

Ordinance No. 2005-003

**An Ordinance amending various sections of Chapter 17 and 18 of the Town of Delafield regarding zoning and land development, including an updated Land Use Plan and updated Zoning Map**

The Town Board of Delafield, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

**Part 1:** Section 17.02 2. is hereby amended to create or delete the following definitions and renumber in alphabetical order:

Common Open Space: Land within a subdivision or other development that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the community. Common Open Space may have varied forms of ownership including but not limited to: fractional share of the owners of property with a subdivision or development; public ownership; and fee simple or easement interest by a third party land trust. Common open space is typically free of structures, but may contain historic or rustic structures, shared recreational structures including but not limited to pool houses or stables, as may be indicated on the approved development plan.

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 PUDs, densities are calculated for the entire development, usually permitting a trade-off between clustering of houses and provision of common open space.

Mitigation Area: The portion of a lot or development site which could be included in a Development Envelope, but which is restricted for use as undeveloped open space in order to alleviate or lessen the impact of development.

Detailed Site Analysis: A plan or set of plans designed to provide the clear identification of permanently protected green space and open space areas on a site which is proposed for development, and which identifies permanently protected natural resource areas defined as required protected areas under State and Federal regulation; any environmental corridor component identified by the Southeastern Wisconsin Regional Planning Commission, including primary corridors, secondary corridors, and isolated natural resource areas; or any other environmental feature designated in the Town Land Use Plan requiring a Detailed Site Analysis and Mitigation Plan in conjunction with development review.

Condominium: A community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the Condominium Ownership Act and §703 Wisconsin Statutes.

Cul de sac: ~~A local street or way with only one entrance/exit which is designed to allow the safe and convenient reversal of the direction of traffic movement.~~

Development Envelope: That portion of a parcel of land which is intended to be cleared, graded, and built upon including areas for accessory uses and structures.

Development: The *combination of parcels*; division of a parcel of land into two or more parcels; the erection, construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure; any use or change in use of any buildings, structures, or land; any extension of any use of land; or any clearing, grading, or other movement of land, for which permission may be required pursuant to this Chapter. Also, the result of said acts.

~~Street: A public or private way dedicated or permanently open to pedestrian and vehicular use.~~

Street, Arterial. A street used or intended to be used, primarily for fast or heavy through traffic. Arterial street shall include freeways and expressways as well as standard arterial streets, highway and parkways.

Street Collector. A street used or intended to be used, to carry traffic from minor streets to the major system of arterial streets including the principal entrance streets to residential developments.

Street, Cul-De-Sac. A minor street with only one outlet and having an appropriate turnaround for the safe and convenient reversal or traffic movement.

Street, Frontage. A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

Street, Minor (Local). A street used, or intended to be used, primarily for access to abutting properties.

**Part 2:** Section 17.03 1. C. 3. f. is hereby created to read as follows:

f. A Detailed Site Analysis and Mitigation Plan shall be required in accordance with Section 18.14 of the Land Division and Development Control Ordinance, for all Site Plans and Plan of Operations which contain:

1. Permanently protected natural resource areas defined as required protected areas under State and Federal regulation.
2. Any environmental corridor component identified by the Southeastern Wisconsin Regional Planning Commission, including primary corridors, secondary corridors, and isolated natural resource areas.
3. Any other environmental feature designated in the Town Land Use Plan requiring a Detailed Site Analysis and Mitigation Plan in conjunction with development review.

~~Part 3: Section 17.03 3. E. is hereby created to read as follows:~~

~~E. **Tree Removal**~~

~~For the purposes of this section, "land development" shall mean:~~

- ~~1. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purposes involving:
  - ~~a. construction of a group of two or more residential or non-residential buildings proposed in one or more phases~~
  - ~~b. construction of a single building for non-residential primary or accessory use on a lot or lots regardless of the number of occupants or tenure~~
  - ~~c. dividing land or distributing space between two or more occupants for purposes of condominium development~~
  - ~~d. a subdivision of lands~~~~

~~The following areas shall be subject to tree removal penalties during land development:~~

- ~~1. Permanently protected natural resource areas defined as required protected areas under State and Federal regulation.~~
- ~~2. Any environmental corridor component identified by the Southeastern Wisconsin Regional Planning Commission, including primary corridors, secondary corridors, and isolated natural resource areas.~~
- ~~3. Any other environmental feature designated in the Town Land Use Plan.~~

