TOWN OF DELAFIELD PLAN COMMISSION MEETING
Tuesday, March 5, 2019, 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 February 5, 2019

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

4. Unfinished Business:
   A. Town of Delafield, Re: Consideration and possible action on revisions to the proposed amendments to the Town Zoning Code (Chapter 17) and Land Division and Development (Chapter 18) remanded to the Plan Commission for review and recommendation (tabled 12/4/18).

5. New Business:
   A. Joe and Katie Grasch, W284 N3234 Lakeside Road, Re: Consideration and possible action on a request to approve a certified survey map to combine two parcels into one parcel at W284 N3234 Lakeside Road, and a request for a waiver from the plan Commission to allow a driveway slope to be greater than 12% per Section 17.09 2. Q. 1. c. of the Town Zoning Code.
   B. Jay and Jane Brody N30 W29298 Orchard Ave./Richard Sessner N30 W29340 Orchard Ave., Re: Consideration and possible action on a request for approval of a Certified Survey Map to combine Lots 34-37 and Lot 38-40, Plat of Pewaukee Highlands into two lots.
   C. Dana W. Loney N21 W28675 Louis Avenue, Re: Consideration and possible action on a request to approve a certified survey may to combine four (4) parcels into one parcel at N21 W28675 Louis Avenue
   D. Neumann Companies, Inc. Consideration and possible action on the approval of amendments to the Developer’s Agreement for Woodridge Estates and Woodridge Estates II to extend the guarantee period for the road guarantee.
   E. Lake Pewaukee Sanitary District, Re: Consideration and possible action on the sale or exchange of parcels on Lot 3 and 4 of Yorkshire Highlands Subdivision, as required by Chapter 18.11 of the Code.

6. Discussion: None

7. Announcements and Planning Items: Next meeting- Wednesday, April 3, 2019 (due to election on 4/2/19)

8. Adjournment

Mary T. Elsner, 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 Elsner, Town Clerk, at W302 N1254 Maple Avenue, Delafield, WI 53018-2117. This agenda is for informational purposes only. 2/27/19
Plan Commission Report for March 5, 2019

Town of Delafield Plan Commission – Chapter 17 Code modifications
Agenda Item No. 4. A.

Report

In December of 2018, the Plan Commission addressed several issues raised by the Town Board at their November 13, 2018 meeting. Those items included:

- Incorporating a self-storage facility Conditional Use
- Included the requirement in the quarrying section that the public hearing include the Plan Commission and Town Board.
- Approved the construction of the conditional use uses to be in alphabetical order.

During the discussion of the self-storage facilities, the Plan Commission directed staff to develop standards for security fencing, security standards and landscaping that must be followed by the applicant. To that end, 17.05 P. 2. k. and l. were developed for your consideration.

If the proposed language is acceptable, the Plan Commission should make a recommendation to approve the 2/19 version of the Ordinance to Amend and Recreate Certain Sections of Chapter 17, and Repeal and Recreate all of Section 17.05 of the Town of Delafield Municipal Code related to Conditional Uses to the Town Board.

Note: At the January Plan Commission meeting, there was discussion about adding a definition for “substantial evidence” and incorporating the use of that phrase into the proposed code, and also, revising the definition of “structure” based on language that the County is incorporating into their zoning codes. I have considered whether adding this language would result in a new public hearing and have concluded that it likely would require a new public hearing and delay the approval of the proposed ordinances that we worked on for most of 2018. I suggest that we get the proposed ordinance approved and to the County so it can be implemented, and next time we have a hearing for a zoning change, we incorporate the desired language changes.

Tim Barbeau, Town Engineer
February 26, 2019
ORNANCE NO. __________

AN ORDINANCE TO AMEND AND REPEAL AND RE-CREATE CERTAIN SECTIONS OF CHAPTER 17, AND REPEAL AND RE-CREATE ALL OF SECTION 17.05 OF THE OF THE TOWN OF DELAFIELD MUNICIPAL CODE RELATED TO CONDITIONAL USES

WHEREAS, On November 27, 2017, the State of Wisconsin enacted 2017 Wisconsin Act 67 related to requiring a political subdivision to issue a conditional use permit under certain circumstances which resulted in requiring substantial evidence, rather than personal preferences or speculation directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit, and

WHEREAS, Chapter 17.05 of the Town of Delafield Municipal Code contains a minimal amount of requirements and standards in order to issue a Conditional Use permit, and

WHEREAS, the Town Board has determined that the current standards within the Town Code do not provide the Town with adequate information to evaluate the Conditional Use request under the "substantial evidence" standard, and

WHEREAS, the Town Board directed the Plan Commission to review Chapter 17 and recommend modifications to the Chapter to incorporate standards for review of requests for Conditional Use Permits,

WHEREAS, upon publication of a Class 2 Notice per Chapter 985 Wisconsin Statutes once each week for two consecutive weeks prior to the hearing, and upon at least 10 days prior written notice to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed Zoning Code territory as required by Wisconsin Statutes Section 62.23(7)(d), the Town Board held a public hearing regarding the tentative recommendation, on November 13, 2018; and

WHEREAS, the Plan Commission has recommended the ordinance be adopted; and

WHEREAS, the Town Board finds that this change to the Town Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such zoning amendments on the health, safety and welfare of the community, and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the
entitled “A-1 Agricultural District,” subsection 5., entitled, “Area Regulations,”, subsection a., shall be repealed and recreated to read as follows:

(1) Lot Size
Minimum area shall be 40 acres. If land is developed into a subdivision, it shall meet the PUD requirements of Section 17.05 5. AM. of these regulations.


(10) Quarters for Household or Farm Employees
(a) Quarters shall be occupied only by a full time employee who works on the premises and members of the employee’s family
(b) Number of employees that can have quarters on the premises is five (5).
(c) A deed restriction shall be filed in the Register of Deeds office prior to allowance of the use indicating that the living unit is for employees of the farm and their families, and that there can be no more than 5 employees that can have quarters on the farm.

SECTION 6: Chapter 17 of the Town of Delafield Municipal Code entitled “Zoning,” Section 17.04 entitled, “Zoning Districts,” subsection 5 entitled “Specific District,” subsection H. entitled “A-2 Rural Home District,” subsection 2., entitled, Use regulations, subsection a. entitled “Permitted Uses,” subsection (2) (b) shall be repealed and recreated to read as follows:

(i) If more large animals or equivalent fowl or small animal(s) or combination thereof is desired, beyond the maximum allowed on the lot per subsection a. (2) (a) above, they shall only be permitted as a Conditional Use under section 17.05 5. WJ. Keeping of Poultry or Livestock.

a. Permitted Uses

The following uses shall be permitted in the B-1 Restricted Business District, subject to approval by the Plan Commission, of building, site and operational plans:

(1) Retail stores and shopping, offering convenience goods and personal services.

(2) Business, professional or public service offices.

(3) Customer service establishments such as restaurants (excluding drive-through or drive-in restaurants), shoe repair, barber and beauty shops, studios and similar uses.

(4) Antique shops, gift shops, arts and craft studios and similar uses.

