



Plan Commission Meeting Agenda

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

Published 2/21/2025

AGENDA

1. PUBLIC HEARING(S)

- A. (1) GK/NJ CP-2500070 & RZ-2500071 Nicholas Wimmer on behalf of The Conservancy, LLC (Wimmer Communities) - 1640 S. Moorland Road (Tax Keys #'s: 1158.989.001, 1158.989.002 & 1158.989.003) - Request to amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 11 - Neighborhood "A" Greenfield Avenue and Chapter 10 - Land Use) from Suburban Commercial, Mixed Use Residential and Institutional to Mixed Use Residential AND rescind PUD Overlay Ordinance # 2679 – Mandel Neighborhood Development Plan PUD (also amended by Ordinance # 2688) & rezone from B-1/PUD, Rm-1/PUD, I-1/PUD & C-2/PUD to Rm-1/PUD & C-2/PUD as The Conservancy Neighborhood Development PUD Ordinance # 2701 AND 2030 Comprehensive Plan Updates (Joint Public Hearing 6:00 PM)
- B. KH DCD1-2500054 Zoning Code Updates (PUBLIC HEARING 6:01 PM)
- C. CU-2500147Matt Anderson on behalf of Matty's Bar and Grille, Inc. - 14460 W. College Avenue - Conditional Use Approval for an amended outdoor annual schedule of events for 2025 (PUBLIC HEARING 6:02 PM)

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. February 3, 2025 Meeting Minutes

6. PLAN COMMISSION SECRETARY'S REPORT

7. CONTINUED BUSINESS

8. NEW BUSINESS

- A. KH DCD1-2500054 Zoning Code Updates (PUBLIC HEARING 6:01 PM)
- B. CU-2500147Matt Anderson on behalf of Matty's Bar and Grille, Inc. - 14460 W. College Avenue - Conditional Use Approval for an amended outdoor annual schedule of events for 2025 (PUBLIC HEARING 6:02 PM)

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.

STAFF REPORT

EXECUTIVE SUMMARY

APPLICANT/PROJECT: Nicholas Wimmer on behalf of Wimmer Communities / 2030 Comprehensive Plan Amendments

LOCATION: 1640 S. Moorland Road (Tax Key #'s: 1158.989.001, 1158.989.002 & 1158.989.003)

CURRENT FUTURE LAND USE: Suburban Commercial, Mixed Residential and Institutional

PROPOSED FUTURE LAND USE: Mixed Residential

CURRENT ZONING: B-1/PUD (Shopping Center District), Rm-1/PUD (Multiple-Family Residential District:), I-1/PUD (Institutional District) / C-2/PUD (Shoreland-Wetland Holding District)

REQUEST: A request to amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 11 - Neighborhood "A" and Chapter 10 - Land Use) for the properties located at 1640 S. Moorland Road (Tax Key #'s: 1158.989.001, 1158.989.002 & 1158.989.003) from Suburban Commercial, Mixed Residential and Institutional, to Mixed Use Residential. In addition, Plan Commission discussion of the following 2030 Comprehensive Plan chapters as part of a general update to the plan:

- Chapter 10 – Land Use
- Chapter 11- Neighborhood "A"

D.R.C. RECOMMENDATION: Public hearing, no action.

Background:

1. In the Applicant's attached site plan, they have indicated that this will be a multi-family development with retail commercial integrated within the buildings.
2. The applicant held a neighborhood meeting on Monday, September 16, 2024. Approximately 150 notices were mailed out and about 25 people attended. The feedback on the project was very positive.
3. Mary Claire Lanser with Lanser Public Affairs LLC prepared a Door-to-Door Community Outreach Report for this development dated September 12, 2024. A copy of the report is attached.
4. Plan Commission reviewed the concept plan at their October 7, 2024 Plan Commission meeting.
5. Wetlands have been field verified by Eric Parker with Heartland Ecological Group and have been registered, per Section 275-37E of the Zoning Code.
6. Zoning Code – Rm-1, Multiple-Family Residential District:
 - a. Per Zoning Code Section 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 publically dedicated streets and private streets.”

1. In the attached packet, the applicant has identified the following density information: Net density 12.68 units / acre (375 units / 29.57 developable acres) OR gross density 11.13 units / acre (375 units / 33.671 acres).

b. Per Zoning Code Section 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.”* Zoning Code Section 275-57A(3) (Table 275-57-1) states the following requirements for multi-family development, “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.”

1. Applicant’s development report indicates the required parking is 885 spaces and they would provide 912 spaces. Plans indicate 401 spaces would be within garages and 514 spaces of surface parking.

c. Based on their summary, a Planned Unit Development (PUD) Ordinance to allow for flexibility from certain Zoning Code requirements would be needed.

7. General Comments:

- a. Waukesha County will be the approving authority on the roadway improvements and access permitting along CTH O (Moorland Rd.).
- b. A TIA dated August 26, 2023 has been submitted and approved by Waukesha County.
- c. A traffic signal is warranted.
- d. Provide a sidewalk along Moorland Road from Greenfield Avenue to the New Berlin Bike Trail. Installation and maintenance to be completed by the developer. Development Agreement will be required.
- e. Provide pedestrian connections internal to the development.
- f. Site layouts should include landscaping, sustainable features, and signage and/or banners to promote Greenfield Avenue as a major gateway to the City.
- g. See the Development Handbook for public infrastructure requirements.
- h. Gateway signage for the City of New Berlin is required per previous agreement.
- i. Landscape plans shall meet the requirements of 275-53 through 275-56 of the Zoning Code.
- j. A tree inventory has been provided.
 - 1. Provide a tree replacement schedule.
 - 2. Approval of the landscape plan and payment of all installation and maintenance sureties is required.

8. The impetus for the 2030 Comprehensive Plan update (Chapter 10 – Land Use & Chapter 11 – Neighborhood A, Greenfield Avenue)

- i. Minor editing and overall format update for the 2030 Comprehensive Plan layout.

Rationale:

The Comprehensive Plan includes the following statements regarding this area:

1. Chapter 11: Neighborhood A: Greenfield Avenue:

Planning Context / Vision / Development Policies:

Vision Neighborhood A:

- *Greenfield Avenue will be a mixed commercial and residential corridor, and shall act as a*

gateway to the northern area of New Berlin. The eastern half of the corridor should foster a more urban mix of uses, while the western half should encourage a mix of rural commercial, residential, and environmental features.

Development Policies:

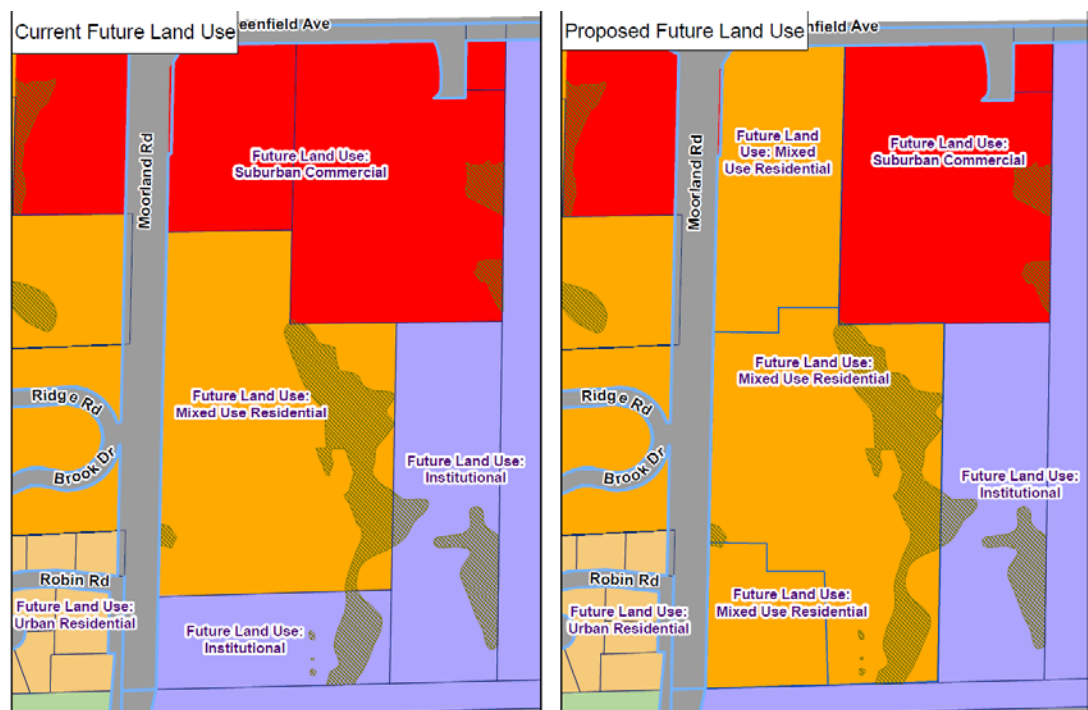
- Create development standards for site layout, building character, and landscaping that are suitable for new development along the corridor.
- Tighten non-conforming lot, structure, and use standards, and require compliance with landscaping regulations. Phase out non-conforming commercial uses over time.
- Recognize the Greenfield Avenue and Moorland Road primary intersection as a major gateway into the city from the north. Encourage signature well-designed buildings that are compatible with surrounding areas including recent development across the street in the City of Brookfield.
- Site development should include prominent signage, increased landscaping, sustainable strategies for stormwater management, and methods to minimize the parking field, such as structured parking.
- Address flooding and localized drainage issues along the eastern portion of the neighborhood.
- Encourage land combinations that accommodate future development options.

Land Use:

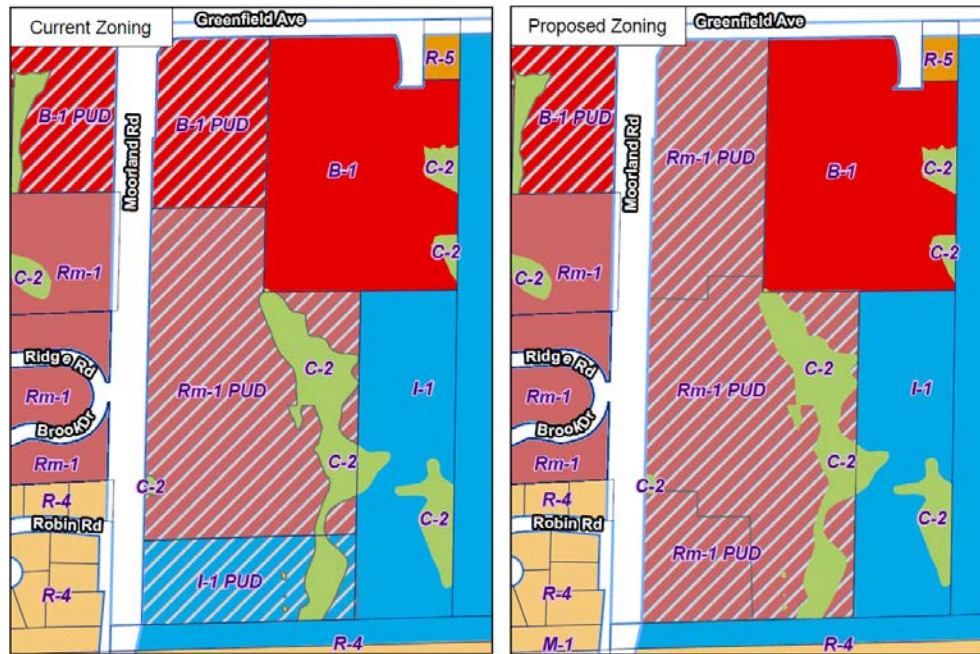
- See request above.

2. Chapter 10: Land Use:

- **Current Future Land Use Map: Suburban Commercial, Mixed Use Residential and Institutional**
- **2030 Future Land Use Map Suggestion: Mixed Use Residential**



The corresponding zoning district is Rm-1/PUD (Multiple-Family Residential District / The Conservancy PUD), (See File #: RZ-2500071) (*Note, the parcel located at 15201 W. Greenfield Avenue was rezoned from R-5 to B-1 by a previous application file #: RZ-2400416). The map will be updated with this request.



3. **Chapter 22: Implementation:** Yes, this request meets the intent of this Chapter.

Amending the Plan

- This Plan is intended to be changed and revised over time. The City's values, goals, and capabilities may change as New Berlin grows, and the Plan must be amended to reflect those changes. The Plan should be reviewed and amended at least once every year. Suggestions for amendments can be brought forward by City staff, officials, and/or residents, and should be consistent with the overall vision of the Plan. Proposed amendments could originate in any of the following way:
 - Amendments proposed as corrections of clerical or administrative errors, mapping errors, and updated data for text, tables, and maps. Such amendments would be drafted by City staff.
 - Amendments proposed as a result of discussions between officials and citizens.
 - Amendments proposed as a result of recommendations discussed during a City planning process.
- When a change is proposed, it should follow this general procedure:
 - Recommendation by the Plan Commission to conduct a review process for the proposed amendment.
 - Facilitation of public hearings as required by applicable Wisconsin State Statutes and/or ordinances.
 - Recommendation from the Plan Commission to the Common Council.
 - Consideration and decisions by the Common Council.

Plan Element Consistency

- As future amendments and updates are made, consistency between the Plan elements must be ensured.
- The applicant has submitted requests to the City to amend the Comprehensive Plan / Future Land Use Map and rezone the property, so the request meets the consistency requirements.

D.R.C. RECOMMENDATION: Public hearing, no action.

Attachments:

Location Map
Zoning Comparison Map
Future Land Use Comparison Map
Applicant Letter
Concept Master Plan & Associated Documents

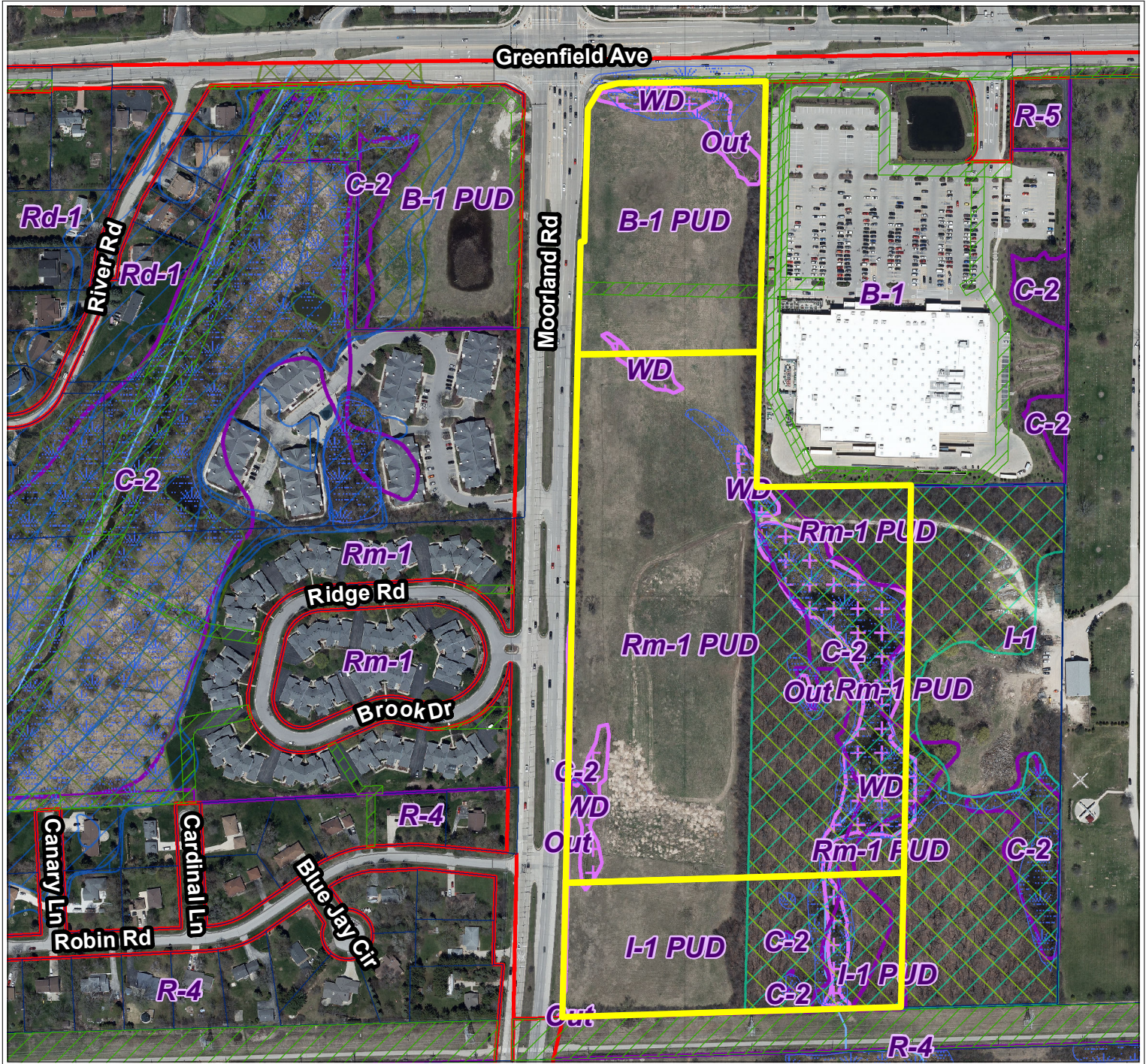
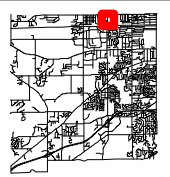
Draft Chapters – Minor Edits as part of the 2030 Update*

- Chapter 11 – Neighborhood A – Greenfield Avenue
- Chapter 10 – Land Use

Resolution #____ (forthcoming)

Ordinance (forthcoming)

**These chapters may need additional editing as we move through the overall 2030 Update & review all chapters over the next 6 months.*



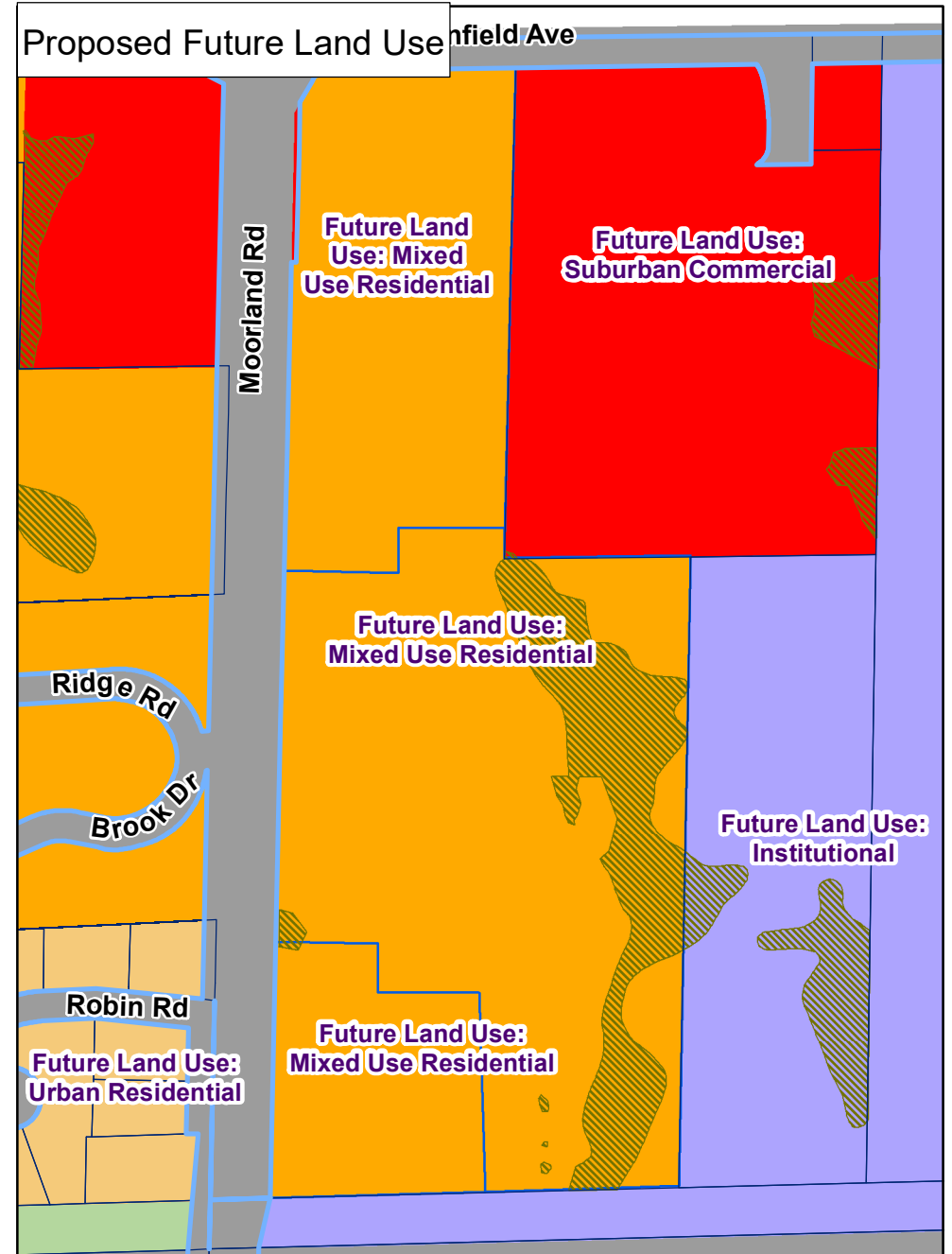
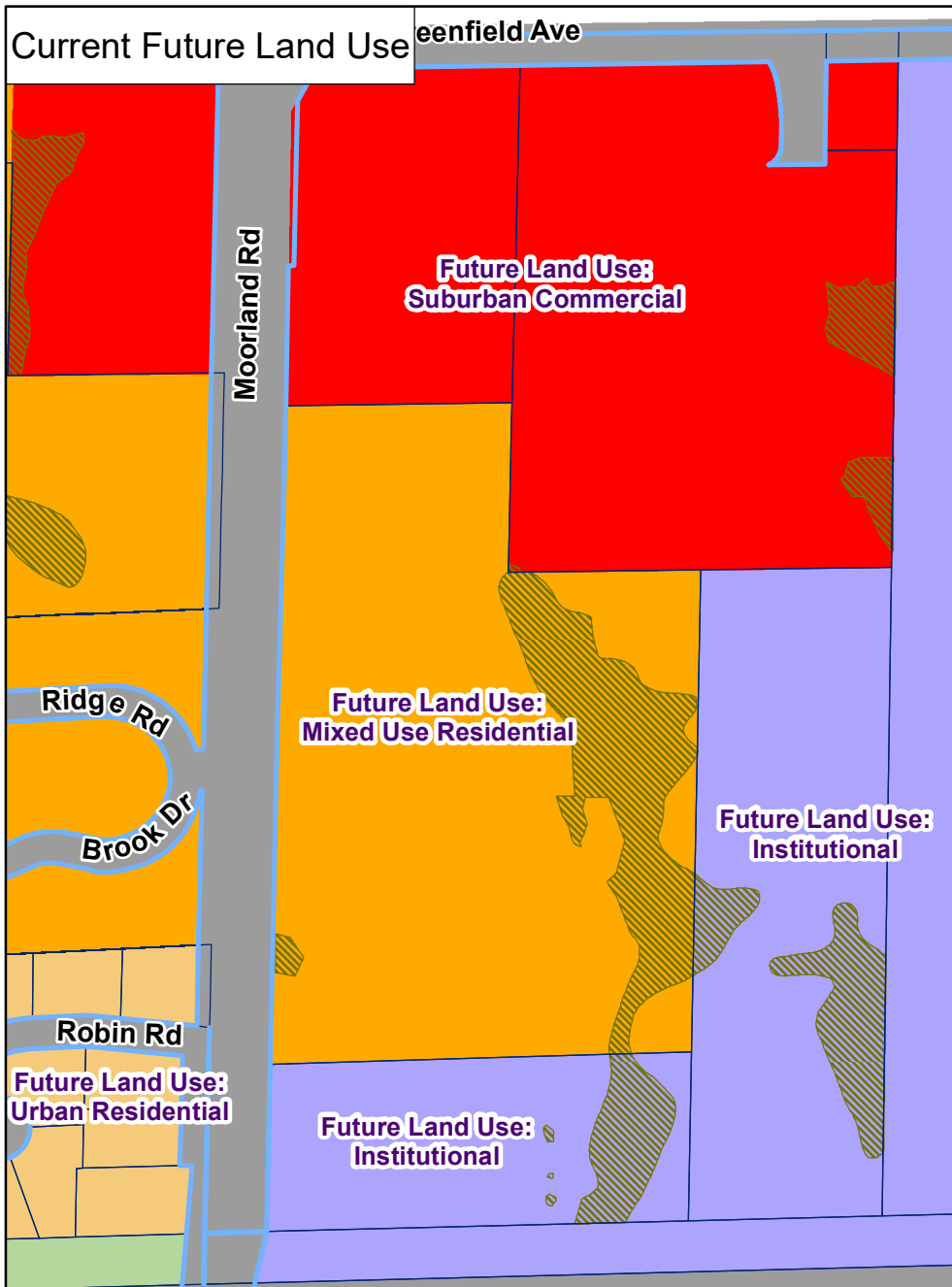
City of New Berlin
Department of Community Development
3805 S Casper Dr.
New Berlin WI 53151
(262) 797-2445
www.newberlin.org

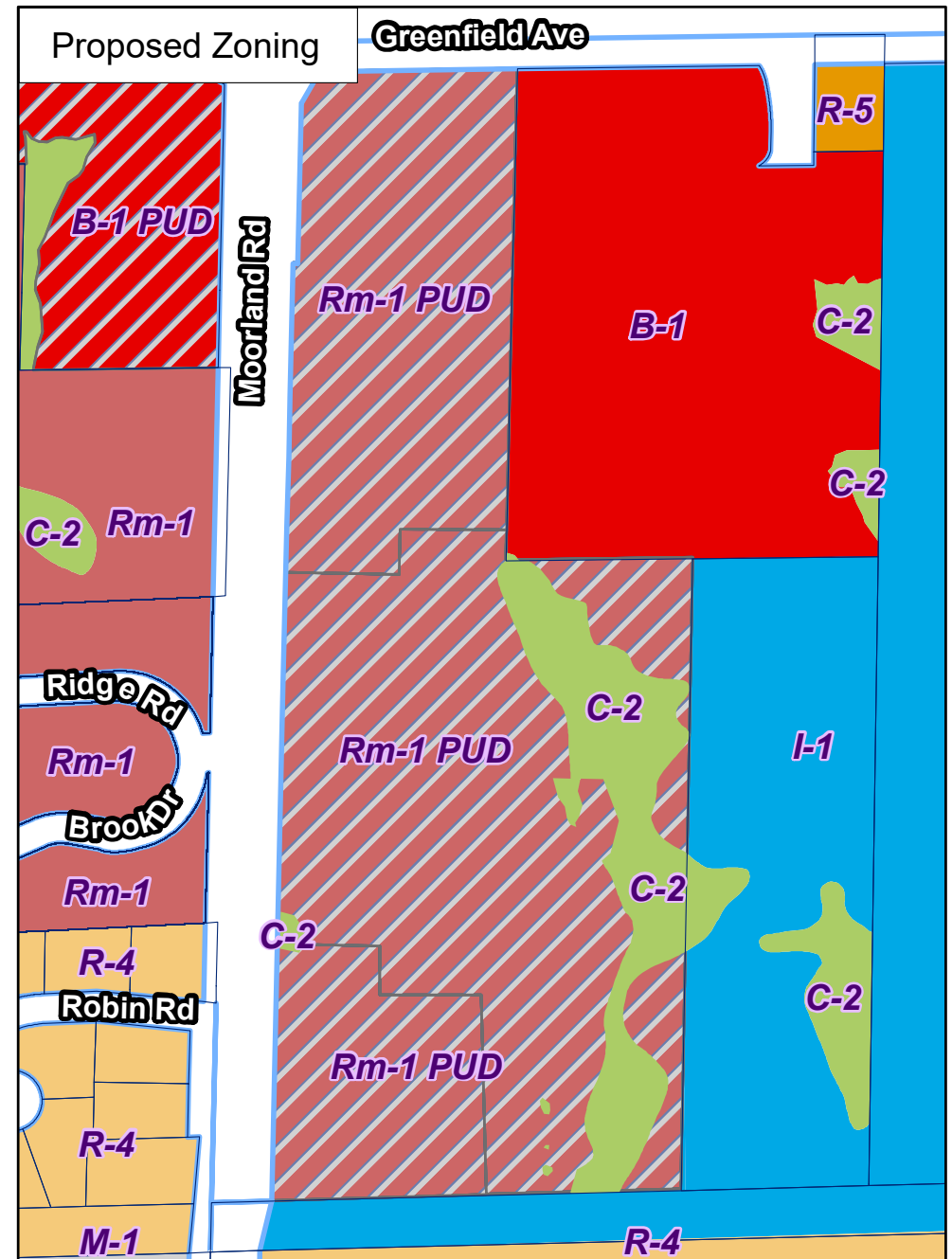
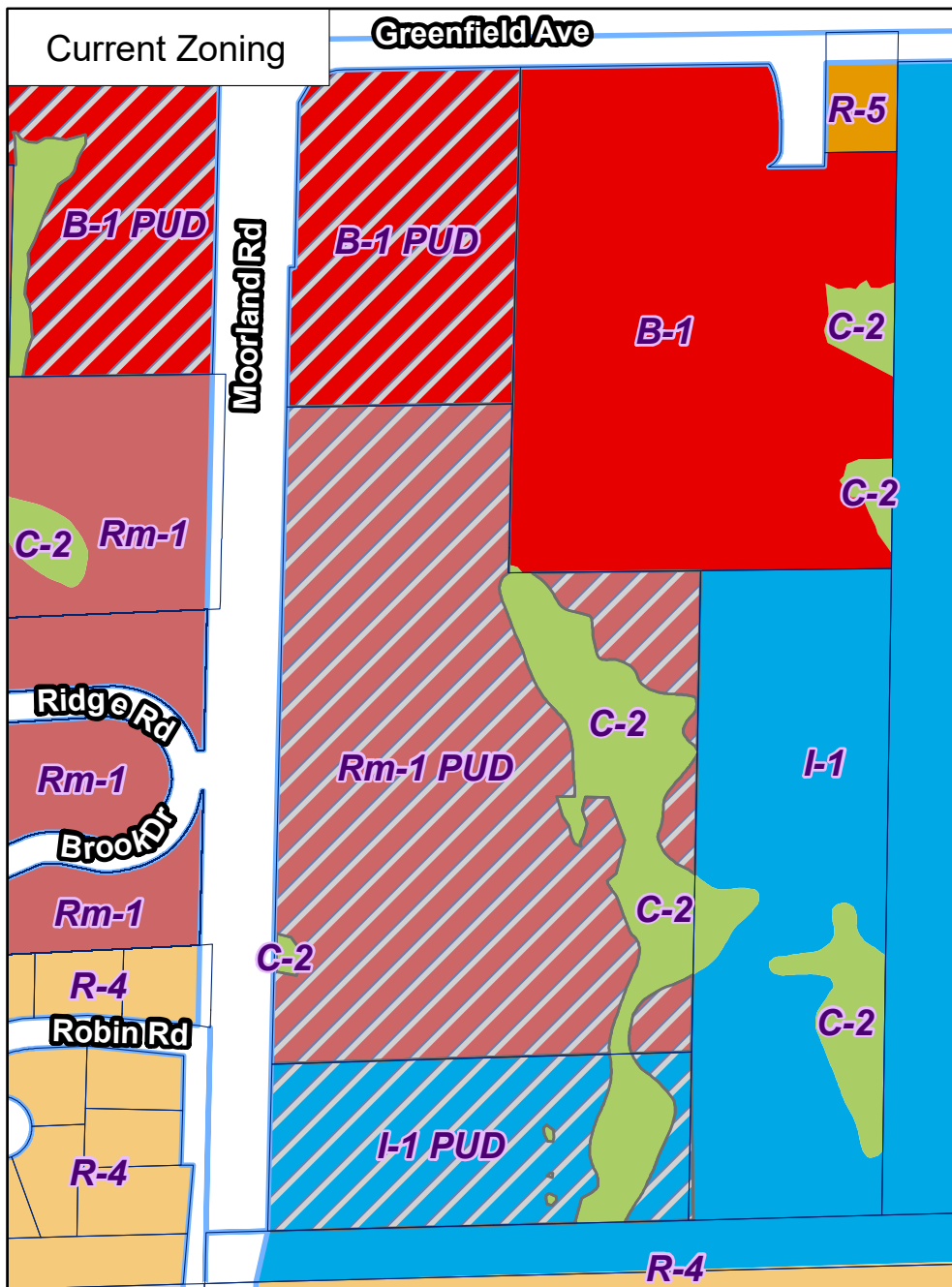
Legend

	Parcels		Environmental Corridor
	Road Right-of-Way		Corridor Type
	Floodplain DFIRM (FEMA 2014)		Isolated Natural Resource Area
	Flood Zone		Primary Environmental Corridor
	FEMA DFIRM - Zone A		Secondary Environmental Corridor
	FEMA DFIRM - Zone AE		Wetland
	FEMA DFIRM - 0.2% Annual Chance		
	Zoning Boundaries		
	Zoning Wetland Registration		
	Wetland Registration Type		
	Registered Wetland		
	Outside Wetland		

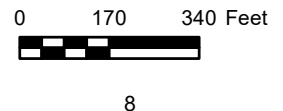
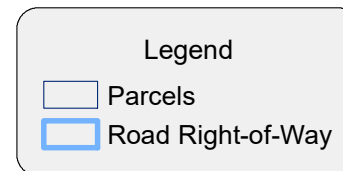


0 130 260 Feet





RZ-2500071
The Conservancy
1640 S. Moorland Rd





January 10, 2025

Mr. Greg Kessler
Director
City of New Berlin – Department of Community Development
3805 S. Casper Drive
New Berlin, WI 53151

Ms. Nikki Jones
Deputy Director
City of New Berlin – Department of Community Development
3805 S. Casper Drive
New Berlin, WI 53151

Dear Mr. Kessler and Ms. Jones:

Wimmer Communities (“Wimmer”) does hereby submit for review by the City of New Berlin Department of Community Development the following documentation in support of its applications for a Comprehensive Plan Amendment, Rezoning via Amendment to PUD Ordinance No. 2679, and Land Division by Certified Survey Map, all supporting Wimmer’s proposed mixed-use “town center”-style development known as The Conservancy at the southeast corner of Moorland Road and Greenfield Avenue.

Please find enclosed the following applications and supporting materials for the three land use approvals referenced above:

- 1) **Comprehensive Plan Amendment** to amend the land uses for the property upon which The Conservancy will be developed, from Suburban Commercial, Mixed Use Residential, and Institutional to Mixed Use Residential across the full subject property.
 - Development Permit Application for Comprehensive Plan Amendment.
 - Developer’s Deposit Finance Form for Comprehensive Plan Amendment.
 - Development Report explaining The Conservancy and its land uses in full detail (7 copies).
 - Current Civil Plan Set (7 copies).
 - Current Architectural Plan Set (7 copies).

Distinctive Residential Communities

5300 S. 108th Street, Suite 1, Hales Corners, WI 53130-1331
Phone: 414-529-3900 Fax: 414-529-5348
www.wimmercommunities.com



- Application Fee in the amount of \$175.00.
 - Developer Deposit in the amount of \$500.00.
- 2) **Rezoning via Amendment to PUD Ordinance No. 2679** to amend the underlying zoning districts within the PUD from B-1 Shopping Center, Rm-1 Multiple-Family Residential, I-1 Institutional, and C-2 Shoreland Wetland Conservancy to Rm-1 Multiple-Family Residential across the full subject property, while specifically authorizing the proposed Retail use within the defined mixed-use facilities and preserving the C-2 Shoreland Wetland Conservancy zoning.
- Development Permit Application for Rezoning (PUD).
 - Developer's Deposit Finance Form for Rezoning (PUD).
 - Development Report explaining The Conservancy and the requested rezoning in full detail (7 copies).
 - Includes Proposed PUD Zoning Data Table to inform Amendment to PUD Ordinance No. 2679 for The Conservancy, initially provided to City on December 20, 2024.
 - Legal description
 - Both current legal description and proposed legal description to take effect upon approval and recording of Certified Survey Map that is the subject of the Land Division application discussed below.
 - Map showing land areas to be rezoned as per above.
 - Current Civil Plan Set (7 copies).
 - Current Architectural Plan Set (7 copies).
 - Application Fee in the amount of \$1,390.00.
 - Developer Deposit in the amount of \$500.00.
- 3) **Land Division via Certified Survey Map** to create a three-parcel property to facilitate development of The Conservancy.
- Land Division Application for Certified Survey Map (4 lots or less).
 - Developer's Deposit Finance Form for Land Division.
 - Development Report explaining The Conservancy and its land division, including construction phasing in accordance with proposed three-parcel delineation (7 copies).
 - Certified Survey Map prepared by Mr. Christopher A. Jackson, P.E., P.L.S. (7 copies).
 - Current Civil Plan Set (7 copies).
 - Application Fee in the amount of \$350.00.
 - Developer Deposit in the amount of \$300.00.

In addition, I have enclosed the current Traffic Signal Design Plan prepared by Mr. John A. Bieberitz of Traffic Analysis & Design, Inc. for the proposed signalized intersection at the center access point to The Conservancy located at Moorland Road and W. Ridge Road.

All applications and supporting materials identified above have also been provided in electronic format on the enclosed USB flash drive.

Pursuant to my e-mail discussion with Ms. Jones on November 7, 2024, we understand that our requests for the Comprehensive Plan Amendment and Rezoning via PUD Amendment will be considered by the Common Council at its meeting on January 28, 2025, for the purpose of scheduling a Joint Public Hearing on those requests to be held at the Plan Commission meeting on March 3, 2025.

We look forward to continuing to advance The Conservancy through its development review process and to bringing this exciting new neighborhood community to the City of New Berlin. Please do not hesitate to reach out to me with any questions or if any additional information is required following your review of the enclosed applications and supporting materials.

Yours Very Truly,

A handwritten signature in black ink, appearing to read "David T. Wimmer". The signature is fluid and cursive, with a large initial "D" and a stylized "W".

David T. Wimmer
Corporate Counsel
Wimmer Communities

Encl.

CC: Mark J. Wimmer – President, Wimmer Communities
John J. Wimmer – Executive Vice President, Wimmer Communities
Nicholas X. Wimmer – Vice President of Project Development, Wimmer Communities
Tammy Simonson – City Engineer, City of New Berlin
Nicole Hewitt – Division Engineer – Storm Water, City of New Berlin
Kristen Hogan – Principal Planner, City of New Berlin
Kelly Wall – Principal Planner, City of New Berlin

Supporting Documentation
For the

- Modification of New Berlin’s Comprehensive Plan
 - Amendment of PUD Ordinance No. 2679
- And
- Adoption of a Certified Survey Map
To facilitate development of

T H E
CONSERVANCY



CONSERVANCY

A Multi-Use Development of the Southeast Quadrant Moorland and Greenfield
City of New Berlin

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 - Neighborhood Amenities
 - Resident Club with Pool and Fitness Center
 - Conservancy Trail
 - Neighborhood Playground
 - New Berlin Recreation Trail
 - Resident Pet Run
- Community Benefits
- Funding and Timeline
- Operations
- Wimmer Communities
- Appendix
 - Proposed PUD Zoning Data Table
 - Fire Department Access Plan
 - Conceptual Entry Monument

T H E CONSERVANCY

A NEIGHBORHOOD RESERVE

This Report is submitted in support of Wimmer Communities' application for a modification of the City of New Berlin's Comprehensive Plan and Amendment of the PUD Ordinance No. 2679 for the property identified as Tax Key Numbers NBC 1158989001, NBC 1158989002, and NBC 1158989003 and approval of a redivision of the parcels by Certified Survey Map to create three (3) parcels for the development of the southeast quadrant of the intersection of Moorland and Greenfield Avenue located in the City of New Berlin creating a unique multi-use Master Planned Neighborhood offering Retail, Office, Residential and Recreational uses. The Conservancy offers a complete neighborhood serving all needs of its residents interwoven with walkable convenience, nature trails, and the love of the land where 66% percent of its Campus is set aside for Woodlands, Wetlands, Ponds and Green space.

Arrival at The Conservancy is in the heart of the Conservancy Center, providing ground level boutiques, retail services, offices and dining. In the shadows of the Clock Tower Information Center is the nature-inspired Resident Club, which offers Resident Event Space, Fitness Center, Pool, Sundeck, and Administrative Offices just steps away from the trailhead of Conservancy Reserve.

From there, Conservancy Parkway weaves between dynamic neighborhoods of architecturally diverse, multifamily Homes. The Woodlands Residences feature underground parking, elevator access, and balconies providing a stunning overlook to the Reserve, while The Meadows Residences offer private entries, garages and motor courts.

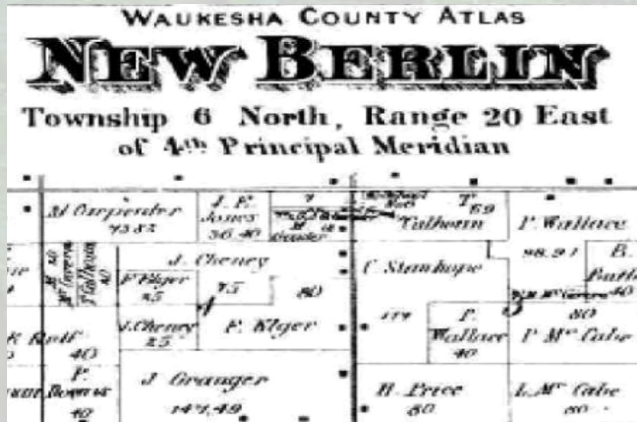
Anchoring the Conservancy at the intersection of Moorland Road and Greenfield Avenue is the dynamic Conservator, an architecturally stunning landmark, announcing your arrival to a new way of living.



BACKGROUND

THE CONSERVANCY

The Intersection of Moorland Road and Greenfield Avenue immediately south of Interstate 94 has developed into a bustling transportation hub since its early days as rural farms and homesteads expanded westward from the growing urbanization of western Milwaukee County.



Commercial development of the land adjoining this intersection was challenged by the poor soil of the Deer Creek waterway until the 1970s, as the demand for Interstate proximity grew. While neighboring parcels developed, however, the site of The Conservancy remained in its rural condition for future expansion of the adjoining Highland Park Cemetery. In the early 2000's, Highland Park reconsidered that future use and allowed multiple Development Proposals to be advanced to the City of New Berlin, none of which came to fruition. The City articulated a vision of future development for the site as recently as its updated "2030 Comprehensive Plan," identified as the North Moorland Road Corridor within Neighborhood "A" - Greenfield Avenue.

Recognizing the Site as a Gateway, the City envisioned a mix of Commercial and Residential uses, with 17 specific guidelines to achieve the Vision as identified in Chapter 11 of the "2030 Comprehensive Plan."

The Conservancy incorporates those goals in its development program offering:

- 1) Signature, well-designed buildings with unique architectural features.
- 2) Commercial and Residential uses.
- 3) Incorporation of these guidelines to support land use approval as a Planned Unit Development.
- 4) Prominent Gateway Signage and Landscaping.
- 5) Traffic management in compliance with Waukesha County requirements inclusive of a primary signalized entry and secondary limited access points.
- 6) Inclusion of off-road sidewalk paths and the New Berlin Recreation Trail connection.
- 7) Timely construction and public access to the public road improvements.
- 8) Neighborhood Water Main looping and Sanitary Sewer connection.
- 9) Creative solutions to

- groundwater and stormwater quality.
- 10) Adoption of designs to minimize storm water quantity.



- 11) Protection of Woodlands and Wetlands.
- 12) Ensure a cohesive and coordinated development pattern with adjoining uses.
- 13) Interconnection with Walmart is a stated guideline, however, that goal was contemplated between like-kind uses and is no longer considered a factor in neighborhood traffic relief.
- 14) Construct public infrastructure to municipal standards.
- 15) Provide dedication of public easements supporting public infrastructure.

- 16) Require financial surety ensuring completion and cost contributions as appropriate.
- 17) Utility expenses shall be at the expense of the Developer.



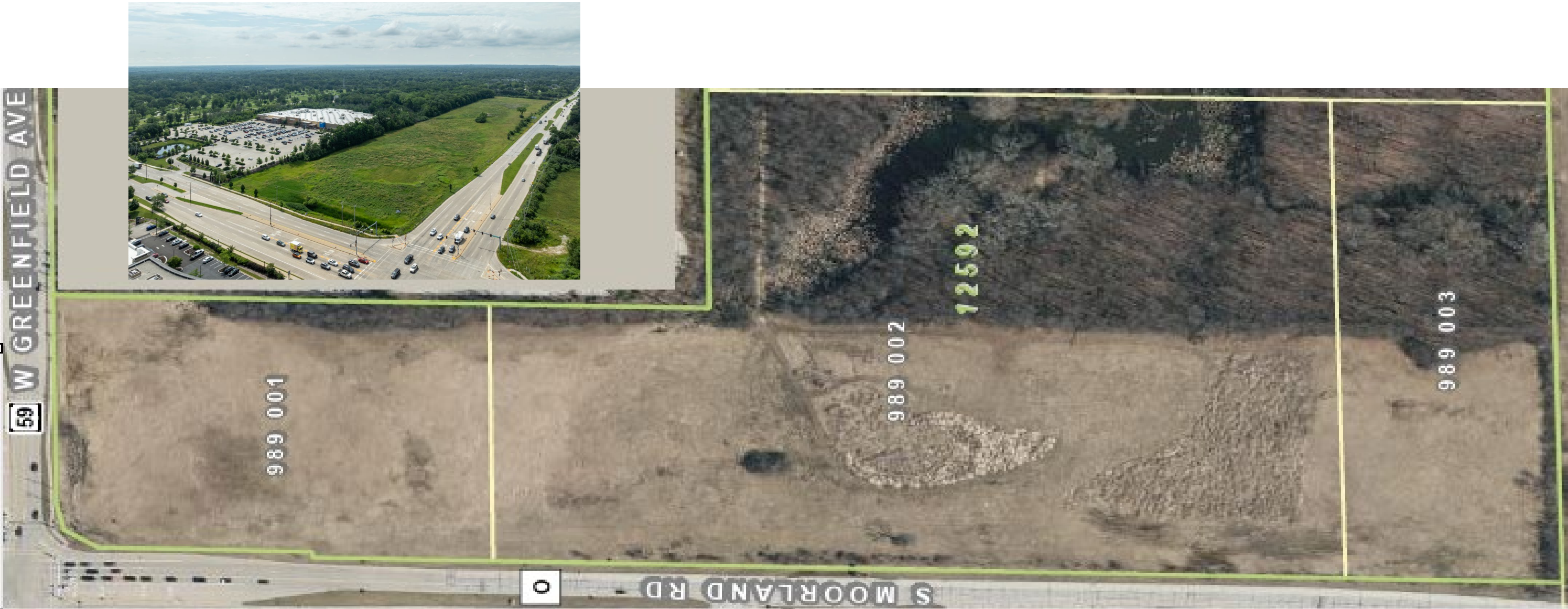
Wimmer Communities acquired the 33.76 acre parcel in August 2024 and has incorporated the Development vision identified as desirable to the City in this new neighborhood to strengthen the creation of identity and sense of place where pedestrian "walkability" and celebration of its natural environment distinguishes itself as a "live, work, play" neighborhood where a Resident has access to all amenities through the Conservancy Campus.

Existing Conditions

A Multi-Use Development
of the Southeast Quadrant Moorland and Greenfield

THE CONSERVANCY

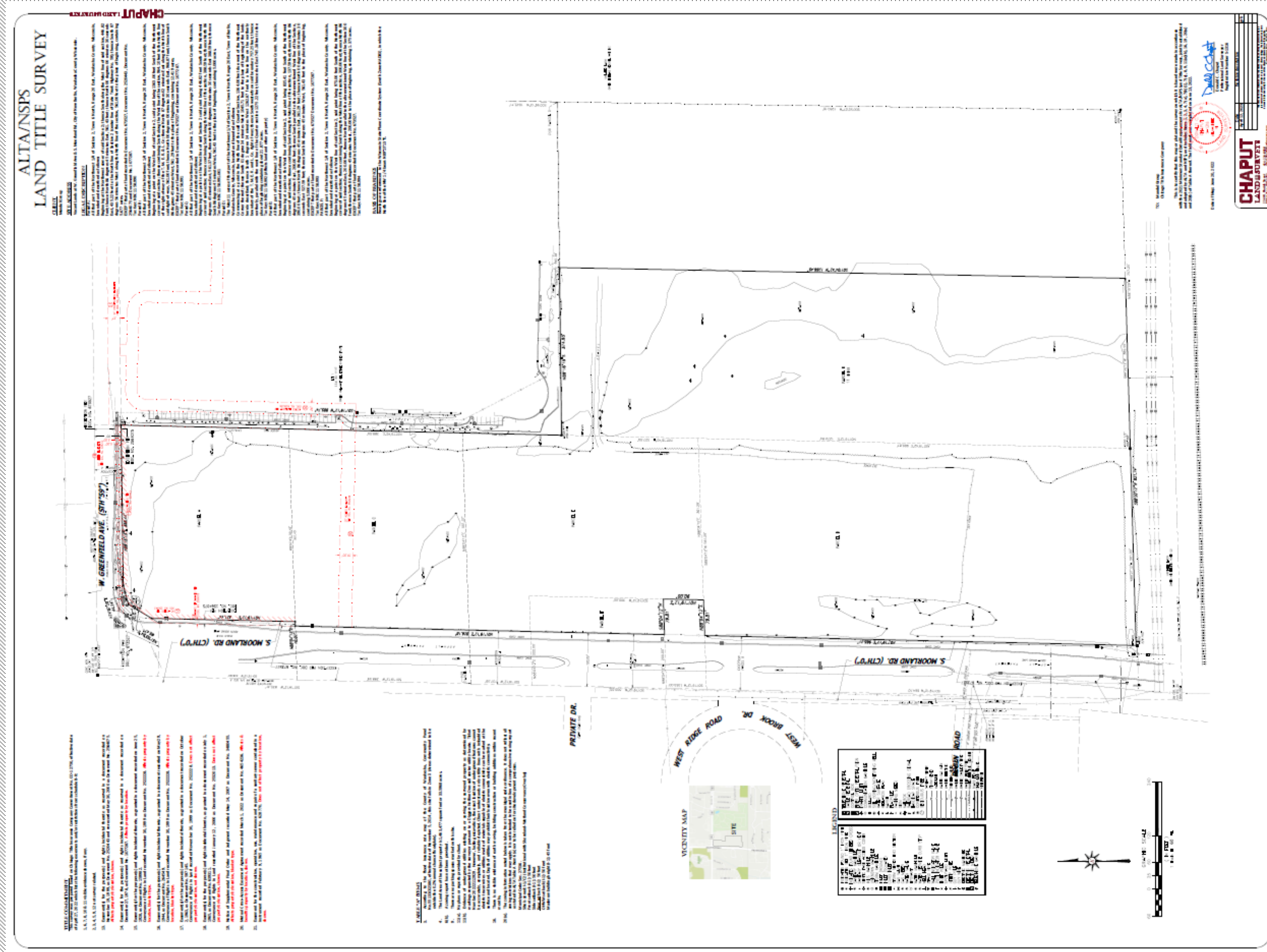
Existing Development District Property					
Address	Tax Key	Business Name	Acreage	2024 Assessed Value	2024 Property Tax
Unassigned Street Address	NBC 1158989001	Vacant Land	6.528	\$0	\$0
Unassigned Street Address	NBC 1158989002	Vacant Land	21.108	\$0	\$0
Unassigned Street Address	NBC 1158989003	Vacant Land	6.126	\$0	\$0
TOTAL :			33.76	\$0	\$0



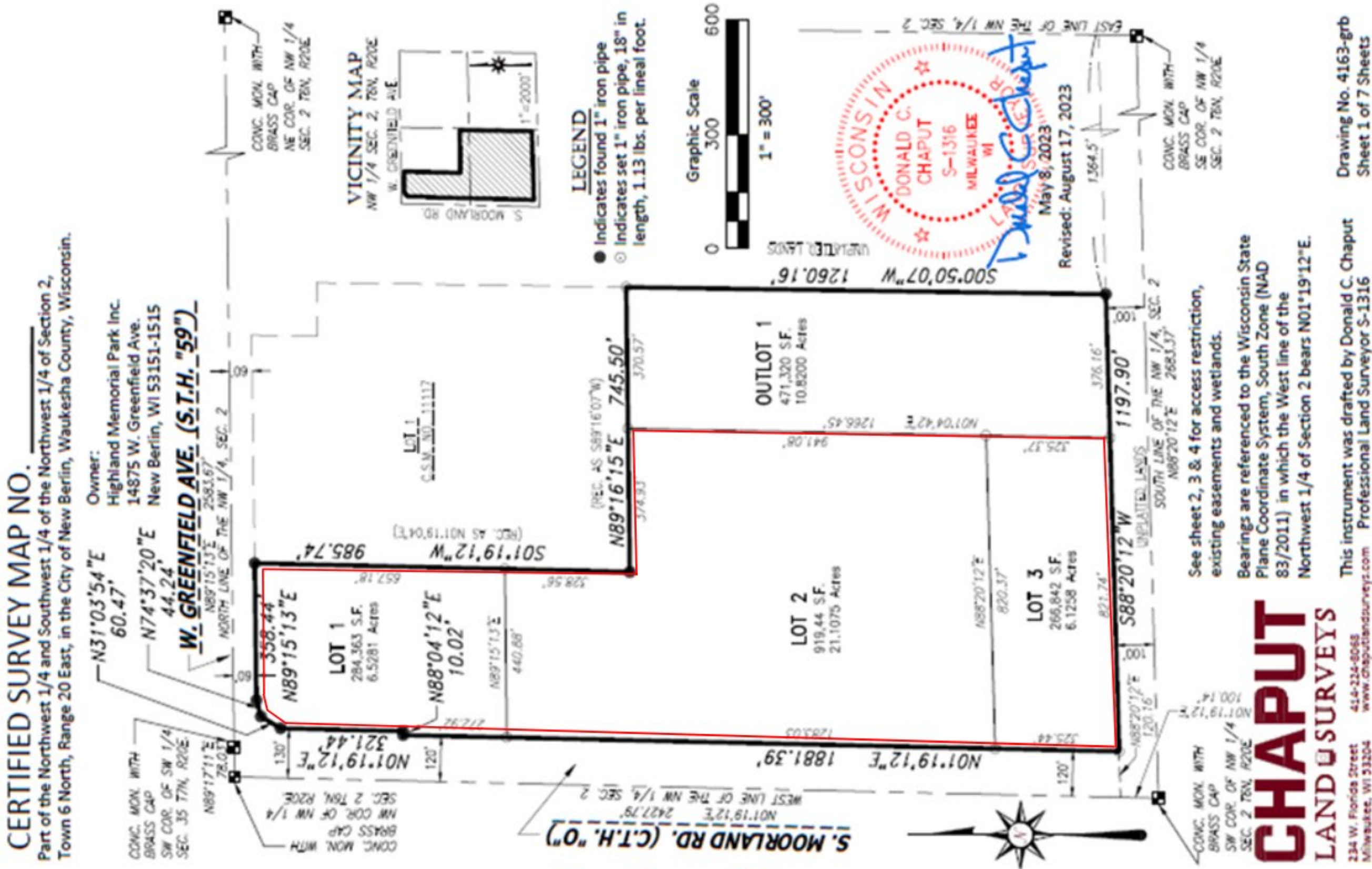
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

ALTA SURVEY – Prior to Aug 2024 CSM



THE CONSERVANCY
A NEIGHBORHOOD RESERVE
Approved CSM – Recorded August 2024



Project Site

T H E CONSERVANCY

Sense of Place

A Neighborhood Town Center is designed to offer the heart and soul of community. It cultivates a sense of place, of belonging, to not only those who live there, but also those who visit.

The Conservancy is a multi-use development that will foster a sense of community and connectedness through its walkable, integrated open-air spaces. Restaurants and shops will recreate the town square of yesterday and a sophisticated lifestyle.

Neighborhood of Tomorrow

The neighborhood of tomorrow offers everyday needs within reach, without having to rely on a car to navigate locations for work, wellness, shopping and entertainment. Residents of The Conservancy will enjoy a multitude of amenities within their neighborhood, such as the Resident Club with a pool, fitness center, remote workspace and coffee shop, recreation trails, a playground, sidewalks, and a dog run. Restaurants and shopping create a vibrant street life, all at the threshold of a wide selection of luxury living options.

A NEIGHBORHOOD TOWN CENTER

For more than 50 years suburbanization has been the dominant force in America's metropolitan growth and development, so much so that today more Americans live in suburbs than anywhere else. At the same time, there is a powerful desire among suburbanites to recreate the sense of community and connectedness that was integral to a mixed-use environment, without living downtown.

Suburbanites want the amenities of a sophisticated lifestyle in their own neighborhood, or in other words – a Town Center.

What is a Town Center? According to a study by the Urban Land Institute, "A town center is an enduring, walkable, and integrated open-air, multi-use development that is organized around a clearly identifiable and energized public realm where citizens can gather and strengthen their community bonds. It is anchored by retail, dining, and leisure uses, as well as by vertical or horizontal residential uses. At least one other type of development is included in a town center, such as office, hospitality, civic and cultural uses. Over time, a town center should evolve into the densest, most compact, and most diverse part of a community, with strong connections to its surroundings."

-- Ten Principles for Developing Successful Town Centers
Urban Land Institute

Focus on Making Life Fun

The Conservancy is focused on making life fun. It will be a place to gather, to enjoy the company of neighbors, meet for coffee, have drinks with buddies and dinner with friends. Residents and guests alike will enjoy recreation trails and the scenic beauty of an old oak forest, ponds and wetlands within this private campus.

Residents will enjoy freedom from their cars by walking to shops, restaurants and the Resident Club for a workout, swim, or social gathering.

Respect for the Land

The goal of sustainability is to be environmentally responsible and physically enduring, to create a memorable place that makes people want to return often. It is well connected to the surrounding streets, open space and trails and to places where people can access transportation.

The Conservancy will fulfill these goals through preservation of woods and wetlands, while creating new park areas and private woodland paths, pedestrian walkways, playground, and connection to the New Berlin Recreation Trail. It is ideally connected to surrounding infrastructure as well as transportation convenience.

THE CONSERVANCY

MASTER LAND USE PLAN

- Development Data Summary Table
- Proposed CSM



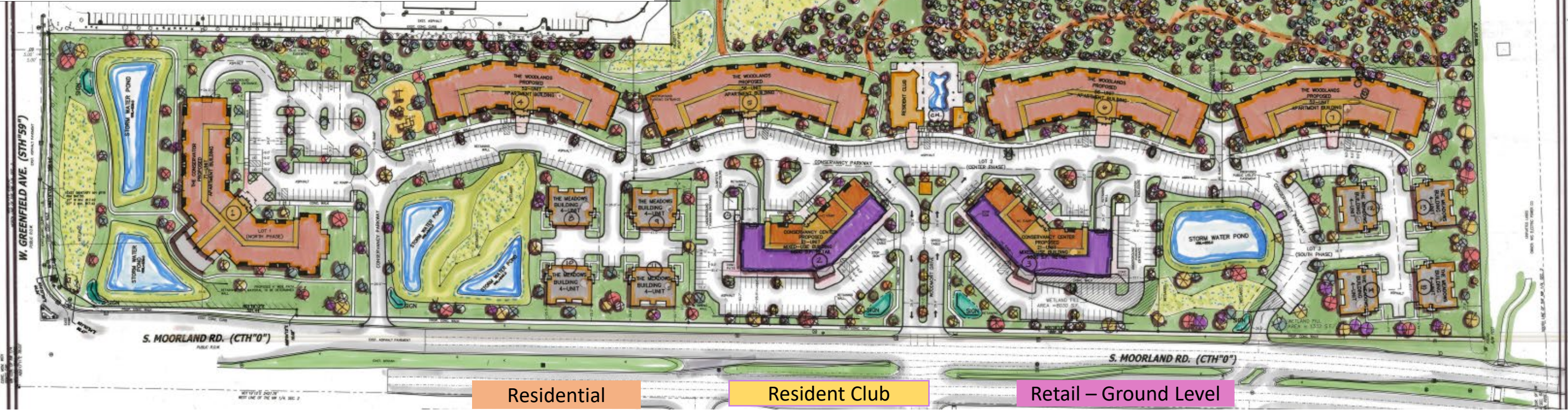
Master Land Use Plan

THE CONSERVANCY

Conservancy Center									
Bldg. No.	Name	Sq. Footage				Surface Parking		Parking Ratio	
2	Conservancy Center N	9,800				49		1 Space per 200 SF	
3	Conservancy Center S	9,800				49		1 Space per 200 SF	
Total		19,600				98		1 Space per 200 SF	
The Conservancy - Residential									
Bldg. No.	Name	1 Bdrm	2 Bdrm	3 Bdrm	Total	Surface Parking	Garage Parking	Total	Parking Ratio
1	The Conservator	28	43		71	73	71	144	2.03 to 1
2	Conservancy Center N	10	13		23	42	34	76	3.30 to 1
3	Conservancy Center S	10	13		23	35	34	69	3.00 to 1
4	The Woodlands 1	29	23		52	54	52	106	2.04 to 1
5	The Woodlands 2	28	33		61	39	63	102	1.67 to 1
6	The Woodlands 3	28	33		61	37	63	100	1.64 to 1
7	The Woodlands 4	29	23		52	71	52	123	2.37 to 1
8	The Meadows North		2	2	4	6	4	10	2.5 to 1
9	The Meadows North		2	2	4	6	4	10	2.5 to 1
10	The Meadows North		2	2	4	6	4	10	2.5 to 1
11	The Meadows North		2	2	4	5	4	9	2.25 to 1
12	The Meadows South		2	2	4	5	4	9	2.25 to 1
13	The Meadows South		2	2	4	5	4	9	2.25 to 1
14	The Meadows South		2	2	4	5	4	9	2.25 to 1
15	The Meadows South		2	2	4	5	4	9	2.25 to 1
Total		162	197	16	375	394	401	795	2.12 to 1
The Conservancy - Recreation									
		Sq. Footage			Surface Parking			Parking Ratio/ Sq Ft	
16	Resident Club	9500			22			0.46 Space per 200 SF	

Select Residential surface parking shall be shared between Retail/Office Use primarily from 8:00 am - 5:00 pm with Residential Use from 5:00 pm - 8:00 am

Conservancy Center				
Bldg. No.	Name	Sq. Footage	Surface Parking	Parking Ratio
2	Conservancy Center N	9,800	49	1 Space per 200 SF
3	Conservancy Center S	9,800	49	1 Space per 200 SF
Total		19,600	98	1 Space per 200 SF



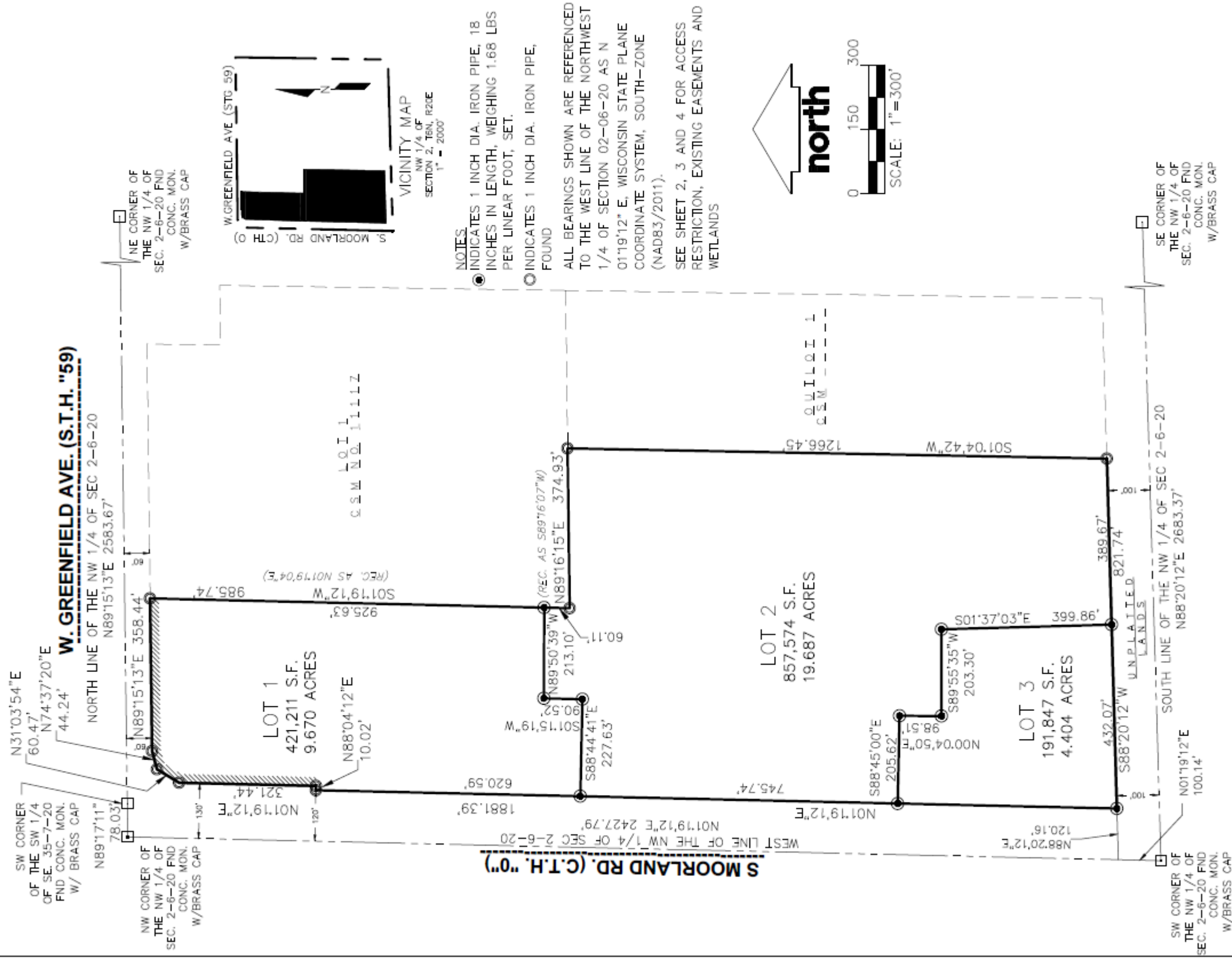
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

PROPOSED CSM

CERTIFIED SURVEY MAP NO. _____

A REDIVISION OF LOTS 1, 2 AND 3 OF CSM _____ LOCATED IN THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, STATE OF WISCONSIN.



SURVEYOR:
CHRISTOPHER A. JACKSON, PLS
CJ ENGINEERING, LLC
9205 W. CENTER ST., STE 214
MILWAUKEE, WI 53213
(414) 443-1312

OWNER:
THE CONSERVANCY, LLC
5300 S. 108TH ST.
HALES CORNERS, WI 53130

THIS INSTRUMENT DRAFTED BY CHRISTOPHER A. JACKSON, S-2851

SHEET 1 OF 6

T H E CONSERVANCY

Campus Improvements

- Site Information
- Civil Grading/Utility Plans
- Moorland Road Improvements



SITE INFORMATION

THE CONSERVANCY

Zoning

- Existing:
- B-1 Shopping Center – PUD
 - Rm-1 Multi-Family Residential – PUD
 - I-1 Institutional – PUD
 - C-2 Shoreland Wetland Conservancy

- Proposed:
- Rm-1 Multi-Family Residential – with a PUD overlay authorizing Retail use within defined mixed use facilities
 - C-2 Shoreland Wetland Conservancy

Site Characteristics

	North Phase		Center Phase		South Phase		TOTAL	
	Sq. Ft.	%	Sq. Ft.	%	Sq. Ft.	%	Sq. Ft.	%
Building Coverage	71,331	17%	97,366	11%	38,158	20%	206,855	14%
Sidewalk & Parking	91,725	22%	155,356	18%	49,322	26%	296,403	20%
Green Space Total	258,155	61%	604,852	71%	104,367	54%	967,374	66%
Unrestricted	234,836	56%	471,307	55%	97,926	51%	804,069	55%
Wetlands	23,319	6%	133,545	16%	6,441	3%	163,305	11%
Total Site	421,211	100%	857,574	100%	191,847	100%	1,470,632	100%
Acres	9.670		19.687		4.404		33.761	
Open Space(1)	349,880	83%	760,208	89%	153,689	80%	1,263,777	86%
Acres	8.032		17.452		3.528		29.012	

(1) Sidewalk, Parking and Green Space

Topography

The site slopes an average of 11’ from the high line of the hardwood forest line west to Moorland Road. The site also has an average of 20’ of fall from a high at its south line to Greenfield Avenue. Within the hardwood forest the topography undulates while sloping to an isolated wetland complex along the parcels’ east property line.

Existing Use

Owner	Parcel Size (Acres)	Improvement
The Conservancy, LLC (Wimmer Communities)	6.528	Vacant Land
The Conservancy, LLC (Wimmer Communities)	21.108	Vacant Land
The Conservancy, LLC (Wimmer Communities)	6.126	Vacant Land

- Lands South of Property- New Berlin Recreation Trail and beyond is R-4 Low Density Single-Family Residential with 350 feet separation from existing residential structures.
- Land East of the Property are identified as B-1 Shopping Center, I-1 Institutional, and C-2 Shoreland Wetland Conservancy.
- Lands North of Property are located in the City of Brookfield and are identified as B-5 Gateway Business.
- Lands West of Property are identified as B-1 Shopping Center – PUD, Rm-1 Multi-Family Residential, and R-4 Low-Density Single-Family Residential District.

¹ Building 1 - 33,173 sf, Building 4 - 22,718 sf, Building 8 – 11 – 15,440 sf total
² Building 2 - 18,803 sf, Building 3 – 18,803 sf, Building 5 – 27,525 sf Building 6 - 27,525 sf, Building 16 – 4,710 sf
³ Building 7 – 22,718 sf, Building 12 – 15 - 15,440 sf total

SITE INFORMATION

T H E CONSERVANCY

Ecology

The site is primarily open field boarded by 11 acres of hardwood forest interspersed with five (5) isolated wetland complexes delineated by Heartland Ecological Group in August 2022.

In order to facilitate the alignment of The Conservancy Parkway and Robin Road, while retaining sufficient project access, a Nationwide Wetland Fill Permit will be applied for from the Wisconsin Department of Natural Resources and Army Corps of Engineers. This Fill Permit will authorize the filling of 9,424 sq.ft. of wetlands. A total of 163,305 sq.ft. of wetlands shall be preserved.

Geotechnical

Geotechnical studies were prepared for the site and revealed clay soils underlay the site and standard construction methods can be employed in the design and construction of the foundations needed for the proposed residential and commercial buildings.

Environmental

Phase I and II Environmental Site Assessments were conducted by The Sigma Group in 2022. These Reports indicate that no environmentally hazardous filling, dumping, or spills have occurred on the site.

Vehicular Access and Circulation

The location of The Conservancy provides extraordinary access to Milwaukee and Waukesha County employment, recreational, and cultural centers via Interstate 94 and STH 59 at the Brookfield Interchange access ramps, which are located within one half mile of the site. In addition, Interstate 43 is 3.5 miles south on Moorland.

Primary access to the site's central Commercial District shall be from the signalized intersection of Moorland Road via a private roadway identified as Woodmont Drive.

Conservancy Parkway shall provide through north/south access through the site with its northern terminus on Moorland Road allowing northbound entry and exiting; while southbound entry and exiting shall be prohibited.

Conservancy Parkway shall also interconnect to Moorland Road at its southern terminus opposite Robin Road, allowing northbound entry and exiting as well as southbound entry however southbound exiting shall be prohibited.

To negate area traffic impacts and increase traffic safety Moorland Road improvements shall be funded by the Developer including:

- Median reconstruction prohibits ingress and egress from and to southbound Moorland Road.
- Addition of right-turn entry and exit lanes onto Moorland Road at all three project roadway access locations.
- Signal improvements at the intersection of Moorland Road and Woodmont Drive.

These improvements will be completed as part of the Moorland Road Reconstruction Project slated for 2026 by Waukesha County Department of Public Works. All access has been reviewed and authorized by the Waukesha County Department of Public Works. Traffic Impact Analysis Reports were prepared by TADI (June 15, 2023) and a Traffic Impact Analysis Update #1 (August 26, 2024). Internally, Conservancy Parkway shall interconnect with Woodmont Drive providing internal circulation to all residential and commercial buildings via these private roadways.

SITE INFORMATION

THE CONSERVANCY

Noise Abatement

Abatement of noise from the nearby Moorland Road and Greenfield Avenue will be addressed in the construction of the buildings, which will be in compliance with HUD guidelines of 10 decibels within living areas. Noise reduction results from building placement, landscaping, and building composition. Building structures shall incorporate thicker ceiling and wall sections within walls common to public areas and adjacent to residences with greater insulation, membrane, air spaces, and multiple layers of gypsum board to achieve lower noise levels. Windows shall be constructed of insulating glass, thermal, and vibration breaks. All units shall be mechanically air-conditioned.

Pedestrian Accessibility

The site is served by Waukesha Metro Route 1 providing transit from Waukesha to the Milwaukee County Regional Medical Center with a bus stop at Brookfield Square Mall.

The Developer shall provide funding for a six (6') public sidewalk to be constructed within the east ROW of Moorland Road from Greenfield Avenue, 2,262' south to the New Berlin Recreation Trail. Sidewalk construction is to be included in the Moorland Road Reconstruction Project slated for 2026 by the Waukesha County Department of Public Works. This sidewalk intersects northbound and eastbound sidewalks accessing shopping, grocery and restaurants within a 15-minute walk.

Internally, private six-foot sidewalks shall be provided throughout the site adjacent to all internal roadways providing pedestrian circulation and access. Pedestrian speed table crosswalks shall be constructed at key intersections of internal roadways. These crosswalks shall be differentiated from the traffic aisles by use of a differentiating red concrete and are slightly elevated to provide traffic “quieting” on Woodmont Drive and Conservancy Parkway.

Streetscape and Landscape

The Conservancy has been designed to install a unique sense of place in its exterior public areas to foster feelings of neighborhood, activation, and safety in order to develop unique, creative, and meaningful people spaces for the new intergenerational community.

- **Streetscapes and Vehicular use areas along Moorland and Greenfield Roads provide access to new internal streets and building entries, Including:**
 - Hardscape/paving treatment
 - Seating/rest/gathering areas
 - Sidewalk and pathway treatments
 - Bike access and facilities
 - Parking design
 - Lighting fixtures or illumination
 - Parkway tree landscape planting
 - Site furniture
- **Site Perimeter/Interior Building Foundations/Edges**
 - Extensive landscape planting and buffers
 - Landscape lighting and illumination
 - Landscape specialty element, features and public art
 - Building signage and wayfinding elements

SITE INFORMATION

T H E CONSERVANCY

- **Special Amenity “People Spaces”**

- The Conservancy Reserve
- Village Center featured Clock Tower Information Center
- Hardscape treatments
- Ornamental railings, canopies, gates, lattice, screening elements
- Dog walk facilities
- Neighborhood gardening experience
- Pond edge and “water feature” treatment
- Natural area edge transition landscape character
- Raised curb/seat wall planting areas
- Children’s Playground
- Outdoor barbeque area experience
- Community Center fire ring
- Outdoor Fitness/Yoga lawns
- Outdoor event programming on the Village Green
- Outdoor furniture
- Community wayfinding signage (featuring entry signage, directional, identification and regulatory signage and community kiosk)

New Berlin Gateway Monument

As the most heavily trafficked arterial roadway through the City of New Berlin, Moorland Road at Greenfield Avenue is the primary northern Gateway to the City of New Berlin with over 60,000 vehicles daily. With the intent to construct a monument announcing entry to the City, New Berlin acquired a .42 acre parcel 1208’ south of the intersection at Moorland. The Developer and City executed and recorded an agreement in August 2024 whereby the Developer will fund, construct, and dedicate this Municipal Monument at a more highly visible location on Developer’s property, within 60 feet of the intersection.

New Berlin Recreational Trail

The 7-mile New Berlin Recreational Trail follows the historic Interurban Rail right-of-way, offering bicyclists and runners alike, a scenic paved route through the City of New Berlin to West Allis on the east and Waukesha on the west. This community gem borders the Conservancy on its southern property line for 822 feet.

Signage

Uniform high-quality Signage standards provide an accurate unique sense of place while assisting visitors’ navigational ease, business exposure, and site parking organization.

Neighborhood Entry Monuments

Signature Conservancy sculptural timber Monuments with integrated landscape planters and backlit cut letters on a stone structure shall be constructed at the following locations:

- Primary project identification to be placed on the masonry retaining wall north of The Conservator facing the intersection of Moorland Road and Greenfield Avenue
- Northeast corner of Moorland Road and Conservancy Parkway
- Northeast and southeast corner of Moorland Road and Woodmont Drive
- Southeast Corner of Moorland Road and Conservancy Parkway

Resident Club Community Message Board

The Signature Village Center Clock Town Information Center with integrated digital message board shall identify the Resident Club and provide communications of Resident-related special events, fitness courses, and Resident specific information.

Resident Club Lobby Entry

Backlit cut letters shall be located on the lobby entry.

SITE INFORMATION

THE CONSERVANCY

Signage

Retail and Office Identification

Retail and office space tenants shall be provided backlit cut letter business identification space located as designed either on the building exterior wall or canopy above their respective Retail business or Offices.

Building Lobby Identification

Signature Conservancy Sculptural Light Monuments with integrated landscape planters and backlit cut letters on a stone structure shall be constructed at each Meadow, Woodland and The Conservator motorcourts and Building lobbies.

Traffic, Parking, and Directional Signage

Individual wayfinding signage shall be located throughout the Project with contemporary black metal standards.

Lighting

Private community lighting is provided by decorative Village Center lights on nine-foot decorative poles with banner standards for seasonal décor and shall be located appropriately throughout the site.

Storm Water Management

Roof and paved surfaces within this Development are collected by surface swales and an extensive storm sewer collection system, which discharges to a variety of storm water management facilities including:

- Four (4) featured wet detention ponds with fountain aeration and lighting

These facilities will provide both storm water detention and water clarity functions as required by the City of New Berlin and the Milwaukee Metropolitan Sewage District (MMSD). Such requirements in general require that the post-development rate of storm water discharge of the site from all impervious surfaces shall not exceed that which existed prior to the proposed development.

Water Utility

A system of interconnected new 8" and 12" water mains within the site provides service loops to the two (2) points of connection with the existing water mains at the west property line of the Walmart parcel (12") and Moorland Road at Robin Road (16") providing service redundancy and pressure support.

Sewer Utility

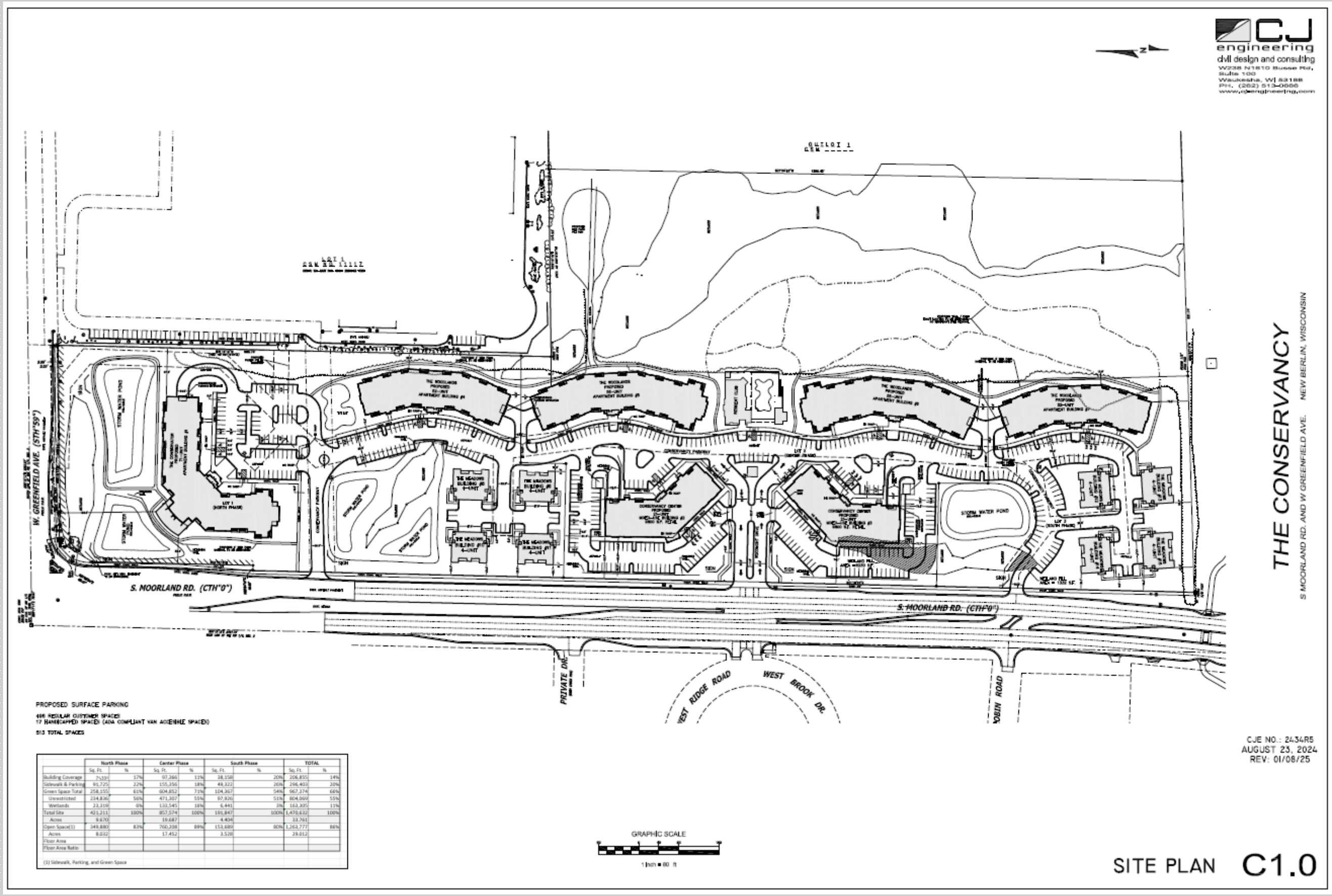
New 8" and 10" sanitary sewer mains shall be extended from Greenfield Avenue (27") and Moorland Road (8") to service The Conservancy facilities.

T H E CONSERVANCY

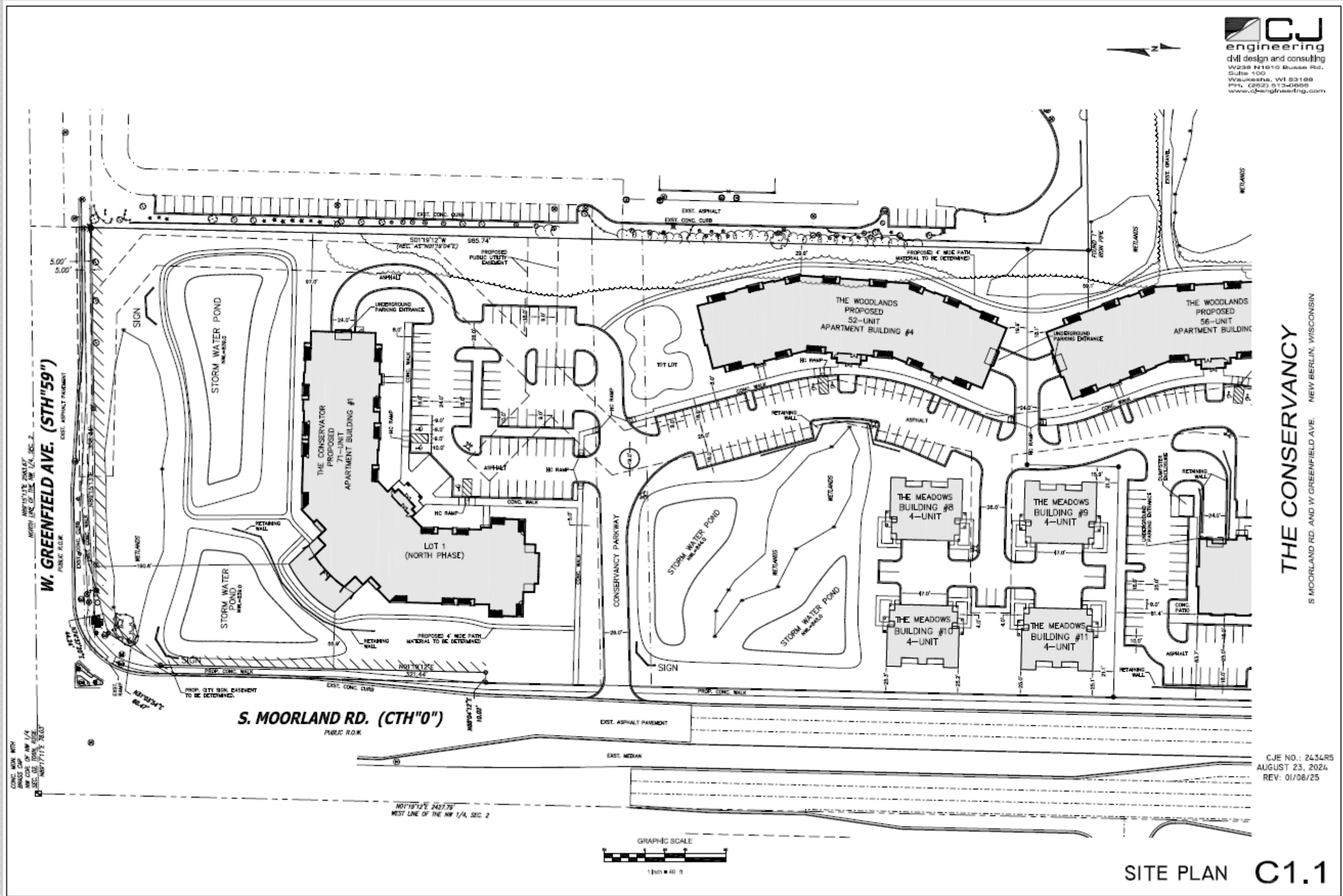
CIVIL GRADING / UTILITY PLANS



THE CONSERVANCY A NEIGHBORHOOD RESERVE SITE PLAN

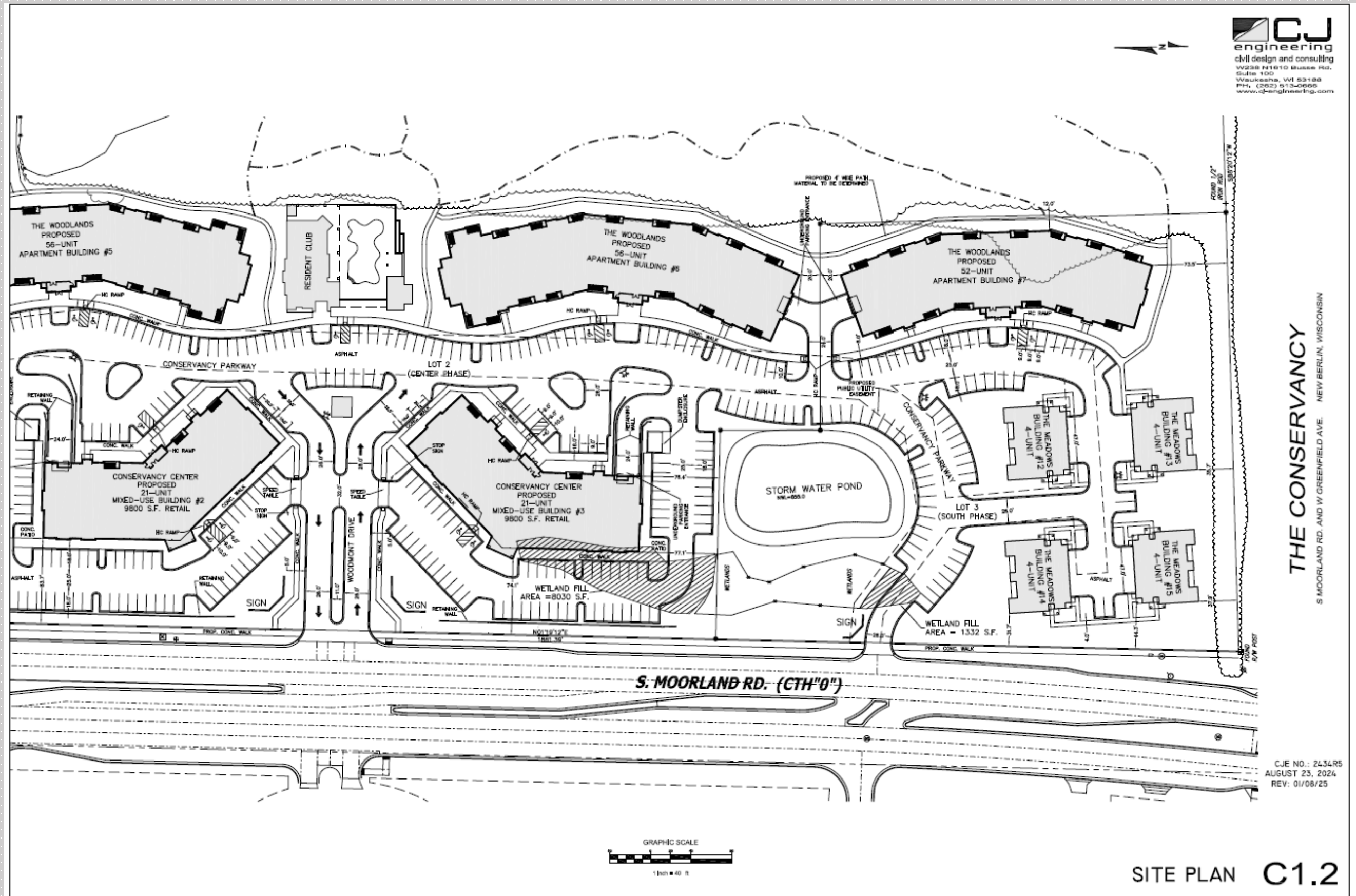


THE CONSERVANCY
A NEIGHBORHOOD RESERVE
SITE PLAN

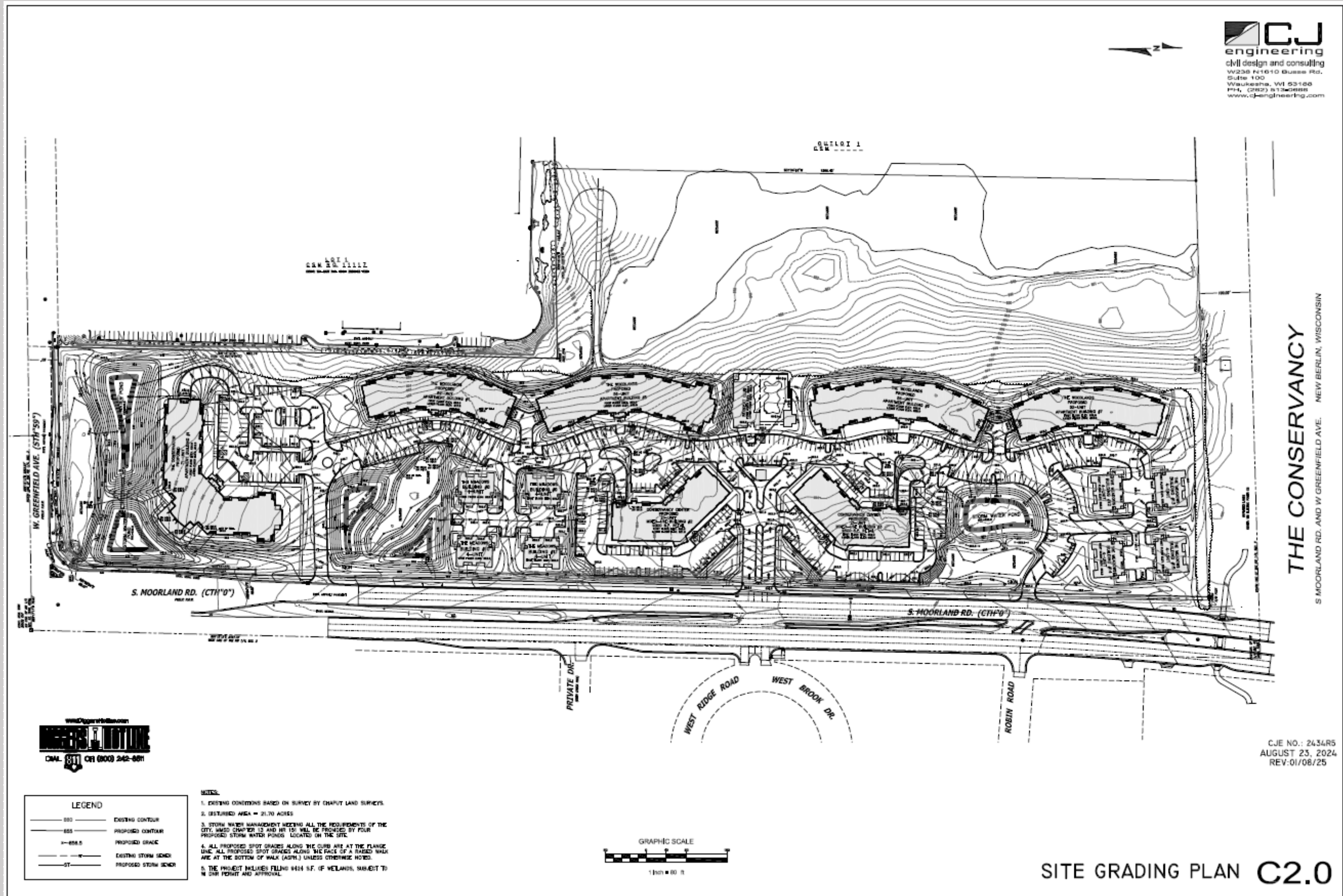


THE CONSERVANCY
S MOORLAND RD. AND W GREENFIELD AVE. NEW BERLIN, WISCONSIN

SITE PLAN



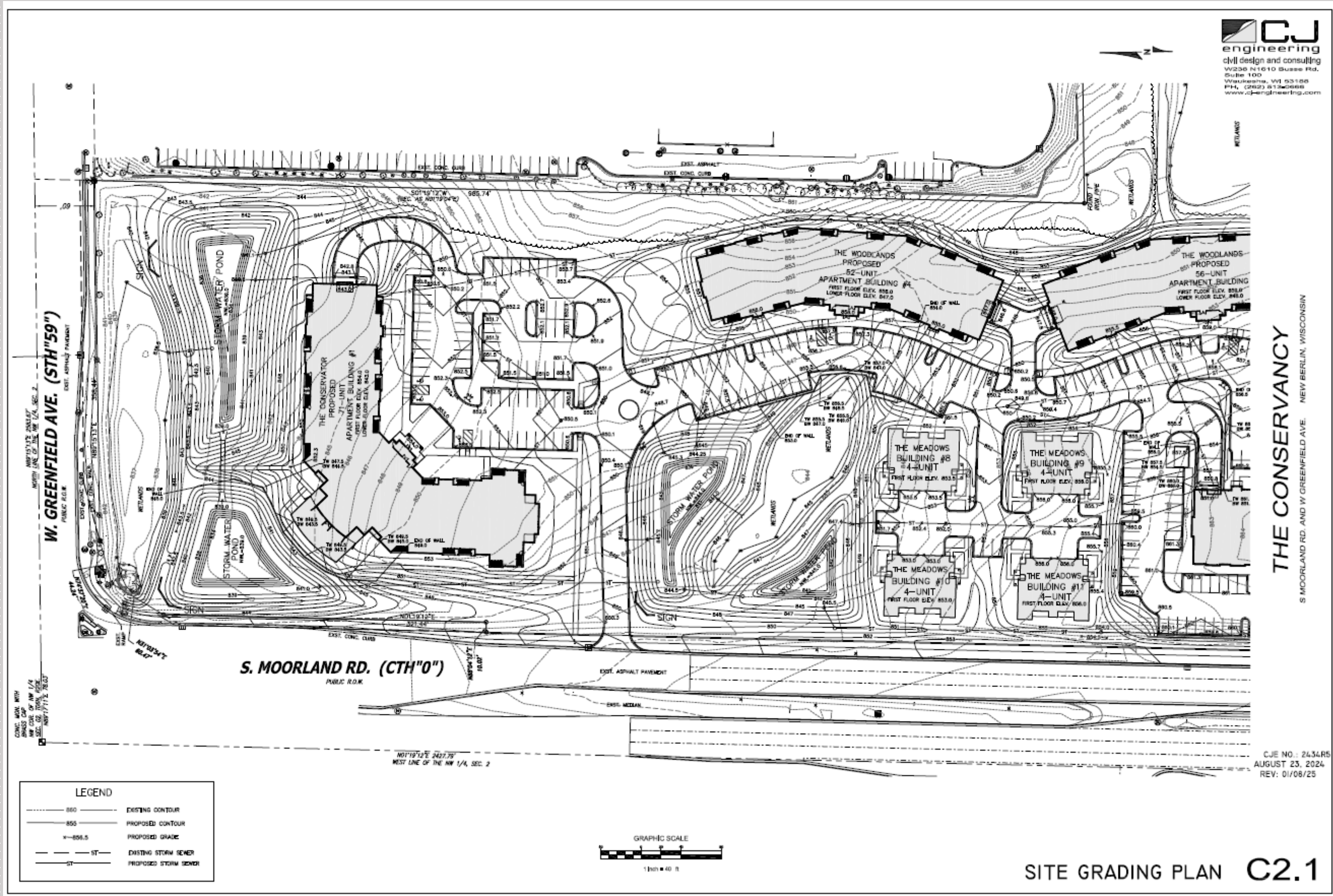
THE CONSERVANCY A NEIGHBORHOOD RESERVE SITE GRADING PLAN



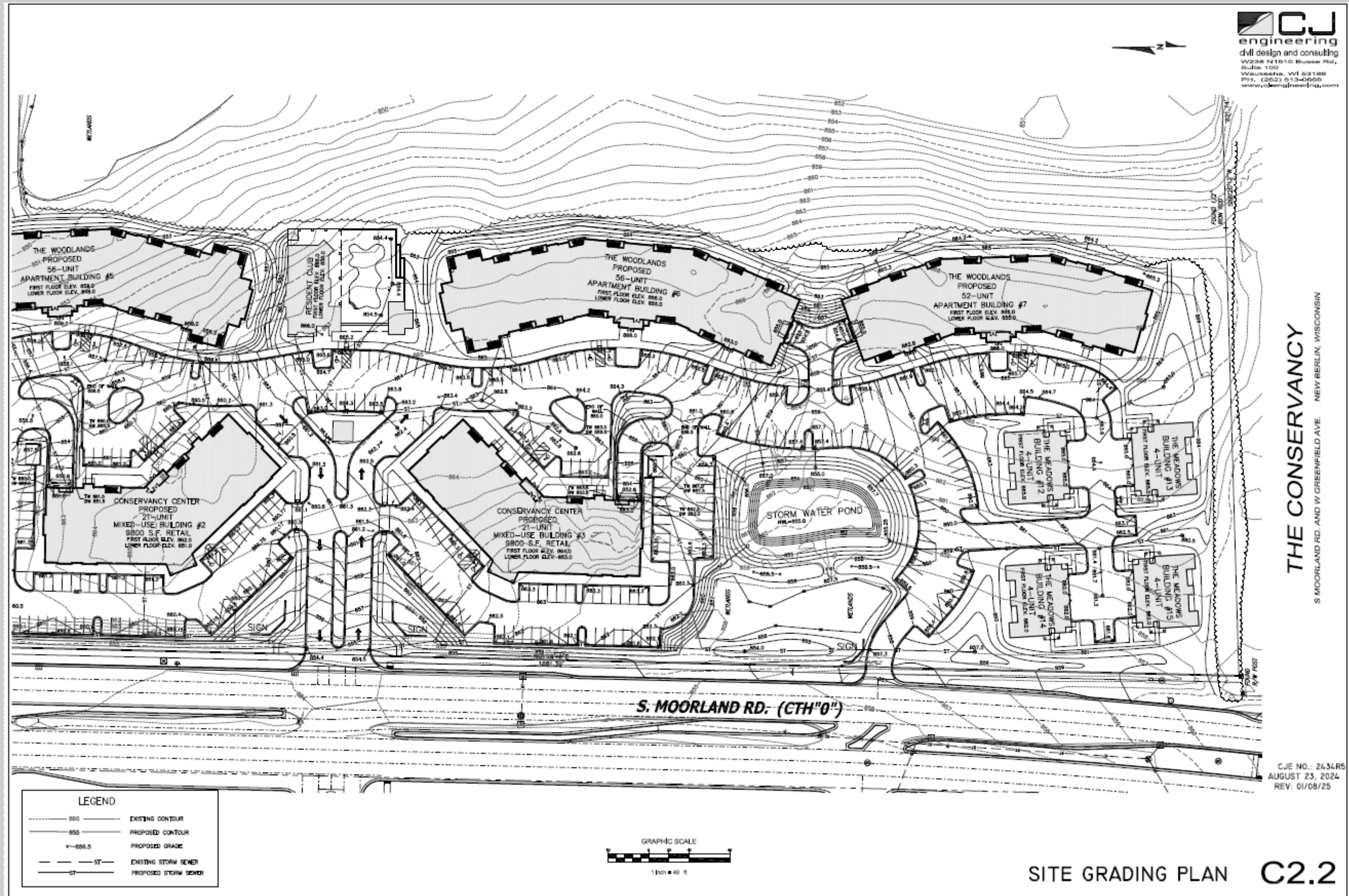
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE GRADING PLAN

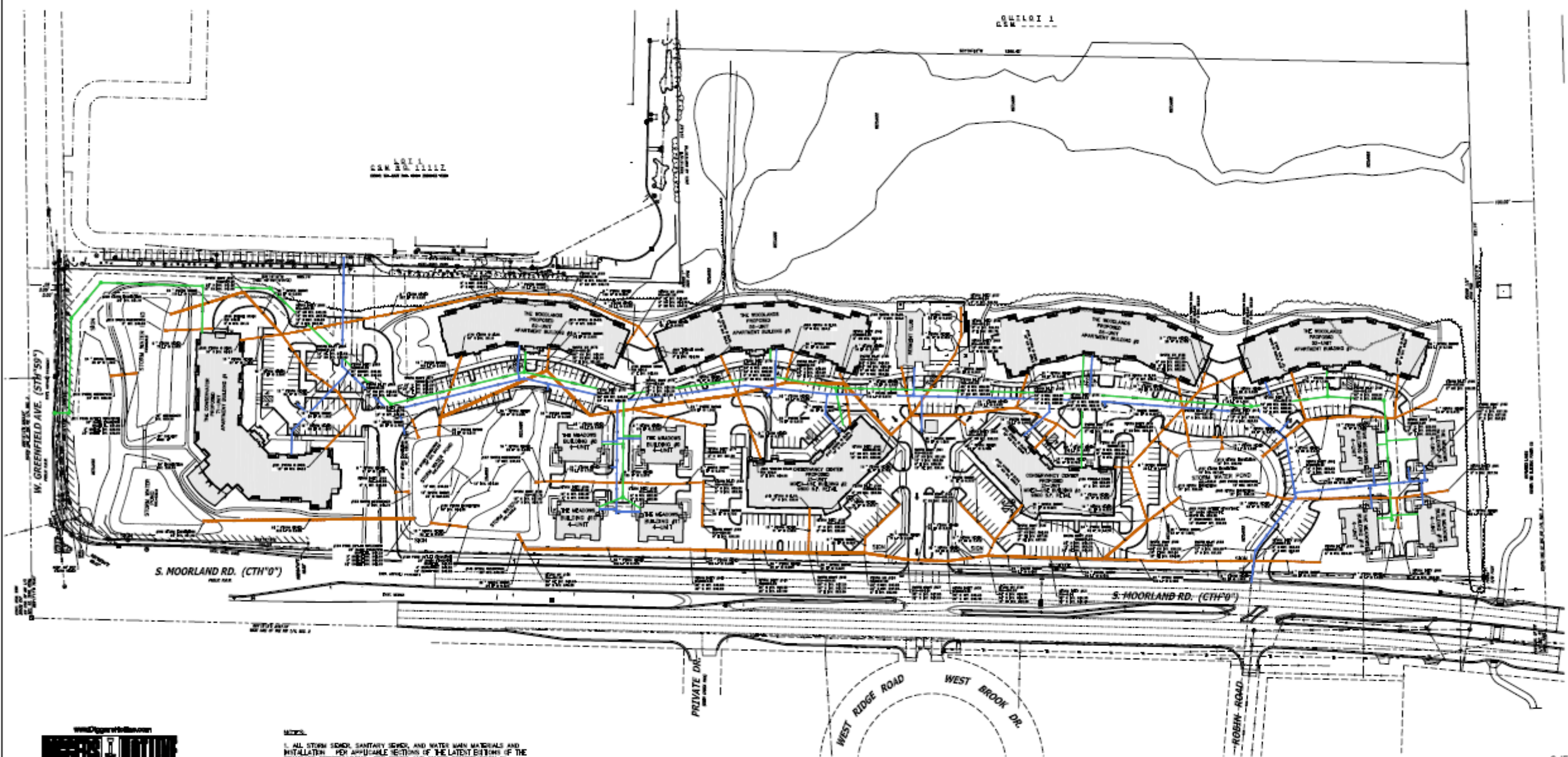


THE CONSERVANCY A NEIGHBORHOOD RESERVE SITE GRADING PLAN



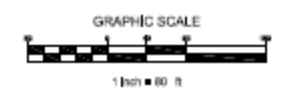
THE CONSERVANCY A NEIGHBORHOOD RESERVE SITE STORM SEWER PLAN

CJ
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civil design and consulting
W238 N1810 Muske Rd.
Suite 100
Waukegan, WI 53188
PH: (262) 513-0666
www.cjengineering.com



LEGEND	
	EXISTING STORM SEWER
	PROPOSED STORM SEWER
	EXISTING SANITARY SEWER
	PROPOSED SANITARY SEWER
	EXISTING WATER MAIN
	PROPOSED WATER MAIN
	BURIED GAS MAIN
	OVERHEAD WIRE
	BURIED CABLE

- NOTES:
1. ALL STORM SEWER, SANITARY SEWER, AND WATER MAIN MATERIALS AND INSTALLATION FOR 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 PAVED AREAS SHALL HAVE GRAVEL BACKFILL.
 3. 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.
 4. STORM SEWER: PVC ASTM D3034, SDR 35, OR ADSN-42 HDPE
SANITARY SEWER: PVC ASTM D3034, SDR 35
WATER MAIN: PVC AWWA C900, CLASS 150 (SDR18)
*MATERIAL PER CITY REQUIREMENT. CONTRACTOR TO VERIFY.
 5. CONTRACTOR TO PROVIDE TRACER WIRE OR OTHER METHOD OF LOCATING FOR ALL UNDERGROUND EXISTING NON-METALLIC SANITARY, STORM AND WATER PIPE PER WISCONSIN PLUMBING CODE SECTION 183.07(1)(2).



SITE STORM
SEWER PLAN
C3.0

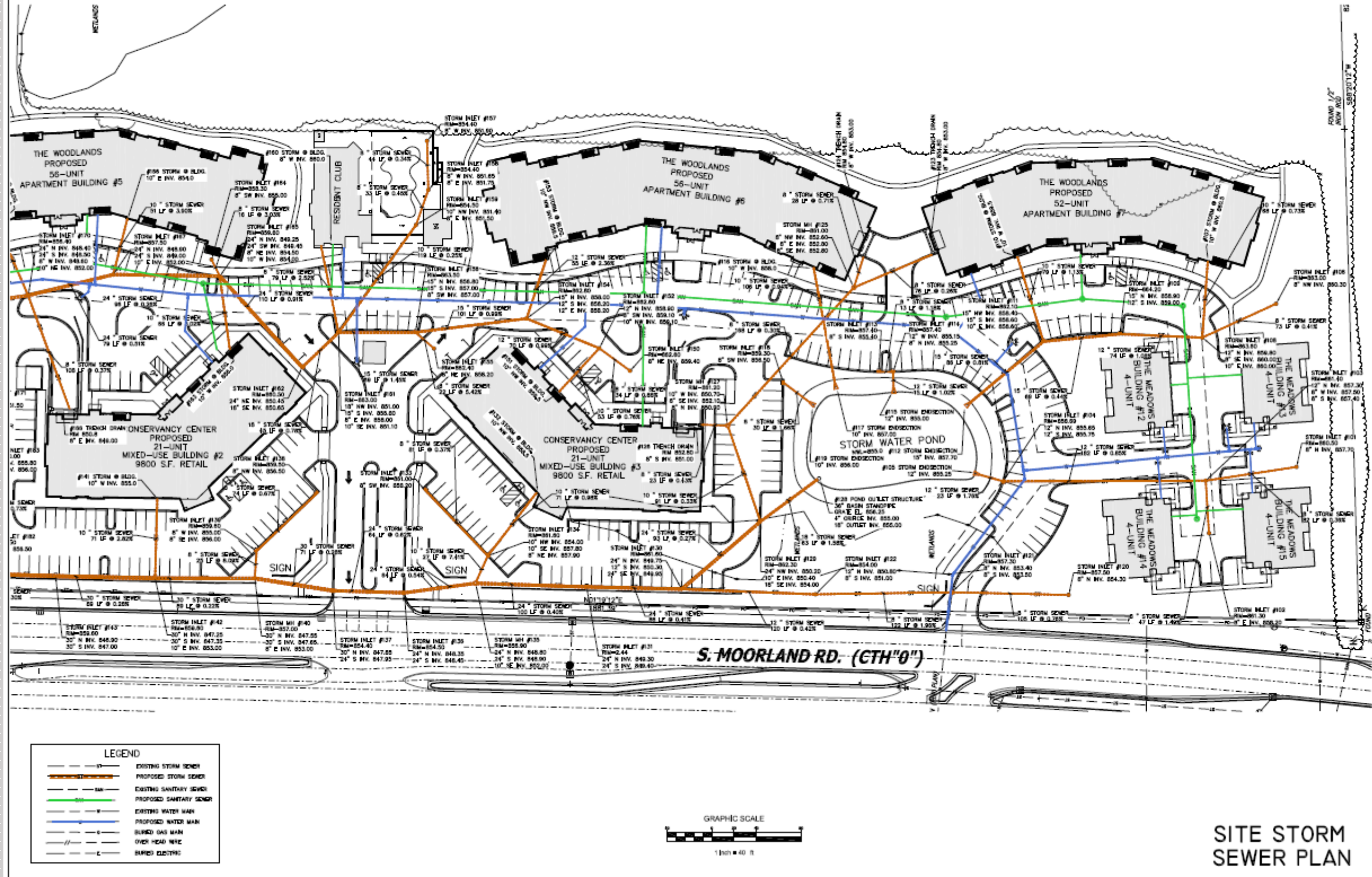
CJE NO.: 2434R5
AUGUST 23, 2024
REV: 01/08/25

THE CONSERVANCY
S MOORLAND RD. AND W GREENFIELD AVE. NEW BERLIN, WISCONSIN

SITE STORM SEWER PLAN



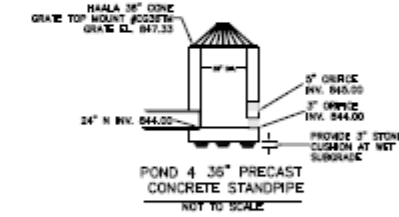
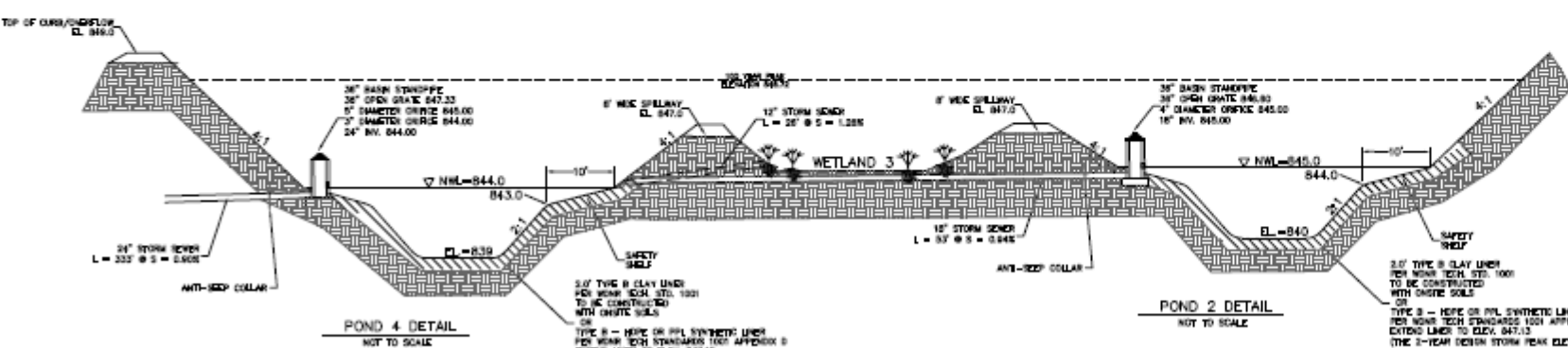
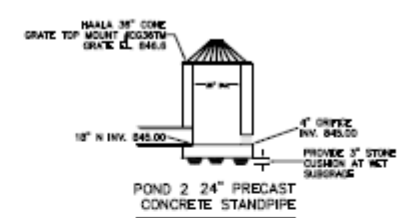
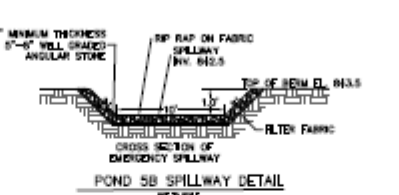
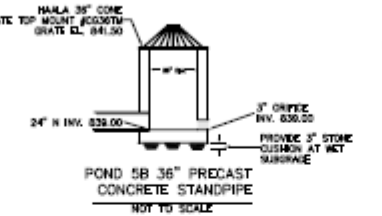
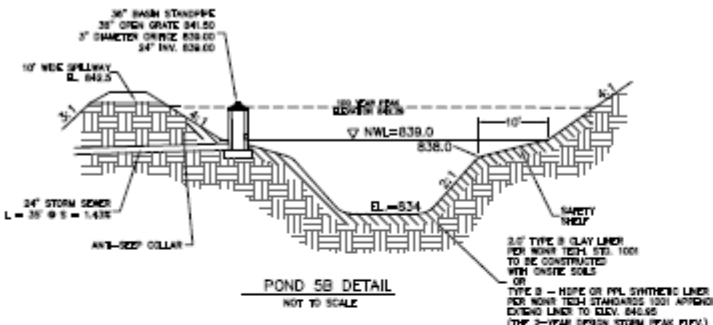
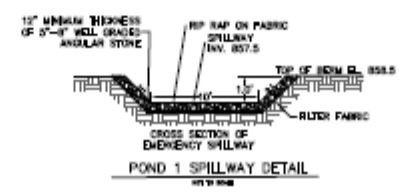
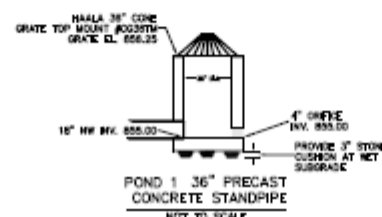
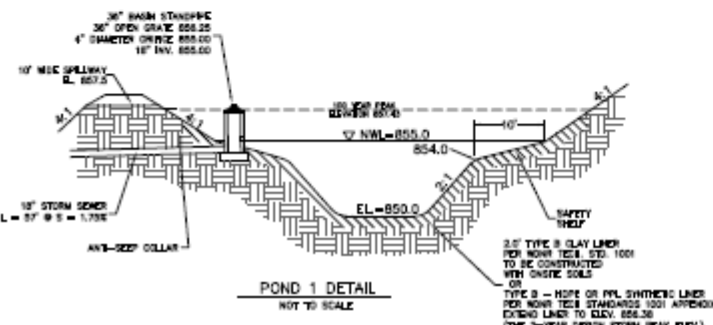
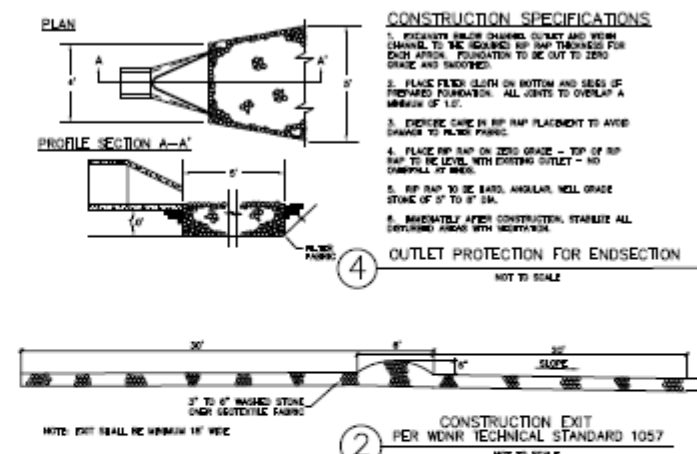
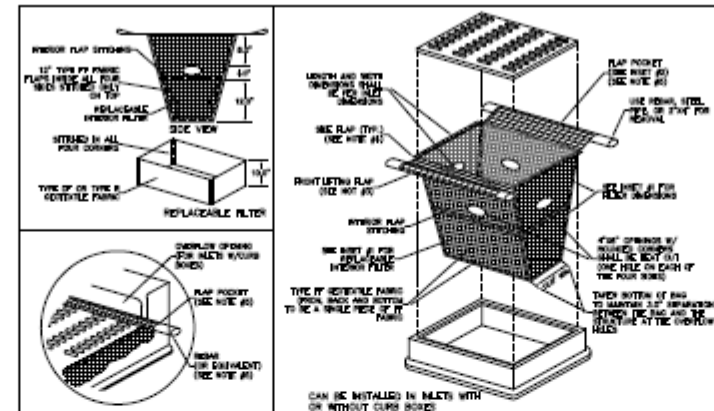
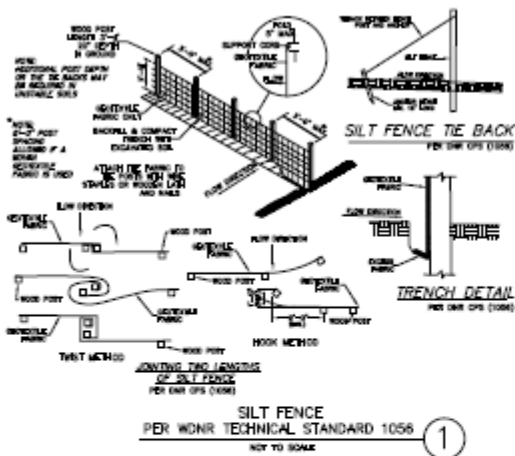
THE CONSERVANCY
A NEIGHBORHOOD RESERVE
SITE STORM SEWER PLAN



THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE STORM SEWER PLAN – SITE DETAIL



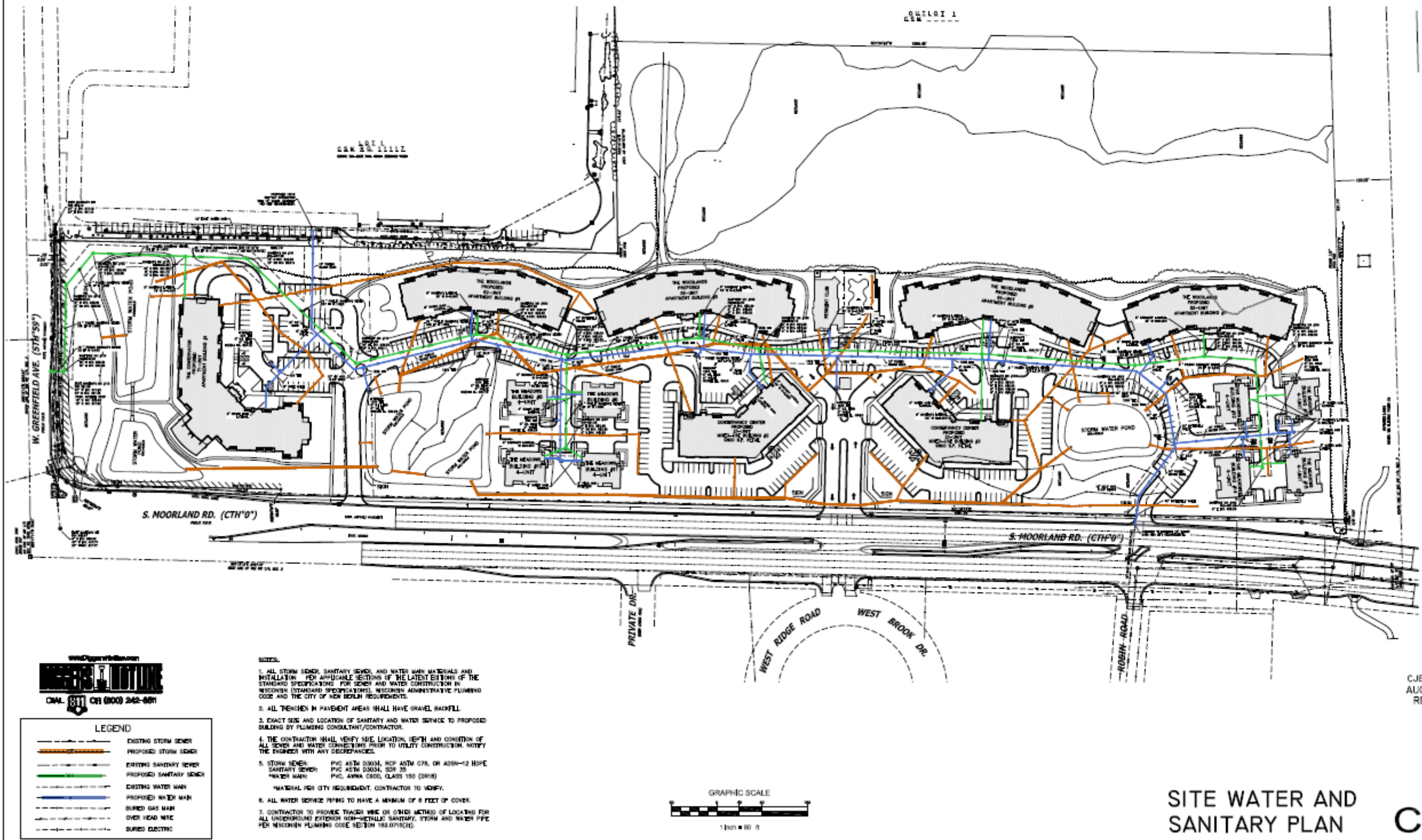
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THE CONSERVANCY
S MOORLAND RD. AND W GREENFIELD AVE. NEW BERLIN, WISCONSIN

CJE NO.: 2434R5
AUGUST 23, 2024
REV: 01/08/25

SITE DETAIL SHEET C6.1

THE CONSERVANCY
A NEIGHBORHOOD RESERVE
SITE WATER AND SANITARY PLAN



THE CONSERVANCY
S MOORLAND RD. AND W GREENFIELD AVE. NEW BERLIN, WISCONSIN

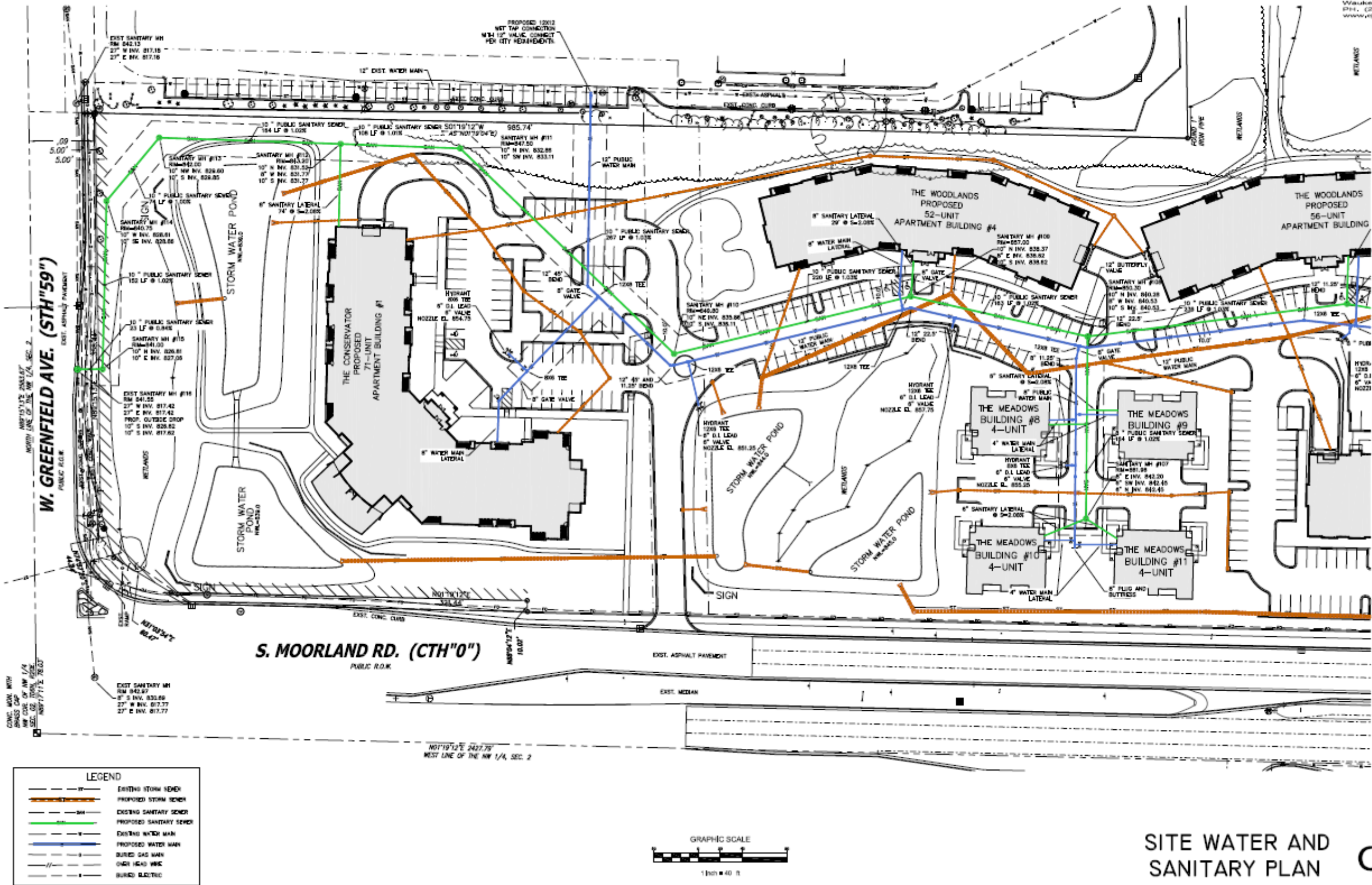
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AUGUST 23, 2024
REV: 01/08/25

SITE WATER AND
SANITARY PLAN
C4.0

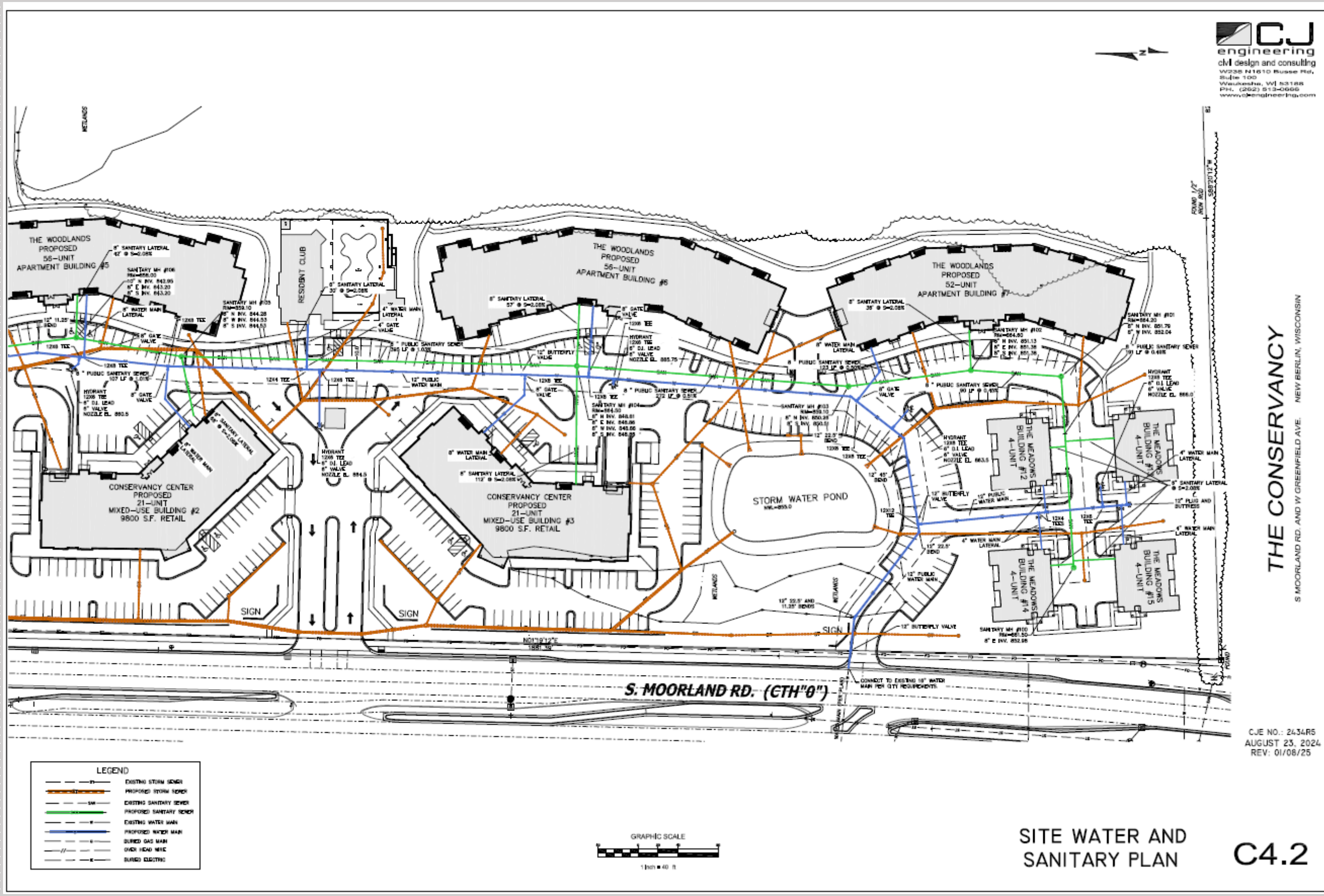
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE WATER AND SANITARY PLAN



THE CONSERVANCY
A NEIGHBORHOOD RESERVE
SITE WATER AND SANITARY PLAN



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THE CONSERVANCY
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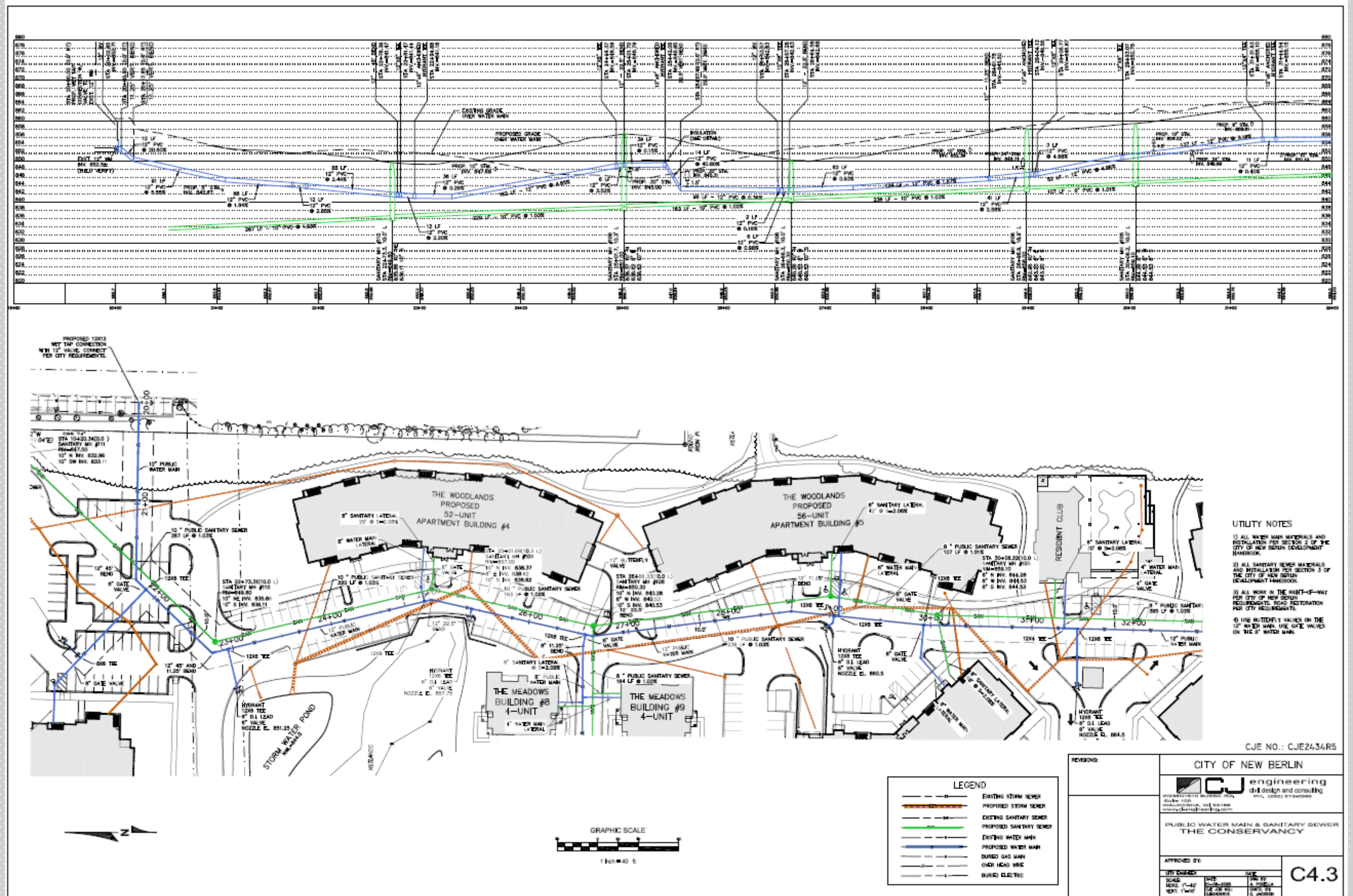
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AUGUST 23, 2024
REV: 01/08/25

SITE WATER AND
SANITARY PLAN
C4.2

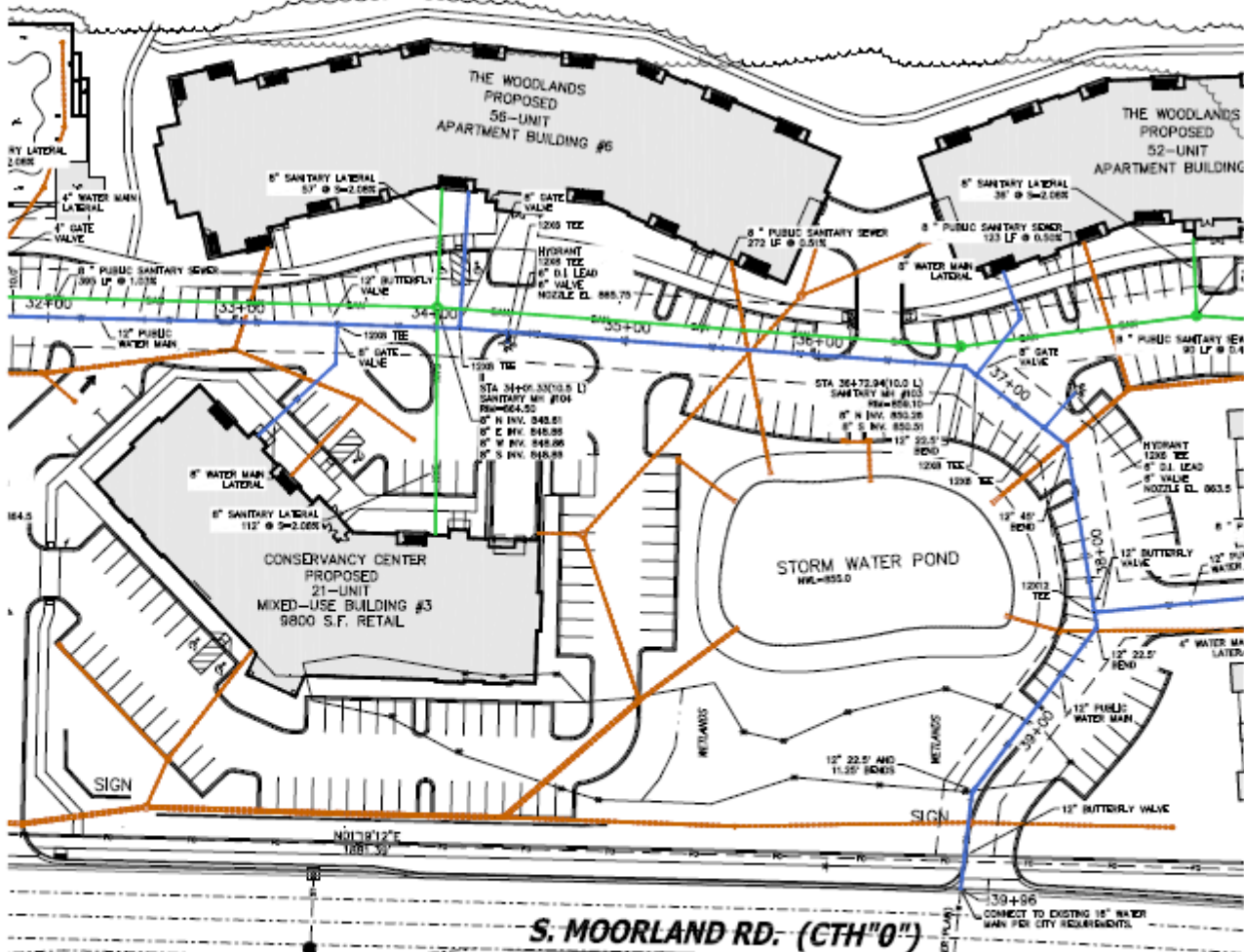
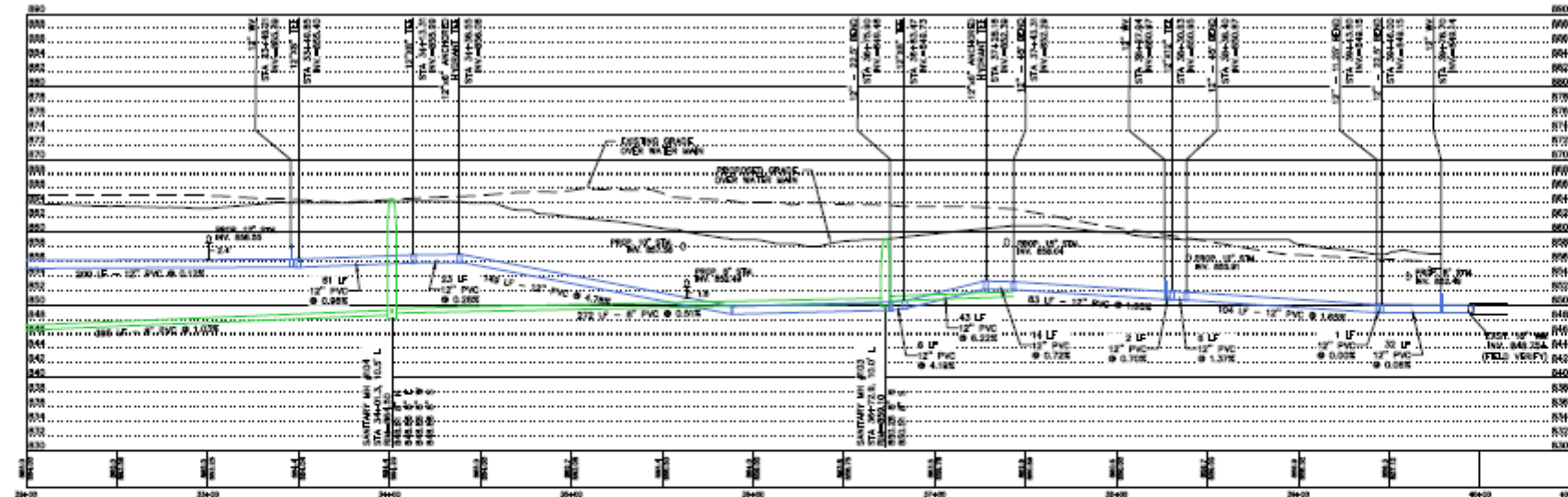
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE WATER AND SANITARY PLAN



THE CONSERVANCY



UTILITY NOTES

- 1) ALL WATER MAIN MATERIALS AND INSTALLATION PER SECTION 3 OF THE CITY OF NEW BERLIN DEVELOPMENT HANDBOOK.
- 2) ALL SANITARY SEWER MATERIALS AND INSTALLATION PER SECTION 3 OF THE CITY OF NEW BERLIN DEVELOPMENT HANDBOOK.
- 3) ALL WORK IN THE RIGHT-OF-WAY PER CITY OF NEW BERLIN REQUIREMENTS, ROAD RESTORATION PER CITY REQUIREMENTS.
- 4) USE BUTTERFLY VALVES ON THE 12" WATER MAIN, USE GATE VALVES ON THE 8" WATER MAIN.

CJE NO.: CJE2434R5

CITY OF NEW BERLIN



Sube 100
WALTONSTRA, W 15188
WWW.C-ENG-TECH.COM

PUBLIC WATER MAIN & SANITARY SEWER
THE CONSERVANCY

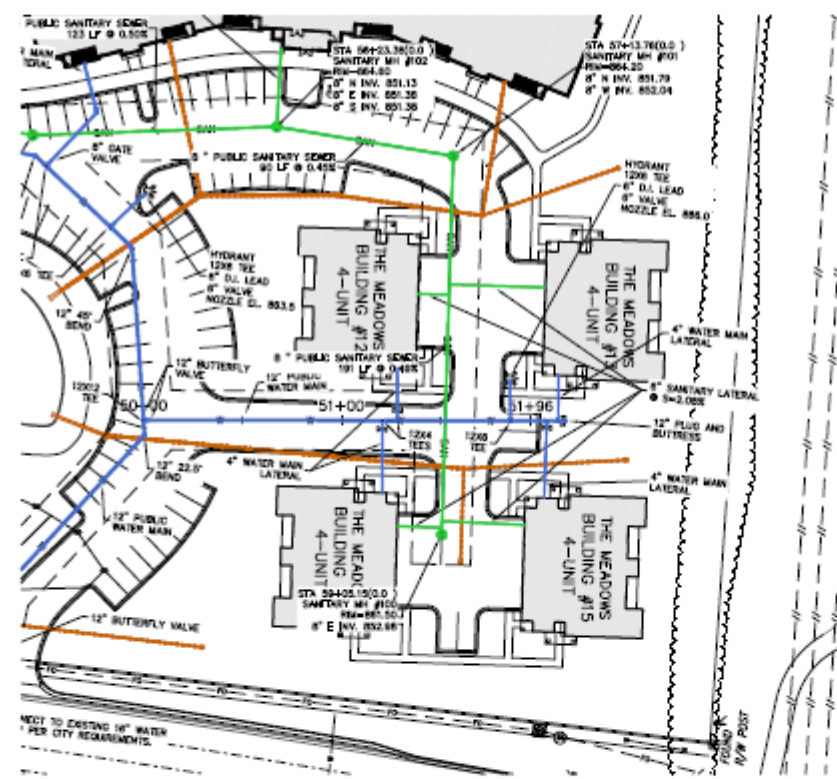
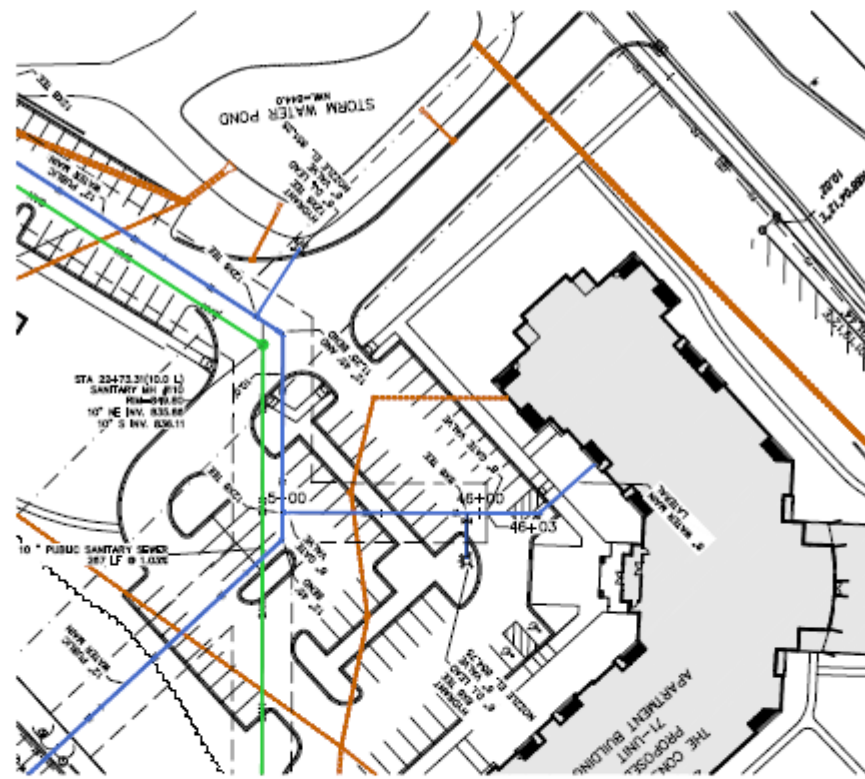
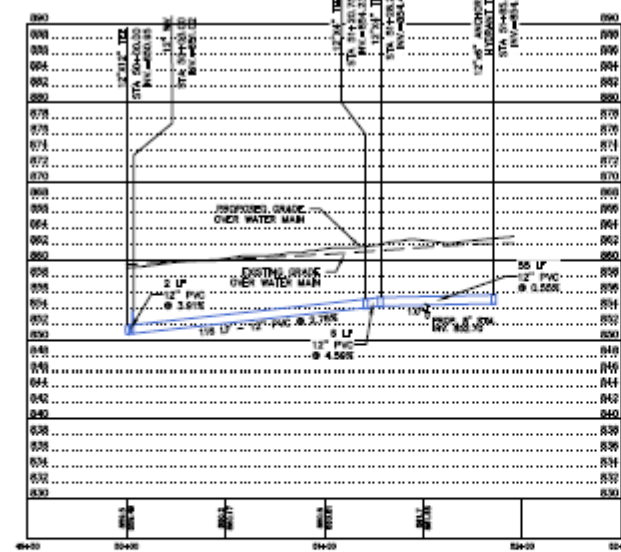
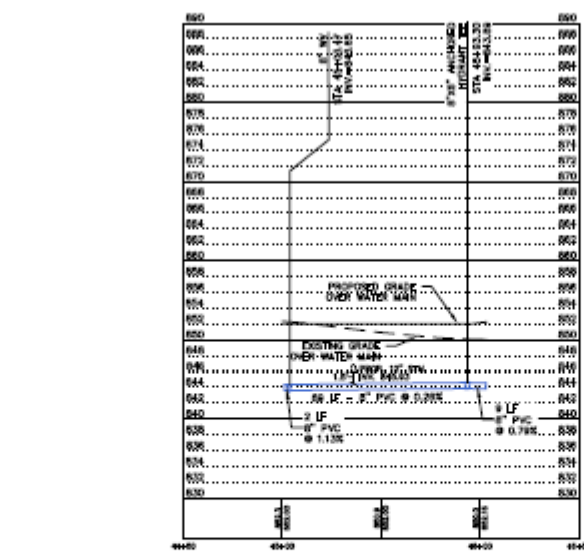
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BY: <u> </u>	DATE: <u> </u>	
NAME: <u> </u>	DATE: <u> </u>	

C4.4

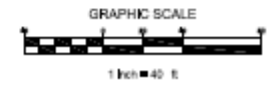
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE WATER AND SANITARY PLAN



- UTILITY NOTES**
- 1) ALL WATER MAIN MATERIALS AND INSTALLATION PER SECTION 2 OF THE CITY OF NEW BERLIN (SEWAGE) HANDBOOK.
 - 2) ALL SANITARY SEWER MATERIALS AND INSTALLATION PER SECTION 3 OF THE CITY OF NEW BERLIN (SEWAGE) HANDBOOK.
 - 3) ALL WORK IN THE RIGHT-OF-WAY PER CITY OF NEW BERLIN REPAIRS, ROAD RESTORATION PER CITY REQUIREMENTS.
 - 4) USE BUTTERFLY VALVES ON THE 12" WATER MAIN. USE GATE VALVES ON THE 8" WATER MAIN.



