<td>R-3 Residential District</td>
<td>20,000 s.f./dw. unit</td>
</tr>
<tr>
<td>R-L Residential Lake District</td>
<td>20,000 s.f./dw. unit</td>
</tr>
</tbody>
</table>

**f.g.** The specific allowable maximum number of dwelling units shall be computed by dividing the total area allowable for density by the appropriate Residential Density Factor; existing public right-of-way, open space easements and 80% of lands designated as floodplain, wetlands Environmental Corridor or Isolated Natural Resource Area may not be included in the area for density computation.
Table 18-2 shall be utilized to determine the absolute minimum lot size and open space per family per lot which may be utilized for the platting of lots in the planned unit development.

<table>
<thead>
<tr>
<th>District</th>
<th>Minimum Lot Size</th>
<th>Minimum Open Space Per Lot</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1 Agricultural District</td>
<td>36,000 s.f.</td>
<td>80%</td>
</tr>
<tr>
<td>A-2 Rural Home District</td>
<td>60,000 s.f.</td>
<td>80%</td>
</tr>
<tr>
<td>A-3 Suburban Home District</td>
<td>40,000 s.f.</td>
<td>75%</td>
</tr>
<tr>
<td>C-1 Upland Environmental Corridor Overlay</td>
<td>Per Underlying District</td>
<td>Per Underlying District</td>
</tr>
<tr>
<td>R-1 Residential District</td>
<td>30,000 s.f.</td>
<td>75%</td>
</tr>
<tr>
<td>R-1(A) Residential District</td>
<td>30,000 s.f.</td>
<td>80%</td>
</tr>
<tr>
<td>R-2 Residential District</td>
<td>25,000 s.f.</td>
<td>80%</td>
</tr>
<tr>
<td>District</td>
<td>Minimum Lot Width</td>
<td>Setback</td>
</tr>
<tr>
<td>----------</td>
<td>------------------</td>
<td>---------</td>
</tr>
<tr>
<td>A-1</td>
<td>Agricultural District</td>
<td>150'</td>
</tr>
<tr>
<td>A-2</td>
<td>Rural Home District</td>
<td>175'</td>
</tr>
<tr>
<td>A-3</td>
<td>Suburban Home District</td>
<td>150'</td>
</tr>
<tr>
<td>C-1</td>
<td>Upland Environmental Corridor Overlay</td>
<td>Per Underlying District</td>
</tr>
<tr>
<td>R-1</td>
<td>Residential District</td>
<td>130'</td>
</tr>
<tr>
<td>R-1(A)</td>
<td>Residential District</td>
<td>130'</td>
</tr>
</tbody>
</table>

**TABLE 18-3**

Table 18-3 shall be utilized to determine the absolute minimum average lot width, setback and offsets which may be utilized for the individual lots.
<table>
<thead>
<tr>
<th>Code</th>
<th>District</th>
<th>Lot Line Distance</th>
<th>Side Line Distance</th>
<th>Front Line Distance</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-2</td>
<td>Residential District</td>
<td>120'</td>
<td>50'</td>
<td>20'</td>
</tr>
<tr>
<td>R-3</td>
<td>Residential District</td>
<td>120'</td>
<td>50'</td>
<td>20'</td>
</tr>
<tr>
<td>R-L</td>
<td>Residential Lake District</td>
<td>100'</td>
<td>50'</td>
<td>20'</td>
</tr>
</tbody>
</table>

Up to a maximum of 20% of the area of lands which are zoned Wetland-Floodplain within the project may be used to determine planned development project densities. However, in no case, shall the total area of Wetland-Floodplain zoned lands used in the computation exceed 25% of the net area of the project which is zoned other than Wetland-Floodplain.

j. Adequate guarantee shall be provided for permanent retention of open area resulting from these regulations, either by private reservation for use of the residents within the development or by public dedication. The parcels created as open space in all zoning districts other than the A-1 District shall be owned in common by the residents of the development or by a home owners association and shall not be further divided nor shall they be used for residential purposes. Buildings or structures for noncommercial, recreational or accessory facilities may be permitted in such open space area subject to specific grant in the conditional use permit. Perpetual care and maintenance of such open space areas shall be provided for and an operational plan shall be submitted for specific approval and inclusion in the terms of the permit. Ownership and tax liability of the open space areas shall be established in a manner acceptable to the Town and shall be made a part of the conditions of approval.

k. Where the use is not proposed to be served by public sanitary sewers, the use of private treatment systems pursuant to SPS 83 Wisconsin Administrative Code shall apply, subject to the following:

1. Private systems serving one dwelling unit shall be privately owned and maintained.

2. Private systems serving more than one dwelling unit shall be the responsibility of an incorporated Owners Association subject to a maintenance and management agreement. Such agreements shall give the Town the right to inspect all facilities and make repairs at the expense of the Owners Association. In the event that the incorporated Owners Association fails to maintain or make repairs to the private system to the satisfaction of the Town, the maintenance and management agreement shall grant the Town the authority to conduct said maintenance or repairs at the expense of the Owners Association. In the event of nonpayment, all costs incurred shall be placed on the tax bills of all Owners Association properties on a prorata basis as a special assessment or special charge.

m. The total number of dwelling units allowed for the project shall be determined by utilizing the density computation above.
n. The floor area of attached or detached single family dwellings and duplexes shall not be less than what is required in the applicable zoning district.

o. The architectural style of the buildings may be subject to approval by the Plan Commission.

p. Subject to specific approval by the Town Board, floor area for multiple dwelling units may be modified in accordance with table 18-4.

| Efficiency or one bedroom apartment | 900 s.f. |
| Two bedroom unit                   | 1050 s.f. |
| Three bedroom unit                 | 1250 s.f. |

q. The developer shall enter into an appropriate contract with the Town to guarantee the implementation of the development according to the terms and conditions established as part of the development plan approval.

