Plan Commission Meeting Agenda

February 3, 2025 - 6:00 PM
Council Chambers
3805 S. Casper Drive

Amended 1/30/2025 @ 9:30AM
~~Published 1/24/2025~~

AGENDA

1. **PUBLIC HEARING(S)**
2. **PRIVILEGE OF THE FLOOR**
   Each speaker is limited to 3 minutes. The session will conclude at 6:30 PM.
3. **CALL TO ORDER, PLEDGE OF ALLEGIANCE**
4. **ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE**
5. **APPROVAL OF MINUTES**
   - **A.** January 8, 2025 Meeting Minutes
   - **B.** January 13, 2025 Special Plan Commission Meeting Minutes
6. **PLAN COMMISSION SECRETARY'S REPORT**
7. **CONTINUED BUSINESS**
8. **NEW BUSINESS**
   - **A.** (7) NJ Rick Hillmann with Mead & Hunt on behalf of Tim & Kristine Seymour - 17445 W. Observatory Dr. (Tax Key #: 1233993011) - Discussion and possible action to recommend to Common Council approval of a 2-Lot Certified Survey Map.
   - **B.** (2) KH UA-2402791 Rob Sterr with Anderson Ashton on behalf of Crosswind Preserve LLC - 14300 W. National Avenue - Use, Site and Architectural Approval for a 14,043 sq. ft. building.
   - **C.** (4) KH UA-2402318 Katie Skelton with Continental Properties - 6151 S. Moorland Road - Conceptual Use, Site and Architectural for a neighborhood plan review for a 332 residential unit multi-family community.
   - **D.** KH DCD1-2500054 Zoning Code Updates
   - **E.** Discussion and possible action to recommend to the Common Council the approval of the application by Ryan's Buying LLC for the final plat of the Theofila Estates Subdivision located at 5751 S. Sunny Slope Road, along with the settlement agreement between the parties, subject to the terms of said settlement agreement as well as the conditions set forth in the staff report.
9. **PENDING**
10. **COMMUNICATIONS**
11. **ADJOURN**

Additional Information

- The agenda packet, including supplemental information related to agenda items, is available online at www.NewBerlinWI.gov. Once finalized by the governing body, approved meeting minutes will also be posted online.
- Agenda items may be taken out of order at the governing body's discretion.

- Members, and possibly a quorum, of other municipal governmental bodies may attend this meeting to gather information. However, no action will be taken by any governmental body other than the one referenced in this notice.
- Accommodations will be provided under the Americans with Disabilities Act (ADA) to meet the needs of individuals with disabilities. If you require assistance or appropriate aids and services, please contact the Office of the City Clerk at (262) 786-8610 with reasonable notice.

Plan Commission
MEETING MINUTES

January 8, 2025 - 6:00 PM
Council Chambers
3805 S. Casper Drive

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

MINUTES

1. PUBLIC HEARING(S)
None

2. PRIVILEGE OF THE FLOOR
None

3. CALL TO ORDER, PLEDGE OF ALLEGIANCE
Mayor Ament called the meeting to order at 6:02PM and led the Pledge of Allegiance.

4. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE
Community Relations Specialist Joelle Erickson took the roll call as follows:
Present: Commissioner Schulpius, Commissioner Felda, Commissioner Anderson, Commissioner Rafel, Alderperson Stribl, Mayor Ament
Excused: Commissioner Brian McGrath

Staff Present: Deputy DCD Director Nikki Jones, City Attorney Mark Blum, Principal Planner Kristen Hogan, Community Relations Specialist Joelle Erickson

5. APPROVAL OF MINUTES

A. December 2, 2024 Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Commissioner Schulpius
Second by: Commissioner Rafel
Motion Passes 5-0

*Commissioner Anderson abstained from voting

6. PLAN COMMISSION SECRETARY'S REPORT
None

7. CONTINUED BUSINESS
None

8. NEW BUSINESS

A. (1) KH Discussion and possible action to recommend to Common Council approval of LD-2402701 Luke Sebald with Keller, Inc. - 12860 and 12900 W. National Avenue - 1 Lot Certified Survey Map

MOTION: Motion to Approve As Presented

VOTE: Motion by: Alderman Stribl
Second by: Commissioner Rafel

Motion Passes 6-0

B. (1) KH UA-2402702 Luke Sebald with Keller, Inc. on behalf of On Time Promo & Apparel - 12860 W. National Avenue - Use, Site and Architecture Approval for a 7,200 sq. ft. building

MOTION: Motion to Approve

VOTE: Motion by: Commissioner Anderson
Second by: Alderman Stribl
Motion Passes 6-0

Mayor Ament discussed lighting concerns in the back of the building and wanted to ensure lights would not impede on the residential homes behind the property. Keller, Inc. to work with City Staff to verify placement of lights and the amount of light being distributed to neighboring homes.

9. PENDING

None

10. COMMUNICATIONS

None

11. ADJOURN

MOTION: Motion to Adjourn at 6:16PM

VOTE: Motion by: Alderman Stribl
Second by: Commissioner Rafel
Motion Passes 6-0

Respectfully Submitted,
Joelle Erickson, Community Relations Specialist

Special Plan Commission
MEETING MINUTES

January 13, 2025 - 3:00 PM
Council Chambers
3805 S. Casper Drive

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

MINUTES

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Mayor Ament called the meeting to order at 3:08PM and led the Pledge of Allegiance.

2. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Community Relations Specialist Joelle Erickson took the roll call as follows:
Present: Commissioner Schulpius, Commissioner Anderson, Commissioner Rafel, Alderperson Stribl, Mayor Ament
Excused: Commissioner Brian Felda, Commissioner Brian McGrath

Staff Present: DCD Director Greg Kessler, City Engineer Tammy Simonson, Community Relations Specialist Joelle Erickson, City Attorney Mark Blum

3. NEW BUSINESS

A. Discussion and possible action to recommend to Common Council rejection of (4) KH SP-2500053 Ryan's Buying LLC – 5751 S. Sunny Slope Road - Theofila Estates Final Plat

MOTION: Motion to Reject Item

VOTE: Motion by: Alderman Stribl
Second by: Commissioner Schulpius
Motion Passes 5-0

4. ADJOURN

MOTION: Motion to Adjourn at 3:17PM

VOTE: Motion by: Alderman Stribl
Second by: Commissioner Rafel
Motion Passes 5-0

Respectfully Submitted,
Joelle Erickson, Community Relations Specialist

STAFF REPORT
EXECUTIVE SUMMARY

APPLICANT/PROJECT:	**Rick Hillmann with Mead & Hunt on behalf of Tim & Kristine Seymour / 2-Lot Certified Survey Map (CSM)**	
LOCATION:	**17445 W. Observatory Rd. (Tax Key #: 1233993011)**	
REQUEST:	**2-Lot Certified Survey Map**	
REVIEW SCHEDULE:	**CSM Received:**	**11/20/2024**
	Completeness Determination:	**11/20/2024**
	90-day time limit expires:	**02/18/2025**
	Final Common Council Action (expected):	**02/11/2025**
D.R.C. RECOMMENDATION:	**Recommend to Common Council approval of the 2-Lot Certified Survey Map located at 17445 W. Observatory Rd. (Tax Key #: 1233.993.011) subject to the application, plans on file and the following conditions:**	

1. **Planning:**
   a. **A final copy of the CSM shall be submitted and reviewed prior to City signing. All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.**
   b. **The CSM shall be recorded with Waukesha County Register of Deeds prior to the issuance of any new Zoning or Building Permits.**
   c. **Applicant shall apply for and obtain appropriate building, plumbing and electrical permits prior to any construction on any parcel.**
   d. **Applicant shall correct all drafting errors and requested changes identified by Staff on the final CSM prior to the City signing.**
   e. **Payment of $1,937.60 for Lot #2 in Public Site & Open Space fees is required before the City shall sign the CSM.**
   f. **A Grading and Erosion Control Permit will be required at the time of building permit.**
   g. **Applicant shall coordinate with City staff to execute and record a Conservation Easement over the entire C-1 area to encompass the Secondary Environmental Corridor and wetland. This will further strengthen the development requirement guidelines outlined in Section 275-37.B(3). The Conservation Easement shall be recorded at Waukesha County Register of Deeds.**
   h. **All easements shall be shown on the face of the CSM.**
2. **Engineering:**
   a. **The driveway for Lot #1 must line up with Johns Drive. The driveway for Lot #2 must be midway between Johns Drive and Elm Diver. No access to Lot #2 will be allowed from Horizon Drive.**
   b. **Only one driveway is allowed per parcel for residential developments.**
   c. **The existing farm access to the northwest corner of Lot #1 will need to be removed at the time of the building permit.**
   d. **There is a power pole with a city intersection light at Johns Drive near the driveway location.**

This may need to be moved.

e. **The property, which is located outside of the current MMSD Sewer Service District, will require private on-site waste treatments sites (POWTS) for each lot that is created that will meet Waukesha County requirements.**

f. **Private water supply wells meeting the requirements of the Wisconsin Department of Natural Resources will also be required.**

DETAILS IN ATTACHED STAFF REPORT:

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

Meeting of February 3, 2025

Rick Hillmann with Mead & Hunt on behalf of Tim & Kristine Seymour /
2-Lot Certified Survey Map (CSM)

DATE STAFF REPORT PREPARED: November 22, 2024

APPLICANT / OWNER(S): Rick Hillmann with Mead & Hunt / Tim & Kristine Seymour

REQUEST / DESCRIPTION OF PROJECT: Approval of the 2-Lot Certified Survey Map located at 17445 W. Observatory Rd. (Tax Key #: 1233.993.011).

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 11/20/2024; Revised CSM 1/9/2025

DATE OF COMPLETENESS DETERMINATION: 11/20/2024

PRE-APPLICATION CONFERENCE HELD: Yes
Date(s) of Meeting(s): 10/31/2024
Staff Site Visit: 12/13/2024

CONCEPTUAL PLAN: Yes, CSM attached.

SIZE OF DEVELOPMENT / PARCEL(S):
10.0523 acres

CURRENT ZONING: R-1/R-2 (Rural Conservation Single-Family Residential District), C-1 (Upland Resource Conservancy District) C-2 (Shoreland Wetland Holding District)

CURRENT LAND USE: Vacant

PROPOSED ZONING: N/A

PROPOSED LAND USE: Single-family residential

PROPOSED LOT SIZES:
Lot #1: 220,062 Square Feet (5.0519 Acres)
Lot #2: 217,819 Square Feet (5.0004 Acres)

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North:	Zoning: R-1/R-2 &R-4	Land Use: Single Family Residential (Observatory Heights Subdivision)
South:	Zoning: I-1	Land Use: Ronald Reagan School
East:	Zoning: R-4	Land Use: Single Family Residential (Observatory Heights Subdivision)
West:	Zoning: R-1/R-2/C-1/C-2/I-1	Land Use: Single Family Residential

CONFORMANCE WITH COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes

Chapter 12: Neighborhood B: West Lincoln Avenue & Western Area: The submittal meets the intent of this Chapter.

Planning Context / Vision / Development Policies*:*

- 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.

Land Use:

- *Future Land Use Map: Country Residential*

ZONING CODE (Chapter 275): Yes, this request is consistent with Sections 275-33B(1) and 275-37B(3) & (4).

DEVELOPMENT CODE (CHAPTER 235): Yes

REZONING REQUIRED: Not applicable

CONDITIONAL USE REQUIRED: Not applicable

PUBLIC HEARING REQUIRED: Not applicable

USE / SITE / ARCHITECTURAL REVIEW:
Use Approval Required: No
Site Plan Required: Yes, see 2-Lot CSM attached.
Architectural Review Required: No

PROPOSED ARCHITECTURE: Not applicable

UNIQUE SITE CHARACTERISTICS:
Environmental Corridor: Yes
Wetland on Property: Yes, field delineated by Dave Meyer of Wetland and Waterway Consulting on November 1, 2024 and field located by Mead & Hunt on November 18, 2024. Wetlands will be registered on the City Zoning Map.
Conservancy Districts (C-1, C-2): Both
NRCS Map Classification: Not Inventoried
Floodplain: Yes
Topography / Geologic: Site slopes generally to the northwest corner of the lot.

BIKE & PEDESTRIAN FACILITIES PLAN: No improvements identified.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:
Limits of Disturbance (LOD): Not applicable for a CSM
Woodland, Tree & Vegetation Protection: Not applicable for a CSM
Wildlife Habitat Protection: Not applicable for a CSM.
Wildlife Management Plan: Not applicable for a CSM.

ENVIRONMENTAL IMPACT: No impact.

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:
Within Current Sewer Service Area: No
Basin Capacity Available: Not applicable
Adequate Linkage: Not applicable
Onsite System Required: Yes, perk test information has been submitted.

WATER USAGE CALC.: 250 GPD per new connection average.

TRAFFIC IMPACT: A net increase of one lot will occur with the proposed land division. The ITE estimates the following for two single-family lots:
Weekday AM Peak – 1.54 trips (0.77 trips per unit * 2)
Weekday PM Peak – 2.04 trips (1.02 trips per unit * 2)
Weekend Peak – 1.86 trips (0.93 trips per unit * 2)

SCHOOL DISTRICT IMPACT: 0.92 total estimated students
Elementary – 0.46 students (2 lots * 0.23 students)
Middle – 0.22 students (2 lots * 0.11 students)
High School – 0.24 students (2 lots * 0.12 students)
Notice Sent to Affected School District(s): No

PREVIOUS ACTION:

1/23/2007	Common Council approved rezoning for wetland delineation and removal of some C-1, Upland Resource District.
9/3/2008	Plan Commission tabled a two-lot land division.
7/7/2008	Application withdrawn.
12/6/2010	Plan Commission tabled application for a two-lot land division.
1/4/2011	Plan Commission approved a two-lot land division.
1/11/2011	Common Council approved a two-lot land division.
1/6/2011	Board of Appeals Meeting – Applicant had requested a land division off the end of Horizon Drive and was requesting the BOA grant a variance to not construct a cul-du-sac. That land division was for a different configuration of land which contemplated a driveway off Horizon Drive. This request does not contemplate a driveway off Horizon Drive. The CSM was never recorded.

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

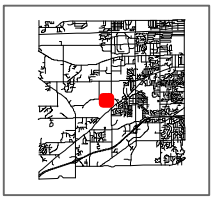
1. Applicant shall dedicate 30 feet to the City of New Berlin for right-of-way, as shown on the CSM.
2. The property is zoned R-1/R-2, Rural Conservation Single-Family Residential District. Under Section 275-33D In the R-1/R-2 District, the minimum lot area is 5 acres and minimum lot width shall be 200'.
3. Waukesha County Document #3909352 shows a City Trail easement adjacent to Lot #1. The city currently does not have a plan to utilize this easement, but the owner of Lot #1 should be aware of it and it's potential future use.

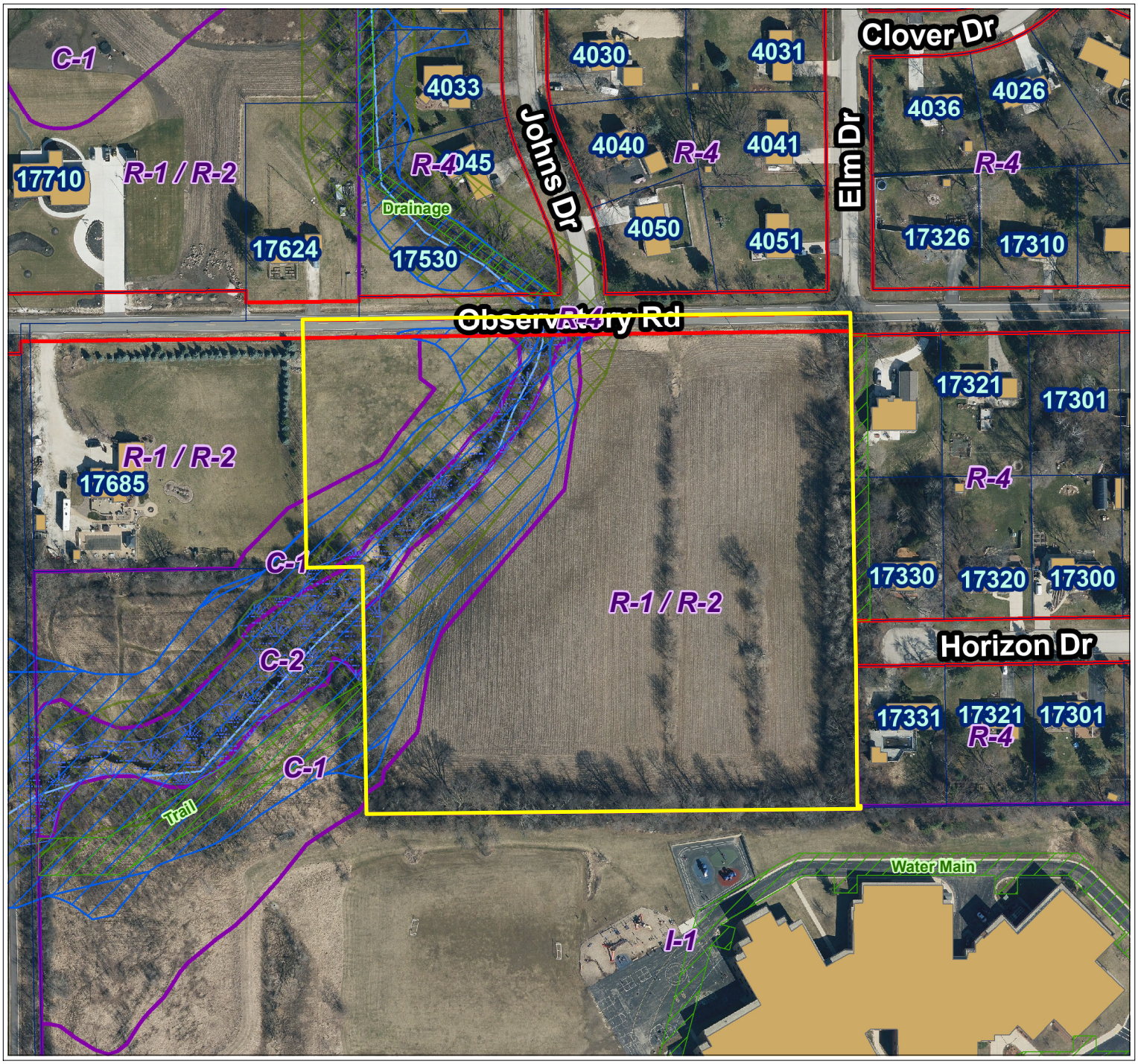
D.R.C. RECOMMENDATION: Recommend to Common Council approval of the 2-Lot Certified Survey Map located at 17445 W. Observatory Rd. (Tax Key #: 1233.993.011) subject to the application, plans on file and the following conditions: **See Executive Summary.**

ATTACHMENTS:
Location Map
Proposed CSM

City of New Berlin
Community Development

LD-2402664
Seymour 2-Lot CSM
17445 W. Observatory Road
Tax Key #: 1233.993.011





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

Legend

- Parcels
- Road Right-of-Way

FEMA Flood Zone (2023)

Flood Zone

- FEMA Flood - Zone A
- FEMA Flood - Zone AE
- Zoning Boundaries

Zoning Wetland Registration

Wetland Registration Type

- Registered Wetland
- Outside Wetland

Environmental Corridor

Corridor Type

- Isolated Natural Resource Area
- Primary Environmental Corridor
- Secondary Environmental Corridor
- Wetland

Sewer Service Area (MMSD)

Sewershed

- Current
- Ultimate

N

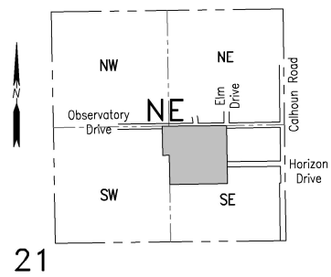
0 70 140 Feet

The information and depictions herein have been produced using data available through photogrametric means by the City of New Berlin. The informations and depictions herein are for informational purposes and the City of New Berlin specifically disclaims accuracy in this reproduction and specifically admonishes and advises that any and all depiction, measurements, distances depicted herein and as to which specific or precise accuracy is required should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means.

Map Printed: 11/22/2024 4:41:46 PM

Certified Survey Map No._____

Part of the Southwest ¼ and the Southeast ¼, of the Northeast ¼ of Section 21, Township 6 North, Range 20 East, located in the City of New Berlin, Waukesha County, Wisconsin

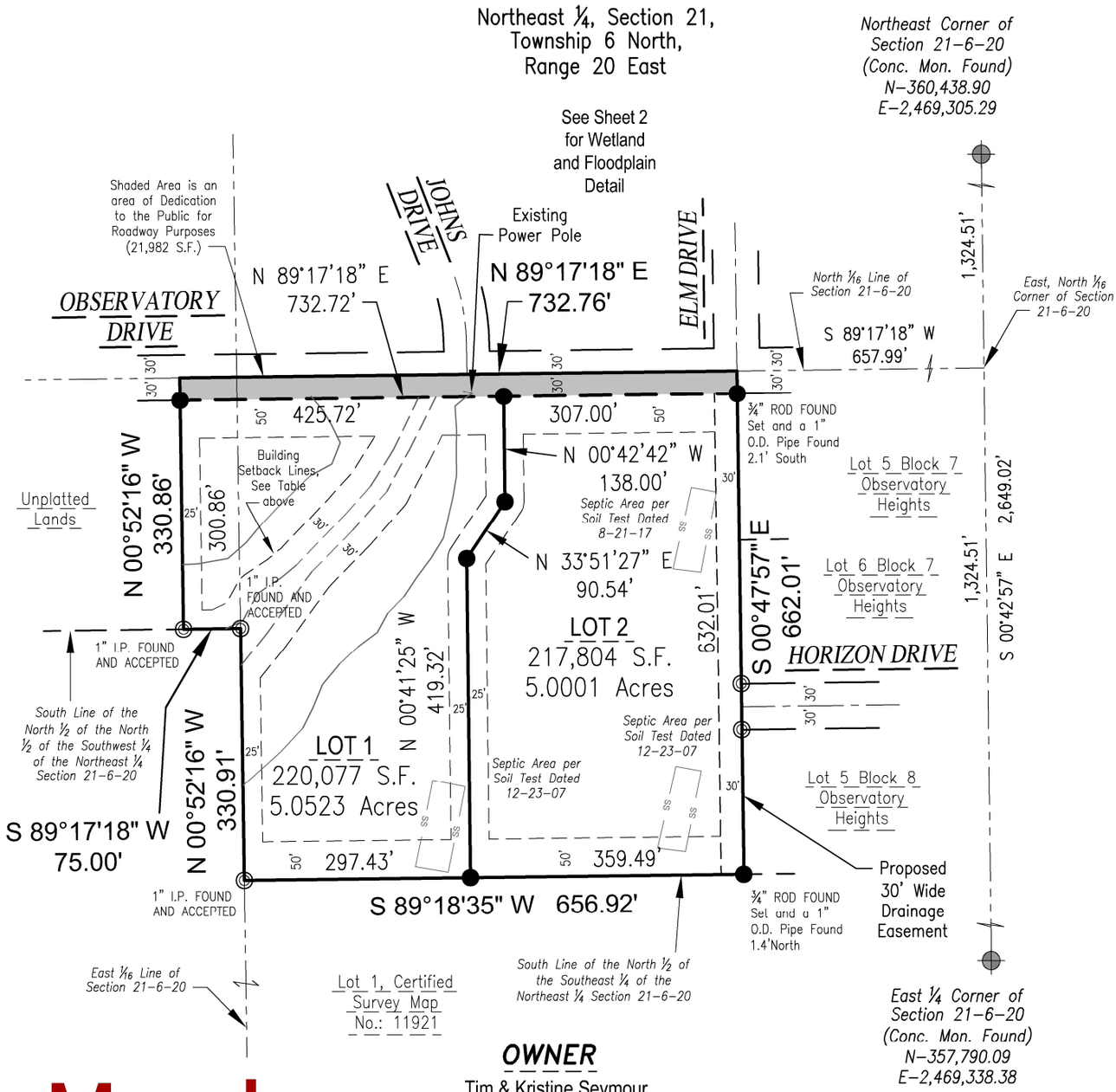


R-1/R-2 Zoning District:
Front Setback: 50'
Side Setback: 25'
Rear Setback: 50'
Wetland Setback: 30'

0 100' 200'
Scale: 1"=200'

VICINITY SKETCH

Northeast ¼, Section 21,
Township 6 North,
Range 20 East



OWNER

Tim & Kristine Seymour
20440 W. National Avenue
New Berlin, WI. 53151
Phone: (262) 951-5870

Revised: January 09, 2025
Revised: November 20, 2024

Mead & Hunt

10700 Research Drive,Suite 155
Wauwatosa WI. 53226
(414) 755-1110
www.meadhunt.com

NOTE: All bearings are referenced to the Wisconsin State Plane Coordinate System, South Zone NAD83, in which the East Line of the Northeast ¼ of Section 21, Township 6 North, Range 20 East bears N 00°42'57" W.

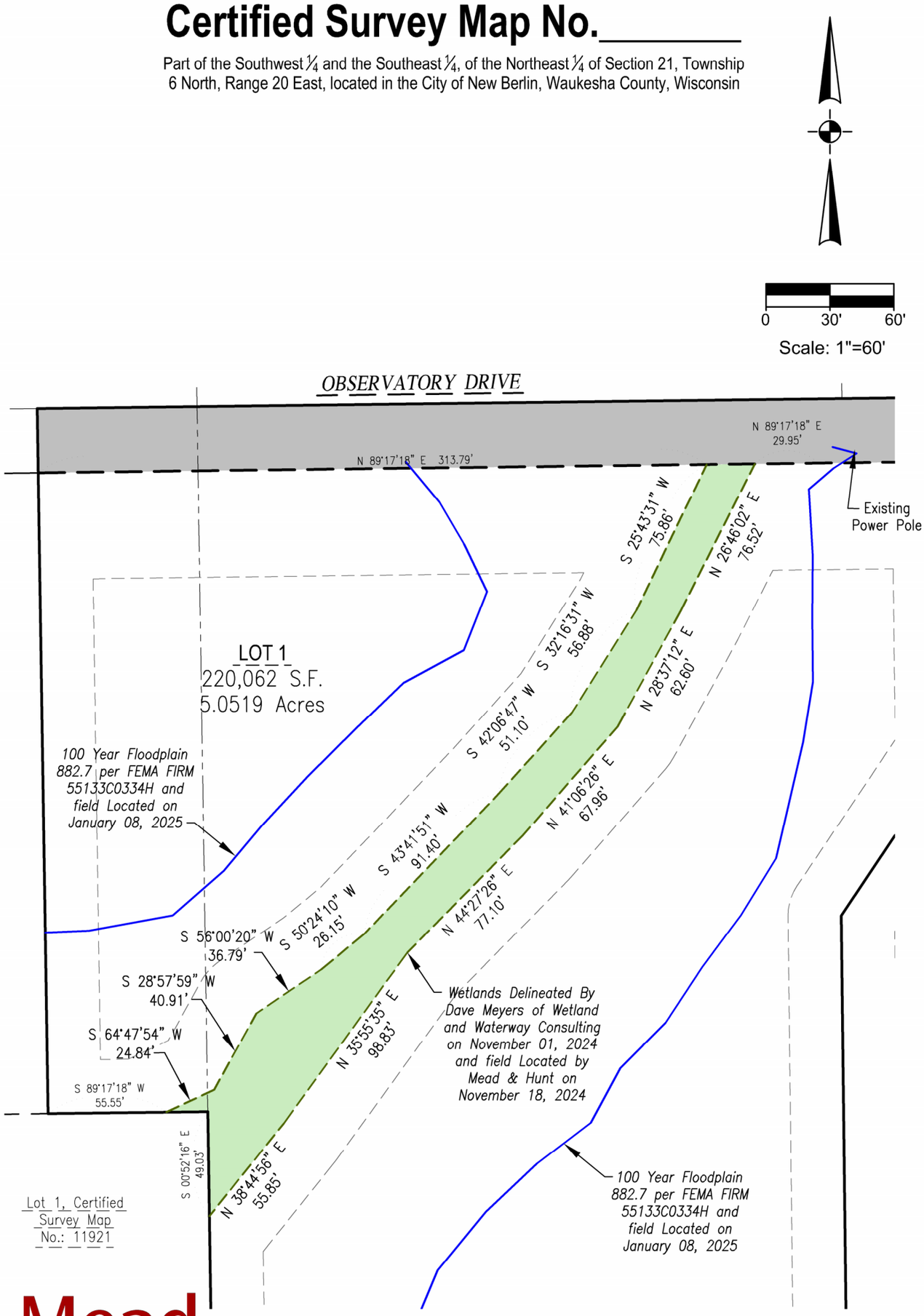
This Instrument was drafted by Rick R. Hillmann, a Professional Land Surveyor, S-3005 on this 18th day of November, 2024

Sheet 1 of 4

X:\4668622250086.01\TECH\SURVEY\DWG N PDF\OBSERVATORY CSM.DWG

Certified Survey Map No._____

Part of the Southwest ¼ and the Southeast ¼, of the Northeast ¼ of Section 21, Township 6 North, Range 20 East, located in the City of New Berlin, Waukesha County, Wisconsin



Revised: January 09, 2025
Revised: November 20, 2024

NOTE: All bearings are referenced to the Wisconsin State Plane Coordinate System, South Zone NAD83, in which the East Line of the Northeast ¼ of Section 21, Township 6 North, Range 20 East bears N 00°42'57" W.

This Instrument was drafted by Rick R. Hillmann, a Professional Land Surveyor, S-3005 on this 18th day of November, 2024

Sheet 2 of 4

Mead & Hunt
10700 Research Drive,Suite 155
Wauwatosa WI. 53226
(414) 755-1110
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Certified Survey Map No._____

Part of the Southwest ¼ and the Southeast ¼, of the Northeast ¼ of Section 21, Township 6 North, Range 20 East, located in the City of New Berlin, Waukesha County, Wisconsin

SURVEYOR'S CERTIFICATE:

I Rick R. Hillmann, Professional Land Surveyor, do hereby certify:

That I have surveyed, divided and mapped a parcel of land located in a part of the Southwest ¼ and Southeast ¼ ofthe Northeast ¼ of Section 21, Township 6 North, Range 20 East, located in the City of New Berlin, Waukesha County, Wisconsin, now being bound and described as follows:

Commencing at the Northeast corner of said ¼ Section; thence South 00°42'57" East on and along the East line of said ¼ Section, 1324.51 feet to the East, North 1/16 Corner; thence South 89°17'18" West on and along the North 1/16 line, 657.99 feet to an angle point as measured in "OBSERVATORY HEIGHTS" and to the Point of Beginning of lands hereinafter described;

Thence South 00°47'57" East on and along the West line of Block 7 as measured and then the West line of Horizon Drive as measured and then the West Line of Block 8 as measured of said OBSERVATORY HEIGHTS and then its Southerly extension of the West line of said Block 8, 662.01 feet to the North line of Certified Survey Map No.: 11921, said point is also on the South line of the North ½ of the Southeast ¼ of said Northeast ¼ Section; thence South 89°18'35" West on and along said North line and said South line of said North ½, 656.92 feet to the East 1/16 Line; thence North 00°52'16" West on and along East 1/16 Line, 330.91 feet to the South line of the North ½ of the North ½ of the Southwest ¼ of the Northeast ¼ of said Section, thence South 89°17'18" on and along said South line, 75.00 feet; thence North 00°52'16" West and parallel to said East 1/16 Line, 330.86 feet to said North 1/16 line; thence North 89°17'18" East on and along said North 1/16 Line, 732.76 feet to the place of beginning of this description.

The gross area of said parcel contains 459,863 Square feet or 10.5570 Acres of land more or less.

That I have made such survey, land division and map by the direction of Tim Seymour and Kristine Seymour, owners of said land. That such map is a correct representation of all exterior boundaries of land surveyed and land division made thereof. That I have fully complied with the provision of Section 236.34 of the Wisconsin Statutes and the City of New Berlin ordinances in Surveying, dividing, and mapping the same.

Dated this_____ day of _____, 20_____.

_____

Rick R. Hillmann PLS
Professional Land Surveyor S-3005

Mead & Hunt
10700 Research Drive,Suite 155
Wauwatosa WI. 53226
(414) 755-1110
www.meadhunt.com

Revised: January 14, 2025

This Instrument was drafted by Rick R. Hillmann, a Professional Land Surveyor, S-3005 on this 18th day of November, 2024

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Certified Survey Map No._____

Part of the Southwest ¼ and the Southeast ¼, of the Northeast ¼ of Section 21, Township 6 North, Range 20 East, located in the City of New Berlin, Waukesha County, Wisconsin

OWNER'S CERTIFICATE:

As owner, I hereby certify that I have caused the land described on this map to be surveyed, divided, dedicated and mapped as represented on this map in accordance with the provisions of Section 236.34 of the Wisconsin State Statutes and ordinances of the City of New Berlin, this _____ day of _____, 20_____.

_____
Tim Seymour

_____
Kristine Seymour

STATE OF WISCONSIN)
) SS
County of _____)

Personally came before me this _____ day of _____, 20_____, the above named Tim Seymour and Kristine Seymour, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

_____

Print Name_____

Notary Public, _____ County, WI.

My Commission Expires: _____

CITY OF NEW BERLIN PLAN COMMISSION APPROVAL:

Be it resolved by the City of New Berlin Plan Commission that this proposed Certified Survey Map has been approved on this_____ day of _____, 20_____.

_____ _____
David Ament, Chairman/Mayor Nikki Jones, Secretary

COMMON COUNCIL APPROVAL:

Be it resolved by the City of New Berlin Common Council that this proposed Certified Survey Map has been approved on this_____ day of _____, 20_____.

_____ _____
David Ament, Mayor Rubina R. Medina, City Clerk

Mead & Hunt
10700 Research Drive,Suite 155
Wauwatosa WI. 53226
(414) 755-1110
www.meadhunt.com

Revised: January 14, 2025

This Instrument was drafted by Rick R. Hillmann, a Professional Land Surveyor, S-3005 on this 18th day of November, 2024

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STAFF REPORT
EXECUTIVE SUMMARY

APPLICANT/PROJECT:	**Rob Sterr with Anderson Ashton / National Avenue Multi-Tenant Building**
LOCATION:	**14300 W. National Avenue**
REQUEST:	**Use, Site and Architecture approval for a 14,043 square foot multi-tenant building located at 14300 W. National Avenue**
D.R.C. RECOMMENDATION:	**Approval of the Use, Site and Architecture for a 14,043 square foot multi-tenant building located at 14300 W. National Avenue, 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. The applicant is proposing to construct a 14,043 square foot multi-tenant building.**
      i. **The specific tenants have not been identified at this time. Per §275-24, all future tenants shall be required to apply for and receive a Zoning Permit from the Department of Community Development prior to leasing or occupying space within this development. All future tenants will be reviewed on a case-by-case basis for adequacy of parking and may be denied due to lack of parking, per §275-57A.**
      ii. **Tenant Space #1: Retinal Clinic (4,351 square feet)**
         1. **Hours of Operation: 8am - 5pm weekdays**
         2. **Number of Employees: 8**
      iii. **Tenant Space #2: Ophthalmology Clinic (4,779 square feet)**
         1. **Hours of Operation: Monday - Friday 8:30am – 4:30pm**
         2. **Number of Employees: 6**
      iv. **Tenant Space #3: Vacant (3,096 square feet)**
         1. **Hours of Operation: TBD**
         2. **Number of Employees: TBD**
   b. **Wetland delineation shall be provided and registered on the City's Zoning map.**
   c. **Landscape plans shall meet the requirements of §275-53 through §275-56 of the Zoning Code.**
      i. **Applicant shall comply with the tree replacement schedule outlined in Section 275-54B(6) of the Zoning Code.**
      ii. **Approval of the Landscaping Plan and payment of all installation and maintenance sureties is required, per §275-56C.**

iii. **Relocate the 6 trees on the berm to the east at the toe of the slope of the berm.**

d. **Architecture Review Committee approval is required.**

e. **Two additional pedestrian lights shall be provided for within the right-of-way.**

f. **All permanent and temporary signs require a Sign Application to be filed prior to installation.**

2. **Building Inspection:**

   a. **Inspection CU – State 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. **Building plans (white box shell) shall be approved by the State of Wisconsin Department of Commerce Safety and Buildings Division (SPS.361.60). State letter required with permit application.**

   d. **Tenant space build outs require separate set of permits. Tenant space 1 and 3 will be a local review and tenant space 2 will require separate state review (based on plans provided).**

   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. **Plumbing: State review is required for over 16 fixtures - new and/or replacements**

   h. **The building shall be fully accessible from the parking lot to the interior elements SPS.363.1101 and ICC/ANSI A117.1).**

3. **Engineering:**

   a. **With the construction of the new driveway approach, the sidewalk should be replaced with a thicker section.**

   b. **Provide a cut sheet for the New Berlin light poles proposed within the right-of-way.**

4. **Fire Department:**

   a. **Maintain 24' fire access width for fire lane with signage.**

   b. **Maintain fire sprinkler coverage throughout. Fully sprinklered and notification devices throughout.**

   c. **Provide fire extinguishers every 75' of travel.**

   d. **Maintain egress/emergency lighting throughout.**

   e. **Key for Knox box is required.**

5. **Utilities:**

   a. **Maintain a 5 feet minimum horizontal clearance from any water main and sanitary sewer pipes and structures.**

   b. **Maintain 18 inches vertical clearance when crossing any pipes and structures.**

c. **Please call Alex Parker at New Berlin Utilities with Questions.**

d. **If a conflict occurs, conduits will be removed at the owner's expense.**

6. **Storm Water Utility:**

   a. **The details for the pond have different orifice (2/6, 3/3) sizes as well as not matching the model orifice sizes (2/5) and elevations. Please verify and correct.**

   b. **WDNR NOI is required.**

   c. **MMSD Chapter 13 approval is required.**

   d. **SWMP Maintenance Agreement is required; City of New Berlin boilerplate agreement is available online.**

   e. **Asbuilt plans of the Stormwater Management facilities are required per DH Section VI.D.7. If the stormwater management facilities are used for erosion control during construction, an asbuilt is required after construction of the facilities, and a recertification/asbuilt is required prior to Occupancy.**

   f. **Stormwater Management Facilities Asbuilts are required to be submitted and approved prior to occupancy.**

   g. **Stormwater Maintenance Agreement is required to be recorded prior to occupancy.**

7. **Public Works:**

   a. **The eastern-most existing pedestrian light pole is connected to the City circuit, but is the last on that circuit. A future circuit will be installed near Sunny Slope Rd and National Ave, which will connect to the proposed pedestrian lights to be installed by the developer. The two proposed lights should be connected with a 1.5 inch conduit, with two separate circuits for each the receptacles and the luminaires. A 1.5 inch empty conduit stub shall be provided on the east side of the eastern proposed light for future connection to the City circuit. The lights would be temporarily connected to the property owners circuit until the City circuit is completed. The developer shall provide an as-built of some kind to show how and where the lights are connected to their circuit.**

   b. **Waukesha County changed the setback requirements from back of curb to the pedestrian light base, and is now 4 feet. The outside base of the pole should be no closer than 6 inches to the sidewalk, so if they do not fit in the terrace the lights should be placed on the north side of the sidewalk.**

   c. **Waukesha County will be the ultimate authority, but the existing driveway approach which is shown to be unused in the future should be removed and curb and gutter replaced.**

   d. **Waukesha County may want to consider some sort of left-out restriction, particularly because the intersection of Glen Park Rd and National Ave can be busy at peak hours.**

<u>DETAILS IN ATTACHED STAFF REPORT</u>

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

Meeting of February 3, 2025

Rob Sterr with Anderson Ashton / National Avenue Multi-Tenant Building
14300 W. National Avenue

DATE STAFF REPORT CREATED: 1/3/2025

APPLICANT / OWNER(S): Rob Sterr with Anderson Ashton / Crosswind Preserve LLC

REQUEST / DESCRIPTION OF PROJECT: Use, Site and Architecture approval for a 14,043 square foot multi-tenant building located at 14300 W. National Avenue.

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 12/20/2024

DATE OF COMPLETENESS DETERMINATION: 12/23/2024

PRE-APPLICATION CONFERENCE HELD: Yes
Date(s) of Meeting(s): 12/10/2024
Site Visit(s): 1/8/2025

CONCEPTUAL PLAN: N/A

SIZE OF DEVELOPMENT / PARCEL(S): 14,043 square foot building / 4.39 acres

CURRENT ZONING: B-1 Shopping Center District

CURRENT LAND USE: Vacant

PROPOSED ZONING: N/A

PROPOSED LAND USE: Commercial (multi-tenant offices)

PROPOSED LOT SIZE: N/A

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North:	Zoning: Rm-1	Land Use: Multi-Family Residential
South:	Zoning: R-5	Land Use: Single-Family Residential
East:	Zoning: B-1	Land Use: Commercial
West:	Zoning: R-5	Land Use: Single-Family Residential

CONFORMANCE WITH COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes

Chapter 15: Neighborhood E – National Avenue East Corridor:
Vision:

- National Avenue should be an exemplary model of a suburban commercial corridor. Vehicular and pedestrian traffic should coexist in a safe and efficient manner through prominent pedestrian facilities and managed vehicular access.

Development Policies:

- Create flexible but predictable compatibility standards for new construction and redevelopment related to site planning, building design and materials, landscaping (including maintenance provisions), access, signage, and other features creating potential land use impacts. Emphasize building and parking orientation, with more uniform setbacks and at least some parking encouraged on the side or to the rear of buildings.

Land use:

- Future Land Use Map: Suburban Commercial

ZONING CODE (Chapter 275): Yes, this request is consistent with §275-34B(1) of the Zoning Code.

DEVELOPMENT CODE (Chapter 235): N/A

PUBLIC HEARING REQUIRED: No

CONDITIONAL USE REQUIRED: No

USE / SITE /ARCHITECTURAL REVIEW:
Use Approval Required: Yes
Site Plan Required: Yes
Architectural Review Required: Yes, the ARC will review the plans at the February 3, 2025 meeting.

PROPOSED ARCHITECTURE: Applicant is proposing to use Nichiha, LP Smartside and brick on the building.

UNIQUE SITE CHARACTERISTICS:
Environmental Corridor: No
Wetland On Property: Yes, wetlands were delineated on October 20, 2020 by Wetland and Waterway Consulting, LLC and will be registered on the City's Zoning Map.
Conservancy Districts (C-1, C-2): No
NRCS Map Classification: Not Inventoried
Floodplain: No
Topography / Geologic: Site is highest in the middle and slopes to the east and west.

BIKE & PEDESTRIAN FACILITIES PLAN: No improvements identified.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:
Limits of Disturbance (LOD): Shown on plans.
Woodland, Tree, and Vegetation Protection: Trees to be removed and trees to be protected during construction are identified on the plans. Applicant has submitted a landscape plan.
Wildlife Management Plan: N/A

ENVIRONMENTAL IMPACT: Trees to be removed and trees to be protected during construction are identified in the plans.

STORM WATER MANAGEMENT / DRAINAGE: 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:
Within Current Sewer Service Area: Yes
Sewer Shed Capacity Available: Yes
Adequate Linkage: N/A
Onsite System Required: No

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

TRAFFIC IMPACT: TIA is not required.

SCHOOL DISTRICT IMPACT: N/A
Notice Sent to Affected School District(s): No

PREVIOUS ACTION: Former building was demolished in 2004.

CONSISTENCY WITH PREVIOUS ACTION: N/A

FINDINGS:

1. Plan of operation shall be consistent with submitted plans on file. The applicant is proposing to construct a 14,043 square foot multi-tenant building.
    a. Tenant Space #1: Retinal Clinic (4,351 square feet)
        i. Hours of Operation: 8am - 5pm weekdays
        ii. Number of Employees: 8
    b. Tenant Space #2: Ophthalmology Clinic (4,779 square feet)
        i. Hours of Operation: Monday - Friday 8:30am – 4:30pm
        ii. Number of Employees: 6
    c. Tenant Space #3: Vacant (3,096 square feet)
        i. Hours of Operation: TBD
        ii. Number of Employees: TBD
2. The proposed plans adhere to the development standards of the B-1 Zoning District:
    a. Building setbacks have been met: 40’ front, 25’ side, 25’ rear.
    b. Wetland setbacks have been met: Impervious surfaces at least 10’ from wetlands.

c. Lot coverage requirements have been met: 50% Maximum Coverage by Buildings, 75% Maximum Coverage by Impervious Surfaces, 25% Minimum Coverage by Open Space and Landscaping.

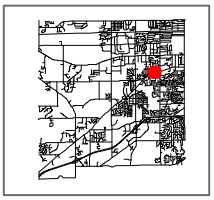
3. Dumpsters are properly screened from the street and public view in accordance with §275-56 of the Zoning Code.
4. Buffer yard requirements are in accordance with § 275-56F of the Zoning Code.

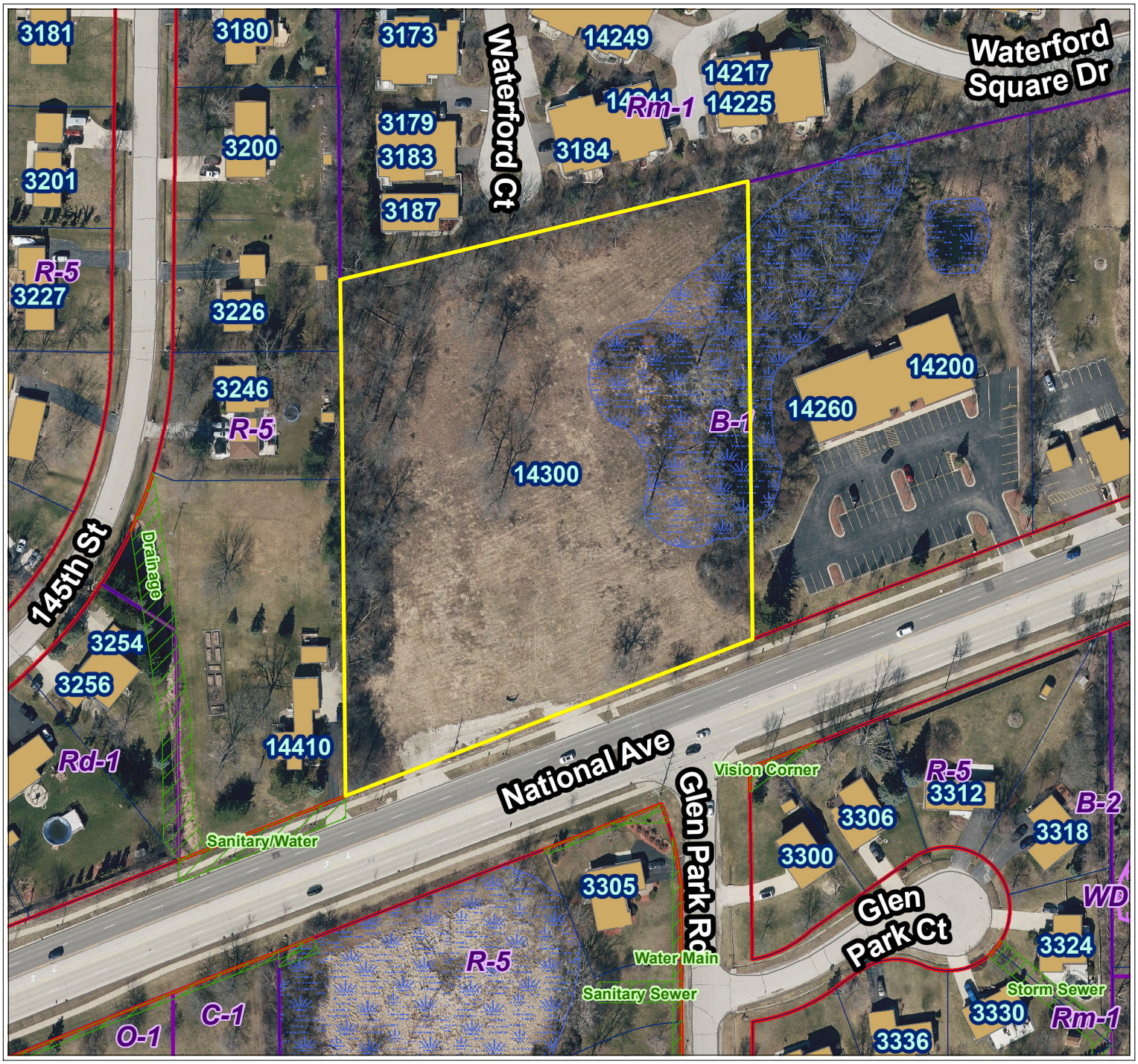
D.R.C. RECOMMENDATION: Approval of the Use, Site and Architecture for a 14,043 square foot multi-tenant building located at 14300 W. National Avenue, subject to the application, plans on file and the following conditions of approval: **See Executive Summary.**

ATTACHMENTS:
Location Map
Plan of Operation
Plans

City of New Berlin
Community Development

UA-2402791
National Avenue multi-tenant building
14300 W. National Avenue





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

Legend

- Parcels
- Road Right-of-Way

FEMA Flood Zone (2023)

Flood Zone

- FEMA Flood - Zone A
- FEMA Flood - Zone AE
- Zoning Boundaries

Zoning Wetland Registration

Wetland Registration Type

- Registered Wetland
- Outside Wetland

Environmental Corridor

Corridor Type

- Isolated Natural Resource Area
- Primary Environmental Corridor
- Secondary Environmental Corridor
- Wetland

Sewer Service Area (MMSD)

Sewershed

- Current
- Ultimate

N

0 50 100 Feet

The information and depictions herein have been produced using data available through photogrametric means by the City of New Berlin. The informations and depictions herein are for informational purposes and the City of New Berlin specifically disclaims accuracy in this reproduction and specifically admonishes and advises that any and all depiction, measurements, distances depicted herein and as to which specific or precise accuracy is required should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means.

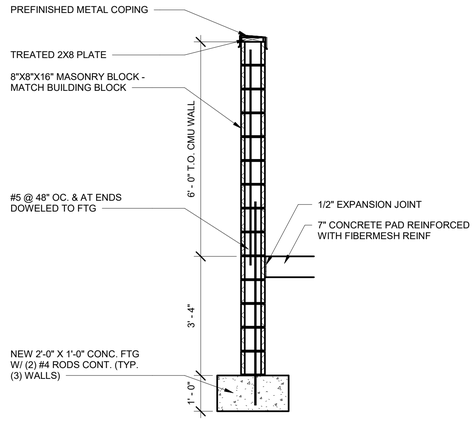
ANDERSON
ASHTON
DESIGN / BUILD

2746 South 166th Street
New Berlin, WI 53151
262.786.4640 P
262.786.4675 F
andersonashton.com

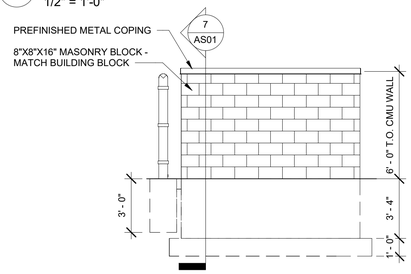
Plan of Operation

The proposed project consists of a single story, 14,043 square foot building, located at 14300 W. National Avenue. The building will consist of (3) tenant spaces with the owners occupying (2) of those tenant spaces. Tenant Space 1 is 4,351 square feet in size and will be Retinal Clinic. Hours of operation will be 2-3 weekdays, from 8am to 5pm, 6-8 employees with 40-50 patients thru out the day. Tenant Space 2 is 4,779 square feet in size and will be an Ophthalmology Clinic. Hours of operation will be Monday thru Friday, 8:30am to 4:30pm, 4-6 employees, 30-40 patients. Tenant Space 3 is 3,096 square feet and the tenant is unknown at the time.

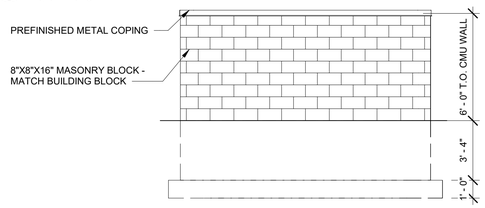
The project is expected to start April 2025 and is anticipated to be completed by November 2025.



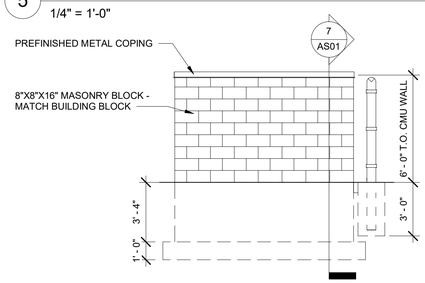
7 DUMPSTER WALL SECTION
1/2" = 1'-0"



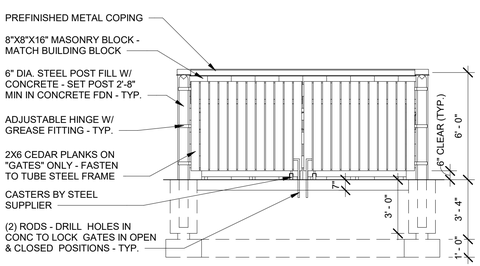
6 DUMPSTER ENCLOSURE EAST ELEVATION
1/4" = 1'-0"



5 DUMPSTER ENCLOSURE NORTH ELEVATION
1/4" = 1'-0"



4 DUMPSTER ENCLOSURE WEST ELEVATION
1/4" = 1'-0"



3 DUMPSTER ENCLOSURE SOUTH ELEVATION
1/4" = 1'-0"

ZONING

ZONED:	B-1 SHOPPING CENTER
MIN. BUILDING SETBACKS (FT):	STREET YARD: 40' INTERIOR SIDE YARD: 25' REAR YARD: 25'
WETLAND SETBACKS (FT):	10'
PAVING SETBACKS (FT):	FRONT & STREET YARD: 10' INTERIOR SIDE YARD: 5' REAR YARD: 5'
MAX. BUILDING HEIGHTS (FT):	PRINCIPAL BUILDING: 35'

PARKING

PARKING REQUIREMENTS:	BUSINESS OFFICES: 1 SPACE PER 200 SF
TOTAL STALLS REQUIRED:	70
TOTAL STALLS PROPOSED:	80
TOTAL ACCESSIBLE STALLS REQUIRED:	4
TOTAL ACCESSIBLE STALLS PROPOSED:	3

GENERAL SITE NOTES:

1. VISIT JOB SITE TO VERIFY EXISTING SITE CONDITIONS PRIOR TO STARTING CONSTRUCTION. MEET WITH GENERAL CONTRACTOR PRIOR TO STARTING.

2. REMOVE EXISTING TREES ALONG WITH ROOTS AS REQUIRED @ PROPOSED BUILDING AND PAVING AREAS.

3. STRIP AND REMOVE ALL REMAINDER VEGETATION & X"+/- TOP SOIL FROM WITHIN THE BUILDING AND PAVING AREAS. STOCKPILE REUSABLE, UNCOTAMINATED TOPSOIL AND PROVIDE FOR ALL EXCESS MATERIAL TO BE TRUCKED OFF SITE. RESPREAD SALVAGED TOPSOIL OVER DISTURBED AREAS TO APPROX. 4" DEPTH AFTER CONSTRUCTION IS FINISHED.

4. CUT (OR FILL) THE BUILDING AREA +5.0' BEYOND PERIMETER OF THE BUILDING

5. CUT THE FLOOR AREA TO THE SUB-GRADE ELEVATION. (THE PERIMETER FOUNDATION FOOTINGS TO BE EXCAVATED BY CONC. CONTR. TO THE REQUIRED DEPTHS PER THE FOUNDATION PLAN). BENCH GRADE BACK PER CURRENT OSHA CODE STANDARDS PART #1926 IF REQ'D BY THE G.C. FOR THE PROJECT

6. PROOF ROLL BUILDING AREA FOR ANY SOFT MATERIALS. REPORT ANY SOFT SPOTS TO THE GENERAL CONTRACTOR.

7. ALL FILL MATERIAL FOR BRINGING GRADES UP TO SUB-GRADE ELEVATIONS SHALL BE GRANULAR OR CLEAN COMPACTABLE CLAY AND APPROVED BY ANDERSON-ASHTON.

8. ALL EXTERIOR BACKFILL MATERIAL FOR STANDARD FROST FOUNDATION WALLS SHALL BE CLEAN COMPACTABLE CLAY.
INTERIOR BACKFILL MATERIAL SHALL BE 3/4" CLEAR STONE.

9. ALL BACKFILL & FILL MATERIALS SHALL BE INSPECTED AND APPROVED BY ANDERSON-ASHTON PRIOR TO PLACEMENT. ALL FILL MATERIALS SHALL BE COMPACTED IN 8" MAX. LIFTS @ 95% MODIFIED PROCTOR.

10. PREPARE THE PAVING AREA AS SHOWN ON THE CONSTRUCTION DOCUMENTS to +/- 0.10'

11. PREPARE ALL SWALES AS SHOWN ON PLAN TO PROVIDE POSITIVE DRAINAGE DURING CONSTRUCTION.

12. RETURN AFTER THE BUILDING IS ENCLOSED & FINISH GRADE AND TOPSOIL AROUND PERIMETER OF BUILDING. ALSO, FINISH GRADE AROUND ELECTRICAL, TELEPHONE, GAS, SEWER, WATER AND UTILITY TRENCHES.

13. GRADING CONTRACTOR SHALL FIX AND REPAIR PARKING AREA AND DRIVES AS REQUIRED AFTER UTILITY AND OTHER WORK THAT MAY DISTURB THE SOIL AND/OR GRAVEL BASE BEOFRE PAVING BEGINS. GRADING CONTRACTOR SHALL SMOOTH DRUM ROLL ALL PARKING AREAS AND DRIVES BEFORE PAVING BEGINS.

14. GRADING CONTRACTOR SHALL BE PREPARRED TO HANDLE ALL SPOILS WHICH MAY INCLUDE ON SITE STORAGE AND TRUCKING OFF SITE. GRADER TO GET PRIOR APPROVAL FROM G.C. FOR PLACEMENT OF STOCKPILE SITES PRIOR TO STARTING STRIPPING OF TOPSOIL.

15. AWARDED GRADING CONTRACTOR SHALL BE RESPONSIBLE FOR THE LABOR AND MATERIAL NEEDED FOR SUPPLYING ANY TRAFFIC CONTROL BARRIERS OR SIGNS AS NEEDED PER LOCAL OR D.O.T. CODES & REGULATIONS DUE TO ANY ROAD WORK OUTSIDE OF PROPERTY LINES

16. THE GROUND IMMEDIATELY ADJACENT TO THE FOUNDATION SHALL BE SLOPED AWAY FROM BUILDING AT A SLOPE OF NOT LESS THAN ONE UNIT VERTICAL IN 20 UNITS HORIZONTAL (5% SLOPE) FOR A MIN DISTANCE OF 10' MEASURED PERP. TO THE FACE OF THE FOUNDATION WALL.

