

Village of Mukwonago
Notice of Meeting and Agenda

PLAN COMMISSION MEETING
Tuesday, October 12, 2021

Time: **6:30 pm**

Place: **Mukwonago Municipal Building, Board Room, 440 River Crest Ct, Mukwonago, WI 53149**

1. Call to Order

2. Roll Call

3. Comments from the Public

Please be advised, per Wisconsin Statute Sec. 19.84(2), information and comment will be received from the public by the Plan Commission. The Public Comment Session is granted to the public at the start of each Plan Commission meeting. The Public Comment Session shall last no longer than fifteen (15) minutes and individual presentations are limited to three (3) minutes per speaker. However, these time limits may be extended at the discretion of the Chief Presiding Officer. The Plan Commission may not respond to or have any discussion on information received during the public comment session unless it is placed upon the Agenda for a subsequent meeting. Public comments should be addressed to the Plan Commission as a body. Presentations shall not deal in personalities personal attacks on members of the Plan Commission, the applicant for any project or Village Employees. Comments shall not be used to engage others in a debate in this forum. All comments, questions and concerns should be presented in a respectful professional manner. Any questions to an individual member of the Plan Commission or Staff will be deemed out of order by the Presiding Officer.

4. Approval of Minutes

- 4.1 Approval of September 14, 2021 minutes.
[20210914 PlanCommissionMinutesdraft.pdf](#)

5. Public Hearings

All persons interested in making comments about any of the public hearing items will be heard. Formal petitions and written comments regarding any of the public hearing items may be submitted tonight. During the public hearing(s), if you wish to be heard, the Plan Commission asks that you begin by stating your name and address, speak for no more than three minutes and attempt to avoid duplication. Each person speaking at the public hearing must sign the Public Hearing Appearance sign-in sheet before speaking. The sign-in sheet is available on the table located at the back of the room.

- 5.1 Public Hearing to consider an Amendment to a Conditional Use for an auto body repair facility and auto rental facility, James Fleury/Fleury's Body Repair, applicant; 1006 Main St; Parcel MUKV 2009-984.
[Public Hearing Notice PC -CU - 1006 Main St.pdf](#)

6. New Business

Discussion and Possible Action on the Following Items

- 6.1 Discussion and possible recommendation to the Village Board **RESOLUTION 2021-76** for a Conditional Use Permit for an Auto Body Repair Facility and Auto Rental Facility for JLF REAL ESTATE LLC (James Fleury – Fleury’s Body Repair), applicant: 1006 Main Street, Parcel Number: MUKV 2009-984.
[RESOLUTION 2021-76 - CU - 1006 Main- Fleury - MUKV2009984.pdf](#)
[Staff Report - CU-SPAR - Fluerys - 1006 Main - MUKV2009984.pdf](#)
- 6.2 Discussion and possible recommendation to the Village Board **RESOLUTION 2021-77** for site plan and architectural approval for modifications to an Auto Body Repair Facility and Auto Rental Facility for JLF REAL ESTATE LLC (James Fleury – Fleury’s Body Repair), applicant: 1006 Main Street, Parcel MUKV 2009-984 .
[Staff Report - CU-SPAR - Fluerys - 1006 Main - MUKV2009984.pdf](#)
[RESOLUTION 2021-77 \(Fleury SPAR\).pdf](#)
- 6.3 Discussion and possible recommendation to Village Board **RESOLUTION 2021-74** to approve a land division for a two lot Certified Survey Map (CSM), Hill Court, for the Village of Mukwonago; Parcel #A493600002
[Staff Report - CSM - Hill Court - #A493600002.pdf](#)
[RESOLUTION 2021-74 CSM Hill Court #A493600002.pdf](#)
- 6.4 Discussion of conceptual preliminary plat for Chapman Farms Subdivision, Phase 1, 2, 3, and 4, applicant Bielinski Homes, Inc., Parcel Numbers MUKV1957001010, MUKV1957001001, MUKV1957007, MUKV1957006, MUKV1957004, MUKV1957005, MUKV1957011, MUKV1957010, MUKV1957997001.
[Staff Report - Conceptal Review of Preliminary Plat - Champman Farms.pdf](#)
- 6.5 Consideration of approval for signage, campus master plan for signage, and a recommendation to the Village Board for an ordinance to amend section 64-20(d) and Section 64-24 of the municipal code of the Village of Mukwonago regarding temporary and/or quasi-permanent signs and other advertising devices allowed on business and manufacturing zoned properties requiring a permit / traffic directional signs, off-street on private property and exempt signs; 240 Maple Ave, MUKV2016993002
[Staff Report - 240 Maple - Pro Health Signs - MUKV2016993002.pdf](#)
- 6.6 Discussion and update regarding Article 5, 12, 13, 14, and 15 of the Zoning Code rewrite
[Memo To PC regarding chapter 5 and articles 12-15 drafts 10-2021.pdf](#)

7. Adjournment

Membership:

Eric Brill, James Decker, Karl Kettner, Mark Penzkover, Tim Rutenbeck, Jason Wamser, Fred Winchowky, and John Fellows (Advisory)

It is possible that a quorum of, members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Please note, upon reasonable notice, efforts will be made to accommodate the needs of

individuals with disabilities through appropriate aids and services. For additional information or to request this service, contact the Municipal Clerk's Office, (262) 363-6420.