7. BASIS FOR APPROVAL

The Plan Commission in making its recommendation and the Town Board in making its determination as to the approval or denial of the land division for planned development shall give consideration to the purposes and standards in this section and be satisfied as to the following:

(1) That the proposed development is consistent with the spirit and intent of the chapter, is in conformity with the general character of the Town and would not be contrary to the general welfare and economic prosperity of the Town or of the immediate neighborhood, but rather that the benefits from the anticipated improved design of the resultant development justifies the variation from the normal requirements of this chapter through the application of this planned development section.

(2) That the size, quality and architectural design of all buildings in the project will not have an adverse effect upon the general character of the Town and surrounding neighborhood.

(3) That the provisions and facilities of the open space areas being provided is of such quality, size and aesthetic value to justify the approval of the project.

(4) That the setbacks shall be maintained along any boundary street of the project area as required by the existing underlying basic district.
(5) That no building shall be permitted closer to a side or rear boundary street of the project area as required by the existing underlying basic district.

(6) That there shall be no further division of any lot within the development.

(7) That deed restrictions or an appropriate contract with the Town assuring implementation of the development according to the above requirements is filed with the Waukesha County Register of Deeds.

(8) The proposed site shall be provided with adequate drainage facilities for surface and storm waters.

(9) No undue constraint or burden will be imposed on public services such as police and fire protection street maintenance and maintenance of public areas by the proposed development.

(10) The proposed site shall be accessible from public roads that are adequate to carry the traffic expected to be generated by the proposed development.

(11) The approval of a petition for approval of a Residential Planned Unit Development shall be based on the building, site and operational plans for the development, all other commitments offered as required in regard to project value, character or other factors pertinent to an assurance that the proposed development will be carried out basically as presented for the project.

(12) If approved, the setback, offset, height, minimum floor area, minimum lot size, density and open space requirements of the Planned Unit Development, in addition to all conditions imposed in the grant of the approval, if any, shall be recorded as a deed restriction on the development lands in a form approved by the Town Board or its designee.

(13) Any subsequent change or addition to an approved plan shall first be submitted for approval to the Plan Commission and, if in the Commission's opinion such change or addition is not substantial, it may recommend approval to the Town Board without public hearing. If the Plan Commission deems that any proposed change is not acceptable, it shall recommend accordingly to the Town Board. Without limitation to the Plan Commission's right to determine any other change substantial, a change in any of the following respects shall be automatically construed as substantial:

a) An increase in the number of dwelling units from that shown in the approved comprehensive project plan.

b) A significant change in the size, value or type of structure from that indicated in the approved comprehensive project plan.

c) The addition of any principal uses not included in the approved comprehensive project plan.

d) A change in the basic concept of site development which would significantly alter the relationship of uses or open space to adjoining properties.
SECTION 17.05

CONDITIONAL USES

1. APPROVAL REQUIRED.

Certain uses and situations are of such a special nature, or are so dependent upon actual contemporary circumstances as to make impractical the predetermination of permissibility or the detailing in the chapter of the specific standards, regulations or conditions which would permit such use. Therefore, these uses, upon determination in each individual situation, may be permitted as conditional uses in such district, subject to such requirements as are hereinafter specified for each situation.

2. BASIS OF APPROVAL.

The determination of such conditional use by the Town Board shall be based on whether or not the proposed use will violate the spirit or intent of the chapter; be contrary to the public health, safety or general welfare; be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factor; or for any other reason cause an adverse effect on the property values and general desirability of the neighborhood. Except as may be specifically otherwise provided, any such use shall conform to the building location, height, area, yards, parking, loading, traffic and highway access regulations of the district in which it is located and the approving body may require compliance with such other conditions as may be deemed necessary in the specific situation in addition to any which may be herein stated. The location, building plan, site plan, and plan of operation shall be in sufficient detail to enable the Town to make its determination as to the appropriateness of the proposed grant of conditional use. The Town may take into consideration architectural and landscape treatments. Satisfactory provision shall be made for parking and circulation needs, for drainage and sewage disposal, for adequate planting screen where necessary, for operational control devices where necessary to eliminate noise, dust, odor or smoke; and such other factors as would be pertinent to such determination. Variances shall only be granted as provided in section 17.10 of this Chapter.

3. PROCEDURE.

A. Petition.

A request for grant of conditional use status shall be submitted in writing to the Town Clerk who shall promptly refer such petition to the Plan Commission for recommendation.

B. Data Required.

Such petition shall be accompanied by appropriate data and information necessary for proper evaluation of the request including specifically the following:

1. Names, addresses and phone numbers of the applicant, owner of the site, architect, engineer, and contractor.

2. The site legal description, location, zoning district, building and site plans, and plan of operation.

3. An accurate map of the property drawn to a reasonable scale, including indication of general terrain and topographic characteristics, the location of all significant terrain features such as streams, ponds, tree growth, etc., and the location of all existing structures.
4. An accurate and complete written description of the use for which conditional grant is being requested including pertinent statistics and operational characteristics (plan of operation).

5. An accurate and complete description of the current use of existing building and land.

6. Plans and other drawings showing proposed development of the site and buildings including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc.

7. Any other pertinent information required by the Code Enforcement Officer, Town Engineer, Plan Commission or Town Board as set forth in forms supplied by the Town including percolation test results and well water data.

8. The person applying for a conditional use permit shall certify on the application that the information contained therein is accurate and complete to the best of that person's knowledge.

C. Public Hearing.
   Within a reasonable time after an application and all required information has been filed, a public hearing shall be held by the Plan Commission pursuant to this chapter. Within 40 days after the public hearing and all investigation, the Plan Commission shall make a recommendation to the Town Board unless the time is extended by the Petitioner.

D. Fee.
   Any petition shall be accompanied by a fee as set from time-to-time by the Town Board to defray the cost of notification and holding of public hearing. Costs incurred by the Town in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be Improved shall be charged to the Petitioner.