LEGEND	
	EXISTING STORM SEWER
	PROPOSED STORM SEWER
	EXISTING SANITARY SEWER
	PROPOSED SANITARY SEWER
	EXISTING WATER MAIN
	PROPOSED WATER MAIN
	BURIED GAS MAIN
	BURIED ELECTRIC

REVISIONS:

NO.	DATE	DESCRIPTION

CITY OF NEW BERLIN

engineering
civil design and consulting

1000 E. 10th St.
New Berlin, WI 53051
Phone: 262.331.1111
Fax: 262.331.1112
www.cjengineering.com

PUBLIC WATER MAIN & SANITARY SEWER
THE CONSERVANCY

APPROVED BY:

CITY ENGINEER	DATE	DATE

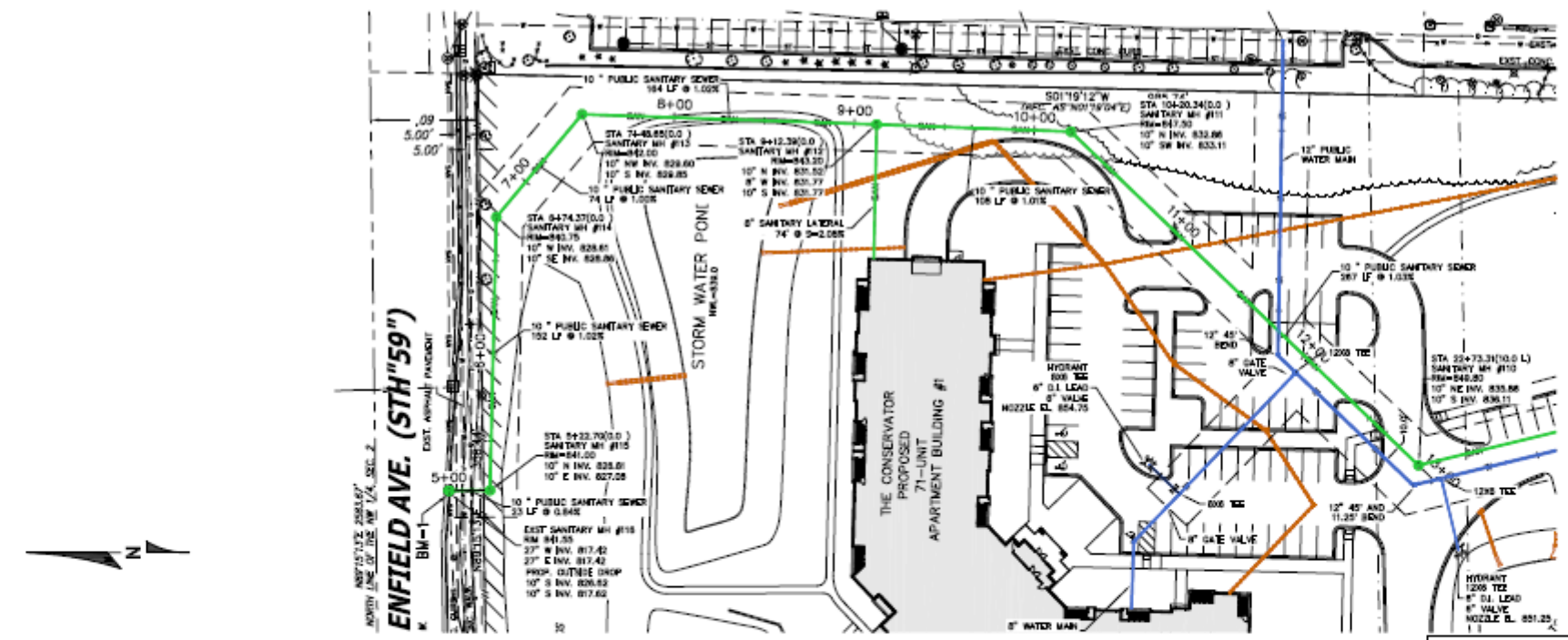
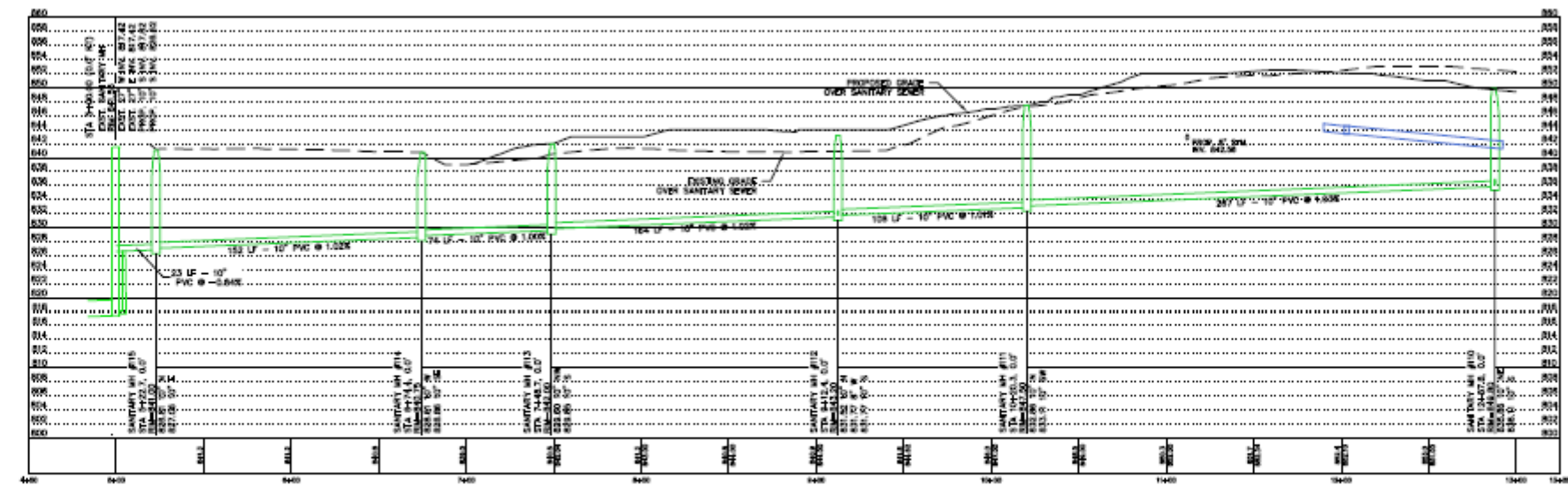
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VERT. 1"=4'

C4.5

THE CONSERVANCY

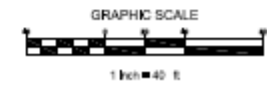
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SITE WATER AND SANITARY PLAN



- UTILITY NOTES
- 1) ALL WATER MAIN MATERIALS AND INSTALLATION PER SECTION 2 OF THE CITY OF NEW BERLIN DEVELOPMENT HANDBOOK.
 - 2) ALL SANITARY SEWER MATERIALS AND INSTALLATION PER SECTION 3 OF THE CITY OF NEW BERLIN DEVELOPMENT HANDBOOK.
 - 3) ALL WORK IN THE RIGHT-OF-WAY FOR CITY OF NEW BERLIN REQUIREMENTS. ROAD RESTORATION PER CITY REQUIREMENTS.
 - 4) USE BUTTERFLY VALVES ON THE 12" WATER MAIN. USE GATE VALVES ON THE 8" WATER MAIN.

LEGEND	
	EXISTING STORM SEWER
	PROPOSED STORM SEWER
	EXISTING SANITARY SEWER
	PROPOSED SANITARY SEWER
	EXISTING WATER MAIN
	PROPOSED WATER MAIN
	BURIED GAS MAIN
	OVER HEAD NERC
	BURIED ELECTRIC



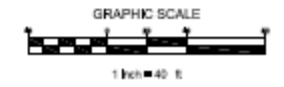
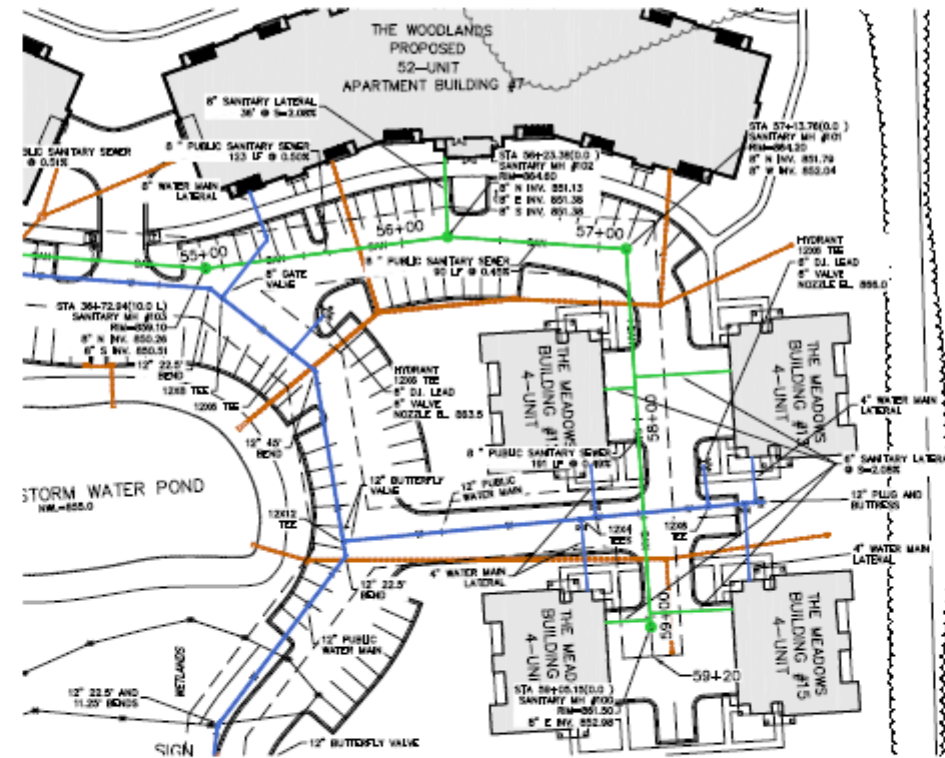
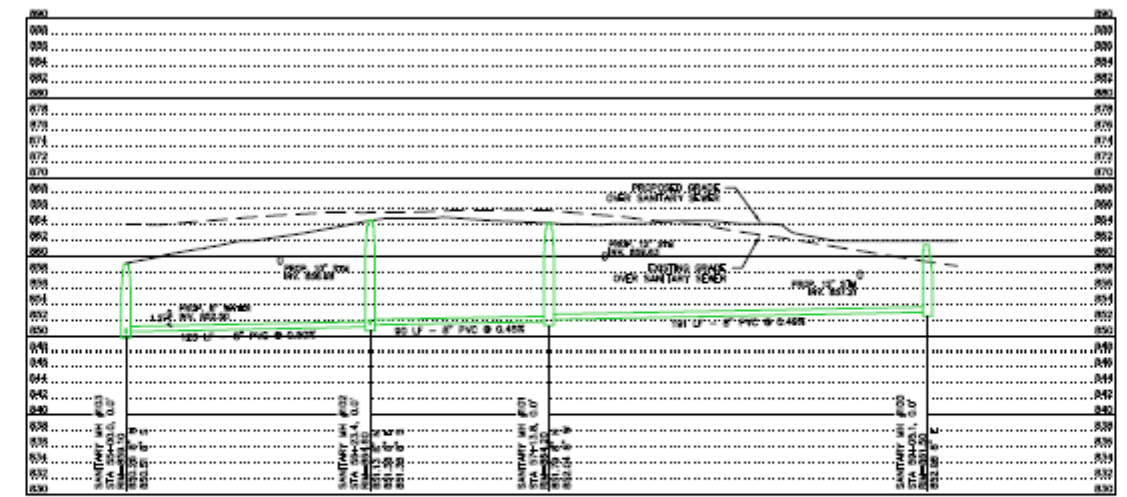
CJE NO.: CJE2434R5

CITY OF NEW BERLIN	
CJ engineering civil design and consulting 1000 ROUTE 100 NEW BERLIN, CT 06051 PHONE: 860.399.1000	
PUBLIC WATER MAIN & SANITARY SEWER THE CONSERVANCY	
APPROVED BY: _____	
CITY ENGINEER	DATE: _____
SCALE: 1"=40'	DATE: _____
BY: _____	DATE: _____
CHECKED: _____	DATE: _____
C4.6	

THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE WATER AND SANITARY PLAN



LEGEND	
	EXISTING STORM SEWER
	PROPOSED STORM SEWER
	EXISTING SANITARY SEWER
	PROPOSED SANITARY SEWER
	EXISTING WATER MAIN
	PROPOSED WATER MAIN
	BURIED GAS MAIN
	OVER HEAD WIRE
	BURIED ELECTRIC

- UTILITY NOTES
- 1) ALL WATER MAIN MATERIALS AND INSTALLATION PER SECTION 2 OF THE CITY OF NEW BERLIN DEVELOPMENT HANDBOOK.
 - 2) ALL SANITARY SEWER MATERIALS AND INSTALLATION PER SECTION 3 OF THE CITY OF NEW BERLIN DEVELOPMENT HANDBOOK.
 - 3) ALL WORK IN THE RIGHT-OF-WAY FOR CITY OF NEW BERLIN REQUIREMENTS. ROAD RESTORATION PER CITY REQUIREMENTS.
 - 4) USE BUTTERFLY VALVES ON THE 12" WATER MAIN. USE GATE VALVES ON 8-48" WATER MAIN.

CJE NO.: CJE2434R5

REVISIONS

DATE

BY

DESCRIPTION

CITY OF NEW BERLIN

cj engineering

civil design and consulting

APPROVED BY:

DATE

SCALE

1"=40'

DATE

12/1/2024

BY

C. JOHNSON

PUBLIC WATER MAIN & SANITARY SEWER

THE CONSERVANCY

C4.7

36

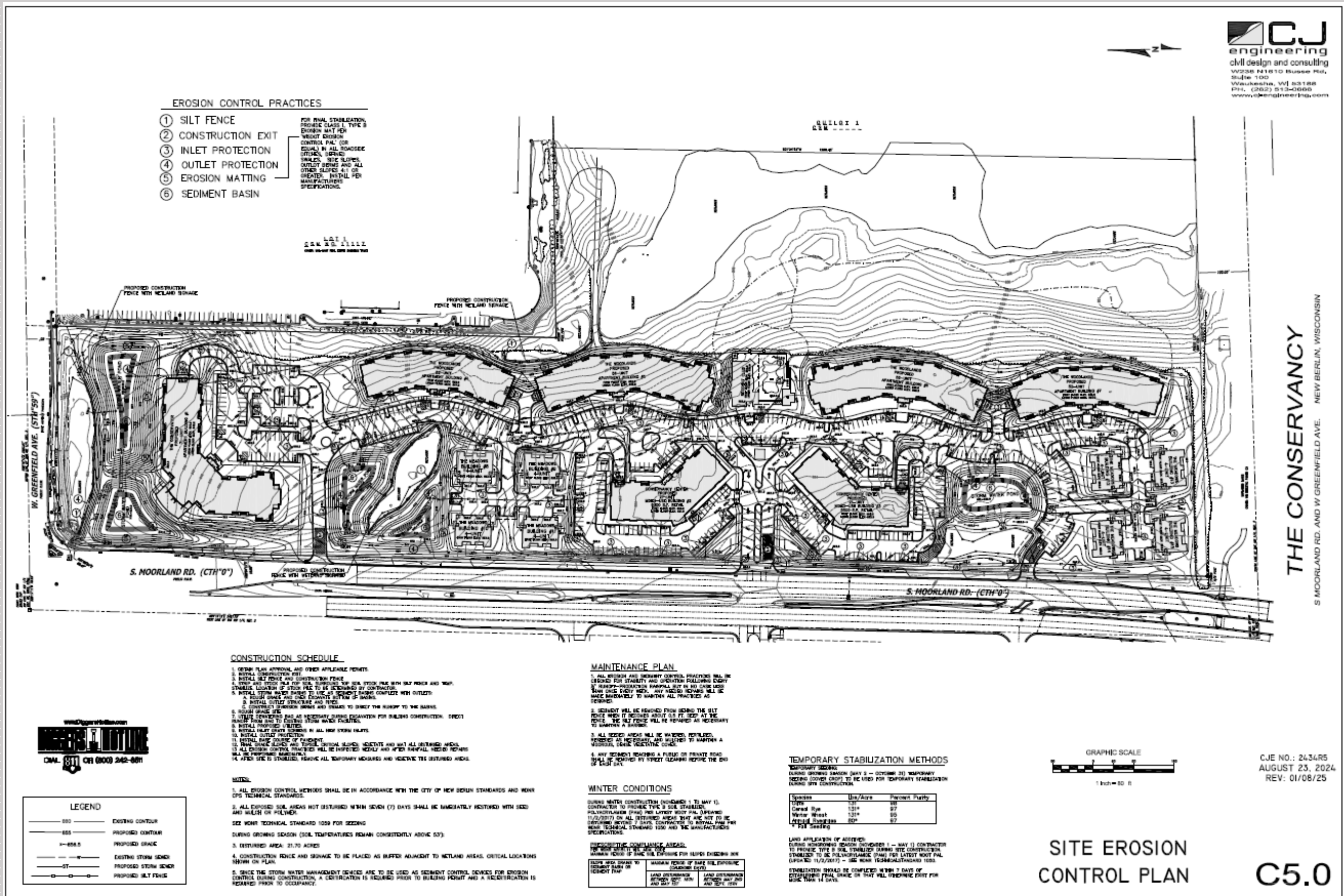
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Page 49 of 851

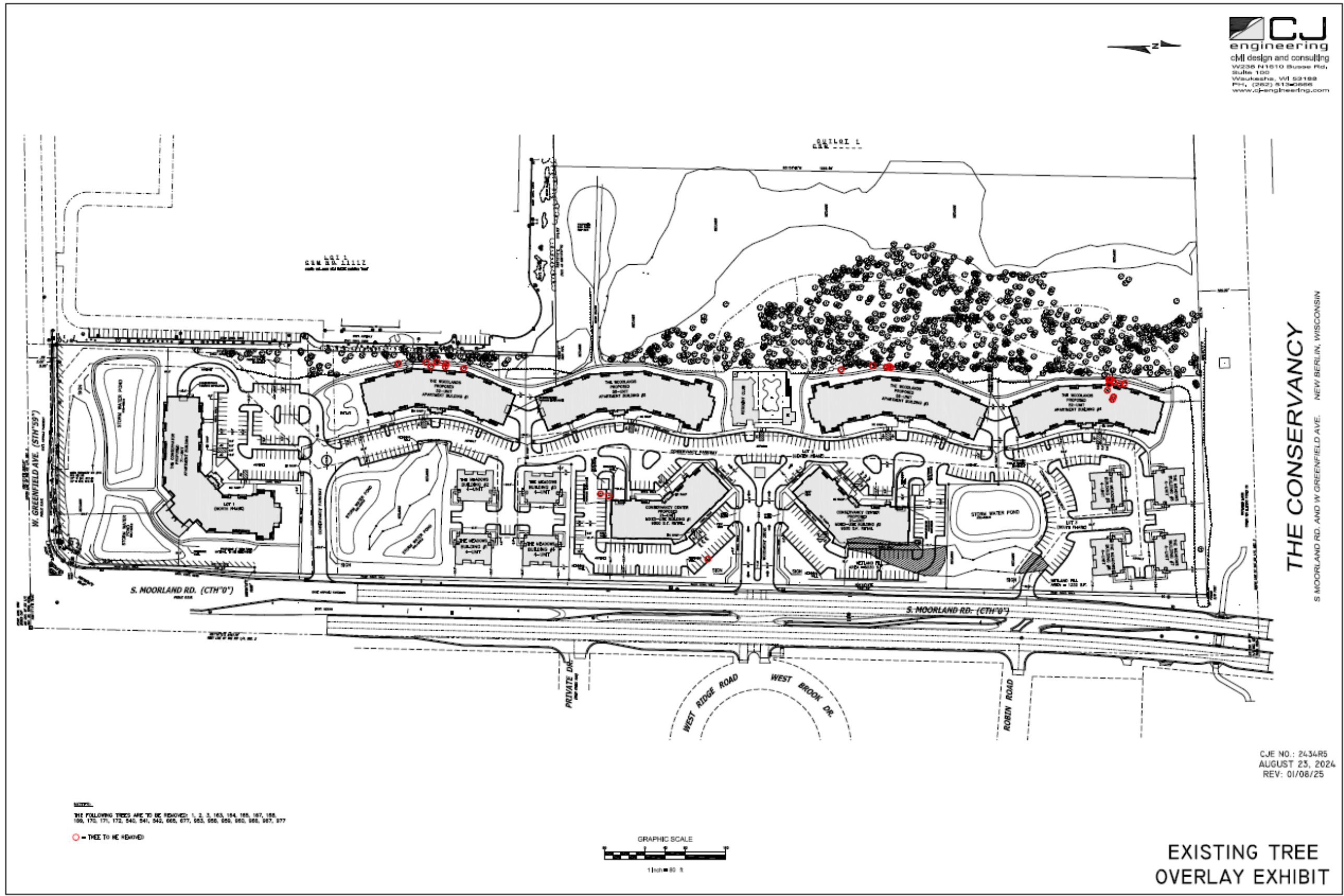
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

EROSION CONTROL PLAN



THE CONSERVANCY A NEIGHBORHOOD RESERVE EXISTING TREE OVERLAY EXHIBIT



THE CONSERVANCY

NEIGHBORHOOD BUILDINGS

- Conservancy Center
- The Conservator
- Woodlands Residences
- Meadows Residences
- The Conservancy Resident Club
- Neighborhood Amenities
 - The Reserve at The Conservancy
 - New Berlin Recreation Trail



T H E CONSERVANCY

Residential Buildings

- Conservancy Center
- The Conservator
- Woodlands Residences
- Meadows Residences
- The Conservancy Resident Club



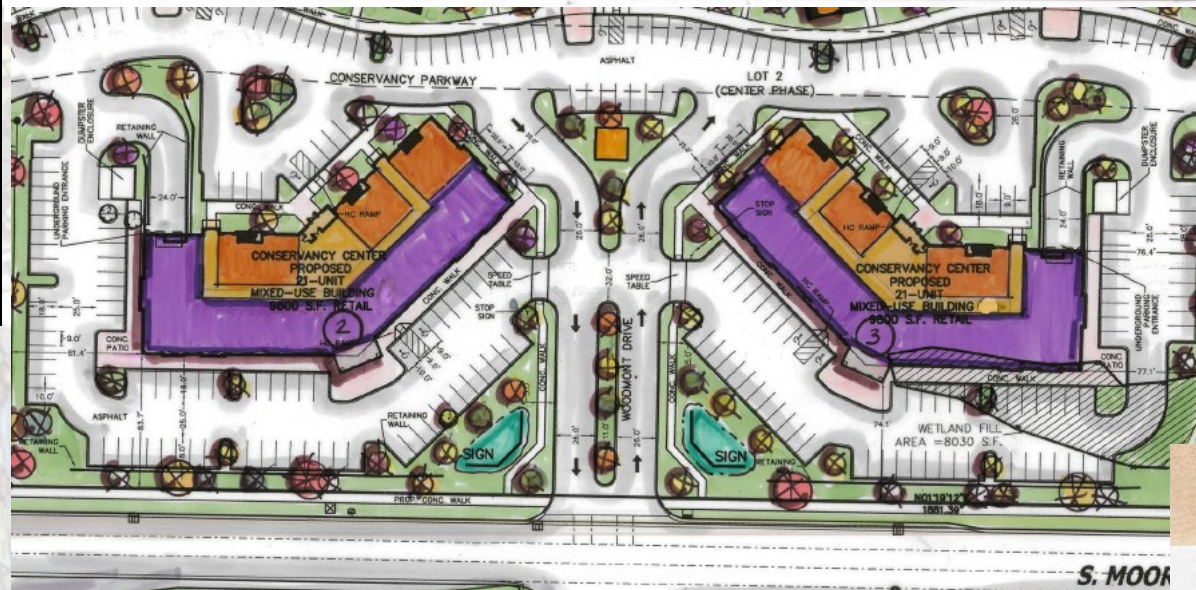
All Architectural Images For Character and Subject to Change

THE CONSERVANCY

CONSERVANCY CENTER

- Retail/Office
 - 19,600 Sq Ft
 - 98 Surface
 - Parking Ratio 1.00 : 200 Sq Ft
- 46 Residences
 - 20 one-bedroom
 - 26 two-bedroom
- 145 parking stalls
 - 68 garage spaces
 - 77 surface
 - Ratio 3.15 : 1

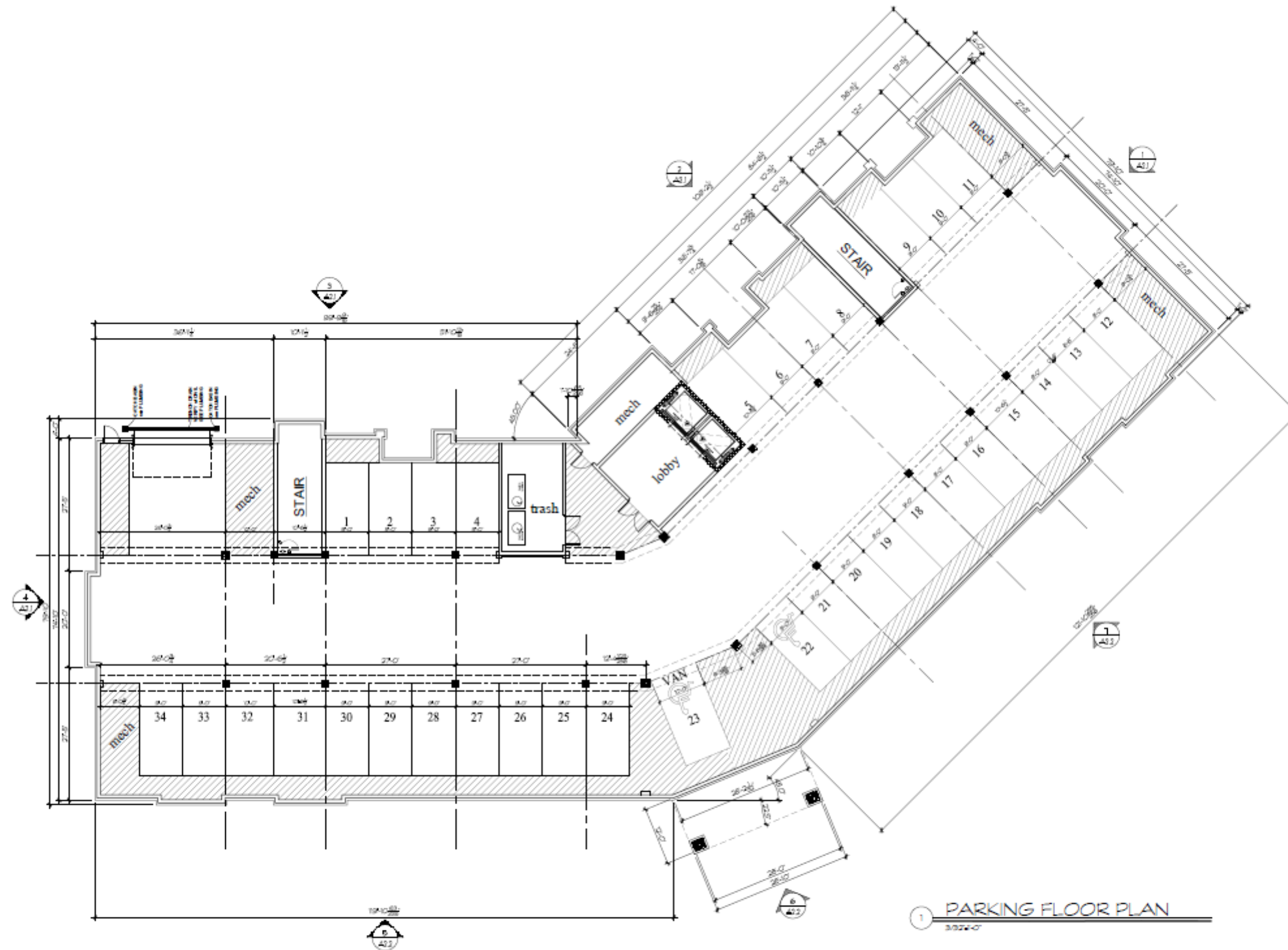
Surface parking shall be shared between Retail/Office Use primarily from 8:00 am - 5:00 pm with Residential Use from 5:00 pm - 8:00 am



Retail – Ground Level

All Architectural Images For Character and Subject to Change





1 PARKING FLOOR PLAN
3/322'-0"



Building #2 The Conservancy Center

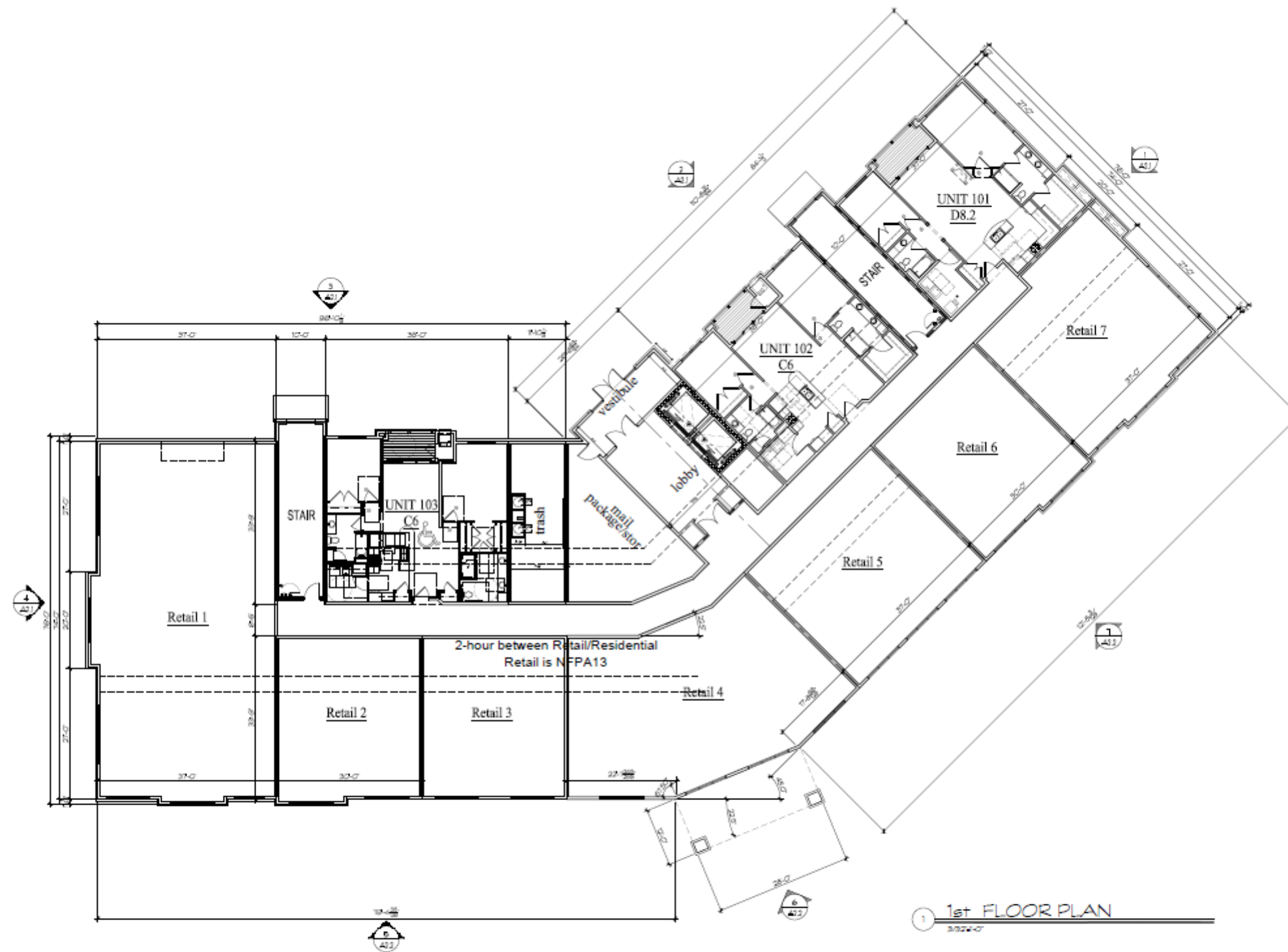
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Sheet Title
Parking Floor Plan

Issued For: _____ Date: _____
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NOT FOR CONSTRUCTION

Date: 1/3/2025
Job NO.: 25101.002
Drawn By: djj
Sheet No.: **A1.0**



Building #2 The Conservancy Center

50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
NEW BERLIN, WISCONSIN

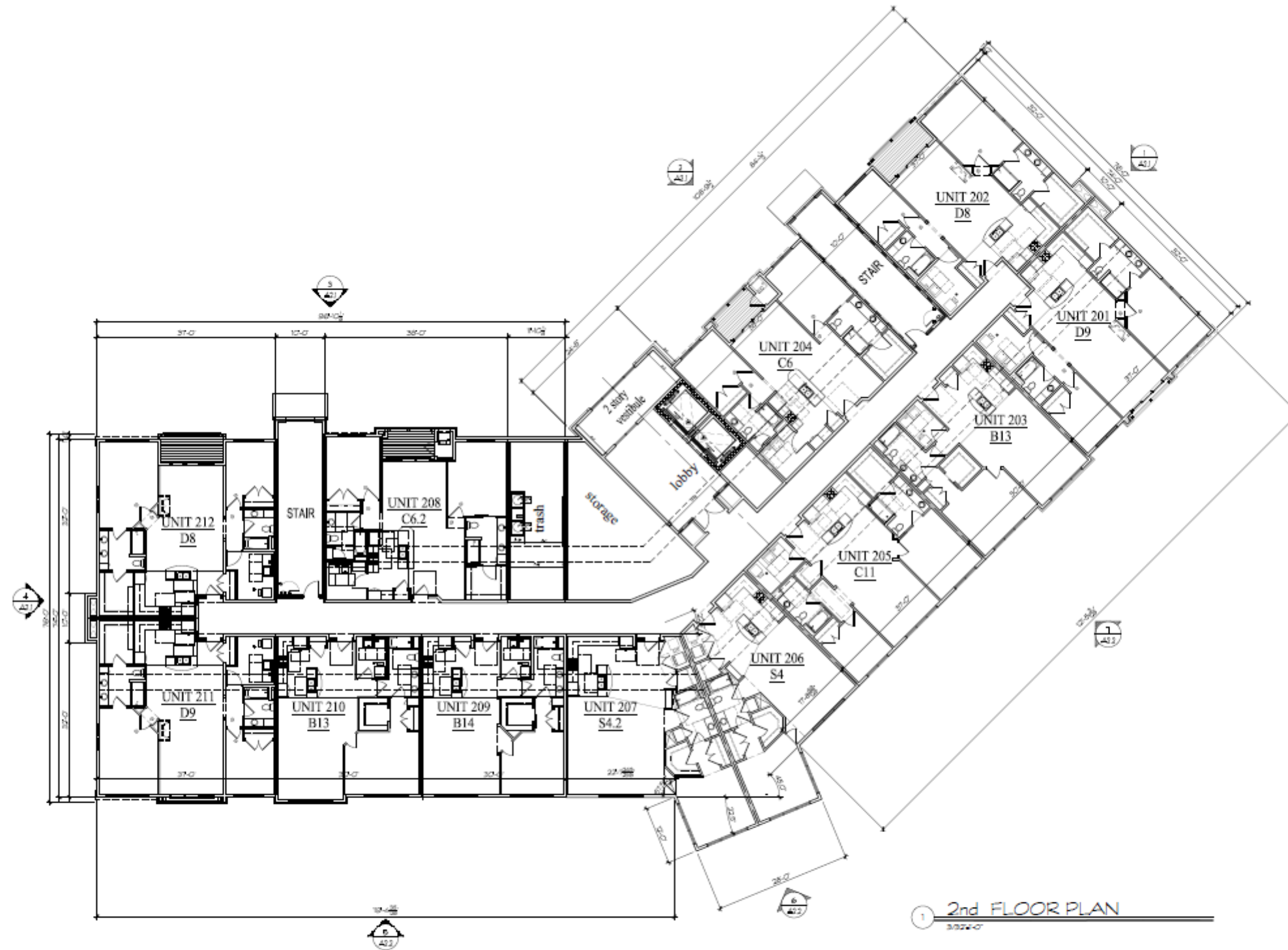
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Sheet Title
1st Floor Plan

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Date: 1/3/2025
Job NO.: 25101.002
Drawn By: dj
Sheet No.:

A1.1



1 2nd FLOOR PLAN
3,922'-0"



Building #2
The Conservancy Center

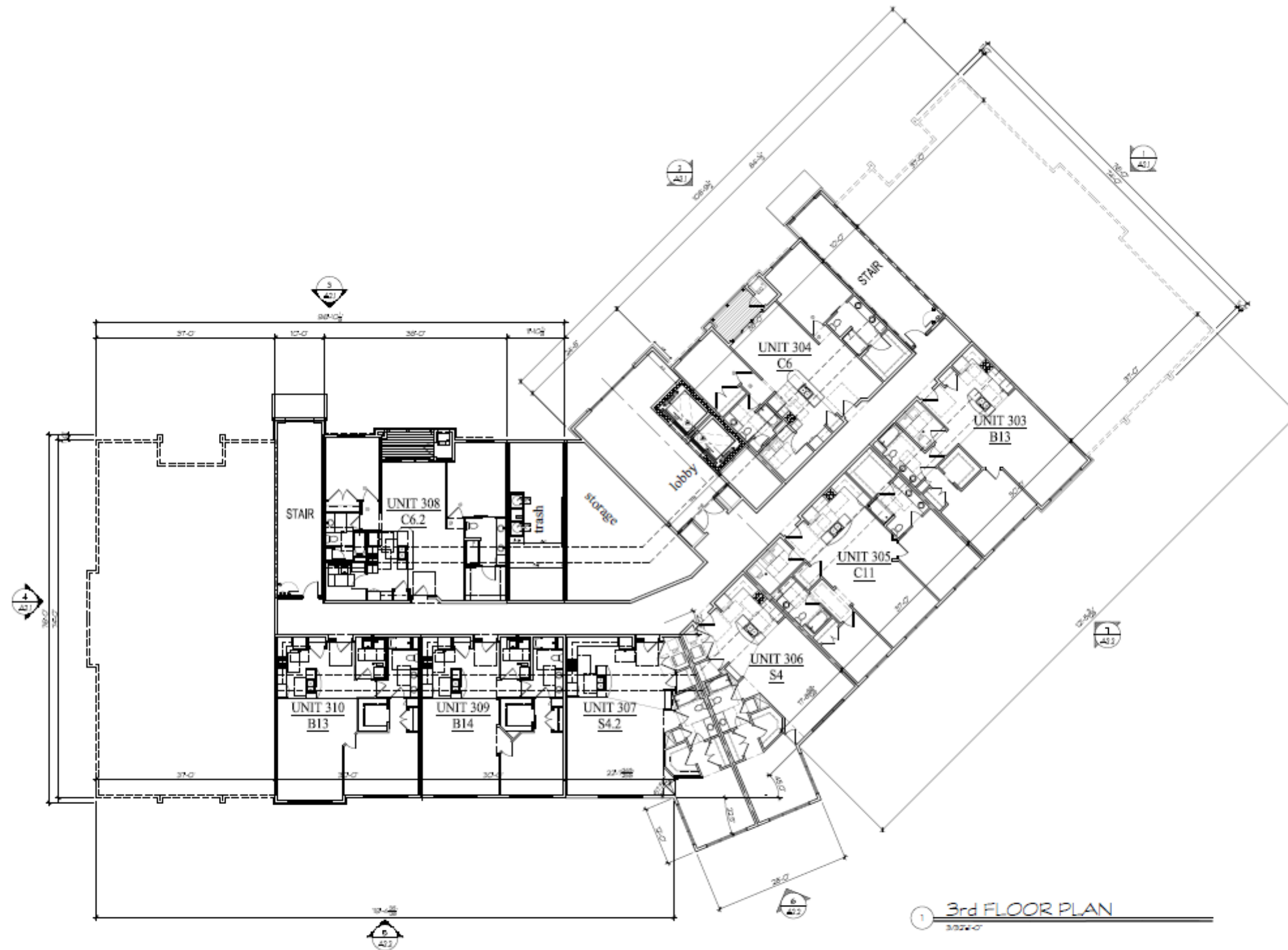
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Sheet Title
2nd Floor Plan

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		Job NO.:	25101.002
		Drawn By:	daj
		Sheet No.:	A1.2

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



Building #2 The Conservancy Center

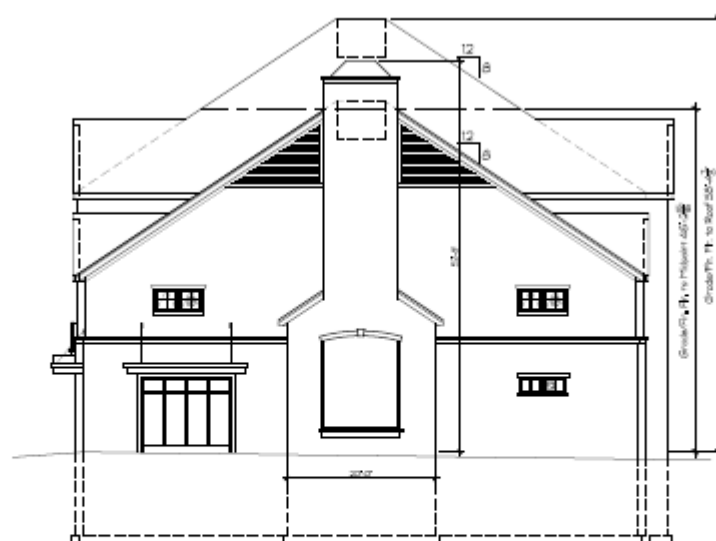
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Sheet Title
3rd Floor Plan

Issued For:	Date:	1/3/2025
Job NO.:	25101.002	
Drawn By:	dj	
Sheet No.	A1.3	

PRELIMINARY DRAWING
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1 SouthEast Elevation
3.0224-07



2 NorthEast Elevation
3.0224-07



3 East Elevation
3.0224-07



4 North Elevation
3.0224-07



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-489-2530

Building #2
The Conservancy Center

50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
NEW BERLIN, WISCONSIN

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Sheet Title
Exterior Elevations

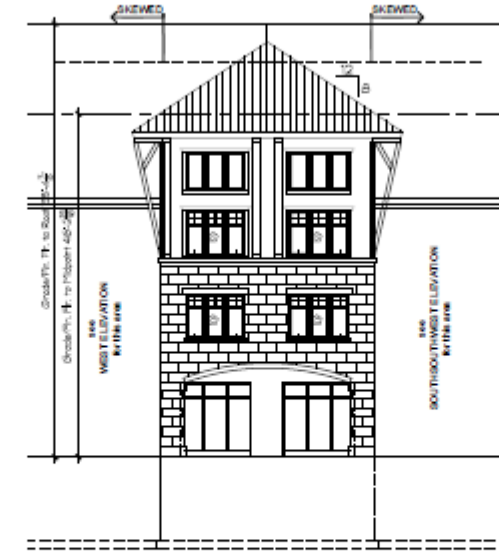
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Date: 1/3/2025
Job NO: 25101.002
Drawn By: djs
Sheet No.

A2.1



5 West Elevation
3.0224'-0"



6 SouthWest Elevation
3.0224'-0"



7 South SouthWest Elevation
3.0224'-0"



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-469-2530

Building #2
The Conservancy Center

SO. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
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Sheet Title
Exterior Elevations

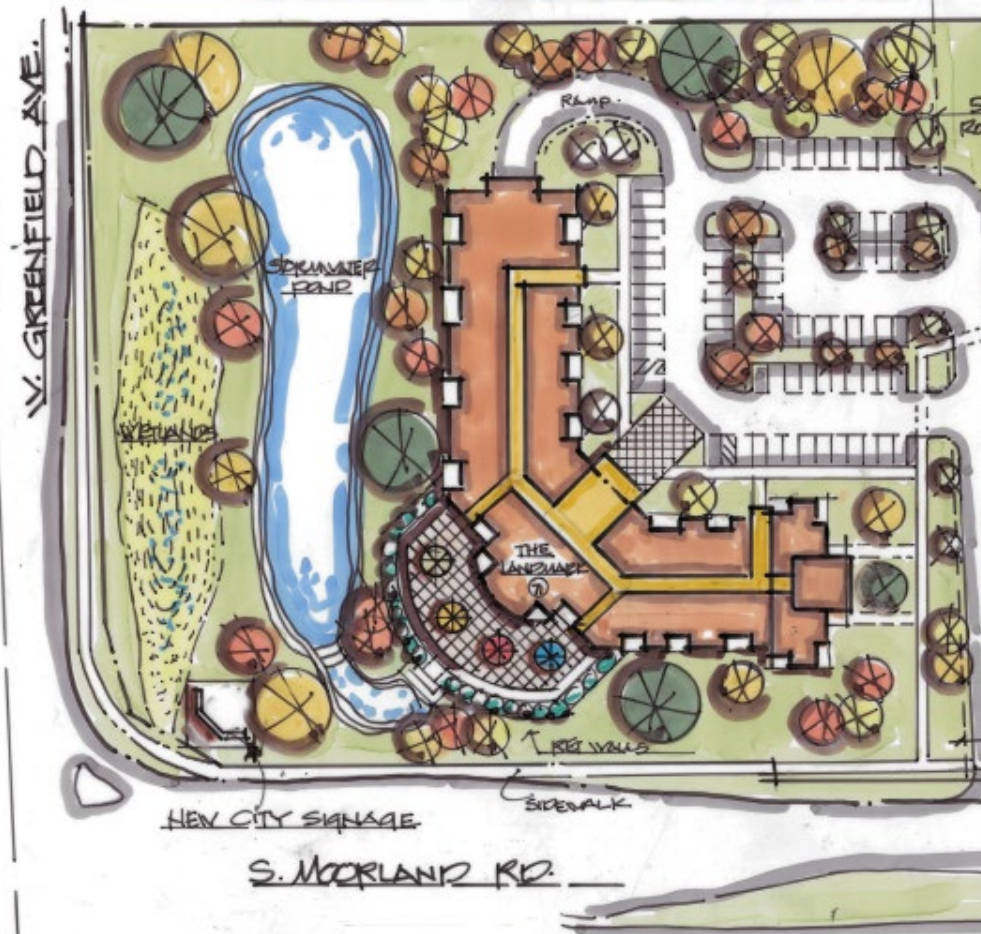
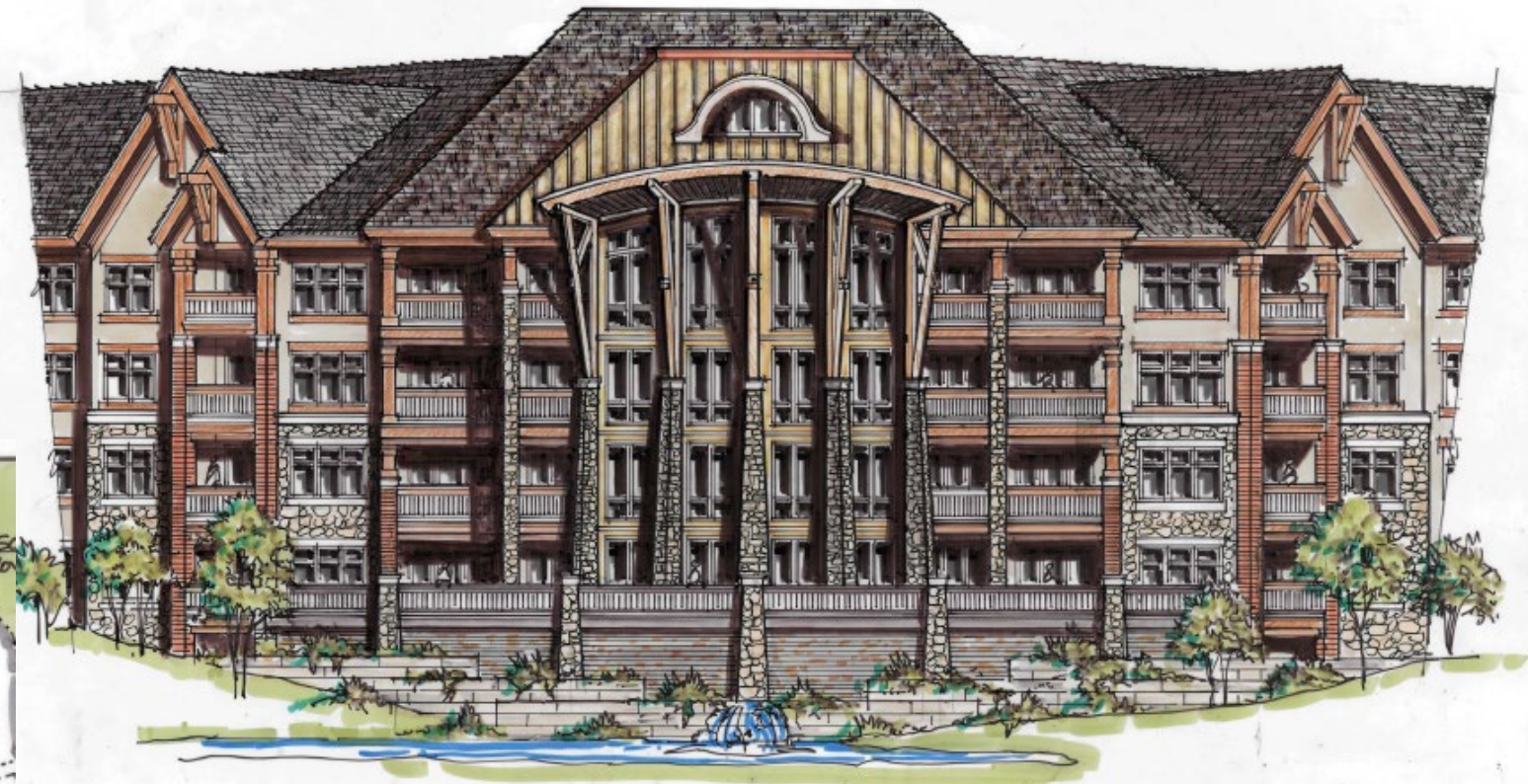
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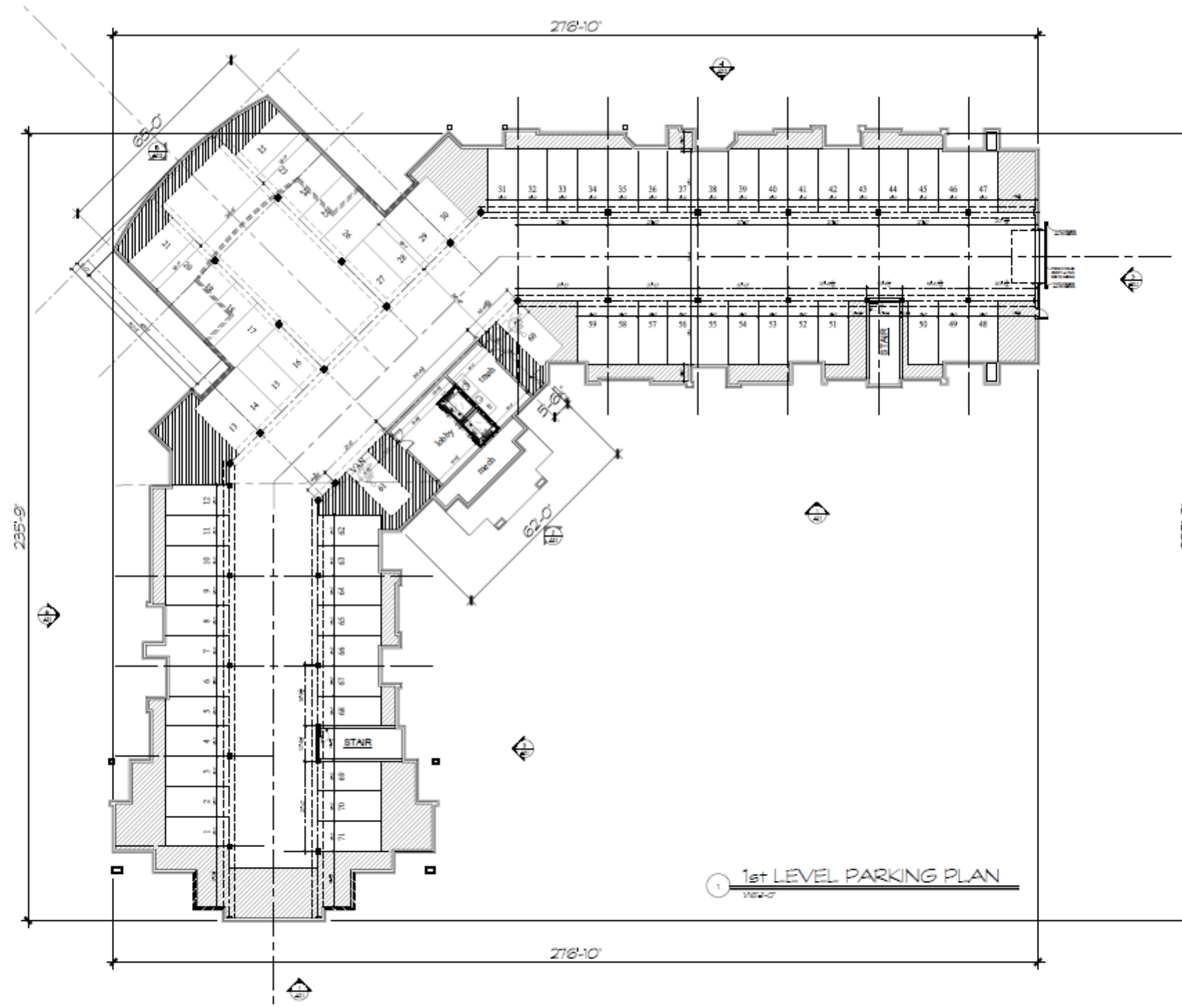
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Job NO: 25101.002
Drawn By: dgj
Sheet No.
A2.2

THE CONSERVANCY

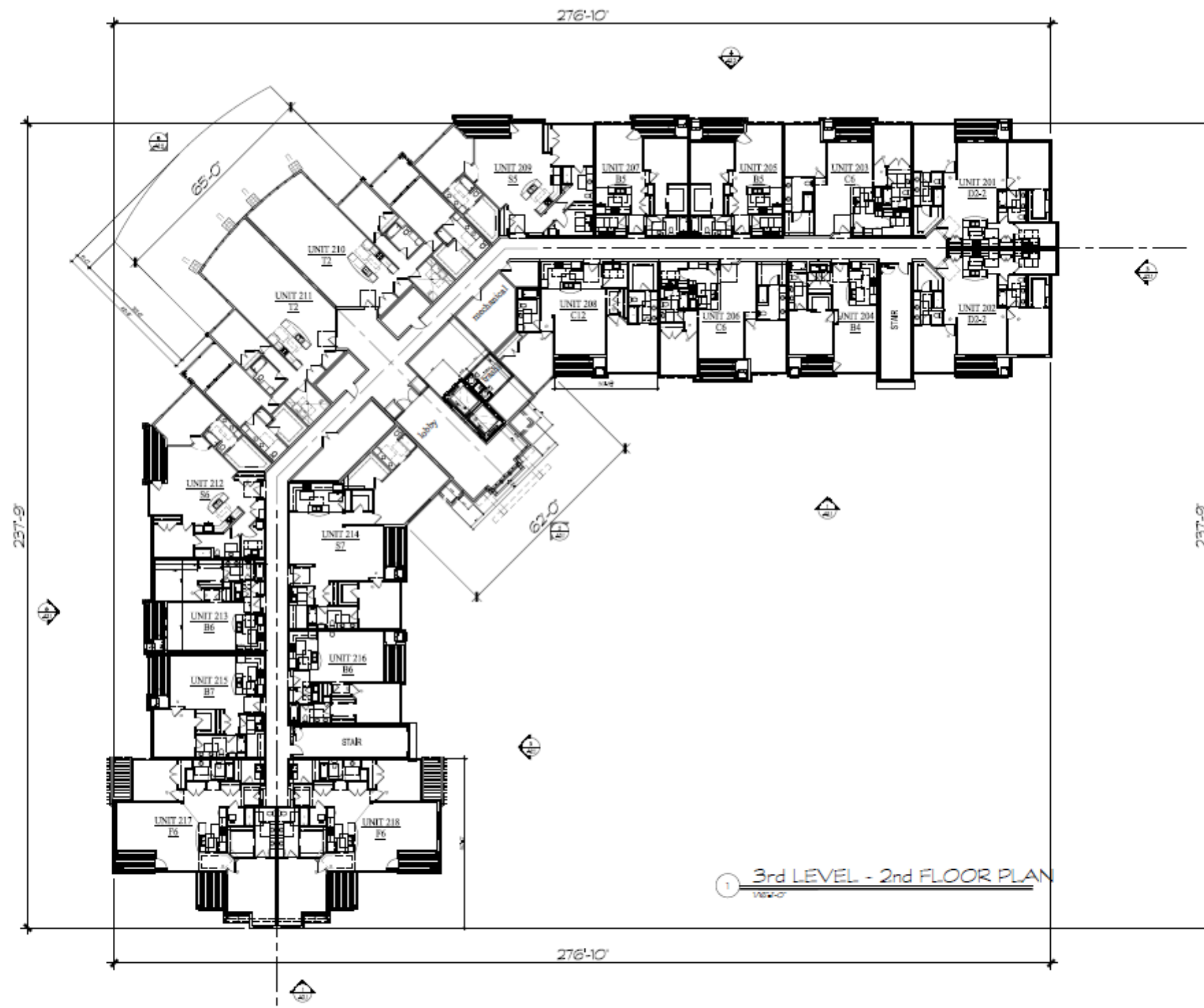
THE CONSERVATOR

- 71 Residences
 - 28 one-bedroom
 - 43 two-bedroom
- 144 parking stalls
 - 71 garage spaces
 - 73 surface
 - Ratio 2.03 : 1





 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-409-2530	Building #1 The Conservator		TDI ASSOCIATES, INC. All Rights Reserved		Sheet Title 1st Level Parking Plan		Issued For: _____ Date: 1/9/2025	
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Building #1 The Conservator

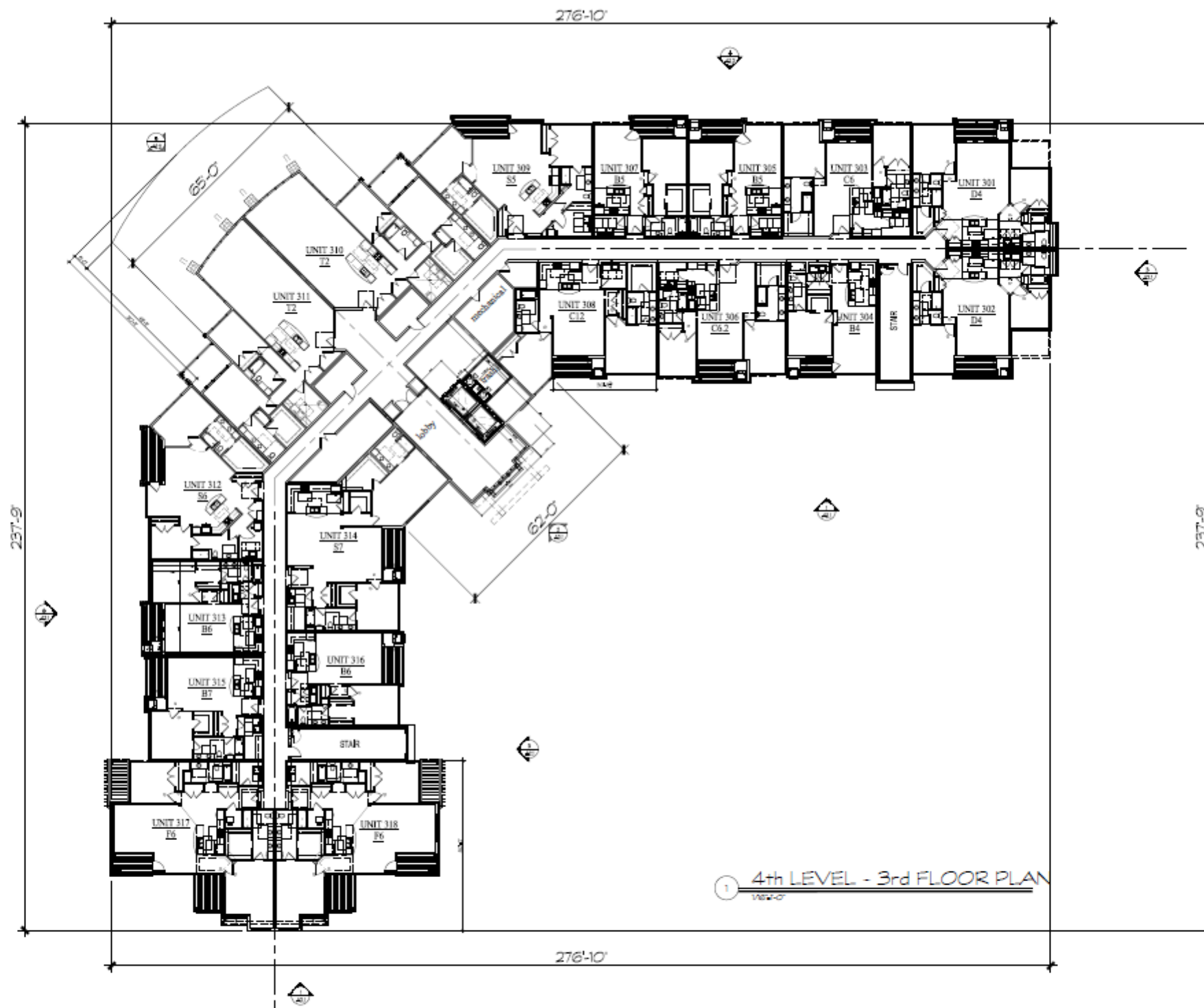
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Sheet Title
3rd Level
2nd Floor Plan

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	Drawn By:		daj
	Sheet No.:		A1.2

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① 4th LEVEL - 3rd FLOOR PLAN
1/2"=1'-0"



Building #1
The Conservator

50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
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Sheet Title
4th Level
3rd Floor Plan

Issued For:

Date:

Date: 1/3/2025

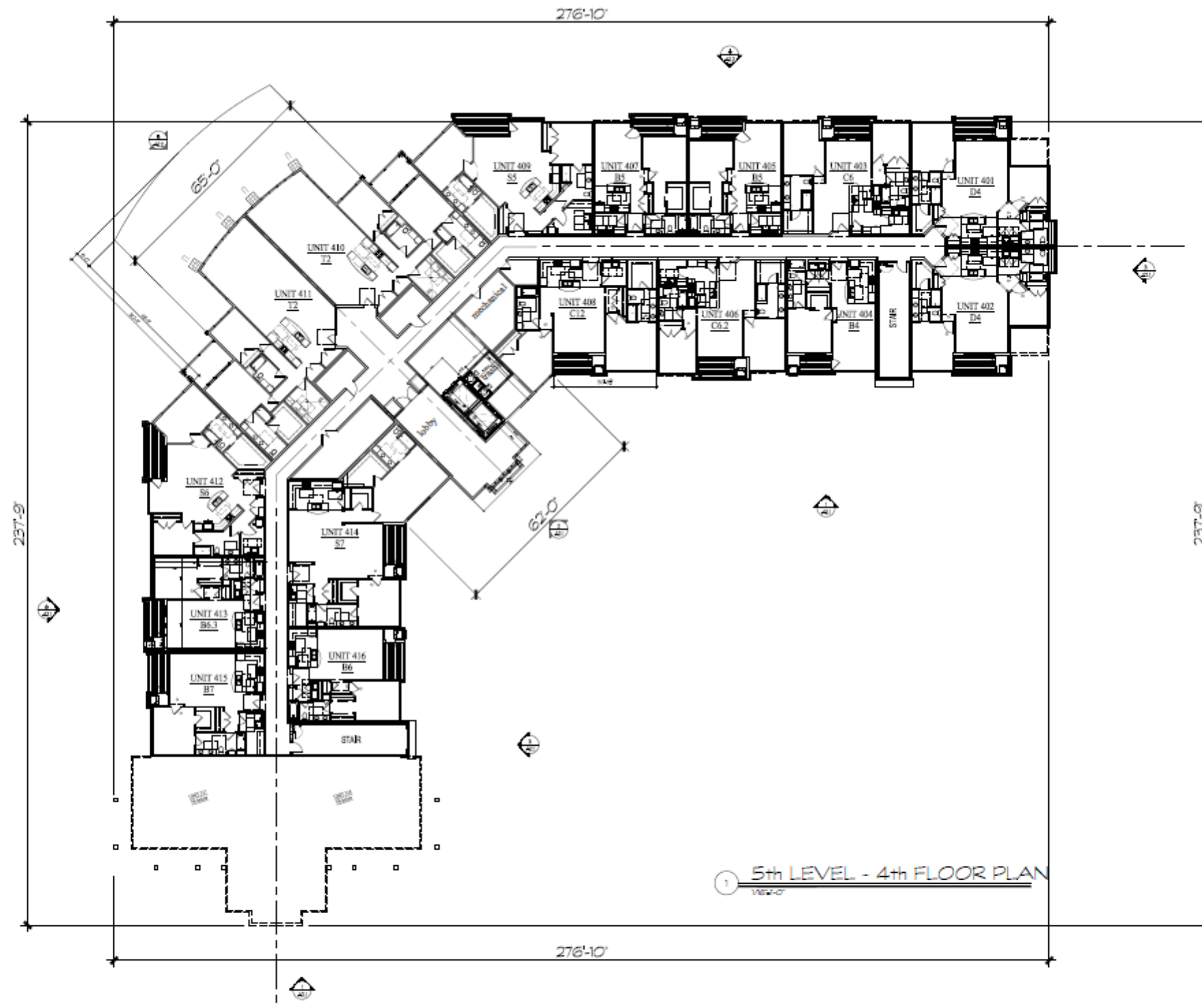
Job NO: 25101.001

Drawn By: djg

Sheet No.

A1.3

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Building #1 The Conservator

50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
NEW BERLIN, WISCONSIN

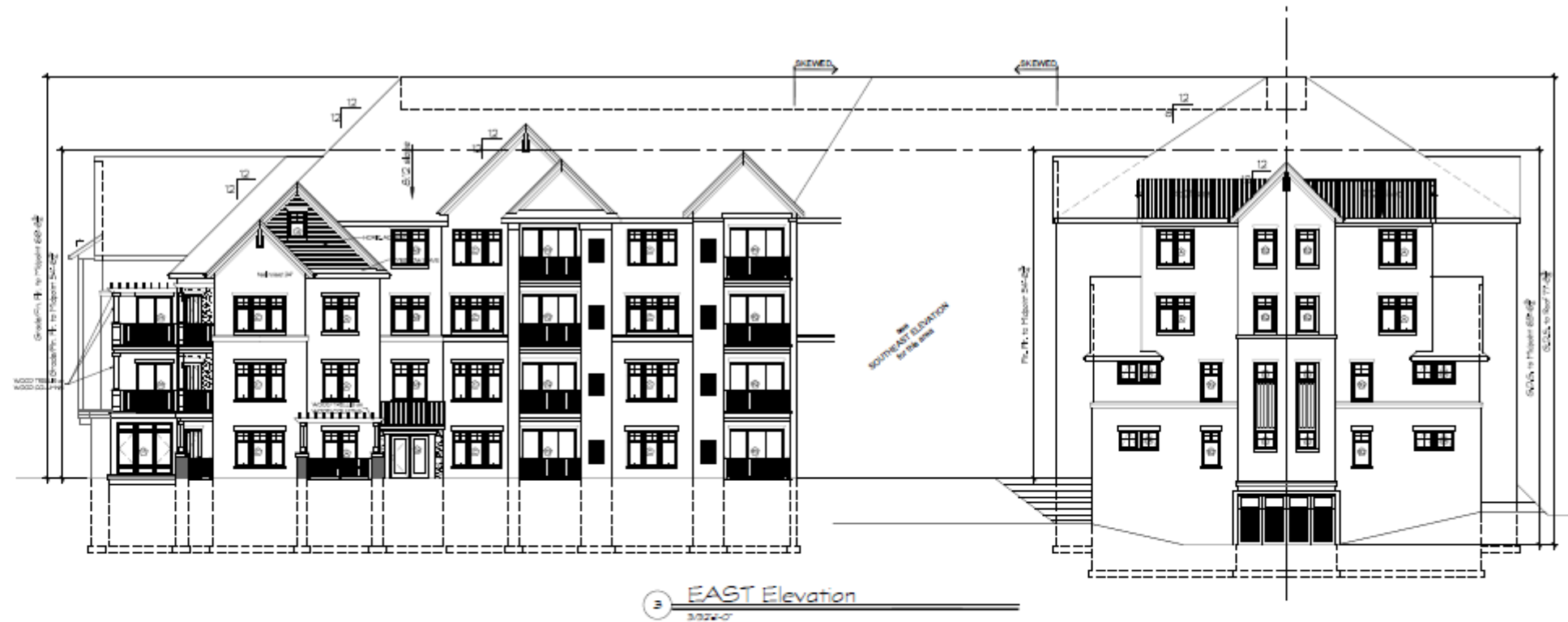
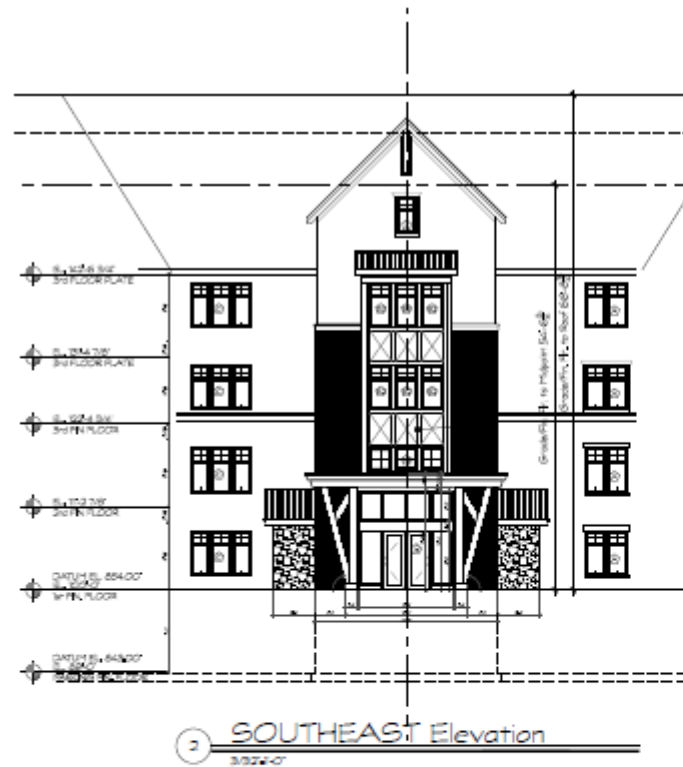
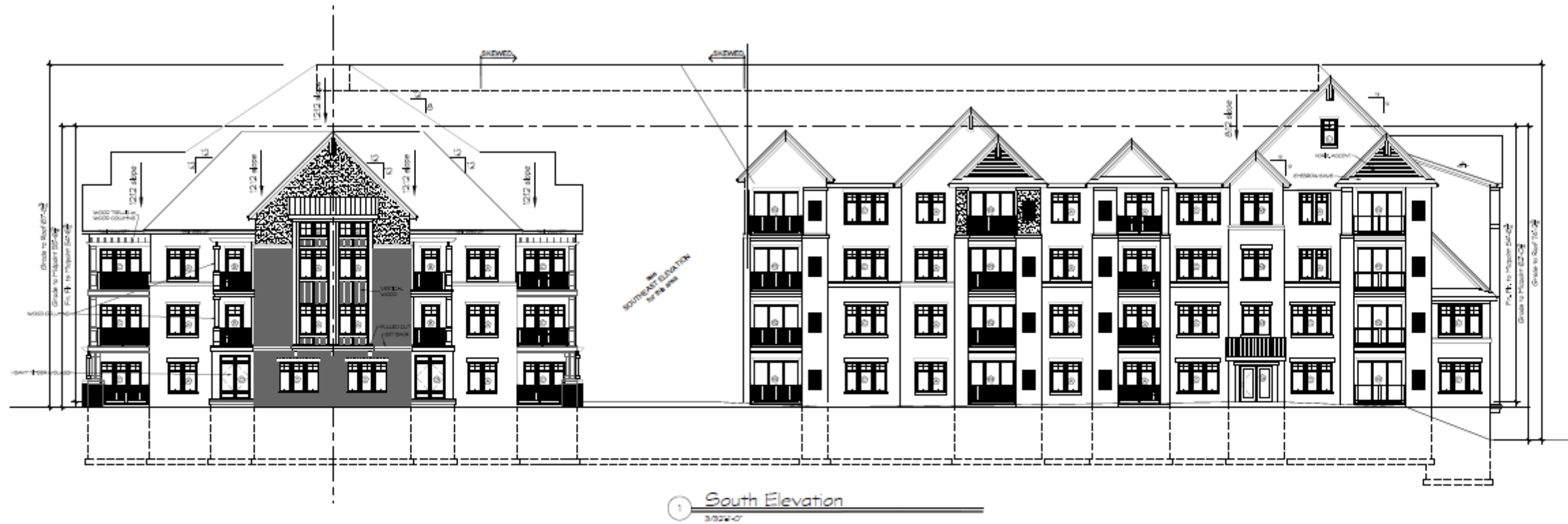
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Sheet Title
5th Level
4th Floor Plan

Issued For: _____ Date: _____
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Date: 1/3/2025
Job NO.: 25101.001
Drawn By: djs
Sheet No.:

A1.4



 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-489-2550	Building #1 The Conservator		TDI ASSOCIATES, INC. All Rights Reserved OWNERSHIP OF DOCUMENTS This document, and the ideas and design incorporated herein, as an instrument of professional service, is the sole property of TDI Associates, Inc., and is not to be used in whole or in part for any other project or purpose without the expressed written authorization of TDI Associates, Inc.		Sheet Title Exterior Elevations	Issued For: _____ Date: _____	Date: 1/3/2025 Job NO.: 25101.001 Drawn By: dj Sheet No. _____
	SO. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59") NEW BERLIN, WISCONSIN						

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A2.1



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THE CONSERVANCY

MEADOWS RESIDENCES

- 32 Residences
 - 16 two-bedroom
 - 16 three-bedroom
- 75 parking stalls
 - 32 garage spaces
 - 43 surface
 - Ratio 2.34:1



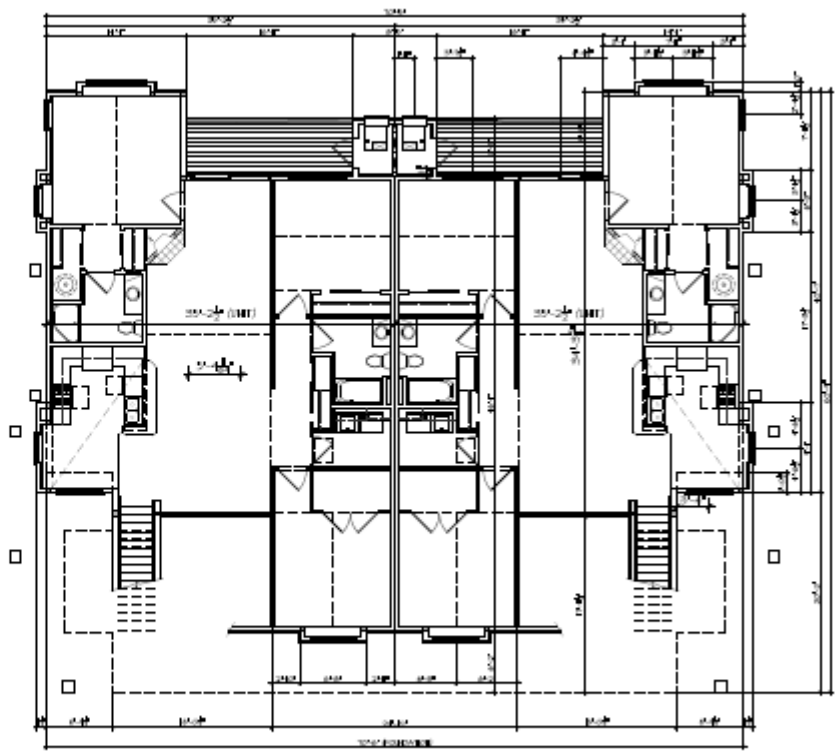
MEADOWS NORTH



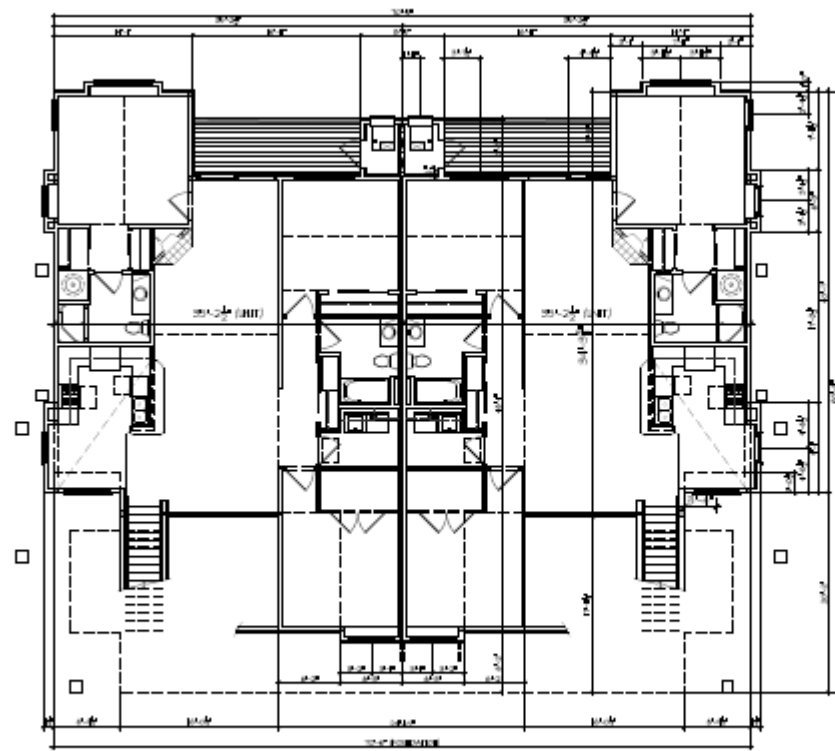
MEADOWS SOUTH



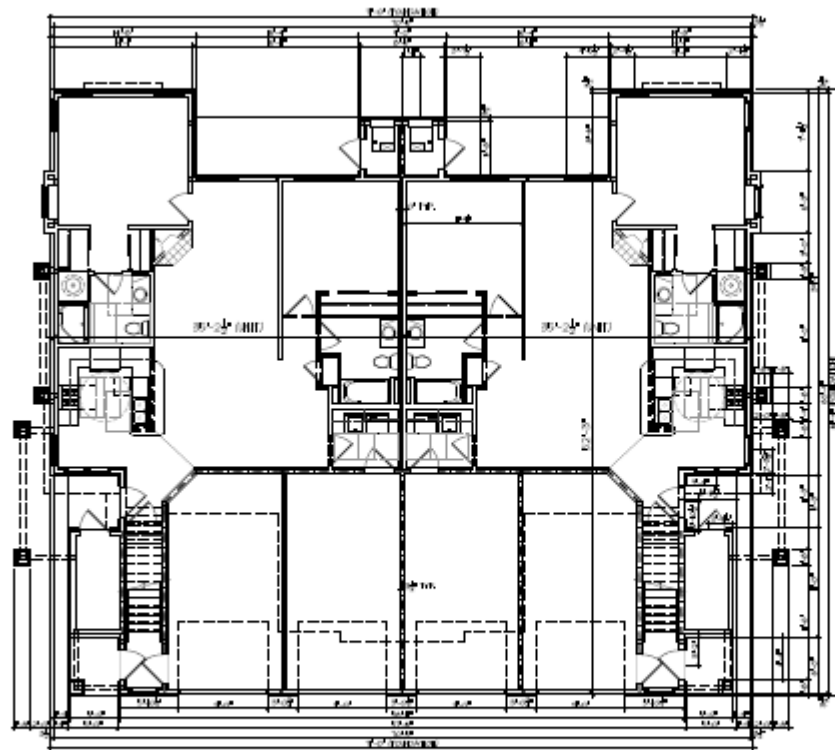
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3 SECOND FLOOR PLAN-MODEL 'B'
1/8" = 1'-0"



2 SECOND FLOOR PLAN-MODEL 'A'
1/8" = 1'-0"



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



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING

NR W22350 JOHNSON DRIVE, SUITE B4
WALKESHA, WISCONSIN 53186
PHONE 262-409-2530 FAX 262-409-2531

4-UNIT APARTMENT
@ The Conservancy
50 Moorland Rd(CTH 'D') & W. Greenfield Ave.(STH'54")
BROOKFIELD, WISCONSIN

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Sheet Title
Overall Floor
Plans & Notes

Issued For: _____ Date: _____

PRELIMINARY DRAWING

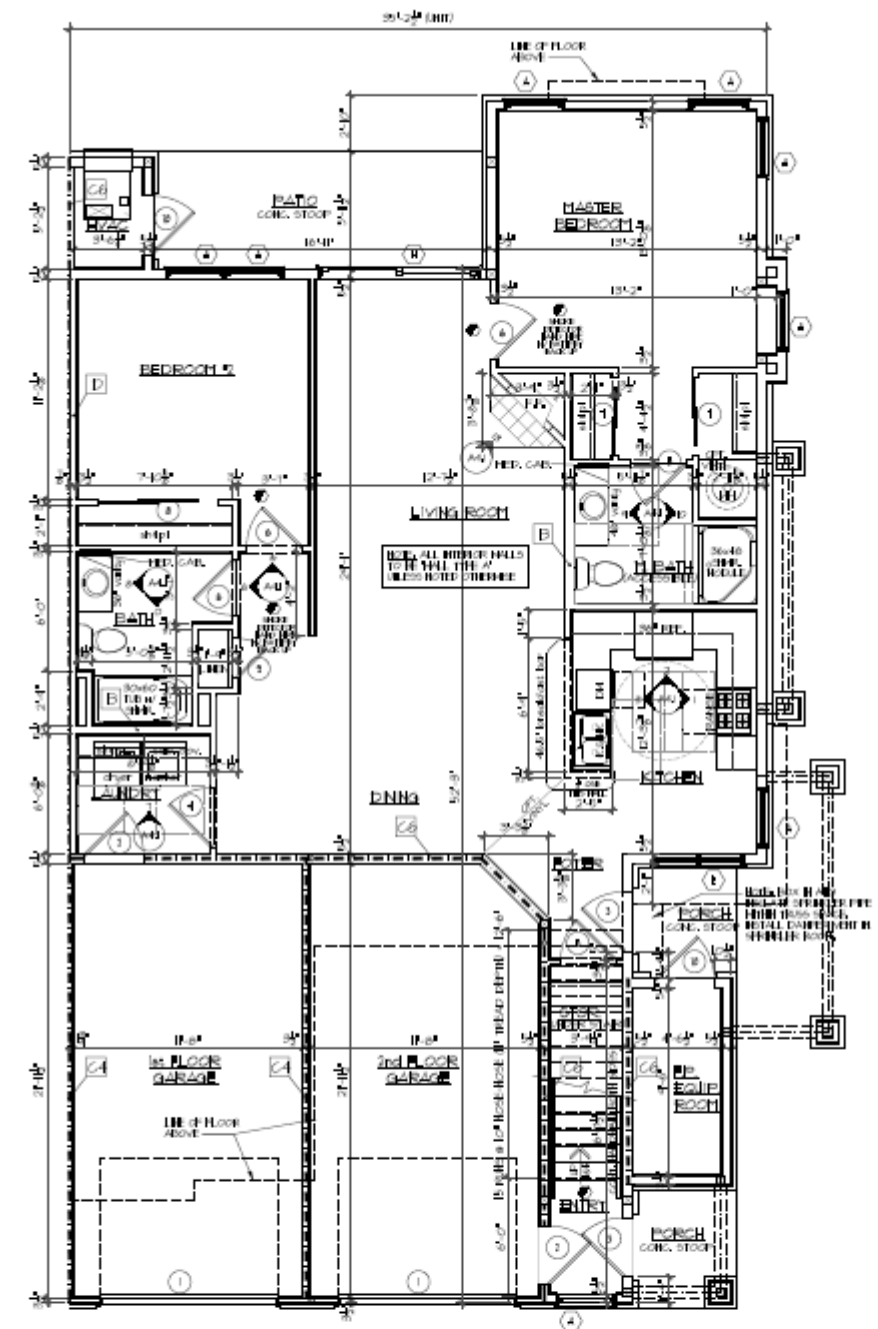
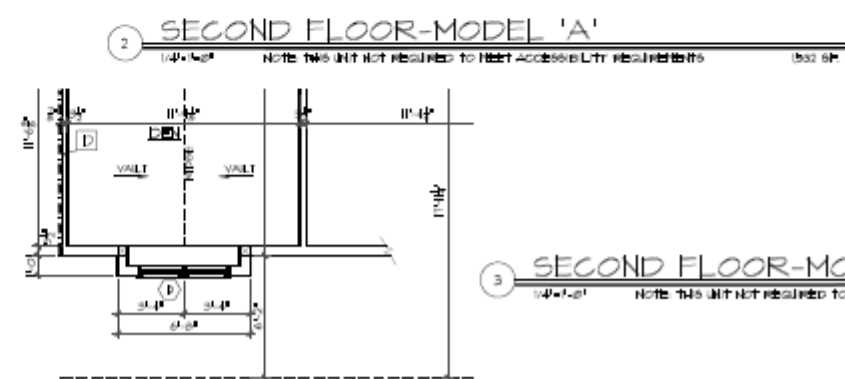
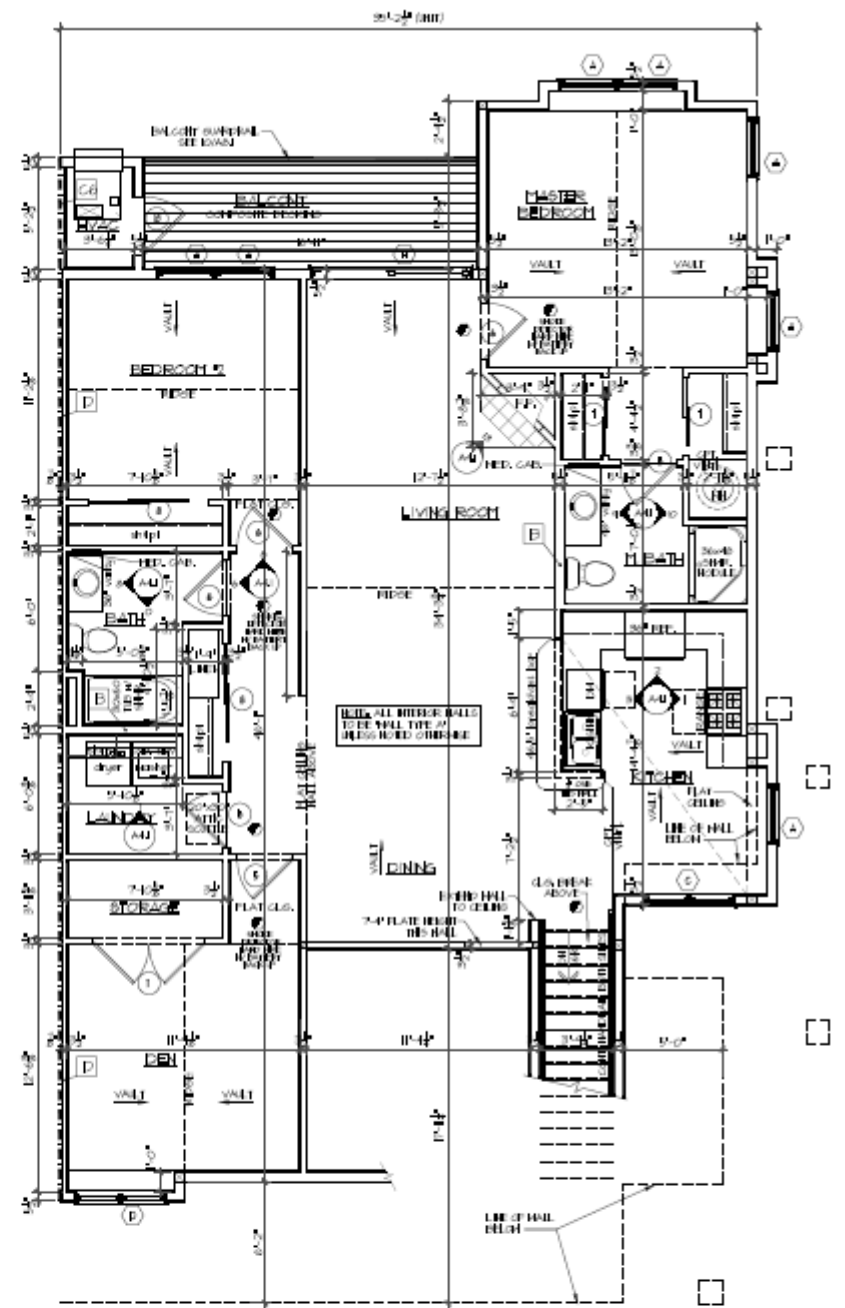
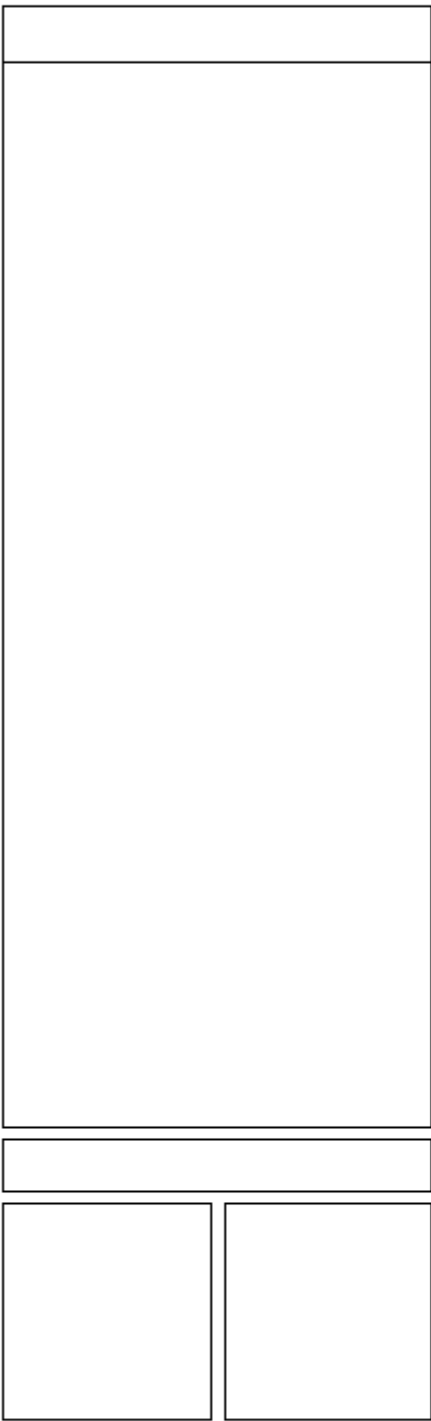
Date: 1/3/2008

Job NO.: 25101.008-.015

Drawn By: da/j/rob

Sheet No.

A1.1



1 FIRST FLOOR-END UNIT PLAN

1/4" = 1'-0" 1/32" = 1'-0"

TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING

78 W22350 JOHNSON DRIVE, SUITE 104
WALKERSHA, WISCONSIN 53185
PHONE 262-499-2530 FAX 262-499-2531

**4-UNIT APARTMENT
@ The Conservancy**

50 Moorland Rd (CTH 'D') & W. Greenfield Ave (STH '59')
BROOKFIELD, WISCONSIN

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Sheet Title
1/4" End Unit
Floor Plans

Issued For: _____ Date: _____

PRELIMINARY DRAWING

Date: 1/25/2015
Job NO.: 25101.008-.015
Drawn By: da/j/rob
Sheet No. _____

A1.3



1a 4 UNIT - MODEL 'A' - ENTRY ELEVATION #1



3a 4 UNIT - MODEL 'A' - ENTRY ELEVATION #2



1b 4 UNIT - MODEL 'B' - ENTRY ELEVATION #1



3b 4 UNIT - MODEL 'B' - ENTRY ELEVATION #2



2a 4 UNIT - MODEL 'A' - MOTORCOURT ELEVATION



4a 4 UNIT - MODEL 'A' - REAR ELEVATION



2b 4 UNIT - MODEL 'B' - MOTORCOURT ELEVATION



4b 4 UNIT - MODEL 'B' - REAR ELEVATION

TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
18 W2250 JOHNSON DRIVE, SUITE B4
WALKESSHA, WISCONSIN 53186
PHONE 262-409-2530 FAX 262-409-2531

**4-UNIT APARTMENT
@ The Conservancy**
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BROOKFIELD, WISCONSIN

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Sheet Title
Exterior Elevations
Model 'A'

Issued For: _____ Date: _____
Date: 1/2/2018
Job No.: 25101.008-015
Drawn By: daj/rab
Sheet No. _____

PRELIMINARY DRAWING

A2.1

THE CONSERVANCY

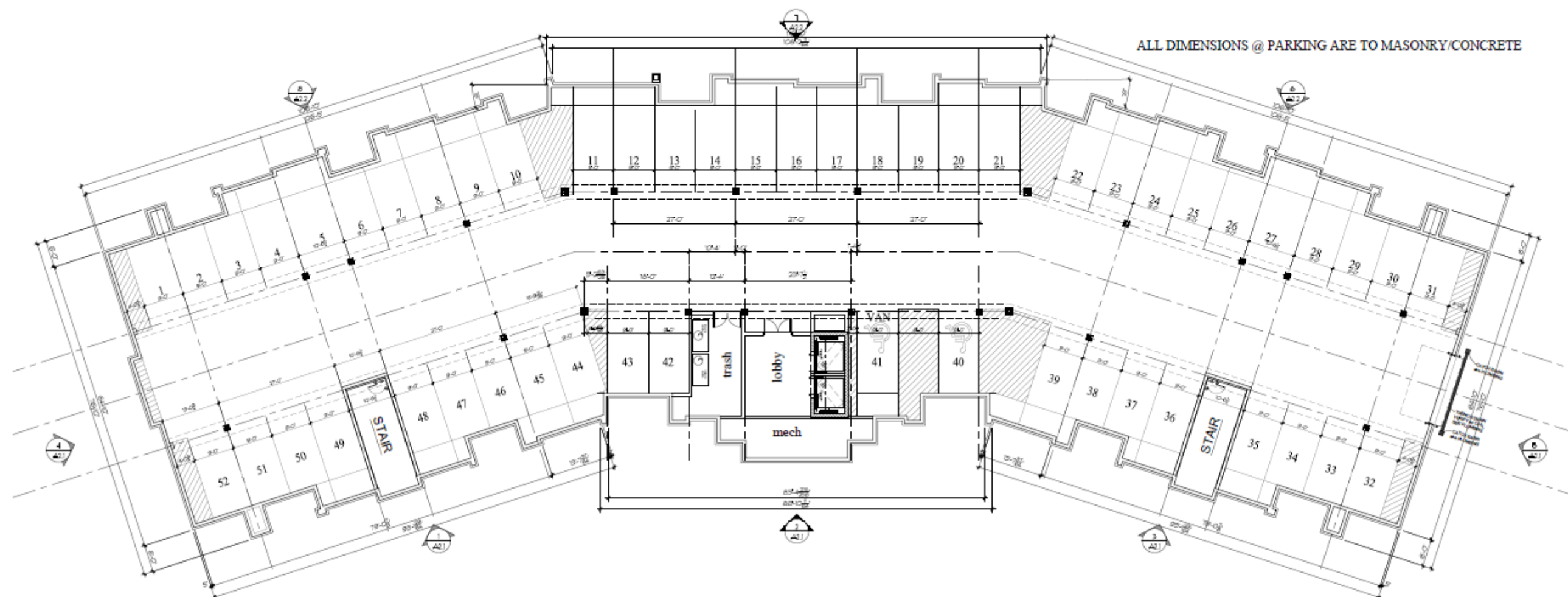
WOODLANDS RESIDENCES

- 226 Residences
 - 114 one-bedroom
 - 112 two-bedroom
- 431 parking stalls
 - 230 underground
 - 201 surface
 - Ratio 1.91 : 1



All Architectural Images For Character and Subject to Change





1 PARKING FLOOR PLAN
3/12/24-07



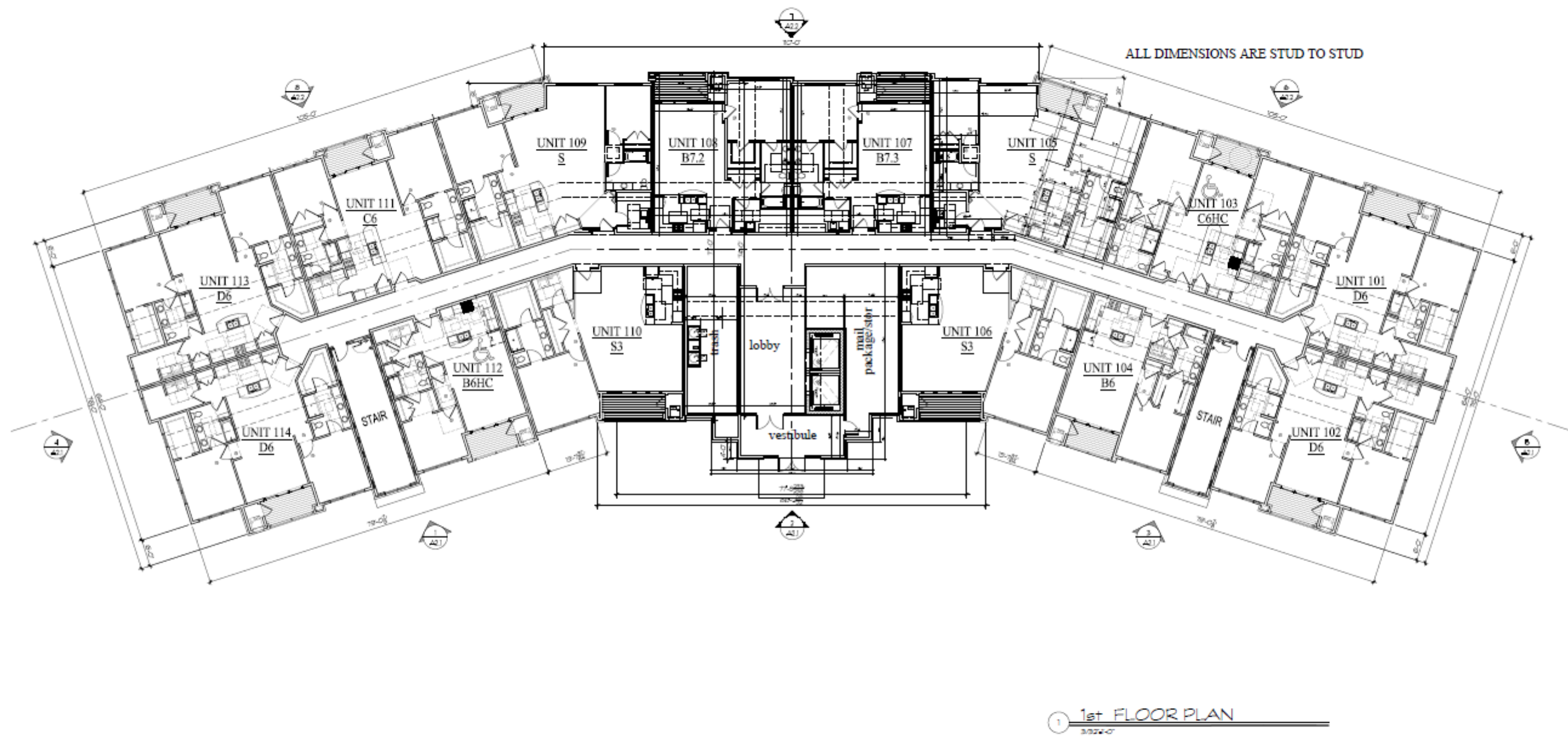
Building #4
Woodlands @ The Conservancy

50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
NEW BERLIN, WISCONSIN

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Sheet Title
Parking Floor Plan

Issued For: _____ Date: _____
Job NO.: 25101.004
Drawn By: daj
Sheet No. A1.0
**PRELIMINARY DRAWING
NOT FOR CONSTRUCTION**



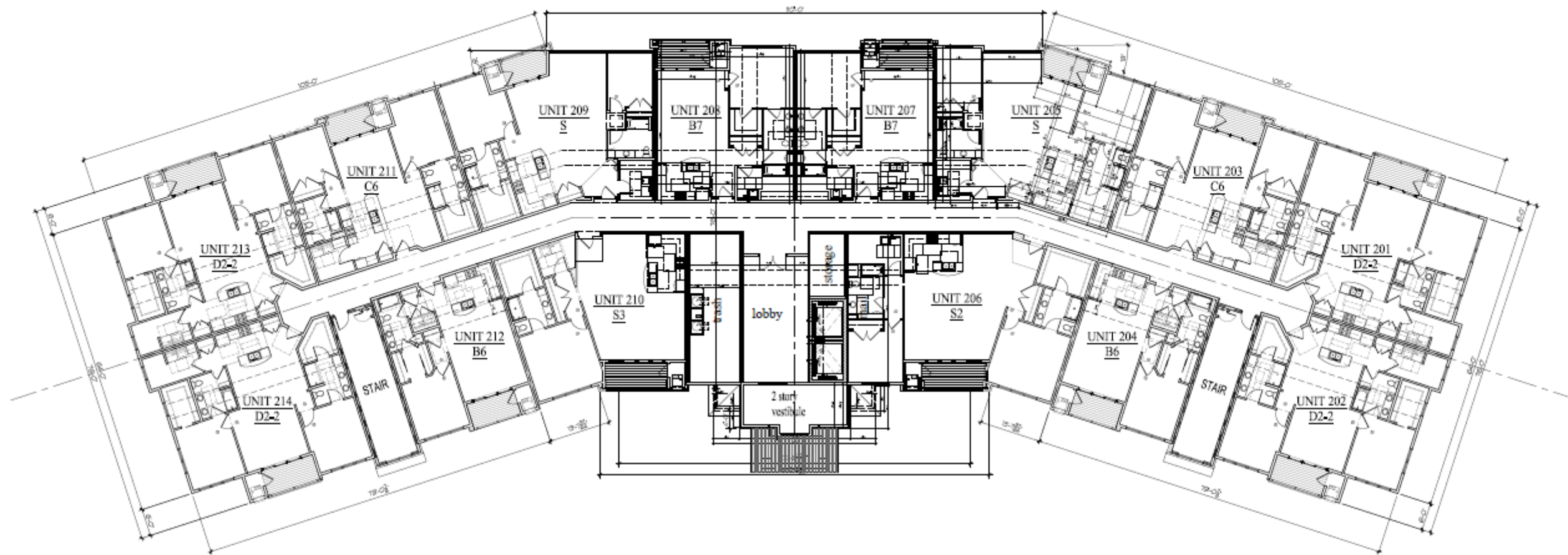
Building #4
Woodlands @ The Conservancy

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Sheet Title
1st Floor Plan

Issued For: _____ Date: _____
Job NO.: 25101.004
Drawn By: daj
Sheet No. A1.1
**PRELIMINARY DRAWING
NOT FOR CONSTRUCTION**



1 2nd FLOOR PLAN
3/22/20



Building #4
Woodlands @ The Conservancy

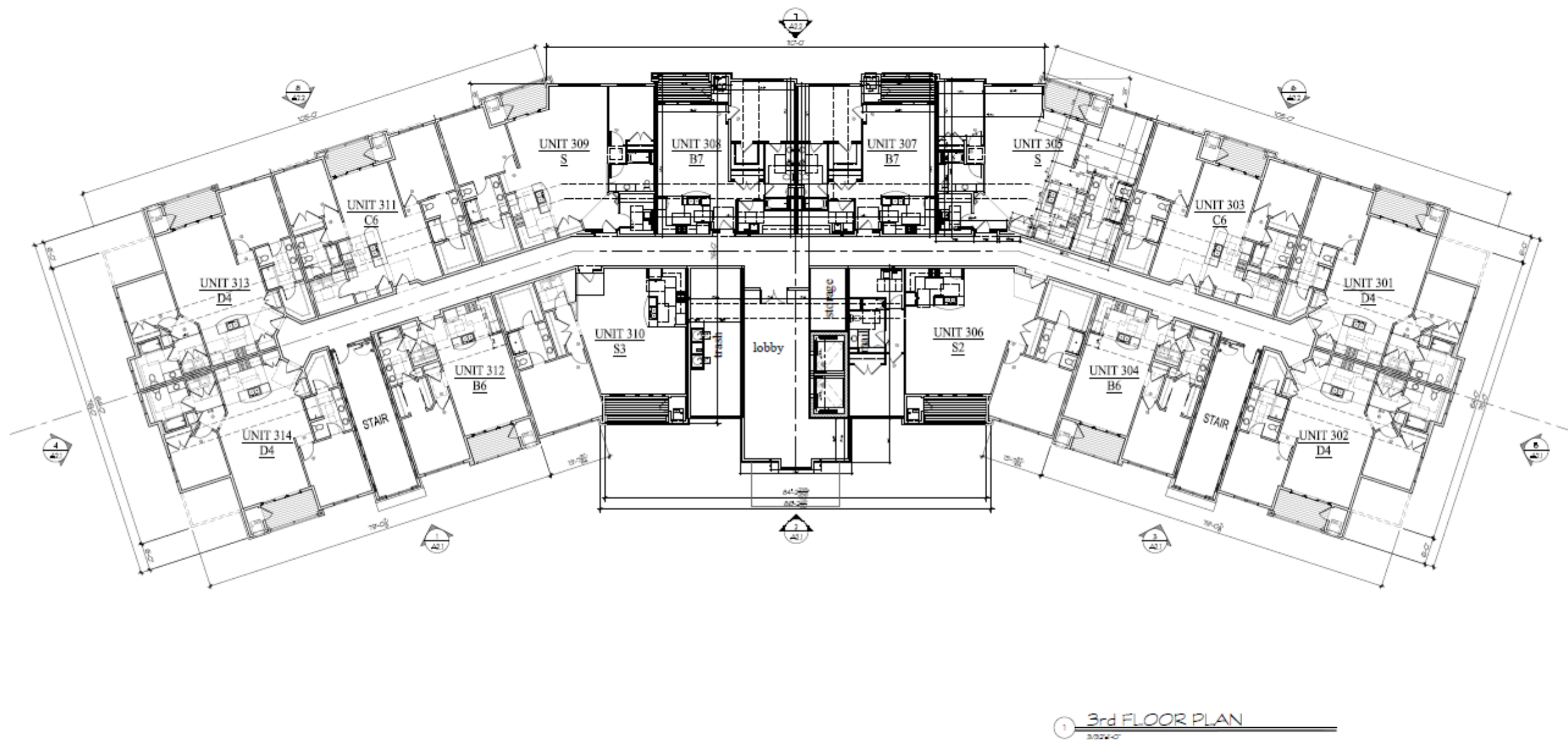
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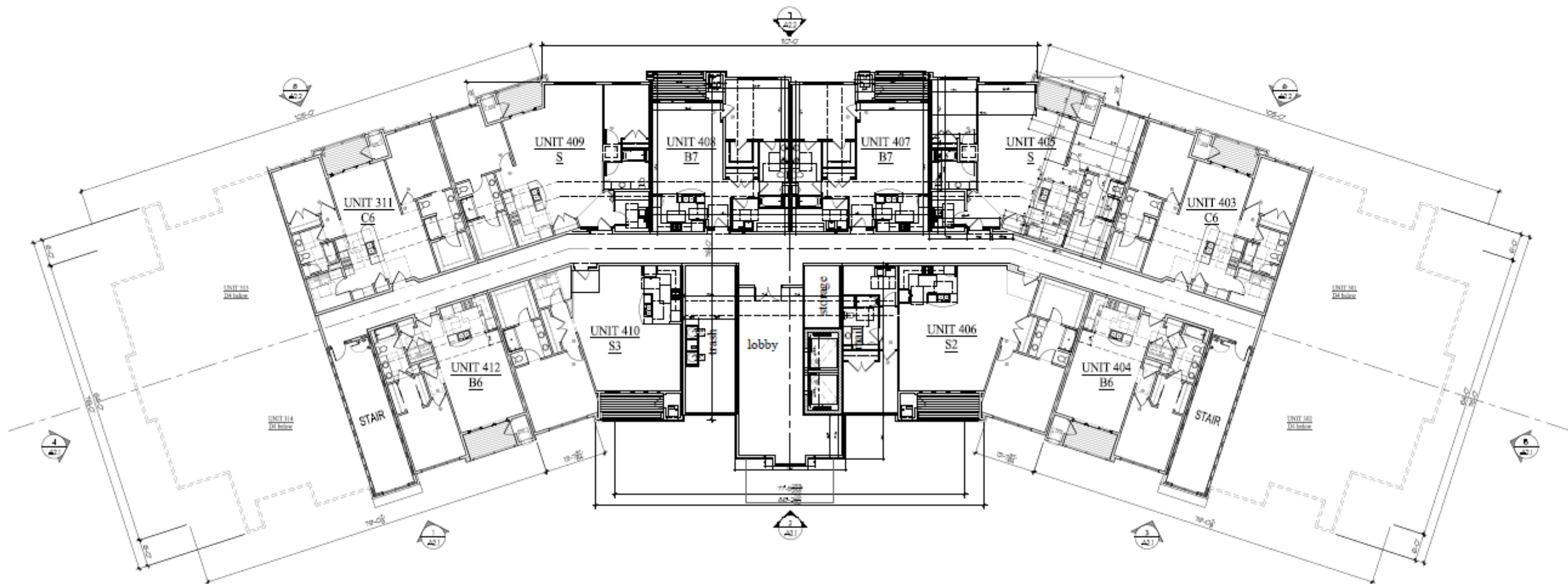
Sheet Title
2nd Floor Plan

Issued For:	Date:	Date:	1/2/2025
		Job NO.:	25101.004
		Drawn By:	dj
		Sheet No.:	A1.2

PRELIMINARY DRAWING
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 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-409-2530	Building #4 Woodlands @ The Conservancy SO. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59") NEW BERLIN, WISCONSIN	TDI ASSOCIATES, INC. All Rights Reserved OWNERSHIP OF DOCUMENTS This document, and the ideas and designs incorporated herein, as an instrument of professional service, is the sole property of TDI Associates, Inc., and is not to be used in whole or in part for any other project or purpose without the expressed written authorization of TDI Associates, Inc.	Sheet Title 3rd Floor Plan	Issued For: _____ Date: _____ Job NO.: 25101.004 Drawn By: daj Sheet No.: A1.3 PRELIMINARY DRAWING NOT FOR CONSTRUCTION
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1 4th FLOOR PLAN
3.024'-0"



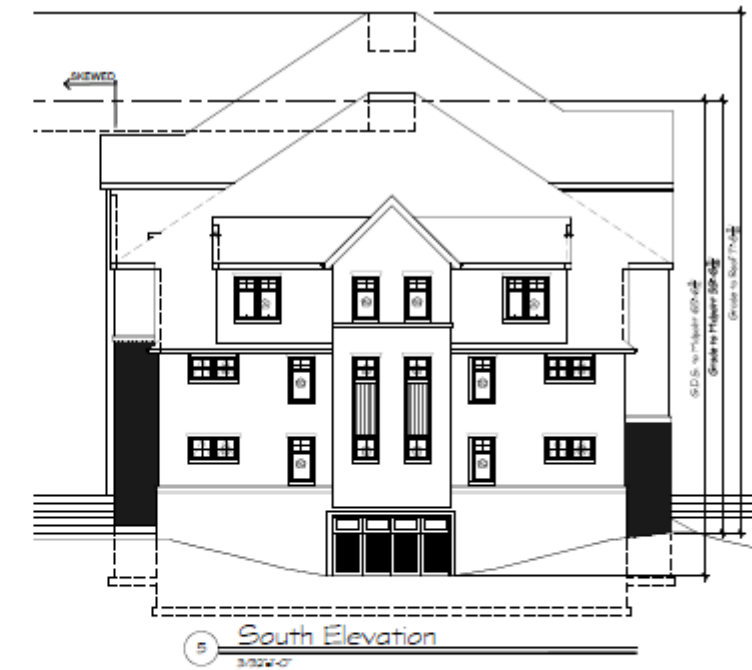
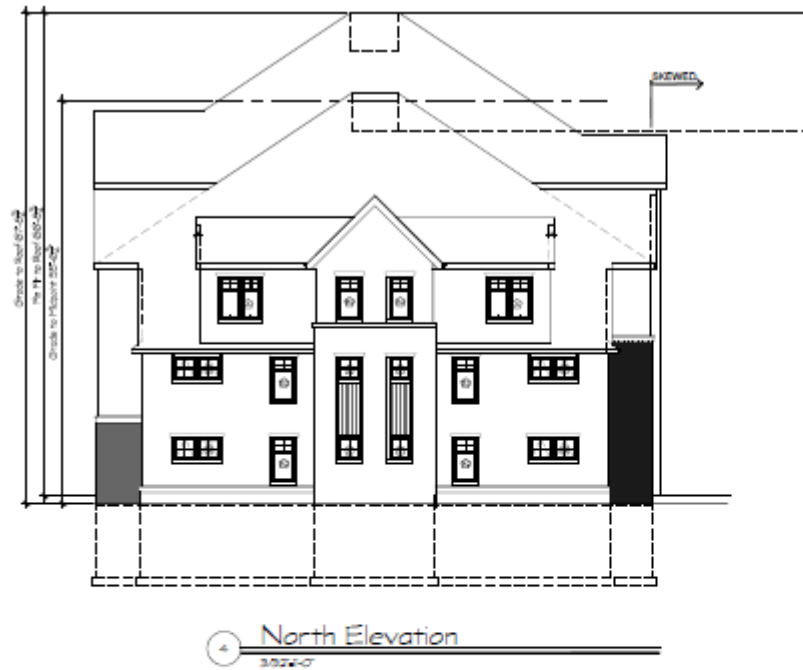
Building #4
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Sheet Title
4th Floor Plan

Issued For: _____ Date: 1/2/2025
Job NO: 25101.004
Drawn By: dij
Sheet No. A1.4
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Building #4
Woodlands @ The Conservancy

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Sheet Title
Exterior Elevations

Issued For: Date: 1/2/2025
Job NO: 25101.004
Drawn By: dgj
Sheet No: A2.1
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



Building #4
Woodlands @ The Conservancy

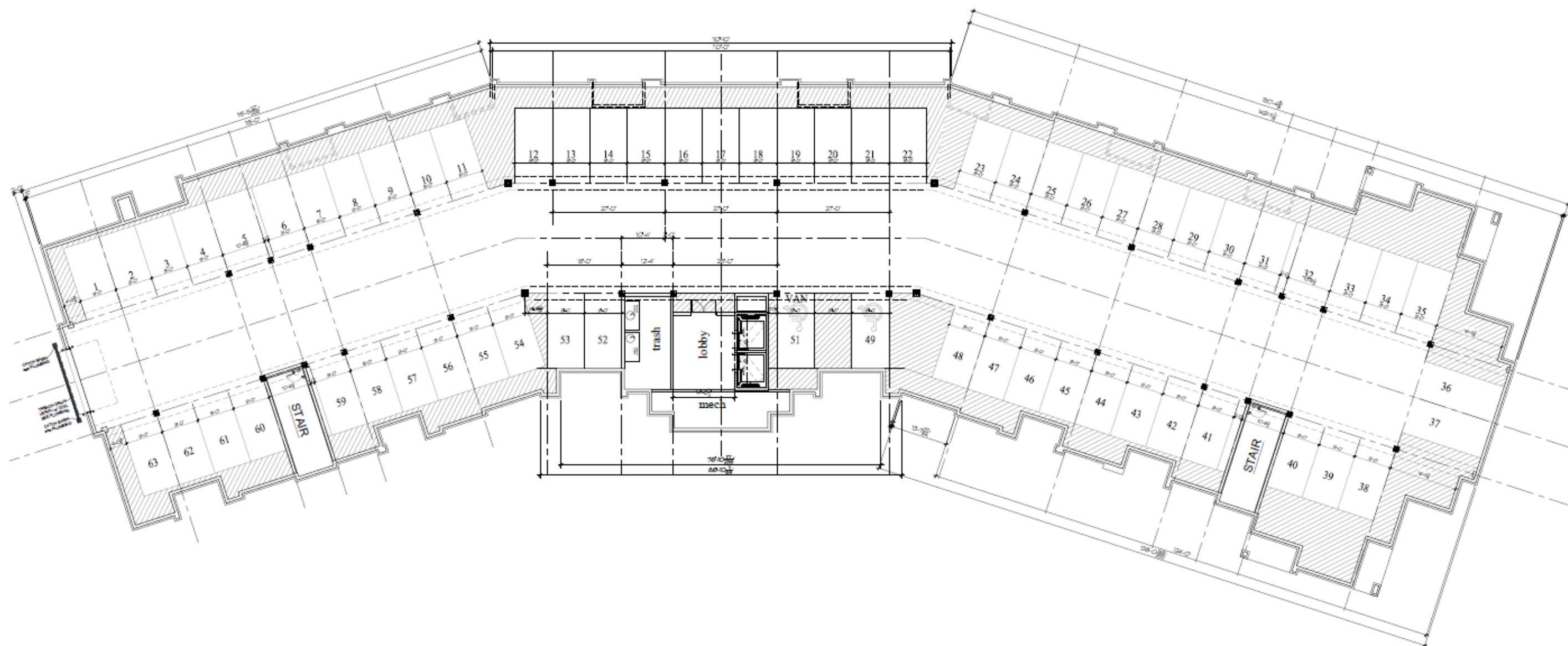
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Sheet Title
Exterior Elevations

Issued For: _____ Date: _____
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Date: 1/2/2025
Job NO.: 25101.004
Drawn By: djg
Sheet No.: A2.2



Building #5
Woodlands @ The Conservancy

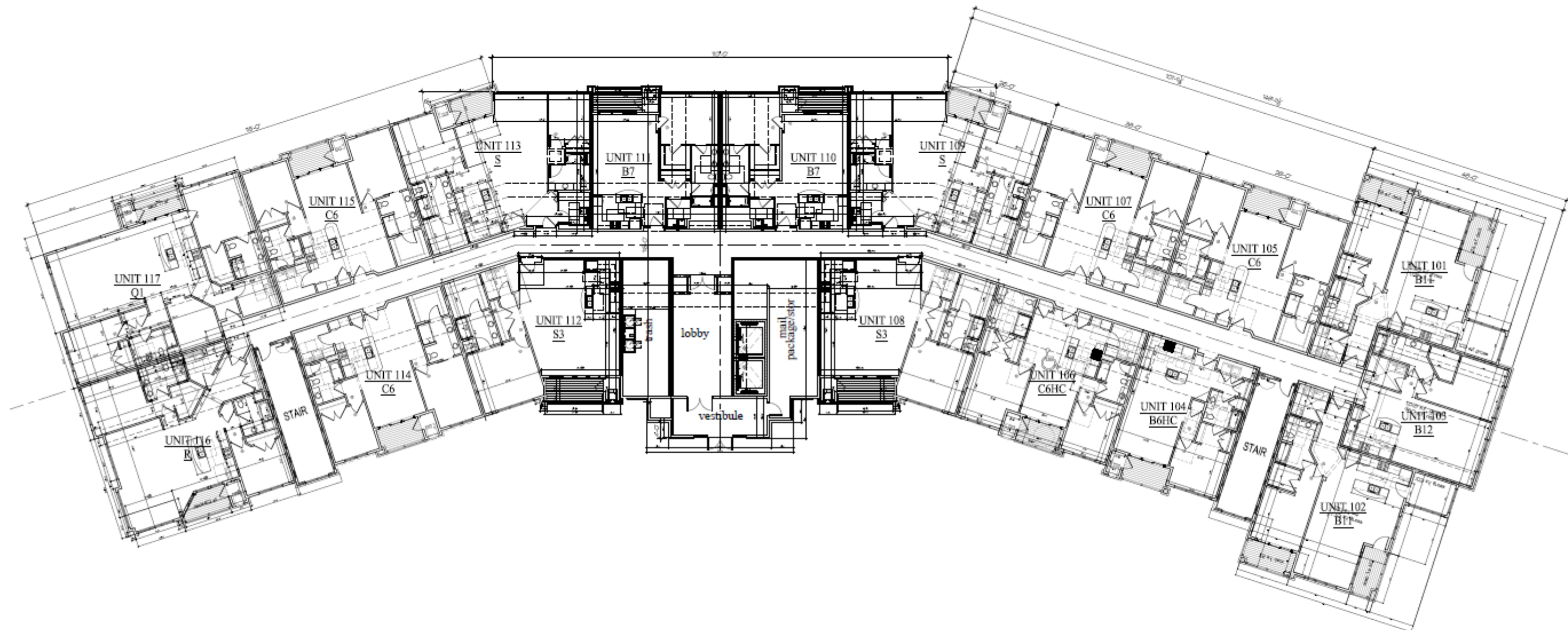
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Sheet Title
Parking Floor Plan

Issued For: _____ Date: _____
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Date: 1/3/2025
Job NO.: 25101.005
Drawn By: djg
Sheet No.: **A1.0**



1 1st FLOOR PLAN
3/22/20



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-499-2530

Building #5
Woodlands @ The Conservancy

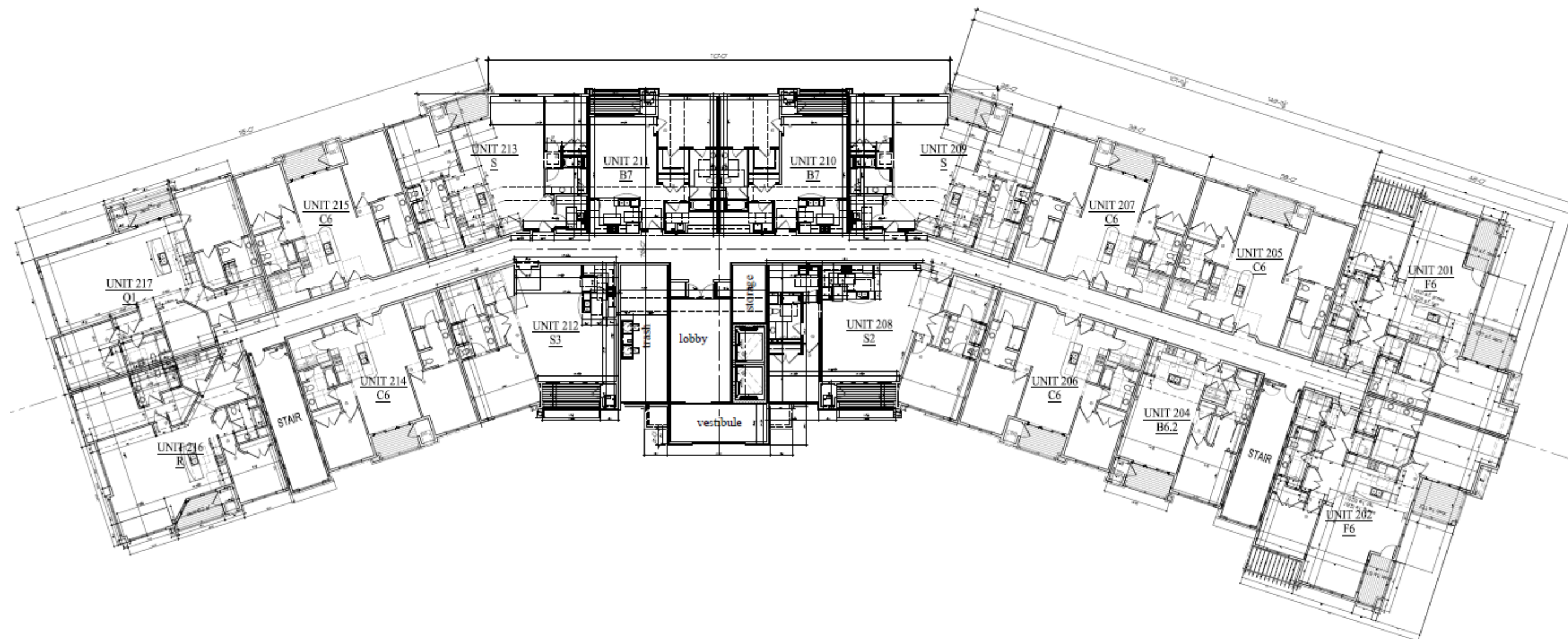
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Sheet Title
1st Floor Plan

Issued For:	Date:	1/3/2025
Job NO.:	25101.005	
Drawn By:	djg	
Sheet No.	A1.1	

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1 2nd FLOOR PLAN



Building #5
Woodlands @ The Conservancy

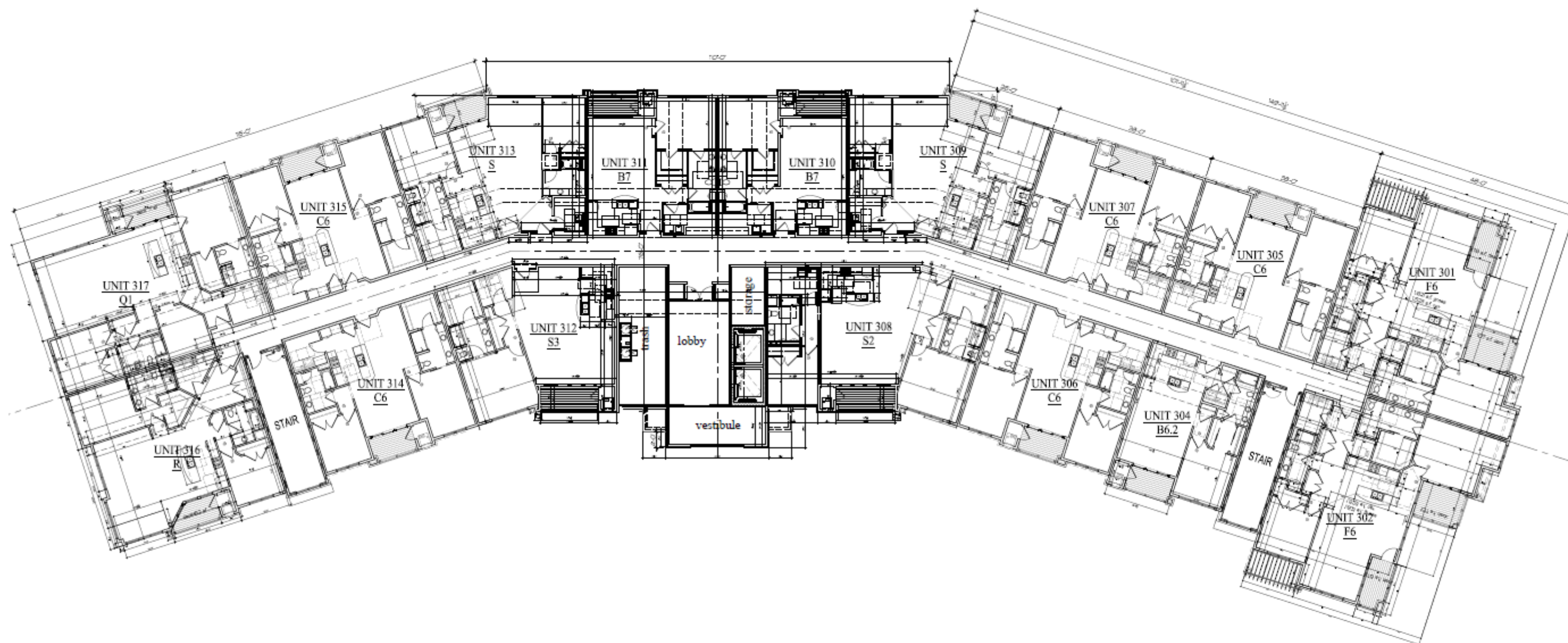
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Sheet Title
2nd Floor Plan

Issued For: Date:
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Date: 1/3/2025
Job NO: 25101.005
Drawn By: daj
Sheet No. A1.2



1 3rd FLOOR PLAN
3/22/25



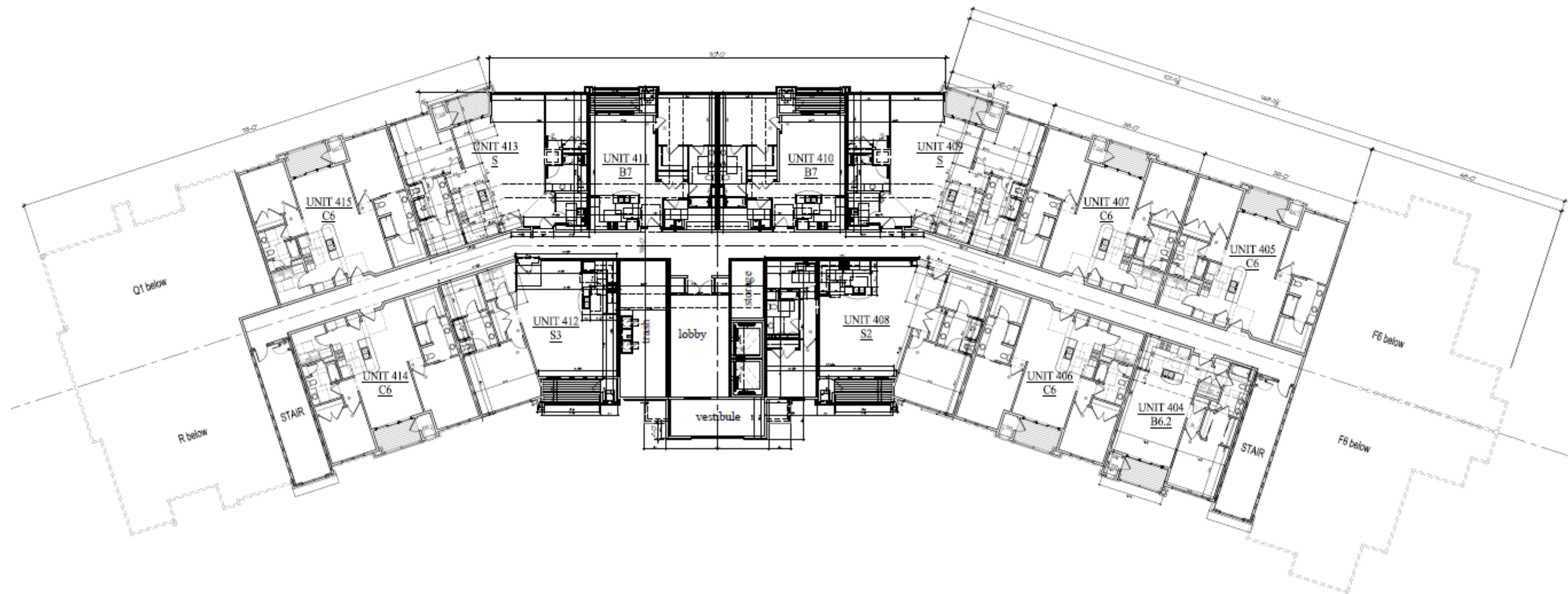
Building #5
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Sheet Title
3rd Floor Plan

Issued For: Date:
Job NO.: 25101.005
Drawn By: dsj
Sheet No.
A1.3
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



1 4th FLOOR PLAN
3/32/24



Building #5
Woodlands @ The Conservancy

50. Moorland Rd(CTH 'O') & W. Greenfield Ave.(STH'59')
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Sheet Title
4th Floor Plan

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.005
		Drawn By:	djg
		Sheet No.:	A1.4

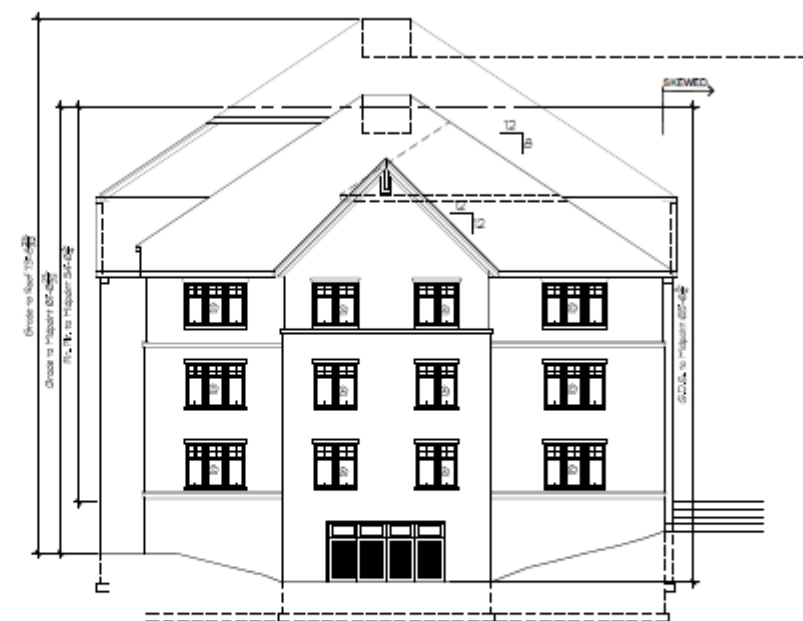
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



1 North West Elevation
3.024'-0"



2 West Elevation
3.024'-0"



3 North Elevation
3.024'-0"



4 South West Elevation
3.024'-0"



5 South Elevation
3.024'-0"



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-499-2530

Building #5
Woodlands @ The Conservancy

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Sheet Title
Exterior Elevations

Issued For: Date: 1/3/2025
Job NO: 25101.005
Drawn By: dgj
Sheet No: A2.1

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6 South East Elevation
3/22/20



7 East Elevation
3/22/20



8 North East Elevation
3/22/20



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PHONE 262-499-2530

Building #5
Woodlands @ The Conservancy

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Sheet Title
Exterior Elevations

Issued For:

Date:

Date: 1/3/2025

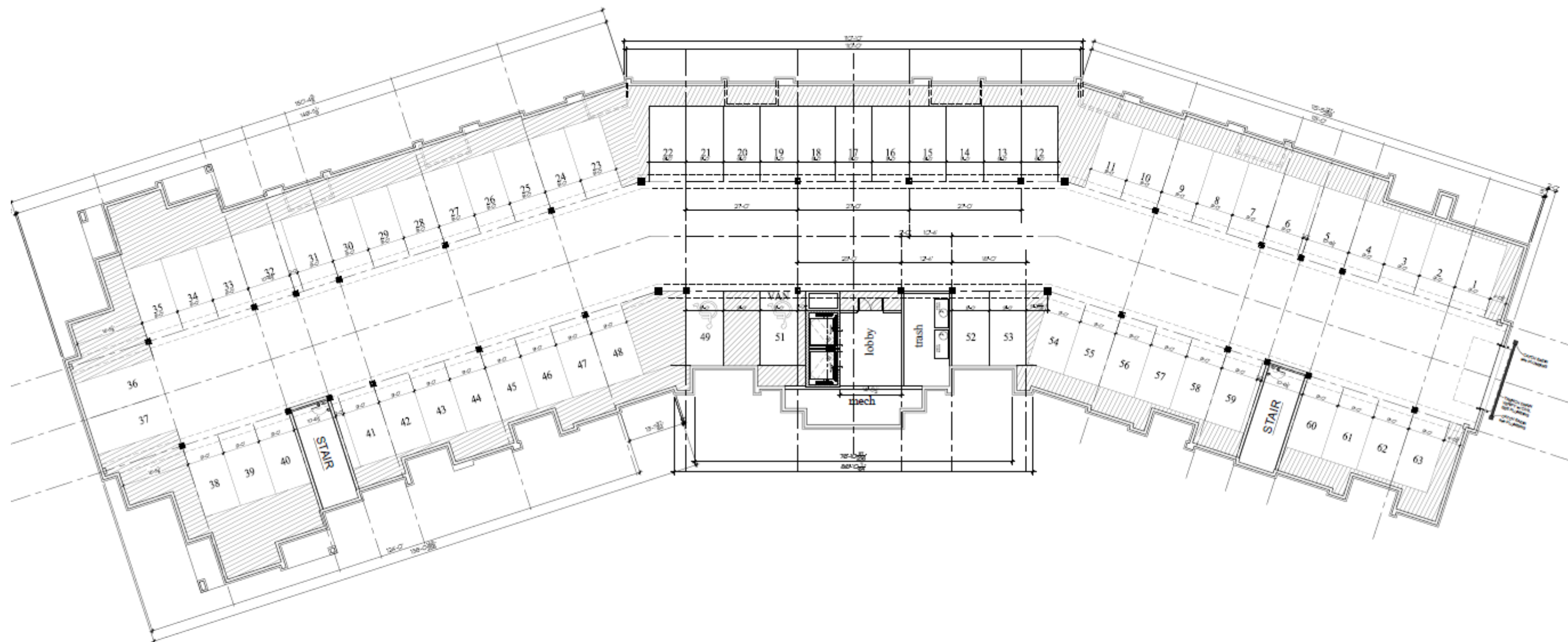
Job NO: 25101.005

Drawn By: daj

Sheet No:

A2.2

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



1 PARKING FLOOR PLAN
3/3/24-0



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-409-2530

Building #6
Woodlands @ The Conservancy

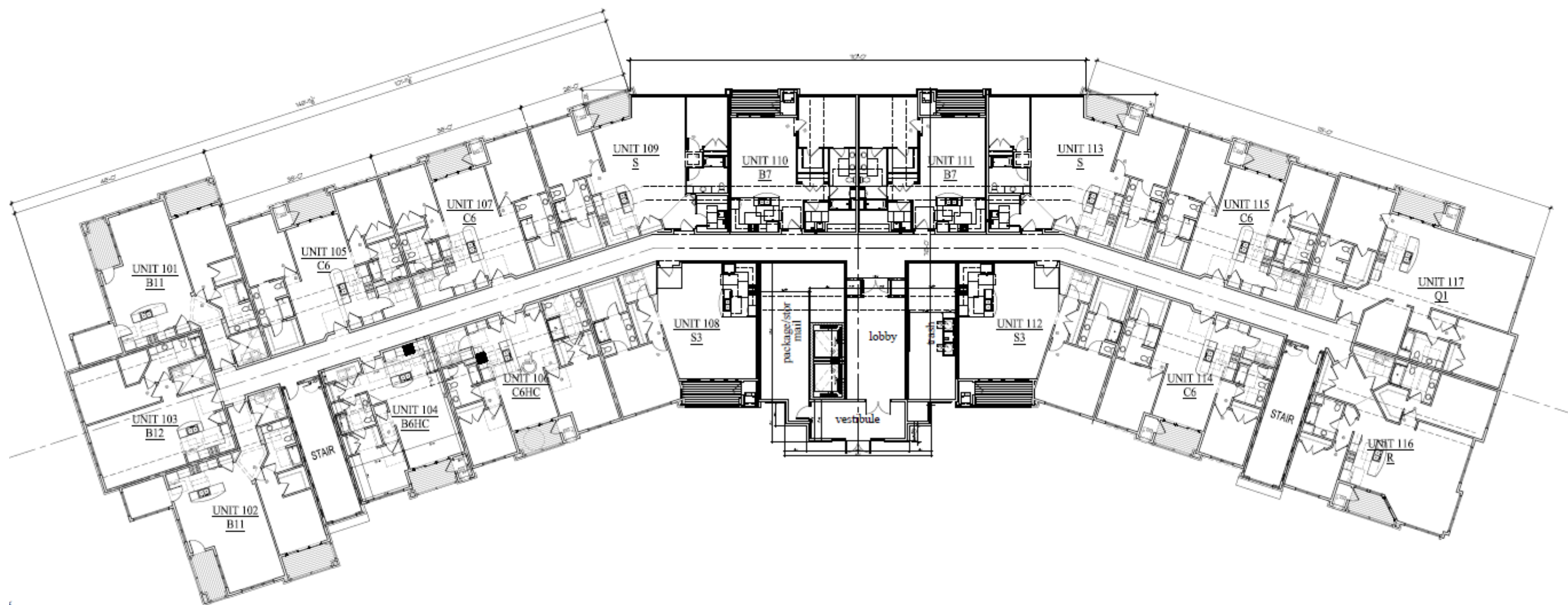
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Sheet Title
Parking Floor Plan

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.006
		Drawn By:	dg
		Sheet No.:	A1.0

PRELIMINARY DRAWING
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1 1st FLOOR PLAN
3/22/24



Building #6
Woodlands @ The Conservancy

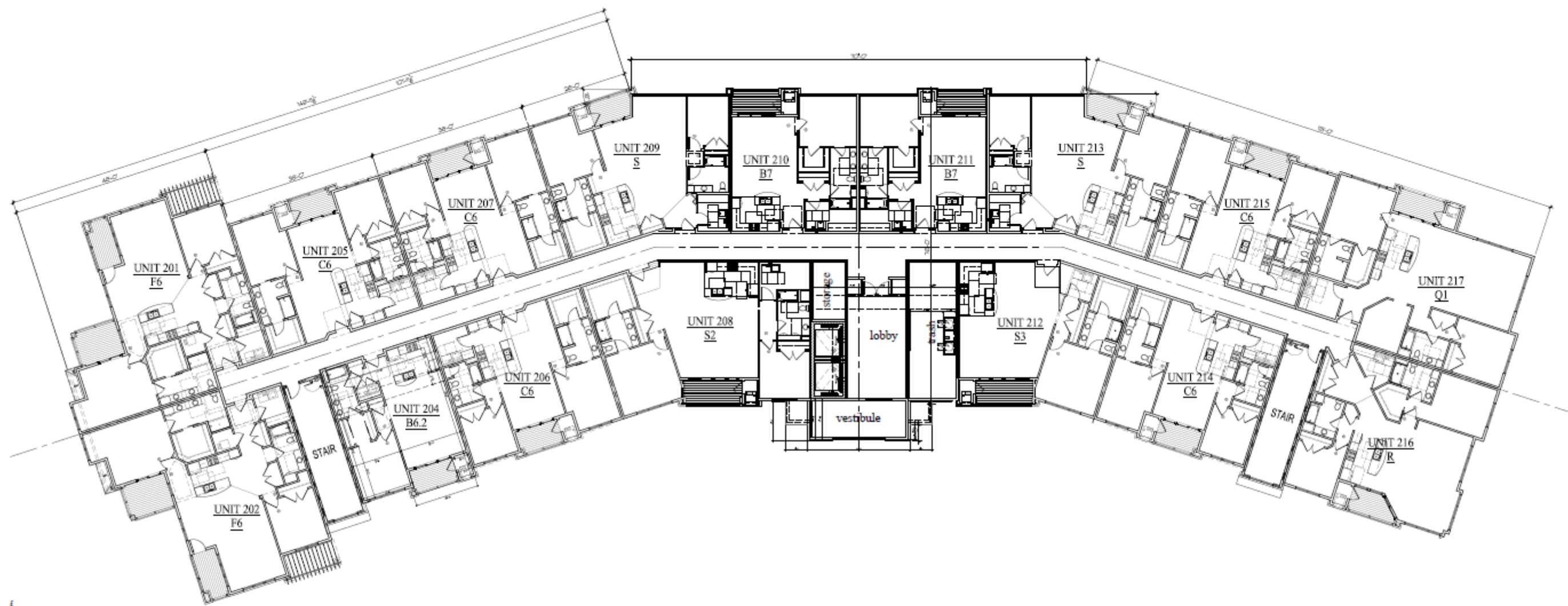
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Sheet Title
1st Floor Plan

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.006
		Drawn By:	dq
		Sheet No.:	A1.1

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① 2nd FLOOR PLAN
3/12/24'-0"



Building #6
Woodlands @ The Conservancy

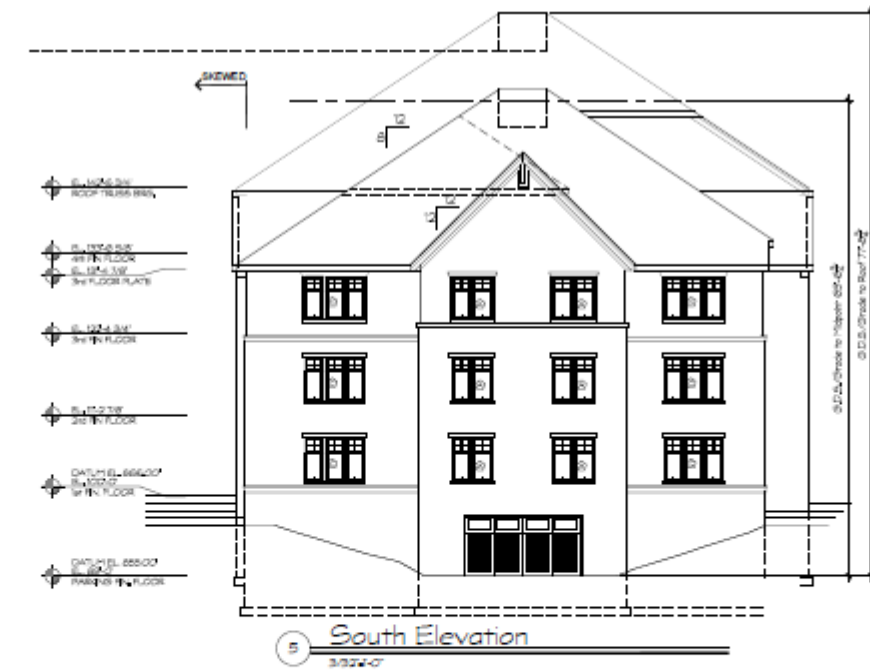
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Sheet Title
2nd Floor Plan

Issued For:	Date:	Date:	1/9/2025
		Job NO.:	25/01.006
		Drawn By:	djg
		Sheet No.:	A1.2

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NOT FOR CONSTRUCTION



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	30. Moorland Rd(CTH 'O') & W. Greenfield Ave.(STH'59") NEW BERLIN, WISCONSIN				Job NO.: 25101.006	
					Drawn By: dj	
					Sheet No.	
					A2.1	



Building #6
Woodlands @ The Conservancy

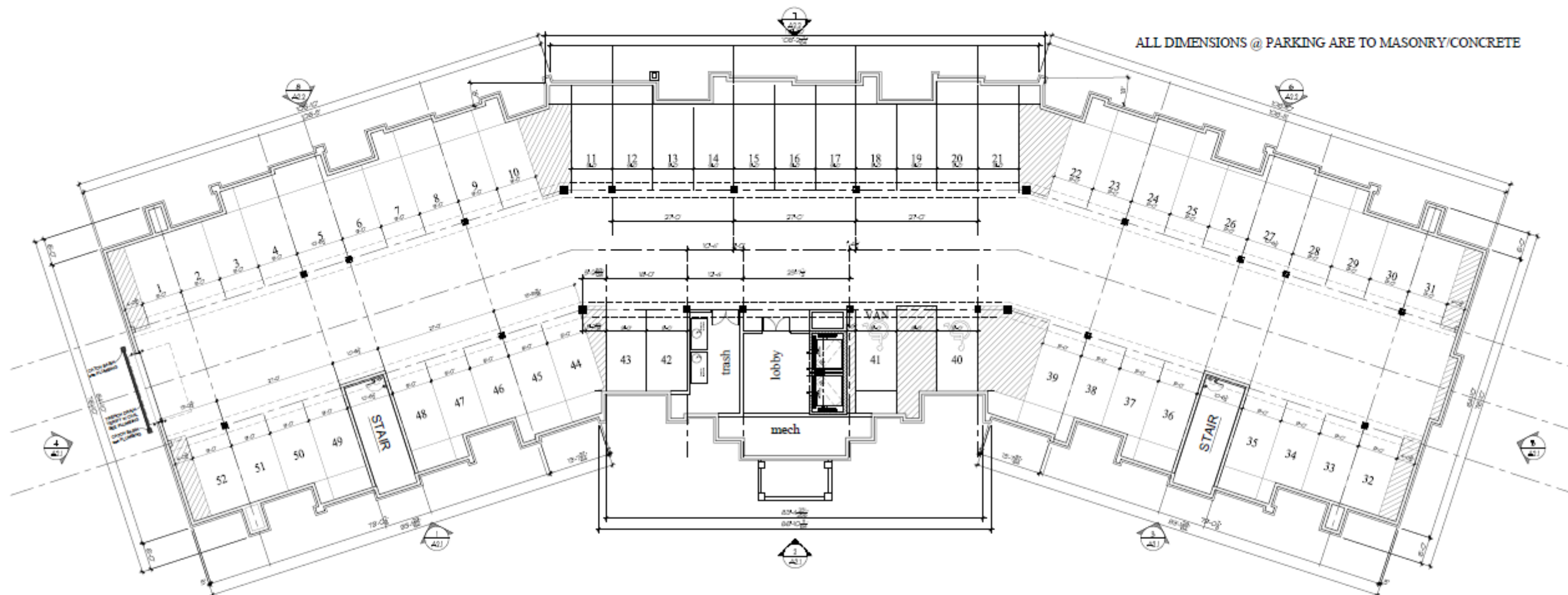
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Exterior Elevations