~~If substantial tree removal in one of the aforementioned areas takes place prior to and within five (5) year of development of any land, the developer, at the time he or she proceeds with development, shall be required to mitigate the loss by filing a detailed site analysis and mitigation plan acceptable to the Plan Commission.~~

~~Substantial removal of trees shall be determined as follows:~~

- ~~1. Removal of any trees not found on the Town's undesirable tree list, with a diameter greater than 25 inches measured at a point 48 inches above ground level.~~
- ~~2. Removing trees in an area larger than 1000 square feet, unless required to build an approved structure.~~
- ~~3. Removal of 20% or more of trees not found on the Town's undesirable tree list, that have a diameter greater than 3 inches measured at a point 48 inches above ground level.~~

~~Determination of when substantial alteration began shall be made by the Code Enforcement Officer, and be based on information supplied by the owner and any contractor involved in the removal process and observations of the neighbors, Town Staff and Town Officials.~~

**Part 4:** Section 17.04 5.P. is hereby created to read as follows:

**17.04 5. P C-1 UPLAND ENVIRONMENTAL CORRIDOR OVERLAY DISTRICT**

**1. STATEMENT OF INTENT.**

The Upland Environmental Corridor Overlay District is intended to be used to preserve, protect, enhance, and restore significant woodlands, upland wildlife habitat areas, scenic overlooks, slopes exceeding 12%, and upland wooded areas, while also affording an opportunity to use the site for limited residential purposes. The Upland Environmental Corridor Overlay District superimposes certain additional restrictions and requirements upon a basic underlying zoning district without disturbing the requirements of the basic district. When there is a conflict in requirements, the more strict requirements shall apply.

**2. USE REGULATIONS.**

**a. Permitted Uses:**

- (1.) Any uses permitted in the WF-1 Wetland-Floodplain District.
- (2.) Single family dwellings.
- (3.) Keeping poultry and domestic livestock, if allowed in the underlying zoning district, except that the keeping of hogs, male goats or fur bearing animals shall not be permitted on less than twenty (20) acres.

**b. Permitted Accessory Uses:**

The following accessory buildings and uses, subject to the conditions specified and if allowed in the underlying zoning district.

- (1.) Private garages, when located on the same lot, and not involving the conduct of a business; provided, however, that no private garage shall be erected unless that principal building to which such garage is an accessory use has been erected or is to be erected simultaneously with said garage.

**3. BUILDING LOCATION.**

- a. **Setback:** In accordance with the underlying zoning district.
- b. **Offset:** In accordance with the underlying zoning district.

**4. BASE HEIGHT REGULATIONS.**

- a. **Principal Building:** In accordance with the underlying zoning district.
- b. **Accessory Building:** In accordance with the underlying zoning district.

5. **AREA REGULATIONS.**

- a. **Floor Area:** In accordance with the underlying zoning district
- b. **Lot Size:**
  - (1.) Minimum area: the overall density of parcels lying entirely within the Upland Environmental Corridor shall not be less than one dwelling unit per five (5) acres of corridor area, with no lot area being less than 30,000 square feet size. On parcels which contain area outside of the environmental corridor or partially within the environmental corridor and in a zoning category requiring less than a five (5) acre lot, the five (5) acre density requirement shall not apply and the lot can be the size required for that zoning category as long as any earth altering activity and/or building envelopes are located outside of the corridor area and appropriately restricted as such on the face of the Certified Survey Map, Subdivision Plat or other appropriate matter and recorded in the office of the Register of Deeds. The overall goal of this requirement is to obtain a maximum density of building activity within the environmental corridor of not more than one (1) dwelling unit for each five (5) acres of environmental corridor lands.
- c. **Preservation of Open Space:**
  - (1.) For parcels lying entirely within an Upland Environmental Corridor Zoning District, all earth altering activities and vegetative removal shall comply with the following performance standards:
    - A. Building Sites: Land disturbance shall be limited to an area extending no more than twenty-five (25) feet from three sides of the Development Envelope, and 35 feet from the fourth side of the Development Envelope, as defined by this Code.
    - B. Drives and accesses: Land disturbance shall not exceed twenty feet in width extending from the edge of roadway to the area of Development Envelope disturbance.
    - C. Sanitation: Private on-site sanitary systems in approved locations and required to serve permitted uses of the property shall be permitted in addition to the Development Envelope performance standards described herein
  - (2.) For parcels which lie partially within and partially outside of the environmental corridor, the area of disturbance shall be limited to the area outside of the upland environmental corridor unless otherwise permitted by a Development Envelope on the certified survey map, subdivision plat or other document so designated by the Town Plan Commission. In instances where drives and accesses are required to extend through the upland environmental corridor in order to reach an approved Development Envelope outside of the upland environmental corridor, all such drives and accesses shall not exceed twenty feet in width within the corridor.

