

**CITY OF LAKE GENEVA
626 GENEVA STREET
LAKE GENEVA, WI**

**PLAN COMMISSION MEETING
MONDAY, MARCH 21, 2022 - 6:00 PM
COUNCIL CHAMBERS, CITY HALL**

CITY HALL WILL BE OPEN TO THE PUBLIC DURING ALL MEETINGS.

THE CITY OF LAKE GENEVA IS HOLDING ALL MEETINGS VIRTUALLY AS WELL AS IN PERSON. IF YOU WISH TO LISTEN OR WATCH THE MEETING YOU MAY DO SO BY USING THE FOLLOWING:

1. Links to the City of Lake Geneva's live video stream can be found at www.cityoflakegeneva.com/video
2. Television: Watch live broadcast of the meeting on Spectrum Cable Channel 25
3. Listen to audio via phone: (602) 333-2017 (Long distance rates may apply) (888) 204-5987 (Toll Free)
Access Code: 9746153

Agenda

1. Meeting called to order by Charlene Klein.
2. Roll Call.
3. Approve Minutes of the January 17, 2022 Plan Commission meetings as distributed.
4. Comments from the public as allowed by Wis. Stats. §19.84(2), limited to items on this agenda, except for public hearing items. Comments will be limited to five (5) minutes.
5. Acknowledgment of Correspondence.
6. Downtown Design Review:
 - a. Application by Anthony Silvestri, 1017 Geneva St. #9, Lake Geneva, WI 53147, requesting review for the proposed build addition, pergola, commercial entertainment remodel, and Signage for the property located at 642 W. Main St. in the downtown overlay zoning district, Tax Key No. ZOP00305.
 - b. Application by Stephanie Horne, 1009 W Glen Oaks Lane #101, Mequon, WI 53149, requesting review for the proposed exterior façade, awning which will include signage, and lighting for the property located at 717 W. Main St. in the downtown overlay zoning district, Tax Key No. ZOP00278.

- c. Application by Unique Surface, LLC, 500 Nathan Ln., Elkhorn, WI 53121, requesting review for the proposed Signage for the property located at 726 Geneva St. in the downtown overlay zoning district, Tax Key No. ZOP00262.
7. Public Hearing and Recommendation of a Conditional Use Permit for Leigh Gignilliat, 3 N. Walworth Ave., Williams Bay, WI 53191, for a proposed pier addition for the property located at 978 N Knoll Ln., in the Estate Residential - 1(ER-1) zoning district, Tax Key No. ZYUP00106J.
8. Public Hearing and Recommendation of a Conditional Use Permit filed by Justin W. Lanasa, 723 Williams St., Lake Geneva, for a request that would allow for Commercial Indoor Lodging land use and Group Development in the Central Business (CB) zoning district for the property located at 723 Williams St., Tax Key No. ZF00028.
9. Public Hearing and Recommendation of a Precise Implementation Plan for Fairwyn SB, Inc., 875 Townline Rd. Suite 103, Lake Geneva, to allow for the construction of the proposed Clubhouse at 301 Harmony Dr. for the property located in the Planned Development (PD) zoning district, Tax Key No. ZSB00334.
10. Public Hearing and Recommendation to repeal and recreate Floodplain Zoning Ordinance Section 98-503 in accordance with WI DNR standards and guidelines.
11. Update and discussion of potential zoning ordinance amendments in response to 2017 Wisconsin Act 67 regarding Conditional Use Permit requirements.
12. Adjournment.

QUORUM OF CITY COUNCIL MEMBERS MAY BE PRESENT

Requests from persons with disabilities, who need assistance in order to participate in this meeting, should be made to the City Clerk's office, in order for appropriate Accommodations.

Posted 3/17/2022

PLAN COMMISSION MEETING
MONDAY, JANUARY 17, 2022 – 6:00 PM
COUNCIL CHAMBERS, CITY HALL – VIRTUAL MEETING VIA ZOOM/IN PERSON

Mayor Klein called the meeting to order 6:00 p.m.

Roll Call. Present: Mayor Klein, Alderman Tim Dunn, John Gibbs, Kyle Cary, Joel Hoiland, Michael Krajovic. Absent (Excused) Cindy Forster Fueredi, City Administrator Nord. Also Present: City Planner Mich, City Planner Kruesel, City Engineer Rauch, City Attorney Draper, Building & Zoning Administrator Walling, Building & Zoning Administrative Assistant Follensbee.

Approve Minutes of the December 20, 2021 Plan Commission Meeting as distributed.

Krajovic/Hoiland motion to approve. Motion carried unanimously.

Comments from the public as allowed by Wis. Stats. §19.84(2), limited to items on this agenda, except for public hearing items. Comments will be limited to 5 minutes.

Acknowledgement of Correspondence. None.

Commissioner Gibbs arrived 6:05 p.m.

Review and Recommendation of Annexation for the applicant Avalon Property LLC. , 875 Geneva Pkwy, Lake Geneva, for the property located at 875 Geneva Pkwy, for the 0.40 acre property located at Tax Key No. N LY3100002, currently located in the Town of Lyons.

Peter Juergens, N2689 Sunset Blvd, Lake Geneva, representing the applicant, presented the request. Commissioner Krajovic asked what the company produced. Juergens said the company, Plas-Tech Engineering, makes medical devices and specialized equipment. Krajovic is encouraged by the idea of expansion in manufacturing here in Lake Geneva. Commissioner Hoiland asked about the ownership of land and how it will be used. Juergens said the applicant bought the parcel 6 months ago and it will be developed in two phases, first, adding 28,000 square feet to the current operation and second, adding another 28,000 square feet at a later time. Juergens said this annexation is needed to create a proper CSM for this development. Planner Mich said the staff recommends approval of the proposed annexation and suggests the Plan Commission ask for a temporary zoning district, Planned Business Park, for this parcel. Mich explained the State statutes relating to annexation, in which a parcel being annexed is given a temporary zoning district and can be rezoned when specific development plans are proposed.

Krajovic/Hoiland motion to recommend approval of the proposed annexation and recommend Planned Business Park as a temporary zoning district for the 0.40 acre parcel and include all staff recommendations and fact finding in the affirmative.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, Krajovic “yes.” Motion carried unanimously. 6-0

Public Hearing and Recommendation to amend the existing General Development (GDP) & Precise Implementation Plan (PIP) for Geneva Theater, 244 Broad St., to allow for additional Commercial Indoor Entertainment and Outdoor Commercial Entertainment to allow for an outdoor beer garden. Located in the Central Business (CB) zoning district. Tax Key Nos. ZOP00246, ZOP00247, & ZOP00248.

Peter Juergens, N2689 Sunset Blvd, Lake Geneva, representing the applicant, presented the request to change the use of the building: modifying the old building to allow for live performances in theaters 1 & 2 while theaters 3 & 4 will be converted to a tap room and a proposed beer garden will be located in back, just outside of tap room. Juergens explained the beer & wine license requires the tap room to be separated from the theater lobby. The applicant is asking to modify their PIP amendment to add a wall to separate the theater lobby and the tap room. Hoiland asked about the occupancy in the theater. Mayor Klein asked if the theater will still show movies. Shad Brannen, owner of Geneva Theater, said with the addition of the balcony, the total seating would be 300. Brannen said movies will be shown and with the retractable screen, the venue could accommodate a variety of entertainment. An organ will be installed so silent movies can be shown as well. Dean Rosco, Vice President of the Dairyland Theater Organ Society and organist for the Milwaukee Brewers, said the installation

of the organ caught their attention because it could expand Dairyland's offerings such as a silent film series and opportunities to use the instrument in different ways to enrich the cultural life of this community. Hoiland asked where the organ would be located. Rosco said the organ would be placed high on the left side of the stage in the original organ chamber & shared a brief history of the Wurlitzer organ and explained the organ for this theater is in its original state from the factory back in 1925. Krajovic asked if food would be served in the beer garden. Paul McGraw, W7769 Island Road, Delavan, stated light food would be available like charcuterie boards & light sandwiches in the tap room. Krajovic referenced discussion from the last meeting regarding an emergency exit in the beer garden. Juergens said a crash bar will be placed on an exit door for emergency exit only. Mich stated this application is to amend the GDP & PIP and suggested the Plan Commission address the GDP & PIP separately for a clear record of approval. Mich said the applicant was given flexibilities for the marque sign in the original GDP& PIP permit and since the applicant will continue to use the marque sign, this new approval would carry forward these flexibilities for the signage. Attorney Draper stated at the last meeting the CUP was approved for the beer garden so the approval this evening would focus on the building and interior changes for the GDP & PIP.

Speaker #1: Bill Huntress, 1015 Pleasant Street, shared his concerns regarding the TIF money given to the applicant for the restoration of the theater.

Klein/ Hoiland motion to close the Public Hearing. Motion carried unanimously.

Draper stated the TIF grant Mr. Huntress mentioned has nothing to do with this plan but could be taken up by the City Council. Draper also said the liquor license is relevant for the Plan Commission because a separation is needed between the two businesses for a liquor license which is the reason for the proposed wall and should be part of the amendment of the GDP & PIP.

Krajovic/Dunn stated the Council should expand on the TIF Grant questions since it is not the place of the Plan Commission.

Hoiland/Dunn motion to approve the amendment of the existing General Development Plan to allow additional Commercial Indoor Entertainment and Outdoor Commercial Entertainment to allow for an outdoor beer garden, to include a wall to separate the 2 businesses and include all staff recommendations and fact finding in the affirmative.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, Krajovic "yes." Motion carried unanimously. 6-0

Hoiland/Cary motion to approve the amendment of the existing Precise Implementation Plan to allow additional Commercial Indoor Entertainment and Outdoor Commercial Entertainment to allow for an outdoor beer garden, to include a wall to separate the 2 businesses and include all staff recommendations and fact finding in the affirmative.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, Krajovic "yes." Motion carried unanimously. 6-0

Public Hearing and Recommendation of a Conditional Use Permit for Todd Birkholz, 280 Sterns Rd., Fontana, WI, 53125, for a proposed Commercial Indoor Lodging land use for the property located at 912-914 Williams St., in the General Business (GB) zoning district, Tax Key No. ZA85500002.

Todd Birkholz, 280 Sterns Road, Fontana, presented his request for Commercial Indoor Lodging located above the Lake Geneva Laundry Cleaners. Birkholz said he would like a 6 foot fence in the back of property and has submitted a site plan showing the location and 11 parking spaces. Hoiland asked if the dry cleaning is done at this property. Birkholz said everything takes place on site. Hoiland asked about the environmental aspects of the business and the impacts on the apartment above. Birkholz said the detergent used in the dry cleaning is environmentally friendly and the apartment will be advertised as above a dry cleaning business. Draper clarified the company is owned by Birkholz Property Management LLC so the Conditional Use would be granted to the company, not the individual.

Klein/Hoiland motion to close the Public Hearing. Motion carried unanimously.

Commissioner Gibbs asked if there is sufficient parking for this use since he only counted 6 spaces. Mich explained the location of the 11 parking spaces and how a Commercial Indoor Lodging land use requires a buffer for neighboring residential properties. Therefore, the applicant is installing a fence. Mich suggested a "Limited Conditional Use" permit for the Commercial Indoor Lodging land use per the zoning code. Krajovic asked for name clarification of owner. Draper stated the owners name is Birkholz Property Management LLC.

Krajovic/ Cary motion to approve the Limited Conditional Use Permit for Birkholz Property Management LLC to allow for Commercial Indoor Lodging on the 2nd floor, to include a 6 foot fence and include all staff recommendations and fact finding in the affirmative.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, Krajovic “yes.” Motion carried unanimously. 6-0

Public Hearing and Recommendation of a Conditional Use Permit filed by John Engerman d.b.a. Woodley Assets, W3411 Linton Rd., Lake Geneva, for a request that would allow for the construction of a new Single Family home at 925 Maytag Rd., in the Estate Residential -1 (ER-1) zoning district, Tax Key No. ZCE00020.

John Engerman, 1877 Loramore Lane, & Justin Busey, his architect, presented his request for a new single family home on a lot which is less than one acre and meets the requirements & setbacks for ER-1 zoning. Engerman said Naomi from Kapur asked for an 8” deep rain garden which is the max depth per DNR. Engerman said the impervious surface is at 26% which much lower than the maximum amount of 40%.

Speaker #1: Mary Jo Fesenmaier, 1085 S Lake Shore Drive, shared her concerns for the condition of the road after construction, specifically asking the Plan Commission to add a guarantee that the city would not be responsible to fix the road, if damaged. Walling said Maytag is a public road.

Klein/Hoiland motion to close the Public Hearing. Motion carried unanimously.

Alderman Dunn asked if there is a guarantee the city will not have to pay for the road to be restored if damage occurs during construction. Draper said the city has never required individuals to restore the road after construction since it is tough to prove the damage to the road. Dunn asked if this property size similar to others in ER-1. Walling said most lake lots are less than 1 acre which is why the CUP is required to ask for flexibilities and thorough review of application.

Hoiland/Gibbs motion to approve the construction of a new single family home in the ER-1 zoning district using and include all staff recommendations and fact finding in the affirmative.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, Krajovic “yes.” Motion carried unanimously. 6-0

Public Hearing and Recommendation to a Site Plan Review for Walmart RE Business Trust, 702 SW 8th St., Bentonville, AR, 72716. To relocate the online purchases pick up location to the North parking area of the property located at 201 N. Edwards Blvd. in the Planned Business (PB) zoning district, Tax Key No. ZWAL00001.

Kevin Spurgeon, LK Architects, Wichita, KS; Leila Loomis, Project Manager; Joseph Parsley, civil consultant, presented the request to move the grocery pick-up canopy from the south side of the parking lot to the north side of the parking lot and closer to the side of the store. Parsley said there will be more space for the associates to bring orders to the customers. Gibbs asked where the associates would exit the store. Parsley referred to the plans in the packet to explain the location. Planner Sonja Kruesel, stated this application is for a site plan change moving the pick-up area from the south side to the north side of the site, expanding from 17 stalls to 23 stalls.

Klein/Hoiland motion to close the Public Hearing. Motion carried unanimously.

Hoiland/Gibbs motion to approve a Site Plan Review to relocate the online purchases pick-up location to the north parking area, with the following two conditions: the applicant shall submit detail of any proposed parking lot canopy structure for staff approval prior to issuance of permits and all site and building signage shall comply with the Sign Code and shall obtain necessary permits prior to installation and include all staff recommendations and fact finding in the affirmative.

Roll Call: Klein, Dunn, Gibbs, Cary, Hoiland, Krajovic “yes.” Motion carried unanimously. 6-0

Adjournment. Dunn/Hoiland motion to adjourn at 7:18 p.m. Motion carried unanimously.

/s/ Brenda Follensbee, Building & Zoning Administrative Assistant

THESE ARE NOT OFFICIAL MINUTES UNTIL APPROVED BY THE PLAN COMMISSION

STAFF REPORT
To Lake Geneva Plan Commission
Meeting Date: March 21, 2022

Agenda Item: 6a

Applicant:

Anthony Silvestri
1017 Geneva St. #9
Lake Geneva

Request:

642 W. Main St.
Downtown Design Review Signage, building
addition, pergola, fence, and exterior remodel
in the Central Business (CB) zoning district
Tax Key No. ZOP00305

Description:

The applicant is submitting an application for Downtown Design Review on the request to allow for signage, exterior remodeling, pergola, and fencing at the property located at 642 W. Main St. in the Central Business (CB) zoning district, Tax Key No. ZOP00305.

The City reviews all exterior alteration in the CB zoning district to confirm that they conform to the Downtown Design standards, particularly quantity, size, and color requirements.

Staff Recommendations:

Staff recommends *approval* of the Alteration and installation request as submitted.



City of Lake Geneva
Building and Zoning
626 Geneva Street
Lake Geneva, WI 53147

APPLICATION FOR DOWNTOWN DESIGN REVIEW

Site Address & Parcel No.:

642 W. MAIN ST

Name & Address of Current Building Owner:

BRONSON TREBBI

Telephone Number of Current Building Owner:

Email Address:

Owner Signature:

Brandon Trebbi

Name & Address of Applicant:

ANTHONY STUESTEL

1017 GENEVA ST #9

LAKE GENEVA, WI 53147

Telephone Number of Applicant: 847 477 2952

Email Address: ARSMEMTGR@GMAIL.COM

Proposed Design Change:

New Buszen Sign - New Front Windows -
Pergola - New Fencing - New Lower Level Bar

Zoning District:

Names & Address of Architect, Engineer, and/or Contractor of Project:

Description of Project:

Remove Old Leaky Curved Windows / ADD 2 Side Open Windows
ADD Pergola Above Upper Deck - New Fencing to Replace Current
New Buszen Sign - New Lower Level Bar on Park/River

Date: Signature of Applicant:



642 W. Main St - Exterior Street View

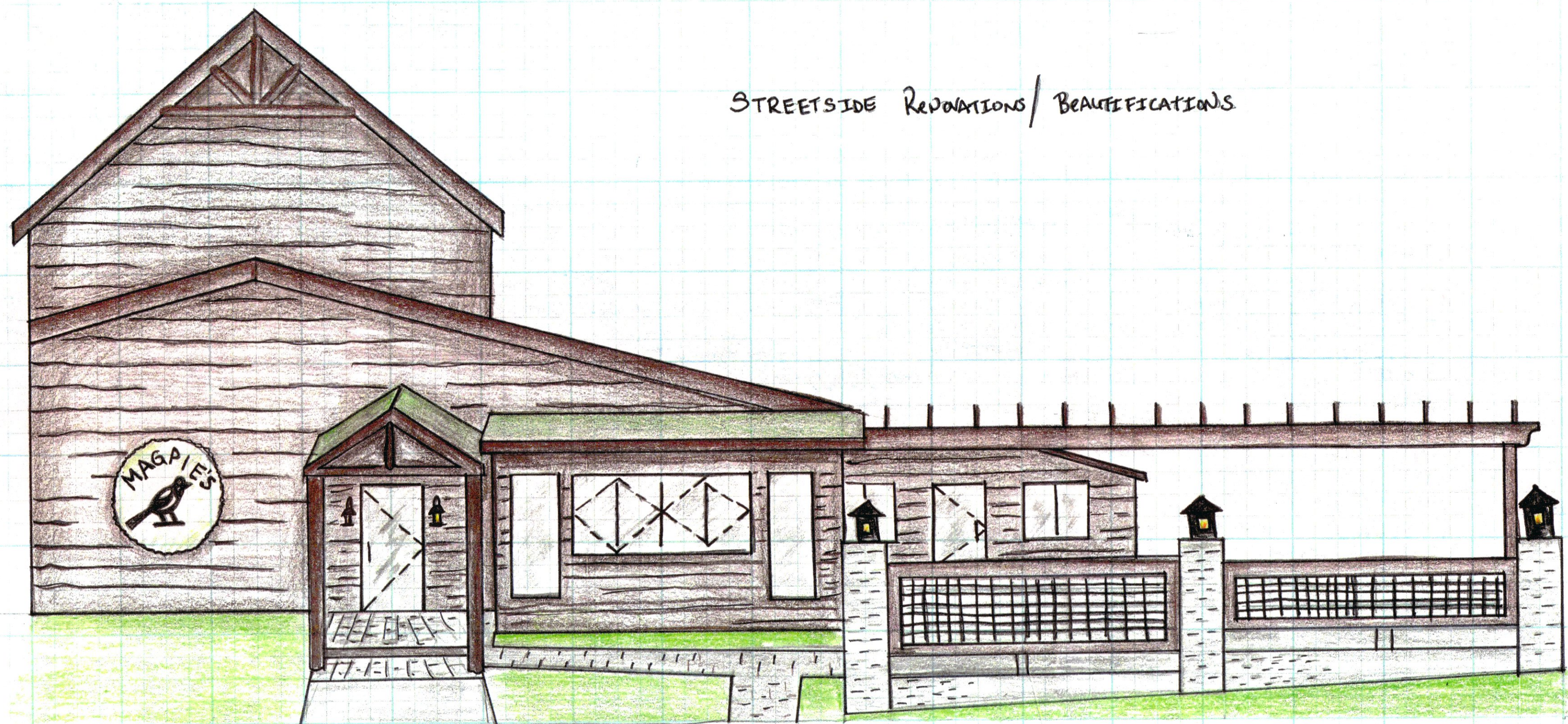


642 W. Main St - Exterior Aerial View



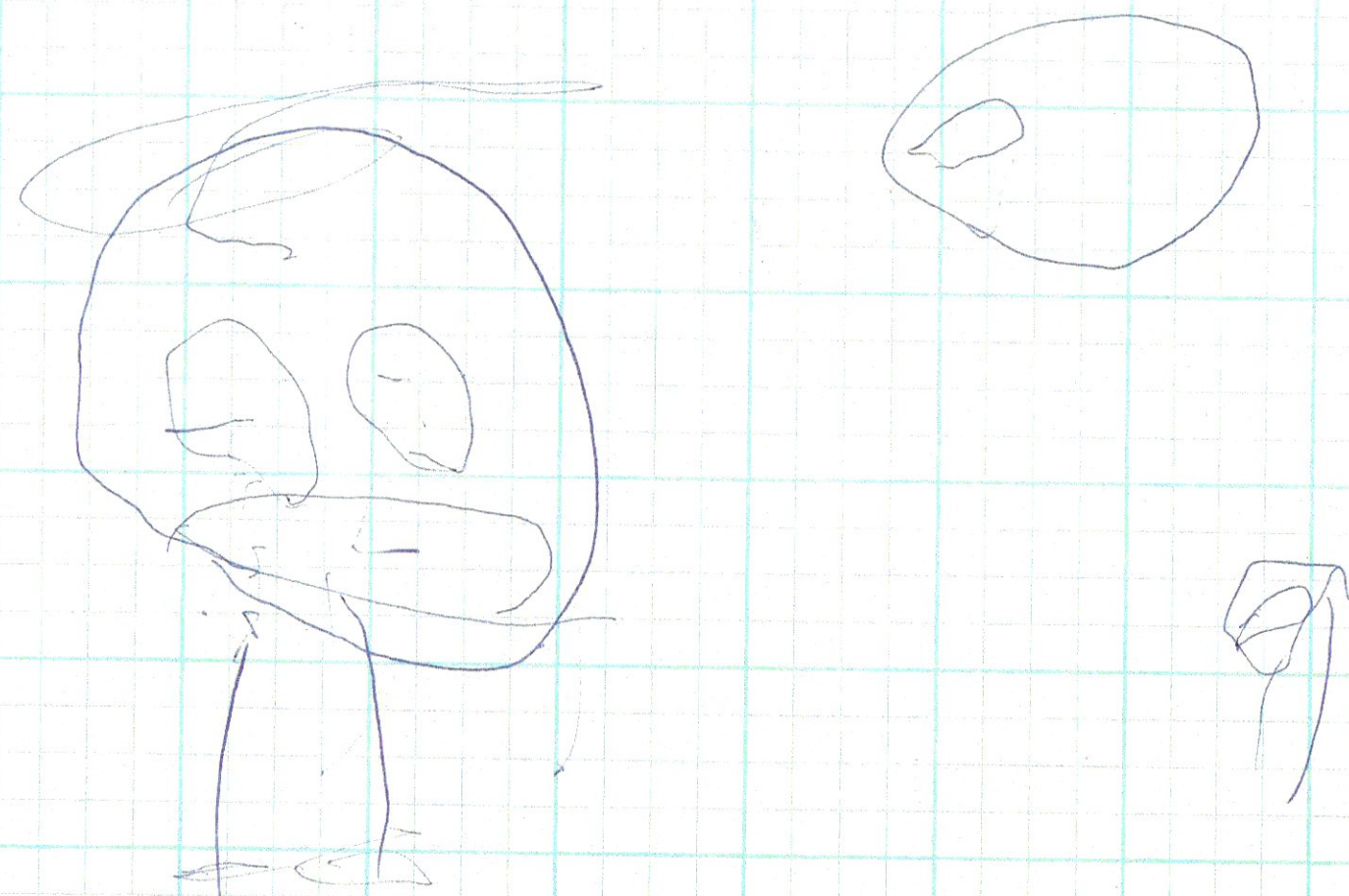
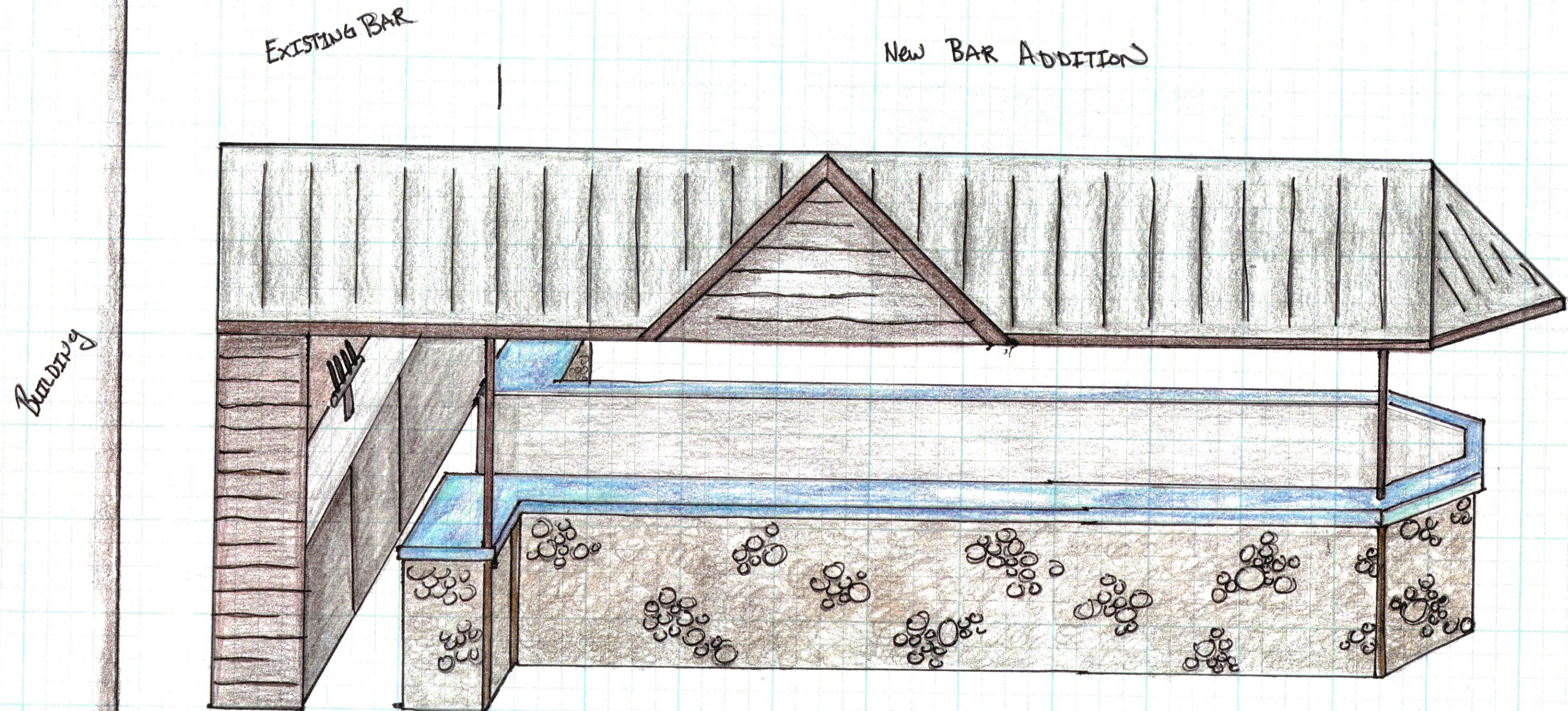
642 W. Main St - Exterior Aerial View

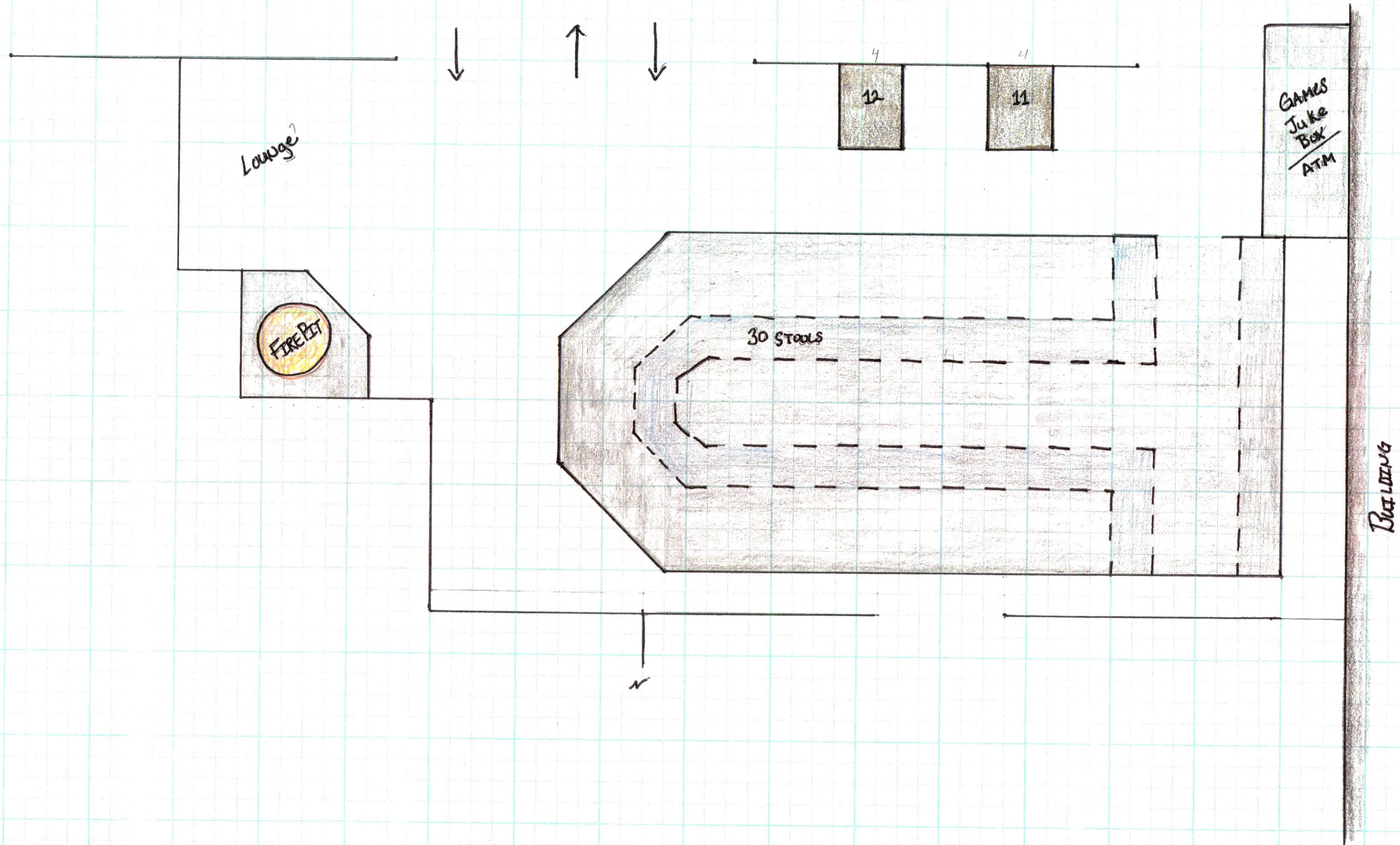
STREETSIDE RENOVATIONS / BEAUTIFICATIONS



ADDITIONS - NEW FRONT WINDOWS
NEW FENCING TO REPLACE EXISTING
NEW PERGOLA OVER THE UPPER PATIO

Lower MIDDLE PATIO ADDITION





LOWER WEST PATIO SEATING CHART

(50) - CHAIRS
24-30 STALLS

(5) 6' Tables (7) to (8) PDL
(2) 10' Tables 12 to 14 ppl - OR COMMUNITY TABLE



CHAIRS - 50-60 LOW TABLE
STALLS @ TABLES - 24-30
STALLS @ BAR AREA TABLE (16)
STALLS @ BAR - (32)

STAFF REPORT
To Lake Geneva Plan Commission
Meeting Date: March 21, 2022

Agenda Item: 6b

Applicant:

Stephanie L. Horne LLC.
1009 W. Glen Oaks Ln #101
Mequon, WI 53092

Request:

717 W. Main St.
Downtown Design Review Signage, Awning,
and exterior lighting in the Central Business
(CB) zoning district
Tax Key No. ZOP00278

Description:

The applicant is submitting an application for Downtown Design Review on the request to allow for signage, awning, and exterior lighting at the property located at 717 W. Main St. in the Central Business (CB) zoning district, Tax Key No. ZOP00278.

The City reviews all exterior alteration in the CB zoning district to confirm that they conform to the Downtown Design standards, particularly quantity, size, and color requirements.

Staff Recommendations:

Staff recommends *approval* of the Alteration and installation request as submitted.



City of Lake Geneva
Building and Zoning
626 Geneva Street
Lake Geneva, WI 53147

APPLICATION FOR DOWNTOWN DESIGN REVIEW

Site Address & Parcel No.:

717 W Main St Lake Geneva WI 53147

20P00278

Name & Address of Current Building Owner:

717 Main Properties LLC Jeff + Denise Podhajsky
W303S10577 Phantom Woods Rd
Mukwonago WI 53149

Telephone Number of Current Building Owner:

262-888-0538

Email Address:

stuffedz@gmail.com

Owner Signature:

Name & Address of Applicant:

Stephanie L Horne LLC dba Pink Moon Bay
1009 W Glen Oaks Ln #101
Mequon WI 53092

Telephone Number of Applicant:

414-915-5012

Email Address:

Steph@stephaniehorne.com

Proposed Design Change:

Exterior Color of Building + Trim
New awning and lights added

Zoning District:

Lake Geneva

Names & Address of Architect, Engineer, and/or Contractor of Project:

Marshall Sign
220 Young St O
Glenbeulah WI 53023
920-526-3100

Billing
W6415 Oak View Ln
Plymouth WI 53073

Description of Project:

Replace existing awning, add lights
and paint exterior

Date:

1/24/22

Signature of Applicant:

Existing



Sample Lighting

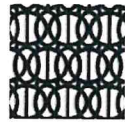


Color Palette

Light Gray

White Accents

Awning Fabric:
Black/White Stripes



Logo Color:
Appleblossom Pink



Existing



Sample Lighting

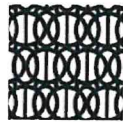


Color Palette

Light Gray

White Accents

Awning Fabric:
Black/White Stripes



Logo Color:
Appleblossom Pink





Home » Indoor & Outdoor Barn Lights | Steel Lighting Co. » Gardena

Email Us



American
Made



Use Indoors
or Outdoors



Free & Fast
Shipping



Quantity
Pricing



200
WATT



UL
LISTED



Dark Sky
Certified

4.9 rating

2,201 reviews

4.8 ★★★★★

Google

Customer Reviews

lena

.00 - \$239.00

STAFF REPORT
To Lake Geneva Plan Commission
Meeting Date: March 21, 2022

Agenda Item: 6c

Applicant:

Unique Surface LLC,
500 Nathan Lane
Elkhorn, WI 53121

Request:

726 Geneva St.
Downtown Design Review Signage in the
Central Business (CB) zoning district
Tax Key No. ZOP00262

Description:

The applicant is submitting an application for Downtown Design Review on the request to allow for signage at the property located at 726 Geneva St. in the Central Business (CB) zoning district, Tax Key No. ZOP00262

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The City reviews all exterior alteration in the CB zoning district to confirm that they conform to the Downtown Design standards, particularly quantity, size, and color requirements.