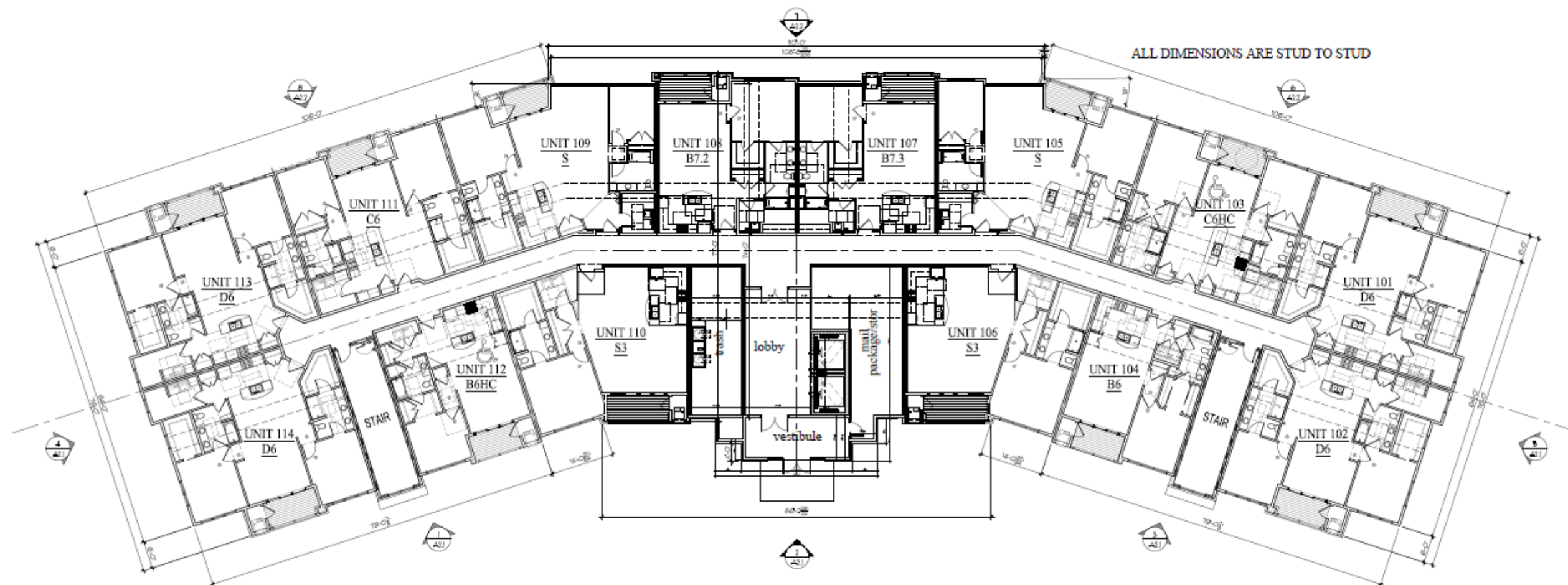
Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.006
		Drawn By:	djg
		Sheet No.:	A2.2

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1 **PARKING FLOOR PLAN**
3/22/25

 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-489-2536	Building #7 Woodlands @ The Conservancy		TDI ASSOCIATES, INC. All Rights Reserved OWNERSHIP OF DOCUMENTS This document, and the ideas and design incorporated herein, as an instrument of professional service, is the sole property of TDI Associates, Inc., and is not to be used in whole or in part for any other project or purpose without the expressed written authorization of TDI Associates, Inc.	Sheet Title Parking Floor Plan	Issued For: _____ Date: _____ Job NO.: 25101.007 Drawn By: dg Sheet No. A1.0	
	50. Moorland Rd(CTH 'O') & W. Greenfield Ave.(STH'59") NEW BERLIN, WISCONSIN					



1 1st FLOOR PLAN
3/32"=1'-0"



Building #7
Woodlands @ The Conservancy

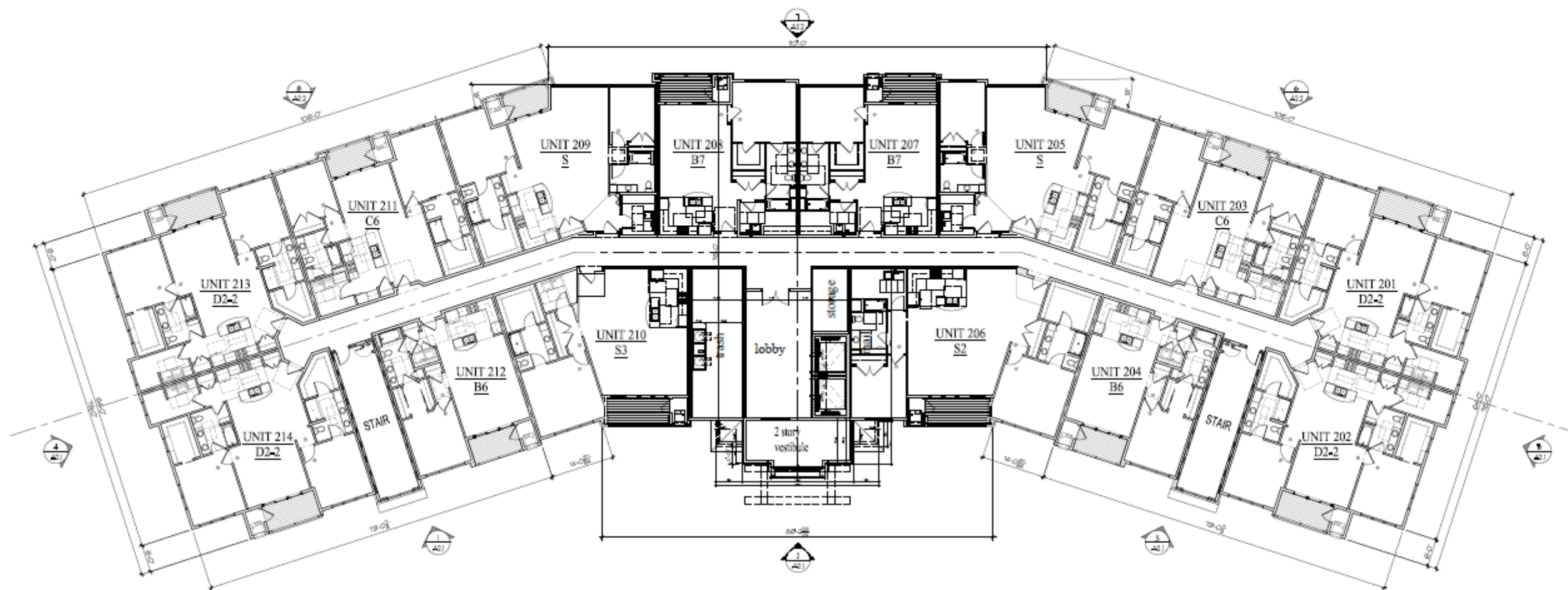
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Sheet Title
1st Floor Plan

Issued For:	Date:	1/3/2025
Job NO:	25101.007	
Drawn By:	dg	
Sheet No.	A1.1	

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



1 2nd FLOOR PLAN
3/15/2025



Building #7
Woodlands @ The Conservancy

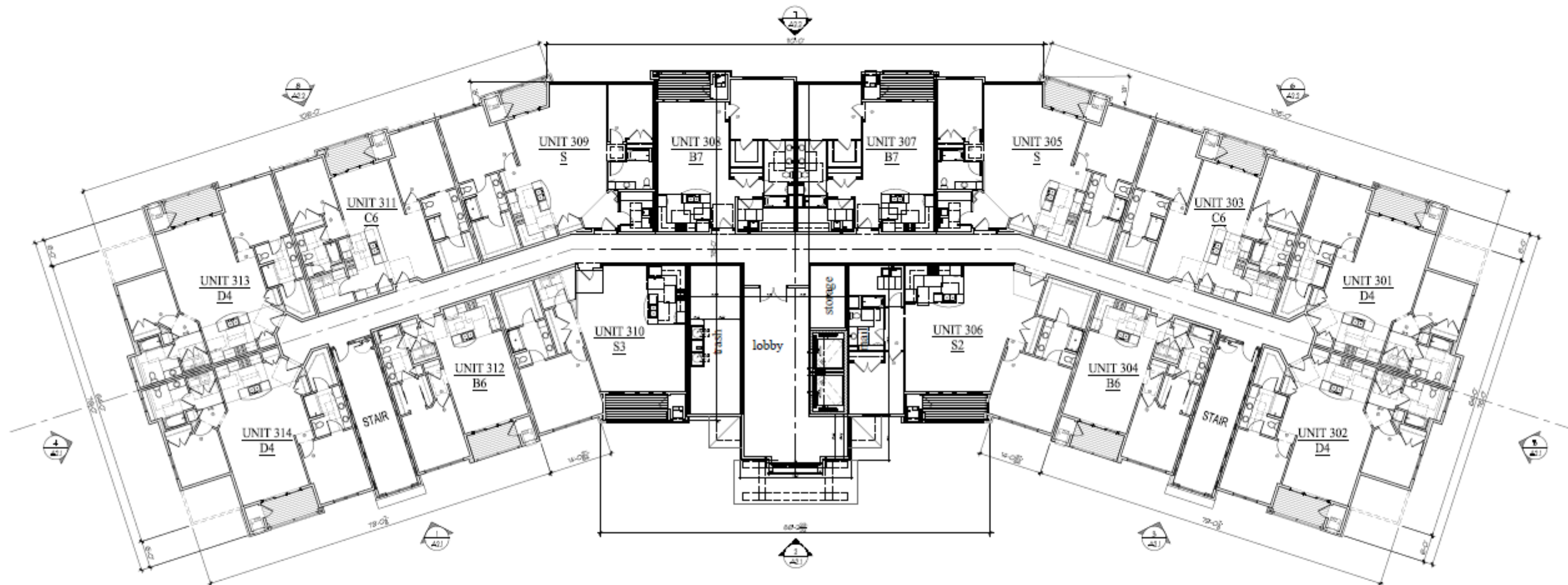
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Sheet Title
2nd Floor Plan

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.007
		Drawn By:	dj
		Sheet No.:	A1.2

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



1 3rd FLOOR PLAN
3/22/25



Building #7
Woodlands @ The Conservancy

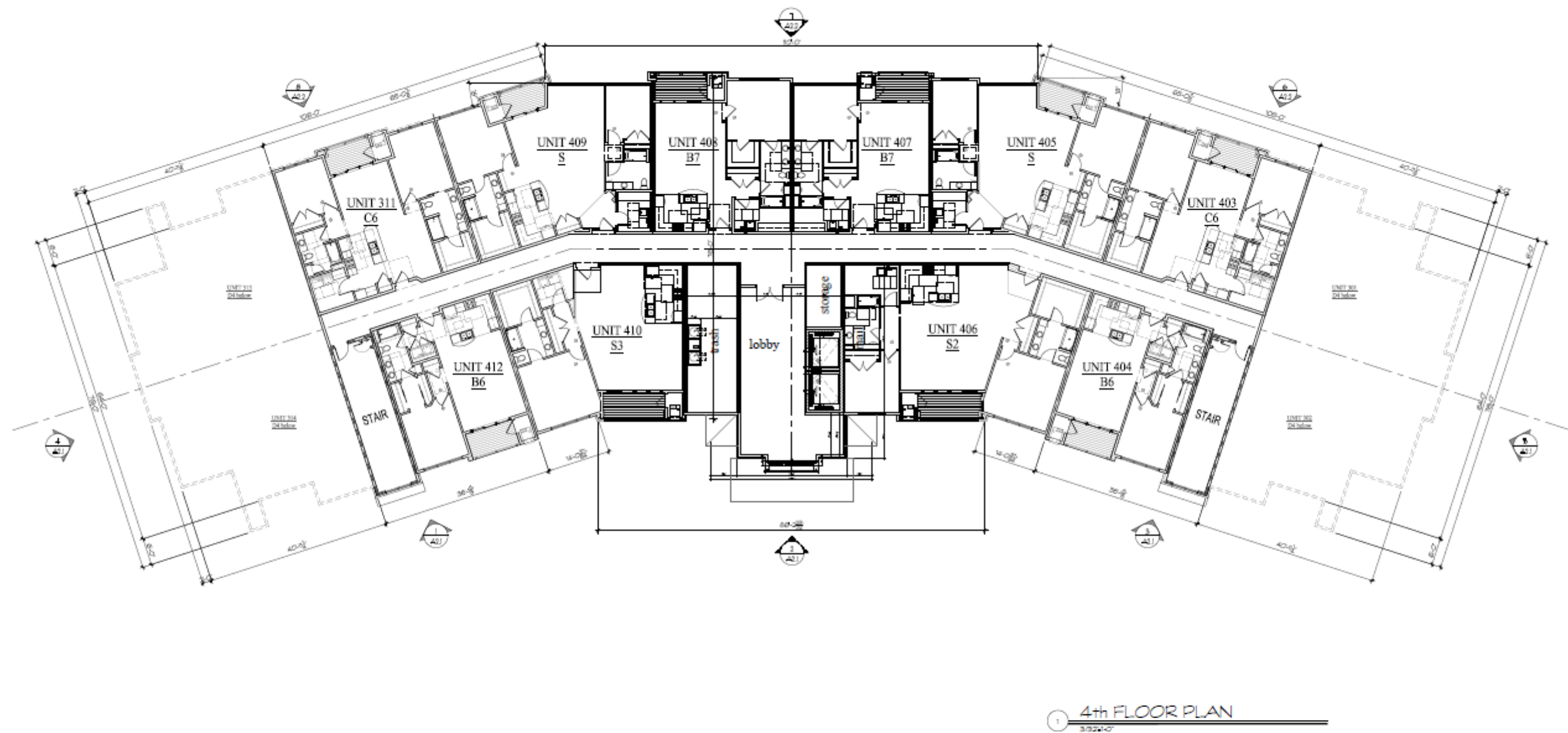
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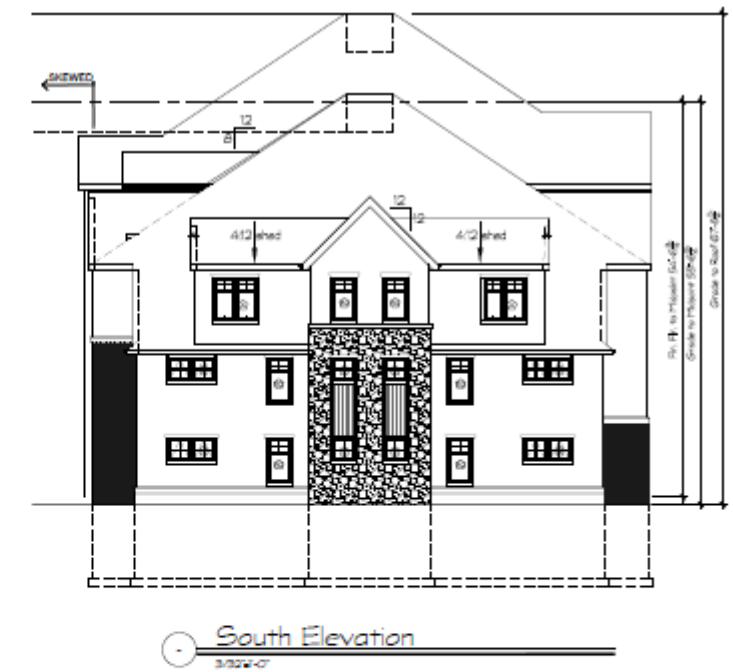
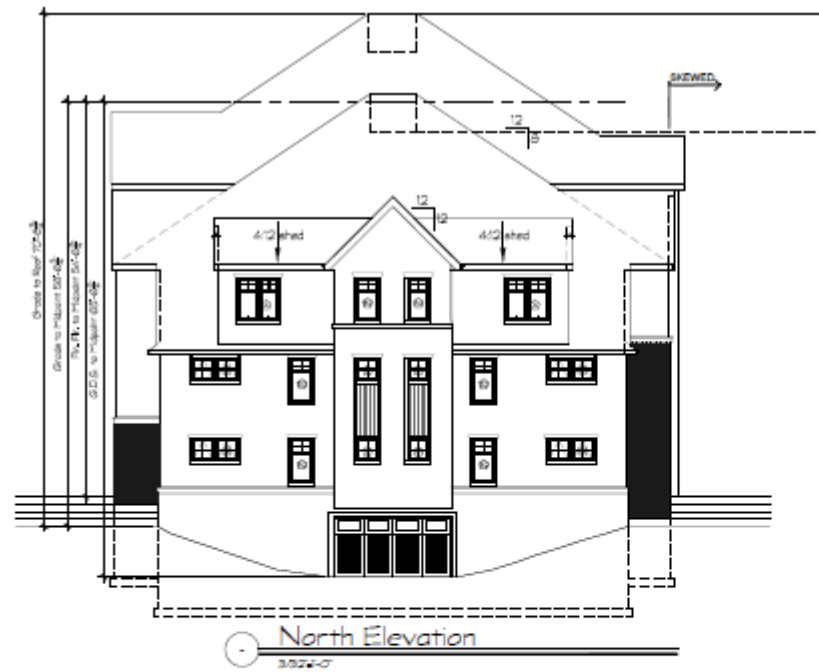
Sheet Title
3rd Floor Plan

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.007
		Drawn By:	dq
		Sheet No.:	A1.3

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-899-2530	Building #7 Woodlands @ The Conservancy 50. Moorland Rd(CTH 'O') & W. Greenfield Ave.(STH'59") NEW BERLIN, WISCONSIN	TDI ASSOCIATES, INC. All Rights Reserved OWNERSHIP OF DOCUMENTS This document, and the ideas and design incorporated herein, as an instrument of professional service, is the sole property of TDI Associates, Inc., and is not to be used in whole or in part for any other project or purpose without the expressed written authorization of TDI Associates, Inc.	Sheet Title 4th Floor Plan	<table><tr><td>Issued For:</td><td>Date:</td><td>Date:</td><td>1/3/2025</td></tr><tr><td></td><td></td><td>Job NO.:</td><td>25101.007</td></tr><tr><td></td><td></td><td>Drawn By:</td><td>djs</td></tr><tr><td></td><td></td><td>Sheet No.:</td><td>A1.4</td></tr></table> PRELIMINARY DRAWING NOT FOR CONSTRUCTION	Issued For:	Date:	Date:	1/3/2025			Job NO.:	25101.007			Drawn By:	djs			Sheet No.:	A1.4
Issued For:	Date:	Date:	1/3/2025																	
		Job NO.:	25101.007																	
		Drawn By:	djs																	
		Sheet No.:	A1.4																	



Building #7
Woodlands @ The Conservancy

50. Moorland Rd(CTH 'O') & W. Greenfield Ave.(STH'59")
NEW BERLIN, WISCONSIN

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Sheet Title
Exterior Elevations

Issued For: _____ Date: _____
Date: 1/3/2025
Job NO.: 25101.007
Drawn By: dsj
Sheet No.
A2.1

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



Building #7
Woodlands @ The Conservancy

SO. Moorland Rd(CTH 'O') & W. Greenfield Ave.(STH'59')
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Sheet Title
Exterior Elevations

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.007
		Drawn By:	dg
		Sheet No.:	A2.2

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

RESIDENT CLUB

THE
CONSERVANCY

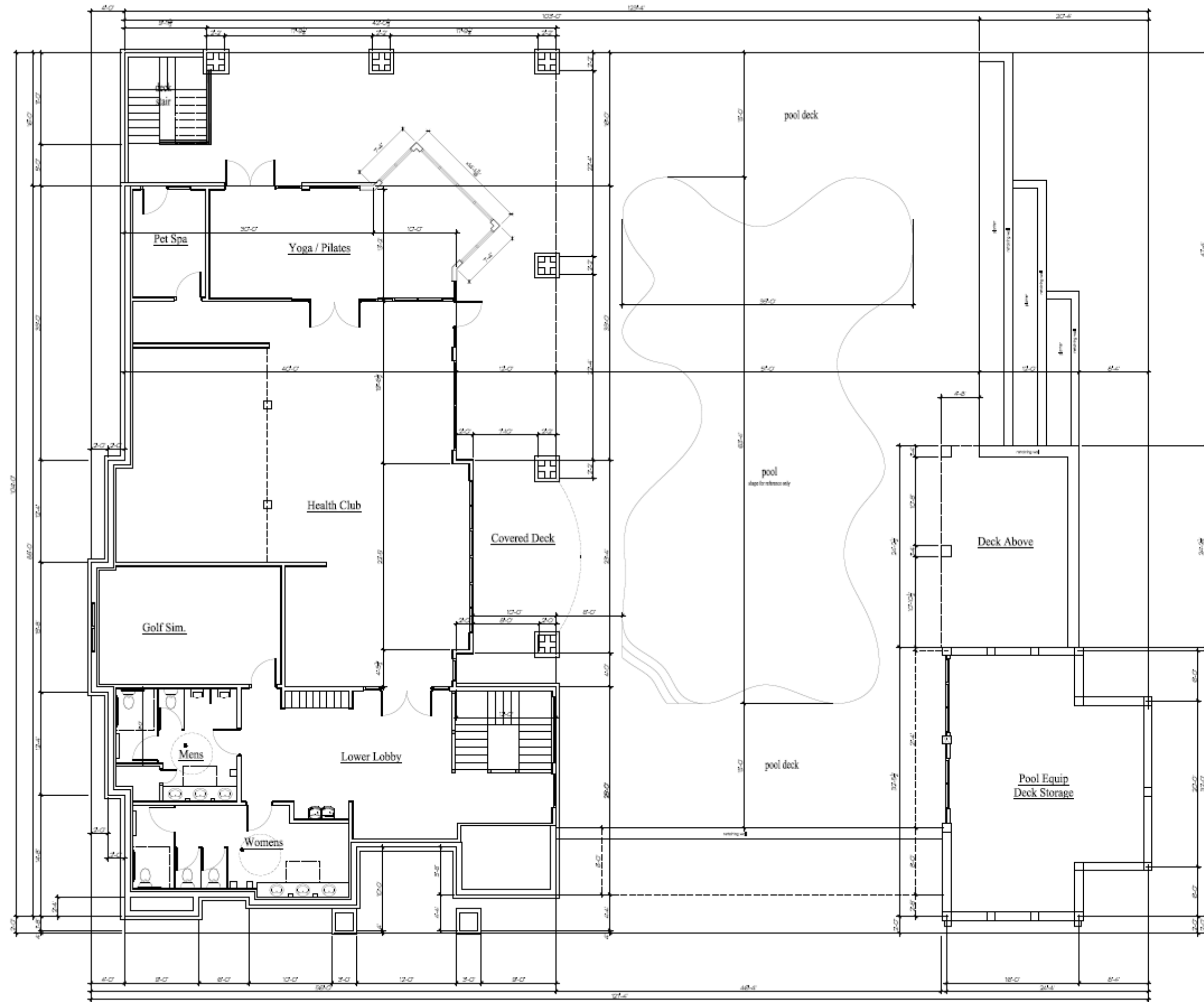


Resident Club Features:

- ☐ Club Room
- ☐ Health Club
- ☐ Outdoor Pool
- ☐ Sundeck
- ☐ Pet Spa
- ☐ Work Space
- ☐ Administrative

- Resident Facilities
 - 7,420 Sq ft.
- Administrative Facilities
 - 2,080 Sq ft.
 - 22 Parking Stalls

Additional surface parking shall be supplemented by shared Retail/Office parking from 5 pm to 8 am.



1 OVERALL LOWER LEVEL FLOOR PLAN

TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING

25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-406-2530

**Residence Club
@ The Conservancy**

50. Moorland Rd (CTH 'D') & W. Greenfield Ave. (STH '59')

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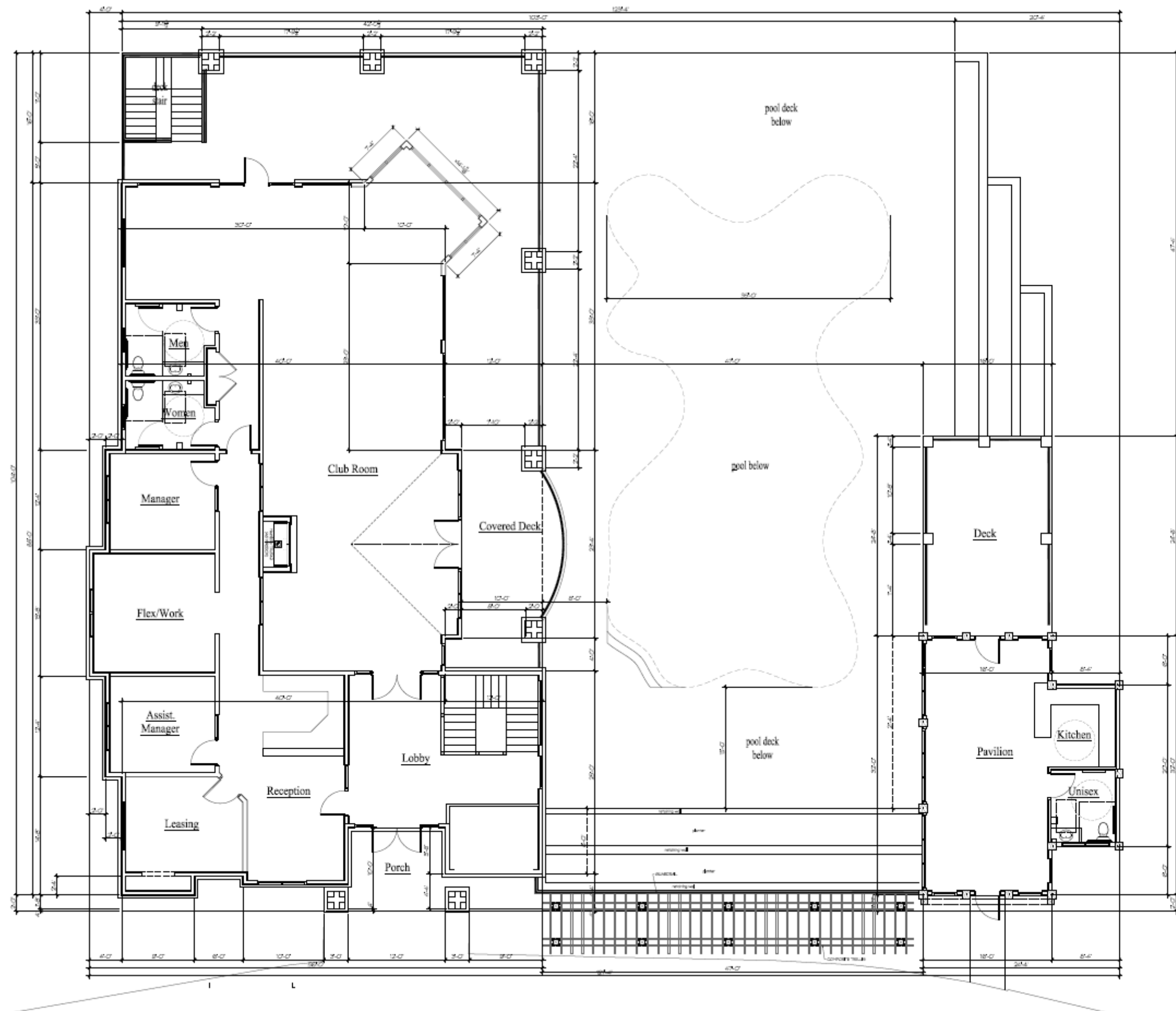
Sheet Title
**Overall Lower Level
Floor Plan**

Issued For: _____ Date: _____

**PRELIMINARY DRAWING
NOT FOR CONSTRUCTION**

Date: 1/3/2025
Job NO: 25101.100
Drawn By: dgj
Sheet No. _____

A1.0



1 OVERALL MAIN LEVEL FLOOR PLAN



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING

25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-469-2530

Residence Club
@ The Conservancy

50. Moorland Rd (CTH 101) & W. Greenfield Ave (STH 541)
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Sheet Title
Overall Main Level Floor Plan

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Date: 1/3/2025
Job NO: 25101.100
Drawn By: djg
Sheet No. _____

A1.1



**Residence Club
@ The Conservancy**

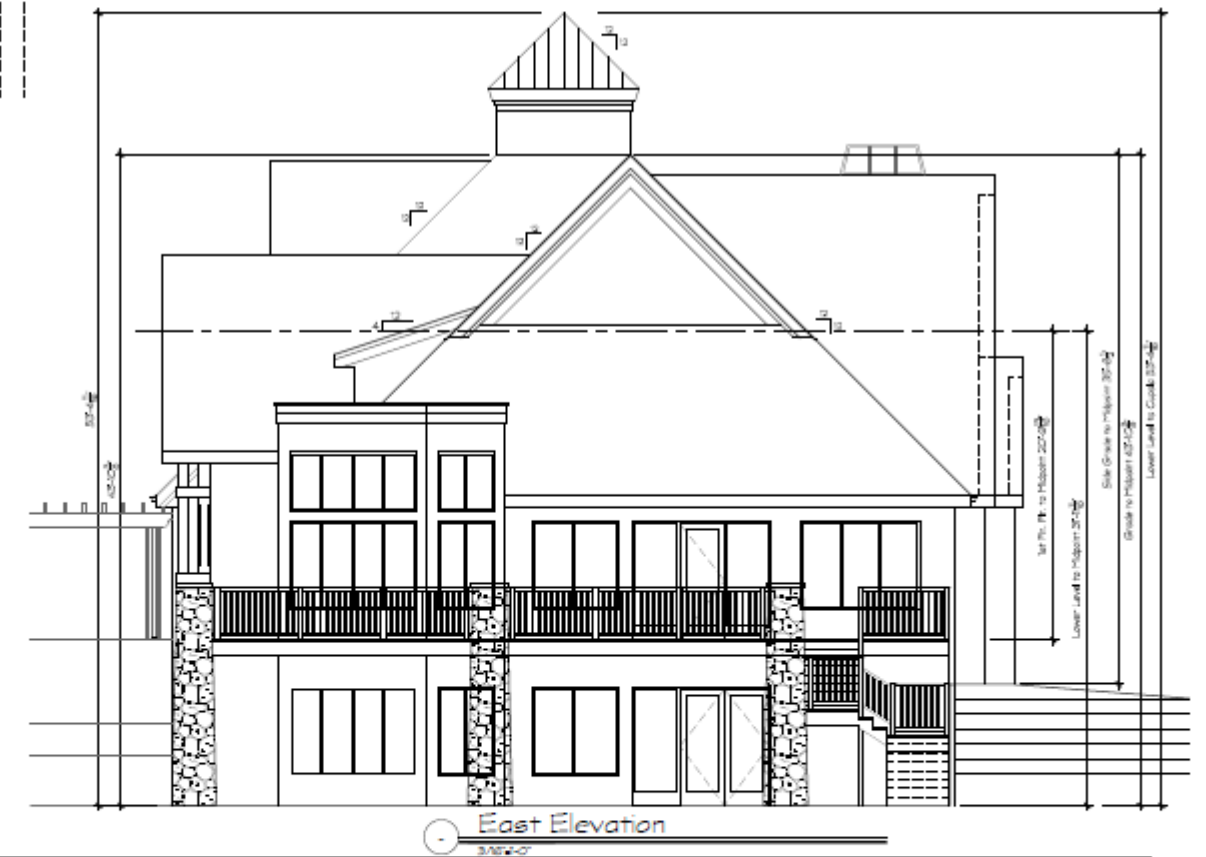
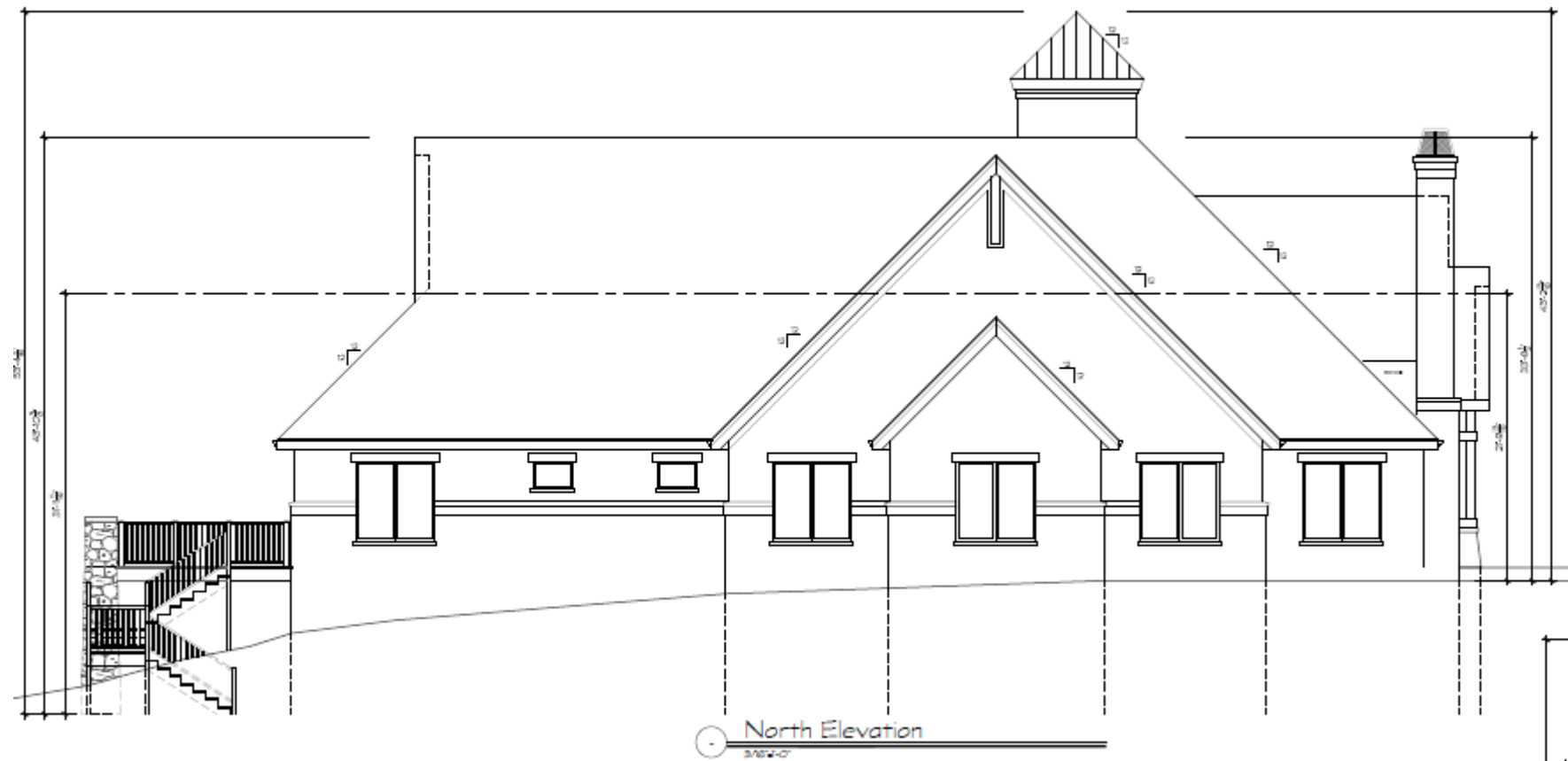
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Sheet Title
Exterior Elevations

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Date: 1/3/2025
Job NO.: 25101.100
Drawn By: dji
Sheet No.: **A2.1**



Residence Club @ The Conservancy

50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
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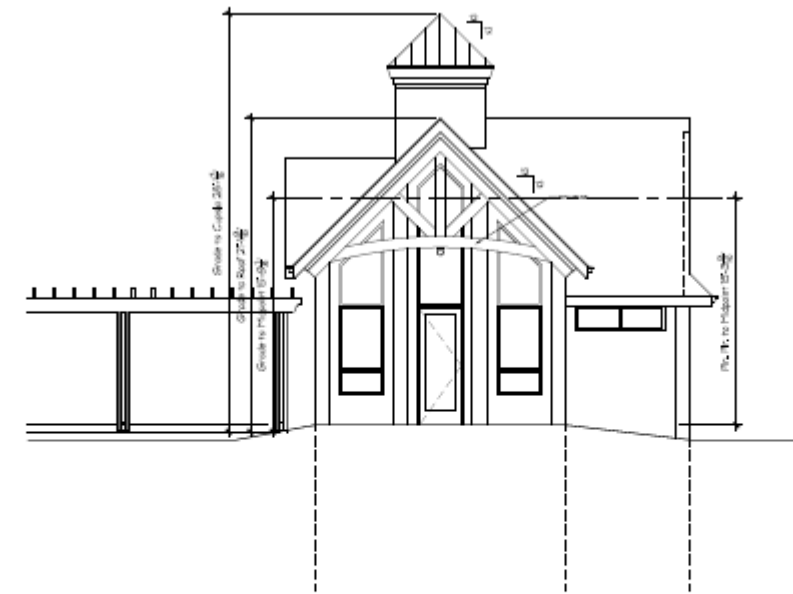
Sheet Title
Exterior Elevations

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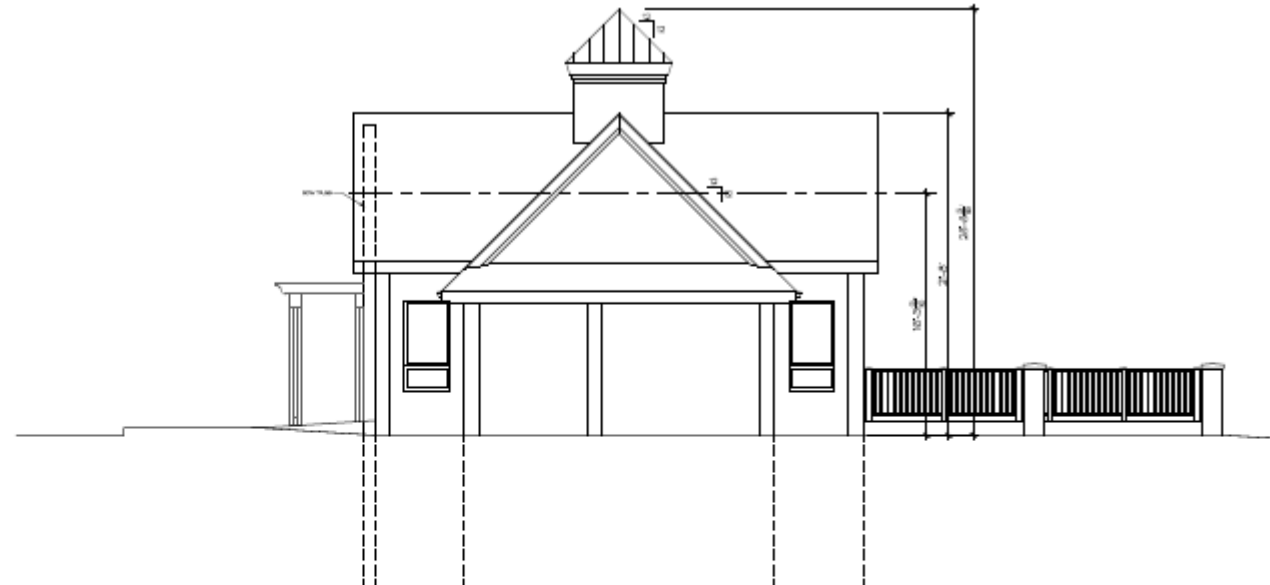
Date: 1/3/2025
Job NO.: 25101.100
Drawn By: daj
Sheet No.: A2.2



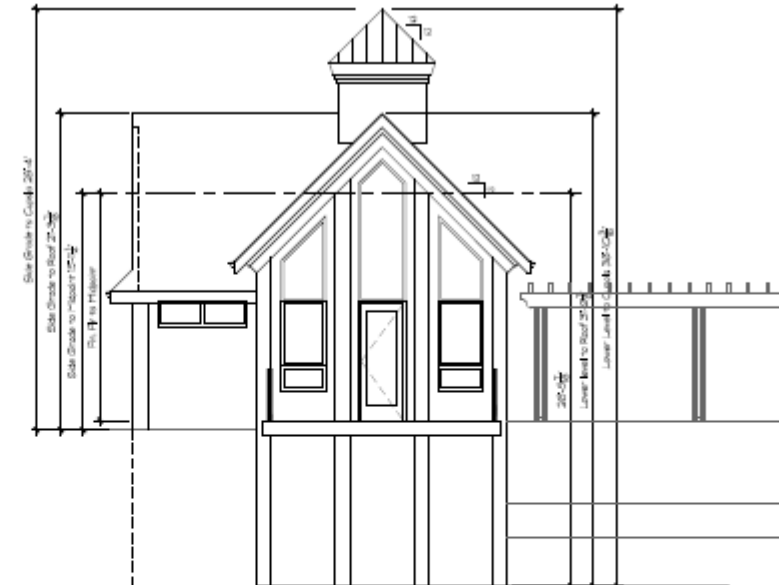
North Elevation - Pavilion
3/16"=1'-0"



West Elevation - Pavilion
3/16"=1'-0"



South Elevation - Pavilion
3/16"=1'-0"



East Elevation - Pavilion
3/16"=1'-0"



Residence Club
@ The Conservancy

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Sheet Title
Exterior Elevations
@ Pavilion

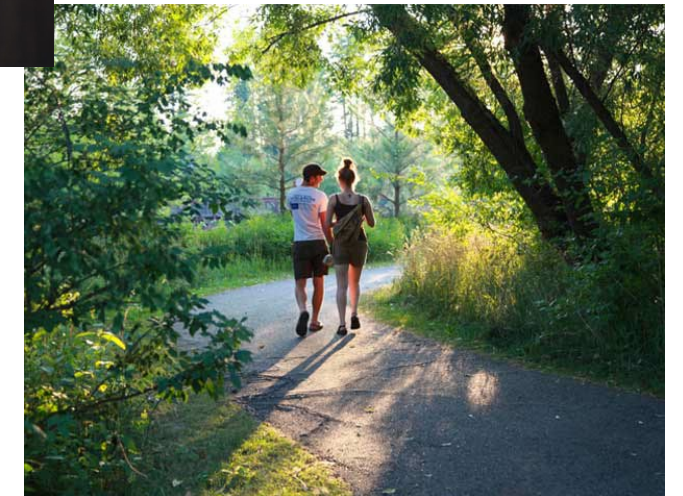
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PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Date: 1/3/2025
Job NO. 25101.100
Drawn By: dsj
Sheet No.

A2.3

THE CONSERVANCY

CAMPUS AMENITIES



- Hardwood Forest Reserve
- Conservancy Walk
- Neighborhood open greens, Ponds and wetlands preservation
- Resident Club with Pool and Fitness Center
- New Berlin Recreation Trail
- Pet Run
- Walkable sidewalk on site



T H E
CONSERVANCY

COMMUNITY BENEFIT

- The Conservancy shall serve to establish, populate and animate the southeast quadrant to a new commercial, and residential district on the intersection of Moorland and Greenfield Avenue providing both quality of life and economic benefits to the City of New Berlin.
- Creates a Master Planned Neighborhood by the implementation of the central design elements identified in City of New Berlin planning studies.
- Provide a private vehicular and pedestrian circulation plan.
- Creates a vital animated pedestrian-oriented neighborhood rich in recreation and social amenities.
- Provides a local population and access to properties within the mixed-use business district in the City of New Berlin to the east and north in the City of Brookfield.
- Encourage reinvestment and/or redevelopment of the remaining neighboring parcels and provides the flexibility for the medium and high-density development.
- Expands neighborhood economic development through additional population base supporting local businesses.
- Provides a preservation of high-quality woodland and wetland environments as well as commercial/retail land uses.

Neighborhood Value Increase	
Current Southeast Quadrant Value:	\$0
Developed Southeast Quadrant:	<u>\$65,740,300</u>
Increase:	\$65,740,300

Municipal Tax Benefits	Current	Developed
City of New Berlin:	\$0	\$411,434
School District:	\$0	\$424,404
Others:	<u>\$0</u>	<u>\$154,404</u>
Total:	\$0	\$990,242

THE

CONSERVANCY

DEVELOPMENT FUNDING

FUNDING FOR THE CONSERVANCY			
	Construction Loans	Owner-Funded Equity	TOTAL
Funding Source as Percentage of Total Construction Costs:	70.00%	30.00%	100.00%

The Funding Sources above represent the total anticipated financing for the development of The Conservancy and are identified according to their estimated share of the total Development Costs for the Project.

Wimmer has requested the City of New Berlin to allow the application of those fees collected by the City as a result of the development of The Conservancy to partially offset the cost of the public infrastructure benefitting the City.

DEVELOPMENT EXPENSES OF PUBLIC INFRASTRUCTURE BENEFITTING THE CITY OF NEW BERLIN	
Moorland Road Improvements	\$457,990
Inclusive of:	
Traffic Signals	\$400,000
Landscaping in Moorland Road ROW	\$42,785
Public Sidewalk	\$85,957
Sanitary Sewer	\$1,806,930
Water Utility	\$763,771
Municipal Monument	\$80,000
Total Estimated Cost of Public Infrastructure Benefitting the City of New Berlin:	\$3,114,648

DEVELOPMENT FEES TO BE ALLOCATED TO THE DEVELOPER			
	Units	\$/Unit or \$/SF	Fee
Library	375	\$109.00	\$40,875.00
Park	375	\$85.00	\$31,875.00
Fire/Rescue			
-Retail	19,600	\$0.12	\$2,352.00
-Multifamily	375	\$132.00	\$49,500.00
Public Site			
-Commercial	1 Lot / 20 acres	\$946.14 per Lot + \$100/acre	\$2,946.14
-Residential	375	\$1,807.60	\$677,850.00
Open Space			
-Commercial	1 Lot	\$260.00 per Lot	\$260.00
-Residential	375	\$130.00	\$48,750.00
Tree Replacement			TBD
Development Fees to be Applied to Public Infrastructure Benefitting the City of New Berlin:			\$854,408.14

Wimmer anticipates obtaining conventional construction financing from one or more local lending institutions. The balance of the development costs for the Project will be funded by Wimmer’s direct equity contribution.

T H E
CONSERVANCY

DEVELOPMENT TIMETABLE

The following Construction Schedule is anticipated:

ANTICIPATED CONSTRUCTION TIME TABLE				
<u>Building No.</u>	<u>Units</u>	<u>Name</u>	<u>Commencem ent</u>	<u>Completion</u>
Moorland Road Reconstruction			April 2026	Novem ber 2026
Site Work			August 2025	June 2026
<i>Phase I - Center</i>				
2/3	46	Conservancy Center	June 2026	Septem ber 2027
5/6	122	Woodland Residences	August 2026	Novem ber 2027
16	-	Resident Club	September 2026	Septem ber 2027
Lease-Up Stabilization of 168 Units:			September 2027	June 2028
<i>Phase II - South</i>				
7	52	Woodland Residences	July 2027	Septem ber 2028
12 - 15	16	Meadow Residences	September 2027	Septem ber 2028
Lease-Up Stabilization of 68 Units:			September 2028	July 2029
<i>Phase III - North</i>				
1	71	The Conservator	June 2028	December 2029
4	52	Woodland Residences	July 2028	Septem ber 2029
8 - 11	16	Meadow Residences	September 2028	July 2029
Lease-Up Stabilization of 138 Units:			July 2029	June 2030

The Schedule above represents the anticipated completion schedule, which may be accelerated based on an earlier date of actual construction and lease-up stabilization. As typical, Construction Lender(s) for the Project will condition the financing for Phase II and Phase III upon the completed actual lease-up stabilization of the Phase I Buildings. Thus, the anticipated Construction Timetable above assumes that construction of Phase II and Phase III will not commence until actual lease-up stabilization of the Phase I Buildings is complete. We would reserve the right to begin construction of any future phase out of sequence and in advance of the dates identified above.

T H E CONSERVANCY

OPERATIONS

In addition to being a significant community resource for increasing the quality of life for its residents, resident families, and the general community, Wimmer Communities has been a positive economic force as well.

Wimmer Communities directly operates their facilities through a staff specialized in professional property management in five departments including Resident Services, Community Services, Lifestyle Services, Facilities Management, and Business Administration. In addition to employment opportunities, Wimmer Communities adopts an aggressive purchasing program for local distributors of required supplies and services.

Wimmer Communities shall provide day-to-day operations, which will be managed out of an on-site property management office located in the Resident Club.

Hours of On-Site Operation Monday-Friday 9:00 a.m. -6:00 p.m. Saturday - Sunday 11:00-a.m. - 4:00 p.m.

Wimmer Communities provides a 24-hour emergency response service for after-hours maintenance issues. In addition, property management staff provides many concierge and lifestyle services to residents, including:

- Special Holiday Events
- Aerobics Classes
- Housekeeping
- Laundry and Dry-Cleaning Drop-off
- Grocery Delivery
- Pharmaceutical Delivery
- Floral Delivery
- Houseplant Care
- Pet Grooming
- Special Events Planning and Catering for the Community Center

Maintenance of buildings will be the responsibility of on-site maintenance staff. Licensed contractors are retained for larger building upkeep activities and or electrical, mechanical, plumbing, and fire protection work requiring professional trade people. A property preventive maintenance program is strictly implemented to protect the long-term value of the property.

Landscape Maintenance will be provided under contract with professional landscape management firms. In addition to basic lawn care services, landscape firms provide Spring and Fall clean ups, shrub and tree pruning, weeding of flowerbeds, and other services, which together comprise a comprehensive landscape management program. Service contracts generally run from April through November.

Snow Removal services are provided under contract with professional snow removal contractors. Wimmer Communities maintains relationships with multiple reliable vendors for snow removal and selects the most appropriate vendor based on equipment, ability to provide responsive service, and proximity of the contractor's facilities to the property. Snow removal contracts provide for street plowing and sidewalk clearing. Properties are staked and reviewed with plowing contractors every fall to minimize the potential for landscape damage. Contractors are responsible for complete restoration of any damage incurred.

Refuse Disposal will be provided under contract with a licensed trash hauler. A centrally located waste collection center will be provided on each floor that contains a trash chute to receptacles, compartmentalized on the underground parking level. On-site property maintenance staff will coordinate with the licensed trash hauler for weekly emptying of the trash containers. Recycling bins are also provided and located within the waste collection centers in the building to provide convenient separation of recyclable materials. There are no building-related trash receptacles or dumpsters situated outside of any buildings



About Wimmer Communities

Wimmer Communities is a family-owned, locally operated, multi-faceted real estate development, brokerage, construction, and property management firm that:

- Owns, operates, and manages over thirty-five apartment communities, independent and assisted living senior residences, commercial properties, and hotel located throughout the Milwaukee metropolitan area, with more high-quality properties currently under development.
- Understands that how one lives is just as important as where one lives, resulting in a team of craftsmen and service management personnel who are dedicated to providing outstanding customer service, and exciting, comfortable, secure and convenient residences.
- Offers its family of employees a respectful and positive work environment where everyone is equal.
- Embraces the opportunity and responsibility to be a positive force in the communities in which we live, work, and play through involvement in the arts, health, education, recreation, and environment.

Wimmer Communities' Mission is founded upon values and ideals as the cornerstones to its drive to be a leader in the residential real estate industry through entrepreneurial spirit, calculated risk taking, and being on the leading edge of new markets and opportunities to achieve continued success and profitability.

This goal is realized through the development, management and construction of properties that are exciting, physically and economically accessible, and satisfy the need for comfort, security, and personal growth of the families and individuals who come into contact with that development. These environments are created for customers through respect, communication, responsiveness, and personalized service to achieve customer satisfaction.

Wimmer Communities celebrates individuals who perpetuate the traditional work ethic and challenge their abilities to promote personal and professional growth, while maintaining open communication, recognizing all employees as members of a team who are rewarded financially with competitive salaries and recognition for exceptional performance.

Wimmer Senior Communities creates environments for seniors above the age of 62 that provide superior quality of life by offering a continuum of care in services and programming within a most desired and least restrictive environment, allowing individuals to age with dignity. It is committed to respecting the individuality, independence and privacy of our residents, while providing high-quality, cost-effective care within a safe and secure residential environment. Wimmer Senior Communities offers a program of services that nurtures the body, mind, and spirit and respects the choices of our residents in the care-planning process, which involves both family and friends in lifestyle decision-making.

Throughout the years, Wimmer Communities has won numerous awards and achievements. Wimmer has been awarded the Milwaukee Journal Sentinel Top Workplace Award for nine consecutive years and most recently in 2024, as well as earning USA Today's 2024 Top Workplace USA Award. The Apartment Owners and Managers Association (AOMA) recognized Wimmer for the following TOBY awards; 2016 Property Excellence (The Centennial), 2016 Onsite Manager, 2017 Property Excellence (Heritage House & The Silvernail), 2017 Outstanding Support Staff, 2018 Apartment Building Senior Housing (Forest Ridge), 2018 Property Excellence (Falcon Glen), 2019 Assistant Manager of the Year, 2019 Outstanding Maintenance of the Year, 2021 Property Excellence (Oakton Beach & The Silvernail), and 2021 Assistant Manager of the Year. Wimmer Communities has been honored with the following Milwaukee Journal Sentinel Top Choice Awards, which are voted on by the Milwaukee area public; 2017 Assisted Living Finalist (Forest Ridge), 2018 Assisted Living Finalist (Forest Ridge), 2018 Hometown Business Finalist (Wimmer Communities), 2021 Assisted Living Finalist (Forest Ridge), and 2021 Top Apartments Winner (Wimmer Communities). Wimmer Communities maintenance technicians regularly win awards and recognitions at the annual Maintenance Mania competition, including 4 individual technician awards in 2020 and 2 national qualifiers. Wimmer Communities was also awarded the 2020 Leadership in Safety Award by the Associated General Contractors of Great Milwaukee.



Arts

- Wimmer Communities' Concerts in the Gardens - Since 1996 Wimmer Communities has produced and sponsored a series of outdoor summer concerts open to the public at the Boerner Botanical Gardens
- United Performing Arts Fund serving Southeastern Wisconsin
- Wimmer Rehearsal Hall at Marquette University High School
- Marquette University High School Theater
- Wimmer Communities' Collection of Contemporary Art - on exhibit in Community Centers throughout the Milwaukee metropolitan area featuring signature works from world-renowned artists, as well as bold works from up-and-coming new artists.

Environment

- Wimmer Wetlands offers an educational bike path explaining the importance of wetlands in urban land planning as a segment of the Milwaukee County Park System's Oak Leaf Trail.
- Boerner Botanical Gardens Welcome Center
- Green Building practices ensure environmentally responsible material selections and systems, which are resource-efficient and utilize sustainable energy.
- Community Reuse and Recycling programs for construction materials, furnishings, and waste.

Health

- Annual endowment to the Mary T. Wimmer Breast Cancer Research Fund
- Waukesha Community Health Center building fund contribution - provides high-quality health care, health education, and social services to low-income area residents.
- Funding of the Wimmer Cardiac Testing Center brings innovative technology to the new Heart and Vascular Center at ProHealth Care. This patient-centered care program utilizes The Discovery 530c, a state-of-the-art nuclear camera, which offers faster scan times while decreasing radiation doses to patients.
- Funding of the Wimmer Healing Garden at the ProHealth Care UW Cancer Center provides a tranquil rooftop sanctuary for patients and their families to relax, reflect, and rejuvenate.
- Funding of the St. Mary's Contemplative Labyrinth offers an outdoor labyrinth walk emulating life's pilgrimage for ecumenical meditation.





Team Member Volunteer Initiatives

- Wimmer Communities assists the efforts of its staff in providing funding and facilitating the charitable causes to which they feel connected.
- Operation Christmas Child- Since 2001 employees have filled shoeboxes with gifts for children around the world and Wimmer Communities pays the shipping costs.
- Milwaukee Rescue Mission - Donations of toys and clothing generously donated by Wimmer Communities' residents and employees.
- Habitat for Humanity - Wimmer Communities supports Habitat for Humanity ReStores by contributing surplus construction materials and gently used appliances. The support of this worthy cause has included collections of household items including small appliances.
- Hunger Task Force - Wimmer Communities' employees and residents donate food items to this annual cause and our communities serve as drop-off points.
- Community Projects for Seniors - Wimmer Communities assists this worthy organization in providing necessities for low-income seniors by the collection and donation of household bath items.



T H E CONSERVANCY

Appendix

- Proposed PUD Zoning Data Table
- Fire Department Access Plan
- Conceptual Entry Monument

THE
CONSERVANCY

Proposed PUD Zoning Data Table

[illegible]

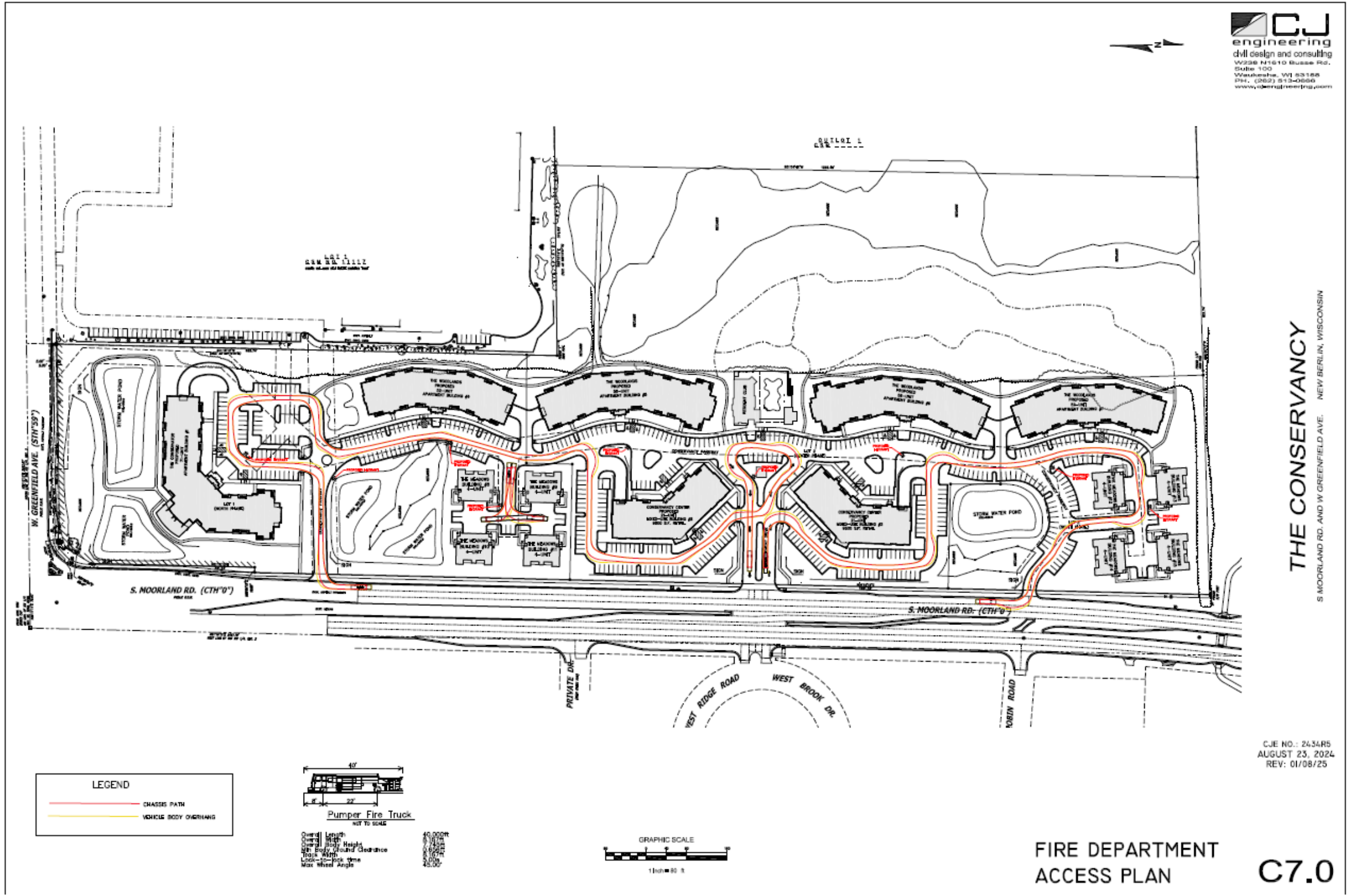
NOTE: "External" refers to perimeter lot lines of proposed 3-parcel CSM.
"Internal" refers to interior lot lines of proposed 3-parcel CSM.

NOTE: Required Retail parking ratios above
Retail constitutes "Personal Services" use
under Table 275-75-1.
Please see Staff Report, File # UA-2402003,
PC Date: 10/07/2024

NOTE: Staff Report cited above also determined that Resident Club constitutes "Personal Services" use. As proposed, parking ratio at Resident Club is 0.45 space per 200 SF.

THE CONSERVANCY

Fire Department Access Plan



T H E CONSERVANCY

Conceptual Entry Monument



CHAPTER 10: LAND USE PLAN

Revisions approved by Council on 11/14/2023 DATE via Ordinance # 2684.



LAND USE PLANNING IN RELATION TO STATE STATUTES

Section 62.23 of the Wisconsin Statutes grants cities and villages the authority to prepare and adopt local master plans or plan elements. In 1999, the Wisconsin Legislature enacted legislation that greatly expanded the significance of comprehensive plans within the State. The law, referred to as Wisconsin's "Smart Growth" law, provides a new framework for the development, adoption, and implementation of comprehensive plans by various units of government. The law, set forth in Section 66.1001 of the Wisconsin Statutes, requires that the administration of zoning, subdivision, and official mapping ordinances be consistent with a community's adopted comprehensive plan beginning on January 1, 2010.

In Waukesha County, 27 of the 37 cities, villages, and towns opted to participate in the Waukesha County Comprehensive Plan process. The process was led by County staff with assistance from the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and Waukesha County UW-Extension staff. The City of New Berlin selected to establish its own, more tailored Comprehensive Plan in lieu of participating through the County.

Several of the nine comprehensive planning elements required by Section 66.1001 of the Statutes must be updated or addressed to bring existing land use or master plans into compliance with the requirements of the comprehensive planning legislation. This chapter provides the full Land Use Element for the City of New Berlin. Additional information regarding existing and future land uses can be found in each individual neighborhood chapter.

EXISTING LAND USES

Reviewing past and existing land use trends can aid in planning for the types of uses that are in demand. Figure 10.1 illustrates the land use trends for the City of New Berlin from 1990 to 2020. The existing land use map shown in Figure 10.2 is based on City assessment data from 2020 using Market Drive software produced by Assessment Technologies LLC. The map illustrates a high amount of single-family residential land with supporting industrial/manufacturing and commercial uses. Other land uses include agricultural, exempt, forest lands, multi-family residential, recreation, and undeveloped. Wetlands and woodlands are also identified.

	1990			1995			2000			2020		
	% Dev.	% Total		% Dev.	% Total		% Dev.	% Total		% Dev.	% Total	
	Acres	Area	Area	Acres	Area	Area	Acres	Area	Area	Acres	Area	Area
Residential (1)(4)	6,227	62.0%	26.4%	6,563	59.9%	27.8%	6,782	58.3%	28.7%	13,574	69.1%	59.8%
Commercial (1)(4)	364	3.6%	1.5%	397	3.6%	1.7%	466	4.0%	2.0%	2,652	13.5%	11.7%
Industrial/Manufacturing (1)(4)	586	5.8%	2.5%	614	5.6%	2.6%	763	6.6%	3.2%	655	3.3%	2.9%
Transp./Common/Utilities (1)	2,061	20.5%	8.7%	2,549	23.3%	10.8%	2,681	23.0%	11.4%			0.0%
Government/Institutional/Exempt (1)(4)	422	4.2%	1.8%	434	4.0%	1.8%	473	4.1%	2.0%	1,139	5.8%	5.0%
Recreational (1)(2)(4)	384	3.8%	1.6%	406	3.7%	1.7%	470	4.0%	2.0%	1,633	8.3%	7.2%
Urban Subtotal(4)	10,044	100.0%	42.6%	10,963	100%	46.5%	11,635	100.0%	49.3%	19,653	100.0%	86.6%
Agricultural (4)	6,817	50.3%	28.9%	6,277	49.7%	26.6%	5,124	42.8%	21.7%	1,804	59.2%	7.9%
Natural Resources Areas	3,734	27.6%	15.8%	3,508	27.8%	14.9%	3,567	29.8%	15.1%			
Wetlands	2,323	17.1%	9.8%	2,269	18.0%	9.6%	2,301	19.2%	9.8%			
Woodlands/Forests(4)	1,283	9.5%	5.4%	1,130	8.9%	4.8%	1,154	9.6%	4.9%	224	7.4%	1.0%
Surface Water	128	0.9%	0.5%	109	0.9%	0.5%	112	0.9%	0.5%			
Other (4)	2,997	22.1%	12.7%	2,845	22.5%	12.1%	3,268	27.3%	13.9%			
Undeveloped Land(4)										1,018	33.4%	4.5%
Nonurban Subtotal(4)	13,548	100%	57.4%	12,630	100.0%	53.5%	11,959	100.0%	50.7%	3,046	100.0%	13.4%
Total	23,592		100.0%	23,593		100.0%	23,594			22,699		100.0%

SEWRPC & City of New Berlin Assessment Data -Market Drive software produced by Assessment Technologies LLC

1-Includes off-street parking areas.

2- Includes intensively used area of public and non-public recreation sites.

3- Includes extractive, landfills and unused land.

4 - For the 2020 values, the City Assessor is using new software that does not calculate the information in the same way. The calculations are a bit different.

The categories were matched as closely as possible.

The predominate property type is used in this table. Wetlands, woodlands/forests and surface water were not calculated separately. We also did not differentiate between urban and non-urban for 2020.

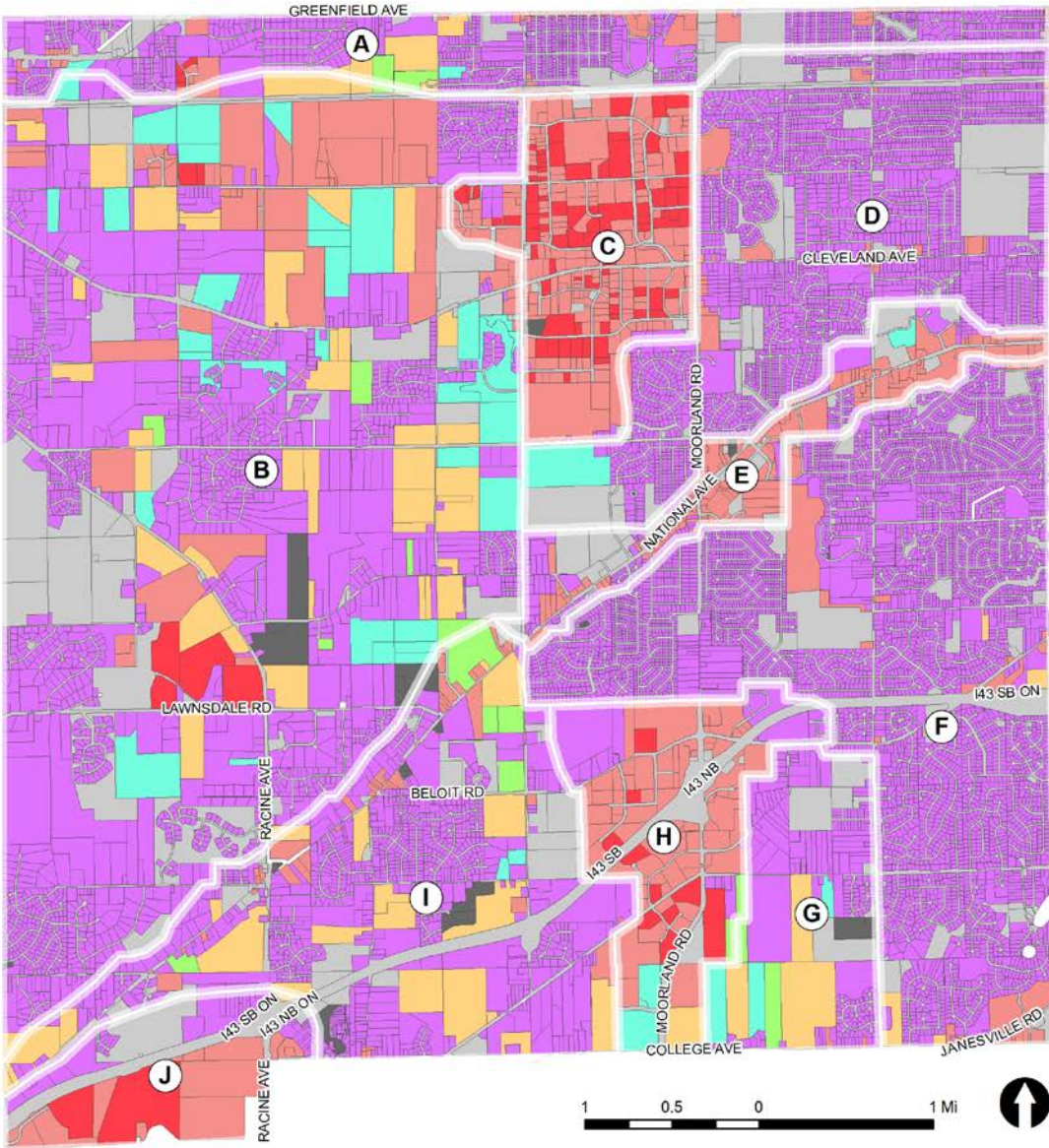
Figure 10.1. City of New Berlin Land Use Trends

Source: SEWRPC & City of New Berlin Assessment Data

In 2020, the primary urban use within New Berlin consisted of residential land at approximately 13,574 acres, or 59.8% of the total area of New Berlin. This was an increase of 6,792 acres from 2000.

EXISTING LAND USE

with Neighborhood Overlay



EXISTING LAND USE

- | | | |
|-------------------|---------------|-------------|
| No Value Assigned | Exempt | Residential |
| Agricultural | Forest | Undeveloped |
| Commercial | Manufacturing | |

March 2024

COMPREHENSIVE PLAN 2030
City of New Berlin, Wisconsin

Figure 10.2. Existing Land Use Map of the City of New Berlin. UPDATE MAP IF PUD IS APPROVED.

Even though the amount of agricultural land in the City has been decreasing over time, agricultural land still plays a significant role in New Berlin. Most new subdivisions built since 2015 have been conservation style subdivisions with an overall density of one home per 5 acres, in addition to 50 to 75 percent open space. The City has continued to monitor the subdivision ordinances every few years to ensure that we are continuing to preserve open spaces, wetlands and woodlands.

Based upon survey work conducted by the Department of Community Development in 2008, this decrease can be attributed to market forces that have resulted in less overall income being derived from farming, multiple property ownerships creating smaller, less contiguous farmland acreages, and a general lack of interest in farming. Surveying large property owners whose current existing land use is agriculture, in 1999, 95% and in 2007, 91% of those surveyed identified that farming was not their main occupation. The Department mailed out 123 surveys representing 155 tracts of agricultural or undeveloped lands of 15 acres in size or larger. There was a 44% response rate to the 2008 survey. See Appendix F for both the survey results and the summary power point presentation that was presented at the Farmland & Open Space Landowners Focus Group meeting on July 9, 2008.

In order to continue forth with farmland preservation efforts, the Department of Community Development must continually look for economically viable ways of purchasing agriculture conservation easements through grant funding. Additionally, the Department should utilize its conservation subdivision regulations to plan for and permit farming as open space use. Planning for farms in conservation subdivisions could take place through the platting process by designing lot layouts, access, and other elements to accommodate farming as an open space use. The Department is also encouraged to continue promoting other agricultural preservation mechanisms to property owners such as easement dedications and / or purchase of development rights (PDR).

Other significant trends noted in the table have been the growth in commercial and industrial/manufacturing land use. This growth was planned for and is on track with the various development policies within each Neighborhood. This would include some growth in South Moorland Road Corridor, City Center and Moorland Road and Beloit Road.

LAND USE POLICIES

Several key policies were developed during the 2001 Growth and Development Master Plan (GDMP) process in order to guide the demographic and economic forces shaping the community. These policies have been carried forward and will continue to help guide the City's land use planning efforts.

Although the Land Use Plan is ultimately organized around creating distinct neighborhoods and business centers, the following policies shall apply city-wide:

Policy 1: Managed Growth

Ensure that growth in New Berlin is affirmatively and responsibly managed based on available public services and suitability of the land for development.

Policy 2: Urban Boundaries

Maintain cohesive urban boundaries conducive to service delivery that support implementation of the adopted future land use plan.

Policy 3: Compatible Land Uses

Promote an orderly and compatible pattern of land uses avoiding "hodge-podge" development patterns. Provide appropriate transitions and buffers when differing uses are adjacent to one another.

Policy 4: Infrastructure

Utilize the provision of infrastructure in supporting and influencing growth in areas most suitable to accommodate growth.

Policy 5: Neighborhood Preservation

Preserve existing neighborhoods and encourage compatible infill development. (Infill development generally refers to either construction on vacant parcels in existing developed areas, or replacement of obsolete or dilapidated structures with new buildings.)

Policy 6: Rural Character

Preserve the existing character of the remaining rural areas in New Berlin.

Policy 7: Urban and Rural Distinction

Preserve and reinforce the distinction between urban and rural areas in New Berlin.

Policy 8: Open Space

Preserve open space throughout the city through both public and private development. Focus preservation efforts in environmentally sensitive areas, areas with recreational and trail opportunities, areas serving as buffers between different land uses, and neighborhood open space. Work to remove regulatory barriers that will reinforce that farming and/or large-scale gardening can remain a viable land use while respecting and preserving private property rights.

Policy 9: Development Quality

Require new development to meet sound planning and engineering standards with regard to sustainable architecture, site planning, and stormwater management.

These principles create an overall policy framework for the city.

The City of New Berlin Land Use Plan is intended to provide a guide for development, redevelopment, and preservation over the next ten (10) years and will need to be re-evaluated during 2021 and again near the year 2030. The Land Use Plan is based on standards that reflect the desires of community residents, committee members, elected officials and proven principles in community development, environmental preservation, and residential development. As part of the Land Use Plan, several factors have been explored related to the growth of the built environment:

- **Social factors** include those which give or maintain character (i.e. gathering areas, civic identity, and the “city living with a touch of country” feeling).
- **Economic factors** include the creation of jobs, balance of municipal expenses and revenue, and land value influenced by natural amenities and water quality.
- **Physical factors** include the character of the land (i.e. how it appears, areas that are preserved, what types of development are allowed, and where development is located).

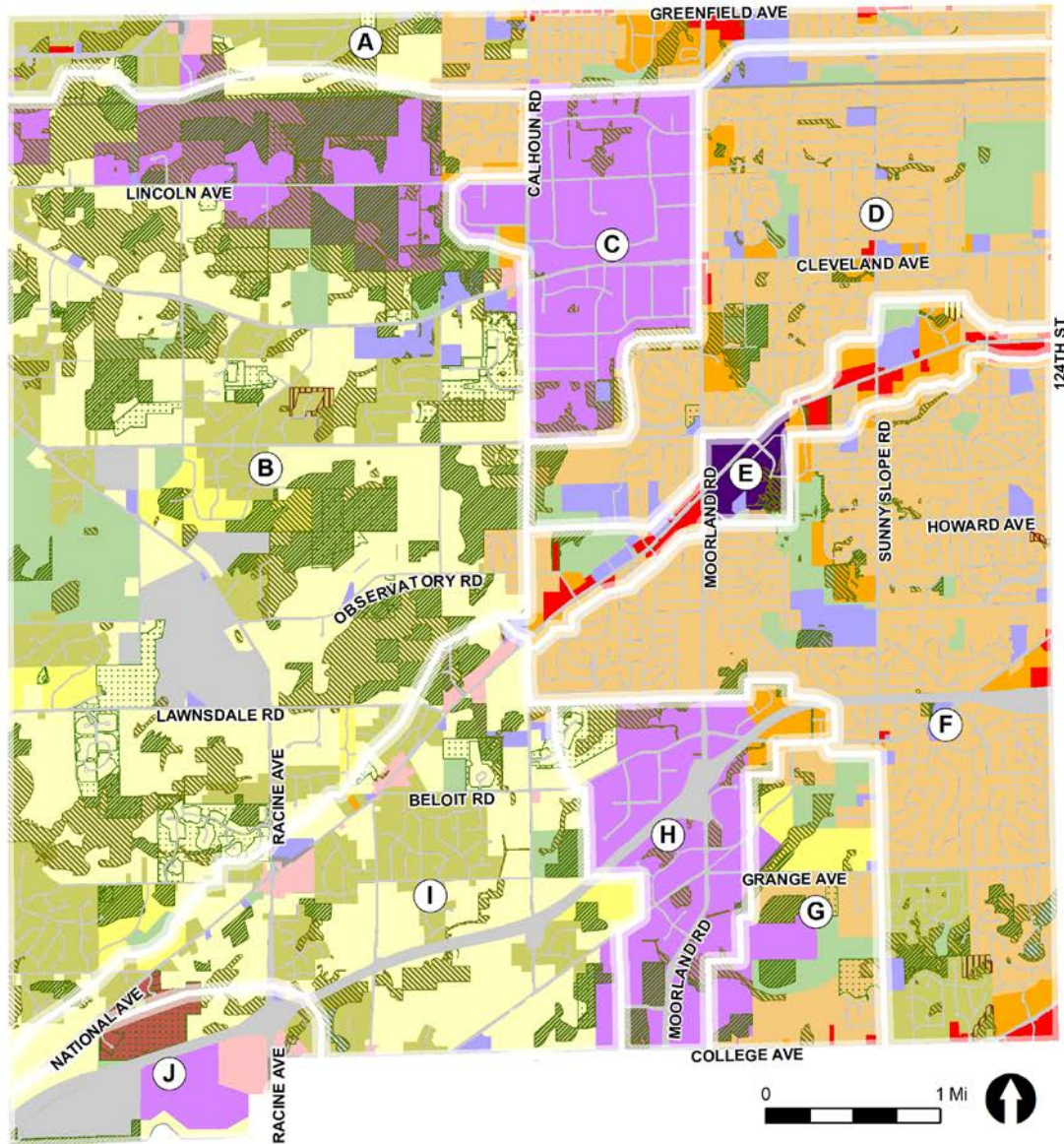
The Land Use Plan cannot be successfully implemented by looking only at the physical attributes of growth. Diverse and healthy communities grow in all three areas, and a balance should be achieved to provide a quality environment for residents and business owners.

This Land Use Plan provides flexible recommendations and categories to provide long-range guidance to decision-makers. It recognizes that the City Zoning Map exists as a mechanism for property-specific recommendations. The purpose of the Land Use Plan is to serve as a link between the Land Use Policies and the development regulations. The City should explore implementing a form-based code versus continuing the use the traditional zoning ordinance (Euclidean Zoning) in order to implement infill and/or redevelopment opportunities.

When considering the proposed land uses for any particular parcel of property, the Land Use Policies must be considered in addition to the requirements of the entire Comprehensive Plan. The Land Use Plan Map, shown in Figure 10.3, identifies the future land use districts within the City of New Berlin.

FUTURE LAND USE PLAN

with Zoned Conservancy and Neighborhood Overlay



LEGEND

Business Park / Industrial	Mixed Use Residential	Residential Estate	Zoned Conservancy Districts
Institutional	City Center Single Family Res	Quarry Park Residential	C-1 Upland Resource
City Center Mixed Use	Urban Residential	Transportation	C-2 Shoreland Wetland
Suburban Commercial	Suburban Residential	Park	C-3 Permanent Open Space
Rural Commercial	Country Residential	Quarry	
		Water	

March 2024

COMPREHENSIVE PLAN 2030

City of New Berlin, Wisconsin

Figure 10.3. Future Land Use Map for the City of New Berlin. UPDATE MAP IF PUD & COMP. PLAN IS AMENDMENT IS APPROVED.

Section 34 – 35 – 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 & 35 Business Park Development District) and P-2 (Section 35 Park Complex District) as further described below. The map below (Figure 10.4) identifies the Future Land Use and Zoning Code Section 275-13.1(H)(4), Figure I-1, identifies the 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.

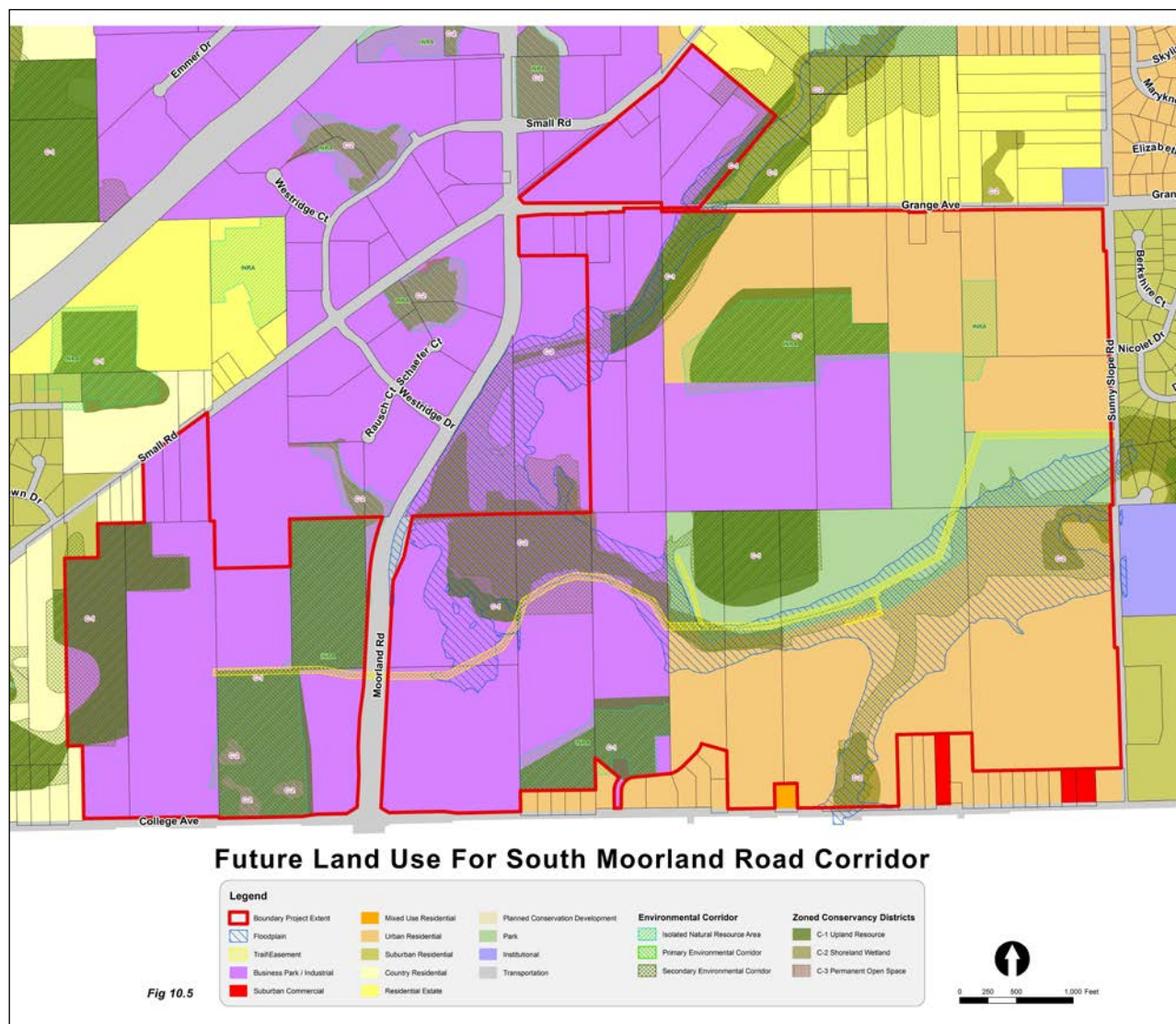


Figure 10.4 Future Land Use Map for South Moorland Road Corridor.

Northwest Section 2 –North Moorland Road Corridor (Southeast corner of Moorland Road and Greenfield Avenue)

The Department of Community Development has been going through the process of analyzing the area now referred to as the North Moorland Road Corridor. This area is generally bounded by Moorland Road to the West, the Highland Memorial Park Cemetery and Walmart development to the East, Greenfield Avenue to the North and the New Berlin Recreational Trail to the South (Figure 10.5-1). In order to guide the City in land use and zoning decisions it is best to understand the impact new developments will have on the School District, traffic patterns, stormwater and environmental features. Development policies were added within Chapter 11 – Neighborhood A (Greenfield Avenue Corridor) to guide any future development requests.



Fig. 10.5 North Moorland Road Corridor Map.



Fig. 10.5 North Moorland Road Corridor Map.

Urban Residential

The Urban Residential designation reflects the modern form of the residential subdivision with lots ranging in size from one to four dwelling units per acre, depending on underlying zoning and surrounding development patterns. While these communities may include various sizes and price ranges of homes, the primary land use is single-family detached homes. Attached single-

family housing may be considered as a transitional use between lower density residential uses and non-residential development and highway corridors.

The corresponding zoning districts are:

- R-4 (Low-Density Single-Family Residential) which has a not-to-exceed density of 2.2 dwelling units per net residential acre for new large lot subdivisions to be served by public sanitary sewer and water facilities.
- R-4.5 (Medium-Density Single-Family Residential) which has a not-to-exceed density of 2.9 dwelling units per net residential acre, served by public sanitary sewer and water facilities.
- R-5 (Medium-Density Single-Family Residential) which has a not-to-exceed density of 4.3 dwelling units per net residential acre, served by public sanitary sewer and water facilities. It should be noted that the City's current zoning ordinance states that "no unplatted lands" should be placed into the R-5 District.
- R-6 (Section 35 Low-Density Single-Family Residential) is unique to the South Moorland Road Corridor Area, a specific geographic area in the City (see §275-13.1H(4) Figure I-1 of the Zoning Code). The R-6 Low-Density Single-Family Residential District is intended to provide for single-family residential development within Sections 34 and 35 with a minimum lot sizes similar to those in the above zoning districts and served by public sanitary sewer and water facilities. 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. Per Zoning Code Section §275-13.1(H)(4), "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."

Urban Residential districts include neighborhood parks and green spaces that provide amenities to local residents and are encouraged to provide links with the City's existing parks and recreation. Developers should incorporate the protection of environmentally sensitive areas, including the floodplain, into the development to create unique neighborhoods while protecting the natural environment. The number of cul-de-sacs should be minimized, emphasizing loop street layouts or multiple connections through and between subdivisions.

The Urban Residential areas also offer a continuing opportunity for more affordable housing to serve workers in the City's growing business parks. For example, housing on ¼ acre lots can help to retain and increase the diversity of the City's housing stock to allow for more personal housing options. The Community Development Authority (CDA) (formerly the New Berlin Housing Authority) is using tax credits and rent assistance to ensure a continued supply of affordable senior housing and apartments.

The City has worked closely over the past few years with Bank Five Nine to create a home loan grant program for first time home buyers. The program is funded by the Housing Trust Fund, which was created via Ordinance #: 2491, an ordinance to create a Housing Trust Fund for the City of New Berlin. The Common Council approved the transfer of Seventy Five Thousand Dollars (\$75,000.00) into the Fund. The City is able to provide qualified applicants with a \$2,500 grant to first time home buyers to pay for down payment and closing costs associated with buying their own home. The bank may match that request up to \$2,500 and will assist the City in reviewing the requests. The City has created a home loan grant application which is located on the City's website.

Certain institutional uses that can be compatible with residential uses, such as schools and neighborhood scale churches may be appropriate after careful site plan review.

Suburban Residential

The Suburban Residential designation reflects the rural setting of the existing residential areas on the western half of the City. Lots in this category are generally located in existing subdivisions that have already been developed at higher densities than the surrounding Country Residential area. The Suburban Residential areas are typically served by private on-site sewerage disposal systems and private wells. On average, lots are 35,000 square feet in this district. New development may occur as infill development, but are not expansions to the existing subdivisions. Infill development is the development of vacant lots within existing subdivisions.

The corresponding zoning district is:

- R-3 (Suburban Single- Family Residential) which has a not-to-exceed density of 2.0 dwelling units per net residential acre. This District is intended to be used for residentially platted lots already existing at this density range. As stated previously, Suburban Residential lots are served by private on-site sewerage disposal systems and private wells.

Residential Estate

Residential Estate is similar to the Country Residential category except for that it has a gross density not-to-exceed one dwelling unit per two acres. While agricultural uses are encouraged to remain as long as the owners wish to operate farms, this designation provides an opportunity for the City to allow this area to develop, but maintain a sense of rural character. Before this land use category is implemented in this area, provisions for public sewer and water facilities must be made.

The preservation of the character of these areas should be accomplished through the use of clustering homes to help preserve the visual character but also to preserve larger open space areas for use as active or passive recreation or agriculture. Establishing open space areas which include streams, wetlands, woodlands, floodplains should be given high priority along with establishing greater setbacks from these resources.

The corresponding zoning district is:

- R-2E (Conservation Estate Single-Family Residential) which has a not-to-exceed density of 1.0 dwelling units per two acres. Homes within this District are intended to be served by public sanitary sewer and water facilities. Density bonuses are allowed pursuant to the City's zoning code.

Country Residential

Country Residential encompasses most of the area in the western portion of the City. These areas include various sizes and price ranges of homes with the primary land use being single-family detached homes. The average density of this area is envisioned to be a gross density of one dwelling unit per five acres.

Lot clustering that maintains an overall low density, while preserving substantial open space is encouraged in these areas. Country Residential Communities will be planned to include parks and green space or preserve agricultural land. This will provide amenities to local residents and work toward providing a link with the City's existing parks and recreation system. Developers should incorporate the protection of environmentally sensitive areas, including the floodplain, into the development to create unique neighborhoods while protecting the natural environment.

The corresponding zoning district is:

- R-1/R-2 (Rural Conservation Single-Family Residential) which has a not-to-exceed gross density of 1.0 dwelling unit five acres. Country Residential lots are served by private on-site sewerage disposal systems and private wells. Density bonuses are allowed pursuant to the City's Zoning Code.

There are also a large number of farm operations that exist in this area and the protection and preservation of these uses is integral to this land use. Some on-site sales of products are appropriate including small farm markets, landscape materials, and locally grown food. Artisan farming, flea markets, hobby farming and other activities that promote the continuation of farming should be encouraged and regulatory barriers prohibiting these activities should be removed. In order to prevent excessive nuisances from occurring as a result from any of these associated farming related commercial activities, they should be regulated in their size, intensity and traffic impacts to prevent the proliferation of Rural Commercial Services in areas not designated as commercial.

Quarry Park Residential

Quarry Park Residential encompasses the properties within Quarry Park Subdivision, which is an 18-lot single-family residential conservation subdivision. The density is one dwelling unit per 6.6 acres.

The corresponding zoning district is:

- R-7 (Quarry Park Low-Density Single-Family Residential District) which is intended to provide for no more than 27 single-family residential lots which shall collectively be considered a residential community governed through a homeowners association and which is served by a community wide on-site sewage disposal system and private wells to be maintained solely by the homeowners association and/or the homeowners in the subdivision. A developer agreement shall be in place.

Mixed Use Residential

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.

The corresponding residential zoning districts are:

- Rd-1 (Two-Family Residential District) is intended to provide for two-family residential development, at densities not to exceed 4.8 dwelling units per net residential acre, served by public sanitary sewer and water facilities.
- Rm-1 (Multiple-Family Residential District) is intended to provide for multiple-family residential development served by municipal sewer and water facilities at densities not to exceed those established within the Zoning Code. 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.
- I-1 (Institutional District) is intended to provide areas for public or private institutions or organizations housing social, educational, religious, or governmental activities.
- Zoning Code Section 275-41B(1) provides for elderly housing and assisted-living facilities. The density of an elderly housing development shall not exceed the densities established within the Zoning Code.
- A PUD could be considered when a mix of multi-family and retail/office uses are being proposed in order to accommodate creative site design. PUD's are not to be used for solely single-family residential.

Business Park / Industrial

Business Park / Industrial encompass a mixture of office, industrial, retail, commercial and service uses in a development with substantial landscaping and open space to create an attractive

image. New industrial and office growth is encouraged to occur in these large developments so traffic impacts on surrounding uses can be minimized & managed and infrastructure can be provided.

The Business Park / Industrial land use is placed in areas where there will be a minimal impact on residential uses and the natural environment. In addition, Business Parks parcels are generally located near major transportation corridors that can accommodate the truck and automobile traffic generated by such developments.

The corresponding zoning districts are:

- O-1 (Office and Business Service District) is intended to provide for individual or attractive groupings of office and financial service uses in aesthetically pleasing structures on lots with ample open space.
- O-2 (Business Park Development District) is intended to provide for the development of an attractive grouping of buildings limited to light industrial uses, offices, corporate headquarters, and support facilities in a parklike setting. The district is further intended to promote the provision of ample off-street parking and loading areas, open space, and landscape planting screens or buffer yards in areas adjacent to residential areas.
- O-3 (Transitional Office District) is intended to provide for low-intensity uses that serve as a transitional use between residential uses and districts and higher-intensity uses, including office, commercial and industrial uses. The district is also intended to accommodate areas where many residential homes are being converted to nonresidential uses such as business, medical, and professional offices. The O-3 District provides regulations that limit parking in side and rear yards, landscaping, architectural preservation of the existing residential character, and small-scale structures that blend in with the surrounding community while providing necessary services to the citizens of New Berlin.
- M-1 (Light Manufacturing District) is intended to provide for a range of light manufacturing and industrial uses. The M-1 Light Manufacturing District is also intended to provide for manufacturing and industrial development of a more-restrictive nature. The district is further intended to be used where the relative proximity to other uses requires more-restrictive regulation.
- M-2 (General Industrial District) is intended to provide for manufacturing and industrial development of a less-restrictive nature than in the M-1 Light Manufacturing District in areas where the relationship to surrounding land use would create fewer problems of compatibility. This district is further intended to allow, where properly screened, outside storage of vehicles, equipment, machinery, and inventory.
- M-3 (Section 34-35 Business Park Development District) is unique to the South Moorland Road Corridor Area, a specific geographic area in the City (see §275-13.1H(4) Figure I-1 of the Zoning Code). The M-3 Section 34-35 Business Park Development District is intended for light manufacturing, office, retail and business uses. The M-3 Section 34-35 Business Park Development District is also intended to provide a broader mix of allowable uses including retail establishments within Sections 34 and 35 of the City to support both

the business and residential development. The District is further intended to promote open space, intense vertical landscape, planting screens, buffer yards and preservation of existing environmental features (trees, wetlands, floodplain, rock outcroppings, steep slopes and viewsheds). Per Zoning Code Section §275-13.1(H)(4), “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.”

City Center – Mixed Use

The City Center designation recognizes the substantial planning and investment being made in the commercial core at National Avenue, immediately east of Moorland Road. While the City Center is a part of the suburban business center corridor, the unique qualities desired by the City for this area merit special attention. The pedestrian orientation, distinctive streetscape, and the mixture of uses create the potential for this to become a unique area of the city. There are several land uses that can occur within the mixed use areas, including single-family residential, duplex residential, condominiums, townhomes, apartments, office, commercial, and institutional. Development approval for all of these uses requires a review to determine compatibility with surrounding land uses, particularly the adjacent residential neighborhoods.

Refer to the City Center PUD Ordinance #2526 and associated zoning map for a list of appropriate uses for this area.

City Center – Single-Family

The City-Center – Single-Family designation reflects the modern form of the residential subdivision with lots ranging in size from one to four dwelling units per acre, depending on underlying zoning and surrounding development patterns. While these communities may include various sizes and price ranges of homes, the primary land use is single-family detached homes. Attached single-family housing may be considered as a transitional use between lower density residential uses and non-residential development and highway corridors.

The corresponding zoning district is:

- R-4.5 (Medium-Density Single-Family Residential) which has a not-to-exceed density of 2.9 dwelling units per net residential acre, served by public sanitary sewer and water facilities.

Suburban Commercial

Suburban Commercial areas include the commercial areas of New Berlin primarily along National Avenue east of Calhoun Road. While these areas focus on retail sales and personal services, some office space and low-density multi-family housing is intermixed only when commercial development is incorporated on the first floor and residential is planned above. Net density not to exceed those established within Zoning Code Section 275-33(8): Rm-1, Multiple Family Residential District and Section 275-41B(1): Elderly housing and assisted-living facilities. The geographic boundaries of Suburban Commercial areas should be controlled to limit expansion

of commercial development and the increasing number of vacant buildings, and at the same time provide flexibility to accommodate changes in the market.

Developers will be encouraged to establish creative commercial centers that do not place emphasis on the parking areas, but on the commercial uses themselves. This can be accomplished by placing some parking to the side or behind buildings and utilizing internal landscaping throughout the parking areas. Signage and lighting should be placed and designed to ensure visibility without being excessive.

Unique to the intersection located at the southeast corner of Moorland Road and Greenfield Avenue, the City has established parameters for planning of this area in order to ensure that it develops uniformly. Chapter 11: Neighborhood A - Greenfield Avenue lays out specific policies to help ensure the cohesive development. This area is intended for retail and commercial uses located on the corner then transitioning to the south to allow for commercial retail and/or office on the first floor with residential integrated above. The far southern end of the parcel could be developed as low-density multi-family residential as defined above in this section.

The corresponding zoning districts are:

- B-1 (Shopping Center District) is intended to provide for neighborhood and community shopping centers with groupings of retail and customer service establishments to serve both the citizens of New Berlin, the surrounding region, and businesses. Hotels and regional uses are also appropriate in this district when planned appropriately in relation to traffic and landscaping. This district is intended to accommodate the requirement of on-site parking and loading facilities; landscape planting screens in areas adjacent to nonbusiness development or other incompatible uses; and a partially pedestrian-oriented shopping environment. Uses in this district are intended to be compatible with the character of the adjacent residential areas served.
- B-2 (General Retail Sales and Service District) is intended to accommodate a broad range of retail sales and service uses. The district is also intended to provide for the orderly and attractive development and grouping in appropriate and convenient locations for small-lot business activities of a general nature. The district is further intended to promote the provision of ample off-street parking and loading areas; landscape planting screens in areas adjacent to nonbusiness development or other incompatible uses; and development in character with the adjacent land uses.

Rural Commercial

Rural Commercial areas should maintain the “rural theme” in designing retail-oriented developments that include farm implement sales, produce markets, feed and seed stores, etc. to help support the agricultural environment but, may also include small-scale office-oriented uses. In addition, convenience retail uses may be appropriate in these areas to serve the day-to-day needs of residents, thus minimizing the necessity of driving for convenience goods.

Rural Commercial should be located primarily along National Avenue west of Calhoun Road. These uses should be located in enclosed structures. Where outdoor storage and sales are necessary, they should be located in the side or rear yards. Landscaping and screening should be used to minimize the transition from agricultural and rural residential uses to these commercial developments. Lighting should be carefully evaluated. Rural commercial architectural design standards should be adhered to. The Rural Commercial Design Guide shall be used to aid development. As properties apply for rezoning requests in these areas, the B-3 and B-5 Districts shall be considered to be more suitable than the B-2 District.

The corresponding zoning districts are:

- B-2 (General Retail Sales and Service) which is intended to accommodate a broad range of retail sales and service uses and provide for orderly and attractive development and grouping in appropriate and convenient locations for small lot business activities of a general nature. The minimum lot size for this district is 40,000 square feet.
- B-3 (General Bulk Sales) which is intended to accommodate the needs of the agricultural community for the western portion of the community without detracting from the character of the area. This district allows for outdoor storage, outdoor sales and automotive sales, service and repair. The minimum lot size for this district is 3 acres.
- B-5 (Rural Commercial District) which is intended to accommodate the needs of the agricultural community with a range of retail sales and service uses. The uses of these areas are intended to provide convenience for farms and the growing residential uses in the western area. The minimum lot size for this district is 40,000 square feet.

Institutional

Institutional uses encompass the main City Government facilities around City Hall, as well as schools, churches, and other nonprofits. Regarding church uses, these institutions have been classified into two types: Neighborhood Scale and Community Scale. Neighborhood scale churches are defined as a place of gathering for religious observance, ministry, and fellowship & related social events and may include classrooms for periodic religious instruction, kitchen, meeting area principally for members and administrative offices. These facilities are identified as those with a total building footprint of less than 14,999 square feet. Community scale churches are defined as a place of gathering for religious observance, ministry, and fellowship & related social events and may include classrooms for periodic religious instruction, and administrative offices. These facilities are identified as those with a total building footprint greater than 15,000 square feet or which have accessory uses, which include, but are not limited to uses such as banquet facilities, day school, day care facilities, retail stores, restaurant, workout centers / club, gymnasium, health care facilities, assisted living facilities, library, and café.

Parks

The City wishes to acquire and maintain parks and open space that are consistent with the adopted park and open space plan to encourage private preservation of open space and

environmental areas, and to encourage the use of creative development alternatives (i.e. Conservation subdivisions to create neighborhood open space).

The corresponding zoning districts are:

- P-1 (Park and Recreation District) is intended to provide areas where open space and outdoor recreational needs of the citizens can be met without the undue disturbance of natural resources and adjacent uses. When applied to privately owned recreational lands, this district is intended to avoid the conversion of such lands to other urban uses without adequate public review and approval. The district should be used for areas designated as parks in the adopted New Berlin Comprehensive Plan.
- P-2 (Section 35 Park Complex District) is unique to the South Moorland Road Corridor Area, a specific geographic area in the City (see §275-13.1H(4) Figure I-1 of the Zoning Code). The P-2 Section 35 Park Complex District is intended to provide an area for a regional amenity that would provide tournament, practice and game space for baseball, softball and/or soccer. The District will also incorporate neighborhood park elements for neighboring residents. The complex will provide a buffer between the residential and business park land uses and may be expanded to create additional meaningful passive recreational opportunities and utilize the City's utility easement / public trail to create more of a linear parkway. Uses may include, but are not limited to, passive recreational trails, fishing ponds, winter sports activities, snowshoeing, cross country skiing, sledding, nature trails, bird watching and interpretive exercise trails. Per Zoning Code Section §275-13.1(H)(4), "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."

In addition, the City's *Park and Open Space Plan* identifies the need to acquire additional Community Parkland to account for the City's land area and population growth. Such Community Parkland shall incorporate an active park complex to address the City's need for additional ball fields and courts, as outlined in the *Park and Open Space Plan*, as well as passive park uses year-round. Linear parkways, which preserve open space, and provide connectivity within this area should be developed. The linear parkways could be integrated with the floodplain and creek areas.

Quarry

Quarries involve the mining and processing of minerals. They typically include both underground and surface mining activities. While they are typically located in rural areas, they can also create substantial land use impacts. A few of these quarry properties are actively being mined for non-metallic mineral resources (i.e. sand & gravel). As such, they are required to have a City approved Reclamation Plan pursuant to NR 135 and the City's zoning ordinance. The Reclamation Plan is required to identify post-mining land uses in addition to the "means & methods" for reclaiming the site. During the planning horizon for this Plan, it is anticipated that two of these quarries will transition and be reclaimed into their approved post-mining land uses.

Specifically, the New Valley Sand & Gravel Quarry (identified in Neighborhood “J” has been identified as a future business park and the Kohler Pit has the following approved post-mining land uses – rural commercial, agriculture and aquaculture (both in recreational & commercial formats). Kohler Ridge Subdivision was approved by the Common Council in, 2016. The subdivision encompasses a portion of the former Kohler Sand & Gravel Mine and resulted in the complete restoration of approximately 65 acres of formerly mined land.

Conservancy Areas

C-1 Upland Resource Conservancy Zoning

The purpose of this district is to prevent the destruction of valuable natural and man-made resources and, in particular, woodlands, wetlands, wildlife habitat areas, perennial and intermittent streams, major lakes, floodlands and shorelands, significant water recharge and discharge areas, prairies, recreational and scenic areas, natural scientific areas, areas with poor soils or high groundwater, and areas of steep slopes, including primary environmental corridor, secondary environmental corridor and isolated natural resource areas. It should be noted that the City has established a new policy that states no “new” lands should be placed into this category and rather the use of “conservation easements” shall become the norm for preserving and protecting these natural resource assets.

C-2 Shoreland-Wetland Conservancy Zoning

The purpose of this district is to preserve, protect, and enhance the ponds, streams, and wetland areas of the City. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control stormwater runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation resources of the City.

C-3 Permanent Open Space/Conservation Zoning

The Permanent Open Space/Conservation Lands District is intended to serve as a preservation district to maintain lands that have been permanently designated as open space or conservation lands. This District serves as a more definitive designation of open space and conservation lands as an alternative to deed restrictions and easements. This District should be utilized for developments where potential development densities have been transferred to another area of the property or to another site within New Berlin; developments that will have open space permanently preserved; and other similar conservation and preservation practices that will contribute to the unique character of New Berlin.

Environmental Corridors

Environmental Corridors are shown on the City’s Map of Potential Conservation Lands. The City clearly recognizes the importance of these natural resource assets and will continue to use “conservation easements” for their protection. The City will also continue to follow SEWRPC guidelines for preserving, protecting and managing development within these corridor areas.

See Appendix J for SEWRPC's publication entitled "Environmental Corridors – Lifelines of the Natural Resource Base". The City will continue to use SEWRPC's Environmental Corridor Maps as a resource as amended.

Map of Potential Conservation Areas

The Map of Potential Conservation Lands for the City of New Berlin consists of wetlands; woodlands; Butler's Garter Snake habitat; Water; Slope; environmental corridors; and scenic vistas. This map should be used as a resource in addition to, but not limited to, other maps such as the future land use, zoning and FEMA FIRM maps for all land use decisions. These environmental features should be incorporated into all development proposals, as applicable.

LAND USE PLANNING IN WAUKESHA COUNTY

Under Wisconsin State Statutes, counties are required to incorporate into the county development plan all master plans that have been duly adopted by incorporated cities and villages under the State of Wisconsin City Planning Enabling Act. However, the Statutes do not provide direction as to resolving conflicts between county adopted land use objectives and local master plans. To address this issue, the Waukesha County Comprehensive Plan Advisory Committee determined specific approaches to be implemented during the County Plan process. The following County approaches are those which apply directly to New Berlin's Comprehensive Plan:

- All duly adopted local land use plans, whether prepared by incorporated cities and villages or by towns, would be reviewed for consistency with the County development objectives and standards approved by the Advisory Committee, as presented in Chapter 2 of this Plan. All inconsistencies would be identified and described.
- Municipalities will prepare preliminary land use plans in a manner consistent with the Advisory Committee approved development objectives and standards. Following review of local land use plans, inconsistencies with the development objectives were identified for the municipalities and adjustments were requested.
- The compiled preliminary County land use plan would be provided to all cities, villages, and towns in the County for review and comment.

Resulting from these approaches is the County land use element provided in the Waukesha County Comprehensive Plan. Due to the fact that the County is required to incorporate local master plans into its overall plan, New Berlin residents and property owners should first look to its own Comprehensive Plan for guiding objectives and policies. The Waukesha County Plan shall serve as a seamless overview of planning efforts county-wide.

LAND USE PLANNING IN THE REGION

The regional land use plan sets forth the fundamental concepts that are recommended to guide the development of the seven-county southeastern Wisconsin region. The most recent

version of the plan, entitled “SEWRPC Planning Report No. 55: A Regional Land Use Plan and Transportation Plan for Southeastern Wisconsin: 2050, was adopted by SEWRPC in July 2016. This plan is intended to guide land use development and redevelopment through the year 2050.

Vision 2050 replaces the Vision 2035 plans. It should be noted that the SEWRPC plans are advisory only. Refer to the SEWRPC VISION 2050 plan for the most updated information related to their regional planning efforts and recommendations. The report is available on the SEWRPC website www.sewrpc.org.

CHAPTER 11:

NEIGHBORHOOD A

GREENFIELD AVENUE

Revisions approved by Council via Ordinance ~~# 2678 on 8/29/2023~~ # on DATE.

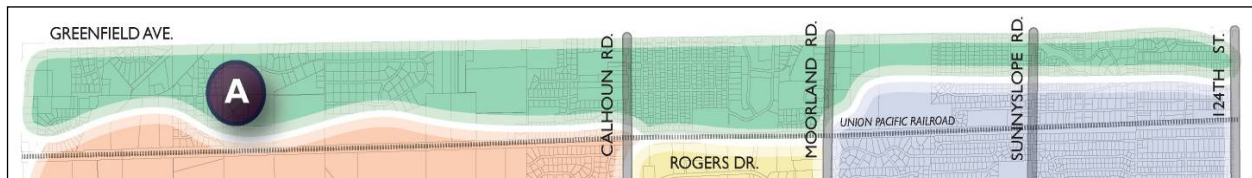


Figure 11.1. Neighborhood A Context Map.

Greenfield Avenue is the dividing line between New Berlin and the City of Brookfield, and serves as the northern border of Neighborhood A. In addition to this northern boundary, the neighborhood is bounded by the City limits to the east and west, and the Union Pacific rail line to the south (Figure 11.1).

The Greenfield Avenue corridor is primarily residential in character, although some agricultural, park, and small-scale retail uses are scattered throughout. The character of the corridor varies from east to west, generally reflecting the transition from urban to rural of the city as a whole. Greenfield Avenue serves as the thoroughfare for Wisconsin State Highway 59 in New Berlin (Figure 11.2). The corridor was the subject of the Greenfield Avenue Corridor Plan in 1995 and has undergone major improvements between 124th Street on the east and Springdale Road on the west. Improvements include road widening, landscaping, and the installation of bicycle and pedestrian paths. The final expansion of Greenfield Avenue has occurred near Johnson Road.

Development opportunities in the corridor include the future commercial development which is to be situated at the southwest corner of Greenfield Avenue and Moorland Road. The developer for the hotel once planned for this intersection is no longer interested in doing the project. This development opportunity, along with potential development on the southeast corner of Greenfield and Moorland, could serve as a strong gateway into both the neighborhood and New Berlin.

The intersection of Greenfield Avenue with Johnson Road provides another development opportunity for commercial office space or additional housing. Public comments supported housing development consistent with adjacent zoning district or continued open space. Both the southwest and southeast corners contain sensitive features and pose some grading

challenges near the right-of-way. Allocating sensitive features for preservation during the site development process would enhance the environmental and aesthetic quality of the intersection.

Other development opportunity nodes along Greenfield Avenue include the intersections with Calhoun Road and Sunny Slope Road (Figure 11.3). Currently, both intersections house one-story retail structures that could better serve as gateways into the city. As redevelopment opportunities emerge, the City should encourage taller buildings with smaller setbacks to hold the street edge at these intersections.



Figure 11.2. Greenfield Avenue Corridor.



Figure 11.3. Intersection of Greenfield Avenue with Sunny Slope Road.

PUBLIC INPUT

Initial Neighborhood Meeting

On July 23, 2008, residents and property owners in Neighborhood A met to learn about the comprehensive planning process and to complete an image preference survey. For the survey, attendees were instructed to rate individual images based on two factors: 1) whether or not the use was desirable for their neighborhood, and 2) whether or not they liked the overall image. Prompts were provided with each image, e.g. “setback”, “building character”, etc., that helped to focus the rating for each image. Fourteen attendees completed the image preference survey. Additional information regarding these surveys is provided in Figure 11.4.

Attendees were to rate the images only for their neighborhood, not the entire city. After the survey, attendees had an opportunity to discuss what uses they would like to see in New Berlin as a whole. The highest-rated images for each of the following five categories are shown throughout this chapter. These categories had average scores that were positive overall, indicating support for these land uses.

- Commercial Retail -- Preferred characteristics were the small-scale retail buildings with high-quality materials, balanced parking that does not dominate the site, and residential scaled buildings.

- Road Design -- Desired characteristics included landscaping along the street right-of-way, medians, and a sidewalk along major corridors to connect area businesses.
- Multi-family Housing Parking -- Preferred characteristics include landscaping within and around the parking, accessible parking, and screening of the parking lots from nearby streets or pedestrian areas.
- Open Space -- Preferred open space characteristics include retaining the overall natural and environmental areas, maintaining views of the natural areas, paths and trails, and small active play areas.
- Commercial Signage

Attendees also rated images for the following two categories. The average scores were negative, indicating limited support for these land uses.

- Business Office / Light Industrial

Subsequent discussion supported that these uses were not desirable in the neighborhood. The full summary of highest-rated and lowest-rated images for Neighborhood A can be found in Appendix K.

New Berlin Comprehensive Plan Update

DESIGN PREFERENCE SURVEY BACKGROUND INFORMATION - Neighborhood A (14)

1. **WHAT IS YOUR GENDER?**
 - ☐ FEMALE = 57.1%
 - ☐ MALE = 42.9%
2. **HOW MANY PEOPLE LIVE IN YOUR HOUSEHOLD ON A REGULAR BASIS?**
 - ☐ 1 = 21.4%
 - ☐ 2-3 = 21.4%
 - ☐ 4-5 = 50.0%
 - ☐ 6 OR MORE = 7.2%
3. **OF THOSE LIVING IN YOUR HOUSEHOLD, HOW MANY ARE CHILDREN (UNDER THE AGE OF 18 YEARS OLD)?**
 - ☐ 0 = 85.7%
 - ☐ 1-2
 - ☐ 3-5 = 14.3%
 - ☐ 6 OR MORE
4. **WHAT IS YOUR AGE?**
 - ☐ UNDER 18 YEARS OLD
 - ☐ 18-24 YEARS OLD
 - ☐ 25-34 YEARS OLD
 - ☐ 35-44 YEARS OLD = 7.1%
 - ☐ 45-54 YEARS OLD = 57.2%
 - ☐ 55-64 YEARS OLD = 14.2%
 - ☐ 65 YEARS OR OLDER = 21.5%
5. **HOW LONG HAVE YOU LIVED IN NEW BERLIN?**
 - ☐ LESS THAN A YEAR
 - ☐ 2-3 YEARS
 - ☐ 3-5 YEARS = 7.1%
 - ☐ 6-10 YEARS
 - ☐ 11-20 YEARS = 21.4%
 - ☐ MORE THAN 20 YEARS = 64.2%
 - ☐ DO NOT LIVE IN NEW BERLIN
6. **WHAT TYPE OF RESIDENTIAL BUILDING DO YOU LIVE IN?**
 - ☐ SINGLE FAMILY = 92.9%
 - ☐ DUPLEX
 - ☐ MULTI-FAMILY (MORE THAN 2 UNITS)
 - ☐ CONDOMINIUM = 7.1%
 - ☐ MOBILE HOME
 - ☐ ELDERLY HOUSING
 - ☐ OTHER (PLEASE SPECIFY)
7. **DO YOU OWN OR RENT YOUR HOME?**
 - ☐ OWN = 100%
 - ☐ RENT
 - ☐ OTHER (PLEASE SPECIFY)
8. **WHERE DO YOU LIVE IN NEW BERLIN? (USE MAP ON BACK OF THIS PAGE)**
 - ☐ AREA A
 - ☐ AREA B
 - ☐ AREA C
 - ☐ AREA D
 - ☐ AREA E
 - ☐ AREA F
 - ☐ AREA G
 - ☐ AREA H
 - ☐ AREA I
 - ☐ AREA J
9. **DO YOU WORK IN NEW BERLIN?**
 - ☐ YES = 14.2%
 - ☐ NO = 85.7%
10. **PLEASE WRITE AN "X" TO INDICATE THE TYPES AND NUMBER OF PROPERTIES YOU OWN IN NEW BERLIN:**

	1 property	2-3 properties	4 or more properties	I do not own this type of property
Residential	13	1		
Commercial	1			
Industrial	1			
Other				

Figure 11.4. Background Information Summary for Neighborhood A Listening Session Survey Respondents.

Neighborhood Review Meeting

Neighborhood A reconvened on February 18, 2009 to review the results of the survey and review future land use recommendations. The intersection of Greenfield Avenue and Johnson Road was the focus of discussion, as attendees did not wish to see commercial uses in that area. Rather, attendees preferred the idea of allowing housing developments that would respect environmental features. Others recommended that the intersection should remain undeveloped to prevent future traffic problems and maintain the existing natural character. A few attendees inquired about the fiscal impact of constructing residential over commercial uses.

Other issues raised during the meeting included the availability of water and how development would negatively impact the existing level of water usage; the condition of Calhoun Road and the number of lanes needed as Calhoun Road is improved; and the need and requirement of sidewalks.

2015 – 2016 Update

Summary update and activities include several meetings and discussions with the property owner, brokers, and various groups interested in the parcels located in the NW Section 2 – North Moorland Road Corridor (Southeast corner of Moorland Road and Greenfield Avenue).

The Department of Community Development has been going through the process of analyzing the area now referred to as the North Moorland Road Corridor. This area is generally bounded by Moorland Road to the West, the Highland Memorial Park Cemetery and Walmart development to the East, Greenfield Avenue to the North and the New Berlin Recreational Trail to the South (Figure 11.5). In order to guide the City in land use and zoning decisions it is best to understand the impact new developments will have on the School District, traffic patterns, stormwater and environmental features. Development policies were prepared to guide future development requests.



Figure 11.5 – North Moorland Road Corridor Map.



Figure 11.5 - North Moorland Road Corridor Map.

VISION

Greenfield Avenue will be a mixed commercial and residential corridor and shall act as a gateway to the northern area of New Berlin. The eastern half of the corridor should foster a more urban mix of uses, while the western half should encourage a mix of rural commercial, residential, and environmental features.

DEVELOPMENT POLICIES

1. Create development standards for site layout, building character, and landscaping that are suitable for new development along the corridor.
2. Tighten nonconforming lot, structure, and use standards, and require compliance with landscaping regulations. Phase out nonconforming commercial uses over time.
3. Recognize the Greenfield Avenue and Moorland Road primary intersection as a major gateway into the city from the north. Encourage signature well-designed buildings that are compatible with surrounding areas including recent development across the street in the City of Brookfield.
4. Site development should include prominent signage, increased landscaping, sustainable strategies for stormwater management, and methods to minimize the parking field, such as structured parking.
5. Address flooding and localized drainage issues along the eastern portion of the neighborhood.
6. Encourage land combinations that accommodate future development options.

Northwest Section 2 –North Moorland Road Corridor (Southeast corner of Moorland Road and Greenfield Avenue)

1. Recognize the Greenfield Avenue/Moorland Road intersection as a major gateway into the city from the north. Encourage signature, well-designed buildings that are compatible with surrounding areas including recent development across the street in the City of Brookfield. Buildings should incorporate architecture features such as towers, unique features, clocks, and elevated architectural details. See Figure 11.6.



Figure 11.6 Sample Development Pictures

2. Unique to the intersection located at the southeast corner of Moorland Road and Greenfield Avenue, the City has established parameters for the planning of this area in order to ensure that it develops uniformly. This section lays out specific policies to help ensure cohesive development. This area is intended for retail, commercial and office uses ~~located on the corner (tax key #: 1158-990) then transitioning to the south to allow for some additional commercial or retail (tax key #: 1158-991-001 & 1158-993). The far southern parcel (tax key #: 1158-991) could be integrated within developed as low-density an overall multi-family residential neighborhood development as defined above in this section or senior living. Parcel lines are not intended to be rigid; however, the City intends to establish the transition of uses to better describe the intended use of this land. See Figure 11-5.~~
3. Net density not to exceed those established within Zoning Code Section 275-33(8), Rm-1, Multiple Family Residential District and Section 275-41B(1), Elderly housing and assisted-living facilities. Any request to exceed the density requirement shall require the use of a Planned Unit Development (PUD) and must incorporate information included within this section as part of a neighborhood development plan.
4. Site development shall include prominent gateway signage, increased landscaping, and planting beds to be planted throughout the year.

5. Careful traffic management coordination between the City of New Berlin, Waukesha County, and any applicants to include the possible signalized intersection along Moorland Road, roadway along with ~~and~~ pedestrian connections to ~~adjacent developments~~~~the east to the Walmart development.~~
6. As development occurs, require off-road sidepaths along Moorland Road and trail connections, where appropriate.
7. All path and trail connections shall be constructed at the time of development and public trail easements shall be provided to the City.
8. Coordinated utilities including a water main loop and sewer connection to Moorland Road and east to Walmart.
9. Encourage a three-dimensional approach for storm water best management techniques for improving the quality of groundwater and surface water.
10. Sustainable and creative strategies for storm water management and methods to minimize the parking field, such as structured or underground parking.
11. Protection of the woodlands and wetlands, especially the higher quality woodlands and wetlands that may exist on the ~~approximately 21-acre~~ parcels having tax key #'s: ~~1158.989.002 and 1158.989.004~~~~1158-992~~ located directly behind the Walmart parcel. This ~~area~~~~parcel~~ should be investigated for future trail connections if the Highland Memorial Park Cemetery would consider selling the parcel.
12. Require coordinated, pre-planned development proposals to ensure a cohesive and coordinated development pattern. Developments must take into consideration how adjacent parcels would be developed.
13. ~~The entire corner shall be coordinated and ultimately connected to the Walmart shopping center development. Ultimately utilizing Riverwood Lane as an additional cross access point.~~ This access point was indicated on the Walmart construction plans. Coordination will need to occur with Walmart in order to make the connection work within their parking lot.
14. With the investment and construction of any new roadway, public utility, storm water infrastructure improvements, the City should approve an overall official roadway map for this area and require dedication of appropriate right-of-way areas that are consistent with past approvals for adjacent parcels and development projects, at the time of land platting where private development is taking place. The development shall also construct the roadway, public utility, and storm water infrastructure to City specifications where the City deems it necessary in order to service that development and/or overall development for the area.
15. Development proposals shall include appropriate utility easements and/or roadway reservations or dedications to ensure public infrastructure (utility or roadway) extensions/connections and a coordinated development pattern are achieved.
16. Any future development requiring coordinated access and/or utility extensions in this area may require the applicant to submit a surety instrument to the City to cover future public improvements and cost contributions.
17. All utility extensions shall be at the expense of the developer to service their respective developments. The City shall endeavor to collect funds from future developments that

connect into the utilities where appropriate and collected funds shall be redistributed back to the developer that installed the infrastructure.

AGRICULTURAL AND CULTURAL RESOURCES

Agricultural lands exist in the western half of the city and contribute to the rural and natural character of the community. Some of these lands in Neighborhood A continued to be farmed. All agricultural lands should continue to be permitted uses in all land use districts. The City should include unique farming opportunities for agricultural landowners. Local food production, artisan farming, and hobby farming are encouraged as ways to maintain farmland in the city.

The New Berlin Landmarks Commission and the City jointly identified and mapped a series of cultural landmarks within the city. The city-wide New Berlin Landmarks map is provided in Chapter 4. The Greenfield Avenue neighborhood has two designated landmarks: Calhoun Hall (now Calhoun Station), c. 1900, and the Needham-Johnson House, c. 1868 (also listed on the National Register of Historic Places). The corridor also housed Tacl's Tavern and Roadhouse, c. 1927, which was torn down in 2000. Neighborhood A also includes two historic districts as identified by the City: Calhoun Farms, located south of Greenfield Avenue and west of Calhoun Road, and Conrad Park-Needham Farm, located south of Greenfield Avenue and west of 124th Street.

Survey Results: Open Space

Figures 11.7 through 11.9 illustrate the three highest-rated images for open space in Neighborhood A. Preferred open space characteristics included retaining the overall natural and environmental areas, maintaining views of the natural areas, paths and trails, and small active play areas.



Figure 11.7. Highest-Rated Image for Open Space.



Figure 11.8. Second Highest-Rated Image for Open Space.



Figure 11.9. Third Highest-Rated Image for Open Space.

NATURAL RESOURCES

Neighborhood A is planned for a mix of Suburban Residential, Suburban Commercial, and Urban Residential and Mixed-Use Residential land uses with limited park space. Sensitive features include streams and secondary environmental corridors located throughout the neighborhood.

In addition, potential soil limitations exist that should be considered when reviewing plans for development in the neighborhood. Hydric soils, poorly drained soils, and slopes greater than 12% are all considerations in Neighborhood A.

Refer to Chapter 5 – Agricultural & Natural Resources and the applicable regulating agencies for natural resources maps and additional information.

Due to the existing development pattern, there is limited space for implementing large-scale Best Management Practices (BMPs), particularly along the easterly part that is already developed. See Figure 11.10 for a diagram of BMP locations.

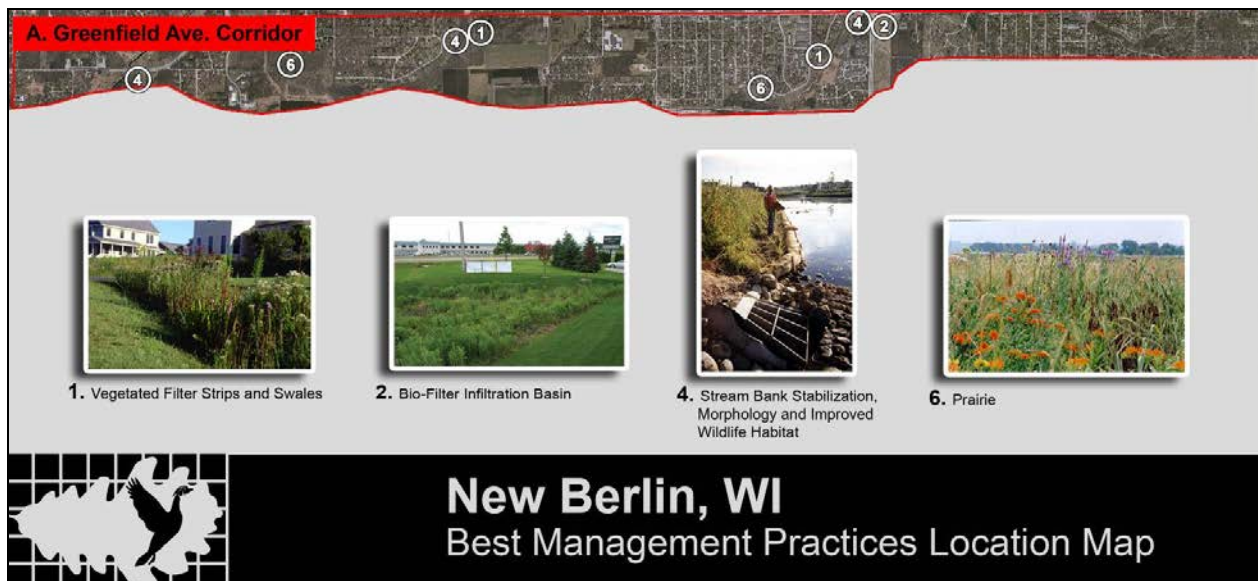


Figure 11.10. Best Management Practices Map for Neighborhood A.
Source: Applied Ecological Services, Inc.

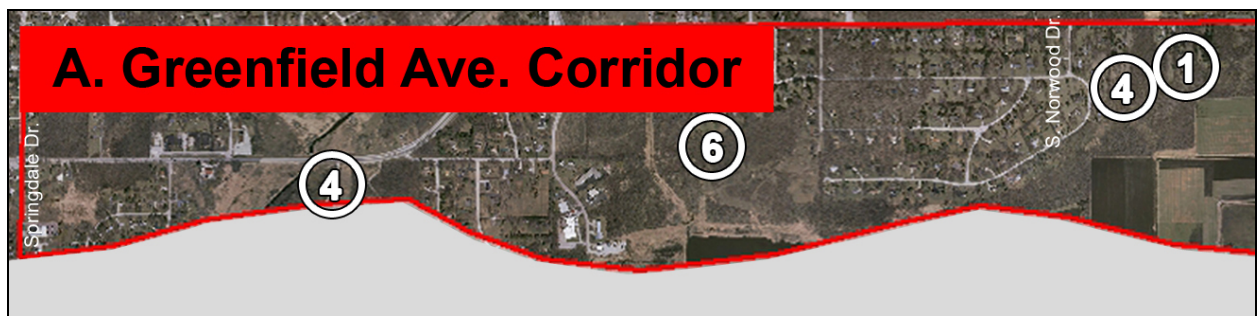


Figure 11.11. Best Management Practices Map from Springdale Drive to east of South Norwood Drive.
Source: Applied Ecological Services, Inc.



Figure 11.12. Best Management Practices Map from South Calhoun Road to South Sherwood Drive.
Source: Applied Ecological Services, Inc.

Recommendations

The recommendations listed below correspond with the numbers and symbols shown on the map in Figures 11.11 and 11.12:

1. Vegetated filter strips and swales are effective in filtering pollutants and reducing storm water runoff velocity, in direct contrast to piped storm sewer conveyances. They can be implemented along the environmental corridor located in the northwest corner of Section 4 to filter surface runoff before entering the waterways. Vegetated swales can be flatter than typical turf grass swales to increase residence time and to promote infiltration and evapotranspiration. This increases the spacing of catch basins or can eliminate the need for piped storm sewer conveyance in new construction.
2. Bio-filter infiltration basins can be provided as an alternative to detention basins in the western and central portion of the neighborhood to promote infiltration and groundwater recharge.
3. This number is reserved for recessed parking and cul-de-sac islands, which are not recommended in the neighborhood.
4. Stream banks along Poplar Creek, Deer Creek and Underwood Creek should be inspected for areas that need to be stabilized to prevent further soil erosion. In conjunction with the above-mentioned BMPs, stream bank stabilization will improve aquatic wildlife, improve water quality and reduce flooding.
5. This number is reserved for rain barrels, cisterns, and rain gardens, which are not recommended for specific locations in the neighborhood. Should property owners in the neighborhood propose to install rain barrels, cisterns, and rain gardens, the appropriateness of such techniques should be determined based on property characteristics.
6. Along the environmental corridor in the undeveloped areas in Section 5 and in Buena Park, there may be opportunity to implement prairies to serve as a filter of surface water runoff and encourage infiltration in areas tributary to Poplar Creek and Deer Creek.

EXISTING TRANSPORTATION SYSTEM

The existing transportation system in Neighborhood A is comprised of a roadway network, bicycle/pedestrian facilities, public transit, and rail service.

Roadway Network

New Berlin classifies its roads under the following functional classification: principal arterials, primary arterials, standard arterials, collectors, and local streets. The roadways in Neighborhood A are comprised of primary arterials, standard arterials and local streets as listed below:

Primary Arterials accommodate inter-community and intra-community trips and traffic. Design speeds tend to be between 35 and 55 miles per hour. Access is not limited as in principal arterials. The primary arterials in Neighborhood A are summarized below.

- Greenfield Avenue (STH 59) – Four travel lanes
- Moorland Road (CTH O) – Four travel lanes

Standard Arterials accommodate inter-community and intra-community traffic. They operate at slightly lower speeds than principal and primary arterials and provide more connections with individual parcels of land comprised of residential and commercial uses. The standard arterials in Neighborhood A are summarized below.

- Calhoun Road – Two travel lanes
- Sunny Slope Road – Two travel lanes
- 124th Street – Two travel lanes

Collectors provide the connection between arterials and local streets and serve both local and through traffic in residential neighborhoods, commercial areas, and industrial areas. They distribute trips from the primary and standard arterials to the local streets and they collect traffic from the local streets and channel it onto the arterial system. The collector in Neighborhood A is summarized below.

- Springdale Road – Two travel lanes

Local Streets comprise all land access streets designed to serve local traffic that is not part of the higher classified street network. In New Berlin, this includes streets serving residential, commercial, and industrial areas. Local streets operate at the lowest posted speed limits and provide the most direct access to individual parcels of land.

Bicycle & Pedestrian Facilities

The following off-road facilities are currently provided in the Greenfield Avenue neighborhood.

- Greenfield Avenue
- New Berlin Recreational Trail

Public Transit

MCTS Route 6 New Berlin Industrial Park Express has stopped service to this area.

School busing is provided for the public, private and parochial schools in the city.

Rail Service

The **Union Pacific** freight rail line runs through the northern portion of the City of New Berlin between, and parallel to, Lincoln Avenue and Greenfield Avenue. Spurs from this line serve the New Berlin Industrial Park.

Survey Results: Road Design

Figures 11.13 through 11.15 illustrate the three highest-rated images for road design in Neighborhood A. Desired characteristics included landscaping along the street right-of-way, medians, and a sidewalk along major corridors to connect area businesses.



Figure 11.13. Highest-Rated Image for Road Design.



Figure 11.14. Second Highest-Rated Image for Road Design.



Figure 11.15. Third Highest-Rated Image for Road Design.

Roadway Network

Calhoun Road (Greenfield Avenue to Cleveland Avenue): In 2010, the City rehabilitated the section of Calhoun Road between Greenfield Avenue and Cleveland Avenue. A two-lane roadway with intersection improvements was completed as part of this project.

The SEWRPC Year 2050 Recommended Regional Transportation System Plan suggests widening Calhoun Road to a four-lane County facility between Greenfield Avenue and National Avenue.

Vision 2050 replaces the 2035 plan. It should be noted that the SEWRPC plans are advisory only. Refer to the SEWRPC VISION 2050 plan for the most updated information related to their regional planning efforts and recommendations. The report is available on the SEWRPC website www.sewrpc.org.

The SEWRPC Vision 2050 continues to recommend the widening of Calhoun Road to a four-lane County facility; however, now proposes to widen the road only to Coffee Road and suggests looking at options to reserve right-of-way from Coffee Road south to National Avenue for any future widening projects.

Bicycle & Pedestrian Facilities

No additional bicycle and pedestrian facilities are currently proposed in Neighborhood A.

Public Transit

The City should work with the local transit systems to maintain routes within the City and look for opportunities to expand and improve the transit system.

Rail Service

The City should work with Union Pacific to maintain the existing freight rail line and service to the New Berlin Industrial Park.

Additional Recommendations

The following recommendations are drawn from the Greenfield Avenue Corridor Plan, prepared for the Cities of Brookfield and New Berlin in 1995. The purpose of the Plan was to analyze the impacts of the new Greenfield Avenue layout on adjacent lands. Applicable recommendations from the Plan have been extracted and combined with suggestions gathered during public input sessions for the comprehensive plan process.

1. Encourage entrance consolidation or side street access for new and redeveloped parcels.
2. Install low growing shrubs, perennials, native wildflowers, and/or grasses in the median that are salt and drought tolerant.
3. Add small planting areas throughout the length of the corridor in addition to colored concrete pavers or textured concrete at major intersections. Similar planting areas, to be planted seasonally by the developer, should be considered at the primary intersections, and integrated into mixed use developments. See figure 11.9 for sample pictures.
4. Signs should be used throughout the corridor to identify the edge of New Berlin. Specifically, gateway signage should be installed adjacent to the vision triangle limits on the corners at 124th Street Moorland Road, Calhoun Road and Sunny Slope Road to the maximum extent practicable.
5. Consideration should be given to the burial of existing overhead electric distribution lines along Greenfield Avenue.
6. Residential zoning should remain intact where currently existing in the corridor and any new commercial activity should be compatible with surrounding uses.
7. Maintenance and upgrading of commercial areas should be encouraged along the corridor, including façade improvements, shared parking, and small-scale signs.

ECONOMIC DEVELOPMENT

Economic development is based on the mix of uses and quality development that exist along the Greenfield Avenue corridor and proposed developments within the neighborhood.

Redevelopment and new development proposals should respond to the following issues:

- The intersections of Greenfield Avenue with Moorland Road and Calhoun Road should encourage development at a higher scale with more intense uses. Development should occur vertically, with structured parking, when possible, to preserve existing open space.
- Sections of existing multi-family or single-family should be maintained, with housing being permitted as part of mixed-use developments.
- Sustainable construction and site development practices are encouraged for new and redeveloped projects such as: pervious pavement, green roofs, alternative stormwater management techniques, energy efficient building practices, and shared parking lots. The City should explore providing incentives for these types of practices.

- Johnson Road should be developed in such a manner that provides a gateway into the City. Uses could include housing that responds to the topography and access constraints.

Survey Results: Commercial Retail

Figures 11.16 through 11.18 illustrate the three highest-rated images for commercial retail in Neighborhood A. Preferred characteristics were the small-scale retail buildings with high quality materials, balanced parking that does not dominate the site, and residential scaled buildings.



Figure 11.16. Highest-Rated Image for Commercial Retail.



Figure 11.17. Second Highest-Rated Image for Commercial Retail.



Figure 11.18. Third Highest-Rated Image for Commercial Retail.

Survey Results: Parking

Figures 11.19 through 11.21 illustrate the three highest-rated images for parking in Neighborhood A. Preferred characteristics include landscaping within and around the parking, accessible parking, and screening of the parking lots from nearby streets or pedestrian areas.



Figure 11.19. Highest-Rated Image for Parking.



Figure 11.20. Second Highest-Rated Image for Parking.



Figure 11.21. Third Highest-Rated Image for Parking.

Survey Results: Commercial Signage

Figures 11.22 through 11.24 illustrate the three highest-rated images for commercial signage in Neighborhood A. Small-scale awning and building signage was preferred over large-scale monument signage.



Figure 11.22. Highest-Rated Image for Commercial Signage.



Figure 11.23. Second Highest-Rated Image for Commercial Signage.



Figure 11.24. Third Highest-Rated Image for Commercial Signage.

Brownfields

Four brownfields are located in Neighborhood A, one of which is a high petroleum risk (Figure 11.25). Petroleum risk applies only to petroleum discharges from underground and aboveground tank systems and is used to determine agency jurisdiction. The Wisconsin Department of Natural Resources (DNR) has jurisdiction for review of high-risk sites and sites also contaminated with non-petroleum substances. The Wisconsin Department of Commerce has jurisdiction for all other sites with discharges from petroleum tanks. High risk factors are:

- confirmed contamination in a water supply well above a Chapter NR 140 preventive action limit,
- confirmed free petroleum product with a thickness of .01 feet or more,
- groundwater contamination above an NR 140 enforcement standard within 1,000 feet of a well operated by a public utility,
- groundwater contamination above an NR 140 enforcement standard within 100 feet of any other water supply well, and
- groundwater contamination above an NR 140 enforcement standard in fractured bedrock.



Figure 11.25. Neighborhood A Brownfields Map.
Source: WI DNR Bureau for Remediation and Redevelopment

The high petroleum risk brownfield in Neighborhood A is located at 14001 Greenfield Avenue and is a Leaking Underground Storage Tank (LUST). The low petroleum risk brownfield is located on the Industrial Waste Corporation land just west of the intersection of South Ridgeway Road and Greenfield Avenue. This low-risk brownfield is an Environmental Repair Program (ERP) effort. The DNR classifies ERP sites as sites other than Leaking Underground Storage Tank (LUST) sites that have contaminated soil and/or groundwater. Examples include industrial spills or dumping needing long term investigation, buried containers of hazardous substances, and closed landfills that have caused contamination. ERP sites include petroleum contamination from above-ground (not underground) storage tanks.

Two brownfields are considered to have an unknown petroleum risk level:

- 1420 S. Calhoun Road; ERP
- 1810 S. Calhoun Road; LUST

The City should continue to follow the status of brownfield sites in the neighborhood as development activities take place on and around each site.

Recommendations

Economic development policies for the Greenfield Avenue corridor are largely guided by the 2002 Economic Development and Revitalization Plan. Based on recommendations in the Plan, development in Neighborhood A should foster a mix of small-scale retail and residential uses, with more intense uses and structures at major intersections.

The 2002 Economic Development and Revitalization Plan process hosted a series of visioning workshops to discuss desired businesses and industries with the New Berlin Economic Development Corporation, Focus New Berlin, and the New Berlin Plan Commission. The following recommendations are based on the 2002 Plan and have been updated to reflect current desires for specific sites within Neighborhood A:

Key intersections should be developed or redeveloped to serve as gateways into New Berlin. Intersections can be divided into two types, primary and secondary, based on the intensity of development and the amount of traffic.

Primary intersections would have taller buildings and an increased intensity of development with buildings reinforcing the street edge. These areas could include institutional, civic, commercial, and residential uses. Site layouts should include landscaping, sustainable features, and signage and/or banners to promote Greenfield Avenue as a major gateway to the city.

Primary intersections include:

- Intersection of Greenfield Avenue and Moorland Road.

Secondary intersections would have buildings reinforcing the street edge; however, the buildings would be a maximum of two to three stories, could be mixed use, and less intense. Site layouts should include landscaping, sustainable features, and gateway signage to promote Greenfield Avenue. Secondary intersections include:

- Intersection of Greenfield Avenue and Johnson Road.
- Intersection of Greenfield Avenue and Calhoun Road.
- Intersection of Greenfield Avenue and Sunny Slope Road.

Desired businesses within these areas, and along Greenfield Avenue in general, may include the following:

- Retail, including furniture, gardening, apparel, grocery stores, convenience stores, computers and electronic goods, and sporting goods.
- Finance-Insurance-Real Estate (FIRE), including law firms, real estate agencies, insurance agencies, brokers.
- Professional specialties include physicians' offices, medical clinics, engineering, architecture, planning and surveying firms.
- Personal services are those services including dry cleaners, beauty salons, and other various personal services.
- Small arts and crafts studios and antique shops in older commercial areas, especially along both Greenfield Avenue and Sunny Slope Road, should be encouraged, including those small enough and adaptable enough to be "housed" in smaller mixed-use buildings. For example, some small arts and crafts studios and shops could be located on the first floor of mixed residential/commercial buildings.
- Rural oriented cottage businesses, antiques, organic farms, and horticultural and landscaping firms with experimental gardens and arboretums on the City's western half, generally the area west of Calhoun Road.
- Commercial gyms, fitness centers and businesses that cater to recreational and leisure-time activities.
- Eating and drinking establishments, including fine quality dining in close proximity to hotels and business parks.

HOUSING

Neighborhood A includes a variety of single-family subdivisions and multi-family options for residents. Sections of existing low-density multi-family or single-family should be maintained, with housing being permitted as part of mixed-use developments. Residential quarters are allowed as an accessory use in the B-2, B-3 and B-5 districts.

Neighborhood A represents a variety of land uses with urban housing at the eastern end, rural and environmental uses at the western end, and commercial scattered throughout the corridor. A mix of uses should be maintained and enhanced as indicated on the Future Land Use Map located in Chapter 10.

Recommendations

- Continue the development of housing within established subdivisions.
- Maintain small-scale commercial and residential areas throughout the corridor. Larger-scale commercial and institutional uses should be located at “primary” intersections: (e.g. where Greenfield Avenue traverses Moorland Road) to serve as prominent gateways into New Berlin.
- Encourage stronger landscaping on all corners at the intersection of Greenfield Avenue with Sunny Slope Road.
- Allow lands zoned as A-1 to be transitional agricultural uses.
- Encourage the preservation of natural resources and allow these areas to serve as linkages throughout the neighborhood.

STAFF REPORT EXECUTIVE SUMMARY

APPLICANT/PROJECT: Nicholas Wimmer on behalf of Wimmer Communities / Rezoning

LOCATION: 1640 S. Moorland Road (Tax Key #'s: 1158.989.001, 1158.989.002 & 1158.989.003)

REQUEST: Public Hearing to rescind PUD Overlay Ordinance # 2679 – Mandel Neighborhood Development Plan PUD (also amended by Ordinance 2688) & request to rezone the properties located at 1640 S. Moorland Road (Tax Key #'s: 1158.989.001, 1158.989.002 & 1158.989.003) from B-1/PUD (Shopping Center District), Rm-1/PUD (Multiple-Family Residential District:), I-1/PUD (Institutional District) / C-2/PUD (Shoreland-Wetland Holding District) to Rm-1/PUD and C-2/PUD as The Conservancy Neighborhood Development PUD Ordinance # 2701).

D.R.C. RECOMMENDATION: Public Hearing only, no action.

DETAILS IN ATTACHED STAFF REPORT:

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

Meeting of March 3, 2025

Nicholas Wimmer on behalf of Wimmer Communities / Rezoning
1640 S. Moorland Road (Tax Key #'s: 1158.989.001, 1158.989.002 & 1158.989.003)

DATE STAFF REPORT PREPARED: February 10, 2025

APPLICANT / OWNER(S): Nicholas Wimmer on behalf of Wimmer Communities / The Conservancy LLC

REQUEST / DESCRIPTION OF PROJECT:

Public Hearing to rescind PUD Overlay Ordinance # 2679 – Mandel Neighborhood Development Plan PUD (also amended by Ordinance 2688) & request to rezone the properties located at 1640 S. Moorland Road (Tax Key #'s: 1158.989.001, 1158.989.002 & 1158.989.003) from B-1/PUD (Shopping Center District), Rm-1/PUD (Multiple-Family Residential District), I-1/PUD (Institutional District) / C-2/PUD (Shoreland-Wetland Holding District) to Rm-1/PUD and C-2/PUD as The Conservancy Neighborhood Development PUD Ordinance # 2701).

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 1/9/2025

DATE OF COMPLETENESS DETERMINATION: 1/9/2025

PRE-APPLICATION CONFERENCE HELD: Yes

Date(s) of Meeting(s): Numerous meetings

Site Visit(s): a variety of site visits over the past two years.

CONCEPTUAL PLAN: Yes

SIZE OF DEVELOPMENT / PARCEL(S): 33.76 Acres

CURRENT ZONING:

Lot 1: B-1/PUD (Shopping Center District)

Lot 2: Rm-1/PUD & C-2 (Multi-Family Residential District)

Lot 3: I-1/PUD & C-2 (Institutional District)

CURRENT LAND USE: Vacant

PROPOSED LOT SIZES: Applicant filed a separate application for a 3-Lot CSM (See File # LD-2500072).

Lot 1: 9.670 Acres

Lot 2: 19.687 Acres

Lot 3: 4.404 Acres

PROPOSED ZONING:

Rm-1/PUD & C-2/PUD

PROPOSED LAND USE: Applicant filed a separate application for a 3-Lot CSM (See File # LD-2500072). Multi-family Residential with retail commercial integrated within the apartment buildings.

PROPOSED DENSITY:

Proposed Rm-1/PUD District:

In the attached PUD ordinance, the applicant has identified the following density information: Net density 12.68 units / acre (375 units / 29.57 developable acres) OR gross density 11.10 units / acre (375 units / 33.761 acres).

AJACENT ZONING AND LAND USE:

North: Zoning: Commercial

South: Zoning: I-1 & R-4

East: Zoning: B-1/I-1

West: Zoning: B-1/PUD/Rm-1/R-4

Land Use: City of Brookfield (Bank & Commercial)

Land Use: Rail Road Easement and New Berlin Bike Trail
Residential

Land Use: Walmart & Highland Memorial Park Cemetery

Land Use: Vacant Commercial/Deer Creek
Apartments/Brookridge Condominiums &
Moorland Highlands Subdivision

Conformance with Comprehensive Plan and Municipal Code: Yes

Chapter 11: Neighborhood A: Greenfield Avenue:

Planning Context / Vision / Development Policies:

Vision:

- *Greenfield Avenue will be a mixed commercial and residential corridor, and shall act as a gateway to the northern area of New Berlin. The eastern half of the corridor should foster a more urban mix of uses, while the western half should encourage a mix of rural commercial, residential, and environmental features.*

Development Policies:

- *Create development standards for site layout, building character, and landscaping that are suitable for new development along the corridor.*
- *Tighten non-conforming lot, structure, and use standards, and require compliance with landscaping regulations. Phase out non-conforming commercial uses over time.*
- *Recognize the Greenfield Avenue and Moorland Road primary intersection as a major gateway into the city from the north. Encourage signature well-designed buildings that are compatible with surrounding areas including recent development across the street in the City of Brookfield.*
- *Site development should include prominent signage, increased landscaping, sustainable strategies for stormwater management, and methods to minimize the parking field, such as structured parking.*
- *Address flooding and localized drainage issues along the eastern portion of the neighborhood.*
- *Encourage land combinations that accommodate future development options.*

Land Use:

- *Future Land Use Map: Mixed Residential (Proposed with application File #: CP-2500070)*

ZONING CODE (Chapter 275): Yes, with the attached proposed PUD Ordinance, this request would meet the requirements of Sections 275-33B(10), 275-34B(1) & 275-37B(4) of the Zoning Code.

