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Mary Elsner

**TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
TUESDAY, MARCH 12, 2019 – 7:00 P.M.
DELAFIELD TOWN HALL – W302 N1254 MAPLE AVENUE, DELAFIELD, WI**

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Citizen Comments – During the Public Comment period of the agenda, the Town Board welcomes comment from any member of the public, other than an elected Town Board member, on any matter not on the agenda. Please be advised that pursuant to State law, the Board cannot engage in a discussion with you but may ask questions. The Board may decide to place the issue on a future agenda for discussion and possible action. Each person wishing to address the Board will have up to five (5) minutes to speak. Speakers are asked to submit to the Town Clerk, a card providing their name, address, and topic for discussion.

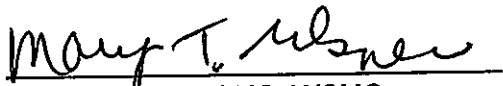
The Board will also take comment from the public on agenda items as called by the Chair, but not during the Public Comment. Please note that once the Board begins its discussion of an agenda item, no further comment will be allowed from the public on that issue.
4. Approval of February 26, 2019, Town Board Minutes
5. Action on vouchers submitted for payment:
 - A. Report on budget sub-accounts and action to amend 2019 budget
 - B. 1) Accounts payable; 2) Payroll
6. Communications (*for discussion and possible action*)
 - A. Tim Barbeau (3/5/19), Re: Officer of the Commissioner of Railroads
 - B. Eric J. Larson (3/4/19), Re: Proper Assessment of Adjoining Lots in the Same Ownership
7. Unfinished Business
 - A. 2020 Town Budget Planning
 - B. Consideration and possible action to adopt proposed amendments to the Town Zoning Code (Chapter 17) and Land Division and Development Code (Chapter 18)
8. New Business
 - A. Consideration and possible action on request for parking restriction on Taylors Woods Rd. on June 29, 2019 between the hours of 12:00 – 5:00 p.m.

- B. Consideration and possible action on a request to approve a certified survey map to combine two parcels into one parcel at W284N3234 Lakeside Road
- C. Consideration and possible action on a request to approve a certified survey map to combine four (4) parcels into one parcel at N21W28675 Louis Avenue
- D. Approval of Chicken License renewals:
 - John Abler – N5W33722 Lapham Lane
 - Robin and Carly Weiss – N11W31950 Phyllis Pkwy.
 - Tom Trawitzke – W295N425 Bryn Drive
 - Peter and Terry Mahoney-Ogden – W290N2171 Happy Hollow Rd.
- E. Consideration and possible action on request from Metropolitan Builder Association to hold Parade of Homes in White Oak Conservancy August 9, 2019 thru September 2, 2019

9. Announcements and Planning items

- A. Next Town Board Meeting – March 26
- B. Spring Election – April 2
- C. Next Plan Commission Meeting – Wednesday, April 3

10. Adjournment



Mary T. Elsner, CMC, WCMC
Town Clerk/Treasurer

Notification of this meeting has been posted in accordance with the Open Meeting Laws of the State of Wisconsin. The Town Board 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 Town Board of Supervisors. 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 53018-7000. This agenda is for informational purposes only. Posted – 3/7/19

TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
February 26, 2019

Members Present: L. Krause, P. Van Horn, E. Kranick, R. Troy, C. Smith

Others Present: T. Barbeau, *Town Engineer*, G. Meerschaert, *SAFEbuilt*, E. Larson, *Town Attorney*,
10 citizens

First order of business: Call to Order
Chairman Krause called the meeting to order at 7:00 p.m.

Second order of business: Pledge of Allegiance

Third order of business: Citizen Comments
There were no citizen comments.

Fourth order of business: Approval of February 12, 2019, Town Board Minutes
MOTION MADE BY MR. SMITH, SECONDED BY MR. KRANICK TO APPROVE THE MINUTES AS PRESENTED BY THE CLERK. MOTION CARRIED.

Fifth order of business: Action on vouchers submitted for payment:

A. Report on budget sub-accounts and action to amend 2018 budget

B. 1) Accounts payable; 2) Payroll

Accounts Payable

MOVED TO APPROVE PAYMENT OF CHECKS #61514 – #61547 THE AMOUNT OF \$147,249.49

Payroll

MOVED TO APPROVE PAYMENT IN THE AMOUNT OF \$34,367.03

MR. TROY/MR. KRANICK

MOTION CARRIED.

Sixth order of business: Communications (*for discussion and possible action*)

A. Cynthia Wagner and others: The Board will consider concerns raised about stormwater drainage in the vicinity of W284 N3298 Lakeside Road

MOTION MADE BY MR. TROY, SECONDED BY MR. KRANICK TO MOVE THIS ITEM TO THE END OF THE MEETING. MOTION CARRIED.

Seventh order of business: Unfinished Business

A. 2020 Town Budget Planning

There are no updates at this time.

B. Park and Recreation Commission Update

Mr. Smith stated that a tiered-membership sponsorship is in place, and the "titanium" level (\$1200) has already been sold. The Park and Recreation Commission has started working on a 5-year plan. A detailed discussion followed on the SWOT analysis (provided by Mr. Smith) and planning areas including, strengths, weaknesses, opportunities and threats involved in the planning process.

Eighth order of business: New Business

A. Gary Meerschaert, *SAFEbuilt*, discussion re: permits for building modifications

Mr. Van Horn raised the question as to whether or not building permits are required for construction going on in his area. Mr. Meerschaert stated that the subject work being done, i.e., replacement of flooring, etc. does not require a permit.

Sixth order of business: Communications (for discussion and possible action)

B. Cynthia Wagner and others: The Board will consider concerns raised about stormwater drainage in the vicinity of W284 N3298 Lakeside Road

Terry Booth, Rogahn Jones LLC, introduced himself as Ms. Wagner's attorney. He stated that the catch basin and PVC piping installed along Lakeside Road in 2016 caused inappropriate diversion of water that would not normally flow to Ms. Wagner's property and has had a great effect on the value of her property. Ms. Wagner is respectfully asking the Town to discontinue the diversion and compensate her for having deprived her of the full use of her property, as a result of the diversion. He referenced "Figure 1" in the packet of materials provided. (These are on file in the clerk's office for review during normal office hours).

Hans Meyer, W290N3030 Hillcrest Dr. provided a summary of the issue.

Jerry Klimowicz, W283N3302 Lakeside Rd., suggested that a stormsewer be installed to take the water to the east and all the way down the hill to the existing ravine.

Cindy Wagner, W284 N3298 Lakeside Road, stated that when she bought the property, she knew there was a culvert on one side of the road. There is an 8-inch pipe that extends onto her property. The water from the catch basin is diverted across the entire width of her property causing a constant flow of water. Ms. Wagner stated that there was not a problem when she bought the property.

C. **Closed Session:** Upon motion duly made, seconded and adopted by roll call vote, the Town of Delafield Town Board will convene in closed session to consider the following:

1. Pursuant to authorization conferred by Section 19.85(1)(e), Wisconsin Statutes, to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session; and by Section 19.85(1)(g), Wisconsin Statutes, to confer with counsel for the governing body with respect to litigation in which it is or is likely to become involved; more particularly with regard to complaints raised concerning stormwater drainage in the vicinity of W28 N3298 Lakeside Road. Participating in the closed session will be the Town Board, Town Clerk, Town Engineer, and Town Attorney. Following the closed session, the Town Board may convene into open session and take action on the matters discussed in closed session.

MOTION MADE BY MR. TROY, SECONDED BY MR. VAN HORN TO GO INTO CLOSED SESSION. MR. VAN HORN – AYE, MR. KRANICK – AYE, MR. TROY – AYE, MR. SMITH – AYE, CHAIRMAN KRAUSE – AYE. MOTION CARRIED.

MOTION MADE BY MR. SMITH, SECONDED BY MR. KRANICK TO GO INTO OPEN SESSION. MR. VAN HORN – AYE, MR. KRANICK – AYE, MR. TROY – AYE, MR. SMITH – AYE, CHAIRMAN KRAUSE – AYE. MOTION CARRIED.

9. Announcements and Planning Items

- A. Next Plan Commission Meeting – March 5 (and April 3 – due to Spring Election)
- B. Next Park and Recreation Commission Meeting – March 7
- C. Next Town Board Meeting – March 12

Tenth Order of business: Adjournment

MOTION MADE BY MR. SMITH, SECONDED BY MR. KRANICK TO ADJOURN AT 9:00 P.M. MOTION CARRIED.

Respectfully submitted,

Mary T. Elsner, CMC, WCMC
Town Clerk/Treasurer
Minutes approved on:

MAR 12 2019

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CREATIVITY BEYOND ENGINEERING

MEMORANDUM**DATE:** March 5, 2019**TO:** Town Board, Town of Delafield**FR:** Tim Barbeau, Town Engineer *TBB***CC:** Mary Elsner, Town Clerk**RE:** Office of the Commissioner of Railroads – Final Decision regarding adequacy of warning devices at grade crossings of the Soo Line Railroad tracks at various locations, including CTH KE in the Town of Delafield

Recently, I received the attached "Decision" by the Office of the Commissioner of Railroads. The decision was in response to a petition by the Wisconsin Department of Transportation related to installing updated gates at six locations between the City of Pewaukee and the City of Delafield. The decision grants the petition and allows for the warning devices to be upgraded as provided in the document.

The only crossing in the Town of Delafield is at CTH KE. The findings of fact related to that crossing starts on page 11, items 60 through 70. They identified several sight distance inadequacies. Item 70 concludes by stating, "In order to adequately protect public safety 12-inch LED automatic flashing lights with a four quadrant gate system, a sidelight for Glacier Road, an electronic bell, and constant warning time are needed because of train speeds, exposure factor, inadequate corner sight distance in all quadrants, and inadequate clearing distance in two of the four quadrants."

The Order from the Commissioner of the Railroads indicates, on page 19, item 6 that the Soo Line shall install and maintain the improvements noted above for the crossing at CTH KE by December 21, 2020. Furthermore, on page 22, item 20 of the Order, the Town of Delafield is to install and maintain a "parallel tracks" advance warning sign on Glacier Road. Waukesha County has some responsibilities for warning signs and pavement markings along the CTH KE portion of the work.

At this time, no action is needed. I have informed Highway Superintendent Don Roberts of the proposed work and the need to add the parallel track signs before December 21, 2020.

OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

Petition of the Wisconsin Department of Transportation for a Determination of the Adequacy of Warning Devices of the Soo Line Railroad Co. tracks with Kopmeier Drive, Wisconsin Avenue, Oakton Avenue, and Forest Grove Drive, in the Village of Pewaukee, Waukesha County, Vettelson Road in the City of Delafield, Waukesha County, and CTH KE in the Town of Delafield, Waukesha County

9150-RX-611

FINAL DECISION

On April 6, 2018, the Wisconsin Department of Transportation (WisDOT) filed a petition with the Office of the Commissioner of Railroads (Office) for a determination pursuant to Wis. Stat. § 195.28 of the adequacy of warning devices at the grade crossings of the Soo Line Railroad (SOO) tracks with Forest Grove Drive, Wisconsin Avenue, Oakton Avenue, and Kopmeier Drive in the village of Pewaukee; CTH KE in the town of Delafield; and Vettelson Road in the city of Delafield.¹

On December 6, 2018, the WisDOT filed updated proposed plans for Wisconsin Avenue and Oakton Avenue to include pedestrian gates.²

An Office investigator inspected the crossings in May 2018, and recommended upgrading the warning devices.³ No hearing was held.

The Commissioner GRANTS the Petition and ORDERS that the warning devices at the Forest Grove Drive, Wisconsin Avenue, Oakton Avenue, Kopmeier Drive, CTH KE and Vettelson Road crossings be upgraded as provided herein.

¹ PSC REF #340708.

² PSC REF#: 354743, PSC REF#: 354734.

³ PSC REF #342150, PSC REF #342151, PSC REEF #344188, PSC REF #344187, PSC REF #342152, PSC REF #342153.

Findings of Fact

1. The SOO operates 23 train movements and no switch movements per day over each crossing with passenger train operations up to 79 mph and freight train speeds up to 60 mph. Each crossing consists of one mainline track.
 2. Accidents that do occur here will likely be quite serious, especially if a SOO through train is involved due to their 60 to 79 mph speed. Train speed is strongly correlated with fatalities in train/vehicle accidents. More specifically, crossings with train speeds of 40 mph and over have disproportionate number of fatalities.
 3. The WisDOT safety enhancements to the SOO Watertown Subdivision are part of a Federal Railroad Administration (FRA) Safe Transportation of Energy Products (STEP) grant.
 4. It is reasonable for the signal materials and installation cost to be paid by the Project. The FRA STEP Grant will contribute up to 80 percent of the total cost. Any additional expenses beyond the amount provided in the grant to complete the project shall be paid from state funds.
 5. It is reasonable that the SOO notify the Office upon completion of the signal project.
- Forest Grove Drive (crossing no. 390031X / MP 104.33)**
6. Forest Grove Drive is 49 feet wide in the vicinity of the crossing and intersects the railroad tracks at an angle of 90 degrees. The roadway approaches to the crossing are level southbound and one percent incline going northbound.
 7. Forest Grove Drive carried an average daily traffic (ADT) of 750 according to WisDOT records at a posted speed limit of 25 mph.

8. A driver traveling at 25 mph needs a distance of 175 feet to stop safely. The crossing warning devices are visible from more than 175 feet in each direction. The approach sight distance is adequate.

9. Assuming a train speed of 79 mph, a driver traveling at 25 mph needs to see a train when it is 796 feet from the crossing from a point 175 feet down the highway. The sight distance available in each quadrant from the safe stopping distance is as follows: 116 feet in the northwest quadrant, 992 feet in the northeast quadrant, 171 feet in the southwest quadrant and 289 feet in the southeast quadrant. The corner sight distance is inadequate in the northwest, southwest, and southeast quadrants.

10. At all crossings, except those with gates, a driver stopped 15 feet short of the near rail must be able to see far enough down the track, in both directions, to determine if sufficient time exists for moving their vehicle safely across the tracks to a point 15 feet past the far rail, prior to the arrival of a train.⁴

11. The necessary clearing sight distance at the Forest Grove Drive crossing is 1,958 feet. The available clearing sight distance is as follows: 2,700 feet in the northwest quadrant, 2,500 feet in the northeast quadrant, 2,900 feet in the southwest quadrant, and 1,157 feet in the southeast quadrant. The clearing sight distance is inadequate in the southeast quadrant.

12. The exposure factor at this crossing is 17,250. The exposure factor equals the product of the number of trains per day and the number of highway vehicles per day, which yields a numerical value for the potential conflicts each day at the crossing.

⁴ Required clearing sight distance along both directions of the track, from the stopped position of the vehicle, is dependent upon the maximum train speed and the acceleration characteristics of the "design" vehicle (WB-65 semi truck).

13. No train-vehicle accidents have occurred at this crossing since 1973.

14. The crossing is presently protected with reflective crossbucks and antiquated cantilevered 12-inch LED automatic flashing lights with gates. Conditions warrant upgrading the warning devices at this crossing. The existing warning devices will be adequate until such time as the new warning devices are installed.

15. In order to adequately protect and promote public safety, it is necessary to install and maintain cantilevered 12-inch LED automatic flashing lights with gates, an electronic bell, and constant warning time with raised hardened medians north and south of the crossing because of the train speeds, exposure factor, inadequate corner sight distance in three out of four quadrants, and inadequate clearing sight distance in the southeast quadrant.

Wisconsin Avenue (crossing no. 390532C / MP 105.65)

16. Wisconsin Avenue is 62 feet wide in the vicinity of the crossing and intersects the railroad tracks at an angle of 45 degrees with a right-hand-forward skew. The roadway approaches to the crossing are level.

17. Wisconsin Avenue carried an ADT of 6,100 according to WisDOT records at a posted speed limit of 25 mph.

18. Assuming an angle skew of 45 degrees, a driver traveling at 25 mph needs a distance of 218 feet to stop safely. The crossing warning devices are visible from more than 218 feet in each direction. The approach sight distance is adequate.

19. Assuming an angle skew of 45 degrees, at a train speed of 79 mph, a driver traveling at 25 mph needs to see a train when it is 951 feet from the crossing from a point 218 feet down the highway. The sight distance available in each quadrant from the safe stopping distance is as

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follows: 171 feet in the northwest quadrant, 289 feet in the northeast quadrant, 116 feet in the southwest quadrant and 92 feet in the southeast quadrant. The corner sight distance is inadequate in all four quadrants.