SECTION 11: Chapter 17 of the Town of Delafield Municipal Code entitled “Zoning,” Section 17.04 entitled, “Zoning Districts,” subsection 5 entitled “Specific Districts,” subsection K. entitled “B-2 Shopping Center District”, subsection 2., entitled “Use Regulations,” subsection a. entitled “Permitted Uses,” shall be repealed and recreated to read as follows:

a. Permitted Uses

The following uses shall be permitted in the B-2 Shopping Center District, subject to approval by the Plan Commission, of building, site and operational plans:

(1) Retail stores and shopping, offering convenience goods and personal services.

(2) Business, professional, public service, banking and savings and loan offices.

(3) Customer service establishments such as restaurants (excluding drive-through and drive-in restaurants) shoe repair, barber and beauty shops, studios and similar uses.

(4) Laundromats, dry cleaning establishments and laundry or dry cleaning pick up stations.

(5) Dental and medical clinics.

(6) Display galleries and training schools.

(7) Public utility offices.

(8) Antique shops, gift shops, arts and craft studios and similar uses.
SECTION 15: Chapter 17 of the Town of Delafield Municipal Code entitled “Zoning,” Section 17.04 entitled, “Zoning Districts,” subsection 5 entitled “Specific Districts,” subsection M. entitled “M-1 Industrial District,” subsection 6., entitled “Additional Regulations,” subsection i. shall be amended to read as follows:

i. The operation plan submitted for Plan Commission approval shall specify and quantitatively describe any noise, vibration, dust, gas, smoke, toxic matter and odors produced by the operation and plans for containing or abating such nuisance, including fertilizers or chemicals.

SECTION 16: Chapter 17 of the Town of Delafield Municipal Code entitled “Zoning,” Section 17.04 entitled, “Zoning Districts,” subsection 5 entitled “Specific Districts,” subsection N. entitled “P-1 Park and Recreation District”, subsection 5., entitled “Area Regulations,” subsection d. shall be repealed and recreated to read as follows:

d. Open Space
   Ninety percent (90%) of each lot shall remain as open space except as follows: (1) the footprint of rustic structures shall not be counted as impervious area in the open space calculation. (2) The open space may be reduced pursuant to a conditional use for public and semi-public buildings and uses, granted pursuant to Section 17.05 5. AH., provided that the open space is not reduced below 60%.

SECTION 17: Chapter 17 of the Town of Delafield Municipal Code entitled “Zoning,” Section 17.05 entitled “Conditional Uses,” is hereby repealed and recreated to read as follows:

SECTION 17.05
CONSEQUENTIAL 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.
8. 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.

9. 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 Town Board jointly with the Plan Commission pursuant to section 17.10 of 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 imposed 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.
6. The site shall meet all Waukesha County storm water requirements and gain Waukesha County stormwater management plan approval prior to the execution of the Conditional Use Permit, if said site meets the applicability criteria found in Section 14.333 of the Waukesha County Stormwater ordinance.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 66.0627, 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.

13. 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.

14. 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
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.

6. Noise

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

7. 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.

8. Traffic Impact

a. The Plan Commission reserves the right to require a traffic impact study in order to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements the conclusions and recommendations of the study unless otherwise approved by the Plan Commission. The traffic study shall be prepared by a registered professional engineer in accordance with the following standards:

- Manual on Transportation Studies (Institute of Transportation Engineers (ITE))
- Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
- Manual on Uniform Traffic Control Devices (Federal Highway Administration)
- Trip Generation Manual (Institute of Transportation Engineers)
- Other local, county or state standards

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.
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 5' 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.

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:
D. Commercial Planned Unit Development

1. **Where Permitted.** Subject to the provisions of subsection 2, commercial planned unit developments are conditional uses which may be permitted in the following districts:

   B-2 Shopping Center District  
   B-3 Business Park District  
   M-1 Industrial District

2. **Standards Under Which Permitted.**

   Conditional use status shall not be granted to a commercial planned unit development unless all of the following conditions are met:

   a. No structures or sewage disposal systems shall be allowed in the Wetland-Floodplain District or within 75' of the district.

   b. A minimum amount of permanent common open space shall be set aside in each development as shown in Table 17-1.

   c. 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. In order to accomplish this intended unified planned development, the Town shall consider all structures and uses on the entirety of each Lot that is included, or included in part, within the jurisdiction of the Town of Delafield Zoning ordinance, in the development. By petitioning for a Commercial Planned Unit Development conditional use, the petitioner accepts that the Town will exercise this authority, even on portions of Lots that may be partially outside of the Town of Delafield’s zoning jurisdiction.

   d. Approval of a development shall be in accordance with the following conditions:

   (1) All sanitary provisions must conform to the requirements of the State Department of Commerce, the Waukesha County Health Department, the local sanitary district and the Town;

   (2) The proposed development must be in conformity with the Town 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 as determined by the Town Board.

   (3) 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
• Manual on Transportation Studies (Institute of Transportation Engineers (ITE))
• Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
• Manual on Uniform Traffic Control Devices (Federal Highway Administration)
• Trip Generation Manual (Institute of Transportation Engineers)
• Other local, county or state standards

i. Public sanitary sewer shall be available to service the development. If approved by the Town Board and, if applicable, the Waukesha County Environmental Health Department and local sanitary district, a private sewerage disposal system may be accepted as an alternative to the public facility required.

j. The developer shall submit a development plan and 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.

k. The Plan Commission in making its recommendation and the Town Board in making its determination as to the approval or denial of the conditional use permit for the commercial planned unit development shall give consideration to the purposes 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 without consideration and approval of a new conditional use permit.

(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.

I. The approval of a petition for conditional use shall be based on and include as conditions thereto the building, site and operational plans for the development as approved, as well as all other commitments offered as required in regard to project value, character or other factors
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 after the conversion shall be no greater than the noise level prior to the conversion.

h. No commercial signs permitted.

i. Site shall be landscaped prior to issuance of an occupancy permit.

j. Hours and days of operation shall be no more than 7:00 AM to 7:00 PM, Monday through Sunday.

k. No more than 20 drop-offs or withdrawals of allowed storage items per week.

F. 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

2. **Standards Under Which Permitted.**

   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.
H. 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  

2. **Standards Under Which Permitted.**

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

   a. 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.

   b. The lot must be at least 1 1/2 acres in area.

   c. 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 household pets will be let out.

   d. Plan shall be submitted to address household pets that get out of the kennel.

   e. Plan shall be submitted detailing safety measures to be taken to assure that household pets do not run loose in the area.

   f. The kennel must be a minimum of 50' from the closest lot line.

   g. No more than 3 household pets shall be permitted on a 1 1/2 acre site, plus 2 household pets per additional acre up to 10 household pets maximum.

I. 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  

Town of Delafield Zoning Code, rev. 2/19
may be continued subject to the limitations regulating a nonconforming use as regulated by this chapter.

The keeping of hogs, male goats or furbearing animals must be on lots of 20 acres or more.

K. 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.

L. 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 17.08 may be modified by the express terms of the Master Sign Program conditional use order.

M. 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.

Town of Delafield Zoning Code, rev. 2/19
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 clean 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. No more than 10 loads per day shall be allowed to dump clean fill into the site. In any case, the finished grade of the restored area, except for rock faces, outcappings, 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;
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.

m. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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.

s. 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 silting or pollution of the stream or water course.

t. 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.

u. 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.
(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.
- the location of the existing building in relationship with the adjacent property line.