DEVELOPMENT CODE (CHAPTER 235): N/A

REZONING REQUIRED: Yes, amendment to the PUD ordinance requires a public hearing.

CONDITIONAL USE REQUIRED: No

PUBLIC HEARING REQUIRED: Yes

USE / SITE / ARCHITECTURAL REVIEW:

Use Approval Required: A conceptual Use Approval Application File #: UA-2402003 was reviewed at the October 7, 2024 Plan Commission meeting. Separate Use, Site and Architecture applications will be required for each use and proposed development.

Site Plan Required: Yes, a concept is attached and will be included in the PUD.

Architectural Review Required: Yes, concepts are attached and will be included in the PUD.

PROPOSED ARCHITECTURE: Yes, concepts are attached and will be included in the PUD.

UNIQUE SITE CHARACTERISTICS:

Environmental Corridor: Yes, Isolated Natural Resource Area located along eastern property line.

Wetland On Property: Yes, Wetlands have been registered on the City's Zoning Map.

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

NRCS Map Classification: Not Inventoried

Floodplain: No

Topography / Geologic: Site is overall fairly flat however the current owner has filled and added berms over the years. This is why the contours appear to look like berms on the topography map.

BIKE & PEDESTRIAN FACILITIES PLAN: As part of the PUD Ordinance and Development Agreement for this project, the applicant is proposing to install and maintain a sidepath along the length of their development along Moorland Road to Greenfield Avenue. This was an important issue that residents brought up during the conceptual reviews of the project at the Neighborhood Meetings.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:

Limits of Disturbance (LOD): Shown on the conceptual plans and will be required to be shown on the future Use, Site and Architectural application submittals.

Wildlife Habitat Protection: Yes

Wildlife Management Plan: Yes

ENVIRONMENTAL IMPACT: Yes, a tree inventory has been submitted and staff will continue to work with the applicant on any replacements at the time of Use, Site and Architecture applications.

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 full report has been submitted.

SANITARY SEWER PROVISION:

Within Current Sewer Service Area: Yes

Basin Capacity Available: Yes

Adequate Linkage: Yes

Onsite System Required: No

WATER USAGE CALC.: Will be reviewed at the time of building permit application submittals. The Utility Department has reviewed the project conceptually and there is adequate supply for this project.

TRAFFIC IMPACT: A Traffic Impact Study dated August 26, 2023 has been submitted to the City of New Berlin and Waukesha County.

Below are several summary points from the TIA:

Table 1 Trip Generation Comparison

As shown in Table 1, under the new land use assumptions there is expected to be a reduction in new trips of 2,380 total site trips on a typical weekday, 220 total site trips in the AM peak hour, and 225 total site trips in the PM peak hour when compared to the previously approved land use assumptions.

- 1. Modifications to address traffic impacts are shown in Exhibit 9 for the Year 2026 traffic conditions and have been shown for the following two scenarios:*
- 2. "Full Build Traffic" – These modifications are expected to be necessary to accommodate the Year 2026 Full Build traffic volumes, which includes the proposed on-site development under with full access at Ridge Road, right-in/right-out access at the North driveway onto CTH O and left-in/right-in/right-out access at the south driveway onto CTH O.*
- 3. "Total Traffic" – These modifications are expected to be necessary to accommodate the Year 2026 Total traffic volumes, which includes the proposed on-site development with full access at Ridge Road, right-in/right-out access at the North driveway onto CTH O and left-in/right-in/right-out access at the south driveway onto CTH O and the identified potential off-site development taken from the previously approved TIA.*

SCHOOL DISTRICT IMPACT: Yes

Notice Sent to Affected School District(s): Yes, an email was sent to the school district on 2/11/2025 notifying them of the project. It was noted in the email that this project will replace the previously approved Mandel Development project.

PREVIOUS ACTION:

Past Action on projects that did not move forward:

- | | |
|-----------|--|
| 3/3/2008 | ProHealth submitted a plan for a large medical building on this site. This project never moved forward. |
| 6/29/2017 | Continental Properties submitted a concept plan for a mixed use development. It was reviewed by the Plan Commission and a Neighborhood Meeting was held. |

Recent Action:

- | | |
|-----------|---|
| 4/10/2023 | Neighborhood Meeting regarding concept plan (File UA-2300419). |
| 4/13/2023 | Plan Commission review of concept plan. |
| 4/25/2023 | Common Council reviewed an RAS for the potential sale of City property located at 1640 S. Moorland Road / Tax Key # 1158-989 (along Moorland Road across from Robin Trial). |
| 7/10/2023 | Plan Commission held a public hearing (File CP-2300808 & RZ-2300810). |
| 8/14/2023 | Plan Commission approved File RZ-2300810 for PUD Ordinance #: 2679 & File CP-2300808 for Ordinance 2678 adoption of Resolution 23-14). |
| 8/29/2023 | Common Council approved File RZ-2300810 for PUD Ordinance #: 2679 & File CP-2300808 for Ordinance 2678 adoption of Resolution 23-14). |
| 1/8/2024 | Plan Commission held a public hearing, reviewed and approved an amendment to the File RZ-2300810 as PUD Ordinance #: 2688. |
| 1/9/2024 | Common Council approved an amendment to the File RZ-2300810 as PUD Ordinance #: 2688. |

1/8/2024

Plan Commission approved a multi-family apartment development via File #: UA-2301691. However, the applicant withdrew this application.

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

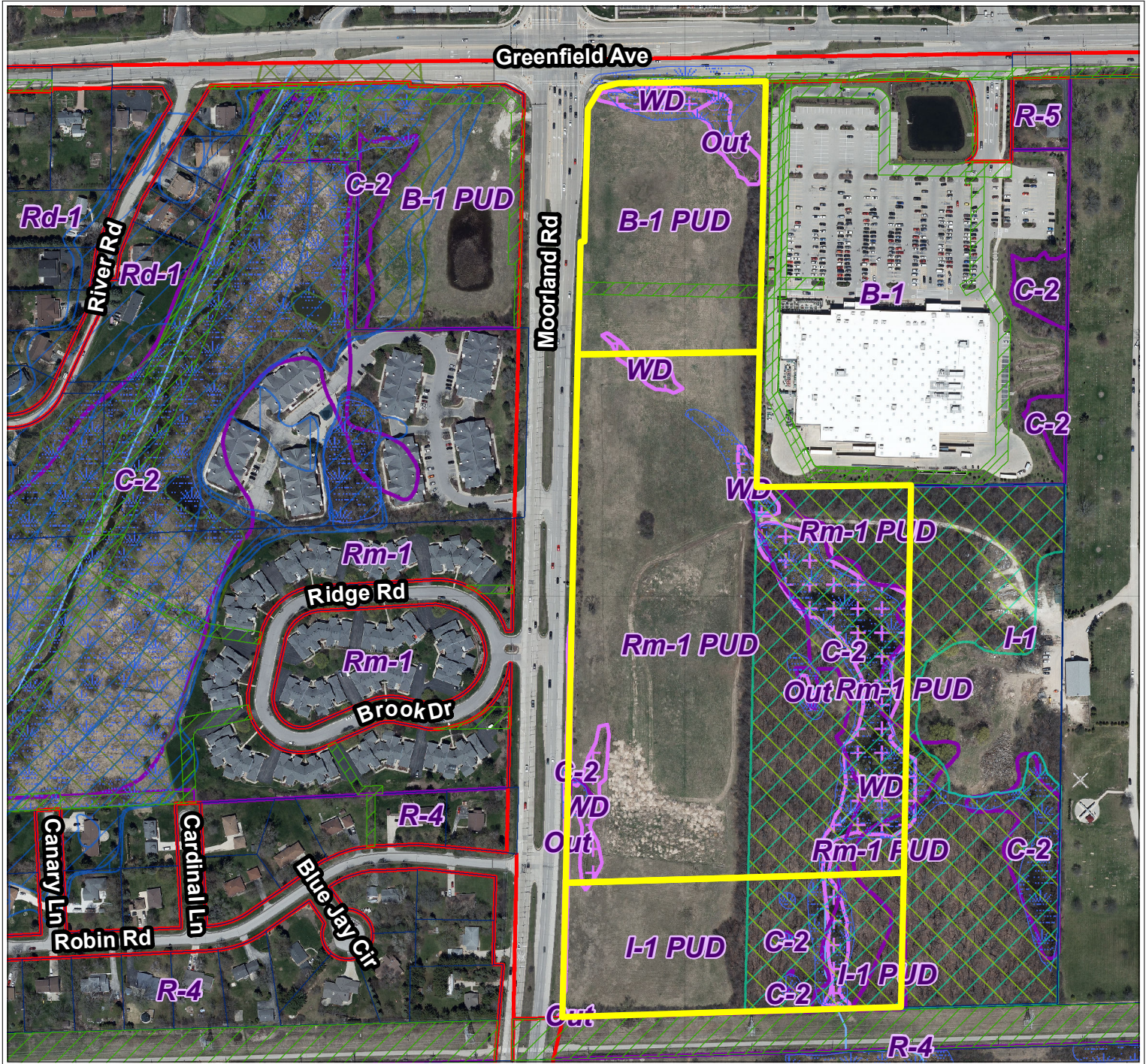
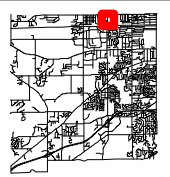
1. The rezoning must meet the following criteria outlined in New Berlin Municipal Code Chapter 275-22(F):
 - a. The proposed rezoning is consistent with the Comprehensive Plan and the stated purposes of Chapter 275;
The Future Land Use map identifies this area as Suburban Commercial, Mixed Use Residential & Institutional. The applicant filed a separate application for a Comprehensive Plan Amendment (See File #: CP-2500070) to amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 10 – Land Use and Chapter 11 – "Neighborhood A") from Suburban Commercial, Mixed Residential and Institutional to Mixed Use Residential.
 - b. Adequate public facilities and services (including sewage and waste disposal, water, gas, electricity, schools, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
Yes, the proposed rezoning is compliant. This property will be served by public sanitary sewer and water facilities.
 - c. Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of the City to provide them;
Yes, the proposed rezoning is compliant.
 - d. The proposed development has taken into account impacts on surrounding properties or the natural environment, including air, water, noise, storm water management, soils, wildlife, and vegetation;
Yes, the proposed rezoning is compliant. Any future developments shall be required to submit a separate application with the Department of Community Development. A full storm water report along with utility plans and civil engineering plans is under review
 - e. The land proposal for rezoning is suitable for development and will not cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas;
Yes, the proposed rezoning is compliant.
 - f. The proposed rezoning will not be used to legitimize, or "spot zone," a nonconforming use or structure; and
No, it will not be spot zoning. It will be consistent with the Future Land Use Map within the Comprehensive Plan, as requested in the Comprehensive Plan Amendment with application # CP-2500070.
 - g. The proposed rezoning is the minimum action necessary to accomplish the intent of the petition, and an administrative modification, variance, or conditional use permit could not be used to achieve the same result.
Yes, the proposed rezoning is the minimum action necessary to accomplish the intent of the petition.
2. The applicant has submitted an application for a Comprehensive Plan Amendment (see file #: CP-2500070) and 3-Lot CSM (see file #: LD-2500072).

3. The applicant is requesting a PUD. A copy of the draft PUD is attached.
 - a. Development will have approximately 375 multi-family units.
 - b. Applicant's development report indicates the required parking is 885 spaces and they would provide 912 spaces. Plans indicate 401 spaces would be within garages and 514 spaces of surface parking.

D.R.C. RECOMMENDATION: Public Hearing only, no action. **See Executive Summary.**

ATTACHMENTS:

Location Map
Zoning Comparison Map
Applicant Letter/Amendment Request/Plans
Draft PUD Ordinance # 2701
Comprehensive Plan Chapter 10 – Land Use
Comprehensive Plan Chapter 11 – Neighborhood A



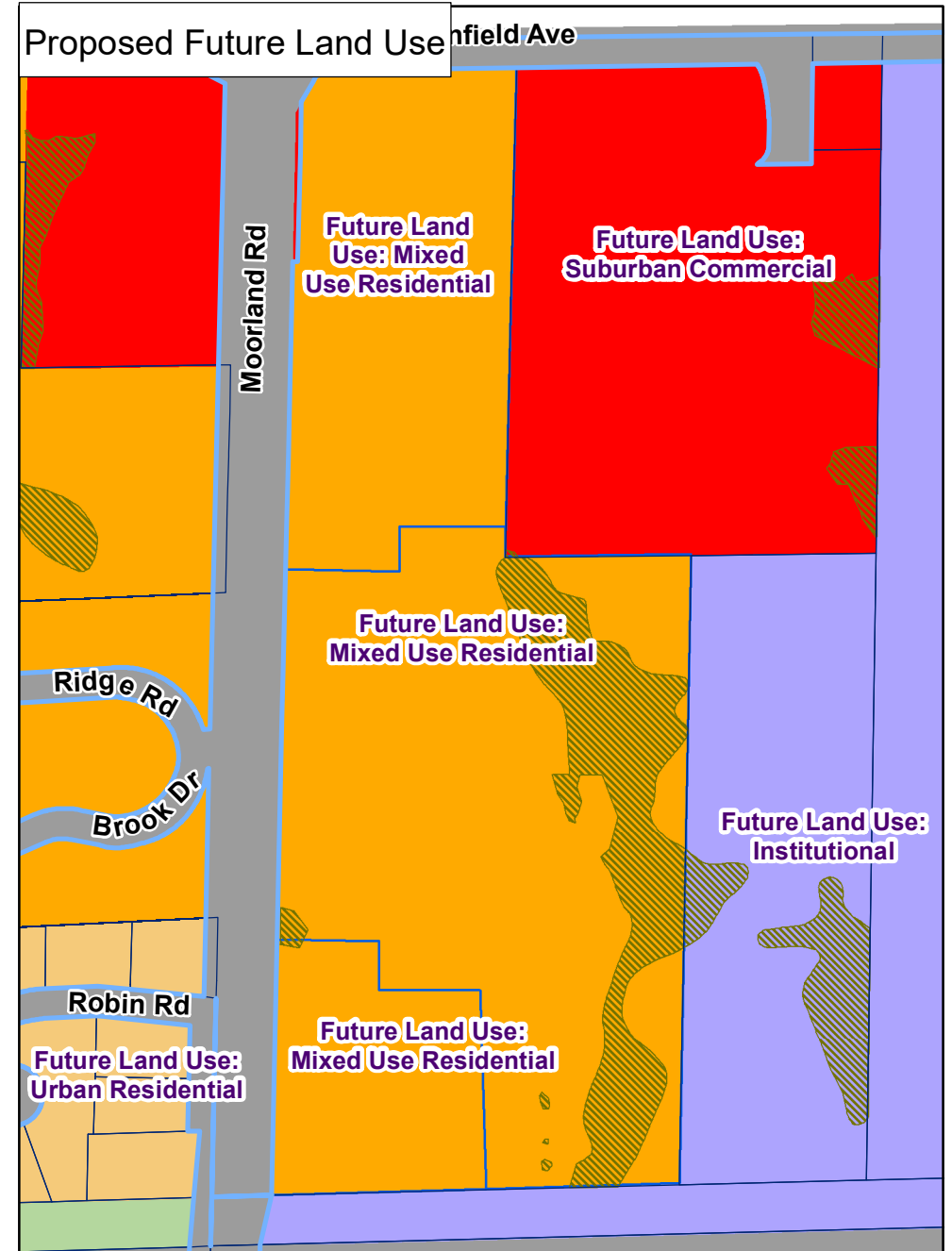
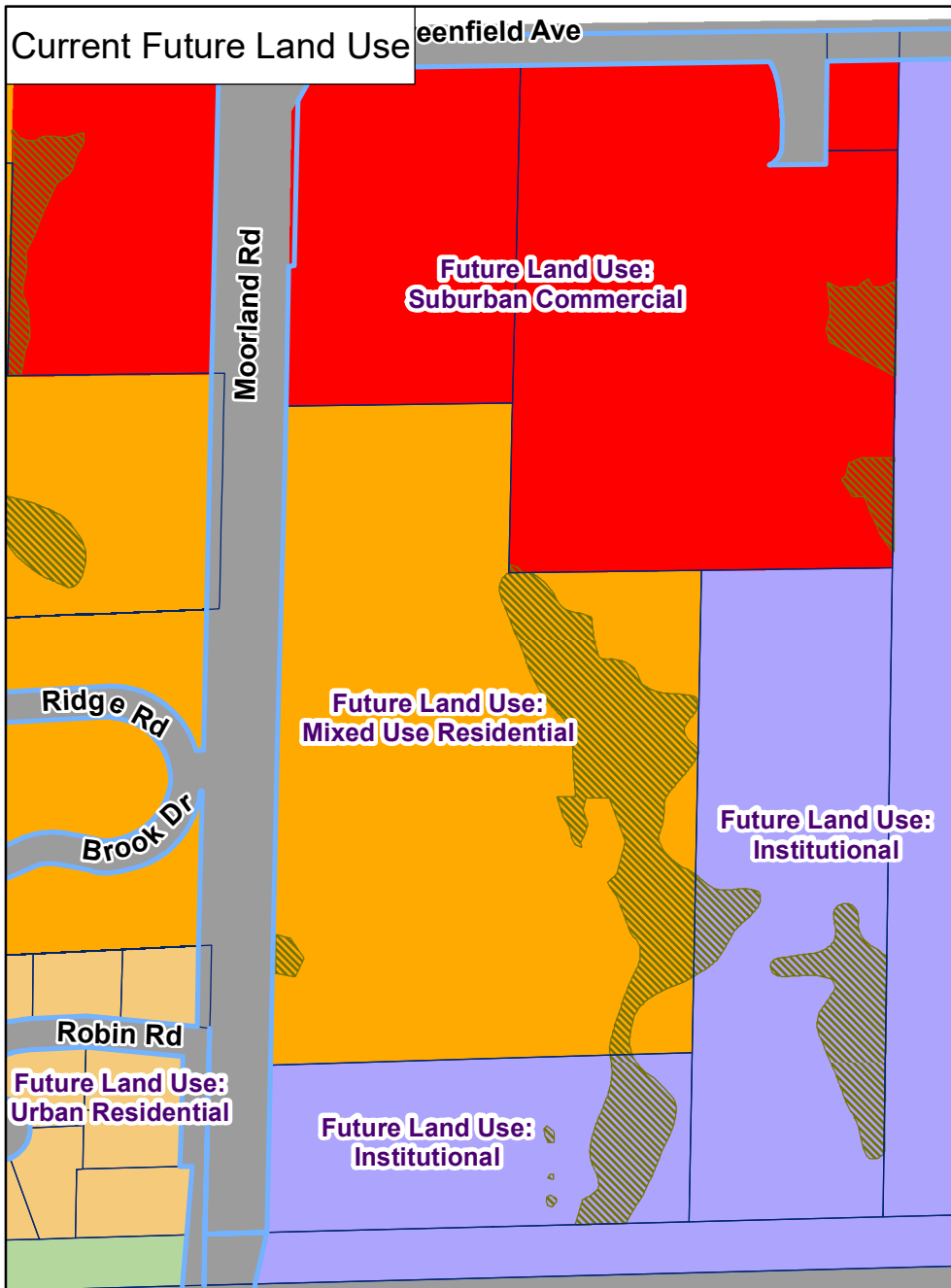
City of New Berlin
Department of Community Development
3805 S Casper Dr.
New Berlin WI 53151
(262) 797-2445
www.newberlin.org

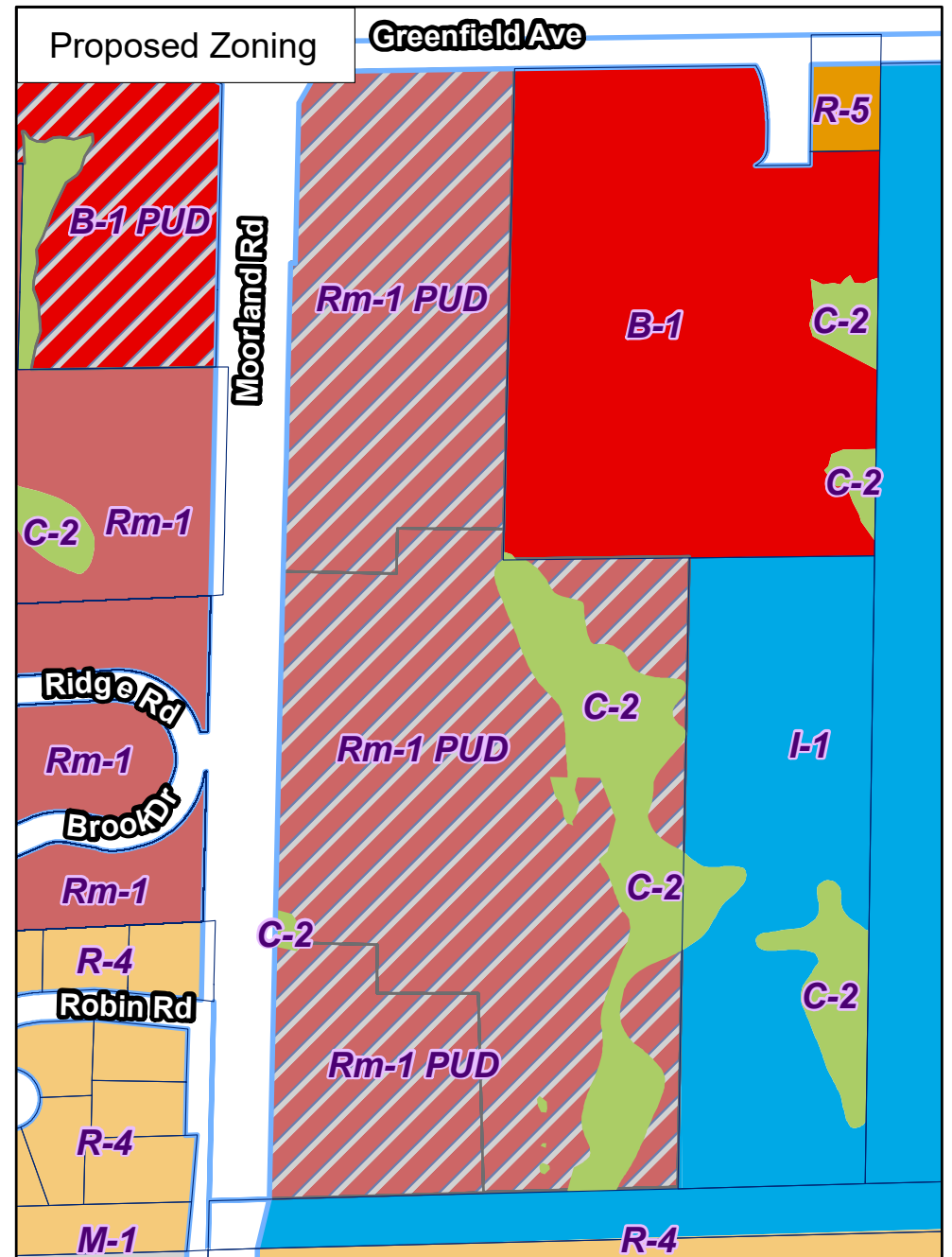
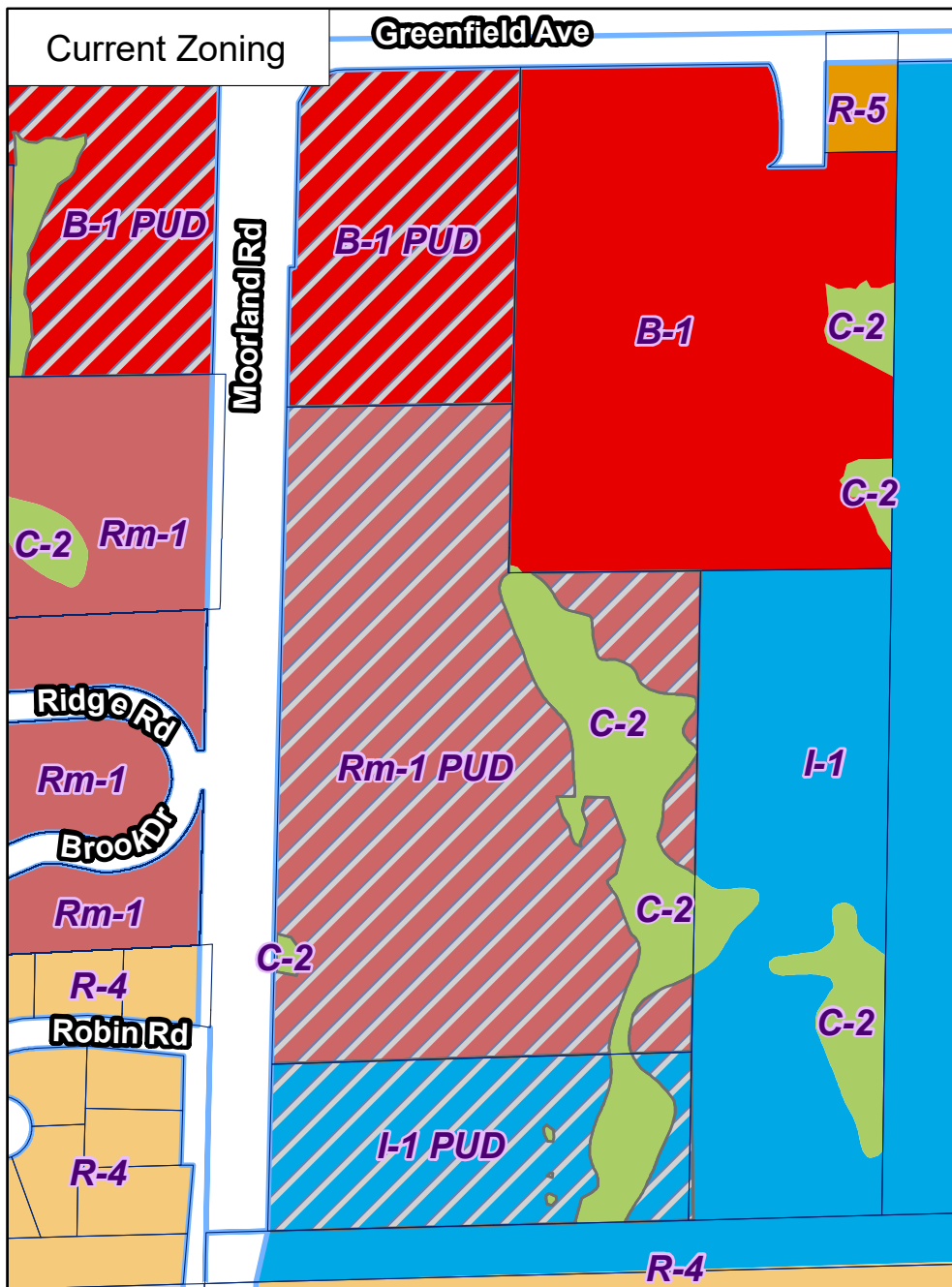
Legend

	Parcels		Environmental Corridor
	Road Right-of-Way		Corridor Type
	Floodplain DFIRM (FEMA 2014)		 Isolated Natural Resource Area
	Flood Zone		 Primary Environmental Corridor
	FEMA DFIRM - Zone A		 Secondary Environmental Corridor
	FEMA DFIRM - Zone AE		 Wetland
	FEMA DFIRM - 0.2% Annual Chance		
	Zoning Boundaries		
	Zoning Wetland Registration		
	Wetland Registration Type		
	Registered Wetland		
	Outside Wetland		



0 130 260 Feet

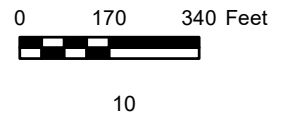
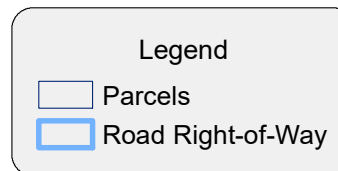




RZ-2500071
The Conservancy
1640 S. Moorland Rd



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





January 10, 2025

Mr. Greg Kessler
Director
City of New Berlin – Department of Community Development
3805 S. Casper Drive
New Berlin, WI 53151

Ms. Nikki Jones
Deputy Director
City of New Berlin – Department of Community Development
3805 S. Casper Drive
New Berlin, WI 53151

Dear Mr. Kessler and Ms. Jones:

Wimmer Communities (“Wimmer”) does hereby submit for review by the City of New Berlin Department of Community Development the following documentation in support of its applications for a Comprehensive Plan Amendment, Rezoning via Amendment to PUD Ordinance No. 2679, and Land Division by Certified Survey Map, all supporting Wimmer’s proposed mixed-use “town center”-style development known as The Conservancy at the southeast corner of Moorland Road and Greenfield Avenue.

Please find enclosed the following applications and supporting materials for the three land use approvals referenced above:

- 1) **Comprehensive Plan Amendment** to amend the land uses for the property upon which The Conservancy will be developed, from Suburban Commercial, Mixed Use Residential, and Institutional to Mixed Use Residential across the full subject property.
 - Development Permit Application for Comprehensive Plan Amendment.
 - Developer’s Deposit Finance Form for Comprehensive Plan Amendment.
 - Development Report explaining The Conservancy and its land uses in full detail (7 copies).
 - Current Civil Plan Set (7 copies).
 - Current Architectural Plan Set (7 copies).

Distinctive Residential Communities

5300 S. 108th Street, Suite 1, Hales Corners, WI 53130-1331
Phone: 414-529-3900 Fax: 414-529-5348
www.wimmercommunities.com



- Application Fee in the amount of \$175.00.
 - Developer Deposit in the amount of \$500.00.
- 2) **Rezoning via Amendment to PUD Ordinance No. 2679** to amend the underlying zoning districts within the PUD from B-1 Shopping Center, Rm-1 Multiple-Family Residential, I-1 Institutional, and C-2 Shoreland Wetland Conservancy to Rm-1 Multiple-Family Residential across the full subject property, while specifically authorizing the proposed Retail use within the defined mixed-use facilities and preserving the C-2 Shoreland Wetland Conservancy zoning.
- Development Permit Application for Rezoning (PUD).
 - Developer's Deposit Finance Form for Rezoning (PUD).
 - Development Report explaining The Conservancy and the requested rezoning in full detail (7 copies).
 - Includes Proposed PUD Zoning Data Table to inform Amendment to PUD Ordinance No. 2679 for The Conservancy, initially provided to City on December 20, 2024.
 - Legal description
 - Both current legal description and proposed legal description to take effect upon approval and recording of Certified Survey Map that is the subject of the Land Division application discussed below.
 - Map showing land areas to be rezoned as per above.
 - Current Civil Plan Set (7 copies).
 - Current Architectural Plan Set (7 copies).
 - Application Fee in the amount of \$1,390.00.
 - Developer Deposit in the amount of \$500.00.
- 3) **Land Division via Certified Survey Map** to create a three-parcel property to facilitate development of The Conservancy.
- Land Division Application for Certified Survey Map (4 lots or less).
 - Developer's Deposit Finance Form for Land Division.
 - Development Report explaining The Conservancy and its land division, including construction phasing in accordance with proposed three-parcel delineation (7 copies).
 - Certified Survey Map prepared by Mr. Christopher A. Jackson, P.E., P.L.S. (7 copies).
 - Current Civil Plan Set (7 copies).
 - Application Fee in the amount of \$350.00.
 - Developer Deposit in the amount of \$300.00.

In addition, I have enclosed the current Traffic Signal Design Plan prepared by Mr. John A. Bieberitz of Traffic Analysis & Design, Inc. for the proposed signalized intersection at the center access point to The Conservancy located at Moorland Road and W. Ridge Road.

All applications and supporting materials identified above have also been provided in electronic format on the enclosed USB flash drive.

Pursuant to my e-mail discussion with Ms. Jones on November 7, 2024, we understand that our requests for the Comprehensive Plan Amendment and Rezoning via PUD Amendment will be considered by the Common Council at its meeting on January 28, 2025, for the purpose of scheduling a Joint Public Hearing on those requests to be held at the Plan Commission meeting on March 3, 2025.

We look forward to continuing to advance The Conservancy through its development review process and to bringing this exciting new neighborhood community to the City of New Berlin. Please do not hesitate to reach out to me with any questions or if any additional information is required following your review of the enclosed applications and supporting materials.

Yours Very Truly,

A handwritten signature in black ink, reading "David T. Wimmer". The signature is fluid and cursive, with the first name "David" being more prominent and the last name "Wimmer" following in a similar style.

David T. Wimmer
Corporate Counsel
Wimmer Communities

Encl.

CC: Mark J. Wimmer – President, Wimmer Communities
John J. Wimmer – Executive Vice President, Wimmer Communities
Nicholas X. Wimmer – Vice President of Project Development, Wimmer Communities
Tammy Simonson – City Engineer, City of New Berlin
Nicole Hewitt – Division Engineer – Storm Water, City of New Berlin
Kristen Hogan – Principal Planner, City of New Berlin
Kelly Wall – Principal Planner, City of New Berlin

ORDINANCE NO. 2701

The Conservancy Neighborhood Development Plan PUD / Planned Unit Development

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

SECTION I

WHEREAS, The City of New Berlin (City) has adopted a Comprehensive Plan under Wis. Statutes Sections 62.23 and 66.1001; and

WHEREAS, The City has adopted a Zoning Ordinance under Wis. Statutes 62.23 and does allow planned unit development overlays (PUD) per Section 275-39B(1) of the New Berlin Municipal Code; and

WHEREAS, the Applicant Nicholas Wimmer with Wimmer communities has submitted an application for a Planned Unit Development Overlay District located at 1640 S. Moorland Road (includes Tax Keys #'s 1158.989.001, 1158.989.002 & 1158.989.003 in accordance with Sections 275-23 and 275-39(B)(1) of the New Berlin Municipal Code; and

WHEREAS, the proposed PUD will necessitate an amendment to the City of New Berlin Comprehensive Plan; and,

WHEREAS, the procedure for the creation of a PUD Overlay District and the amendment to its Comprehensive Plan has been followed in compliance with Sections 275-21.1, 275-22 and 275-23 of the New Berlin Municipal Code; and

WHEREAS, the Applicant has submitted a City of New Berlin Concept Use Approval Application File # UA-2402003 which requires that PUD Ordinance #2679 as amended by PUD Ordinance #2688 be rescinded.

WHEREAS, this request would rescind Planned Unit Development Overlay Ordinance # 2679 – Mandel Neighborhood Development Plan PUD Overlay District (also amended by Ordinance 2688), which would have allowed for a mixed use development, approved by the Common Council on January 9, 2024. At this time, the previous applicant is no longer pursuing that project and has sold the subject property to the present Applicant; and

WHEREAS, this request would rescind Use Approval # UA-2301691 to construct a multi-family development by Mandel Development Group, approved by the Plan Commission on January 8, 2024; and

WHEREAS, a public hearing was held on **March 3, 2025** before the Plan Commission to receive comments concerning the proposed Planned Unit Development overlay district Ordinance 2701, as well as the proposed Comprehensive Plan Amendment and;

WHEREAS, following the aforementioned public hearing the Plan Commission at a meeting held on **April 7, 2025**, made a recommendation to rescind ordinance #2679 (as amended by Ordinance 2688) and to approve the Conservancy Neighborhood Development Planned Unit Development Ordinance # 2701, and to approve the amendment to its Comprehensive Plan and;

WHEREAS, a public hearing was held on **March 3, 2025** before the Plan Commission, and;

WHEREAS, The Applicant has also submitted a proposed A 3-Lot Certified Survey Map (CSM) the approval of which is a condition of the approval of the PUD Ordinance #2701; the draft CSM is attached as Exhibit F to this ordinance which Exhibit will be replaced with the approved CSM once recorded.

NOW, THEREFORE, BE IT HEREBY RESOLVED AND ADOPTED BY THE CITY OF NEW BERLIN, the Planned Unit Development Overlay Ordinance # 2679 – Mandel Neighborhood Development Plan PUD Overlay District (as amended by Ordinance #2688) is hereby rescinded and the Conservancy Neighborhood Development Plan Planned Unit Development Ordinance, Ordinance 2701 is hereby adopted pursuant to Chapter 275-39(B)(1) of the New Berlin Municipal Code as follows:

SECTION II

Planned Unit Development Summary

The purpose of the Planned Unit Development (PUD) is to create a zoning district that allows flexibility from the rigid development standards of underlying zoning districts. This PUD ordinance shall specify all elements of what is to be modified or added to the basic underlying district, and provisions of the underlying basic use district not specifically enumerated as changed, modified, or deleted shall remain in full effect.

Unless specified otherwise by this ordinance, any regulation not listed shall be regulated in accordance with the Zoning Ordinance dated **October 7, 2024** and underlying zoning districts: Section 275-33B(10), Multi-Family Residential District, Section 275-34B(1), Shopping Center District, and Shoreland Wetland Holding District.

The parcels of land that are the subject of this ordinance are located at approximately 1640 S. Moorland Road (includes Tax Key # 's 1158.989.001, 1158.989.002 & 1158.989.003) in the City of New Berlin, which are legally described below. The property is approximately 33.76 acres in size.

A 3-Lot Certified Survey Map (CSM) has been submitted, which is attached in its draft form to this ordinance as Exhibit F. Said Exhibit will be substituted with the approved CSM once that CSM is recorded.

SECTION III

Legal Description of Parcel to be rezoned to B-1/PUD:

OVERALL PARCEL:

Lot 1, Lot 2, and Lot 3 of Certified Survey Map No. 12592, recorded in the Office of the Register of Deeds for Waukesha County on August 22, 2024 as Document No. 4780733, being part of the Northwest 1/4 and Southwest 1/4 of the Northwest 1/4 of Section 2, Town 6 North, Range 20 East, in the City of New Berlin, Waukesha County, Wisconsin.

Tax Key #: 1158.989.001

LOT 1 CSM #12592 VOL 131/181 REC AS DOC #4780733 PT NW1/4 SW1/4 OF NW1/4 SEC 2 T6N R20E :: ALSO INCLUDING ACCESS EASEMENT RECORDED IN DOC #4654236

Tax Key #: 1158.989.002

LOT 2 CSM #12592 VOL 131/181 REC AS DOC #4780733 PT NW1/4 SW1/4 OF NW1/4 SEC 2 T6N R20E

Tax Key #: 1158.989.003

LOT 3 CSM #12592 VOL 131/181 REC AS DOC #4780733 PT NW1/4 SW1/4 OF NW1/4 SEC 2 T6N R20E

LANDS TO BE REZONED FROM B-1/PUD, RM-1/PUD, I-1/PUD & C-2/PUD TO RM-1/PUD (LOTS 1, 2 & 3 ON PROPOSED CSM) & LANDS TO BE AMENDED TO FUTURE LAND USE OF MIXED USE RESIDENTIAL:

Lot 1, Lot 2, and Lot 3 of Certified Survey Map No. _____, recorded in the Office of the Register of Deeds for Waukesha County on _____ as Document No. _____, being a redivision of Lots 1, 2, and 3 of CSM 12592, being part of the Northwest 1/4 and Southwest 1/4 of the Northwest 1/4 of Section 2, Town 6 North, Range 20 East, in the City of New Berlin, Waukesha County, Wisconsin.
n the City of New Berlin, Waukesha County, Wisconsin.

SECTION IV

Rm-1/PUD: The Conservancy Neighborhood Development Plan / Planned Unit Development District

The overall purpose of this PUD is to begin to establish a set of parameters and requirements for the creation of a cohesive mixed-use neighborhood development that can serve as neighborhood center rather than a continuous, repetitive, bland, homogenous and isolated set of land uses by parking lots, drive aisles and very little to no connectivity. The PUD is being used to organize and connect several developments; fully interconnect streets, drive aisles, walk-ways, & bikeways within the development and to the surrounding neighborhoods; support retail shops & services; create active & secure pedestrian-friendly settings; and to make "parking" ultimately a shared resource available in support of "all" users within the PUD rather than just on a parcel-by-parcel basis. Appendix "A" represents a conceptual master plan that reflects the City's desired neighborhood plan and design principles. The plan is meant to be flexible and not ridged, and to provide guidance for future development over the years. The design is based on principals in the City's Comprehensive Plan Chapter 11, Neighborhood A Greenfield Avenue.

The Rm-1/PUD: The Conservancy Neighborhood Development / Planned Unit Development District is intended to provide for additional density than what is allowed in the Rm-1 Multiple-Family Residential District. The District will allow up to 375 units on 33.76 acres (11.11 units per acre). The PUD will allow retail commercial development to be integrated within the residential apartment buildings. Applicant identified approximately 19,600 sq. ft. of ground floor retail within two mixed-use residential buildings, approximately 9,800 sq. ft. per building. It shall include a network of walkable streets with interconnected sidewalks and pedestrian ways and landscaping and urban design measures that promote Traditional Neighborhood Development (TND) ideals.

Unless specified otherwise by this section, all new development shall be in accordance with the Rm-1 Zoning District, per Section 275-33B(10) Multiple-Family District.

1. Principal Uses (Multi-Family Residential Uses - See also Chapters 275-33B(10), 275-41B and Table 275-33-1, Shopping Center Uses – integrated into the residential buildings – See also Section 275-34C(1) and Table 275-34-1)
 - a. Section of the Zoning Code Section 275-33B(10) shall not apply which states, 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.

2. Accessory Uses (See also Chapters 275-33C, 275-42, and Table 275-33-1, Shopping Center Uses integrated into the residential buildings - See also Chapters 275-34C, 275-42, and Table 275-34-1)
 - a. Club house, pools, dog walking area and other typical uses that will serve the residents of the development. Carwashes allowed as an accessory use to the apartment development for residents only.
3. Conditional Uses (See also Chapters 275-33C, 275-27 and Table 275-33-1, Shopping Center Uses integrated into the residential buildings - See also Chapters 275-34C, 275-27 and Table 275-34-1)
4. Prohibited Uses (See also Chapters 275-34C and Table 275-34-1, Shopping Center Uses – integrated into the residential buildings See also Chapters 275-34C and Table 275-34-1)
 - a. Fast food restaurants.
 - i. Focus at this property shall be on restaurants new to New Berlin and/or the region. Fast food restaurants shall be prohibited. Fast casual restaurants are suitable and would be allowable. By definition, pursuant to the American Planning Association's "A Glossary of Zoning, Development and Planning Terms," a fast-food restaurant is considered to be "restaurants where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or able to be taken to a table or counter to be consumed."
 - ii. Not included as being prohibited would be a fast casual type restaurant. By definition, a fast casual restaurant, found primarily in the United States and Canada, does not offer full table service, but advertises higher quality food than fast food restaurants, with fewer frozen or processed ingredients. It is an intermediate concept between fast food and casual dining.
 - b. Carwashes as a principal use. See accessory use section of this PUD for carwashes allowed as an accessory use to the apartment development for residents only.
5. Lot Area and Width (See also Chapters 275-44, 275-45, and 275-46)
 - a. Parcels of land subject to this PUD Ordinance may be configured in any manner by Subdivision, CSM or meets and bounds transfer subject to City review and approval under WI Statutes CH. 236 and New Berlin Municipal Code Chapter 275 and 235. (See Appendix A, Conceptual Master Plan).
 - b. In order to maintain maximum flexibility with the redevelopment plans, there shall be a zero-lot line setback from property lines if developed as part of a unified project. These setback requirements shall be subject to the requirements of other governmental regulatory bodies with jurisdiction. These setbacks assume adequate vision triangles, parking and circulation. The Plan Commission shall have the authority to require larger setbacks on a case-by-case basis in order to accommodate for safety and/or to further the redevelopment vision for this area.
6. Setback and yards (See also Chapter 275-33D and Table 275-33-2)
 - a. Table 275-33-2 shall apply unless modified below.
 - i. All buildings along major arterials (Moorland Road and Greenfield Avenue), shall have, where practicable, a zero-lot line setback from the roadway's ultimate right-of-way. The Plan Commission may approve a greater setback due to site constraints and/or any other site development related circumstances.
 - ii. Section 275-44E(1) and (2) shall not apply for purposes of building separation. Respecting the creative design process regarding building separation, the Plan Commission reserves the right to require greater setbacks owing to health, safety and welfare concerns to ensure, the proposed onsite buildings, structures, and entry ways 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, storm water drainage, erosion, grading, lighting, and parking, as specified by this Ordinance or any other codes or laws.

- iii. In all cases building locations and setbacks must provide adequate spacing so land, buildings, and structures are readily accessible to emergency vehicles and the handicapped. These setback requirements shall be subject to the requirements of other governmental regulatory bodies with jurisdiction.
 - iv. Respecting the creative design process, the Plan Commission reserves the right to require greater setbacks owing to health, safety and welfare concerns to ensure, the proposed onsite buildings, structures, and entry ways are situated and designed to minimized adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress, interior/exterior traffic flow, storm water drainage, erosion, grading, lighting, and parking, as specified by this Ordinance or any other codes or laws.
 - v. Wetland Setback. All impervious surfaces shall be setback a minimum of zero (0) feet.
7. Building Height (See also Chapter 275-33D and Table 275-33-2) The references to the buildings in this subsection are based on the Applicant's concept plan.
- a. The Meadows 4-Family buildings shall not exceed 35'.
 - b. The Woodland Apartment buildings shall not exceed 55' as measured from the first floor to the midpoint of the roof; 63' as measured from the exterior grade entry to the midpoint of the roof, and 66' as measured from the underground entry to the midpoint of the roof.
 - c. The Conservancy Center buildings shall not exceed 48' as measured from the grade to the midpoint of the roof.
 - d. The Conservator building shall not exceed 55' as measured from the first floor to the midpoint of the roof; 63' as measured from the exterior grade entry to the midpoint of the roof, and 66' as measured from the underground entry to the midpoint of the roof.
 - e. The Resident Club house shall not exceed 36'.
8. Coverage (See also Chapter 275-33D and Table 275-33-6)
- a. Table 275-33-6 shall not apply, however, through redevelopment efforts, the City and this applicant would not be able to achieve this amount of open space on the newly created parcels, given the urban setting and the existing cross-access easements for shared parking and utilities. The applicant and the City will work together to achieve additional green space around the building / future building(s) with planters and other urban design measures, and additional plantings. Future development shall coordinate with the City on any storm water management requirements.
9. Time Limits (See also Chapter 275-23(F))
- a. If the development has not commenced, as evidenced by the securing of the initial Zoning Permits for The Conservancy Neighborhood Development PUD and building permits for construction of any project defined in this PUD, and construction has not started within one calendar year from the approval of this ordinance, the Conservancy Neighborhood Development Planned Unit Development Overlay District ordinance shall expire and become null and void. The underlying basic use district shall remain in force.

- b. If the developer requires an extension of the time limits, any extension shall be requested by the developer in writing explaining the hardship and sent via Certified Mail to the Department of Community Development not less than 60 days prior to the expiration of this PUD. The Common Council may allow multiple extensions in the sole exercise of its discretion.
- 10. Use and Site Plan Review (See also Chapters 275-24 and 275-53)
 - a. No principal or accessory use, development or structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, structurally altered, occupied, or reoccupied, and no site or premise shall be altered, used, changed, modified, occupied, or building permit approved until after the owner has applied for and received approval of the application for the zoning permit/use approval. An approved PUD Ordinance shall not be construed as a Zoning Permit or any other approval until the Plan Commission has granted a zoning permit use approval and staff has determined that all conditions of that approval have been satisfied.
- 11. Parking & Circulation (See also Chapter 275-57)
 - a. Parking lots may be located at the property line as long as circulation, vision triangles, and/or drainage are taken into consideration.
 - b. Residential Parking. 2.02 spaces per dwelling. A minimum of 1.07 space per dwelling unit shall be provided in attached garages. One space per 10 units for guest parking. Through the leasing process, The Conservancy development agrees to maintain 0.101spaces per dwelling unit for guest parking, limiting / eliminating their ability to lease those spaces to residents.
 - c. Residential Club House. Providing 0.45 space/200 sq. ft.
 - d. Retail Commercial (integrated within the apartment buildings) Parking. 1 space per 200 sq. ft. of retail space.
- 12. Architecture (See also Chapter 275-59)
 - a. No principal or accessory use, development, structure or sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, structurally altered, occupied, or reoccupied and no site or premise shall be altered, used, changed, modified, building permit approved, or occupied until after the owner has applied for and the Architectural Review Committee of the Plan Commission has reviewed and approved the architecture for the zoning permit/use approval.
 - b. Additional requirements for this zoning district listed in Chapter 275-59D(3)(d).
 - c. Specific designs will be based on conceptual images shared during the Conceptual Development Review Phase (See Application File #: UA-2402003 as presented at the October 7, 2024 Plan Commission meeting) and concepts included in this PUD. See Appendix C,.
- 13. Signage (See also Chapter 275-61J(3))
 - a. Per Zoning Code Section 275-61J(3) Special Commercial Areas –Moorland Road Business Corridor. This area is identified within the Moorland Road Business Corridor North See also figure VIII-11.
 - i. Off premise signage along Moorland Road may be permitted under this PUD to provide additional signage for a cohesive development. This statement modifies Zoning Code Section 275-61J(3)(c)[3].
 - ii. Zoning Code Section 275-61J(3)(c)[5] is modified to allow for an overall sign height of 15 ft. due to the site constraints along Moorland Road, which include, a deep parcels with buildings located behind other buildings, retaining walls/fences, heavy

landscaping, sidepaths, and large county right-of-way. Additional City wayfinding signage is allowed.

- iii. See the appendix section of a sample monument sign.
 - iv. Per the City's Comprehensive Plan Chapter 11, Neighborhood A Greenfield Avenue, Applicant shall include prominent gateway signage, increased landscaping and plantings beds to be planted throughout the year as part of each development.
 - 1. This development shall incorporate "Welcome to City of New Berlin" signage as part of a separate agreement with the City. The applicant to design, build, coordinate and pay for installation of a City sign. The Conservancy shall coordinate with the City of New Berlin on the exact size, design and location for this sign.
14. Landscaping (See also Chapter 275-54 and Chapter 275-56).
- a. Per the City's Comprehensive Plan Chapter 11, Neighborhood A Greenfield Avenue, applicant shall include prominent gateway signage, increased landscaping and plantings beds to be planted throughout the year as part of each development.
 - i. Each development application within this area will be required to provide an enhanced landscaping plan. Refer to images in Chapter 11.
 - b. Financial security (See also Chapter 275-56C(2))
 - i. At the time of final execution of a certified survey map, subdivision plat or landscape plan with the city, the owner is required to make a fiscal surety commitment t, either by escrowed funds, certificate of deposit or letter of credit, with the City to ensure that the owner is in full compliance with the landscape installation and maintenance requirements of the approved plans and the City's Developer's Handbook.
 - ii. A maintenance portion of the surety is required to ensure that the landscape installation is maintained during its critical establishment (five-year) period following installation. The amount of the maintenance portion of the surety shall be 20% of the original surety. Currently the code calls for, "three-year for maintenance."
15. Site Amenities
- a. Each development shall incorporate public outdoor amenity space(s) and amenities, including but not limited to gathering / seating spaces, benches, picnic tables, bike racks, garbage cans, etc. Public art should also be considered.

Section V

AREAS ZONED C-2, SHORELAND WETLAND HOLDING DISTRICT ON THE CITY'S ZONING MAP WILL REMAIN UNCHANGED. NEW WETLANDS WILL BE REGISTERED ON THE CITY'S ZONING MAP.

Section VI

WHEREFORE, The amendments to the City of New Berlin Comprehensive Plan necessary to accommodate this PUD having been approved on April 22, 2025 pursuant to Chapter 275-21.1 and the: Conservancy Neighborhood Development Plan Planned Unit Development Overlay District Ordinance having been considered as being consistent with the City of New Berlin Comprehensive Plan was approved as a Planned Unit Development on April 22, 2025, pursuant to Chapter 275-23 of the New Berlin Zoning Code, the Common Council hereby adopts this Ordinance and approves the rezoning of land described in Section III to Rm-1/PUD, & to be named the Conservancy Neighborhood Development Plan Planned Unit Development Overlay District, pursuant to the conditions set forth herein.

The Mayor and City Clerk are authorized to execute this Ordinance No. 2701 on behalf of the City of New Berlin.

This ordinance shall take effect upon the passage and publication as required by law, and upon the final approval of the Development Plans as recommended by the Plan Commission, and the City Clerk shall so amend the Code of Ordinances and zoning map of the City of New Berlin and shall indicate the date and number of this amending ordinance therein.

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

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

PASSED AND ADOPTED by the Common Council this **22nd day of April 2025**.

APPROVED:

Countersigned:

David A. Ament, Mayor

Rubina Medina, City Clerk

APPENDIX A
Conceptual Master Plan
“CONCEPTUAL ONLY”

APPENDIX B

The City's Comprehensive Plan Chapter 11 Neighborhood "A" Greenfield Avenue & Chapter 10 Land Use Plan..

Visit the City's website at www.newberlinwi.gov for the most up to date plan.

APPENDIX C
Multiple-Family Concepts
“CONCEPTUAL ONLY”

INSERT CONCEPTS HERE

APPENDIX D

Welcome to New Berlin Concepts

“CONCEPTUAL ONLY”

INSERT CONCEPTS HERE

APPENDIX D

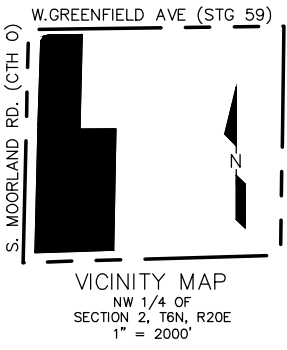
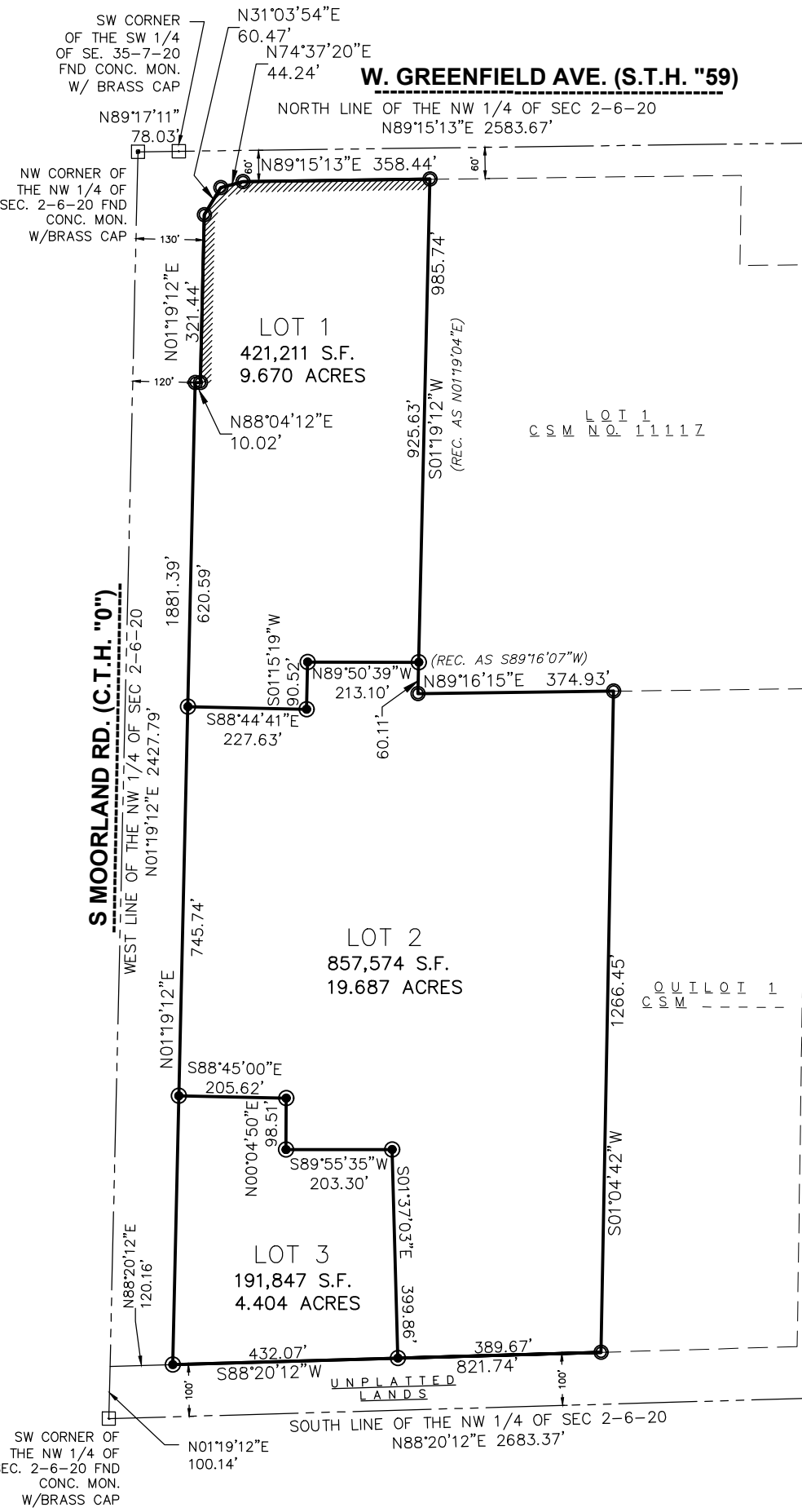
DRAFT CSM

“CONCEPTUAL ONLY”

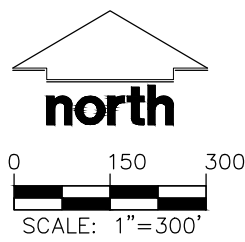
INSERT RECORDED CSM HERE

CERTIFIED SURVEY MAP NO. _____

A REDVISION OF LOTS 1, 2 AND 3 OF CSM _____ LOCATED IN THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, STATE OF WISCONSIN.



- NOTES**
- INDICATES 1 INCH DIA. IRON PIPE, 18 INCHES IN LENGTH, WEIGHING 1.68 LBS PER LINEAR FOOT, SET.
 - INDICATES 1 INCH DIA. IRON PIPE, FOUND
- ALL BEARINGS SHOWN ARE REFERENCED TO THE WEST LINE OF THE NORTHWEST 1/4 OF SECTION 02-06-20 AS N 01°19'12" E, WISCONSIN STATE PLANE COORDINATE SYSTEM, SOUTH-ZONE (NAD83/2011).
- SEE SHEET 2, 3 AND 4 FOR ACCESS RESTRICTION, EXISTING EASEMENTS AND WETLANDS



SURVEYOR:
CHRISTOPHER A. JACKSON, PLS
CJ ENGINEERING, LLC
9205 W. CENTER ST., STE 214
MILWAUKEE, WI 53213
(414) 443-1312

OWNER:
THE CONSERVANCY, LLC
5300 S. 108TH ST.
HALES CORNERS, WI 53130

A REDVISION OF LOTS 1, 2 AND 3 OF CSM _____ LOCATED IN THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, STATE OF WISCONSIN.

[illegible]

CERTIFIED SURVEY MAP NO. _____

A REDVISION OF LOTS 1, 2 AND 3 OF CSM _____ LOCATED IN THE NORTHWEST 1/4
AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, TOWN 6 NORTH, RANGE
20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, STATE OF WISCONSIN.

WETLANDS (CONTINUED)

WETLAND "A" LINE TABLE		
LINE	BEARING	LENGTH
L1	S29°32'29"W	28.190
L2	S69°14'35"W	31.640
L3	S79°48'41"W	28.810
L4	S84°24'23"W	31.560
L5	N80°04'46"W	34.070
L6	S86°31'07"W	42.870
L7	N88°16'25"W	38.380
L8	N67°31'59"W	36.080
L9	N75°39'46"W	27.980
L10	N78°11'46"W	21.720
L11	N57°41'36"W	9.260
L12	N11°15'12"W	4.060
L13	N47°42'31"E	9.250
L14	N64°43'15"E	12.040
L15	N78°42'32"E	18.380
L16	S88°48'47"E	27.980
L17	N79°52'10"E	34.480
L18	N85°56'14"E	30.990
L19	S89°24'40"E	24.070
L20	N87°15'21"E	34.450
L21	S82°30'29"E	34.360
L22	S83°31'19"E	51.160
L23	S76°59'54"E	37.290

WETLAND "B" LINE TABLE		
LINE	BEARING	LENGTH
L24	N30°15'58"W	43.380
L25	N63°00'52"W	43.410
L26	N19°38'07"W	36.350
L27	N53°29'10"W	44.250
L28	S88°30'14"E	25.580
L29	S57°33'15"E	34.980
L30	S41°23'04"E	40.380
L31	S85°19'45"E	34.510
L32	S71°38'53"E	30.160
L33	S47°34'54"E	46.920
L34	S19°02'52"E	23.690
L35	S49°11'33"E	26.050
L36	S65°48'22"W	23.510
L37	N68°03'30"W	17.350
L38	N86°16'33"W	29.200
L39	N61°54'11"W	35.770

WETLAND "C" LINE TABLE		
LINE	BEARING	LENGTH
L40	S74°13'33"E	15.170
L41	S18°33'40"E	17.340
L42	S49°27'36"E	17.620
L43	S35°27'41"E	19.580
L44	S01°19'12"W	52.520
L45	N89°16'15"E	27.080
L46	S24°20'06"E	22.950
L47	S38°18'39"E	26.620
L48	S04°00'42"E	18.150
L49	S61°08'14"W	18.500
L50	N86°32'49"W	18.000
L51	N82°30'38"W	16.340
L52	N64°17'32"W	19.100
L53	N33°25'05"W	10.150
L54	N35°57'49"W	37.160
L55	N08°00'40"W	15.680
L56	N00°32'18"W	17.350
L57	N00°26'50"W	32.950
L58	N13°57'33"W	12.680
L59	N02°37'38"E	22.220
L60	N05°07'49"E	18.650

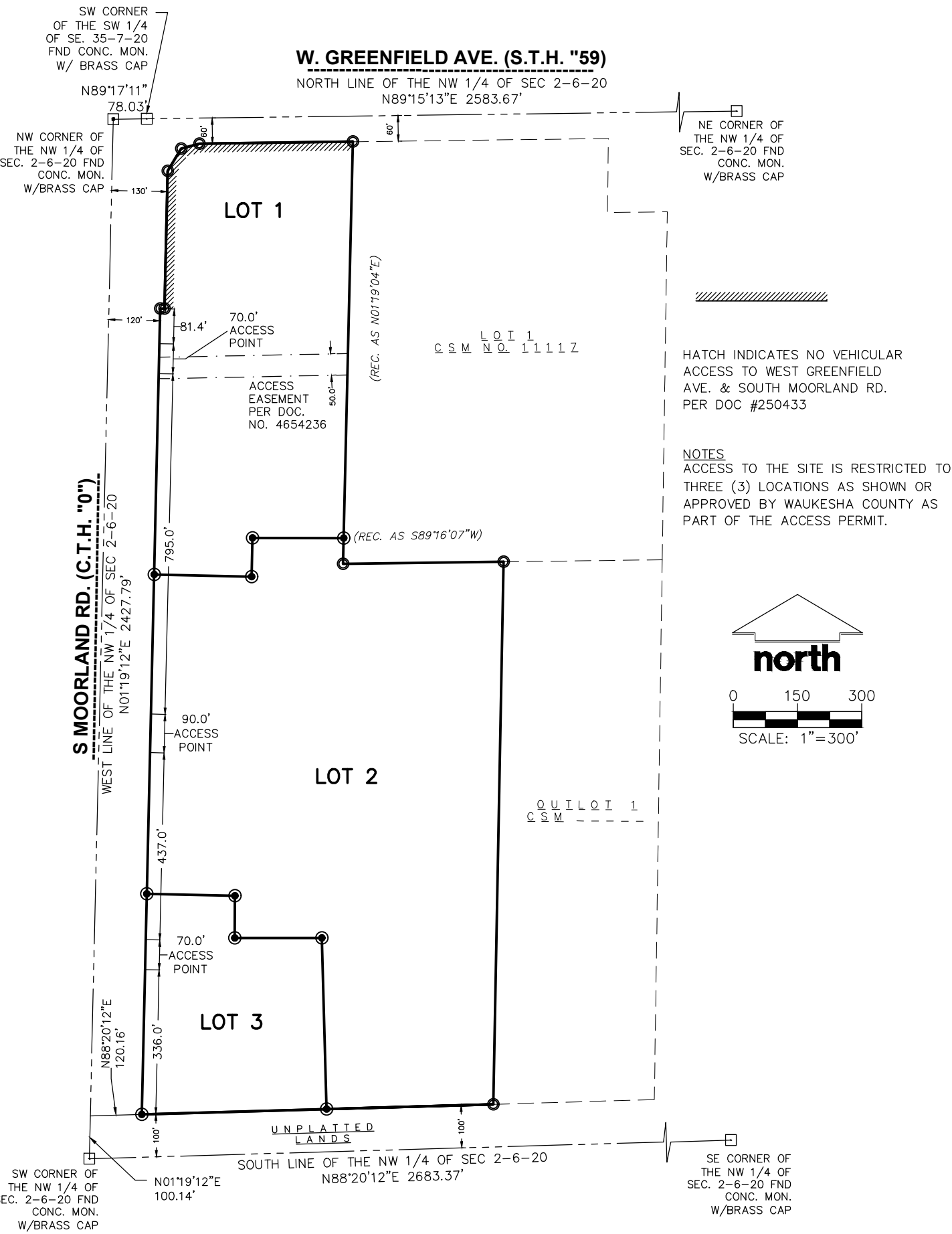
WETLAND "D" LINE TABLE		
LINE	BEARING	LENGTH
L61	S05°59'40"W	15.290
L62	S09°39'06"W	44.240
L63	S06°12'34"W	18.580
L64	S03°22'47"E	28.850
L65	S47°20'45"W	20.140
L66	S04°18'48"E	23.310
L67	S10°19'22"E	44.450
L68	S59°10'45"W	29.640
L69	S12°40'22"W	21.020
L70	S24°01'08"E	36.800
L71	S14°10'48"E	29.730
L72	S12°13'50"E	22.360
L73	S18°22'08"W	28.750
L74	S26°19'28"W	24.720
L75	S49°50'11"W	23.420
L76	N51°01'45"W	12.080
L77	N07°14'41"W	47.160
L78	N04°21'57"E	44.640
L79	N05°05'36"E	44.360
L80	N17°42'12"W	45.440
L81	N02°09'56"E	58.330
L82	N16°35'33"E	20.180
L83	N18°42'24"E	56.370
L84	N28°00'51"E	41.420
L85	N11°44'07"E	39.820
L86	N75°51'42"E	20.110
L87	S08°47'56"E	26.900

WETLAND "E" LINE TABLE					
LINE	BEARING	LENGTH	LINE	BEARING	LENGTH
L88	N31°47'03"E	34.400	L151	S19°54'01"E	28.99
L89	N09°13'48"E	38.960	L152	S07°22'30"W	14.36
L90	N15°07'01"W	15.100	L153	S15°52'33"E	22.28
L91	N10°31'35"W	30.270	L154	S11°11'10"W	31.28
L92	N04°41'38"W	34.910	L155	S01°53'21"E	21.86
L93	N05°14'17"E	34.310	L156	S13°08'14"W	9.79
L94	N04°11'45"W	36.860	L157	S42°39'22"W	17.12
L95	N08°36'18"W	20.980	L158	S67°5'00"W	21.39
L96	N05°43'06"W	26.230	L159	S39°19'28"W	3.91
L97	N06°22'27"W	20.870	L160	S07°24'58"W	8.99
L98	N07°52'20"W	37.000	L161	S17°39'52"W	13.39
L99	N06°30'03"E	41.900	L162	S06°00'59"W	15.38
L100	N12°11'39"W	34.470	L163	S04°36'15"E	9.50
L101	N30°19'11"E	19.350	L164	S05°57'08"E	12.19
L102	N41°03'09"E	20.560	L165	S12°16'45"E	9.95
L103	N21°26'49"E	33.840	L166	S02°44'39"W	15.07
L104	N34°02'07"E	15.410	L167	S11°39'47"E	7.87
L105	N12°55'23"E	38.750	L168	S22°12'23"E	12.05
L106	N16°19'23"E	24.250	L169	S29°25'35"E	14.68
L107	N04°35'17"W	30.680	L170	S25°39'29"W	23.60
L108	N02°02'40"W	26.150	L171	S20°27'52"W	29.73
L109	N03°23'55"W	35.560	L172	S23°57'46"E	14.97
L110	N18°22'30"E	7.880	L173	S15°39'07"E	15.98
L111	N61°46'30"E	16.310	L174	S53°34'08"W	9.83
L112	N31°14'06"E	34.170	L175	S04°05'57"W	9.17
L113	N14°13'25"E	30.120	L176	S41°24'20"E	21.82
L114	N12°46'32"E	25.200	L177	S54°30'41"E	21.25
L115	N02°47'07"W	42.490	L178	S55°33'33"E	17.70
L116	N05°01'44"W	28.000	L179	S61°58'51"E	17.53
L117	N27°50'52"W	36.060	L180	S00°51'11"W	18.69
L118	N21°28'56"W	42.730	L181	S00°51'13"W	39.15
L119	N32°13'09"W	21.840	L182	S00°51'13"W	49.21
L120	N48°12'19"W	36.880	L183	S00°51'12"W	37.09
L121	N49°57'21"W	29.180	L184	S35°50'42"W	20.14
L122	N48°40'44"W	16.200	L185	S59°58'58"W	24.79
L123	N84°16'55"W	29.270	L186	S56°34'33"W	26.91
L124	N44°42'38"W	9.720	L187	N74°55'10"W	25.11
L125	N40°58'52"W	36.370	L188	S89°24'39"W	29.37
L126	N34°43'43"W	22.310	L189	N80°18'48"W	34.22
L127	N35°26'58"W	31.320	L190	S71°10'47"W	20.57
L128	N20°08'31"W	25.250	L191	S67°10'30"W	34.96
L129	N20°05'22"W	32.860	L192	S47°27'45"W	17.25
L130	N58°09'42"W	19.820	L193	S16°07'58"E	16.33
L131	N29°26'41"W	27.390	L194	S00°46'54"E	16.91
L132	N16°12'02"W	35.260	L195	S09°00'53"W	33.18
L133	N10°37'45"E	8.950	L196	S06°49'31"E	15.63
L134	N23°45'27"E	14.610	L197	S37°15'58"E	20.99
L135	N73°26'51"E	18.750	L198	S27°02'39"E	24.55
L136	S83°20'41"E	14.780	L199	S14°08'30"E	39.63
L137	S89°24'13"E	18.000	L200	S16°42'20"E	31.22
L138	S73°04'36"E	35.010	L201	S14°25'44"W	13.51
L139	S77°00'03"E	23.440	L202	S10°45'31"E	27.62
L140	S84°19'50"E	19.200	L203	S01°31'41"E	29.15
L141	S65°22'54"E	38.680	L204	S11°09'47"W	39.66
L142	S33°29'17"E	26.560	L205	S15°08'18"W	37.23
L143	S01°12'23"E	35.990	L206	S12°41'40"W	21.41
L144	S49°37'35"E	17.770	L207	S26°34'38"E	18.34
L145	S68°06'17"E	34.550	L208	S49°55'12"E	21.23
L146	S58°15'10"E	34.930	L209	S06°00'02"E	13.96
L147	S68°36'30"E	35.730	L210	N85°40'45"W	9.00
L148	S83°09'41"E	28.840	L211	N53°56'37"W	21.58
L149	S65°55'58"E	29.370	L212	S72°04'50"W	14.82
L150	S62°29'28"E	15.860	L213	N89°14'18"W	25.28

CERTIFIED SURVEY MAP NO. _____

A REDVISION OF LOTS 1, 2 AND 3 OF CSM _____ LOCATED IN THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, STATE OF WISCONSIN.

EXISTING EASEMENTS AND ACCESS RESTRICTIONS



CERTIFIED SURVEY MAP NO. _____

A REDVISION OF LOTS 1, 2 AND 3 OF CSM _____ LOCATED IN THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, STATE OF WISCONSIN.

SURVEYOR’S CERTIFICATE

I, CHRISTOPHER JACKSON, A PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY:

THAT I HAVE SURVEYED, DIVIDED AND MAPPED LOTS 1, 2 AND 3 OF CSM _____ LOCATEED IN THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, STATE OF WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4 SECTION; THENCE N01°19’12”E, ALONG THE WEST LINE OF THE OF THE SAID NORTHWEST 1/4, 100.14 FEET; THENCE N88°20’12”E, 120.16 FEET TO THE EAST LINE OF S. MOORLAND AND THE POINT OF BEGINNING: THENCE N01°19’12”E, ALONG SAID EAST LINE, 1881.39 FEET; THENCE N88°04’12”E, ALONG SAID EAST LINE, 10.02 FEET; THENCE N01°19’12”E. ALONG SAID EAST LINE, 321.44 FEET; THENCE N31°03’54”E, 60.47 FEET; THENCE N74°37’20”E, 44.24 FEET TO THE SOUTH LINE OF W. GREENFIELD AVE.; THENCE N89°15’13”E, ALONG SAID SOUTH LINE, 358.44 FEET TO A POINT ON THE WEST LINE OF LOT 1, CSM 11117; THENCE S01°19’12”W, ALONG SAID WEST LINE, 985.74 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 1; THENCE N89°16’15”E, ALONG SAID SOUTH LINE, 374.93 FEET TO A POINT ON THE WEST LINE OF OUTLOT 1 CSM _____; THENCE S01°04’42”W, ALONG SAID WEST LINE, 1266.45 FEET TO A POINT 100 FEET NORTH OF THE SOUTH LINE OF SAID 1/4 SECTION; THENCE S88°20’12”W, ALONG A LINE WHICH IS PARALLEL TO AND 100 FEET NORTH OF SAID SOUTH LINE 821.74 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,470,632 SQUARE FEET OR 33.761 ACRES MORE OR LESS.

THAT I HAVE MADE SUCH SURVEY, LAND COMBINATION AND MAP BY THE DIRECTION OF THE CONSERVANCY, LLC, OWNERS OF SAID LAND.

THAT SUCH MAP IS A CORRECT REPRESENTATION OF ALL EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND THE DIVISION THEREOF MADE.

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236 OF THE STATUTES OF THE STATE OF WISCONSIN AND THE CITY OF NEW BERLIN ORDINANCE IN SURVEYING, MAPPING AND DIVIDING THE SAME.

DATED THIS ____ DAY OF _____, 20 ____.

CHRISTOPHER A. JACKSON
PROFESSIONAL LAND SURVEYOR, S–2851
STATE OF WISCONSIN

CORPORATE OWNER’S CERTIFICATE

THE CONSERVANCY, LLC, A LIMITED LIABILITY CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF WISCONSIN, AS OWNER, DOES HEREBY CERTIFY THAT SAID COMPANY CAUSED THE LANDS DESCRIBED ON THIS CSM TO BE SURVEYED, DIVIDED AND MAPPED AS REPRESENTED ON THIS CSM.

IN WITNESS WHEREOF, THE CONSERVANCY, LLC, HAS CAUSED THESE PRESENTS TO BE SIGNED BY WIMMER BROTHERS REALTY, INC. ITS MANAGER, BY JOHN J. WIMMER, EXECUTIVE VICE PRESIDENT AND ITS CORPORATE SEAL TO BE AFFIXED

THIS _____ DAY OF _____, 20 ____.

THE CONSERVANCY, LLC
BY: WIMMER BROTHERS REALTY, INC., ITS MANAGER

BY: JOHN J. WIMMER, EXECUTIVE VICE PRESIDENT

STATE OF) SS
COUNTY OF)

PERSONALLY CAME BEFORE ME THIS ____ DAY OF _____, 20 _____, THE ABOVE–NAMED JOHN J. WIMMER,EXECUTIVE VICE PRESIDENT OF WIMMER BROTHERS REALTY, INC., KNOWN BY ME TO BE THE MANAGER OF THE CONSERVANCY, LLC AND THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAME.

NOTARY PUBLIC, MY COMMISSION EXPIRES _____

CERTIFIED SURVEY MAP NO. _____

A REDVISION OF LOTS 1, 2 AND 3 OF CSM _____ LOCATED IN THE NORTHWEST 1/4
AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, TOWN 6 NORTH, RANGE
20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, STATE OF WISCONSIN.

PLAN COMMISSION APPROVAL

APPROVED BY THE PLAN COMMISSION OF THE CITY OF NEW BERLIN ON THIS _____ DAY OF _____, 2025.

DAVID AMENT, CHAIRPERSON/MAYOR

NIKKI JONES, SECRETARY

COMMON COUNCIL CERTIFICATE OF APPROVAL

APPROVED BY THE COMMON COUNCIL OF THE CITY OF NEW BERLIN ON THIS _____ DAY OF _____, 2025.

DAVID AMENT, PRESIDENT

RUBINA R. MEDINA, CITY CLERK



T H E
CONSERVANCY



CONSERVANCY

A Multi-Use Development of the Southeast Quadrant Moorland and Greenfield
City of New Berlin

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- Background
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 - New Berlin Recreation Trail
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- Operations
- Wimmer Communities
- Appendix
 - Proposed PUD Zoning Data Table
 - Fire Department Access Plan
 - Conceptual Entry Monument

T H E CONSERVANCY

A NEIGHBORHOOD RESERVE

This Report is submitted in support of Wimmer Communities' application for a modification of the City of New Berlin's Comprehensive Plan and Amendment of the PUD Ordinance No. 2679 for the property identified as Tax Key Numbers NBC 1158989001, NBC 1158989002, and NBC 1158989003 and approval of a redivision of the parcels by Certified Survey Map to create three (3) parcels for the development of the southeast quadrant of the intersection of Moorland and Greenfield Avenue located in the City of New Berlin creating a unique multi-use Master Planned Neighborhood offering Retail, Office, Residential and Recreational uses. The Conservancy offers a complete neighborhood serving all needs of its residents interwoven with walkable convenience, nature trails, and the love of the land where 66% percent of its Campus is set aside for Woodlands, Wetlands, Ponds and Green space.

Arrival at The Conservancy is in the heart of the Conservancy Center, providing ground level boutiques, retail services, offices and dining. In the shadows of the Clock Tower Information Center is the nature-inspired Resident Club, which offers Resident Event Space, Fitness Center, Pool, Sundeck, and Administrative Offices just steps away from the trailhead of Conservancy Reserve.

From there, Conservancy Parkway weaves between dynamic neighborhoods of architecturally diverse, multifamily Homes. The Woodlands Residences feature underground parking, elevator access, and balconies providing a stunning overlook to the Reserve, while The Meadows Residences offer private entries, garages and motor courts.

Anchoring the Conservancy at the intersection of Moorland Road and Greenfield Avenue is the dynamic Conservator, an architecturally stunning landmark, announcing your arrival to a new way of living.



BACKGROUND

The Intersection of Moorland Road and Greenfield Avenue immediately south of Interstate 94 has developed into a bustling transportation hub since its early days as rural farms and homesteads expanded westward from the growing urbanization of western Milwaukee County.



Commercial development of the land adjoining this intersection was challenged by the poor soil of the Deer Creek waterway until the 1970s, as the demand for Interstate proximity grew. While neighboring parcels developed, however, the site of The Conservancy remained in its rural condition for future expansion of the adjoining Highland Park Cemetery. In the early 2000's, Highland Park reconsidered that future use and allowed multiple Development Proposals to be advanced to the City of New Berlin, none of which came to fruition. The City articulated a vision of future development for the site as recently as its updated "2030 Comprehensive Plan," identified as the North Moorland Road Corridor within Neighborhood "A" - Greenfield Avenue.

THE
CONSERVANCY

Recognizing the Site as a Gateway, the City envisioned a mix of Commercial and Residential uses, with 17 specific guidelines to achieve the Vision as identified in Chapter 11 of the “2030 Comprehensive Plan.”

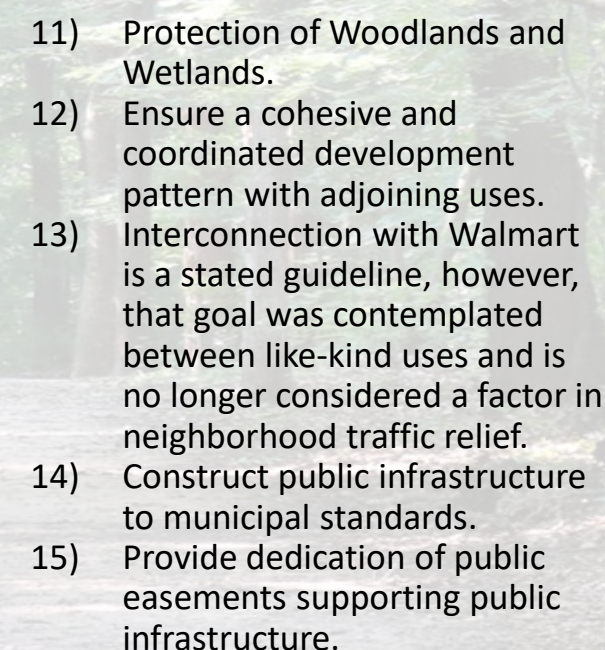
The Conservancy incorporates those goals in its development program offering:

- 1) Signature, well-designed buildings with unique architectural features.
- 2) Commercial and Residential uses.
- 3) Incorporation of these guidelines to support land use approval as a Planned Unit Development.
- 4) Prominent Gateway Signage and Landscaping.
- 5) Traffic management in compliance with Waukesha County requirements inclusive of a primary signalized entry and secondary limited access points.
- 6) Inclusion of off-road sidewalk paths and the New Berlin Recreation Trail connection.
- 7) Timely construction and public access to the public road improvements.
- 8) Neighborhood Water Main looping and Sanitary Sewer connection.
- 9) Creative solutions to

groundwater and stormwater quality.

- 10) Adoption of designs to minimize storm water quantity.



- 
- 11) Protection of Woodlands and Wetlands.
 - 12) Ensure a cohesive and coordinated development pattern with adjoining uses.
 - 13) Interconnection with Walmart is a stated guideline, however, that goal was contemplated between like-kind uses and is no longer considered a factor in neighborhood traffic relief.
 - 14) Construct public infrastructure to municipal standards.
 - 15) Provide dedication of public easements supporting public infrastructure.

- 16) Require financial surety ensuring completion and cost contributions as appropriate.
- 17) Utility expenses shall be at the expense of the Developer.



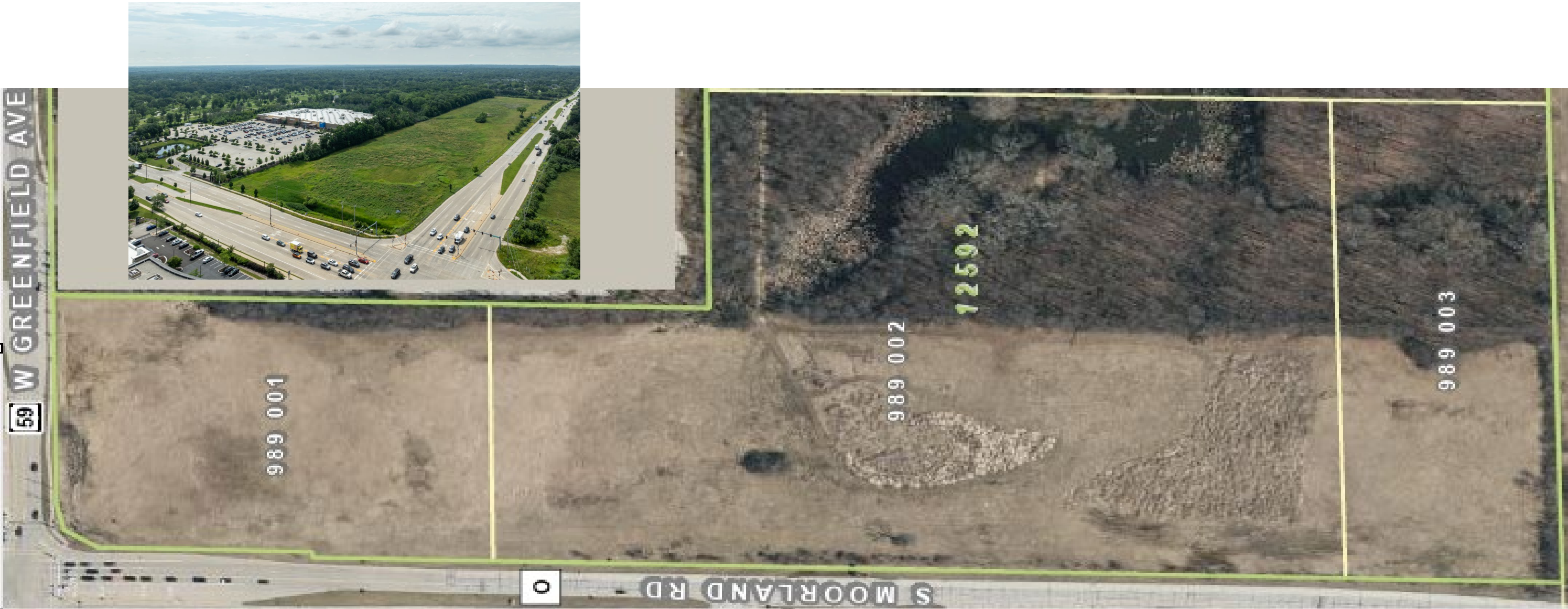
Wimmer Communities acquired the 33.76 acre parcel in August 2024 and has incorporated the Development vision identified as desirable to the City in this new neighborhood to strengthen the creation of identity and sense of place where pedestrian “walkability” and celebration of its natural environment distinguishes itself as a “live, work, play” neighborhood where a Resident has access to all amenities through the Conservancy Campus.

Existing Conditions

A Multi-Use Development
of the Southeast Quadrant Moorland and Greenfield

THE CONSERVANCY

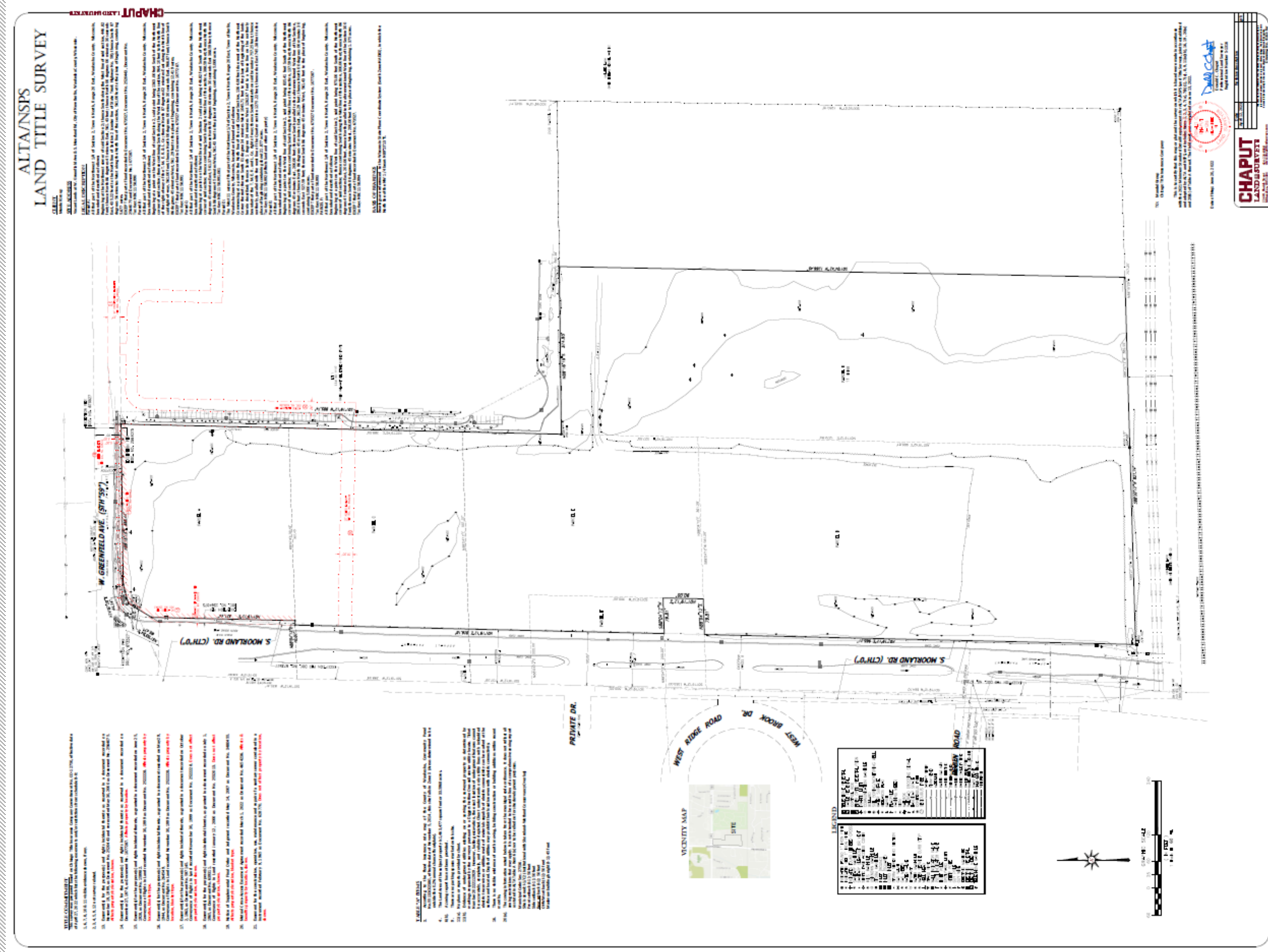
Existing Development District Property					
Address	Tax Key	Business Name	Acreage	2024 Assessed Value	2024 Property Tax
Unassigned Street Address	NBC 1158989001	Vacant Land	6.528	\$0	\$0
Unassigned Street Address	NBC 1158989002	Vacant Land	21.108	\$0	\$0
Unassigned Street Address	NBC 1158989003	Vacant Land	6.126	\$0	\$0
TOTAL :			33.76	\$0	\$0



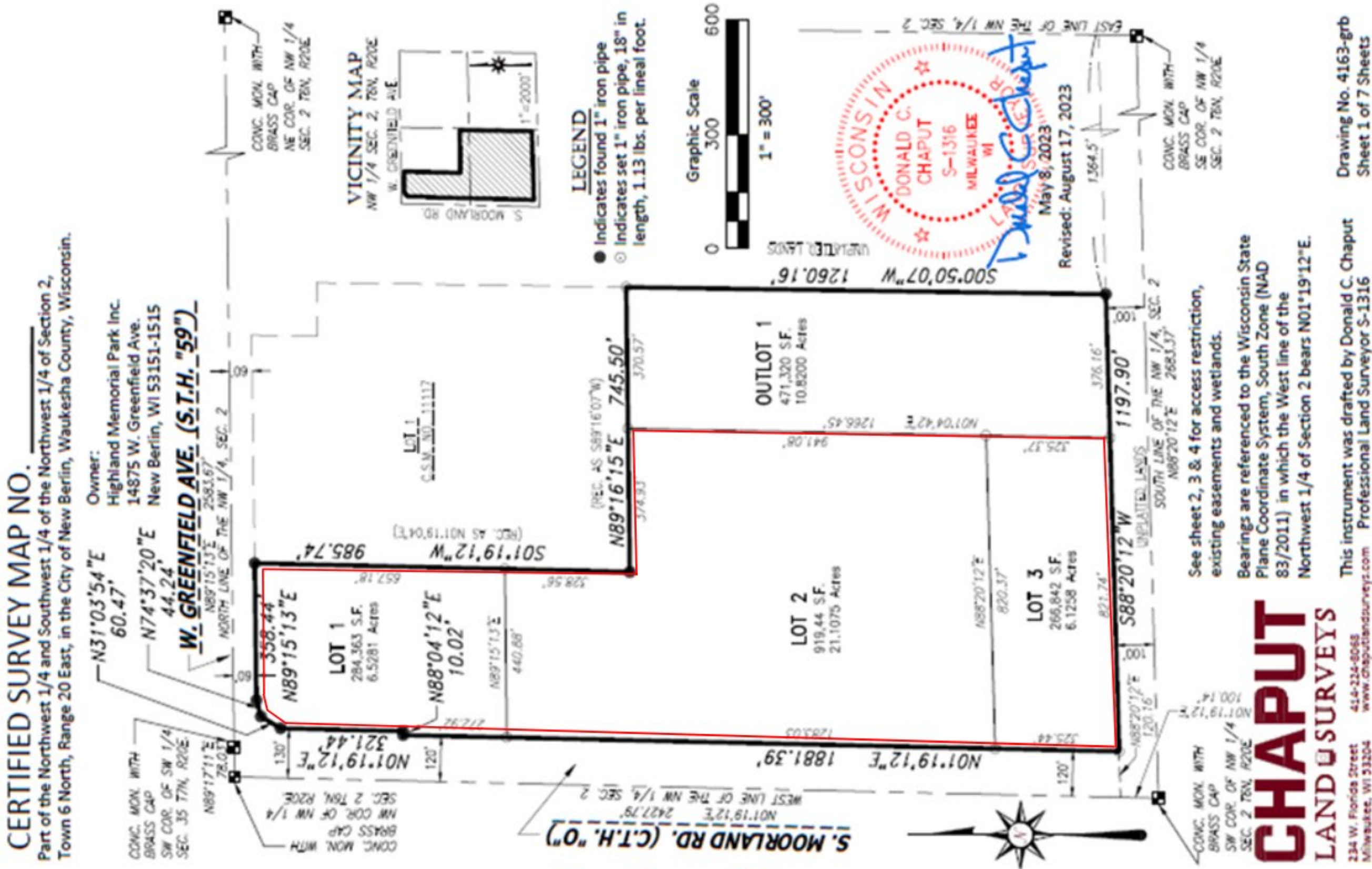
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

ALTA SURVEY – Prior to Aug 2024 CSM



THE CONSERVANCY
A NEIGHBORHOOD RESERVE
Approved CSM – Recorded August 2024



Project Site

T H E CONSERVANCY

Sense of Place

A Neighborhood Town Center is designed to offer the heart and soul of community. It cultivates a sense of place, of belonging, to not only those who live there, but also those who visit.

The Conservancy is a multi-use development that will foster a sense of community and connectedness through its walkable, integrated open-air spaces. Restaurants and shops will recreate the town square of yesterday and a sophisticated lifestyle.

Neighborhood of Tomorrow

The neighborhood of tomorrow offers everyday needs within reach, without having to rely on a car to navigate locations for work, wellness, shopping and entertainment. Residents of The Conservancy will enjoy a multitude of amenities within their neighborhood, such as the Resident Club with a pool, fitness center, remote workspace and coffee shop, recreation trails, a playground, sidewalks, and a dog run. Restaurants and shopping create a vibrant street life, all at the threshold of a wide selection of luxury living options.

A NEIGHBORHOOD TOWN CENTER

For more than 50 years suburbanization has been the dominant force in America's metropolitan growth and development, so much so that today more Americans live in suburbs than anywhere else. At the same time, there is a powerful desire among suburbanites to recreate the sense of community and connectedness that was integral to a mixed-use environment, without living downtown.

Suburbanites want the amenities of a sophisticated lifestyle in their own neighborhood, or in other words – a Town Center.

What is a Town Center? According to a study by the Urban Land Institute, "A town center is an enduring, walkable, and integrated open-air, multi-use development that is organized around a clearly identifiable and energized public realm where citizens can gather and strengthen their community bonds. It is anchored by retail, dining, and leisure uses, as well as by vertical or horizontal residential uses. At least one other type of development is included in a town center, such as office, hospitality, civic and cultural uses. Over time, a town center should evolve into the densest, most compact, and most diverse part of a community, with strong connections to its surroundings."

-- Ten Principles for Developing Successful Town Centers
Urban Land Institute

Focus on Making Life Fun

The Conservancy is focused on making life fun. It will be a place to gather, to enjoy the company of neighbors, meet for coffee, have drinks with buddies and dinner with friends. Residents and guests alike will enjoy recreation trails and the scenic beauty of an old oak forest, ponds and wetlands within this private campus.

Residents will enjoy freedom from their cars by walking to shops, restaurants and the Resident Club for a workout, swim, or social gathering.

Respect for the Land

The goal of sustainability is to be environmentally responsible and physically enduring, to create a memorable place that makes people want to return often. It is well connected to the surrounding streets, open space and trails and to places where people can access transportation.

The Conservancy will fulfill these goals through preservation of woods and wetlands, while creating new park areas and private woodland paths, pedestrian walkways, playground, and connection to the New Berlin Recreation Trail. It is ideally connected to surrounding infrastructure as well as transportation convenience.

THE CONSERVANCY

MASTER LAND USE PLAN

- Development Data Summary Table
- Proposed CSM



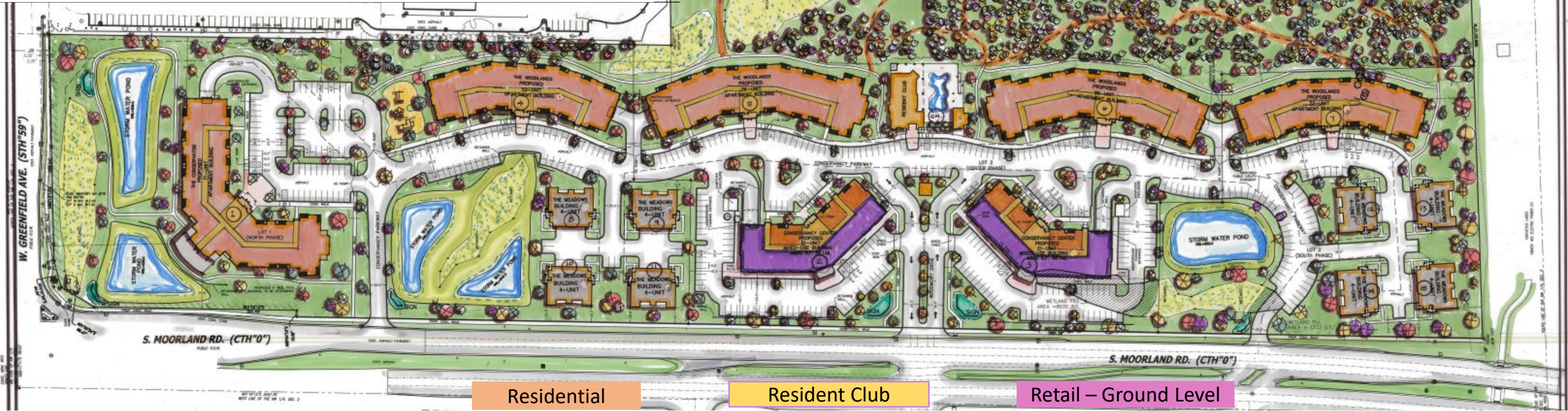
Master Land Use Plan

THE CONSERVANCY

Conservancy Center									
Bldg. No.	Name	Sq. Footage				Surface Parking		Parking Ratio	
2	Conservancy Center N	9,800				49		1 Space per 200 SF	
3	Conservancy Center S	9,800				49		1 Space per 200 SF	
Total		19,600				98		1 Space per 200 SF	
The Conservancy - Residential									
Bldg. No.	Name	1 Bdrm	2 Bdrm	3 Bdrm	Total	Surface Parking	Garage Parking	Total	Parking Ratio
1	The Conservator	28	43		71	73	71	144	2.03 to 1
2	Conservancy Center N	10	13		23	42	34	76	3.30 to 1
3	Conservancy Center S	10	13		23	35	34	69	3.00 to 1
4	The Woodlands 1	29	23		52	54	52	106	2.04 to 1
5	The Woodlands 2	28	33		61	39	63	102	1.67 to 1
6	The Woodlands 3	28	33		61	37	63	100	1.64 to 1
7	The Woodlands 4	29	23		52	71	52	123	2.37 to 1
8	The Meadows North		2	2	4	6	4	10	2.5 to 1
9	The Meadows North		2	2	4	6	4	10	2.5 to 1
10	The Meadows North		2	2	4	6	4	10	2.5 to 1
11	The Meadows North		2	2	4	5	4	9	2.25 to 1
12	The Meadows South		2	2	4	5	4	9	2.25 to 1
13	The Meadows South		2	2	4	5	4	9	2.25 to 1
14	The Meadows South		2	2	4	5	4	9	2.25 to 1
15	The Meadows South		2	2	4	5	4	9	2.25 to 1
Total		162	197	16	375	394	401	795	2.12 to 1
The Conservancy - Recreation									
		Sq. Footage			Surface Parking			Parking Ratio/ Sq Ft	
16	Resident Club	9500			22			0.46 Space per 200 SF	

Select Residential surface parking shall be shared between Retail/Office Use primarily from 8:00 am - 5:00 pm with Residential Use from 5:00 pm - 8:00 am

Conservancy Center				
Bldg. No.	Name	Sq. Footage	Surface Parking	Parking Ratio
2	Conservancy Center N	9,800	49	1 Space per 200 SF
3	Conservancy Center S	9,800	49	1 Space per 200 SF
Total		19,600	98	1 Space per 200 SF



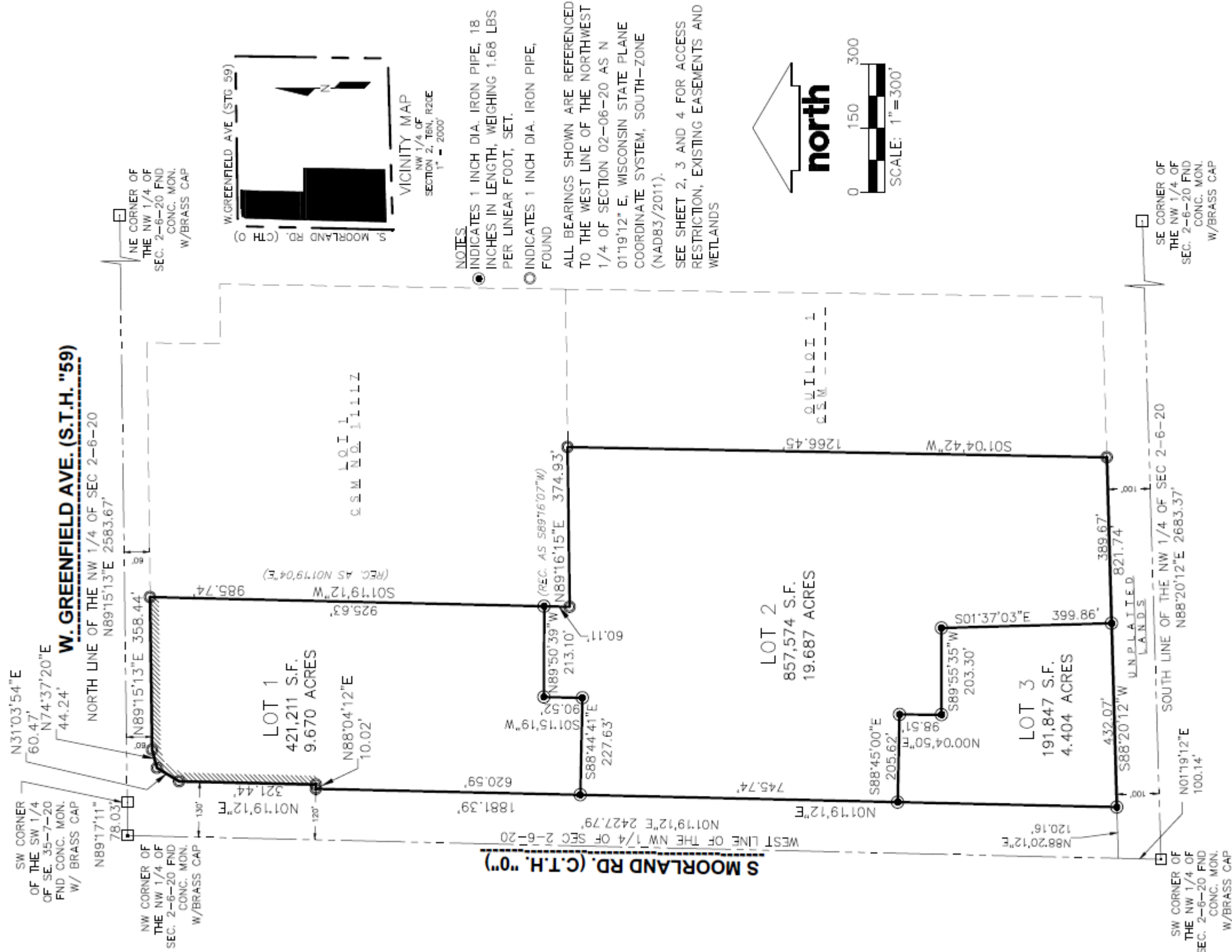
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

PROPOSED CSM

CERTIFIED SURVEY MAP NO. _____

A REDIVISION OF LOTS 1, 2 AND 3 OF CSM _____ LOCATED IN THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, STATE OF WISCONSIN.



SURVEYOR:
CHRISTOPHER A. JACKSON, PLS
CJ ENGINEERING, LLC
9205 W. CENTER ST., STE 214
MILWAUKEE, WI 53213
(414) 443-1312

OWNER:
THE CONSERVANCY, LLC
5300 S. 108TH ST.
HALES CORNERS, WI 53130

THIS INSTRUMENT DRAFTED BY CHRISTOPHER A. JACKSON, S-2851

SHEET 1 OF 6

T H E CONSERVANCY

Campus Improvements

- Site Information
- Civil Grading/Utility Plans
- Moorland Road Improvements



SITE INFORMATION

THE CONSERVANCY

Zoning

- Existing:
- B-1 Shopping Center – PUD
 - Rm-1 Multi-Family Residential – PUD
 - I-1 Institutional – PUD
 - C-2 Shoreland Wetland Conservancy

- Proposed:
- Rm-1 Multi-Family Residential – with a PUD overlay authorizing Retail use within defined mixed use facilities
 - C-2 Shoreland Wetland Conservancy

Site Characteristics

	North Phase		Center Phase		South Phase		TOTAL	
	Sq. Ft.	%	Sq. Ft.	%	Sq. Ft.	%	Sq. Ft.	%
Building Coverage	71,331	17%	97,366	11%	38,158	20%	206,855	14%
Sidewalk & Parking	91,725	22%	155,356	18%	49,322	26%	296,403	20%
Green Space Total	258,155	61%	604,852	71%	104,367	54%	967,374	66%
Unrestricted	234,836	56%	471,307	55%	97,926	51%	804,069	55%
Wetlands	23,319	6%	133,545	16%	6,441	3%	163,305	11%
Total Site	421,211	100%	857,574	100%	191,847	100%	1,470,632	100%
Acres	9.670		19.687		4.404		33.761	
Open Space(1)	349,880	83%	760,208	89%	153,689	80%	1,263,777	86%
Acres	8.032		17.452		3.528		29.012	

(1) Sidewalk, Parking and Green Space

Topography

The site slopes an average of 11’ from the high line of the hardwood forest line west to Moorland Road. The site also has an average of 20’ of fall from a high at its south line to Greenfield Avenue. Within the hardwood forest the topography undulates while sloping to an isolated wetland complex along the parcels’ east property line.

Existing Use

Owner	Parcel Size (Acres)	Improvement
The Conservancy, LLC (Wimmer Communities)	6.528	Vacant Land
The Conservancy, LLC (Wimmer Communities)	21.108	Vacant Land
The Conservancy, LLC (Wimmer Communities)	6.126	Vacant Land

- Lands South of Property- New Berlin Recreation Trail and beyond is R-4 Low Density Single-Family Residential with 350 feet separation from existing residential structures.
- Land East of the Property are identified as B-1 Shopping Center, I-1 Institutional, and C-2 Shoreland Wetland Conservancy.
- Lands North of Property are located in the City of Brookfield and are identified as B-5 Gateway Business.
- Lands West of Property are identified as B-1 Shopping Center – PUD, Rm-1 Multi-Family Residential, and R-4 Low-Density Single-Family Residential District.

SITE INFORMATION

THE CONSERVANCY

Ecology

The site is primarily open field boarded by 11 acres of hardwood forest interspersed with five (5) isolated wetland complexes delineated by Heartland Ecological Group in August 2022.

In order to facilitate the alignment of The Conservancy Parkway and Robin Road, while retaining sufficient project access, a Nationwide Wetland Fill Permit will be applied for from the Wisconsin Department of Natural Resources and Army Corps of Engineers. This Fill Permit will authorize the filling of 9,424 sq.ft. of wetlands. A total of 163,305 sq.ft. of wetlands shall be preserved.

Geotechnical

Geotechnical studies were prepared for the site and revealed clay soils underlay the site and standard construction methods can be employed in the design and construction of the foundations needed for the proposed residential and commercial buildings.

Environmental

Phase I and II Environmental Site Assessments were conducted by The Sigma Group in 2022. These Reports indicate that no environmentally hazardous filling, dumping, or spills have occurred on the site.

Vehicular Access and Circulation

The location of The Conservancy provides extraordinary access to Milwaukee and Waukesha County employment, recreational, and cultural centers via Interstate 94 and STH 59 at the Brookfield Interchange access ramps, which are located within one half mile of the site. In addition, Interstate 43 is 3.5 miles south on Moorland.

Primary access to the site's central Commercial District shall be from the signalized intersection of Moorland Road via a private roadway identified as Woodmont Drive.

Conservancy Parkway shall provide through north/south access through the site with its northern terminus on Moorland Road allowing northbound entry and exiting; while southbound entry and exiting shall be prohibited.

Conservancy Parkway shall also interconnect to Moorland Road at its southern terminus opposite Robin Road, allowing northbound entry and exiting as well as southbound entry however southbound exiting shall be prohibited.

To negate area traffic impacts and increase traffic safety Moorland Road improvements shall be funded by the Developer including:

- Median reconstruction prohibits ingress and egress from and to southbound Moorland Road.
- Addition of right-turn entry and exit lanes onto Moorland Road at all three project roadway access locations.
- Signal improvements at the intersection of Moorland Road and Woodmont Drive.

These improvements will be completed as part of the Moorland Road Reconstruction Project slated for 2026 by Waukesha County Department of Public Works. All access has been reviewed and authorized by the Waukesha County Department of Public Works. Traffic Impact Analysis Reports were prepared by TADI (June 15, 2023) and a Traffic Impact Analysis Update #1 (August 26, 2024). Internally, Conservancy Parkway shall interconnect with Woodmont Drive providing internal circulation to all residential and commercial buildings via these private roadways.

SITE INFORMATION

THE CONSERVANCY

Noise Abatement

Abatement of noise from the nearby Moorland Road and Greenfield Avenue will be addressed in the construction of the buildings, which will be in compliance with HUD guidelines of 10 decibels within living areas. Noise reduction results from building placement, landscaping, and building composition. Building structures shall incorporate thicker ceiling and wall sections within walls common to public areas and adjacent to residences with greater insulation, membrane, air spaces, and multiple layers of gypsum board to achieve lower noise levels. Windows shall be constructed of insulating glass, thermal, and vibration breaks. All units shall be mechanically air-conditioned.

Pedestrian Accessibility

The site is served by Waukesha Metro Route 1 providing transit from Waukesha to the Milwaukee County Regional Medical Center with a bus stop at Brookfield Square Mall.

The Developer shall provide funding for a six (6') public sidewalk to be constructed within the east ROW of Moorland Road from Greenfield Avenue, 2,262' south to the New Berlin Recreation Trail. Sidewalk construction is to be included in the Moorland Road Reconstruction Project slated for 2026 by the Waukesha County Department of Public Works. This sidewalk intersects northbound and eastbound sidewalks accessing shopping, grocery and restaurants within a 15-minute walk.

Internally, private six-foot sidewalks shall be provided throughout the site adjacent to all internal roadways providing pedestrian circulation and access. Pedestrian speed table crosswalks shall be constructed at key intersections of internal roadways. These crosswalks shall be differentiated from the traffic aisles by use of a differentiating red concrete and are slightly elevated to provide traffic “quieting” on Woodmont Drive and Conservancy Parkway.

Streetscape and Landscape

The Conservancy has been designed to install a unique sense of place in its exterior public areas to foster feelings of neighborhood, activation, and safety in order to develop unique, creative, and meaningful people spaces for the new intergenerational community.

- **Streetscapes and Vehicular use areas along Moorland and Greenfield Roads provide access to new internal streets and building entries, Including:**
 - Hardscape/paving treatment
 - Seating/rest/gathering areas
 - Sidewalk and pathway treatments
 - Bike access and facilities
 - Parking design
 - Lighting fixtures or illumination
 - Parkway tree landscape planting
 - Site furniture
- **Site Perimeter/Interior Building Foundations/Edges**
 - Extensive landscape planting and buffers
 - Landscape lighting and illumination
 - Landscape specialty element, features and public art
 - Building signage and wayfinding elements

SITE INFORMATION

T H E CONSERVANCY

- **Special Amenity “People Spaces”**

- The Conservancy Reserve
- Village Center featured Clock Tower Information Center
- Hardscape treatments
- Ornamental railings, canopies, gates, lattice, screening elements
- Dog walk facilities
- Neighborhood gardening experience
- Pond edge and “water feature” treatment
- Natural area edge transition landscape character
- Raised curb/seat wall planting areas
- Children’s Playground
- Outdoor barbeque area experience
- Community Center fire ring
- Outdoor Fitness/Yoga lawns
- Outdoor event programming on the Village Green
- Outdoor furniture
- Community wayfinding signage (featuring entry signage, directional, identification and regulatory signage and community kiosk)

New Berlin Gateway Monument

As the most heavily trafficked arterial roadway through the City of New Berlin, Moorland Road at Greenfield Avenue is the primary northern Gateway to the City of New Berlin with over 60,000 vehicles daily. With the intent to construct a monument announcing entry to the City, New Berlin acquired a .42 acre parcel 1208’ south of the intersection at Moorland. The Developer and City executed and recorded an agreement in August 2024 whereby the Developer will fund, construct, and dedicate this Municipal Monument at a more highly visible location on Developer’s property, within 60 feet of the intersection.

New Berlin Recreational Trail

The 7-mile New Berlin Recreational Trail follows the historic Interurban Rail right-of-way, offering bicyclists and runners alike, a scenic paved route through the City of New Berlin to West Allis on the east and Waukesha on the west. This community gem borders the Conservancy on its southern property line for 822 feet.

Signage

Uniform high-quality Signage standards provide an accurate unique sense of place while assisting visitors’ navigational ease, business exposure, and site parking organization.

Neighborhood Entry Monuments

Signature Conservancy sculptural timber Monuments with integrated landscape planters and backlit cut letters on a stone structure shall be constructed at the following locations:

- Primary project identification to be placed on the masonry retaining wall north of The Conservator facing the intersection of Moorland Road and Greenfield Avenue
- Northeast corner of Moorland Road and Conservancy Parkway
- Northeast and southeast corner of Moorland Road and Woodmont Drive
- Southeast Corner of Moorland Road and Conservancy Parkway

Resident Club Community Message Board

The Signature Village Center Clock Town Information Center with integrated digital message board shall identify the Resident Club and provide communications of Resident-related special events, fitness courses, and Resident specific information.

Resident Club Lobby Entry

Backlit cut letters shall be located on the lobby entry.

SITE INFORMATION

THE CONSERVANCY

Signage

Retail and Office Identification

Retail and office space tenants shall be provided backlit cut letter business identification space located as designed either on the building exterior wall or canopy above their respective Retail business or Offices.

Building Lobby Identification

Signature Conservancy Sculptural Light Monuments with integrated landscape planters and backlit cut letters on a stone structure shall be constructed at each Meadow, Woodland and The Conservator motorcourts and Building lobbies.

Traffic, Parking, and Directional Signage

Individual wayfinding signage shall be located throughout the Project with contemporary black metal standards.

Lighting

Private community lighting is provided by decorative Village Center lights on nine-foot decorative poles with banner standards for seasonal décor and shall be located appropriately throughout the site.

Storm Water Management

Roof and paved surfaces within this Development are collected by surface swales and an extensive storm sewer collection system, which discharges to a variety of storm water management facilities including:

- Four (4) featured wet detention ponds with fountain aeration and lighting

These facilities will provide both storm water detention and water clarity functions as required by the City of New Berlin and the Milwaukee Metropolitan Sewage District (MMSD). Such requirements in general require that the post-development rate of storm water discharge of the site from all impervious surfaces shall not exceed that which existed prior to the proposed development.

Water Utility

A system of interconnected new 8” and 12” water mains within the site provides service loops to the two (2) points of connection with the existing water mains at the west property line of the Walmart parcel (12”) and Moorland Road at Robin Road (16”) providing service redundancy and pressure support.

Sewer Utility

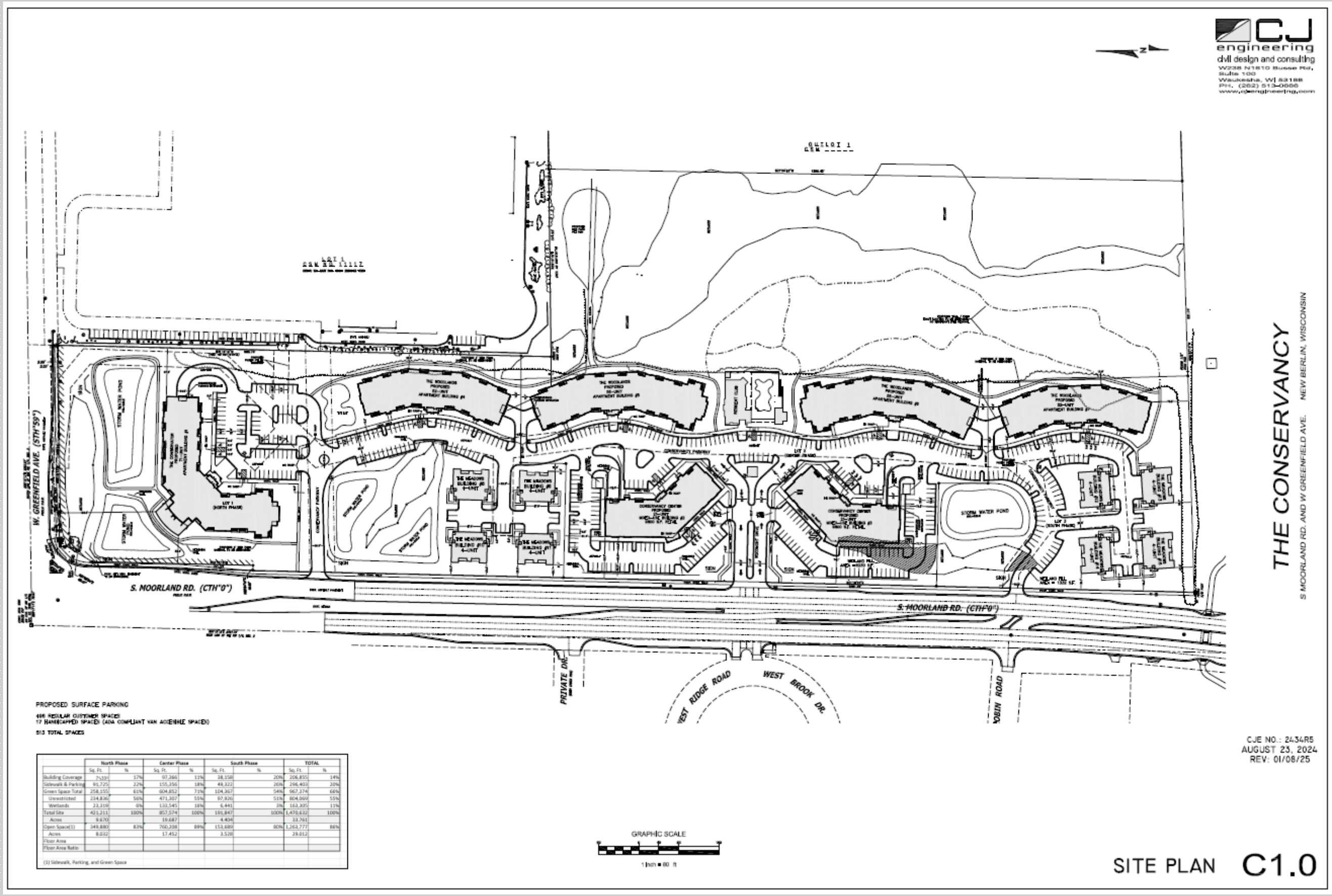
New 8” and 10” sanitary sewer mains shall be extended from Greenfield Avenue (27”) and Moorland Road (8”) to service The Conservancy facilities.

T H E CONSERVANCY

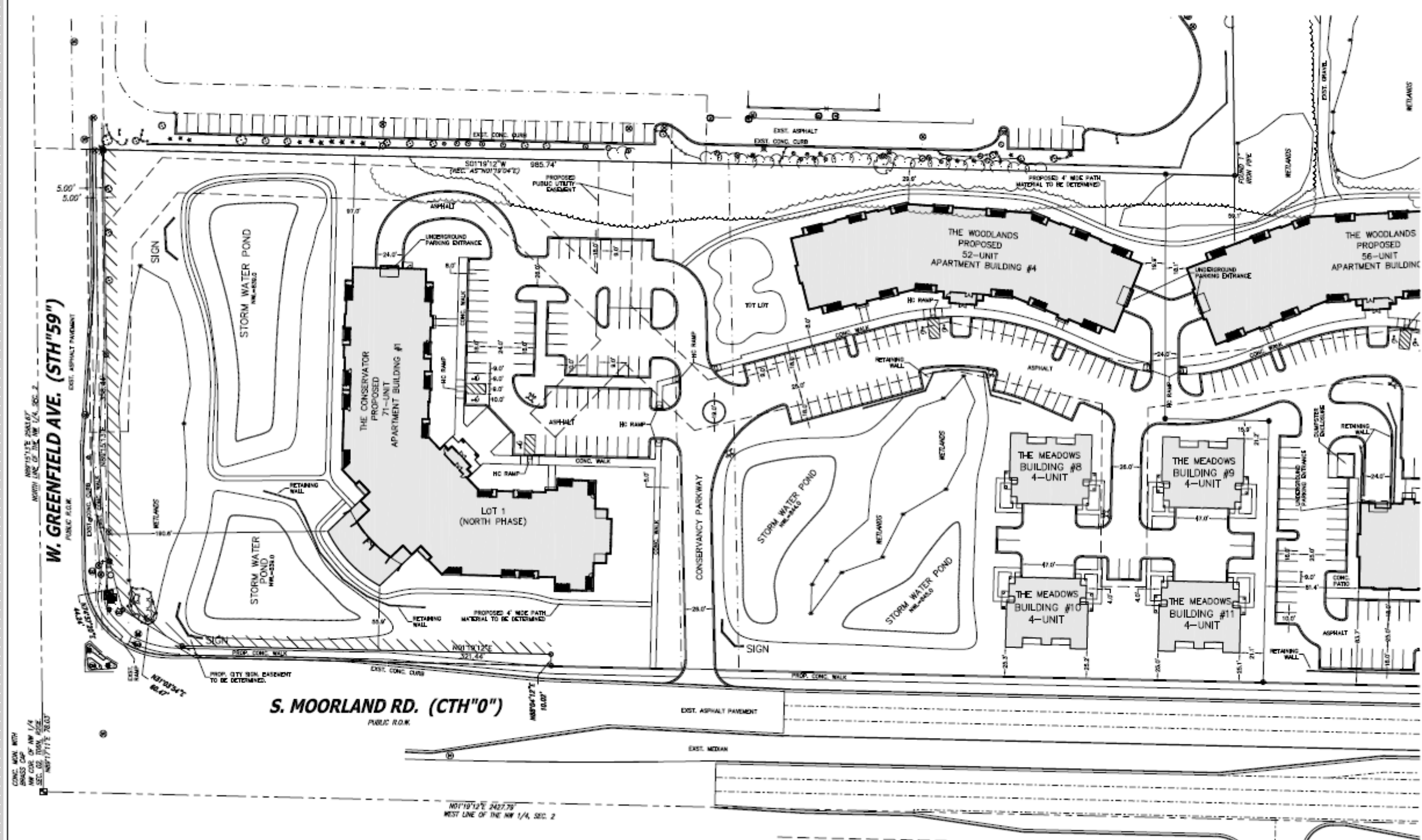
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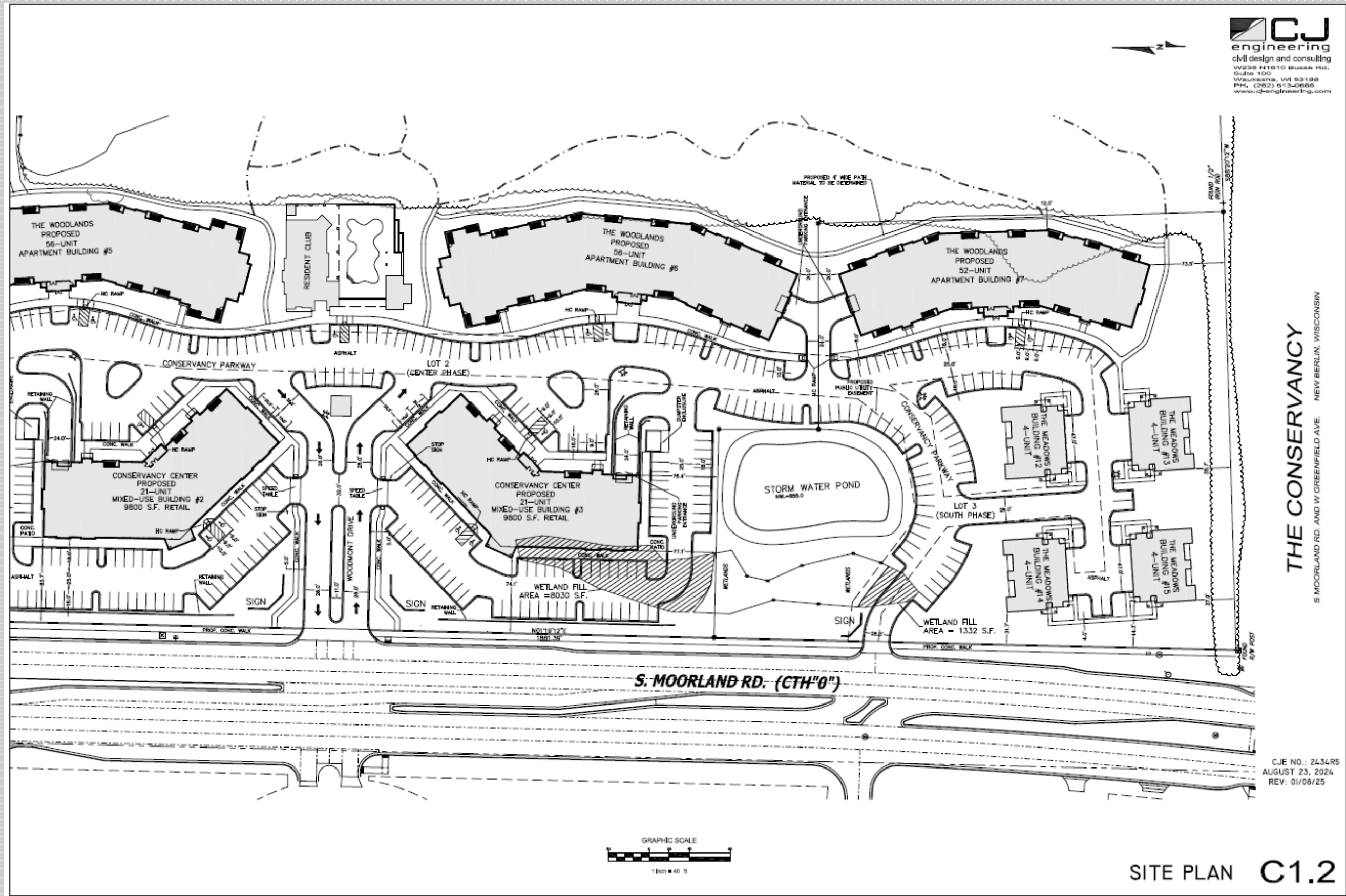
THE CONSERVANCY A NEIGHBORHOOD RESERVE SITE PLAN



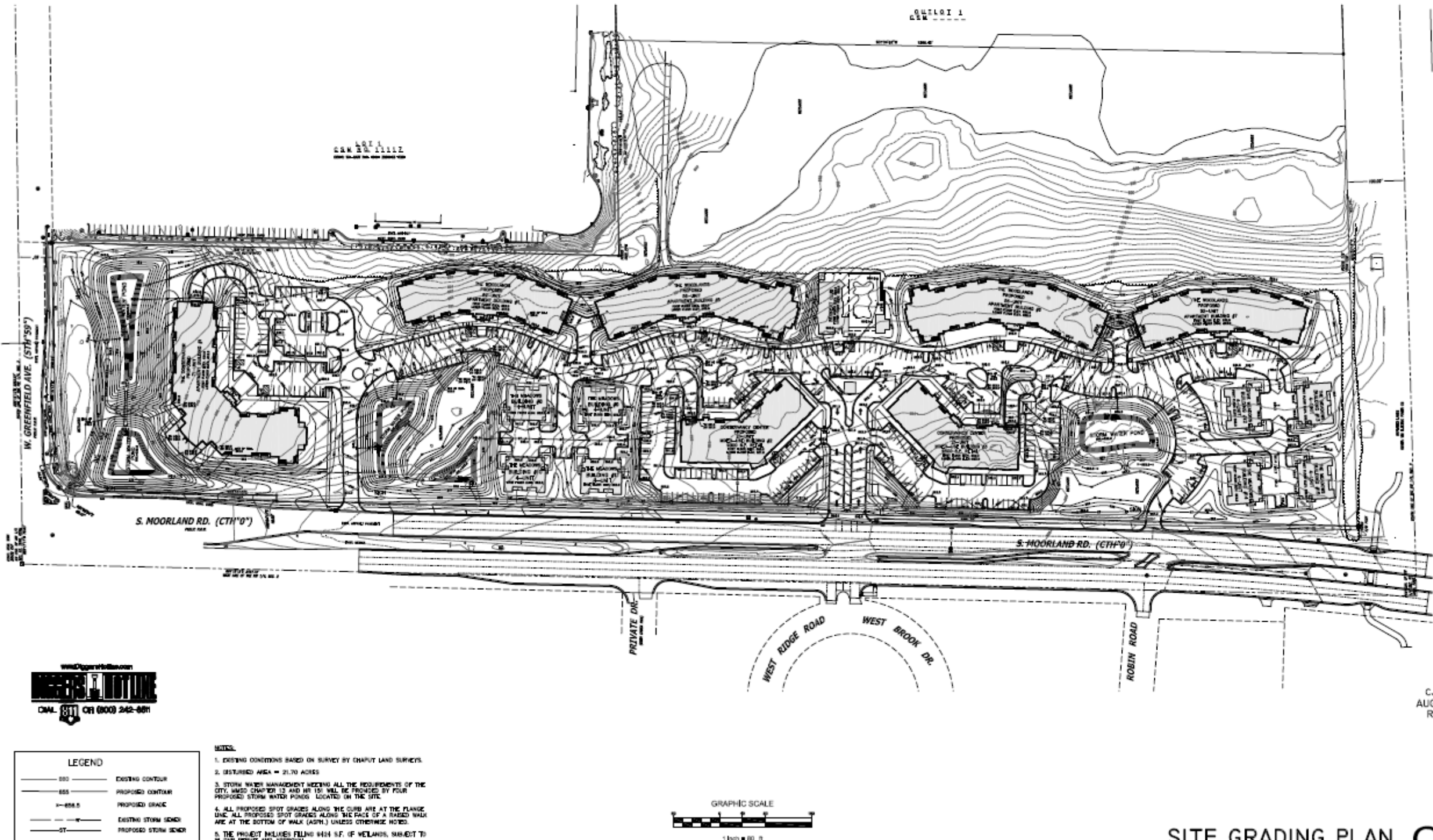
SITE PLAN



THE CONSERVANCY A NEIGHBORHOOD RESERVE SITE PLAN



SITE GRADING PLAN

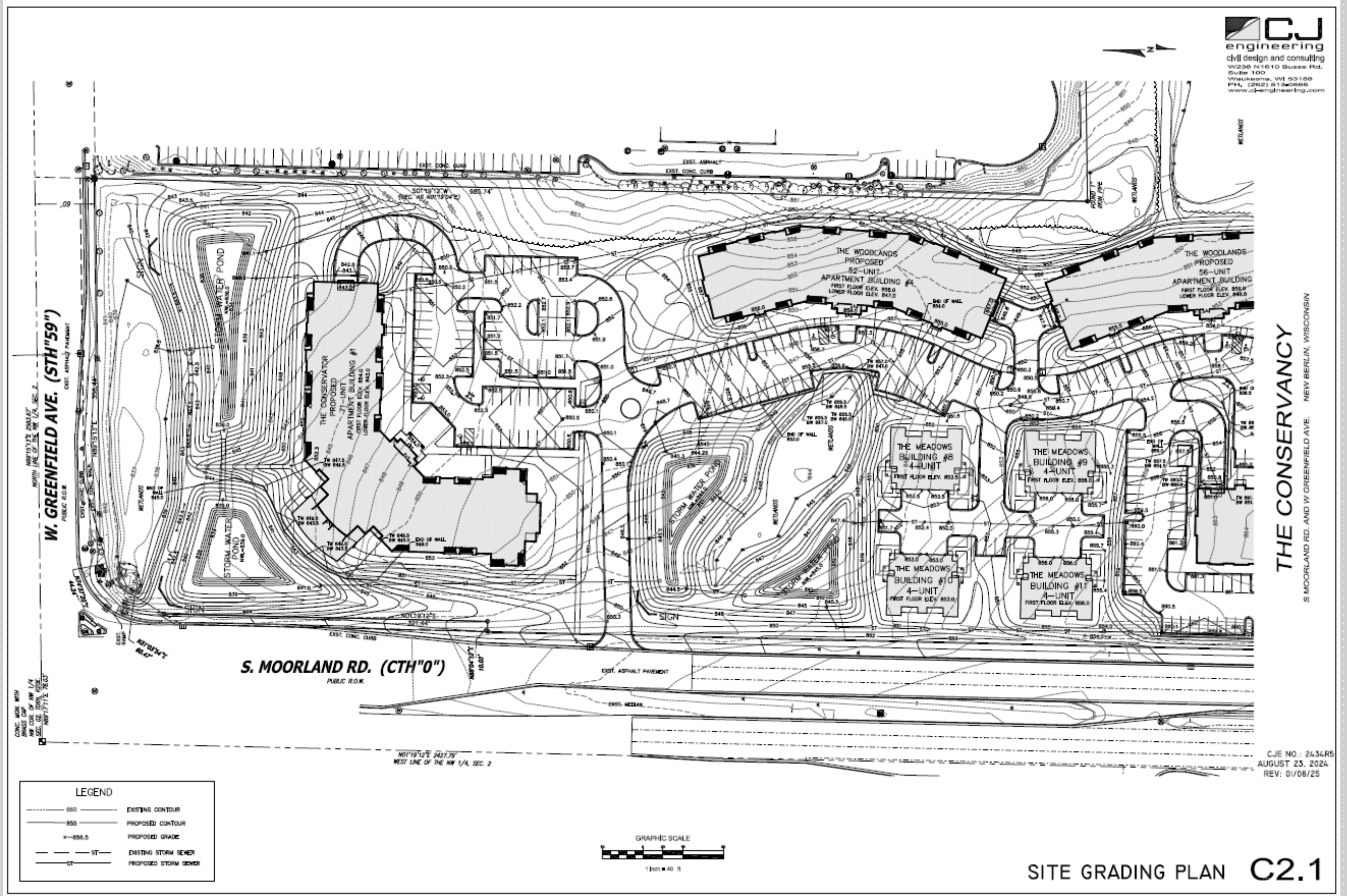


SITE GRADING PLAN C2.0

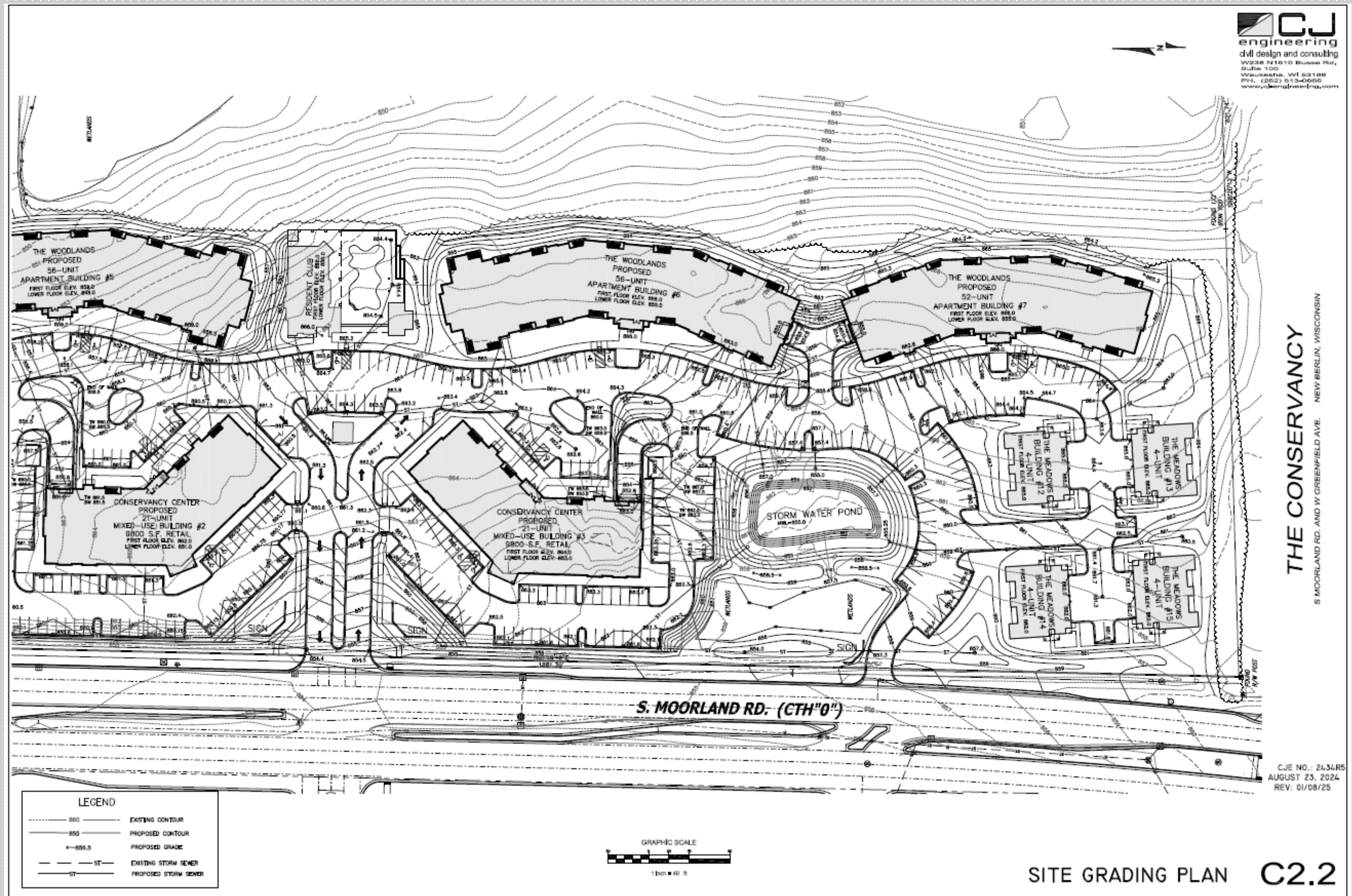
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE GRADING PLAN



THE CONSERVANCY A NEIGHBORHOOD RESERVE SITE GRADING PLAN



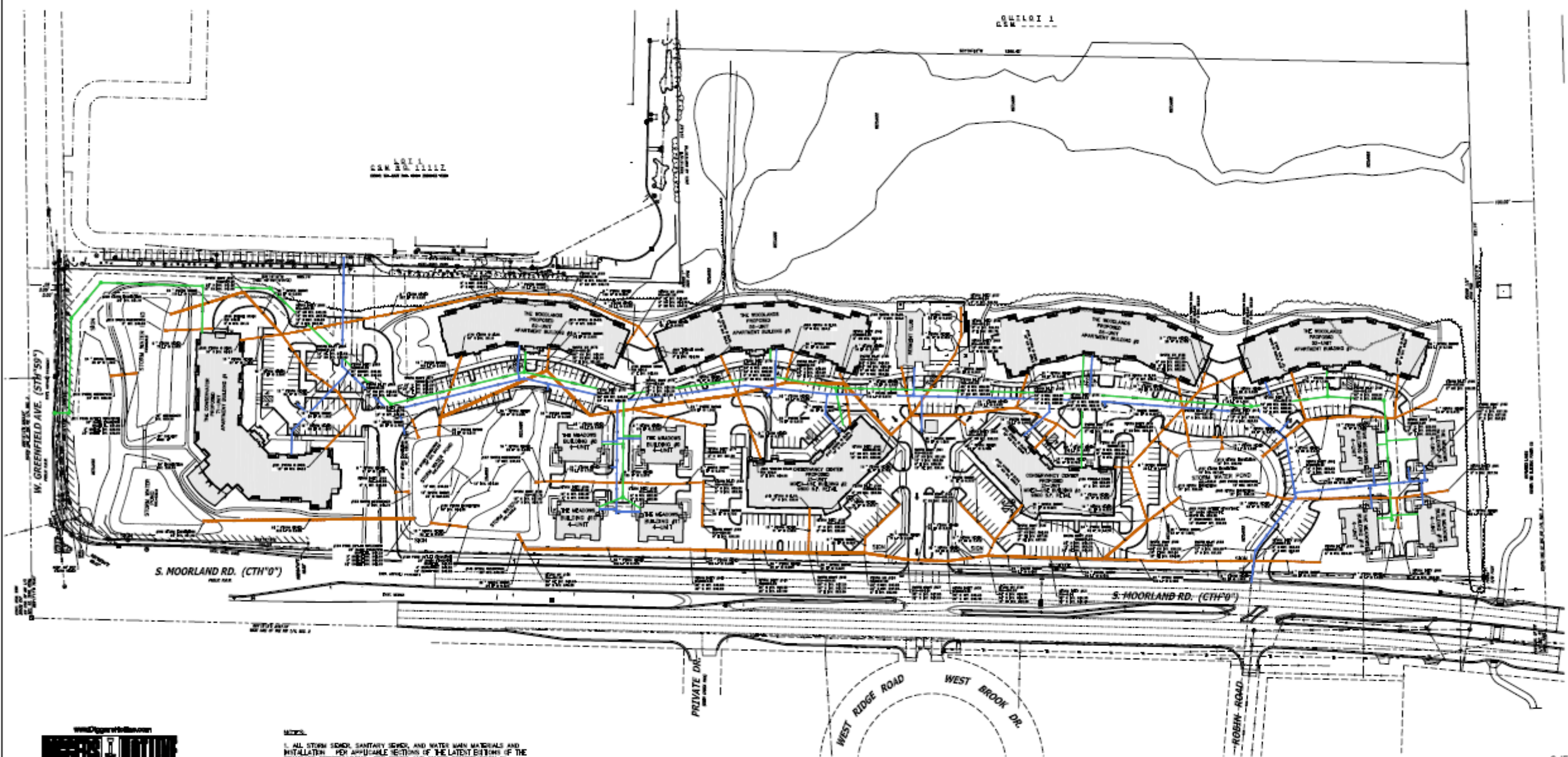
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE STORM SEWER PLAN



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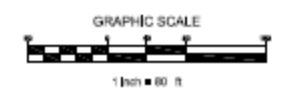


MEERS & LUTTEN
Civil Engineering
CH 811 CH 8000 242-6811

LEGEND

	EXISTING STORM SEWER
	PROPOSED STORM SEWER
	EXISTING SANITARY SEWER
	PROPOSED SANITARY SEWER
	EXISTING WATER MAIN
	PROPOSED WATER MAIN
	BURIED GAS MAIN
	OVERHEAD MISC
	BURIED ELECTRIC

- NOTES**
1. ALL STORM SEWER, SANITARY SEWER, AND WATER MAIN MATERIALS AND INSTALLATION FOR 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 PAVED AREAS SHALL HAVE GRAVEL BACKFILL.
 3. 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.
 4. STORM SEWER: PVC ASTM D3034, SDR 35, OR ADSN-42 HDPE
SANITARY SEWER: PVC ASTM D3034, SDR 35
WATER MAIN: PVC AWWA C900, CLASS 150 (SDR18)
*MATERIAL PER CITY REQUIREMENT. CONTRACTOR TO VERIFY.
 5. CONTRACTOR TO PROVIDE TRACER WIRE OR OTHER METHOD OF LOCATING FOR ALL UNDERGROUND EXISTING NON-METALLIC SANITARY, STORM AND WATER PIPE PER WISCONSIN PLUMBING CODE SECTION 183.07(1)(2).



