



Plan Commission MEETING AGENDA

February 5, 2024 - 6:00 PM
Council Chambers
3805 S. Casper Drive

Amended 2/1/2024 @ 10:15AM
Published 1/26/2024

AGENDA

1. PUBLIC HEARING(S)

- A. KH DCD1-2302102 Zoning Code Updates (PUBLIC HEARING 6:00 PM)
- B. (4) NJ CU-2300898 Mr. Connor McMahon with A.W. Oakes & Son, Inc. on behalf of Waukesha County - Johnson Sand & Gravel - 6600-6666 S. Crowbar Road (Tax Key #'s: 2182-999-011 & 2182-999-013 - Conditional Use Approval to set up a temporary mobile concrete batch plant to supply concrete for the WisDOT Moorland Road project (PUBLIC HEARING 6:01 PM)

2. PRIVILEGE OF THE FLOOR

3. CALL TO ORDER, PLEDGE OF ALLEGIANCE

4. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

5. APPROVAL OF MINUTES

- A. January 8, 2024 Meeting Minutes

6. PLAN COMMISSION SECRETARY'S REPORT

7. CONTINUED BUSINESS

8. NEW BUSINESS

- A. Discussion and possible action to recommend to Common Council approval of KH DCD1-2302102 Zoning Code Updates and adoption of Ordinance 2689.
- B. (4) NJ CU-2300898 Mr. Connor McMahon with A.W. Oakes & Son, Inc. on behalf of Waukesha County - Johnson Sand & Gravel - 6600-6666 S. Crowbar Road (Tax Key #'s: 2182-999-011 & 2182-999-013 - Conditional Use Approval to set up a temporary mobile concrete batch plant to supply concrete for the WisDOT Moorland Road project.
- C. (7) NJ UA-2302372 Andy Stefacin with School District of New Berlin - 18695 W. Cleveland Avenue (Tax Key #: 1187.988) - Use, Site and Architecture Approval to construct a Restroom and Concession Building.

9. PENDING

- A. (1) NJ RZ-2301727 Jordan Chapman with ALRIG USA (DBA New Berlin Retail Management II LLC - 1401 S. Moorland Road (Tax Key # 1161995-001) - Rezone from B-1/PUD & C-2 to B-2/PUD & C-2. (PUBLIC HEARING 10/2/2023)
- B. (2) KH UA-2301943 McCON Building Corporation - 14855 W. National Avenue - Culver's Site Improvements

10. COMMUNICATIONS

11. ADJOURN

Supplemental Information:

- *The meeting agenda and agenda packet are available online at www.NewBerlin.org. The minutes are published online and are approved at the next regularly scheduled meeting.*
- *It is possible that action will be taken on any of the items on the agenda and that the agenda may be discussed in any order.*
- *You may provide comments to the City Clerk via email at CitizenComments@NewBerlin.org. Comments will be forwarded to the Mayor and members of the governing body. Emailed comments are not read during the meeting.*
- *The City of New Berlin strives to host inclusive, accessible meetings that enable all individuals to engage and participate fully. Any person who has a qualifying disability under the Americans with Disabilities Act that requires that the meeting be accessible, please contact City Clerk Rubina R. Medina at (262) 786-8610 or via email at CityClerk@NewBerlinWI.gov at least 48 hours before the scheduled meeting time. Efforts will be made to accommodate the needs of disabled individuals through appropriate aids and/or services.*
- *It is also possible that members of and possibly a quorum of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to in the above notice.*

STAFF REPORT

EXECUTIVE SUMMARY

APPLICANT/PROJECT:	Referral from the Common Council - Chapter 275, Zoning Code Updates
LOCATION:	Citywide
REQUEST:	Plan Commission review and discussion regarding updates to Zoning Code, Chapter 275.
D.R.C. RECOMMENDATION:	Plan Commission hold a public hearing, review and discussion regarding updates to Zoning Code, Chapter 275.

Background:

1. On September 28, 2023, staff received a memo from City Attorney Mark Blum, along with a draft Food Truck Ordinance that he had prepared.
2. The following changes are proposed to the Zoning Code:
 - a. 275-43B: Add language to define when food trucks require a Special Event Permit.
 - b. 275-43H: Add language to further define Food Truck Operation in the City
3. Staff has met with the Code Committee to review the proposed updates. Their recommended edits include:
 - a. 275-43H(3): Change "The holder of the Food Truck License" to "A food truck"
 - b. 275-43H(3)(a): Change "as regulated in" to "except as allowed in"
 - c. 275-43H(3)(c): Add "a lot with". Add language that defines how distance is measured.
 - d. 275-43H(3)(d): Add language that defines how distance is measured.
 - e. 275-43H(3)(e): Remove "other than Residential and Park districts" as this is already defined in 275-43H(3)(b)

Next Steps:

1. Public hearing held before Plan Commission.
2. Plan Commission recommendation forwarded to the Common Council for final action.
3. Common Council review for final action.

Previous Action:

12/6/2023	Code Committee made a recommendation to forward the amended Zoning Code to the Plan Commission.
1/9/2024	Common Council set the public hearing date for February 5, 2024.

Attachments:

12/6/2023 Code Committee Minutes

Draft Zoning Code Amendments



Code Committee MEETING MINUTES

December 6, 2023 - 3:00 PM
Badger Conference Room
3805 S. Casper Dr.

Please note: Minutes are unofficial until approved at the next regular scheduled meeting.

MINUTES

1. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Mayor Ament called the meeting to order at 3:16 PM

Deputy Clerk Godshall took the roll call as follows:

Present: Mayor Ament, Commissioner McGrath, Alderperson Stribl

Excused: None

Staff Present: DCD Deputy Director Nikki Jones, Principal Planner Kristen Hogan, Principal Planner Kelly Wall, Deputy City Clerk Megan Godshall

A quorum was established and the meeting was properly noticed.

2. APPROVAL OF MINUTES

A. July 6, 2021 Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Stribl
Second by: Commissioner McGrath
Motion 3-0

B. January 27, 2023 Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Stribl
Second by: Commissioner McGrath
Motion Passed 3-0

3. NEW BUSINESS

A. GK DCD1-2302102 Zoning Code Updates

The following edits were made by the Code Committee to Chapter 275:

275-43H(3):

- Change "The holder of the Food Truck License" to "A food truck"

275-43H(3)(a):

- Change "as regulated in" to "except as allowed in"

275-43H(3)(c):

- Add "a lot with".
- Add language that defines how distance is measured.

275-43H(3)(d):

- Add language that defines how distance is measured.

275-43H(3)(e):

- Remove "other than Residential and Park districts" as this is already defined in 275-43H(3)(b)

MOTION: Motion to Approve as presented with changes

VOTE: Motion by: Alderperson Stribl
Second by: Mayor Ament
Motion Passed 2-1

4. ADJOURN

MOTION: Motion to Adjourn at 3:50 PM

VOTE: Motion by: Commissioner McGrath
Second by: Alderperson Stribl
Motion Passed 3-0

*Respectfully Submitted,
Megan Godshall, Deputy City Clerk*

§ 275-43. Temporary uses, structures and special events.

- A. Application process. As applicable, temporary uses, structures and special events shall obtain a permit. Applications and necessary materials shall be submitted to staff and may be subject to application fees and developer deposit fees. The temporary use, structure or special event shall be reviewed in accordance with the provisions of this section and other applicable sections of this chapter and § 152-23, Special event permit.
- B. Temporary uses, structures, and special events requiring a permit may include, but are not limited to, festivals, food truck festivals, art/craft fairs, outdoor markets, plant/flower sales, circuses, concerts, wine/food tastings, beer gardens, races, outdoor seating/dining, pop up live music, car shows, fundraisers/outings (e.g., golf outings/company picnics), game day/nights (bingo/trivia), outdoor movie theater, and/or other similar events unless approved as part of an existing plan of operation or an approved calendar of events. All food truck uses in Residential or Park zoning districts are considered an event requiring a Permit in accordance with 275-43H of this Chapter.
- C. Time limits. Temporary use, structure and special event permits shall be valid for a specified period of time. A permit shall lapse if not used within the dates approved.
- D. Required findings. The application shall be approved as submitted or in a modified form if the Director of the Department of Community Development finds that:
 - (1) The proposed temporary use, structure, or special event will be located, operated, and maintained in a manner consistent with the policies of the New Berlin Comprehensive Plan and the provisions of this chapter;
 - (2) The approval of the application will not be detrimental to property or improvements in the surrounding area or detrimental to public health, safety or general welfare; and
 - (3) The proposed temporary use, structure or special event complies with all applicable standards of this section, unless otherwise expressly stated.
 - (4) The Mayor and/or his or her designee may approve special event permits for City-owned lands within City Center as long as the findings below are met and those found in Subsection D(1) through (3) above in this section are met:
 - (a) A certificate of insurance (COI) is required to be submitted for the event prior to the event occurring. It shall include the following:
 - [1] COI limits shall name the City of New Berlin as additionally insured.
 - [2] The parties agree to indemnify and hold harmless the other from any and all claims for injury or property damage to the extent that such claims arise out of the negligence of their employees, representatives, agents, contractors or officers as a result of this Agreement. Any indemnity that the City would agree to would be subject to the following limitations: Notwithstanding the forgoing, nothing contained within this agreement is intended to be a waiver or estoppel of the City of New Berlin or its insurer's ability to rely upon the limitations, defenses and immunities contained within Wisconsin law, including, but

not limited to, those contained within §§ 893.80, 895.52 and 345.05, Wis. Stats. To the extent that indemnification is available and enforceable, the City of New Berlin or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin law. The City's obligation to indemnify hereunder is subject to the availability and limits of applicable insurance coverage. Under no circumstances shall the City of New Berlin be required to indemnify the contractor for its own negligent or intentional conduct.

- [3] Each party shall provide the other with a certificate of insurance naming each other as an additional insured. The amount of such insurance shall be mutually agreed between the parties. Each party waives their right of subrogation against the other. Both parties' insurance policies shall have a noncancellation provision except upon 30 days' written notice to the other party.

- (b) And any other conditions that may be established by the Mayor, City Attorney, Board or Commission, and/or City staff that seeks to protect the City.

E. Conditions of approval. In approving a temporary use, structure, or special event permit, the Director of the Department of Community Development may impose reasonable conditions, including, but not limited to, limitations on hours, illumination, storage, and parking, necessary to:

- (1) Achieve the general purposes of this section and the specific purposes of the zoning district in which the temporary use will be located or be consistent with the New Berlin Comprehensive Plan;
- (2) Protect the public health, safety, and general welfare; and
- (3) Ensure the operation and maintenance of the temporary use, structure, or special event in a manner compatible with existing uses on adjoining properties and in the surrounding area.

F. Temporary construction, security, or real estate sales offices.

- (1) General. The owner of a construction project may place on the construction site a temporary office for use by construction, security, or real estate sales personnel.
- (2) Location. The temporary office shall be located on the lot on which construction or development is occurring and shall not be located within 25 feet of any abutting residential use.
- (3) Sanitation. Sanitation and plumbing requirements may be waived by the Director, provided that adequate facilities are available elsewhere on the site.
- (4) Time limits. The office shall be removed within 15 days after final inspection of the permanent structure or expiration of the corresponding building permit, whichever event occurs first. In the case of residential development projects, the office must be removed within 15 days of the sale or lease of all dwelling units.

- G. Staff shall have the authority to review and send items to the appropriate board, commission and/or Council for their review and approval if there are potential effects on surrounding land uses.

H. Food Truck Operation

- (1) "Food truck" has the same definition as "Mobile Vendor" under Municipal Code Section 152-5.
- (2) Operators of any food truck which operates within the City of New Berlin shall obtain all necessary Permits from the City Clerk's Office. This includes, but is not limited to, the Direct Sellers License. In addition, the applicant shall provide evidence that they have obtained all necessary Health Permits from governmental entities with jurisdiction.
- (3) A food truck may only operate in the City of New Berlin subject to the following terms and conditions:
- (a) Food trucks are prohibited from operating on City of New Berlin property and on City streets or public rights-of-way, except as allowed in Municipal Code Section 152-5D, unless the food truck is participating in a City of New Berlin sponsored event. In the event the event is being conducted in a City of New Berlin public park, permission must be obtained not less than thirty (30) days prior to the event from the Parks, Buildings and Grounds Commission of the City.
- (b) Food trucks may not operate on residentially zoned property except during the course of a Special Event approved by the City or where the food truck is not in operation for more than six (6) consecutive hours. In no event shall the food truck begin operations earlier than 7:00 a.m. or operate later than 10:00 p.m. This endorsement may be terminated by the Police Department if the operation of the food truck becomes a nuisance to surrounding properties.
- (c) Food trucks may not operate within 200' of a lot with an existing restaurant or business which sells food prepared on site. The distance shall be calculated as the shortest measurable distance between the food truck to the edge of the lot with such business, in a straight line without regard to intervening structures. Right-of-way is not included and shall be subtracted from this measurement.
- (d) No food truck may operate within 200' of a residentially zoned property in the City of New Berlin except as expressly provided for in 275-43H(3)(b). The distance shall be calculated as the shortest measurable distance between the food truck to the edge of the residential zoning district, in a straight line without regard to intervening structures. Right-of-way is not included and shall be subtracted from this measurement.
- (e) Food trucks may operate in all zoning districts, including private property and legal parking spaces, subject to Section 152-5D of the Municipal Code and authorization of the property owner or their designee. However, such operations shall also require an endorsement to the Direct Sellers License and shall register the location, dates, and hours of operation. In the event the operation of the food truck becomes a nuisance, the Police Department may terminate the Food Truck Endorsement to the Direct Sellers License.

Commented [KH1]: Code Committee: Change "The holder of the Food Truck License" to "A food truck"

Commented [KH2]: Code Committee: Change "as regulated in" to "except as allowed in"

Commented [KH3]: Code Committee: Add "a lot with"

Commented [KH4]: Code Committee: Add language that defines how distance is measured.

Commented [KH5]: Code Committee: Add language that defines how distance is measured.

Commented [KH6]: Code Committee: Remove "other than Residential and Park districts" as this is already defined in 275-43H(3)(b)

ORDINANCE NO. 2689**ORDINANCE TO AMEND CHAPTER 275 (ZONING) OF THE
MUNICIPAL CODE OF THE CITY OF NEW BERLIN**

The Common Council of the City of New Berlin do ordain as follows:

SECTION I

Section 275-43B of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- B. Temporary uses, structures, and special events requiring a permit may include, but are not limited to, festivals, food truck festivals, art/craft fairs, outdoor markets, plant/flower sales, circuses, concerts, wine/food tastings, beer gardens, races, outdoor seating/dining, pop up live music, car shows, fundraisers/outings (e.g., golf outings/company picnics), game day/nights (bingo/trivia), outdoor movie theater, and/or other similar events unless approved as part of an existing plan of operation or an approved calendar of events. All food truck uses in Residential or Park zoning districts are considered an event requiring a Permit in accordance with 275-43H of this Chapter.

SECTION II

Section 275-43 of the Zoning Code of the City of New Berlin is hereby created to read as follows:

H. Food Truck Operation

- (1) "Food truck" has the same definition as "Mobile Vendor" under Municipal Code Section 152-5.
- (2) Operators of any food truck which operates within the City of New Berlin shall obtain all necessary Permits from the City Clerk's Office. This includes, but is not limited to, the Direct Sellers License. In addition, the applicant shall provide evidence that they have obtained all necessary Health Permits from governmental entities with jurisdiction.
- (3) A food truck may only operate in the City of New Berlin subject to the following terms and conditions:
 - (a) Food trucks are prohibited from operating on City of New Berlin property and on City streets or public rights-of-way, except as allowed in Municipal Code Section 152-5D, unless the food truck is participating in a City of New Berlin sponsored event. In the event the event is being conducted in a City of New Berlin public park, permission must be obtained not less than thirty (30) days prior to the event from the Parks, Buildings and Grounds Commission of the City.
 - (b) Food trucks may not operate on residentially zoned property except during the course of a Special Event approved by the City or where the food truck is not in operation for more than six (6) consecutive hours. In no event shall the food truck begin operations earlier than 7:00 a.m. or operate later than 10:00 p.m. This endorsement may be terminated by the Police Department if the operation of the food truck becomes a nuisance to surrounding properties.
 - (c) Food trucks may not operate within 200' of a lot with an existing restaurant or business which sells food prepared on site. The distance shall be calculated as the shortest measurable distance between the food truck to the edge of the lot with

such business, in a straight line without regard to intervening structures. Right-of-way is not included and shall be subtracted from this measurement.