**Part 5:** The following tables in Section 17.05 5. AM. 2. are hereby amended to read as follows:

Table 17-1:

|     |                                       |                         |
|-----|---------------------------------------|-------------------------|
| C-1 | Upland Environmental Corridor Overlay | 217,800 s.f. / dw. unit |
|-----|---------------------------------------|-------------------------|

Table 17-2:

|     |                                       |                         |                         |
|-----|---------------------------------------|-------------------------|-------------------------|
| C-1 | Upland Environmental Corridor Overlay | Per Underlying District | Per Underlying District |
|-----|---------------------------------------|-------------------------|-------------------------|

Table 17-3:

|     |                                       |                         |                         |                         |
|-----|---------------------------------------|-------------------------|-------------------------|-------------------------|
| C-1 | Upland Environmental Corridor Overlay | Per Underlying District | Per Underlying District | Per Underlying District |
|-----|---------------------------------------|-------------------------|-------------------------|-------------------------|

**Part 6:** Section 17.04 5. Q. is hereby created to read as follows:

**17.04 5. Q PLO PEWAUKEE LAKE NON-SHORELINE REDEVELOPMENT OVERLAY DISTRICT**

**1. STATEMENT OF INTENT.**

The Pewaukee Lake Redevelopment Overlay District is intended to be used to promote the redevelopment of off-lake lands, which are proximate to Pewaukee Lake, through the consolidation of parcels and reconfiguration of buildable lands, where the application of modern site development standards to off-lake properties is hindered by their original and obsolete platting. Obsolete platting characteristics include faulty lot layouts in relation to size, adequacy, accessibility and usefulness. When there is a conflict in requirements, the more strict requirements shall apply.

**2. USE REGULATIONS.**

- a. **Permitted Uses:** In accordance with the underlying zoning district.
- b. **Permitted Accessory Uses:** In accordance with the underlying zoning district.

**3. BUILDING LOCATION.**

- a. **Setback:** In accordance with the underlying zoning district.
- b. **Offset:** In accordance with the underlying zoning district.

4. **BASE HEIGHT REGULATIONS.**

- a. **Principal Building:** In accordance with the underlying zoning district.
- b. **Accessory Building:** In accordance with the underlying zoning district.

5. **AREA REGULATIONS.**

- a. **Floor Area:** In accordance with the underlying zoning district
- b. **Lot Size:** In accordance with the underlying zoning district.
- c. **Preservation of Open Space:** In accordance with the underlying zoning district

**Part 7:** Section 17.04 5. F. 5. a. is amended to read as follows:

a. **Lot Size**

The minimum lot size 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.**

**Part 8:** Section 17.04 5. H. 5. a. is amended to read as follows:

a. **Lot Size**

The minimum lot size shall be 3 acres. **If land is developed into a subdivision, it shall meet the PUD requirements of Section 17.05 5.AM of these regulations.**

**Part 9:** Section 17.05 5. AM. 2. b. which regulates open space in PUDs is repealed and recreated to read as follows:

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

**Part 10:** Section 17.05 5 AM 2. 1. is hereby repealed and recreated to read as follows:

- 1. Where the use is not proposed to be served by public sanitary sewers, the use of private treatment systems pursuant to COMM 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.

**Part 11:** Section 17.05 5. AM. 2. d. is hereby amended and renumbered with the language shown in bold as follows:

- (6.) Except as specifically provided in subsection (7)(a), **(7)(b) or (8)(a)**, below, the application of these regulations shall be limited to parcels of not less than 20 acres in area.
- (7.) **In areas designated as “Pewaukee Lake Non-Shoreline Redevelopment Overlay District” the following conditions, in addition to those conditions above that are not in conflict, shall apply:**
  - (a.) **The parcel shall be at least 5 acres in area, and shall be identified in the Land Use Plan as being within the Pewaukee Lake Non-Shoreline Redevelopment Overlay District.**
  - (b.) **The Plan Commission in making its recommendation and the Town Board in making its decision shall take into consideration the following: that although a planned unit development is permitted in this district, it is the intent that such development be designed to preserve to the greatest extent reasonably possible, lake views and vistas, woodlands, steep slopes, and other natural features.**
- (8.) ~~(7)~~ In an A-1 Agricultural District the following conditions, in addition to those conditions above that are not in conflict, shall apply:

