



A PERFECT ENVIRONMENT

Residential Recreational Responsible

Chair
Ron Troy
Supervisors
Edward Kranick
Christie Dionisopoulos
Steve Michels
Joe Woelfle
Clerk/Treasurer
Dan Green

**TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
TUESDAY, FEBRUARY 8, 2022
6:30 PM**

DELAFIELD TOWN HALL – W302 N1254 MAPLE AVENUE, DELAFIELD, WI

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Citizen Comments: Public comments from citizens regarding items on, or not on the agenda. The Board may not engage in a discussion with the citizen making the comments. Individual presentations are limited to three minutes and citizens shall follow the rules set forth in Section 2.04(1)(d) of the Town Code.
5. Approval of Minutes:
 - A. January 25, 2022, Town Board Minutes
6. Action on vouchers submitted for payment:
 - A. Report on budget sub-accounts and action to amend 2021 budget
 - B. 1) Accounts payable; 2) Payroll
7. Communications (for discussion and possible action)
 - A. Deer Management Program update by Wayne Dehn
8. Unfinished Business - None
9. New Business
 - a. Discussion and possible action on the recommendation from the Plan Commission to approve a conditional use permit to construct and operate a communication tower on land located at S12W31032 Summit Avenue. Specifically, the tower will be located approximately 515 feet north of Summit Avenue and 98 feet west of Maple Avenue.
 - b. Discussion and possible action on the recommendation from the Plan Commission to approve a Certified Survey Map to combine lands located at N21 W28697 Elizabeth Court.
10. Announcements and Planning items
 - A. Town Board – Tuesday, February 22nd @ 6:30 PM
 - B. Plan Commission – Tuesday, March 1st @ 6:30 PM
 - C. Town Board – Tuesday, March 8th @ 6:30 PM
13. Adjournment

Daniel Green

Dan Green
Town of Delafield Clerk/Treasurer

PLEASE NOTE:

- ✓ It is possible that action will be taken on any of the items on the agenda and that the agenda may be discussed in any order. It is also possible that a quorum 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.
- ✓ Also, 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 Town Clerk Dan Green (262) 646-2398.

**TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
JANUARY 25, 2022 @ 6:30 PM**

Video Link: <https://www.youtube.com/watch?v=nKYq29jxxww>

First order of business: Call to Order

Chairman Troy called the meeting to order at 6:30 p.m.

Second order of business: Pledge of Allegiance

Third order of business: Roll Call

Present: Chairman Troy, Supervisor Dionisopoulos, Supervisor Kranick, Supervisor Woelfle and Supervisor Michels. Also, present was Administrator Dan Green.

Fourth order of business: Citizen Comments:

Fifth order of business:

- A. Approval of January 11, 2022, Town Board Minutes

Motion by Supervisor Dionisopoulos to approve the minutes from January 11, 2022, subject to spelling correction under the 4th order of business. Seconded by Supervisor Woelfle. Motion passed 5-0.

Sixth order of Business: Action on vouchers submitted for payment:

- A. Report on budget sub-accounts and action to amend 2021 budget
B. 1) Accounts payable; 2) Payroll

Motion by Supervisor Kranick to approve payment of #65276-#65345 in the amount of \$9,951,527.78, and payrolls dated January 21, 2022, in the amount of \$15,482.17. Seconded by Supervisor Dionisopoulos. Motion passed 5-0.

Seventh order of Business: Communications (*for discussion and possible action*)

Eighth order of Business: Unfinished Business: NONE

Ninth order of Business: New Business:

- a. Discussion and possible action on the renewal of insurance for 2022 property, vehicle, and liability coverages.

Mike Waldon, the representative from R&R insurance, touched base on some of the changes to this year's renewal. He explained the renewal process was a little more challenging with both cyber and crime applications being more intense. He explained that cyber is becoming more expensive, with claims and losses being at record levels. He explained there were some changes to coverage, including reducing the Fire Station #2 liability by \$50,000. He also explained that the new loader/plow was not included in the proposal which adds \$240 to the total. The payroll estimate was \$73,000 more, and the MOD for workers compensation insurance went from .81 to .84 (rates set by state). The Town was able to stay with C&C's cyber policy, with a \$1 million aggregate and \$500,000 per occurrence coverage. He explained the injunctive relief insurance to the board who agreed to take again for 2022. The board agreed to decline the auto med pay coverage.

Motion by Supervisor Kranick to approve the renewal of insurance for 2022 property, vehicle and liability coverages with injunctive relief coverage and declining the auto med pay coverage. Seconded by Supervisor Woelfle. Motion passed 5-0.

- b. Discussion and possible action on a Municipal Engineering and Planning, and Information Technology services contract to R.A. Smith, Inc. through December 31, 2022.

Engineer Barbeau explained the contract is the same as it has been the last 25 years. The only changes are the rates for Tim, and the scope. He explained that engineering charges are reduced when there is not a lot of work going on. Supervisor Dionisopoulos asked if the office hours in the Town are still appropriate. Engineer Barbeau stated they were, and was able to use some extra vacation at the end of 2021 with no problems or missed appointments.

Motion by Supervisor Dionisopoulos to award a Municipal Engineering and Planning, and Information Technology services contract to R.A. Smith, Inc. through December 31, 2022. Seconded by Supervisor Michels. Motion passed 5-0.