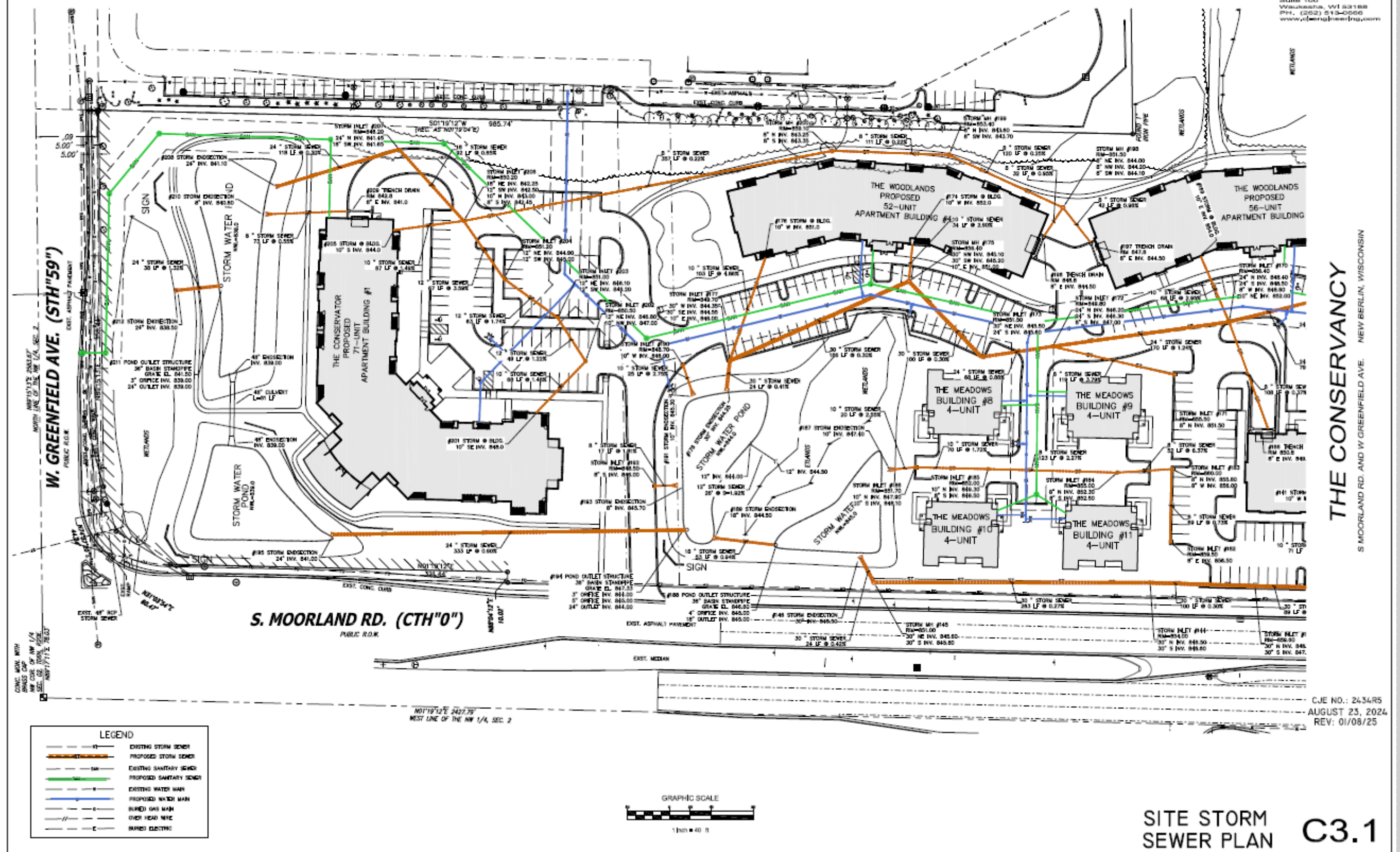
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SEWER PLAN

C3.0

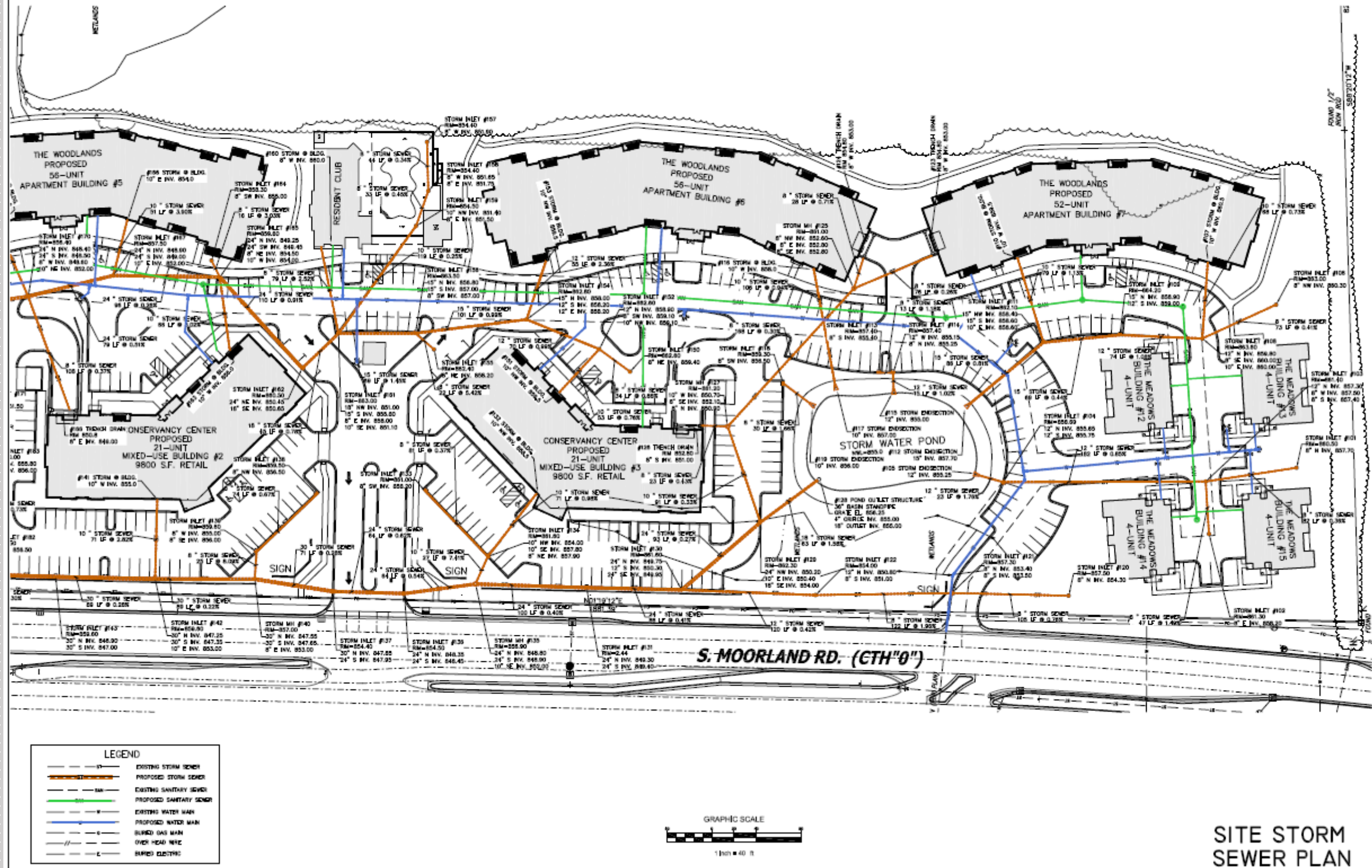
CJE NO.: 2434R5
AUGUST 23, 2024
REV: 01/08/25

THE CONSERVANCY
S MOORLAND RD. AND W GREENFIELD AVE. NEW BERLIN, WISCONSIN

SITE STORM SEWER PLAN



THE CONSERVANCY
A NEIGHBORHOOD RESERVE
SITE STORM SEWER PLAN



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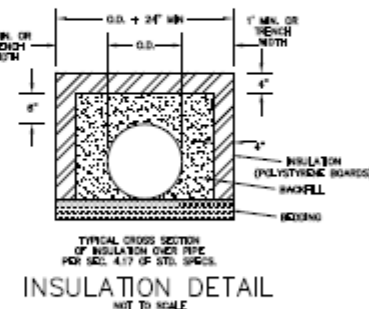
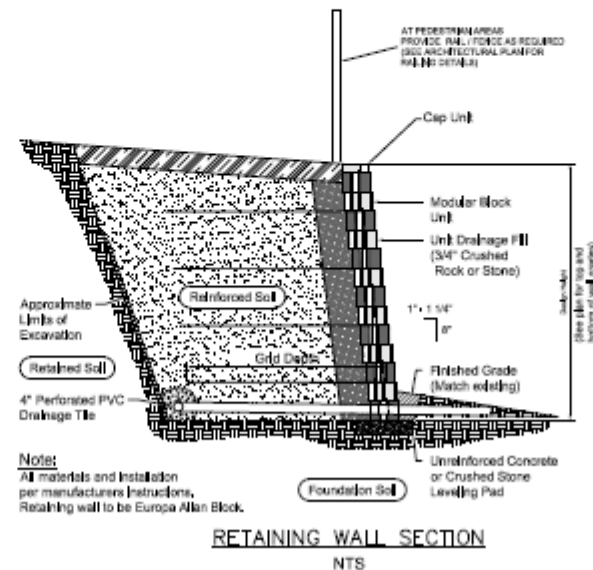
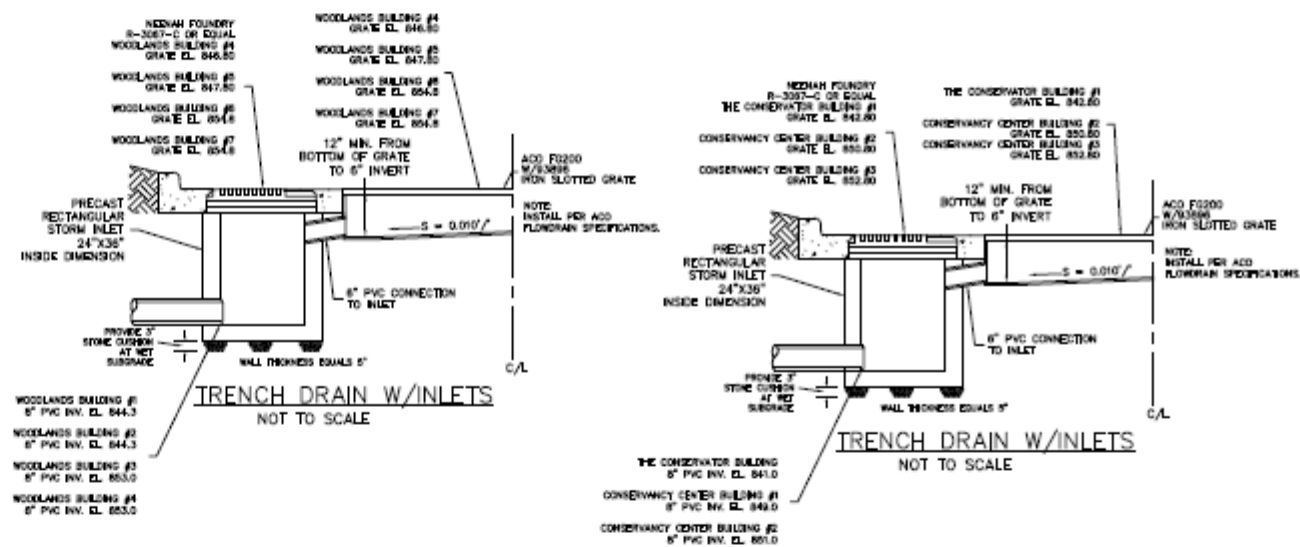
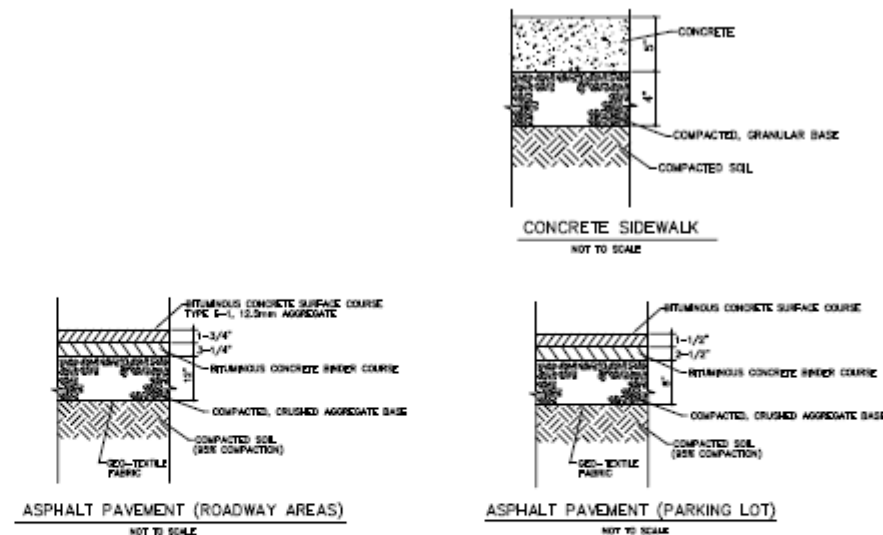
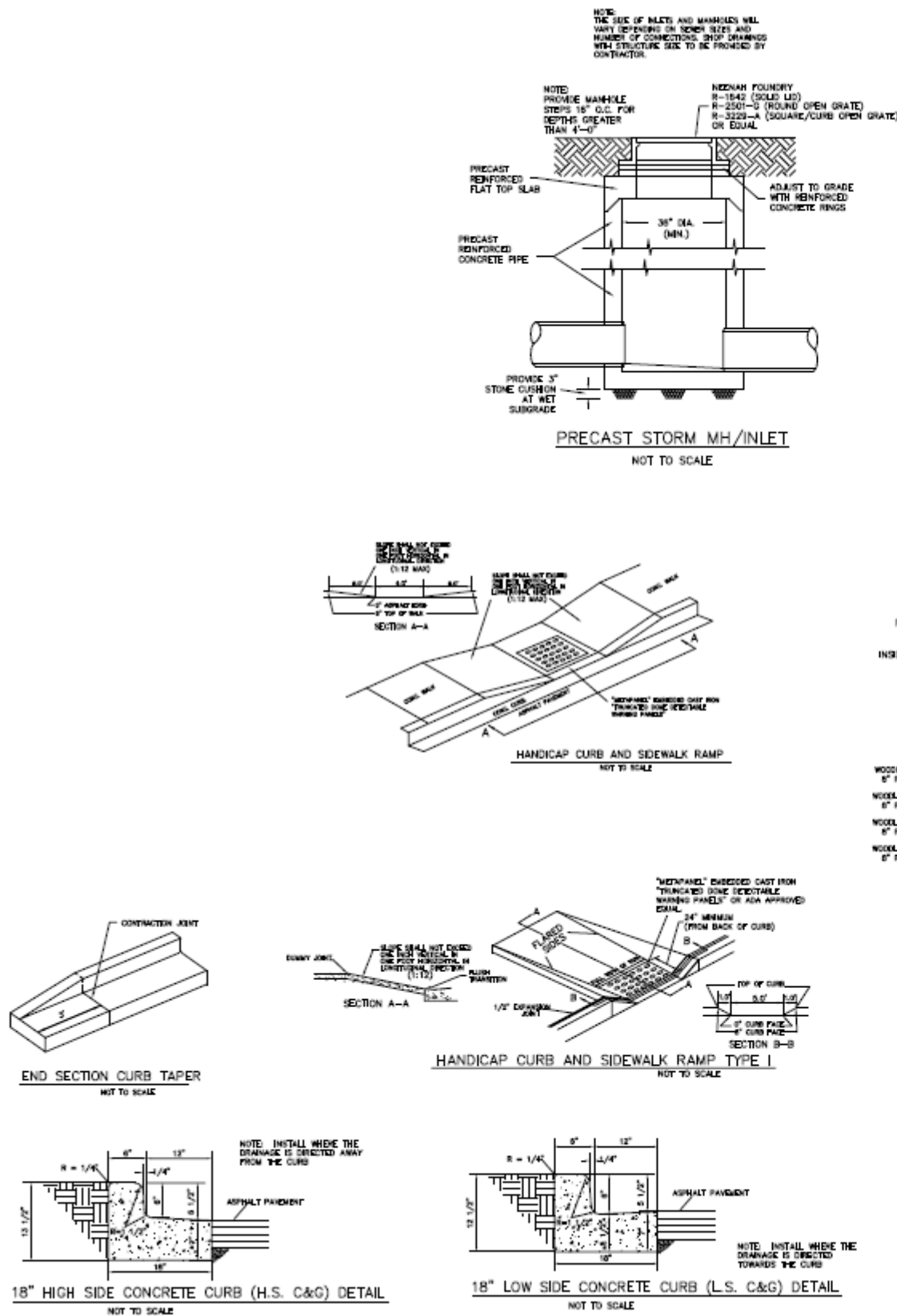
THE CONSERVANCY
S MOORLAND RD. AND W GREENFIELD AVE. NEW BERLIN, WISCONSIN

CJE NO.: 2434RB
AUGUST 23, 2024
REV: 01/08/25

THE CONSERVANCY

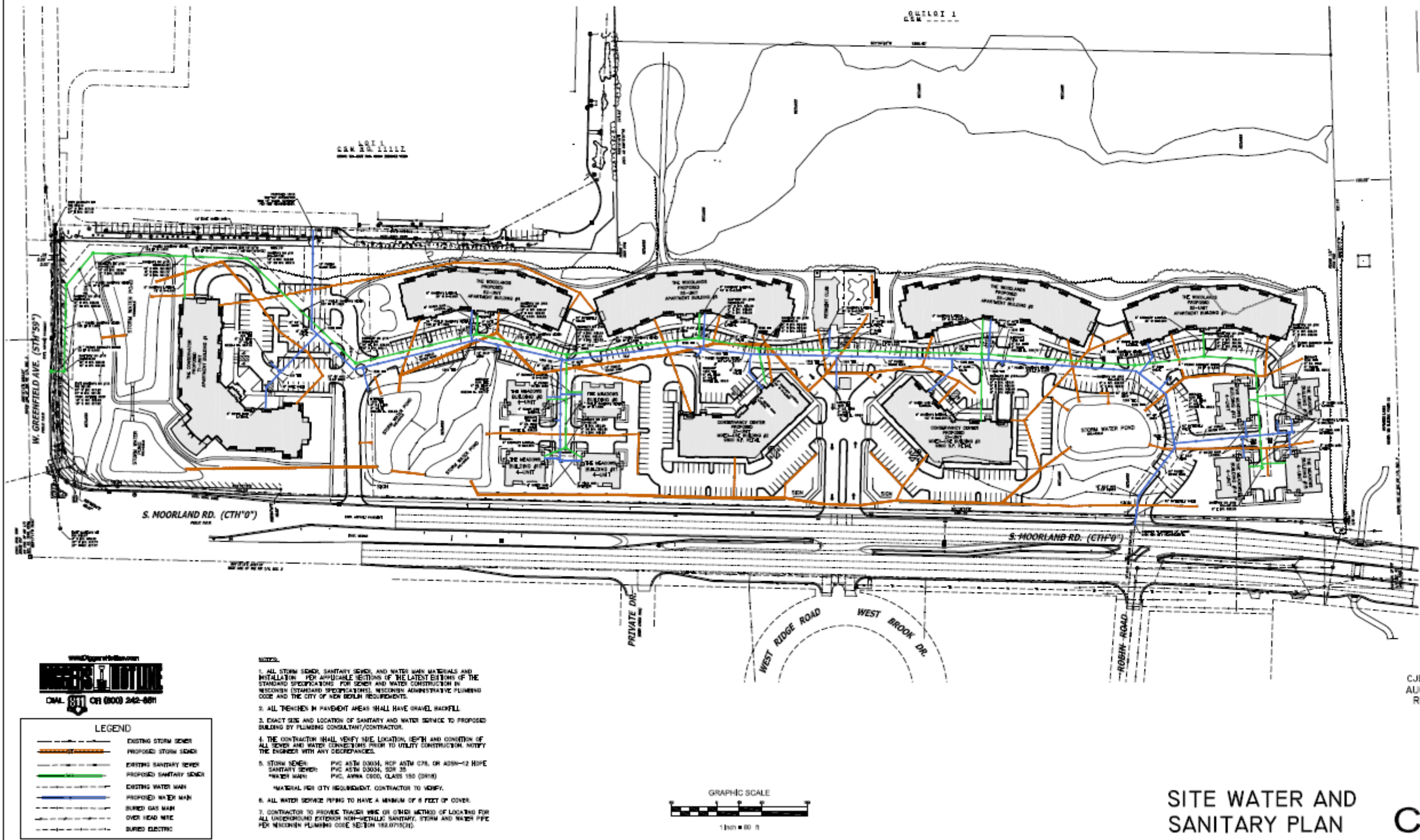
A NEIGHBORHOOD RESERVE

SITE STORM SEWER PLAN – SITE DETAIL



SITE DETAIL SHEET **C6.0**

THE CONSERVANCY
A NEIGHBORHOOD RESERVE
SITE WATER AND SANITARY PLAN



THE CONSERVANCY
S MOORLAND RD. AND W GREENFIELD AVE. NEW BERLIN, WISCONSIN

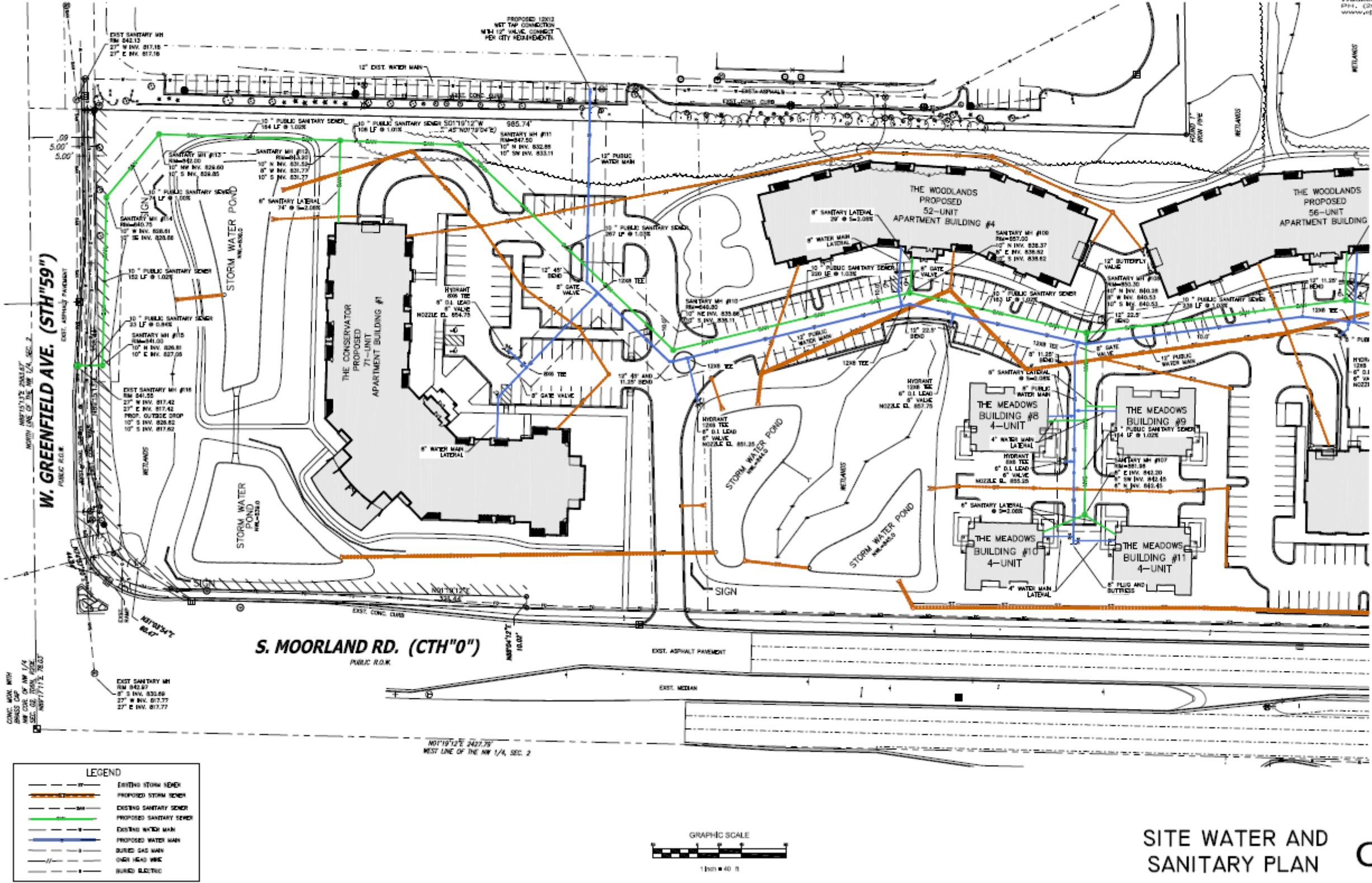
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REV: 01/08/25

SITE WATER AND
SANITARY PLAN
C4.0

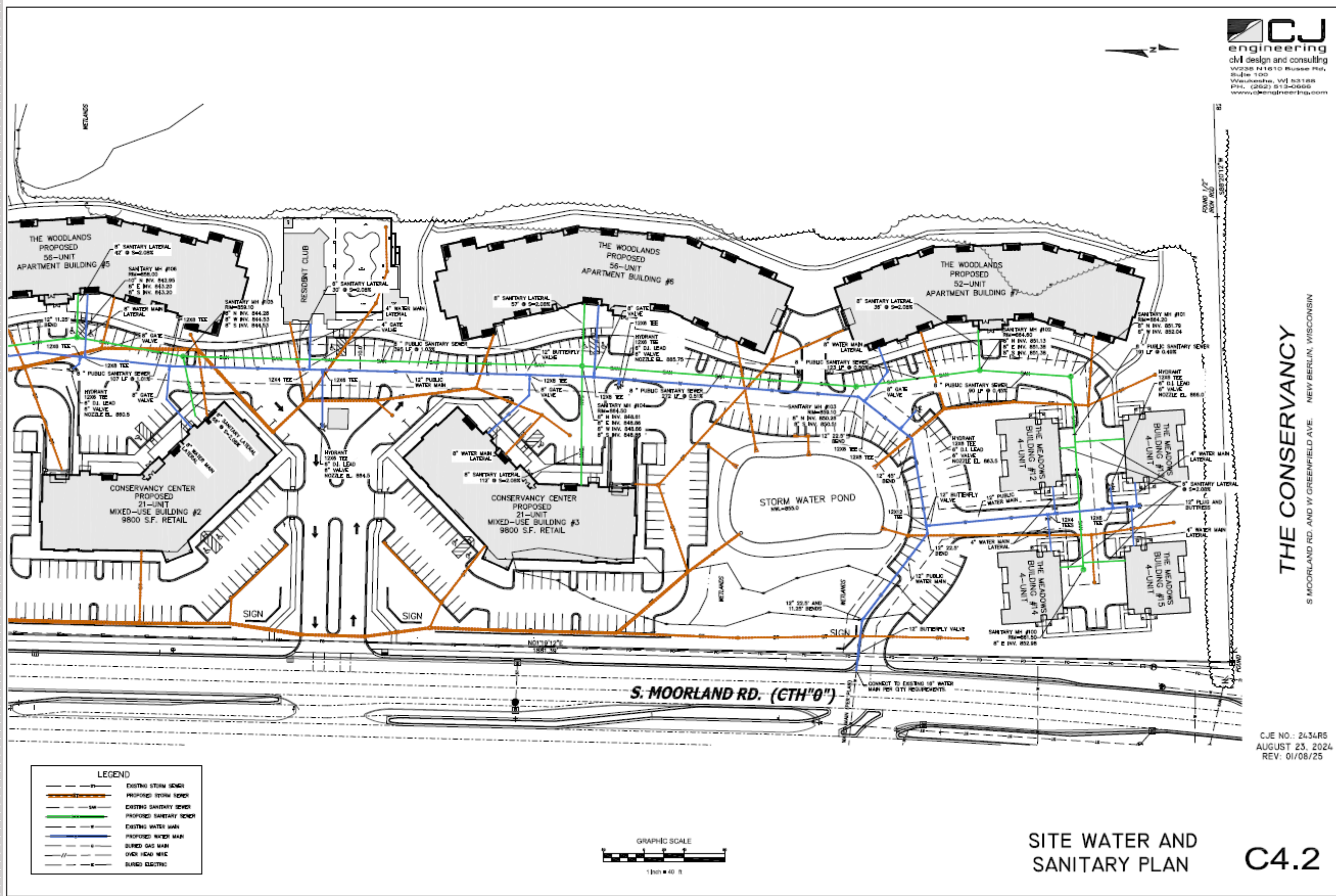
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE WATER AND SANITARY PLAN



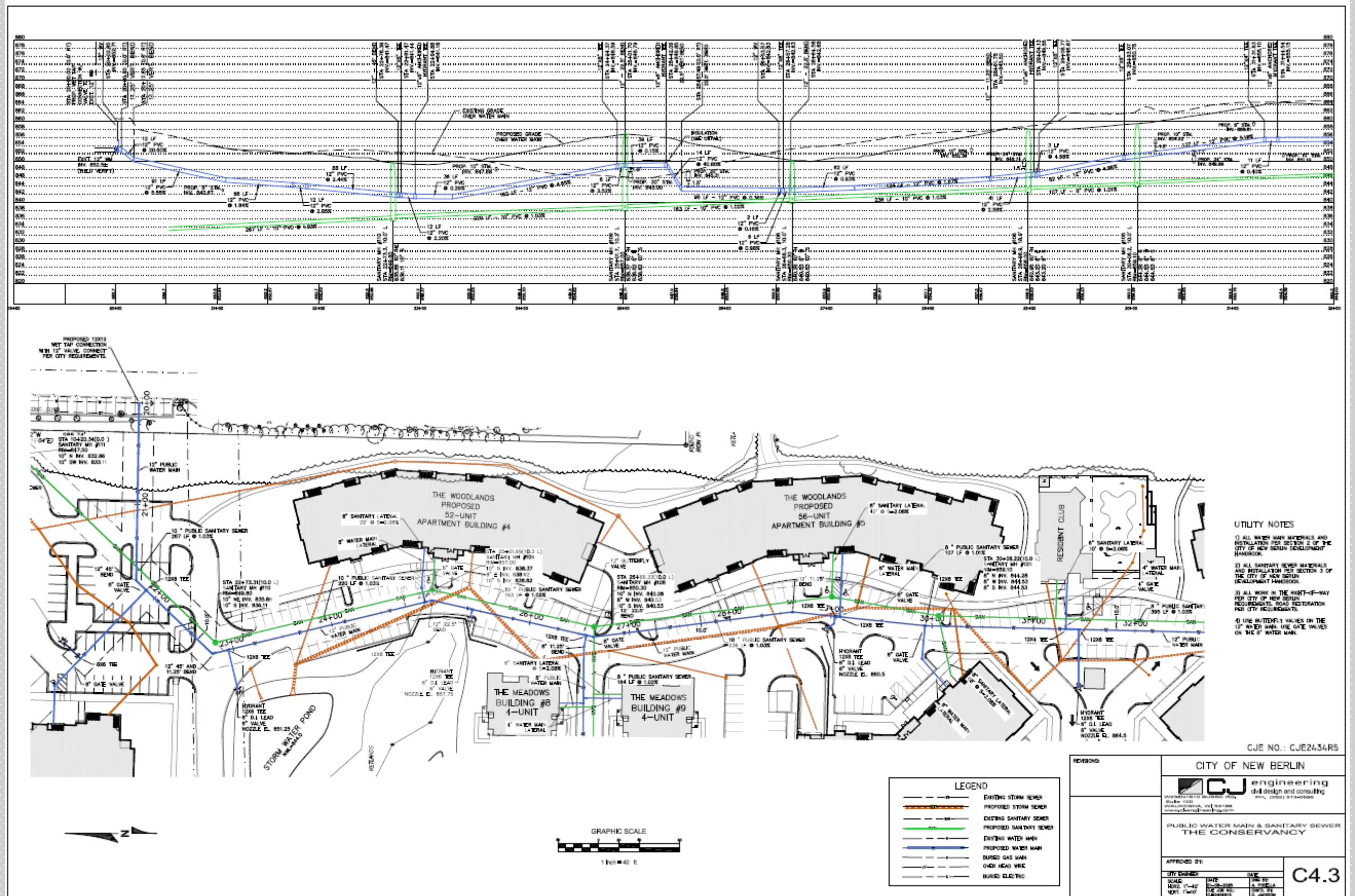
THE CONSERVANCY
A NEIGHBORHOOD RESERVE
SITE WATER AND SANITARY PLAN



THE CONSERVANCY

A NEIGHBORHOOD RESERVE

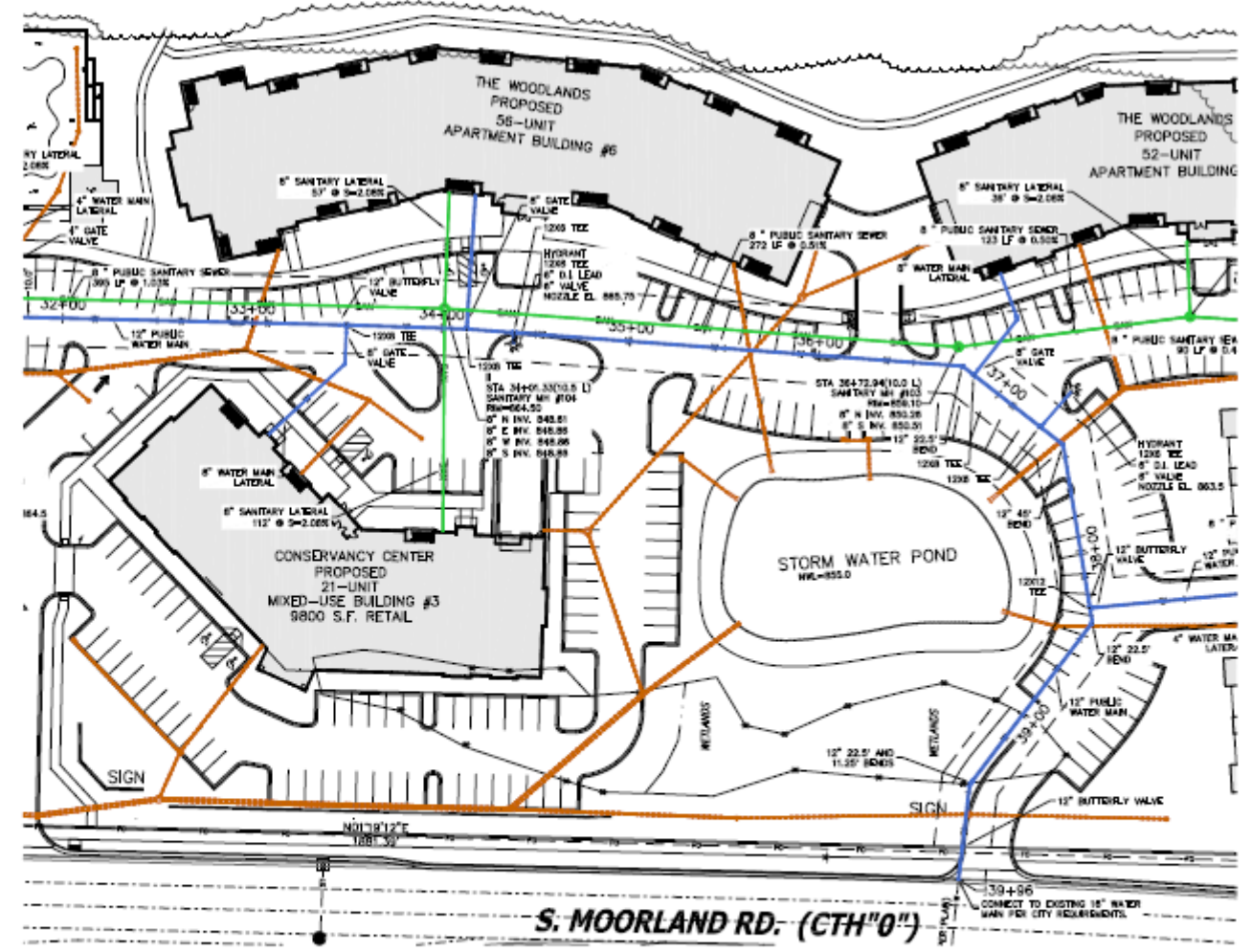
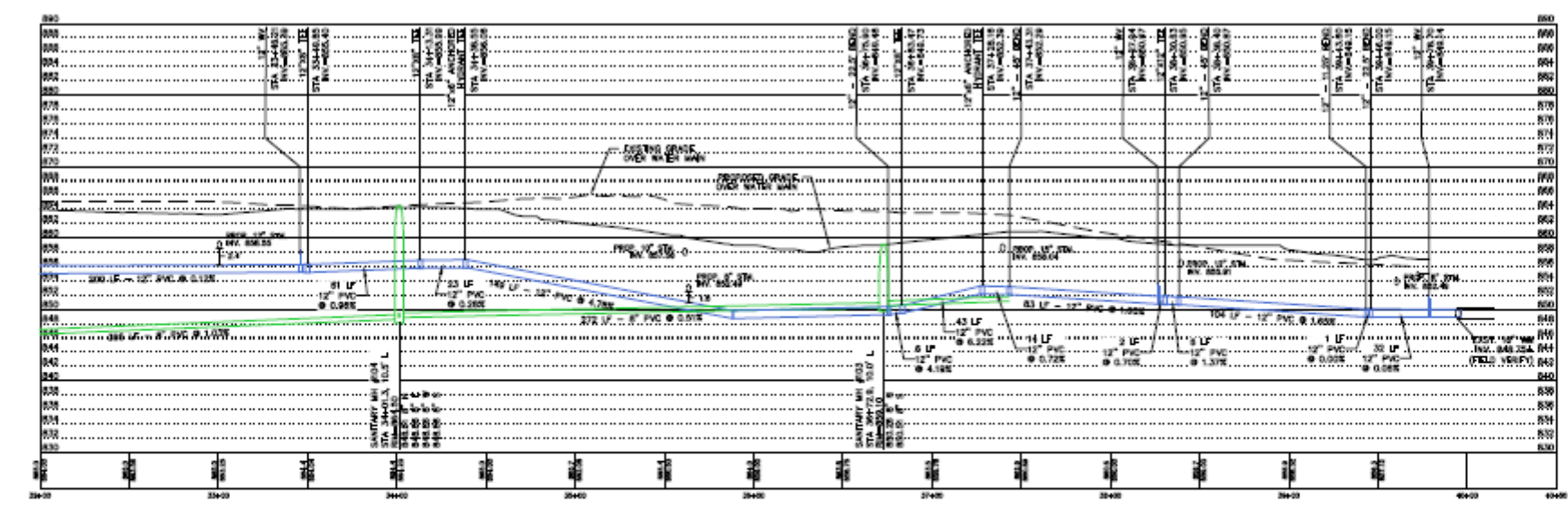
SITE WATER AND SANITARY PLAN



THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE WATER AND SANITARY PLAN



LEGEND	
	EXISTING STORM SEWER
	PROPOSED STORM SEWER
	EXISTING SANITARY SEWER
	PROPOSED SANITARY SEWER
	EXISTING WATER MAIN
	PROPOSED WATER MAIN
	BURIED GAS MAIN
	OVER HEAD WIRE
	BURIED ELECTRIC

- UTILITY NOTES
- 1) ALL WATER MAIN MATERIALS AND INSTALLATION PER SECTION 3 OF THE CITY OF NEW BERLIN DEVELOPMENT HANDBOOK.
 - 2) ALL SANITARY SEWER MATERIALS AND INSTALLATION PER SECTION 3 OF THE CITY OF NEW BERLIN DEVELOPMENT HANDBOOK.
 - 3) ALL WORK IN THE RIGHT-OF-WAY PER CITY OF NEW BERLIN REQUIREMENTS. ROAD RESTORATION PER CITY REQUIREMENTS.
 - 4) USE BUTTERFLY VALVES ON THE 12" WATER MAIN. USE GATE VALVES ON THE 8" WATER MAIN.

CJE NO.: CJE2434R5

REVISIONS

CITY OF NEW BERLIN

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www.cjengineering.com
PH: (262) 513-0500

PUBLIC WATER MAIN & SANITARY SEWER
THE CONSERVANCY

APPROVED BY:

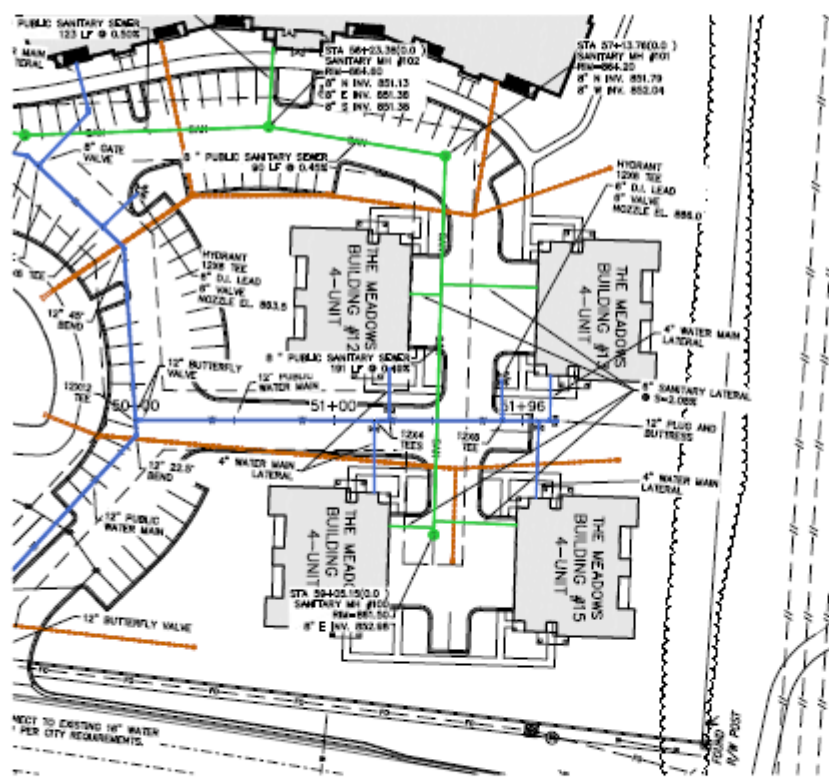
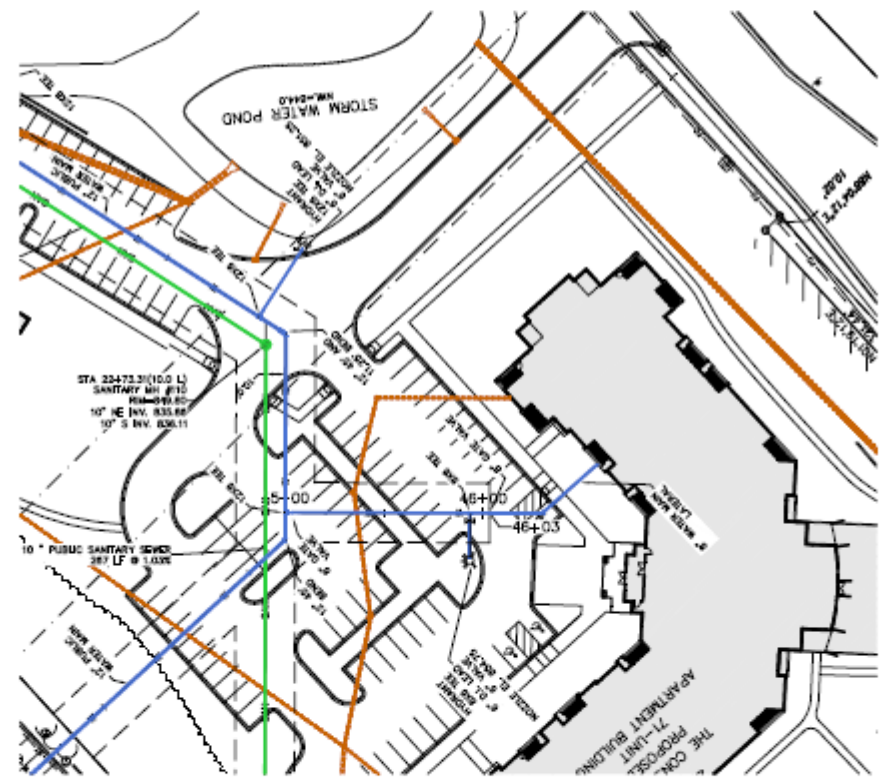
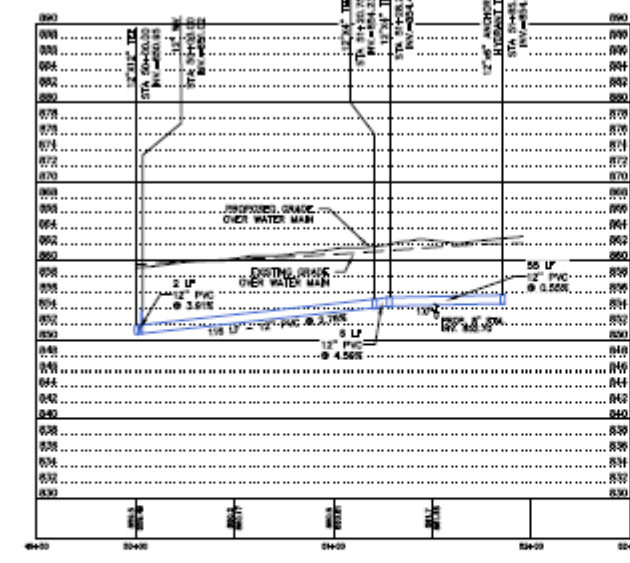
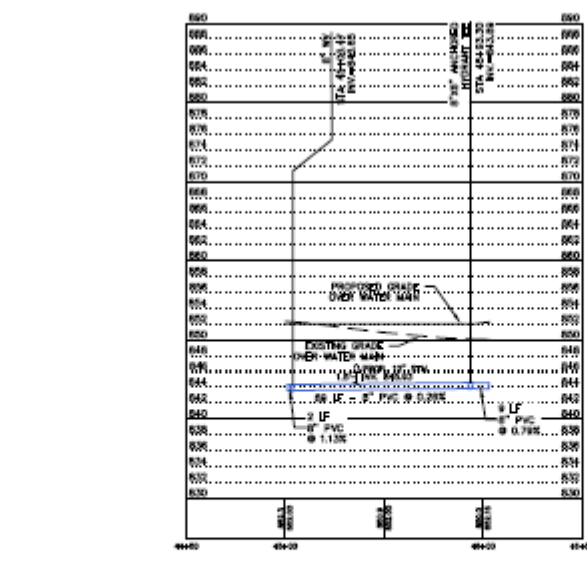
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DATE: 1-14-25	DATE: 1-14-25	DATE: 1-14-25

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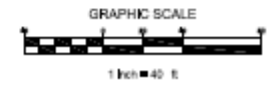
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE WATER AND SANITARY PLAN



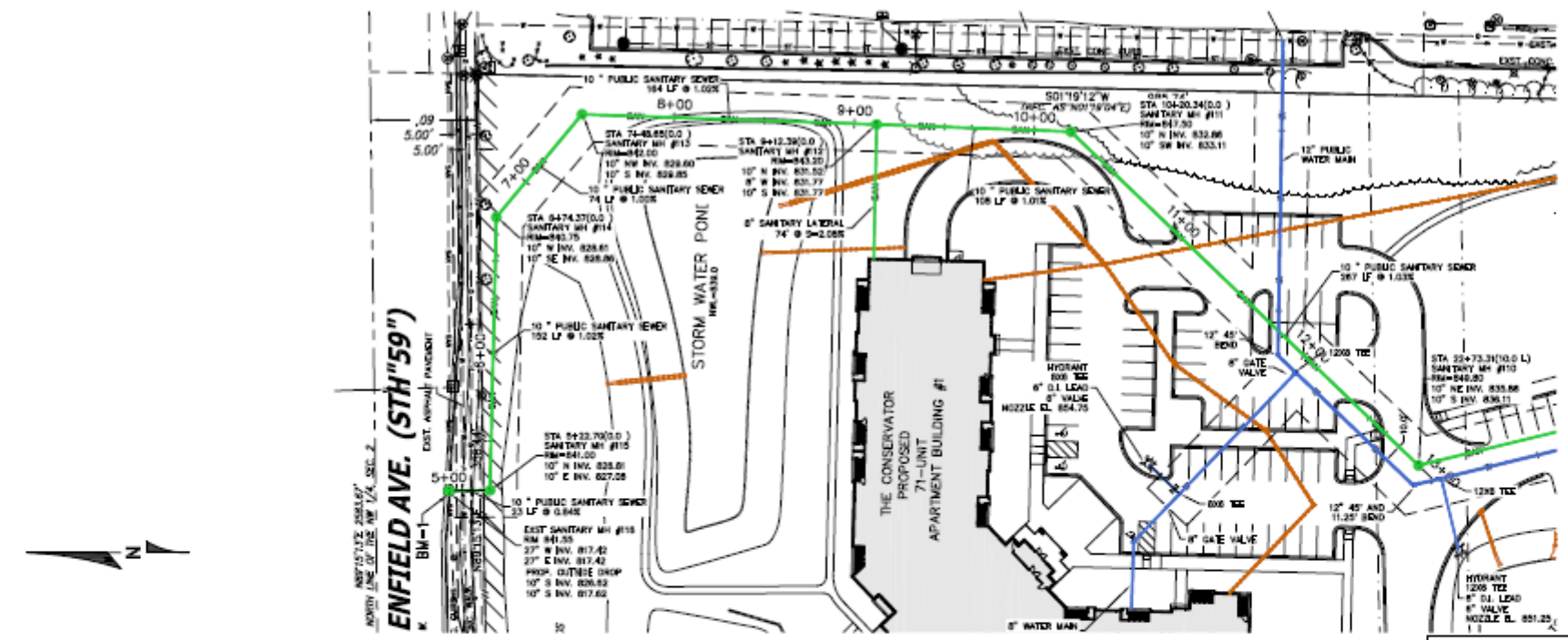
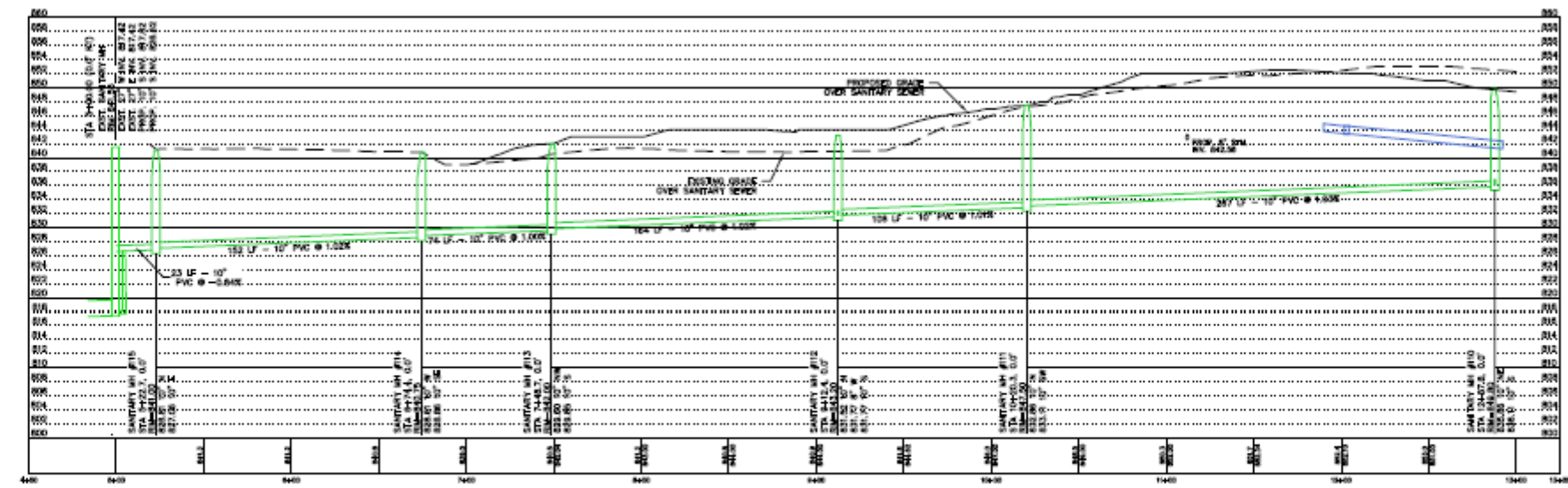
- UTILITY NOTES
- 1) ALL WATER MAIN MATERIALS AND INSTALLATION PER SECTION 2 OF THE CITY OF NEW BERLIN (SEWAGE) HANDBOOK.
 - 2) ALL SANITARY SEWER MATERIALS AND INSTALLATION PER SECTION 3 OF THE CITY OF NEW BERLIN (SEWAGE) HANDBOOK.
 - 3) ALL WORK IN THE RIGHT-OF-WAY PER CITY OF NEW BERLIN REPAIRS, ROAD RESTORATION PER CITY REQUIREMENTS.
 - 4) USE BUTTERFLY VALVES ON THE 12" WATER MAIN. USE GATE VALVES ON THE 8" WATER MAIN.



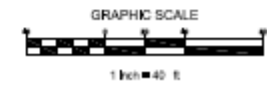
LEGEND	
	EXISTING STORM SEWER
	PROPOSED STORM SEWER
	EXISTING SANITARY SEWER
	PROPOSED SANITARY SEWER
	EXISTING WATER MAIN
	PROPOSED WATER MAIN
	BURIED GAS MAIN
	BURIED ELECTRIC

CJE NO.: CJE2434R5	
CITY OF NEW BERLIN	
CJ engineering civil design and consulting 1000 E. 10th St., Suite 100 New Berlin, WI 53051 www.cjengineering.com	
PUBLIC WATER MAIN & SANITARY SEWER THE CONSERVANCY	
APPROVED BY:	C4.5
CITY ENGINEER	
DATE	DATE
SCALE	SCALE
BY	BY
CHECKED	CHECKED
DESIGNED	DESIGNED

THE CONSERVANCY
A NEIGHBORHOOD RESERVE
SITE WATER AND SANITARY PLAN



- UTILITY NOTES
- 1) ALL WATER MAIN MATERIALS AND INSTALLATION PER SECTION 2 OF THE CITY OF NEW BERLIN DEVELOPMENT HANDBOOK.
 - 2) ALL SANITARY SEWER MATERIALS AND INSTALLATION PER SECTION 3 OF THE CITY OF NEW BERLIN DEVELOPMENT HANDBOOK.
 - 3) ALL WORK IN THE RIGHT-OF-WAY PER CITY OF NEW BERLIN REQUIREMENTS. ROAD RESTORATION PER CITY REQUIREMENTS.
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LEGEND

	EXISTING STORM SEWER
	PROPOSED STORM SEWER
	EXISTING SANITARY SEWER
	PROPOSED SANITARY SEWER
	EXISTING WATER MAIN
	PROPOSED WATER MAIN
	BURIED GAS MAIN
	BURIED ELECTRIC

REVISIONS:

NO.	DATE	BY	CHKD.
1	01/15/2020	J. J. JONES	C. J. JONES

CITY OF NEW BERLIN
engineering
civil design and consulting
1000 N. 10TH STREET, SUITE 100
NEW BERLIN, PA 17359
(717) 353-1000

PUBLIC WATER MAIN & SANITARY SEWER
THE CONSERVANCY

APPROVED BY:

SCALE: 1"=40'
DATE: 01/15/2020
BY: J. J. JONES
CHKD.: C. J. JONES

C4.6

THE CONSERVANCY

A NEIGHBORHOOD RESERVE

SITE WATER AND SANITARY PLAN



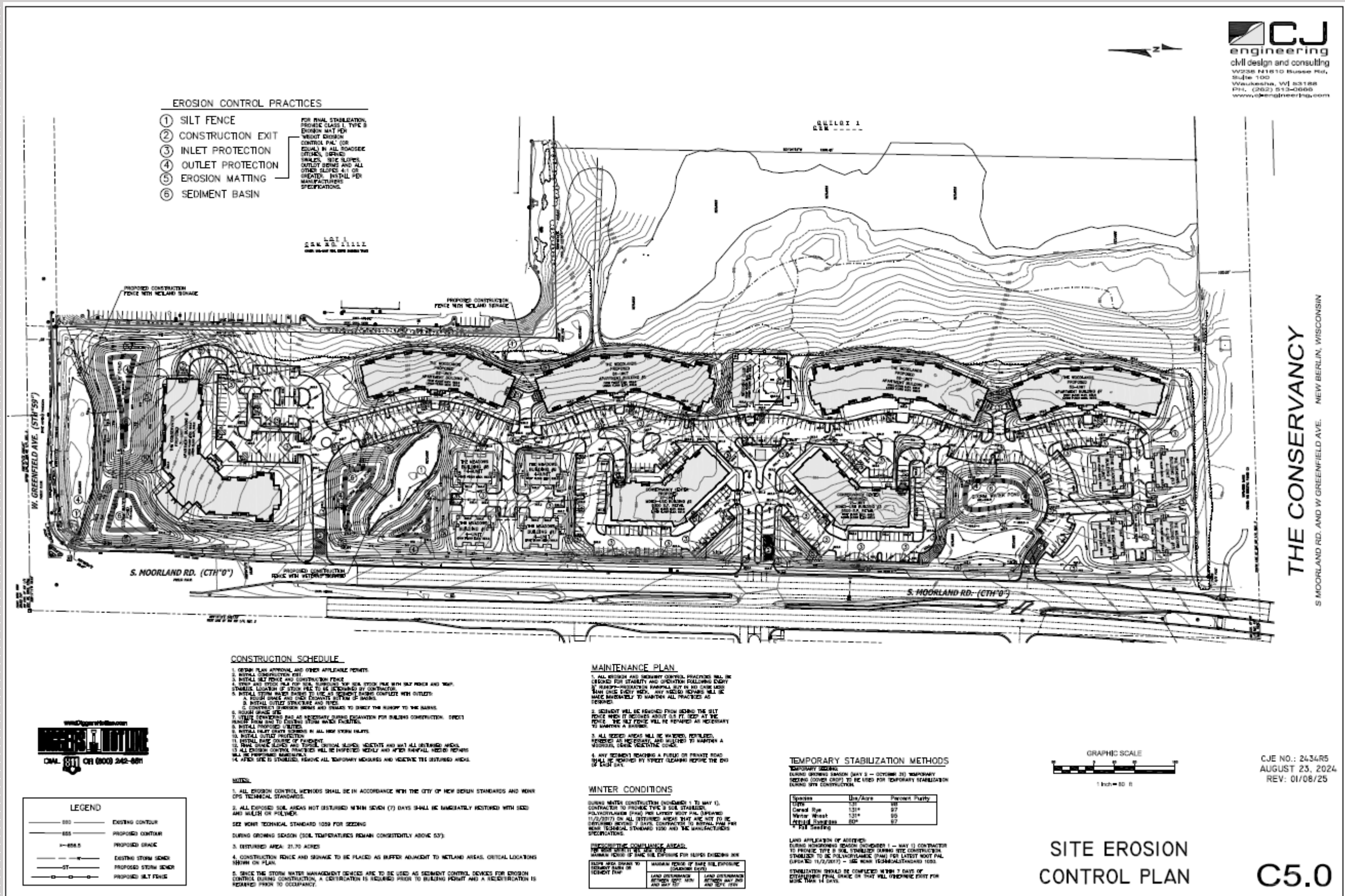
- 1) ALL WATER MAIN MATERIALS AND INSTALLATION PER SECTION 2 OF THE CITY OF NEW HAVEN DEVELOPMENT HANDBOOK.
- 2) ALL SANITARY SEWER MATERIALS AND INSTALLATION PER SECTION 3 OF THE CITY OF NEW HAVEN DEVELOPMENT HANDBOOK.
- 3) ALL WORK IN THE RIGHT-OF-WAY PER CITY OF NEW HAVEN REQUIREMENTS. ROAD RESTORATION PER CITY REQUIREMENTS.
- 4) USE BUTTERFLY VALVES ON THE 12" WATER MAIN. USE GATE VALVES ON 36" & 48" WATER MAIN.

REVISIONS:	CITY OF NEW BERLIN								
	 CJ engineering civil design and consulting INC., 03023-013-0000								
	WORKSHEET NUMBER: 001 Scale: 1/8" DRAWN BY: JLD CHECKED BY: JLD www.cj-engineering.com								
	PUBLIC WATER MAIN & SANITARY SEWER								
	THE CONSERVANCY								
	APPROVED BY:								
<table border="1"> <thead> <tr> <th>CITY ENGINEER</th> <th>DWG.</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>SUNIL MOH. T-45 PWT: TWG</td> <td>JLD 01-08-2005 FOR THE NO. CONSERVANCY</td> <td>TWO SETS TO BE MADE FOR C. JOSEPH</td> </tr> </tbody> </table>			CITY ENGINEER	DWG.	DATE	SUNIL MOH. T-45 PWT: TWG	JLD 01-08-2005 FOR THE NO. CONSERVANCY	TWO SETS TO BE MADE FOR C. JOSEPH	C4.7
CITY ENGINEER	DWG.	DATE							
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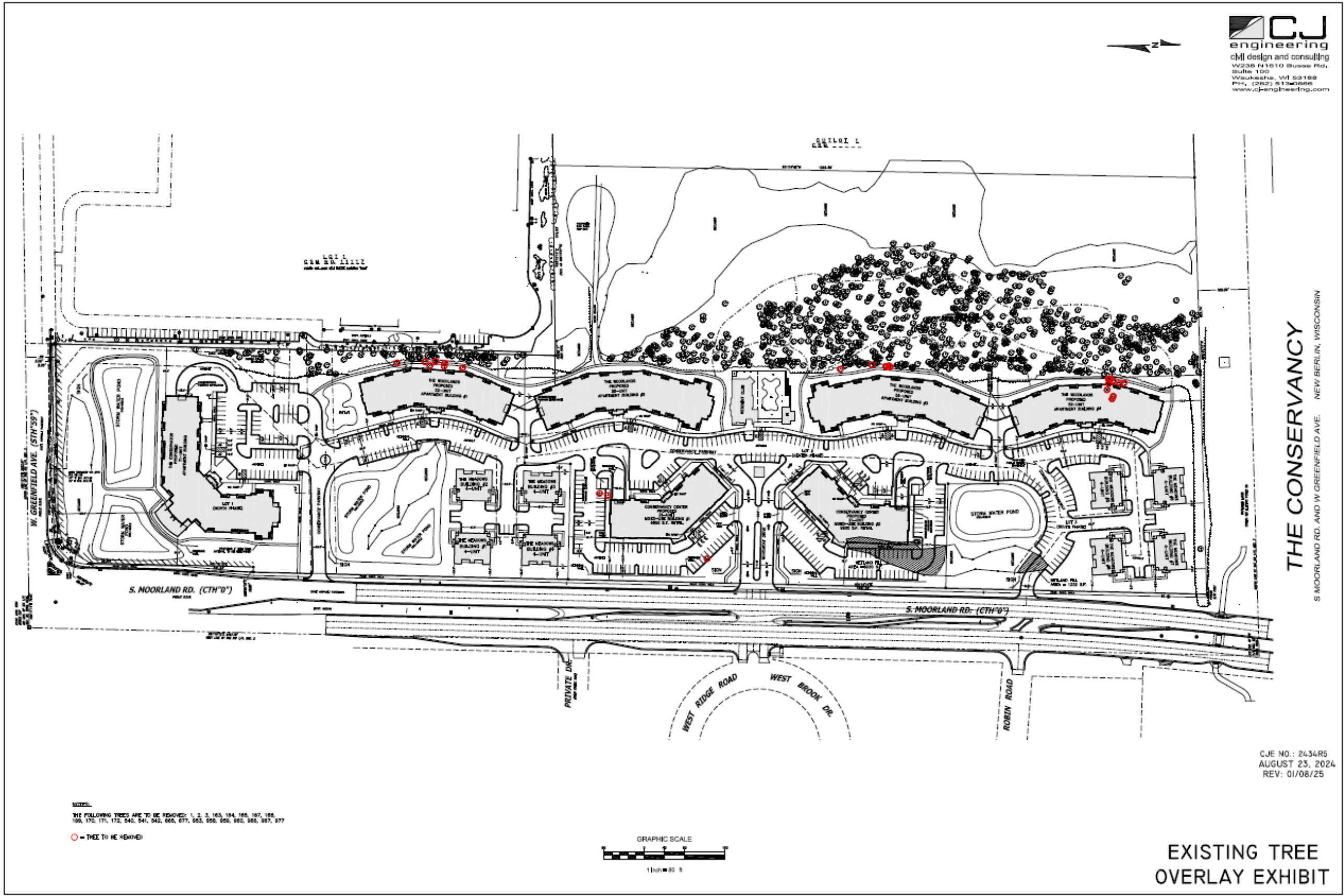
THE CONSERVANCY

A NEIGHBORHOOD RESERVE

EROSION CONTROL PLAN



THE CONSERVANCY A NEIGHBORHOOD RESERVE EXISTING TREE OVERLAY EXHIBIT



THE CONSERVANCY

NEIGHBORHOOD BUILDINGS

- Conservancy Center
- The Conservator
- Woodlands Residences
- Meadows Residences
- The Conservancy Resident Club
- Neighborhood Amenities
 - The Reserve at The Conservancy
 - New Berlin Recreation Trail



T H E CONSERVANCY

Residential Buildings

- Conservancy Center
- The Conservator
- Woodlands Residences
- Meadows Residences
- The Conservancy Resident Club

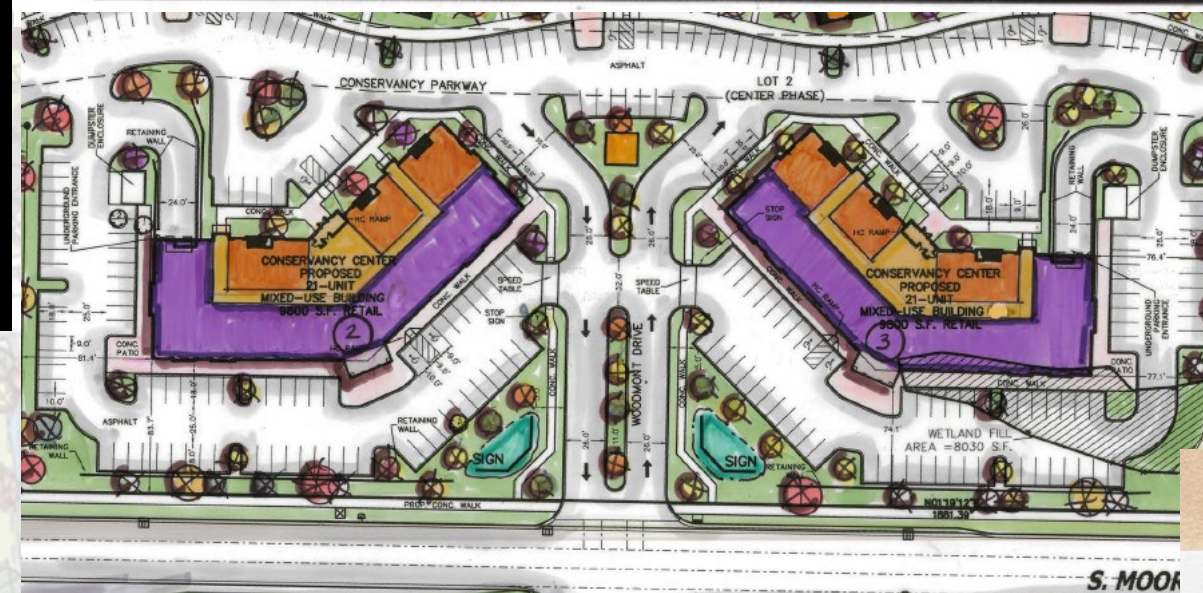


All Architectural Images For Character and Subject to Change

THE CONSERVANCY

CONSERVANCY CENTER

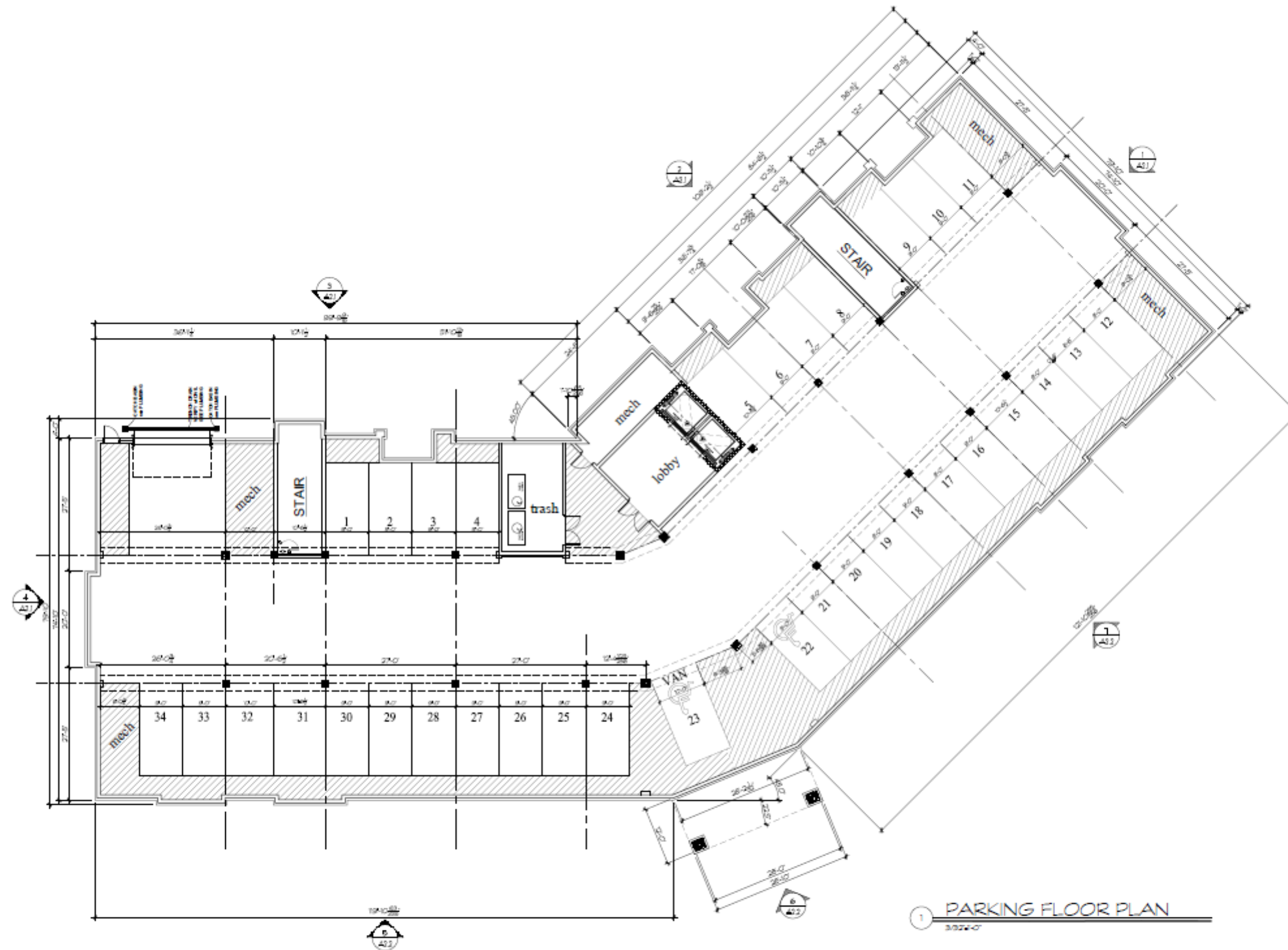
- Retail/Office
 - 19,600 Sq Ft
 - 98 Surface
 - Parking Ratio 1.00 : 200 Sq Ft
- 46 Residences
 - 20 one-bedroom
 - 26 two-bedroom
- 145 parking stalls
 - 68 garage spaces
 - 77 surface
 - Ratio 3.15 : 1



All Architectural Images For Character and Subject to Change

Retail – Ground Level





Building #2 The Conservancy Center

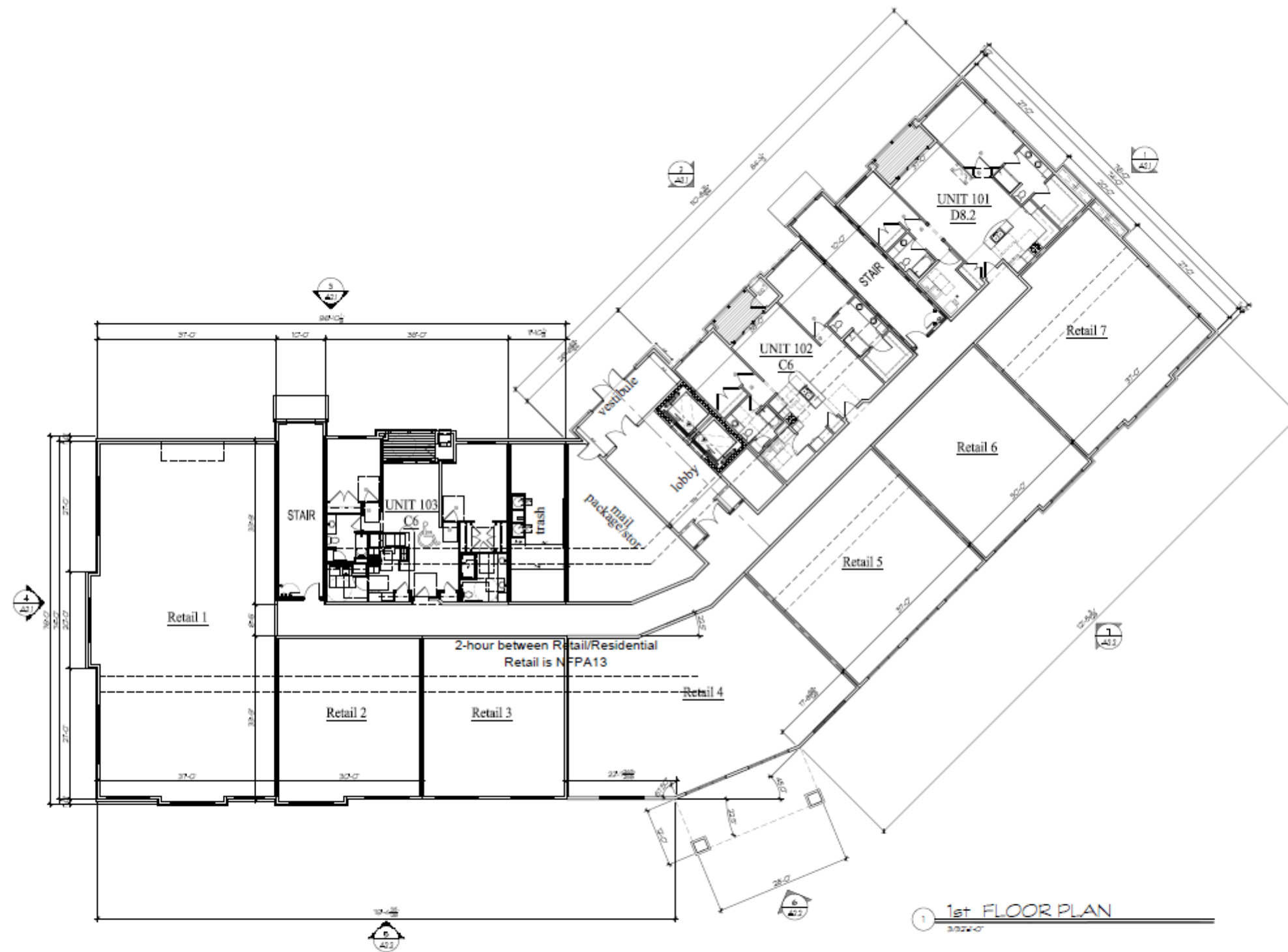
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NEW BERLIN, WISCONSIN

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Sheet Title
Parking Floor Plan

Issued For: _____ Date: _____
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Date: 1/3/2025
Job NO.: 25101.002
Drawn By: djj
Sheet No.: **A1.0**



Building #2 The Conservancy Center

50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
NEW BERLIN, WISCONSIN

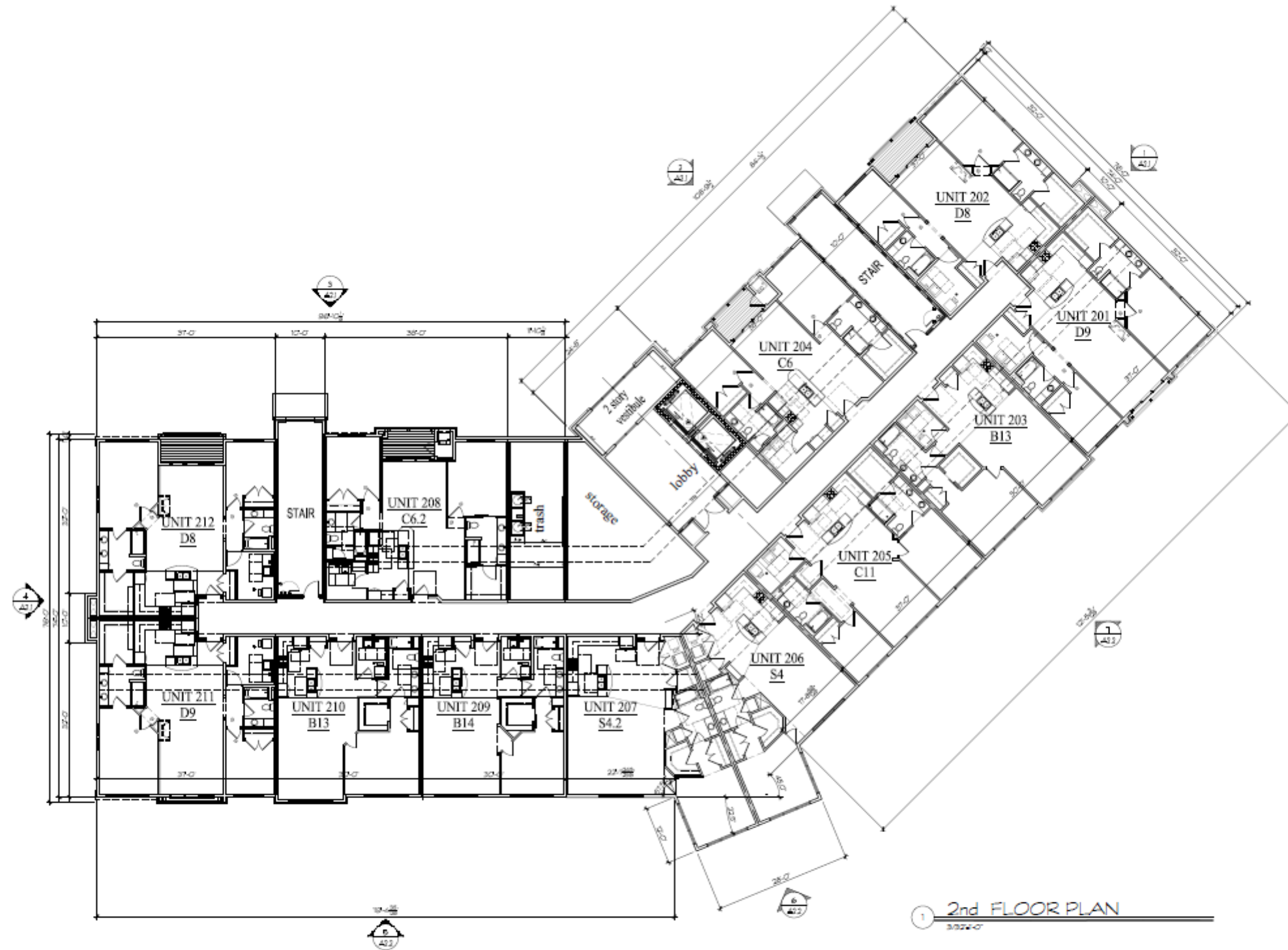
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Sheet Title
1st Floor Plan

Issued For: _____
Date: _____
Job No.: 25101.002
Drawn By: dj
Sheet No.: A1.1

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

A1.1



Building #2 The Conservancy Center

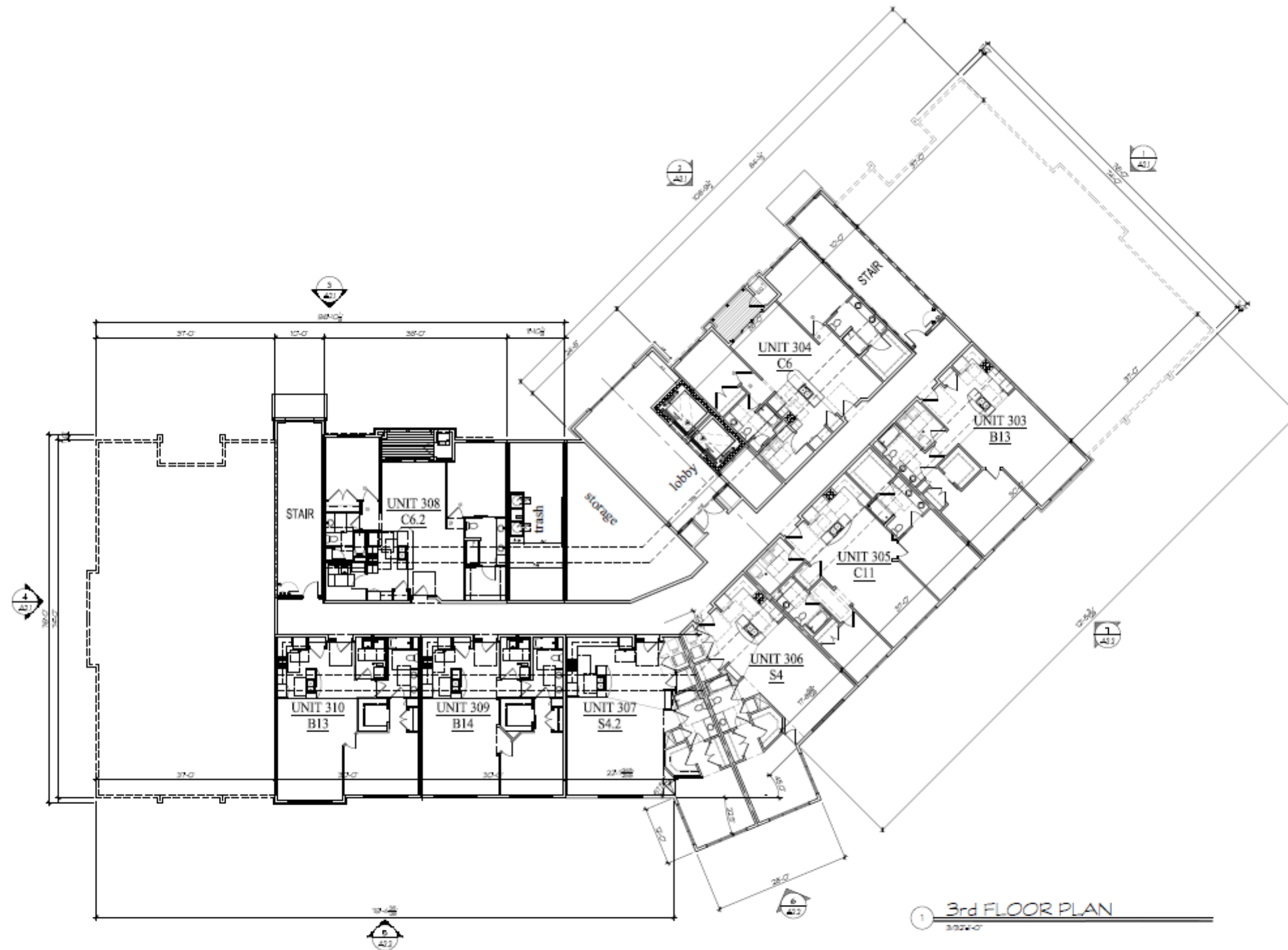
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Sheet Title
2nd Floor Plan

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		Job NO.:	25101.002
		Drawn By:	dj
		Sheet No.:	A1.2

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



Building #2 The Conservancy Center

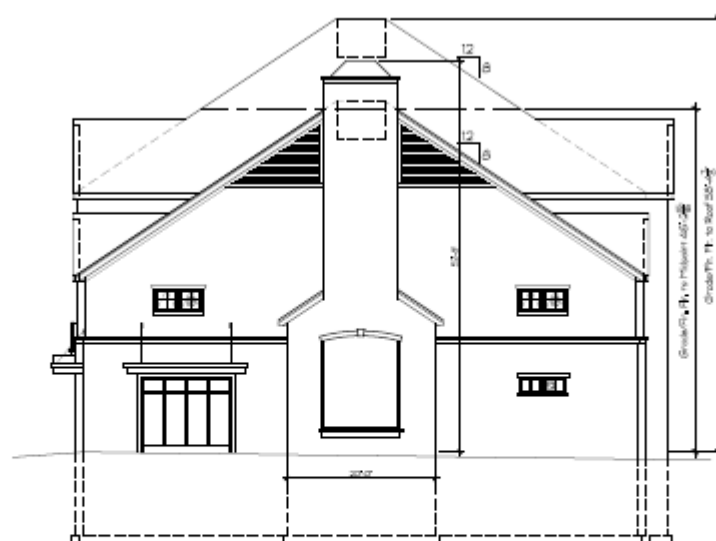
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Sheet Title
3rd Floor Plan

Issued For:	Date:	1/3/2025
Job NO.:	25101.002	
Drawn By:	dj	
Sheet No.	A1.3	

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



1 SouthEast Elevation
3.0224-07



2 NorthEast Elevation
3.0224-07



3 East Elevation
3.0224-07



4 North Elevation
3.0224-07



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-489-2530

Building #2 The Conservancy Center

50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
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Sheet Title
Exterior Elevations

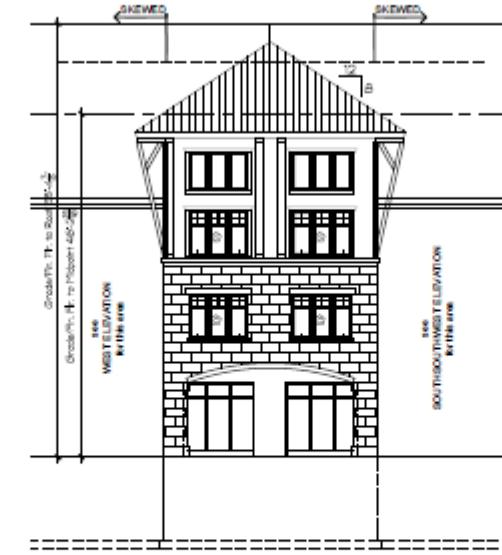
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Date: 1/3/2025
Job NO.: 25101.002
Drawn By: djs
Sheet No.

A2.1



5 West Elevation
3/22/25



6 South West Elevation
3/22/25



7 South South West Elevation
3/22/25



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ARCHITECTURE & PLANNING
25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-499-2530

Building #2
The Conservancy Center

SO. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
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Sheet Title
Exterior Elevations

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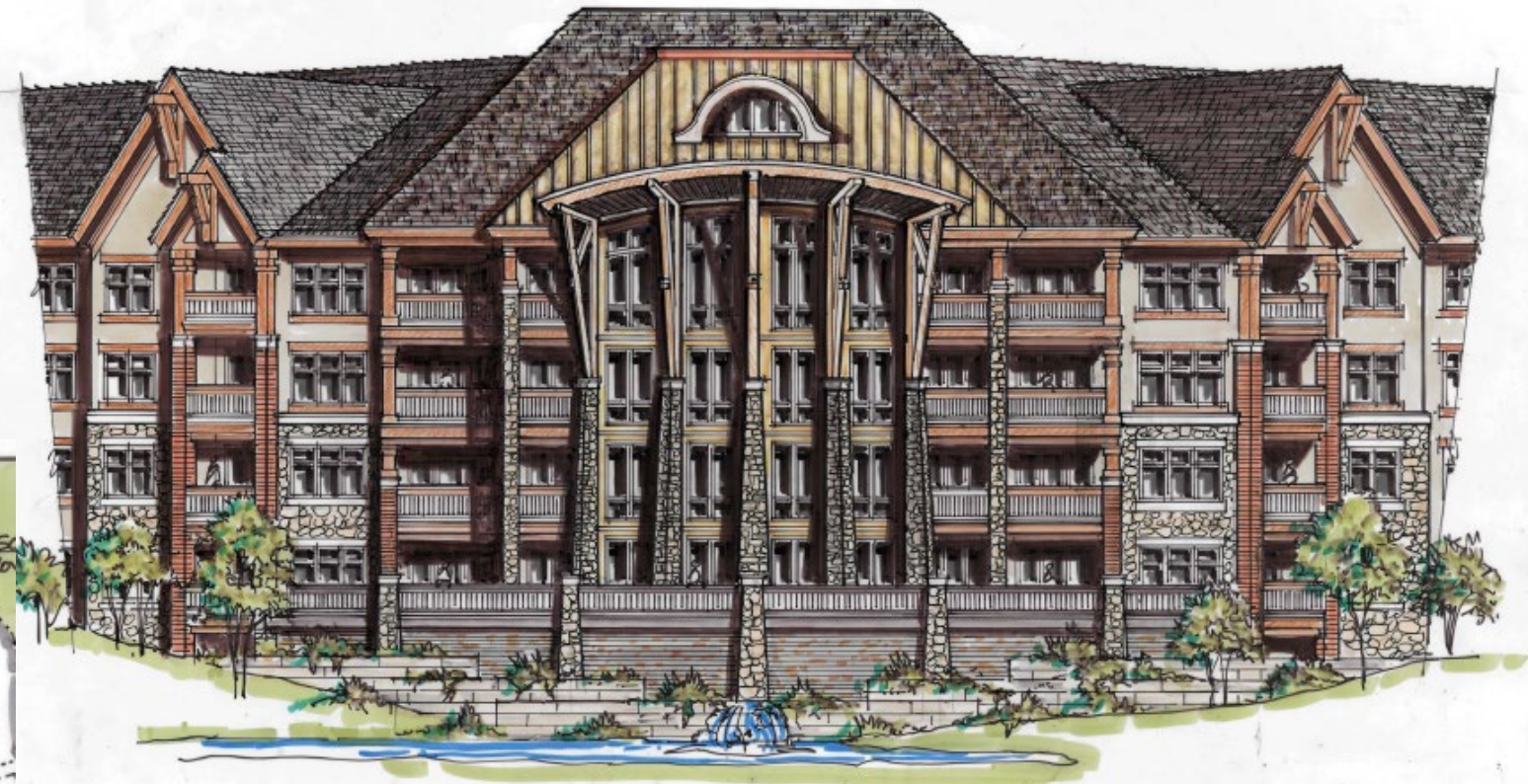
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Job NO: 25101.002
Drawn By: dgj
Sheet No.

A2.2

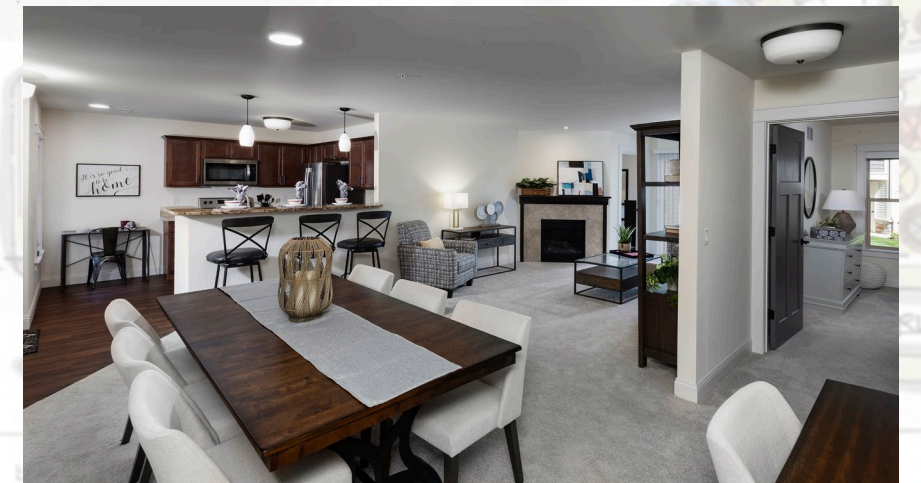
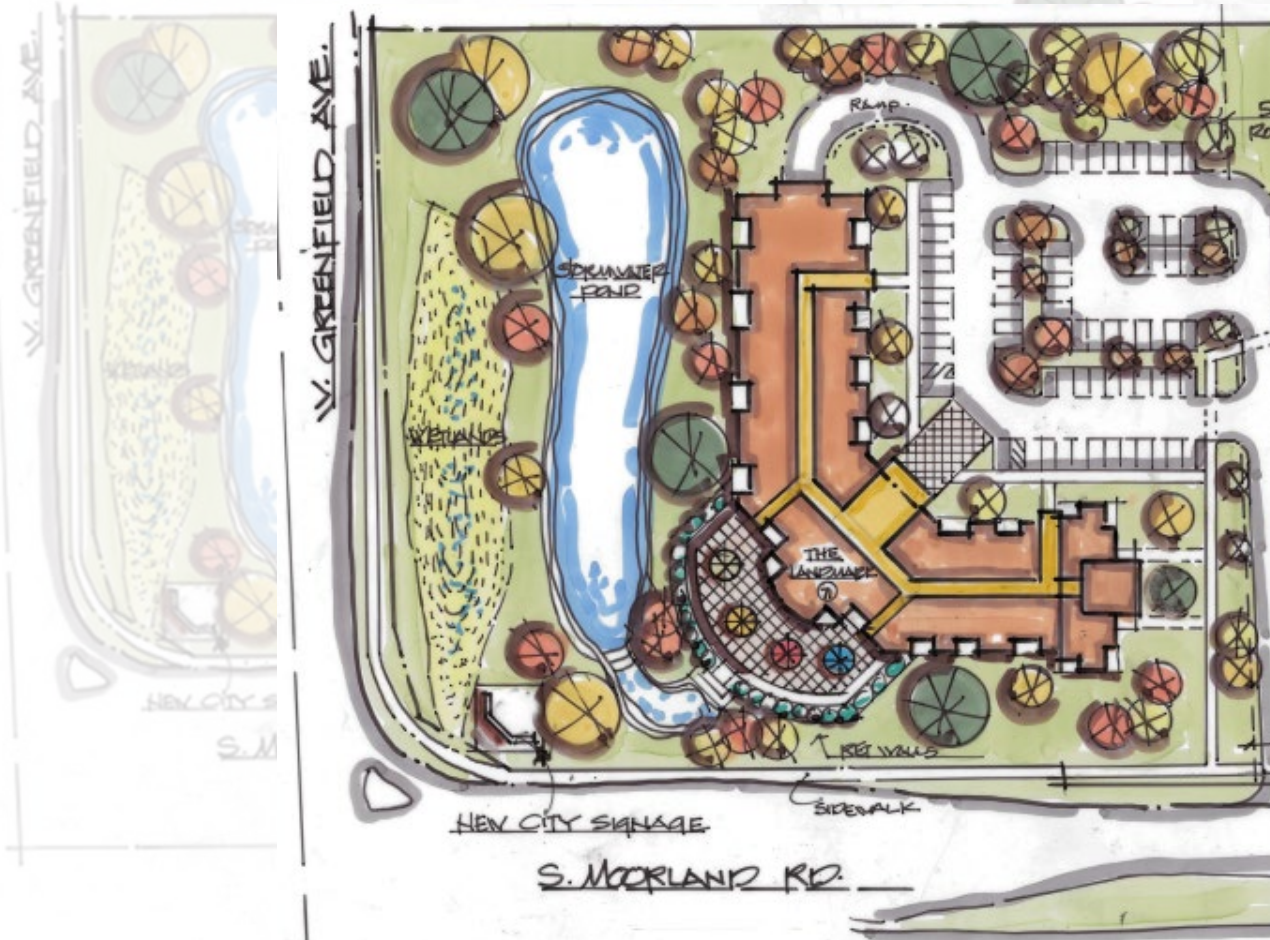
T H E CONSERVANCY

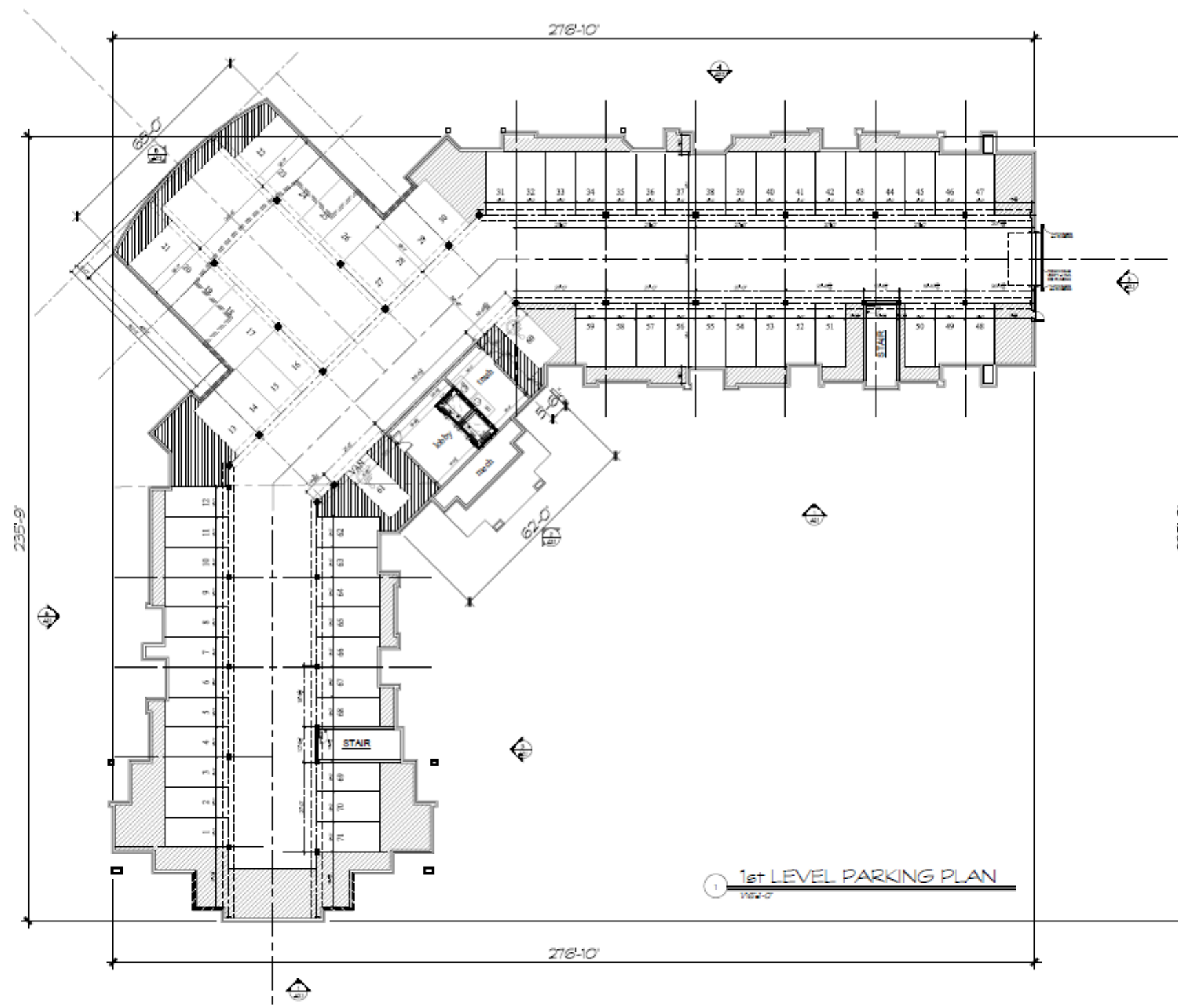
THE CONSERVATOR

- 71 Residences
 - 28 one-bedroom
 - 43 two-bedroom
- 144 parking stalls
 - 71 garage spaces
 - 73 surface
 - Ratio 2.03 : 1

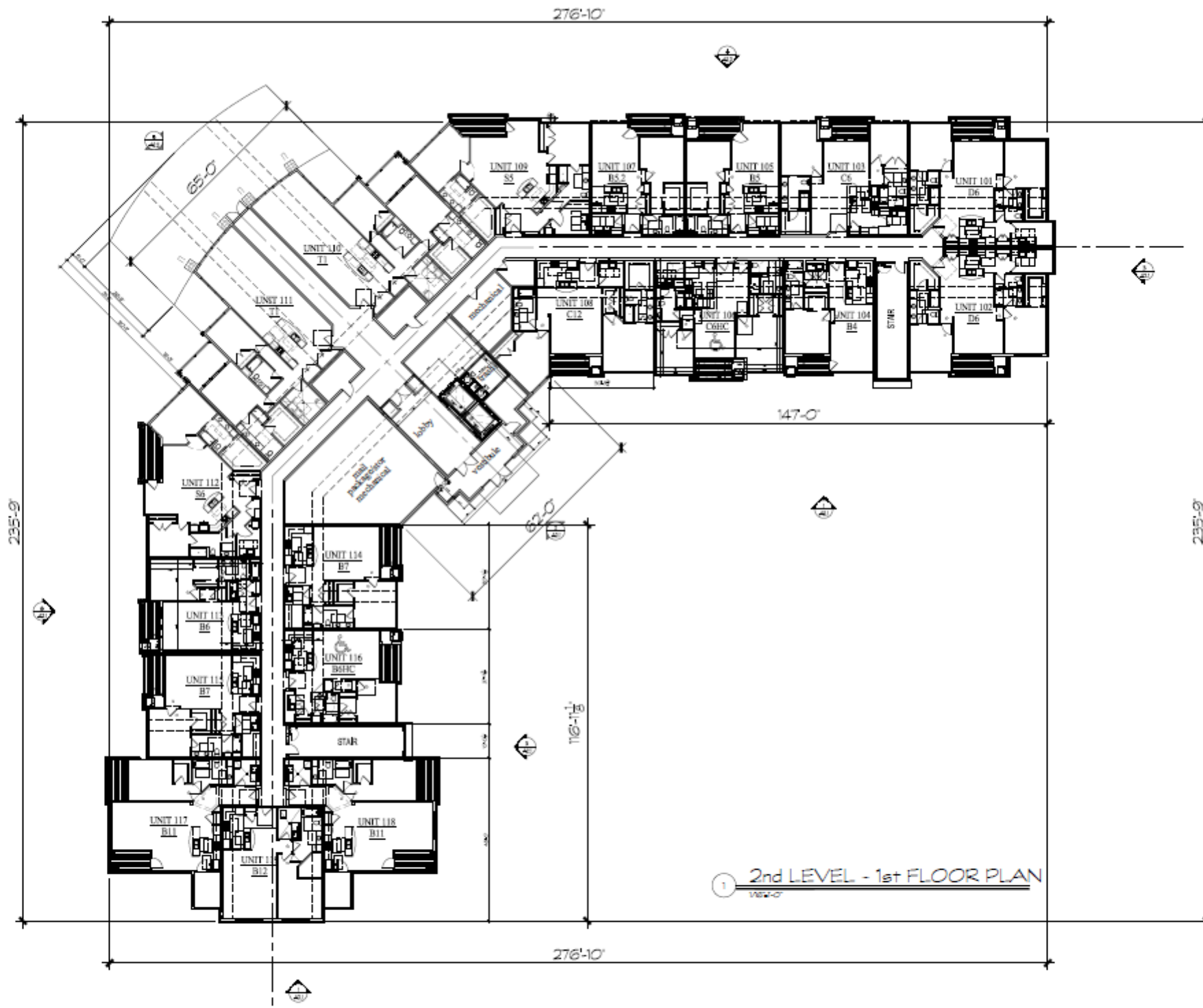


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 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-409-2530	Building #1 The Conservator		TDI ASSOCIATES, INC. All Rights Reserved	Sheet Title 1st Level Parking Plan	Issued For: _____ Date: 1/9/2025
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					Drawn By: dj
					Sheet No. A1.0
					PRELIMINARY DRAWING NOT FOR CONSTRUCTION



① 2nd LEVEL - 1st FLOOR PLAN
116'-0"



Building #1
The Conservator

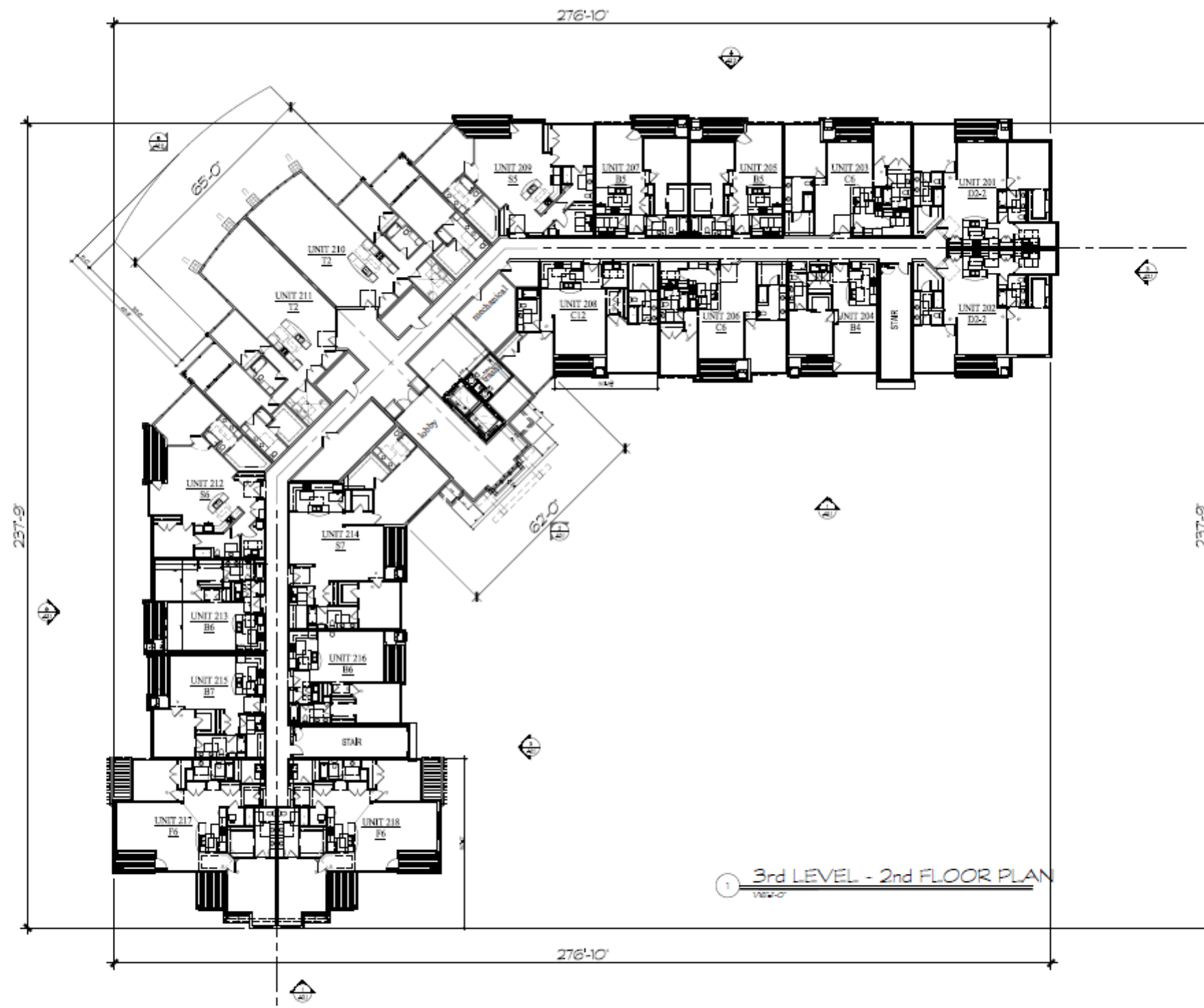
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Sheet Title
2nd Level
1st Floor Plan

Issued For:	Date:	Date:	1/3/2025
	Job NO.:		25101.001
	Drawn By:		dj
	Sheet No.:		A1.1

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Building #1 The Conservator

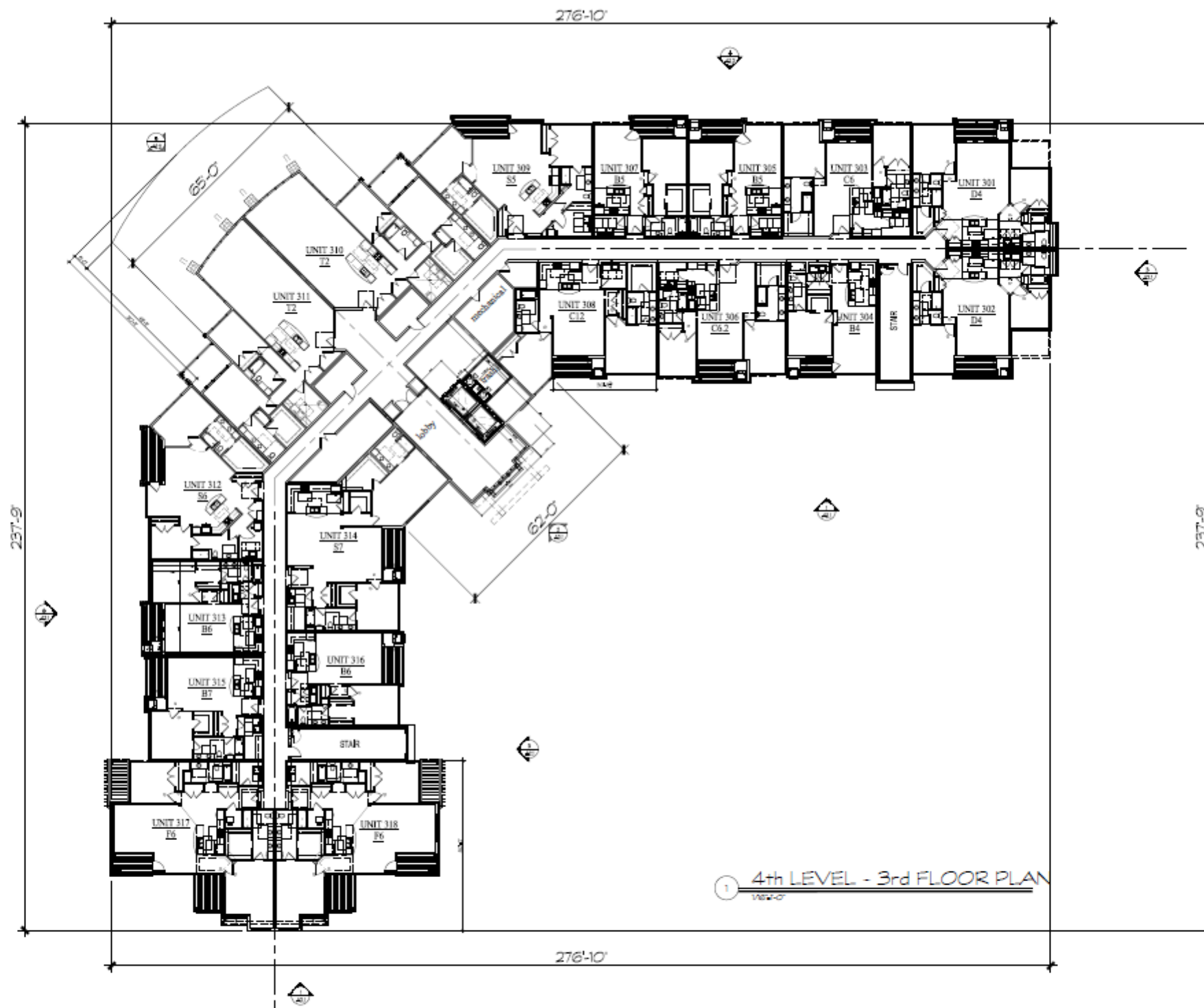
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Sheet Title
3rd Level
2nd Floor Plan

Issued For:	Date:	Date:	1/3/2025
	Job NO.:		25101.001
	Drawn By:		daj
	Sheet No.:		A1.2

PRELIMINARY DRAWING
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Building #1
The Conservator

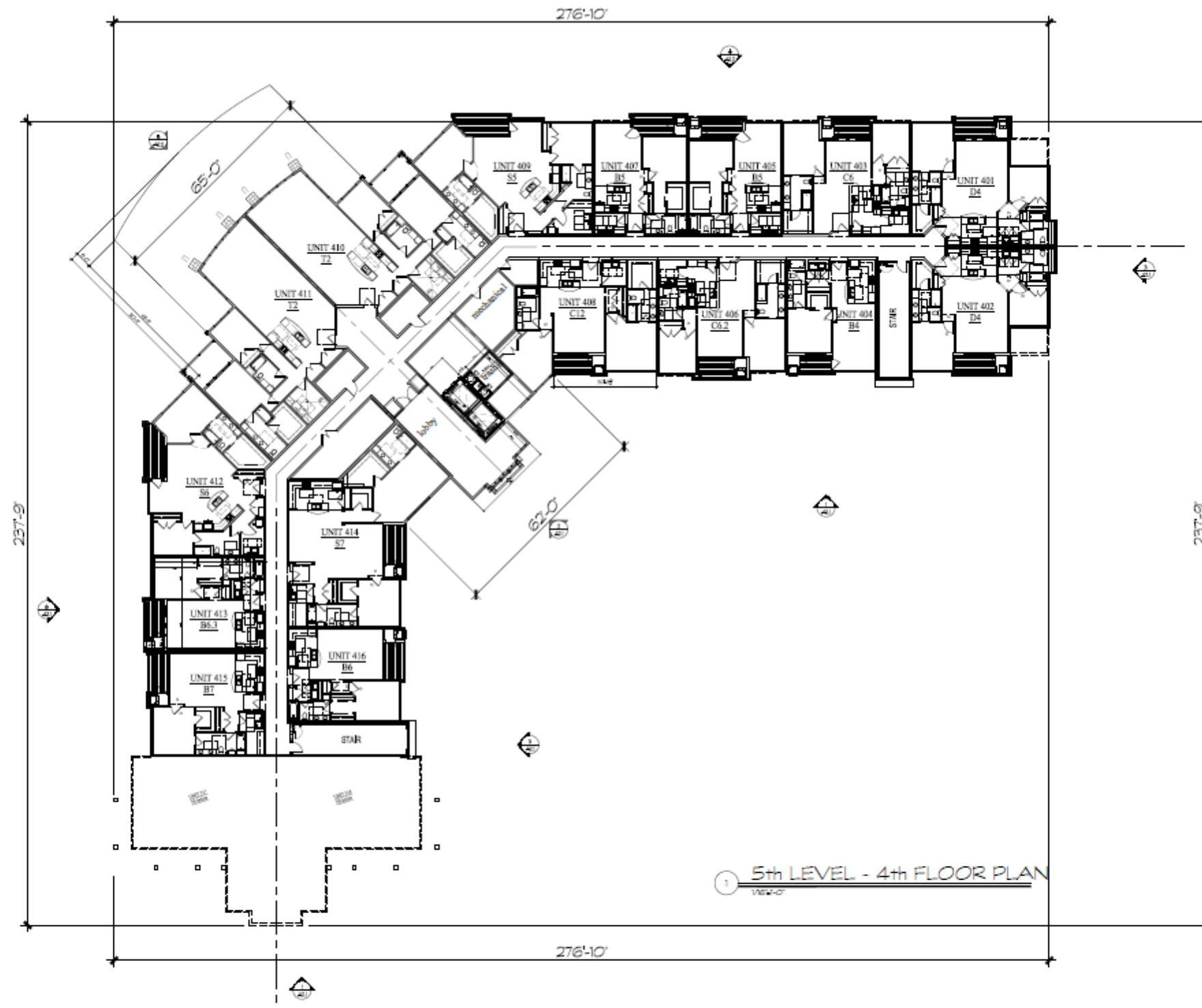
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Sheet Title
4th Level
3rd Floor Plan

Issued For:	Date:	Date:	1/3/2025
	Job NO.:		25101.001
	Drawn By:		daj
	Sheet No.		A1.3

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**Building #1
The Conservator**

50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
NEW BERLIN, WISCONSIN

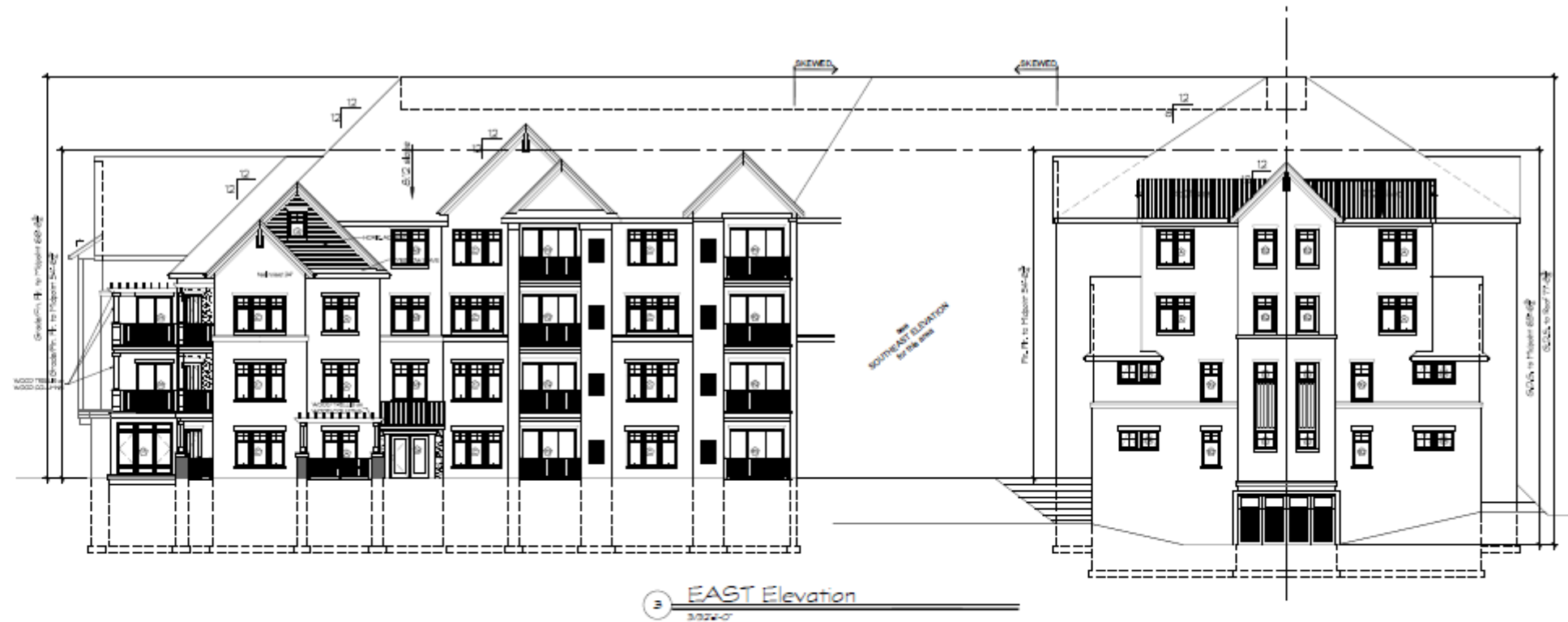
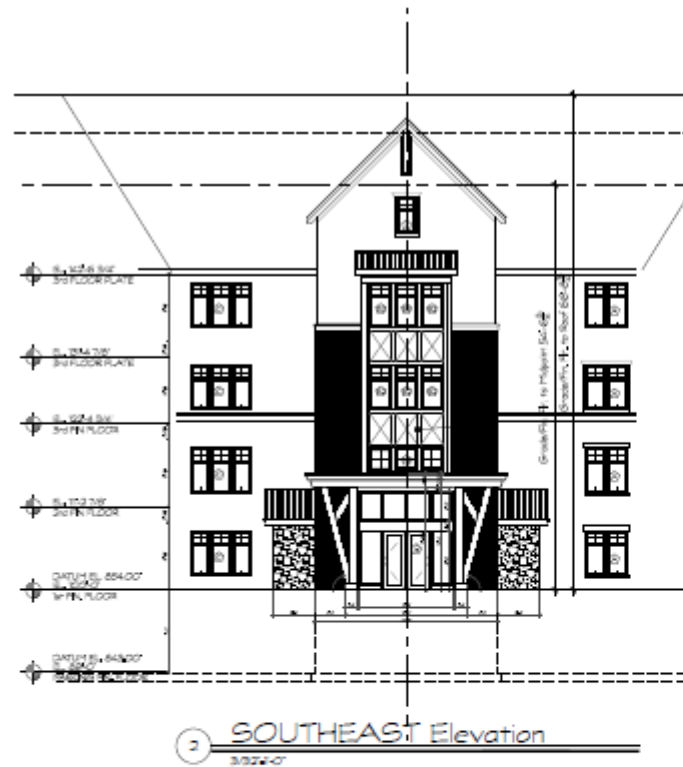
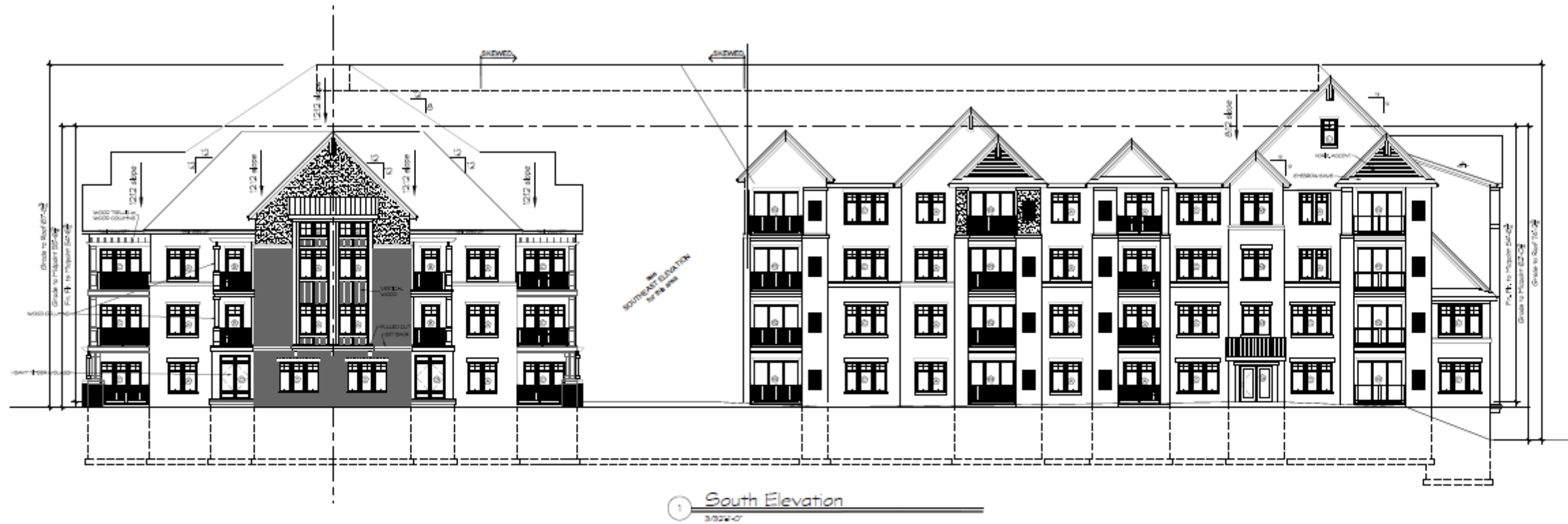
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Sheet Title
5th Level
4th Floor Plan

Issued For: _____ Date: _____
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NOT FOR CONSTRUCTION

Date: 1/3/2025
Job NO.: 25101.001
Drawn By: djl
Sheet No.:

A1.4



 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-489-2530	Building #1 The Conservator		TDI ASSOCIATES, INC. All Rights Reserved OWNERSHIP OF DOCUMENTS This document, and the ideas and design incorporated herein, as an instrument of professional service, is the sole property of TDI Associates, Inc., and is not to be used in whole or in part for any other project or purpose without the expressed written authorization of TDI Associates, Inc.		Sheet Title Exterior Elevations	Issued For: _____ Date: _____	Date: 1/3/2025 Job NO.: 25101.001 Drawn By: dj Sheet No. _____
	SO. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59") NEW BERLIN, WISCONSIN						

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

A2.1



 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-439-2530	Building #1 The Conservator		TDI ASSOCIATES, INC. All Rights Reserved OWNERSHIP OF DOCUMENTS This document, and the ideas and design incorporated herein, as an instrument of professional service, is the sole property of TDI Associates, Inc., and is not to be used in whole or in part for any other project or purpose without the expressed written authorization of TDI Associates, Inc.		Sheet Title Exterior Elevations	Issued For: Date: 1/3/2025
	50. Moorland Rd(CTH "D") & W. Greenfield Ave.(STH"59") NEW BERLIN, WISCONSIN		PRELIMINARY DRAWING NOT FOR CONSTRUCTION		Job NO.: 25101.001	
					Drawn By: daj	
					Sheet No. A2.2	

THE CONSERVANCY

MEADOWS RESIDENCES

- 32 Residences
 - 16 two-bedroom
 - 16 three-bedroom
- 75 parking stalls
 - 32 garage spaces
 - 43 surface
 - Ratio 2.34:1



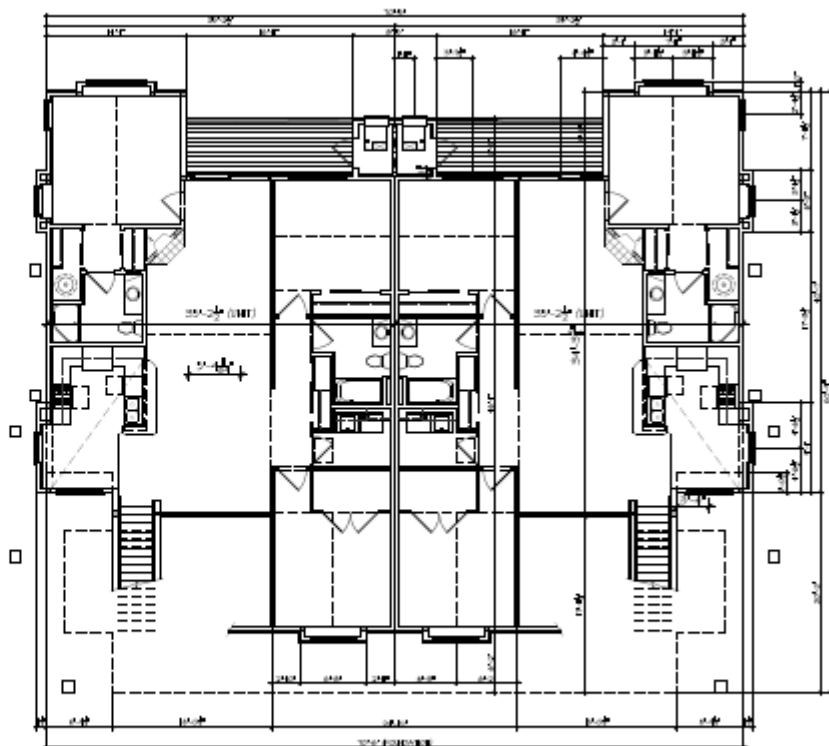
MEADOWS NORTH



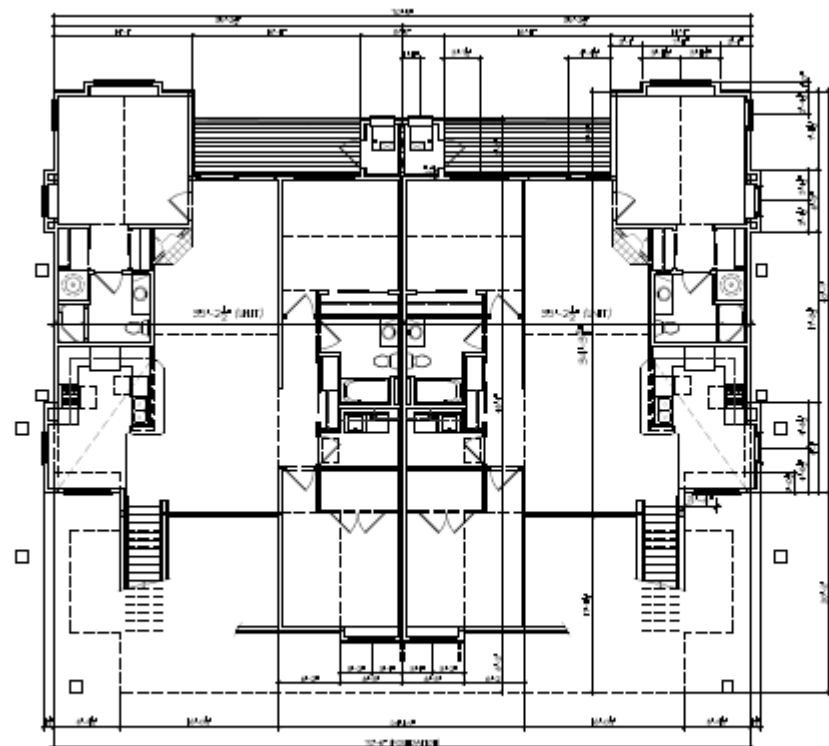
MEADOWS SOUTH



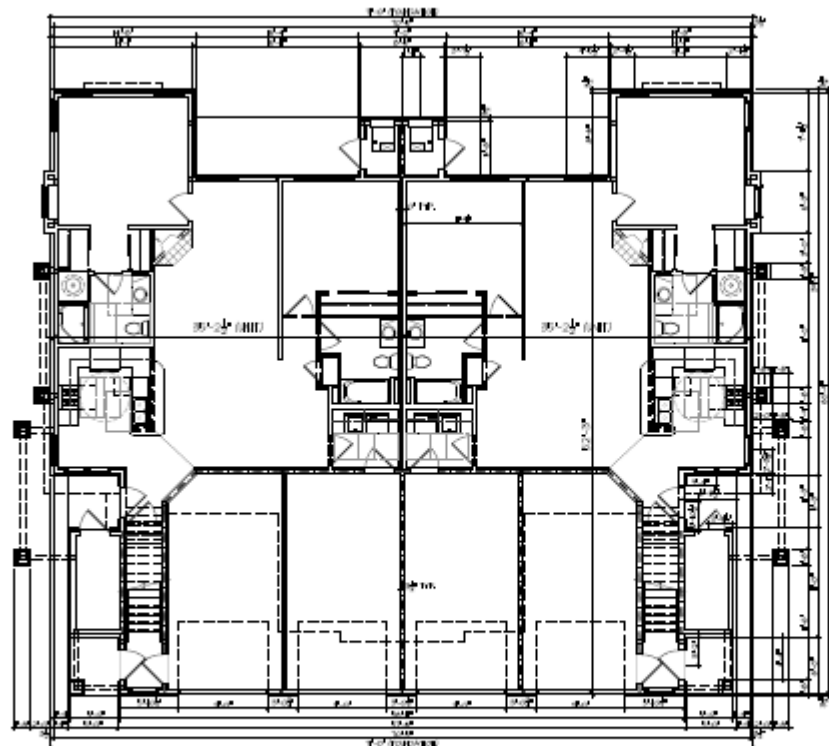
All Architectural Images For Character and Subject to Change



3 SECOND FLOOR PLAN-MODEL 'B'
1/8" = 1'-0"



2 SECOND FLOOR PLAN-MODEL 'A'
1/8" = 1'-0"



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



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING

98 W22350 JOHNSON DRIVE, SUITE B4
 WAUKESHA, WISCONSIN 53186
 PHONE 262-409-2530 FAX 262-409-2531

4-UNIT APARTMENT
@ The Conservancy

50 Moorland Rd(CTH 'D') & W. Greenfield Ave.(STH'54")
BROOKFIELD, WISCONSIN

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Sheet Title
Overall Floor
Plans & Notes

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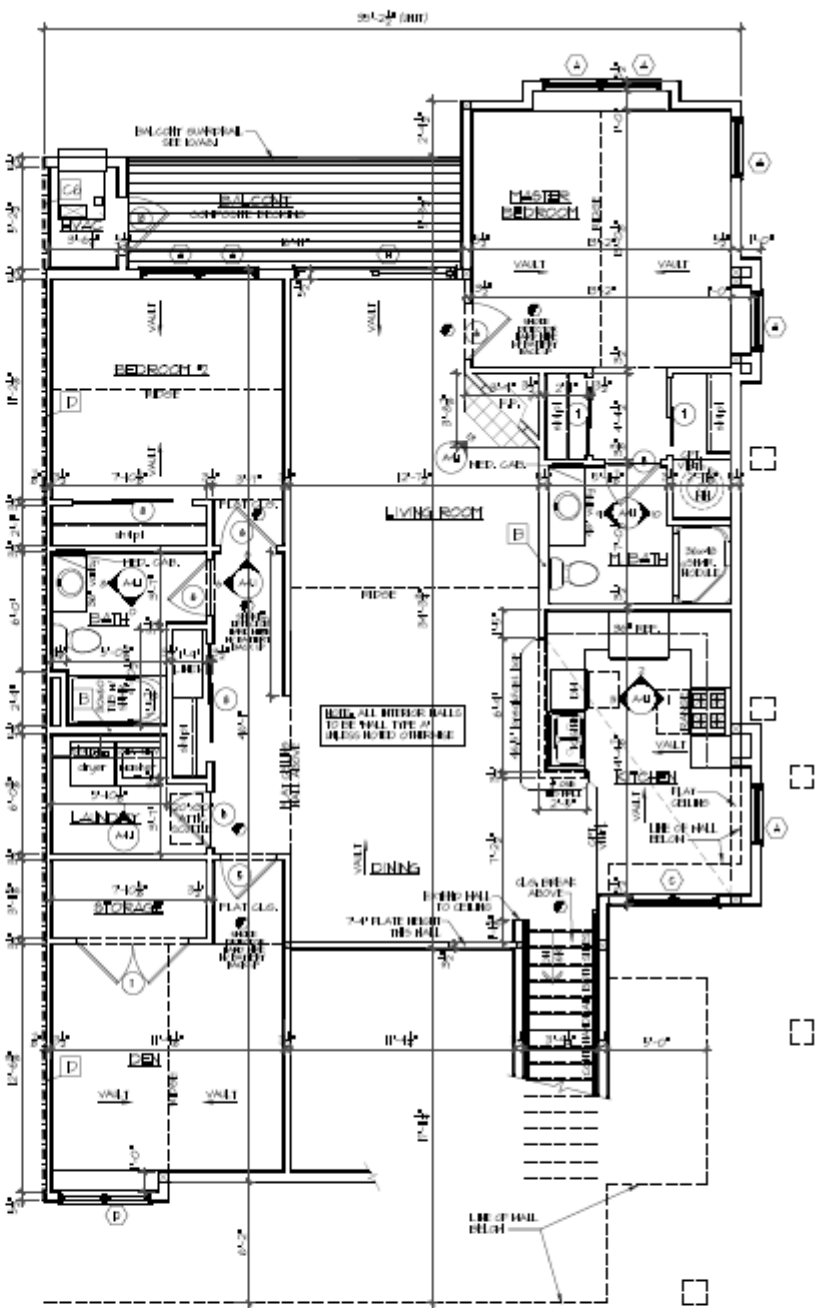
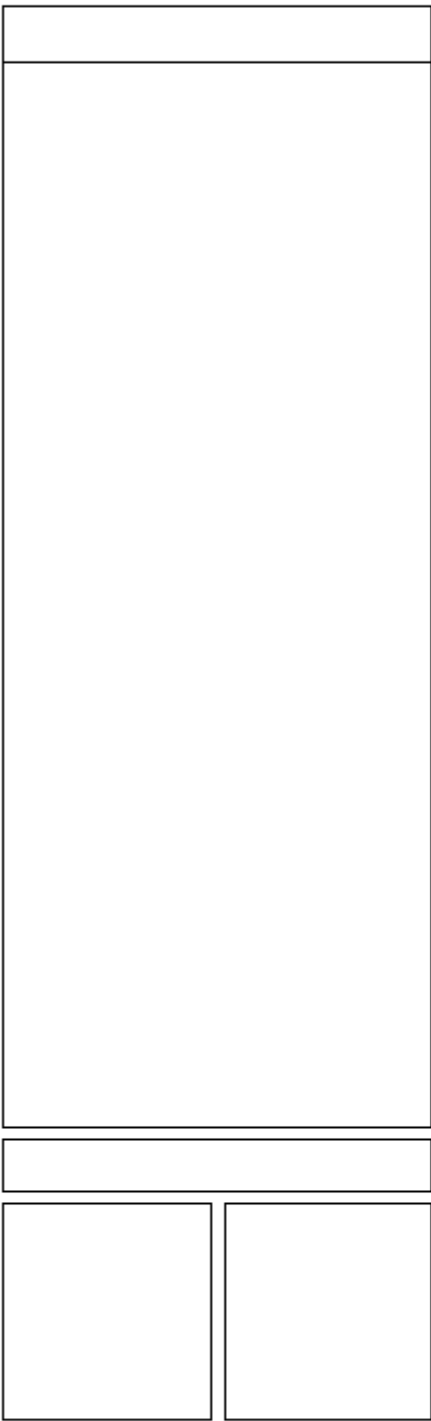
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Job NO.: 25101.008-.015

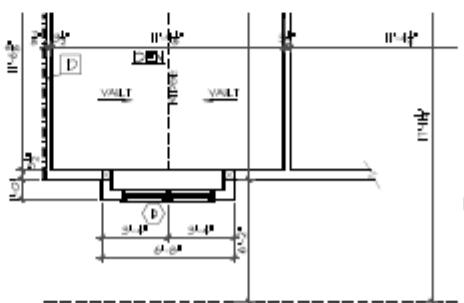
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Sheet No.

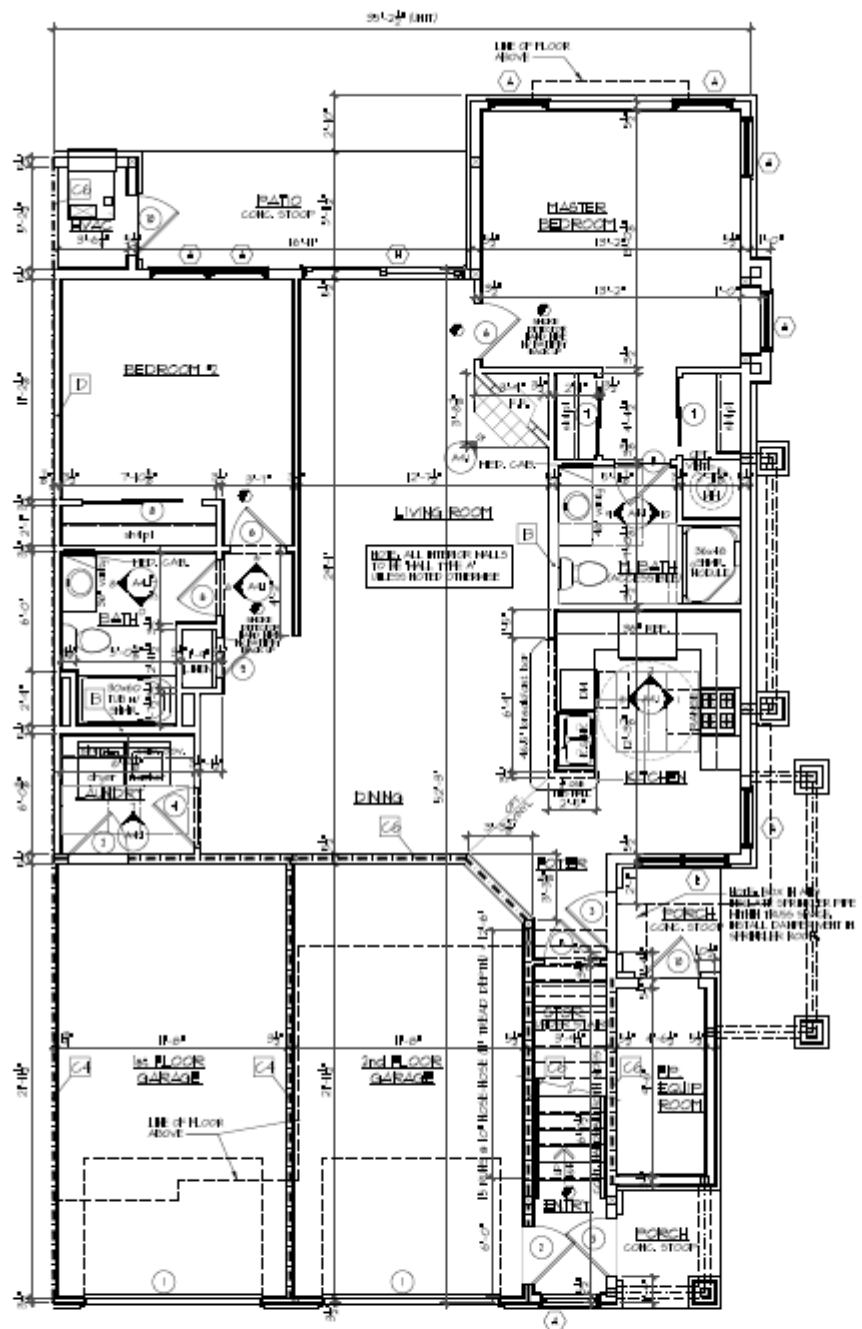
A1.1



2 SECOND FLOOR-MODEL 'A'
1/4" = 1'-0" NOTE: THIS UNIT NOT REQUIRED TO MEET ACCESSIBILITY REQUIREMENTS 1/24/08



3 SECOND FLOOR-MODEL 'B'
1/4" = 1'-0" NOTE: THIS UNIT NOT REQUIRED TO MEET ACCESSIBILITY REQUIREMENTS 1/24/08



1 FIRST FLOOR-END UNIT PLAN
1/4" = 1'-0" 1/24/08



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
78 W22350 JOHNSON DRIVE, SUITE 104
WALKERSHA, WISCONSIN 53185
PHONE 262-409-2530 FAX 262-409-2531

4-UNIT APARTMENT
@ The Conservancy
50 Moorland Rd (CTH 'D') & W. Greenfield Ave (STH '59')
BROOKFIELD, WISCONSIN

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Sheet Title
1/4" End Unit
Floor Plans

Issued For: _____ Date: _____

PRELIMINARY DRAWING

Date: 1/24/08

Job NO.: 25101.008-.015

Drawn By: da/j/rob

Sheet No.