**Part 12:** The title of Chapter 18 is amended to read as follows:

Chapter 18: **Land Division and Development Control**

**Part 13:** Section 18.01 (2) (a) 3. is hereby created to read as follows:

- 3. Condominium Plats prepared pursuant to §703.11, Wis. Stats.

**Part 14:** Section 18.01(2) (b) 2. is hereby amended to read as follows:

- 2. Any Town or County Ordinance, **including compliance with the standards depicted in the Waukesha County Shoreland and Floodplain Subdivision Control Ordinance Checklist.**

**Part 15:** Section 18.01(2) (b) 4. is hereby amended to read as follows:

- 4. The rules of the Department of ~~Commerce Industry, Labor and Human Relations~~, relating to lot size, lot elevation, percolation tests, test borings, etc.



**Part 16:** Section 18.02 is amended to be titled, **SPECIFIC WORDS AND PHRASES** and the following definitions are hereby deleted, amended or created, and renumbered in alphabetical order:

Common Open Space: Land within a subdivision or other development that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the community. Common Open Space may have varied forms of ownership including but not limited to fractional share of the owners of property with a subdivision or development, public ownership, and fee simple or easement interest by a third party land trust. Common open space is typically free of structures, but may contain historic or rustic structures, shared recreational structures including but not limited to pool houses or stables, as may be indicated on the approved development plan.

Condominium (or condominium plat): A community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the Condominium Ownership Act and §703 Wisconsin Statutes.

Development Envelope: That portion of a parcel of land which is intended to be cleared, graded, and built upon including areas for accessory uses and structures.

Development: ~~Subdivision, certified survey map, or planned development.~~ The combination of parcels; division of a parcel of land into two or more parcels; the erection, construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure; any use or change in use of any buildings, structures, or land; any extension of any use of land; or any clearing, grading, or other movement of land, for which permission may be required pursuant to this Chapter. Also, the result of said acts.

Plan Commission: ~~The Town Plan Commission.~~ The Plan Commission of the Town of Delafield.

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 PUDs, densities are calculated for the entire development, usually permitting a trade-off between clustering of houses and provision of common open space.

Plat, Final: A map or plan of a parcel of land showing such data as the location, boundaries, dimensions, bearings, lot or unit location and designation, and ownership of individual properties in accordance with Chapters 236 and 703 of Wisconsin Statutes. ~~A map of a subdivision.~~

1. ~~“Final Plat” is a map conforming to §18.06 of these regulations and to §236.20 Wis. Stats., and proposed for recording with the Register of Deeds.~~
2. ~~“Preliminary Plat” is a map showing the salient features of a proposed subdivision submitted to all approving authorities for the purpose of preliminary consideration.~~

Plat, Preliminary: A map showing the salient features of a proposed subdivision submitted to all approving authorities for the purpose of preliminary consideration.

Street: ~~A way for vehicular traffic other than an alley.~~

1. ~~Major streets and highways are those which serve as the principle artery of through traffic.~~
2. ~~Collector streets are those which carry traffic from minor streets to the system of major streets and highways, including the principal entrance streets of a residential development and streets for circulation.~~
  - a. ~~Cul de sac being a minor street permanently closed at one end with a turn-around provided.~~
  - b. ~~Alley being a public way affording only secondary access to abutting properties.~~
  - c. ~~Parkway being a continuous or semi-continuous park, open space area or drive, usually along a watercourse or park, where land is owned or reserved for public or semi-public purposes.~~
  - d. ~~Marginal access streets or frontage streets which are parallel to and adjacent to major streets and highways and which provide access to abutting properties and protection from through traffic.~~

Street, Arterial. A street used or intended to be used, primarily for fast or heavy through traffic. Arterial street shall include freeways and expressways as well as standard arterial streets, highway and parkways.

Street Collector. A street used or intended to be used, to carry traffic from minor streets to the major system of arterial streets including the principal entrance streets to residential developments.

Street, Cul-De-Sac. A minor street with only one outlet and having an appropriate turnaround for the safe and convenient reversal or traffic movement.