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 to Waukesha County Environmental Health Division and the Town for approval, which includes the following information and any other information required by Waukesha County:

(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
(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 lighting location and iso-footcandle plan shall be submitted showing cut-off type fixtures, pole types, height. Light at all property lines shall be 0 foot-candles.

P. Self-storage Facilities.
k. Perimeter security fencing shall be provided for safety and electronic surveillance. Security lighting from dusk to dawn is required. Perimeter fencing shall be ornamental/decorative fencing (no wood paneling or chain link type fencing) and shall not be permitted within the base setback area. Where walls or fencing is used, plant material shall be placed intermittently along the wall or fence to soften the effect of the wall or fence.

l. Landscaping shall meet the following standards:
   1. All lands not used for buildings, parking lots, driveways, etc., shall be landscaped and kept in good appearance at all times, including required watering of lawns and shrubbery.
   2. The landscape features shall provide sufficient screening to shield adjacent properties and roadways from adverse of the facility and shield the development from the negative impacts of adjacent uses or streets.
   3. Applicant shall prepare and submit a landscape plan. The plan shall be prepared and stamped by a licensed landscape architect. The plans shall include existing and proposed features of the site; proposed vegetation to provide screening of the facility; a plant schedule indicating the material names and types, number of plants and size of plants at time of planting; and planting details. After installation of the landscape features, a certification from the landscape architect stating that all plants have been installed according to the approved plans shall be submitted.
   4. Each tree shall have an initial caliper of no less than two inches and a height of at least seven feet. Shrubs and bushes shall be a minimum of 3 feet in height at time of planting.
   5. The owner shall be responsible for the maintenance of all landscaping and maintaining the landscaping in good condition as to represent a healthy, neat and orderly appearance that shall be kept free from refuse and debris. The owner shall promptly replace any landscaping which has died or is damaged beyond repair. The replacement plantings shall be the same size and quality as the approved landscape plan. The site’s landscaping shall be maintained perpetually in accordance with the approved landscape plan.

m. The site and operational plans shall include design features necessary to ensure that traffic generated by the operation, especially involving heavy trucks, does not have an adverse effect on existing or planned roads and traffic movement considering especially adequacy, safety and efficiency.

n. The operation plan submitted for Plan Commission approval shall specify and quantitatively describe any noise, vibration, dust, gas, smoke, toxic matter and odors produced by the operation and plans for containing or abating such nuisance.

o. The hours of operation and nighttime (security) lighting plans shall be included in the plan of operation submitted for Plan Commission approval.

p. A lighting location and iso-footcandle plan shall be submitted showing cut-off type fixtures, pole types and height. Light at all property lines shall be 0 footcandles.

Q. Solar Energy Systems

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.
Planned Unit Developments, any conditional use permit granted prior to the effective date of this ordinance pursuant to a Section of the Town of Delafield Zoning Code that is hereby repealed, that is no longer an allowed use, shall be a legal non-conforming use, subject to all terms and conditions stated in the conditional use order. Any conditional use permit granted prior to the effective date of this ordinance that requires compliance with a Section of the Town of Delafield Zoning Code that is hereby repealed, shall continue to require compliance with the referenced Code Section in existence immediately prior to the repeal, and the repeal of such provisions is stayed solely for such existing conditional use permits. These continuation provisions are intended to preserve the status quo for all rights and responsibilities incurred or accrued prior to the adoption of this ordinance. Nothing herein shall be interpreted to prevent existing conditional use permit holders from applying to amend their conditional use pursuant to all laws in effect at the time of the application.

SECTION 19: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 20: EFFECTIVE DATE.

This ordinance shall be effective upon publication or posting as provided by law.

Dated this ____ day of ______________, 2018.

TOWN OF DELAFIELD

Lawrence G. Krause, Town Chairman

ATTEST:

Mary Elsner, Town Clerk
Plan Commission Report for March 5, 2019

Joe and Katie Grasch
Agenda Item No. 5. A.

Applicant: Joe and Katie Grasch
Project: Certified Survey Map (CSM) for Lot Combination and Driveway Slope variance
Requested Action: Approval of CSM
Zoning: R-3 (County Shoreland)
Location: W284 N3234 Lakeside Road

Report

Mr. & Mrs. Grasch own the land at W284 N3234 Lakeside Road which is made up of two lots of record. The land contains an existing garage located near the Lakeside Road, an existing dwelling and existing boathouse. They have petitioned Waukesha County to allow the construction of a new garage to the south of the existing garage, add a deck south of the house and construct a driveway to the east of the new garage. The driveway will provide access to a garage entrance on the high (north) side of the new garage and extend southerly to gain access to the existing house and to the low (south) level of the garage. The CSM is required to combine the two lots of record to create a single lot.

The elevation of Lakeside Road at the proposed driveway is elevation 909.5. The elevation of the lower garage is proposed to be 887.5. The slope of the proposed driveway averages 17%. Section 17.09 2. Q. 1. States, The maximum driveway slope shall be 12%, with the following exceptions:
- Existing driveways that exceed 12%
- Repair or repaving of existing driveways that exceed 12% shall be allowed; however, shall not increase in slope
- The Plan Commission may grant a driveway slope variance at the petition of the property owners.

Staff Recommendation:

I reviewed the CSM and provided comments to the surveyor. The surveyor addressed most of the comments, but there were a few minor comments that need to be addressed on the CSM. I recommend approval of the CSM subject to all comments being addressed prior to the document going to the Town Board for approval.

Based on experience and testimonials from some residents in the Town, maneuvering on a 12% slope in the winter can be difficult. The owner should be made aware of the high possibility that they will not be able to get up or down the driveway during times of snow and ice. That makes access for emergency vehicles difficult as well. The owner is proposing a garage apron north of the upper entrance to the garage that could be used in the winter. No exterior accommodation of a walkway to the house from the upper
apron is shown and should be considered. The plans include proposed grading and shows that drainage will be accommodated through catch basins and a storm sewer system.

The request for a driveway grade variance is coming from the owner of the property; therefore, the risks associated with the planned improvement are on the owner. While I would prefer that the maximum driveway slope be no more than 12% as stated in the code, I realize that existing site conditions would result in that no driveway could extend to the house grade without a change in the house grade and substantial grading and fill, which could negatively affect neighboring properties. There are several adjacent properties that have driveway slopes greater than 12%. The Plan Commission should go on record that allowing such a slope variance does not make the Town liable for issues and problems related to the private driveway.

Tim Barbeau, Town Engineer
February 26, 2019
CERTIFIED SURVEY MAP NO. ____________

Being a combination of the Easterly 50 feet of Lot 12 and the Westerly 50 feet of Lot 12 in MAP OF EAST-LAKESIDE, being a part of the Southwest 1/4 of the Southeast 1/4 of Section 12, Town 7 North, Range 18 East, in the Town of Delafield, Waukesha County, Wisconsin.

All lands contained in the CSM are within the Waukesha County Shoreland and Floodplain Protection Jurisdiction Zone.

25' R.O.W. drawn by offset of existing C/L of asphalt roadway.

[ graphical diagram and notes ]

FLOOD DATA
This property is in Zone AE + X of the Flood Insurance Rate Map, Community Panel No. 95133 001862/001794, with the West Line of the SE 1/4 of Sec. 12, T7N, R18E having an assumed bearing of N 00°16'23" W.