4. DETERMINATION.

The Town Board shall make a decision on the application within a reasonable time after receipt of the Plan Commission recommendations. Said decision shall be stated in writing and a copy made a permanent part of the Town records. If conditional use status is not granted, the reasons therefor will be included in such record. A grant of conditional use status, subsequent changes or additions thereto and terminations thereof shall be in accordance with the following:

A. Recording.

1. An official record of such conditional grant shall be prepared by the Town Clerk on a form prescribed therefor which shall include the description of the use for which the grant is given and all conditions attached thereto as well as a copy of the resolution of the Town Board approving the grant. A copy of the completed form shall be recorded at the Waukesha County Register of Deeds as a covenant on the title for the premises for which the conditional use was granted.

2. The occupancy permit shall be appropriately noted as to the conditional status granted.

3. Indication shall also be made on the zoning map by appropriate code number or symbol.

Town of Delfield Zoning Code, rev. 5/18
B. Changes or Additions.

Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Plan Commission and, if in the opinion of the Plan Commission, such change or addition constitutes a substantial alteration, a public hearing before the Plan Commission shall be required and notice thereof be given pursuant to this Chapter.

C. Conditions.

Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.

D. Termination. (repealed and recreated 2014-01)

Where a conditional use does not continue in conformity with the conditions of the original approval, or where it appears that the information shown on the Petitioner's application was not accurate or complete, or where a change in the character of the surrounding area or of the use itself causes it to be no longer compatible with surrounding areas or for any cause based upon consideration for the public welfare, the conditional grant may be terminated by action of the Town Board following referral to the Plan Commission for public hearing and recommendation thereon.

E. Standard Conditional Use Conditions

The standard conditions listed below are automatically incorporated into the terms of a Conditional Use Permit issued under this section, unless otherwise stated in the Conditional Use Permit.

1. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Town Plan Commission for determination.

2. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Town ordinance or other law.

3. This conditional use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Town Plan Commission as being in compliance with all pertinent ordinances.

4. Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to Town, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Town Plan Commission, pursuant to
the enforcement provisions of this Conditional Use Order, and all applicable ordinances.

5. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises (including but not limited to any change to the boundary limits of the subject property), structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.

6. Unless this conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Town Plan Commission if the Town Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Town Plan Commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.

7. Petitioner and Owner Agreement. As a condition precedent to the issuance of the conditional use permit, the owner of the Subject Property shall approve the issuance of this conditional use permit upon the terms and conditions described herein in writing, and the Petitioner is required to accept the terms and conditions of the same in its entirety in writing.

8. Professional fees. Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this application, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Town is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.

9. Payment of charges. Any unpaid bills owed to the Town by the Subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of billing by the Town, pursuant to section 66.0827, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval, that is subject to all remedies available to the Town, including possible cause for termination of this approval.

10. Current Address. The Petitioner is obligated to file with the Town Clerk a current mailing address and current phone number at which the Petitioner can be reached, which must be continually updated by the Petitioner if such contact information should change, for the duration of this conditional use. If the Petitioner fails to maintain such current contact information, the Petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.

11. Conditions Shown in Minutes Incorporated. All conditions of approval imposed by duly adopted motion of the Town Board in its consideration of the Petitioner's application, as noted in the Minutes of the Town Board meeting at which approval was granted, are specifically incorporated herein by reference.

12. Should any paragraph or phrase of this conditional use permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use and the remainder shall continue in full force and effect.

13. If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Town Plan Commission.

Town of Delafield Zoning Code, rev. 5/18
F. Performance Standards

1. ARTICLE INTENT AND COMPLIANCE.
   It is the intent of this Section to describe performance standards for the regulation of uses and to establish an objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All structures, lands, air and water shall hereafter comply with the following performance standards.

2. CONTROL OF HAZARDOUS AIR POLLUTANTS AND EMISSIONS
   Operations or activities which emit into the ambient air from any direct or portable source any matter that will affect air quality shall perform in accord with the limitations and procedures established in Ch. NR 400 through NR 449, Wis. Admin. Code. Hazardous pollutants are specifically controlled in accord with NR 445.

3. CONTROL OF PARTICULATE EMISSIONS AND DUST.
   (a) Operations or activities which emit into the ambient air from any direct or portable source any particulate emissions shall perform in accord with the limitations and procedures established in Ch. NR 415, Wis. Admin. Code, or in other applicable Chapters which regulate particulate emission.
   (b) Fugitive dust and other types of emissions and air pollution from sources such as storage areas, outdoor operation yards, and roads or parking lots with any lot shall be kept to a minimum by appropriate paving, spraying/watering, application of suitable chemicals, landscaping, or other acceptable and environmentally safe methods in accord with Ch. NR 415.04, Wis. Admin. Code.

4. CONTROL OF ODORS
   No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Ch. NR 429, Wis. Admin. Code.

5. CONTROL OF FIRE AND EXPLOSIVE HAZARDS.
   (a) All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices as may be required by the MUNICIPALITY Fire Prevention Code.
   (b) All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.
   (c) The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the MUNICIPALITY Fire Department and in accord with their requirements to minimize fire and explosive hazards.

6. GLARE, HEAT AND EXTERNAL LIGHTING.
   (a) No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the property line. Operations producing light, glare, or heat shall be conducted within an enclosed building.
   (b) External lighting shall be shielded so that light rays do not adversely affect adjacent uses.

7. WATER QUALITY STANDARDS.
   (a) No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human,
animal, plant, or aquatic life.

(b) No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate water quality.

8. **NOISE.**
No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.

9. **VIBRATION.**
(a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
(b) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

5. **CONDITIONAL USES PERMITTED.**

Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted as conditional uses in the districts specified, provided further that a public hearing pursuant to this Chapter shall be held before approval for any such conditional use is granted.

A. Animal Hospitals and Kennels. This provision does not apply to hobby kennels as defined by section 17.02. Hobby kennels are separately provided for in this chapter.