Staff Recommendations:

Staff recommends *approval* of the Alteration and installation request as submitted.



City of Lake Geneva
Building and Zoning
626 Geneva Street
Lake Geneva, WI 53147

APPLICATION FOR DOWNTOWN DESIGN REVIEW

Site Address & Parcel No.:

726 Geneva St. Lake Geneva, WI

ZOP00262

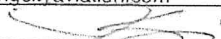
Name & Address of Current Building Owner:

BBJS Investments, LLC.

2451 Aviation Dr. Waukesha, WI 53188

Telephone Number of Current Building Owner: (262)751-6900

Email Address: josh@springcityaviation.com

Owner Signature: 

Name & Address of Applicant:

Unique Surface, LLC

PO Box 964 Lake Geneva, WI 53147

Telephone Number of Applicant: 262-729-4032

Email Address: jeff@uniquesurface.com

Proposed Design Change:

Removing existing 4'4" x 10' sign reading "Unique Surface" and adding sign with logos reading "K10 European Collection" and "Hardwoods of Wisconsin" with black logos on a white background, sized 4'4" x 10'

Zoning District: Business Central

Names & Address of Architect, Engineer, and/or Contractor of Project:

Kyle Jordan

500 Nathan Lane, Elkhorn, WI 53121

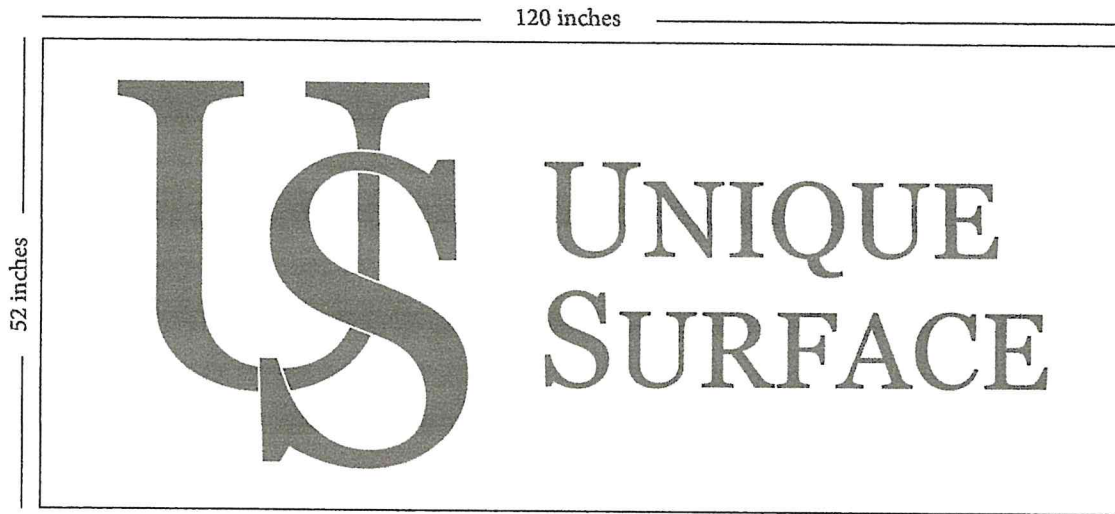
Description of Project:

Adding a sign to the front of our storefront with our updated logo - K10 European Collection and Hardwoods of Wisconsin.

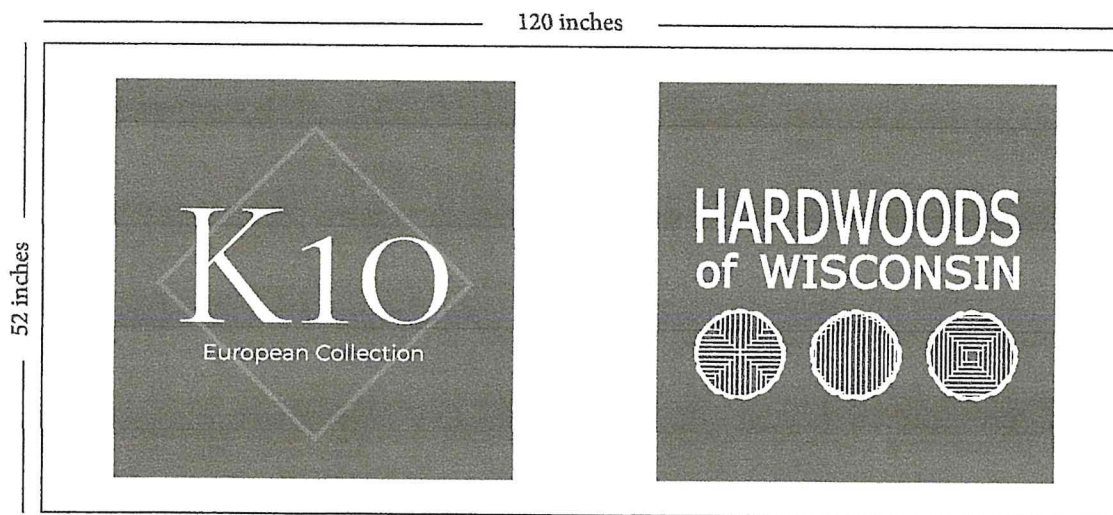
Date: 2/2/22

Signature of Applicant: 

EXISTING SIGN



PROPOSED SIGN



STAFF REPORT
To Lake Geneva Plan Commission
Meeting Date: March 21, 2022

Agenda Item #7

Applicant:

Leigh Gignilliat
3 N. Walworth Ave
Williams Bay, WI 53191

Request:

978 Knoll Lane, Lake Geneva, WI 53147
Proposed Conditional Use Permit for Pier Addition

Description:

The applicant is submitting for a Conditional Use Permit (CUP) request to allow for a pier installation for the property located at 978 Knoll Lane in the Estate Residential-1 (ER-1) zoning district. The addition will be added to the north side of the pier. The pier is shared with the neighboring property to the south.

The DNR has approved the request as submitted.

Staff Review:

The proposed use complies with the requirements of Section 98-206(10)(m) pertaining to Piers and Wharves.

Action by the Plan Commission:

As part of the consideration of the requested CUP, the Plan Commission is required to:

- Provide the Common Council with a *recommendation* regarding the proposed CUP;
- Include *findings* required by the Zoning Ordinance for CUP; and,
- Provide specific suggested *requirements/conditions* to modify the project as submitted.

Required Plan Commission Findings on the CUP for Recommendation to the Common Council:

A proposed CUP must be reviewed by the standards, below:

- A. If, after the public hearing, the Commission wishes to recommend *approval*, then the appropriate fact finding would be all of the following:
1. In general, the proposed conditional use is in harmony with the purposes, goals, objectives, policies, and standards of the City's Comprehensive Plan, Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.

2. Specific to this site, the proposed conditional use is in harmony with the purposes, goals, objectives, policies, and standards of the City's Comprehensive Plan, Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 3. The proposed conditional use in its proposed location, and as depicted on the required site plan does not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of the Zoning Ordinance, the Comprehensive Plan or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.
 4. The proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
 5. The proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on any improvements, facilities, utilities or services provided by public agencies serving the subject property.
 6. The potential public benefits of the proposed conditional use outweigh all potential adverse impacts of the proposed conditional use after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts.
- B. If, after the public hearing, the Commission wishes to recommend denial, then the appropriate fact finding would be one or more of the following:
1. In general, the proposed conditional use is not in harmony with the purposes, goals, objectives, policies, and standards of the City's Comprehensive Plan, Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 2. Specific to this site, the proposed conditional use is not in harmony with the purposes, goals, objectives, policies, and standards of the City's Comprehensive Plan, Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 3. The proposed conditional use in its proposed location, and as depicted on the required site plan does result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of the Zoning Ordinance, the Comprehensive Plan or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.
 4. The proposed conditional use does not maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
 5. The proposed conditional use is not located in an area that will be adequately served by, and will impose an undue burden on any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.

6. The potential public benefits of the proposed conditional use do not outweigh all potential adverse impacts of the proposed conditional use after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts.

Staff Recommendation:

1. Staff recommends that the Plan Commission recommend approval of the proposed conditional use as submitted, with the findings under A.1-6., above.
2. Staff recommends the Plan Commission adopt the *affirmative set of findings* provided above.

Staff recommends no additional conditions of approval be attached.

Suggested Motions:

- *Approve:* I recommend approval of the proposed *Conditional Use Permit for Leigh Gignilliat, 3 N. Walworth Ave. Williams Bay WI 53191, for a proposed pier addition for the property located at 978 N Knoll Ln., in the Estate Residential-1(ER-1) zoning district, Tax Key No. ZYUP00106J, including the affirmative set of findings, and any additional conditions of approval recommended by staff.*
- *Deny:* I recommend denial of the *proposed Conditional Use Permit for Leigh Gignilliat, 3 N. Walworth Ave. Williams Bay WI 53191, for a proposed pier addition for the property located at 978 N Knoll Ln., in the Estate Residential-1(ER-1) zoning district, Tax Key No. ZYUP00106J, because [provide rationale for denial, based on substantial evidence].*

*Jackie Mich, AICP
City Planning Consultant
Vandewalle & Associates*

APPLICATION FOR CONDITIONAL USE

City of Lake Geneva

978 N Knoll Lane

Site Address/Parcel No. and full Legal Description required (attach separate sheet if necessary):

978 N Knoll Lane

246P00106T

Name and Address of Current Owner: LAKEWOOD RESORT INC.

3 N WILLOW AVE, WILLIAMSBURG, WI 53191

Telephone No. with area code & Email of Current Owner: 312-671-1818

Owner Signature: [Signature]

Name and Address of Applicant:

LEIGH R. GONIMUS

3 N WILLOW AVE, WILLIAMSBURG, WI 53191

Telephone No. with area code & Email of Applicant: 312-671-1818

6K0206L0PM@GMAIL.COM

Proposed Conditional Use: PICK ADDITION (SEE ATTACHED DRAINAGE)

Zoning District in which land is located: SF-4

Names and Addresses of architect, professional engineer and contractor of project:

None

Short statement describing activities to take place on site:

Applicant seeks to add a pick addition to the existing SHARED PIER WITH NEIGHBOR TO THE SOUTH, NEWLY DOCKED

Conditional Use Fee payable upon filing application: \$400.00 [\$100.00 for Application Under Sec. 98-407(3)]

2/4/22
Date

Jerry Dempster

[Signature]
Signature of Applicant

Jerry Dempster

**CITY OF LAKE GENEVA PROCEDURAL CHECKLIST FOR:
CONDITIONAL USE REVIEW AND APPROVAL (Requirements per Section 98-905)**

This form should be used by the Applicant as a guide to submitting a complete application for a conditional use and by the City to process said application. Parts II and III should be used by the Applicant to submit a complete application; Parts I - IV should be used by the City as a guide when processing said application.

I. RECORDATION OF ADMINISTRATIVE PROCEDURES

- ____ Pre-submittal staff meeting scheduled:
- ____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____
- ____ Follow-up pre-submittal staff meetings scheduled for:
- ____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____
- ____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____
- ____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____
- ____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____
- ____ Application form filed with Zoning Administrator: _____ Date: _____ by: _____
- ____ Application fee of \$ _____ received by Zoning Administrator: _____ Date: _____ by: _____
- ____ Reimbursement of professional consultant costs agreement executed: _____ Date: _____ by: _____

II. APPLICATION SUBMITTAL PACKET REQUIREMENTS

Prior to submitting the 8 final complete applications as certified by the Zoning Administrator, the Applicant shall submit 1 initial draft application packet and 1 digital copy for staff review, followed by one revised draft final application packet based upon staff review and comments.

Initial Packet (1 Copy and 1 Digital Copy to Zoning Administrator)

Date: _____ by: _____

⇓

Draft Final Packet (8 Copies and 1 Digital Copy to Zoning Administrator)

Date: _____ by: _____

⇓

- ____ (a) A map of the proposed conditional use:
- ____ Showing all lands for which the conditional use is proposed;
 - ____ Clearly indicating the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control;
 - ____ Map and all its parts are clearly reproducible with a photocopier;
 - ____ Map size of 11" by 17" and map scale not less than one inch equals 800 ft;
 - ____ All lot dimensions of the subject property provided;
 - ____ Graphic scale and north arrow provided.
- ____ (b) A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole:
- ____ (c) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations;

_____ (d) A site plan (conforming to the requirements of Section 98-908(3)) of the subject property as proposed for development OR if the proposed conditional use is a group development (per Section 98-208) a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan per Section 98-908.

_____ (e) Written justification for the proposed conditional use:

_____ Indicating reasons why the Applicant believes the proposed conditional use is appropriate with the recommendations of the City of Lake Geneva Comprehensive Master Plan, particularly as evidenced by compliance with the standards set out in Section 98-905(4)(b)1.-6. (See below)

III. JUSTIFICATION OF THE PROPOSED CONDITIONAL USE

1. How is the proposed conditional use (the use in general, independent of its location) in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, the Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City?

SEE ATTACHMENT

2. How is the proposed conditional use, in its specific location, in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, the Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City?

SEE ATTACHMENT

3. Does the proposed conditional use, in its proposed location and as depicted on the required site plan (see Section 98-905(3)(d)), result in any substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of the Zoning Ordinance, the Comprehensive Plan, or any other plan, program, map ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development?

SEE ATTACHMENT

4. How does the proposed conditional use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?

SEE ATTACHMENT

5. Is the proposed conditional use located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property?

SEE ATTACHMENT

6. Do the potential public benefits of the proposed conditional use outweigh all potential adverse impacts of the proposed conditional use (as identified in Subsections 98-905(4)(b)1.-5.), after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts?

SEE ATTACHMENT

IV. FINAL APPLICATION PACKET INFORMATION

- ____ Receipt of 1 full scale copy in blueline or blackline
of complete Final Application Packet by Zoning Administrator: Date: _____ by: _____
- ____ Receipt of 8 reduced (8.5" by 11" text and 11" x 17" graphics)
copies of complete Final Application Packet by Zoning Administrator: Date: _____ by: _____
- ____ A digital copy of Final Application Packet shall be emailed to the
Building and Zoning Department upon submittal deadline. Date: _____ by: _____
- ____ Certification of complete Final Application Packet and
required copies to the Zoning Administrator by City Clerk: Date: _____ by: _____
- ____ Class 2 Legal Notice sent to official newspaper by City Clerk: Date: _____ by: _____
- ____ Class 2 Legal Notice published on _____ and _____ by: _____
- ____ Conditional Use recorded with the County Register of Deeds Office: Date: _____ by: _____

**CITY OF LAKE GENEVA PROCEDURAL CHECKLIST FOR:
SITE PLAN REVIEW AND APPROVAL (Requirements per Section 98-908)**

This form should be used by the Applicant as a guide to submitting a complete application for a site plan review and by the City to process said application. Part II should be used by the Applicant to submit a complete application; Parts I - III should be used by the City as a guide when processing said application.

I. RECORDATION OF ADMINISTRATIVE PROCEDURES

- ____ Pre-submittal staff meeting scheduled:
- ____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____
- ____ Follow-up pre-submittal staff meetings scheduled for:
- ____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____
- ____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____
- ____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____
- ____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____
- ____ Application form filed with Zoning Administrator: Date: _____ by: _____
- ____ Application fee of \$ _____ received by Zoning Administrator: Date: _____ by: _____
- ____ Reimbursement of professional consultant costs agreement executed: Date: _____ by: _____

II. APPLICATION SUBMITTAL PACKET REQUIREMENTS

Prior to submitting the 8 final complete applications as certified by the Zoning Administrator, the Applicant shall submit 1 initial draft application packet and 1 digital copy for staff review, followed by one revised draft final application packet based upon staff review and comments.

Initial Packet (1 Copy and 1 Digital Copy to Zoning Administrator) Date: _____ by: _____
↓
Draft Final Packet (8 Copies and 1 Digital Copy to Zoning Administrator) Date: _____ by: _____
↓

- ____ (a) A written description of the intended use describing in reasonable detail the:
- ____ Existing zoning district(s) (and proposed zoning district(s) if different);
 - ____ Land use plan map designation(s);
 - ____ Current land uses present on the subject property;
 - ____ Proposed land uses for the subject property (per Section 98-206);
 - ____ Projected number of residents, employees, and daily customers;
 - ____ Proposed amount of dwelling units, floor area, impervious surface area, and landscape surface area, and resulting site density, floor area ratio, impervious surface area ratio, and landscape surface area ratio;
 - ____ Operational considerations relating to hours of operation, projected normal and peak water usage, sanitary sewer or septic loadings, and traffic generation;

- _____ Operational considerations relating to potential nuisance creation pertaining to noncompliance with the performance standards addressed in Article VII (Sections 98-701-98-721) including: street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials;
- _____ If no nuisances will be created (as indicated by complete and continuous compliance with the provisions of Article VII), then include the statement "The proposed development shall comply with all requirements of Article VII.";
- _____ Exterior building and fencing materials (Sections 98-718 and 98-720);
- _____ Possible future expansion and related implications for points above;
- _____ Any other information pertinent to adequate understanding by the Plan Commission of the intended use and its relation to nearby properties.

_____ (b) A Small Location Map at 11" x 17" showing the subject property, all properties within 300 feet, and illustrating its relationship to the nearest street intersection. (A photocopy of the pertinent section of the City's Official Zoning Map with the subject property clearly indicated shall suffice to meet this requirement.)

_____ (c) A Property Site Plan drawing which includes:

- _____ A title block which indicates the name, address and phone/fax number(s) of the current property owner and/or agent(s) (developer, architect, engineer, planner) for project;
- _____ The date of the original plan and the latest date of revision to the plan;
- _____ A north arrow and a graphic scale (not smaller than one inch equals 100 feet);
- _____ A reduction of the drawing at 11" x 17";
- _____ A legal description of the subject property;
- _____ All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
- _____ All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
- _____ All required building setback lines;
- _____ All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;
- _____ The location and dimension (cross-section and entry throat) of all access points onto public streets;
- _____ The location and dimension of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus required by the Ordinance;
- _____ The location and dimension of all loading and service areas on the subject property and labels indicating the dimension of such areas;
- _____ The location of all outdoor storage areas and the design of all screening devices;
- _____ The location, type, height, size and lighting of all signage on the subject property to include a photometric plan;
- _____ The location, height, design/type, illumination power and orientation of all exterior lighting on the subject property -- including the clear demonstration of compliance with Section 98-707;
- _____ All engineering requirements for utilities, site designs, etc;
- _____ The location and type of any permanently protected green space areas;
- _____ The location of existing and proposed drainage facilities for storm water;

_____ In the legend, data for the subject property on:

- _____ Lot Area;
- _____ Floor Area;
- _____ Floor Area Ratio (b/a);
- _____ Impervious Surface Area;
- _____ Impervious Surface Ratio (d/a);
- _____ Building Height.

_____ (d) A **Detailed Landscaping Plan** of the subject property:

- _____ Scale same as main plan (>or equal to 1" equals 100')
- _____ Map reduction at 11" x 17"
- _____ Showing the location of all required buffer yard and landscaping areas
- _____ Showing existing and proposed Landscape Point fencing
- _____ Showing berm options for meeting said requirements
- _____ Demonstrating complete compliance with the requirements of Article VI
- _____ Providing individual plant locations and species, fencing types and heights, and berm heights;

_____ (e) A **Grading and Erosion Control Plan**:

- _____ Same scale as the main plan (>or equal to 1" equals 100')
- _____ Map reduction at 11" x 17"
- _____ Showing existing and proposed grades including retention walls and related devices, and erosion control measures.

_____ (f) **Elevation Drawings** of proposed buildings or remodeling of existing buildings:

- _____ Showing finished exterior treatment;
- _____ With adequate labels provided to clearly depict exterior materials, texture, color and overall appearance;
- _____ Perspective renderings of the proposed project and/or photos of similar structures may be submitted, but not in lieu of adequate drawings showing the actual intended appearance of the buildings.

NOTE: Initiation of Land Use or Development Activity: Absolutely no land use or development activity, including site clearing, grubbing, or grading shall occur on the subject property prior to the approval of the required site plan. Any such activity prior to such approval shall be a violation of law and shall be subject to all applicable enforcement mechanisms and penalties.

NOTE: Modification of an Approved Site Plan: Any and all variation between development and/or land use activity on the subject property and the approved site plan is a violation of law. An approved site plan shall be revised and approved via the procedures of Subsections 98-908(2) and (4) so as to clearly and completely depict any and all proposed modifications to the previously approved site plan, prior to the initiation of said modifications.

III.FINAL APPLICATION PACKET INFORMATION

- _____ Receipt of 1 full scale copy in **blue**line or **black**line of complete Final Application Packet by Zoning Administrator: Date: _____ by: _____
- _____ Receipt of 8 reduced (8.5" by 11" text and 11" x 17" graphics) copies of complete Final Application Packet by Zoning Administrator: Date: _____ by: _____
- _____ A digital copy of Final Application Packet shall be emailed to the Building and Zoning Department upon submittal deadline. Date: _____ by: _____

Development Review Committee (DRC) Application

Complete as much detailed information as possible to allow for a comprehensive departmental review prior to a Development Review Committee meeting. This application must be returned to the Building Inspector, with all conceptual plans, designs and other information prior to the scheduling a DRC meeting.

Applicant Information

Property Address _____
Applicant name _____
Applicant email _____ Phone Number _____

Architect/Contractor/Designer Name _____
Architect/Contractor/Designer Email _____ Phone Number _____

Type of Construction: New _____ Addition _____ Remodel _____
Type of Development: Single-family _____ Multi-family _____ Commercial _____ Industrial _____
Type of Business _____

Engineering

Site Plans should include the following: Project title and owner's/developer's name and address noted, architect's and/or engineer's name and address noted, property boundaries and dimensions, abutting property zoning classifications, general description of building materials, façade and roof detail, setback lines indicated, easements for access, if any, 100-year floodplain identification, existing and proposed topography shown at a contour interval of one foot, indicating proposed grade and location of improvements, signage and outdoor lighting, number of parking spaces provided, type, size and location of all structures with all building dimensions shown, location of existing and general location of proposed sanitary sewers, storm sewers, water-mains, and any proposed stormwater management facilities, location, extent and type of proposed landscaping and landscaping plantings and buffers to adjacent property, including fencing or other screening, location of pedestrian sidewalks and walkways, graphic outline of any development staging that is planned, driveway locations and sizes, handicap accessibility, environmental concerns (odor, smoke, noise, graphic scale and north arrow.

- Storm water management provisions provided? YES / NO
 - As-built/certification notification
- Erosion control plan provided? YES / NO
- Wetlands, floodplains, environmental corridors, groundwater Identified. YES / NO
- Utility Plans Provided
 - Watermain
 - Sanitary Sewer
 - Storm Water
- Is a Land Division required? YES / NO
- Access points and dimensions shown? YES / NO
 - WISDOT Right-of-way?
 - County Right-of-way?
- Estimated Traffic impacts _____
 - Traffic Study Required YES/NO
 - Traffic Control Plan Required YES/NO
 - Will construction affect street parking or intersections? YES / NO

- Paving Materials, Typical Sections? YES / NO
- WDNR Notice of Intent required? (Land disturbance more than 1 acre)? YES / NO
- Watermain extension required? YES / NO
- Sanitary sewer extension required? YES / NO
- SEWRPC Service Area Amendment needed? YES / NO
- Is a Chapter 30 Permit (wetland/waterway) required? YES / NO
- Proposed building/expansion dimensions _____
- Will there be signage? YES / NO type (mounted, freestanding) _____
- Exterior lighting plans? YES / NO
- What kind of noise or level of noise will the business have? _____
- Detailed property Site Plan? YES / NO Date of Plan: _____
- Green Space Calculations (Existing vs. Proposed) YES / NO
- Are landscape plans provided? YES / NO
- Is a Land Division required? YES / NO

Water/Sewer Utilities

If an existing structure please circle the following:

- Will existing sewer & water connections be used? YES / NO
- Will your project require the installation of a grease interceptor? YES / NO

If the development is Commercial or Industrial, please provide the following:

- Water service size requirement _____
- Estimated daily water usage in gallons per day _____
- Estimated maximum water flow in gallons per minute _____
- Number of bathrooms _____
- Brief description of process (if Industrial) _____

If the development is a multi-family dwelling, please provide the following:

- Number of units _____
- Number of bedrooms in each unit _____
- Water service size requirement _____

Attachment to Conditional Use Permit Application for Pier Addition 978 N. Knoll Lane

1. The proposed conditional use is in harmony with the purposes, goals, objectives, policies and standards if the City of Lake Geneva Comprehensive Plan as the proposed conditional use is to extend the shared pier in front of the property so as to allow the owner of 978 Knoll to have private access to the lake front and Lake Geneva so as to conform to the uses of adjacent properties and other properties along the lake front.
2. The proposed conditional use is in harmony with the purposes, goals, objectives, policies and standards of The City of Lake Geneva comprehensive plan as the plan contemplates that there are lake front properties that each have private access to Lake Geneva,
3. The proposed conditional use of a pier extension (see attached pier plan) does not result in any adverse impact on nearby properties, the character of the neighborhood, the environment, traffic along the lake or detrimental to the public health, safety if general welfare.
4. The proposed conditional use is consistent with land uses of other neighboring properties as other properties have private piers on the lakefront and would not have any negative impact on the neighborhood.
5. The proposed conditional use is located in an area that will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities services provided by public agency serving the property.
6. The potential public benefits of the proposed conditional use outweigh all potential adverse impacts of the proposed conditional use after taking into consideration of the Applicant's proposal.

Legal Description of The Property:Part of the NW ¼ of Section 1, Township 1 N, Range 17 E
Described as: Commencing at the N ¼ Corner of Section 1, South 1192.62 feet, North 89
degrees 48 Minutes 27 Seconds, East 42.40 feet, North 00 Degrees, 03 minutes 47 Seconds,
West 439.25 feet, South 89 Degrees 45 minutes, 25 seconds, West 550.83 feet, South 69 Degrees
20 Minutes 43 Seconds, West 214.69 feet, South 89 Degrees 11 Minutes 12 Seconds, West 67.65
Feet, South 0 Degrees 48 Minutes 48 Seconds, East 6 Feet, South 45 Degrees 56 Minutes 42
Seconds, West 63.95 Feet, North 66 Degrees 25 Minutes 18 Seconds, West 241.67' to the point
of beginning, South 66 Degrees 25 Minutes 18 Seconds East 241.67 Feet, North 45 Degrees 56
Minutes 42 Seconds East 63.9

PIN: ZYUP 00106J

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
141 NW Barstow St., Room 180
Waukesha, WI, 53188

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



02/14/2022

Leigh Gignilliat
3 N WALWORTH AVE
WILLIAMS BAY, WI 53191
[sent electronically]

IP-SE-2021-65-04362

RE: Application to place a pier on GENEVA LAKE in the City of LAKE GENEVA, Walworth County

Dear Ms. Gignilliat:

The Department of Natural Resources has completed its review of your application for a permit to place a pier on GENEVA LAKE located in the NE 1/4, NW 1/4, Section 01, Township 01, Range 17E, City of LAKE GENEVA, Walworth County. You will be pleased to know your application is approved.

I am attaching a copy of your permit, which lists the many important conditions that must be followed to protect water quality and habitat. **A copy of the permit must be posted for reference at the project site.** Please read your permit conditions carefully so that you are fully aware of what is expected of you.

Please note you are required to submit photographs of the completed project within 7 days after you've finished construction. This helps both of us to document the completion of the project and compliance with the permit conditions.

Your next step will be to notify me of the date on which you plan to start construction and again after your project is complete.

If you have any questions about your permit, please call me at (262) 354-4569 or you can reach me by email at luke.roffler@wisconsin.gov.

Sincerely,

Luke Roffler
Compliance Team Coordinator

Email CC:
U.S. Army Corps of Engineers
City Zoning Administrator
WDNR Conservation Warden
Pier Docktors

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

**PIER PERMIT
IP-SE-2021-65-04362**

Application of Leigh Gignilliat is hereby granted under Sections 30.12 and 30.208, Wisconsin Statutes, a permit to modify an existing pier on GENEVA LAKE located in the NE 1/4, NW 1/4, Sec. 01, T. 01, R. 17E, City of LAKE GENEVA, Walworth County, subject to the following conditions:

PERMIT

1. You must notify Luke Roffler at phone (262) 354-4569 or email luke.roffler@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
2. You must complete the project as described **on or before 02/14/2027**. If you will not complete the project by this date, you must submit a written request for an extension prior to expiration of the initial time limit specified in the permit. Your request must identify the requested extension date. The Department shall extend the time limit for an individual permit or contract for no longer than an additional 5 years if you request the extension before the initial time limit expires. You may not begin or continue construction after the original permit expiration date unless the Department extends the permit in writing or grants a new permit.
3. This permit does not authorize any work other than what you specifically describe in your application and plans, and as modified by the conditions of this permit. If you wish to alter the project or permit conditions, you must first obtain written approval of the Department.
4. Before you start your project, you must first obtain any permit or approval that may be required for your project by local zoning ordinances and by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your project. These local and federal authorities are responsible for determining if your project complies with their requirements.
5. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance.
6. The Department may modify or revoke this permit for good cause, including if the project is not completed according to the terms of the permit or if the Department determines the activity is detrimental to the public interest.
7. **You must post a copy of this permit at a conspicuous location on the project site, visible from the waterway**, for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.
8. Your acceptance of this permit and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of this permit.
9. **You must submit a series of photographs to the Department, within one week of completing work on the site.** The photographs must be taken from different vantage points and depict all work authorized by this permit.
10. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wisconsin Statutes, or this permit.
11. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at: http://dnr.wi.gov/topic/stormwater/standards/const_standards.html.
12. All equipment used for the project including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use.

The following steps must be taken every time you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested waters shall not be used on other non-infested waters.

1. **Inspect and remove** aquatic plants, animals, and mud from your equipment.
2. **Drain all water** from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps.
3. **Dispose** of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.
4. **Wash your equipment** with hot (>140° F) and/or high-pressure water,
- OR -
Allow your equipment to **dry thoroughly for 5 days.**

SPECIFIC PIER CONDITIONS:

13. Electrical, fueling, and waste handling facilities must comply with applicable safety and environmental protection regulations.
14. If foam flotation is used, this material must be completely coated or contained to resist deterioration from the elements and gasoline. A written description of the proposed material must be submitted to the Department for approval prior to use.
15. No mooring buoys beyond those expressly authorized by this permit are allowed without an amendment of this permit.
16. The pier must allow the free movement of water (using a post or pile driven design) and must not entrap vegetation.
17. The pier must not enclose any portion of the navigable waterway.
18. This permit and plans must be encased in plastic and legibly displayed along the water's edge during construction and for 30 days after construction of this pier. The purpose of this condition is to allow Department staff and the public to monitor the project and to ensure compliance with the conditions of the project.
19. This permit authorizes future maintenance to the piers; however, no change can be made to the type of materials, number of slips, or pier configuration without written approval from the Department or amendment of this permit.
20. This pier must not interfere with the rights of other riparians.
21. You must not cover the piers or slips, or allow any buildings or other structures to be placed or constructed on the piers.
22. Dockside pump-out facilities must be well maintained.
23. Piers and pilings are limited to colors which are not visually intrusive as viewed against the shoreline.
24. Lighting for safety or to facilitate docking may be included and should be down focused, non-intermittent white or yellow light.
25. Flotation devices must be securely attached to the pier and maintained in a serviceable condition.
26. Roofs, walls, and advertising signs may not be included on the piers. A sign of reasonable dimensions to identify the property is permissible on the upland area only.

FINDINGS OF FACT

1. Leigh Gignilliat, 3 N WALWORTH AVE, WILLIAMS BAY, WI 53191, filed an application with this Department on 11/11/2021, under sections Sections 30.12 and 30.208, Wisconsin Statutes, to place a pier on GENEVA LAKE located in the NE 1/4, NW 1/4, Sec. 01, T. 01, R. 17E, City of LAKE GENEVA, Walworth County.

2. The applicant proposes to modify an existing pier by adding one slip alongside the existing slip. The new stem will be 6' wide and the slip will match the length of the existing (southern) slip, whereas the width of the slip will be 14'.
3. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
4. GENEVA LAKE is a navigable water (and no bulkhead exists at the project site).
5. The proposed project, if constructed in accordance with this permit will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
6. The proposed project will not impact wetlands if constructed in accordance with this permit.
7. The Department of Natural Resources has determined that the agency's review of the proposed project constitutes an integrated analysis action under s. NR 150.20(2), Wis. Adm. Code. The Department has considered the impacts on the human environment, alternatives to the proposed projects and has provided opportunities for public disclosure and comment. The Department has completed all procedural requirements of s. 1.11(2)(c), Wis. Stats., and NR 150, Wis. Adm. Code for this project.
8. The Department of Natural Resources has completed all procedural requirements and the project as permitted will comply with all applicable requirements of Sections 30.12 and 30.208, Wisconsin Statutes and Chapters NR 102, 103, and 326 of the Wisconsin Administrative Code.