M:\CSM's\Delafield(Town)\110389(Grasch).dwg Sheet 1 of 4
CERTIFIED SURVEY MAP NO. 

Being a combination of the Easterly 50 feet of Lot 12 and the Westerly 50 feet of Lot 12 in MAP OF EAST-LAKESIDE, being a part of the Southwest 1/4 of the Southeast 1/4 of Section 12, Town 7 North, Range 18 East, in the Town of Delafield, Waukesha County, Wisconsin.

CORPORATE OWNER'S CERTIFICATE:

JOSEPH GRASCH and KATHERINE GRASCH, husband and wife owner of said land, do hereby certify that I have caused the land described on this map to be surveyed, divided, mapped and dedicated as represented on this map in accordance with the provisions of Chapter 236.34 of the Wisconsin State Statutes and requirements of the Town of Delafield and the Waukesha County Department of Parks and Land Use.

WITNESS the hand and seal of said owners this _____ day of __________, 20__.

Joseph and Katherine Grasch, Owner

STATE OF WISCONSIN)
WAUKEsha COUNTY ) SS

PERSONALLY, came before me this _____ day of __________, 20__, Joseph and Katherine Grasch, owner of said land, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public
State of Wisconsin
My Commission Expires: __________

PLAN COMMISSION APPROVAL

APPROVED by the Plan Commission of the Town of Delafield on this _____ day of __________, 20__.

Lawrence G. Krause, Chairman
Town of Delafield

Mary T. Elsner, Town Clerk
Town of Delafield
Plan Commission Report for March 5, 2019

Jay and Jane Brody/Richard Sessner
Agenda Item No. 5. B.

Applicant: Jay and Jane Brody /Richard Sessner
Project: Certified Survey Map (CSM) for Lot Combination
Requested Action: Approval of CSM
Zoning: R-3 (County Shoreland)
Location: N30 W29298 Orchard Ave. / N30 W29340 Orchard Ave.

Report
In 2018, Jane Brody’s father, Allan Hanson passed away. He lived on the south side of Orchard Ave., but owned two lots of record on the north side of Orchard Ave. which were located between Jay/Jane Brody’s property and Richard Sessner’s property. As part of the estate settlement, Mr. Hanson gave one of the parcels to Jay and Jane, and he gave the other parcel to Mr. Sessner. The Brody’s and Mr. Sessner currently own several adjacent lots of record. In the past, each of them had combined the lots into one tax key number and each of the combined tax lot was in some way non-conforming. With the addition of the lot from Mr. Hanson, both the County and Town staff recommended that a CSM be prepared to remove the lots of record and create two parcels, which in turn addresses the non-conformity of the lots. The CSM before you accomplished the desires of the Town and County staff. The transaction between Mr. Hanson’s estate and Jay/Jane Brody and Mr. Sessner took place in 2018.

Staff Recommendation:
We reviewed the CSM and provided technical comments to the surveyor. There was an outstanding issue related to the technical layout of the survey that as of the date of this report, has not been resolved. I have not received a revised CSM. I will provide a verbal report and recommendation at the meeting.

Tim Barbeau, Town Engineer
February 26, 2019
The information and depictions herein are for informational purposes and Waukesha County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Waukesha County will not be responsible for any damages which result from third party use of the information and depictions herein, or for use which ignores this warning.

Printed: 7/31/2018
CERTIFIED SURVEY MAP NO.
All that part of the SW ¼ of the SE ¼ of Section 11 and part of the NW ¼ of the NE ¼ of Section 14, T7N, R1SE
TOWN OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN
Includes Lots 34 thru 40, Plat of Pewaukee Highlands

SURVEYOR'S CERTIFICATE:
I, John W. Jahnke, professional land surveyor, being duly sworn on oath, hereby depose and say that I have surveyed, divided and mapped the following land bounded and described as follows:

All of Lots 33 thru 40 of the recorded Plat of Pewaukee Highlands, a recorded subdivision in the Register of Deeds Office for Waukesha County, being part of the Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼) of Section 11 and part of the Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼) of Section 14, Town 7 North, Range 18 East, Town of Delafield, Waukesha County, Wisconsin. Containing 54,379 square feet (1.250 acre) of land.

I further certify that I have made such survey, land division and map by the direction of the owners of said land; that such map is a correct representation of the exterior boundaries of the land surveyed and map thereof made; and that I have fully complied with the provisions of Chapter 236 of the Wisconsin State Statutes pertaining to Certified Survey Maps (Section 236.34) and the regulations of the Town of Delafield, Village of Hartland and Waukesha County in surveying, dividing and mapping the same.

JOHN W. JAHNKE - Wis. Reg. No. S-917

STATE OF WISCONSIN)ss
WAUKESHA COUNTY
The above certificate subscribed and sworn to me this 26th day of Dec., 2018.

My commission expires July 5, 2019

PETER A. MUEHL - NOTARY PUBLIC

OWNERS: JAY & JANE BRODY
RICHARD W. SESSNER

Instrument drafted by John W. Jahnke

P.S. Delafield 1142
CERTIFIED SURVEY MAP NO. Sheet 3 of 5
All that part of the SW ¼ of the SE ¼ of Section 11 and part of the NW ¼ of the NE ¼
of Section 14, T7N, R18E
TOWN OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN
Includes Lots 34 thru 40, Plat of Pewaukee Highlands

OWNER'S CERTIFICATE: OWNER OF LOTS 34, 35, 36 AND 37 (LOT 1 IN CSM)
As owners, we hereby certify that we caused the land described on this map to be surveyed, divided, and
mapped as represented on this map. We also certify that this Certified Survey Map is required to be submitted
to the following for approval: Town of Delafield, Village of Hartland and Waukesha County

JAY BRODY - OWNER

JANE E. BRODY - OWNER (WIFE)

STATE OF WISCONSIN )ss
COUNTY OF WAUKESHA)
Personally came before me this _____ day of ____________, 20__, the above named JAY BRODY
and JANE E. BRODY, to me known to be the persons who executed the foregoing instrument and
acknowledged the same.

My commission expires

NOTARY PUBLIC –

JOHN W. JAHNKE, Wis. Reg. No. S-917
Dated this _____ day of DECEMBER, 2018

OWNERS: JAY & JANE BRODY
RICHARD W. SESSNER

Instrument drafted by John W. Jahnke

P.S. Delafield 1142
CERTIFIED SURVEY MAP NO.

All that part of the SW ¼ of the SE ¼ of Section 11 and part of the NW ¼ of the NE ¼ of Section 14, T7N, R18E
TOWN OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN
Includes Lots 34 thru 40, Plat of Pewaukee Highlands

OWNER'S CERTIFICATE: OWNER OF LOTS 38, 39 AND 40 (LOT 2 OF CSM)

As owner, I hereby certify that I caused the land described on this map to be surveyed, divided, and mapped
as represented on this map. I also certify that this Certified Survey Map is required to be submitted to the
following for approval: Town of Delafield, Village of Hartland and Waukesha County

RICHARD W. SESSNER – OWNER

STATE OF WISCONSIN )ss
COUNTY OF WAUKESHA) Personally came before me this day of , 20

the above named RICHARD W. SESSNER, to me known to be the person who executed the foregoing instrument and acknowledged the same.