MINUTES OF THE PLAN COMMISSION MEETING

Tuesday, September 14, 2021

Call to Order

Deputy Clerk Gourdoux called the meeting to order at 6:30 p.m. located in the Board Room of the Mukwonago Municipal Building, 440 River Crest Ct.

Roll Call

Commissioners present: Jim Decker
Jason Wamser
Eric Brill
Tim Rutenbeck
Karl Kettner
Mark Penzkover

Commissioners excused: Fred Winchowky, Chairman

Also present: John Fellows, Village Planner
Linda Gourdoux, Deputy Clerk/Treasurer

In the Absence of the Chair, Deputy Clerk Gourdoux asked for a motion to nominate a Chair Pro Tem.

Motion made by Decker/Kettner to nominate Commissioner Brill as Chair, carried

Comments from the Public

Opened at 6:31 pm
No Comments from the public
Closed at 6:32 pm

Minutes

Motion made by Decker/Kettner to approve the minutes of the August 10, 2021 meeting, carried.

New Business

Consideration of approval for building modification to 406 Grand Ave; Parcel MUKV 1973-046, a contributing building within the Pearl and Grand Historic District.

Fellows gave overview of project

Motion by Decker/Rutenbeck to approve Certificate of Appropriateness for building modifications to 406 Grand Ave; Parcel MUKV 1973-046, a contributing building within the Pearl and Grand Historic District, carried.

Discussion and possible recommendation to Village Board RESOLUTION 2021-68 for Site Plan and Architectural Review for the addition of a Silo for Aptar Group, applicant; 711 Fox St; Parcel MUKV 1970-989.

Fellows gave overview of project

Motion by Decker/Penzkover to approve **RESOLUTION 2021-68** for Site Plan and Architectural Review for the addition of a Silo for Aptar Group, applicant; 711 Fox St; Parcel MUKV 1970-989, carried.

Adjournment

Meeting adjourned at 6:39 p.m.

Respectfully Submitted,
Linda Gourdoux, WCMC
Deputy Clerk/Treasurer

DRAFT

**NOTICE OF PUBLIC HEARING BEFORE THE VILLAGE OF MUKWONAGO
PLAN COMMISSION TO CONSIDER AN AMENDMENT TO A CONDITIONAL
USE FOR AN AUTO BODY REPAIR FACILITY AND AUTO RENTAL FACILITY AT
1006 MAIN STREET, MUKV2009984**

Please take notice there will be a public hearing before the Village of Mukwonago Plan Commission in the Board Room of the Village Hall, 440 River Crest Court, Mukwonago, Waukesha and Walworth Counties, on Tuesday, October 12, 2021, commencing at 6:30 P.M. or soon thereafter to consider the following matter:

REGARDING: Consideration of a request for an auto body repair and auto rental facility, with a permitted or conditional use as a conditional use pursuant to Section 100-351, 100-152(F)(2) and 100-157 of the Village's Zoning Ordinance

APPLICANT: James Fleury / Fleury's Body Repair

For more information, please contact John Fellows, AICP, Village Planner at (262) 363-6420 x. 2111, or at planner@villageofmukwonago.com.

Diana Dykstra, Clerk-Treasurer

To be published: September 21st and September 28th.

RESOLUTION 2021-76

**Village of Mukwonago Order Granting a
Conditional Use and Prescribing
Conditions for an Auto Body Repair
Facility and Auto Rental Facility for JLF
REAL ESTATE LLC (James Fleury –
Fleury's Body Repair) at 1006 Main
Street, Mukwonago, WI**

WHEREAS, JLF REAL ESTATE LLC (James Fleury – Fleury's Body Repair) (hereinafter "property owner") owns the property identified as 1006 Main Street, (hereinafter "subject property") in the Village of Mukwonago, more particularly described as follows:

PT NE1/4 SEC 35 T5N R18E COM E1/4 COR W
2303.7 FT N15 00'E 154.59 FT THE BGN N14 00'E
214.68 FT E 127.80 FT S70 31'E 300.03 FT S14 00'W
216.13 FT N62 12'W 217.62 FT W 217.8 FT TO BGN
EX R617/117 EX DOC# 3002878 DOC# 3024131

WHEREAS, the property owner has, consistent with the Village of Mukwonago's zoning regulations, submitted a conditional use application for an outdoor dining area per Section 100-153 (f) (2), and

WHEREAS, upon receipt of the petition submitted by the property owner and future purchaser, the Village Clerk properly referred such petition to the Plan Commission; and

WHEREAS, allowing for required public notice, the Plan Commission conducted a public hearing on October 12, 2021 to consider the petitioner's request; and

WHEREAS, members of the public in attendance were given ample opportunity to provide comment regarding the petitioner's request; and

WHEREAS, the Plan Commission passed a motion recommending to the Village Board that the conditional use be approved subject to certain conditions; and

WHEREAS, the Plan Commission, in passing on the matter, has made the following determinations consistent with Section 100-354 of Mukwonago's zoning regulations:

1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or welfare of the Village.
2. The uses, values and enjoyment of other property in the surrounding neighborhood that are already permitted shall be, in no foreseeable manner, substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
3. The establishment of the conditional use will not impede the normal and ordinary development and improvement of the surrounding property for uses permitted within the district and/or which are consistent with the standards in the Comprehensive Plan.
4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made to accommodate the use.
5. Adequate measures have been taken or will be taken providing ingress and egress to minimize traffic congestion on public streets so as not to diminish the level of service of any intersection which is impacted by traffic arising from the conditional use.