20. At all crossings, except those with gates, a driver stopped 21 feet short of the near rail must be able to see far enough down the track, in both directions, to determine if sufficient time exists for moving their vehicle safely across the tracks to a point 21 feet past the far rail, prior to the arrival of a train.

21. The necessary clearing sight distance at the Wisconsin Avenue crossing is 2,238 feet. The available clearing sight distance is as follows: 175 feet in the northwest quadrant, 1,500 feet in the northeast quadrant, 2,900 feet in the southwest quadrant, and 1,014 feet in the southeast quadrant. The clearing sight distance is inadequate in the northwest, northeast and southeast quadrants.

22. The exposure factor at this crossing is 140,300.

23. One train-pedestrian accident has occurred at this crossing since 1973 - in 2005 with one fatality.

24. The crossing is presently protected with reflective crossbucks and mast mounted 12-inch LED automatic flashing lights with gates. Conditions warrant upgrading the warning devices at this crossing. The existing warning devices will be adequate until such time as the new warning devices are installed.

25. In order to adequately protect and promote public safety, it is necessary to install and maintain 12-inch LED automatic flashing lights with a three quadrant gate system with two gates north of the crossing and one gate south of the crossing for northbound traffic, a side light for

High Street, two electronic bells, constant warning time and a hardened median strip south of the crossing because of the train speeds, exposure factor, inadequate corner sight distance in all four quadrants, and inadequate clearing sight distance in three quadrants at the crossing of the tracks of the SOO with Wisconsin Avenue in the village of Pewaukee, Waukesha County.

26. The WisDOT is proposing to install pedestrian gates on both sides of the sidewalk on the east side of the Wisconsin Avenue due to its 45-degree, left hand forward skew and the project's aim to create a sealed corridor.

27. The WisDOT proposes to flare out the five-foot sidewalk on the north side so that it intersects the tracks at an angle of about 77 degrees and to install detectable warning panels and gates on both approaches.

28. No change is proposed for the south side of the sidewalk, which, intersects the tracks at an angle of about 50 degrees, left-hand forward skew.

29. No treatment is proposed for the sidewalk on the southeast side of Wisconsin Avenue.

30. The pedestrian's clearing sight distance to the east is inadequate due to track curvature.

31. The Commissioner finds that the installation of gates, channelization, STOP lines, detectable warning surface, LOOK sign (R15-8) and pathway delineation, is necessary to adequately protect and promote public safety at the Wisconsin Avenue pedestrian crossing.

32. It is reasonable to install fencing on the north side of the railroad tracks from Oakton Avenue to Wisconsin Avenue.

Oakton Avenue (crossing no. 390530N / MP 105.19)

33. Oakton Avenue is 49 feet wide in the vicinity of the crossing and intersects the railroad tracks at an angle of 40 degrees with a right-hand-forward skew. The roadway

approaches to the crossing are inclining one percent on the eastbound and westbound approaches.

34. Capitol Drive intersects Oakton Avenue approximately 57 feet from the crossing.

35. Oakton Avenue carried an ADT of 6,300 according to WisDOT records at a posted speed limit of 25 mph.

36. A driver traveling at 25 mph needs a distance of 238 feet to stop safely. The crossing warning devices are visible from more than 238 feet in each direction. The approach sight distance is adequate.

37. Assuming a train speed of 79 mph, a driver traveling at 25 mph needs to see a train when it is 1,023 feet from the crossing from a point 238 feet down the highway. The sight distance available in each quadrant from the safe stopping distance is as follows: 253 feet in the northwest quadrant, 188 feet in the northeast quadrant, 295 feet in the southwest quadrant and 353 feet in the southeast quadrant. The corner sight distance is inadequate in all four quadrants.

38. At all crossings, except those with gates, a driver stopped 23 feet short of the near rail must be able to see far enough down the track, in both directions, to determine if sufficient time exists for moving their vehicle safely across the tracks to a point 23 feet past the far rail, prior to the arrival of a train.

39. The necessary clearing sight distance at the Oakton Avenue crossing is 2,352 feet. The available clearing sight distance is as follows: 1,227 feet in the northwest quadrant, 1,658 feet in the northeast quadrant, 1,674 feet in the southwest quadrant, and 1,390 feet in the southeast quadrant. The clearing sight distance is inadequate in all four quadrants.

40. The exposure factor at this crossing is 144,900.

41. Four train-vehicle accidents have occurred at this crossing since 1973 in 1979, 1982, 2005, and 2009 with one reported fatality (2009) and one reported injury (2005).

42. Train volume is high. The 79 mph train speed presents a substantial risk of injury or death to pedestrians. The pedestrian's view down the tracks is obstructed to the west. The proximity of playgrounds, suggests that numerous young pedestrians, the age group most likely to be 'distracted walkers' will use the Oakton Avenue crossing.

43. The crossing is presently protected with reflective crossbucks and 12-inch LED automatic flashing lights with gates. Conditions warrant upgrading the warning devices at this crossing. The existing warning devices will be adequate until such time as the new warning devices are installed.

44. In order to adequately protect and promote public safety, it is necessary to install and maintain 12-inch LED automatic flashing lights with a three quadrant gate system with two gates east of the crossing and one gate west of the crossing, two electronic bells, pedestrian gates, constant warning time, a hardened median strip west of the crossing, a connecting sidewalk on Oakton Avenue to the sidewalk on Capitol Drive, and fencing because of the train speeds, exposure factor, inadequate corner sight distance in all four quadrants, and inadequate clearing in all four quadrants at the crossing.

45. The Oakton Avenue crossing has sidewalks on the north and south sides that intersect the crossing at an angle of 40 degrees, right-hand forward.

46. The WisDOT is proposing to replace the current the sidewalks with five-foot sidewalks on both sides of Oakton Avenue such that they would intersect the tracks at an angle

closer to 90 degrees and to install gates and detectable warning panels on both sides, both approaches.¹⁵

47. The WisDOT is not proposing fencing or other channelization to guide pedestrians to use the crossing but will install fencing on the north side of the tracks between the Oakton and Wisconsin Avenue crossings.

48. The Commissioner finds that the installation of pedestrian gates with channelization on both approaches to the crossing on both the north and south sidewalks is necessary to adequately protect and promote public safety at the Oakton Avenue crossing.

Kopmeier Drive (crossing no. 390533J / MP 106.17)

49. Kopmeier Drive is 25 feet wide in the vicinity of the crossing and intersects the railroad tracks at an angle of 90 degrees. The roadway approaches to the crossing are level southbound and an incline of three percent northbound.

50. Kopmeier Drive T-intersects with itself approximately 42 feet from the crossing.

51. Kopmeier Drive carried an ADT of 500 according to WisDOT records at a posted speed limit of 25 mph.

52. A driver traveling at 25 mph needs a distance of 175 feet to stop safely. The crossing warning devices are visible from more than 175 feet in each direction. The approach sight distance is adequate.

53. Assuming a train speed of 79 mph, a driver traveling at 25 mph needs to see a train when it is 796 feet from the crossing from a point 175 feet down the highway. The sight distance available in each quadrant from the safe stopping distance is as follows: 192 feet in the northwest

¹⁵ PSC REF#: 354734 at 2.

quadrant, 50 feet in the northeast quadrant, 1,200 feet in the southwest quadrant and 50 feet in the southeast quadrant. The corner sight distance is inadequate in the northwest, northeast, and southeast quadrants.

54. At all crossings, except those with gates, a driver stopped 15 feet short of the near rail must be able to see far enough down the track, in both directions, to determine if sufficient time exists for moving their vehicle safely across the tracks to a point 15 feet past the far rail, prior to the arrival of a train.

55. The necessary clearing sight distance at the Kopmeier Drive crossing is 1,958 feet. The available clearing sight distance is 2,000 feet in the northwest quadrant, 2,000 feet in the northeast quadrant, 255 feet in the southwest quadrant, and 132 feet in the southeast quadrant. The clearing sight distance is inadequate in the southeast and southwest quadrants.

56. The exposure factor at this crossing is 11,500.

57. No train-vehicle accidents have occurred at this crossing since 1973.

58. The crossing is presently protected with reflective crossbucks and mast mounted 12-inch LED automatic flashing lights with gates. Conditions warrant upgrading the warning devices at this crossing. The existing warning devices will be adequate until such time as the new warning devices are installed.

59. In order to adequately protect and promote public safety, it is necessary to install and maintain 12-inch LED automatic flashing lights with a four quadrant gate system, an electronic bell, constant warning time and brush clearing because of the train speeds, exposure factor, inadequate corner sight distance in three quadrants, and inadequate clearing sight distance in two quadrants at the crossing of the SOO tracks with Kopmeier Drive.

CTH KE (crossing no. 390535X / MP 108.19)

60. CTH KE is 42 feet wide in the vicinity of the crossing and intersects the railroad tracks at an angle of 80 degrees with left-hand-forward skew. The roadway approaches to the crossing are level.

61. Glacier Road intersects CTH KE approximately 67 feet northeast of the crossing.

62. CTH KE carried an ADT of 7,900 according to WisDOT records at a posted speed limit of 45 mph.

63. A driver traveling at 45 mph needs a distance of 383 feet to stop safely. The crossing warning devices are visible from more than 383 feet in each direction. The approach sight distance is adequate.

64. Assuming a train speed of 79 mph, a driver traveling at 45 mph needs to see a train when it is 808 feet from the crossing from a point 383 feet down the highway. The sight distance available in each quadrant from the safe stopping distance is as follows: 62 feet in the northwest quadrant, 89 feet in the northeast quadrant, 57 feet in the southwest quadrant and 152 feet in the southeast quadrant. The corner sight distance is inadequate in all four quadrants.

65. At all crossings, except those with gates, a driver stopped 15 feet short of the near rail must be able to see far enough down the track, in both directions, to determine if sufficient time exists for moving their vehicle safely across the tracks to a point 15 feet past the far rail, prior to the arrival of a train.

66. The necessary clearing sight distance at the CTH KE crossing is 1,964 feet. The available clearing sight distance is 2,000 feet in the northwest quadrant, 2,300 feet in the

northeast quadrant, 357 feet in the southwest quadrant, and 349 feet in the southeast quadrant.

The clearing sight distance is inadequate in the southwest and southeast quadrants.

67. The exposure factor at this crossing is 181,700.

68. Two train-vehicle accidents have occurred at this crossing since 1973 in 1979 and 1999 with one reported fatality (1979).

69. The crossing is presently protected with reflective crossbucks and mast mounted 12-inch LED automatic flashing lights with gates. Conditions warrant upgrading the warning devices at this crossing. The existing warning devices will be adequate until such time as the new warning devices are installed.

70. In order to adequately protect public safety 12-inch LED automatic flashing lights with a four quadrant gate system, a sidelight for Glacier Road, an electronic bell, and constant warning time are needed because of the train speeds, exposure factor, inadequate corner sight distance in all quadrants, and inadequate clearing sight distance in two of the four quadrants.

Vettleson Road (crossing no. 390540U / MP 111.79)

71. Vettleson Road is 36 feet wide in the vicinity of the crossing and intersects the railroad tracks at an angle of 75 degrees with a right-hand-forward skew.

72. The roadway approaches to the crossing are level southbound and inclining at one percent northbound.

73. Vettleson Road carried an ADT of 1,500 according to WisDOT records at a posted speed limit of 45 mph.

74. A driver traveling at 45 mph needs a distance of 383 feet to stop safely. The crossing warning devices are visible from more than 383 feet in each direction. The approach sight distance is inadequate southbound do to curvature in the road, and is adequate northbound.

75. Assuming a train speed of 79 mph, a driver traveling at 45 mph needs to see a train when it is 808 feet from the crossing from a point 383 feet down the highway. The sight distance available in each quadrant from the safe stopping distance is as follows: 59 feet in the northwest quadrant, 98 feet in the northeast quadrant, 840 feet in the southwest quadrant and 98 feet in the southeast quadrant. The corner sight distance is inadequate in the northwest, northeast, and southeast quadrants.

76. At all crossings, except those with gates, a driver stopped 16 feet short of the near rail must be able to see far enough down the track, in both directions, to determine if sufficient time exists for moving their vehicle safely across the tracks to a point 16 feet past the far rail, prior to the arrival of a train.

77. The necessary clearing sight distance at the Vettleon Road crossing is 1,964 feet. The available clearing sight distance is 1,194 feet in the northwest quadrant, 491 feet in the northeast quadrant, 765 feet in the southwest quadrant, and 1,100 feet in the southeast quadrant. The clearing sight distance is inadequate in all four quadrants.

78. The exposure factor at this crossing is 34,500.

79. No train-vehicle accidents have occurred at this crossing since 1973.

80. The crossing is presently protected with reflective crossbucks and mast mounted 12-inch LED automatic flashing lights with gates. Conditions warrant upgrading the warning

devices at this crossing. The existing warning devices will be adequate until such time as the new warning devices are installed.

81. In order to adequately protect and promote public safety, it is necessary to install and maintain 12-inch LED automatic flashing lights with a four quadrant gate system, an electronic bell, constant warning time, and brush clearing because of the train speeds, exposure factor, inadequate corner sight distance in three of the four quadrants, and inadequate clearing sight distance in all quadrants at the crossing of the tracks of the SOO with Vetteson Road.

Conclusion of Law

The Office has jurisdiction over this matter under Wis. Stat. §§ 195.03(2), 195.28 and 195.29 and enters this order consistent with the findings of fact.

Discussion on Pedestrian Gates

The WisDOT is proposing to install pedestrian gates at the Wisconsin Avenue and Oakton Avenue crossings due to their skew and the project's aim to create a sealed corridor. The Manual on Uniform Traffic Control Devices (MUTCD) states that when a pedestrian grade crossing is located within 25 feet of the highway-rail grade crossing, the pedestrian grade crossing normally shares the signs and other treatments with the highway-rail grade crossing.¹⁶ The WisDOT states that the skew at the Wisconsin and Oakton crossings (45 and 40 degrees, respectively) creates a situation where a pedestrian could pass what would normally be the shared grade crossing warning devices after they have been activated.

¹⁶ See MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, 2009 Ed. (FHWA, Rev. 2012), § 8D.05, providing that the Crossbuck Assembly may be omitted on the approaches to a pathway grade crossing that is located within 25 feet of the traveled way at a highway-rail or highway-LRT grade crossing. Available at <http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1r2edition.pdf>.

There are attractions on both sides of the tracks. The Pewaukee Village Park with a large surface parking area is located on the north side near the Oakton Avenue crossing. A second public parking area is also north of the tracks near the Wisconsin Avenue crossing. A public beach, stores and restaurants line Wisconsin Ave on the south side of the tracks. Crossings near such attractions often experience pedestrian surges and these pedestrians can exhibit high inattention and compromised judgment.¹⁷ In locations where pedestrian surges are likely to occur, active warning devices should be provided. The proximity of the attractions also suggests that young pedestrians, the age group most likely to be distracted pedestrians, would either use the Wisconsin Avenue crossing or cross the tracks near Elm Street or Caldwell Street if no fence is in place.

The MUTCD identifies required and optional warning devices that may be applied to maintain the proper warning and control of pedestrians at grade crossings when factors such as sight distance restrictions and high pedestrian activity are present. These include the required crossbuck with stop or yield sign and the optional flashing-lights with or without gates, stop line, edge line delineation, detectable warning surface and pedestrian channelization.

Sight Distance

A pedestrian preparing to cross a single-track at a skew between 75 and 90-degrees must be able to see an oncoming train far enough down the tracks to be able clear the tracks before the train arrives at the crossing. As calculated in the Federal Highway Administration's 2002 *Guidance on Traffic Control Devices at Highway-Rail Grade Crossings*, this sight distance

¹⁷ TRANSIT COOPERATIVE RESEARCH PROGRAM, REPORT 69, Light Rail Service: Pedestrian and Vehicular Safety (2001), available at http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_69.pdf.

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includes a 7 feet decision/reaction distance, 2 x10 foot clearances from the centerline of the single track, and, uses a walking speed of 3.5 ft/s.¹⁸

The pedestrian time to clear a single-track grade crossing (seconds (s)) = pedestrian travel distance (feet (ft))/pedestrian speed (ft/s). Thus, based on two 10 ft clearance areas and a 7 ft decision / reaction distance pedestrian time is $(10 \text{ ft} + 10 \text{ ft} + 7 \text{ ft}) / (3.5 \text{ ft/s}) = 7.71 \text{ secs}$. The pedestrian clearing sight distance = pedestrian time to clear at-grade crossing times maximum train speed (79 mph) in ft/s or $7.71 \text{ sec} \times 115.87 \text{ ft/s} = 893.36 \text{ ft}$.