My commission expires

NOTARY PUBLIC –

JOHN W. JAHNKE  WIS. REG. NO. S-917
DATED this 26 day of DECEMBER, 2018

OWNERS: JAY & JANE BRODY
RICHARD W. SESSNER

Instrument drafted by John W. Jahnke

P.S. Delafield 1142
CERTIFIED SURVEY MAP NO.

All that part of the SW 1/4 of the SE 1/4 of Section 11 and part of the NW 1/4 of the NE 1/4 of Section 14, T7N, R18E, of the Town of Delafield, Waukesha County, Wisconsin.

TOWN PLAN COMMISSION APPROVAL:
Approved by the Town Board, Town of Delafield, this day of ____________ 20__.

KEVIN FITZGERALD - CHAIRMAN

TOWN BOARD APPROVAL:
Approved by the Town Board, Town of Delafield, this day of ____________ 20__.

LAWRENCE G. KRAUSE - CHAIRMAN

VILLAGE PLAN COMMISSION EXTRATERRITORIAL APPROVAL:
Approved by the Plan Commission, Village of Hartland, this day of ____________ 20__.

JEFFREY PFANNENSTILL - VILLAGE PRESIDENT

VILLAGE BOARD EXTRATERRITORIAL APPROVAL:
Approved by the Common Council, Village of Hartland, this day of ____________ 20__.

JEFFREY PFANNENSTILL - VILLAGE PRESIDENT

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
Recommended that the above Certified Survey Map, which has been filed for approval as required by chapter 236, Wisconsin Statutes, is hereby approved this day of ____________ 20__.

G. J. WHEELER - DIRECTOR
Plan Commission Report for March 5, 2019

Dana W. Loney Certified Survey Map  
Agenda Item No. 5. C.

Applicant:  Dana Loney
Project:  Certified Survey Map (CSM) for Lot Combination
Requested Action:  Approval of CSM
Zoning:  R-2 (County Shoreland)
Location:  N21 W28675 Louis Avenue

Report
This request is to combine 4 parcels into one parcel to create a lot that is more conforming to the County Shoreland requirements. Both County and Town staff have reviewed the CSM for conformance to their codes and provided comments to the surveyor. The surveyor has addressed all the comments from my review. I have not heard whether the surveyor has satisfied the County’s comments. An updated CSM is in your packets.

Staff Recommendation:
The town staff welcomes the opportunity to combine lots to make them more conforming and to “clean-up” multiple small lots. The CSM with a revision date of February 22, 2019 is acceptable and is ready for approval. I recommend that the CSM dated February 22, 2019 be approved the Plan Commission, subject to incorporating any and all County comments, and the matter be sent to the Town Board.

Tim Barbeau, Town Engineer  
February 26, 2019
The information and depictions herein are for informational purposes and Waukesha County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, flood insurance Studies, or other official means. Waukesha County will not be responsible for any damages which result from third party use of the information and depictions herein, or for use which ignores this warning.
CERTIFIED SURVEY MAP NO.

BEING A COMBINATION OF PART OF LOT 15, BLOCK 5, AUER PARK ON PEWAUKEE LAKE, TOGETHER
WITH LOTS 1, 2 AND 3, IN BLOCK 5 OF AUER PARK NO. 2 ON PEWAUKEE LAKE, BOTH RECORDED
SUBDIVISION PLATS AND THE ADJACENT PORTION OF THE EAST ONE-HALF OF VACATED FRANK ST
ALL BEING A PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 7
NORTH, RANGE 16 EAST, IN THE TOWN OF DELAFIELD, COUNTY OF WISCONSIN, STATE OF WISCONSIN

GRAPHIC SCALE

BEARING REFERENCE:
ALL DISTANCES REFERENCED TO WISCONSIN
STATE PLANE COORD. SYSTEM, SOUTH ZONE (NAD27),
WITHIN WHICH THE EAST LINE OF THE NW 1/4 OF
SECTION 24, TOWNSHIP 7 NORTH, RANGE 16 EAST, IS ASSUMED
to BEAR S 80°34'47" W (PER SEWRC CORS.)

PREPARED FOR (CLIENT):
DANA & CATHERINE LONEY
N21W26875 LOUIS AVE.
PEWAUKEE, WI 53072

LEGEND

EXISTING ZONING: R-2
30,000 sf. (1.17 acres)
SETBACK: 35 ft.
OFFSET: 14 ft.

TITLE COMMITMENT INCLUDES
EASEMENT RIGHTS OVER THE
SOUTHEASTERLY 8 FEET OF
RESERVE LOT 1, BLOCK 2
AUER PARK NO. 2
PER DOC. NO. 3111097

EXISTING MONU.
W/BRASS CAP
MEANDER COR.
FOR NE COR,
NW QTR. SEC. 24-7-18

JAMES R. BEETY
RLS 1834
DATED: August 28, 2018
Revised: Dec 16, 2018
Revised: February 22, 2019

S 80°34'47" W 203.000' LOT 1
S 80°34'47" W 30.000' LOT 2
S 80°34'47" W 78.000' LOT 3
S 80°34'47" W 197.000' LOT 4
S 80°34'47" W 197.000' LOT 5
S 80°34'47" W 197.000' LOT 6
S 80°34'47" W 197.000' LOT 7
S 80°34'47" W 203.000' LOT 8
S 80°34'47" W 203.000' LOT 9
S 80°34'47" W 203.000' LOT 10
S 80°34'47" W 203.000' LOT 11
S 80°34'47" W 203.000' LOT 12
S 80°34'47" W 203.000' LOT 13
S 80°34'47" W 203.000' LOT 14
CERTIFIED SURVEY MAP NO –

BEING A COMBINATION OF PART OF LOT 15, BLOCK 5, AUER PARK ON PEWAUKEE LAKE, TOGETHER
WITH LOTS 1, 2 AND 3, IN BLOCK 5 OF AUER PARK NO. 2, ON PEWAUKEE LAKE, BOTH RECORDED
SUBDIVISION PLATS AND THE ADJACENT PORTION OF THE EAST ONE-HALF OF VACATED FRANK ST
ALL BEING A PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 7
NORTH, RANGE 18 EAST, IN THE TOWN OF DELAFIELD, COUNTY OF WAUKESHA, STATE OF WISCONSIN

PRIMARY ENVIRONMENTAL CORRIDOR RESTRICTIONS

These areas identified as Primary Environmental Corridor on this CSM (Certified Survey Map) shall be subject to the following restrictions:

1. Grading and filling and removal of topsoil of other earthen materials are prohibited, unless specifically authorized by the municipality in which this land is located and, if applicable, the Waukesha County Department of Parks and Land Use-Planning and Zoning Division, the Wisconsin Department of Natural Resources and the Army Corps of Engineers.

2. The removal or destruction of any vegetative cover, i.e., trees, shrubs, grasses, etc., is prohibited, with the exception that dead, diseased, or dying vegetation may be removed, at the discretion of the landowner and with approval of the Waukesha County Department of Parks and Land Use-Planning and Zoning Division. Silvicultural thinning, upon the recommendation of a forester or naturalist and with approval from the Waukesha County Department of Parks and Land Use-Planning and Zoning Division, shall also be permitted.