Return to:

Diana Dykstra, Clerk-Treasurer
Village of Mukwonago
440 River Crest Court
Mukwonago, WI 53149

Parcel Number: MUKV-2009-984

In addition, the property owner and future purchaser has shown compliance with the requirements set forth in the Village's zoning regulations for the specified use.

WHEREAS, the Village Board has carefully reviewed the recommendation of the Plan Commission and concurs with the Plan Commission's findings set forth above, provided the conditional use is operated pursuant to the conditions of approval set forth in this order.

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED AS FOLLOWS:

1. **Authorized uses.** Subject to the terms and conditions of this approval and the sections of the zoning code that apply, the property owner is authorized to add additional landscaping to the site, a retaining wall, and vacuum stalls.
2. **Issuance of permit required.** The zoning administrator is authorized to issue the property owner a conditional use permit when all conditions enumerated in section 3 have been satisfied to his or her satisfaction. Such permit is the last approval before the property owner/tenant can begin to establish the use as authorized herein.
3. **Initial conditions of approval.** The following conditions shall be satisfied prior to the issuance of the conditional use permit:
 - a. The property owner must submit site/architectural plans to the Village for review and obtain approval of the same within 9 months of the date of this decision.
 - b. The property owner must accept the terms and conditions of this conditional use order in its entirety in writing within 6 months of the date of this decision. Prior to such expiration, the property owner may request an extension to this time period and the Village Clerk may approve an extension with good cause.
 - c. This order must be recorded against the subject property in the Waukesha County register of deeds office (only if subsections 3(a) through 3(b) have been satisfied).

In the event the requirements enumerated in subsections 3(a) and 3(b) above are not satisfied, this order shall automatically be null and void without any further action by the Village of Mukwonago on the aforementioned date.

4. **Ongoing conditions of approval.** The following conditions shall constitute an ongoing obligation:
 1. The on-going operation of auto body shop and auto rental facility shall be consistent with the written information and plans submitted by the applicant along with statements made at the public hearing by the applicant or by others on behalf of the applicant.
 2. Any future expansion or changes to the plan of operation as presented shall gain a new or amended Conditional Use approval.
 3. The property shall be always maintained in a clean and presentable condition. No debris shall accumulate on the site. Prior to the issuance of a building permit for the presented new building and addition, applicant shall designate one area on the site plan for the storage of scrap metal and used auto parts, as approved by the Zoning Administrator. All scrap metal and auto parts shall be stored only within the designated area and shall be periodically removed from the site.
 4. This Conditional Use approval shall not be transferred within the subject property to another Conditional Use category without submittal and approval for a new Conditional Use.
 6. Prior to issuance of building permits for the use, applicant shall pay all required charges and fees to the Village. In addition, any other charges and fees accrued during construction shall be paid before to issuance of an occupancy permit.
 7. Applicant and/or property owner shall be responsible for enforcement of all requirements of this Conditional Use approval. If not enforced by property owner, the property owner will be responsible for compliance and financial penalties as allowed by municipal code.
 8. Operating hours shall not exceed 6am to 8pm Monday- Friday for both businesses.

9. Rear parking area (fence in area) shall be screened from view of adjoining properties.

5. **Expansion or changes.** The conditional use hereby authorized shall be confined to the subject property without extension or expansion. Any expansion or change in use shall require issuance of a new conditional use approval pursuant to the requirements in effect at the time of application.

6. **Modification of property boundary lines.** The property owner shall not change the size and/or shape of the subject property by any means without the approval of the Village Board. If the Village Board determines that a proposed change is substantial with regard to the overall size of the parcel and/or configuration, such change shall require issuance of a new conditional use approval pursuant to the requirements in effect at the time of application.

7. **Plans and related matters.** Unless otherwise expressly stated herein, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Plan Commission if the Plan Commission finds the amendment to be minor and consistent with the conditional use order and permit. Any change in any plan that the Plan Commission feels, in its sole discretion to be substantial, shall require a new conditional use approval and all procedures in place at the time must be followed.

8. **Inspection.** The property owner shall allow Village of Mukwonago staff, officials, and other authorized agents to inspect the subject property, at any reasonable time and for any proper purpose related to compliance with this conditional use order.

9. **Discontinuance.** Should the conditional use be discontinued in use for 365 consecutive days the use shall be terminated as set forth in the Village of Mukwonago's zoning regulations.

10. **Private rights.** This approval is given under the Village of Mukwonago's zoning regulations and is not to be interpreted to abrogate any private rights other property owners may have pursuant to deed restrictions or restrictive covenants.

