AGENDA VILLAGE OF PLEASANT PRAIRIE PLEASANT PRAIRIE VILLAGE BOARD PLEASANT PRAIRIE WATER UTILITY PLEASANT PRAIRIE SEWER UTILITY Village Hall Auditorium 9915 – 39<sup>th</sup> Avenue Pleasant Prairie, WI September 16, 2013 6:00 p.m.

- 1. Call to Order
- 2. Pledge of Allegiance
- 3. Roll Call
- 4. Minutes of Meetings August 5 and August 19, 2013
- 5. Citizen Comments (Please be advised per State Statute Section 19.84(2), information will be received from the public and there may be limited discussion on the information received. However, no action will be taken under public comments.)
- 6. Administrator's Report
- 7. New Business
  - A. Receive Plan Commission recommendation and consider Ordinance #13-36 to amend the 2035 Comprehensive Land Use Plan Map 9.9 and Appendix 10-3 to remove the Urban Reserve Designation from Lot 19 of the Westfield Subdivision located at the northwest corner of STH 50 and 91st Avenue for the proposed Goddard School development.
  - B. Receive Plan Commission recommendation and consider Ordinances #13-37 and #13-38 for a Zoning Map and Text Amendment to rezone a portion of Lot 19 of the Westfield Subdivision from B-2 (UHO) Community Business District with an Urban Landholding Overlay District to B-2 (PUD), Community Business District with a Planned Unit Development Overlay District and to amend the legal description to include a portion of Lot 19 relating to the proposed development of Goddard School.
  - C. Receive Plan Commission recommendation and consider Ordinance #13-39 for a Zoning Text Amendment for the proposed super charging station for electric vehicles at Pleasant Prairie Premium Outlets located at 11211 120th Avenue and 11601 108th Street.
  - D. Receive Plan Commission recommendation and consider a Master Conceptual Plan for the proposed Riverview Corporate Park generally located east of IH-94 south of 110th Street and north of 122nd Street.

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- E. Receive Plan Commission recommendation and consider Ordinance #13-40 to correct and amend the 2035 Comprehensive Land Use Plan Map 9.9 and update Appendix 10-3 to identify the field delineated wetlands in the Park, Recreational and Other Open Space Lands with a field verified wetland land use designation on the vacant property located between 88th and 91st Avenues and 76th Street and Prairie Ridge Boulevard.
- F. Receive Plan Commission recommendation and consider Ordinance #13-41 to rezone the field delineated wetlands into the C-1, Lowland Resource Conservancy District, on a 9.9 acre vacant parcel generally located between 88th and 91st Avenues and 76th Street and Prairie Ridge Boulevard.
- G. Receive Plan Commission recommendation and consider a Conceptual Plan for the proposed office development on a vacant 9.9 acre property generally located between 88th and 91st Avenues and 76th Street and Prairie Ridge Boulevard.
- H. Receive Plan Commission recommendation and consider a Certified Survey Map to subdivide a vacant 9.9 acre parcel generally located between 88th and 91st Avenues and 76th Street and Prairie Ridge Boulevard for a proposed office development.
- I. Consider an Agreement with Premium Outlets related to the midnight madness sale on November 28-29, 2013.
- J. Consider a one-year RecPlex Sponsorship Agreement with Mattel Toy Store.
- K. Consider changes to Appendix A Section 405 of the Municipal Code to amend the Village's typical roadway cross sections.
- L. Consider a Professional Construction Engineering Services Agreement for Phase4C Binder Paving in the Village Green Heights Subdivision.
- M. Consider Ordinance #13-42 to amend Chapter 148 of the Municipal Code relating to Clean Water Utility definitions and modifications.
- N. Consider Ordinance #13-43 to amend Chapter 285 of the Municipal Code relating to Satellite Sewer Collection Systems and waste sampling.
- O. Consider an award of contract for replacing the fence at Lake Andrea Beach.
- P. Consider an award of contract to replace the roof on the Salt Shed located at the Roger Prange Municipal Center.
- Q. Consider an award of contract for cleaning services at the Village Hall and Roger Prange Municipal Center.

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- R. Consider Ordinance #13-44 to amend Chapter 242 of the Municipal Code relating to the dog park at Ingram Park.
- S. Consider Resolution #13-19 to write off uncollectible Fire Department charges for services.
- T. Consider denial of a fourth invoice submitted by Ron Sierra for perceived use payments on parcel #93-4-123-203-0200.
- U. Consider a reappointment to the Community Development Authority.
- V. Consider Operator License Applications on file.
- W. Set 2013 Halloween Trick or Treat Hours.
- 8. Village Board Comments
- 9. Adjournment

The Village Hall is handicapped accessible. If you have other special needs, please contact the Village Clerk, 9915 –  $39^{th}$  Avenue, Pleasant Prairie, WI (262) 694-1400

# VILLAGE OF PLEASANT PRAIRIE PLEASANT PRAIRIE VILLAGE BOARD PLEASANT PRAIRIE WATER UTILITY PLEASANT PRAIRIE SEWER UTILITY 9915 - 39th Avenue Pleasant Prairie, WI August 5, 2013 6:00 p.m.

A regular meeting of the Pleasant Prairie Village Board was held on Monday, August 5, 2013. Meeting called to order at 6:00 p.m. Present were Village Board members John Steinbrink, Monica Yuhas, Steve Kumorkiewicz, Clyde Allen and Mike Serpe. Also present were Michael Pollocoff, Village Administrator; Tom Shircel, Assistant Administrator; Jean Werbie-Harris, Community Development Director; Kathy Goessl, Finance Director; Dave Smetana, Police Chief; Craig Roepke, Assistant Fire & Rescue Chief; Rocco Vita, Village Assessor; Mike Spence, Village Engineer; John Steinbrink Jr., Public Works Director; Carol Willke, HR and Recreation Director and Jane M. Romanowski, Village Clerk. Four citizens attended the meeting.

# 1. CALL TO ORDER

John Steinbrink:

I see we have a couple of veterans in the back. If you'd lead us in the Pledge please. Thank you, guys.

# 2. PLEDGE OF ALLEGIANCE

#### 3. ROLL CALL

# 4. CONSIDER PROCLAMATION TO WELCOME "THE MOVING WALL" TO PLEASANT PRAIRIE.

John Steinbrink, Jr.:

Mr. President and members of the Board, the Village of Pleasant Prairie has brought in the moving wall, and we're looking to have that in early September. And we do have a couple of gentlemen who are on the committee for The Moving Wall. If they want to step up and say a couple words about the wall it's probably a good time to do it.

John Steinbrink:

Good evening, gentlemen. I'm going to ask you to give us your name and address for the record because I know who you guys are but the poor lady who writes all this out doesn't.

Rich Bowker:

My name is Rich Bowker, I live at 8823 104th Avenue, Pleasant Prairie, Wisconsin. Me and John grew up together.

#### Paul Fredericksen:

I'm Paul Fredericksen, I'm the Commander of the Pleasant Prairie VFW Post 7308. I live at 8821 65th Street. I'm also a member of the CAV [phonetic].

#### Dan Martinelli:

Dan Martinelli, 3811 8th Avenue, Kenosha, previously from Somers, and the President of CAV.

#### Paul Fredericksen:

First of all I want to thank you for allowing us to get the wall here and the support that you've given us has been -- the support has been tremendous. I'm very proud as the Commander of the Pleasant Prairie VFW Post 7308, not a lot of people know that we have a post in Pleasant Prairie. We're the only veteran's organization outside the CAV which can cross the border. So we're very proud that it's coming, and it's really important to us. And why it's important I can tell you to me it's very important. I have a couple of classmates from high school on the wall. Jerry Anderson, who is from Kenosha and Dan Patrick who is from Salem. I also have lost a few pilots whose names are on the wall also, close friends.

And it's also important because when we got back from overseas we were treated badly. And for a long time we did not even admit that we were veterans. And we're over that now, and things like this and the support that we've been getting have certainly made up for that. Another thing is over 58,000 names are on that wall, men and women, and they're finding more and more as they are able to use DNA, when they find wrecks they can get some bones and DNA and these people come back and we bury them properly.

One statistic you should know about is that of the 2.7 million men and women who served in Vietnam, actually had boots on the ground, there are only one third of us left. Some of us didn't die in Vietnam and we are probably going to die because of Vietnam, things like agent orange and DDT and things that we were sprayed with and things that happened to some of our combat vets who are still alive.

So we're very pleased and proud that the wall is coming to Pleasant Prairie, and we want to thank you for helping us get this done. We still do need some volunteers and we need some money because we figure it's going to cost about \$20,000 to get the wall here and we're not quite there yet. So we would like the further support from the community. So with that I want to say thanks and I'll turn this over to the other two guys if they've got anything to say.

#### Dan Martinelli:

I think the biggest thing about the wall is I wanted to see it for a long time and I want to read it. I know some of those guys.

#### Rich Bowker:

I've got a lot of classmates on the wall that died. John knows some of them, too, because they was in John's grade, too. As being a resident of Pleasant Prairie my whole life it's an honor for me to even thing of getting it to Pleasant Prairie so this is fantastic. I hope it bring joy to you guys, and I hope everyone here gets to go see it because this is something else. This wall is a half scale wall if anybody doesn't know of the one in Vietnam. But everything on it is identical. The names are in identical spots. It's just smaller. You'll be able to get etchings off the wall just like you do in Washington D.C., so everything that you can do at Washington D.C. you're going to be able to do at this wall here. And it's just a pleasure and an honor and a privilege for us to have it here. Thank you.

#### John Steinbrink:

Thank you guys, and I think you're going to get a good turnout because a lot of people haven't been to Washington to see it. This is a real opportunity. And like you said, Rich, a lot of us here know the names on the wall and we remember those people. First off I want to thank you gentlemen for your service and we have a proclamation.

This is the Village of Pleasant Prairie, the office of Village President Proclamation. Whereas, during March of 1973, the United States officially ended military involvement in Vietnam after participating in what remains one of the longest wars in our country's history; and Whereas, the last American casualties occurred in Vietnam in 1975 during a civilian rescue mission, and more than 58,000 American men and women lost their lives during the Vietnam War; and Whereas, it is important to honor the men and women who served our country and fought against the spread of communism in Vietnam; and Whereas, since their return, surviving veterans of the Vietnam War have contributed tremendously to their communities, their states and the nation; and Whereas, area veterans and community organizations have joined together to bring The Moving Wall to Prairie Springs Park in the Village of Pleasant Prairie between the dates of September 12, 2013 and September 16, 2013; and Whereas, The Moving Wall is a half-size replica of the Washington, D.C. Vietnam Veterans Memorial. The Moving Wall was conceived of and built by Vietnam Veterans as a remembrance and healing tool for all those who may never have a chance to visit the Memorial in Washington, D.C.; and Whereas, the Pleasant Prairie Village Board of Trustees wishes to welcome The Moving Wall to the Village of Pleasant Prairie, to express our utmost respect and appreciation for our country's veterans, and to express gratitude to those helping to bring The Moving Wall to the community.

Now, therefore, I, John P. Steinbrink, President of the Village of Pleasant Prairie, do hereby proclaim the period between September 12, 2013 and September 16, 2013 as the official visit of The Moving Wall to Prairie Springs Park and encourage all in the community to visit The Moving Wall during its time here to honor those men and women who lost their lives in the service of our country during the Vietnam War. Given, under my hand and the Seal of the Village of Pleasant Prairie, on this 5th day of August, 2013.

And, once again, thank you gentlemen for your service. And I think we all have a deep sense of gratitude. It's an era most of us grew up in and we remember what happened then. And we

remember the treatment you got when you came home and the sacrifice you made. So thank you very much.

Mike Pollocoff:

You want to sign it and present it to them?

John Steinbrink:

Yes. Do you gentlemen want to come up? Hopefully when the wall is here we're going to get the whole Board together with a picture of you gentlemen by the wall and we can put that in our newsletter. Thank you.

# 5. MINUTES OF MEETINGS - JUNE 12, JULY 1 AND JULY 15, 2013

Monica Yuhas:

Motion to approve.

Clyde Allen:

Second.

John Steinbrink:

Motion by Monica, second by Clyde. Any discussion on the minutes?

# YUHAS MOVED TO APPROVE THE MINUTES OF THE VILLAGE BOARD MEETINGS OF JUNE 12, JULY 1 AND JULY 15, 2013 AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY ALLEN; MOTION CARRIED 5-0.

# 6. **PUBLIC HEARING**

# A. Consider Class B Combination Liquor License for Cheddar's Casual Café currently under construction at 10355 77th Street.

Jane Romanowski:

Mr. President and Board members, we have received an application for a Class B fermented malt beverage license and a reserve Class B intoxicating liquor license as you said for the Cheddar's Restaurant currently under construction at 10366 77th Street. This is the third reserve Class B intoxicating liquor license. It mirrors all the requirements of a regular Class B. What it does have, though, is a \$10,000 initial fee. And this was all done by the legislature back in 1997. With a bunch of calculations, they took some licenses away, made those regular licenses that we had as of then, and then they've added this kind of quota system and called them reserve licenses.

So what happens is a reserve license is you pay the \$10,000 initial fee plus the original licensing fees which we have for everybody else, and you now have a reserve license. They pay the initial fee, and then once their license is renewed it's back to the regular fees just like any other establishment. And the only reason, as I stated in here, Famous Dave's and Olive Garden have paid this is because our regular licenses are used up, and now we're into our reserve licenses which we have 19 of them.

The way you gain licenses is by population. So if our population goes up over 500 in a given year you get one license. And so you just kind of keep adding that population and you get more licenses. The Village is very fortunate that we have 19 licenses because a lot of these communities don't have these licenses to issue. So we're very fortunate that we do have these licenses since our regular ones are used. So, again, like I said the initial fee is \$10,000 plus the licensing fee for the Class B liquor and fermented malt beverage if the license is approved. And once it's issued that fee would be prorated from the date it's issued through June 30th of next year. \$10,000 is an initial fee. That's not prorated but the license fee would be prorated. Plus they would have to pay as always the publication costs for me to put it in the paper and any other fees as we've done in the past.

In accordance with the municipal code that's on record, the Board is able to grant this license for an initial period of 90 days until they open. But that time frame could be extended to 180 days if necessary. So obviously Cheddar's is trying to get everything in order. And they plan to right now open sometime early September is what I'm hearing. The police department has completed their checks, publication was done, residency requirements for the agent have been met. And there's just a few other things that need to fall in place if the Board approves the license.

We do need documentation that the agent has satisfied the training requirements, and this is for all licenses, either by completing a responsible beverage server course or holding a license in the previous two years, either an operator license or a liquor license such as an agent for Cheddar's. Just a simple document that needs to be submitted. They need to pay the initial fee which I do have a check that was submitted and an annual license fee prorated, that will be prorated, publication costs which we now have in the *Kenosha News* and, of course, a certificate of occupancy from the community development department, the inspection department and the fire and rescue department, which obviously we wouldn't issue anything until they were authorized to use the building and open for business.

So just as we've done with all the other licenses the payments of taxes or any outstanding delinquencies would have to be paid. I checked and there are none to date. So just the standard licensing fees and the other few items that I mentioned. And the license if granted could be issued once I receive those certificates of occupancy. This is a public hearing.

#### John Steinbrink:

This is a public hearing. I'm gong to open it up for public comment and question. Anybody wishing to speak on this item? Anyone wishing to speak on this item? Anyone wishing to speak on this item? If not, I'm going to close the public hearing and open it up to Board comment or question. Mike?

#### Michael Serpe:

Move approval, Mr. Chairman.

#### Clyde Allen:

Second.

## Mike Pollocoff:

I think there might be somebody from Cheddar's that came here. You made a long trip to be here for the hearing.

# **Richard Pane:**

Good evening. Richard Pane, 4901 Dublin Creek Lane, Parker, Texas, 75002. I'll even scare you, I actually went to school in this state.

# John Steinbrink:

I have a son that lives down in Texas and he's starting to talk like you.

#### Richard Pane:

We're very grateful that we've been able to come to Pleasant Prairie, and we will be a good corporate citizen here. We've been around for 34 years. The two founders started this in 1979 in Dallas, Texas. As of today we opened our 144th restaurant. You'll be number 145.

# Mike Pollocoff:

It's a nice looking building, very nice.

#### John Steinbrink:

We're getting a lot of comments from people on the building how nice it looks.

#### Richard Pane:

It's a nice building. It's real stone and wood unfortunately. If you have any questions I'll be glad to answer them for you.

# John Steinbrink:

I just want to add when I was down in Austin I stopped at several of the Cheddar's down there and also one on the way back. I think it was in the northern part. Very good food, and I think

everybody's going to be very happy with what you have to offer. Very nice interior, very casual dining and great food, so thank you.

Richard Pane:

Thank you.

John Steinbrink:

With that we have a motion and a second. Any discussion from the Board?

# SERPE MOVED TO APPROVE THE CLASS "B" FERMENTED MALT BEVERAGE AND RESERVE "CLASS B" INTOXICATING LIQUOR LICENSE TO TINA WESLEY, AGENT FOR CHEDDAR'S CASUAL CAFÉ, INC., CURRENTLY UNDER CONSTRUCTION AT 10366 77<sup>TH</sup> STREET, SUBJECT TO THE CONDITIONS SET FORTH BY THE VILLAGE CLERK; SECONDED BY ALLEN; MOTION CARRIED 5-0.

John Steinbrink:

Thank you for making the trip up here. What was your alma mater by chance?

Richard Pane:

Actually I went to college in Waukesha.

John Steinbrink:

Thank you for coming.

# B. Consider Resolution #13-17 to change the official address of the house at 5029 93rd Street to 5149 93rd Street.

Jean Werbie-Harris:

Mr. President and members of the Board, this is a request for the approval of Resolution 13-17 to change the official street address. On July 15, 2013, the Village initiated the change of an official address at 5029 93rd Street. This is the western most home on Outlot 4 as depicted on the screen of the Devonshire Subdivision. This particular house when Cooper Road is dedicated with a certified survey map this month will make the house at this location the address will not be in the proper sequencing. And so as such we need to modify the address. And it's proposed that it go from 5029 93rd Street to 5149 93rd Street. This is a public hearing before the Board this evening. The changes would be effective August 15, 2013 if the Board approves the public hearing and the change this evening.

#### John Steinbrink:

Once again this being a public hearing I'll open it up to public comment or question. Anyone wishing to speak on this item? Anyone wishing to speak? Hearing none I'm going to close the public hearing and open it up to Village Board comment or question. If not a motion.

#### Monica Yuhas:

Motion to approve Resolution 13-17.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Monica, second by Steve. Any discussion on this item?

# YUHAS MOVED TO APPROVE RESOLUTION #13-17 TO CHANGE THE OFFICIAL ADDRESS OF THE HOUSE AT 5029 93RD STREET TO 5149 93RD STREET; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

# 7. CITIZEN COMMENTS

Jane Romanowski:

There were no signups tonight, Mr. President.

John Steinbrink:

Anyone wishing to speak? Rob, if you could give us your name and address for the record.

Rob Zirban:

Rob Zirban, 5406 2nd Avenue, Kenosha, Wisconsin. Thank you very much for the opportunity to speak tonight. And I would like to -- many of the members of the Board should have all received an email from my committee. I have informed an exploratory committee to look into running for U.S. Congress again, and I wanted to come tonight to publically invite you all to please join me for lunch at my office in downtown Kenosha. It's located at 5711 8th Avenue on Tuesday, August 13th. I'd like to take this opportunity to invite you to lunch and to discuss issues before our communities and how we could all work together. Should I choose to run again, should I be fortunate to be the representative for Southeast Wisconsin I'd like to have some existing relationships and understanding of what challenges you're faced with here on the Village Board of Pleasant Prairie and things that you've seen around the community that you feel need to be addressed. So I hope you can attend. Please RSVP to my office number 262-657-7400 or

RSVP to my committee coordinator al@robzirban.com, just respond to the email. Thank you. Any questions?

John Steinbrink:

Thank you, no. Anyone else wishing to speak? If not, I'm going to close citizens' comments.

# 8. ADMINISTRATOR'S REPORT

Mike Pollocoff:

Mr. President, I have one thing that I'd like to bring to the Board's attention. We've been going through the process with the Wisconsin Public Service Commission to evaluate a proposed rate increase from the City of Kenosha for municipal water. We received notice from the Public Service Commission that the City of Kenosha has approved the Commission's findings as a result of the hearings that have been held over a good part of this year. And so the rate will be -- they're going to begin to bill the Village as of August 1st for the new increase in service.

Originally they'd filed for a request back in October of 2012, and at that time they were looking for roughly a 9 percent increase on average of \$1,052,000. And we got a copy of their service charges and how they allocate that. That would have represented a 16 percent increase to the Pleasant Prairie Water Utility. Based on that the Village Board directed the staff to file an action to intervene in the rate process so that we could have our side heard as to what we thought the rate should be, and in fact we did do that.

Subsequent to the Village intervening on the process, once we intervened Kenosha then raised their rate up to \$11,731,000, and it would have reflected a 34 percent increase on the Village's water rates. We went through a fairly long and lengthy process to demonstrate that the Pleasant Prairie Water Utility aside from buying water at one central point on 7th and 80th Avenue is a self-sustaining water utility. We purchase water in quantities that enable us to provide any of the needs that is required in the Village, and the thrust of our argument is that we're able to store the water that we need, we're able to convey the water that we need throughout the Village. We're able to provide the pressures needed through the elevated storage that we have in that we take care of the entire water system. The Kenosha Water Utility doesn't do any maintenance efforts at all beyond the metering point.

So consequently we felt that we were entitled to a better treatment than we were receiving. In fact under the Kenosha rates we would not receive the lowest cost although we were by far the Kenosha Water Utility's largest customer. And the rate findings that were announced, I got these today, what the Public Service Commission basically on five of the items agreed with the Village and two of the items they didn't. And the two items they didn't agree with was public fire protection. They still felt that Pleasant Prairie relied on the Kenosha system to provide enough water to fight fires. We thought we'd made a good case against that, and we have a little vestige of three metering sites that are still left over that we don't use. And the logic was that those sites could be opened up and used in case we couldn't provide enough water. And secondly it was on the allocation of transmission mains and how that worked.

The upshot was that originally they were looking for a 9 percent increase for the Kenosha Water customers and a 34 percent increase for the Village. The Commission found in many of the areas that the Village prevailed in our case. The Kenosha customers' increase is going to be 17 percent, and the Village's rates are going to increase by 10 percent. So we went from 16 up to 34 now we're back down to 10. It's still an increase. That doesn't mean a residential user's bill is going to increase by 10 percent because even though it's a large number it's not the complete cost to our system but it's all of our water cost. So we'll be getting a notice from the PSC as to what our new rate is. We can't apply that 10 percent rate on all of our customers because they take water at such erratic levels that they have to pay a premium for that. Everybody else is on a pretty standard flow measurement.

I really believe it was a good effort. The things that became evident throughout the process one is John, Jr. has done a really good job of getting our system set up on a SCADA, he knows where everything is, it manages really well. He operates the system basically through computer. In Kenosha they have people running around turning valves manually. We were able to really bring a lot of information to bear that before we hadn't been able to do. And it pointed out in the Commission's findings that Pleasant Prairie did bring data to substantiate what we were doing.

Kathy Goessl who is not here our books are in really good order. And the other people on the team that did a really good job for us was Vickie Hellenbrand from Baker Tilly, Paul Kent and Ed Hughes from Boardman a law firm in Milwaukee did an excellent job in preparing the Village's case. So the important thing about us prevailing in this is that the rates that are established now become precedent setting for future considerations. So even though the Village might have only saved probably about \$280,000 a year, you compound that year after year and it really starts adding up into money. And it helps us to make our next change at the next rate request where we can take a look at things like fire protection, taking the standby meters out of service. And we're going to be able to I think really prevail in the fact that we are truly a wholesale customer.

So under this rate order Pleasant Prairie now receives the lowest rate of any of the customers that the City of Kenosha provides service to at \$1.38 a cubic foot. As I say it was a long process but I want to thank our team, they did really good job in putting this thing together. And we also had another guy, Jerry Hartman, who is an engineer out of Florida who is now affiliated with Crispell-Snyder through a common corporation. He really did some unique work for us. If he's still in the business when we have our next rate increase we're going to be able to really break some new ground on rates. So with that that's all I have, Mr. President.

Michael Serpe:

Mike, the next time there's a rate increase that's being asked by the City if it's a reasonable rate increase and one that's understandable, if it's not do we have to go through the whole intervention process again?

#### Mike Pollocoff:

Yeah, I believe the next time -- it would be my recommendation even today if they apply for a rate increase six years from now, two years from now, whenever it is that we petition to intervene, because we still have two major areas that need to be resolved. That's public fire and the allocation of transmission expense. That means a lot. Public fire protection under the State's rules it's truly a subsidy. When we pay the City of Kenosha \$86,000 in public fire protection that money doesn't go to the water utility, it goes to the Kenosha general fund to reduce their expenses. Just like the public fire protection fee that we charged our residents goes to the general fund rather than the water utility because it offsets the cost of oversizing mains. So the Village receives no benefit of that money because all it does is it lowers the Kenosha tax levy for what they have to bill for fire protection on their side because they provide no fire protection.

#### Michael Serpe:

Did our intervention have any effect positive or negative on Bristol and/or Somers?

#### Mike Pollocoff:

Bristol's rates actually did go down, and part of that is, it's a little deceptive, but they've gotten so much smaller. They have a smaller area of water than they had before at the last rate filing. So mostly that's annexed land in the City. The Town of Somers did go up. I think they went up to 19 percent. They do use a lot of the City's systems because they water -- by and large along the east side of the Town along Sheridan and some of those areas over there.

#### Michael Serpe:

I tell you I give you guys a lot of credit. You and John, Jr. and the whole team. We've been waiting for this for a long time. Well overdue. I hope the City doesn't try and take it out on us because they got beaten down a little bit if they want to come back at us. We've just got to keep our guard up.

#### Mike Pollocoff:

It's not a personal thing. We really didn't get into any nasty arguments. Really it's the numbers. Numbers are numbers and dollars are dollars. And we really tried to keep it at that level. I hope that's not the case. I think everybody's going to come out ahead on this thing if we're able to deliver a quality product to the residents here and the businesses so we can grow the economy in this area. I mean that helps everybody. You're not going to grow a local economy by having one entity get rich off water rates. That money doesn't translate back into the economy. Whereas if you have reasonable rates and people can rely on them and have good quality water that helps us bring corporations to the community and creates jobs here. That's the real bottom line, not making another community pay more than what you're paying.

#### Michael Serpe:

The reason I mentioned about taking it personal is because you go from a 9 percent increase to a 34 percent increase for no real reason it's more than personal.

## Mike Pollocoff:

I didn't take it personally. I thought they were talking about you guys, not me.

#### John Steinbrink:

I think one thing we need to remember is we're the City's largest water user, wholesale customer, and we've never been treated that way. Unfortunately in the scale of economics that just doesn't make sense. And you'd think they'd want to do that. And I, too, want to recognize everybody for their work on this. Because I know the extra time you guys put in, the late nights, the trips, weekends, you guys were working on this all the time putting this case together for us. Whether the rate payers realize it or not you did a lot to protect the rate payers and to protect future rates. This case laid a lot of groundwork for us in the future and the way we can address things.

And you touched on the economic development, and that's something that is probably more important than the rates we pay is the cost of what water is and how it can hinder or help economic development. Because we've talked to people that want to come into the community and the cost of water, the availability of water those are important issues to a lot of people because water is going to become the next gold of the future. We're very fortunate. With your work on getting the diversion years ago that set the groundwork for what we have here today with the industrial park and everything we have to offer to the residents in this community and part of the quality of life and the reason we can offer low taxes and everything we do. So it's something that kind of hinges with everything else and was an important thing to do. It was a lot of work and you guys did a good job so thank you.

#### Mike Pollocoff:

That's all I have, Mr. President.

# Steve Kumorkiewicz:

I'd like to make one last comment. Going through the dockets, requirements and everything else, if I read properly we've got a 3.2 million gallon capacity in the Village for 20,000 actually, basically. Now, the City's got 20 million for 100,000 people so we've got a better ratio. Also, the fire protection that we've got we built here in the Village separate from the City. We can have fires in the Village to supply the population and we still have plenty, a million gallons left. So I don't understand why the Public Service Commission takes that into consideration.

# Mike Pollocoff:

I think they did, but I'm not totally convinced when you read through the minutes and notes that they really came to grips with it. And I think they would tend to lean more conservative and say we don't want to be in the position where we tell the community they don't have to pay a fire protection fee, and they may be using water in the lowest point in the day when John's getting ready to fill his towers and he hasn't filled the towers yet and you could have a fire there. We hoped they would have dug into the numbers a little bit deeper and see we still have like four million gallons sitting around.

I think back to the biggest fire I've seen in Pleasant Prairie, and that was the Lawter fire, and there were over 30 departments here. Even at that point, that was back in '92, we were fighting a fire, all those fire trucks were drawing water off the system, and we were filling towers at the same time. That's how you have to have the system work. So we had the capabilities do to it then. And even ISO gave us the highest rating you can give a community for water storage because we store so much water. But I just really think that a lot of the decisions were falling Pleasant Prairie's way, and when you read through the discussion there was like, well, we don't want to say, and I'm paraphrasing what they're saying here, but we don't want to be in a position to say that they don't have to pay for it because they might need, and if they can't get it because they don't need it they don't want to have that on the case.

I think between now and the next time this comes about we'll have some of those bypass meters addressed, and John will be able to give them however many years of inventory or how many years of records given how many fires we have and what our use is to show we're able to withstand that. I wish they wouldn't have went that way but I kind of understand why they did it.

Steve Kumorkiewicz:

It's better than 34 percent anyway.

# 9. NEW BUSINESS

A. Receive Plan Commission recommendation and consider Ordinance #13-31 to rezone the property located at 11450 23rd Avenue from R-4 (UHO), Urban Single Family Residential District with an Urban Landholding Overlay District into the R-4 (AGO), Urban Single Family Residential District with a General Agricultural Overlay District.

Jean Werbie-Harris:

Mr. President and members of the Board, the petitioner is requesting a zoning map amendment to rezone their property located at 11450 23rd Avenue from the R-4 (UHO) to the R-4 (AGO) District. Specifically they're requesting to rezone 12.4 acres of property so that that vacant property can be farmed. A portion of the property has been identified as being within a shoreland jurisdictional boundary and may also have some wetlands on the property. The waterway is not allowed to be filled or altered, and farming activities cannot affect the drainage on the adjacent or

downstream properties. It's likely, however, we just wanted to make the property owners aware that when the wetlands are no longer being farmed they likely will revert back to wetlands and would need to be determined whether or not that area could be developed if they choose to develop the land in the future.

The AGO District requires that lots be a minimum of 10 acres with 300 feet of frontage on a public street. The property meets the minimum requirements. The proposed zoning map amendment is compliant with the Village's 2035 Comprehensive Land Use Plan map. And specifically the map indicates that the property in the future is within this low medium density residential land use designation with an urban land reserve designation. Again, rezoning the property would allow it to be farmed at this time. My understanding is that they currently have a farmer that is willing to farm the land, and they have a current lease with that particular individual.

The staff and the Plan Commission recommend approval of the rezoning of the property which is identified as Ordinance #13-31.

Steve Kumorkiewicz:

Make a motion to approve.

Michael Serpe:

Second.

John Steinbrink:

Motion by Steve, second by Mike. Any further discussion?

KUMORKIEWICZ MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORDINANCE #13-31 TO REZONE THE PROPERTY LOCATED AT 11450 23RD AVENUE FROM R-4 (UHO), URBAN SINGLE FAMILY RESIDENTIAL DISTRICT WITH AN URBAN LANDHOLDING OVERLAY DISTRICT INTO THE R-4 (AGO), URBAN SINGLE FAMILY RESIDENTIAL DISTRICT WITH A GENERAL AGRICULTURAL OVERLAY DISTRICT; SECONDED BY SERPE; MOTION CARRIED 5-0.

B. Receive Plan Commission recommendation and consider a Lot Line Adjustment to add 5,312 square feet of land to Lot 20 from Lot 19 of the Westfield Heights Subdivision for the proposed development of Goddard School.

Jean Werbie-Harris:

Mr. President and members of the Board, the petitioner is requesting to adjust the lot line between Lots 19 and 20 of the Westfield Heights Subdivision. Specifically it involves 5,312 square feet of land to be adjusted and added from one lot, which is Lot 20 to Lot 19. After the adjustment Lot 19 will be 2.507 acres, and Lot 20 will be 1.304 acres. The lot line adjustment is being requested

so that all of the improvements that are being made for the Goddard School development will be solely on Lot 19 as conditionally approved by the Plan Commission on April 22, 2013. The proposed lot line adjustment complies with all the requirements set forth in the zoning ordinance as well as the land division and development control ordinance, and the staff recommends approval along with the Plan Commission.

Steve Kumorkiewicz:

So moved.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Steve, second by Monica. Any further discussion on this item?

KUMORKIEWICZ MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND APPROVE A LOT LINE ADJUSTMENT TO ADD 5,312 SQUARE FEET OF LAND TO LOT 20 FROM LOT 19 OF THE WESTFIELD HEIGHTS SUBDIVISION FOR THE PROPOSED DEVELOPMENT OF GODDARD SCHOOL; SECONDED BY YUHAS; MOTION CARRIED 5-0.

# C. Consider Ordinance #13-32 to create Section 229-13 F of the Municipal Code related to storing of garbage and recycling containers.

Jean Werbie-Harris:

Mr. President and members of the Board, the staff has received several complaints over the last several years with respect to the placement of garbage cans and recycling containers. While the solid waste recycling ordinance does identify that the cans should not be placed to the curbside sooner than 12 hours before collection and then need to be removed, what it doesn't say is where the containers should be stored when the garbage is not being collected on garbage day.

Most if not all of our newer subdivisions have provisions in them that specifically say the garbage cans shall be stored in an inconspicuous location adjacent to the garage, within a garage, someplace so that it's out of public view. In the non-subdivision areas or the areas where there are no covenants and current status in the Village, there happens to be some concern about no having an ordinance as to where the garbage containers should be kept. And so we have some residents that are now putting them in the center of their yard, they're putting them in very prominent locations because other neighbors have been calling because they're upset about it. And some of them leave them at the street because they find it's easier for them to walk from their house all the way to the street to put the garbage in and leave them in 24/7.

So the staff would like a little assistance from the Board just to have an ordinance in place so that it's clear that the containers should be brought away from the curb up to the house, adjacent to the garage when they're not used on collection day. This should also avoid any concerns and problems with people leaving them out in the street right of way during snowfalls and other times when we have leaf collection.

#### Monica Yuhas:

Jean, question. What's going to happen when garbage cans are left out for more than 12 hours or 24 hours? Are they going to have someone from CD come out and follow it up with a complaint? Are we going to have the police department, parking enforcement --

#### Jean Werbie-Harris:

We are doing it now. We are doing it now. We are spending a great deal of time, not only myself, my staff, parking enforcement officer and the police department. And sometimes we're going back two and three times because residents keep calling and calling because they're making shrines in the middle of their front yards with the garbage cans.

#### Michael Serpe:

When I saw this on the agenda I gave it a lot of thought. I don't think I'm going to support this, and I'm going to give you my reasons. I think a better way to approach something like this is through our newsletter asking people to be just a little bit more respectful about their neighborhoods and where they put their garbage cans and how to put their garbage cans. If we come up with another ordinance like this all we're going to do is give some citizens the opportunity to call the police department or community development and complain about the violation of this ordinance.

We can't enforce everything that we have going wrong now because we don't have the manpower to do it. And this is just going to give unhappy neighbors a reason to call and complain about the neighbors that they don't get along with. I haven't received one phone call about garbage cans that are not placed in the right place. I think in my neighborhood alone somebody goes on vacation, they tell me the neighbor would you do me a favor, put my cans out and put them back when they're empty, so we help each other out.

I don't think this is a good way to go. I think it's going to create problems, and it's going to cause people to complain about the Village not doing the enforcement of an ordinance that they passed, and I don't want to see that happen either. So I'm not going to support this. I think I'd rather go a different route. I'm trying to educate people. I'm trying to say, hey, be a little bit more respectful to your neighbors in your own house and put the cans back where they belong and out of site if you can. I mean there's incidents where peoples' garbage cans would have to go to the back of the house. Senior citizens would have to drag them out in the winter. How is that going to happen? I just think this is a bad way to go at least for right now.

#### John Steinbrink:

Jean, I already think you're getting those calls so do you want to comment on that?

#### Jean Werbie-Harris:

All I can tell you is we're getting the calls now. There's angry neighbors. I mean the purpose of the staff here is not to rely on the Village Trustees to have garbage complains. We're trying to handle them as best we can. But when the neighbors start arguing and screaming and swearing and like verbally abusing my staff I do contact the police department, and then the Chief sends an officer out there to talk to the neighbors. Primarily a lot of this is occurring on the very far west end of the Village and the very far east end of the Village. And it's not in platted subdivisions where, again, there's current restrictions or covenants.

I'm not sure how else to handle it. We certainly have tried the kinder, gentler approach several times and asked them to get along with their neighbors, to work with their neighbors, see if they could bring their neighbors' garbage cans in. I'm sure there are other issues going on between the neighbors as to why they're having these arguments. But if it would just be one neighbor calling on another neighbor but it's not. This is a frequent complaint. And I just need to know where to go with it or how to deal with it from this point forward. Give me some tool to actually get them to stop doing it because it's very disrespectful as to how the residents are treating my staff.

#### John Steinbrink:

Jean, how are you going to handle disabled folks and elderly that are unable to do this as Mike said? Are we going to have some provision in there for them?

#### John Steinbrink, Jr.:

Mr. President and members of the Board, we have a backdoor pickup right now, and so anyone that is disabled. We do require an annual doctor's note for that just to make sure that it's not abused. And there's probably 20 residents that we have on the list where we actually go to the back door of their house or wherever they keep their can, take it, roll it up to the curb, dispose of it and bring it back. And so we do have something in place for people that need it. We do require a doctor's note just to make sure that it's not abused, and it is place for anyone that chooses to use it.

#### Monica Yuhas:

And I would just like to go on the record saying I did receive an email and a phone call from separate residents in the Village. I had to call John, Jr. to ask about placement of garbage cans because they're sitting out or they're seven feet in my driveway. It's neighbor against neighbor and they just don't get along and it's unfortunate. And it puts Jean's department, they're getting the complaints, they're getting the verbal abuse. We need to have something to help her department as well.

#### Michael Serpe:

I would rather send out one of us to try and PR this problem.

# Monica Yuhas:

I've been out there. I'm not going out.

## Michael Serpe:

You know what, sometimes you just can't stop a fight between an uncooperative neighbor. And creating all kinds of ordinance sure as hell is not going to make it better.

#### Monica Yuhas:

I think in my experience I found that when you're a female people are a lot more combative with you. If you go out they're probably a little bit nicer to you because they'll listen to you because you're a man. But when you're a woman and you cite the ordinance and you explain to them why they're in violation they're rude, they're combative, they're disrespectful, they're threatening, and that's what I've encountered this year. That's my perspective on it.

# John Steinbrink:

Would you care to make a motion?

#### Monica Yuhas:

Yes, I'm going to make the motion to approve Ordinance 13-32.

#### John Steinbrink:

Do we have a second? I'll second it. Now is there discussion on this?

#### Clyde Allen:

Thank you, Mr. President. I understand what everybody has said up here. I understand the position our staff is in, what they go through. My first looking at this was, gee, does an ordinance of one size fits all really fit or work in this situation? I lean toward it's certainly far better if we can eliminate some of these neighborly fights, if we can eliminate some of the calls on the staff and the burden on the staff. Because, like you say, we do have something in place for the disabled and elderly. So I agree with passing the motion, I really do.

# Steve Kumorkiewicz:

I'm kind of reading the amendment and listen to what Mike says, I do believe that maybe we should put in the Village bulletin a notice that unless the situation is solved by the residents we

should have to take another measure [inaudible] for example by resolution at that time. Kind of wait. Because more ordinances, more enforcement. I've got complaints, too. I have one neighbor in my neighborhood that puts his garbage in the front, from the curb to the front. And I talked to that person and it did no good. So I think give them fair warning, if it doesn't happen in 60 days and no improvement then pass the ordinance.

#### Clyde Allen:

This isn't going to eliminate it. If neighbors are going to fight they're going to fight. But the objective here should keep the Village as clean and neat as possible, and that should be the aspect we look at in this ordinance.

#### Michael Serpe:

Prior to automated pickup when we had private companies picking up our garbage we had garbage all over the play because of crows, animals, and people just didn't care how they put their garbage out. Now we have identified containers for recyclables and garbage. We have virtually no complaints on garbage pickup. Public works is doing a phenomenal job. And we're going to pass an ordinance because one neighbor can't get along with another one in a certain incidence. And I'm telling I think we're creating a bigger burden on this Village by passing this ordinance instead of trying to get the people to get along and be respectful to one another. We can't handle the zoning complaints that we have now and we're going to add to it. That doesn't make any sense to me unless you're ready to hire two more people for about \$120,000 with benefits to enforce put your garbage cans away. I don't think it's right.

#### John Steinbrink:

I think we're already doing that? Chief?

#### Chief Smetana:

I think what this does, and I am by no means in favor of enacting ordinances just to hammer people with citations. I agree with you and based on your experiences as a cop for all those years people are going to fight. What this does, and what it may do is prevent ongoing calls back and forth, back and forth. We go there the first time and we do try to talk to people, and that's our job is to resolve issues. We go out and talk to people. But without some sort of a hammer as to consequences it relies on their feelings as neighbors. And if they don't like each other to begin with it's going to continue. So this may aid in those return calls.

I'm not quite sure how many we have. I didn't research it, but I know I've had frequent conversations with community development on these things, and I have sent officers out. I've been out. I'm in the process now of speaking with a couple of neighbors about similar issues one-on-one with them. So I know these things do happen. I also know based on my experience that if we're able to tell people, alright, if that garbage can doesn't go back there are citations involved sometimes money talks. Thanks.

#### Mike Pollocoff:

Jean talked to me about the issues of people putting in the middle of the yard and things like that. And typically there's always a knucklehead who is going to find some way to irritate their neighbor. And there's always going to be a neighbor who gets irritated over the slightest thing. And I think if we put this ordinance in effect, I agree with the Chief it will give you some leverage to deal with that, but then we'll move onto the next thing. People who are bad neighbors are bad neighbors.

Once we adopt one of these things Jean might take care of -- like she said she's had about 12, so we're average six a year, and I'll be you out of the six a year some of them are the same people. But once we put this on the books everybody that wants to lever somebody, once they get knowledge of it, and Chris does a really good job of publicizing what you have to do and we'll have this out there, my concern is that if somebody doesn't get it moved within 12 hours we're going to get the call. If we're saying the container should be stored in an inconspicuous location, inconspicuous to who? On the side or rear of the garage or inside the garage or in a shed, I mean I guess I'd want this ordinance to either be totally specific that says it has to go here or there and that's it. Or be able to give the staff some latitude to say if it's been raining a lot or it's been snowing and they haven't got it off the curb yet they've got the latitude to say that.

I could think of one neighborhood where we've been dealing with people who are parking five feet in front of someone else's house on a public street, and I can't begin to tell you how much staff time we spend on dealing with people who don't know how to get along with each other. And what I don't want this to be is another reason for people to say I've got something else, that they didn't get it out within 12 hours, or I can still see it when I look out my window or whatever. That's the problem. That's my concern in this thing. In some respects it's vague. It gives some latitude that we're still going to be arguing over the fact of how soon did it get back? Did it get back right at 12 hours, was it soon enough, wasn't soon enough.

On all our ordinances we can try and talk people down from being crazy and say just put those containers back so we don't have to deal with it again, and some people will do that. But if you look at how many of our ordinances and how much staff time is directed at dealing with people who don't know how to be neighbors, we can never create enough ordinances because they're creative and they keep going and going and going.

My recommendation or my request is my initial inclination I wasn't in favor of this because I didn't the problem was a pervasive as Jean described. And technically I think it really gives a lot of latitude. It's kind of vague and I think we're going to have a tough time enforcing it. When you say as soon as possible or inconspicuous we get stuck in this thing where we have to then justify why we're saying what's inconspicuous and what's not and what does soon as possible mean. That's an issue. It's a practical matter. When you're dealing with irrational people to begin with who aren't able to accomplish the common sense of taking their garbage container and putting it back in the garage you've got to think that you're dealing with people who are going to be rational with them when you're trying to talk them into doing something that's right. And it's either got to get real specific which doesn't give us latitude to tray and deal with it or we just try and deal with it in other ways.

#### John Steinbrink:

Mike, a lot of people put their garbage out the night before. You think 24 hours would give them enough time?

#### Mike Pollocoff:

Yeah, and we have that ordinance now and we really haven't enforced that. Because, again, 99.5 percent of the people get it. They'll put it out -- I have some people who put it out in my neighborhood because they don't like --

# John Steinbrink:

So we have an ordinance that says within 24 hours you've got to take them in, take them out.

#### Jean Werbie-Harris:

Twelve hours.

#### John Steinbrink:

Okay, what about 24 hours? That gives everybody enough time, and it takes away this tool for these people to argue back and forth and use the Village as the punishing factor against these neighborhood disputes. Because whether it's garbage cans or anything else they just can't let up on their neighbors, they can't get along. But we don't need the staff through the aggravation of getting these calls over and over and over. So if they had 24 hours that's more than reasonable enough time because then what's the excuse. And if you can't do it in 24 hours you better get somebody to do it for you. Because I don't see a reason why garbage cans sit out more than 24 hours. If you put it out at night have it in by the next night.

#### Michael Serpe:

We already have that in place.

#### John Steinbrink:

No, we have 12 hours.

#### Michael Serpe:

Alright, we have a time element in place. What Mike hit on is very true, to put the cans in an inconspicuous spot and I'll give you a perfect example. My neighbor who keeps an impeccable yard, he's on a corner lot, has his garbage cans on the side of his garage facing 34th Avenue. If he and the guy across the street ever get into an argument the guy across the street is going to say I've got to look at those garbage cans every time I look out my front window and I'm getting sick

of it. And that's the kind of battle you're going to create by having this ordinance as it is. And I agree, Mike, it's too vague.

#### John Steinbrink:

Jean, what do you think about that argument?

#### Jean Werbie-Harris:

I would just get rid of the language in an inconspicuous location. Just say alongside or adjacent to the side or rear of the house. I can tell you we have 22 subdivisions that have this exact language. And they self-police it, and the people have to bring them in. They have to go on the side or they go in the garage. It's not a problem in the newly platted subdivisions since 1989, no problem. It's the ones previous to that. And, again, it's the people who leave them out at the curbside the whole time, who want to put them in the center of the lawn. The situation is we can take the inconspicuous location, I actually took that out of the many, many, many covenants that have been adopted by this Village over the last 20 years. So if you take out the container shall be stored along side the side or the rear of the house or garage, not everybody has a garage, or inside a garage or shed. Like in my subdivision they have to go inside a building. They can't be outside. So to give them an option either way.

#### Michael Serpe:

And they don't have to be shielded by anything?

#### Jean Werbie-Harris:

I think that would be a lot more difficult in this Village than at least having them adjacent to the garage or the house.

#### Mike Pollocoff:

Even the last line says containers shall be properly screened from public view.

#### Jean Werbie-Harris:

We can take that out if you want to take that out.

#### Mike Pollocoff:

Well, you have to say public view from the street the front door is on because you're going to have every corner lot that's going to have two public views.

#### John Steinbrink:

And if we remove that that eliminates --

# Mike Pollocoff:

If you want to just say it has to be on the side or rear or inside a garage or shed.

# Tom Shircel:

Mr. President?

# John Steinbrink:

Yes, Tom?

## Tom Shircel:

Just for clarification, the current Section 292-14 hours of collection states collection containers and materials shall not be placed at the curb before 6 p.m. on the day prior to the regularly scheduled collection day and shall be removed from the curb within 12 hours after collection. So that's what's currently on the books.

#### Mike Pollocoff:

It is 24.

# John Steinbrink:

We don't pick up until --

# Mike Pollocoff:

Six in the evening and if you don't get home they pick it up -- that's 24 hours.

John Steinbrink:

Then it should be sufficient.

# Steve Kumorkiewicz:

Then we don't need an ordinance.

#### Jean Werbie-Harris:

Tom is going to read the last sentence again to you of the current code.

#### Tom Shircel:

Collection containers and materials shall not be placed at the curb before 6 p.m. on the day prior to the regularly scheduled collection day and shall be moved from the curb within 12 hours after collection.

#### Jean Werbie-Harris:

And that's all I'm saying is shall be removed within 12 hours after collection. The same thing.

#### Mike Pollocoff:

If you put it out at 6 at night and they collect it 8 o'clock tomorrow morning, if you're not there you've got 12 hours after that point to collect it. If they pick it up at 3:30, the latest we pick something up then it's 12 hours from there.

#### Clyde Allen:

Correct, but if you say 24 hours in the ordinance, if you put it out at 6 in the morning you now have until 6 in the morning the next day. If you say you have it 24 hours to have it out --

# Mike Pollocoff:

We don't enforce the current ordinance because I guess we don't --

# John Steinbrink:

Why don't we enforce the current ordinance.

# Mike Pollocoff:

We really don't know when they put it out.

#### John Steinbrink:

How does that language affect if you have a holiday in the week and we're delayed a day? Is that considered an [inaudible] scheduled day?

#### Mike Pollocoff:

If they knew their scheduled day was being moved a day back then they would put it out a day later.

#### John Steinbrink:

It will be on our calendar, right?

#### Mike Pollocoff:

So we really don't know how long it's been from the time we picked it up.

#### John Steinbrink:

That's why we have cameras and time sheets.

#### Michael Serpe:

Could I ask a favor here? We could talk about this all night. I think there's enough information going back and forth. Could we ask that this be heard at the next Board meeting with the refined language so we could maybe make an informed decision.

#### John Steinbrink:

John, what do you think about the garbage situation?

#### John Steinbrink, Jr.:

Mr. President and members of the Board, I don't believe that the ordinance revision is about the times that the container is put out or the time that it is collected by solid waste staff. This revision talks about where to store them when they're not out for collection per se. And that's really what it is. Like Jean had said or Mike had stated our collection is done by 2 p.m. every day. Our guys are out by the landfill probably even by quarter to two. It takes an hour to run to the landfill and back. And so you really need to have them in with that 12 hours before 1 a.m. And so I think that if you put it out after 6 p.m., most people come home from work, like you had said, Mr. President, put their cans out the night before. Long as they have them out by midnight you're really covered by the ordinance.

I think what Jean is trying to put together is where do you store these cans when they're not out for collection. And a lot of people are leaving them out at the curb, they're rolling them half way up the driveway, they're putting them right in front of the garage. And so I think her intent, and Jean correct me if I'm mistaken, is just to really improve the look of the Village to make sure that these containers are put somewhere where they're not out for public display.

#### Jean Werbie-Harris:

And I have a one sentence ordinance for you. Containers shall be stored along the side or rear or house of the garage, comma, or inside the garage or shed, period. Everything else is addressed in the current ordinance.

#### Steve Kumorkiewicz:

I think I have a problem with this.

# John Steinbrink:

You have a problem?

## [Inaudible]

#### Jean Werbie-Harris:

That will be helpful. That will work for us. I can read it again.

#### Steve Kumorkiewicz:

Okay, read it again will you please.

#### Jean Werbie-Harris:

Containers shall be stored along the side or rear of the house or garage or inside a garage or shed, period. That's it.

#### Steve Kumorkiewicz:

That's better. I can live with that. But still we have to put that in the Village flyer monthly.

# John Steinbrink:

We had a motion and a second. Would you care to amend your motion or change it.

# Monica Yuhas:

I will remove my motion, I will withdraw if you would like to remove your second.

# John Steinbrink:

I will remove the second.

# Monica Yuhas:

And I will make a motion to accept Jean's revision. Will that still be Ordinance 32-32 Jean?

Jean Werbie-Harris:

Yes. Well, that would be up to Jane but I would assume it would be.

Clyde Allen:

Second.

John Steinbrink:

Motion by Monica, second by Clyde. Any further discussion?

# YUHAS MOVED TO ADOPT ORDINANCE #13-32 TO CREATE SECTION 229-13 F OF THE MUNICIPAL CODE RELATED TO STORING OF GARBAGE AND RECYCLING CONTAINERS; SECONDED BY ALLEN; MOTION CARRIED 5-0.

D. Consider the request of RC Westwood Estates LLC for the Termination and Release from the Memorandum of Development Agreement and the amendment to the Development Agreement entered into by and between the previous land Owner (Westwood Estates LLC) and the Village of Pleasant Prairie for public-related infrastructure improvements in the Westwood Estates Manufactured Housing Addition.

Jean Werbie-Harris:

Mr. President and members of the Board, the petitioner is requesting a termination and release from the memorandum of development agreement and amendment to the development agreement entered by and between the previous landowner, Westwood Estates, Inc., and the Village of Pleasant Prairie for public related infrastructure improvements in the Westwood Estates Manufactured Housing Addition. The memorandum of development agreement between the Village of Pleasant Prairie and Westwood Estates was recorded on May 18, 1999 with the Kenosha County Register of Deed's Office as Document 1145052, and it was amended by an amendment to the development agreement recorded on May 15, 2001 with the Kenosha County Register of Deed's Office as Document Number 1218834.

All of the public related improvements as referenced in the agreements have been completed, inspected and accepted by the Village pursuant to Resolution 11-46. In addition, all of the obligations referenced in the agreements have been fulfilled, and financial securities held by the Village have been disbursed with the exception of the balance we have of cash on hand of \$2,636.11 which we had held. Six street trees have not made it, the one year warranty they have all been since replaced. The Board can decide whether or not to release that \$2,636.11.

This development in your packets of your information the resolution to approve all of the public improvements was approved by the Village Board in December of 2011 I believe, and a public resolution was adopted at that time accepting all the public improvements. Again, these are public improvements for 80th Street as well as 85th Avenue. So that would be 80th Street and the 85th Avenue. The rest of the development is private, but this only refers to the public improvements, the sewer, water, storm sewer, curb and gutter, infrastructure, as well as the roads, streetlights and street trees. Since we've already accepted the resolution for all these public improvements and this property is being sold, they had requested that the Village release the

formal development and memorandum agreements for this development similar to what we've done in the past for other projects in the Village.

# Monica Yuhas:

I'll make a motion to accept the termination and release of the development agreement of Westwood Estates.

# John Steinbrink:

Motion by Monica, second by me. Any further discussion?

# Steve Kumorkiewicz:

Yes, how is that going to affect us in the long run?

# Jean Werbie-Harris:

It shouldn't affect the Village at all. You've already accepted the public improvements by resolution. They've been inspected and accepted by us. So this just releases any further obligations that they would have, and they have no further obligations because you've already accepted them.

#### Steve Kumorkiewicz:

So any further problems over there who takes care of it?

# Jean Werbie-Harris:

The improvements are owned by the Village of Pleasant Prairie so it will be the Village's responsibility to maintain these improvements.

# Steve Kumorkiewicz:

Future improvements.

# Jean Werbie-Harris:

Existing improvements that were put in a number of years ago.

#### Steve Kumorkiewicz:

What about future ones?

Jean Werbie-Harris:

Futures improvements haven't been constructed yet so we're not releasing any obligations or liabilities. There are no other improvements to be installed in this development.

Steve Kumorkiewicz:

So we have no provision for the future in that.

Jean Werbie-Harris:

There are no future public improvements. There are only private improvements left to be completed, and we'll enter into separate agreements with them for that. But we don't have any obligations because they're private.

John Steinbrink:

We have a motion, we have a second. Any other further discussion?

# YUHAS MOVED TO GRANT THE REQUEST OF RC WESTWOOD ESTATES LLC FOR THE TERMINATION AND RELEASE FROM THE MEMORANDUM OF DEVELOPMENT AGREEMENT AND THE AMENDMENT TO THE DEVELOPMENT AGREEMENT ENTERED INTO BY AND BETWEEN THE PREVIOUS LAND OWNER (WESTWOOD ESTATES LLC) AND THE VILLAGE OF PLEASANT PRAIRIE FOR PUBLIC-RELATED INFRASTRUCTURE IMPROVEMENTS IN THE WESTWOOD ESTATES MANUFACTURED HOUSING ADDITION; SECONDED BY STEINBRINK; MOTION CARRIED 5-0.

# E. Consider Ordinance #13-33 to amend Chapter 360 of the Municipal Code relating to Weights and Measures regulations.

Mike Pollocoff:

Mr. President, we've had a responsibility from the State of Wisconsin to either monitor weights and measures for scales and gas pumps and things like that ourselves or contract with the State to do it. In 2004 we started the process where we allocated \$5,000 a year which was passed on by the Village to people who needed this service for what the State charges us. At that time we had a yearly license fee of \$25, and it was a 20 percent administrative fee for us to monitor and keep track of the calculations.

But what's happened over time is we really don't have a good list of the businesses. We don't have a business licensing system. So as time went on there was some businesses that might have had a requirement for weights and measures, then they changed how they operated, and we still billed them but they didn't have anything to monitor or a scale to do anything. And under the new State budget we can't charge anything more than what it actually costs to do it, let alone charge them for something we don't do at all.

So this ordinance places how the fees are collected, the notices of invoice and how payments are going to be made. It's basically being made within 30 days once we determined that they actually do need that service and they received it. And it's going to be based on an administrative fee of 10 percent, not 20, and any fraction thereof of anything that we have to spend to take care of that. Since the State is getting involved in everything I would just be as happy that as long as they're going to do this they would just do the whole thing but that's not the case. So we've still got this end to do and it just makes us a cleaner operation for us.

#### Jane Romanowski:

And actually it's just going to be actual cost, not 10 percent or 20 percent, it's calculate the cost of prorating the fees out that Mike gets from the State and sending invoices and postage and staff time, and it will be right down to the dollars we spent and just recouping our costs. There's no reason for it to come to the Board for anything.

#### Mike Pollocoff:

You've been hearing this every year, but to be honest with you we've been billing people that didn't get the service, and I think there might be some people that needed the service and we weren't getting them.

#### Michael Serpe:

Move approval of 13-33.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Any further discussion?

# SERPE MOVED TO ADOPT ORDINANCE #13-33 TO AMEND CHAPTER 360 OF THE MUNICIPAL CODE RELATING TO WEIGHTS AND MEASURES REGULATIONS; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

#### F. Consider Resolution #13-18 to authorize the disposal of surplus lab equipment.

John Steinbrink, Jr.:

Mr. President and members of the Board, on May 6, 2012 the Village Board of Trustees approved a contract for CT Labs to perform sanitary sewer surcharge and water sample testing to meet DNR requirements. This service has been running very successful and has allowed lab personnel to be assigned other essential maintenance duties within the utility department. The Pleasant

Prairie lab is no longer permitted by the DNR and no longer serves as a useful function. The utility department would like to dispose of the following unused lab equipment, more equipment than I can probably pronounce or know exactly what it's used for. But it was purchased in the '70s. There's been some minor upgrades to it, but there is still a value to a lot of the equipment that's out there for doing the testing. We would dispose of the equipment on e-Bay, and I recommend that the above laboratory equipment be disposed of. I can answer any questions.

# Monica Yuhas:

Motion to approve Resolution 13-18.

Clyde Allen:

Second.

#### John Steinbrink:

Motion by Monica, second by Clyde. Any discussion on this item?

# Mike Pollocoff:

I have one question. Are we going to put up the cabinets?

# John Steinbrink, Jr.:

Yes we are.

# Mike Pollocoff:

Okay, because they're not on the list.

#### John Steinbrink, Jr.:

Yeah, we are going to put up the cabinets, the beakers, the flasks, everything. This is just the major equipment. But I will make sure that the revised list shows all the cabinets and ovens and everything else is listed.

#### Mike Pollocoff:

Thank you.

# Steve Kumorkiewicz:

Question. Mike or John, would it be better to advertise in the League magazine that other communities may use or need this time of equipment.

#### John Steinbrink, Jr.:

We can go through and do that also. We can run it through the League for a promotion and put it on e-Bay also. There's a lot of private labs. Most of the labs that are municipally run would probably not be interested in this. It's more of the other labs that have equipment very similar to this. But we'll take your recommendation and post the information for the League also. And then whoever comes up with the highest bid would be selected.

## Mike Pollocoff:

Most municipal labs are like us, they don't have any money. So we're going to have better luck selling in the private sector rather than relying on one of our --

#### Steve Kumorkiewicz:

Okay, thank you.

# John Steinbrink:

We had a motion and a second, didn't we?

Jane Romanowski:

Yes, we did.

# YUHAS MOVED TO ADOPT RESOLUTION #13-18 TO AUTHORIZE THE DISPOSAL OF SURPLUS LAB EQUIPMENT; SECONDED BY ALLEN; MOTION CARRIED 5-0.

# G. Consider Ordinance #13-34 to amend Chapter 214 of the Municipal Code relating to dog park fees.

John Steinbrink, Jr.:

Last year as part of the five year CIP for the parks department the Board had authorized a dog park for the Village of Pleasant Prairie and other residents within the community. We're looking at having that dog park in Ingram Park, and it's actually shown just to the left side on the screen of the pond. It's probably about two acres. We're looking at having a large dog park and a small dog park. The ground has been graded. We actually have a milk bone pond within the large dog park. There would be some paths in there and some trees and even a couple of fire hydrants we're going to put in there just for display and use by the dogs.

And so this evening we're looking to establish the dog park fees for the dog park. Currently if you want to go to a dog park they're all maintained and run by Kenosha County. We're looking at just doing our own dog park license, having our own fees. One of the concerns as I talked with Mr. Pollocoff was having it overrun by too many people, by too many dogs in the area. And so we thought if we just kept our own tags and our own management of the park we would be better

off. And it would be a better park for anyone that uses it. And so we did parallel the Kenosha County fees because it is going to be a very nice park. It's going to be very popular. The fees for an annual Village resident for first dog of \$20. If you're a Village resident senior or disabled it's \$10. A non resident for first dog \$25. Additional tag for each dog up to two addition \$5 each, and annual tag replacement fee of \$5.

Those are just the annual fees where you would go -- there's going to be a little blue tag with a milk bone shape to it, have some wording on it, so you would properly identify that the dog has paid the correct fees. There's also going to be a drop box very similar to what you would see at the DNR State parks or boat launch areas where you can just do a daily pass. So for Village resident per dog per day is \$2, and for non resident per dog per day of \$5.

We are looking to start constructing the fencing probably within about the next three weeks. Some other minor improvements, and we're hoping to have some sort of an open house ribbon cutting for the park in October. It is on the Park Commission agenda to work on the agenda for this dog park, and we are very excited to host the opening of this. So I can answer any questions on the dog park fees for Ingram Park at this time.

John Steinbrink:

John, have you considered naming rights for it? Say some person wanted to call it Wrigley Field or something.

John Steinbrink, Jr.:

We have not done it yet, and that's something that we can bring up at our Park Commission meeting. I know we've done that with other trails and parks as Prairie Springs Park in the past. And it's really a good way to promote the new park. So that's something I can probably work with Chris Lopour on and the Park Commission to have a name for our first dog park. Because it really is a very exciting time for Village residents.

# Michael Serpe:

John, is there going to be a separation for big dogs and small dogs?

#### John Steinbrink, Jr.:

Yes, there will be.

#### Michael Serpe:

There will be.

#### John Steinbrink, Jr.:

Yes. We're going to have a four foot fence around the entire perimeter and separating the large dog park and small dog park. And there are going to be separate openings for the large dog park and small dog park.

#### Michael Serpe:

Great, thank you.

#### John Steinbrink:

Will there be a limitation to the breeds allowed in there?

#### John Steinbrink, Jr.:

There are quite few rules. It's not really by breed but it's by temperament of the dog. That's really how we address that. I will be working with our Police Chief and parking enforcement as he will be monitoring the dog licenses or day passes at that park the same way that he's doing the parking enforcement.

#### Steve Kumorkiewicz:

I have a question. Are you going to have a grand opening for the owners or for the dogs? Are you going to have dog treats or what? Is it for the owners or the for the dogs, the grand opening?

#### John Steinbrink, Jr.:

The grand opening we are still working with local businesses to solicit any type of goodie bags, and we are taking any sorts of donations for the event. So if you would like to be a part of it we would definitely welcome any support that you could give for the program.

#### Steve Kumorkiewicz:

I will bring my dog definitely.

#### John Steinbrink, Jr.:

That would be great.

#### Clyde Allen:

Great job in putting all this together. I have a question unrelated. I get conflicting answers. Do we have Village wide leash ordinance? In other words if I have a dog does that dog have to be on a leash in my yard? In my yard?

#### Mike Pollocoff:

I think the way the ordinance reads is the dog has to be under your control. If you can do that without a leash you can do it without a leash. But if you can't then you need a leash. It's been a while since I've looked at that, but that historically has been what we've said. Some people can control their dog by yelling at him or doing whatever and the dog will do what they want. But if not then they need to have him on a leash.

Steve Kumorkiewicz:

Okay, the control the ordinance says.

Monica Yuhas:

Motion to approve Ordinance 13-34.

Clyde Allen:

Second.

John Steinbrink:

Motion by Monica, second by Clyde. Any further discussion?

#### YUHAS MOVED TO ADOPT ORDINANCE #13-34 TO AMEND CHAPTER 214 OF THE MUNICIPAL CODE RELATING TO DOG PARK FEES; SECONDED BY ALLEN; MOTION CARRIED 5-0.

### H. Consider Ordinance #13-35 to amend Chapter 242 of the Municipal Code relating to RecPlex program and rental fees.

Chris Finkel:

Mr. President and members of the Board, we have in front of you for your consideration Ordinance change 13-35 as it pertains to the ice arena. We're updating the ordinance to remove the annual skate pass as it is covered under the membership currently. And we have made small increases to rental and skate programs. One note I need to tell you is that in the Board packet skate rentals went from \$3 to \$6. That's incorrect. Skate rental is going from \$3 to \$4 and the ordinance has been changed to reflect that. Birthday parties and rental fees have not gone up significantly. More on the non member fees. And each season all of the RecPlex staff looks at their program, compares it against the community and offers these recommendations for program fee changes. There are no significant fee changes in this ordinance, and the RecPlex staff is recommending approval.

Michael Serpe:

Who are comparisons, Chris?

#### Chris Finkel:

You look at the basketball programs at CYC and around Kenosha area. So those are the ones we look at. We look at the YMCA and Kenosha Ice, the Gurnee Ice Skating Rink. As far as birthday parties all the kids' birthday parties whether it's Chucky Cheese or Monkey Joe's. So those are the comparisons that we're making.

#### Michael Serpe:

What are the amounts we're looking at for changing here? Do you have those handy? I didn't see it here.

#### Chris Finkel:

For example, so basic birthday parties for members are currently \$130. There's no increase for nonmembers. They're currently \$150. There is a \$15 increase. So that follows suit for most of the nonmember birthday parties. We find we have more nonmembers utilizing our birthday parties, and we're still very economical for people to enjoy our facility.

#### Michael Serpe:

You're just talking a small amount or increase.

#### Chris Finkel:

Very small, insignificant increase, yes.

#### Michael Serpe:

Okay. I move approval.

#### Clyde Allen:

Second.

#### John Steinbrink:

Motion by Mike, second by Clyde. Any discussion? What is the mascot that's up there?

#### Chris Finkel:

That is Dazzle the Starfish. And you can add him to your birthday party for \$50. But, yes, he is seen around the RecPlex on the weekends.

#### John Steinbrink:

Okay, I was just hoping it wasn't a snowflake.

#### Mike Pollocoff:

And if you're an employee in trouble you get to be Dazzle because it's hot in there.

John Steinbrink:

We have a motion and a second.

#### SERPE MOVED TO ADOPT ORDINANCE #13-35 TO AMEND CHAPTER 242 OF THE MUNICIPAL CODE RELATING TO RECPLEX PROGRAM AND RENTAL FEES; SECONDED BY ALLEN; MOTION CARRIED 5-0.

### I. Consider an amendment to the Employee Handbook regarding residency requirements.

Mike Pollocoff:

Mr. President, since this is something we're not capable of determining anymore, we're bringing our handbook in compliance with State budget since it's a budgetary item to release all employees from their residency requirements from the Village. The only ones that will be excepted are the ones that are covered under existing contracts. No, we're not even going to do that anymore. So the full-time police and fire would be exempt. The only people we're recommending following the 15 mile limit is paid on call personnel. And if we're not able to do that what it really means is an end to our paid on call program after a while. A lot of these people -- I mean a number of people do it because they're interested in doing it and in they're in the community [inaudible]. It's really an opportunity for young men and women to get fully trained up to be a firefighter or a paramedic. They're going to still be under that 15 mile jurisdiction. But everybody else if they want to live in Joliet or they want to live in Timbuktu as long as they show up for work every day they're legal.

#### Monica Yuhas:

I'll make a motion to accept the amendment to the employee handbook regarding residency requirements.

#### Steve Kumorkiewicz:

I'm going to second it but I don't like it like that.

#### John Steinbrink:

Motion by Monica, second by Steve. Any further discussion?

#### YUHAS MOVED TO APPROVE AN AMENDMENT TO THE EMPLOYEE HANDBOOK REGARDING RESIDENCY REQUIREMENTS; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

### J. Consider an Agreement to perform billing services for the Fire & Rescue Department.

Mike Pollocoff:

Mr. President, the Chief is negotiating an agreement with Fire Recovery USA to perform the billing that we do on fire calls. We bill for rescue service, and that's not that complicated. I mean it's complicated but the basis for the charge is pretty well established. And we generally are fairly successful in collecting in. In Wisconsin cities get reimbursed by the State for going on fire calls on a State or County highway. Towns get reimbursed by the State government if they go to a fire call on a State or Town highway. Village's don't. And that makes a lot of sense because that came out of Madison. That's how they decided it and that's what we do.

Consequently one of the unintended consequences is that a lot of the billing services that do the collection are not good at collecting fire fees because nobody's asking them to do it. They're not collecting those fees because cities and towns don't care, they just bill it to the State and they get their money. The service we did, although they did our ambulance billing, they were not getting the same return on what we were collecting. Now in Illinois the State doesn't pay anything for anything down there, so the fire departments and fire protection districts are responsible for using a service to go out and get all their collections put together.

The Chief is recommending that we enter into an agreement with Fire Recovery. Our previous company had a collection rate of 40 to 50 percent, collection rate on fire billing, versus 70 to 80 percent is what Fire Recovery is getting. Now, they're charging more but our net would actually be higher. The Chief has been working on this for a while and he's been with other Chiefs in Illinois. And given the fact that there's probably a healthy percentage of the fire calls that are rescue related on a road or a highway are from Illinois and we can't put it on a tax roll, we have to chase it, I think this is a good way to deal with it to get us reimbursed. I don't see the State giving us the ability to do that anymore. In fact I probably see the State saying they're not going to pay the cities and towns anymore after a while and they're just going to tell everybody they're on their own. But since we've been that way forever and we haven't been able to change it, I'd recommend we contract with somebody who really actually does it all the time and is successful at it.

Clyde Allen:

Motion to approve.

Steve Kumorkiewicz:

Second.

#### John Steinbrink:

Motion by Clyde, second by Steve. Further discussion?

Monica Yuhas:

I just want to point out two items. The first one is that the billing that we would be doing with this company is also integrated with the Firehouse software that the fire department currently uses. So it integrates, it's going to be quick, it's going to be complete. And I actually got to see that software firsthand with the detailed reporting when I was at Station 1. The other thing I like is that there's a 30 day notice that either party can give to get out of the contract. So we're not locked into it for a year or six months which keeps everyone on their toes. So hats off to the Chief for negotiating the contract.

Mike Pollocoff:

Anything we missed, Craig?

Craig Roepke:

No, sir.

John Steinbrink:

Anything to add?

Craig Roepke:

No, we've had real good luck with A&B from a medical billing perspective. And that's not the business they're in anymore. So A&B does a wonderful job for us from a collection rate and a followup. But the fire recovery for the fire side as I understand it is one of the larger in the nation, and they seem like they have a good track record.

Steve Kumorkiewicz:

I have a question for Craig. Craig, who will recover the fees for the fire department for the insurance company or the [inaudible]?

Craig Roepke:

Yes.

Steve Kumorkiewicz:

Which?

#### Craig Roepke:

Both. A lot of times if the insurance company doesn't cover it, and that even is from the medical side as well.

#### John Steinbrink:

We have a motion, we have a second. Any further discussion?

#### ALLEN MOVED TO APPROVE AN AGREEMENT TO PERFORM BILLING SERVICES FOR THE FIRE & RESCUE DEPARTMENT; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

#### K. Consider Operator License Applications on file.

Jane Romanowski:

There's five of them tonight, four renewals and one original. The original is for Richard Lebbin. Renewals for Thomas Christy, Mary Debish, Mary Harper, Nicholas Kulinski. I recommend approval for all five.

Michael Serpe:

So moved.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion and a second. Any discussion on any of these?

#### SERPE MOVED TO APPROVE OPERATOR LICENSES THRU 6/30/15 TO FOR RICHARD LEBBIN. THOMAS CHRISTY, MARY DEBISH, MARY HARPER AND NICHOLAS KULINSKI; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

#### **10.** VILLAGE BOARD COMMENTS – None.

#### **11. ADJOURNMENT**

### ALLEN MOVED TO ADJOURN THE MEETING; SECONDED BY SERPE; MOTION CARRIED 5-0 AND MEETING ADJOURNED AT 7:40 P.M.

#### VILLAGE OF PLEASANT PRAIRIE PLEASANT PRAIRIE VILLAGE BOARD PLEASANT PRAIRIE WATER UTILITY PLEASANT PRAIRIE SEWER UTILITY 9915 - 39th Avenue Pleasant Prairie, WI August 19, 2013 6:00 p.m.

A regular meeting of the Pleasant Prairie Village Board was held on Monday, August 19, 2013. Meeting called to order at 6:00 p.m. Present were Village Board members John Steinbrink, Monica Yuhas, Steve Kumorkiewicz, Clyde Allen and Mike Serpe. Also present were Michael Pollocoff, Village Administrator; Tom Shircel, Assistant Administrator; Peggy Herrick, Asst. Zoning Administrator; Kathy Goessl, Finance Director; Doug McElmury; Fire & Rescue Chief AND Jane M. Romanowski, Village Clerk. Three citizens attended the meeting.

#### 1. CALL TO ORDER

John Steinbrink:

Before we stand for the Pledge I notice we have Ms. Pleasant Prairie here and some princesses and junior. So if you gals would like to come to the microphone and introduce yourself to us. Just give us your name and address and your goals for the year. Maybe just give us your name. No addresses. Brooklyn.

Mike Pollocoff:

Glad to have you here.

Rachel:

My name is Rachel.

John Steinbrink:

I can't read that banner from here.

Rachel:

Little Miss.

John Steinbrink:

Little Miss 2013, okay.

Saree:

I'm Saree, and I'm the Junior Miss Pleasant Prairie.

#### Megan:

I'm Megan and I'm Miss Pleasant Prairie.

#### John Steinbrink:

So what do you girls have planned for this year to do.

#### Megan:

I wrote a speech.

#### Jane Romanowski:

They signed up under citizens' comments.

#### John Steinbrink:

Okay, but as long as you're standing we're going to stand now for the Pledge of Allegiance. And if you girls would lead us in the Pledge we'd be honored.

#### 2. PLEDGE OF ALLEGIANCE

John Steinbrink:

Thank you very much.

#### 3. ROLL CALL

John Steinbrink:

Now that you've got to sit down, we have Item 4, citizens' comments.

#### 4. CITIZEN COMMENTS

Jane Romanowski:

If Megan wants to step forward.

Megan:

Hi. My name is Megan. I'm this year's Miss Pleasant Prairie. As Miss Pleasant Prairie for this year ahead I plan on focusing on community service. I myself am going to be involved in numerous community service opportunities as well as getting kids involved in community service activities. My goal is to get kids involved in improving the community at a young age so when

they're older they will be more involved in it producing a better community. It also gives kids a sense of self-worth. Thank you.

John Steinbrink:

Thank you. Anyone else wishing to speak under citizen comments? If not, we're going to close citizen comments.

#### 5. ADMINISTRATOR'S REPORT

Mike Pollocoff:

Nothing tonight, Mr. President.

#### 6. CORRESPONDENCE

### A. Receive Preliminary Estimate of January 1, 2013 Population from the Wisconsin Department of Administration.

Mike Pollocoff:

Mr. President, we received a preliminary update from the Department of Administration in Wisconsin indicating that since 2010 when Pleasant Prairie was 19,719 people we are now over 20,000 with 20,004 people. That's their estimate of the population of the Village. And I just want to call some attention because I think probably these numbers don't make a lot of sense in that our population has gone up, but the number of motor vehicles has gone down, the number of tax filers has gone down, the number of filers plus dependents has significantly gone down. The number of income tax returns is down by over 1,000. And we also have less of an institutionalized population from 200 to 170.

So these are all indicators that really get us to the point where you say you're growing but all of our indicators say we're shrinking. But now they're saying that the number says we're now at 20,000. So my initial inclination is we probably should send something back to the State and say are you sure this is right? I mean this affects a lot of things we do and how we receive aid and grants. In some respects if we accept these bad numbers it means we get more shared revenue because we'd be perceived as being a declining community. But all things being equal that really isn't the case. But, anyway, we really felt after the last census that we crested 200,000.

A large part of this is that people that live in Pleasant Prairie but have a Kenosha mailing address when they mail their taxes they put Kenosha, their mailing address instead of the municipality they live in. DOT is not very good at keeping track of where a vehicle is housed. I know myself I'm still changing it from Town of Pleasant Prairie to Village of Pleasant Prairie every time. So the State databases really aren't working. So that's what I have with regard to that report.

#### John Steinbrink:

Maybe we can create an article because that is a thing we notice. Even on mine I notice one of them said City of Kenosha. And if we explain in the article how it affects our road aids and have everybody check their registration when they get them it might make a difference. They probably don't pay attention to the details on there.

#### Mike Pollocoff:

The money goes to the City otherwise instead of coming back to the Village.

#### John Steinbrink:

And I think it might be Mike Spence's fault because he's got more people riding bicycles now.

#### Michael Serpe:

Mike, is it true that once the population hits 30,000 or 35,000 we have to change it to the City of Pleasant Prairie?

#### Mike Pollocoff:

45,000.

#### Michael Serpe:

Different administration, different Board.

#### Mike Pollocoff:

That will be a future problem for somebody.

John Steinbrink:

Thank you, Mike.

#### 7. NEW BUSINESS

A. Receive Plan Commission recommendation and consider approval of a Certified Survey Map to subdivide Outlot 4 of the Devonshire Subdivision generally located within the 4900 and 5100 block of 93rd Street (south side of 93rd Street) into two parcels.