Street, Frontage. A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

Street, Minor (Local). A street used, or intended to be used, primarily for access to abutting properties.

**Part 17:** Section 18.04(6) is hereby created to read as follows:

18.04(6) A condominium plat prepared under §703.11, Wis. Stats., shall be reviewed in the same manner as a preliminary plat and final plat in accordance with this code and Section 17.05. 5. AM of the Zoning Code.

**Part 18:** Section 18.05(1)(r) relating to plats, certified survey map, assessors plats is amended to read as follows:

- (r) **DIHLR Department of Commerce Information:** Percolation test data, test boring information and any other information requested by **the Department of Commerce DIHLR** for those subdivisions not being served by sanitary sewer shall be attached to and submitted with the preliminary plat, **certified survey map, or assessors plat** for use by the State, **County,** and Town.

**Part 19:** Section 18.05 (2) (d) is amended to read as follows:

- (d) Sanitary Sewers: When the proposed subdivision is to be served by sanitary sewers **or a private sewer system serving multiple dwellings pursuant to COMM 83 Wis. Admin. Code**, a system plan shall be provided indicating the general layout of the subdivision, location of existing and proposed sewers. A plan view and profile shall also be submitted.

**Part 20:** Section 18.05(3)(j) relating to Final Plat requirements is amended to read as follows:

- (j) Division of Health Requirements: The final plat of all subdivisions not served by sanitary sewers shall be marked to show preplanned soil absorption systems, if required, in accordance with **COMM 85 §HLLR-85.04(6)** Wis. Adm. Code.

**Part 21:** Section 18.06(8)(c)(1) relating to cul-de-sac design standards is amended to read as follows:

- (1) Cul-de-sacs shall have ~~16~~ **20**' pavement width.

**Part 22:** Section 18.07(1)(c) relating to drainage facility improvements and reservations is amended to read as follows:

- (c) Drainage Facilities: Drainage channels, culverts, storm sewers and such other facilities necessary to provide adequately ~~for~~ surface drainage according to the established standards of the Board **and the Waukesha County Construction Site Erosion Control and Stormwater Management Ordinance** may require the subdivider to pave, rip-rap or sod the ditches depending on the circumstances in each instance. When culverts are required, corrugated metal or reinforced concrete shall be used prior to acceptance of streets.

**Part 23:** Section 18.07 (1)(f) is hereby amended to correct the percentage used as a maintenance guarantee from 50% to 15% to conform to the chart shown in Section 18.11.

**Part 24:** Section 18.12(2) Erosion Control Definitions is repealed and the definitions contained therein are recreated in Section 18.02, Specific Words and Phrases, in their alphabetical order.

~~**Part 25:** Section 18.01 (3) is hereby created to read as follows:~~

~~(3) — TREE REMOVAL~~

~~(a) — For the purposes of this section, "land development" shall mean:~~

~~1. — The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purposes involving:~~

~~a. — construction of a group of two or more residential or non-residential buildings proposed in one or more phases~~

~~b. — construction of a single building for non-residential primary or accessory use on a lot or lots regardless of the number of occupants or tenure~~

~~c. — dividing land or distributing space between two or more occupants for purposes of condominium development~~

~~d. — a subdivision of lands~~

- (b) — The following areas shall be subject to tree removal penalties during land development:
1. — Permanently protected natural resource areas defined as required protected areas under State and Federal regulation.
  2. — Any environmental corridor component identified by the Southeastern Wisconsin Regional Planning Commission, including primary corridors, secondary corridors, and isolated natural resource areas.
  3. — Any other environmental feature designated in the Town Land Use Plan.
- (c) — If substantial tree removal in one of the aforementioned areas take place prior to and for the purpose of development of any land, the developer, at the time he or she proceeds with development, shall be required to mitigate the loss by filing a detailed site analysis and mitigation plan acceptable to the Plan Commission.
- (d) — Substantial removal of trees shall be determined as follows:
1. — Removal of any trees not found on the Town's undesirable tree list, with a diameter greater than 25 inches measured at a point 48 inches above ground level.
  2. — Removing trees in an area larger than 1000 square feet, unless required to build an approved structure.
  3. — Removal of 20% or more of trees not found on the Town's undesirable tree list, that have a diameter greater than 3 inches measured at a point 48 inches above ground level.
- (e) — Determination of when substantial alteration began shall be made by the Code Enforcement Officer, and be based on information supplied by the owner and any contractor involved in the removal process and observations of the neighbors, Town Staff and Town Officials.