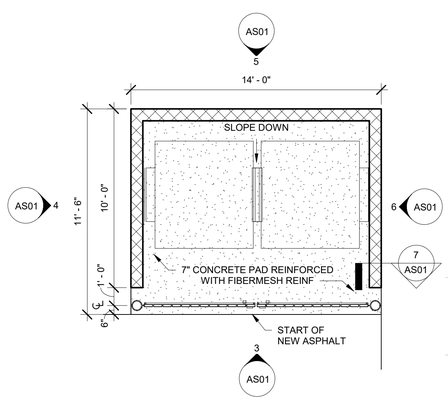
ASPHALT PAVING WORK

1. FURNISH AND INSTALL A 8" CRUSHED AGGREGATE BASE AT THE ASPHALT PAVING PARKING AREAS.

2. FINE GRADE AND COMPACT STONE BASE.

3. FURNISH AND INSTALL A 4" (TWO LIFT) AVG. THICKNESS COMPACTED ASPHALT PAVEMENT AT TRUCK/DRIVE AREAS

4. FURNISH AND INSTALL ALL PARKING STALL STRIPING, H.C. SYMBOLS, & H.C. SIGNS ON METAL POSTS.



2 DUMPSTER ENCLOSURE PLAN
1/4" = 1'-0"

SITE STATISTICS

NAME	AREA	AREA RATIO
CONCRETE	4,453 SF	2%
LANDSCAPE	142,644 SF	74%
PAVEMENT	30,536 SF	16%
PROPOSED BUILDING	14,043 SF	7%
GRAND TOTAL	191,676 SF	100%

1 ARCHITECTURAL SITE PLAN
1" = 30'-0"

REVISIONS

THIS IS A SCHEMATIC DRAWING, NOT A WORKING DRAWING. ANDERSON ASHTON IS NOT RESPONSIBLE FOR DIMENSIONS, CONSTRUCTION DETAILS, ENGINEERING DECISIONS, REGULATORY APPROVAL, ETC. NORMALLY ASSOCIATED WITH DESIGN-BUILD WORK CONTRACTED FROM SCHEMATIC DOCUMENTS. IT IS HIGHLY RECOMMENDED THAT A LOCAL ARCHITECT BE ENGAGED TO DEVELOP CONTRACT DOCUMENTS BASED ON THESE SCHEMATIC DRAWINGS AND CORRESPONDING OUTLINE SPECIFICATIONS. IT IS FURTHER RECOMMENDED THAT GENERAL CONDITIONS SPECIFICALLY DEFINING OWNER, CONTRACTOR, ARCHITECT AND ENGINEER AREAS OF RESPONSIBILITY BE DEVELOPED IN A CONTRACTUAL AGREEMENT.

ANDERSON ASHTON DESIGN / BUILD
2746 South 166th Street
New Berlin, WI 53151
Phone: (262) 786-4640
WWW.ANDERSONASHTON.COM

PRELIMINARY NOT FOR CONSTRUCTION

PROPOSED NEW BUILDING FOR:

14300 W NATIONAL AVE

14300 W NATIONAL AVE, NEW BERLIN, WI 53151

DRAFTED BY:	UH
DESIGNER:	RRS
ISSUE	12/18/2024 12:23:26 PM
SUBMITTAL DATE:	XX-XX-XX
DESIGN NO.	P-02448
CONSTRUCTION NO.	-

ARCHITECTURAL SITE PLAN

AS01

10

SHEET SIZE 24X36

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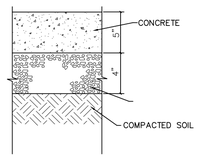
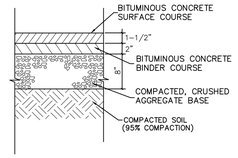
CJ engineering
civil design and consulting
W238 N1810 BUSSE RD.
Suite 100
Waukesha, WI 53188
PH. (262) 513-0666
www.cj-engineering.com



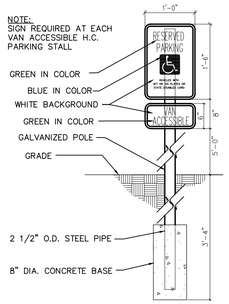
CONCRETE SIDEWALK

NOT TO SCALE



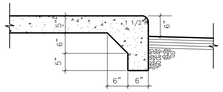
ASPHALT PAVEMENT

NOT TO SCALE



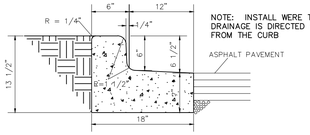
HANDICAPPED PARKING SIGN DETAIL (VAN ACCESSIBLE)

NOT TO SCALE



CONCRETE WALK WITH INTEGRAL CURB

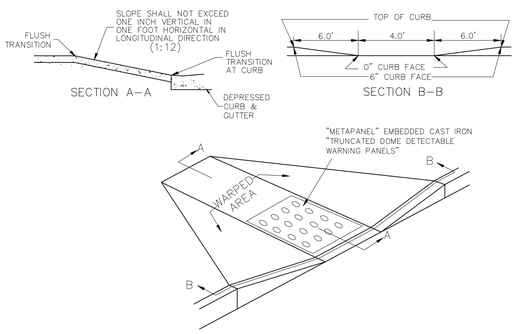
NOT TO SCALE



NOTE: INSTALL WERE THE DRAINAGE IS DIRECTED AWAY FROM THE CURB

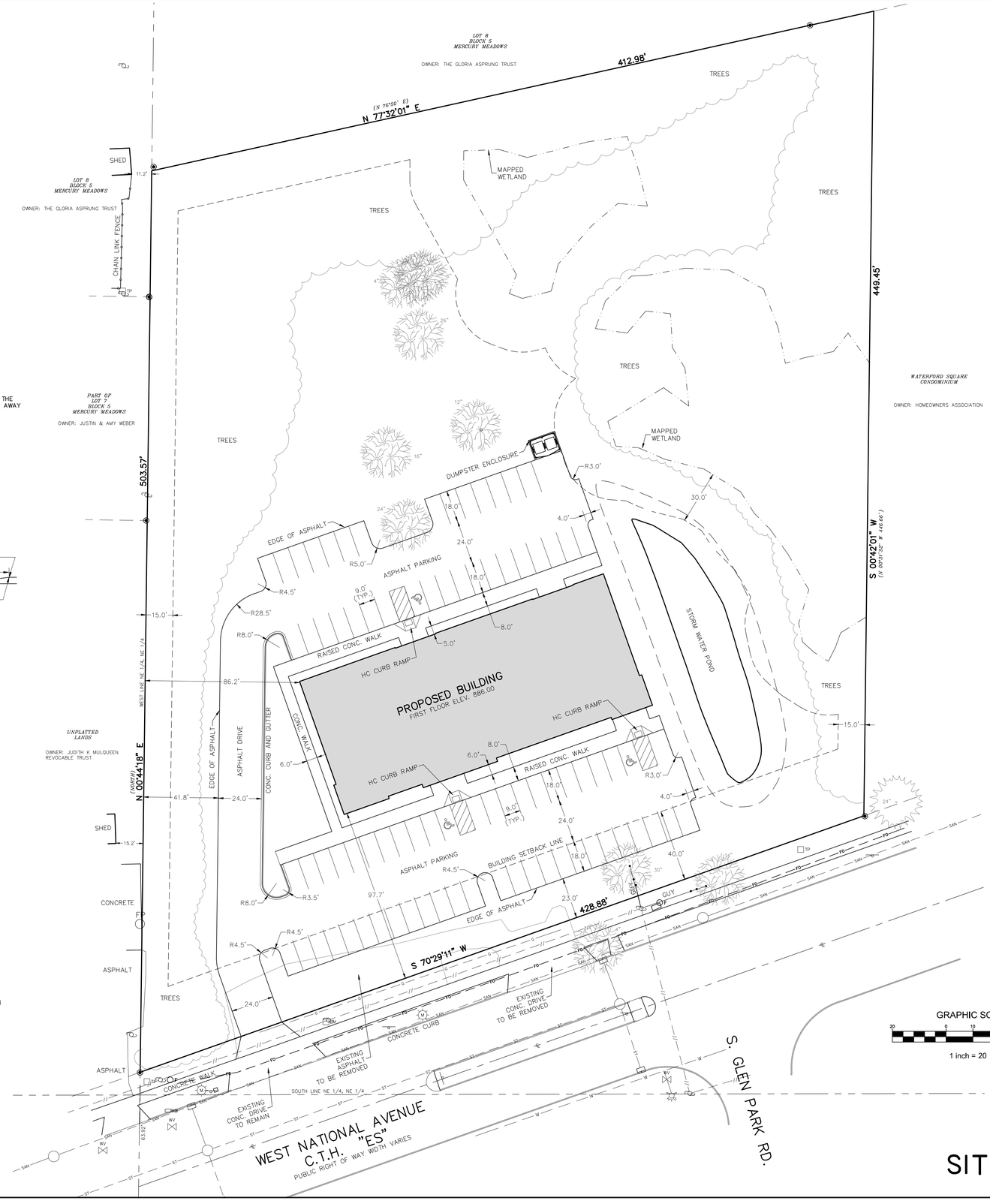
CONCRETE CURB AND GUTTER DETAIL

NOT TO SCALE



HANDICAP CURB AND SIDEWALK RAMP

NOT TO SCALE



14300 WEST NATIONAL AVENUE
NEW BERLIN, WISCONSIN

SITE AREAS

PROPOSED BUILDING FOOTPRINT = 14,043 S.F.
PROPOSED PAVEMENT = 35,468 S.F.

PROPOSED IMPERVIOUS AREA = 49,511 S.F. (1.137 ACRES) [26% OF THE SITE]
PROPOSED OPEN SPACE = 142,165 S.F. (3.264 ACRES) [74% OF THE SITE]

TOTAL SITE AREA = 191,676 S.F. (4.400 ACRES)

PROPOSED SURFACE PARKING

69 REGULAR SPACES
3 HANDICAPPED SPACES
(ADA COMPLIANT VAN ACCESIBLE SPACES)

72 TOTAL SPACES

NOTES:

1. EXISTING CONDITIONS BASED ON SURVEY BY CAPITOL SURVEY ENTERPRISES.

2. DISTURBED AREA = 84,900 S.F. / 1.95 ACRES

3. STORM WATER MANAGEMENT MEETING ALL THE REQUIREMENTS OF THE CITY. MMSD CHAPTER 13 AND NR 151 WILL BE PROVIDED BY A PROPOSED STORM WATER POND LOCATED ON THE EAST PART OF THE SITE.

4. THE WAUKESHA COUNTY PERMITS ARE REQUIRED FOR ALL WORK IN THE PUBLIC RIGHT OF WAY.

5. ALL CONSTRUCTION MATERIALS TO BE STORED ON-SITE.

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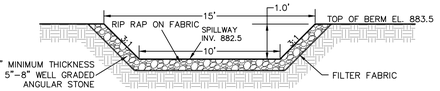
CJE/JSD NO.: 24-14844
DECEMBER 20, 2024

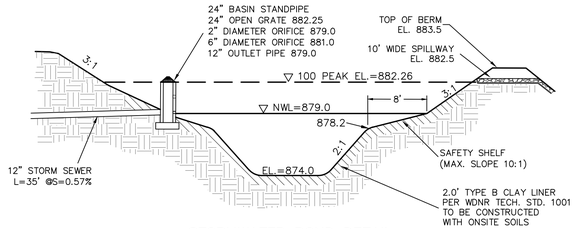
GRAPHIC SCALE
20 0 10 20 40
1 inch = 20 ft

SITE PLAN C1.0



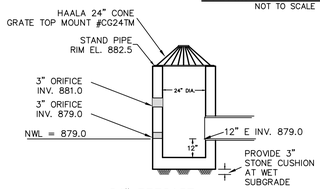
EMERGENCY SPILLWAY DETAIL

NOT TO SCALE



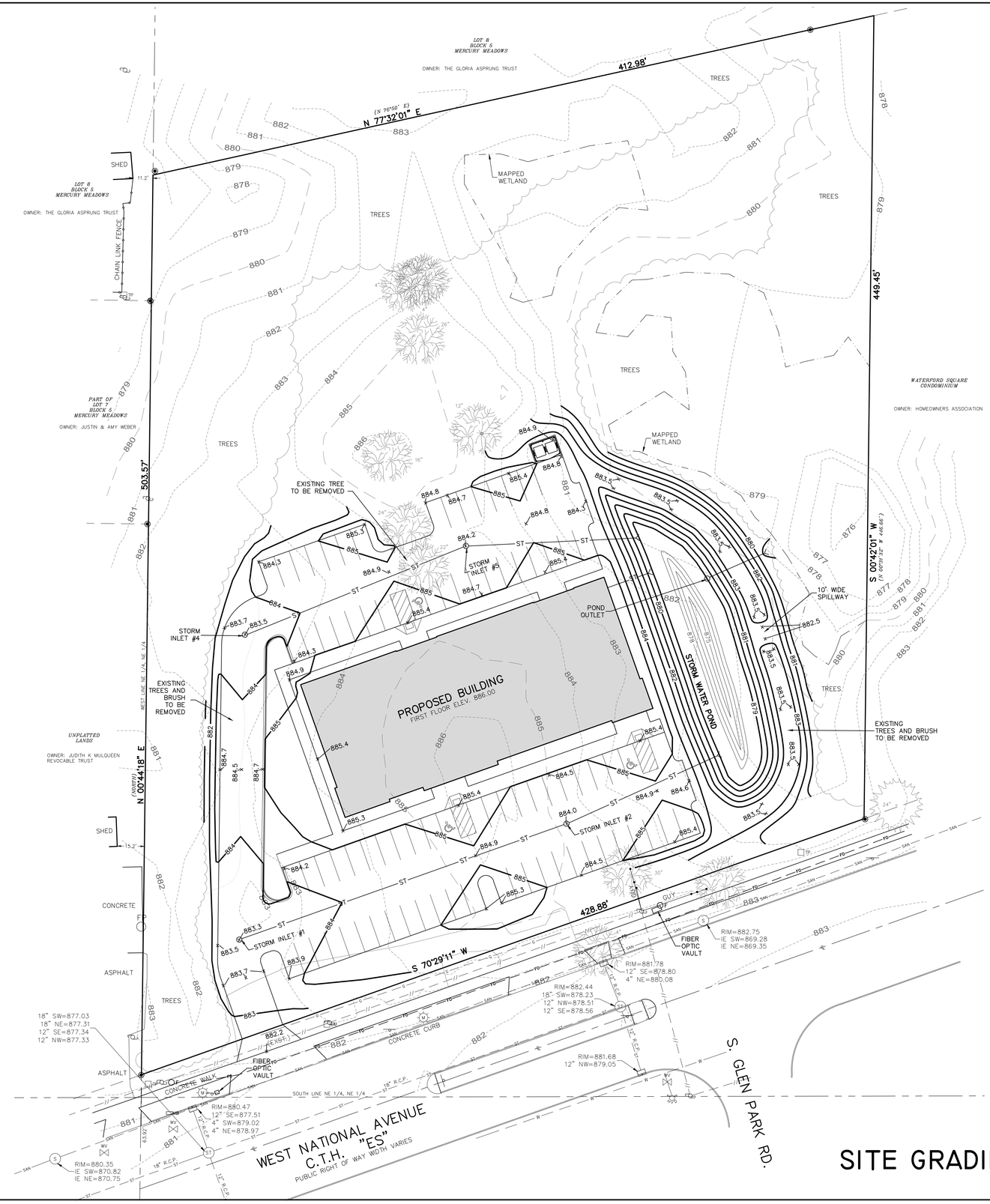
STORMWATER POND DETAIL

NOT TO SCALE



24" PRECAST CONCRETE STANDPIPE

NOT TO SCALE



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N

14300 WEST NATIONAL AVENUE
NEW BERLIN, WISCONSIN

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GRAPHIC SCALE

30 0 15 30 60

1 inch = 30 ft

LEGEND

190	EXISTING CONTOUR
190	PROPOSED CONTOUR
x—189.5	PROPOSED GRADE
ST	EXISTING STORM SEWER
ST	PROPOSED STORM SEWER
SAN	EXISTING SANITARY SEWER
SAN	PROPOSED SANITARY SEWER
W	EXISTING WATER MAIN
W	PROPOSED WATER MAIN
G	BURIED GAS MAIN
//	OVER HEAD WIRE
E	BURIED ELECTRIC

NOTES:

1. EXISTING CONDITIONS BASED ON SURVEY BY CAPITOL SURVEY ENTERPRISES.
2. DISTURBED AREA = 84,900 S.F. / 1.95 ACRES
3. STORM WATER MANAGEMENT MEETING ALL THE REQUIREMENTS OF THE CITY. MMSD CHAPTER 13 AND NR 151 WILL BE PROVIDED BY A PROPOSED STORM WATER POND LOCATED ON THE EAST PART OF THE SITE.
4. THE WAUKESHA COUNTY PERMITS ARE REQUIRED FOR ALL WORK IN THE PUBLIC RIGHT OF WAY.
5. ALL CONSTRUCTION MATERIALS TO BE STORED ON-SITE.
6. ALL PROPOSED SPOT GRADES ALONG THE CURB ARE AT THE FLANGE LINE. ALL PROPOSED SPOT GRADES ALONG THE FACE OF A RAISED WALK ARE AT THE BOTTOM OF WALK (ASPH.) UNLESS OTHERWISE NOTED.

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SITE GRADING PLAN C2.0

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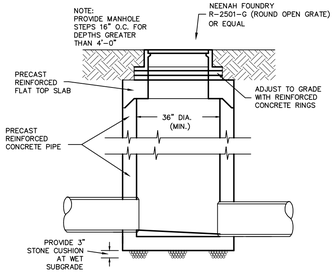


PRECAST STORM INLET

NOT TO SCALE

NOTES:

1. ALL STORM SEWER, SANITARY SEWER, AND WATER MAIN MATERIALS AND INSTALLATION PER APPLICABLE SECTIONS OF THE LATEST EDITIONS OF THE STANDARD SPECIFICATIONS FOR SEWER AND WATER CONSTRUCTION IN WISCONSIN (STANDARD SPECIFICATIONS), WISCONSIN ADMINISTRATIVE PLUMBING CODE AND THE CITY OF NEW BERLIN REQUIREMENTS.

2. ALL TRENCHES IN PAVEMENT AREAS SHALL HAVE GRAVEL BACKFILL.

3. EXACT SIZE AND LOCATION OF SANITARY AND WATER SERVICE TO PROPOSED BUILDING BY PLUMBING CONSULTANT/CONTRACTOR.

4. THE CONTRACTOR SHALL VERIFY SIZE, LOCATION, DEPTH AND CONDITION OF ALL SEWER AND WATER CONNECTIONS PRIOR TO UTILITY CONSTRUCTION. NOTIFY THE ENGINEER WITH ANY DISCREPANCIES.

5. STORM SEWER: PVC ASTM D3034, RCP ASTM C76, OR ADS N-12 HDPE
SANITARY SEWER: PVC ASTM D3034, SDR 35
*WATER MAIN: PVC, AWWA C900, CLASS 150 (DR18)

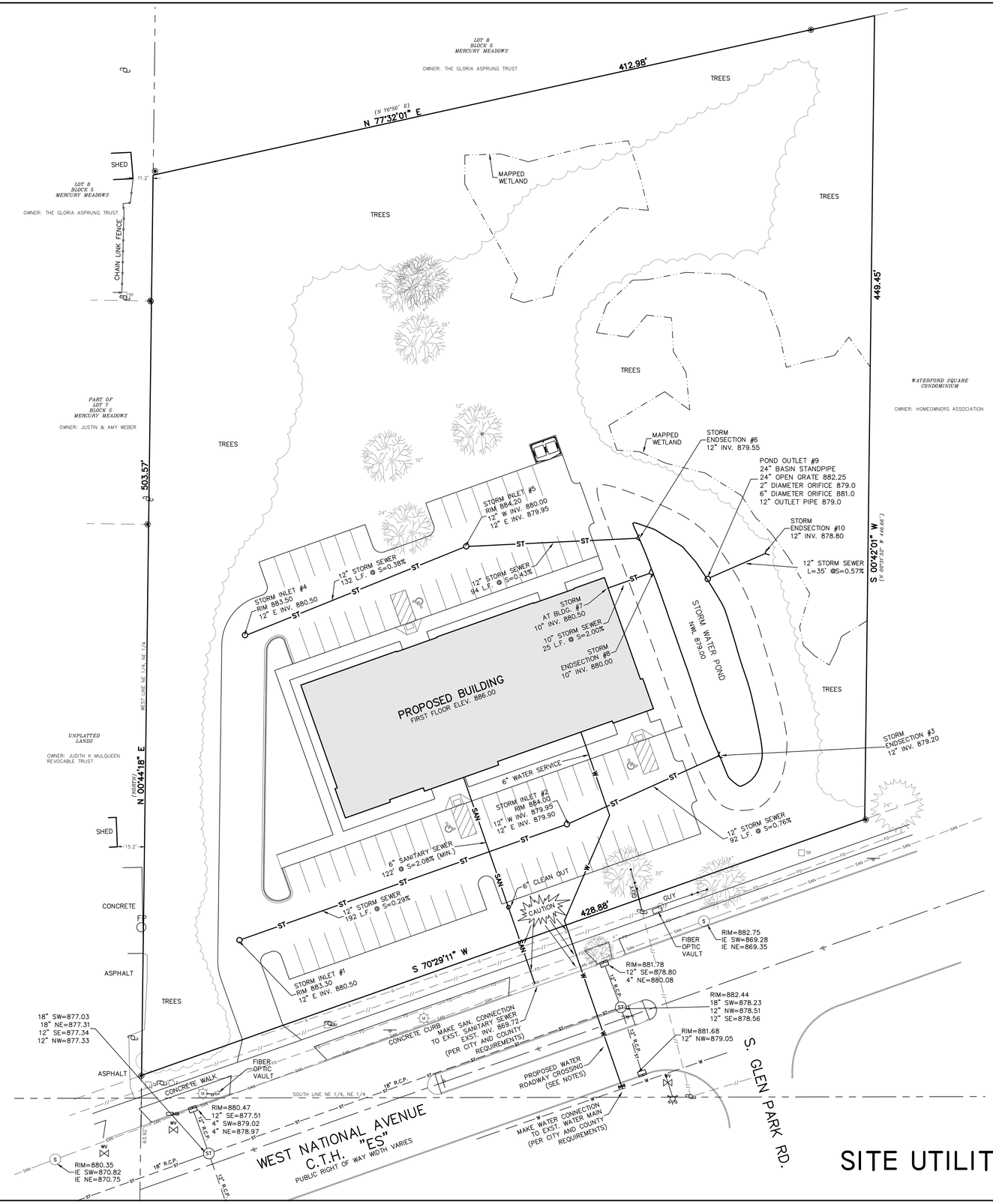
*MATERIAL PER CITY REQUIREMENT. CONTRACTOR TO VERIFY.

6. ALL WATER SERVICE PIPING TO HAVE A MINIMUM OF 6 FEET OF COVER.

7. PROPOSED WATER SERVICES SHALL BE EXTENDED TO THE SITE FROM THE SOUTH SIDE OF NATIONAL AVE. EXACT METHOD TO BE DETERMINED BY CONTRACTOR. ANY TRAFFIC CONTROL AND ALL WORK WITHIN THE PUBLIC R.O.W. PER WAUKESHA COUNTY AND CITY REQUIREMENTS.

8. CONTRACTOR TO PROVIDE TRACER WIRE OR OTHER METHOD OF LOCATING FOR ALL UNDERGROUND EXTERIOR NON-METALLIC SANITARY, STORM AND WATER PIPE PER WISCONSIN PLUMBING CODE SECTION 182.0715(2r).

9. SANITARY BUILDING SEWERS 6" OR LESS IN DIAMETER SHALL BE PROVIDED WITH CLEANOUTS OR MANHOLES SUCH THAT A CLEANOUT IS LOCATED NOT MORE THAN 100 FEET APART.



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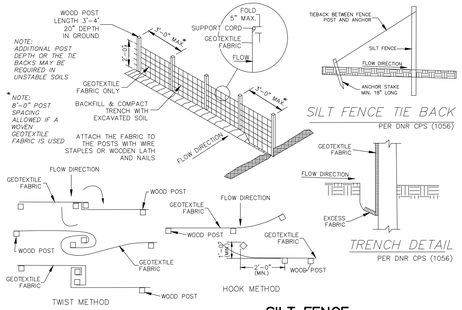
LEGEND

ST	EXISTING STORM SEWER
ST	PROPOSED STORM SEWER
SAN	EXISTING SANITARY SEWER
SAN	PROPOSED SANITARY SEWER
W	EXISTING WATER MAIN
W	PROPOSED WATER MAIN
G	BURIED GAS MAIN
	OVER HEAD WIRE
E	BURIED ELECTRIC

GRAPHIC SCALE
30 0 15 30 60
1 inch = 30 ft

CJE/JSD NO.: 24-14844
DECEMBER 20, 2024

SITE UTILITY PLAN C3.0

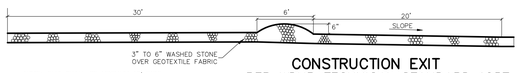


SILT FENCE
PER WDNR TECHNICAL STANDARD 1056 (1)

NOT TO SCALE

CONSTRUCTION SPECIFICATIONS
PER DNR CPS (1056)

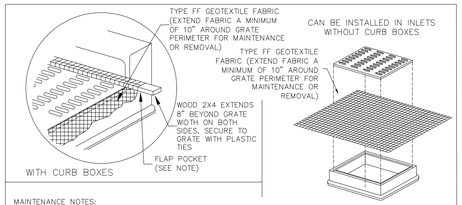
1. CONSTRUCTION SILT FENCE AROUND THE DISTURBED AREAS AS SHOWN ON EROSION CONTROL PLAN, TO PREVENT SEDIMENT FROM BEING WASHED INTO THE DRAINAGE SYSTEM
2. LOCATE POSTS PER DNR CPS (1056)
3. WHEN JOINTS ARE NECESSARY REFER, TO DNR CPS (1056)
4. FILTER FABRIC TO BE OF NYLON, POLYESTER, PROPYLENE OR ETHYLENE YARN WITH EXTRA STRENGTH – 50 LB/LIN. IN. (MIN.) – AND WITH A FLOW RATE OF AT LEAST 0.3 GAL./SQ. FT./MIN. FABRIC SHOULD CONTAIN ULTRAVIOLET RAY INHIBITORS AND STABILIZERS.
5. THE FILTER FABRIC SHALL BE ANCHORED BY SPREADING AT LEAST 8 INCHES OF FABRIC IN A 4" X 6" TRENCH
6. THE FILTER FABRIC SHALL BE STAPLED AND/OR NAILED TO THE UPSLOPE SIDE OF THE POSTS.
7. POST TO BE 1 1/8" X 1 1/8" HICKORY OR OAK, 3 FEET LONG, SPACED A MAXIMUM OF 3 FEET APART.
8. USE WIRE REINFORCEMENT IN UNSTABLIZED MINOR SWALES, DITCHES AND DIVERSIONS.
9. USE WISDOT APPROVED SILT FENCE



NOTE: EXIT SHALL BE MINIMUM 18' WIDE

CONSTRUCTION EXIT
PER WDNR TECHNICAL STANDARD 1057 (2)

NOT TO SCALE

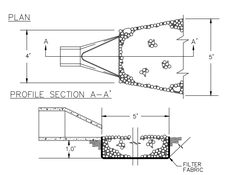


MAINTENANCE NOTES:
1. WHEN REMOVING OR MAINTAINING INLET PROTECTION, CARE SHALL BE TAKEN SO THAT THE SEDIMENT TRAPPED IN THE FABRIC DOES NOT FALL INTO THE STRUCTURE. MATERIAL THAT HAS FALLEN INTO THE INLET SHALL BE IMMEDIATELY REMOVED.
2. FILTER FABRIC SHALL HAVE THE FOLLOWING PROPERTIES:
   A. GRAB STRENGTH: 100LBS. (ASTM D–3786)
   B. MULLEN BURST: 200 PSI (ASTM D–3786)
   C. EQUIVALENT OPENING SIZE: BETWEEN 50 AND 140 FOR SOILS WITH MORE THAN 15 PERCENT BY WEIGHT PASSING A NO. 200 SIEVE. BETWEEN 20 AND 50 FOR SOILS WITH LESS THAN 15 PERCENT BY WEIGHT PASSING A NO. 200 SIEVE.
   D. WATER FLOW RATE OF 10 GAL/MIN./SQ.FT. AT 50 MM CONSTANT HEAD (ASTM D–4491)
   E. ULTRA VIOLET RADIATION STABILITY OF 90% F. IF SUPPORT NETTING IS REQUIRED, NETTING SHALL BE AN INDUSTRIAL POLYPROPYLENE WITH A 3/4 INCH SPACING OR EQUIVALENT.
3. FLAP POCKETS SHALL BE LARGE ENOUGH TO ACCEPT WOOD 2"X4". THE REBAR, STEEL PIPE, OR WOOD SHALL BE INSTALLED IN THE REAR FLAP AND SHALL NOT BLOCK THE TOP HALF OF THE CURB FACE OPENING.

INLET PROTECTION TYPE D & C
(3) PER WDNR TECHNICAL STANDARD 1060

NOT TO SCALE

CONSTRUCTION SPECIFICATIONS
1. EXCAVATE BELOW CHANNEL OUTLET AND WIDEN CHANNEL TO THE REQUIRED RIP RAP THICKNESS FOR EACH APRON. FOUNDATION TO BE CUT TO ZERO GRADE AND SMOOTHED.
2. PLACE FILTER CLOTH ON BOTTOM AND SIDES OF PREPARED FOUNDATION. ALL JOINTS TO OVERLAP A MINIMUM OF 1.0'.
3. EXERCISE CARE IN RIP RAP PLACEMENT TO AVOID DAMAGE TO FILTER FABRIC.
4. PLACE RIP RAP ON ZERO GRADE – TOP OF RIP RAP TO BE LEVEL WITH EXISTING OUTLET – NO OVERFALL AT ENDS.
5. RIP RAP TO BE HARD, ANGULAR, WELL GRADE STONE OF 5" TO 8" DIA.
6. IMMEDIATELY AFTER CONSTRUCTION, STABILIZE ALL DISTURBED AREAS WITH VEGETATION.



OUTLET PROTECTION FOR ENDSECTION
(4)

NOT TO SCALE

NOTES:

1. ALL EROSION CONTROL METHODS SHALL BE IN ACCORDANCE WITH THE CITY OF NEW BERLIN STANDARDS AND WDNR CPS TECHNICAL STANDARDS.

2. ALL EXPOSED SOIL AREAS NOT DISTURBED WITHIN SEVEN (7) DAYS SHALL BE IMMEDIATELY RESTORED WITH SEED AND MULCH OR POLYMER.

SEE WDNR TECHNICAL STANDARD 1059 FOR SEEDING

DURING GROWING SEASON (SOIL TEMPERATURES REMAIN CONSISTENTLY ABOVE 53°):

3. DISTURBED AREA: 84,900 S.F. / 1.95 ACRES

4. WETLAND SIGNAGE ON SILT FENCE TO BE PLACED AS BUFFER ADJACENT TO WETLAND AREAS.

CONSTRUCTION SCHEDULE

1. OBTAIN PLAN APPROVAL AND OTHER APPLICABLE PERMITS.
2. INSTALL CONSTRUCTION EXIT.
3. INSTALL SILT FENCE AND CONSTRUCTION FENCE.
4. STRIP AND STOCK PILE TOP SOIL. SURROUND TOP SOIL STOCK PILE WITH SILT FENCE AND TEMP. STABILIZE. LOCATION OF STOCK PILE TO BE DETERMINED BY CONTRACTOR.
5. INSTALL SEDIMENT BASINS (FUTURE WET POND).
6. ROUGH GRADE SITE.
7. INSTALL PROPOSED UTILITIES.
8. INSTALL OUTLET PROTECTION.
9. INSTALL BASE COURSE OF PAVEMENT.
10. FINAL GRADE SLOPES AND TOPSOIL CRITICAL SLOPES; VEGETATE AND MAT ALL DISTURBED AREAS.
11. ALL EROSION CONTROL PRACTICES WILL BE INSPECTED WEEKLY AND AFTER RAINFALL, NEEDED REPAIRS WILL BE PERFORMED IMMEDIATELY.
12. AFTER SITE IS STABILIZED, REMOVE ALL TEMPORARY MEASURES AND VEGETATE THE DISTURBED AREAS.

MAINTENANCE PLAN

1. ALL EROSION AND SEDIMENT CONTROL PRACTICES WILL BE CHECKED FOR STABILITY AND OPERATION FOLLOWING EVERY ½" RUNOFF–PRODUCTION RAINFALL BUT IN NO CASE LESS THAN ONCE EVERY WEEK. ANY NEEDED REPAIRS WILL BE MADE IMMEDIATELY TO MAINTAIN ALL PRACTICES AS DESIGNED.

2. SEDIMENT WILL BE REMOVED FROM BEHIND THE SILT FENCE WHEN IT BECOMES ABOUT 0.5 FT. DEEP AT THE FENCE. THE SILT FENCE WILL BE REPAIRED AS NECESSARY TO MAINTAIN A BARRIER.

3. ALL SEEDED AREAS WILL BE WATERED, FERTILIZED, RESEEDED AS NECESSARY, AND MULCHED TO MAINTAIN A VIGOROUS, DENSE VEGETATIVE COVER.

4. ANY SEDIMENT REACHING A PUBLIC OR PRIVATE ROAD SHALL BE REMOVED BY STREET CLEANING BEFORE THE END OF EACH DAY.

WINTER CONDITIONS

DURING WINTER CONSTRUCTION (NOVEMBER 1 TO MAY 1), CONTRACTOR TO PROVIDE TYPE B SOIL STABILIZER, POLYACRYLAMIDE (PAM) PER LATEST WDOT PAL (UPDATED 11/2/2017) ON ALL DISTURBED AREAS THAT ARE NOT TO BE DISTURBED BEYOND 7 DAYS. CONTRACTOR TO INSTALL PAM PER WDNR TECHNICAL STANDARD 1050 AND THE MANUFACTURERS SPECIFICATIONS.

PRESCRIPTIVE COMPLIANCE AREAS:
PER WDNR NR151.11 WS. ADM. CODE
MAXIMUM PERIOD OF BARE SOIL EXPOSURE FOR SLOPES EXCEEDING 20%

SLOPE AREA DRAINS TO SEDIMENT BASIN OR SEDIMENT TRAP	MAXIMUM PERIOD OF BARE SOIL EXPOSURE (CALENDER DAYS)	
	LAND DISTURBANCE BETWEEN SEPT. 16TH AND MAY 1ST	LAND DISTURBANCE BETWEEN MAY 2ND AND SEPT. 15TH

LEGEND

190	EXISTING CONTOUR
190	PROPOSED CONTOUR
×189.5	PROPOSED GRADE
ST	EXISTING STORM SEWER
ST	PROPOSED STORM SEWER
	SILT FENCE LOCATION

EROSION CONTROL PRACTICES

1. SILT FENCE
2. CONSTRUCTION EXIT
3. INSLET PROTECTION
4. OUTLET PROTECTION
5. EROSION MATTING
6. SEDIMENT BASIN

FOR FINAL STABILIZATION, PROVIDE CLASS I, TYPE B EROSION MAT PER "WISDOT EROSION CONTROL PAL" (OR EQUAL) IN ALL ROADSIDE DITCHES, DEFINED SWALES, SIDE SLOPES, OUTLOT BERMS AND ALL OTHER SLOPES 4:1 OR GREATER. INSTALL PER MANUFACTURERS SPECIFICATIONS.

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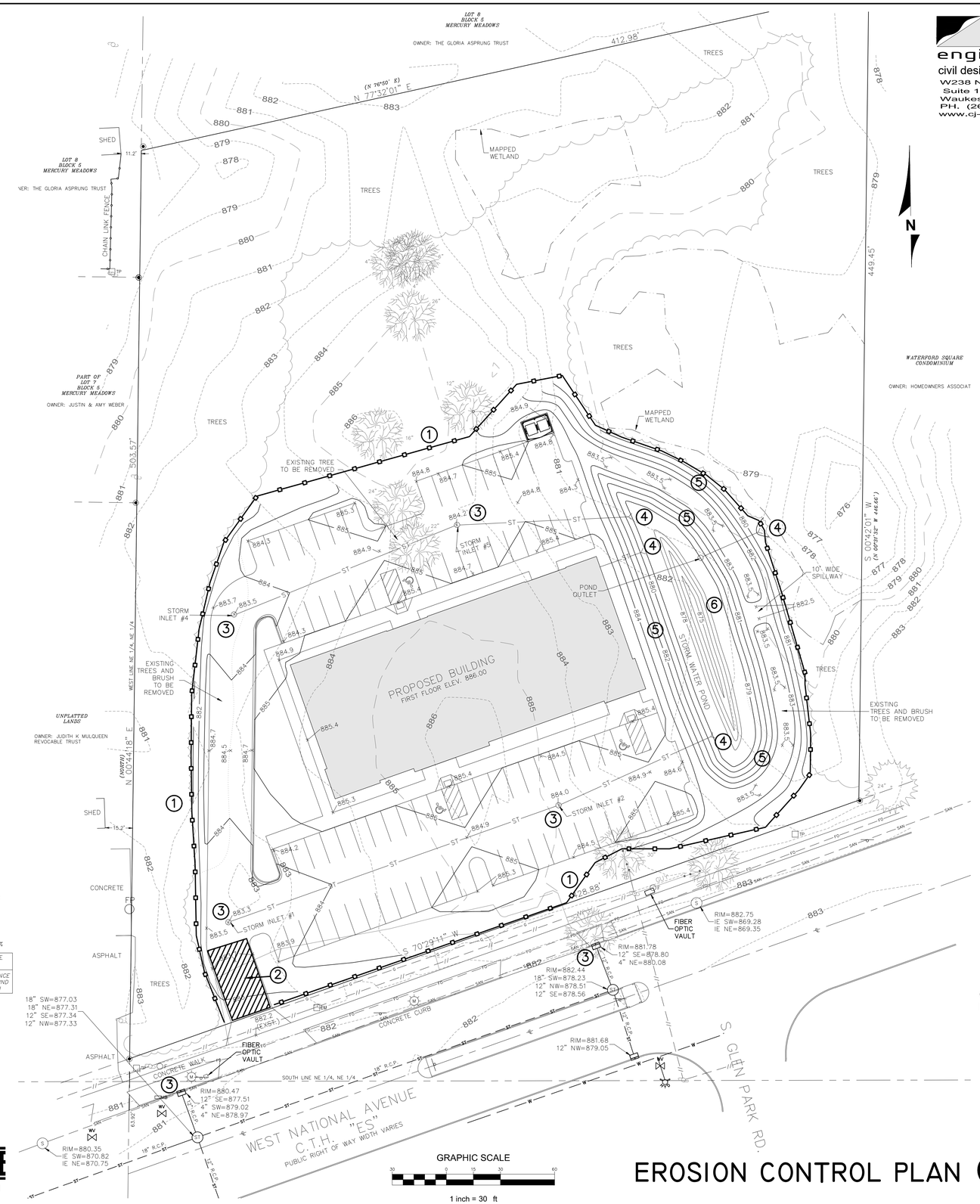

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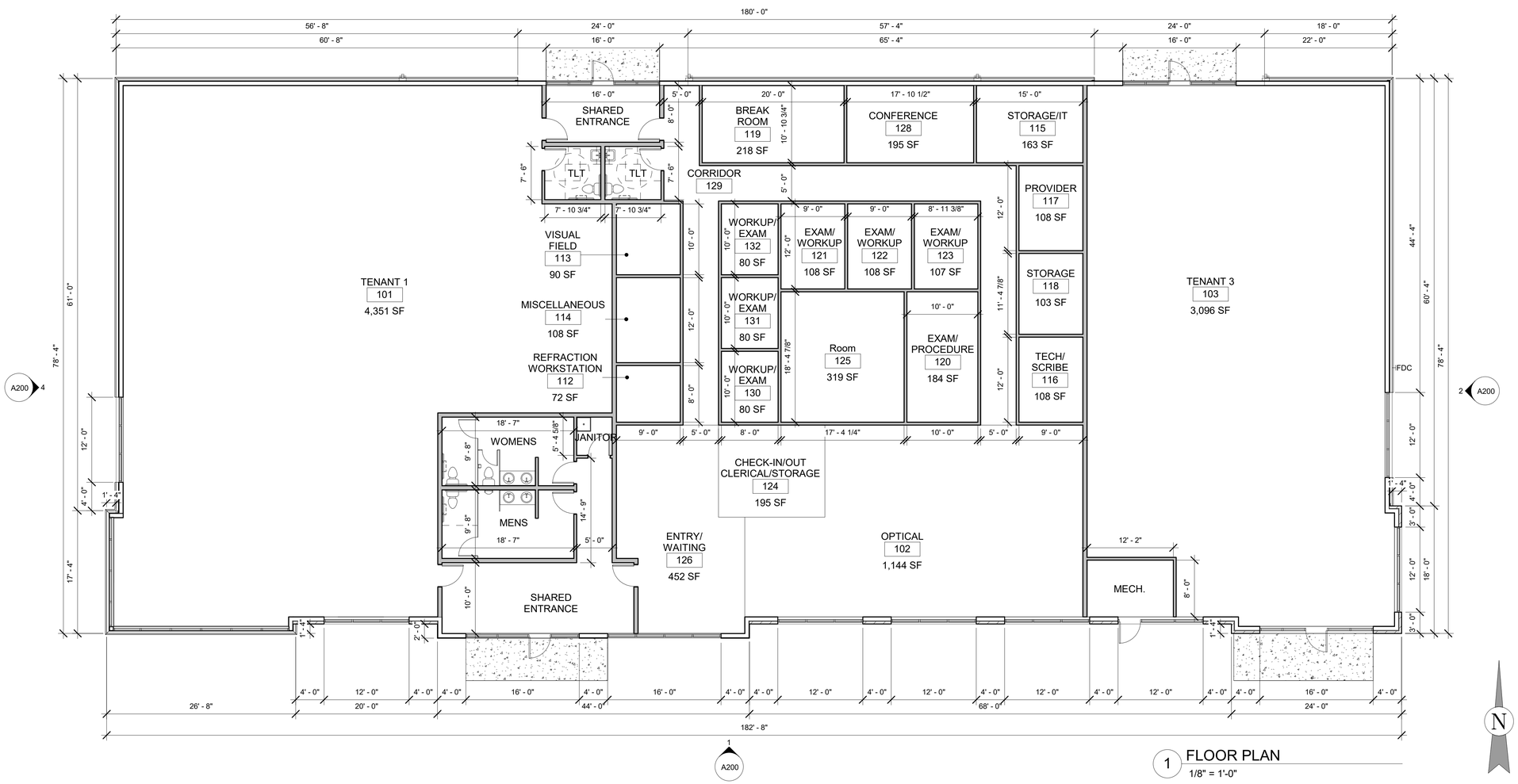
CJE/JSD NO.: 24-14844
DECEMBER 20, 2024

EROSION CONTROL PLAN C4.0



1 FLOOR PLAN
1/8" = 1'-0"

REVISIONS

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ANDERSON ASHTON
DESIGN / BUILD
2746 South 168th Street
New Berlin, WI 53151
Phone: (262) 786-4640
WWW.ANDERSONASHTON.COM

PRELIMINARY NOT FOR CONSTRUCTION

PROPOSED NEW BUILDING FOR:

14300 W NATIONAL AVE

14300 W NATIONAL AVE, NEW BERLIN, WI 53151

DRAFTED BY:	UH
DESIGNER:	RRS
ISSUE	12/18/2024 12:26:19 PM
SUBMITTAL DATE:	XX-XX-XX
DESIGN NO.	P-02448
CONSTRUCTION NO.	-

PLANS

A101

15

SHEET SIZE 24X36

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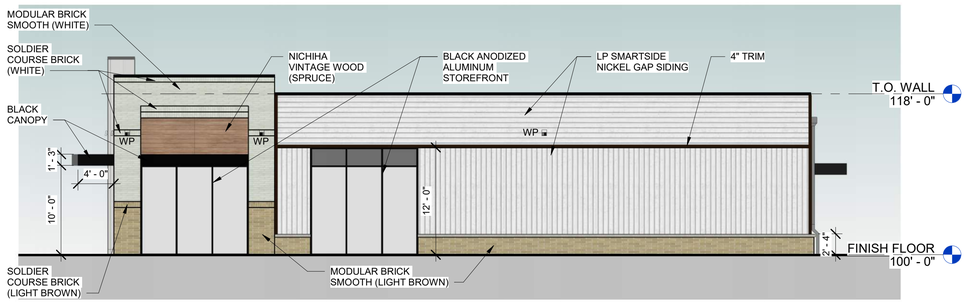
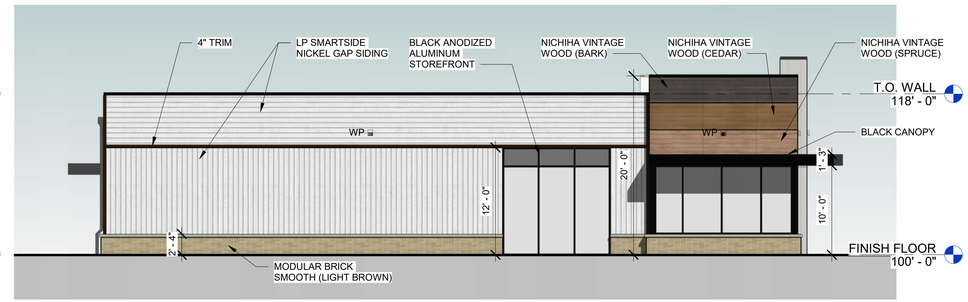
EXTERIOR ELEVATION MATERIAL KEYNOTE

ELEVATION KEY	DESCRIPTION

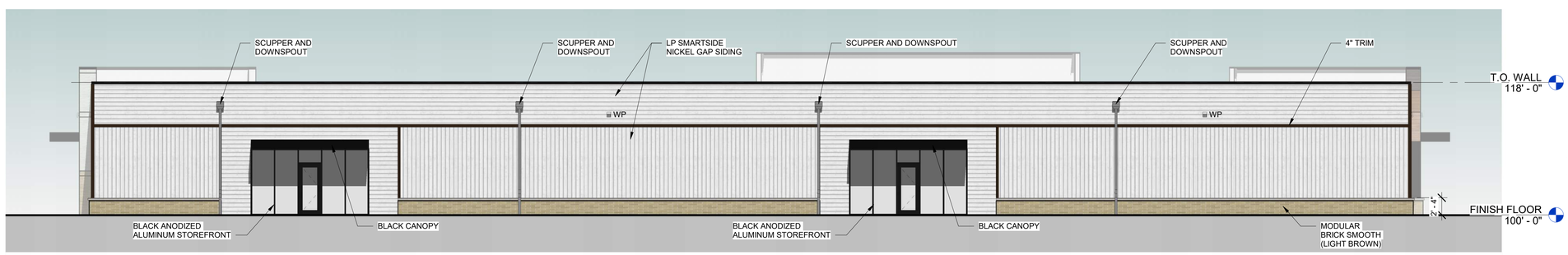
SOUTHWEST AXON



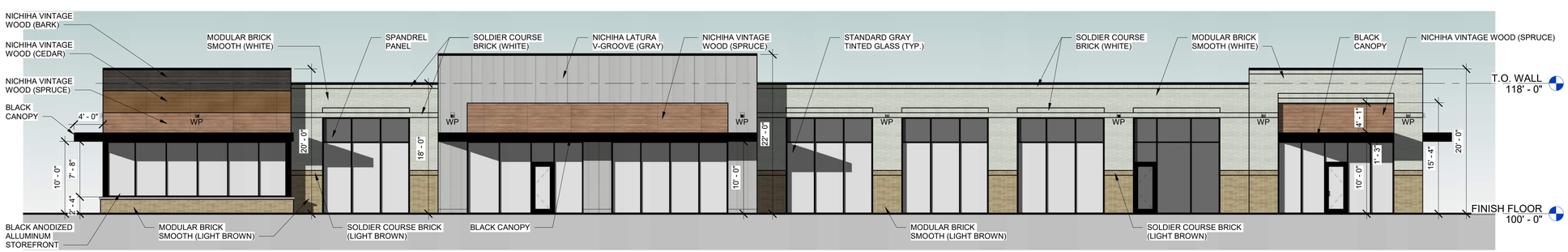
2 EAST ELEVATION
1/8" = 1'-0"



4 WEST ELEVATION
1/8" = 1'-0"



3 NORTH ELEVATION
1/8" = 1'-0"



1 SOUTH ELEVATION
1/8" = 1'-0"

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PRELIMINARY NOT FOR CONSTRUCTION

PROPOSED NEW BUILDING FOR:

14300 W NATIONAL AVE

14300 W NATIONAL AVE, NEW BERLIN, WI 53151

DRAFTED BY:	UH
DESIGNER:	RRS
ISSUE	12/18/2024 12:33:50 PM
SUBMITTAL DATE:	XX-XX-XX
DESIGN NO.	P-02448
CONSTRUCTION NO.	-

ELEVATIONS

A200

16

SHEET SIZE 24X36

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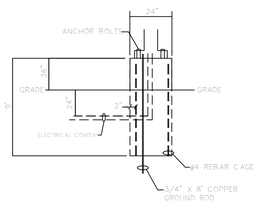


TYPICALLY 24" LIGHT POLE BASE ABOVE GRADE

14300 W NATIONAL AVE

FIXTURE SCHEDULE

QTY	SYMBOL/TYPE	DESCRIPTION	MAKE	LIGHTING FIXTURE CATALOG NO.	QTY	LAMP DATA TYPE	CEILING TYPE	MOUNTING HEIGHT	VOLTAGE	SEE NOTE
2	OA	LED POLE LIGHT W/ 17' POLE ON A 3' TALL POLE BASE	LITHONIA	FIXTURE:DSX0 LED P6 40K 70CRI T4M MVOLT SPA DDBXD HS POLESSS 17' 4C DM19AS DDBXD		136W 4000K LED		20'-0" A.F.G.	UNV	1,2
2	OA1	LED POLE LIGHT W/ 17' POLE ON A 3' TALL POLE BASE	LITHONIA	FIXTURE:DSX0 LED P6 40K 70CRI T2M MVOLT SPA DDBXD HS POLESSS 17' 4C DM19AS DDBXD		136W 4000K LED		20'-0" A.F.G.	UNV	1,2
2	OA2	LED POLE LIGHT W/ 17' POLE ON A 3' TALL POLE BASE	LITHONIA	FIXTURE:DSX0 LED P6 40K 70CRI T4M MVOLT SPA DDBXD POLESSS 17' 4C DM19AS DDBXD		136W 4000K LED		20'-0" A.F.G.	UNV	1,2
2	OB	LED WALL PACK	LITHONIA	WDGE3 LED P2 40K 70CRI R3 MVOLT PIBBW DDBXD		59W 4000K LED		13'-0" A.F.G.	UNV	1,2
10	OB1	LED WALL PACK	LITHONIA	WDGE2 LED P3 40K 80CRI VF MVOLT PIBBW DDBXD		23W 4000K LED		13'-0" A.F.G.	UNV	1,2

LIGHTING NOTES:

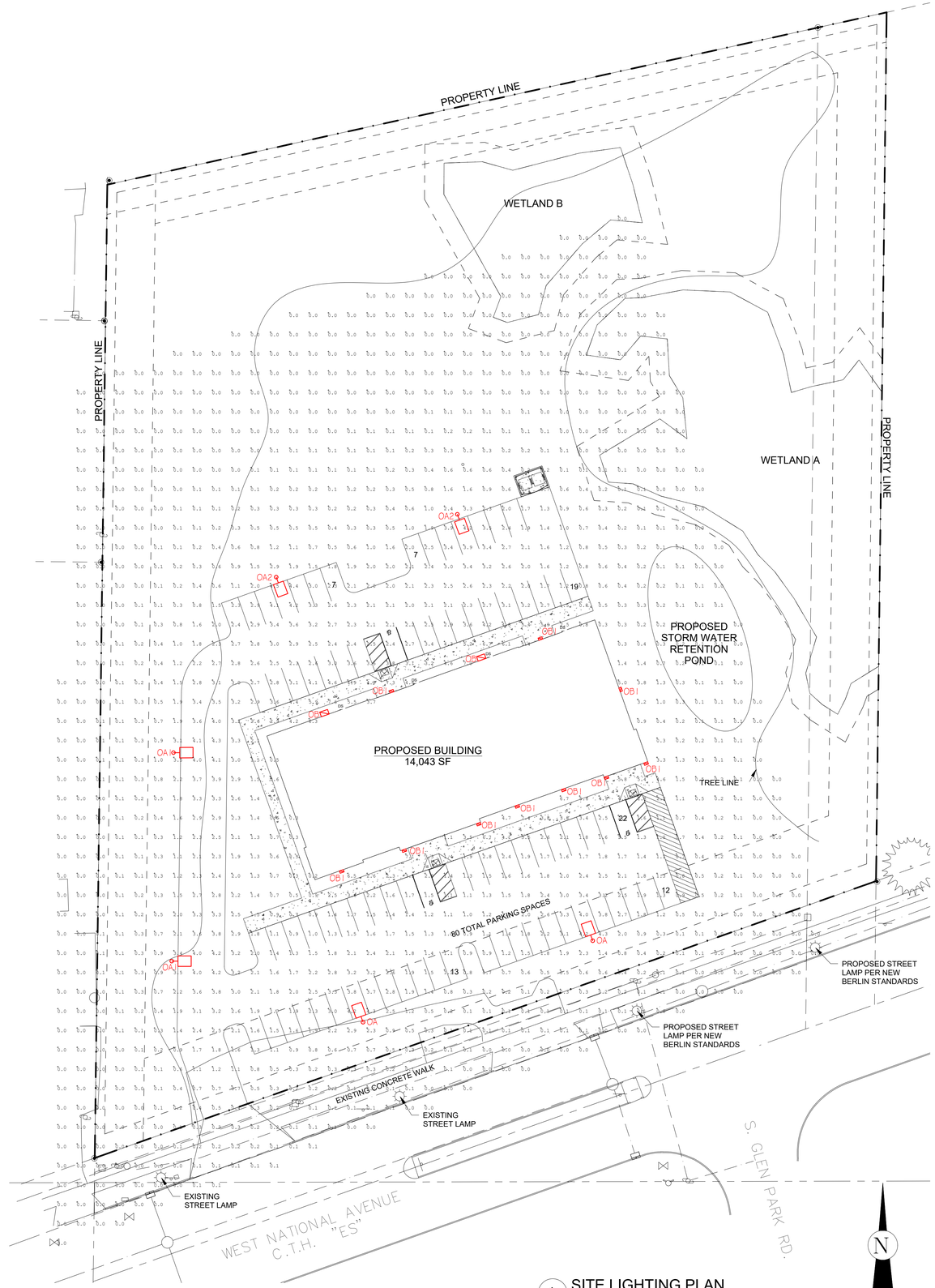
1. MULTIPLE PARTS ARE NEEDED TO ASSEMBLE AS A COMPLETE FIXTURE. SEE INSTALLATION INSTRUCTIONS
2. LIGHTING CONTROLLED BY ASTRONOMICAL TIME CLOCK

UNDERGROUND NOTES:

----------UNDERGROUND ELECTRICAL RACEWAY MIN. DEPTH OF 18" A.F.G.

Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
Site	Illuminance	Fc	0.92	7.6	0.0	N.A.	N.A.
Driveway & Parking Area	Illuminance	Fc	2.35	4.9	0.4	5.88	12.25

DISCLAIMER: CALCULATIONS HAVE BEEN PERFORMED ACCORDING TO IESNA & CIE STANDARDS AND GOOD PRACTICE.
SOME DIFFERENCES BETWEEN MEASURED VALUES AND CALCULATED RESULTS MAY OCCUR DUE TO TOLERANCES IN CALCULATION METHODS,
TESTING PROCEDURES, COMPONENT PERFORMANCE, MEASUREMENT TECHNIQUES AND FIELD CONDITIONS SUCH AS VOLTAGE AND TEMPERATURE VARIATIONS.
INPUT DATA USED TO GENERATE THE ATTACHED CALCULATIONS SUCH AS ROOM DIMENSIONS,
REFLECTANCES, FURNITURE AND ARCHITECTURAL ELEMENTS SIGNIFICANTLY AFFECT THE LIGHTING CALCULATIONS. IF THE
REAL ENVIRONMENT CONDITIONS DO NOT MATCH THE INPUT DATA, DIFFERENCES WILL OCCUR BETWEEN MEASURED VALUES AND CALCULATED VALUES.



1 SITE LIGHTING PLAN
1" = 30'-0"

ELECTRICAL SHOP DRAWINGS

REVISIONS SCEEDULE

No.	Revision	Date
26.		
25.		
24.		
23.		
22.		
21.		
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1.		

GIRAFFE Electric Inc.

GIRAFFE ELECTRIC II, INC.