The applicant was responsible for fulfilling the procedural requirements for publication of notices under s. 30.208(5)(c)1m., Stats., and was responsible for publication of the notice of pending application under s.30.208(3)(a), Stats. or the notice of public informational hearing under s.30.208(3)(c), Stats., or both. S. 30.208(3)(e), Stats., provides that if no public hearing is held, the Department must issue its decision within 30 days of the 30-day public comment period, and if a public hearing is held, the Department must issue its decision within 20 days after the 10-day period for public comment after the public hearing. S. 30.208(5)(bm), Stats., requires the Department to consider the date on which the department publishes a notice on its web site as the date of notice.
9. The structure or deposit will not materially obstruct navigation because the length will match the existing slip and the new slip will be replacing the existing boat lift in almost the same location.
10. The structure or deposit will/will not be detrimental to the public interest because the design meets DNR-requested design for Geneva Lake (number of slips at or below reasonable use based on frontage, 6' wide stems, etc.).

CONCLUSIONS OF LAW

1. The Department has authority under the above indicated Statutes and Administrative Codes, to issue a permit for the construction and maintenance of this project.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is

sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30 day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Code, and if the petitioner is not the applicant the petition must include the following information:

1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats;.
3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

Dated at the Waukesha Service Center, Wisconsin on 02/14/2022.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary

By: 

Luke Roffler

Compliance Team Coordinator

STAFF REPORT
To Lake Geneva Plan Commission
Meeting Date: March 21, 2022

Agenda Item #8

Applicant:

Justin W. Lanasa
723 Williams Street
Lake Geneva, WI

Request:

723 Williams Street, Lake Geneva, WI 53147

- Proposed Limited Conditional Use Permit for Commercial Indoor Lodging
- Proposed Conditional Use Permit for Group Development

Description:

The applicant is submitting a proposal for a “Limited” Conditional Use Permit (CUP) for Commercial Indoor Lodging land use for the property located at 723 Williams Street. The proposed use is subject to the requirements of Section 98-206(4)(k) pertaining to Commercial Indoor Lodging land uses.

The subject property is zoned Central Business (CB) and is recommended for *Central Business District* in the Comprehensive Plan. The subject property includes the existing Dungeon Hobby Shop Museum (which will continue) with an apartment on the second story. The apartment will be updated and remodeled to accommodate a Commercial Indoor Lodging use with two bedrooms. No changes are proposed to the building exterior or parking. The Commercial Indoor Lodging would be located on the second floor contained two bedrooms. Two existing surface parking spaces are accessed from Williams Street. Because the property is zoned CB, there are no minimum parking requirements. There is street parking on Williams Street and on Marshall Street to the north.

This project is a Group Development per Section 98-208, because it contains more than one principal, nonresidential land use within a single building. Group Developments require a conditional use permit.

The subject property is located within a commercial area and is not adjacent to any homes with residential zoning.



Staff Review:

The proposed use complies with all applicable requirements of Section 98-206(4)(k) pertaining to Commercial Indoor Lodging land uses and the Comprehensive Plan.

Action by the Plan Commission:

As part of the consideration of the requested CUP, the Plan Commission is required to:

- Provide the Common Council with a *recommendation* regarding the proposed Limited CUP;
- Include *findings* required by the Zoning Ordinance for Limited CUP; and,
- Provide specific suggested *requirements/conditions* to modify the project as submitted.

Required Plan Commission Findings on the CUP for Recommendation to the Common Council:

A proposed CUP must be reviewed by the standards, below:

- A. If, after the public hearing, the Commission wishes to recommend *approval*, then the appropriate fact finding would be all of the following:
1. In general, the proposed conditional use is in harmony with the purposes, goals, objectives, policies, and standards of the City's Comprehensive Plan, Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 2. Specific to this site, the proposed conditional use is in harmony with the purposes, goals, objectives, policies, and standards of the City's Comprehensive Plan, Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 3. The proposed conditional use in its proposed location, and as depicted on the required site plan does not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of the Zoning Ordinance, the Comprehensive Plan or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.
 4. The proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
 5. The proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on any improvements, facilities, utilities or services provided by public agencies serving the subject property.
 6. The potential public benefits of the proposed conditional use outweigh all potential adverse impacts of the proposed conditional use after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts.
- B. If, after the public hearing, the Commission wishes to recommend denial, then the appropriate fact finding would be one or more of the following:
1. In general, the proposed conditional use is not in harmony with the purposes, goals, objectives, policies, and standards of the City's Comprehensive Plan, Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.

2. Specific to this site, the proposed conditional use is not in harmony with the purposes, goals, objectives, policies, and standards of the City's Comprehensive Plan, Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
3. The proposed conditional use in its proposed location, and as depicted on the required site plan does result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of the Zoning Ordinance, the Comprehensive Plan or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.
4. The proposed conditional use does not maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
5. The proposed conditional use is not located in an area that will be adequately served by, and will impose an undue burden on any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.
6. The potential public benefits of the proposed conditional use do not outweigh all potential adverse impacts of the proposed conditional use after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts.

Staff Recommendation:

1. Staff recommends that the Conditional Use Permit be **limited** to the current property owner, Justin W. Lanasa.
2. Staff recommends that the Plan Commission recommend approval of the proposed conditional use as submitted, with the findings under A.1-6., above.
3. Staff recommends the Plan Commission adopt the *affirmative set of findings* provided above.

Suggested Motions:

- *Approve:* I recommend approval of the proposed *Limited Conditional Use Permit for Justin W. Lanasa, 723 Williams St, Lake Geneva, WI, for a proposed Commercial Indoor Lodging land use and Group Development for the property located at 723 Williams St., in the Central Business (CB) zoning district, Tax Key No. ZF 00028*, including the affirmative set of findings, and any additional conditions of approval recommended by staff.
- *Deny:* I recommend denial of the *proposed Limited Conditional Use Permit for Justin W. Lanasa, 723 Williams St, Lake Geneva, WI, for a proposed Commercial Indoor Lodging land use and Group Development for the property located at 723 Williams St., in the Central Business (CB) zoning district, Tax Key No. ZF 00028*, because *[provide rationale for denial, based on substantial evidence]*.

Jackie Mich, AICP,
City Planning Consultant
Vandewalle & Associates

APPLICATION FOR CONDITIONAL USE

City of Lake Geneva

Site Address/Parcel No. and full Legal Description required (attach separate sheet if necessary):
723 Williams St.: Tax ID: ZF 00028; Lot 28 Except South 63 feet, Ferguson's Addition to the
City of Lake Geneva, Walworth County, Wisconsin.

Name and Address of Current Owner: Justin W. Lanasa

723 Williams St., Lake Geneva, WI 53147

Telephone No. with area code & Email of Current Owner: (910) 352-5015

hardwire77@yahoo.com

Owner Signature: _____

Name and Address of Applicant:

Justin W. Lanasa

723 Williams St., Lake Geneva, WI 53147

Telephone No. with area code & Email of Applicant: (910) 352-5015

hardwire77@yahoo.com

Proposed Conditional Use: Commercial Indoor Lodging on second floor containing two (2) bedrooms,

(98-206(4)(k)). The upstairs will maintain two (2) bedrooms and a in-suite kitchen. There will be two (2) parking spaces.

(See attached diagram)

Zoning District in which land is located: Central Business

Names and Addresses of architect, professional engineer and contractor of project:

Not Applicable

Short statement describing activities to take place on site:

The two (2) bedroom suite upstairs will contain a kitchen and be used for guests that want to utilize the museum
located on the first floor. There shall be two (2) parking spaces available for guest use. The main floor will be used for
business. The guests may have access to the museum for viewing and game play. (See attached parking diagram).

Conditional Use Fee payable upon filing application: \$400.00 [\$100.00 for Application Under Sec. 98-407(3)]

Dec 16, 2021

Date

 Dec 16, 2021 10:27 EST

Signature of Applicant

**CITY OF LAKE GENEVA PROCEDURAL CHECKLIST FOR:
CONDITIONAL USE REVIEW AND APPROVAL (Requirements per Section 98-905)**

This form should be used by the Applicant as a guide to submitting a complete application for a conditional use and by the City to process said application. Parts II and III should be used by the Applicant to submit a complete application; Parts I - IV should be used by the City as a guide when processing said application.

I. RECORDATION OF ADMINISTRATIVE PROCEDURES

____ Pre-submittal staff meeting scheduled:

Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____

Follow-up pre-submittal staff meetings scheduled for:

____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____

____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____

____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____

____ Date of Meeting: _____ Time of Meeting: _____ Date: _____ by: _____

____ Application form filed with Zoning Administrator: Date: _____ by: _____

____ Application fee of \$ _____ received by Zoning Administrator: Date: _____ by: _____

____ Reimbursement of professional consultant costs agreement executed: Date: _____ by: _____

II. APPLICATION SUBMITTAL PACKET REQUIREMENTS

Prior to submitting the 20 final complete applications as certified by the Zoning Administrator, the Applicant shall submit 5 initial draft application packets for staff review, followed by one revised draft final application packet based upon staff review and comments.

Initial Packet (5 Copies to Zoning Administrator)

Date: _____ by: _____

↓
Draft Final Packet (1 Copy to Zoning Administrator)

Date: _____ by: _____

↓

____ (a) A map of the proposed conditional use:

- ____ Showing all lands for which the conditional use is proposed;
- ____ Showing all other lands within 300 feet of the boundaries of the subject property;
- ____ Referenced to a list of the names and addresses of the owners of said lands as they appear on the current records of the Register of Deeds of Walworth County (as provided by the City of Lake Geneva);
- ____ Clearly indicating the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control;
- ____ Map and all its parts are clearly reproducible with a photocopier;
- ____ Map size of 11" by 17" and map scale not less than one inch equals 800 ft;
- ____ All lot dimensions of the subject property provided;
- ____ Graphic scale and north arrow provided.

____ (b) A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole:

- _____ (c) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations;
- _____ (d) A site plan (conforming to the requirements of Section 98-908(3)) of the subject property as proposed for development OR if the proposed conditional use is a group development (per Section 98-208) a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan per Section 98-908.
- _____ (e) Written justification for the proposed conditional use:
- _____ Indicating reasons why the Applicant believes the proposed conditional use is appropriate with the recommendations of the City of Lake Geneva Comprehensive Master Plan, particularly as evidenced by compliance with the standards set out in Section 98-905(4)(b)1.-6. *(See below)*

III. JUSTIFICATION OF THE PROPOSED CONDITIONAL USE

1. How is the proposed conditional use (the use in general, independent of its location) in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, the Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City?
The use of the 2nd floor space as "Commercial Indoor Lodging" would allow guests to visit Lake Geneva and the museum located at 723 Williams Street.
2. How is the proposed conditional use, in its specific location, in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, the Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City?
Commercial Indoor Lodging is allowed as a conditional use pursuant to Sec. 98-206(4)(k) of the Lake Geneva Zoning Ordinance
3. Does the proposed conditional use, in its proposed location and as depicted on the required site plan (see Section 98-905(3)(d)), result in any substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of the Zoning Ordinance, the Comprehensive Plan, or any other plan, program, map ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development?
The conditional use will have no substantial or undue adverse input on surrounding properties as there will be available on-site parking and the property is currently being used as an apartment.
4. How does the proposed conditional use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?
The conditional use does maintain the status quo for the property and area. The property was recently rezoned Central Business as per the City's adopted Comprehensive Plan.

5. Is the proposed conditional use located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property?

The area currently supports similar conditional use and there is no change in owner.

6. Do the potential public benefits of the proposed conditional use outweigh all potential adverse impacts of the proposed conditional use (as identified in Subsections 98-905(4)(b)1.-5.), after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts?

The public benefit of the conditional use does outweigh any possible negative impacts, of which none are anticipated by the applicant.

IV. FINAL APPLICATION PACKET INFORMATION

____ Receipt of 5 full scale copies in blue/line or black/line
of complete Final Application Packet by Zoning Administrator: Date: _____ by: _____

____ Receipt of 20 reduced (8.5" by 11" text and 11" x 17" graphics)
copies of complete Final Application Packet by Zoning Administrator: Date: _____ by: _____

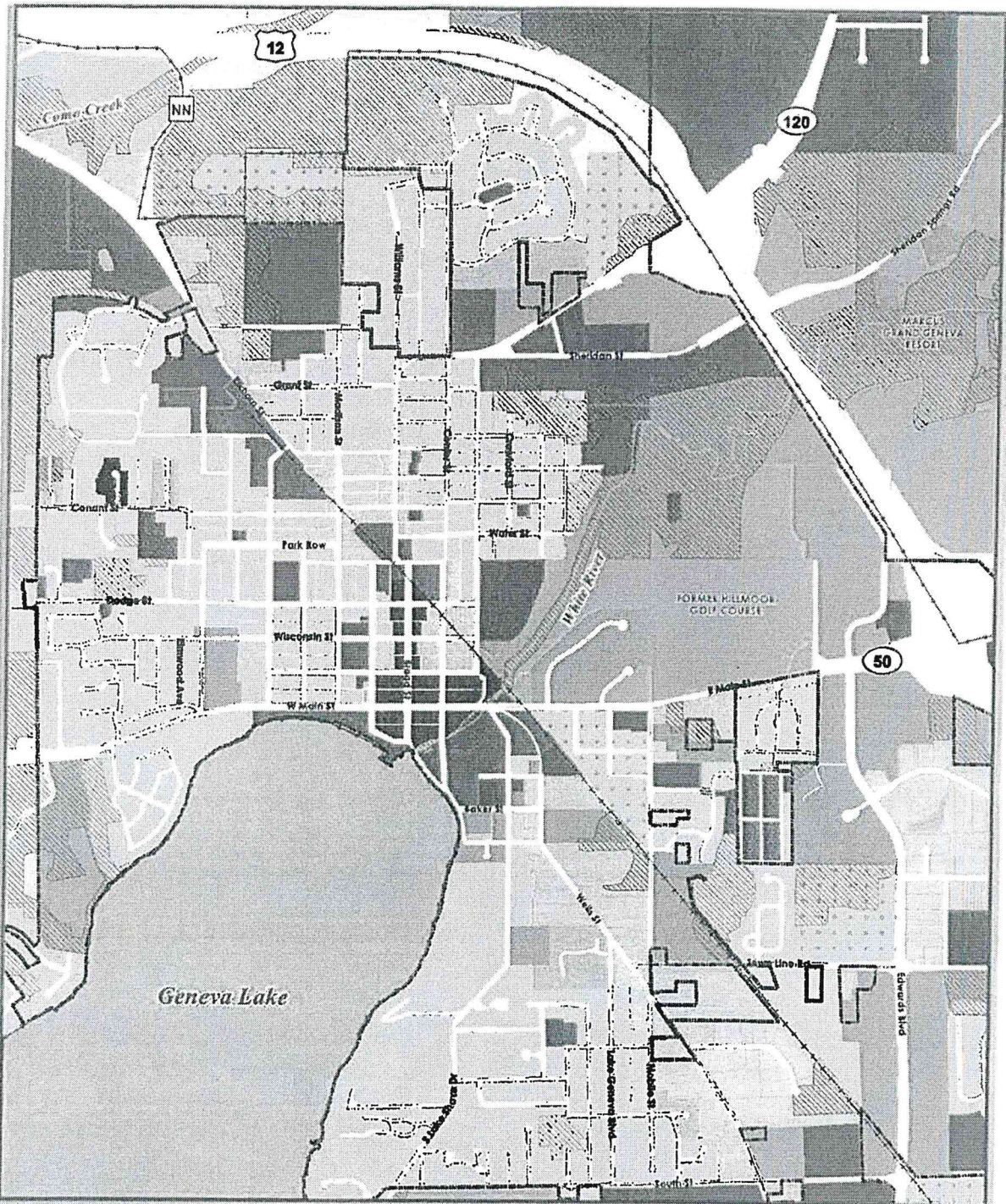
____ A digital copy of Final Application Packet shall be emailed to the
Building and Zoning Department upon submittal deadline. Date: _____ by: _____

____ Certification of complete Final Application Packet and
required copies to the Zoning Administrator by City Clerk: Date: _____ by: _____

____ Class 2 Legal Notice sent to official newspaper by City Clerk: Date: _____ by: _____

____ Class 2 Legal Notice published on _____ and _____ by: _____

____ Conditional Use recorded with the County Register of Deeds Office: Date: _____ by: _____



Map 5b: Future Land Use - City of Lake Geneva Comprehensive Plan

Land Use Categories

- Agricultural & Rural
- Single Family Residential - Exurban
- Single Family Residential - Urban
- Two-Family/Townhouse Residential
- Multi-Family Residential
- Planned Neighborhood
 - *Each "Planned Neighborhood" may include a mix of:
 1. Single Family - Urban (predominant land use)
 2. Two-Family/Townhouse
 3. Multi-Family Residential
 4. Institutional & Community Services
 5. Neighborhood Mixed Use
 6. Public Park & Recreation
- Neighborhood Mixed Use
- Planned Office
- Planned Business

- Central Business District
- Planned Mixed Use
 - *Each "Planned Mixed Use Area" may include a mix of:
 1. Planned Office
 2. Multi-Family Residential
 3. Institutional & Community Services
 4. Planned Business
- Planned Industrial
- General Industrial
- Institutional & Community Services
- Private Recreation Facilities
- Public Park & Recreation
- Environmental Corridor

- City of Lake Geneva
- Other Municipal Boundaries
- Urban Service Area Boundary
- Parcels
- Surface Water
- Abandoned Railroad



0 0.25 0.5 Miles

VANDEWALLE & ASSOCIATES INC.
 Date: September 6, 2019
 Source: SEWRPC, Walworth County LLC, WADNR, VA

Wednesday, September 23, 2020 2:32:18 PM

LEGEND



PROPOSED Asphalt, Blacktop, Concrete, Tarmac, or Brick Pavers Parking Lot

WILLIAMS STREET
(60' WIDE)

CONCRETE SIDEWALK

MARSHALL STREET
(60' WIDE)
CONCRETE SIDEWALK

GRASS

GRASS

EXISTING 2 STORY
HOUSE

CONCRETE

GRASS

GRASS

CONCRETE

EXISTING BLDG

Asphalt, Blacktop, Concrete, Tarmac, or
Brick Pavers



20' 10' 0' 10' 20'
SCALE 1"=10'



Nielsen Madsen & Barber
CIVIL ENGINEERS AND LAND SURVEYORS
1458 Horton Blvd, Suite 200, Racine, WI, 53406
Tele: (262)894-5598 Website: www.nmbasc.net

PARKING LOT LAYOUT SITE PLAN

FOR
JUSTIN LANASA
LAKE GENEVA, WALWORTH, WISCONSIN

NO.	REVISION	BY	DATE

PROJ. NO.: 2020.0224.01
DRAFTED: JET
DATE: 09-23-2020
CHECKED: JET
DATE: 09-23-2020

2020.0224.01

1 OF 1

ISSUE FOR REVIEW: 9-23-2020

Parcel ID	Property Owner	Property Address	Mailing Address
ZA451800001	Convenience Store Investments	710 Williams St Lake Geneva, WI 53147 & 612 Williams St Lake Geneva, WI 53147	1626 Oak St LaCrosse, WI 54603
ZA472600001	Associated Bank	916 Marshall St Lake Geneva, WI 53147	433 Main St Green Bay, WI 54301
ZRA 00032	Pamela G. Naris Trust	922 Marshall St Lake Geneva, WI 53147	1114 Sage St Lake Geneva, WI 53147
ZA269400001	Mary Candice Kirchberg	917 Marshall St Lake Geneva, WI 53147	917 Marshall St Lake Geneva, WI 53147
ZRA 00020	Mark W. Mitchell Barbara J. Mitchell	905 Marshall St Lake Geneva, WI 53147	1753 Hwy 120 Springfield, WI 53176
ZRA00019	Joyce E. Bouhl	903 Marshall St Lake Geneva, WI 53147	945 Clover St Lake Geneva, WI 53147
ZA269400002	Signature Investments, LLC	822 Williams St Lake Geneva, WI 53147 & 820 Williams St Lake Geneva, WI 53147	4793 E. Clayton Rd Fitchburg, WI 53711
ZRA 00018	KBSK, LLC	824 Williams St Lake Geneva, WI 53147	824 Williams St Lake Geneva, WI 53147
ZF00010	Scott J. Lancour Debra S. Lancour	829 Williams St Lake Geneva, WI 53147 & 825 Williams St Lake Geneva, WI 53147	829 Williams St Lake Geneva, WI 53147
ZF00027	Rick J. Murphy Trust Nancy H. Murphy Trust	801 Williams St Lake Geneva, WI 53147	260 Granville Way San Francisco, CA 94127
ZF00012	Nicole P. Smith Trust	744 Henry St Lake Geneva, WI 53147	1110 Williams St Lake Geneva, WI 53147
ZF00026	Paul Grosso	741 Marshall St Lake Geneva, WI 53147	1005 Edward Rd Prospect Heights, IL 60070
ZF00025	Tony R. Holbrook Diana Holbrook	739 Marshall St Lake Geneva, WI 53147	739 Marshall St Lake Geneva, WI 53147
ZF00024	Shirley A. Kitzman Mark W. Kitzman	729 Marshall St Lake Geneva, WI 53147	729 Marshall St Lake Geneva, WI 53147
ZF00029A	City of Lake Geneva	730 Marshall St Lake Geneva, WI 53147	626 Geneva St Lake Geneva, WI 53147
ZF00029	Robert Klabunde Karen Klabunde	744 Marshall St Lake Geneva, WI 53147	PO Box 395 Genoa City, WI 53128
ZF00038	Jimmy L. Walther Vicki L. Walther	727 Ann St Lake Geneva, WI 53147	727 Ann St Lake Geneva, WI 53147
ZF00039	Michael S. Pody	735 Ann St Lake Geneva, WI 53147	PO Box 685 Lake Geneva, WI 53147
ZF00040	Susan Jacobs	741 Ann St Lake Geneva, WI 53147	PO Box 685 Lake Geneva, WI 53147

ZF00041	Susan R Jacobs	747 Ann St Lake Geneva, WI 53147 & 747 ½ Ann St Lake Geneva, WI 53147	PO Box 685 Lake Geneva, WI 53147
ZF00043	Steven Singleton Wendy Singleton	753 Ann St Lake Geneva, WI 53147	753 Ann St Lake Geneva, WI 53147
ZF00042	Samantha Strenger	715 Williams St Lake Geneva, WI 53147	615 Center St Lake Geneva, WI 53147
ZF00028B	Robert J. Klabunde	721 Williams St Lake Geneva, WI 53147	Box 395 Genoa City, WI 53128
ZF00028A	Robert J. Klabunde	719 Williams St. Lake Geneva, WI 53147	Box 395 Genoa City, WI 53128

Conditional Use Application

Final Audit Report

2021-12-17

Created:	2021-12-16
By:	Kendra Whittier (kwhittier@thorpechristian.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAADyvWpQMBbfNkCfGngXsKpbWUu-kXuZkz

"Conditional Use Application" History

-  Document created by Kendra Whittier (kwhittier@thorpechristian.com)
2021-12-16 - 9:24:00 PM GMT- IP address: 47.49.41.98
-  Document emailed to Justin LaNasa (hardwire77@yahoo.com) for signature
2021-12-16 - 9:27:19 PM GMT
-  Email viewed by Justin LaNasa (hardwire77@yahoo.com)
2021-12-17 - 4:26:44 AM GMT- IP address: 185.30.176.27
-  Document e-signed by Justin LaNasa (hardwire77@yahoo.com)
Signature Date: 2021-12-17 - 4:27:38 AM GMT - Time Source: server- IP address: 107.134.17.7
-  Agreement completed.
2021-12-17 - 4:27:38 AM GMT



Adobe Sign

STAFF REPORT
To Lake Geneva Plan Commission
Meeting Date: March 21, 2022

Agenda Item #9

Applicant:

Fairwyn SB, Inc.
875 Townline Road, Suite 103
Lake Geneva, WI

Request:

Symphony Bay Clubhouse
301 Harmony Drive
Precise Implementation Plan

Description:

The applicant is submitting a Precise Implementation Plan (PIP) for an existing Planned Development for the Symphony Bay development, located northeast of the intersection of Edwards Boulevard and Bloomfield Road. An amenity center with a clubhouse and pool, located on Outlot 4 on the eastern side of the Planned Development, was approved as part of the original General Development Plan. Now, a PIP is proposed to establish a specific site plan for the amenity center.

Building elevations for the 10,000-square-foot clubhouse depict a building with grey LP Smart wall shakes, stone veneer, white flashing, white decorative brackets, and a dark grey asphalt shingle roof with metal-roofed dormers. The two-story building has an appearance of a one-story building from the front, but a two-story structure from the rear side, with a second-story rear deck overlooking the pool.

Floor plans depict the following on the first story: lounge area, library, food preparation area, club room, art room, restrooms, office, storage, and the mail room. The mail room will be the central hub for all residents to pick up their mail and packages, per United State Postal Service requirements. The second story includes a fitness room, dance studio, locker rooms, showers, and restrooms. The grounds include an outdoor pool, pickleball courts, bocce courts, and a surface parking lot.

A bicycle/pedestrian path is proposed as part of this phase along the eastern edge of the clubhouse property (Outlot 4). Outlot 3, immediately to the east, contains environmental features and has been dedicated to the public as park and open space area. The path will provide views of the open space to the east and will be connected to the City's bicycle and pedestrian network.

The site contains one vehicle access point (driveway) onto Harmony Drive. Sidewalks are proposed along the eastern side of Harmony Drive (north-south), and pedestrian paths connecting to the Harmony Drive sidewalk are proposed north of the driveway and about 60 feet south of the driveway. A crosswalk across Harmony Drive north of the driveway is proposed.

Greenspace: Outlot 4 is three acres. Proposed impervious surface area is 41.3% and the proposed landscape surface area is 58.7%. Landscaping Plans show generous landscaping that well exceeds the minimum requirements for a comparable use of this scale.

Parking: 56 parking spaces are proposed at the front of the clubhouse. Parallel parking spaces close to the front entrance are designed for residents picking up their mail.

Lighting: Dark sky certified lighting will be provided on poles in the parking lot, pool area, and at the clubhouse entrance.

Fencing: The pool will be enclosed with a black metal fence. Trash enclosure fencing will be solid wood.

Relation to Base Zoning Standards:

All Planned Developments must explicitly identify any flexibilities being requested from base zoning standards in the most comparable regular zoning district. In this instance, the Planned Office (PO) zoning district – which is often applied to large institutional developments – provides that comparison zoning district. The project is requesting the following flexibility:

1. 56 parking spaces would be provided instead of the required 60 parking spaces required for an Indoor Institutional land use (community center with pool and outdoor bocce and pickleball courts).

All other zoning requirements are met.

Staff Review:

Staff reviewed the following application materials:

1. Application Form
2. Project Narrative
3. Outlot 4 Image
4. Building Elevations And Floorplans
5. Clubhouse Exterior Building Materials
6. Exhibit 1 Legal Description
7. Exhibit 2 Property Maps And Adjacent Property Data
8. Exhibit 3 Clubhouse GDP (Conceptual Site Plan)
9. Exhibit 4 Pip Engineering Plan Set
10. Fence Exhibit
11. Landscape Plan

The proposed land uses are consistent with what was approved as part of the GDP. The proposed PIP site plan appears to provide *more* landscape surface area and *less* building and pavement coverage than conceptually proposed in the GDP. This is an improvement over the GDP, as it will support the recreational character of the site as well as the City's water quality goals.

During initial development review, Staff suggested several improvements to bicycle and pedestrian connections within the site, which the Applicant has made. The proposed trail network on the PIP differs somewhat from the conceptual trail shown on the GDP. The conceptual trail shown on the GDP shows the trail encircling the clubhouse property, but given the fact that the clubhouse is private and available to Symphony Bay residents only, the proposed trail has been shifted to the eastern side of the property, and it will be connected to the clubhouse area and the rest of the development to the west via the onsite

sidewalk network. Bicycle and pedestrian connectivity throughout Symphony Bay is a recommendation in the City's Bicycle and Pedestrian Plan (2018). Staff feels that while the north-south and east-west connections throughout Symphony Bay are a high priority, the trail encircling the clubhouse is not necessary for citywide bicycle and pedestrian connectivity; therefore Staff is comfortable with this change. Completing the north-south trail included as part of this PIP approval, and Staff feels that this portion of the trail should be completed as soon as possible after construction is complete on the clubhouse and pool in order to complete this important bicycle and pedestrian link.

The proposed parking lot includes 56 parking spaces. The parking requirements for an Indoor Institutional land use is one space per 250 square feet of gross floor area, plus employee parking. Therefore, the 10,000 sf community center with a 2,000 sf pool would require 48 parking spaces. The outdoor bocce and pickleball courts would typically require 3 spaces per court, or 12 parking spaces. The total required amount of parking would therefore be 60 spaces. However, given the fact that the clubhouse will rarely operate a full capacity, and that there would be minimal parking needs for employees, Staff feels that 56 parking spaces are sufficient. It is anticipated that many residents will walk to the clubhouse, especially in warmer weather months, which would complement the busy times for the pool, pickleball, and bocce courts.

Staff recommends approval of the PIP, as it is consistent with the GDP that was approved previously. The proposed clubhouse building will be constructed of high-quality exterior materials, will create a positive visual impact, and will be a prominent landmark within the development. The clubhouse, pool, and outdoor courts will provide a social and recreational amenity for Symphony Bay residents. Completion of the trail will provide a vital, north-south bicycle and pedestrian connection for all Lake Geneva residents.

Action by the Plan Commission:

As part of the consideration of a requested Planned Development / Precise Implementation Plan (PIP) step, the Plan Commission is required to:

- Provide the Common Council with a *recommendation* regarding the proposed PIP
- Include *findings* required by the Zoning Ordinance for PIPs; and,
- Provide specific suggested *requirements* to modify the project as submitted.

Required Plan Commission Findings on the PIP for Recommendation to Common Council:

A proposed PIP must undergo the review standards for all Conditional Use Permits, below:

- A. If, after the public hearing, the Commission wishes to recommend *approval*, then the appropriate fact finding would be in agreement with Factors 1-6 of the following.
1. The proposed PIP (the use in general, independent of its location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 2. The proposed PIP (in its specific location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any

other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.

3. The proposed PIP, in its proposed location and as depicted on the required site plan (see (3)(d), above), does not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Chapter, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.
4. The proposed PIP maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
5. The proposed PIP is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.
6. The potential public benefits of the proposed PIP outweigh all potential adverse impacts of the proposed PIP (as identified in Items 1. through 5., above), after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts.

B. If, after the public hearing, the Commission wishes to recommend *denial*, then the appropriate fact finding would be in disagreement with at least one of Factors 1-6 of the following:

1. The proposed PIP (the use in general, independent of its location) is not in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
2. The proposed PIP (in its specific location) is not in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
3. The proposed PIP, in its proposed location and as depicted on the required site plan (see (3)(d), above), does result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Chapter, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.
4. The proposed PIP does not maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
5. The proposed PIP is located in an area that will not be adequately served by, and/or will impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.

6. The potential public benefits of the proposed PIP do not outweigh all potential adverse impacts of the proposed PIP (as identified in Items 1. through 5., above), after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts.

Staff Recommendation:

Staff recommends that the Plan Commission recommend *approval* of the PIP as submitted, including the granting of the requested zoning flexibility for parking.

Suggested Motions:

- *Approve:* I recommend approval of the *Precise Implementation Plan for Fairwyn SB, Inc. 875 Townline Rd. Suite 103, Lake Geneva to allow for the construction of the proposed Clubhouse at 301 Harmony Dr. for the property located in the Planned Development (PD) zoning district, Tax Key No. ZSB00334*, including the affirmative set of findings, and any additional conditions of approval recommended by staff.
- *Deny:* I recommend denial of the *Precise Implementation Plan for Fairwyn SB, Inc. 875 Townline Rd. Suite 103, Lake Geneva to allow for the construction of the proposed Clubhouse at 301 Harmony Dr. for the property located in the Planned Development (PD) zoning district, Tax Key No. ZSB00334*, based on the following finding of fact, because *[provide rationale for denial, based on disagreement with at least one of Items 1, 2, or 3, above]*

Jackie Mich, AICP
City Planning Consultant
Vandewalle & Associates

Memo to City of Lake Geneva

To: Fred Walling, Zoning Administrator **Date:** February 24, 2022

From: Naomi Rauch, P.E.
262-758-6032

CC: Brian Pollard – Fairwyn Homes
Rick Zirk – Fairwyn Homes
Dan Janke, P.E. – Kapur & Associates, Inc.
Dave Nord – City Administrator
Brenda Follensbee – Building and Zoning Administrative Assistant
Tom Earle – Director of Public Works
Josh Gajewski – Utility Director
Greg Governatori P.E. – Kapur & Associates, Inc.

Subject: SITE PLAN REVIEW CONDITIONAL APPROVAL – Symphony Bay Clubhouse PIP
Kapur Project #21.0178 PHSE21

BACKGROUND AND REQUEST:

A revision to the PIP application was submitted by Fairwyn for the construction of the Symphony Bay Clubhouse. The site is directly off of Harmony Way (to be constructed in Phase 5 of the Symphony Bay Subdivision) and located in Outlot 4 of the approved Subdivision Plans. The site includes a clubhouse, attached pool, bocce ball court, pickleball court, and 56 proposed parking spaces (two handicap accessible). Utilities are also included in the site plan, with connections to stubbed out 6-inch water and sanitary laterals.

The following plan and calculations were submitted for review:

- **Symphony Bay Clubhouse**, Clubhouse PIP release, prepared by **Kapur**, 6 sheets, dated 2/17/2022.

Comments:

Kapur recommends **approval** of the proposed site plan and calculations. This approval is subject to the following conditions:

General

1. Final plans will be submitted with the same date on all sheets.

Site Plan

2. Pedestrian Crossing Signage shall be installed for the Crosswalk on Harmony Way. The location of the site shall be approved by Public Works.





The plans have been reviewed for conformance with generally accepted engineering practices and City of Lake Geneva policies. Although the material has been reviewed, the applicant is ultimately responsible for the thoroughness and accuracy of the plans and supplemental data and for compliance with state, county, and other local ordinances and procedures.

Please contact me if you have any questions or comments pertaining to this project.