**Part 26:** Section 18.05 (1)(x) is hereby created to read as follows:

(x) Detailed Site Analysis and Mitigation Plan: A Detailed Site Analysis shall be required in accordance with Section 18.14 of this Code, for all Preliminary Plats and Certified Survey Maps which contain:

1. Permanently protected natural resource areas defined as required protected areas under State and Federal regulation.
2. Any environmental corridor component identified by the Southeastern Wisconsin Regional Planning Commission, including primary corridors, secondary corridors, and isolated natural resource areas.
3. Any other environmental feature designated in the Town Land Use Plan requiring a Detailed Site Analysis and Mitigation Plan in conjunction with development review.

A Mitigation Plan shall be required if land within the environmental areas described above will be disturbed.

**Part 27:** Section 18.14 of the Land Development Code shall be created to read as follows:

**18.14 DETAILED SITE ANALYSIS AND MITIGATION PLANS**

- (1) Purpose: The Detailed Site Analysis required by this Section is designed to provide the clear identification of permanently protected green space and open space areas on a site which is proposed for development. The detailed survey work required to identify these areas accurately on a map is not required prior to the initiation of development concept plans for an area.
- (2) Site Disruption Limited: Where a preliminary plat, certified survey map, or site plan approval requires a Detailed Site Analysis and Mitigation Plan, the property owner and / or Developer shall not remove trees in anticipation of a land division or site development prior to preliminary plat or site plan approval.
  - a) Prior to approval of a Detailed Site Analysis and Mitigation Plan, site disruption shall be limited to perc testing in accordance with COMM 85, and clearing and grubbing reasonably necessary to perform preliminary property surveys.
  - b) Following the approval of a Detailed Site Analysis and Mitigation Plan, site disruption activities shall comply with the following:
    - i. Activities shall not compact soil covering tree roots, or otherwise damage trees beyond the area from which trees are to be removed.
    - ii. The use of snow fences and other barriers to outline development pads during disruption activity is required in order to limit the extent of inadvertent compaction or other disturbance of earth, and collision damage to vegetation intended for protection. Such barriers should be placed no closer to protected trees than a point on the ground directly under their outer canopy edge. The use of on site temporary construction signage is also highly recommended.
- (3) Plan Requirements: The Detailed Site Analysis shall be shown on a map of the subject property which depicts the location of all protected natural resource areas and environmental corridor components, as defined by the provisions of this Section, and as located by an on site property survey. The detailed site analysis shall meet the following requirements:
  - a. Scale: A minimum scale of one-inch equals 200 feet shall be used unless otherwise approved by the Plan Commission;
  - b. Topography: Topographic information is not required for any property that does not contain steep slopes. For such properties, topographic information with a minimum contour interval of two feet is required.
  - c. Development Envelopes: All site disruption (including selective cutting) proposed to occur within permanently protected natural resource areas shall be limited to Development Envelopes except as required to remove non-native or undesirable species as identified in an approved Management Plan for the site. Development pads shall be depicted on the Detailed Site Analysis map, Preliminary Plat of Subdivision,

and/or site plan. Where Development Envelopes encroach into environmental corridors or their components as identified by the Southeastern Wisconsin Regional Planning Commission, such encroachments shall be mitigated on site in accordance with Section 4 of this Code.