1. **Where Permitted.** (Amd. 00-507a) Subject to the provisions of subsection 2, animal hospitals and kennels, are conditional uses which may be permitted in the following districts:

<table>
<thead>
<tr>
<th>Animal Hospitals</th>
<th>Kennels</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1 Agricultural District</td>
<td>A-1 Agricultural District</td>
</tr>
<tr>
<td>B-2 Shopping Center District</td>
<td>A-2 Rural Home District</td>
</tr>
<tr>
<td>M-1 Industrial District</td>
<td>M-1 Industrial District</td>
</tr>
<tr>
<td>B-3 Business Park District</td>
<td></td>
</tr>
</tbody>
</table>

2. **Standards Under Which Permitted.**

   Conditional use status shall not be granted to animal hospitals or kennels unless all of the following standards are met:
   
a. Except for animal hospitals, no such use shall be permitted on a lot less than 3 acres in area.
   b. No building other than one used only for residence purposes or as an animal hospital, shall be closer than 75' to the lot line of an adjoining lot in a district permitting residential use.
   c. The facility is adequately soundproofed.

   Town of Delafield Zoning Code, rev. 5/18
d. The facility is maintained in a sanitary condition. Plan shall be submitted and approved for waste removal and method of addressing odors.

e. Outdoor kennels shall be at least 100 feet from any property line.

f. Dogs taken outside the kennel shall be on a leash and shall remain on the property.

g. Drop off and pick-up times shall be between 6 am and 10 pm.

h. Traffic circulation shall be designed to minimize light and sound to adjacent landowners.

i. The buildings and grounds shall be maintained in a neat, attractive and orderly way.

j. The property shall comply with all rules and regulations of the Town and the local Fire Department, including submission to routine inspections of the Town and Fire Department.

B. Bed and Breakfast Establishments.

1. Where Permitted. Subject to the provisions of subsection 2, bed and breakfast establishments are conditional uses which may be permitted in the following districts:

   R-1 Residential District
   R-2 Residential District
   R-L Residential Lake District
   A-1 Agricultural District
   A-2 Rural Home District
   A-E Exclusive Agricultural District


   Conditional use status shall not be granted to bed and breakfast establishments unless all of the following standards are met:

   a. Use of the facility as a bed and breakfast establishment automatically terminates a transfer or sale of property.

   b. All bed and breakfast establishments shall be subject to and comply with Wisconsin Administrative Code HSS 197 which is hereby incorporated by reference. Any future amendments, revisions or modifications of the current or future codes incorporated herein are intended to be a part of this Code in order to secure uniform statewide regulation of bed and breakfast establishments.

   c. Each bed and breakfast establishment shall be required to keep a register and require all guests to sign such register using their actual names and address before being assigned quarters. The register shall be available for inspection by the Police Department and Code Enforcement Officer for a period of not less than one year.

   d. No guest may be permitted to occupy space in a bed and breakfast establishment for a longer period than fourteen (14) consecutive days.

   e. A minimum of one off-street parking stall is provided for every guest bedroom with a minimum of two additional for the owner/proprietor. All parking areas meet the size requirements of the Town Code and must be hard-surfaced and maintained in a reasonably dustless condition. The parking areas abutting residential properties is screened from view using a minimum 6’ high solid fence or comparable screening. No
off-street parking shall be allowed within the front yard setback area and shall be a minimum of 3' from any side yard property line.

f. Sign proposed meets Town sign code requirements.

g. Every bed and breakfast establishment shall be properly addressed with numbers on the front of the structure, a minimum of 6" high and of contrasting color so as to be visible from the street.

h. The applicant shall provide evidence that the proposed use will not impact the surrounding neighborhood and proximity to any existing bed and breakfast establishment.

i. Applicant has received an occupancy permit and is in compliance with all state and local regulations and ordinances.

j. Use of the bed and breakfast facility for any special gathering (i.e. wedding receptions, parties, etc.) is prohibited.

k. The owner of a bed and breakfast shall live on the premises.

l. All refuse containers shall be screened from view.

m. The buildings and grounds shall be maintained in a neat, attractive and orderly way.

n. The property shall comply with all rules and regulations of the Town and the local Fire Department, including submission to routine inspections of the Town and Fire Department.

C. Churches, Synagogues and Other Buildings for Religious Assembly.

1. Where Permitted. Subject to the provisions of subsection 2, churches, synagogues, or other buildings for religious assembly are conditional uses which may be permitted in the following districts:

   R-1 Residential District
   R-1 A Residential District
   R-2 Residential District
   R-3 Residential District
   R-L Residential Lake District
   A-1 Agricultural District
   A-2 Rural Home District
   A-3 Suburban Home District
   B-1 Restricted Business District
   B-2 Shopping Center District
   B-3 Business Park District
   M-1 Industrial District


   Conditional use status shall not be granted to churches, synagogues or other buildings for religious assembly unless all of the following standards are met:
a. The structure conforms to double the offset requirements of the district in which it is located.

b. The height limitation of the district in which the use is located does not exceed 60’ provided the minimum required setback and offsets shall be increased 2’ for every additional foot of height in excess of the permitted maximum in that district. The aforesaid height regulation shall not apply to the spire or belfry of a church except where airport safety zone regulations specifically limit the maximum height.

c. The open space for the facility shall be a minimum of 50%.

d. Site meets Town parking requirements.

e. Access locations meet site distance requirements.

f. Traffic study is provided to determine additional improvements to adjacent streets and impact on adjacent development.

g. The buildings and grounds shall be maintained in a neat, attractive and orderly way.

h. The property shall comply with all rules and regulations of the Town and the local Fire Department, including submission to routine inspections of the Town and Fire Department.

D. Conversion.

1. **Where Permitted.** Subject to the provisions of subsection 2, conversion of the use of barns and farm buildings for the storage of machinery, equipment, vehicles, boats, furniture and similar items are conditional uses which may be permitted in any district.