Less capable older pedestrians, because of their shorter stride and slower gait, would travel closer to a speed of 2.8 ft/s.¹⁹ At this speed, it takes 9.6 seconds to clear the tracks and the required clearing sight distance increases to 1,117.3 feet.

Fencing

A six-foot chain link fence is proposed for the north side of the railroad right-of-way between Wisconsin Avenue and Oakton Avenue. Fencing located within the pedestrian and vehicle sight triangles should be no higher than 43 inches. A funding source for fencing, however, has not been identified. Public safety requires that some safety measure be in place to prevent trespassing over the tracks with passenger train speeds up to 79 mph and freight train speeds up to 60 mph.

¹⁸ GUIDANCE ON TRAFFIC CONTROL DEVICES AT HIGHWAY-RAIL GRADE CROSSINGS. Highway/Rail Grade Crossing Technical Working Group, Washington DC: FHWA, November 2002, at 6. Available at http://safety.fhwa.dot.gov/intersection/other_topics/fhwasa09027/resources/Guidance%20On%20Traffic%20Control%20at%20Highway%20Rail%20Grade.pdf.

¹⁹ HANDBOOK FOR DESIGNING ROADWAYS FOR THE AGING POPULATION, Pub. No. FHWA-SA-14-015, Federal Highway Administration, Washington, D.C., June 2014, at 192, available online at https://safety.fhwa.dot.gov/older_users/handbook/aging_driver_handbook_2014_final%20.pdf.

The Commissioner does not believe that he can order installation of fencing on the SOO right-of-way such as that proposed in the WisDOT drawings.²⁰ He may, however, as part of the project, order the WisDOT to install barrier fencing that channelizes pedestrians toward pedestrian gates and to have such fencing extend to 25-feet on either side. But with such large gaps remaining between the crossings, it would be like building a doorway without walls.

Wisconsin Avenue Crossing

A north-south sidewalk crosses the tracks at the west side of the Wisconsin Avenue crossing. The WisDOT proposes to flare out the five-foot sidewalk on the north side so that it intersects the tracks at an angle of about 77 degrees and to install detectable warning panels and gates on both approaches.²¹

No change is proposed for the south side of the sidewalk, which, intersects the tracks at an angle of about 50 degrees, left-hand forward skew. Here, however, the roadway crossing gate arm is located within the sidewalk and once lowered, the gate mechanism and counterweight appear to block nearly half of the sidewalk. Thus, it may be appropriate to install a gate arm that extends across the sidewalk and into the roadway.²²

No treatment is proposed for the sidewalk on the southeast side of Wisconsin Avenue, which, continues through the crossing and leads to what appears to be a crosswalk to the right formed by two stop bars on either side of the mast-mounted lights. While there is a marked west-east sidewalk south of the crossing, persons unfamiliar with the area could find themselves continuing on the sidewalk and crossing the tracks at this location.

²⁰ See PSC REF#: 354734.

²¹ PSC REF#: 354734 at 1.

²² See MUTCD, *supra*, note 16 at § 8D.06.09.

Oakton Avenue crossing

The WisDOT is proposing to install five-foot sidewalks on both sides of Oakton Avenue such that they would intersect the tracks at an angle closer to 90 degrees and to install gates and detectable warning panels on both sides, both approaches. The north sidewalk would direct pedestrian traffic from the corner of Caldwell Street and Capitol drive to cross Capitol via a new crosswalk, toward the new pedestrian railroad crossing. This new sidewalk would also direct westbound pedestrian traffic on the north side of Capitol Drive to use the new pedestrian crossing. Unless some type of channelization is installed at this location, however, there will be nothing in place to direct pedestrians to use the new sidewalk as evidenced by the well-worn path over the tracks between Caldwell Street and Oakton Avenue.

With channelization and other right-of-way fencing in place, there may be a need for swing gates to prevent pedestrians from being trapped inside lowered gates. The Commissioner, however, admits that there is no specific engineering or pedestrian traffic study in this record on which to base reasoned conclusions and requirements for treatment of the proposed crossings. Thus, the Commissioner finds it reasonable to require that the WisDOT submit specific plans for the pedestrian crossings that address those safety measures discussed above, including discussion as to why it may not be appropriate to incorporate additional types of treatment beyond those proposed.

Order

1. Within 90 days of the effective date of this Final Decision, the WisDOT shall submit specific plans for the pedestrian crossings that address those safety measures discussed herein, including discussion of additional types of treatment beyond those that the WisDOT proposed, including, identifying a funding source for the SOO right-of-way fencing.

2. The SOO shall install and maintain cantilevered 12-inch LED automatic flashing lights with gates, an electronic bell, constant warning time circuitry, and other appropriate appurtenances in accordance with such plans as are filed with and approved by the Office at the crossing of its tracks with **Forest Grove Drive**, village of Pewaukee, Waukesha County by **December 21, 2020** (crossing no. 390031X).

3. The SOO shall install and maintain 12-inch LED automatic flashing lights with a three quadrant gate system, a side light for High Street, two electronic bells, constant warning time circuitry and other appropriate appurtenances in accordance with such plans as are filed with and approved by the Office at the crossing of its tracks with **Wisconsin Avenue**, village of Pewaukee, Waukesha County by **December 21, 2020** (crossing no. 390532C).

4. The SOO shall install and maintain 12-inch LED automatic flashing lights with a three-quadrant gate system, two electronic bells, constant warning time and other appropriate appurtenances in accordance with such plans as are filed with and approved by the Office at the crossing of its tracks with **Oakton Avenue**, village of Pewaukee, Waukesha County by **December 21, 2020** (crossing no. 390530N).

5. The SOO shall install and maintain 12-inch LED automatic flashing lights with a four-quadrant gate system, an electronic bell, and constant warning time, and other appropriate appurtenances in accordance with such plans as are filed with and approved by the Office at the crossing of its tracks with **Kopmeier Drive**, village of Pewaukee, Waukesha County by **December 21, 2020** (crossing no. 390533J).

6. The SOO shall install and maintain 12-inch LED automatic flashing lights with a four-quadrant gate system, a sidelight for Glacier Road, an electronic bell, and constant warning time,

and other appropriate appurtenances in accordance with such plans as are filed with and approved by the Office at the crossing of its tracks with **CTH KE**, town of Delafield, Waukesha County by **December 21, 2020** (crossing no. 390535X).

7. The **SOO** shall install and maintain 12-inch LED automatic flashing lights with a four quadrant gate system, an electronic bell, constant warning time and, and other appropriate appurtenances in accordance with such plans as are filed with and approved by the Office at the crossing of its tracks with **Vettleson Road** at-grade in the city of Delafield, Waukesha County by **December 21, 2020** (crossing no. 390540U).

8. The **SOO** shall submit to the Office signal and circuit plans with the cost estimate of its proposed installation and upon completion of the signal project, a detailed statement of the actual cost to the Office and to the WisDOT.

9. The signal installation work herein ordered shall not begin until the regional office of the WisDOT informs the railroad that they may start such work and such start notice will not be issued until appropriate federal aid or other funding arrangements have been assured. The cost of the new project initiated before the start notice will not be reimbursed with public funds and shall be the responsibility of the railroad.

10. The **SOO** shall coordinate the signal installation work herein ordered with the municipality and shall submit to the Office a plan and timetable for work completion at least 90 days prior to commencing the work.

11. The **SOO** shall notify the Office upon completion of the signal project.

12. The **SOO** shall clear brush and trees from its right-of-way for 330 feet down the tracks in each direction from the **Wisconsin Avenue, Kopmeier Drive, Vettleson Road** and **CTH KE** crossings by **June 30, 2019**.
13. The **village of Pewaukee** shall maintain advance warning signs (W10-1) on each approach to the **Forest Grove Drive, Wisconsin Avenue, Kopmeier Drive** and **Oakton Avenue** crossings at a distance from the crossing in accordance with the MUTCD.
14. The **city of Delafield** shall maintain advance warning signs (W10-1) on each approach to the **Vettleson Road** crossing at a distance from the crossing in accordance with the MUTCD.
15. **Waukesha County** shall maintain advance warning signs (W10-1) on each approach to the **CTH KE** crossing at a distance from the crossing in accordance with the MUTCD.
16. The **village of Pewaukee** shall install and maintain pavement markings on each approach to the **Forest Grove Avenue, Oakton Avenue, and Kopmeier Drive** crossings in accordance with the Wisconsin MUTCD Supplement (WMUTCD) by **June 30, 2019**.
17. The **village of Pewaukee** shall maintain pavement markings on each approach to the **Wisconsin Avenue** crossing in accordance with the WMUTCD.
18. **Waukesha County** shall maintain pavement markings on each approach to the **CTH KE** crossing in accordance with the WMUTCD.
19. The **city of Delafield** shall install and maintain pavement markings in accordance with the WMUTCD on each approach to the **Vettleson Road** crossing by **June 30, 2019**.

20. The **town of Delafield** shall install and maintain a "parallel tracks" advance warning sign (W10-4 tracks to the left) on Glacier Road for westbound traffic at a distance from the intersection of Glacier Road and **CTH KE** according to the MUTCD.

21. The **village of Pewaukee** shall install and maintain a "parallel tracks" advance warning sign (W10-4 tracks to the right) on **Capitol Drive** for eastbound traffic at a distance from the intersection of **Capitol Drive** and **Oakton Avenue** according to the MUTCD.

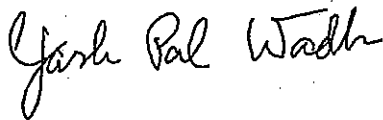
22. The **village of Pewaukee** shall install and maintain a "parallel tracks" advance warning sign (W10-3) on **Kopmeier Drive** for eastbound and westbound traffic at a distance from the intersection with **Kopmeier Drive** according to the MUTCD.

23. The **SOO** shall bear no part of the cost of the crossing signal materials or installation, except for any cost assessed to the railroad pursuant to Wis. Stat. § 195.60 for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

24. If any interested person objects to this order and requests a hearing within 20 days of the date of this order in writing, the office will determine the nature of the objection and may hold a public hearing.

25. This Final Decision is effective one day after service.

26. Jurisdiction is retained.



Yash P. Wadhwa, P.E.
Commissioner of Railroads

kmk:ta:DL:01635823

See attached Notice of Rights

OFFICE OF THE COMMISSIONER OF RAILROADS
4822 Madison Yards Way
P.O. Box 7854
Madison, Wisconsin 53707-7854

**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE TIMES
ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE
NAMED AS RESPONDENT**

The following notice is served on you as part of the Commissioner's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Office of the Commissioner of Railroads (Office) for rehearing within 20 days of the date of service of this decision. Wis. Stat. § 227.49. The date of service is shown on the first page. The petition for rehearing must be filed with the Office and served on the parties. The filing of a petition for rehearing does not suspend or delay the order's effective date. Wis. Stat. § 227.49(2). An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed in circuit court and served upon the Commissioner by personal service or certified mail within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Office serves its original decision.²⁴ The Office must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2018

²⁴ See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

MAR 12 2019

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Municipal LAW

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March 4, 2019

Town Board
Town of Delafield
W302 N1254
Delafield, WI 53018

**Re: Proper Assessment of Adjoining Lots in the Same Ownership
Newly Adopted Wisconsin Statute Section 66.10015(4)
2017 Wisconsin Act 67**

Ladies and Gentlemen:

I am writing to advise regarding the impact of 2017 Wisconsin Act 67 on assessment of abutting lots in the same ownership. I previously advised regarding this issue by a general letter concerning this legislation on or about March 7, 2018. I am writing a follow up to emphasize one of the recommendations of that letter that may not yet be implemented, but should be implemented in the 2019 tax year. The issue and my recommendations are as follows:

1. **Background.** In the 2017 U.S. Supreme Court decision of *Murr v. Wisconsin, et al.* our firm successfully defended St. Croix County in their enforcement of a "merger of title" ordinance. That ordinance stated that when two lots, one or both of which do not conform to the minimum size requirements of the Zoning Code, are contiguous and owned by the same party, the title to the land is deemed to have merged such that these lots cannot be sold separately, and a total of one principal structure can be located on the merged lots. The U.S. Supreme Court concluded that this treatment of the abutting non-conforming lots as one parcel did not constitute an unconstitutional taking.

In response to this decision, the State of Wisconsin enacted a law that requires the opposite result. 2017 Wisconsin Act 67 created Section 66.10015(4) of the Wisconsin Statutes which states the following:

"Notwithstanding the authority granted under ss. 59.69, 60.61, 60.62, 61.35, and 62.23, no political subdivision may enact or enforce an ordinance or take any other action that requires one or more lots to be merged with another lot, for any purpose without the consent of the owners of the lots that are to be merged."

The new law also creates Section 66.10015(2)(e) which states the following:

"Notwithstanding any other law or rule, or any action or proceeding under the common law, no political subdivision may

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enact or enforce an ordinance or take any other action that prohibits a property owner from doing any of the following:

1. Conveying an ownership interest in a substandard lot.
2. Using a substandard lot as a building site if all of the following apply:
 - a. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - b. The substandard lot or parcel is developed to comply with all other ordinances of the political subdivision."

As noted in the statute, above, (1) adjoining non-conforming lots can be sold separately; and (2) buildings can be constructed on the lots if a structure has never existed on the adjoining lot line and the construction complies with all other ordinances.

2. Assessor's General Duties. Assessors in Wisconsin are required to value property in the manner described in Wisconsin Statutes Section 70.32 and the Wisconsin Property Assessment Manual. Wisconsin Statutes Section 70.32(1) indicates that the assessor's duty is as follows:

"In determining the value, the assessor shall consider recent arm's-length sales of the property to be assessed if according to professionally acceptable appraisal practices those sales conform to recent arm's-length sales of reasonably comparable property; recent arm's-length sales of reasonably comparable property; and all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed."

That is not to say that the assessor has no discretion in the assessment of abutting lots. To the contrary, the assessor is given significant discretion on this issue pursuant to Section 70.23(2), Wisconsin Statutes which says:

"When 2 or more lots or tracts owned by the same person are considered by the assessor to be so improved or occupied with buildings as to be practically incapable of separate valuation, the lots or tracts may be entered as one parcel."

Assessors also have the ability to assess parcels together by Wisconsin Statutes 70.28, as follows:

No assessment of real property which has been or shall be made shall be held invalid or irregular for the reason that several lots, tracts or parcels of land have been assessed and valued together

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as one parcel and not separately, where the same are contiguous and owned by the same person at the time of such assessment.

3. Assessor's Duties After 2017 Wisconsin Act 67. Clearly assessors can still assess two parcels as though they were one. Now, however, each lot must be assessed at full value. The Assessor may need to do some research to determine what is the full value. Part of that consideration may be whether the lots are buildable. Wisconsin Statutes Section 66.10015(2)(e) now allows each lot to be sold separately, and with the two exceptions noted above, all of the adjoining lots can be constructed upon separately. Such lots are buildable if no structure has ever existed on the adjoining lot lines and the local ordinances do not otherwise prevent construction. Merger of title ordinances cannot be enforced, so the ordinances that are relevant to the determination are primarily area and dimensional standards, such as setbacks, offsets, and open space requirements. The assessor must not assess the adjoining parcels as though they have merged, because by this new State law, they have not. Additionally, the assessor must not assess the adjoining parcels as a single parcel with additional land because, again, this is not what the new law says.
4. Implementation. I recommend that this change to assess each parcel at its full value should be implemented in the 2019 tax year, if it has not been implemented previously. This is a change that arises from new laws, not from new valuation information or sale of the property. In the latter situations it is normally most appropriate to wait to adjust the assessment until a revaluation is conducted of all of the municipality, to ensure uniformity of assessment. This is more akin to the change in law that occurred when Wisconsin Statutes Section 70.11(39) was adopted, which created an exempt for computers from personal property taxes. The change in State law takes effect and should be implemented immediately. Lastly, with this law change be advised that we may see more objections at open book and board of review this year.
5. Recommendation. I recommend that you refer these thoughts to the municipal assessor to advise of the situation. Nothing herein is intended to substitute my opinion for the assessor's own judgement as to the valuation of property. The Assessor must do their work in compliance with applicable laws.

If you should have any questions or concerns regarding these matters, please do not hesitate to contact me.