**APPLICATION FOR ZONING MAP AMENDMENT FOR PLANNED DEVELOPMENT
ZONING INCLUDING GENEVRAL DEVELOPMENT PLAN APPROVAL (PD/GDP) AND
ONE PRECISE IMPLEMENTATION PLAN APPROVAL (PD/PIP)**

Name of Applicant: Fairwyn SB, Inc.

Address of Applicant: 875 Townline Road

Suite 103

Lake Geneva, WI 53147

Telephone No. (262) 248-5010

Fax and/or email: (262) 248-8082

Name of Owner: Same as applicant

Address of Owner: Same as applicant

Telephone No. () Same as applicant

Fax and/or email: ()

Owner Signature:

Subject property address and/or complete legal description (use attached sheet if necessary):

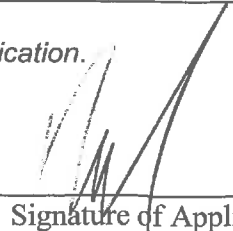
301 Harmony Drive - see atatched Legal Description

Current Zoning District: PD

Fee of \$750.00 payable upon filing application.

10/01/2021

Date


Signature of Applicant

Symphony Bay PIP Request Summary

Symphony Bay is an age targeted, active adult style community approved for a total of 427 single family attached (duplex) and detached homes. The General Development Plan for Symphony Bay was approved on July 27, 2015, and the PIP for most of the property was approved by the City Council on March 14, 2016. That 2016 PIP contained a provision for an amenity Center located on Outlot 4.

A legal description for this 2021 proposed amendment area is attached at Exhibit 1. The general property location, and adjacent property information is attached at Exhibit 2. The property is located within the corporate limits of the City of Lake Geneva, south of Townline Road and north of Bloomfield Road. Current zoning is PD Planned Development. The City has assigned an address of 301 Harmony Drive for this site.

- a) **Amendment Sought:** The project developer, Fairwyn SB, is requesting approval of a precise implementation plan for Outlot 4. This precise plan will replace the concept plan approved as part of the GDP, and the blank lot depicted on the final plat. A depiction of the approved concept plan is attached at Exhibit 3. A plan depicting the location of proposed PIP improvements on Outlot 4 is attached at Exhibit 4
- b) **Project Status:** Fairwyn SB is in the process of completing the development of single-family home sites within Phase 5. Phase 1 through 4 are developed at this time. The 108 single family and Villa lots (116 dwelling units) within Phases 1 and 2 are completed including the final surface of asphalt. Development work for the 44 lots in Phase 3 and the additional 43 lots in Phase 4 are completed and homes in those areas are under construction. At this point in time approximately 175 home sites have been sold. Just over 125 homes are now occupied.

Our offsite lodge located at Buttons Bay is constructed and available for use by Symphony Bay residents.

Construction of Outlot 4 improvements is scheduled for summer of 2022.

- c) **Project Density:** The project density remains unchanged at 2.94 dwelling units per acre (427 total dwelling units on 145.35 acres of land).
- d) **Facility and Uses:**

The proposed clubhouse is nearly 10,000 square feet in size. The building exterior is designed to reflect a nautical design. Site characteristics provide the unique opportunity to create a more visually pleasing building that appears to be one story from the front, but a two-story structure from the rear.

A nearly 2,000 square foot swimming pool is provided at the rear of the building. The pool was designed by Badger Pools who is experienced in the design of pool facilities for communities like Symphony Bay. The pool provides lap swimming opportunities as well

as recreational swimming, low exertion exercise classes, and shallow depth lounging areas. ADA compliant access means are provided in the design.

In addition to the swimming pool, other outside amenities will include bocce ball pits, and pickleball courts. The community walking path is located immediately adjacent the eastern edge of the clubhouse property. Residents will be able to access the facility through the community walking and biking path system. Over 1,400 square feet of viewing deck, screen porch, and grilling area is provided at the upper floor area overlooking the pool area

Inside spaces on the upper floor provide for a large club / gathering area, lounge area, reheating kitchen space. A centralized mail room provides inside space for residents to collect mail and packages. An art room space includes clean up and storage areas not contained in a typical multipurpose room. The library space is also located on this floor. Both the art room and library areas are designed to be multi-purpose and can be utilized for any number of other scheduled uses.

The lower floor is primary dominated by the nearly 1,200 square foot fitness area, and separate 375 square foot dance studio. This level also provides locker room space for the pool and workout areas.

Upon completion, many of the “clubs” that currently utilize our Buttons Bay clubhouse will relocate to this space. The Symphony Bay community currently has many different clubs providing social opportunities for our residents. Current groups and clubs include the bocce ball league, book club, quilting, needlecrafters, bridge and other card games, coffee social club, wine social club, billiards, and walking. Neighborhood leaders are being sought out to add, biking, golf, tennis, and woodworking to the mix. Residents of the community run foods drives etc. for local charities during the holiday season. This space will better serve those charitable activities.

The clubhouse will be always open to residents, but club activities are normally conducted in the afternoon and early evening. With few exceptions club events are concluded by 10:00 PM. We do expect some early AM use of the fitness center, and lap swimmers at the pool during the summer months.

- e) **Facility Loading:** Due to the inclusion of spaces for a wide-ranging number of activity types, the Lake Geneva building code mandates a **maximum** capacity of 222.49 people on the upper level, and 128.90 persons on the lower level. The building size, while significantly oversized for what will typically be utilized daily, is capable of serving as an assembly place for neighborhood meetings etc.

The clubhouse provides office space for a recreation coordinator when the need for that person arises.

In creating a facility that can serve wide ranging uses we added many plumbing fixtures, sinks, and shower facilities. In accordance with State Plumbing Code standard, a 2”

potable water supply line has been provided (a larger line is provided sized for the fire sprinkler system). Water and sewer capacity for the clubhouse were included in the design assumptions for the development infrastructure plans. Experience suggests actual loads will be far less than the design allows for. For example, in contrast to traditional point of destination fitness and pool facilities open to the general public, most residents at these neighborhood centers do not shower at the facility.

- f) **Impact on Nearby Properties and Streets:** Existing rights of way were not impacted by the PIP request. The Symphony Bay plan always anticipated the inclusion of this amenity center. Many residents visiting the clubhouse will walk to the site. Current residents picking up their mail can be seen walking to the common mailbox location even in the winter.
- g) **General Relationship to Approved GDP :** The proposal is consistent with the goals of the current PD Zoning and General Development Plan
- h) **Zoning Standards:** There is no request for additional zoning standard relief from what was previously approved for Symphony Bay.
- i) **Zoning Exemptions:** There is no specific Lake Geneva parking space standard for a “neighborhood only” facility like this. The original plan approved in 2016 included 42 parking stalls. The proposed plan exceeds that approved allocation and provides 56 spaces with expansion potential for an additional 26. While we do not find a particular mandate on parking stalls for this use, we request the increase from 42 to 56 stalls be approved for this facility.
- j) **Ownership Structure:** The facility construction will be funded by and completed by Fairwyn SB, Inc. Upon completion, facility ownership will be transferred to the Symphony Bay Homeowners Association for use solely by Symphony Bay residents and their guests. Ongoing funding of the facility has been accounted for in the current HOA monthly assessment.

Exhibit 1
Legal Description

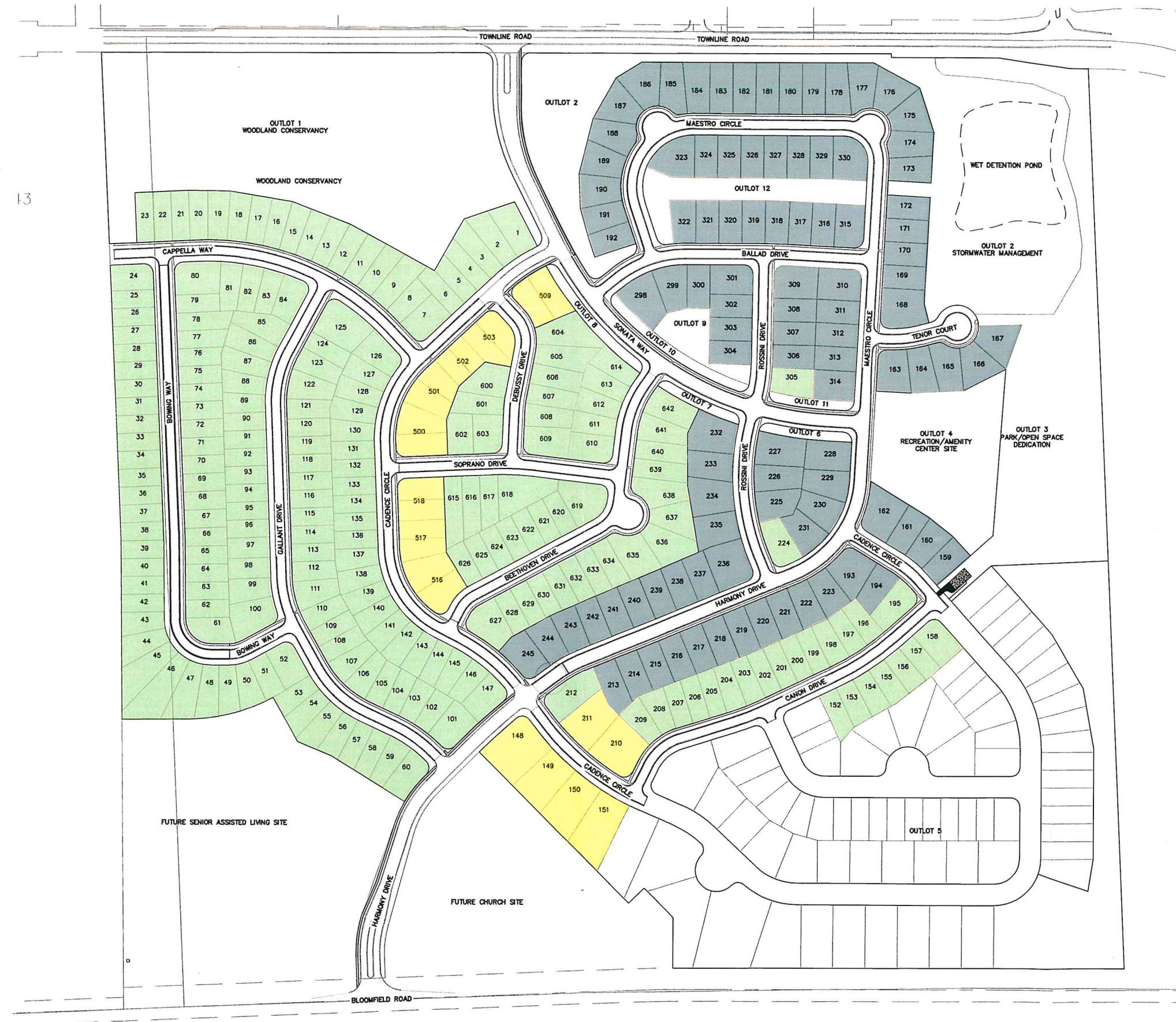
Outlot 4 of the Symphony Bay subdivision, being a redivision of all of vacated Southland Farms Subdivision, except Lots 74, 85, 231 and 232 and portions of Townline Road and Bloomfield Road dedicated to the public, located in the Northwest 1/4 of the Northeast 1/4, the Northeast 1/4 of the Northeast 1/4, the Southeast 1/4 of the Northeast 1/4 and the Southwest 1/4 of the Northeast 1/4 of Section 6 and the Southwest 1/4 of the Northwest 1/4 and the Northwest 1/4 of the Northwest 1/4 of Section 5 all in Township 1 North, Range 18 East, City of Lake Geneva, Walworth County, State of Wisconsin.

Exhibit 2
Property Maps and Adjacent Property Data

See Attached Exhibit 2



- 13
- 50' SINGLE FAMILY
 - 65' SINGLE FAMILY
 - DUPLEX



PROJECT:
SYMPHONY BAY

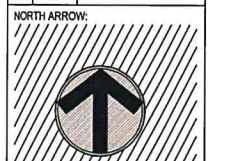
LOCATION:
CITY OF LAKE GENEVA, WI

CLIENT:
FAIRWYN

RELEASE:
EXHIBIT

REVISIONS:

#	DATE	DESCRIPTION



SCALE: HOR: 1"=100'
VER: 1"=4'

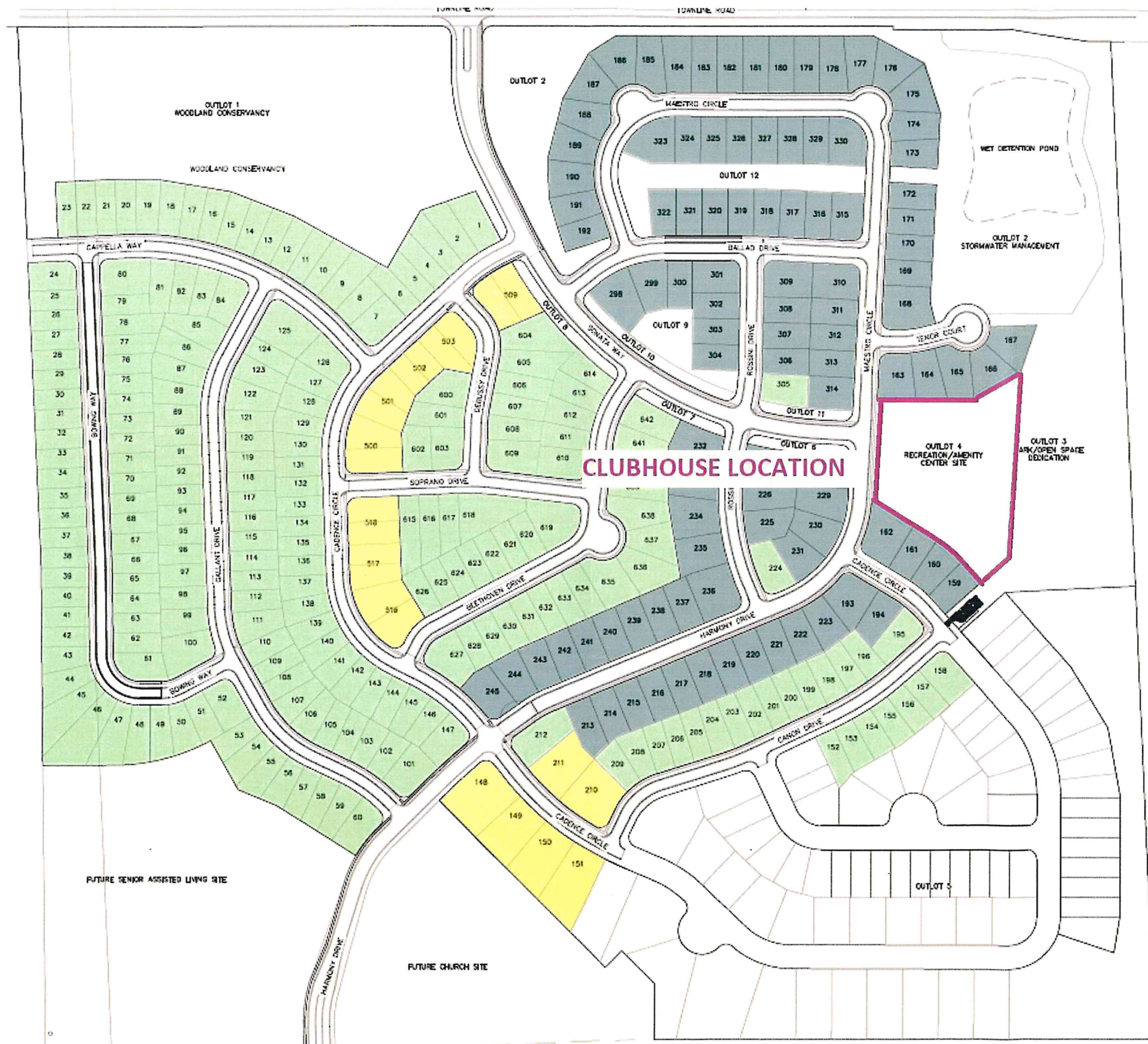
SEAL:

all in

SHEET:
OVERALL SITE PLAN

PROJECT MANAGER: DMJ
PROJECT NUMBER: 17.0061.04A
DATE: 4-16-2021

SHEET NUMBER:
1.0



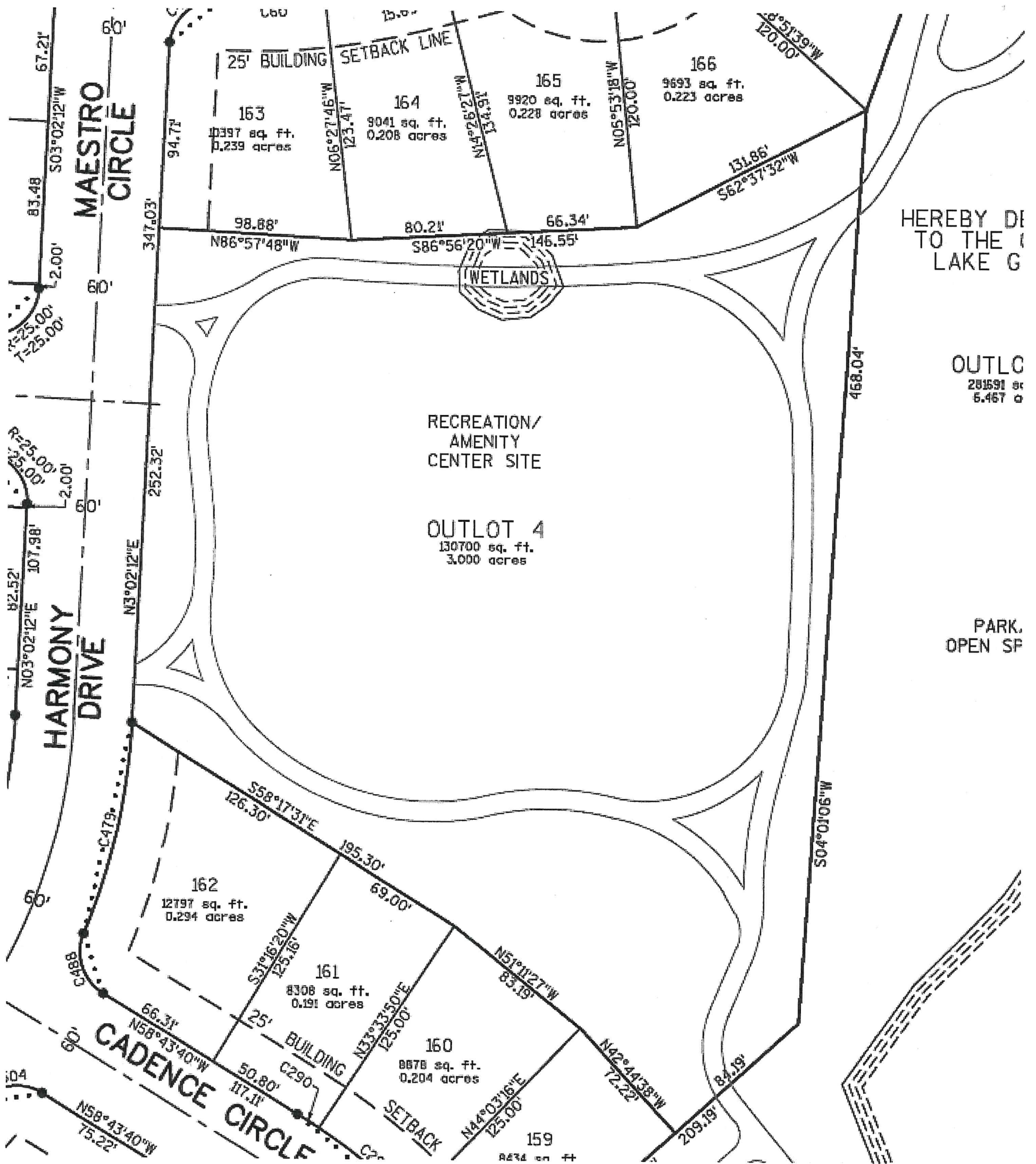


Exhibit 3

Approved 2016 Outlot 4 Concept Plan

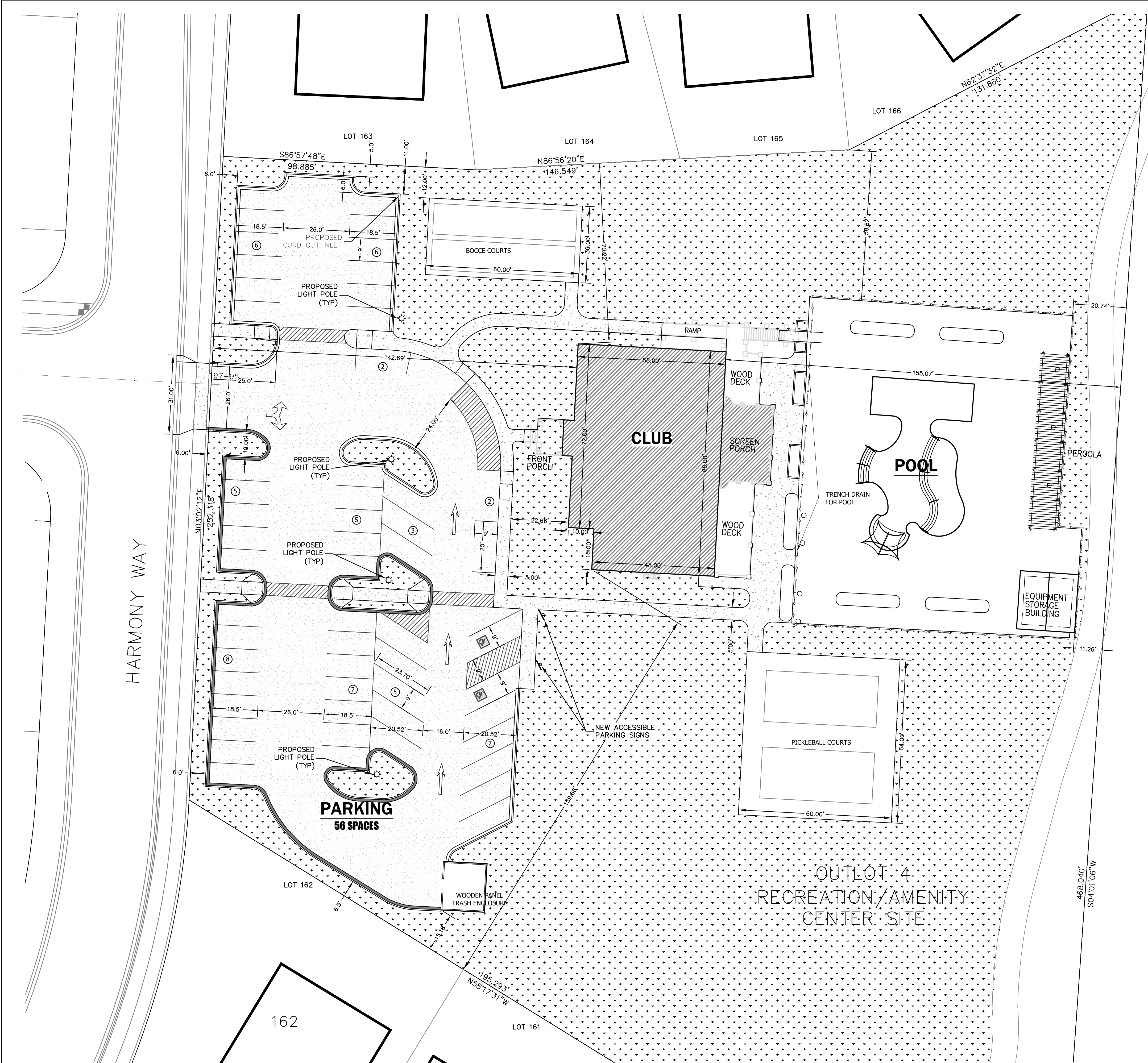


CONCEPTUAL REC CENTER PLAN

SYMPHONY BAY

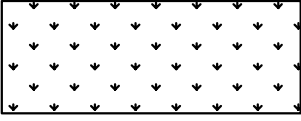
Exhibit 4
PIP

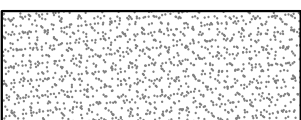
See Attached Exhibit 4

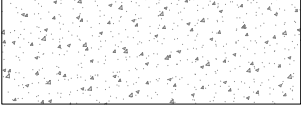


SITE AREA BREAKDOWN:	
LOT SIZE:	3.00 ACRES
PROPOSED IMPERVIOUS AREA:	1.24 AC (54,032 SF)
PERCENT IMPERVIOUS:	41.3%
PROPOSED LANDSCAPE AREA:	1.76 AC (76,710 SF)
PERCENT LANDSCAPE:	58.7%

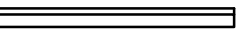
OUTLOT 3
PARK/OPEN SPACE
DEDICATION

- 

AREAS DISTURBED BY CONSTRUCTION
(NOT SPECIFICALLY CALLED OUT ON THE LANDSCAPE
PLANS) TO BE RESTORED WITH MINIMUM 4" TOPSOIL,
SEED, FERTILIZER, AND MULCH (TYP). USE SALVAGED
TOPSOIL OR IMPORT TOPSOIL IF REQUIRED.
- 

NEW ASPHALTIC CONCRETE
SEE DETAIL 1/C104
- 

NEW CONCRETE SLAB
SEE DETAIL 2/C104
- 

NEW HIGH-SIDE CURB & GUTTER
SEE DETAIL 3/C104
- 

NEW LOW-SIDE CURB & GUTTER
SEE DETAIL 3/C104



7711 N. Port Washington Road
Milwaukee, Wisconsin 53217
kapurinc.com

PROJECT:

SYMPHONY BAY
CLUBHOUSE

LOCATION:

CITY OF LAKE
GENEVA, WI

CLIENT:

FAIRWYN

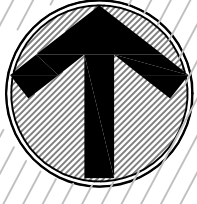
RELEASE:

CLUBHOUSE PIP

REVISIONS:

#	DATE	DESCRIPTION

NORTH ARROW:



SCALE: 1" = 20'



SEAL:

all in

SHEET:

SITE PLAN

PROJECT MANAGER: DMJ
PROJECT NUMBER: 17.0061.04A
DATE: 2-4-2022

SHEET NUMBER:

C101

PROJECT:

SYMPHONY BAY
CLUBHOUSE

LOCATION:

CITY OF LAKE
GENEVA, WI

CLIENT:

FAIRWYN

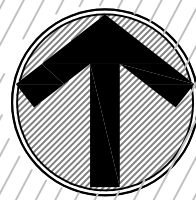
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CLUBHOUSE PIP

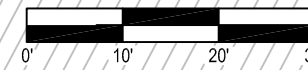
REVISIONS:

#	DATE	DESCRIPTION

NORTH ARROW:



SCALE: 1" = 20'



SEAL:

all in

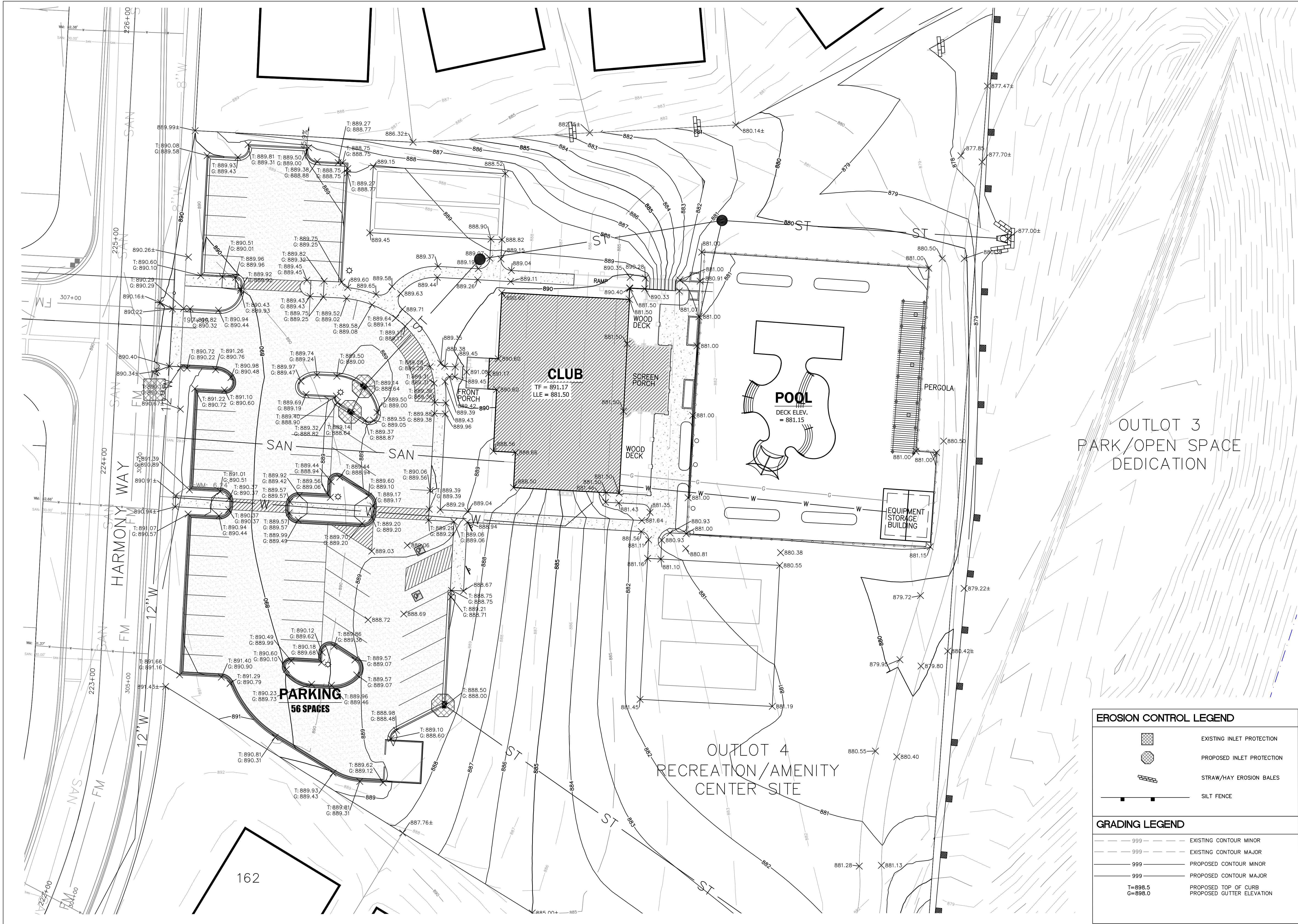
SHEET:

GRADING PLAN
AND EROSION
CONTROL PLAN

PROJECT MANAGER: DMJ
PROJECT NUMBER: 17.0061.04A
DATE: 2-4-2022

SHEET NUMBER:

C102



EROSION CONTROL LEGEND

	EXISTING INLET PROTECTION
	PROPOSED INLET PROTECTION
	STRAW/HAY EROSION BALES
	SILT FENCE

GRADING LEGEND

	EXISTING CONTOUR MINOR
	EXISTING CONTOUR MAJOR
	PROPOSED CONTOUR MINOR
	PROPOSED CONTOUR MAJOR
	PROPOSED TOP OF CURB
	PROPOSED GUTTER ELEVATION



7711 N. Port Washington Road
Milwaukee, Wisconsin 53217

kapurinc.com

PROJECT:

SYMPHONY BAY CLUBHOUSE

LOCATION:

CITY OF LAKE GENEVA, WI

CLIENT:

FAIRWYN

RELEASE:

CLUBHOUSE PIP

REVISIONS:

#	DATE	DESCRIPTION

NORTH ARROW:

SCALE: 1" = 20'

SEAL:

all in

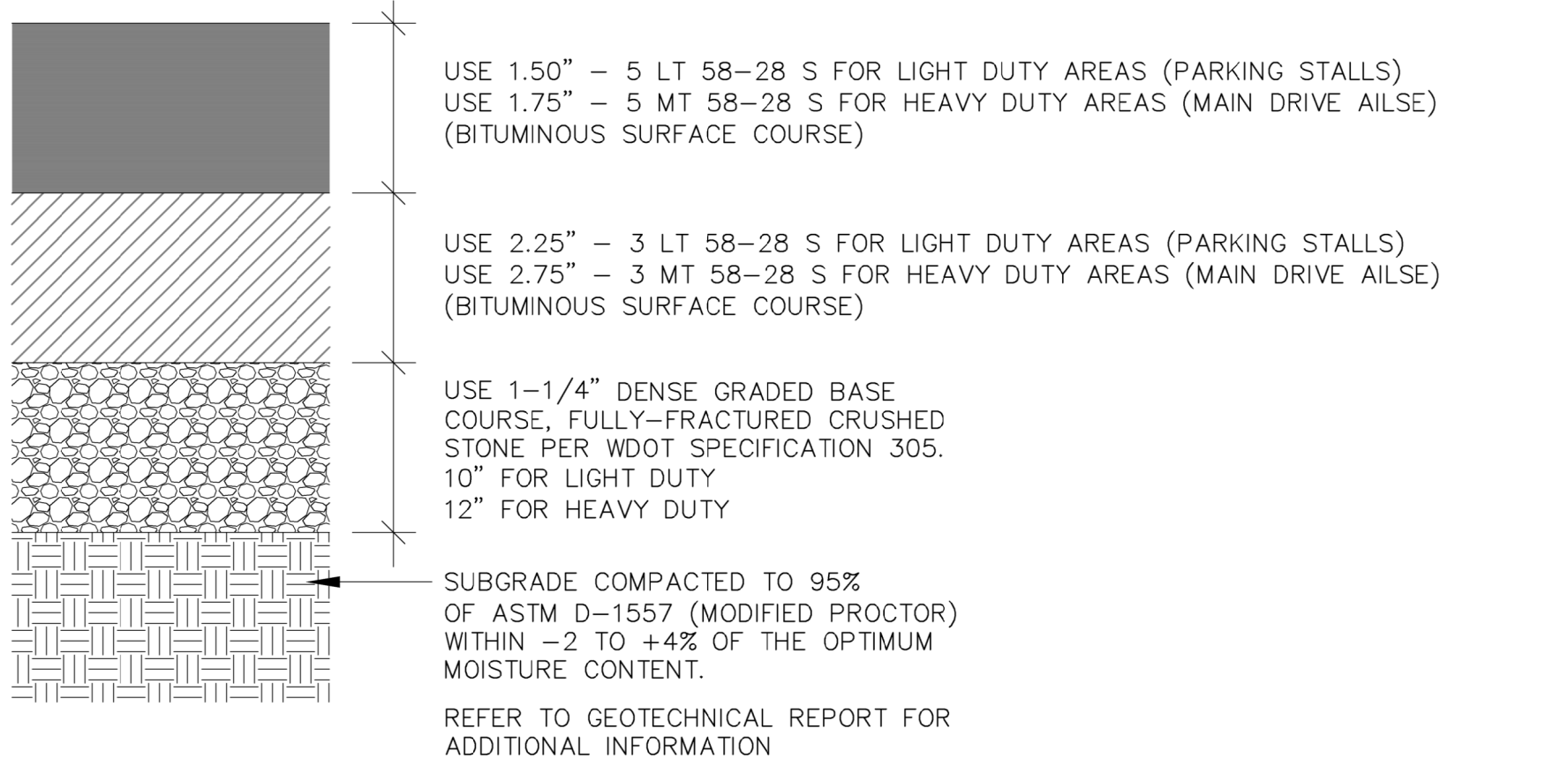
SHEET:

UTILITY PLAN

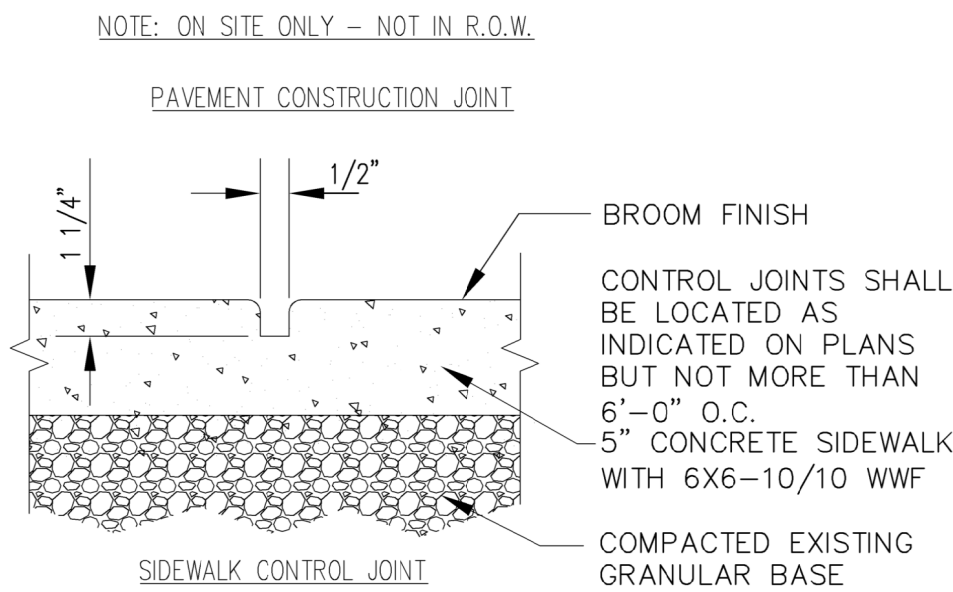
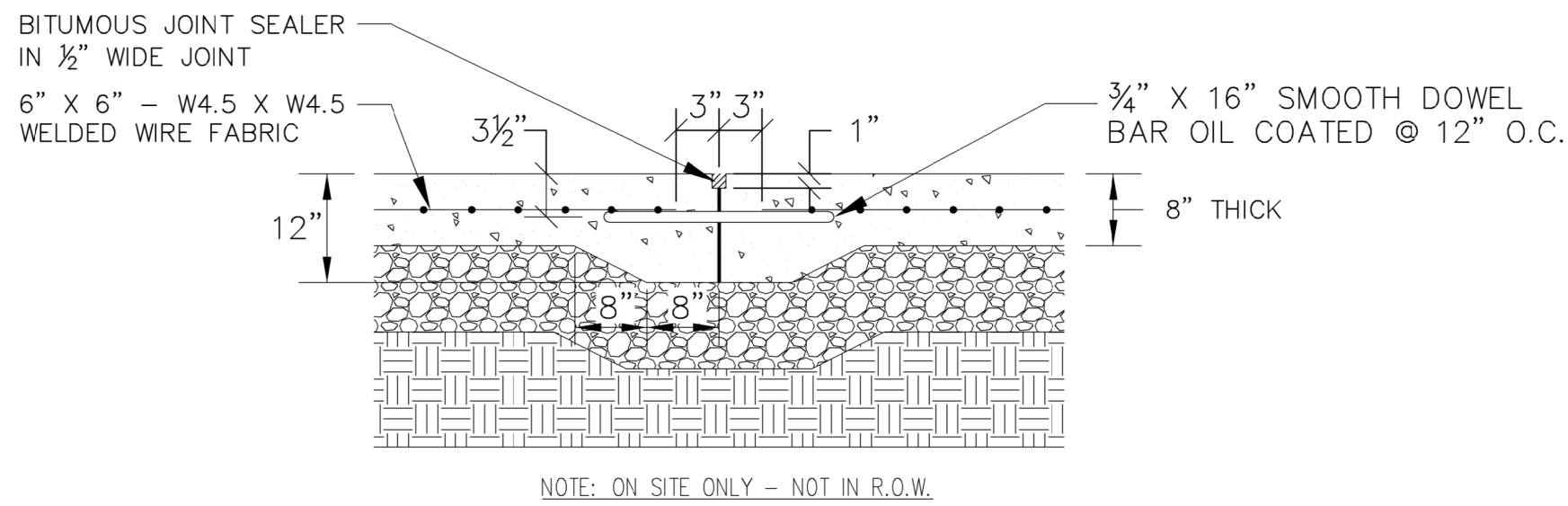
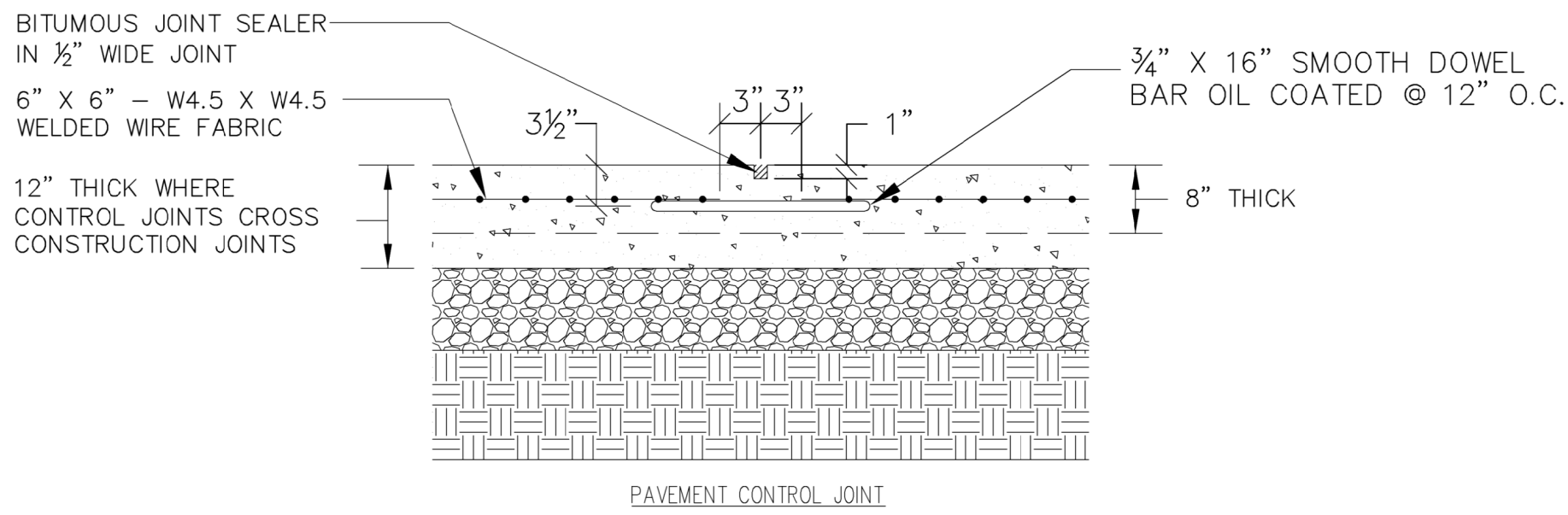
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DATE: 2-4-2022

SHEET NUMBER:

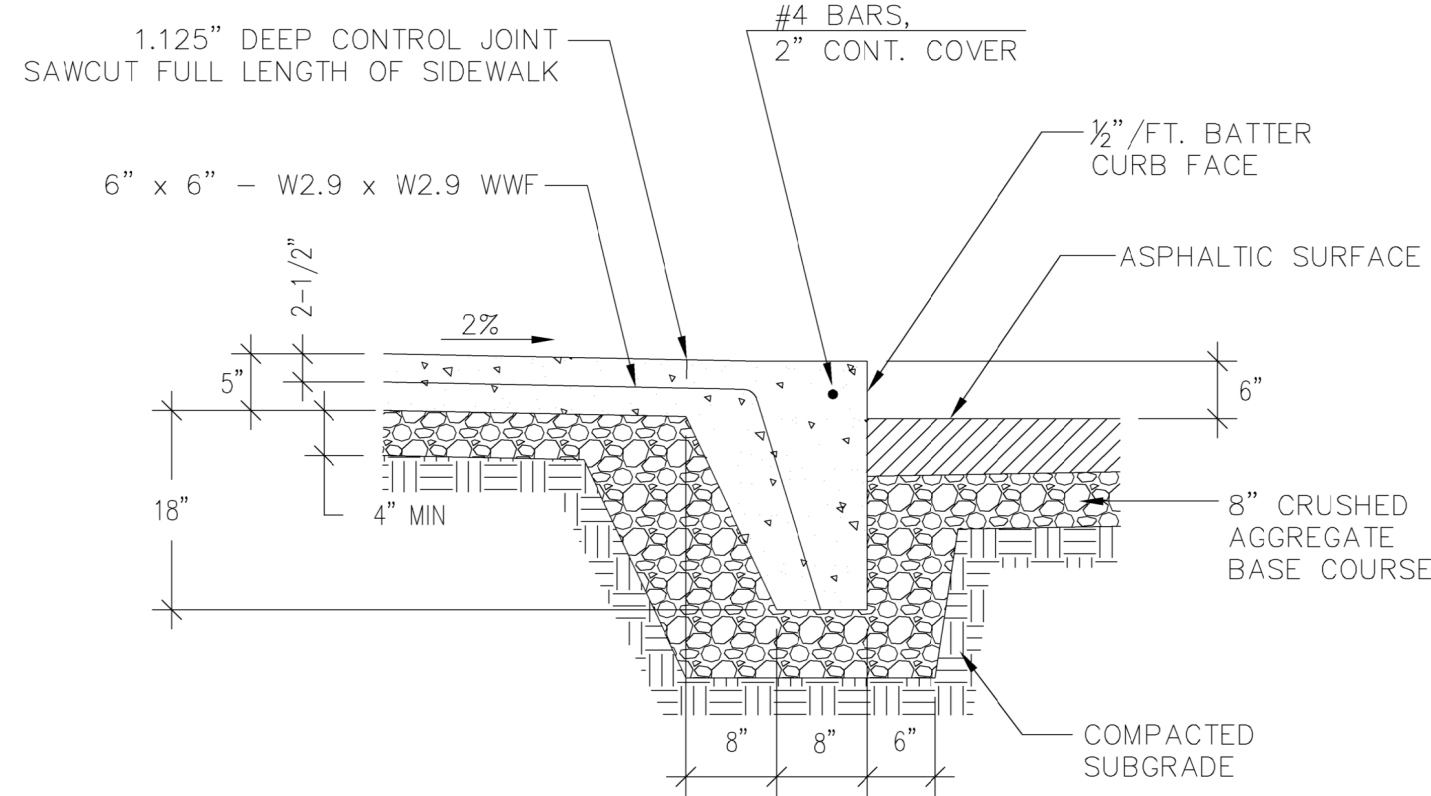
C103



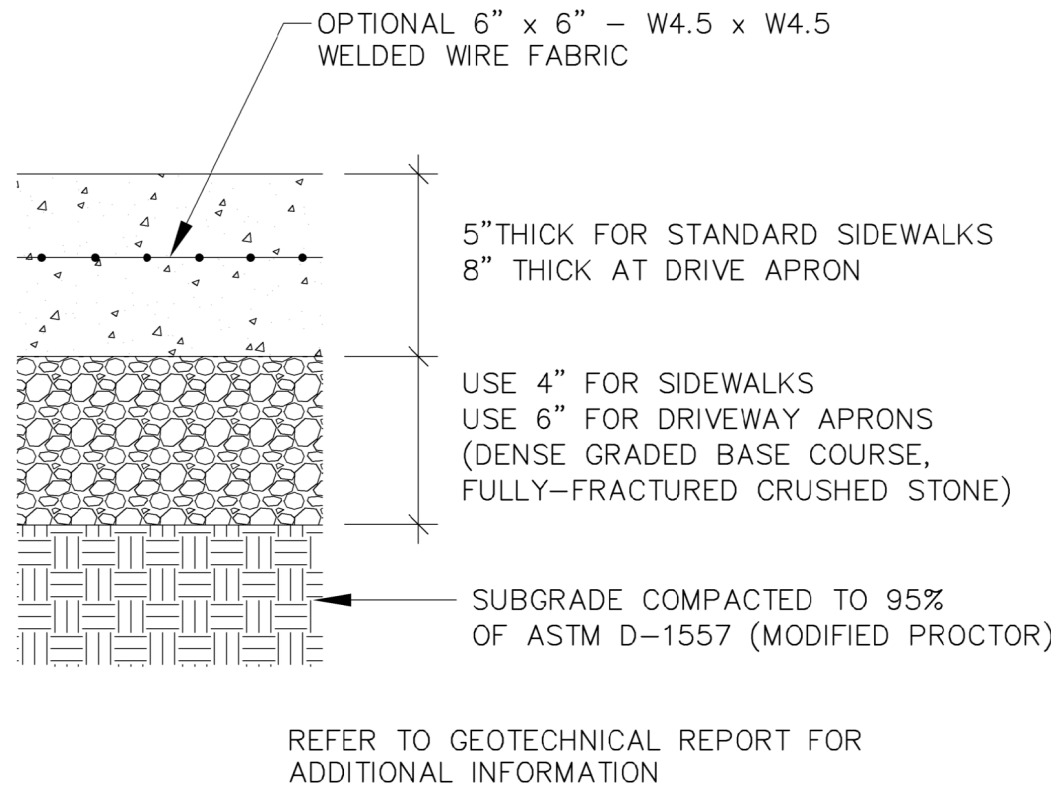
1 ASPHALT PAVEMENT SECTION
N.T.S.



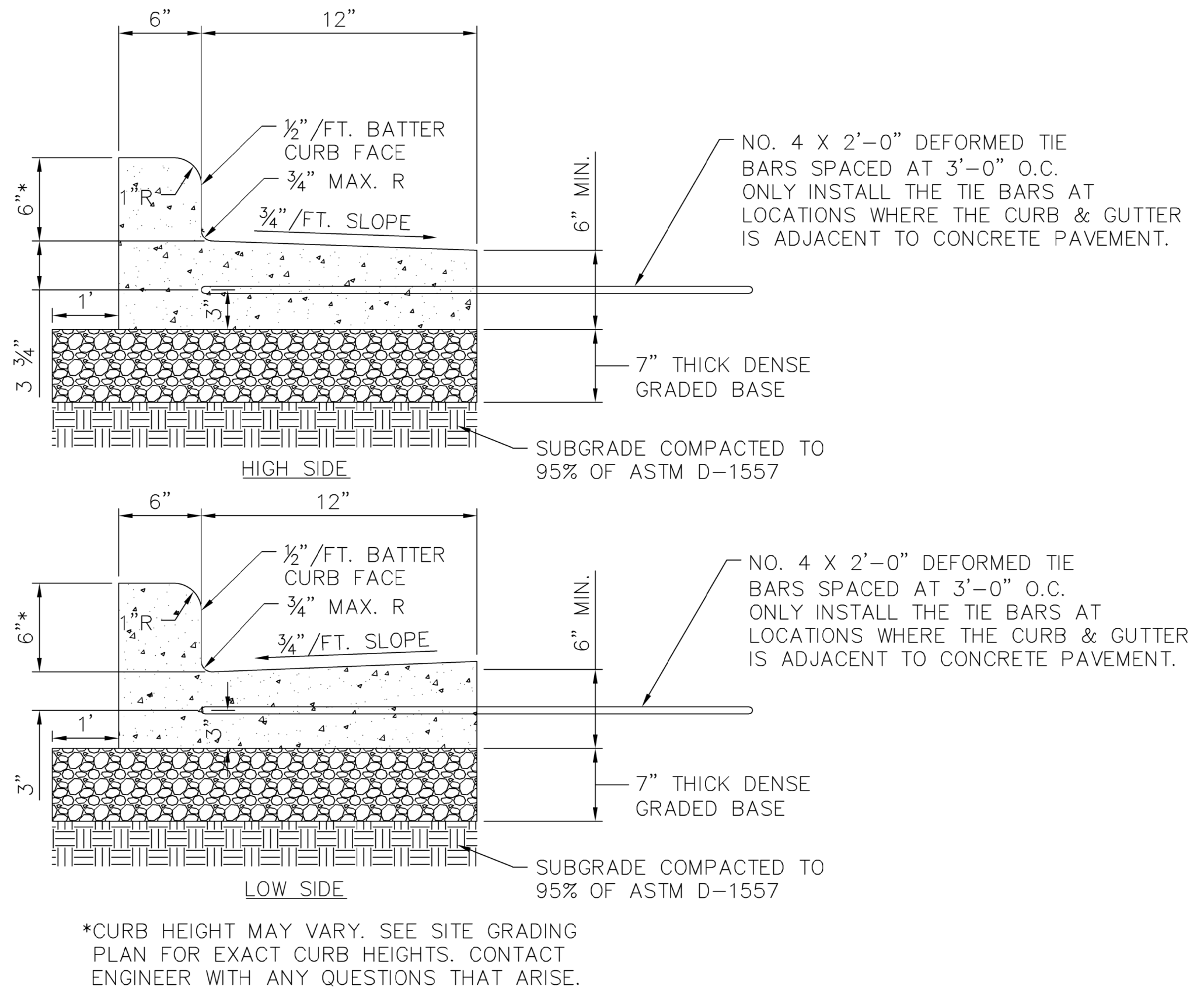
4 CONTROL & CONSTRUCTION JOINT DETAILS (TYP.)
N.T.S.



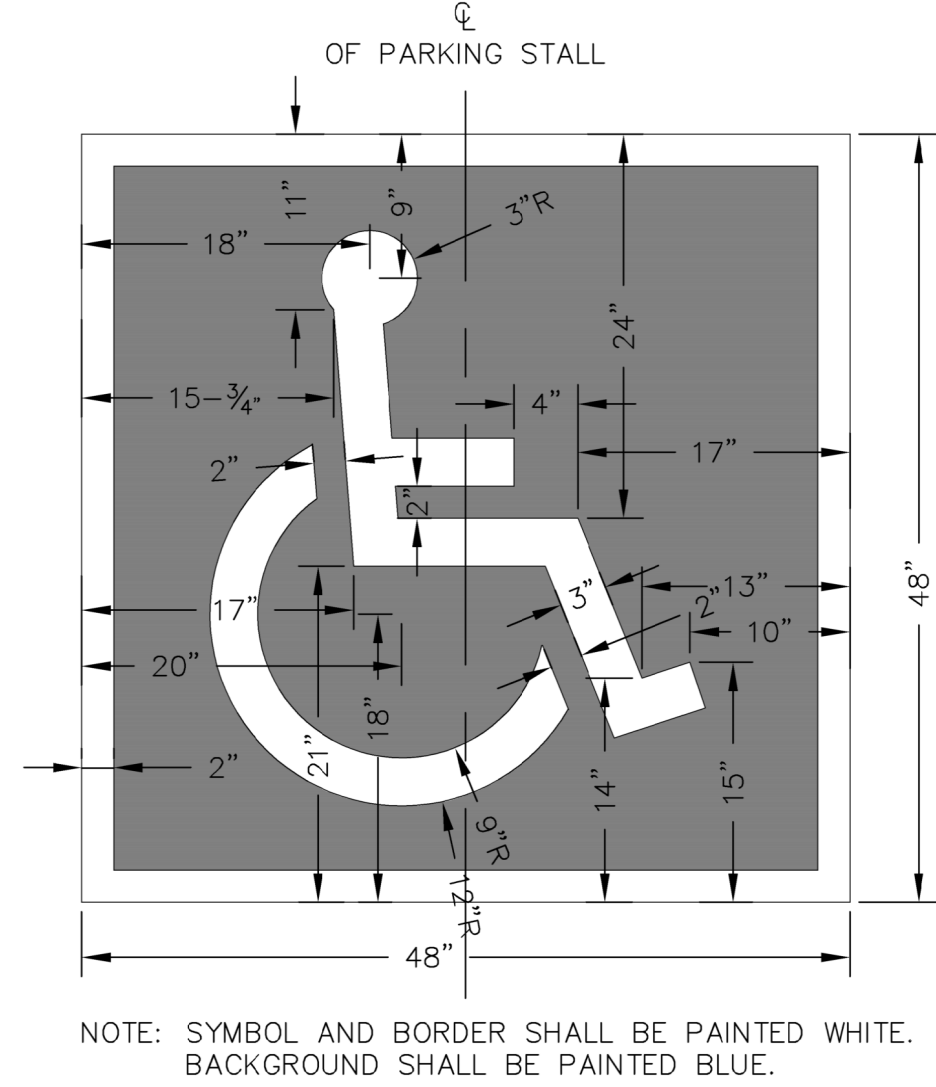
5 CONCRETE SIDEWALK WITH INTEGRAL CURB
N.T.S.



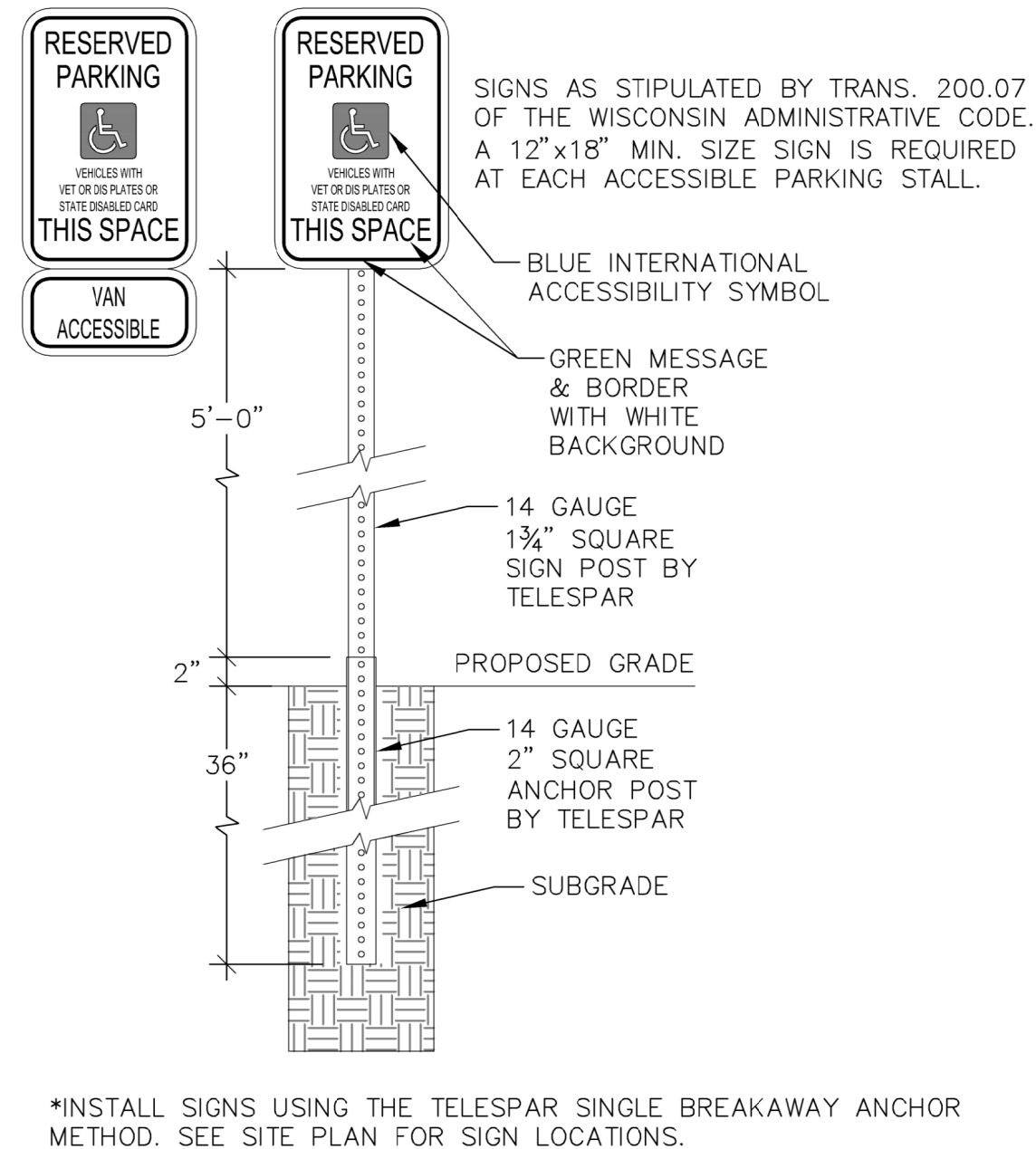
2 CONCRETE SIDEWALK/SLAB
N.T.S.



3 18-INCH BARRIER CONCRETE CURB & GUTTER
N.T.S.

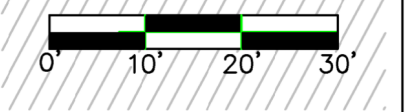
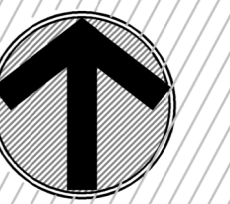


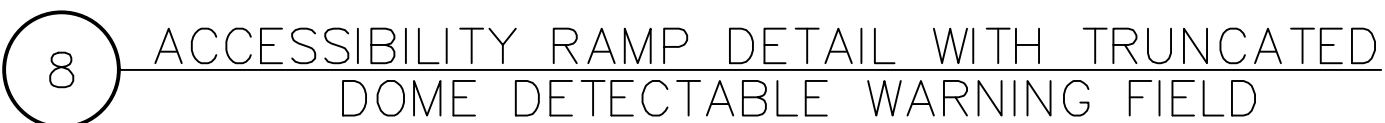
6 INTERNATIONAL ACCESSIBILITY SYMBOL FOR PARKING STALLS
N.T.S.

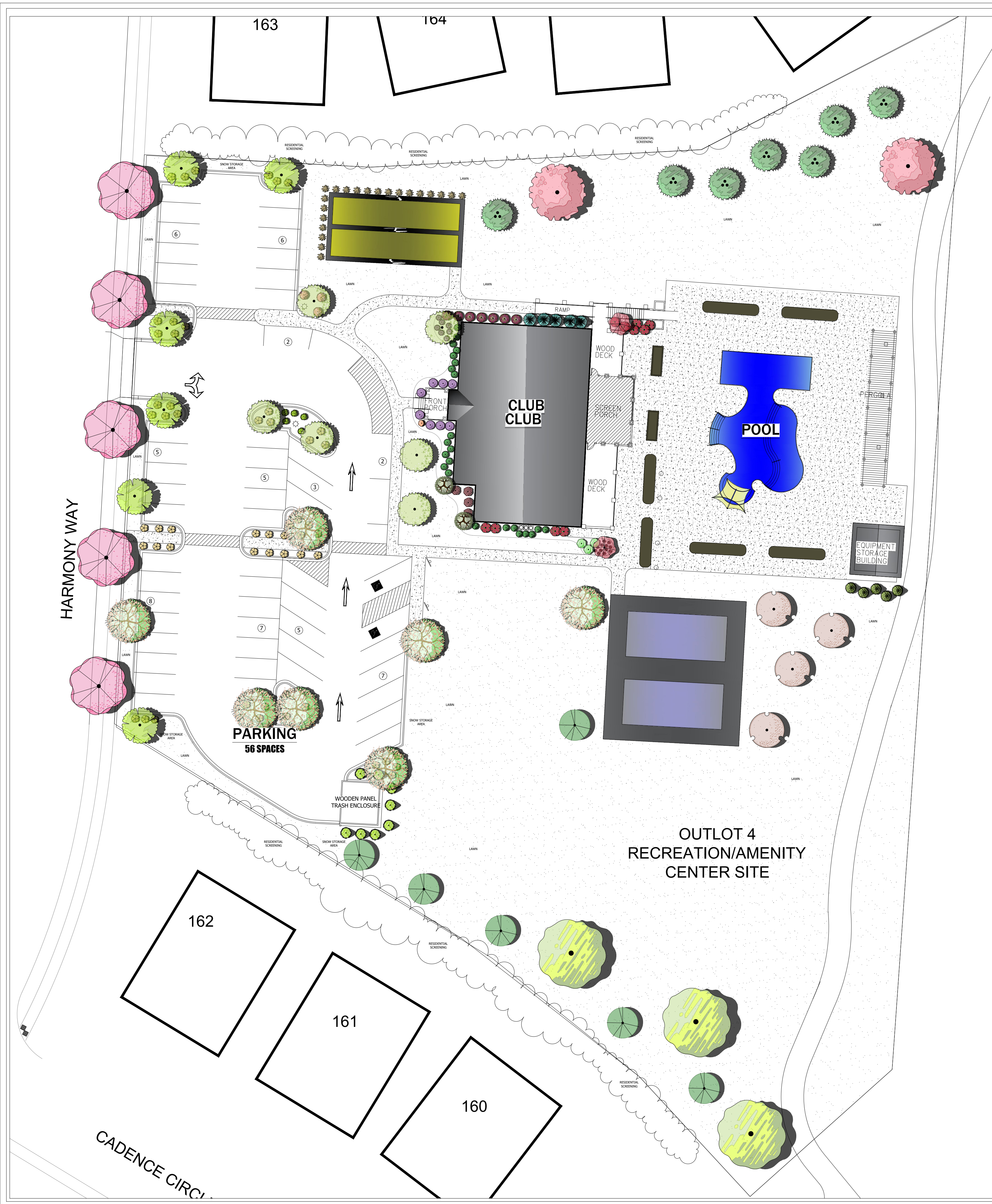


7 ACCESSIBLE PARKING STALL SIGN
N.T.S.

#	DATE	DESCRIPTION







SYMPHONY BAY CLUB HOUSE - LAKE GENEVA, WI
LANDSCAPE CONCEPT PLAN

PLANT SCHEDULE										
TREES	CODE	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	QTY	DETAIL	REMARKS		
	ACE STA	Acer miyabei 'State Street'	State Street Miyabele Maple	B & B	2.5' Cal	5				
	ACE BLO	Acer palmatum 'Bloodgood'	Bloodgood Japanese Maple	4'		2				
	ACE AR2	Acer rubrum 'Armstrong'	Armstrong Red Maple	B & B	2.5' Cal	7				
	AME PRI	Amelanchier x grandiflora 'Princess Diana'	Princess Diana Serviceberry	6'		4				
	CER EAS	Cercis canadensis	Eastern Redbud Multi-trunk	6'		2				
	GIN PR2	Ginkgo biloba 'Princeton Sentry'	Princeton Sentry Ginkgo	B & B	2' Cal	6				
	GLE INE	Gleditsia triacanthos inermis 'Skycole' TM	Skyline-Thornless Honey Locust	2.5' Cal	B&B	3				
	JUN SKY	Juniperus virginiana 'Skyrocket'	Skyrocket Juniper	B & B		5				
	QUE RUB	Quercus rubra	Red Oak	B & B	2.5' Cal	2				
	SYR IV2	Syringa reticulata 'Ivory Silk'	Ivory Silk Japanese Tree Lilac	B & B	2' Cal	6		Main Trunk Leader to be Straight. Even Structure Crown. Selective Pruning after planting.		
CONIFERS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	QTY	DETAIL	REMARKS		
	PIC ABI	Picea abies	Norway Spruce	6'		7				
	PIC DEN	Picea glauca 'Densata'	Black Hills Spruce	B & B		6				
	THU EM2	Thuja occidentalis 'Emerald'	Emerald Arborvitae	B & B	5'	8				
	THU SUN	Thuja occidentalis 'Sunkist'	Sunkist Arborvitae	5'		5				
SHRUBS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	QTY	DETAIL	REMARKS		
	ARD AUT	Aronia melanocarpa 'Autumn Magic'	Autumn Magic Black Chokeberry	3'		3		Balanced Plant Structure		
	BUX X 4	Buxus x 'Green Mountain'	Boxwood	30"	B&B	8				
	CLE RU4	Clethra alnifolia 'Ruby Spice'	Ruby Spice Clethra	5 gal		7				
	HYD LT	Hydrangea paniculata 'Little Lamb'	Hardy Hydrangea	5 gal		4				
	HYD V17	Hydrangea paniculata 'Vanilla Strawberry'	Vanilla Strawberry Panicle Hydrangea	5 gal	18-24"	10				
	PHY L2	Physocarpus opulifolius 'Little Devil' TM	Dwarf Ninebark	5 gal	Pot	5				
	RHO PJM	Rhododendron azalea 'PJM'	Azalea	5 gal		2				
	RHU GR2	Rhus aromatica 'Gro-Low'	Gro-Low Fragrant Sumac	5 gal		55		Balanced Plant Structure		
	SYR KM	Syringa pubescens 'Miss Kim'	Miss Kim Korean Lilac	5 gal		8				
	THU B16	Thuja occidentalis 'Bobazam'	Mr. Bowling Ball™ Arborvitae	5 gal		15				
ANNUALS/PERENNIALS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	QTY	DETAIL	REMARKS		
	ALL SU7	Allium x 'Summer Beauty'	Summer Beauty Allium	1 gal		7				
	HEU VIL	Heuchera villosa 'Caramel'	Coral Bells	1 gal		12				
GRASSES	CODE	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	QTY	DETAIL	REMARKS		
	CAL C15	Calamagrostis canadensis 'Karl Foerster'	Karl Foerster Grass	1 gal		21		Balanced Root and Plant Structure		