2. **Standards Under Which Permitted.**

   Conditional use status will not be granted to any conversion of the use of barns or farm buildings for the storage of machinery, equipment, vehicles, boats, furniture and similar items unless all of the following standards are met:

a. Use shall be on lots of 10 acres or more.

b. Buildings shall consist of the buildings as now exist on the premises. No additional buildings or additions may be made without the express approval of the Town in accordance with the terms of the applicable ordinances.

c. A signed and sealed plat of survey shall be submitted detailing the size and offsets of all existing buildings.

d. Access shall be from a public street.

e. There shall be no storage outside.

f. Water supply facilities and septic system, if any, shall be in accordance with the rules of the Waukesha County Division of Health and Department of Industry, Labor and Human Relations.

g. Noise shall be what is common to storage facilities.

h. No commercial signs permitted.

i. Site shall be landscaped prior to issuance of an occupancy permit.
j. The buildings and grounds shall be maintained in a neat, attractive and orderly way.

k. The property shall comply with all rules and regulations of the Town and the local Fire Department, including submission to routine inspections of the Town and Fire Department.

l. The use shall be compatible with adjacent land uses.

E. Elderly Housing Units.

1. Where Permitted. Subject to the provisions of subsection 2, elderly housing units are conditional uses which may be permitted in the following districts:

   R-1 Residential District
   R-1(A) Residential District
   R-2 Residential District
   R-3 Residential District
   R-L Residential Lake District
   A-1 Agricultural District
   A-2 Rural Home District
   A-3 Suburban Home District


   Conditional use status shall not be granted to elderly housing units unless all of the following conditions are met:

   a. The minimum lot area shall be 20,000 sq. ft.

   b. The minimum unused lot area per dwelling unit shall be 1500 sq. ft. This shall not include parking spaces or buildings.

   c. Side yard and rear yard setbacks shall be a minimum of 10' on each side and the road setback requirement shall be maintained.

   d. There shall be a minimum living area of 400 sq. ft. for an efficiency apartment, 550 sq. ft. for a one bedroom apartment and 750 sq. ft. for a two bedroom apartment. No dwelling unit shall have more than two bedrooms.

   e. There shall be one covered parking space per dwelling unit.

   f. Multi-story housing for the elderly shall be provided with elevators.

   g. Restrictions shall be placed on the development consistent with State and Federal regulations governing elderly housing.

   h. In the case of phased development of an elderly project as defined, the developer shall present evidence to the Plan Commission that at least 50% of all previous phases are occupied.

   i. The buildings and grounds shall be maintained in a neat, attractive and orderly way.
j. The property shall comply with all rules and regulations of the Town and the local Fire Department, including submission to routine inspections of the Town and Fire Department.

F. Group Day Care Center.

1. Where Permitted. Subject to the provisions of subsection 2, group day care centers are conditional uses which may be permitted in the following districts:

R-1 Residential District
R-1A Residential District
R-2 Residential District
R-3 Residential District
R-L Residential Lake District
B-1 Restricted Business District
B-2 Shopping Center District
B-3 Business Park District
A-1 Agricultural District
A-2 Rural Home District
A-3 Suburban Home District
M-1 Industrial District

2. Conditions Under Which Permitted.

Conditional use status shall not be granted to a group day care center unless in the case of rental properties, the property owner's written permission must be obtained and submitted as part of the conditional use permit application.

G. Hobby Kennels.

1. Where Permitted. Subject to the provisions of subsection 2, a hobby kennel, as defined in section 17.02, is a conditional use which may be permitted in the following districts:

R-1 Residential District
R-1A Residential District
R-2 Residential District
R-3 Residential District
R-L Residential Lake District
A-1 Agricultural District
A-2 Rural Home District
A-3 Suburban Home District
A-E Exclusive Agricultural District


Conditional use status shall not be granted to a hobby kennel unless all of the following standards are met:

The applicant must provide an annual report that they meet the standards herein, summary of complaints, if any and any changed conditions in the neighborhood.
a. The lot must be at least 1 1/2 acres in area.
b. Applicant shall provide a signed and sealed plat of survey showing the location of all features on the lot, adjacent structures, outdoor kennel location, fences and areas where dogs will be let out.
c. Plan shall be submitted to address dogs that get out of the kennel.
d. Plan shall be submitted detailing safety measures to be taken to assure that dogs do not run loose in the area.
e. The kennel must be a minimum of 50' from the closest lot line.
f. No more than 3 dogs or other household pets shall be permitted on a 1 1/2 acre site plus 2 dogs or other household pets per additional acre up to 10 dogs or other household pets maximum.
g. The buildings and grounds shall be maintained in a neat, attractive and orderly way.
h. The property shall comply with all rules and regulations of the Town and the local Fire Department, including submission to routine inspections of the Town and Fire Department.

H. Intermediate Day Care Home.

1. Where Permitted. Subject to the provisions of subsection 2, intermediate day care homes are conditional uses which may be permitted in the following districts:

- R-1 Residential District
- R-1(A) Residential District
- R-2 Residential District
- R-3 Residential District
- R-L Residential Lake District
- A-1 Agricultural District
- A-2 Rural Home District
- A-3 Suburban Home District

2. Conditions Under Which Permitted.

Conditional use status shall not be granted to an intermediate day care home unless all of the following conditions are met:

a. The lot is at least 7200 square feet in area.
b. A minimum of 140 square feet of living space per child is provided.
c. A minimum of 100 square feet of fully enclosed outside play area shall be provided per child at maximum permitted occupancy.

I. Keeping of Poultry or Livestock.

1. Where Permitted. Subject to the provisions of subsection 2, the keeping of poultry or livestock is a conditional use which may be permitted in the following districts:

- A-2 Rural Home District

Conditional use status shall not be granted to the keeping of poultry or livestock unless all of the following standards are met:

a. The keeping of poultry, fowl and domestic livestock must be on lots of 3 acres or more,
b. Maximum practical conditions of neatness and sanitation are maintained and all fowl are kept confined or enclosed.
c. Not more than one head of livestock or ten fowl shall be kept per acre of land except where such use existed prior to the date of this chapter as principal commercial or agricultural use, such use may be continued subject to the limitations regulating a nonconforming use as regulated by this chapter.
d. The keeping of hogs, male goats or furbearing animals must be on lots of 20 acres or more.