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

Eric J. Larson

Eric J. Larson

EJL/egm

cc: Mary Elsner, Town Clerk

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ORDINANCE NO. _____

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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

impact on the surrounding properties as to noise, dust, smoke and odor, and others, hereby determine that the zoning amendments will not violate the spirit or intent of the Zoning Code for the Town of Delafield, will not be contrary to the public health, safety or general welfare of the Town of Delafield, will not be hazardous, harmful, noxious, offensive and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhoods within the Town, and will be consistent with the Town of Delafield Comprehensive Plan.

NOW, THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin DOES HEREBY ORDAIN as follows:

SECTION 1: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning," Section 17.02 entitled, "Rules and Definitions," subsection 2 entitled "Specific Words and Phrases," the definition of "Feed Lot Operation" shall be eliminated in its entirety.

SECTION 2: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning," Section 17.02 entitled, "Rules and Definitions," subsection 2 entitled "Specific Words and Phrases," insert a new definition as follows:

Self-storage facility. A facility consisting of individual self-contained storage units or spaces leased to individuals, organizations or businesses for storage of personal property. A storage facility that is accessory to the principal use on the property and used solely by occupants of the property where located is excluded from this definition of a self-storage facility.

SECTION 3: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning," Section 17.04 entitled, "Zoning Districts," subsection 5 entitled "Specific District," subsection F. entitled "A-1 Agricultural District," subsection 2., entitled, "Use Regulations," subsection a. entitled Permitted Uses, shall be amended to read as follows:

(8) Creameries

SECTION 4: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning," Section 17.04 entitled, "Zoning Districts," subsection 5 entitled "Specific District," subsection F.

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.~~

SECTION 5: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning," Section 17.04 entitled, "Zoning Districts," subsection 5 entitled "Specific District," subsection F. entitled "A-1 Agricultural District," subsection 2., entitled "Use Regulations," subsection b. entitled "Permitted Accessory Uses", shall be amended to read as follows:

- (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. ~~W J.~~ Keeping of Poultry or Livestock.

SECTION 7: 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 b.

entitled "Permitted Accessory Uses", subsection (4) is hereby repealed and recreated to read as follows:

(4) Roadside stands, provided off-street parking is made available for at least four vehicles. ~~except that roadside stands on properties of 10 acres or less shall require a conditional use permit under section 17.05 5. AC. Other Uses.~~

SECTION 8: 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 b. entitled "Permitted Accessory Uses", shall be amended to read as follows:

- (7) Quarters for Household or Farm Employees on Farms over 10 acres
(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 9: 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 5., entitled "Area Regulations," subsection a. entitled "Lot Size", shall be repealed and recreated to read as follows:

- a. Lot Size
Minimum area shall be 3 acres. If land is developed into a subdivision, it shall meet the PUD requirements of Section 18.16 of the Town Code, subject to the allowance stated in Chapter 18.16 6. d.

SECTION 10: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning," Section 17.04 entitled, "Zoning Districts," subsection 5 entitled "Specific Districts," subsection J. entitled "B-1 Restricted Business 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-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 12: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning," Section 17.04 entitled, "Zoning Districts," subsection 5 entitled "Specific Districts," subsection L. entitled "B-3 Business Park 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-3 Business Park District, subject to approval by the Plan Commission, of building, site, landscape and operational plans:

- (1) Professional offices, corporate offices, administrative offices, studios, business centers, laboratories and similar operations not involving retail or commercial sales, industrial use or residential use.
- (2) Restaurants (excluding drive-through and drive-in restaurants).

SECTION 13: 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 2., entitled "Use Regulations," subsection a. entitled "Permitted Uses," shall be amended to include the following:

(11) Commercial Greenhouses.

(12) Laboratories for testing, experimental or analytical purposes.

SECTION 14: 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 2., entitled "Use Regulations," subsection a. entitled "Permitted Uses," subsection (2) shall be repealed and recreated to read as follows:

- (2) Industrial and commercial operations, the character of which complements the surrounding area and which are not for any reason detrimental thereto. Self-storage facilities as defined herein shall be regulated as a Conditional Use.

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

CONDITIONAL USES

1. APPROVAL REQUIRED.

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

2. BASIS OF APPROVAL.

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

3. PROCEDURE.

A. Petition.

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

B. Data Required.

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

1. Names, addresses and phone numbers of the applicant, owner of the site, architect, engineer, and contractor.
2. The site legal description, location, zoning district, building and site plans, and plan of operation.
3. An accurate map of the property drawn to a reasonable scale, including indication of general terrain and topographic characteristics, the location of all significant terrain features such as streams, ponds, tree growth, etc., and the location of all existing structures.
4. An accurate and complete written description of the use for which conditional grant is being requested including pertinent statistics and operational characteristics (plan of operation).
5. An accurate and complete description of the current use of existing building and land.
6. Plans and other drawings showing proposed development of the site and buildings including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc.
7. The names and complete mailing address, including zip code of the owners of all properties within 300 feet of any part of the land included in the proposed use.

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 improved shall be charged to the Petitioner.

4. DETERMINATION.

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

A. Recording.

1. An official record of such conditional grant shall be prepared by the Town Clerk on a form prescribed therefor which shall include the description of the use for which the grant is given and all conditions attached thereto as well as a copy of the resolution of the Town Board approving the grant. A copy of the completed form shall be recorded at the Waukesha County Register of Deeds as a covenant on the title for the premises for which the conditional use was granted.
2. The occupancy permit shall be appropriately noted as to the conditional status granted.
3. Indication shall also be made on the zoning map by appropriate code number or symbol.

B. Changes or Additions.

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

C. Conditions.

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

D. Termination.

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

E. Standard Conditional Use Conditions.

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

1. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Town Plan Commission for determination.
2. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Town ordinance or other law.
3. This conditional use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Town Plan Commission as being in compliance with all pertinent ordinances.
4. All buildings and grounds shall be maintained in a neat, attractive and orderly way.
5. The property shall comply with all rules and regulations of the Town of Delafield and the local Fire Department, including submission to routine inspections by Town and Fire Department staff.

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

reference.

15. 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.
16. If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Town Plan Commission.

F. Performance Standards.

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

2. Control of Odors

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor. The Plan Commission reserves the right to request an odor control plan from the applicant to identify potential odors and implement recommendations from the plan.

3. Control of Fire and Explosive Hazards

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

4. Glare, Heat and External Lighting

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

5. Water Quality Standards

- a. No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore

deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.

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

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.

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

Animal Hospitals

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

Kennels

A-1 Agricultural District
A-2 Rural Home District
M-1 Industrial District

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to animal hospitals or kennels unless all of the following standards are met:

- a. Except for animal hospitals, no such use shall be permitted on a lot less than 5 acres in area.
- b. No building other than one used only for residential purposes shall be closer than 75' to the lot line of an adjoining lot in a district permitting residential use.
- c. Any building having indoor kennels shall be adequately soundproofed.
- d. The facility shall be maintained in a sanitary condition. Plan shall be submitted and approved for waste removal and method of addressing odors.
- e. Dogs allowed to be in outside kennels or fenced in play areas shall be at least 150 feet from any property line.
- f. Dogs taken outside the kennel area or fenced in play area (e.g. for a walk) shall be on a leash and shall remain on the property.
- g. Drop off and pick-up times shall be between 6 am and 10 pm.
- h. Traffic circulation shall be designed to minimize light and sound to adjacent landowners.

B. Bed and Breakfast Establishments.

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

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

2. **Standards Under Which Permitted.**

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

- a. Use of the facility as a bed and breakfast establishment automatically terminates a transfer or sale of property.
- b. All bed and breakfast establishments shall be subject to and comply with Wisconsin Administrative Code HSS 197 which is hereby incorporated by reference. Any future amendments, revisions or modifications of the current or future codes incorporated herein are intended to be a part of this Code in order to secure uniform statewide regulation of bed and breakfast establishments.
- c. Each bed and breakfast establishment shall be required to keep a register and require all guests to sign such register using their actual names and address before being assigned quarters. The register shall be available for inspection by the Police Department and Code Enforcement Officer for a period of not less than one year.
- d. No guest may be permitted to occupy space in a bed and breakfast establishment for a longer period than fourteen (14) consecutive days.
- e. A minimum of one off-street parking stall is provided for every guest bedroom with a minimum of two additional for the owner/proprietor. All parking areas meet the size requirements of the Town Code and must be hard-surfaced and maintained in a reasonably dustless condition. The parking areas abutting residential properties is screened from view using a minimum 6' high solid fence or comparable screening. No off-street parking shall be allowed within the front yard setback area and shall be a minimum of 3' from any side yard property line.
- f. Sign proposed meets Town sign code requirements.
- g. Every bed and breakfast establishment shall be properly addressed with numbers on the front of the structure, a minimum of 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:

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

2. **Standards Under Which Permitted.**

Conditional use status shall not be granted to churches, synagogues or other buildings for religious assembly unless all of the following standards are met:

- a. The structure conforms to double the offset requirements of the district in which it is located; however, no building shall be closer than 75' to the lot line of an adjoining lot in a district permitting residential use.
- b. The height limitation of the district in which the use is located does not exceed 50' provided the minimum required setback and offsets shall be increased 2' for every additional foot of height in excess of the permitted maximum in that district. The aforesaid height regulation shall not apply to the spire or belfry of a church except where airport safety zone regulations specifically limit the maximum height.
- c. The open space for the facility shall be a minimum of 50%.
- d. Site meets Town parking requirements.
- e. Access locations meet site distance requirements.
- f. A traffic study shall be prepared by a registered professional engineer 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 waived by the Plan Commission. The traffic study shall be prepared 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
- g. The lot is at least 3 acres in area, except that this area requirement shall not apply in the following districts:
 - B-1 Restricted Business District
 - B-2 Shopping Center District
 - B-3 Business Park District

M-1 Industrial District

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

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

of these standards must be consistent with good engineering practices and be approved in writing by the Town Board;

- (4) The provisions of section 18.07 shall govern with respect to dedication of public sites or payment in lieu of dedication; and
- (5) The application of these regulations shall be limited to parcels of not less than 10 acres in area.

e. Table 17-1 shall be utilized to determine the minimum amount of open space per development, minimum permanent common open space, minimum lot size and minimum open space per lot to be utilized for the development of a commercial planned unit development and associated platting of lots in the planned unit development:

TABLE 17-1

District	Title	Minimum Open Space for Development Area	Minimum Permanent Common Open Space	Minimum Individual Lot Size	Minimum Open Space Per Lot
B-2	Shopping Center District	50%	25%	2 acres	25%
B-3	Business Park District	75%	40%	2 acres	25%
M-1	Industrial District	60%	35%	2 acres	25%

- f. Lot width, setback, offsets and height shall follow the regulations found for each zoning district in 17.04.
- g. Adequate guarantee shall be provided for permanent retention of open space resulting from these regulations, either by private reservation for use of the building or property owners within the development or by public dedication. Any lot containing permanent common open space shall be owned in common by the owners of the properties that make up the development or by a business owners association and shall not be further divided nor shall they be used for residential, commercial or development purposes. Buildings or structures for noncommercial, recreational or accessory facilities may be permitted in such open space area subject to specific grant in the conditional use permit. Perpetual care and maintenance of such open space areas shall be provided for and an operational plan shall be submitted for specific approval and inclusion in the terms of the permit. Ownership and tax liability of the open space areas shall be established in a manner acceptable to the Town and shall be made a part of the conditions of approval.
- h. A traffic study shall be prepared by a registered professional engineer 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 waived by the Plan Commission. The traffic study shall be prepared 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
- 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.
 - l. 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

pertinent to an assurance that the proposed development will be carried out as presented for the project. After all conditions of a planned unit development project are certified by the Town Board as being completed, the uses established pursuant to the approved development plan and conditional use order shall be deemed to be permitted uses in the district in which it is located; however, the conditional use order shall remain in effect for purposes of ongoing compliance with the development plan.

- m. Any subsequent change or addition to an approved development plan shall first be submitted for approval to the Plan Commission and, if in the Commission's opinion such change or addition is not substantial, it may recommend approval to the Town Board without public hearing. If the Plan Commission deems that any proposed change is not acceptable, it shall recommend accordingly to the Town Board. Without limitation to the Plan Commission's right to determine any other change substantial, a change in any of the following respects shall be automatically construed as substantial:
 - (1) An increase in the number of buildings from that shown in the approved comprehensive project plan.
 - (2) A significant change in the size, value or type of structure from that indicated in the approved comprehensive project plan.
 - (3) The addition of any principal uses not included in the approved comprehensive project plan.
 - (4) A change in the basic concept of site development which would significantly alter the relationship of uses or open space to adjoining properties.
 - (5) Change of ownership.

E. Conversion.

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

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

- 2. **Standards Under Which Permitted.**

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

- a. Use shall be on lots of 10 acres or more.
- b. Buildings shall consist of the buildings as now exist on the premises. No additional buildings or additions may be made without the express approval of the Town in accordance with the terms of the applicable ordinances.

- c. A signed and sealed plat of survey shall be submitted detailing the size and offsets of all existing buildings.
- d. Access shall be from a public street.
- e. There shall be no storage outside.
- f. Water supply facilities and septic system, if any, shall be in accordance with the rules of the Waukesha County Division of Health and Department of Industry, Labor and Human Relations.
- g. Noise 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.

- d. There shall be a minimum living area of 400 sq. ft. for an efficiency apartment, 550 sq. ft. for a one bedroom apartment and 750 sq. ft. for a two bedroom apartment. No dwelling unit shall have more than two bedrooms.
- e. There shall be one covered parking space per dwelling unit.
- f. Multi-story housing for the elderly shall be provided with elevators.
- g. Restrictions shall be placed on the development consistent with State and Federal regulations governing elderly housing.
- h. In the case of phased development of an elderly project as defined, the developer shall present evidence to the Plan Commission that at least 50% of all previous phases are occupied.

G. Group Day Care Center.

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

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

2. **Standards Under Which Permitted.**

- a. Conditional use status shall not be granted to a group day care center unless the property owner's written permission is obtained and submitted as part of the conditional use permit application.
- b. The facility may not open until proof of licensure from the State of Wisconsin is provided to the Town Clerk.
- c. Access to the site meets WisDOT site distance standards.
- d. Drop-off and pick-up areas can accommodate projected traffic.
- e. Parking stalls are provided for employees in accordance with Section 17.09 I. of the Town Code.

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

A-2 Rural Home District
A-3 Suburban Home District

2. **Standards Under Which Permitted.**

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

- a. The lot is at least 7200 square feet in area.
- b. A minimum of 140 square feet of living space per child is provided.
- c. A minimum of 100 square feet of fully enclosed outside play area shall be provided per child at maximum permitted occupancy.
- d. Conditional use status shall not be granted to a group day care center unless the property owner's written permission is obtained and submitted as part of the conditional use permit application.
- e. The facility may not open until proof of licensure from the State of Wisconsin is provided to the Town Clerk.
- f. Access to the site meets WisDOT site distance standards.
- g. Drop-off and pick-up areas can accommodate projected traffic.
- h. Parking stalls are provided for employees in accordance with Section 17.09 I. of the Town Code.

J. **Keeping of Poultry or Livestock.**

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

A-2 Rural Home District

2. **Standards Under Which Permitted.**

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

- a. The keeping of poultry, other than chickens, fowl and domestic livestock must be on lots of 3 acres or more.
- b. Maximum practical conditions of neatness and sanitation are maintained and all fowl are kept confined or enclosed.
- c. Not more than one head of livestock or ten fowl shall be kept per acre of land except where such use existed prior to the date of the chapter as principal commercial or agricultural use, such use

may be continued subject to the limitations regulating a nonconforming use as regulated by this chapter.

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

2. Standards Under Which Permitted.

- 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.**

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

- a. The lot is at least 3 acres in area, except that this area requirement shall not apply in the following districts:
 - B-1 Restricted Business District
 - B-2 Shopping Center District
 - B-3 Business Park District
 - M-1 Industrial District
- b. No building, other than one used only for residence purposes, shall be closer than 75' to the lot line of an adjoining lot in a district permitting residential use.
- c. No such permitted use shall include the operation of a commercial facility such as a bar or restaurant except as may be specifically authorized in the grant of permit.
- d. No lighting installations shall be permitted which create a hazard to traffic or nuisance to surrounding property. The use of flashing or revolving spot lights and the like, other than traffic control lights, are specifically prohibited.