Tenth order of Business: Announcements and Planning items

- A. Plan Commission – Tuesday, February 1st @ 6:30 PM
- B. Town Board – Tuesday, February 8th @ 6:30 PM
- C. Town Board – Tuesday, February 22nd @ 6:30 PM

Thirteenth order of Business: Adjournment:

Motion by Supervisor Woelfle to adjourn the Tuesday, January 25, 2022, Town Board meeting at 6:57 PM. Seconded by Supervisor Dionisopoulos. Motion passed 5-0.

Respectfully submitted:

Dan Green, CMC/WCMC
Administrator - Town Clerk/Treasurer



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February 8, 2022

To: Chairman Ron Troy
Cc: Town Board
From: Dan Green, Administrator/Clerk/Treasurer

Item: Discussion and possible action on amending the 2021 Budget to increase account 22-34300, Replacement Fund Balance by \$105,000 with monies to come from the General Fund and Road Improvements, amend the Fire and Rescue expenditure budget by \$85,147 and increase the Fire Insurance Dues revenue budget by \$63,516.

Description:

This item was brought to the board in October, to take surplus funds and money that was not used for Elmhurst Drive, and moving it to the Replacement Fund. \$55,000 of the \$105,000 will come from the road replacement fund from 2021. The \$55,000 will be spent in 2022 for the Elmhurst Road project. The \$50,000 remaining to transfer to the Replacement Fund will come from General Fund surplus and is designated for a future Revaluation.

The second amendment to the 2021 budget requires increasing the expenditure budget for Fire and Rescue. The Town received its 2% fire dues in the amount of \$63,516, which were given to Lake Country Fire. These funds were issued out of the revenue account they were received. For proper accounting procedures, we are looking for an amendment to pay these funds out of expenditure account 10-52300-298. This also will require an increase in the Fire Dues revenue budget of the same amount.

The third amendment is regarding the utilization of supplies inventory that were on hand at the beginning of the year. These inventories need to be reduced to zero to clear the books as we have transitioned to LCFR. The fire expense budget code 10-52300-340 will need to be increased by \$21,631.

Recommendation:

Staff recommends approval amending the 2021 Budget to increase General Fund account 10-59230-900 Transfers to Other Funds by \$105,000 and increase Replacement Fund account 22-49210 Transfer from General Fund by \$105,000 with \$55,000 of the funds to come from account 10-53310-370 and \$50,000 to come from the General Fund surplus funds.

Staff also recommends approval of amending the 2021 Budget to increase the expenditure account 10-52300-298 by \$63,516 for 2% Fire Dues, increase 10-52300-340 by \$21,631 for supplies inventory utilization, and increase revenue account 10-43420 by \$63,516 for 2% Fire Dues.

CONDITIONAL USE PERMIT

Document Number

Document Title

**TOWN OF DELAFIELD
ORDER GRANTING CONDITIONAL USE**

**STC TOWERS, LLC
S12 W31032 SUMMIT AVENUE**

WHEREAS, on December 14, 2021, Sean Boyle, STC Towers, LLC, applicant, by Nathan Ward, agent submitted an application requesting approval for the construction and use of a communication tower to be located at S12 W31032 Summit Avenue, and

WHEREAS, wireless communication mobile service facilities are regulated by Chapter 17.06 6. of the Town of Delafield zoning code to the full extent allowed by Wisconsin Statutes section 66.0404 and other applicable laws, and

WHEREAS, the Town Engineer reviewed the application and determined the application submitted on December 14, 2021 to be complete, and

WHEREAS, the legal description of the property in which the tower will be located is as follows:

That part of the East ½ of the Southeast ¼ of Section 33, T7N, R18E in the Town of Delafield, Waukesha County, Wisconsin, excepting therefrom that portion lying within the limits of the subdivision known as Country Place, a recorded plat and further excepting therefrom the following lands described in the following Certified Survey Maps recorded in the office of the Register of Deeds for Waukesha County, to wit,

- a) Certified Survey Map No. 2332 recorded 6/24/75 as Document No. 915262
- b) Certified Survey Map No. 2370 recorded 8/27/75 as Document No. 922165
- c) Certified Survey Map No. 2420 recorded 10/30/75 as Document No. 927184
- d) Certified Survey Map No. 2582 recorded 5/28/76 as Document No. 952264

Recording Area

Name and Return Address

Town of Delafield
W302 N1254 Maple Ave
Delafield, WI 53018-2117

DELT 0852-999

Parcel Identification Number
(PIN)

WHEREAS, the land on which the tower is located is owned by Joseph E. Mroz and Elizabeth Lloyd, et al and has signed the application acknowledging that they are in favor of the placement of a communication tower on their property at S12 W31032 Summit Avenue, and

WHEREAS, on January 4, 2022, the Town Board and Plan Commission held a joint public hearing on the request, and

WHEREAS, the Town determined that it is in the interest of the Town to allow installation and construction of said facilities under a Conditional Use permit, and

WHEREAS, the Town of Delafield Plan Commission has given the matter due consideration and the Town Board has based its determination on the effect of granting a Conditional Use permit on the health, general welfare, safety and economic prosperity of the Town and specifically of the immediate neighborhood in which said use is located, and has given due consideration as to the effect of the Conditional Use on the established character and quality of the area, the rights of adjoining owners, the overall appearance, the landscaping, the type of construction, the movement of traffic, parking, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect on the neighborhood as a result of noise, dust, smoke, odor or other similar factors, and has determined that a Conditional Use would be appropriate provided that the Conditional Use is operated pursuant to the following conditions and in strict compliance with the same.