2025 S WEST AVENUE
WAUKESHA, WI
53189
262-549-6500
FAX 262-549-6503

PROJECT ADDRESS:

14300 W NATIONAL AVE.
NEW BERLIN, WI 53151

DATE: 12/13/24

DRAWN BY: JDG

REVISIONS:
DATE:

SHEET NUMBER:
E-5-0

SHEET TITLE:
SITE LIGHTING PBP PLAN

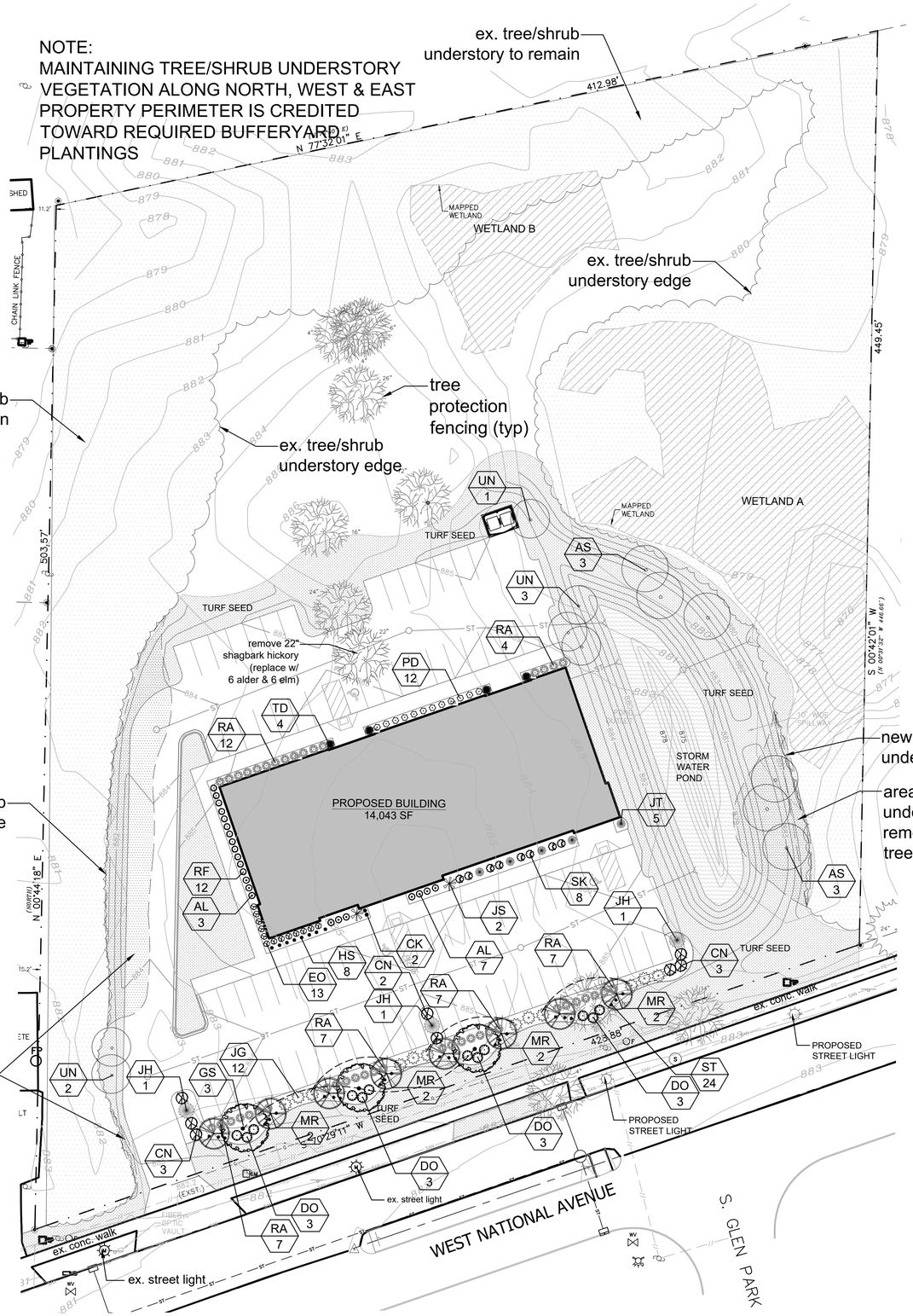
PROJECT NUMBER:

SCALE:
1"=30'-0"

THIS DRAWING IS MADE SOLELY FOR THE INDIVIDUAL NAMES HEREIN AND IS PROPERTY OF TREES ON THE MOVE, INC. ANY UNAUTHORIZED USE OR DUPLICATOIN IS IN VIOLATION OF THE COPYRIGHT LAWS AND SUBJECT TO PROSECUTION

WISCONSIN'S LARGEST TREE TRANSPLANTERS

NOTE:
MAINTAINING TREE/SHRUB UNDERSTORY VEGETATION ALONG NORTH, WEST & EAST PROPERTY PERIMETER IS CREDITED TOWARD REQUIRED BUFFERYARD PLANTINGS



Plant Schedule

Key	Botanical Name	Common Name	Qty	Installed Size	Root	Spacing
	Canopy Trees					
AS	Alnus x spaethii	Spaeth's Alder	6	2.5" Cal.	B&B	as shown
GS	Gleditsia triacanthos 'Sunburst'	Sunburst Honeylocust	3	4" Cal.	B&B	as shown
UN	Ulmus japonica x pumila 'New Horizon'	New Horizon Elm	6	2.5" Cal.	B&B	as shown
	Ornamental Trees					
MR	Malus 'Royal Raindrops'	Royal Raindrops Crab	8	2" cal.	B&B	as shown
	Evergreen Trees					
JH	Juniperus chinensis 'Hetzii Columnaris'	Hetz Columnar Juniper	3	4' High	B&B	as shown
JT	Juniperus chinensis 'Trautman'	Trautman Juniper	5	4' High	B&B	as shown
JS	Juniperus x JNBlue Select	Star Power Juniper	2	4' High	B&B	as shown
	Deciduous Shrubs					
AL	Aronia melanocarpa 'Low Scape Mound'	Low Scape Mound Aronia	10	18" High	Container	36" o.c.
CN	Cornus alba 'Byboughen' NEON BURST	Neon Burst Dogwood	8	24" High	Container	as shown
DO	Diervilla 'Kodiac Orange'	Kodiac Orange Diervilla	12	18" High	Container	48" o.c.
EO	Euonymus alatus Odom 'Little Moses'	Little Moses Dwarf Burning Bush	13	18" High	Container	48" o.c.
PD	Physocarpus opulifolius 'Donna May'	Little Devil Ninebark	12	18" High	Container	5' o.c.
RF	Rhamnus frangula 'Fine Line'	Fine Line Buckthorn	12	3' High	Container	48' o.c.
RA	Rhus aromatica 'Grow Low'	Grow Low Sumac	44	18" High	Container	56" o.c.
SK	Spirea media 'Blue Kazoo'	Blue Kazoo Double Spirea	8	18" High	Container	3' o.c.
	Evergreen Shrubs					
JG	Juniperus chinensis 'Sea Green'	Sea Green Juniper	12	18" spread	Container	5' o.c.
TD	Taxus x media	Dense Spreading Yew	4	18" High	Container	48" o.c.
	Ground Cover / Perennials					
CK	Calamagrostis acutiflora 'Karl Foerster'	Feather Reed Grass	2	1 Gal.	Container	24" o.c.
HS	Hemerocallis 'Stella d'Oro'	Stella d'Oro Daylilly	8	1 Gal.	Container	18" o.c.
ST	Sporobolus heterolepsis 'Tara'	Tara Prairie Dropseed	24	1 Gal.	Container	as shown

EXISTING TREE/SHRUB UNDERSTORY: SOUTH

EXISTING TREE/SHRUB UNDERSTORY: NORTH

EXISTING TREE/SHRUB UNDERSTORY: EAST

DIGGERS HOTLINE
Toll Free (800) 242-8511
Milwaukee Area (414) 259-1181
Hearing Impaired TDD (800) 542-2289
www.DiggersHotline.com

TREES ON THE MOVE

WISCONSIN GERARD A. REWOLINSKI 29 GLENDALE, WI LANDSCAPE ARCHITECT

Gerard A. Rewolinski

LANDSCAPE PLAN

0 30' 60'

N

PLANTINGS, STRUCTURES AND OTHER REPRESENTATIONS SHOWN ON THIS PLAN ARE FOR THE PURPOSE OF CONVEYING LANDSCAPE DESIGN FEATURES. REFER TO PREPARED CONTRACT DOCUMENTS FOR SPECIFIC ITEMS INCLUDED IN ANY PARTICULAR PHASE OF LANDSCAPE CONSTRUCTION.

WLCA

Premier Landscapes

LANDSCAPE DEVELOPMENT FOR
PROPOSED DEVELOPMENT
14300 WEST NATIONAL AVE.
NEW BERLIN, WISCONSIN 53151

LANDSCAPE ARCHITECTURE

DESIGN BY:	GAR
DRAWN BY:	GAR
DATE:	12/18/2024
REVISED:	
SCALE:	1"=30'-0"
SHEET:	L100

TREES ON THE MOVE
5611 S. Calhoun Road
New Berlin, WI 53151
Phone: (262) 679-5200
treesonthemove.com

STAFF REPORT
EXECUTIVE SUMMARY

APPLICANT/PROJECT:	**Katie Skelton on behalf of Continental Properties / Conceptual neighborhood plan review for a 332 residential unit multi-family community**
LOCATION:	**6151 S. Moorland Road**
REQUEST:	**Conceptual neighborhood plan review for a 332 residential unit multi-family community located at 6151 S. Moorland Road.**
D.R.C. RECOMMENDATION:	**NO RECOMMENDATION, for discussion purposes only. Main topics to discuss with the Plan Commission:** • **Proposed Comprehensive Plan Amendment** • **Density**

1. Planning:

a. The current Future Land Use designation is <u>Business Park/Industrial</u>. The Future Land Use designation that would align with the proposed use would be <u>Mixed Use Residential</u>, which allows for multi-family housing. Chapter 10 of the Comprehensive Plan defines Mixed Use Residential as *"The Mixed Use Residential designation applies to several areas where more intense business uses meet single-family residential uses. The purpose of Mixed Use Residential is to provide a district for land uses and development that combine characteristics from other districts. There are several land uses that can occur in mixed use areas, including low-density multi-family, senior housing, duplexes, condominiums, or institutional uses. Development approval for these uses requires a review to determine compatibility with surrounding land uses, particularly the residential neighborhoods."*

b. The current Zoning Districts are <u>A-1 Agricultural District, C-1 Upland Resource Conservancy Zoning, and C-2 Shoreland-Wetland Conservancy Zoning</u>. The Zoning District that would align with the proposed use would be the <u>Rm-1 Multiple-Family Residential District</u>. §275-33 of the Zoning Code defines the Rm-1 Zoning District as "*The Rm-1 Multiple-Family Residential District is intended to provide for multiple-family residential development served by municipal sewer and water facilities. Net density shall not exceed seven dwelling units per Rm-1 zoned acre. New lands to be placed in the Rm-1 District by rezoning petition shall be located not closer than 120 feet to an existing single-family residential subdivision. Net density calculations shall include the area of land upon which the dwelling units are proposed to be located and including common open space and associated facilities on the tract of land zoned Rm-1, excluding rights-of-way of publicly dedicated streets and private streets.*"

(1) Per Zoning Code §275-33B(9), *"Net density shall not exceed seven dwelling units per Rm-1 zoned acre. Net density calculations shall include the area of land upon which the dwelling units are proposed to be located and including common open space and associated facilities on the tract of land zoned Rm-1, excluding rights-of-way of publicly dedicated streets and private streets."*

(a) **Proposed gross density: <u>9.69 units/acre</u> (332 units/34.25 acres).**

(b) **Maximum gross density, per code: <u>7 units/acre</u> (240 units/34.25 acres). The applicant is proposing approximately 3 additional units/acre than the code allows.**

(c) ***<u>A Planned Unit Development (PUD) Ordinance would be needed to vary from the Zoning Code. Any PUD request for this development will need to include a special provision from the above section to pursue the project as proposed.</u>***

(2) **Per Zoning Code §275-33D, the required setbacks in the Rm-1 District are 25' front, 15' side and 50' rear. The maximum building height is 35'.**

(3) **Per Zoning Code §275-33D, the maximum coverage by buildings is 45% and the maximum coverage by impervious surfaces is 60%.**

(4) **Per Zoning Code §275-33E(3), "*Multi-family dwellings are required to have a certain portion of the required parking spaces located in an enclosed attached or underground parking garage. Refer to Zoning Code Section 275-57 for off-street parking requirements.*" Table 275-57-1 in the Zoning Code requires "*2 spaces per dwelling unit plus 1/10 of a space per dwelling unit shall be provided for guest parking. A minimum of 1 space per dwelling unit shall be provided in an attached or underground garage*" for multiple-family dwellings.**

(a) **Proposed # of total parking spaces: <u>626 total parking spaces</u>**

(b) **Minimum # of total parking spaces, per code: (2 spaces x 332 units) + (1/10 space x 332 units) = <u>697 total parking spaces</u>**

(c) **Proposed # of covered parking spaces: <u>233 covered parking spaces</u>**

(d) **Minimum # of covered parking spaces, per code: (1 space x 332 units) = <u>332 covered parking spaces</u>**

(e) ***<u>A Planned Unit Development (PUD) Ordinance would be needed to vary from the Zoning Code. Any PUD request for this development will need to include a special provision from the above section to pursue the project as proposed.</u>***

2. Building Inspection:

a. Inspection CU – State Review

b. Each multifamily building and club house will require an individual commercial building permit.

c. Duplex Homes review will be done locally per SPS 320.02.

d. Building plans shall be signed and stamped by a licensed architect or professional engineer per the Wisconsin Enrolled Commercial Building Code (SPS.361.31).

e. Building plans shall be approved by the State of Wisconsin Department of Commerce Safety and Buildings Division (SPS.361.60). State letter required with permit application.

f. Apply and obtain appropriate building, HVAC, electric, plumbing and fire permits from the City of New Berlin Building Inspection Division for each building.

g. Zoning approval will be required before applying for the building permit. Separate applications and plans are required.

h. Plumbing: State review is required for over 16 fixtures - new and/or replacements.

i. The building shall be fully accessible from the parking lot to the interior elements SPS.363.1101 and ICC/ANSI A117.1).

j. Occupancy Certificate will be issued once all the following have passed: building, HVAC, plumbing and electric, all required paperwork has been received, erosion control has been inspected, storm water inspection, engineering inspection, planning inspection & fire department.

3. Fire:

   a. Fire lane access shall be 24 feet wide and marked with signage.

   b. Fire hydrants required every 300' normal access means (separate hydrant layout plan shall be submitted to New Berlin Fire Department for approval).

   c. All three family and larger buildings shall be sprinklered (including Clubhouse) with manual fire alarms.

   d. Know boxes required for buildings and access drives.

4. Storm Water Utility:

   a. WDNR NOI is required.

   b. MMSD Chapter 13 approval is required.

   c. SWMP and Maintenance Agreement is required; City of New Berlin boilerplate agreement is available online.

5. Engineering:

   a. The property is shown as fenced and gated. It is assumed that the water and sanitary mains within the property would be private.

   b. Access to College Avenue will need to be approved and permitted by Waukesha County.

   c. A Traffic Impact Analysis will be required for this development along with a Traffic Impact Fee which is calculated based on trip generation.

   d. Moorland Road (from Grange Avenue to College Avenue) is planned to be reconstructed in 2027 by Waukesha County, including potential intersection improvements at College Avenue and Woods Edge Road.

6. Streets:

   a. It is assumed that all driveways and roadways within the development will be private and maintained privately.

   b. The proposed developer would be responsible for snow removal of the sidepaths adjacent to the property along Woods Edge Road and Moorland Road.

7. The following documents and reports will be required with future submittals:

   a. WDNR Wetland Fill Permits

   b. Tree Inventory Report & Replacement Schedule

   c. Civil, Architectural, Landscaping and Photometric Plans

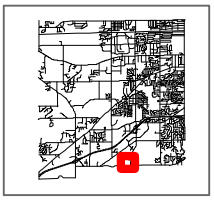
8. The applicant will hold a neighborhood meeting on Wednesday, January 29, 2025. Approximately 546 notices were mailed out.

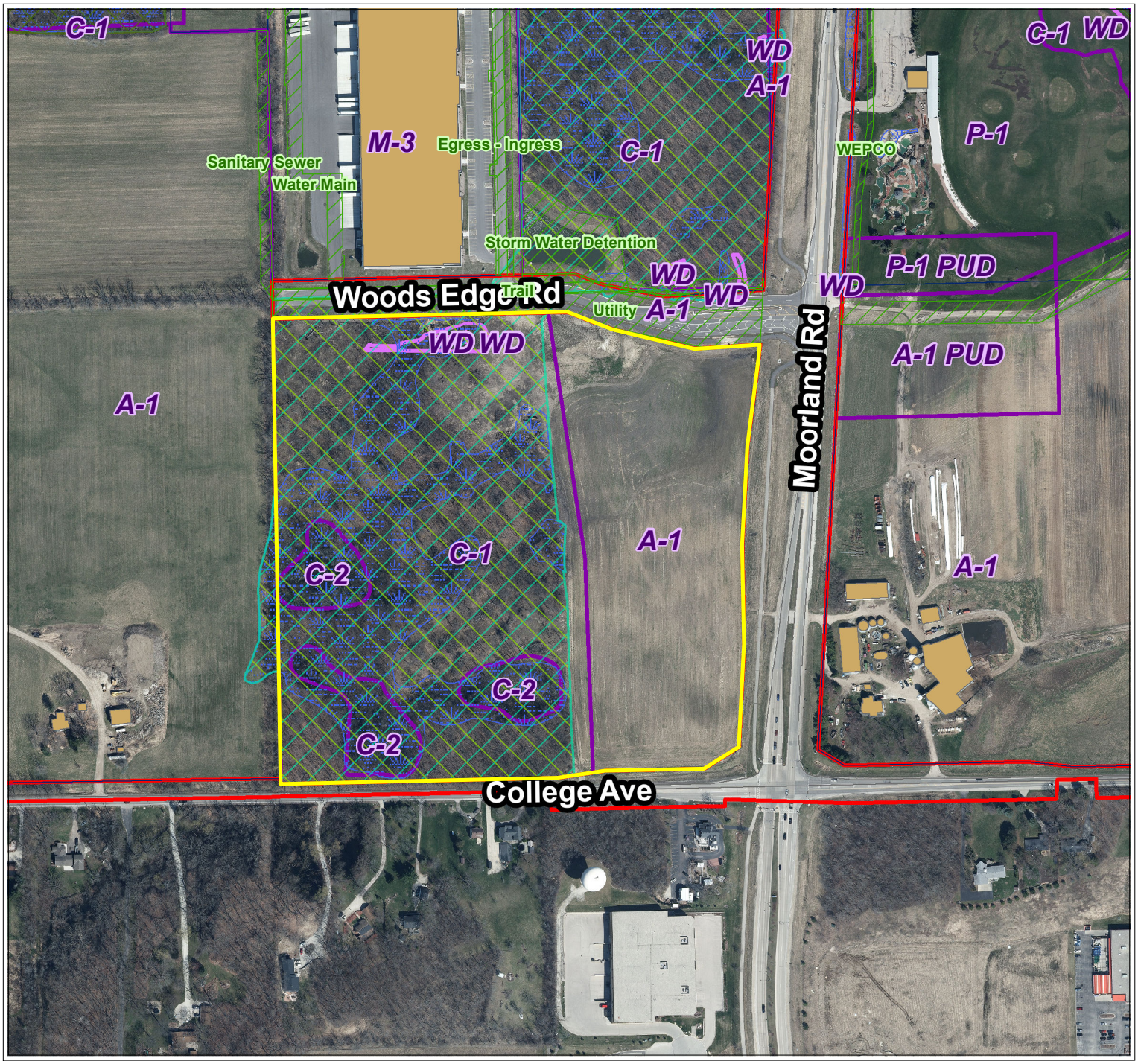
9. Mary Claire Lanser with Lanser Public Affairs LLC prepared a Door-to-Door Community Outreach Report for this development. Door-to-door canvassing was completed between January 3 and January 18, 2025. During this time, 546 homes were visited and 236 people were spoken with regarding this proposal.

ATTACHMENTS:
Location Map
Current Future Land Use Map
Current Zoning Map
Community Outreach Report
Development Report & Sample Architecture

City of New Berlin
Community Development

UA-2402318
Continental Concept Plan
6151 S. Moorland Rd





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

Legend

- Parcels
- Road Right-of-Way

FEMA Flood Zone (2023)

Flood Zone

- FEMA Flood - Zone A
- FEMA Flood - Zone AE
- Zoning Boundaries

Zoning Wetland Registration

Wetland Registration Type

- Registered Wetland
- Outside Wetland

Environmental Corridor

Corridor Type

- Isolated Natural Resource Area
- Primary Environmental Corridor
- Secondary Environmental Corridor
- Wetland

Sewer Service Area (MMSD)

Sewershed

- Current
- Ultimate

N

0 145 290 Feet

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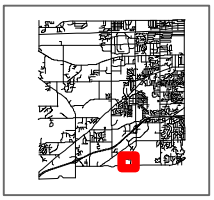
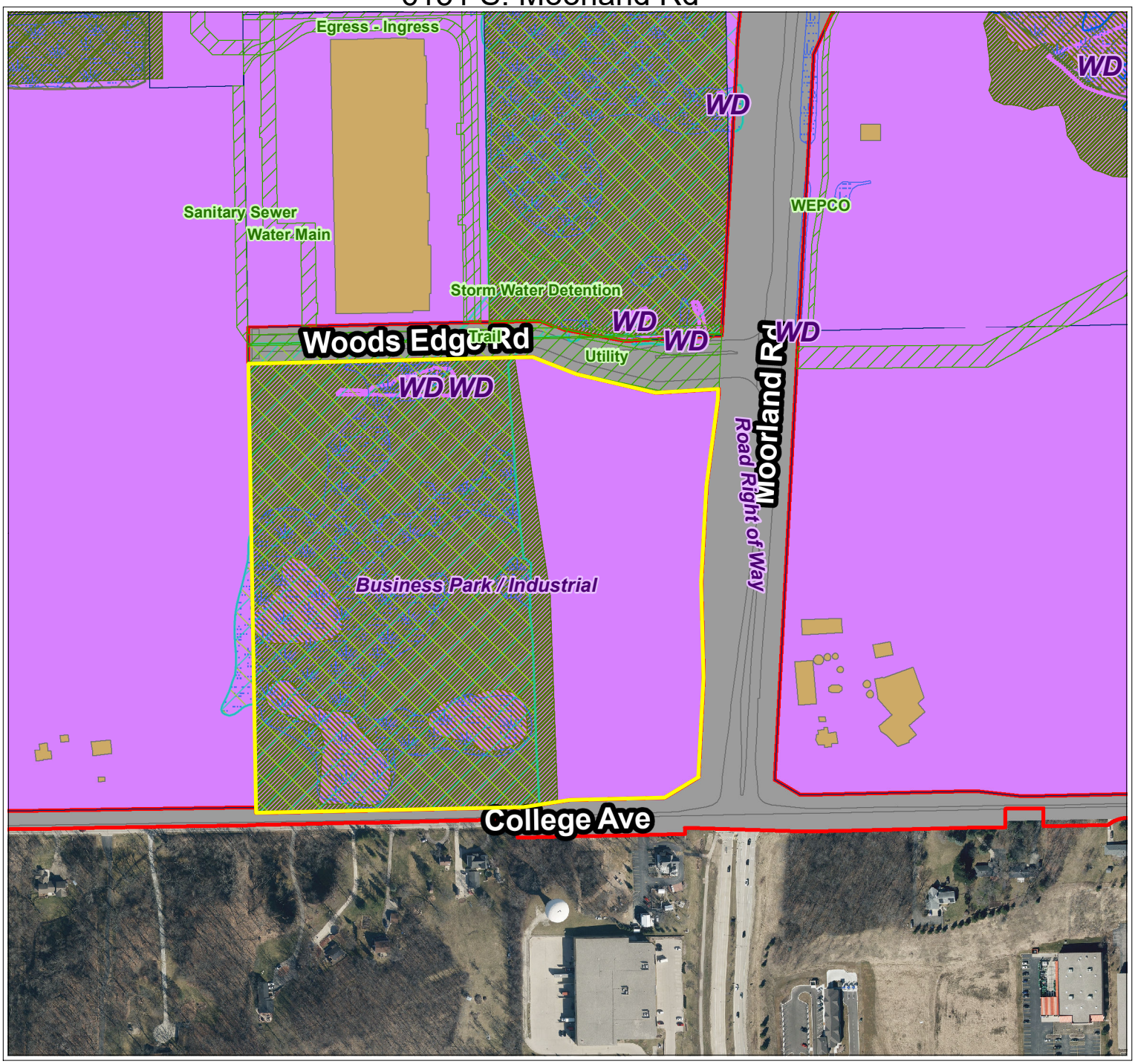
UA-2402318
Continental Concept Plan
6151 S. Moorland Rd





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City of New Berlin
Community Development

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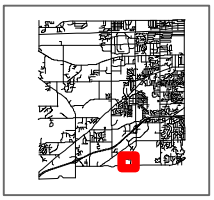

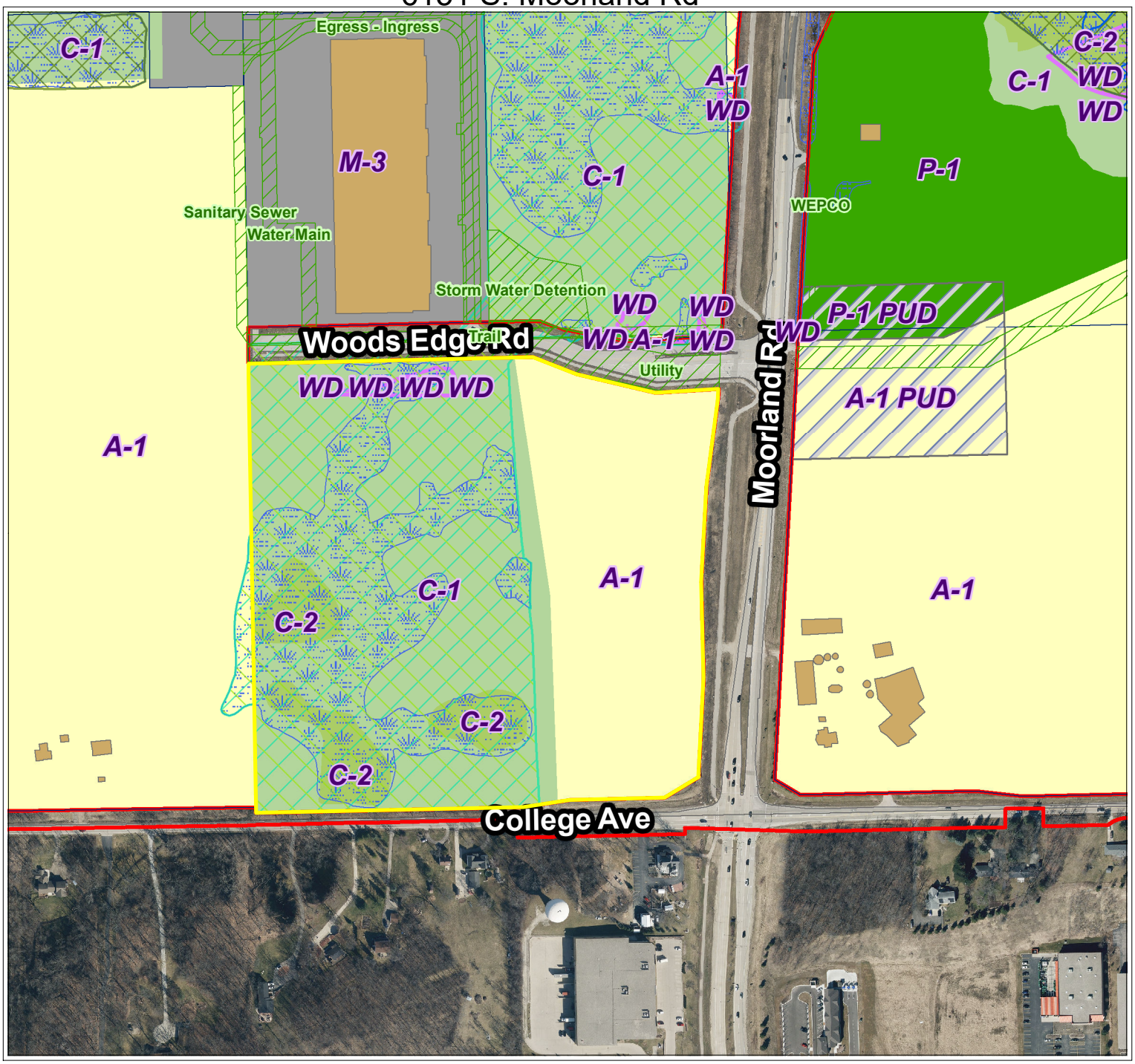

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Map Printed: 1/24/2025 12:37:17 PM

Description of Community Outreach regarding Continental Properties Applications for Land Use Plan Amendment and Rezoning, City of New Berlin

January 27, 2025

Drafted by Mary Claire Lanser

Lanser Public Affairs is a grassroots public affairs and community outreach organization retained by clients for over twenty years. The community outreach for Continental Properties followed my usual process, which demonstrates respect to everyone and to all opinions.

Details about Door to Door: Using a map of expanded outreach territory provided by city staff, a colleague and I visited 546 homes. Each of us introduced ourselves and identified the 34.25-acre site. Residents' interests varied based on their distance from the property and perceived effects development may have on their own quality of life. We referenced the open house invitation for January 29 sent by the Mayor's office via USPS, which most people acknowledged receiving. Since the letter from the city was received, there has been conversation within and between households. To the extent people wanted details, we described the upcoming applications to amend the land use plan and rezone the site to multi-family residential. We affirmed that we are hired to provide information, answer questions, write down comments, and urge people to attend the meeting. We each had as a resource a binder of illustrations and explanations. However, most people focused on the proposed location, site plan, access, anticipated monthly rents, and proximity to their homes. I gave my business card to many people in case they wanted to follow up with questions or additions to the summary I would provide to the applicant, city officials and staff, and available as public record. We distributed a cardstock flyer copy of the first page of the mailer. Everyone seemed to appreciate the personal door-to-door visits, many offering this comment. At homes where nobody answered the door, we left the flyer in plastic doorhanger bags.

Dates of Door-to-Door Canvassing: January 3,4,6,8,10,11, 15, 17, 18

Streets/Areas Visited: College Avenue, Small Road, Calhoun Road, Shadow Drive, Sundown Road and Court, Shauss Mountain Drive, Sunnyslope Road, Red Fox Crossing, Thomson Hollow, Karrington Woods, The Conservancy, Brook Hollow, High Grove, and Grange Avenue

Number of Homes Visited: 546

Number of Homes Where We Spoke with Someone: 236

Many people:

- Were mildly/not at all interested
- Didn't want information
- Felt neutral
- Didn't want to see materials other than the site plan
- Were curious about the proposal but had no specific feedback
- Might go to the city's website for information and updates
- Won't come to the info meeting
- Are generally in favor of well-planned development
- Trust the city's analysis/approval process
- Haven't yet decided how they feel about the proposal
- Felt respected by the outreach
- Were too cold to have long conversations
- Think they live too far away to be affected

Many people were openly supportive of the proposal for these general reasons:

- Taxbase
- Market rate
- Appropriate site
- Vitality and "energy" to this area
- Good design
- Satisfied with access
- Property rights/private land
- Prefer residential to industrial
- Local developer with good track record
- Will enhance New Berlin's image

- Employers need employees nearby
- Something will happen here; make it upscale
- Succession planning for farmers
- Need new apartments
- Development is good for the economy
- This is progress
- Private investment is good for the city

These specific issues came up:

- Too many people, too many cars
- Traffic volume, current and future on College and on Moorland
- Specific stories about traffic hazards and past traffic accidents, especially at rush hour
- Doesn't believe new residents won't park on College, which already gets congested with guests of Gingerbread House parking along the roadway
- Should get accident data from New Berlin and Muskego police departments
- Proposed/pending roadway improvements, timing, and jurisdiction
- Signalized intersections increase traffic
- Small Road is getting too congested
- Have they done a TIA?
- Proposed access is sufficient; good to connect with Woods Edge Road and have only emergency access onto College
- Are any improvements proposed for Sunnyslope Road?

- Market rate rentals, not subsidized/low income; rumors have circulated that proposal is for low-income tenants
- Surprised with how high rents will be and that anyone can afford this
- Has young adults ready to graduate college; this would be great for them to stay in New Berlin and there aren't enough good apartment developments nearby

- Schools: capacity, numbers of potential new students, which elementary school would be impacted
- Quality of education at our schools is decreasing

- How much will the development pay in taxes?

- Development's taxes won't be enough to fund their share of municipal services

- Questions about development timing, from groundbreaking to full occupancy

- Preference for no development on this site now or in the future, or that it be preserved as a park or open space
- Anything built here will have negative consequences, mostly more people and traffic; don't want more of either in New Berlin
- Nostalgia for New Berlin as largely rural and opposition to all previous development and everyone who arrived after they did
- Moved to New Berlin for open space, which is decreasing; would rather it revert to all rural
- New Berlin is full; there should be no more development of any kind
- Concerned about so much change, including Karrington and all subdivisions since then. Here her whole life
- Site should be donated to remain as is
- This is a tree city; no trees should be removed
- This will bring urban living to this part of secluded, natural, rural New Berlin
- Knew (former alderman) Paul Lincoln Schuebel; convinced this will cause a "cone of depression" that will cause water problems to communities to the east of New Berlin; plans to lead opposition. Wants property to stay as it is and no more development in New Berlin going forward

- Property rights and the opportunity of farmers to sell should be respected; if you own the land, like so many farmers who have cared for the land for generations, you should do whatever you want with it when you are finished farming
- Anyone opposed should buy the land themselves
- Knows the seller; after so much time, he should be allowed to "cash out"
- Would rather have residential at this location than industrial or business
- People like farms and want to live near them but then want to control what happens to them

- Appreciation for outreach but wonder why they are getting a letter and a visit – more significant a development proposal than represented?
- Who are you representing, the city or the developer?

- Which side are you on?

- People who would live here might not fit in ("transients, riff raff, all kinds")
- Young professionals moving to New Berlin will increase vibrancy and cause development of more entertainment venues and restaurants
- This is a good thing, but people already here won't see it that way
- Plans look "modern, new and unique" and will appeal to affluent young professionals, which is good for existing residents and businesses
- There is nothing to do or eat in New Berlin; maybe this will increase interest in these types of venues for young people

- New Berlin should attract senior housing developers
- Wants more retail in this part of the city
- Industrial development would pay more taxes
- This is too many units but can't elaborate on what would be a better number and the risk of this many new residents
- There are too many rental units in New Berlin now; are they at capacity?
- Why would someone earning that much rent instead of buying?
- Preference for single family or condominiums
- Master plan should always be followed
- More concerned about development along Sunnyslope and the city's new recreation site
- Multi-family development decreases single family development
- Better to have homes here than more industrial, good location for employees of current companies
- Problems with failing septic systems and wells; will more development make this worse?
- Too many farms are becoming homes. How about a park? A true downtown?
- Could density be reduced? Prefers small affordable single-family homes on ¼ acre lots with city subsidizing based upon need, like in Madison
- "Not thrilled but this is better than a Walmart, gas station or car wash"

- Where will utilities connect with the site and will sewer and water be extended to other properties to the west and northwest? (most people hope not, some with failing systems hope so)
- Can the electrical grid handle this? Will we get more outages? Does everyone need to buy a generator?

- Likes how the city hosts these meetings; good, open communication
- Is this truly early in the application/approval process or is this a "done deal"?

- In favor and doesn't want details/opposed but doesn't want to know about it
- Hope they aren't asking for TIF
- Concern about flooding
- New residents interested in learning about New Berlin, asking how to get sewer and water extended west of Calhoun
- There will be more calls to the PD; are they staffed to handle it?
- Noise

Katie Skelton
Development Associate
Continental 876 Fund, LLC
W134 N8675 Executive Parkway
Menomonee Falls, WI 53051

December 17th, 2024

Greg Kessler, Community Development Director
City of New Berlin Plan Commission
3805 S. Casper Drive
New Berlin, WI 53151

RE: Concept Plan Proposal for Multifamily Development on S Moorland Rd and College Avenue

Continental's Development Experience

Continental Properties Company, Inc. ("Continental") is a privately held, multifamily real estate development company based in Menomonee Falls, Wisconsin. Founded in 1979, Continental has become a leading developer, owner, and operator of multifamily communities, retail centers, and hospitality properties in the United States. To date, Continental has developed over 35,000 homes, across 125 communities in 19 different states. Within the Milwaukee and Madison metro areas, Continental has developed three communities: Authentix Cottage Grove, Springs at Pleasant View, and Springs at Sun Prairie. All portfolio properties are managed and maintained by Continental employees, not a third-party operator.

Continental's development success can be attributed, in-part, to its vertically integrated team focused on exceptional market research, product design & development, construction oversight, property management, customer experience, and portfolio management.

Introduction

Continental 876 Fund LLC is pursuing the acquisition of approximately 34.25 acres of land near the NWC of S. Moorland Rd and College Ave ("Site") in the City of New Berlin, WI ("City") for its proposed multifamily community. The proposed community is an upscale, market-rate 332-home multifamily community consisting of 11 residential buildings, 16-townhome duplex units, clubhouse, pet playground, and both attached and detached garages placed throughout the Site.

Resident Demographics

Across Continental's current portfolio residents exhibit a median household income of $90,000 and an average household income of $110,104. The proposed community expects to add 598 residents, with approximately 1.8 residents per unit. Renters are typically 20-34 years old and appreciate shared amenities and a neighborhood-oriented community design. Residents tend to be sociable and enjoy living in a community with a friendly, neighborhood feel. Continental's community would offer New Berlin residents an affordable place to call home with an estimated rent to income ratio of 20% – creating a more affordable option to live in New Berlin.

Site Plan

Continental will construct this community with an emphasis on maximizing site space and preserving adjacent wetlands. The existing use of the Site's eastern section allows space for 11 multifamily residential buildings, with additional auxiliary facilities and amenities. The Site includes 4.61 areas of wetlands and 18.16 acres of wooded areas (inclusive of wetlands). To preserve this area, Continental has included a 75' buffer zone around its perimeter of the unimpacted wetlands.

The 11 multifamily buildings will offer a total of 316 multifamily homes. Combined with the 16 rental townhomes planned for the northwest corner of the site, this multifamily community proposes a total of 332 homes and a resulting gross density of 9.69 dwelling units per acre. To support the community residents, an appropriate ratio of 1.89 home parking spaces will be offered. Each duplex townhome will have a 2-car attached garage. The community's parking ratio includes 134 attached spaces, 99 detached spaces, and 393 surface spaces and apron stalls. The northwestern corner of the Site will be utilized as approximately 16 duplex two-story townhomes. Duplex town-homes style homes offer the same flexibility and convenience as the two- and three-story apartments, with a variation of 3- or 4-bedroom homes.

The Site's main access point will be off Woods Edge Rd with a secondary emergency access point off College Ave. All service and maintenance related community systems (such as trash removal and mail delivery) are screened from the public and residents' view via enhanced landscaping and building placement. These amenities are also centrally located within the community for safe and convenient access.

Community Benefits

The proposed 332-home multifamily community will provide the following benefits to the City of New Berlin and the surrounding community:

- **Job Creation**: Continentals proposed 332-rental homes will support a total of 191 jobs over the course of development, construction, operation, including five full-time positions for on-site management staff.
- **Resident Spending**: With fewer expenses than typical homeowners and substantial disposable incomes, residents are expected to contribute to the local economy.
- **Resident Demographics**: At similar residential offerings across Madison and Milwaukee areas, current resident median household incomes are over $100,000 per year. The 3-mile radius has a median household income of $110,000.

Site Amenities

Ample open space is provided throughout the community to enhance passive and active community engagement. Open space opportunities include a resort style pool, common courtyards, picnic areas, fire pit, grilling stations, pergola shaded seating and a pet playground. Pedestrian connectivity throughout the Site fosters neighbor interaction and a strong sense of community. Onsite lighting is specifically designed to minimize any spillage of light onto adjacent properties, while also providing adequate lighting along pedestrian paths for safety throughout the community. All on-ground HVAC units are screened via landscaping, including evergreen shrubs and tall ornamental grasses that will provide screening. Landscaping within the community is designed to meet the standards set forth in the City's ordinances and will include building foundation plantings, open space plantings, and parking lot plantings.

Interiors

The community will contain a mixture of studios, 1-, 2-, and 3-bedroom homes in 11 residential buildings. Home floor plans offer an open-living concept with interiors that include white or dark wood cabinetry, stainless steel appliances, granite countertops, luxury wood grain flooring, and large kitchen islands in all homes. Washers and dryers are also included in each home.

Architecture and Exteriors

The community will feature three-story residential apartment buildings with ground level entry to each home. The residential buildings are 45-feet or less. Exterior elevations provide architectural interest with varying use of architectural accents including varied rooflines, horizontal and vertical building articulation, balconies, complementary color palettes, and roof projections over each home entry. Quality, durable building materials are utilized on all residential and ancillary buildings.

Tenant Amenities

Several amenities are included within the community. Among the facilities is a 4,000+ square foot clubhouse. The clubhouse includes a large gathering room, 24-hour fitness center, kitchen, coffee bar, and resort style pool. During warm months, the garage-style door in the fitness center will be open to the pool deck for an open-air workout experience. The pool deck includes ample patio furniture with lounge space, grilling areas, and shaded seating. The clubhouse is also home to Continental's premiere in-house community management team. The community will also feature a car care center, pet spa, storage lockers, and pet playgrounds.

Land Use/ Zoning

The subject property utilizes approximately 17.02 acres of multifamily residential and 2.30 acres of townhome-duplex residential, with 14.93 acres of land remaining as wetlands and preserved woods. The Site falls in the A-1 Agricultural, C-1 Upland Conservancy with patches of C-2 Wetland Conservancy zoning. The future land use for the Site is Business Park/Industrial. Continental seeks a rezone for the entire property to Planned Unit Development (PUD). In terms of the City's future land use plan, the PUD is designated as, "...an area for active as well as passive recreation and community type activities." This community serves as an appropriate transitional use for surrounding land uses, providing a supportive neighborhood environment.

The Site benefits from nearby access to some of the market's top employers such as the Medical College of Wisconsin, Northwestern Mutual, Aurora Health Care, Walmart, and Uline. ABB Robotics is completing a new 500,000 SF campus, expecting to bring over 100 jobs to a location 15 minutes from the subject Site. Directly north and south of the Site are groupings of industrial centers, including Amazon, Quad, and GE Healthcare, which offers employment proximity.

Wetland Delineation/ Wooded Area

The Site contains 4.61 acres of wetland area, 4.52 of which will be preserved. The two pockets of wetland area that will need to be filled total 0.09 acres. Eric Parker with Heartland Ecological conducted an updated wetland delineation and will act as the consultant to help determine next steps and assist with permitting.

Wooded area covers the western portion of the Site. 5.48 acres of woodland will be impacted. Approximately 12.68 acres will be preserved (See the Tree Preservation Exhibit). A Tree inventory and survey will be conducted as a part of the project.

Traffic Impact Analysis

A WisDOT traffic impact analysis (TIA) was conducted in 2018. RA Smith will conduct an updated analysis. This report will focus on the intersection of S Moorland Road and College Avenue.

Entitlements

Conceptual Review

- Neighborhood Meeting – January 29th, 2025
- Planning Commission – February 3rd, 2025

Comprehensive Plan Amendment and Rezone

- Planning Commission – April 7th, 2025
- Common Council – May 2025
- Final Use Plan Approval – Q2 of 2025

Tax Increment

No plans for TIF.

Conclusion

The proposed development at New Berlin will benefit the City of New Berlin and the surrounding retail community. The community will help meet the demand for rental housing in the city while providing a unique, quality housing opportunity for local employers and residents. The proximity to existing and future retail will increase City sales tax collection and will help draw future retailers to the area. Thank you for considering this pre-application submittal and please let me know if there are any questions on the items enclosed. We look forward to working with the City of New Berlin!

Sincerely,

Katie Skelton, Development Associate
Continental 876 Fund, LLC
(262) 442- 5106
kskelton@cproperties.com

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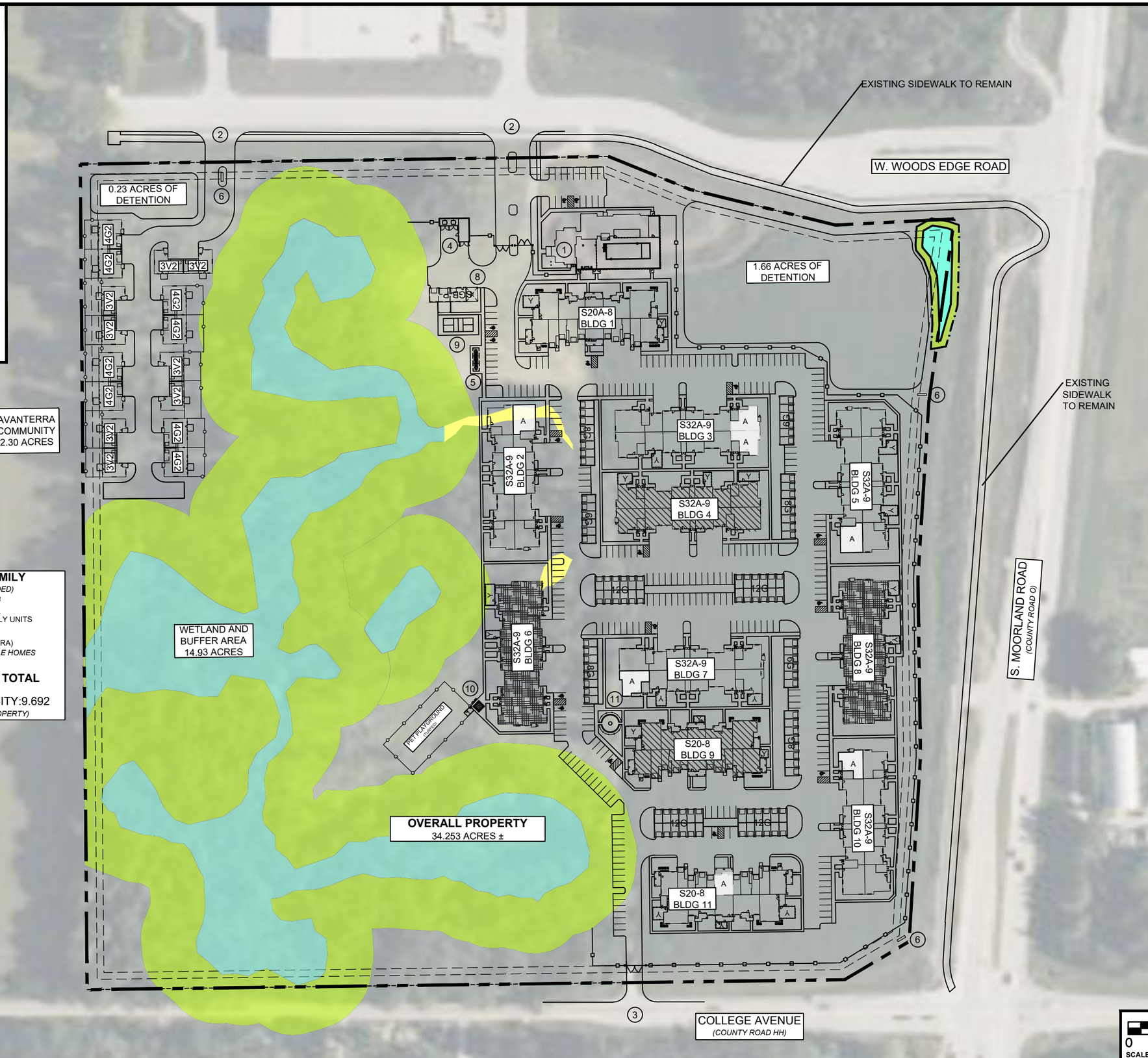
LEGEND

1	CLUBHOUSE
2	PROPOSED FULL ACCESS POINT
3	PROPOSED EMERGENCY ACCESS POINT
4	TRASH ENCLOSURE
5	MAIL KIOSK
6	MONUMENT SIGN
8	MAINTENANCE, CAR CARE CENTER, ADA GARAGE, & PACKAGE CENTER
9	PICKLEBALL COURT
10	PERGOLA WITH GRILL AREA
11	FIRE PIT W/ STRING LIGHTS
	5' DECORATIVE FENCE ALONG PERIMETER
	UPGRADE
	SMART HOMES
A	TYPE A UNIT
Y	ENCLOSED YARD
	WETLAND TO REMAIN
	WETLAND TO BE IMPACTED

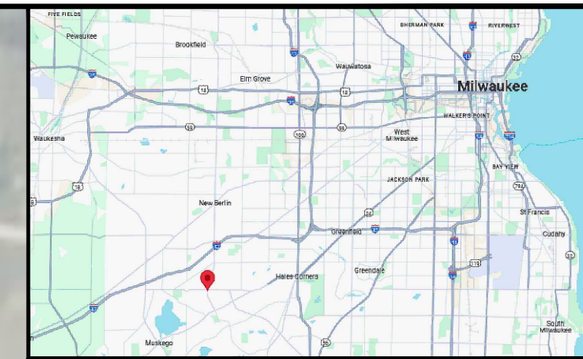


MULTIFAMILY
(UNBRANDED)
3 S20-8
8 S32A
316 MULTIFAMILY UNITS

(AVANTERRA)
16 DUPLEX-STYLE HOMES

332 HOMES TOTAL

GROSS DENSITY:9.692
(OVERALL PROPERTY)



VICINITY MAP
SCALE: NTS

SITE INFORMATION		
MULTIFAMILY AREA (PARCEL A)		17.02 ACRES
WETLAND AND BUFFER AREA		14.93 ACRES
AVANTERRA COMMUNITY		2.30 ACRES
TOTAL AREA		34.25 ACRES
GROSS DENSITY		9.69 DU/ACRE
BUILDING / LANDSCAPE SETBACKS	NORTH	25' / 15'
	SOUTH	25' / 15'
	EAST	25' / 15'
	WEST	25' / 15'

BUILDING INFORMATION		
CLUBHOUSE		SCH-B (4,630 SF)
RESIDENT BUILDINGS	QUANTITY	HEIGHT
S32A-9 (32 DU/BUILDING)	8	3-STORY / 45'
S20-8 (20 DU/BUILDING)	3	2-STORY / 32'
3V2-D (2 DU/BUILDING)	4	2-STORY / 30'
4G2-D (2 DU/BUILDING)	4	2-STORY / 30'
TOTAL RESIDENT BUILDINGS	**19**	
GENERAL HOME MIX	HOMES	PERCENTAGE
STUDIO	22	7%
1-BEDROOM	136	41%
2-BEDROOM	128	39%
3-BEDROOM	38	11%
4 BEDROOM	8	2%
TOTAL HOMES	**332**	100%

PARKING INFORMATION		
PARKING		QUANTITY
ATTACHED GARAGES		124
TANDEM SPACES		10
DETACHED GARAGES		98
	G6 (6-BAY)	3
	G8 (8-BAY)	4
	G12 (12-BAY)	4
GROUNDS BUILDING (SGB-PL)		1
TOTAL COVERED PARKING		233
SURFACE PARKING		265
APRON SPACES		128
TOTAL UNCOVERED PARKING		393
TOTAL PARKING PROVIDED		**626**
HOME PARKING RATIO		1.89
OVERALL GARAGES/HOME		0.70
COVERED PARKING RATIO		1.89
CLUBHOUSE PARKING		17
ADA PARKING		17
PARKING DIMENSIONS		
STANDARD STALL		PERP - 9' X 18'
ADA STALL		PERP - 9' X 18'
DRIVE WIDTH		24'

SITE AMENITIES	
AMENITY	QTY / SF / NOTES
SWIMMING POOL	INCLUDED
FITNESS CENTER	INCLUDED
CAR CARE CENTER	INCLUDED
PET PLAYGROUND TYPE B	8,000 SF
ENCLOSED YARDS	20
FIRE PIT	1
PERGOLA/GRILLING AREA	1
PROPERTY BOUNDARY	SURVEY

CONTINENTAL PROPERTIES
W134 N8675 EXECUTIVE PARKWAY
MENOMONEE FALLS, WI 53051
262.502.5500 * FAX 262.502.5522

ON BEHALF OF
CONTINENTAL 876 FUND LLC

PROJECT INFORMATION

APARTMENTS AT NEW BERLIN
MOORLAND RD & COLLEGE AVE | NEW BERLIN, WI

CONTINENTAL 876 FUND LLC

SHEET INFORMATION

SITE PLAN

DRAWN DATE: 12/18/2024
DRAWN BY: TLS

SHEET NUMBER

D1-4.1

0 75 150 300
SCALE 1" = 150'
NORTH

SITE INFORMATION	
TOTAL ACREAGE	34.25
MULTIFAMILY AREA	19.32
WETLAND AND BUFFER AREA	14.93
DENSITY (DU/AC)	9.69

BUILDING MIX	
BUILDING TYPE	QUANITY
DUPLEX HOMES (2 UNIT)	8
2 STORY BUILDING (20 UNIT)	3
3 STORY BUILDING (32 UNIT)	8

HOME MIX		
HOME TYPE	HOMES	PERCENTAGE
STUDIO	22	7%
1 BEDROOM	136	41%
2 BEDROOM	128	39%
3 BEDROOM	38	11%
4 BEDROOM	8	2%
TOTAL HOMES	**332**	**100%**

PARKING INFORMATION	
PARKING TYPE	QUANTITY
ATTACHED GARAGE	134
DETACHED GARAGES	99
SURFACE PARKING	393
TOTAL PARKING	**626**
COVERED PARKING TO HOME	**0.70**
OVERALL PARKING RATIO	**1.89**

NEW BERLIN, WI

CONTINENTAL PROPERTIES

EXISTING TREE LINE
PROPOSED LIMITS OF DISTURBANCE
IMPACTED WOODED AREA

EXPECTED WOODLAND IMPACT:
5.48 ACRES

EXISTING SIDEWALK TO REMAIN

W. WOODS EDGE ROAD

0.23 ACRES OF DETENTION

EXISTING TREE LINE TO BE CONFIRMED ON WEST END OF SITE

1.66 ACRES OF DETENTION

S20A-8 BLDG 1

AVANTERRA COMMUNITY 2.30 ACRES

S32A-9 BLDG 2

S32A-9 BLDG 3

S32A-9 BLDG 4

S32A-9 BLDG 5

EXISTING SIDEWALK TO REMAIN

MULTIFAMILY
(UNBRANDED)
3 S20-8
8 S32A
316 MULTIFAMILY UNITS

(AVANTERRA)
16 DUPLEX-STYLE HOMES

332 HOMES TOTAL

GROSS DENSITY:9.692
(OVERALL PROPERTY)

WETLAND AND BUFFER AREA 14.93 ACRES

S32A-9 BLDG 6

S32A-9 BLDG 7

S32A-9 BLDG 8

S. MOORLAND ROAD
(COUNTY ROAD O)

PET PLAYGROUND

S20-8 BLDG 9

S32A-9 BLDG 10

OVERALL PROPERTY
34.253 ACRES ±

S20-8 BLDG 11

COLLEGE AVENUE
(COUNTY ROAD HH)

0 100 200 400
SCALE 1" = 200'

NORTH

CONTINENTAL PROPERTIES
W134 N8675 EXECUTIVE PARKWAY
MENOMONEE FALLS, WI 53051
262.502.5500 * FAX 262.502.5522

ON BEHALF OF
CONTINENTAL 876 FUND LLC

PROJECT INFORMATION

APARTMENTS AT NEW BERLIN

MOORLAND RD & COLLEGE AVE | NEW BERLIN, WI

CONTINENTAL 876 FUND LLC

SHEET INFORMATION

TREE IMPACT

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DRAWN BY: TLS

SHEET NUMBER

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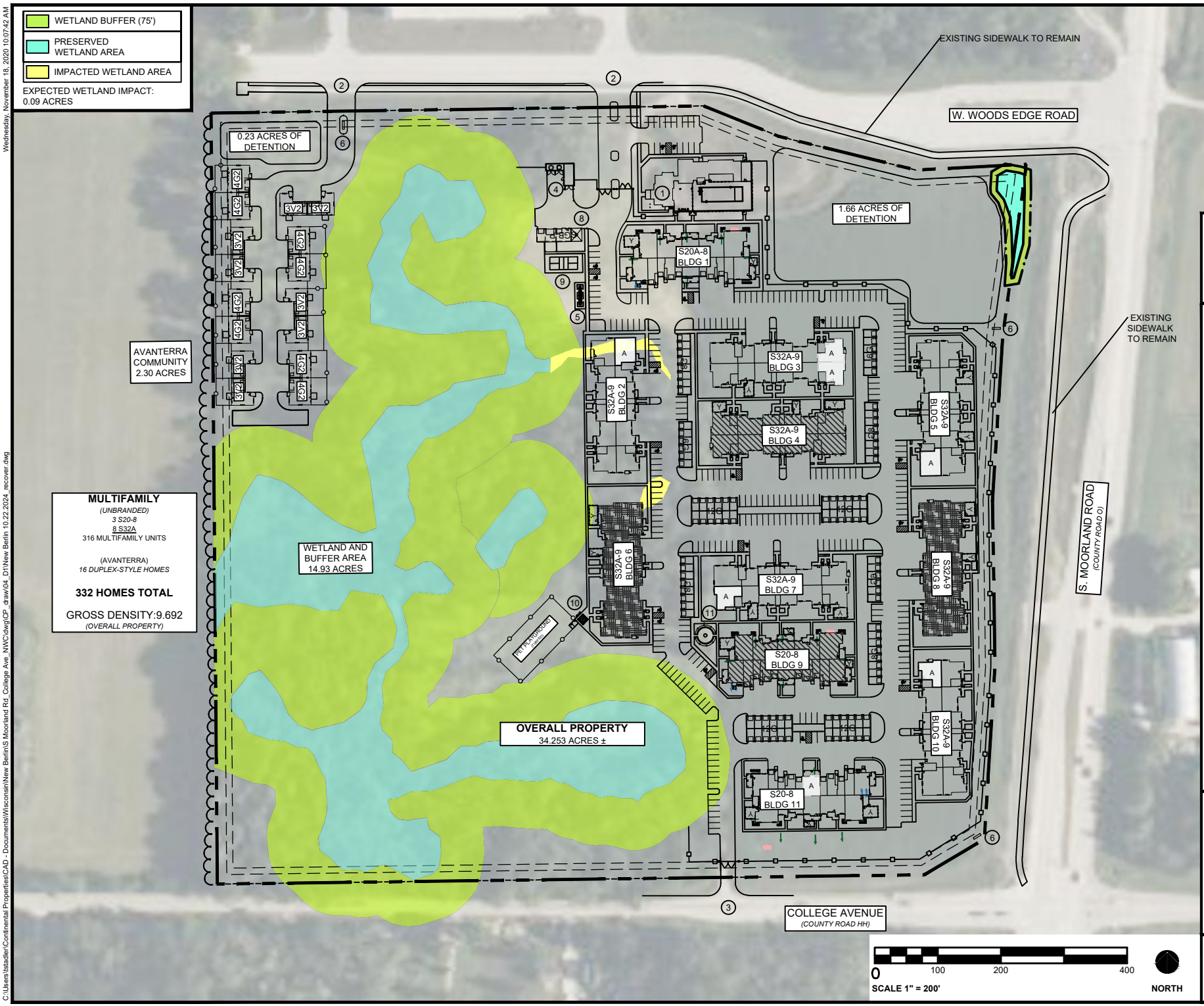

CONTINENTAL PROPERTIES
W134 N8675 EXECUTIVE PARKWAY
MENOMONEE FALLS, WI 53051
262.502.5500 * FAX 262.502.5522
ON BEHALF OF
CONTINENTAL 876 FUND LLC

PROJECT INFORMATION

APARTMENTS AT NEW BERLIN

MOORLAND RD & COLLEGE AVE | NEW BERLIN, WI

CONTINENTAL 876 FUND LLC

SHEET INFORMATION

WETLAND IMPACT

DRAWN DATE: 12/11/2024
DRAWN BY: TLS

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FLAT PANEL

BOARD & BATTEN

LAP SIDING

ROOF

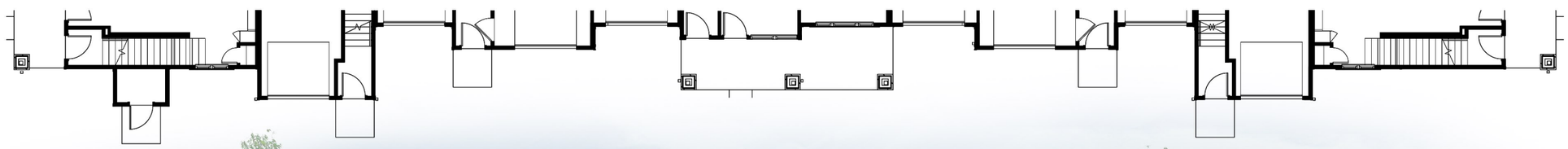
DOORS

TRIM

MASONRY

Front Elevation

SCALE: 1/16"=1'0"



Rear Elevation

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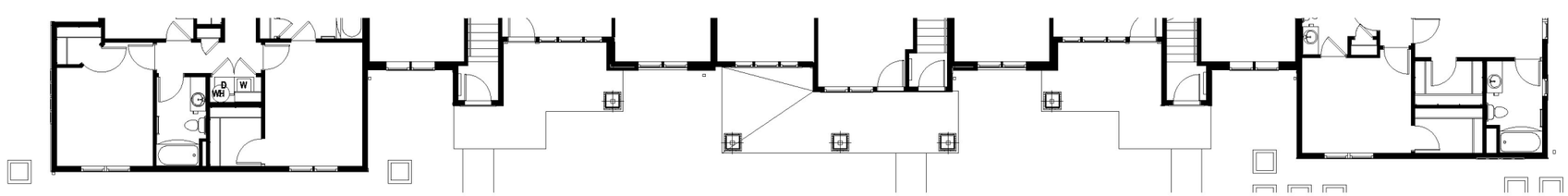


20 UNIT BUILDING- 8 GARAGES

CONTINENTAL PROPERTIES

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
ARCHITECTURAL ELEVATIONS WILL BE INCLUDED IN SUBSEQUENT SUBMITTALS.