- (d) No food truck may operate within 200' of a residentially zoned property in the City of New Berlin except as expressly provided for in 275-43H(3)(b). The distance shall be calculated as the shortest measurable distance between the food truck to the edge of the residential zoning district, in a straight line without regard to intervening structures. Right-of-way is not included and shall be subtracted from this measurement.
- (e) Food trucks may operate in all zoning districts, including private property and legal parking spaces, subject to Section 152-5D of the Municipal Code and authorization of the property owner or their designee. However, such operations shall also require an endorsement to the Direct Sellers License and shall register the location, dates, and hours of operation. In the event the operation of the food truck becomes a nuisance, the Police Department may terminate the Food Truck Endorsement to the Direct Sellers License.

SECTION III

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed.

SECTION IV

The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

SECTION V

This Ordinance shall take effect upon passage and publication as approved by law, and the City Clerk shall so amend the Code of Ordinances of the City of New Berlin, and shall indicate the date and number of this amending ordinance therein.

PASSED AND ADOPTED by the Common Council this 13th day of February, 2024.

APPROVED:

David Ament, Mayor

Countersigned:

Rubina Medina, City Clerk

STAFF REPORT

EXECUTIVE SUMMARY

APPLICANT/PROJECT: Connor McMahon with A.W. Oakes & Son, Inc. on behalf of Waukesha County / Temporary Mobile Concrete Batch Plant

LOCATION: 6600-6666 S. Crowbar Road (Tax Key #'s: 2182-999-011 & 2182-999-013) (Johnson Sand & Gravel)

REQUEST: Conditional Use Permit for A.W. Oakes & Son, Inc. to set up a temporary mobile concrete batch plant, located at 6600-6666 S. Crowbar Road.

D.R.C. RECOMMENDATION: Public hearing and possible action to approve a Conditional Use Permit for A.W. Oakes & Son, Inc. to temporarily construct a mobile concrete batch plant, located at 6600-6666 S. Crowbar Road, subject to the application, plans on file and the following conditions of approval:

1. Planning:

- a. Plan of operation shall be consistent with submitted plans on file. This batch plant is temporary and shall only be used to supply concrete material for the Moorland Road reconstruction project. No other projects shall be supplied by this batch plant.
- b. Upon project completion, all mobile batch plant equipment shall be removed from the site.
- c. Typical hours of Operation for Road Construction are 7am to 7pm Monday thru Friday and 8am to 5pm Saturday. Should the Plan Commission approve this permit, the batch plant hours of operation would be 6am to 7pm Monday through Saturday. The premises shall be closed on Sunday and Holidays.
 - i. Any expansion of the hours for this batch plant shall require Plan Commission review and approval, including night time hours.
- d. Applicant shall sign the Zoning Permit.
- e. All machinery and equipment will be operated in such a fashion so as to keep the site in a reasonably dust-free condition and to minimize smoke, air pollution, noise and vibration. Compression Brake usage shall be prohibited, unless required in an emergency.
- f. All permanent and temporary signs require a Sign Application to be filed prior to installation.
- g. Private water supply wells meeting the requirements of the Wisconsin Department of Natural Resources will also be required.
- h. The property, which is located outside of the current MMSD Sewer Service District, will require private on-site waste treatments sites (POWTS) that will meet Waukesha County requirements. Applicant shall coordinate with Waukesha County and WDNR for septic and well permits.
- i. Apply and obtain appropriate electrical permit for any electrical work to be done in conjunction with this batch plant operation.
- j. The County and the State will provide information for the project representative to address concerns 24/7 during the course of the project.
- k. This permit shall expire on October 31, 2024. If the applicant needs additional time, they shall submit a written request for an extension no later than August 23, 2024 for review by the Plan Commission at the October 7, 2024 meeting.

2. Engineering:

- a. All material shall be contained on site.
- b. Any tracking onto adjacent roadways shall be cleaned as necessary.
- c. On days of heavy trucking, contact the City Engineer so that Mayor and Alderman of the district can be notified if necessary.
- d. Operator shall abide by DNR erosion control measures.
- e. Project trucking shall use only County and State highways.
- f. When the batch plant is in operation, the applicant shall use measures to keep dust and tracking minimal and under control.
- g. There shall be no net increase in the amount of material left behind on site when the project ends. All materials that come into the site shall be removed from the site.

DETAILS IN ATTACHED STAFF REPORT

**CITY OF NEW BERLIN
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLAN COMMISSION STAFF REPORT**

Meeting of February 5, 2024

**Connor McMahon with A.W. Oakes & Son, Inc. on behalf of Waukesha County / Temporary
Mobile Concrete Batch Plant
6600-6666 S. Crowbar Road (Tax Key #'s: 2182-999-011 & 2182-999-013) (Johnson Sand &
Gravel)**

DATE STAFF REPORT: 1/16/2024

APPLICANT / OWNER(S): Connor McMahon with A.W. Oakes & Son, Inc. on behalf of Waukesha County / Temporary Mobile Concrete Batch Plant

REQUEST / DESCRIPTION OF PROJECT: Conditional Use Permit for A.W. Oakes & Son, Inc. to set up a temporary mobile concrete batch plant, located at 6600-6666 S. Crowbar Road.

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 5/8/2023; 1/4/2024 Request for extension.

DATE OF COMPLETENESS DETERMINATION: 5/8/2023; 1/4/2024 Request for extension
Application Check List Enclosed: N

PRE-APPLICATION CONFERENCE HELD: No, the County discussed this request with the City Engineer.
Dates of Meetings:
Site Visit: N/A

CONCEPTUAL PLAN: N/A

SIZE OF DEVELOPMENT / PARCEL(S):

Tax Key #: 2182-999-001 - 24.27 Acres
Tax Key #: 2182-999-013 – 35.10 Acres

CURRENT ZONING: Q-1 (Quarrying and Extractive District) & C-2 (Shoreland Wetland Holding District)

CURRENT LAND USE: Johnson Sand & Gravel & Schmitz Redi-Mix

PROPOSED ZONING: N/A

PROPOSED LAND USE: Office and shop for Schmitz Redi-Mix

PROPOSED LOT SIZE (S): N/A

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

<i>North:</i> Zoning: R-1/R-2/I-1	Land Use: Single-Family Residential/Living Word Church/I-43
<i>South:</i> Zoning: C-1	Land Use: Conservancy / Tans Drive / City of Muskego
<i>East:</i> Zoning: Q-1/C-1	Land Use: Johnson Sand & Gravel
<i>West:</i> Zoning: Q-1/C-1	Land Use: Johnson Sand & Gravel

CONFORMANCE WITH COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes, below is a review of the social, economic and physical factors outlined in the various sections of the Plan:

Chapter 20: Neighborhood J – The Highway Interstate 43 & Racine Avenue interchange: Yes, this submittal meets the intent of this Chapter.

Planning Context / Vision / Development Policies:

Vision:

- *This area will be a third job center for the City of New Berlin. It will be a mix of light manufacturing, office, small-scale retail, and restaurant/hotel uses, much like Westridge, but on a smaller scale.*

Development Policies:

The City recognizes the long-range potential of this area for job producing business uses.

Land use:

- *Future Land Use Map: Quarry*

ZONING CODE (CHAPTER 275): Yes, this request is consistent with the current zoning district outlined in Section 275-37B(1) of the City's Zoning Code.

DEVELOPMENT CODE (CHAPTER 235): N/A

PUBLIC HEARING REQUIRED: Yes

CONDITIONAL USE REQUIRED: Yes

USE / SITE / ARCHITECTURAL REVIEW:

Use Approval Required: No

Site Plan Required: Yes

Architectural Review Required: N/A

PROPOSED ARCHITECTURE: The applicant is looking to set up a temporary mobile concrete batch plant.

UNIQUE SITE CHARACTERISTICS:

Environmental Corridor: No

Wetlands on Property: No, not in the vicinity of the mobile concrete batch plant.

Conservancy Districts (C-1, C-2): Yes, C-1.

NRCS Map Classification: Not Inventoried.

Floodplain: No

Topography / Geologic: Site location of the mobile concrete batch plant is fairly flat.

ALTERNATIVE TRANSPORTATION PLAN: No improvements identified.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:

Limits of Disturbance (LOD): Shown on plans. No trees will be disturbed.

Woodland, Tree, and Vegetation Protection: N/A

Wildlife Habitat Protection: N/A

Wildlife Management Plan: N/A

ENVIRONMENTAL IMPACT: No impact.

STORM WATER MANAGEMENT / DRAINAGE PLAN: Applicant is required to adhere to all City of New Berlin codes, ordinances and plans regarding storm water conveyance and maintenance and/or as

identified by the Department of Community Development. There is a storm water permit for the overall Johnson Sand & Gravel site.

SANITARY SEWER PROVISION:

Within Current Sewer Service Area: No

Sewershed Capacity Available: N/A

Adequate Linkage: N/A

Onsite System Required: Yes – applicant will utilize portable restrooms if needed.

WATER USAGE CALCULATION: Applicant is proposing to utilize water onsite either well water or from the pond.

TRAFFIC IMPACT: Slight increase is possible with this mobile temporary batch plant. See Findings section for more information.

Schmitz Redi-Mix trucks operates a batch plant at this location. DCD Staff contacted the current operator on 5/23/2023 to discuss their current operations. Their operations are consistent with what the City has on file.

SCHOOL DISTRICT IMPACT: No impact.

PREVIOUS ACTION: (Specific to past Temporary Batch Plant requests for similar projects.)

5/2/2005	Plan Commission approved two temporary concrete batch plants.
7/9/2007	Plan Commission approval of CU-5-07, Johnson Sand & Gravel set up a temporary batch plant to support a WisDOT project for Moorland Road reconstruction.
1/7/2013	Plan Commission approved U-99-01 an amendment to the Schmitz Ready mix, Inc. plan of operation to allow for temporary overnight work hours.
6/5/2023	Plan Commission approved a Conditional Use request. A public hearing was held.

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

1. The zoning district is Q-1, Quarrying and Extractive District.
2. This application is for a temporary permit to conduct one (1) concrete batch plan operation. The application is seeking the approval to supply ready-mix concrete for the local WisDOT project for the reconstruction of Moorland Road
3. The site currently functions as a source of sand and gravel, operated by Johnson Sand & Gravel, Inc. providing those products to local communities.
4. Duration: The contractor set up summer of 2023 and was hoping to take it down in December of 2023. There was a possibility of needing the mobile concrete batch plant to finish up the job in the spring of 2024 if there were delays (utility, weather, etc.). See condition #1(k) in the Executive Summary for any extensions.
5. Roughly a dozen large production days will be required for the mainline pavement with nearly two dozen days of hand pours and ancillary work. This could vary depending on what is purchased from outside suppliers. The details here would be if all concrete comes from this plant.
6. Trucks coming to the site will vary daily depending on work operation and logistical needs. Smaller production days 5 to 10 trucks and larger days 15 to 25 trucks. This is a count of raw materials in (aggregate and cement) and final product out. The number of employees on site will generally be 2 to 3.
7. Hours of Operation.
 - a. Schmitz Ready Mix hours of operation per their permit are 6:30 AM to 6:30 PM Monday thru Friday; and Saturday's 6:30 AM to 2 PM. No Sunday's or holidays at this time.
 - b. A.W. Oakes & Son, Inc. would like to have the hours for this request match the Moorland Road Project hours, generally they would start up the plant at 6:00AM and be done by 5

- 7:00PM. There is the potential for longer shifts on big production days in efforts to advance the project schedule as much as possible. Right now, they don't anticipate any true overnight work. See Conditions for any work outside of these business hours.
8. Sample pictures of the temporary mobile batch plant:

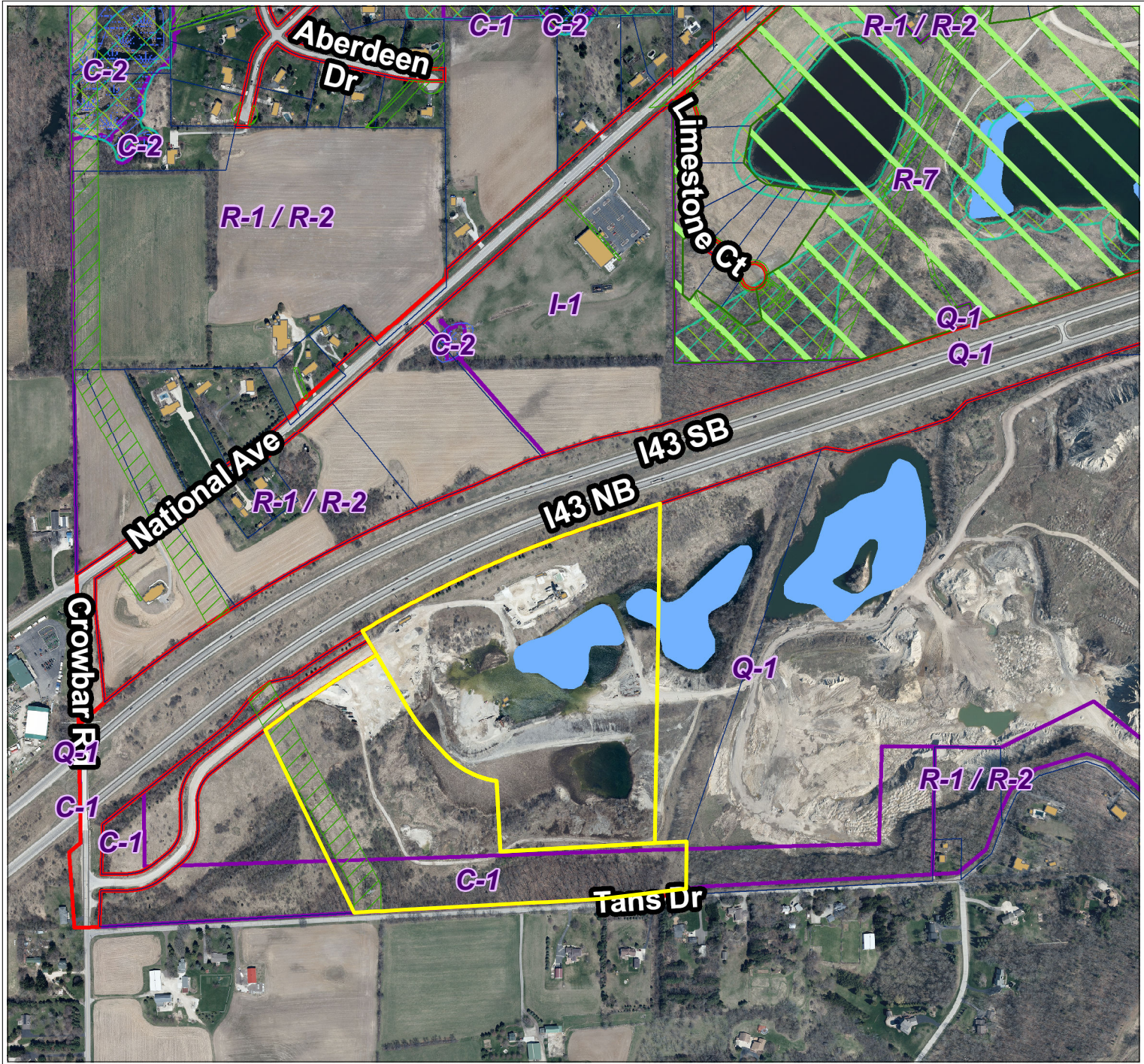
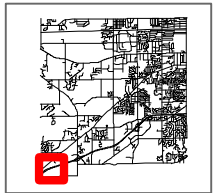


D.R.C RECOMMENDATION:

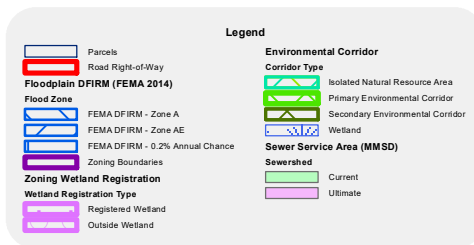
Public hearing and possible action to approve a Conditional Use Permit for A.W. Oakes & Son, Inc. to temporarily construct a mobile concrete batch plant, located at 6600-6666 S. Crowbar Road, subject to the application, plans on file and the following conditions of approval: **SEE EXECUTIVE SUMMARY.**

ATTACHMENTS:

Location Map
Plan of Operation / Site Plan
County Letter



City of New Berlin
Department of Community Development
3805 S Casper Dr.
New Berlin WI 53151
(262) 797-2445
www.newberlin.org



0 262.5 525 Feet



Oakes Plant Site at Johnson Sand & Gravel Crowbar Pit



Plant will operator as needed Monday through Saturday 6am to 7pm

Haul Routes will use Crowbar Rd to National Ave straight to Moorland Rd and back. Our secondary route will be National Ave to Racine Ave to I-43 and run the interstate to Moorland Rd.