11. **Interpretation.** If any aspect of this conditional use order is in conflict with any other aspect of the conditional use order, the more restrictive provisions shall be controlling, as determined by the Plan Commission.

12. **Other permits.** This order shall not be deemed to constitute a building permit, or constitute any other license or permit required by Village ordinance, or other local, state, or federal law.

13. **Severability.** In the event a court of competent jurisdiction determines that a paragraph or phrase of this conditional use order is unlawful, illegal, or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use order and the remainder shall continue in full force and effect.

14. **Heirs, successors, and assigns.** This conditional use order shall be binding upon the property owner and their heirs, successors, and assigns. Upon a change in ownership, the property owner shall notify the Village Clerk.

15. **Ongoing review.** This conditional use may be reviewed by the Plan Commission with notice to the property owner at any time upon complaint or upon Plan Commission initiative. If it is determined that the authorized use is no longer compatible, or that the provisions of this approval have not been complied with, the Village Board may revoke or amend this order after recommendation by the Plan Commission and holding of a public hearing.

16. **Amendment.** The property owner may propose an amendment to this conditional use order at anytime by submitting a written petition to the Village Clerk, which shall be reviewed pursuant to the requirements in effect at the time of application.

17. **Violation.** Any violation of this order may be treated as a violation of Mukwonago's zoning regulations and each day of each violation of each condition herein shall be treated as a separate violation.

18. **Acceptance.** GRANTEES hereby accept the said Conditional Use Grant and covenant strictly to comply with all the terms and conditions thereof. GRANTEES acknowledge that, in accordance with the provisions of the Zoning Code, failure to comply with any conditions of the Conditional Use Grant is cause for the termination of said Grant by the Village. GRANTEES also acknowledge that approval of the Conditional Use Grant allows the appropriate Village officials to conduct reasonable and routine inspections of the property. This Covenant shall run with the land and shall be binding on the GRANTEES and all persons claiming any estate or interest in the Premises by, through or under the GRANTEES, as long as the said Premises are used as described in the Conditional Use Grant

Approved this 20th day of October 2021

BY THE VILLAGE BOARD OF THE VILLAGE OF MUKWONAGO

Fred H. Winchowky, Village President

Attest:

Diana Dykstra, Village Clerk

STATE OF WISCONSIN, WAUKESHA/WALWORTH COUNTY

Personally came before me this 20th day of October 2021, the persons described above, Fred H. Winchowky, Village President, and Diana Dykstra, Village Clerk, to me known to be the persons who executed the foregoing instrument and to me known to be such Village President and Village Clerk of the Village of Mukwonago and acknowledged that they executed the foregoing instrument as such officers of said municipal corporation by its authority and pursuant to the authorization by the Village Board from their meeting on the 20th day of October, 2021.

NOTARY PUBLIC

My Commission Expires:

The remainder of this page left intentionally blank.

Acceptance by Property Owner

I, James Fleury verify that I am an authorized agent for Fleury’s Body Repair / Enterprise Rental accepts the terms stated herein.

Dated this _____ day of _____, 2021

James Fleury, agent

STATE OF WISCONSIN, WAUKESHA/WALWORTH COUNTY

Personally, came before me this _____ day of _____, 2021, the above-named person, James Fleury to me known to be the person who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC

My Commission Expires:

Drafted by John S. Fellows, AICP, Planner, at the direction of the Mukwonago Village Board.



PLANNING COMMISSION

October 12, 2021 at 6:30pm

Mukwonago, WI

SITE PLAN AND ARCHITECTURAL REVIEW AND CONDITIONAL USE PERMIT

1006 Main Street

Parcel Number: MUKV2009984

Case Summary

Parcel Data

Proposal:	Building Addition 6,000 SF
Applicant:	James Fleury
Request:	Site Plan and Architectural Review Conditional Use Permit
Staff Recommendation:	Approve with Conditions

Parcel Characteristics / Conditions

Acreage:	1.964 acres
Current Use:	Auto Body Repair and Car Rental Facilities
Proposed Use:	Auto Body Repair and Car Rental Facilities
Reason for Request:	New Addition
Land Use Classification:	Low Intensity Commercial / Business
Zoning Classification:	B-2 General Business / Village Center Overlay
Census Tract:	2039.01

Public Notice

A public hearing notice was published two times in the Waukesha Freeman, and letters were mailed to surrounding property owners. Public comment as of this date, staff has not received any comments or other communications regarding this proposal.

Project Summary

Fleury's Body Repair is requesting approval of a 6,000 s.f. addition to their existing auto body repair facility. The addition would house shop area for additional body repair space for their clients damaged cars.

The building would be a metal building addition to match the existing shop building. Colors and materials would match the 2018 addition. Fleury's business hours would not change, currently M-F 6:30am to 5:30 pm.

Currently Fleury's has 12 employees adding up to 3 for 15 employees after the addition.

Enterprise Rental consists of 1 employee during their largest shift.

The body shop receives deliveries daily from small box vans and truck with parts. No large semi-trucks make deliveries. No outside storage would be added beyond the customer vehicles that will be located inside the fenced area. At request of staff, we have added a mixture of coniferous and deciduous trees to the northeast corner for screening from future development to the northeast. A total of 51 parking stalls will be provided.