A1.3



1a 4 UNIT - MODEL 'A' - ENTRY ELEVATION #1



3a 4 UNIT - MODEL 'A' - ENTRY ELEVATION #2



1b 4 UNIT - MODEL 'B' - ENTRY ELEVATION #1



3b 4 UNIT - MODEL 'B' - ENTRY ELEVATION #2



2a 4 UNIT - MODEL 'A' - MOTORCOURT ELEVATION



4a 4 UNIT - MODEL 'A' - REAR ELEVATION



2b 4 UNIT - MODEL 'B' - MOTORCOURT ELEVATION



4b 4 UNIT - MODEL 'B' - REAR ELEVATION

TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
88 W22250 JOHNSON DRIVE, SUITE B4
WALKESHA, WISCONSIN 53186
PHONE 262-409-2530 FAX 262-409-2531

**4-UNIT APARTMENT
@ The Conservancy**
50 Moorland Rd (CTH 'D') & W. Greenfield Ave. (STH '54')
BROOKFIELD, WISCONSIN

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Sheet Title
Exterior Elevations
Model 'A'

Issued For: _____ Date: _____
Date: 1/3/2018
Job No.: 25101.008-015
Drawn By: daj/rab
Sheet No. _____

PRELIMINARY DRAWING

A2.1

THE CONSERVANCY

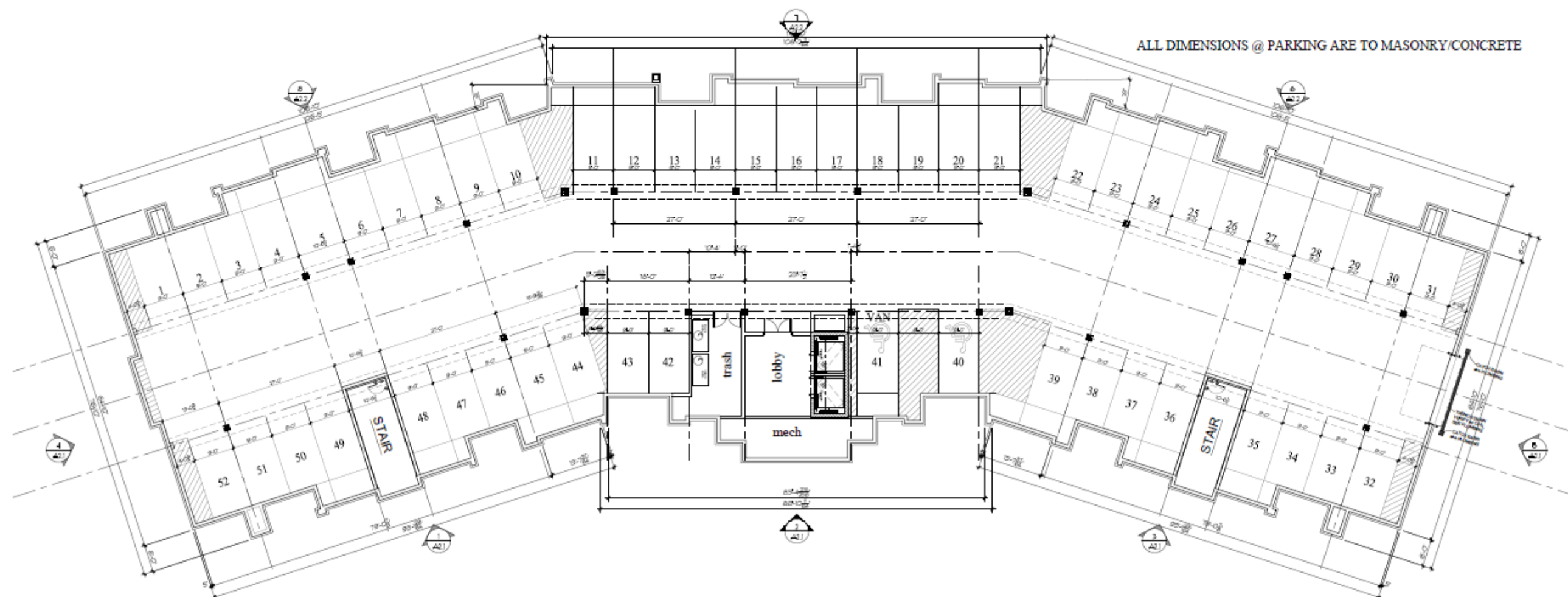
WOODLANDS RESIDENCES

- 226 Residences
 - 114 one-bedroom
 - 112 two-bedroom
- 431 parking stalls
 - 230 underground
 - 201 surface
- Ratio 1.91 : 1



All Architectural Images For Character and Subject to Change





1 PARKING FLOOR PLAN
3/22/25



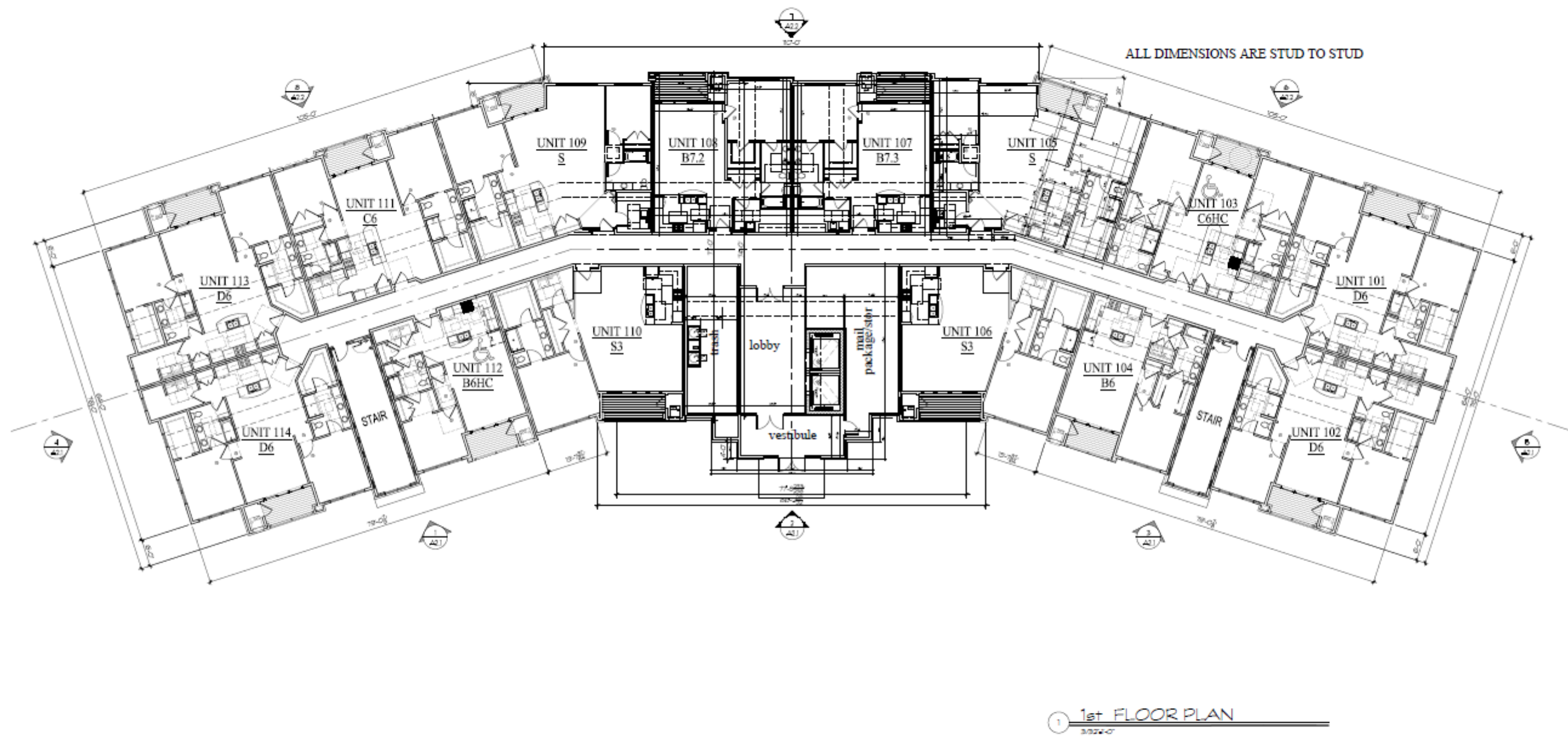
Building #4
Woodlands @ The Conservancy

50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59")
NEW BERLIN, WISCONSIN

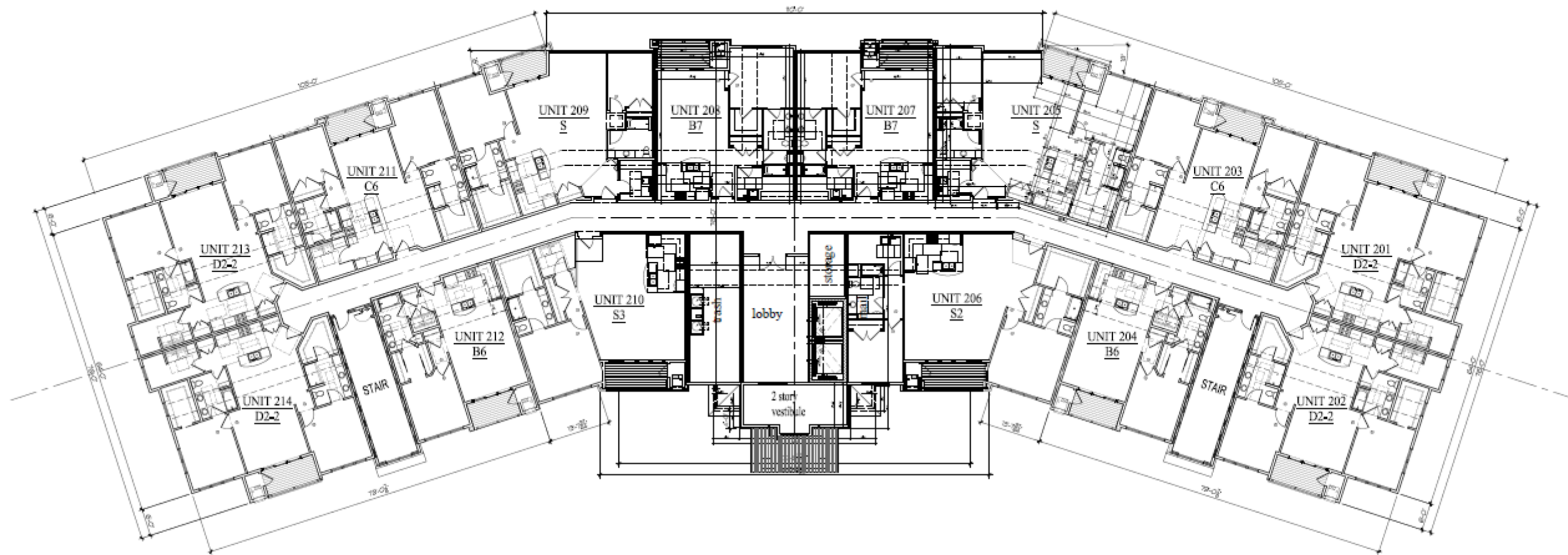
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Sheet Title
Parking Floor Plan

Issued For: _____ Date: _____
Job NO.: 25101.004
Drawn By: daj
Sheet No. A1.0
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-409-2530	Building #4 Woodlands @ The Conservancy 50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59") NEW BERLIN, WISCONSIN	TDI ASSOCIATES, INC. All Rights Reserved OWNERSHIP OF DOCUMENTS This document, and the ideas and design incorporated herein, as an instrument of professional service, is the sole property of TDI Associates, Inc., and is not to be used in whole or in part for any other project or purpose without the expressed written authorization of TDI Associates, Inc.	Sheet Title 1st Floor Plan	Issued For: _____ Date: _____ PRELIMINARY DRAWING NOT FOR CONSTRUCTION	Date: 1/2/2025 Job NO.: 25101.004 Drawn By: daj Sheet No.: A1.1
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1 2nd FLOOR PLAN
3/22/20



Building #4
Woodlands @ The Conservancy

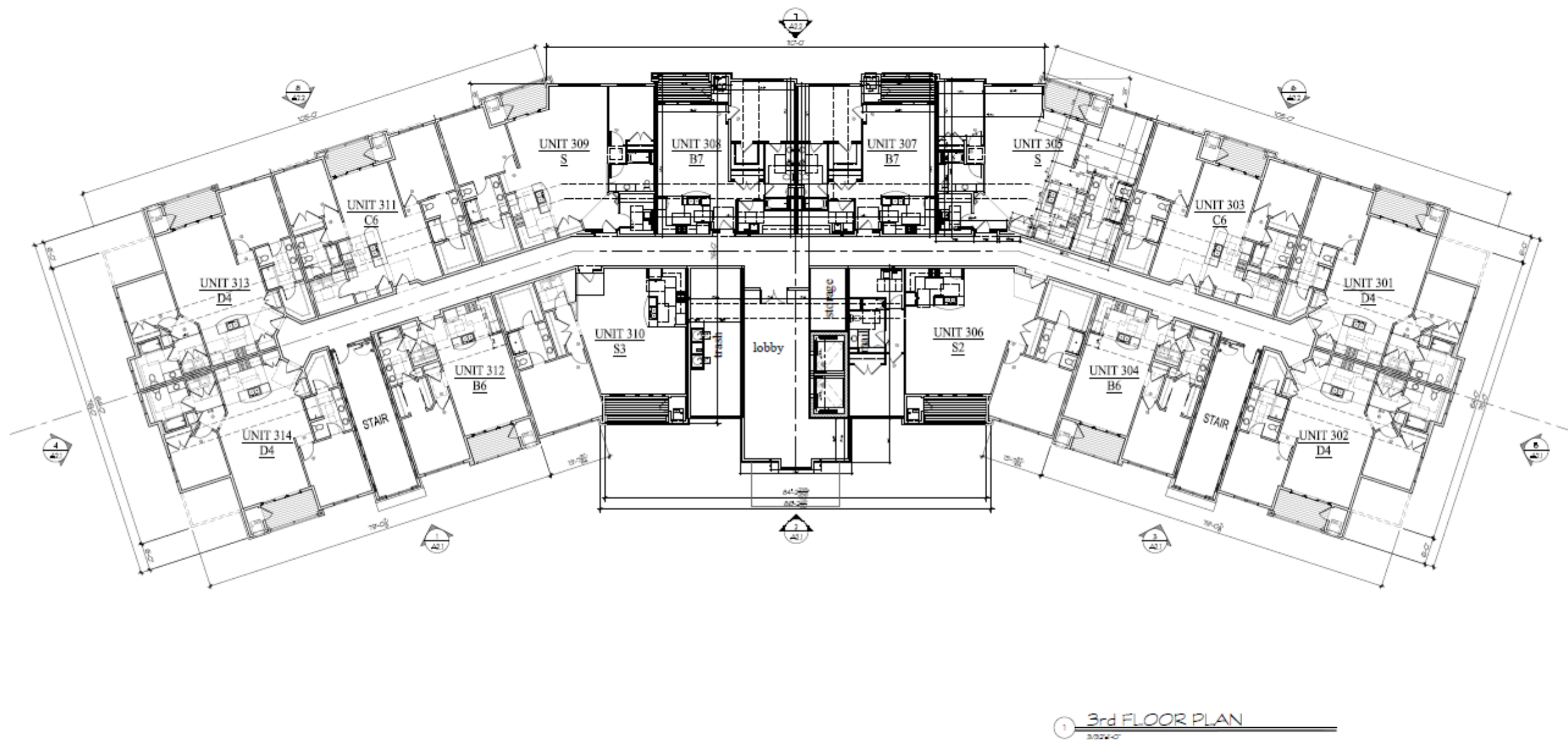
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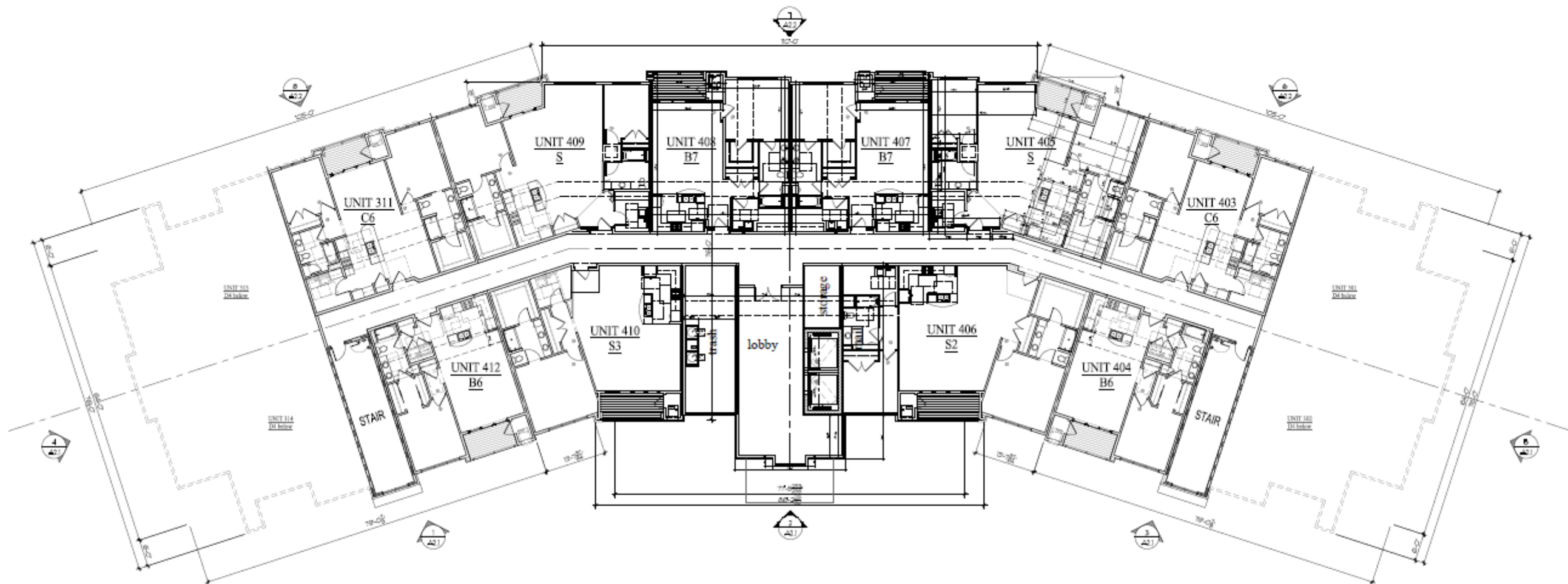
Sheet Title
2nd Floor Plan

Issued For:	Date:	Date:	1/2/2025
		Job NO.:	25101.004
		Drawn By:	dj
		Sheet No.:	A1.2

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-409-2530	Building #4 Woodlands @ The Conservancy 50. Moorland Rd(CTH "O") & W. Greenfield Ave.(STH"59") NEW BERLIN, WISCONSIN	TDI ASSOCIATES, INC. All Rights Reserved OWNERSHIP OF DOCUMENTS This document, and the ideas and designs incorporated herein, as an instrument of professional service, is the sole property of TDI Associates, Inc., and is not to be used in whole or in part for any other project or purpose without the expressed written authorization of TDI Associates, Inc.	Sheet Title 3rd Floor Plan	Issued For: _____ Date: _____ PRELIMINARY DRAWING NOT FOR CONSTRUCTION	Date: 1/2/2025 Job NO: 25101.004 Drawn By: djg Sheet No. A1.3
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1 4th FLOOR PLAN
3.024'-0"



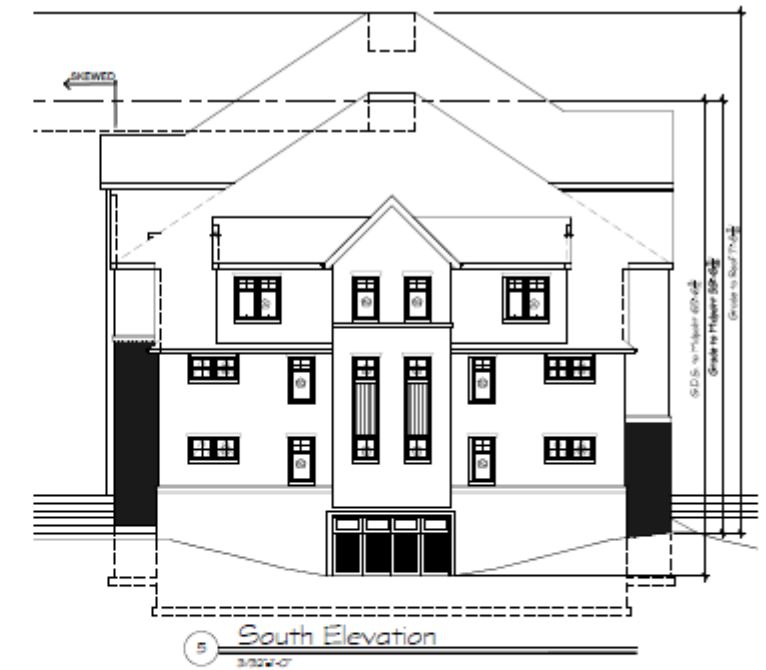
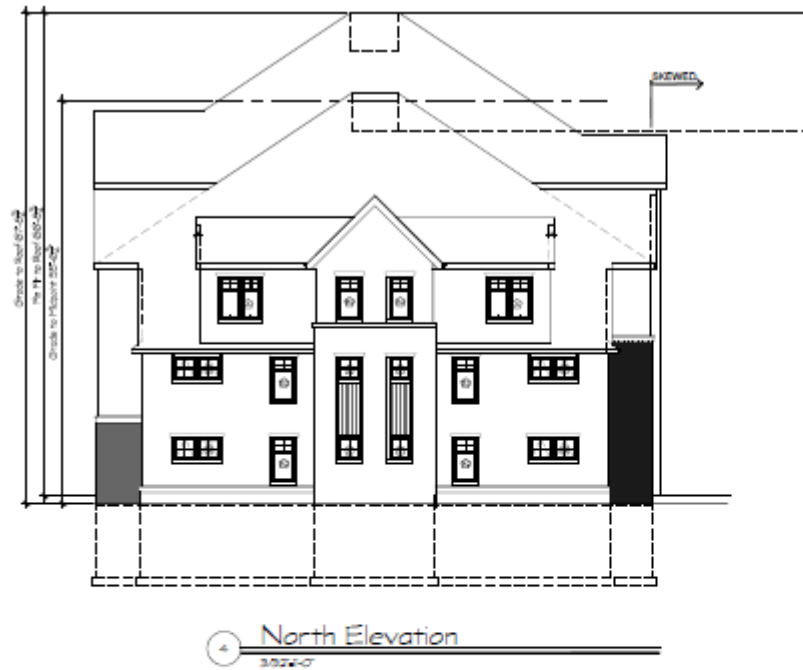
Building #4
Woodlands @ The Conservancy

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Sheet Title
4th Floor Plan

Issued For: _____ Date: 1/2/2025
Job NO: 25101.004
Drawn By: dij
Sheet No. A1.4
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-499-2530	Building #4 Woodlands @ The Conservancy 50. Moorland Rd(CTH 'D') & W. Greenfield Ave.(STH'59") NEW BERLIN, WISCONSIN		TDI ASSOCIATES, INC. All Rights Reserved OWNERSHIP OF DOCUMENTS This document, and the ideas and designs incorporated herein, as an instrument of professional service, is the sole property of TDI Associates, Inc., and is not to be used in whole or in part for any other project or purpose without the expressed written authorization of TDI Associates, Inc.	Sheet Title Exterior Elevations	Issued For: _____ Date: 1/2/2025 Job NO.: 25101.004 Drawn By: dgj Sheet No. A2.1
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Building #4
Woodlands @ The Conservancy

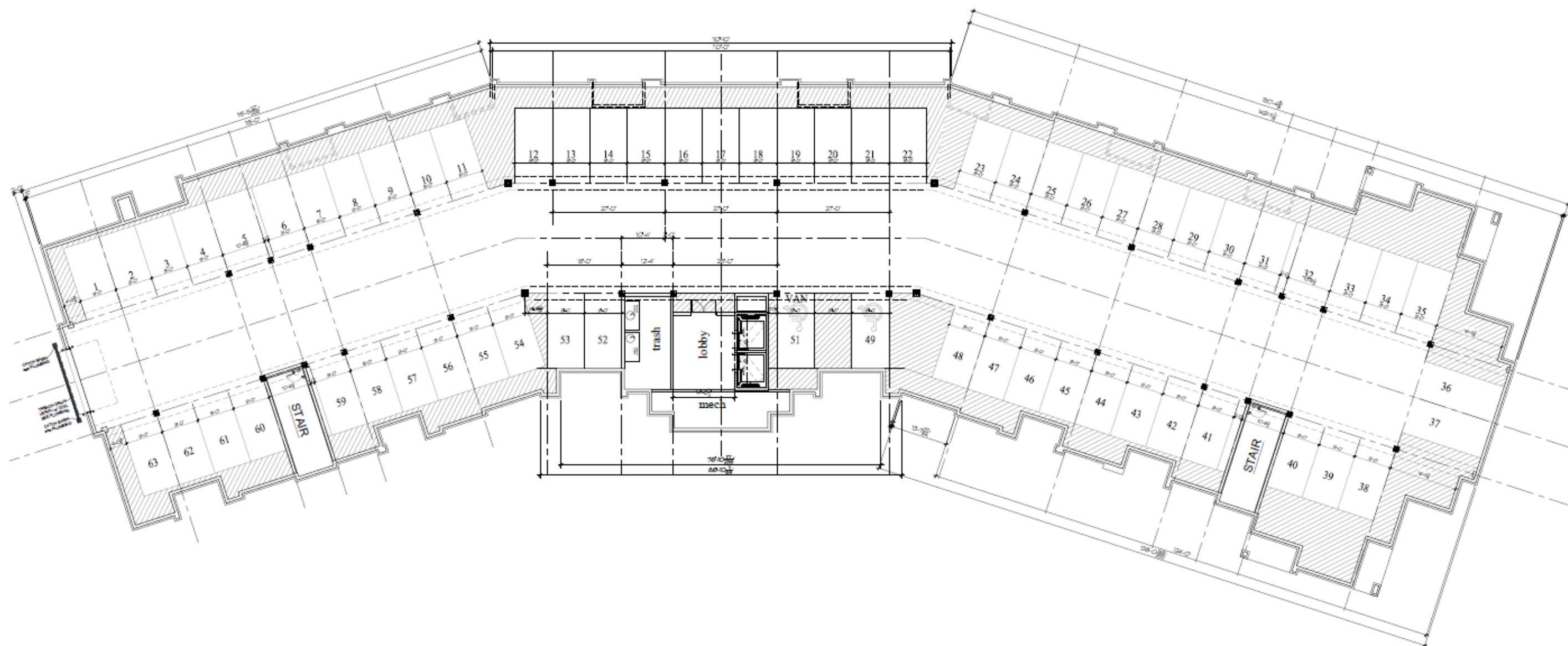
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Sheet Title
Exterior Elevations

Issued For: _____ Date: _____
PRELIMINARY DRAWING
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Date: 1/2/2025
Job NO.: 25101.004
Drawn By: dj
Sheet No.: A2.2



1 PARKING FLOOR PLAN
3/12/24-07



Building #5
Woodlands @ The Conservancy

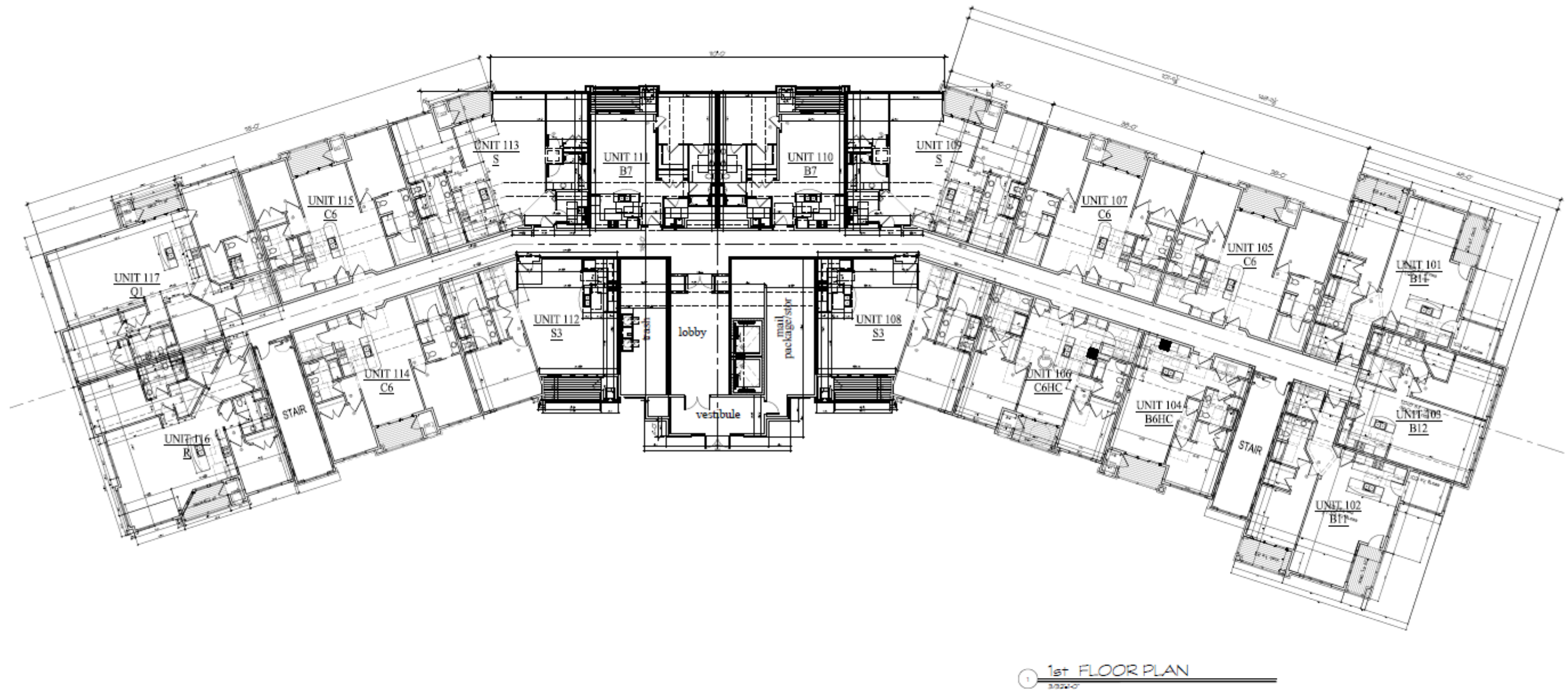
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Sheet Title
Parking Floor Plan

Issued For: _____ Date: _____
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Date: 1/3/2025
Job NO.: 25101.005
Drawn By: djg
Sheet No.: A1.0



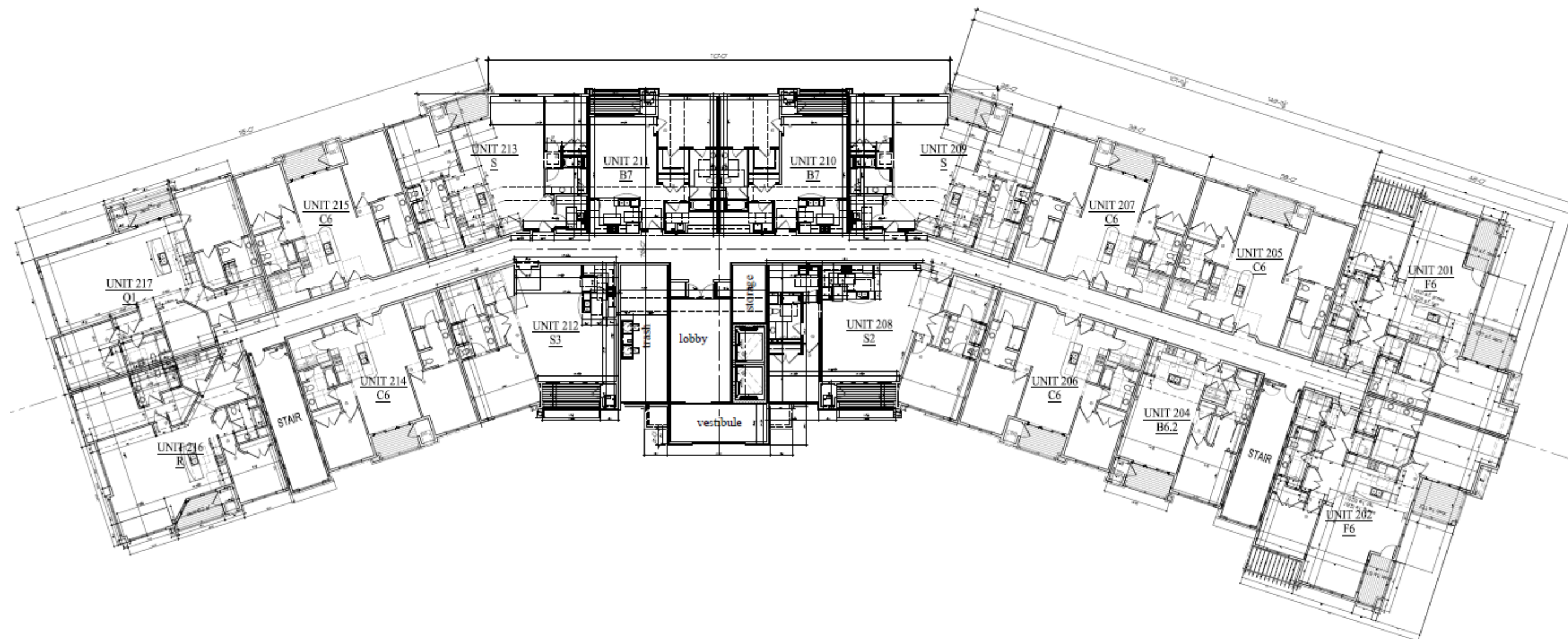
Building #5
Woodlands @ The Conservancy

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Sheet Title
1st Floor Plan

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Job NO.: 25101.005
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Sheet No. A1.1
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1 2nd FLOOR PLAN



Building #5
Woodlands @ The Conservancy

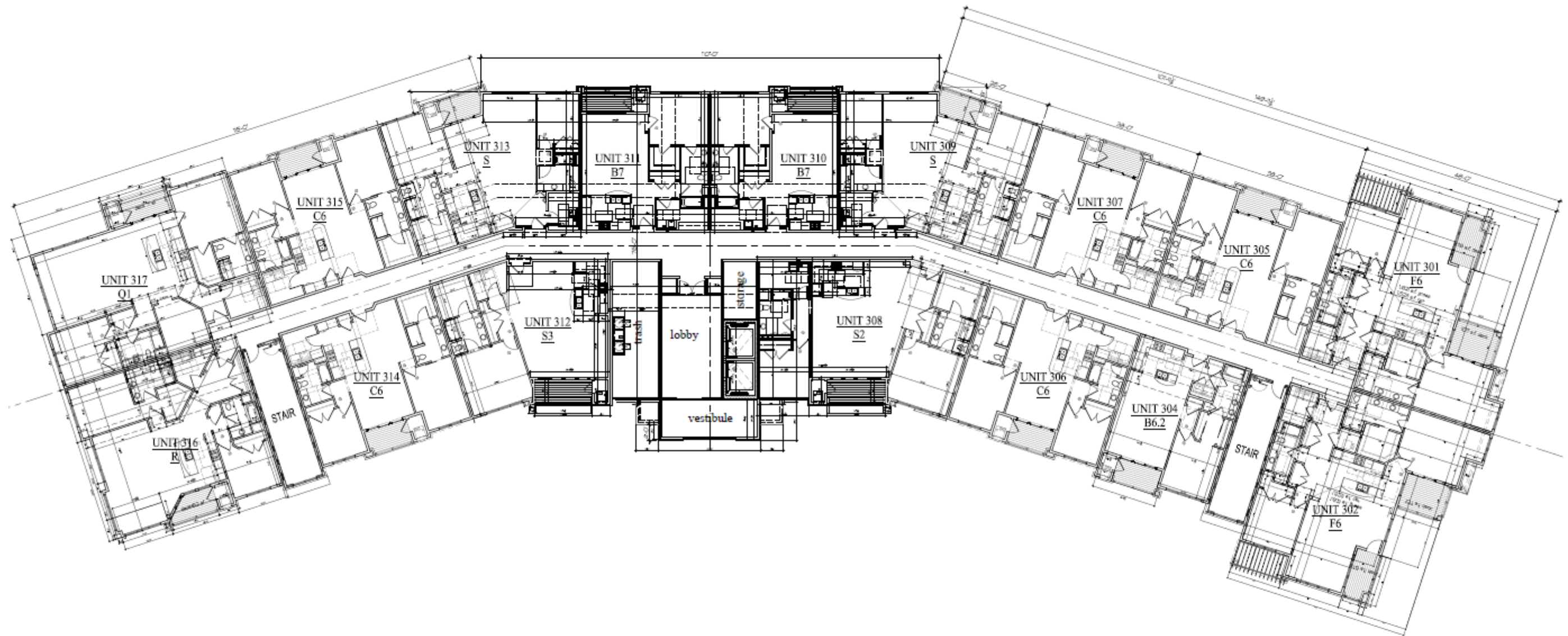
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Sheet Title
2nd Floor Plan

Issued For: Date:
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Date: 1/3/2025
Job NO: 25101.005
Drawn By: daj
Sheet No:
A1.2



1 3rd FLOOR PLAN
3/22/25



Building #5
Woodlands @ The Conservancy

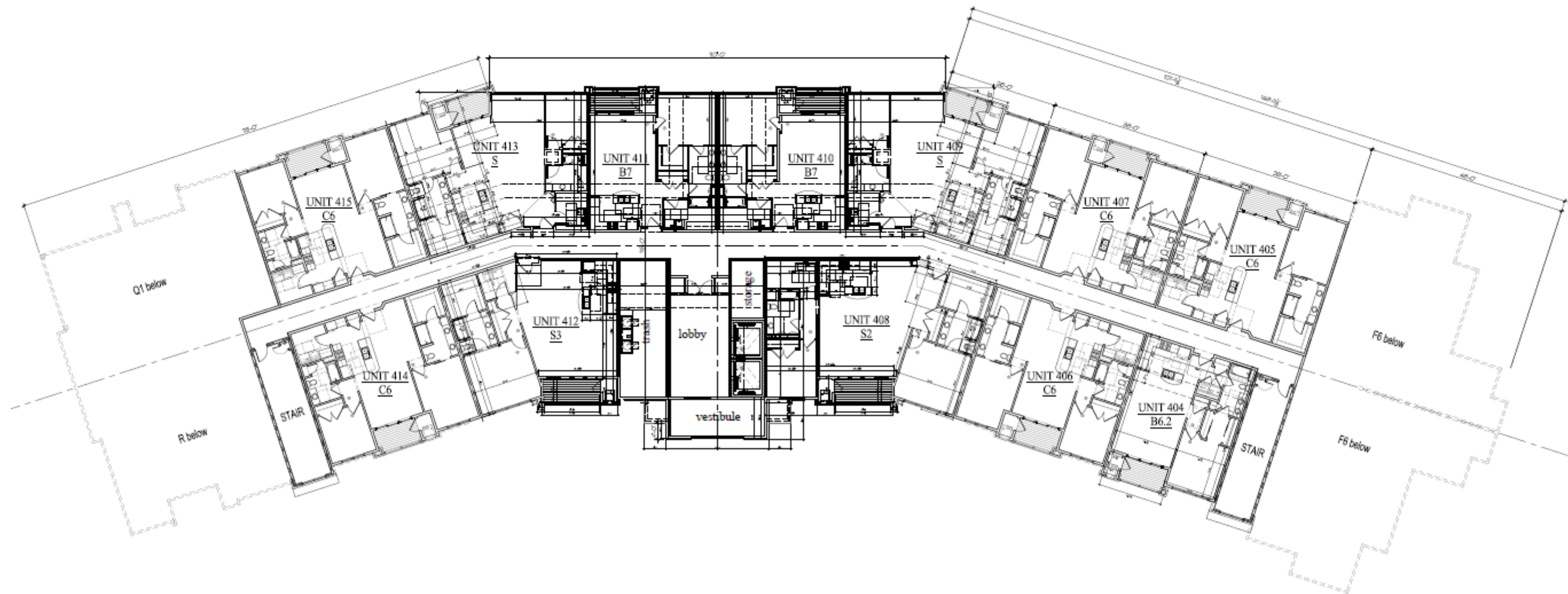
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Sheet Title
3rd Floor Plan

Issued For:	Date:	Date:	1/3/2025
	Job NO.:		25101.005
	Drawn By:		daj
	Sheet No.:		A1.3

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



1 4th FLOOR PLAN
3/32/24



Building #5
Woodlands @ The Conservancy

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Sheet Title
4th Floor Plan

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.005
		Drawn By:	djg
		Sheet No.:	A1.4

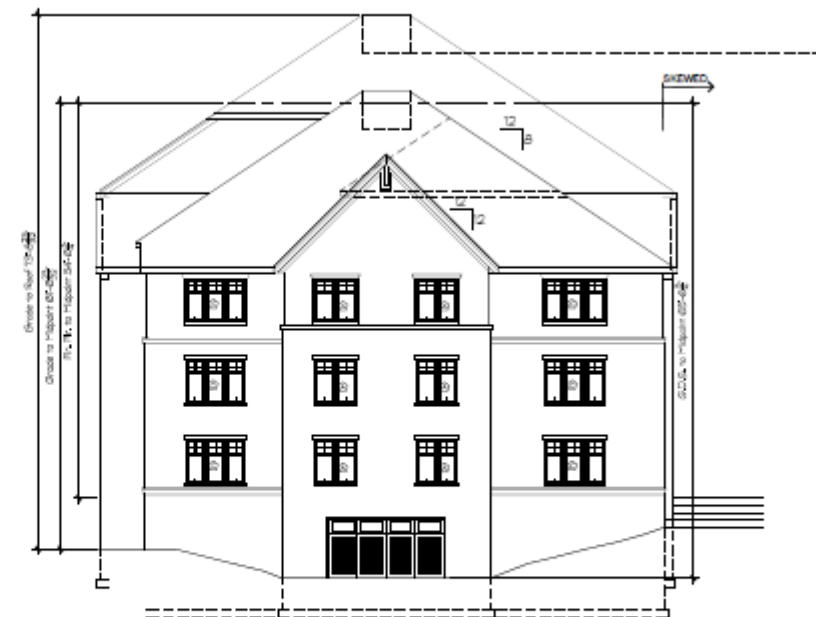
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



1 North West Elevation
3.024'-0"



2 West Elevation
3.024'-0"



4 North Elevation
3.024'-0"



3 South West Elevation
3.024'-0"



5 South Elevation
3.024'-0"



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-499-2530

Building #5
Woodlands @ The Conservancy

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Sheet Title
Exterior Elevations

Issued For: Date: 1/3/2025
Job NO: 25101.005
Drawn By: dgj
Sheet No: A2.1

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



6 South East Elevation
3/22/20



7 East Elevation
3/22/20



8 North East Elevation
3/22/20



Building #5
Woodlands @ The Conservancy

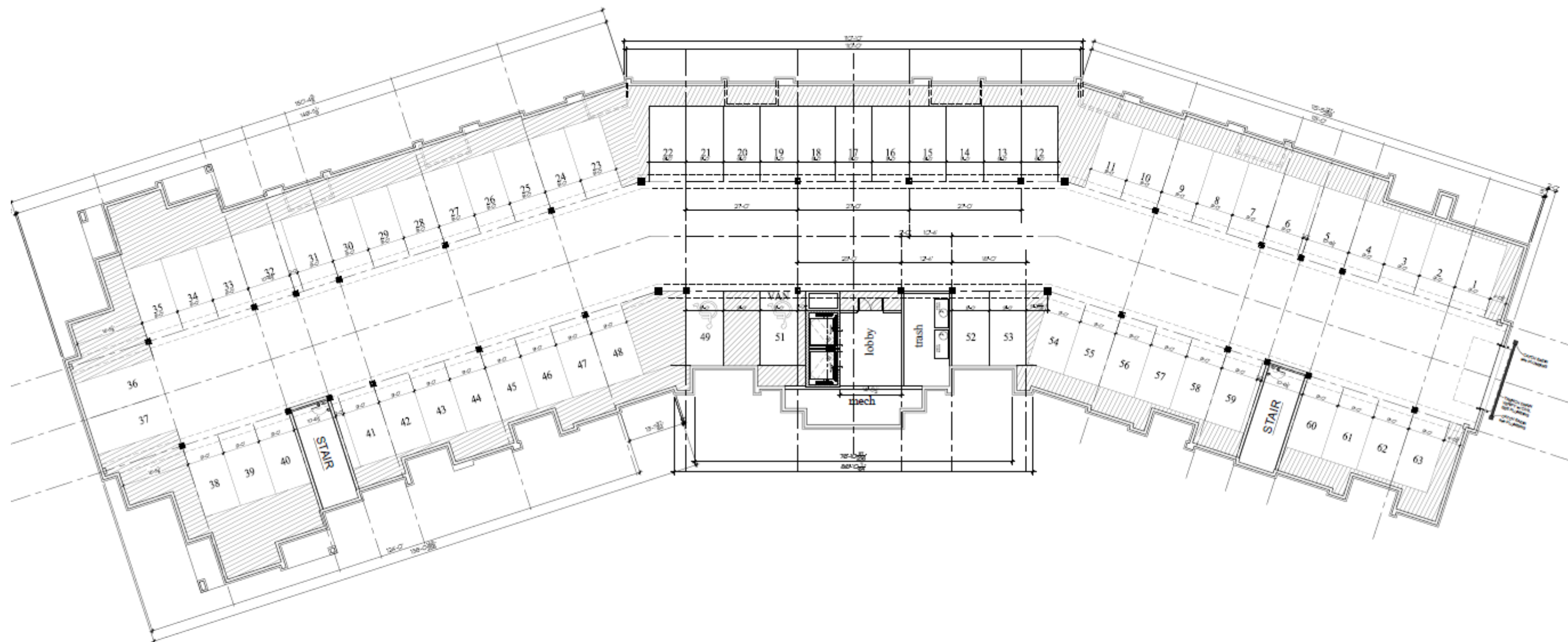
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Sheet Title
Exterior Elevations

Issued For: _____ Date: 1/3/2025
Job NO.: 25101.005
Drawn By: daj
Sheet No.
A2.2

**PRELIMINARY DRAWING
NOT FOR CONSTRUCTION**



1 PARKING FLOOR PLAN
3/3/24-0



TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING
25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-409-2530

Building #6
Woodlands @ The Conservancy

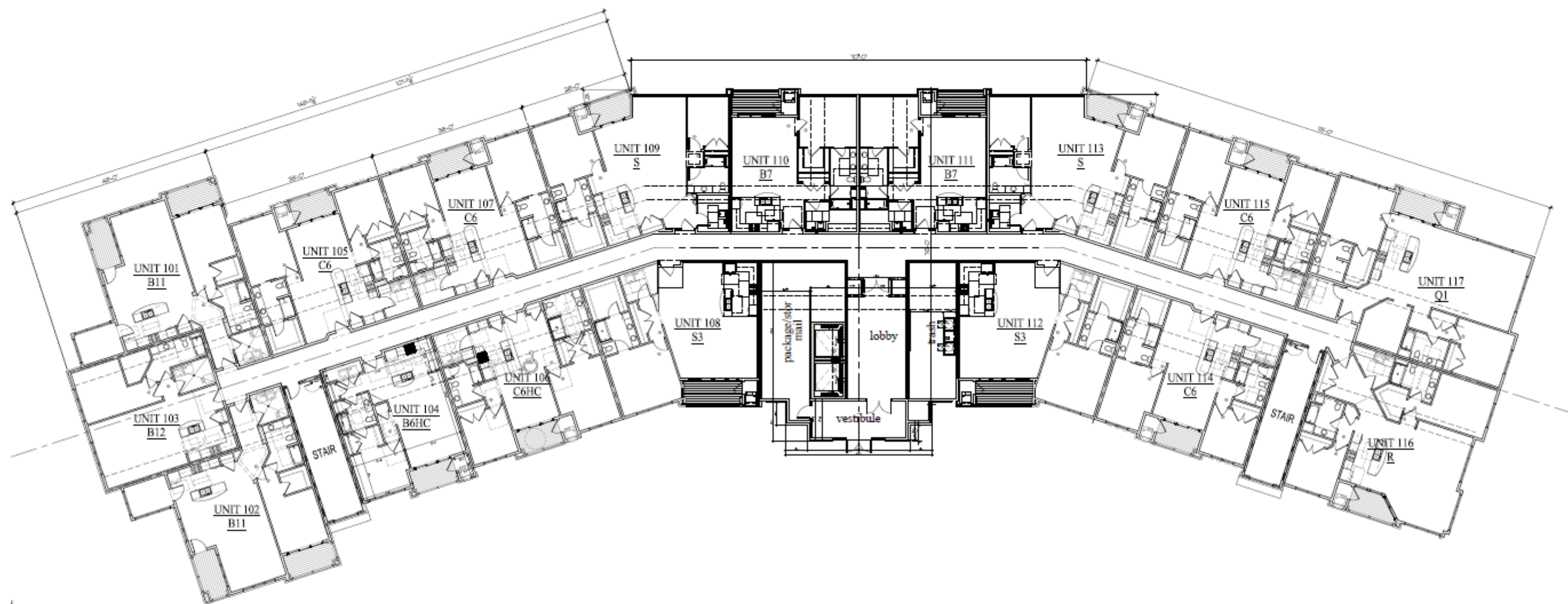
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Sheet Title
Parking Floor Plan

Issued For:	Date:	Date:	1/3/2025
	Job NO.:		25101.006
	Drawn By:		dg
	Sheet No.:		A1.0

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1 1st FLOOR PLAN
3/22/24



Building #6
Woodlands @ The Conservancy

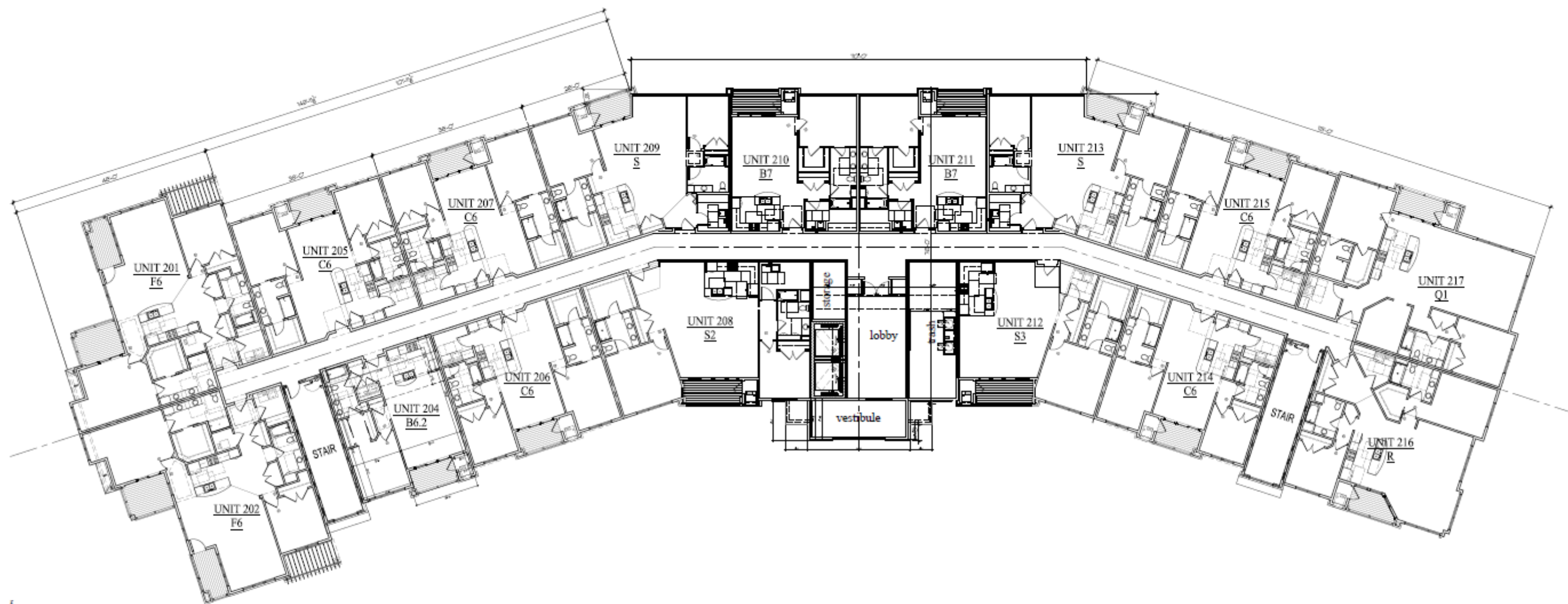
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Sheet Title
1st Floor Plan

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.006
		Drawn By:	dq
		Sheet No.:	A1.1

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① 2nd FLOOR PLAN
3/12/24'-0"



Building #6
Woodlands @ The Conservancy

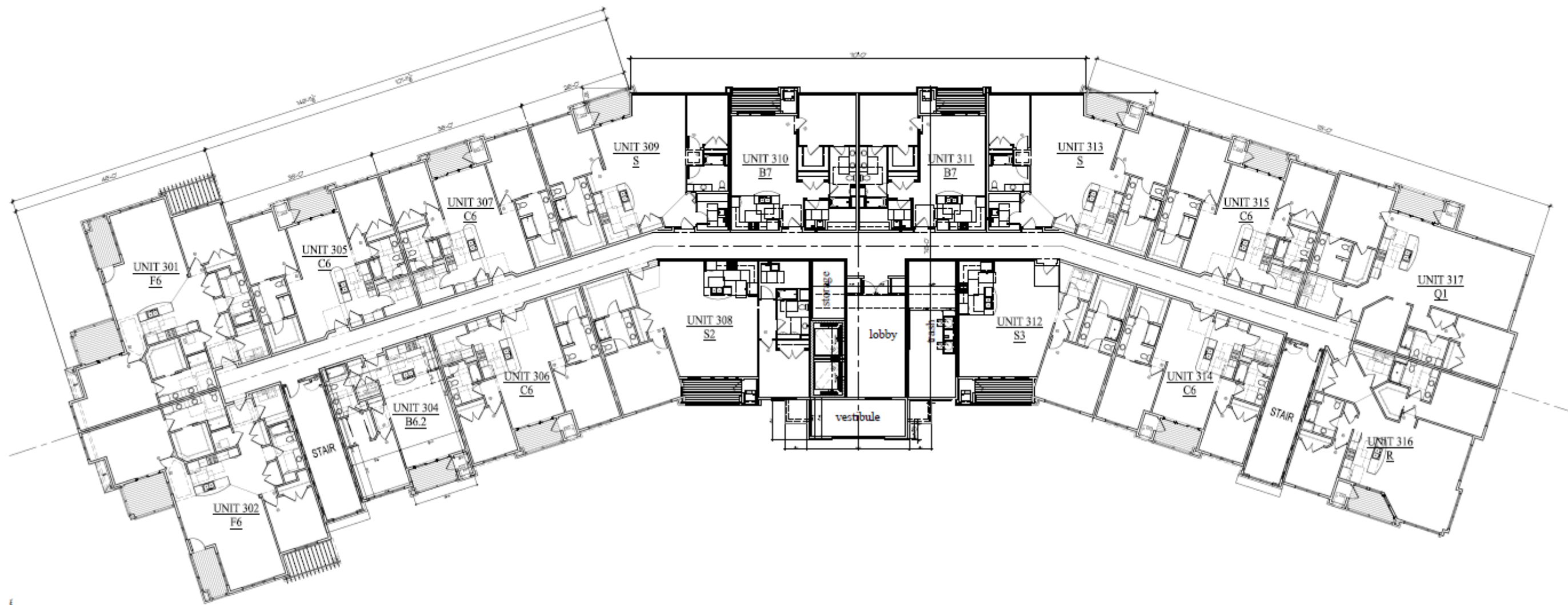
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Sheet Title
2nd Floor Plan

Issued For:	Date:	Date:	1/9/2025
		Job NO.:	25/01.006
		Drawn By:	djg
		Sheet No.:	A1.2

PRELIMINARY DRAWING
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① 3rd FLOOR PLAN
3/22/21



Building #6
Woodlands @ The Conservancy

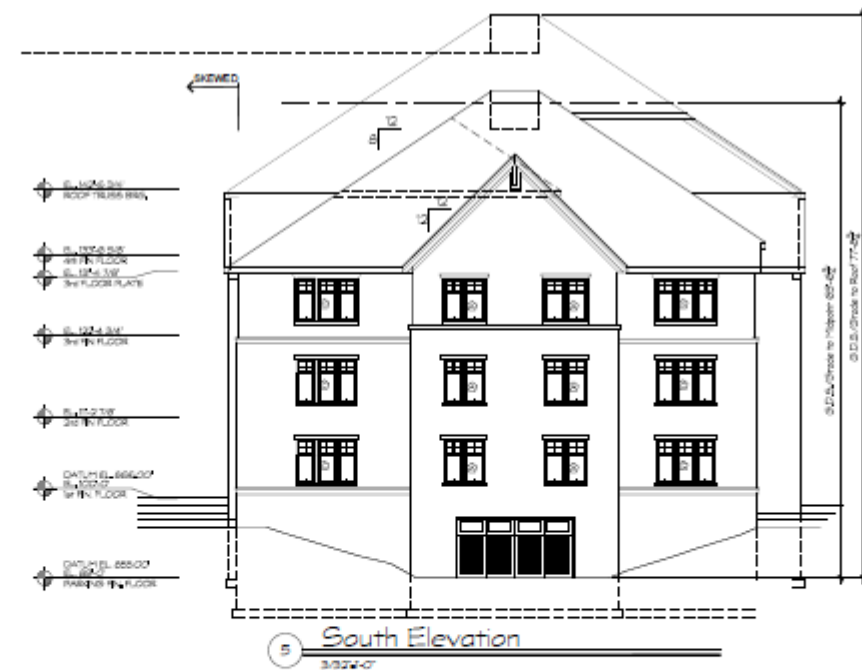
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Sheet Title
3rd Floor Plan

Issued For:	Date:	Date:	1/9/2025
		Job NO.:	25101.006
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		Sheet No.:	A1.3

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Building #6
Woodlands @ The Conservancy

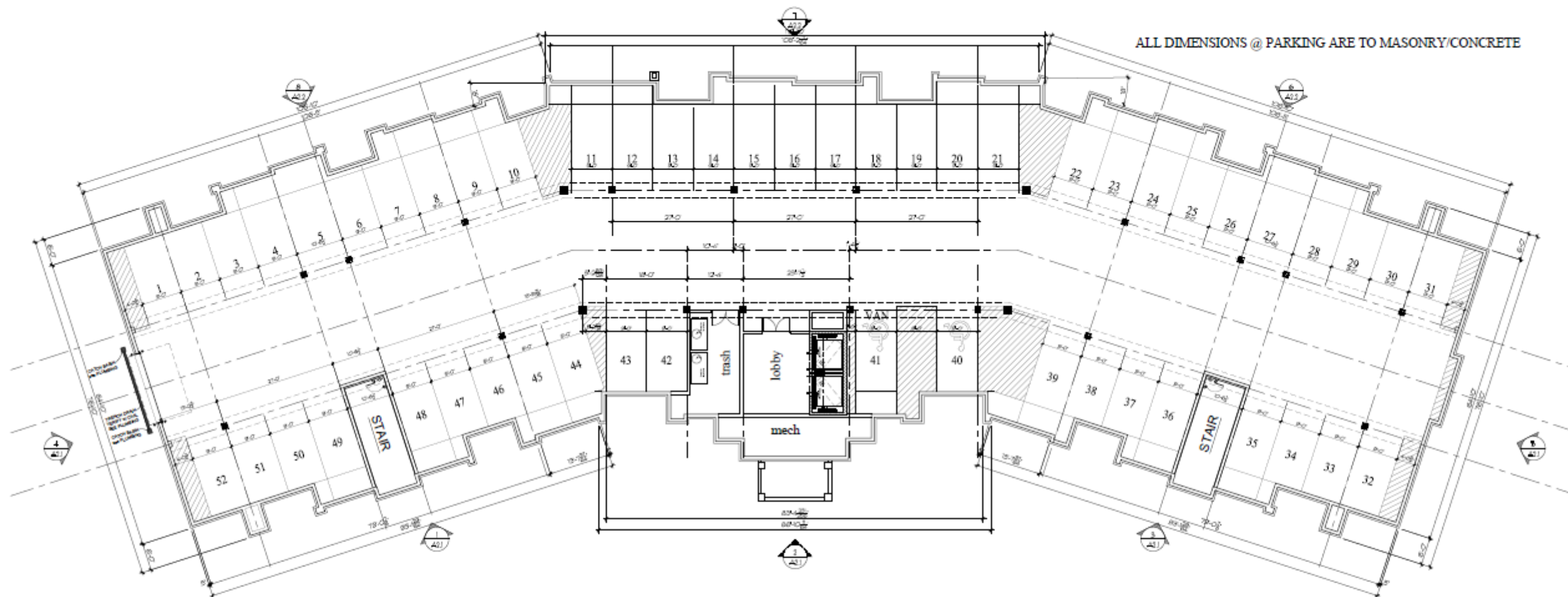
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Sheet Title
Exterior Elevations

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.006
		Drawn By:	djg
		Sheet No.:	A2.2

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1 PARKING FLOOR PLAN
3/22/20



Building #7
Woodlands @ The Conservancy

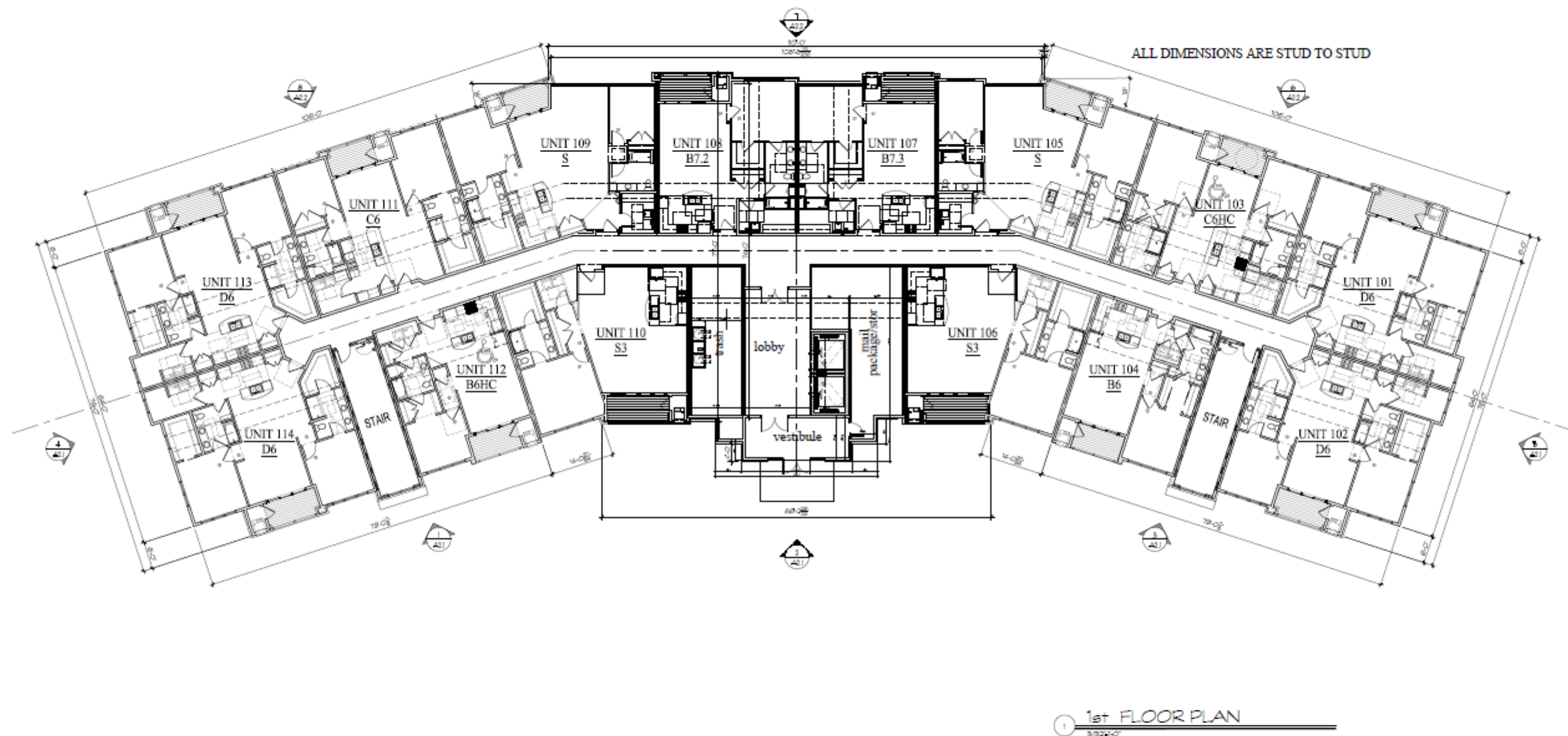
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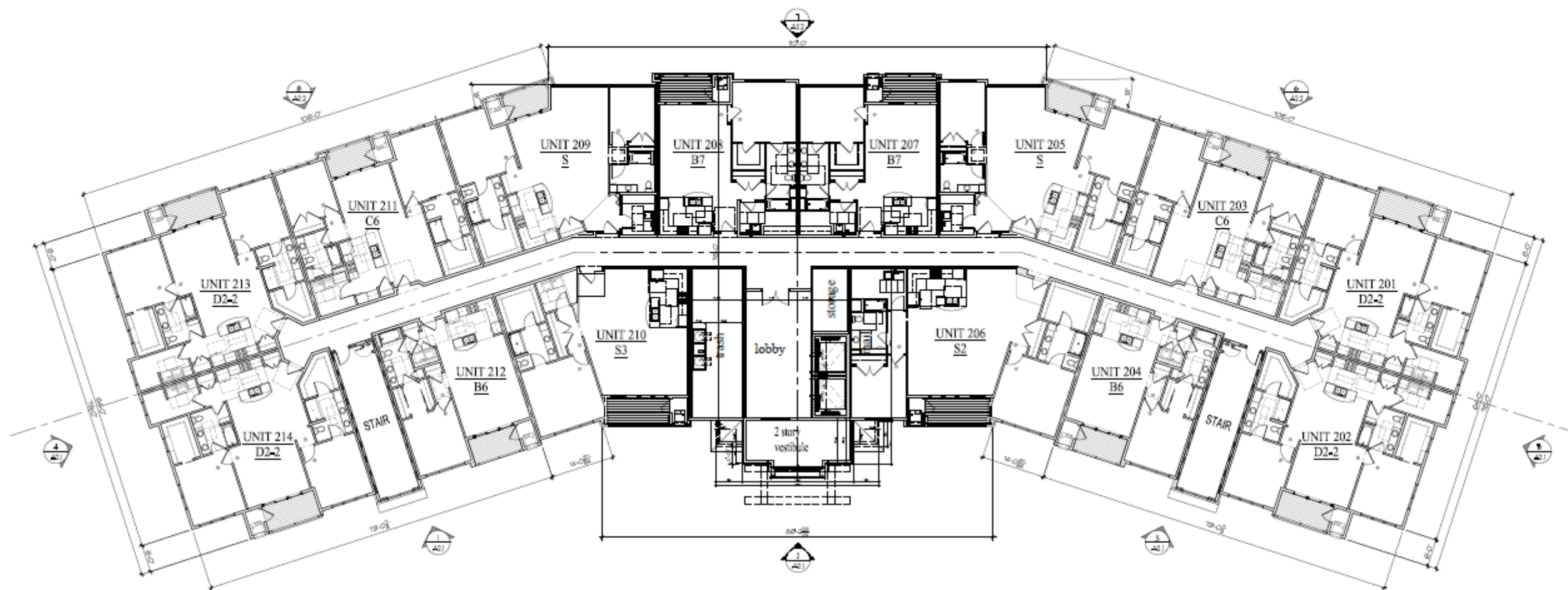
Sheet Title
Parking Floor Plan

Issued For:	Date:	Date:	1/3/2025
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		Drawn By:	dq
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1 2nd FLOOR PLAN
3/15/2025



Building #7
Woodlands @ The Conservancy

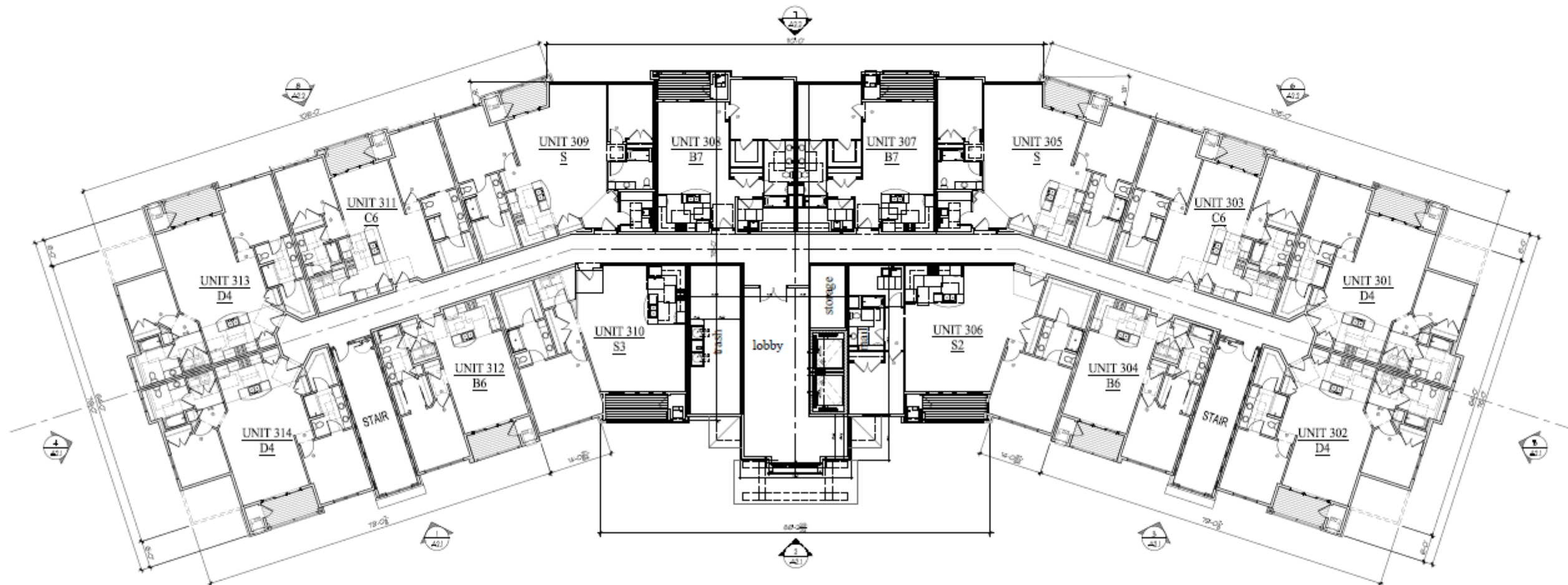
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Sheet Title
2nd Floor Plan

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	Drawn By:		dj
	Sheet No.:		A1.2

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1 3rd FLOOR PLAN
3/22/20



Building #7
Woodlands @ The Conservancy

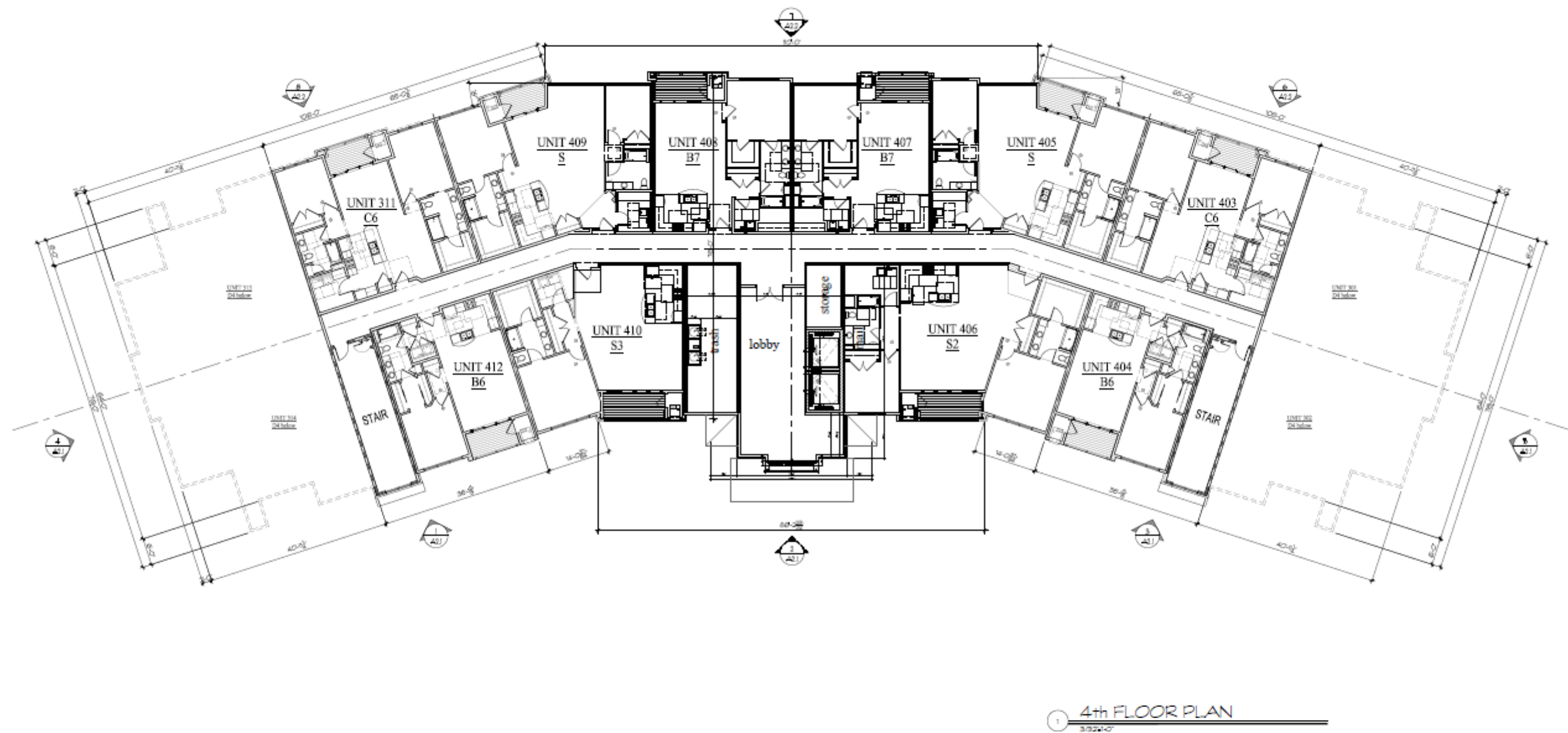
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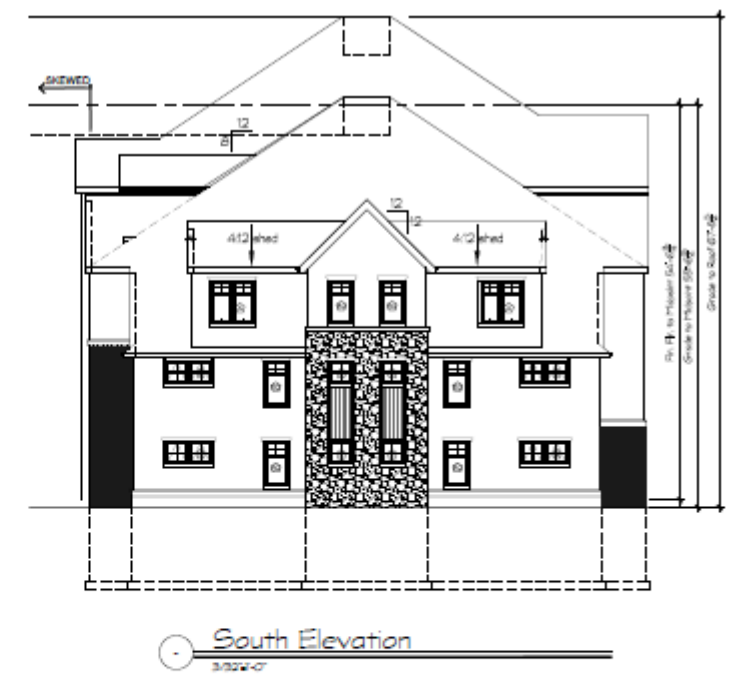
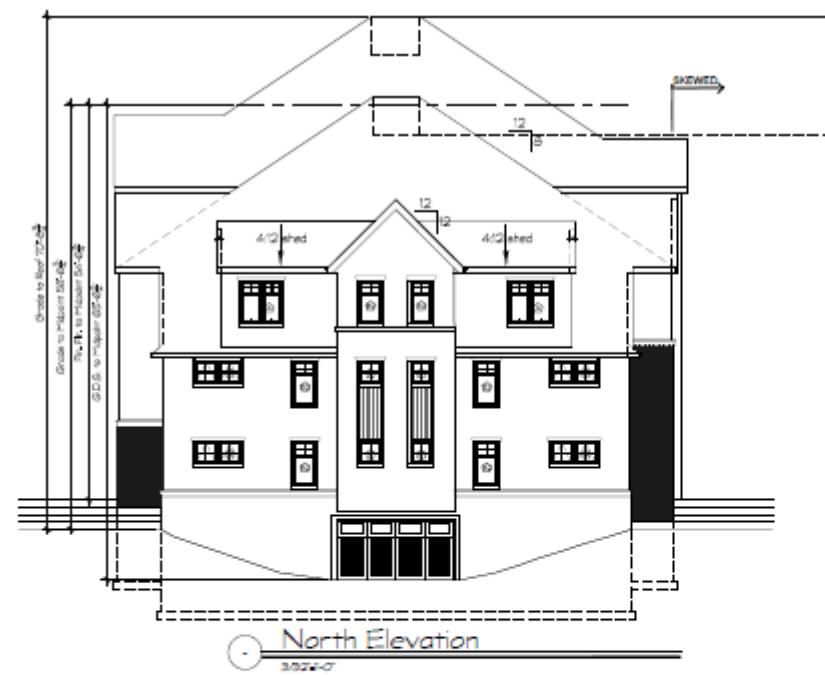
Sheet Title
3rd Floor Plan

Issued For:	Date:	1/3/2025
Job NO.:	25101.007	
Drawn By:	aq	
Sheet No.	A1.3	

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 TDI ASSOCIATES, INC. ARCHITECTURE & PLANNING 25217 SOUTH WIND LAKE ROAD WIND LAKE, WISCONSIN 53185 PHONE 262-899-2530	Building #7 Woodlands @ The Conservancy 50. Moorland Rd(CTH 'O') & W. Greenfield Ave.(STH'59") NEW BERLIN, WISCONSIN	TDI ASSOCIATES, INC. All Rights Reserved OWNERSHIP OF DOCUMENTS This document, and the ideas and design incorporated herein, as an instrument of professional service, is the sole property of TDI Associates, Inc., and is not to be used in whole or in part for any other project or purpose without the expressed written authorization of TDI Associates, Inc.	Sheet Title 4th Floor Plan	<table><tr><td>Issued For:</td><td>Date:</td></tr><tr><td></td><td>1/3/2025</td></tr><tr><td>Job NO.:</td><td>25101.007</td></tr><tr><td>Drawn By:</td><td>djs</td></tr><tr><td>Sheet No.</td><td>A1.4</td></tr></table> PRELIMINARY DRAWING NOT FOR CONSTRUCTION	Issued For:	Date:		1/3/2025	Job NO.:	25101.007	Drawn By:	djs	Sheet No.	A1.4
Issued For:	Date:													
	1/3/2025													
Job NO.:	25101.007													
Drawn By:	djs													
Sheet No.	A1.4													



Building #7
Woodlands @ The Conservancy

50. Moorland Rd(CTH 'O') & W. Greenfield Ave.(STH'59")
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Sheet Title
Exterior Elevations

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.007
		Drawn By:	dis
		Sheet No.:	A2.1

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Building #7
Woodlands @ The Conservancy

SO. Moorland Rd(CTH 'O') & W. Greenfield Ave.(STH'59")
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Sheet Title
Exterior Elevations

Issued For:	Date:	Date:	1/3/2025
		Job NO.:	25101.007
		Drawn By:	djg
		Sheet No.:	A2.2

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RESIDENT CLUB

THE
CONSERVANCY

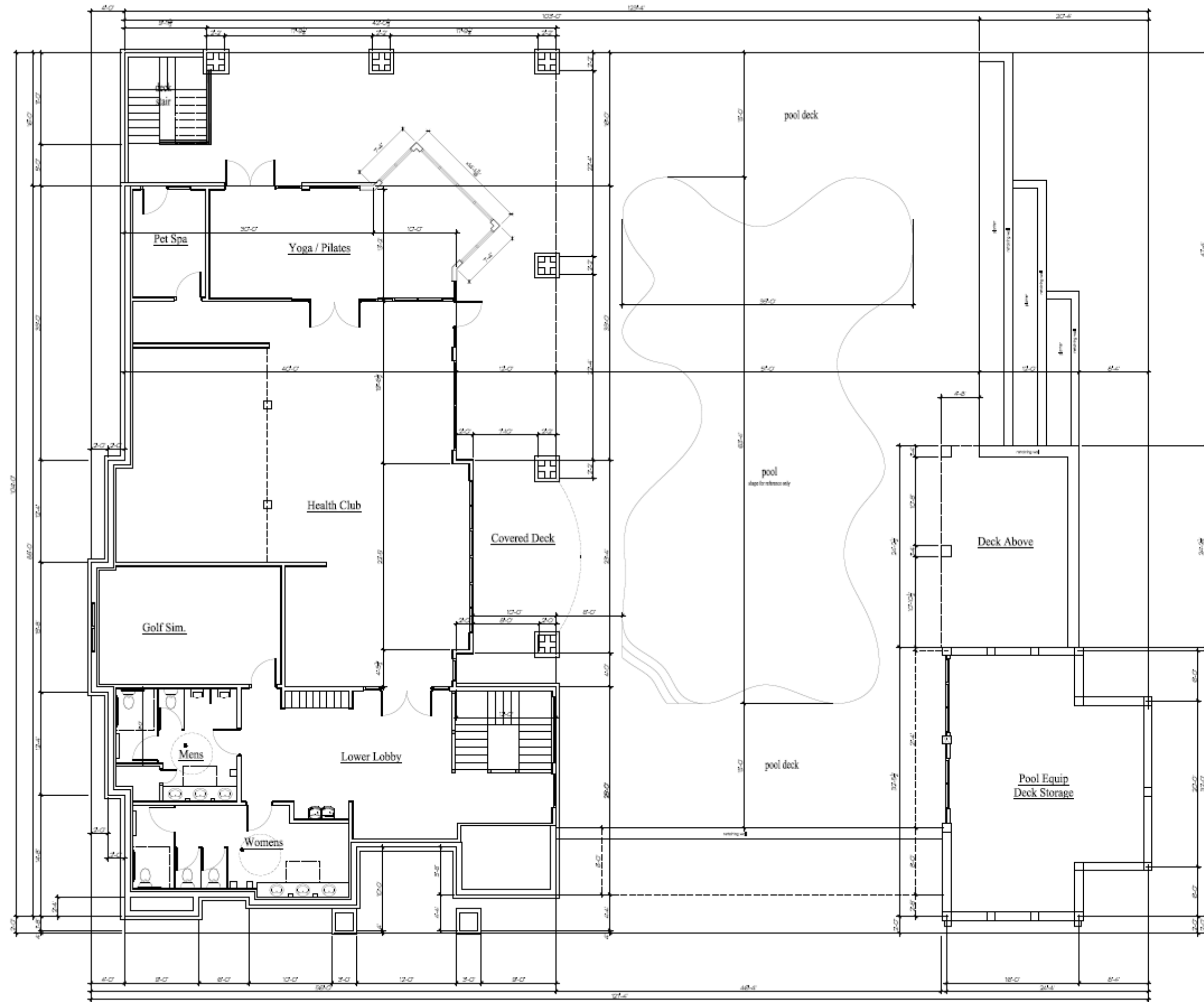


Resident Club Features:

- ☐ Club Room
- ☐ Health Club
- ☐ Outdoor Pool
- ☐ Sundeck
- ☐ Pet Spa
- ☐ Work Space
- ☐ Administrative

- Resident Facilities
 - 7,420 Sq. ft.
- Administrative Facilities
 - 2,080 Sq. ft.
 - 22 Parking Stalls

Additional surface parking shall be supplemented by shared Retail/Office parking from 5 pm to 8 am.



1 OVERALL LOWER LEVEL FLOOR PLAN

TDI ASSOCIATES, INC.
ARCHITECTURE & PLANNING

25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-406-2530

Residence Club
@ The Conservancy

SO. Moorland Rd (CTH 'D') & W. Greenfield Ave. (STH '59')

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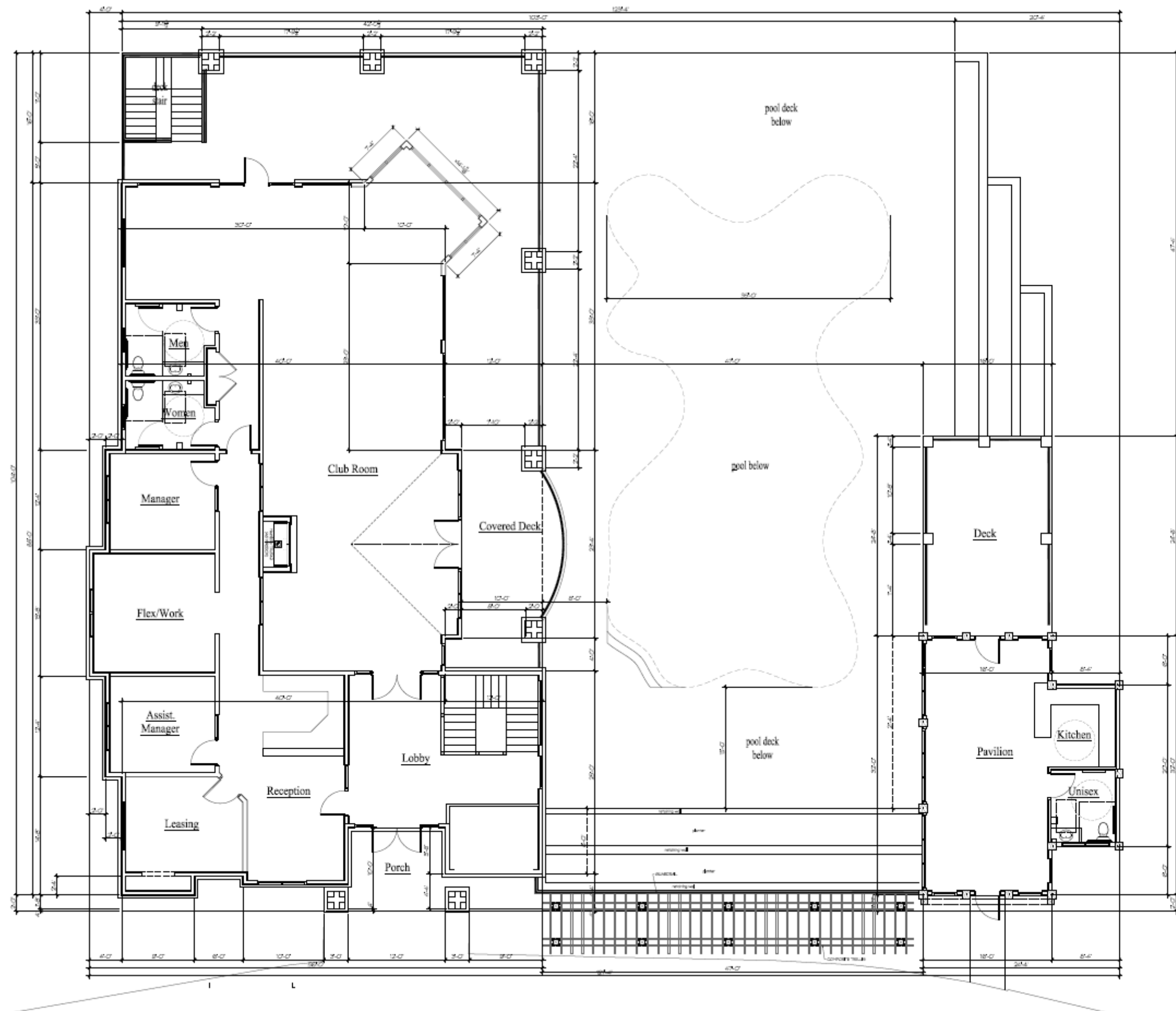
Sheet Title
Overall Lower Level
Floor Plan

Issued For: _____ Date: _____

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Date: 1/3/2025
Job NO: 25101.100
Drawn By: dgj
Sheet No. _____

A1.0



1 OVERALL MAIN LEVEL FLOOR PLAN



25217 SOUTH WIND LAKE ROAD
WIND LAKE, WISCONSIN 53185
PHONE 262-469-2530

**Residence Club
@ The Conservancy**

50. Moorland Rd (CTH 101) & W. Greenfield Ave (STH 591)
NEW BERLIN, WISCONSIN

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Sheet Title
Overall Main Level
Floor Plan

Issued For: _____ Date: _____

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Date: 1/3/2025

Job NO: 25101.100

Drawn By: djg

Sheet No.

A1.1



**Residence Club
@ The Conservancy**

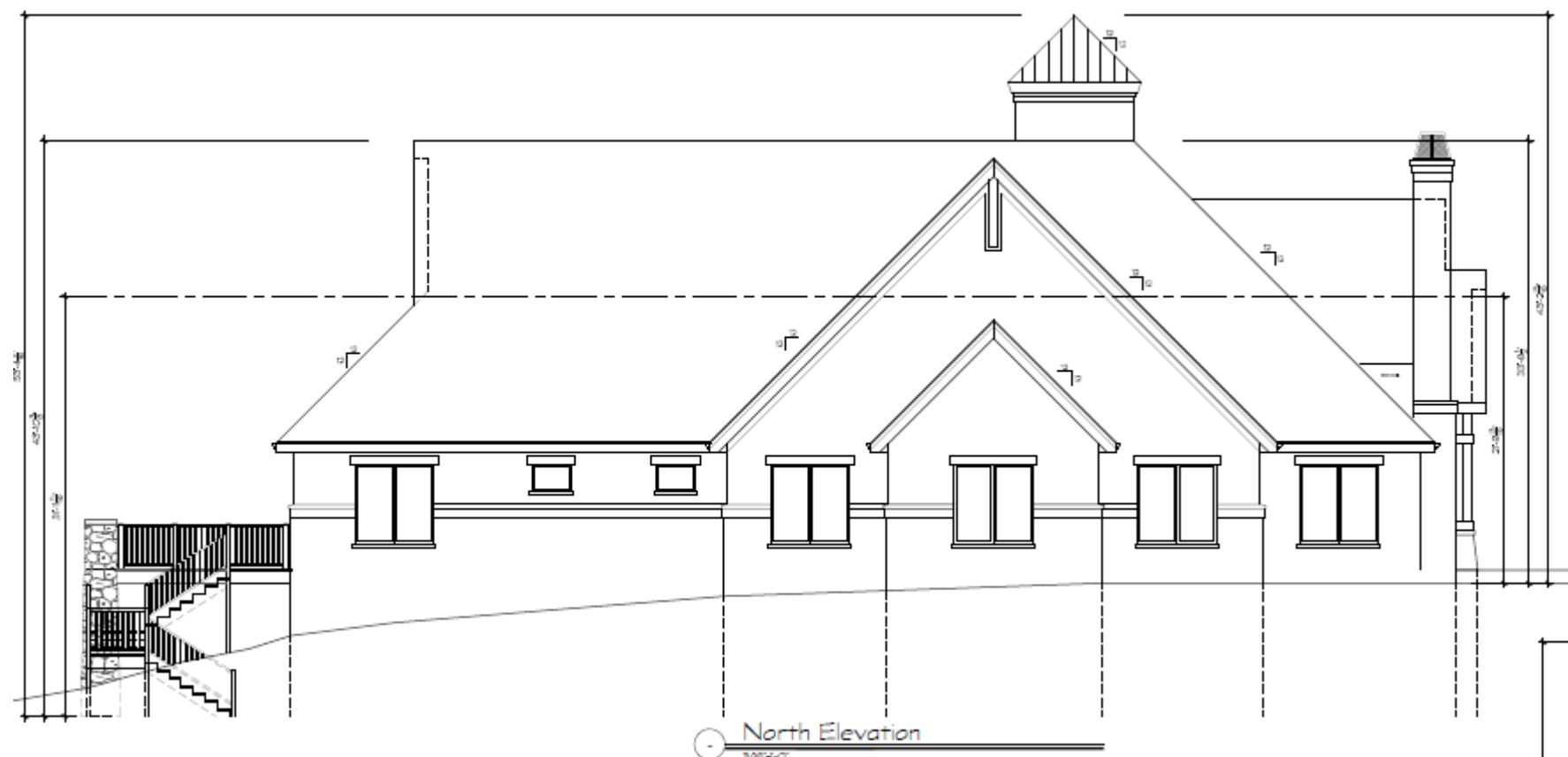
50. Moorland Rd(CTH "C") & W. Greenfield Ave.(STH"59")
NEW BERLIN, WISCONSIN

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Sheet Title
Exterior Elevations

Issued For: _____ Date: _____
PRELIMINARY DRAWING
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Date: 1/3/2025
Job NO.: 25101.100
Drawn By: dji
Sheet No.: **A2.1**



Residence Club @ The Conservancy

50. Moorland Rd.(CTH "O") & W. Greenfield Ave.(STH"59")
NEW BERLIN, WISCONSIN

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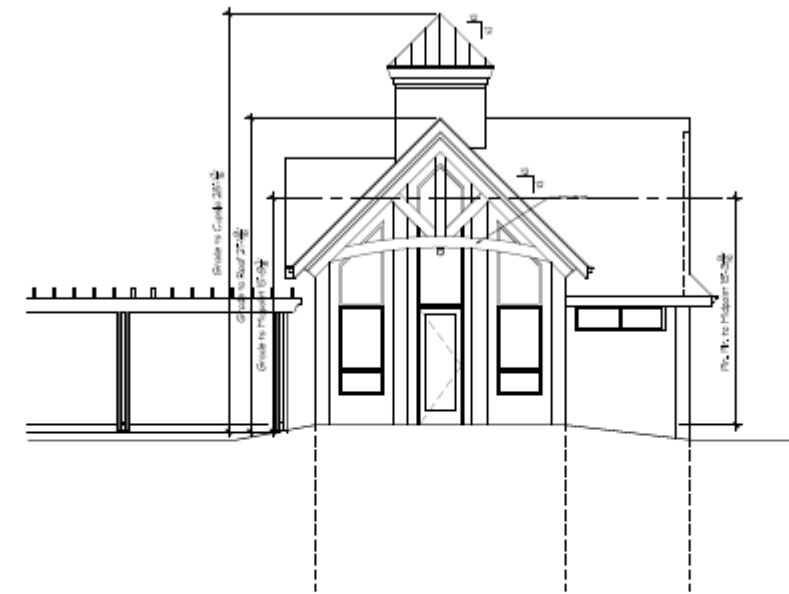
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Exterior Elevations

Issued For:	Date:	1/3/2025
Job NO.:	25101.100	
Drawn By:	dqj	
Sheet No.:	A2.2	

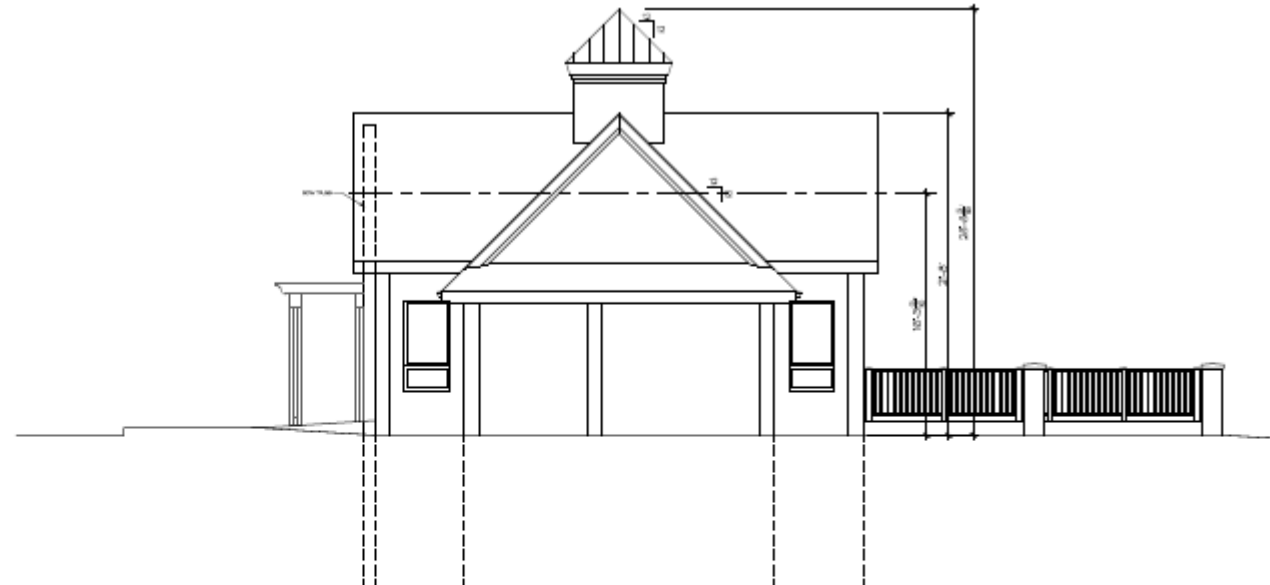
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION



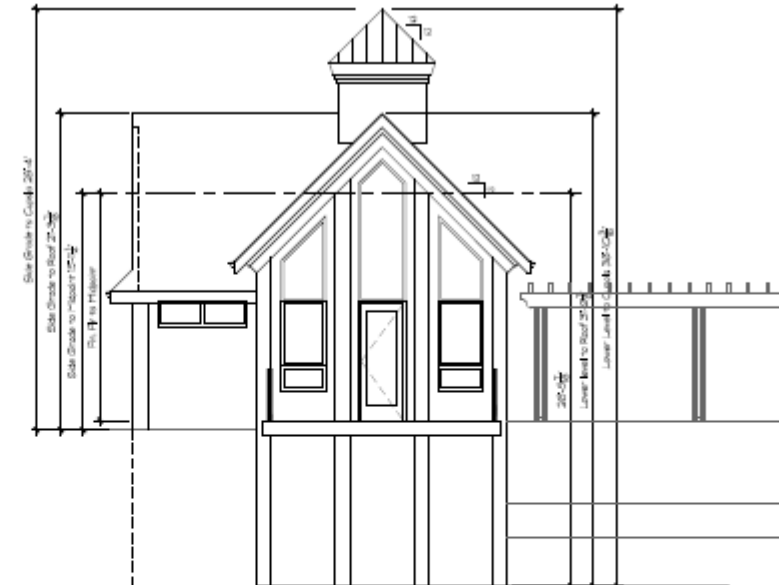
North Elevation - Pavilion
3/16"=1'-0"



West Elevation - Pavilion
3/16"=1'-0"



South Elevation - Pavilion
3/16"=1'-0"



East Elevation - Pavilion
3/16"=1'-0"



Residence Club
@ The Conservancy

50. Moorland Rd(CTH "D") & W. Greenfield Ave.(STH"59")
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Sheet Title
Exterior Elevations
@ Pavilion

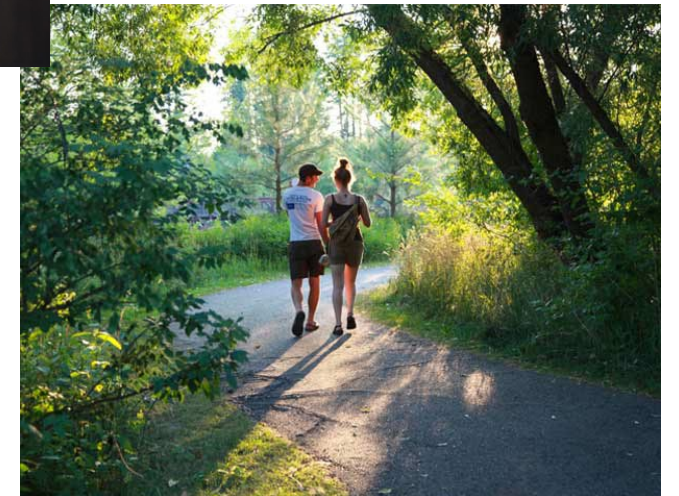
Issued For: _____
Date: _____
PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Date: 1/3/2025
Job NO. 25101.100
Drawn By: dsj
Sheet No.

A2.3

CAMPUS AMENITIES

THE CONSERVANCY



- Hardwood Forest Reserve
- Conservancy Walk
- Neighborhood open greens, Ponds and wetlands preservation
- Resident Club with Pool and Fitness Center
- New Berlin Recreation Trail
- Pet Run
- Walkable sidewalk on site



T H E
CONSERVANCY

COMMUNITY BENEFIT

- The Conservancy shall serve to establish, populate and animate the southeast quadrant to a new commercial, and residential district on the intersection of Moorland and Greenfield Avenue providing both quality of life and economic benefits to the City of New Berlin.
- Creates a Master Planned Neighborhood by the implementation of the central design elements identified in City of New Berlin planning studies.
- Provide a private vehicular and pedestrian circulation plan.
- Creates a vital animated pedestrian-oriented neighborhood rich in recreation and social amenities.
- Provides a local population and access to properties within the mixed-use business district in the City of New Berlin to the east and north in the City of Brookfield.
- Encourage reinvestment and/or redevelopment of the remaining neighboring parcels and provides the flexibility for the medium and high-density development.
- Expands neighborhood economic development through additional population base supporting local businesses.
- Provides a preservation of high-quality woodland and wetland environments as well as commercial/retail land uses.

Neighborhood Value Increase	
Current Southeast Quadrant Value:	\$0
Developed Southeast Quadrant:	<u>\$65,740,300</u>
Increase:	\$65,740,300

Municipal Tax Benefits	Current	Developed
City of New Berlin:	\$0	\$411,434
School District:	\$0	\$424,404
Others:	<u>\$0</u>	<u>\$154,404</u>
Total:	\$0	\$990,242

THE

CONSERVANCY

DEVELOPMENT FUNDING

FUNDING FOR THE CONSERVANCY			
	Construction Loans	Owner-Funded Equity	TOTAL
Funding Source as Percentage of Total Construction Costs:	70.00%	30.00%	100.00%

The Funding Sources above represent the total anticipated financing for the development of The Conservancy and are identified according to their estimated share of the total Development Costs for the Project.

Wimmer has requested the City of New Berlin to allow the application of those fees collected by the City as a result of the development of The Conservancy to partially offset the cost of the public infrastructure benefitting the City.

DEVELOPMENT EXPENSES OF PUBLIC INFRASTRUCTURE BENEFITTING THE CITY OF NEW BERLIN	
Moorland Road Improvements	\$457,990
Inclusive of:	
Traffic Signals	\$400,000
Landscaping in Moorland Road ROW	\$42,785
Public Sidewalk	\$85,957
Sanitary Sewer	\$1,806,930
Water Utility	\$763,771
<u>Municipal Monument</u>	<u>\$80,000</u>
Total Estimated Cost of Public Infrastructure Benefitting the City of New Berlin:	\$3,114,648

DEVELOPMENT FEES TO BE ALLOCATED TO THE DEVELOPER			
	Units	\$/Unit or \$/SF	Fee
Library	375	\$109.00	\$40,875.00
Park	375	\$85.00	\$31,875.00
Fire/Rescue			
-Retail	19,600	\$0.12	\$2,352.00
-Multifamily	375	\$132.00	\$49,500.00
Public Site			
-Commercial	1 Lot / 20 acres	\$946.14 per Lot + \$100/acre	\$2,946.14
-Residential	375	\$1,807.60	\$677,850.00
Open Space			
-Commercial	1 Lot	\$260.00 per Lot	\$260.00
-Residential	375	\$130.00	\$48,750.00
<u>Tree Replacement</u>			<u>TBD</u>
Development Fees to be Applied to Public Infrastructure Benefitting the City of New Berlin:			\$854,408.14

T H E
CONSERVANCY

DEVELOPMENT TIMETABLE

The following Construction Schedule is anticipated:

ANTICIPATED CONSTRUCTION TIME TABLE				
Building No.	Units	Name	Commencem ent	Completion
Moorland Road Reconstruction			April 2026	Novem ber 2026
Site Work			August 2025	June 2026
<i>Phase I - Center</i>				
2/3	46	Conservancy Center	June 2026	Septem ber 2027
5/6	122	Woodland Residences	August 2026	Novem ber 2027
16	-	Resident Club	September 2026	Septem ber 2027
Lease-Up Stabilization of 168 Units:			September 2027	June 2028
<i>Phase II - South</i>				
7	52	Woodland Residences	July 2027	Septem ber 2028
12 - 15	16	Meadow Residences	September 2027	Septem ber 2028
Lease-Up Stabilization of 68 Units:			September 2028	July 2029
<i>Phase III - North</i>				
1	71	The Conservator	June 2028	December 2029
4	52	Woodland Residences	July 2028	Septem ber 2029
8 - 11	16	Meadow Residences	September 2028	July 2029
Lease-Up Stabilization of 138 Units:			July 2029	June 2030

The Schedule above represents the anticipated completion schedule, which may be accelerated based on an earlier date of actual construction and lease-up stabilization. As typical, Construction Lender(s) for the Project will condition the financing for Phase II and Phase III upon the completed actual lease-up stabilization of the Phase I Buildings. Thus, the anticipated Construction Timetable above assumes that construction of Phase II and Phase III will not commence until actual lease-up stabilization of the Phase I Buildings is complete. We would reserve the right to begin construction of any future phase out of sequence and in advance of the dates identified above.

T H E CONSERVANCY

OPERATIONS

In addition to being a significant community resource for increasing the quality of life for its residents, resident families, and the general community, Wimmer Communities has been a positive economic force as well.

Wimmer Communities directly operates their facilities through a staff specialized in professional property management in five departments including Resident Services, Community Services, Lifestyle Services, Facilities Management, and Business Administration. In addition to employment opportunities, Wimmer Communities adopts an aggressive purchasing program for local distributors of required supplies and services.

Wimmer Communities shall provide day-to-day operations, which will be managed out of an on-site property management office located in the Resident Club.

Hours of On-Site Operation Monday-Friday 9:00 a.m. -6:00 p.m. Saturday - Sunday 11:00-a.m. - 4:00 p.m.

Wimmer Communities provides a 24-hour emergency response service for after-hours maintenance issues. In addition, property management staff provides many concierge and lifestyle services to residents, including:

- Special Holiday Events
- Aerobics Classes
- Housekeeping
- Laundry and Dry-Cleaning Drop-off
- Grocery Delivery
- Pharmaceutical Delivery
- Floral Delivery
- Houseplant Care
- Pet Grooming
- Special Events Planning and Catering for the Community Center

Maintenance of buildings will be the responsibility of on-site maintenance staff. Licensed contractors are retained for larger building upkeep activities and or electrical, mechanical, plumbing, and fire protection work requiring professional trade people. A property preventive maintenance program is strictly implemented to protect the long-term value of the property.

Landscape Maintenance will be provided under contract with professional landscape management firms. In addition to basic lawn care services, landscape firms provide Spring and Fall clean ups, shrub and tree pruning, weeding of flowerbeds, and other services, which together comprise a comprehensive landscape management program. Service contracts generally run from April through November.

Snow Removal services are provided under contract with professional snow removal contractors. Wimmer Communities maintains relationships with multiple reliable vendors for snow removal and selects the most appropriate vendor based on equipment, ability to provide responsive service, and proximity of the contractor's facilities to the property. Snow removal contracts provide for street plowing and sidewalk clearing. Properties are staked and reviewed with plowing contractors every fall to minimize the potential for landscape damage. Contractors are responsible for complete restoration of any damage incurred.

Refuse Disposal will be provided under contract with a licensed trash hauler. A centrally located waste collection center will be provided on each floor that contains a trash chute to receptacles, compartmentalized on the underground parking level. On-site property maintenance staff will coordinate with the licensed trash hauler for weekly emptying of the trash containers. Recycling bins are also provided and located within the waste collection centers in the building to provide convenient separation of recyclable materials. There are no building-related trash receptacles or dumpsters situated outside of any buildings



About Wimmer Communities

Wimmer Communities is a family-owned, locally operated, multi-faceted real estate development, brokerage, construction, and property management firm that:

- Owns, operates, and manages over thirty-five apartment communities, independent and assisted living senior residences, commercial properties, and hotel located throughout the Milwaukee metropolitan area, with more high-quality properties currently under development.
- Understands that how one lives is just as important as where one lives, resulting in a team of craftsmen and service management personnel who are dedicated to providing outstanding customer service, and exciting, comfortable, secure and convenient residences.
- Offers its family of employees a respectful and positive work environment where everyone is equal.
- Embraces the opportunity and responsibility to be a positive force in the communities in which we live, work, and play through involvement in the arts, health, education, recreation, and environment.

Wimmer Communities' Mission is founded upon values and ideals as the cornerstones to its drive to be a leader in the residential real estate industry through entrepreneurial spirit, calculated risk taking, and being on the leading edge of new markets and opportunities to achieve continued success and profitability.

This goal is realized through the development, management and construction of properties that are exciting, physically and economically accessible, and satisfy the need for comfort, security, and personal growth of the families and individuals who come into contact with that development. These environments are created for customers through respect, communication, responsiveness, and personalized service to achieve customer satisfaction.

Wimmer Communities celebrates individuals who perpetuate the traditional work ethic and challenge their abilities to promote personal and professional growth, while maintaining open communication, recognizing all employees as members of a team who are rewarded financially with competitive salaries and recognition for exceptional performance.

Wimmer Senior Communities creates environments for seniors above the age of 62 that provide superior quality of life by offering a continuum of care in services and programming within a most desired and least restrictive environment, allowing individuals to age with dignity. It is committed to respecting the individuality, independence and privacy of our residents, while providing high-quality, cost-effective care within a safe and secure residential environment. Wimmer Senior Communities offers a program of services that nurtures the body, mind, and spirit and respects the choices of our residents in the care-planning process, which involves both family and friends in lifestyle decision-making.

Throughout the years, Wimmer Communities has won numerous awards and achievements. Wimmer has been awarded the Milwaukee Journal Sentinel Top Workplace Award for nine consecutive years and most recently in 2024, as well as earning USA Today's 2024 Top Workplace USA Award. The Apartment Owners and Managers Association (AOMA) recognized Wimmer for the following TOBY awards; 2016 Property Excellence (The Centennial), 2016 Onsite Manager, 2017 Property Excellence (Heritage House & The Silvernail), 2017 Outstanding Support Staff, 2018 Apartment Building Senior Housing (Forest Ridge), 2018 Property Excellence (Falcon Glen), 2019 Assistant Manager of the Year, 2019 Outstanding Maintenance of the Year, 2021 Property Excellence (Oakton Beach & The Silvernail), and 2021 Assistant Manager of the Year. Wimmer Communities has been honored with the following Milwaukee Journal Sentinel Top Choice Awards, which are voted on by the Milwaukee area public; 2017 Assisted Living Finalist (Forest Ridge), 2018 Assisted Living Finalist (Forest Ridge), 2018 Hometown Business Finalist (Wimmer Communities), 2021 Assisted Living Finalist (Forest Ridge), and 2021 Top Apartments Winner (Wimmer Communities). Wimmer Communities maintenance technicians regularly win awards and recognitions at the annual Maintenance Mania competition, including 4 individual technician awards in 2020 and 2 national qualifiers. Wimmer Communities was also awarded the 2020 Leadership in Safety Award by the Associated General Contractors of Great Milwaukee.



Arts

- Wimmer Communities' Concerts in the Gardens - Since 1996 Wimmer Communities has produced and sponsored a series of outdoor summer concerts open to the public at the Boerner Botanical Gardens
- United Performing Arts Fund serving Southeastern Wisconsin
- Wimmer Rehearsal Hall at Marquette University High School
- Marquette University High School Theater
- Wimmer Communities' Collection of Contemporary Art - on exhibit in Community Centers throughout the Milwaukee metropolitan area featuring signature works from world-renowned artists, as well as bold works from up-and-coming new artists.

Education and Recreation

- Marquette University High School Endowment Fund
- Whitnall Park Archery Center in its 27th year of public enjoyment.
- Kulwicki Pavilion and Little League Park created through Wimmer Communities coordinated the donation and construction of this 25-acre site, which includes four Little League/softball fields, playground equipment, and pavilion.

Environment

- Wimmer Wetlands offers an educational bike path explaining the importance of wetlands in urban land planning as a segment of the Milwaukee County Park System's Oak Leaf Trail.
- Boerner Botanical Gardens Welcome Center
- Green Building practices ensure environmentally responsible material selections and systems, which are resource-efficient and utilize sustainable energy.
- Community Reuse and Recycling programs for construction materials, furnishings, and waste.

Health

- Annual endowment to the Mary T. Wimmer Breast Cancer Research Fund
- Waukesha Community Health Center building fund contribution - provides high-quality health care, health education, and social services to low-income area residents.
- Funding of the Wimmer Cardiac Testing Center brings innovative technology to the new Heart and Vascular Center at ProHealth Care. This patient-centered care program utilizes The Discovery 530c, a state-of-the-art nuclear camera, which offers faster scan times while decreasing radiation doses to patients.
- Funding of the Wimmer Healing Garden at the ProHealth Care UW Cancer Center provides a tranquil rooftop sanctuary for patients and their families to relax, reflect, and rejuvenate.
- Funding of the St. Mary's Contemplative Labyrinth offers an outdoor labyrinth walk emulating life's pilgrimage for ecumenical meditation.





Team Member Volunteer Initiatives

- Wimmer Communities assists the efforts of its staff in providing funding and facilitating the charitable causes to which they feel connected.
- Operation Christmas Child- Since 2001 employees have filled shoeboxes with gifts for children around the world and Wimmer Communities pays the shipping costs.
- Milwaukee Rescue Mission - Donations of toys and clothing generously donated by Wimmer Communities' residents and employees.
- Habitat for Humanity - Wimmer Communities supports Habitat for Humanity ReStores by contributing surplus construction materials and gently used appliances. The support of this worthy cause has included collections of household items including small appliances.
- Hunger Task Force - Wimmer Communities' employees and residents donate food items to this annual cause and our communities serve as drop-off points.
- Community Projects for Seniors - Wimmer Communities assists this worthy organization in providing necessities for low-income seniors by the collection and donation of household bath items.



T H E
CONSERVANCY

THE
CONSERVANCY

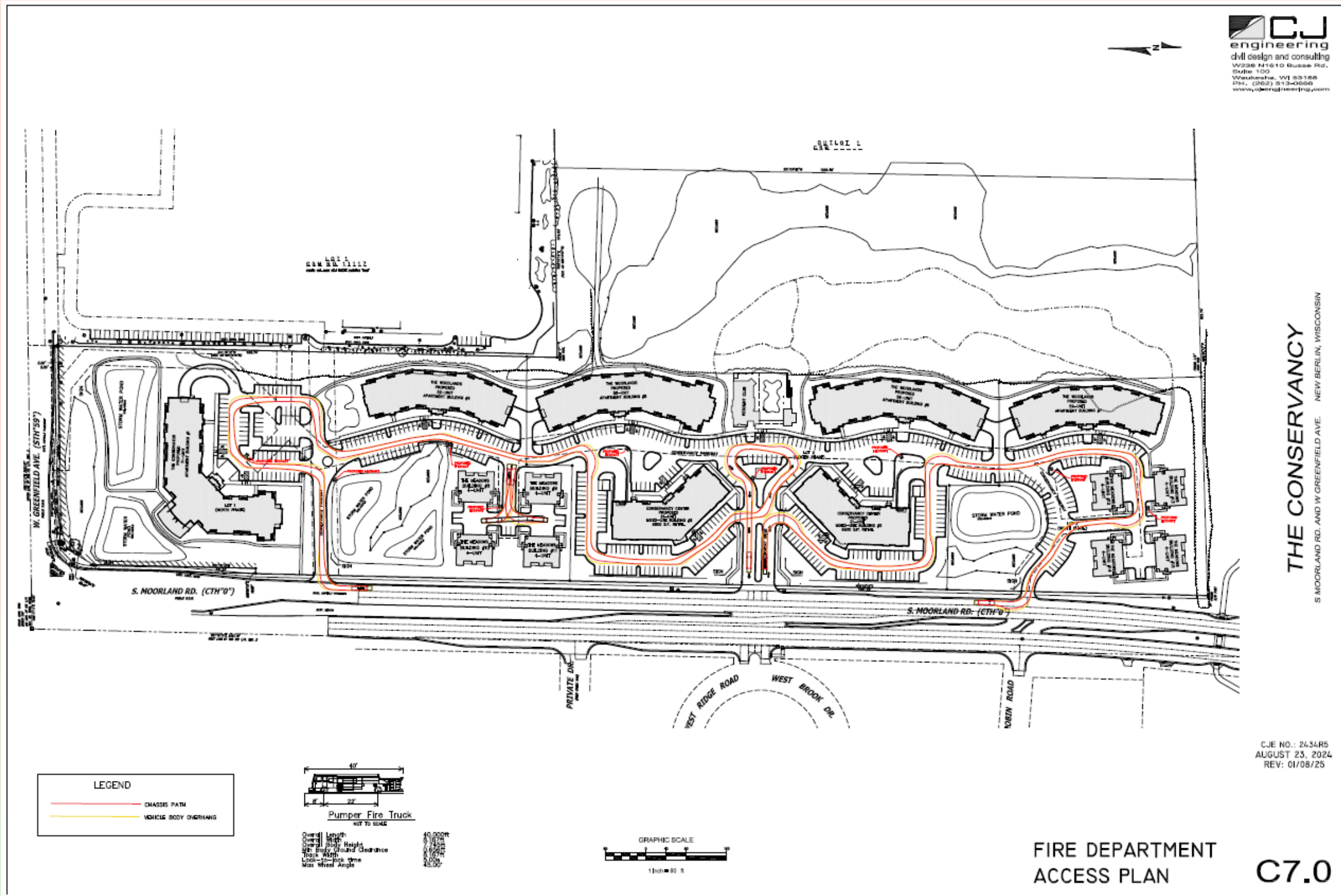
The Conservancy - Rm-1 Multiple-Family Residential																						
CONCEPT DESIGN & ZONING INFORMATION																						
1/7/2025																						
Regulation	Uses	Density	Minimum Lot Area	Minimum Lot Width	Setbacks					Lot Coverage	Minimum Floor Area	Building Height		Building Separation	Usable Open Space	Unit Sizes				Off-Street Parking		
					Front	Side	Rear	Shore	Wetlands			Min	Max			Studios	1BR	2BR	3BR	Attached	Total	Guest
RM-1 Zoning District Multiple Family Residential District	Multi-Family=Permitted Amenity Uses =Not specified Not closer than 120 feet to single family residential lands	Maximum of 7 units per zoned acre	Larger of: 6,500 s.f. per unit OR 20,000 s.f.	120 ft	25 ft. Minimum	15 ft. Minimum	50 ft. Minimum	50 ft. Minimum	All Impervious Surfaces 30 ft. Minimum	Buildings: 45% (Max) Impervious Surfaces: 60% (Max) Open Space & Landscaping: 40% (Min.)	2,000 s.f per Building or 2,200 s.f. per Building without Basement	None	35 ft. to Midpoint	30 ft. Minimum	Not Specified	500 s.f. Minimum	650 s.f. Minimum	800 s.f. Minimum	1,000 s.f. Minimum	1.0 per unit (Minimum) Part of Total	Apartments 2.0 per unit (Minimum) Plus Guest Resident Club Required: 1 space/200 SF Actual: 0.45 space/200 SF	0.1 space per unit (Minimum)
Current Multi-Family Design	375 Multi-Family Units Approximately 9,800 SF Resident Club South Property Line is approximately 200 ft. from nearest Single Family Residential Lands	Total Units: 375 33.761 Acres 11.11 Units per PUD-zoned acre (inclusive of Rm-1 and C-2 zoned areas)	Lot 1: 9.670 acres Lot 2: 19.71 acres Lot 3: 4.39 acres Total: 33.761 acres / 1,470,629 SF 3,922 s.f. per unit	North/South Lot 1: Approx 1,003 ft. Lot 2: Approx 746 ft Lot 3: Approx. 515 ft Total Lot Width at Street: 2,264 ft	Moorland External: 22 ft Internal: 25 ft	External: 35 ft Internal: 15 ft	External: 28 ft Internal: 12 ft	Not Applicable	8 ft at Parking lot West of Bldg 4	Buildings: 13% Impervious Surfaces: 21% Open Space & Landscaping: 66%	3,160 s.f. (4-Unit Meadows Buildings)		First Floor to Mid-Point of Roof: 54' - 6 3/4" (Conservator and Woodlands) Exterior Grade Entry to Mid-Point of Roof: 62' - 0 3/4" (Conservator) Underground Garage Entry to Mid-Point of Roof: 65' - 6 3/4" (Conservator and Woodlands)		33.76 Total Acres 3.75 Acres of Wetlands ----- 30.01 Usable Acres (11.43 Acres of Buildings & Impervious Surface 18.58 Acres of Woodland)	n/a	855 s.f. gross	1,230 s.f. gross	1,532 s.f. gross	1.07 per unit	2.02 per unit (2.12 per unit incl. Guest)	0.101 space per unit
Current Retail Design	Approximately 19,600 SF of Ground Floor Retail within Two Mixed-Use Residential Buildings (Approximately 9,800 SF of Retail per Building)																			N/A	Req: 1 Space per 200 SF Actual: 1 Space per 200 SF	N/A

NOTE: "External" refers to perimeter lot lines of proposed 3-parcel CSM.
"Internal" refers to interior lot lines of proposed 3-parcel CSM.

NOTE: Required Retail parking ratios above
Retail constitutes "Personal Services" use
under Table 275-75-1.
Please see Staff Report, File # UA-2402003,
PC Date: 10/07/2024

NOTE: Staff Report cited above also determined that Resident Club constitutes "Personal Services" use. As proposed, parking ratio at Resident Club is 0.45 space per 200 SF.

CONSERVANCY



T H E CONSERVANCY



CHAPTER 10: LAND USE PLAN

Revisions approved by Council on 11/14/2023 DATE via Ordinance # 2684.



LAND USE PLANNING IN RELATION TO STATE STATUTES

Section 62.23 of the Wisconsin Statutes grants cities and villages the authority to prepare and adopt local master plans or plan elements. In 1999, the Wisconsin Legislature enacted legislation that greatly expanded the significance of comprehensive plans within the State. The law, referred to as Wisconsin's "Smart Growth" law, provides a new framework for the development, adoption, and implementation of comprehensive plans by various units of government. The law, set forth in Section 66.1001 of the Wisconsin Statutes, requires that the administration of zoning, subdivision, and official mapping ordinances be consistent with a community's adopted comprehensive plan beginning on January 1, 2010.

In Waukesha County, 27 of the 37 cities, villages, and towns opted to participate in the Waukesha County Comprehensive Plan process. The process was led by County staff with assistance from the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and Waukesha County UW-Extension staff. The City of New Berlin selected to establish its own, more tailored Comprehensive Plan in lieu of participating through the County.

Several of the nine comprehensive planning elements required by Section 66.1001 of the Statutes must be updated or addressed to bring existing land use or master plans into compliance with the requirements of the comprehensive planning legislation. This chapter provides the full Land Use Element for the City of New Berlin. Additional information regarding existing and future land uses can be found in each individual neighborhood chapter.

EXISTING LAND USES

Reviewing past and existing land use trends can aid in planning for the types of uses that are in demand. Figure 10.1 illustrates the land use trends for the City of New Berlin from 1990 to 2020. The existing land use map shown in Figure 10.2 is based on City assessment data from 2020 using Market Drive software produced by Assessment Technologies LLC. The map illustrates a high amount of single-family residential land with supporting industrial/manufacturing and commercial uses. Other land uses include agricultural, exempt, forest lands, multi-family residential, recreation, and undeveloped. Wetlands and woodlands are also identified.

	1990			1995			2000			2020		
	% Dev.	% Total		% Dev.	% Total		% Dev.	% Total		% Dev.	% Total	
	Acres	Area	Area	Acres	Area	Area	Acres	Area	Area	Acres	Area	Area
Residential (1)(4)	6,227	62.0%	26.4%	6,563	59.9%	27.8%	6,782	58.3%	28.7%	13,574	69.1%	59.8%
Commercial (1)(4)	364	3.6%	1.5%	397	3.6%	1.7%	466	4.0%	2.0%	2,652	13.5%	11.7%
Industrial/Manufacturing (1)(4)	586	5.8%	2.5%	614	5.6%	2.6%	763	6.6%	3.2%	655	3.3%	2.9%
Transp./Common/Utilities (1)	2,061	20.5%	8.7%	2,549	23.3%	10.8%	2,681	23.0%	11.4%			0.0%
Government/Institutional/Exempt (1)(4)	422	4.2%	1.8%	434	4.0%	1.8%	473	4.1%	2.0%	1,139	5.8%	5.0%
Recreational (1)(2)(4)	384	3.8%	1.6%	406	3.7%	1.7%	470	4.0%	2.0%	1,633	8.3%	7.2%
Urban Subtotal(4)	10,044	100.0%	42.6%	10,963	100%	46.5%	11,635	100.0%	49.3%	19,653	100.0%	86.6%
Agricultural (4)	6,817	50.3%	28.9%	6,277	49.7%	26.6%	5,124	42.8%	21.7%	1,804	59.2%	7.9%
Natural Resources Areas	3,734	27.6%	15.8%	3,508	27.8%	14.9%	3,567	29.8%	15.1%			
Wetlands	2,323	17.1%	9.8%	2,269	18.0%	9.6%	2,301	19.2%	9.8%			
Woodlands/Forests(4)	1,283	9.5%	5.4%	1,130	8.9%	4.8%	1,154	9.6%	4.9%	224	7.4%	1.0%
Surface Water	128	0.9%	0.5%	109	0.9%	0.5%	112	0.9%	0.5%			
Other (4)	2,997	22.1%	12.7%	2,845	22.5%	12.1%	3,268	27.3%	13.9%			
Undeveloped Land(4)										1,018	33.4%	4.5%
Nonurban Subtotal(4)	13,548	100%	57.4%	12,630	100.0%	53.5%	11,959	100.0%	50.7%	3,046	100.0%	13.4%
Total	23,592		100.0%	23,593		100.0%	23,594			22,699		100.0%

SEWRPC & City of New Berlin Assessment Data -Market Drive software produced by Assessment Technologies LLC

1-Includes off-street parking areas.

2- Includes intensively used area of public and non-public recreation sites.

3- Includes extractive, landfills and unused land.

4 - For the 2020 values, the City Assessor is using new software that does not calculate the information in the same way. The calculations are a bit different.

The categories were matched as closely as possible.

The predominate property type is used in this table. Wetlands, woodlands/forests and surface water were not calculated separately. We also did not differentiate between urban and non-urban for 2020.

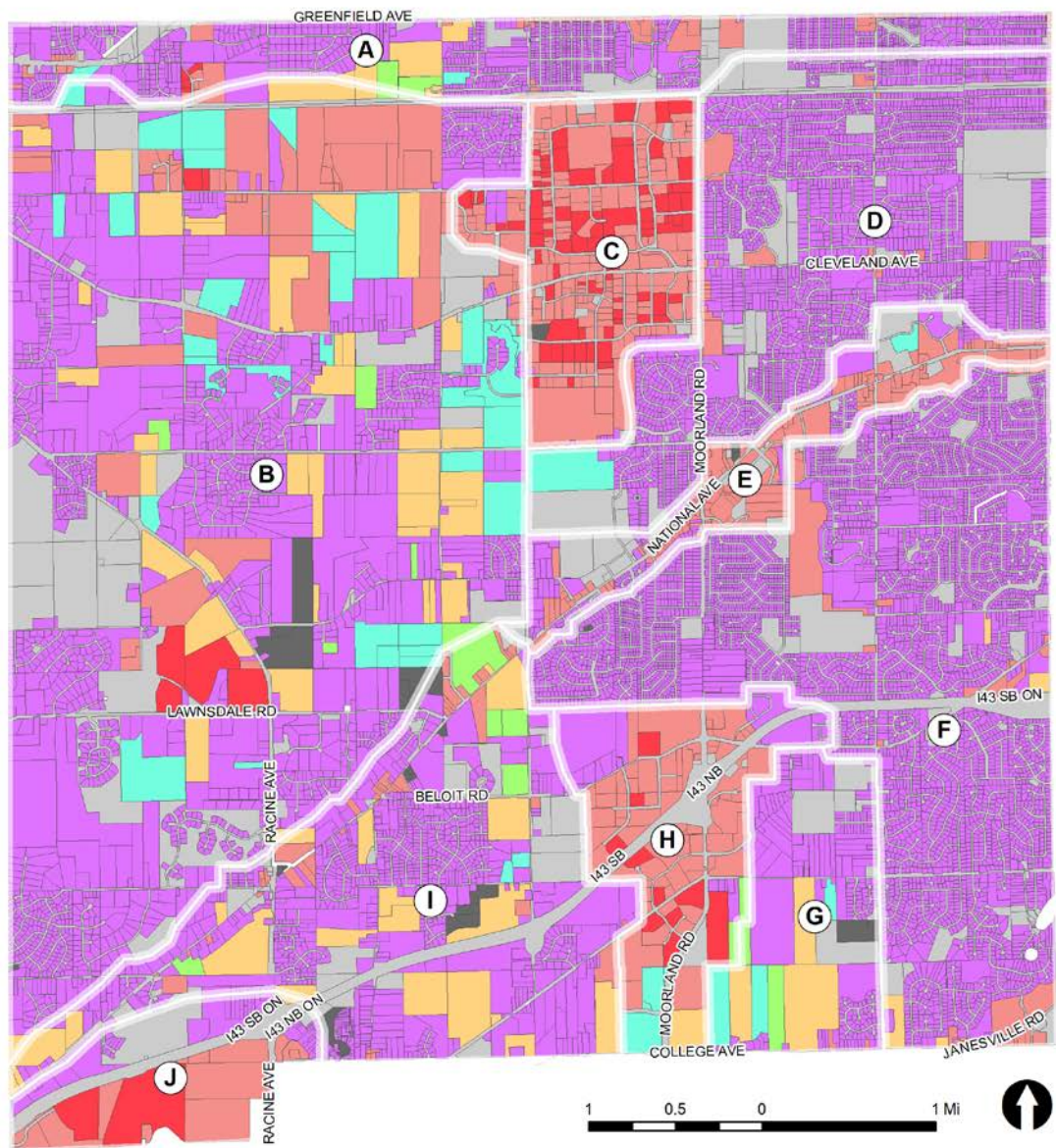
Figure 10.1. City of New Berlin Land Use Trends

Source: SEWRPC & City of New Berlin Assessment Data

In 2020, the primary urban use within New Berlin consisted of residential land at approximately 13,574 acres, or 59.8% of the total area of New Berlin. This was an increase of 6,792 acres from 2000.

EXISTING LAND USE

with Neighborhood Overlay



EXISTING LAND USE

- | | | |
|-------------------|---------------|-------------|
| No Value Assigned | Exempt | Residential |
| Agricultural | Forest | Undeveloped |
| Commercial | Manufacturing | |

March 2024

COMPREHENSIVE PLAN 2030
City of New Berlin, Wisconsin

Figure 10.2. Existing Land Use Map of the City of New Berlin. UPDATE MAP IF PUD IS APPROVED.

Even though the amount of agricultural land in the City has been decreasing over time, agricultural land still plays a significant role in New Berlin. Most new subdivisions built since 2015 have been conservation style subdivisions with an overall density of one home per 5 acres, in addition to 50 to 75 percent open space. The City has continued to monitor the subdivision ordinances every few years to ensure that we are continuing to preserve open spaces, wetlands and woodlands.

Based upon survey work conducted by the Department of Community Development in 2008, this decrease can be attributed to market forces that have resulted in less overall income being derived from farming, multiple property ownerships creating smaller, less contiguous farmland acreages, and a general lack of interest in farming. Surveying large property owners whose current existing land use is agriculture, in 1999, 95% and in 2007, 91% of those surveyed identified that farming was not their main occupation. The Department mailed out 123 surveys representing 155 tracts of agricultural or undeveloped lands of 15 acres in size or larger. There was a 44% response rate to the 2008 survey. See Appendix F for both the survey results and the summary power point presentation that was presented at the Farmland & Open Space Landowners Focus Group meeting on July 9, 2008.

In order to continue forth with farmland preservation efforts, the Department of Community Development must continually look for economically viable ways of purchasing agriculture conservation easements through grant funding. Additionally, the Department should utilize its conservation subdivision regulations to plan for and permit farming as open space use. Planning for farms in conservation subdivisions could take place through the platting process by designing lot layouts, access, and other elements to accommodate farming as an open space use. The Department is also encouraged to continue promoting other agricultural preservation mechanisms to property owners such as easement dedications and / or purchase of development rights (PDR).

Other significant trends noted in the table have been the growth in commercial and industrial/manufacturing land use. This growth was planned for and is on track with the various development policies within each Neighborhood. This would include some growth in South Moorland Road Corridor, City Center and Moorland Road and Beloit Road.

LAND USE POLICIES

Several key policies were developed during the 2001 Growth and Development Master Plan (GDMP) process in order to guide the demographic and economic forces shaping the community. These policies have been carried forward and will continue to help guide the City's land use planning efforts.

Although the Land Use Plan is ultimately organized around creating distinct neighborhoods and business centers, the following policies shall apply city-wide:

Policy 1: Managed Growth

Ensure that growth in New Berlin is affirmatively and responsibly managed based on available public services and suitability of the land for development.

Policy 2: Urban Boundaries

Maintain cohesive urban boundaries conducive to service delivery that support implementation of the adopted future land use plan.

Policy 3: Compatible Land Uses

Promote an orderly and compatible pattern of land uses avoiding "hodge-podge" development patterns. Provide appropriate transitions and buffers when differing uses are adjacent to one another.

Policy 4: Infrastructure

Utilize the provision of infrastructure in supporting and influencing growth in areas most suitable to accommodate growth.

Policy 5: Neighborhood Preservation

Preserve existing neighborhoods and encourage compatible infill development. (Infill development generally refers to either construction on vacant parcels in existing developed areas, or replacement of obsolete or dilapidated structures with new buildings.)

Policy 6: Rural Character

Preserve the existing character of the remaining rural areas in New Berlin.

Policy 7: Urban and Rural Distinction

Preserve and reinforce the distinction between urban and rural areas in New Berlin.

Policy 8: Open Space

Preserve open space throughout the city through both public and private development. Focus preservation efforts in environmentally sensitive areas, areas with recreational and trail opportunities, areas serving as buffers between different land uses, and neighborhood open space. Work to remove regulatory barriers that will reinforce that farming and/or large-scale gardening can remain a viable land use while respecting and preserving private property rights.

Policy 9: Development Quality

Require new development to meet sound planning and engineering standards with regard to sustainable architecture, site planning, and stormwater management.

These principles create an overall policy framework for the city.

The City of New Berlin Land Use Plan is intended to provide a guide for development, redevelopment, and preservation over the next ten (10) years and will need to be re-evaluated during 2021 and again near the year 2030. The Land Use Plan is based on standards that reflect the desires of community residents, committee members, elected officials and proven principles in community development, environmental preservation, and residential development. As part of the Land Use Plan, several factors have been explored related to the growth of the built environment:

- **Social factors** include those which give or maintain character (i.e. gathering areas, civic identity, and the “city living with a touch of country” feeling).
- **Economic factors** include the creation of jobs, balance of municipal expenses and revenue, and land value influenced by natural amenities and water quality.
- **Physical factors** include the character of the land (i.e. how it appears, areas that are preserved, what types of development are allowed, and where development is located).

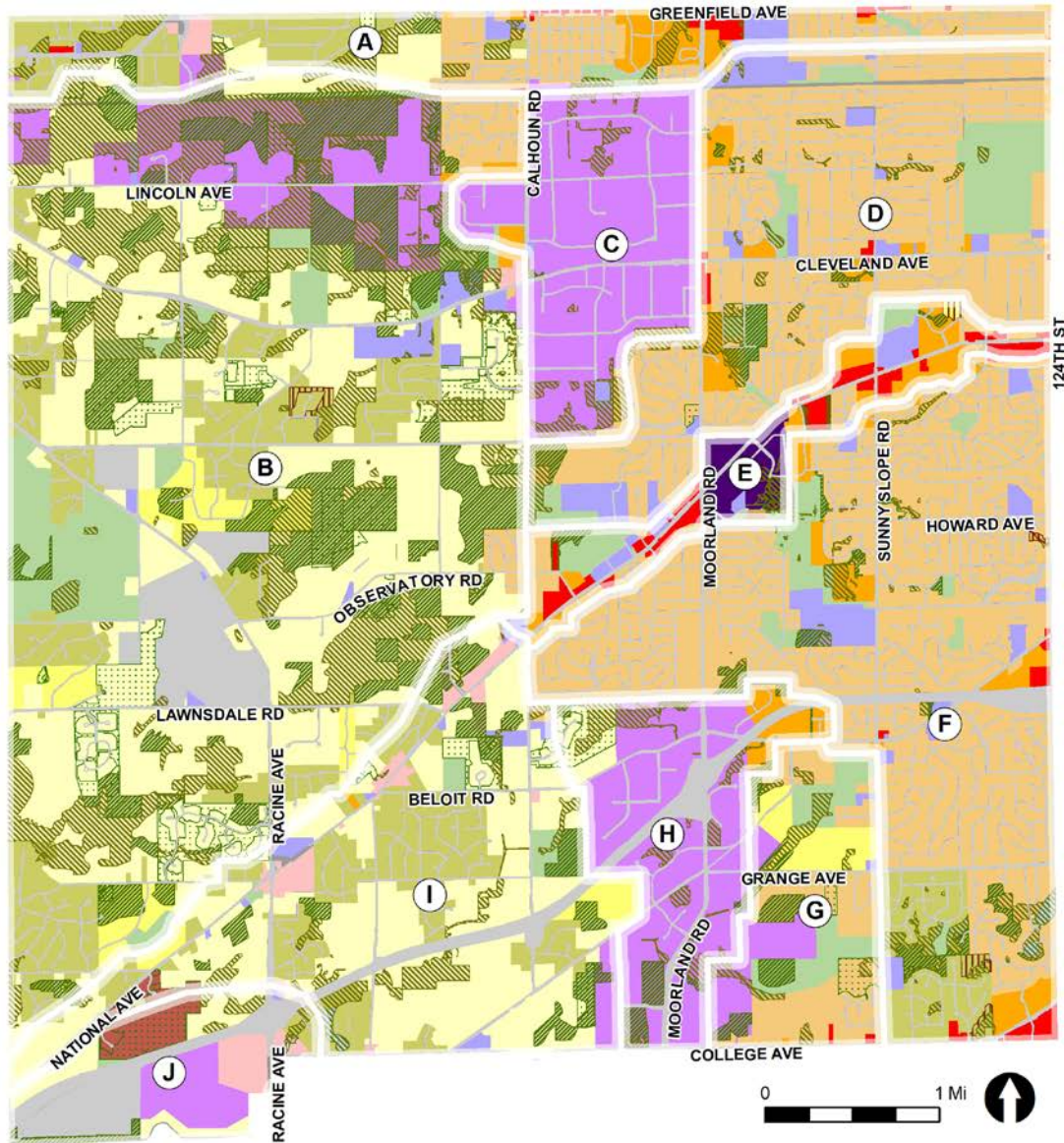
The Land Use Plan cannot be successfully implemented by looking only at the physical attributes of growth. Diverse and healthy communities grow in all three areas, and a balance should be achieved to provide a quality environment for residents and business owners.

This Land Use Plan provides flexible recommendations and categories to provide long-range guidance to decision-makers. It recognizes that the City Zoning Map exists as a mechanism for property-specific recommendations. The purpose of the Land Use Plan is to serve as a link between the Land Use Policies and the development regulations. The City should explore implementing a form-based code versus continuing the use the traditional zoning ordinance (Euclidean Zoning) in order to implement infill and/or redevelopment opportunities.

When considering the proposed land uses for any particular parcel of property, the Land Use Policies must be considered in addition to the requirements of the entire Comprehensive Plan. The Land Use Plan Map, shown in Figure 10.3, identifies the future land use districts within the City of New Berlin.

FUTURE LAND USE PLAN

with Zoned Conservancy and Neighborhood Overlay



LEGEND

Business Park / Industrial	Mixed Use Residential	Residential Estate	Zoned Conservancy Districts
Institutional	City Center Single Family Res	Quarry Park Residential	C-1 Upland Resource
City Center Mixed Use	Urban Residential	Transportation	C-2 Shoreland Wetland
Suburban Commercial	Suburban Residential	Park	C-3 Permanent Open Space
Rural Commercial	Country Residential	Quarry	
		Water	

March 2024

COMPREHENSIVE PLAN 2030

City of New Berlin, Wisconsin

Figure 10.3. Future Land Use Map for the City of New Berlin. UPDATE MAP IF PUD & COMP. PLAN IS AMENDMENT IS APPROVED.

Section 34 – 35 – 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 & 35 Business Park Development District) and P-2 (Section 35 Park Complex District) as further described below. The map below (Figure 10.4) identifies the Future Land Use and Zoning Code Section 275-13.1(H)(4), Figure I-1, identifies the 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.

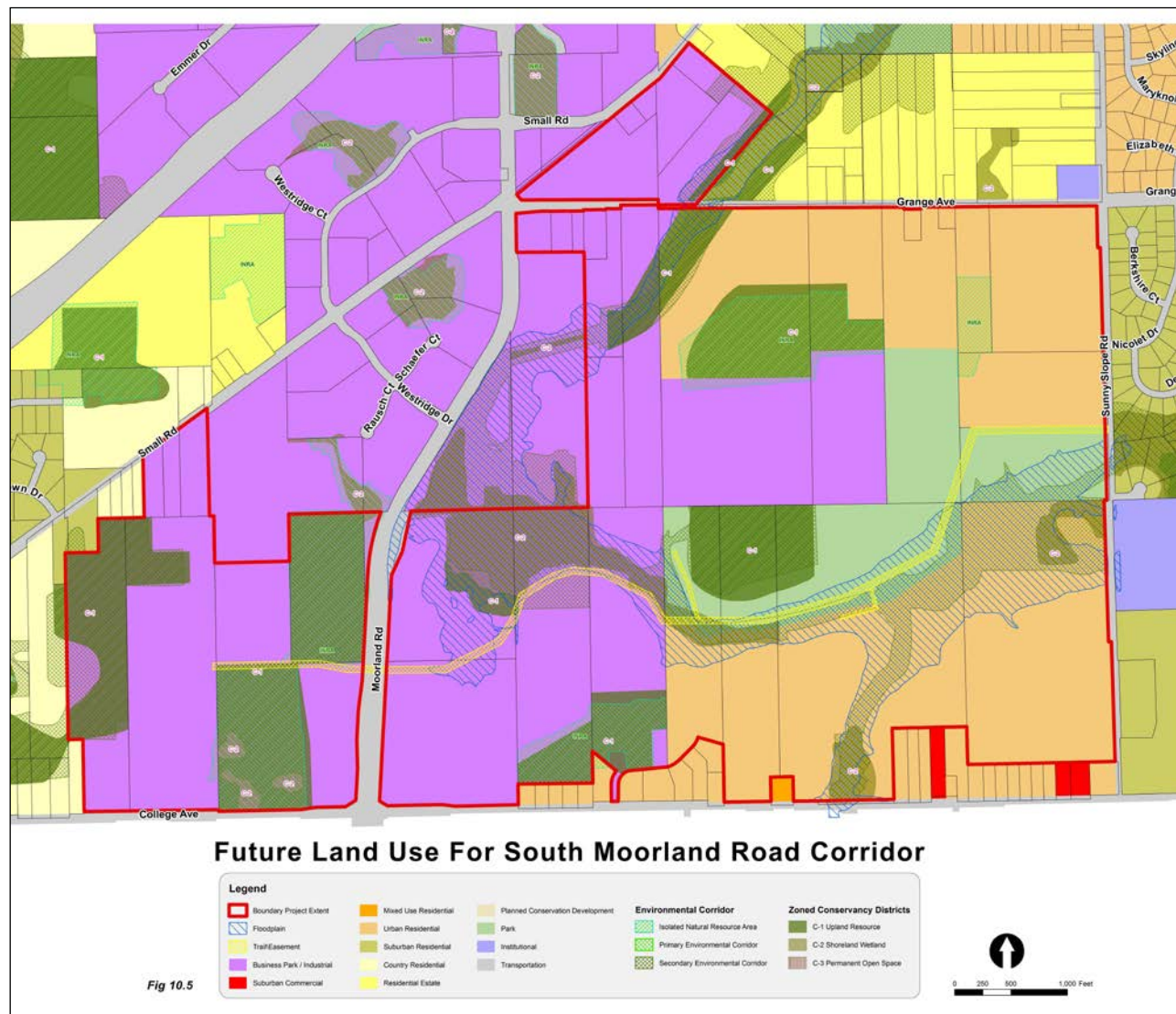


Figure 10.4 Future Land Use Map for South Moorland Road Corridor.

Northwest Section 2 –North Moorland Road Corridor (Southeast corner of Moorland Road and Greenfield Avenue)

The Department of Community Development has been going through the process of analyzing the area now referred to as the North Moorland Road Corridor. This area is generally bounded by Moorland Road to the West, the Highland Memorial Park Cemetery and Walmart development to the East, Greenfield Avenue to the North and the New Berlin Recreational Trail to the South (Figure 10.5-1). In order to guide the City in land use and zoning decisions it is best to understand the impact new developments will have on the School District, traffic patterns, stormwater and environmental features. Development policies were added within Chapter 11 – Neighborhood A (Greenfield Avenue Corridor) to guide any future development requests.



Fig. 10.5 North Moorland Road Corridor Map.



Fig. 10.5 North Moorland Road Corridor Map.

Urban Residential

The Urban Residential designation reflects the modern form of the residential subdivision with lots ranging in size from one to four dwelling units per acre, depending on underlying zoning and surrounding development patterns. While these communities may include various sizes and price ranges of homes, the primary land use is single-family detached homes. Attached single-

family housing may be considered as a transitional use between lower density residential uses and non-residential development and highway corridors.

The corresponding zoning districts are:

- R-4 (Low-Density Single-Family Residential) which has a not-to-exceed density of 2.2 dwelling units per net residential acre for new large lot subdivisions to be served by public sanitary sewer and water facilities.
- R-4.5 (Medium-Density Single-Family Residential) which has a not-to-exceed density of 2.9 dwelling units per net residential acre, served by public sanitary sewer and water facilities.
- R-5 (Medium-Density Single-Family Residential) which has a not-to-exceed density of 4.3 dwelling units per net residential acre, served by public sanitary sewer and water facilities. It should be noted that the City's current zoning ordinance states that "no unplatted lands" should be placed into the R-5 District.
- R-6 (Section 35 Low-Density Single-Family Residential) is unique to the South Moorland Road Corridor Area, a specific geographic area in the City (see §275-13.1H(4) Figure I-1 of the Zoning Code). The R-6 Low-Density Single-Family Residential District is intended to provide for single-family residential development within Sections 34 and 35 with a minimum lot sizes similar to those in the above zoning districts and served by public sanitary sewer and water facilities. 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. Per Zoning Code Section §275-13.1(H)(4), "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."

Urban Residential districts include neighborhood parks and green spaces that provide amenities to local residents and are encouraged to provide links with the City's existing parks and recreation. Developers should incorporate the protection of environmentally sensitive areas, including the floodplain, into the development to create unique neighborhoods while protecting the natural environment. The number of cul-de-sacs should be minimized, emphasizing loop street layouts or multiple connections through and between subdivisions.

The Urban Residential areas also offer a continuing opportunity for more affordable housing to serve workers in the City's growing business parks. For example, housing on ¼ acre lots can help to retain and increase the diversity of the City's housing stock to allow for more personal housing options. The Community Development Authority (CDA) (formerly the New Berlin Housing Authority) is using tax credits and rent assistance to ensure a continued supply of affordable senior housing and apartments.

The City has worked closely over the past few years with Bank Five Nine to create a home loan grant program for first time home buyers. The program is funded by the Housing Trust Fund, which was created via Ordinance #: 2491, an ordinance to create a Housing Trust Fund for the City of New Berlin. The Common Council approved the transfer of Seventy Five Thousand Dollars (\$75,000.00) into the Fund. The City is able to provide qualified applicants with a \$2,500 grant to first time home buyers to pay for down payment and closing costs associated with buying their own home. The bank may match that request up to \$2,500 and will assist the City in reviewing the requests. The City has created a home loan grant application which is located on the City's website.

Certain institutional uses that can be compatible with residential uses, such as schools and neighborhood scale churches may be appropriate after careful site plan review.

Suburban Residential

The Suburban Residential designation reflects the rural setting of the existing residential areas on the western half of the City. Lots in this category are generally located in existing subdivisions that have already been developed at higher densities than the surrounding Country Residential area. The Suburban Residential areas are typically served by private on-site sewerage disposal systems and private wells. On average, lots are 35,000 square feet in this district. New development may occur as infill development, but are not expansions to the existing subdivisions. Infill development is the development of vacant lots within existing subdivisions.

The corresponding zoning district is:

- R-3 (Suburban Single- Family Residential) which has a not-to-exceed density of 2.0 dwelling units per net residential acre. This District is intended to be used for residentially platted lots already existing at this density range. As stated previously, Suburban Residential lots are served by private on-site sewerage disposal systems and private wells.

Residential Estate

Residential Estate is similar to the Country Residential category except for that it has a gross density not-to-exceed one dwelling unit per two acres. While agricultural uses are encouraged to remain as long as the owners wish to operate farms, this designation provides an opportunity for the City to allow this area to develop, but maintain a sense of rural character. Before this land use category is implemented in this area, provisions for public sewer and water facilities must be made.

The preservation of the character of these areas should be accomplished through the use of clustering homes to help preserve the visual character but also to preserve larger open space areas for use as active or passive recreation or agriculture. Establishing open space areas which include streams, wetlands, woodlands, floodplains should be given high priority along with establishing greater setbacks from these resources.

The corresponding zoning district is:

- R-2E (Conservation Estate Single-Family Residential) which has a not-to-exceed density of 1.0 dwelling units per two acres. Homes within this District are intended to be served by public sanitary sewer and water facilities. Density bonuses are allowed pursuant to the City's zoning code.

Country Residential

Country Residential encompasses most of the area in the western portion of the City. These areas include various sizes and price ranges of homes with the primary land use being single-family detached homes. The average density of this area is envisioned to be a gross density of one dwelling unit per five acres.

Lot clustering that maintains an overall low density, while preserving substantial open space is encouraged in these areas. Country Residential Communities will be planned to include parks and green space or preserve agricultural land. This will provide amenities to local residents and work toward providing a link with the City's existing parks and recreation system. Developers should incorporate the protection of environmentally sensitive areas, including the floodplain, into the development to create unique neighborhoods while protecting the natural environment.

The corresponding zoning district is:

- R-1/R-2 (Rural Conservation Single-Family Residential) which has a not-to-exceed gross density of 1.0 dwelling unit five acres. Country Residential lots are served by private on-site sewerage disposal systems and private wells. Density bonuses are allowed pursuant to the City's Zoning Code.

There are also a large number of farm operations that exist in this area and the protection and preservation of these uses is integral to this land use. Some on-site sales of products are appropriate including small farm markets, landscape materials, and locally grown food. Artisan farming, flea markets, hobby farming and other activities that promote the continuation of farming should be encouraged and regulatory barriers prohibiting these activities should be removed. In order to prevent excessive nuisances from occurring as a result from any of these associated farming related commercial activities, they should be regulated in their size, intensity and traffic impacts to prevent the proliferation of Rural Commercial Services in areas not designated as commercial.

Quarry Park Residential

Quarry Park Residential encompasses the properties within Quarry Park Subdivision, which is an 18-lot single-family residential conservation subdivision. The density is one dwelling unit per 6.6 acres.

The corresponding zoning district is:

- R-7 (Quarry Park Low-Density Single-Family Residential District) which is intended to provide for no more than 27 single-family residential lots which shall collectively be considered a residential community governed through a homeowners association and which is served by a community wide on-site sewage disposal system and private wells to be maintained solely by the homeowners association and/or the homeowners in the subdivision. A developer agreement shall be in place.

Mixed Use Residential

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.

The corresponding residential zoning districts are:

- Rd-1 (Two-Family Residential District) is intended to provide for two-family residential development, at densities not to exceed 4.8 dwelling units per net residential acre, served by public sanitary sewer and water facilities.
- Rm-1 (Multiple-Family Residential District) is intended to provide for multiple-family residential development served by municipal sewer and water facilities at densities not to exceed those established within the Zoning Code. 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.
- I-1 (Institutional District) is intended to provide areas for public or private institutions or organizations housing social, educational, religious, or governmental activities.
- Zoning Code Section 275-41B(1) provides for elderly housing and assisted-living facilities. The density of an elderly housing development shall not exceed the densities established within the Zoning Code.
- A PUD could be considered when a mix of multi-family and retail/office uses are being proposed in order to accommodate creative site design. PUD's are not to be used for solely single-family residential.

Business Park / Industrial

Business Park / Industrial encompass a mixture of office, industrial, retail, commercial and service uses in a development with substantial landscaping and open space to create an attractive

image. New industrial and office growth is encouraged to occur in these large developments so traffic impacts on surrounding uses can be minimized & managed and infrastructure can be provided.

The Business Park / Industrial land use is placed in areas where there will be a minimal impact on residential uses and the natural environment. In addition, Business Parks parcels are generally located near major transportation corridors that can accommodate the truck and automobile traffic generated by such developments.

The corresponding zoning districts are:

- O-1 (Office and Business Service District) is intended to provide for individual or attractive groupings of office and financial service uses in aesthetically pleasing structures on lots with ample open space.
- O-2 (Business Park Development District) is intended to provide for the development of an attractive grouping of buildings limited to light industrial uses, offices, corporate headquarters, and support facilities in a parklike setting. The district is further intended to promote the provision of ample off-street parking and loading areas, open space, and landscape planting screens or buffer yards in areas adjacent to residential areas.
- O-3 (Transitional Office District) is intended to provide for low-intensity uses that serve as a transitional use between residential uses and districts and higher-intensity uses, including office, commercial and industrial uses. The district is also intended to accommodate areas where many residential homes are being converted to nonresidential uses such as business, medical, and professional offices. The O-3 District provides regulations that limit parking in side and rear yards, landscaping, architectural preservation of the existing residential character, and small-scale structures that blend in with the surrounding community while providing necessary services to the citizens of New Berlin.
- M-1 (Light Manufacturing District) is intended to provide for a range of light manufacturing and industrial uses. The M-1 Light Manufacturing District is also intended to provide for manufacturing and industrial development of a more-restrictive nature. The district is further intended to be used where the relative proximity to other uses requires more-restrictive regulation.
- M-2 (General Industrial District) is intended to provide for manufacturing and industrial development of a less-restrictive nature than in the M-1 Light Manufacturing District in areas where the relationship to surrounding land use would create fewer problems of compatibility. This district is further intended to allow, where properly screened, outside storage of vehicles, equipment, machinery, and inventory.
- M-3 (Section 34-35 Business Park Development District) is unique to the South Moorland Road Corridor Area, a specific geographic area in the City (see §275-13.1H(4) Figure I-1 of the Zoning Code). The M-3 Section 34-35 Business Park Development District is intended for light manufacturing, office, retail and business uses. The M-3 Section 34-35 Business Park Development District is also intended to provide a broader mix of allowable uses including retail establishments within Sections 34 and 35 of the City to support both

the business and residential development. The District is further intended to promote open space, intense vertical landscape, planting screens, buffer yards and preservation of existing environmental features (trees, wetlands, floodplain, rock outcroppings, steep slopes and viewsheds). Per Zoning Code Section §275-13.1(H)(4), “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.”

City Center – Mixed Use

The City Center designation recognizes the substantial planning and investment being made in the commercial core at National Avenue, immediately east of Moorland Road. While the City Center is a part of the suburban business center corridor, the unique qualities desired by the City for this area merit special attention. The pedestrian orientation, distinctive streetscape, and the mixture of uses create the potential for this to become a unique area of the city. There are several land uses that can occur within the mixed use areas, including single-family residential, duplex residential, condominiums, townhomes, apartments, office, commercial, and institutional. Development approval for all of these uses requires a review to determine compatibility with surrounding land uses, particularly the adjacent residential neighborhoods.

Refer to the City Center PUD Ordinance #2526 and associated zoning map for a list of appropriate uses for this area.

City Center – Single-Family

The City-Center – Single-Family designation reflects the modern form of the residential subdivision with lots ranging in size from one to four dwelling units per acre, depending on underlying zoning and surrounding development patterns. While these communities may include various sizes and price ranges of homes, the primary land use is single-family detached homes. Attached single-family housing may be considered as a transitional use between lower density residential uses and non-residential development and highway corridors.

The corresponding zoning district is:

- R-4.5 (Medium-Density Single-Family Residential) which has a not-to-exceed density of 2.9 dwelling units per net residential acre, served by public sanitary sewer and water facilities.

Suburban Commercial

Suburban Commercial areas include the commercial areas of New Berlin primarily along National Avenue east of Calhoun Road. While these areas focus on retail sales and personal services, some office space and low-density multi-family housing is intermixed only when commercial development is incorporated on the first floor and residential is planned above. Net density not to exceed those established within Zoning Code Section 275-33(8): Rm-1, Multiple Family Residential District and Section 275-41B(1): Elderly housing and assisted-living facilities. The geographic boundaries of Suburban Commercial areas should be controlled to limit expansion

of commercial development and the increasing number of vacant buildings, and at the same time provide flexibility to accommodate changes in the market.

Developers will be encouraged to establish creative commercial centers that do not place emphasis on the parking areas, but on the commercial uses themselves. This can be accomplished by placing some parking to the side or behind buildings and utilizing internal landscaping throughout the parking areas. Signage and lighting should be placed and designed to ensure visibility without being excessive.

Unique to the intersection located at the southeast corner of Moorland Road and Greenfield Avenue, the City has established parameters for planning of this area in order to ensure that it develops uniformly. Chapter 11: Neighborhood A - Greenfield Avenue lays out specific policies to help ensure the cohesive development. This area is intended for retail and commercial uses located on the corner then transitioning to the south to allow for commercial retail and/or office on the first floor with residential integrated above. The far southern end of the parcel could be developed as low-density multi-family residential as defined above in this section.