Waukesha County

Department of Public Works

May 9, 2023

New Berlin Plan Commission
3805 S Caper Dr.
New Berlin, WI 53051

RE: Project ID 2722-07-72
CTH O from CTH I to CTH ES
Condition Use request for 6666 S Crowbar Road New Berlin

Dear Members of the New Berlin Plan Commission:

Waukesha County, in partnership with the Wisconsin Department of Transportation and A W Oakes and Son Inc., is requesting that the commission act on the conditional use permit for the proposed concrete batch plant and the Johnson Sand and Gravel site located at 6666 Crowbar Road, in the City of New Berlin at your June 5, 2023 meeting. It is our understanding that the plan commission does not normally act on the approval of conditional use requests the same night as the hearing; however, time is of the essence for this important project.

CTH O (Moorland Rd) carries more than 30,000 vehicles per day and provides a major connection for traffic between I-43 and I-94 through eastern Waukesha County. CTH O is the most heavily traveled north-south corridor in Waukesha County. It serves multiple business parks along with adjacent industrial uses making CTH O a major freight corridor. Overall, hundreds of local businesses rely on CTH O for access to I-94 and I-43 every day.

Waukesha County is undertaking a pavement replacement project along CTH O between CTH I (Beloit Road) and CTH ES (National Avenue) in the summer of 2023. The planned project will replace the failing pavement, improve intersections, replace signal equipment, and repair curbs and storm sewer as needed. The existing highway was constructed in 1978 and has undergone a rehabilitation project in 2006 to extend the life of the roadway. The pavement is now in failure and this project is needed to protect the public and maintain the transportation corridor.

The State of Wisconsin Department of Transportation (WISDOT) opened bids for this project in February of 2023 for planned construction starting Spring of 2023. The project bids were significantly higher than the available budget, and we were unable to recommend award of the contract until additional funding sources had been secured. This delay in award, due to the funding, has now resulted in the need to expedite all parts of the project, including this conditional use permit.

Paul Farrow
County Executive



Allison Bussler
Director

Waukesha County

Department of Public Works

The project goal is to have all lanes completed and open to traffic by November of 2023; however, additional delays will impact that plan.

The proposed batch plant would be located at the Johnson Sand and Gravel location at 6666 Crowbar Dr in New Berlin. The proposed site already contains the Schmitz Redi Mix batch plant and is well suited for this use.

Waukesha County staff, along with representatives from AW Oakes and Sons inc., will attend the June 5, 2023 meeting to help answer your questions regarding this request. We appreciate your willingness to work with us on implementing this project and expediting the Plan Commission Approval.

If you have any questions or concerns, please contact me at 262 896-8538.

Sincerely,

Karen Braun, PE
Engineering Services Manager

C: Gene Bock, Southern Wisconsin Appraisal

N:\DPW\Engineer\PROJECTS\IO_I to ES 2722-07-02\Right of Way\intro letter 73.docx

Jones, Nikki

Subject: RE: update

From: Connor McMahon <cmcmahon@awoakes.com>

Sent: Thursday, January 4, 2024 3:00 PM

To: Jones, Nikki <njones@newberlin.org>

Cc: JMayer@waukeshacounty.gov; Kessler, Greg <gkessler@newberlin.org>; Simonson, Tamara <tsimonson@newberlin.org>; Ed Anastas <eanastas@awoakes.com>; Ed Hinrichs (EHinrichs@waukeshacounty.gov) <ehinrichs@waukeshacounty.gov>; Philip.Ciha@dot.wi.gov; bwallace@waukeshacounty.gov

Subject: RE: update

You don't often get email from cmcmahon@awoakes.com. [Learn why this is important](#)

Hello Nikki,

We are requesting an extension of our CU permit for our mobile batch plant at the Johnson Sand & Gravel Crowbar Rd site. The existing permit noted a need to submit an extension request by October 20th, however; a contract change officially extending the project completion date was not granted until November 15th, 2023. This project encountered numerous delays which is why we are requesting the permit extension. The use of our plant will be necessary to complete the concrete paving of the eastbound lanes of National Ave as well as the remaining sidewalk work across the entire project.

We anticipate work resuming on the Moorland Rd project mid-March (weather depending) with concrete operations starting shortly thereafter. We are requesting the permit be extended to September 15st, 2024. This will allow us time in the event of further project delays, time to complete punch list work, time to clean up the site and adequate time to remove the plant.

I have attached the original packet of information. Overall, we do not anticipate any changes in our operations from our initial permit.

A.W. Oakes & Son representatives will plan to attend the Feb 5th meeting to answer any questions the commission may have. We request the planning commission act on this matter at that meeting.

Thank you,

Connor McMahon, P.E.

Project Manager



A.W. Oakes & Son, Inc.

2000 Oakes Rd, Racine, WI 53406

C: 262-900-7405 / O: 262-886-4474

www.awoakes.com



Plan Commission MEETING MINUTES

January 8, 2024 - 6:00 PM
Council Chambers
3805 S. Casper Drive

Please note: Minutes are unofficial until approved at the next regular scheduled meeting.

MINUTES

1. PUBLIC HEARING(S)

- A. (1) GK/NJ RZ-2300810 Dan Romnek on behalf of Mandel Group - 1750 S. Moorland Road (includes Tax Keys #'s: 1158-990; 1158-991-001; 1158-993, 1158-994, 1158-989, 1158-991 & a portion of 1158-992) - Public Hearing and Plan Commission recommend to Common Council adoption of Planned Unit Development Ordinance # 2688 to amend Ordinance # 2679 that approves the rezoning from B-1/PUD, Rm-1/PUD, I-1 PUD & C-2 to B-1/PUD, Rm-1/PUD, I-1 PUD & C-2 to amend Planned Unit Development Overlay Ordinance #2679, Mandel Neighborhood Development Plan & Highland Memorial Park Cemetery PUD.

Nikki Jones introduced the Public Hearing item to the Plan Commissioners.

Mayor Ament asked if there were any questions for clarification. There were none.

Mayor Ament asked if there was anyone wishing to speak in favor of the public hearing. There were none.

Mayor Ament asked if there was anyone wishing to speak in opposition of the public hearing. There were none.

Mayor Ament asked if there were questions and/or comments from Plan Commissioners. There were none.

2. PRIVILEGE OF THE FLOOR

None

3. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Mayor Ament called the Plan Commission meeting to order at 06:13 PM.

Mayor Ament led the Pledge of Allegiance.

4. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Deputy Clerk Godshall took the roll call as follows:

Present: Commissioner Schulpus, Commissioner Felda, Commissioner Anderson, Commissioner Rafel, Alderperson Stribl, Commissioner McGrath, Mayor Ament

Excused: None

Staff Present: DCD Director Greg Kessler, DCD Deputy Director Nikki Jones, Principal Planner Kristen Hogan, City Attorney Mark Blum, Deputy City Clerk Megan Godshall

5. APPROVAL OF MINUTES

A. November 6, 2023 Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Commissioner McGrath
Second by: Commissioner Rafel
Motion Passed 6-0 with Commissioner Anderson Abstaining

6. PLAN COMMISSION SECRETARY'S REPORT

None

7. NEW BUSINESS

A. (2) KH UA-2301943 McCON Building Corporation - 14855 W. National Avenue - Culver's Site Improvements

MOTION: Motion to Table

VOTE: Motion by: Alderperson Stribl
Second by: Commissioner Anderson
Motion Passed 7-0

B. Discussion and possible action to recommend to Common Council approval of (4) KH SP-2302092 Ryan's Buying LLC - 5751 S. Sunny Slope Road - Adoption of a resolution approving the Theofila Estates Preliminary Plat.

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Stribl
Second by: Commissioner Schulpilus
Motion Passed 7-0

C. Discussion and possible action to recommend to Common Council approval of (1) GK/NJ RZ-2300810 Dan Romnek on behalf of Mandel Group - 1750 S. Moorland Road (includes Tax Keys #'s: 1158-990; 1158-991-001; 1158-993, 1158-994, 1158-989, 1158-991 & a portion of 1158-992) - Adoption of Planned Unit Development Ordinance # 2688 to amend Ordinance # 2679 that approves the rezoning from B-1/PUD, Rm-1/PUD, I-1 PUD & C-2 to B-1/PUD, Rm-1/PUD, I-1 PUD & C-2 to amend Planned Unit Development Overlay Ordinance #2679, Mandel Neighborhood Development Plan & Highland Memorial Park Cemetery PUD.

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Stribl
Second by: Commissioner Rafel
Motion Passed 7-0

8. CONTINUED BUSINESS

A. (1) GK/NJ UA-2301691 Dan Romnek with Mandel Group – 1640 S. Moorland Road– Use, Site and Architectural approval for a multi-family residential development.

MOTION: Motion to Take item from table

VOTE: Motion by: Commissioner Felda
Second by: Commissioner Rafel
Motion Passed 7-0

MOTION: Motion to Approve

VOTE: Motion by: Commissioner Felda
Second by: Alderperson Stribl
Motion Passed 7-0

9. PENDING

- A.** (1) NJ RZ-2301727 Jordan Chapman with ALRIG USA (DBA New Berlin Retail Management II LLC - 1401 S. Moorland Road (Tax Key # 1161995-001) - Rezone from B-1/PUD & C-2 to B-2/PUD & C-2. (PUBLIC HEARING 10/2/2023)

No discussion and no action

10. COMMUNICATIONS

None

11. ADJOURN

MOTION: Motion to Adjourn at 6:41 PM

VOTE: Motion by: Commissioner Rafel
Second by: Commissioner Schulpus
Motion Passed 7-0

***Respectfully Submitted,
Megan Godshall, Deputy City Clerk***

STAFF REPORT

EXECUTIVE SUMMARY

APPLICANT/PROJECT:	Referral from the Common Council - Chapter 275, Zoning Code Updates
LOCATION:	Citywide
REQUEST:	Plan Commission review and discussion regarding updates to Zoning Code, Chapter 275.
D.R.C. RECOMMENDATION:	Plan Commission hold a public hearing, review and discussion regarding updates to Zoning Code, Chapter 275.

Background:

1. On September 28, 2023, staff received a memo from City Attorney Mark Blum, along with a draft Food Truck Ordinance that he had prepared.
2. The following changes are proposed to the Zoning Code:
 - a. 275-43B: Add language to define when food trucks require a Special Event Permit.
 - b. 275-43H: Add language to further define Food Truck Operation in the City
3. Staff has met with the Code Committee to review the proposed updates. Their recommended edits include:
 - a. 275-43H(3): Change "The holder of the Food Truck License" to "A food truck"
 - b. 275-43H(3)(a): Change "as regulated in" to "except as allowed in"
 - c. 275-43H(3)(c): Add "a lot with". Add language that defines how distance is measured.
 - d. 275-43H(3)(d): Add language that defines how distance is measured.
 - e. 275-43H(3)(e): Remove "other than Residential and Park districts" as this is already defined in 275-43H(3)(b)

Next Steps:

1. Public hearing held before Plan Commission.
2. Plan Commission recommendation forwarded to the Common Council for final action.
3. Common Council review for final action.

Previous Action:

12/6/2023	Code Committee made a recommendation to forward the amended Zoning Code to the Plan Commission.
1/9/2024	Common Council set the public hearing date for February 5, 2024.

Attachments:

12/6/2023 Code Committee Minutes

Draft Zoning Code Amendments



Code Committee MEETING MINUTES

December 6, 2023 - 3:00 PM
Badger Conference Room
3805 S. Casper Dr.

Please note: Minutes are unofficial until approved at the next regular scheduled meeting.

MINUTES

1. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Mayor Ament called the meeting to order at 3:16 PM

Deputy Clerk Godshall took the roll call as follows:

Present: Mayor Ament, Commissioner McGrath, Alderperson Stribl

Excused: None

Staff Present: DCD Deputy Director Nikki Jones, Principal Planner Kristen Hogan, Principal Planner Kelly Wall, Deputy City Clerk Megan Godshall

A quorum was established and the meeting was properly noticed.

2. APPROVAL OF MINUTES

A. July 6, 2021 Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Stribl
Second by: Commissioner McGrath
Motion 3-0

B. January 27, 2023 Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Stribl
Second by: Commissioner McGrath
Motion Passed 3-0

3. NEW BUSINESS

A. GK DCD1-2302102 Zoning Code Updates

The following edits were made by the Code Committee to Chapter 275:

275-43H(3):

- Change "The holder of the Food Truck License" to "A food truck"

275-43H(3)(a):

- Change "as regulated in" to "except as allowed in"

275-43H(3)(c):

- Add "a lot with".
- Add language that defines how distance is measured.

275-43H(3)(d):

- Add language that defines how distance is measured.

275-43H(3)(e):

- Remove "other than Residential and Park districts" as this is already defined in 275-43H(3)(b)

MOTION: Motion to Approve as presented with changes

VOTE: Motion by: Alderperson Stribl
Second by: Mayor Ament
Motion Passed 2-1

4. ADJOURN

MOTION: Motion to Adjourn at 3:50 PM

VOTE: Motion by: Commissioner McGrath
Second by: Alderperson Stribl
Motion Passed 3-0

*Respectfully Submitted,
Megan Godshall, Deputy City Clerk*

§ 275-43. Temporary uses, structures and special events.

- A. Application process. As applicable, temporary uses, structures and special events shall obtain a permit. Applications and necessary materials shall be submitted to staff and may be subject to application fees and developer deposit fees. The temporary use, structure or special event shall be reviewed in accordance with the provisions of this section and other applicable sections of this chapter and § 152-23, Special event permit.
- B. Temporary uses, structures, and special events requiring a permit may include, but are not limited to, festivals, food truck festivals, art/craft fairs, outdoor markets, plant/flower sales, circuses, concerts, wine/food tastings, beer gardens, races, outdoor seating/dining, pop up live music, car shows, fundraisers/outings (e.g., golf outings/company picnics), game day/nights (bingo/trivia), outdoor movie theater, and/or other similar events unless approved as part of an existing plan of operation or an approved calendar of events. All food truck uses in Residential or Park zoning districts are considered an event requiring a Permit in accordance with 275-43H of this Chapter.
- C. Time limits. Temporary use, structure and special event permits shall be valid for a specified period of time. A permit shall lapse if not used within the dates approved.
- D. Required findings. The application shall be approved as submitted or in a modified form if the Director of the Department of Community Development finds that:
 - (1) The proposed temporary use, structure, or special event will be located, operated, and maintained in a manner consistent with the policies of the New Berlin Comprehensive Plan and the provisions of this chapter;
 - (2) The approval of the application will not be detrimental to property or improvements in the surrounding area or detrimental to public health, safety or general welfare; and
 - (3) The proposed temporary use, structure or special event complies with all applicable standards of this section, unless otherwise expressly stated.
 - (4) The Mayor and/or his or her designee may approve special event permits for City-owned lands within City Center as long as the findings below are met and those found in Subsection D(1) through (3) above in this section are met:
 - (a) A certificate of insurance (COI) is required to be submitted for the event prior to the event occurring. It shall include the following:
 - [1] COI limits shall name the City of New Berlin as additionally insured.
 - [2] The parties agree to indemnify and hold harmless the other from any and all claims for injury or property damage to the extent that such claims arise out of the negligence of their employees, representatives, agents, contractors or officers as a result of this Agreement. Any indemnity that the City would agree to would be subject to the following limitations: Notwithstanding the forgoing, nothing contained within this agreement is intended to be a waiver or estoppel of the City of New Berlin or its insurer's ability to rely upon the limitations, defenses and immunities contained within Wisconsin law, including, but

not limited to, those contained within §§ 893.80, 895.52 and 345.05, Wis. Stats. To the extent that indemnification is available and enforceable, the City of New Berlin or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin law. The City's obligation to indemnify hereunder is subject to the availability and limits of applicable insurance coverage. Under no circumstances shall the City of New Berlin be required to indemnify the contractor for its own negligent or intentional conduct.