3. Grazing by domesticated animals, i.e., horses, cows, etc., is prohibited.

4. The introduction of plant material not indigenous to the existing environment is prohibited.

5. Ponds are prohibited unless designed to enhance the natural environment. Ponds that may be permitted are subject to the approval of the municipality in which they are located and, if applicable, the Waukesha County Department of Parks and Land Use, the Wisconsin Department of Natural Resources and the Army Corps of Engineers.

6. The construction of building is prohibited.

BASEMENT RESTRICTION - GROUNDWATER

This Certified survey Map is located in an area with mapped soils that may have seasonal high groundwater, the Waukesha County Shoreland and Floodland Protection Ordinance currently requires that the lowest level of any residence must be at an elevation that is at least one (1) foot higher than the highest seasonal groundwater level, unless a variance from that requirement is obtained from the Waukesha county Board of Adjustment. therefore, additional soil testing in the vicinity of any proposed residence or addition will be required to ensure compliance with this requirement. If the requirement regarding vertical separation distance from the highest seasonal groundwater level is modified by a future amendment to the Waukesha County Shoreland and Floodland Protection Ordinance, the requirement at the time of construction shall apply. all groundwater separation requirements set forth by the Town of Delafield must also be complied with.

NOTES:

ENTIRE PROPERTY IS WITHIN THE JURISDICTION OF THE WAUKESHA COUNTY SHORELAND AND
FLOODLAND PROTECTION ORDINANCE.

PRIMARY ENVIRONMENTAL CORRIDOR SHOWN HEREON "APPROXIMATELY" ALONG EDGE OF
WOODED AREA AS DESIGNATED BY SEWER DIGITAL LAND USE INVENTORY AND SHOWN ON
WAUKESHA COUNTY GIS MAPPING SITE. FIELD MARKING BY A NATURALIST WOULD BE REQUIRED FOR
EXACT LOCATION ON PROPERTY.

SUBJECT PROPERTY AND ALL ADJOINING ARE SERVED BY MUNICIPAL SEWER, THEREFORE NO
SEPTIC SYSTEMS ARE SHOWN HEREON.

LOT AREA IN ITS ENTIRETY DOES NOT MEET EXISTING R-2 ZONING MINIMUM AREA REQUIREMENT.

OTHER LAWS, RESTRICTIONS AND RULES MAY APPLY TO SUBJECT PROPERTY. SEE MUNICIPAL
CODES, STATE STATUTES, WIS. NDR RULES, EPA REGULATIONS, ETC. SURVEYOR MAKES NO CLAIM
THAT ALL ARE COVERED BY NOTES HEREIN AND IS NOT LIABLE FOR ANY OMISSION THEREOF.

DOCS OF RECORD:

PER HERITAGE TITLE SERVICES, INC. TITLE COMMITMENT WA-267949-0 SCHEDULE B-III EXCEPTIONS,
WHICH WAS SOURCE OF ENCUMBRANCES SHOWN HEREIN:

#4 EASEMENT PER JUDGMENT DOCUMENT NO. 311037
(provided for by this strip for lake access)
#5 RIGHTS OF EASEMENT OF AUER PARK CORPORATION (no recorded document reference)
#6 RESOLUTION NO. 224 DOCUMENT NO. 1577025
(declared Louis Ave to be made highway)
#7 RESOLUTION NO. 249 DOCUMENT NO. 161688
(declaration of varius roads to town roads. Affects adjacent Louis Ave. and Elizabeth Ct.)
#8 GRANT OF EASEMENT DOCUMENT NO. 1542693
(created vehicular easement to Louis Ave. from lot in Oaklawn Beach Tennis Club.)
#9 GRANT TO HEPCO DOCUMENT NO. 310512
(transferred right, permission and authority to maintain line of poles & wires, blanket easement, not graphically platable)
#10 AWARD OF DAMAGES DOCUMENT NO. 341103
(created easements within roadways for sanitary sewer system, affects Frank St., Elizabeth Ct. and Lake Ave. and others)

HIGHWAY ORDER DOCUMENT NO. 3434280 (approved vacation of Frank St.)
US HIGHWAY DOCUMENT NO. 3339134 (Roadway Vacations)

D A T E D: August 28, 2018
Revised: Dec. 16, 2018
Revised: February 22, 2019

JAMES R. BEATY
LAND SURVEYOR

JAM ES R. B E ATY
WIS. RLS

THIS INSTRUMENT WAS DRAFTED BY JAMES R. BEATY PAGE 4 OF 5
CERTIFIED SURVEY MAP NO. - ---------

BEING A COMBINATION OF PART OF LOT 15, BLOCK 5, AUER PARK ON PEWAUKEE LAKE, TOGETHER
WITH LOTS 1, 2 AND 3, IN BLOCK 5 OF AUER PARK NO. 2 ON PEWAUKEE LAKE, BOTH RECORDED
SUBDIVISION PLATS AND THE ADJACENT PORTION OF THE EAST ONE-HALF OF VACATED FRANK ST
ALL BEING A PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 7
NORTH, RANGE 18 EAST, IN THE TOWN OF DELAFIELD, COUNTY OF WAUKESHA, STATE OF WISCONSIN

TOWN OF DELAFIELD PLANNING COMMISSION APPROVAL CERTIFICATE

Resolved that this Certified Survey Map, in the Town of Delafield, is hereby approved by the Plan Commission.

approved as of the ______ day of _________, 2019.

Kevin Fitzgerald, Chairman Date

I hereby certify that the foregoing is true and correct copy of a resolution adopted by the Plan Commission of the Town of Delafield.

Mary Eilsner, Town Clerk Date

TOWN OF DELAFIELD TOWN BOARD APPROVAL CERTIFICATE

Resolved that this Certified Survey Map, in the Town of Delafield, is hereby approved by the Town Board.

All conditions have been met as of the ______ day of _________, 2019.

Lawrence G. Krause, Town Chairman Date

I hereby certify that the foregoing is true and correct copy of a resolution adopted by the Town Board of the Town of Delafield.

Mary Eilsner, Town Clerk Date

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE

The above, which has been filed for approval as required by chapter 236 of the Wisconsin State Statutes is hereby Approved on this ___ day of __________ 2019

Date R. Shaver, DIRECTOR
Plan Commission Report for March 5, 2019

Woodridge Estates/Woodridge Estates II
Developer’s Agreement Amendment
Agenda Item No. 5. D.

Report

In 2016, the Town staff expressed dissatisfaction with the state of the roads in the Woodridge Estates subdivision. There were numerous areas of the roadway pavement and ditches that were not completed to the Town standard and the pavement was failing (sinking) in several areas. The developer requested reductions in the Letter of Credit (LOC) and Town staff did not recommend any reduction until the roads were completed to their satisfaction. Town staff also desired a longer guarantee period, since it was unknown as to how long the road pavement would continue sinking.

The LOC reduction was taken up by the Town Board in 2016 and during the meeting, the developer offered to guarantee the roads for 2 years after “Final Acceptance” of the improvements. Final acceptance as defined in the Developer’s Agreement is the point in time when all improvements are completed and accepted by the Town and it starts the normal one-year guarantee period. To add the two year guarantee period to the Developer’s Agreement, the document had to be amended. Unfortunately, the agreement language prepared by the developer was not approved by our Town Attorney and subsequently, the amendments were not executed.