N. **Quarrying.**

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

M-1 Industrial District

2. **Standards Under Which Permitted.**

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

- a. A quarrying permit for such operation must be obtained from the Town Board. Such permit shall be for an initial period as is deemed appropriate to the specific situation but not to exceed 5 years and may be renewed thereafter for periods not to exceed 3 years provided application therefor shall be made at least 60 days and no more than 120 days before expiration of the original permit. Application after such date shall be treated as an original application.
- b. Application for a quarrying permit shall be made on forms supplied by the Town Clerk.
- c. The application for a quarrying permit shall be accompanied by: a fee as set from time to time by the Town Board to defray the cost of notification and holding of public hearing; a full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation; where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made part of the description; a legal description of the proposed site with a map showing its location with indications of existing or proposed private access roads, and of

existing or proposed public highways adjacent to the site which will be affected by the operation; a topographic map of the area at a minimum contour interval of 5' extending beyond the site to the nearest public street or highway or to a minimum distance of 300' on all sides; a restoration plan as required by subparagraph d. below; the names and addresses of the owners of all properties within 1/2 mile of the perimeter of the proposed quarrying operation.

- d. In order to insure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the Town Board a plan for such restoration in the form of the following:
- (1) An agreement with the Town whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the Town;
 - (2) A physical restoration plan showing the proposed contours after restoration, plantings and other special features of restoration and the method by which such restoration is to be accomplished;
 - (3) A certified check or other financial guarantee satisfactory to the Town, in an amount sufficient in the opinion of the Town Board to secure the performance of the restoration agreement;
 - (4) Such agreement and financial guarantee shall be in a form approved by the Town Attorney;
 - (5) In the event of the applicant's failure to fulfill this agreement, such bond, check or other financial guarantee shall be deemed forfeited for the purpose of enabling the Town to perform the restoration;
 - (6) Restoration shall proceed as soon as practicable and at the order and direction of the Town Engineer. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than 2 years;
 - (7) At any stage during the restoration, the plan may be modified by mutual agreement between the Town Board, after referral to the Plan Commission and the owner or operator;
 - (8) Where there is any backfilling, the 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, outcroppings, water bodies or areas of proposed building or paving construction shall be of a sufficient depth of earth to support plant growth;
 - (9) Within one year after the cessation of the operation, all temporary structures (excepting fences), equipment, stockpiles, rubble heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition;

- (10) In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of four horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.
- e. The application and all data and information pertaining thereto shall be referred to the Town Board for a joint public hearing with the Plan Commission, after which the Plan Commission shall provide a report and recommendation to the Town Board within a reasonable time after the public hearing.
 - f. Notices shall be sent through the mail or otherwise placed in the hands of all owners of land in the Town and to the Clerks of adjoining municipalities who have land which lies within 1/4 mile of the perimeter of the proposed quarrying operation. These notices shall be mailed or delivered at least 10 days prior to the date of hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient.
 - g. The Town Board shall, within a reasonable time after receipt of the recommendation, approve or disapprove the application for the proposed quarrying operation and shall be guided by consideration of the public health, safety and welfare and shall give particular consideration to the following factors in making their decision: the effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety and efficiency; the effect of the proposed operation on drainage and water supply; the possibility of soil erosion as a result of the proposed operation; the degree and effect on dust, noise, smoke and air pollution as a result of the proposed operation; the practical possibility of restoration of the site; the effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area; the most suitable land use for the area with particular consideration for future residential value.
 - h. Any conditions necessary to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the Town.
 - i. The procedures set forth above shall also apply to applications for renewal of a permit. Determination in regard to renewal shall be based particularly on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the Town.
 - j. No part of the quarrying operation shall be permitted closer than 1,000', nor shall any accessory access road, parking area or office building be permitted closer than 500' to the district zoned Rural Home, Suburban Home or Residential at the time of the grant of the permit, except with the written consent of the owners of a Rural Home, Suburban Home or Residentially zoned properties within 1,000' but in no case shall such operation be permitted closer than 200' to a Residential District; no quarrying operation shall be permitted if 30 or more families reside within a band 1/2 mile wide around the perimeter of the proposed operation.
 - k. No part of the quarrying operation other than access roads shall be located closer than 200' nor shall any accessory parking area, stock pile or office building be located closer than 100' to the base setback line along any street or highway.
 - l. No part of the quarrying operation shall be permitted closer than 200', nor shall any accessory access road, parking area or office building be permitted closer than 50' to any property line except with the written consent of the owner of the adjoining property or

except where the line is abutting an existing quarrying operation, but in no case shall such operation be closer than 20' to any property line except by agreement between abutting quarrying operations or be in conflict with the provisions of this chapter relating to preservation of topography.

- 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.

- v. When the operation is limited to the removal of topsoil, the Town Board may, consistent with the intent of these regulations, modify any or all of the provisions of this section, provided however, that in no case shall operations be permitted closer than 10' from any property line, or to a depth in excess of 18" or so as to adversely affect the drainage of the area and in such instances the operator shall restore the excavated area with topsoil to a depth of 4" and seed the same with grass.
- w. The provisions of this section shall not apply to an operation which is incident to the legitimate use of the premises, provided, however, where such operation involves the commercial disposal of the material removed, approval of the Town Board shall be required and such operation shall be limited to a maximum period of 6 months.
- y. Application to existing operations:
 - (1) Within 60 days after the adoption of this chapter, all existing quarrying operations shall be required to register with the Town Clerk submitting pertinent data relative to the present operation including the boundaries of the actual operation and of the ownership. A quarrying permit shall be granted to such existing operation subject to compliance with the operation requirements herein where they can be reasonably applied under existing circumstances.
 - (2) There shall be required within one year after adoption of this chapter, the submission of a plan for restoration of the site of any existing quarrying operation as provided by subparagraph d. above. The plan for restoration in such case shall not, however, impose requirements which are economically unreasonable or unreasonable from an engineering standpoint with respect to conditions resulting from operations prior to enactment of this chapter.
 - (3) Within 3 years after the date of this chapter any such existing operation shall be required to make application for a renewal permit the same as for reapplication in the case of a new operation under this chapter.

O. Riding Academies or Commercial Stables.

1. **Where Permitted.** Subject to the provisions of subsection 2., riding academies and commercial stables are conditional uses which may be permitted in the following districts:
 - A-1 Agricultural District
 - A-2 Rural Home District
 - A-E Exclusive Agricultural District
2. **Standards Under Which Permitted.** Conditional use status shall not be granted to riding academies or commercial stables unless all of the following conditions are met;
 - a. The lot is at least 7 ½ acres in area.
 - b. Building location:
 - (1) All buildings shall comply with the setback and offset provisions of the underlying zoning district, except as provided below.

- (2) No new building housing animals shall be closer than 100' to the lot line of an adjoining lot in a district permitting residential use. All other new buildings shall meet the offset and/or setback requirements of the zoning district in which they are located.
- (3) Existing buildings constituting legal nonconforming structures may remain although their use may be restricted in the grant of permit.
- (4) No existing building, except one designated as a rustic structure pursuant to Town ordinance, which is located closer than 100' to the lot line of an adjoining lot in a district permitting residential use, may be used to house animals except as may be specifically authorized in the grant of permit after review by the Plan Commission of the following factors:
 - the overall size of the property;
 - the nature of the building's use;
 - the intensity of the building's use, including the type and number of animals to be housed, and the hours and days of operation,
 - the pattern and location of other activity on the property;
 - the location and use of buildings on neighboring properties;
 - the activities conducted on neighboring properties;
 - the consent of neighboring property owners to the intended use; and, - provisions for manure storage and disposal.
 - 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.

1. **Where Permitted.** Subject to the provisions of subsection 2., self-storage facilities as defined in Section 17.02, are conditional uses which may be permitted in the following district:

M-1 Industrial District

2. **Standards Under Which Permitted.**

Conditional use status will not be granted to a self-storage facility unless all of the following standards are met:

- a. Lot must be a conforming lot and shall be 3 acres or more.
- b. Building location, base height and area regulations shall be as provided for in the underlying M-1 zoning district regulations.
- c. Buildings shall consist of quality materials such as brick, wood, stone, decorative concrete block and glass. The Plan Commission may allow the use of metal building components and exterior finish insulation systems (EFIS) if it is incidental to the primary building architecture or screened from public view. Metal siding shall not be permitted. Flat roofed buildings shall not be permitted. Pitched roof shall be 4:12 or steeper. Access doors to individual storage units shall not be located on the exterior of any structure, except as follows: 1. In the case of a structure that contains interior storage spaces, up to two vehicle access doors may be allowed on the exterior face of the structure; 2. In the case of multiple buildings that have exterior access to individual storage units, only those locations that face another interior storage exterior building face with individual doors shall be allowed. The exterior walls of the outermost buildings and ends of the individual buildings shall not include any doors or individual storage units. Color scheme for the buildings shall be shown on the plans and samples submitted to the Plan Commission for approval. Colors that are out of character with the surrounding developments and residential areas shall be prohibited.
- d. A signed and sealed plat of survey shall be submitted detailing the size and offsets of all existing buildings.
- e. Access shall be from a public street.
- f. There shall be no outside storage.
- g. Water supply facilities and septic system, if any, shall be in accordance with the rules of the Waukesha County Division of Environmental Health and the Wisconsin Department of Commerce.
- h. Hours and days of operation shall be no more than 6:00 AM to 9:00 PM, Monday through Sunday unless other hours are approved by the Plan Commission and Town Board.
- i. The exterior of all structures, fences, planting screens, etc., shall be kept in good condition at all times by painting, trimming or other acceptable maintenance procedures. Subsequent additions or changes in the building and grounds shall conform to or enhance the original construction and be consistent therewith.
- j. All appurtenances placed on the roof of any structure such as air conditioning units shall be housed in a penthouse or otherwise screened from view.

- 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 intermittingly 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 effects of the facility and shield the development from the negative impacts on 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 that 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.

2. Standards Under Which Permitted.

- a. District Regulations. The location, height, area, yard, parking, loading, traffic and highway access and other regulations of the district in which the use is located shall not apply to the solar energy system, unless the Town Board finds that the restriction satisfies one of the following conditions.
- i. Serves to preserve or protect the public health or safety.
 - ii. It does not significantly increase the cost of the system or significantly decrease its efficiency.
 - iii. It allows for an alternative system of comparable cost and efficiency.
- If one or more of the foregoing conditions is found to apply with regard to any such restriction of this Code, then such restriction shall apply to the solar energy system.
- b. The Town Plan Commission may recommend, and the Town Board may require compliance with such other conditions as may be deemed necessary in the specific situation, provided that any such restriction imposed must be found to meet the following conditions:
- i. Serves to preserve or protect the public health or safety.
 - ii. It does not significantly increase the cost of the system or significantly decrease its efficiency.
 - iii. It allows for an alternative system of comparable cost and efficiency.

SECTION 18: CONTINUATION OF EXISTING PROVISIONS.

The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in effect, and the repeal of any such provisions is stayed pending the final resolution of such actions, including appeals.

For any Residential Planned Unit Development conditional use permit granted pursuant to Section 17.05 5. AM. of the Town of Delafield Zoning Code prior to the effective date of this ordinance, the repeal of such code section is stayed solely for such existing conditional use permits, for the duration of the conditional use permits, and the conditional use orders remain in effect pursuant to their terms. Other than Residential

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

This ordinance posted or published _____.

H:\1181600\Doc\Chaps 17 and 18 Amendments\Chapter 17 Ordinance for 180911 Public Hearing rev 180925 rev 181011 rev 181017 rev 181126 rev 190219.docx

ORDINANCE _____

AN ORDINANCE TO CREATE SECTION 18.16 OF THE LAND DIVISION
AND DEVELOPMENT CONTROL ORDINANCE OF THE MUNICIPAL
CODE FOR THE TOWN OF DELAFIELD, WAUKESHA COUNTY,
WISCONSIN

WHEREAS, the Town Board for the Town of Delafield adopted land division regulations for the Town of Delafield and has amended such regulations from time to time, pursuant to Wisconsin Statutes §236.45; and

WHEREAS, the land division regulations, as amended, are codified as Chapter 18 of the Town of Delafield code of ordinances entitled "Land Division and Development Control," and

WHEREAS, the Town staff have recommended amending the Land Division and Development Control Ordinance to address the issue of residential planned unit development; and

WHEREAS, upon the recommendation of the Town of Delafield zoning administrator this matter was submitted to the Town of Delafield Plan Commission for its consideration at the March 6, 2018, commission meeting, pursuant to Wisconsin Statutes Section 236.45(4); and

WHEREAS, following publication of a Class 2 notice as required by Wisconsin Statute Section 236.45(4), a public hearing was held on 9/11, 2018 before the Town of Delafield Town Board; and

NOW, THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 18 of the Town of Delafield Municipal Code entitled, "Land Division and Development Control," Section 18.02 entitled, "Definitions," Subsection (2) entitled, "Specific Words and Phrases," the definition of "Planned Unit Development (PUD)" is hereby created and inserted among the definitions in alphabetical order, as follows:

Planned Unit Development (PUD): A self contained development in which subdivision and zoning controls are applied to the project as a whole rather than to individual lots, and in which specific benefits are provided to the community as well as the developer and the future citizens who will reside within the development. Within PUD's, densities are calculated for the entire development, usually permitting a trade-off between clustering of homes and provisions of common open space.

SECTION 2: Chapter 18 of the Town of Delafield Municipal Code entitled, "Land Division and Development Control," Section 18.02 entitled, "Definitions," Subsection (2) entitled, "Specific Words and Phrases," the definition of "Subdivision" is hereby repealed and re-created as follows:

Subdivision. (Repealed and recreated 2014-08) The division of a lot, parcel or tract of land by the owner or his agent for the purpose of sale or building development where: the act of division creates 2 or more parcels or building sites of 5 acres each or less in area; or 2 or more parcels or building sites of 5 acres each or less in area are created by successive divisions of any part of the original property by any person within a period of 5 years; or where the division creates more than three (3) residential parcels or building sites of any size within 5 years. The following shall not constitute a subdivision: cemetery plats, assessor's plats, or the sale or exchange of parcels of land between owners of adjoining property, if additional lots are not thereby created and the lots resulting are not reduced below the minimum size required by applicable ordinances (but see Section 18.11).

SECTION 3: Chapter 18 of the Town of Delafield Municipal Code entitled, "Land Division and Development Control," Section 18.16 entitled, "Residential Planned Unit Development" is hereby created as follows:

18.16. Residential Planned Unit Development

1. STATEMENT OF INTENT

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

2. MINIMUM ACREAGE

Areas designated as Residential Planned Unit Overlay District shall be under single corporate ownership or control and shall contain a minimum development area of 20 acres.

3. BUILDING LOCATION

- (a) **Setback** 50 feet minimum.
- (b) **Offset** 20 feet minimum.

4. BASE HEIGHT REGULATIONS

- (a) **Principal Residence** 30 feet maximum.
- (b) **Accessory Structures** 12 feet maximum.

5. LOT AREA REGULATIONS

- (a) Lot size and open space: in accordance with table 18-2 herein
- (b) Lot width: in accordance with table 18-3
- (c) Floor Area: (1) Single Floor: 1,500 square feet.
 (2) All Other: See Zoning Code §17.03 5. A.

6. STANDARDS UNDER WHICH PERMITTED

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

- a. Residential Planned Unit Development is permitted in any zoning district that permits residential uses, except the A-1 Agricultural District.
- b. The land must be divided by subdivision plat certified survey map, or condominium plat, pursuant to the land division approval procedures of this Chapter.
- c. No structures or sewage disposal systems shall be allowed in the Wetland-Floodplain District or within 75' of the district.
- d. A minimum of 40% of the total PUD area shall be set aside as permanent common open space; except the 40% permanent common open space is not required if all lots in the PUD are single-family residential lots, and they each meet a minimum lot size of 5 acres or greater. The overall density shall not exceed the maximum density allowed by applicable laws and ordinances.
- e. 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.
- f. Lot size, offset, setback and open space and floor area requirements may be modified according to the following conditions:
 - (1) All sanitary provisions must conform to the requirements of the State Department of Industry, Labor and Human Relations, the County Health Department, the local sanitary district and the Town;
 - (2) The proposed development must be in conformity with any local comprehensive plan, must not be contrary to the general welfare or economic balance of the community and the benefits and amenities of the resultant development must justify the variation from the normal requirements of the district in which it is located;
 - (3) All other requirements of the Planned Development must be met as set forth in this subparagraph;
 - (4) The provisions of sections 18.06 and 18.07 of this General Code shall govern the design and construction of all roads and public improvements. Any

modification of these standards must be consistent with good engineering practices and be approved in writing by the Town Board;

- (5) The provisions of section 18.07 shall govern with respect to dedication of public sites or payment in lieu of dedication; and
- (6) Except as specifically provided in subsection (7)(a) or (7)(b), below, the application of these regulations shall be limited to parcels of not less than 20 acres in area.
- (7) In areas designated as "Pewaukee Lake Non-Shoreline Redevelopment Overlay District" the following conditions, in addition to those conditions above that are not in conflict, shall apply:
 - (a) The parcel shall be at least 5 acres in area, and shall be identified in the Land Use Plan as being within the Pewaukee Lake Non-Shoreline Redevelopment Overlay District.
 - (b) The Plan Commission in making its recommendation and the Town Board in making its decision shall take into consideration the following: that although a planned unit development is permitted in this district, it is the intent that such development be designed to preserve to the greatest extent reasonably possible, lake views and vistas, woodlands, steep slopes, and other natural features.
- g. Table 18-1 shall be utilized to compute the maximum dwelling unit density that may be allowed for the development and shall be referred to as the residential density factor.