- [3] Each party shall provide the other with a certificate of insurance naming each other as an additional insured. The amount of such insurance shall be mutually agreed between the parties. Each party waives their right of subrogation against the other. Both parties' insurance policies shall have a noncancellation provision except upon 30 days' written notice to the other party.

- (b) And any other conditions that may be established by the Mayor, City Attorney, Board or Commission, and/or City staff that seeks to protect the City.

E. Conditions of approval. In approving a temporary use, structure, or special event permit, the Director of the Department of Community Development may impose reasonable conditions, including, but not limited to, limitations on hours, illumination, storage, and parking, necessary to:

- (1) Achieve the general purposes of this section and the specific purposes of the zoning district in which the temporary use will be located or be consistent with the New Berlin Comprehensive Plan;
- (2) Protect the public health, safety, and general welfare; and
- (3) Ensure the operation and maintenance of the temporary use, structure, or special event in a manner compatible with existing uses on adjoining properties and in the surrounding area.

F. Temporary construction, security, or real estate sales offices.

- (1) General. The owner of a construction project may place on the construction site a temporary office for use by construction, security, or real estate sales personnel.
- (2) Location. The temporary office shall be located on the lot on which construction or development is occurring and shall not be located within 25 feet of any abutting residential use.
- (3) Sanitation. Sanitation and plumbing requirements may be waived by the Director, provided that adequate facilities are available elsewhere on the site.
- (4) Time limits. The office shall be removed within 15 days after final inspection of the permanent structure or expiration of the corresponding building permit, whichever event occurs first. In the case of residential development projects, the office must be removed within 15 days of the sale or lease of all dwelling units.

G. Staff shall have the authority to review and send items to the appropriate board, commission and/or Council for their review and approval if there are potential effects on surrounding land uses.

H. Food Truck Operation

(1) "Food truck" has the same definition as "Mobile Vendor" under Municipal Code Section 152-5.

(2) Operators of any food truck which operates within the City of New Berlin shall obtain all necessary Permits from the City Clerk's Office. This includes, but is not limited to, the Direct Sellers License. In addition, the applicant shall provide evidence that they have obtained all necessary Health Permits from governmental entities with jurisdiction.

(3) A food truck may only operate in the City of New Berlin subject to the following terms and conditions:

(a) Food trucks are prohibited from operating on City of New Berlin property and on City streets or public rights-of-way, except as allowed in Municipal Code Section 152-5D, unless the food truck is participating in a City of New Berlin sponsored event. In the event the event is being conducted in a City of New Berlin public park, permission must be obtained not less than thirty (30) days prior to the event from the Parks, Buildings and Grounds Commission of the City.

(b) Food trucks may not operate on residentially zoned property except during the course of a Special Event approved by the City or where the food truck is not in operation for more than six (6) consecutive hours. In no event shall the food truck begin operations earlier than 7:00 a.m. or operate later than 10:00 p.m. This endorsement may be terminated by the Police Department if the operation of the food truck becomes a nuisance to surrounding properties.

(c) Food trucks may not operate within 200' of a lot with an existing restaurant or business which sells food prepared on site. The distance shall be calculated as the shortest measurable distance between the food truck to the edge of the lot with such business, in a straight line without regard to intervening structures. Right-of-way is not included and shall be subtracted from this measurement.

(d) No food truck may operate within 200' of a residentially zoned property in the City of New Berlin except as expressly provided for in 275-43H(3)(b). The distance shall be calculated as the shortest measurable distance between the food truck to the edge of the residential zoning district, in a straight line without regard to intervening structures. Right-of-way is not included and shall be subtracted from this measurement.

(e) Food trucks may operate in all zoning districts, including private property and legal parking spaces, subject to Section 152-5D of the Municipal Code and authorization of the property owner or their designee. However, such operations shall also require an endorsement to the Direct Sellers License and shall register the location, dates, and hours of operation. In the event the operation of the food truck becomes a nuisance, the Police Department may terminate the Food Truck Endorsement to the Direct Sellers License.

Commented [KH1]: Code Committee: Change "The holder of the Food Truck License" to "A food truck"

Commented [KH2]: Code Committee: Change "as regulated in" to "except as allowed in"

Commented [KH3]: Code Committee: Add "a lot with"

Commented [KH4]: Code Committee: Add language that defines how distance is measured.

Commented [KH5]: Code Committee: Add language that defines how distance is measured.

Commented [KH6]: Code Committee: Remove "other than Residential and Park districts" as this is already defined in 275-43H(3)(b)

ORDINANCE NO. 2689**ORDINANCE TO AMEND CHAPTER 275 (ZONING) OF THE
MUNICIPAL CODE OF THE CITY OF NEW BERLIN**

The Common Council of the City of New Berlin do ordain as follows:

SECTION I

Section 275-43B of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- B. Temporary uses, structures, and special events requiring a permit may include, but are not limited to, festivals, food truck festivals, art/craft fairs, outdoor markets, plant/flower sales, circuses, concerts, wine/food tastings, beer gardens, races, outdoor seating/dining, pop up live music, car shows, fundraisers/outings (e.g., golf outings/company picnics), game day/nights (bingo/trivia), outdoor movie theater, and/or other similar events unless approved as part of an existing plan of operation or an approved calendar of events. All food truck uses in Residential or Park zoning districts are considered an event requiring a Permit in accordance with 275-43H of this Chapter.

SECTION II

Section 275-43 of the Zoning Code of the City of New Berlin is hereby created to read as follows:

H. Food Truck Operation

- (1) "Food truck" has the same definition as "Mobile Vendor" under Municipal Code Section 152-5.
- (2) Operators of any food truck which operates within the City of New Berlin shall obtain all necessary Permits from the City Clerk's Office. This includes, but is not limited to, the Direct Sellers License. In addition, the applicant shall provide evidence that they have obtained all necessary Health Permits from governmental entities with jurisdiction.
- (3) A food truck may only operate in the City of New Berlin subject to the following terms and conditions:
 - (a) Food trucks are prohibited from operating on City of New Berlin property and on City streets or public rights-of-way, except as allowed in Municipal Code Section 152-5D, unless the food truck is participating in a City of New Berlin sponsored event. In the event the event is being conducted in a City of New Berlin public park, permission must be obtained not less than thirty (30) days prior to the event from the Parks, Buildings and Grounds Commission of the City.
 - (b) Food trucks may not operate on residentially zoned property except during the course of a Special Event approved by the City or where the food truck is not in operation for more than six (6) consecutive hours. In no event shall the food truck begin operations earlier than 7:00 a.m. or operate later than 10:00 p.m. This endorsement may be terminated by the Police Department if the operation of the food truck becomes a nuisance to surrounding properties.
 - (c) Food trucks may not operate within 200' of a lot with an existing restaurant or business which sells food prepared on site. The distance shall be calculated as the shortest measurable distance between the food truck to the edge of the lot with

such business, in a straight line without regard to intervening structures. Right-of-way is not included and shall be subtracted from this measurement.

- (d) No food truck may operate within 200' of a residentially zoned property in the City of New Berlin except as expressly provided for in 275-43H(3)(b). The distance shall be calculated as the shortest measurable distance between the food truck to the edge of the residential zoning district, in a straight line without regard to intervening structures. Right-of-way is not included and shall be subtracted from this measurement.
- (e) Food trucks may operate in all zoning districts, including private property and legal parking spaces, subject to Section 152-5D of the Municipal Code and authorization of the property owner or their designee. However, such operations shall also require an endorsement to the Direct Sellers License and shall register the location, dates, and hours of operation. In the event the operation of the food truck becomes a nuisance, the Police Department may terminate the Food Truck Endorsement to the Direct Sellers License.

SECTION III

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed.

SECTION IV

The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

SECTION V

This Ordinance shall take effect upon passage and publication as approved by law, and the City Clerk shall so amend the Code of Ordinances of the City of New Berlin, and shall indicate the date and number of this amending ordinance therein.

PASSED AND ADOPTED by the Common Council this 13th day of February, 2024.

APPROVED:

David Ament, Mayor

Countersigned:

Rubina Medina, City Clerk

STAFF REPORT

EXECUTIVE SUMMARY

APPLICANT/PROJECT: Connor McMahon with A.W. Oakes & Son, Inc. on behalf of Waukesha County / Temporary Mobile Concrete Batch Plant

LOCATION: 6600-6666 S. Crowbar Road (Tax Key #'s: 2182-999-011 & 2182-999-013) (Johnson Sand & Gravel)

REQUEST: Conditional Use Permit for A.W. Oakes & Son, Inc. to set up a temporary mobile concrete batch plant, located at 6600-6666 S. Crowbar Road.

D.R.C. RECOMMENDATION: Public hearing and possible action to approve a Conditional Use Permit for A.W. Oakes & Son, Inc. to temporarily construct a mobile concrete batch plant, located at 6600-6666 S. Crowbar Road, subject to the application, plans on file and the following conditions of approval:

1. Planning:

- a. Plan of operation shall be consistent with submitted plans on file. This batch plant is temporary and shall only be used to supply concrete material for the Moorland Road reconstruction project. No other projects shall be supplied by this batch plant.
- b. Upon project completion, all mobile batch plant equipment shall be removed from the site.
- c. Typical hours of Operation for Road Construction are 7am to 7pm Monday thru Friday and 8am to 5pm Saturday. Should the Plan Commission approve this permit, the batch plant hours of operation would be 6am to 7pm Monday through Saturday. The premises shall be closed on Sunday and Holidays.
 - i. Any expansion of the hours for this batch plant shall require Plan Commission review and approval, including night time hours.
- d. Applicant shall sign the Zoning Permit.
- e. All machinery and equipment will be operated in such a fashion so as to keep the site in a reasonably dust-free condition and to minimize smoke, air pollution, noise and vibration. Compression Brake usage shall be prohibited, unless required in an emergency.
- f. All permanent and temporary signs require a Sign Application to be filed prior to installation.
- g. Private water supply wells meeting the requirements of the Wisconsin Department of Natural Resources will also be required.
- h. The property, which is located outside of the current MMSD Sewer Service District, will require private on-site waste treatments sites (POWTS) that will meet Waukesha County requirements. Applicant shall coordinate with Waukesha County and WDNR for septic and well permits.
- i. Apply and obtain appropriate electrical permit for any electrical work to be done in conjunction with this batch plant operation.
- j. The County and the State will provide information for the project representative to address concerns 24/7 during the course of the project.
- k. This permit shall expire on October 31, 2024. If the applicant needs additional time, they shall submit a written request for an extension no later than August 23, 2024 for review by the Plan Commission at the October 7, 2024 meeting.

2. Engineering:

- a. All material shall be contained on site.
- b. Any tracking onto adjacent roadways shall be cleaned as necessary.
- c. On days of heavy trucking, contact the City Engineer so that Mayor and Alderman of the district can be notified if necessary.
- d. Operator shall abide by DNR erosion control measures.
- e. Project trucking shall use only County and State highways.
- f. When the batch plant is in operation, the applicant shall use measures to keep dust and tracking minimal and under control.
- g. There shall be no net increase in the amount of material left behind on site when the project ends. All materials that come into the site shall be removed from the site.

DETAILS IN ATTACHED STAFF REPORT

**CITY OF NEW BERLIN
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLAN COMMISSION STAFF REPORT**

Meeting of February 5, 2024

**Connor McMahon with A.W. Oakes & Son, Inc. on behalf of Waukesha County / Temporary
Mobile Concrete Batch Plant
6600-6666 S. Crowbar Road (Tax Key #'s: 2182-999-011 & 2182-999-013) (Johnson Sand &
Gravel)**

DATE STAFF REPORT: 1/16/2024

APPLICANT / OWNER(S): Connor McMahon with A.W. Oakes & Son, Inc. on behalf of Waukesha County / Temporary Mobile Concrete Batch Plant

REQUEST / DESCRIPTION OF PROJECT: Conditional Use Permit for A.W. Oakes & Son, Inc. to set up a temporary mobile concrete batch plant, located at 6600-6666 S. Crowbar Road.

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 5/8/2023; 1/4/2024 Request for extension.

DATE OF COMPLETENESS DETERMINATION: 5/8/2023; 1/4/2024 Request for extension
Application Check List Enclosed: N

PRE-APPLICATION CONFERENCE HELD: No, the County discussed this request with the City Engineer.
Dates of Meetings:
Site Visit: N/A

CONCEPTUAL PLAN: N/A

SIZE OF DEVELOPMENT / PARCEL(S):

Tax Key #: 2182-999-001 - 24.27 Acres

Tax Key #: 2182-999-013 – 35.10 Acres

CURRENT ZONING: Q-1 (Quarrying and Extractive District) & C-2 (Shoreland Wetland Holding District)

CURRENT LAND USE: Johnson Sand & Gravel & Schmitz Redi-Mix

PROPOSED ZONING: N/A

PROPOSED LAND USE: Office and shop for Schmitz Redi-Mix

PROPOSED LOT SIZE (S): N/A

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North: Zoning: R-1/R-2/I-1

Land Use: Single-Family Residential/Living Word Church/I-43

South: Zoning: C-1

Land Use: Conservancy / Tans Drive / City of Muskego

East: Zoning: Q-1/C-1

Land Use: Johnson Sand & Gravel

West: Zoning: Q-1/C-1

Land Use: Johnson Sand & Gravel

CONFORMANCE WITH COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes, below is a review of the social, economic and physical factors outlined in the various sections of the Plan:

Chapter 20: Neighborhood J – The Highway Interstate 43 & Racine Avenue interchange: Yes, this submittal meets the intent of this Chapter.

Planning Context / Vision / Development Policies:

Vision:

- *This area will be a third job center for the City of New Berlin. It will be a mix of light manufacturing, office, small-scale retail, and restaurant/hotel uses, much like Westridge, but on a smaller scale.*

Development Policies:

The City recognizes the long-range potential of this area for job producing business uses.

Land use:

- *Future Land Use Map: Quarry*

ZONING CODE (CHAPTER 275): Yes, this request is consistent with the current zoning district outlined in Section 275-37B(1) of the City's Zoning Code.

DEVELOPMENT CODE (CHAPTER 235): N/A

PUBLIC HEARING REQUIRED: Yes

CONDITIONAL USE REQUIRED: Yes

USE / SITE / ARCHITECTURAL REVIEW:

Use Approval Required: No

Site Plan Required: Yes

Architectural Review Required: N/A

PROPOSED ARCHITECTURE: The applicant is looking to set up a temporary mobile concrete batch plant.

UNIQUE SITE CHARACTERISTICS:

Environmental Corridor: No

Wetlands on Property: No, not in the vicinity of the mobile concrete batch plant.

Conservancy Districts (C-1, C-2): Yes, C-1.

NRCS Map Classification: Not Inventoried.

Floodplain: No

Topography / Geologic: Site location of the mobile concrete batch plant is fairly flat.

ALTERNATIVE TRANSPORTATION PLAN: No improvements identified.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:

Limits of Disturbance (LOD): Shown on plans. No trees will be disturbed.

Woodland, Tree, and Vegetation Protection: N/A

Wildlife Habitat Protection: N/A

Wildlife Management Plan: N/A

ENVIRONMENTAL IMPACT: No impact.