THIS IS NOT A PERMIT: YOU MUST COMPLY WITH CONDITIONS NO. J and T IN THE CONDITIONS SECTION BELOW BEFORE YOUR CONDITIONAL USE PERMIT WILL BE ISSUED. FAILURE TO OBTAIN PERMIT(S) MAY RESULT IN THE ISSUANCE OF CITATIONS.

FINDINGS OF FACT¹

1. The statements made in the preamble, above, are incorporated herein by reference, and constitute findings of the Town Board.
2. The Town Board finds that the Petitioner has shown by substantial evidence that all standards of the Zoning Ordinance related to the proposed use will be met, and substantial evidence to the contrary has not been provided.
3. In particular, the Town Board finds that the proposed use will not be adverse to public health, safety or welfare. No substantial evidence was provided to the contrary.
4. The Town Board finds that the proposed use is consistent with the spirit or intent of the code chapter related to new mobile service support structures and facilities based upon substantial evidence submitted by the Petitioner as part of the application process. No substantial evidence to the contrary was provided.
5. The Town Board finds that the proposed use is not otherwise detrimental to the community and particularly the surrounding neighborhood, upon substantial evidence submitted by the Petitioner as part of the application process. No substantial evidence was presented to the contrary.

¹ To the extent that findings of fact shown herein represent conclusions of law, these shall be deemed to be conclusions of law. To the extent that conclusions of law shown herein represent findings of fact, these shall be deemed to be findings of fact. The heading under which the statements are made shall not be controlling.

CONCLUSIONS OF LAW²

1. Section 17.06 6. C. of the Delafield Town Code provides the requirements and procedures to follow in considering a new communication tower and facilities, and
2. The wireless telecommunications mobile service facility shall be a conditional use, however it is not subject to Section 17.05 of the Delafield Town Code and instead shall be reviewed by the procedures stated in 17.06 6. C., and
3. The Petitioner has demonstrated by substantial evidence that the standards of the ordinance will be met, and no substantial evidence was provided to the contrary.

The Town Engineer has proposed numerous conditions upon the use and the Town Board determines that the conditions are reasonable, and are based upon substantial evidence, and the Petitioner has demonstrated that the Petitioner will comply with the conditions required by the Town Engineer and this Conditional Use Order

THEREFORE, IT IS ORDERED AS FOLLOWS:

Commencing upon the date hereof, a Conditional Use Permit for the subject premises is hereby granted. The Conditional Use permit herein shall apply only to use of the premises of the Joseph E. Mroz and Elizabeth Lloyd, et al and the Conditional Use permit shall continue in existence only so long as the Conditional Use is operated by STC Towers, LLC, or any entity which controls, is controlled by, or is under common control with STC Towers, LLC or any partner, or any partnership in which STC Towers, LLC is a general partner in compliance with this permit.

- A. STC Towers, LLC is allowed to maintain one self-supporting monopole type of telecommunication tower without guy wires at a point located approximately 620 feet north of the centerline of Summit Ave. and 130 feet west of the centerline of Maple Avenue. As shown on the site plan prepared by Ramaker Engineering dated 12/10/2021.
- B. The tower shall be no taller than 150 feet to the top of the platform and no taller than 159 feet to the top of the antennas and/or lightning rod. No light shall be placed on the tower.
- C. The tower shall accommodate a minimum of 5 users. Additional users may be allowed on the tower if the tower can structurally accommodate such additional users.

STC Towers, LLC shall lease space on the tower and within their leased area to telecommunications providers at a reasonable rate that is consistent with the prevailing market rates in the industry in Southeastern Wisconsin. In the event a communications provider alleges that STC Towers, LLC is requesting a lease rate that is in excess of the industry standard for the area, and if STC Towers, LLC and the telecommunications provider are unable to reach an agreement, STC Towers, LLC shall agree to submit the amount of the lease to binding arbitration between STC Towers, LLC and the prospective telecommunications provider, and shall offer to lease the property at the lease amount established by the arbitrator.

- D. All users shall come before the Plan Commission for approval. Each user shall meet all requirements of the Town Code and State Statutes. Should the Plan Commission determine that a public hearing and amendment to the Conditional Use be necessary, said users shall

² See footnote 1.

proceed as provided in the Town Code and State Statutes. The following user is granted approval as a part of this request:

1. Dish Network

The Town gives no warranty, representation or other assurance, and vests no rights in future users as to whether or not any specific communications facilities will be permitted to operate pursuant to this Conditional Use.