#### Peggy Herrick:

The petitioner is requesting to subdivide Outlot 4 of the Devonshire Subdivision which is generally located within the 4900 and 5100 blocks of 93rd Street to create one parcel that's 18,075 square feet on the northwest corner of the site where the western-most house sits. And the other property would remain as 36.562 acres which would be left for future development, future single family development. The existing homes and the garage located within the area that's proposed to be dedicated for Cooper Road and the southern extension of 93rd Street are proposed to be razed in accordance with the Village razing procedures and applications either prior to recording the CSM or by December 1, 2013, whichever occurs first.

As you can see from the overhead Lot 1 shows the existing home, and to the east of Lot 1 is the proposed right-of-way dedication of Cooper Road for a roundabout at 93rd Street and Cooper Road extension to the south. There is a house and one detached garage in that right of way, and that's the areas of the structures that need to be razed. All seven of the other structures and outbuildings on the property which is on Lot 2 of the CSM need to be razed by September 1, 2014. Between the interim period up until September 1, 2014 all of these structures shall be properly maintained by the owner and free of vandalism and casual entry. If the remaining structures become a public nuisance the Village will notify the owner in accordance with the Village municipal procedures for their immediate removal.

As part of the preliminary plat for the Devonshire Subdivision that was conditionally approved by the Village Board in March 2007, the intersection of Cooper Road and 93rd Street is proposed to be improved with a roundabout. Therefore as part of the CSM as you can see a 100 foot radius is being dedicated for that future roundabout and also the extension of a 80 foot dedication for the future extension of Cooper Road.

As you notice on the CSM there are trees shown on this CSM that are proposed to be removed. These are the same trees that are identified and approved to be removed pursuant to the preliminary plat for Devonshire. These trees are proposed to be removed when Lot 2 is developed at the cost of the developer of Lot 2. As you may notice the west 25 feet of Lot 1 is identified as a tree preservation and protection access and maintenance easement. And that is also pursuant to the preliminary plat for the Devonshire Subdivision. These trees and landscaping and bushes in this area are proposed to be protected.

The petitioner is also requesting the deferment of public improvements in 93rd Street and Cooper Road extension south until Lot 2 is developed. Language will be added to the CSM that indicates the developer of Lot 2 who is responsible for the design and construction of Cooper Road in the 93rd Street Cooper Road roundabout required public infrastructure improvements. The existing home on Lot 1 will be required to connect to both municipal water and municipal sanitary sewer. Both of these services are available in 93rd Street. The property owner will be responsible to pay for all and existing property taxes and special assessments associated with the Lot 2 and the dedication of these right of way areas.

And just one note, as you may recall, the Village Board on August 5, 2013 held a public hearing and changed the address for the house that's shown on Lot 1 which, again, is the western-most

house. That will remain. The address was changed from 5029 93rd Street to 5149 93rd Street. Again, this change has become effective already on August 15, 2013. The Plan Commission at their last meeting recommended approval of the CSM including the deferment of the public improvements subject to the comments in the staff memorandum and the conditions as specified in that memorandum.

John Steinbrink:

Okay, what is the Board's pleasure?

Monica Yuhas:

I'll make a motion to accept the recommendation to approve the certified survey map to subdivide Outlot 4.

Clyde Allen:

Second.

John Steinbrink:

Motion by Monica, second by Clyde. Any further discussion on this item?

#### YUHAS MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND APPROVE A CERTIFIED SURVEY MAP TO SUBDIVIDE OUTLOT 4 OF THE DEVONSHIRE SUBDIVISION GENERALLY LOCATED WITHIN THE 4900 AND 5100 BLOCK OF 93RD STREET (SOUTH SIDE OF 93RD STREET) INTO TWO PARCELS; SECONDED BY ALLEN; MOTION CARRIED 5-0.

### B. Consider denial of a third invoice submitted by Ron Sierra for perceived use payments on parcel #93-4-123-203-0200.

Mike Pollocoff:

Mr. President, we've received, as the agenda indicates, a third invoice for what Mr. Sierra perceives as services provided to the Village of Pleasant Prairie in his eyes having land that's in a conservancy. We've denied the first two, and my recommendation is we deny this payment of this invoice. I'm not treating it as a claim, a legal claim for damages but merely an invoice that he's given the Village with other invoices whether we've received that service or not dictates whether or not we recommend it be approved. We've also forwarded this to our insurance company, our insurance for legal counsel to provide legal assistance should this go on any further.

Michael Serpe:

Move to deny the third invoice.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve for denial. Any discussion on this item?

SERPE MOVED TO DENY A THIRD INVOICE SUBMITTED BY RON SIERRA FOR PERCEIVED USE PAYMENTS ON PARCEL #93-4-123-203-0200; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

- C. Consent Agenda
  - 1) Approve Operator License Applications on file.
  - 2) Approve a transfer of the Westwood Estates Mobile Home Park License due to new ownership.

Monica Yuhas:

Motion to approve.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Monica, second by Steve. Any further discussion on any of the items on the consent agenda?

### YUHAS MOVED TO APPROVE CONSENT AGENDA ITEMS 1 AND 2; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

#### 8. VILLAGE BOARD COMMENTS

Clyde Allen:

I want to thank all four of the Miss Pleasant Prairie's attending and leading us in the Pledge. Thank you very much for what you do.

John Steinbrink:

Other Board comments?

#### 9. ADJOURNMENT

## SERPE MOVED TO ADJOURN THE MEETING; SECONDED BY ALLEN; MOTION CARRIED 5-0 AND MEETING ADJOURNED AT 6:15 P.M.

#### THESE ITEMS ARE RELATED AND WILL BE DISCUSSED AT THE SAME TIME HOWEVER SEPARATE ACTION IS REQUIRED.

Consider **amendments to the Village Comprehensive Plan (Ord. #13-36)** for the request of Jonah Hetland of Bear Development, representing the owner of the vacant property generally located at northwest corner of STH 50 and 91<sup>st</sup> Avenue: 1) to amend a portion of the Village of Pleasant Prairie 2035 Comprehensive Land Use Plan Map 9.9 to remove the Urban Reserve Designation from a 5,312 square foot portion of Lot 19 of the Westfield Subdivision located at the northwest corner of STH 50 and 91<sup>st</sup> Avenue (the underlying community commercial land use designation will remain) for the proposed development of Goddard School and 2) to update Appendix 10-3 of the Village of Pleasant Prairie Wisconsin, 2035 Comprehensive Plan to include said amendment.

**Recommendation:** On September 9, 2013, the Village Plan Commission held a public hearing and adopted Plan Commission Resolution #13-08 that recommended that the Village Board approve the **Comprehensive Plan Amendment (Ord. #13-36)** as presented.

Consider the following **Zoning Map and Text Amendments (Ord. #13-37 and #13-38)** for the request of Jonah Hetland of Bear Development, representing the owner of the vacant property generally located at northwest corner of STH 50 and 91<sup>st</sup> Avenue to rezone the 5,312 square foot portion of Lot 19 of the Westfield Subdivision from B-2 (UHO) Community Business District with an Urban Landholding Overlay District to B-2 (PUD), Community Business District with a Planned Unit Development Overlay District and to amend the legal description of the Westfield Heights Commercial Area Planned Unit Development to include a 5,312 square foot portion of Lot 19 of the Westfield Subdivision. These amendments are being requested so that all the improvements associated with the proposed Goddard School development on Lot 20 will be located entirely within the lot area being acquired for the developed for Goddard School.

**Recommendation:** On September 9, 2013, the Village Plan Commission held a public hearing and recommended to the Village Board to approve the **Zoning Map and Tex Amendments** as presented in the Village Staff Report of September 16, 2013.

#### VILLAGE STAFF REPORT OF SEPTEMBER 16, 2013

Consider **amendments to the Village Comprehensive Plan (Ord. #13-36)** for the request of Jonah Hetland of Bear Development, representing the owner of the vacant property generally located at northwest corner of STH 50 and 91<sup>st</sup> Avenue: 1) to amend a portion of the Village of Pleasant Prairie 2035 Comprehensive Land Use Plan Map 9.9 to remove the Urban Reserve Designation from a 5,312 square foot portion of Lot 19 of the Westfield Subdivision located at the northwest corner of STH 50 and 91<sup>st</sup> Avenue (the underlying community commercial land use designation will remain) for the proposed development of Goddard School and 2) to update Appendix 10-3 of the Village of Pleasant Prairie Wisconsin, 2035 Comprehensive Plan to include said amendment.

Consider the following **Zoning Map and Text Amendments (Ord. #13-37 and #13-38)** for the request of Jonah Hetland of Bear Development, representing the owner of the vacant property generally located at northwest corner of STH 50 and 91<sup>st</sup> Avenue to rezone the 5,312 square foot portion of Lot 19 of the Westfield Subdivision from B-2 (UHO) Community Business District with an Urban Landholding Overlay District to B-2 (PUD), Community Business District with a Planned Unit Development Overlay District and to amend the legal description of the Westfield Heights Commercial Area Planned Unit Development to include a 5,312 square foot portion of Lot 19 of the Westfield Subdivision. These amendments are being requested so that all the improvements associated with the proposed Goddard School development on Lot 20 will be located entirely within the lot area being acquired for the developed for Goddard School.

#### THESE ITEMS ARE RELATED AND WILL BE DISCUSSED AT THE SAME TIME HOWEVER SEPARATE ACTION IS REQUIRED.

On August 5, 2013 the Village Board approved the petitioners request to amend the lot lines between Lots 19 and 20 of the Westfield Heights Subdivision. Specifically, 5,312 square feet of land is being adjusted and added to Lot 20 from Lot 19. After the Adjustment Lot 19 will be 109,212 square feet (2.507 acres) and Lot 20 will be 56,784 square feet (1.304 acres). The Lot Line Adjustment was requested so that all the improvements associated with the Goddard School development on Lot 20 as conditionally approved by the Plan Commission on April 22, 2013 will be located entirely within a lot area to be owned by the developer of Goddard School.

As a result of amending the property boundaries, the Comprehensive Land Use Map will need to be amended to remove the urban reserve area for the area being added to Lot 20, the Zoning Map will need to be amended to rezone the area being added to Lot 20 from the B-2 (UHO) to the B-2 (PUD), and the Zoning Text will need to be amended to modify the PUD for Goddard School to correct the legal description for the property.

Specifically, the Comprehensive Land Use Plan Amendments include:

- to amend a portion of the Village of Pleasant Prairie 2035 Comprehensive Land Use Plan Map 9.9 to remove the Urban Reserve Designation from a 5,312 square foot portion of land being added to Lot 20 of the Westfield Heights (the underlying community commercial land use designation will remain) and
- to update Appendix 10-3 of the Village of Pleasant Prairie Wisconsin, 2035 Comprehensive Plan to include said amendment.

Specifically the <u>Zoning Map and Text Amendments</u> include:

- to rezone the 5,312 square foot portion of land being added to Lot 20 of the Westfield Subdivision from B-2 (UHO) Community Business District with an Urban Landholding Overlay District to B-2 (PUD), Community Business District with a Planned Unit Development Overlay District and
- to amend the legal description of the Westfield Heights Commercial Area Planned Unit Development to revise the legal description to include 5,312 square foot portion that is being added to Lot 20 of the Westfield Heights.

#### **Recommendations:**

On September 9, 2013, the Village Plan Commission held a public hearing and adopted Plan Commission Resolution #13-08 that recommended that the Village Board approve the **Comprehensive Plan Amendment (Ord. #13-36)** as presented.

On September 9, 2013, the Village Plan Commission held a public hearing and recommended to the Village Board to approve the **Zoning Map and Tex Amendments** as presented.

#### ORD. # 13-36

#### ORDINANCE TO AMEND THE VILLAGE OF PLEASANT PRAIRIE, WISCONSIN 2035 COMPREHENSIVE PLAN PURSUANT TO CHAPTER 390 OF THE VILLAGE MUNICIPAL CODE

**BE IT ORDAINED** by the Village of Pleasant Prairie Board of Trustees, Kenosha County, Wisconsin, that the Village of Pleasant Prairie, Wisconsin 2035 Comprehensive Plan is hereby amended as follows:

1. To amend the Village of Pleasant Prairie 2035 Comprehensive Land Use Plan Map 9.9 to remove the Urban Reserve designation for the 5,312 square foot area of Lot 19 of the Westfield Heights Subdivision as legally described below:

Part of Lot 19 of the Westfield Heights Subdivision being part the Southwest 1/4 of the Southeast 1/4 of Section 5, Township 1 North, Range 22 East of the Fourth Principal Meridian; lying and being in the Village of Pleasant Prairie, Kenosha County, Wisconsin, that portion of said Lot 19 described as follows: Begin at the Southwest corner of said Lot 19 on the Northerly right-of-way of 91st Avenue and a point on a curve of Northwesterly convexity whose radius is 183.00 feet and whose chord bears N40°17'56"E 55.35 feet; thence Northeasterly 55.56 feet along the arc of said curve and said right-of-way; thence N48°49'28"W 159.26 feet to the Easterly line of said Lot 20; thence S25°12'19"E 146.17 feet along said Easterly line; thence S55°50'21"E 26.38 feet along said Easterly line to said Northerly right-of-way and the point of beginning.

2. To update Appendix 10-3 of the Village of Pleasant Prairie Wisconsin, 2035 Comprehensive Plan to include said amendment to Map 9.9.

The Village Community Development Director is hereby directed to record these Amendments to the Comprehensive Plan on the appropriate pages of said Plan and to update Appendix A in Chapter 390 of the Village Municipal Code to include said amendments.

#### Adopted this 16<sup>th</sup> day of September, 2013.

VILLAGE OF PLEASANT PRAIRIE

ATTEST:

John P. Steinbrink, Village President

Jane M. Romanowski Village Clerk

Ayes: \_\_\_\_ Nayes: \_\_\_\_ Absent: \_\_\_\_

Posted:

Ord #13-36 Goddard School Land Use Amend.doc

#### ORD. # 13-37

#### ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN PURSUANT TO CHAPTER 420-13 OF THE VILLAGE ZONING ORDINANCE

#### BE IT ORDAINED by the Village of Pleasant Prairie Board of Trustees, Kenosha County, Wisconsin, that the Official Village Zoning Map is hereby amended as follows:

The subject property generally located at the northwest corner of STH 50 and 91<sup>st</sup> Street as legally described on **Exhibit 1** and known as a 5,312 square foot portion of Lot 19 of Westfield Heights Subdivision located in U.S. Public Land Survey Section 5, Township 1 North, Range 22 East in the Village of Pleasant Prairie and further identified as a portion of Tax Parcel Number 91-4-122-054-0319 and the adjacent portion of the right-of-way are hereby rezoned from the B-2 (UHO), Community Business District with an Urban Landholding Overlay District to the B-2 (PUD), Community Business District with a Planned Unit Development Overlay District.

The Village Zoning Administrator is hereby directed to record this Zoning Map Amendment on the appropriate sheet of the Official Village Zoning Map and Appendix B in Chapter 420 of the Village Municipal Code shall be updated to include said amendments.

#### Adopted this 16<sup>th</sup> day of September, 2013.

#### VILLAGE BOARD OF TRUSTEES

John P. Steinbrink Village President

ATTEST:

Jane M. Romanowski Village Clerk

Posted:\_\_\_\_\_

37-Goddard School PUD lot line amend .doc

#### **EXHIBIT 1**

Part of Lot 19 of the Westfield Heights Subdivision being part the Southwest 1/4 of the Southeast 1/4 of Section 5, Township 1 North, Range 22 East of the Fourth Principal Meridian; lying and being in the Village of Pleasant Prairie, Kenosha County, Wisconsin, that portion of said Lot 19 described as follows: Begin at the Southwest corner of said Lot 19 on the Northerly right-of-way of 91st Avenue and a point on a curve of Northwesterly convexity whose radius is 183.00 feet and whose chord bears N40°17'56"E 55.35 feet; thence Northeasterly 55.56 feet along the arc of said Lot 20; thence S25°12'19"E 146.17 feet along said Easterly line; thence S55°50'21"E 26.38 feet along said Easterly line to said Northerly right-of-way and the point of beginning.

#### **ORDINANCE # 13-38**

#### ORDINANCE TO AMEND THE WESTFIELD HEIGHTS COMMERCIAL AREA PLANNED UNIT DEVELOPMENT PURSUANT TO SECTION 420-137 OF THE VILLAGE ZONING ORDINANCE IN THE VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN

#### BE IT ORDAINED by the Village Board of Trustees of the Village of Pleasant Prairie, Kenosha County, Wisconsin, that the Section b of the Westfield Heights Commercial Area Planned Unit Development (PUD) Ordinance is hereby amended to read as follows:

b. Legal Description: The property(ies) included are known as Lot 20 of the Westfield Heights Subdivision as recorded at the Kenosha County Register of Deeds Office Document No. 1469350 located in U.S. Public Land Survey Section 5, Township 1 North, Range 22 East of the Fourth Principal meridian lying and being in the Village of Pleasant Prairie and part of Lot 19 of the Westfield Heights Subdivision, described as follows: Begin at the Southwest corner of said Lot 19 on the Northerly right-of-way of 91st Avenue and a point on a curve of Northwesterly convexity whose radius is 183.00 feet and whose chord bears N40°17'56"E 55.35 feet; thence Northeasterly 55.56 feet along the arc of said curve and said right-of-way; thence N48°49'28"W 159.26 feet to the Easterly line of said Lot 20; thence S25°12'19"E 146.17 feet along said Easterly line; thence S55°50'21"E 26.38 feet along said Easterly line to said Northerly right-of-way and the point of beginning. The above legally described property(ies) are hereinafter referred to as the "DEVELOPMENT".

Adopted this 16<sup>th</sup> day of September, 2013.

VILLAGE OF PLEASANT PRAIRIE

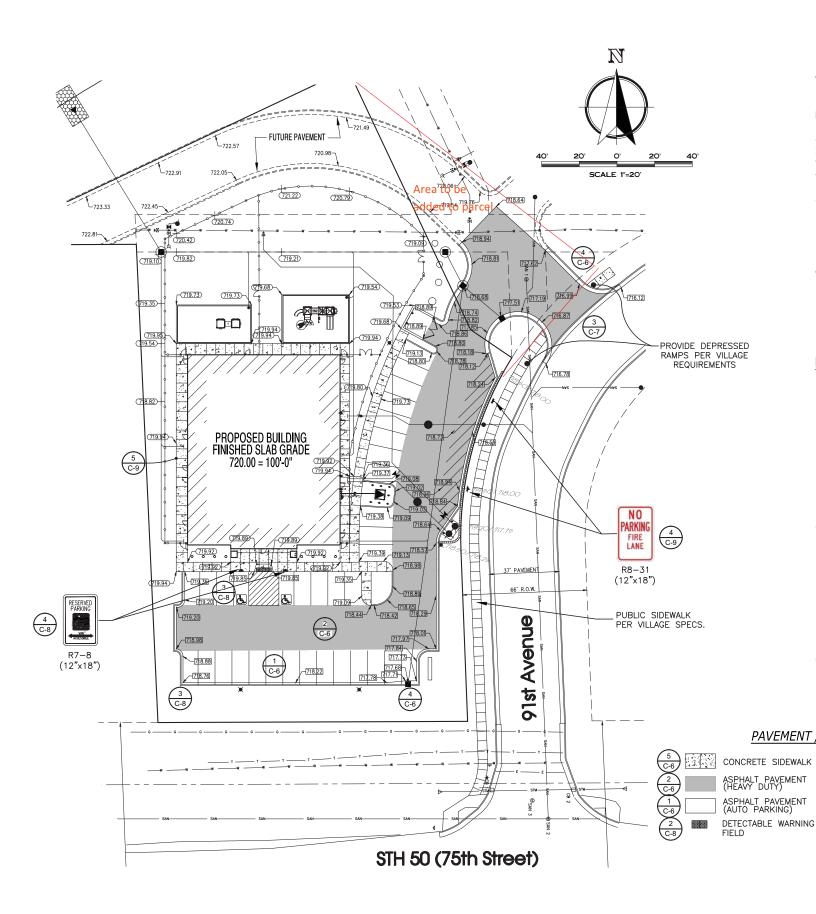
ATTEST:

John P. Steinbrink Village President

Jane M. Romanowski Village Clerk

Posted: \_\_\_\_\_

38- Westfield Heights Commercial PUD-Legal Description Amendment.doc



A drawing and description of Lot 19, in Westfield Heights, a recorded subdivision, being part the Southwest 1/4 of the Southeast 1/4 of Section 5, Township 1 North, Range 22 East of the Fourth Principal Meridian; lying and being in the Village of Pleasant Prairie, Kenosha County, Wisconsin, EXCEPTING THEREFROM: Begin at the Southwest corner of said Lot 19 on the Northerly right-of-way of 91st Avenue and a point on a curve of Northwesterly convexity whose radius is 183.00 feet and whose chord bears N40°17'56"E 55.35 feet; thence Northeasterly 55.56 feet along the arc of said curve and said right-of-way; thence N48°49'28"W 159.26 feet to the Easterly line of said Lot 20; thence S25°12'19"E 146.17 feet along said Easterly line; thence S55°50'21"E 26.38 feet along said Easterly line to said Northerly right-of-way and the point of beginning.

A drawing and description of all of Lot 20 and part of Lot 19, in Westfield Heights, a recorded subdivision, being part the Southwest 1/4 of the Southeast 1/4 of Section 5, Township 1 North, Range 22 East of the Fourth Principal Meridian; lying and being in the Village of Pleasant Prairie, Kenosha County, Wisconsin, that portion of said Lot 19 described as follows: Begin at the Southwest corner of said Lot 19 on the Northerly right-of-way of 91st Avenue and a point on a curve of Northwesterly convexity whose radius is 183.00 feet and whose chord bears N40°1756"E 55.35 feet; thence Northeasterly 55.56 feet along the arc of said curve and said right-of-way; thence N48°49'28"W 159.26 feet to the Easterly line of said Lot 20; thence S25°12'19"E 146.17 feet along said Easterly line; thence S55°50'21"E 26.38 feet along said Easterly line to said Northerly right-of-way and the point of beginning.

#### Certificate

The above-described drawing and description has been prepared under my direction and the map hereon drawn is a correct representation thereof to the best of my knowledge and belief.

07/16/2013

This drawing and description for the lot lines to be adjusted is hereby submitted to and approved by the Village Board of the Village of Pleasant Prairie as being in compliance with the Village Land Division and Development Control Ordinance on this \_\_\_\_\_\_day of

Plan Commission

Chairman\_

Thomas W. Terwall

Village President

John P. Steinbrink

Village Clerk

Jane M. Romanowski

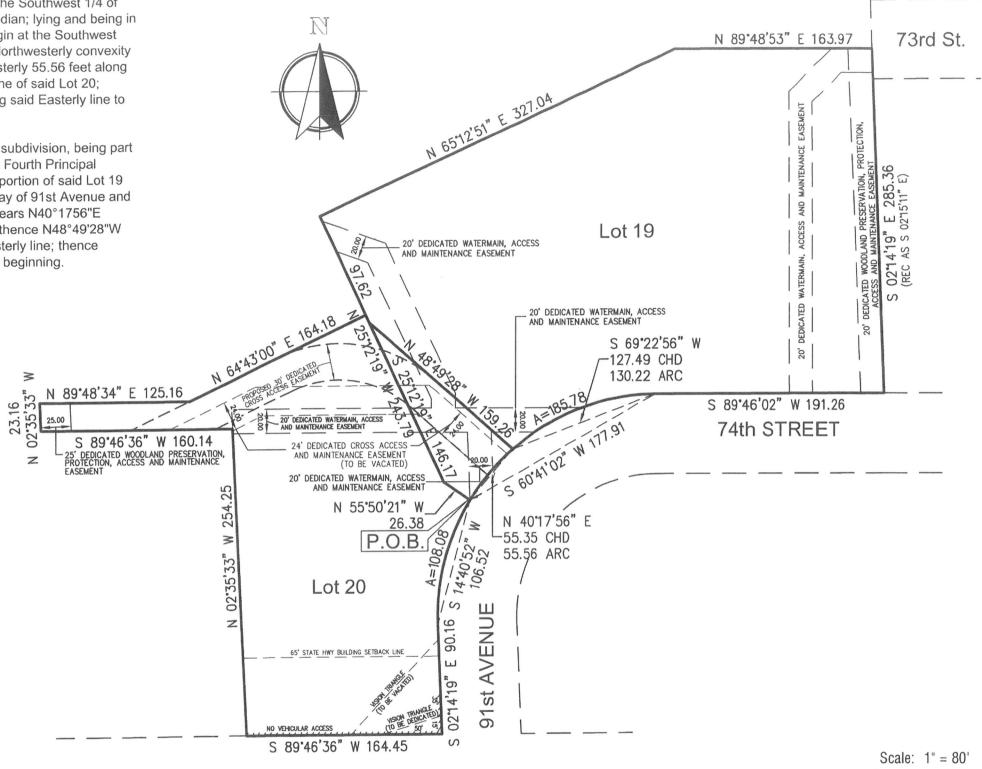
# mb

#### Nielsen Madsen & Barber S.C. Civil Engineers and Land Surveyors

1458 Horizon Blvd. Suite 200, Racine, Wisconsin 53406 Phone (262) 634-5588 \* Facsimile (262) 634-5024 \* Website nmbsc.net

1:24:57 PM

### JAMES E. ROBINSON S-1283 RACINE, WI SURVEYOR



STH 50 (75th Street)

NOTES

BEARING BASE: GRID NORTH, WISCONSIN COORDINATE SYSTEM, SOUTH ZONE. BASED UPON NAD 1927. Scale: 1" = 80' Drawn By: SCB DATE: 7-16-2013 2007.0137.03 Quit Claim Exhibit LOTS 19 AND 20 WESTFIELD HEIGHTS Pleasant Prairie, Kenosha, Wisconsin Consider a **Zoning Text Amendment (Ord. #13-39)** for the request of Darcy Kennelly Rutzen, agent on behalf of Prime Outlets of Pleasant Prairie, LLC d/b/a Pleasant Prairie Premium Outlets located at 11211 120<sup>th</sup> Avenue and 11601 108<sup>th</sup> Street to create Section d. 14. related to specific modifications to the Village of Pleasant Prairie Zoning Ordinance for Pleasant Prairie Premium Outlets as specified in Chapter 420 Attachment 3 Appendix C Specific Development Plan 13 for Pleasant Prairie Premium Outlets Planned Unit Development No. 2. The amendment will allow for a super charging station for electric vehicles to operate 24 hours a day with approval of Site and Operational Plans by the Plan Commission.

On September 9, 2013 the Plan Commission held a public hearing and recommended that the Village Board approve the **Zoning Text Amendment (Ord. #13-39)** as presented in the Village Staff Report of September 16, 2013.

#### VILLAGE STAFF REPORT OF SEPTEMBER 16, 2013

Consider a **Zoning Text Amendment (Ord. #13-39)** for the request of Darcy Kennelly Rutzen, agent on behalf of Prime Outlets of Pleasant Prairie, LLC d/b/a Pleasant Prairie Premium Outlets located at 11211 120<sup>th</sup> Avenue and 11601 108<sup>th</sup> Street to create Section d. 14. related to specific modifications to the Village of Pleasant Prairie Zoning Ordinance for Pleasant Prairie Premium Outlets as specified in Chapter 420 Attachment 3 Appendix C Specific Development Plan 13 for Pleasant Prairie Premium Outlets Planned Unit Development No. 2. The amendment will allow for a super charging station for electric vehicles to operate 24 hours a day with approval of Site and Operational Plans by the Plan Commission.

# *Tesla Motors, Inc. (Tesla) is proposing to install a Supercharging Station for electric vehicles in the parking lot of the Pleasant Prairie Premium Outlets located at 11211 120<sup>th</sup> Avenue and 11601 108<sup>th</sup> Street.*

Tesla is a U.S. based company that designs and manufactures the world's leading electric vehicles. Tesla has delivered more than 10,000 electric vehicles to customers in 31 countries. Pursuant to the application, as part of its mission to further the adoption of electric vehicles, Tesla has initiated the deployment of a fast-charging solution called the Supercharger. These Supercharger stations are proposed to be located along popular and well-travelled routes to provide a fast and convenient network for Tesla customers to charge their vehicles and complete long road trips. These stations are able to recharge 50% battery capacity in as little as 20 minutes and a full charge in less than an hour.

Due to the fact that the proposed charging station is proposed wholly within the existing Premium Outlets mall parking lot (only 8 spaces are being utilized), and because the equipment will be fully screened from view by an attractive fenced enclosure, there will be little to no adverse impacts on neighboring properties. A proposed retaining wall and landscaping further minimize visual impact of the charging station. The site design takes advantage of existing landscaping, and provides a new retaining wall and additional landscaping for added screening.

Tesla's equipment for the proposed charging station will be contained within 1,525 square feet of the site generally located in the parking lot west of the NIKE store near the southeast corner of 108<sup>th</sup> Street and 120<sup>th</sup> Avenue (East Frontage Road) and will consist of the following:

- Eight (8) parking spaces, each equipped with a charging post
- Four (4) supercharger cabinets
- One (1) 45KVA transformer
- One (1) 150A Auxiliary 208/120 VAC Distribution Panel
- One (1) QED switchgear assembly located within a fenced-in enclosure near the charging stations
- One (1) 750KVA utility transformer on an 8'-0" x 8'-0" concrete pad

The proposed charging station will be available to motorists 24 hours a day and seven (7) days a week.

There are no employees that will monitor the site as it is a self-service station. The proposed charging station is WI-FI enabled and reports any maintenance issues. Their landlord partner, Premium Outlets, will also monitor the station's well-being. The fencing around the equipment protects against vandalism, and the charging cabinets are tamper-proof. Additional security cameras monitored by the Premium Outlets will also be installed

and maintained by the Village. The cost associated with the installation, inspection, maintenance and monitoring will be will be charged by the Village to Premium Outlets.

Tesla, along with Premium Outlets will maintain the charging station and site improvements in a safe, structurally sound, neat, well-cared for, and attractive condition. As noted above, both the WI-FI and the landlord partner (Premium Outlets) will monitor the site.

Pursuant to the application, Tesla believes that the proposed charging station will have a positive effect within the Village, encouraging cleaner energy consumption. As stated above, Tesla has delivered more than 10,000 electric vehicles to customers in 31 countries. These Supercharger stations will be located along popular and well-travelled routes to provide a fast and convenient network for Tesla customers to charger their vehicles and complete long road trips. The station will bring more visitors to the Village, who will likely shop and dine in the area.

Tesla will contact the WI DOT to discuss obtaining/leasing EV charging station signage on IH-94.

**ZONING TEXT AMENDMENT**: In order to allow the TESLA charging station to operate 24hours a day, the existing Planned Unit Development (PUD) for Pleasant Prairie Premium Outlets, as specified in Chapter 420 Attachment 3 Appendix C Specific Development Plan 13 for Pleasant Prairie Premium Outlets Planned Unit Development No. 2 is proposed to be amended. Specifically, Section d. 14. related to specific modifications to the Village of Pleasant Prairie Zoning Ordinance is proposed to be amended to read:

14. Section 420-120 K (1) related to hours of Operation is hereby amended to read as follows:

Hours of operation (when the public is allowed to enter or remain on site for business purposes): 5:00 a.m. to 11:00 p.m. maximum; for uses requiring a Village liquor license: as provided in § 125.68(4), Wis. Stats; and for a super charging station for electric vehicles which is allowed to operate within the parking lot area of the DEVELOPMENT 24 hours a day with approval of Site and Operational Plans by the Plan Commission.

Site and Operational Plans: On September 9, 2013, the Village Plan Commission conditionally approved **Site and Operational Plans** for a super charging station for electric vehicles to operate 24 hours a day in the parking lot of the Outlet Center. Revised plans shall be submitted, reviewed and approved by the Village staff prior to issuance of the required permits for this project.

On September 9, 2013 the Plan Commission held a public hearing and recommended that the Village Board approve the **Zoning Text Amendment (Ord. #13-39)** as presented.

#### ORD. # 13-39

#### ORDINANCE TO AMEND CHAPTER 420 ATTACHMENT 3 APPENDIX C SPECIFIC DEVELOPMENT PLANS 13. OF THE VILLAGE ZONING ORDINANCE PURSUANT TO CHAPTER 420-137 OF THE VILLAGE ZONING ORDINANCE FOR PRIME OUTLETS AT PLEASANT PRAIRIE IN THE VILLAGE OF PLEASANT PRAIRIE, COUNTY OF KENOSHA, STATE OF WISCONSIN

The Village Board of Trustees, do hereby ordain that Section d. 14. related to specific modifications to the Village of Pleasant Prairie Zoning Ordinance for Pleasant Prairie Premium Outlets as specified in Chapter 420 Attachment 3 Appendix C Specific Development Plan 13 for Pleasant Prairie Premium Outlets Planned Unit Development No. 2 is hereby created to read follows:

14. Section 420-120 K (1) related to hours of Operation is hereby amended to read as follows:

Hours of operation (when the public is allowed to enter or remain on site for business purposes): 5:00 a.m. to 11:00 p.m. maximum; for uses requiring a Village liquor license: as provided in § 125.68(4), Wis. Stats; and for a super charging station for electric vehicles which is allowed to operate within the parking lot area of the DEVELOPMENT 24 hours a day with approval of Site and Operational Plans by the Plan Commission.

#### Adopted this 16<sup>th</sup> day of September, 2013.

VILLAGE OF PLEASANT PRAIRIE

John P. Steinbrink Village President

ATTEST:

Jane M. Romanowski Village Clerk

Posted: \_\_\_\_\_

39- Premium Outlets PUD No 2 Amend-Tesla.doc



Filed	20 Published	20
Public Hearing	20	20
Fee Paid	20 Approved	20
Notices Mailed	20 Denied	20

#### VILLAGE OF PLEASANT PRAIRIE, WISCONSIN ZONING MAP AND TEXT AMENDMENT APPLICATION

To: Village Plan Commission & Village Board of Trustees of the Village of Pleasant Prairie:

I, (We), the undersigned owner(s)/agent do hereby petition the Village Board to amend the Village of Pleasant Prairie Zoning Map as hereinafter requested.

It is petitioned that the following described property be rezoned from the present

-	Distr	ict(s) to	District(s).	The property petitioned
to be rezone	ed is located at:	11211120th Avenue (Pleasant Prairie Out	tlets)	and is legally described
(address) as follows: Parcel 2 of Certified Survey Map No. 1452, Volume 1434 of Records, Village of Pleasant Prairie,				

Kenosha, Wisconsin

92-4-122-302-0375 Tax Parcel Number(s):

The proposed use for this property is: <u>Tesla Charging station for electric vehicles</u>

Petitioner's interest in the requested rezoning: To install a charging station for electric vehicles

Compatibility with adjacent land uses: The proposed site is surrounded by commercial retail uses

I (We) are also requesting a Zoning Text Amendment to amend Section of the Village Zoning Ordinance.

I (We), have contacted the Community Development Department to arrange a pre-application meeting to discuss the proposed request to determine additional information that may be needed for this request.

I, (We), hereby certify that all the above statements and attachments submitted herewith are true and correct to the best of my knowledge.

PROPERTY OWNER: Simon Property Group c/o
Print Name: Darcy Kennelly Rutzen, CMD
Signature: dauge Arther
Address: 11211 120th Avenue
Pleasant Prairie, WI 53158
(City) (State) (Zip)
Phone: (262) 857-3061
Fax: (262) 857-7385

Email: www.premiumoutlets.com/pleasantprairie

n .		 -	I
Date	6	0.	I

OWNER'S A	GENT:
Print Name:	Tesla Motors, Inc. c/o Black & Veatch

Signatu	re:		
Address	s: 30150 Telegra	aph Road, Suit	te 355
Bingha	m Farms, MI 480	025	
(City)		(State)	(Zip)
Phone:	(913) 458-6776	3	
Fax: (2	248) 594-9337		
Email:	klecklerc@bv.c	om	
Date:			

Operational plan.

(1) Operational plan requirements. The applicant shall prepare and file as part of the application for site and operational plan approval an operational plan which shall include at least the following information or materials:

(a) A detailed narrative description of the operations, processes and functions of the existing and proposed uses to be conducted in or on the real property constituting the site, together with any diagrams, maps, charts or other visual aids that are helpful in understanding the operations and any potential adverse impacts on neighboring properties.

Tesla Motors, Inc. (Tesla) is proposing to install a Supercharging Station for electric vehicles in the parking lot of the Pleasant Prairie Outlet Mall.

Tesla is a US-based company that designs and manufactures the world's leading electric vehicles. Tesla has delivered more than 10,000 electric vehicles to customers in 31 countries. In its mission to further the adoption of electric vehicles, Tesla has initiated the deployment of a fast-charging solution called the Supercharger. These Supercharger stations will be located along popular and well-travelled routes to provide a fast and convenient network for Tesla customers to charge their vehicles and complete long road trips. These stations are able to recharge 50% battery capacity in as little as 20 minutes and a full charge in less than an hour.

Due to the fact that the proposed charging station is located wholly within an existing mall parking lot (only 8 spaces are being utilized), and because the equipment will be fully screened from view by an attractive fenced enclosure, there will be no adverse impacts on neighboring properties. A proposed retaining wall and landscaping further minimize visual impact at the site. See previously submitted site plans for details regarding the charging station location and design.

(b) A detailed description of the proposed project or activity giving rise to the need for site and operational plan approval and a detailed explanation of how such project or activity relates to the site and to the existing or proposed operations to be conducted in or on the real property constituting the site.

#### The charging station will consist of the following:

(8) Parking spaces, each equipped with a charging post

(4) Four supercharger cabinets, (1) 45KVA transformer, (1) 150A Auxiliary 208/120 VAC Distribution Panel and (1) QED Switchgear Assembly located within a fenced-in enclosure near the charging stations (1) 750KVA Utility Transformer on an 8'-0" x 8'-0" concrete pad

As stated above, These Supercharger stations will be located along popular and well-travelled routes to provide a fast and convenient network for Tesla customers to charger their vehicles and complete long road trips. These stations are able to recharge 50% battery capacity in as little as 20 minutes and a full charge in less than an hour. The site design takes advantage of existing landscaping, including additional retaining wall and new proposed landscaping for added screening.

(c) Gross floor area of the existing building(s) and/or proposed addition.

#### Tesla's equipment for the proposed charging station will be contained within 1,525 square feet.

(d) Anticipated hours of operation, hours open to the public, and hours of deliveries or shipments.

The proposed charging station will be available to motorists 24/7. There will be no shipments or deliveries to this site.

(e) Anticipated startup and total number of full- and part-time employees.

#### N/A, there will be no employees at this site.

(f) Anticipated number of shifts and the anticipated number of employees per shift.

N/A, there will be no employees at this site.

(g) Anticipated maximum number of employees on site at any time of the day. The proposed charging station will not have any employees.

#### N/A, there will be no employees at this site.

(h) Number of anticipated students, participants or persons to be gathered in places of assembly, if applicable.

#### N/A

(i) Number of parking spaces required per this chapter and the method used to calculate such number.

### The only parking spaces being utilized by the proposed charging stations will be the eight (8) spaces with the charging posts.

(j) Number of existing and proposed on-site parking spaces to be provided (conventional spaces and handicapped spaces to be stated separately).

### The only parking spaces being utilized by the proposed charging stations will be the eight (8) spaces with the charging posts.

(k) Anticipated daily average and maximum potential number of automobile trips to and from the site (excluding trucks).

NA, the only automobiles visiting the site will be electric vehicles to be charged.

(I) Anticipated daily average and maximum potential number of truck trips to and from the site. NA

(m) Types of goods and materials to be made, used or stored on site. NA

(n) Types of equipment or machinery to be used on site.

#### The proposed site will utilize electric charging posts, transformers and supercharger equipment cabinets.

- (o) Types of solid or liquid waste materials which will require disposal. NA
- (p) Method of handling, storing and disposing of solid or liquid waste materials. NA
- (q) Methods of providing site and building security other than the Village Police Department.

The proposed charging station is wi-fi enabled and reports any maintenance issues. Our landlord partner will also monitor the station's well-being. The fencing around the equipment protects against vandalism, and the charging cabinets are tamper-proof. We are installing a security camera to go with Simon's, in accordance with Village policy.

r) Description of the methods to be used to maintain all buildings, structures, site improvements and sites in a safe, structurally sound, neat, well cared for and attractive condition.

Tesla will maintain the charging station and site improvements in a safe, structurally sound, neat, wellcared for, and attractive condition. As stated above, both the wi-fi and our landlord partner will monitor the site.

(s) Description of potential adverse impacts to neighboring properties or public facilities and measures to be taken to eliminate or minimize such adverse impacts.

Due to the fact that the proposed charging station is located wholly within a mall parking lot, there will be no adverse impacts on neighboring properties. In fact, we believe that Tesla's proposed charging station will have a positive effect within the Village, encouraging cleaner energy consumption. As stated above, Tesla has delivered more than 10,000 electric vehicles to customers in 31 countries. These Supercharger stations will be located along popular and well-travelled routes to provide a fast and convenient network for Tesla customers to charger their vehicles and complete long road trips. The station will bring more visitors to the Village, who will likely shop and dine in the area.

(t) A list of all local, county, state and federal permits or approvals required for the project or activity giving rise to the need for site and operational plan approval and copies of such permits and approvals that have been obtained.

# Approvals and permits for the proposed charging station include the zoning permits issued by the Village of Pleasant Prairie (Predevelopment Agreement, Site Operational Plan Application and Zoning Text Amendment) and building and electrical permits from the Village.

(2) Operational plan standards. In addition to any other applicable requirements or standards specified in this chapter, the following requirements or standards shall apply to the operational plan:

(a) No use shall be conducted in such a way as to constitute a public or private nuisance.

N/A, the proposed charging station, which is located in a mall parking lot, will only be used by motorists charging their electric vehicles.

(b) No use shall be conducted in such a way as to violate any of the performance standards set out in § <u>420-38</u> of this chapter.

The proposed charging station will only be used by motorists in need of charging their electric vehicles.

(c) (reserved)

(d) No owner, occupant or user of real property shall conduct a use so intensively that there is inadequate provision of on-site parking spaces and/or loading spaces to accommodate the needs of such use.

### The proposed charging station (utilizing only 8 parking spaces) will only be used by motorists in need of charging their electric vehicles.

(e) All buildings, structures, site improvements and sites shall be maintained in a safe, structurally sound, neat, well cared for and attractive condition.

# As stated above, Tesla will maintain the charging station and site improvements in a safe, structurally sound, neat, well-cared for, and attractive condition. Also, both the built-in wi-fi and our landlord partner will monitor the site.

(f) Within a building, any provision of live entertainment in connection with a business or club use involving the selling or service of alcoholic beverages shall comply with the following restrictions: **NA** 

[1] Live entertainment shall be provided only on a raised platform that is not less than 23 inches higher than the elevation of the surrounding floor surfaces where customers, members or their guests are sitting, standing or dancing; NA

[2] Customers, members or their guests shall at all times be separated from the raised platform on which live entertainment is being provided by a distance of not less than four feet and a physical barrier to mark and enforce such separation distance; and **NA** 

[3] There shall be no touching of any kind between entertainers and customers, members or their guests. NA

(g) No proposed new or expanded use shall be permitted to create or significantly exacerbate unsafe traffic conditions on any street or highway in the Village.

### As stated above, the proposed charging station (utilizing only 8 parking spaces) will only be used by motorists in need of charging their electric vehicles.

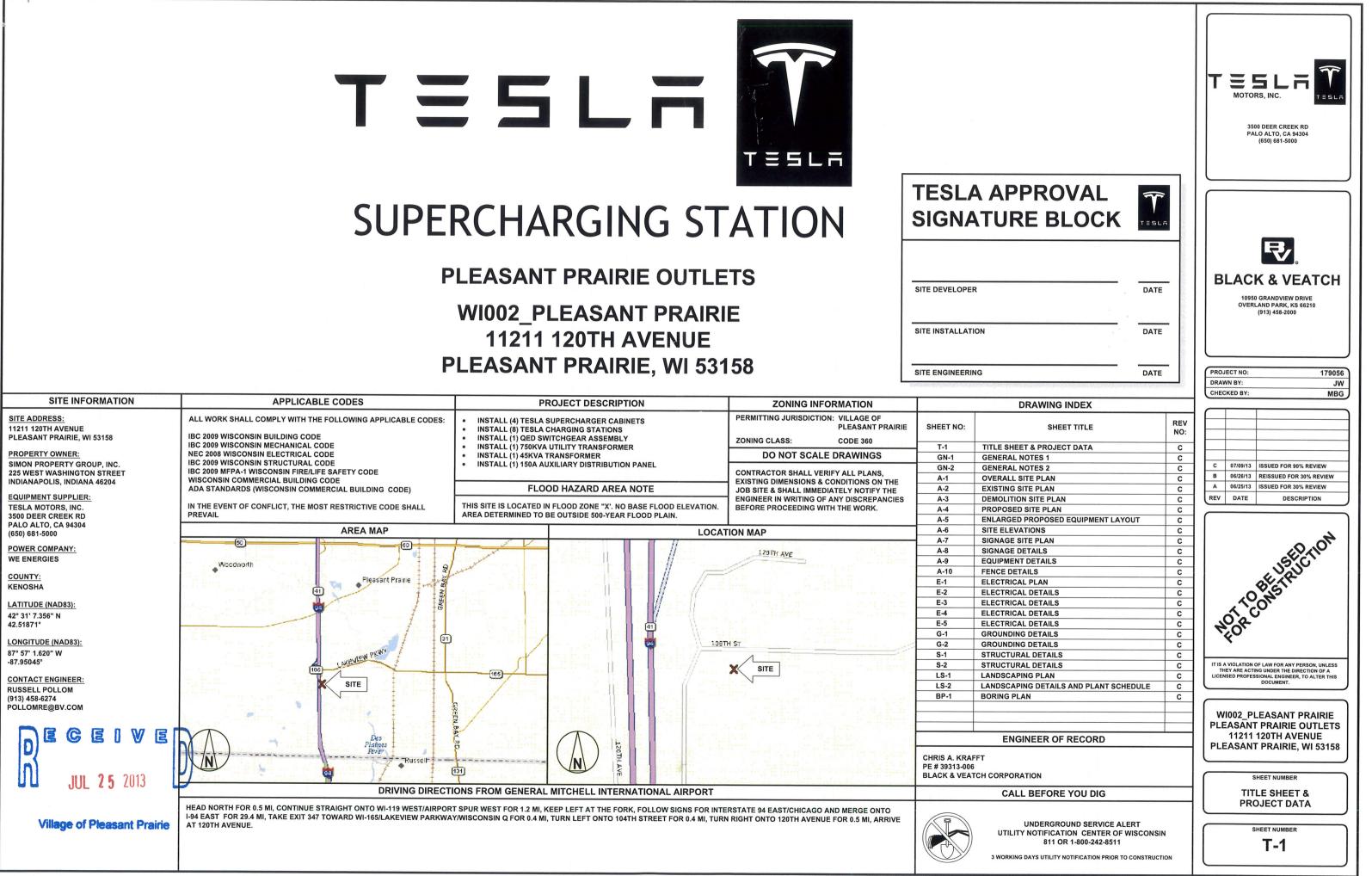


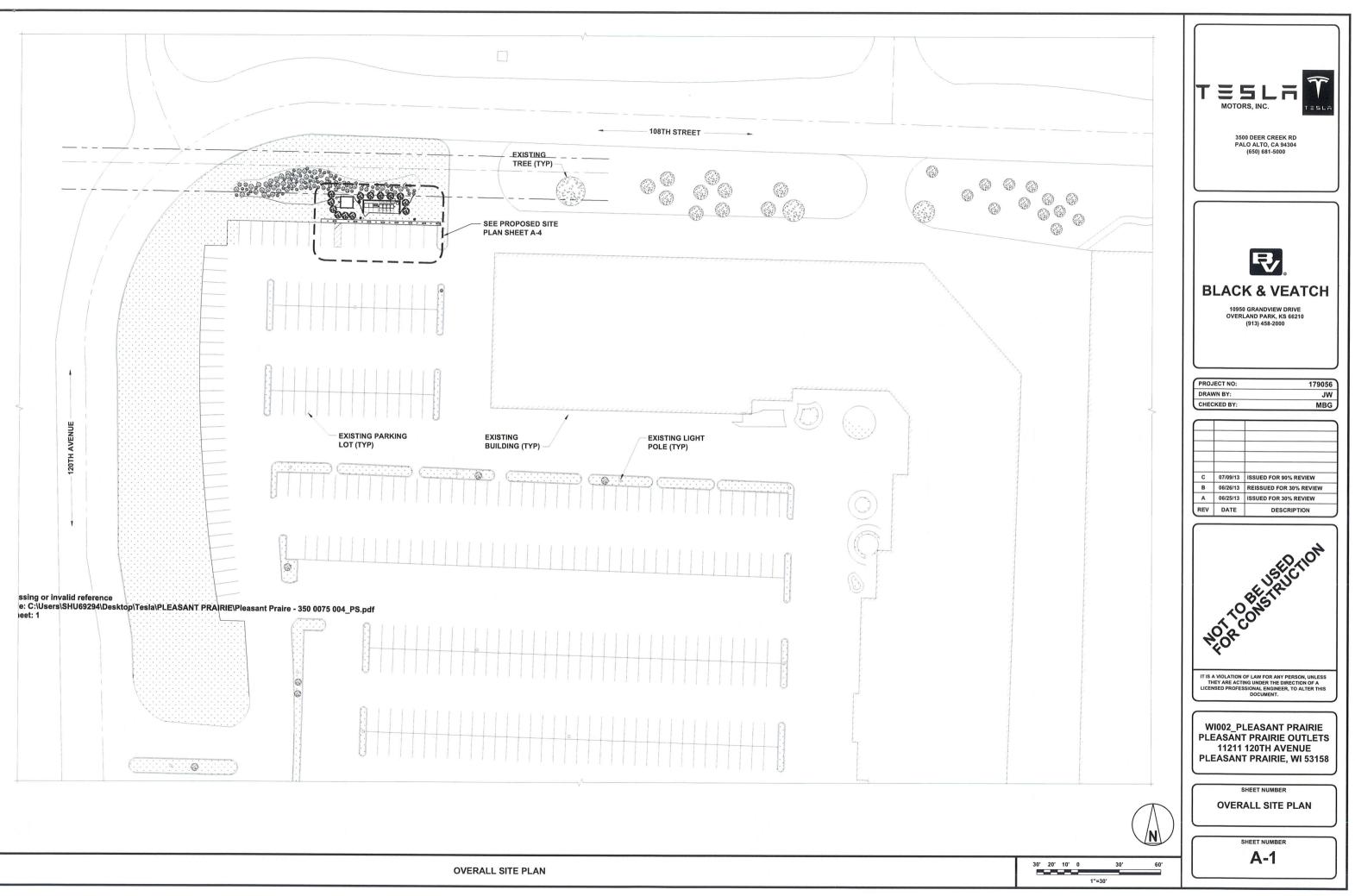
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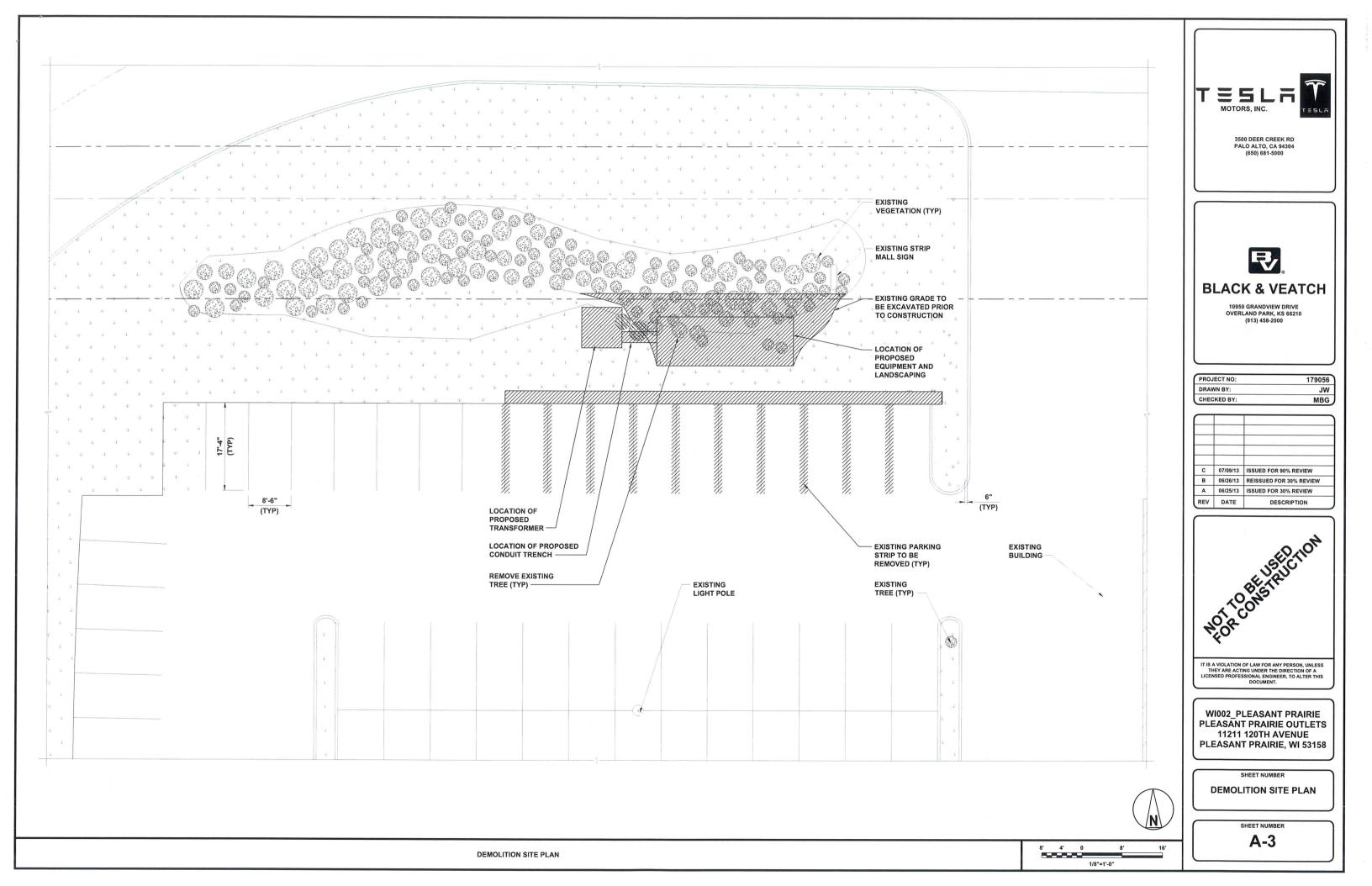
SITE	DEVELOPER	

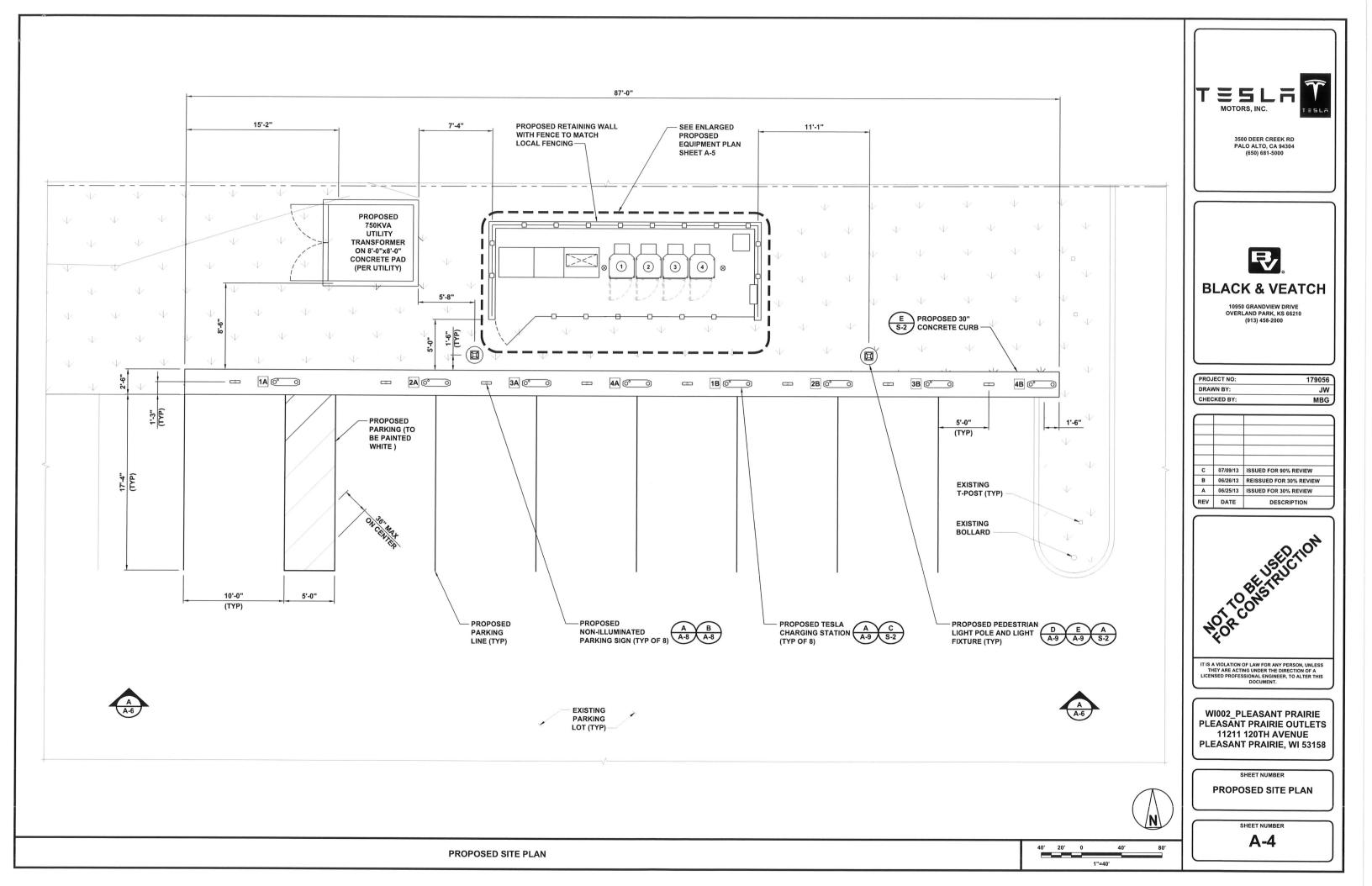
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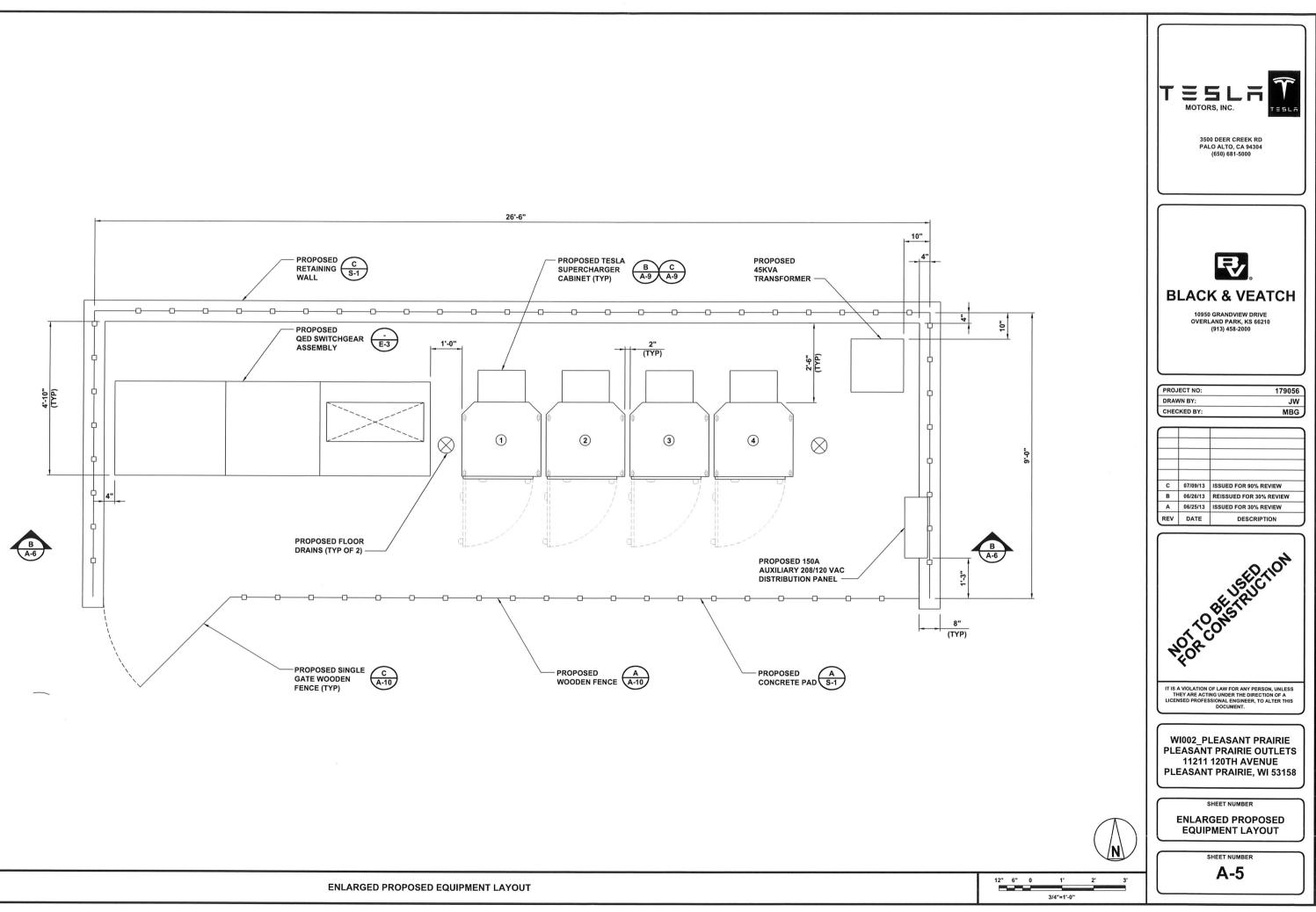
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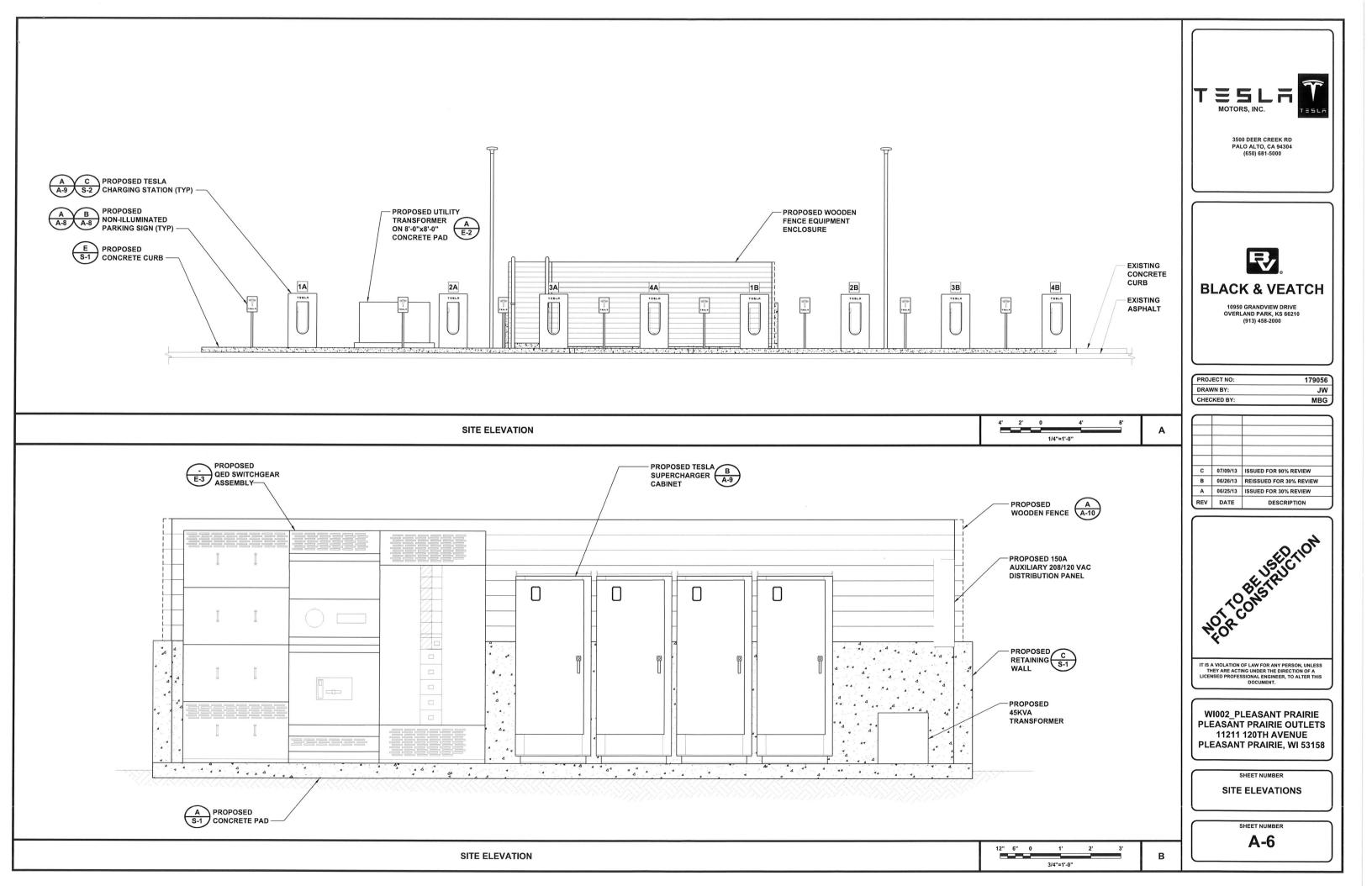


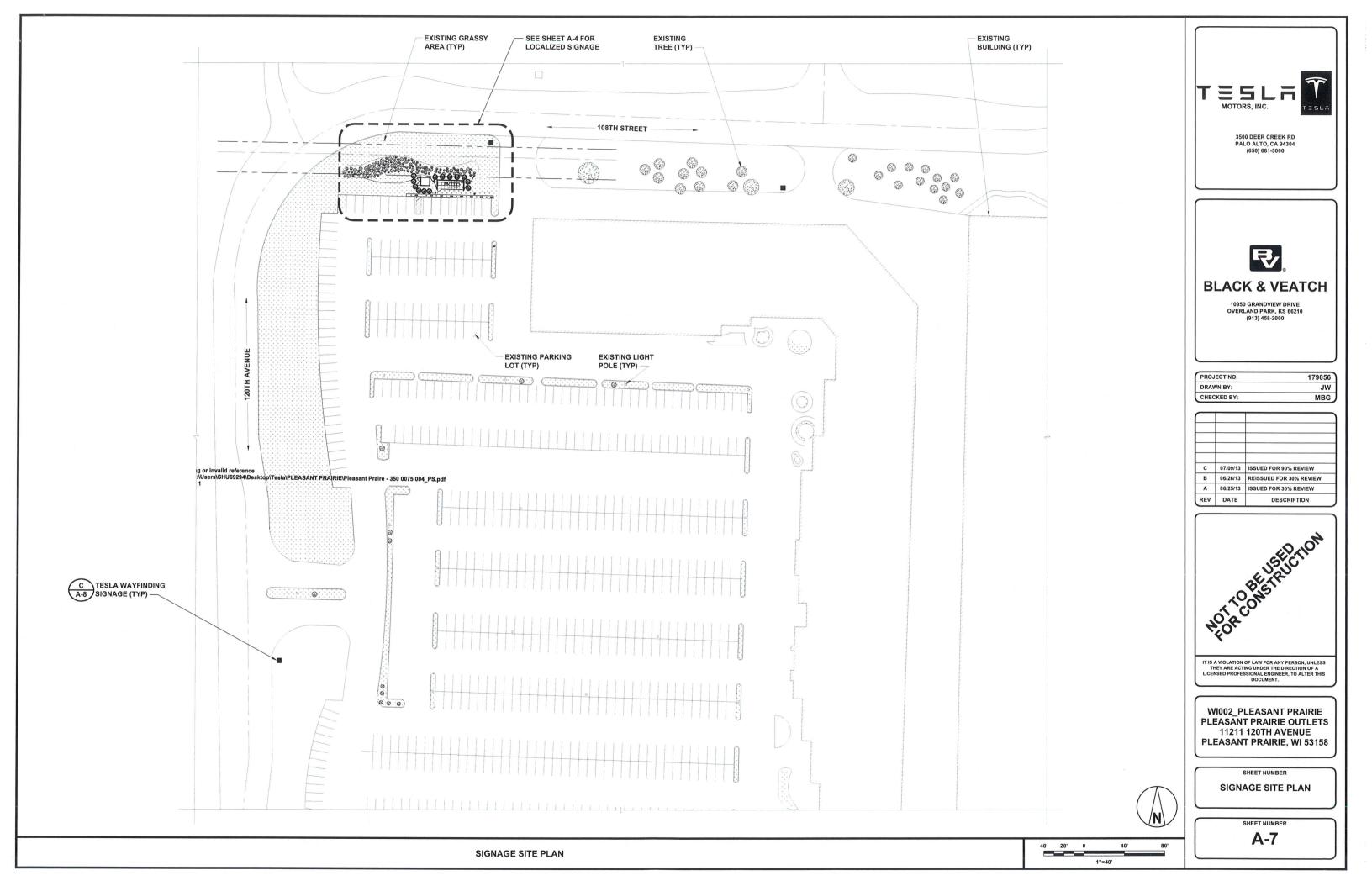






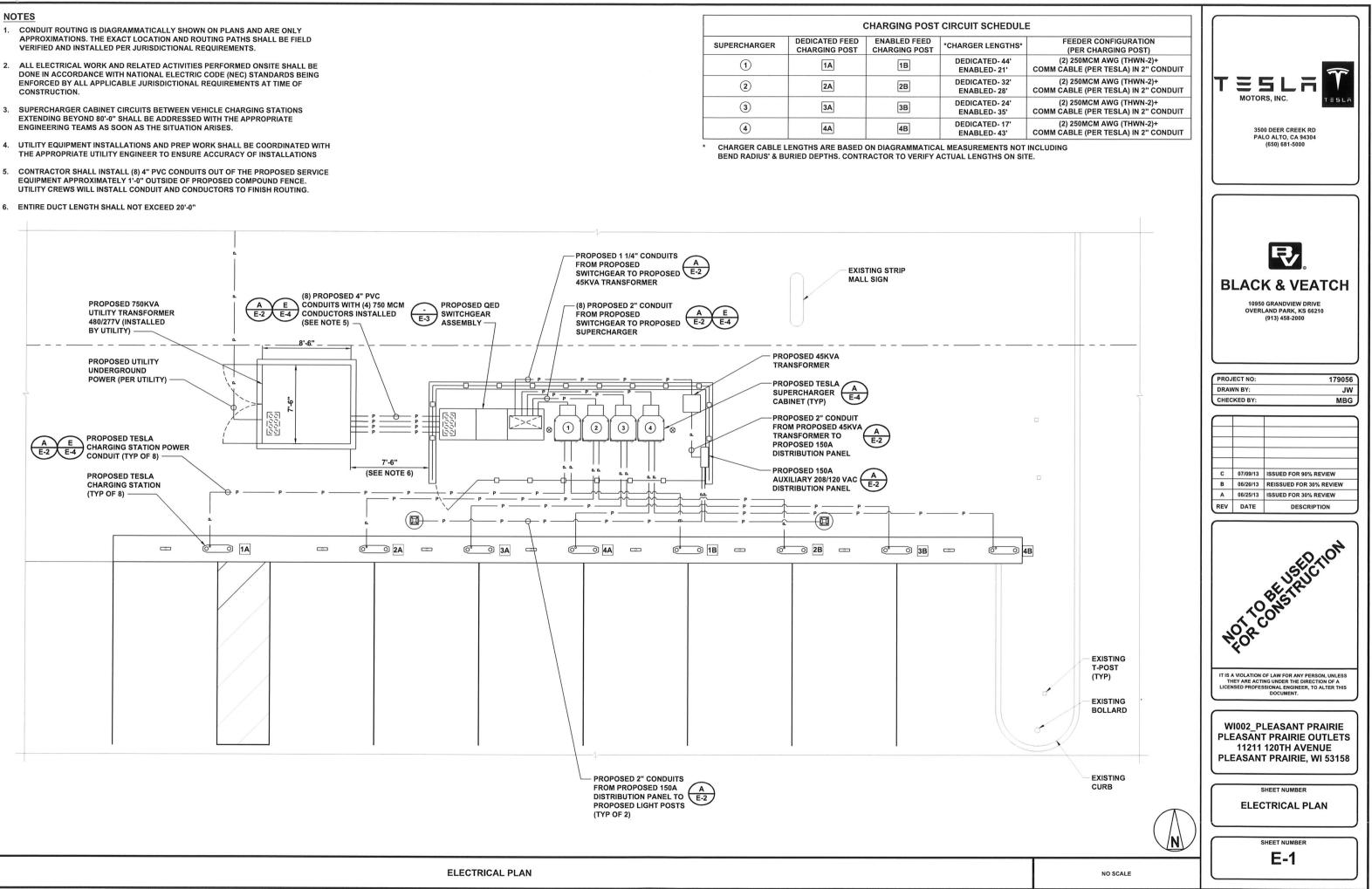


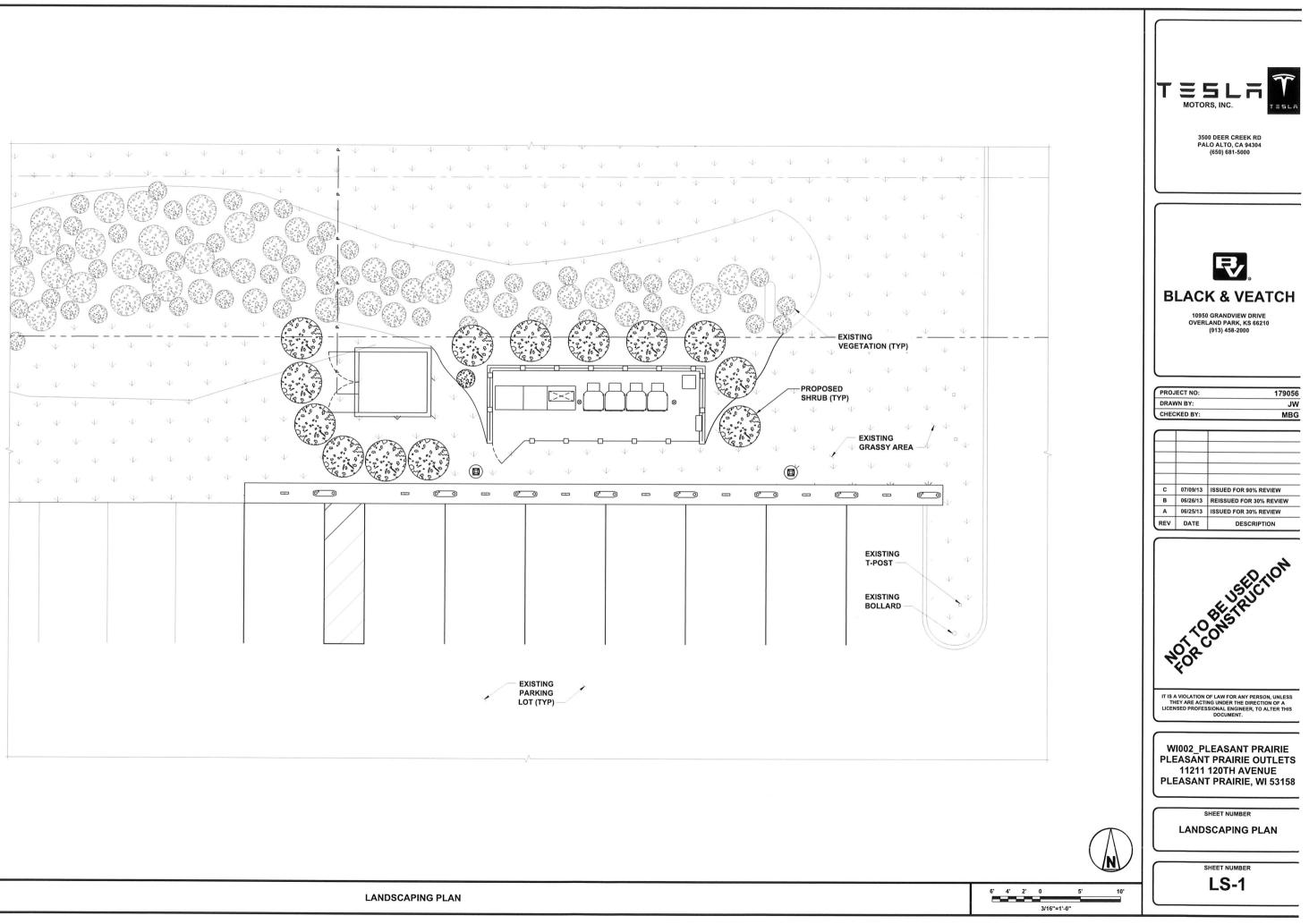




- VERIFIED AND INSTALLED PER JURISDICTIONAL REQUIREMENTS.
- ENFORCED BY ALL APPLICABLE JURISDICTIONAL REQUIREMENTS AT TIME OF CONSTRUCTION.
- 3. EXTENDING BEYOND 80'-0" SHALL BE ADDRESSED WITH THE APPROPRIATE
- THE APPROPRIATE UTILITY ENGINEER TO ENSURE ACCURACY OF INSTALLATIONS
- EQUIPMENT APPROXIMATELY 1'-0" OUTSIDE OF PROPOSED COMPOUND FENCE. UTILITY CREWS WILL INSTALL CONDUIT AND CONDUCTORS TO FINISH ROUTING.

	(	CHARGING POST	CIRCUIT SCHEDUL
SUPERCHARGER	DEDICATED FEED CHARGING POST	ENABLED FEED CHARGING POST	*CHARGER LENGTHS*
1	1A	1B	DEDICATED- 44' ENABLED- 21'
2	2A	2B	DEDICATED- 32' ENABLED- 28'
3	3A	3B	DEDICATED- 24' ENABLED- 35'
4	<b>4</b> A	<b>4</b> B	DEDICATED- 17' ENABLED- 43'





Consider the request of Mark Goode, of Venture One Real Estate, agent for James G. Hart and Delaine Farm Partners owners of the properties generally located east of IH-94 south of 110<sup>th</sup> Street and north of 122<sup>nd</sup> Street for the approval of a **Master Conceptual Plan** for the proposed Riverview Corporate Park. The petitioner is requesting to develop approximately 250 acres for five (5) office and manufacturing production buildings ranging in size from about 87,000 square feet to 428,000 square feet.

**Recommendation:** On September 9, 2013 the Plan Commission held a public hearing and recommended that the Village Board to approve the **Master Conceptual Plan** subject to the comments and conditions of the Village Staff Report of September 16, 2013.