General Notes

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Drawn by: DK

Checked by:

Approval Date:

Owner Approval Initials:

No.	Revision/Issue	Date
1	UPDATED PLAN	2/2/22

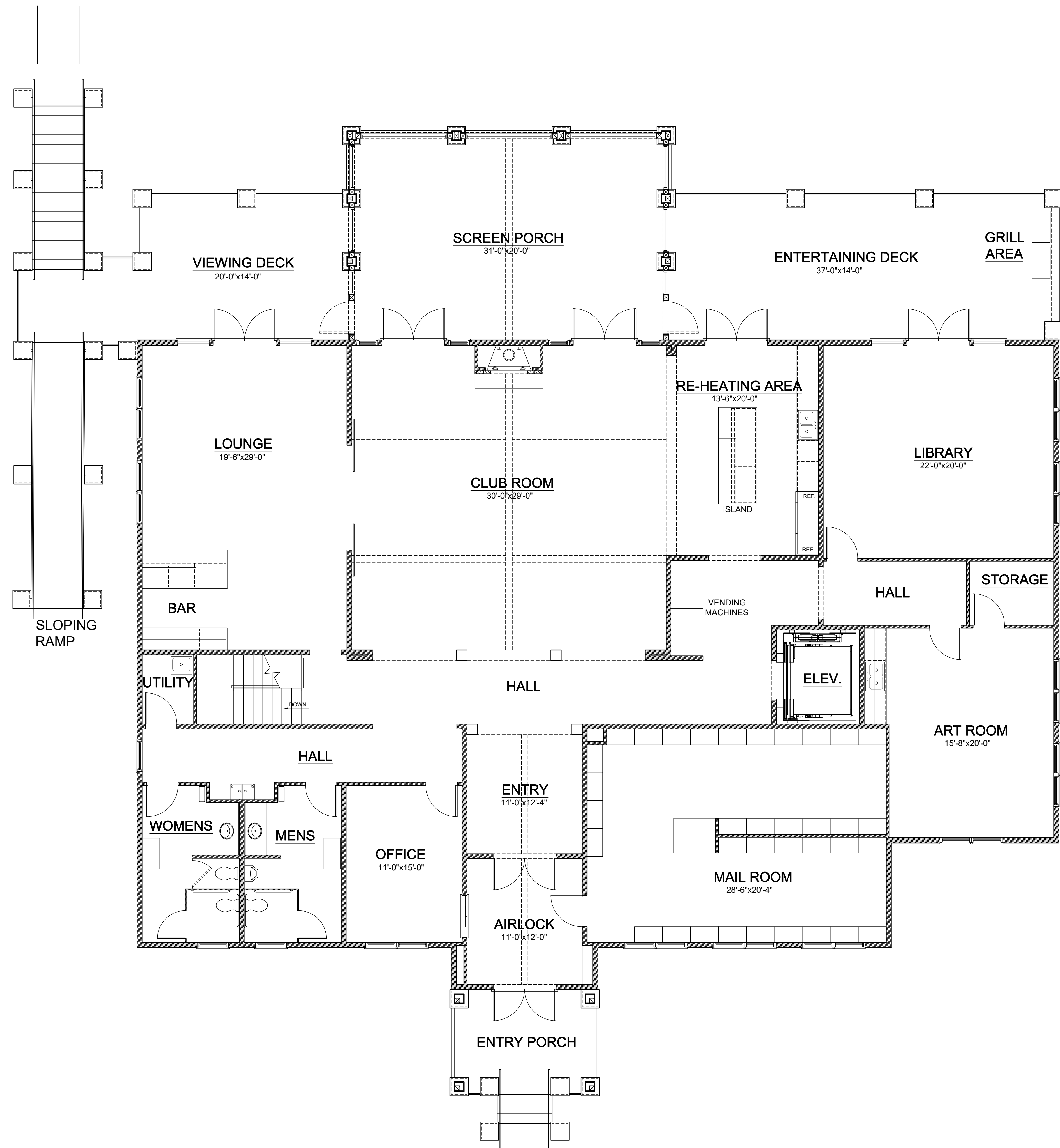
NORTH

SYMPHONY BAY CLUB HOUSE
LAKE GENEVA, WI

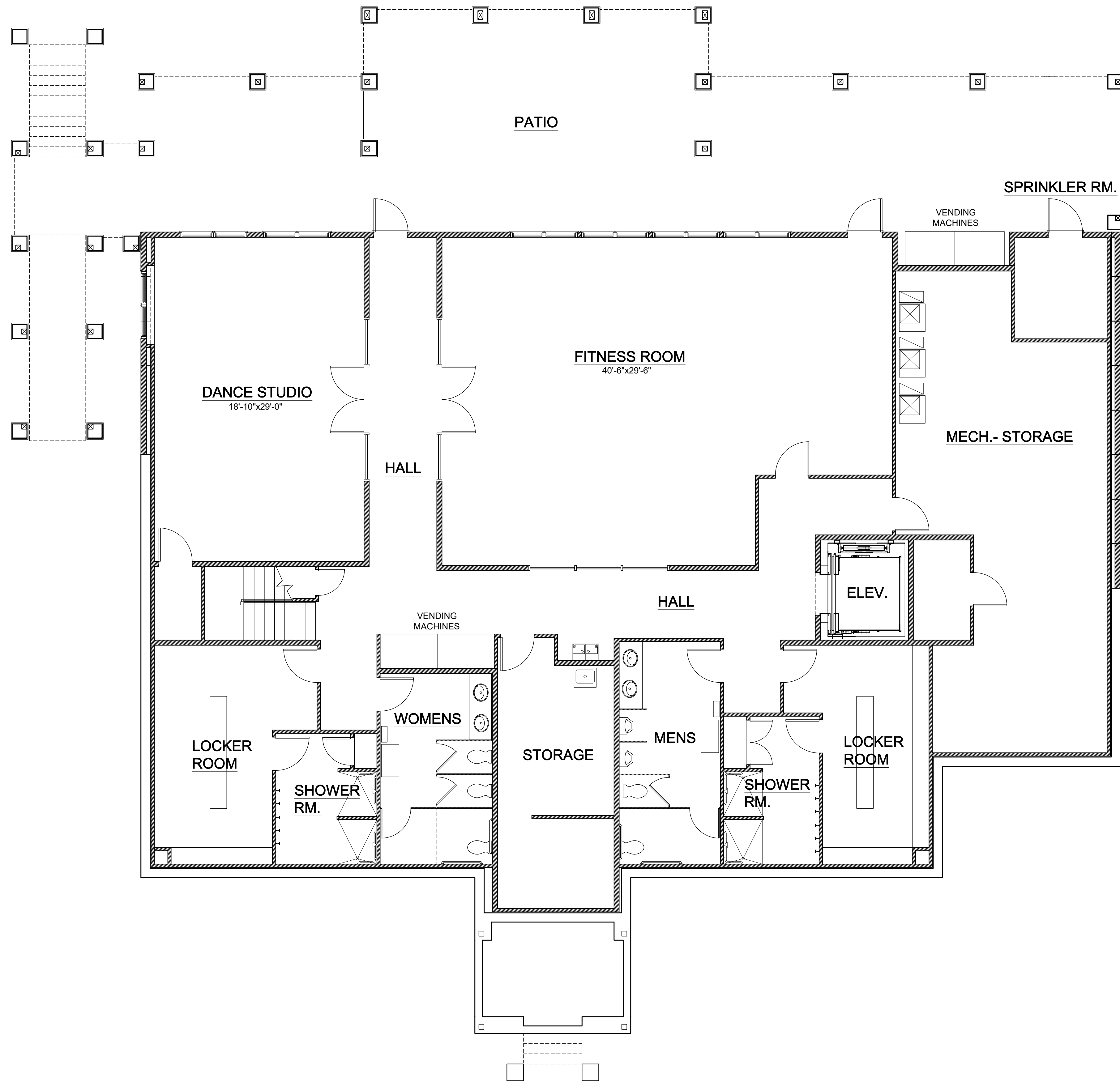
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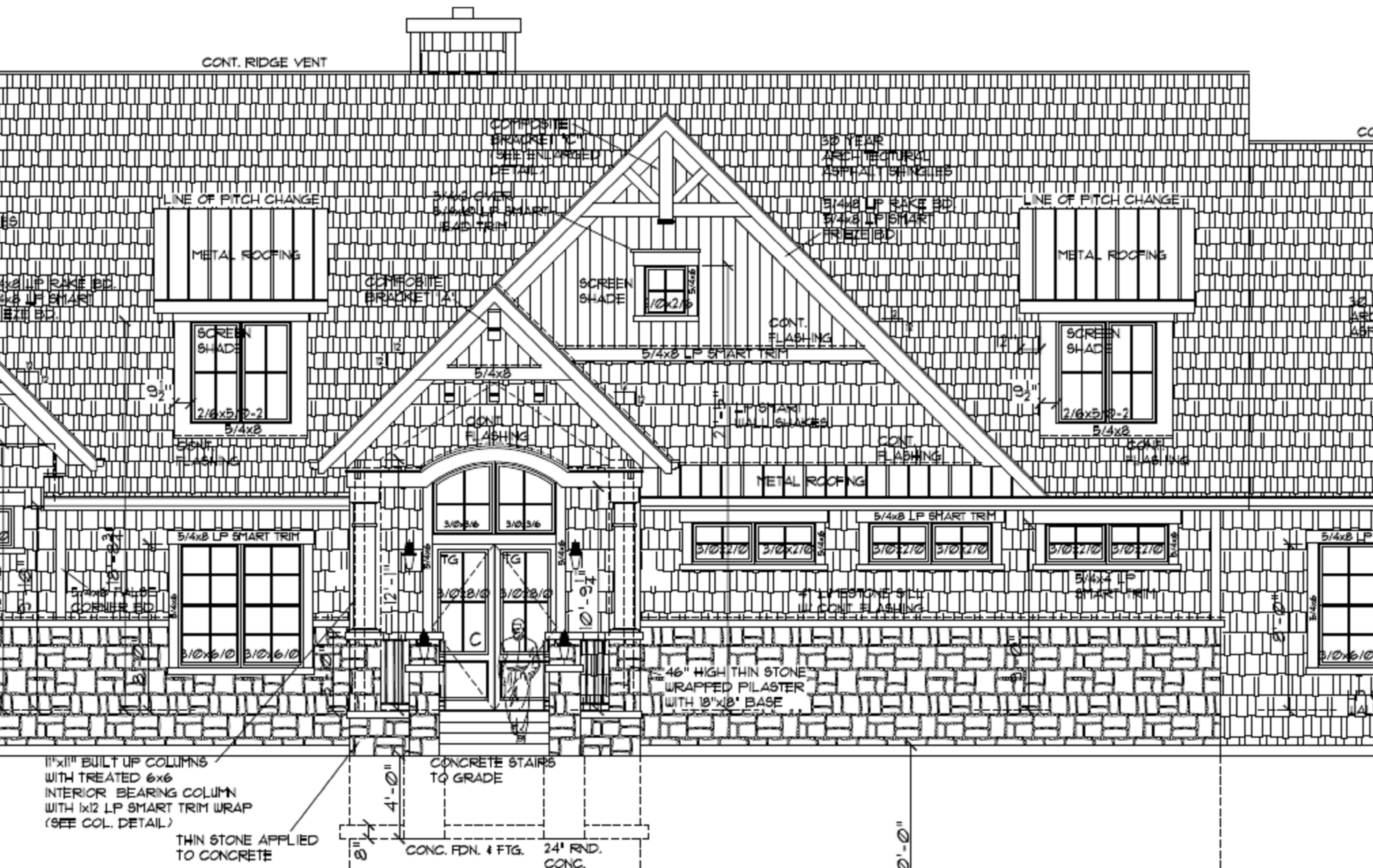




MAIN LEVEL FLOOR PLAN
5000 SQUARE FEET



LOWER LEVEL FLOOR PLAN
4838 SQUARE FEET

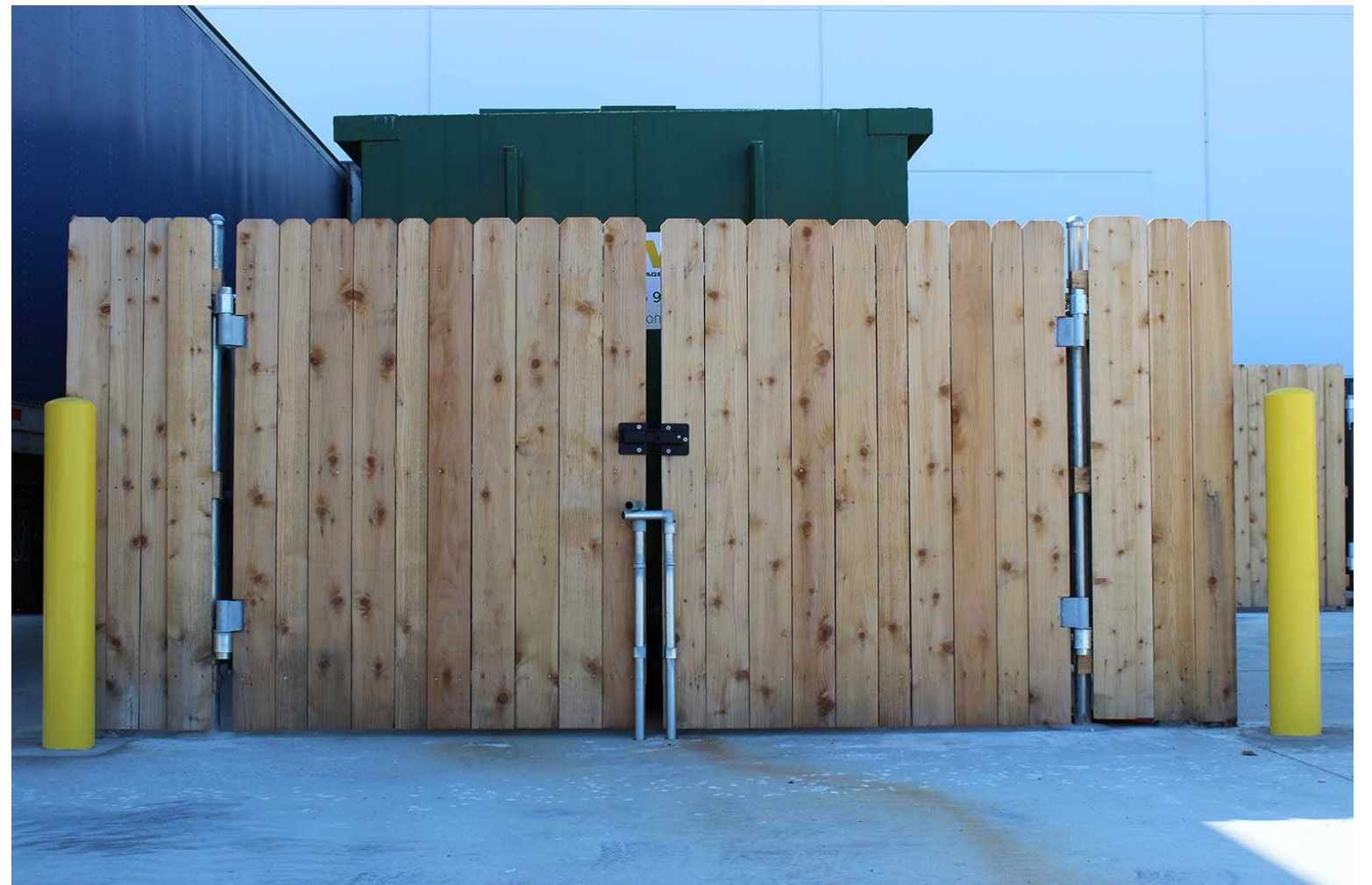


FENCE EXAMPLES

POOL FENCE



DUMPSTER ENCLOSURE



PROJECT:

SYMPHONY BAY

LOCATION:

CITY OF LAKE
GENEVA, WI

CLIENT:

FAIRWYN

RELEASE:

EXHIBIT

REVISIONS:

NORTH ARROW:

NORTH ARROW:



SCALE: HOR: 1" = 40'
VER: 1"=4'



SEAL:

all in

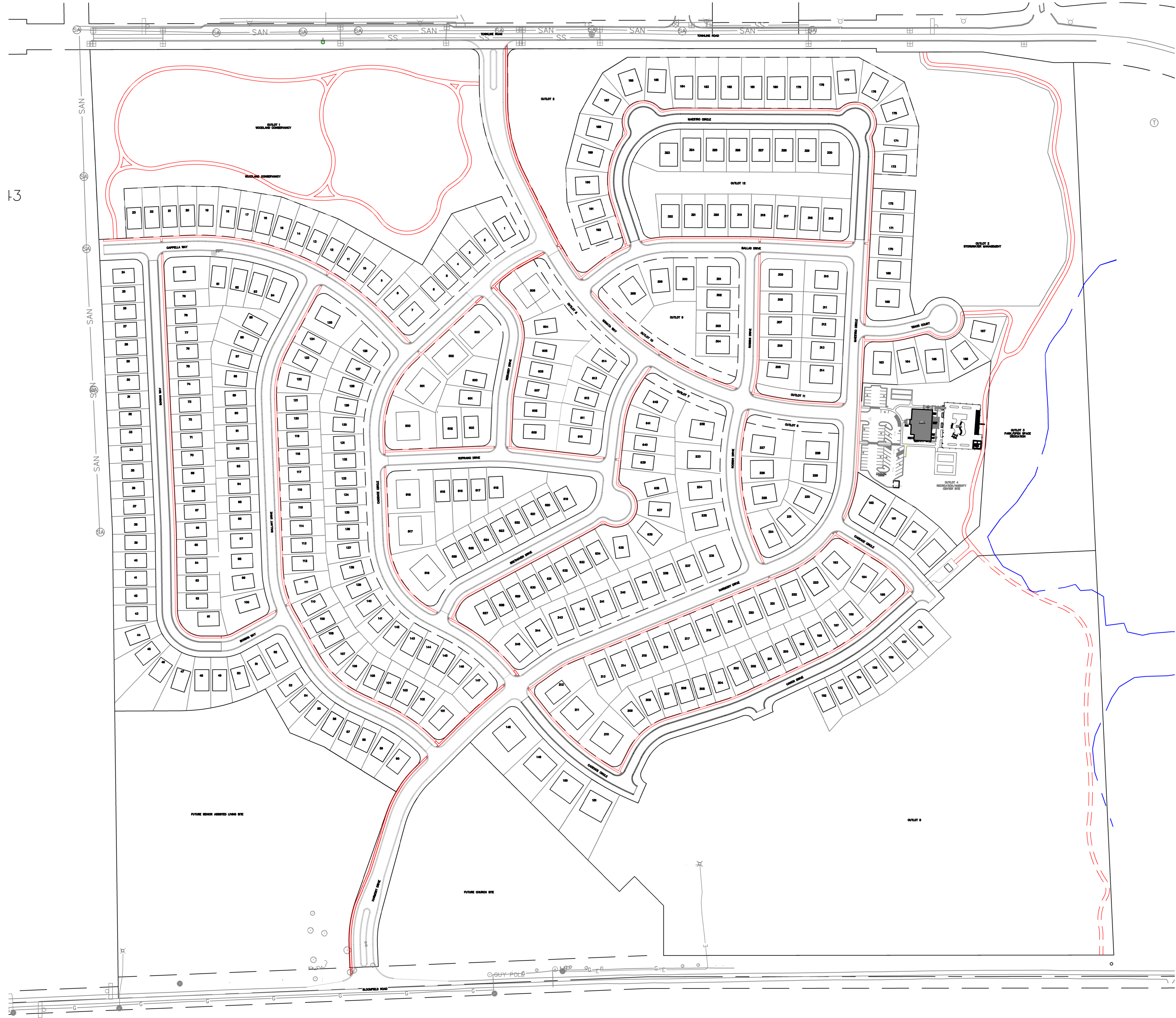
SHEET:

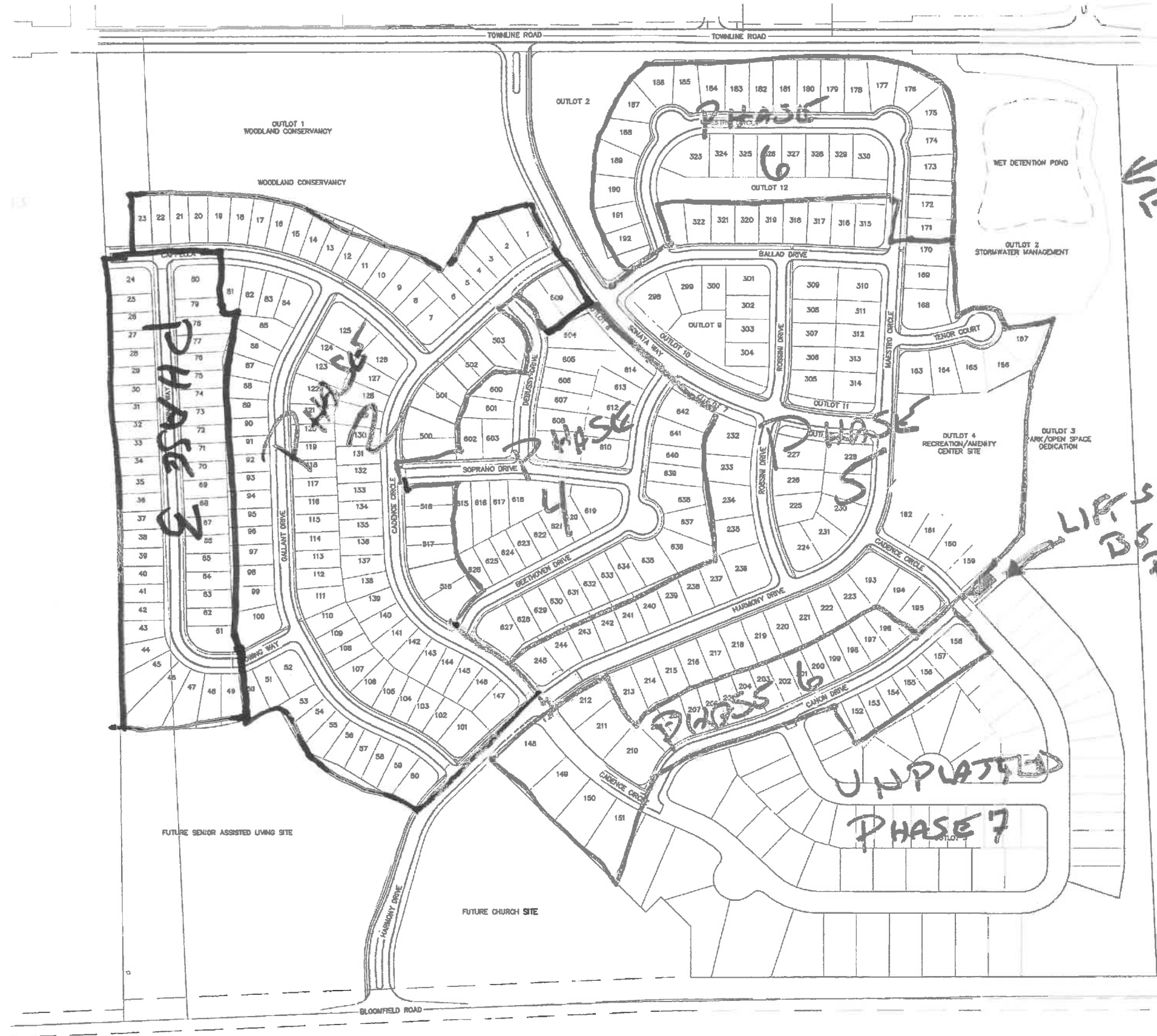
PEDESTRIAN
TRAIL MAP

PROJECT MANAGER:	DMJ
PROJECT NUMBER:	17.0061.06
DATE:	2-25-2022

SHEET NUMBER:

EXHIBIT





← DETENTION POND WILL BE BUILT IN PHASE 5

← LIFT STATION WILL BE BUILT IN PHASE 5

PROJECT: SYMPHONY BAY

LOCATION: CITY OF LAKE GENEVA, WI

CLIENT: FAIRWYN

RELEASE: EXHIBIT

REVISIONS:

#	DATE	DESCRIPTION

NORTH ARROW:

SCALE: HORIZ: 1"=40' VERT: 1"=4'

SEAL:

all in

SHEET: OVERALL SITE PLAN

PROJECT MANAGER: DIAJ
 PROJECT NUMBER: 17.0061.00A
 DATE: 4/8/2021

SHEET NUMBER: 1.0

STAFF REPORT
To Lake Geneva Plan Commission
Meeting Date: March 21, 2022

Agenda Item <u>#10</u>

Applicant:
Zoning Administrator

Request:
Floodplain Ordinance Repeal and Recreate

Description:

The City of Lake Geneva received a Letter of Final Determination (LFD) date of April 6, 2022, from the Federal Emergency Management Agency (FEMA) notifying the city that updated Flood Insurance Rate Maps (FIRMs) and the Flood Insurance Study (FIS) for Walworth County must be adopted into the local floodplain ordinance. The city ordinance must be updated and approved by the DNR and FEMA no later than April 6, 2022 or the City will be suspended from the National Flood Insurance Program (NFIP). Participation in the NFIP is necessary in order for residents to obtain flood insurance. **Therefore, meeting this deadline, and complying with the DNR requirements is critical.**

Staff Review:

This proposal would complete repeal article 98-503 of the City's zoning ordinance titled, Floodway, Floodfringe, and Floodplain Overlay Zoning Districts. The following are the required changes that are included in the proposed ordinance.

- Update the ordinance to comply with the new DNR Model Floodplain Ordinance, effective April 2021, which meets the minimum requirements of the NFIP and Chapter NR116, Wisconsin Administrative Code.
- Adopts updated FIRM and FIS information in the Official Maps Section of the Local Floodplain Ordinance.
- Includes updated flood storage maps.
- Includes information to adopt language pertaining to 2019 WI Act 175.

Act 175 was enacted in March 2020 and created Wis. Stats. Section 87.30(1d)(d). This Act changes how Ch. NR116 Wis. Admin. Code may require local governments to regulate nonconforming structures in the floodplain. It creates an exception to the state's "50% rule" for structures in the floodplain. The states "50% rule" says no modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of the local floodplain ordinance.

Essentially, in a floodplain zoning ordinance that has incorporated Act 175, if a nonconforming structure is altered to meet the federal minimum standards applicable to new construction and substantial improvements, and the living quarters in the nonconforming building are elevated to be at or above the flood protection elevation, then the Department is prohibited from imposing cost-based regulation or restrictions to the structure (i.e., 50% Rule). It is important to note that structures modified to meet the requirements of Wis. Stats. 87.30 (1d)(d) are not transformed into nonconforming structures. They are still considered nonconforming structures and are subject to all other non-based regulations and restrictions applicable to nonconforming structures.

Required Steps:

- Class II notice preceding Plan Commission public hearing (completed)
- Public Hearing and Action by Plan Commission (March 21)
- City Council action (March 28)
- Publication of Class I notice informing the public the ordinance has been adopted (March 31)
- Submittal of required materials (April 1)
- Federal deadline (April 6)

Staff Recommendation:

Suggested Motion:

- *Approve: I recommend approval of the proposed ordinance to repeal and recreate Section 98-503 regarding floodplain regulations.*

*Sonja Kruesel, AICP
City Planning Consultant
Vandewalle & Associates*

FLOODPLAIN ORDINANCE FOR CITY OF LAKE GENEVA

Effective xxxxx, 2022

Date of Public Hearing: March 21, 2022

Date of Adoption: March 28, 2022

Dates of Publication or Posting: March 3, 2022 and March 10, 2022

Date of Publication or Posting of Notice of Enacted Ordinance March 31, 2022

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Section 98-503 Floodway, Floodfringe, and Floodplain Overlay Zoning Districts

(1) Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General Provisions

(a) Statutory Authorization. This ordinance is adopted pursuant to the authorization in s. 61.35 and 62.23 and the requirements in s. 87.30, Stats.

(b) Finding of Fact. Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

(c) Statement of Purpose. This ordinance is intended to regulate floodplain development to:

1. Protect life, health and property;
2. Minimize expenditures of public funds for flood control projects;
3. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
4. Minimize business interruptions and other economic disruptions;
5. Minimize damage to public facilities in the floodplain;
6. Minimize the occurrence of future flood blight areas in the floodplain;
7. Discourage the victimization of unwary land and homebuyers;
8. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
9. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(d) Title. This ordinance shall be known as the Floodplain Zoning Ordinance for the City of Lake Geneva, Wisconsin.

(e) General Provisions

1. **Areas to be Regulated.** This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE, on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable.
2. **Official Maps & Revisions.** Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, AO, on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in subd. (b) below. These maps and revisions are on file in the

office of the ***Planning & Zoning Department of Lake Geneva, WI.***

- a. Official Maps: Based on the Flood Insurance Study (FIS):
 - i. Flood Insurance Rate Map (FIRM), panel numbers 55127C0327E, 55127C0332E, 55127C0334E, 55127C0337E, and 55127C0345E dated 04/06/2022;
 - ii. Flood Insurance Rate Map (FIRM), panel numbers 55127C0329D, 55127C0331D, and 55127C0333D dated 10/02/2009;
 - iii. Flood Insurance Study (FIS) 55127CV001C and 55127CV002C for **the City of Lake Geneva (Walworth County)**, dated 04/06/2022.
 - iv. Letter of Map Revision, Case No. 11-05-4839P-550466, dated 06/04/2012.

Approved by: The DNR and FEMA

- b. Official Maps: Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.
 - i. Flood Storage Map, Walworth County and Incorporated Areas Flood Storage Districts, Panels 11 and 15, dated April 6, 2022, approved by DNR.
3. **Establishment of Floodplain Zoning Districts.** The flood hazard areas regulated by this ordinance are divided into districts as follows:
- a. The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to s. 5.1(5).
 - b. The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to s. 5.1(5), within A Zones shown on the FIRM.
 - c. The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.
 - d. The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.
4. **Locating Floodplain Boundaries.** Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to

s. 8.0 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 8.0 *Amendments*.

- a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- b. Where flood profiles do not exist for projects, including any boundary of zone A, AO, the location of the boundary shall be determined by the map scale.

5. Removal of Lands from Floodplain

- a. Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0 *Amendments*.
- b. The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
 - i. The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
 - ii. The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F;
- c. Removal of lands from the floodplain may also occur by operation of §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

6. Compliance

- a. No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
- b. Failure to obtain a floodplain development permit shall be a violation of these

regulations and shall be punishable in accordance with s. 9.0.

- c. Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the Floodplain Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with s. 9.0.
7. **Municipalities and State Agencies Regulated.** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies. Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with Federal, State, and local floodplain standards.
8. **Abrogation and Greater Restrictions**
 - a. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 for cities; or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - b. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
9. **Interpretation.** In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
10. **Warning and Disclaimer of Liability.** The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.
11. **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
12. **Annexed Areas For Cities and Villages.** The Walworth County floodplain zoning provisions in effect on the date of annexation shall remain in effect and

shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

(2) General Standards Applicable to All Floodplain Districts. The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.

1. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
 - (a) be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (b) be constructed with flood-resistant materials;
 - (c) be constructed by methods and practices that minimize flood damages; and
 - (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
2. If a subdivision or other proposed new development is in a flood-prone area, the community shall assure that:
 - (a) such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;
 - (b) public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - (c) adequate drainage is provided to reduce exposure to flood hazards.

All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 7.1(2).

(a) Hydraulic and Hydrologic Analyses

1. No floodplain development shall:
 - a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or

b. Cause any increase in the regional flood height due to floodplain storage area lost.

2. The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 8.0 *Amendments* are met.

(b) Watercourse Alterations. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 2.1 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 8.0 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

(c) Chapter 30, 31, Wis. Stats., Development. Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to s. 8.0 *Amendments*.

(d) Public or Private Campgrounds. Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

1. The campground is approved by the Department of Agriculture, Trade and Consumer Protection;
2. A land use permit for the campground is issued by the zoning administrator;
3. The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
4. There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
5. This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection and all other applicable

regulations;

6. All mobile recreational vehicles placed on the site must meet one of the following:
 - a. Only camping units that are fully licensed, if required, and ready for highway use are allowed; or
 - b. The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;

A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

7. All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit consistent with 2.4(6) and shall ensure compliance with all the provisions of this section;
8. The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
9. All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 3.0, 4.0, 5.1, or 5.3 for the floodplain district in which the structure is located;
10. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
11. All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

(3) Floodway District (FW)

(a) Applicability. This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.1(5).

(b) Permitted Uses. The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
 - they meet the standards in s. 3.3 and 3.4; and
 - all permits or certificates have been issued according to s. 7.1.
1. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 2. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
4. Uses or structures accessory to open space uses or classified as historic structures that comply with s. 3.3 and 3.4.
5. Extraction of sand, gravel or other materials that comply with s. 3.3(4).
6. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
7. Public utilities, streets and bridges that comply with s. 3.3(3).
8. Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code.
9. Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
10. Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.
11. Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

(c) Standards for Developments in the Floodway

1. General

- a. Any development in the floodway shall comply with s. 2.0 and have a low flood damage potential.
- b. Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to s. 2.1 and 7.1(2)(c). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
- c. Any encroachment in the regulatory floodway is prohibited unless the data submitted for subd. 3.3(1)(b) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in s. 1.5(5).

2. **Structures.** Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
- a. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - b. Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
 - i. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
 - ii. Have structural components capable of meeting all provisions of Section 3.3(2)(g) and;
 - iii. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 3.3(2)(g).
 - c. Must be anchored to resist flotation, collapse, and lateral movement;
 - d. Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
 - e. Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
 - f. For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets s. 3.3(2)(a) through 3.3(2)(e) and meets or exceeds the following standards:
 - i. The lowest floor must be elevated to or above the regional flood elevation;
 - ii. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - iii. the bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
 - iv. The use must be limited to parking, building access or limited storage.

- g. Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
 - i. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
 - ii. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sections 3.4(4) and 3.4(5);
 - iii. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
 - iv. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 - v. Placement of utilities to or above the flood protection elevation.

3. **Public Utilities, Streets and Bridges.** Public utilities, streets and bridges may be allowed by permit, if:

- a. Adequate floodproofing measures are provided to the flood protection elevation; and
- b. Construction meets the development standards of s. 2.1.