STORM WATER MANAGEMENT / DRAINAGE PLAN: Applicant is required to adhere to all City of New Berlin codes, ordinances and plans regarding storm water conveyance and maintenance and/or as

identified by the Department of Community Development. There is a storm water permit for the overall Johnson Sand & Gravel site.

SANITARY SEWER PROVISION:

Within Current Sewer Service Area: No

Sewershed Capacity Available: N/A

Adequate Linkage: N/A

Onsite System Required: Yes – applicant will utilize portable restrooms if needed.

WATER USAGE CALCULATION: Applicant is proposing to utilize water onsite either well water or from the pond.

TRAFFIC IMPACT: Slight increase is possible with this mobile temporary batch plant. See Findings section for more information.

Schmitz Redi-Mix trucks operates a batch plant at this location. DCD Staff contacted the current operator on 5/23/2023 to discuss their current operations. Their operations are consistent with what the City has on file.

SCHOOL DISTRICT IMPACT: No impact.

PREVIOUS ACTION: (Specific to past Temporary Batch Plant requests for similar projects.)

5/2/2005	Plan Commission approved two temporary concrete batch plants.
7/9/2007	Plan Commission approval of CU-5-07, Johnson Sand & Gravel set up a temporary batch plant to support a WisDOT project for Moorland Road reconstruction.
1/7/2013	Plan Commission approved U-99-01 an amendment to the Schmitz Ready mix, Inc. plan of operation to allow for temporary overnight work hours.
6/5/2023	Plan Commission approved a Conditional Use request. A public hearing was held.

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

1. The zoning district is Q-1, Quarrying and Extractive District.
2. This application is for a temporary permit to conduct one (1) concrete batch plan operation. The application is seeking the approval to supply ready-mix concrete for the local WisDOT project for the reconstruction of Moorland Road
3. The site currently functions as a source of sand and gravel, operated by Johnson Sand & Gravel, Inc. providing those products to local communities.
4. Duration: The contractor set up summer of 2023 and was hoping to take it down in December of 2023. There was a possibility of needing the mobile concrete batch plant to finish up the job in the spring of 2024 if there were delays (utility, weather, etc.). See condition #1(k) in the Executive Summary for any extensions.
5. Roughly a dozen large production days will be required for the mainline pavement with nearly two dozen days of hand pours and ancillary work. This could vary depending on what is purchased from outside suppliers. The details here would be if all concrete comes from this plant.
6. Trucks coming to the site will vary daily depending on work operation and logistical needs. Smaller production days 5 to 10 trucks and larger days 15 to 25 trucks. This is a count of raw materials in (aggregate and cement) and final product out. The number of employees on site will generally be 2 to 3.
7. Hours of Operation.
 - a. Schmitz Ready Mix hours of operation per their permit are 6:30 AM to 6:30 PM Monday thru Friday; and Saturday's 6:30 AM to 2 PM. No Sunday's or holidays at this time.
 - b. A.W. Oakes & Son, Inc. would like to have the hours for this request match the Moorland Road Project hours, generally they would start up the plant at 6:00AM and be done by 5

- 7:00PM. There is the potential for longer shifts on big production days in efforts to advance the project schedule as much as possible. Right now, they don't anticipate any true overnight work. See Conditions for any work outside of these business hours.
8. Sample pictures of the temporary mobile batch plant:

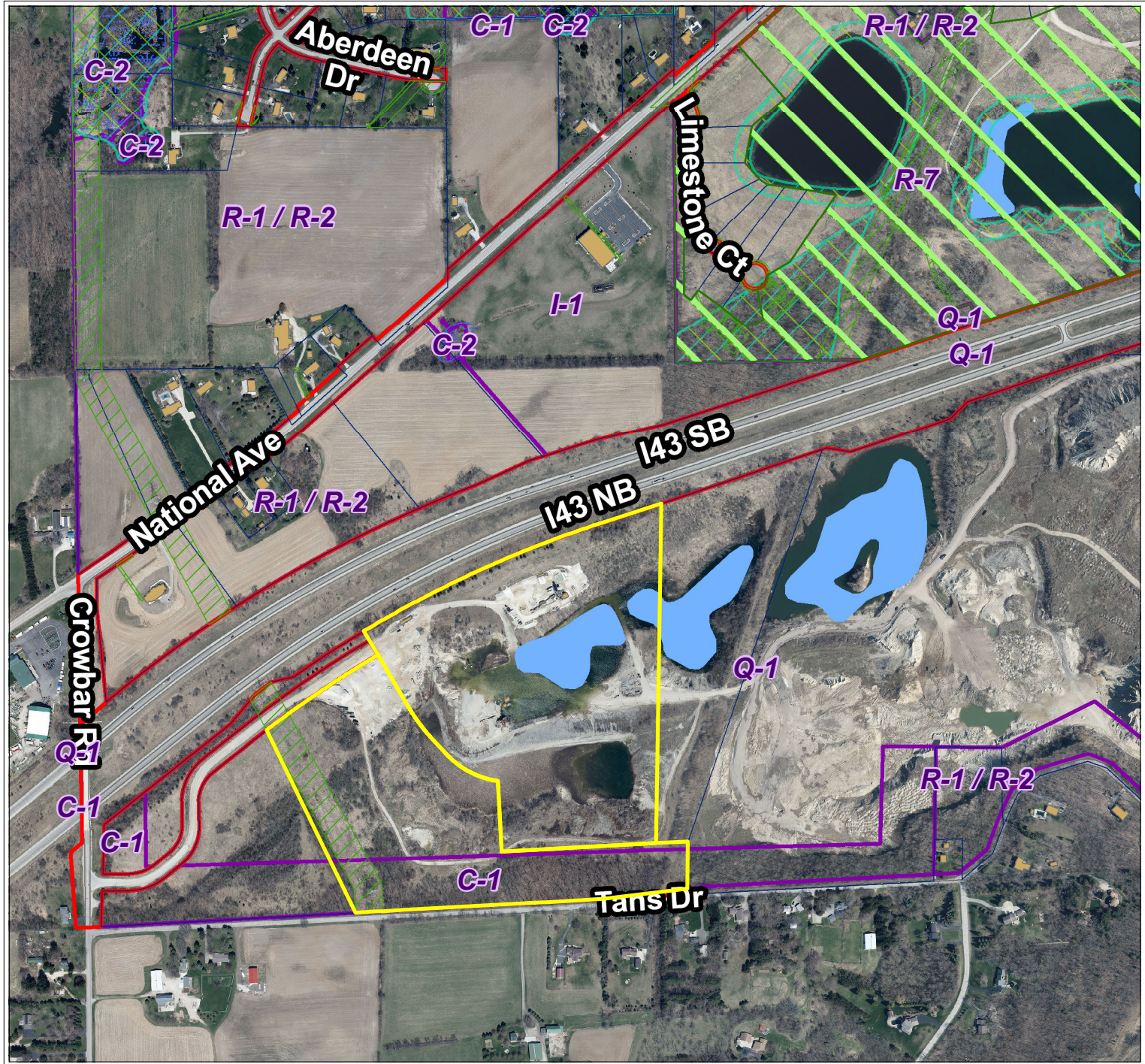
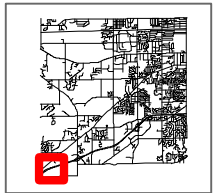


D.R.C RECOMMENDATION:

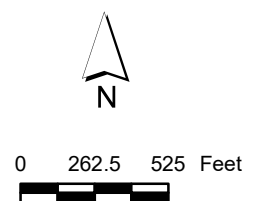
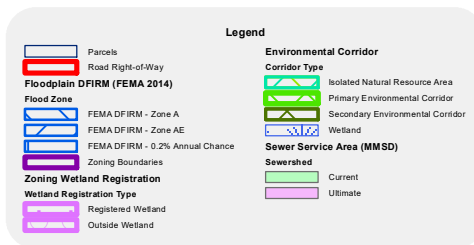
Public hearing and possible action to approve a Conditional Use Permit for A.W. Oakes & Son, Inc. to temporarily construct a mobile concrete batch plant, located at 6600-6666 S. Crowbar Road, subject to the application, plans on file and the following conditions of approval: **SEE EXECUTIVE SUMMARY.**

ATTACHMENTS:

Location Map
Plan of Operation / Site Plan
County Letter



City of New Berlin
Department of Community Development
3805 S Casper Dr.
New Berlin WI 53151
(262) 797-2445
www.newberlin.org



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Oakes Plant Site at Johnson Sand & Gravel Crowbar Pit



Plant will operator as needed Monday through Saturday 6am to 7pm

Haul Routes will use Crowbar Rd to National Ave straight to Moorland Rd and back. Our secondary route will be National Ave to Racine Ave to I-43 and run the interstate to Moorland Rd.



Waukesha County

Department of Public Works

May 9, 2023

New Berlin Plan Commission
3805 S Caper Dr.
New Berlin, WI 53051

RE: Project ID 2722-07-72
CTH O from CTH I to CTH ES
Condition Use request for 6666 S Crowbar Road New Berlin

Dear Members of the New Berlin Plan Commission:

Waukesha County, in partnership with the Wisconsin Department of Transportation and A W Oakes and Son Inc., is requesting that the commission act on the conditional use permit for the proposed concrete batch plant and the Johnson Sand and Gravel site located at 6666 Crowbar Road, in the City of New Berlin at your June 5, 2023 meeting. It is our understanding that the plan commission does not normally act on the approval of conditional use requests the same night as the hearing; however, time is of the essence for this important project.

CTH O (Moorland Rd) carries more than 30,000 vehicles per day and provides a major connection for traffic between I-43 and I-94 through eastern Waukesha County. CTH O is the most heavily traveled north-south corridor in Waukesha County. It serves multiple business parks along with adjacent industrial uses making CTH O a major freight corridor. Overall, hundreds of local businesses rely on CTH O for access to I-94 and I-43 every day.

Waukesha County is undertaking a pavement replacement project along CTH O between CTH I (Beloit Road) and CTH ES (National Avenue) in the summer of 2023. The planned project will replace the failing pavement, improve intersections, replace signal equipment, and repair curbs and storm sewer as needed. The existing highway was constructed in 1978 and has undergone a rehabilitation project in 2006 to extend the life of the roadway. The pavement is now in failure and this project is needed to protect the public and maintain the transportation corridor.

The State of Wisconsin Department of Transportation (WISDOT) opened bids for this project in February of 2023 for planned construction starting Spring of 2023. The project bids were significantly higher than the available budget, and we were unable to recommend award of the contract until additional funding sources had been secured. This delay in award, due to the funding, has now resulted in the need to expedite all parts of the project, including this conditional use permit.

Paul Farrow
County Executive



Allison Bussler
Director

Waukesha County

Department of Public Works

The project goal is to have all lanes completed and open to traffic by November of 2023; however, additional delays will impact that plan.

The proposed batch plant would be located at the Johnson Sand and Gravel location at 6666 Crowbar Dr in New Berlin. The proposed site already contains the Schmitz Redi Mix batch plant and is well suited for this use.

Waukesha County staff, along with representatives from AW Oakes and Sons inc., will attend the June 5, 2023 meeting to help answer your questions regarding this request. We appreciate your willingness to work with us on implementing this project and expediting the Plan Commission Approval.

If you have any questions or concerns, please contact me at 262 896-8538.

Sincerely,

Karen Braun, PE
Engineering Services Manager

C: Gene Bock, Southern Wisconsin Appraisal

N:\DPW\Engineer\PROJECTS\IO_I to ES 2722-07-02\Right of Way\intro letter 73.docx

Jones, Nikki

Subject: RE: update

From: Connor McMahon <cmcmahon@awoakes.com>

Sent: Thursday, January 4, 2024 3:00 PM

To: Jones, Nikki <njones@newberlin.org>

Cc: JMayer@waukeshacounty.gov; Kessler, Greg <gkessler@newberlin.org>; Simonson, Tamara <tsimonson@newberlin.org>; Ed Anastas <eanastas@awoakes.com>; Ed Hinrichs (EHinrichs@waukeshacounty.gov) <ehinrichs@waukeshacounty.gov>; Philip.Ciha@dot.wi.gov; bwallace@waukeshacounty.gov

Subject: RE: update

You don't often get email from cmcmahon@awoakes.com. [Learn why this is important](#)

Hello Nikki,

We are requesting an extension of our CU permit for our mobile batch plant at the Johnson Sand & Gravel Crowbar Rd site. The existing permit noted a need to submit an extension request by October 20th, however; a contract change officially extending the project completion date was not granted until November 15th, 2023. This project encountered numerous delays which is why we are requesting the permit extension. The use of our plant will be necessary to complete the concrete paving of the eastbound lanes of National Ave as well as the remaining sidewalk work across the entire project.

We anticipate work resuming on the Moorland Rd project mid-March (weather depending) with concrete operations starting shortly thereafter. We are requesting the permit be extended to September 15st, 2024. This will allow us time in the event of further project delays, time to complete punch list work, time to clean up the site and adequate time to remove the plant.

I have attached the original packet of information. Overall, we do not anticipate any changes in our operations from our initial permit.

A.W. Oakes & Son representatives will plan to attend the Feb 5th meeting to answer any questions the commission may have. We request the planning commission act on this matter at that meeting.

Thank you,

Connor McMahon, P.E.

Project Manager



A.W. Oakes & Son, Inc.

2000 Oakes Rd, Racine, WI 53406

C: 262-900-7405 / O: 262-886-4474

www.awoakes.com

STAFF REPORT

EXECUTIVE SUMMARY

APPLICANT/PROJECT: Andy Stefancin with School District of New Berlin / New Berlin West High School Restroom and Concession Building

LOCATION: 18695 W. Cleveland Avenue (Tax Key #: 1187-988)

REQUEST: Use, Site, and Architecture Approval for the construction of a 4,392 square foot building located at 18695 W. Cleveland Avenue.

D.R.C RECOMMENDATION: Recommend approval of the Use, Site, and Architecture for the construction of a 4,392 square foot building located at 18695 W. Cleveland Avenue subject to the application, plans on file and the following conditions:

1. Planning:

a. Plan of Operation:

- i. Applicant shall adhere to the submitted plan of operation.
- ii. Employee and customer parking shall be contained on site.
- iii. The applicant is proposing to construct a 4,392 square foot restroom and concession building.

b. Architectural Review Committee approval required.

- i. Per Zoning Code Section 275-59C(1)(d)[6], *Recommended materials*. "Permitted materials" are those that are allowed for each district. "Considered materials" are materials that may be permitted in certain cases depending on the character of existing buildings, specific site issues, staff approval, and/or Architectural Review Committee approval. See Figure VIII-10, Recommended Materials.

1. The applicant is requesting to have the Architecture Review Committee and Plan Commission consider the use of split face and smooth face block as the primary materials. Staff can support this request for the following reasons:

- a. The building is an accessory building on the property and will now provide permanent restrooms for the schools outdoor athletic complex. It will be an improvement from the small concession building that is currently at this location.
- b. The building is not visible from the public right-of-way of Cleveland Avenue.
- c. Based on our conversation with representatives from the school, the building needs to be constructed of masonry materials since the accessory buildings in this area are often hit with balls from sporting events.
- d. Lastly, the applicant has coordinated with staff on updating the architecture per the section below to create a top, middle and a base.