YOU ARE HERE

FLAT PANEL

BOARD & BATTEN

LAP SIDING

ROOF

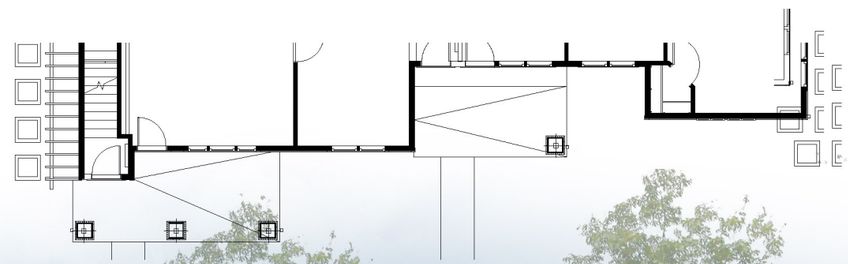
DOORS

TRIM

MASONRY

Right Elevation

SCALE: 1/16"=1'0"



Left Elevation

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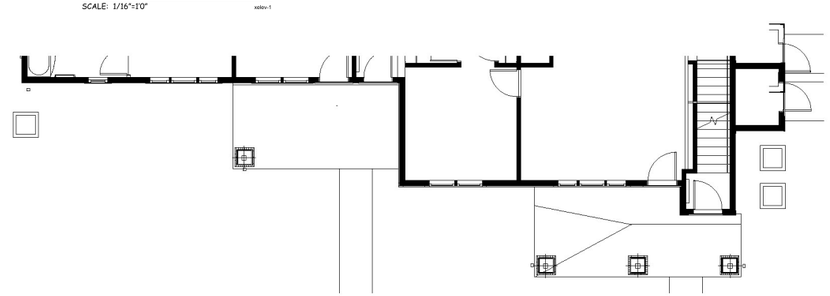

20 UNIT BUILDING- 8 GARAGE

CONTINENTAL PROPERTIES

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YOU ARE HERE

FLAT PANEL

BOARD & BATTEN

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Front Elevation

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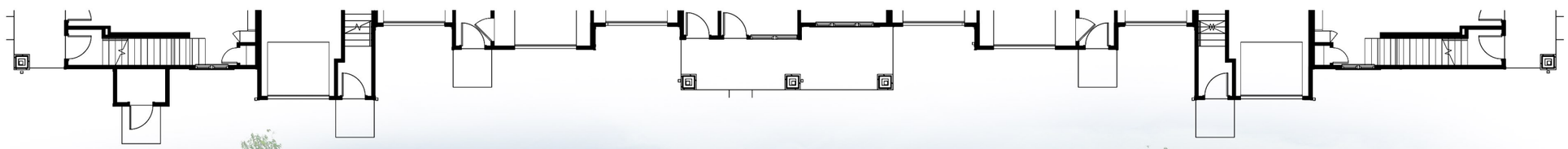

Rear Elevation

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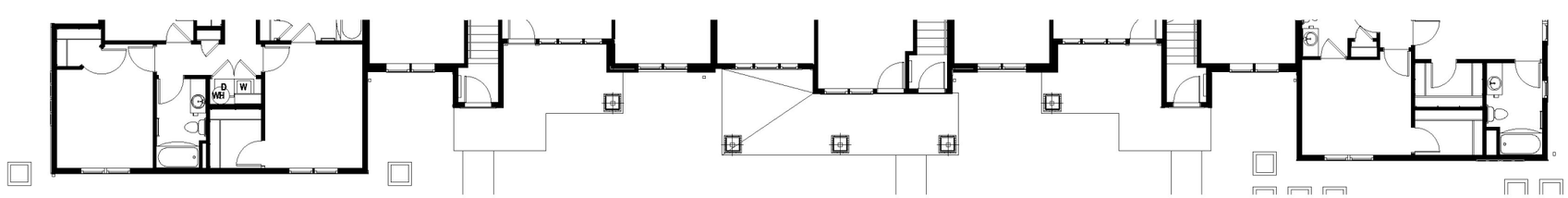

20 UNIT BUILDING- 8 GARAGES

CONTINENTAL PROPERTIES

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
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YOU ARE HERE

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BOARD & BATTEN

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MASONRY

Right Elevation

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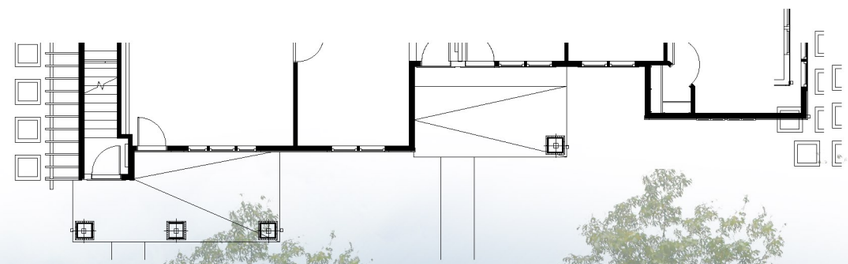

Left Elevation

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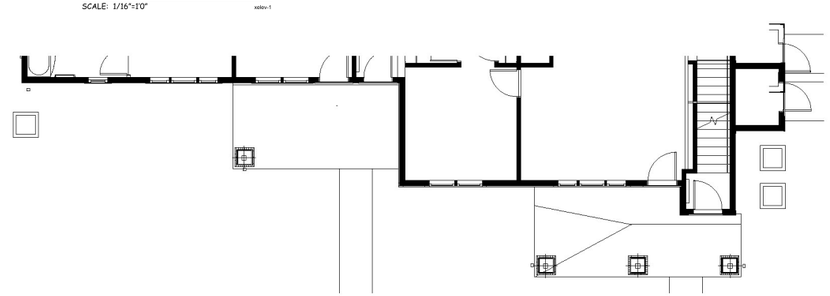

20 UNIT BUILDING- 8 GARAGE

CONTINENTAL PROPERTIES

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
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YOU ARE HERE

Front Elevation

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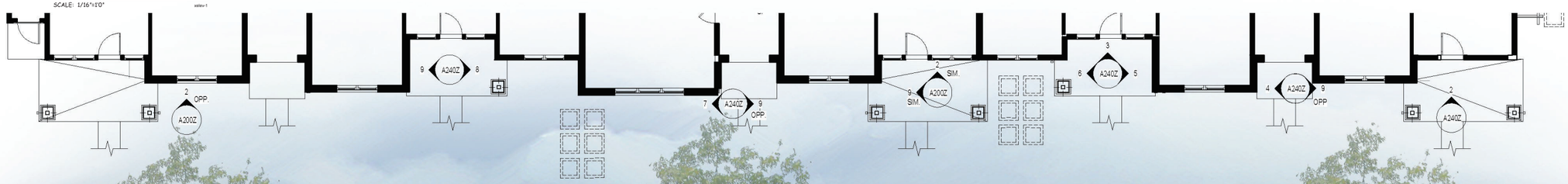

Rear Elevation

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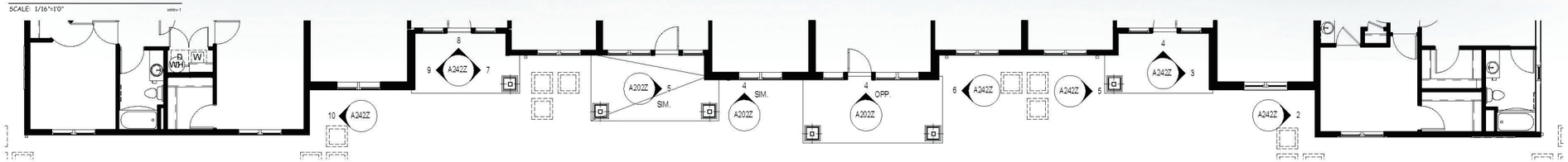


32 UNIT BUILDING SCHEME A

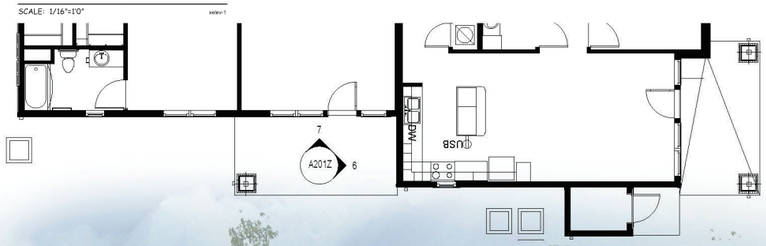
CONTINENTAL PROPERTIES

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
ARCHITECTURAL ELEVATIONS WILL BE INCLUDED IN SUBSEQUENT SUBMITTALS.

YOU ARE HERE

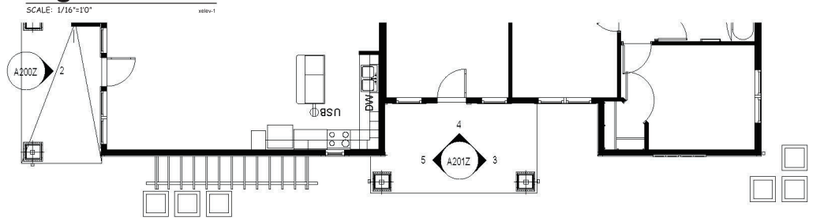
Left Elevation

SCALE: 1/16"=1'0"



Right Elevation

SCALE: 1/16"=1'0"



32 UNIT
BUILDING
SCHEME A

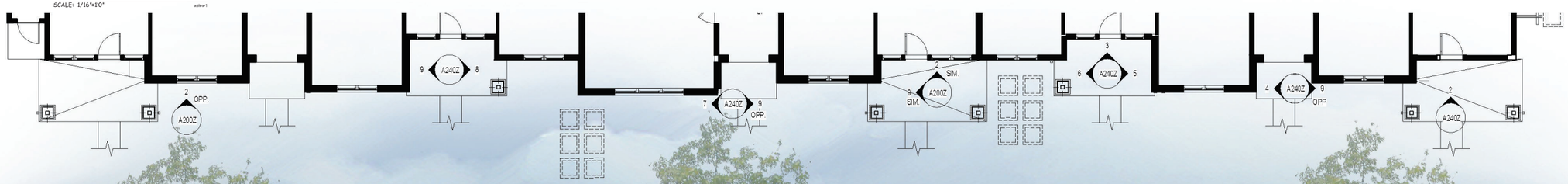
CONTINENTAL PROPERTIES

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
ARCHITECTURAL ELEVATIONS WILL BE INCLUDED IN SUBSEQUENT SUBMITTALS.

YOU ARE HERE

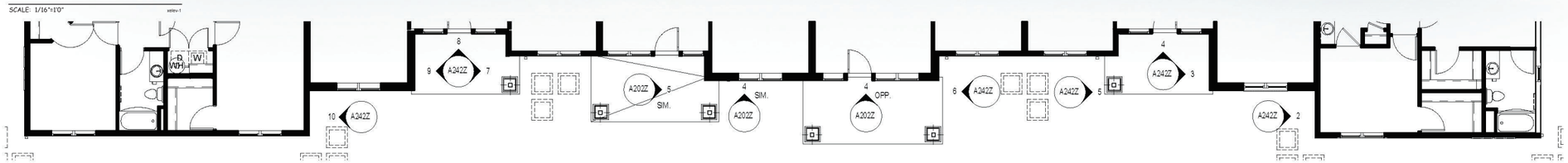
Front Elevation

SCALE: 1/16"=1'0"



Rear Elevation

SCALE: 1/16"=1'0"



32 UNIT
BUILDING
SCHEME B

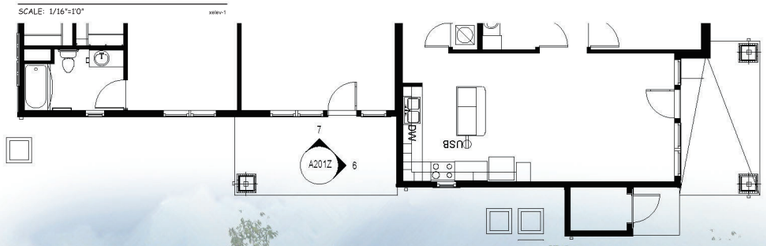
CONTINENTAL PROPERTIES

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
ARCHITECTURAL ELEVATIONS WILL BE INCLUDED IN SUBSEQUENT SUBMITTALS.

YOU ARE HERE

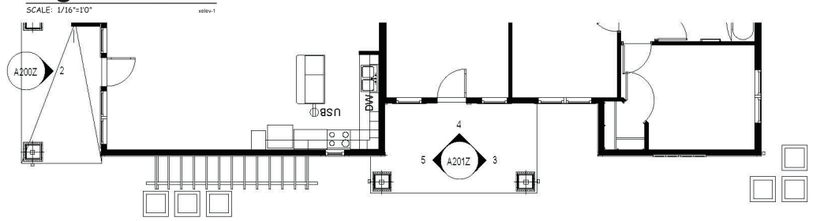
Left Elevation

SCALE: 1/16"=1'0"



Right Elevation

SCALE: 1/16"=1'0"



32 UNIT
BUILDING
SCHEME B

CONTINENTAL PROPERTIES

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
ARCHITECTURAL ELEVATIONS WILL BE INCLUDED IN SUBSEQUENT SUBMITTALS.

YOU ARE HERE

FLAT PANEL 1

FLAT PANEL 2

FLAT PANEL 3

ROOF

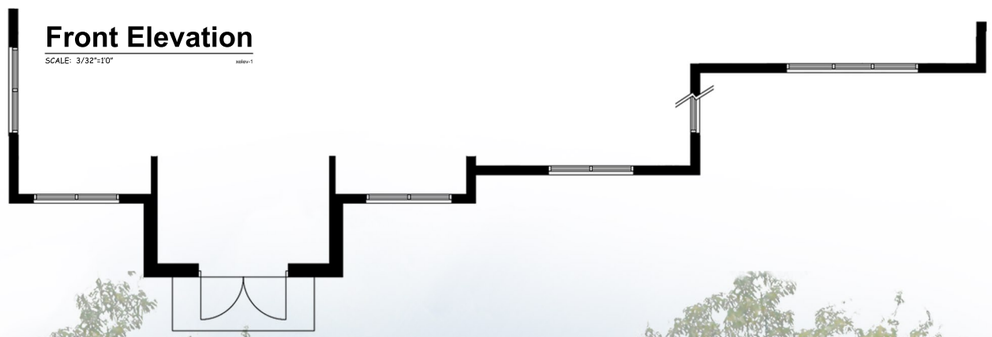
DOORS

TRIM

MASONRY

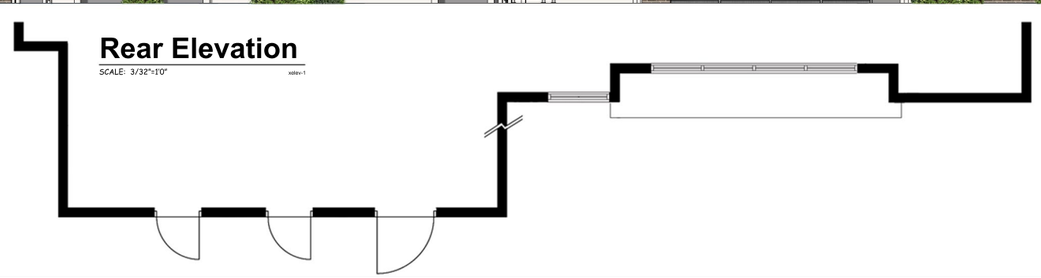
Front Elevation

SCALE: 3/32"=1'0"



Rear Elevation

SCALE: 3/32"=1'0"



CLUBHOUSE

4630 SQ FT

CONTINENTAL PROPERTIES

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
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YOU ARE HERE

FLAT PANEL 1

FLAT PANEL 2

FLAT PANEL 3

ROOF

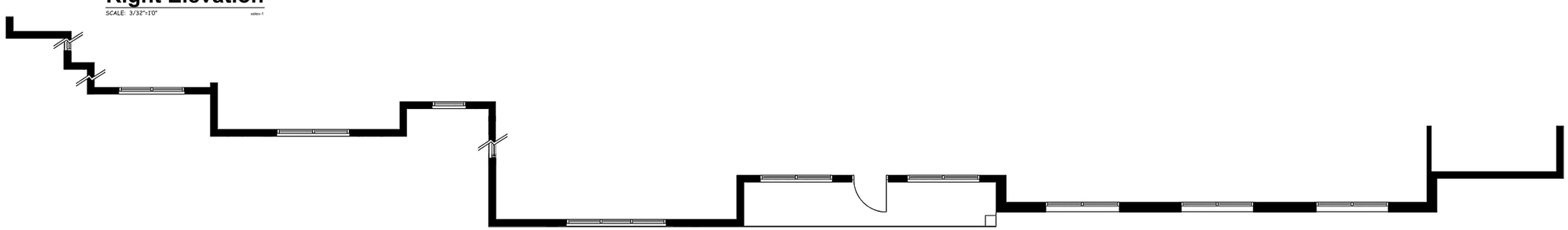
DOORS

TRIM

MASONRY

Right Elevation

SCALE: 3/32"=1'0"



CLUBHOUSE

4630 SQ FT

CONTINENTAL PROPERTIES

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
ARCHITECTURAL ELEVATIONS WILL BE INCLUDED IN SUBSEQUENT SUBMITTALS.

YOU ARE HERE

FLAT PANEL 1

FLAT PANEL 2

FLAT PANEL 3

ROOF

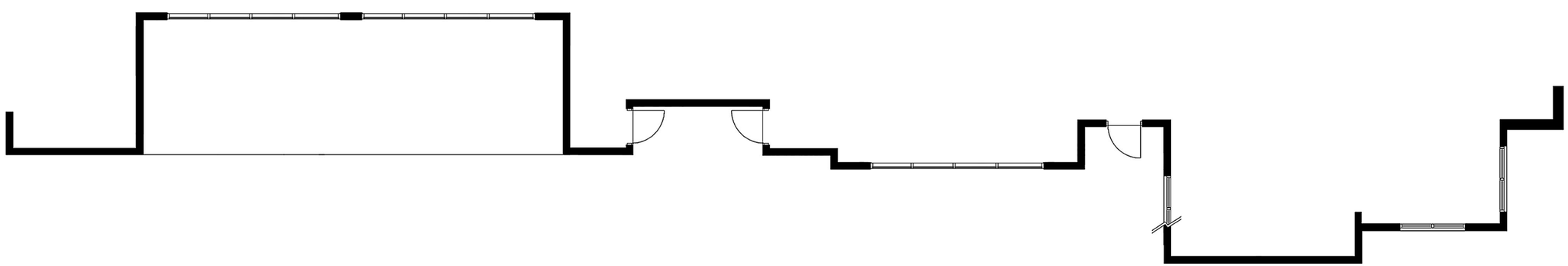
DOORS

TRIM

MASONRY

Left Elevation

SCALE: 3/32"=1'0"



CLUBHOUSE

4630 SQ FT

CONTINENTAL PROPERTIES

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
ARCHITECTURAL ELEVATIONS WILL BE INCLUDED IN SUBSEQUENT SUBMITTALS.

YOU ARE HERE

Front Elevation

Front Elevation

***PLEASE NOTE: CONCEPTUAL ELEVATIONS.
ARCHITECTURAL ELEVATIONS WILL BE INCLUDED IN SUBSEQUENT SUBMITTALS.

STAFF REPORT
EXECUTIVE SUMMARY

APPLICANT/PROJECT:	**Referral from the Code Committee (Sub – Committee of the Plan Commission) / 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 review and discussion regarding updates to Zoning Code, Chapter 275.**

Background:

1. **Staff has met with the Code Committee to review updates to the code.**
2. **The following changes are proposed to the Zoning Code:**
    a. **§ 275-13.1. Zoning districts. Correct reference to figure number.**
    b. **§ 275-17. Department of Community Development. Include Recreation to list of powers and duties.**
    c. **§ 275-22. Changes and amendments. Remove language as it relates to protest petitions.**
    d. **§ 275-26. Occupancy permits. Modify language on who is responsible for the issuance of occupancy permits.**
    e. **§ 275-29. Sign permits. Move text from § 275-61 as it relates to sign permits.**
    f. **§ 275-33. Residential districts. Add language to allow for detached garages in the Rd-1 Two-Family Residential District.**
    g. **§ 275-37. Special districts. Provide clarification for the development of land within an environmental corridor.**
    h. **§ 275-41. Use-specific regulations. Reword for clarification. Add language requiring animals to remain on the property to which they belong. Modify language regarding drive-through facilities allowed as a principal use. Add language prohibiting outdoor firing ranges.**
    i. **§ 275-42. Accessory uses and structures. Reword for clarification. Allow for DCD to regulate the architecture of agricultural accessory uses. Modify setbacks for generators from the district setbacks to 5' from the property line. Increase the allowable square footage for accessory buildings. Increase the allowable height for accessory buildings. Clarify language that requires ADU's to be attached to the principal building.**
    j. **§ 275-43. Temporary uses, structures and special events. Add language from § 152-23 that was adopted by ORD 2689 regarding special events.**
    k. **§ 275-44. Lot measurement and requirements. Add references to figure numbers.**
    l. **§ 275-45. Height measurement and requirements. Reword for clarification.**
    m. **§ 275-46. Yard/setback measurement and requirements. Reword for clarification. Add references to figure numbers.**

n. **§ 275-53. Site plan review principles and standards. Reword for clarification.**

o. **§ 275-63. Nonmetallic mine reclamation. Correct edits that were missed in previous code update.**

p. **§ 275-65. Floodplain zoning. Add definitions per DNR requirement.**

q. **§ 275-70. Terms defined. Add references to § 275-65 per DNR requirement. Create definition for: eave, gazebo, indoor public recreation facilities, indoor recreation and amusement facilities, patio, pavilion, pergola, porch, accessory structure. Modify definitions for: accessory dwelling unit, assisted-living facilities, balcony, canopy, community living arrangements, deck, director, setbacks, story.**

Next Steps:

1. **Public hearing held before Plan Commission (March 3, 2025).**
2. **Plan Commission recommendation forwarded to the Common Council for final action.**
3. **Common Council review for final action.**

Previous Action:

1/21/2025 **Code Committee recommendation to forward the Zoning Code updates to the Plan Commission.**

1/28/2025 **Common Council set the public hearing date for March 3, 2025.**

Attachments:

1/21/2025 Code Committee Minutes

Draft Zoning Code Amendments

Code Committee
MEETING MINUTES

January 21, 2025 - 2:30 PM
Badger Conference Room
3805 S. Casper Dr.

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

MINUTES

1. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Community Relations Specialist Joelle Erickson took the roll call as follows:
Present: Mayor Ament, Alderperson Stribl
Excused: Commissioner Brian McGrath

Staff Present: DCD Director Greg Kessler, DCD Deputy Director Nikki Jones, Principal Planner Kelly Wall, Principal Planner Kristen Hogan, Community Relations Specialist Joelle Erickson

2. APPROVAL OF MINUTES

A. June 27, 2024 Meeting Minutes

MOTION: Motion to Approve Minutes

VOTE: Motion by: Alderman Stribl
Second by: Mayor Ament
Motion Passes 2-0

3. COMMUNICATIONS

None

4. OLD BUSINESS

None

5. NEW BUSINESS

A. KH DCD1-2500054 2025 Zoning Code Updates

MOTION: Motion to Approve as Presented With Changes

VOTE: Motion by: Alderman Stribl
Second by: Mayor Ament
Motion Passes 2-0

The following edit was made by the Code Committee to Chapter 275.
Modify language in § 275-41F(3) to exclude trap and skeet shooting.
Code Committee recommendation is to forward the zoning code updates to the Plan Commission.

6. TABLED ITEMS

None

7. UPDATES

None

8. CLOSED SESSION

None

9. RECONVENE TO OPEN SESSION

None

10. ADJOURN

MOTION: Motion to Adjourn at 3:36 PM

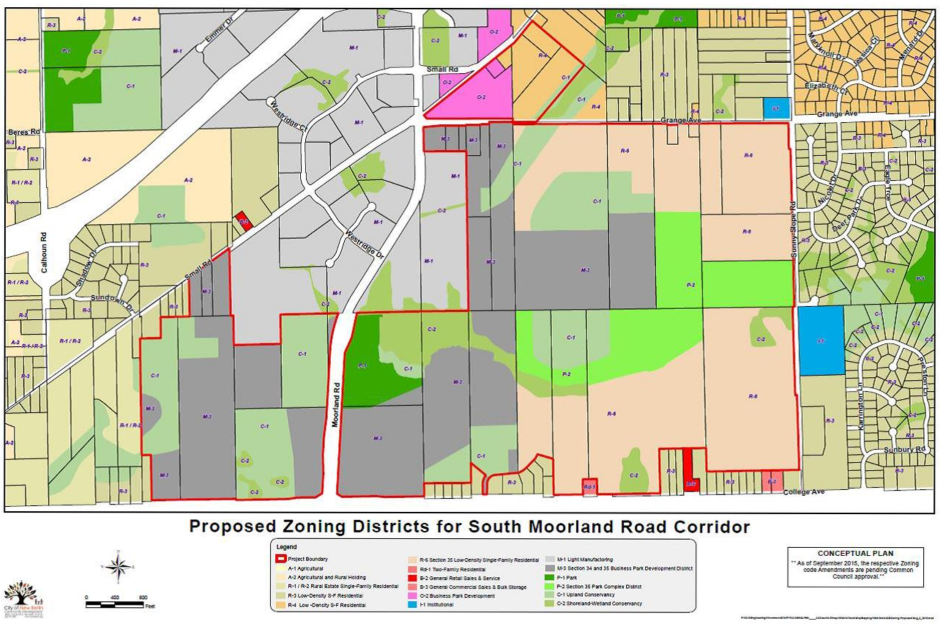
VOTE: Motion by: Alderman Stribl
Second by: Mayor Ament
Motion Passes 2-0

Respectfully Submitted,
Joelle Erickson, Community Relations Specialist

§ 275-13.1H(4). Zoning districts.

(4) Section 34-35 transitional provisions: South Moorland Road Corridor. Section 35 is an area that is envisioned to be a mix of business park industrial, office, retail, residential, and passive and active park uses. In order to implement the conceptual neighborhood plan, the City has created three new zoning districts specifically for this geographic area. They include a new R-6 (Section 35 Low-Density Single-Family Residential), M-3 (Section 34 and 35 Business Park Development District) and P-2 (Section 35 Park Complex District). The City's Comprehensive Plan, Chapter 10, Land Use, Figure 10.~~5~~4, identifies the future land uses for this area. Below, Figure I-1 identifies the pending designated zoning districts. All projects that require rezoning within this respective area shall be rezoned in accordance with Zoning Code Figure I-1 and future Plan Commission and Common Council actions. See map below.

Figure I-1 South Moorland Road Corridor Designated Zoning Districts



1

2

§ 275-17B(15). Department of Community Development.

(15) Recreation. Oversee the management and operations of all athletic and recreational facilities, including fees, scheduling and programming. Prepare contracts, leases and agreements involving recreation programming and leasing of equipment.

4

§ 275-22G. Changes and amendments.

G. ~~Protest. [Amended 10-13-2020 by Ord. No. 2642]~~ Reserved

~~(1) In the event that a protest petition is submitted opposing a zoning change to the City, the Department of Community Development staff shall determine the petition's validity and it's compliance with at least one of the criteria set below in the following manner:~~

~~(a) The petition is signed and duly acknowledged by the owners of 20% or more of the areas of land included in such proposed change; or~~

~~(b) The petition is signed and duly acknowledged by the owners of 20% or more of the area of the land immediately adjacent to the lands proposed to be changed extending 100 feet therefrom; or~~

~~(c) The petition is signed and duly acknowledged by the owners of 20% or more of the land directly opposite of the lands under a proposed change extending 100 feet from the street frontage of such opposite land(s) where a proposed change is applied for.~~

~~(2) Each of these criteria shall be considered independently and are distinct for purposes of determining whether a valid protest has been made. In addition, the calculation of ownership shall be based solely on the ownership of the lands in the defined area, not of the broader parcels of which they may be a part.~~

~~(3) For a protest petition to be considered valid, it shall contain the following verifiable information:~~

~~(a) The petition itself shall identify the property address(es) that are part of the submitted application for rezoning; and~~

~~(b) The petition itself shall identify the specifics of the proposed changes to including, but not limited to, the current zoning of the property(ies) and the proposed zoning change; and~~

~~(c) The property owner's name as identified in § 275-22G(1)(a), (b), or (c); and~~

~~(d) That said owners have duly acknowledged that they understand the proposed change; and~~

~~(e) That the owner(s) acknowledge that such proposed change would require a two-thirds vote of the entire membership of the Common Council before the proposed change may take effect (five of seven Aldermen).~~

~~(f) The protest petition must be filed with the Director of Community Development not later than 14 days of holding of the public hearing on the proposed rezoning.~~

~~(4) No signatures from landowners and/or residents outside of those identified in § 275-22G(1)(a), (b), and (c) shall count towards satisfying the protest petition validity requirements. If the City determines that it has received a valid protest petition, such change(s) or amendment(s) shall not become effective except by the favorable vote of 2/3 of the entire membership of the Common Council (five of seven Aldermen) as to the proposed change. The term "signed and duly acknowledged" shall, for purposes of this subsection, be defined as meaning that the protestors (s)~~

~~have individually signed the document attesting to the fact that they have an ownership interest in lands which are eligible to protest the proposed rezoning under this subsection, that they declare and endorse the purpose of the petition and that they have signed the document attesting to said facts. The signature of each protestor need not be individually acknowledged but shall be notarized collectively by the circulator of the petition, stating that the collective signatures on the petition have been acknowledged and attested to. The name of each protestor, as well as their home address and the address of the property in which they have an ownership interest and which is eligible to protest under this subsection must be legibly printed. In the event that said information is not legible the Council may disregard the objection of such person.~~

Commented [KH1]: Act 16 - Remove language as it relates to protest petitions. 2/19/24 email MB

§ 275-26A. Occupancy permits.

A. General requirement. No vacant land shall be occupied or used; and no building or premises shall be erected, altered, or moved, or a change in use created; and no new construction, additions to, or remodeling of structures or internal modifications of areas shall be occupied or reoccupied; and no nonconforming use shall be maintained, renewed, changed, or extended, until an occupancy permit has been issued by the ~~Building Inspector~~ Director of Community Development. Such occupancy permit shall show that the building, site, or premises or part thereof is in compliance with the provisions of this chapter and any conditions of approval as set forth by the City staff, Plan Commission or Common Council. Such permit shall be applied for at the time of occupancy of any land and/or building. For purposes of this section, an "internal modification" shall be a modification to an interior of a structure that requires a building permit under this chapter.

8

§ 275-29. Sign permits.

A. Applicability. No sign shall be ~~erected, maintained, or used~~ located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a valid sign permit. Application for a sign permit shall be made on forms provided by the City and shall contain or have attached all information and supporting material as specified by the Department of Community Development. No sign permit shall be issued to a business or property that does not have a zoning permit.

B. Review procedure. Applications for sign permits shall be filed with the permit application center. The review procedure shall follow the development review process set forth in §275-21, except for the following modifications:

(1) Step 3: Staff review ~~and report~~. ~~The Director shall review sign permit applications for completeness and accuracy and forward such applications to the Plan Commission, Architectural Review Committee, or Community Development Authority when necessary.~~ The Department of Community Development shall review applications for completeness and has the authority to administratively approve such applications if it meets all the requirements of this chapter.

(2) Step 5: ~~Plan Commission public meeting, if applicable.~~ Public meeting. Sign applications may be forwarded to the Plan Commission or Community Development Authority if the sign application does not meet the requirements of §275-61. Sign applications may be forwarded to the Architectural Review Committee to review the materials for construction and design integrity of signage.

(3) Step 6: ~~Plan Commission action. Upon the recommendation of the Department of Community Development, staff shall approve or deny a completed application within five business days of receipt from the applicant. The Department of Community Development shall issue a sign permit upon approval by staff. The permit shall become null and void if work authorized under the permit has not been completed within 12 months of the date of issuance.~~ Action. The Department of Community Development shall approve or deny a complete application within five business days of receipt. A sign permit shall be issued upon approval.

C. Approval criteria. Staff shall approve a sign permit unless they find that:

(1) The requested permit is not in compliance with § 275-61; or

(2) If completed as proposed, the sign will not comply with one or more requirements of this chapter.

D. Construction review. The Department of Community Development may refer a sign permit request to Building Inspection Services for review of construction details or specifications prior to approval.

E. Inspection. The sign owner shall call the Department of Community Development for an electrical inspection (if applicable) upon completion of all permit requirements and installation.

~~F. Architectural review. The Department of Community Development may forward sign permit applications to the Architectural Review Committee to review the materials for construction and design integrity of signage.~~

Commented [KH2]: NO CHANGE - Moved from 275-61B

Commented [KH3]: NO CHANGE - Moved from 275-61B

Commented [KH4]: NO CHANGE - Moved from 275-61B

Commented [KH5]: NO CHANGE - Moved from 275-29F

Commented [KH6]: NO CHANGE - Moved to 275-29B(2)

F. Appeal. An applicant may appeal a decision made by staff to the Plan Commission or the Community Development Authority (where applicable) for determination. An additional review fee as determined by the Director shall be required for any sign application that is forwarded to the Plan Commission or the Community Development Authority (where applicable) for review.

G. Waiver. An applicant may request a waiver from the Plan Commission or Community Development Authority (where applicable) for the requirements set forth in this section. All sign waiver requests are subject to an application review fee as established by the Director.

Commented [KH7]: NO CHANGE - Moved from 275-61D

§ 275-33E(2)(c). Residential districts.

(c) An attached or detached garage is required in the residential districts. The ~~attached~~ garage shall have a minimum floor area of 400 square feet. A detached garage shall count toward maximum square footage as allowed under §**275-42B.**

Commented [KH8]: Consistent with single-family residential districts

12

§ 275-37D(3). Special districts.

(3) Conservation standards.

(a) Where a property is proposed to be further subdivided, and a lot is located partially within a C-1 or C-2 District and partially within an adjoining zoning district, that area of the lot or parcel in the C-1 or C-2 District used to meet the lot area requirements of the adjoining zoning district shall be determined in accordance with § 275-44G.

(b) (Reserved)

(c) ~~When a lot is entirely zoned C-1, a~~A single-family dwelling may be allowed within the C-1 District, or within lands containing PEC, SEC or INRA, subject to the issuance of an administrative use approval permit, provided that:

[1] ~~The parcel is a minimum of five acres.~~ The approved parcel of any size is not subject to any other restrictions as part of a plat or CSM.

[2] For lots ~~five acres or greater,~~ served with either public sewer service or with an approved off-lot private owner waste treatment system (POWTS), no more than 20,000 square feet of canopy cover can be removed within the C-1 District, or within lands containing PEC, SEC or INRA. This shall include the area for the house, driveway, walkways, POWTS, well and accessory uses. POWTS conveyance piping may not cross any public rights-of-way, and the POWTS' treatment itself should be located directly behind the lot or as close to that as practicable.

[3] For lots ~~five acres or greater~~ with approved on-site POWTS, no more than 25,000 square feet of canopy cover can be removed ~~from a five-acre parcel~~ within the C-1 District, or within lands containing PEC, SEC or INRA,. This shall include the area for the house, driveway, walkways, septic field, well and accessory uses.

[4] The dwelling shall comply with the requirements for the R-1/R-2 District under the conventional subdivision requirements.

[5] The owner shall ensure that any disturbances of the natural features on the site are kept to a minimum. In identifying the natural resource features, the applicant shall consider the City's Map of Potential Conservation Areas.

[6] The remainder of the C-1 zoned lands, or lands containing PEC, SEC or INRA, shall be placed into a conservation easement.

Commented [KH9]: To include areas with environmental corridor

14

§ 275-41. Use-specific regulations.

The following are use-specific regulations for uses allowed in Article IV. These regulations apply to all districts except where specified.

A. Agricultural uses.

(1) General farm buildings.

(a) General farm buildings shall not be used for the storage of nonagricultural equipment, including but not limited to snowmobiles, ATVs, automobiles, boats, campers, recreational equipment, construction equipment, and nonagricultural or industrial inventory.

(b) The Plan Commission shall consider demonstrated agricultural needs in reviewing agricultural buildings.

~~(2) Keeping and raising of animals.~~

~~(a) The keeping and raising of animals in the A-1, A-2, R-1/R-2, C-1 and C-2 Zoning Districts shall be limited to the quantities in Table 275-41A and subject to provisions in Subsection A(2)(b) through (f) below and applicable zoning district regulations. The keeping and raising of animals in larger quantities than allowed by right shall be considered a conditional use (§ 275-27).~~

Commented [HK10]: NO CHANGE - Moved to 275-41A(2)

~~[1] When applying for a conditional use permit to keep additional animals, the burden of proof shall be placed on the applicant to demonstrate to the reasonable satisfaction of the City that additional carrying capacity exists to support the keeping and raising of the animals as applied for by the applicant. In reviewing the conditional use, the City will consider whether:~~

~~[a] Adequate facilities exist for housing and feeding the animals;~~

~~[b] Adequate measures exist to manage and dispose of waste products;~~

~~[c] The number of animals applied for will adversely impact neighboring properties, particularly residential ones, and/or whether the number of animals being applied for will adversely impact the environment (e.g., stormwater runoff, contamination).~~

Commented [HK11]: NO CHANGE -Moved to 275-41A(2)(b)[1][b]

~~Table 275-41A~~

~~Category~~	~~Minimum Lot Size (acres)~~	~~Number per acre~~	~~Type of Animal~~
~~Large livestock~~	~~3~~	~~1~~	~~Large livestock > 2 years~~
~~Large livestock~~	~~3~~	~~2~~	~~Large livestock < 2 years~~
~~Small livestock~~	~~2~~	~~8~~	~~Goats~~
~~Small livestock~~	~~2~~	~~8~~	~~Sheep~~
~~Small livestock~~	~~2~~	~~12~~	~~Pigmy goats~~

Table 275-41A			
Category	Minimum Lot Size (acres)	Number per acre	Type of Animal
Small livestock	2	8	Llamas, alpacas
Small livestock	2	8	Miniature horses
Small livestock	2	4	Potbellied pigs, other small-breed pigs under 300 pounds
	2	2	Ponies (under 40 inches)
Small livestock	2	Double allowable density	All small livestock offspring under 12 months
Small fowl	1	20	Over 4 months of age
Large fowl	2	4	Over 4 months of age
Rabbits	1	20	Over 4 months of age
Residential chickens	§ 275-41A(2)(g)	§ 275-41A(2)(g)	
NOTE: See § 275-41A(2)(f) for calculating animal combinations.			

(b) The following specific uses shall be considered conditional uses in the A-1 District only and shall meet the requirements of § 275-27:

[1] Commercial egg production;

[2] Commercial feedlots and livestock sale facilities; and

[3] Commercial fur farms.

(c) Prohibited uses:

[1] Concentrated commercial animal feeding operations are prohibited in all districts.

[2] The keeping of hogs over 300 pounds is prohibited in all districts with the exception of the A-1 District.

[3] Keeping of exotic animals are prohibited in all zoning districts.

(d) The raising of animals shall be considered an accessory use in the R-1/R-2 Zoning District and shall meet the following requirements:

[1] The raising of animals shall be for personal use only, with the exception of selling offspring and/or animal products.

[2] No pasture constructed after January 12, 2010, shall be located within 50 feet of an existing residence on an adjacent residential parcel.

[3] It shall be limited to the quantities in Table 275-41A. The keeping and raising of animals in larger quantities than allowed by right shall be considered a conditional use subject to § 275-41A(2)(a)[1].

Commented [HK12]: NO CHANGE -Moved to 275-41A(2)(b)[1]

Commented [HK13]: NO CHANGE - Moved to Table 275-32-1

Commented [HK14]: NO CHANGE -Moved to 275-41A(2)(c)

[4] Animals outlined in Table 275-41A shall have adequate facilities for housing and feeding. Animals must be within a fenced-in area.

(e) Stables, boarding and riding academies are allowed in A-1, A-2, R-1/R-2, and C-1 Zoning Districts. Any new structure proposed within a C-1 District shall be a conditional use and regulated subject to § 275-27.

[1] They shall be limited to the quantities in Table 275-41A. The keeping and raising of animals in larger quantities than allowed by right shall be considered a conditional use subject to § 275-41A(2)(a)[1].

(f) Determining the maximum number of livestock and fowl. The calculation of the maximum number of livestock and fowl allowed applies to all subsections in § 275-41A(2). Different animal types may be combined, but the total calculated number of animals may not exceed the maximum per-acre density identified in Table 275-41A. For example, a five-acre lot will allow for five head of large livestock or 100 small fowl; or a three acre lot can have one horse, eight sheep and 20 head of small fowl, or equivalent numbers not to exceed the maximum allowed.

[1] Contiguous land under the same ownership. The total acreage of parcels of land that are contiguous to each other, under that same ownership and have the appropriate zoning category may be used when calculating the maximum number of animals allowed. The minimum lot size for the keeping and raising of animals shall be met prior to additional animals being allowed for additional contiguous lands.

[2] Contiguous land that is leased. If contiguous land is being leased for agricultural purposes, the leased land area can be used when calculating the maximum number of animals allowed. Once the land is no longer being leased, the maximum number of animals allowed shall be adjusted. A written lease agreement, signed by all property owners, shall be required. The minimum lot size for the keeping and raising of animals shall be met prior to additional animals being allowed for additional contiguous lands. The leased land shall be used exclusively by the lessee.

[3] When determining the maximum number of animals allowed on contiguous lands, the land area can only be used once or by one property owner. Double counting is not allowed.

(g) The raising of chickens or ducks for personal use shall be considered an accessory use in all single-family residential zoning districts not included in § 275-41A(2)(a) through (f) above and shall meet the following requirements:

[1] Up to a total of four chickens and/or ducks allowed per single-family dwelling.

[2] No roosters.

[3] No slaughtering.

[4] Chickens and/or ducks shall be kept within a secure enclosure.

Commented [HK15]: NO CHANGE -Moved to 275-41A(2)(c)[4]

Commented [HK16]: NO CHANGE -Moved to 275-41A(2)(c)[6]

Commented [HK17]: NO CHANGE -Moved to 275-41A(2)(b)[1][a]

[5] ~~Enclosures shall be located no closer than 25 feet to neighboring dwellings and a minimum of five feet from the property line.~~

(2) Keeping and raising of animals.

(a) General Requirements.

[1] All applicable zoning district regulations shall apply.

[2] Animals must be within a fenced-in area and shall remain on the property to which they belong or property to which is leased.

[3] Adequate facilities shall exist for housing and feeding the animals.

(b) Quantities.

[1] The keeping and raising of animals in the A-1, A-2, R-1/R-2, C-1 and C-2 Zoning Districts shall be limited to the quantities listed in Table 275-41A and shall apply for all uses outlined in this section:

Table 275-41A

Type of Animal	Age	Minimum Lot Size (acres)	Number per acre
Large fowl	over 4 months	2	4
Small fowl	over 4 months	1	20
Large livestock	over 2 years	3	1
Large livestock	under 2 years	3	2
Alpacas, goats, llamas, miniature horses & sheep	over 12 months	2	8
Alpacas, goats, llamas, miniature horses & sheep	under 12 months	2	16
Pigmy goats	over 12 months	2	12
Pigmy goats	under 12 months	2	24
Ponies less than 40 inches	over 12 months	2	2
Ponies less than 40 inches	under 12 months	2	4
Potbellied pigs & other small-breed pigs under 300 pounds	over 12 months	2	4
Potbellied pigs & other small-breed pigs under 300 pounds	under 12 months	2	8
Rabbits	over 4 months	1	20

[a] Determining the maximum number of animals. The calculation of the maximum number of animals allowed applies to all subsections in § 275-41A(2). Different animal types may be combined, but the total calculated number of animals may not exceed the maximum per-acre density identified in Table 275-41A. For example, a five-acre lot will allow for five head of large livestock or 100 small fowl; or a three acre lot can have one horse, eight sheep and 20 head

Commented [HK18]: NO CHANGE -Moved to 275-41A(2)(c)[5]

Commented [HK19]: NO CHANGE -Moved from 275-41A(2)(a)

Commented [KH20]: NO CHANGE -Moved from 275-41A(2)(a)

of small fowl, or equivalent numbers not to exceed the maximum allowed.

[i] Contiguous land under the same ownership. The total acreage of parcels of land that are contiguous to each other, under that same ownership and have the appropriate zoning category may be used when calculating the maximum number of animals allowed. The minimum lot size for the keeping and raising of animals shall be met prior to additional animals being allowed for additional contiguous lands.

[ii] Contiguous land that is leased. If contiguous land is being leased for agricultural purposes, the leased land area can be used when calculating the maximum number of animals allowed. Once the land is no longer being leased, the maximum number of animals allowed shall be adjusted. A written lease agreement, signed by all property owners, shall be required. The minimum lot size for the keeping and raising of animals shall be met prior to additional animals being allowed for additional contiguous lands. The leased land shall be used exclusively by the lessee.

[iii] When determining the maximum number of animals allowed on contiguous lands, the land area can only be used once or by one property owner. Double counting is not allowed.

Commented [HK21]: NO CHANGE -Moved from 275-41A(2)(f)

[b] The keeping and raising of animals in larger quantities than allowed by right shall be considered a conditional use. When applying for a conditional use permit to keep additional animals, the burden of proof shall be placed on the applicant to demonstrate to the reasonable satisfaction of the City that additional carrying capacity exists to support the keeping and raising of the animals as applied for by the applicant. In reviewing the conditional use, the City will consider whether:

[i] Adequate facilities exist for housing and feeding the animals;

[ii] Adequate measures exist to manage and dispose of waste products;

[iii] The number of animals applied for will adversely impact neighboring properties, particularly residential ones, and/or whether the number of animals being applied for will adversely impact the

environment (e.g., stormwater runoff, contamination).

[2] The keeping and raising of animals in the R-2E, R-3, R-4, R-4.5, R-5, R-6 and R-7 Zoning Districts shall be limited to a total of four chickens and/or ducks per property.

(c) Specific Uses

[1] Concentrated commercial animal feeding operations are prohibited in all districts.

[2] Exotic animals. Keeping of exotic animals are prohibited in all zoning districts.

[3] Hogs over 300 pounds. The keeping of hogs over 300 pounds is prohibited in all districts, with the exception of the A-1 District.

[4] Keeping and raising of animals. The keeping and raising of animals shall be considered an accessory use in the R-1/R-2 Zoning District.

[a] The raising of animals shall be for personal use only, with the exception of selling offspring and/or animal products.

[b] No pasture constructed after January 12, 2010, shall be located within 50 feet of an existing residence on an adjacent residential parcel.

[5] Keeping and raising of chickens and/or ducks. The keeping and raising of chickens and/or ducks for personal use shall be considered an accessory use in the R-2E, R-3, R-4, R-4.5, R-5, R-6 and R-7 Zoning Districts.

[a] Up to a total of four chickens and/or ducks allowed per property.

[b] No roosters.

[c] No slaughtering.

[d] Chickens and/or ducks shall be kept within a secure enclosure.

[e] Enclosures shall be located no closer than 25 feet to neighboring dwellings and a minimum of five feet from the property line.

[6] Stables, boarding and riding academies are allowed in the A-1, A-2, R-1/R-2, and C-1 Zoning Districts. Any new structure proposed within a C-1 District shall be a considered a conditional use.

B. Residential uses.

(1) Elderly housing and assisted-living facilities.

(a) The density of an elderly housing development shall not exceed 14 dwelling units per acre.

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Commented [HK23]: NO CHANGE - Moved from Table 275-41A

Commented [HK24]: NO CHANGE - Moved from 275-41A(2)(c)

Commented [HK25]: NO CHANGE - Moved from 275-41A(2)(d)

Commented [HK26]: NO CHANGE - Moved from 275-41A(2)(g)

Commented [HK27]: NO CHANGE - Moved from 275-41A(2)(e)

(b) All buildings shall be 50 feet from any exterior lot line. The Plan Commission may, however, permit buildings to have covered walks or be attached to other related structures, such as senior centers, hospitals, clinics or shopping centers.

(c) Buildings shall be specifically designed for the elderly and handicapped. Projects shall include such features as central locked lobby entrances; common rooms and areas on every floor and wing within a building; elevators; wider hallways with hand railings; walking paths and outdoor sitting areas; and programs and activities designed for the elderly.

(d) Visitor and staff parking shall be provided. Underground or attached parking for residents shall be provided at a ratio consistent with expected automobile usage rates.

(e) All units in a project shall be rented or sold to the elderly or handicapped to qualify as an elderly project. Mixed projects shall be designed and built under the regular multifamily residential regulations.

(f) Nursing homes, true assisted-care elderly facilities, and community-based residential facilities (CBRF) may be constructed as conditional uses in an Rm-1 Zoning District; however, such uses are provided for as principal uses in the I-1 Institutional District.

(g) Minimum dwelling unit size for an individual living unit designed for a single-person-occupancy, one-bedroom unit shall be 600 square feet. An additional 100 square feet shall be required for each additional bedroom, with a maximum of five bedrooms per dwelling unit in cases of congregate living. Efficiency units shall be a minimum of 500 square feet. This requirement may be waived by the Plan Commission in the case of a building designed for congregate living, provided that the combination of the individual and common areas together meets the overall living space requirements for the number of people intending to occupy the building.

(h) Building exteriors shall incorporate maintenance-free materials, such as brick, stone, vinyl, etc., to the maximum extent practical.

(i) In addition, the Plan Commission shall establish separate building area, dwelling unit size, amenity, enclosed parking, screening, setback and yard and other requirements for the health, safety, and welfare for each housing-for-the-elderly project.

(j) Buildings or developments not determined to be true elderly or handicapped projects by the Plan Commission shall be subject to all requirements of the regular multifamily zoning district. Qualification as "elderly" under state or federal law does not automatically meet criteria under this zoning provision.

(2) Single-family dwellings ~~with attached garage~~. A single-family dwelling may be allowed as a conditional use in the Rm-1 District if the site meets the minimum lot area, width and yard requirements of the R-4.5 District.

(3) Conservation area use and design standards.

(a) Uses permitted in conservation areas. The following uses are permitted in conservation areas:

[1] Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow);

[2] Agricultural and horticultural uses, including raising crops or livestock, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.

[3] Pasture land for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than half of the minimum required conservation area.

[4] Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.

[5] Neighborhood open space uses, such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses, specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Plan Commission.

[6] Active noncommercial recreation areas, such as play fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required conservation area or five acres, whichever is less. Play fields, playgrounds, and courts shall not be located within 200 feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than 10 parking spaces.

[7] Golf courses may comprise up to half of the minimum required conservation area but shall not include driving ranges or miniature golf courses. Their parking areas and any associated structures shall not be included within the minimum conservation area requirement; their parking and accessways may be paved and lighted.

[8] Private owner water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the conservation area. The integrity of all conservation areas shall be maintained and not adversely impacted.

[9] Easements for drainage, access, sewer or water lines, or other public purposes. Off-lot POWTS areas shall be identified through survey markers/monuments. In addition, as-built drawings shall be submitted to the City and/or the grantee of the conservation easement for the area.

[10] Underground utility rights-of-way. Aboveground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required conservation area.

[11] Single-family residential uses, in compliance with 275-37C(1)(b).

(b) Conservation design standards.

[1] Conservation areas shall be laid out to ensure that an interconnected network of open space will be provided, to the greatest extent practicable, considering both areas within the proposed subdivision and areas adjacent to it. The required conservation area consists of a mixture of primary environmental corridors (PECs), all of which must be included, and secondary environmental corridors (SECs), and isolated natural resource areas (INRAs). PECs comprise those areas listed in § 275-33G(2) as being subtracted from the total parcel acreage to produce the "adjusted tract acreage." SCAs should include special features of the property that would ordinarily be overlooked or ignored during the design process. Examples of such features are listed and described in § 235-41 (conservation design review standards) in Chapter 235, Subdivision of Land.

[2] Conservation areas shall generally remain undivided and may be owned and maintained by a homeowners' association, land trust, another conservation organization recognized by the City, or by a private individual (typically as part of the original farmstead). However, in no case shall less than 30% of the land comprising the adjusted tract acreage be available for the common use and enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the conservation area may be owned by different entities.

[3] Buffers for adjacent public parkland. Where the proposed development adjoins public parkland, a natural conservation buffer at least 150 feet deep shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction). Where this buffer is unwooded, the City may require vegetative screening to be planted or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive alien plant and tree species.

(c) Other requirements.

[1] No portion of any building lot may be used for meeting the minimum required conservation area, except within conservancy lots of at least 10 acres. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required conservation area.

[2] Pedestrian and maintenance access, excluding those areas used for agricultural or horticultural purposes, shall be provided to a conservation area in accordance with the following requirements:

[a] Access to conservation areas used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.

[3] All conservation areas that are not wooded or farmed shall be landscaped in accordance with the landscaping requirements of this chapter and Chapter 235, Subdivision of Land (§ 275-56 and § 235-41B[1]).

[1] Editor's Note: See now § 235-40B.

[4] Submission of a plan for the maintenance and operation of the conservation areas as required by § 235-41B.[2]

[2] Editor's Note: See now § 235-40B.

(4) Permanent conservation protection through conservation easements.

(a) The conservation area that is required to be reserved and created through the subdivision process shall be subject to permanent conservation easements prohibiting future development and defining the range of permitted activities. (For example, the clearing of woodland habitat shall generally be prohibited, except as necessary to create trails, active recreation facilities, and to install subsurface septic disposal systems or spray irrigation facilities.) The determination of necessity shall lie with the Common Council.

(b) In "limited development" subdivisions where applicants voluntarily opt to develop their properties at densities substantially below those which are permitted under this chapter, with lots at 10 acres in area, and when they offer to place a restrictive conservation easement preventing future subdivision of the newly created parcels, the City shall review the proposed easements and may accept them, provided their wording accomplishes the purposes of this chapter and is consistent with the City's Comprehensive Plan and the Wisconsin Uniform Conservation Easement Act.[3]

[3] Editor's Note: See § 700.40, Wis. Stats.

(c) The holder of the conservation easement shall be as permitted pursuant to § 700.40(1)(b), Wis. Stats., as amended.

(5) Conservation area ownership and maintenance standards.

(a) Permanent protection. All conservation areas shall be permanently restricted from future subdivision and development. Under no circumstances shall any development be permitted in the open space at any time, except for those uses listed in § 275-41B.

(b) Ownership options. The following methods may be used, either individually or in combination, to own common facilities. The City may request designation of areas for municipal ownership, of any areas identified in the

City's Park and Open Space Plan as future parkland or potential trails, and any areas identified for protection under the SEWRPC's Natural Areas and Critical Species Habitat Protection and Management Plan for Southeastern Wisconsin. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no change in the common facilities or in the open space ratio of the overall development. Ownership methods shall conform to the following:

[1] Fee-simple dedication to the City. The City may, but shall not be required to, accept any portion of the common facilities, provided that:

[a] There is no cost of acquisition to the City;

[b] The City agrees to and has access to maintain such facilities;

[c] There is no environmental contamination on the site.

[2] Condominium association. Common facilities may be controlled through the use of condominium agreements. Such agreements shall be in accordance with relevant state law. All open land and common facilities shall be held as "common elements."

[3] Homeowners' association. Common facilities may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in state regulations and statutes. In addition, the following regulations shall be met:

[a] The applicant shall provide the City a description of the organization of the proposed association, including its bylaws and all documents governing ownership, maintenance, and use restrictions for common facilities.

[b] The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.

[c] Membership in the association shall be automatic (mandatory) for all purchasers of dwelling units therein and their successors in title.

[d] The association shall be responsible for maintenance and insurance of common facilities.

[e] The bylaws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent is his or her dues. Such dues shall be paid with the accrued interest before the lien may be lifted.

[f] Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for

common facilities must be given to all members of the association and to the City no less than 30 days prior to such event.

[g] The association or its designee shall have adequate staff to administer, maintain, and operate such common facilities.

[h] The bylaws must prohibit amendments without the approval of the City as to conservation areas.

[4] Private conservation organization. With permission of the City, an owner may transfer either fee-simple title of the open space or easements on the open space to a private nonprofit conservation organization, provided that:

[a] The conservation organization is acceptable to the City and is a bona fide conservation organization intended to exist indefinitely;

[b] The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions;

[c] The conservation areas are permanently restricted from future development through a conservation easement; and

[d] A maintenance agreement acceptable to the City is established between the owner and the organization.

[5] Dedication of easements to the City. The City may, but shall not be required to, accept easements for public use of any portion of the common land or facilities. In such cases, the facility remains in the ownership of the condominium association, homeowners' association, or private conservation organization while the City holds the easements. In addition, the following regulations shall apply:

[a] There shall be no cost of acquisition to the City.

[b] Any such easements for public use shall be accessible to residents of the City.

[6] In the R-6 District, additional perimeter screening shall be required along Sunny Slope Road and any other designated area that requires visual relief. The following shall apply: [Added 1-12-2016 by Ord. No. 2558]

[a] Screening areas shall be at least 50 feet deep and may be placed in an outlot or defined easement area.

[b] Berms shall be utilized and constructed at a slope of 2.5 to one.

[c] Perimeter landscaping shall provide a semi-opaque screen during the winter season.

[d] Plants in perimeter landscaping areas shall be grouped instead of evenly spread.

[e] The screening buffer shall take on a more natural appearance, where organic lines are used over straight formal lines.

~~(6) In the R-6 District, additional perimeter screening shall be required along Sunny Slope Road and any other designated area that requires visual relief. The following shall apply: [Added 1-12-2016 by Ord. No. 2558]~~ Reserved.

~~(a) Screening areas shall be at least 50 feet deep and may be placed in an outlot or defined easement area.~~

~~(b) Berms shall be utilized and constructed at a slope of 2.5 to one.~~

~~(c) Perimeter landscaping shall provide a semi-opaque screen during the winter season.~~

~~(d) Plants in perimeter landscaping areas shall be grouped instead of evenly spread.~~

~~(e) The screening buffer shall take on a more natural appearance, where organic lines are used over straight formal lines.~~

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(6) Community living arrangements.

(a) Community living arrangements as provided for in § 62.23(7)(i), Wis. Stats., shall be a principal use in all residential districts and in the Institutional District.

(b) Community living arrangements that exceed the limit of those defined in § 62.23(7)(i), Wis. Stats., may be approved as a conditional use per § 275-27.

(c) Community living arrangements shall meet all applicable state statutes regarding such uses.

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(7) In the R-7 District, the following shall apply: [Added 10-13-2020 by Ord. No. 2642]

(a) In the R-7 District, a development agreement shall be required along with appropriate financial sureties, to be evaluated by the City, no more than annually and no less than every five years, for adequacy, to ensure for the proper maintenance and permitting of the on-site waste treatment facility in perpetuity.

(8) Transient lodging uses. [Added 4-25-2023 by Ord. No. 2668]

(a) Transient lodging uses for remuneration are prohibited in the residential districts of the City where the period of each individual use is less than seven days. Any person acting as an agent, real estate broker, real estate sales agent, property manager, reservation service or arranges or negotiates for the use of residential property or transient lodging uses, or any person who uses or allows the use of residential property in this manner shall be considered in violation of this section. Each day in which such residential property is used or allowed to be used in violation of this section shall be

considered a separate offense. Any rental of single-family property for camping purposes is prohibited.

(b) Individual transient residential lodging uses for remuneration of more than six but fewer than 30 consecutive days within any consecutive 365-day period may be rented for no more than 181 days in the aggregate. The days during which the transient residential lodging uses for remuneration may be conducted shall run consecutively. Any individual or entity which engages in transient residential lodging uses for remuneration shall notify the City Clerk, in writing, when the first rental within a 365-day period is to begin.