- E. The location and design of the tower, buildings, and access road shall be constructed as shown on the plans dated 12/10/2021.
- F. No sanitary facilities shall be required at this site.
- G. The use of the tower is to be on a non-interference basis, and shall not damage or interfere in any way with radio or television reception, paging or cellular equipment, pacemakers and hospital equipment such as x-rays and other diagnostic equipment or similar devices in use now or in the future. If interference is created, STC Towers, LLC shall cause the users creating the interference to correct it in conformance with FCC requirements and said interference shall be considered a violation of the Conditional Use permit as stated herein, if not corrected within thirty (30) days of notification by person to person telephone conversation or receipt of a letter, STC Towers, LLC shall respond to the complainant and the Town Clerk of the Town of Delafield within seven calendar days of notification of an interference problem. Said response shall indicate how and when the problem will be addressed within the 30 days.
- H. The tower and cabinets shall be protected with a seven-foot chain link fence, with a 1 foot barbed wire above the fence. The gate to the enclosure shall remain locked at all times. On January 4, 2022, the Town Plan Commission granted a waiver as to the fence height to a maximum of 8 feet (includes barbed wire).
- I. The users shall submit a certification of radio frequency exposure compliance before a building permit is granted and within three months of the start of operation of the tower. All users shall continuously use the tower for the purpose of constructing, maintaining and operating facilities for the transmission and reception of radio communication signals in such frequencies as may be assigned to them. The Town has received FCC license information dated August, 2021 that allows DISH Network to operate within their licensed frequencies in this market.
- J. The contractor shall submit an erosion control plan to the Town for approval by the Code Enforcement officer and engineer.
- K. If the Conditional Use is terminated or if the tower is not used for a period exceeding 12 months; the tower and all ancillary structures and improvements shall be removed. Said removal shall be accomplished within 3 months of the date the Town provides written notice to remove the tower. A \$20,000 bond shall be held by the Town for the purpose of assuring that the site can be restored. The Town Board may increase the bond from time to time, as they deem necessary. The bond shall be provided to the Town prior to the issuance of a building permit.
- L. In the management and operation of the business, every attempt possible should be made to alleviate the potential for nuisances and disturbances to surrounding residential neighborhoods. Any complaints by adjacent property owners or any other person affected shall be reviewed by the Town Plan Commission which will make findings as to whether or not such nuisance exist, and, if so, what provisions ought to be made to abate the nuisances. All complaints regarding

nuisances shall be subject to the nuisance provisions of the Town and other appropriate state or county laws. The findings and recommendations of the Town Plan Commission shall be forwarded to the Town Board for action.

- M. No use is hereby authorized unless that use is conducted in a lawful, orderly and peaceful manner. Nothing in this permit 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 Town of Delafield, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority. STC Towers, LLC and users of the tower shall not perform any acts or carry on any practices upon the property which may endanger or injure the property or surrounding area or any person or be a nuisance or menace to adjoining property owners, and shall keep the property free and clear of debris, rubbish, junk and garbage. This Conditional Use permit shall not be deemed to constitute a building permit, nor shall this permit constitute any other license or permit required by town ordinance or other law.
- N. The Conditional Use hereby authorized shall be confined to the premises described, without extension or expansion, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the town board as being in compliance with all pertinent ordinances, after review and recommendation by the Town Plan Commission.
- O. Any subsequent change, alteration, or addition to any aspect of the use approved herein shall first be submitted for approval to the Town Plan Commission and, if in the sole discretion of the Plan Commission, such change, alteration, or addition constitutes a substantial change, alteration or addition based on the standards set forth herein, a public hearing before the Town Plan Commission shall be required pursuant to Section 17.10 of the town ordinance. Any change, addition, or alteration of the physical premises, lands, or ownership, or use shall be considered substantial and shall require a new Conditional Use permit requiring full compliance with all town procedures and ordinances in place at the time.
- P. 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.
- Q. This Conditional Use may be reviewed annually from the date affixed below and upon such review, additional reasonable terms and conditions may be imposed as are deemed necessary and appropriate by the Town Plan Commission, so as to protect and promote the health, safety and welfare in the area and intent of the zoning code. In the event that the use of the property is in compliance with all the terms of this permit and/or subsequent approved amendments or changes, then, and in that event, the Town of Delafield shall continue this Conditional Use; otherwise, this Conditional Use may be terminated by action of the Town Board following referral to the Town Plan Commission for public hearing and recommendation thereof.
- R. SUBJECT TO FALL ZONE: Prior to the conditional use being effective, Petitioner is required to present to the Town Plan Commission, subject to the Town Plan Commission's approval, documentation to show that if the tower would fall, it will fall in an area where the Petitioner has secured property rights regarding that fall. Adequate proof may constitute, but not necessarily be limited to, proof that the Petitioner's lease with the Subject Property owner includes this fall zone; and/or that the Petitioner has acquired an easement from neighboring property owners regarding the fall zone. The fall zone shall be deemed to be an area, the radius of which the total height of the tower, unless the Petitioner demonstrates to the satisfaction of the Town Plan Commission that the tower is adequately engineered to fall in an area with a

radius that is less than the full height of the tower. Petitioner has submitted the required documentation in a letter provided by Josh Gosiak, P.E., Sabre Industries dated December 2, 2021.