Site Plan and Architectural Review Request

Architectural/ Site Review

Site Modifications	The applicant is proposing to add a new metal addition to the rear of the building. The roof line will be continuing from the existing structure. A service door and man door will be on the south elevation, while a man door will be on the north elevation. No other articulation is planned for the project.
Utilities	No modifications at this time.
Stormwater Management	No modifications at this time.
Wetlands	None
Signage	No modifications at this time.
Parking	Rear parking area will be paved.
Landscaping	Additional Landscaping will be provided along north and west property lines at rear.
Trash Enclosure	No modifications at this time.
Fencing	No modifications at this time.
Outdoor Lighting	No modifications at this time.
Misc. Performance Standards	None

Staff Review

Engineering	If the Planning Commission and the Village Board would choose to approve these documents, we would request that you make approvals subject to our detailed technical review of the construction drawings for the requirements of the Department Heads and Village Ordinances, such as erosion control measures which are lacking from the plans. We also request that the permits, especially a Village Erosion Control permit, to allow construction be withheld until this technical review is complete.
Public Works	No concerns
Utilities	No concerns
Police	No concerns
Fire	No concerns
Building Inspection	No concerns
Planning	No concerns

Conditional Use Request

Harmony with Village policies, ordinances, and programs

The land use and zoning polices anticipate such a use within this district.

Specific Location within harmony with Village polices, ordinances and programs

The use is allowed within this zoning district via a conditional use.

Potential Adverse Impact on surrounding:

No adverse impact. We are proposing landscape screening on the Northeast corner of the lot in preparation of the proposed restaurant.

Maintaining consistency within the environs of the property:

The proposed addition is located inside the lot behind the existing budling and does not pose any adverse effects to the surrounding properties. The addition will match the existing buildings in terms of materials and colors.

Adequate Services

The proposed changes to the property will have no adverse effects or undue burdens on serving the public agencies.

Benefits of the use outweigh adverse impacts.

Due to no adverse impacts to the public, we believe the benefits outweigh any adverse effects.

Hours of Operation:

Earliest 8:00am to the latest of 12:00am. Normally hours are noon to 11pm

Conditional Use Process / Findings

Review procedures the Plan Commission holds the public hearing and makes a recommendation to the Village Board which makes the final decision.

Following the close of the public hearing, the Plan Commission may recommend (1) approval, (2) approval with conditions, or (3) denial.

If approval is recommended, the Plan Commission can recommend conditions deemed necessary to protect the public health, safety, and welfare. The Plan Commission, in passing on the matter, will need to make the following determinations consistent with Section 100-354 of Mukwonago's zoning regulations:

1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or welfare of the Village.
2. The uses, values and enjoyment of other property in the surrounding neighborhood that are already permitted shall be, in no foreseeable manner, substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
3. The establishment of the conditional use will not impede the normal and ordinary development

and improvement of the surrounding property for uses permitted within the district and/or which are consistent with the standards in the Comprehensive Plan.

4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made to accommodate the use.
5. Adequate measures have been taken or will be taken providing ingress and egress to minimize traffic congestion on public streets so as not to diminish the level of service of any intersection which is impacted by traffic arising from the conditional use.

In addition, the property owner / tenant has shown compliance with the requirements set forth in the Village's zoning regulations for the specified use.

The Village Board will carefully review the recommendation of the Plan Commission and concurs with the Plan Commission's findings set forth above, provided the conditional use is operated pursuant to the conditions of approval set forth in this order.

These findings are incorporated into the draft conditional use order which is attached.

The Plan Commission shall approve a conditional use application if the terms and conditions of the zoning regulations are met. However, in the event the terms and conditions of the ordinance are not consented to and complied with by the applicant, the Commission may deny the application. In addition, the Commission may deny the application or place conditions on it if substantial evidence, as defined in §62.23(7) Wis. Stats. is presented. That evidence must demonstrate the inability of the applicant to comply with or meet the conditions of the zoning regulations or that the conditions to be applied by the Plan Commission are necessary to protect the public health, safety or welfare of the community based upon the presentation of substantial evidence. Potential motion for approval Recommend to the Village Board approval of the project as a conditional use as set forth in the attached conditional use order as drafted, provided the Village Attorney approves the final form of the conditional use order.

Recommendation

Site Plan and Architectural Review

Staff recommends the Planning Commission Approve a resolution for the Site Plan and Architectural Review, as set forth in the attached resolution.

1. Prior to any land disturbing activity, the applicant must submit a complete and final set of plans to the Village planner. All Village department heads must verify in writing whether they have approved the final plans within their purview. Any outstanding matters must be resolved to staff's satisfaction.
2. Prior to any land-disturbing activity, a pre-construction meeting must be held with the applicant's representatives and primary contractors, and Village department heads and representatives.
3. Prior to any land-disturbing activity, the applicant must reimburse the Village for any outstanding charges and establish an escrow account with the Village as may be required.
4. The applicant must obtain all required building permits within nine months of this date, and start construction within six months of the date of building permit issuance and continue in good faith to completion.
5. All work related to this project must comply with all project plans approved by the Village.
6. The developer must comply with all requirements related to impact fees imposed by the Village.
7. The developer shall comply with all parts of the Municipal Code as it relates to this project.