- ii. **Per Zoning Code Section 275-59D(3)(b), *Building facades should be composed to define base, middle, and top elements. The base of the building anchors it to the ground and is the interface between the building and people. The transition between the middle of the building and the base and top should be articulated by the use of contrasting materials, window openings, or ornamental elements. The top terminates the building against the sky and provides an opportunity to create an interesting silhouette.*** Since the initial submittal, the applicant upgraded the materials to include a top, middle and base by incorporating the following: base – split face block in blackened Ash, middle – smooth face block in Stel Gray and the top – smooth face block in White.
- c. **Approval of a Landscaping Plan and payment of all installation and maintenance sureties is required. Landscape plans shall meet all the requirements of Article VIII Section 275-53 through 275-56 of the City's Zoning Code.**
- d. **Applicant shall provide a list of trees to be removed. Removal of significant trees shall be replaced per the tree replacement schedule outlined in 275-54B(6) of the Zoning Code.**
- e. **Plans shall meet the I-1, Institutional District, requirements in Section 275-36B(1).**
- f. **Mechanical equipment shall be properly screened from the street and public view in accordance with Section 275-56.G of the Zoning Code.**
- g. **Applicant shall show any roof, ground, and wall mounted equipment on architectural plans.**
- h. **Dumpsters shall be properly screened from the street and public view in accordance with Article VIII Section 275-56 of the New Berlin Municipal Ordinance.**
- i. **All permanent and temporary signs require a Sign Application to be filed prior to installation.**
- j. **The property, which is served by the City of New Berlin sewer utility, shall obtain approval from the City of New Berlin for the proposed building and sanitary connection. The school is currently served by City sewer and water.**
- k. **Applicant shall comply with all domestic water supply requirements as well as fire prevention requirements.**
- l. **Applicant shall verify if the existing well will be used.**

2. Building Inspection:

- a. **Inspection– Local Review**
- b. **Building plans shall be signed and stamped by a licensed architect or professional engineer per the Wisconsin Enrolled Commercial Building Code (SPS.361.31).**
- c. **The State of Wisconsin Commerce review can be done locally as per (Comm.361.60).**
- d. **Use/Occupancy: Group A, Seasonal Group S (41,216 cu ft).**
- e. **Apply and obtain appropriate building, HVAC, electric, plumbing and fire permits from the City of New Berlin Building Inspection Division.**
- f. **Zoning approval will be required BEFORE applying for the building permit. Separate application and plans are required.**
- g. **The building shall be fully accessible from the parking lot to the interior elements (Com. 63.1101 and ICC/ANSI A117.1).**
- h. **Plumbing: State review is required for over 16 fixtures - new and/or replacements.**

2. Utility:

- a. No sewer plans given, but it will be a private lateral.

3. Storm Water

- a. Requested via 12/26/23 email, the impervious area calculations as well as the disturbance area. Applicant shall provide this information on revised plan set.
- b. Blocking of drainage is prohibited.
- c. Downspout discharge shall not be located closer than 10' from the property line and adequately dispersed.
- d. Easements have been checked only for those granted to the City (drainage, sanitary, and water main) or major transmission mains. Descriptions for the individual easements for service (gas, electric, and telephone) are not available.
- e. Erosion control measures shall be placed within 24 hours after beginning the excavating.
- f. You are responsible for complying with state and federal laws concerning construction near or on wetlands, lakes, and streams. Wetlands that are not associated with open water can be difficult to identify. Failure to comply may result in removal or modification of construction that violates the law or other penalties or costs. For more information, visit the Department of Natural Resources Wetlands Identification web page or contact a department of natural resources service center. <http://www.dnr.wi.gov/topic/wetlands/locating.html>

4. Engineering:

- a. The submitted plans do not show any proposed site grading, therefore no grading is approved with this permit.
- b. The submitted plans do not show any proposed pavement between the access path and the building. Applicant shall provide this information on revised plan set if providing additional pavement.
- c. The submitted plans do not show any proposed erosion control. Erosion control measures shall be installed along the downstream limit of any disturbed soils and stockpiles.
- d. A swale exists along the south property line. This swale shall not be altered nor shall any material be stockpiled which will obstruct drainage.

5. Fire Department:

- a. No deep frying or public cooking appliances. Food warming only & popcorn popping only.
- b. Provide emergency egress lighting.
- c. Fire extinguishers every 75 feet of travel.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLAN COMMISSION STAFF REPORT

Meeting of February 5, 2024

Andy Stefancin on behalf of School District of New Berlin / Restrooms and Concession Building
18695 W. Cleveland Avenue

DATE STAFF REPORT REVISED: December 27, 2023

APPLICANT / OWNER(S): Andy Stefancin on behalf of School District of New Berlin / School District of New Berlin

REQUEST/DESCRIPTION OF PROJECT: Use, Site, and Architecture Approval for the construction of a 4,392 square foot restroom and concession building located at 18695 W. Cleveland Avenue.

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 12/21/2023

DATE OF COMPLETENESS DETERMINATION: 12/21/2023

Application Check List Enclosed: No

PRE-APPLICATION CONFERENCE HELD: Yes

(Date(s) of Meeting(s): several meetings / Site Visit(s): various site visits.

CONCEPTUAL PLAN: Yes

SIZE OF DEVELOPMENT / PARCEL(S): 50.20 acres

CURRENT ZONING: I-1, Institutional District & C-2, Shoreland Wetland Holding District

CURRENT LAND USE: New Berlin West High School

PROPOSED ZONING: N/A

PROPOSED LAND USE: Restrooms and Concession building.

PROPOSED LOT SIZE: N/A

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North:	Zoning: R-1/R-2/C-1/P-1	Land Use: Single-Family Homes and Milwaukee Casting Club, Inc.
South:	Zoning: R-4/C-2/A-2	Land Use: Thorn-Apple Hill Subdivision
East:	Zoning: R-4	Land Use: Single-Family Homes & Thorn-Apple Hill Subdivision
West:	Zoning: R-1/R-2	Land Use: Single-Family Home

CONFORMANCE WITH THE 2030 COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes

Chapter 12: Neighborhood “B”: West Lincoln Avenue & Western Area: Yes, this submittal meets the intent of this Chapter.

Planning Context:

- *The area of New Berlin generally west of Calhoun Road should be a regional model of rural development. Any development shall occur as a mix of conservation development, farms, large areas of preserved open spaces, rural trails and facilities, and small-scale neighborhood-oriented retail. Development in this area will incorporate environmental protection as a basic value, including its importance as an aquifer recharge area.*

Vision:

- *Development in this area will incorporate environmental protection as a basic value, including its importance as an aquifer recharge area.*

Land use

- *Future Land Use Map: Institutional*

ZONING CODE (CHAPTER 275): Yes, meets all the requirements of Chapter 275-36B(1).

SUBDIVISION CODE (CHAPTER 235): N/A

REZONING REQUIRED: No

CONDITIONAL USE REQUIRED: No

PUBLIC HEARING REQUIRED: N/A

USE / SITE / ARCHITECTURAL REVIEW:

-Conditional Use Approval Required: No

-Site Plan Required: Yes, please see submitted site layout.

-Architectural Review Required: Yes, will be reviewed at the 2/5/24 ARC meeting.

PROPOSED ARCHITECTURE: See attached plans.

UNIQUE SITE CHARACTERISTICS:

-Environmental Corridor: Yes

-Wetland On Property: Yes, field delineated by Star Environmental.

-Conservancy Districts (C-1, C-2): Yes, C-2.

-NRCS Map Classification: Not Inventoried

-Floodplain: Yes

-Topography / Geologic: Site slopes to the southeast away from Cleveland Avenue.

BIKE & PEDESTRIAN FACILITIES PLAN: No improvements identified.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:

-Limits of Disturbance (LOD): Yes, shown on plans.

-Wildlife Habitat Protection: N/A

-Wildlife Management Plan: N/A.

ENVIRONMENTAL IMPACT: N/A

STORMWATER MANAGEMENT / DRAINAGE PLAN: Applicant is required to adhere to all City of New Berlin Codes, Ordinances and Plans regarding storm water conveyance and maintenance as identified by the Department of Community Development.

SANITARY SEWER PROVISION: Yes

-**Within Current Sewer Service Area:** Yes, there is a dedicated service to the school.

-**Basin Capacity Available:** Yes

-**Basin Balance (If known):** Yes

-**Adequate Linkage:** Yes, a lateral will be installed.

WATER USAGE CALC.: Will be reviewed at time of building permit.

TRAFFIC IMPACT: Applicant plans to accommodate all parking within the existing parking lot. There is an existing concession stand.

SCHOOL DISTRICT IMPACT: This is the school district's project.

PREVIOUS ACTION:

Many building projects over the years. Most recent Use Approval was for sidewalk concrete work summer of 2023.

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

1. The applicant is proposing to update the current amenities at New Berlin West Football Field. The current concession building is very small and does not contain restrooms. Each year, Porta Potties are brought in for the public to use.
2. The new building will have a concession stand on one end, spectator restrooms in the middle and a large storage area on the other end. During the football season the large storage area will also be used as a place where the football team can meet at half time and during practices. After the season is over, the space will be used for team storage.

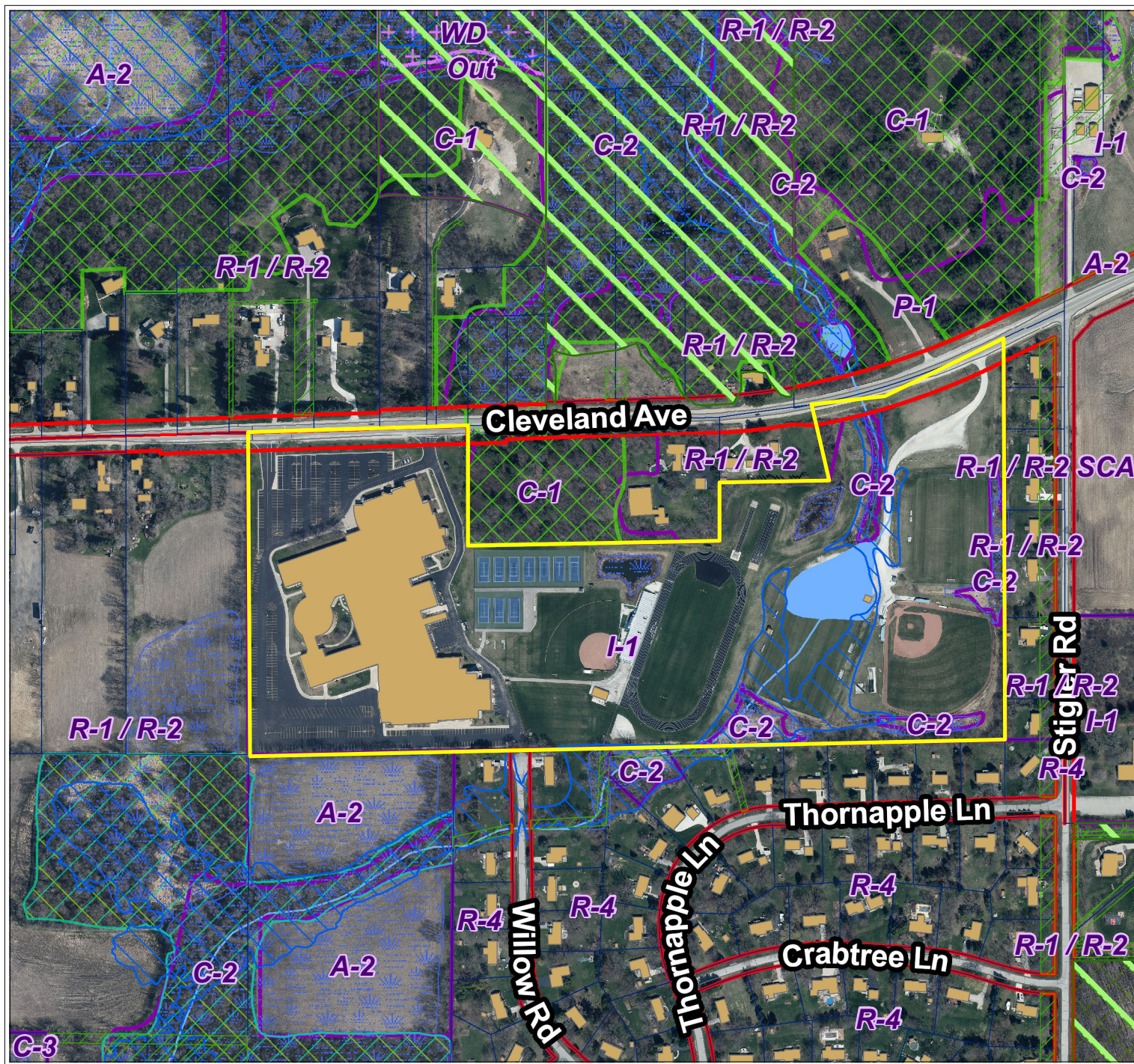
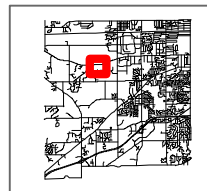
D.R.C RECOMMENDATION:

Recommend approval of the Use, Site, and Architecture for the construction of a 4,392 square foot building located at 18695 W. Cleveland Avenue subject to the application, plans on file and the following conditions: **See Executive Summary.**

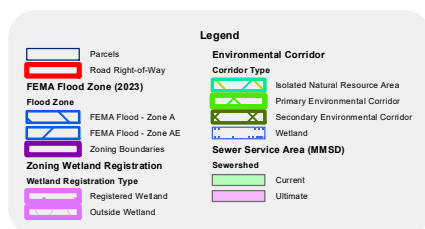
ATTACHMENTS:

Location Map
Plan of Operation
Plans

UA-2302372
New Berlin West High School Restroom & Concession Stand
18695 W. Cleveland Avenue



City of New Berlin
Department of Community Development
3805 S Casper Dr.
New Berlin WI 53151
(262) 797-2445
www.newberlin.org



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Dear Committee Members,

The School District of New Berlin, along with the help of an anonymous donor, would like to upgrade the concession stand at the New Berlin West High School football field. The current slab on grade building is no more than a four-car garage used for football and track storage, as well as a concession stand. We have been using Port-A-Potties lined up next to the building for many years to service the athletes and spectators. It should be noted that New Berlin West is the only high school in Waukesha County and in the Woodland Athletic Conference that does not offer a single plumbed restroom facility on their entire outdoor athletic complex.

With this generous donation, the school district has the opportunity to build an improved concession stand with permanent restrooms and a large storage area for more athletic equipment. This large storage area will also double as a place for the football team to meet during halftime.

The building construction would utilize split face block and smooth textured permanently colored block with an asphalt shingle roof. This will not only be more attractive aesthetically but will also provide a more durable building given the location near multiple practice fields.

This donation emphasizes how the people of New Berlin are willing to invest in our schools to support our student athletes, spectators, and help attract new families and businesses to the City of New Berlin.

Thank you for your consideration.