- S. INDEMNIFICATION: STC Towers, LLC shall defend, indemnify and hold harmless Town and all associated, affiliated, allied and subsidiary entities of Town, whether existing now or in the future, and their respective officials, officers, departments, agencies, boards, representatives, employees, agents, contractors and attorneys (collectively, "Indemnified Parties") against any and all liability, claims, costs, damages, expenses, demands, lawsuits or disputes (including reasonable attorney's fees of counsel selected by Town and all other costs and expenses of litigation) arising in any way from (i) any condition, occurrence or accident upon the Subject Property which causes damage, injury or illness to any person or persons whomever or to any property whatsoever, arising in any way from the installation, presence, operation, maintenance or removal of STC Towers, LLC Communications Facilities, unless caused solely by the negligence or intentional or willful acts of Town or its respective officials, officers, departments, agencies, boards, representative, employees, agents, contractors and attorneys; (ii) work, labor, material or supplies provided or supplied to STC Towers, LLC, its respective contractors or subcontractors, for the installation, construction, operation, maintenance or use of the Subject Property or STC Towers, LLC Communications Facilities, including any claim or lien arising therefrom; (iii) breach of any warranty, representation, obligation or other provision of this conditional Use Permit; and (iv) any financing or securities offering by STC Towers, LLC or its affiliates for violations of common law or any laws, statutes, or regulations of the State of Wisconsin or United States, including those of the Federal Securities and Exchange Commission, whether by STC Towers, LLC or otherwise. This indemnification specifically includes, among other things, any and all liability related to or associated with exposure to electromagnetic fields or radio frequencies.

This indemnification does not constitute a waiver of any of the provisions of Section 893.80 of the Wisconsin Statutes or other applicable limits on municipal liability.

- T. INSURANCE: At all times during the term of this Conditional Use, STC Towers, LLC shall keep in force and effect a Commercial and General Liability Insurance as outlined below by a company authorized to do business in the State of Wisconsin and A.M. Best "A" rated or better and Class VII size or larger. Such insurance shall be primary. The Certificate of Insurance shall be submitted to the Town Attorney for approval as to the form, and shall be subject to the approval of the Town Attorney. Prior to issuance of the Conditional Use Permit, the Company shall furnish Town with a Certificate of Insurance. The Town will be given 30 days' advance notice by the insurance company of cancellation or non-renewal of the insurance during the term of this Conditional use Permit. Town, its boards, commissions, agencies, officers, employees and representatives (collectively, "Additional Insured") shall be named as additional insureds under all the policies, which shall be so stated on the Certificate of Insurance. The Commercial General Liability Policy shall be written to provide coverage for, but not limited to, the following" premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage and coverage from property damage from perils of explosion, collapse or damage to underground utilities (commonly known as XCU coverage). Limits of liability not less than \$1,000,000 general aggregate \$1,000,000 products/completed operations aggregate, \$1,000,000 personal injury, \$1,000,000 each occurrence.
- U. ENVIRONMENTAL: STC Towers, LLC represents and warrants that its use of the Subject Property will not generate any hazardous substances, that it will not dispose or unlawfully store on the Subject Property or unlawfully transport to or over the Subject Property any hazardous substances and that STC Towers, LLC Communications Facilities do not constitute

or unlawfully contain and will not generate any hazardous substance. No hazardous substances may be used, stored on or transported over the Subject Property (even if lawfully done) except as are necessary for the operations of STC Towers, LLC and/or the users' Communications Facilities on the Subject Property. "Hazardous Substance" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state, or local laws, regulations or rules now or hereafter in effect including any amendments. STC Towers, LLC shall defend, indemnify and hold harmless Indemnified Parties from and against any and all liability, loss, cost, damage, and expenses, including reasonable attorneys' fees arising from or due to STC Towers, LLC release, threatened release, storage or disposal of any such hazardous waste or hazardous substances on, under or adjacent to the Subject Property.

- V. EXISTING TREES: The existing trees and shrubbery on the property shall remain substantially the same. Dead or diseased trees may be removed as needed. Tree removal necessary for the construction of the driveway entrance is allowed.
- W. OUTSIDE STORAGE: Outside storage of materials is prohibited, except as expressly shown on the project site plan prepared by Ramaker Engineering dated 12/10/2021 for equipment.
- X. LIMITATIONS: STC Towers, LLC undertakes and assumes for its officers, agents, affiliates, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about the Subject Property. Town shall not be liable for, and STC Towers, LLC shall defend, indemnify and hold harmless, Indemnified Parties from any damage or threat of damage allegedly caused by STC Towers, LLC for any reason other than Town's or its respective officials', departments', agencies', boards', representatives', employees', agents', contractors', or attorneys' negligence, or intentional or willful acts.
- Y. NO WAIVER: No provision of this Conditional Use Permit is intended, or shall be construed, to be a waiver for any purpose by Town of the provision of § 893.80 of the Wisconsin Statutes or other applicable limits on municipal liability. No indemnification provision contained in this Conditional Use Permit shall be construed to in any way limit any other indemnification provision contained in this Conditional Use Permit.
- Z. NO ASSIGNMENT: The respective rights and obligations under this Conditional use Permit shall not be assigned to any other person or entity without the express written consent of the Town, except to any entity which controls, is controlled by, or is under common control with STC Towers, LLC, or to any partner, or to any partnership with STC Towers, LLC is general partner.
- AA. AESTHETIC IMPACT: STC Towers, LLC shall design, place and improve all of its Communications Facilities in a manner that will keep aesthetic impact held to a minimum practical level. Upon initial installation and any material alteration requiring a new Conditional use Permit, Town reserves the right to require STC Towers, LLC to paint the Communications Facilities or shield the Communications Facilities from view and take such other action as Town, in good faith, determines necessary or convenient to minimize aesthetic impact.
- BB. REIMBURSEMENT OF COSTS: STC Towers, LLC shall, on demand, reimburse Town for all reasonable costs and expenses of any type that Town incurs, or has incurred in connection with this Conditional Use Permit (including performance and enforcement of its provisions), the Communications Facilities, or any Town approval required herein, including engineering, legal, and other consulting fees. The Town Clerk shall provide STC Towers, LLC with copies of all itemized invoices.