J. Legal Nonconforming Uses.

Where Permitted. Subject to the provisions of Section 7 of this Chapter, a legal nonconforming use may be granted conditional use status in the district in which it is located subject to submitting a petition under this section.

K. Master Sign Program

1. Where Permitted.

   A-1 Agricultural District
   A-E Exclusive Agricultural District
   A-2 Rural Home District
   B-1 Restricted Business District
   B-2 Shopping Center District
   B-3 Business Park District
   M-1 Industrial District
   P-1 Park and Recreation District
   WF-1 Wetland-Floodplain District


   a. all signs shall be uniform in theme, size, color and style,
   b. Use shall be for multi-tenant operations, office parks, industrial parks, multi-tenant office and retail buildings, and commercial developments that include separate commercial activities.
   c. Applicant shall provide mock ups of all signs and include dimensions, area, colors, height, material, method of attachment, lighting and site plan with location shown.
   d. The requirements of Section 17.06 may be modified by the express terms of the Master Sign Program conditional use order.
L. Private Clubs and Outdoor Recreational Facilities Such as Recreational Camps, Golf Courses, Bathing Beaches and Resorts.

1. Where Permitted. Subject to the provisions of subsection 2., private clubs and outdoor recreational facilities such as recreational camps, golf courses, bathing beaches and resorts are conditional uses which may be permitted in the following districts:

   All Districts.

2. Conditions Under Which Permitted.

   Conditional use status shall not be granted to private clubs or outdoor recreational facilities such as recreational camps, golf courses, bathing beaches and resorts unless all of the following conditions are met:

   a. The lot is at least 3 acres in area, except that this area requirement shall not apply in the following districts:
      B-1 Restricted Business District
      B-2 Shopping Center District
      B-3 Business Park District
      M-1 Industrial District

   b. No building, other than one used only for residence purposes, shall be closer than 75' to the lot line of an adjoining lot in a district permitting residential use.

   c. No such permitted use shall include the operation of a commercial facility such as a bar or restaurant except as may be specifically authorized in the grant of permit.

   d. No lighting installations shall be permitted which create a hazard to traffic or nuisance to surrounding property. The use of flashing or revolving spot lights and the like, other than traffic control lights, are specifically prohibited.

M. Quarrying.

1. Where Permitted. Subject to the provisions of subsection 2., quarrying, as defined in this chapter, is a conditional use which may be permitted in the following districts:

   M-1 Industrial District


   Conditional use status shall not be granted to a quarrying operation unless all of the following standards are met:

   a. A quarrying permit for such operation must be obtained from the Town Board. Such permit shall be for an initial period as is deemed appropriate to the specific situation but not to exceed 5 years and may be renewed thereafter for periods not to exceed 3 years provided application therefor shall be made at least 60 days and no more than 120 days before expiration of the original permit. Application after such date shall be treated as an original application.

   b. Application for a quarrying permit shall be made on forms supplied by the Town Clerk.
c. The application for a quarrying permit shall be accompanied by: a fee as set from time to time by the Town Board to defray the cost of notification and holding of public hearing; a full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation; where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made part of the description; a legal description of the proposed site with a map showing its location with indications of existing or proposed private access roads, and of existing or proposed public highways adjacent to the site which will be affected by the operation; a topographic map of the area at a minimum contour interval of 5' extending beyond the site to the nearest public street or highway or to a minimum distance of 300' on all sides; a restoration plan as required by subparagraph d. below; the names and addresses of the owners of all properties within 1/2 mile of the perimeter of the proposed quarrying operation.

d. In order to insure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the Town Board a plan for such restoration in the form of the following:

(1) An agreement with the Town whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the Town;

(2) A physical restoration plan showing the proposed contours after restoration, plantings and other special features of restoration and the method by which such restoration is to be accomplished;

(3) A certified check or other financial guarantee satisfactory to the Town, in an amount sufficient in the opinion of the Town Board to secure the performance of the restoration agreement;

(4) Such agreement and financial guarantee shall be in a form approved by the Town Attorney;

(5) In the event of the applicant's failure to fulfill this agreement, such bond, check or other financial guarantee shall be deemed forfeited for the purpose of enabling the Town to perform the restoration;

(6) Restoration shall proceed as soon as practicable and at the order and direction of the Town Engineer. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than 2 years;

(7) At any stage during the restoration, the plan may be modified by mutual agreement between the Town Board, after referral to the Plan Commission and the owner or operator;

(8) Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility or unsightliness. In any case, the finished grade of the restored area, except for rock faces, outcroppings, water bodies or areas of
proposed building or paving construction shall be of a sufficient depth of earth to support plant growth;

(9) Within one year after the cessation of the operation, all temporary structures (excepting fences, equipment, stockpiles, rubble heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition;

(10) In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of four horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.

f. The application and all data and information pertaining thereto shall be referred to the Plan Commission for public hearing, report and recommendation back to the Town Board within a reasonable time after the public hearing.

f. Notices shall be sent through the mail or otherwise placed in the hands of all owners of land in the Town and to the Clerks of adjoining municipalities who have land which lies within 1/4 mile of the perimeter of the proposed quarrying operation. These notices shall be mailed or delivered at least 10 days prior to the date of hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient.

g. The Town Board shall, within a reasonable time after receipt of the recommendation, approve or disapprove the application for the proposed quarrying operation and shall be guided by consideration of the public health, safety and welfare and shall give particular consideration to the following factors in making their decision: the effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety and efficiency; the effect of the proposed operation on drainage and water supply; the possibility of soil erosion as a result of the proposed operation; the degree and effect on dust, noise, smoke and air pollution as a result of the proposed operation; the practical possibility of restoration of the site; the effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area; the most suitable land use for the area with particular consideration for future residential value.

h. Any conditions necessary to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the Town.