#### VILLAGE STAFF REPORT OF SEPTEMBER 16, 2013

Consider the request of Mark Goode, of Venture One Real Estate, agent for James G. Hart and Delaine Farm Partners owners of the properties generally located east of IH-94 south of 110<sup>th</sup> Street and north of 122<sup>nd</sup> Street for the approval of a **Master Conceptual Plan** for the proposed Riverview Corporate Park. The petitioner is requesting to develop approximately 250 acres for five (5) office and manufacturing production buildings ranging in size from about 87,000 square feet to 428,000 square feet.

The petitioner is requesting approval of a Master Conceptual Plan for the proposed development of 254 acres corporate business park generally located east of IH-94 south of 110<sup>th</sup> Street and north of 122<sup>nd</sup> Street (Tax Parcel Numbers 92-4-122-303-0101, 92-4-122-304-0200, 92-4-122-311-0200, 92-4-122-312-0305 and 92-4-122-312-0310) to be known as Riverview Corporate Park. This is a **Master Conceptual Plan** for the development of these properties, not the detailed Conceptual Plan. The petitioner has requested approval of this Master Conceptual Plan to obtain early input from the Village and the abutting neighbors as they continue to prepare more detailed plans and work through the Village's development review process.

The Master Conceptual Plan indicates that five (5) office and manufacturing production buildings ranging in size from about 87,000 square feet to 428,000 square feet could be developed. According to the application, the development referred to as "Riverview Corporate Park" is strategically designed to accommodate five (5) to seven (7) corporate facilities for office, research and development, manufacturing, production and assembly operations. Riverview Corporate Park will be an unified business development park utilizing pre-cast construction with brick accents and significant window lines throughout the office section of the buildings. Riverview will have open space design features utilizing the prairie and wetlands to transition into the adjoining areas.

Riverview Corporate Park is intended to accommodate the business expansion of corporations from both the Chicago and Milwaukee markets. It has immediate access to the four-way interchange at STH 165 and I-94. It is 30 minutes from General Mitchell International Airport and 45 minutes from Chicago O'Hare International Airport. From I-94, the Park has good access to the interstate highway system for servicing the entire Midwest region. The development of the Corporate Park will likely begin in 2014 with an ultimate estimated employment of 1,100 people at full build-out.

Of the total 254-acres within the Master Conceptual Plan area, there are about 165 acres which contain environmental features. The remaining 86 acres of developable land includes the following conceptual buildings:

- Building A is located on a 12.22 acre site and is proposed to be 205,440 square feet with 192 parking spaces and 24 docks.
- Building B is located on a 22.76 acre site and is proposed to be 428,187 square feet with 419 parking spaces and 8 docks.
- Building C is located on a 17.28 acre site and is proposed to be 319,492 square feet with 555 parking spaces and 10 docks.
- Building D is located on a 19.64 acre site and is proposed to be 397,870 square feet with 448 parking spaces and 10 docks.
- Building E is located on a 6.43 acre site and is proposed to be 87,330 square feet with 212 parking spaces and 6 docks.

The Plan indicates that 116<sup>th</sup> Avenue would be extended south to connect to 120<sup>th</sup> Avenue (East Frontage Road) and it would terminate in a temporary cul-de-sac. It also shows that 116<sup>th</sup> Avenue would be extended to the north from 122<sup>nd</sup> Street and it would terminate in a temporary cul-de-sac. The Ultimate Plan would be to connect the two (2) temporarily dead-ended cul-de-sacs.

Riverview Corporate Park will be required to be serviced by municipal water, sanitary sewer and storm sewers. The Village is evaluating the proposed development and will be preparing as part of the Neighborhood Plan how lands within the Neighborhood can be serviced. The Village is also working with the Wisconsin Department of Transportation (WI DOT) in reviewing the existing and future transportation requirements and roadway network to service the petitioners land and the land within the Neighborhood Plan area.

The developable land within the proposed Riverview Corporate Park is zoned, M-5, Production Manufacturing Zoning District. This zoning would allow for specific manufacturing, production and office uses located on properties located adjacent to the LakeView Corporation Park. The M-5 Zoning District was adopted by the Village Board as a comprehensive rezoning impacting multiple areas on June 17, 2013 of the Village. The M-5 Zoning District reflects an enhancement of the Village's public policy of sound and diversified economic development. While there have been and still are sufficient economic opportunities for the construction of warehouses and distribution facilities in the existing Corporate Parks, it is important to conserve land resources and economic infrastructure support in order to assist in providing more employment in the Village. As such, the M-5 District serves to promote and encourage production, manufacturing, and office related employment as the primary uses in the District, with warehousing and distribution to be ancillary or secondary uses in this District. This area along with an area on the west side of I-94 and as area near STH 31 and 116<sup>th</sup> Street all have been designated on the Land Use Plan and the Village Zoning Map within the M-5 district to encourage and promote more intensive land uses which in turn would promote greater employment opportunities in proximity to both I-94 and STH 31.

The development of Riverview Corporate Park and the specific sites to be developed shall comply with the requirements set forth in the M-5 District regulations. The M-5 District is intended to provide for manufacturing, assembly, office, and research and development uses with limited warehouse and distribution uses within an enclosed structure wherein no high hazard uses are allowed and the method of manufacturing is not injurious to the point of constituting a nuisance to the occupants of adjacent properties by reason of the emission or creation of noise, vibration, smoke, dust or particle matters, toxic or noxious materials, odors, fire or explosive hazards, glare or heat and located in those areas where the relationship to surrounding land uses would create few problems of compatibility. This District also allows for office parks or individual office buildings and ancillary uses, which may or may not include space for manufacturing, assemblies, or research and development, but provides direct services to the employees or customers or other uses in the area. It is anticipated that these areas would be developed in an attractive corporate park-like setting with landscaping, consistent signage, and similar or compatible building materials and designed to present an integrated image to customers. The District is in compliance with Village's Comprehensive Land Use Plan.

The Riverview Corporate Park development must comply with all Village Ordinances and requirements and specifically with the requirements of the M-5 District.

The proposed Riverview Corporate Park is located within a portion of the LakeView West Neighborhood and the River Woods Neighborhood. The next step for the development of the Riverview Corporate Park is to work with the Village to complete a detailed Neighborhood Plan for the entire Lakeview West Neighborhood and a portion of the River Woods Neighborhood.

The LakeView West Neighborhood is generally located east of I-94 and west of the Des Plaines River between approximately the 9300 and 11600 blocks. A portion of the property within the Riverview Corporate Park is located in the River Woods Neighborhood that extends from the 11600 block south to about the 11900 block. The Neighborhood Plan will include all of the area in the LakeView West Neighborhood and those portions of the River Woods Neighborhood Plan south the CTH ML. The land uses in this area have already been established in the Land Use Plan but the detailed transportation and utility planning will be incorporated into the Neighborhood Plan. The 2035 Land Use Plan identifies the areas north of STH 165 within the LakeView West Neighborhood as Freeway Office Center with the preservation of the environmental features including Primary Environmental Corridors, shorelands, wetland and floodplains. The land south of STH 165 within the Neighborhood has a combination of Freeway Office Center, Freeway Oriented Regional Retail Center, Freeway Oriented Service Center and a Production Manufacturing, which is the main land use designation for the lands within the Master Conceptual Plan. (*Note: Smaller wetland areas may be allowed to be filled by the Wisconsin Department of Natural Resources (WI DNR) and U.S. Army Corps of Engineers (ACOE) and floodplain boundaries may be amended pursuant to Village, WI DNR, ACOE, the Federal Emergency Management Agency (FEMA) requirements with approvals.*)

The developable lands north of STH 165 within the Neighborhood Plan area are owned by WisPark LLC and a one parcel is owned by the Village Community Development Authority. Input from both of these developers will be incorporated into the Neighborhood Plan. It is expected that the Neighborhood Plan will be completed and presented to the Plan Commission and the Village Board this fall. A majority of the developable land south of STH 165 within the Neighborhood Plan is either already developed, included as a part of LakeView Corporate Park, included as the 254 acres proposed to be acquired by the petitioner or identified currently as farmland within the River Woods Neighborhood.

Prior to completing the Neighborhood Plan, the detailed environmental stakings will be reviewed on the 254 acre parcel and further discussion is warranted by the petitioner with the Wisconsin Department of Natural Resources and the U.S. Army Corp of Engineers related to any proposed environmental impacts. These discussions may warrant the reconfiguration of the Riverview Corporate Park. See **attached** letters were received from the WI DNR dated August 22, 2013 and ACOE dated September 4, 2013 regarding the environmental impacts.

On May 20, 2013 the Village Board approved a Professional Services Agreement for Traffic Analysis & Design, Inc. to complete a Traffic Impact Analysis (TIA) for several locations within the LakeView Corporate Park, including this area. There are a number of developments that are being constructed and/or planned within/near the Lakeview Corporate Park. In order to adequately plan for the potential traffic and roadway infrastructure impacts from these developments, a TIA is being completed. Intersections near Riverview included in the TIA are: 1) STH 165-Corporate Drive, 2) STH 165-116<sup>th</sup> Avenue, and 3) 116<sup>th</sup> Avenue-Corporate Drive-108<sup>th</sup> Street (near the existing water tower). The latter of those intersections is being studied for potential conversion to a roundabout. Roundabouts have been proven to improve traffic flow and reduce the number and severity of accidents.

### **NEXT STEPS:**

**Comprehensive Plan Amendments**: Neighborhood Plans are a component of the Village's Comprehensive Plan and are required to be prepared prior to subdividing property for development in the Village. As noted above, a Neighborhood Plan is being prepared for the LakeView West Neighborhood and a portion of the River Woods Neighborhood. Again, the land uses in this area have already be established in the Land Use Plan but the detailed transportation and utility planning will also be incorporated into the Neighborhood Plan.

Any amendments to the Comprehensive Plan are required to be approved by the Village Board by Ordinance. The Plan Commission holds the public hearing (a 30-day public notice is required) and makes recommendations to the Village Board. Additional amendments to the Comprehensive Land Use Plan may be required to reflect the modified land uses shown on the Neighborhood Plan and to reflect and detailed environmental delineations on the specific development site. Upon review of the revised Neighborhood Plan based on the comments in this memo, further evaluation of additional amendments may be required to the Comprehensive Plan.

In addition, the Zoning Map is required to be consistent with the Comprehensive Land Use Plan; therefore, a Zoning Map Amendment may be required to reflect the location of the field delineated wetlands or other environmental features. The environmental related rezoning's typically take place at the time of the Comprehensive Land Use Map Amendments.

**Conceptual Plan**: A more detailed Conceptual Plan for the specific site areas to be developed may be required based on the Neighborhood Plan. At a minimum, detailed Grading and Drainage Plans and Public Roadway and Utilities Plans will be required. The Developer may choose to move directly to the Site and Operational Plan submittal stage for the specific sites. The Conceptual Plan (for the individual sites) shall include at a minimum:

- Topographic contours at one-foot intervals of the entire property;
- Public street layout;
- Existing and proposed lot or parcel layout, including the dimensions and area of each;
- Existing and proposed uses;
- Lands to be dedicated or reserved public purposes;
- Proposed conceptual landscaping;
- Proposed techniques for handling storm water and retention/detention facilities;
- Conceptual building layouts and parking areas for all uses;
- Location of existing and proposed streets, existing and proposed sanitary and storm sewer and water facilities and existing and proposed utility and drainage easements;
- Artist renderings of structures and facilities and floor plans, if available;
- Environmental features, including, without limitation, primary environmental corridors navigable waters, wetlands, floodplains (base on the June 19, 2012 FIRM, and woodlands;
- Lands to be vacated or structures to be razed; and
- Declaration of restrictions, covenants and easements.

For individual site Conceptual Plans, the Plan Commission is required to hold a public hearing and make recommendations of the Conceptual Plan to the Village Board. Depending on the level of unresolved issues, this approval may be required prior to subdividing the property, zoning map amendments and consideration of Site and Operational Plans.

**Certified Survey Map/Public Improvements:** A Certified Survey Map (CSM) will be required to dedicate right-of-way; to combine or subdivide the property; to identify Dedication and Easement Provisions, Restrictive Covenants and Other Developer Notes to define Developer maintenance obligations and site restrictions as required. Any public improvements that will be installed as part of the development of the Riverview Corporate Park shall be designed, constructed and installed prior to the development of a specific site.

A Development Agreement and Memorandum of Development Agreement will be prepared by the Village to define the Developer's obligations and construction requirements for all required public improvements. The Development Agreement defines the required public improvements and includes several exhibits such as the approved engineering and grading plans, roadway plans and design details, landscaping plans, lighting plans, signage plans, specifications, executed contracts, performance and payment bonds, Certified Survey Map and Irrevocable Letter of Credit as financial security for the installation of said improvements. The Development Agreement is reviewed by the Plan Commission and reviewed and approved by the Village Board. A closing is scheduled to execute the Developer documents. Developer documents shall be provided as a pre-condition of any approvals. A pre-construction meeting shall be held prior to work commencing on the public improvements. Further discussion is warranted with the petitioner. If it is determined that proposed Riverview Corporate Park improvements will make TID 2 more desirable in that it will attract businesses with better paying jobs and produce significantly higher valued land uses, then the Village will consider an amendment to TID 2 to include the Riverview Corporate Park property into the TID. The Village will not amend TID 2, however, until documentation is presented that the properties are under the ownership of a qualified developer.

**Corporate Park Documents:** The petitioner is requesting that this 254-acre site shown on the Master Conceptual Plan be developed as a unified development and that specific declarations, restrictions and development standards be developed. **Attached** is a draft of the Declaration of Development Standards and Protective Covenant for Riverview Corporate Park. The Village staff has provided initial comments to the Developer regarding this document. However, this document should not be finalized and recorded to establish the Riverview Corporate Park until the Engineering Plans and Certified Survey Map have been approved by the Village.

**Site and Operational Plan**: Prior to the development of a specific site and building Plan Commission approval of the detailed Site and Operational Plans are required. Site and Operational Plans shall include a detailed written narrative that explains the proposed development and specific related to the proposed uses (use, employment, traffic, etc.); site surveys of existing conditions; site development plans; building construction plans; lighting, landscaping and signage plans; and other items as required pursuant to Chapter 420 Article IX of the Village Zoning Ordinance. If a Conditional Use Permit is required, the Plan Commission will hold a public hearing. If a Conditional Use Permit is not required, the Plan Commission will consider the Site and Operational Plan at a regular meeting, which does not require a public hearing.

<u>Plan Commission recommends approval of the **Master Conceptual Plan** subject to the above comments and the following conditions:</u>

- 1. The Neighborhood Plan as discussed above will incorporate the general site layout as shown on the Master Conceptual Plan.
- 2. What is the status of the developer acquiring the Otto Sprenger, Tax Parcel Number 92-4-122-312-0100 (27.99 acres) and the Kathleen Johnson, Tax Parcel Number 92-4-122-312-0150 (20.39 acres), properties located to the immediate south along 122<sup>nd</sup> Street? These two (2) properties are important to gaining a southerly 116<sup>th</sup> Avenue roadway connection to 122<sup>nd</sup> Street, thus providing another means of access to the development.
- 3. The Village staff has provided initial comments on the **attached** draft of the Declaration of Development Standards and Protective Covenant for Riverview Corporate Park this document; however this document should not be finalized and recorded to establish the Riverview Corporate Park until the Conceptual Plan and Certified Survey Map have been approved and prior to consideration of Site and Operational Plans for any proposed project. Further changes may be required as the development continues to progress through the development process.
- 4. All detailed environmental stakings and reports shall be submitted to the Village. Surveys with legal descriptions are required for all environmental features. In addition, written concurrence from the WI DNR or ACOE is required for the wetland staking. Prior to completing the Neighborhood Plan, detailed environmental staking will completed on the 254 acre parcel and further discussion is warranted by the petitioner with the Wisconsin Department of Natural Resources and the U.S. Army Corp of Engineers related to any proposed environmental impacts. These discussions may warrant the reconfiguration of the Riverview Corporate Park. See **attached** letters from the WI DNR dated August 22, 2013 and ACOE dated September 4, 2013 related to environmental impacts. As noted above, smaller wetland areas may be allowed to be filled by the WI DNR and ACOE and floodplain boundaries may be amended pursuant to Village, WI DNR, ACOE, FEMA requirements are approvals.
- 5. The following are comments related to the site layout, grading and drainage plans and utility plans that will need to be further discussed as the neighborhood plan is completed and detailed development plans are provided for the development of Riverview Corporate Park.
  - a. Conceptual Site Plan:
    - i. The plan needs to depict the phasing of the development. Show phasing lines, acreage of each phase and proposed timing (year) of each phase of the development.
    - ii. The plan shall be revised to show the proposed 116th right-of-way and street cross-section. A copy of the proposed cross-section is **attached**.

- iii. The site plan encroaches into the primary environmental corridor in several areas, most significantly on Lots 1 and 4. It would appear that the storm water pond as identified in Outlot B is all the existing woodlands.
- iv. Enlarged concept plans shall be provided showing general site dimensions of roadways, drive lanes, parking isles, right-of-way widths, etc. as conceptually shown.
- v. The site plan shows several delineated wetland areas being filled. Applicable WI DNR and ACOE permits will need to be obtained for these impacts.
- vi. It appears that a floodplain fill and boundary adjustment is proposed as part of the development. The floodplain adjustment shall be noted / identified on the plan.
- vii. Show the existing alignment/right-of-way of the Frontage Road on the plans. Also, show the proper existing right-of-way width.
- viii. The date of the wetland delineation by Wetland & Waterway Consulting LLC shall be noted on the plans.
- ix. The proposed property line boundaries are unclear. The plans shall be revised to clearly show existing and proposed property lines.
- x. A copy of the site plan should be overlaid on an aerial photograph in order to show the surrounding area and existing woodland limits and /or show additional land information detail adjacent to the site on the plan.
- b. Conceptual Grading/Drainage Plan
  - i. A review of the conceptual grading was not completed as proposed topographic grading information was not provided. However, based on the site layout and the proposed finished floor elevations and pond elevations, there are significant grade differentials on the site. Further information is required to evaluate whether the site plan is viable from a grading perspective, the impacts to environmental areas, and whether retaining walls around ponds etc. will be acceptable.
  - ii. Limits of existing woodland(s), environmental corridor(s), floodplain boundary(s), and wetland limit(s) shall be shown on the grading plan.
  - iii. The ponds are noted to include compensatory storage for floodplain fill. It is unclear how this will be achieved as the ponds shall be outside and above the 100-year floodplain elevation. Compensatory storage for floodplain fill pertaining to a floodplain adjustment shall be in accordance with Village ordinance. We recommend that the floodplain adjustment and associated requirements be further discussed with the Community Development Department to ensure an understanding of these requirements.
  - iv. Storm sewers which drain public roadways that traverse through private lots shall be privately owned but covered by a storm sewer maintenance and access easement giving rights to the Village.
  - v. It is unclear how drainage from the "future road" will be conveyed to pond B as noted and outlined in the plan.
  - vi. A conceptual storm water management narrative shall be submitted as part of the conceptual plan. Also, infiltration provisions or proof of exemption shall be provided.
  - vii. Wet ponds shall be labeled "retention ponds" on all future plans submitted to the Village.

- c. Conceptual Utility Plan
  - i. The Village's consulting engineers will be designing the public roadway and utility extensions to service the development. Continued design coordination will be necessary.
  - ii. A lift station / force main system is required to service lots 3 through 5. The location of the lift station and force main is still being evaluated. Site plan and utility modifications may be needed depending on the lift station placement.
- 6. General Comments:
  - a. This development shall be in compliance with the Village Land Division and Development Control Ordinance, the Village Municipal and Zoning Codes, the Village Construction Site Maintenance and Erosion Control Ordinance and the State of Wisconsin Statutes.
  - b. See **attached** comments from the Village Fire & Rescue Department dated August 4, 2013.
  - c. All building, plumbing, and HVAC plans will need to be designed to the IBC Codes, Wisconsin Plumbing Code and be State Approved prior to submitting (2 sets) for building permits from the Village of Pleasant Prairie.
  - d. Halls, corridors, stairways, passageways, work aisles and other means of egress from factories, offices and mercantile buildings shall have emergency lighting and exit lighting per Article 700 of the NEC, Comm 16.46, 51.15(5), 54.06(2), and 54.11. The Village Fire & Rescue Department should be contacted for further information and requirements. Contact Fire & Rescue Chief Paul Guilbert at 262-694-8027.
  - e. If water main is to serve both domestic and fire protection combined, the plans will need Department of Commerce approval and Village Fire & Rescue Department approval prior to obtaining permits and commencing work.
  - f. Complete erosion control measures, silt fence and gravel access drives must be installed per Wisconsin Construction Site Best Management Practice Handbook and be inspected within 24 hours of any land disturbing activity.
  - g. These parcels and buildings must comply with all requirements of Barrier-Free Design.
  - h. The architect(s)/ professional engineer(s) shall submit, to the Village and State, the compliance statement, Form SBD 9720, prior to the final inspection with the Village Building Inspection and Fire & Rescue Departments.
  - i. All electrical contractors (High and Low Voltage) shall obtain a permit from the Village prior to beginning work.
  - j. All mechanical contractors shall obtain a permit from the Village prior to beginning work.
  - k. Building plans shall show detail on fire stopping of all penetrations though fire rated walls and fire separation walls as required by emergency rule that took effect on January 28, 1998.
  - I. Sprinkler plans and all fire alarm installations are required to be submitted to, reviewed and approved by the Village Fire & Rescue Department.
  - m. Prior to any work commencing a Pre-Construction Meeting shall be held at the Village Hall, coordinated by the Developer's Engineer at the Village municipal building.

- n. All easements shall be shown on the Certified Survey Map and Site and Operational Plans submitted for review and approval as each lot is proposed to be developed.
- All commercial buildings will be required to install at least one sanitary sewer sampling manhole. The location and details shall be shown on the Site and Operational Plans required for each site. Contact the Village Engineer to confirm an approved location.
- p. All downspouts for all proposed buildings within the development shall be interconnected to the private storm sewer system and shown on the required Site and Operational Plans.
- q. All exterior mechanical units, antennae and/or satellite dishes, whether roofmounted or ground-mounted, shall be screened from the general public's view.
- r. After footings and foundations are installed for each building and prior to framing or construction of walls, an as-built survey stamped by a Wisconsin Registered Land Surveyor shall be submitted to the Village to verify that required building setbacks have been met.
- s. Prior to written occupancy of any building and associated site improvements three (3) copies of an as-built plan, stamped by a Wisconsin Registered Land Surveyor shall be submitted to the Village to verify that required building, above ground structures and all impervious surfaces meet the minimum setbacks and that all signage and pavement markings were installed per the approve site plans and the grading of the site was completed pursuant to the approved Site and Operational Plans. In addition, written certification from the signage companies that the signage was installed pursuant to the approved Site and Operational Plans shall be submitted.
- t. Prior to written occupancy of any building an as-built record drawing of graphical data of all private sewer, water, and storm sewer facilities and underground irrigation systems installed shall be provided to the Village for the Village to update the Village's Geographic Informational System. Information shall conform to the Village's electronic format requirements. In addition, a paper copy prepared and stamped by the Engineer of Record for the project shall be submitted.
- u. All signs shall conform to the requirements specified in Article X of Chapter 420 of the Village Zoning Ordinance.
- v. No site within the development shall be used for any parking (neither overnight nor during the day) of junked/inoperable/dismantled/unlicensed vehicles. All junked/inoperable/ dismantled/unlicensed vehicles that are parked overnight will be issued citations.
- w. At no time shall any site within the development be used to sell or advertise any vehicles that are "for sale".
- x. No vehicular parking will be permitted in driveways, maneuvering lanes, fire lanes or on landscaped areas.
- y. There shall be no outdoor storage or display of materials, goods or equipment on any site, within the Development unless as approved by the Village.
- The use of semi-trailers, storage units, storage bins, roll-off storage devices (e.g. P.O.D.S., S.A.M.S.) or other trucks, for storage purposes is prohibited. Outdoor storage of any materials, including but not limited to: retail products for sale, raw materials, business supplies, pallets, crates, etc., is prohibited.
- aa. No trucks, trailers or cars shall be parked in a manner that would constitute advertising of a business on the properties.

- bb. No use shall be conducted in such a way as to constitute a public or private nuisance or to violate any of the performance standards set out in Section 420-38 of the Village Zoning Ordinance.
- cc. Municipal connection fees shall be paid prior to the connections of each building to the sanitary sewer system.
- dd. All Village fees incurred by the Village Administrative Personnel, Village Engineers, Village Inspectors and/or expert Consultants (e.g. Village Attorneys) required by the Village throughout the development process will be billed directly to the Developer. Such fees shall be paid in a timely manner.
- ee. All Village fees incurred by the Village Community Development Department and/or expert Consultants (e.g. Village Attorneys) required by the Village throughout the development review process will be billed directly to the Developer. Such fees shall be paid in a timely manner.
- ff. Impact fees pursuant to Chapter 181 of the Village Code are required to be paid at time of building permit for each development site.
- gg. More detailed staff comments will be forthcoming as more detailed plans are provided to the Village.





# VILLAGE STAFF MEMORANDUM

TO:	Jean Werbie-Harris, Community Development Director
FROM:	Doug McElmury, Chief Fire & Rescue Department
CC:	Lt. Thomas Clark, Fire & Rescue Department
	Peggy Herrick, Assistant Planner, Community Development
SUBJECT:	Review of the Conceptual Plan for the proposed Riverview/Stateline Corporate
	Park
DATE:	August 4, 2013

This is a review of the Conceptual Plan for the proposed Riverview/Stateline Corporate Park. The plan consists of multiple buildings ranging in size from 87,330 square feet to 428,187 square feet. The Riverview Corporate Park is located east of I-94 Southeast of Premium Outlets.

The Fire & Rescue Department will be responsible for providing fire prevention inspections of this facility, twice annually. The concerns of the Fire & Rescue Department are as follows:

- 1. Distribution of Comments: the person who obtains the building permit to all Contractors and Subcontractors affected by this document shall distribute Copies of these comments. This document outlines critical times and deadlines. All recipients of this document need to become familiar with the contents.
- 2. **Compliance:** A letter shall be submitted to the Fire & Rescue Department prior to receiving a building permit, stating that the project will comply with all requirements addressed within this document.
- 3. In the event a conflict in code(s) is identified, or a conflict with the insurance carrier criteria occurs, the more stringent shall apply. In the event this conflicts with any codes adopted by the State of Wisconsin, the owner must petition the State directly for a variance. The Owner must demonstrate that they will provide materials or design equivalent to the code or that they will exceed the code when petitioning the State and or Village when applicable.

Upon review of the plans submitted, we have the following concerns:

- Access to building A and building B is limited to only one roadway serving the two buildings. This can severely limit emergency response if this one access point is disrupted.
- AED. Because of the overall size of each building the owner shall install one or more public access Automatic External Defibrillator (AED) in each building for employee use in the event of a sudden cardiac arrest. The Fire & Rescue Department can provide the training necessary to perform CPR and to operate the AED.
- Fire Alarm Control Panel: The main FACP <u>will</u> be placed in the fire sprinkler riser/fire pump room of each building. Remote annunciator panel locations will need to be determined.
- Fire safety system plans, such as fire sprinkler and fire alarm plans, will need to be submitted to the State of Wisconsin Department of Safety and Professional Services and also to this fire department for review. No installation of any fire protection system is allowed until a satisfactory review is obtained from both departments.
- Fire hydrants: <u>Does not</u> meet the Village Ordinance of a maximum distance of 350 feet apart. Hydrants shall always be visible and accessible, in particular in any area where trailer trucks will be parked or staged.
- Truck staging shall not decrease the width of the fire lanes.
- Rack storage: If it is the intent to use rack storage, that rack storage configuration must be reviewed by the fire protection contractor to assure adequate fire sprinkler protection. Rack storage shall not adversely affect the maximum exit distance requirements. This process needs to begin immediately to assure no interruption in the construction timeline and to assure the opening date will be met.
- Severe Weather Shelter: The architect shall identify the area within the building that can be used as a "severe weather shelter" or "safe haven" during severe weather such as a tornado. That area will be identified with signage.
- Each building shall be re-evaluated at such time a tenant(s) is secured.

#### 4. Fire and Rescue Department Review and Comments:

- A. Site and Operational Permits
  - Site accessibility Shown
  - Fire Pump Location Not Shown
  - Pumper Pad
     Not Shown
  - Fire hydrant spacing **Shown as conceptual**

#### B. Conditional Use and Operational

- 1. Standpipe outlet locations
- 2. Fire alarm pull stations
- 3. Emergency and Exit Lighting
- 4. Fire extinguishers

Not shown at this time. Not shown at this time. Not shown at this time. Not shown at this time.

- 5. **Plan Review, Permits and Fees:** The plans for the fire protection underground, aboveground and fire alarm system shall be submitted for review a minimum of four (4) weeks before installation is scheduled to begin. The Village will use an independent fire safety consultant for review of all fire protection plans submitted. A satisfactory review must be completed before any permits will be issued and before construction can begin.
- 6. **Insurance Carrier:** The Owner of this project shall submit to the insurance carrier for review the plans for both underground water distribution and fire protection prior to construction. The Fire & Rescue Department shall receive a copy of the comments when plans are submitted for review.
- 7. **Hazardous Occupancies**: The Fire & Rescue Department will need more than the typical four week time period to review proposed Hazardous Occupancies. The owner must contact the Fire & Rescue Department as soon as possible to begin the review process.
- 8. Each building requires the following information be submitted with the sprinkler plans for review:

Building height: Number of stories/floors: Mezzanines: Clear space: Elevators: Hazard class: Commodity: Maximum storage height: Square footage, office space: Square footage, Manufacturing including maintenance and equipment: Square footage, receiving space: Square footage, shipping space: Square footage, warehouse space: Exterior storage: Fire protection:

9. The following Fees and Permits are generated directly from the Fire & Rescue Department.

NOTE: Permits are required from the Fire & Rescue Department for the installation of water main in addition to any permits required by other Village of Pleasant Prairie Departments.

Bulk Water

- o Water Usage
- o Fire Protection Plans for Underground and Aboveground
- o Fire Alarm System Plans
- o Kitchen Hood Systems Plans
- Occupancy Permit & Re-Inspection fees

An invoice for permit fees will be issued upon achieving a satisfactory review. Work cannot begin until all permits have been issued. A typical review turnaround is four weeks.

- 10. **Required Licenses:** A Wisconsin licensed fire protection contractor and Wisconsin licensed sprinkler fitters must install underground fire mains and aboveground fire protection. Periodic inspections of the job site will be made by fire inspectors to assure compliance.
- 11. **Pre-Construction Meeting:** A pre-construction meeting shall take place with the general contractor, the fire protection contractor, the Fire & Rescue Department and any other sub-contractor prior to the installation of any underground fire protection. The purpose of this meeting is to assure that the requirements of the State of Wisconsin that only a Wisconsin licensed sprinkler fitter shall perform the installation of all devices, etc. All parties will be asked to initial this document and or permit. Any violation of the installing requirements will be reported in writing to the State of Wisconsin Department of Safety and Professional Services.
- 12. **Site Access:** Access shall be provided around the perimeter of the site for all Fire Department apparatus, and must comply with the State of Wisconsin and the International Building Code, 2009 edition. A minimum wall-to-wall turning radius of 45'-0" shall be allowed for apparatus movement.
  - a. All entrances from public streets, as well as road and driveways around the proposed building <u>must be a minimum of 30 feet wide</u>.
  - b. All exterior exit pathways as well as access to the Fire Pump Room shall have a hard surface, leading to a hard surface.
  - C. An exterior personnel door shall be located in close proximity to each fire sprinkler riser.

- Sprinkler System: The buildings shall be equipped with an "automatic fire sprinkler system". The systems shall be designed and constructed to the current edition of NFPA 13, Automatic Fire Sprinklers and the Village of Pleasant Prairie Ordinance 180-16, Automatic Fire Sprinklers.
- 14. **Fire Pump:** At such time a Fire Pump becomes part of a fire sprinkler system, there shall be sufficient room to maneuver within the fire pump room. There shall be direct ingress/egress from the fire pump room directly to the exterior of the building; a paved surface shall lead to the fire pump room. There shall be Emergency Lighting installed within the Fire Pump Room. The pump test header location shall comply with 180.16.
- **Storage:** The Owner and Tenant both need to be aware of the restrictions that apply to the storage of pallets, cardboard, finished products, etc. Maximum height, width and aisle ways must be maintained and will be enforced. The same concerns apply to the storage of large quantities of combustibles (plastics, plastic wrap and cardboard) such as those used in packaging and storage.

**NOTE:** Dependent upon storage configurations and the possible use of in rack storage; in rack sprinkler protection may be required.

- 15. **Water Service:** If it is determined that the building will be serviced by a combination municipal water and fire protection main, that main must be sized by the fire protection (sprinkler) contractor. No main is allowed to travel underground, under the building.
- 16. **Plan Review (Underground):** A review of the underground drawings is required along with the fire protection drawings before a permit will be issued by the Fire & Rescue Department. Underground plans shall be submitted a minimum of four (4) weeks before installation begins.
- 17. **Standpipes:** In lieu of 1.5 inch hose stations, the building shall be equipped with standpipes that shall consist of 2-½ inch NST valve, capable of delivering 250 GPM, at 75 PSI measured at the standpipe valve, when supplied by the fire department pumper, in the event no fire pump is needed. The standpipes shall be wet and placed adjacent to all exterior exit doors, same side as the door handle/knob. Village Ordinance 180.16 G.
- 18. Fire Hydrants: Fire hydrants shall be <u>spaced no more than 350 feet</u> apart around the perimeter of the building, per Village Ordinance 180-16. <u>The insurance carrier must agree in writing to the hydrant spacing</u>. As many hydrants as possible shall be supplied directly by municipal water. The distance from the finished grade line to the lowest discharge shall be no less than 18 inches and no more than 23 inches. The Fire Department connections shall be located, and of sufficient height where typical snow fall or snow removal operations will not obstruct access. NOTE: Drawing dated 7/17/13 does not meet this requirement.

- 19. Fire Hydrant Acceptance: This project will include the installation of water mains for domestic and fire protection use. Prior to the fire sprinkler system connection to any new water mains (including water mains, fire hydrants, laterals leading to the building and risers) must be hydrostatically tested flushed according to National Fire Protection Association (NFPA–National Fire Code) Standard 24 and witnessed by the Fire Chief and or the Chief's representative, the installing contractor and the fire sprinkler contractor at a minimum.
- 20. Fire hydrant and water main flushing can be disruptive to the job site and requires significant coordination of all sub-contractors by the General Contractor. Nonetheless flushing is an essential part of assuring public safety.
- 21. The General Contractor is highly encouraged to coordinate the flushing of all new water mains, fire hydrants, laterals leading to the building and risers with both the sub-contractors responsible, the Village of Pleasant Prairie Engineering Department, Fire & Rescue Department and the Water Utility Department, prior to seeking a 'clean water sample' on this site.

**NOTE:** The Fire Protection Designer must meet with the Fire & Rescue Department before the underground drawings are submitted for review to finalize the placement of the hydrants.

22. **Pumper Pad:** For each building there shall be a dedicated space for a fire engine to have unobstructed access to the Pumper Pad. Both the Fire Department Sprinkler connection and the fire hydrant shall be installed remote from the building and located a minimum distance from the building equal to the highest wall. The fire hydrant shall be located no more than five (5) feet from the roadway and the Fire Department sprinkler connection shall be placed no more than five (5) feet from the fire hydrant. The Fire Department connection shall be constructed along with an underground drain with access for inspection. A guideline detail is attached and is meant to illustrate the requirements needed to meet the requirements stated in Village Ordinance 180-16.

**NOTE:** The Fire Department Connection riser shall include a single five (5) inch Storz fitting with a 30 degree bend.

- 23. **Bollards:** Shall be placed near fire hydrants, remote post indicator valves (PIV) and Fire Department connection(s) to prevent damage. Bollards shall be 6 inches in diameter. Bollards shall not obstruct charged fire hoses. It is recommended that the Fire Department approve the location of the bollard(s) before final placement is made.
- 24. **Strobe Light:** A strobe light shall be provided for each riser and installed vertically above each sprinkler water flow bell. The strobe light shall operate for a sprinkler water flow. The lens color shall be RED. The strobe light shall meet Village specifications as found in section 180-16 K of the Sprinkler Ordinance.

- 25. **Fire Alarm System: The system shall be fully addressable so that detailed information will be received about the device in alarm.** Utilizing a fire pull station, sprinkler water flow, or any other fire detection device that maybe installed in this building shall activate the internal fire alarm system.
  - **a**. **Manual Fire Alarm Pull Stations:** Shall be located at a minimum, immediately adjacent to each exterior door. Any additional exterior doors will be required to meet this requirement. The pull station shall not be placed in the area of the door, but immediately adjacent to the door jamb.
  - b. Pull Stations and Audiovisual Alarms: Shall be installed per ADA requirements.
  - **c. Smoke and Heat Detection:** Shall be installed as required.
  - d. **Tamper Switches:** Tamper switches shall be placed on all sprinkler valves and be identified on the annunciator panel.
  - **e**. **Fire Alarm Control Panel: Shall be addressable.** The annunciator panel type shall be approved by the Fire & Rescue Department. The Fire Alarm Control Panel shall be located within the Fire Pump Room. The panel shall identify a fire sprinkler water flow by riser, and the specific locations of the fire alarm pull stations and any other fire detection devices that may be installed in this building.
  - f. Annunciator Panel: Shall be addressable. The annunciator panel type shall be approved by the Fire and Rescue Department. The panel shall identify a fire sprinkler water flow by riser, and the specific locations of the fire alarm pull stations and any other fire detection devices that may be installed in this building.
  - **g. Central Station:** The Fire Alarm Control Panel shall transmit all fire alarm, tamper, trouble and supervisory signals to a central station that is certified by Underwriters Laboratories (UL) and/or Factory Mutual (FM) and approved by the Fire & Rescue Department. The owner shall provide such documentation for approval. It is recommended that the owner consult with the Fire & Rescue Department prior to signing any contracts with the Central station.
    - 1) The central station shall be provided with this information regarding the geographical location of this alarm:

Village of Pleasant Prairie, County of Kenosha, State of Wisconsin

Fire:	Pleasant Prairie Fire & Rescue
Medical:	Pleasant Prairie Fire & Rescue

Phone numbers:	
<b>Emergency:</b>	(262) 694-1402
Non-emergency:	(262) 694-7105
Business:	(262) 694-8027

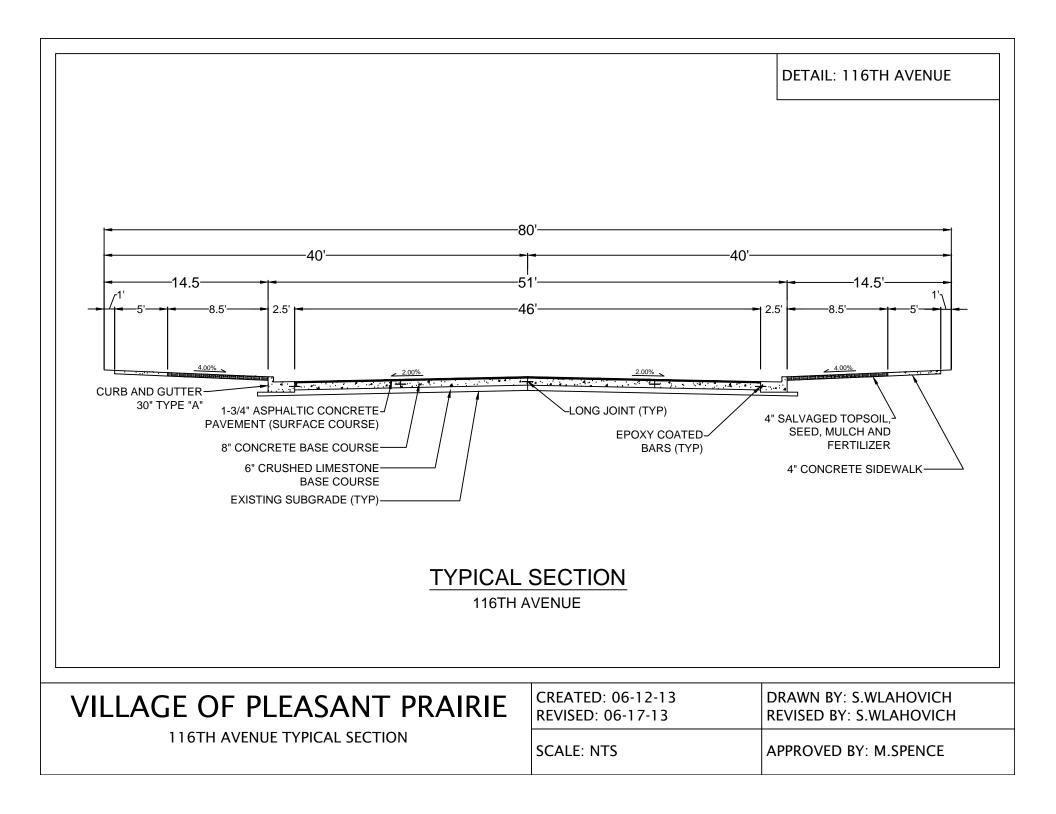
26. **Knox Box:** Knox Boxes shall be provided for each building, a determination of the exact number required will need to be made during the pre-construction meeting. The Knox Boxes shall be Model 4400. Two sets of all keys (Master, fire alarm pull station,

annunciator, elevator, etc.) shall be placed within the box, as well as a copy of the prefire plan.

- 27. **MSDS Knox Box:** A minimum of One (1) Knox Box(s) designed for Material Safety Data Sheet storage shall be provided for each tenant to contain the data sheets on all products that are considered hazardous within the facility. The MSDS Box(s) shall be installed within the Fire Pump Room.
- 28. **Fire Extinguishers:** Shall meet NFPA 10 (Portable Fire Extinguishers) for the specific use of the building and be in sufficient number. Final approval, of fire extinguisher locations and quantity, will not be given until occupancy is taken, to see how a tenant furnishes the space. The company providing the fire extinguishers shall submit a letter to the Fire & Rescue Department stating the locations and size of the extinguishers are in compliance with NFPA 10.
- 29. Emergency and Exit Lighting: Exit and Emergency Lighting shall be provided and shall have battery backup. Combination units are acceptable and recommended. An Emergency Generator eliminates the need for battery backup. Exit and Emergency Lighting shall not be placed on electrical circuits that cannot be disturbed or interrupted, this is for test purposes. These circuits shall be clearly labeled. The Fire & Rescue Department will evaluate this lighting prior to occupancy during the evening hours after sunset. An Emergency light shall be placed within the fire pump room. Emergency and Exit lighting will be inspected after sunset to assure it is adequate and meets the Code.
- 30. **Final Inspection:** The General Contractor shall provide the following documentation at the time the Final Inspection takes place and before a building occupancy certificate will be issued.
  - a. The fire protection contractor shall provide the owner with a letter (upon completion of the sprinkler work) stating the sprinkler system, or portion thereof, is "100% operational and built according to the design", Village Ordinance, 180-16 N.
  - b. Copy of contract with fire alarm central monitoring station.
  - c. Copy of UL and/or FM certificate(s) for the fire alarm central monitoring station.
  - d. Copies of the fire protection underground flushing documents.
  - e. Copies of the underground and fire sprinkler hydrostatic test certificates.
  - f. Copies of the fire sprinkler operational test certificates.
  - g. Copies of the fire alarm test documents.
  - h. Copies of other test documents such as, hood/duct, smoke, etc...
  - i. The Pleasant Prairie Fire and Rescue Department shall have all information needed for our pre-fire plan prior to occupancy.
  - j. Provide two- (2) CD's, one for the property owner and one for the Fire & Rescue Department. The disks shall include all Floor plans and fire protection plans for the building in an as-built condition.
  - k. Severe Weather Shelter: The architect shall provide for both the Owner and the Fire & Rescue Department the area within the building that can be used as a "severe weather shelter" or "safe haven" during severe weather such as a tornado.
  - 1. Maps of the fire alarm and fire sprinkler system shall be placed in the fire pump room, near

the fire alarm control panel; the maps shall be hung on the wall, with a waterproof covering and accessible to firefighters wearing bulky clothes and equipment.

- m. AED, in place at such time a tenant takes occupancy.
- n. A copy of the tenants Emergency Plan must be submitted to the Fire & Rescue Department before occupancy.
- o. Occupancy inspection fee and re-inspection fee will be assessed at the final inspection in accordance with ordinance 180-17.
- 31. **Occupancy:** All fire and life safety requirements must be in place prior to any building being occupied.





#### DEPARTMENT OF THE ARMY ST. PAUL DISTRICT, CORPS OF ENGINEERS 180 FIFTH STREET EAST, SUITE 700 ST. PAUL MINNESOTA 55101-1678

REPLY TO ATTENTION

Operations

September 4, 2013

Ms. Jean Werbie-Harris Village of Pleasant Prairie 9915 29<sup>th</sup> Avenue Pleasant Prairie, Wisconsin 53158-6504

Regulatory (2013-03130-MHK)

Dear Ms. Werbie-Harris:

We have received your notice that the Village of Pleasant Prairie will be conducting a Public Hearing for the proposed Riverview Corporate Park development. The development is located in Section 30 and 31, T. 1N., R. 22E., Kenosha County, Wisconsin. Please consider the following general information concerning our regulatory program that may apply to the proposed project.

If the proposal involves discharge of dredged or fill material into waters of the United States, it may be subject to the Corps of Engineers' jurisdiction under Section 404 of the Clean Water Act (CWA Section 404). Waters of the United States include navigable waters, their tributaries, and adjacent wetlands (33 CFR § 328.3). CWA Section 301(a) prohibits discharges of dredged or fill material into waters of the United States, unless the work has been authorized by a Department of the Army permit under Section 404. Information about the Corps permitting process can be obtained online at <u>http://www.mvp.usace.army.mil/regulatory</u>.

The Corps' evaluation of a Section 404 permit application involves multiple analyses, including (1) evaluating the proposal's impacts in accordance with the National Environmental Policy Act (NEPA) (33 CFR part 325), (2) determining whether the proposal is contrary to the public interest (33 CFR § 320.4), and (3) determining whether the proposal complies with the Section 404(b)(1) Guidelines (Guidelines) (40 CFR part 230).

If the proposal requires a Section 404 permit application, the Guidelines specifically require that "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences" (40 CFR § 230.10(a)). Time and money spent on the proposal prior to applying for a Section 404 permit cannot be factored into the Corps' decision whether there is a less damaging practicable alternative to the proposal. As the Wisconsin Department of Natural Resources letter dated August 22, 2013 describes, there may be alternative site configurations in upland areas which may further avoid or minimize aquatic impacts than the concept plan currently proposes. Is is upon the applicant to clearly rebut the presumption that upland sites/areas are available that would be less environmentally-damaging than the proposal.



Operations Regulatory (2013-03130-MHK)

The project proposer may request a pre-application consultation meeting with the Corps to obtain information regarding the data, studies or other information that will be necessary for the permit evaluation process. A pre-application consultation meeting is strongly recommended for this project as the proposed impacts to waters of the United States appear to be substantial.

For further information or to request a pre-application consultation meeting, please contact Marie Kopka at (651) 290-5733, the Corps' project manager for the County in which this proposal is located.

Sincerely,

Tamara E. Cameron Chief, Regulatory Branch

Electronic copy furnished: Kathi Kramasz, Wisconsin DNR (INF-SE-2013-30-02609)

State of Wisconsin DEPARTMENT OF NATURAL RESOURCES Plymouth Service Center 1155 Pilgrim Road Plymouth, WI 53073



Scott Walker, Governor Cathy Stepp, Secretary Telephone 608-266-2621 Toll Free 1-888-936-7463 TV Access via relay - 711



08/22/2013

Village of Pleasant Prairie

INF-SE-2013-30-02609

Ms. Jean Werbie-Harris Village of Pleasant Prairie 9915 39<sup>th</sup> Avenue Pleasant Prairie, WI 53158

RE: Venture One Real Estate, Riverview Corporate Center, Des Plaines River Tributary, located in the Village of Pleasant Prairie, Kenosha County, also described as Section 30, Township 1 North, Range 22 East.

Dear Ms. Werbie:

Thank you for the opportunity to comment on the proposed development plan for the Riverview Corporate Center. The conceptual plan indicates proposed weltand fill for Lot 1, Lot 3, Lot 4 and the future road. No DNR permits have been applied for or issued for this potential wetland fill and it is not likely that this amount of fill can be approved. In the wetland fill application process, the applicant must show that the proposed project cannot avoid wetlands and that the unavoidable fill cannot be minimized. In this case it appears that the building area of Lot 1 can be reduced to avoid/minimize the wetland impact and that lots 3 and 4 can be reconfigured to orient west to east and be reduced in size to avoid/minimize wetland impact. Lots 2 and 5 do not appear to have any wetland impact.

It can be problematic for the applicant when the municipality approves a development plan that has to be modified to meet DNR and COE standards. I would request that the Village consider tabling this request until DNR and COE permitting issues are resolved. In addition some of the proposed fill may be within shoreland-wetland areas which will require a Village rezone process.

I do not have the agent's mailing address so cannot send this letter to them. If you have any questions, please call me at (920) 892-8756 ext 3031 or email Kathleen.Kramasz@wisconsin.gov.

Sincerely,

Kathi Kramasz Water Management Specialist

C: COE Peterbod, DNR SheAcrat



Riderview Riverview<u>Stateline-Corporate</u> Park

Document Title

Del commente. Jut

Recording Area

Name and Return Address

# RIVERVIEWSTATELINE CORPORATE PARK DECLARATION OF DEVELOPMENT STANDARDS AND PROTECTIVE COVENANTS

# **EXHIBITS**

Exhibit A - Legal Description of <u>RiverviewStateline</u> Corporate Park Exhibit B - Depiction of Areas for Use Restrictions Exhibit C - Description of Subtraction Land

# Riverview Stateline CORPORATE PARK

### Declaration of Development Standards and Protective Covenants

THIS DECLARATION made as of the \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, a[n] \_\_\_\_\_ limited liability company, with its principal place of business at \_\_\_\_\_, \_\_\_\_, \_\_\_\_\_(the "Company").

#### **RECITALS**:

WHEREAS, the Company is the owner of the real property located in the Village of Pleasant Prairie, County of Kenosha, State of Wisconsin described on the attached <u>Exhibit A</u> (the "Premises"); and

WHEREAS, it is the Company's intent to develop the Premises into a corporate park to be known as **RIVERVIEW**STATELINE CORPORATE PARK (the "Park"); and

WHEREAS, the Company desires that development of the Park accomplish the following purposes:

(a) To provide for development and use of the Park which is structurally, architecturally and aesthetically acceptable to the Company and the Architectural Control Committee (as defined below);

standards:

(b) To create an attractive environment by applying quality development ;

(c) To ensure that any Buildings or Structures within the Park are constructed of materials acceptable to the Company and the Architectural Control Committee in energy efficiency, appearance, quality and design;

(d) To provide for adequate off-street parking and loading facilities, sign controls, landscaping, surface drainage, and property maintenance on individual Building Sites; and

(e) To provide for development and maintenance that will preserve and enhance the value of the Premises, and generally benefit the Company, Owners, and the Municipality; and

WHEREAS, to accomplish these purposes, it is the Company's further intent to impose certain covenants, conditions and restrictions upon the Premises (the "Covenants"), and to retain the right (but not the obligation) to enforce the Covenants with respect to any existing or future use of the Premises or any part thereof by Owners, their heirs, assigns, lessees, licensees, invitees, successors in interest and personal representatives;

NOW, THEREFORE, the Company hereby declares that, except as provided in Section 1.16.2, the Premises shall be held, sold, conveyed, occupied, developed and maintained in accordance with the Covenants set forth herein, and these Covenants shall run with the land and shall be binding upon any party having any right, title or interest in or to any part or parcel of

the Premises, their heirs, assigns, lessees, licensees, invitees, successors in interest, and personal representatives until these Covenants are terminated in accordance with the provisions hereof.

#### ARTICLE I Definitions

Unless the context otherwise requires, the terms used herein have the following meanings:

1.1 <u>Affiliate</u>. The term "Affiliate" shall mean a parent, sister or subsidiary corporation, joint venturer, or general partner of an Owner or a person who owns more than fifty percent (50%) of the voting stock, membership interests or partnership interests in an Owner.

1.2 <u>Architect</u>. The term "Architect" shall mean a person duly licensed as an architect under the laws of Wisconsin or any other state acceptable to the Company.

1.3 <u>Architectural Control Committee</u>. The term "Architectural Control Committee" shall mean the committee authorized to conduct the architectural building plan review described at Article V and to otherwise oversee development of the Park, as described in this Declaration.

1.4 <u>Association</u>. The term "Association" shall mean the non-stock, non-profit Wisconsin corporation whose membership consists of Owners of Lots in <u>RiverviewStateline</u> Corporate Park. The Company or its assigns shall be entitled to exercise all of the rights of the Association until such time as the conditions set forth in Section [14.1] are satisfied, the Association is established and the Board of Directors of the Association is elected.

1.5 <u>Building</u>. The term "Building" shall include both the main portion of any building on the Premises, and all projections and extensions thereof, including but not limited to platforms, docks, eaves, canopies, walls and screens.

1.6 <u>Building Site</u>. The term "Building Site" or "Site" shall mean any Lot or contiguous Lots or portion(s) thereof within the Park upon which Buildings may be erected and used in conformance with these Covenants and the statutes, regulations, codes and ordinances of the State of Wisconsin, County of Kenosha and the Municipality.  $V_{11}a_{2}e_{2}$ 

1.7 <u>Common Elements</u>. The term "Common Elements" shall mean all personal property, fixtures, structures and improvements conveyed by the Company to the Association at the time the Association is formed. Common Elements may include such things as signs, maintenance equipment, drainage systems and other improvements, which have been constructed or maintained for the common good of the Owners.

1.8 <u>Company</u>. The term "Company" shall mean\_\_\_\_\_, in addition to \_\_\_\_\_\_, and any person or organization, which shall be assigned the right to enforce these Covenants under Section [13.1].

1.9 <u>Detention Ponds</u>. The term "Detention Ponds" shall mean areas of open water, whether permanent or seasonal, natural or man-made, forming part of the Park's drainage system as described and designated as such on the Drainage Master Plan.

1.10 Drainage Master Plan. The term "Drainage Master Plan" shall mean the plan

adopted by the Company describing the drainage pattern of the Premises and outlining the proposed drainage system for the Park, together with any future revisions <u>and amendments</u> to said plan<u>made by the Architectural Control Committee</u>, which plan<u>and</u>, <u>including any</u> revisions <u>and amendments</u>, shall be available for review at the office of the Company.

1.11 <u>Engineer</u>. The term "Engineer" shall mean a person duly licensed as a professional engineer under the laws of Wisconsin or any other state acceptable to the Company.

1.12 <u>Improvements</u>. The term "Improvements" shall mean any man-made changes in the natural condition of the Premises including, but not limited to, Buildings, Structures, or other construction of any kind (whether above grade, below grade, or on the land surface), fences, walls, signs, additions, alterations, screen enclosures, sewers, drains, disposals, lakes, waterways, roads, paving, utilities, grading, landscaping and exterior illumination, and shall expressly include any changes in existing Improvements.

1.13 Lot. The term "Lot" shall mean a fractional part of the Premises, which has been designated as a separate parcel by or with the written approval of the Company.

1.14 <u>Municipality</u>. The term "Municipality" shall mean the Village of Pleasant Prairie or such other municipality in which the Premises, or any part thereof, may be located.

1.15 <u>Occupancy</u>. The term "Occupancy" shall mean the legal right of any person or organization, whether Owner, lessee, tenant, licensee or such person's heirs, assigns, successors in interest or personal representatives, to possess and/or use any Lot or Improvement within the Park as determined by the issuance of an occupancy permit by the Municipality, whether or not such right is exercised. In the event that the Municipality does not have a system of issuing occupancy permits, then "Occupancy" shall occur when the improvements are sufficiently complete such that they comply with all applicable building and zoning codes, local ordinances and state law and can be used for the purposes intended.

#### 1.16 <u>Owner</u>.

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1.16.1 The term "Owner" shall mean, <u>collectively</u>, one or more partners, persons, trusts, corporations, or other entities holding record title to the fee simple interest to a Lot or Lots, and shall include land contract purchasers (but not land contract vendors) and secured parties if in possession, their heirs, assigns, successors in interest or personal representatives. An Owner may upon written notice to the Company, assign all or part of its rights hereunder to said Owner's tenant or lessee. An Owner may not assign its duties and obligations hereunder.

1.16.2 The term "Owner" shall not include the Company with respect to <u>Lots not</u> <u>yetany Lot or Saleable Acreage until</u> sold <u>to an Original Owner</u> by the Company, <u>Lots</u> repurchased by the Company pursuant to Section 3.2, or undeveloped Lots repurchased by the <u>Company pursuant to Section 3.3</u>, but shall include the Company with respect to <u>developed</u> <u>Lotsany Lot</u> purchased by the Company <u>and with respect to</u> <u>unsold Lots developed by the</u> <u>Company</u>. [MARK: Do you see a conflict that should be clarified?].

1.16.3 The term "Original Owner" shall mean the first purchaser of each Lot or Lots from the Company.

1.17 <u>Plan Commission</u>. The term "Plan Commission" shall mean the Plan

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Commission or such other committee of the Municipality authorized to review and approve land use planning.

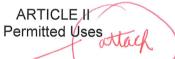
<u>1.18 Percentage Sold. The term "Percentage Sold" shall mean the percentage</u> <u>determined by calculating the ratio of acreage sold and deeded to Owners with Saleable Acres.</u>

1.18 <u>Preservation Lands</u>. The term "Preservation Lands" shall mean all real property and real property interests owned by the Company, located within the Park and which at the time of incorporation of the Association the Company desires to convey to the Association, and which are determined by the Company in its sole judgment to be worthy of preservation. Floodplains, greenways, wetlands, open spaces, lakes and Detention Ponds are examples of real property that may be considered Preservation Lands.

<u>1.19</u> Saleable Acreage. The term "Saleable Acres" shall mean the number of acres calculated from time to time by the Company based on acreage subject of record to this Declaration, by subtracting from the total acreage, the acreage of all areas not intended by the Company to be included in a Lot or Building Site, such as dedicated roads and potential Preservation Lands. Saleable Acreage shall include both acreage sold by the Company and acreage the Company intends to sell.

1.19 <u>Site Plan</u>. The term "Site Plan" shall mean a comprehensive plan describing the development of a Building Site as described in Section 4.1.

1.20 <u>Structure</u>. The term "Structure" shall mean an above-ground Improvement.



2.1 <u>Permitted Uses</u>. The development of the Premises shall be divided into Lots as described and depicted on Exhibit B <u>pecificSpecific</u> permitted uses, as more fully set forth below and subject to applicable requirements or restrictions of the Municipality. SuchSpecific per\_and approved uses shall be performed or carried out entirely within a Building that is so designed and constructed that the operations and uses, which must be enclosed, do not cause or produce a nuisance to other Lots or property, such as, but not limited to, vibration, magnetic disturbances, radiation, air or water pollution, dust or emission of odorous, toxic or nontoxic matter (including steam), nor create a potential for explosion or other hazard. Certain activities, which cannot be carried on within a Building, may be permitted, provided the Company specifically consents to such activity in writing, and further provided such activity is screened so as not to be visible from neighboring property and streets.

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2.2 <u>Uses Permitted in The Park</u>. Lots are designated for <u>certain light</u> and <u>medium-industrial uses</u>, research and development uses, industrial support and service uses, and <u>business and professional office uses</u>. The following uses are permitted on Lots:

2.2.1 Uses primarily engaged in research activities, including research laboratories, developmental laboratories, and compatible light manufacturing such as, but not limited to, the following:

2.2.1.1 Chemical; 2.2.1.2 Electronics;

2.2.1.3	Film and photography;
2.2.1.4	Medical and dental;
2.2.1.5	Metallurgy;
2.2.1.6	Pharmaceutical; or
2.2.1.7	-X-ray.

2.2.2 Uses primarily engaged in manufacture, research, assembly, testing and repair of components, devices, equipment and systems and parts and components, involving the following or similar items:

2.2.2.1 Coils, tubes, semiconductors;				
2.2.2.2 Communication, navigation, guidance and control				
equipment;				
<b>[CONTENT INTEGRATING AND CONFORMING TO M5 ZONING</b>				
2.2.2.3 Data processing equipment, including computer software; WILL BE				
INSERTED HERE.]				
2.2.2.4 Glass edging and silvering equipment;				
2.2.2.5 Graphics and art equipment;				
2.2.2.6 Metering equipment				
2.2.2.7 Radio and television equipment;				
2.2.2.8 Photographic equipment;				
2.2.2.9 Radar, infrared and ultraviolet equipment;				
2.2.2.10 Optical devices and equipment; or				
2.2.2.11 Filling and labeling machinery.				

2.2.3 Uses primarily engaged in manufacturing, processing, and/or assembly of the following or similar products:

<del>2.2.3.1</del>	-Food products;
2.2.3.2	Apparel and finish products from textile products;
2.2.3.3	Lumber and wood products;
<del>2.2.3.4</del>	Furniture and fixture products;
2.2.3.5	Chemical and allied products;
<del>2.2.3.6</del>	Plastic and rubber products;
2.2.3.7	Stone, clay, and glass products;
<del>2.2.3.8</del>	Fabricated metal products; or
<del>2.2.3.9</del>	Professional, scientific, controlling, photographic, and
	optical products or equipment.

2.2.4 Uses engaged in service industries or those industries providing service to, as opposed to the manufacture of, a specific product, such as the repair or maintenance of appliance or component parts, tooling, printers, testing shops, small machine shops, and shops engaged in the repair, maintenance and servicing of such items, but excluding automobile and truck repair and equipment rental yards.

2.2.5 Uses involving industries engaged in the distribution and/or storage or warehousing of products relating to the Permitted Uses on Lots.

2.2.6 Uses involving construction industry businesses such as general contractors, electrical contractors, plumbing contractors, and their accessory and incidental offices.

2.2.7 Uses engaged in blueprinting, photostating, photoengraving, printing, publishing, and bookbinding.

2.2.8 Uses primarily engaged in administrative and professional offices, but limited to: (i) offices, which are associated with any permitted business use, or (ii) offices, which do not attract nor are primarily dependent upon business customers visiting the office. Permitted offices include, but are not limited to, corporate offices, regional offices, general offices, and such professional offices as accountants, attorneys, engineers, architects, and planners. Prohibited offices include, but are not limited to, banks and financial institutions, medical and dental offices, employment agencies, real estate agencies, and travel agencies.

2.2.9 Accessory uses and structures when related and incidental to a permitted use such as, but not limited to, food preparation, food service, eating facilities, and auditoriums to serve employees.

2.2.10 Restaurants, subject to the review and approval of conditional use permit by the Company and the appropriate governmental authority having jurisdiction.

2.3 <u>Uses Permitted in Area 2</u>. Area 2 is designated for community and regional service, commercial, travel service, industrial support, and business and professional office uses. Commercial uses within Area 2 are intended to service the needs of the employees and businesses within the Park and are not intended to draw traffic from surrounding areas. The following uses shall be allowed in Area 2:

2.3.1 Retail commercial businesses oriented to the needs of people employed within the Park;

2.3.2 Commercial service businesses oriented to the need of the businesses and their employees located within the Park;

2.3.3 Personal service businesses;

2.3.4 Financial service businesses;

2.3.5 Blueprinting, photo stating, photoengraving, printing, publishing, and bookkeeping;

2.3.6 Administrative, professional, and business offices;

2.3.7 Restaurants;

2.3.8 Health or athletic club facilities;

2.3.9 Service stations;

2.3.10 Hotels and motels; and

2.3.11 Theaters.

2.4 Uses Permitted in Area 3. Area 3 is designated for business and professional

# office uses and ancillary uses.

2.5 <u>Compliance with Zoning</u>. All Building Sites in the Park shall be developed in conformance with the zoning requirements in effect as of the date of application and approval of necessary building permits or, if more restrictive in the judgment of the Architectural Control Committee, with the zoning requirements in existence on the date of this Declaration for the specific zoning district(s) in which such Sites are located. Owners shall be responsible for ascertaining the zoning classification applicable to their Building Sites, and shall comply with all regulations applicable to such classification. An Owner intending to apply for a zoning amendment, conditional use permit, exception or variance for its Building Site, must obtain the Architectural Control Committee's approval and shall first submit such application to the Architectural Control Committee for review and approval. Disapproval by the Architectural Control Committee and shall be in the sole discretion of the Architectural Control Committee and shall be in the sole discretion by the Plan Commission.

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2.6 <u>Nuisances</u>. No noxious or offensive trade or activity, whether or not permitted by applicable zoning, shall be carried on within the Park, nor shall anything be done which is or may become an annoyance or nuisance to adjacent Owners or other Park users, or which is inconsistent with these Covenants or other governmental or private restrictions applicable to the Premises. Violation of these Covenants shall constitute a nuisance under this section.

2.7 <u>Hazardous Waste</u>. Notwithstanding anything to the contrary in these Covenants and/or applicable zoning, no storage of hazardous or toxic waste, or discharge of such waste into the sanitary system or surface drainage system, shall be permitted within the Park. Any party violating this provision, whether intentionally or negligently, hereby agrees to indemnify the Company, its Affiliates and each and every other Owner against any and all liability and costs arising from such violation, including reasonable attorneys' fees.

# ARTICLE III

# Site Specifications and Requirements

3.1 <u>No Subdivision of Lots</u>. After a Lot has been purchased, such Lot shall not be further subdivided without the written consent of the Company. No Owner may sell, lease or rent less than all of a Lot without the written consent of the Company. The leasing restriction in this Section 3.1 shall not apply to occupancy leases of space in a Building made in the ordinary course of business.

3.2 <u>Proceeding with Work; Right of Repurchase</u>. The Original Owner of a Building Site, and any subsequent Owner, shall have two (2) years, or such longer period as may be granted by the Company, from the closing date of the sale of the Site by the Company to the Original Owner to begin development of the Site. Once development begins, it shall continue uninterrupted until completion, which shall be no later than one (1) year from commencement, unless a longer period is expressly granted in writing by the Company. If an Owner fails to comply with this section or any agreement between the Company and an Owner hereunder permitting development at a later date, the Company may, but shall not required to, purchase the Site for the price paid to the Company and the then Owner, if another price is not willingly agreed to in writing by the Company and the then Owner, by giving written notice to the then Owner of its intention to repurchase. The notice can be given at any time after failure of an Owner to comply with this section.

3.3 <u>Farming</u>. Agricultural farming of crops is a use permitted on any Lot within the Park. However, non-agricultural farming, including by way of example and not limitation, dairy farming,

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pig farming, poultry farming, livestock, keeping of livestock, beef, or dairy herds are prohibited.

# [CONTENT-INTEGRATING AND CONFORMING TO M5 ZONING WILL BE INSERTED-BEGINNING HERE.]

# ARTICLE IV Site Plans/Development

4.1 <u>Site Plan</u>. No new Improvements, or modifications of any kind or degree to existing Improvements, shall be made or constructed upon a Building Site or other Lot until a detailed Site Plan of the entire Building Site or Lot, with a common scale not smaller than 1"=50', is reviewed and approved, in writing, by the Company or designated representative. Improvements shown on such Site Plan shall include, but not be limited to:

4.1.1 All finished grade levels;

4.1.2 All Buildings and other Structures, showing the setbacks required by Section [3.6];

4.1.3 Sidewalks and driveways (including types of materials);

4.1.4 Parking areas (including types of materials);

4.1.5 Loading areas (including types of materials);

4.1.6 Utility and storage areas (including types of materials);

4.1.7 Lawns and landscaped areas (including types of materials);

- 4.1.8 Water impoundments;
- 4/1.9 Fences (including types of materials);
- 4.1.10 Lights (including types);

4.1.11 Areas of fill or cut;

- 4.1.12 Storm water drainage plans and facilities;
- 4.1.13 On-Site sewer, water and other utility locations, sizes and easement

4.1.14 Rail spurs;

locations:

4.1.15 Location and type of refuse collection facilities;

4.1.16 All exterior signs and all other signs visible from the exterior of Buildings and Structures.

ARTICLE V

# Architectural Building Plan Review

5.1 <u>Architectural Control Committee</u>. From the date of recording of this Declaration until such time as the conditions described at Section 14.1 and in this Section 5.1 are met, the Company shall appoint individuals to serve as the Architectural Control Committee. Upon the Association being established and the Board of Directors of the Association being elected, said Board of Directors shall serve as the Architectural Control Committee.

5.2 <u>Building Plan</u>. No Building or other Structure shall be constructed or placed on any Building Site or other Lot, nor shall the exterior of any Building or Structure be remodeled or altered, until detailed plans and specifications for such Building, Structure, or remodeling, alteration or addition thereto, have been reviewed and approved, in writing, by the Architectural Control Committee, which approval may be granted or withheld in the sole discretion of the Architectural Control Committee, rendered consistent with this Declaration.

Building plans shall comply with the following minimum requirements:

scale;

5.2.1 Plans shall be prepared by an Architect or Engineer in at least 1/8"=1'

5.2.2 Plans shall show Building location(s) within the Building Site;

5.2.3 Floor plans and building elevations shall show all features and information required by the Plan Commission and the State of Wisconsin;

5.2.4 Plans shall identify all materials used; samples and/or color charts shall be provided to the Architectural Control Committee upon request;

5.2.5 Plans shall show all public and/or private utility connections and storm water drainage systems.

5.3 <u>Building Standards</u>. Buildings and Structures shall comply with the following minimum standards:

5.3.1 They shall be designed by an Architect or Engineer. No side, elevation or facade of a Building or Structure is exempt from public view, consequently, all sides, elevations, or facades of all Buildings and Structures shall be visually pleasing and architecturally and aesthetically compatible with the surrounding environment.

5.3.2 The majority of exterior and externally visible opaque surfaces shall be constructed of not more than three of the following types of materials (provided, however, that such list shall not be deemed to exclude the use of other accent or exterior trim materials, glass and glazing, and earth berms):

# <u>[CONTENT INTEGRATING AND CONFORMING TO M5 ZONING</u> <u>WILL BE INSERTED HERE.]</u>

5.3.2.1 Brick;

5.3.2.2 Architectural precast concrete panels;

5.3.2.3 Decorative concrete block (for no more than 50% of the exterior building wall area);

<del>5.3.2.4</del>	Cut stone;
<del>5.3.2.5</del>	Exterior insulation and finish systems such as Drivit or
	Sunalar;
5.3.2.6	Wood; and
<del>5.3.2.7</del>	Other building materials being developed, and to be developed, by the construction industry. The use of such materials will be reviewed by the Architectural Control Committee on a case-by- case basis.

Building materials will be selected for their ability to present a visual statement of a Building or Structure's strength, attractiveness and permanence. The building materials used shall be harmonious with the natural environment and with the general character of other Buildings and Structures in the Park.

5.3.3 Metal trim materials may be used when in keeping with the architectural and aesthetic character of the Building or Structure.

5.3.4 All mechanical, electrical, pollution control or waste handling equipment, whether roof, pedestal or ground mounted, and any outside solid waste, raw material, inventory, finished product, equipment, fuel storage facility or other storage of any kind, shall either be architecturally screened from view using materials identical to, or structurally and visibly compatible with, the main Buildings or Structures on the Building Site, or shall be landscape screened in accordance with Article VII. All storage areas shall be screened as provided above and shall be hard-surfaced with either concrete or asphalt materials within ninety (90) days from the date of Occupancy, or as soon thereafter as weather will permit if such period occurs during winter months.

5.3.5 All Buildings to be constructed on a Building Site which are to be heated or cooled shall be designed and constructed in an energy efficient manner consistent with sound and prudent design and construction techniques.

5.4 <u>Ancillary Structures</u>. Ancillary Structures will be approved by the Architectural Control Committee only if such Structures are necessary to the principal use of the Building Site, are in architectural and aesthetic conformance with other Building(s) or structure(s) on the Site, are properly screened, meet all requirements of these Covenants and are otherwise satisfactory to the Architectural Control Committee in its sole discretion. No Building or Structure of a temporary nature mayshall be constructed or located on any Building Site, except construction sheds in useused during construction. SuchAll such sheds shall be promptly removed upon completion of construction.

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5.5 <u>Utilities</u>. All utilities serving a Building Site shall be installed underground.

# ARTICLE VI Drainage

6.1 <u>Drainage Plan</u>. Prior to constructing any Improvements upon a Building Site or other Lot, the Owner shall submit to and obtain written approval from the Architectural Control Committee of a detailed plan describing all drainage facilities upon the Site.

6.2 <u>Conformance with Drainage Master Plan</u>. Each Owner shall be responsible for controlling drainage from its Building Site or Lot, including construction of retention facilities, if

deemed necessary by the Architectural Control Committee. The existing drainage pattern on a Site shall not be (changed significantly,) and no change to the drainage pattern on other lands within the Park shall be caused by an Owner, which that varies from the Drainage Master Plan, as that Plan is revised and amended by the Architectural Control Committee, from time to time.

6.3 Storm Drainage. Storm drainage outfall from a completely developed Site, and generated from a 100 year rain storm event, shall not exceed the physical abilities of the streams, drainage ways or storm sewers immediately adjacent to and downstream from the Site to accommodate such outfall. Such drainage shall be in compliance with the Drainage Master Plan, and with all Wisconsin Department of Natural Resources rules and regulations. Each Owner shall be responsible for obtaining all permits or approvals relating to drainage and erosion control for such Owner's Building Site or Lot from the Wisconsin Department of Natural Resources and/or local authority.

Vellag Attan Villaje Erosion Control. Each Owner shall take whatever steps are deemed reasonably 64 necessary by the Architectural Control Committee to prevent erosion during the construction of any Improvements. Compliance with the

# ARTICLE VII Landscaping

CONDECTION and CONDECTION SUTE Mainte Nan-Mainte Nance Ordinante 7.1 Landscaping Plan. The landscaping upon any Building Site or Lot shall be carried out in accordance with a detailed landscaping plan, which has been reviewed and approved, in writing, by the Architectural Control Committee. The landscape plan shall include, but not be limited to, plant location, common and botanical names of plan material, planting size, root condition, and quantity of all plant material. The plan shall also show all ground cover and mulch areas, landscape and construction materials, and construction details.

7.2 Landscaping Methods. Landscaping may include grading, earth berms, seeding, sodding, raised planters, architectural decorative walls or fencing, trees and shrubs, ground cover and other landscape materials including permanent sprinkling systems, foundations, storm run-off retention ponds, reflective ponds, and landscape lighting. The Owner of any Lot shall be required to install a permanent, underground irrigation system in groomed or regularlymaintained areas immediately surrounding its Building. retaining walls

7.3 Plant Material. Selected plant material should provide for a variety of shade trees, evergreen trees and shrubs, ornamental trees and shrubs and ground covers. Plant material selection shall take into consideration the following:

- 7.3.1 Disease and insect resistance;
- 7.3.2 Hardiness to the area:
- 7.3.3 The ability to provide seasonal interest; and
- 7.3.4 Future maintenance considerations.

7.4 Time for Completion. All landscaping shall be completed within ninety (90) days following Occupancy, or as soon thereafter as weather will allow if such period occurs within winter months. A landscaping bond or letter of credit satisfactory to the Architectural Control Committee shall be furnished to the Architectural Control Committee in an amount deemed reasonable by the Architectural Control Committee to guarantee enforcement of this section. If any governmental agency requires a similar landscaping bond, the bond hereunder shall be waived to such extent.

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7.5 Maintenance. The Owner shall be responsible for maintaining all landscaping as approved on the original plan for the Site. Any variation or changes to the landscape plan must be reviewed and approved in writing by the Architectural Control Committee. Landscaped areas, materials, fixtures, and Improvements shall be maintained by the Owner of the Building Site, or by such Owner's long-term lessee(s) in good condition at all times. Such maintenance shall include watering, mowing, trimming, pruning, spraying, fertilizing, repairing, planting, transplanting, dusting, treating, and other common landscape maintenance activities necessary to keep the Building Site landscape in a state of growth and visual beauty. Building Sites shall at all times be kept free of weeds, grass clippings, leaves, branches, and other natural debris as well as paper, cans, empty storage drums, crates, pallets, boxes, tires, and other trash or debris

7.6 Screening. Landscape materials planted, located and oriented for the primary purpose of screening an ancillary Structure or appurtenance or storage, loading or parking area under Sections [5.3.4, 5.4, 8.1, 8.6, 8.7, and 8.8] shall be of sufficient size to immediately screen a minimum of fifty percent (50%) of such Structure or area and be of a plant type that will provide full screening within three (3) years from time of planting.

7.7 Open Water. Any liability concerning the maintenance of open water on a Building Site or Lot shall be that of the Owner, and any disposal or diversion of such water from the Site shall be carried out only with written permission of the Architectural Control Committee and, if affecting lands outside the Park, the permission of the Plan Commission.

7.8 Preservation. Landscaping shall be designed to preserve the existing natural habitat to the extent economically practicable and reasonably required by the Architectural Control Committee.

# ARTICLE VIII

# Off-Street Parking, Loading and Storage

Parking and Loading Areas. Off-street parking and loading areas shall be 8.1 provided on each Building Site and shall be of sufficient size to accommodate all planned or anticipated parking and loading needs of all Building Site occupants and visitors. Loading areas shall be separate from parking areas on any Building Site where possible, as determined by the Architectural Control Committee in its sole discretion. No front or street yard parking shall be allowed unless the same is adequately screened, as determined by the Architectural Control Committee.

8.2 No On-Street Parking. No motor vehicle or trailer may park on any street. driveway, or on any access easement. The Architectural Control Committee reserves the right to permit on-street parking for special events not more than three (3) times in any calendar year.

8.3 Hard-surfacing. All parking, loading and driveway areas shall be hard-surfaced with either concrete or asphalt materials within ninety (90) days from the date of Occupancy, or as soon thereafter as weather will allow if such period occurs during winter months.

graded to ensure positive drainage to common, private drainage facilities, if any, within the Premises or to on-site impoundments, if any. The perimeter of all hard-surfaced areas on the Site shall be edged with a permanent vertical-faced concrete curbing where necessary to

facilitate such drainage. Curbing shall be constructed to transition with curbs within the public or private right-of-way.

8.5 <u>Setback</u>. No perimeter curbing or hard-surfaced areas shall be constructed closer than twenty (20) feet from any property boundary lines, except where necessary to afford permanent ingress and egress to the Building Site, and except where there are shared parking facilities between Building Sites or other Lots. Any such shared parking facilities must otherwise comply with these Covenants, and must be approved in writing by the Architectural Control Committee.

8.6 <u>Landscaping</u>. The visual effect of all parking, loading, storage and driveway areas shall be "softened" by use of landscaping-so as to minimize the visibility of hard-surfaced areas, vehicles and equipment to motorists and people working in the Park.