- CC. PAYMENT OF CHARGES: Any unpaid bills' owed to the Town of Delafield by the Petitioner or 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 at any time during the period in which this conditional use is in effect; 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 use permit, that is subject to all remedies available to the Town, including possible cause for termination of the conditional use permit.
- DD. REGULATORY FILINGS: Upon Town's written request, STC Towers, LLC shall provide Town with copies of all non-proprietary, non-confidential petitions, applications, reports and communications submitted by STC Towers, LLC to the FCC, Securities and Exchange Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matter affecting this Conditional Use Permit or STC Towers, LLC operation of STC Towers, LLC Communications Facilities.
- EE. SURVIVAL OF PROVISIONS: All indemnification obligations of STC Towers, LLC under this Conditional Use Permit shall survive the expiration or earlier termination of this Conditional Use Permit.
- FF. NO LIMITATION ON AUTHORITY: Nothing contained in this Conditional Use Permit shall limit or interfere with or be construed to limit or interfere with any of Town's rights or powers, including Town's authority in enforcement of its municipal ordinances, including its zoning code, unless specifically and explicitly granted to STC Towers, LLC in this Conditional Use Permit.
- GG. AUTHORITY TO SIGN: STC Towers, LLC and Town represent that each has full right, power and authority to sign this Conditional Use Permit.
- HH. RECORDATION: The Conditional Use Permit shall be recorded in the office of the Register of Deeds for Waukesha County to affect the Subject Property upon which the Conditional Use is granted.
- II. ENFORCEMENT: Any violation of this Conditional Use shall be subject to the penalties and remedies described in the Town Code of Ordinances, in addition to any such other remedies as may apply, including possible termination of the conditional use. Any reasonable attorney's fees incurred by the Town to enforce any of the conditions or requirements of this conditional use order must be paid by STC Towers, LLC.
- JJ. PERMITS: STC Towers, LLC shall obtain any and all necessary and required permits and abide by any and all conditions of the same.
- KK. INSPECTION: STC Towers, LLC shall allow the Subject Property to be subject to inspection outside of the fenced in area by Town officials at any time. If it is required to go inside the fenced area, the inspector must be accompanied by a representative of STC Towers, LLC at any reasonable time.
- LL. LEASE: This Conditional Use Permit is subject to STC Towers, LLC entering into and maintaining a lease agreement regarding the construction, operation and use of the communications Facilities on the Subject Property. If an issue arises where the Town has a reasonable need to know particular information from the lease agreement, the Town may request a copy of the same in order to review those relevant aspects of the lease, and STC

Towers, LLC shall provide the same to the Town. STC Towers, LLC and/or the lessor may, however, redact any portion of the lease agreement that does not specifically relate to the issue of concern to the Town. In the event that information is redacted, the general subject matter of the redacted information must be described in writing.

MM. CONFLICT OF LAWS: If any aspect of this conditional use order is in conflict with any other aspect of the conditional use order, the more restrictive provision shall be controlling as determined by the Plan Commission for the Town.

Except as herein provided to the contrary, the Subject Property hereby authorized to be conditionally used shall in all respects conform to all of the laws, ordinances, orders, rules and regulations of the Town, Waukesha County, State of Wisconsin and United States of America, and in the event there is any conflict between the above, the more restrictive provisions shall apply.

Let copies of this order be filed in the permanent records of the Town Board of the Town of Delafield, let a copy of this permit be recorded at the Waukesha County Register of Deeds as a covenant on the title for the premises for which this Conditional Use is granted, and let copies be sent to the proper Town authorities and the grantee.

Approved this _____ day of _____, 2022.

TOWN OF DELAFIELD

Ronald A. Troy, Chairman

Dan Green, Town Clerk

APPROVAL

I hereby accept the terms of this Conditional Use in its entirety.

Dated this ____ day of _____, 2022.

Authorized Representative for STC Towers, LLC

Print name

This document drafted by Timothy G. Barbeau, P.E., P.L.S. (12/22/21) (2/2/22)

Plan Commission Report for February 1, 2022

Bopp Certified Survey Map Agenda Item No. 5. A.

Applicant: David Bopp, owner by Nenad Ajder, agent
Project: Land Combination
Requested Action: Approval and Recommendation to the
Town Board of a Certified Survey Map
Zoning: R-3 (County)
Location: N21 W28687 Elizabeth Court

Report

The purpose of this Certified Survey map (CSM) is to combine an existing parcel located on Elizabeth Court with a portion of the vacated Frank Street to create a new, larger lot in order to build a new house. I have reviewed the CSM for technical adherence to the State Statutes and the Town Code and have provided comments to the surveyor. The surveyor has addressed all my comments and the County's comments in the CSM dated January 19, 2022.

Staff Recommendation:

I recommend approval of the CSM dated 1/19/2022.

Tim Barbeau, Town Engineer
January 25, 2022

CERTIFIED SURVEY MAP NO. _____

Being Lot 1, Block 4, Auer Park on Pewaukee Lake, and part of the West 1/2 of Vacated Frank Street, all located in the Northeast 1/4 of the Northwest 1/4 of Section 24, Town 7 North, Range 18 East, Town of Delafield, Waukesha County, Wisconsin.