The corresponding zoning districts are:

- B-1 (Shopping Center District) is intended to provide for neighborhood and community shopping centers with groupings of retail and customer service establishments to serve both the citizens of New Berlin, the surrounding region, and businesses. Hotels and regional uses are also appropriate in this district when planned appropriately in relation to traffic and landscaping. This district is intended to accommodate the requirement of on-site parking and loading facilities; landscape planting screens in areas adjacent to nonbusiness development or other incompatible uses; and a partially pedestrian-oriented shopping environment. Uses in this district are intended to be compatible with the character of the adjacent residential areas served.
- B-2 (General Retail Sales and Service District) is intended to accommodate a broad range of retail sales and service uses. The district is also intended to provide for the orderly and attractive development and grouping in appropriate and convenient locations for small-lot business activities of a general nature. The district is further intended to promote the provision of ample off-street parking and loading areas; landscape planting screens in areas adjacent to nonbusiness development or other incompatible uses; and development in character with the adjacent land uses.

Rural Commercial

Rural Commercial areas should maintain the “rural theme” in designing retail-oriented developments that include farm implement sales, produce markets, feed and seed stores, etc. to help support the agricultural environment but, may also include small-scale office-oriented uses. In addition, convenience retail uses may be appropriate in these areas to serve the day-to-day needs of residents, thus minimizing the necessity of driving for convenience goods.

Rural Commercial should be located primarily along National Avenue west of Calhoun Road. These uses should be located in enclosed structures. Where outdoor storage and sales are necessary, they should be located in the side or rear yards. Landscaping and screening should be used to minimize the transition from agricultural and rural residential uses to these commercial developments. Lighting should be carefully evaluated. Rural commercial architectural design standards should be adhered to. The Rural Commercial Design Guide shall be used to aid development. As properties apply for rezoning requests in these areas, the B-3 and B-5 Districts shall be considered to be more suitable than the B-2 District.

The corresponding zoning districts are:

- B-2 (General Retail Sales and Service) which is intended to accommodate a broad range of retail sales and service uses and provide for orderly and attractive development and grouping in appropriate and convenient locations for small lot business activities of a general nature. The minimum lot size for this district is 40,000 square feet.
- B-3 (General Bulk Sales) which is intended to accommodate the needs of the agricultural community for the western portion of the community without detracting from the character of the area. This district allows for outdoor storage, outdoor sales and automotive sales, service and repair. The minimum lot size for this district is 3 acres.
- B-5 (Rural Commercial District) which is intended to accommodate the needs of the agricultural community with a range of retail sales and service uses. The uses of these areas are intended to provide convenience for farms and the growing residential uses in the western area. The minimum lot size for this district is 40,000 square feet.

Institutional

Institutional uses encompass the main City Government facilities around City Hall, as well as schools, churches, and other nonprofits. Regarding church uses, these institutions have been classified into two types: Neighborhood Scale and Community Scale. Neighborhood scale churches are defined as a place of gathering for religious observance, ministry, and fellowship & related social events and may include classrooms for periodic religious instruction, kitchen, meeting area principally for members and administrative offices. These facilities are identified as those with a total building footprint of less than 14,999 square feet. Community scale churches are defined as a place of gathering for religious observance, ministry, and fellowship & related social events and may include classrooms for periodic religious instruction, and administrative offices. These facilities are identified as those with a total building footprint greater than 15,000 square feet or which have accessory uses, which include, but are not limited to uses such as banquet facilities, day school, day care facilities, retail stores, restaurant, workout centers / club, gymnasium, health care facilities, assisted living facilities, library, and café.

Parks

The City wishes to acquire and maintain parks and open space that are consistent with the adopted park and open space plan to encourage private preservation of open space and

environmental areas, and to encourage the use of creative development alternatives (i.e. Conservation subdivisions to create neighborhood open space).

The corresponding zoning districts are:

- P-1 (Park and Recreation District) is intended to provide areas where open space and outdoor recreational needs of the citizens can be met without the undue disturbance of natural resources and adjacent uses. When applied to privately owned recreational lands, this district is intended to avoid the conversion of such lands to other urban uses without adequate public review and approval. The district should be used for areas designated as parks in the adopted New Berlin Comprehensive Plan.
- P-2 (Section 35 Park Complex District) is unique to the South Moorland Road Corridor Area, a specific geographic area in the City (see §275-13.1H(4) Figure I-1 of the Zoning Code). The P-2 Section 35 Park Complex District is intended to provide an area for a regional amenity that would provide tournament, practice and game space for baseball, softball and/or soccer. The District will also incorporate neighborhood park elements for neighboring residents. The complex will provide a buffer between the residential and business park land uses and may be expanded to create additional meaningful passive recreational opportunities and utilize the City's utility easement / public trail to create more of a linear parkway. Uses may include, but are not limited to, passive recreational trails, fishing ponds, winter sports activities, snowshoeing, cross country skiing, sledding, nature trails, bird watching and interpretive exercise trails. Per Zoning Code Section §275-13.1(H)(4), "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."

In addition, the City's *Park and Open Space Plan* identifies the need to acquire additional Community Parkland to account for the City's land area and population growth. Such Community Parkland shall incorporate an active park complex to address the City's need for additional ball fields and courts, as outlined in the *Park and Open Space Plan*, as well as passive park uses year-round. Linear parkways, which preserve open space, and provide connectivity within this area should be developed. The linear parkways could be integrated with the floodplain and creek areas.

Quarry

Quarries involve the mining and processing of minerals. They typically include both underground and surface mining activities. While they are typically located in rural areas, they can also create substantial land use impacts. A few of these quarry properties are actively being mined for non-metallic mineral resources (i.e. sand & gravel). As such, they are required to have a City approved Reclamation Plan pursuant to NR 135 and the City's zoning ordinance. The Reclamation Plan is required to identify post-mining land uses in addition to the "means & methods" for reclaiming the site. During the planning horizon for this Plan, it is anticipated that two of these quarries will transition and be reclaimed into their approved post-mining land uses.

Specifically, the New Valley Sand & Gravel Quarry (identified in Neighborhood “J” has been identified as a future business park and the Kohler Pit has the following approved post-mining land uses – rural commercial, agriculture and aquaculture (both in recreational & commercial formats). Kohler Ridge Subdivision was approved by the Common Council in, 2016. The subdivision encompasses a portion of the former Kohler Sand & Gravel Mine and resulted in the complete restoration of approximately 65 acres of formerly mined land.

Conservancy Areas

C-1 Upland Resource Conservancy Zoning

The purpose of this district is to prevent the destruction of valuable natural and man-made resources and, in particular, woodlands, wetlands, wildlife habitat areas, perennial and intermittent streams, major lakes, floodlands and shorelands, significant water recharge and discharge areas, prairies, recreational and scenic areas, natural scientific areas, areas with poor soils or high groundwater, and areas of steep slopes, including primary environmental corridor, secondary environmental corridor and isolated natural resource areas. It should be noted that the City has established a new policy that states no “new” lands should be placed into this category and rather the use of “conservation easements” shall become the norm for preserving and protecting these natural resource assets.

C-2 Shoreland-Wetland Conservancy Zoning

The purpose of this district is to preserve, protect, and enhance the ponds, streams, and wetland areas of the City. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control stormwater runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation resources of the City.

C-3 Permanent Open Space/Conservation Zoning

The Permanent Open Space/Conservation Lands District is intended to serve as a preservation district to maintain lands that have been permanently designated as open space or conservation lands. This District serves as a more definitive designation of open space and conservation lands as an alternative to deed restrictions and easements. This District should be utilized for developments where potential development densities have been transferred to another area of the property or to another site within New Berlin; developments that will have open space permanently preserved; and other similar conservation and preservation practices that will contribute to the unique character of New Berlin.

Environmental Corridors

Environmental Corridors are shown on the City’s Map of Potential Conservation Lands. The City clearly recognizes the importance of these natural resource assets and will continue to use “conservation easements” for their protection. The City will also continue to follow SEWRPC guidelines for preserving, protecting and managing development within these corridor areas.

See Appendix J for SEWRPC's publication entitled "Environmental Corridors – Lifelines of the Natural Resource Base". The City will continue to use SEWRPC's Environmental Corridor Maps as a resource as amended.

Map of Potential Conservation Areas

The Map of Potential Conservation Lands for the City of New Berlin consists of wetlands; woodlands; Butler's Garter Snake habitat; Water; Slope; environmental corridors; and scenic vistas. This map should be used as a resource in addition to, but not limited to, other maps such as the future land use, zoning and FEMA FIRM maps for all land use decisions. These environmental features should be incorporated into all development proposals, as applicable.

LAND USE PLANNING IN WAUKESHA COUNTY

Under Wisconsin State Statutes, counties are required to incorporate into the county development plan all master plans that have been duly adopted by incorporated cities and villages under the State of Wisconsin City Planning Enabling Act. However, the Statutes do not provide direction as to resolving conflicts between county adopted land use objectives and local master plans. To address this issue, the Waukesha County Comprehensive Plan Advisory Committee determined specific approaches to be implemented during the County Plan process. The following County approaches are those which apply directly to New Berlin's Comprehensive Plan:

- All duly adopted local land use plans, whether prepared by incorporated cities and villages or by towns, would be reviewed for consistency with the County development objectives and standards approved by the Advisory Committee, as presented in Chapter 2 of this Plan. All inconsistencies would be identified and described.
- Municipalities will prepare preliminary land use plans in a manner consistent with the Advisory Committee approved development objectives and standards. Following review of local land use plans, inconsistencies with the development objectives were identified for the municipalities and adjustments were requested.
- The compiled preliminary County land use plan would be provided to all cities, villages, and towns in the County for review and comment.

Resulting from these approaches is the County land use element provided in the Waukesha County Comprehensive Plan. Due to the fact that the County is required to incorporate local master plans into its overall plan, New Berlin residents and property owners should first look to its own Comprehensive Plan for guiding objectives and policies. The Waukesha County Plan shall serve as a seamless overview of planning efforts county-wide.

LAND USE PLANNING IN THE REGION

The regional land use plan sets forth the fundamental concepts that are recommended to guide the development of the seven-county southeastern Wisconsin region. The most recent

version of the plan, entitled “SEWRPC Planning Report No. 55: A Regional Land Use Plan and Transportation Plan for Southeastern Wisconsin: 2050, was adopted by SEWRPC in July 2016. This plan is intended to guide land use development and redevelopment through the year 2050.

Vision 2050 replaces the Vision 2035 plans. It should be noted that the SEWRPC plans are advisory only. Refer to the SEWRPC VISION 2050 plan for the most updated information related to their regional planning efforts and recommendations. The report is available on the SEWRPC website www.sewrpc.org.

CHAPTER 11:

NEIGHBORHOOD A

GREENFIELD AVENUE

Revisions approved by Council via Ordinance ~~# 2678 on 8/29/2023~~ # on DATE.

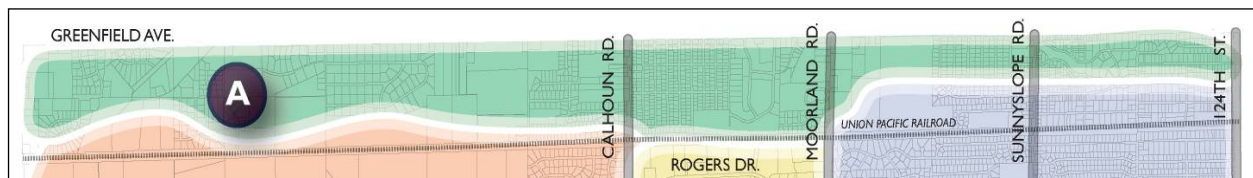


Figure 11.1. Neighborhood A Context Map.

Greenfield Avenue is the dividing line between New Berlin and the City of Brookfield, and serves as the northern border of Neighborhood A. In addition to this northern boundary, the neighborhood is bounded by the City limits to the east and west, and the Union Pacific rail line to the south (Figure 11.1).

The Greenfield Avenue corridor is primarily residential in character, although some agricultural, park, and small-scale retail uses are scattered throughout. The character of the corridor varies from east to west, generally reflecting the transition from urban to rural of the city as a whole. Greenfield Avenue serves as the thoroughfare for Wisconsin State Highway 59 in New Berlin (Figure 11.2). The corridor was the subject of the Greenfield Avenue Corridor Plan in 1995 and has undergone major improvements between 124th Street on the east and Springdale Road on the west. Improvements include road widening, landscaping, and the installation of bicycle and pedestrian paths. The final expansion of Greenfield Avenue has occurred near Johnson Road.

Development opportunities in the corridor include the future commercial development which is to be situated at the southwest corner of Greenfield Avenue and Moorland Road. The developer for the hotel once planned for this intersection is no longer interested in doing the project. This development opportunity, along with potential development on the southeast corner of Greenfield and Moorland, could serve as a strong gateway into both the neighborhood and New Berlin.

The intersection of Greenfield Avenue with Johnson Road provides another development opportunity for commercial office space or additional housing. Public comments supported housing development consistent with adjacent zoning district or continued open space. Both the southwest and southeast corners contain sensitive features and pose some grading

challenges near the right-of-way. Allocating sensitive features for preservation during the site development process would enhance the environmental and aesthetic quality of the intersection.

Other development opportunity nodes along Greenfield Avenue include the intersections with Calhoun Road and Sunny Slope Road (Figure 11.3). Currently, both intersections house one-story retail structures that could better serve as gateways into the city. As redevelopment opportunities emerge, the City should encourage taller buildings with smaller setbacks to hold the street edge at these intersections.



Figure 11.2. Greenfield Avenue Corridor.



Figure 11.3. Intersection of Greenfield Avenue with Sunny Slope Road.

PUBLIC INPUT

Initial Neighborhood Meeting

On July 23, 2008, residents and property owners in Neighborhood A met to learn about the comprehensive planning process and to complete an image preference survey. For the survey, attendees were instructed to rate individual images based on two factors: 1) whether or not the use was desirable for their neighborhood, and 2) whether or not they liked the overall image. Prompts were provided with each image, e.g. “setback”, “building character”, etc., that helped to focus the rating for each image. Fourteen attendees completed the image preference survey. Additional information regarding these surveys is provided in Figure 11.4.

Attendees were to rate the images only for their neighborhood, not the entire city. After the survey, attendees had an opportunity to discuss what uses they would like to see in New Berlin as a whole. The highest-rated images for each of the following five categories are shown throughout this chapter. These categories had average scores that were positive overall, indicating support for these land uses.

- Commercial Retail -- Preferred characteristics were the small-scale retail buildings with high-quality materials, balanced parking that does not dominate the site, and residential scaled buildings.

- Road Design -- Desired characteristics included landscaping along the street right-of-way, medians, and a sidewalk along major corridors to connect area businesses.
- Multi-family Housing Parking -- Preferred characteristics include landscaping within and around the parking, accessible parking, and screening of the parking lots from nearby streets or pedestrian areas.
- Open Space -- Preferred open space characteristics include retaining the overall natural and environmental areas, maintaining views of the natural areas, paths and trails, and small active play areas.
- Commercial Signage

Attendees also rated images for the following two categories. The average scores were negative, indicating limited support for these land uses.

- Business Office / Light Industrial

Subsequent discussion supported that these uses were not desirable in the neighborhood. The full summary of highest-rated and lowest-rated images for Neighborhood A can be found in Appendix K.

New Berlin Comprehensive Plan Update

DESIGN PREFERENCE SURVEY BACKGROUND INFORMATION - Neighborhood A (14)

1. **WHAT IS YOUR GENDER?**
 - ☐ FEMALE = 57.1%
 - ☐ MALE = 42.9%
2. **HOW MANY PEOPLE LIVE IN YOUR HOUSEHOLD ON A REGULAR BASIS?**
 - ☐ 1 = 21.4%
 - ☐ 2-3 = 21.4%
 - ☐ 4-5 = 50.0%
 - ☐ 6 OR MORE = 7.2%
3. **OF THOSE LIVING IN YOUR HOUSEHOLD, HOW MANY ARE CHILDREN (UNDER THE AGE OF 18 YEARS OLD)?**
 - ☐ 0 = 85.7%
 - ☐ 1-2
 - ☐ 3-5 = 14.3%
 - ☐ 6 OR MORE
4. **WHAT IS YOUR AGE?**
 - ☐ UNDER 18 YEARS OLD
 - ☐ 18-24 YEARS OLD
 - ☐ 25-34 YEARS OLD
 - ☐ 35-44 YEARS OLD = 7.1%
 - ☐ 45-54 YEARS OLD = 57.2%
 - ☐ 55-64 YEARS OLD = 14.2%
 - ☐ 65 YEARS OR OLDER = 21.5%
5. **HOW LONG HAVE YOU LIVED IN NEW BERLIN?**
 - ☐ LESS THAN A YEAR
 - ☐ 2-3 YEARS
 - ☐ 3-5 YEARS = 7.1%
 - ☐ 6-10 YEARS
 - ☐ 11-20 YEARS = 21.4%
 - ☐ MORE THAN 20 YEARS = 64.2%
 - ☐ DO NOT LIVE IN NEW BERLIN
6. **WHAT TYPE OF RESIDENTIAL BUILDING DO YOU LIVE IN?**
 - ☐ SINGLE FAMILY = 92.9%
 - ☐ DUPLEX
 - ☐ MULTI-FAMILY (MORE THAN 2 UNITS)
 - ☐ CONDOMINIUM = 7.1%
 - ☐ MOBILE HOME
 - ☐ ELDERLY HOUSING
 - ☐ OTHER (PLEASE SPECIFY)
7. **DO YOU OWN OR RENT YOUR HOME?**
 - ☐ OWN = 100%
 - ☐ RENT
 - ☐ OTHER (PLEASE SPECIFY)
8. **WHERE DO YOU LIVE IN NEW BERLIN? (USE MAP ON BACK OF THIS PAGE)**
 - ☐ AREA A
 - ☐ AREA B
 - ☐ AREA C
 - ☐ AREA D
 - ☐ AREA E
 - ☐ AREA F
 - ☐ AREA G
 - ☐ AREA H
 - ☐ AREA I
 - ☐ AREA J
9. **DO YOU WORK IN NEW BERLIN?**
 - ☐ YES = 14.2%
 - ☐ NO = 85.7%
10. **PLEASE WRITE AN "X" TO INDICATE THE TYPES AND NUMBER OF PROPERTIES YOU OWN IN NEW BERLIN:**

	1 property	2-3 properties	4 or more properties	I do not own this type of property
Residential	13	1		
Commercial	1			
Industrial	1			
Other				

Figure 11.4. Background Information Summary for Neighborhood A Listening Session Survey Respondents.

Neighborhood Review Meeting

Neighborhood A reconvened on February 18, 2009 to review the results of the survey and review future land use recommendations. The intersection of Greenfield Avenue and Johnson Road was the focus of discussion, as attendees did not wish to see commercial uses in that area. Rather, attendees preferred the idea of allowing housing developments that would respect environmental features. Others recommended that the intersection should remain undeveloped to prevent future traffic problems and maintain the existing natural character. A few attendees inquired about the fiscal impact of constructing residential over commercial uses.

Other issues raised during the meeting included the availability of water and how development would negatively impact the existing level of water usage; the condition of Calhoun Road and the number of lanes needed as Calhoun Road is improved; and the need and requirement of sidewalks.

2015 – 2016 Update

Summary update and activities include several meetings and discussions with the property owner, brokers, and various groups interested in the parcels located in the NW Section 2 – North Moorland Road Corridor (Southeast corner of Moorland Road and Greenfield Avenue).

The Department of Community Development has been going through the process of analyzing the area now referred to as the North Moorland Road Corridor. This area is generally bounded by Moorland Road to the West, the Highland Memorial Park Cemetery and Walmart development to the East, Greenfield Avenue to the North and the New Berlin Recreational Trail to the South (Figure 11.5). In order to guide the City in land use and zoning decisions it is best to understand the impact new developments will have on the School District, traffic patterns, stormwater and environmental features. Development policies were prepared to guide future development requests.



Figure 11.5 – North Moorland Road Corridor Map.



Figure 11.5 - North Moorland Road Corridor Map.

VISION

Greenfield Avenue will be a mixed commercial and residential corridor and shall act as a gateway to the northern area of New Berlin. The eastern half of the corridor should foster a more urban mix of uses, while the western half should encourage a mix of rural commercial, residential, and environmental features.

DEVELOPMENT POLICIES

1. Create development standards for site layout, building character, and landscaping that are suitable for new development along the corridor.
2. Tighten nonconforming lot, structure, and use standards, and require compliance with landscaping regulations. Phase out nonconforming commercial uses over time.
3. Recognize the Greenfield Avenue and Moorland Road primary intersection as a major gateway into the city from the north. Encourage signature well-designed buildings that are compatible with surrounding areas including recent development across the street in the City of Brookfield.
4. Site development should include prominent signage, increased landscaping, sustainable strategies for stormwater management, and methods to minimize the parking field, such as structured parking.
5. Address flooding and localized drainage issues along the eastern portion of the neighborhood.
6. Encourage land combinations that accommodate future development options.

Northwest Section 2 –North Moorland Road Corridor (Southeast corner of Moorland Road and Greenfield Avenue)

1. Recognize the Greenfield Avenue/Moorland Road intersection as a major gateway into the city from the north. Encourage signature, well-designed buildings that are compatible with surrounding areas including recent development across the street in the City of Brookfield. Buildings should incorporate architecture features such as towers, unique features, clocks, and elevated architectural details. See Figure 11.6.



Figure 11.6 Sample Development Pictures

2. Unique to the intersection located at the southeast corner of Moorland Road and Greenfield Avenue, the City has established parameters for the planning of this area in order to ensure that it develops uniformly. This section lays out specific policies to help ensure cohesive development. This area is intended for retail, commercial and office uses ~~located on the corner (tax key #: 1158-990) then transitioning to the south to allow for some additional commercial or retail (tax key #: 1158-991-001 & 1158-993). The far southern parcel (tax key #: 1158-991) could be integrated within developed as low-density an overall multi-family residential neighborhood development as defined above in this section or senior living. Parcel lines are not intended to be rigid; however, the City intends to establish the transition of uses to better describe the intended use of this land. See Figure 11-5.~~
3. Net density not to exceed those established within Zoning Code Section 275-33(8), Rm-1, Multiple Family Residential District and Section 275-41B(1), Elderly housing and assisted-living facilities. Any request to exceed the density requirement shall require the use of a Planned Unit Development (PUD) and must incorporate information included within this section as part of a neighborhood development plan.
4. Site development shall include prominent gateway signage, increased landscaping, and planting beds to be planted throughout the year.

5. Careful traffic management coordination between the City of New Berlin, Waukesha County, and any applicants to include the possible signalized intersection along Moorland Road, roadway along with ~~and~~ pedestrian connections to ~~adjacent developments~~~~the east to the Walmart development.~~
6. As development occurs, require off-road sidepaths along Moorland Road and trail connections, where appropriate.
7. All path and trail connections shall be constructed at the time of development and public trail easements shall be provided to the City.
8. Coordinated utilities including a water main loop and sewer connection to Moorland Road and east to Walmart.
9. Encourage a three-dimensional approach for storm water best management techniques for improving the quality of groundwater and surface water.
10. Sustainable and creative strategies for storm water management and methods to minimize the parking field, such as structured or underground parking.
11. Protection of the woodlands and wetlands, especially the higher quality woodlands and wetlands that may exist on the ~~approximately 21-acre~~ parcels having tax key #'s: ~~1158.989.002 and 1158.989.004~~~~1158-992~~ located directly behind the Walmart parcel. This ~~area~~~~parcel~~ should be investigated for future trail connections if the Highland Memorial Park Cemetery would consider selling the parcel.
12. Require coordinated, pre-planned development proposals to ensure a cohesive and coordinated development pattern. Developments must take into consideration how adjacent parcels would be developed.
13. ~~The entire corner shall be coordinated and ultimately connected to the Walmart shopping center development. Ultimately utilizing Riverwood Lane as an additional cross access point.~~ This access point was indicated on the Walmart construction plans. Coordination will need to occur with Walmart in order to make the connection work within their parking lot.
14. With the investment and construction of any new roadway, public utility, storm water infrastructure improvements, the City should approve an overall official roadway map for this area and require dedication of appropriate right-of-way areas that are consistent with past approvals for adjacent parcels and development projects, at the time of land platting where private development is taking place. The development shall also construct the roadway, public utility, and storm water infrastructure to City specifications where the City deems it necessary in order to service that development and/or overall development for the area.
15. Development proposals shall include appropriate utility easements and/or roadway reservations or dedications to ensure public infrastructure (utility or roadway) extensions/connections and a coordinated development pattern are achieved.
16. Any future development requiring coordinated access and/or utility extensions in this area may require the applicant to submit a surety instrument to the City to cover future public improvements and cost contributions.
17. All utility extensions shall be at the expense of the developer to service their respective developments. The City shall endeavor to collect funds from future developments that

connect into the utilities where appropriate and collected funds shall be redistributed back to the developer that installed the infrastructure.

AGRICULTURAL AND CULTURAL RESOURCES

Agricultural lands exist in the western half of the city and contribute to the rural and natural character of the community. Some of these lands in Neighborhood A continued to be farmed. All agricultural lands should continue to be permitted uses in all land use districts. The City should include unique farming opportunities for agricultural landowners. Local food production, artisan farming, and hobby farming are encouraged as ways to maintain farmland in the city.

The New Berlin Landmarks Commission and the City jointly identified and mapped a series of cultural landmarks within the city. The city-wide New Berlin Landmarks map is provided in Chapter 4. The Greenfield Avenue neighborhood has two designated landmarks: Calhoun Hall (now Calhoun Station), c. 1900, and the Needham-Johnson House, c. 1868 (also listed on the National Register of Historic Places). The corridor also housed Tacl's Tavern and Roadhouse, c. 1927, which was torn down in 2000. Neighborhood A also includes two historic districts as identified by the City: Calhoun Farms, located south of Greenfield Avenue and west of Calhoun Road, and Conrad Park-Needham Farm, located south of Greenfield Avenue and west of 124th Street.

Survey Results: Open Space

Figures 11.7 through 11.9 illustrate the three highest-rated images for open space in Neighborhood A. Preferred open space characteristics included retaining the overall natural and environmental areas, maintaining views of the natural areas, paths and trails, and small active play areas.



Figure 11.7. Highest-Rated Image for Open Space.



Figure 11.8. Second Highest-Rated Image for Open Space.



Figure 11.9. Third Highest-Rated Image for Open Space.

NATURAL RESOURCES

Neighborhood A is planned for a mix of Suburban Residential, Suburban Commercial, and Urban Residential and Mixed-Use Residential land uses with limited park space. Sensitive features include streams and secondary environmental corridors located throughout the neighborhood.

In addition, potential soil limitations exist that should be considered when reviewing plans for development in the neighborhood. Hydric soils, poorly drained soils, and slopes greater than 12% are all considerations in Neighborhood A.

Refer to Chapter 5 – Agricultural & Natural Resources and the applicable regulating agencies for natural resources maps and additional information.

Due to the existing development pattern, there is limited space for implementing large-scale Best Management Practices (BMPs), particularly along the easterly part that is already developed. See Figure 11.10 for a diagram of BMP locations.

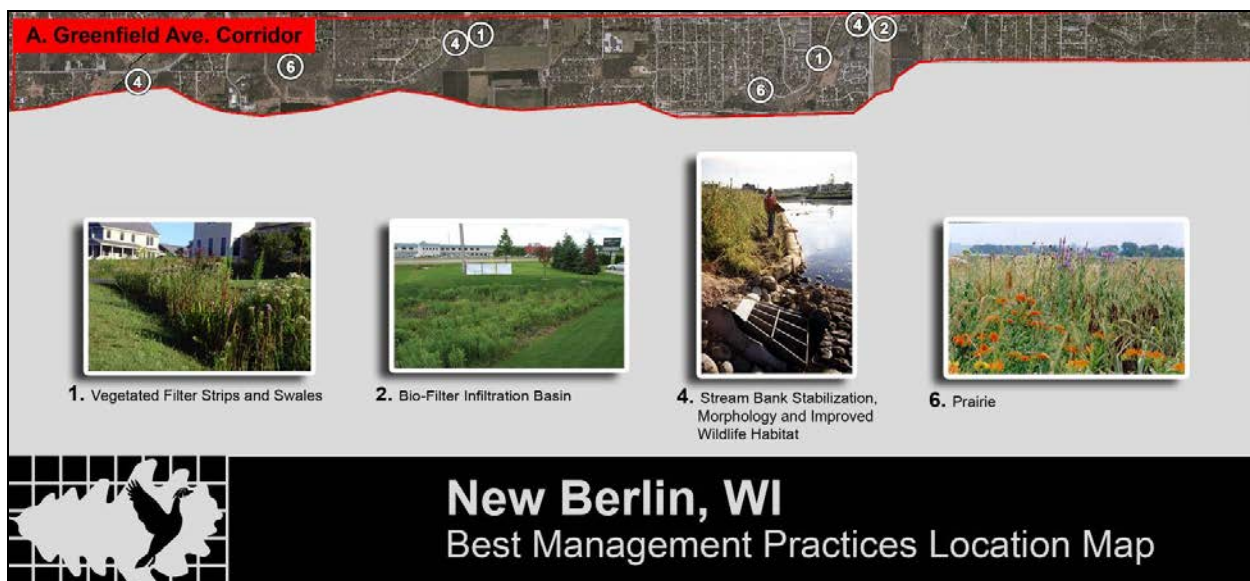


Figure 11.10. Best Management Practices Map for Neighborhood A.
Source: Applied Ecological Services, Inc.

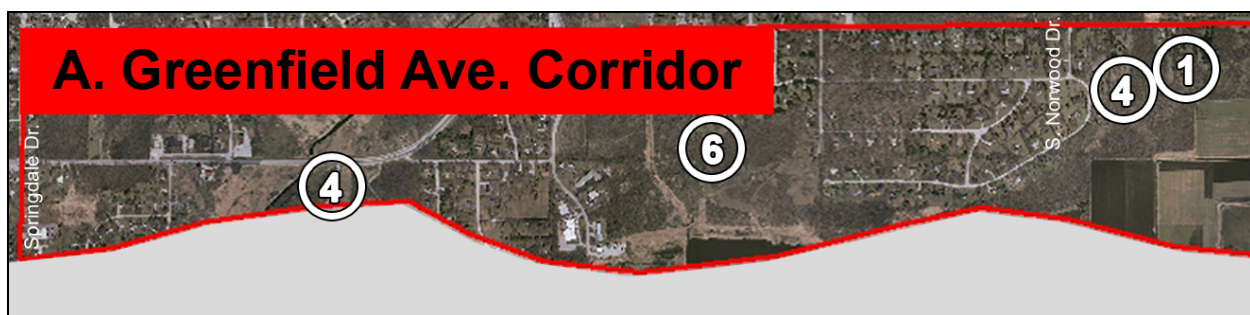


Figure 11.11. Best Management Practices Map from Springdale Drive to east of South Norwood Drive.
Source: Applied Ecological Services, Inc.



Figure 11.12. Best Management Practices Map from South Calhoun Road to South Sherwood Drive.
Source: Applied Ecological Services, Inc.

Recommendations

The recommendations listed below correspond with the numbers and symbols shown on the map in Figures 11.11 and 11.12:

1. Vegetated filter strips and swales are effective in filtering pollutants and reducing storm water runoff velocity, in direct contrast to piped storm sewer conveyances. They can be implemented along the environmental corridor located in the northwest corner of Section 4 to filter surface runoff before entering the waterways. Vegetated swales can be flatter than typical turf grass swales to increase residence time and to promote infiltration and evapotranspiration. This increases the spacing of catch basins or can eliminate the need for piped storm sewer conveyance in new construction.
2. Bio-filter infiltration basins can be provided as an alternative to detention basins in the western and central portion of the neighborhood to promote infiltration and groundwater recharge.
3. This number is reserved for recessed parking and cul-de-sac islands, which are not recommended in the neighborhood.
4. Stream banks along Poplar Creek, Deer Creek and Underwood Creek should be inspected for areas that need to be stabilized to prevent further soil erosion. In conjunction with the above-mentioned BMPs, stream bank stabilization will improve aquatic wildlife, improve water quality and reduce flooding.
5. This number is reserved for rain barrels, cisterns, and rain gardens, which are not recommended for specific locations in the neighborhood. Should property owners in the neighborhood propose to install rain barrels, cisterns, and rain gardens, the appropriateness of such techniques should be determined based on property characteristics.
6. Along the environmental corridor in the undeveloped areas in Section 5 and in Buena Park, there may be opportunity to implement prairies to serve as a filter of surface water runoff and encourage infiltration in areas tributary to Poplar Creek and Deer Creek.

EXISTING TRANSPORTATION SYSTEM

The existing transportation system in Neighborhood A is comprised of a roadway network, bicycle/pedestrian facilities, public transit, and rail service.

Roadway Network

New Berlin classifies its roads under the following functional classification: principal arterials, primary arterials, standard arterials, collectors, and local streets. The roadways in Neighborhood A are comprised of primary arterials, standard arterials and local streets as listed below:

Primary Arterials accommodate inter-community and intra-community trips and traffic. Design speeds tend to be between 35 and 55 miles per hour. Access is not limited as in principal arterials. The primary arterials in Neighborhood A are summarized below.

- Greenfield Avenue (STH 59) – Four travel lanes
- Moorland Road (CTH O) – Four travel lanes

Standard Arterials accommodate inter-community and intra-community traffic. They operate at slightly lower speeds than principal and primary arterials and provide more connections with individual parcels of land comprised of residential and commercial uses. The standard arterials in Neighborhood A are summarized below.

- Calhoun Road – Two travel lanes
- Sunny Slope Road – Two travel lanes
- 124th Street – Two travel lanes

Collectors provide the connection between arterials and local streets and serve both local and through traffic in residential neighborhoods, commercial areas, and industrial areas. They distribute trips from the primary and standard arterials to the local streets and they collect traffic from the local streets and channel it onto the arterial system. The collector in Neighborhood A is summarized below.

- Springdale Road – Two travel lanes

Local Streets comprise all land access streets designed to serve local traffic that is not part of the higher classified street network. In New Berlin, this includes streets serving residential, commercial, and industrial areas. Local streets operate at the lowest posted speed limits and provide the most direct access to individual parcels of land.

Bicycle & Pedestrian Facilities

The following off-road facilities are currently provided in the Greenfield Avenue neighborhood.

- Greenfield Avenue
- New Berlin Recreational Trail

Public Transit

MCTS Route 6 New Berlin Industrial Park Express has stopped service to this area.

School busing is provided for the public, private and parochial schools in the city.

Rail Service

The **Union Pacific** freight rail line runs through the northern portion of the City of New Berlin between, and parallel to, Lincoln Avenue and Greenfield Avenue. Spurs from this line serve the New Berlin Industrial Park.

Survey Results: Road Design

Figures 11.13 through 11.15 illustrate the three highest-rated images for road design in Neighborhood A. Desired characteristics included landscaping along the street right-of-way, medians, and a sidewalk along major corridors to connect area businesses.



Figure 11.13. Highest-Rated Image for Road Design.



Figure 11.14. Second Highest-Rated Image for Road Design.



Figure 11.15. Third Highest-Rated Image for Road Design.

Roadway Network

Calhoun Road (Greenfield Avenue to Cleveland Avenue): In 2010, the City rehabilitated the section of Calhoun Road between Greenfield Avenue and Cleveland Avenue. A two-lane roadway with intersection improvements was completed as part of this project.

The SEWRPC Year 2050 Recommended Regional Transportation System Plan suggests widening Calhoun Road to a four-lane County facility between Greenfield Avenue and National Avenue.

Vision 2050 replaces the 2035 plan. It should be noted that the SEWRPC plans are advisory only. Refer to the SEWRPC VISION 2050 plan for the most updated information related to their regional planning efforts and recommendations. The report is available on the SEWRPC website www.sewrpc.org.

The SEWRPC Vision 2050 continues to recommend the widening of Calhoun Road to a four-lane County facility; however, now proposes to widen the road only to Coffee Road and suggests looking at options to reserve right-of-way from Coffee Road south to National Avenue for any future widening projects.

Bicycle & Pedestrian Facilities

No additional bicycle and pedestrian facilities are currently proposed in Neighborhood A.

Public Transit

The City should work with the local transit systems to maintain routes within the City and look for opportunities to expand and improve the transit system.

Rail Service

The City should work with Union Pacific to maintain the existing freight rail line and service to the New Berlin Industrial Park.

Additional Recommendations

The following recommendations are drawn from the Greenfield Avenue Corridor Plan, prepared for the Cities of Brookfield and New Berlin in 1995. The purpose of the Plan was to analyze the impacts of the new Greenfield Avenue layout on adjacent lands. Applicable recommendations from the Plan have been extracted and combined with suggestions gathered during public input sessions for the comprehensive plan process.

1. Encourage entrance consolidation or side street access for new and redeveloped parcels.
2. Install low growing shrubs, perennials, native wildflowers, and/or grasses in the median that are salt and drought tolerant.
3. Add small planting areas throughout the length of the corridor in addition to colored concrete pavers or textured concrete at major intersections. Similar planting areas, to be planted seasonally by the developer, should be considered at the primary intersections, and integrated into mixed use developments. See figure 11.9 for sample pictures.
4. Signs should be used throughout the corridor to identify the edge of New Berlin. Specifically, gateway signage should be installed adjacent to the vision triangle limits on the corners at 124th Street Moorland Road, Calhoun Road and Sunny Slope Road to the maximum extent practicable.
5. Consideration should be given to the burial of existing overhead electric distribution lines along Greenfield Avenue.
6. Residential zoning should remain intact where currently existing in the corridor and any new commercial activity should be compatible with surrounding uses.
7. Maintenance and upgrading of commercial areas should be encouraged along the corridor, including façade improvements, shared parking, and small-scale signs.

ECONOMIC DEVELOPMENT

Economic development is based on the mix of uses and quality development that exist along the Greenfield Avenue corridor and proposed developments within the neighborhood.

Redevelopment and new development proposals should respond to the following issues:

- The intersections of Greenfield Avenue with Moorland Road and Calhoun Road should encourage development at a higher scale with more intense uses. Development should occur vertically, with structured parking, when possible, to preserve existing open space.
- Sections of existing multi-family or single-family should be maintained, with housing being permitted as part of mixed-use developments.
- Sustainable construction and site development practices are encouraged for new and redeveloped projects such as: pervious pavement, green roofs, alternative stormwater management techniques, energy efficient building practices, and shared parking lots. The City should explore providing incentives for these types of practices.

- Johnson Road should be developed in such a manner that provides a gateway into the City. Uses could include housing that responds to the topography and access constraints.

Survey Results: Commercial Retail

Figures 11.16 through 11.18 illustrate the three highest-rated images for commercial retail in Neighborhood A. Preferred characteristics were the small-scale retail buildings with high quality materials, balanced parking that does not dominate the site, and residential scaled buildings.



Figure 11.16. Highest-Rated Image for Commercial Retail.



Figure 11.17. Second Highest-Rated Image for Commercial Retail.



Figure 11.18. Third Highest-Rated Image for Commercial Retail.

Survey Results: Parking

Figures 11.19 through 11.21 illustrate the three highest-rated images for parking in Neighborhood A. Preferred characteristics include landscaping within and around the parking, accessible parking, and screening of the parking lots from nearby streets or pedestrian areas.



Figure 11.19. Highest-Rated Image for Parking.



Figure 11.20. Second Highest-Rated Image for Parking.



Figure 11.21. Third Highest-Rated Image for Parking.

Survey Results: Commercial Signage

Figures 11.22 through 11.24 illustrate the three highest-rated images for commercial signage in Neighborhood A. Small-scale awning and building signage was preferred over large-scale monument signage.



Figure 11.22. Highest-Rated Image for Commercial Signage.



Figure 11.23. Second Highest-Rated Image for Commercial Signage.



Figure 11.24. Third Highest-Rated Image for Commercial Signage.

Brownfields

Four brownfields are located in Neighborhood A, one of which is a high petroleum risk (Figure 11.25). Petroleum risk applies only to petroleum discharges from underground and aboveground tank systems and is used to determine agency jurisdiction. The Wisconsin Department of Natural Resources (DNR) has jurisdiction for review of high-risk sites and sites also contaminated with non-petroleum substances. The Wisconsin Department of Commerce has jurisdiction for all other sites with discharges from petroleum tanks. High risk factors are:

- confirmed contamination in a water supply well above a Chapter NR 140 preventive action limit,
- confirmed free petroleum product with a thickness of .01 feet or more,
- groundwater contamination above an NR 140 enforcement standard within 1,000 feet of a well operated by a public utility,
- groundwater contamination above an NR 140 enforcement standard within 100 feet of any other water supply well, and
- groundwater contamination above an NR 140 enforcement standard in fractured bedrock.



Figure 11.25. Neighborhood A Brownfields Map.
Source: WI DNR Bureau for Remediation and Redevelopment

The high petroleum risk brownfield in Neighborhood A is located at 14001 Greenfield Avenue and is a Leaking Underground Storage Tank (LUST). The low petroleum risk brownfield is located on the Industrial Waste Corporation land just west of the intersection of South Ridgeway Road and Greenfield Avenue. This low-risk brownfield is an Environmental Repair Program (ERP) effort. The DNR classifies ERP sites as sites other than Leaking Underground Storage Tank (LUST) sites that have contaminated soil and/or groundwater. Examples include industrial spills or dumping needing long term investigation, buried containers of hazardous substances, and closed landfills that have caused contamination. ERP sites include petroleum contamination from above-ground (not underground) storage tanks.

Two brownfields are considered to have an unknown petroleum risk level:

- 1420 S. Calhoun Road; ERP
- 1810 S. Calhoun Road; LUST

The City should continue to follow the status of brownfield sites in the neighborhood as development activities take place on and around each site.

Recommendations

Economic development policies for the Greenfield Avenue corridor are largely guided by the 2002 Economic Development and Revitalization Plan. Based on recommendations in the Plan, development in Neighborhood A should foster a mix of small-scale retail and residential uses, with more intense uses and structures at major intersections.

The 2002 Economic Development and Revitalization Plan process hosted a series of visioning workshops to discuss desired businesses and industries with the New Berlin Economic Development Corporation, Focus New Berlin, and the New Berlin Plan Commission. The following recommendations are based on the 2002 Plan and have been updated to reflect current desires for specific sites within Neighborhood A:

Key intersections should be developed or redeveloped to serve as gateways into New Berlin. Intersections can be divided into two types, primary and secondary, based on the intensity of development and the amount of traffic.

Primary intersections would have taller buildings and an increased intensity of development with buildings reinforcing the street edge. These areas could include institutional, civic, commercial, and residential uses. Site layouts should include landscaping, sustainable features, and signage and/or banners to promote Greenfield Avenue as a major gateway to the city.

Primary intersections include:

- Intersection of Greenfield Avenue and Moorland Road.

Secondary intersections would have buildings reinforcing the street edge; however, the buildings would be a maximum of two to three stories, could be mixed use, and less intense. Site layouts should include landscaping, sustainable features, and gateway signage to promote Greenfield Avenue. Secondary intersections include:

- Intersection of Greenfield Avenue and Johnson Road.
- Intersection of Greenfield Avenue and Calhoun Road.
- Intersection of Greenfield Avenue and Sunny Slope Road.

Desired businesses within these areas, and along Greenfield Avenue in general, may include the following:

- Retail, including furniture, gardening, apparel, grocery stores, convenience stores, computers and electronic goods, and sporting goods.
- Finance-Insurance-Real Estate (FIRE), including law firms, real estate agencies, insurance agencies, brokers.
- Professional specialties include physicians' offices, medical clinics, engineering, architecture, planning and surveying firms.
- Personal services are those services including dry cleaners, beauty salons, and other various personal services.
- Small arts and crafts studios and antique shops in older commercial areas, especially along both Greenfield Avenue and Sunny Slope Road, should be encouraged, including those small enough and adaptable enough to be "housed" in smaller mixed-use buildings. For example, some small arts and crafts studios and shops could be located on the first floor of mixed residential/commercial buildings.
- Rural oriented cottage businesses, antiques, organic farms, and horticultural and landscaping firms with experimental gardens and arboretums on the City's western half, generally the area west of Calhoun Road.
- Commercial gyms, fitness centers and businesses that cater to recreational and leisure-time activities.
- Eating and drinking establishments, including fine quality dining in close proximity to hotels and business parks.

HOUSING

Neighborhood A includes a variety of single-family subdivisions and multi-family options for residents. Sections of existing low-density multi-family or single-family should be maintained, with housing being permitted as part of mixed-use developments. Residential quarters are allowed as an accessory use in the B-2, B-3 and B-5 districts.

Neighborhood A represents a variety of land uses with urban housing at the eastern end, rural and environmental uses at the western end, and commercial scattered throughout the corridor. A mix of uses should be maintained and enhanced as indicated on the Future Land Use Map located in Chapter 10.

Recommendations

- Continue the development of housing within established subdivisions.
- Maintain small-scale commercial and residential areas throughout the corridor. Larger-scale commercial and institutional uses should be located at “primary” intersections: (e.g. where Greenfield Avenue traverses Moorland Road) to serve as prominent gateways into New Berlin.
- Encourage stronger landscaping on all corners at the intersection of Greenfield Avenue with Sunny Slope Road.
- Allow lands zoned as A-1 to be transitional agricultural uses.
- Encourage the preservation of natural resources and allow these areas to serve as linkages throughout the neighborhood.

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 hold a public hearing and recommend to the Common Council adoption of Ordinance # 2702 that approves the updates to the Zoning Code, Chapter 275.
D.R.C. RECOMMENDATION:	Plan Commission hold a public hearing and recommend to the Common Council adoption of Ordinance # 2702 that approves the updates to the 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.
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. |
| 2/3/2025 | Introduce Zoning Code updates to the Plan Commission. |

Attachments:

1/21/2025 Code Committee Minutes
Zoning Code Amendments
Draft Ordinance # 2702



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*

(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 10.54, 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.

Proposed Zoning Districts for South Moorland Road Corridor

Legend

- Project Boundary
- A-1 Agriculture
- A-2 Agriculture and Rural Housing
- R-1 R-2 Rural Estate Single-Family Residential
- R-3 Low-Density (30' Residential)
- R-4 Low-Density (30' Residential)
- R-4 Medium-Density Single-Family Residential
- R-4.1 Two-Family Residential
- R-4.2 General Retail Sales & Service
- R-4.3 General Commercial Sales & Bulk Storage
- R-4.4 Medium-Density Single-Family Residential
- R-4.5 Institutional
- R-4.6 Light Manufacturing
- R-4.7 Section 34 and 35 Business Park Development District
- R-4.8 Park
- R-4.9 Section 34 Park Complex District
- R-4.10 General Community
- R-4.11 Standard Wetland Conservancy

CONCEPTUAL PLAN
 ** As of September 2012, the applicable Zoning Code Amendments are pending Common Council approval.

§ 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.

§ 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 its 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 § 275-22C(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 § 275-22C(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.

§ 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

§ 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~~ 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

§ 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, G-1 and G-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.			

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

(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;

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

(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.

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

(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].

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

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

(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].~~

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

(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.~~

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

(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.~~

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

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

(2) Keeping and raising of animals.

(a) General Requirements.

[1] All applicable zoning district regulations shall apply.

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

[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:

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

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

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.

[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

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

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.

Commented [HK22]: NO CHANGE - Moved from 275-41A(2)(a)[1]

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

(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.

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

- [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.

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

- [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.

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

- [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.

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

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.

- (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 in 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.~~

Commented [HK28]: Duplicate

~~(6) Community living arrangements.~~

~~(a) Community living arrangements as provided for in § 62.23(7)(j), 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)(j), 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 [KH29]: NO CHANGE - Moved from 275-41G(1)

(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).~~
- (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]~~
- (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.

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

Commented [KH31]: NO CHANGE - Moved to 275-42M

- (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~~HE~~(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~~G(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~~HE~~(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.~~

~~(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~~

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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.

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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.

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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.~~

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EE. 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.~~

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(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] The 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.

HE. Miscellaneous uses.

(1) Drive-through facilities.

- (a) ~~Standalone~~ 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.~~

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~~(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.~~

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§ 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

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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)

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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.

G. 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 275-421

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

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)

(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

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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

Commented [KH66]: NO CHANGE - Moved to 275-42F

(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
Poolhouses	—	District setbacks	District setbacks

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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
Poolhouses	—	District setbacks	District setbacks
Pools (above-ground or in-ground)	—	5	5

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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

(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.

[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.

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~~(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.~~

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~~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.
- (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

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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.~~

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~~(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.~~

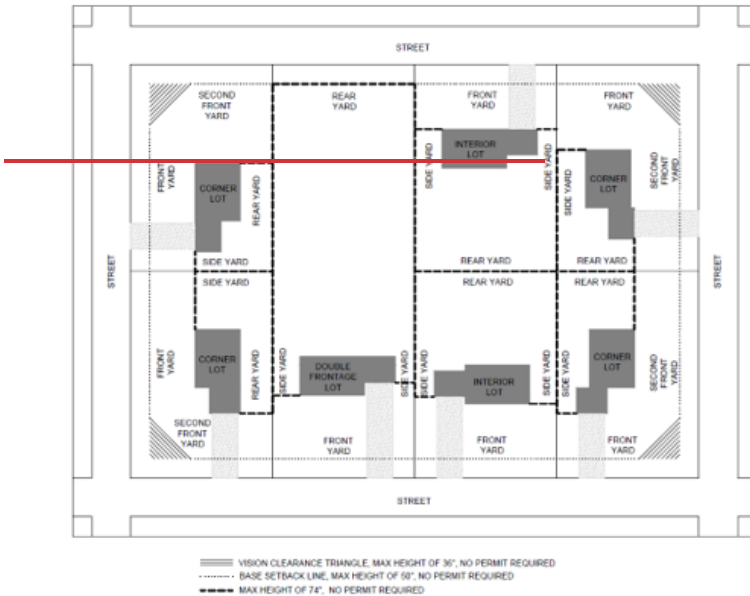
~~[1] Residential.~~

~~[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.

(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.

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- [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.~~

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~~(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 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 conversion 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.

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.

Commented [KH94]: NO CHANGE - Moved to 275-42A(6)

Commented [KH95]: NO CHANGE - Moved to 275-42G

A. General Provisions.

(1) Accessory uses are allowed in any district as may be specified in the appropriate district regulations or in this section.

Commented [KH96]: NO CHANGE - Moved from 275-42A(4)

(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.

Commented [KH97]: NO CHANGE - Moved from 275-42A(6)

(4) Dimensional requirements.

Commented [KH98]: NO CHANGE - Moved from 275-42A(8)

(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.

Commented [KH99]: NO CHANGE - Moved from 275-42E(2)

(b) All accessory buildings and structures shall be located outside of public easement areas unless Plan Commission approval is granted.

Commented [KH100]: NO CHANGE - Moved from 275-42A(10)

(c) The use and/or location requirements stipulated elsewhere in this chapter may be modified subject to Plan Commission approval.

Commented [KH101]: NO CHANGE - Moved from 275-42A(7)

(d) Lot coverage.

[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.

[b] Single-family and two-family residential zoning districts.

Commented [KH111]: NO CHANGE - Moved from 275-42E(1)

- 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 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.

[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.

[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 [KH112]: NO CHANGE - Moved from 275-42B

Commented [KH113]: NO CHANGE - Moved from 275-42F(2)

Commented [KH114]: NO CHANGE - Moved from 275-42E(2)(c)

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.

Commented [KH120]: 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

Commented [KH121]: 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 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.

Commented [KH122]: 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 [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.

Commented [KH124]: 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(2)(c)[3].

Commented [KH125]: NO CHANGE - Moved from 275-42D

(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.

Commented [KH126]: NO CHANGE - Moved from 275-42C

(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.

Commented [KH127]: NO CHANGE - Moved from 275-42E(1)(c)

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

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.

Commented [KH128]: NO CHANGE - Moved from 275-42G(1)

Commented [KH129]: NO CHANGE - Moved from 275-42G(1)

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.

Commented [KH130]: NO CHANGE - Moved from 275-42F(2)

Commented [KH131]: NO CHANGE - Moved from 275-42E(2)(d)

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.

- (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.

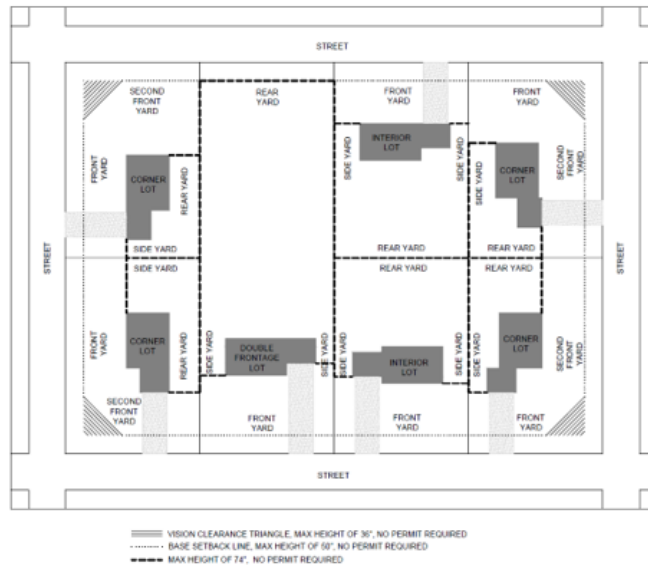
(b) Nonresidential. Fences shall not exceed 98 inches in height.

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.

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.

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.

Commented [KH135]: NO CHANGE - Moved from 275-42G(3)

Commented [KH136]: NO CHANGE - Moved from 275-42F(1)(c)

- (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.

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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.

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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.

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.

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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.

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

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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.

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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.~~
- (45) ~~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.

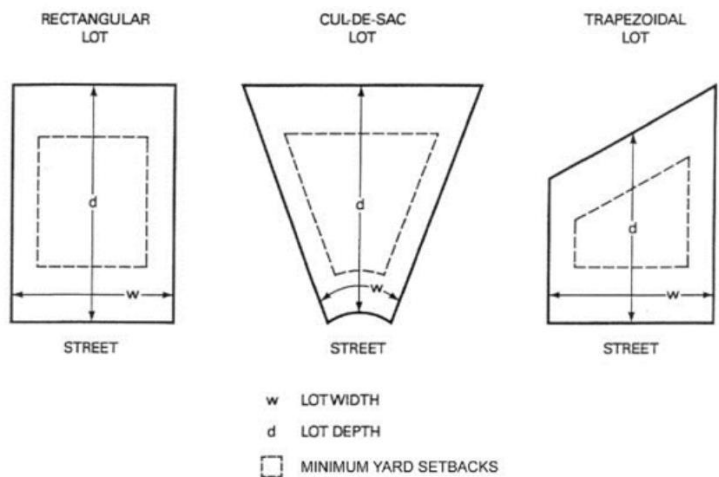
(b) And any other conditions that may be established by the Mayor, City Attorney, Board or Commission, and/or City staff that seeks to protect the City.

- 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.

§ 275-44. Lot measurement and requirements.

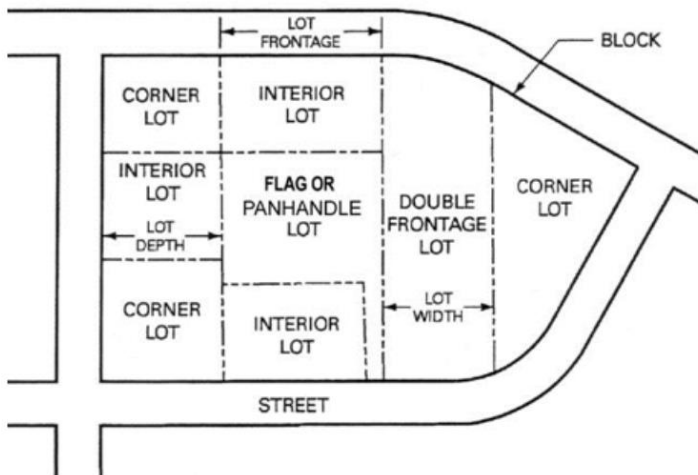
- A. Measurement of lot area. The lot area is the total area within the lot lines of a lot, excluding any street right-of-way or ultimate right-of-way in all districts.
- B. Percentages and fractions. When a measurement results in a fractional number or percentage, any fraction of $\frac{1}{2}$ or ~~less~~ ~~more~~ shall be rounded ~~down~~ ~~up~~ to the next ~~lower~~ ~~higher~~ whole number, and any fraction of ~~more than~~ $\frac{1}{2}$ ~~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



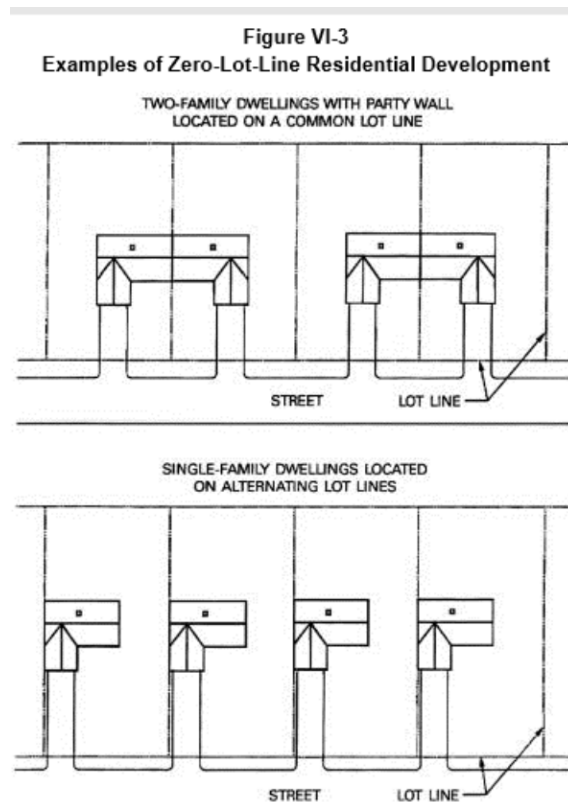
- D. Lot types. [See Figure VI-2.](#) [See also § 275-70.](#) [Added 4-25-2023 by Ord. No. 2668]

**Figure VI-2
Lot Types**



- E. Zero-lot-line residential development. Zero-lot-line residential developments (see Figure VI-23) 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.



- 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.

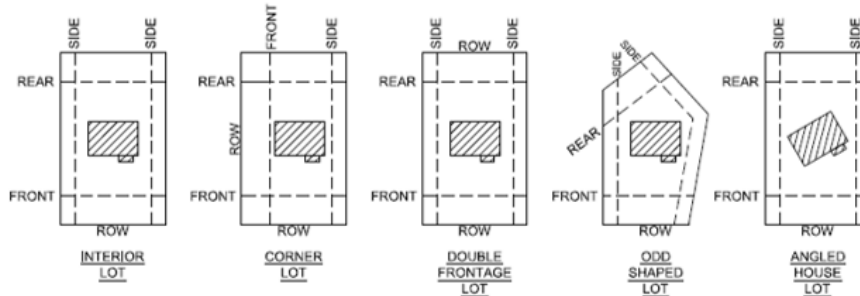
§ 275-45. Height measurement and requirements.

- 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:~~
- ~~(a1)~~ Architectural projections. Architectural projections which are integral to a principal structure, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys.
- ~~(b2)~~ 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.
- ~~(c3)~~ Essential services. Essential services, such as utilities, water towers, electric power and communication transmission lines.
- ~~(d4)~~ 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.~~
- ~~(25)~~ Communication structures. The height of telecommunications structures is regulated in § 275-41C(16).
- ~~(36)~~ 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**

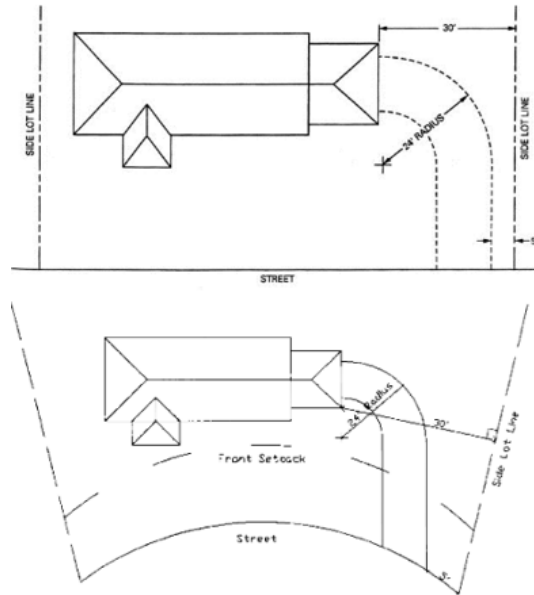


- (1) Corner lots. Structures on corner lots shall provide a front setback as required by this chapter on the street that the structure faces. A second front yard shall be provided on the side of the structure abutting a second public or private street. The second front yard is referred to as the "side 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.
- (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.
- (31) 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.

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Figure VI-5
Side-Entry Garage Setback

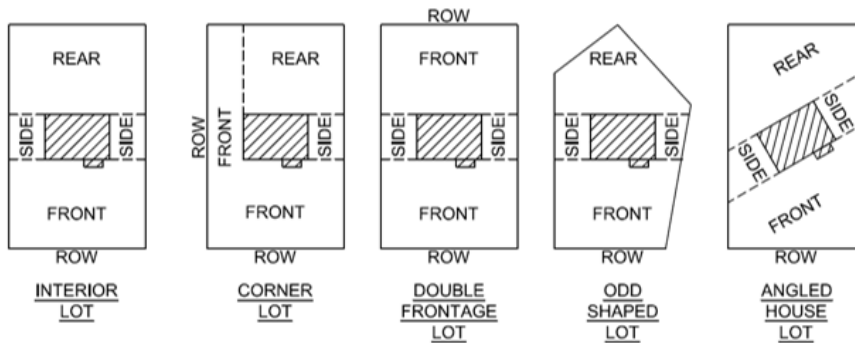


(2) Average front setback. For new structures, additions to existing structures or accessory structures, the required front setback may, with Plan Commission approval or with an administrative adjustment per §275-30.1D, be decreased in any residential or business districts to the average of the existing 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.

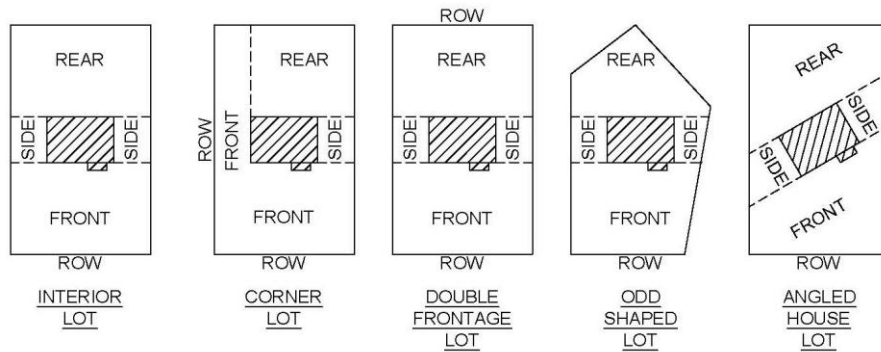
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B. Measurement of a yard. See Figure VI-6. See also § 275-70.

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.

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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.

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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:

(1) ~~Exemptions. The following uses and structures are exempt from the yard and setback limitations of this chapter:~~

(a1) 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.~~

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(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.

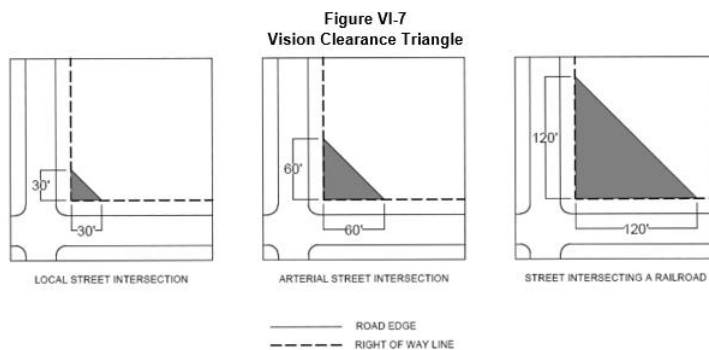
(3) Attached accessory uses. Uncovered stairs, decks sized for entry purposes only, stoops, landings, fire escapes, gutters, ~~decks~~ and awnings may project into any yard but not to exceed six feet and not closer than five feet to any lot line.

(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.



(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 275-57-4~~, 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 G(2) §275-63A(7)~~. This section does not apply to nonmetallic mining sites where nonmetallic mining permanently ceased 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)(i)(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 § 275-65-23E 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 of 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, 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.

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 the 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 flowing 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.

Commented [KH157]: Duplicate

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 § 275-65-23 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 severe 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~~6(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 "mobile homes" includes a or mobile homes but does not include are not "mobile recreational vehicles"; 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 Effective 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 "Effective 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 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.

MODEL, REVISED (POST-PROJECT)

(As it pertains to floodplain, § 275-65) A modification of the Existing or Pre-Project 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 ~~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 structure, with a septic tank and soil absorption field located on the same parcel as the structure. This term 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 base floodwaters will not inundate the land or damage structures to be removed from the special flood plain 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.~~

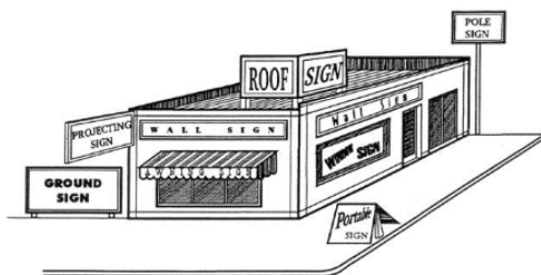
SIGN, WINDOW

~~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

Figure XI-4
Sign Types



SMALL WIND ENERGY SYSTEM

[As it pertains to small wind energy systems, § 275-42~~6(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 § 275-65-~~17G3I(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 § 275-65-~~17G3I(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 § 275-65-153R, those areas within a nonmetallic mining site which the City has determined to have been successfully reclaimed on an interim basis in accordance with § 275-65-1763T(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) A 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.

ORDINANCE NO. 2702

ORDINANCE TO AMEND CHAPTER 275 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF NEW BERLIN

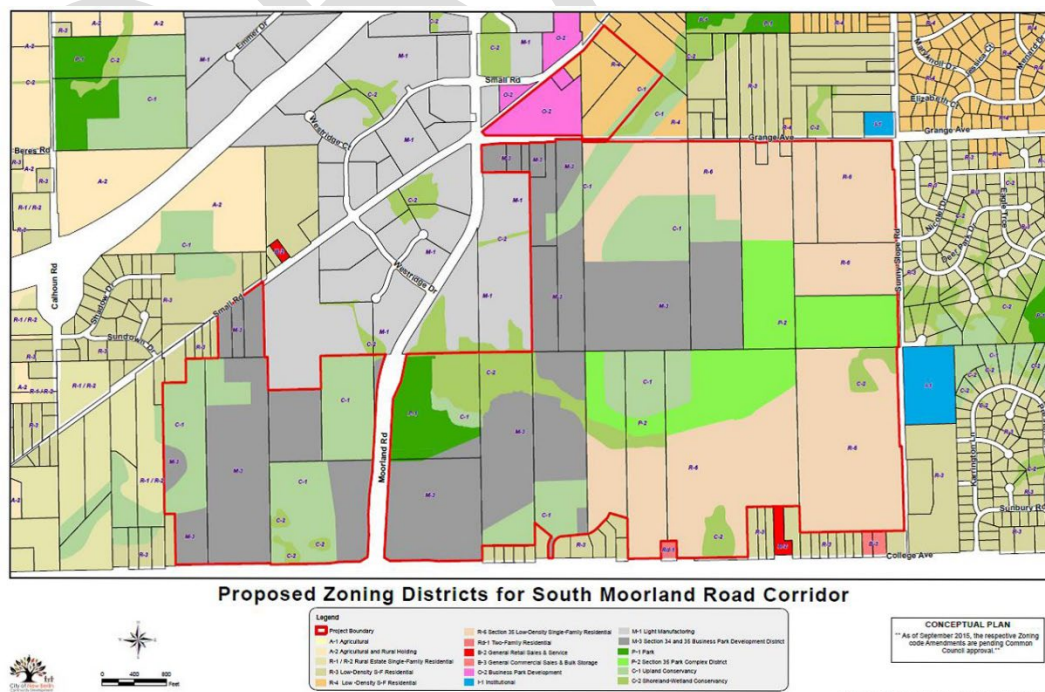
The Common Council of the City of New Berlin do ordain as follows:

SECTION I

Section 275-13.1H(4) of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- (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 10.4, 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



SECTION II

Section 275-17B(15) of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- (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.

SECTION III

Section 275-22G of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- G. Reserved

SECTION IV

Section 275-26A of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- 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 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.

SECTION V

Section 275-29 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- A. Applicability. No sign shall be 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. 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: 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: 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. 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.

SECTION VI

Section 275-33E(2)(c) of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- (c) An attached or detached garage is required in the residential districts. The 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**.

SECTION VII

Section 275-37D(3) of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- (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) 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 approved parcel of any size is not subject to any other restrictions as part of a plat or CSM.
 - [2] For lots 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 with approved on-site POWTS, no more than 25,000 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, 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.

SECTION VIII

Section 275-41 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

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) 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

Table 275-41A			
Type of Animal	Age	Minimum Lot Size (acres)	Number per acre
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 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.

- [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 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.
 - (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. 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.

Reserved.

(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.(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) Crematory services shall only be allowed as an accessory use 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. (10) Reserved. (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 § 275-41F(1) of this chapter.
 - (b) Reserved. (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.

(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.
- (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) 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 § 275-41F(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.
- (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.

E. Institutional/public/semipublic uses.

- (1) Reserved.
- (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] The 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.

F. Miscellaneous uses.

- (1) Drive-through facilities.
 - (a) Standalone drive-through facilities may be allowed as an accessory or principal use in zoning districts where the use is allowed as a principal use.
 - (b) All drive-through facilities shall comply with the 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.(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.

SECTION IX

Section 275-42 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

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.
 - [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.
 - 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.

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

[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.

[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 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.
- [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.
- [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(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.
- 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.
- [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 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.
 - (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.

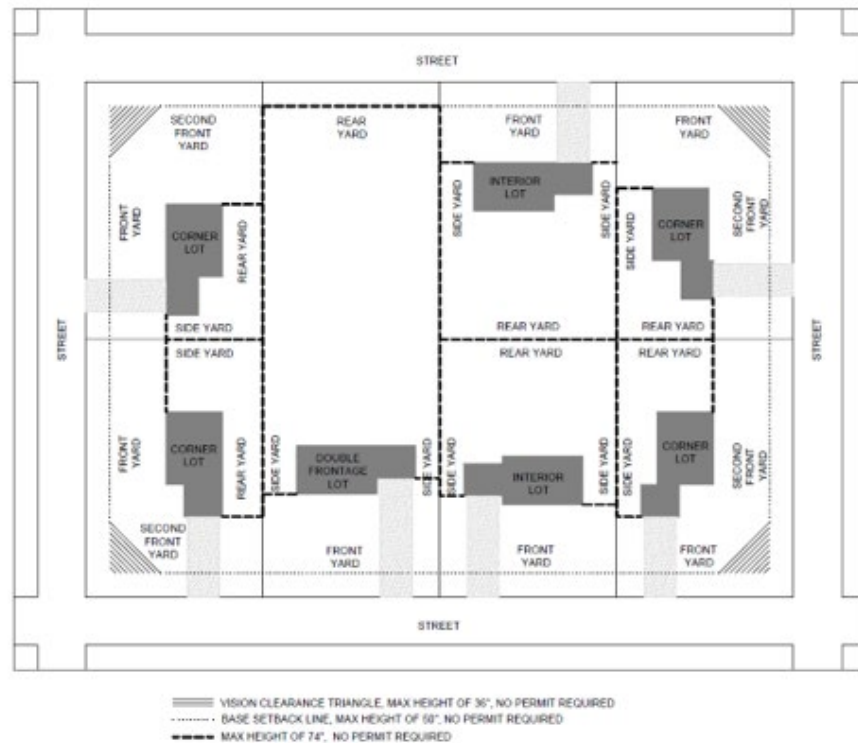
- (1) Height. Fence height shall be measured from the average grade of the ground beneath the fence.
 - (a) Residential.
 - [1] Front yard. No fence in the front yard shall be located closer to the street than the base setback line and shall not exceed 50 inches in height. No

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.

**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.
- 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.
- 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.
- 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.
- (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.

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.

- 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.
- 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.

SECTION X

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

- 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. 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. 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.
- (5) 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.

(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.

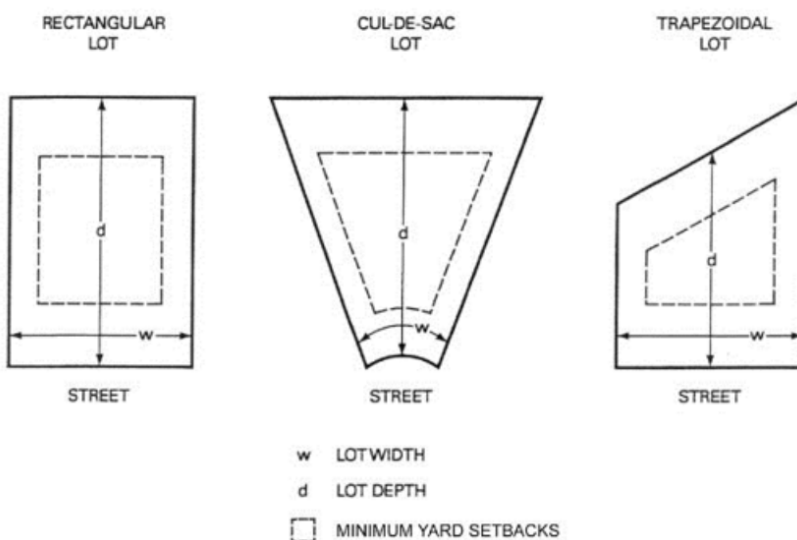
SECTION XI

Section 275-44 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

§ 275-44. Lot measurement and requirements.

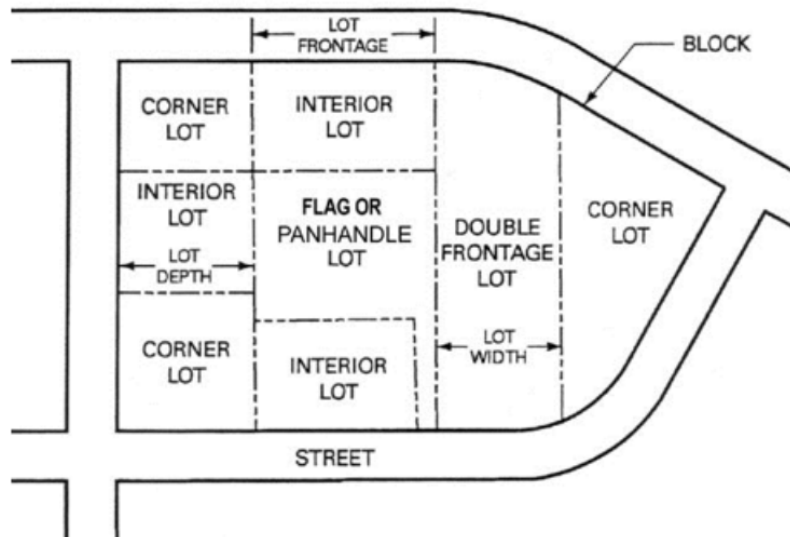
- A. Measurement of lot area. The lot area is the total area within the lot lines of a lot, excluding any street right-of-way or ultimate right-of-way in all districts.
- B. Percentages and fractions. When a measurement results in a fractional number or percentage, any fraction of $\frac{1}{2}$ or more shall be rounded up to the next higher whole number, and any fraction of $\frac{1}{2}$ or less shall be rounded down to the next 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



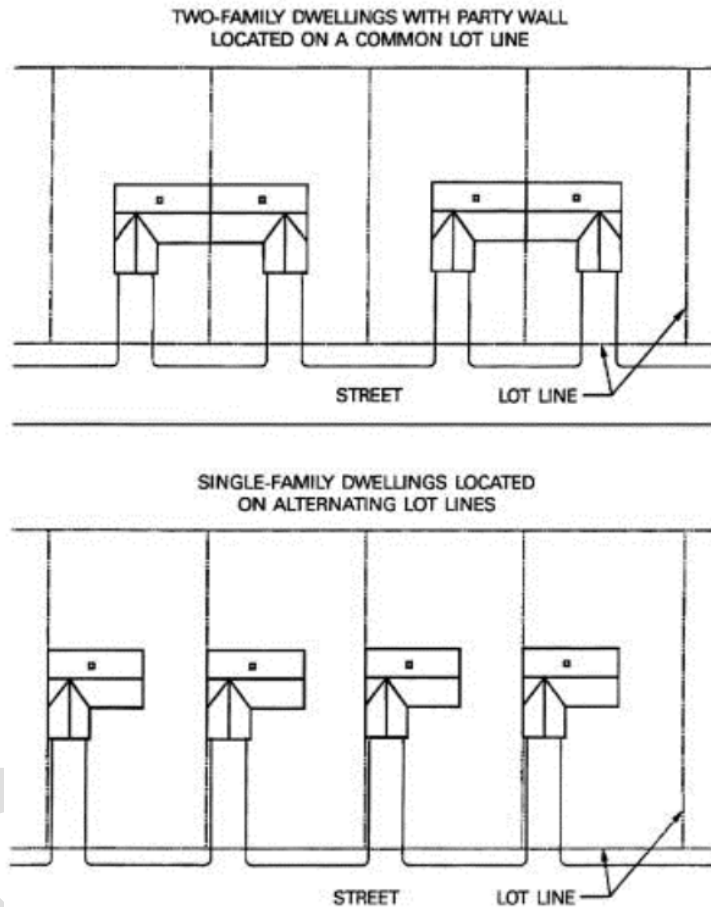
- D. Lot types. See Figure VI-2. See also § 275-70. [Added 4-25-2023 by Ord. No. 2668]

Figure VI-2
Lot Types



- E. Zero-lot-line residential development. Zero-lot-line residential developments (see Figure VI-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.

SECTION XII

Section 275-45 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

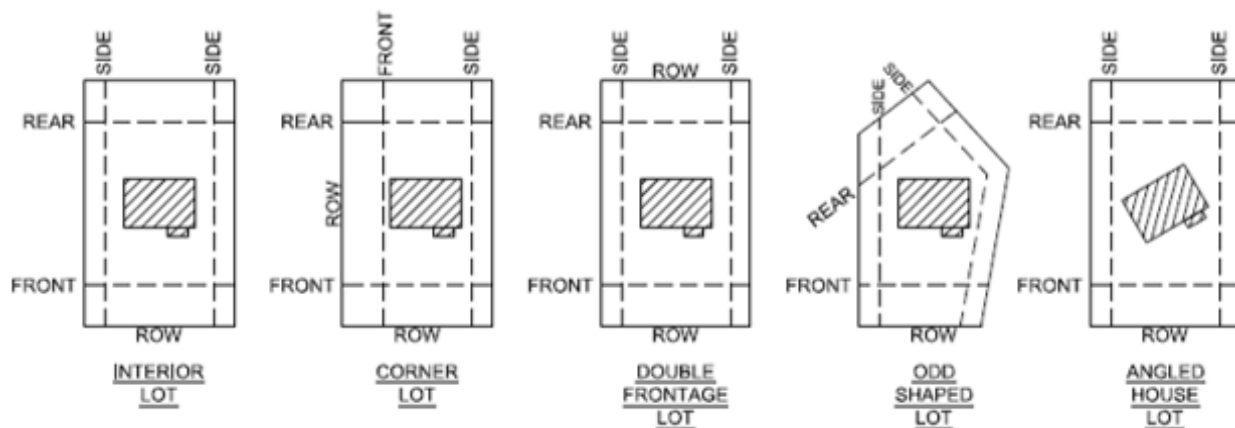
- A. Measurement of height. The "height of a structure" shall mean the vertical distance from the average grade adjoining the walls of the structure to the average of the highest points of the roof surface of a flat roof, or to the deckline of a mansard roof, or the mean height level between eaves and ridge for a gable, hip or gambrel roof.
- B. 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:
- (1) Architectural projections. Architectural projections which are integral to a principal structure, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys.
 - (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.
 - (3) Essential services. Essential services, such as utilities, water towers, electric power and communication transmission lines.
 - (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.
 - (5) Communication structures. The height of telecommunications structures is regulated in § 275-41C(16).
 - (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.

SECTION XIII

Section 275-46 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

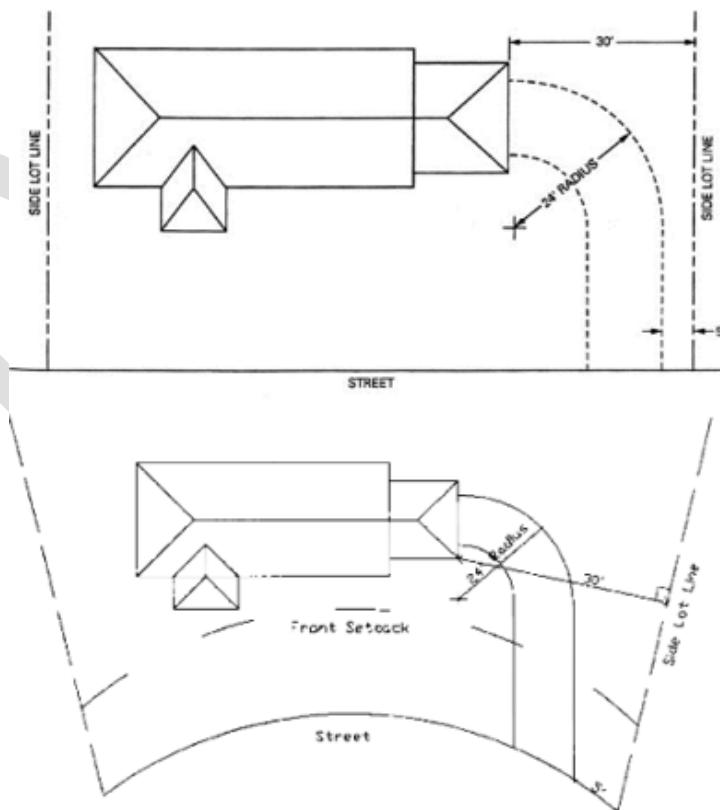
- A. Measurement of a setback. The minimum distance a building or structure shall be located from a lot line or base setback line. The setback line shall be drawn parallel to a lot line. See Figure VI-4.

**Figure VI-4
Measurement of Setbacks**



- (1) 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.

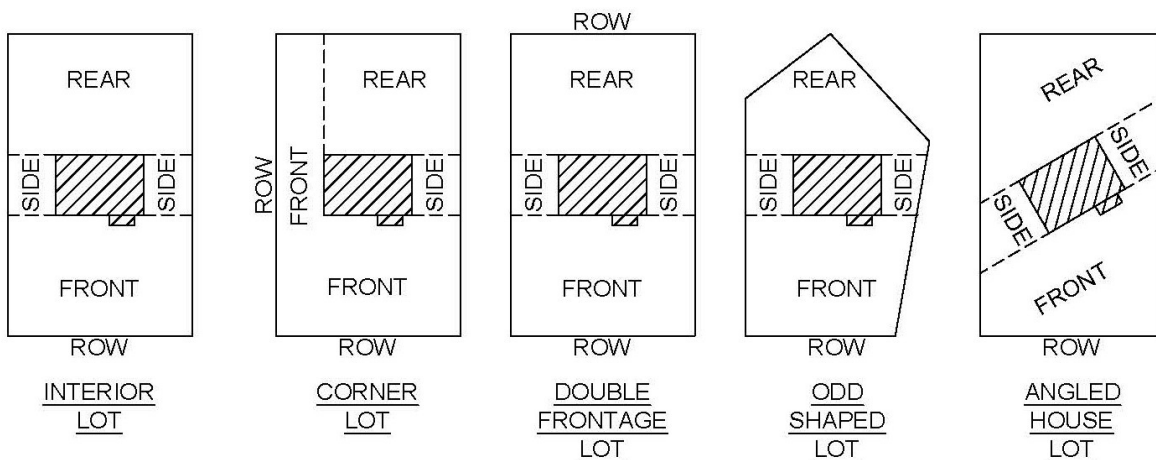
**Figure VI-5
Side-Entry Garage Setback**



- (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.

B. Measurement of a yard. See Figure VI-6. See also § 275-70.

Figure VI-6
Location of Yards

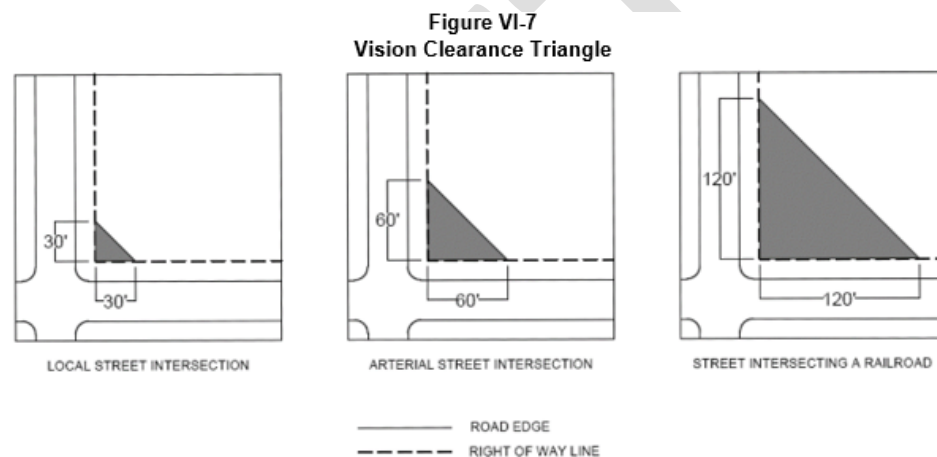


Corner lots. Structures on corner lots shall provide a front yard as required by this chapter on the street that the structure faces. A second front yard shall be provided on the side of the structure abutting a second public or private street. The second front yard is referred to as the "side on corner." 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.
- E. 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:
 - (1) Essential services. Essential services, such as utilities, electric power and communication transmission lines are exempt from the setback requirements of this chapter.
 - (2) Architectural projections. Architectural projections, limited to eaves and wing walls 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, 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.



- (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.

SECTION XIV

Section 275-53 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- 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 275-57, 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.

SECTION XV

Section 275-63A through 275-63C of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

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, except as exempted in §275-63A(7). This section does not apply to nonmetallic mining sites where nonmetallic mining permanently ceased 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 §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 covered under §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 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 § 275-63E 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.

SECTION XVI

Section 275-65J of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- J. Definitions. 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 of 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.

SECTION XVII

Section 275-70 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

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

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.

AH ZONE

(As it pertains to floodplain, § 275-65) See "area of shallow flooding."

ALTERATION

(As it pertains to floodplain, § 275-65) 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.

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 the 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 on all sides.

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 with definite bed and banks to confine and conduct normal flow 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.

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 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.

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 § 275-63 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 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 severe 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 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.

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].

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.

LOT FRONTAGE

The dimension of a lot abutting a public street measured along the street right-of-way line.

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.

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.

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.

LOT WIDTH

The width of a parcel of land measured at the building setback line or required front setback.

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.

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.

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.

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).

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 "manufactured home" includes a mobile home but does not include "mobile recreational vehicle".

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 effective 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 effective 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 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.

MODEL, REVISED (POST-PROJECT)

(As it pertains to floodplain, § 275-65) A modification of the Existing or Pre-Project 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) 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.

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 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.

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 ordinance for the area of the floodplain which it occupies (such as a residence in the floodway).

OBSTRUCTION TO FLOW

(As it pertains to floodplain, § 275-65) 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 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) 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.

PRIVATE SEWAGE SYSTEM

(As it pertains to floodplain, § 275-65) 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.

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 base floodwaters 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.

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 portion of the eave/fascia. 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 to the nearest roofed portion of the eave/fascia.

SETBACK, REAR

The minimum horizontal distance between the rear lot line and a line parallel to the nearest roofed portion of the eave/fascia. A rear setback is opposite a front setback. See § 275-46A.

SETBACK, SIDE

The minimum horizontal distance between the side lot line and a line parallel to the nearest roofed portion of the eave/fascia. See § 275-46A.

SETBACK, WETLAND

The minimum horizontal distance between the nearest delineated wetland and a line parallel to the nearest impervious surface.

SIGN, AWNING OR CANOPY

A sign that is mounted or painted on or attached to a canopy, awning, or marquee.

SIGN, GROUND

Any sign placed upon or supported by the ground independent of any other structure.

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.

SIGN, PORTABLE

A sign that is not permanent and is not affixed to a building, structure, or to the ground.

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.

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.

SMALL WIND ENERGY SYSTEM

[As it pertains to small wind energy systems, § 275-42] 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 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.

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 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 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 § 275-63T(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 § 275-63T(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 § 275-63R, those areas within a nonmetallic mining site which the City has determined to have been successfully reclaimed on an interim basis in accordance with § 275-63T(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 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 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) Means an excavated opening in the ground made by digging, boring, drilling, driving or other methods to obtain groundwater, regardless of its intended use.

SECTION XVIII

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

SECTION XIX

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

SECTION XX

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

PASSED AND ADOPTED by the Common Council this 11th day of March, 2025.

APPROVED:

David Ament, Mayor

Countersigned:

Rubina Medina, City Clerk

STAFF REPORT

EXECUTIVE SUMMARY

APPLICANT/PROJECT: Matt Anderson / Matty's Bar & Grille Annual Schedule of Outdoor Events

LOCATION: 14460 W. College Avenue

REQUEST: Evaluation of Conditional Use Permit for Matty's Bar & Grille to hold additional outdoor events and approval of minor adjustments of the 2025 annual schedule of outdoor events for the property located at 14460 W. College Avenue.

D.R.C RECOMMENDATION: Public hearing and possible action to approve the Conditional Use Permit for Matty's Bar & Grille to hold 7 additional outdoor events and 6 TBD event dates (for a total of up to 13 additional events) and approval of minor adjustments to the 2025 annual schedule of outdoor events for the property located at 14460 W. College Avenue subject to the application, plans on file and the following conditions:

1. The applicant has submitted a request to modify the zoning permit for the quantity of outdoor events.
2. See attached Plan of Operation and schedule of outdoor events. A table has been added to this staff report to summarize all events. Outdoor music to end by 9:00 PM.
3. Stantec Memo dated April 4, 2023 is attached. Per this Memo, staff has made the following recommendations with regard to how sound will be addressed for outdoor music at this location.
 - a. Applicant shall review the Memo and will adhere to the recommendations.
 - b. Outdoor Concert Event Noise Limits:
 - i. Sound shall not exceed 70 dBA LAeq(1h) at any of the identified locations in the Stantec Memo dated April 4, 2023.
 - c. Noise Limit Considerations:
 - i. It is required that noise limits be established at the property line of the site where adjacent residents are exposed to the highest noise levels during concert events.
 - d. Outdoor Concert Noise Monitoring Guidance:
 - i. Noise levels should be measured using a data-logging sound level meter (SLM) that meets ANSI/ASA S1.4-2014/Part 1 Type 1 or Type 2 requirements. Applicant shall explore the examples listed in the Memo on page 4 of 9.
 - ii. The SLM shall be housed in a waterproof environmental protection case.
 - iii. The SLM should be calibrated using an ANSI Type 1 or Type 2 handheld acoustic calibrator before each noise monitoring session.
 - iv. The SLM and acoustic calibrator should also be calibrated by an NIST accredited acoustical laboratory every two years or less.
 - v. The City would be interested in remote noise system. This type of system can allow for direct upload of measured noise levels to a website for anyone granted access to view. Note, the applicant has installed this equipment and shall continue to submit

this data to the City following events.

e. Noise Monitoring During Concerts

- i. Noise levels shall be monitored throughout the full duration of all concert events, or the full duration of select concert events, as agreed upon with the City. Noise levels shall be measured in one second intervals as recommended in the Stantec Memo and logged at the required time intervals to demonstrate compliance with noise limits established by the City.
- ii. Noise monitoring system should be located at the property line of the site where adjacent residents are exposed to the highest noise level during concert events as recommended in the Stantec Memo.

f. Reporting

- i. A report including graphs showing the measured noise levels over time throughout concert events should be provided to the City within a week of monitoring during concert events. The report should indicate the start and stop time of concerts. Graphs should show measured noise levels in all necessary metrics to demonstrate compliance with noise limits established by the City. Applicant has been submitting these reports as required.
- ii. The submitted reports shall contain a graph from each monitoring point in the same format and form as found on Page 7 of 9 in the Stantec Memo dated April 4, 2023 for the full duration of concert and inclusive of the average dBA for the concert.

4. Applicant has submitted the following request / Plan of Operation for review:

- a. See submitted "2025 Outdoor Event Plan of Operation" for proposed 2025 event dates. Dates for outdoor events shall begin no sooner than May 1st (with the exception of St. Patrick's Day annually) and shall end no later than October 31st in any given year unless further approval is received by the Plan Commission. Per this revised schedule request, the number of outdoor events will be 50 (14 Full Band, 26 acoustic events, 3 special events & 6 TBD events). **[Note, in the past there have been 36 outdoor events and they have not started prior to June 1st. This request, if approved, is for an additional 7 outdoor event dates, 6 TBD events and to start outdoor live music on May 1st instead of June 1st annually.]**
- b. The following outdoor events are being requested for approval with this permit.
 - i. Live Music on the Stage:
 1. Live outdoor music on the stage Friday's, Saturday's and Sunday's starting May 2025 and finishing on October 31st each year. Live music for these events shall consist of a two to three piece acoustic bands prohibiting the use of electric instruments on Friday's and Sunday's through Labor Day; and a four to five piece full bands on Saturday's through Labor Day.
 2. The acoustic nature of the music shall be at a level that allows for conversation.
 3. Hours of Operation: Friday's and Saturday's from 5:00 PM to 9:00 PM and Sunday's from 1:00 PM to 5:00 PM through Labor Day Event includes outdoor amplified music, live music, and food.
 - ii. Pavilion area – Everyday Use:
 1. Everyday use of the pavilion area (MEC - Matty's Event Center). This is an overflow usage for the restaurant as well as event space for private events, space, golf outings, local/community fundraiser's, rehearsal dinners, community driven events, etc. At this time, no live outdoor music is slated for either space.

2. Hours of Operation: Daily and open the same hours as Matty's. Music and any amplified devices to be turned off after quiet hours go into effect at 10:00 PM.

iii. St. Patrick's Day

1. Event would take place St. Patrick's Day annually. Event includes four to five piece full bands.
2. Hours of Operation: 11:00 AM to 9:00 PM.
3. Event includes outdoor amplified music, live music, and food.

iv. Oktoberfest – Held in October.

1. The event is planned to be a 1-day event with live music.
2. Event includes four to five piece full bands.
3. Hours of Operation: 11:00 AM to 9:00 PM.
4. Event includes outdoor amplified music, live music, and food.

v. LED Screen – Everyday Use

1. Use of the screen is for digital marketing, band back drops, sports, movies, and streaming services for special events i.e. slideshows and videos.

5. Staff is not recommending an annual renewal next year. Outdoor event schedule shall be provided by April 15th of each year. For event dates that are unknown, the applicant shall submit the final dates and details a minimum of two weeks prior to the event date. Formal complaints may result in possible revocation of permit and which may mandate a public hearing be held with approval process.
6. The City of New Berlin reserves the right to review any potential complaints and take appropriate action, if necessary. Per Section 275-27H of the Zoning Code: "Revocation of conditional use permit. Should a permit holder fail to comply with the conditions of the permit issued by the Plan Commission, or should the use or characteristics of the use be changed without prior approval by the Plan Commission, the conditional use permit may be revoked by the Plan Commission upon notice and a hearing."
7. Applicant shall coordinate all traffic flow with Waukesha County Department of Transportation and shall contact Waukesha County DOT to inform them of the events.
8. Applicant shall apply for and receive individual Sign Permits for all event signage and banners prior to installation.
9. Seating capacity will be 137 seats for the existing patio and restaurant. This requires a minimum of ~109 parking spaces for this use. Applicant has provided 147 parking spaces. If capacity increases in the future, the applicant shall contact DCD to address the need to provide additional parking to meet the requirements of Section 275-57.
10. There shall be no on-street parking on College Avenue. Parking shall be contained on-site. If parking is to be off-site, a written agreement between the property owners allowing for the overflow parking is necessary. If off-site parking is used, sufficient security guards shall be in place whose sole purpose is to ensure the safe passage of guests to and from these events. **Matty's to provide sufficient security guards and staff to avoid trespassing of patrons onto adjacent property.**
11. Applicant shall keep as many on-site parking spots as possible available to guests.
12. Do not block drive aisles or emergency access routes.
13. Sanitation and fresh water facilities shall be adequate for the actual number of people using the site as required by Waukesha County Department of Environmental Health.
14. Applicant shall contact Waukesha County Department of Environmental Health for any necessary permits pertaining to food supplied via a licensed vendor.

15. If liquor is to be sold outdoors, applicant shall contact the Clerk's Office to obtain a liquor and soda permit.

16. If any sales or solicitation of business will occur with vendors on site, a Direct Sellers Permit will be required from the Clerk's Office.

17. Building Inspection

- a. Apply and obtain appropriate building, plumbing and electrical permits when required to do so by code.
- b. Temporary wiring for displays or lighting circuits shall require electrical permit and inspection from Inspection Services. Electrical work shall be performed by a licensed electrician.
- c. Fire extinguishers required.
- d. No smoking signs required to be posted within tents.
- e. The building shall be fully accessible from the parking lot to the interior elements (Com. 63.1101 and ICC/ANSI A117.1).
- f. Maintain 'Access to a public way' per IBC Section 1028.5 for ALL areas.
- g. Provide bathrooms (plumbing fixtures) per IBC Chapter 29 Table 2902.1 Occupancy A-5 and A-2.
- h. Temporary Structures (i.e., Tents) must comply with IBC Section 3103.
 - i. All work to be done in accordance with the Commercial Building Code (IBC) & Wisconsin Administrative Code.
 - ii. Tents are required to have a fire retardant label affixed to it.
 - iii. Must post no smoking signs inside tent area.
 - iv. Fire extinguishers required for each tent and or 75 ft of tent area.
 - v. If tent is enclosed you must post exit signs at each exit (additional lighting maybe required).
 - vi. No vehicles to be parked within 20 ft of tent.
 - vii. Call 262-797-2445 for inspections. Allow 24 to 48 hour notice in advance of the requested inspection date.

18. Fire Department:

- a. Maintain occupancy load in interior. (80 people max).
- b. Maintain access for fire apparatus at all times.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLAN COMMISSION STAFF REPORT
Meeting of March 3, 2025

Matt Anderson / Matty's Bar & Grille
14460 W. College Avenue

DATE STAFF REPORT REVISED: February 3, 2025

APPLICANT / OWNER(S): Matt Anderson – Matty's Bar & Grille / Anderson Real Estate Management

REQUEST/DESCRIPTION OF PROJECT: Public hearing and possible action to approve the Conditional Use Permit for Matty's Bar & Grille to hold 7 additional outdoor events and 6 TBD event dates (for a total of up to 13 additional events) and approval of minor adjustments to the 2025 annual schedule of outdoor events for the property located at 14460 W. College Avenue subject to the application, plans on file and the following conditions:

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 2/17/25

DATE OF COMPLETENESS DETERMINATION: 1/17/25
Application Check List Enclosed: No

PRE-APPLICATION CONFERENCE HELD: Yes
(Date(s) of Meeting(s): several meetings / Site Visit(s): various site visits with the most recent being on 2/20/2025)

CONCEPTUAL PLAN: N/A

SIZE OF DEVELOPMENT / PARCEL(S): 2.25 acres

CURRENT ZONING: B-2, General Retail Sales & Service District

CURRENT LAND USE: Matty's Bar & Grille

PROPOSED ZONING: N/A

PROPOSED LAND USE: Updated outdoor event schedule for the existing restaurant.

PROPOSED LOT SIZE: N/A

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North:	Zoning: A-1	Land Use: Agriculture
South:	Zoning: N/A	Land Use: City of Muskego
East:	Zoning: R-3	Land Use: Single-Family Home
West:	Zoning: R-3	Land Use: Single-Family Home

CONFORMANCE WITH THE 2020 COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes
Chapter 17: Neighborhood "G": Sections 26 and 35: Yes, this submittal meets the intent of this Chapter.

Planning Context/Vision/Development Policies:

Vision:

- Neighborhood G is considered to be a sizeable land area in New Berlin that can accommodate the amount of development desired to offset the City's tax base and accommodate new businesses and residents. Planning for a specific scale of development in

Neighborhood G may relieve development pressure City-wide, as the western half of New Berlin remains the area in which residents and businesses wish to maintain higher open space percentages.

Development Policies:

- 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.

Land use

- *Future Land Use Map: Suburban Commercial & Urban Residential*

ZONING CODE (CHAPTER 275): Yes, meets all the requirements of Chapter 275-34B(2).

SUBDIVISION CODE (CHAPTER 235): N/A

REZONING REQUIRED: No

CONDITIONAL USE REQUIRED: Yes

PUBLIC HEARING REQUIRED: Yes, March 3, 2025.

USE / SITE / ARCHITECTURAL REVIEW:

-Conditional Use Approval Required: Yes

-Site Plan Required: Yes

-Architectural Review Required: No

PROPOSED ARCHITECTURE: N/A

UNIQUE SITE CHARACTERISTICS:

Environmental Corridor: No

Wetland On Property: No

Conservancy Districts (C-1, C-2): No

NRCS Map Classification: Not Inventoried

Floodplain: No

Topography / Geologic: Site is relatively flat.

BIKE & PEDESTRIAN FACILITIES PLAN: No improvements identified.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:

-Limits of Disturbance (LOD): N/A

-Wildlife Habitat Protection: N/A

-Wildlife Management Plan: N/A

ENVIRONMENTAL IMPACT: N/A

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

SANITARY SEWER PROVISION: Yes, existing restaurant is serviced through the City of Muskego.

-Within Current Sewer Service Area: Yes, through the City of Muskego.

-Basin Capacity Available: N/A
-Basin Balance (If known): N/A
-Adequate Linkage: Yes

WATER USAGE CALC.: No increase.

TRAFFIC IMPACT: Applicant plans to accommodate all parking within the parking lot or offsite.

SCHOOL DISTRICT IMPACT: N/A

PREVIOUS ACTION:

7/7/97	Plan Commission approved interior and exterior modifications for College Pub.
6/1/98	Plan Commission approved a patio for Just Matty's.
5/3/99	Plan Commission approved modifications to a previously approved patio (File #: U-34-98).
11/4/02	Plan Commission approved a building addition for Matty's.
2/2/04	Plan Commission approved rezoning from R-3 to B-2.
2/10/04	Common Council approved rezoning from R-3 to B-2.
3/1/04	Plan Commission approved an addition for Matty's Bar & Grille.
5/9/08	Staff administratively approved the enclosure of a patio for Matty's Bar & Grille.
12/29/08	Staff administratively approved outdoor seating, additional parking spaces and lighting for Matty's Bar & Grille.
2/1/10	Plan Commission approved a parking lot addition.
6/7/10	Plan Commission approved a one-lot certified survey map to combine two lots.
6/22/10	Common Council approved a one-lot certified survey map to combine two lots.
11/21/11	Architecture Review Committee approved a smoking shelter.
4/10/12	Architecture Review Committee approved a patio with outside seating.
9/03/14	Approval for Temporary Events until such time a Conditional Use approval could be applied for.
4/8/15	Plan Commission held a public hearing on this request.
4/17/2015	Approval for two Temporary Events to be held prior to the approval of this Conditional Use request.
4/8/2015	Plan Commission held a public hearing for this business to hold outdoor events.
5/4/2015	Plan Commission took action to approve a Conditional Use Permit for this business to hold outdoor events.
4/13/2016	Plan Commission re-approved the outdoor events for this business.
3/6/2017	Plan Commission held a public hearing for this business to hold additional outdoor events.
3/30/2017	Plan Commission approved the additional outdoor events.
3/5/2018	Plan Commission approved additional outdoor events. (Application File #: CU-1700138)
7/21/2021	Staff approved an administrative permit for a covered patio and stage via UA #: 2101028.
2/6/2023	Plan Commission held a public hearing.
3/6/2023	Plan Commission tabled this item.
4/13/2023	Plan Commission approved the request. (Application File #: CU-2300076)

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

1. The applicant has submitted this application, at the request of Staff, based on their desire to hold additional outdoor events beyond what was approved in 2023.
2. Per Section 275-27H of the Zoning Code: "Revocation of conditional use permit. Should a permit holder fail to comply with the conditions of the permit issued by the Plan Commission, or should the use or characteristics of the use be changed without prior approval by the Plan Commission, the conditional use permit may be revoked by the Plan Commission upon notice and a hearing."
3. See attached Plan of Operation and schedule of outdoor events. A table has been added to this staff report to summarize all events.

D.R.C RECOMMENDATION:

Public hearing and possible action to approve the Conditional Use Permit for Matty's Bar & Grille to hold 7 additional outdoor events and 6 TBD event dates (for a total of up to 13 additional events) and approval of minor adjustments to the 2025 annual schedule of outdoor events for the property located at 14460 W. College Avenue subject to the application, plans on file and the following conditions: **See Executive Summary.**

ATTACHMENTS:

Location Map

Plan of Operation 2025

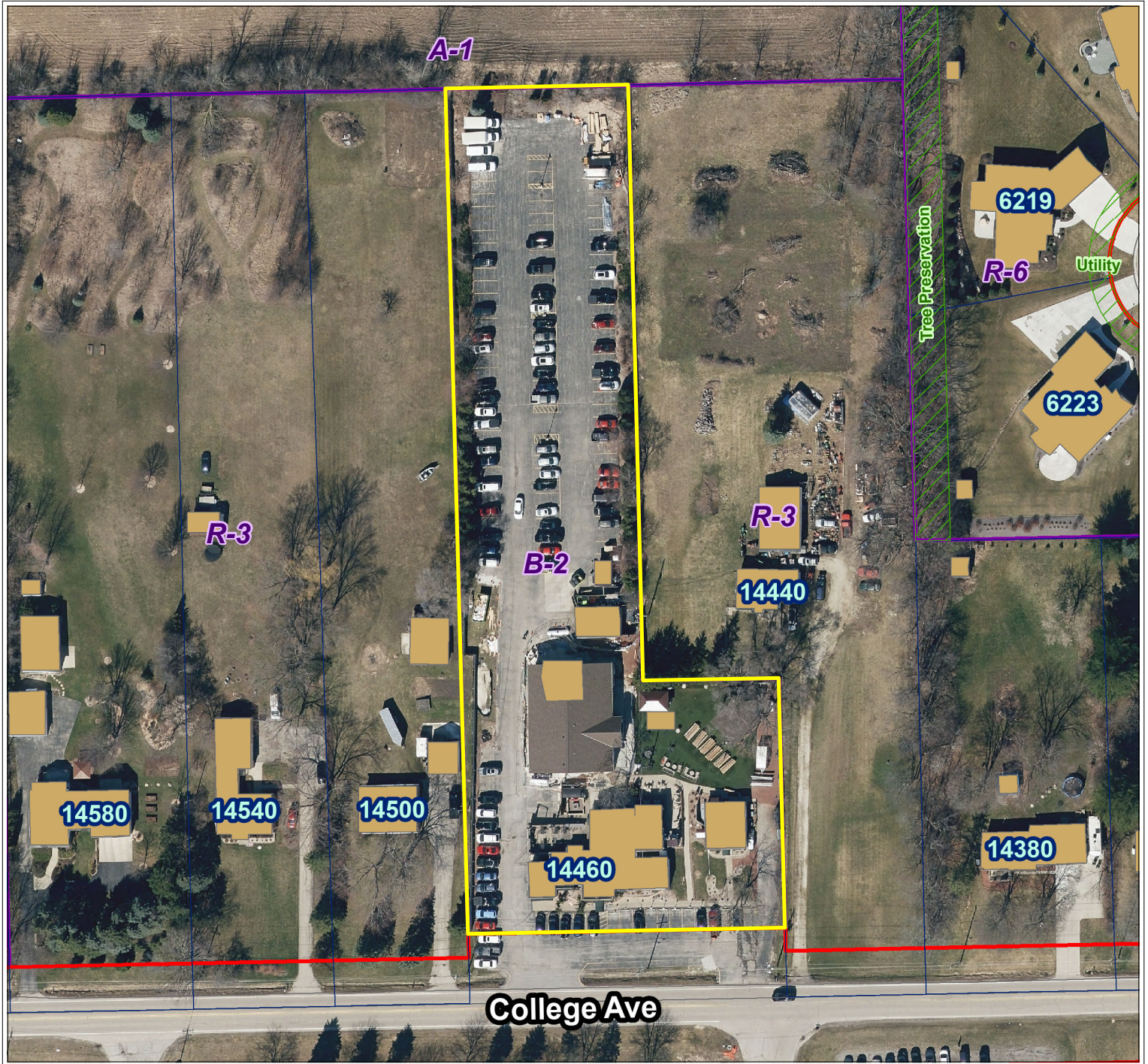
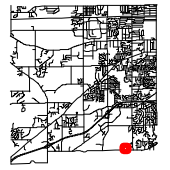
2025 Calendar of Events - Current and Proposed with the additional events

Site Plan

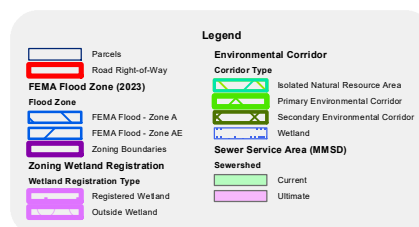
Current Zoning Permit #: CU-2300076 Issued on 6/8/2023

Stantec Memo Dated April 4, 2023

CU-2500147
Matty's Bar & Grille Inc. 2025 Events
14460 W. College Avenue



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



0 40 80 Feet

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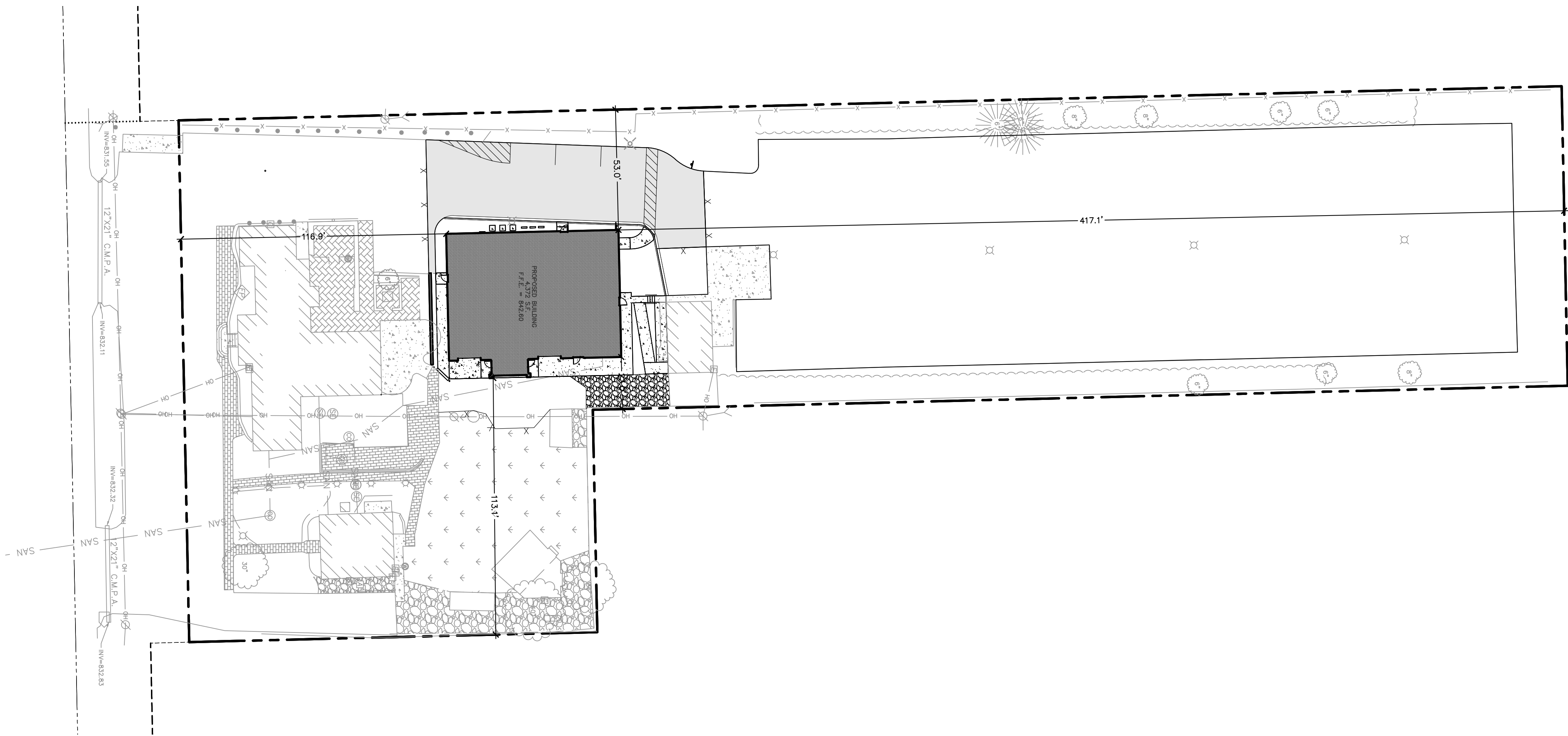
Matty's Bar & Grille Plan of Operation for review:

- See submitted 2025 outdoor Event Plan of Operation for 2025 event dates. Dates for outdoor events shall begin March 2nd (Winter Blue Fundraiser) and conclude October 11th (Oktoberfest event). The number of outdoor events requested is 44 events with an option to use 6 additional TBD dates. These events will be submitted per proper special request permit procedures.
 - The following outdoor events are requested for approval with the permit.
 - We will continue our commitment to providing the best hospitality for our guest's while maintaining the good will of the community including our immediate neighbors. We will continue to invest in good communications and proactively work together to maintain good relationships with our direct neighbors by providing direct access to Matt Anderson as well as all of our Leadership/Management teams. We will provide a schedule of events to neighbors. The current Use Approval was from 2023. The summer of 2023 was a very successful summer season with respect to any neighbor complaints. 2024 was 100% issue free. In 2024 we invested over \$50,000.00 in audio/db level advancements and mitigations and processes to assure we are below the db levels established and our sound stays within our boundaries. We control the music level of all bands and sound zone balancing to move sound around based on winds and weather. In essence, we created a "toilet bowl effect" surround sound system. Additional improvements and sound barriers include our new Matty's Event Center (The MEC). This building has proven to play another major role in maintaining our sound on our property. We will continue to adhere to using and calibrating the high quality db measuring tool to accurately monitor db levels at the designated position. These measurements will be documented and reported to the City as outlined in the current Use Approval.
 - We will provide all Matty's management with the plan of operation and ensure strict adherence. As Staff can attest to, we have followed db level reporting exactly as outlined in our Use Approval. Should noise complaints arise, we will immediately and swiftly take ownership and work to rectify the situation and maintain the trust of our neighbors. As mentioned, this has not been an issue for the past two years.
- **Stage – Live Music**
 - Live outdoor music on stage on designated Fridays, Saturdays and Sundays. Live music consists of 1-3 piece acoustical bands and 4-5 piece full bands that will play only on Saturday. The acoustic nature of music shall be at a level that allows for conversation and full band nature of music shall be no higher than 70 decibels
 - Hours of Operation: Fridays and Saturdays 5pm – 9pm and Sundays 3pm – 7pm.
 - Events include outdoor amplified music, live music and food and beverage service.
 - Hours of Operation: Daily and open the same hours as Matty's.
 - **St Patrick's Day/Oktoberfest – Live Music**
 - Live outdoor music events on stage to include 4-5 piece full bands not to exceed 70 decibels.
 - Hours of Operation 11am until 9pm.
 - Events include amplified music, food and vendors.

2025 Outdoor Schedule of Operation - Mattys			
Date	Event	Type	Location
3/17/25	St. Paddy's Day	Live Music	Backyard
5/3/25	Derby Day	Live Music	Backyard
5/25/25	Acoustic Band	Live Music	Backyard
6/7/25	Full Band	Live Music	Backyard
6/14/25	Full Band	Live Music	Backyard
6/15/25	Acoustic Band	Live Music	Backyard
6/20/25	Full Band	Live Music	Backyard
6/21/25	Acoustic Band	Live Music	Backyard
6/27/25	Acoustic Band	Live Music	Backyard
6/28/25	Full Band	Live Music	Backyard
6/29/25	Acoustic Band	Live Music	Backyard
7/5/25	Full Band	Live Music	Backyard
7/6/25	Acoustic Band	Live Music	Backyard
7/11/25	Acoustic Band	Live Music	Backyard
7/12/25	Full Band	Live Music	Backyard
7/13/25	Acoustic Band	Live Music	Backyard
7/18/25	Acoustic Band	Live Music	Backyard
7/19/25	Full Band	Live Music	Backyard
7/20/25	Acoustic Band	Live Music	Backyard
7/25/25	Acoustic Band	Live Music	Backyard
7/26/25	Full Band	Live Music	Backyard
7/27/25	Acoustic Band	Live Music	Backyard
8/1/25	Acoustic Band	Live Music	Backyard
8/2/25	Full Band	Live Music	Backyard
8/3/25	Acoustic Band	Live Music	Backyard
8/8/25	Acoustic Band	Live Music	Backyard
8/9/25	Full Band	Live Music	Backyard
8/15/25	Acoustic Band	Live Music	Backyard
8/16/25	Full Band	Live Music	Backyard
8/17/25	Acoustic Band	Live Music	Backyard
8/22/25	Acoustic Band	Live Music	Backyard
8/23/25	Full Band	Live Music	Backyard
8/24/25	Acoustic Band	Live Music	Backyard
8/29/25	Acoustic Band	Live Music	Backyard
8/30/25	Full Band	Live Music	Backyard
10/11/25	Oktoberfest	Live Music	Backyard
Full Band - 4-5 Piece		13	
Acoustic Band - 2-3 Piece		20	
Events		3	
Total		36	

2025 Outdoor Schedule of Operation - Mattys			
Date	Event	Type	Location
3/16/25	Acoustic Band	Live Music	Backyard
3/17/25	St. Paddy's Day	Live Music	Backyard
5/3/25	Derby Day	Live Music	Backyard
5/25/25	Acoustic Band	Live Music	Backyard
5/31/25	Acoustic Band	Live Music	Backyard
6/7/25	Full Band	Live Music	Backyard
6/8/25	Acoustic Band	Live Music	Backyard
6/14/25	Full Band	Live Music	Backyard
6/15/25	Acoustic Band	Live Music	Backyard
6/20/25	Acoustic Band	Live Music	Backyard
6/21/25	Full Band	Live Music	Backyard
6/22/25	Acoustic Band	Live Music	Backyard
6/27/25	Acoustic Band	Live Music	Backyard
6/28/25	Full Band	Live Music	Backyard
6/29/25	Acoustic Band	Live Music	Backyard
7/5/25	Full Band	Live Music	Backyard
7/6/25	Acoustic Band	Live Music	Backyard
7/11/25	Acoustic Band	Live Music	Backyard
7/12/25	Full Band	Live Music	Backyard
7/13/25	Acoustic Band	Live Music	Backyard
7/18/25	Acoustic Band	Live Music	Backyard
7/19/25	Full Band	Live Music	Backyard
7/20/25	Acoustic Band	Live Music	Backyard
7/25/25	Acoustic Band	Live Music	Backyard
7/26/25	Full Band	Live Music	Backyard
7/27/25	Acoustic Band	Live Music	Backyard
8/1/25	Acoustic Band	Live Music	Backyard
8/2/25	Full Band	Live Music	Backyard
8/3/25	Acoustic Band	Live Music	Backyard
8/9/25	Full Band	Live Music	Backyard
8/10/25	Acoustic Band	Live Music	Backyard
8/15/25	Acoustic Band	Live Music	Backyard
8/16/25	Full Band	Live Music	Backyard
8/17/25	Acoustic Band	Live Music	Backyard
8/22/25	Acoustic Band	Live Music	Backyard
8/23/25	Full Band	Live Music	Backyard
8/24/25	Acoustic Band	Live Music	Backyard
8/29/25	Acoustic Band	Live Music	Backyard
8/30/25	Full Band	Live Music	Backyard
8/31/25	Acoustic Band	Live Music	Backyard
9/1/25	Acoustic Band	Live Music	Backyard
9/6/25	Full Band	Live Music	Backyard
10/11/25	Oktoberfest	Live Music	Backyard
Full Band - 4-5 Piece			14
Acoustic Band - 1-3 Piece			26
Events			3
TBD			6
Total			49

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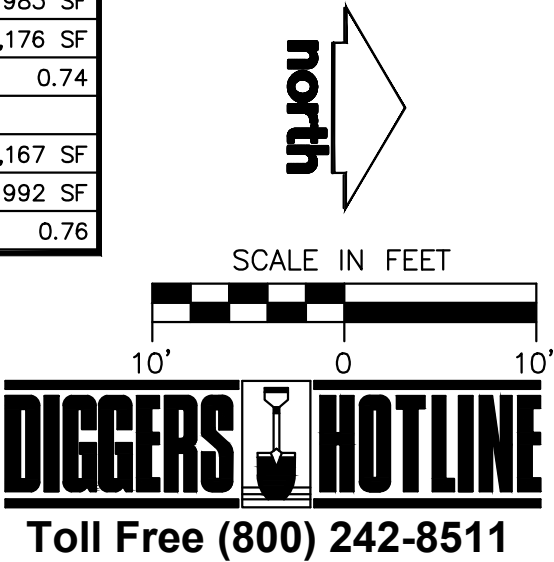


LEGEND

---	PROPERTY LINE
---	BUILDING OUTLINE
---	EDGE OF PAVEMENT
---	ASPHALT PAVEMENT
---	CONCRETE PAVEMENT
X	FENCE

SITE INFORMATION BLOCK

SITE ADDRESS	14460 COLLEGE AVENUE
PROPERTY ACREAGE	2.25 ACRES
PROPOSED BUILDING SQUARE FOOTAGE	4,312
TOTAL BUILDING SQUARE FOOTAGE	11,142
NUMBER OF PARKING STALLS	
SURFACE	
LARGE	135
ACCESSIBLE	3
TOTAL SURFACE	135
EXISTING VS. PROPOSED SITE COVERAGE	
EXISTING IMPERVIOUS SURFACE AREA	72,983 SF
EXISTING PERVIOUS SURFACE AREA	25,176 SF
EXISTING IMPERVIOUS SURFACE AREA RATIO	0.74
PROPOSED IMPERVIOUS SURFACE AREA	74,167 SF
PROPOSED PERVIOUS SURFACE AREA	23,992 SF
PROPOSED IMPERVIOUS SURFACE AREA RATIO	0.76



CREATE THE VISION TELL THE STORY

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MILWAUKEE REGIONAL OFFICE
W238 N1610 BUSSE ROAD, SUITE 100
WAUKESHA, WISCONSIN 53188
P. 262.513.0666

CLIENT:
**VENTURE
CONSTRUCTION GROUP**

CLIENT ADDRESS:
**17500 WEST LIBERTY LANE
NEW BERLIN, WI 53146**

PROJECT:
MATTY'S BAR & GRILLE

PROJECT LOCATION:
**14460 COLLEGE AVENUE
NEW BERLIN, WI
WAUKESHA COUNTY**

#	Date:	Description:
1	08/10/23	CITY RESUBMITTAL
2	12/21/23	CB#1 REVISED GRADING
3	02/19/24	REVISED SIDEWALK
4	02/28/24	REV PER CLIENT COMMENT
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

Designed By: JJS
Reviewed By: TJB
Approved By: TJB

SHEET TITLE:
SITE PLAN OVERVIEW

SHEET NUMBER:

C2.0

JSD PROJECT NO: 22-12044

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To:	Greg Kessler	From:	Jacob Poling
	City of New Berlin, WI		Stantec - Minneapolis
Project/File:	227705809	Date:	April 4, 2023

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

The City of New Berlin (the City) hired Stantec Consulting Services, Inc (Stantec) for consultation on community noise issues related to outdoor concert events at Matty's Bar and Grill, located at 14460 West College Avenue, New Berlin, WI (the Site). It is Stantec's understanding that there have been complaints from residences in the vicinity of the Site about noise during concerts. Stantec also understands that concerts typically end before 10:00 p.m. and may occur during afternoons and evenings during both weekday and weekend days.

The goals of this memo were (1) to provide information on the range of residential noise limits that may be appropriate during concert events and (2) to outline a recommended procedure for monitoring of sound levels during outdoor concerts. This memo starts by discussing basic noise terminology. Next, the results of a review of city noise ordinances and industry guidelines related to noise limits for both general community noise and noise during outdoor music events is summarized. Considerations for noise limits are then discussed. Last, recommended guidelines for concert sound monitoring are provided.

Noise Terminology

Sound is caused by vibrations that generate waves of minute pressure fluctuations in the surrounding air. Sound levels are measured using a logarithmic **decibel (dB)** scale. Human hearing varies in sensitivity for different sound frequencies (or pitches), and the frequency sensitivity changes based on the overall sound level. Consequently, several different frequency weighting schemes have been used to approximate the way the human ear responds to various frequencies at different sound levels. The **A-weighted decibel, or dBA**, scale is the most widely used for regulatory requirements, as it discriminates against low frequency noise similar to the response of the human ear at low to moderate sound levels typical of most community noise environments. Sound levels without a frequency weighting applied are referred to as unweighted or linear, and are reported as dB or dBZ.

Because environmental sound levels constantly fluctuate over time, numerous **noise metrics** have been developed to quantify the temporal characteristics (changes over time) of community noise.

The **equivalent continuous sound level, L_{eq}** , metric is the level of a hypothetical steady sound that would have the same energy as the fluctuating sound level over a defined period of time. The L_{eq} represents the time average of the fluctuating sound pressure level. $L_{eq}(1h)$ denotes an L_{eq} sound level measured over a 1-hour (1h) period and $L_{eq}(15m)$ denotes an L_{eq} sound level measured over a 15-minute (15m) period. When the 1-hour L_{eq} sound level is measured in A-weighted decibels it is denoted as dBA $L_{eq}(1h)$. An example chart comparing the L_{eq} over a measurement period to the instantaneous 1-second L_{eq} is provided as **Figure 1**.

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Other statistical metrics useful to understanding environmental sound levels include **percentile, L_n , sound levels**. The L_{10} metric is the noise level that is exceeded 10% of the time and is often used to assess impact from transportation or construction noise sources. The L_{50} metric is the noise level that is exceeded 50% of the time and represents the statistical mid-point of fluctuating noise levels. The L_{90} metric is the noise level that is exceeded 90% of the time and is generally considered to be representative of the steady background or ambient noise environment.

The **maximum and minimum sound levels, or L_{max} and L_{min}** , are the loudest and quietest instantaneous sound levels occurring during a period of time. The L_{max} is particularly useful for evaluating loud, impulsive noise events.

The **ambient noise level** is the sound pressure level of all-encompassing sounds associated with a given environment, being a composite of many sounds. For the purposes of this discussion, it is defined as the A-weighted noise level exceeded 90 percent of the time (L_{90} sound level), based upon a measurement of not less than ten minutes and excluding the alleged offensive sounds.

A **change in sound levels** of 3 decibels is generally considered to be the threshold of perception, whereas a change of 5 decibels is clearly perceptible, and a change of 10 decibels is perceived as a doubling or halving of loudness. This illustrates that the perception of loudness by humans is not linearly related to the sound level measured in decibels, as a change in sound levels from 60 to 80 decibels would be perceived as a quadrupling of loudness.

Examples of common outdoor and indoor sound levels are shown on **Figure 2**.

General Community Noise Limits

Community noise limits are generally intended to protect the ability for people to use property without undue disruption or annoyance due to noise. Noise limits are typically established based on the land use (or zoning) category of a site. Residential land uses are most sensitive to noise and thus have the lowest noise limits applied. Community noise limits are typically applied at the property line of the noise source or the noise receiver (e.g., residence backyard). Many community noise limits also differentiate between daytime and nighttime periods, with daytime often defined as 7 a.m. to 10 p.m., and apply lower noise limits at night to account for the increased sensitivity to noise.

Community noise limits can be expressed as an absolute value (e.g., 60 dBA) which shall not be exceeded, which is known as an **absolute limit**, or as an allowable increase relative to existing ambient noise levels (e.g., ambient plus 5 dBA), which is known as a **relative limit**. Noise limits can also be expressed as a combination of absolute and relative limits (e.g., noise levels shall not exceed 60 dBA or the ambient plus 5 dBA if the existing ambient sound level is less than 55 dBA.)

The United States (U.S.) does not have national community noise limits. Thus, community noise is regulated at either the state or local level in the U.S. The State of Wisconsin and the City of New Berlin also do not have established community noise limits. A limited survey of Wisconsin and U.S. community noise limits was completed to identify the typical range of noise limits that are applied to residential areas. The results of the review are summarized below with additional details provided in the attached tables.

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Among the five identified Wisconsin cities or towns with quantitative community noise limits, daytime residential noise limits ranged from **57-70 dBA** and nighttime residential noise limits ranged from **45-70 dBA**. A couple cities allowed for businesses adjacent to residences to have slightly higher noise limits in the range of **61-70 dBA** during daytime hours. The City of Racine had the most comprehensive community noise ordinance of those identified and it specified noise limits in the $L_{eq}(1h)$ metric. Otherwise, the limits were presented as “not to exceed” or “maximum” noise levels. The $L_{eq}(1h)$ metric would typically be used in this situation as it provides a broader picture of noise impacts rather than a smaller snapshot in time.

A survey of noise ordinances from 500 cities in the United States (Blomberg 2018) found that the average noise limit for residential areas was **61 dBA** during the daytime and **54 dBA** during the nighttime. Noise ordinances surveyed in the study were those that described the limits as “not to exceed” or “maximum” noise levels. Further, to minimize speech interruption during regular conversation at a distance of two meters (5.5 feet), an outdoor noise level of **60 dBA L_{eq}** was identified by the U.S. Environmental Protection Agency (EPA 1974).

Outdoor Concert Event Noise Limits

Most U.S. city noise ordinances neither specifically address nor exempt noise from outdoor concerts; therefore, the community noise limits established by land use or zoning type would also apply to noise from those events. The limited review found a few regulations specifically addressing this issue in the U.S. and Canada, while many more examples could be found in the U.K., Europe, and Australia. In the regulations that do specifically address outdoor concert events, there are a range of approaches to defining noise limits. Some of the regulations were also intended for outdoor concerts either on public lands or of a larger scale (stadium or music festivals) occurring less frequently (annually) than the situation in New Berlin.

In general, if a city has regulations for outdoor concert noise, they appear to typically allow for a higher noise level than the general community noise limits. Part of the reasoning for this may be that the nature of the noise exposure from concerts is temporary and/or periodic, rather than continuous. At least one approach also factored in the number of concert events per year in establishing noise limits, with more events resulting in a lower noise limit due to increased exposure. Generally, most outdoor concert noise limits identified were established in dBA using the L_{eq} metric. A summary of the review is discussed below with more details provided in the attached tables.

In Wisconsin, the City of Racine established a noise limit of **70 dBA $L_{eq}(1h)$** for uses bordering Festival Park, which is an outdoor public venue. San Francisco established relative limits for noise from entertainment venues of both **8 dBA above ambient** at the property line of the venue. New York City has a similar approach to San Francisco with a **7 dBA above ambient** limit.

Outdoor concert noise limits in Calgary, Canada are **65 dBA $L_{eq}(1h)$** in residential areas, with a **5 dB increase** above the limits allowed if the ambient sound level exceeded the limits. In the U.K., Europe, and Australia, daytime residential noise limits during outdoor concerts ranged from 50-80 dBA L_{eq} , with the majority of limits in the range of **65-75 dBA L_{eq}** . Where relative noise limits were used, they established L_{eq} noise limits ranging from **ambient L_{eq} + 10 dBA to ambient L_{90} + 15 dBA**.

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Noise Limit Considerations

Several considerations for establishing a noise limit for outdoor concerts are listed below:

- It is recommended that noise limits be established at the property line of the Site where adjacent residences are exposed to the highest noise levels during concert events.
- The A-weighted 1-hour L_{eq} noise level, or $L_{eq}(1h)$, is likely the most appropriate noise metric to use and is well suited for noise compliance monitoring.
- Because outdoor concerts will inevitably result in higher noise levels than the ambient condition, the City could consider allowing for a relative increase above ambient noise levels, or an allowable increase above a defined absolute noise limit if the ambient noise level already exceeds the limit.

Outdoor Concert Noise Monitoring Guidance

Guidance for establishing ambient noise levels and monitoring noise levels during outdoor concerts at the Site is provided below.

Measurement Equipment

Noise levels should be measured using a data-logging sound level meter (SLM) that meets ANSI/ASA S1.4-2014/Part 1 Type 1 or Type 2 requirements. The SLM should be capable of measuring and logging A-weighted sound levels in the L_{eq} and L_{90} metrics using the root-mean-square (RMS) “fast” time response. The SLM minimum integration, or data logging, time interval should be 1-minute or less. Examples of capable equipment for these purposes are a Larson Davis Model LxT SLM and the Sigicom Infra D10 and S50 remote noise monitoring systems.

To measure noise levels outdoors over multiple hours, the SLM will need to be housed in a waterproof environmental protection case (pelican case, or similar) with a microphone extension cable routed out of the case and the microphone secured to a tripod or post approximately 10-feet above ground. The microphone should be covered with a 3-inch or greater diameter windscreen to minimize wind-generated noise at the microphone. An external battery or power source may be needed to power the SLM depending on the specific equipment and duration of measurements. The SLM should be calibrated using an ANSI Type 1 or Type 2 handheld acoustical calibrator before each noise monitoring session. The SLM and acoustical calibrator should also be calibrated by an NIST accredited acoustical laboratory every two years or less.

A traditional noise monitoring system (Larson Davis LxT, or similar) could measure noise levels continuously for several hours to several weeks before batteries would need to be recharged or replaced. Data would need to be downloaded manually from these systems to a computer. If the system is only used to measure sound levels during concert events, it would need to be setup and broken down for each event.

A remote noise monitoring system (Sigicom, or similar) would allow for long-term deployment with noise levels measured continuously for several months. This type of system can also allow for direct upload of measured noise levels to a website for anyone granted access to view and avoids the need to manually download data from the equipment. During concert events, measured noise levels at the property line could potentially be monitored in real time by the venue with adjustments made to remain in compliance with the noise limits.

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Remote noise monitoring systems can also be programmed to send text message or email alerts when user-defined noise level thresholds are exceeded.

Establishing Ambient Noise Levels

If necessary to establish concert event noise limits, ambient noise monitoring should be completed at one or more locations on the Site property lines to document typical ambient noise levels when concert events are not occurring. At a minimum, ambient noise monitoring should be completed during several days and include the full range of time periods and days of the week when concert events may occur (e.g.: noon to 10:00 p.m. during both weekday and weekend days, if outdoor concert events would occur during those time periods and days). Planned time periods and locations for ambient noise measurements should be discussed with the City for concurrence prior to measurements being taken. Ambient noise level measurement results should be provided to the City in tabular and graphical formats. When reviewing the monitoring results, the City should consider whether it is appropriate to establish ambient noise levels separately for daytime, evening, weekday, and/or weekend periods.

Noise Monitoring During Concerts

Noise levels should be monitored throughout the full duration of all concert events, or the full duration of select concert events, as agreed upon with the City. Noise levels should be measured in all necessary metrics and logged at the required time intervals to demonstrate compliance with noise limits established by the City. Noise measurements should be completed with the microphone located approximately 10 feet above ground and 10 feet or further from large reflective surfaces such as building walls. The time response setting of the SLM should be set to “fast”.

The noise monitoring system should be located at the property line of the Site where adjacent residences are exposed to the highest noise level during concert events. Based on the concert stage orientation, it is expected that this would be the western property line. However, prior to future concert events, it is recommended that a series of measurements be taken at several points on the eastern and western Site property lines while music is playing through the concert stage sound system to determine the worst-case location for monitoring. Potential noise monitoring locations on the eastern and western Site property lines are shown in **Figure 3**. If the location on the western property line is utilized, the SLM microphone should be extended above the wooden fence to avoid sound reflecting off the fence influencing the measurements.

Reporting

A report including graphs showing the measured noise levels over time throughout concert events should be provided to the City within a week of monitoring during concert events. The report should indicate the start and stop time of concerts. Graphs should show measured noise levels in all necessary metrics to demonstrate compliance with noise limits established by the City.

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Regards,

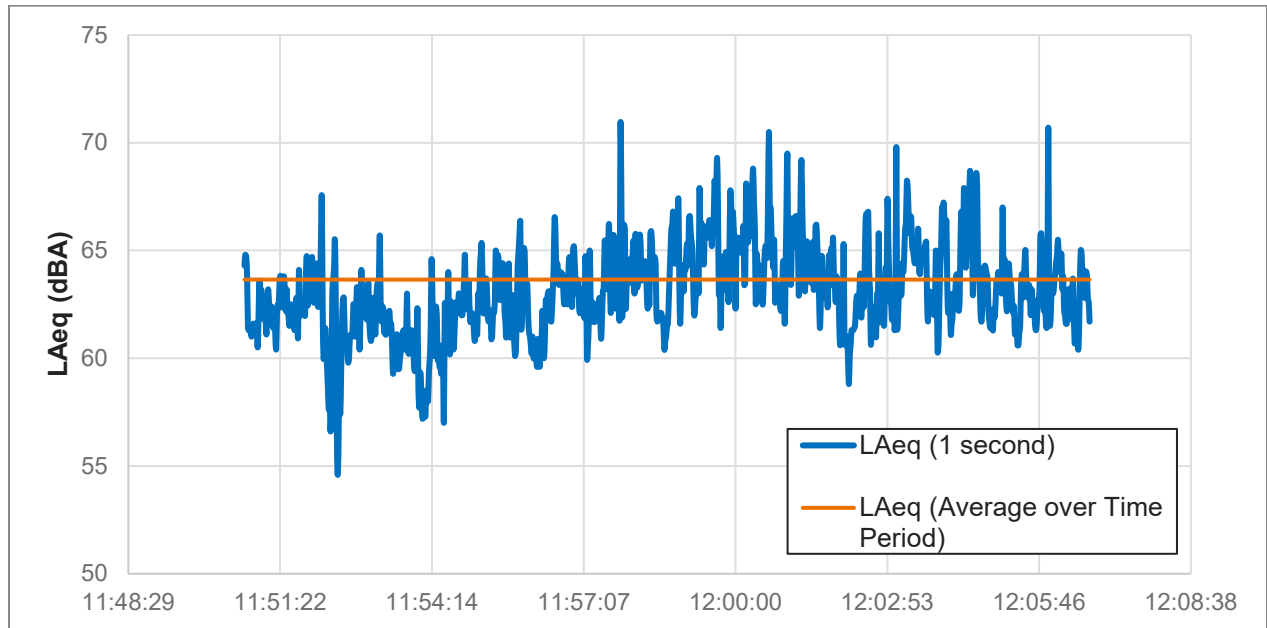
STANTEC CONSULTING SERVICES INC.

A handwritten signature in blue ink that reads "Jacob Poling". The signature is fluid and cursive, with the first name "Jacob" and last name "Poling" clearly distinguishable.

Jacob Poling INCE
Senior Acoustician
Phone: 612-712-2162
Mobile: 952-495-7858
jacob.poling@stantec.com

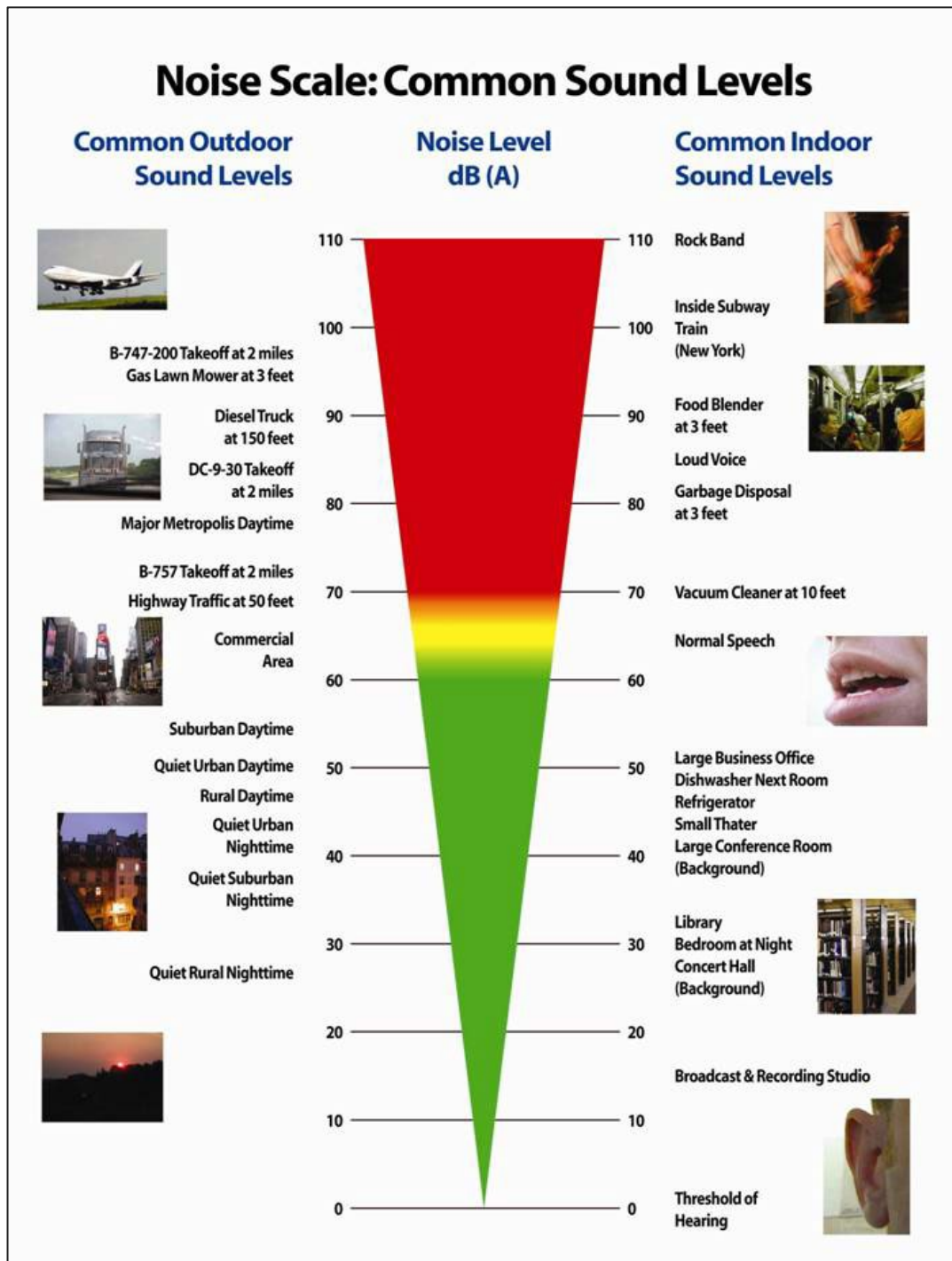
Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Figure 1. Time-Averaged L_{eq} Sound Level vs 1-second L_{eq} Sound Level



Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Figure 2. Common Sound Levels



Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Figure 3. Potential Noise Monitoring Locations



City of New Berlin - Noise Regulations Review Tables

Wisconsin General Community Noise Regulations

Jurisdiction	Type of noise regulated	Noise limit(s)	Source
Appleton, WI	General regulation	57 dBA daytime / 52 dBA night (residential to residential)	Microsoft Word - Charter Ordinances.doc (appleton.org)
		61 dBA daytime / 55 dBA night (commercial to residential)	
Kenosha, WI	General regulation	70 dBA from businesses at residences, daytime and nighttime	CHAPTER XXIII. - NOISE CONTROL Code of Ordinances Kenosha, WI Municode Library
Madison, WI	General regulation	65 dBA at property line of residential zone	CHAPTER 24 - OFFENSES AGAINST PEACE AND QUIET Code of Ordinances Madison, WI Municode Library
Milwaukee, WI	General regulation	55 dBA day / 45 dBA night in residential districts	CH80.pdf (milwaukee.gov)
Racine, WI	General regulation	65 dBA Leq(h) day / 60 dBA Leq(h) night at residential property boundary	Chapter 42 - ENVIRONMENT Code of Ordinances Racine, WI Municode Library

U.S. General Community Noise Regulations

Jurisdiction	Type of noise regulated	Noise limit(s)	Source
U.S. EPA	Document does not establish regulatory limits, but guidance influenced many U.S. municipality and agency noise limits	Speech interference: 60 dBA Leq at residences outdoors (normal conversation at 2 m)	United States Environmental Protection Agency (EPA). "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety." 1974.
		Speech interference: 45 dBA Leq indoors for 100% speech intelligibility (assuming partly-open window)	
Various U.S. Cities (500 city survey)	General regulations	Average residential max noise limits - 61 dBA daytime, 54 dBA nighttime	Les Blomberg. "Noise ordinance noise level limits, an update of the EPA's 1975 findings." Inter-Noise 2018 Conference Proceedings. 2018.

Noise Regulations for Outdoor Concert Events

Jurisdiction	Type of noise regulated	Noise limit(s)	Source
Racine, WI	Outdoor entertainment venue	70 dBA Leq(h) at all times for uses bordering Festival Park (outdoor public venue)	Chapter 42 - ENVIRONMENT Code of Ordinances Racine, WI Municode Library
		If ambient L90 is within 3 dBA of limit, limit increased by maximum of 3 dBA	
New York, NY	Music from bars & restaurants	42 dBA indoors at residences	law05113.pdf (nyc.gov)
		outdoor ambient sound level + 7 dBA between 10 PM and 7 AM	
San Francisco, CA	Entertainment venues	ambient dBA + 8 dBA at property line of sound source	ARTICLE 29: REGULATION OF NOISE (amlegal.com)
Calgary, Canada	Outdoor concerts	65 dBA Leq(h) at any point within a residential development	Bylaws related to noise (calgary.ca)
		If ambient sound level exceeds limits, limit is ambient + 5 dB	
UK Noise Council	Outdoor concerts	For <= 3 events/year, 65 dBA Leq(15m) at residential façade	Manchester City Council. "Guidance on noise control for open air concerts and events." 2022.
		For 4-12 events/year, Leq(15m) limit is ambient L90 + 15 dBA	

City of New Berlin - Noise Regulations Review Tables

Jurisdiction	Type of noise regulated	Noise limit(s)	Source
European cities	Outdoor concerts	50 - 80 dBA, primarily uses Leq metric	Audio Engineering Society. "Understanding and managing sound exposure and noise pollution at outdoor events." Technical Document AESTD1007.1.20-05. 2020.
Australia major events	Outdoor concerts	55-70 dBA Leq	Parnell and Sommer. "Setting noise objectives for outdoor music festivals in rural locations." 2018.
UK and Ireland stadiums	Outdoor concerts	75 - 80 dBA Leq	Parnell and Sommer. "Setting noise objectives for outdoor music festivals in rural locations." 2018.