C. Commercial uses.

(1) Adult-oriented establishments.

(a) Such uses shall not be operated within 1,000 feet of:

[1] A church, synagogue, or regular place of worship;

[2] A public or private elementary or secondary school;

[3] A single-family, two-family, or multifamily zoning district boundary;

[4] A public park adjacent to a residential zoning district boundary; or

[5] Another adult-oriented establishment.

(b) Such use may not be operated in the same building, structure or any portion thereof containing another adult-oriented establishment.

(c) For purposes of this section, the distance between any two adult-oriented establishments shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(d) Such use shall comply with the licensing and layout requirements set forth in Chapter 152, Licenses and Permits, § 152-17, of the Code of the City of New Berlin.

(2) Automotive fuel sales.

(a) All fuel pumps and service islands shall comply with the yard requirements of the zoning district in which the use is allowed.

(b) The outermost edge of any protective canopy shall not be closer than 25 feet to the base setback line and shall meet the side and rear setbacks. [Amended 4-25-2023 by Ord. No. 2668

(3) Automotive service. Such uses shall not include the service of semitractors or semitrailers.

(4) Bed-and-breakfast establishments. All bed-and-breakfast establishments shall meet the provisions set forth in § 254.61(1), Wis. Stats, and Ch. HSS 197, Wis. Adm. Code.

(5) Department stores. Department stores are only allowed in shopping centers located on a site that is 10 or more gross acres in size.

(6) Drive-in theaters.

(a) A twenty-five-foot-wide planting screen shall be provided between the drive-in theater and any residential district.

(b) There shall be a minimum of 1,000 feet between the access drive to the theater and any street intersection.

(7) ~~Funeral services.~~ Crematory services shall only be allowed as an accessory use ~~in the I-1, B-1, B-2, B-3, M-1, and M-2 Zoning Districts~~ to cemeteries, funeral services or veterinary clinics.

(8) Hotels and motels. Hotels and motels may exceed the district height regulations, yet no hotel or motel may exceed 55 feet in height except as defined in § 275-35D(5).

(9) Reserved. ~~Outdoor displays and sales. [Amended 9-23-2014 by Ord. No. 2529]~~

~~(a) The outside display of merchandise may be allowed as an accessory use in all commercial, manufacturing and industrial districts if all of the following provisions are met:~~

~~[1] The display shall not exceed 500 square feet in commercial districts or 1,000 square feet in the manufacturing and industrial districts; excluding seasonal displays, temporary events or displays approved as part of the plan of operation;~~

~~[2] The display does not obstruct traffic, sidewalks, or fire lanes; and~~

~~[3] The display area is not being used for the storage of merchandise only.~~

~~(b) Display of vehicles for sale. Not more than one automobile, boat, recreational vehicle, or other personal vehicle may be displayed in a driveway or parking lot for sale, unless a sales lot has been approved by the Plan Commission in an appropriate business district. The vehicle must be owned and registered to the occupant of the premises, and such sales shall not occur more than three times in any given year. Vehicles shall not be displayed on lawn areas or within a public right-of-way.~~

~~(c) Outdoor displays placed under permanent canopies for automotive fuel sales shall be permitted.~~

~~(d) Items that are visible and are not located within an approved area for outdoor displays and sales are considered outdoor storage and shall meet the requirements in § 275-41C(10).~~

Commented [KH30]: NO CHANGE - Moved to 275-42L

(10) Reserved. ~~Outdoor storage. Outdoor storage may be allowed as an accessory use as defined in the use summary tables for each zoning district, subject to Department of Community Development staff review and approval, and provided that such storage is screened from view of any public right-of-way or residential area. [Amended 9-23-2014 by Ord. No. 2529]~~

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(11) Personal services. A personal service use may be approved as a conditional use in the O-2, M-1 and M-2 Zoning Districts, provided that it meets the requirements of § 275-27 and that it is in such a location to provide services to the employees of nearby uses in these districts.

(12) Restaurants. [Amended 10-9-2018 by Ord. No. 2607]

(a) A drive-through facility shall not be approved as part of a restaurant unless drive-through facilities are allowed in the subject zoning district and it meets all of the additional use regulations specified in § 275-41~~H~~F(1) of this chapter.

(b) Reserved. ~~A restaurant may be approved as a principal use in any office or industrial district, provided that it meets the requirements of § 275-24.~~

(c) Brewpubs.

[1] Brewpubs in the City shall follow the definition set forth within § 275-70.

[2] Brewpubs shall be required to meet all applicable local codes and licensing requirements, as well as applicable state statutes, federal laws and licensing governing this type of use.

[3] One of the conditions of approval for brewpubs shall be that the applicant has applied for and received all necessary liquor licenses and permits to operate this type of business.

[4] A brewpub (restaurant) in the City may only brew beer as part of its business for consumption on the premises. No wholesaling of the beer shall be permitted.

[5] Applicants shall adhere to the performance requirements outlined in § 275-60 of this Code.

(d) Breweries.

[1] Breweries in the City shall follow the definition set forth within § 275-70.

[2] Breweries shall be required to meet all applicable local codes and licensing requirements, as well as applicable state statutes, federal laws and licensing governing this type of use.

[3] One of the conditions of approval for breweries shall be that the applicant has applied for and received all necessary liquor licenses and permits to operate this type of business.

[4] Applicants shall adhere to the performance requirements outlined in § 275-60 of this Code.

(13) Reserved. ~~Retail commercial uses. A retail commercial use may be approved as a conditional use in any office or industrial district, provided that it meets the requirements of § 275-27.~~

(14) Self-storage facilities.

(a) No perishable products may be stored unless the Plan Commission determines that adequate health provisions have been made;

(b) No flammable or explosive materials may be stored unless the Plan Commission determines that adequate safety provisions have been made;

(c) No sales of merchandise may be conducted from a self-storage facility; and

(d) No offices may be set up in storage units.

(15) Service commercial uses.

(a) Service commercial uses in the B-5 District should be limited to uses that will serve the needs of the rural residential community.

(b) Reserved. ~~A service commercial use may be approved as a conditional use in any office or industrial district, provided it meets the requirements of § 275-27 and that it is in such a location to provide services to the employees and businesses in the office and industrial districts.~~

(c) Traffic, loading, parking and access. The parking and storage of semitractors and semitrailers, except for pickup and deliveries, is prohibited. Parking or storage of construction vehicles and equipment, except during periods of permitted construction activity, is prohibited. All storage and parking of vehicles and equipment, other than required customer and employee off-street parking, shall be inside, except the outside parking of two vehicles in accordance with the type and size limitation of this chapter.

(16) Mobile tower siting regulations. [Amended 9-23-2014 by Ord. No. 2529]

(a) Purpose. Mobile tower facilities shall be regulated as set forth in this section, subject to 2013 Wisconsin Act 10, which amended § 66.0404, Wis. Stats. These standards shall also be interpreted and enforced in a manner consistent with the Telecommunications Act of 1996.

(b) Exemptions.

[1] Emergency communication facilities used for emergency communication by public officials.

[2] City communication facilities.

[3] Antennas, amateur radio antennas (e.g., ham radio), and satellite dishes as regulated by § 275-42~~C(2)~~.

(c) Definitions. Refer to § 275-70. [Amended 4-25-2023 by Ord. No. 2668]

(d) Waivers/modifications. The Plan Commission may waive or modify any requirements of this section. Any site for which a waiver from the requirements of this section is granted shall comply with all other requirements of this chapter. Such waiver or modification shall only be granted if the Plan Commission determines that:

[1] There will be no appreciable off-site impact caused by the waiver/modification.

[2] Compliance with the requirement(s) is impractical or impossible due to site conditions or other circumstances beyond the control of the applicant.

[3] The specific requirement is not necessary for a particular site to ensure compliance with the requirements of this section.

(e) The siting and construction of a new mobile service support structure and facilities or the substantial modification of an existing support structure and mobile service facilities (Class 1 co-location).

[1] Application information, process and fees. An application for conditional use permit shall be made through the permit application center on forms furnished by the Department of Community Development and shall include information and supporting materials as specified under this section. Applicable application fees and developer deposit shall accompany the application as outlined in Zoning Code § 275-20C. The conditional use application shall be in writing and in an electronic format and shall contain all of the following information:

[a] The name and business address of, and the contact individual for, the applicant.

[b] The location of the proposed or affected support structure.

[c] The location of the proposed mobile service facility.

[d] Applications to substantially modify an existing support structure shall submit a construction plan, which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

[e] Applications to construct a new mobile service support structure shall submit a construction plan, which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

[f] Applications to construct a new mobile service support structure shall submit an explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that:

[i] Co-location within the applicant's search ring would not result in the same mobile service functionality, coverage, and co-location capacity;

[ii] Co-location is technically infeasible; or

[iii] Co-location is economically burdensome to the mobile service provider.

[g] Provide documentation of the applicant's right, title or interest in the property where the facility is to be located. If the applicant is not the property owner, the applicant shall submit a letter from the property owner(s) stating that they are consenting to have a tower placed on their property. When the property owner is the City, the applicant shall obtain approval from the applicable boards or commissions that oversee the facility or land where the tower is proposed to be placed. Any proposal for a new mobile service support structure and facility on City-owned lands (parks, utility, etc.) shall be required to make a submittal to DCD outlining their specific request. DCD shall forward an RAS to the Common Council to decide if it wishes to enter into negotiations on a lease to move forward with a full submittal. If the Council agrees to investigate further, the Council will refer the request on to the applicable boards, commissions, and committees.

[h] The facility is appropriately landscaped.

[i] The facility/tower is in compliance with any other applicable local, state, or federal regulations.

[j] Structure report. A structure report prepared by a qualified and licensed professional engineer which:

- [i] Describes the tower or structure height and design, including a cross section and elevation;
- [ii] Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
- [iii] Describes the tower or structure capacity, including the number and type of antennas that it can accommodate;
- [iv] Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
- [v] Includes an engineer's stamp and registration number;
- [vi] Includes safety considerations; and
- [vii] Includes other information necessary to evaluate the request.

[k] Design: ground equipment and utility structures.

- [i] One building that houses all the necessary ground equipment shall be located on the site. All co-located equipment shall be located within the

common building to the maximum extent practicable. The building shall either be sized to house all equipment for all future co-location or constructed in a manner that allows expansion. All expansions shall be architecturally consistent and compatible.

[ii] The building shall be architecturally designed to be compatible with the architecture characteristics and § 275-59 to the maximum extent practicable.

[iii] The building shall meet the minimum setbacks of the zoning district. See also § 275-41C(16)(e)[1][m] below.

[iv] Ground-mounted equipment, including but not limited to equipment cabinets and generators, should, to the maximum extent practicable, be enclosed in a building except when screened with appropriate landscaping.

[l] Landscaping. The parking areas, buildings, and equipment shall be landscaped in accordance with § 275-56. The Plan Commission and CDA may allow an alternative landscaping or screening plan or waive the landscaping requirements if it is determined that the landscaping will not serve a functional value based on existing topography or surrounding land uses.

[m] Height standards. Height is to be measured from the ground elevation to the top of the tower, excluding any antennas.

[n] A conditional use status shall not be granted for communication towers unless the tower is located so that there is sufficient radius of clear land around the tower that its collapse shall be completely contained on the property, subject to the following. If an applicant provides the City with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Plan Commission provides the applicant with substantial evidence that the engineering certification is flawed.

[o] Setback standards.

[i] Roof, existing structure, and/or building-mount facilities. Antenna arrays shall not project into the setback of the structure they are located on or within.

[2] Completeness determination. If an applicant submits to the City an application for a permit to engage in an activity described under § 275-41C(16)(e), which contains all of the information required under § 275-41C(16)(e)[1], the Director or designee shall consider the application complete. If the Director or designee does not believe that the application is complete, the Director or designee shall notify the applicant, in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

[3] Approval criteria. Within 90 days of its receipt of a complete conditional use application, meeting the criteria listed within this section, the City shall complete all of the following or the applicant may consider the application approved, except that the applicant and the City may agree in writing, to an extension of the ninety-day period:

[a] Review the application to determine whether it complies with § 275-41C(16)(e)[1] and all applicable aspects of the City Building Code and subject to the limitations in this section of the Zoning Ordinance.

[b] Plan Commission or CDA holds a public hearing.

[c] Make a final decision whether to approve or disapprove the application.

[d] Notify the applicant, in writing, of its final decision.

[e] If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

[4] The Plan Commission or CDA may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicant's search ring and provide the sworn statement described under § 275-41C(16)(e)[1][f].

[5] A party who is aggrieved by the final decision of the Plan Commission or CDA under § 275-41C(16)(e)[3][c] may bring an action in the circuit court of the county in which the proposed activity, which is the subject of the application, is to be located.

(f) Co-location of existing support structure (Class II co-location).

[1] Application information. An application for a building permit shall be made through the permit application center on forms furnished by the Department of Community Development and shall include information and supporting materials as specified under this category. Applicable application fees shall accompany the application as outlined in Zoning Code § 275-20C and the State of

Wisconsin. The building permit application shall be in writing and in an electronic format and shall contain all of the following information:

[a] The name and business address of, and the contact individual for, the applicant.

[b] The location of the proposed or affected support structure.

[c] The location of the proposed mobile service facility and construction plans.

[d] The application complies with this section.

[e] The facility/tower is in compliance with any other applicable local, state, or federal regulations.

[f] Structure report. A structure report prepared by a qualified and licensed professional engineer which:

[i] Describes the tower or structure height and design, including a cross section and elevation;

[ii] Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;

[iii] Describes the tower or structure capacity, including the number and type of antennas that it can accommodate;

[iv] Documents what steps the applicant will take to avoid interference with established public safety telecommunications;

[v] Includes an engineer's stamp and registration number;

[vi] Includes safety considerations; and

[vii] Includes other information necessary to evaluate the request.

[2] Completeness determination. If an applicant submits to the City an application for a permit to engage in an activity described under § 275-41C(16)(f), which contains all of the information required under § 275-41C(16)(f)[1], the Director or designee shall consider the application complete. If the Director or designee does not believe that the application is complete, the Director or designee shall notify the applicant, in writing, within five days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

[3] Approval criteria. Within 45 days of its receipt of a complete building permit application, meeting the criteria listed within § 275-25, the City shall complete all of the following or the applicant may consider the application approved, except that the applicant and the City may agree, in writing, to an extension of the forty-five-day period:

[a] Make a final decision whether to approve or disapprove the application.

[b] Notify the applicant, in writing, of its final decision.

[c] If the application is approved, issue the applicant the relevant permit.

[d] If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

[4] A party who is aggrieved by the final decision of the City under § 275-41C(16)(f)[3][a] may bring an action in the circuit court of the county in which the proposed activity, which is the subject of the application, is to be located.

(g) General standards.

[1] All towers and sites shall be properly maintained and shall be kept in a condition as not to become a public nuisance or eyesore in accordance with Chapter 201, Property Maintenance. Proper maintenance shall include but not be limited to regular lawn and landscaping care and painting of an accessory building, fences, and tower. Additionally, the site shall be kept free of junk and trash.

[2] All antenna arrays shall be securely fastened to minimize noise emissions or damages from falling.

[3] Limitations on authority. The City review and action in the matter shall be subject to the limitations imposed by Wis. Stats., § 66.0404(4). In the event the applicant believes the City has exceeded its authority in this regard, the applicant shall notify the City in writing, and the Common Council reserves the right to reconsider the matter, to ensure that applicable laws are followed.

(17) Cosmetic tattoo establishments/permanent cosmetics.

(a) The applicant shall provide a copy of all state licenses relating to any application for permanent cosmetics prior to the issuance of a zoning permit.

(18) Outside seating area, patio, smoking area or other outside activity area (i.e., volleyball courts, horseshoe pits, etc.) for commercial uses.

(a) The plan of operation may be amended to allow for the use to extend to an approved outside patio, seating area, and/or other outside activity area. The applicant shall provide the following information:

[1] Submit a use, site and architecture application to the Department of Community Development. Refer to § 275-24 submittal criteria.

[2] Submit an extension of premises application to the City of New Berlin Clerk's office, if required.

(b) If the proposed use is adjacent to a residential zoning district, the applicant shall be referred to the Plan Commission or CDA for consideration. Other applications may be administratively approved, unless, in the sole discretion of the Director, they pose significant potential implications for surrounding uses.

(c) An outdoor extension of the premises shall not increase the authorized capacity of the establishment.

(19) Convenient cash businesses. [Added 9-23-2014 by Ord. No. 2529]

(a) Convenient cash businesses may not be located within 2,500 feet of any other convenient cash business.

(b) Convenient cash businesses may not operate between the hours of 9:00 p.m. and 8:00 a.m.

(20) Car wash establishment. [Added 4-25-2023 by Ord. No. 2668]

(a) Car wash establishments are allowed as a principal use in the B-1, B-2, B-3, O-1, O-2, M-1 and M-2 Districts if the establishment meets all other criteria.

(b) Car wash establishments are prohibited in all Agriculture, Residential, B-5 and M-3 Zoning Districts.

(c) A property containing a car wash establishment shall not be located closer than 100 feet from the border of lands designated as residential in the City's Comprehensive Plan.

(d) A property containing a car wash establishment shall not be located closer than 100 feet from the border of a residentially zoned or residentially used property due to the intensity of the use of such facilities and the impact which they are likely to have with regard to noise, light pollution and traffic in surrounding neighborhoods and streets. The distance shall be calculated as the shortest measurable distance between the property lines of the property in which the car wash facility is desired 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. A GIS map will be created by the City for any such requests.

(e) Applicants shall be required to provide supplemental information as required by the City in order to review the car wash establishment for compliance with the City's performance standards in Zoning Code § 275-60 and adequate public facilities, § 275-58. Refer to Zoning Code § 275-20 developer deposit fee whereby the City can utilize the applicant's developer deposit to hire outside consulting agencies to assist with the City's evaluation of the proposal.

D. Office / Industrial uses.

(1) Financial institutions. A drive-through facility shall not be approved as a part of a financial institution unless the drive-through facility is allowed in the subject zoning district and the drive-through facility meets all of the additional use regulations specified in § 275-41~~H~~F(1) of this chapter.

(2) Offices. Where any of the following office uses are not related to another use allowed in the M-1 or M-2 District, it may be approved as a principal use if it meets the requirements set forth in § 275-24:

(a) Business offices;

(b) Financial institutions;

(c) Government offices; and

(d) Medical and dental offices.

(3) Light industrial uses. Light industrial uses may be allowed as an accessory use in the O-2 District when they are in the same building or on the same lot as the corporate headquarters or manufacturing office of a business.

(4) Warehouses. Warehouses may be allowed as an accessory use in the O-2 District when they are in the same building or on the same lot as the corporate headquarters or manufacturing office of a business.

Commented [KH32]: NO CHANGE - Moved from 275-41E

(5) Quarry uses. All uses are conditional, and no use in a Q-1 District shall be allowed until the following provisions have been met:

(a) Operational plan required. Each applicant for a conditional use in the Q-1 District shall submit an operational plan for the use. The operational plan shall specify:

[1] A timetable for operation of the quarry, including the date on which the quarrying, extractive, or other operation will begin and the planned date of the completion of the operation;

[2] A phasing plan showing the location and timing on all proposed phases;

[3] Hours of operation and days of operation for the quarrying, extractive, or other operation;

[4] The means by which noise, dust, and other potential nuisances will be controlled;

[5] The means by which the applicant will control stormwater runoff and erosion to protect watersheds and groundwater aquifers;

[6] The location, height, and type of all proposed fences;

[7] All machinery and equipment to be used and/or stored during the quarrying, extractive, or other operation, and the location thereof;

[8] A transportation plan identifying the mode of transportation to be used, the size and types of vehicles to be used, the number and

frequency of trips to and from the site, and the routes to be used by trucks or locomotives;

[9] The location and type of landscaping to be used to screen the quarrying, extractive, or other operation from adjacent land uses and public rights-of-way; and

[10] Other information required by the Plan Commission.

(b) Restoration requirements. In order to ensure that the area of quarrying, extractive, or related operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall submit to the City Plan Commission a plan for such restoration in the form of the following. Existing quarry operations shall submit a restoration plan within two years following the adoption of this chapter.

[1] An agreement with the City whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the City.

[2] A physical restoration plan showing existing topography (at a contour interval specified by the Plan Commission) and the proposed contours after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished. Every two years following the initial conditional use permit issuance or adoption of this chapter, whichever is applicable, the applicant or his successor shall submit an update to the restoration plan showing restoration progress and existing topography of the quarry site.

[3] A bond, written by a licensed surety company, a certified check, or other financial guaranty satisfactory to the City in an amount sufficient, in the opinion of the Director of Community Development, to secure the performance of the restoration agreement.

[4] Such agreement and financial guaranty shall be in a form approved by the City Attorney.

[a] If the applicant fails to fulfill the agreement, such bond, check or other financial guaranty shall be deemed forfeited for the purpose of enabling the City to perform the restoration.

[b] Restoration shall proceed as soon as practicable and at the order and direction of the Director of Community Development. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years.

[c] At any stage during the restoration, the plan may be modified by mutual agreement between the City and the owner or operator.

[d] The restoration plan shall specify what fill material will be used, the method and extent of compaction, and the depth of topsoil upon completion of the quarry, extractive, or related operation. In all cases, fill shall consist of clean earth, and no more than 25% by volume per truckload of building stone or concrete, and no more than 5% by volume per truckload of incidental asphalt. Where there is backfilling, the method of backfilling shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility, or unsightliness. In any case, the finished condition of the restored area, except for rock faces, outcroppings, water bodies, or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.

[e] Within one year after the cessation of the operation or any phase of the operation, all temporary structures (except fences), equipment, stockpiles, rubble heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.

[f] In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of 1 1/2 horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.

[g] Upon completion of quarry operations, the quarry operator shall be required to submit a restoration report prepared by a registered professional engineer certifying that the restoration plan has been fully complied with.

[5] Restoration shall proceed as soon as practical and at the order and direction of the Director. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years. Aerial photographs of the quarry site shall also be provided at least every other year, and topographical data, to a detail required by the Plan Commission, shall be required at least every two years. The quarry operator shall be required to submit restoration progress reports and a final restoration report prepared by a registered professional engineer certifying that the restoration plan discussed in § 275-41D(5)(b) has been fully complied with.

(c) Nonconforming quarrying uses. Any nonconforming quarrying use shall, on or before one year from the adoption and publication of this chapter, apply to the Plan Commission for a use and occupancy permit. The Plan Commission shall require a plan of operation, final restoration plan, intermediate restoration plans, as deemed necessary, and may impose such restrictions upon the use of such site, and the height and bulk of any structure, as may be reasonable and not unduly burdensome or onerous under the particular circumstances, provided that such restrictions shall not be more restrictive than the requirements established for the district in which such structure or use is located. In addition, a nonconforming use shall be subject to the requirements of § 275-36B(1), Table 275-36-1 and § 275-41D(5).

[1] Setback requirements from adjacent properties which are subdivided (as a subdivision is defined in Chapter 236, Wisconsin Statutes), shall be a minimum of 50 feet.

[2] The minimum setback from all other adjacent parcels shall be at least 20 feet.

Commented [KH33]: NO CHANGE - Moved from 275-41F

~~E. Manufacturing/industrial uses.~~

~~(1) Light industrial uses. Light industrial uses may be allowed as an accessory use in the O-2 District when they are in the same building or on the same lot as the corporate headquarters or manufacturing office of a business.~~

~~(2) Warehouses. Warehouses may be allowed as an accessory use in the O-2 District when they are in the same building or on the same lot as the corporate headquarters or manufacturing office of a business.~~

Commented [KH34]: NO CHANGE - Moved to 275-41D

~~F. Quarry uses. All uses are conditional, and no use in a Q-1 District shall be allowed until the following provisions have been met:~~

~~(1) Operational plan required. Each applicant for a conditional use in the Q-1 District shall submit an operational plan for the use. The operational plan shall specify:~~

~~(a) A timetable for operation of the quarry, including the date on which the quarrying, extractive, or other operation will begin and the planned date of the completion of the operation;~~

~~(b) A phasing plan showing the location and timing on all proposed phases;~~

~~(c) Hours of operation and days of operation for the quarrying, extractive, or other operation;~~

~~(d) The means by which noise, dust, and other potential nuisances will be controlled;~~

~~(e) The means by which the applicant will control stormwater runoff and erosion to protect watersheds and groundwater aquifers;~~

~~(f) The location, height, and type of all proposed fences;~~

~~(g) All machinery and equipment to be used and/or stored during the quarrying, extractive, or other operation, and the location thereof;~~

(h) A transportation plan identifying the mode of transportation to be used, the size and types of vehicles to be used, the number and frequency of trips to and from the site, and the routes to be used by trucks or locomotives;

(i) The location and type of landscaping to be used to screen the quarrying, extractive, or other operation from adjacent land uses and public rights-of-way; and

(j) Other information required by the Plan Commission.

(2) Restoration requirements. In order to ensure that the area of quarrying, extractive, or related operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall submit to the City Plan Commission a plan for such restoration in the form of the following. Existing quarry operations shall submit a restoration plan within two years following the adoption of this chapter.

(a) An agreement with the City whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the City.

(b) A physical restoration plan showing existing topography (at a contour interval specified by the Plan Commission) and the proposed contours after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished. Every two years following the initial conditional use permit issuance or adoption of this chapter, whichever is applicable, the applicant or his successor shall submit an update to the restoration plan showing restoration progress and existing topography of the quarry site.

(c) A bond, written by a licensed surety company, a certified check, or other financial guaranty satisfactory to the City in an amount sufficient, in the opinion of the Director of Community Development, to secure the performance of the restoration agreement.

(d) Such agreement and financial guaranty shall be in a form approved by the City Attorney.

[1] If the applicant fails to fulfill the agreement, such bond, check or other financial guaranty shall be deemed forfeited for the purpose of enabling the City to perform the restoration.

[2] Restoration shall proceed as soon as practicable and at the order and direction of the Director of Community Development. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years.

[3] At any stage during the restoration, the plan may be modified by mutual agreement between the City and the owner or operator.

[4] The restoration plan shall specify what fill material will be used, the method and extent of compaction, and the depth of topsoil upon completion of the quarry, extractive, or related operation. In all

~~cases, fill shall consist of clean earth, and no more than 25% by volume per truckload of building stone or concrete, and no more than 5% by volume per truckload of incidental asphalt. Where there is backfilling, the method of backfilling shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility, or unsightliness. In any case, the finished condition of the restored area, except for rock faces, outcroppings, water bodies, or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.~~

~~[5] Within one year after the cessation of the operation or any phase of the operation, all temporary structures (except fences), equipment, stockpiles, rubble heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.~~

~~[6] In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of 1 1/2 horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.~~

~~[7] Upon completion of quarry operations, the quarry operator shall be required to submit a restoration report prepared by a registered professional engineer certifying that the restoration plan has been fully complied with.~~

~~(e) Restoration shall proceed as soon as practical and at the order and direction of the Director. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years. Aerial photographs of the quarry site shall also be provided at least every other year, and topographical data, to a detail required by the Plan Commission, shall be required at least every two years. The quarry operator shall be required to submit restoration progress reports and a final restoration report prepared by a registered professional engineer certifying that the restoration plan discussed in § 275-41F(2) has been fully complied with.~~

~~(3) Nonconforming quarrying uses. Any nonconforming quarrying use shall, on or before one year from the adoption and publication of this chapter, apply to the Plan Commission for a use and occupancy permit. The Plan Commission shall require a plan of operation, final restoration plan, intermediate restoration plans, as deemed necessary, and may impose such restrictions upon the use of such site, and the height and bulk of any structure, as may be reasonable and not unduly burdensome or onerous under the particular circumstances, provided that such restrictions shall not be more restrictive than the requirements established for the district in which such structure or use is located. In addition, a nonconforming use shall be subject to the requirements of § 275-36B(1), Table 275-36-1, this Subsection F(3) and Subsection F(2).~~

~~(a) Setback requirements from adjacent properties which are subdivided (as a subdivision is defined in Chapter 236, Wisconsin Statutes), shall be a minimum of 50 feet.~~

~~(b) The minimum setback from all other adjacent parcels shall be at least 20 feet.~~

Commented [KH35]: NO CHANGE - Moved to 275-41D

~~G~~E. Institutional/public/semipublic uses.

(1) Reserved. ~~Community living arrangements.~~

~~(a) Community living arrangements as provided for in § 62.23(7)(i), Wis. Stats., shall be a principal use in all residential districts and in the Institutional District.~~

~~(b) Community living arrangements that exceed the limit of those defined in § 62.23(7)(i), Wis. Stats., may be approved as a conditional use per § 275-27.~~

~~(c) Community living arrangements shall meet all applicable state statutes regarding such uses.~~

Commented [KH36]: NO CHANGE - Moved to 275-41B(6)

(2) Educational facilities.

(a) An educational facility may be allowed as a conditional use in any residential district if the design, intensity and layout of the development are compatible with surrounding land uses.

(b) Colleges, universities, technical schools and other similar graduate schools are prohibited in all residential districts.

(3) Golf driving ranges.

(a) A golf driving range may be approved as an accessory use in the P-1 District when it is accessory to an approved golf course.

(b) A golf driving range may be approved as a conditional use per § 275-27 when it is not associated with a golf course.

(4) Landfills. No conditional use in an L-1 District shall be allowed until the following provisions have been met:

(a) Operational plan required. Each applicant for a conditional use in the L-1 Landfill District shall submit an operation plan for the use. The operational plan shall specify:

[1] A timetable for operation of the landfill, including the date on which the landfill operation will begin and the planned date of the completion of the operation;

[2] A phasing plan showing the location and timing on all proposed phases;

[3] Hours of operation and days of operation for the landfill operation;

[4] The types of material or refuse to be disposed of;

[5] The means by which noise, dust, debris, and other potential nuisances will be controlled;

[6] he means by which the applicant will collect and dispose of leachate to protect watersheds and groundwater aquifers;

[7] The means by which the applicant will control stormwater runoff and erosion to protect watersheds and groundwater aquifers;

[8] The location, height, and type of all proposed fences;

[9] All machinery and equipment to be used and/or stored during the landfill operation;

[10] A transportation plan identifying the mode of transportation to be used, the size and types of vehicles to be used, the number and frequency of trips to and from the site, and the routes to be used by trucks or locomotives;

[11] The location and type of landscaping to be used to screen the landfill operation from adjacent land uses and public rights-of-way; and

[12] Other information required by the Plan Commission.

(b) Restoration and reuse plan required. A restoration and reuse plan, provided by the applicant, shall contain existing topography (at a contour interval specified by the Plan Commission) and proposed contours after filling or restoration; depth of the restored topsoil; and planting or restoration and restoration commencement and completion dates. Updates of the restoration plan shall be filed annually to show restoration progress. The applicant and/or owner of the sanitary landfill site shall furnish the necessary sureties, which will enable the City to perform the planned restoration of the site in the event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the City, and the form and type of such sureties shall be approved by the Common Council.

~~H~~F. Miscellaneous uses.

(1) Drive-through facilities.

(a) Standalone ~~D~~drive-through facilities may be allowed as an accessory or principal use in zoning districts where the use is allowed as a principal use. ~~to drive-through restaurants, pharmacies, financial institutions, and other uses as allowed by the Plan Commission.~~

(b) All drive-through facilities shall comply with the ~~yard~~ setback requirements of the zoning district where the use is allowed.

(c) Protective canopies shall not be closer than 25 feet to the base setback line.

(d) Drive-through facilities shall meet any additional requirements as set forth in § 275-57~~D~~.

(2) Aboveground/underground storage tanks:

(a) Are considered permitted uses in all nonresidential districts.

(b) Aboveground installation requires an administrative permit.

(c) Shall follow the accessory use requirements of the district in which the tank is located for the appropriate setback requirements.

(d) The applicant shall meet all Fire Department requirements.

(3) Outdoor firing ranges, excluding trap and skeet shooting, are prohibited in all districts.

~~I. Aboveground/underground storage tanks: [Amended 6-11-2019 by Ord. No. 2620]~~

~~(1) Are considered permitted uses in all nonresidential districts.~~

~~(2) Aboveground installation requires an administrative permit.~~

~~(3) Shall follow the accessory use requirements of the district in which the tank is located for the appropriate setback requirements.~~

~~(4) The applicant shall meet all Fire Department requirements.~~

Commented [KH37]: NO CHANGE - Moved from 275-41I

Commented [KH38]: NO CHANGE - Moved to 275-41F

48

§ 275-42. Accessory uses and structures.

~~[Amended 9-23-2014 by Ord. No. 2529; 1-12-2016 by Ord. No. 2558; 10-9-2018 by Ord. No. 2607; 6-11-2019 by Ord. No. 2620; 10-13-2020 by Ord. No. 2642; 8-24-2021 by Ord. No. 2652; 4-25-2023 by Ord. No. 2668]~~

~~A. General provisions.~~

~~(1) Properties with a minimum of five acres in size that have demonstrated agricultural or silviculture uses as determined by the Director shall be exempt from § 275-42B. "Agricultural uses" shall be defined as land that is primarily used for agricultural activity, including but not limited to the growing of qualified crops, planting in rows, fertilizing and tilling the land, and any other efforts to enhance growth of the yield. Physical evidence of agricultural activity can include furrows, crops, fencing and livestock. Minimal maintenance of the land and naturally growing crops will not be considered agricultural activity.~~

~~(2) Accessory uses that are for a demonstrated agricultural use shall only be used for storage and demonstrated agricultural purposes, and not for home occupations, commercial storage, or business operations. All setbacks shall be met for the zoning district and shall be located in the rear or side yards in all residential districts.~~

~~(3) The Plan Commission shall regulate the architecture of agricultural accessory uses under § 275-59D(1) of this chapter.~~

~~(4) Accessory uses are allowed in any district as may be specified in the appropriate district regulations or in this section.~~

~~(5) All accessory buildings shall require the issuance of a building permit.~~

~~(6) Accessory uses are allowed only after the principal structure is present or under construction. The Director of Community Development may administratively approve an accessory structure prior to the principal structure being built, as long as the construction of the principal structure has begun within one year of starting work on the accessory structure. The City has the ability to enforce fines and/or citations.~~

~~(7) The use and/or location requirements stipulated elsewhere in this chapter may be modified subject to Plan Commission approval.~~

~~(8) Detached accessory buildings and structures that are part of a planned development are subject to Plan Commission review.~~

~~(9) Skateboard ramps are prohibited in the City of New Berlin within residentially zoned districts.~~

~~(10) All accessory buildings and structures shall be located outside of public easement areas unless Plan Commission approval is granted.~~

~~B. Maximum number and size of accessory structures. The maximum allowable square footage of accessory structures and the maximum number of accessory buildings shall be regulated as outlined in Table 275-42-1. Square footage shall be based on the first-floor footprint, excluding overhangs up to 24 inches. Overhangs exceeding 24 inches shall be counted towards the square footage. Tool sheds with a maximum square footage of 144~~

Commented [KH39]: NO CHANGE - Moved to 275-42A(5)

Commented [KH40]: NO CHANGE -Moved to 275-42A(1)

Commented [KH41]: NO CHANGE -Moved to 275-42B

Commented [KH42]: NO CHANGE -Moved to 275-42A(2)

Commented [KH43]: NO CHANGE -Moved to 275-42A(4)(c)

Commented [KH44]: NO CHANGE -Moved to 275-42A(3)

Commented [KH45]: NO CHANGE -Moved to 275-42A(7)

Commented [KH46]: NO CHANGE -Moved to 275-42A(4)(b)

~~square feet are allowed in addition to the "maximum combined allowable square footage" as listed in Table 275-42-1; however, the parcel may not exceed the "maximum number of accessory buildings" listed in Table 275-42-1, including the tool shed.~~

~~Table 275-42-1~~		
~~Lot Area (acres)~~	~~Maximum Combined Allowable Square Footage~~	~~Maximum Number of Accessory Buildings~~
~~Less than 2~~	~~840~~	~~2~~
~~2.0 - 2.5~~	~~1,000~~	~~2~~
~~2.5 - 3.0~~	~~1,250~~	~~3~~
~~3.0 - 3.5~~	~~1,500~~	~~3~~
~~3.5 - 4.0~~	~~1,750~~	~~3~~
~~4.0 - 4.5~~	~~2,000~~	~~3~~
~~4.5 - 5.0~~	~~2,250~~	~~3~~
~~5.0 and greater~~	~~2,500*~~	~~3*~~

~~NOTES:~~

~~* Unless demonstrated agricultural use as determined by the Director.~~

~~C. Pad/foundation requirements. Accessory buildings and tool sheds 144 square feet or less in area shall be placed on a pad of concrete, asphalt, patio block, polycarbonate or pressure-treated lumber. Accessory buildings greater than 144 square feet in area shall be constructed on a foundation or concrete slab.~~

~~D. Building materials. Accessory buildings may be made from either masonry or wood frame materials, subject to the following:~~

~~(1) All accessory buildings shall be at least 10 feet from a principal residence, or in the case of proper fire separation, the Building Inspector may allow accessory buildings to be placed five feet from a principal residence. The Building Inspector shall consider the health, safety, general welfare, and aesthetics of the proposed construction before granting such a waiver.~~

~~E. Dimensional requirements.~~

~~(1) Size and height.~~

~~(a) General farm buildings.~~

~~[1] General farm buildings, including barns, silos, sheds, and storage bins intended for allowed agricultural uses, shall be sized to meet demonstrated agricultural needs.~~

Commented [KH47]: NO CHANGE -Moved to 275-42B(1)(a)[1]
Moved to 275-42B(1)(b)
Moved to 275-42B(2)(a)[1]
Moved to 275-42B(2)(b)

Commented [KH48]: NO CHANGE -Moved to 275-42B(1)(e)
Moved to 275-42B(2)(e)

Commented [KH49]: NO CHANGE -Moved to 275-42B(1)(d)
Moved to 275-42B(2)(d)

~~[2] No farm buildings or parts of farm buildings shall exceed 60 feet in height.~~

~~[3] Accessory buildings exceeding 35 feet in height shall provide one additional foot of required front, side, and rear yard for each one foot over 35 feet in height.~~

~~(b) Single-family residential accessory uses. An accessory building height may only be one story and shall not exceed 15 feet in height. A half story may be permitted, pursuant to § 275-70. Living quarters are not permitted within accessory buildings. DCD may grant a waiver for accessory buildings with a height up to 18 feet in order to match the exterior of the principal structure or for a larger footprint accessory building. See § 275-45 for height measurement requirements.~~

~~(c) Nonsingle-family residential accessory uses. DCD staff shall determine if Architecture Review Committee review and approval is required.~~

~~[1] Accessory buildings located within nonsingle-family residential zoning districts with a maximum size of 2,500 square feet shall require the issuance of an administrative permit by DCD staff.~~

~~[2] Accessory buildings in nonsingle-family residential zoning districts that exceed 2,500 square feet shall require Plan Commission review and approval.~~

~~(2) Setbacks.~~

~~(a) All accessory uses, except where otherwise specified, shall be set back a minimum of five feet from all property lines.~~

~~(b) The five-foot accessory setback shall be regulated as follows:~~

~~[1] The accessory use setback shall be kept free from accumulation of debris or refuse.~~

~~[2] The accessory setback shall not be used for the storage of any material or for parking.~~

~~[3] Only fences, drainage swales, utilities, and landscaping may be allowed within the accessory setback area.~~

~~(c) The Plan Commission/Community Development Authority shall have the ability to modify setbacks for all accessory buildings in any nonsingle-family residential district.~~

~~(d) All accessory buildings and structures shall be located a minimum of 10 feet from the principal building, or in the case of proper fire separation, the Building Inspector may allow accessory buildings to be placed five feet from a principal residence. The Building Inspector shall consider the health, safety, general welfare, and aesthetics of the proposed construction before granting such a waiver.~~

~~(3) Lot coverage.~~

Commented [KH50]: NO CHANGE -Moved to 275-42B(1)(a)[2]
Moved to 275-42B(2)(a)[2]

Commented [KH51]: NO CHANGE -Moved to 275-42B(1)(f)
Moved to 275-42B(2)(f)

Commented [KH52]: NO CHANGE -Moved to 275-42A(4)(a)

Commented [KH53]: NO CHANGE -Moved to 275-42B(1)(c)
Moved to 275-42B(2)(c)

(a) Accessory uses shall not occupy more than 20% of the rear yard in any residential district.

(b) Accessory uses shall not occupy more than 50% of the rear yard area in any office or industrial district.

(c) Where accessory uses are allowed in the side or front yards, the accessory structures or uses shall not occupy more than 15% of the yard area.

F. Allowed accessory uses.

(1) Accessory uses not requiring a building permit.

(a) The following uses may be allowed in the front yard:

Minimum Setbacks (feet)			
Use	**Front**	**Side**	**Rear**
Basketball hoops	5	5	5
Bird baths	5	5	5
Flagpoles	5	5	5
Fountains	5	5	5
Gardens	5	5	5
Greenhouses (temporary)	5	5	5
Lawn sculptures	5	5	5
Pergolas (freestanding)	5	5	5
Pools (temporary or seasonal)	5	5	5
Religious statues	5	5	5
Seasonal gazebos	5	5	5
Wishing wells	5	5	5

(b) The following uses may be allowed in the side yard:

Commented [KH54]: NO CHANGE -Moved to 275-42A(4)(d)

Commented [KH55]: NO CHANGE -Moved to 275-42A(6)

Minimum Setbacks (feet)			
Use	Front	Side	Rear
Basketball hoops	5	5	5
Bird baths	5	5	5
Flagpoles	5	5	5
Fountains	5	5	5
Gardens	5	5	5
Greenhouses (temporary)	5	5	5
Lawn sculptures	5	5	5
Pergolas (freestanding)	5	5	5
Pools (temporary or seasonal)	5	5	5
Religious statues	5	5	5
Seasonal gazebos	5	5	5
Wishing wells	5	5	5

(c) The following uses may be allowed in the rear yard:

Minimum Setbacks (feet)			
Use	Front	Side	Rear
Basketball hoops	5	5	5
Bird baths	5	5	5
Compost piles (maximum height 6 feet)	5	5	5
Firewood piles, neatly stacked (maximum height 6 feet - no height restriction if stacked against a permitted structure)	5	5	5
Flagpoles	5	5	5
Fountains	5	5	5

Commented [KH56]: NO CHANGE -Moved to 275-42I

Minimum Setbacks (feet)			
Use	Front	Side	Rear
Gardens	5	5	5
Greenhouses (temporary)	5	5	5
Lawn sculptures	5	5	5
Patios (uncovered)	5	5	5
Pergolas (freestanding)	5	5	5
Pools (temporary or seasonal)	5	5	5
Religious statues	5	5	5
Seasonal gazebos	5	5	5
Sport courts	5	5	5
Swing sets and gym sets	5	5	5
Tennis courts	5	5	5
Volleyball courts (permanent)	5	5	5
Wishing wells	5	5	5

(2) Accessory uses requiring a building permit.

(a) The following uses may be allowed in the front yard:

Use	Front	Side	Rear
Accessory buildings greater than 144 square feet (includes garages, pole barns)	District setbacks	District setbacks	District setbacks
Balconies	District Setbacks	District setbacks	District setbacks
Central air-conditioning units and generators	District Setbacks	District setbacks	District setbacks
Covered patios or decks (attached)	District setbacks	District setbacks	District setbacks
Decks (4 feet in height or greater)	See § 275-46D(3)	District setbacks	District setbacks

Commented [KH57]: NO CHANGE -Moved to 275-42A(6)

Commented [KH58]: NO CHANGE -Moved to 275-42T

Commented [KH59]: NO CHANGE -Moved to 275-42U

Commented [KH60]: NO CHANGE -Moved to 275-42T

Commented [KH61]: NO CHANGE -Moved to 275-42A(6)

Commented [KH62]: NO CHANGE - Moved to 275-42B(1)(c)

Commented [KH63]: NO CHANGE - Moved to 275-42D

Commented [KH64]: NO CHANGE - Moved to 275-42A(6)

Commented [KH65]: NO CHANGE - Moved to 275-42D

Use	Front	Side	Rear
Decks (less than 4 feet in height)	See § 275-46D(3)	District setbacks	5

(b) The following uses may be allowed in the side yard:

Use	Front	Side	Rear
Accessory buildings greater than 144 square feet (includes garages, pole barns)	District setbacks	District setbacks	District setbacks
Accessory buildings 144 square feet or less (includes tool sheds)	—	District setbacks	5
Balconies	District Setbacks	District setbacks	District setbacks
Carports (attached), only if supplemental to a garage	—	District setbacks	District setbacks
Central air-conditioning units and generators	District setbacks	District setbacks	District setbacks
Covered patios or decks (attached)	District setbacks	District setbacks	District setbacks
Decks (4 feet in height or greater)	See § 275-46D(3)	District setbacks	District setbacks
Decks (less than 4 feet in height)	See § 275-46D(3)	District setbacks	5
Gazebos/open-air structures	—	District setbacks	District setbacks
Hot tubs	—	District setbacks	5
Playhouse exceeding 144 square feet and greater than 7 feet in height	—	District setbacks	5
Pool houses	—	District setbacks	District setbacks

Commented [KH66]: NO CHANGE - Moved to 275-42F

Commented [KH67]: NO CHANGE - Moved to 275-42B(1)(c)

Commented [KH68]: NO CHANGE - Moved to 275-42B(2)(c)

Commented [KH69]: NO CHANGE - Moved to 275-42D

Commented [KH70]: NO CHANGE - Moved to 275-42A(6)

Commented [KH71]: NO CHANGE - Moved to 275-42D

Commented [KH72]: NO CHANGE - Moved to 275-42F

Commented [KH73]: NO CHANGE - Moved to 275-42B(1)(c)

Commented [KH74]: NO CHANGE - Moved to 275-42K

Commented [KH75]: NO CHANGE - Moved to 275-42B(1)(c)

(c) The following uses may be allowed in the rear yard:

Use	Front	Side	Rear
Accessory buildings greater than 144 square feet (includes garages, pole barns)	District setbacks	District setbacks	District setbacks
Accessory buildings 144 square feet or less (includes tool sheds)	—	5	5
Balconies	District Setbacks	District setbacks	District setbacks
Carports (attached), only if supplemental to a garage	—	District setbacks	District setbacks
Central air-conditioning units and generators	District setbacks	District setbacks	District setbacks
Covered patios or decks (attached)	District setbacks	District setbacks	District setbacks
Decks (4 feet in height or greater)	See § 275-46D(3)	District Setbacks	District setbacks
Decks (less than 4 feet in height)	See § 275-46D(3)	District setbacks	5
Gazebos/open-air structures	—	District Setbacks	District setbacks
Hot tubs	—	District setbacks	5
Playhouse exceeding 144 square feet and greater than 7 feet in height	—	District setbacks	5
Pool houses	—	District setbacks	District setbacks
Pools (above ground or in ground)	—	5	5

(3) Temporary outdoor storage. Temporary outdoor storage may be allowed as an accessory use in all zoning districts, subject to the following provisions:

(a) Temporary outdoor storage units (example: shipping containers/crates) shall abide by the restrictions below:

[1] An administrative permit application shall be submitted and a zoning permit issued prior to the temporary outdoor storage unit being placed on the property, if it will be stored on the property for more than 30 days.

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Commented [KH77]: NO CHANGE - Moved to 275-42B(2)(c)

Commented [KH78]: NO CHANGE - Moved to 275-42D

Commented [KH79]: NO CHANGE - Moved to 275-42A(6)

Commented [KH80]: NO CHANGE - Moved to 275-42D

Commented [KH81]: NO CHANGE - Moved to 275-42F

Commented [KH82]: NO CHANGE - Moved to 275-42B(1)(c)

Commented [KH83]: NO CHANGE - Moved to 275-42K

Commented [KH84]: NO CHANGE - Moved to 275-42B(1)(c)

Commented [KH85]: NO CHANGE - Moved to 275-42O

[2] Only one temporary outdoor storage unit will be allowed per tax key. The Department of Community Development will review requests for any additional temporary outdoor storage units.

[3] Temporary outdoor storage units shall not exceed eight feet in height, 10 feet in width and 20 feet in length.

[4] No flammable or explosive materials may be stored in the temporary outdoor storage unit.

[5] No temporary outdoor storage unit will be used to store materials related to an off-premises business or a home occupation.

(b) Location:

[1] Temporary storage units shall be placed on a hard, all-weather surface, driveway or turnaround area. (This does not include areas of dirt or grass.)

[2] Temporary outdoor storage areas shall be set back a minimum of 10 feet from the base setback line and a minimum of five feet from the side and rear lot lines.

[3] Temporary outdoor storage units will not be allowed to be stored on public access areas, easements or within the City of New Berlin right-of-way.

(c) Duration:

[1] Temporary outdoor storage units shall not be stored on a property longer than 30 days unless the property owner submits an administrative permit application requesting a longer duration of time. The total storage of the temporary outdoor storage unit with an application and permit shall not exceed 60 days unless as specified in the next condition.

[2] Property owners that have applied for and received a valid building permit shall be allowed to store temporary outdoor storage units on the property no longer than 180 days or until final occupancy is issued, whichever comes first.

[3] If the project has a valid building permit, the property owner shall not be required to apply for an administrative permit.

[4] If the temporary outdoor storage unit is scheduled to remain on the property over 180 days, then the property owner shall apply for an administrative permit.

[5] Once the project or property owner receives final occupancy and/or the building permits have been closed out and final inspected, the property owner must remove the temporary outdoor storage unit within 30 days.

[6] Temporary outdoor storage units and small homes are prohibited as a permanent use.

Commented [KH86]: NO CHANGE - Moved to 275-42N

(4) Refuse containers. Refuse containers may be allowed as an accessory use in all zoning districts, subject to the following provisions. City-issued trash and recycling bins intended for weekly pickup and dumpsters used by commercial, industrial or multifamily developments for the primary use of everyday garbage disposal or recycling are exempt from this section and shall refer to Chapter 220 of the Municipal Code.

(a) Refuse containers (example: dumpsters/Bagster bags) shall abide by the restrictions below:

[1] Only one refuse container will be allowed per tax key. The Department of Community Development will review requests for any additional refuse containers.

[2] Refuse containers shall not exceed eight feet in height, 10 feet in width and 24 feet in length.

[3] No flammable or explosive materials may be stored in a refuse container.

[4] No refuse container will be used to store materials related to an off-premises business or a home occupation.

(b) Location:

[1] Refuse containers areas shall be set back a minimum of 10 feet from the base setback line and a minimum of five feet from the side and rear lot lines.

[2] Refuse containers will not be allowed to be stored on public access areas, easements or within the City of New Berlin right-of-way.

(c) Duration:

[1] Refuse containers shall not be stored on a property longer than 15 days, unless the property owner submits an administrative permit application requesting a longer duration of time. The total storage of a refuse container with an application and permit shall not exceed 75 days.

[2] Property owners that have applied for and received a valid building permit for an addition, remodel or alteration shall be allowed to store a refuse container on the property no longer than 180 days.

[3] Permits for new construction shall be allowed to store a refuse container until final occupancy. To prevent construction debris from leaving the site, refuse containers must be changed regularly.

Commented [KH87]: NO CHANGE - Moved to 275-42P

G. Regulations for specific types of accessory uses and structures.

(1) Accessory dwellings.

(a) Residential quarters may be allowed in the B-2, B-3 and B-5 Districts, provided that the following regulations are met:

[1] The accessory dwelling is located in the same building as the business;

[2] The accessory dwelling shall meet all minimum floor area requirements of the Rm-1 Zoning District;

[3] Adequate off-street parking for the occupant and visitors is provided as well as access to and from a public roadway; and

[4] A sufficient amount of yard space is provided for ordinary outdoor activities.

(b) Residential quarters for the caretaker or clergy may be provided in the I-1 District.

(c) Family dwelling unit. An accessory family dwelling unit, commonly called an "in-law suite," may be permitted in the agricultural and single-family residential zoning districts, provided:

[1] The family dwelling unit is attached and architecturally integrated with the principal dwelling unit. Detached accessory dwelling units are prohibited.

[2] The family dwelling unit shall require a zoning permit in compliance with § 275-24.

[3] The family dwelling unit may be built simultaneously with a new residence or after an existing residence has been constructed.

[4] The owner is required to reside on the property. The owner may live in either the principal unit or the family dwelling unit.

[5] The occupants of the principal unit and family dwelling unit shall be related by blood, adoption, marriage or other legally recognized relationship which creates a common household. A deed restriction on the family dwelling unit and property shall be recorded to limit the occupants as defined hereunder.

[6] No more than two people shall live in the family dwelling unit.

[7] The maximum size of the family dwelling unit shall be no greater than 50% of the living space of the principal unit.

[8] The family dwelling unit may have a separate entrance, provided the entrance is not in the front of the principal unit.

[9] The family dwelling unit shall have a minimum of one interior connection to the principal unit.

Commented [KH88]: NO CHANGE - Moved to 275-42C

(2) Antennas, amateur radio antennas (e.g., ham radio), and satellite dishes. Terrestrial antennas, amateur radio antennas (e.g., ham radio), and satellite dishes are allowed as accessory uses in any district, provided that the standards set forth below are met. These standards shall be interpreted and enforced in a manner consistent with the Telecommunications Act of 1996 and applicable FCC regulations.

(a) Location.

[1] Terrestrial antennas, amateur radio antennas (e.g., ham radio), and digital satellite receiving dishes 36 inches or less in diameter may be

~~located in the rear yard or on the roof of the principal structure in all residential districts.~~

~~[2] Earth station dish antennas may be located in the rear yard in any residential district.~~

~~[3] Terrestrial antennas and earth station dish antennas may be located in the side and rear yard or on the roof of the principal structure in nonresidential districts, including agricultural districts.~~

~~[4] Amateur radio antennas (e.g., ham radio) may be located in the rear or side yard.~~

~~(b) Measurements.~~

~~[1] All freestanding antennas shall be located not less than five feet from a lot line. Adjustable antennas shall not be closer than five feet to the lot line in any position.~~

~~[2] All freestanding terrestrial antennas, roof antennas, and amateur radio antennas (e.g., ham radio) shall meet the height requirements for the district in which they are located, except as provided in § 275-45B of this chapter.~~

~~[3] Ground-mounted earth station dish antennas shall not exceed 15 feet in height.~~

~~[4] All antennas, including earth station dish antennas, shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour, and such installations shall be constructed of noncombustible and corrosive-resistant materials.~~

~~(c) Additional regulations.~~

~~[1] All antennas, including earth station dish antennas, shall be filtered and/or shielded so as to prevent the emission or reflection of electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.~~

~~[2] Not more than one terrestrial and one earth station dish antenna per dwelling unit shall be allowed on a lot or parcel in a residential zoning district.~~

~~[3] Earth station dish antennas shall be located and designed to reduce their visual impact on surrounding properties.~~

~~[4] No form of display or identification may be displayed on the dish or framework other than the customary manufacturer's identification plates.~~

[5] All antennas, and the construction supports and installation thereof, shall conform to applicable City Building Code and Electrical Code regulations and requirements.[1] Appropriate permits shall be issued by the Building Inspector. Prior to the issuance of a permit for a building-mounted earth station dish antenna, the applicant shall submit a plan or document prepared by a registered professional engineer which certifies that the proposed dish antenna installation is structurally sound to accommodate wind load, snow load, and dead load.

[1] Editor's Note: See Ch. 80, Building Construction, and Ch. 106, Electrical Standards.

[6] Portable or trailer-mounted antennas are not allowed, with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed two days at any one location.

[7] In the event the property owner of a parcel of land located in a residential district determines and documents that the placement of an antenna in a rear yard would prevent its use for its intended purpose, the property owner may apply to the Plan Commission for a variance to allow the installation of the antenna in a side yard location. The procedure for issuing the Plan Commission variance shall follow the procedure set forth in § 275-30B of this chapter. If the owner determines and documents that a side yard location is not functional, then the Plan Commission may allow a roof-mounted earth station dish antenna.

Commented [KH89]: NO CHANGE - Moved to 275-42E

(3) Fences. Fences are allowed as accessory uses in all districts and are further regulated as follows

(a) Height. Fence height shall be measured from the average grade of the ground beneath the fence.

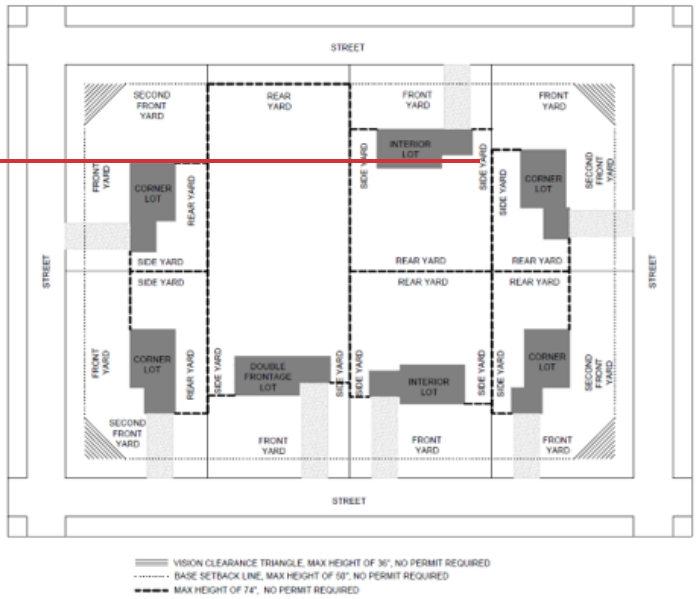
[1] Residential.

[a] Front yard. No fence in the front yard shall be located closer to the street than the base setback line and shall not exceed 50 inches in height. No fence in the vision clearance triangle shall exceed three feet in height above mean street grade. On corner lots, the side facing the side street (or second street) shall also be considered a front yard.

[b] Side and rear yards. Fences located in the side or rear yards shall not exceed 74 inches in height. On double frontage lots, the side facing the rear street shall be considered a rear yard.

[2] Nonresidential. Fences shall not exceed 98 inches in height.