The Town staff is now at a point where they can support “Final Acceptance” of the improvements (to be back dated to September 30, 2018). Prior to finalizing the resolution approving the “final acceptance,” our Town Attorney wants to have executed Developer’s Agreement amendments for both phases of the development in place that memorializes the extended guarantee of the roadways. To that end, the Developer Agreement amendments are on the Plan Commission agenda for consideration and recommendation to the Town Board.

Recommendation

The two-year guarantee was offered and accepted by the Town Board in 2016. The developer has agreed to the extension and signed the amendments. The last steps include getting a recommendation from the Plan Commission regarding the amendments, Town Board approval and execution of the documents.

I recommend that the Plan Commission make a positive recommendation to the Town Board to approve the Developer Agreement amendments signed by Woodridge Estates, LLC on February 22, 2019.
FIRST AMENDMENT TO
DEVELOPER'S AGREEMENT
FOR
Woodridge Estates
TOWN OF Delafield, Waukesha COUNTY, WISCONSIN

THIS AGREEMENT made this _____ day of __________, ______, between
Woodridge Estates, LLC, a ______ WI Limited Liability Corporation______,
N27W24075 Paul Ct (Suite 200) Pewaukee, WI 53072, hereinafter called
"DEVELOPER", for property owned by Woodridge Estates, hereafter called the
"PROPERTY OWNER," (and the PROPERTY OWNER is also jointly and severally
referred to herein as "DEVELOPER", to be bound, to all terms and conditions stated
herein, for all times that the PROPERTY OWNER owns the SUBJECT LANDS), and the
TOWN of Delafield in the County of Waukesha and the State of Wisconsin, hereinafter
called the "TOWN".

WITNESSETH:

WHEREAS, on or about August 6, 2014, the DEVELOPER and the TOWN
entered a Developer's Agreement for Woodridge Estates (referred to herein as the
"Developer's Agreement"); and

WHEREAS, circumstances have changed since the Developer's Agreement was
first entered, and the parties now agree to extend the time to complete the final lift of
asphalt on the public streets, provided that the guarantee for those public streets shall
be extended to two years as further described herein; and

WHEREAS, Section XXXII of the Developer's Agreement states that the Town
shall not consent to an amendment until after first receiving a recommendation from the
Town Plan Commission, and the Town Plan Commission has considered this matter
and has made a recommendation to the Town Board.

NOW, THEREFORE, the DEVELOPER and TOWN do hereby agree to amend
the Developer's Agreement as follows:

1. Section I entitled “Improvements,” subsection A entitled “Public Streets,”
subsection 5 is hereby deleted from the Agreement and replaced with the following:

5. The final lift of asphalt for Woodridge Estates shall be placed on all public streets
after at least two winter seasons, but not later than October 1, 2016, unless
extended by the TOWN Board.

2. Section VII of the Developer's Agreement entitled "Guarantees of
Improvements," subsection A entitled "Guarantee," is hereby deleted from the
Agreement and replaced with the following:

A. Guarantee.

1. The DEVELOPER shall guarantee after Final Acceptance, the public
improvements and all other improvements, excluding public streets, described
in Section I hereof, against defects due to faulty materials or workmanship, provided that such defects appear within a period of one year from the date of Final Acceptance, by providing the TOWN with cash or a letter of credit in a form acceptable to the TOWN Attorney in an aggregate amount of ten percent (10%) of the total cost of all improvements excluding public streets. The DEVELOPER shall pay for any damages to TOWN property and/or improvements resulting from such faulty materials or workmanship.

2. The DEVELOPER shall guarantee after Final Acceptance, the public streets, described in Section I hereof, against defects due to faulty materials or workmanship, provided that such defects appear within a period of two years from the date of Final Acceptance, by providing the TOWN with cash or a letter of credit in a form acceptable to the TOWN Attorney in an aggregate amount of ten percent (10%) of the total cost of all public street improvements. The DEVELOPER shall pay for any damages to TOWN property and/or improvements resulting from such faulty materials or workmanship.

3. This guarantee shall not be a bar to any action the TOWN might have for negligent workmanship or materials. Wisconsin law on negligence shall govern such situations. If the DEVELOPER fails to pay for any damages or defects to TOWN property and/or improvements, and the TOWN is required to draw against the cash or letter of credit on file with the TOWN, the DEVELOPER is required to replenish said monies up to the aggregate amount of ten percent (10%) of the total cost of all improvements.

3. Except as modified herein, all terms and conditions of the Developer's Agreement remain unchanged.

4. This First Amendment to the Developer's Agreement shall be recorded against the SUBJECT LANDS and shall run with the land.

IN WITNESS WHEREOF, the DEVELOPER and the TOWN have caused this agreement to be signed by their appropriate officers and their corporate seals (if any) to be hereunto affixed in three original counterparts the day and year first above written.
Dated this __th day of __________, 2019.

Woodridge Estates, LLC

By: ____________________________

By: ____________________________

Authorized Signatory

STATE OF WISCONSIN  )
    ss.
COUNTY OF __________ (County) __________

Personally came before me this __th day of ______________, 2019, the
above named __________________________, Authorized Signatory of
Woodridge Estates, LLC, to me known to be the person who executed the
foregoing instrument and acknowledged the same.

______________________________
NOTARY PUBLIC, STATE OF WI
My commission expires: __________
______________________________
Kevin A. Anderson
Mortgagee Consent: The undersigned mortgagee of the property identified in Exhibit A, consents to this Developer's Agreement, and agrees that its lien of Mortgage shall be subordinate to the rights of the TOWN of Delafield granted by this Developer's Agreement.

Dated this _____ day of __________, 2016.

_________________________________(Mortgagee)

By: ____________________________

By: ____________________________

Authorized Signatory

STATE OF WISCONSIN )
 )ss.
COUNTY OF _________________ )

Personally came before me this _____ day of __________, ______, the above named _____________________, Authorized Signatory of ______________________________, to me known to be the person who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF WI
My commission expires: _______
Dated this _____ day of __________, 2016.

TOWN OF DELAFIELD
WAUKESHA COUNTY, WISCONSIN

______________________
Lawrence G. Krause
TOWN Chair

ATTEST:

______________________
Mary Elsner
TOWN Clerk

STATE OF WISCONSIN )
)ss.
COUNTY OF WAUKESHA)

Personally came before me this _____ day of __________, __________, the
above-named Larry Krause, TOWN Chair, and Mary Elsner, TOWN Clerk, of the above-
named municipal corporation, to me known to be the persons who executed the
foregoing instrument and to me known to be such TOWN Chair and TOWN Clerk of
said municipal corporation and acknowledged that they executed the foregoing
instrument as such officers as the deed of said municipal corporation by its authority
and pursuant to the authorization by the TOWN Board from their meeting on the _____
day of ____________, __________.

______________________
NOTARY PUBLIC, STATE OF WI
My commission expires:_______

APPROVED AS TO FORM:

______________________
TOWN Attorney
FIRST AMENDMENT TO
DEVELOPER'S AGREEMENT
FOR
Woodridge Estates II
TOWN OF Delafield, Waukesha COUNTY, WISCONSIN

THIS AGREEMENT made this ______ day of __________, ______, between
Woodridge Estates, LLC, a WI Limited Liability Corporation, N27W24075 Paul Ct (Suite 200) Pewaukee, WI 53072, hereinafter called "DEVELOPER", for property owned by Woodridge Estates, hereafter called the "PROPERTY OWNER," (and the PROPERTY OWNER is also jointly and severally referred to herein as "DEVELOPER", to be bound, to all terms and conditions stated herein, for all times that the PROPERTY OWNER owns the SUBJECT LANDS), and the TOWN of Delafield in the County of Waukesha and the State of Wisconsin, hereinafter called the "TOWN".