ZONING PERMIT 2300076

ISSUE DATE: 6/8/2023

EXPIRATION DATE: 1 year from date issued

OWNER:

ANDERSON REAL ESTATE MANAGEMENT LLC
5405 S SUNNYSLOPE RD
NEW BERLIN, WI 53151

APPLICANT:

ANDERSON REAL ESTATE MANAGEMENT LLC
5405 S SUNNYSLOPE RD
NEW BERLIN, WI 53151

ADDRESS: 14460 W COLLEGE AVE

FOR: CONDITIONAL USE - MATTY'S - 2023 OUTDOOR EVENTS

This Zoning Permit authorizes the above establishment to conduct business or operate in accordance with all approved plans on file, any and all applicable City, State and Federal codes, and as described below:

1. Applicant shall take down the tent on or before October 31st each year. The tent is up seasonally and should be taken down for the late fall / winter months. Tent shall not be put back up prior to April 15th (with the exception of St. Patrick's Day annually where a temporary tent may be installed and taken down prior to the event and removed no later than the following week).
2. The applicant has submitted this application at the request of Staff based on the applicant's desire to modify their zoning permit and complaints received regarding the existing outdoor events in the past. Condition # 8 of Zoning Permit #: UA-14-053 states: "The City of New Berlin reserves the right to review any substantiated complaints and take appropriate action, if necessary. Action will result in any future events being prohibited."
3. See attached Plan of Operation and schedule of outdoor events. A table has been added to this staff report to summarize all events. Outdoor music to end by 9:30 PM.
4. Stantec Memo dated April 4, 2023 is attached. Per this Memo, staff has made the following recommendations with regard to how sound will be addressed for outdoor music at this location.
 - a. Applicant shall review the Memo and will adhere to the recommendations.
 - b. Outdoor Concert Event Noise Limits:
 - i. Sound shall not exceed 70 dBA LAeq(1h) at any of the identified locations in the Stantec Memo dated April 4, 2023.
 - c. Noise Limit Considerations:
 - i. It is required that noise limits be established at the property line of the site where adjacent residents are exposed to the highest noise levels during concert events.
 - d. Outdoor Concert Noise Monitoring Guidance:
 - i. Noise levels should be measured using a data-logging sound level meter (SLM) that meets ANSI/ASA S1.4-2014/Part 1 Type 1 or Type 2 requirements. Applicant shall explore the examples listed in the Memo on page 4 of 9.
 - ii. The SLM shall be housed in a waterproof environmental protection case.
 - iii. The SLM should be calibrated using an ANSI Type 1 or Type 2 handheld acoustic calibrator before each noise monitoring session.
 - iv. The SLM and acoustic calibrator should also be calibrated by an NIST accredited acoustical laboratory every two years or less.
 - v. The City would be interested in remote noise system. This type of system can allow for direct upload of measured noise levels to a website for anyone granted access to view.
 - e. Noise Monitoring During Concerts
 - i. Noise levels shall be monitored throughout the full duration of all concert events, or the full duration of select concert events, as agreed upon with the City. Noise levels shall be measured in one second intervals as recommended in the Stantec Memo and logged at the required time intervals to demonstrate compliance with noise limits established by the City.

- ii. Noise monitoring system should be located at the property line of the Site where adjacent residents are exposed to the highest noise level during concert events as recommended in the Stantec Memo.
- iii. Please refer to page 5 of 9 of the Memo. Also, see Figure 3 of the memo for specific locations.

f. Reporting

- i. A report including graphs showing the measured noise levels over time throughout concert events should be provided to the City within a week of monitoring during concert events. The report should indicate the start and stop time of concerts. Graphs should show measured noise levels in all necessary metrics to demonstrate compliance with noise limits established by the City.
- ii. The submitted reports shall contain a graph from each monitoring point in the same format and form as found on Page 7 of 9 in the Stantec Memo dated April 4, 2023 for the full duration of concert and inclusive of the average dBA for the concert.

5. Applicant has submitted the following request / Plan of Operation for review:

- a. See submitted "2023 Outdoor Event Plan of Operation" for 2023 event dates. Dates for outdoor events shall begin no sooner than June 1st (with the exception of St. Patrick's Day annually) and shall end no later than October 30th in any given year unless further approval is received by the Plan Commission. Per this revised schedule request, the number of outdoor events will be 36 (12 Full Band, 22 acoustic events, 2 special events, & 4 TBD event dates). At the April 13, 2023 Plan Commission meeting, the Plan Commission made a motion to reduce the overall number of outdoor events from 40 to 36, a reduction of 4 events from their request, and direct staff to work with Matty's on the dates to be removed from the outdoor events schedule.
- b. The following outdoor events are being requested for approval with this permit.
 - i. Live Music on the Stage:
 - 1. Live outdoor music on the patio Friday's, Saturday's and Sunday's starting June 2023 and finishing on October 28th each year. Live music for these events shall consist of a two to three piece acoustic bands prohibiting the use of electric instruments on Friday's and Sunday's through Labor Day; and a four to five piece full bands on Saturday's through Labor Day.
 - 2. The acoustic nature of the music shall be at a level that allows for conversation.
 - 3. Hours of Operation: Friday's and Saturday's from 5:00 PM to 9:00 PM and Sunday's from 3:00 PM to 7:00 PM through Labor Day Event includes outdoor amplified music, live music, and food.
 - ii. Tented Terrace/Pavilion area – Everyday Use:
 - 1. Everyday use of the tented terrace/Pavilion area. This is an overflow usage for the restaurant as well as event space for private events, space, golf outings, local/community fundraiser's, rehearsal dinners, community driven events, etc. At this time, no live outdoor music is slated for either space.
 - 2. Hours of Operation: Daily and open the same hours as Matty's. Music and any amplified devices to be turned off after quiet hours into effect at 10:00 PM.
 - 3. Event includes outdoor amplified music, food, and vendors.
 - iii. St. Patrick's Day
 - 1. Event would take place St. Patrick's Day annually. Event includes four to five piece full bands.
 - 2. Hours of Operation: 11:00 AM to 9:00 PM.
 - 3. Event includes outdoor amplified music, live music, and food.
 - iv. Oktoberfest – Held in October.
 - 1. The event is planned to be a 1-day event with live music.
 - 2. Event includes four to five piece full bands.
 - 3. Hours of Operation: 11:00 AM to 9:00 PM.
 - 4. Event includes outdoor amplified music, live music, and food.
 - v. LED Screen – Everyday Use
 - 1. Use of the screen is for digital marketing, band back drops, sports, movies, and streaming

services for special events i.e. Slideshows and videos.

6. Staff is not recommending an annual renewal next year. Outdoor event schedule shall be provided by April 15th of each year. For event dates that are unknown, the applicant shall submit the final dates and details a minimum of two weeks prior to the event date. Formal complaints may result in possible revocation of permit and which may mandate a public hearing be held with approval process.
7. The City of New Berlin reserves the right to review any potential complaints and take appropriate action, if necessary. Per Section 275-27H of the Zoning Code: "Revocation of conditional use permit. Should a permit holder fail to comply with the conditions of the permit issued by the Plan Commission, or should the use or characteristics of the use be changed without prior approval by the Plan Commission, the conditional use permit may be revoked by the Plan Commission upon notice and a hearing."
8. Applicant shall coordinate all traffic flow with Waukesha County Department of Transportation and shall contact Waukesha County DOT to inform them of the events.
9. Applicant shall apply for and receive individual Sign Permits for all event signage and banners prior to installation.
10. Seating capacity will be 80 seats for the tent; 137 seats for the existing patio and restaurant. This requires a minimum of ~109 parking spaces for this use. Applicant has provided 147 parking spaces. If capacity increases in the future, the applicant shall contact DCD to address the need to provide additional parking to meet the requirements of Section 275-57.
11. There shall be no on-street parking on College Avenue. Parking shall be contained on-site. If parking is to be off-site, a written agreement between the property owners allowing for the overflow parking is necessary. If off-site parking is used, a sufficient security guards should be in place whose sole purpose is to ensure the safe passage of guests to and from these events. Matty's to provide sufficient security guards and staff to avoid trespassing of patrons onto adjacent property.
12. Applicant shall keep as many on-site parking spots as possible available to guests.
13. Do not block drive aisles or emergency access routes.
14. Sanitation and fresh water facilities shall be adequate for the actual number of people using the site as required by Waukesha County Department of Environmental Health.
15. Applicant shall contact Waukesha County Department of Environmental Health for any necessary permits pertaining to food supplied via a licensed vendor.
16. A loudspeaker permit shall be required from the Police Department for the amplified sound.
17. If liquor is to be sold outdoors, applicant shall contact the City of New Berlin Clerk/Community Relations Office to obtain a liquor and soda permit.
18. If any sales or solicitation of business will occur with vendors on site, a Direct Sellers Permit will be required from the Clerk/Community Relations Office.
19. Building Inspection
 - a. Apply and obtain appropriate building, plumbing and electrical permits when required to do so by code.
 - b. Temporary wiring for displays or lighting circuits shall require electrical permit and inspection from Inspection Services. Electrical work shall be performed by a licensed electrician.
 - c. Applicant shall install 3 portable toilets, with one being ADA accessible.
 - d. Fire extinguishers required.
 - e. No smoking signs required to posted within tents
 - f. The building shall be fully accessible from the parking lot to the interior elements (Com. 63.1101 and ICC/ANSI A117.1).
 - g. Maintain 'Access to a public way' per IBC Section 1028.5 for ALL areas.
 - h. Provide bathrooms (plumbing fixtures) per IBC Chapter 29 Table 2902.1 Occupancy A-5 and A-2.
 - i. Temporary Structures (i.e., Tents) must comply with IBC Section 3103.
 - j. Temporary outdoor storage (shipping containers) 'shall not be stored on a property longer that 30 days' New Berlin Code 275.42 (F) (3).
20. Fire Department:
 - a. Maintain occupancy load in interior. 80 people max.
 - b. Maintain access for fire apparatus at all times.

- c. Permit shall be obtained prior to occupancy use from NBFD and a tent inspection shall be performed by NBFD. Tent shall meet all NFPA 102 & 701 requirements.
- d. Tent shall have initial occupancy inspection performed along with monthly inspections at the beginning of each month.

Expiration date: A zoning permit shall expire if, within 12 months of the date of the approval, the proposed construction, activity, or preparation of land has not substantially commenced. Substantial commencement is demonstrated by reasonable physical alteration of the site in conformance with approved plans. The Director of Community Development may grant a 12-month extension, if requested prior to expiration, provided that the applicant demonstrates a valid cause acceptable to the Department. Additional extensions may only be approved by the Plan Commission or Community Development Authority if all applicable fees are paid and the applicant demonstrates a valid and acceptable cause. Requests submitted after permit expiration shall not be considered.

Occupancy Permit: Per New Berlin Municipal Code 275-26(B)(4), "The Director shall inspect the building, site, or premises for compliance with all current codes, plans, specifications, and conditions of approval prior to issuance of an occupancy permit. No occupancy shall be allowed if any other outstanding violations exist on the site. As-built plans may be required to substantiate or verify that certain conditions of the zoning permit, use approval, conditional use permit, developer's agreement, or building permit have complied with."

Building Permit: Per New Berlin Municipal Code 275-25(A) "No building or structure shall be erected, altered, relocated, moved, extended, or enlarged until a building permit has been issued by the Director, certifying that such building, as proposed, would be in compliance with the provisions of this chapter and with the adopted City Building Code. (B), Application. In addition to the requirements of Sections COMM 20.04 and COMM 50.03, WI Adm. Code, applications for a building permit for new construction and for additions to existing construction shall include all information and supporting materials as specified by the permit application center." A separate fee is required prior to the start of any construction. Follow Codes and instructions of the Building Inspection Division when applying.

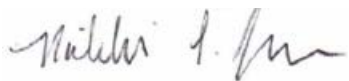
Signage: Per New Berlin Municipal Code 275-61(B)(1) " No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered, nor shall the face of a sign or color be changed without a Sign Permit and conforming with the provisions of this chapter. No Sign Permit shall be issued to a business or property that does not have a Zoning Permit." Signs require separate applications and approval.

Other Permits: Per New Berlin Municipal Code 275-26(C) "It is the responsibility of the permit applicant to secure all other necessary permits required by any federal, state, or local agency. This includes, but is not limited to, a water use permit pursuant to Chapter 30 or 31, WI Stats, or a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Control Act."

Transferability: Per New Berlin Municipal Code 275-24(F) "Zoning permits are not transferable from one applicant to another without approval of the Plan Commission. Zoning permits are site specific and thus are not transferable from one site to another under any circumstances." "If the business plans to add more employees, make physical changes to the outside of the building, and/or any other deviations to the approved plan of operation the applicant shall follow all applicable City processes."

Compliance: Failure to comply with conditions of the Zoning Permit may be enforced pursuant to New Berlin Municipal Code 275-68 (B), "Whenever an order of the Director, Building Inspector, City Engineer, or other city official, pursuant to this chapter, has not been complied with, or where written agreements for compliance have not been made by the property owner, the City Attorney shall institute appropriate legal action or proceedings to prohibit the owner, agent, or occupant from using such structure, land, or water. The City may seek a court order in the nature of mandamus, abatement, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation."

Permit Authorized By:



NIKKI JONES, DEPUTY DIRECTOR

Date: 6/8/2023

Matty's Bar & Grille Plan of Operation for review:

- See submitted 2023 outdoor Event Plan of Operation for 2023 event dates. Dates for outdoor events shall begin no sooner than June 16th with the exception of St. Patrick's Day and shall end no later than Labor Day with the exception of Oktoberfest on Oct 14th. The number of outdoor events requested are 35 events with an option to use 1 additional TBD date. These events will be submitted per proper special request permit procedures.
- The following outdoor events are being requested for approval with the permit.
- We will continue our commitment to providing the best hospitality for our guests while maintaining the good will of the community including our neighbors. We will continue to invest in good communications and proactively work together to maintain good relationships with our direct neighbors by providing direct access to Matt Anderson as well as all our Leadership/Management teams. We will provide a schedule of events to neighbors. We will tilt and wrap the back side of our stage speaker to minimize noise and will adhere to use a high quality db measuring tool to accurately monitor db levels at appropriate property line, sound board and pavilion. These measurements will be documented accordingly.
- We will provide all Matty's management the plan of operation and ensure strict adherence. Should noise complaints arise, we will immediately and swiftly take ownership and work to rectify the situation and maintain the trust of our neighbors.
 - **Stage – Live Music**
 - Live outdoor music on patio consecutive Fridays, Saturdays and Sundays starting June 16th and finishing Labor Day. Live music consists of 2-3 piece acoustic bands prohibiting the use of electric instruments on Fridays and Sundays through Labor Day and 4-5 piece full bands on Saturdays through Labor Day. The acoustic nature of music shall be at a level that allows for conversation and full band nature of music shall be no higher than 80 decibels.
 - Hours of Operation: Fridays and Saturdays 5pm – 9pm and Sundays 3pm – 7pm through Labor Day and Saturdays post Labor Day 5pm – 9pm.
 - Event includes outdoor amplified music, live music and food.
 - **Tented Terrace/Pavilion – Everyday Use:**
 - Everyday use of the tented terrace and pavilion. This is an overflow usage for restaurant as well as an event space for private events, golf outings, local/community fundraisers, rehearsal dinners, community driven events, etc. At this time, no live music is slated for either area. Please review Stage/Tented Terrace/Pavilion – Special events with live music for additional information.
 - Hours of Operation: Daily and open the same hours as Matty's.
 - **St Patrick's Day/Oktoberfest – Live Music**
 - Live outdoor music events on stage to include 4-5 piece full bands not to exceed 90 decibels.
 - Hours of Operation 11am until 9pm.
 - Events include amplified music, food and vendors.
 - **LED Screen – Everyday Use:**
 - Everyday use of the LED Screen for digital marketing, band backdrops, sports, movies and steaming services for special events ie: slideshow, videos.
 - Hours of Operation: Daily and open the same hours as Matty's.

2023 Outdoor Event Schedule of Operation - Matty's			
Date	Event	Type	Location
3/17/23	St Paddy's Day	live music	Backyard
6/16/23	acoustic band	live music	Backyard
6/17/23	Full Band	live music	Backyard
6/18/23	acoustic band	live music	Backyard
6/23/23	acoustic band	live music	Backyard
6/24/23	Full Band	live music	Backyard
6/25/23	acoustic band	live music	Backyard
7/1/23	Full Band	live music	Backyard
7/7/23	acoustic band	live music	Backyard
7/8/23	Full Band	live music	Backyard
7/9/23	acoustic band	live music	Backyard
7/14/23	Full Band	live music	Backyard
7/15/23	Full Band	live music	Backyard
7/16/23	acoustic band	live music	Backyard
7/21/23	acoustic band	live music	Backyard
7/22/23	Full Band	live music	Backyard
7/23/23	acoustic band	live music	Backyard
7/28/23	acoustic band	live music	Backyard
7/29/23	Full Band	live music	Backyard
7/30/23	acoustic band	live music	Backyard
8/4/23	acoustic band	live music	Backyard
8/5/23	Full Band	live music	Backyard
8/6/23	acoustic band	live music	Backyard
8/12/23	Full Band	live music	Backyard
8/13/23	acoustic band	live music	Backyard
8/18/23	acoustic band	live music	Backyard
8/19/23	Full Band	live music	Backyard
8/20/23	acoustic band	live music	Backyard
8/25/23	acoustic band	live music	Backyard
8/26/23	Full Band	live music	Backyard
8/27/23	acoustic band	live music	Backyard
9/1/23	acoustic band	live music	Backyard
9/2/23	Full Band	live music	Backyard
9/30/23	Full Band	live music	Backyard
10/14/23	Oktoberfest	live music	Backyard
Bands - 4-5 piece group		14	
acoustic bands-2-3 piece group		19	
Events		2	
TBD		1	
Total		36	



Plan Commission MEETING MINUTES

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

MINUTES

1. PUBLIC HEARING(S)

None

2. PRIVILEGE OF THE FLOOR

Each speaker is limited to 3 minutes. The session will conclude at 6:30 PM.

Mayor Ament read the rules for Privilege of the Floor and asked if there was anyone in attendance that wanted to take part in Privilege of the Floor.

- Charlie Maris, 16690 College Avenue, spoke in opposition of an item on the Plan Commission Agenda.
- Heidi Szczupakiewicz, 16560 W. College Avenue, spoke in opposition of an item on the Plan Commission Agenda.
- Joe Russ, 16800 W. Shadow Lane, spoke in opposition of an item on the Plan Commission Agenda.
- Alderman Ken Harenda, 19400 W. Vista Drive, replied to a previous comment of an item on the Plan Commission Agenda.
- Mary Heibel, 20160 W. National Avenue, spoke in opposition of an item on the Plan Commission Agenda.

Rajesha Gupta - 6163 S. Grouse Hollow Court, sent an email in favor of an item on the Plan Commission Agenda, Edward Dobernig - 6130 S. Karrington Lane, sent an email in opposition of an item on the Plan Commission Agenda, Lisa Brott - 5540 S. Andrae Drive, sent an email in opposition of an item on the Plan Commission Agenda, Michael ODonnell - 6180 S. Preston Lane, Ann Szefflinski - 5860 Fox Haven Court, submitted a comment in favor of an item on the Plan Commission Agenda, Alderman Joe Stribl - 15195 W. Harmony Drive, sent an email in opposition of an item on the Plan Commission Agenda. All emails were forwarded to the Mayor, Plan Commissioners and the City Attorney.

3. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Mayor Ament called the meeting to order at 6:16PM 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 Felda, Commissioner Anderson, Commissioner Rafel, Mayor Ament

Excused: Commissioner Scott Schulpus, Alderperson Joseph Stribl, Commissioner Brian McGrath

Staff Present: City Attorney Mark Blum, City Planner Kristen Hogan, Deputy Director of Community Development Nikki Jones, Director of Community Development Greg Kessler, Community Relations Specialist Joelle Erickson

Joelle Erickson confirmed that a quorum was present and that the meeting was properly posted in compliance with open meetings law.

5. APPROVAL OF MINUTES

A. January 8, 2025 Meeting Minutes

MOTION: Motion to Approve Minutes

VOTE: Motion by: Commissioner Rafel
Second by: Commissioner Anderson
Motion Passes 4-0

B. January 13, 2025 Special Plan Commission Meeting Minutes

MOTION: Motion to Approve Minutes

VOTE: Motion by: Commissioner Rafel
Second by: Commissioner Anderson
Motion Passes 4-0

6. PLAN COMMISSION SECRETARY'S REPORT

None

7. CONTINUED BUSINESS

None

8. NEW BUSINESS

- A. (7) NJ LD-2402664 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.

Deputy Director of Community Development, Nikki Jones, provided a brief overview of the item as outlined in the attached staff report executive summary.

MOTION: Motion to Approve As Presented

VOTE: Motion by: Commissioner Felda
Second by: Commissioner Rafel
Motion Passes 4-0

- 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.

Principal Planner Kristen Hogan provided a brief overview of the item as outlined in the attached staff report executive summary.

MOTION: Motion to Approve As Presented

VOTE: Motion by: Commissioner Anderson
Second by: Commissioner Rafel
Motion Passes 4-0

- 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.

Continental Properties provided a presentation to the Plan Commission. No action was taken; this item is for discussion only.

- D.** KH DCD1-2500054 Zoning Code Updates

Principal Planner Kristen Hogan gave a brief update to the Commission. No action was taken. Item will be on the March 3, 2025 Plan Commission Agenda for a Public Hearing and possible action.

- 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.

City Attorney, Mark Blum, provided a brief overview of the item as outlined in the attached staff report executive summary.

MOTION: Motion to Approve as Presented

VOTE: Motion by: Commissioner Felda
Second by: Commissioner Rafel
Motion Passes 4-0

9. PENDING

None

10. COMMUNICATIONS

None

11. ADJOURN

MOTION: Motion to Adjourn at 7:28PM

VOTE: Motion by: Commissioner Anderson
Second by: Commissioner Rafel
Motion Passes 4-0

Respectfully Submitted,
Joelle Erickson, Community Relations Specialist

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 hold a public hearing and recommend to the Common Council adoption of Ordinance # 2702 that approves the updates to the Zoning Code, Chapter 275.
D.R.C. RECOMMENDATION:	Plan Commission hold a public hearing and recommend to the Common Council adoption of Ordinance # 2702 that approves the updates to the 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.
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. |
| 2/3/2025 | Introduce Zoning Code updates to the Plan Commission. |

Attachments:

1/21/2025 Code Committee Minutes
Zoning Code Amendments
Draft Ordinance # 2702



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*

(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 10.54, 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.

§ 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.

§ 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 its 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 § 275-22C(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 § 275-22C(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.

§ 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

§ 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~~ 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

§ 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, G-1 and G-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.			

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

(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;

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

(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.

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

(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].

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

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

(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].~~

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

(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.~~

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

(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.~~

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

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

(2) Keeping and raising of animals.

(a) General Requirements.

[1] All applicable zoning district regulations shall apply.

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

[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:

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

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

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.

[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

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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.

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

(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.

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- [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.

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- [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.

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- [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.

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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.

- (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 in 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)(j), 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)(j), 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 § 275-41G(10).~~
- (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]~~
- (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.

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- (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~~HE~~(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~~G(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~~HE~~(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.~~

~~(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~~

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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.

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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.

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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.~~

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EE. 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.~~

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(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] The 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.

HE. Miscellaneous uses.

(1) Drive-through facilities.

- (a) ~~Standalone~~ 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.~~

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§ 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

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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.

G. 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.

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- [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.

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(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:

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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

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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

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(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

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Use	Front	Side	Rear
Decks (less than 4 feet in height)	See § 275-46D(3)	District setbacks	5

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(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
Poolhouses	—	District setbacks	District setbacks

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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
Poolhouses	—	District setbacks	District setbacks
Pools (above-ground or in-ground)	—	5	5

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Commented [KH84]: NO CHANGE - Moved to 275-42B(1)(c)

Commented [KH85]: NO CHANGE - Moved to 275-42O

(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.

[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.

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~~(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.~~

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~~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.
- (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

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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.~~

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~~(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.~~

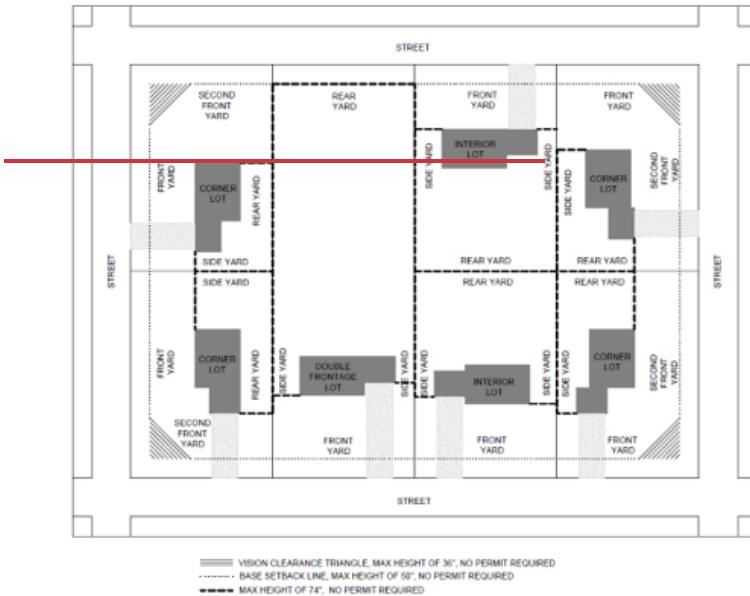
~~[1] Residential.~~

~~[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.

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(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 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 conversion 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.

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.~~

Commented [KH94]: NO CHANGE - Moved to 275-42A(6)

Commented [KH95]: NO CHANGE - Moved to 275-42G

A. General Provisions.

(1) ~~Accessory uses are allowed in any district as may be specified in the appropriate district regulations or in this section.~~

Commented [KH96]: NO CHANGE - Moved from 275-42A(4)

(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.~~

Commented [KH97]: NO CHANGE - Moved from 275-42A(6)

(4) ~~Dimensional requirements.~~

Commented [KH98]: NO CHANGE - Moved from 275-42A(8)

(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.~~

Commented [KH99]: NO CHANGE - Moved from 275-42E(2)

(b) ~~All accessory buildings and structures shall be located outside of public easement areas unless Plan Commission approval is granted.~~

Commented [KH100]: NO CHANGE - Moved from 275-42A(10)

(c) ~~The use and/or location requirements stipulated elsewhere in this chapter may be modified subject to Plan Commission approval.~~

Commented [KH101]: NO CHANGE - Moved from 275-42A(7)

(d) ~~Lot coverage.~~

[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.

[b] Single-family and two-family residential zoning districts.

Commented [KH111]: NO CHANGE - Moved from 275-42E(1)

- 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 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.

[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.

[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 [KH112]: NO CHANGE - Moved from 275-42B

Commented [KH113]: NO CHANGE - Moved from 275-42F(2)

Commented [KH114]: NO CHANGE - Moved from 275-42E(2)(c)

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.

Commented [KH120]: 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

Commented [KH121]: 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 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.

Commented [KH122]: 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 [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.

Commented [KH124]: 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(2)(c)[3].

Commented [KH125]: NO CHANGE - Moved from 275-42D

(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.

Commented [KH126]: NO CHANGE - Moved from 275-42C

(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.

Commented [KH127]: NO CHANGE - Moved from 275-42E(1)(c)

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

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.

Commented [KH128]: NO CHANGE - Moved from 275-42G(1)

Commented [KH129]: NO CHANGE - Moved from 275-42G(1)

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.

Commented [KH130]: NO CHANGE - Moved from 275-42F(2)

Commented [KH131]: NO CHANGE - Moved from 275-42E(2)(d)

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.

- (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.

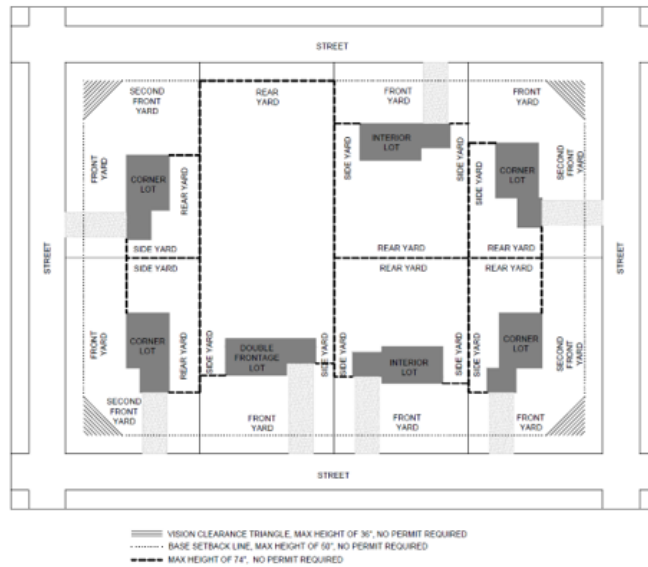
(b) Nonresidential. Fences shall not exceed 98 inches in height.

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.

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.

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.

Commented [KH135]: NO CHANGE - Moved from 275-42G(3)

Commented [KH136]: NO CHANGE - Moved from 275-42F(1)(c)

- (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.

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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.

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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.

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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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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.

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- (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.

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

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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.

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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.~~
- (45) ~~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.

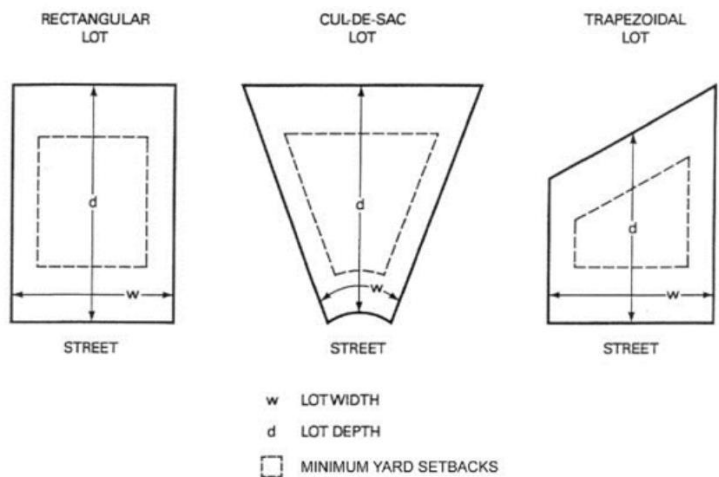
(b) And any other conditions that may be established by the Mayor, City Attorney, Board or Commission, and/or City staff that seeks to protect the City.

- 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.

§ 275-44. Lot measurement and requirements.

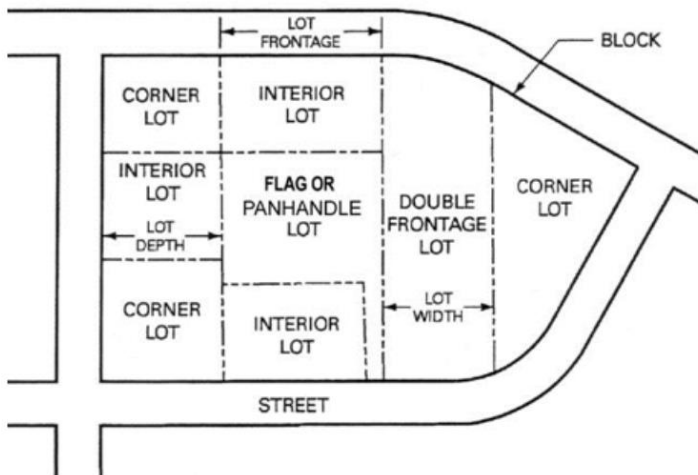
- A. Measurement of lot area. The lot area is the total area within the lot lines of a lot, excluding any street right-of-way or ultimate right-of-way in all districts.
- B. Percentages and fractions. When a measurement results in a fractional number or percentage, any fraction of $\frac{1}{2}$ or ~~less~~ ~~more~~ shall be rounded ~~down~~ ~~up~~ to the next ~~lower~~ ~~higher~~ whole number, and any fraction of ~~more than~~ $\frac{1}{2}$ ~~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



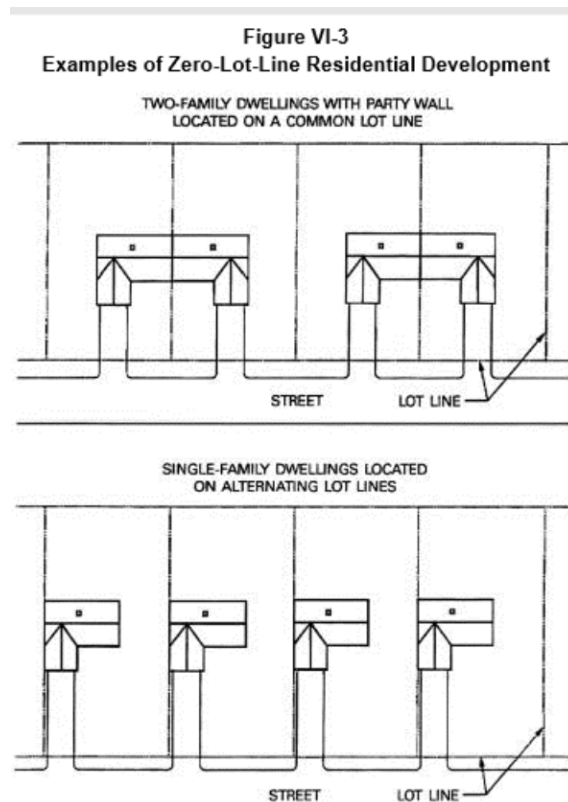
- D. Lot types. [See Figure VI-2.](#) [See also § 275-70.](#) [Added 4-25-2023 by Ord. No. 2668]

**Figure VI-2
Lot Types**



- E. Zero-lot-line residential development. Zero-lot-line residential developments (see Figure VI-23) 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.



- 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.

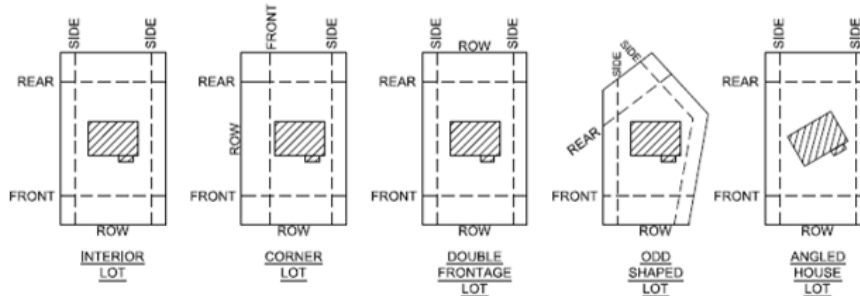
§ 275-45. Height measurement and requirements.

- 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:~~
- ~~(a1)~~ Architectural projections. Architectural projections which are integral to a principal structure, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys.
- ~~(b2)~~ 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.
- ~~(c3)~~ Essential services. Essential services, such as utilities, water towers, electric power and communication transmission lines.
- ~~(d4)~~ 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.~~
- ~~(25)~~ Communication structures. The height of telecommunications structures is regulated in § 275-41C(16).
- ~~(36)~~ 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**

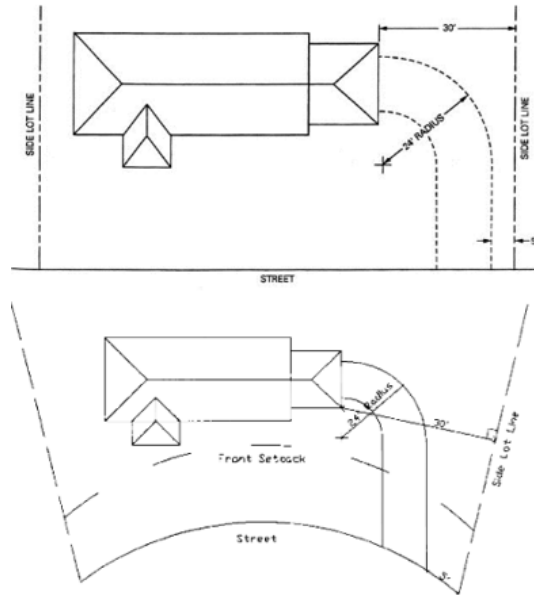


- (1) Corner lots. Structures on corner lots shall provide a front setback as required by this chapter on the street that the structure faces. A second front yard shall be provided on the side of the structure abutting a second public or private street. The second front yard is referred to as the "side 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.
- (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.
- (31) 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.

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Figure VI-5
Side-Entry Garage Setback

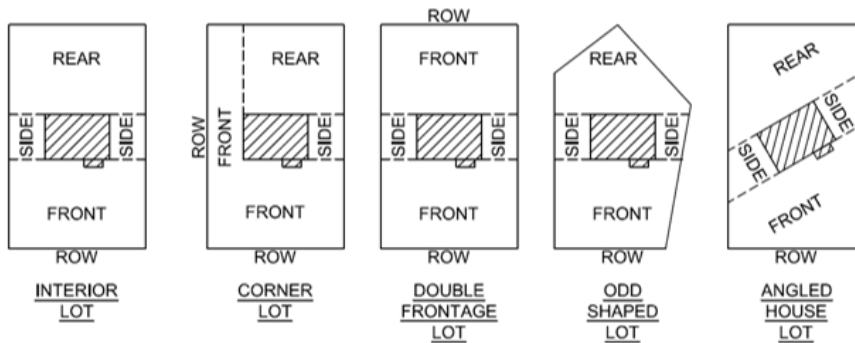


(2) Average front setback. For new structures, additions to existing structures or accessory structures, the required front setback may, with Plan Commission approval or with an administrative adjustment per §275-30.1D, be decreased in any residential or business districts to the average of the existing 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.

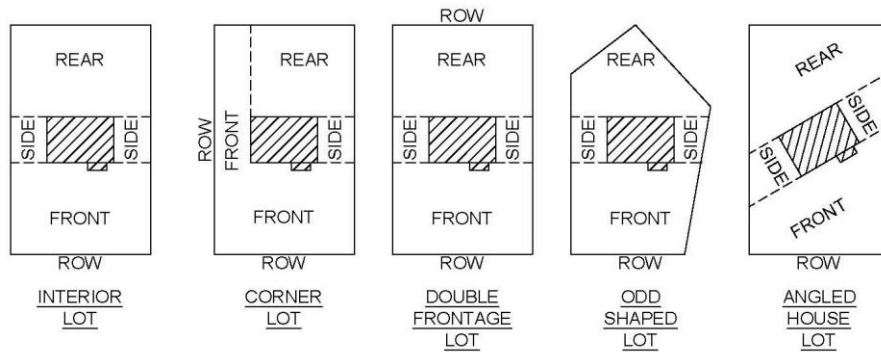
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B. Measurement of a yard. See Figure VI-6. See also § 275-70.

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.

Commented [KH150]: NO CHANGE - Moved to 275-46A

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.

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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:

(1) ~~Exemptions. The following uses and structures are exempt from the yard and setback limitations of this chapter:~~

(a1) 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.~~

Commented [KH152]: Duplicate

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(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.

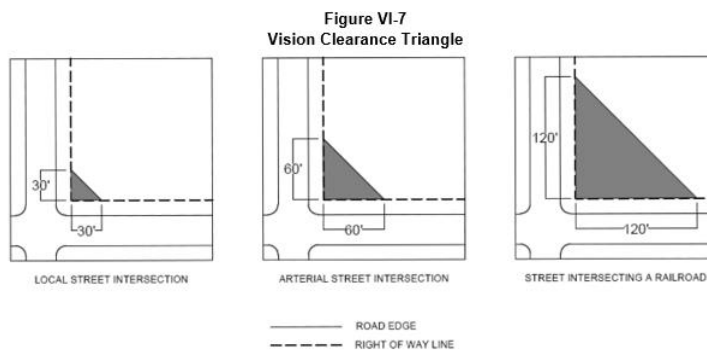
(3) Attached accessory uses. Uncovered stairs, decks sized for entry purposes only, stoops, landings, fire escapes, gutters, ~~decks~~ and awnings may project into any yard but not to exceed six feet and not closer than five feet to any lot line.

(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.



(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~~ 275-57-4, 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 G(2) §275-63A(7)~~. This section does not apply to nonmetallic mining sites where nonmetallic mining permanently ceased 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 (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 § 275-65-23E 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 of 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, 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.

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 the 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 flowing 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.

Commented [KH157]: Duplicate

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 § 275-65-23 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 severe 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~~6(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 "mManufactured homes" includes a or mobile homes but does not include are not "mobile recreational vehicles"; 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 Effective 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 "Effective 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 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.

MODEL, REVISED (POST-PROJECT)

(As it pertains to floodplain, § 275-65) A modification of the Existing or Pre-Project 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 ~~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 structure, with a septic tank and soil absorption field located on the same parcel as the structure. This term 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 base floodwaters will not inundate the land or damage structures to be removed from the special flood plain 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.~~

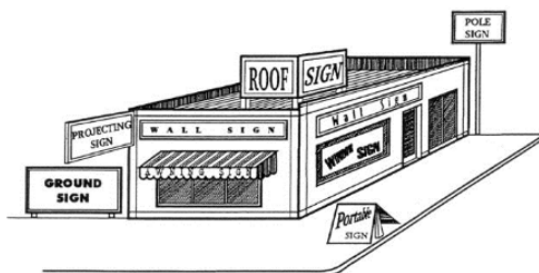
SIGN, WINDOW

~~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

Figure XI-4
Sign Types



SMALL WIND ENERGY SYSTEM

[As it pertains to small wind energy systems, § 275-42~~6(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 § 275-65-~~17G3T~~(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 § 275-65-~~17G3T~~(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 § 275-65-153R, those areas within a nonmetallic mining site which the City has determined to have been successfully reclaimed on an interim basis in accordance with § 275-65-17C3T(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) A 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.

ORDINANCE NO. 2702

**ORDINANCE TO AMEND CHAPTER 275 (ZONING) OF THE
MUNICIPAL CODE OF THE CITY OF NEW BERLIN**

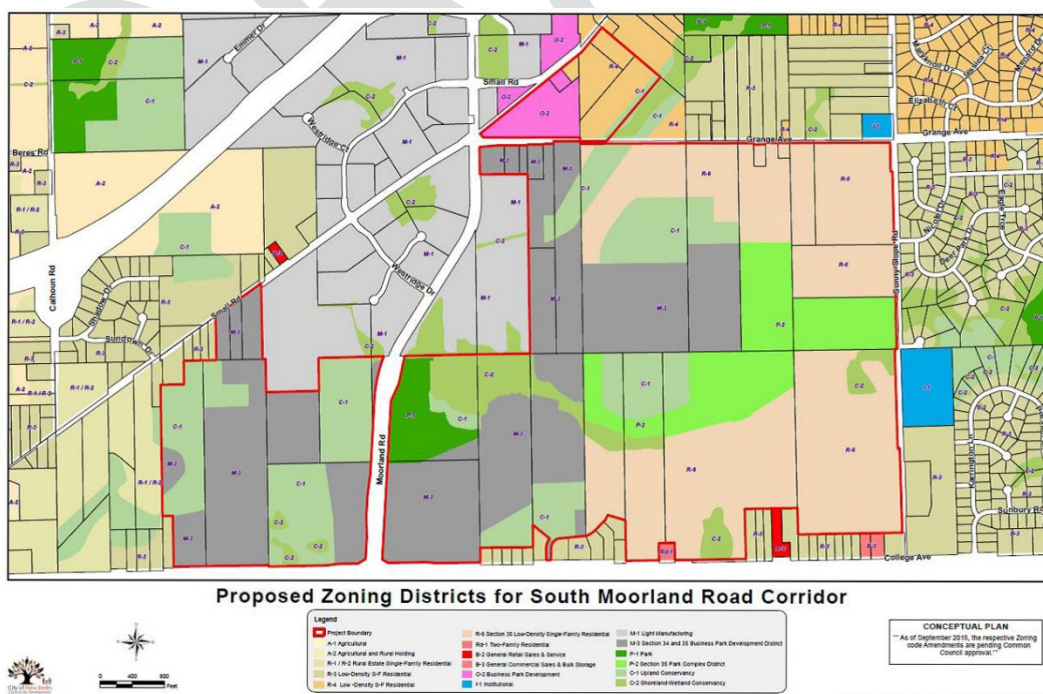
The Common Council of the City of New Berlin do ordain as follows:

SECTION I

Section 275-13.1H(4) of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- (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 10.4, 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



SECTION II

Section 275-17B(15) of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- (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.

SECTION III

Section 275-22G of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- G. Reserved

SECTION IV

Section 275-26A of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- 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 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.

SECTION V

Section 275-29 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- A. Applicability. No sign shall be 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. 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: 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: 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. 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.

SECTION VI

Section 275-33E(2)(c) of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- (c) An attached or detached garage is required in the residential districts. The 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.

SECTION VII

Section 275-37D(3) of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- (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) 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 approved parcel of any size is not subject to any other restrictions as part of a plat or CSM.
 - [2] For lots 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 with approved on-site POWTS, no more than 25,000 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, 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.

SECTION VIII

Section 275-41 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

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) 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

Table 275-41A			
Type of Animal	Age	Minimum Lot Size (acres)	Number per acre
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 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.

- [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 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.
 - (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. 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.

Reserved.

(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.(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) Crematory services shall only be allowed as an accessory use 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. (10) Reserved. (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 § 275-41F(1) of this chapter.
 - (b) Reserved. (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.

(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.
- (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) 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 § 275-41F(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.
- (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.

E. Institutional/public/semipublic uses.

- (1) Reserved.
- (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] The 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.

F. Miscellaneous uses.

- (1) Drive-through facilities.
 - (a) Standalone drive-through facilities may be allowed as an accessory or principal use in zoning districts where the use is allowed as a principal use.
 - (b) All drive-through facilities shall comply with the 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.(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.

SECTION IX

Section 275-42 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

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.
 - [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.
 - 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.

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

[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.

[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 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.
- [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.
- [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(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.
- 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.
- [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 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.
 - (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.

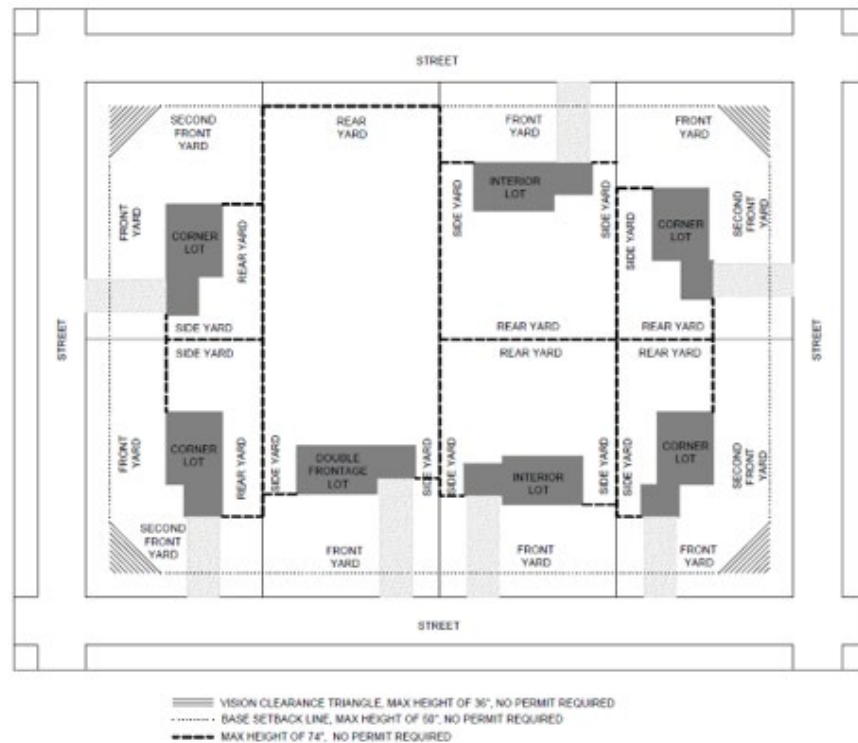
- (1) Height. Fence height shall be measured from the average grade of the ground beneath the fence.
 - (a) Residential.
 - [1] Front yard. No fence in the front yard shall be located closer to the street than the base setback line and shall not exceed 50 inches in height. No

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.

**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.
- 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.
- 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.
- 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.
- (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.

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.
- 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.
- 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.

SECTION X

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

- 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. 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. 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.
- (5) 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.

(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.

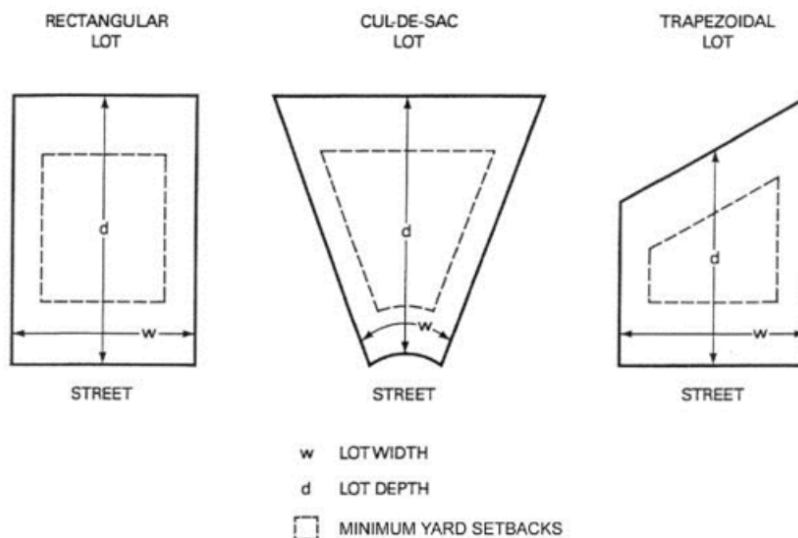
SECTION XI

Section 275-44 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

§ 275-44. Lot measurement and requirements.

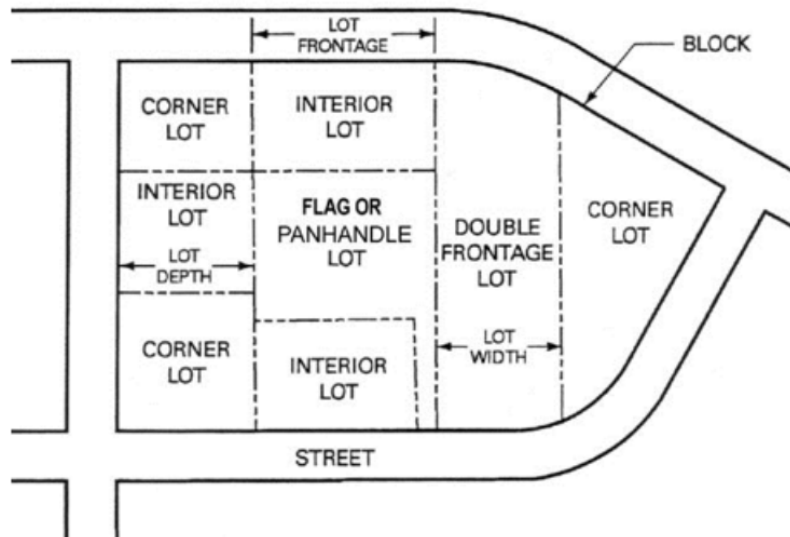
- A. Measurement of lot area. The lot area is the total area within the lot lines of a lot, excluding any street right-of-way or ultimate right-of-way in all districts.
- B. Percentages and fractions. When a measurement results in a fractional number or percentage, any fraction of $\frac{1}{2}$ or more shall be rounded up to the next higher whole number, and any fraction of $\frac{1}{2}$ or less shall be rounded down to the next 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



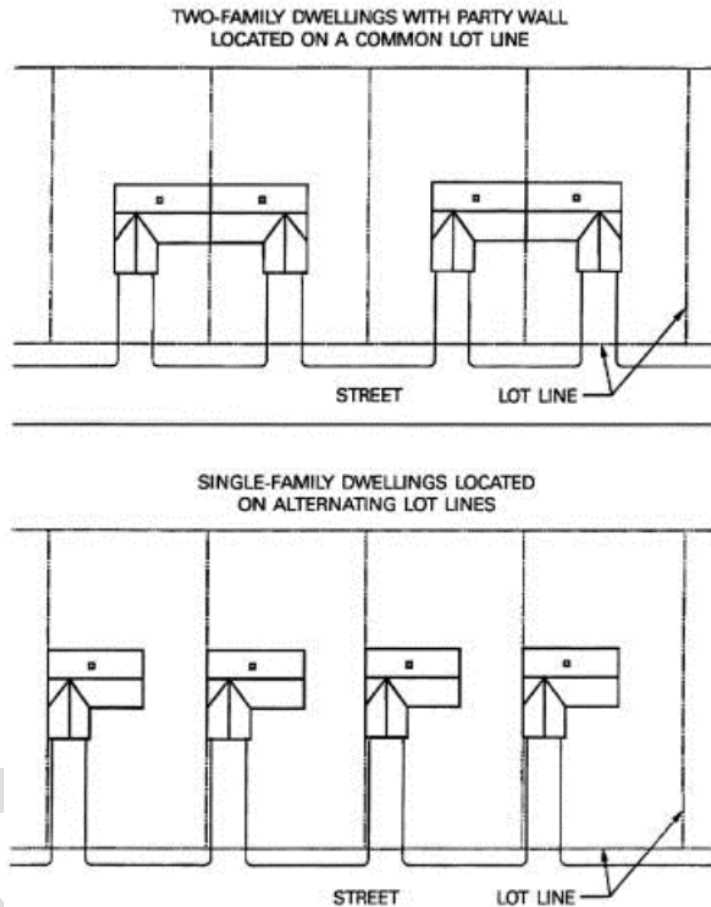
- D. Lot types. See Figure VI-2. See also § 275-70. [Added 4-25-2023 by Ord. No. 2668]

Figure VI-2
Lot Types



- E. Zero-lot-line residential development. Zero-lot-line residential developments (see Figure VI-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.

SECTION XII

Section 275-45 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

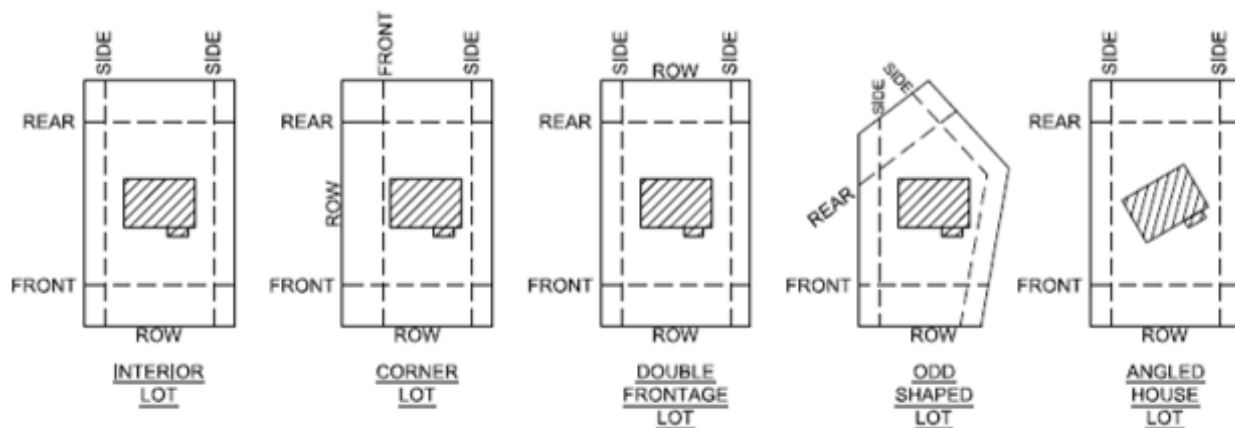
- A. Measurement of height. The "height of a structure" shall mean the vertical distance from the average grade adjoining the walls of the structure to the average of the highest points of the roof surface of a flat roof, or to the deckline of a mansard roof, or the mean height level between eaves and ridge for a gable, hip or gambrel roof.
- B. 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:
- (1) Architectural projections. Architectural projections which are integral to a principal structure, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys.
 - (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.
 - (3) Essential services. Essential services, such as utilities, water towers, electric power and communication transmission lines.
 - (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.
 - (5) Communication structures. The height of telecommunications structures is regulated in § 275-41C(16).
 - (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.

SECTION XIII

Section 275-46 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

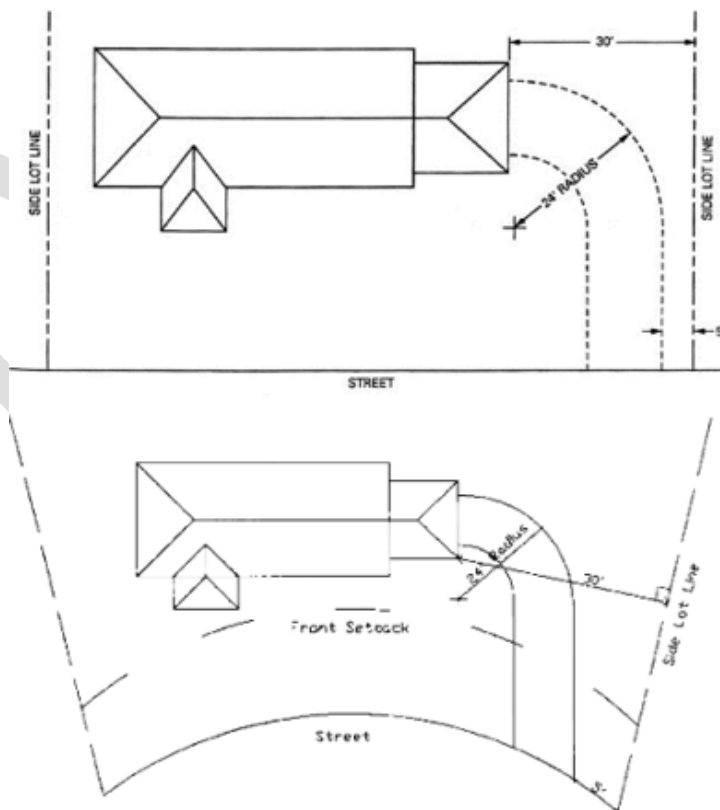
- A. Measurement of a setback. The minimum distance a building or structure shall be located from a lot line or base setback line. The setback line shall be drawn parallel to a lot line. See Figure VI-4.

Figure VI-4
Measurement of Setbacks



- (1) 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.

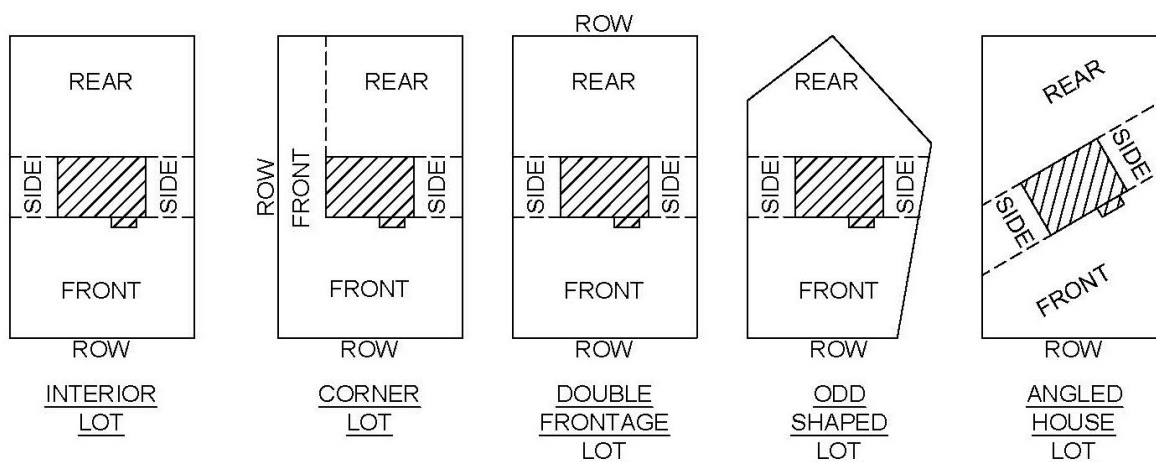
Figure VI-5
Side-Entry Garage Setback



- (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.

B. Measurement of a yard. See Figure VI-6. See also § 275-70.

Figure VI-6
Location of Yards

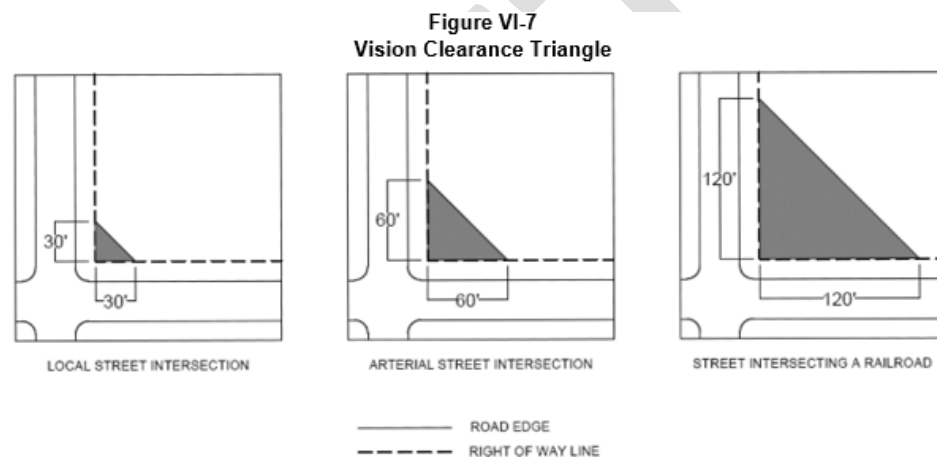


Corner lots. Structures on corner lots shall provide a front yard as required by this chapter on the street that the structure faces. A second front yard shall be provided on the side of the structure abutting a second public or private street. The second front yard is referred to as the "side on corner." 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.
- E. 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:
 - (1) Essential services. Essential services, such as utilities, electric power and communication transmission lines are exempt from the setback requirements of this chapter.
 - (2) Architectural projections. Architectural projections, limited to eaves and wing walls 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, 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.



- (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.

SECTION XIV

Section 275-53 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- 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 275-57, 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.

SECTION XV

Section 275-63A through 275-63C of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

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, except as exempted in §275-63A(7). This section does not apply to nonmetallic mining sites where nonmetallic mining permanently ceased 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 §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 covered under §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 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 § 275-63E 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.

SECTION XVI

Section 275-65J of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

- J. Definitions. 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 of 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.

SECTION XVII

Section 275-70 of the Zoning Code of the City of New Berlin is hereby amended to read as follows:

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

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.

AH ZONE

(As it pertains to floodplain, § 275-65) See "area of shallow flooding."

ALTERATION

(As it pertains to floodplain, § 275-65) 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.

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 the 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 on all sides.

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 with definite bed and banks to confine and conduct normal flow 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.

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 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.

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 § 275-63 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 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 severe 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 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.

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].

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.

LOT FRONTAGE

The dimension of a lot abutting a public street measured along the street right-of-way line.

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.

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.

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.

LOT WIDTH

The width of a parcel of land measured at the building setback line or required front setback.

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.

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.

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.

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).

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 "manufactured home" includes a mobile home but does not include "mobile recreational vehicle".

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 effective 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 effective 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 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.

MODEL, REVISED (POST-PROJECT)

(As it pertains to floodplain, § 275-65) A modification of the Existing or Pre-Project 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) 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.

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 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.

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 ordinance for the area of the floodplain which it occupies (such as a residence in the floodway).

OBSTRUCTION TO FLOW

(As it pertains to floodplain, § 275-65) 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 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) 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.

PRIVATE SEWAGE SYSTEM

(As it pertains to floodplain, § 275-65) 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.

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 base floodwaters 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.

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 portion of the eave/fascia. 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 to the nearest roofed portion of the eave/fascia.

SETBACK, REAR

The minimum horizontal distance between the rear lot line and a line parallel to the nearest roofed portion of the eave/fascia. A rear setback is opposite a front setback. See § 275-46A.

SETBACK, SIDE

The minimum horizontal distance between the side lot line and a line parallel to the nearest roofed portion of the eave/fascia. See § 275-46A.

SETBACK, WETLAND

The minimum horizontal distance between the nearest delineated wetland and a line parallel to the nearest impervious surface.

SIGN, AWNING OR CANOPY

A sign that is mounted or painted on or attached to a canopy, awning, or marquee.

SIGN, GROUND

Any sign placed upon or supported by the ground independent of any other structure.

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.

SIGN, PORTABLE

A sign that is not permanent and is not affixed to a building, structure, or to the ground.

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.

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.

SMALL WIND ENERGY SYSTEM

[As it pertains to small wind energy systems, § 275-42] 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 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.

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 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 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 § 275-63T(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 § 275-63T(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 § 275-63R, those areas within a nonmetallic mining site which the City has determined to have been successfully reclaimed on an interim basis in accordance with § 275-63T(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 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 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) Means an excavated opening in the ground made by digging, boring, drilling, driving or other methods to obtain groundwater, regardless of its intended use.

SECTION XVIII

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

SECTION XIX

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

SECTION XX

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

PASSED AND ADOPTED by the Common Council this 11th day of March, 2025.

APPROVED:

David Ament, Mayor

Countersigned:

Rubina Medina, City Clerk

STAFF REPORT

EXECUTIVE SUMMARY

APPLICANT/PROJECT: Matt Anderson / Matty's Bar & Grille Annual Schedule of Outdoor Events

LOCATION: 14460 W. College Avenue

REQUEST: Evaluation of Conditional Use Permit for Matty's Bar & Grille to hold additional outdoor events and approval of minor adjustments of the 2025 annual schedule of outdoor events for the property located at 14460 W. College Avenue.

D.R.C RECOMMENDATION: Public hearing and possible action to approve the Conditional Use Permit for Matty's Bar & Grille to hold 7 additional outdoor events and 6 TBD event dates (for a total of up to 13 additional events) and approval of minor adjustments to the 2025 annual schedule of outdoor events for the property located at 14460 W. College Avenue subject to the application, plans on file and the following conditions:

1. The applicant has submitted a request to modify the zoning permit for the quantity of outdoor events.
2. See attached Plan of Operation and schedule of outdoor events. A table has been added to this staff report to summarize all events. Outdoor music to end by 9:00 PM.
3. Stantec Memo dated April 4, 2023 is attached. Per this Memo, staff has made the following recommendations with regard to how sound will be addressed for outdoor music at this location.
 - a. Applicant shall review the Memo and will adhere to the recommendations.
 - b. Outdoor Concert Event Noise Limits:
 - i. Sound shall not exceed 70 dBA LAeq(1h) at any of the identified locations in the Stantec Memo dated April 4, 2023.
 - c. Noise Limit Considerations:
 - i. It is required that noise limits be established at the property line of the site where adjacent residents are exposed to the highest noise levels during concert events.
 - d. Outdoor Concert Noise Monitoring Guidance:
 - i. Noise levels should be measured using a data-logging sound level meter (SLM) that meets ANSI/ASA S1.4-2014/Part 1 Type 1 or Type 2 requirements. Applicant shall explore the examples listed in the Memo on page 4 of 9.
 - ii. The SLM shall be housed in a waterproof environmental protection case.
 - iii. The SLM should be calibrated using an ANSI Type 1 or Type 2 handheld acoustic calibrator before each noise monitoring session.
 - iv. The SLM and acoustic calibrator should also be calibrated by an NIST accredited acoustical laboratory every two years or less.
 - v. The City would be interested in remote noise system. This type of system can allow for direct upload of measured noise levels to a website for anyone granted access to view. Note, the applicant has installed this equipment and shall continue to submit

this data to the City following events.

e. Noise Monitoring During Concerts

- i. Noise levels shall be monitored throughout the full duration of all concert events, or the full duration of select concert events, as agreed upon with the City. Noise levels shall be measured in one second intervals as recommended in the Stantec Memo and logged at the required time intervals to demonstrate compliance with noise limits established by the City.
- ii. Noise monitoring system should be located at the property line of the site where adjacent residents are exposed to the highest noise level during concert events as recommended in the Stantec Memo.

f. Reporting

- i. A report including graphs showing the measured noise levels over time throughout concert events should be provided to the City within a week of monitoring during concert events. The report should indicate the start and stop time of concerts. Graphs should show measured noise levels in all necessary metrics to demonstrate compliance with noise limits established by the City. Applicant has been submitting these reports as required.
- ii. The submitted reports shall contain a graph from each monitoring point in the same format and form as found on Page 7 of 9 in the Stantec Memo dated April 4, 2023 for the full duration of concert and inclusive of the average dBA for the concert.

4. Applicant has submitted the following request / Plan of Operation for review:

- a. See submitted "2025 Outdoor Event Plan of Operation" for proposed 2025 event dates. Dates for outdoor events shall begin no sooner than May 1st (with the exception of St. Patrick's Day annually) and shall end no later than October 31st in any given year unless further approval is received by the Plan Commission. Per this revised schedule request, the number of outdoor events will be 50 (14 Full Band, 26 acoustic events, 3 special events & 6 TBD events). **[Note, in the past there have been 36 outdoor events and they have not started prior to June 1st. This request, if approved, is for an additional 7 outdoor event dates, 6 TBD events and to start outdoor live music on May 1st instead of June 1st annually.]**
- b. The following outdoor events are being requested for approval with this permit.
 - i. Live Music on the Stage:
 1. Live outdoor music on the stage Friday's, Saturday's and Sunday's starting May 2025 and finishing on October 31st each year. Live music for these events shall consist of a two to three piece acoustic bands prohibiting the use of electric instruments on Friday's and Sunday's through Labor Day; and a four to five piece full bands on Saturday's through Labor Day.
 2. The acoustic nature of the music shall be at a level that allows for conversation.
 3. Hours of Operation: Friday's and Saturday's from 5:00 PM to 9:00 PM and Sunday's from 1:00 PM to 5:00 PM through Labor Day Event includes outdoor amplified music, live music, and food.
 - ii. Pavilion area – Everyday Use:
 1. Everyday use of the pavilion area (MEC - Matty's Event Center). This is an overflow usage for the restaurant as well as event space for private events, space, golf outings, local/community fundraiser's, rehearsal dinners, community driven events, etc. At this time, no live outdoor music is slated for either space.

2. Hours of Operation: Daily and open the same hours as Matty's. Music and any amplified devices to be turned off after quiet hours go into effect at 10:00 PM.

iii. St. Patrick's Day

1. Event would take place St. Patrick's Day annually. Event includes four to five piece full bands.
2. Hours of Operation: 11:00 AM to 9:00 PM.
3. Event includes outdoor amplified music, live music, and food.

iv. Oktoberfest – Held in October.

1. The event is planned to be a 1-day event with live music.
2. Event includes four to five piece full bands.
3. Hours of Operation: 11:00 AM to 9:00 PM.
4. Event includes outdoor amplified music, live music, and food.

v. LED Screen – Everyday Use

1. Use of the screen is for digital marketing, band back drops, sports, movies, and streaming services for special events i.e. slideshows and videos.

5. Staff is not recommending an annual renewal next year. Outdoor event schedule shall be provided by April 15th of each year. For event dates that are unknown, the applicant shall submit the final dates and details a minimum of two weeks prior to the event date. Formal complaints may result in possible revocation of permit and which may mandate a public hearing be held with approval process.
6. The City of New Berlin reserves the right to review any potential complaints and take appropriate action, if necessary. Per Section 275-27H of the Zoning Code: "Revocation of conditional use permit. Should a permit holder fail to comply with the conditions of the permit issued by the Plan Commission, or should the use or characteristics of the use be changed without prior approval by the Plan Commission, the conditional use permit may be revoked by the Plan Commission upon notice and a hearing."
7. Applicant shall coordinate all traffic flow with Waukesha County Department of Transportation and shall contact Waukesha County DOT to inform them of the events.
8. Applicant shall apply for and receive individual Sign Permits for all event signage and banners prior to installation.
9. Seating capacity will be 137 seats for the existing patio and restaurant. This requires a minimum of ~109 parking spaces for this use. Applicant has provided 147 parking spaces. If capacity increases in the future, the applicant shall contact DCD to address the need to provide additional parking to meet the requirements of Section 275-57.
10. There shall be no on-street parking on College Avenue. Parking shall be contained on-site. If parking is to be off-site, a written agreement between the property owners allowing for the overflow parking is necessary. If off-site parking is used, sufficient security guards shall be in place whose sole purpose is to ensure the safe passage of guests to and from these events. **Matty's to provide sufficient security guards and staff to avoid trespassing of patrons onto adjacent property.**
11. Applicant shall keep as many on-site parking spots as possible available to guests.
12. Do not block drive aisles or emergency access routes.
13. Sanitation and fresh water facilities shall be adequate for the actual number of people using the site as required by Waukesha County Department of Environmental Health.
14. Applicant shall contact Waukesha County Department of Environmental Health for any necessary permits pertaining to food supplied via a licensed vendor.

15. If liquor is to be sold outdoors, applicant shall contact the Clerk's Office to obtain a liquor and soda permit.

16. If any sales or solicitation of business will occur with vendors on site, a Direct Sellers Permit will be required from the Clerk's Office.

17. Building Inspection

- a. Apply and obtain appropriate building, plumbing and electrical permits when required to do so by code.
- b. Temporary wiring for displays or lighting circuits shall require electrical permit and inspection from Inspection Services. Electrical work shall be performed by a licensed electrician.
- c. Fire extinguishers required.
- d. No smoking signs required to be posted within tents.
- e. The building shall be fully accessible from the parking lot to the interior elements (Com. 63.1101 and ICC/ANSI A117.1).
- f. Maintain 'Access to a public way' per IBC Section 1028.5 for ALL areas.
- g. Provide bathrooms (plumbing fixtures) per IBC Chapter 29 Table 2902.1 Occupancy A-5 and A-2.
- h. Temporary Structures (i.e., Tents) must comply with IBC Section 3103.
 - i. All work to be done in accordance with the Commercial Building Code (IBC) & Wisconsin Administrative Code.
 - ii. Tents are required to have a fire retardant label affixed to it.
 - iii. Must post no smoking signs inside tent area.
 - iv. Fire extinguishers required for each tent and or 75 ft of tent area.
 - v. If tent is enclosed you must post exit signs at each exit (additional lighting maybe required).
 - vi. No vehicles to be parked within 20 ft of tent.
 - vii. Call 262-797-2445 for inspections. Allow 24 to 48 hour notice in advance of the requested inspection date.

18. Fire Department:

- a. Maintain occupancy load in interior. (80 people max).
- b. Maintain access for fire apparatus at all times.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLAN COMMISSION STAFF REPORT
Meeting of March 3, 2025

Matt Anderson / Matty's Bar & Grille
14460 W. College Avenue

DATE STAFF REPORT REVISED: February 3, 2025

APPLICANT / OWNER(S): Matt Anderson – Matty's Bar & Grille / Anderson Real Estate Management

REQUEST/DESCRIPTION OF PROJECT: Public hearing and possible action to approve the Conditional Use Permit for Matty's Bar & Grille to hold 7 additional outdoor events and 6 TBD event dates (for a total of up to 13 additional events) and approval of minor adjustments to the 2025 annual schedule of outdoor events for the property located at 14460 W. College Avenue subject to the application, plans on file and the following conditions:

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 2/17/25

DATE OF COMPLETENESS DETERMINATION: 1/17/25
Application Check List Enclosed: No

PRE-APPLICATION CONFERENCE HELD: Yes
(Date(s) of Meeting(s): several meetings / Site Visit(s): various site visits with the most recent being on 2/20/2025)

CONCEPTUAL PLAN: N/A

SIZE OF DEVELOPMENT / PARCEL(S): 2.25 acres

CURRENT ZONING: B-2, General Retail Sales & Service District

CURRENT LAND USE: Matty's Bar & Grille

PROPOSED ZONING: N/A

PROPOSED LAND USE: Updated outdoor event schedule for the existing restaurant.

PROPOSED LOT SIZE: N/A

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North:	Zoning: A-1	Land Use: Agriculture
South:	Zoning: N/A	Land Use: City of Muskego
East:	Zoning: R-3	Land Use: Single-Family Home
West:	Zoning: R-3	Land Use: Single-Family Home

CONFORMANCE WITH THE 2020 COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes
Chapter 17: Neighborhood "G": Sections 26 and 35: Yes, this submittal meets the intent of this Chapter.

Planning Context/Vision/Development Policies:

Vision:

- Neighborhood G is considered to be a sizeable land area in New Berlin that can accommodate the amount of development desired to offset the City's tax base and accommodate new businesses and residents. Planning for a specific scale of development in

Neighborhood G may relieve development pressure City-wide, as the western half of New Berlin remains the area in which residents and businesses wish to maintain higher open space percentages.

Development Policies:

- 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.

Land use

- *Future Land Use Map: Suburban Commercial & Urban Residential*

ZONING CODE (CHAPTER 275): Yes, meets all the requirements of Chapter 275-34B(2).

SUBDIVISION CODE (CHAPTER 235): N/A

REZONING REQUIRED: No

CONDITIONAL USE REQUIRED: Yes

PUBLIC HEARING REQUIRED: Yes, March 3, 2025.

USE / SITE / ARCHITECTURAL REVIEW:

-Conditional Use Approval Required: Yes

-Site Plan Required: Yes

-Architectural Review Required: No

PROPOSED ARCHITECTURE: N/A

UNIQUE SITE CHARACTERISTICS:

Environmental Corridor: No

Wetland On Property: No

Conservancy Districts (C-1, C-2): No

NRCS Map Classification: Not Inventoried

Floodplain: No

Topography / Geologic: Site is relatively flat.

BIKE & PEDESTRIAN FACILITIES PLAN: No improvements identified.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:

-Limits of Disturbance (LOD): N/A

-Wildlife Habitat Protection: N/A

-Wildlife Management Plan: N/A

ENVIRONMENTAL IMPACT: N/A

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

SANITARY SEWER PROVISION: Yes, existing restaurant is serviced through the City of Muskego.

-Within Current Sewer Service Area: Yes, through the City of Muskego.

-Basin Capacity Available: N/A
-Basin Balance (If known): N/A
-Adequate Linkage: Yes

WATER USAGE CALC.: No increase.

TRAFFIC IMPACT: Applicant plans to accommodate all parking within the parking lot or offsite.

SCHOOL DISTRICT IMPACT: N/A

PREVIOUS ACTION:

7/7/97	Plan Commission approved interior and exterior modifications for College Pub.
6/1/98	Plan Commission approved a patio for Just Matty's.
5/3/99	Plan Commission approved modifications to a previously approved patio (File #: U-34-98).
11/4/02	Plan Commission approved a building addition for Matty's.
2/2/04	Plan Commission approved rezoning from R-3 to B-2.
2/10/04	Common Council approved rezoning from R-3 to B-2.
3/1/04	Plan Commission approved an addition for Matty's Bar & Grille.
5/9/08	Staff administratively approved the enclosure of a patio for Matty's Bar & Grille.
12/29/08	Staff administratively approved outdoor seating, additional parking spaces and lighting for Matty's Bar & Grille.
2/1/10	Plan Commission approved a parking lot addition.
6/7/10	Plan Commission approved a one-lot certified survey map to combine two lots.
6/22/10	Common Council approved a one-lot certified survey map to combine two lots.
11/21/11	Architecture Review Committee approved a smoking shelter.
4/10/12	Architecture Review Committee approved a patio with outside seating.
9/03/14	Approval for Temporary Events until such time a Conditional Use approval could be applied for.
4/8/15	Plan Commission held a public hearing on this request.
4/17/2015	Approval for two Temporary Events to be held prior to the approval of this Conditional Use request.
4/8/2015	Plan Commission held a public hearing for this business to hold outdoor events.
5/4/2015	Plan Commission took action to approve a Conditional Use Permit for this business to hold outdoor events.
4/13/2016	Plan Commission re-approved the outdoor events for this business.
3/6/2017	Plan Commission held a public hearing for this business to hold additional outdoor events.
3/30/2017	Plan Commission approved the additional outdoor events.
3/5/2018	Plan Commission approved additional outdoor events. (Application File #: CU-1700138)
7/21/2021	Staff approved an administrative permit for a covered patio and stage via UA #: 2101028.
2/6/2023	Plan Commission held a public hearing.
3/6/2023	Plan Commission tabled this item.
4/13/2023	Plan Commission approved the request. (Application File #: CU-2300076)

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

1. The applicant has submitted this application, at the request of Staff, based on their desire to hold additional outdoor events beyond what was approved in 2023.
2. Per Section 275-27H of the Zoning Code: "Revocation of conditional use permit. Should a permit holder fail to comply with the conditions of the permit issued by the Plan Commission, or should the use or characteristics of the use be changed without prior approval by the Plan Commission, the conditional use permit may be revoked by the Plan Commission upon notice and a hearing."
3. See attached Plan of Operation and schedule of outdoor events. A table has been added to this staff report to summarize all events.

D.R.C RECOMMENDATION:

Public hearing and possible action to approve the Conditional Use Permit for Matty's Bar & Grille to hold 7 additional outdoor events and 6 TBD event dates (for a total of up to 13 additional events) and approval of minor adjustments to the 2025 annual schedule of outdoor events for the property located at 14460 W. College Avenue subject to the application, plans on file and the following conditions: **See Executive Summary.**

ATTACHMENTS:

Location Map

Plan of Operation 2025

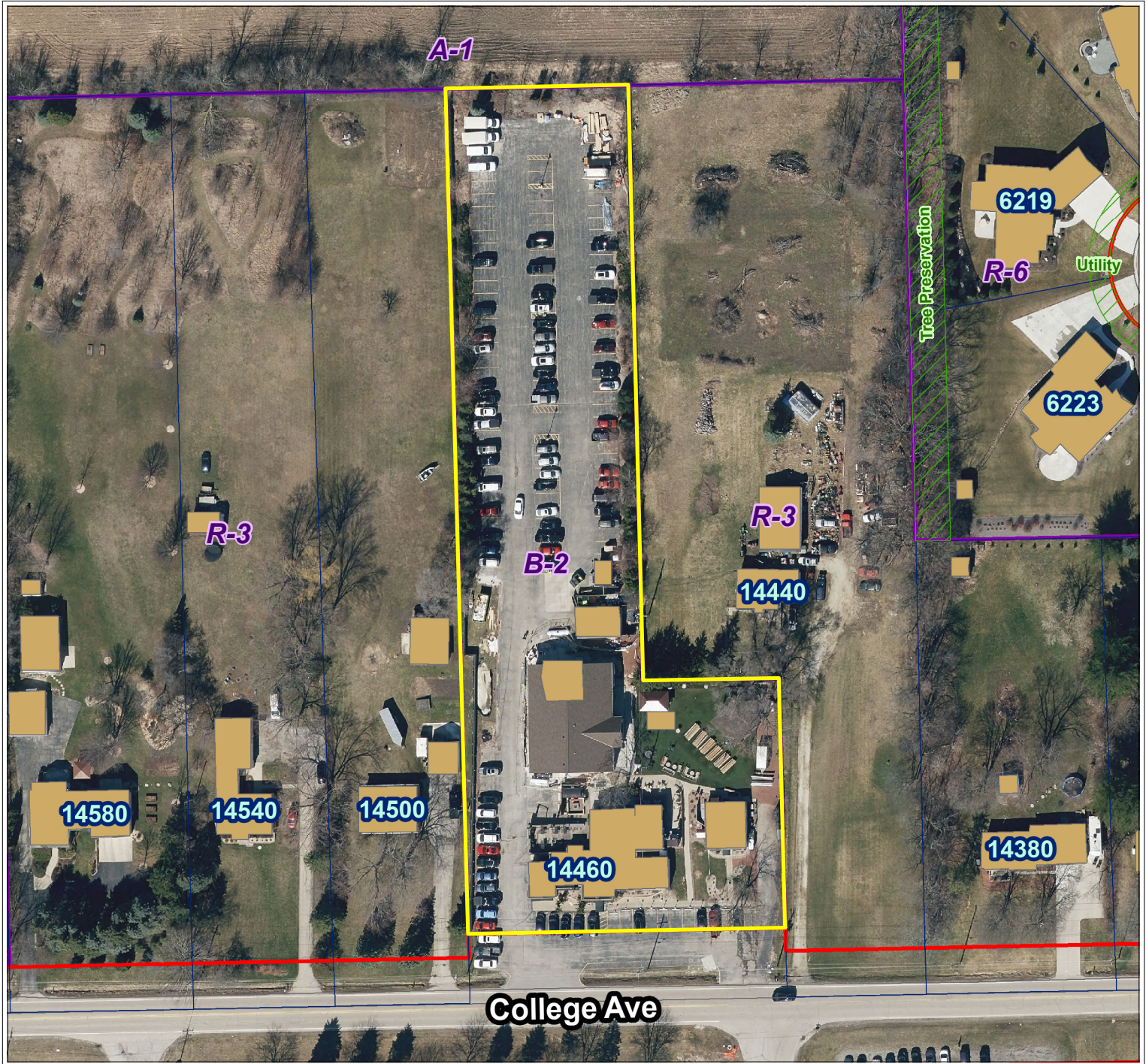
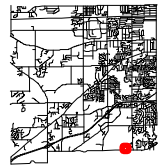
2025 Calendar of Events - Current and Proposed with the additional events

Site Plan

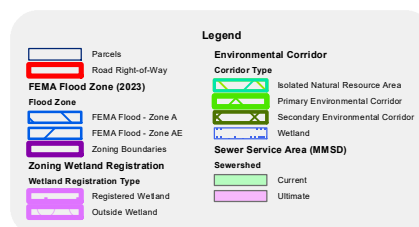
Current Zoning Permit #: CU-2300076 Issued on 6/8/2023

Stantec Memo Dated April 4, 2023

CU-2500147
Matty's Bar & Grille Inc. 2025 Events
14460 W. College Avenue



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



0 40 80 Feet

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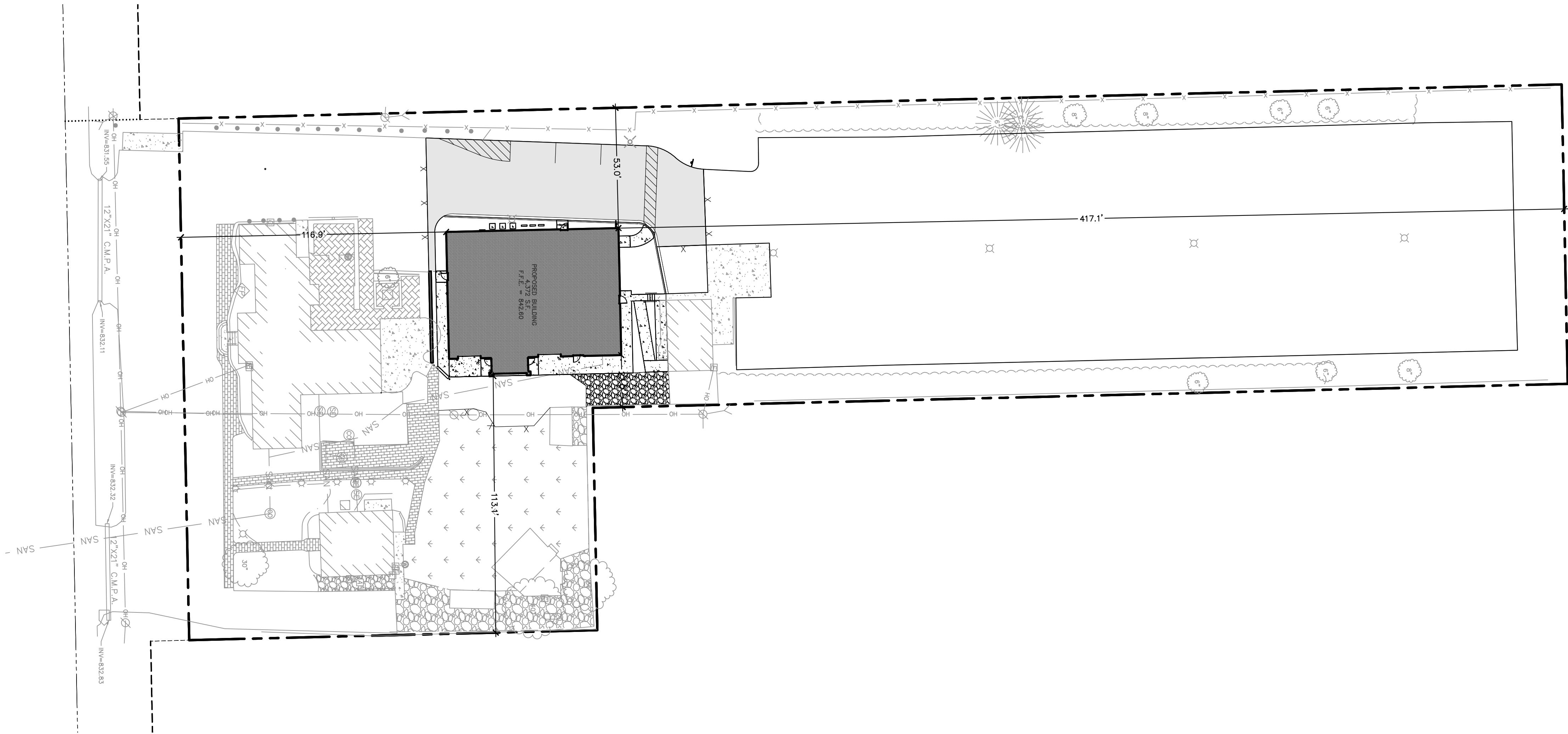
Matty's Bar & Grille Plan of Operation for review:

- See submitted 2025 outdoor Event Plan of Operation for 2025 event dates. Dates for outdoor events shall begin March 2nd (Winter Blue Fundraiser) and conclude October 11th (Oktoberfest event). The number of outdoor events requested is 44 events with an option to use 6 additional TBD dates. These events will be submitted per proper special request permit procedures.
- The following outdoor events are requested for approval with the permit.
- We will continue our commitment to providing the best hospitality for our guest's while maintaining the good will of the community including our immediate neighbors. We will continue to invest in good communications and proactively work together to maintain good relationships with our direct neighbors by providing direct access to Matt Anderson as well as all of our Leadership/Management teams. We will provide a schedule of events to neighbors. The current Use Approval was from 2023. The summer of 2023 was a very successful summer season with respect to any neighbor complaints. 2024 was 100% issue free. In 2024 we invested over \$50,000.00 in audio/db level advancements and mitigations and processes to assure we are below the db levels established and our sound stays within our boundaries. We control the music level of all bands and sound zone balancing to move sound around based on winds and weather. In essence, we created a "toilet bowl effect" surround sound system. Additional improvements and sound barriers include our new Matty's Event Center (The MEC). This building has proven to play another major role in maintaining our sound on our property. We will continue to adhere to using and calibrating the high quality db measuring tool to accurately monitor db levels at the designated position. These measurements will be documented and reported to the City as outlined in the current Use Approval.
- We will provide all Matty's management with the plan of operation and ensure strict adherence. As Staff can attest to, we have followed db level reporting exactly as outlined in our Use Approval. Should noise complaints arise, we will immediately and swiftly take ownership and work to rectify the situation and maintain the trust of our neighbors. As mentioned, this has not been an issue for the past two years.
- **Stage – Live Music**
 - Live outdoor music on stage on designated Fridays, Saturdays and Sundays. Live music consists of 1-3 piece acoustical bands and 4-5 piece full bands that will play only on Saturday. The acoustic nature of music shall be at a level that allows for conversation and full band nature of music shall be no higher than 70 decibels
 - Hours of Operation: Fridays and Saturdays 5pm – 9pm and Sundays 3pm – 7pm.
 - Events include outdoor amplified music, live music and food and beverage service.
 - Hours of Operation: Daily and open the same hours as Matty's.
- **St Patrick's Day/Oktoberfest – Live Music**
 - Live outdoor music events on stage to include 4-5 piece full bands not to exceed 70 decibels.
 - Hours of Operation 11am until 9pm.
 - Events include amplified music, food and vendors.

2025 Outdoor Schedule of Operation - Mattys			
Date	Event	Type	Location
3/17/25	St. Paddy's Day	Live Music	Backyard
5/3/25	Derby Day	Live Music	Backyard
5/25/25	Acoustic Band	Live Music	Backyard
6/7/25	Full Band	Live Music	Backyard
6/14/25	Full Band	Live Music	Backyard
6/15/25	Acoustic Band	Live Music	Backyard
6/20/25	Full Band	Live Music	Backyard
6/21/25	Acoustic Band	Live Music	Backyard
6/27/25	Acoustic Band	Live Music	Backyard
6/28/25	Full Band	Live Music	Backyard
6/29/25	Acoustic Band	Live Music	Backyard
7/5/25	Full Band	Live Music	Backyard
7/6/25	Acoustic Band	Live Music	Backyard
7/11/25	Acoustic Band	Live Music	Backyard
7/12/25	Full Band	Live Music	Backyard
7/13/25	Acoustic Band	Live Music	Backyard
7/18/25	Acoustic Band	Live Music	Backyard
7/19/25	Full Band	Live Music	Backyard
7/20/25	Acoustic Band	Live Music	Backyard
7/25/25	Acoustic Band	Live Music	Backyard
7/26/25	Full Band	Live Music	Backyard
7/27/25	Acoustic Band	Live Music	Backyard
8/1/25	Acoustic Band	Live Music	Backyard
8/2/25	Full Band	Live Music	Backyard
8/3/25	Acoustic Band	Live Music	Backyard
8/8/25	Acoustic Band	Live Music	Backyard
8/9/25	Full Band	Live Music	Backyard
8/15/25	Acoustic Band	Live Music	Backyard
8/16/25	Full Band	Live Music	Backyard
8/17/25	Acoustic Band	Live Music	Backyard
8/22/25	Acoustic Band	Live Music	Backyard
8/23/25	Full Band	Live Music	Backyard
8/24/25	Acoustic Band	Live Music	Backyard
8/29/25	Acoustic Band	Live Music	Backyard
8/30/25	Full Band	Live Music	Backyard
10/11/25	Oktoberfest	Live Music	Backyard
Full Band - 4-5 Piece		13	
Acoustic Band - 2-3 Piece		20	
Events		3	
Total		36	

2025 Outdoor Schedule of Operation - Mattys			
Date	Event	Type	Location
3/16/25	Acoustic Band	Live Music	Backyard
3/17/25	St. Paddy's Day	Live Music	Backyard
5/3/25	Derby Day	Live Music	Backyard
5/25/25	Acoustic Band	Live Music	Backyard
5/31/25	Acoustic Band	Live Music	Backyard
6/7/25	Full Band	Live Music	Backyard
6/8/25	Acoustic Band	Live Music	Backyard
6/14/25	Full Band	Live Music	Backyard
6/15/25	Acoustic Band	Live Music	Backyard
6/20/25	Acoustic Band	Live Music	Backyard
6/21/25	Full Band	Live Music	Backyard
6/22/25	Acoustic Band	Live Music	Backyard
6/27/25	Acoustic Band	Live Music	Backyard
6/28/25	Full Band	Live Music	Backyard
6/29/25	Acoustic Band	Live Music	Backyard
7/5/25	Full Band	Live Music	Backyard
7/6/25	Acoustic Band	Live Music	Backyard
7/11/25	Acoustic Band	Live Music	Backyard
7/12/25	Full Band	Live Music	Backyard
7/13/25	Acoustic Band	Live Music	Backyard
7/18/25	Acoustic Band	Live Music	Backyard
7/19/25	Full Band	Live Music	Backyard
7/20/25	Acoustic Band	Live Music	Backyard
7/25/25	Acoustic Band	Live Music	Backyard
7/26/25	Full Band	Live Music	Backyard
7/27/25	Acoustic Band	Live Music	Backyard
8/1/25	Acoustic Band	Live Music	Backyard
8/2/25	Full Band	Live Music	Backyard
8/3/25	Acoustic Band	Live Music	Backyard
8/9/25	Full Band	Live Music	Backyard
8/10/25	Acoustic Band	Live Music	Backyard
8/15/25	Acoustic Band	Live Music	Backyard
8/16/25	Full Band	Live Music	Backyard
8/17/25	Acoustic Band	Live Music	Backyard
8/22/25	Acoustic Band	Live Music	Backyard
8/23/25	Full Band	Live Music	Backyard
8/24/25	Acoustic Band	Live Music	Backyard
8/29/25	Acoustic Band	Live Music	Backyard
8/30/25	Full Band	Live Music	Backyard
8/31/25	Acoustic Band	Live Music	Backyard
9/1/25	Acoustic Band	Live Music	Backyard
9/6/25	Full Band	Live Music	Backyard
10/11/25	Oktoberfest	Live Music	Backyard
Full Band - 4-5 Piece			14
Acoustic Band - 1-3 Piece			26
Events			3
TBD			6
Total			49

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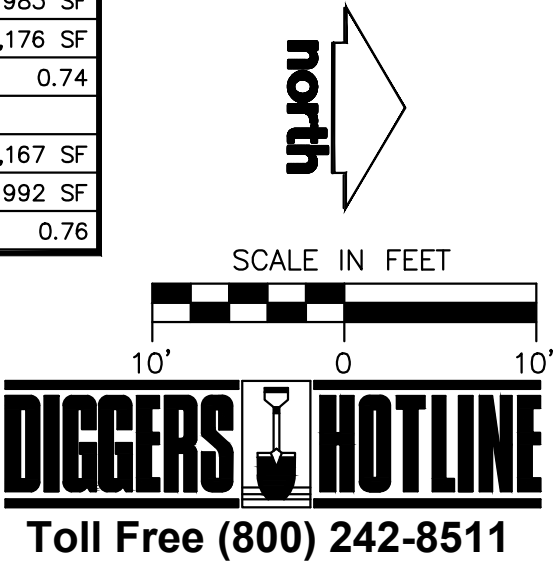


LEGEND

---	PROPERTY LINE
---	BUILDING OUTLINE
---	EDGE OF PAVEMENT
---	ASPHALT PAVEMENT
---	CONCRETE PAVEMENT
-X-	FENCE

SITE INFORMATION BLOCK

SITE ADDRESS	14460 COLLEGE AVENUE
PROPERTY ACREAGE	2.25 ACRES
PROPOSED BUILDING SQUARE FOOTAGE	4,312
TOTAL BUILDING SQUARE FOOTAGE	11,142
NUMBER OF PARKING STALLS	
SURFACE	
LARGE	135
ACCESSIBLE	3
TOTAL SURFACE	135
EXISTING VS. PROPOSED SITE COVERAGE	
EXISTING IMPERVIOUS SURFACE AREA	72,983 SF
EXISTING PERVIOUS SURFACE AREA	25,176 SF
EXISTING IMPERVIOUS SURFACE AREA RATIO	0.74
PROPOSED IMPERVIOUS SURFACE AREA	74,167 SF
PROPOSED PERVIOUS SURFACE AREA	23,992 SF
PROPOSED IMPERVIOUS SURFACE AREA RATIO	0.76



CREATE THE VISION TELL THE STORY

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MILWAUKEE REGIONAL OFFICE
W238 N1610 BUSSE ROAD, SUITE 100
WAUKESHA, WISCONSIN 53188
P. 262.513.0666

CLIENT:
VENTURE
CONSTRUCTION GROUP

CLIENT ADDRESS:
17500 WEST LIBERTY LANE
NEW BERLIN, WI 53146

PROJECT:
MATTY'S BAR & GRILLE

PROJECT LOCATION:
14460 COLLEGE AVENUE
NEW BERLIN, WI
WAUKESHA COUNTY

#	Date:	Description:
1	08/10/23	CITY RESUBMITTAL
2	12/21/23	CB#1 REVISED GRADING
3	02/19/24	REVISED SIDEWALK
4	02/28/24	REV PER CLIENT COMMENT
5		
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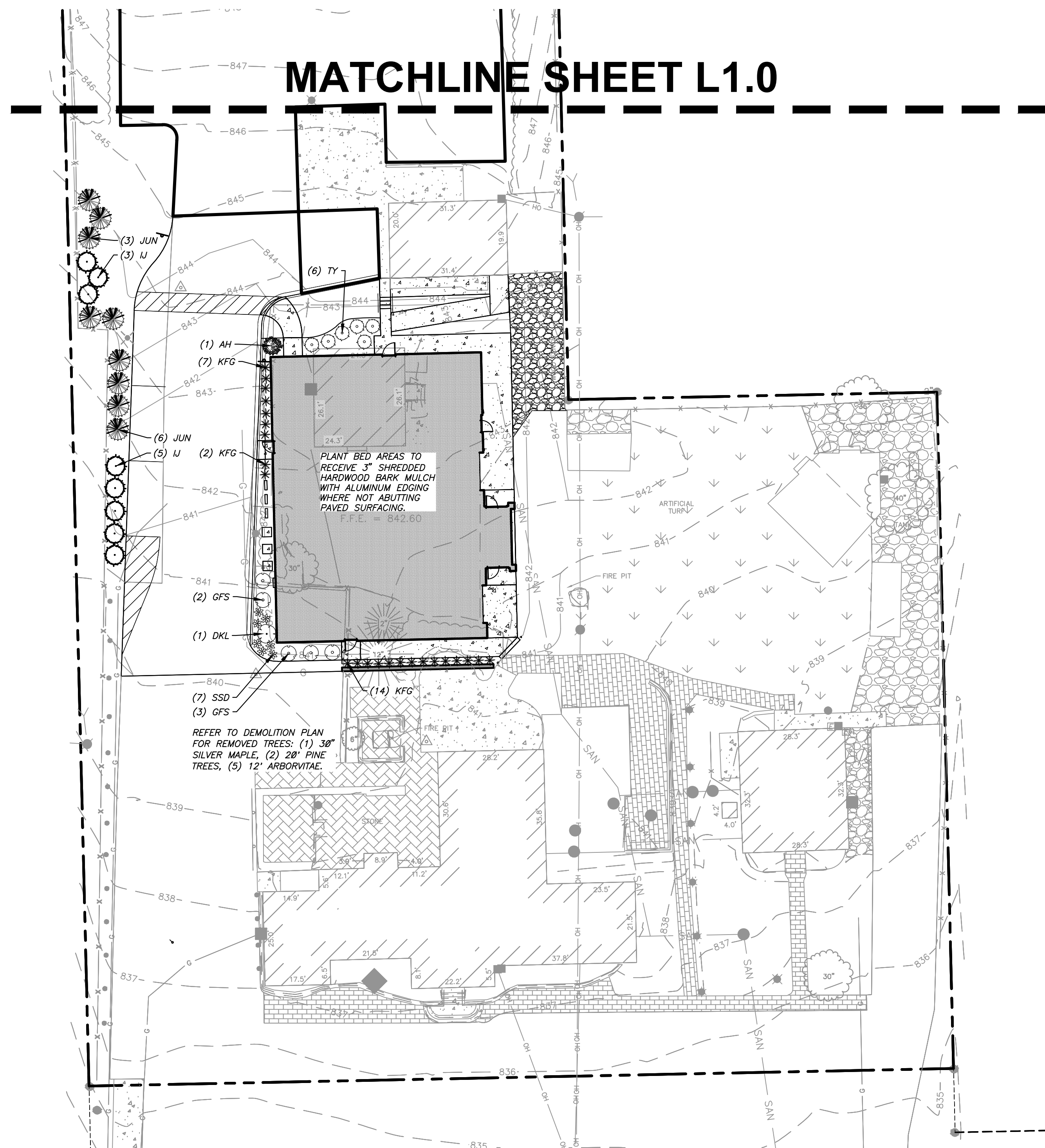
Designed By: JJS
Reviewed By: TJB
Approved By: TJB

SHEET TITLE:
SITE PLAN OVERVIEW

SHEET NUMBER:
C2.0

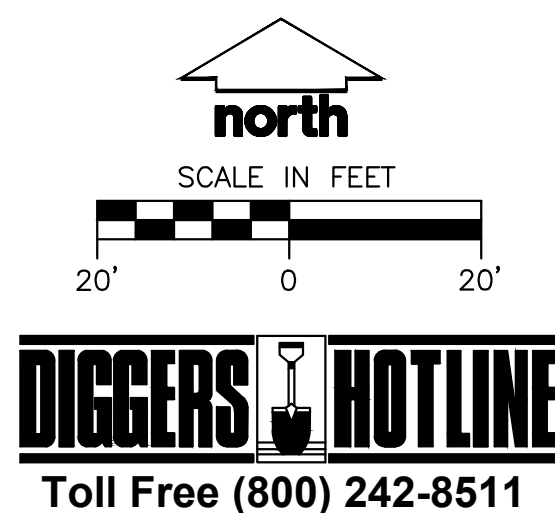
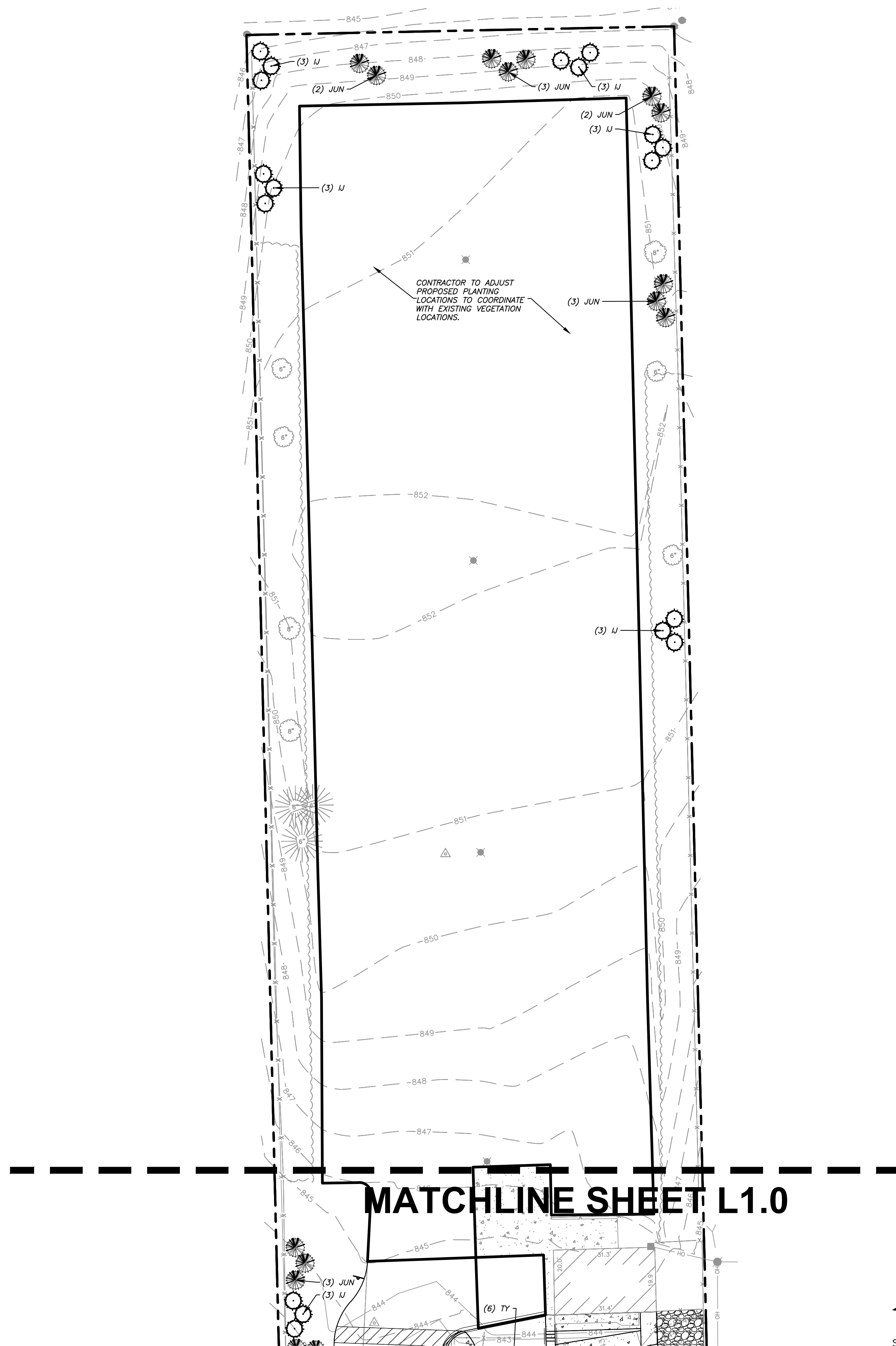
JSD PROJECT NO: 22-12044

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PLANT SCHEDULE

SYMBOL	CODE	BOTANICAL / COMMON NAME	CONT	SIZE	QTY	REMARKS
EVERGREEN TREES						
	IJ	<i>Juniperus chinensis</i> 'lowa' / Iowa Juniper	B & B	6' Tall Min.	23	
	JUN	<i>Juniperus chinensis</i> 'Mountbatten' / Mountbatten Juniper	B & B	6' Tall Min.	19	
DECIDUOUS SHRUBS						
	AH	<i>Hydrangea arborescens</i> 'Annabelle' / Annabelle Hydrangea	Cont.	#3	1	
	GFS	<i>Spiraea japonica</i> 'Goldflame' / Goldflame Japanese Spirea	Cont.	#3	5	
	DKL	<i>Syringa meyeri</i> 'Palibin' / Dwarf Korean Lilac	B & B	24" Tall	1	
EVERGREEN SHRUBS						
	TY	<i>Taxus x media</i> 'Tauntonii' / Taunton's Anglo-Japanese Yew	B & B	24" Tall	6	
PERENNIALS & GRASSES						
	KFG	<i>Calamagrostis x acutiflora</i> 'Karl Foerster' / Karl Foerster Feather Reed Grass	Cont.	#1	23	
	SSD	<i>Hemerocallis x</i> 'Stella D'Oro' / Stella D'Oro Daylily	Cont.	#1	7	



To:	Greg Kessler	From:	Jacob Poling
	City of New Berlin, WI		Stantec - Minneapolis
Project/File:	227705809	Date:	April 4, 2023

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

The City of New Berlin (the City) hired Stantec Consulting Services, Inc (Stantec) for consultation on community noise issues related to outdoor concert events at Matty's Bar and Grill, located at 14460 West College Avenue, New Berlin, WI (the Site). It is Stantec's understanding that there have been complaints from residences in the vicinity of the Site about noise during concerts. Stantec also understands that concerts typically end before 10:00 p.m. and may occur during afternoons and evenings during both weekday and weekend days.

The goals of this memo were (1) to provide information on the range of residential noise limits that may be appropriate during concert events and (2) to outline a recommended procedure for monitoring of sound levels during outdoor concerts. This memo starts by discussing basic noise terminology. Next, the results of a review of city noise ordinances and industry guidelines related to noise limits for both general community noise and noise during outdoor music events is summarized. Considerations for noise limits are then discussed. Last, recommended guidelines for concert sound monitoring are provided.

Noise Terminology

Sound is caused by vibrations that generate waves of minute pressure fluctuations in the surrounding air. Sound levels are measured using a logarithmic **decibel (dB)** scale. Human hearing varies in sensitivity for different sound frequencies (or pitches), and the frequency sensitivity changes based on the overall sound level. Consequently, several different frequency weighting schemes have been used to approximate the way the human ear responds to various frequencies at different sound levels. The **A-weighted decibel, or dBA**, scale is the most widely used for regulatory requirements, as it discriminates against low frequency noise similar to the response of the human ear at low to moderate sound levels typical of most community noise environments. Sound levels without a frequency weighting applied are referred to as unweighted or linear, and are reported as dB or dBZ.

Because environmental sound levels constantly fluctuate over time, numerous **noise metrics** have been developed to quantify the temporal characteristics (changes over time) of community noise.

The **equivalent continuous sound level, L_{eq}** , metric is the level of a hypothetical steady sound that would have the same energy as the fluctuating sound level over a defined period of time. The L_{eq} represents the time average of the fluctuating sound pressure level. $L_{eq}(1h)$ denotes an L_{eq} sound level measured over a 1-hour (1h) period and $L_{eq}(15m)$ denotes an L_{eq} sound level measured over a 15-minute (15m) period. When the 1-hour L_{eq} sound level is measured in A-weighted decibels it is denoted as dBA $L_{eq}(1h)$. An example chart comparing the L_{eq} over a measurement period to the instantaneous 1-second L_{eq} is provided as **Figure 1**.

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Other statistical metrics useful to understanding environmental sound levels include **percentile, L_n , sound levels**. The L_{10} metric is the noise level that is exceeded 10% of the time and is often used to assess impact from transportation or construction noise sources. The L_{50} metric is the noise level that is exceeded 50% of the time and represents the statistical mid-point of fluctuating noise levels. The L_{90} metric is the noise level that is exceeded 90% of the time and is generally considered to be representative of the steady background or ambient noise environment.

The **maximum and minimum sound levels, or L_{max} and L_{min}** , are the loudest and quietest instantaneous sound levels occurring during a period of time. The L_{max} is particularly useful for evaluating loud, impulsive noise events.

The **ambient noise level** is the sound pressure level of all-encompassing sounds associated with a given environment, being a composite of many sounds. For the purposes of this discussion, it is defined as the A-weighted noise level exceeded 90 percent of the time (L_{90} sound level), based upon a measurement of not less than ten minutes and excluding the alleged offensive sounds.

A **change in sound levels** of 3 decibels is generally considered to be the threshold of perception, whereas a change of 5 decibels is clearly perceptible, and a change of 10 decibels is perceived as a doubling or halving of loudness. This illustrates that the perception of loudness by humans is not linearly related to the sound level measured in decibels, as a change in sound levels from 60 to 80 decibels would be perceived as a quadrupling of loudness.

Examples of common outdoor and indoor sound levels are shown on **Figure 2**.

General Community Noise Limits

Community noise limits are generally intended to protect the ability for people to use property without undue disruption or annoyance due to noise. Noise limits are typically established based on the land use (or zoning) category of a site. Residential land uses are most sensitive to noise and thus have the lowest noise limits applied. Community noise limits are typically applied at the property line of the noise source or the noise receiver (e.g., residence backyard). Many community noise limits also differentiate between daytime and nighttime periods, with daytime often defined as 7 a.m. to 10 p.m., and apply lower noise limits at night to account for the increased sensitivity to noise.

Community noise limits can be expressed as an absolute value (e.g., 60 dBA) which shall not be exceeded, which is known as an **absolute limit**, or as an allowable increase relative to existing ambient noise levels (e.g., ambient plus 5 dBA), which is known as a **relative limit**. Noise limits can also be expressed as a combination of absolute and relative limits (e.g., noise levels shall not exceed 60 dBA or the ambient plus 5 dBA if the existing ambient sound level is less than 55 dBA.)

The United States (U.S.) does not have national community noise limits. Thus, community noise is regulated at either the state or local level in the U.S. The State of Wisconsin and the City of New Berlin also do not have established community noise limits. A limited survey of Wisconsin and U.S. community noise limits was completed to identify the typical range of noise limits that are applied to residential areas. The results of the review are summarized below with additional details provided in the attached tables.

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Among the five identified Wisconsin cities or towns with quantitative community noise limits, daytime residential noise limits ranged from **57-70 dBA** and nighttime residential noise limits ranged from **45-70 dBA**. A couple cities allowed for businesses adjacent to residences to have slightly higher noise limits in the range of **61-70 dBA** during daytime hours. The City of Racine had the most comprehensive community noise ordinance of those identified and it specified noise limits in the $L_{eq}(1h)$ metric. Otherwise, the limits were presented as “not to exceed” or “maximum” noise levels. The $L_{eq}(1h)$ metric would typically be used in this situation as it provides a broader picture of noise impacts rather than a smaller snapshot in time.

A survey of noise ordinances from 500 cities in the United States (Blomberg 2018) found that the average noise limit for residential areas was **61 dBA** during the daytime and **54 dBA** during the nighttime. Noise ordinances surveyed in the study were those that described the limits as “not to exceed” or “maximum” noise levels. Further, to minimize speech interruption during regular conversation at a distance of two meters (5.5 feet), an outdoor noise level of **60 dBA L_{eq}** was identified by the U.S. Environmental Protection Agency (EPA 1974).

Outdoor Concert Event Noise Limits

Most U.S. city noise ordinances neither specifically address nor exempt noise from outdoor concerts; therefore, the community noise limits established by land use or zoning type would also apply to noise from those events. The limited review found a few regulations specifically addressing this issue in the U.S. and Canada, while many more examples could be found in the U.K., Europe, and Australia. In the regulations that do specifically address outdoor concert events, there are a range of approaches to defining noise limits. Some of the regulations were also intended for outdoor concerts either on public lands or of a larger scale (stadium or music festivals) occurring less frequently (annually) than the situation in New Berlin.

In general, if a city has regulations for outdoor concert noise, they appear to typically allow for a higher noise level than the general community noise limits. Part of the reasoning for this may be that the nature of the noise exposure from concerts is temporary and/or periodic, rather than continuous. At least one approach also factored in the number of concert events per year in establishing noise limits, with more events resulting in a lower noise limit due to increased exposure. Generally, most outdoor concert noise limits identified were established in dBA using the L_{eq} metric. A summary of the review is discussed below with more details provided in the attached tables.

In Wisconsin, the City of Racine established a noise limit of **70 dBA $L_{eq}(1h)$** for uses bordering Festival Park, which is an outdoor public venue. San Francisco established relative limits for noise from entertainment venues of both **8 dBA above ambient** at the property line of the venue. New York City has a similar approach to San Francisco with a **7 dBA above ambient** limit.

Outdoor concert noise limits in Calgary, Canada are **65 dBA $L_{eq}(1h)$** in residential areas, with a **5 dB increase** above the limits allowed if the ambient sound level exceeded the limits. In the U.K., Europe, and Australia, daytime residential noise limits during outdoor concerts ranged from 50-80 dBA L_{eq} , with the majority of limits in the range of **65-75 dBA L_{eq}** . Where relative noise limits were used, they established L_{eq} noise limits ranging from **ambient L_{eq} + 10 dBA to ambient L_{90} + 15 dBA**.

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Noise Limit Considerations

Several considerations for establishing a noise limit for outdoor concerts are listed below:

- It is recommended that noise limits be established at the property line of the Site where adjacent residences are exposed to the highest noise levels during concert events.
- The A-weighted 1-hour L_{eq} noise level, or $L_{eq}(1h)$, is likely the most appropriate noise metric to use and is well suited for noise compliance monitoring.
- Because outdoor concerts will inevitably result in higher noise levels than the ambient condition, the City could consider allowing for a relative increase above ambient noise levels, or an allowable increase above a defined absolute noise limit if the ambient noise level already exceeds the limit.

Outdoor Concert Noise Monitoring Guidance

Guidance for establishing ambient noise levels and monitoring noise levels during outdoor concerts at the Site is provided below.

Measurement Equipment

Noise levels should be measured using a data-logging sound level meter (SLM) that meets ANSI/ASA S1.4-2014/Part 1 Type 1 or Type 2 requirements. The SLM should be capable of measuring and logging A-weighted sound levels in the L_{eq} and L_{90} metrics using the root-mean-square (RMS) “fast” time response. The SLM minimum integration, or data logging, time interval should be 1-minute or less. Examples of capable equipment for these purposes are a Larson Davis Model LxT SLM and the Sigicom Infra D10 and S50 remote noise monitoring systems.

To measure noise levels outdoors over multiple hours, the SLM will need to be housed in a waterproof environmental protection case (pelican case, or similar) with a microphone extension cable routed out of the case and the microphone secured to a tripod or post approximately 10-feet above ground. The microphone should be covered with a 3-inch or greater diameter windscreen to minimize wind-generated noise at the microphone. An external battery or power source may be needed to power the SLM depending on the specific equipment and duration of measurements. The SLM should be calibrated using an ANSI Type 1 or Type 2 handheld acoustical calibrator before each noise monitoring session. The SLM and acoustical calibrator should also be calibrated by an NIST accredited acoustical laboratory every two years or less.

A traditional noise monitoring system (Larson Davis LxT, or similar) could measure noise levels continuously for several hours to several weeks before batteries would need to be recharged or replaced. Data would need to be downloaded manually from these systems to a computer. If the system is only used to measure sound levels during concert events, it would need to be setup and broken down for each event.

A remote noise monitoring system (Sigicom, or similar) would allow for long-term deployment with noise levels measured continuously for several months. This type of system can also allow for direct upload of measured noise levels to a website for anyone granted access to view and avoids the need to manually download data from the equipment. During concert events, measured noise levels at the property line could potentially be monitored in real time by the venue with adjustments made to remain in compliance with the noise limits.

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Remote noise monitoring systems can also be programmed to send text message or email alerts when user-defined noise level thresholds are exceeded.

Establishing Ambient Noise Levels

If necessary to establish concert event noise limits, ambient noise monitoring should be completed at one or more locations on the Site property lines to document typical ambient noise levels when concert events are not occurring. At a minimum, ambient noise monitoring should be completed during several days and include the full range of time periods and days of the week when concert events may occur (e.g.: noon to 10:00 p.m. during both weekday and weekend days, if outdoor concert events would occur during those time periods and days). Planned time periods and locations for ambient noise measurements should be discussed with the City for concurrence prior to measurements being taken. Ambient noise level measurement results should be provided to the City in tabular and graphical formats. When reviewing the monitoring results, the City should consider whether it is appropriate to establish ambient noise levels separately for daytime, evening, weekday, and/or weekend periods.

Noise Monitoring During Concerts

Noise levels should be monitored throughout the full duration of all concert events, or the full duration of select concert events, as agreed upon with the City. Noise levels should be measured in all necessary metrics and logged at the required time intervals to demonstrate compliance with noise limits established by the City. Noise measurements should be completed with the microphone located approximately 10 feet above ground and 10 feet or further from large reflective surfaces such as building walls. The time response setting of the SLM should be set to “fast”.

The noise monitoring system should be located at the property line of the Site where adjacent residences are exposed to the highest noise level during concert events. Based on the concert stage orientation, it is expected that this would be the western property line. However, prior to future concert events, it is recommended that a series of measurements be taken at several points on the eastern and western Site property lines while music is playing through the concert stage sound system to determine the worst-case location for monitoring. Potential noise monitoring locations on the eastern and western Site property lines are shown in **Figure 3**. If the location on the western property line is utilized, the SLM microphone should be extended above the wooden fence to avoid sound reflecting off the fence influencing the measurements.

Reporting

A report including graphs showing the measured noise levels over time throughout concert events should be provided to the City within a week of monitoring during concert events. The report should indicate the start and stop time of concerts. Graphs should show measured noise levels in all necessary metrics to demonstrate compliance with noise limits established by the City.

Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Regards,

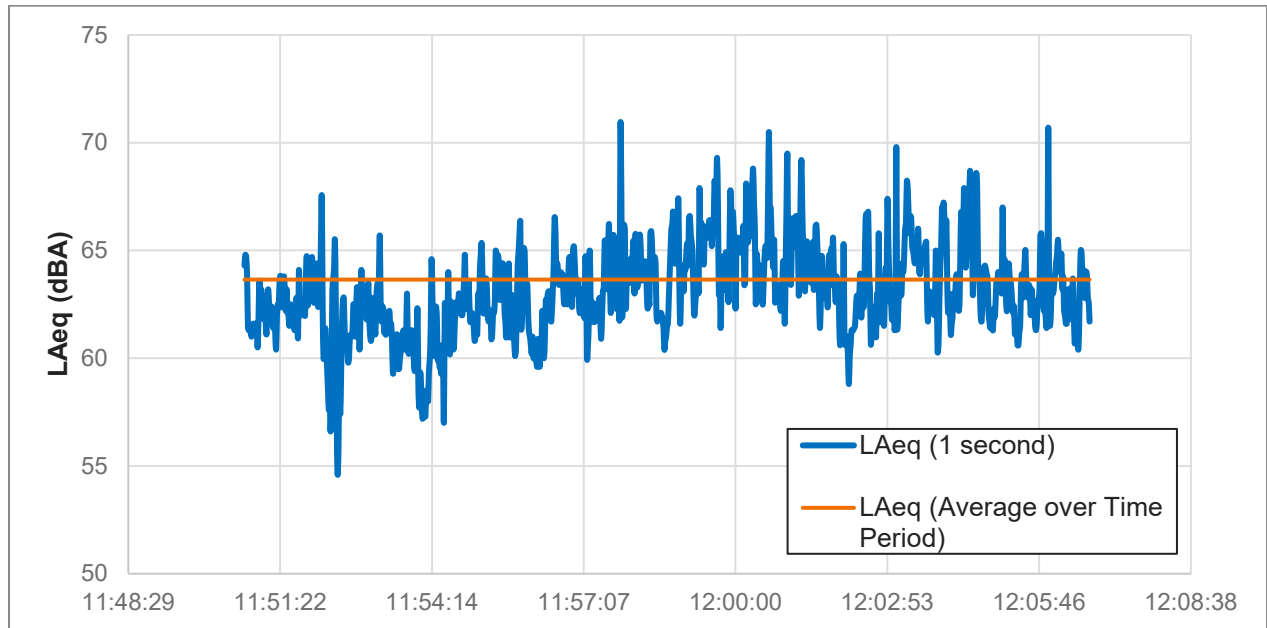
STANTEC CONSULTING SERVICES INC.



Jacob Poling INCE
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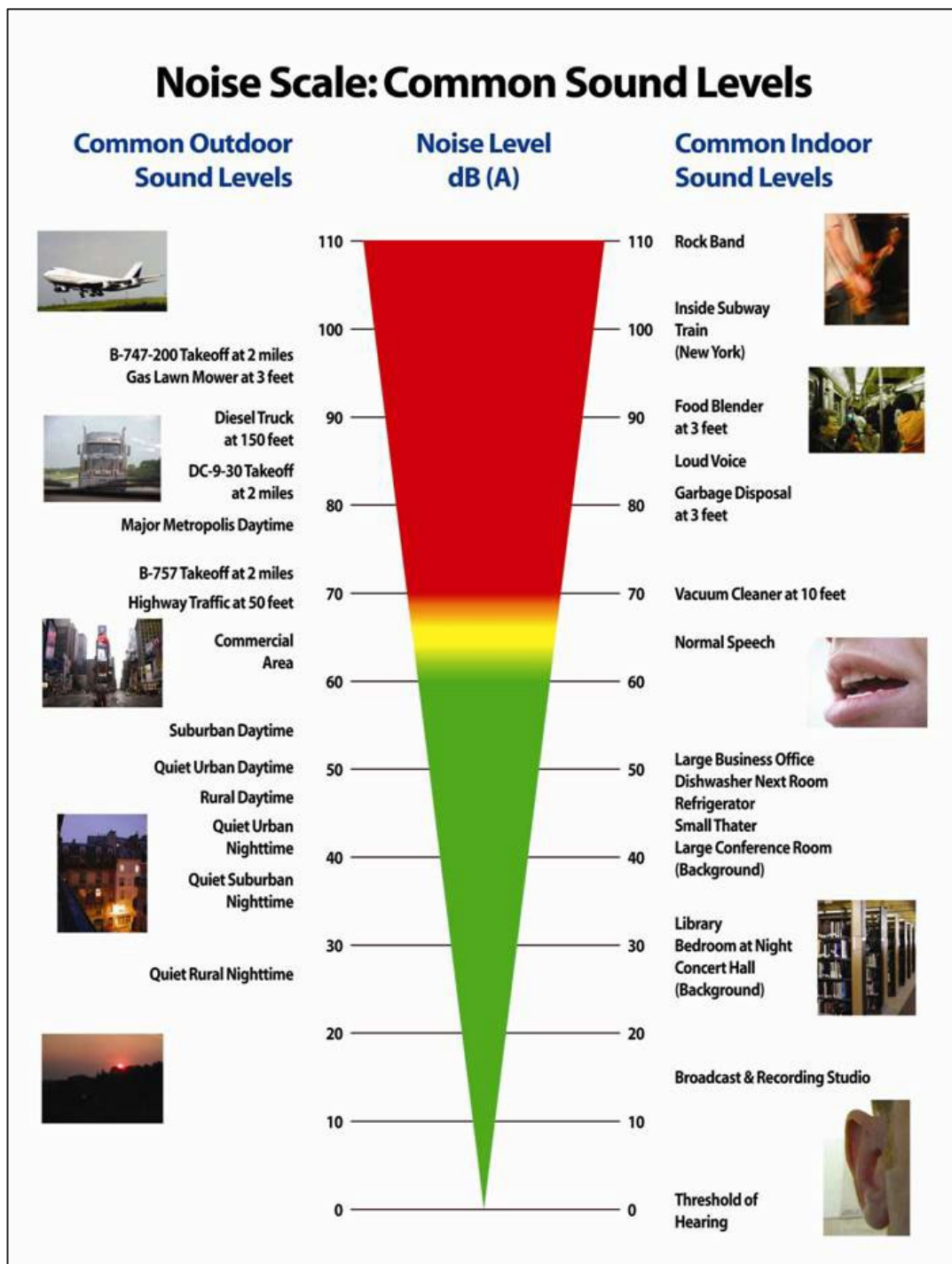
Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Figure 1. Time-Averaged L_{eq} Sound Level vs 1-second L_{eq} Sound Level



Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Figure 2. Common Sound Levels



Reference: City of New Berlin - Outdoor Concert Event Noise Memo

Figure 3. Potential Noise Monitoring Locations



City of New Berlin - Noise Regulations Review Tables

Wisconsin General Community Noise Regulations

Jurisdiction	Type of noise regulated	Noise limit(s)	Source
Appleton, WI	General regulation	57 dBA daytime / 52 dBA night (residential to residential)	Microsoft Word - Charter Ordinances.doc (appleton.org)
		61 dBA daytime / 55 dBA night (commercial to residential)	
Kenosha, WI	General regulation	70 dBA from businesses at residences, daytime and nighttime	CHAPTER XXIII. - NOISE CONTROL Code of Ordinances Kenosha, WI Municode Library
Madison, WI	General regulation	65 dBA at property line of residential zone	CHAPTER 24 - OFFENSES AGAINST PEACE AND QUIET Code of Ordinances Madison, WI Municode Library
Milwaukee, WI	General regulation	55 dBA day / 45 dBA night in residential districts	CH80.pdf (milwaukee.gov)
Racine, WI	General regulation	65 dBA Leq(h) day / 60 dBA Leq(h) night at residential property boundary	Chapter 42 - ENVIRONMENT Code of Ordinances Racine, WI Municode Library

U.S. General Community Noise Regulations

Jurisdiction	Type of noise regulated	Noise limit(s)	Source
U.S. EPA	Document does not establish regulatory limits, but guidance influenced many U.S. municipality and agency noise limits	Speech interference: 60 dBA Leq at residences outdoors (normal conversation at 2 m)	United States Environmental Protection Agency (EPA). "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety." 1974.
		Speech interference: 45 dBA Leq indoors for 100% speech intelligibility (assuming partly-open window)	
Various U.S. Cities (500 city survey)	General regulations	Average residential max noise limits - 61 dBA daytime, 54 dBA nighttime	Les Blomberg. "Noise ordinance noise level limits, an update of the EPA's 1975 findings." Inter-Noise 2018 Conference Proceedings. 2018.

Noise Regulations for Outdoor Concert Events

Jurisdiction	Type of noise regulated	Noise limit(s)	Source
Racine, WI	Outdoor entertainment venue	70 dBA Leq(h) at all times for uses bordering Festival Park (outdoor public venue)	Chapter 42 - ENVIRONMENT Code of Ordinances Racine, WI Municode Library
		If ambient L90 is within 3 dBA of limit, limit increased by maximum of 3 dBA	
New York, NY	Music from bars & restaurants	42 dBA indoors at residences	law05113.pdf (nyc.gov)
		outdoor ambient sound level + 7 dBA between 10 PM and 7 AM	
San Francisco, CA	Entertainment venues	ambient dBA + 8 dBA at property line of sound source	ARTICLE 29: REGULATION OF NOISE (amlegal.com)
Calgary, Canada	Outdoor concerts	65 dBA Leq(h) at any point within a residential development	Bylaws related to noise (calgary.ca)
		If ambient sound level exceeds limits, limit is ambient + 5 dB	
UK Noise Council	Outdoor concerts	For <= 3 events/year, 65 dBA Leq(15m) at residential façade	Manchester City Council. "Guidance on noise control for open air concerts and events." 2022.
		For 4-12 events/year, Leq(15m) limit is ambient L90 + 15 dBA	

City of New Berlin - Noise Regulations Review Tables

Jurisdiction	Type of noise regulated	Noise limit(s)	Source
European cities	Outdoor concerts	50 - 80 dBA, primarily uses Leq metric	Audio Engineering Society. "Understanding and managing sound exposure and noise pollution at outdoor events." Technical Document AESTD1007.1.20-05. 2020.
Australia major events	Outdoor concerts	55-70 dBA Leq	Parnell and Sommer. "Setting noise objectives for outdoor music festivals in rural locations." 2018.
UK and Ireland stadiums	Outdoor concerts	75 - 80 dBA Leq	Parnell and Sommer. "Setting noise objectives for outdoor music festivals in rural locations." 2018.

ZONING PERMIT 2300076

ISSUE DATE: 6/8/2023

EXPIRATION DATE: 1 year from date issued

OWNER:

ANDERSON REAL ESTATE MANAGEMENT LLC
5405 S SUNNYSLOPE RD
NEW BERLIN, WI 53151

APPLICANT:

ANDERSON REAL ESTATE MANAGEMENT LLC
5405 S SUNNYSLOPE RD
NEW BERLIN, WI 53151

ADDRESS: 14460 W COLLEGE AVE

FOR: CONDITIONAL USE - MATTY'S - 2023 OUTDOOR EVENTS

This Zoning Permit authorizes the above establishment to conduct business or operate in accordance with all approved plans on file, any and all applicable City, State and Federal codes, and as described below:

1. Applicant shall take down the tent on or before October 31st each year. The tent is up seasonally and should be taken down for the late fall / winter months. Tent shall not be put back up prior to April 15th (with the exception of St. Patrick's Day annually where a temporary tent may be installed and taken down prior to the event and removed no later than the following week).
2. The applicant has submitted this application at the request of Staff based on the applicant's desire to modify their zoning permit and complaints received regarding the existing outdoor events in the past. Condition # 8 of Zoning Permit #: UA-14-053 states: "The City of New Berlin reserves the right to review any substantiated complaints and take appropriate action, if necessary. Action will result in any future events being prohibited."
3. See attached Plan of Operation and schedule of outdoor events. A table has been added to this staff report to summarize all events. Outdoor music to end by 9:30 PM.
4. Stantec Memo dated April 4, 2023 is attached. Per this Memo, staff has made the following recommendations with regard to how sound will be addressed for outdoor music at this location.
 - a. Applicant shall review the Memo and will adhere to the recommendations.
 - b. Outdoor Concert Event Noise Limits:
 - i. Sound shall not exceed 70 dBA LAeq(1h) at any of the identified locations in the Stantec Memo dated April 4, 2023.
 - c. Noise Limit Considerations:
 - i. It is required that noise limits be established at the property line of the site where adjacent residents are exposed to the highest noise levels during concert events.
 - d. Outdoor Concert Noise Monitoring Guidance:
 - i. Noise levels should be measured using a data-logging sound level meter (SLM) that meets ANSI/ASA S1.4-2014/Part 1 Type 1 or Type 2 requirements. Applicant shall explore the examples listed in the Memo on page 4 of 9.
 - ii. The SLM shall be housed in a waterproof environmental protection case.
 - iii. The SLM should be calibrated using an ANSI Type 1 or Type 2 handheld acoustic calibrator before each noise monitoring session.
 - iv. The SLM and acoustic calibrator should also be calibrated by an NIST accredited acoustical laboratory every two years or less.
 - v. The City would be interested in remote noise system. This type of system can allow for direct upload of measured noise levels to a website for anyone granted access to view.
 - e. Noise Monitoring During Concerts
 - i. Noise levels shall be monitored throughout the full duration of all concert events, or the full duration of select concert events, as agreed upon with the City. Noise levels shall be measured in one second intervals as recommended in the Stantec Memo and logged at the required time intervals to demonstrate compliance with noise limits established by the City.

- ii. Noise monitoring system should be located at the property line of the Site where adjacent residents are exposed to the highest noise level during concert events as recommended in the Stantec Memo.
 - iii. Please refer to page 5 of 9 of the Memo. Also, see Figure 3 of the memo for specific locations.
- f. Reporting
 - i. A report including graphs showing the measured noise levels over time throughout concert events should be provided to the City within a week of monitoring during concert events. The report should indicate the start and stop time of concerts. Graphs should show measured noise levels in all necessary metrics to demonstrate compliance with noise limits established by the City.
 - ii. The submitted reports shall contain a graph from each monitoring point in the same format and form as found on Page 7 of 9 in the Stantec Memo dated April 4, 2023 for the full duration of concert and inclusive of the average dBA for the concert.
- 5. Applicant has submitted the following request / Plan of Operation for review:
 - a. See submitted "2023 Outdoor Event Plan of Operation" for 2023 event dates. Dates for outdoor events shall begin no sooner than June 1st (with the exception of St. Patrick's Day annually) and shall end no later than October 30th in any given year unless further approval is received by the Plan Commission. Per this revised schedule request, the number of outdoor events will be 36 (12 Full Band, 22 acoustic events, 2 special events, & 4 TBD event dates). At the April 13, 2023 Plan Commission meeting, the Plan Commission made a motion to reduce the overall number of outdoor events from 40 to 36, a reduction of 4 events from their request, and direct staff to work with Matty's on the dates to be removed from the outdoor events schedule.
 - b. The following outdoor events are being requested for approval with this permit.
 - i. Live Music on the Stage:
 - 1. Live outdoor music on the patio Friday's, Saturday's and Sunday's starting June 2023 and finishing on October 28th each year. Live music for these events shall consist of a two to three piece acoustic bands prohibiting the use of electric instruments on Friday's and Sunday's through Labor Day; and a four to five piece full bands on Saturday's through Labor Day.
 - 2. The acoustic nature of the music shall be at a level that allows for conversation.
 - 3. Hours of Operation: Friday's and Saturday's from 5:00 PM to 9:00 PM and Sunday's from 3:00 PM to 7:00 PM through Labor Day Event includes outdoor amplified music, live music, and food.
 - ii. Tented Terrace/Pavilion area – Everyday Use:
 - 1. Everyday use of the tented terrace/Pavilion area. This is an overflow usage for the restaurant as well as event space for private events, space, golf outings, local/community fundraiser's, rehearsal dinners, community driven events, etc. At this time, no live outdoor music is slated for either space.
 - 2. Hours of Operation: Daily and open the same hours as Matty's. Music and any amplified devices to be turned off after quiet hours into effect at 10:00 PM.
 - 3. Event includes outdoor amplified music, food, and vendors.
 - iii. St. Patrick's Day
 - 1. Event would take place St. Patrick's Day annually. Event includes four to five piece full bands.
 - 2. Hours of Operation: 11:00 AM to 9:00 PM.
 - 3. Event includes outdoor amplified music, live music, and food.
 - iv. Oktoberfest – Held in October.
 - 1. The event is planned to be a 1-day event with live music.
 - 2. Event includes four to five piece full bands.
 - 3. Hours of Operation: 11:00 AM to 9:00 PM.
 - 4. Event includes outdoor amplified music, live music, and food.
 - v. LED Screen – Everyday Use
 - 1. Use of the screen is for digital marketing, band back drops, sports, movies, and streaming

services for special events i.e. Slideshows and videos.

6. Staff is not recommending an annual renewal next year. Outdoor event schedule shall be provided by April 15th of each year. For event dates that are unknown, the applicant shall submit the final dates and details a minimum of two weeks prior to the event date. Formal complaints may result in possible revocation of permit and which may mandate a public hearing be held with approval process.
7. The City of New Berlin reserves the right to review any potential complaints and take appropriate action, if necessary. Per Section 275-27H of the Zoning Code: "Revocation of conditional use permit. Should a permit holder fail to comply with the conditions of the permit issued by the Plan Commission, or should the use or characteristics of the use be changed without prior approval by the Plan Commission, the conditional use permit may be revoked by the Plan Commission upon notice and a hearing."
8. Applicant shall coordinate all traffic flow with Waukesha County Department of Transportation and shall contact Waukesha County DOT to inform them of the events.
9. Applicant shall apply for and receive individual Sign Permits for all event signage and banners prior to installation.
10. Seating capacity will be 80 seats for the tent; 137 seats for the existing patio and restaurant. This requires a minimum of ~109 parking spaces for this use. Applicant has provided 147 parking spaces. If capacity increases in the future, the applicant shall contact DCD to address the need to provide additional parking to meet the requirements of Section 275-57.
11. There shall be no on-street parking on College Avenue. Parking shall be contained on-site. If parking is to be off-site, a written agreement between the property owners allowing for the overflow parking is necessary. If off-site parking is used, a sufficient security guards should be in place whose sole purpose is to ensure the safe passage of guests to and from these events. Matty's to provide sufficient security guards and staff to avoid trespassing of patrons onto adjacent property.
12. Applicant shall keep as many on-site parking spots as possible available to guests.
13. Do not block drive aisles or emergency access routes.
14. Sanitation and fresh water facilities shall be adequate for the actual number of people using the site as required by Waukesha County Department of Environmental Health.
15. Applicant shall contact Waukesha County Department of Environmental Health for any necessary permits pertaining to food supplied via a licensed vendor.
16. A loudspeaker permit shall be required from the Police Department for the amplified sound.
17. If liquor is to be sold outdoors, applicant shall contact the City of New Berlin Clerk/Community Relations Office to obtain a liquor and soda permit.
18. If any sales or solicitation of business will occur with vendors on site, a Direct Sellers Permit will be required from the Clerk/Community Relations Office.
19. Building Inspection
 - a. Apply and obtain appropriate building, plumbing and electrical permits when required to do so by code.
 - b. Temporary wiring for displays or lighting circuits shall require electrical permit and inspection from Inspection Services. Electrical work shall be performed by a licensed electrician.
 - c. Applicant shall install 3 portable toilets, with one being ADA accessible.
 - d. Fire extinguishers required.
 - e. No smoking signs required to posted within tents
 - f. The building shall be fully accessible from the parking lot to the interior elements (Com. 63.1101 and ICC/ANSI A117.1).
 - g. Maintain 'Access to a public way' per IBC Section 1028.5 for ALL areas.
 - h. Provide bathrooms (plumbing fixtures) per IBC Chapter 29 Table 2902.1 Occupancy A-5 and A-2.
 - i. Temporary Structures (i.e., Tents) must comply with IBC Section 3103.
 - j. Temporary outdoor storage (shipping containers) 'shall not be stored on a property longer that 30 days' New Berlin Code 275.42 (F) (3).
20. Fire Department:
 - a. Maintain occupancy load in interior. 80 people max.
 - b. Maintain access for fire apparatus at all times.

- c. Permit shall be obtained prior to occupancy use from NBFD and a tent inspection shall be performed by NBFD. Tent shall meet all NFPA 102 & 701 requirements.
- d. Tent shall have initial occupancy inspection performed along with monthly inspections at the beginning of each month.

Expiration date: A zoning permit shall expire if, within 12 months of the date of the approval, the proposed construction, activity, or preparation of land has not substantially commenced. Substantial commencement is demonstrated by reasonable physical alteration of the site in conformance with approved plans. The Director of Community Development may grant a 12-month extension, if requested prior to expiration, provided that the applicant demonstrates a valid cause acceptable to the Department. Additional extensions may only be approved by the Plan Commission or Community Development Authority if all applicable fees are paid and the applicant demonstrates a valid and acceptable cause. Requests submitted after permit expiration shall not be considered.

Occupancy Permit: Per New Berlin Municipal Code 275-26(B)(4), "The Director shall inspect the building, site, or premises for compliance with all current codes, plans, specifications, and conditions of approval prior to issuance of an occupancy permit. No occupancy shall be allowed if any other outstanding violations exist on the site. As-built plans may be required to substantiate or verify that certain conditions of the zoning permit, use approval, conditional use permit, developer's agreement, or building permit have complied with."

Building Permit: Per New Berlin Municipal Code 275-25(A) "No building or structure shall be erected, altered, relocated, moved, extended, or enlarged until a building permit has been issued by the Director, certifying that such building, as proposed, would be in compliance with the provisions of this chapter and with the adopted City Building Code. (B), Application. In addition to the requirements of Sections COMM 20.04 and COMM 50.03, WI Adm. Code, applications for a building permit for new construction and for additions to existing construction shall include all information and supporting materials as specified by the permit application center." A separate fee is required prior to the start of any construction. Follow Codes and instructions of the Building Inspection Division when applying.

Signage: Per New Berlin Municipal Code 275-61(B)(1) " No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered, nor shall the face of a sign or color be changed without a Sign Permit and conforming with the provisions of this chapter. No Sign Permit shall be issued to a business or property that does not have a Zoning Permit." Signs require separate applications and approval.

Other Permits: Per New Berlin Municipal Code 275-26(C) "It is the responsibility of the permit applicant to secure all other necessary permits required by any federal, state, or local agency. This includes, but is not limited to, a water use permit pursuant to Chapter 30 or 31, WI Stats, or a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Control Act."

Transferability: Per New Berlin Municipal Code 275-24(F) "Zoning permits are not transferable from one applicant to another without approval of the Plan Commission. Zoning permits are site specific and thus are not transferable from one site to another under any circumstances." "If the business plans to add more employees, make physical changes to the outside of the building, and/or any other deviations to the approved plan of operation the applicant shall follow all applicable City processes."

Compliance: Failure to comply with conditions of the Zoning Permit may be enforced pursuant to New Berlin Municipal Code 275-68 (B), "Whenever an order of the Director, Building Inspector, City Engineer, or other city official, pursuant to this chapter, has not been complied with, or where written agreements for compliance have not been made by the property owner, the City Attorney shall institute appropriate legal action or proceedings to prohibit the owner, agent, or occupant from using such structure, land, or water. The City may seek a court order in the nature of mandamus, abatement, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation."

Permit Authorized By:



NIKKI JONES, DEPUTY DIRECTOR

Date: 6/8/2023

Matty's Bar & Grille Plan of Operation for review:

- See submitted 2023 outdoor Event Plan of Operation for 2023 event dates. Dates for outdoor events shall begin no sooner than June 16th with the exception of St. Patrick's Day and shall end no later than Labor Day with the exception of Oktoberfest on Oct 14th. The number of outdoor events requested are 35 events with an option to use 1 additional TBD date. These events will be submitted per proper special request permit procedures.
- The following outdoor events are being requested for approval with the permit.
- We will continue our commitment to providing the best hospitality for our guests while maintaining the good will of the community including our neighbors. We will continue to invest in good communications and proactively work together to maintain good relationships with our direct neighbors by providing direct access to Matt Anderson as well as all our Leadership/Management teams. We will provide a schedule of events to neighbors. We will tilt and wrap the back side of our stage speaker to minimize noise and will adhere to use a high quality db measuring tool to accurately monitor db levels at appropriate property line, sound board and pavilion. These measurements will be documented accordingly.
- We will provide all Matty's management the plan of operation and ensure strict adherence. Should noise complaints arise, we will immediately and swiftly take ownership and work to rectify the situation and maintain the trust of our neighbors.
 - **Stage – Live Music**
 - Live outdoor music on patio consecutive Fridays, Saturdays and Sundays starting June 16th and finishing Labor Day. Live music consists of 2-3 piece acoustic bands prohibiting the use of electric instruments on Fridays and Sundays through Labor Day and 4-5 piece full bands on Saturdays through Labor Day. The acoustic nature of music shall be at a level that allows for conversation and full band nature of music shall be no higher than 80 decibels.
 - Hours of Operation: Fridays and Saturdays 5pm – 9pm and Sundays 3pm – 7pm through Labor Day and Saturdays post Labor Day 5pm – 9pm.
 - Event includes outdoor amplified music, live music and food.
 - **Tented Terrace/Pavilion – Everyday Use:**
 - Everyday use of the tented terrace and pavilion. This is an overflow usage for restaurant as well as an event space for private events, golf outings, local/community fundraisers, rehearsal dinners, community driven events, etc. At this time, no live music is slated for either area. Please review Stage/Tented Terrace/Pavilion – Special events with live music for additional information.
 - Hours of Operation: Daily and open the same hours as Matty's.
 - **St Patrick's Day/Oktoberfest – Live Music**
 - Live outdoor music events on stage to include 4-5 piece full bands not to exceed 90 decibels.
 - Hours of Operation 11am until 9pm.
 - Events include amplified music, food and vendors.
 - **LED Screen – Everyday Use:**
 - Everyday use of the LED Screen for digital marketing, band backdrops, sports, movies and steaming services for special events ie: slideshow, videos.
 - Hours of Operation: Daily and open the same hours as Matty's.

2023 Outdoor Event Schedule of Operation - Matty's			
Date	Event	Type	Location
3/17/23	St Paddy's Day	live music	Backyard
6/16/23	acoustic band	live music	Backyard
6/17/23	Full Band	live music	Backyard
6/18/23	acoustic band	live music	Backyard
6/23/23	acoustic band	live music	Backyard
6/24/23	Full Band	live music	Backyard
6/25/23	acoustic band	live music	Backyard
7/1/23	Full Band	live music	Backyard
7/7/23	acoustic band	live music	Backyard
7/8/23	Full Band	live music	Backyard
7/9/23	acoustic band	live music	Backyard
7/14/23	Full Band	live music	Backyard
7/15/23	Full Band	live music	Backyard
7/16/23	acoustic band	live music	Backyard
7/21/23	acoustic band	live music	Backyard
7/22/23	Full Band	live music	Backyard
7/23/23	acoustic band	live music	Backyard
7/28/23	acoustic band	live music	Backyard
7/29/23	Full Band	live music	Backyard
7/30/23	acoustic band	live music	Backyard
8/4/23	acoustic band	live music	Backyard
8/5/23	Full Band	live music	Backyard
8/6/23	acoustic band	live music	Backyard
8/12/23	Full Band	live music	Backyard
8/13/23	acoustic band	live music	Backyard
8/18/23	acoustic band	live music	Backyard
8/19/23	Full Band	live music	Backyard
8/20/23	acoustic band	live music	Backyard
8/25/23	acoustic band	live music	Backyard
8/26/23	Full Band	live music	Backyard
8/27/23	acoustic band	live music	Backyard
9/1/23	acoustic band	live music	Backyard
9/2/23	Full Band	live music	Backyard
9/30/23	Full Band	live music	Backyard
10/14/23	Oktoberfest	live music	Backyard
Bands - 4-5 piece group		14	
acoustic bands-2-3 piece group		19	
Events		2	
TBD		1	
Total		36	