8.7 <u>Location of Loading Areas</u>. Truck and truck-trailer loading, receiving and parking areas shall be located away from the street side(s) of any Building wherever possible, and shall be designed and located so as to confine all truck maneuvering to the Building Site. In addition, all such loading areas shall be given priority with respect to landscape screening.

8.8 <u>Storage of Trailers and Vehicles</u>. There shall be no long-term storage of trailers or vehicles on any Building Site unless adequately screened as determined by the Architectural Control Committee, and unless such storage is necessary for the Site Owner's or lessee's principal business conducted on the Site.

# ARTICLE IX

# Signage and Lighting

9.1 <u>Sign Approval</u>. The Company recognizes the need for signs advertising the identity of Owners and occupants and the businesses they conduct on the Premises, and also recognizes that acceptable standards for such signs may change from time to time. All requests for signs on any Building Site or other Lot within the Park shall be submitted to the Architectural Control Committee for approval and shall contain detail as to size, location, materials, color and lighting together with a full color rendering. The Architectural Control committee may approve or disapprove the request, in writing, or may require that the proposal be altered to fulfill the intent of these Covenants. If the Architectural Control Committee does not act upon a sign proposal within thirty (30) days after submission, the proposal shall be deemed disapproved. All decisions regarding signs shall be within the sole discretion of the Architectural Control Committee.

9.2 <u>Sign Standards</u>. Any sign located within the Park shall, in addition to complying with <u>all</u> applicable zoning requirements, meet the following minimum standards:

9.2.1 Signs may only advertise the name(s) of the Building occupants, the Owners of the Building Site, and the product manufactured or sold on the Building Site.

9.2.2 Each Building Site shall contain only one major free-standing project sign.

9.2.3 Signs shall be permanently affixed to the face of the Building or to the ground, and shall not flash, pulsate, rotate, or be affixed with moving appurtenances. Roof-top signs are prohibited.

10× 4120

9.2.4 Signs attached to Buildings shall not extend more than two (2) feet above the higher of the ceiling line of the top floor or the top of a parapet wall

9.2.5 Smaller signs adjacent to individual tenant entrances and identifying individual tenants or directing traffic may also be allowed at the sole discretion of the Architectural Control Committee.

9.2.6 All signs must be architecturally compatible to other Improvements.

9.3 <u>Lighting Standards</u>. Lighting on individual Building Sites shall adhere to applicable governmental lighting codes and ordinances, as well as the following requirements:

9.3.1 All exterior lighting shall be energy efficient and \$hall be located, oriented, and of an intensity to illuminate only the Building Site or Lot where located without detrimentally affecting activity on adjacent Sites or Lots or traffic on streets and highways.

9.3.2 Lighting shall not be located on the roofs of Buildings. Any lights affixed to a Building shall be oriented downward at no more than a 45 degree angle from the vertical so as to light only areas of the Site.

9.3.3 Lights may neither flash, pulsate, nor be so bright as to impair or hinder vision on public streets or adjacent Building Sites, or otherwise constitute a nuisance in the judgment of the Architectural Control Committee.

9.3.4 Mixing of lighting types (i.e. sodium vapor, incandescent, mercury vapor, metal halide) should be avoided.

9.3.5 Integration of similar lighting fixtures is encouraged.

9.3.6 All plans for lighting must be submitted to the Architectural Control Committee for approval.

# ARTICLEX

# ARTICLE X

Other Improvements, Maintenance and Repair

10.1 <u>Improvements not Specifically Addressed</u>. The construction and placement of Improvements such as special utilities, antennae, receiving dishes, towers, incidental storage buildings, and other facilities not specifically addressed elsewhere within these Covenants shall require the written approval of the Architectural Control Committee.

10.2 <u>Maintenance and Repair</u>. All Improvements on Building Sites shall be kept, maintained and repaired in good condition at all times. Regular maintenance routines shall be followed by Owners such that the Improvements continue to be maintained, at all times, as nearly as possible, in the condition set forth in the Site Plans and Building Plans approved by the Architectural Control Committee. Any damage resulting from casualty loss to any Improvements shall be immediately replaced or repaired by Owner to their original condition, as nearly as possible, or as otherwise approved by the Architectural Control Committee.

# ARTICLE XI

# Area-Wide Benefits

Villago

or returbior

11.1 <u>Right to Enter and Maintain</u>. The Association shall have the right to enter upon any Lot, at reasonable times and after reasonable notice to the Owner, for the purpose of maintaining, renewing, or reconstructing any utilities, facilities, Detention Ponds, impoundments or other Improvements, which benefit other Lots, in addition to benefiting such Lot. If such Lots contain public utilities or facilities having an area-wide benefit, which are maintained by the Municipality, the Municipality, following prior written notification to the Association, may, if necessary to maintain such facilities in good working order and appearance, renew, reconstruct, or maintain such facilities or utilities and assess the cost to the Owners or to the Association, which will, in turn, assess such cost to the Owners as described below. No prior written notification shall be required for emergency repairs.

11.2 <u>Right to Assess</u>. The cost of such maintenance, renewal or reconstruction whether by the Association or the <u>Municipality</u> may be assessed against Owners of all Lots within the Premises, on a pro rata basis, based on the acreage of real estate owned. Any assessment imposed hereunder shall be a lien against the real property subject to the assessment. Such lien shall be in the nature of a mortgage and enforceable pursuant to the procedures for foreclosure of a mortgage.

# ARTICLE XII

# Performance Standards

12.1 <u>Control of Noise, Vibrations, Dust, Etc.</u> It is difficult, if not impossible, to set minimum or maximum standards for control of noise, vibration, dirt, dust, smoke, odor, glare, and waste within an industrial area. Therefore, to protect the Company's interest in the Premises and the Owners' interest in the Park and their respective Lots, and to facilitate the orderly development of the Park, the plans required under Articles IV and V shall contain sufficient engineering data to enable the Architectural Control Committee to determine whether or not the proposed Improvement will operate within limits acceptable to the Architectural Control Committee with respect to noise, vibration, dirt, dust, smoke, odor, glare, and waste.

12.2 <u>Operations</u>. Each Owner shall operate all Improvements and conduct all of its activities on the Premises in accordance with the limits established pursuant to Section 12.1.

### ARTICLE XIII

# Enforcement, Termination, Modification

13.1 <u>Right to Enforce</u>. These Covenants are imposed for the benefit of Company and Owners and until the Association is formed, are enforceable only by the Company, or such person or organization specifically designated by the Company as assigns for the purpose of enforcement thereof, in a document recorded in the office of the Kenosha County Register of Deeds, as assigns for the purpose of enforcement thereof. Purchase of the Premises or any part thereof by any other party shall not alone confer the right to enforce these Covenants.

13.2 <u>Manner of Enforcement</u> These Covenants shall be enforceable by the Association in any manner provided by Jaw or equity, including but not limited to one or more of the following:

13.2.1

13.2.2 Action for specific performance:

Injunctive relief;

- 13.2.3 Action for money damages;
- 13.2.4 Performance of these Covenants by the Association on behalf of any party in default thereof for more than thirty (30) days, after receipt by such party of notice from the Association describing such default. In such event the defaulting Owner shall be liable to the Association for the actual costs of the Association in performing these Covenants.

13.3 <u>Reimbursement</u>. Any amounts expended by the Association in enforcing these Covenants, including reasonable attorneys' fees, and any amounts expended in curing a default on behalf of any Owner or other party, shall constitute a lien against the subject real property until such amounts are reimbursed to the Association, with such lien to be in the nature of a mortgage and enforceable pursuant to the procedures for foreclosure of a mortgage.

13.4 <u>Failure to Enforce not a Waiver</u>. Failure of the Association to enforce any provision contained herein shall not be deemed a waiver of the Association's right to enforce these Covenants in the event of a subsequent default.

13.5 <u>Right to Enter</u>. The Association shall have the right to enter upon any Building Site or other Lot within the Park for the purpose of ascertaining whether the Owner of said Site or Lot is complying with these Covenants, and, if the Association so elects under Section 13.2.4 for the purpose of performing obligations hereunder on behalf of a party in default hereof.

13.6 <u>Right to Vary</u>. The Company and/or Association may, in its sole discretion, grant variances from the strict application of these Covenants where strict application of any provision would result in exceptional or undue hardship to the Owner of any Building Site or Lot, or where otherwise deemed reasonably appropriate by the Association and provided that the grant of such variance would not significantly affect the value of other Owners' Lots.

13.7 <u>Right to Modify</u>. The Company may, when deemed reasonably appropriate by the Company, at any time and from time to time, modify these Covenants in writing, so long as such modification would not significantly affect the value of other Owners' Lots. Such modifications shall apply only to Building Sites and Lots then owned by the Company, and to any alterations to existing Improvements or new Improvements on all other Sites and Lots; alternately, a modification may be made for a specific Building Site. Modifications shall take effect upon recording.

13.8 <u>Duration</u>. For a period of fifty (50) years from the date of recording, these Covenants shall: continue in full force and effect; be binding upon the Owners; and shall inure to the benefit of the Company (and its assigns), the Owners, and the Association. Notwithstanding the foregoing, these Covenants will terminate earlier, if the Company, in its sole discretion, together with a majority of Owners of Building Sites and Lots within the Park (including any owned by the Company), records an instrument terminating and releasing the requirements of these Covenants. If not earlier terminated, fifty (50) years after the date of recording, these Covenants shall continue in effect unless or until a majority of Owners of Building Sites and Lots within the Park executes and records an instrument terminating them.

13.9 <u>Addition to or Subtraction from the Premises</u>. The Company may, in its sole discretion, from time to time subject additional land to the Covenants by recording this

document against such land and such additional land shall then be a part of the Premises from and after the date of such recording. The Company may also, in its sole discretion, by an appropriate recorded document, remove land from the effect of these Covenants and thereby reduce the extent of the Premises, without the consent of any Owner other than the Owner whose land is being removed or subtracted from the land the land effected by these Covenants. Section 13.8 permits termination of these Covenants in their entirety and this section permits such a termination as to a part of the Premises.

## ARTICLE XIV Owners' Association

14.1 <u>Intention to Form an Owners' Association</u>. When the Park has been substantially developed, the Company intends to form an owners' association for the purpose of enforcing these Covenants and maintaining and protecting the Common Elements and Preservation Lands. Formation of the Association shall occur:

[14.1.1 MODIFY VOTING PROVISIONS. 1 VOTE PER ACRE. DEVELOPER 3 VOTES PER ACRE. NO DILUTION OF DEVELOPER VOTES. FOR VOTING AND ASSESSMENT PURPOSES, FOR FRACTIONAL ACRES (A) LESS THAN .50 ACRE, THE VOTING AND ASSESSMENT CALCULATION SHALL BE ROUNDED DOWN TO THE NEAREST WHOLE ACRE; AND ROUNDED UP TO FOR .50 ACRE OR MORE. 75% STANDARDS SHOULD BE CONSISTENTLY APPLIED IN REVISIONS. 14.1.1 at the discretion of the Company, when more than fifty-five percent (55%) and, but less than seventyfive percent (75%) of the acreage of the aggregate of all Lots in the ParkSaleable Acreage has been sold to Owners. The percentage of acreage that has been sold shall be determined by the ratio of acreage sold to the total acreage of the entire Park, excluding roads, Detention Ponds, and other similar areas not intended to be included in a Lot;] or conveyed and deeded of record to Owners:

2023: or

14.1.3 automatically, when within ninety (90) days after the Percentage Sold equals or exceeds seventy-five (75%) or more of the acreage of the aggregate of all Lots in the Park has been sold to Owners.

14.1.2 at the discretion of the Company at any time on or after December 31,

Creation of Owners' Association. When the Company elects to exercise option 14.2 14.1.1 or 14.1.2 above, or if the condition in 14.1.3 above has been satisfied, the Company shall authorize the creation of the Association, by the filing of Articles of Incorporation of the Association with the Wisconsin Department of Financial Institutions. The Company will give notice of the creation of the Owners' Association to all Owners who have notified the Company of their name and address for notice purposes hereunder. All Owners shall be entitled and required to be members of the Association. The Association shall be known as Riverviewthe StateLine Corporate Park Owners' Association, Inc. The Association shall be incorporated as a non-stock, hon-profit corporation under the laws of the State of Wisconsin. The content of the Articles of Incorporation and the By-Laws for the Association, which will become effective when the Company authorizes the creation of the Association, shall be prepared by the Company in its sole discretion, consistent with the provisions hereof. will be prepared and filed by the Company. Their content shall be determined by the Company, in its sole discretion, consistent with the fundamental purposes and provisions of this Declaration, and will become effective when the Company authorizes the creation of the Association. Upon creation of the

17

Association, the Company shall retain control over the operation and management of the Association through appointment or election of a majority of the Board of Directors until at least the Percentage Sold equals or exceeds seventy-five percent (75%) of the acreage of the aggregate of all Lots in the Park has been sold to Owners.

14.3 <u>General Purposes of the Association</u>. The Association, when formed, shall be responsible for implementing and insuring adherence to these Covenants and shall have the exclusive management and control of the Common Elements and Preservation Lands and enforcement of the restrictions contained herein and the Board of Directors, once elected, shall begin acting as the Architectural Control Committee in place of the individuals appointed by the Company.

14.4 <u>Charges, Assessments and Special Assessments</u>. According to the following procedures, the Association, when formed, shall levy such charges and assessments as may be necessary to carry out its stated purposes: <u>Membership</u>. <u>Ownership of real property subject to this Declaration shall be the sole qualification for membership in the Association</u>. Regardless of the number of persons or entities comprising the Owner of a Lot, or ownership of the Company, each shall only have one (1) "Member" for purposes of voting.

<u>14.4.1 Voting Acres. "Voting Acres" for each Member shall be the total acreage</u> of an Owner's Lot, or in the case of the Company, the Saleable Acres it then owns, with any acreage total containing a fractional acre total adjusted by rounding to a whole number. For rounding calculations, any fractional acre (a) equal to or greater than fifty percent (50%) of an acre shall be rounded up to the next whole number; or (b) if less than fifty percent (50%) of an acre, by rounding down to the next whole number. For example, if a Lot contains six tenths (6/10) of an acre, its Voting Acres will equal one (1), or if a Lot totals four and one tenth (4.1) acres, its Voting Acres will equal four (4). Any dispute regarding calculation of Voting Acres shall be resolved: (i) before creation of the Association, by the Company; or (ii) after creation of the Association, by majority vote of the Association's board of directors. Such determinations shall be binding on all Members. Only a Member shall have voting rights in the Association, and the Association shall initially have two (2) classes of voting Members.

<u>14.4.2 Class A Members.</u> Except as provided in Section 4.4.2 below, one (1) <u>Class A membership shall attach to each Lot, and each class A Member shall have one (1) vote</u> for each Voting Acre, except that no Lot shall have less than one Voting Acre.

<u>14.4.3 Class B Members.</u> The sole holder of a Class B membership, and sole <u>Class B Member, shall be the Company.</u> <u>Class B membership shall only apply to Saleable</u> <u>Acreage owned by the Company.</u> <u>The Class B Member shall have three (3) votes for each</u> <u>Voting Acre then owned by the Company, until the Percentage Sold is equal to or exceeds</u> <u>seventy-five percent (75%) of the Saleable Acreage (the "Conversion").</u> <u>Upon Conversion, the</u> <u>Class B membership applicable to any Saleable Acreage then owned by the Company shall</u> <u>automatically be converted to Class A membership.</u>

<u>14.5</u> Assessments and Special Assessments. According to the following procedures, the Association, when formed, shall levy such charges and assessments as may be necessary to carry out its stated purposes:

<u>14.4.114.5.1</u> General Annual Assessment. All Lots and the Owners thereof shall be subject to a general annual assessment, determined and levied by the Board of

Directors of the Association, for the purpose of defraying the costs and expenses of the Association in performing its stated purposes and functions, including but not limited to the maintenance and operation of the Common Elements and Preservation Lands and the enforcement of these Covenants. By December 15 of each year the Board of Directors shall prepare an annual budget and shall determine a general annual assessment based thereon which shall be sufficient to meet the estimated costs and expenses of the Association for the ensuing year. The annual budget shall be considered and approved at the annual meeting by the members of the Association. Votes shall be allocated to Owners of Lots based on the amount of acreage in the Park owned by Owners. Each Owner shall be allocated one vote for up to five acres owned, and one additional vote for each additional full three acres owned, up to a maximum of ten votes per Owner during the period of time an Owner owns a vacant Lot and up to a maximum of ) 5 votes per Owner for the period of time following commencement of construction of a Building by an Owner. For example, if an Owner owns four acres, such Owner shall be entitled to one vote. If an Owner owns seven acres, such Owner shall also be entitled to only one vote, but; if such Owner owns eight acres, such Owner shall be entitled to two votes, and so on. For purposes of determining the number of votes allocated to an Owner, all Lots owned by an Owner shall be aggregated. The general annual assessment shall be allocated and assessed against Owners of all Lots within the Premises, on a pro rata basis, based on the acreage of real estate owned, and shall be paid at the time and in the manner determined by the Board of Directors of the Association, which time shall not be sooner than thirty (30) days after the date of the annual membership meeting. The initial costs of development of the Park, including construction of Detention Pond and construction of roads shall not be assessed to the Owners under either a general annual assessment or by special assessment under Section 14.4.2 Retention Ponds

14.4.214.5.2 Special Assessments. Each Lot and the Owners thereof shall be subject to special assessment by the Board of Directors of the Association to cover all or any part of any extraordinary expenses incurred by the Association but not included in the annual budget. Such special assessments shall be assessed against Owners of all Lots within the Premises, on a pro rata basis, based on the acreage of real estate owned. Special assessments shall be due and payable sixty (60) days after the affirmative vote declaring such special assessments by the Board of Directors of the Association. The Board of Directors shall be entitled to specially assess specific Owners of Lots for expenses to the extent such expense primarily benefits such Owner's Lot based on the Board of Directors' reasonable determination.

14.4.3 14.5.3 Collection and Enforcement. The right to collect or enforce the collection of charges, assessments and special assessments is hereby delegated exclusively to the Association. The Owners of Lots shall be personally obligated to pay such charges, assessments and special assessments upon the Lots owned by them, and such charges, assessments and special assessments shall also be and constitute a lien, 'until paid, against the Lot to which charged. All charges, assessments and special assessments levied by the Association which are unpaid when due shall bear interest from such due date at the rate of twelve percent (12%) per annum until paid in full, and such interest, together with the underlying assessment, shall from such time become and remain a part of the lien upon such Lot until paid.

The Association shall have the exclusive and sole right and power to collect or enforce the collection of charges, annual assessments and special assessments, and to bring any and all actions and proceedings for the collection thereof and for the foreclosure of liens therefor. The Association, acting through the Board of Directors, and as representative of all members, may bring an action at law against any Owner personally obligated for payment of unpaid assessments, or may foreclose the lien against any Lot. Any such foreclosure action shall be brought in the same manner as an action to foreclose a real estate mortgage, and there shall be added to the amount due the costs of suit and interest, together with reasonable attorneys' fees.

14.4.4<u>14.5.4</u> Liability for Payment of Charges and Assessments. No Owner may exempt itself or its Lot from liability for contribution for charges and assessments levied by the Association by waiver of use of any of the Common Elements or Preservation Lands, or by the abandonment of its Lot; no conveyance shall relieve the seller or such seller's Lot of such liability, and such seller shall be jointly, severally and personally liable along with the purchaser in any such conveyance for the charges and assessments incurred until the date of sale, until all charges and assessments against the Lot have been paid. Any interested person shall be entitled to a statement of unpaid assessments with respect to any Lot upon written request to the secretary of the Association.

<u>14.514.6</u> <u>Company's Conveyance to Association</u>. Within ninety (90) days of the Association's incorporation, the Company will convey to the Association by special warranty deed and special warranty bill of sale any and all personal property, fixtures, structures, improvements, real property and real property interests which the Company in its sole judgment may deem to be Common Elements and Preservation Lands as of the date of such conveyance.

# ARTICLE XV

# Miscellaneous

15.1 <u>Submission of Plans</u>. Whenever an Owner is required by these Covenants to submit plans of any kind to the Architectural Control Committee, such plans shall be submitted in duplicate. After the plans have been reviewed, one set shall be returned to the Owner with the Architectural Control Committee's approval and/or comments. The other set shall be retained by the Architectural Control Committee.

15.2 <u>Time for Approval</u>. Unless otherwise specifically provided herein whenever the Architectural Control Committee's approval is required hereunder, the Architectural Control Committee shall take action within thirty (30) days after receipt of the request for approval, together with all plans, specifications, or other documents required for evaluation of such request (unless a longer time is specifically provided for herein). If the Architectural Control Committee determines that additional material or information is necessary, this time period shall not begin until after such additional material or information is provided. If the Architectural Control Control Committee elects not to grant approval, it shall provide specific written objections within the thirty (30) day time period provided herein, otherwise (except as provided in Section 9.1 above) the request shall be deemed to have been approved.

15.3 <u>Company not Liable</u>. The Company shall not be liable for any damage, loss, or prejudice suffered or claimed by any person on account of:

15.3.1 The approval or disapproval of any plans, drawings, and specifications, whether or not in any way defective;

15.3.2 The construction of any Improvement, or performance of any work, whether or not pursuant to approved plans, drawings, and specifications;

15.3.3 The development of any Building Site or other Lot within the Park; or

15.3.4 Waiver, variance, modification, or termination of these Covenants in accordance with this Declaration.

15.4 <u>Invalidity</u>. Invalidation of any of the provisions of these Covenants, whether by court order or otherwise, shall in no way affect the validity of the remaining provisions, which shall remain in full force and effect.

15.5 <u>Captions</u>. The captions of articles and sections herein are for convenience only and are not intended to be part of the Covenants or in any way to define, limit or describe the scope and intent of the particular article or section to which they refer.

15.6 <u>Recording</u>. Any reference herein to recording a document; shall mean recording in the office of the Register of Deeds for Kenosha County, Wisconsin.

15.7 <u>Notices</u>. Every Owner shall give written notice to the Company (at the address set forth at the beginning of this Declaration) (and after formation of the Association, then to the Association) of its name and address for notice purposes (identifying the Lot it has acquired) within ten (10) days of becoming an Owner.

15.8 <u>Governing Law</u>. This instrument shall be governed by the laws of the State of Wisconsin.

15.9 <u>Time of Essence</u>. Time is of the essence in the discharge by each party of its respective duties and obligations hereunder.

15.10 <u>Exercise of Association Rights</u>. All references to the Association in this Declaration shall mean the Company or assigns until the conditions described in Section 14.1 are satisfied and the Association is formed, at which time these Covenants shall run to the Association. Until such time, all of the rights of the Association hereunder shall be exercisable by the Company or its assigns.

IN WITNESS WHEREOF, the Company has caused the presents to be executed the day and year first written above.

STATE OF WISCONSIN ) ) ss.

COUNTY OF MILWAUKEE

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, the above-named \_\_\_\_\_, to me known to be the \_\_\_\_\_ of \_\_\_\_\_, who executed the foregoing instrument by its authority and on its behalf and acknowledged the same.

Print Name:

[SEAL]

STATE OF WISCONSIN )

COUNTY OF MILWAUKEE

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, the above-named \_\_\_\_\_, to me known to be the \_\_\_\_\_ of \_\_\_\_ who executed the foregoing instrument by its authority and on its behalf and acknowledged the same.

SS.

Print Name:

[SEAL]

This instrument was drafted by:

& appoir by Plan Cam & Vellage Board Exhibit A

<u>Exhibit B</u>

Document comparison by Workshare Compare on Tuesday, June 25, 2013 7:10:48 PM

Input:	
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Rendering set	Standard

Legend:	
Insertion_	
Deletion-	
Moved from-	
Moved to	
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Format change	
Moved deletion-	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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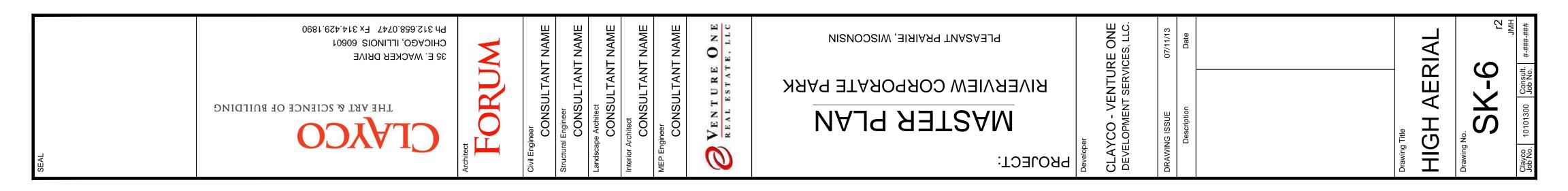
# **RIVERVIEW CORPORATE PARK**

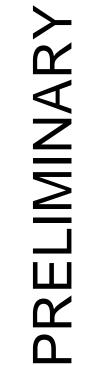
Riverview Corporate Park is a 254-acre state of the art master-planned corporate business park located at I-94 south of 104<sup>th</sup> Street, just 60 minutes north of Chicago and 30 minutes south of Milwaukee. The park is strategically designed to accommodate five to seven corporate facilities for office, research, manufacturing and assembly operations. Riverview Corporate Park will be an institutionally developed park utilizing precast construction with significant window line throughout the office section of the buildings. Riverview will have open space design features utilizing the prairie and wetlands to blend into the adjoining areas.

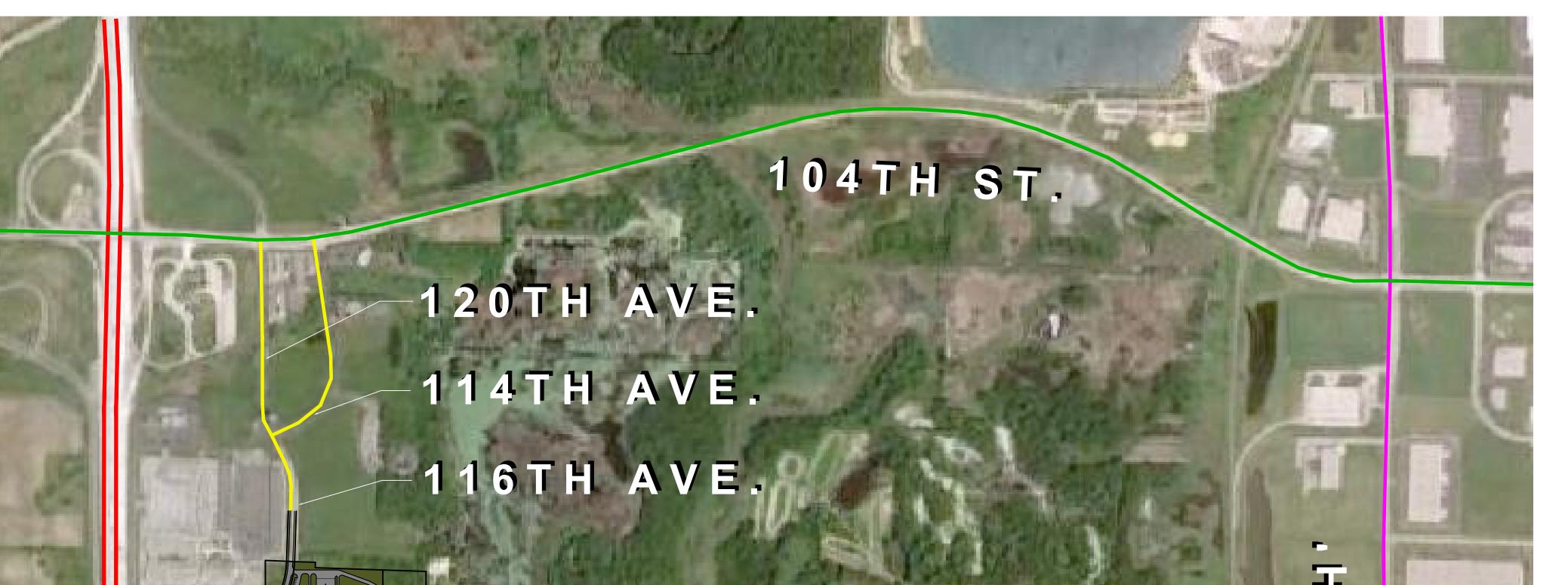
Riverview is meant to accommodate the business expansion of corporations from both the Chicago and Milwaukee markets. It has immediate access to the four-way interchange at 104<sup>th</sup> Street and I-94 and is 30 minutes from General Mitchell International Airport and 45 minutes from Chicago O'Hare International Airport. From I-94 the park has good access to the interstate highway system for servicing the entire Midwest region.

Riverview Corporate Park is located in Pleasant Prairie, a community that has dynamic civic leaders that understand corporate growth and demand, who have the capacity and desire to facilitate significant economic expansion. Corporations are able to take advantage of the excellent labor pool provided in the community and region.

Riverview Corporate Park is serviced by municipal water, sanitary sewer, We Energies, and fiber optic provided by Time Warner Cable.







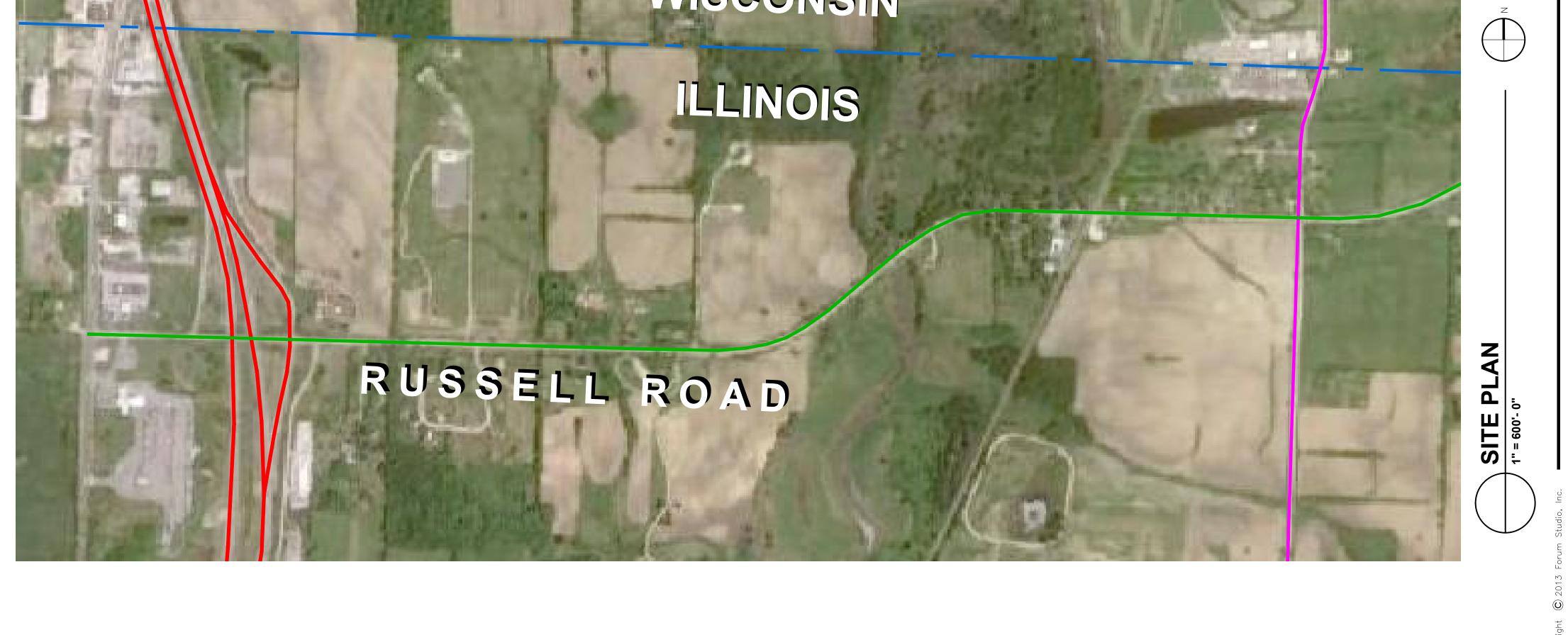


# 122 ND. ST.

120TH AVE.

**I-94** 

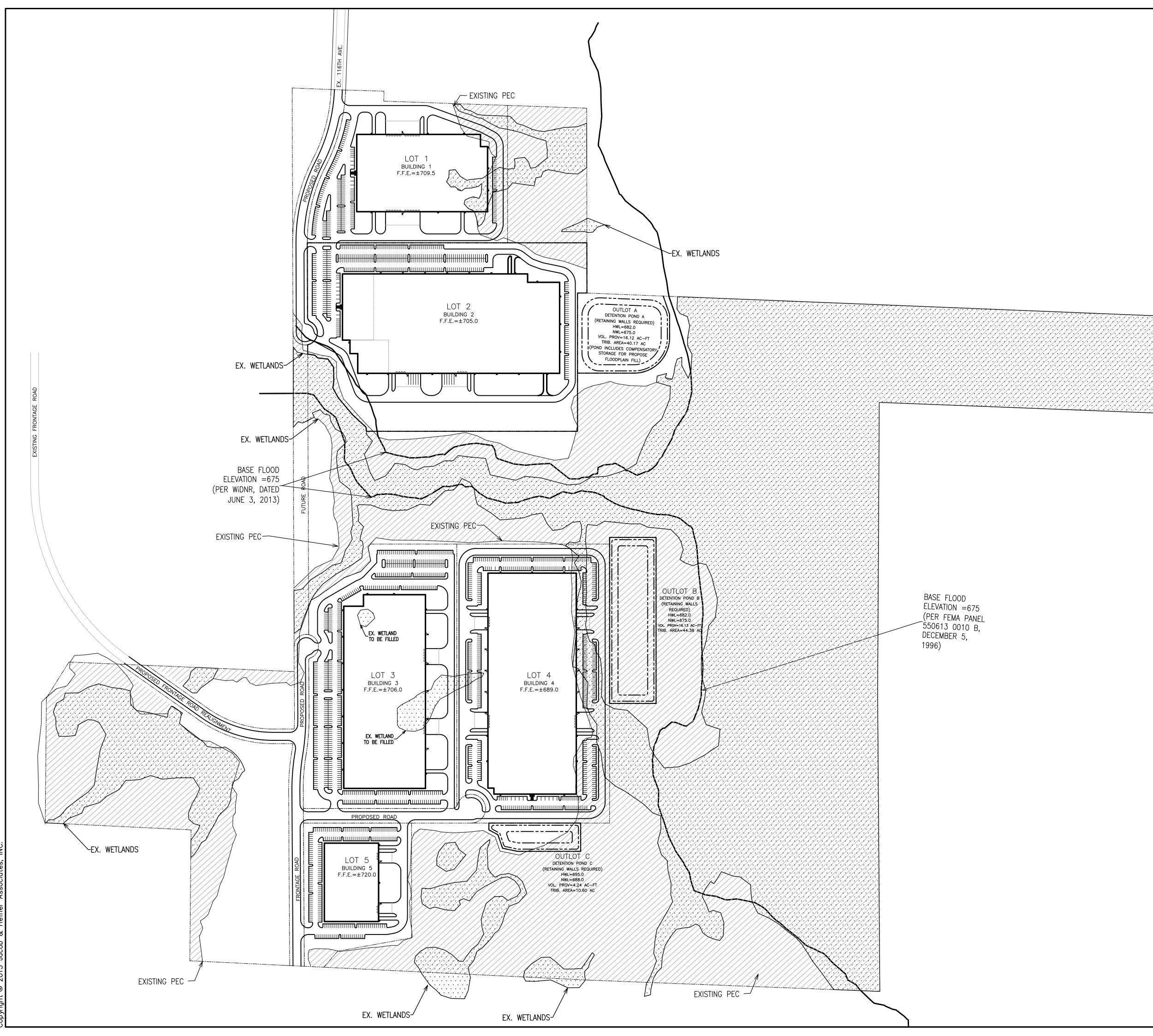
WISCONSIN





07/11/13

Date



GRAPHIC SCALE 1"= 200' 100' 200'

# <u>SITE DATA</u>

	= = =	3.91 AC 153.45 AC
<u>LOT 1</u> LOT AREA BUILDING AREA WETLAND FILL AREA PEC ENCROACHMENT AREA	= =	12.22 AC 205,440 SF 0.80 AC 2.15 AC
<u>LOT 2</u> LOT AREA BUILDING AREA WETLAND FILL AREA PEC ENCROACHMENT AREA	= =	22.76 AC 428,187 SF 0 AC 0.73 AC
LOT 3 LOT AREA BUILDING AREA WETLAND FILL AREA PEC ENCROACHMENT AREA	=	17.28 AC 319,492 SF 0.83 AC 0 AC
<u>LOT 4</u> LOT AREA BUILDING AREA WETLAND FILL AREA PEC ENCROACHMENT AREA	=	1.55 AC
<u>LOT 5</u> LOT AREA BUILDING AREA WETLAND FILL AREA PEC ENCROACHMENT AREA	=	6.43 AC 87,330 SF 0 AC 0.25 AC
<u>TOTAL RIGHT-OF-WAY (ROW)</u> LOT AREA WETLAND FILL AREA PEC ENCROACHMENT AREA	=	8.85 AC 0.73 AC 1.07 AC
<u>OUTLOT A (DETENTION POND A)</u> LOT AREA WETLAND FILL AREA PEC ENCROACHMENT AREA	=	3.24 AC 0.00 AC 0.00 AC
OUTLOT B (DETENTION POND B) LOT AREA WETLAND FILL AREA PEC ENCROACHMENT AREA	=	3.61 AC 0.00 AC 3.61 AC
<u>OUTLOT C (DETENTION POND C)</u> LOT AREA WETLAND FILL AREA PEC ENCROACHMENT AREA	=	1.10 AC 0.00 AC 0.32 AC

# <u>LEGEND</u>

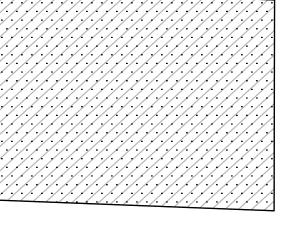
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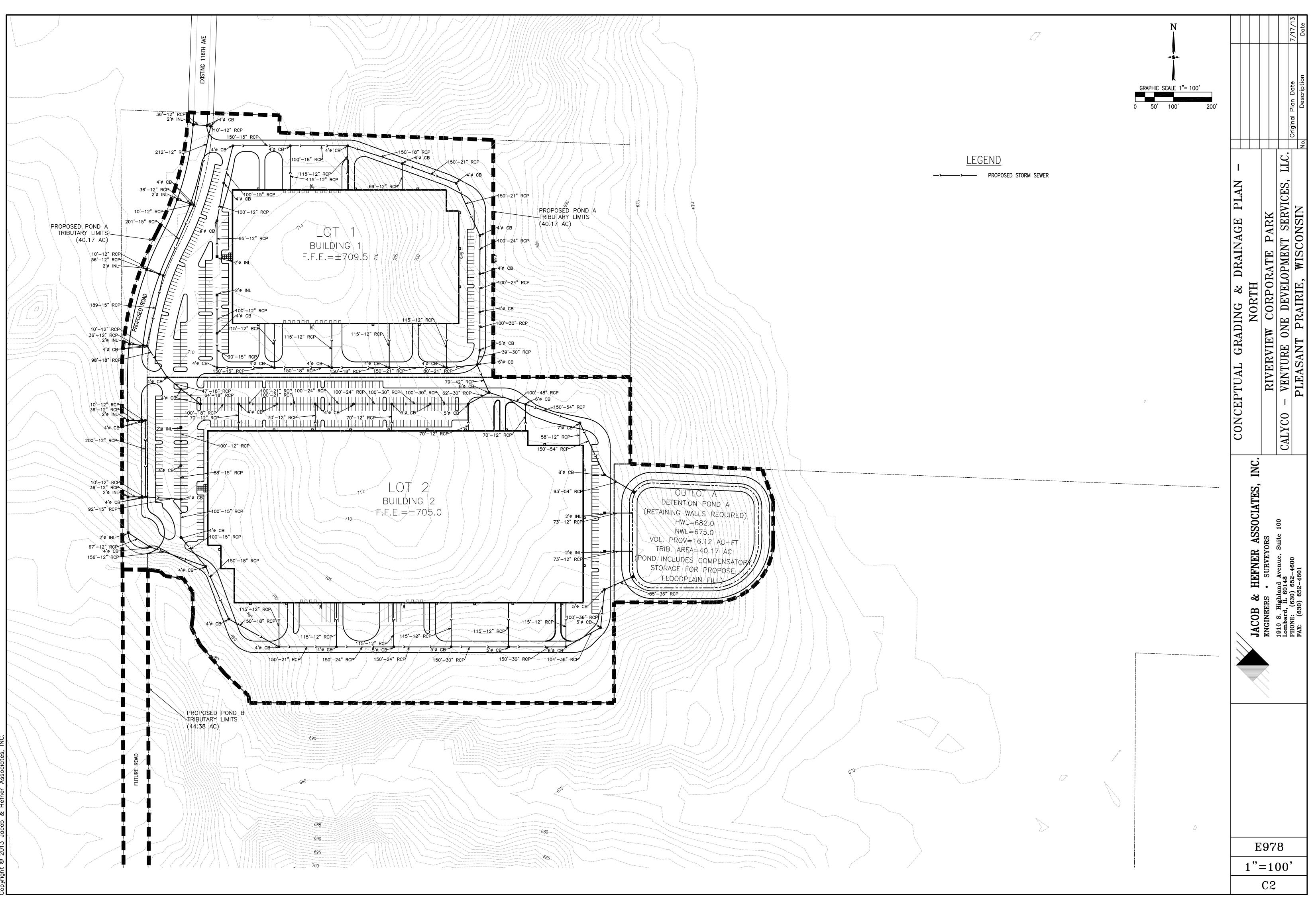


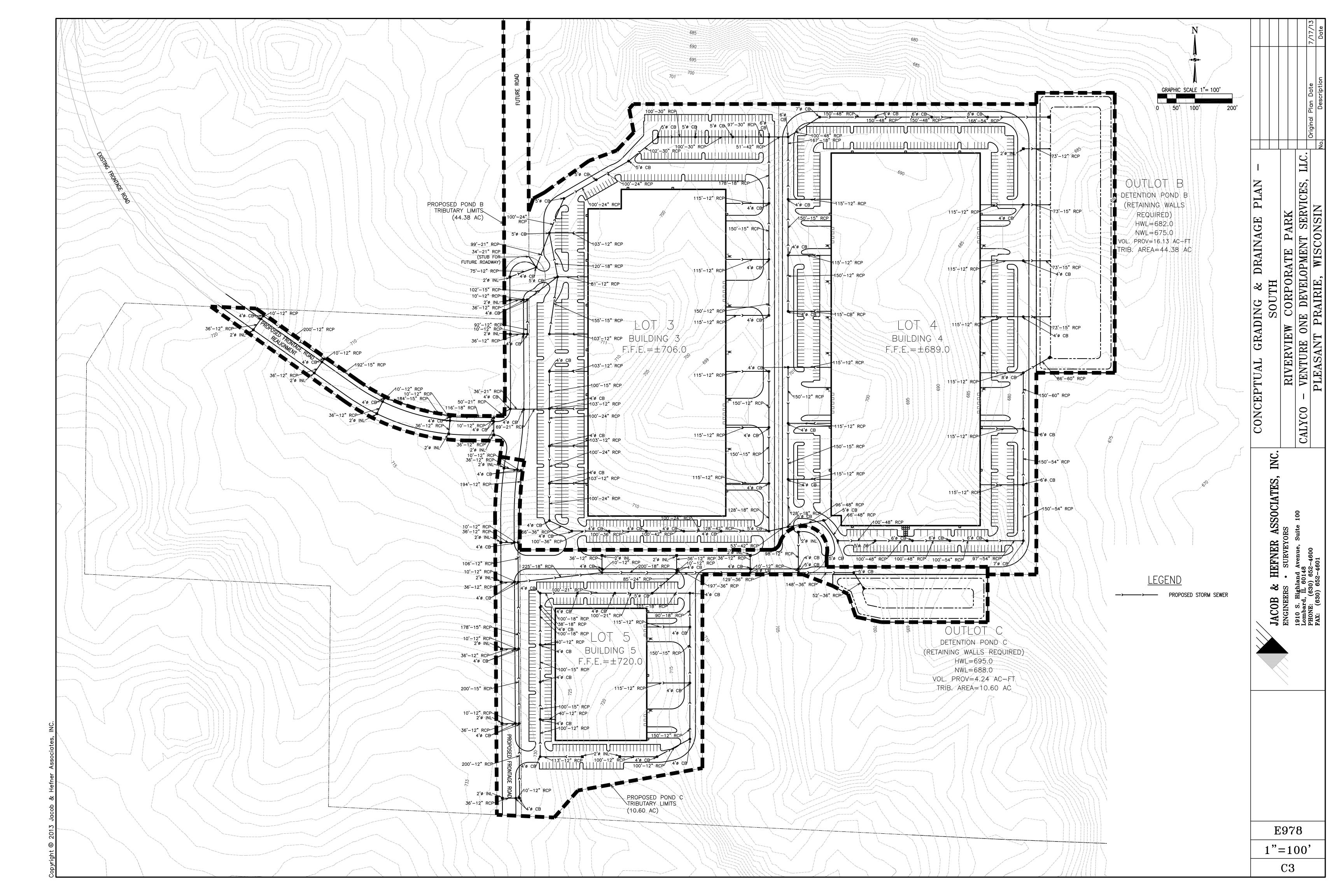
WETLAND LIMITS AS DELINEATED BY WETLAND & WATERWAY CONSULTING, LLC.

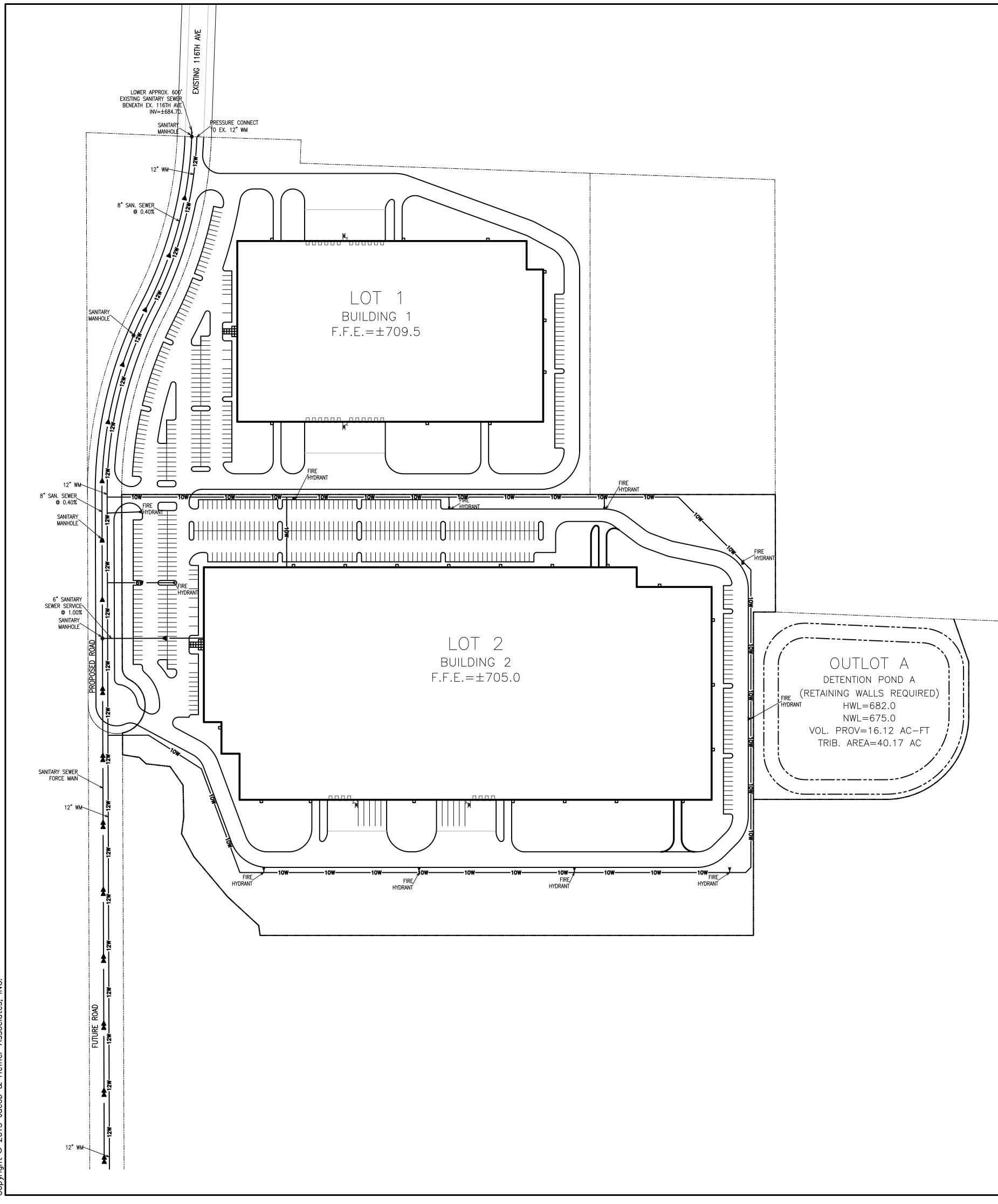
PRIMARY ENVIRONMENTAL CORRIDOR (PEC) LIMITS AS DELINEATED BY WETLAND & WATERWAY CONSULTING, LLC.

				Original Plan Date 7/17/13	Description Date
CONCEPTUAL SITE PLAN		NIVERVIEW CURFURATE FARM	CALYCO – VENTURE ONE DEVELOPMENT SERVICES, LLC.		PLEASANT PRAIRIE, WISCONSIN
JACOB & HEFNER ASSOCIATES, INC. JACOB & HEFNER ASSOCIATES, INC. ENGINEERS • SURVEYORS 1910 S. Highland Avenue, Suite 100 Lombard, IL 60148 PHONE: (630) 652-4600 FAX: (630) 652-4601					
E978 1"=200'					

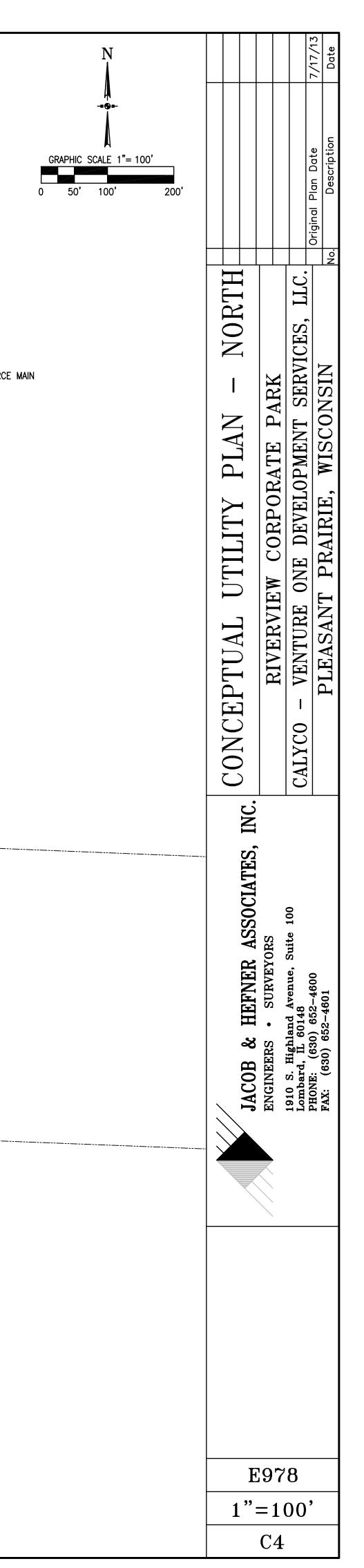








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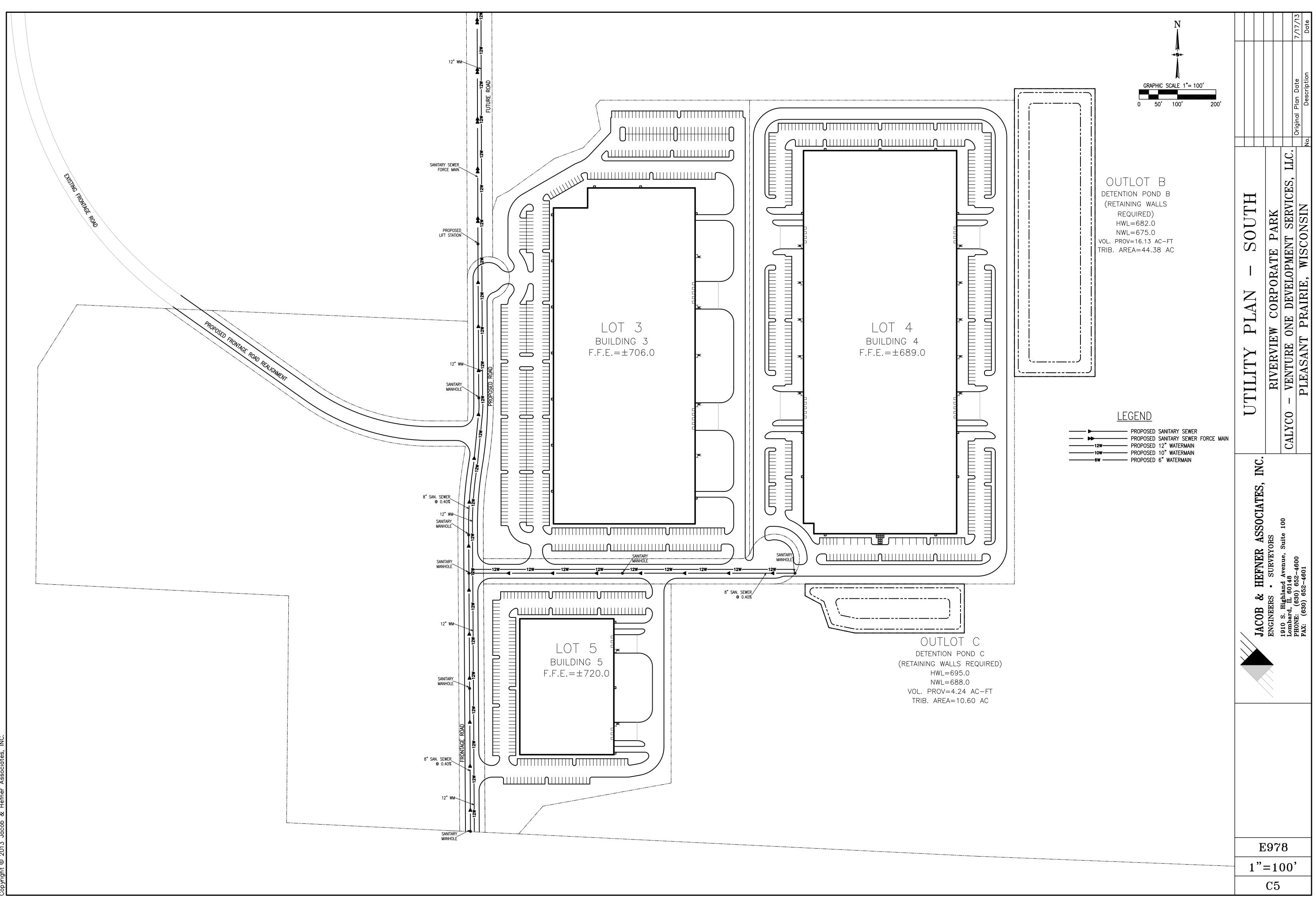


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PROPOSED 10" WATERMAIN
PROPOSED 6" WATERMAIN



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# VILLAGE STAFF REPORT OF SEPTEMBER 16, 2013

# THESE ITEMS ARE RELATED AND WILL BE DISCUSSED AT THE SAME TIME HOWEVER SEPARATE ACTION IS REQUIRED.

Consider **amendments to the Village Comprehensive Plan (Ord. #13-40)** to consider for request of Mark Eberle, P.E. of Nielsen Madsen and Barber, agent for SB1 Pleasant Prairie WI, LLC owners of vacant 9.9 acre property generally located between 88<sup>th</sup> and 91<sup>st</sup> Avenues and 76<sup>th</sup> Street and Prairie Ridge Blvd to correct and amend the Village of Pleasant Prairie 2035 Comprehensive Land Use Plan Map 9.9 and update Appendix 10-3 of the Village of Pleasant Prairie Wisconsin, 2035 Comprehensive Plan to include said amendment. Specifically, Map 9.9 is proposed to be amended to correctly identify the field delineated wetlands in the Park, Recreational and Other Open Space Lands with a field verified wetland land use designation on the vacant property located between 88<sup>th</sup> and 91<sup>st</sup> Avenues and 76<sup>th</sup> Street and Prairie Ridge Blvd.

**<u>Recommendation</u>**: On September 9, 2013 the Plan Commission held a public hearing approved Plan Commission Resolution #13-09 and recommended that the Village Board approve **amendments to the Comprehensive Plan (Ord. #13-40)** as presented.

Consider a **Zoning Map Amendment (Ord. #13-41)** to consider the request of Mark Eberle, P.E. of Nielsen Madsen and Barber, agent for SB1 Pleasant Prairie WI, LLC owners of vacant 9.9 acre property generally located between 88<sup>th</sup> and 91<sup>st</sup> Avenues and 76<sup>th</sup> Street and Prairie Ridge Blvd to rezone the field delineated wetlands on the property into the C-1, Lowland Resource Conservancy District.

**<u>Recommendation</u>**: On September 9, 2013 the Plan Commission held a public hearing and recommended that the Village Board approve the **Zoning Map Amendment (Ord. #13-41)** as presented.

Consider the request of Mark Eberle, P.E. of Nielsen Madsen and Barber, agent for SB1 Pleasant Prairie WI, LLC owners of vacant 9.9 acre property generally located between 88<sup>th</sup> and 91<sup>st</sup> Avenues and 76<sup>th</sup> Street and Prairie Ridge Blvd for approval of a **Conceptual Plan** the proposed office development on four (4) lots ranging in size form 2.122 acres and 2.912 acres.

**Recommendation:** On September 9, 2013 the Plan Commission held a public hearing and recommended that the Village Board approve the **Conceptual Plan** subject to the comments and conditions of the Village Staff Report of September 16, 2013.

Consider the request of Mark Eberle, P.E. of Nielsen Madsen and Barber, agent for SB1 Pleasant Prairie WI, LLC owners of vacant 9.9 acre property generally located between 88<sup>th</sup> and 91<sup>st</sup> Avenues and 76<sup>th</sup> Street and Prairie Ridge Blvd for approval of a **Certified Survey Map** to subdivide the property and create a 2.912 acres property for a proposed office building.

**<u>Recommendation</u>**: Plan Commission recommends that the Village Board approve the **Certified Survey Map** subject to the comments and conditions of the Village Staff Report of September 16, 2013.

The petitioner is requesting several approvals for the development of a 9.9 acre property within the Prairie Ridge Development generally located between 88<sup>th</sup> and 91<sup>st</sup> Avenues and 76<sup>th</sup> Street and Prairie Ridge Blvd (Parcel 1 of CSM 2175).

**CONCEPTUAL PLAN:** The 9.9 acre site located is proposed to be subdivided into four (4) lots for the potential development of four (4) commercial office buildings.

- Lot 1 is 2.912 acres with frontage on 76<sup>th</sup> Street and cross access to Lot 2A. Lot 1 shows a 20,000 square foot office building (2-story building with a 10,000 square foot footprint) with 83 parking spaces.
- Lot 2A is 2.180 acres with frontage on 91<sup>st</sup> Street and cross access to Lots 2B and 2C and the property to the north (BMO Harris Bank). Lot 2A shows a 21,500 square foot office building (2-story building with a 10,250 square foot footprint) with 91 parking spaces.
- Lot 2B is 2.739 acres with frontage on Prairie Ridge Blvd. and 91<sup>st</sup> Avenue and cross access to Lots 2A and 2C. Lot 2B shows a 19,300 square foot office building (1 story building) with 81 parking spaces.
- Lot 2C is 2.122 acres with frontage on Prairie Ridge Blvd. and cross access to Lots 1, 2A and 2B. Lot 2C shows an 11,500 square foot office building (1 story building) with 45 parking spaces.

There are no specified defined users as this time; however, when specific users and tenants are identified, the detailed Site and Operational Plans will be required to be submitted for the development of each lot and the building size and parking ratios will be further evaluated to ensure compliance with the Village regulations.

The property is zoned B-2, Community Commercial District and the field delineated wetlands on the property are proposed to be rezoned into the C-1, Lowland Resource Conservancy District (see below). The following office or clinic uses are permitted uses in the B-2 District: accounting; architectural; dental; engineering; financial services; information services; insurance; legal; medical (but no ambulance service); and real estate. In addition, the B-2 District requires the following minimum requirements:

Lot size: two acres minimum

Lot frontage on a public street: 150 feet minimum

Open space: 30% minimum.

Principal building standards:

Gross floor area: 4,000 square feet minimum and 25,000 square feet maximum

Height: 35 feet maximum

Setbacks:

Street setback: minimum of 40 feet from non-arterial streets or private roads.

Side and Rear setback: 30 feet minimum.

Wetland setback: 25 feet minimum.

Detached accessory building/trash enclosure standards: detached accessory buildings or trash enclosures are prohibited.

Driveway access locations for the lots are proposed to align with existing driveway access points on the opposite side of the streets or are adequately spaced on the boundary street. In addition, all proposed uses will be required to be serviced by municipal sewer and water already located within the Prairie Ridge Development. The wetlands on the site were re-delineated by Wetland and Waterway Consultants on September 2, 2011 (written concurrence from the U.S. Army Corps of Engineers or Wisconsin Department of Natural Resources is required to be submitted.) The wetlands are proposed to be located within Dedicated Wetland Preservation and Protection, Access and Maintenance Easements as shown on the CSM.

**CERTIFIED SURVEY MAP**: A Certified Survey Map is proposed to subdivide the property into two parcels – Lot 1 and Lot 2. Lot 1 is 2.912 acres as shown on the Conceptual Plan. Lot 2 is 7.040 acres and could be further subdivided into Lots 2A, 2B and 2C as shown on the Conceptual Plan.

The CSM shows existing easements and restrictions that will remain on the properties that were previously shown on the original Prairie Ridge Plat and CSM 2175. In addition, the CSM dedicates new wetland easements over the re-delineated wetland areas. Upon further development of Lot 1 and further subdivision/development of Lot 2 cross access easements will be required to be dedicated at no cost to the abutting lots.

**ZONING MAP AMENDMENT:** As noted above, the wetlands on the property were redelineated in 2011. The Zoning Map is proposed to be amended to rezone the field delineated wetlands into the C-1 District. The non-wetland areas will remain in the B-2, Community Business District. The entire property will remain in the PUD, Planned Unit Development Overlay District (Specific Development Plan #1 in Chapter 420 Attachment 3, Appendix C). This PUD allows Non-Residential Development Identification Signs for the entire Prairie Ridge Development at the main entrances from STH 50 and 88<sup>th</sup> and 104<sup>th</sup> Avenues).

**COMPREHENSIVE PLAN AMENDMENT:** Pursuant to the Village Comprehensive Plan, the Village Zoning Map and the Comprehensive Land Use Plan shall be consistent; therefore, the Village 2035 Comprehensive Land Use Plan is also proposed to be amended to reflect the wetland staking on the property. Specifically, Map 9.9 is proposed to be amended to correctly identify the field delineated wetlands into the Park, Recreational and Other Open Space Lands with a field verified wetland land use designation.

# **RECOMMENDATIONS:**

On September 9, 2013 the Plan Commission held a public hearing approved Plan Commission Resolution #13-09 and recommended that the Village Board approve **amendments to the Comprehensive Plan (Ord. #13-40)** as presented.

On September 9, 2013 the Plan Commission held a public hearing and recommended that the Village Board approve the **Zoning Map Amendment (Ord. #13-41)** as presented.

On September 9, 2013 the Plan Commission held a public hearing and recommended that the Village Board approve the **Conceptual Plan** subject to the above comments and the following conditions:

- 1. The Conceptual Plan approval will be valid for a period of one (1) year. Prior to the expiration of the Conceptual Plan, the developer will be required to submit the Site and Operational Plan for the property.
- 2. The Conceptual Plan and ALTA Survey show an electric line located outside of the dedicated utility easement. Also, the new wetland boundary delineation will place the existing utility easement for this portion of the electric alignment within the wetland limits.

Development plans will need to dedicate a new utility easement over the existing electric line or new alignment outside the wetland boundary if the line ends up being relocated for development purposes.

- 3. Cross-Access Easements will be required to be dedicated and recorded for the shared driveways between lots/parcels. Submit all easement documents to the Village for review and approval prior to recording.
- 4. The Development will need to incorporate water quality provisions. This will need to be addressed on-site or by retrofitting the downstream detention basin(s).
- 5. The future development of the lots and structures shall comply with the ordinances in effect at the time of construction. In addition, detailed Site and Operational Plans are required to be submitted for review and approval prior to any development pursuant to the requirements for the Village Zoning Ordinance.
- 6. Compliance with the attached memo from the Fire & Rescue Department dated August 10, 2013. In addition, when specific development plans are submitted detailed and more specific comments will be provided by all Village Departments as part of the required Site and Operational Plans.
- 7. Sidewalk connections to the proposed buildings from the existing concrete sidewalks in the abutting road rights-of-way will be required.
- 8. Building architectural designs, elevations and sample materials will be required to be approved by the Plan Commission as part of the detailed Site and Operational Plans.
- 9. At the time that each lot is proposed to be developed for commercial purposes, detailed landscaping plans will be required to be submitted and reviewed. All landscaped areas will be required to be irrigated with a sprinkler system. The base map for these landscape plans shall include the approved grading plan. In addition, the location of all pedestals and transformers and proposed screening shall be shown on the Site and Operational Plans required for each development site.
- 10. Landscaping and parking lot islands will be required pursuant to the Village Ordinance requirements. In particular, landscaping between parking areas and roadways shall comply with Section 420-57 J (2) (d) of the Village Zoning Ordinance that states "*Parking lots associated with manufacturing, business or institutional uses shall be screened from public rights-of-way and/or residential zoning districts located within 50 feet of such parking lots; such screening shall be installed in close proximity to the parking lot and shall be 75% opaque to a height of at least four (4) feet above the grade of the nearest edge of such parking lot within three (3) years of installation and may consist of shrubs and trees, an appropriately landscaped undulating berm..." Revise the plans. Review and place similar quantity, quality and size landscaping as shown in the Shoppes at Prairie Ridge.*
- 11. Each Lot is required to have a primary monument sign. Two (2) secondary entrance signs (entry monument signs) are proposed at the shared access locations at 104<sup>th</sup> Avenue and 77<sup>th</sup> Street. All signage shall conform to the provisions of the PUD Ordinance and all general requirements of the Village Sign Ordinance (Chapter 420 Article X).
- 12. All commercial buildings will be required to install a sanitary sewer sampling manhole. The location and details shall be shown on the Site and Operational Plans required for each site. Contact the Village Engineer to confirm an approved location.
- 13. Prior to the development of each lot for commercial purposes, detailed Site and Operational Plans are required to be submitted and approved by the Plan Commission pursuant to Article IX of the Village Zoning Ordinance. Also, depending on the use proposed, the occupants may require a Conditional Use Permit along with Site and Operational Plan approval from the Plan Commission and may require approval of special licenses by the Village.

- 14. All easements shall be shown on the required Site and Operational Plans submitted for review and approval as each lot is proposed to be developed.
- 15. All downspouts for all proposed buildings within the development shall be interconnected to the private storm sewer system and shown on the required Site and Operational Plans.
- 16. Details of the dumpster enclosures shall be provided on the required Site and Operational Plans for the development of each lot. The dumpster enclosures shall be constructed of the same brick, block or stone materials as the building and be attached to the building. Detached garbage enclosures are not allowed. A wooden fence enclosure is not allowed. Sample materials, doors and paint colors of the dumpster enclosures shall be submitted for review and approval.
- 17. Details (cut sheet details) of the proposed exterior lighting on the building, in the parking areas shall be provided with each detained Site and Operational Plan. In addition, provide a photometric plan to ensure proper lighting levels at the property boundaries as required by Article IX of the Village Zoning Ordinance. (This is a unified business developed the lighting color, height, and style shall be similar for the commercial sites). Concrete bases shall not exceed 18 inches above grade and shall be located in landscape island areas,
- 18. Each handicapped parking space shall be appropriately signed (locations to be reviewed with planning staff) and painted on the pavement pursuant to ADA requirements prior to occupancy of any development site.
- 19. All exterior mechanical units, antennae and/or satellite dishes, whether roof-mounted or ground-mounted, shall be screened from the general public's view.
- 20. Impact fees shall be paid prior to issuance of the building permit. (Currently based upon \$1.94 per \$1,000 of valuation as determined by the Village Assessing Department).
- 21. All required landscaping and screening for the buildings and signage shall be installed prior to occupancy of any building. A written letter verification and certification shall be provided to the Village by the landscape designer that all building and signage landscaping has been installed in accordance with the approved landscape plan prior to the issuance of a certificate of compliance/occupancy. However, if weather conditions prevent installation of all or portions of the landscape materials, the developer, owner or occupant shall enter into a written agreement with the Village that specifies the date by which all approved landscaping shall be completed and grants the Village a temporary easement to complete the landscaping if not timely completed and shall deposit with the Village Clerk a cash deposit, an irrevocable letter of credit, or other financial assurance approved by the Zoning Administrator to ensure timely completion of all required landscaping; the amount of the financial assurance shall be equal to 110% of the contracted amount to complete the landscaping improvements in order to reasonably compensate the Village for the cost of completion of any landscaping improvements not completed within the specified time.
- 22. After footings and foundations are installed for each building and prior to framing or construction of walls, an as-built survey stamped by a Wisconsin Registered Land Surveyor shall be submitted to the Village to verify that required building setbacks have been met.
- 23. Prior to written occupancy of any building and associated site improvements three (3) copies of an as-built plan, stamped by a Wisconsin Registered Land Surveyor shall be submitted to the Village to verify that required building, above ground structures and all impervious surfaces meet the minimum setbacks and that all signage and pavement markings were installed per the approve site plans and the grading of the site was completed pursuant to the approved Site and Operational Plans. In addition, written certification from the signage companies that the signage was installed pursuant to the approved Site and Operational Plans.
- 24. Prior to written occupancy of any building an as-built record drawing of graphical data of all private sewer, water, and storm sewer facilities and underground irrigation systems

installed shall be provided to the Village for the Village to update the Village's Geographic Informational System. Information shall conform to the Village's electronic format requirements. In addition, a paper copy prepared and stamped by the Engineer of Record for the project shall be submitted.

- 25. No site within the development shall be used for any parking (neither overnight nor during the day) of junked/inoperable/dismantled/unlicensed vehicles. All junked/inoperable/dismantled/unlicensed vehicles that are parked overnight will be issued citations.
- 26. Real Estate Marketing Signs and/or Temporary Development Signs are permitted only by permit pursuant to the requirements of Article X of Chapter 420.
- 27. At no time shall any site within the development be used to sell or advertise any vehicles that are "for sale".
- 28. No vehicular parking will be permitted in driveways, maneuvering lanes, fire lanes or on landscaped areas.
- 29. There shall be no outside banners, strings of pennants, flags, inflatable devices or streamers affixed or attached to the building(s), light poles, ground or landscaping, etc. within the Development
- 30. There shall be no semi-truck/trailer or commercial box truck or commercial van parking permitted on the site within the Development, except temporarily, for routine deliveries.
- 31. There shall be no outdoor storage or display of materials, goods or equipment on any site, within the Development unless as approved by the Village.
- 32. The use of semi-trailers, storage units, storage bins, roll-off storage devices (e.g. P.O.D.S., S.A.M.S.) or other trucks, for storage purposes is prohibited. Outdoor storage of any materials, including but not limited to: raw materials, business supplies, pallets, crates, etc., is prohibited.
- 33. No trucks, trailers or cars shall be parked in a manner that would constitute advertising for the business on the properties.
- 34. No sign walkers persons with costumes or signs strapped, hung, affixed or over their clothes shall walk the properties or public right-of-ways for extended periods of time advertising the businesses, sales or special offers of the service or retail businesses.
- 35. No use shall be conducted in such a way as to constitute a public or private nuisance or to violate any of the performance standards set out in Section 420-38 of the Village Zoning Ordinance.
- 36. Municipal connection fees shall be paid prior to the connections of each building to the sanitary sewer system.
- 37. This development shall be in compliance with the Village Land Division and Development Control Ordinance, the Village Municipal and Zoning Codes, the Village Construction Site Maintenance and Erosion Control Ordinance and the State of Wisconsin Statutes.
- 38. All Village fees incurred by the Village Engineer, Village Inspectors and/or expert Assistants/Consultants/Attorneys required by the Village throughout the development process will be billed directly to the Developer. Such fees shall be paid in a timely manner.
- 39. All Village fees incurred by the Village Community Development Department and/or expert Assistants/Consultants/Attorneys required by the Village throughout the development process will be billed directly to the Developer. Such fees shall be paid in a timely manner.
- 40. Impact fees pursuant to Chapter 181 of the Village Code are required to be paid at time of building permit for each development site.

<u>Plan Commission recommends that the Village Board approve the **Certified Survey Map** subject to the above comments and the following conditions:</u>

- 1. The changes as noted on the **attached** CSM and in the staff comments shall be made and a revised draft shall be submitted to the Village staff for review.
- 2. Any outstanding taxes or special assessments shall be paid in full prior to recording the CSM at the Kenosha County Register of Deeds Office.
- 3. The CSM shall be executed and recorded and a recorded copy provided to the Village within 30 days of Village Board approval.

# ORD. # 13-40

# ORDINANCE TO AMEND THE VILLAGE OF PLEASANT PRAIRIE, WISCONSIN 2035 COMPREHENSIVE PLAN PURSUANT TO CHAPTER 390 OF THE VILLAGE MUNICIPAL CODE

**BE IT ORDAINED** by the Village of Pleasant Prairie Board of Trustees, Kenosha County, Wisconsin, that the Village of Pleasant Prairie, Wisconsin 2035 Comprehensive Plan is hereby amended as follows:

- To amend the 2035 Land Use Plan to correctly identify the field delineated wetlands as shown on *Exhibit 1* by placing the field delineated wetlands into the Park, Recreational and Other Open Space Lands with a field verified wetland land use designation.
- 2. To update Appendix 10-3 of the Village of Pleasant Prairie Wisconsin, 2035 Comprehensive Plan to include said amendment.

The Village Community Development Director is hereby directed to record these Amendments to the Comprehensive Plan on the appropriate pages of said Plan and to update Appendix A in Chapter 390 of the Village Municipal Code to include said amendments.

# Adopted this 16<sup>th</sup> day of September, 2013.

ATTEST:

VILLAGE OF PLEASANT PRAIRIE

John P. Steinbrink, Village President

Jane M. Romanowski Village Clerk

Ayes: \_\_\_\_ Nayes: \_\_\_\_ Absent: \_\_\_\_

Posted: \_\_\_\_\_

Ord #13-40 SB1 Wetland Land Use Amend.doc

#### WETLAND 1

Part of Lot 1, of Certified Survey Map No. 2175, a redivision of Outlot 17 in Prairie Ridge, a recorded subdivision being part of the Northeast 1/4 of the Northeast 1/4 of Section 8, Township 1 North, Range 22 East, in the Village of Pleasant Prairie, Kenosha County, Wisconsin described as follows: Commence at a point on the East line of said Northeast 1/4 located S02°59'24"E 675.67 feet from the Northeast corner of said Section; thence S87°10'02"W 59.75 feet to a point on the West right-of-way of C.T.H. "H" (88th Avenue); thence S02°59'24"E 34.70 feet along said West right-of-way to the point of beginning of this description; run thence S87°39'16"W 57.31 feet: thence S58°02'12"W 39.73 feet; thence S49°03'25"W 45.53 feet; thence S43°52'40"W 38.11 feet: thence S24°47'46"W 32.02 feet; thence S00°50'50"E 28.33 feet; thence S17°57'58"E 16.76 feet; thence S45°06'52"E 25.72 feet; thence N48°16'30"E 3.34 feet; thence S68°27'15"E 72.89 feet; thence S60°31'39"E 72.06 feet; thence S30°00'41"E 8.82 feet; thence S78°29'48"E 2.82 feet; thence S72°51'54"E 7.57 feet; thence N69°30'02"E 6.96 feet to said West right-of-way; thence N02°59'24"W 240.49 feet along said West right-of-way to the point of beginning. Containing 28,740 S.F.

#### WETLAND 2

Part of Lot 1, of Certified Survey Map No. 2175, a redivision of Outlot 17 in Prairie Ridge, a recorded subdivision being part of the Northeast 1/4 of the Northeast 1/4 of Section 8, Township 1 North, Range 22 East, in the Village of Pleasant Prairie, Kenosha County, Wisconsin described as follows: Commence at a point on the East line of said Northeast 1/4 located S02°59'24"E 675.67 feet from the Northeast corner of said Section; thence S87°10'02"W 429.48 feet along the South right-of-way of 76th Street to the point of curvature of a curve of Southerly convexity whose radius is 333.00 feet and whose chord bears N78°13'37"W 167.94 feet; thence Westerly 169.78 feet along the arc of said curve and said South right-of-way; thence S07°44'14"W 218.05 feet to the point of beginning of this description; run thence S41°25'51"W 30.12 feet; thence S11°25'17"W 19.44 feet; thence S03°06'18"E 25.24 feet; thence S00°50'29"W 31.28 feet; thence S41°58'19"E 32.63 feet; thence S65°54'40"E 30.42 feet; thence N80°04'09"E 46.92 feet; thence N60°42'38"E 41.94 feet; thence N42°35'36"E 32.08 feet; thence N09°28'26"E 35.60 feet; thence N17°22'25"W 39.17 feet; thence N58°03'46"W 33,49 feet; thence S79°27'48"W 39.05 feet; thence S89°30'22"W 58.57 feet to the point of beginning. Containing 18,197 S.F.