TABLE 18-1

A-1	Agricultural Districts	[PUD not permitted]
A-2	Rural Home District	3.5 acres/dw. unit
A-3	Suburban Home District	2.75 acres/dw. unit
C-1	Upland Environmental Corridor Overlay	217,800 s.f./dw. unit
R-1	Residential District	60,000 s.f./dw. unit

R-(A)	Residential District	41,000 s.f./dw. unit
R-2	Residential District	30,000 s.f./dw. unit
R-3	Residential District	20,000 s.f./dw. unit
R-L	Residential Lake District	20,000 s.f./dw. unit

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

TABLE 18-2

District		Minimum Lot Size	Minimum Open Space Per Lot
A-1	Agricultural District	[PUD not permitted]	[PUD not permitted]
A-2	Rural Home District	60,000 s.f.	80%
A-3	Suburban Home District	1 acre	75%

C-1	Upland Environmental Corridor Overlay	Per Underlying Zoning District	Per Underlying Zoning District
R-1	Residential District	30,000 s.f.	75%
R-1(A)	Residential District	30,000 s.f.	75%
R-2	Residential District	25,000 s.f.	75%
R-3	Residential District	20,000 s.f.	75%
R-L	Residential Lake District	20,000 s.f.	75%

TABLE 18-3

- j. Table 18-3 shall be utilized to determine the absolute minimum average lot width, setback and offsets which may be utilized for the individual lots.

District		Min. Lot Width	Setback	Offset
A-1	Agricultural District	[PUD not permitted]	[PUD not permitted]	[PUD not permitted]
A-2	Rural Home District	175'	50'	20'

A-3	Suburban Home District	150'	50'	20'
C-1	Upland Environmental Corridor Overlay	Per Underlying Zoning District	Per Underlying Zoning District	Per Underlying Zoning District
R-1	Residential District	130'	50'	20'
R-1(A)	Residential District	130'	50'	20'
R-2	Residential District	120'	50'	20'
R-3	Residential District	120'	50'	20'
R-L	Residential Lake District	100'	50'	20'

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

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

shall be made a part of the conditions of approval.

- l. This section shall be construed to permit any type of housing unit within the development boundaries (i.e., multiple family, single family, garden apartments, condominiums, duplexes, senior housing) subject to specific approval and conditions of this conditional use permit.
- m. Where the use is not proposed to be served by public sanitary sewers, the use of private treatment systems pursuant to SPS 83 Wisconsin Administrative Code shall apply, subject to the following:
 - (1) Private systems serving one dwelling unit shall be privately owned and maintained.
 - (2) Private systems serving more than one dwelling unit shall be the responsibility of an incorporated Owners Association subject to a maintenance and management agreement. Such agreements shall give the Town the right to inspect all facilities and make repairs at the expense of the Owners Association. In the event that the incorporated Owners Association fails to maintain or make repairs to the private system to the satisfaction of the Town, the maintenance and management agreement shall grant the Town the authority to conduct said maintenance or repairs at the expense of the Owners Association. In the event of nonpayment, all costs incurred shall be placed on the tax bills of all Owners Association properties on a prorata basis as a special assessment or special charge.
- n. The total number of dwelling units allowed for the project shall be determined by utilizing the density computation above.
- o. The floor area of attached or detached single family dwellings and duplexes shall not be less than what is required in the applicable zoning district.
- p. The architectural style of the buildings may be subject to approval by the Plan Commission.
- q. Subject to specific approval by the Town Board, floor area for multiple dwelling units may be modified in accordance with table 18-4.

TABLE 18-4

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

- r. The developer shall enter into an appropriate contract with the Town to guarantee the implementation of the development according to the terms and conditions

established as part of the development plan approval.

7. BASIS FOR APPROVAL

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

- a. 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.
- b. 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.
- c. 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.
- d. That the setbacks shall be maintained along any boundary street of the project area as required by the existing underlying basic district.
- e. 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.
- f. That there shall be no further division of any lot within the development.
- g. 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.
- h. The proposed site shall be provided with adequate drainage facilities for surface and storm waters.
- i. No undue constraint or burden will be imposed on public services such and police and fire protection street maintenance and maintenance of public areas by the proposed development.
- j. The proposed site shall be accessible form public roads that are adequate to carry the traffic expected to be generated by the proposed development.
- k. The approval of a petition for approval of a Residential Planned Unit Development shall be based on the building, site and operational plans for the development, all other commitments offered as required in regard to project value, character or other factors pertinent to an assurance that the proposed development will be carried out basically as presented for the project.

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

- m. Any subsequent change or addition to an approved plan shall first be submitted for approval to the Plan Commission and, if in the Commission's opinion such change or addition is not substantial, it may recommend approval to the Town Board without public hearing. If the Plan Commission deems that any proposed change is not acceptable, it shall recommend accordingly to the Town Board. Without limitation to the Plan Commission's right to determine any other change substantial, a change in any of the following respects shall be automatically construed as substantial:
 - (1) An increase in the number of dwelling units from that shown in the approved comprehensive project plan.
 - (2) A significant change in the size, value or type of structure from that indicated in the approved comprehensive project plan.
 - (3) The addition of any principal uses not included in the approved comprehensive project plan.
 - (4) A change in the basic concept of site development which would significantly alter the relationship of uses or open space to adjoining properties.

SECTION 4: 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 ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 5: EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this _____ day of _____, 2018.

TOWN OF DELAFIELD

Lawrence G. Krause, Chairman

MAR 12 2019

Mary Elsner

ITEM #8A PAGE 1 of 2

From: L Krause <lkrause2@wi.rr.com>
Sent: Tuesday, February 26, 2019 11:47 AM
To: Mary Elsner
Subject: Re: FW: Request for Parking Restriction on Taylors Woods Rd. 6/29/19 12-5 p.m.

Hi Mary,

Please add this item to the next town board agenda on March 12, 2019 under new business. Please ask John Taylor (or his representative) to attend the meeting to review his request and answer any questions from the board.

Thank you.
 Larry

On 2/26/2019 9:59 AM, Mary Elsner wrote:

Larry,

Will you please guide me on this request?

Thank you,
 Mary

Mary T. Elsner, CMC, WCMC
 Clerk/Treasurer
Town of Delafield
 W302N1254 Maple Avenue
 Delafield, WI 53018-7000
 (262) 646-2398
 (262) 646-8687 (fax)
mary.elsner@townofdelafield.org

From: John Taylor [<mailto:jdtaylor22@gmail.com>]
Sent: Tuesday, February 26, 2019 9:52 AM
To: mary.elsner@townofdelafield.org
Cc: Elizabeth McLean <mcle1990@gmail.com>; Taylor, Robert <robert.taylor@aurora.org>
Subject: Request for Parking Restriction on Taylors Woods Rd. 6/29/19 12-5 p.m.

Hello Mary:

It was nice speaking with you this morning about the possibility of temporarily restricting parking for our (my fiance, Liz McLean is cc'd) wedding June 29! Thank you also for being willing to bring this before the board for their consideration. Here is our request (request in brief is bolded for your convenience), with a little background for context:

We have a number of guests who will be attending our wedding ceremony at the residence at W281N3482 Taylors Woods Rd. on Pewaukee Lake (property owner, my father, Robert Taylor is also cc'd) 6/29/19 from roughly 1-4. Because of the number of vehicles involved to get our guests to this location from their hotels, we have already obtained permission from North Shore

Middle School about two miles away to use their parking lot so that our guests can park there, and we will have a shuttle mkeshuttle, to take our guests to and from the middle school parking lot.

Because the shuttle driver has previewed the area and indicates that he will need the street sides clear to back his vehicle back up the fork of Taylors Woods Rd to turn around (his shuttle is 25 ft. long), **we are requesting that the Town install temporary No Parking signs along both sides of Taylors Woods Rd NE beginning immediately Southwest (to the right if facing the lake) of W281N3482 Taylors Woods Rd. and continuing to where Taylors Woods Rd NE meets Taylors Woods Rd proper. We ask that this restriction be in place from at least 1-4 p.m. on 6/29/19.**

Thanks again for your consideration!

Sincerely,

John Taylor



Virus-free. www.avast.com

Plan Commission Report for March 5, 2019

AGENDA ITEM

MAR 12 2019

ITEM # 88 PAGE 1 of 6

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

Applicant: Joe and Katie Grascch

Project: Certified Survey Map (CSM) for Lot
Combination ~~and Driveway Slope variance~~

Requested Action: Approval of CSM
~~Approval of slope variance~~

Zoning: R-3 (County Shoreland)

Location: W284 N3234 Lakeside Road

Report

Mr. & Mrs. Grascch 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.~~

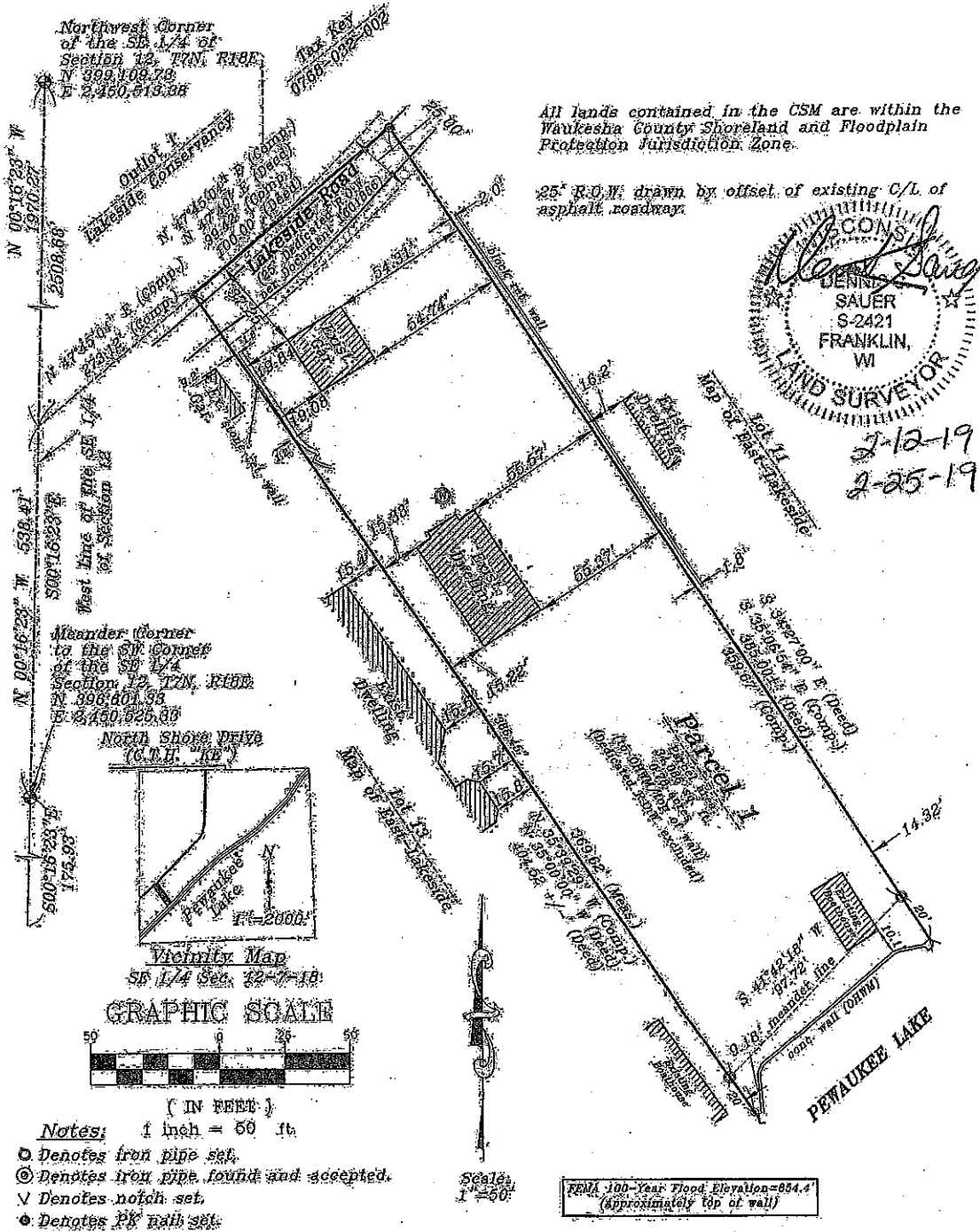
Staff Recommendation:

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~~

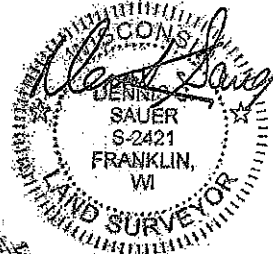
CERTIFIED SURVEY MAP NO. _____

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.

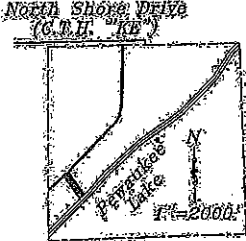
25' R.O.W. drawn by offset of existing C/L of asphalt roadway



Northwest Corner of the SE 1/4 of Section 12, T7N, R18E
 N 89°16'23" W 1970.27'
 E 2450.513.88'

N 00°16'23" W 530.47'
 S 00°16'23" E 500.162374'
 West line of the SE 1/4 of Section 12

Meander Corner to the SW Corner of the SE 1/4 Section 12, T7N, R18E
 N 89°16'23" W 170.93'
 E 2450.525.00'



Vicinity Map SE 1/4 Sec. 12-7-18

GRAPHIC SCALE



(IN FEET)

- Notes: 1 inch = 50 ft.
- Denotes iron pipe set.
 - ⊙ Denotes iron pipe found and accepted.
 - ∨ Denotes notch set.
 - Denotes PK nail set.

Map bearings refer to Grid North of the Wisconsin State Plane Coordinate System, South Zone (NAD 83) (Nov. 2008), with the West Line of the SE 1/4 of Sec. 12, T7N, R18E having an assumed bearing of N 00°16'23" W.

FLOOD DATA This property is in Zone AE + X of the Flood Insurance Rate Map, Community Panel No. 25133 001836/00179H which has an effective date of November 01, 2014. One is in a Special Flood Hazard Area field surveying was not performed to determine this zone. An elevation certificate may be needed to verify this determination or apply for an amendment from the Federal Emergency Management Agency.

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.

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)
MILWAUKEE COUNTY) SS

I, Dennis C. Sauer, Professional Land Surveyor, do hereby certify:

That I have surveyed, combined and mapped of the westerly 50 feet of Lot 12 and the Easterly 50 feet of Lot 12, being a part of the Southwest 1/4 of the Southeast 1/4 of Section 12, Township 7 North, Range 18 East, in the Town of Delafield, Waukesha County, Wisconsin bounded and described as follows: Commencing at the meander corner of the southwest corner of the Southeast 1/4 of Section 12, Township 7 North, Range 18 East; thence North $00^{\circ}16'23''$ West along the west line of said Section, 538.41 feet; thence N $47^{\circ}45'04''$ E, 273.12 feet to the point of beginning; thence N $47^{\circ}45'04''$ E, 99.42 feet; thence S $35^{\circ}06'54''$ E, 359.67; thence S $41^{\circ}42'18''$ W, 97.72 feet along the meander line; thence N $35^{\circ}39'29''$ W, 369.62 feet to the point of beginning, said lands containing 34,036 square feet (0.78 acres), including lands described between said meander line and top of existing concrete wall and excluding Document 1501886.