i. The procedures set forth above shall also apply to applications for renewal of a permit. Determination in regard to renewal shall be based particularly on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the Town.

j. No part of the quarrying operation shall be permitted closer than 1,000', nor shall any accessory access road, parking area or office building be permitted closer than 500' to the district zoned Rural Home, Suburban Home or Residential at the time of the grant of the permit, except with the written consent of the owners of a Rural Home, Suburban Home or Residentially zoned properties within 1,000', but in no case shall such operation be permitted closer than 200' to a Residential District, no quarrying operation shall be permitted if 30 or more families reside within a band 1/2 mile wide around the perimeter of the proposed operation.
k. No part of the quarrying operation other than access roads shall be located closer than 200' nor shall any accessory parking area, stockpile or office building be located closer than 100' to the base setback line along any street or highway.

l. No part of the quarrying operation shall be permitted closer than 200'.

m. Nor shall any accessory access road, parking area or office building be permitted closer than 50' to any property line except with the written consent of the owner of the adjoining property or except where the line is abutting an existing quarrying operation, but in no case shall such operation be closer than 20' to any property line except by agreement between abutting quarrying operations or be in conflict with the provisions of this chapter relating to preservation of topography.

n. Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where, in the determination of the Town Board, such fencing or barrier is necessary for the protection of the public, and shall be of a type approved by the Town Board.

o. All machinery and equipment used in the quarrying operation shall be constructed, maintained and operated in such a manner as to minimize dust, smoke, air pollution, noise and vibration.

p. Access and haulage roads on the site shall be maintained in a dust free condition by surfacing or treatment as directed by the Town Engineer.

q. The crushing, washing, refining or other processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit.

r. In stone quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be specifically authorized under the terms of the permit.

s. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the quarrying operation may be permitted as an accessory use only as specifically authorized under the terms of the permit.

t. The washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity or where the quantity of water required will, in the opinion of the Town Engineer, seriously affect the supply of water for other uses in the area or where the drainage from such washing would result in siltation or pollution of the stream or water course.

u. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Town Board to screen the operation so far as practical from normal view, to enhance the general appearance from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding country side. Such planting shall be started as soon as
practical, but no later than one year after quarrying operations have begun and shall be
done according to the decision of the Town Board.

v. Quarrying operations shall not begin before the hour of 7 a.m. and shall not continue
after the hour of 6 p.m. and no operation shall take place on Sundays or legal holidays.
During periods of national or unusual emergency, time and hours of operation may be
altered at the discretion of the Town Board and through the issuance of a special
permit which shall be renewable at 30 day intervals.

w. When the operation is limited to the removal of topsoil, the Town Board may, consistent
with the intent of these regulations, modify any or all of the provisions of this section,
provided however, that in no case shall operations be permitted closer than 10' from
any property line, or to a depth in excess of 18" or so as to adversely affect the
drainage of the area and in such instances the operator shall restore the excavated
area with topsoil to a depth of 4" and seed the same with grass.

x. The provisions of this section shall not apply to an operation which is incident to the
legitimate use of the premises, provided, however, where such operation involves the
commercial disposal of the material removed, approval of the Town Board shall be
required and such operation shall be limited to a maximum period of 8 months.

y. Application to existing operations:

(1) Within 60 days after the adoption of this chapter, all existing quarrying operations
shall be required to register with the Town Clerk submitting pertinent data relative
to the present operation including the boundaries of the actual operation and of
the ownership. A quarrying permit shall be granted to such existing operation
subject to compliance with the operation requirements herein where they can be
reasonably applied under existing circumstances.

(2) There shall be required within one year after adoption of this chapter, the
submission of a plan for restoration of the site of any existing quarrying operation
as provided by subparagraph d. above. The plan for restoration in such case
shall not, however, impose requirements which are economically unreasonable
or unreasonable from an engineering standpoint with respect to conditions
resulting from operations prior to enactment of this chapter.

(3) Within 3 years after the date of this chapter any such existing operation shall be
required to make application for a renewal permit the same as for reapplication in
the case of a new operation under this chapter.

N. Riding Academies or Commercial Stables.

1. **Where Permitted.** Subject to the provisions of subsection 2, riding academies and
commercial stables are conditional uses which may be permitted in the following districts:

A-1 Agricultural District
A-2 Rural Home District
A-E Exclusive Agricultural District

2. **Standards Under Which Permitted.**
Conditional use status shall not be granted to riding academies or commercial stables unless all of the following conditions are met:

a. The lot is at least 7 1/2 acres in area.

b. Building location:
   (1) All buildings shall comply with the setback and offset provisions of the underlying zoning district, except as provided below.

   (2) No new building housing animals shall be closer than 100' to the lot line of an adjoining lot in a district permitting residential use. All other new buildings shall meet the offset and/or setback requirements of the zoning district in which they are located.

   (3) Existing buildings constituting legal nonconforming structures may remain although their use may be restricted in the grant of permit.

   (4) No existing building, except one designated as a rustic structure pursuant to Town ordinance, which is located closer than 100' to the lot line of an adjoining lot in a district permitting residential use, may be used to house animals except as may be specifically authorized in the grant of permit after review by the Plan Commission of the following factors:

   - the overall size of the property;
   - the nature of the building’s use;
   - the intensity of the building’s use, including the type and number of animals to be housed, and the hours and days of operation;
   - the pattern and location of other activity on the property;
   - the location and use of buildings on neighboring properties;
   - the activities conducted on neighboring properties;
   - the consent of neighboring property owners to the intended use; and,
   - provisions for manure storage and disposal.