8. If the approved plans need to be revised to address any of the conditions of approval or to conform to Building and Fire Safety Codes, the Zoning Administrator and the Supervisor of Inspections are authorized to approve minor modifications so long as the overall project elements remain unchanged. If they determine that the revision is substantial, the plans must be submitted to the Plan Commission for review and approval.
9. The outdoor service area and storage areas of the property shall remain screened at all times. If plantings come to the end of their life, or die, etc. they shall be replaced to maintain screening.
10. Approval is conditioned upon a detailed technical review of the construction drawings for the requirements of the Department Heads and Village Ordinances, a full technical review of erosion control measures. All permits especially a Village Erosion Control permit shall not be issued until a full technical review is complete.
11. Any future modification to the site such as modification of building, parking, lighting, grading, retaining walls, fences, etc. shall require Site Plan and Architectural Review.

Conditional Use

Staff Recommends the Planning Commission recommend to the Village Board approval of a conditional use permit as set forth in the attached resolution.

To – Grant a Conditional Use permit for an Auto repair and auto rental facilities following on going conditions deemed necessary to protect the health, safety, and welfare

1. **Ongoing conditions of approval.** The following conditions shall constitute an ongoing obligation:

1. The on-going operation of auto body shop and auto rental facility shall be consistent with the written information and plans submitted by the applicant along with statements made at the public hearing by the applicant or by others on behalf of the applicant.
2. Any future expansion or changes to the plan of operation as presented shall gain a new or amended Conditional Use approval.
3. The property shall be always maintained in a clean and presentable condition. No debris shall accumulate on the site. Prior to the issuance of a building permit for the presented new building and addition, applicant shall designate one area on the site plan for the storage of scrap metal and used auto parts, as approved by the Zoning Administrator. All scrap metal and auto parts shall be stored only within the designated area and shall be periodically removed from the site.
4. This Conditional Use approval shall not be transferred within the subject property to another Conditional Use category without submittal and approval for a new Conditional Use.
6. Prior to issuance of building permits for the use, applicant shall pay all required charges and fees to the Village. In addition, any other charges and fees accrued during construction shall be paid before to issuance of an occupancy permit.
7. Applicant and/or property owner shall be responsible for enforcement of all requirements of this Conditional Use approval. If not enforced by property owner, the property owner will be responsible for compliance and financial penalties as allowed by municipal code.
8. Operating hours shall not exceed 6am to 8pm Monday- Friday for both businesses.
9. Rear parking area (fence in area) shall be screened from view of adjoining properties.

and determining that the conditions are consistent with Section 100-354 of Mukwonago's zoning regulations:

1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or welfare of the Village.
2. The uses, values and enjoyment of other property in the surrounding neighborhood that are already permitted shall be, in no foreseeable manner, substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
3. The establishment of the conditional use will not impede the normal and ordinary development and improvement of the surrounding property for uses permitted within the district and/or which are consistent with the standards in the Comprehensive Plan.
4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made to accommodate the use.
5. Adequate measures have been taken or will be taken providing ingress and egress to minimize traffic congestion on public streets so as not to diminish the level of service of any intersection which is impacted by traffic arising from the conditional use.

Attachments

1. Maps
2. Plans
3. Resolution for approval of a Conditional Use
4. Resolution for approval of the Site Plan and Architectural Review