Figure V – 1
Fence Location



~~(b) Location.~~

~~[1] Fences made of maintenance-free materials may be located on the lot line. Such materials include, but are not limited to, metal fences (chain-link, wrought-iron, aluminum), PVC/recycled materials, removable fencing, pressure-treated wood and other maintenance-free materials, as approved by the Director. Common-lot-line fencing that has a finished side facing both properties and is maintained by both owners with a prior agreement is allowed with a survey. Fences that are not made of maintenance-free materials shall be located at least two feet from the property line.~~

~~[2] Fences shall be located outside of easement areas unless Plan Commission approval is granted.~~

~~[3] Fences shall not block or impact existing drainage patterns. Any grade changes made in the area of the fence installation must follow the requirements in § 275-55.~~

~~(c) Construction and maintenance.~~

~~[1] All structural and support components of a fence shall face away from adjacent properties.~~

~~[2] All fences shall be constructed straight and plumb. Any fence that is to be constructed or maintained in other than a straight and plumb~~

~~condition, including but not limited to certain types of split-rail fences, shall require Plan Commission review and approval.~~

~~[3] Fences in nonresidential districts shall adhere to § 275-59.~~

~~[4] All fences shall be maintained in good repair at all times. No signs or display shall be allowed on a fence. No materials shall be stored between the fence and the lot line.~~

~~(d) Permits. No permit is required for fences meeting the above criteria. A permit shall be required for:~~

~~[1] Residential fences located in the front yard that exceed 50 inches but not more than 74 inches, provided that all other requirements for fences are met. DCD review and approval is required.~~

~~[2] Residential fences exceeding 74 inches in height, provided that all other requirements for fences are met. Plan Commission review and approval is required.~~

~~(e) Exception.~~

~~[1] A snow fence temporarily constructed for the purpose of catching wind-blown snow shall not be subject to these fence requirements, provided that it shall be installed no earlier than November 1 of each year and shall be removed no later than April 1 each year.~~

~~[2] Windscreens are allowed on a seasonal basis within Institutional and Park Zoning Districts and may display content. Windscreens shall be maintained and in good repair.~~

Commented [KH90]: NO CHANGE - Moved to 275-42H

~~(4) Home occupations. Home occupations may be allowed as accessory uses in any agricultural or residential district, provided that they comply with the following standards:~~

~~(a) General regulations.~~

~~[1] Home occupations shall be allowed only after staff review and administrative approval in accordance with the procedures set forth in Article III of this chapter.~~

~~[2] The total area devoted to a home occupation shall not exceed 20% of the building area of the principal dwelling unit.~~

~~[3] A home occupation shall produce no offensive noise, vibration, dust, odors, smoke, heat, pollution, glare, or radio, electrical, or television interference or otherwise produce a nuisance as determined by the Plan Commission.~~

~~[4] No materials that decompose by detonation shall be allowed in conjunction with a home occupation.~~

~~[5] No home occupation shall be allowed which changes the outside appearance of the dwelling or is visible from the street.~~

[6] Materials used in or produced by a home occupation may not be stored or displayed outside the dwelling without Plan Commission approval.

[7] No more than one nonresident employee shall be employed by a home occupation.

[8] Retail and wholesale sales shall be prohibited, except for the retail or wholesale sales of products or goods produced or fabricated on the premises as a result of the home occupation.

[9] The applicant shall demonstrate that there is sufficient off-street parking available to the home occupation. All vehicular parking for both the residence and the home occupation shall be located on the premises.

[10] A home occupation shall be carried on wholly within the principal dwelling. No home occupation nor any storage of goods, materials, or products connected with a home occupation shall be allowed in any accessory building or detached garage.

[11] Home occupation uses shall meet all applicable Fire and Building Code safety requirements.

[12] No home occupation involving visits to the site of the home occupation by customers or the loading or unloading of business-oriented material shall be operated between the hours of 8:00 p.m. and 8:00 a.m.

(b) Prohibited home occupations. The following uses are prohibited as home occupations:

[1] Animal hospitals or pet boarding;

[2] Antique shop;

[3] Automobile or other motor vehicle repair or paint shops;

[4] Dance studios for more than six students;

[5] Furniture stripping and/or refinishing;

[6] Gift shops;

[7] Gun or ammunition sales;

[8] Manufacturing or assembling items for sale from components not made on the same premises;

[9] Mortuaries;

[10] Music studios for more than three students;

[11] Photographic studios;

[12] Private clubs;

[13] Restaurants;

[14] Small engine repair shops;

[15] Stables or kennels;

[16] Tourist homes or boardinghouses; and

[17] Any other home occupations not meeting the criteria established by this chapter.

Commented [KH91]: NO CHANGE - Moved to 275-42J

(5) Small wind energy systems.

(a) Authority. This subsection is adopted pursuant to authority granted pursuant to Wisconsin Statutes, §§ 62.23(7) and 66.0401.

(b) Purpose. The purpose and intent of this subsection is to oversee the permitting of small wind energy systems and to preserve and protect public health, safety and welfare without significantly increasing the cost or decreasing the efficiency of a small wind energy system.

(c) Definitions. Refer to § 275-70.

(d) General regulations. A small wind energy system shall comply with the use regulations of the applicable zoning district and with the following requirements:

[1] A wind tower for a small wind energy system shall be set back a distance equal its total height from:

[a] Any public right-of-way, unless written permission is granted by the governmental entity with jurisdiction over said road right-of-way.

[b] Any overhead utility line, unless written permission is granted by the affected utility.

[c] Any property line abutting the property that is not residentially zoned, unless written permission is granted by the owner of the abutting property.

[2] Access. All ground-mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access. The tower shall be designated and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet above the ground.

[3] The tower shall be designed and installed so that the distance between the bottom of the blade at its lowest point of rotation shall not be less than 20 feet above the ground.

[4] Electrical wires. All electrical wires associated with the small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.

[5] Lighting. The wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation

~~Administration. The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer and was approved by the Director of Community Development.~~

~~[6] Signs. All signs other than the manufacturer's or installer's identification, appropriate warning signs or owner identification on a wind generator tower building, or other structure associated with the small wind energy system visible from any public road, shall be prohibited.~~

~~[7] The small wind energy systems, including the tower and associated structure, shall comply with all applicable state building codes, construction and electrical codes and the national electrical codes.~~

~~[8] Utility notification and interconnection. Small wind energy systems that connect to the electrical utility shall comply with the Public Service Commission of Wisconsin Rules for Interconnecting Distributed Generation Facilities.~~

~~[9] Noise. Audible noise due to wind energy system operations shall not exceed 50 dBA for any period of time when measured at the exterior of any residence, school, hospital, church or public library and the property line of the adjacent neighbors existing on the date of the approved clean energy system permit. In the event audible noise due to wind energy system operations contains a steady pure tone such as a whine, screech or hum not produced under normal operating conditions, it is prohibited. In the event the ambient noise level exceeds the applicable standards given above, the applicable standard shall be adjusted so as to equal the ambient noise level.~~

~~(e) Small wind energy system permit.~~

~~[1] An applicant for a small wind energy system permit shall provide the following:~~

~~[a] A survey map showing property lines and physical dimensions, including the location, dimensions and types of existing structures on the property, location of the proposed small wind energy system tower, right-of-way of any public road that is contiguous with the property, and the overhead utility lines.~~

~~[b] Wind energy system specifications include the manufacturer and model, rotor diameter, tower height, tower type and kilowatt specifications.~~

~~[c] Information regarding noise anticipated to be attributed to the wind energy system.~~

~~[2] The small wind energy system permit shall expire if the small wind energy system is not installed and functioning within 12 months from the date the permit is issued.~~

(f) Abandonment. The small wind energy system is deemed to be abandoned if it is out of service for a continuous twelve-month period. If the City provides a notice of abandonment, the small wind energy system must be removed at the owner's expense within 90 days of the notice of abandonment. If the owner fails to remove the wind energy system, the City may pursue a legal action to have the wind energy system removed at the owner's expense, including the applicable legal fees. The owner shall have the right to respond to the notice of abandonment within 30 days of receipt of the notice. The City shall withdraw the notice of abandonment if the owner provides information that demonstrates the small wind energy system has not been abandoned.

(g) The Director of Community Development shall issue the small wind energy system permit, provided that it complies with the limitations and conditions as set forth herein, as well as applicable provisions of the Wisconsin Administrative Code and Wisconsin statutes. In the event that the application is rejected, the Director of Community Development shall notify the applicant in writing and provide a written statement of the reasons why the application was rejected. The applicant may appeal the decision of the Director of Community Development to the Plan Commission.

Commented [KH92]: NO CHANGE - Moved to 275-42R

(6) Solar energy conversion systems.

(a) Solar energy conversion systems (including solar collectors attached to the principal structure and solar collectors erected as an accessory structure) may be allowed as an accessory use in all zoning districts.

(b) Solar energy conversion systems shall be subject to the following provisions:

[1] Application. Applications for the erection of a solar energy conversion system shall conform to the application and approvat procedure for a building permit set forth in § 275-25 of this chapter and the Electrical Code. In addition, the application shall include a copy of any solar easements obtained from adjacent property owners.

[a] A building permit application submittal for a solar energy conversation system shall require a complete set of plans, including a site plan and any structure details drawn to scale. This plan set will be reviewed to ensure that a solar panel does not negatively impact the public health, safety and welfare.

[2] Construction. Solar energy conversion systems shall be constructed and installed in conformance with all applicable state and locat building and zoning codes.

[3] Location and height. Solar energy conversion systems shall meet all setback and yard requirements for the district in which they are located. Solar energy conversion systems shall conform to all height requirements of this chapter.

Commented [KH93]: NO CHANGE - Moved to 275-42S

~~(7) Geothermal systems. Geothermal systems may be allowed as an accessory use in all zoning districts, subject to applicable building codes.~~

~~(8) District heating/cooling. District heating and/or cooling is allowed as an accessory use in all zoning districts, subject to applicable building codes.~~

~~(9) Donation boxes. Donation boxes shall be monitored on at least a biweekly basis, or within five business days of a request by the Code Compliance Specialist, so that the contents are collected and that graffiti which becomes a blight is precluded. There shall be no accumulation of any items outside of the donation box. Donation boxes are required to be cleaned or repainted to remove graffiti that would otherwise result in a blight to the area. The owner's contact information shall be displayed clearly on the box. The donation box shall not obstruct traffic, sidewalks, fire lanes, or impact the required the required number of parking spaces.~~

A. General Provisions.

(1) Accessory uses are allowed in any district as may be specified in the appropriate district regulations or in this section.

(2) Accessory uses are allowed only after the principal structure is present or under construction. The Director of Community Development may administratively approve an accessory structure prior to the principal structure being built, as long as the construction of the principal structure has begun within one year of starting work on the accessory structure. The City has the ability to enforce fines and/or citations.

(3) Detached accessory buildings and structures that are part of a planned development are subject to Plan Commission review.

(4) Dimensional requirements.

(a) Setbacks. All accessory uses, except where otherwise specified, shall be set back a minimum of five feet from all property lines. Setbacks are measured from the overhang to the lot line. Setbacks shall be regulated as follows:

[1] The accessory use setback shall be kept free from accumulation of debris or refuse.

[2] The accessory setback shall not be used for the storage of any material or for parking.

[3] Only fences, drainage swales, utilities, and landscaping may be allowed within the accessory setback area.

(b) All accessory buildings and structures shall be located outside of public easement areas unless Plan Commission approval is granted.

(c) The use and/or location requirements stipulated elsewhere in this chapter may be modified subject to Plan Commission approval.

(d) Lot coverage.

Commented [KH94]: NO CHANGE - Moved to 275-42A(6)

Commented [KH95]: NO CHANGE - Moved to 275-42G

Commented [KH96]: NO CHANGE - Moved from 275-42A(4)

Commented [KH97]: NO CHANGE - Moved from 275-42A(6)

Commented [KH98]: NO CHANGE - Moved from 275-42A(8)

Commented [KH99]: NO CHANGE - Moved from 275-42E(2)

Commented [KH100]: NO CHANGE - Moved from 275-42A(10)

Commented [KH101]: NO CHANGE - Moved from 275-42A(7)

[1] Where accessory uses are allowed in the front or side yards, the accessory structures or uses shall not occupy more than 15% of the yard area.

[2] Residential districts. Accessory uses shall not occupy more than 20% of the rear yard in any residential district.

[3] Office and industrial districts. Accessory uses shall not occupy more than 50% of the rear yard area in any office or industrial district.

(5) Demonstrated Agricultural Use. "Agricultural uses" shall be defined as land that is primarily used for agricultural activity, including but not limited to the growing of qualified crops, planting in rows, fertilizing and tilling the land, and any other efforts to enhance growth of the yield. Physical evidence of agricultural activity can include furrows, crops, fencing and livestock. Minimal maintenance of the land and naturally growing crops will not be considered agricultural activity.

(a) Accessory uses that are for a demonstrated agricultural use shall only be used for storage and demonstrated agricultural purposes, and not for home occupations, commercial storage, or business operations. All setbacks shall be met for the zoning district and shall be located in the rear or side yards in all residential districts.

(b) DCD shall regulate the architecture of agricultural accessory uses under § 275-59D(1) of this chapter.

(6) Allowed accessory uses. The following accessory uses may be allowed in all yards and shall be set back a minimum of five feet from all property lines: basketball hoops, bird baths, district heating/cooling, flagpoles, fountains, gardens, gazebos (fabric roof), generators, geothermal systems, greenhouses (polycarbonate type roof and walls), lawn sculptures, patios (uncovered), pergolas (detached), pools (seasonal and under 4' in height), religious statues, tree houses, and wishing wells. A building permit may be required for these uses.

(7) Prohibited accessory uses. Skateboard ramps are prohibited within residentially zoned districts.

B. Accessory buildings. All accessory buildings shall require the issuance of a building permit.

(1) Accessory buildings greater than 144 square feet (includes accessory buildings, garages (detached), gazebos, pavilions/covered patios (detached), permanent greenhouses, playhouses, pole barns and pool houses).

(a) Size.

[1] Square footage. Square footage shall be based on the first-floor footprint. Eaves up to 24" are excluded from this measurement. Overhangs and other attached accessory structures, as defined in §275-42D, exceeding 24" shall be counted towards the square footage.

[a] Single-family and two-family residential zoning districts.

Commented [KH102]: NO CHANGE - Moved from 275-42E(3)

Commented [HK103]: From Plan Commission to DCD to make consistent with 275-15D(3)

Commented [KH104]: NO CHANGE - Moved from 275-42A

Commented [KH105]: From district setbacks to 5' from property lines

Commented [KH106]: NO CHANGE - Moved from 275-42F(1)
Moved from 275-42F(2)
Moved from 275-42G(7)
Moved from 275-42G(8)

Commented [KH107]: NO CHANGE - Moved from 275-42A(9)

Commented [KH108]: NO CHANGE - Moved from 275-42A(5)

i. The maximum combined allowable square footage is outlined in Table 275-42-1.

ii. Properties which are 5 acres or greater with a demonstrated agricultural use, as determined by the Director, may exceed the maximum combined allowable square footage listed in Table 275-42-1.

Commented [KH109]: NO CHANGE - Moved from 275-42B

Table 275-42-1		
Lot Area (acres)	**Maximum Combined Allowable Square Footage of Accessory Buildings greater than 144 SF**	**Maximum Number of Accessory Buildings**
Less than 2	840	2
2.0 - less than 2.5	1,500	2
2.5 - less than 3.0	1,750	3
3.0 - less than 3.5	2,000	3
3.5 - less than 4.0	2,250	3
4.0 - less than 4.5	2,500	3
4.5 - less than 5.0	2,750	3
5.0 and greater	3,000	3

Commented [KH110]: Increase allowable square footage

[b] All other zoning districts. There is no maximum allowable square footage of accessory buildings within these zoning districts. Lot coverage percentages shall be met.

[2] Height.

[a] General farm buildings.

i. General farm buildings, including barns, silos, sheds, and storage bins intended for allowed agricultural uses, shall be sized to meet demonstrated agricultural needs.

ii. No farm buildings or parts of farm buildings shall exceed 60 feet in height.

iii. Accessory buildings exceeding 35 feet in height shall provide one additional foot of required front, side, and rear yard for each one foot over 35 feet in height.

Commented [KH111]: NO CHANGE - Moved from 275-42E(1)

[b] Single-family and two-family residential zoning districts.

i. An accessory building height may only be one story and shall not exceed 18 feet in height. A half story may be permitted, pursuant to § 275-70.

ii. DCD may grant a waiver for accessory buildings with a height up to 21 feet to match the exterior of the principal structure or for a larger footprint accessory building.

iii. Accessory dwelling units (ADU's) / Living quarters are not permitted within accessory buildings.

[c] All other zoning districts. The maximum height allowed shall comply with the use table for that district.

(b) Quantity.

[1] Single-family and two-family residential zoning districts.

Lot Area (acres)	Maximum Number of Accessory Buildings
Less than 2.5	2
2.5 and greater	3
5.0 and greater with a demonstrated agricultural use, as determined by the Director	No limit

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Commented [KH112]: NO CHANGE - Moved from 275-42B

[2] All other zoning districts. There is no maximum number of accessory buildings within these zoning districts. Lot coverage percentages shall be met.

(c) Location.

[1] Yards. May be located in the front, side or rear yard.

[2] Setbacks. Setbacks are measured from the overhang to the lot line.

[a] The setbacks of the zoning district shall be met.

Commented [KH113]: NO CHANGE - Moved from 275-42F(2)

[b] The Plan Commission/Community Development Authority shall have the ability to modify setbacks for all accessory buildings in any non single-family residential district.

Commented [KH114]: NO CHANGE - Moved from 275-42E(2)(c)

[3] Building separation. A minimum of 10' of separation is required between other structures, measured wall to wall. In the case of proper fire separation, the Building Inspector may allow accessory buildings to be placed five feet from a principal residence. The Building Inspector shall consider the health, safety, general welfare, and aesthetics of the proposed construction before granting such a waiver.

Commented [KH115]: NO CHANGE - Moved from 275-42E(2)(d)

(d) Building materials. Accessory buildings may be made from either masonry or wood frame materials, subject to §275-42B(1)(c)[3].

(e) Pad/foundation requirements. Accessory buildings greater than 144 square feet shall be constructed on a foundation or concrete slab.

(f) Use Approval Permit. DCD staff shall determine if Architecture Review Committee review and approval is required.

[1] Accessory buildings located within non single-family residential zoning districts with a maximum size of 2,500 square feet shall require the issuance of an administrative permit by DCD staff.

[2] Accessory buildings in non single-family residential zoning districts that exceed 2,500 square feet shall require Plan Commission review and approval.

(2) Accessory buildings 144 square feet or less (includes gazebos, pavilions/covered patios (detached), permanent greenhouses, playhouses, pool houses, and sheds).

(a) Size.

[1] Square footage. Square footage shall be based on the first-floor footprint. Eaves up to 24" are excluded from this measurement. Overhangs and other attached accessory structures, as defined in §275-42D, exceeding 24" shall be counted towards the square footage.

[a] Single-family and two-family residential zoning districts.

i. The maximum size is 144 square feet. Accessory buildings 144 square feet or less do not count towards the maximum combined allowable square footage outlined in Table 275-42-1.

ii. Properties which are 5 acres or greater with a demonstrated agricultural use, as determined by the Director, may exceed the maximum combined allowable square footage listed in Table 275-42-1.

[b] All other zoning districts. There is no maximum allowable square footage of accessory buildings within these zoning districts. Lot coverage percentages shall be met.

[2] Height.

[a] General farm buildings.

i. General farm buildings, including barns, silos, sheds, and storage bins intended for allowed agricultural uses, shall be sized to meet demonstrated agricultural needs.

ii. No farm buildings or parts of farm buildings shall exceed 60 feet in height.

Commented [KH116]: NO CHANGE - Moved from 275-42D

Commented [KH117]: NO CHANGE - Moved from 275-42C

Commented [KH118]: NO CHANGE - Moved from 275-42E(1)(c)

Commented [KH119]: NO CHANGE - Moved from 275-42B

iii. Accessory buildings exceeding 35 feet in height shall provide one additional foot of required front, side, and rear yard for each one foot over 35 feet in height.

[b] Single-family and two-family residential zoning districts.

i. An accessory building height may only be one story and shall not exceed 18 feet in height. A half story may be permitted, pursuant to § 275-70.

ii. DCD may grant a waiver for accessory buildings with a height up to 21 feet to match the exterior of the principal structure or for a larger footprint accessory building.

iii. Accessory dwelling units (ADU's) / Living quarters are not permitted within accessory buildings.

[c] All other zoning districts. The maximum height allowed shall comply with the use table for that district.

(b) Quantity.

[1] Single-family and two-family residential zoning districts.

Lot Area (acres)	Maximum Number of Accessory Buildings
Less than 2.5	2
2.5 and greater	3
5.0 and greater with a demonstrated agricultural use, as determined by the Director	No limit

.

[2] All other zoning districts. There is no maximum number of accessory buildings within these zoning districts. Lot coverage percentages shall be met.

(c) Location.

[1] Yards. May be located in the side or rear yard.

[2] Setbacks. Setbacks are measured from the overhang to the lot line.

[a] Sheds located in the side yard shall meet the setbacks of the zoning district. Sheds located in the rear yard shall be located a minimum of 5' from all property lines.

[b] The Plan Commission/Community Development Authority shall have the ability to modify setbacks for all accessory buildings in any non single-family residential district.

Commented [KH120]: NO CHANGE - Moved from 275-42E(1)

Commented [KH121]: NO CHANGE - Moved from 275-42B

Commented [KH122]: NO CHANGE - Moved from 275-42F(2)

Commented [KH123]: NO CHANGE - Moved from 275-42E(2)(c)

[3] Building separation. A minimum of 10' of separation is required between other structures, measured wall to wall. In the case of proper fire separation, the Building Inspector may allow accessory buildings to be placed five feet from a principal residence. The Building Inspector shall consider the health, safety, general welfare, and aesthetics of the proposed construction before granting such a waiver.

(d) Building materials. Accessory buildings may be made from either masonry or wood frame materials, subject to §275-42B(2)(c)[3].

(e) Pad/foundation requirements. Accessory buildings 144 square feet or less must be placed over a concrete slab, a solid base of patio block, asphalt, poly-carbonate or on a floor of pressure treated wood.

(f) Use Approval Permit. DCD staff shall determine if Architecture Review Committee review and approval is required.

[1] Accessory buildings located within non single-family residential zoning districts with a maximum size of 2,500 square feet shall require the issuance of an administrative permit by DCD staff.

C. Accessory dwelling units.

(1) Residential quarters may be allowed in the B-2, B-3 and B-5 Districts, provided that the following regulations are met:

(a) The accessory dwelling is located in the same building as the business;

(b) The accessory dwelling shall meet all minimum floor area requirements of the Rm-1 Zoning District;

(c) Adequate off-street parking for the occupant and visitors is provided as well as access to and from a public roadway; and

(d) A sufficient amount of yard space is provided for ordinary outdoor activities.

(2) Residential quarters for the caretaker or clergy may be provided in the I-1 District.

(3) Family dwelling unit. An accessory family dwelling unit, commonly called an "in-law suite," may be permitted in the agricultural and single-family residential zoning districts, provided:

(a) The family dwelling unit is attached and architecturally integrated with the principal dwelling unit. Detached accessory dwelling units are prohibited.

(b) The family dwelling unit shall require a zoning permit in compliance with § 275-24.

(c) The family dwelling unit may be built simultaneously with a new residence or after an existing residence has been constructed.

(d) The owner is required to reside on the property. The owner may live in either the principal unit or the family dwelling unit.

(e) The occupants of the principal unit and family dwelling unit shall be related by blood, adoption, marriage or other legally recognized relationship which

Commented [KH124]: NO CHANGE - Moved from 275-42E(2)(d)

Commented [KH125]: NO CHANGE - Moved from 275-42D

Commented [KH126]: NO CHANGE - Moved from 275-42C

Commented [KH127]: NO CHANGE - Moved from 275-42E(1)(c)

creates a common household. A deed restriction on the family dwelling unit and property shall be recorded to limit the occupants as defined hereunder.

(f) No more than two people shall live in the family dwelling unit.

(g) The maximum size of the family dwelling unit shall be no greater than 50% of the living space of the principal unit.

(h) The family dwelling unit may have a separate entrance, provided the entrance is not in the front of the principal unit.

(i) The family dwelling unit shall have a minimum of one interior connection to the principal unit or attached to the principal building.

D. Accessory structures, attached. All accessory structures attached to a building shall require the issuance of a building permit, including balconies (covered or uncovered), carports attached to a building (only if supplemental to a garage), pavilions/covered patios (attached), pergolas (attached), and porches. Attached accessory structures exclude those defined in 275-42B.

(1) Yards. May be located in the front, side or rear yard.

(2) Setbacks. Setbacks are measured from the overhang to the lot line.

(a) The setbacks of the zoning district shall be met.

(3) Building separation. A minimum of 10' of separation is required between other structures, measured wall to wall. In the case of proper fire separation, the Building Inspector may allow accessory structures to be placed five feet from a principal residence. The Building Inspector shall consider the health, safety, general welfare, and aesthetics of the proposed construction before granting such a waiver.

E. Antennas (terrestrial), amateur radio antennas (e.g., ham radio), and satellite dishes. The standards below shall be interpreted and enforced in a manner consistent with the Telecommunications Act of 1996 and applicable FCC regulations.

(1) Location.

(a) Terrestrial antennas, amateur radio antennas (e.g., ham radio), and digital satellite receiving dishes 36 inches or less in diameter may be located in the rear yard or on the roof of the principal structure in all residential districts.

(b) Earth station dish antennas may be located in the rear yard in any residential district.

(c) Terrestrial antennas and earth station dish antennas may be located in the side and rear yard or on the roof of the principal structure in nonresidential districts, including agricultural districts.

(d) Amateur radio antennas (e.g., ham radio) may be located in the rear or side yard.

(2) Measurements.

(a) All freestanding antennas shall be located not less than five feet from a lot line. Adjustable antennas shall not be closer than five feet to the lot line in any position.

Commented [KH128]: NO CHANGE - Moved from 275-42G(1)

Commented [KH129]: NO CHANGE - Moved from 275-42G(1)

Commented [KH130]: NO CHANGE - Moved from 275-42F(2)

Commented [KH131]: NO CHANGE - Moved from 275-42E(2)(d)

(b) All freestanding terrestrial antennas, roof antennas, and amateur radio antennas (e.g., ham radio) shall meet the height requirements for the district in which they are located, except as provided in § 275-45B of this chapter.

(c) Ground-mounted earth station dish antennas shall not exceed 15 feet in height.

(d) All antennas, including earth station dish antennas, shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour, and such installations shall be constructed of noncombustible and corrosive-resistant materials.

(3) Additional regulations.

(a) All antennas, including earth station dish antennas, shall be filtered and/or shielded so as to prevent the emission or reflection of electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

(b) Not more than one terrestrial and one earth station dish antenna per dwelling unit shall be allowed on a lot or parcel in a residential zoning district.

(c) Earth station dish antennas shall be located and designed to reduce their visual impact on surrounding properties.

(d) No form of display or identification may be displayed on the dish or framework other than the customary manufacturer's identification plates.

(e) All antennas, and the construction supports and installation thereof, shall conform to applicable City Building Code and Electrical Code regulations and requirements. Appropriate permits shall be issued by the Building Inspector. Prior to the issuance of a permit for a building-mounted earth station dish antenna, the applicant shall submit a plan or document prepared by a registered professional engineer which certifies that the proposed dish antenna installation is structurally sound to accommodate wind load, snow load, and dead load.

(f) Portable or trailer-mounted antennas are not allowed, with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed two days at any one location.

(g) In the event the property owner of a parcel of land located in a residential district determines and documents that the placement of an antenna in a rear yard would prevent its use for its intended purpose, the property owner may apply to the Plan Commission for a variance to allow the installation of the antenna in a side yard location. The procedure for issuing the Plan Commission variance shall follow the procedure set forth in § 275-30B of

this chapter. If the owner determines and documents that a side yard location is not functional, then the Plan Commission may allow a roof-mounted earth station dish antenna.

F. Decks. All attached and detached decks shall require the issuance of a building permit.

(1) Yards. May be located in the front, side or rear yard.

(2) Setbacks.

(a) The setbacks of the zoning district shall be met.

(b) Decks located in the rear yard that are 4' in height or less shall be located a minimum of 5' from all property lines.

(c) See also § 275-46E(3) regarding decks sized for entry purposes.

G. Donation boxes. Donation boxes shall be monitored on at least a biweekly basis, or within five business days of a request by the Code Compliance Specialist, so that the contents are collected and that graffiti which becomes a blight is precluded. There shall be no accumulation of any items outside of the donation box. Donation boxes are required to be cleaned or repainted to remove graffiti that would otherwise result in a blight to the area. The owner's contact information shall be displayed clearly on the box. The donation box shall not obstruct traffic, sidewalks, fire lanes, or impact the required the required number of parking spaces.

H. Fences.

(1) Height. Fence height shall be measured from the average grade of the ground beneath the fence.

(a) Residential.

[1] Front yard. No fence in the front yard shall be located closer to the street than the base setback line and shall not exceed 50 inches in height. No fence in the vision clearance triangle shall exceed three feet in height above mean street grade. On corner lots, the side facing the side street (or second street) shall also be considered a front yard.

[2] Side and rear yards. Fences located in the side or rear yards shall not exceed 74 inches in height. On double frontage lots, the side facing the rear street shall be considered a rear yard.

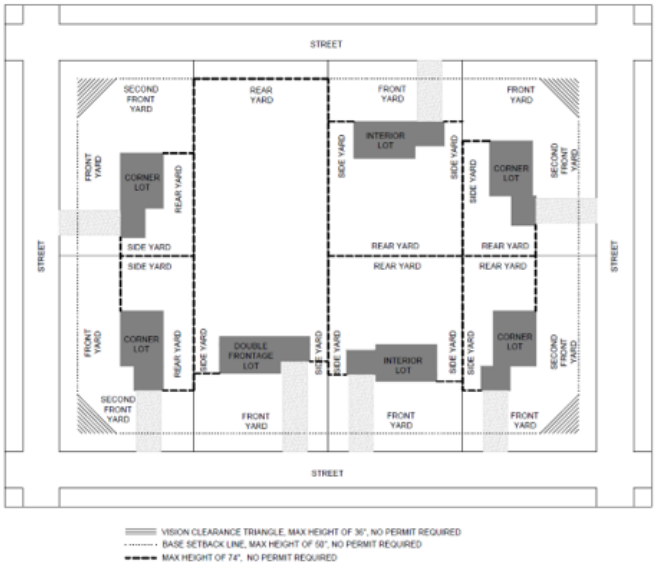
(b) Nonresidential. Fences shall not exceed 98 inches in height.

Commented [KH132]: NO CHANGE - Moved from 275-42G(2)

Commented [KH133]: NO CHANGE - Moved from 275-42F(2)

Commented [KH134]: NO CHANGE - Moved from 275-42G(9)

Figure V – 1
Fence Location



(2) Location.

(a) Fences made of maintenance-free materials may be located on the lot line. Such materials include, but are not limited to, cedar, metal fences (chain-link, wrought-iron, aluminum), PVC/recycled materials, removable fencing, pressure-treated wood and other maintenance-free materials, as approved by the Director. Common-lot-line fencing that has a finished side facing both properties and is maintained by both owners with a prior agreement is allowed with a survey. Fences that are not made of maintenance-free materials shall be located at least two feet from the property line.

(b) Fences shall be located outside of public easement areas unless Plan Commission approval is granted.

(c) Fences shall not block or impact existing drainage patterns. Any grade changes made in the area of the fence installation must follow the requirements in § 275-55.

(3) Construction and maintenance.

(a) All structural and support components of a fence shall face away from adjacent properties.

(b) All fences shall be constructed straight and plumb. Any fence that is to be constructed or maintained in other than a straight and plumb condition, including but not limited to certain types of split-rail fences, shall require Plan Commission review and approval.

(c) Fences in nonresidential districts shall adhere to § 275-59.

(d) All fences shall be maintained in good repair at all times. No signs or display shall be allowed on a fence. No materials shall be stored between the fence and the lot line.

(4) Permits. No permit is required for fences meeting the above criteria. A permit shall be required for:

(a) Residential fences located in the front yard that exceed 50 inches but not more than 74 inches, provided that all other requirements for fences are met. DCD review and approval is required.

(b) Residential fences exceeding 74 inches in height, provided that all other requirements for fences are met. Plan Commission review and approval is required.

(5) Exception.

(a) A snow fence temporarily constructed for the purpose of catching wind-blown snow shall not be subject to these fence requirements, provided that it shall be installed no earlier than November 1 of each year and shall be removed no later than April 1 each year.

(b) Windscreens are allowed on a seasonal basis within Institutional and Park Zoning Districts and may display content. Windscreens shall be maintained and in good repair.

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I. Firewood and compost piles.

(1) Firewood and compost piles with a maximum height of 6 feet shall be allowed as an accessory use in all zoning districts. Firewood piles that are stacked against a permanent structure have no height restriction.

(2) Yards. Firewood and compost piles may be located in the rear yard.

(3) Setbacks. Firewood and compost piles shall be located a minimum of 5' from all property lines.

Commented [KH136]: NO CHANGE - Moved from 275-42F(1)(c)

J. Home occupations. Home occupations may be allowed as accessory uses in any agricultural or residential district, provided that they comply with the following standards:

(1) General regulations.

(a) Home occupations shall be allowed only after staff review and administrative approval in accordance with the procedures set forth in Article III of this chapter.

(b) The total area devoted to a home occupation shall not exceed 20% of the building area of the principal dwelling unit.

(c) A home occupation shall produce no offensive noise, vibration, dust, odors, smoke, heat, pollution, glare, or radio, electrical, or television interference or otherwise produce a nuisance as determined by the Plan Commission.

(d) No materials that decompose by detonation shall be allowed in conjunction with a home occupation.

(e) No home occupation shall be allowed which changes the outside appearance of the dwelling or is visible from the street.

(f) Materials used in or produced by a home occupation may not be stored or displayed outside the dwelling without Plan Commission approval.

(g) No more than one nonresident employee shall be employed by a home occupation.

(h) Retail and wholesale sales shall be prohibited, except for the retail or wholesale sales of products or goods produced or fabricated on the premises as a result of the home occupation.

(i) The applicant shall demonstrate that there is sufficient off-street parking available to the home occupation. All vehicular parking for both the residence and the home occupation shall be located on the premises.

(j) A home occupation shall be carried on wholly within the principal dwelling. No home occupation nor any storage of goods, materials, or products connected with a home occupation shall be allowed in any accessory building or detached garage.

(k) Home occupation uses shall meet all applicable Fire and Building Code safety requirements.

(l) No home occupation involving visits to the site of the home occupation by customers or the loading or unloading of business-oriented material shall be operated between the hours of 8:00 p.m. and 8:00 a.m.

(2) Prohibited home occupations. The following uses are prohibited as home occupations:

(a) Animal hospitals or pet boarding;

(b) Antique shop;

(c) Automobile or other motor vehicle repair or paint shops;

(d) Dance studios for more than six students;

(e) Furniture stripping and/or refinishing;

(f) Gift shops;

(g) Gun or ammunition sales;

(h) Manufacturing or assembling items for sale from components not made on the same premises;

(i) Mortuaries;

(j) Music studios for more than three students;

(k) Photographic studios;

(l) Private clubs;

(m) Restaurants;

(n) Small engine repair shops;

(o) Stables or kennels;

(p) Tourist homes or boardinghouses; and

(q) Any other home occupations not meeting the criteria established by this chapter.

K. Hot tubs.

(1) Yards. Hot tubs may be located in the side or rear yard.

(2) Setbacks.

(a) Hot tubs located in the side yard shall meet the setbacks of the Zoning District.

(b) Hot tubs located in the rear yard shall be located a minimum of 5' from all property lines.

(3) Building separation. May be permitted as close as necessary to a principal or accessory building.

L. Outdoor displays and sales.

(1) The outside display of merchandise may be allowed as an accessory use in all commercial, manufacturing and industrial districts if all of the following provisions are met:

(a) The display shall not exceed 500 square feet in commercial districts or 1,000 square feet in the manufacturing and industrial districts; excluding seasonal displays, temporary events or displays approved as part of the plan of operation;

(b) The display does not obstruct traffic, sidewalks, or fire lanes; and

(c) The display area is not being used for the storage of merchandise only.

(2) Display of vehicles for sale. Not more than one automobile, boat, recreational vehicle, or other personal vehicle may be displayed in a driveway or parking lot for sale, unless a sales lot has been approved by the Plan Commission in an appropriate business district. The vehicle must be owned and registered to the occupant of the premises, and such sales shall not occur more than three times in any given year. Vehicles shall not be displayed on lawn areas or within a public right-of-way.

(3) Outdoor displays placed under permanent canopies for automotive fuel sales shall be permitted.

(4) Items that are visible and are not located within an approved area for outdoor displays and sales are considered outdoor storage and shall meet the requirements in § 275-42M.

M. Outdoor storage, permanent. Outdoor storage may be allowed as an accessory use as defined in the use summary tables for each zoning district, subject to Department of Community Development staff review and approval, and provided that such storage is screened from view of any public right-of-way or residential area.

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Commented [KH138]: NO CHANGE - Moved from 275-42F(2)

Commented [HK139]: NO CHANGE - Moved from 275-41C(9)

Commented [HK140]: NO CHANGE - Moved from 275-41C(10)

N. Outdoor storage, temporary. Temporary outdoor storage may be allowed as an accessory use in all zoning districts, subject to the following provisions:

(1) Temporary outdoor storage units (example: shipping containers/crates) shall abide by the restrictions below:

(a) An administrative permit application shall be submitted and a zoning permit issued prior to the temporary outdoor storage unit being placed on the property, if it will be stored on the property for more than 30 days.

(b) Only one temporary outdoor storage unit will be allowed per tax key. The Department of Community Development will review requests for any additional temporary outdoor storage units.

(c) Temporary outdoor storage units shall not exceed eight feet in height, 10 feet in width and 20 feet in length.

(d) No flammable or explosive materials may be stored in the temporary outdoor storage unit.

(e) No temporary outdoor storage unit will be used to store materials related to an off-premises business or a home occupation.

(2) Location:

(a) Temporary storage units shall be placed on a hard, all-weather surface, driveway or turnaround area. (This does not include areas of dirt or grass.)

(b) Temporary outdoor storage areas shall be set back a minimum of 10 feet from the base setback line and a minimum of five feet from the side and rear lot lines.

(c) Temporary outdoor storage units will not be allowed to be stored on public access areas, easements or within the City of New Berlin right-of-way.

(3) Duration:

(a) Temporary outdoor storage units shall not be stored on a property longer than 30 days unless the property owner submits an administrative permit application requesting a longer duration of time. The total storage of the temporary outdoor storage unit with an application and permit shall not exceed 60 days unless as specified in the next condition.

(b) Property owners that have applied for and received a valid building permit shall be allowed to store temporary outdoor storage units on the property no longer than 180 days or until final occupancy is issued, whichever comes first.

(c) If the project has a valid building permit, the property owner shall not be required to apply for an administrative permit.

(d) If the temporary outdoor storage unit is scheduled to remain on the property over 180 days, then the property owner shall apply for an administrative permit.

(e) Once the project or property owner receives final occupancy and/or the building permits have been closed out and final inspected, the property owner must remove the temporary outdoor storage unit within 30 days.

(f) Temporary outdoor storage units and small homes are prohibited as a permanent use.

O. Pools. All above ground and in ground pools shall require the issuance of a building permit.

(1) Yards. Pools may be located in the side or rear yard.

(2) Setbacks.

(a) Pools located in the side yard shall meet the setbacks of the zoning district.

(b) Pools located in the rear yard shall be located a minimum of 5' from all property lines.

(3) Building separation. A minimum of 10' of separation is required between pools and any wall or structure overhang.

P. Refuse containers. Refuse containers may be allowed as an accessory use in all zoning districts, subject to the following provisions. City-issued trash and recycling bins intended for weekly pickup and dumpsters used by commercial, industrial or multifamily developments for the primary use of everyday garbage disposal or recycling are exempt from this section and shall refer to Chapter 220 of the Municipal Code.

(1) Refuse containers (example: dumpsters/Bagster bags) shall abide by the restrictions below:

(a) Only one refuse container will be allowed per tax key. The Department of Community Development will review requests for any additional refuse containers.

(b) Refuse containers shall not exceed eight feet in height, 10 feet in width and 24 feet in length.

(c) No flammable or explosive materials may be stored in a refuse container.

(d) No refuse container will be used to store materials related to an off-premises business or a home occupation.

(2) Location:

(a) Refuse containers areas shall be set back a minimum of 10 feet from the base setback line and a minimum of five feet from the side and rear lot lines.

(b) Refuse containers will not be allowed to be stored on public access areas, easements or within the City of New Berlin right-of-way.

(3) Duration:

(a) Refuse containers shall not be stored on a property longer than 15 days, unless the property owner submits an administrative permit application requesting a longer duration of time. The total storage of a refuse container with an application and permit shall not exceed 75 days.

Commented [KH141]: NO CHANGE - Moved from 275-42F(3)

Commented [KH142]: NO CHANGE - Moved from 275-42F(2)(c)

(b) Property owners that have applied for and received a valid building permit for an addition, remodel or alteration shall be allowed to store a refuse container on the property no longer than 180 days.

(c) Permits for new construction shall be allowed to store a refuse container until final occupancy. To prevent construction debris from leaving the site, refuse containers must be changed regularly.

Commented [KH143]: NO CHANGE - Moved from 275-42F(4)

Q. Retaining walls. See §275-55A(5).

R. Small wind energy systems.

(1) Authority. This subsection is adopted pursuant to authority granted pursuant to Wisconsin Statutes, §§ 62.23(7) and 66.0401.

(2) Purpose. The purpose and intent of this subsection is to oversee the permitting of small wind energy systems and to preserve and protect public health, safety and welfare without significantly increasing the cost or decreasing the efficiency of a small wind energy system.

(3) Definitions. Refer to § 275-70.

(4) General regulations. A small wind energy system shall comply with the use regulations of the applicable zoning district and with the following requirements:

(a) A wind tower for a small wind energy system shall be set back a distance equal its total height from:

[1] Any public right-of-way, unless written permission is granted by the governmental entity with jurisdiction over said road right-of-way.

[2] Any overhead utility line, unless written permission is granted by the affected utility.

[3] Any property line abutting the property that is not residentially zoned, unless written permission is granted by the owner of the abutting property.

(b) Access. All ground-mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access. The tower shall be designated and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet above the ground.

(c) The tower shall be designed and installed so that the distance between the bottom of the blade at its lowest point of rotation shall not be less than 20 feet above the ground.

(d) Electrical wires. All electrical wires associated with the small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.

(e) Lighting. The wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration. The wind generator and tower shall remain painted or finished the color or finish that

was originally applied by the manufacturer and was approved by the Director of Community Development.

(f) Signs. All signs other than the manufacturer's or installer's identification, appropriate warning signs or owner identification on a wind generator tower building, or other structure associated with the small wind energy system visible from any public road, shall be prohibited.

(g) The small wind energy systems, including the tower and associated structure, shall comply with all applicable state building codes, construction and electrical codes and the national electrical codes.

(h) Utility notification and interconnection. Small wind energy systems that connect to the electrical utility shall comply with the Public Service Commission of Wisconsin Rules for Interconnecting Distributed Generation Facilities.

(i) Noise. Audible noise due to wind energy system operations shall not exceed 50 dBA for any period of time when measured at the exterior of any residence, school, hospital, church or public library and the property line of the adjacent neighbors existing on the date of the approved clean energy system permit. In the event audible noise due to wind energy system operations contains a steady pure tone such as a whine, screech or hum not produced under normal operating conditions, it is prohibited. In the event the ambient noise level exceeds the applicable standards given above, the applicable standard shall be adjusted so as to equal the ambient noise level.

(5) Small wind energy system permit.

(a) An applicant for a small wind energy system permit shall provide the following:

[1] A survey map showing property lines and physical dimensions, including the location, dimensions and types of existing structures on the property, location of the proposed small wind energy system tower, right-of-way of any public road that is contiguous with the property, and the overhead utility lines.

[2] Wind energy system specifications include the manufacturer and model, rotor diameter, tower height, tower type and kilowatt specifications.

[3] Information regarding noise anticipated to be attributed to the wind energy system.

(b) The small wind energy system permit shall expire if the small wind energy system is not installed and functioning within 12 months from the date the permit is issued.

(6) Abandonment. The small wind energy system is deemed to be abandoned if it is out of service for a continuous twelve-month period. If the City provides a notice of abandonment, the small wind energy system must be removed at the owner's expense within 90 days of the notice of abandonment. If the owner fails to remove

the wind energy system, the City may pursue a legal action to have the wind energy system removed at the owner's expense, including the applicable legal fees. The owner shall have the right to respond to the notice of abandonment within 30 days of receipt of the notice. The City shall withdraw the notice of abandonment if the owner provides information that demonstrates the small wind energy system has not been abandoned.

(7) The Director of Community Development shall issue the small wind energy system permit, provided that it complies with the limitations and conditions as set forth herein, as well as applicable provisions of the Wisconsin Administrative Code and Wisconsin statutes. In the event that the application is rejected, the Director of Community Development shall notify the applicant in writing and provide a written statement of the reasons why the application was rejected. The applicant may appeal the decision of the Director of Community Development to the Plan Commission.

Commented [KH144]: NO CHANGE - Moved from 275-42G(5)

S. Solar energy conversion systems. Solar energy conversion systems (including solar collectors attached to the principal structure and solar collectors erected as an accessory structure) may be allowed as an accessory use in all zoning districts and shall be subject to the following provisions:

(1) Application. Applications for the erection of a solar energy conversion system shall conform to the application and approval procedure for a building permit set forth in § 275-25 of this chapter and the Electrical Code. In addition, the application shall include a copy of any solar easements obtained from adjacent property owners.

(a) A building permit application submittal for a solar energy conversation system shall require a complete set of plans, including a site plan and any structure details drawn to scale. This plan set will be reviewed to ensure that a solar panel does not negatively impact the public health, safety and welfare.

(2) Construction. Solar energy conversion systems shall be constructed and installed in conformance with all applicable state and local building and zoning codes.

(3) Location and height. Solar energy conversion systems shall meet all setback and yard requirements for the district in which they are located. Solar energy conversion systems shall conform to all height requirements of this chapter.

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T. Sport courts, tennis courts and permanent volleyball courts.

(1) Yards. Sport courts, tennis courts and permanent volleyball courts may be located in the rear yard.

(2) Setbacks. Sport courts, tennis courts and permanent volleyball courts shall be located a minimum of 5' from all property lines.

U. Swing sets and gym sets.

(1) Yards. Swing sets and gym sets may be located in the rear yard.

(2) Setbacks. Swing sets and gym sets shall be located a minimum of 5' from all property lines.

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§ 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~~. Temporary uses, structures, and special events requiring a permit include:

(1) Festivals, food truck festivals, art/craft fairs, outdoor markets, plant/flower sales, circuses, concerts, wine/food tastings, beer gardens, races, parades, block parties, sporting events, exhibitions, 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, material storage and associated work for Municipal projects as approved by the City, and/or other similar events unless approved as part of an existing plan of operation or an approved calendar of events.

(2) The use of public streets, rights-of-way or sidewalks.

(3) An event that creates a substantial impact on the operations of the City, surrounding neighbors or neighborhoods and requires public safety and City services above and beyond their normal functions, at the discretion of City staff.

(4) Events held on private property that are open to the public may be classified as a special event if there is a significant impact on the City's operations and residents.

~~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.~~

B. Submittal requirements. An application will be considered complete if it contains all the information required under this section.

(1) Completed application shall be submitted prior to the event.

(a) Class I events, as outlined in DHS 110.44(20r), with more than 5,000 people, including personnel, volunteers, vendors, and attendees shall be filed with the City at least 120 days prior to the proposed event.

(b) Class II events with 501-5,000 people, including personnel, volunteers, vendors, and attendees shall be filed with the City at least 90 days prior to the proposed event

(c) Class III events with 151-500 people, including personnel, volunteers, vendors, and attendees shall be filed with the City at least 45 days prior to the proposed event.

(d) Class IV events with 150 people or less, including personnel, volunteers, vendors, and attendees shall be filed with the City at least 15 days prior to the proposed event.

(2) Deposits for Class I Events. Application fee in the form of a deposit shall be submitted to the City for all Class I events. The deposit shall be used to cover City staff review, planning time and coordination to review the application itself and through the completion of the event. Staff will use their direct billable hours to debit the submitted deposit amount. Should the deposit itself go down to zero, the applicant shall replenish the deposit to the original amount. Any remaining deposit funds after the permit is issued or denied shall be returned to the applicant. The deposit will start at $1,000.

(3) Detailed plan of operation including the following information:

(a) A description, date, time and location of the event. Special events in residential neighborhoods may require notification of adjacent neighbors. Include proposed site requests, including but not limited to: amplified music or entertainment and the hours, fireworks, closure of public streets or rights-of-way meeting the requirements of §230-6 of the Municipal Code, parking, electricity, temporary structures, temporary fencing, waste/recycling collection and disposal, and portable restrooms and hand wash stations. Additional items to consider include additional security personnel, emergency plan for inclement weather, potable water for consumption on site, and medical/first aid kits.

(b) The estimated maximum number of participants, spectators and vendors at the proposed event. If the event is a multi-day event, it should be noted the estimated attendance per day.

(c) Whether alcohol will be sold or served at the event.

(d) Whether food and/or merchandise will be sold at the event.

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. The City may require that the permit holder provide written notice 15 days in advance of the special event to any property owners or tenants as determined during the City department's review. Notice shall include the type of event, name of the special event sponsor(s), date, time and location, event coordinator's name and contact information during the event; and

(3) The proposed temporary use, structure or special event complies with all applicable standards of this section, unless otherwise expressly stated.

(4) Special Events requiring a road closure, except for City run events, shall comply with the following standards:

(a) A public street shall not be barricaded for recreational purposes for more than 12 hours.

(b) The applicant shall provide evidence of written consent of not less than 80% of the property owners abutting the portion of the street to be closed. The applicant is also required to provide evidence that all abutting property owners have been advised of the request for closure.

(c) Road closures are only permitted for local streets that are public, not arterial streets that are public. The applicant shall be required to provide a map showing the portion of the street to be closed and where the barricades will be placed.

(e) The applicant must be the owner of a property on the street where the event is to be held and shall assume responsibility under the permit for the event, which includes compliance with all City Ordinances, the clean-up of the public right of way, and the return of all City barricades within 48 hours of the event.

(f) Barricades to close the street must remain in place for the duration of the event. The applicant must ensure that a drive lane through the blockaded street area of not less than 15' in width shall be provided so that all City emergency service vehicles are able to access properties within the blocked street.

(g) If alcohol is being served at the event, it may only be to persons of age and may not be provided to any uninvited guests. Alcohol cannot be sold.

(h) Grills may be permitted in the right-of-way, subject to the limitations of this section. Smokers, fireplaces, fire pits, chimineas, and inflatable play structures are prohibited in the right-of-way.

(i) All waste and debris must be cleaned up and properly disposed of after the event ends. Public rights-of-way must be restored to the condition that existed prior to the commencement of the event.

(j) If complaints are received by the Police Department which are not satisfactorily resolved, the Police Department shall have the authority to revoke the permit and to terminate the event.

(k) A permit request may be denied if complaints have been received regarding Special Events on the same street in the past, or if the applicant has failed to comply with the requirements of any City Permits in the past.

(l) Special Events requiring a road closure shall not occur on holidays.

(~~4~~5) ~~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:~~ The City may approve temporary events on City property or within public rights-of-way if the additional conditions 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) City services. All requests by the applicants for City services must be made at the time of application. The applicant shall be responsible for reimbursement to the City for any city personnel, services, equipment, and facilities provided for the special event. Reimbursement costs shall be calculated to include wages, overtime and fringe benefits and is due within 30 days of receipt of invoice. The City reserves the right to require full or partial payment of estimated costs in advance. All permit, signage and barricade costs are due prior to the special event.

(c) Cleaning/damage deposit. The applicant may be required to submit to the City a deposit depending on the size and number of attendees. The deposit will be refunded to the applicant after an inspection of the premises is conducted and the City determines there is no loss or cleaning costs. The applicant shall be fully responsible for necessary cleanup associated with the permitted event, which must be completed no later than 12 hours after the conclusion of the event. The City reserves the right to retain the entire deposit if cleanup is not satisfactorily completed in the time frame specified.

[1] A deposit of $5,000 shall be submitted for a Class I Special Event.

[2] A deposit of $200 shall be submitted for a Class II Special Event.

(~~b~~d) 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.

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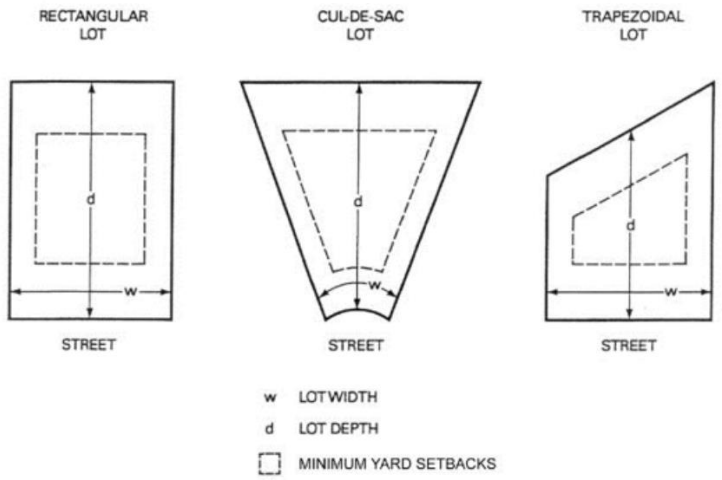
§ 275-44. Lot measurement and requirements.

A. Measurement of lot area. The lot area is the total area within the lot lines of a lot, excluding any street right-of-way or ultimate right-of-way in all districts.

B. Percentages and fractions. When a measurement results in a fractional number or percentage, any fraction of 1/2 or ~~less~~ more shall be rounded ~~down~~ up to the next ~~lower~~ higher whole number, and any fraction of ~~more than~~ 1/2 or less shall be rounded ~~up~~ down to the next ~~higher~~ lower whole number. Any percentage of 0.5% or greater shall be rounded up to the next higher whole number, and any percentage less than 0.5% shall be rounded down to the next lower whole number.

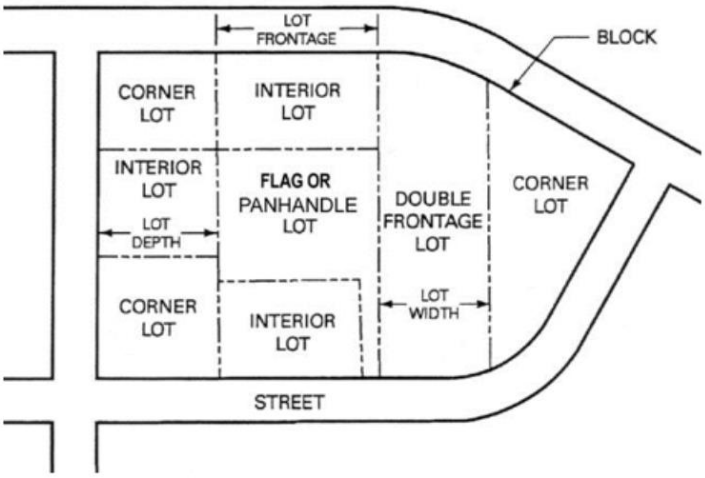
C. Dimensions. See Figure VI-1. See also § 275-70. [Added 4-25-2023 by Ord. No. 2668]

Figure VI-1
Lot Width and Lot Depth



D. Lot types. See Figure VI-2. See also § 275-70. [Added 4-25-2023 by Ord. No. 2668]

Figure VI-2
Lot Types



E. Zero-lot-line residential development. Zero-lot-line residential developments (see Figure VI-~~2~~3) may be permitted in the Rd-1 and Rm-1 Districts where the following provisions are met: [Amended 4-25-2023 by Ord. No. 2668]

(1) Lot area and width. Lots shall have a minimum area of 6,200 square feet and shall not be less than 50 feet in width with one dwelling unit per lot.

(2) Setback and yards.

(a) There shall be a minimum setback of 50 feet from the right-of-way of all public streets or from private drives. There shall be a side yard requirement on one side of a building of not less than 15 feet. The dwelling unit shall be placed on one side property line with a zero-foot side yard. The minimum distance between buildings shall be 30 feet. There shall be a rear yard of not less than 15 feet for all lots unless the Plan Commission permits the rear lot line to be a second zero lot line.

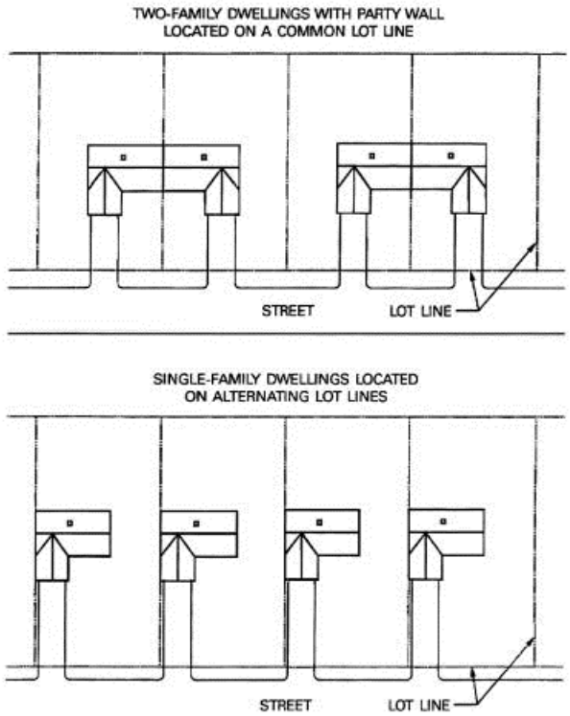
(b) All buildings shall be a minimum of 50 feet from an adjacent single-family lot line in a single-family residential district.

(3) Other requirements.

(a) Buildings constructed shall be of the row (party wall) dwelling type and shall consist of a row of attached dwelling units.

(b) Each dwelling unit shall have separate utility connections. Attached dwellings may have one sanitary and stormwater lateral run and two separate water meters.

Figure VI-3
Examples of Zero-Lot-Line Residential Development



F. Lots of record. An existing legal lot that contains less area than the lot requirements of this chapter may be used as a building site, provided that the proposed use is allowed in the zoning district.

(1) Minimum lot size requirements shown in the zoning districts apply to the creation of new lots and do not affect existing legally created lots or parcels, provided that the lot is a lot of record in the Waukesha County Register of Deeds' office prior to the effective date of this chapter.

(2) Vacant buildable lots of record can be used as a building site, provided that the use is allowed in the zoning district and the lot has frontage on and access to a public street. If an existing structure on a lot of record were to be damaged or destroyed, it would be allowed to be rebuilt in accordance with the Building Code and these Zoning Regulations.

(3) New building permits issued under this section shall be required to meet the setback and other yard requirements of this chapter. A building proposed with lesser dimensions and requisites than those stated in the code shall be issued a building permit only after a variance by the Board of Appeals.

(4) If two or more lots with continuous frontage, one or more of which contains less land area or width than required by this chapter, have the same ownership as of the effective date of this chapter, the lots involved may be considered to be an individual parcel for the purpose of this chapter. If a permanent shared driveway easement is used to achieve access to either parcel, said property owners shall be required to enter into a recordable document prohibiting the sale of either property independent of the other. Said restrictions shall be confirmed through a deed restriction recorded as to both parcels and said restriction may not be amended without the consensus/approval of the City.

(5) If two or more adjoining lots with the same ownership are used or built on as one parcel, then the individual lots may not be considered separate until all buildings, utilities, and appurtenant structures are removed, vacated, or set back in accordance with the standards of this chapter.

(6) If two adjoining lots, where only one may have frontage and/or access to a public ROW, and both are considered legal lots of record, both lots may be developed into one home site each but both parcels shall have a deed restriction recorded against them for a permanent driveway access and this access easement shall not be removed without consensus/approval of the City.

G. Where a lot is located partially within a C-1 or C-2 District and/or is subject to a conservation easement and partially within another district, that portion of the lot within the C-1 or C-2 District may be used to meet the minimum area requirements of the adjoining use district, provided that the area within the C-1 or C-2 District is reduced by an amount computed using the adjusted tract acreage approach as described under § 275-33G(2). The adjusted tract acreage shall not apply to land divisions (CSMs). A conservation easement shall be used to protect the C-1, C-2 or conservation area.

§ 275-45. Height measurement and requirements.

A. Measurement of height. The "height of a structure" shall mean the vertical distance from the average grade adjoining the walls of the structure to the average of the highest points of the roof surface of a flat roof, or to the deckline of a mansard roof, or the mean height level between eaves and ridge for a gable, hip or gambrel roof.