- d. A tree inventory on all lands that may be disturbed.
- (4) Mitigation Areas: All mitigation areas, and the areas they offset, related to the provisions of this Ordinance shall be depicted on the detailed site analysis map with notations provided which describe the mitigation techniques employed. Acceptable mitigation techniques include but are not limited to stream bank stabilization, prairie restoration, invasive species control, tree replacement and reforestation efforts, rehabilitation of rustic structures. The Plan Commission shall review and approve all proposed mitigation techniques proposed prior to or concurrent with the Preliminary Plat of Subdivision or site plan. If necessary, as determined by Plan Commission, revised Detailed Site Analysis maps shall be prepared and submitted for review until a version is deemed acceptable.
- (5) Procedure for Submittal: Required Procedure for Submission and Review of Detailed Site Analysis and Mitigation Plan:
- a. Required Timing of Submission: The detailed site analysis map shall be submitted to the Plan Commission for review concurrent with the submission of the Preliminary Plat of Subdivision or site plan. A concept plan of the proposed development may be submitted prior to the submission of the detailed site analysis map, however, in no way does the acceptance and/or general approval of the concept plan indicate the approval of natural resource feature locations.
  - b. Review: The Plan Commission shall review the submitted Detailed Site Analysis map for general compliance with this Ordinance. Such review may include data sources including but not limited to the following examples:
    1. The Official Zoning Map;
    2. Applicable USGS 7.5 minute topographic maps or other USGS Quads and sources of topographic information;
    3. Air photos of the subject property;
    4. Applicable FEMA and related floodplain maps;
    5. Applicable Federal and State Wetland Inventory Maps;
    6. The Land Use Plan; and
    7. Official Street System Map;
    8. Site visits.
- (6) Integration Into Plan Documents and Deed Restrictions: Information contained on the Detailed Site Analysis map relating to the boundaries of permanently protected green space areas (including natural resource protection areas, other permanently protected green space areas, and required mitigation areas) shall be recorded as a deed restriction which permanently runs with the land. Said areas shall be clearly depicted on any and all site plans required as a precondition for application for any development permit which occurs subsequent to any proposed Final Plat of Subdivision.

- (7) Surety Required: A Surety in a form approved by the Town Attorney shall be provided. Said surety shall secure the replacement of all trees with calipers exceeding six (6) inches, whose canopies are located adjacent to disturbed areas, which die within a period of five (5) years following site disruption, and to secure the restoration of all disturbed land areas and mitigation areas identified on the Detailed Site Analysis.

**Part 28:** The Town of Delafield Land Use Plan is hereby amended to read as follows:

**DISTRICT:**

**PEWAUKEE LAKE NON-SHORELINE REDEVELOPMENT**

**NON-SHORELINE DEVELOPMENT AND REDEVELOPMENT**

*Identify off-lake areas with obsolete platting*

The development and redevelopment of off-lake properties can have a significant impact on the character of the Lake District and community as a whole. Yet, the application of modern site development standards to off-lake properties is often hindered by their original platting, which is characteristic of faulty lot layouts in relation to size, adequacy, accessibility and usefulness. Moreover, development and redevelopment opportunities for nonconforming parcels are often hindered by diverse ownership. It is not uncommon in the Lake District to have two, three, or more nonconforming parcels adjacent to one another, each with little or no opportunity to redevelop individually in light of modern zoning requirements, and each in separate ownership. This condition often can impair and arrest sound growth and development of the Town of Delafield.

The Lake District includes a number of off-lake parcels which are non-conforming, and which are characterized by obsolete platting. These parcels are non-riparian, and generally located within 1,000 feet of the lakeshore in the following locations:

- Properties on the west side and north side of Maple Avenue.
- Properties bounded by Oakton Road, Glen Cove Road, and Naga-Waukee Golf Course and Park,
- Properties on the north side of Oakton Road, to the south and east of Elmhurst Road, and to the south and west of Happy Hollow Road.
- Properties bounded by Oakton Road, Louis Court, Beach Park Drive, and Beach Drive.

The attached exhibit further defines and clarifies the non-shoreline development and redevelopment parcels identified above.

*Permit Planned Unit Developments on tracts of five acres or larger*

Develop a new zoning overlay district, to be known as the Pewaukee Lake Non-Shoreline Redevelopment Overlay District, to permit planned unit developments on tracts of land five acres or greater in size.



Consider rezoning petitions to include non-shoreline properties, as described above and depicted in the attached exhibit, in the Pewaukee Lake Non-Shoreline Redevelopment Overlay zoning district where the five acre area requirement is met.

Encourage clustering techniques which preserve lake views and vistas, minimize disruption to the natural environment, and maximize open spaces.