Village of Mukwonago GIS
Aerial Photo

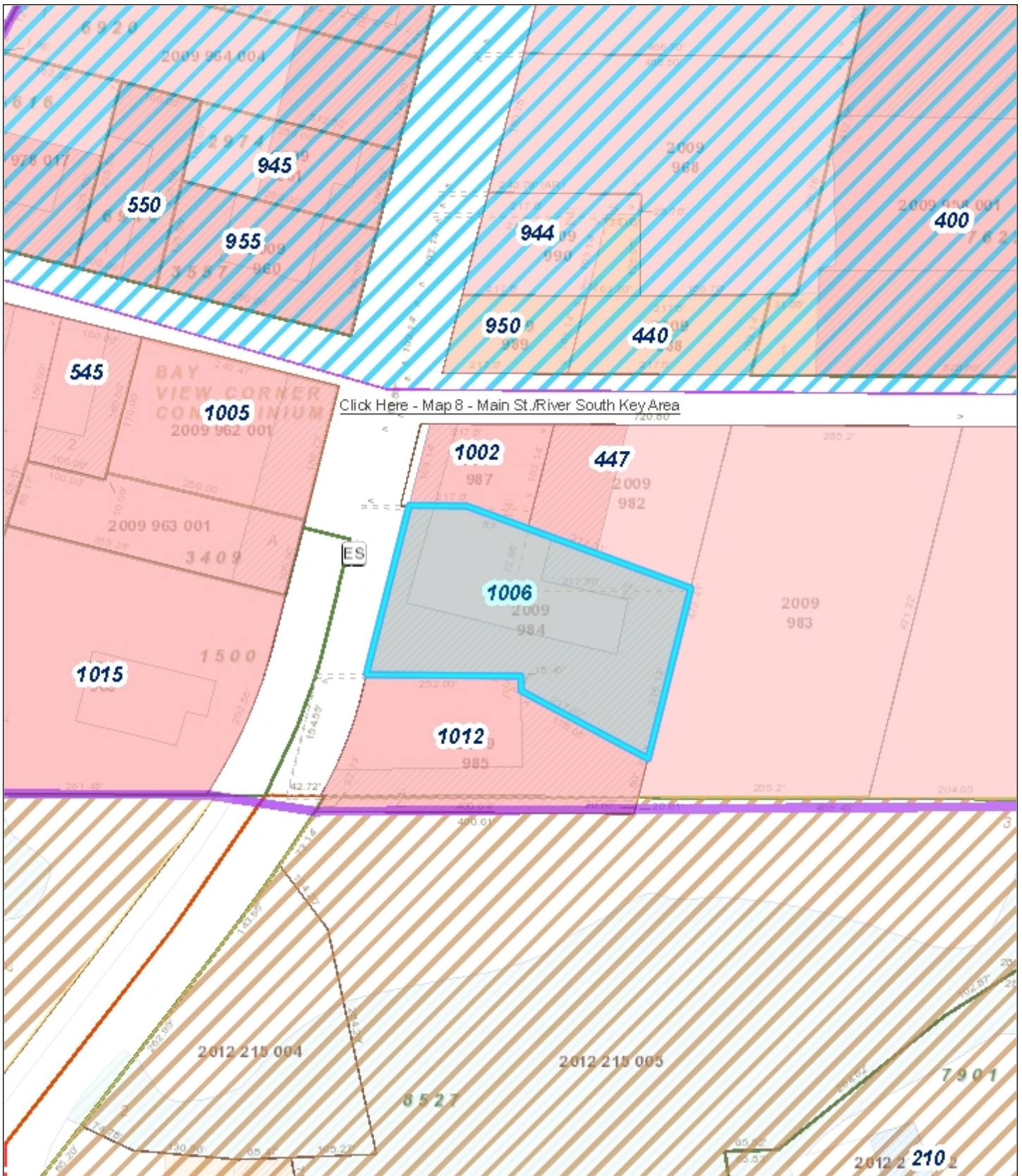
DISCLAIMER: The Village of Mukwonago does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.



SCALE: 1" = 167'

VILLAGE OF MUKWONAGO
440 River Crest Court
PO Box 206
Mukwonago, WI 53149
262-363-6420

Print Date: 9/16/2021



Village of Mukwonago GIS

Land Use

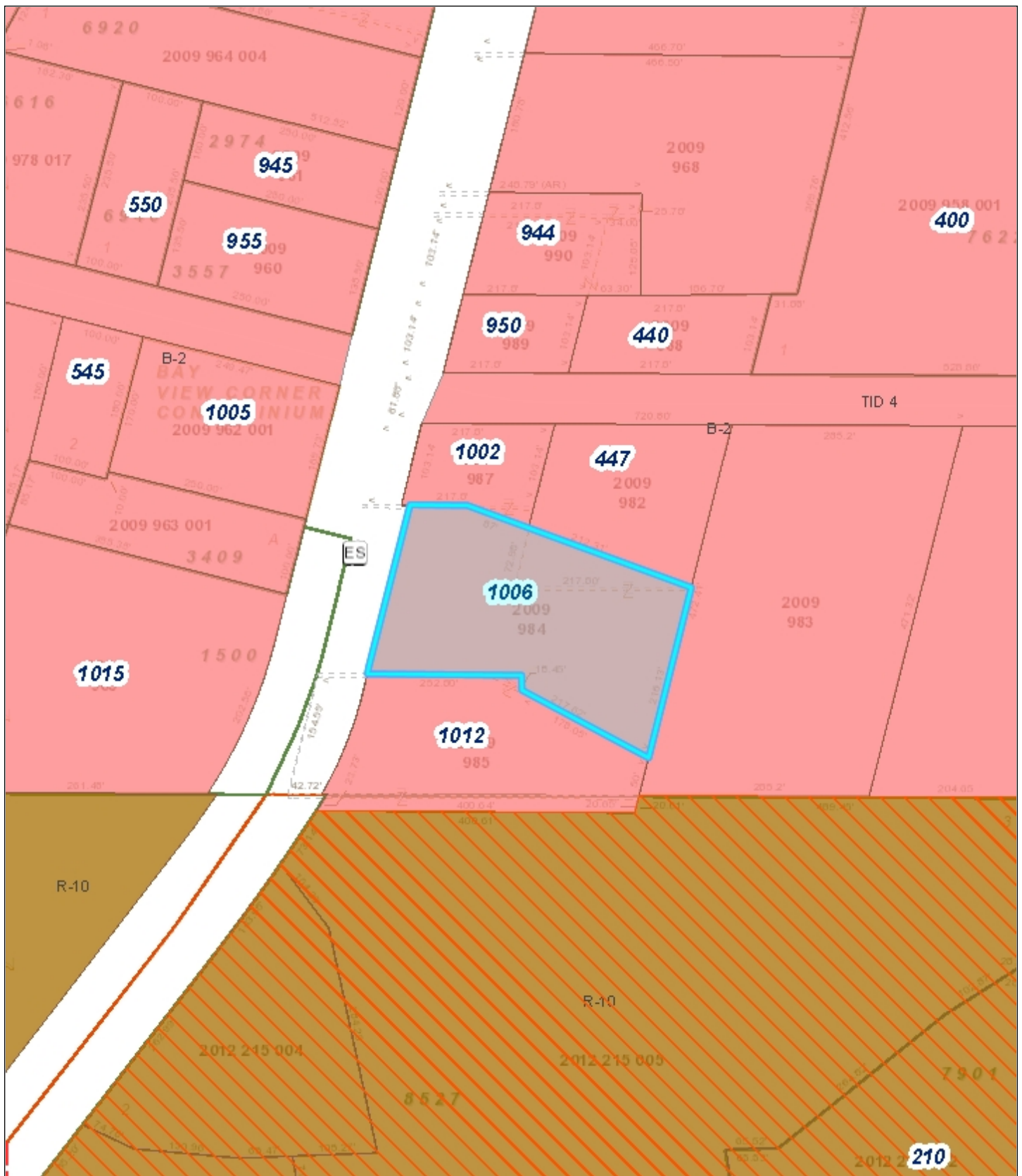
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SCALE: 1" = 167'