That I have made such survey, land division and map by the direction of JOSEPH GRASCH and KATHERINE GRASCH, husband and wife, owner of said land.

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

That I have fully complied with the provisions of Chapter 235.34 of the Wisconsin State Statutes and the requirements of the Town of Delafield and the Waukesha County Department of Parks and Land Use, in surveying, dividing and mapping of the same.

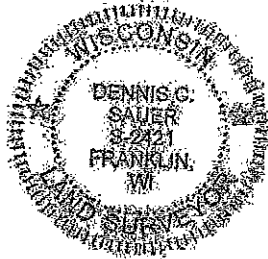
Date

2-12-19

Rev. 2-25-19

Dennis C. Sauer

Professional Land Surveyor S-2421



PREPARED FOR:
Joseph Grascch
N27W27112 Woodland Dr
Pewaukee, Wisconsin 53072

PREPARED BY: Dennis C Sauer
Metropolitan Survey Service
3415 W Forest Home Ave, #202
Hales Corners, WI 53130

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 GRASH, 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 Grash, Owner

STATE OF WISCONSIN
WAUKESHA COUNTY } SS

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

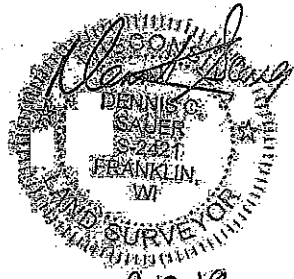
Notary Public
State of Wisconsin
My Commission Expires: _____

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 H. Blaney, Town Clerk
Town of Delafield



2-12-19
2-25-19

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.

TOWN BOARD APPROVAL

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

Lawrence G. Krause, Chairman
Town of Delafield

Mary T. Blener, Clerk
Town of Delafield

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE APPROVAL

The above, which has been filed for approval as required by Chapter 236.34, Wisconsin State Statutes is hereby approved on this _____ day of _____, 20____.

Dale R. Shaver, Director



2-12-19
2-25-19

THIS INSTRUMENT WAS DRAFTED BY:
Dennis C. Sauer, P.L.S. S-2421

Plan Commission Report for March 5, 2019**Dana W. Loney Certified Survey Map
Agenda Item No. 5. C.**

Applicant: JDana 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

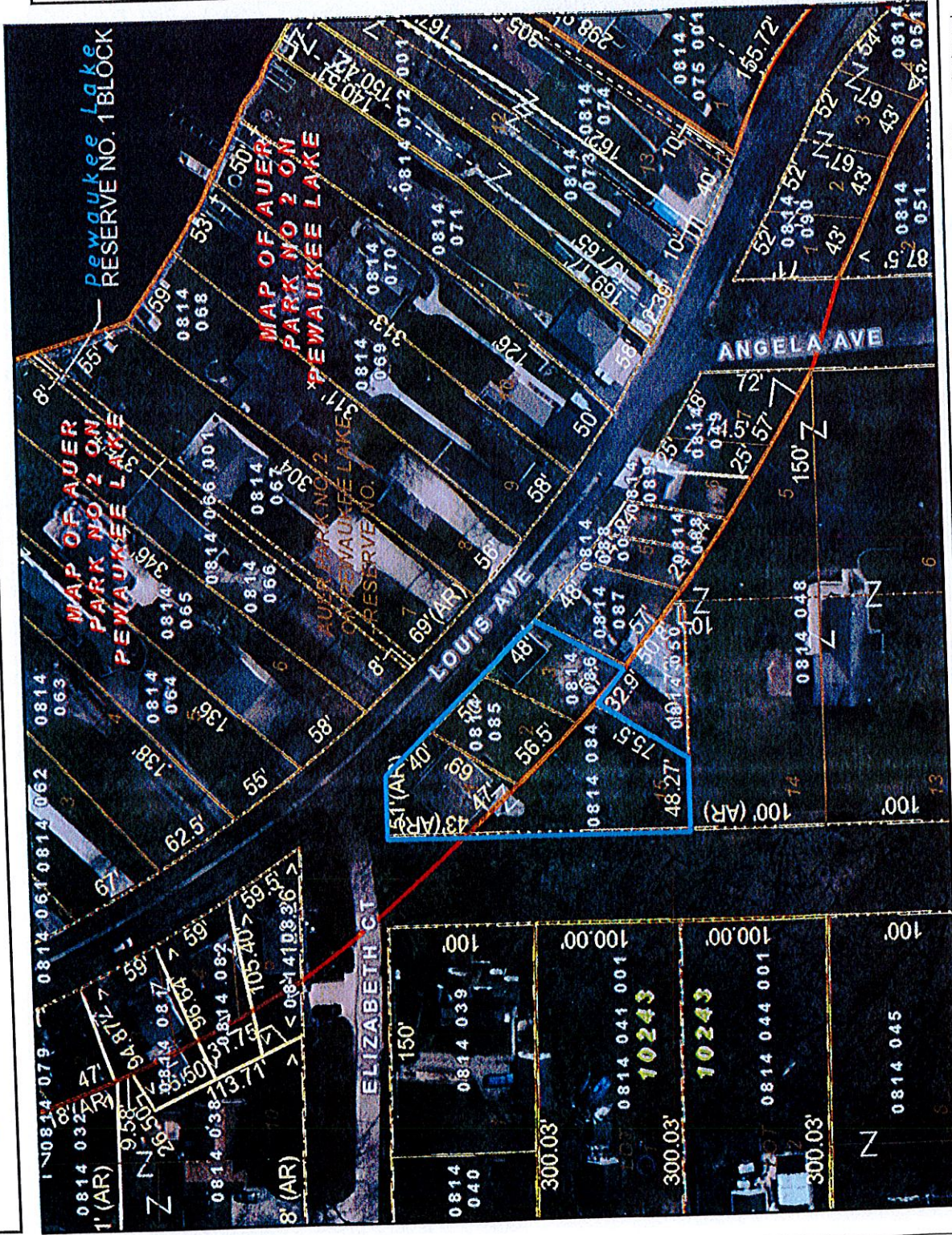
Waukesha County GIS Map

LAND INFORMATION SYSTEMS DIVISION



Legend

- Parcels
- Plats
- Retired Parcels
- Retired Plats



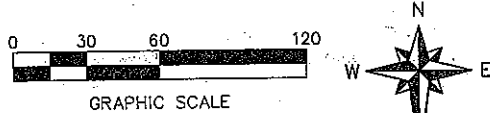
Notes:

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.

0 100.00 Feet

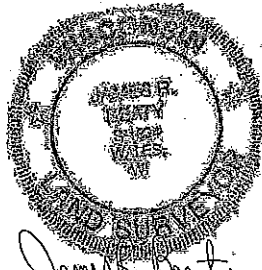
Printed: 2/27/2019

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



BEARING REFERENCE:
 ALL BEARINGS REFERENCED TO WISCONSIN STATE PLANE COORD. SYSTEM, SOUTH ZONE (NAD27), WITHIN WHICH THE EAST LINE OF THE NW 1/4 OF SECTION 24, TOWN 7 NORTH, RANGE 18 EAST, IS ASSUMED TO BEAR S 00°34'40" W (PER SEWRPC CSSD.)

PREPARED FOR (CLIENT):
 DANA & CATHERINE LONEY
 N21W28675 LOUIS AVE.
 PEWAUKEE, WI 53072



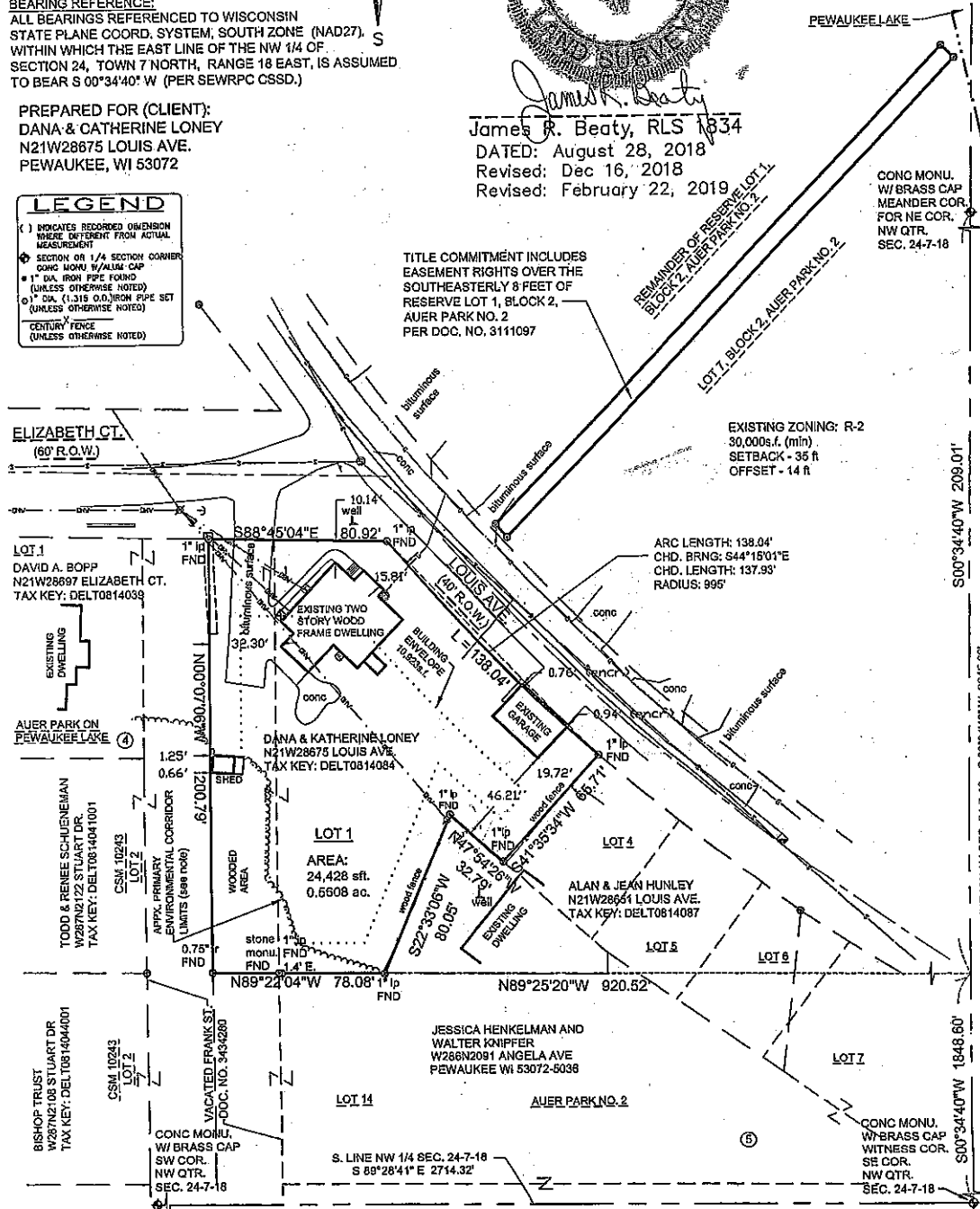
James R. Beaty, RLS 1834
 DATED: August 28, 2018
 Revised: Dec 16, 2018
 Revised: February 22, 2019

LEGEND	
()	INDICATES RECORDED DIMENSION WHERE DIFFERENT FROM ACTUAL MEASUREMENT
+	SECTION OR 1/4 SECTION CORNER CONC MONU W/ALUM. CAP
•	1" DIA. IRON PIPE FOUND (UNLESS OTHERWISE NOTED)
○	1" DIA. (1.315 O.D.) IRON PIPE SET (UNLESS OTHERWISE NOTED)
X	CENTURY FENCE (UNLESS OTHERWISE NOTED)

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

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

EXISTING ZONING: R-2
 30,000s.f. (min)
 SETBACK - 35 ft
 OFFSET - 14 ft



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

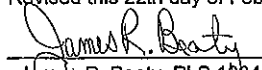
SURVEYOR'S CERTIFICATE:

I, James R. Beaty, professional land surveyor, do hereby certify that by the direction of the Owner, I have surveyed, divided, and mapped the land shown and described hereon, being a 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, said lands are bounded and described as follows:

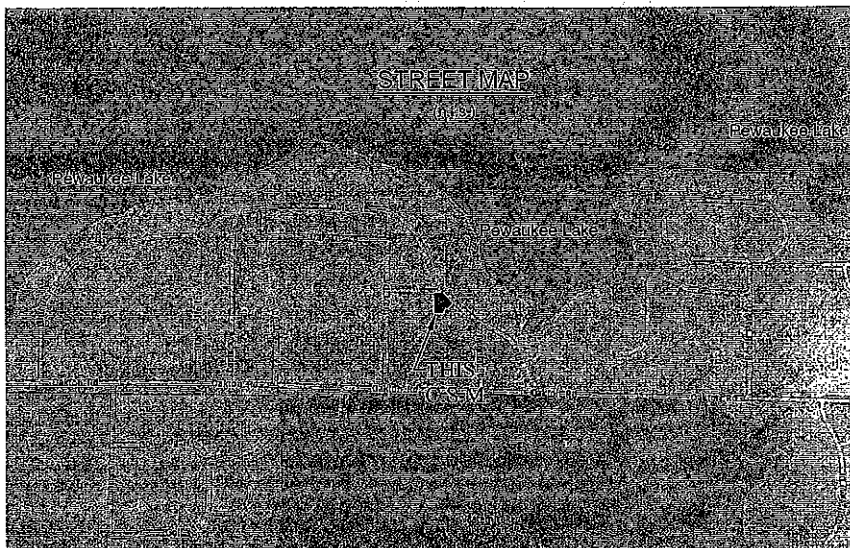
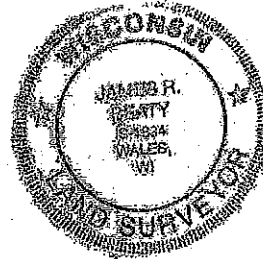
Commencing at the Meander corner for the Northeast corner of the Northwest 1/4 of Section 24, Township 7 North, Range 18 East; thence S00°34'40"W, a distance of 209.01 feet along the East line of said Quarter Section to a point; thence N89°25'20"W, a distance of 920.52 feet to a found 1" iron pipe and the point of beginning of lands herein after described; thence N89°22'04"W, a distance of 78.08 feet to a found 3/4" iron rod, said rod being the center of vacated Frank Street per Doc. # 3434280 in the Waukesha County Register of Deeds Office; thence N00°07'06"W, a distance of 200.79 feet to a found 1" iron pipe, said pipe being on the South Right-of-Way line of Elizabeth Court; thence S88°45'04"E, a distance of 80.92 feet to a found 1" iron pipe, said pipe being the point of intersection of the Southern Right-of-way line of Elizabeth Court and the Western Right-of-Way line of Louis Avenue; thence Southeasterly, 138.04 feet along a curve, whose Chord bears S44°15'01"E with a distance of 137.93 feet, and a radius of 955 feet, to a found 1" iron pipe, said pipe being on the Western Right-of-Way line of Louis Avenue; thence S41°35'34"W, a distance of 65.71 feet to a found 1" iron pipe; thence N47°54'26"W, a distance of 32.79 feet to a found 1" iron pipe; thence S22°33'06"W, a distance of 80.05 feet to a found 1" iron pipe and the point of beginning. Said lands contain 24,428 sft. (0.5608 ac.) more or less of land.

I further certify that I have fully complied with the provisions of section 236.34 of the Wisconsin Statutes and the Town of Delafield Land Division Ordinance, and ordinances of waukesha county in surveying, dividing, and mapping and that this Certified Survey Map is a true and correct representation of all exterior boundaries and the division of said land.

Dated this 28th day of August, 2018.
 Revised this 16th day of December, 2018
 Revised this 22th day of February, 2019


 James R. Beaty, PLS 1834

PREPARED BY / SURVEYOR:
 HORIZON LAND DEVELOPMENT SERVICES, LLC
 W313 S2582 PENNY LANE
 WALES, WISCONSIN 53183
 1-262-349-1575
 jamieb@horizonlanddevelopmentservices.com



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

CORPORATE OWNER'S CERTIFICATE

Loney Revocable Trust, a revocable trust duly organized and existing under and by virtue of the laws of the State of Wisconsin, as owner, does hereby certify that said trust caused the land described on this certified survey map to be surveyed, divided and mapped as represented on this map.