Sincerely,

Patrick Miller
CFO/COO
School District of New Berlin
patrick.miller@nbexcellence.org

Andy Stefancin
Director of Building & Grounds
School District of New Berlin
andy.stefancin@nbexcellence.org



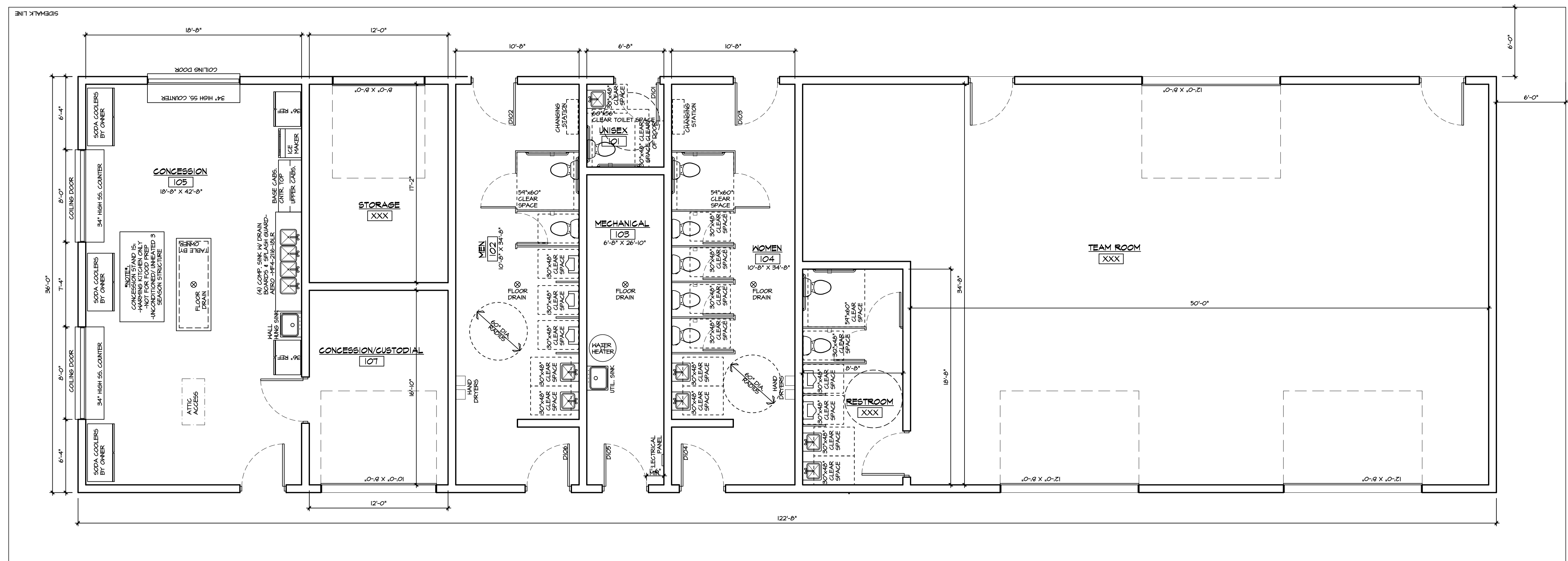
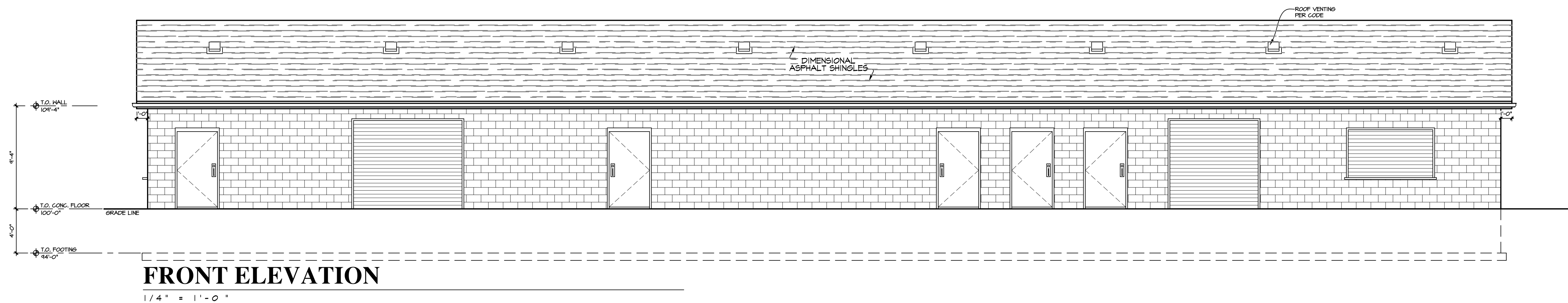
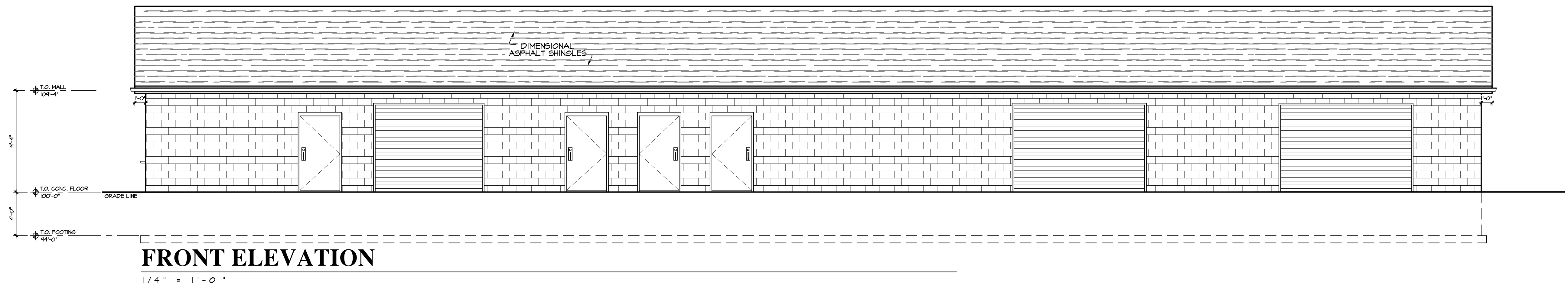
New Berlin West Restroom / Concession Stand Building

The goal of this project is to update the current amenities at the New Berlin West Football field. The current building is about the size of a four car garage. It is a slab on grade structure which houses a concession stand on one end and the rest is used for track and football storage. There currently are no restrooms near the football field, so each year Porta Potties are brought in for the public to use.

The new building will have a concession stand on one end, spectator restrooms in the middle and a large storage area on the other end. During the football season the large storage area will also be used as a place where the football team can meet at half time and during practice. When the football season is over that area will house all of the football practice gear. The other storage areas will be used to store track equipment and other miscellaneous items for other sports. Our goal is to have the new building completed by August 15, 2024 in time for the football season.


Andy Stefancin
Director of Buildings & Grounds
School District of New Berlin





NEW BERLIN WEST RESTROOMS

NEW BERLIN, WI 53151

SHEET TITLE:

FLOOR PLAN, SCHEDULES AND WALL TYPES

A-3

DATE: MARCH 15TH, 2022

PROJECT NUMBER: 16-108.2

REVISIONS:

- 3/15/22: PRELIM #1

- 4/5/22

- 5/25/22 SITE PLAN

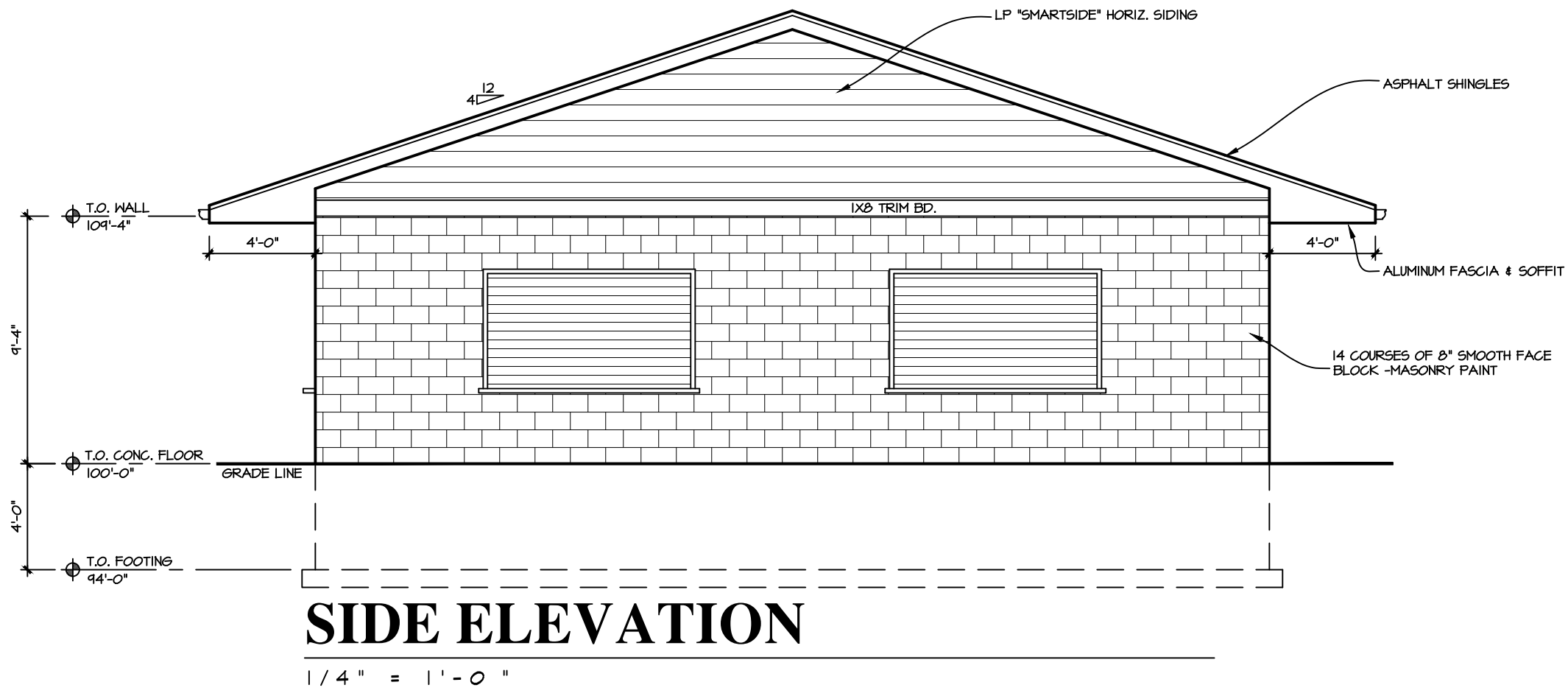
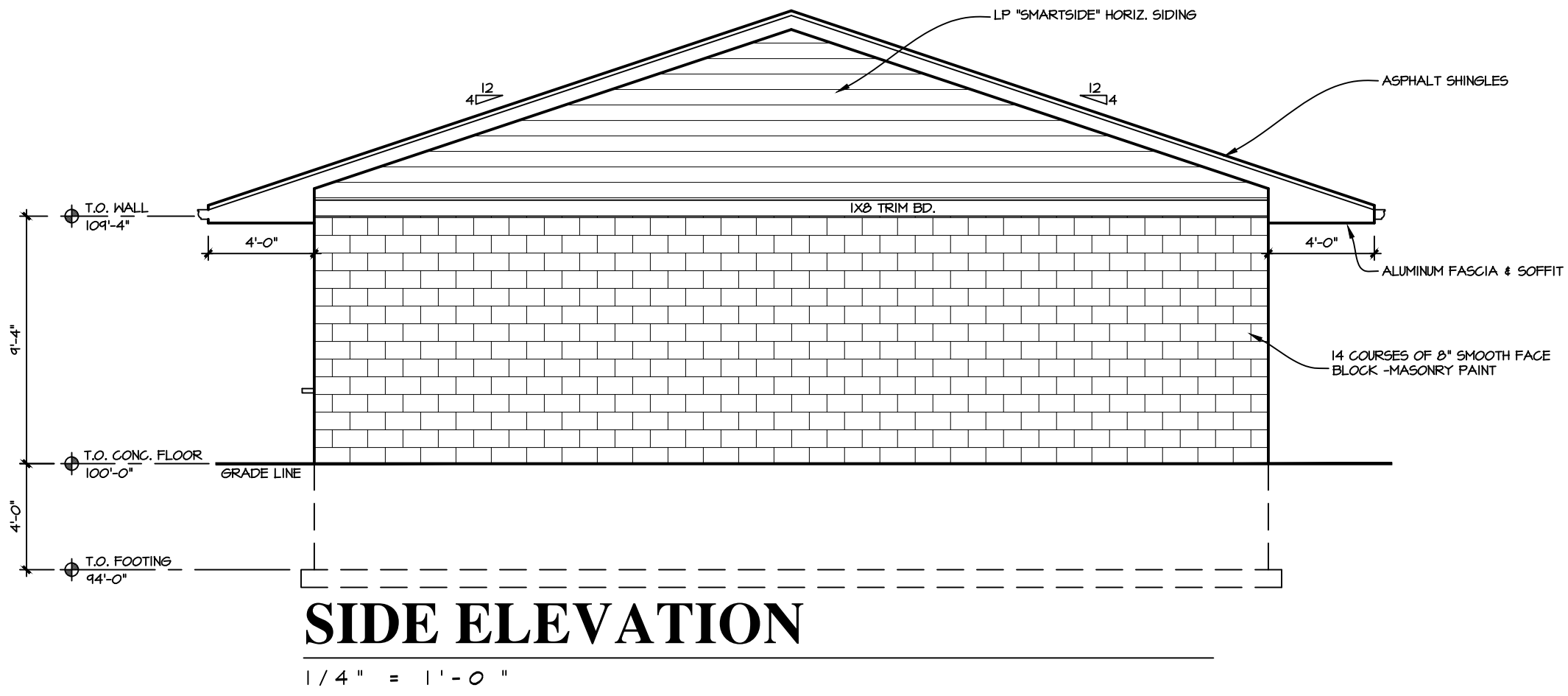
7/7/22: CD'S ISSUED

10/4/22: CD'S

11/9/23: REVISIONS

11/15/23: PRELIM

11/16/23: REVISED PRELIM



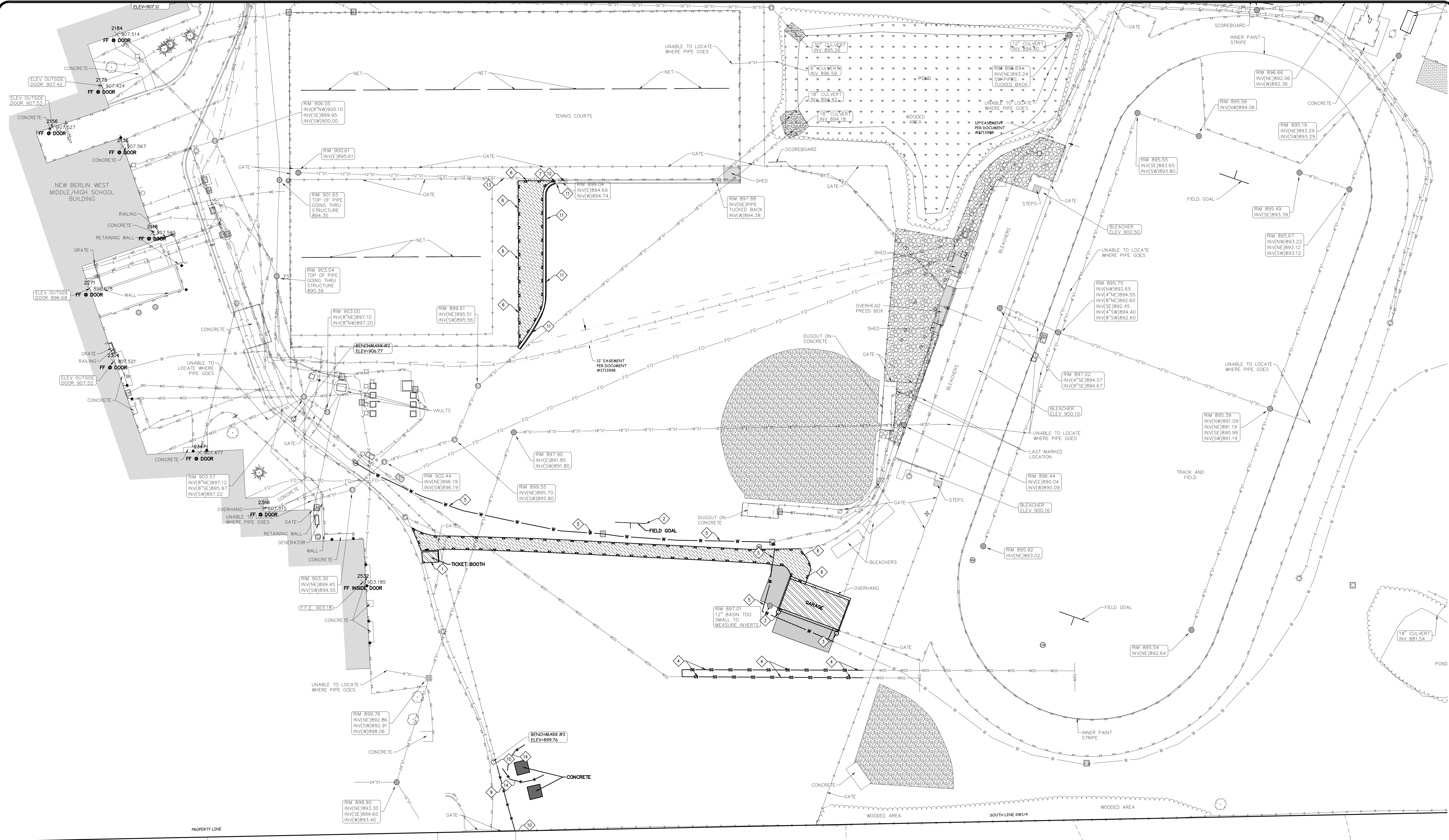
REVISIONS:
- 3/15/22: PRELIM #1
- 4/5/22
- 5/25/22 SITE PLAN
7/7/22: CD'S ISSUED
10/4/22: CD'S
11/9/23: REVISIONS
11/15/23: PRELIM
11/16/23: REVISED PRELIM

NEW BERLIN WEST RESTROOMS

NEW BERLIN, WI 53151
SHEET TITLE:
FRAMING PLAN AND ROOF PLAN

A-4

DATE: MARCH 15TH, 2022
PROJECT NUMBER: 16-108.2



BENCHMARK:

ELEVATIONS ARE REFERENCED TO NSVD 29 DATUM.