OWNER
 DAVID A. BOPP
 N21W28697 ELIZABETH CT.
 PEWAUKEE WI. 53072

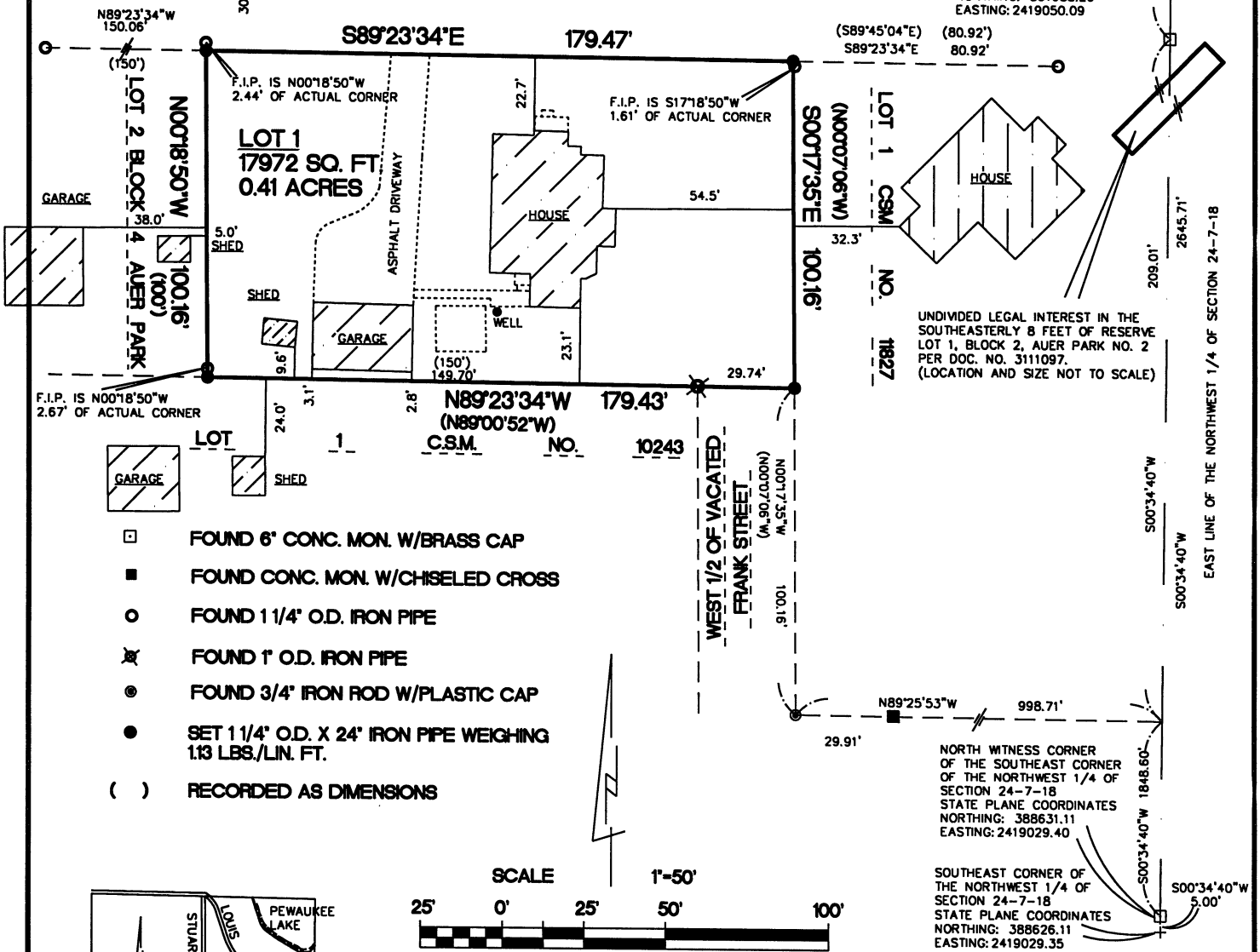
ENTIRE PROPERTY IS WITHIN THE
 JURISDICTION OF WAUKESHA CO.
 SHORELAND AND FLOODLAND
 PROTECTION ORDINANCE.

SURVEYOR
 KETTLE MORAIN SURVEYING INC.
 PO BOX 357
 EAGLE WI. 53119
 262-366-0642

NORTHEAST CORNER OF
 THE NORTHWEST 1/4 OF
 SECTION 24-7-18
 STATE PLANE COORDINATES
 NORTHING: 391271.48
 EASTING: 2419056.01

ELIZABETH COURT

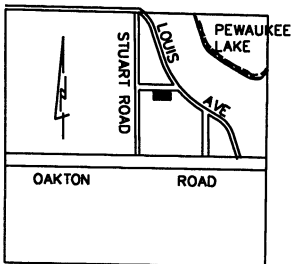
SOUTH MEANDER CORNER
 OF THE NORTHEAST CORNER
 OF THE NORTHWEST 1/4 OF
 SECTION 24-7-18
 STATE PLANE COORDINATES
 NORTHING: 391688.29
 EASTING: 2419050.09



- FOUND 6" CONC. MON. W/BASS CAP
- FOUND CONC. MON. W/CHISELED CROSS
- FOUND 1 1/4" O.D. IRON PIPE
- ✕ FOUND 1" O.D. IRON PIPE
- FOUND 3/4" IRON ROD W/PLASTIC CAP
- SET 1 1/4" O.D. X 24" IRON PIPE WEIGHING 1.13 LBS./LIN. FT.
- () RECORDED AS DIMENSIONS



BEARINGS ARE REFERENCED TO GRID NORTH OF THE WISCONSIN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE. THE EAST LINE OF THE NORTHWEST 1/4 OF SECTION 24-7-18 IS ASSUMED TO BEAR N00°34'40"E, (NAD83).