B. ~~Exemptions and exceptions to height regulations~~ Height modifications. The district height limitations set forth elsewhere in this chapter may be exceeded, but such modification shall be in accord with the following standards~~, subject to Plan Commission approval~~:

~~(1) Exemptions. The following uses and structures are exempt from the height limitations of this chapter:~~

(~~a~~1) Architectural projections. Architectural projections which are integral to a principal structure, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys.

(~~b~~2) Special structures. Special structures, such as elevator penthouses, gas tanks, grain elevators, observation towers, scenery lofts, heating and air-conditioning equipment and necessary mechanical appurtenances, cooling towers, fire towers, ornamental towers, substations, and smokestacks.

(~~c~~3) Essential services. Essential services, such as utilities, water towers, electric power and communication transmission lines.

(~~d~~4) Solar collectors. Solar collectors and wind energy conversion systems (windmills), provided that they shall not exceed a height equal to their distance to the nearest lot line.

~~(e) Utilities, as defined in § 275-70.~~

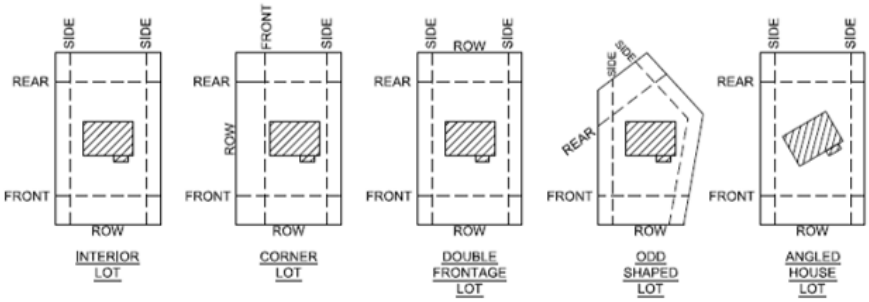
(~~2~~5) Communication structures. The height of telecommunications structures is regulated in § 275-41C(16).

(~~3~~6) Agricultural structures. Agricultural structures, such as barns, silos, and windmills, may exceed a height of 35 feet, provided that all required yards are increased not less than one foot for each additional foot the structure exceeds 35 feet.

§ 275-46. Yard/setback measurement and requirements.

A. Measurement of a setback. The minimum distance a building or structure shall be located from a lot line or base setback line. The setback line shall be drawn parallel to a lot line. See Figure VI-4.

Figure VI-4
Measurement of Setbacks



~~(1) Corner lots. Structures on corner lots shall provide a front setback as required by this chapter on the street that the structure faces. A second front yard shall be provided on the side of the structure abutting a second public or private street. The second front yard is referred to as the "side on corner." The setbacks on each street shall be the same distance. The remaining yards shall be a side yard and a rear yard. The functional rear of the house shall face the rear yard, which shall be opposite of the front yard. Staff may administratively approve reductions to the front setbacks for the side on corner up to 25% on lots less than 100 feet in width.~~

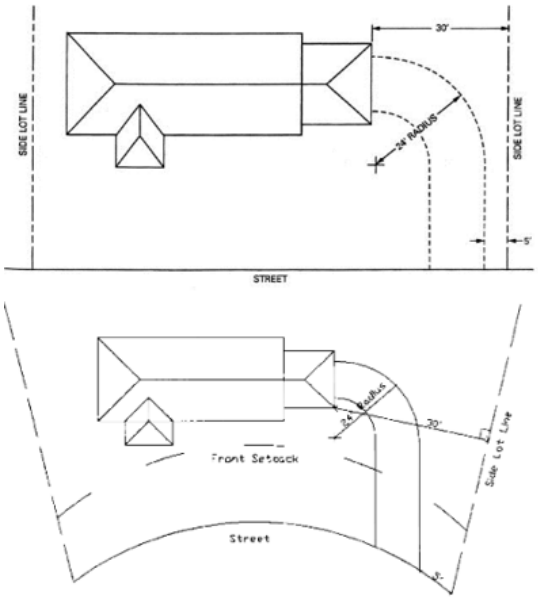
Commented [KH147]: NO CHANGE - Moved to 275-46C

~~(2) Double-frontage lots. Structures on lots abutting two opposite streets shall be provided with a front setback and a rear setback. The Director or a designee shall select where the front setback shall be applied and where the rear setback shall be applied in a manner that prohibits access to a double-frontage lot from two arterial streets. The selected front setback area shall be required to comply with the front setback requirements for the district in which the lot is located. The selected rear setback area shall be required to comply with the rear setback requirements for the district in which the lot is located, and the rear setback area shall be screened from arterial streets with fencing or landscaping, as may be appropriate. Accessory structures may be placed in the designated rear setback area but shall be located no closer to the street right-of-way than the required setback for accessory structures. For purposes of selecting the front yard, the architectural front of the structure shall be designated as the front yard.~~

Commented [KH148]: NO CHANGE - Moved to 275-46D

(~~3~~1) Side-entry garage setback. When a garage is proposed with an entry facing an interior lot line, the garage shall be set back a minimum of 30 feet from the lot line opposite the garage door to provide for adequate maneuvering space. The setback shall be measured perpendicular from the edge closest to the street of each garage door opening. There shall be a twenty-four-foot access radius in and out of the garage door.

Figure VI-5
Side-Entry Garage Setback



(2) Average front setback. For new structures, additions to existing structures or accessory structures, the required front setback may, with Plan Commission approval or with an administrative adjustment per §275-30.1D, be decreased in any residential or business districts to the average of the existing front setbacks of the abutting structures on each side but in no case less than 15 feet in any residential district and five feet in any business district.

Commented [KH149]: NO CHANGE - Moved from 275-46C

B. Measurement of a yard. See Figure VI-6. See also § 275-70.

Figure VI-6
Location of Yards

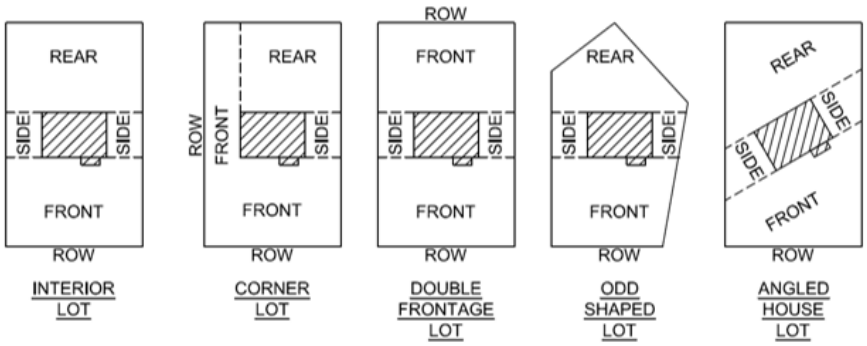
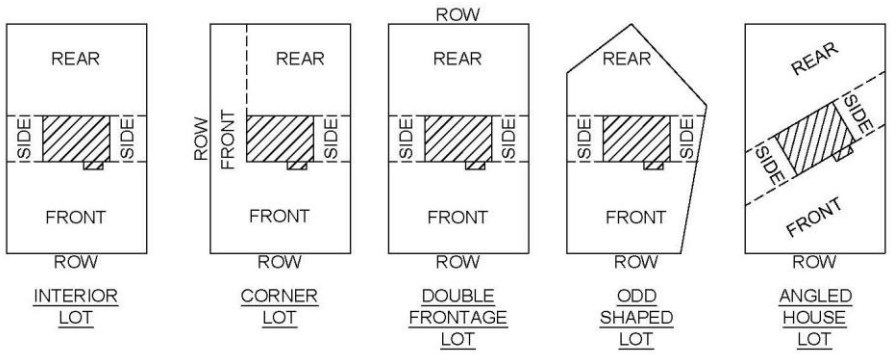


Figure VI-6
Location of Yards



~~C. Average front setback. For new structures, additions to existing structures or accessory structures, the required front setback may, with Plan Commission approval, be decreased in any residential or business districts to the average of the existing front setbacks of the abutting structures on each side but in no case less than 15 feet in any residential district and five feet in any business district.~~

C. Corner lots. Structures on corner lots shall provide a front yard as required by this chapter on the street that the structure faces. A second front yard shall be provided on the side of the structure abutting a second public or private street. The second front yard is referred to as the "side on corner." The setbacks on each street shall be the same distance. The remaining yards shall be a side yard and a rear yard. The functional rear of the house shall face the rear yard, which shall be opposite of the front yard. Staff may administratively approve reductions to the front setbacks for the side on corner up to 25% on lots less than 100 feet in width.

D. Double-frontage lots. Structures on lots abutting two opposite streets shall be provided with a front yard and a rear yard. The Director or a designee shall select where the front yard shall be applied and where the rear yard shall be applied in a manner that prohibits access to a double-frontage lot from two arterial streets. The selected front yard shall be required to comply with the front setback requirements for the district in which the lot is located. The selected rear yard shall be required to comply with the rear setback requirements for the district in which the lot is located, and the rear yard shall be screened from arterial streets with fencing or landscaping, as may be appropriate. Accessory structures may be placed in the designated rear yard but shall be located no closer to the street right-of-way than the required setback for accessory structures. For purposes of selecting the front yard, the architectural front of the structure shall be designated as the front yard.

~~D~~E. ~~Exemptions and exceptions to yard and setback requirements~~ Yard and setback modifications. The district yard and setback requirements set forth elsewhere in this chapter may be modified, but such modification shall be in accord with the following standards~~, subject to Plan Commission approval~~:

Commented [KH150]: NO CHANGE - Moved to 275-46A

Commented [KH151]: NO CHANGE - Moved from 275-46A

~~(1) Exemptions. The following uses and structures are exempt from the yard and setback limitations of this chapter:~~

(~~a~~1) Essential services. Essential services, such as utilities, electric power and communication transmission lines~~.~~ are exempt from the setback requirements of this chapter.

~~(b) Landscaping and vegetation. Landscaping and vegetation shall comply with the vision triangle requirements set forth in this chapter.~~

~~(c) Building connections. For nonresidential uses, building interconnections between buildings and adjacent parcels for shared or common operations shall not be considered for setback purposes.~~

(2) Architectural projections. Architectural projections, limited to eaves and wing walls~~, if the building is constructed to the full permitted building width or depth,~~ may project into any yard, but such projection shall not exceed three feet.

(3) Attached accessory uses. Uncovered stairs, decks sized for entry purposes only, stoops, landings, fire escapes, gutters, ~~decks~~ and awnings may project into any yard but not to exceed six feet and not closer than five feet to any lot line.

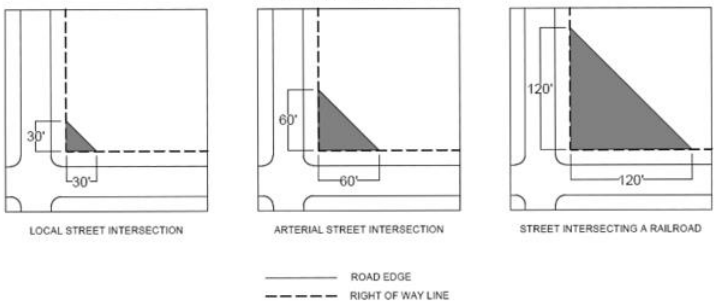
(4) Vision clearance triangle. No obstructions, such as structures, parking, landscaping or vegetation, shall be permitted in any district between the heights of three feet and 10 feet above the plane through the mean curb grades within the triangular space formed by any two intersecting right-of-way lines and a line joining those points.

(a) Intersection of local streets. The corner cutoff distances establishing the vision triangle clearance space shall be 30 feet.

(b) Intersection with arterial streets. In the case of arterial streets, one or more of which has an established right-of-way of 80 feet or more, intersecting with any other street, the corner cutoff distances establishing the vision triangle clearance space shall be 60 feet.

(c) Intersection with a railway. In the case of a railway intersecting with a street, the corner cutoff distances establishing the vision triangle clearance space shall be 120 feet.

Figure VI-7
Vision Clearance Triangle



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(5) Building connections. For nonresidential uses, building interconnections between buildings and adjacent parcels for shared or common operations shall not be considered for setback purposes.

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§ 275-53. Site plan review principles and standards.

A. Applicability. This section sets forth review principles and standards to guide the Plan Commission and staff in the review of all development requiring a site plan pursuant to § 275-24, Zoning permits, except where permits are considered to be redevelopment.. For redevelopment, as defined in the definition section of this Zoning Code,[1] the application shall follow the criteria listed in § 275-53C below. Uses requiring a site plan shall conform to the principles and standards of this section in addition to complying with all development standards set forth in this Article VIII.

[1] Editor's Note: See Art. XI, Definitions.

B. Review principles and standards. The Plan Commission shall approve site plans only after determining that:

(1) The site plan is consistent with the purposes and requirements of this chapter, including these general development regulations.

(2) The site plan is consistent with the goals, objectives, principles, standards, policies, and urban design criteria set forth in the New Berlin Comprehensive Plan.

(3) No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, or low bearing strength of underlying soil, erosion susceptibility of underlying soil, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community.

(4) No zoning permit or building permit shall be issued for a lot that does not abut a fully dedicated and improved public street, unless it meets the requirements of 275-44F(6).

(5) There is a proper relationship between the existing and proposed streets and highways within the vicinity of the project in order to assure the safety and convenience of pedestrian and vehicular traffic.

(6) The proposed on-site buildings, structures, and entryways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress, interior/exterior traffic flow, stormwater drainage, erosion, grading, lighting, and parking, as specified by this chapter or any other codes or laws.

(7) Natural features of the landscape are retained where they can enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes, or where they assist in preserving the general safety, health, welfare, and appearance of the neighborhood.

(8) Adverse effects of the proposed development and activities upon adjoining residents or owners are minimized by appropriate screening, fencing, or landscaping as provided or required in this chapter.

(9) Land, buildings, and structures are readily accessible to emergency vehicles and the handicapped.

(10) When a site plan modification or addition is reviewed, all existing nonconformities and outstanding code violations shall be identified, resolved, and remedied.

(11) All hazards identified in the site plan review process shall be resolved or mitigated.

C. Redevelopment standards.

(1) Open space is not required to meet the zoning district requirements for new development but shall not go below the amount of open space existing on the lot at the time of the proposed redevelopment and/or site modifications. For sites that do not meet the minimum open space requirements, the applicant shall incorporate low-impact development techniques.

(2) Existing parking lots and drive aisles that do not meet the required setbacks shall not encroach any further into the setback.

(3) Sites shall provide adequate parking spaces to meet the requirements in ~~Table~~ 275-57~~-1~~, unless a waiver is requested and granted by the Plan Commission.

(4) The applicant shall meet all applicable stormwater and drainage requirements.

(5) Existing parking lot lighting shall be evaluated on a case-by-case basis when a project includes parking lot modification or expansion. At a minimum, a lighting plan shall be provided for the parking lot modification area(s).

(6) A reoccupancy, internal facility remodel, parking lot repair and maintenance or façade improvement does not require the implementation of these requirements or the requirements in this article. Only a building expansion or parking lot expansion will prompt the requirements to be enforced.

§ 275-63A - § 275-63C. Nonmetallic mine reclamation.

[Amended 4-25-2023 by Ord. No. 2668]

A. General provisions.

(1) Title. This section shall be known and may be cited as the "Nonmetallic Mining Reclamation Ordinance for the City of New Berlin."

(2) Purpose. The purpose of this section is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the City of New Berlin after the effective date of this section, in compliance with Ch. NR 135, Wis. Adm. Code, and Subchapter I of Ch. 295, Wis. Stats.

(3) Statutory authority. This section is adopted under authority of § 295.14(1), Wis. Stats., § NR 135.32, Wis. Adm. Code, and § 62.11(3), Wis. Stats.

(4) Restrictions adopted under other authority. The purpose of this section is to adopt and implement the uniform statewide standards for nonmetallic mining reclamation required by § 295.12(1)(a), Wis. Stats., and contained in Ch. NR 135, Wis. Adm. Code. It is not intended that this section repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.

(5) Interpretation. In their interpretation and application, the provisions of this section shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by Subchapter I of Ch. 295, Wis. Stats., and Ch. NR 135, Wis. Adm. Code. Where any terms or requirements of this section may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this section is required by Wisconsin Statutes, or by a standard in Ch. NR 135, Wis. Adm. Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Ch. NR 135, Wis. Adm. Code.

(6) Severability. Should any portion of this section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected.

(7) Applicability.

(a) Overall applicability. The requirements of this section apply to all operators of nonmetallic mining sites within the City of New Berlin ~~operating on or commencing to operate after August 1, 2001~~, except as exempted in ~~Subsection C(2)~~ §275-63A(7). This section does not apply to nonmetallic mining sites where nonmetallic mining permanently cease~~s~~d before August 1, 2001. This section applies to nonmetallic mining conducted by or on behalf of the State of Wisconsin, by or on behalf of the City of New Berlin or for the benefit or use of the state or any state agency, board, commission or

department, except for the waiver of financial assurance in ~~Subsection E~~ §275-63E(3).

(b) Exemptions. This section does not apply to the following activities:

[1] Nonmetallic mining at a site or that portion of a site that is subject to permit and reclamation requirements of the Wisconsin Department of Natural Resources under § 30.19, 30.195 or 30.20, Wis. Stats., and complies with Ch. NR 340, Wis. Adm. Code.

[2] Excavations subject to the permit and reclamation requirements of § 30.30 or 30.31, Wis. Stats.

[3] Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.

[4] Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.

[5] Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.

[6] Excavations for building construction purposes conducted on the building site.

[7] Nonmetallic mining at nonmetallic mining sites where less than one acre of total affected acreage occurs over the life of the mine.

[8] Any mining operation, the reclamation of which is required in a permit obtained under Ch. 293, Wis. Stats.

[9] Any activities required to prepare, operate or close a solid waste disposal facility under Ch. 289, Wis. Stats., or a hazardous waste disposal facility under Ch. 291, Wis. Stats., that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this section apply to activities related to solid waste or hazardous waste disposal that are conducted at a nonmetallic mining site that is not on the property where the solid waste or hazardous waste disposal facility is located, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

[10] Nonmetallic mining.

[a] Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the Wisconsin

Department of Transportation concerning the restoration of the nonmetallic mining site.

[b] This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.

[c] If a nonmetallic mining site ~~is~~ covered under ~~Subsection G(2)(j)[1]~~ §275-63A(7)(b)[10][a] and [b] and is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, the exemption in this subsection still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.

[11] Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from these activities.

[12] Removal of material from the bed of Lake Michigan or Lake Superior by a public utility pursuant to a permit under § 30.21, Wis. Stats.

(8) Administration. The provisions of this section shall be administered by the City of New Berlin Department of Community Development.

(9) Effective date. The provisions of this section shall take effect on July 24, 2001, the date of publication.

(10) Definitions. See § 275-70.

B. All nonmetallic mining sites subject to this section shall be reclaimed in conformance with the standards contained below:

(1) General standards.

(a) Refuse and other solid wastes. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to Chs. 289 and 291, Wis. Stats.

(b) Area disturbed and contemporaneous reclamation. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

(c) Public health, safety and welfare. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

(d) Habitat restoration. When the land use required by the reclamation plan approved pursuant to this section requires plant, fish or wildlife habitats, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

(e) Compliance with environmental regulations. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws, including those related to environmental protection, zoning and land use control. Note: Other applicable environmental, zoning or land use regulations may include Chs. NR 103, 115, 116, 117, 205, 216, 269, 105, 106, 140, 150, 151, 340, 500-590, and 812, Wis. Adm. Code, Chs. 30 and 91, Wis. Stats., and Section 404 of the Clean Water Act (33 U.S.C. § 1344), which may be applicable to all or part of either an existing or proposed nonmetallic mining project, so long as they do not require or directly regulate the reclamation of nonmetallic mining sites as addressed under Subchapter I of Ch. 295, Wis. Stats.

(2) Surface water and wetlands protection. Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chs. NR 102 to NR 105, Wis. Adm. Code. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this section. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(3) Groundwater protection.

(a) Groundwater quantity. A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

(b) Groundwater quality. Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Ch. NR 140, Wis. Adm. Code, to be exceeded at a point of standard application defined in that chapter.

(4) Topsoil management.

(a) Removal. Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan approved pursuant to this section in order to achieve reclamation to the approved post-mining land use. Removal of onsite topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed~~, when specified in the reclamation~~

~~plan,~~ prior to any mining activity associated with any specific phase of the mining operation.

(b) Volume. The operator shall obtain the volume of soil required to perform final reclamation by removal of onsite topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this section. Note: Existing resources that may be used to identify the soil present on a site include the County Soil Surveys and information obtained from a soil scientist or the University of Wisconsin Soil Science Extension Agent or other available resources. Topsoil or topsoil substitute material shall be removed from areas to be affected by mining operations to the depth indicated in the reclamation plan or as determined in the field by a soil scientist, project engineer or other qualified professional.

(c) Storage. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this section, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(5) Final grading and slopes.

(a) All areas affected by mining shall be addressed in the approved reclamation plan, pursuant to § NR 135.19, Wis. Adm. Code, to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining, including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either:

[1] A site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope; or

[2] The operator shall perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.

(b) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following: alternative requirements are approved under § NR 135.26, Wis. Adm. Code; steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil

substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

(c) When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically six feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body, to allow for a safe exit.

(6) Topsoil redistribution for reclamation. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this section in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

(7) Revegetation and site stabilization. Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this section, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site. Note: Field test plot demonstrations are highly recommended to ensure that reclamation success standards are met and financial assurance is released as quickly as possible. When field test plots are employed, they should be approved as part of the reclamation plan under § NR 135.19, Wis. Adm. Code.

(8) Assessing completion of successful reclamation.

(a) The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this section. Criteria to evaluate reclamation success shall be quantifiable.

(b) Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

[1] Onsite inspections by the City or its agent;

[2] Reports presenting results obtained during reclamation evaluations, including summarized data on revegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or

[3] A combination of inspections and reports.

(c) In those cases where the post-mining land use specified in the reclamation plan requires a return of the mining site to a premining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

(d) Revegetation success may be determined by:

[1] Comparison to an appropriate reference area;

[2] Comparison to baseline data acquired at the mining site prior to its being affected by mining; or

[3] Comparison to an approved alternate technical standard.

(e) Revegetation using a variety of plants indigenous to the area is favored.

(9) Intermittent mining. Intermittent mining may be conducted, provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to § 275-6~~5.2~~3E is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

(10) Maintenance. During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this section, or to meet the goals specified in the reclamation plan approved pursuant to this section.

C. Permitting. Nonmetallic mining reclamation permit application required. No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in §§ 275-63A(7) or 275-70 definition of "Nonmetallic mining site" paragraph (b).

(1) Required submittal. All operators of any nonmetallic mining sites shall apply for a reclamation permit from the City. All applications for reclamation permits under this section shall be accompanied by the following information:

(a) A brief description of the general location and nature of the nonmetallic mine.

(b) A legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.

(c) The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.

(d) The name, address and telephone number of the person or organization who or which is the operator.

(e) A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by § 275-63B(4).

(2) The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to the Department of Community Development by certified mail at: 3805 S. Casper Drive, New Berlin, WI 53151, prior to beginning operations.

(a) The information required by § 275-63C(1).

(b) The plan review and annual fees required by § 275-63Q and § 275-63R.

(c) A reclamation plan conforming to § 275-63D.

(d) A certification that the operator will provide, as a condition of the reclamation permit, financial assurance as required by § 275-63E upon granting of the reclamation permit and before mining begins.

(e) To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this section.

§ 275-65J. Floodplain zoning.

J. Definitions. ~~See § 275-70.~~ Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

(1) A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

(2) AH ZONE – See "AREA OF SHALLOW FLOODING".

(3) AO ZONE – See "AREA OF SHALLOW FLOODING".

(4) ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.

(5) ALTERATION – An enhancement, upgrade or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

(6) AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

(7) BASE FLOOD – Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

(8) BASEMENT – Any enclosed area of a building having its floor sub-grade on all sides.

(9) BUILDING – See STRUCTURE.

(10) BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

(11) CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

(12) CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

(13) CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

(14) CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

(15) CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

(16) DECK – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.

(17) DEPARTMENT – The Wisconsin Department of Natural Resources.

(18) DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

(19) DRYLAND ACCESS – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

(20) ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.

(21) FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.

(22) FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

(23) FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

(a) The overflow or rise of inland waters;

(b) The rapid accumulation or runoff of surface waters from any source;

(c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or

(d) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

(24) FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

(25) FLOODFRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

(26) FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

(27) FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

(28) FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.

(29) FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

(30) FLOODPLAIN MANAGEMENT – Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

(31) FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

(32) FLOODPROOFING – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

(33) FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the Regional Flood Elevation. (Also see: FREEBOARD.)

(34) FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

(35) FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

(36) FREEBOARD – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

(37) HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.

(38) HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

(39) HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

(40) HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(41) HISTORIC STRUCTURE – Any structure that is either:

(a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

(42) INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

(43) LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

(44) LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.

(45) LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement).

(46) MAINTENANCE – The act or process of ordinary upkeep and repairs, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

(47) MANUFACTURED HOME – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

(48) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

(49) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

(50) MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation of additional sites by the construction of facilities for servicing the lots

on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring if concrete pads.

(51) MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

(52) MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

(53) MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

(54) MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

(55) MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

(56) MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

(57) MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

(58) NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.

(59) NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.

(60) NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective date of a floodplain zoning regulation adopted by this community and includes any subsequent improvements to such structures.

(61) NON-FLOOD DISASTER – A fire or an ice storm, tornado, windstorm, mudslide or other destructive act of nature, but excludes a flood.

(62) NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

(63) NONCONFORMING USE – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

(64) OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

(65) OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.

(66) OPEN SPACE USE – Those uses having a relatively low flood damage potential and not involving structures.

(67) ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

(68) PERSON – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

(69) PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

(70) PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

(71) REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

(72) REGIONAL FLOOD – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

(73) START OF CONSTRUCTION – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(74) STRUCTURE – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

(75) SUBDIVISION – Has the meaning given in s. 236.02(12), Wis. Stats.

(76) SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

(77) SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(78) UNNECESSARY HARDSHIP – Where special conditions affecting a particular property, which were not self created, have made strict conformity with restrictions

governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

(79) VARIANCE – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

(80) VIOLATION – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

(81) WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.

(82) WATER SURFACE PROFILE – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

(83) WELL – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

Commented [HK155]: DNR Requirement to add these back in.

§ 275-70. Terms defined.

A ZONES

(As it pertains to floodplain, § 275-65) Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

ACCESSORY DWELLING UNIT

~~A second dwelling unit integrated with a business that is located on the same lot as the business.~~ An additional dwelling unit on the same property as the principal use. To be considered an accessory dwelling unit, kitchen (sink and stove or stove hookups), sleeping and bathroom (full bathroom) facilities must all be provided. "Accessory dwelling" does not mean a mobile home, recreational vehicle, or travel trailer. Accessory dwelling units shall meet the requirements of §275-42.

ACCESSORY STRUCTURE OR USE

(As it pertains to floodplain, § 275-65) A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.

~~**ACCESSORY USE**~~

~~See "use, accessory" below.~~

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AH ZONE

(As it pertains to floodplain, § 275-65) See "area of shallow flooding."

ALTERATION

(As it pertains to floodplain, § 275-65) An enhancement, upgrad~~inge~~ or substantial change or modification, other than an addition or repair, to a dwelling or to electrical, plumbing, heating, ventilating, air-conditioning and other systems within a structure.

AO ZONE

(As it pertains to floodplain, § 275-65) See "area of shallow flooding."

AREA OF SHALLOW FLOODING

(As it pertains to floodplain, § 275-65) A designated AO, AH, AR/AO, AR/AH, or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

ASSISTED-LIVING FACILITIES

Residences for the elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide additional services, such as recreational activities, financial services, and transportation. Residential care apartment complexes (RCACs) are a type of assisted living.

BALCONY

A platform that projects from the wall of a building, is surrounded by a railing, and has no stair access. May be covered or uncovered.

BASE FLOOD

(As it pertains to floodplain, § 275-65) Means t~~T~~he flood having a 1% chance of being equaled or exceeded in any given year, as published by FEMA as part of an FIS and depicted on a FIRM.

BASEMENT

(As it pertains to floodplain, § 275-65) Any enclosed area of a building having its floor subgrade~~, i.e., below ground level,~~ on all sides.

~~**BREAKAWAY WALL**~~

~~A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.~~

BUILDING, ACCESSORY

A building detached from a principal building on the same lot and customarily incidental or subordinate to the principal building or use. Accessory buildings shall meet the requirements of §275-42.

CANOPY

A permanent overhang or structure without walls for the purpose of shielding windows, doors, patios, decks, driveways, sidewalks, or service areas from the elements.

CHANNEL

(As it pertains to floodplain, § 275-65) A natural or artificial watercourse ~~or drainageway of perceptible extent~~ with ~~a~~ definite bed and banks to confine and conduct ~~continuously or periodically~~ normal flow~~ing of~~ water.

COMMUNITY LIVING ARRANGEMENTS

The following facilities, licensed or operated or permitted under the authority of the Wisconsin State Statutes: child welfare agencies under § 48.60, group foster homes for children under § 48.02(7m), and community-based residential facilities under § 50.01. The term does not include day-care centers, nursing homes, general hospitals, special hospitals, prisons, and jails. The establishment of a community living arrangement shall be in conformance with §§ 46.03(22), 59.69, 62.23(7)(i), and 62.23(7a), Wis. Stats., and amendments thereto. Community-based residential facilities (CBRF) are a type of community living arrangement.

~~**CONDITIONAL USE**~~

~~See "use, conditional" below.~~

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CRAWLWAYS or CRAWL SPACE

(As it pertains to floodplain, § 275-65) An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

DECK

An uncovered platform, either freestanding or attached to a building, that is supported by pillars or posts. A deck has ground level access.

DIRECTOR

The Director of the Department of Community Development, City of New Berlin, or his/her designee. The Deputy Director of Community Development shall assume all authority and decision making authority in the Director's absence.

DRYLAND ACCESS

(As it pertains to floodplain, § 275-65) A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land ~~which is~~ outside the floodplain, such as a road with its surface above the regional flood elevation and wide enough for wheeled rescue and relief vehicles.

EAVE

The projecting lower edge of a roof that overhangs the exterior wall of a building, also known as the fascia.

ENCROACHMENT

(As it pertains to floodplain, § 275-65) Any fill, structure, equipment, building, use or development in the floodway.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

(As it pertains to floodplain, § 275-65) The federal agency which administers the National Flood Insurance Program. ~~This agency was formerly known as the "Federal Insurance Administration (FIA)" and was part of the United States Department of Housing and Urban Development (HUD).~~

FINANCIAL ASSURANCE (As it pertains to nonmetallic mining, § 275-63)

A commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in § 275-6~~5.2~~3 and is sufficient to pay for reclamation activities required by this chapter.

FLOOD FREQUENCY

(As it pertains to floodplain, § 275-65) The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.

FLOOD HAZARD BOUNDARY MAP

(As it pertains to floodplain, § 275-65) A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

FLOOD INSURANCE RATE MAP (FIRM)

(As it pertains to floodplain, § 275-65) A map of a community on which the Federal Insurance Administration has delineated both ~~special flood hazard areas (~~the floodplain~~)~~ and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

FLOOD INSURANCE STUDY

(As it pertains to floodplain, § 275-65) A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

FLOOD or FLOODING

(As it pertains to floodplain, § 275-65) A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

A. The overflow or rise of inland waters;

B. The rapid accumulation or runoff of surface waters from any source;

C. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or

D. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a serve storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

FLOOD PROFILE

(As it pertains to floodplain, § 275-65) A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

FLOOD PROTECTION ELEVATION

(As it pertains to floodplain, § 275-65) An elevation of two feet of freeboard above the Regional Flood Elevation (see also "freeboard").

FLOOD STORAGE

(As it pertains to floodplain, § 275-65) Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

FLOODFRINGE

(As it pertains to floodplain, § 275-65) That portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

FLOODPLAIN

(As it pertains to floodplain, § 275-65) Land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.

FLOODPLAIN ISLAND

(As it pertains to floodplain, § 275-65) A natural geological land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

FLOODPLAIN MANAGEMENT

(As it pertains to floodplain, § 275-65) Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

FLOODPROOFING

(As it pertains to floodplain, § 275-65) Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

FLOODWAY

(As it pertains to floodplain, § 275-65) The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

FREEBOARD

(As it pertains to floodplain, § 275-65) A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

GAZEBO

A freestanding roofed structure.

HIGH FLOOD DAMAGE POTENTIAL

(As it pertains to floodplain, § 275-65) Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

HIGHEST ADJACENT GRADE

(As it pertains to floodplain, § 275-65) The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE

(As it pertains to floodplain, § 275-65) Any structure that is either:

A. Listed individually on the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a ~~local~~ state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs ~~which~~ that have been certified either by an approved state program, as determined by the Secretary of the Interior, or ~~directly~~ by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION

An occupation or profession for financial gain or profit which is incident to and carried on entirely within a dwelling unit located on a lot, exclusive of attached garage or patio area, by resident occupants of the dwelling unit and which occupation is clearly incidental to and accessory to the residential use of the premises [See also § 275-42~~C(4)~~].

INCREASE IN REGIONAL FLOOD HEIGHT

(As it pertains to floodplain, § 275-65) A calculated upward rise in the regional flood elevation greater than 0.00 feet, based on a comparison of existing conditions and proposed conditions, which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

INDOOR PUBLIC RECREATION FACILITIES

Publicly owned buildings including, but not limited to, recreational buildings, community centers, libraries, museums, galleries, playgrounds, and gymnasiums.

INDOOR RECREATION AND AMUSEMENT FACILITIES

Establishments that primarily engage in providing exclusively indoor recreation and/or amusement for commercial purposes including, but not limited to, playgrounds, miniature golf courses, batting cages, gymnasiums, trampoline parks, swimming pools, bowling alleys, amusement centers, and arcades. May include restaurant or food services.

LAND USE

(As it pertains to floodplain, § 275-65) Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT)

LOT DEPTH

The average distance measured from the front lot line to the rear lot line in the general direction of the side lot lines. ~~See Figure XI-1 and Figure XI-2.~~

LOT FRONTAGE

The dimension of a lot abutting a public street measured along the street right-of-way line. ~~See Figure XI-1.~~

LOT LINE, FRONT

The front property line which is coterminous with the street right-of-way. A front lot line is generally parallel to or less than 45° to the rear lot line. The front lot line is generally opposite the rear lot line. A corner lot or double-frontage lot has more than one front lot line. ~~See Figure XI-3.~~

LOT LINE, REAR

An internal lot line opposite a front yard. A rear lot line is generally parallel to or less than 45° to the front street right-of-way line. Where the street line is an arc, the angle is measured from the tangent of the arc. A lot line greater than 45° from the front street right-of-way line would be a side lot line. ~~See Figure XI-3.~~

LOT LINE, SIDE

An internal lot line generally extending perpendicular to the front lot line. The side lot lines extend between the front lot line and the rear lot line. ~~See Figure XI-3.~~

LOT WIDTH

The width of a parcel of land measured at the building setback line or required front setback. ~~See Figure XI-1 and Figure XI-2.~~

LOT, CORNER

A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135° or less, measured on the lot side. ~~See Figure XI-1.~~

LOT, FLAG or PANHANDLE

A lot not meeting minimum frontage requirements and where the access to the public or private road is by a narrow private right-of-way or driveway known as the "panhandle." The length of the panhandle shall be measured from the frontage line to the nearest point of intersection with the lot's property line that parallels or almost parallels the frontage line. ~~See Figure XI-1.~~

LOT, INTERIOR

A lot situated with one lot line fronting a single street and bounded by adjacent lots along each of its other lot lines. ~~See Figure XI-1.~~

LOWEST ADJACENT GRADE

(As it pertains to floodplain, § 275-65) The elevation of the lowest ground surface that touches any of the exterior walls of a building.

LOWEST FLOOR

(As it pertains to floodplain, § 275-65) The lowest floor of the lowest enclosed area (including basement). ~~An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of 44 CFR 60.3.~~

MANUFACTURED HOME or MOBILE HOME

(As it pertains to floodplain, § 275-65) A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to required utilities. The term "m~~M~~anufactured home~~s~~" includes a ~~or~~ mobile home~~s~~ but does not include ~~are not~~ "mobile recreational vehicle~~s~~"~~, which remain licensed and ready for highway use and remain on site less than 180 consecutive days~~.

MODEL, CORRECTED EFFECTIVE

(As it pertains to floodplain, § 275-65) A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more-detailed topographic information than that used in the current ~~E~~effective ~~M~~model.

MODEL, DUPLICATE EFFECTIVE

(As it pertains to floodplain, § 275-65) A copy of the hydraulic analysis used in the effective FIS and referred to as the "~~E~~effective ~~M~~model."

MODEL, EFFECTIVE

(As it pertains to floodplain, § 275-65) The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

MODEL, EXISTING (PRE-PROJECT)

(As it pertains to floodplain, § 275-65) A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the ~~E~~effective ~~M~~model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the Effective Model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

MODEL, REVISED (POST-PROJECT)

(As it pertains to floodplain, § 275-65) A modification of the Existing or Pre-P~~p~~roject Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

MUNICIPALITY or MUNICIPAL

(As it pertains to floodplain, § 275-65) The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

NAVD or NORTH AMERICAN VERTICAL DATUM

(As it pertains to floodplain, § 275-65) Elevations referenced to mean sea level datum, 1988 adjustment.

NEW CONSTRUCTION

(As it pertains to floodplain, § 275-65) ~~For floodplain management purposes, "new construction" means s~~Structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. ~~For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.~~

NGVD or NATIONAL GEODETIC VERTICAL DATUM

(As it pertains to floodplain, § 275-65) Elevations referenced to mean sea level datum, 1929 adjustment.

NON-FLOOD DISASTER

(As it pertains to floodplain, § 275-65) A fire or an ice storm, tornado, windstorm, mudslide or other destructive act of nature, but excludes a flood.

NONCONFORMING STRUCTURE

(As it pertains to floodplain, § 275-65) An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ~~chapter~~ ordinance for the area of the floodplain which it occupies. For example, an existing residential structure in the ~~F~~floodfringe ~~D~~district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.

NONCONFORMING USE

(As it pertains to floodplain, § 275-65) An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ~~chapter~~ ordinance for the area of the floodplain which it occupies (such as a residence in the floodway).

~~**NONCONFORMING USE**~~

~~See "use, nonconforming."~~

Commented [KH158]: Duplicate

OBSTRUCTION TO FLOW

(As it pertains to floodplain, § 275-65) ~~Used for floodplain regulation, a~~Any development which blocks the conveyance of floodwaters such that this development, alone or together with any future development, will cause an increase in regional flood heights.

OFFICIAL FLOODPLAIN ZONING MAP

(As it pertains to floodplain, § 275-65) That map, adopted and made part of this ~~chapter~~ ordinance, as described in § 275-65, which has been approved by the Department of Natural Resources and FEMA.

OPEN SPACE USE

(As it pertains to floodplain, § 275-65) ~~Used for floodplain regulation, t~~Those uses having a relatively low flood damage potential and not involving structures.

ORDINARY HIGH-WATER MARK

(As it pertains to floodplain, § 275-65) The point on the bank or shore of a body of water up to which the presence and action of surface water is so continuous as to leave a distinctive mark~~,~~ such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

PATIO

A level surfaced area, either freestanding or adjacent to a building. May be covered or uncovered.

PAVILION

A roofed structure, either freestanding or attached to a building.

PERGOLA

A structure with no roof that is open to the sky, either freestanding or attached to a building.

PERSON

(As it pertains to floodplain, § 275-65) An individual or group of individuals, corporation, partnership, association, municipality, or state agency.

PORCH

A roofed structure that projects from the wall of a building that provides ground level access.

~~**PRINCIPAL USE**~~

~~See "use, principal."~~

Commented [KH159]: Duplicate

PRIVATE SEWAGE SYSTEM

(As it pertains to floodplain, § 275-65) A sewage treatment and disposal system serving ~~a single~~ one structure~~,~~ with a septic tank and soil absorption field located on the same parcel as the structure. ~~This term~~ It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field; a holding tank; a system serving more than one structure; or a system located on a different parcel than the structure.

PUBLIC UTILITIES

(As it pertains to floodplain, § 275-65) Those utilities using underground or overhead transmission lines such as electric, telephone, and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

REASONABLY SAFE FROM FLOODING

(As it pertains to floodplain, § 275-65) Means ~~B~~base floodwaters will not inundate the land or damage structures to be removed from the ~~special~~ floodplain ~~hazard area~~ and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

REGIONAL FLOOD

(As it pertains to floodplain, § 275-65) A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a 1% chance of being equaled or exceeded in any given year; and if depicted on the FIRM, the RFE is equivalent to the BFE.

SETBACK

The minimum distance a building or structure shall be located from a lot line or base setback line. The setback line shall be drawn parallel to a lot line. See § 275-46A.

SETBACK, FRONT

The minimum horizontal distance between the base setback line and a line parallel to the nearest roofed ~~or enclosed~~ portion of ~~a building~~ the eave/fascia ~~or any projection thereof, excluding uncovered steps and stoops, gutters, and awnings~~. See § 275-46A.

SETBACK, ORDINARY HIGH-WATER MARK (OHWM)

The minimum horizontal distance between the ordinary high-water mark of a navigable body of water and a line parallel ~~thereto through~~ to the nearest roofed ~~or enclosed~~ portion of the ~~principal structure~~ eave/fascia~~, excluding uncovered steps and stoops, gutters, and awnings~~.

SETBACK, REAR

The minimum horizontal distance between the rear ~~internal~~ lot line and a line parallel ~~thereto through~~ to the nearest roofed ~~or enclosed~~ portion of the ~~principal structure~~ eave/fascia~~, excluding uncovered steps and stoops, gutters, and awnings~~. A rear setback is opposite a front setback. ~~A rear setback is not measured from a public road or street frontage.~~ See § 275-46A.

SETBACK, SIDE

The minimum horizontal distance between the side ~~internal~~ lot line and a line parallel ~~thereto through~~ to the nearest roofed ~~or enclosed~~ portion of the ~~principal structure~~ eave/fascia~~, excluding uncovered steps and stoops, gutters, and awnings~~. See § 275-46A.

SETBACK, WETLAND

The minimum horizontal distance between the nearest delineated wetland and a line parallel ~~through~~ to the nearest impervious surface.

SIGN, ~~CANOPY OR~~ AWNING OR CANOPY

A sign that is mounted or painted on or attached to a canopy, awning, or marquee. ~~See Figure XI-4.~~

SIGN, GROUND

Any sign placed upon or supported by the ground independent of any other structure. ~~See Figure XI-4.~~

SIGN, POLE

A sign that is mounted on a freestanding pole or other support so that the bottom of the sign is 10 feet or more above grade. ~~See Figure XI-4.~~

SIGN, PORTABLE

A sign that is not permanent and is not affixed to a building, structure, or to the ground. ~~Such sign is sometimes mounted on wheels to make it transportable. See Figure XI-4.~~

~~**SIGN, PROJECTING**~~

~~A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building. See Figure XI-4.~~

SIGN, ROOF

A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deckline of a building with a mansard roof. ~~See Figure XI-4.~~

~~**SIGN, SANDWICH-BOARD**~~

~~A two-sided portable sign, constructed of wood, cardboard or similar rigid material, generally displayed outside a commercial establishment to identify a product or service.~~

SIGN, WALL

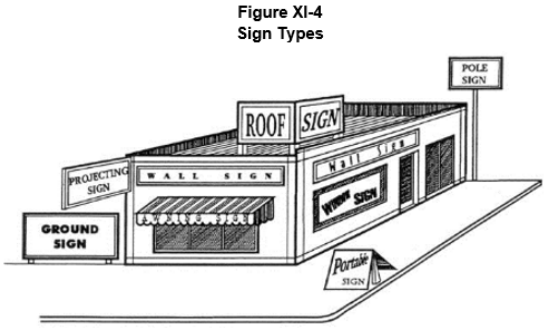
A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 12 inches from such building or structure. ~~See Figure XI-4.~~

~~**SIGN, WINDOW**~~

~~A sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window. See Figure XI-4.~~

Figure XI-4

Sign Types



SMALL WIND ENERGY SYSTEM

[As it pertains to small wind energy systems, § 275-42~~C(5)~~] A small wind energy system means equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by Wisconsin Statutes, § 66.0403(1)(m). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or cabling or other components used in the system, which system does not generate an excess of 100 kilowatts of electricity. "Total height" means the vertical distance from the ground level to the tip of a wind generator blade when the tip is at its highest point.

START OF CONSTRUCTION

(As it pertains to floodplain, § 275-65) The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the "actual start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STORY

That portion of a ~~principal~~ building included between the surface of any floor and the surface of the next floor above or, if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.

STORY, HALF

A story which is situated in a sloping roof, the floor area of which does not exceed 2/3 of the floor area of the story immediately below it.~~, and which does not contain an independent dwelling unit.~~

STRUCTURE, ACCESSORY

A structure on the same lot as a principal building and customarily incidental or subordinate to the principal building or use. Accessory structures shall meet the requirements of 275-42.

SUBDIVISION

(As it pertains to floodplain, § 275-65) Has the meaning given in s. 236.02(12) Wis. Stats.

SUBSTANTIAL DAMAGE

(As it pertains to floodplain, § 275-65) Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the equalized assessed value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

(As it pertains to floodplain, § 275-65) Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50% of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not~~, however,~~ include either:

A. Any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the Building Official and that are the minimum necessary to assure safe living conditions; or

B. Any alteration of ~~an~~ historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

UNRECLAIMED ACRE or UNRECLAIMED ACRES (As it pertains to nonmetallic mining, § 275-63)

A. Those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001, and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under § 275-6~~5.17C~~3T(4). However, the term does not include any areas described in Subsection B.

B. "Unreclaimed acre" or "unreclaimed acres" does not include:

(1) Those areas where reclamation has been completed and certified as reclaimed under § 275-6~~5.17C~~3T(4).

(2) Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.

(3) Those portions of nonmetallic mining sites which are included in a nonmetallic mining reclamation plan approved pursuant to this chapter but are not yet affected by nonmetallic mining.

(4) Areas previously mined but used after August 1, 2001, for a nonmining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.

(5) For purposes of fees under § 275-6~~5.15~~3R, those areas within a nonmetallic mining site which the City has determined to have been successfully reclaimed on an interim basis in accordance with § 275-6~~5.17C~~3T(4).

VARIANCE

(As it pertains to floodplain, § 275-65) An authorization by the Board of Appeals for construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

VIOLATION

(As it pertains to floodplain, § 275-65) The failure of a structure or other development to be fully compliant with ~~this chapter~~ the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE PROFILE

(As it pertains to floodplain, § 275-65) A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of a river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain ~~hazard~~ areas.

WATERSHED

(As it pertains to floodplain, § 275-65) The entire region or area contributing runoff or surface water to a particular watercourse or body of water.

WELL

(As it pertains to floodplain, § 275-65) ~~An~~ Means an excavated opening in the ground made by digging, boring, drilling, driving or other methods to obtain ~~for the purpose of obtaining~~ groundwater, regardless of its intended use.

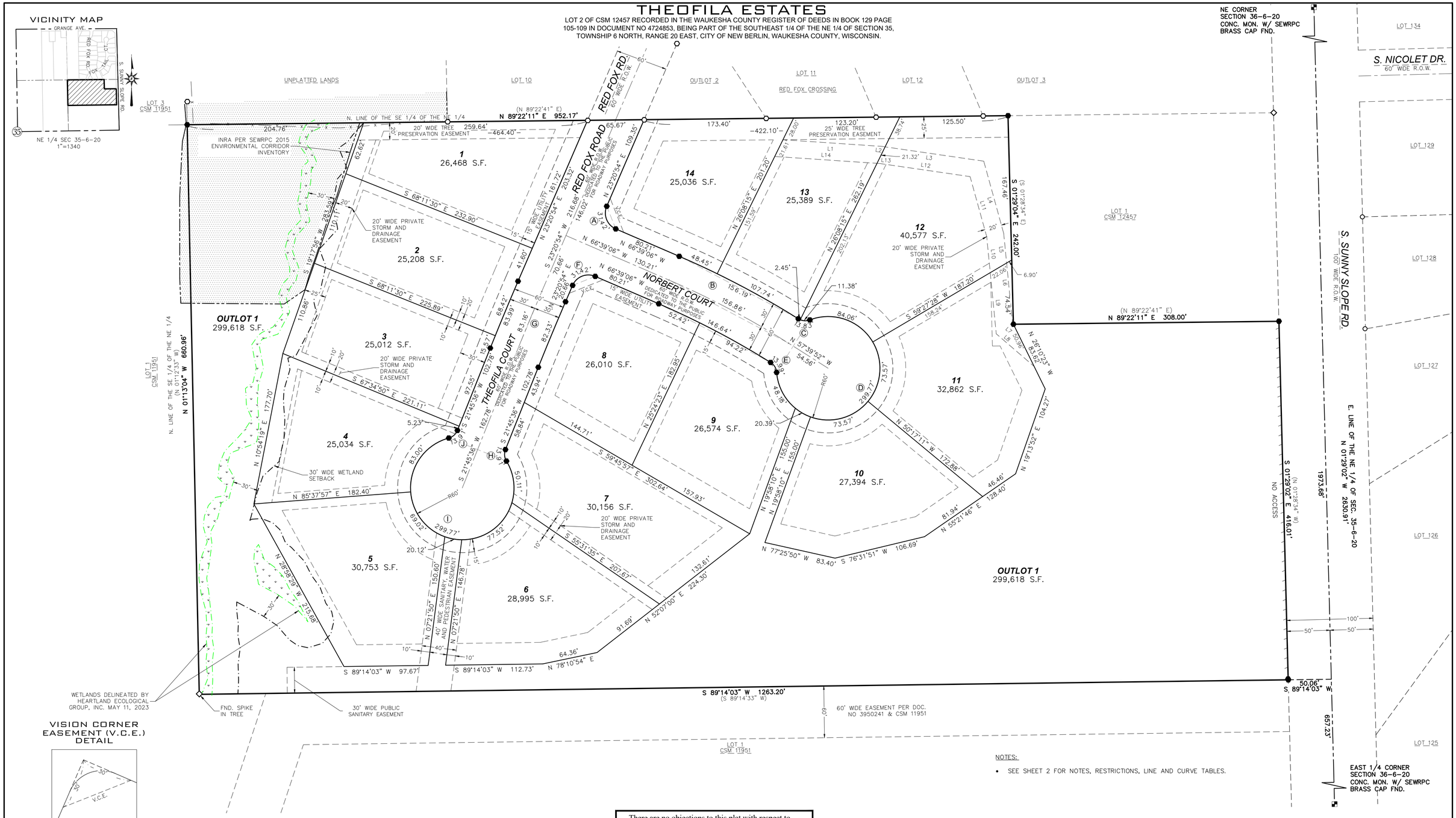
STAFF REPORT
EXECUTIVE SUMMARY

APPLICANT/PROJECT:	**Ryan Janssen, Ryan's Buying LLC / Theofila Estates Subdivision Final Plat**
LOCATION:	**5751 S. Sunny Slope Road (Tax Key #: 1289.994.002)**
REQUEST:	**Approval of the Theofila Estates Subdivision Final Plat for the property located at 5751 S. Sunny Slope Road (Tax Key #: 1289.994.002).**
D.R.C. RECOMMENDATION:	**Discussion and possible action to recommend the approval of the application by Ryan's Buying LLC for the final plat of the Theofila Estates Subdivision located at 5751 S. Sunny Slope Road, along with the settlement agreement between the parties, subject to the terms of said settlement agreement as well as the conditions set forth in the staff report.**

ATTACHMENTS:
Final Plat
Settlement Agreement (forthcoming)
Staff Report 1/13/2025

THEOFILA ESTATES

LOT 2 OF CSM 12457 RECORDED IN THE WAUKESHA COUNTY REGISTER OF DEEDS IN BOOK 129 PAGE 105-109 IN DOCUMENT NO 4724853, BEING PART OF THE SOUTHEAST 1/4 OF THE NE 1/4 OF SECTION 35, TOWNSHIP 6 NORTH, RANGE 20 EAST, CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN.



VISION CORNER EASEMENT (V.C.E.) DETAIL

VISION CORNER EASEMENT (V.C.E.)

THE HEIGHT OF ALL PLANTINGS, BERMS, FENCES, SIGNS OR OTHER STRUCTURES WITHIN THE VISION CORNER EASEMENT (V.C.E.) LOCATED WITHIN OUTLOT 1, IS LIMITED TO 24 INCHES ABOVE THE ELEVATION OF THE CENTER OF THE INTERSECTION, NO ACCESS TO ANY ROADWAY SHALL BE PERMITTED WITHIN THE VISION CORNER EASEMENT.

BASEMENT RESTRICTION–GROUNDWATER

ALTHOUGH ALL LOTS IN THE SUBDIVISION HAVE BEEN REVIEWED AND APPROVED FOR DEVELOPMENT WITH SINGLE–FAMILY RESIDENTIAL USE IN ACCORDANCE WITH SECTION 236 WISCONSIN STATUTES, SOME LOTS CONTAIN SOIL CONDITIONS THAT, DUE TO THE POSSIBLE PRESENCE OF GROUNDWATER NEAR THE SURFACE, MAY REQUIRE ADDITIONAL SOIL ENGINEERING AND FOUNDATION DESIGN WITH REGARD TO BASEMENT CONSTRUCTION. IT IS RECOMMENDED THAT A LICENSED PROFESSIONAL ENGINEER DESIGN A BASEMENT AND FOUNDATION THAT WILL BE SUITABLE TO WITHSTAND THE VARIOUS PROBLEMS ASSOCIATED WITH SATURATED SOIL CONDITIONS ON BASEMENT WALLS OR FLOORS OR THAT OTHER SPECIAL MEASURES BE TAKEN. SOIL CONDITIONS SHOULD BE SUBJECT TO EACH OWNER'S SPECIAL INVESTIGATION PRIOR TO CONSTRUCTION AND NO SPECIFIC REPRESENTATION IS MADE HEREIN.

R–6 ZONING REQUIREMENTS PER TABLE 275–33–2

CONSERVATION SUBDIVISION	LOT AREA*	LOT WIDTH**	LOT DEPTH	FRONT	REAR	SIDE	WETLAND
	(S.F.)	(S.F.)	(S.F.)	(S.F.)	(S.F.)	(S.F.)	(S.F.)
R–6	25,000 S.F.	110 OR 130	NONE	30	25	10	30

*MINIMUM LOT AREA MAY BE 25,000 S.F. . **MINIMUM LOT WIDTH OF 110' (TYPICAL); MINIMUM LOT WIDTH OF 130' (CORNER LOT)

LOT #	LOT WIDTH AT BASE OF SETBACK
1	149.18
2	110.02
3	112.8
4	114.53
5	110.05
6	110.29
7	124.3
8	170.56/151.55
9	158.5
10	110.36
11	110.36
12	110.12
13	110.19
14	150.12/142.69

There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified _____, 20____

Department of Administration

WISCONSIN JOHN DOWNING S-2939 IXONIA WIS. LAND SURVEYOR

LandTech SURVEYING

LAND SURVEYING • LAND PLANNING
111 W. SECOND STREET
OCONOMOWOC, WI 53066
WWW.LANDTECHWI.COM
(262) 367-7599

THIS INSTRUMENT WAS DRAFTED BY JOHN D. DOWNING, S-2939

NOTES:

- SEE SHEET 2 FOR NOTES, RESTRICTIONS, LINE AND CURVE TABLES.

0' 60' 120'
1 INCH = 60 FEET

BEARINGS BASED ON GRID NORTH OF THE WISCONSIN COUNTY COORDINATE SYSTEM, WAUKESHA COUNTY ZONE (NAD 83 WISCORS 2011) AND REFERENCED TO THE EAST LINE OF THE NE 1/4 OF SEC. 35–6–20 MEASURED AS N 01°29'02" W.

VERTICAL DATUM IS NAVD 88 (GEOID 12A)

LEGEND

◇	FOUND SPIKE
○	FOUND 3/4" REBAR OR NOTED
○	FOUND 1" IRON PIPE OR NOTED
V.C.E	VISION CORNER EASEMENT
(R)	RECORD DIMENSION
	WETLANDS
	ISOLATED NATURAL RESOURCE AREA
	NO ACCESS
	WETLANDS
●	SET 1.25"X 18" REBAR WEIGHING 4.30 LBS/LIN FT. 3/4"X18" REBAR WEIGHING 1.5 LBS/LIN FT SET AT ALL OTHER LOT CORNERS

10/02/2024
PROJ. NO: 23152
SHEET 1 OF 2

THEOFILA ESTATES

LOT 2 OF CSM 12457 RECORDED IN THE WAUKESHA COUNTY REGISTER OF DEEDS IN BOOK 129 PAGE 105-109 IN DOCUMENT NO 4724853, BEING PART OF THE SOUTHEAST 1/4 OF THE NE 1/4 OF SECTION 35, TOWNSHIP 6 NORTH, RANGE 20 EAST. CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN.

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN) SS
COUNTY OF WAUKESHA)

I, JOHN D. DOWNING, PROFESSIONAL LAND SURVEYOR S-2939, DO HEREBY CERTIFY THAT I HAVE SURVEYED, DIVIDED AND MAPPED "THEOFILA ESTATES", BEING LOT 2 OF CSM 12457 RECORDED IN THE WAUKESHA COUNTY REGISTER OF DEEDS IN BOOK 129 PAGE 105-109 IN DOCUMENT NO 4724853, BEING PART OF THE SOUTHEAST 1/4 OF THE NE 1/4 OF SECTION 35, TOWNSHIP 6 NORTH, RANGE 20 EAST. CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS:

LOT 2 OF CSM 12457 RECORDED IN THE WAUKESHA COUNTY REGISTER OF DEEDS IN BOOK 129 PAGE 105-109 IN DOCUMENT NO 4724853, BEING PART OF THE SOUTHEAST 1/4 OF THE NE 1/4 OF SECTION 35, TOWNSHIP 6 NORTH, RANGE 20 EAST. CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN.

DESCRIBED LANDS HAVING AN AREA OF 757,483 SQUARE FEET OR 17.389 ACRES.

THAT I HAVE MADE SUCH SURVEY, LAND DIVISION AND PLAT BY THE DIRECTION OF RYANS BUYING, LLC. OWNERS OF SAID LAND.

THAT SUCH A MAP IS A CORRECT REPRESENTATION OF ALL THE EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND SUBDIVISION THEREOF MADE.

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236 OF THE WISCONSIN STATUTES, THE SUBDIVISION REGULATIONS OF THE CITY OF NEW BERLIN AND THE LAND DIVISION ORDINANCE OF WAUKESHA COUNTY IN SURVEYING, DIVIDING AND MAPPING THE SAME.

DATED THIS _____ DAY OF _____, 20_____.

_____
JOHN D. DOWNING, S-2939

WISCONSIN
JOHN DOWNING
S-2939
IXONIA
WIS.
LAND SURVEYOR

WETLAND/INRA RESTRICTIONS

THOSE AREAS IDENTIFIED AS WETLAND AND INRA AREAS ON PAGE 1 OF 2 ON THIS SUBDIVISION PLAT SHALL BE SUBJECT TO THE FOLLOWING RESTRICTIONS:

1. GRADING, FILLING AND REMOVAL OF TOPSOIL OR OTHER EARTHEN MATERIALS ARE PROHIBITED, UNLESS SPECIFICALLY AUTHORIZED BY THE MUNICIPALITY IN WHICH THIS LAND IS LOCATED AND, IF APPLICABLE, THE WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE, THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND THE ARMY CORPS OF ENGINEERS.