Loney Revocable Trust, does further certify that this plat is required by s.236.10 or 236.12 to be submitted to the following for approval or objection:

- (1) Town of Delafield Plan Commission
- (2) Town of Delafield Town Board
- (3) Waukesha County - Department of Parks and Land Use

IN WITNESS WHEREOF, the said Loney Revocable Trust has caused these presents to be signed by Dan W. Loney, its Trustee, and Catherine M. Weidler-Loney, its Trustee, at Delafield Wisconsin, on this _____, day of _____, 2019.

 Dana W. Loney, Trustee

 Catherine M. Weidler-Loney, Trustee

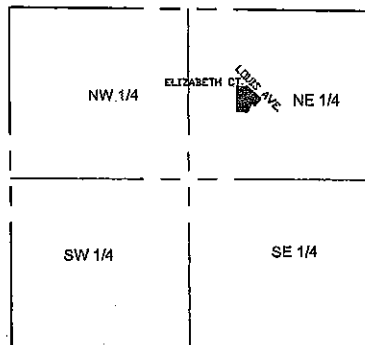
State of Wisconsin)
 ss
 Waukesha County)

On _____, 2019 before me _____, a Notary Public in and for said County and State, personally appeared Dana W. Loney, Trustee and Catherine M. Weidler Loney, Trustee of the Loney Revocable Trust who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

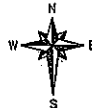
I certify under PENALTY OF PERJURY under the laws of the State of Wisconsin that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 Signature of Notary



1/4 SECTION LOCATION MAP
 NW 1/4 SECTION 24
 T. 7 N., R. 18 E.



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

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

Those 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 SEWRPC 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 ADJOINERS ARE SERVED BY MUNICIPAL SEWER. THEREFORE NO SEPTIC SYSTEMS ARE SHOWN HEREON.

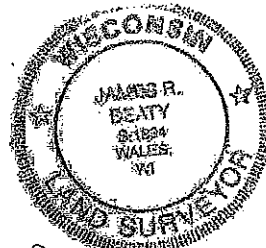
LOT AREA IN ITS ENTIRETY DOES NOT MEET EXISTING R-2 ZONING MINIMUM AREA REQUIREMENT.

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

DOCUMENTS OF RECORD:

PER HERITAGE TITLE SERVICES, INC. TITLE COMMITMENT WA-267640-0 SCHEDULE B-II EXCEPTIONS, WHICH WAS SOURCE OF ENCUMBRANCES SHOWN HEREINAFTER.

- #14 EASEMENT PER JUDGEMENT DOCUMENT No. 3111097 (provided for 8ft wide strip for lake access)
- #15 RIGHTS OF MEMBERS OF AUER PARK CORPORATION (no recorded document referenced)
- #16 RESOLUTION NO 231 DOCUMENT No. 1575125 (declared Louis Ave to be town highway)
- #17 RESOLUTION NO 249 DOCUMENT No. 1601886 (declaration of various roads as town roads. Affects adjacent Louis Ave. and Elizabeth Ct.)
- #18 GRANT OF EASEMENT DOCUMENT No. 1542992 (created vehicular easement to Louis Ave. from Lots in Oakton Beach Tennis Club.)
- #19 EASEMENT TO WEPCO DOCUMENT No. 312012 (transferred right, permission and authority to maintain line of poles & wires, blanket easement, not graphically plottable)
- #20 AWARD OF DAMAGES DOCUMENT NO. 841513 (created easements within roadways for sanitary sewer system. affects Frank St., Elizabeth Ct. and Louis Ave. & others)
- HIGHWAY ORDER DOCUMENT No. 3434280 (approved vacation of Frank St.)
- LIS PENDENS DOCUMENT No. 3336314 (Roadway Vacation)



James R. Beaty
James R. Beaty, RLS #1834

DATED: August 28, 2018
Revised: Dec 16, 2018
Revised: February 22, 2019

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 Elsner, 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

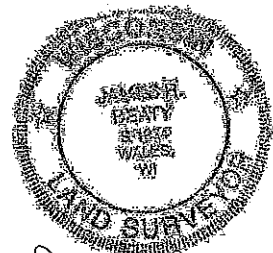
I hereby certify that the foregoing is true and correct copy of a resolution adopted by the Town Board of the Town of Delafield.

Mary Elsner, 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

Dale R. Shaver, DIRECTOR



James R. Beaty

DATED: August 28, 2018
Revised: Dec 16, 2018
Revised: February 22, 2019



METROPOLITAN BUILDERS ASSOCIATION

N16 W23321 Stone Ridge Drive Waukesha, WI 53188
Phone: (262) 436-1122 • Fax: (262) 436-1110 • www.mbaonline.org

AGENDA ITEM

MAR 12 2019

ITEM # 8E PAGE 1 of 9

TO: Town of Delafield
ATTN: Mary Elsner, Town Clerk
FR: Becky Crnkovich, Director of Events, Metropolitan Builders Association
RE: Special Event Approval Request – 2019 MBA Parade of Homes

February 18th, 2019

Dear Mary,

On behalf of the Metropolitan Builders Association (MBA), we are excited to request approval, from the Town of Delafield, to hold our annual Parade of Homes in White Oak Conservancy, a new residential development by Zach Building Co.

For your review, I've attached an operations plan for this Parade subdivision. The Parade of Homes, now in its 74th year, typically runs without any effect on local municipal resources. In addition, we work with our developer and builders to be a good neighbor and mitigate any impact a large-scale consumer event might have on the surrounding community.

The White Oak Conservancy subdivision will be one of three subdivisions to be featured as part of our 2019 Parade. Myself or Kathy Raab, MBA Executive Director, would be happy to meet and go through any details or questions in-person at your request.

The Metropolitan Builders Association (MBA) is a not-for-profit trade association that represents almost 1,000 companies involved in the construction, development, and remodeling of single and multifamily housing and light commercial property in Waukesha, Washington, Ozaukee, Jefferson, and Milwaukee Counties. Collectively, our members employ tens of thousands of workers in the metro-Milwaukee area and do over \$800 million worth of business each year. With such a large number of high-paying jobs, the housing industry is a crucial element to the area's continued economic health.

Thank you in advance for considering our request. If you have any questions with regard to the attached application, please contact me at the MBA office at 262-436-1126 or becky@mbaonline.org.

Thank you!

Becky Crnkovich
Director of Events
Metropolitan Builders Association



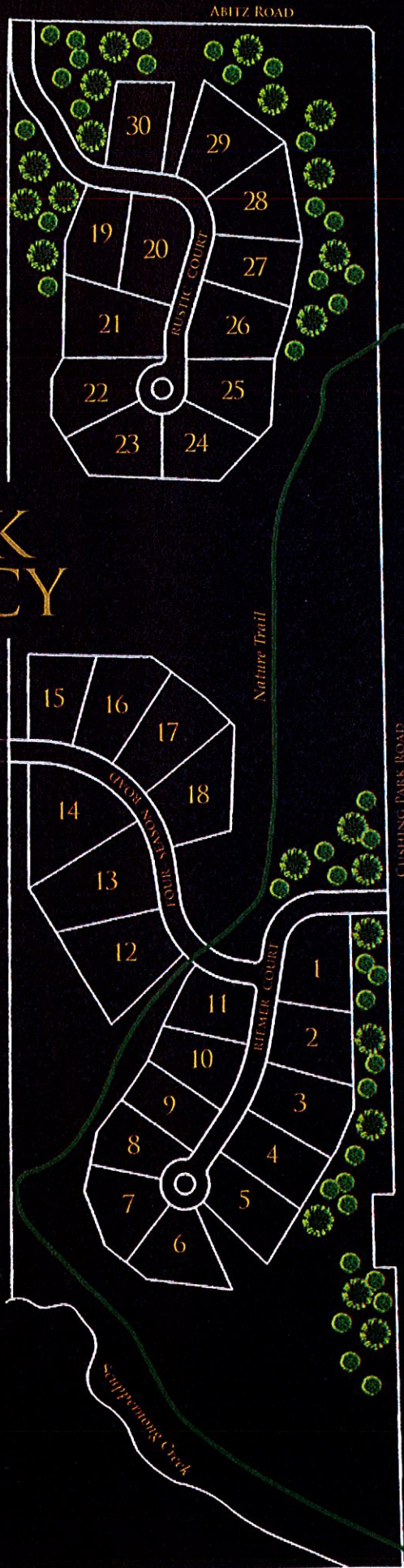
WHITE OAK CONSERVANCY

A PREMIERE SUBDIVISION BROUGHT TO YOU
BY IRON PIPE DEVELOPMENT, LLC

SUBDIVISION MAP



WHITE OAK CONSERVANCY



WELCOME

A premiere residential community offering improved single family home sites. Enjoy the gently rolling hills of the Kettle Moraine in harmony with nature. With almost 70 acres of preserved space, White Oak Conservancy awaits you and your family. Located close to local shopping, schools, churches and recreational activities, White Oak Conservancy in the Town of Delafield offers everything you need to build the home of your dreams.

IMPROVEMENTS

Every lot includes underground electric, telephone, cable and natural gas service. On-site septic and well are required. Direct access to Lapham Peak State Park via Glacial Drumlin Trail on the east side of the property.

ARCHITECTURAL GUIDELINES

To preserve the property values and enhance the beauty of the neighborhood, the following architectural guidelines will be enforced:

- The minimum size of a one story residence shall be 2,400 square feet
- All two story and one and a half story residences shall have a minimum of 2,900 square feet on the upper two floors.
- All homes must have an attached side entry garage with a minimum two car capacity.
- The exterior walls of the residences and attached garage must be constructed of brick, stone, stucco, solid wood siding, Hardiplank/LP Smartside siding or its equivalents.
- Fascia may be made of the siding materials permitted above for exterior walls.
- The exterior portion of all chimneys shall be a full masonry construction or shall have a masonry veneer.
- There is a 30% masonry front elevation requirement.
- Building material exchanges should happen on an inside corner.
- All two story and one and a half story residences shall have a minimum pitch of 8/12 and all one story residence roofs shall have a minimum pitch of 10/12.
- Roofing materials shall be wood shingles or 30-year minimum high definition shingles, or equivalent in the weathered wood color.
- The treatment of window trim and/or shutters must be consistent on all sides of the home.
- At the time of construction of a residence, the Owner shall install at a location designated by the Developer, one electric post lamp with an unswitched photo-electric control. The design of the post lamp shall be uniform throughout White Oak Conservancy.

SCHOOLS

Kettle Moraine School District

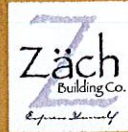
Cushing Elementary School • Kettle Moraine Middle School • Kettle Moraine High School



LOT INFORMATION

ZACH REALTY
BILL ZACH
(262) 367-7157 • (262) 646-5965 FAX
billzach@live.com

DEVELOPED BY



IRON PIPE
DEVELOPMENT, LLC
(262) 367-7157

ZACH BUILDING COMPANY
(262) 367-7157
www.zachbuilders.com

FINANCING AVAILABLE THROUGH

SECURANT BANK & TRUST
Menomonee Falls Office
W178 N9358 Water Tower Place
Richard Ziebell
(262) 797-2164



2019 Metropolitan Builders Association (MBA) Parade of Homes | White Oak Conservancy | Town of Delafield

OPERATION PLAN & EVENT AGENDA

EVENT DETAILS

Dates and Times of Event

-Preview Night for Metropolitan Builder's Association (MBA) Members and special guests only:
Friday, August 9, 2019 (4:00 pm – 7:00 pm)

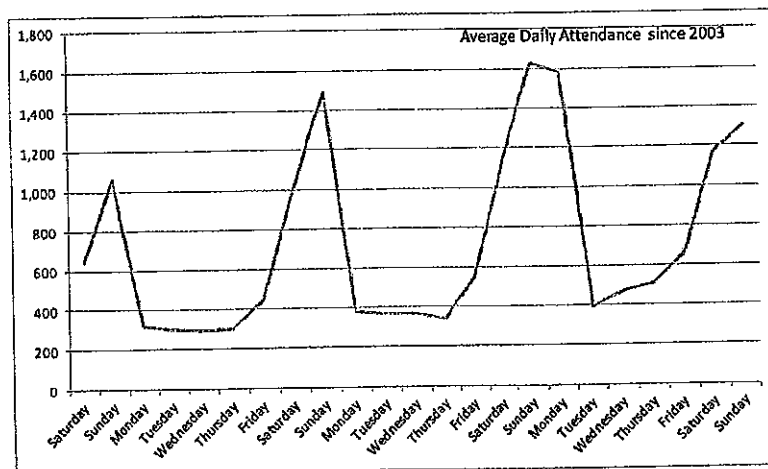
-Open to Public: August 10, 2019 – September 2, 2019 (Weekdays 4:00 pm – 8:00 pm /
Weekends and Labor Day 11:00 am – 5:00 pm)

PARTICIPANTS

Developer: Zach Building Co. | Bill Zach – 262-646-5977

Builders: Espire Homes, Inc. | Daryl Prusow | 414-573-1428 (LOT 6)
Anderson Homes, LLC | Matt Anderson 262-746-9999 (LOT 7)
Steeple Pointe Homes, LLC | Brian Ruffing – 262-226-8374 x 109 (LOT 8)
Victory Homes of Wisconsin, Inc. | Phil Morgan – 866-705-7000 (LOT 9)
Zach Building Co. | Bill Zach – 262-646-5977 (LOT 10)

HISTORICAL ATTENDANCE FLOW



SITE ADMINISTRATION

Staffing

- MBA will maintain appropriate staff to direct parking, take tickets, pick up trash, and oversee management of the site.
- The city will receive contact information for the MBA Event Manager and Parade Site Manager who will be on-site during all open hours of the Parade prior to the event start date.

Telephone Facilities

- MBA Event Manager, Parade Site Manager (or designated replacement) and most of the site employees will have mobile phones.
- Phones will be available for emergencies.

Security

- Since the majority of hours for this event are during daylight/dusk, there has never been a need for any additional security personnel to be present.
- Site staff and personnel will be clearly identified by uniform apparel.
- All model homes will be locked by sales personnel each day and exhibitor tents are closed and secured by site staff before departure.
- Some communities have had a police officer walk through the Parade near closing time and a patrol car drive through the site at night.

Parking

- All weekday parking for the event will be within the subdivision with main parking as noted on attached map.
- During or after rain, some parking may be required to be on the streets within the subdivision. This will be on an as-needed basis and the MBA Event Manager will work with the municipal police dept. should there be any questions relating to safety or parking restricted areas.

Road Maintenance

- Before the Parade starts a final asphalt lift will be completed and the streets in the subdivision are swept.
- Aprons will be in place for entrance and exit from parking areas.
- Pathways are fenced and/or barricaded to separate car and pedestrian traffic.

Trash and Sanitary Facilities

- There will be three (3) portable toilets (including one (1) handi-cap accessible) and a wash station placed on site. The selected service provider will service these on a regular schedule during weekdays and weekends.
- Trash cans will be provided and maintained by the MBA and are on-site throughout the Parade. A fifteen (15) yard roll-off container will be provided and placed on one of the empty lots near the Parade footprint. Site staff is required to do a site inspection at the close of each day.

Food and Beverage

- Volunteer groups from your local community may be offered the opportunity to be on-site to sell concessions (bottled water and non-messy snack foods) as a fundraising opportunity.
- The appropriate permits will be secured if needed.

MUNICIPAL CONSIDERATIONS

Traffic and Directionals

- **Barricades:** the appropriate department will be contacted to procure barricades to block and direct traffic through the event area of the subdivision.

Signage

- Temporary No Parking Signs may be necessary within the subdivision and/or on roadways leading into the site. These areas will be indicated on the attached map if applicable with red X's.
- Request to allow the MBA to install directional signage to the Parade entrance and exit and also to indicate areas where Parade entrance is not allowed during the 3.5 weeks of the event.
- Request to allow large (4'x8') directional signage along major highway access points near subdivision. Permission from property owners and municipality will be secured where required.
- Request to allow Parade event signage within the footprint of the Parade area that may include hours of operation, Rules of the Parade, and sponsor signage (not an exhaustive list).
- Request to allow small (2'x3') temporary directional signage to be placed along the major routes to the Parade site.

Community Opportunities

- City to receive 25 Preview Night tickets (valid August 9, 2019 only) and 25 complimentary tickets to the Parade of Homes event (valid any dates of the 2019 Parade of Homes).
- Opportunity for non-profit organizations or groups (i.e. booster clubs, teams, etc.) to sell concessions within the Parade site during Parade hours as noted under Food and Beverage section above.