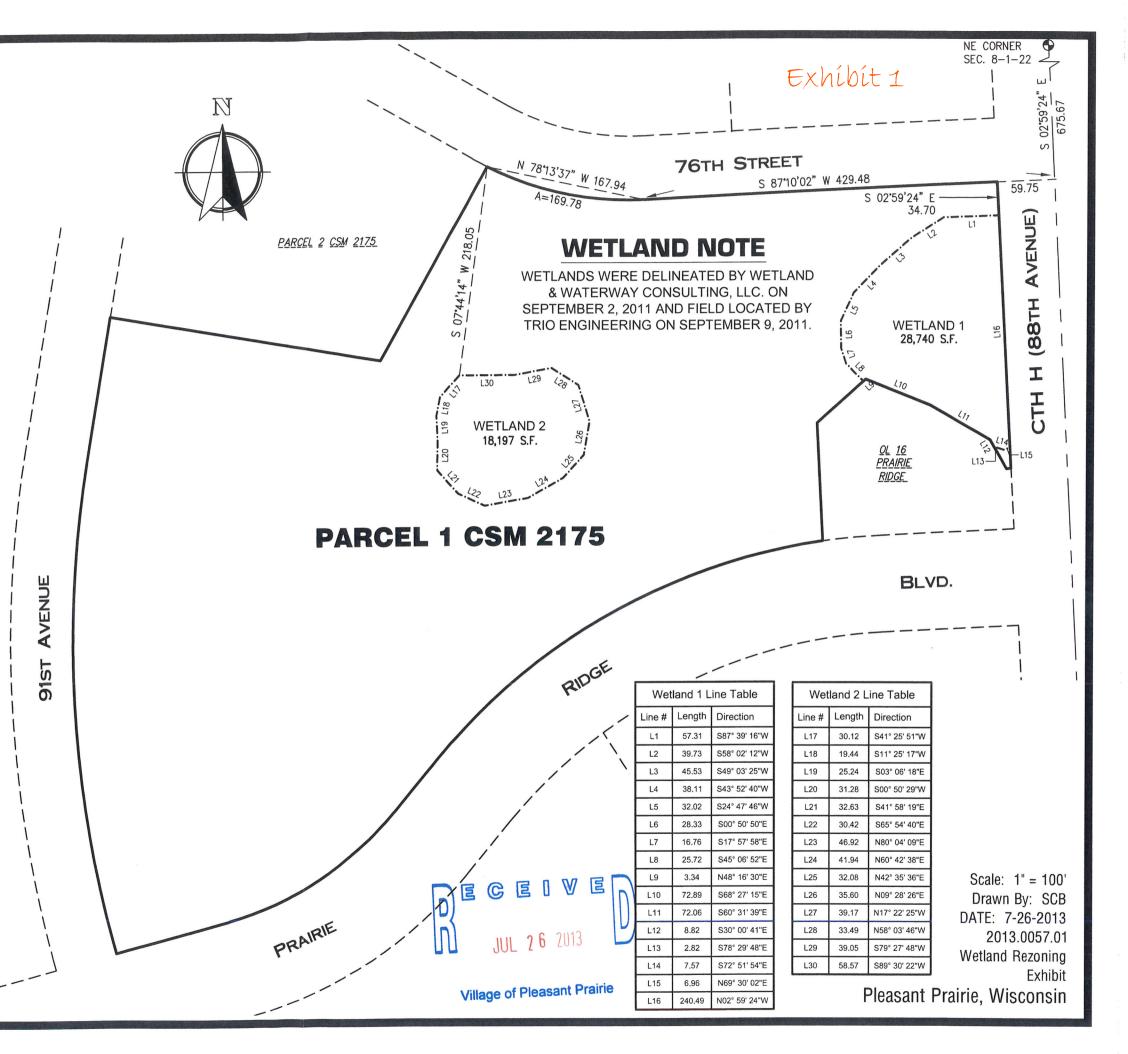
The wetlands were delineated by Wetland & Waterway Consulting, LLC. and field located by Trio Egineering. The map hereon drawn is a correct representation thereof to the best of my knowledge and belief.

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## Nielsen Madsen & Barber S.C. Civil Engineers and Land Surveyors

1458 Horizon Blvd. Suite 200, Racine, Wisconsin 53406 Phone (262) 634-5588 \* Facsimile (262) 634-5024 \* Website nmbsc.net



#### <u>ORD. # 13-41</u>

#### ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN PURSUANT TO CHAPTER 420-13 OF THE VILLAGE ZONING ORDINANCE

#### BE IT ORDAINED by the Village of Pleasant Prairie Board of Trustees, Kenosha County, Wisconsin, that the Official Village Zoning Map is hereby amended as follows:

The subject property is generally located between 88<sup>th</sup> and 91<sup>st</sup> Avenues and 76<sup>th</sup> Street and Prairie Ridge Blvd. within the Prairie Ridge development and known as Lot 1 of CSM 2175 located in U.S. Public Land Survey Section 8, Township 1 North, Range 22 East in the Village of Pleasant Prairie and further identified as Tax Parcel Number 91-4-122-081-0131 is hereby rezoned as follows: 1) the field delineated wetlands as shown and legally described on **Exhibit 1** are rezoned into the C-1, Lowland Resource Conservancy District and the nonwetland on the property will remain in the B-2, Community Business District and the entire property will remain in the PUD, Planned Unit Development Overly District.

The Village Zoning Administrator is hereby directed to record this Zoning Map Amendment on the appropriate sheet of the Official Village Zoning Map and Appendix B in Chapter 420 of the Village Municipal Code shall be updated to include said amendments.

#### Adopted this 16<sup>th</sup> day of September, 2013.

#### VILLAGE BOARD OF TRUSTEES

John P. Steinbrink Village President

ATTEST:

Jane M. Romanowski Village Clerk

Posted:\_\_\_\_\_

41-SB1 wetland.doc

#### WETLAND 1

Part of Lot 1, of Certified Survey Map No. 2175, a redivision of Outlot 17 in Prairie Ridge, a recorded subdivision being part of the Northeast 1/4 of the Northeast 1/4 of Section 8, Township 1 North, Range 22 East, in the Village of Pleasant Prairie, Kenosha County, Wisconsin described as follows: Commence at a point on the East line of said Northeast 1/4 located S02°59'24"E 675.67 feet from the Northeast corner of said Section; thence S87°10'02"W 59.75 feet to a point on the West right-of-way of C.T.H. "H" (88th Avenue); thence S02°59'24"E 34.70 feet along said West right-of-way to the point of beginning of this description; run thence S87°39'16"W 57.31 feet: thence S58°02'12"W 39.73 feet; thence S49°03'25"W 45.53 feet; thence S43°52'40"W 38.11 feet: thence S24°47'46"W 32.02 feet; thence S00°50'50"E 28.33 feet; thence S17°57'58"E 16.76 feet; thence S45°06'52"E 25.72 feet; thence N48°16'30"E 3.34 feet; thence S68°27'15"E 72.89 feet; thence S60°31'39"E 72.06 feet; thence S30°00'41"E 8.82 feet; thence S78°29'48"E 2.82 feet; thence S72°51'54"E 7.57 feet; thence N69°30'02"E 6.96 feet to said West right-of-way; thence N02°59'24"W 240.49 feet along said West right-of-way to the point of beginning. Containing 28,740 S.F.

#### WETLAND 2

Part of Lot 1, of Certified Survey Map No. 2175, a redivision of Outlot 17 in Prairie Ridge, a recorded subdivision being part of the Northeast 1/4 of the Northeast 1/4 of Section 8, Township 1 North, Range 22 East, in the Village of Pleasant Prairie, Kenosha County, Wisconsin described as follows: Commence at a point on the East line of said Northeast 1/4 located S02°59'24"E 675.67 feet from the Northeast corner of said Section; thence S87°10'02"W 429.48 feet along the South right-of-way of 76th Street to the point of curvature of a curve of Southerly convexity whose radius is 333.00 feet and whose chord bears N78°13'37"W 167.94 feet; thence Westerly 169.78 feet along the arc of said curve and said South right-of-way; thence S07°44'14"W 218.05 feet to the point of beginning of this description; run thence S41°25'51"W 30.12 feet; thence S11°25'17"W 19.44 feet; thence S03°06'18"E 25.24 feet; thence S00°50'29"W 31.28 feet; thence S41°58'19"E 32.63 feet; thence S65°54'40"E 30.42 feet; thence N80°04'09"E 46.92 feet; thence N60°42'38"E 41.94 feet; thence N42°35'36"E 32.08 feet; thence N09°28'26"E 35.60 feet; thence N17°22'25"W 39.17 feet; thence N58°03'46"W 33,49 feet; thence S79°27'48"W 39.05 feet; thence S89°30'22"W 58.57 feet to the point of beginning. Containing 18,197 S.F.

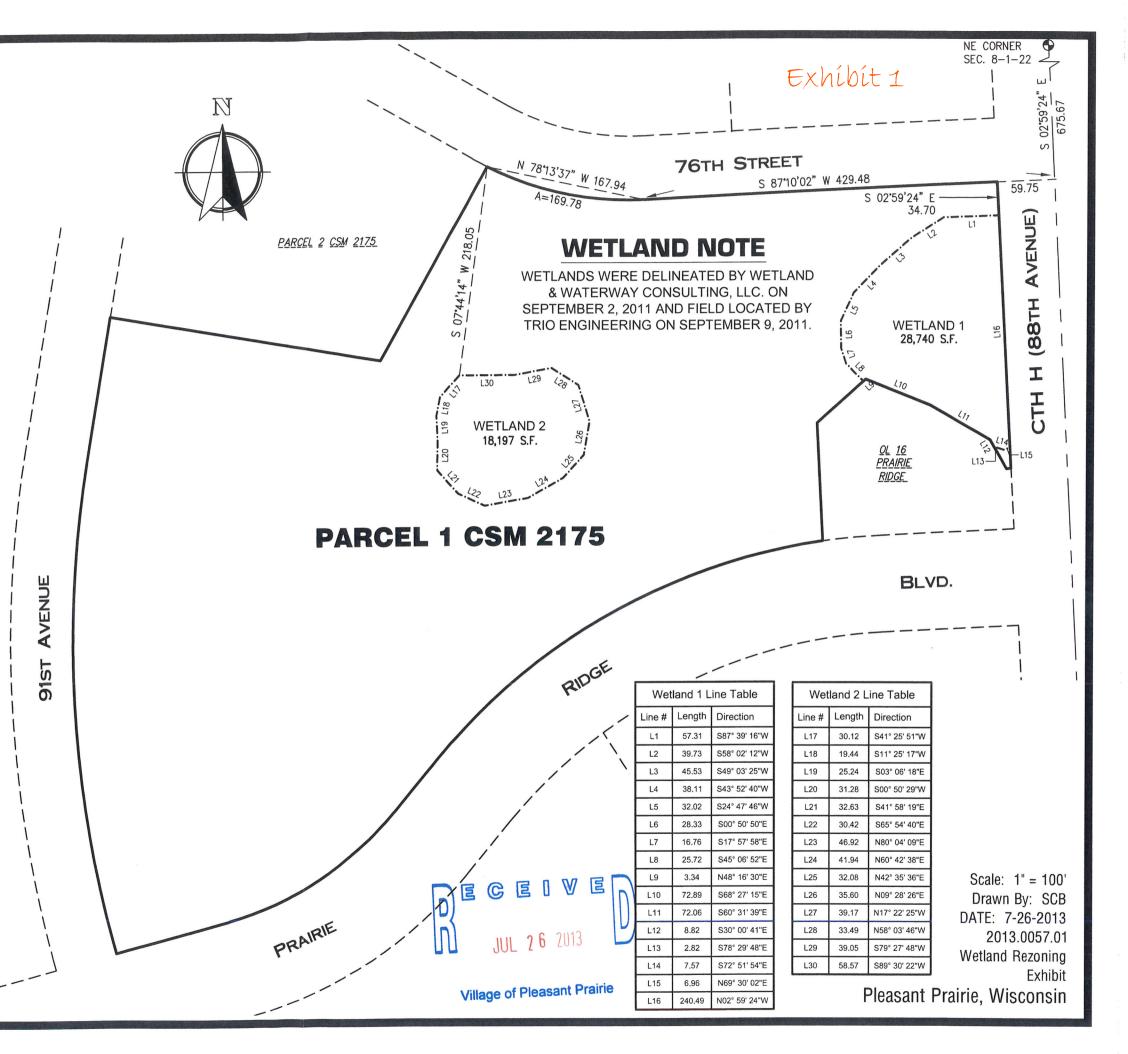
The wetlands were delineated by Wetland & Waterway Consulting, LLC. and field located by Trio Egineering. The map hereon drawn is a correct representation thereof to the best of my knowledge and belief.

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## Nielsen Madsen & Barber S.C. Civil Engineers and Land Surveyors

1458 Horizon Blvd. Suite 200, Racine, Wisconsin 53406 Phone (262) 634-5588 \* Facsimile (262) 634-5024 \* Website nmbsc.net







## VILLAGE STAFF MEMORANDUM

TO:	Jean Werbie-Harris, Community Development Director
FROM:	Doug McElmury, Chief Fire & Rescue Department
CC:	Lt. Thomas Clark, Fire & Rescue Department
	Peggy Herrick, Assistant Planner, Community Development
SUBJECT:	Review of the Conceptual Plan for the Re-division of Parcel 1, Prairie Ridge
	Boulevard
DATE:	August 10, 2013

This is a review of the Conceptual Plan for the proposed Re-division of Parcel 1, Prairie Ridge Boulevard . The plan consists of four office buildings ranging in size from 19,300 square feet to 21,500 square feet.

The Fire & Rescue Department will be responsible for providing fire prevention inspections of this facility, twice annually. The concerns of the Fire & Rescue Department are as follows:

- 1. Distribution of Comments: the person who obtains the building permit to all Contractors and Subcontractors affected by this document shall distribute Copies of these comments. This document outlines critical times and deadlines. All recipients of this document need to become familiar with the contents.
- 2. **Compliance:** A letter shall be submitted to the Fire & Rescue Department prior to receiving a building permit, stating that the project will comply with all requirements addressed within this document.
- 3. In the event a conflict in code(s) is identified, or a conflict with the insurance carrier criteria occurs, the more stringent shall apply. In the event this conflicts with any codes adopted by the State of Wisconsin, the owner must petition the State directly for a variance. The Owner must demonstrate that they will provide materials or design equivalent to the code or that they will exceed the code when petitioning the State and or Village when applicable.

Upon review of the plans submitted, we have the following concerns:

- Access to around all buildings must comply with the International Building Code 2009 edition.
- AED. Because of the overall size of each building the owner shall install one or more public access Automatic External Defibrillator (AED) in each building for employee use in the event of a sudden cardiac arrest. The Fire & Rescue Department can provide the training necessary to perform CPR and to operate the AED.
- Fire Alarm Control Panel: The main FACP <u>will</u> be placed in the fire sprinkler riser/fire

pump room of each building. Remote annunciator panel locations will need to be determined.

- Fire safety system plans, such as fire sprinkler and fire alarm plans, will need to be submitted to the State of Wisconsin Department of Safety and Professional Services and also to this fire department for review. No installation of any fire protection system is allowed until a satisfactory review is obtained from both departments.
- Fire hydrants: Not shown on the plan. Hydrants must meet the Village Ordinance of a maximum distance of 350 feet apart. Hydrants shall always be visible and accessible, in particular in any area where trailer trucks will be parked or staged.
- Elevator: All elevators must comply with Village of Pleasant Prairie Ordinance 180-20. This will include the minimum clear cab inside of five feet eight inches by seven feet 9 ½ inches.
- Severe Weather Shelter: The architect shall identify the area within the building that can be used as a "severe weather shelter" or "safe haven" during severe weather such as a tornado. That area will be identified with signage.
- Each building shall be re-evaluated each time a tenant(s) is secured.

#### 4. Fire and Rescue Department Review and Comments:

- A. Site and Operational Permits
  - Site accessibility
  - Pumper Pad
  - Fire hydrant spacing
  - 5. **Plan Review, Permits and Fees:** The plans for the fire protection underground, aboveground and fire alarm system shall be submitted for review a minimum of four (4) weeks before installation is scheduled to begin. The Village will use an independent fire safety consultant for review of all fire protection plans submitted. A satisfactory review must be completed before any permits will be issued and before construction can begin.
  - 6. **Insurance Carrier:** The Owner of this project shall submit to the insurance carrier for review the plans for both underground water distribution and fire protection prior to construction. The Fire & Rescue Department shall receive a copy of the comments when plans are submitted for review.

- 7. Each building requires the following information be submitted with the sprinkler plans for review:
  - Building height: Number of stories/floors: Mezzanines: Clear space: Elevators: Hazard class: Commodity: Maximum storage height: Square footage, office space: Exterior storage: Fire protection:
- 8. The following Fees and Permits are generated directly from the Fire & Rescue Department.

NOTE: Permits are required from the Fire & Rescue Department for the installation of water main in addition to any permits required by other Village of Pleasant Prairie Departments.

Bulk Water

- o Water Usage
- o Fire Protection Plans for Underground and Aboveground
- Fire Alarm System Plans
- o Kitchen Hood Systems Plans
- Occupancy Permit & Re-Inspection fees

An invoice for permit fees will be issued upon achieving a satisfactory review. Work cannot begin until all permits have been issued. A typical review turnaround is four weeks.

- 9. **Required Licenses:** A Wisconsin licensed fire protection contractor and Wisconsin licensed sprinkler fitters must install underground fire mains and aboveground fire protection. Periodic inspections of the job site will be made by fire inspectors to assure compliance.
- 10. **Pre-Construction Meeting:** A pre-construction meeting shall take place with the general contractor, the fire protection contractor, the Fire & Rescue Department and any other sub-contractor prior to the installation of any underground fire protection. The purpose of this meeting is to assure that the requirements of the State of Wisconsin that only a Wisconsin licensed sprinkler fitter shall perform the installation of all devices, etc. All parties will be asked to initial this document and or permit. Any violation of the installing requirements will be reported in writing to the State of Wisconsin Department of Safety and Professional Services.

- 11. **Site Access:** Access shall be provided around the perimeter of the site for all Fire Department apparatus, and must comply with the State of Wisconsin and the International Building Code, 2009 edition. A minimum wall-to-wall turning radius of 45'-0" shall be allowed for apparatus movement.
  - a. All entrances from public streets, as well as road and driveways around the proposed building <u>must be a minimum of 30 feet wide</u>.
  - b. All exterior exit pathways as well as access to the Fire Pump Room shall have a hard surface, leading to a hard surface.
  - C. An exterior personnel door shall be located in close proximity to each fire sprinkler riser.
- Sprinkler System: The buildings shall be equipped with an "automatic fire sprinkler system". The systems shall be designed and constructed to the current edition of NFPA 13, Automatic Fire Sprinklers and the Village of Pleasant Prairie Ordinance 180-16, Automatic Fire Sprinklers.
- 13. **Fire Pump:** At such time a Fire Pump becomes part of a fire sprinkler system, there shall be sufficient room to maneuver within the fire pump room. There shall be direct ingress/egress from the fire pump room directly to the exterior of the building; a paved surface shall lead to the fire pump room. There shall be Emergency Lighting installed within the Fire Pump Room. The pump test header location shall comply with 180.16.
- 14. **Water Service:** If it is determined that the building will be serviced by a combination municipal water and fire protection main, that main must be sized by the fire protection (sprinkler) contractor. No main is allowed to travel underground, under the building.
- 15. **Plan Review (Underground):** A review of the underground drawings is required along with the fire protection drawings before a permit will be issued by the Fire & Rescue Department. Underground plans shall be submitted a minimum of four (4) weeks before installation begins.
- 16. Standpipes: <u>Standpipes will only be required in storage areas</u>. In lieu of 1.5 inch hose stations, the building shall be equipped with standpipes that shall consist of 2-½ inch NST valve, capable of delivering 250 GPM, at 75 PSI measured at the standpipe valve, when supplied by the fire department pumper, in the event no fire pump is needed. The standpipes shall be wet and placed adjacent to all exterior exit doors, same side as the door handle/knob. Village Ordinance 180.16 G.
- 17. **Fire Hydrants:** Fire hydrants shall be <u>spaced no more than 350 feet</u> apart around the perimeter of the building, per Village Ordinance 180-16. <u>The insurance carrier must</u> <u>agree in writing to the hydrant spacing</u>. As many hydrants as possible shall be supplied directly by municipal water. The distance from the finished grade line to the lowest discharge shall be no less than 18 inches and no more than 23 inches. The Fire Department connections shall be located, and of sufficient height where typical snow fall or snow removal operations will not obstruct access

- 18. Fire Hydrant Acceptance: This project will include the installation of water mains for domestic and fire protection use. Prior to the fire sprinkler system connection to any new water mains (including water mains, fire hydrants, laterals leading to the building and risers) must be hydrostatically tested flushed according to National Fire Protection Association (NFPA–National Fire Code) Standard 24 and witnessed by the Fire Chief and or the Chief's representative, the installing contractor and the fire sprinkler contractor at a minimum.
- 19. Fire hydrant and water main flushing can be disruptive to the job site and requires significant coordination of all sub-contractors by the General Contractor. Nonetheless flushing is an essential part of assuring public safety.
- 20. The General Contractor is highly encouraged to coordinate the flushing of all new water mains, fire hydrants, laterals leading to the building and risers with both the subcontractors responsible, the Village of Pleasant Prairie Engineering Department, Fire and Rescue Department and the Water Utility Department, prior to seeking a 'clean water sample' on this site.

**NOTE:** The Fire Protection Designer must meet with the Fire & Rescue Department before the underground drawings are submitted for review to finalize the placement of the hydrants.

21. **Pumper Pad:** For each building there shall be a dedicated space for a fire engine to have unobstructed access to the Pumper Pad. Both the Fire Department Sprinkler connection and the fire hydrant shall be installed remote from the building and located a minimum distance from the building equal to the highest wall. The fire hydrant shall be located no more than five (5) feet from the roadway and the Fire Department sprinkler connection shall be placed no more than five (5) feet from the fire hydrant. The Fire Department connection shall be constructed along with an underground drain with access for inspection. A guideline detail is attached and is meant to illustrate the requirements needed to meet the requirements stated in Village Ordinance 180-16.

**NOTE:** The Fire Department Connection riser shall include a single five (5) inch Storz fitting with a 30 degree bend.

- 22. **Bollards:** Shall be placed near fire hydrants, remote post indicator valves (PIV) and Fire Department connection(s) to prevent damage. Bollards shall be 6 inches in diameter. Bollards shall not obstruct charged fire hoses. It is recommended that the Fire Department approve the location of the bollard(s) before final placement is made.
- 23. **Strobe Light:** A strobe light shall be provided for each riser and installed vertically above each sprinkler water flow bell. The strobe light shall operate for a sprinkler water flow. The lens color shall be RED. The strobe light shall meet Village specifications as found in section 180-16 K of the Sprinkler Ordinance.

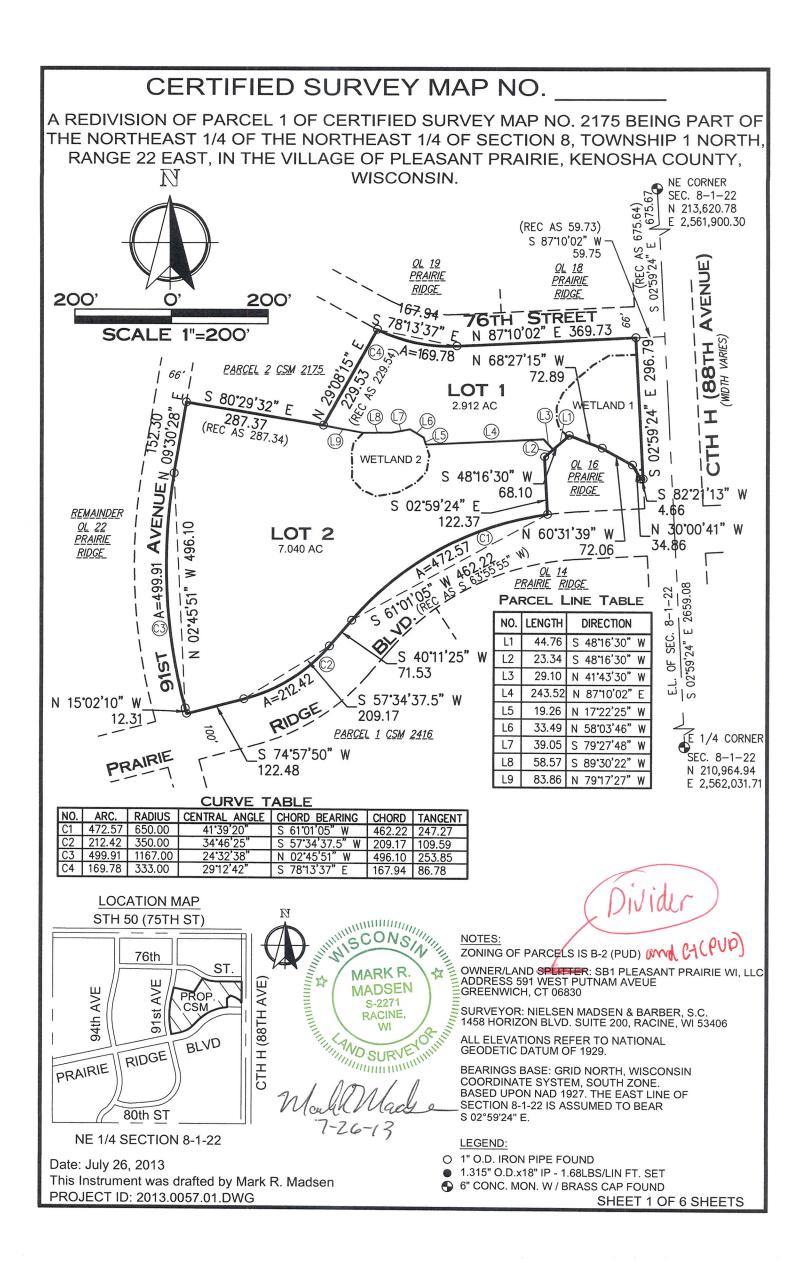
- 24. Fire Alarm System: The system shall be fully addressable so that detailed information will be received about the device in alarm. Utilizing a fire pull station, sprinkler water flow, or any other fire detection device that maybe installed in this building shall activate the internal fire alarm system.
  - **a**. **Manual Fire Alarm Pull Stations:** Shall be located at a minimum, immediately adjacent to each exterior door. Any additional exterior doors will be required to meet this requirement. The pull station shall not be placed in the area of the door, but immediately adjacent to the door jamb.
  - b. Pull Stations and Audiovisual Alarms: Shall be installed per ADA requirements.
  - c. Smoke and Heat Detection: Shall be installed as required.
  - d. **Tamper Switches:** Tamper switches shall be placed on all sprinkler valves and be identified on the annunciator panel.
  - **e**. **Fire Alarm Control Panel: Shall be addressable.** The annunciator panel type shall be approved by the Fire & Rescue Department. The Fire Alarm Control Panel shall be located within the Fire Pump Room. The panel shall identify a fire sprinkler water flow by riser, and the specific locations of the fire alarm pull stations and any other fire detection devices that may be installed in this building.
  - f. Annunciator Panel: Shall be addressable. The annunciator panel type shall be approved by the Fire and Rescue Department. The panel shall identify a fire sprinkler water flow by riser, and the specific locations of the fire alarm pull stations and any other fire detection devices that may be installed in this building.
  - **g. Central Station:** The Fire Alarm Control Panel shall transmit all fire alarm, tamper, trouble and supervisory signals to a central station that is certified by Underwriters Laboratories (UL) and/or Factory Mutual (FM) and approved by the Fire & Rescue Department. The owner shall provide such documentation for approval. It is recommended that the owner consult with the Fire & Rescue Department prior to signing any contracts with the Central station.
    - 1) The central station shall be provided with this information regarding the geographical location of this alarm:

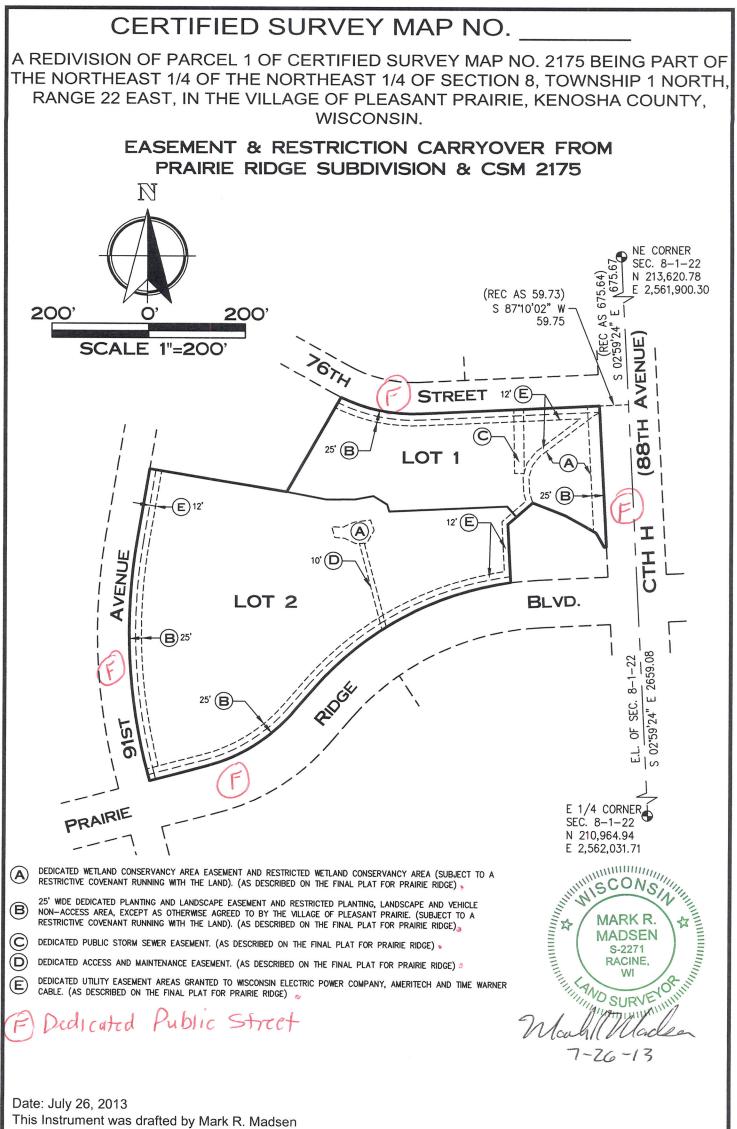
Village of Pleasant Prairie, County of Kenosha, State of Wisconsin

Fire:	Pleasant Prairie Fire & Rescue
Medical:	Pleasant Prairie Fire & Rescue
Phone numbers:	
<b>Emergency:</b>	(262) 694-1402
Non-emergency:	(262) 694-7105
Business:	(262) 694-8027

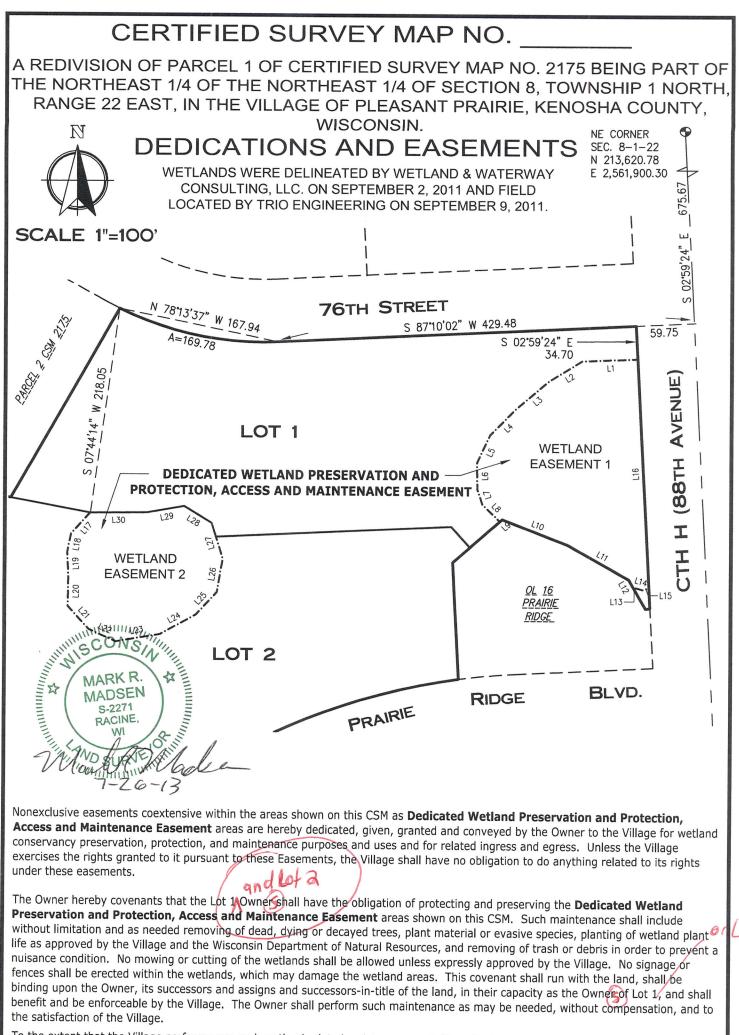
- 25. **Knox Box:** Knox Boxes shall be provided for each building, a determination of the exact number required will need to be made during the pre-construction meeting. The Knox Boxes shall be Model 4400. Two sets of all keys (Master, fire alarm pull station, annunciator, elevator, etc.) shall be placed within the box, as well as a copy of the pre-fire plan.
- 26. **MSDS Knox Box:** A minimum of One (1) Knox Box(s) designed for Material Safety Data Sheet storage shall be provided for each tenant to contain the data sheets on all products that are considered hazardous within the facility. The MSDS Box(s) shall be installed within the Riser/Fire Pump Room.
- 27. **Fire Extinguishers:** Shall meet NFPA 10 (Portable Fire Extinguishers) for the specific use of the building and be in sufficient number. Final approval, of fire extinguisher locations and quantity, will not be given until occupancy is taken, to see how a tenant furnishes the space. The company providing the fire extinguishers shall submit a letter to the Fire & Rescue Department stating the locations and size of the extinguishers are in compliance with NFPA 10.
- 28. Emergency and Exit Lighting: Exit and Emergency Lighting shall be provided and shall have battery backup. Combination units are acceptable and recommended. An Emergency Generator eliminates the need for battery backup. Exit and Emergency Lighting shall not be placed on electrical circuits that cannot be disturbed or interrupted, this is for test purposes. These circuits shall be clearly labeled. The Fire & Rescue Department will evaluate this lighting prior to occupancy during the evening hours after sunset. An Emergency light shall be placed within the fire pump room. Emergency and Exit lighting will be inspected after sunset to assure it is adequate and meets the Code.
- 29. **Final Inspection:** The General Contractor shall provide the following documentation at the time the Final Inspection takes place and before a building occupancy certificate will be issued.
  - a. The fire protection contractor shall provide the owner with a letter (upon completion of the sprinkler work) stating the sprinkler system, or portion thereof, is "100% operational and built according to the design", Village Ordinance, 180-16 N.
  - b. Copy of contract with fire alarm central monitoring station.
  - c. Copy of UL and/or FM certificate(s) for the fire alarm central monitoring station.
  - d. Copies of the fire protection underground flushing documents.
  - e. Copies of the underground and fire sprinkler hydrostatic test certificates.
  - f. Copies of the fire sprinkler operational test certificates.
  - g. Copies of the fire alarm test documents.
  - h. Copies of other test documents such as, hood/duct, smoke, etc...
  - i. The Pleasant Prairie Fire and Rescue Department shall have all information needed for our pre-fire plan prior to occupancy.
  - j. Provide two- (2) CD's, one for the property owner and one for the Fire & Rescue Department. The disks shall include all Floor plans and fire protection plans for the building in an as-built condition.

- k. Severe Weather Shelter: The architect shall provide for both the Owner and the Fire & Rescue Department the area within the building that can be used as a "severe weather shelter" or "safe haven" during severe weather such as a tornado.
- 1. Maps of the fire alarm and fire sprinkler system shall be placed in the fire pump room, near the fire alarm control panel; the maps shall be hung on the wall, with a waterproof covering and accessible to firefighters wearing bulky clothes and equipment.
- m. AED, in place at such time a tenant takes occupancy.
- n. A copy of the tenants Emergency Plan must be submitted to the Fire & Rescue Department before occupancy.
- o. Occupancy inspection fee and re-inspection fee will be assessed at the final inspection in accordance with ordinance 180-17.
- 30. **Occupancy:** All fire and life safety requirements must be in place prior to any building being occupied.





PROJECT ID: 2013.0057.01.DWG



To the extent that the Village performs any such wetland related maintenance activities, the Owners shall be liable for any costs which may be incurred by the Village, which the Village may recover from such Owner as special assessments or special charges under Section 66.0627 (or successors or similar provisions) of the Wisconsin Statutes or otherwise according to law. Unless the Village exercises the rights granted to it in the Dedications and Easement Provisions on this CSM, the Village shall have no obligation to do anything pursuant to its rights under these easement dedications. Date: July 26, 2013

This Instrument was drafted by Mark R. Madsen PROJECT ID: 2013.0057.01.DWG

SHEET 3 OF 6 SHEETS

# CERTIFIED SURVEY MAP NO.

A REDIVISION OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 2175 BEING PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 1 NORTH, RANGE 22 EAST, IN THE VILLAGE OFPLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN.

# DEDICATIONS AND EASEMENTS

## WETLAND EASEMENT 1 LEGAL DESCRIPTION

Part of Lot 1, of Certified Survey Map No. 2175, being part of the Northeast 1/4 of the Northeast 1/4 of Section 8, Township 1 North, Range 22 East, in the Village of Pleasant Prairie, Kenosha County, Wisconsin described as follows: Commence at a point on the East line of said Northeast 1/4 located S02°59'24"E 675.67 feet from the Northeast corner of said Section; thence S87°10'02"W 59.75 feet to a point on the West right-of-way of C.T.H. "H" (88th Avenue); thence S02°59'24"E 34.70 feet along said West right-of-way to the point of beginning of this description; run thence S87°39'16"W 57.31 feet; thence S58°02'12"W 39.73 feet; thence S49°03'25"W 45.53 feet; thence S43°52'40"W 38.11 feet; thence S24°47'46"W 32.02 feet; thence S00°50'50"E 28.33 feet; thence S17°57'58"E 16.76 feet; thence S45°06'52"E 25.72 feet; thence N48°16'30"E 3.34 feet; thence S68°27'15"E 72.89 feet; thence S60°31'39"E 72.06 feet; thence S30°00'41"E 8.82 feet; thence S78°29'48"E 2.82 feet; thence S72°51'54"E 7.57 feet; thence N69°30'02"E 6.96 feet to said West right-of-way; thence N02°59'24"W 240.49 feet along said West right-of-way to the point of beginning. Containing 28,740 S.F.

#### WETLAND EASEMENT 2 LEGAL DESCRIPTION

Part of Lot 1, of Certified Survey Map No. 2175, being part of the Northeast 1/4 of the Northeast 1/4 of Section 8, Township 1 North, Range 22 East, in the Village of Pleasant Prairie, Kenosha County, Wisconsin described as follows: Commence at a point on the East line of said Northeast 1/4 located S02°59'24"E 675.67 feet from the Northeast corner of said Section; thence S87°10'02"W 429.48 feet along the South right-of-way of 76th Street to the point of curvature of a curve of Southerly convexity whose radius is 333.00 feet and whose chord bears N78°13'37"W 167.94 feet; thence Westerly 169.78 feet along the arc of said curve and said South right-of-way; thence S07°44'14"W 218.05 feet to the point of beginning of this description; run thence S41°25'51"W 30.12 feet; thence S11°25'17"W 19.44 feet; thence S03°06'18"E 25.24 feet; thence S00°50'29"W 31.28 feet; thence S41°58'19"E 32.63 feet; thence S65°54'40"E 30.42 feet; thence N80°04'09"E 46.92 feet; thence N60°42'38"E 41.94 feet; thence N42°35'36"E 32.08 feet; thence N09°28'26"E 35.60 feet; thence N17°22'25"W 39.17 feet; thence N58°03'46"W 33.49 feet; thence S79°27'48"W 39.05 feet; thence S89°30'22"W 58.57 feet to the point of beginning. Containing <u>18,197 S.F.</u>

Wet	land 1 L	ine Table
Line #	Length	Direction
L1	57.31	S87° 39' 16"W
L2	39.73	S58° 02' 12"W
L3	45.53	S49° 03' 25"W
L4	38.11	S43° 52' 40"W
L5	32.02	S24° 47' 46"W
L6	28.33	S00° 50' 50"E
L7	16.76	S17° 57' 58"E
L8	25.72	S45° 06' 52"E
L9	3.34	N48° 16' 30"E
L10	72.89	S68° 27' 15"E
L11	72.06	S60° 31' 39"E
L12	8.82	S30° 00' 41"E
L13	2.82	S78° 29' 48"E
L14	7.57	S72° 51' 54"E
L15	6.96	N69° 30' 02"E
L16	240.49	N02° 59' 24"W

Wetland 2 Line Table		
Line #	Length	Direction
L17	30.12	S41° 25' 51"W
L18	19.44	S11° 25' 17"W
L19	25.24	S03° 06' 18"E
L20	31.28	S00° 50' 29"W
L21	32.63	S41° 58' 19"E
L22	30.42	S65° 54' 40"E
L23	46.92	N80° 04' 09"E
L24	41.94	N60° 42' 38"E
L25	32.08	N42° 35' 36"E
L26	35.60	N09° 28' 26"E
L27	39.17	N17° 22' 25"W
L28	33.49	N58° 03' 46"W
L29	39.05	S79° 27' 48"W
L30	58.57	S89° 30' 22"W

# WETLAND NOTE

WETLANDS WERE DELINEATED BY WETLAND & WATERWAY CONSULTING, LLC. ON SEPTEMBER 2, 2011 AND FIELD LOCATED BY TRIO ENGINEERING ON SEPTEMBER 9, 2011.

MARK R. MADSEN S-2271 RACINE, WI OSURVE OTIMINING Mahth 7-26-13

Date: July 26, 2013 This Instrument was drafted by Mark R. Madsen PROJECT ID: 2013.0057.01.DWG

SHEET 4 OF 6 SHEETS

# CERTIFIED SURVEY MAP NO.

A REDIVISION OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 2175 BEING PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 1 NORTH, RANGE 22 EAST, IN THE VILLAGE OFPLEASANT PRAIRIE, KENOSHA COUNTY, SURVEYOR'S CERTIFICATE WISCONSIN.

I, MARK R. MADSEN, Registered Land Surveyor, hereby certify:

THAT I have prepared this Certified Survey Map at the direction of the OWNERS; THAT the exterior boundaries are described as The redivision of Parcel 1, of Certified Survey Map No. 2175, being part of the Northeast 1/4 of the Northeast 1/4 of Section 8, Township 1 North, Range 22 East, in the Village of Pleasant Prairie, Kenosha County, Wisconsin described as follows: Commence at a point on the East line of said Northeast 1/4 located S02°59'24"E 675.67 feet from the Northeast corner of said Section; thence S87°10'02"W 59.75 feet to a point on the West right-of-way of C.T.H. "H" (88th Avenue) and the point of beginning of this description; run thence S02°59'24"E 296.79 feet along said West right-of-way; thence S82°21'13"W 4.66 feet; thence N30°00'41"W 34.86 feet; thence N60°31'39"W 72.06 feet; thence N68°27'15"W 72.89 feet; thence S48°16'30"W 68.10 feet; thence S02°59'24"E 122.37 feet to the Southwest corner of Outlot 16, Prairie Ridge Subdivision, a recorded plat and the Northerly right-of-way of Prairie Ridge Boulevard and a point on a curve of Northwesterly convexity whose radius is 650.00 feet and whose chord bears S61°01'05"W 462.22 feet; thence Southwesterly 472.57 feet along the arc of said curve and said Northerly right-of-way; thence S40°11'25"W 71.53 feet along said Northerly right-of-way to the point of curvature of a curve of Southeasterly convexity whose radius is 350.00 feet and whose chord bears S57°34'37.5"W 209.17 feet; thence Southwesterly 212.42 feet along the arc of said curve and said Northerly right-of-way; thence S74°57'50"W 122.48 feet along said Northerly right-of-way to the East right-of-way of 91st Avenue; thence N15°02'10"W 12.31 feet along said East right-of-way to the point of curvature of a curve of Westerly convexity whose radius is 1167.00 feet and whose chord bears N02°45'51"W 496.10 feet; thence Northerly 499.91 feet along the arc of said curve and said East right-of-way; thence N09°30'28"E 152.30 feet along said East right-of-way to the Southwest corner of Parcel 2 of said Certified Survey Map No. 2175; thence S80°29'32"E 287.37 feet along the South line of said Parcel 2 to the Southeast corner of said Parcel 2; thence N29°08'15"E 229.53 feet along the East line of said Parcel 2 to the South right-of-way of 76th Street and a point on a curve of Southerly convexity whose radius is 333.00 feet and whose chord bears S78°13'37"E 167.94 feet; thence Easterly 169.78 feet along the arc of said curve and said South right-of-way; thence N87°10'02"E 369.73 feet along said South right-of-way to the point of beginning. Containing 9.952 acres.

THAT said Certified Survey Map is a correct representation of all of the exterior boundaries of the land surveyed and the division thereof made and I have fully complied with the provisions of Chapter 236.34 of the Wisconsin Statutes and the Village of Pleasant Prairie Land Division and Development Control Ordinance.

MARK R. MADSEN S-2271 RACINE, WI July 26, 2013 Vadea Mark R. Madsen, S-2271 Nielsen Madsen & Barber, S.C. 1458 Horizon Blvd., Suite 200 Racine, WI 53406 (262) 634-5588

### OWNER'S CERTIFICATE OF DEDICATION

SB1 Pleasant Prairie WI, LLC, as Owner does hereby certified that it caused the land described on this Certified Survey Map to be surveyed, divided, mapped and dedicated as represented on this Certified Survey Map and does further certify that this Certified Survey Map is required by s.236.34 to be submitted to the following for approval or objection: Village of Pleasant Prairie.

SB1 PLEASANT PRAIRIE WI, LLC
Signed: \_\_\_\_\_\_
Print Name: \_\_\_\_\_\_
Title: \_\_\_\_\_\_
IN WITNESS WHEREOF, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.
Witness: \_\_\_\_\_\_
Date: July 26, 2013
This Instrument was drafted by Mark R. Madsen

PROJECT ID: 2013.0057.01.DWG

SHEET 5 OF 6 SHEETS

CERTIFIED SURVEY MAP NO
A REDIVISION OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 2175 BEING PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 1 NORTH RANGE 22 EAST, IN THE VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN.
CONSENT OF CORPORATE MORTGAGE
, a corporation duly organized under and by virtue of the laws of the State of Wisconsin, mortgagee of the above-described land, does hereby consent to the surveying, dividing, mapping and dedication of the land described on this Certified Survey Map and does hereby consent to the above certificate of SBI Pleasant Prairie WI, LLC, Owner.
IN WITNESS WHEREOF, the said SB1 PLEASANT PRAIRIE WI, LLC has caused these presents to be signed by at, Wisconsin, and its corporate seal to be hereunto affixed this day of, 2013.
SB1 PLEASANT PRAIRIE WI, LLC
Print Name:
Title:
STATE OF )
COUNTY OF) ss.
Personally came before me this day of, 2013, the above-named person of said corporation to me known to be the person who executed the foregoing instrument and to me known to be such of said corporation, and acknowledged that _he executed the foregoing as such officer as the deed of said corporation, by its authority.
Notary Public,,
My Commission:
Wahl Madse
VILLAGE PLAN COMMISSION APPROVAL
VILLAGE PLAN COMMISSION APPROVAL Approved by the Village Plan Commission, Village of Pleasant Prairie on this day of
Thomas W. Terwall, Chairman
VILLAGE BOARD APPROVAL
Approved by the Village Board, Village of Pleasant Prairie on this day of, 2013.
Attest:
John P. Steinbrink, Village President Jane M. Romanowski, Village Clerk
Date: July 26, 2013 This Instrument was drafted by Mark R. Madsen
PROJECT ID: 2013.0057.01.DWG SHEET 6 OF 6 SHEETS

N I I I





Village of Pleasant Prairie

July 26, 2013

Jean Werbie-Harris Village of Pleasant Prairie 9915 – 39<sup>th</sup> Avenue Pleasant Prairie, WI 53158

Re: Re-division of Parcel 1, Certified Survey Map 2175 Former Outlot 17 – Prairie Ridge Subdivision Southwest Corner of 88<sup>th</sup> Avenue & 76<sup>th</sup> Street File No. 2013.0057.01

Dear Jean:

Attached please find ten (10) full size copies and one 11"x17" copy of the following documents for review and consideration by the Plan Commission and Village Board:

- 1. Conceptual Plan,
- 2. Certified Survey Map (CSM) and
- 3. Wetland Rezoning drawing.

The fully executed applications and a check for the application fees will be dropped off at your office early next week.

A brief description of the proposed land division is as follows:

- Lot 1 of the pending CSM is being created so it can be sold for future development as a professional office building. The proposed purchaser does not have any specific building plans or a proposed timeframe for development at this time.
- Since there are no specific building plans, we are not proposing any new easements or restrictions within the new parcel(s) other than the wetland protection and preservation easement.
- The proposed conceptual plan consists of five (5) professional office buildings with the original Outlot 17.
- We are formally requesting that the Village's Comprehensive Land Use Plan be updated to reflect the recently delineated wetlands.



Ms. Jean Werbie - Harris RE: Former Outlot 17 – Prairie Ridge Subdivision July 26, 2013 Page 2

Please invoice the applicant for the Village's actual staff time spent processing this request.

We are requesting that these items be placed on the August 18<sup>th</sup> Plan Commission meeting agenda for consideration.

Please review and call or email with any questions.

Sincerely,

Mark D. Eberle, P.E.

MDE/kmw Enclosures Cc: David Galowich File: G:/2013/2013.005701/Correspondence/Application Submittal – VPP (7-26-13)



July 29, 2013



#### VIA FEDEX



Ms. Peggy Herrick Ms. Jean Werbie-Harris Village of Pleasant Prairie 9915 39<sup>th</sup> Avenue Pleasant Prairie, WI 53158

RE: Prairie Ridge Commercial Lot 17

Dear Peggy and Jean:

Enclosed please find the following:

- Conceptual Plan Application
- Certified Survey Map Application
- Predevelopment Agreement
- Zoning Map and Tax Amendment Application
- Check made payable to the Village of Pleasant Prairie in the amount of \$1,500

I understand that Mark Eberle delivered to you all the required copies of the drawings last week. It is our hope that we will be placed on the Plan Commission agenda for September 9 and the Village Board for September 16. Please let me know if there are any problems or this is not possible.

Very truly yours,

MADISON REALTY GROUP, INC.

By: David H. Galowich

Its: President

DHG:bs enclosures cc (via email): Mark Eberle David Sanders



 Filed
 1/30 20 13 

 Fee Paid
 7/3U 20 (3) 

 PC Meeting Date
 9/9 20/3 

 VB Meeting Date
 9/16 20/3 

 Approved
 20 20 

 Denied
 20 20 

#### VILLAGE OF PLEASANT PRAIRIE CERTIFIED SURVEY MAP APPLICATION

To: Village Plan Commission & Village Board of Trustees of the Village of Pleasant Prairie:

I, (We), the undersigned owner(s)/agent do hereby petition the Village Board to amend the Village of Pleasant Prairie Zoning Map as hereinafter requested.

It is petitioned that the following described property be subdivided with a Certified Survey Map (CSM)

The property petitioned to be subdivided is located at: <u>88th Avenue and 76th Street</u>

and is legally described as follows: Parcel 1, Certified Survey Map 2175

Tax Parcel Number(s): <u>91-4-122-081-0131</u>

The property abuts or adjoins a State Trunk Highway	□ Yes	🖄 No
The property abuts or adjoins a County Trunk Highway	🖄 Yes	🛛 No
Municipal Sanitary Sewer is available to service said properties	X Yes	🛛 No
Municipal Water is available to service said properties	🛛 Yes	🛛 No

I (We), have contacted the Community Development Department to arrange a pre-application meeting to discuss the proposed request with the Village staff to determine additional information that may be needed to consider the request.

I, (We), hereby certify that all the above statements and attachments submitted herewith are true and correct to the best of my knowledge.

#### **PROPERTY OWNER:**

Print Name: <u>SB1 Pleasant Prairie WI, LLC.</u>
Signature: MM
Address: <u>c/o 591 West Putnam Avenue</u>
Greenwich, CT 06830
City) (State) (Zip)
Phone: (203) 422 - 7713
Fax:
Date July 26, 2013

OWNE	R'S AGEN	T:	
Print N	ame: <u>Nie</u>	elsen Mardsen &	Barber, S.C.
Signatu	reinfait	A Bale	
Address	s:_1458 F	Horizon Blvd., Sı	uite 200
Ra	acine, WI	[ 53406	
(City)		(State)	(Zip)
Phone:	(262) 63	34-5588	
Fax:	(262) 63	34-5024	
Date:	July 2	26, 2013	



Filed 7	30	2003	Published _	8/26	20_13
Public He	aring _	19	20	9/2	20/3
Fee Paid	73	<u> </u>	Approved		20
Notices Ma	iled 🔏	9_20	<u>3</u> Denied		20

#### VILLAGE OF PLEASANT PRAIRIE CONCEPTUAL PLAN APPLICATION

1.	Development Name: Redivision of Outlot 17 - Prairie Ridge		
2.	General Location of Development:88th Avenue and 76th Street	et	
3.	Tax Parcel Number(s): _91-4-122-081-0131		
4.	Number of Lots: Number of Outlots:	0	
5.	Size of Development: <u>9.9524</u> acres.		
6.	The Development is proposed to be constructed in Phases:	🖄 Yes	🛛 No
7.	The Development abuts or adjoins a State Trunk Highway:	□ Yes	🛛 No
8.	The Development abuts or adjoins a County Trunk Highway or a Kenosha County Park or the Kenosha County Bike Trail:	🖄 Yes	🛛 No

- 9. The following number and types of plans shall be submitted with this application:
  - 10 full size sets of Conceptual Plan
  - 1 copy of the Conceptual Plan reduced to 11" by 17"
  - Conceptual Plan application fee
  - 10 sets of Conceptual Engineering Plan
  - Phasing Plan, if applicable
  - Draft of Declarations, Covenant, Restrictions and any Easement Documents
  - Any other information as specified by the Village

I, (We), hereby certify that all the above statements and attachments submitted herewith are true and correct to the best of my knowledge.

#### **PROPERTY OWNER:**

Print Name: <u>SB1 Pleasant Prairie WI, LLC.</u>
Signature: MM
Address: <u>c/o 591 West Putnam Avenue</u>
Greenwich, CT 06830
City) (State) (Zip)
Phone (203) 422 - 1913
Fax:
Date July 26, 2013

OWNER'S AGENT:
rint Name: Nielsen Hadsen & Barber, S.C.
ignature: Monthe Lale
Address: 1458 Horizon Blvd., Suite 200
Racine, WI 53406
City) (State) (Zip)
hone: (262) 634-5588
ax: <u>(262) 634-5024</u>
Date:July 26, 2013



Filed 7	30	_2013 Published	8/24	20/3
Public Hea	aring <u>9</u>	20/3	9/2	20/3
Fee Paid	7/30	20 Approved		_20
Notices Ma	iled 8/9	20/3 Denied		_20

#### VILLAGE OF PLEASANT PRAIRIE, WISCONSIN ZONING MAP AND TEXT AMENDMENT APPLICATION

To: Village Plan Commission & Village Board of Trustees of the Village of Pleasant Prairie:

I, (We), the undersigned owner(s)/agent do hereby petition the Village Board to amend the Village of Pleasant Prairie Zoning Map as hereinafter requested.

It is petitioned that the following described property be rezoned from the present <u>B-2 (PUD)</u>

District(s) to	District(s).	The property petitioned
to be rezoned is located at: <u>88th Avenue and 76th Street</u>		and is legally described
(address) as follows: Part of Parcel 1, Certified Survey Map 2175		

Tax Parcel Number(s): 91-4-122-081-0131

The proposed use for this property is: <u>Wetland Preservation</u>

Petitioner's interest in the requested rezoning: <u>Rezone Wetlands</u>

Compatibility with adjacent land uses: Yes

I (We) are also requesting a Zoning Text Amendment to amend Section <u>N/A</u> of the Village Zoning Ordinance.

I (We), have contacted the Community Development Department to arrange a pre-application meeting to discuss the proposed request to determine additional information that may be needed for this request.

I, (We), hereby certify that all the above statements and attachments submitted herewith are true and correct to the best of my knowledge.

#### PROPERTY OWNER:

Print Name: <u>SBLPleasant Prairie WI, LLC.</u>	Print Name:
Signature:	Signature:
Address: c/o 591 West Putnam Avenue	Address: 1458
Greenwich, QT 06830	Racine, WI
(City) (State) (Zip)	(City)
Phone: (203) 422 - 113	Phone: (262)
Fax:	Fax: (262) 6
Email:	Email: <u>mebe</u>
Date July 26, 2013	Date: July 2

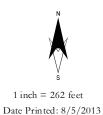
OWNER'S AGENT:			
Print Name: Nielsen Aladsen & Barber, S.C.			
Signature: Mark Eale			
Address: 1458 Horizon Blvd., Suite 200			
Racine, WI 53406			
(City)	(State)	(Zip)	
Phone: (262) 634-558	88		
Fax: (262) 634-502	.4		
Email: <u>meberle@nr</u>	nbsc.net		
Date:July 26, 2013			

9915 39<sup>th</sup> Avenue, Pleasant Prairie, Wisconsin 53158-6504 262.925.6717 FAX 262.694.4734 VPPCOMDEV-0024-F (REV. 9/04)



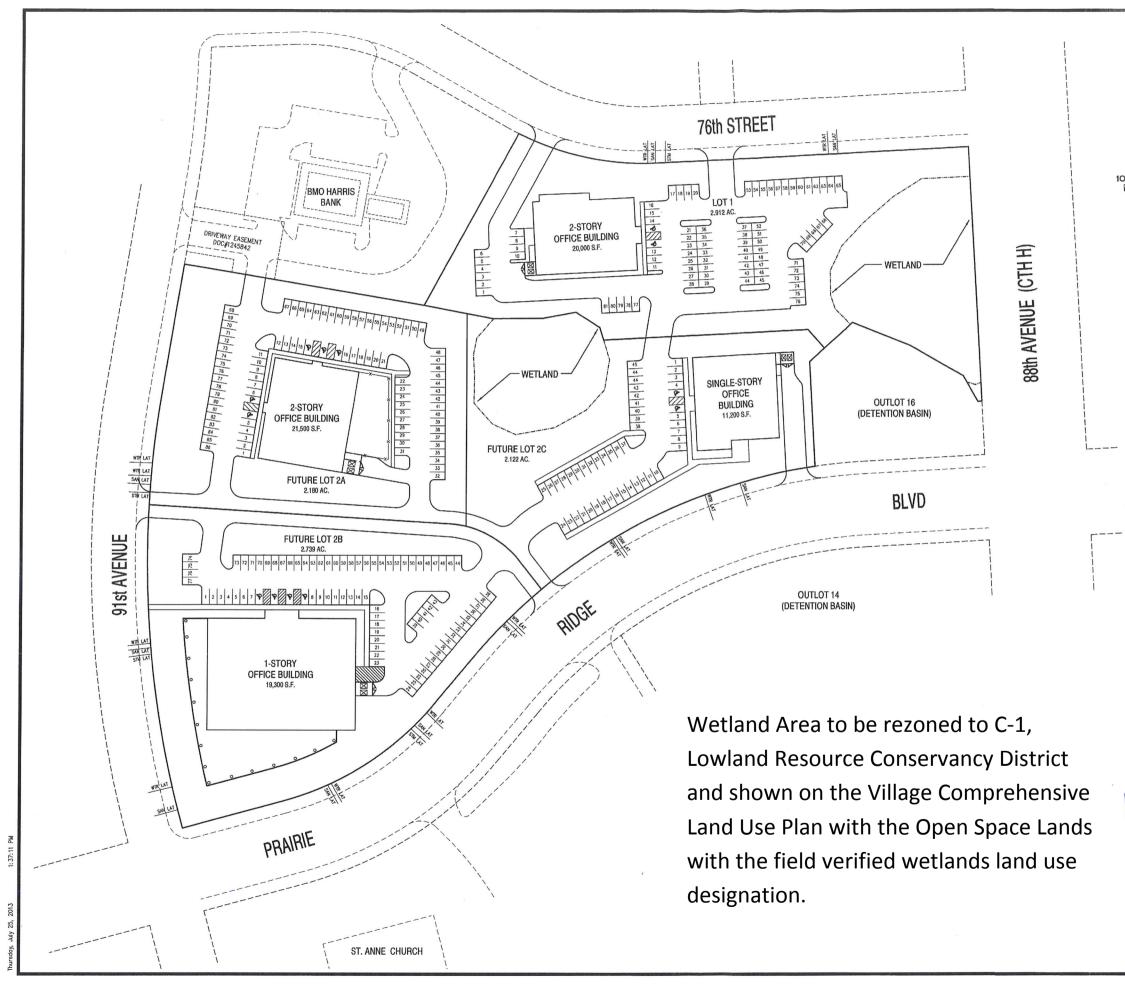


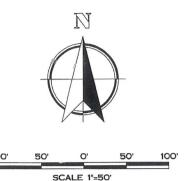
Stablished 1850



76THST -FRAIRIERIDGEIEEVD WESTW

DISCLAIMER This map is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, data and information located in various state, county and municipal offices and other sources affecting the area shown and is to be used for reference purposes only. Kenosha County is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact Kenosha County.





## Lot 1

AREA: 2.912 Ac.

20,000 S.F. OFFICE BUILDING 81 REGULAR PARKING SPACES 2 HANDICAP PARKING SPACES 83 TOTAL PARKING SPACES

## Lot 2A

AREA: 2.180 Ac. 21,500 S.F. OFFICE BUILDING 86 REGULAR PARKING SPACES 5 HANDICAP PARKING SPACES 91 TOTAL PARKING SPACES

## Lot 2B

AREA: 2.739 Ac 19,300 S.F. OFFICE BUILDING 77 REGULAR PARKING SPACES 4 HANDICAP PARKING SPACES 81 TOTAL PARKING SPACES

# Lot 2C

111

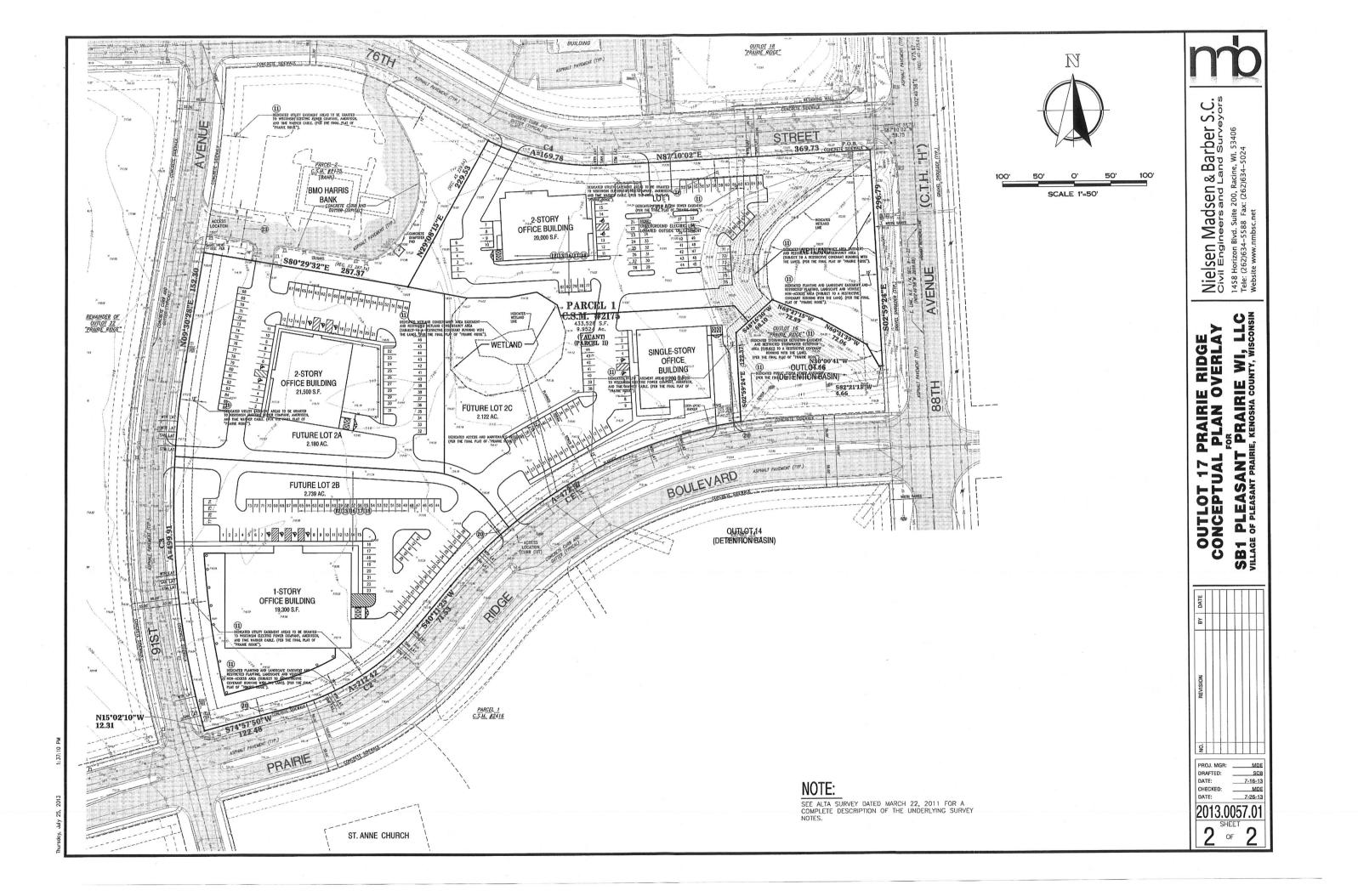
AREA: 2.122 Ac. 11.200 S.F. OFFICE BUILDING 45 REGULAR PARKING SPACES 2 HANDICAP PARKING SPACES 47 TOTAL PARKING SPACES

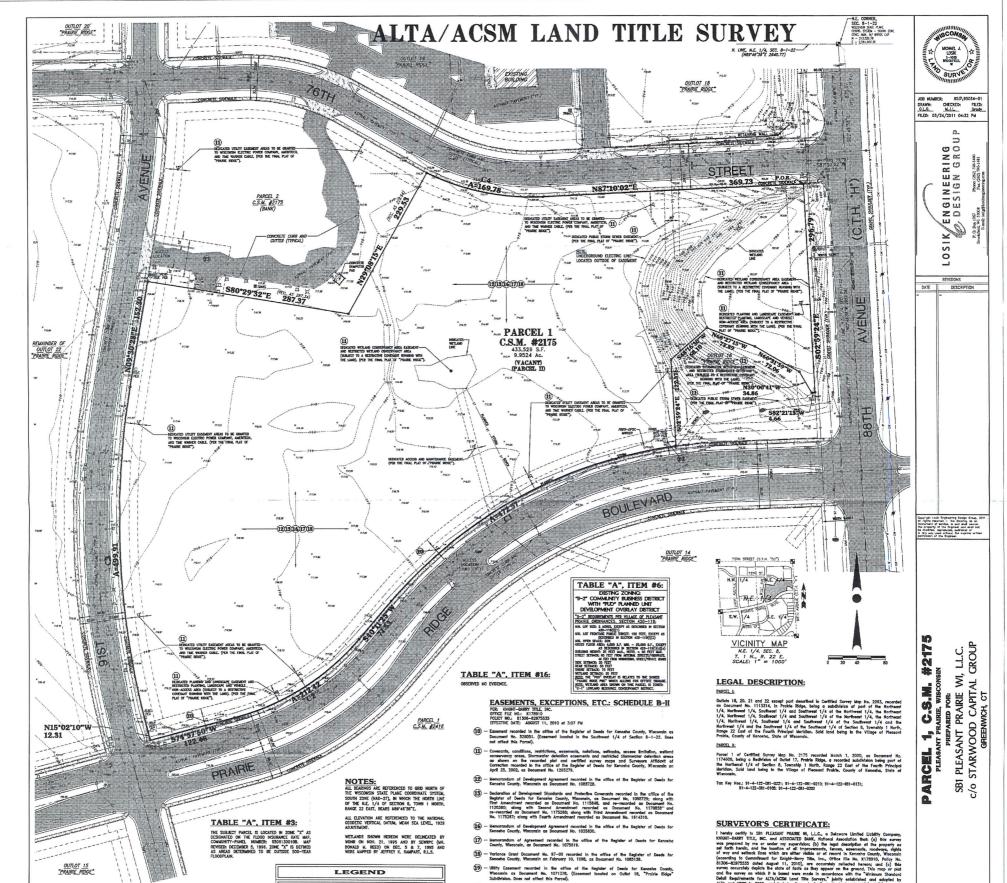


Nielsen Madsen & Barber S.C. Civil Engineers and Land Surveyors 1458 Horizon Blvd. Suite 200, Racine, WI. 53406 Tele: (262)634-5588 Fax: (262)634-5024 Website www.nmbsc.net

OUTLOT 17 PRAIRIE RIDGE CONCEPTUAL PLAN FOR 1 PLEASANT PRAIRIE WI, LI GE OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCO SB1







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Village of Pleasant Prairie

Office of the Village Community Development Director Jean M. Werbie-Harris



## VILLAGE STAFF MEMORANDUM

TO:	Village Board of Trustees Michael Pollocoff, Village Administrator
FROM:	Jean M. Werbie-Harris, Community Development Director Chief Dave Smetana, Police Department Chief Doug McElmury, Fire & Rescue Department
DATE:	September 10, 2013
SUBJECT:	2013 Mid-Night Madness Agreement between Prime Outlets at Pleasant Prairie LLC and Prime Outlets at Pleasant Prairie II LLC d/b/a Pleasant Prairie Premium Outlets and the Village of Pleasant Prairie

The purpose of this memorandum is to describe the Agreement between Prime Outlets at Pleasant Prairie LLC and Prime Outlets at Pleasant Prairie II LLC d/b/a Pleasant Prairie Premium Outlets and the Village of Pleasant Prairie regarding the 2013 payment for services agreement to cover the Premium Outlets expanded hours of operation from 9:00 p.m. on Thanksgiving night, November 28, 2013 to 8:00 a.m. the next Friday, November 29, 2013.

Under the Premium Outlets PUD, in order for the center to be open 24-hours, an Agreement must be entered into between the parties in consideration for additional requested services during the evening and early morning hours. As referenced in the agreement a payment in lieu of services is being provided to both the Police Department and the Fire & Rescue Department.

<u>Police Department:</u> Pay \$57.58/hr. for the services for four (4) additional on-duty Pleasant Prairie Police Officers and pay \$20.90/hr. for one (1) additional Pleasant Prairie Parking Officer to supplement the typical 2<sup>nd</sup> and 3<sup>rd</sup> shift Pleasant Prairie Police Department force. In 2013, Premium Outlets has agreed to reimburse the Village **\$2,763.42**, which equals the additional costs it anticipates for the additional police officers, as determined by the Chief of Police of Pleasant Prairie.

<u>Fire & Rescue Department:</u> Pay \$43.73/hr. for the services for one (1) additional on-duty and on-site Pleasant Prairie Firemedic to supplement the typical 3<sup>rd</sup> shift Fire & Rescue Department. Premium Outlets has agreed to reimburse the Village the estimated cost of **\$349.84**, which equals the additional costs of the Firemedic, as determined by the Chief of Fire & Rescue of Pleasant Prairie.

All of the details are set forth in the Agreement.

# 2013 AGREEMENT

## Between Prime Outlets at Pleasant Prairie LLC and Prime Outlets at Pleasant Prairie II LLC d/b/a Pleasant Prairie Premium Outlets and the Village of Pleasant Prairie

#### **IT IS HEREBY AGREED** by the undersigned parties as follows:

**WHEREAS**, Prime Outlets at Pleasant Prairie LLC and Prime Outlets at Pleasant Prairie II LLC d/b/a Pleasant Prairie Premium Outlets (hereinafter referred to as "Premium Outlets") is located at 11601 108<sup>th</sup> Street (Phase V) and 11211 120<sup>th</sup> Avenue (Phases I-V) in the Village of Pleasant Prairie (hereinafter referred to as the "Village"); and

**WHEREAS**, Premium Outlets is located on Tax Parcel Numbers 92-4-122-302-0107, 92-4-122-302-0108, 92-4-122-302-0126, 92-4-122-302-0350, 92-4-122-302-0375, 92-4-122-303-0210 and 92-4-122-303-0220; and

**WHEREAS**, Premium Outlets is primarily zoned B-3 (PUD), Regional Retail Business District with two (2) Planned Unit Development Overlay Districts (Ordinance Numbers 05-30 and 06-43 as referred to below). Portions of Tax Parcel Number 92-4-122-303-0220 (the southernmost parcel) is zoned C-1, Lowland Resource Conservancy District, FPO, Floodplain Overlay District and contains Shoreland Jurisdictional Areas; and

**WHEREAS**, on September 18, 2006 the Village Board of Trustees adopted Village Ordinance No. 06-43, entitled, "Prime Outlets at Pleasant Prairie Planned Unit Development (PUD)", which serves as an amendment to the "Prime Outlets at Pleasant Prairie Planned Unit Development" identified as Village Ordinance No. 02-71, originally adopted by the Village Board of Trustees on September 16, 2002. The Village Board recently adopted Village Ordinance No. 11-18 on July 18, 2011 as an amendment to the referenced Prime Outlets PUD to reflect the recent ownership name, logos/image and color changes; and

**WHEREAS**, on July 5, 2005 the Village Board of Trustees adopted Village Ordinance No. 05-30, entitled, "Prime Outlets at Pleasant Prairie Planned Unit Development No. 2" and the Village Board recently amended the referenced Prime Outlets PUD with Village Ordinance No. 11-19 on July 18, 2011 to reflect the ownership name, logos/image and color changes; and

**WHEREAS**, Chapter 420-119 K. (1) of the Village Zoning Ordinance limits the Hours of Operation (when the public is allowed to enter or remain on the site for business purposes or deliveries can be made) for B-3 zoned properties to 5:00 a.m. to 11:00 p.m. Although Premium is typically closed on Thanksgiving Day, the extended holiday shopping hours for Premium Outlets are proposed from 9:00 p.m. to 8:00 a.m. the following day; and

**WHEREAS,** Chapter 420 Attachment 3 Appendix C Specific Development Plans 2. d. (16) (3) of PUD Ordinance No. 06-43 states: "*The Zoning Administrator has the discretion to approve minor changes, adjustments and additions to this PUD ordinance document without the need for Village Plan Commission and Village Board review and approval"; and* 

**WHEREAS**, Premium Outlets is requesting to expand the Hours of Operation over the evening hours for Premium Outlets for one (1) day of each year; specifically from 9:00 p.m. (on Thanksgiving Day) through to 8:00 a.m. the Friday immediately following Thanksgiving Day); and

**WHEREAS,** pursuant to Village Ordinance No. 06-43, the Village Zoning Administrator has exercised the discretion to approve a minor change to the Prime Outlets at Pleasant Prairie PUD Ordinance without the need for the Village Plan Commission and Village Board of Trustees review; and

**WHEREAS,** annually, Premium Outlets spends and commits significant advertising dollars on announcing the "Midnight Madness" (day after Thanksgiving sale) promotional shopping event to the Milwaukee and Chicago markets, which advertises Premium Outlets as having shopping hours outside the parameters of the B-3 District Hours of Operation regulations; and

**WHEREAS,** the Village wishes to accommodate Premium Outlets and the thousands of shoppers who are informed of the "Midnight Madness" day after Thanksgiving sale shopping event; and

**WHEREAS,** the Zoning Administrator has approved Premium Outlet's request to expand the regular or typical holiday Hours of Operation for Premium as follows: from 9:00 p.m. (on Thanksgiving Day) to 8:00 a.m. (on the Friday immediately following Thanksgiving Day) subject to the filing of a Temporary Use Permit application and \$150 application filing fee with the Village Community Development Department and the execution of this Agreement; and

**WHEREAS,** Premium Outlets, in consideration of allowing the aforementioned expanded hours and for additional security purposes, hereby agrees to pay the Village in full for the services of additional Pleasant Prairie Police Officers to supplement the typical 3<sup>rd</sup> shift of the Pleasant Prairie Police Department on the Friday immediately following Thanksgiving Day; and

**WHEREAS,** the additional Pleasant Prairie Police Officers shall be employed by the Village for a  $3^{rd}$  shift, to work the hours beginning at 9:00 p.m. (on Thanksgiving Day) to 8:00 a.m. (on the Friday immediately following Thanksgiving Day); and

**WHEREAS**, the additional Pleasant Prairie Police Officers shall patrol and provide services under the direction of the Village Police Chief in response to the additional unusual level of traffic and activity in the area of Premium Outlets and other area businesses during the Midnight Madness day after Thanksgiving sale activities; and

**WHEREAS,** Premium Outlets agrees to and understands that each year the Pleasant Prairie Police Department will evaluate its needs as to whether additional police officers were adequate to handle the increased Midnight Madness day after Thanksgiving sale shopping activity levels with Prime and further agrees that Premium Outlets may be subject to additional police protection for future after Thanksgiving sale events and has agreed to financially reimburse the Village for the additional costs it occurs for more police officers as determined by the Chief of Police.

#### NOW, THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:

The Zoning Administrator hereby approves the expanded Hours of Operation for Premium Outlets from 9:00 p.m. (on Thanksgiving Day – November 28, 2012) to 8:00 a.m. (on the Friday immediately following Thanksgiving Day – November 29, 2012) and Premium Outlets hereby agrees to:

Pay \$57.58/hr. for the services for four (4) additional on-duty Pleasant Prairie Police Officers and pay \$20.90/hr. for one (1) additional Pleasant Prairie Parking Officer to supplement the typical 2<sup>nd</sup> and 3<sup>rd</sup> shift Pleasant Prairie Police Department force.

- The additional overtime Pleasant Prairie Police Officers shall be employed by the Village, at Premium Outlet's cost, to supplement the current 3<sup>rd</sup> shift work force to work the hours beginning at 9:00 p.m. on Thanksgiving Day to 8:00 a.m. on the Friday immediately following Thanksgiving Day.
- The additional Pleasant Prairie Police Officers shall patrol and provide service under the direction of the Village Police Chief in response to the additional traffic and activity in the area of Premium Outlets and other area businesses resulting from the expanded Hours of Operation for Premium Outlets.
- The Village shall invoice Premium Outlets \$2,763.42 for the police services. Premium Outlets shall remit payment to the Village within 30 days of said invoice for the overtime police services in the amount of \$57.58 per hour x 4 officers from for 11 hours (\$2,533.52) and \$20.90 per 11 hours x 1 parking officer (\$229.90) for the eleven-hour, second and third shift police officers providing service from 9:00 p.m. (on Thanksgiving Day) to 8:00 a.m. (on the Friday immediately following Thanksgiving Day).
- That Premium Outlets agrees and understands that: 1) each year the Pleasant Prairie Police Department re-evaluates the number of additional police officers that are needed to handle the expanded Hours of Operation on Thanksgiving Day and on the Friday after Thanksgiving; and 2) each year the Village may require additional Village third shift police officers for future expanded Hours of Operation on Thanksgiving Day and on the Friday immediately following Thanksgiving Day, and Premium Outlets. In 2013, Premium Outlets has agreed to reimburse the Village **\$2,763.42**, which equals the additional costs it anticipates for the additional police officers, as determined by the Chief of Police of Pleasant Prairie.
- Pay \$43.73/hr. for the services for one (1) additional on-duty and on-site Pleasant Prairie Firemedic to supplement the typical 3<sup>rd</sup> shift Fire & Rescue Department. The requested overtime Firemedic shall be employed by the Village, at Premium Outlet's cost, to provide on-site, stand-by services beginning at 10:00 p.m. on Thanksgiving Day to 8:00 a.m. on the Friday immediately following Thanksgiving Day. Premium Outlets has agreed to reimburse the Village the estimated cost of **\$349.84**, which equals the additional costs of the Firemedic, as determined by the Chief of Fire & Rescue of Pleasant Prairie.
- That Premium Outlets agrees and understands that, each year, the Village Zoning Administrator will re-evaluate the "after Thanksgiving sale" event, and reserves the right to terminate the sale hours immediately following Thanksgiving Day if there is a change in Village policies, or if the Village Ordinances have been violated by Premium Outlets during the conduct of the sale activities. Notice of any such termination must be provided to Premium by the Village by June 1<sup>st</sup> of the year in which said termination is to take effect.
- Either party may cancel this Agreement upon prior written notice to the other party, provided said written notice is provided on or before June 1<sup>st</sup> of the year the termination is to take effect.