2.

3. GRAZING BY DOMESTICATED ANIMALS, I.E., HORSES, COWS, ETC, IS PROHIBITED WITHIN THE CONSERVANCY/WETLAND/FLOODPLAIN AREA AND SHALL BE DISCOURAGED TO THE GREATEST EXTENT POSSIBLE WITHIN THE SECONDARY ENVIRONMENTAL CORRIDOR AREA.

4. THE INTRODUCTION OF PLANT MATERIAL NOT INDIGENOUS TO THE EXISTING ENVIRONMENT IS PROHIBITED.

5. PONDS MAY BE PERMITTED SUBJECT TO THE APPROVAL OF THE MUNICIPALITY IN WHICH THEY ARE LOCATED AND, IF APPLICABLE, THE WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE, THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND THE ARMY CORPS OF ENGINEERS.

6. THE CONSTRUCTION OF BUILDINGS OR ACCESSORY USES ARE PROHIBITED WITHIN THE WETLAND AND FLOODPLAIN AND PER THE CONSERVATION EASEMENT PROVISIONS.

TREE PRESERVATION EASEMENT RESTRICTIONS LOTS 1, 12 AND 13

1. THE GRADING, FILLING, AND/OR REMOVAL OF TOPSOIL IS PROHIBITED.

2. THE REMOVAL OR DESTRUCTION OF VEGETATIVE COVER, I.E. TREES, SHRUBS, GRASSES, ETC. IS PROHIBITED WITH THE EXCEPTION THAT DEAD, DYING OR DISEASED VEGETATION MAY BE REMOVED AT THE DISCRETION OF THE LAND OWNER UNDER THE RECOMMENDATION OF A FORESTER OR NATURALIST WITH APPROVAL FROM THE CITY OF NEW BERLIN DEPARTMENT OF COMMUNITY DEVELOPMENT. INVASIVE PLANT SPECIES, AS IDENTIFIED BY THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES, MAY ALSO BE REMOVED WITH APPROVAL FROM THE CITY OF NEW BERLIN DEPARTMENT OF COMMUNITY DEVELOPMENT.

3. THE CONSTRUCTION OF ANY PERMANENT OR TEMPORARY STRUCTURES, FENCING, POOLS, DECKS, PLAY EQUIPMENT, OR THE LIKE IS PROHIBITED.

4. THE INTRODUCTION OF ANY PLANT MATERIAL NOT INDIGENOUS TO THE EXISTING ENVIRONMENT IS PROHIBITED.

5. UNAUTHORIZED REMOVAL OF TREES WITHIN THE TREE PRESERVATION EASEMENT SHALL REQUIRE REPLANTING IN ACCORDANCE WITH THE CITY'S TREE REPLACEMENT POLICY NOTED IN ZONING CODE SECTION 275-54B(6). BECAUSE THE SPECIES AND/OR QUALITY OF THE TREE THAT HAS BEEN REMOVED IS NOT ABLE TO BE DETERMINED AFTHER-THE-FACT, THE REQUIRED NUMBER OF REPLACEMENT TREES WILL BE BASED ON STUMP SIZE, REGARDLESS OF THE SPECIES OR QUALITY OF THE ORIGINAL TREE.

PRIVATE UTILITY EASEMENT PROVISIONS

AN EASEMENT FOR ELECTRIC, NATURAL GAS, AND COMMUNICATIONS SERVICE IS HEREBY GRANTED BY

_____, GRANTOR, TO

WISCONSIN ELECTRIC POWER COMPANY AND WISCONSIN GAS, LLC, WISCONSIN CORPORATIONS DOING BUSINESS AS WE ENERGIES, GRANTEE

_____, GRANTEE, AND

_____, GRANTEE

THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO CONSTRUCT, INSTALL, OPERATE, REPAIR, MAINTAIN AND REPLACE FROM TIME TO TIME, FACILITIES USED IN CONNECTION WITH OVERHEAD AND UNDERGROUND TRANSMISSION AND DISTRIBUTION OF ELECTRICITY AND ELECTRIC ENERGY, NATURAL GAS, TELEPHONE AND CABLE TV FACILITIES FOR SUCH PURPOSES AS THE SAME IS NOW OR MAY HEREAFTER BE USED, ALL IN, OVER, UNDER, ACROSS, ALONG AND UPON THE PROPERTY SHOWN WITHIN THOSE AREAS ON THE PLAT DESIGNATED AS "PRIVATE UTILITY EASEMENT AREAS" AND THE PROPERTY DESIGNATED ON THE PLAT FOR STREETS AND ALLEYS, WHETHER PUBLIC OR PRIVATE, TOGETHER WITH THE RIGHT TO INSTALL SERVICE CONNECTIONS UPON, ACROSS WITHIN AND BENEATH THE SURFACE OF EACH LOT TO SERVE IMPROVEMENTS, THERON, OR ON ADJACENT LOTS; ALSO THE RIGHT TO TRIM OR CUT DOWN TREES, BRUSH AND ROOTS AS MAY BE REASONABLY REQUIRED INCIDENT TO THE RIGHTS HEREIN GIVEN, AND THE RIGHT TO ENTER UPON THE SUBDIVIDED PROPERTY FOR ALL SUCH PURPOSES. THE GRANTEES AGREE TO RESTORE OR CAUSE TO HAVE RESTORED, THE PROPERTY, AS NEARLY AS IS REASONABLY POSSIBLE, TO THE CONDITION EXISTING PRIOR TO SUCH ENTRY BY THE GRANTEES OR THEIR AGENTS. THIS RESTORATION, HOWEVER, DOES NOT APPLY TO THE INITIAL INSTALLATION OF SAID UNDERGROUND AND/OR ABOVE GROUND ELECTRIC FACILITIES, NATURAL GAS FACILITIES, OR TELEPHONE AND CABLE TV FACILITIES OR TO ANY TREES, BRUSH OR ROOTS WHICH MAY BE REMOVED AT ANY TIME PURSUANT TO THE RIGHTS HEREIN GRANTED. BUILDINGS SHALL NOT BE PLACED OVER GRANTEES' FACILITIES OR IN, UPON OR OVER THE PROPERTY WITHIN THE LINES MARKED "PRIVATE UTILITY EASEMENT AREAS" WITHOUT THE PRIOR WRITTEN CONSENT OF GRANTEES. AFTER INSTALLATION OF ANY SUCH FACILITIES, THE GRADE OF THE SUBDIVIDED PROPERTY SHALL NOT BE ALTERED BY MORE THAN FOUR INCHES WITHOUT WRITTEN CONSENT OF GRANTEES.

THE GRANT OF EASEMENT SHALL BE BINDING UPON AND INURE TO THE BENEFIT OF THE HEIRS, SUCCESSORS AND ASSIGNS OF ALL PARTIES HERETO.

There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified _____, 20_____

Department of Administration

CORPORATE OWNER'S CERTIFICATE

AS OWNER, RYANS BUYING, LLC HEREBY CERTIFY THAT SAID CORPORATION CAUSED THE LAND DESCRIBED ON THIS PLAT TO BE SURVEYED, DIVIDED, MAPPED AND DEDICATED AS REPRESENTED ON THIS PLAT. I ALSO CERTIFY THAT THIS PLAT IS REQUIRED BY SECTION 236.10 OR 236.12 TO BE SUBMITTED TO THE FOLLOWING FOR APPROVAL OR OBJECTION:

1. CITY OF NEW BERLIN
2. WAUKESHA COUNTY DEPARTMENT OF PARKS & LAND USE
3. STATE OF WISCONSIN, DEPARTMENT OF ADMINISTRATION

IN WITNESS WHEREOF, THE SAID RYANS BUYING, LLC. HAS CAUSED THESE PRESENTS TO BE SIGNED BY

RYAN JANSSEN, MEMBER, AND ITS CORPORATE SEAL TO BE HEREUNTO AFFIXED THIS _____ DAY OF

_____, 20____.

_____
RYAN JANSSEN, MEMBER

STATE OF WISCONSIN)SS
COUNTY OF WAUKESHA)

PERSONALLY CAME BEFORE ME THIS __DAY OF _____, 20__, THE ABOVE NAMED RYAN JANSSEN, TO ME KNOWN TO AS A MEMBER OF RYANS BUYING, LLC. ARE THE PEOPLE WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAME.

_____

NOTARY PUBLIC,_____ COUNTY, WI

MY COMMISSION Expires._____

CORPORATE MORTGAGE CERTIFICATE

_____, A CORPORATION DULY ORGANIZED AND EXISTING BY VIRTUE OF THE LAWS OF THE STATE OF _____, MORTGAGEE OF THE ABOVE DESCRIBED LAND, DOES HEREBY CONSENT TO THE SURVEYING, DIVIDING, MAPPING AND DEDICATING OF THE LAND DESCRIBED ON THIS PLAT, AND DOES HEREBY CONSENT TO THE ABOVE CERTIFICATE OF RYANS BUYING, LLC, OWNER, THIS _____ DAY OF _____, 20____.

_____, PRINT NAME & TITLE: _____

STATE OF _____)SS
COUNTY OF _____)

PERSONALLY CAME BEFORE ME THIS _____ DAY OF _____, 20_____, THE ABOVE NAMED _____, OF THE ABOVE NAMED CORPORATION, TO ME KNOWN TO BE THE PERSON WHO EXECUTED THE FOREGOING INSTRUMENT, AND TO ME KNOWN TO BE SUCH _____ OF SAID CORPORATION, AND ACKNOWLEDGED THAT THEY EXECUTED THE FOREGOING INSTRUMENT AS SUCH OFFICER AS THE DEED OF SAID CORPORATION, BY ITS AUTHORITY.

_____

PRINT NAME: _____

NOTARY PUBLIC, _____ COUNTY, _____

MY COMMISSION EXPIRES._____

CITY OF NEW BERLIN COMMON COUNCIL APPROVAL

THIS PLAT KNOWN AS "AUTUMN TRACE", IS HEREBY APPROVED BY THE CITY OF NEW BERLIN COMMON COUNCIL AS BEING IN CONFORMANCE WITH THE CITY'S SUBDIVISION ORDINANCE. THE CITY OF NEW BERLIN COMMON COUNCIL ALSO HEREBY APPROVES AND ACCEPTS ALL DEDICATIONS SHOWN THEREON, THIS _____ DAY OF _____, 20__.

_____
DAVID A. AMENT, MAYOR

THIS _____ DAY OF _____, 20_____.

_____
RUBINA R. MEDINA, CITY CLERK

CITY OF NEW BERLIN PLAN COMMISSION APPROVAL

THIS PLAT KNOWN AS "AUTUMN TRACE", IS HEREBY APPROVED BY THE CITY OF NEW BERLIN PLAN COMMISSION AS BEING IN CONFORMANCE WITH THE CITY'S SUBDIVISION ORDINANCE. THE CITY OF NEW BERLIN PLAN COMMISSION ALSO HEREBY APPROVES AND ACCEPTS ALL DEDICATIONS SHOWN THEREON, THIS _____ DAY OF _____, 20__. APPROVED AND SIGNED:

_____
DAVID A. AMENT, MAYOR/CHAIRMAN

THIS _____ DAY OF _____, 20_____.

_____
NIKKI JONES, PLAN COMMISSION SECRETARY

CERTIFICATE OF CITY TREASURER

STATE OF WISCONSIN)
) SS
COUNTY OF WAUKESHA)

I RALPH CHIPMAN, BEING DULY APPOINTED, QUALIFIED AND ACTING FINANCE DIRECTOR/TREASURER OF THE CITY OF NEW BERLIN, DO HEREBY CERTIFY THAT IN ACCORDANCE WITH THE RECORDS IN MY OFFICE, THERE ARE NO UNPAID TAXES OR SPECIAL ASSESSMENTS AS OF THIS _____ DAY OF _____, 20____ ON ANY LAND INCLUDED IN THE PLAT OF "AUTUMN TRACE".

THIS _____ DAY OF _____, 20_____.

_____
RALPH CHIPMAN, FINANCE DIRECTOR/TREASURER

COUNTY TREASURER'S CERTIFICATE

STATE OF WISCONSIN)
) SS
COUNTY OF WAUKESHA)

I PAMELA REEVES, BEING DULY ELECTED, QUALIFIED AND ACTING TREASURER OF THE COUNTY OF WAUKESHA, DO HEREBY CERTIFY THAT THE RECORDS IN MY OFFICE SHOW NO UNREDEEMED TAX SALES AND NO UNPAID TAXES OR SPECIAL ASSESSMENTS AS OF THIS _____ DAY OF _____, 20____ ON ANY LAND INCLUDED IN THE PLAT OF "AUTUMN TRACE".

THIS _____ DAY OF _____, 20_____.

_____
PAMELA REEVES, COUNTY TREASURER

NOTES:

- ROADWAYS WITHIN THE SUBDIVISION ARE DEDICATED TO THE PUBLIC FOR ROADWAY PURPOSES.
- EACH INDIVIDUAL LOT OWNER SHALL HAVE AN UNDIVIDABLE FRACTIONAL OWNERSHIP IN OUTLOT NO. 1 AND WAUKESHA COUNTY SHALL NOT BE LIABLE OF ANY FEES OR SPECIAL ASSESSMENTS IN THE EVENT THEY BECOME THE OWNER OF ANY LOTS OR OUTLOTS IN THE SUBDIVISION BY REASON OF TAX DELINQUENCY.
- STORM WATER MANAGEMENT FACILITIES ARE LOCATED ON OUTLOT 1 OF THIS SUBDIVISION. THE OWNERS OF ALL LOTS WITHIN THIS SUBDIVISION SHALL EACH BE LIABLE FOR AN EQUAL UNDIVIDED FRACTIONAL SHARE OF THE COST TO REPAIR, MAINTAIN OR RESTORE SAID STORMWATER MANAGEMENT FACILITIES. SAID REPAIRS, MAINTENANCE AND RESTORATION SHALL BE PERFORMED BY THE OWNERS OF ALL LOTS WITHIN THIS SUBDIVISION.
- WHEN A GARAGE IS PROPOSED WITH AN ENTRY FACING AN INTERIOR LOT LINE, THE GARAGE SHALL BE SET BACK A MINIMUM OF 30 FEET FROM THE LOT LINE OPPOSITE THE GARAGE DOOR. THE SETBACK SHALL BE MEASURED PERPENDICULAR FROM THE EDGE CLOSEST TO THE STREET OF EACH GARAGE OPENING. THERE SHALL BE A TWENTY FOUR FOOT (24') ACCESS RADIUS IN AND OUT OF THE GARAGE DOOR. THE SIDE-ENTRY DRIVEWAY SHALL BE LOCATED NOT LESS THAN FIVE FEET FROM THE SIDE LOT LINE.
- OUTLOT 1 CONTAINS STORM WATER MANAGEMENT FACILITIES, WETLANDS, AND INRA. .
- WETLAND BOUNDARIES SHOWN HEREON WERE DELINEATED AND FIELD LOCATED BY HEARTLAND ECOLOGICAL GROUP, INC. PER THE WETLAND DELINEATION REPORT DATED MAY 11, 2023 WHICH IS ON FILE AT THE CITY OF NEW BERLIN.
- ISOLATED NATURAL RESOURCE AREA (INRA) BOUNDARIES SHOWN PER SEWRPC 2015 ENVIRONMENTAL CORRIDOR INVENTORY.
- ONE DRIVEWAY ACCESS SHALL BE ALLOWED PER PARCEL.
- ALL THE COVENANTS AND RESTRICTIONS CONTAINED HEREIN WHICH HAVE BEEN PREPARED TO REGULATE THE EASEMENTS PROVIDED ON THE FINAL PLAT SHALL ALSO APPLY TO ADDITIONAL EASEMENTS AS MAY BE GRANTED AND CREATED THEREAFTER.
- PRIVATE ENCROACHMENTS INSTALLED WITHIN THE PUBLIC RIGHT-OF-WAY INCLUDING BUT NOT LIMITED TO DOG FENCES, LIGHT POLES, LANDSCAPING, SIGNS AND PRIVATE IRRIGATION SYSTEMS ARE AT RISK OF DAMAGE WITHOUT NOTICE AND ARE THE RESPONSIBILITY OF THE PROPERTY OWNER TO REPAIR. IT IS THE REASONABILITY OF THE PROPERTY OWNER TO GET PERMISSION FROM THE PRIVATE UTILITIES TO INSTALL SUCH ENCROACHMENTS WITHIN THE PRIVATE UTILITY EASEMENT.
- A PARK COMPLEX WITH LIGHTING, BALL FIELDS, AND A VARIETY OF OTHER ACTIVITIES IS PLANNED TO BE LOCATED ADJACENT TO THE SUBDIVISION.
- THERE SHALL BE NO DIRECT VEHICULAR INGRESS OR EGRESS BETWEEN SUNNY SLOPE ROAD AND OUTLOT 1 IN THIS SUBDIVISION. IT IS BEING EXPRESSLY INTENDED THAT THIS RESTRICTION SHALL CONSTITUTE A RESTRICTION FOR THE BENEFIT OF THE PUBLIC ACCORDING TO SECTION 236.293 OF THE WISCONSIN STATUTES AND SHALL BE ENFORCED BY THE CITY OF NEW BERLIN.
- PRIVATE DRAINAGE EASEMENTS ARE ESTABLISHED TO PROVIDE FOR THE UNOBSTRUCTED FLOW OF STORMWATER RUNOFF FROM ADJACENT AND UP STREAM PROPERTIES. OWNERS OF LOTS ON WHICH THESE PRIVATE DRAINAGE EASEMENTS EXIST SHALL BE RESPONSIBLE FOR KEEPING THESE AREAS FREE FROM ANY OBSTRUCTIONS THAT MAY RESTRICT FLOW.

CURVE TABLE

CURVE	LOT	RADIUS	DELTA	ARC DIST	CHORD DIST	CHORD BEARING	TANGENT IN	TANGENT OUT
A	LOT 14	20.00'	90°00'00"	31.42'	28.28'	N 21°39'06" W	N 23°20'54" E	N 66°39'06" W
B	O'L	1000.00'	8°59'14"	156.86'	156.70'	N 62°09'29" W	N 57°39'52" W	N 66°39'06" W
	N. R.O.W.	1030.00'	8°41'18"	156.19'	156.04'	N 62°18'27" W	N 57°57'48" W	N 66°39'06" W
	LOT 13	1030.00'	5°59'35"	107.74'	107.69'	N 60°57'36" W		
	LOT 14	1030.00'	2°41'43"	48.45'	48.45'	N 65°18'15" W		
	S. R.O.W.	970.00'	8°39'41"	146.64'	146.50'	N 62°19'16" W	N 57°59'25" W	N 66°39'06" W
	LOT 8	970.00'	03°05'46"	52.42'	52.41'	N 65°08'13" W		
	LOT 9	970.00'	05°33'56"	94.22'	94.18'	N 60°48'23" W		
C	N. R.O.W.	15.00'	52°50'41"	13.83'	13.35'	N 84°23'09" W	N 57°57'48" W	N 69°11'31" E
	LOT 12	15.00'	43°28'41"	11.38'	11.11'	N 89°04'09" W		
	LOT 13	15.00'	9°22'00"	2.45'	2.45'	N 62°38'48" W		
D	R.O.W.	60.00'	286°15'33"	299.77'	72.00'	N 32°19'17" E	N 04°32'57" W	N 69°11'31" E
	LOT 9	60.00'	46°00'37"	48.18'	46.90'	N 27°33'15" W		
	LOT 10	60.00'	70°15'21"	73.57'	69.05'	N 74°50'30" E		
	LOT 11	60.00'	70°15'21"	73.57'	69.05'	N 04°35'09" E		
	LOT 12	60.00'	80°15'57"	84.05'	77.35'	N 70°40'31" W		
	OUTLOT 1	60.00'	19°28'16"	20.39'	20.29'	N 60°17'42" W		
E	LOT 9	15.00'	53°26'28"	13.99'	13.49'	N 31°16'11" W	N 04°32'57" W	N 57°59'25" W
F	LOT 8	20.00'	90°00'00"	31.42'	28.28'	N 68°20'54" E	N 66°39'06" W	N 23°20'54" E
G	O'L	3000.00'	1°35'18"	83.16'	83.16'	N 22°33'15" E	N 23°20'54" E	N 21°45'36" E
	LOT 8	2970.00'	1°35'18"	82.33'	82.32'	N 22°33'15" E	N 23°20'54" E	N 21°45'36" E
	W. R.O.W.	3030.00'	1°35'18"	83.99'	83.99'	N 22°33'15" E	N 23°20'54" E	N 21°45'36" E
	LOT 2	3030.00'	1°17'38"	68.42'	68.42'	N 22°42'05" E		
	LOT 3	3030.00'	0°17'40"	15.57'	15.57'	N 21°54'26" E		
H	LOT 7	15.00'	53°07'48"	13.91'	13.42'	N 04°48'18" W	N 21°45'36" E	N 31°22'12" W
I	R.O.W.	60.00'	286°15'33"	299.77'	72.00'	N 68°14'24" W	N 74°53'25" E	N 31°22'12" W
	LOT 4	60.00'	79°15'27"	83.00'	76.54'	N 35°15'41" E		
	LOT 5	60.00'	65°54'23"	69.02'	65.27'	N 37°19'14" W		
	LOT 6	60.00'	74°01'41"	77.52'	72.24'	N 53°30'06" E		
	LOT 7	60.00'	47°51'27"	50.12'	48.67'	N 07°26'28" W		
	OUTLOT 1	60.00'	19°12'38"	20.12'	20.02'	N 79°52'45" W		
J	LOT 4	15.00'	53°07'48"	13.91'	13.42'	N 48°19'30" E	N 74°53'25" E	N 21°45'36" E

EASEMENT LINE TABLE

LINE	BEARING	DISTANCE
L1	N 86°07'46" W	115.19'
L2	N 81°45'17" W	3.58'
L3	N 81°45'17" W	115.61'
L4	N 15°26'47" W	86.99'
L5	N 05°36'12" W	34.49'
L6	N 05°36'12" W	72.52'
L7	N 49°16'47" W	3.13'
L8	N 49°16'47" W	58.02'
L9	N 05°36'12" W	71.23'
L10	N 05°36'12" W	42.07'
L11	N 15°26'47" W	72.20'
L12	N 81°45'17" W	105.36'
L13	N 86°07'46" W	3.75'
L14	N 86°07'46" W	118.86'

LAND SURVEYING • LAND PLANNING
111 W. SECOND STREET
OCONOMOWOC, WI 53066
WWW.LANDTECHWI.COM
(262) 367-7599

THIS INSTRUMENT WAS DRAFTED BY JOHN D. DOWNING, S-2939

10/02/2024
PROJ. NO: 23152
SHEET 2 OF 2

STAFF REPORT
EXECUTIVE SUMMARY

APPLICANT/PROJECT:	**Ryan Janssen, Ryan's Buying LLC / Theofila Estates Subdivision Final Plat**
LOCATION:	**5751 S. Sunny Slope Road (Tax Key #: 1289.994.002)**
REQUEST:	**Approval of the Theofila Estates Subdivision Final Plat for the property located at 5751 S. Sunny Slope Road (Tax Key #: 1289.994.002).**
REVIEW SCHEDULE:	**Preliminary Plat Received: 11/20/2024** **60-day time limit expires: 1/19/2025** **Final Common Council Action (expected): 1/14/2025**
D.R.C. RECOMMENDATION:	**Recommend to Common Council rejection of Theofila Estates Subdivision Final Plat for the property located at 5751 S. Sunny Slope Road (Tax Key #: 1289.994.002), subject to the application, plans on file and the following reasons:**

1. **The Municipal Code states in §235-15N(1): *No final plat will be accepted as complete until the applicant provides adequate documentation that the required improvements have been completed.* Staff has reviewed the submitted Final Plat application and found it to be substantially incomplete.**
2. **The Director or designee shall make a determination of the developer's compliance with the terms of the development agreement, City ordinances, and the City's Developer's Handbook.**
    a. **The Sequence of Development, as stated in the approved Development Agreement, states that the following items shall be completed prior to approval of the Final Plat: Construction Plan Approvals, Development Agreement Approvals and Sureties, Pre-construction Meeting, Erosion Control and Stormwater Best Management Practices, Grading, Sanitary System, Water System, Storm Drainage System, Roadway Base Course, Private Utilities (Electric, Gas, Telephone, CATV, Etc.), Restoration, Roadway Binder & Surface Course, Record Drawings And Certifications, and Easement Recording.**
    b. **As of November 20, 2024, Grading, Sanitary System, Water System, Storm Drainage System, Roadway Base Course, Private Utilities (Electric, Gas, Telephone, CATV, Etc.), Restoration, Roadway Binder & Surface Course, Record Drawings And Certifications, and Easement Recording have not been completed, therefore the improvements cannot be accepted.**

ATTACHMENTS:
Inspection Report (11/25/2024) - construction status at the time of submittal
Letter (11/22/2024) – incomplete application
Email (11/21/2024) – construction status
Letter (10/30/2024) – incomplete application
Preliminary Plat Staff Report (1/8/2024)

Daily Project Events Report

		Day & Date:	Monday, November 25, 2024
Project:	**Theofila Estates**	Client:	**City of New Berlin**
Project Number:	**1244600**		
Engineering Firm:	**raSmith**	Contractor:	Veit USA
Report By:	Mark Nosonovsky	Sub Contractor:	DC Burbach
Project Type:	Roads	Weather/Temp - AM:	47° and Mostly Cloudy
Project Type Detail:	curb	Weather/Temp- PM:	48° and Mostly Cloudy

Erosion Control Status:

In place.

Activity for the Day: (Comments)

I arrived on site at Theofila Estates at 6:55 AM. DC Burbach was on site. They removed two short pieces of concrete curb, one short piece in the cul-de-sac on Norbert Ct (22' length) and one short piece north of the storm inlet INL 5A (14' length). Burbach then set forms to pour the two sections of curb. Forms were checked by Burbach using a level. A concrete truck from Zignego arrived on site shortly after 9:30 AM. Burbach began pouring the section in the cul-de-sac on Norbert Ct. The concrete was vibrated as it was being poured. Burbach then poured the short section north of inlet INL 5A. A piece of felt was placed approx. 5' away from the inlet. Burbach laborers and finisher worked on giving the concrete a smooth finish. The concrete pour was completed at 10:10 AM. 3.5 cubic yards of mix 928 were ordered for today's pour. Once the concrete had set, Burbach stripped the forms and covered the new curb with blankets and plastic due to expected cold weather temperatures. Burbach left the job site at 12:40 PM. I spent some time today on GPS work.

Items Used Today

Item No.	Bid Items (drop down)	Units	Qty	Comments
-				
-				
-				
-				
-				
-				
-				
-				
-				
-				

Construction Operations Management
Project Automation System

Signature of Site Representative:

Site Representative Time (hrs): 7.5

raSmith
CREATIVITY BEYOND ENGINEERING

By: Mark Nosonovsky/ raSmith 11/25/2024

Theofila Estates

Veit USA

City of New Berlin

P.N. 1244600

Daily Use of Equipment on the Project Site		
Equipment Type	Description	Hours
Skidsteer	CAT 262D	2
Form Truck	Burbach	6
Foreman Truck	Burbach	6
	Concrete truck from Zignego	2

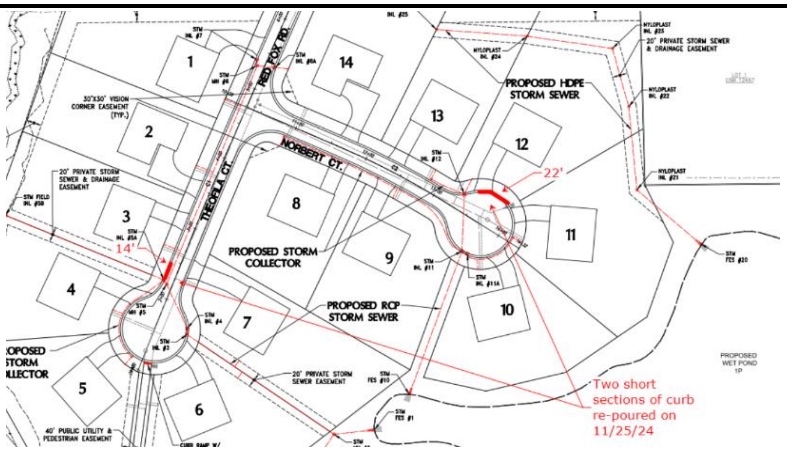
Active Personnel on the Project			
Personnel Type	Hrs	Quanitity	Total
Foreman	6	1	6
Operator	2	1	2
Operator	6	1	6
Laborer	6	3	18
finisher	6	1	6
			0
Total Number of Workers and Hours Worked:			38

Tracer Wire	Mechanical Compaction	Manhole/CB/ Fitting		Pipe Line Station		Pipe or Fitting Inverts		Length (LF)	Pipe Size	Pipe Class	Slope (%)	Backfill Material	Bedding/ Cover Material	Remarks/ Soil Type
		From	To	From	To	From	To							

WATER ONLY		
	Chlorination Type	
	Polyethylene Wrap Installed	
	Restraint Type (All that apply)	

APPURTENANCES									
HYDRANTS			VALVES	Mainline/ Service Fittings		Pipe		Castings	
No.	Manufacture	Bury	Manufacture	Type	Manufacture	Type	Manufacture	Type	Manufacture/Number

Interferences			
Size & Description	Station	Depth	Remarks



Daily Project Events Report Photos

Burbach removed two short pieces of concrete curb

Burbach set forms ahead of the concrete pour

Burbach set forms ahead of the concrete pour

Concrete pour begins on Norbert Ct

Daily Project Events Report Photos

Concrete pour on Theofila Ct

A piece of felt was placed approx. 5' north of the inlet INL 5A

Concrete pour is completed

Newly poured concrete curb was covered with plastic and blankets due to expected cold weather temperatures

City of
New Berlin
Community Development
city living with a touch of country

Building Permits & Inspections • Engineering Services • GIS / LIS • Planning Services
3805 South Casper Drive
New Berlin, WI 53151
Phone: 262.797.2445
Fax: 262.780.4612
www.newberlin.org

November 22, 2024

Sent via email to ryan@ryansbuying.com

Ryan Janssen
Ryan's Buying LLC
PO Box 486
Mukwonago, WI 53149

Re: Theofila Estates Subdivision Final Plat

Dear Mr. Janssen:

The Department of Community Development received your application on November 20, 2024, for the Theofila Estates Subdivision Final Plat located at 5751 S. Sunny Slope Road and has determined the application to be incomplete. The Municipal Code states in §235-15N(1): *No final plat will be accepted as complete until the applicant provides adequate documentation that the required improvements have been completed.* Staff has reviewed the submitted Final Plat application and found to be substantially incomplete.

The Director or designee shall make a determination of the developer's compliance with the terms of the development agreement, City ordinances, and the City's Developer's Handbook.

- The Sequence of Development, as stated in the approved Development Agreement, states that the following items shall be completed prior to approval of the Final Plat: Construction Plan Approvals, Development Agreement Approvals and Sureties, Pre-construction Meeting, Erosion Control and Stormwater Best Management Practices, Grading, Sanitary System, Water System, Storm Drainage System, Roadway Base Course, Private Utilities (Electric, Gas, Telephone, CATV, Etc.), Restoration, Roadway Binder & Surface Course, Record Drawings And Certifications, and Easement Recording.

- As of November 20, 2024, Grading, Sanitary System, Water System, Storm Drainage System, Roadway Base Course, Private Utilities (Electric, Gas, Telephone, CATV, Etc.), Restoration, Roadway Binder & Surface Course, Record Drawings And Certifications, and Easement Recording have not been completed, therefore the improvements cannot be accepted.

Please contact the City once the improvements have been made so we can provide an application cutoff date for a future Plan Commission meeting. You will need to re-submit your application and materials at such time you are ready to apply; materials will need to be picked up from City Hall by **December 2, 2024**. Staff will not accept an application for the Final Plat unless the required improvements have been completed and preliminarily accepted by the City as outlined in the executed Development Agreement dated July 10, 2024.

If you should have any questions, or need further information, please contact our office at (262) 797-2445 ext. 2514.

Sincerely,
CITY OF NEW BERLIN

Kristen Hogan

Kristen Hogan
Principal Planner

CC: Alderman Harenda
Mark Blum, City Attorney
Tom Schmitzer, Attorney
Greg Kessler, Director of Community Development
Nikki Jones, Deputy Director of Community Development
Tammy Simonson, City Engineer

Hogan, Kristen

From: Simonson, Tamara
Sent: Thursday, November 21, 2024 1:53 PM
To: Ryan Janssen; Ryan Janssen; Paul Jenswold
Cc: Kessler, Greg; Hogan, Kristen; Blum, Mark; Jones, Nikki
Subject: Theofila Paving

Ryan and Paul,
I know we have been working towards getting the pavement down at Theofila, but today's weather along with other factors have led me to believe we are not going to be able to place any asphalt anymore this year.

Wolf still has a day needed to fine grade the roadway. The base course has now been saturated with the snow and the probable rain this afternoon. The cooler temps make drying it out less likely.

The binder would take a day by itself.

There are sections of curb and gutter that need to be replaced before the surface course can be placed and then that will need 2-3 days to cure if you use high early concrete.

Paul Schafer told me yesterday that Wolf plans to close their plant down on Tuesday. And the temps next week Tuesday and Wednesday won't get high enough to meet the WisDOT Cold Weather Paving requirements for surface course at 36 degrees and rising.

The Development Agreement states under Section VII.B.3 "The asphaltic binder and surface course shall be installed in the same calendar year and shall not be installed without prior approval of the City Engineer to confirm the suitability of weather and site conditions for paving."

Based on this information, we recommend that you place barricades where your site meets Red Fox and plan to come back in the spring to complete the project.

If there is any information that I am not aware of, please let know.

Thank you,

Tamara M. Simonson, PE
City Engineer
City of New Berlin

City of
New Berlin
Community Development
city living with a touch of country

Building Permits & Inspections • Engineering Services • GIS / LIS • Planning Services
3805 South Casper Drive
New Berlin, WI 53151
Phone: 262.797.2445
Fax: 262.780.4612
www.newberlin.org

October 30, 2024

Sent via email to ryan@ryansbuying.com

Ryan Janssen
Ryan's Buying LLC
PO Box 486
Mukwonago, WI 53149

Re: Theofila Estates Subdivision Final Plat

Dear Mr. Janssen:

The Department of Community Development received your application on October 18, 2024, for the Theofila Estates Subdivision Final Plat located at 5751 S. Sunny Slope Road and has determined the application to be incomplete. The Municipal Code states in §235-15N(1): *No final plat will be accepted as complete until the applicant provides adequate documentation that the required improvements have been completed.* Staff has reviewed the submitted Final Plat application and found to be substantially incomplete.

The Director or designee shall make a determination of the developer's compliance with the terms of the development agreement, City ordinances, and the City's Developer's Handbook.

- The Sequence of Development, as stated in the approved Development Agreement, states that the following items shall be completed prior to approval of the Final Plat: Construction Plan Approvals, Development Agreement Approvals and Sureties, Pre-construction Meeting, Erosion Control and Stormwater Best Management Practices, Grading, Sanitary System, Water System, Storm Drainage System, Roadway Base Course, Private Utilities (Electric, Gas, Telephone, CATV, Etc.), Restoration, Roadway Binder & Surface Course, Record Drawings And Certifications, and Easement Recording.

- As of October 30,2024, Grading, Sanitary System, Water System, Storm Drainage System, Roadway Base Course, Private Utilities (Electric, Gas, Telephone, CATV, Etc.), Restoration, Roadway Binder & Surface Course, Record Drawings And Certifications, and Easement Recording have not been completed, therefore the improvements cannot be accepted.

The next application cutoff date is **November 20, 2024** for the January 8, 2025 Plan Commission meeting. You will need to re-submit your application and materials at such time you are ready to apply. Staff will not accept an application for the Final Plat unless the required improvements have been completed and preliminarily accepted by the City as outlined in the executed Development Agreement dated July 10, 2024.

If you should have any questions, or need further information, please contact our office at (262) 797-2445 ext. 2514.

Sincerely,
CITY OF NEW BERLIN

Kristen Hogan

Kristen Hogan
Principal Planner

CC: Alderman Harenda
Mark Blum, City Attorney
Tom Schmitzer, Attorney
Greg Kessler, Director of Community Development
Nikki Jones, Deputy Director of Community Development
Tammy Simonson, City Engineer

STAFF REPORT
EXECUTIVE SUMMARY

APPLICANT/PROJECT:	**Ryan Janssen, Ryan's Buying LLC / Theofila Estates Subdivision Preliminary Plat**
LOCATION:	**5751 S. Sunny Slope Road (Tax Key #: 1289.994.002)**
REQUEST:	**Approval of the Theofila Estates Subdivision Preliminary Plat for the property located at 5751 S. Sunny Slope Road (Tax Key #: 1289.994.002).**
REVIEW SCHEDULE:	**Preliminary Plat Received: 10/20/2023** **Completeness Determination: 10/23/2023** **90-day time limit expires: 1/18/2024** **15-day extension: 2/2/2024** **Final Common Council Action (expected): 1/23/2024**
D.R.C. RECOMMENDATION:	**Recommend to Common Council adoption of a resolution approving the Theofila Estates Subdivision Preliminary Plat for the property located at 5751 S. Sunny Slope Road (Tax Key #: 1289.994.002), subject to the application, plans on file and the following conditions:**

1. **Planning:**
   a. **Plat:**
      i. **Satisfaction of all the conditions outlined in the Letter of No Objection by Waukesha County Park and Land Use Department is required.**
      ii. **Satisfaction of all the conditions outlined in the Letter of No Objection by the Department of Administration is required.**
      iii. **A Development Agreement shall be approved by the Board of Public Works and Common Council prior to the start of construction.**
      iv. **Applicant shall correct all drafting errors and requested changes identified by Staff on the Final Plat prior to the City signing.**
      v. **A final copy of the Final Plat shall be submitted and reviewed prior to City signing. All owners and surveyor must sign prior to City signing the Final Plat. Surveyor Stamp is required.**
      vi. **Applicant shall submit a Mylar of the recorded plat to the City of New Berlin. Please make sure to have your surveyor coordinate with the State/County on this if necessary. This document is kept on file with the City.**
      vii. **Applicant shall provide the CAD file containing all the line work to include all parcels, easement lines, etc. The file needs to be in the NAD 83 (2011) State Plane Wisconsin South Projection.**
      viii. **A copy of the subdivision covenants shall be submitted prior to the City signing the Final Plat. This document shall address the maintenance of the open space and outlot.**

1. **Define maintenance of the paved paths by the HOA.**

ix. **Payment of $25,188.80 ($1,937.60/lot x 13 lots = $25,188.80) in Public Site and Open Space Fees required prior to the City of New Berlin signing the Final Plat.**

x. **Right-of-way widths shall be a minimum of 60 feet for public streets. Per §275-33D(18): "In the R-6 District, the Plan Commission and Common Council may approve sixty-foot right-of-way widths where determined acceptable by DCD." A resolution is required.**

xi. **Per CSM 12457, Outlot status on this parcel may be removed after Red Fox Rd is extended and City sewer and water is provided to these proposed parcels.**

xii. **A note shall be placed on the Final Plat stating "A park complex with lighting, ball fields, and a variety of other activities is planned to be located adjacent to the subdivision".**

xiii. **Within Red Fox Crossing Subdivision, "Fox Trail Court" shall be named "Red Fox Road".**

xiv. **"Red Fox Road" shall be named "Theofila Court".**

xv. **Natural Gas Pipeline shall be shown on the plat. Pipeline found on lot 12 is not shown on the plans.**

b. **Civil Plans:**

i. **Applicant shall provide perimeter screening along Sunny Slope Road in accordance with §275-41B(6).**

1. **Approval of the Landscaping Plan (for the berms along Sunny Slope Road) and payment of all installation and maintenance sureties is required prior to the City signing the Development Agreement. Landscape plans shall meet the requirements of §275-53 through §275-56.**

2. **Engineering:**

a. **Plat**

i. **North of the subdivision, Red Fox Rd is labeled as Fox Trail Ct. This shall be changed to Red Fox Rd.**

ii. **Show the vision corner easements at the intersection of Norbert Court and Red Fox Road.**

iii. **Label the easement between lots 3 and 4 as 20 ft Wide Private Storm and Drainage Easement.**

iv. **Extend a 30 ft Public Sanitary Sewer Easement along the proposed sanitary sewer along the south side of Lot 5.**

v. **Rename the 40 ft Wide Utility Easement between lots 5 and 6 to 40 ft Wide Public Utility and Pedestrian Easement.**

vi. **Remove utility linework from the plat.**

vii. **At the connection to the existing right-of-way, the width of the proposed right-of-way is shown as 33 ft each side of centerline. This shall be revised to 30 ft each side of centerline.**

viii. **A note shall be added stating: "There shall be no direct vehicular ingress or egress between Sunny Slope Road and Outlot 1 in this subdivision. It is being expressly**

intended that this restriction shall constitute a restriction for the benefit of the public according to Section 236.293 of the Wisconsin Statutes and shall be enforced by the City of New Berlin."

ix. A note shall be added stating: "Private Drainage Easements are established to provide for the unobstructed flow of stormwater runoff from adjacent and upstream properties. Owners of lots on which these private drainage easements exist shall be responsible for keeping these areas free from any obstructions that may restrict flow."

x. A note shall be added stating: "Tree Preservation Easement Restrictions Lots 1, 12, & 13:

1. **The grading, filling, and/or removal of topsoil is prohibited.**
2. **The removal or destruction of vegetative cover, i.e. trees shrubs, grasses, etc. is prohibited with the exception that dead, dying or diseased vegetation may be removed at the discretion of the land owner under the recommendation of a forester or naturalist with approval from the City of New Berlin Department of Community Development. Invasive plant species, as identified by the Wisconsin Department of Natural Resources, may also be removed with approval from the City of New Berlin Department of Community Development.**
3. **The construction of any permeant or temporary structures, fencing, pools, decks, play equipment, or the like is prohibited.**
4. **The introduction of any plant material not indigenous to the existing environment is prohibited.**
5. **Unauthorized removal of trees within the Tree Preservation Easement shall require replanting in accordance with the City's Tree Replacement Policy noted in Zoning Code Section 275-54B(6). Because the species and/or quality of the tree that has been removed is not able to be determined after-the-fact, the required number of replacement trees will be based on stump size, regardless of the species or quality of the original tree."**

b. Civil Plans:

i. On page 1, the north south roadway is labeled as Theofila Court, whereas the plan names this roadway as Red Fox Road.

ii. Show the vision corner easements on the plan set.

iii. The radius of the neck of the cul-de-sac shall be 40' as measured to the flange of the curb and gutter.

iv. The 40' Utility Easement shall be labeled as 40' Public Utility and Pedestrian Easement.

v. § 275-57F requires driveways on local streets to be located a minimum of 100' from the intersecting right-of-way on the two streets. The driveways on lots 1, 2, 8, and 14 are shown too close to the intersection.

vi. On lot 1, a significant amount of runoff drains from the north. To better define a swale behind the house the northwest corner of the building may not allow for an exposure, and the southwest corner may only allow for a partial exposure. This flow shall be more channelized toward the west drainage swale.

vii. Provide proposed culvert sizes for the temporary culverts associated with the temporary access to Sunny Slope Rd.

viii. **Add a note to the Erosion Control Plan stating; "Temporary access shall be completely removed following roadway base course placement and prior to the issuing of the Final Plat."**

ix. **Show storm sewer main crossings on sanitary and water main plan and profile sheets.**

x. **An outside drop connection is required at the sanitary sewer connection to existing MH 101.**

xi. **Provide details for hydrant assemblies, storm manholes, sanitary manholes, behind the curb storm water collector mains and manholes.**

xii. **Provide plan and profile for the path along Sunny Slope Rd.**

xiii. **The rate of vertical curvature shall be based on a design speed of 30 mph. The rate of vertical curvature (K) at the connection the existing Red Fox Road is less than 37.**

3. **Stormwater:**
   a. **Plat:**
      i. **Change bearing on South Line to read S--W instead of N—E.**
      ii. **Plat line work meets closure criteria.**
   b. **WDNR NOI is required.**
   c. **MMSD Chapter 13 approval is required.**
   d. **SWMP Maintenance Agreement is required; Submit signed SWMA for City routing and we will notify you when completed so that you can record at the County. The City will swap out the certification page with the correct City Clerk.**
   e. **AsBuilt plans of the Stormwater Management facilities are required per DH Section VI.D.7. If the stormwater management facilities are used for erosion control during construction, an AsBuilt is required after construction of the facilities, and a recertification/AsBuilt is required prior to Occupancy.**
   f. **Along the north side of lot 1, recommend a berm along the border with Red Fox. If not there should be a swale to effectively divert any overflow from their inlet.**
   g. **Concerned with the overflow spillway directed to the south rather than the Sunny Slope Road swale.**
   h. **Provide storm sewer drainage areas and sizing calculations.**
4. **Utilities:**
   a. **Sewer:**
      i. **A sewer plug must be installed at connection to existing manhole and can only be removed after final punch list approval per NB Spec: 3.1.3.1.5.**
      ii. **Some type of driveway must be provided to MH #1 and MH #2 to have access to maintain.**
   b. **Water:**
      i. **Ensure water and sewer laterals are in grass areas of properties. Should not be in or near driveways.**

<u>DETAILS IN ATTACHED STAFF REPORT:</u>

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

Meeting of January 8, 2024

Ryan Janssen, Ryan's Buying LLC / Theofila Estates Subdivision Preliminary Plat
5751 S. Sunny Slope Road (Tax Key #: 1289.994.002)

DATE STAFF REPORT PREPARED: November 3, 2023

APPLICANT / OWNER(S): Ryan Janssen, Ryan's Buying LLC / Theofila C Krokowski Living Trust

REQUEST / DESCRIPTION OF PROJECT: The applicant is requesting approval of the Theofila Estates Subdivision Preliminary Plat for the property located at 5751 S. Sunny Slope Road (Tax Key #: 1289.994.002).

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 10/20/23

DATE OF COMPLETENESS DETERMINATION: 10/23/23

PRE-APPLICATION CONFERENCE HELD: Yes
Date(s) of Meeting(s): 6/16/23, 9/20/23, 11/29/23 and several phone calls and emails exchanged.
Plan Commission Site Visit(s): 8/1/23

CONCEPTUAL PLAN: Yes, a preliminary plat is attached.

SIZE OF DEVELOPMENT / PARCEL(S): 17.39 acres

CURRENT ZONING: R-6 (Section 35 Low-Density Single-Family Residential District)

CURRENT LAND USE: Farmland

PROPOSED ZONING: N/A

PROPOSED LAND USE: Single-family residential subdivision

PROPOSED LOT SIZES: 14 lots averaging 28,090 SF in lot area. Minimum lot area is 25,000 SF.

PROPOSED DENSITY: 17.39 total acres / 14 lots = 1 lot per 1.2 acres.

ADJACENT ZONING AND LAND USE:

North:	Zoning: R-1/R-2, R-6	Land Use: Single Family Residential
South:	Zoning: P-2	Land Use: City Park
East:	Zoning: R-3, C-2	Land Use: Single Family Residential
West:	Zoning: P-2	Land Use: City Park

CONFORMANCE WITH COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes

Chapter 17: Neighborhood G: Sections 26 & 35 South Moorland Road Corridor: Yes, the concepts meet the intent of this Chapter.

Vision:

- *Even though neighborhood G is unique, it cannot be independently planned separately from neighborhood H. The two neighborhoods are integrated and will share land uses, new roadway and trail connections and should be considered as one cohesive area. In determining an appropriate lot size for this Section, the team needed to better understand approximately how many units could fit into the residential portion identified on the Future Land Use Map based on various lot size combinations. Historically, this area called for a maximum gross density of 1 dwelling unit per 2 acres south of Grange Avenue. After careful review and looking at a variety of development concept scenarios, for what the land could hold in this area, rather than focusing on a density for this area, it was determined that lot size and various environmental constraints will be the focus. The lot sizes in this area under the R-6, Section 35 Low-Density Single-Family District, will have a minimum lot size similar to that of the adjacent subdivisions east of Sunny Slope Road. The Plan Commission and Common Council may approve smaller lot sizes pursuant to the City's zoning and subdivision codes and the vision for Neighborhood "G", in order to protect environmental features such as woodlands and tree lines, provide for additional tree protection and/or avoid steep topography. All lots shall adhere to the City's adopted zoning and subdivision codes. The future land use map for Urban Residential in Section 35 identifies approximately 199 net acres of land to be developed under the newly created R-6 Zoning District. The vision for Section 35 includes the following elements that have been incorporated into the development of the plan:*
    - *A system of meaningful pedestrian connections to create a walkable and connected community.*
      A paved trail shall be required to connect these lots to the park to the south. An off road sidepath shall be constructed along Sunny Slope Road to connect to the existing off road sidepath to the north and south of this property.
    - *Focus on sound planning and architecture practices.*
      Per §275-59C(1)(d)[6][g] R-6, Section 35 Low-Density Single-Family Residential District states, "Home construction in the R-6 District shall utilize architectural materials similar in quality to subdivisions east of Sunny Slope Road. An approval from an architectural review board of the homeowner's association may be required prior to issuance of the building permits from the City."
    - *Provide a regional park complex.*
      Applicant understands the park complex is located west and south of this parcel and will note this on the plat so that future land owners are aware.
- *The recommended development for Neighborhood G balances new residential areas with new business park land uses as well as an approximately 96 plus acre park complex that would contain a mixture of active and passive park uses. Housing areas in Neighborhood G should reflect the character and quality of adjacent subdivisions classified as Suburban and Urban Residential on the future land use map. The southern portion of Neighborhood G, consisting mostly of Section 35 which is roughly the area of Grange Avenue to the North, College Avenue to the South, Moorland Road to the West and Sunny Slope Road to the East, shall be reserved for low-density single-family subdivision development that balances development with existing sensitive environmental features including wetlands, woodlands, existing tree rows, floodplain and environmental corridors.*

Development Policies:

- *Encourage the continuation of agricultural uses as long as the property owners so desire. As agricultural lands transition to residential developments, the subdivision design could incorporate farming and agriculture uses as viable open space options.*
  Adjacent parcels will continue to be farmed.
- *As development occurs, require off-road paths and trail connections, where appropriate to connect to the City's Utility easement / public trail and on-road bike paths for both residential and non-residential development to create an interconnected trail system for much of the Section 34/35 area. All path and trail connections shall be constructed at the time of development and public trail easements shall be provided to the City.*
  A paved trail shall be required to connect these lots to the park to the south. An off road sidepath shall be constructed along Sunny Slope Road to connect to the existing off road sidepath to the north and south of this property.
- *Include on-road bike paths for new streets and on existing streets where possible for non-residential development and major thoroughfares, and again, in order to create an interconnected trail system for much of the Section 34/35 area. Work to create linkages to the off-road paths and trail system through private development and/or public projects. All path and trail connections shall be constructed at the time of development and public trail easements shall be provided to the City.*
  A paved trail shall be required to connect these lots to the park to the south. An off road sidepath shall be constructed along Sunny Slope Road to connect to the existing off road sidepath to the north and south of this property.
- *Require coordinated, pre-planned concepts/development proposals to ensure a cohesive and coordinated development pattern. Developments must take into consideration how adjacent parcels would be developed.*
  The development plan is consistent with the Future Land Use Map. This development shall connect to City Sewer and Water (currently there is no service provided to this parcel).

Land Use

- *Future Land Use Map: Urban Residential*

ZONING CODE (Chapter 275): Yes, the lots meet the requirements in §275-33B(7).

DEVELOPMENT CODE (CHAPTER 235): Yes, in compliance with §235-15.

REZONING REQUIRED: No

CONDITIONAL USE REQUIRED: No

PUBLIC HEARING REQUIRED: No

USE / SITE / ARCHITECTURAL REVIEW:
Use Approval Required: No
Site Plan Required: Yes, see attached preliminary plat.
Architectural Review Required: No

PROPOSED ARCHITECTURE: N/A

UNIQUE SITE CHARACTERISTICS:
Environmental Corridor: Yes, a small portion of Secondary Environmental Corridor is located in the northwest corner of the parcel within the outlot.
Wetland On Property: Wetlands have been registered on the City's Zoning Map, see file # WD-2301607. Wetlands were field delineated by Heartland Ecological Services on May 11, 2023.
Conservancy Districts (C-1, C-2): No
NRCS Map Classification: Not Inventoried
Floodplain: No
Topography / Geologic: Site slopes from the northwest to the southeast.

BIKE & PEDESTRIAN FACILITIES PLAN: A paved trail shall be required to connect these lots to the park to the south. An off road sidepath shall be constructed along Sunny Slope Road to connect to the existing off road sidepath to the north and south of this property.

- The Comprehensive Plan, Chapter 6, Figure 6.16
  - Sunny Slope Road is identified as having on road and off road pedestrian trail facilities.
- The Comprehensive Plan, Chapter 6, Section "Needs Assessment for Bicycle and Pedestrian Routes"
  - *"Better bicycle and pedestrian trail linkages between residential subdivisions and other subdivisions, parks, schools, libraries and commercial nodes."*
- The Comprehensive Plan, Chapter 6, Section "Polices for multi-modal transportation"
  - *"Construct bicycle and pedestrian facilities as recommended by the Comprehensive Plan."*

PARK & OPEN SPACE PLAN: No improvements.

NATURAL RESOURCES PROTECTION:
Limits of Disturbance (LOD): Subdivision boundary is shown on the plat.
Wildlife Habitat Protection: N/A
Wildlife Management Plan: An Endangered Resources review will be completed on the property prior to the City signing the Development Agreement.

ENVIRONMENTAL IMPACT: Wetlands have been registered on the City's Zoning Map, see file # WD-2301607. Wetlands were field delineated by Heartland Ecological Services on May 11, 2023. Existing trees along the west property line will be preserved within the outlot as noted in the conditions.

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. A stormwater management plan has been submitted.

SANITARY SEWER PROVISION:
Within Current Sewer Service Area: Yes
Basin Capacity Available: Yes
Adequate Linkage: This development shall connect to City Sewer and Water (currently there is no service provided to this parcel).
Onsite System Required: No

WATER USAGE CALC.: Estimated 250 GPD per new single-family lot.

TRAFFIC IMPACT: TIA is not required since it doesn't meet the threshold. Per §275-58C(2)(a), a TIA is required for any subdivision or multifamily residential development with 40 or more dwelling units. The subdivision plat includes 14 lots.

SCHOOL DISTRICT IMPACT: 8.26 total estimated students
Elementary – 4.34 students (14 lots * 0.31 students)
Middle – 1.96 students (14 lots * 0.14 students)
High School – 1.96 students (14 lots * 0.14 students)
Notice Sent to Affected School District(s): Yes, preliminary plat emailed to the school district. No comments have been received.

PREVIOUS ACTION: SOUTH MOORLAND ROAD (SECTION 35) COMPREHENSIVE PLAN AMENDMENTS:
Approximately two years of public comment and 29 meetings held with those interested in the Comprehensive Plan Amendments for Chapters 10, 17, and 18 to plan Section 35, South Moorland Road Corridor area.

- **12/1/2014** Staff presented a memo to the Plan Commission dated November 10, 2014 summarizing the Section 35 Master Planning Update.
- **3/28/2015** Staff began holding the South Moorland Road Corridor – Neighborhood Plan – "Staff Open Office Hours". Office hours continued through June. Upwards of 12,000 postcards were sent to residents in the City of New Berlin notifying them of the office hours in June.
- **4/8/2015** Staff notified the Plan Commission of the South Moorland Road Corridor – Neighborhood Plan – "Staff Open Office Hours".
- **5/4/2015** Plan Commission requested the Common Council set a Public Hearing date for June 29, 2015 (Note: item tabled at the May 12, 2015 Common Council meeting in order to provide more time for discussions with the property owners).
- **7/28/2015** Common Council set a date for a Public Hearing on 9/9/15 for the amendments.
- **8/24/2015** Special Plan Commission Meeting - Commission presentation & discussion on recommendations and action.
- **9/9/2015** Public Hearing.
- **10/5/2015** Plan Commission adoption of Resolution #: 15-03 & recommendation to Council.
- **10/13/2015** Common Council adoption of Ordinance 2553 to approve the amendments to the Comprehensive Plan.

PREVIOUS ACTION: SOUTH MOORLAND ROAD CORRIDOR (SECTION 35) ZONING CODE AMENDMENTS:
The Plan Commission adopted amendments to the Zoning Code reflecting the Comprehensive Plan amendments above, which established new Zoning Districts for this area of the City.

- **12/7/2015** Plan Commission held a public hearing.
- **1/6/2016** Plan Commission recommend to Common Council adoption of an Ordinance to approve the amendments.
- **1/12/2016** Common Council adoption of Ordinance 2558 to approve the amendments to the Zoning Code.

PREVIOUS ACTION:
- **8/31/2020** Plan Commission held a public hearing on the rezoning (See File #: RZ-2001475)
- **10/5/2020** Plan Commission accepted a request from the applicant to withdraw their requests for a similar rezoning and land division.
- **3/6/2023** Plan Commission held a public hearing on the rezoning (See File #: RZ-2300230)
- **4/13/2023** Plan Commission recommend to Common Council adoption of an Ordinance to approve the rezoning and approval of a 2-Lot CSM.
- **4/25/2023** Common Council adoption of Ordinance 2669 to approve the rezoning and approval of a 2-Lot CSM.
- **8/1/2023** Plan Commission site walk for Theofila Estates Concept Subdivision.
- **8/14/2023** Plan Commission review concept plan for 14-lot subdivision.
- **10/2/2023** Plan Commission held a public hearing on the rezoning (See File #: RZ-2301341)

- **11/6/2023** Plan Commission recommend to Common Council adoption of an Ordinance to approve the rezoning.
- **11/14/2023** Common Council adoption of Ordinance 2686 to approve the rezoning.

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

1. The applicant is proposing a 14-lot subdivision on 17.39 acres.
2. Waukesha County has reviewed and provided comments on the preliminary plat.
3. The State has reviewed and provided comments on the preliminary plat.
4. The site visit was held with the Plan Commission and general public on August 1, 2023. §235-15 of the City of New Berlin Subdivision Code allows the owner to voluntarily invite the Plan Commission, Department of Community Development staff, members of the Common Council and abutting neighbors to visit the site prior to the filing of a preliminary plat. This allows attendees the opportunity to see the area of the proposed subdivision in person, ask any questions they may have and visualize the proposal first hand.
5. A neighborhood informational meeting was held on September 20, 2023. Neighbors were able to ask the applicant questions about the project. A summary is attached to the staff report.
6. A meeting with the Red Fox HOA was held on November 29, 2023. Neighbors were able to ask the applicant questions about the project.
7. Wetlands have been registered on the City's Zoning Map, see file # WD-2301607. Wetlands were field delineated by Heartland Ecological Services on May 11, 2023.
8. A park complex with lighting, ball fields, and a variety of other activities is planned to be located adjacent to the subdivision.

STAFF RECOMMENDATION: Recommend to Common Council adoption of a resolution approving the Theofila Estates Subdivision Preliminary Plat for the property located at 5751 S. Sunny Slope Road (Tax Key #: 1289.994.002), subject to the application, plans on file and the following conditions: **See Executive Summary.**

ATTACHMENTS:
Location Map
Preliminary Plat
Construction Plans