BENCHMARK #1:
CUT SQUARE ON SOUTHEAST SIDE OF LIGHT POLE BASE, LOCATED ON THE EAST SIDE OF THE NEW BERLIN WEST MIDDLE/HIGH SCHOOL BUILDING, APPROXIMATELY 65 FEET WEST OF THE NORTHWEST CORNER OF THE TENNIS COURTS. ELEVATION = 907.11

BENCHMARK #2:
CUT SQUARE ON EAST SIDE OF LIGHT POLE BASE, LOCATED ON THE EAST SIDE OF THE NEW BERLIN WEST MIDDLE/HIGH SCHOOL BUILDING, WEST OF THE SEPTIC VAULTS SOUTH OF THE TENNIS COURTS. ELEVATION = 906.77

BENCHMARK #3:
CUT SQUARE ON NORTH SIDE OF LIGHT POLE BASE, LOCATED APPROXIMATELY 120 FEET SOUTHEAST OF THE SOUTHEAST CORNER OF THE NEW BERLIN WEST MIDDLE/HIGH SCHOOL BUILDING. ELEVATION = 899.76

UTILITY DISCLAIMER:

THE LOCATIONS, SIZES, AND TYPES OF UNDERGROUND PUBLIC AND PRIVATE UTILITIES OR SUBSTRUCTURES SHOWN HEREON WERE OBTAINED FROM VISUAL INSPECTION, FIELD MEASUREMENTS, AND/OR AS-BUILT PLANS. SANITARY SEWER AND STORM SEWER PIPE SIZES, INVERTS, DIRECTION, AND LOCATIONS BETWEEN MANHOLES ARE SUPPLEMENTED BY AS-BUILT PLANS AND/OR ESTIMATED BASED ON FIELD OBSERVATIONS. PRIOR TO CONSTRUCTION IN THE VICINITY OF ANY UTILITIES SHOWN HEREON, IT IS RECOMMENDED THAT THE LOCATIONS, DEPTHS, AND SIZES BE FIELD VERIFIED. THE LOCATIONS SHOWN HEREON ARE ONLY APPROXIMATE, WITH POSSIBILITY THAT ADDITIONAL UTILITY LINES NOT DISCOVERED, OR MARKED, DURING THE SEARCH OF RECORDS AND THE FIELD SURVEY MAY EXIST. ANY CONTRACTOR USING THE INFORMATION SHOWN HEREON IS HEREBY FOREWARNED THAT ANY EXCAVATION UPON THIS SITE MAY RESULT IN THE DISCOVERY OF ADDITIONAL UNDERGROUND UTILITIES NOT SHOWN HEREON. IN GENERAL, UNDERGROUND UTILITY LOCATIONS ARE SHOWN FROM UTILITY MARKINGS, BY OTHERS, AND/OR AS-BUILT PLANS, PROVIDED BY OTHERS. POINT OF BEGINNING MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE EXISTING UTILITIES SHOWN HEREON, AND BELIEVES THAT THE INFORMATION CONTAINED HEREIN IS RELIABLE AND GENERALLY ACCURATE FOR THE PURPOSE INTENDED.

GENERAL NOTES:

- CONTACT DIGGER'S HOTLINE 5 WORKING DAYS PRIOR TO THE START OF DEMOLITION/CONSTRUCTION.
- ALL DEMOLITION MATERIALS SHALL BE REMOVED FROM THE SITE AND DISPOSED OF IN A LEGAL MANNER EXCEPT FOR THOSE ITEMS NOTED TO BE SALVAGED, WHICH SHOULD BE TURNED OVER TO THE OWNER.
- INSTALL AND MAINTAIN ALL REQUIRED EROSION CONTROL MEASURES FOR PERIMETER PROTECTION PRIOR TO THE START OF DEMOLITION/CONSTRUCTION, IN ACCORDANCE WITH THE LOCAL AND STATE GOVERNING AUTHORITIES. BIDDERS SHALL VISIT THE SITE AND REVIEW EXISTING CONDITIONS PRIOR TO THE BID DATE.
- COORDINATE WITH THE OWNER AND LOCAL UTILITY COMPANIES TO LOCATE ANY EXISTING UTILITIES ON SITE PRIOR TO THE START OF WORK.
- ANY EXISTING UTILITIES NOT SHOWN ON THIS DOCUMENT WHICH NEED TO BE REMOVED, RELOCATED, AND/OR ADJUSTED SHALL BE THE RESPONSIBILITY OF THE SITE GRADING CONTRACTOR AND INCLUDED IN THE BASE BID CONTRACT.
- COORDINATE ALL UTILITY REMOVAL, DISCONNECTION, &/OR RECONNECTION WITH RESPECTIVE UTILITY COMPANIES PRIOR TO BEGINNING WORK.
- ANY EXISTING UTILITIES NOT EXPRESSLY LABELED FOR DEMOLITION/REMOVAL ON THIS DOCUMENT SHALL BE LEFT IN PLACE AND IN THEIR CURRENT STATE OF OPERATION. CONTACT ENGINEER WHEREVER CLARIFICATION IS NEEDED.
- STRIP TOPSOIL WITHIN THE PROJECT LIMITS IN ACCORDANCE WITH THE PROJECT MANUAL SPECIFICATIONS. IF STRIPPED TOPSOIL IS STOCKPILED ON SITE, SILT FENCE SHALL BE INSTALLED AROUND THE BASE OF THE STOCKPILE TO PREVENT SEDIMENT TRANSPORT.
- PRIOR TO PERFORMING WORK WITHIN PUBLIC RIGHT OF WAYS, NOTIFY AND COORDINATE WORK WITH THE LOCAL MUNICIPALITY.
- MAINTAIN TRAFFIC CIRCULATION TO ALL NEIGHBORING PROPERTIES SHOWN ON THIS DOCUMENT. COORDINATE ALL WORK WITH NEIGHBORING PROPERTY OWNERS.

- KEYNOTES:**
- RELOCATE EXISTING TICKET BOOTH (ALTERNATE)
 - REMOVE EXISTING FIELD GOAL POST
 - REMOVE EXISTING DOWNSPOUT
 - REMOVE EXISTING ABANDONED SANITARY SEWER (FIELD VERIFY)
 - REMOVE EXISTING WATER LINE
 - SAWCUT EXISTING ASPHALT
 - SAWCUT EXISTING CURB & GUTTER
 - RELOCATE EXISTING CURB & GUTTER
 - REMOVE EXISTING FENCE
 - MAINTAIN EXISTING FENCE
 - REMOVE EXISTING CURB & GUTTER
 - MAINTAIN EXISTING STORM STRUCTURE
 - MAINTAIN EXISTING STORM SEWER
 - REMOVE AND SALVAGE EXISTING DISCUS CAGE (ALTERNATE)

DEMOLITION HATCH PATTERNS:

ASPHALT REMOVAL	
CONCRETE REMOVAL (ALTERNATE)	
GRAVEL REMOVAL	
BUILDING REMOVAL	

CIVIL SHEET INDEX	
Sheet Number	Sheet Title
C1.0	SOUTH DEMOLITION PLAN
C1.1	NORTH DEMOLITION PLAN
C2.0	SOUTH LAYOUT PLAN
C2.1	NORTH LAYOUT PLAN
C3.0	SOUTH GRADING PLAN
C4.0	SOUTH EROSION CONTROL PLAN
C5.0	SOUTH UTILITY PLAN
C6.0	DETAILS

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PROJECT NO.	23.123

DEMOLITION PLAN

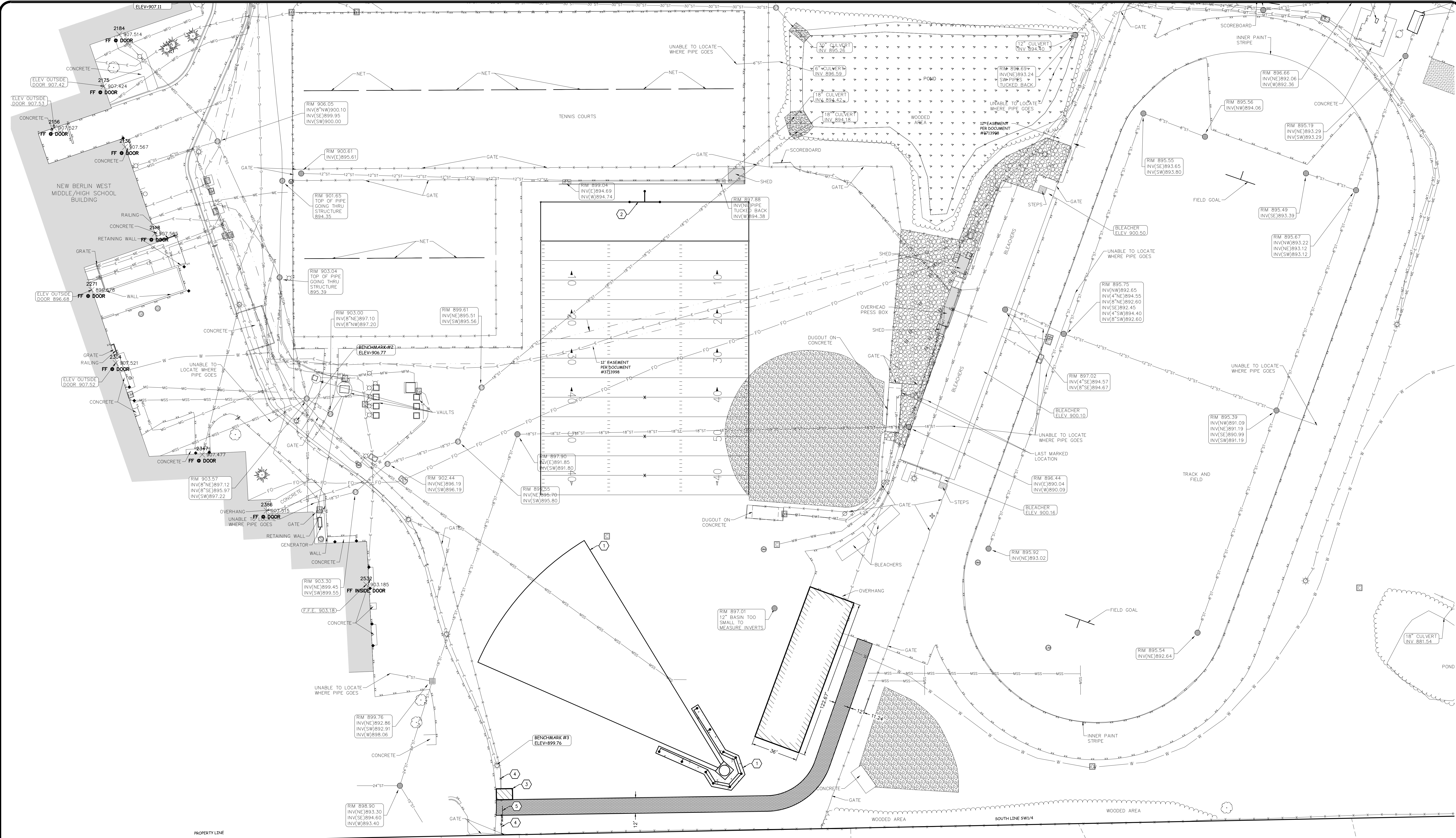
SCHOOL DISTRICT OF NEW BERLIN
NEW BERLIN WEST RESTROOM BLDG
CITY OF NEW BERLIN
WAUKESHA CO, WI

Civil Engineering
Land Surveying
Landscape Architecture

4941 Kirschling Court
Stevens Point, WI 54481
715.344.9999 (PH) 715.344.9922 (FX)

Point of Beginning

SHEET C1.0



BENCHMARK:

ELEVATIONS ARE REFERENCED TO NSVD 29 DATUM.

BENCHMARK #1:
CUT SQUARE ON SOUTHEAST SIDE OF LIGHT POLE BASE, LOCATED ON THE EAST SIDE OF THE NEW BERLIN WEST MIDDLE/HIGH SCHOOL BUILDING, APPROXIMATELY 65 FEET WEST OF THE NORTHWEST CORNER OF THE TENNIS COURTS.
ELEVATION = 907.11

BENCHMARK #2:
CUT SQUARE ON EAST SIDE OF LIGHT POLE BASE, LOCATED ON THE EAST SIDE OF THE NEW BERLIN WEST MIDDLE/HIGH SCHOOL BUILDING, WEST OF THE SEPTIC VAULTS SOUTH OF THE TENNIS COURTS.
ELEVATION = 906.77

BENCHMARK #3:
CUT SQUARE ON NORTH SIDE OF LIGHT POLE BASE, LOCATED APPROXIMATELY 120 FEET SOUTHEAST OF THE SOUTHEAST CORNER OF THE NEW BERLIN WEST MIDDLE/HIGH SCHOOL BUILDING.
ELEVATION = 899.76

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GENERAL NOTES:

- CONTACT DIGGER'S HOTLINE 5 WORKING DAYS PRIOR TO THE START OF DEMOLITION/CONSTRUCTION.
- GRADE, LINE, AND LEVEL TO BE REVIEWED IN THE FIELD BY THE CONSTRUCTION MANAGER.
- ALL REQUIRED EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH LOCAL MUNICIPAL AND DEPARTMENT OF NATURAL RESOURCES REGULATIONS.
- SEE SHEET _____ FOR ALL REQUIRED EROSION CONTROL ELEMENTS.
- ANY EXISTING UTILITIES NOT SHOWN ON THIS DOCUMENT WHICH NEED TO BE REMOVED, RELOCATED AND OR ADJUSTED SHALL BE THE RESPONSIBILITY OF THE SITE GRADING CONTRACTOR AND INCLUDED IN THE BASE BID CONTRACT.
- VERIFY THE LOCATION OF ALL EXISTING UTILITIES PRIOR TO THE START OF DEMOLITION/CONSTRUCTION.
- BIDDERS SHALL VISIT THE SITE AND REVIEW EXISTING CONDITIONS PRIOR TO THE BID DATE.
- PRIOR TO STARTING WORK, VERIFY WITH THE LOCAL AUTHORITIES THAT ALL REQUIRED PERMITS HAVE BEEN ACQUIRED.
- COORDINATE CONSTRUCTION IN THE RIGHT OF WAY WITH THE LOCAL AUTHORITIES.
- PROVIDE PROPER BARRICADES, SIGNS, AND TRAFFIC CONTROL TO MAINTAIN THRU TRAFFIC ALONG ADJACENT STREETS IN ACCORDANCE WITH LOCAL MUNICIPAL REQUIREMENTS.
- SIDEWALK JOINTS SHALL BE INSTALLED AS INDICATED OR AS APPROVED BY THE CONSTRUCTION MANAGER.
- ALL NEW CONCRETE PAVEMENT AND CURB ON ADJACENT STREET SHALL BE TIED IN ACCORDANCE WITH DETAIL _____ ON SHEET _____
- ALL GENERAL LANDSCAPE AREAS SHALL BE SEEDED, FERTILIZED, AND CRIMP HAY MULCHED IN ACCORDANCE WITH THE PROJECT SPECIFICATIONS.

KEYNOTES:

- DISCUS LAYOUT (ALTERNATE)
- PROPOSED FIELD GOAL POST
- RELOCATED TICKET BOOTH (ALTERNATE)
- PROPOSED X' CHAINLINK FENCE
- PROPOSED 12' SLIDING GATE

PAVEMENT HATCH PATTERNS:

- PROPOSED STANDARD ASPHALT PAVEMENT
- PROPOSED STANDARD CONCRETE PAVEMENT
- PROPOSED GRAVEL DRIVE

REVISIONS	
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SCHOOL DISTRICT OF NEW BERLIN
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Civil Engineering
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SHEET
C2.0