LOCATION MAP
 NW 1/4 SEC. 24-7-18
 SCALE 1"=2000'

TERRANCE E. PISAREK S-1930
 DATED THIS 10TH DAY OF DECEMBER, 2021
 REVISED THIS 11TH DAY OF JANUARY, 2022
 REVISED THIS 19TH DAY OF JANUARY, 2022

CERTIFIED SURVEY MAP NO. _____

Being Lot 1, Block 4, Auer Park on Pewaukee Lake, and part of the West 1/2 of Vacated Frank Street, all located in the Northeast 1/4 of the Northwest 1/4 of Section 24, Town 7 North, Range 18 East, Town of Delafield, Waukesha County, Wisconsin.

SURVEYORS CERTIFICATE

I Terrance E. Pisarek, Professional land surveyor, do hereby certify: That I have surveyed, divided and mapped a parcel of land being Lot 1, Block 4, Auer Park on Pewaukee Lake, and part of the West 1/2 of Vacated Frank Street, all located in the Northeast 1/4 of the Northwest 1/4 of Section 24, Town 7 North, Range 18 East, Town of Delafield, Waukesha County, Wisconsin, Described as follows: Commencing at the South meander corner of the Northeast corner of the Northwest 1/4 of said Section 24; thence South 00°34'40" West along the East line of the Northwest 1/4 of said Section 24, 209.01 feet; thence North 89°25'53" West, 998.71 feet to the center line of vacated Frank Street; thence North 00°17'35" West along said center line, 100.16 feet to the Southerly line of said Lot 1, extended easterly to said center line and the Point of Beginning; thence North 89°23'34" West along said Southerly line, 179.43 feet to the Westerly Line of said Lot 1; thence North 00°18'50" West, along said Westerly line, 100.16 feet to the Northerly line of said Lot 1 and the Southerly line of Elizabeth Court; thence South 89°23'34" East along said Northerly and Southerly line, 179.47 feet to the centerline of said vacated Frank Street; thence South 00°17'35" East along said center line, 100.16 feet to the Point of Beginning, containing 0.41 acres of land. Subject to all rights, reservations, restrictive covenants and easements of record.

That I have made such survey, land division and map by the direction of David A. Bopp, owner of said land.

That such map is a true and correct representation of all exterior boundaries of the land surveyed and the land division thereof made.

That I also certify that the plat is required by Chapter 236.10 to be submitted to the following for approval or objection: Waukesha County Department of Parks and Land Use and the Town of Delafield. The City of Pewaukee has waived their extraterritorial rights in the Town of Delafield,

That I have fully complied with the provisions of Chapter 236 of the Wisconsin State Statutes and the ordinances of the County of Waukesha, and the Town of Delafield, in surveying, dividing and mapping the same.

Dated this 10th Day of December, 2021
Revised this 11th day of January, 2022
Revised this 19th Day of January, 2022

Terrance E. Pisarek S1930

OWNERS CERTIFICATE

I, David A. Bopp, as owner, do hereby certify that I, have caused the land described to be surveyed, divided and mapped as represented on this map in accordance with the requirements of Chapter 236 of the Wisconsin State Statutes.

Date _____, 20__

David A. Bopp, Owner

**STATE OF WISCONSIN)
COUNTY OF WAUKESHA)**

Personally came before me this _____ day of _____, 20__ the above named person, to me known to be the person who signed the foregoing instrument and acknowledged that he executed the same.

My commission expires _____

Notary Public

CERTIFIED SURVEY MAP NO. _____

Being Lot 1, Block 4, Auer Park on Pewaukee Lake, and part of the West 1/2 of Vacated Frank Street, all located in the Northeast 1/4 of the Northwest 1/4 of Section 24, Town 7 North, Range 18 East, Town of Delafield, Waukesha County, Wisconsin.

TOWN BOARD APPROVAL

Approved by the Town of Delafield Town Board on the _____ day of _____, 20____.

Ronald A. Troy, Town Chairman

Dan Green, Town Clerk

TOWN PLANNING COMMISSION APPROVAL

Approved by the Town of Delafield Planning Commission on the _____ day of _____, 20____.

Kevin Fitzgerald, Chairman

Dan Green, Clerk

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE APPROVAL

The above, which has been filed for approval as required by Chapter 236 of the Wisconsin Statutes, is hereby approved on this _____ day of _____, 20____.

Dale R. Shaver, Director

Notes:

The vacated portion of Frank Street is recorded in Document No. 3434280.

Basement Restriction-Groundwater

The lands that are a part of this Certified Survey Map are located in an area with mapped soils that may contain seasonal high groundwater, Waukesha County Shoreland and Floodland Protection Ordinance and the Waukesha County Zoning Code currently require 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 future proposed residence 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 be complied with.

Dated this 10th Day of December, 2021

Revised this 11th Day of January, 2022

Revised this 19th Day of January, 2022