4. **Fills or Deposition of Materials.** Fills or deposition of materials may be allowed by permit, if:

- a. The requirements of s. 2.1 are met;
- b. No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
- c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- d. The fill is not classified as a solid or hazardous material.

(d) **Prohibited Uses.** All uses not listed as permitted uses in s. 3.2 are prohibited, including the following uses:

- 1. Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

2. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
3. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
4. Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;
5. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
6. Any solid or hazardous waste disposal sites;
7. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
8. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

(4) Floodfringe District (FF)

- (a) Applicability.** This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.1(5).
- (b) Permitted Uses.** Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 4.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 7.1 have been issued.
- (c) Standards for Development in the Floodfringe.** Section 2.0 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of s. 6.0 *Nonconforming Uses*;
 1. **Residential Uses.** Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of s. 6.0 *Nonconforming Uses*;
 - a. All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be shown to meet s. 1.5(5).

- b. Notwithstanding s. 4.3 (1)(a), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed below the regional flood elevation;
 - c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).
 - d. In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 - i. The municipality has written assurance from police, fire and emergency services that rescue, and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - ii. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.
2. **Accessory Structures or Uses.** In addition to s. 2.0, new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
 3. **Commercial Uses.** In addition to s. 2.0, any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
 4. **Manufacturing and Industrial Uses.** In addition to s. 2.0, any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s 7.5. Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
 5. **Storage of Materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
 6. **Public Utilities, Streets and Bridges.** All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 7.5.
 - b. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
7. **Sewage Systems.** All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 7.5(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.
8. **Wells.** All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 7.5(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
9. **Solid Waste Disposal Sites.** Disposal of solid or hazardous waste is prohibited in floodfringe areas.
10. **Deposition of Materials.** Any deposited material must meet all the provisions of this ordinance.
11. **Manufactured Homes**
- a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - i. have the lowest floor elevated to the flood protection elevation; and
 - ii. be anchored so they do not float, collapse or move laterally during a flood
 - c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 4.3(1).
12. **Mobile Recreational Vehicles.** All mobile recreational vehicles must be on site for less than 180 consecutive days and be either:
- a. fully licensed and ready for highway use; or
 - b. shall meet the elevation and anchoring requirements in s. 4.3 (11)(b) and (c).

A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(5) Other Floodplain Districts

(a) General Floodplain District (GFD)

1. **Applicability.** The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in s. 1.5(2)(a).
2. **Floodway Boundaries.** For proposed development in zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in s. 1.5(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to s. 5.1(5). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of s. 3.0. If the development is located entirely within the floodfringe, the development is subject to the standards of s. 4.0.
3. **Permitted Uses.** Pursuant to s. 5.1(5) it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway (s. 3.2) and Floodfringe (s. 4.2) Districts are allowed within the General Floodplain District, according to the standards of s. 5.1(4) provided that all permits or certificates required under s. 7.1 have been issued.
4. **Standards for Development in the General Floodplain District.** Section 3.0 applies to floodway areas, determined to pursuant to 5.1(5); Section 4.0 applies to floodfringe areas, determined to pursuant to 5.1(5).
 - a. New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:
 - i. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or
 - ii. If the depth is not specified on the FIRM, to or above two (2) feet above the highest adjacent natural grade.
 - b. New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
 - c. In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures.
 - d. All development in zones AO and zone AH shall meet the requirements of s. 4.0 applicable to flood fringe areas.

5. **Determining Floodway and Floodfringe Limits.** Upon receiving an application for development within zone A, or within zone AE where a floodway has not been delineated on the Flood Insurance Rate Maps, the zoning administrator shall:

- a. Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.
- b. Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
 - i. A Hydrologic and Hydraulic Study as specified in s. 7.1(2)(c).
 - ii. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - iii. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(b) Flood Storage District The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

1. **Applicability.** The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

2. **Permitted Uses.** Any use or development which occurs in a flood storage district must meet the applicable requirements in s. 4.3.

3. **Standards for Development in Flood Storage Districts**

- a. Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
- b. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the

groundwater table is not considered to provide an equal volume of storage.

- c. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per s. 8.0 *Amendments* of this ordinance.
- d. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

(6) Nonconforming Uses

(a) General

1. Applicability

- a. The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with s. 87.30, Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 CFR 59-72., these standards shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created.
 - b. As permit applications are received for additions, modifications, or substantial improvements to nonconforming buildings in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value and a list of the costs of those activities associated with changes to those buildings.
2. The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:
- a. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- b. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- c. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- d. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- e. No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- f. If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1).
- g. Except as provided in subd. (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is

considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

- h. For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met and all required permits have been granted prior to the start of construction:

- i. Residential Structures

- a. Shall have the lowest floor, including basement, elevated to or above the flood protection elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 7.5(2).
- b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
- e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.1(4).
- f. in AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

- ii. Nonresidential Structures

- a. Shall meet the requirements of s. 6.1(2)(h)1a-f.
- b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 7.5 (1) or (2).
- c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.1(4).

- 3. A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are

used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 6.1 (2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

4. Notwithstanding anything in this chapter to the contrary, modifications, additions, maintenance, and repairs to a nonconforming building shall not be prohibited based on cost and the building's nonconforming use shall be permitted to continue if:
 - a. Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
 - b. The lowest floor of the nonconforming building, including the basement, is elevated to or above the regional flood elevation;
 - c. The nonconforming building is permanently changed to conform to the applicable requirements of 2.0;
 - d. If the nonconforming building is in the floodway, the building is permanently changed to conform to the applicable requirements of 3.3(1), 3.3(2)(b) through (e), 3.3(3), 3.3(4), and 6.2. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway it must meet the standards in section 3.3(4);
 - e. If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of 4.3 and 6.3;
 - f. Repair or reconstruction of nonconforming structures and substantial improvements of residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation;
 - g. Repair or reconstruction of nonconforming structures and substantial improvements of non-residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation, or (together with attendant utility and sanitary facilities) be designed so that below the base flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
 - i. Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of s. 6.1(4)(g) above.

- ii. The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed;
- h. Fully enclosed areas below the lowest floor of repair or reconstruction of nonconforming structures and substantial improvements in zones A1-30, AE, and AH that are usable solely for parking of vehicles, building access, or storage, must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Subsequent improvements to repaired or reconstructed nonconforming structures must not increase the degree of their nonconformity. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:
 - i. A minimum of two openings into each enclosed area must be located below the base flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area.
 - ii. The bottom of all openings must be no higher than one foot above the adjacent grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings if they permit the automatic entry and exit of floodwaters;
- i. Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- j. Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH on existing sites in an existing manufactured home park that is not undergoing expansion and on which a manufactured home has not incurred substantial damage as a result of flood must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- k. Recreational vehicles placed on sites within zones A1-30, AH, and AE must either:
 - i. Be on site for fewer than 180 consecutive days; or

- ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
- iii. Meet the elevation and anchoring requirements for manufactured homes in s. 6.1(4)(i) above;
- l. In a regulatory floodway that has been delineated on the FIRM in zone A1-30 or AE, encroachments, including repair or reconstruction of nonconforming structures, substantial improvement, or other development (including fill) must be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- m. In zone A, the community must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring repair or reconstruction of nonconforming structures, substantial improvement, and other development to meet ss. 6.1(4)(f) through (l) (inclusive) above. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway it must meet the standards in section 3.3(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- n. In zones A1-30 or AE where a regulatory floodway has not been delineated on the FIRM, repair or reconstruction of nonconforming structures, substantial improvement, or any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway it must meet the standards in section 3.3(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- o. In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity; or
- p. In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at

least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or (together with attendant utility and sanitary facilities) be structurally dry-floodproofed to that level according to the standard specified in s. 6.1(4)(g) above. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity.

(b) Floodway District

1. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
 - a. Has been granted a permit or variance which meets all ordinance requirements;
 - b. Meets the requirements of s. 6.1;
 - c. Shall not increase the obstruction to flood flows or regional flood height;
 - d. Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation; and
 - e. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - i. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - ii. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - iii. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - iv. The use must be limited to parking, building access or limited storage.
2. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and ch. SPS 383, Wis. Adm. Code.
3. No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of

an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

(c) Floodfringe District

1. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality and meets the requirements of s. 4.3 except where s. 6.3(2) is applicable.
2. Where compliance with the provisions of subd. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of subd. (1) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - a. No floor is allowed below the regional flood elevation for residential or commercial structures;
 - b. Human lives are not endangered;
 - c. Public facilities, such as water or sewer, shall not be installed;
 - d. Flood depths shall not exceed two feet;
 - e. Flood velocities shall not exceed two feet per second; and
 - f. The structure shall not be used for storage of materials as described in s. 4.3(5).
3. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, s. 7.5 (3) and ch. SPS 383, Wis. Adm. Code.
4. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 7.5 (3) and ch. NR 811 and NR 812, Wis. Adm. Code.

(d) Flood Storage District. No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in 5.2(3) are met.

- (7) Administration.** Where a zoning administrator, planning agency or a board of appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

(a) Zoning Administrator

1. **Duties and Powers.** The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
 - a. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - b. Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
 - c. Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
 - d. Keep records of all official actions such as:
 - i. All permits issued, inspections made, and work approved;
 - ii. Documentation of certified lowest floor and regional flood elevations;
 - iii. Floodproofing certificates.
 - iv. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - v. All substantial damage assessment reports for floodplain structures.
 - vi. List of nonconforming structures and uses.
 - e. Submit copies of the following items to the Department Regional office:
 - i. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - ii. Copies of case-by-case analyses and other required information.
 - iii. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
 - f. Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
 - g. Submit copies of amendments to the FEMA Regional office.
2. **Land Use Permit.** A land use permit shall be obtained before any development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

a. General Information

- i. Name and address of the applicant, property owner and contractor;
- ii. Legal description, proposed use, and whether it is new construction or a modification;

b. Site Development Plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- i. Location, dimensions, area and elevation of the lot;
- ii. Location of the ordinary highwater mark of any abutting navigable waterways;
- iii. Location of any structures with distances measured from the lot lines and street center lines;
- iv. Location of any existing or proposed on-site sewage systems or private water supply systems;
- v. Location and elevation of existing or future access roads;
- vi. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- vii. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
- viii. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and
- ix. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s. 3.3(1).

c. Hydraulic and Hydrologic Studies to Analyze Development. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

- i. Zone A floodplains and in AE zones within which a floodway is not delineated:

a. Hydrology

- 1. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

- b. Hydraulic Modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
1. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 2. channel sections must be surveyed.
 3. minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 4. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 5. the most current version of HEC-RAS shall be used.
 6. a survey of bridge and culvert openings and the top of road is required at each structure.
 7. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 8. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 9. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- c. Mapping. A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

1. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
2. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

ii. Zone AE Floodplains

- a. Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
- b. Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 1. Duplicate Effective Model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
 2. Corrected Effective Model. The Corrected Effective Model shall not include any man-made physical changes since the effective model date but shall import the model into the most current version of HEC-RAS for Department review.
 3. Existing (Pre-Project Conditions) Model. The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
 4. Revised (Post-Project Conditions) Model. The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
 5. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
 6. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections

upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

c. Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

1. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
2. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
3. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
4. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
5. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
6. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
7. Both the current and proposed floodways shall be shown on the map.
8. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

d. Expiration. All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause. If the permitted work has not started within 180 days of the permit date, the development must comply with any regulation, including any revision to the FIRM or FIS, that took effect after the permit date.

3. **Certificate of Compliance.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the

zoning administrator, except where no permit is required, subject to the following provisions:

- a. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
 - b. Application for such certificate shall be concurrent with the application for a permit;
 - c. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
 - d. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 7.5 are met.
 - e. Where applicable pursuant to s. 5.1(4), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
 - f. Where applicable pursuant to s. 5.1(4), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by s. 5.1(4).
4. **Other Permits.** Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

(b) Zoning Agency

1. The City of Lake Geneva Planning Commission shall:
 - a. oversee the functions of the office of the zoning administrator; and
 - b. review and advise the governing body on all proposed amendments to this ordinance, maps and text.
 - c. publish adequate notice pursuant to Ch. 985, Stats., specifying the date, time, place and subject of the public hearing.
2. The Planning Commission shall not:
 - a. grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or

- b. amend the text or zoning maps in place of official action by the governing body.

(c) Board of Appeals . The Board of Appeals, created under s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

1. Powers and Duties. The Board of Appeals shall:

- a. Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
- b. Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
- c. Variances - Hear and decide, upon appeal, variances from the ordinance standards.

2. Appeals to The Board

- a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
- b. Notice and Hearing for Appeals including Variances
 - i. Notice - The board shall:
 - a. Fix a reasonable time for the hearing;
 - b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
 - c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
 - ii. Hearing - Any party may appear in person or by agent. The board shall:
 - a. Resolve boundary disputes according to s. 7.3(3);
 - b. Decide variance applications according to s. 7.3(4); and
 - c. Decide appeals of permit denials according to s. 7.4.

- c. Decision: The final decision regarding the appeal or variance application shall:
 - i. Be made within a reasonable time;
 - ii. Be sent to the Department Regional office within 10 days of the decision;
 - iii. Be a written determination signed by the chairman or secretary of the Board;
 - iv. State the specific facts which are the basis for the Board's decision;
 - v. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
 - vi. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

3. **Boundary Disputes.** The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary.
- b. The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
- c. If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0 *Amendments*.

4. **Variance**

- a. The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - i. Literal enforcement of the ordinance will cause unnecessary hardship;
 - ii. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - iii. The variance is not contrary to the public interest; and
 - iv. The variance is consistent with the purpose of this ordinance in s. 1.3.
- b. In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the Board must find that the following criteria have been met:

- i. The variance shall not cause any increase in the regional flood elevation;
 - ii. The applicant has shown good and sufficient cause for issuance of the variance;
 - iii. Failure to grant the variance would result in exceptional hardship;
 - iv. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - v. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- c. A variance shall not:
- i. Grant, extend or increase any use prohibited in the zoning district;
 - ii. Be granted for a hardship based solely on an economic gain or loss;
 - iii. Be granted for a hardship which is self-created.
 - iv. Damage the rights or property values of other persons in the area;
 - v. Allow actions without the amendments to this ordinance or map(s) required in s. 8.0 *Amendments*; and
 - vi. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- d. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

(d) To Review Appeals of Permit Denials

1. The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
 - a. Permit application data listed in s. 7.1(2);
 - b. Floodway/floodfringe determination data in s. 5.1(5);
 - c. Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator; and
 - d. Other data submitted with the application or submitted to the Board with the appeal.

2. For appeals of all denied permits the Board shall:
 - a. Follow the procedures of s. 7.3;
 - b. Consider zoning agency recommendations; and
 - c. Either uphold the denial or grant the appeal.
3. For appeals concerning increases in regional flood elevation the Board shall:
 - a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 8.0 *Amendments*; and
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(e) Floodproofing Standards

1. No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to or above the flood protection elevation and submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the development standards in ss. 2.0, 3.0, 4.0, 5.1, or 5.3.
2. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - a. certified by a registered professional engineer or architect; or
 - b. meeting or exceeding the following standards:
 - i. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - ii. the bottom of all openings shall be no higher than one-foot above grade; and
 - iii. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
3. Floodproofing measures shall be designed, as appropriate, to:
 - a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

- b. Protect structures to the flood protection elevation;
- c. Anchor structures to foundations to resist flotation and lateral movement;
- d. Minimize or eliminate infiltration of flood waters;
- e. Minimize or eliminate discharges into flood waters;
- f. Placement of essential utilities to or above the flood protection elevation; and
- g. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - i. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - ii. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - iii. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - iv. The use must be limited to parking, building access or limited storage.

(f) Public Information

- 1. Place marks on structures to show the depth of inundation during the regional flood.
- 2. All maps, engineering data and regulations shall be available and widely distributed.
- 3. Real estate transfers should show what floodplain district any real property is in.

(8) Amendments. Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1.

- 1. In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1. Any such alterations must be reviewed and approved by FEMA and the DNR.
- 2. In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 8.1.

(a) General

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 8.2 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

1. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
2. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
3. Any changes to any other officially adopted floodplain maps listed in s. 1.5 (2)(b);
4. Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
5. Correction of discrepancies between the water surface profiles and floodplain maps;
6. Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
7. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

(b) Procedures

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for cities and villages,. The petitions shall include all data required by s. 5.1(5) and 7.1(2). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

1. The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages
2. No amendments shall become effective until reviewed and approved by the Department.
3. All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(9) Enforcement and Penalties

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators.

A violator shall, upon conviction, forfeit to the municipality a penalty of not more than \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

(10) 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. 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.

10. Building – See Structure.
11. 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.
12. 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.
13. 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.
14. 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.
15. Channel – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
16. 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.
17. Deck – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.
18. Department – The Wisconsin Department of Natural Resources.
19. 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.
20. 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.
21. Encroachment – Any fill, structure, equipment, use or development in the floodway.

22. Federal Emergency Management Agency (FEMA) – The federal agency that administers the National Flood Insurance Program.
23. 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.
24. 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:
 - The overflow or rise of inland waters;
 - The rapid accumulation or runoff of surface waters from any source;
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
 - 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.
25. 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.
26. 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.
27. 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.
28. 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.
29. 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.
30. Floodplain Island – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
31. Floodplain Management – Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

32. 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.
33. 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.
34. Flood Protection Elevation – An elevation of two feet of freeboard above the Regional Flood Elevation. (Also see: Freeboard.)
35. Flood Storage – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
36. Floodway – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
37. 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.
38. Habitable Structure – Any structure or portion thereof used or designed for human habitation.
39. 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.
40. 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.
41. Highest Adjacent Grade – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
42. Historic Structure – Any structure that is either:
 - 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;
 - 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;
 - 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
 - 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.

43. 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.
44. Land Use – Any nonstructural use made of unimproved or improved real estate. (Also see Development.)
45. Lowest Adjacent Grade – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
46. Lowest Floor – The lowest floor of the lowest enclosed area (including basement).
47. 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.
48. 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."
49. 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.
50. 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.
51. 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.
52. 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."
53. 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.

54. Model, Duplicate Effective – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
55. Model, Effective – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
56. 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.
57. 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.
58. Municipality or Municipal – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
59. NAVD or North American Vertical Datum – Elevations referenced to mean sea level datum, 1988 adjustment.
60. NGVD or National Geodetic Vertical Datum – Elevations referenced to mean sea level datum, 1929 adjustment.
61. 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.
62. Non-Flood Disaster – A fire or an ice storm, tornado, windstorm, mudslide or other destructive act of nature, but excludes a flood.
63. 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.)
64. 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.)
65. 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.
66. 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.

67. Open Space Use – Those uses having a relatively low flood damage potential and not involving structures.
68. 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.
69. Person – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
70. 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.
71. 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.
72. 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.
73. 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.
74. 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.
75. 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.
76. Subdivision – Has the meaning given in s. 236.02(12), Wis. Stats.

77. 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.
78. 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.
79. 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.
80. 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.
81. 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.
82. Watershed – The entire region contributing runoff or surface water to a watercourse or body of water.
83. 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.
84. 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.

MEMORANDUM

To: City of Lake Geneva Plan Commission
From: Sonja Kruesel, AICP; Village Planner, VANDEWALLE & ASSOCIATES
Date: March 14, 2022
Re: Conditional Use Permit Regulations in Response to 2017 WI Act 67

2017 Wisconsin Act 67 limits local government discretion related to the issuance of conditional use permits and establishes a stricter standard for denial. This memo summarizes recent changes to Wisconsin Statutes regulating conditional uses and provides potential amendments to the Lake Geneva Ordinance in response to the legislation.

Statutory Changes and Implications¹

In 2017, Wisconsin Act 67 added new sections to Wisconsin Statutes governing the issuance of conditional use permits. Prior to these changes, the statutes did not include the term “conditional use permit” nor provide any guidance for issuances of conditional use permits. Rather, the law was based on court decisions. Act 67 codifies some of the case law related to conditional use permits.

First, a critical addition to Statutes was the added definition of “substantial evidence”. Substantial evidence means “facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.”

Second, Act 67 requires that if an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified by the city, then the city shall grant the conditional use permit.

Finally, Act 67 also provides that conditions imposed “must be related to the purpose of the ordinance and be based on substantial evidence,” and “must be reasonable and to the extent practicable, measurable”. The applicant must present evidence “that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied”.

In summary, local governments have less discretion in conditional use permit decisions, and the standard for denial is higher under Act 67 than previously recognized. Without clearly defined substantial evidence, the local government could be obligated to approve certain conditional use permits. The local government, on the other hand, retains discretionary authority in whether to list a conditional use in a zoning district, whether or not to impose a condition, and whether or not to deny a permit if the applicant cannot meet the conditions imposed.

In response to Act 67, local governments are advised to review and possibly amend zoning ordinances to consider shortening the list of conditional uses that could be considered, and / or to require a rezoning to a different district for certain uses. Any conditional use will need to be reviewed against the purpose of the ordinance. Also, any conditions imposed on a specific application will need to be supported with

¹ Summarized from the following document: <https://dpla.wisc.edu/wp-content/uploads/sites/1021/2017/06/2018OhmKeepingUpWithChangesin-WisPZLaws.pdf>

substantial evidence. A multi-step process is also advised, which would allow the city to inform applicants of the conditions the Plan Commission will impose prior to the final decision so the applicant can prove that they can comply with the conditions.

Proposed Ordinance Amendments

Procedures

Section 98-905 of the Lake Geneva Zoning Code contains regulations for “Conditional Use Review and Approval” procedures. Proposed amendments to this section are shown in redline format to track changes. A “clean” version of the proposed ordinance is also provided for ease of review. Many changes are “clean-up” items, which clarify language or update language to match current application requirements, etc. The more substantive changes to this section deal with Act 67. These changes mainly include reference to requirements for substantial evidence. This also includes how substantial evidence and findings are to be recorded in Plan Commission and Council actions. For ease of reference, the sequential steps in the proposed CUP review process are summarized below:

1. Initiation of request (*Sec. 98-905(2)*)
2. Application submitted per requirements (*Sec. 98-905(3)*)
3. Review by zoning administrator for completeness and evaluation for compliance with findings in Section 4(d). (*Sec. 98-905(4)*)
4. Plan Commission Review, Public Hearing, Recommendation (*Sec. 98-905(5)*)
 - a. Public hearing preceded by Class II notice
 - b. Staff provides a Report of Preliminary Recommended Findings
 - c. Plan Commission discusses the Report of Preliminary Recommended Findings, evidence presented during the public hearing, and any changes or conditions with the applicant.
 - d. Plan Commission deliberates and acts on a final recommendation via Resolution that they will send to the Common Council.
5. Council Review and Action (*Sec. 98-905(6)*)
 - a. Final action may be taken

Appeals

Section 98-905 covers application procedures, as summarized above. Part of the proposed procedures is also what to do in case of an appeal. The current ordinance is silent on the process to appeal a CUP decision. Since the code is silent, the city would currently defer to state statute (62.23(7)(e)10), which would send the appeal to circuit court. We recommend continuing to follow the same process, which sends appeals to circuit court, but to clarify this in the ordinance by stating it explicitly. An appeal must be filed within 30 days. A new section was added to the ordinance, Sec. 98-905(7), to address this recommendation.

Land Use Table Amendments

The Lake Geneva zoning ordinance contains a “Table of Land Uses” which summarizes land uses that are permitted versus those that are conditional by zoning district. After initial review of this table with City Staff and the City Attorney, we present the following potential changes for discussion by the Plan Commission.

- **Indoor Commercial Entertainment** is a type of land use which provides entertainment services entirely within an enclosed building. These activities often have operating hours which extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, bowling alleys, arcades, roller rinks, and pool halls.

Restaurants are a common land use that are frequently approved without issue, and often include even smaller type operators like gelato shops or coffee shops. This type of land use could be considered fairly distinct from a larger scale indoor commercial entertainment use, such as a bowling alley, which might carry more land use impacts such as heavy peak traffic, parking, and noise.

To reduce the number of conditional use permit requests under this category, we suggest splitting this category into two different scales: small scale indoor commercial and large scale indoor commercial. Small scale indoor commercial uses would be permitted by-right and would include any use not serving alcohol and under 2,000 square feet in floor area. Large scale indoor commercial uses would be conditional and would include any use that serves alcohol and/or that has a floor area over 2,000 square feet, including restaurants, bars, theaters, bowling alleys, pool halls. Any outdoor commercial entertainment would remain as a conditional use as currently codified.

- **Personal or Professional Service involving tattoos and permanent cosmetics above the clavicle** would allow uses that serve for placement of tattoos, permanent make-up or cosmetics on parts of the human body above the clavicle. This use is currently allowed as a conditional use in a handful of zoning districts. We suggest changing this to permitted in all of the same zoning districts. It is our opinion that it would be very difficult to find substantial evidence to deny one of these uses and therefore it should not be listed as a conditional use. Note that other tattoos below the clavicle are categorized in the zoning code as a “sexually oriented land use”, which are handled in the Heavy Industrial (HI) zoning district.
- **Indoor Storage or Wholesaling** land uses are primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples include conventional warehouse facilities, long-term indoor storage facilities, and joint warehouse and storage facilities. We suggest changing this from a conditional use to a prohibited use in the Planned Business (PB) and General Business (GB) Zoning Districts due to proximity to residential land uses. The use is currently prohibited in all other business zoning districts. The use would remain as a permitted use in the Planned Industrial (PI), General Industrial (GI) and Heavy Industrial (HI) Zoning Districts.
- **Personal Storage Facility** are land uses oriented to the indoor storage of items entirely within portioned buildings having an individual access to each portioned area. Such storage areas may be available on either a condominium or rental basis. Also known as mini warehouses. We suggest changing this from a conditional use to a prohibited use in the General Business (GB) Zoning District due to proximity to residential land uses. The use is currently prohibited in all other business zoning districts. It would remain a conditional use in the Planned Industrial (PI) and General Industrial (GI) Zoning Districts.

Creation of New “High Impact Zoning Districts”

There are certain uses that are associated with very high impacts and potential to generate nuisances and land use conflict with adjacent properties. Because the standard for reviewing and denying conditional

uses has become stricter, if the City would like to maintain a more discretionary authority over these land uses, we suggest the creation of new and completely separate zoning districts that would allow these uses to be considered. We call these “high impact zoning districts”. If the City chooses to establish these new districts, amendments entail developing language for each zoning district, identifying permitted and conditional uses, and adding this information to the Table of Land Uses. If adopted, the new process would be to first pursue a legislative rezoning change, followed by review of a conditional use permit request. In this way, the city maintains discretionary control of where and when the use might be appropriate to establish.

- **Extraction / Disposal Zoning District.** This potential district would provide for quarrying, sand and gravel extraction, and landfill uses, which if sited properly, could be located within the City. Principal permitted uses might include land uses like office, indoor maintenance, outdoor maintenance service, etc. Principal conditional uses could include active outdoor recreation, extraction, composting, recycling and waste disposal, salvage, or junkyard, etc. If a potential applicant approached the city with a quarry pit for example, it would first require a rezone to the Extraction / Disposal Zoning District, and then a conditional use permit for the use.

Attachments

- Redline procedures Section 98-905
- Mark up of land use table for discussion purposes

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- (a) The purpose of this Section is to provide regulations which govern the procedures and requirements for the review and approval, or denial, of proposed conditional uses.
- (b) Certain uses in situations which are of such a special nature, or are so dependent upon actual contemporary circumstances, as to make impractical the predetermination of permissibility, or the detailing in this ordinance of specific standards, regulation, or conditions which would permit such determination in each individual situation, may be permitted as conditional uses.
- (c) ~~Under this Chapter, a proposed conditional use shall be denied unless the Applicant can demonstrate, to the satisfaction of the city, that the proposed Conditional Use will not create undesirable impacts on nearby properties, the environment, nor the community as a whole.~~

(2) Initiation of Request for Approval of a Conditional Use: Proceedings for approval of a conditional use may be initiated by an application of the owner(s) of the subject property or authorized agent of the owner(s) of the subject property.**(3) Application Requirements:** All applications for proposed conditional uses shall be certified as complete by the Zoning Administrator prior to the initiation of this procedure. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the Zoning Administrator, without an application. Prior to the submittal of the Official Notice regarding the application to the newspaper by the City Clerk, the Applicant shall provide 8 copies and 1 digital copy of the complete application as certified by the Zoning Administrator. Said complete application shall be comprised of all of the following:

- (a) A map of the subject property showing all lands for which the conditional use is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Walworth County (as provided by the City of Lake Geneva). Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
- (b) A map, such as the Future Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole;
- (c) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations, as well as the number of employees and the hours of operation;
- (d) A site plan of the subject property as proposed for development. Said site plan shall conform to the requirements of Section 98-908(3). If the proposed conditional use is a cluster development (per Section 98-206(1)(b) through (f)) or a group development (per Section 98-208) a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan per Section 98-908;
- (e) ~~As an optional requirement, the Applicant may wish to provide written justification for the proposed conditional use consisting of the reasons why the Applicant believes the proposed~~

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~~conditional use is appropriate, particularly as evidence by compliance with the standards set forth in Subsection (4)(b)1.-6., below. Written justification for the proposed conditional use demonstrating evidence that the application conforms to the findings described in Subsection (4)(d), and meets any additional standards required in the applicable zoning district;~~

- (f) Anticipated daily traffic, types and weights of vehicles, and any provisions, intersection or road improvements or other measures proposed to accommodate increased traffic. A Traffic Impact Analysis (TIA) meeting Wisconsin Department of Transportation requirements for content and format may be required by the City if deemed necessary by the Zoning Administrator.
 - (g) Compliance with stormwater and erosion control standards.
 - (h) Anticipated noise, odors, dust, soot, runoff, pollution, exterior storage, vibration, glare, or lighting, and measures taken to mitigate impacts to neighboring properties. Refer to Article VII for all performance standards.
 - (i) A listing of hazardous, toxic, or explosive materials stored on site, and any spill containment, safety, or pollution prevention measures taken.
 - (j) Written description of how the proposed conditional use and all requirements established by the City relating to the conditional use are or shall be satisfied.
- (4) **Review by The Zoning Administrator:** The proposed conditional use shall be reviewed by the Zoning Administrator as follows:
- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Chapter, he/she shall return the application to the Applicant. If the Zoning Administrator determines that the application is complete, he/she shall so notify Applicant.
 - (b) The Zoning Administrator may coordinate review with other City Departments.
 - (c) The Zoning Administrator shall review the complete application and evaluate the proposed conditional use against the findings listed in Subsection (d), below.
 - (d) Upon notifying the Applicant that his application is complete the Zoning Administrator shall review the application and evaluate and comment on the written justification for the proposed conditional use provided in the application and for compliance with the standards of Subsection (4)(d)1.-6. below: ~~The zoning administrator shall also evaluate the application to determine whether the requested is in harmony with the recommendations of the city's comprehensive plan;~~
1. The proposed conditional use (the use in general, independent of its location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 2. The proposed conditional use (in its specific location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 3. The proposed conditional use, in its proposed location and as depicted on the required site plan, does not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future

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be developed as a result of the implementation of the provisions of this Chapter or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.

4. The proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
 5. The proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.
 6. The potential public benefits of the proposed conditional use outweigh all potential adverse impacts of the proposed conditional use (as identified in Subsections 1. through 5., above), after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts.
- (e) The Zoning Administrator shall forward the report per (4)(d) to the Plan Commission for the Commission's review and use in making its recommendation to Common Council. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the city's Comprehensive Plan, the Zoning Administrator shall note this determination in the report.
- (5) **Review, Public Hearing, and Recommendation by the Plan Commission:** Common Council shall not approve a conditional use without allowing for a recommendation from the Plan Commission per the provisions of this Subsection.
- (a) The Plan Commission shall schedule a reasonable time and place for a public hearing to consider the application within 45 days after the acceptance and determination of the complete application as determined by the Zoning Administrator. A public hearing may be held more than 45 days from the filing of the complete application when requested by the applicant in writing. The Applicant may appear in person, by agent, and/or by attorney. Notice of the proposed conditional use and the public hearing shall conform to the requirements of Section 62.23(7)(de) of the Wisconsin Statutes. Said notice shall contain a description of the proposed conditional use. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant, and to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
1. Statements of personal preferences or speculation not based on substantial evidence must be disregarded by the Plan Commission. Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.
 2. The Plan Commission may request further information and/or additional reports from the Zoning Administrator, applicant, and/or from any other source. If such necessary expertise is not available from City Staff, public academic institutions, or from appropriate regional, state, or federal agencies, the committee may consult with a third party to effectively evaluate a conditional use permit application. The application for the conditional use permit shall bear all reasonable costs and expenses associated with such consultation. Applicants retain the right to withdraw a pending conditional use permit application if they choose not to pay consultant fees.
 3. The Plan Commission shall hear all substantial evidence regarding the proposed

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Conditional Use Permit from staff, the applicant, and the public during the public hearing. Any evidence not deemed substantial evidence as defined in Section 5(a)(1), above, shall not be admissible.

- (b) At the public hearing, the Zoning Administrator shall provide a written Report of Preliminary Recommended Findings. The report shall contain, at minimum, all substantial evidence presented in the public hearing, evaluation of compliance with the standards of Subsection (4)(d)1.-6., the recommended findings, and the recommended motion to either approve the use as originally proposed, approve the proposed conditional use with modifications and/or conditions, or deny approval of the proposed conditional use.
- (c) The Plan Commission shall consider the report and may take final action by resolution on the application to either approve the use as originally proposed, approve the proposed conditional use with modifications and/or conditions, or deny approval of the proposed conditional use. Final action by the Plan Commission action shall consist of all of the following:
1. The formal finding of facts concerning the requirements of (4)(b d)1. through 6.
 2. The City's decision to approve or deny the permit must be supported by substantial evidence. Any condition imposed by the City must be related to the purpose of the ordinance and be based on "substantial evidence" as defined in Wis. Stat. 62.23(7)(de)1.b.
 - (a) Conditions, if based on substantial evidence, may include, and are not limited to the following, as well as other conditions necessary to meet the findings above: (1) Expiration dates on conditional use permits, except for permits for communication towers under Section 98-206(7)(c). Continuation or extension of an expired conditional use requires re-application and approval by the Plan Commission and Common Council. (2) Limits on hours or days of operation, or number of events each year. (3) Limits on numbers of employees. (4) Limits on numbers of total people, vehicles, or animals on the premises at any one time. (5) Limits on total quantity or volume of product on the premises at any one time. (6) Limits on square footage of buildings or outdoor areas devoted to the proposed use.
 3. The conditions described under Subsection a., above, must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal.
 4. The applicant must demonstrate whether the application and all requirements and conditions established by the City related to the conditional use are or will be satisfied, both of which must be supported by substantial evidence per Subsection (6)(a)(1).
 5. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in this Title, or those imposed by the Plan Commission and the Common Council, the City shall grant the conditional use permit.
- (d) If the Plan Commission fails to make a report within 60 days after the filing of said complete application (and in the absence of an Applicant-approved extension per (b), above), then the Common Council may hold a public hearing within 30 days after the expiration of said 60-day period. Failure to receive said written report from the Plan Commission per Subsection (5)(a), above, shall not invalidate the proceedings or actions of Common Council. If such a public hearing is necessary, Common Council shall provide notice per the requirements of Subsection (a), above. State Law Reference: Section 62.23(7)(de).