This Agreement shall be binding upon Premium Outlets, and their respective successors in interest, heirs and assigns of said properties.

**IN WITNESS WHEREOF,** the parties have executed this Agreement on this  $\underline{\mathcal{F}}^{\mathcal{H}}$  day of *September*, 2013.

Notarized Signatures are on the next pages.

Premium Outlets and Village Agreement Midnight Madness –Extended Hours Agreement Page 4 of 5

OWNER(S): Prime Outlets of Pleasant Prairie, LLC and Prime Outlets at Pleasant Prairie II, LLC d/b/a Pleasant Prairie Premium Outlets.

Darcy Rutzen', O General Manager and Owner's Representative, Prime Outlets of Pleasant Prairie, LLC Prime Outlets of Pleasant Prairie II, LLC d/b/a Pleasant Prairie Premium Outlets

ACKNOWLEDGMENT STATE OF WISCONSIN SS COUNTY OF KENOSHA

Personally came before me this <u>JHA</u> day of <u>September</u>, 2013, the above named to me known to be the person (Darcy Rutzen, General Manager and Owner's **Representative**) who executed the foregoing instrument and acknowledged the same.

Ian Print Name: Notary Public Kenoshe County, U My Commission expires:

#### VILLAGE OF PLEASANT PRAIRIE:

John P. Steinbrink Village President

ATTEST:

Jane M. Romanowski Village Clerk

ACKNOWLEDGMENT STATE OF WISCONSIN SS

COUNTY OF KENOSHA

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, in the Village of Pleasant Prairie, WI, the above named to me known to be the persons John P. Steinbrink and Jane M. Romanowski, Village President and Village Clerk, respectfully, who executed the foregoing instrument and acknowledged the same on behalf of the Village of Pleasant Prairie.

Print Name:	
Notary Public	County,
My Commission expires: _	••••••

**Document Drafted by:** Jean M. Werbie-Harris Community Development Director Village of Pleasant Prairie 9915 39<sup>th</sup> Avenue Pleasant Prairie, Wisconsin 53158

Cc: Darcy Rutzen, CMD, General Manager, Pleasant Prairie Premium Outlets Michael Pollocoff, Village Administrator Jane Romanowski, Village Clerk David Smetana, Chief of Police Kathy Goessl, Finance Director Doug McElmury, Fire & Rescue Chief Community Development Department

Midnight Madness Agreement Premium Outlets w F&R July 2013

# Staff Report

To: CC:	Pleasant Prairie Village Board Members, Mike Pollocoff, Village Administrator Carol Willke, Director of Recreation Kathy Goessl, VPP Finance Director
From:	Chris Finkel, Business Director
Date: Re:	9/10/2013 RecPlex Sponsorship

#### This recommendation is for the acceptance of a one year sponsorship of the RecPlex from Mattel Toy Store

#### Summary

#### **RecPlex receives \$10,000 for one year in monthly installments.**

#### Mattel Toy Store receives the benefits listed below.

А.		Mattel ToyStore shall have naming rights to the South East Athletic Field located between Hwy 165 and Terwall Terrace throughout the term of this Agreement, which shall include a sign on the scoreboard and backstop on the field.
B.		The Village agrees to provide Mattel ToyStore with the following facility signage:
	(i)	Sponsorship Panel above the scoreboard including a dual sided ADL Cabinet (10' x 2' x 8").
	(ii)	Sponsorship Panel behind the scoreboard including a 10' x 5' rear sponsorship panel facing Hwy 165.
	(iii)	Sponsorship Sign (banner-style) behind the backstop facing away from the field will include a 4' x 12' sponsorship panel applied to the backstop.
	(iv)	1-Field house Banner
	(v)	1-Aqua Arena Banner
	(vi)	1-Baseball Field Banner
	(vii)	1-Green Rink Dasher Board
	(viii)	1-Blue Rink Dasher Board
	(ix)	1-Marquee
	(x)	3-Play by Play ¼ page ads
	(xi)	(1 per issue)
	(xii)	1-Website logo/link
	(xiii)	(Sports Page)
	(xiv)	3-Youth Sponsorships(Baseball, Basketball, Soccer)
	(xv)	Mention on Hwy 165 Digital Sign

#### THERE WILL BE AN OPPORTUNITY TO CONTINUE THE AGREEMENT ON A YEARLY BASIS

This will be recommended to the Village Board on the 16th of September,

#### 2013. Thank you for your consideration

#### RECPLEX SPONSORSHIP AGREEMENT Athletic Field

**THIS AGREEMENT** is entered into by and between the Village of Pleasant Prairie, a Wisconsin municipal corporation (the "Village") and Mattel ToyStore, a Wisconsin retail outlet ("Mattel ToyStore").

**WHEREAS,** the Village operates indoor and outdoor recreational facilities including Prairie Springs Park facilities and a recreation complex with a fitness center, aquatic center, ice arena and field house and related facilities (the "RecPlex"), and

**WHEREAS,** Mattel ToyStore would like to purchase naming rights for the Prairie Springs Park Athletic Field (Hwy 165), which include sponsorship rights and obtain other benefits, for the term of this Agreement and as set forth in this Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### 1. NAMING RIGHTS AND SPONSORSHIP.

In consideration for the payments to be made by Mattel ToyStore to the Village as outlined in this Agreement, the Village agrees to provide Mattel ToyStore with the following naming rights, sponsorships and similar benefits:

- A. Mattel ToyStore shall have naming rights to the South East Athletic Field located between Hwy 165 and Terwall Terrace throughout the term of this Agreement, which shall include a sign on the scoreboard and backstop on the West field.
- B. The Village agrees to provide Mattel ToyStore with the following facility signage:
  - (i) Sponsorship Panel above the scoreboard including a dual sided ADL Cabinet (10' x 2' x 8").
  - (ii) Sponsorship Panel behind the scoreboard including a 10' x 5' rear sponsorship panel facing Hwy 165.
  - (iii) Sponsorship Sign (banner-style) behind the backstop facing away from the field will include a 4' x 12' sponsorship panel applied to the backstop.

- (iv) 1-Field house Banner
- (v) 1-Aqua Arena Banner
- (vi) 1-Baseball Field Banner
- (vii) 1-Green Rink Dasher Board
- (viii) 1-Blue Rink Dasher Board
- (ix) 1-Marquee
- (x) 3-Play by Play  $\frac{1}{4}$  page ads
- (xi) (1 per issue)
- (xii) 1-Website logo/link
- (xiii) (Sports Page)
- (xiv) 3-Youth Sponsorships(Baseball, Basketball, Soccer)
- (xv) Mention on Hwy 165 Digital Sign

#### 2. PROMOTIONAL RIGHTS.

The non-exclusive sponsorship and promotional rights provided in this Agreement shall continue throughout the Term of this Agreement. The Village agrees that the East Athletic Field shall not be named for any other sponsor during the term of this Agreement. This restriction shall not apply to existing contracts that do not relate to the East Ballfield, current sponsorships not related to the East Ballfield, or to sponsorships obtained by persons or entities other than the Village who lease or hold events on any portion of Prairie Springs Park. Except for the naming rights for the East Athletic Field and other rights described above in this Paragraph 2, nothing in this Agreement prevents the Village from other sponsorships throughout RecPlex.

#### 3. **PROMOTIONAL PAYMENTS.**

In consideration for the sponsorship and naming rights granted in this Agreement, Mattel ToyStore shall pay the Village the sum of Ten thousand dollars (\$10,000.00) per year during the one year term of this Agreement. The amount shall be paid in monthly installments of \$833.33 on September 1, 2013 and to be made by the 1<sup>st</sup> of each month for the next 12 months. All payments shall be made to the Village, Attn: Assistant Director of Recreation, 9900 Terwall Terrace, Pleasant Prairie, Wisconsin 53158.

#### 4. TERM.

This Agreement and the naming rights and sponsorship rights shall be for a term of one (1) year. Payments commencing on September 1, 2013 and ending on August 31, 2014 (the "Term"). All signage will be displayed one year from final installation of all items listed above in paragraph 1. B. Final installation to be verified by a RecPlex and a Mattel representative through an onsite visit and/or pictures. Signage verification will be signed with final date of display listed and filed with the Village Clerk for public record.

### Final Sign Installation Verification

We hereby confirm that all s displayed until _08 / 09 / 2013	signs are installed per contra	act and will be
Month /Date	e/Year	
William Leahy, Jr. VP, U.S. Logistics	Whan Juh /	8.9.13
Mattel Representative, Title	Signature	Date
Village Representative, Title	Signature	Date

## 5. LICENSE TO USE NAMES, LOGOS AND MARKS.

A. Subject to all the terms and conditions of this Agreement, Mattel ToyStore grants to the Village a non-exclusive and nontransferable, royalty-free license to use the Mattel ToyStore name, logos, trademarks and other intellectual property provided to the Village by Mattel ToyStore (the "Mattel ToyStore Trademarks"). Mattel ToyStore represents and warrants that Mattel ToyStore has good legal title to the Mattel ToyStore trademarks, free of any claim of any third party. Mattel ToyStore shall provide one set of signage/logo specifications to be used throughout the term. If Mattel ToyStore requests changes, Mattel ToyStore shall be responsible for all direct and indirect costs of making changes to the signage or logos.

B. The Village acknowledges and agrees that Mattel ToyStore is the sole owner of the Mattel ToyStore Trademarks and all goodwill associated with Mattel ToyStore Trademarks. The Village will use the Mattel ToyStore Trademarks only for the purposes set forth in this Agreement.

C. Upon the expiration of the Term, and following any written request by Mattel ToyStore, the Village shall remove all signs and materials containing the Mattel ToyStore Trademarks. Any such signs or materials may be disposed of by the Village.

#### 6. **REPRESENTATIONS AND WARRANTIES.**

Mattel ToyStore and the Village each represent, warrant and covenant to each other that:

A. It has the full right and authority, and has obtained all necessary approvals, to enter into and fully perform this Agreement in accordance with its terms.

B. That to the extent its trademarks, trade names or other intellectual property are being used in connection with this Agreement, it has the legal right to provide such use and such use will not violate the rights of any third parties.

C. The execution, delivery and performance of this Agreement will not violate the provisions of any other agreement to which it is a party or by which it is bound.

#### 7. DEFAULT AND OPPORTUNITY TO CURE.

A. If either party shall fail to perform any of the covenants, terms or conditions of this Agreement to be performed by such party, other than a payment described in Paragraph 3 above, the other party shall first provide such party with a notice of the failure and provide the other party with thirty (30) days to cure such failure. If the failure under this Agreement is the failure to pay sponsorship payments or other amounts owed under Paragraph 3 above, the notice shall provide for a five (15) day period to cure such failure.

В.

Upon any default which is not cured as provided above, the nondefaulting party may take any and all action allowed by law or this Agreement to enforce its rights. Upon any default by either party which is not cured as provided above, the defaulting party shall pay to the nondefaulting party all reasonable actual attorney fees and incurred by the non-defaulting party in enforcing its rights under this Agreement, regardless of whether litigation is commenced.

#### 8. MISCELLANEOUS.

A. This Agreement is for the benefit of the parties and may not be assigned by either party without the prior written consent of the other party. Notwithstanding the foregoing, in the event the Village sells or transfers RecPlex, this Agreement shall pass to the successor owner of RecPlex, who shall be substituted for the Village under this Agreement. Subject to the foregoing, this Agreement and all of its terms and provisions will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

B. All notices under this Agreement must be in writing and shall be deemed validly given on the date when deposited in the United States Mail, postage prepaid, certified mail return receipt requested, or when delivered by hand, or when deposited with a nationally known courier service for overnight delivery, addressed as follows: (or to any other address that the party to be notified may have designated to the other party by like notice at least ten (10) days prior thereto):

To the Village:	Village of Pleasant Prairie
	Attn: Finance Director
	9915 – 39 <sup>th</sup> Avenue
	Pleasant Prairie, WI 53158.

To Mattel ToyStore: Mattel ToyStore <u>12400 Fox River Road</u> Wilmot, W**I**53192

C. The headings, captions and numbers in this Agreement are solely for convenience and shall not be considered in construing or interpreting any provision in this Agreement. Wherever appropriate in this Agreement, personal pronouns shall be deemed to include other genders and the singular shall include the plural, if applicable.

D. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which shall constitute the same agreement. It shall not be necessary for each party to sign the same counterpart. This Agreement shall be effective when all parties have signed a counterpart.

E. This Agreement shall be governed and interpreted by, and construed in accordance with, the laws of the State of Wisconsin. All parties agree that jurisdiction and venue for all legal action shall be in Kenosha County, Wisconsin.

F. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, then such provision shall be severed from this Agreement and the remainder will remain in full force and effect.

G. This Agreement, including all exhibits, constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and incorporates all agreements and understandings between the parties. This Agreement may be changed, modified or amended only by a written amendment executed by the Village and Mattel ToyStore in the same manner as this Agreement is executed. The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent and no rule of strict construction shall apply to any party.

H. No approvals which either party may grant under this Agreement may be unreasonably withheld, delayed or denied.

The parties have entered into this Agreement effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

VILLAGE OF PLEASANT PRAIRIE

By: \_\_\_\_ John P. Steinbrink Village President MATTEL TOYSTORE N/Man By: \_ Print Name William Leahy, Jr. Title Vice President, U.S. Logistics



Office of the Village Engineer/Building Inspection **Michael Spence, P.E., LEED**<sup>®</sup>**AP** 

TO:	Mike Pollocoff/Village Administrator
FROM:	Mike Spence/Village Engineer
CC:	Jane Romanowski/Village Clerk Jean Werbie-Harris/Community Development Director John Steinbrink Jr./Public Works Director
DATE:	September 9, 2013

In the Village's efforts to incorporate sustainable infrastructure in future development we have reviewed our existing roadway cross-sections. As funding for roadway maintenance becomes more difficult, it is critical to build infrastructure that will require less costly upkeep over its useful life. To achieve this goal we have looked at modifying our pavement structure to utilize a cross-section that will result in lower maintenance costs over time.

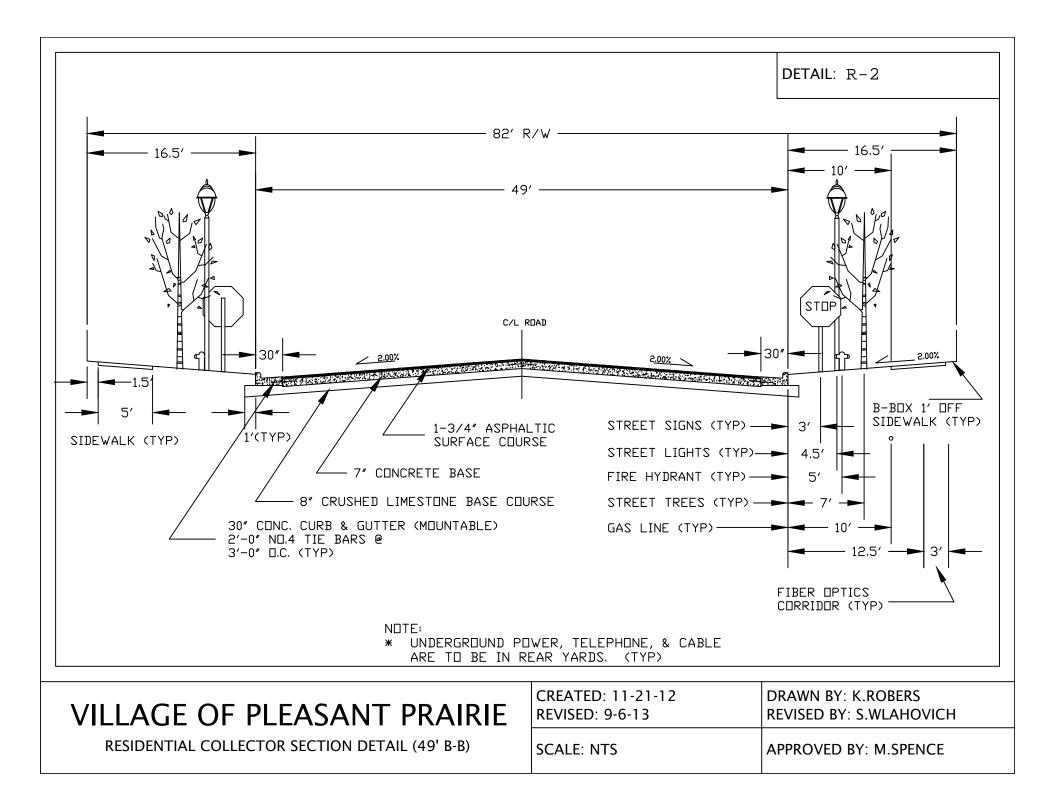
The existing residential *collector* cross-section (49 ft back-of-curb to back-of-curb) includes 6 inches of asphalt in two layers (4-1/2 in binder course and 1-1/2 in surface course). The existing residential cross section (37 ft back-of-curb to back-of-curb) includes 5 inches of asphalt in two layers (3-1/2 in binder course and 1-1/2 in surface course). The pace of development has slowed and the initial binder paving does not hold up over time during the extended period of construction. This results in increases in binder repair before the final surface course is installed.

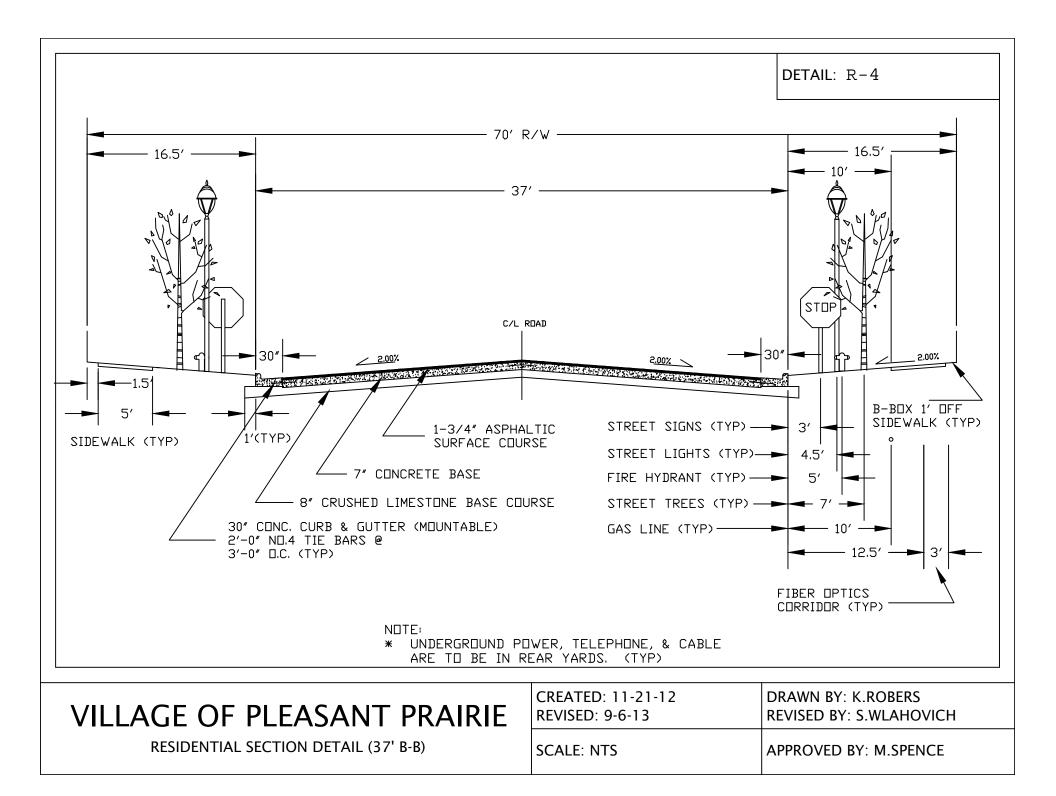
The new detail utilizes a concrete roadway with an asphalt overlay or wear surface. The new residential *collector* cross-section (49 ft back-of-curb to back-of-curb) includes 7 inches of concrete base with a 1-3/4 in surface course of asphalt. The new residential cross section (37 ft back-of-curb to back-of-curb) includes 7 inches of concrete base with a 1-3/4 in surface course of asphalt. This is similar to the cross-section that exists in the Lakeview Corporate Park roads. This pavement section has fared well over its lifetime and has resulted in lower maintenance costs.

The second change relates to the Village's 2010 Bicycle and Pedestrian Trails Plan. This plan demonstrates the Village's commitment to providing facilities for walking. For walking to be a viable form of transportation and recreation, there must be facilities that allow residents to safely and comfortably participate in these activities and reach their destinations. The Village's roadway cross-sections are proposed to include the provision of *five foot concrete sidewalks on each side of the street*. Right-of way is increased from 80 *foot to 82 feet for the 49 ft roadway section* and from 66 *foot to 70 foot for the 37 ft roadway section*.

By proactively planning for bicycle and pedestrian facilities and programs and policies that encourage cycling and walking, Pleasant Prairie is demonstrating a commitment to offering Village residents and visitors accessible, environmentally friendly and inexpensive transportation and recreation options.

I am recommending that the Village Board *adopt revised details* **R-2** *and* **R-4** which are included in Appendix A of Chapter 405 of the Village Ordinance. Detail R-2 is for a residential collector street cross-section for a 49 foot roadway (back-of-curb to back-of-curb) and includes the new pavement section (concrete with an asphalt overlay) and the provision of five foot sidewalks on each side of the street and the additional right-of-way. Detail R-4 is for a residential cross-section for a 37 foot roadway (back-of-curb to back-of-curb) and includes the new pavement section (concrete with an asphalt overlay) and the provision of five foot sidewalks on each side of the street and the additional right-of-way. The two cross-sections are attached.







# ΜΕΜΟ

Office of the Village Engineer Michael Spence, P.E., LEED®AP

TO:	Mike Pollocoff, Village Administrator
CC:	Jane Romanowski, Village Clerk
FROM:	Mike Spence, Village Engineer
DATE:	September 6, 2013
SUBJ:	Professional Construction Engineering Services Agreement Phase 4C Binder Paving Village Green Heights

On February 2, 2009 the Village Board of Trustees approved a request by the Land and Lakes Development Company to install curb and gutter and binder course within the Village Green Heights Addition #1 Subdivision. Subsequent to that time, only a portion of these improvements were completed. Land and Lakes has recently asked to install curb and gutter and binder course on 49<sup>th</sup> Avenue and a portion of 98<sup>th</sup> Street and Main Street. (See attached-Phase 4C).

The work will require construction stakeout and layout, construction observation services and construction administration services. Nielsen, Madsen and Barber (NMB) has been selected to perform these services. Their fee is estimated at \$13,309.92. NMB satisfactorily performed similar services for the Village last year on 50<sup>th</sup> Avenue.

Land and Lakes Development Company, will reimburse the Village for these costs.

Attached is the Professional Construction Engineering Services Agreement from Nielsen, Madsen and Barber of Racine, Wisconsin to provide construction services to provide to above services.

The scope of services is detailed in the agreement.



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Office of the Village Engineer Michael Spence, P.E., LEED®AP

I recommend that the contract from Nielsen, Madsen and Barber for these services be approved.



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September 3, 2013

Mr. Mike Spence, P.E. Village Engineer Village of Pleasant Prairie 9915 - 39<sup>th</sup> Avenue Pleasant Prairie WI 53158

RE: Village Green Heights – Phase 4-C Construction Staking, Observation & Contract Administration Proposal Stage 2 Pavement Improvements Village of Pleasant Prairie NMB Project: 2012.0111.02

Dear Mike:

Thank you for considering Nielsen Madsen & Barber, S.C. as a candidate to provide the above-referenced services related to the Stage 2 Improvements within Phase 4-C of Village Green Heights.

Enclosed please find our Estimated Manpower Requirements and Costs, Draft Construction Services Contract and Standard Terms & Conditions. We are proposing to utilize Jason J. Christensen, P.E. of our office to provide all construction observation and administration services for this project.

Based on our recent experience with projects of this nature within the Village, we estimate the cost to provide the required construction engineering related services to be \$13,309.92.

Please review at your earliest convenience and contact our office with any questions.

We look forward to working with you and your staff on this project.

Very truly yours.

Mark D. Eberle, P.E. MDE/kmw Enclosures

g:/NMB Contracts/State & Municipal Clients/VPP/Village Green Heights (Phase 4-C) 9-3-13



## VILLAGE OF PLEASANT PRAIRIE VILLAGE GREEN HEIGHTS (PHASE 4-C) CONSTRUCTION SERVICES AGREEMENT

This Agreement is made this \_\_\_\_\_ day of September, 2013, by and between the VILLAGE OF PLEASANT PRAIRIE, a municipal corporation in the State of Wisconsin, hereinafter referred to as the "**VILLAGE**" and NIELSEN MADSEN & BARBER, S.C., (NMB) hereinafter referred to as the "**CONSULTANT**".

WITNESSETH that in consideration of the covenants herein, these parties agree as follows:

**Section 1 - Proposed Improvements:** The proposed construction will consist of Stage 2 Pavement Improvements on portions of 49<sup>th</sup> Avenue, 98<sup>th</sup> Street and Main Street in the Village Green Heights Subdivision. These roadways are within Phase 4-C of the development (as shown on the attached phasing plan). After written authorization by the **VILLAGE**, the **CONSULTANT** will provide Professional Construction Management Services for the Stage 2 Improvements which will generally consist of Construction Staking & Layout Services, Construction Observation Services and Construction Administration Services. The scope of services provided will be in general accordance with the Exhibit A - Engineer's Proposal attached hereto, and conditioned as follows:

## A. Construction Staking & Layout Services

Provide in-office setup and a Surveyor and Surveyor's Assistant to field stake the necessary line and grade for the construction as required. Staking will include establishing line and grade "**one time**" for curb & gutter, catch basin, manhole adjustments and sidewalks.

## **B.** Construction Observation Services

Provide a Construction Observation Technician at the construction site on either a full-time basis of forty (40) hours per week from Monday through Friday, not including legal holidays, or on a periodic part-time basis from **CONSULTANT'S** office of not more than eight (8) hours per regular weekday, as deemed necessary by **CONSULTANT**, to assist the Contractor with interpretation of the drawings and specifications, to observe in general if the Contractor's work is in conformity with the final design documents, and to monitor the Contractor's progress as related to the Construction Contract. However, **CONSULTANT** is not responsible for the Contractor's construction means, methods, techniques, sequences or procedures, time of performance, compliance with Laws and Regulation, or safety precautions and programs in connection with the project, and **CONSULTANT** does not guarantee the performance of the Contractor and is not responsible for the Contractor's failure to execute the work in accordance with the Construction Contract documents.

## C. Construction Administration Services

Provide contract administration services as required for the project including a cursory review of **VILLAGE** approved plans, attendance at the pre-construction meeting, review of letter of credit reduction requests (if necessary), preparation of construction record drawings, periodic site visits during the construction and day-to-day project coordination as described in Exhibit A attached hereto.

Conduct a final inspection of construction work, review the Contractor's written guarantees and issue an opinion of substantial completion and satisfactory completion for acceptance of the project by the **VILLAGE** for each stage of public improvements.

**Section 2 – Compensation (Estimate):** The **VILLAGE** shall compensate **CONSULTANT** for the professional services enumerated in Section 1 as follows:

<b>Construction Staking and Layout Services</b>	\$ 3,792.00 *
Construction Observation Services	\$ 4,326.96 *
Construction Administration Services	\$ 3,022.96 *
As-built Survey Services	\$ 1,718.00 *
Materials Testing Services	<u>\$ 450.00 *</u>
Estimate:	\$13,309.92 *

\*Charges for Construction Staking & Layout, Construction Observation, Construction Administration and As-Built Survey Service will be based on the hourly rate of compensation for the actual work time performed as shown in Exhibit B plus reimbursement of out-of-pocket expenses including sub-consultant material testing and automobile travel at the business mileage rate approved by the United States Internal Revenue Service. These charges may be more or less than the estimated amounts above and will depend on Contractor selection, construction progress, weather, etc.

**CONSULTANT** will submit requests for periodic progress payments for services rendered no more than once per month. Payments shall be due and owing by the **VILLAGE** to the **CONSULTANT** upon receipt of the invoices. Payments to **CONSULTANT** after 30 consecutive calendar days from the date of the invoice for services shall include an additional late payment charge computed at an annual rate of Eighteen percent (18%) from the date of the invoice; **CONSULTANT** may, after giving seven (7) days written notice to the **VILLAGE**, suspend services under this Agreement until **CONSULTANT** has been paid in full for all amounts due for services, expenses and late payment charges.

## Section 3 – Agreement: The parties further agree:

That this Agreement may be terminated, in whole or in part, by either party if the other party substantially fails to fulfill its obligations under this Agreement through no fault of the terminating party; or the **VILLAGE** may terminate this Agreement, in whole or in part, for its convenience. However, no such termination may be effected unless the terminating party gives the other party [1] not less than ten (10) calendar days written notice by certified mail of intent to terminate and [2] an opportunity for meeting with the terminating party before termination. If this Agreement is terminated by either party, **CONSULTANT** shall be paid for services performed to the effective date of termination, including reimbursable expenses. In the event of contract termination, the **VILLAGE** shall receive reproducible copies of drawings, specifications and other documents completed by **CONSULTANT**.

**CONSULTANT** agrees to hold harmless and indemnify the **VILLAGE** and each of its officers, agents and employees from any and all liability claims, losses or damages arising out of or alleged to arise from negligence in the performance of the services under this Agreement, but not including liability that may be due to the sole negligence of the **VILLAGE** or other consultants, contractors or subcontractors working for the **VILLAGE** or their officers, agents and employees.

The **VILLAGE** agrees to hold harmless and indemnify **CONSULTANT** and each of their officers, agents and/or employees from any and all liability claims, losses or damages arising out of or alleged to arise from negligence in the performance of the services under this agreement that may be due to the sole negligence of the **VILLAGE** or other consultants, contractors or subcontractors working for the **VILLAGE** or their officers, agents and/or employees.

The **VILLAGE** acknowledges that **CONSULTANT** is a Service Corporation and further acknowledges that the corporate entity, as the party to this contract, expressly avoids contracting for individual responsibility of its officers, directors or employees.

The **VILLAGE** and **CONSULTANT** agree that any claim made by either party arising out of any act of the other party, or any officer, director or employee of the other party in the execution or performance of the agreement, shall be made solely against the other party and not individually or jointly against such officer, director or employees.

For the duration of the project, **CONSULTANT** shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims for damages because of injury to or destruction of property including loss of use resulting there from, alleged to arise from **CONSULTANT'S** negligence in the performance of services under this Agreement. The **VILLAGE** shall be named as an additional insured on **CONSULTANT'S** general liability insurance policy. The limits of liability for the insurance required by this Subsection are as follows:

<ol> <li>Workers' Compensation</li> <li>General Liability:</li> </ol>	Statutory Limits
Per Claim	\$1,000,000
Aggregate	\$2,000,000
3. Automobile Liability	
Combined Single Limit	\$1,000,000
4. Excess Umbrella Liability	
Per Claim and Aggregate	\$1,000,000 / \$2,000,000
<ol> <li>Professional Liability Per Claim and Aggregate</li> </ol>	\$1,000,000 / \$2,000,000

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of **CONSULTANT** and their officers, directors, employees, agents and any of them, to the **VILLAGE** and anyone claiming by, through or under the **VILLAGE**, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to the project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract or warranty express or implied of **CONSULTANT** or their officers, directors, employees, agents or any of them, hereinafter referred to as the "VILLAGE'S CLAIMS", shall not exceed the total insurance proceeds available to pay on behalf of or to **CONSULTANT** by their insurers in settlement or satisfaction of VILLAGE'S CLAIMS under the terms and conditions of **CONSULTANT'S** insurance policies applicable thereto, including all covered payments made by those insurers for fees, costs and expenses of investigation, claims adjustment, defense and appeal.

**CONSULTANT** is responsible for the quality, technical accuracy, timely completion and coordination of all as-built drawings, certifications, reports and other professional services furnished or required under this agreement and shall endeavor to perform such services with the same skill and judgment which can be reasonably expected from similarly situated professionals.

All reports, drawings, specifications, and electronic files prepared or furnished by CONSULTANT pursuant to this agreement are instruments of service in respect to the project and CONSULTANT shall retain the right of reuse of said documents and electronic files by and at the discretion of CONSULTANT whether or not the project is completed. Reproducible copies of CONSULTANT'S documents and electronic files for information and reference in connection with the use and occupancy of the project by the VILLAGE and others shall be delivered to and become the property of the VILLAGE upon request; however, CONSULTANT'S documents and electronic files shall not be reused by the VILLAGE or others on future additions or extensions of the project without field verification. Any such reuse without verification or adaptation by CONSULTANT for the specific purpose intended will be at the VILLAGE 'S sole risk and without liability or legal exposure to CONSULTANT, and the VILLAGE shall indemnify and hold harmless **CONSULTANT** from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting there from.

The estimated compensation amount for construction-related engineering services set forth in Section 2 above does not include overtime hours for Resident Project Representatives or Land Surveyors. In the event the Contractor works on **Sundays or Holidays**, during which time **CONSULTANT** representatives are required to be present, the **VILLAGE** shall pay extra compensation at **CONSULTANT'S** hourly rates on a time and a half basis.

Any provision or part thereof of this Agreement held to be void or unenforceable under any law shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the parties. The parties agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

This Agreement contains and embodies the entire and integrated agreement between parties hereto and supersedes all prior negotiations, representations or agreements, either written or oral.

*IN WITNESS WHEREOF*, the parties hereto have caused the execution of this agreement by their duly authorized officers this \_\_\_\_\_ day of September, 2013.

NIELSEN MADSEN & BARBER, S.C.

VILLAGE OF PLEASANT PRAIRIE

BY:

Mark D. Eberle Vice-President

BY:

ATTEST:

John P. Steinbrink President

ATTEST:

Mark R. Madsen, President

Jane M. Romanowski, Clerk

## EXHIBIT A

## **Engineering Services Proposal**

Nielsen Madsen & Barber, S.C. proposes to provide construction engineering services for the Village Green Heights development as follows:

## **Construction Staking**

- 1. Locate and tie down horizontal control set in field by developer's engineer. Verify vertical control as indicated on design plans. Record on a copy of the development plat, both horizontal and vertical control for use in future year improvements (i.e. curb and gutter). File all data for future reference.
- 2. Field stake locations for erosion control devices and any protective construction fencing.
- 3. Field stake all removals/demolition.
- 4. Field stake for general site grading and roadways:
  - a. Mass common excavation for storm water Retention/Detention facilities, lot grading (each corner), building pads and critical contours (lath and grade).
  - b. Centerline roadway for subgrade construction (lath and grade).
  - c. Curb and gutter at 25-foot intervals (hub, lath and grade).
  - d. Final structure adjustments (hub, lath and grade).
  - e. Edges of pavement and shoulder of all rural sections and acceleration and de-acceleration lanes.
  - f. Traffic signal bases, pull boxes and transformer locations.
  - g. Pavement markings that identify the beginning and ending points.
  - h. Sign locations (lath).
  - i. Sidewalks (hub, lath and grade).

- 5. Sanitary sewer field staking:
  - a. Centerline of all manholes (hub, lath and grade) with offsets.
  - b. Offsets at 50 foot intervals along sanitary sewer main and at all structures (hub, lath and grade).
  - c. Lateral ends in cul-de-sacs and on curves (hubs, lath and grade) with offsets.
- 6. Watermain field staking:
  - a. Centerline of watermain at 50 foot intervals and at all fittings, valves and grade changes (hub, lath and grade).
  - b. Centerline of all hydrants (hub, lath and grade) with offsets.
  - c. Service ends in cul-de-sacs and on curves (location lath) with offsets.
- 7. Storm Sewer field staking:
  - a. Centerline of all storm sewer manholes (hub, lath and grade) with offsets.
  - b. Offsets at 50 foot intervals along storm sewer main and at all structures (hub, lath and grade).
  - c. Centerline and back of curb of all catch basins (hub, lath and grade) with offsets.
  - d. Face of curb locations two per catch basin (hub and lath).
  - e. Sump pump tile lines (hub, lath and grade) centerline and offsets at wyes.
  - f. Service ends in cul-de-sacs and on curves (location lath) with offsets.
  - g. Rip Rap limits (lath).
- 8. "As-Built" Surveys:
  - a. Rim elevations of all structures.
  - b. Depth from rim to inverts on all structures.
  - c. Distances between all structures.
  - d. Calculations of all pipe grades.

- e. Lateral locations and elevations at right-of-way.
- f. Setting of benchmarks on all hydrants for Village use.
- g. Top of curb grades.

## **Construction Observation**

- 1. Review plans and specifications prior to start of the project.
- 2. Determine if any changes were made to the plans and specifications between the design phase and the beginning of the construction phase, and verify that those changes are authorized in the Village's development agreements with the developer.
- 3. Review the following project requirements with the contractor:
  - a. Specific project details.
  - b. Traffic control requirements/closures.
  - c. Erosion Control requirements.
  - d. Permit conditions and requirements.
  - e. Notification requirements (police, fire, school bus, garbage pick up, etc.).
  - f. Schedule project milestone dates.
  - g. Adjacent property considerations.
  - h. Testing and reporting requirements.
- 4. Exchange phone numbers with the developer and the project contractor and establish the initial lines of communication.
- 5. Review the daily work schedules and scheduled events with the contractor.
- 6. Coordinate staking requirements or other significant scheduled events with the contractor and the construction engineer.
- 7. Review the weekly schedules to determine if the overall project is on schedule.

- 8. Anticipate potential problems and relay those concerns to the VILLAGE ENGINEER, the contractor, construction engineer, owner, developer or other appropriate party.
- 9. Serve as the project liaison (between the owner and the residents, contractor and the residents, contractor and the owner and the contractor and construction engineer).
- 10. Review all materials for the project as they are delivered to the project site. Reject materials not conforming to the specifications.
- 11. Observe all work performed and determine if the end product is in conformance with the plans and specifications. Reject all work not in compliance.
- 12. Interpret contract documents when unique situations or questions arise. Request verification of interpretation from the construction engineer and inform the contractor of the determination.
- 13. Evaluate modifications required due to field conditions. Request approval of the required field changes from the VILLAGE ENGINEER and/or DESIGN ENGINEER, if necessary, and inform the contractor of the necessary changes.
- 14. Compute quantities of work performed, verify the quantities with the contractor, and also submit to the construction engineer for future use in pay requests.
- 15. Collect any certifications required by the contract documents.
- 16. Develop a punch list as work proceeds. Review the punch list and inspect its completion with the contractor.
- 17. Develop construction reports and daily inspection logs indicating the work performed that day, materials used, any changes made, interference encountered, manpower and equipment uses, weather conditions, visitors to the site, test reports, location sketches (lateral ties) and general comments on events and progress.

## **Construction Management**

- 1. Perform a cursory review of Village approved plans, specifications and other project related documents.
- 2. Establish, maintain and store project files.
- 3. Prepare for and attend a preconstruction meeting. Record, prepare and distribute preconstruction meeting minutes.

- 4. Develop a list of contact names and telephone number of parties involved in the project to expedite future communications.
- 5. Review requests for reduction in developer's letter of credit in accordance with the requirements of the letter of credit and the development agreement to provide recommendations to the Village for such reductions.
  - a. This activity will include but not be limited to:
    - i. Review of the contractor's request for payment; review of the contractor's lien waiver issued to developer.
    - ii. Review of retained funds, tracking and compilation of unanticipated project costs (extras) and the tracking of contingency fund balance.
- 6. Develop final record drawings and other construction documents and distribute to the Village, the developer and the developer's engineer.
  - a. This activity will include, but not be limited to:
    - i. Modifications to the original plans (received at the preconstruction meeting in electronic form) to reflect changes made during construction and actual locations of laterals.
    - ii. Development of lateral information sheets for sanitary laterals, water services and storm sewer service laterals for future use by the Village staff.
    - iii. Development of as-built cards for sanitary sewer mains for future reference by the Village.
- 7. Make periodic site visits (usually daily during active construction) to determine, in general, if the project is proceeding in accordance with the contract documents.
  - a. This activity will include, but not be limited to:
    - i. Site visits during actual construction phase.
    - ii. Substantial completion inspection and submittals.
    - iii. Final punch list verification after the construction inspector has left the site.
    - iv. Sanitary sewer manhole, storm sewer manhole and water valve box inspection as part of second- and third-year improvements.

- v. Follow up on site stabilization effectiveness after the contractor is has left the site.
- vi. Miscellaneous time on site meetings with other affected parties such as Village Department of Public Works personnel, homeowners, businesses, other government agencies, permitting authorities and follow up on complaints and claims if site review and/or site meeting is required.
- 8. Schedule and chair periodic progress and coordinate meetings. Record, prepare and distribute periodic progress and coordination meeting minutes (if necessary).
- 9. Day to day project coordination with the following:
  - a. Owner / Developer.
  - b. Developer's Design Engineer.
  - c. Village Water and Wastewater Utility personnel.
  - d. Village Department of Public Works personnel.
  - e. Village Engineering personnel.
  - f. Community Development Staff.
  - g. Developer's contractors, subcontractors, suppliers.
  - h. Permitting authorities (DOT, Kenosha County, DNR, etc.).
  - i. Private Utility companies (electric, telephone, gas, cable TV).
  - j. Other affected parties such as schools, property owners, businesses, etc.
- 10. Review of contractor's shop drawing submittals.

## EXHIBIT B Nielsen Madsen & Barber, S.C. STANDARD TERMS AND CONDITIONS (Effective May 15, 2012)

#### COMPENSATION

Staff Type	Billing Rate/Hr.
Project Manager	\$130.00
Civil Engineer I	\$ 98.00
Civil Engineer II	\$ 88.00
Civil Engineer III	\$ 78.00
CADD Operator	\$ 86.00
Registered Land Surveyor I	\$116.00
Registered Land Surveyor II	\$ 96.00
Survey Crew Chief	\$ 88.00
Survey Assistant	\$ 62.00
Survey Line & Grade Specialist	\$ 72.00
Construction Services Manager	\$ 98.00
Field Engineer I	\$ 96.00
Field Engineer II	\$ 84.00
Construction Technician I	\$ 72.00
Construction Technician II	\$ 66.00
Clerical	\$ 52.00

#### **REIMBURSABLE EXPENSES**

Reimbursable expenses will be charged at cost plus a five percent (5%) service charge. Such expenses shall include, but not be limited to, travel, reproduction, shipping/delivery charges, document retrieval fees, sub-consultant and subcontractor fees, permitting & recording fees, specialized equipment rental and other specialized supply costs directly related to the execution of the specific project. Fixed rate reimbursable expenses will be charged as follows:

Travel (mileage) Overnight/Courier Delivery Recorded Document Retrieval All Terrain Vehicle (ATV) Usage Global Positioning System (GPS) Usage Specialized Materials as Requested by Client		\$0.555 / mile Actual Cost Actual Cost \$40.00 / hour \$40.00 / hour Actual Cost	
Copy Charges (per sheet)	Black & White	Color	
8.5" x 11"	\$0.10	\$0.15	
8.25" x 14	\$0.10	\$0.20	
11" x 17"	\$0.15	\$0.30	
12" x 18"	\$0.15	\$0.30	

12 8 10	<b>\$0.15</b>	φ <b>0.</b> 30
18" x 24"	\$1.00	\$3.00
22" x 34"	\$1.75	\$5.00
24" x 36"	\$2.00	\$6.00
30" x 42"	\$3.00	\$8.80
36" x 36"	\$3.00	\$9.00
36" x 48"	\$5.00	\$10.00

#### INVOICING

All projects will be invoiced for the work performed to date every 30 days. Payment in full of the invoiced amount is to be made upon receipt. Unpaid invoices will be considered delinquent after 30 days and will accrue interest charges of 1½% per month, beginning from the date of the invoice. Lien notices will be sent out for any invoices remaining unpaid after 60 days.

#### LIEN RIGHTS

In order to comply with Wisconsin Statute 289.02(2)(a) regarding notice to preserve lien rights, the following statutory notice is served upon the Owner/Owner's representative and is made a part of this proposal and/or contract: As required by the Wisconsin construction lien law, Nielsen Madsen & Barber, S.C. hereby notifies Owner/Owner's representative that persons or companies furnishing labor or materials for design / development or construction on Owner's land may have lien rights on Owner's land and buildings if not paid. Those entitled to lien rights, in addition to Nielsen Madsen & Barber, S.C., are those who contract directly with the Owner or those who give notice within 60 days after they first furnish labor or materials for the construction, and should give a copy of each notice received to his mortgage lender, if any.

Nielsen Madsen & Barber, S.C. agrees to cooperate with the Owner and his lender, if any, to see that all potential lien claimants are duly paid.

#### LIMITATION OF COSTS

Nielsen Madsen & Barber, S.C. (NMB) will not be obligated to continue providing services or incur costs beyond the agreed upon fee unless Client agrees in writing to a revised cost.

#### CLIENT'S RESPONSIBILITIES

Client shall arrange for access to and make all provisions for NMB personnel to enter upon private and public property as required for NMB to perform services under this Agreement.

Client shall provide NMB with all available information regarding this project as required. NMB shall be entitled to rely upon information and documentation provided by the Client or consultants retained by the Client in relation to this project, however, NMB assumes no responsibility or liability for their completeness or accuracy.

#### COST OPINIONS

Any cost opinions or project economic evaluations provided by NMB will be on the basis of experience and judgment, but, because NMB has no control over market conditions or bidding procedures, we cannot warrant that bids, construction cost, or project economics will not vary from these opinions.

#### STANDARD CARE

The services provided by NMB under this Agreement will be performed as reasonably required in accordance with generally accepted standards for services as offered in the proposal for this project at the time and the place were the services are performed.

#### INSURANCE

Throughout the duration of the project, NMB will procure and maintain the following insurance:

#### Liability

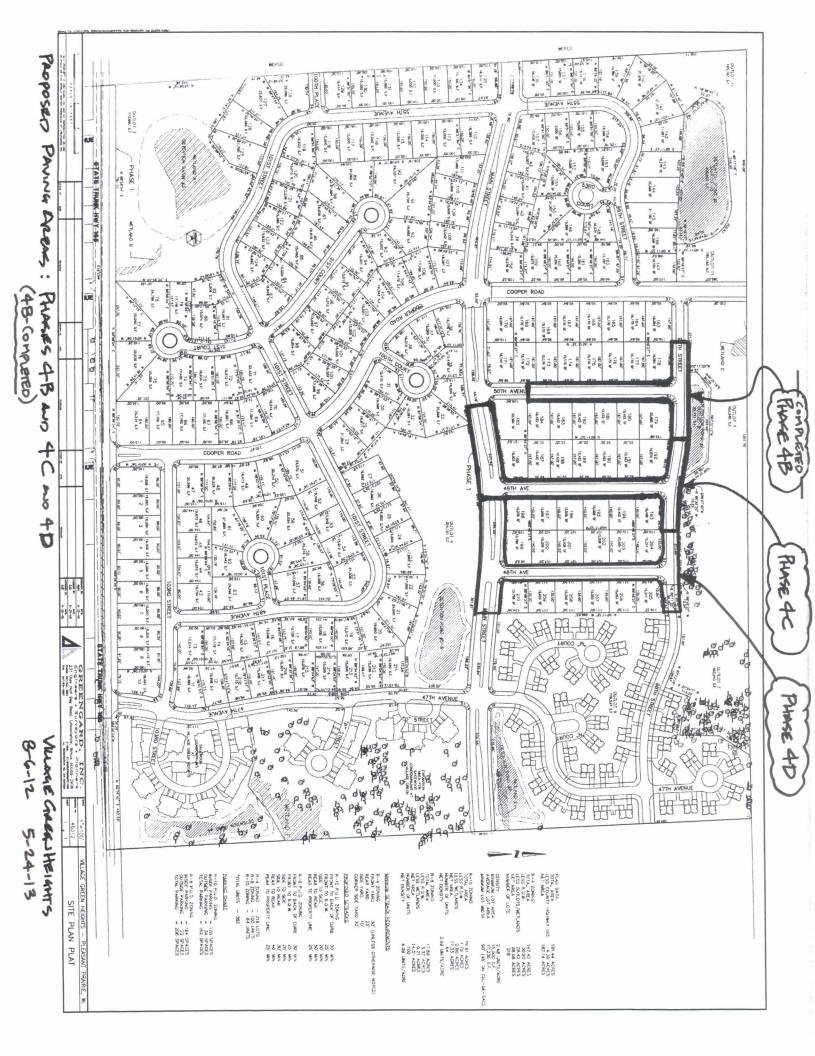
#### Limits of Liability

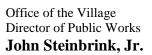
Worker's Compensation and	¢ EQO QOO / incident
Employer's Liability Comprehensive General Liability	\$ 500,000 / incident \$2.000.000
Professional Liability	\$2,000,000
Automobile Liability	\$1,000,000

Within the limits of this insurance, NMB agrees to hold the Client harmless from and against loss, damage, injury or liability arising directly from the negligent acts or omissions of employees, agents or subcontractors of NMB. Client will limit any and all liability, claim for damages, losses, cost of defense or expenses to be levied against NMB on account of any design defect, error, omission or professional negligence to a sum not to exceed the amount of NMB fee under this Agreement. Should the Client require other types of insurance coverage, limits in excess of the above limits, and/or certificates naming any other(s) than the Client coverage, limits or certificates shall be reimbursable by the Client.

#### TERMINATION

The Client shall within thirty (30) days of termination remunerate NMB for services rendered and costs reasonably incurred, in accordance with NMB's fee schedule. Costs shall include those incurred up to the time of termination.







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From: John Steinbrink Jr.

Subject: Amendment of Clean Water Utility Ordinance

Date: September 3, 2013

Staff is recommending an amendment to Chapter 148 of the Clean Water Utility ordinance.

Creating an additional definition in Section 148-4 entitled "Undeveloped Parcel" to read:

Any parcel containing no permitted structure or improvement on the parcel.

Section 148-5 E. Exemptions.

(3) Undeveloped parcels within the Floodplain Overlay District (s. 420-131) and which are zoned C-1, as defined in s. 420-128.

(4) Undeveloped parcels within the Floodplain Overlay District (s. 420-131) and which are zoned PR2, as defined in s. 420-127.1.

These two exemptions are being added because these areas are similar to wetlands, ponds and lakes. They generally contain few if any impervious surfaces and do not significantly contribute to the costs of managing stormwater. In many cases these areas tend to assist in managing stormwater by allowing storm or flood waters to occupy these areas.

I recommend that the Village Board approve the above mentioned amendments to the Clean Water Utility ordinance.



## **ORDINANCE NO. 13-42**

## ORDINANCE TO AMEND CHAPTER 148 OF THE MUNICIPAL CODE OF THE VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN RELATING TO CLEAN WATER UTILITY DEFINITIONS AND MODIFICATIONS

**BE IT ORDAINED AND ESTABLISHED** by the Board of Trustees of the Village of Pleasant Prairie, Kenosha County, Wisconsin that Section 148 of the Municipal Code be amended as follows:

**148-4. Definitions.** In this chapter, the following terms have the meanings set forth below:

## **UNDEVELOPED PARCEL - Any parcel containing no permitted structure or improvement on the parcel.**

## 148-5. Rates and Charges.

- E. Exemptions. The following areas of property shall be exempt from paying charges under this section:
  - (1) Agricultural land but not farmstead home sites.
  - (2) Wetlands, ponds and lakes.
  - (3) Undeveloped parcels within the Floodplain Overlay District (s. 420-131) and which are zoned C-1, as defined in s. 420-128.
  - (4) Undeveloped parcels within the Floodplain Overlay District (s. 420-131) and which are zoned PR2, as defined in s. 420-127.1.

Passed and adopted this 16th day of September, 2013.

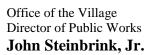
VILLAGE OF PLEASANT PRAIRIE

John P. Steinbrink, President

ATTEST:

Jane M. Romanowski, Clerk

Posted:\_\_\_\_\_





То:	Michael Pollocoff

From: John Steinbrink Jr.

Subject: Amendment of Sewer Utility Ordinance

Date: September 3, 2013

Staff is recommending an amendment to the Sewers Ordinance chapter 285.

The Wisconsin Department of Natural Resources (WDNR) has recently updated the Sanitary Sewer Overflow (SSO) rule NR 210.23(4) published in the July 31 Register 691, effective August 1, 2013. The new rule requires Satellite Sewer collection system operators implement a capacity, management, operation and maintenance (CMOM) program. The Village has three satellite sewer collection operators: Westwood, Timber Ridge, and City View.

Staff also updated other sections of chapter 285: Definitions, control manholes, metering of waste, sampling of waste, waste sampling, analysis, and reporting as attached.

I recommend that the Village Board approve the above mentioned amendments to the Sewer Utility Ordinance.



## **ORDINANCE NO. 13-43**

## ORDINANCE TO AMEND CHAPTER 285 OF THE MUNICIPAL CODE OF THE VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN RELATING TO SATELLITE SEWER COLLECTION SYSTEMS AND WASTE SAMPLING

**BE IT ORDAINED AND ESTABLISHED** by the Board of Trustees of the Village of Pleasant Prairie, Kenosha County, Wisconsin that Section 285 of the Municipal Code be amended as follows:

## **285.15 Definitions**

NONRESIDENTIAL Customers category which includes all sewer users other than individual residential users. Nonresidential customers include but are not limited to public buildings, commercial establishments, industrial establishments, recreation halls, municipal buildings, clubhouses, mobile home parks, apartment complexes and funeral homes Nonresidential customers are subject to random sanitary sewer surcharge testing. Any domestic wastewater tested and results found over the listed thresholds will place a customer as a category B user.

SATELLITE SYSTEM. Satellite sewage collection system means a municipally owned or a privately owned sewage collection system that conveys wastewater to the Pleasant Prairie Sewer Utility system.

## § 285-18 Control of industrial and nonresidential wastes directed to public sewers.

- A. Submission of basic data. The approving authority may require each person who discharges or seeks to discharge industrial wastes to the public sewer to prepare and file with the approving authority, at such times as it determines, a report that shall include pertinent data relating to the quantity and characteristics of the wastes discharged to the wastewater collection and treatment facilities. In the case of a new connection, the approving authority may require that this report be prepared prior to making the connection to public sewers.
  - (1) The approving authority may require each person who discharges or seeks to discharge industrial wastes to the public sewer to prepare and file with the approving authority, at such times as it determines, a report that shall include

pertinent data relating to the quantity and characteristics of the wastes discharged to the wastewater collection and treatment facilities. In the case of a new connection, the approving authority may require that this report be prepared prior to making the connection to the public sewers.

- (2) Industrial dischargers are further subject to the applicable rules and regulations set forth in Section 32.08 of the Kenosha Code of Ordinances regarding submittal of applications, operational data and reports, baseline monitoring reports, compliance reports, chemical analysis, etc.
- B. Industrial discharges. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters or wastes contain substances or possess the characteristics, which in the judgment of the approving authority or the City of Kenosha wastewater treatment facility, have a deleterious effect upon the wastewater collection and treatment facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life, health, or constitute a public nuisance, the approving authority may:
  - (1) Reject the wastes;
  - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
  - (3) Require control over the quantities and rates of discharge; and/or
  - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this article.
- C. Control manholes. Each person discharging industrial or nonresidential discharger wastes into a public sewer shall, at the discretion of the approving authority, construct and maintain one or more control manholes or access points together with measuring and sampling devices to facilitate observation, measurement, and sampling of wastes, including sanitary sewage.

(1) Control manholes or access facilities shall be located and built in a manner acceptable to the approving authority. All measuring and/or sampling devices shall be of a type acceptable to the approving authority.

(2) Control manholes, access facilities, and related equipment shall be installed by the person discharging the wastethe industrial or nonresidential discharger, at the person's discharger's expense, and shall be maintained by the person-discharger so as to be in safe condition, accessible, and in proper operating condition at all times.

Plans for installation of the control manholes or access facilities and related equipment shall be approved by the approving authority prior to the beginning of construction.

- D. Measurement of flow. The volume of flow when used for computing sewer service charges shall be the metered water consumption of the person as shown in the records of meter readings maintained by the municipality except as noted in Subsection E.
- E. Metering of waste. Devices for measuring the volume of waste discharge may be required by the approving authority if this volume cannot otherwise be determined from the metered water consumption records. Metering devices for determining the volume of waste shall be installed and , owned, and maintained by the person industrial or nonresidential dischargerdischarging the wastewater, subject to the approval of the approving authority. The approving authority may require or undertake at the discharger's expense necessary metering calibration and maintenance of metering devices. Following approval and installation, such meters may not be removed without the consent of the approving authority. The approving authority.
- F. Waste sampling. Industrial and nonresidential wastes discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration of said wastes. The determination shall be made for the industry and nonresidential user as often as may be deemed necessary by the approving authority.

(1) Samples shall be collected in such a manner as to be representative of the composition of the wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the approving authority. Every care shall be exercised in the collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken.

(2) Installation, operation, and maintenance of the sampling facilities shall be the responsibility of the <u>person discharging the wasteindustrial or nonresidential</u> <u>discharger</u> and shall be subject to the approval of the approving authority. Access to sampling locations shall be granted to the approving authority or it duly authorized representative at all times. Every care shall be exercised in the collection of the samples to ensure their preservation in a state comparable to that at the time the sample was taken. The approving authority may require the discharger to use a contractor from a list of prequalified contractors.

(3) Access to sampling locations shall be granted to the approving authority or its duly authorized representative at all times. Every care shall be exercised in the

collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken.

(34) e The approving authority shall ollect and analyze the samples. If the sample is significantly different than prior samples or out of sample range, the approving authority may chose to resample for that month. determine whether sampling by approving authority employees and/or contractor's findings shall be used when presented with contrary sampling information.

(5) An industry or nonresidential discharger may split samples with the approving authority upon request. If there is a significant difference between the split samples, the discharger can request a re-sample at its cost.

(6) In the event of a re-sample, the approving authority may choose the most appropriate sample or average the two samples.

(7) Industrial or nonresidential discharger shall pay for all costs incurred by the approving authority or its contracted representative for the metering, monitoring and sampling required under this Section whether taken by the discharger or the approving authority. These charges are separate from and in addition to the sewer service charges in Section 285-19.

(8) Any waste sampling results over the listed thresholds for a Category B user under Section 285-15 will subject the discharger to a sanitary sewer surcharge under Section 281-19, until the sampling result concentrations are below the Category B thresholds for 24 consecutive months.

(9) In addition to the foregoing, for satellite systems the following requirements shall be required unless waived by the approving authority upon application of the satellite system:

(a) Sampling of the volume of the discharge from the satellite system shall be monitored by a continuous flow monitor (not less than 5 minute increments) maintained by the approving authority. The approving authority shall download the data monthly and provide the data to the satellite system within 18 days.

(b) Sampling of the waste characteristics of the discharge shall be performed by the approving authority on no less than a monthly basis.

(c) Samples may be tested for fats, oils and grease (FOG) Biological Oxygen Demand (BOD), Total Suspended Solids (TSS) phosphorus (P) and any other test deemed necessary based on the nature of the discharge. Certified lab results from any sample shall be sent to the satellite system eighteen(18) working days after the sample is taken in the field.

(d) If the satellite system wants to request a resample of any test result it must do so within three (3) days of receiving the sample result.

G. Pretreatment. Persons discharging industrial wastes into any public sewer may be required to pretreat such wastes:

(1) If the approving authority determines pretreatment is necessary to protect the wastewater collection and treatment facilities or prevent the discharge of incompatible pollutants.

(2) In the event such person shall provide at his expense such pretreatment or processing facilities as may be determined necessary to render wastes acceptable for admission to the sanitary sewers.

- H. National Categorical Pretreatment Standards. National Categorical Pretreatment Standards (NCPS), as promulgated by the United States Environmental Protection Agency, shall be met by all dischargers of the regulated industrial categories.
- I. State requirements. State requirements and limitations on discharges to the publicly owned treatment works shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this article or any other applicable ordinance.
- J. Grease, oil, and sand interceptors. Grease, oil, and sand interceptors shall be provided when, in the opinion of the approving authority, they are necessary for the proper handling of liquid wastes containing floatable grease in amounts in excess of those specified in this article, or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the approving authority, and shall be located as to be readily and easily accessible for cleaning and inspection. In maintaining these interceptors, the owner(s) shall be responsible for proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the approving authority. Disposal of the collected materials performed by owner's personnel or currently licensed waste disposal firms must be in accordance with currently acceptable Department of Natural Resources rules and regulations.

K. Analyses. All measurements, tests, and analyses of the characteristics of waters wastes to which reference is made in this article shall be determined in accordance with the latest edition of Standard Methods and with the Federal Regulations, 40 CFR 136, Guidelines Establishing Test Procedures for Analysis of Pollutants, as amended from time to time. Sampling methods, locations, times, durations, and frequencies are determined on an individual basis subject to approval by the approving authority. Determination of the character and concentration of the industrial wastes shall be made by the person discharging them, or the person's agent, as designated and required by the approving authority. The approving authority may also make its own analyses on the wastes, and these determinations shall be binding as a basis for sewer service charges.

(1) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of Standard Methods and with the Federal Regulations, 40 CFR 136, Guidelines Establishing Test Procedures for Analysis of Pollutants, as amended from time to time.

(2) Unless otherwise set forth in this Ordinance, sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the approving authority.

(3) The industrial or nonresidential discharger shall report any and all the sampling data which it undertakes to the approving authority in a time and format specified by the approving authority.

L. Accidental discharges. Each industrial discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this article. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the approving authority for review and shall be approved by the approving authority before construction of the facility. Review and approval of such plans and operating procedures by the approving authority shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this article.

(1) Dischargers shall notify the approving authority immediately upon the occurrence of a slugload, or accidental discharge of substances prohibited by this article. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any discharger who discharges a slugload of prohibited materials shall be liable for any expense, loss or damage to the wastewater facilities or wastewater treatment works, in

addition to the amount of any fines imposed on the Authority on account thereof under state or federal law.

(2) Signs shall be permanently posted in conspicuous places on the discharger's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to the emergency notification procedure.

- M. Submission of facility information. Plans, specifications, and any other pertinent information relating to proposed flow equalization, pretreatment, or grease and/or sand interceptor facilities shall be submitted for review and approval of the approving authority prior to the start of their construction if the effluent from such facilities is to be discharged into the public sewers. No construction of such facilities shall commence until said approval has been granted.
- N.Discharges from satellite systems. Each satellite system discharger shall adopt<br/>and implement a capacity, management, operation and maintenance (CMOM)<br/>program, in substantial conformance with the provisions of Wis. Admin Code §<br/>NR 210.23(4), subject to the review and approval of the approving authority.
- O. Reports. Industrial and nonresidential dischargers shall keep records of the sampling results and maintenance performed for seven years and submit an annual report to the approving authority containing a summary of this information by February 10<sup>th</sup> each year unless the approving authority agrees to an alternative schedule for reporting.

## § 285-19 Basis for sewer service charge.

- A. Basis. It is hereby determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the Village of Pleasant Prairie to levy and collect charges, rentals, or rates of service upon all the lands, lots, and premises served by and having connections with the sewerage system of Pleasant Prairie Sewer Utility and Lake Michigan Sewer Utility District. [Amended 5-2-2011 by Ord. No. 11-11]
- B. Classification of sewer users. Sewer users shall be classified as either residentialresidential, commercial, industrial, or public authority as defined in § 285-15. A totally unit-based charge shall be used for customers without municipal water; a flow-based charge shall be used for all customers that are connected to municipal water.
- C. Category B users. Category B users shall be charged a surcharge, in addition to monthly customer charge plus volume charge, based on the prevailing Category B

service charges for BOD, suspended solids and phosphorus. <u>Any wastewater test</u> results found over the Category B thresholds will place the customer as a Category B user for 24 months.

Passed and adopted this 16th day of September, 2013.

## VILLAGE OF PLEASANT PRAIRIE

John P. Steinbrink, President

ATTEST:

Jane M. Romanowski, Clerk

Posted:\_\_\_\_\_

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#### DEPARTMENT OF NATURAL RESOURCES

NR 210.03

#### Chapter NR 210

#### SEWAGE TREATMENT WORKS

Subchapter I	General	NR 210.09	Analytical methods and laboratory requirements.
NR 210,01	Purpose.	NR 210.10	Requirements for certified or registered laboratory,
NR 210,02	Applicability.	NR 210.11	Compliance maintenance annual report (CMAR).
NR 210,03	Definitions.	NR 210.12	Blending.
Effluent Lim NR 210.035 NR 210.04 NR 210.05 NR 210.06 NR 210.07	<ul> <li>I — Monitoring Requirements and itations</li> <li>Applicability,</li> <li>Monitoring requirements.</li> <li>Effluent limitations,</li> <li>Disinfection requirements.</li> <li>Effluent limitation variance categories.</li> <li>II — Operations, Analyses, and Reports</li> <li>Emergency operation.</li> </ul>	Subchapter NR 210.20 NR 210.205 NR 210.205 NR 210.21 NR 210.22 NR 210.23 NR 210.24 NR 210.24	<ul> <li>IV Overflows and Sewage Collection Systems         Applicability.         Permits for satellite sewage collection systems.         Combined sewer systems and overflows.         Sanitary sewer overflows and sewage treatment facility overflows.         Building Backups.         Capacity, Management, Operation, and Maintenance Programs.         System Evaluation and Capacity Assurance Plan.         Emergency Operation Lift Stations.     </li> </ul>

Note: Chapter NR 210 as it existed on October 31, 1986 was repealed and a new chapter NR 210 was created effective November 1, 1986. Corrections made under s. 13,93 (2m) (b) 7., Stats., Register, March, 1997, No. 495.

#### Subchapter I — General

**NR 210.01 Purpose.** The purpose of this chapter is to establish effluent limitations, performance requirements and monitoring provisions to be used in permits for discharges from publicly owned treatment works and privately owned domestic sewage treatment works.

History: Cr. Register, October, 1986, No. 370, eff. 11–1–86; CR 12–027: am. Register July 2013 No. 691, eff. 8–1–13.

**NR 210.02** Applicability. This chapter applies to all publicly owned treatment works and privately owned domestic sewage treatment works.

History: Cr. Register, October, 1986, No. 370, cff. 11-1-86; CR 12-027: r. and rccr. Register July 2013 No. 691, eff. 8-1-13.

NR 210.03 Definitions. The definitions of terms and meanings of abbreviations used in this chapter are set forth in s. 283.01, Stats., cbs. NR 205 and 218, and as follows:

(1) "7-day average" means the arithmetic mean of pollutant parameter values for samples collected in a period of 7 consecutive days.

(2) "30-day average" means the arithmetic mean of pollutant parameter values for samples collected in a period of 30 consecutive days.

(2e) "Blending" means the routing of untreated or partially treated wastewater around a biological treatment process, or a portion of a biological treatment process, within a sewage treatment facility. The routing of untreated or partially treated wastewater around a portion of a biological treatment process is considered to be blending only if the entire wastewater flow has not received biological treatment.

(2m) "Building backup" means an accumulation of sewage in any public or private building caused by blockage, failure, or other hydraulic constraint in the sewage collection system or by blockage or failure of the building sewer or private interceptor main sewer.

Note: The discharge from a building sewer or private interceptor main sewer directly to a water of the state may be a sanitary sewer overflow and may be subject to the WPDES permit requirements of ch. 283, Stats.

(2s) "Building scwer" has the meaning specified under s. NR 110.03 (6s).

Note: Section NR 110.03 (6s) reads: "Building sewer" means that part of the drain system not within or under a building which conveys its discharge to a public sewer, private interceptor main sewer, private onsite wastewater treatment system, or other point of discharge or dispersal,

(3) "CBOD<sub>5</sub>" means the 5-day carbonaceous biochemical oxygen demand.

(3d) "CMOM" means a capacity, management, operation, and maintenance program under s. NR 210.23.

(3h) "Combined sewer overflow" means a release of wastewater from a combined sewer system directly into a water of the state or to the land surface.

(3p) "Combined sewer system" means a wastewater collection system owned by a municipality that conveys domestic, commercial, and industrial wastewater and storm water runoff through a single pipe system to a publicly owned treatment works.

(3t) "Combined sewer treatment facility" has the meaning specified under s. NR 110.03 (7s).

Note: Section NR 110.03 (7s) reads: "Combined sewer treatment facility" means all the structures, pipes, and other equipment that constitute the various treatment processes and treatment units employed to reduce pollutants in wastewater from combined sewer systems.

(4) "Disinfection" means the operation of an ultraviolet lamp unit, or the addition of chemical disinfectants with adequate mixing and detention times, to provide pathogen reductions.

(5) "Effluent concentrations consistently achievable through proper operation and maintenance" means:

(a) For a given pollutant parameter, the 95th percentile value for the 30-day average effluent quality achieved by a treatment works in a period of at least 2 years, excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions, and

(b) A 7-day average value equal to 1.5 times the value derived under par. (a).

(6) "Facilities eligible for treatment equivalent to secondary treatment" means treatment works which meet all of the following:

(a) The BOD<sub>5</sub> and SS effluent concentrations consistently achievable through proper operation and maintenance of the treatment works exceed the minimum level of the effluent quality set forth in s. NR 210.05 (1) (a) and (b);

(b) Trickling filters, aerated lagoons or waste stabilization ponds are used as the principal processes; and

(c) The treatment works provide significant biological treatment of municipal wastewater.

(6e) "Hydraulic constraint" means the structural collapse of a sewer, an accumulation of material in a sewer or an insufficiently-sized sewer such that sewage flow is impeded or stopped from flowing downstream.

(6m) "Infiltration" has the meaning specified under s. NR 110.03 (16).

Note: Section NR 110.03 (16) reads: "Infiltration" means water other than wastewater that enters a sowerage system (including sower service connections) from the ground through such sources as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. NR 210.03

(6s) "Inflow" has the meaning specified under s. NR 110.03 (17).

Note: Section NR 110.03 (17) reads: "Inflow" means water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, sump pumps, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

(7) "NH<sub>3</sub>-N" means ammonia nitrogen.

(8) "Percent removal" means a percentage expression of the removal efficiency across a treatment plant for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant concentrations to the facility and the 30-day average values of the effluent pollutant concentrations for a given time period.

(8m) "Private interceptor main sewer" has the meaning specified under s. NR 110.03 (26m).

Note: Section NR 110.03 (26m) reads: "Private interceptor main sewer" means a sewer serving two or more buildings and not part of the municipal sewer system.

(9) "Privately owned domestic sewage treatment works" means those facilities which treat domestic wastewater and are owned and operated by nonmunicipal entities or enterprises such as mobile home parks, restaurants, hotels, motels, country clubs, resorts, etc., which are permitted under ch. 283, Stats.

(10) "Sanitary sewer overflow" means a release of  $\frac{1}{2}$  wastewater from a sewage collection system or an interceptor sewer directly into a water of the state or to the land surface.

(11) "Sewage collection system" has the meaning specified under s. NR 110.03 (28).

Note: Section NR 110.03 (28) reads: "Sewage collection system" means the common sanitary sewers, interceptor sewers, and appurtonant equipment, such as lift stations, within a sewerage system which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual structures or from private property, and which include service connection "Y" fittings designed for connection with those facilities. The facilities which convey wastewater from individual structures such as building sewers and private interceptor sewers, from private property to the public sanitary sewer, or its equivalent, are specifically excluded from the definition of "sewage collection system"; except that pumping units and pressurized lines for individual structures or groups of structures are included as part of a "sewage collection system" when such units are cost effective and are owned and maintained by the sewerage system owner.

(12) "Sewage treatment facility" has the meaning specified under s. NR 110.03 (29).

Note: Section NR 110.03 (29) reads: "Sewage treatment facility" means all the structures, pipes and other equipment that constitute the various treatment processes and treatment units employed to reduce pollutants in sewage.

(13) "Sewage treatment facility overflow" means a release of wastewater from a location within a sewage treatment facility, other than permitted effluent outfall structures, directly to a water of the state or to the land surface. A sewage treatment facility overflow does not include blending, controlled diversions or discharges from permitted combined sewage treatment facility effluent outfall structures.

(14) "Sewer extension" has the meaning specified under s. NR 110.03 (29m).

Note: Section NR 110.03 (29m) reads: "Sewer extension" means installation of a sewer or interceptor sewer, or extension thereof, to provide additional conveyance capacity and service to development within the existing or proposed tributary area of the extension. Alterations or modifications of existing sewerage systems designed to replace inadequate existing structures or installed because of inadequate hydraulic sewer capacity and that do not extend sanitary sewer service to areas previously not served are not sewer extensions.

(15) "Sewerage system" has the meaning specified under s. NR 110.03 (30).

Note: Section NR 110.03 (30) reads: "Sewerage system" means all structures, conduits and pipes, by which sewage is collected, treated, and disposed of, except plumbing inside and in connection with buildings served, and service pipes, from building to street main.

(16) "Significant biological treatment" means the use of an aerobic or anaerobic biological treatment process in a treatment works to consistently achieve a 30-day average of at least 65% removal of BOD<sub>5</sub>.

History: Cr. Register, October, 1986, No. 370, eff. 11–1-86; CR 09–123; cr. (9m) Register July 2010 No. 655, eff. 8–1–10; CR 12–027; am. (intro.), cr. (2e), (2m), (2s), (3d), (3h), (3p), (3t), (6e), (6m), (6s), (8m), renum. (9m) to (12) and am.,

#### Subchapter II — Monitoring Requirements and Effluent Limitations

NR 210.035 Applicability. This subchapter applies to publicly owned treatment works and privately owned domestic scwage treatment works that discharge to surface waters. History: CR 12-027: cr. Register July 2013 No. 691, cff. 8-1-13.

NR 210.04 Monitoring requirements. (1) Discharges subject to the provisions of this chapter shall at a minimum monitor the effluent for BOD<sub>5</sub>, SS, and pH.

(2) Influent wastewater strengths and volumes shall be characterized at treatment facilities subject to the monitoring provisions of sub. (1) by monitoring for flow,  $BOD_5$  and SS.

(3) Monitoring requirements may be adjusted on a caseby-case basis depending on wastewater characteristics and their potential to degrade water quality.

(4) The department shall require the use of 24-hour flow proportional samplers for monitoring influent and effluent wastewater quality except where the department determines through the permit issuance process that other sample types may adequately characterize the influent or effluent quality. In evaluating permit monitoring requirements, the department may consider:

(a) Treatment facility design flow and actual flow;

(b) Type of treatment processes used at the facility;

(c) Previous performance records as reported on the discharge monitoring report;

(d) Type of wastewater treated: domestic, municipal or industrial wastewater; and

(e) Final effluent limitations.

(5) The methods of sampling shall be as described in s. NR 218.04 (10) to (17).

History: Cr. Register, October, 1986, No. 370, cff. 11-1-86.

**NR 210.05 Effluent limitations.** Publicly owned treatment works and privately owned domestic sewage treatment works shall meet as a minimum the effluent limits specified in this section.

(1) Where the receiving water is classified as fish and aquatic life in s. NR 102.04 (3):

(a) The following effluent limits for BOD<sub>5</sub> apply:

1. The 30-day average may not exceed 30 mg/l.

2. The 7-day average may not exceed 45 mg/l.

3. The 30–day average percent removal may not be less than 85%.

(b) The following effluent limits for SS apply:

1. The 30-day average may not exceed 30 mg/l.

2. The 7-day average may not exceed 45 mg/l.

3. The 30-day average percent removal may not be less than 85%.

(c) The effluent pH shall be within the range of 6.0 to 9.0.

(d) Upon request by the permittee, pursuant to s. NR 210.07 (4), the department may substitute the parameter CBOD<sub>5</sub> for the parameter BOD<sub>5</sub> and the levels of effluent quality specified in par. (a). The following effluent quality levels of CBOD<sub>5</sub> shall be applicable:

1. The 30-day average may not exceed 25 mg/l.

2. The 7-day average may not exceed 40 mg/l.

3. The 30-day average percent removal may not be less than 85%.

(e) More stringent effluent limitations than those specified in pars. (a) to (d) may be imposed for any pollutant where necessary to meet water quality standards for water receiving the treated discharge.

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(2) Where the receiving water is classified as intermediate aquatic life as defined in s. NR 104.02 (3) (a):

(a) The following effluent limits for BOD<sub>5</sub> apply:

1. The 30-day average may not exceed 15 mg/l.

2. The daily maximum may not exceed 30 mg/l.

3. The 30–day average percent removal may not be less than 85%.

(b) The following effluent limits for SS apply:

1. The 30-day average may not exceed 20 mg/l.

2. The daily maximum may not exceed 30 mg/l.

3. The 30-day average percent removal may not be less than 85%.

(d) The effluent pH shall be within the range of 6.0 to 9.0.

(e) The daily minimum effluent dissolved oxygen level shall be 4.0mg/l.

(f) Upon request by the permittee, pursuant to s. NR 210.07 (4), the department may substitute the parameter CBOD<sub>5</sub> for the parameter BOD<sub>5</sub> and the levels of effluent quality specified in par. (a). The following effluent quality levels of CBOD<sub>5</sub> shall be applicable:

1. The 30-day average may not exceed 12 mg/l.

2. The daily maximum may not exceed 25 mg/l.

3. The 30-day average percent removal may not be less than 85%.

(g) More stringent effluent limitations than those specified in pars. (a) to (f) may be imposed for any pollutant where necessary to meet water quality standards for water receiving the treated discharge.

(3) Where the receiving water is classified as marginal surface water as defined in s. NR 104.02 (3) (b):

(a) The following effluent limits for BOD<sub>5</sub> apply:

1. The 30-day average may not exceed 20 mg/l.

2. The 7-day average may not exceed 30 mg/l,

3. The 30-day average percent removal may not be less than 85%.

(b) The following effluent limits for SS apply:

1. The 30-day average may not exceed 20 mg/l,

2. The 7-day average may not exceed 30 mg/l.

3. The 30-day average percent removal may not be less than

85%.