WITNESSETH:

WHEREAS, on or about ______ May 27 ______, 2015, the DEVELOPER and the TOWN entered a Developer's Agreement for Woodridge Estates (referred to herein as the "Developer's Agreement"); and

WHEREAS, circumstances have changed since the Developer's Agreement was first entered, and the parties now agree to extend the time to complete the final lift of asphalt on the public streets, provided that the guarantee for those public streets shall be extended to two years as further described herein; and

WHEREAS, Section XXXII of the Developer's Agreement states that the Town shall not consent to an amendment until after first receiving a recommendation from the Town Plan Commission, and the Town Plan Commission has considered this matter and has made a recommendation to the Town Board.

NOW, THEREFORE, the DEVELOPER and TOWN do hereby agree to amend the Developer's Agreement as follows:

1. Section I entitled "Improvements," subsection A entitled "Public Streets," subsection 5 is hereby deleted from the Agreement and replaced with the following:

   5. The final lift of asphalt for Woodridge Estates II shall be placed on all public streets after at least two winter season, but not later than October 1, 2017, unless extended by the TOWN Board.

2. Section VII of the Developer's Agreement entitled "Guarantees of Improvements," subsection A entitled "Guarantee," is hereby deleted from the Agreement and replaced with the following:

   A. Guarantee.

   1. The DEVELOPER shall guarantee after Final Acceptance, the public improvements and all other improvements, excluding public streets, described
in Section I hereof, against defects due to faulty materials or workmanship, provided that such defects appear within a period of one year from the date of Final Acceptance, by providing the TOWN with cash or a letter of credit in a form acceptable to the TOWN Attorney in an aggregate amount of ten percent (10%) of the total cost of all improvements excluding public streets. The DEVELOPER shall pay for any damages to TOWN property and/or improvements resulting from such faulty materials or workmanship.

2. The DEVELOPER shall guarantee after Final Acceptance, the public streets, described in Section I hereof, against defects due to faulty materials or workmanship, provided that such defects appear within a period of two years from the date of Final Acceptance, by providing the TOWN with cash or a letter of credit in a form acceptable to the TOWN Attorney in an aggregate amount of ten percent (10%) of the total cost of all public street improvements. The DEVELOPER shall pay for any damages to TOWN property and/or improvements resulting from such faulty materials or workmanship.

3. This guarantee shall not be a bar to any action the TOWN might have for negligent workmanship or materials. Wisconsin law on negligence shall govern such situations. If the DEVELOPER fails to pay for any damages or defects to TOWN property and/or improvements, and the TOWN is required to draw against the cash or letter of credit on file with the TOWN, the DEVELOPER is required to replenish said monies up to the aggregate amount of ten percent (10%) of the total cost of all improvements.

3. Except as modified herein, all terms and conditions of the Developer's Agreement remain unchanged.

4. This First Amendment to the Developer's Agreement shall be recorded against the SUBJECT LANDS and shall run with the land.

IN WITNESS WHEREOF, the DEVELOPER and the TOWN have caused this agreement to be signed by their appropriate officers and their corporate seals (if any) to be hereunto affixed in three original counterparts the day and year first above written.
Dated this ___ day of ___ 2018

Woodridge Estates, LLC
By: 
By: 
Authorized Signatory

STATE OF WISCONSIN

WESTOSA
ss.
COUNTY OF ___ (County) ___

Personally came before me this ___ day of ___ 2019, the above named Steve Dela, Authorized Signatory of Woodridge Estates, LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF WI
My commission expires: 01-28-2022,
Kevin A. Anderson
Mortgagee Consent: The undersigned mortgagee of the property identified in Exhibit A, consents to this Developer's Agreement, and agrees that its lien of Mortgage shall be subordinate to the rights of the TOWN of Delafield granted by this Developer's Agreement.

Dated this _____ day of __________, 2016.

__________________________________________ (Mortgagee)

By: _____________________________________

By: _____________________________________

Authorized Signatory

STATE OF WISCONSIN   )
) ss.
COUNTY OF _____________ (County) )

Personally came before me this _____ day of __________, ______, the above named ______________________, Authorized Signatory of ___________________________, to me known to be the person who executed the foregoing instrument and acknowledged the same.

________________________

NOTARY PUBLIC, STATE OF WI
My commission expires: _______
Dated this _____ day of __________, 2016.

TOWN OF DELAFIELD
WAUKESHA COUNTY, WISCONSIN

____________________________________
Lawrence G. Krause
TOWN Chair

ATTEST:

____________________________________
Mary Elsner
TOWN Clerk

STATE OF WISCONSIN )
 )ss.
COUNTY OF WAUKESHA )

Personally came before me this _____ day of __________, __________, the above-named Larry Krause, TOWN Chair, and Mary Elsner, TOWN Clerk, of the above-named municipal corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such TOWN Chair and TOWN Clerk of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said municipal corporation by its authority and pursuant to the authorization by the TOWN Board from their meeting on the _____ day of __________, __________.

____________________________________
NOTARY PUBLIC, STATE OF WI
My commission expires:_______

APPROVED AS TO FORM:

____________________________________
TOWN Attorney
18.11 PRIOR REVIEW OF SALES OR EXCHANGES OF PARCELS BETWEEN ADJOINING LANDOWNERS. (Created 2014-08)

In every situation, regardless of circumstances, that a property owner seeks to convey land in a manner that would adjust a lot line or create or eliminate a lot line, and that conveyance does not require a certified survey map or subdivision plat pursuant to this ordinance, and where an adjacent property owner intends to acquire such interest in land, the proposed action shall be submitted to the Town of Delafield Plan Commission for prior review, before the conveyance documents are signed and before the conveyance is recorded in the office of the Waukesha County Register of Deeds. Such application must be filed with the Town Clerk along with a fee payment to offset all or part of the cost of this limited review, in an amount to be determined from time to time by separate resolution of the Town Board. The Town Plan Commission review shall be limited to considering whether the conveyance is in compliance with the Wisconsin Statutes Section 236.45(2)(am)3 and the applicable laws cited therein, including these regulation, the Zoning Ordinances, and other applicable laws and ordinances. Such conveyance can only be approved if the same number of lots exist prior to the conveyance as would exist after the conveyance. Such conveyance can only be approved if the resulting lots would all be both legal and conforming, even if any such lots are legal nonconforming prior to the conveyance, because the conveyance creates new lots which do not predate the ordinance and therefore have no legal non-conforming rights. Such conveyance must not be approved if the conveyance includes land that has a legal nonconforming use, because the legal nonconforming rights are limited to use of the preexisting lot. Such conveyance shall not be approved if any of the resulting lots and the existing improvements on the lots would be in violation of applicable open space requirements. Such conveyance shall not be approved if the conveyance would make an existing conforming structure illegal or nonconforming, or would increase the extent of any preexisting legal nonconformity of an existing structure.