   Any such building may be reconstructed or enlarged only as specifically authorized in the grant of permit or an amendment thereto.

c. No such permitted use shall include the operation of a commercial facility such as a bar or restaurant except as may be specifically authorized in the grant of permit.

d. No lighting installations shall be permitted which create a hazard to traffic or nuisance to surrounding property. The use of flashing or revolving spot lights, are specifically prohibited.

e. Applicant shall submit a manure management plan, which includes the following information:
   1. number and kind of animals
   2. scaled site plan
   3. detailed soil investigation with reference to ground water and bedrock presence
   4. details of any structures to be built for animal waste management

Town of Delsfield Zoning Code, rev. 6/18
5. construction timeline
6. details of manure transfer system
7. plans for utilization of the manure, including information on land availability, soil types, and methods and rates of application

f. A traffic impact analysis shall be prepared to determine necessary improvements on the adjacent street system and the impact on surrounding landowners.

g. A lighting location and iso-footcandle plan shall be submitted showing cut-off type fixtures, pole types, height.

h. Light at all property lines shall be 0 foot-candles

i. The buildings and grounds shall be maintained in a neat, attractive and orderly way.

j. The property shall comply with all rules and regulations of the Town and the local Fire Department, including submission to routine inspections of the Town and Fire Department.

O. Solar Energy Systems (created 2014-02)

1. Where Permitted. Subject to the provisions of this subsection, solar energy systems as defined in Wisconsin Statutes Section 13.48(2)(h) 1. g. are a conditional use which may be permitted in any district in the Town of Delafield.

   a. District Regulations. The location, height, area, yard, parking, loading, traffic and highway access and other regulations of the district in which the use is located shall not apply to the solar energy system, unless the Town Board finds that the restriction satisfies one of the following conditions:

      i. Serves to preserve or protect the public health or safety.

      ii. It does not significantly increase the cost of the system or significantly decrease its efficiency.

      iii. It allows for an alternative system of comparable cost and efficiency.

      If one or more of the foregoing conditions is found to apply with regard to any such restriction of this Code, then such restriction shall apply to the solar energy system.

   b. The Town Plan Commission may recommend, and the Town Board may require compliance with such other conditions as may be deemed necessary in the specific situation, provided that any such restriction imposed must be found to meet the following conditions:

      i. Serves to preserve or protect the public health or safety.

      ii. It does not significantly increase the cost of the system or significantly decrease its efficiency.

      iii. It allows for an alternative system of comparable cost and efficiency.
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Notes:
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</tr>
<tr>
<td>A-2</td>
<td>PUD</td>
<td>5.42</td>
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<td>4.80</td>
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<tr>
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<td>1.62</td>
<td>30,000 s.f. (0.69 ac.)</td>
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<td>PUD</td>
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<td>R-4</td>
<td>PUD</td>
<td>0.47</td>
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Plan Commission Report for June 5, 2018

Lake Country Childcare
Agenda Item No. 5. A.

Applicant: Randy Kohn, Church of the Resurrection, owner, Cora Vinca, Lake Country Childcare operator

Project: Lake Country Childcare

Requested Action: Approval of site plan and plan of operation

Zoning: R-1/Conditional Use

Location: W287 N3700 Northshore Dr. (CTH KE)

Report

The approved Conditional Use Permit (CUP) for the Church of the Resurrection includes the allowance of a day care facility, subject to the following conditions:

1. The maximum area to be used for the day care or school operation is 6,300 square feet. The number of children shall be based on the required space per child dictated by State Statutes.
2. Ages of the children will be infants through age 11.
3. Location and material of playground and fencing shall be subject to review and approval by the Plan Commission prior to construction.
4. Hours of operation shall be 6:00 a.m. to 6:00 p.m. Monday through Friday. There will be no operation on all major holidays: Christmas Day, New Year's Day, Thanksgiving, Labor Day, Memorial Day and July 4th.
5. The church shall notify the County of the additional operations at the church building to determine if any additional traffic improvements are required.
6. Signs for the day care facility or school shall be submitted to the Plan Commission for approval and shall meet all requirements of Section 17.08; Signs'' of the Town Zoning Code.

The applicant has provided the following information in response to the current CUP conditions:

- The applicant will be using 3,878 square feet of the available space.
- Although the plan of operation originally stated that they would have children up to 12 years old, she has revised that to 11 years old to meet the conditions in the current Conditional Use Permit document.
- The previously approved material of playground and fencing will not change.
- Hours of operation will be the same as stated in the CUP.
- Ms. Vinca will contact the Waukesha County Public Works Department regarding traffic or access concerns.
- The sign for the facility is not ready for approval at this time.
The previous operator of the day care facility closed their operation last August.

Other information submitted resulting from my review of the operation:

The childcare will use the interior classrooms and the exterior play areas and patio as shown on the attached site plan. Parking for the staff in the church parking lot and the overall use of the facility by Lake Country Childcare has been approved by the church. The child drop-off area will be on the east side of the building, at the same location as the previous day care’s drop-off area. When the facility is at capacity, there may be up to 15 employees and 70 children. There will be food preparation at the site, so Ms. Vinca checked with the Waukesha County Health Department regarding any requirements that must be met to allow food preparation. The County responded and indicated that requirements for food preparation will be handled through the State licensing process. Ms. Vinca cannot begin the State licensing process until the Town approves/allows the operation. She will provide the Town with a copy of the license once received by the State. As part of the State licensing process, an inspection of the facility is required, which she is in the process of coordinating (she has been in touch with the Town Building Inspector, but they do not do this type of inspection).

Staff Recommendation:

The proposed use is allowed as a condition of the Church of the Resurrection CUP. The operation is similar to the previous operation. I am not aware of any concerns or complaints expressed by neighbors regarding the operation of the previous day care.

Subject to any comments or requirements by Waukesha County Dept. of Public Works, I recommend that the Plan Commission approve the site plan and plan of operation for the Lake Country Childcare.

Tim Barbeau, Town Engineer
May 30, 2018
Plan of Operation for Lake Country Childcare LLC:

Location: W287N3700 N. Shore Dr. Pewaukee, WI 53072

Hours of operation: 6am-6pm

Parking: We will utilize The Church of the Resurrection parking lot

We will be a state licensed childcare facility providing care to children 6 Weeks-3 years. The center will be run by Cora Vinca.

The location has previously been used for the same purpose.