(c) The effluent pH shall be within the range of 6.0 to 9.0.

(d) The daily minimum effluent dissolved oxygen level shall be 4.0mg/l.

(e) Upon request by the permittee, pursuant to s. NR 210.07 (4), the department may substitute the parameter CBOD<sub>5</sub> for the parameter BOD<sub>5</sub> and the levels of effluent quality specified in par. (a). The following effluent quality levels of CBOD<sub>5</sub> will be applicable:

1. The 30-day average may not exceed 16 mg/l.

2. The 7-day average may not exceed 25 mg/l.

3. The 30-day average percent removal may not be less than 85%.

(f) More stringent effluent limitations than those specified in pars. (a) to (e) may be imposed for any pollutant where necessary to meet water quality standards for water receiving the treated discharge.

(4) Effluent limitations may be imposed for pollutants other than those specified in subs. (1) to (3) where necessary to meet water quality standards for waters receiving the treated discharge.

History: Cr. Register, October, 1986, No. 370, eff. 11–1–86; CR 03–050; r. (2) (c) Register February 2004 No. 578, eff. 3–1–04; correction in (1) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register February 2004 No. 578.

NR 210.06 Disinfection requirements. (1) Disinfection shall be required of dischargers subject to the provisions of

this chapter when the department determines, based on the information identified in sub. (3), the discharge of wastewater poses a risk to human and animal health. Disinfection shall be required:

(a) From May 1 through September 30 annually to protect recreational uses, or

(b) Year-round to protect public drinking water supplies.

(c) The period during which disinfection under pars. (a) and (b) is required may be adjusted in a WPDES permit where necessary to protect human and animal health.

(2) Where disinfection is required, the following effluent limitations shall apply:

(a) The geometric mean of the fecal coliform bacteria for effluent samples collected in a period of 30 consecutive days may not exceed 400mg/100 ml.

(b) When chlorine is used for disinfection, the daily maximum total residual chlorine concentration of the discharge may not exceed 0.1mg/l. In addition, when chlorine is used for disinfection, a dechlorination process shall be in operation for the period during which disinfection is required.

Note: The 0.1 mg/l total residual chlorine limit reflects best analytical technique for domestic wastewater effluents. An effluent limitation for total residual chlorine based on best available technology for dechlorination of effluents was determined to be below detection levels of currently available analytical techniques.

(3) A permittee subject to this chapter shall at the time of application for a WPDES permit provide information identified in this subsection which the department shall use in the determination of the need for effluent disinfection. The following information shall be used in identifying risks to human and animal health:

(a) Proximity of the wastewater outfall to swimming beaches and other waters which have a high level of human contact recreational activities,

(b) Proximity of the wastewater outfall to public drinking water supply intakes. At a minimum, whenever a drinking water intake is within a radius of 5 miles of a wastewater outfall in a lake or impoundment or within 20 miles downstream of a wastewater outfall on a flowing surface water, disinfection shall be provided.

(c) Proximity of the wastewater outfall to wetlands which support populations of waterfowl subject to disease outbreaks, which may be caused by the discharge of wastewater which has not been disinfected.

(d) Quality of the wastewater being discharged.

(e) Dilution and mixing characteristics of the wastewater with the receiving water.

(f) Bacterial indicator organism levels or sanitary survey results from sampling conducted in the vicinity of the wastewater outfall and near the sites used for recreational purposes.

(g) The classification of the receiving water and downstream waters as determined in s. NR 104.02 (1).

(h) The detention time of the wastewater treatment system. Except in extenuating circumstances, the discharge of wastewater to surface water from a treatment system with a detention time of 180 days or longer does not pose a risk to human and animal health.

(i) Other factors that are necessary to determine if there is a risk posed to human and animal health by the discharge of wastewater that has not been disinfected.

(4) Permittees shall be given a reasonable compliance schedule in their WPDES permit if they are unable to meet the effluent limits contained in s. NR 210.06 (2) at the time of permit issuance. However, in no case may the date for compliance with sub. (2) extend beyond 3 years from the date of permit issuance, unless circumstances beyond the permittee's control, such as an environmental impact statement, require additional time for compliance. In such circumstances the date for compliance with sub. (2) may not extend beyond 5 years from the date of permit issuance. NR 210.06

(5) Final determinations made under subs. (1) and (4) shall be made at the time of permit issuance, reissuance, or in response to a request for modification of an existing permit.

(6) The department shall include in the public notice issued under s. 283.39, Stats., its tentative determinations made under subs. (1) and (4). Those tentative determinations shall be subject to review under s. 283.49, Stats. Final determinations made under subs. (1) and (4) shall be subject to review under s. 283.63, Stats. Tentative determinations and final determinations made under subs. (1) and (4) are not subject to review under s. 283.15, Stats.

(7) In the absence of a specific determination under sub. (1), all dischargers which are required to disinfect as of the effective date of this rule shall continue to disinfect and comply with all terms of their WPDES permit in effect on that date.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

**NR 210.07 Effluent limitation variance categories.** Modifications to limitations specified in s. NR 210.05 (1) to (3) may be approved as follows:

(1) INDUSTRIAL WASTES. For publicly owned treatment facilities receiving effluent from certain categories of industries, the applicable effluent limitations for BOD<sub>5</sub> and SS as set forth in s. NR 210.05 (1) may be modified. The limitations for BOD<sub>5</sub> and SS in s. NR 210.05 (1) may be adjusted upwards provided that:

(a) The discharge of such pollutants attributable to the industrial category will not be greater than that allowed by applicable effluent limitations if such industrial category were to discharge directly into the waters of the state; and

(b) The flow or loading of such pollutants introduced by the industrial category exceeds 10% of the design flow or loading of the publicly owned treatment works. When such an adjustment is made, the limitations for BOD<sub>5</sub> or SS in s. NR 210.05 (1) shall be adjusted proportionally.

(2) AERATED LAGOONS AND STABILIZATION PONDS. A variance for SS may be made in cases where aerated lagoons or waste stabilization ponds are the principal treatment processes. The SS limitation may be raised to a maximum of 60 mg/l for a 30-day average. This variance is not applicable to polishing or holding ponds which are preceded by other biological or physical/chemical treatment processes.

Note: See s. NR 110.24 for design requirements of aerated lagoons and stabilization ponds.

(3) pH. The effluent pH limitations may be adjusted on a caseby-case basis if the permittee or the owner can demonstrate that the limits need to be adjusted based on the following:

(a) Inorganic chemicals are not added as part of the treatment process; and

(b) In the case of a publicly owned treatment works, contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0.

(4) CBOD<sub>5</sub>. Upon request by the permittee, the parameter  $CBOD_5$  may be substituted for the parameter  $BOD_5$ , provided the following conditions are met:

(a) For treatment facilities with BOD<sub>5</sub> limitations specified in s. NR 210.05 (1) (a), (2) (a), or (3) (a), the permittee shall provide paired sampling of the effluent for BOD<sub>5</sub> and CBOD<sub>5</sub> for the months of January and July. The sample frequency shall be at the same frequency as required by the permit for BOD<sub>5</sub> sampling. Additional sampling for nitrogen compounds (NH<sub>3</sub>-N, NO<sub>3</sub>-N) or other sampling may also be required on a case-by-case basis.

(b) For treatment facilities with BOD<sub>5</sub> limitations established in accordance with those specified in s. NR 210.05 (1) (e), (2) (g), or (3) (f), the permittee shall provide paired sampling of the effluent for BOD<sub>5</sub>, CBOD<sub>5</sub>, NH<sub>3</sub>-N and NO<sub>3</sub>-N. At the end of the BOD<sub>5</sub> test, an analysis of that BOD<sub>5</sub> sample for NO<sub>3</sub>-N shall also be conducted.

1. This sampling shall be provided for the months of January, February, July, and August at a frequency of 3 times weekly for

facilities with a design flow over 0.5 MGD and for those facilities which discharge to trout waters or may impact trout waters.

2. This sampling shall be provided for the months of January and July at a sample frequency as required by the permit for  $BOD_5$  sampling, with a maximum of 3 times weekly for facilities with a design flow less than 0.5 MGD.

(5) TREATMENT EQUIVALENT TO SECONDARY TREATMENT. (a) Facilities eligible for treatment equivalent to secondary treatment as defined in s. NR 210.03 (6) shall provide the following minimum level of effluent quality in terms of the parameters BOD<sub>5</sub>, SS, and pH. All requirements for the specified parameters in subd. 1., 2. or 3. shall be achieved except where provided for in sub. (2) or par. (b), (c), or (d).

1. The following effluent limits for BOD<sub>5</sub> apply:

a. The 30-day average may not exceed 45 mg/l.

b. The 7-day average may not exceed 65 mg/l.

c. The 30-day average percent removal may not be less than 65%.

2. The following effluent limits for SS apply: except where SS values have been adjusted in accordance with s. NR 210.07 (2):

a. The 30-day average may not exceed 45 mg/l.

b. The 7-day average may not exceed 65 mg/l.

c. The 30-day average percent removal may not be less than 65%.

3. The requirements of s. NR 210.05 (1) (c) shall be met.

(b) Except as limited by par. (d) and subject to EPA approval, the department may after notice and opportunity for public comment, adjust the minimum levels of effluent quality set forth in par. (a) 1. a., b., 2. a. and b. for trickling filter facilities and in par. (a) I. a. and b. for waste stabilization pond facilities to conform to the BOD<sub>5</sub> and SS effluent concentrations consistently achievable through proper operation and maintenance by the median (50th percentile) facilities and ing the the definition of facilities eligible for treatment equivalent to secondary treatment.

(c) Where data are available to establish  $CBOD_5$  limitations for a treatment works subject to this subsection, the department may substitute the parameter  $CBOD_5$  for the parameter  $BOD_5$  in pars. (a) and (b), on a case-by-case basis.

1. The levels of  $CBOD_5$  effluent may not be less stringent than the following:

a. The 30-day average may not exceed 40 mg/l.

b. The 7-day average may not exceed 60 mg/l.

c. The 30-day average percent removal may not be less than 65%.

2. To apply for the  $CBOD_5$  variance, the permittee shall provide the data outlined in sub. (4).

(d) Any permit adjustment made pursuant to this section may not be any less stringent than the limitation required pursuant to sub. (5) (a). The department shall require more stringent limitations when adjusting permits if:

1. For existing facilities the permitting authority determines that the 30-day average and 7-day average BOD<sub>5</sub> and SS effluent values that could be achievable through proper operation and maintenance of the treatment works, based on an analysis of the past performance of the treatment works, would enable the treatment works to achieve more stringent limitations, or

2. For new facilities, the department determines that the 30-day average and 7-day average BOD<sub>5</sub> and SS effluent values that could be achievable through proper operation and maintenance of the treatment works, considering the design capability of the treatment process and geographical and climatic conditions, would enable the treatment works to achieve more stringent limitations.

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(6) COMBINED SEWERS. Treatment works which have a combined sewer system may not be capable of meeting the percentage removal requirements established in sub. (5) (a) 1. c. and 2. c. or in s. NR 210.05 (1) (a) 3. and (b) 3. during wet weather where the treatment works receive flows from combined sewers. For each treatment works, the decision shall be made on a case-by-case basis as to whether any attainable percentage removal level can be defined, and if so, what the level should be.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

#### Subchapter III — Operations, Analyses, and Reports

NR 210.08 Emergency operation. All sewage treatment facilities that are subject to the provisions of this chapter shall be equipped for emergency operation. Emergency power shall be provided in accordance with s. NR 110.15 (5) (d). Sufficient emergency power shall be provided such that all the following conditions are met:

(1) All sewage treatment facilities shall maintain at least the equivalent of primary settling and effluent disinfection under all design conditions.

(2) All sewage treatment facilities discharging to class I, II, or III trout streams, or other critical stream segments as determined by the department, shall operate all units critical to meeting the effluent limits as set forth in the WPDES permit for a minimum emergency period of 24 hours under all design flow conditions.

History: Cr. Register, October, 1986, No. 370, eff. 11–86; CR 09–123: am. (1) (a) and (b), r. and recr. (2) Register July 2010 No. 655, eff. 8–1–10; CR 12–027: am. Register July 2013 No. 691, eff. 8–1–13.

NR 210.09 Analytical methods and laboratory requirements. Methods used for analysis of influent and effluent samples shall be as set forth in ch. NR 219 unless alternative methods are specified in the WPDES discharge permit.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

NR 210.10 Requirements for certified or registered laboratory. Bacteriological analyses of groundwater samples, and all radiological analyses, shall be performed by the state laboratory of hygiene or at a laboratory certified or approved by the department of agriculture, trade and consumer protection. Other laboratory test results submitted to the department under this chapter shall be performed by a laboratory certified or registered under ch. NR 149. The following tests are excluded from the requirements of this section:

(1) Temperature,

- (2) Turbidity,
- (a) Theorem (b),
- (3) Bacteria tests in wastewater effluent,
- (4) pH,
- (5) Chlorine residual,
- (6) Specific conductance,
- (7) Physical properties of soils and sludges,
- (8) Nutrient tests of soils and sludges,
- (9) Flow measurements.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

NR 210.11 Compliance maintenance annual report (CMAR). The CMAR shall be submitted to the department on or before June 30 of each year and shall meet all applicable requirements.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; CR 09-123: am. Register July 2010 No. 655, eff. 8-1-10.

NR 210.12 Blending. (1) FINDINGS. When issuing a permit, the department may, following review of the permit application and other information provided by the permittee, find that all the following conditions are met:

(a) Excessive flow received at a sewage treatment facility will cause severe property damage if blending is not approved, including damage to the sewage treatment facility which will cause the facility or portions thereof to become inoperable; (b) The permittee demonstrates, as required by this section, that there are no feasible alternatives to blending such as the use of auxiliary treatment facilities, retention of untreated sewage, or the provision of other treatment and operational alternatives, and;

(c) The permittee is required to notify the department of each blending occurrence as provided in sub. (6).

(2) BLENDING APPROVALS. Blending is prohibited, but may be approved by the department and included as a specific condition in a permit. Blending may only be approved and included as a condition in a permit when all the following conditions are met: Note: The department may initiate enforcement action under s. 283.89, Stats., for

any blending not specifically included as a condition in a permit.

(a) The department determines that blending may be necessary during wet weather and other high flow conditions to avoid severe property damage to the sewage treatment facility. Severe property damage occurs when the facility becomes inoperable due to loss of treatment efficiency from washout of biological media.

Note: A facility may be considered inoperable in cases such as, but not limited to, situations where there is a significant loss of treatment capacity in the secondary treatment unit or units as a result of wet weather or high flow conditions.

(b) The department determines the permittee is effectively implementing a CMOM program designed to reduce, to the maximum extent practicable, the entry of infiltration and inflow into the system, as required in s. NR 210.23.

(c) The department determines at each permit reissuance or permit modification related to the practice of blending that there are no feasible alternatives to the use of the blending, such as the use of auxiliary treatment or storage facilities, retention of untreated wastewater, reduction of excessive flow, use of adequate backup equipment, or an increase in the capacity of the sewage collection system or interceptor system.

Note: When evaluating feasibility of alternatives, the department may consider factors such as technical achievability, the relationship between the control of storm water and the control of infiltration and inflow into the sewage collection system, costs and affordability of implementation, and risks to public health, the environment, and welfare of the community served by the sewage collection system.

(d) The design of the sewage treatment facility is approved by the department to operate with blending.

(3) CONDITIONS FOR BLENDING. The following requirements shall be met whenever blending is included as a condition in a permit:

(a) Blending may occur temporarily only during wet weather or other high flow conditions when peak wastewater flow to the sewage treatment facility exceeds the maximum design and operating capacity of the biological treatment processes and when necessary to avoid severe property damage to the sewage treatment facility as determined under sub. (2) (a).

(b) Untreated or partially treated wastewater that is routed around a biological treatment process or a portion of a biological treatment process shall be recombined with the biologically treated wastewater, and the combined flow shall be disinfected, if required by the WPDES permit, prior to discharge.

(c) Effluent from the sewage treatment facility shall be monitored to include all wastewater that is discharged from the facility, including those wastewaters that are diverted around the biological treatment process and shall meet the effluent limitations established in the permit including, at minimum, those limitations specified in s. NR 210.05 (1) (a) to (d).

(4) BLENDING APPROVALS. The department may approve and include a condition in a permit for blending if the permittee operates sewage treatment facilities approved by the department that provide a separate sewage treatment process or processes solely for excess flow or that provide a sewage treatment process as an alternative to a biological treatment process and complies with all other requirements of this section.

(5) PERMIT APPLICATIONS. A permittee may only apply for a department approval to include blending as a permit condition at the time of application for permit reissuance or permit modification. A permittee may use information in a facilities plan approved under ch. NR 110 in its permit application under this

NR 210.12

subsection. At the time of permit application, a permittee may demonstrate that the relevant information in a previously approved facilities plan is current. If the relevant information in the approved facilities plan is not reflective of current operations, the permittee shall submit new information or may update the facilities plan with new information that demonstrates there are no feasible alternatives to the use of blending.

(6) REPORTING. Any blending under this section shall be reported to the department by telephone, fax or email no later than 24 hours from the time each blending operation ceases at the sewage treatment facility, including operation of an alternative treatment process as provided in sub. (4). Permittees shall also report the time, duration, and volume of wastewater routed around the biological treatment process, or routed through an alternative treatment process as provided in sub. (4), on the wastewater discharge monitoring report form required by the permit. These reporting requirements shall apply whether blending was or was not included as a condition in the permit.

History: CR 12-027: cr. Register July 2013 No. 691, cff. 8-1-13.

#### Subchapter IV — Overflows and Sewage Collection Systems

**NR 210.19 Applicability.** This subchapter applies to all publicly owned treatment works and privately owned domestic treatment works that own and operate a sewage collection system, including satellite sewage collection systems.

Note: Chapter NR 114 may require the certification of operators for sewage collection systems subject to the requirements of this subchapter.

History: CR 12-027: cr. Register July 2013 No. 691, eff. 8-1-13.

NR 210.20 Permits for satellite sewage collection systems. All municipally owned satellite sewage collection systems shall be operated under the authorization of a general permit or an individual permit issued by the department. The department may require privately owned satellite sewage collection systems to be operated under the authorization of a general permit or an individual permit issued by the department if the department of a general permit is necessary to assure compliance with the requirements of this subchapter. General permits shall be issued following the procedures in s. NR 205.08 and shall require compliance with all applicable provisions of this subchapter. The department may issue an individual permit, including a compliance schedule for sewage collection system investigations and sewage collection system modifications, when necessary to assure compliance with the requirements of chapter.

History: CR 12-027: cr. Register July 2013 No. 691, cff. 8-1-13.

NR 210.205 Combined sewer systems and overflows. Permittees that own and operate combined sewer systems, including combined sewage treatment facilities, shall comply with the specific requirements contained in the WPDES permit. Permittees that operate a combined sewer system shall be subject to the requirements of ss. NR 210.23 and NR 210.24. Discharges from combined sewer systems and overflows from combined sewage treatment facilities shall be reported to the department as required in the WPDES permit and the public shall be notified of such discharges in accordance with the emergency response plan required under s. NR 210.23 (4) (f). The department may require the permittee to notify the owner of a drinking water intake located in a surface water receiving any discharges from combined sewer systems.

Note: The department may consult with the requirements of 33 U.S.C. 1342 and U.S. environmental protection agency guidance when establishing permit conditions for combined sewer systems.

History: CR 12-027: cr. Register July 2013 No. 691, eff. 8-1-13.

NR 210.21 Sanitary sewer overflows and sewage treatment facility overflows. (1) PROHIBITED OVERFLOWS. Sanitary sewer overflows and sewage treatment facility overflows are prohibited and may not be approved by the department nor authorized in a permit issued by the department. If applicable to

an overflow event, permittees shall provide information that will enable the department to determine whether any of the following conditions exist:

Note: When used without qualification in this chapter, the word "overflow" includes both sanitary sewer overflow and sewage treatment facility overflow.

(a) The sanitary sewer overflow or sewage treatment facility overflow was unavoidable to prevent loss of life, personal injury, or severe property damage.

(b) There were no feasible alternatives to the sanitary sewer overflow or sewage treatment facility overflow such as the use of auxiliary treatment facilities or adequate back-up equipment, retention of untreated wastes, reduction of inflow and infiltration, or preventative maintenance activities.

Note: When evaluating feasibility of alternatives, the department may consider factors such as technical achievability, the relationship between the control of storm water and the control of infiltration and inflow into the sewage collection system, costs and affordability of implementation and risks to public health, the environment, and welfare of the community served by the sewage collection system.

(c) The sanitary sewer overflow or the sewage treatment facility overflow was caused by unusual or severe weather related conditions such as large or successive precipitation events, snowmelt, saturated soil conditions, or severe weather occurring in the area served by the sewage collection system or sewage treatment facility.

(d) The sanitary sewer overflow or the sewage treatment facility overflow was unintentional, temporary, and caused by an accident or other factors beyond the reasonable control of the permittee.

(2) DEPARTMENT RESPONSE. If a prohibited sanitary sewer overflow or sewage treatment facility overflow occurs, the department may, in addition to the factors provided in sub. (1), also consider the following factors in any enforcement action or response:

(a) The permittee's activities in implementing a capacity, management, operation, and maintenance (CMOM) program, or a functionally equivalent program, that meets the requirements in s. NR 210.23.

(b) The status of preparation of a system evaluation and capacity assurance plan, or a functionally equivalent plan that meets the requirements of s. NR 110.10 (4), that may be required under s. NR 210.24.

(c) The status of implementation of an approved system evaluation and capacity assurance plan, or a functionally equivalent plan that meets the requirements of s. NR 110.10 (4), that may be required under s. NR 210.24.

(d) The status of planning or implementation of specific actions that conform to an approved facilities plan under ss. NR 110.08, 110.09, and 110.10 and that meet the requirements of this chapter and s. NR 205.07 (1) (u).

(e) The status of planning or implementation of specific actions required by a WPDES permit, or other legally binding document, to construct or implement projects that will address the cause of the sanitary sewer overflow or sewage treatment facility overflow.

Note: The department may initiate enforcement action under s. 283.89, Stats., for any sanitary sewer overflow or sewage treatment facility overflow.

(3) PERMITTEE RESPONSE TO OVERFLOWS. Whenever a sanitary sewer overflow or sewage treatment facility overflow occurs, the permittee shall take all feasible steps to control or limit the volume of untreated or partially treated wastewater discharged, and terminate the discharge as soon as practicable. Remedial actions shall be implemented consistent with an emergency response plan developed under s. NR 210.23 (4) (f). Remedial actions may include the following:

(a) Interception and rerouting of untreated or partially treated wastewater around the point of failure, if that failure is in the sewage collection system.

(b) Use of vacuum trucks or other appropriate mechanisms to recover as much of the wastewater discharged as possible and properly dispose of such wastewater and wash down water. 60-3

#### DEPARTMENT OF NATURAL RESOURCES

#### (c) Cleanup of debris at the overflow site.

(d) Adequate sampling to determine the amount, characteristics, and impact of the overflow.

(4) PERMITTEE REPORTING. Permittees shall report all sanitary sewer overflows and sewage treatment overflows as follows:

(a) The permittee shall notify the department by telephone, fax, or email as soon as practicable, but no later than 24 hours from the time the permittee becomes aware of the overflow.

(b) The permittee shall, no later than five days from the time the permittee becomes aware of the overflow, provide to the department the information identified in this paragraph using department form number 3400-184. If an overflow lasts for more than five days, an initial report shall be submitted within 5 days as required in this paragraph and an updated report submitted following cessation of the overflow. At a minimum, the following information shall be included in the report:

1. The date and location of the overflow.

2. The surface water to which the discharge occurred, if any,

3. The duration of the overflow and an estimate of the volume of the overflow.

4. A description of the sewer system or treatment facility component from which the discharge occurred such as manhole, lift station, constructed overflow pipe, or crack or other opening in a pipe.

5. The estimated date and time when the overflow began and stopped or will be stopped.

6. The cause or suspected cause of the overflow including, if appropriate, precipitation, runoff conditions, areas of flooding, soil moisture, and other relevant information.

7. Steps taken or planned to reduce, eliminate and prevent reoccurrence of the overflow and a schedule of major milestones for those steps.

8. A description of the actual or potential for human exposure and contact with the wastewater from the overflow.

9. Steps taken or planned to mitigate the impacts of the overflow and a schedule of major milestones for those steps.

10. To the extent known at the time of reporting, the number and location of building backups caused by excessive flow or other hydraulic constraints in the sewage collection system that occurred concurrently with the sanitary sewer overflow and that were within the same area of the sewage collection system as the sanitary sewer overflow.

11. The reason the overflow occurred or explanation of other contributing circumstances that resulted in the overflow event. This includes any information available under sub. (1), including whether the overflow was unavoidable to prevent loss of life, personal injury, or severe property damage and whether there were feasible alternatives to the overflow.

Note: A copy of form 3400–184 for reporting sanitary sewer overflows and sewage treatment facility overflows may be obtained from the department or accessed on the department's web site at http://dnr.wi.gov/topic/wastewater/documents/3400–184\_ssoreportform.pdf. As indicated on the form, additional information may be submitted to supplement the information required by the form.

(c) The permittee shall identify each specific location and each day on which a sanitary sewer overflow or sewage treatment facility overflow occurs as a discrete sanitary sewer overflow or sewage treatment facility overflow occurrence. An occurrence may be more than one day if the circumstances causing the sanitary sewer overflow or sewage treatment facility overflow results in a discharge duration of greater than 24 hours. If there is a stop and restart of the overflow at the same location within 24 hours and the overflow is caused by the same circumstance, it may be reported as one occurrence. Sanitary sewer overflow occurrences at a specific location that are separated by more than 24 hours shall be reported as separate occurrences.

(d) A permittee that is required to submit wastewater discharge monitoring reports under s. NR 205.07 (1) (r) shall also report all

sanitary sewer overflows and sewage treatment facility overflows on that report.

(e) Satellite sewage collection system permittees shall submit reports required under this subsection to all owners of sewerage systems which receive wastewater from the satellite sewage collection system.

(5) PUBLIC NOTIFICATION. A permittee shall notify the public of any sanitary sewer and sewage treatment facility overflows consistent with its emergency response plan required under s. NR 210.23 (4) (f). Such public notification shall occur promptly following any overflow event using the most effective and efficient communications available in the community. At minimum, a daily newspaper of general circulation in the county(s) and municipality whose waters may be affected by the overflow shall be notified by written or electronic communication.

(6) NOTIFICATION OF DRINKING WATER SYSTEM OWNERS. The department may require the permittee to notify the owner of a drinking water intake located in a surface water receiving any sanitary sewer overflows and sewage treatment facility overflows. Such conditions shall be included in the WPDES permit.

History: CR 12-027: cr. Register July 2013 No. 691, eff. 8-1-13.

NR 210.22 Building Backups. (1) Except for the reporting requirement established in s. NR 210.21 (4) (b) 10., building backups shall be subject only to requirements of this section.

(2) A building backup caused by the blockage or failure of the building sewer or any other component of a plumbing system as defined in s. SPS 381.01 (179), and discrete or individual building backups caused, or primarily caused, by excessive flow or hydraulic constraints within the sewage collection system shall not be subject to the requirements of s. NR 210.21 (1).

Note: Section SPS 381.01 (179) reads: "Plumbing system" includes the water supply system, the drain system, the vent system, plumbing fixtures, plumbing appliances and plumbing appurtenances that serve a building, structure or premises.

(3) Whenever there are recurring building backups caused, or primarily caused, by excessive flow or hydraulic constraints within a sewage collection system, the department may reissue or modify a WPDES permit to require actions by the permittee, including preparation and implementation of a system evaluation and capacity assurance plan as provided in s. NR 210.24, to reduce or eliminate such recurring building backups.

(4) Whenever there are building backups caused, or primarily caused, by excessive flow or hydraulic constraints within the sewage collection system and there are no sanitary sewer overflows within the same part of the sewage collection system, the building backups shall be reported in accordance with the requirements of ch. NR 208.

History: CR 12-027: cr. Register July 2013 No. 691, eff. 8-1-13.

NR 210.23 Capacity, Management, Operation, and Maintenance Programs. (1) CMOM PROGRAM REQUIRED. All permittees subject to this chapter, including the owners of satellite sewage collection systems and combined sewer systems, shall implement a capacity, management, operation, and maintenance program.

(2) IMPLEMENTATION DEADLINE. The holder of a WPDES permit shall implement a capacity, management, operation and maintenance program under this section no later than August 1, 2016, or no later than an earlier date specified in the permit.

(3) GENERAL STANDARDS. A CMOM program shall ensure the following general standards are met:

(a) The sewage collection system is properly managed, operated, and maintained at all times.

(b) The sewage collection system provides adequate capacity to convey all peak design flows.

(c) All feasible steps are taken to eliminate excessive infiltration and inflow as defined in s. NR 110.03 (13c), cease sanitary

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sewer overflows and sewage treatment facility overflows and mitigate the impact of such overflows on waters of the state, the environment, and public health.

Note: When evaluating feasibility of alternatives, the department may consider factors such as technical achievability, the relationship between the control of storm water and the control of infiltration/inflow into the sewage collection system, costs and affordability of implementation and risks to public health, the environment, and weffare of the community served by the sewage collection system.

(d) A process is in place to notify the public and other directly affected parties of any incidents of overflows from the sewerage system.

(c) Annual reports are submitted in accordance with the provisions of ch. NR 208.

(4) COMPONENTS OF CMOM PROGRAM. (a) Goals. Major goals of the CMOM program shall be consistent with the general standards identified in sub. (3).

(b) Organization. Persons who are responsible for implementing the CMOM program shall be identified including administration, management, and maintenance personnel or positions, lines of authority of such personnel or positions, internal and external communication responsibilities, and the person or persons who shall report all overflow events to the department and to the public according to s. NR 210.21 (3) to (6).

(c) *Legal authority.* Legally binding authorities, such as sewer use ordinances and service agreements, shall ensure the following:

1. Infiltration and inflow sources, including infiltration and inflow into building sewers, private interceptor sewers, or other such sources on private property, are subject to oversight and control, as necessary.

2. New sewers and connections, including building sewers and private interceptor sewers are designed, constructed, installed, tested, and inspected to meet all applicable current engineering and construction standards.

3. New and rehabilitated sewers, lift stations and other collection system components or appurtenances are installed, tested, and inspected to meet all applicable current standards.

4. If applicable, sewage flows from municipal satellite or other privately owned sewage collection systems are, as necessary, monitored, and controlled. Notwithstanding all other provisions of this chapter, any publicly owned treatment works may establish specific requirements to regulate sewage flows from satellite sewage collection systems.

5. Solid or viscous pollutants, such as fats, oils, and greases, are not discharged into the sewage collection system in amounts that will cause or contribute to obstruction to the flow in the sewer.

Note: This provision is similar to that contained in s. NR 211.10 (2) (c).

6. Procedures are in place to implement enforcement actions for non-compliance with established legal authorities.

(d) Operation and maintenance. Operation and maintenance equipment, activities and protocols, including identification of personnel or positions responsible, shall, as appropriate and applicable to the system, include the following:

1. Adequate maintenance facilities and equipment including equipment and replacement parts inventories, especially critical replacement parts.

2. A map of the sewage collection system.

Note: A geographic information system-based map of the sewage collection system meets this requirement,

3. A management system for the collection and use of information to identify and prioritize appropriate operation and maintenance activities, including identification of structural deficiencies and implementation actions to address such deficiencies.

4. A description of routine preventive operation and maintenance activities such as inspections, televising, cleaning, flow monitoring, root removal, and rehabilitation.

Note: Protocols for cleaning sewers should include methods for disposal of sand, grit, and other solids in a manner that will not contaminate surface water or ground-water or create a risk to public health. Proper disposal of such material includes, but

is not limited to, placement in a licensed solid waste landfill, return of the material to the headworks of the sewage treatment facility or placing the material in a properly designed and operated treatment unit.

5. A program to periodically assess the capacity of the sewage collection system and treatment facilities.

6. The identification of activities to prevent and correct frequent and recurring building backups caused by sewage collection system hydraulic constraints.

7. Appropriate training on a regular basis.

(e) Design and performance standards. The following standards and procedures shall be established or adopted to maintain control over the design, construction, and inspection of the sewage collection system, including building sewers and private interceptor sewers on private property:

1. Standards and specifications for the design and installation of new sewers, lift stations, and other appurtenances and for rehabilitation and repair projects.

Note: Chapter NR 110 must be followed when designing and constructing sewage collection systems. Chapter SPS 382 must be followed when designing and constructing plumbing. Permittees may have supplemental standards and requirements specific to community needs.

2. Procedures and requirements for inspecting and testing the installation of new sewers, pumps, and other appurtenances and for rehabilitation and repair projects.

(f) Overflow emergency response plan. An overflow emergency response plan shall identify measures to protect public health and the environment from sanitary sewer overflows and sewage treatment facility overflows and building backups caused by excessive flow or other hydraulic constraints in the sewage collection system and shall include protocols to ensure the following:

1. Responsible personnel are made aware of all overflows.

2. There is a prompt and appropriate response to and investigation of all overflows to protect, to the extent possible, water quality, the environment, and public health.

3. There is appropriate reporting and notification as required under s. NR 210.21 (4) to (6). The overflow emergency response plan shall identify the public health and other officials who will receive notification and identify the protocols and procedures for notification of the public who may be affected by an overflow. Whenever there is a significant or potentially significant risk to public health, public notification shall include personal contacts with persons who may be at risk from the affects of the overflow.

Note: To the extent practicable, local public health and other responsible officials should be consulted in developing those portions of the overflow emergency response plan that involve reporting and notification of those officials. Permittees should consider use of the following communication methods when establishing public notification protocols: electronic mail or other electronic communication, posting on internet web sites, notification of local print and media (television, radio) outlets, posting notices on public buildings, personal notification, etc.

4. Appropriate personnel are aware of and follow the plan and are appropriately trained.

5. Emergency operations appropriate to the event are implemented.

(5) CMOM PROGRAM DOCUMENTATION AND AUDIT. All permittees subject to the requirements of this section shall do all of the following:

(a) Develop and maintain written documentation of the CMOM program components. Such documentation shall be available for department review on request. The department may request a permittee to provide this documentation or prepare a summary of the permittee's CMOM program at the time of application for reissuance of a WPDES permit.

Note: Annual verification of CMOM program documentation is required under ch. NR 208.

(b) At least annually conduct a self-audit of activities conducted under the permittee's CMOM program to ensure CMOM components are being implemented as necessary to meet the standards in sub. (3). May not be current adm. code. For current adm. code see: http://docs.legis.wisconsin.gov/code/prefaces/toc.

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(6) EXCEPTIONS. If the owner of a sewage collection system believes any component part or parts of the CMOM program requirements in this section are not appropriate or applicable for a specific sewage collection system, the CMOM program documentation required under sub. (5) shall fully explain why that component part is not applicable.

(7) COMPLIANCE. Whenever a permittee's CMOM program does not meet the conditions established under this section, including the identification of and explanation for exceptions identified in sub. (6), the department may require specific actions to establish and implement a CMOM program or component parts of a CMOM program. The specific requirements may be included as conditions in a permit.

History: CR 12-027: cr. Register July 2013 No. 691, eff. 8-1-13; correction in (3) (c) made under s. 13.92 (4) (b) 7., Stats., Register July 2013 No. 691.

NR 210.24 System Evaluation and Capacity Assurance Plan. (1) The department may require permittees that own and operate a sewerage system to prepare and implement a system evaluation and capacity assurance plan that meets the requirements in s. NR 110.10 (4) whenever the department determines that one or more of the following conditions exists:

(a) Noncompliance with the prohibitions in s, NR 210.21 (1).

(b) Noncompliance with effluent limitations at the sewage treatment facility caused by excessive flow.

(c) Implementation of the CMOM program requirements in s. NR 210.23 is not sufficient to attain the requirements of s. NR 210.21 (1).

(d) Frequent or recurring building backups caused by excessive flow or other hydraulic constraints in the sewerage system.

(e) A system evaluation and capacity assurance plan is necessary to determine if the conditions of s. NR 210.21(1)(a) to (d) exist.

(2) The system evaluation and capacity assurance plan is subject to review and approval under s. 281.41, Stats.

(3) The department may include in a permit compliance schedules that require implementation of actions contained in an approved system evaluation and capacity assurance plan and that are determined necessary to meet the requirements of this chapter.

(4) Permittees that are implementing actions to conform with an approved facilities plan under ss. NR 110.08, 110.09, and 110.10 and that, when such facilities plan is implemented, will meet the requirements of this chapter and s. NR 205.07 (1) (u) shall not be subject to the requirements of this section. History: CR 12-027: cr. Register July 2013 No. 691, eff. 8-1-13.

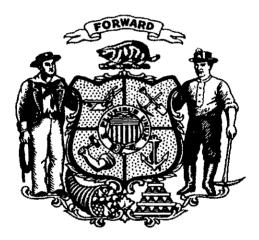
NR 210.25 Emergency Operation --- Lift Stations.

All lift stations that are a component of a sewage collection system shall be equipped for emergency operation in accordance with s. NR 110.14 (12).

History: CR 12-027; cr. Register July 2013 No. 691, eff. 8-1-13.

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### WISCONSIN ADMINISTRATIVE REGISTER

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Employee Trust Funds:	Revises Chapters ETF 10 and 20, relating to clarifying how ETF complies with applicable provisions of the Internal Revenue Code (IRC). CR 13-004
Natural Resources:	<i>Fish, Game, etc., Chs.1</i> — Revises Chapters NR 19 to 23, 25, and 26, relating to fishing rules on inland, outlying, and boundary waters of Wisconsin and harvest of turtles. <b>CR 13–001</b>
	Environmental Protection — General, Chs. 100— Environmental Protection — Investg. & Remediation, Chs. 700— Revises Chapters NR 169 and 700 to 750, relating to investigation and remediation of contaminated properties. CR 12-023
Revenue:	Revises Chapter Tax 11, relating to sales and use tax provisions concerning advertising and promotional direct mail and prosthetic devices. <b>CR 13–011</b>
	Revises Chapters Tax 1, 2, and 11, relating to general provisions of income taxation and sales and use tax. CR 13-012
	Revises Chapters Tax 4, 8, and 9, relating to general provisions of excise taxation and enforcement. CR $13-013$
Safety and Professional Services — Cosmetology Examining Board:	Revises Chapters Cos 2 and 6, relating to responsibilities of the manager and practical training for apprentices. CR 12-016
Safety and Professional Services — Hearing and Speech Examining Board:	Amends section HAS 6.18 (1) (d) and creates section HAS 6.175 (1m), relating to deceptive advertising. CR 12–050
Safety and Professional Services — Psychology Examining Board:	Repeals section Psy 2.12 (2) and amends section Psy 2.09 (4), relating to applicant appearances. CR 12–055
Technical College System Board:	Revises Chapter TCS 2, relating to district board member appointments. CR 12-032

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Children and Families:	<i>Early Care and Education, Chs. 201—252</i> Amends Chapter DCF 201, relating to circumstances for a waiver to allow child care subsidy payments for a parent who is a child care provider and affecting small businesses. CR 12–048
Natural Resources:	<i>Fish, Game, etc., Chs. 1—</i> Amends section NR 10.01 (3) (d) 1., relating to the bobcat hunting and trapping season. CR 12–031
	<i>Fish, Game, etc., Chs. 1—</i> Amends Chapter NR 18, relating to the sport of falconry. <b>CR</b> <b>13–005</b>
	Environmental Protection — General, Chs. 100— Environmental Protection — WPDES, Chs. 200— Amends Chapters NR 100 and 200, relating to wastewater treatment works. CR 12–027
Public Defender:	Amends section PD 3.03 (2) and (3), relating to determination of eligibility for assignment of publicly appointed counsel. CR 12-017
	Amends section PD 6.025, relating to determination of ability to pay. CR 12-018
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### **Emergency Rules Now in Effect**

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at <u>www.legis.state.wi.us/rsb/code</u>.

Beginning with rules filed with the Legislative Reference Bureau in 2008, the Legislative Reference Bureau will assign a number to each emergency rule filed, for the purpose of internal tracking and reference. The number will be in the following form: EmR0801. The first 2 digits indicate the year of filing and the last 2 digits indicate the chronological order of filing during the year.

#### Administration (2)

1. EmR1305 — The Department of Administration hereby adopts an order to repeal Adm 2.14 (2) (vr) c.; to renumber and amend Adm 2.14 (2) (vr) a. and b.; to amend Adm 2.02 (1) (a), 2.04 (1), 2.04 (2), (3), (5), and (7), 2.07 (2), 2.08 (1) and (1) (d), 2.11, 2.14 (2), (2) (v), (2) (vm) and (2) (vm) 5.; and to create Adm 2.03 (3m), (3r), and (6m), 2.04 (1m) and (1r), relating to facility use.

The statement of scope for this rule, SS 028–13, was approved by the Governor on March 15, 2013, and published in Register No. 687 on March 31, 2013. This emergency rule was approved by the Governor on April 11, 2013.

#### Finding of Emergency

The Legislature has vested management authority over various state buildings and grounds, including those of the Wisconsin State Capitol, in the Department of Administration since 1979. Section 16.84 (1), Wis. Stats. Since 1979 the Department has permitted the use of these buildings and grounds for the free discussion of public questions and other purposes, so long as such uses did not interfere with the prime uses of these facilities, or otherwise infringe on interests of the state. Section 16.845, Wis. Stats., and s. Adm 2.04, Wis. Adm Code.

Beginning February 2011, groups of persons began to occupy the Wisconsin State Capitol Building without permits. This included appropriating rooms and hallways in the Capitol building for purposes such as camping and storage of bulk supplies. To restore order to the building and return the building to a point where the work of the Wisconsin State Legislature and the Supreme Court of Wisconsin could perform their constitutionally authorized functions without undue disruption, the Department expended funds in excess of \$7,400,000 for law enforcement personnel. The continuous occupation of the State Capitol was formally terminated in March of 2011.

Groups of persons continue to occupy rooms in the Wisconsin State Capitol building without permits, including the Capitol rotunda. These groups constitute an exception to the norm.

The Wisconsin State Capitol Police (WSCP) issue more than 400 permits annually for the use of various state facilities. Permits are used for a variety of purposes, whether political, non-political, charitable or commercial. Permits are issued regardless of political party, affiliation or content.

Occupation of the Capitol rotunda and other areas has caused disruptions to the properly permitted events and normal government activities, including but not limited to, a Red Cross blood drive, a high school science exhibit, school group tours, general public tours, and legislative committee meetings and sessions. The State does not refuse permits for the lawful and safe use of State facilities by any group or groups. Neither can the State allow any group to occupy the Capitol in disregard of the rights of permit holders, public employees or visitors. It is imperative that the Department continue to gain greater compliance from user groups in order to protect the public safety and welfare.

Filed with LRB:	April 15, 2013
<b>Publication Date:</b>	April 16, 2013
Effective Dates:	April 16, 2013 through September 12, 2013
Hearing Date:	July 12, 2013

**2.** EmR1309 — The Department of Administration hereby adopts an order to create Chapter Adm 93, relating to the community development block grant program.

The statement of scope for this rule, SS 041–13, was approved by the Governor on April 15, 2013, and published in Register No. 688 on April 30, 2013, and approved by the Department of Administration Secretary, Mike Huebsch, effective May 13, 2013. This emergency rule was approved by the Governor on June 19, 2013.

#### Finding of Emergency

Each year the federal government makes funding available to the several states for economic and housing development through a program known as the Community Development Block Grant Program (CDBG). The CDBG is governed under 42 USC 5301 to 5319 and 24 CFR Part 570, and is administered by the US Department of Housing and Urban Development (HUD). Since the dissolution of the Wisconsin Department of Commerce, the Wisconsin Department of Administration (DOA) has received CDBG grants from HUD, and entered into agreements with the Wisconsin Economic Development Corporation (WEDC) for the administration of those funds. Under this arrangement, state administrative code Chapter Commerce 108 was unneeded, as WEDC operated under substantially similar internal policies. Recently, DOA and WEDC have mutually determined that the expertise of DOA is better suited to administration of CDBG funds, while the expertise of WEDC is best suited to consultation with localities and businesses seeking to access CDBG funds. The parties intend to formalize the transfer of administrative responsibility of CDBG funds to DOA shortly. Consequently, it is imperative for the welfare of the State of Wisconsin that administrative code provisions concerning the CDBG program be made.

Filed with LRB:	June 28, 2013
<b>Publication Date:</b>	July 1, 2013
Effective Dates:	July 1, 2013 through November 27, 2013

#### Children and Families

#### Early Care and Education, Chs. DCF 201-252

**EmR1216** — The Wisconsin Department of Children and Families orders the creation of section DCF 201.04 (2j), relating to circumstances for a waiver to allow child care subsidy payments for a parent who is a child care provider and affecting small businesses.

This emergency rule was approved by the governor on October 19, 2012.

The statement of scope for this rule, SS 054–12, was approved by the governor on July 30, 2012, published in Register No. 680 on August 14, 2012, and approved by Secretary Eloise Anderson on August 27, 2012.

#### **Finding of Emergency**

The Department of Children and Families finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Section 49.155 (3m) (d), Stats., as affected by 2011 Wisconsin Act 32, provides that no child care subsidy funds may be used for child care services that are provided for a child by a child care provider who is the parent of the child or who resides with the child. In addition, no child care subsidy funds may be used for child care services that are provided by another child care provider if the child's parent is a child care provider. The prohibition on assistance does not apply if the child's parent has applied for, and been granted, a waiver. Implementation of an emergency rule specifying the circumstances under which the department or an agency will grant a waiver is necessary to protect certain vulnerable children.

Filed with LRB:	November 13, 2012
Publication Date:	November 15, 2012
Effective Dates:	November 15, 2012 through April 13, 2013
<b>Extension Through:</b>	August 11, 2013
Hearing Date:	January 14, 2013

#### **Employment Relations Commission**

EmR1310 — The Wisconsin Employment Relations Commission hereby creates Chapters ERC 70, 71, and 80, relating to annual certification elections.

This emergency rule was approved by the Governor July 3, 2013.

The statement of scope for this rule, SS 045-13, was approved by the Governor on April 19, 2013, published in Register 689, on May 14, 2013, and approved by the Wisconsin Employment Relations Commission on June 3, 2013.

#### **Finding of Emergency**

An emergency exists because the public peace, health, safety and welfare necessitate putting these rules into effect so that the Wisconsin Employment Relations Commission can meet its obligation to conduct annual certification elections as required by ss. 111.70 (4) (d) 3.b. and 111.83 (3) (b), Stats.

Filed with LRB:	July 15, 2013
<b>Publication Date:</b>	July 13, 2013
Effective Dates:	July 13, 2013 through December 9, 2013

#### Insurance

EmR1306 — The Commissioner of Insurance adopts an order to amend sections Ins 17.01 (3) and 17.28 (3) (c) and to repeal and recreate section Ins 17.28 (6), Wis. Admin. Code, relating to Injured Patients and Families Compensation Fund Annual Fund and Mediation Panel Fees, and ISO code amendments for the fiscal year beginning July 1, 2013, and affecting small business.

This emergency rule was approved by the Governor on June 4, 2013.

The statement of scope for this rule, SS 042–13, was approved by the Governor on April 16, 2013, published in Register No. 688, on April 30, 2013, and approved by the Commissioner on May 10, 2013.

#### Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes must be in place with an effective date prior to July 1, 2013, in order for the new fiscal year assessments to be issued in accordance with s. 655.27 (3), Wis. Stats. The permanent rule-making process cannot be completed prior to the effective date of the new fee schedule. The fiscal year fund fees were established by the Board of Governors at the meeting held on December 19, 2012, and the mediation panel fees were established by the Board of Governors at the meeting held on March 20, 2013.

Filed with LRB:	June 10, 2013
<b>Publication Date:</b>	June 12, 2013
Effective Dates:	June 12, 2013 through November 8, 2013
Hearing Date:	July 23, 2013

#### Natural Resources (3)

Fish, Game, etc., Chs. NR 1-

1. EmR1210 (DNR # WM-09-12(E)) --- The Wisconsin Natural Resources Board proposes an order to amend sections NR 10.001 (25c), 10.02 (1), 10.06 (5) and (8) (intro.), 10.07 (2) (b) 2., 10.07 (2m) (intro.) and (e) (intro.), 10.07 (2m) (f) (intro.), 10.09 (1), 10.13 (1) (b) 9., 10.13 (1) (b) 15., 10.13 (1) (b) 16., 10.145 (intro), 10.145 (3) to (8), 12.10 (intro.), 12.10 (1) (a) 4., 12.10 (1) (b) 2., 12.15 (13) and 19.25 and to create sections NR 10.001 (22q), 10.001 (23a), 10.001 (23am), 10.001 (23b), 10.001 (26g), 10.001 (33), 10.01 (3) (j), 10.07 (1) (m), 10.07 (2m) (em), 10.07 (2m) (g) 3., NR 10.07 (4), 10.13 (1) (b) 15m., 10.13 (1) (b) 18., 10.145 (1m), (1u) and Note, sections NR 10.16 (5), 10.295, 12.15 (11) (e), 12.60 to 12.63, 12.64 (1) (a) and (b) (intro.) 1., 12.64 (1) (b) 2. and 3., 12.64 (1) (b) 4. and 5., 12.64 (2) (a) to (c), 12.64 (2) (d), 12.64 (3) and 12.65, relating to the wolf hunting and trapping season and regulations and a depredation program.

This emergency rule was approved by the governor on August 10, 2010.

The statement of scope for this rule, SS 023-12, was approved by the governor on April 12, 2012, published in Register No. 676, on April 30, 2012, and approved by the Natural Resources Board on May 23, 2012.

#### Finding of Emergency

A non-statutory provision, SECTION 21, of 2011 ACT 169 requires the department to submit rules necessary for implementation or interpretation and establishes that the department is not required to make a finding of emergency.

Filed with LRB:	August 15, 2012
Publication Date:	August 18, 2012

Effective Dates: August 18, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

2. EmR1215 (DNR # WM-16-12(E)) — The Wisconsin Natural Resources Board proposes an order to repeal and recreate section NR 10.01 (3) (h) 1., relating to the coyote hunting season.

This emergency rule was approved by the governor on August 30, 2012.

The statement of scope for this rule, SS 038–12, was approved by the governor on May 29, 2012, published in Register No. 678, on June 14, 2012, and approved by the Natural Resources Board on June 27, 2012.

#### Finding of Emergency

A non-statutory provision, Section 21, of 2011 ACT 169 requires the department to submit rules necessary for implementation or interpretation and establishes that the department is not required to make a finding of emergency.

Filed with LRB:	September 14, 2012
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Publication Date: October 1, 2012

Effective Dates: October 1, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

3. EmR1304 (DNR # FH-23-12(E)) — The Wisconsin Natural Resources Board proposes an order to amend sections NR 20.20 (73) (n) 4., 25.06 (1) (a), and 25.09 (1) (am) 3. c., relating to lake trout harvest limits in Lake Superior.

The statement of scope for this rule, SS 097–12, was approved by the Governor on December 14, 2012, published in Register No. 684 on December 31, 2012, and approved by the Natural Resources Board on January 23, 2013.

#### Finding of Emergency

Pursuant to s. 227.24, Stats., the department finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The welfare of state-licensed commercial fishers, tribal commercial fishers, recreational anglers, and associated businesses is threatened by a decline in the lake trout population in the Apostle Islands vicinity of Lake Superior. The continued, persistent decline in lake trout population abundances and predicted further declines necessitate the current reductions in order to ensure a sustainable lake trout fishery over the long-term. Lake trout harvest limits were negotiated in October 2012 among the Department of Natural Resources and the Red Cliff and Bad River Bands of Lake Superior Chippewa and those changes must be ordered through administrative code. This emergency rule is needed to preserve the public welfare.

Filed with LRB:	March 9, 2013
<b>Publication Date:</b>	March 27, 2013
Effective Dates:	March 27, 2013 through August 23, 2013
Hearing Date:	April 11, 2013
Extension Through:	October 22, 2013

#### **Public Instruction**

EmR1303 — The state superintendent of public instruction hereby creates ch. PI 47, relating to the equivalency process for approving alternative models to evaluate educator practice.

The scope statement for this rule, SS 013-13, was published in Register No. 686, on February 14, 2013, and approved by Superintendent Evers, on February 25, 2013. Per the Dane County Circuit Court order issued in Coyne, et al. v. Walker, et al., Case No. 11-CV-4573, the Department of Public Instruction is not required to get the Governor's approval for the statement of scope or this rule.

#### **Finding of Emergency**

The Department of Public Instruction finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

Section 115.415 (3), Stats., requires the department to establish an equivalency process for reviewing alternative educator effectiveness systems. The statute also specifies criteria on which the process shall be based, including alignment to the 2011 Interstate Teacher Assessment and Support Consortium and the 2008 Interstate School Leaders Licensure Consortium Educational Leadership Policy Standards. Additionally, the statute explains certain approval requirements.

The Educator Effectiveness System will be fully implemented and mandatory throughout the entire state by the 2014–15 school year. The pilot, which allows schools and districts to implement the system and inform modifications, will go into effect during the 2013–14 school year.

In order to have possible alternative models available for pilot use in 2013–14, there is an urgent need to get the equivalency process in place to approve other evaluation models. Districts intending on applying for an equivalency review of an alternative model must alert the department in writing by March 15, 2013, and January 15 each subsequent year. They must submit their application by April 15 of this year and March 15 each subsequent year in order to be approved.

Filed with LRB:	March 4, 2013
<b>Publication Date:</b>	March 8, 2013
Effective Dates:	March 8, 2013 through August 4, 2013.
Hearing Date:	June 6, 2013

#### Safety and Professional Services (3) Professional Services, Chs. SPS 1–299

1. EmR1302 — The Wisconsin Department of Safety and Professional Services hereby adopts an order to amend sections SPS 60.01; SPS 61.02 (1) (a), (2) (a), (3) (a), and (4) (a); 62.10 (title) and 62.10; 65.01; 65.02 (1); 65.07; and 65.12 (1) (h) and (i) 6.; and to create chapter SPS 205 relating to barbers and to barbering and cosmetology schools and instructors, and affecting small business.

This emergency rule was approved by the Governor on February 5, 2013.

The statement of scope for this rule, SS 063–12, was approved by the Governor on August 10, 2012, published in Register 680, on August 31, 2012, and approved by Secretary Dave Ross on October 15, 2012.

#### Finding of Emergency

The Department of Safety and Professional Services finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

On July 1, 2012, 2011 Wisconsin Act 190 transferred regulatory authority over barbers from the Barbering and Cosmetology Examining Board to the Department of Safety and Professional Services. Act 190 also changed the educational requirements for initial licensure of barbers, and the continuing—education requirements for renewal of barber licenses. Due to the transfer of authority and the changes in education requirements, immediate rulemaking by the Department is needed to implement corresponding rule changes prior to April 1, 2013, which is the renewal date mandated by section 440.08 (2) (a) of the Statutes for all barbering licenses.

Filed with LRB:	February 14, 2013
<b>Publication Date:</b>	February 14, 2013
Effective Dates:	February 14, 2013 through July 13, 2013
Hearing Date:	April 30, 2013
Extension Through:	September 10, 2013

2. EmR1307 — The Wisconsin Department of Safety and Professional Services adopts an order to repeal section SPS 81.04 (1) (c) 3. and 4., and to amend section SPS 81.04 (2), relating to reciprocity.

This emergency rule was approved by the Governor on May 20, 2013.

The statement of scope for this rule, SS 012–13, was approved by the Governor on January 28, 2013, published in Register No. 686 on February 14, 2013, and approved by the Department of Safety and Professional Services on February 28, 2013.

#### Finding of Emergency

The Department of Safety and Professional Services finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows:

Title XI of the Federal Financial Institutions Reform and Recovery Enforcement Act of 1989, as amended by the Dodd-Frank Act of 2010, dictates reciprocity requirements for real estate appraisers in each state. The federal body that oversees reciprocity requirements is the Appraisal Subcommittee (ASC). Currently, Wis. Admin. Code s. SPS 81.04 is not in compliance with the federal legislation. The Code must be brought into compliance by July 1, 2013. At that time, the ASC will conduct an audit to determine which states are in compliance. If Wisconsin is designated "out of compliance," then federally regulated financial institutions may not engage a Wisconsin certified or licensed appraiser to perform an appraisal of property for a federally related transaction and other states will not be required to recognize Wisconsin credentialed appraisers seeking reciprocity. In order to implement the federally mandated reciprocity requirements before July 1, 2013, an emergency rule is needed.

June 12, 2013
June 18, 2013
June 18, 2013 through November 14, 2013

3. EmR1308 — The Wisconsin Department of Safety and Professional Services adopts an order to create section SPS 34.04 (2) (a) 4., relating to training of firearms instructors for private security personnel, private detectives, and private investigators or special investigators, and affecting small business.

This emergency rule was approved by the Governor on May 29, 2013.

The statement of scope for this rule, SS 080–12, was approved by the Governor on October 2, 2012, published in Register No. 682 on October 31, 2012, and approved by the Department of Safety and Professional Services on December 4, 2012.

#### Finding of Emergency

The Department of Safety and Professional Services (DSPS) finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows.

Under section SPS 34.02 (1), private security personnel, private detectives, and private investigators or special investigators, who are seeking a firearms permit from the Department must obtain a certificate of firearms proficiency. Section SPS 34.02 (2) mandates that the certification be received from a Department—approved firearms—proficiency certifier pursuant to section SPS 34.04.

Section SPS 34.04 currently accepts only those certifier applicants who have received training as a police or security firearms instructor and who have either (1) current approval as a firearms instructor by the Wisconsin Law Enforcement Standards Board (LESB); (2) current certification as a law enforcement firearms instructor by the National Rifle Association, Inc., (NRA) or; (3) approval on or after January 1, 1995, as a firearms instructor by the LESB or NRA and have completed a refresher course presented by a regional training school approved by the LESB or the NRA.

Due to enactment of 2011 Wisconsin Act 35 (commonly referred to as the concealed carry law), which became effective on November 1, 2011, there is a greater need for additional entities who can provide training and approve applicants as firearms proficiency certifiers. Section 175.60 (4) of the Statutes currently allows technical colleges, colleges, and universities to provide this training for concealed–carry purposes. No such provision is made as it relates to private security personnel, private detectives, and private investigators or special investigators, for carrying a

weapon openly. Moreover, the training needed for DSPS firearms certifiers differs significantly from that needed and provided by the LESB curriculum and under 2011 Act 35. To that end, a new standard needs to be developed and implemented, separate and distinct from the LESB standards. Because the need to approve applicants for firearm proficiency certifiers is immediate and pressing, emergency rules are warranted.

Filed with LRB:	June 13, 2013
<b>Publication Date:</b>	June 13, 2013
Effective Dates:	June 13, 2013 through November 9, 2013

### **Scope Statements**

#### **Government Accountability Board**

#### SS 080-13

This statement of scope was approved by the governor on July 11, 2013.

#### Rule No.

Revises sections GAB 6.03 and 9.03.

#### **Relating to**

Assistance by government accountability board staff and voting procedures for challenged electors.

#### **Rule Type**

Permanent.

1. Finding/Nature of Emergency (Emergency Rule Only)

N/A

### 2. Detailed Description of the Objective of the Proposed Rule

The proposed change to s. GAB 6.03, Wis. Adm. Code, is simply to amend statutory references that occurred with the adoption of 2007 Wisconsin Act 1. The proposed change to s. GAB 9.03, Wis. Adm. Code, removes a single reference to "lever" voting machines which are no longer permitted in Wisconsin.

#### 3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

The proposed revisions do not result in any policy changes. The changes bring the rules into conformity with current Wisconsin statutes.

### 4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Section 5.05 (1) (f), Stats., expressly authorizes the Board to promulgate rules under ch. 227, Stats., for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration.

Section 5.05 (6a), Stats., permits the Board to authorize staff to provide informal opinions to individuals requesting advice. In s. GAB 6.03 the Board has authorized the staff to provide these informal opinions.

Section 6.95, Stats., provides procedures for challenged electors to cast a ballot. In s. GAB 9.03, additional detail is provided on the voting procedures for challenged electors.

Section 227.11 (2) (a), Stats., expressly authorizes the Board to promulgate rules to interpret the provisions of statutes the Board enforces or administers.

#### 5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

10-15 hours.

### 6. List with Description of all Entities that may be Affected by the Proposed Rule

This will affect individuals requesting advice from the Government Accountability Board staff and challenged electors.

#### 7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

Requests for assistance from the Government Accountability Board staff and voting procedures for challenged electors are state and local functions, not functions of the federal government. Federal regulations do not govern on these matters.

#### 8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

There is no economic impact anticipated to implement the rule changes.

#### 9. Contact Person

Michael Haas, 608–266–0136, <u>michael.haas@wisconsin</u>. gov.

#### **Government Accountability Board**

#### SS 081-13

This statement of scope was approved by the governor on July 11, 2013.

#### Rule No.

Amends section GAB 20.01 and repeals sections GAB 21.01 and 21.04

#### **Relating to**

Complaint procedure and enforcement of campaign finance, lobbying, and ethics laws relating to ss. 5.05(1)(f), 5.05(2)(m), 5.93, 11.60, 13.69, 19.55, 227.11(2)(a), Stats., and interpreting Subchapter I of Chapter 5 of the Wisconsin Statutes.

#### **Rule Type**

Permanent.

### 1. Finding/Nature of Emergency (Emergency Rule Only)

N/A

### 2. Detailed Description of the Objective of the Proposed Rule

This rule repeals rules ss. GAB 21.01 and 21.04 and amends s. GAB 20.01 as they are no longer operable subsequent to the merger of the State Ethics Board with the State Elections Board under 2007 Wisconsin Act 1. These rules prescribe procedures relating to processing complaints that were propagated under those particular state agencies. Because those agencies merged into the Government Accountability Board under 2007 Wisconsin Act 1, the associated complaint procedure of the former Ethics Board and the campaign finance complaint procedure of the former Elections Board are no longer consistent with current practices. The Government Accountability Board complaint procedures are provided by statute and not by administrative rule; therefore, the existing rules need to be repaired and repealed.

#### 3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Existing policy: The existing policy prescribes rules that were intended for agencies that no longer exist and delineate complaint procedures that are inaccurate (e.g., the GAB address that is given in s. GAB 21.01 is not the address of the GAB's current location) or are superfluous to procedures that are prescribed in state statues.

<u>Proposed policy</u>: Repealed ss. GAB 21.01 and 21.04 will reconcile the administrative code with the statutory changes that have occurred since 2007 and the amended s. GAB 20.01 will accurately describe the provisions in the state statutes consistent with the complaint procedures currently in effect at the Government Accountability Board.

Alternatives:

A) Do Nothing — leave chapters GAB 20 and 21 as they are.

1) Pros: This alternative means that no rule revision is necessary and staff resources will not be diverted from other tasks and duties needing the attention of the GAB.

2) Cons: The absence of rule revision and repeal in this instance will perpetuate out of date procedures and leave intact inaccurate rules in the administrative code.

#### 4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Section 5.05 (1) (f), Stats., expressly authorizes the Board to promulgate rules under ch. 227, Stats., for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration.

Section 5.93, Stats., establishes that the board may promulgate "reasonable rules" for its administration.

Section 227.11 (2) (a), Stats., expressly authorizes the Board to promulgate rules to interpret the provisions of statutes the Board enforces or administers.

#### 5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

10-15 hours

### 6. List with Description of all Entities that may be Affected by the Proposed Rule

This rule will affect those wishing to file complaints with the Board pursuant to enforcement of the election laws and in compliance with the Help America Vote Act.

#### 7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

Because this proposal repeals two existing former Ethics Boards rules and effectively repeals a portion of a former Elections Board rule, there is no congruent federal regulation for comparison.

#### 8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

The anticipated economic impact from the implementation of the proposed order is minimal to none.

#### 9. Contact Person

Shane Falk, 608-266-2094, shane.falk@wisconsin.gov.

#### **Natural Resources**

Fish, Game, etc., Chs. 1 —

SS 082-13 (DNR # WM-21-13)

This statement of scope was approved by the governor on

July 15, 2013.

#### Rule No.

Modifying Chapters NR 10 and 45

#### **Relating to**

Hunting and trapping in state parks.

#### Rule Type

Permanent,

### 1. Finding/Nature of Emergency (Emergency Rule Only)

These will be permanent rules.

### 2. Detailed Description of the Objective of the Proposed Rule

These will be the first rule revisions related to hunting and trapping in state parks since passage of 2011 Act 168 which established that those activities are generally allowed. These rules will amend or repeal portions of chs. NR 10 and 45 so that hunting regulations promulgated under previous statutory authority will be consistent with the act. These rules will amend the same chapters so that hunting and trapping regulations in state parks are not in conflict with policies established by the Natural Resources Board under authority created by the act. Through this proposal, the department may significantly simplify hunting regulations.

For safety purposes, these rules may prohibit the discharge of firearms from-or-across certain trails. These rules may restrict trapping to the use of dog proof traps only and define those traps.

The department will not use this rulemaking to establish new season dates or to modify periods when hunting and trapping are allowed in state parks.

#### 3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Prior to 2011 Act 168, state parks were statutorily closed to hunting unless the department had written rules specifically allowing a hunting opportunity at an individual state park. Statutes did not grant rule authority for the department to allow bear hunting. Statutes did not grant rule authority to allow trapping. Today, hunting and trapping are both allowed at state parks except where the Natural Resources Board has prohibited the activities in order to protect public safety or a unique plant or animal community. Under Act 168, the Department may prohibit hunting or trapping on lands within 100 yards of a designated use area. Examples of designated use areas include locations such as campgrounds and beaches.

Because the old presumption that state parks are closed unless opened by rule has been replaced by a presumption that state parks are open unless board action has been taken to close them, some provisions of administrative rule have been pre-empted by the actor may no longer be needed. For example, s. NR 45.09 (1) prohibits firearms discharge in state parks, except where seasons have been established in s. NR 10.01 (3). This is no longer accurate because hunting is now allowed in many areas in addition to those established in s. NR 10.01 (3).

Rules which establish certain small game hunting seasons at Governor Dodge, Mill Bluff, and Mirror Lake state parks may be in conflict with actions that have already been taken by the board under their new statutory authority. These rules will be reviewed.

State Ice Age Trail Areas fall under the statutory definition of state parks and are affected by the act in the same way as other state park properties. Specific hunting season frameworks and firearm possession and discharge restrictions established in s. NR 10.275 (4) will also be modified for consistency with the act and subsequent action by the Natural Resources Board or may be repealed.

Other state trails and the North Country trail are also part of the state park system and these rules could apply to those properties as well.

Under previous statutory authority to allow turkey hunting at state parks, the department has established 18 state park turkey management units by rule. The only people who are allowed to hunt in those parks are people who draw one of a limited number of turkey permits specifically for that unit. Through these rules, the department proposes simplifying turkey hunting regulations by eliminating those units. Turkey hunting would be allowed at those parks by hunters who possess a harvest permit for the larger unit in which the state This will simplify hunting park property is located. regulations, expand the area for which turkey permits are valid, and streamline administration of the turkey permit system for the department. Through the hearing process, this proposal will be compared to the policy alternative of maintaining current rules, which some hunters may appreciate because competition from other hunters in a park is limited through the permit system.

Under previous statutory authority to allow deer hunting at state parks, the department has established 16 state park deer management units by rule. The only people who are allowed to hunt in parks for which a specific deer management unit is designated are people who purchase an access permit. Access permits are limited in number and issued on a first-come-first Through this rulemaking process, the served basis. department will evaluate simplifying hunting regulations by eliminating the access permit requirement and simply allowing deer hunting by anyone who possess the correct carcass tags for the surrounding deer unit. This will simplify hunting regulations, expand the area for which antlerless deer permits are valid, and streamline administration of permit systems for the department. Through the hearing process, this proposal will be compared to the policy alternative of maintaining current rules, which some hunters may appreciate because competition from other hunters in a park is limited through the access permit system.

Also under previous statutory authority, another 25 state parks are listed by rule and deer hunting seasons are established, although they do not have specific unit designations. Instead, they are simply a part of the surrounding deer management unit. Specifically naming these state parks by rule is no longer necessary and this rule proposal will strike most of that language.

These rules will establish that, in addition to the statutorily established prohibition of hunting from certain state park trails, no person may discharge a firearm, bow, crossbow or air gun from, on, or across any trail corridor on lands in the Wisconsin State Park system which are identified on a map produced by the department as a designated use area. This provision protects public safety by reducing the likelihood of archery gear and gun discharge from or across locations where people are likely to be present.

These rules may restrict trapping to the use of dog proof traps only and define those traps or modify existing trap-type definitions. A type of trap that would meet the requirements of being a "dog proof trap" is an "enclosed trigger trap". These are any trap with a pull-activated trigger, inside an enclosure, and recessed 1 1/4 inches or more, from an opening that is no greater than 1 3/4 inches in diameter. While these trap types are very effective for catching raccoons, they may be the only animal that is capable of activating the trigger and being captured.

Under 2011 Acts 35 and 51, the possession of concealed handguns and firearms transportation requirements have changed and this proposal will update administrative code to reflect those changes.

The department will consider creating, repealing, or amending other rules where an opportunity to simplify or clarify regulations is identified during this rule making process.

These rules will modify additional chapters of natural resources code where it is necessary to maintain cross references with chs. NR 10 and 45.

#### 4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

The state trails system and department responsibilities and powers are established in s. 23.175, Stats. State trails are described as part of the state park system in sub. (2) (a).

The state park system is established in s. 27.01, Stats. and specific authority for the department to promulgate rules necessary to govern the conduct of state park visitors and for the protection of state parks is found in sub. (2) (j).

The department's authority to establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game is established in s. 29.014, Stats.

These proposed rules may use the statutory authority described above to interpret s. 29.089, Stats., related to trapping on land in state parks. This provision establishes that state parks are open to hunting and trapping and that the department may prohibit hunting or trapping in a park or portion of a park if necessary to protect public safety or a unique animal or plant community.

#### 5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

The department estimates that 400 hours of employee time will be needed to promulgate these rules.

### 6. List with Description of all Entities that may be Affected by the Proposed Rule

Hunters, trappers, and other recreational users of state park lands are the principal groups that will be affected by this rulemaking. However, the department anticipates that the impacts of these rules for various state park enthusiasts will be minimal. The major policy decisions were made with the passage of 2011 Act 168 and refined through decisions made by the Natural Resources Board using authority established in the act. Any impacts of this subsequent rule making are likely to be minor.

#### 7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

## 8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses)

These rules, and the legislation which grants the department rule making authority, will have no effect on the private sector or small businesses. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business.

Significant policy decisions that could potentially result in increased use of state parks by some users or decreased use by other users were made with enactment of 2011 Act 168 and again when the Natural Resources Board developed policies under authority of the act. These rules will not have significant additional impacts on the use of the state park system or the related economic activity of park users.

This is not a complete estimate of economic impacts but, rather, a summary which indicates that these rules could have none or a minimal economic effect locally or statewide. A 14 day comment period to gather public information will be sufficient to assist in the preparation of a final economic impact analysis.

#### 9. Contact Person

Scott Loomans, 608-267-2452.

#### Natural Resources

Fish, Game, etc., Chs. 1 ---

#### SS 083-13

(DNR # WM-22-13 (E))

This statement of scope was approved by the governor on July 15, 2013.

#### Rule No.

Modifying Chapters NR 10 and 45.

#### Relating to

Hunting and trapping in state parks.

#### Rule Type

Emergency.

### 1. Finding/Nature of Emergency (Emergency Rule Only)

This rule is necessary to protect the public safety and welfare of visitors to Wisconsin State Park properties by restricting gun and archery shooting activities in certain areas and trapping activities to certain methods.

### 2. Detailed Description of the Objective of the Proposed Rule

These will be the first rule revisions related to hunting and trapping in state parks since passage of 2011 Act 168 which established that those activities are generally allowed.

For safety purposes, these rules may prohibit the discharge of firearms from-or-across certain trails. These rules may restrict trapping to the use of dog proof traps only and define those traps.

The department will not use this rulemaking to establish new season dates or to modify periods when hunting and trapping are allowed in state parks.

#### 3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Prior to 2011 Act 168, state parks were statutorily closed to hunting unless the department had written rules specifically allowing a hunting opportunity at an individual state park. Statutes did not grant rule authority for the department to allow bear hunting. Statutes did not grant rule authority to allow trapping. Today, hunting and trapping are both allowed at state parks except where the Natural Resources Board has prohibited the activities in order to protect public safety or a unique plant or animal community. Under Act 168, the Department may prohibit hunting or trapping on lands within 100 yards of a designated use area. Examples of designated use areas include locations such as campgrounds, certain hiking trails and beaches.

The act allowed the department to prohibit hunting in designated use areas. For safety purposes, these rules would also prohibit the discharge of firearms, air—guns, bows, and crossbows from—or—across trails. For instance, under these rules, it would be illegal to discharge a firearm from an area where hunting is allowed to another area where hunting is allowed if the two areas are separated by a designated hiking trail.

These rules may restrict trapping to the use of dog proof traps only and define those traps or modify existing trap-type definitions. A type of trap that would meet the requirements of being a "dog proof trap" is an "Enclosed trigger trap". These are any trap with a pull-activated trigger, inside an enclosure, and recessed 1 1/4 inches or more, from an opening that is no greater than 1 3/4 inches in diameter. While these trap types are very effective for catching raccoons, they may be the only animal that is capable of activating the trigger and being captured. These rules may allow additional trap types in certain situations where the traps are submerged by water.

The effective dates of this rule will be delayed so that the provisions will be in effect for as long as possible while permanent rules are being promulgated.

#### 4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

The state trails system and department responsibilities and powers are established in s. 23.175, Stats. State trails are described as part of the state park system in sub. (2) (a).

The state park system is established in s. 27.01, Stats., and specific authority for the department to promulgate rules

necessary to govern the conduct of state park visitors and for the protection of state parks is found in sub. (2) (j).

The department's authority to establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game is established in s. 29.014, Stats.

These proposed rules may use the statutory authority described above to interpret s. 29.089, Stats. related to trapping on land in state parks. This provision establishes that state parks are open to hunting and trapping and that the department may prohibit hunting or trapping in a park or portion of a park if necessary to protect public safety or a unique animal or plant community.

#### 5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

The department estimates that 200 hours of employee time will be needed to promulgate these rules.

### 6. List with Description of all Entities that may be Affected by the Proposed Rule

Hunters, trappers, and other recreational users of state park lands are the principal groups that will be affected by this rulemaking. However, the department anticipates that the impacts of these rules for various state park enthusiasts will be minimal. The major policy decisions were made with the passage of 2011 Act 168 and refined through decisions made by the Natural Resources Board using authority established in the act. Any impacts of this subsequent rule making are likely to be minor.

#### 7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

#### 8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

These rules, and the legislation which grants the department rule making authority, will have no effect on the private sector or small businesses. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business.

Significant policy decisions that could potentially result in increased use of state parks by some users or decreased use by other users were made with enactment of 2011 Act 168 and again when the Natural Resources Board developed policies under authority of the act. These rules will not have significant additional impacts on the use of the state park system or the related economic activity of park users.

This is not a complete estimate of economic impacts but, rather, a summary which indicates that these rules could have none or a minimal economic effect locally or statewide. A 14 day comment period to gather public information will be sufficient to assist in the preparation of a final economic impact analysis.

#### 9. Contact Person

Scott Loomans, 608-267-2452

#### **Public Instruction**

#### SS 085-13

Per the Dane County Circuit Court order issued in Coyne, et al. v. Walker, et al., Case No. 11–CV–4573, the Department of Public Instruction is not required to obtain the Governor's approval for this statement of scope.

#### Rule No.

Revises Chapter PI 15.

#### Relating to

Revenue limit exemptions for energy efficiencies.

#### **Rule Type**

Permanent.

### 1. Finding/Nature of Emergency (Emergency Rule Only)

N/A

### 2. Detailed Description of the Objective of the Proposed Rule

This rule change will modify ch. PI 15 to reflect changes in the corresponding statutes as a result of 2011 Wisconsin Act 32 and 2013 Wisconsin Act 20. The rule will also be updated to reflect other statutory changes and agency practice.

#### 3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Chapter PI 15 was promulgated on March 1, 2010. This rule change is designed to modify the existing rule so that the rule is reflective of current law.

### 4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Under s. 227.11 (2) (a) (intro), Stats., "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation." As such, a rule is required to effectively implement and provide transparency to the revenue limit exemptions for energy efficiencies under s. 121.91 (4) (0), Stats.

#### 5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

The amount of time needed for rule development by department staff and the amount of other resources necessary are minimal.

#### 6. List with Description of all Entities that may be Affected by the Proposed Rule

This rule change will affect school districts.

7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

N/A.

#### 8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

#### 9. Contact Person

Katie Schumacher, Bureau for Policy and Budget, 267–9127, or katie.schumacher@dpi.wi.gov.

#### **Public Instruction**

#### SS 086-13

Per the Dane County Circuit Court order issued in Coyne, et al. v. Walker, et al., Case No. 11–CV–4573, the Department of Public Instruction is not required to obtain the Governor's approval for this statement of scope.

#### Rule No.

Revises Chapter PI 35.

#### Relating to

Milwaukee Parental Choice Program.

#### Rule Type

Permanent.

1. Detailed Description of the Objective of the Proposed Rule

N/A.

### 2. Detailed Description of the Objective of the Proposed Rule

Section 119.23 (11) (a), Stats., requires the DPI to promulgate rules to implement and administer the Milwaukee Parental Choice Program. The 2013–15 budget, 2013 Wisconsin Act 20, made several modifications to the Milwaukee Parental Choice Program. The rule needs to be updated to reflect statutory changes and changes in practice.

#### 3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

The DPI is proposing to update Ch. PI 35 so that it reflects how the Milwaukee Parental Choice Program is implemented and administered. The alternative to not updating this rule is to have an administrative rules chapter that is outdated.

#### 4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

#### 119.23 Milwaukee parental choice program.

(11) The department shall do all of the following:

(a) Promulgate rules to implement and administer this section. The department may not by rule establish standards under sub. (7) (am) that exceed the standards established by the American Institute of Certified Public Accountants.

#### 5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

The amount of time needed for rule development by department staff and the amount of other resources necessary is indeterminate.

### 6. List with Description of all Entities that may be Affected by the Proposed Rule

Private schools participating in the Milwaukee Parental Choice Program will be impacted by this rule change.

#### 7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

N/A.

#### 8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227,114 (1), Stats.

#### 9. Contact Person

Katie Schumacher, Bureau for Policy and Budget, 267–9127, or katie.schumacher@dpi.wi.goy.

#### **Public Instruction**

#### SS 087-13

Per the Dane County Circuit Court order issued in Coyne, et al. v. Walker, et al., Case No. 11–CV–4573, the Department of Public Instruction is not required to obtain the Governor's approval for this statement of scope.

#### Rule No.

Creates Chapter PI 48.

#### **Relating to**

Parental Choice Program for Eligible School Districts and Other School Districts.