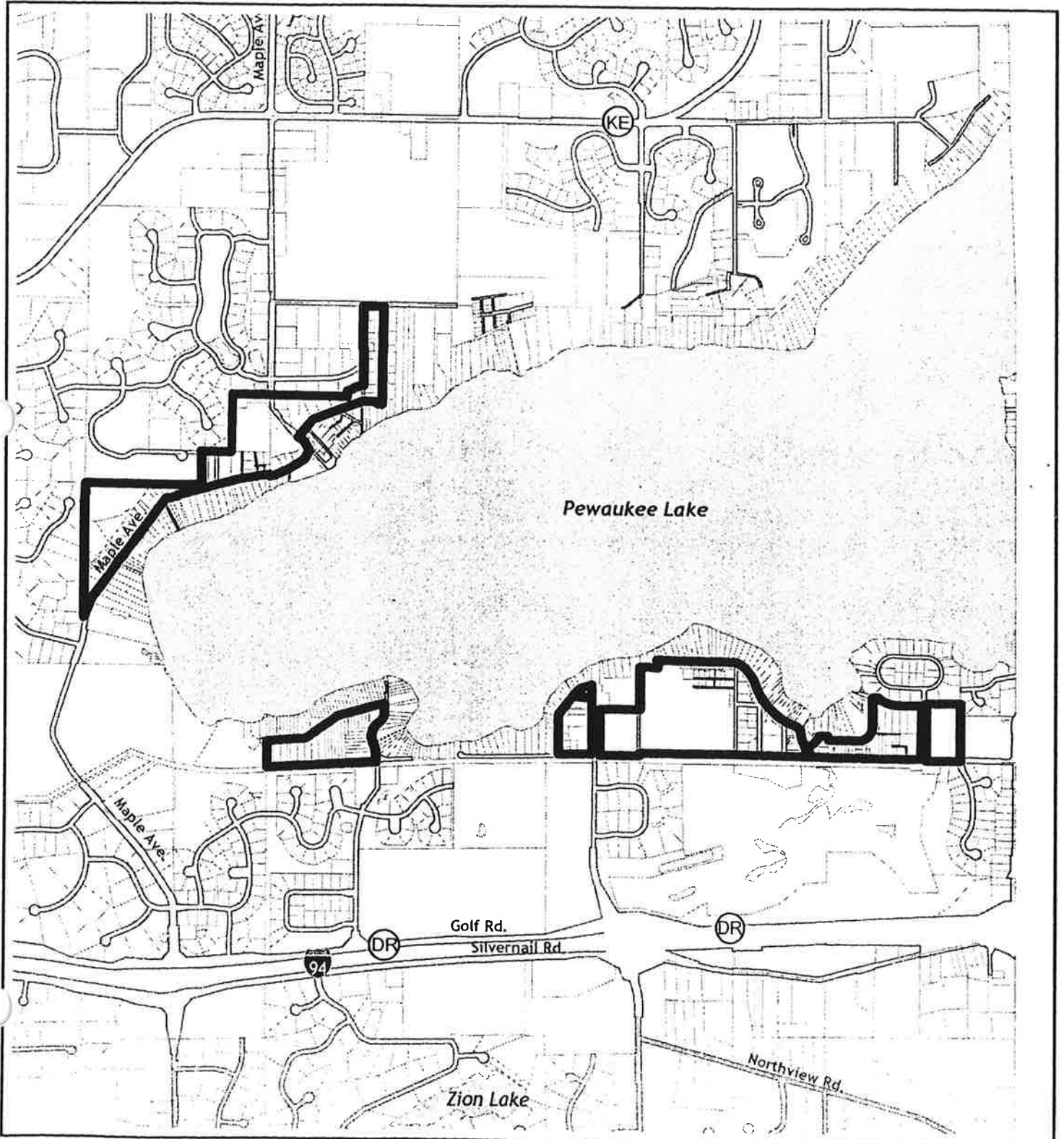
# EXHIBIT: PEWAUKEE LAKE NON-SHORELINE REDEVELOPMENT OVERLAY DISTRICT

TOWN 7 NORTH RANGE 18 EAST  
WAUKESHA COUNTY, WISCONSIN



-  Pewaukee Lake Non-Shoreline Redevelopment Overlay District
-  Water Body

1" = 2000'





**Part 29:** An updated Town of Delafield Land Use Map dated August 23, 2005 is hereby adopted.

**Part 30:** An updated Town of Delafield Zoning Map dated August 23, 2005 is hereby adopted, which includes changes from A-2 to P-1 on lands known as Lapham Peak Park and Ethan Allen School for Boys, and from undesignated to P-1 for the Naga-Waukee Park and Golf Course.

**Part 31: 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.

**Part 32: Effective Date**

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


This ordinance passed this 23<sup>rd</sup> day of August, 2005

BY THE TOWN BOARD OF THE  
TOWN OF DELAFIELD:



Paul L. Kanter, Town Chairman

ATTEST:



Mary T. Elsner, CMC  
Town Clerk