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- (6) **Review and Action by Common Council:** Common Council shall consider the Plan Commission's recommendation regarding the proposed conditional use. The Council may request further information and/or additional reports from the Plan Commission, Zoning Administrator, and/or the Applicant. The Council may take final action on the application at the time of its initial meeting or may continue the proceedings at the Applicant's request. Common Council may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications (per the recommendations of the Zoning Administrator, the Plan Commission, authorized outside experts, or its own members), or may deny approval of the proposed conditional use. The Common Council's approval of the requested conditional use shall be considered the approval of a unique request and shall not be construed as precedent for any other proposed conditional use.
- (a) Final action by the Common Council shall consist of all items listed in Section (5)(C)1.-5., above, and any modifications or additions as determined by the Common Council.
- (7) **Appeals of a Common Council Decision of a Conditional Use Permit:** Any persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the City Clerk.
- (8) **Effect of Denial:** No application which has been denied (either wholly or in part) shall be resubmitted for a period of 365 days from the date of said order of denial, except on grounds of new evidence, or proof of change of factors, is found to be valid by the Zoning Administrator.
- (9) **Revocation of an Approved Conditional Use:** Upon approval by Common Council, the Applicant must demonstrate that the proposed conditional use meets all conditional use requirements in the site plan required for initiation of development activity on the subject property per Section 98-908. Once a conditional use is granted, no Erosion Control Permit, Site Plan approval (per Section 98-908), Certificate of Occupancy (per Section 98-909), or Building Permit shall be issued for any development which does not comply with all requirements of this Chapter. Any conditional use found not to be in compliance with the terms of this Chapter shall be considered in violation of this Chapter and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of the Common Council, following the procedures outlined in Subsections (2) through (7), above. The City shall provide the property owner with appropriate served notice to consider revocation.
- (10) **Time Limits on the Development of Conditional Use:** The start of construction of any conditional use shall be initiated within 365 days of their approval by Common Council and shall be operational within 730 days of said approval. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this Section, "operational" shall be defined as the granting of a Certificate of Occupancy for the conditional use. Prior to such a revocation, the Applicant may request an extension of this period. Said request shall require formal approval by Common Council and shall be based upon a showing of acceptable justification (as determined by Common Council). However, as a condition of approval, the 365-day and/or 730-day time limits may be extended for any specific period to accommodate phased or multi-stage development.
- (11) **Discontinuing an Approved Conditional Use:** Any conditional use which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.

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- (12) **Modification, Alteration, or Expansion.** Modification, alteration, or expansion of any conditional use in violation as approved per (6), above, without approval by Common Council, shall be grounds for revocation of said conditional use approval per (9), above.
- (13) **Change of Ownership:** All requirements of the approved conditional use shall be continued regardless of ownership of the subject property, except where limited explicitly by the Common Council.
- (14) **Limited Conditional Uses:** A limited conditional use is any development, activity, or operation for which a conditional use permit has been approved that is limited to a specific operator or property owner, or to a specific date or event upon which the conditional use permit either expires or is required to be reviewed and reapproved. The Plan Commission may require any proposed conditional use request to be a limited conditional use. The Plan Commission shall specify which of the following characteristics, based on substantial evidence, are present that create the need for the limited conditional use:
- (a) A particular aspect of the specific land use.
 - (b) A particular aspect of the proposed operation (including, but not limited to, operating hours).
 - (c) A particular aspect of the proposed location.
 - (d) A particular aspect of the proposed site design.
 - (e) A particular aspect of the adjacent property or of the surrounding environs.
 - (f) Any other reason(s) the Plan Commission deems specifically relevant and material.
- (15) **Successor Conditional Uses.** A successor conditional use is a land use which has been granted a conditional use permit by the City, which is proposed to undergo one or more of the following changes:
- (a) Changing from the specific use originally permitted by the conditional use to another operation of the same use within 365 days of the ending of the original use. For example, changing from one restaurant to another is permitted. However, changing from a restaurant to a tavern is not permitted even though both are considered Indoor Commercial Entertainment land uses. Likewise, changing from a drive-through restaurant to a drive-through bank is not permitted, even though both are considered a Drive-Through under In-Vehicle Sales and Service.
 - (b) A change in the ownership of the subject property.
 - (c) A change in the ownership of the business or other operator of the land use.
 - (d) Other changes explicitly identified in a previously issued conditional use permit that are identified as acceptable successor conditional uses.
 - (e) Purpose: The purpose of these provisions is to create a process that: (1) reduces the costs and time needed to approve a successor conditional use. (2) Verifies that the proposed change is a valid successor conditional use. (3) Creates a record that the proposed change is approved. (4) Provides the land use and City with a list of all applicable requirements.
 - (f) Proposed Expansions Are Not Eligible. Any physical enlargement of a previously approved conditional use in terms of buildings, structures, activity areas, and/or any expansion to the conditions of operation beyond the limits of site plans, floor plans and conditions of operation (i.e. peak traffic) approved through the conditional use process shall not be eligible for treatment as a successor conditional use and must seek an amendment to its conditional use permit through the conditional use process.

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- (g) ~~Limited Conditional Uses shall not be eligible for treatment as a successor conditional use.~~
- (16) ~~**Notice to the DNR:** The Plan Commission shall transmit a copy of each application for a conditional use for conservancy regulations in the Shoreland-Wetland, Floodway, Floodplain, or Floodfringe Overlay Zoning Districts to the Wisconsin Department of Natural Resources (DNR) for review and comment at least 10 days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to conditional uses for shoreland-wetland conservancy regulations or to floodland regulations shall be transmitted to the DNR within 10 days of the date of such decision.~~
- (17) **Recording of Conditional Use Requirements:** Except for conditional use approvals for temporary uses, a certified copy of the authorizing resolution, containing identifiable description and any specific requirements of approval, shall be recorded by the City with the County Register of Deeds office. The City shall record modifications, alterations, and expansions as well as expired or revoked conditional use permits.
- (18) **Uses Now Regulated as Conditional Uses which were Approved as Legal Land Uses -- Permitted by Right or as Conditional Uses -- Prior to the Effective Date of this Chapter:** A use now regulated as a conditional use which was approved as a legal land use -- either permitted by right or as a conditional use -- prior to the Effective Date of this Chapter shall be considered as a legal conforming land use so long as the previously approved conditions of use and site plan are followed. Any modification of the previously approved conditions of use or site plan shall require application and City consideration under this Section.
- (19) **Fee:** One or more fees are required for this procedure. Refer to Section 98-935(1)(d).

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- (a) The purpose of this Section is to provide regulations which govern the procedures and requirements for the review and approval, or denial, of proposed conditional uses.
- (b) Certain uses in situations which are of such a special nature, or are so dependent upon actual contemporary circumstances, as to make impractical the predetermination of permissibility, or the detailing in this ordinance of specific standards, regulation, or conditions which would permit such determination in each individual situation, may be permitted as conditional uses.

(2) Initiation of Request for Approval of a Conditional Use: Proceedings for approval of a conditional use may be initiated by an application of the owner(s) of the subject property or authorized agent of the owner(s) of the subject property.**(3) Application Requirements:** All applications for proposed conditional uses shall be certified as complete by the Zoning Administrator prior to the initiation of this procedure. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the Zoning Administrator, without an application. Prior to the submittal of the Official Notice regarding the application to the newspaper by the City Clerk, the Applicant shall provide 8 copies and 1 digital copy of the complete application as certified by the Zoning Administrator. Said complete application shall be comprised of all of the following:

- (a) A map of the subject property showing all lands for which the conditional use is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Walworth County (as provided by the City of Lake Geneva). Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one-inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
- (b) A map, such as the Future Land Use ~~Plan~~ Map, of the generalized location of the subject property in relation to the City as a whole;
- (c) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations, as well as the number of employees and the hours of operation;
- (d) A site plan of the subject property as proposed for development. Said site plan shall conform to the requirements of Section 98-908(3). If the proposed conditional use is a cluster development (per Section 98-206(1)(b) through (f)) or a group development (per Section 98-208) a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan per Section 98-908;
- (e) Written justification for the proposed conditional use demonstrating evidence that the application conforms to the findings described in Subsection (4)(d), and meets any additional standards required in the applicable zoning district;
- (f) Anticipated daily traffic, types and weights of vehicles, and any provisions, intersection or road improvements or other measures proposed to accommodate increased traffic. A Traffic Impact

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Analysis (TIA) meeting Wisconsin Department of Transportation requirements for content and format may be required by the City if deemed necessary by the Zoning Administrator.

- (g) Compliance with stormwater and erosion control standards.
 - (h) Anticipated noise, odors, dust, soot, runoff, pollution, exterior storage, vibration, glare, or lighting, and measures taken to mitigate impacts to neighboring properties. Refer to Article VII for all performance standards.
 - (i) A listing of hazardous, toxic, or explosive materials stored on site, and any spill containment, safety, or pollution prevention measures taken.
 - (j) Written description of how the proposed conditional use and all requirements established by the City relating to the conditional use are or shall be satisfied.
- (4) **Review by The Zoning Administrator:** The proposed conditional use shall be reviewed by the Zoning Administrator as follows:
- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Chapter, he/she shall return the application to the Applicant. If the Zoning Administrator determines that the application is complete, he/she shall so notify Applicant.
 - (b) The Zoning Administrator may coordinate review with other City Departments.
 - (c) The Zoning Administrator shall review the complete application and evaluate the proposed conditional use against the findings listed in Subsection (d), below.
 - (d) Upon notifying the Applicant that his/her application is complete the Zoning Administrator shall review the application and evaluate and comment on the written justification for the proposed conditional use provided in the application and for compliance with the standards of Subsection (4)(d)1.-6. below:
 - 1. The proposed conditional use (the use in general, independent of its location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 - 2. The proposed conditional use (in its specific location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 - 3. The proposed conditional use, in its proposed location and as depicted on the required site plan, does not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Chapter or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.
 - 4. The proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
 - 5. The proposed conditional use is located in an area that will be adequately served by,

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and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.

6. The potential public benefits of the proposed conditional use outweigh all potential adverse impacts of the proposed conditional use (as identified in Subsections 1. through 5., above), after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts.

- (e) The Zoning Administrator shall forward the report per (4)(d) to the Plan Commission for the Commission's review and use in making its recommendation to Common Council.

- (5) **Review, Public Hearing, and Recommendation by the Plan Commission:** Common Council shall not approve a conditional use without allowing for a recommendation from the Plan Commission per the provisions of this Subsection.

- (a) The Plan Commission shall schedule a reasonable time and place for a public hearing to consider the application within 45 days after the acceptance and determination of the complete application as determined by the Zoning Administrator. A public hearing may be held more than 45 days from the filing of the complete application when requested by the applicant in writing. The Applicant may appear in person, by agent, and/or by attorney. Notice of the proposed conditional use and the public hearing shall conform to the requirements of Section 62.23(7)(de) of the Wisconsin Statutes. Said notice shall contain a description of the proposed conditional use. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant, and to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.

1. Statements of personal preferences or speculation not based on substantial evidence must be disregarded by the Plan Commission. Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.
2. The Plan Commission may request further information and/or additional reports from the Zoning Administrator, applicant, and/or from any other source. If such necessary expertise is not available from City Staff, public academic institutions, or from appropriate regional, state, or federal agencies, the committee may consult with a third party to effectively evaluate a conditional use permit application. The application for the conditional use permit shall bear all reasonable costs and expenses associated with such consultation. Applicants retain the right to withdraw a pending conditional use permit application if they choose not to pay consultant fees.
3. The Plan Commission shall hear all substantial evidence regarding the proposed Conditional Use Permit from staff, the applicant, and the public during the public hearing. Any evidence not deemed substantial evidence as defined in Section 5(a)(1), above, shall not be admissible.

- (b) At the public hearing, the Zoning Administrator shall provide a written Report of Preliminary Recommended Findings. The report shall contain, at minimum, all substantial evidence presented in the public hearing, evaluation of compliance with the standards of Subsection (4)(d)1.-6., the recommended findings, and the recommended motion to either approve the use as originally proposed, approve the proposed conditional use with modifications and/or conditions, or deny approval of the proposed conditional use.

- (c) The Plan Commission shall consider the report and may take final action by resolution on

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the application to either approve the use as originally proposed, approve the proposed conditional use with modifications and/or conditions, or deny approval of the proposed conditional use. Final action by the Plan Commission action shall consist of all of the following:

1. The formal finding of facts concerning the requirements of (4)(d)1. through 6.
2. The City's decision to approve or deny the permit must be supported by substantial evidence. Any condition imposed by the City must be related to the purpose of the ordinance and be based on "substantial evidence" as defined in Wis. Stat. 62.23((7)(de)1.b.
3. The conditions must be reasonable and, to the extent practicable, measurable and may include conditions such as (1) Expiration dates on conditional use permits, except for permits for communication towers under Section 98-206(7)(c). Continuation or extension of an expired conditional use requires re-application and approval by the Plan Commission and Common Council. (2) Limits on hours or days of operation, or number of events each year. (3) Limits on numbers of employees. (4) Limits on numbers of total people, vehicles, or animals on the premises at any one time. (5) Limits on total quantity or volume of product on the premises at any one time. (6) Limits on square footage of buildings or outdoor areas devoted to the proposed use.
4. The applicant must demonstrate whether the application and all requirements and conditions established by the City related to the conditional use are or will be satisfied, both of which must be supported by substantial evidence.
5. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in this Title, or those imposed by the Plan Commission and the Common Council, the City shall grant the conditional use permit.

(d) If the Plan Commission fails to make a report within 60 days after the filing of said complete application (and in the absence of an Applicant-approved extension, then the Common Council may hold a public hearing within 30 days after the expiration of said 60-day period. Failure to receive said written report from the Plan Commission per Subsection (5)(c), above, shall not invalidate the proceedings or actions of Common Council. If such a public hearing is necessary, Common Council shall provide notice per the requirements of Subsection (a), above. State Law Reference: Section 62.23(7)(de).

(6) **Review and Action by Common Council:** Common Council shall consider the Plan Commission's recommendation regarding the proposed conditional use. The Council may request further information and/or additional reports from the Plan Commission, Zoning Administrator, and/or the Applicant. The Council may take final action on the application at the time of its initial meeting or may continue the proceedings at the Applicant's request or upon agreement between the City and the Applicant. Common Council may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications (per the recommendations of the Zoning Administrator, the Plan Commission, authorized outside experts, or its own members), or may deny approval of the proposed conditional use. The Common Council's approval of the requested conditional use shall be considered the approval of a unique request and shall not be construed as precedent for any other proposed conditional use.

(a) Final action by the Common Council shall consist of all items listed in Section (5)(C)1.-5., above, and any modifications or additions as determined by the Common Council.

(7) **Appeals of a Common Council Decision of a Conditional Use Permit:** Any persons

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aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the City Clerk.

- (8) **Effect of Denial:** No application which has been denied (either wholly or in part) shall be resubmitted for a period of 365 days from the date of said order of denial, except on grounds of new evidence, or proof of change of factors, is found to be valid by the Zoning Administrator.
- (9) **Revocation of an Approved Conditional Use:** Upon approval by Common Council, the Applicant must demonstrate that the proposed conditional use meets all conditional use requirements in the site plan required for initiation of development activity on the subject property per Section 98-908. Once a conditional use is granted, no Erosion Control Permit, Site Plan approval (per Section 98-908), Certificate of Occupancy (per Section 98-909), or Building Permit shall be issued for any development which does not comply with all requirements of this Chapter. Any conditional use found not to be in compliance with the terms of this Chapter shall be considered in violation of this Chapter and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of the Common Council, following the procedures outlined in Subsections (2) through (7), above. The City shall provide the property owner with appropriate served notice to consider revocation.
- (10) **Time Limits on the Development of Conditional Use:** The start of construction of any conditional use shall be initiated within 365 days of their approval by Common Council and shall be operational within 730 days of said approval. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this Section, "operational" shall be defined as the granting of a Certificate of Occupancy for the conditional use. Prior to such a revocation, the Applicant may request an extension of this period. Said request shall require formal approval by Common Council and shall be based upon a showing of acceptable justification (as determined by Common Council). However, as a condition of approval, the 365-day and/or 730-day time limits may be extended for any specific period to accommodate phased or multi-stage development.
- (11) **Discontinuing an Approved Conditional Use:** Any conditional use which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.
- (12) **Modification, Alteration, or Expansion.** Modification, alteration, or expansion of any conditional use in violation as approved per (6), above, without approval by Common Council, shall be grounds for revocation of said conditional use approval per (9), above.
- (13) **Change of Ownership:** All requirements of the approved conditional use shall be continued regardless of ownership of the subject property, except where limited explicitly by the Common Council.
- (14) **Limited Conditional Uses:** A limited conditional use is any development, activity, or operation for which a conditional use permit has been approved that is limited to a specific operator or property owner, or to a specific date or event upon which the conditional use permit either expires or is required to be reviewed and reapproved. The Plan Commission may require any proposed conditional use request to be a limited conditional use. The Plan Commission shall specify which of the following characteristics, based on substantial evidence, are present that create the need for the limited conditional use:

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- (a) A particular aspect of the specific land use.
 - (b) A particular aspect of the proposed operation (including, but not limited to, operating hours).
 - (c) A particular aspect of the proposed location.
 - (d) A particular aspect of the proposed site design.
 - (e) A particular aspect of the adjacent property or of the surrounding environs.
 - (f) Any other reason(s) the Plan Commission deems specifically relevant and material.
- (15) **Successor Conditional Uses.** A successor conditional use is a land use which has been granted a conditional use permit by the City, which is proposed to undergo one or more of the following changes:
- (a) Changing from the specific use originally permitted by the conditional use to another operation of the same use within 365 days of the ending of the original use. For example, changing from one restaurant to another is permitted. However, changing from a restaurant to a tavern is not permitted even though both are considered Indoor Commercial Entertainment land uses. Likewise, changing from a drive-through restaurant to a drive-through bank is not permitted, even though both are considered a Drive-Through under In-Vehicle Sales and Service.
 - (b) A change in the ownership of the subject property.
 - (c) A change in the ownership of the business or other operator of the land use.
 - (d) Other changes explicitly identified in a previously issued conditional use permit that are identified as acceptable successor conditional uses.
 - (e) Purpose: The purpose of these provisions is to create a process that: (1) reduces the costs and time needed to approve a successor conditional use. (2) Verifies that the proposed change is a valid successor conditional use. (3) Creates a record that the proposed change is approved. (4) Provides the land use and City with a list of all applicable requirements.
 - (f) Proposed Expansions Are Not Eligible. Any physical enlargement of a previously approved conditional use in terms of buildings, structures, activity areas, and/or any expansion of the conditions of operation beyond the limits of site plans, floor plans and conditions of operation (i.e. peak traffic) approved through the conditional use process shall not be eligible for treatment as a successor conditional use and must seek an amendment to its conditional use permit through the conditional use process.
 - (g) Limited Conditional Uses shall not be eligible for treatment as a successor conditional use.
- (16) **Recording of Conditional Use Requirements:** Except for conditional use approvals for temporary uses, a certified copy of the authorizing resolution, containing identifiable description and any specific requirements of approval, shall be recorded by the City with the County Register of Deeds office. The City shall record modifications, alterations, and expansions as well as expired or revoked conditional use permits.
- (17) **Uses Now Regulated as Conditional Uses which were Approved as Legal Land Uses -- Permitted by Right or as Conditional Uses -- Prior to the Effective Date of this Chapter:** A use now regulated as a conditional use which was approved as a legal land use -- either permitted by right or as a conditional use -- prior to the Effective Date of this Chapter shall be considered as a legal conforming land use so long as the previously approved conditions of use and site plan are followed. Any modification of the previously approved conditions of use or site plan shall require application and City consideration under this Section.

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(18)**Fee:** One or more fees are required for this procedure. Refer to Section 98-935(1)(d).

Section 98-203 Tables of Land Uses

This Chapter regulates the location of land uses to specific zoning districts through the use of the Tables of Land Uses contained in this Section (See the following pages for Tables).

Commented [SK1]: Possible changes to this table are identified via comments below, for Plan Commission discussion and direction.

Table 98-203(1) Tables of Land Uses																			
P	=	Permitted by Right in a Conventional Development (See 98-206(1)(a).)																	
C	=	Permitted as a Conditional Use (See Section 98-905)																	
CI	=	Permitted as a Conditional Use in a Cluster Development (See Section 98-206(1)(b))																	
I	=	Permitted as a Conditional Use in an Institutional Residential Development (See 98-206(1)(c))																	
M	=	Permitted as a Conditional Use within a Mobile Home Development or Park (See 98-206 (1)(d) or (e))																	
+	=	Permitted as a Conditional Use until 365 days after the Effective Date of this Zoning Ordinance																	
Zoning District Abbreviations															Type of Land Use				
RH	CR-5ac	ER-1	SR-3	SR-4	TR-6	MR-8	NO	PO	NB	PB	GB	CB	PI	GI	HI	PBP			
																	DWELLING UNIT TYPES (SEE 98-034)		
P	P	P	P	P	P	P	P		P								(1) Single-Family Detached	35 acre lot	
	P	P	P	P	P	P	P		P								(2) Single-Family Detached	5 acre lot	
	CI	P	P	P	P	P	P		P								(3) Single-Family Detached	40,000 sf lot	
			P	P	P	P	P		P								(4) Single-Family Detached	15,000 sf lot	
				P	P	P	P		P								(5) Single-Family Detached	9,000 sf lot	
				+	P	P	C		C								(6) Twin Homes/Duplex	6,000 sf per du	
				+	C	P	C		C								(7) Two-Flat	9,000 sf lot	
						P	C		C								(8) Townhouse	4,500 sf lot	
						P	C		C								(9) Multiplex	4,500 sf per du	
						P	C		C								(10) Apartment	4,500 sf per du	
						I	I	I	I	I	I	I					(11) Institutional Residential	9,000 sf lot	
					M												(12) Mobile Home	9,000 sf lot	
RH Rural Holding					TR Two-family Res					NB Neighborhood Business					PI Planned Industrial				
CR Countryside Res					MR Multi-family Res					PB Planned Business					GI General Industrial				
ER Estate Residential					NO Neighborhood Office					GB General Business					HI Heavy Industrial				
SR Single-family Res					PO Planned Office					CB Central Business					PBP Planned Business Park				

Commented [SK2]: If the City choses to add new "High Impact Zoning Districts", they would also be added to this table with land uses identified.

Table 98-203(2) and (3) Tables of Land Uses

P = Permitted by Right (98-202(2)) C = Permitted as a Conditional Use (98-202(4))

Zoning District Abbreviations

RH	CR-5ac	ER-1	SR-3	SR-4	TR-6	MR-8	NO	PO	NB	PB	GB	CB	PI	GI	HI	PBP	Type of Land Use
																	NONRESIDENTIAL LAND USES
																	AGRICULTURAL USES (98-206(2)(_))
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(a) Cultivation
C																	(b) Husbandry
C																	(c) Intensive Agriculture
C															C		(d) Agricultural Services
P																	(e) On-Site Agricultural Retail
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(f) Selective Cutting
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	(g) Clear Cutting
																	INSTITUTIONAL USES (98-206(3)(_))
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(a) Passive Outdoor Public Recreational
P	P	P	P	P	P	P	P	P	P	P	P	P	P				(b) Active Outdoor Public Recreational
C	C	C	C	C	C	C	P	P	P	P	P	P	P				(c) Indoor Institutional
C	C	C	C	C	C	C	C	C	C	C	C	C	C				(d) Outdoor Institutional
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(e) Public Services and Utilities
						C	C	C	C	C	C	C					(f) Institutional Residential
P	P	P	P	P	P	P	C		C								(g) Community Living Arrangement (1-8 res.)
	C	C	C	C	P	P	C	C	C								(h) Community Living Arrangement (9-15)
						C	C	C	C								(i) Community Living Arrangement (16+)

RH Rural Holding	TR Two-family Res	NB Neighborhood Business	PI Planned Industrial
CR Countryside Res	MR Multi-family Res	PB Planned Business	GI General Industrial
ER Estate Residential	NO Neighborhood Office	GB General Business	HI Heavy Industrial
SR Single-family Res	PO Planned Office	CB Central Business	PBP Planned Business Park

Table 98-203(4) Tables of Land Uses																	
P = Permitted by Right (98-202(2)) C = Permitted as a Conditional Use (98-202(4))																	
Zoning District Abbreviations																	Type of Land Use
RH	CR-5ac	ER-1	SR-3	SR-4	TR-6	MP-8	NO	PO	NB	PB	GB	CB	PI	GI	HI	PBP	
																	COMMERCIAL USES (98-206(4)(L))
							P	P	P	P	P	P	P	P	P	P	(a) Office
							P	P	P	P	P	P	P			P	(b) Personal or Professional Services
							C	C	P	P	P	P	C				(c) Indoor Sales or Services
										C	C	C					(d) Outdoor Display (Ord. No. 01-19 2/12/01)
									P	P	P	P	P	P	P		(e) Indoor Maintenance Service
															C	C	(f) Outdoor Maintenance Service
								C	C	C	C	C					(g) In-Vehicle Sales or Service
							C	C	C	C	C	C	C				(h) Indoor Commercial Entertainment
C							C	C	C	C	C	C	C				(i) Outdoor Commercial Entertainment
C										C	C		C	C		C	(j) Commercial Animal Boarding
								C		C	C	C					(k) Commercial Indoor Entertainment Lodging [correction]
C	C	C	C	C	C	C	C		C	C	C	C					(l) Bed and Breakfast Establishments

Commented [SK3]: This includes uses like coffee and restaurants, but also potentially higher impact uses like bowling alleys and arcades. We suggest splitting this into two separate categories, something like "small scale indoor commercial entertainment" and "large scale commercial entertainment" to accommodate the different land uses and better align the level of review with the potential for land use conflict.

Smaller scale uses would be allowed as permitted uses due to likely lack of substantial evidence for denial and lower nuisance risk. Larger scale uses would still be reviewed as a conditional use.

This change would result in two rows in the land use table. See memo for further description.

Table 98-203(4) Tables of Land Uses																			
P = Permitted by Right (98-202(2)) C = Permitted as a Conditional Use (98-202(4))																			
Zoning District Abbreviations																Type of Land Use			
RH	CR-5ac	ER-1	SR-3	SR-4	TR-6	MP-8	NO	PO	NB	PB	GB	CB	PI	GI	HI			PBP	
					C	C	C	C	C	C	C	C	C	C			C	(m) Group Day Care Center (9+children)	
C																		(n) Campground	
						C	C		C		C	C						(o) Boarding House	
																C		(p) Sexually-Oriented Land Use	
										C	C			C	C			(q) Vehicle Repair and Maintenance	
C										C								(r) Intensive Outdoor Recreation	
							C	C	C	C	C	C	C				C	(s) Physical Activity Studio	
							C	C	C	C	C	C	C			C		(t) Personal or Professional Service involving tattoos and permanent cosmetics above the clavicle.	
RH Rural Holding						TR Two-family Res						NB Neighborhood Business						PI Planned Industrial	
CR Countryside Res						MR Multi-family Res						PB Planned Business						GI General Industrial	
ER Estate Residential						NO Neighborhood Office						GB General Business						HI Heavy Industrial	
SR Single-family Res						PO Planned Office						CB Central Business						PBP Planned Business Park	

Commented [SK4]: We suggest changing this from Conditional to Permitted in the districts currently identified. There would be limited reasons and limited substantial evidence to deny a conditional use permit for this use.

Table 98-203(5), (6) and (7) Tables of Land Uses																
P = Permitted by Right (98-202(2)) C = Permitted as a Conditional Use (98-202(4))																
Zoning District Abbreviations																Type of Land Use
RH	CR-5ac	ER-1	SR-3	SR-4	TR-6	MP-8	NO	PO	NB	PB	GB	CB	PI	GI	HI	PBP

RH	CR-5ac	ER-1	SR-3	SR-4	TR-6	MR-8	NO	PO	NB	PB	GB	CB	PI	GI	HI	PBP	Type of Land Use
																	STORAGE/DISPOSAL (98-206(5)(L))
										C	C		P	P	P		(a) Indoor Storage or Wholesaling (Ord. No. 01-19 2/12/01)
														C	P		(b) Outdoor Storage or Wholesaling
											C		C	C			(c) Personal Storage Facility
C															C		(d) Junkyard or Salvage Yard
C															C		(e) Waste Disposal Facility
C															C		(f) Composting Operation
																	TRANSPORTATION USES (98-206(6)(L))
											P	P		P	P		(a) Off-Site Parking Lot
C								C					C	C	C		(b) Airport/Heliport
														C	C		(c) Freight Terminal
													C	P	P		(d) Distribution Center
																	TRANSPORTATION USES (98-206(7)(L))
													P	P	P		(a) Light Industrial
															P		(b) Heavy Industrial
C													C	C	C		(c) Communication Tower
C																	(d) Extraction Use
RH Rural Holding		TR Two-family Res		NB Neighborhood Business		PI Planned Industrial											
CR Countryside Res		MR Multi-family Res		PB Planned Business		GI General Industrial											
ER Estate Residential		NO Neighborhood Office		GB General Business		HI Heavy Industrial											
SR Single-family Res		PO Planned Office		CB Central Business		PBP Planned Business Park											

Commented [SK5]: We suggest changing from Conditional in the two districts to Prohibited due to proximity to residential.

Commented [SK6]: This allows for "mini-warehouse / storage units". We suggest changing this to Prohibited in the General Business (GB) zoning district due to proximity to residential.

Table 98-203(8) Tables of Land Uses

P = Permitted by Right (98-202(2)) C = Permitted as a Conditional Use (98-202(4))

Zoning District Abbreviations

[illegible]

																	Residential Stable	
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		(r) Drainage Structure	
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		(s) Filling	
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		(t) Lawn Care of Subject Property	
C	C	C															(u) Septic Systems	
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		(v) Exterior Communication Devices	
	C	C															(w) Caretaker's Residence	
C	C	C	C	C	C	C											(x) Second Private Residential Garage	
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		(y) Tourist Rooming House	
RH Rural Holding							TR Two-family Res				NB Neighborhood Business						PI Planned Industrial	
CR Countryside Res							MR Multi-family Res				PB Planned Business						GI General Industrial	
ER Estate Residential							NO Neighborhood Office				GB General Business						HI Heavy Industrial	
SR Single-family Res							PO Planned Office				CB Central Business							

Table 98-203(9) Tables of Land Uses																	
T = Permitted as a Temporary Use (98-202(6))																	
Zoning District Abbreviations															Type of Land Use		
RH	CR-5ac	ER-1	SR-3	SR-4	TR-6	MR-8	NO	PO	NB	PB	GB	CB	PI	GI	HI	PPP	
																	TEMPORARY USES (98-206(9)(_))
									T	T	T	T					(a) General Temporary Outdoor Sales
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		(b) Outdoor Assembly
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		(c) Contractor's Project Office
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(d) Contractor's On-Site Equipment Storage
							T	T	T	T	T	T	T	T	T	T	(e) Relocate-able Residence
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(f) On-Site Real Estate Sales Office
T									T	T	T	T	T	T			(g) Outdoor Sales of Farm Products
RH Rural Holding						TR Two-family Res				NB Neighborhood Business				PI Planned Industrial			
CR Countryside Res						MR Multi-family Res				PB Planned Business				GI General Industrial			
ER Estate Residential						NO Neighborhood Office				GB General Business				HI Heavy Industrial			
SR Single-family Res						PO Planned Office				CB Central Business							

Section 98-204 Table of Land Uses Permitted in Permanently Protected Green Space Areas

In all developments, certain areas may be required to be set aside as permanently protected green space for the purpose of natural resources protection, to meet a Minimum Green Space Ratio (GSR) requirement, or to meet a Minimum Landscape Surface Ratio (LSR) requirement. Where such permanently protected green space is required, and where the land use is also permitted per the land use regulations of the applicable conventional zoning district (see Section 98-203, Table of Land Uses), the following table shall also be employed to establish land use regulations. All land uses listed in Section 98-203 but not listed in this Section are prohibited in permanently protected

green spaces.

Table 98-204: Land Uses Permitted in Permanently Protected Green Space Areas						
Land Use	Permanently Protected Green Space Areas					
	Conservancy	Drainageway	Lakeshore	Woodland	Steep Slope	Other Permanently Protected Green Space
(a) Cultivation						C
(b) Passive Outdoor Recreation	P	P	P	P	P	P
(c) Active Outdoor Recreation						P
(d) Outdoor Institutional						P
(e) Lawn Care (mow-feed-seed-weed)	C	C	C	C	C	P
(f) Golf Course	C	C	C	C	C	P
(g) Any Permitted Temporary Use						P,T
(h) Drainage Structure	C	C	C	C	C	C
(i) Filling	C	C	C	C	C	C
(j) Septic System						C
(k) Road, Bridge						
(l) Utility Lines & Related Facilities	C	C	C	C	C	C
(m) Piers and Wharfs	C	C	C	C	C	C
(n) Fences (Ord. No. 04-04 1/26/04)	C	C	C	P	P	C
C: Permitted as a Conditional Use per 98-206(10), 98-203, and 98-905 T: Permitted as a Temporary Use per 98-206(10), 98-203, and 98-206.						

Commented [SK7]: Piers are regulated by the DNR via a Chapter 30 permit and contains all of the same regulations that the city would review. It would be difficult to deny a pier with substantial evidence if at the same time, the pier meets the standards for a DNR permit. Therefore, we recommend changing allows of piers to a Permitted use in all districts.