#### Rule Type

Emergency and Permanent.

### 1. Detailed Description of the Objective of the Proposed Rule

The 2011–13 budget, 2011 Wisconsin Act 32, created the Parental Choice Programs for Eligible School Districts under s. 118.60, Stats. The 2013–15 budget, 2013 Wisconsin Act 20, significantly modified s. 118.60, Stats., including creating the Parental Choice Program for Eligible School Districts and Other School Districts. Section 118.60 (11) (a), Stats., requires the DPI to promulgate rules to implement and administer both programs. Unless a new rule is in place, DPI may be prevented from efficiently implementing and administering these programs.

### 2. Detailed Description of the Objective of the Proposed Rule

The 2011–13 budget, 2011 Wisconsin Act 32, created the Parental Choice Programs for Eligible School Districts under s. 118.60, Stats. The 2013–15 budget, 2013 Wisconsin Act 20, significantly modified s. 118.60, Stats., including creating the Parental Choice Program for Eligible School Districts and Other School Districts. The DPI is proposing to create a rule to govern the implementation and administration of both programs.

#### 3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

The DPI is proposing to create a rule, Chapter Pl 48, to implement and administer the Parental Choice Program for Eligible School Districts and Other School Districts based on s. 118.60, Stats. Without a rule, the DPI will not be able to provide transparency in how it is implementing and administering these programs.

#### 4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

The DPI is explicitly required by statute to create a rule to implement and administer s. 118.60, Stats. Specifically, s. 118.60 (11) (a), Stats., provides:

### 118.60 Parental choice program for eligible school districts and other school districts.

(11) The department shall do all of the following:

(a) Promulgate rules to implement and administer this section. The department may not by rule establish standards under sub. (7) (am) that exceed the standards established by the American Institute of Certified Public Accountants.

#### 5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

The amount of time needed for rule development by department staff and the amount of other resources necessary is indeterminate.

### 6. List with Description of all Entities that may be Affected by the Proposed Rule

Private schools participating in these programs will be impacted by this rule.

#### 7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

N/A.

#### 8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

#### 9. Contact Person

Katie Schumacher, Bureau for Policy and Budget, 267–9127, or katie.schumacher@dpi.wi.gov.

#### **Public Service Commission**

#### SS 079-13

#### (PSC Docket # 1-AC-242)

This statement of scope was approved by the governor on July 2, 2013.

#### Rule No.

Revises Chapter PSC 111.

#### Relating to

The electronic delivery of applications for a Certificate of Public Convenience and Necessity (CPCN).

#### **Rule Type**

Permanent.

#### 1. Description of the objective of The Rule and Expected Financial Impact

Currently, s. 196.491, Stats., requires the commission to send a copy of an application for a Certificate of Public Convenience and Necessity (CPCN) to clerks and public libraries. While s. PSC 111.51 (4) currently requires the commission to send an electronic copy of an initial CPCN application to municipal and town clerks and public libraries, it requires the commission to send a paper copy of a completed application.

2013 Wisconsin Act 10 made changes to s. 196.491, Stats., to require the commission to send an electronic copy of both an initial and a completed CPCN application to clerks and public libraries. Upon request, the commission is also required to send a paper copy of the application. This rulemaking will make the 2013 Wisconsin Act 10 changes to s. PSC 111.51 (4). No financial impact is expected.

#### 2. Description of Existing Policies Relevant to the Rule and of New Policies Proposed to be Included in the Rule and an Analysis of Policy Alternatives; the History, Background and Justification for the Proposed Rule

This rulemaking is being undertaken in order to conform s. PSC 111.51 with changes made by 2013 Wisconsin Act 10.

### 3. Statutory Authority for the Rule (Including the Statutory Citation and Language)

This rule is authorized under ss. 196.02 (1) and (3), 196.491 (3) (a), and 227.11, Stats.

Section 227.11, Stats., authorizes agencies to promulgate administrative rules. Section 196.02 (1), Stats., authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3), Stats., grants the commission specific authority to promulgate rules. Section 196.491 (3) (a), Stats., references commission rules about certificates of public convenience and necessity.

#### 4. Estimate of the Amount of Time that State Employees will Spend to Develop the Rule and of Other Resources Necessary to Develop the Rule

Approximately 80 hours of state employee time will be spent developing and processing the rule. No additional resources should be necessary.

### 5. Description of all Entities that may be Impacted by the Rule

The commission, municipal, town and county clerks, and county main public libraries.

#### 6. Summary and Preliminary Comparison of any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Rule

None.

#### 7. Contact Person

Scot Cullen, Docket Coordinator (608) 267–9229 or scot.cullen@wisconsin.gov.

#### Revenue

#### SS 084-13

This statement of scope was approved by the governor on July 15, 2013.

#### Rule No.

Revises section Tax 18.05.

#### Relating to

Assessment of agricultural property.

#### **Rule Type**

Permanent.

### 1. Detailed Description of the Objective of the Proposed Rule

The proposed rule will amend s. Tax 18.05 (1) to provide further clarity regarding what land in federal and state pollution control and soil erosion programs should be classified as agricultural property that qualifies for use-value assessment.

#### 2. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Section Tax 18.05 (1) currently defines what land in specific federal and state pollution control and soil erosion programs qualifies for agricultural use. This listing has not been updated since 2000.

The proposed rule will address changes in the listed programs that have occurred since the rule was enacted and will also identify general criteria for determining what land that is in federal and state pollution control and soil erosion programs qualifies for agricultural use under the subchapter. This will provide consistency and clear standards for property owners and assessors.

### **3.** Detailed explanation of statutory authority for the rule (including the statutory citation and language)

Section 70.32 (2) (c) 1i., Stats., reads:

"Agricultural use" means agricultural use as defined by the department of revenue by rule and includes the growing of short rotation woody crops, including poplars and willows, using agronomic practices.

Section 70.32 (2) (c) 1i., Stats., authorizes the department to promulgate a definition of agricultural use. This definition is found in s. Tax 18.05 (1). The proposed rule will merely modify the definition of agricultural use as described in parts 1 and 2 above.

#### 4. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

The department estimates it will take approximately 200 hours to develop the rule.

### 5. List with Description of all Entities that may be Affected by the Proposed Rule

Property owners and property assessors.

#### 6. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

Property assessment is not regulated by federal statutes or regulations.

#### 7. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

The proposed rule will have minimal or no economic impact.

The rule will have no economic impact on small business.

#### 8. Contact Person

Nate Ristow, (608) 266–6466 or Dale Kleven, (608) 266–8253.

### Submittal of Proposed Rules to Legislative Council Clearinghouse

Please check the Bulletin of Proceedings — Administrative Rules for further information on a particular rule.

Natural Resources Environmental Protection — General, Chs. 100— CR 13-054

#### (DNR # WT-29-09)

On July 11, 2013, the Department of Natural Resources submitted a proposed rule to the Legislative Council Clearinghouse.

This rule is not subject to s. 227.135 (2), Stats., as affect by 2011 Wis. Act 21. The scope statement for this rule, published in Register No. 653 on May 14, 2010, was sent to LRB prior to June 8, 2011, the effective date of Act 21.

#### Analysis

The proposed rule revises Chapter NR 114, subchapter I, relating to certification of wastewater treatment system and plant operators.

#### **Agency Procedure for Promulgation**

Public hearings will be held August 13, 16, 27, 28, and 29, 2013.

#### Name and Organizational Unit of Agency Contact

Jack Saltes Bureau of Water Quality P.O. Box 7921 101 South Webster Street Madison, WI 53707 jack.saltes@wisconsin.gov.

#### Safety and Professional Services Professional Services, Chs. 1—299 CR 13-053

On July 9, 2013, the Department of Safety and Professional Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 012–13, was approved by the Governor on January 28, 2013, published in Register No. 686 on February 14, 2013, and approved by the Department on February 28, 2013.

#### Analysis

Statutory Authority: Sections 227.11 (2) (a), 440.03 (1), and 458.12, Stats.

This proposed rule-making order repeals s. SPS 81.04 (1) (c) 3. and 4. and amends s. SPS 81.04 (2), relating to reciprocity for real estate appraisers.

#### Agency Procedure for Promulgation

A public hearing is required and will be held on August 12, 2013, at 1400 East Washington Avenue, Room 121A, Madison, Wisconsin (enter at 55 North Dickinson Street).

#### Contact Person

Shawn Leatherwood Department of Safety and Professional Services, Division of Policy Development, 608–261–4438 <u>shancethea.leatherwood@wisconsin.gov</u>.

Shancethea Leatherwood

Division of Policy Development

Wisconsin Department of Safety and Professional Services P.O. Box 8935

Madison, WI 53703-8935 Office: 608-261-4438 Fax: 608-267-3816.

#### Safety and Professional Services Professional Services, Chs. 1–299 CR 13-056

On July 12, 2013, the Department of Safety and Professional Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 093–12, was approved by the Governor on December 4, 2012, published in Register No. 684 on December 31, 2012, and approved by the Department on May 30, 2013.

#### Analysis

Statutory Authority: ss. 15.405 (3), 480.08 (6), Stats.

This proposed rule-making order revises s. SPS 128.04, relating to course instructors for auctioneers.

#### **Agency Procedure for Promulgation**

A public hearing is required and will be held on October 15, 2013, at 1400 East Washington Avenue, Room 121A, Madison, Wisconsin (enter at 55 North Dickinson Street).

#### **Contact Person**

Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 608–261–4438 <u>shancethea.leatherwood@wisconsin.gov</u>.

Shancethea Leatherwood

**Division of Policy Development** 

Wisconsin Department of Safety and Professional Services P.O. Box 8935

Madison, WI 53703-8935

Office: 608-261-4438

Fax: 608-267-3816.

#### Safety and Professional Services — Massage Therapy and Bodywork Therapy Affiliated Credentialing Board CR 13-055

On July 12, 2013, the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 007-12, was approved by the Governor on January 13, 2012, published in Register No. 674 on February 14, 2012, and approved the Board on June 28, 2013.

#### Analysis

Statutory Authority: ss. 15.085 (5) (b), 460.04 (2), 460.10 (1), Stats., and 2009 Wisconsin Act 355.

This proposed rule-making order revises Chapters MTBT

1 to 7, relating to temporary licensure and continuing education.

#### **Agency Procedure for Promulgation**

A public hearing is required and will be held on August 13, 2013, at 1400 East Washington Avenue, Room 121A, Madison, Wisconsin (enter at 55 North Dickinson Street).

#### **Contact Person**

Shancethea Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 608–261–4438 or <u>shancethea.leatherwood@wisconsin.gov</u>.

Shancethea Leatherwood

**Division of Policy Development** 

Wisconsin Department of Safety and Professional Services P.O. Box 8935

Madison, WI 53703-8935 Office: 608-261-4438

Fax: 608-267-3816.

### **Rule-Making Notices**

#### **Notice of Hearing**

#### **Natural Resources**

Environmental Protection — General, Chs. 100— CR 13–054

#### (DNR # WT-29-09)

NOTICE IS HEREBY GIVEN THAT pursuant to s. 227.11 Stats., interpreting s. 281.17 (3), Wis. Stats., the Department of Natural Resources will hold public hearings on proposed revisions to Chapter NR 114 Subchapter I, Wis. Adm. Code, relating to the certification requirements of wastewater treatment system and plant operators.

#### **Hearing Information**

Date: Time: Location:	Tuesday, August 13, 2013 11:00 a.m. WDNR West Central Service Center 1300 W. Clairemont Ave., Room 185 Eau Claire, WI 54701
Date: Time: Location:	Friday, August 16, 2013 11:00 a.m. WDNR Service Center Conference Room 5301 Rib Mountain Drive Wausau WI, 54401
Date: Time: Location:	Tuesday, August 27, 2013 11:00 a.m. WDNR Northeast Region Service Center Lake Michigan Conference Room 2984 Shawano Ave. Green Bay, WI 54313
Date: Time: Location:	Wednesday, August 28, 2013 11:00 a.m. WDNR Southeast Region Service Center 2300 N. Martin Luther King Jr. Drive Rooms 140 and 141 Milwaukee, WI 53212
Date: Time: Location:	Thursday, August 29, 2013 10:00 a.m. WDNR Southern Region Service Center Glaciers Edge Conference Room 3911 Fish Hatchery Road Fitchburg, WI 53911

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request as noted below. The public hearing sites are accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at a hearing site or require other accommodation, please contact Jack Saltes at (608) 264-6045 (email: jack.saltes@wisconsin.gov) with specific information on your request at least 10 days before the date of the scheduled hearing.

### Availability of the Proposed Rule and the Fiscal Estimate and Economic Impact Analysis

The proposed rule revisions, including the Fiscal Estimate and the Economic Impact Analysis may be viewed and downloaded and comments electronically submitted at the following internet site at the following internet site. The public comment period closes on August 29<sup>th</sup>, 2013: <u>https://health.wisconsin.gov/admrules/public/Rmo?nRmoId</u> =8023

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at: <u>DNRSmallBusinessCoordinator@Wisconsin.gov</u> or by calling (608) 266–1959.

If you do not have internet access, a copy of the proposed rules and supporting documents, including the Economic Impact Analysis may be obtained from Jack Saltes, DNR-WY/3, P.O. Box 7921, Madison, WI 53707-7921, or by calling (608) 264-6045.

### Place Where Comments arc to be Submitted and Deadline for Submission

Written comments on the proposed rules may be submitted via U. S. mail to Jack Saltes, DNR-WY/3, P.O. Box 7921, Madison, WI 53707-7921 or by e-mail to: jack.saltes@ wisconsin.gov

Comments may be submitted using the internet site where the rule and other documents have been posted [https://health.wisconsin.gov/admrules/public/Rmo?nRmoI d=8023]. Please follow the guidelines stated on this site when submitting comments.

Comments submitted on or before August 29, 2013, will be considered in developing a final rule. Written comments whether submitted electronically or by U. S. mail will have the same weight and effect as oral statements presented at the public hearings.

#### Analysis Prepared by Department of Natural Resources Statutory authority

Section 227.11, Stats.

Statutes interpreted

Section 281.17 (3), Stats.

Explanation of agency authority

Chapter 281, Stats. — Water and Sewage, grants authority to the Department to serve, to protect, maintain and improve the quality and management of the waters of the state, ground and surface, public and private. To the end that these vital purposes may be accomplished, all rules and orders promulgated under chapter 281, Stats., are to be liberally construed in favor of the policy objectives set forth in the chapter. Section 281.17 (3), Stats., specifically directs the department to promulgate rules establishing an examining program for certifying wastewater treatment system and plant operators.

#### Related statute or rule

Chapter NR 114, Wis. Adm. Code, relates to regulation of wastewater discharges in the chapter NR 200, Wis. Adm.

Code, series of rules. The quality of the discharge from wastewater treatment plants directly relates to the design and construction of the facility, as well the knowledge and competency of the operators, who run and manage the state's wastewater treatment plants. A well operated and managed wastewater treatment plant produces a high quality effluent thus protecting and maintaining water quality in the state.

#### Plain language analysis

Operator certification requirements in Wisconsin originated with Chapter 614, Wisconsin laws of 1965. After passage of the Clean Water Act of 1972, the operator certification program became more solidified with the establishment of wastewater treatment plant classifications (1, 2, 3, 4) and numerous subclasses. Study guides and exams were developed for operators of the different classes and subclasses of treatment plants. The Bureau of Science Services administers the certification program, while the Bureau of Water Quality provides the technical base and support. Examinations are given in each of the regions twice a year in May and November.

The program underwent code revisions in the 1990's and currently has a critical need of revisions with the advent of changes and innovation in computer and wastewater technologies over the past two decades. Wisconsin permits over 1000 industrial and municipal wastewater treatment works and has 2400 certified operators operating these wastewater facilities. In the past 25 years, most treatment plants have more received stringent effluent limitations, and have become more complex and technologically advanced through upgrading and new construction. Well operated and maintained wastewater treatment works (sewer systems and treatment plants) by knowledgeable and skilled operators directly translates into protections of public health and the environment. Increased competency of operators also results in more consistent and improved compliance with Wisconsin Pollutant Discharge Elimination System (WPDES) permit requirements. This then leads to fewer instances of noncompliance and a lowered potential for costs due to enforcement of permit violations by the Department.

Chapter NR 114, Subchapter I — Certification of Waterworks and Wastewater Treatment Plant Operators, Wis. Adm. Code, is being repealed and recreated to achieve five objectives: (1) update and revise treatment plant classifications and subclasses to reflect new and changed technologies; (2) eliminate advanced certification examinations and replace them with an advanced certification point system to allow operators more flexibility and educational options towards advancement; (3) expand certification to include sanitary sewer collection systems; (4) provide more options for a new generation of operators to gain knowledge and competency through on-line classes and opportunities; and (5) separate the apprenticeship certification requirements for waterworks and wastewater works operators for improved readability and understanding.

Chapter NR 114, Wis. Adm. Code, establishes revised plant classification levels (basic or advanced) and subclasses; an advanced certification point system; future certification requirements for sanitary sewer collection systems and a fair conversion (grandfathering) process of transferring existing operators into the new certification system.

### Summary and comparison with existing and proposed federal regulations

While 33 USC 1251, federal Clean Water Act, does not mandate operator certification for wastewater treatment plants, the need for operating and maintaining wastewater treatment plants properly by knowledgeable and highly skilled operators is recognized by all states. All fifty states have wastewater treatment plant operator certification programs.

#### Comparison of similar rules in adjacent states

All U.S. Environmental Protection Agency (EPA) Region 5 states (Illinois, Indiana, Michigan, Minnesota, and Ohio) have wastewater treatment plant operator certification programs. These certification programs are based on examination and experience.

Of the EPA Region 5 states, Ohio is the only state that requires a certified operator in charge for wastewater collection systems. Minnesota requires a collection system certificate for operation of wastewater collection, pumping, and conveyance facilities that are managed separately from the wastewater treatment facility. Illinois offers a voluntary wastewater collection system operator certificate while, Indiana and Michigan do not offer state certification.

ILLINOIS: In Illinois, a voluntary collection system operator certification is available for wastewater operators. The certification is administered by the Illinois State Environmental Protection Agency's Bureau of Water. Prerequisites for certification include a high school diploma (or equivalent), 6 months collection system operating experience and the equivalent of 6 months substitution experience. There is only one level of voluntary certification offered.

INDIANA: The Indiana Department of Environmental Management, who oversees certification of Wastewater Operators, does not offer collection system certification. The professional member association, Indiana Water Environment Association has a Collection System Committee (30+ members) who administer a voluntary collection system operation certification at 4 levels for wastewater operators.

MICHIGAN: The State of Michigan's Department of Environmental Quality, who certifies Wastewater Operators, does not offer certification for collection systems.

MINNESOTA: The Minnesota Pollution Control Agency (MPCA), who certifies wastewater operators, requires at least one certified collection system operator for a system of collection, pumping, and conveyance facilities that is operated separately from the facility that treats, stabilizes and disposes of wastewater. The MPCA classifies these facilities as type–S facilities with four subclasses (A, B, C, & D), based upon the size of the population served. If the collection facility is not operated separately from the treatment facility, the designated operator of the treatment facility is responsible and does not need a type S certificate.

OHIO: The Ohio Environmental Protection Agency's Division of Drinking and Groundwater certifies the person responsible and in charge of a collection system. Sewerage systems, a.k.a. collection systems, are classified. Sewerage systems may be classified at one of two levels (I and II) based upon design flow (< or > 0.15 MGD respectively).

#### Summary of factual data and analytical methodologies used in the rules and how any related findings support the regulatory approach chosen

Given the increase in on-line training courses and programs for wastewater treatment plant operators, especially in the last ten years, it became apparent and imperative that the Department revise and modernize its certification program to allow operators more flexibility and choices in achieving advanced certification beyond only examinations. During the revisions of ch. NR 114, Wis. Adm. Code, the Department of Workforce Development, Bureau of Apprenticeship Standards received federal grant monies to develop an Apprenticeship Program for Wastewater Treatment plant operators. The Apprenticeship Program has since been developed and now available for wastewater treatment plant operators. Operators earn 6 of 10 points towards advanced certification by completing this program.

The concept of an advanced certification point system came from the Kansas wastewater operator certification program. Kansas uses a point system to determine what level exam an operator is eligible to take. The Department adapted the point system concept by developing one for advanced certification. Advanced certification allows operators to gain a deeper insight and knowledge about a particular aspect of wastewater treatment. A deeper and stronger knowledge through advanced certification is critical in operating more complex wastewater treatment plants or require greater operational skills because of various factors.

Concurrent to these ch. NR 114, Wis. Adm. Code, revisions, the Department has also drafted revisions to various rules for collection systems, more commonly referred to as the "Sanitary Sewer Overflow (SSO) Rules" (WT-23-11). These rule revisions are primarily intended to prevent, to the extent possible, the overflow of untreated sewage to state waters and land surfaces and/or the backup of sewage into basements and buildings where such discharges present a risk to public health and may cause environmental harm. The SSO rules require that all sewage collection system owners implement defined programs to assure the long-term viability of those systems. Effective programs for the proper operation and maintenance of the systems will be less costly in the long-term by reducing and preventing infiltration and inflow that lead to SSOs and building backups, assuring treatment facility capacity is not exceeded, and proactively dealing with potential failures of the system components. The SSO rules will require that all collection system owners develop and implement a Capacity, Management, Operation and Maintenance (CMOM) program within three years to assure proper long-term operation of sewage collection systems. The SSO Rules will also specify what components must be included in a CMOM and the documentation and reporting requirements associated with such a program.

With CMOM requirements and implementation of the SSO Rules, certification requirements for collection system operators will complement those rule revisions. It will provide the needed knowledge and skills for operators to develop and implement successful CMOM Programs and better operate and maintain their collection systems. Improved operational knowledge of sanitary sewer systems directly translates into protecting public health and water quality from basement back-ups and sanitary sewer overflows. Knowledgeable collection system operators also help protect and maintain the large investment of government funding of infrastructure. The Department evaluated collection system certification programs for every state in the nation. Approximately 46% of the states require some level of collection system certification.

In March 2010, the Department established a wastewater operators trainers stakeholders workgroup to assist and advise the Department in revising the certification program for wastewater treatment plant operators. The workgroup consisted of representatives from the Wisconsin Wastewater Operators Association (WWOA), Wisconsin Rural Water Association (WRWA), private trainers, consultants, technical colleges, UW-Stevens Point, and EPA. Several workgroup meetings were held during 2010–2012 in crafting the revisions. Comments and ideas for revisions from the workgroup members contributed significantly to the changes and modernization of the certification program.

### Analysis and supporting documentation used to support the small business analysis

No small businesses, as defined in s. NR 227.114 (1), Wis. Adm. Code, will be affected by changes in wastewater treatment plant operator certification requirements. Small businesses, as defined, do not generally own and operate treatment plants, or at least mechanical treatment plants with surface water discharges, that require certified operators under ch. NR 114, Wis. Adm. Code. Any fiscal impacts that would occur from these rule changes would affect municipalities and larger industries, that have treatment plants or municipal sanitary sewer collection systems.

For example, in the small businesses analysis prepared for the phosphorus water quality criteria, Board Order WT-25-08, that could also potentially apply to treatment plant operator certification, 11 dairy operations were identified that met the small business definition. Small cheese factories may be the best example of a small business. Of those 11, 6 apply wastes to the land through a variety of methods and are exempt from certification requirements. The other 5 discharge their wastes to municipal wastewater treatment plants, also exempt from certification requirements.

Based on this analysis, the Department concluded there are few, if any, small businesses that will be affected by changes in wastewater treatment plant or sanitary sewer system operator certification requirements.

### Effect on small business, including how this rule will be enforced

Based on the above analysis, the Department determined that few, if any, small businesses would be affected by the proposed changes in wastewater treatment plant operator certification requirements. Small cheese factories may be the best example of a small business that would have wastewater treatment and management needs. Many of these small dairies land apply their wastewater and thus are excluded from operator certification requirements.

A positive effect on small business will be additional training opportunities for consultants and private trainers to provide advanced training (on-line or classroom) to operators, especially those seeking advanced certification through education. The requirement for municipal collection systems to have a certified operator will result in the development of sanitary sewer collection system classes by wastewater education based businesses and technical colleges for municipal operators who will need this certification in the next 5–10 years.

#### **Initial Regulatory Flexibility Analysis Summary**

No small businesses, as defined in s. NR 227.114 (1), Wis. Adm. Code, will be affected by changes in wastewater treatment plant operator certification requirements. Small businesses, as defined, do not generally own and operate treatment plants, or at least mechanical treatment plants with surface water discharges, that require certified operators under ch. NR 114, Wis. Adm. Code. Any fiscal impacts that would occur from these rule changes would affect municipalities and larger industries, that have treatment plants or municipal sanitary sewer collection systems.

For example, in the small businesses analysis prepared for the phosphorus water quality criteria, Board Order WT-25-08, that could also potentially apply to treatment plant operator certification, 11 dairy operations were identified that met the small business definition. Small cheese factories may be the best example of a small business. Of those 11, 6 apply wastes to the land through a variety of methods and are exempt from certification requirements. The other 5 discharge their wastes to municipal wastewater treatment plants, also exempt from certification requirements.

Based on this analysis, the Department concluded there are few, if any, small businesses that will be affected by changes in wastewater treatment plant or sanitary sewer system operator certification requirements.

#### Fiscal Analysis and Economic Impact Analysis Summary

Ultimately, the impact on the state's economy will be moderate. Most of the changes that result from this rule are transfers rather than costs. The advanced exam will be slightly more expensive, but there will be fewer exams for operators to take and the exam is not mandatory. Wastewater treatment facilities may need to pay higher salaries that they offset by increasing rates (or absorbing), but employees will benefit from the raises. Operators may choose to pay for preparatory classes, but those offering these courses will realize an increase in their business.

While there is some variability, we predict the total statewide costs and transfers to be between \$100,000 and \$200,000 for the first year of implementation as facilities pursue operator certification necessitated by facility reclassification and the new sanitary system requirements. After the first year, economic impacts will be reduced to transfers resulting from salary increases and changes in exam costs.

We anticipate that the Department will absorb implementation costs into the existing program. Table 1 in Appendix 2 of the Fiscal Estimate & Economic Impact Analysis (DOA-2049) provides a summary of the costs associated with different aspects of the point system.

#### **Environmental Impact**

The Department has made a determination that these rule revisions are a Type IV action under Chapter NR 150, Wis. Adm. Code, and no environmental analysis is required.

#### Agency Contact

Jack Saltes, WY/3 Bureau of Water Quality P.O. Box 7921 101 South Webster Street Madison, WI 53707 jack.saltes@wisconsin.gov (608) 264–6045.

#### Notice of Hearing

#### Safety and Professional Services Professional Services, Chs. 1—299 CR 13–053

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in sections 227.11 (2) (a), 440.03 (1), and 458.12, Stats., and interpreting section 440.03 (1), Stats., the Department of Safety and Professional Services will hold a public hearing at the time and place indicated below to consider an order to repeal s. SPS 81.04 (1) (c) 3. and 4. and to amend s. SPS 81.04 (2), relating to reciprocity. As provided in section 227.24 (4), Stats., this hearing will also be for emergency rules currently in effect that have identically created this SPS section.

#### **Hearing Information**

Date:	Monday, August 12, 2013
Time:	11:00 a.m.
Location:	1400 East Washington Avenue
	Room 121A
	Madison, Wisconsin

#### Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance. All submittals must be directed to Shawn Leatherwood, Rules Coordinator, at <u>shancethea.leatherwood@wisconsin.gov;</u> or by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

### Place Where Comments arc to be Submitted and Deadline for Submission

Comments may be submitted to Shawn Leatherwood, Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708–8935, or by email to <u>shancethea.leatherwood@</u> <u>wisconsin.gov</u>. Comments must be received at or before the public hearing to be held on August 12, 2013 to be included in the record of rule-making proceedings.

#### Copies of Rule

Copies of this proposed rule are available upon request to Shawn Leatherwood, Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, by email at <u>shancethea.leatherwood@wisconsin.gov</u> or on our website at <u>http://dsps.wi.gov/Default.aspx?Page=44e541e8\_abdd-49d</u> <u>a=8fde=046713617e9e</u>.

#### Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 440.03 (1), Stats.

Statutory authority

Sections 227.11 (2) (a), 440.03 (1), 458.12, Stats.

#### Explanation of agency authority

The Department is empowered to promulgate rules interpreting the provision of any statute it enforces or administers pursuant to s. 227.11 (2) (a), Stats. Under the authority of s. 440.3 (1), Stats., the department may promulgate rules defining uniform procedures to be used by the Real Estate Appraisers Board. Under s. 458.12, Stats., the Real Estate Appraisers Board is allowed to enter into reciprocal agreements. The subject of these proposed rules deals with the procedure for entering into reciprocity agreements with other states. Therefore, the Board is authorized to draft these proposed rules

Related statute or rule

Section SPS 81.04

#### Plain language analysis

A procedure for reciprocity for real estate appraisers is the topic of these proposed rules. Presently applicants seeking reciprocity in Wisconsin must hold a current credential from another state, which has not been subject to discipline, and was granted in compliance with the Financial Institutions Reform Recovery Act of 1989, (FIRREA) 12 USC 3331 et. seq. Applicants must also pass a Wisconsin statutes and rules examination, have no arrests or convictions and have satisfied the required experience. As a result of federal legislation, namely FIRREA Title XI as amended by the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd–Frank Act), less strenuous procedures for reciprocity must be put into place on or before July 1, 2013.

The Dodd-Frank Act directs states to refrain from imposing additional barriers on the issuance of reciprocity credentials to appraisers from other states. Under the federal legislation, an applicant seeking reciprocity in Wisconsin must be from a state that is in compliance with FIRREA Title XI. Also, the applicant must hold a valid credential from that state. Furthermore, the credentialing requirements of that state, as they currently exist, must meet or exceed the credentialing requirement in Wisconsin, as they currently exist.

### Summary of, and comparison with, existing or proposed federal regulation

FIRREA Title XI regulates real estate appraisers on the federal level. The purpose of FIRREA Title XI "is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision." 12 U.S.C. 3331. This federal mandate is accomplished via the Appraisal Subcommittee (ASC). The ASC monitors state regulation of licensed appraisers and reviews each state's compliance with the federal legislation. The ASC also monitors appraisal standards for federally-related transactions and determines whether state licensed appraisers will be required for these real estate transactions.

The Dodd-Frank Act amended the reciprocity requirement of FIRREA XI. Instead of merely encouraging states to develop reciprocity agreements, the Act requires that states may not impose additional impediments when issuing reciprocity credentials. However, states may be more lenient in issuing reciprocity credentials and advance a more open door policy.

#### Comparison with rules in adjacent states

**Illinois**: Illinois does not grant licensure by reciprocity for real estate appraisers but allows licensure by endorsement for non-resident applicants. Endorsement applicants must submit an application, the required fee, and a certification of good standing from the jurisdiction of the applicant's place of residence. ILL. ADMIN. CODE tit. 68 §1455.100.

Iowa: Iowa grants non-resident applicants licensure by reciprocity. Applicants seeking reciprocity must submit the appropriate form, pay the required fee and demonstrate good standing in another state. The good standing requirement may be demonstrated by being listed as an appraiser in good standing on the National Registry of the Appraisal Subcommittee. IOWA ADMIN. CODE r. 193F-10.01 (2).

Michigan: Michigan provides for licensing without examination. MCL 339.2623. The state will issue a certified general real estate appraiser, or state licensed real estate appraiser licensure without examination as long as that applicant is licensed, registered, certified, or otherwise regulated by another state and if the requirements of that state are at least equal to Michigan's requirements.

**Minnesota:** Minnesota requires non-resident applicants to comply with the same application requirements as in-state applicants. MINN. STAT. §82B.071 SUBD.7.

#### Summary of factual data and analytical methodologies

The rules were developed primarily by reviewing and comparing federal legislation with Wisconsin's rules regulating real estate appraisers in an effort to bring the Wisconsin Administrative Code language in line with the federal statutes. No other analytical methodologies were used.

#### Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis

These proposed rules do not have an economic impact on small businesses as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at greg.gasper@wisconsin.gov or by calling (608) 266-8608.

#### Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

#### Initial Regulatory Flexibility Analysis or Summary

These proposed rules do not have an economic impact on small businesses as defined in s. 227.114 (1), Stats.

#### Agency Contact Person

Shawn Leatherwood, Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at <u>shancethea.leatherwood@</u> wisconsin.gov.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

#### ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis		
X Original Updated Corrected		
2. Administrative Rule Chapter, Title and Number		
165SPS 81.04		
3. Subject		
Reciprocity		
4. Fund Sources Affected	5. Chapter 20, Stats. Appropriations Affected	
□ GPR □ FED □ PRO □ PRS □ SEG □ SEG-S		
6. Fiscal Effect of Implementing the Rule	•	
X No Fiscal Effect Increase Existing Revenues	Increase Costs	
☐ Indeterminate ☐ Decrease Existing Revenues	Could Absorb Within Agency's Budget Decrease Cost	
7. The Rule Will Impact the Following (Check All That Apply)		
	cific Businesses/Sectors	
	ic Utility Rate Payers Il Businesses (if checked, complete Attachment A)	
8. Would Implementation and Compliance Costs Be Greater Than \$20 mil	llion?	
Yes X No		
9. Policy Problem Addressed by the Rule		
Title XI of the Federal Financial Institutions Reform and Recovery Enforcement Act of 1989, (FIRREA) as amended by the Dodd– Frank Act of 2010, dictates the reciprocity requirements for real estate appraisers in each state. State standards cannot overly burden applicants seeking reciprocity in Wisconsin. These proposed rules seek to bring Wisconsin's reciprocity rule in line with the federal standard.		
10. Summary of the businesses, business sectors, associations representing affected by the proposed rule that were contacted for comments.	ng business, local governmental units, and individuals that may be	
The rule was posted on the Department of Safety and Professional Service's website for 14 days in order to solicit comments from the public regarding the rule. No comments were received from the public regarding the rule.		
11. Identify the local governmental units that participated in the developm	nent of this EIA.	
No local governmental units participated in the development of this EIA.		
12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)		
This rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local govern- mental units or the state's economy as a whole.		
13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule		
The proposed rule will generate greater consistency between federal and state standards.		

#### 14. Long Range Implications of Implementing the Rule

As long as the proposed rule is consistent with the federal standard, real estate appraisals will be conducted in a uniform manner, by individuals whose competence has been demonstrated.

#### 15. Compare With Approaches Being Used by Federal Government

The federal government provides the regulatory scheme which states must follow. The federal standard is FIRREA Title XI §1122, 12 U.S.C. 3351 (b) as amended by the Dodd Frank Act, which provides that, "[N]otwithstanding any other provisions of this title, a federally related transaction shall not be appraised by a certified or licensed appraiser unless the State appraiser certifying or licensing agency of the State certifying or licensing such appraiser has in place a policy of issuing a reciprocal certification or license for an individual from another state when—"(1) the appraiser licensing and certification program of such other State is in compliance with the provisions of this title; and "(2) the appraiser holds a valid certification from a state whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure." In order to comply with the federal standards, states must insure that a reciprocity applicant's home state is in compliance with FIRREA Title XI, as amended by the Dodd Frank Act, and that the reciprocity applicant holds a valid certification from their home state that meet or exceeds the certification and licensure standards established by the state where an individual seeks reciprocity.

The purpose of FIRREA, "is to provide the Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are preformed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.". FIRREA Title XI §1101, 12 U.S.C. 3331. The purpose of FIRREA is carried out by the Appraisal Subcommittee (ASC). The ASC monitors the requirements established by states regarding the certification and licensure of real estate appraisers. The ASC conducts audits to determine whether states are in compliance with FIRREA. States that are designated "out of compliance" may not engage a certified or licensed appraiser to perform an appraisal of property for a federally related transaction and will not be recognized by other states when applicants from that state are seeking reciprocity.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois does not grant licensure by reciprocity for real estate appraisers but allows licensure by endorsement for nonresident applicants. Endorsement applicants must submit an application, the required fee, and a certification of good standing from the jurisdiction of the applicant's place of residence. ILL. ADMIN. CODE tit. 68 §1455.100.

Iowa: Iowa grants non-resident applicants licensure by reciprocity. Applicants seeking reciprocity must submit the appropriate form, pay the required fee and demonstrate good standing in another state. The good standing requirement may be demonstrated by being listed as an appraiser in good standing on the National Registry of the Appraisal Subcommittee. IOWA ADMIN. CODE r. 193F-10.01 (2).

Michigan: Michigan provides for licensing without examination. MCL 339.2623. The state will issue a certified general real estate appraiser, or state licensed real estate appraiser licensure without examination as long as that applicant is licensed, registered, certified, or otherwise regulated by another state and if the requirements of that state are at least equal to Michigan's requirements.

**Minnesota:** Minnesota requires non-resident applicants to comply with the same application requirements as in-state applicants. MINN. STAT. §82B.071 SUBD.7.

17. Contact Name	18. Contact Phone Number	
Shawn Leatherwood	608-261-4438	
This document can be made available in alternate formats to individuals with disabilities upon request.		

#### Notice of Hearing

#### Safety and Professional Services — Massage Therapy and Bodywork Therapy Affiliated Credentialing Board CR 13-055

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board in ss. 15.085 (5) (b), 460.04 (2), 460.10 (1), Wis. Stats., and interpreting ss. 460.04 (2) (a), (c), (d), (f), and 460.08, Wis. Stats., and 2009 Wisconsin Act

355 the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board will hold a public hearing at the time and place indicated below to consider an order to repeal s. MTBT 2.05 and (Note); to amend ss. MTBT 1.01, 2.01 (title), 2.03 (title), (1) (a) and (c), 3.01 (1), 3.01 (5) (b), 4.01 (title), (intro.), 4.02 (title), (intro.), (1), (3), 4.03, 4.04 (1) (a), 4.04 (1) (c), (2) (a) and (b), 5.01 (9), (16), (17), (18), (19), (20), (27), (28), (32), 5.02 (1), (2) (b), (c), (3), and (4); to repeal and recreate s. MTBT 1.02; to create ss. MTBT 6.01, 6.02, 7.01, 7.02, and 7.03, relating to temporary licensure and continuing education.

#### **Hearing Information**

Date:	Tuesday, August 13, 2013
Time:	10:00 a.m.
Location:	1400 East Washington Avenue
	Room 121A
	Madison, Wisconsin

#### **Appearances at the Hearing**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

#### Place Where Comments are to be Submitted and **Deadline for Submission**

Comments may be submitted to Shawn Leatherwood, Rules Coordinator Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to shancethea.leatherwood@ wisconsin.gov. Comments must be received at or before the public hearing to be held on to be included in the record of rule-making proceedings.

#### **Copies of Rule**

Copies of this proposed rule are available upon request to Shawn Leatherwood Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, by email at shancethea.leatherwood@wisconsin.gov or on our website at http://dsps.wi.gov/ Default.aspx?Page=44e541e8-abdd-49da-8fde-04671361 7e9e.

#### Analysis Prepared by the Department of Safety and Professional Services

#### Statutes interpreted

Sections 460.04 (2) (a), (c), (d), and (f), and 460.08, Stats., and 2009 Wisconsin ACT 355.

#### Statutory authority

Sections 15.085 (5) (b), 460.04 (2), 460.10 (1), Stats., and 2009 Wisconsin Act 355.

#### Explanation of agency authority

Affiliated credentialing boards are generally empowered by the legislature pursuant to s. 15.085 (5) (b), Stats., to promulgate rules that govern their profession. The Massage Therapy and Bodywork Therapy Affiliated Credentialing Board has recently been empowered with the passage of 2009 Wisconsin Act 355, to promulgate rules concerning temporary licenses and continuing education. Therefore, the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board is authorized both generally and specifically to promulgate the proposed rules.

#### Related statute or rule

Wis. Admin, Code chs, MTBT 1 to 5

#### Plain language analysis

2009 Wisconsin Act 355 transformed the Massage Therapy and Bodywork Therapy Council into the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board. (Board) The newly formed board, under the oversight of the Medical Examining Board, was granted rule making authority by the legislature as well as the authority to grant licenses instead of certificates. This proposed rule carries out the intent of the legislature by making the necessary changes to Wis. Admin. Code chs. MTBT 1 to 5. The necessary changes include defining terms such as informed consent. intimate parts, sexually oriented business, and setting forth the requirements for temporary licensure and continuing education.

SECTION 1. amends the authority section by replacing department with board and bodyworker with bodywork therapist.

SECTION 2, repeals and recreates the definition section to include additional terms.

SECTION 3. amends title of s. MTBT 2.01 to replace certificate with license.

SECTION 4. amends the title of s. MTBT 2.03 replacing certificate with license.

SECTION 5. repeals s. MTBT 2.05 and the corresponding note.

SECTIONS 6 to 11. primarily replace department with board and certificate with license.

SECTION 12. creates provisions regarding temporary licensure.

SECTION 13. creates provisions regarding continuing education

Summary of, and comparison with, existing or proposed federal regulation

#### None

#### Comparison with rules in adjacent states

Illinois: Illinois regulates massage therapy via the Massage Licensing Act, Ill. Admin. Code tit.68 §1284 (2012). Illinois exempts students from the licensure requirement as long as they are practicing in conjunction with an approved massage school or program. Approved massage therapy schools are required to meet certain criteria including maintaining written programs, written plans of study, written course outlines and student handbooks. Applicants are required to obtain 500 hours of supervised hands-on instruction from an approved massage therapy school, Ill. Admin. Code tit. 68 §1284.20. With regards to continuing education 24 hours are required per biennium. Illinois does not issue a temporary license.

Iowa: Iowa regulations encompass both massage and bodywork therapy. IA. r. 645-131.1. Iowa requires "500 hours in massage therapy education" for licensure. IAC r. 645-131.3. Furthermore, Iowa only allows temporary licensure for applicants from other states with less stringent licensure criteria. IAC 131-5 (1). Students are not exempt from the licensure requirement. However, students may participate in "clinical practicum," meaning, "hands-on" massage therapy provided to members of the public," at the massage therapy school's primary location which is similar to an on-site student clinic. Lastly, Iowa requires 24 hours of continuing education per biennium,

Michigan: Michigan regulates massage therapy by statute under MCL 333.17591-333.17969 (2012). The practice act defines such terms as "massage therapist," and "practice of massage therapy." The terms bodywork or bodywork therapist are not included. 18 hours of continuing education are required by statute. There are no provisions for temporary licensure. The Michigan practice act allows students to practice massage therapy as a part of program of study if they are enrolled in school and under the supervision of a licensed massage therapist.

Minnesota: Massage and bodywork therapist are not licensed, certified, or registered in Minnesota. Minnesota maintains general oversight of the practice of massage therapy and bodywork through Minn. Stat. §146A, (2011). The Unlicensed Complementary and Alternative Health Care Practice Act. This act identifies bodywork, massage, and massage therapy as encompassed within the, "broad domain of complementary and alternative healing methods and treatment."

#### Summary of factual data and analytical methodologies

The Massage Therapy and Bodywork Therapy Affiliated Credentialing Board ensures the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis. The proposed rule brings current administrative code regarding massage therapy and bodywork therapy into compliance with 2009 Wisconsin Act

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA-2049 (R03/2012) 355. No other factual data or analytical methodologies were used.

#### Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis

This proposed rule was posted on the Department's website for 14 days to solicit comments from small business. No comments were received.

#### Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

#### **Initial Regulatory Flexibility Analysis or Summary**

These proposed rules do not have an economic impact on small businesses as defined in s. 227.114 (1), Stats.

#### **Agency Contact Person**

Shawn Leatherwood, Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at <u>shancethea.leatherwood@</u> wisconsin.gov.

> DIVISION OF EXECUTIVE BUDGET AND FINANCE 101 EAST WILSON STREET, 10TH FLOOR P.O. BOX 7864 MADISON, WI 53707-7864 FAX: (608) 267-0372

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Ana	ılysis			
X Original Update	ed Corrected			
2. Administrative Rule Cha	pter, Title and Number			
MTBT 1 to 5				
3. Subject				
Temporary licensure and	continuing education			
4. Fund Sources Affected		5. Chapter 20, Stats. Appropriations Affected		
$\Box$ GPR $\Box$ FED X PRO $\Box$ PRS $\Box$ SEG $\Box$ SEG-S				
6. Fiscal Effect of Implement	nting the Rule			
🗆 No Fiscal Effect	☐ Increase Existing Revenues	□ Increase Costs		
Indeterminate	Decrease Existing Revenues	X Could Absorb Within Agency's Budget		
7. The Rule Will Impact the	Following (Check All That Apply)			
State's Economy		cific Businesses/Sectors		
□ Local Government Un		olic Utility Rate Payers		
Small Businesses (if checked, complete Attachment A)				
8. Would Implementation ar	nd Compliance Costs Be Greater Than \$20 m	nillion?		
🗆 Yes X No				

9. Policy Problem Addressed by the Rule

The proposed rule will update current Wis. Admin. Code Chapter MTBT 1 to MTBT 5 pursuant to the passage of 2009 Wisconsin Act 355. The legislation transformed the former Massage and Bodywork Advisory Council into the Massage Therapy and Bodywork Therapy Affiliated Credential board. The legislation also granted the newly created board rule making authority and the authority to issue licenses instead of certificates. The proposed rule updates the language of the current rule by replacing the term department and inserting the term board as well as replacing the term certificate and inserting the term licensure. Furthermore, the proposed rule will define additional terms such as informed consent, intimate parts, and sexually oriented business. Lastly, the proposed rule sets forth the requirements for temporary licensure and continuing education.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This proposed rule was posted on the Department of Safety and Professional Services website and on the state website for 14 business days to solicit comments from the public. No businesses, business sectors, associations representing businesses, local governmental units, or individuals contacted the department about the proposed rule.

11. Identify the local governmental units that participated in the development of this EIA.

No local governmental entities participated in the development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This proposed rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local government units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The major benefit of implementing the proposed rule is making the current rules consistent with 2009 Wisconsin Act 355.

14. Long Range Implications of Implementing the Rule

The proposed rule will provide greater guidance within the profession for licensees, applicants, and local massage therapy schools on the temporary licensure and continuing education requirements.

15. Compare With Approaches Being Used by Federal Government

#### NA

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

#### Illinois:

Illinois regulates massage therapy via the Massage Licensing Act. Ill. Admin. Code tit.68 §1284 (2012) Illinois exempts students from the licensure requirement as long as they are practicing in conjunction with an approved massage school or program. Approved massage therapy schools are required to meet certain criteria including maintaining written programs, written plans of study, written course outlines and student handbooks. Applicants are required to obtain 500 hours of supervised hands—on instruction from an approved massage therapy school. Ill. Admin. Code tit. 68 §1284.20 With regards to continuing education 24 hours are required per biennium. Illinois does not issue a temporary license

#### Iowa:

Iowa allows temporary licensure for applicants who hold a current license in other states with less stringent licensure criteria. IAC 131–5 (1) Temporary licensure is valid for one year and may not be renewed. Iowa requires 24 hours of continuing education per biennium, IAC 133.2 (152C)

#### Michigan:

Michigan regulates massage therapy by statute under MCL 333.17591–333.17969 (2012). Administrative rules are pending as of December 19, 2011. 18 hours of continuing education are required by statute. There are no provisions for temporary licensure. The Michigan practice act allows students to practice massage therapy as a part of program of study if they are enrolled in school and under the supervision of a licensed massage therapist.

#### Minnesota:

Massage and bodywork therapist are not licensed, certified, or registered in Minnesota. Minnesota maintains general oversight of the practice of massage therapy and bodywork through Minn. Stat. §146A, (2011) The Unlicensed Complementary and Alternative Health Care Practice Act. This act identifies body work, massage, and massage therapy as encompassed within the, "broad domain of complementary and alternative healing methods and treatment".

17. Contract Name	18. Contact Phone Number
17. Contact Name	608–261–4438
Shawn Leatherwood	006-201-4438

This document can be made available in alternate formats to individuals with disabilities upon request.

# Submittal of Proposed Rules to Legislature

Please check the Bulletin of Proceedings — Administrative Rules for further information on a particular rule,

#### Agriculture, Trade and Consumer Protection CR 13-003

#### (DATCP # 12-R-03)

The Department of Agriculture, Trade and Consumer Protection has submitted a rule for legislative committee review, pursuant to s. 227.19, Stats. The proposed rule revises Chapter ATCP 49, relating to the Wisconsin Farmland Preservation Program.

This rule was approved by the governor on June 19, 2013.

#### Public Instruction CR 13-024

On July 8, 2013, the Department of Public Instruction submitted proposed rules to the Chief Clerks of the Senate and Assembly for review by the Legislature under s. 227.19, Stats. The rules create Chapter PI 47, relating to the equivalency process for approving alternative models to evaluate educator practice.

Per the Dane County Circuit Court order issued in Coyne, et al. v. Walker, et al., Case No. 11–CV–4573, the Department of Public Instruction is not required to obtain the Governor's approval of this proposed rule under s. 227.185, Stats.

## **Rule Orders Filed with the Legislative Reference Bureau**

The following administrative rule orders have been filed with the Legislative Reference Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Legislative Reference Bureau at bruce.hoesly@legis.wisconsin.gov or (608) 266–7590 for updated information on the effective dates for the listed rule orders.

#### Children and Families Early Care and Education, Chs. 201–252 CR 12–048

An order revise to Chapter DCF 201, relating to circumstances for a waiver to allow child care subsidy payments for a parent who is a child care provider. Effective 8-1-13.

#### Employee Trust funds CR 13-004

An order to repeal section ETF 10.65 (1) (a) to (f), (2), and (3); to amend sections ETF 10.01 (3i) and 10.65 (1) (intro); and to create sections ETF 10.65 (Note), 10.85, 20.0251, and 20.0251 (Note), relating to clarifying how ETF complies with applicable provisions of the Internal Revenue Code (IRC). Effective 9-1-13.

#### Natural Resources Fish, Game, etc., Chs.1— CR 13-001

#### (DNR # FH-19-12)

An order to revise Chapters NR 19, 20, 21, 22, 23, 25, and 26, relating to fishing rules on inland, outlying, and boundary waters of Wisconsin and harvest of turtles. Effective 9-1-13 and 4-1-14.

#### **Natural Resources**

Environmental Protection — General, Chs. 100— Environmental Protection — Investg. & Remediation, Chs. 700—

#### CR 12-023

An order to revise Chapters NR 169 and 700 to 750, relating to investigation and remediation of contaminated properties. Effective 9–1–13.

#### Revenue CR 13-011

An order to revise Chapter Tax 11, relating to sales and use tax provisions concerning advertising and promotional direct mail and prosthetic devices. Effective 9–1–13.

#### Revenue CR 13-012

An order to revise Chapters Tax 1, 2, and 11, relating to general provisions of income taxation and sales and use tax. Effective 9-1-13.

#### Revenue CR 13-013

An order to revise Chapters Tax 4, 8, and 9, relating to general provisions of excise taxation and enforcement. Effective 9-1-13.

#### Safety and Professional Services — Cosmetology Examining Board CR 12-016

An order of the Cosmetology Examining Board to renumber and amend section Cos 6.04 (1), to amend section Cos 2.07 (1g), and to create section Cos 6.04 (1) (b), (c), and Note, relating to responsibilities of the manager and practical training for apprentices. Effective 9-1-13.

#### Safety and Professional Services — Hearing and Speech Examining Board CR 12–050

An order of the Hearing and Speech Examining Board to amend section HAS 6.18 (1) (d) and to create section HAS 6.175 (1m), relating to deceptive advertising. Effective 9-1-13.

#### Safety and Professional Services ----Psychology Examining Board CR 12-055

An order of the Psychology Examining Board to repeal section Psy 2.12 (2) and to amend section Psy 2.09 (4), relating to applicant appearances. Effective 9-1-13.

#### Technical College System Board CR 12-032

An order to revise sections TCS 2.02 (1), (3), (5), 2.04 (3) (a) 4., 6., and (4) (c), (d); and to create sections TCS 2.02 (5m) and 2.04 (3) (a) 4m., (4) (e), relating to district board member appointments. Effective 9-1-13.

# Rules Published with this Register and Final Regulatory Flexibility Analyses

The following administrative rule orders have been adopted and published in this edition of the Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.

For subscription information, contact Document Sales at (608) 266-3358.

#### **Children and Families**

## Early Care and Education, Chs. 201-252

CR 12-048

The Wisconsin Department of Children and Families adopts an order amending Chapter DCF 201, relating to circumstances for a waiver to allow child care subsidy payments for a parent who is a child care provider and affecting small businesses. Effective 8–1–13.

#### Summary of Final Regulatory Flexibility Analysis

The Small Business Regulatory Review Board determined that the proposed rules will not have a significant economic impact on a substantial number of small businesses.

## Summary of Comments by Legislative Review Committees

None.

#### Natural Resources

Fish, Game, etc., Chs. 1—

#### CR 12-031

#### (DNR # WM-09-11)

The Wisconsin Department of Natural Resources adopts an order amending section 10.01 (3) (d) 1., relating to the bobcat hunting and trapping season. Effective 8-1-13.

# Final Regulatory Flexibility Analysis and Effects on Small Business

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under s. 227.114 (6) or 227.14 (2g), Stats.

# Summary of Comments by Legislative Review Committees

No comments were reported.

#### Natural Resources

#### (DNR # ER-19-10)

The Wisconsin Department of Natural Resources adopts an order amending Chapter NR 18, relating to the sport of falconry. Effective 8–1–13.

#### **Final Regulatory Flexibility Analysis**

A final Regulatory Flexibility Analysis was not prepared since the proposed rule only affects private individuals and has no effect on small businesses.

Comments of Legislative Standing Committees No comments were reported,

#### Natural Resources

Environmental Protection — General, Chs. 100— Environmental Protection — WPDES, Chs. 200— CR 12–027

#### (DNR # WT-23-11)

The Wisconsin Department of Natural Resources adopts an order amending Chapters NR 100 and 200, relating to wastewater treatment works. Effective 8-1-13.

#### **Final Regulatory Flexibility Analysis**

The only new direct cost of these rules is associated with the preparation of the CMOM by private sewage collection system owners and by municipalities that have not yet developed such a program. The effect of this rule on other small businesses will be indirectly through the actions of municipal sewage collection system owners. Costs for sewage collection system maintenance and improvements are normally assessed to all users of the system, including small business owners. Such costs, which are included under current general requirements of program rules, are determined at the local level. Because the costs to any given system owner will likely be assessed to all system users, the cost to an individual small business owner for this activity will be low. In the case of private ownership of sewerage system (e.g., a mobile home park) identified as a source of SSO, replacement or repair of sewerage system components would be the responsibility of the owner. The number of these cases is likely to be very limited because of the small number of private sewage collection system permittees and, therefore, the statewide cost will be low.

## Summary of Comments by Legislative Review Committees

No comments were reported.

#### Public Defender CR 12-017

The Wisconsin State Public Defender adopts an order amending section PD 3.03 (2) and (3), relating to determination of eligibility for assignment of publicly appointed counsel. Effective 8-1-13.

#### **Effect on Small Business**

None.

#### Comments of Legislative Standing Committees No comments were reported.

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#### **Public Defender** CR 12-018

The Wisconsin State Public Defender adopts an order amending section PD 6.025, relating to determination of ability to pay. Effective 8-1-13.

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**Effect on Small Business** 

None.

Comments of Legislative Standing Committees No comments were reported.

## Sections Affected by Rule Revisions and Corrections

The following administrative code sections had rule revisions and corrections take place in **July 2013**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266–7590.

### Revisions

#### **Children and Families**

**Ch. DCF 201** DCF 201.04 (2j)

#### **Natural Resources**

Ch. NR 10 NR 10.01 (3) (d) 1. Ch. NR 18 NR 18.01 (1), (1g), (1r), (4) to (6), (6m), (7), (7m), (8m), (9) to (11), (14), (15) NR 18.02 (1), (Note) NR 18.03 (1), (3), (Note), (4) to (6), (Note) NR 18.04 (1), (Note), (2), (Note) NR 18.05 (1) to (4) NR 18.06 (1) (intro.), (2) (intro.), (Note) NR 18.07 (1), (2) (a) 1., 2., (b) 5. NR 18.08 NR 18.10 (intro.), (1) (a), (b) (intro.), 1., 1m., 2., 3., (c), to (e), (2), (3) (b) to (e) NR 18.12 (2) (a), (c), (d), (f), (Note), (3) (a) to (d), (4) (a) to (e), (Note), (7), (7m), (8) to (11), (12) (b), (13) to (15) NR 18.13 (1), (1m), (2) (title) NR 18.14 (1), (2) NR 18.15 (1) to (3) NR 18.16 (2) (a), (b), (3) (a), (b) (intro.), 3. a. to e., (3) (b) 4. g., h., (4), (Note) NR 18.17 (2) (a), (b), (3) Ch. NR 110 NR 110.03 (6m), (6e), (6s), (7), (7e), (7m), (7s), (8) to (10) (17), (26m), (27e), (27m), (27s), (28), (29), (29d), (29h), (30p), (31), (32g), (32i), (32r) NR 110.05 (2) to (4), (5) (c), (7) NR 110.09 (1) (Note) NR 110.10 (1) (h), (4)

NR 110.11 (1) (d) 5., (1) (Note) NR 110.13 (6) NR 110.15 (2) (c) to (e), (5) (d), (g), (h) NR 110.22 (5) (b) 2., (c) 1. Ch. NR 205 NR 205.03 (3m), (4m), (5), 96e), (6m), (6s), (9m)), (31g), (31r), (35e), (35m), (35s), (39g), (39r), (43m)NR 205.07 (1) (s), (u), (v), (2) (d), (1) (b) (Note) Ch. NR 208 NR 208.03 (1m) NR 208.05 (3) (m) 208.06(1) Ch. NR 210 NR 210.01 NR 210.02 NR 210.03 (intro.), (2e), (2m), (2s), (3d), (3h), (3p), (3t), (6e), (6m), (6s), (8m), (9m), (10) to (16)NR 210.035 NR 210.08 NR 210.12 NR 210 19 NR 210.20 NR 210.205 NR 210.21 NR 210.22 NR 210.23 NR 210.24 NR 210.25

## Public Defender

**Ch. PD 3** PD 3.03 (2), (3) **Ch. PD 6** PD 6.025 (1), (2) (a)

#### **Editorial Corrections**

Corrections to code sections under the authority of s. 13.92 (4) (b), Stats., are indicated in the following listing.

#### **Natural Resources**

Ch. NR 110 NR 110.03 (13c), (14), (29m), (30p), (31c), (31t), (32i), (32r) Ch. NR 205 NR 205.03 (39r), (Note) NR 205.07 (1) (n) (Note), (r) 1. (Note)

#### Ch. NR 210

NR 210.23 (3) (c), (4) (c) 5. (Note) NR 210.03 (14), (Note) Ch. NR 345 NR 345.03 (10r) (Note) NR 345.04 (2) (b) (Note), (c) 10. (Note), (im) 12. (Note)

# **Executive Orders**

## The following are recent Executive Orders issued by the Governor.

**Executive Order 105.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half–Staff in Vilas County as a Mark of Respect for Vilas County Sheriff Frank Tomlanovich. (June 24, 2013)

**Executive Order 106.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half–Staff as a Mark of Respect for Lance Corporal Merlin Raye Allen of the United States Marine Corps Who Lost His Life While Serving His Country During the Vietnam War. (June 25, 2013)

Executive Order 107. Relating to a Proclamation Declaring a State of Emergency in Response to Widespread Flooding. (June 26, 2013)

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Office of the Village Director of Public Works **John P. Steinbrink, Jr.** 

To: Michael Pollocoff

**From:** John Steinbrink, Jr.

Subject: Replace Fencing at Lake Andrea Beach

Date: September 16, 2013

On July 29, 2013, a bid announcement for Replace Fencing at Lake Andrea Beach was advertised in the Kenosha News and distributed to contractors pre-qualified to work in the Village.

On August 14, 2013, sealed bids were opened for the contract to install fencing. Three bids were received:

<u>Company</u>	Bid
Statewide Fencing	\$28,255.00
Century Fence	\$38,678.86
Aluminum Fence	\$38,763.55

The fence at the Lake Andrea Beach was constructed in 1994 and is currently 48 inches tall. There has been an issue with people jumping the fence and loss of revenue from people not paying for passes at the beach. The new fencing will be 72 inches tall green vinyl coated cyclone. Staff also evaluated gate locations, sizes and traffic flow. With the addition of beach volleyball, there will be a fence separating the beach from the volleyball area.

I recommend a contract be awarded to Statewide Fencing to Replace Fencing at Lake Andrea Beach.

# Beach Volleyball Fencing Attachment A





Office of the Village Director of Public Works **John P. Steinbrink, Jr.** 

- To: Michael Pollocoff
- From: John Steinbrink, Jr.
- Subject: Replace roof on salt shed
- Date: September 16, 2013

On July 29, 2013, a bid announcement for to Replace the roof on the salt shed was advertised in the Kenosha News and was also distributed to contractors pre-qualified to work in the Village.

On August 14, 2013, sealed bids were opened for the contract. Two bids were received:

	Replace	Replace
Base Bid	Light panel	Plywood
\$47,833.20	Included	\$ 1.82 each
\$53,300.00	\$6,482.00	\$33.00 each
	\$47,833.20	Base BidLight panel\$47,833.20Included

The 2013 approved budget for this project is \$80,000.

The existing roof was installed in 1993 and has exceeded its useful life. Tri County has built many salt storage sheds in the Midwest.

I recommend a contract be awarded to Tri-County Contractors to replace the roof, light panel and any damaged plywood underlayment for \$47,833.20 and \$1.82 for each sheet of plywood in need of replacement.

Office of the Village Superintendent of Streets and Parks John Steinbrink, Jr.



То:	Mike Pollocoff
From:	John Steinbrink Jr.
Subject:	Cleaning Services at the Roger Prange Municipal Center and Village Hall
Date:	September 16, 2013

On August 27 a request for proposal of cleaning services was issued to VendorNet where it was sent to 139 cleaning companies. It was also advertised in the Kenosha News Legal Section for two weeks.

On September 10, 2013 at 10:00 a.m., sealed bids were opened to provide cleaning services at the Roger Prange Municipal Center and Village Hall. Two bids were received:

Vendor	Monthly Amount
Clean and Green Solutions	\$5,375
DK Solutions	Non Responsive – received late at 11:17am via postal service

The current contract holder Iglesias Super Clean has been bought by another company and has canceled their contract of \$4,965 monthly with Pleasant Prairie October 6, 2013.

Clean and Green Solutions is currently providing cleaning services to Kenosha Area Chamber of Commerce, Forever Floors, Riley Construction, SuperValu, Boys and Girls Club, and many other businesses in the area. The company is locally owned and operated.

I recommend a contract be awarded to Clean and Green Solutions for the amount of \$5,375 per month to provide cleaning services at the Roger Prange Municipal Center and Village Hall for a three year contract to be paid \$5,375.00 monthly. The contract will begin on October 6, 2013 and terminate October 5, 2016.

\*\*\*\*\*\*\*

#### Ordinance No. 13-44

### Ordinance to Amend Chapter 242 of the Municipal Code of the Village of Pleasant Prairie, Kenosha County, Wisconsin relating to the Dog Park at Ingram Park

**BE IT ORDAINED AND ESTABLISHED** by the Village Board of Trustees of the Village of Pleasant Prairie, Kenosha County, Wisconsin, that Chapter 242-3 C. is hereby created as follows:

§ 242-3. Park fees.

#### C. Ingram Park

1) Dog Park Fees –All dogs using the dog park must have a Village of Pleasant Prairie Annual Dog Park Tag or the owner can pay a daily fee each day the park is visited. Fees to use the dog park in Ingram Park are set forth in Chapter 214 of the Municipal Code. No annual dog park tag shall be granted without proof that a dog is currently licensed in Kenosha County or another municipality where the dog is kept.

2) Dog Park Rules and Regulations. Set forth below are the rules and regulations for the use of the Dog Park in Ingram Park.

- a. Park Ordinances require an owner/handler clean up and properly dispose of waste left by their dog(s).
- b. Dogs must be kept on a leash until they are in the dog park entrance and the gate has closed behind them. For the safety of your pet as well as others, do not keep your dog on a leash while inside the dog park.
- c. Dog owner/handler must be physically capable of controlling their dog. All owner/handlers are required to remain inside the off-leash area and be in view of their dog(s) at all times. The limit is three dogs per handler, per visit.
- d. Aggressive dogs, or dogs that have been determined to be vicious are not permitted on the premises. Dogs exhibiting rough, aggressive or dangerous behavior must be removed by owner immediately.
- e. Excessive barking is prohibited. Dogs barking excessively must be removed by owner.
- f. All dogs must be current on vaccinations.
- g. All dogs must be licensed by their respective municipality and display said license/tag while in the dog park. Non-County residents must have the current rabies vaccine tag as well as a dog license tag issued by the governing body where they reside.

- h. Leashes must be kept on dog, until inside the double-gates entry. Remove leash prior to entering second gate. Do the reverse when leaving.
- i. The off-leash dog park is for dogs and their handlers. No other type of animal (i.e. hunting or other use) is allowed. No firearms or starting pistols are permitted
- j. Absolutely no female dogs in heat or puppies under the age of four months are allowed in the dog park.
- k. No smoking, food, alcoholic beverages, glass containers, strollers or bicycles are allowed inside the dog park.
- 1. Please leave your dog toys at home.
- m. Children under 18 years old must be accompanied and supervised closely by an adult at all times. It is recommended that small children not be brought into the off-leash area. Children are not permitted to run with, or chase, dogs.
- n. Users of the dog park do so at their own risk. The Village of Pleasant Prairie is not liable for any injury or damage caused by any dog or person in this park. Owners and users agree to assume the full responsibility of any injuries, damages or loss to themselves, their dogs or property or any damage to other people or dogs connected with or associated with their use of the park.

3) Any person who violates the provisions of this section shall be subject to the penalties set forth in Section 242-12 of this Chapter.

Passed and adopted this 16th day of September, 2013.

John P. Steinbrink, President

Attest:

Jane M. Romanowski, Clerk

Posted:\_\_\_\_\_

#### **RESOLUTION #13-19**

### AUTHORIZING THE VILLAGE OF PLEASANT PRAIRIE TO WRITE OFF UNCOLLECTIBLE FIRE DEPARTMENT CHARGES FOR SERVICES

WHEREAS, the Village of Pleasant Prairie provides various Fire Department services that are not directly related to fire suppression at specific private or public properties within the Village of Pleasant Prairie, and;

WHEREAS, the nature of these services range from the engineering review and inspection of private fire sprinkler systems submitted by developers, to individuals receiving fire rescue services at automobile accidents located on federal or state highways, and;

WHEREAS, the State of Wisconsin will not reimburse the Village of Pleasant Prairie for fire department rescue services provided on interstate or state highways as the do for Cities and Towns in Wisconsin, and;

WHEREAS, ordinances and public policy of the Village of Pleasant Prairie requires that local property taxpayers shall not be required to subsidize developers or citizens passing through the Village for services that are provided and paid for and by the taxpayers of the Village of Pleasant Prairie, and;

WHEREAS, since collection of invoices of charges for fire services is a time consuming task for the Village, those activities have been bid and contracted to Andres Medical Billing (AMB) a private service since 2010 for, and;

WHEREAS, on August 5, 2013, the Village Board approved a contract with Fire Recovery USA to enter into a contractual agreement to bill and collect fire service charges on behalf of the Village of Pleasant Prairie, and;

WHEREAS, the Village of Pleasant Prairie has accumulated \$53,080.96 of delinquent fire service charges dating from 2004 through 2009, when AMB assumed the responsibility for the billing and collections, and;

WHEREAS, the Village Finance Director recommends that these delinquent receivables be removed from the Village's financial records as uncollectible.

NOW, THEREFORE, BE IT RESOLVED that the Village Board of the Village of Pleasant Prairie does approve the removal of said fire service charges from the Village's financial records as recommended by the Village Finance Director.

Passed and adopted this 16<sup>th</sup> day of September, 2013.

John P. Steinbrink, President

Attest:

Jane M. Romanowski, Village Clerk

Posted:\_\_\_\_\_

FIRE 100-131434           09/07/04         20040982         Gonzalez, Eriberto         440.48         To collections 6/6/05           09/07/04         20040986         Ziebel, Jacqueline         396.25         Final Notice 4/1/05-agr           11/16/04         20041329         Merten, Anna         372.23         Haven't made paymen           04/25/05         20050399         Williams, Ginger         435.75         to collections 10/20/05	
09/07/0420040986Ziebel, Jacqueline396.25Final Notice 4/1/05-agr11/16/0420041329Merten, Anna372.23Haven't made paymen04/25/0520050399Williams, Ginger435.75to collections 10/20/05	
11/16/0420041329Merten, Anna372.23Haven't made paymen04/25/0520050399Williams, Ginger435.75to collections 10/20/05	
04/25/05 20050399 Williams, Ginger 435.75 to collections 10/20/05	reed to \$10/mo
, 0	nt in over a year
	5
04/25/05 20050412 Martinez, Barbara 291.55 Haven't made paymen	nt in over a year
09/12/05 20051182 Martinez, Gabriela 450.98 to collections 6/15	
10/24/05 20051371 Mataya, Shannon 450.98 to collections 6/15	
10/24/05 20051372 Walker, Jeffery 462.00 to collections 6/15	
10/31/05 20051439 McDonald, Michelle 482.48 to collections 6/15	
11/18/05 20051526 Kosterman, Joshua 466.73 to collections 2/1	
11/21/05 20051529 Todd Smith 477.23 to collections 2/1	
12/19/05 20051708 Fonk, Brandon 503.48 to collections 2/1	
12/19/05 20051709 Copeland, Sheery 225.49 to collections 2/1	
12/19/05 20051710 Ruiz, Alison 112.74 to collections 2/1	
12/19/05 20051711 Larson, Sherry 100.98 Haven't made paymen	nt in over a year
01/24/06 20051808 Tatum, Tamica 240.98 to collections 2/1	
01/24/06 20051811 Amoco 491.93 to collections 2/1	
02/20/06 20060089 Poole, Christina 450.98 to collections 2/1	
02/20/06 20060092 Noyola, Elizabeth 223.12 to collections 2/1	
07/14/06 20060755 Rodriguez, Edwin 450.98 to collections 2/28	
07/14/06 20060758 Walker, Aam 450.98 to collections 2/28	
07/14/06 20060761 Manya, Noorjehan 1,675.25 Haven't made paymen	nt in over a year
07/14/06 20060763 Alehandre-Reyes 450.93 to collections 2/28	
07/14/06 20060765 Bruce, Lisa 450.98 to collections 2/28	
07/14/06 20060767 Schmidt, Leah 450.98 to collections 2/28	
07/18/06 20060787 Toppel, Colin 466.73 to collections 2/28	
10/09/06 20061214 Williams, Kenneth 435.75 to collections 7/20/07	
10/09/06 20061215 Voight, Bryon 455.70 to collections 7/20/07	

	INVOICE			COLLECTION
DATE	NUMBER	NAME	AMOUNT	STATUS
10/24/06	20061372	Larison, John	482.48	to collections 7/20/07
10/24/06	20061373	Moore, Albert	482.48	to collections 7/20/07
01/19/07	20061788	Anderson, Mark	249.37	to collections 9/07
01/19/07	20061789	Cruiz, Zina	450.98	to collections 9/07
01/19/07	20061791	McCarter, Steven	572.25	to collections 9/07
03/22/07	20070184	Iwabuchi, Yoshihiro	440.48	to collections 12/4/07
03/22/07	20070185	Kakazu, Anette	477.75	to collections 12/4/07
03/22/07	20070187	Ragin Cory	480.90	to collections 12/4/07
03/22/07	20070190	Gutierrez, Gloria	466.73	to collections 12/4/07
05/21/07	20070527	Wokcik, Terri	488.25	to collections 12/4/07
05/21/07	20070528	Ellis, Sherri	451.50	to collections 12/4/07
05/21/07	20070531	Jones, Michael	446.25	to collections 12/4/07
05/21/07	20070532	Frayer, Jean	466.73	to collections 12/4/07
05/21/07	20070534	Lopez, Dalilia	1,740.28	Haven't made payment in over a year
05/21/07	20070536	Douber, Brynn	466.73	to collections 12/4/07
06/11/07	20070618	Baker, Judith	451.95	to collections 12/4/07
07/05/07	20070745	Humphrey, Jill	466.73	to collections 12/4/07
07/05/07	20070746	Ditsch, Brittany	455.70	to collections 12/4/07
07/05/07	20070749	Vallin, Gustavo	498.75	to collections 12/4/07
07/05/07	20070752	Harris, Sharmain	466.73	to collections 12/4/07
07/24/07	20070881	Roscioli, Ashley	440.48	to collections 12/4/07
08/20/07	20071016	Tinglestad, Dave	450.98	to collections 12/4/07
08/20/07	20071018	Barter, Mickael	450.98	to collections 12/4/07
08/20/07	20071019	Sally Drew	492.98	to collections 12/4/07
10/03/07	20071284	Koschnitzke, Tara	504.00	to collections 2/26/2008
10/03/07	20071286	Peterson, Anita	466.73	to collections 2/26/2008
02/14/08	20071917	Castellanos, Marlon	897.75	to collections 6/3/2008
02/14/08	20071918	Brown, Ricky	251.50	to collections 6/3/2008
02/14/08	20071919	Purnell, Tommie	530.25	to collections 6/3/2008
02/14/08	20071921	Saavedre, Janita	450.98	to collections 6/3/2008
02/14/08	20071924	Riley, Qiana	450.98	to collections 6/3/2008

	INVOICE			COLLECTION
DATE	NUMBER	NAME	AMOUNT	STATUS
02/14/08	20071927	Ainsley, Kimberly		to collections 6/3/2008
02/14/08	20071931	Kupfer, Robert		to collections 6/3/2008
03/18/08	20080217	Stonis, Ian	440.48	to collections 6/3/2008
03/18/08	20080221	Spencer, Renee	466.73	to collections 6/3/2008
03/25/08	20080278	Cantrell, Steve	450.98	to collections 6/3/2008
05/07/08	20080468	Stowell, Vincent	498.75	to collections 9/29/2008
06/17/08	20080706	Johnson, Janel	508.73	to collections 9/29/2008
06/17/08	20080707	Michalski, Laura	450.98	to collections 9/29/2008
06/17/08	20080709	Berg, Lee	450.98	to collections 9/29/2008
06/17/08	20080710	Suite, Joshua	497.70	to collections 9/29/2008
07/30/08	20080866	Fraizer, Theopra	924.00	to collections 4/06/2009
12/02/08	20081521	Fellows	465.15	to collections 12/09/2009
12/02/08	20081522	Caddock	223.12	to collections 4/06/2009
12/02/08	20081523	Raming	450.98	to collections 4/06/2009
12/02/08	20081525	Zinger, Miranda	457.48	Haven't made payment in over a year
02/25/09	20081780	Peet, Justin	456.23	to collections 12/09/2009
03/18/09	20090252	Kaelber, Melody	435.75	to collections 12/09/2009
03/18/09	20090253	CPI Plastics	262.50	to collections 12/09/2009
03/18/09	20090254	Combs, Veronica	477.23	to collections 12/09/2009
05/08/09	20090397	Ross, Jennifer	466.73	to collections 12/09/2009
05/08/09	20090399	Kosup, Jeremy	488.25	to collections 12/09/2009
05/08/09	20090402	Gallardo, Alphonso	519.23	to collections 12/09/2009
06/18/09	20090572	Ponce	6.79	insurance
08/06/09	20090692	Ballard, Zach	481.95	to collections 2/2010
08/06/09	20090693	Prevost, Andrea	1,302.00	to collections 2/2010
08/06/09	20090694	Bulter, Sherry	477.75	to collections 2/2010
08/06/09	20090695	Trjada, Juan Carlos	466.73	to collections 2/2010
08/06/09	20090696	Gonzalez, Vicente	504.00	to collections 2/2010
08/06/09	20090697	Blasi, Eugene	435.75	to collections 2/2010
08/06/09	20090700	Garza, Yliana	316.73	Haven't made payment in over a year
08/12/09	20090717	Pro Tour	3,922.40	to collections

	INVOICE			COLLECTION
DATE	NUMBER	NAME	AMOUNT	STATUS
09/14/09	20090842	Zamora Leqncio	504.00	to collections 2/2010
09/14/09	20090844	Parrish	466.73	to collections 2/2010
09/15/09	20090845	Diaz, Luis	466.73	to collections 2/2010
12/09/09	20091155	Bell, Timmothny	1,322.48	to collections
12/09/09	20091156	Duty, Shirley	1,275.75	to collections
12/09/09	20091157	Nielson, Lisa	446.25	to collections
12/09/09	20091158	Hernandez	481.43	to collections
12/09/09	20091161	Ryan	456.23	to collections
12/09/09	20091162	Phommasack	487.20	to collections
12/09/09	20091166	Altmann	450.98	to collections
12/09/09	20091167	Johnson	482.48	to collections

TOTAL OUTSTANDING ACCOUNTS RECEIVABLE 12/31/12

53,080.96

From: Mr. and Mrs. Carlos R. Sierra 336 6th PL Racine, WI 53403-9605

To: Village of Pleasant Prairie Attn: Accounts Payable 9915 39th Avenue Pleasant Prairie, WI 53158

## RECEIVED

SEP 1 2 2013 Village of Pleasant Prairie

SEPTEMBER BILLING STATEMENT FOR SERVICES DEMANDED AND

PERFORMED

Billing period August 7, 2013 - September 6, 2013

For mangagement of and public use of the Sierra Lot (Tax Key # 93-4-123-203-

0200) Lakeshore Drive, Pleasant Prairie, Wisconsin

Payment Due: Primary Environmental Corridor Funding Fee 31 days @ \$500 per day = \$15,500

Outstanding payment 30 days past due: \$42,000

Late fees: \$1090.99

Total due: \$58,590.99

Payment after September 7, 2013 accrues late fees of 1.5% per month.

Make check payable to: Carlos R. Sierra & Marilyn A. Sierra





# MEMORANDUM

То:	Village Board of Trustees
From:	Michael R. Pollocoff Village Administrator
Date:	September 10, 2013
Re:	<b>Community Development Authority Appointments</b>

I recommend the following appointments to the Community Development Authority for the terms listed below:

# **Community Development Authority**

Jill Sikorski (Alternate)

Term – October 7, 2014

\* \* \* \* \*

## CLERK'S CERTIFICATION OF BARTENDER LICENSE APPLICATIONS Period Ending: September 10, 2013

I, Jane M. Romanowski, Village Clerk of the Village of Pleasant Prairie, Kenosha County, Wisconsin, do hereby certify the following persons have applied for bartender licenses and **each applicant is in compliance with the guidelines set forth in Chapter 194 of the Municipal Code.** I recommend approval of the applications for each person as follows:

## NAME OF APPLICANT

### LICENSE TERM

- 1. Elisha B. Miller
- 2. Lindsay M. Peterson
- 3. Destinee N. Strange

thru June 30, 2015 thru June 30, 2015 thru June 30, 2015

Jane M. Romanowski Village Clerk