VILLAGE OF MUKWONAGO
440 River Crest Court
PO Box 206
Mukwonago, WI 53149
262-363-6420

Print Date: 9/16/2021



Village of Mukwonago GIS Zoning

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October 5, 2021

Mr. John Fellows, Assoc. AIA, CPM, AICP
Community Planner
Village of Mukwonago
440 River Crest Court
Mukwonago, WI 53149

Re: Fluery's Expansion
Preliminary Storm Water Review

Dear Mr. Fellows:

We have reviewed the preliminary submittal for the expansion at Fluery's on Main Street. The plans are dated September 9, 2021. This review is required by the Village Storm Water Ordinance to determine if early site planning has accounted for the requirements of the Ordinance. The intent is to avoid large changes to developments after the Planning Commission and Village Board have approved the concept and site plan.

We believe the plans, as submitted, can meet the requirements of the Village Ordinance and as such this letter will serve as the preliminary storm water review letter as detailed in 34-107(b) of the Village Ordinance. However, we are requesting that the applicant provide detailed calculations proving that post-construction storm water management is not required, for documentation purposes. Village Ordinance 34-106(b)(2) requires storm water management for any addition of 0.5 acres of greater of impervious surface including projects as part of a common plan of development.

In 2019 this site underwent an expansion including the addition of pavement surface and the identification of planned future pavement extending to the east side of the site. The "future" pavement identified in the Civil Site Plans dated February 28, 2019 is inconsistent with current aerial imagery showing a larger area of pavement that was added. The submitted plans for this current expansion show this area of pavement that was added, but to our knowledge, this larger area of pavement was not accounted for in any "future" plans.

The area in question was gravel prior to 2019, which by definition is considered an impervious surface. However, due to lack of documentation of such, there is no record to indicate that this was accounted for in any of the past expansion plans. We request that the applicant provide data for the site conditions prior to the 2019 expansion, how the 2019 expansion and any work after that affected the site and how the new proposed expansion will affect the site, in terms of impervious surfaces added and how they remain under the 0.5 acre threshold exempting them from Village Ordinance Section 106(b)(2).

If the Planning Commission and the Village Board would choose to approve these documents, we would request that you make approvals subject to our detailed technical review of the construction drawings for the requirements of the Department Heads and Village Ordinances, such as erosion control measures which are lacking from the plans. We also request that the permits, especially a Village Erosion Control permit, to allow construction be withheld until this technical review is complete.

If you or any staff member should have any questions regarding this, please feel free to contact me at (262) 542-5733.

Mr. John Fellows, Assoc. AIA, CPM, AICP
Fluery's Expansion – Preliminary Storm Water Review
October 5, 2021
Page 2

Respectfully,

RUEKERT & MIELKE, INC.



Peter W. Gesch, E.I.T.
Project Engineer
pgesch@ruekertmielke.com

PWG:pwg

cc: Diana Dkystra, Village of Mukwonago
Tim Rutenbeck, Village of Mukwonago
Mark G. Blum, Village of Mukwonago
Dave Brown, Village of Mukwonago
Ron Bittner, Village of Mukwonago
Jerad J. Wegner, P.E., Ruekert & Mielke, Inc.



Village of Mukwonago Community Development and Planning.
John Fellows CPM,AICP

RE: FLEURYS BODY REPAIR SITE PLAN REVIEW
SEPTEMBER 10,2021

PROJECT SUMMARY

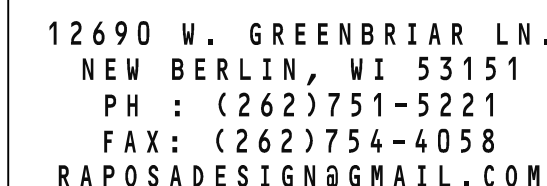
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The body shop receives deliveries daily from small box vans and truck with parts. No large semi-trucks make deliveries. No outside storage would be added beyond the customer vehicles that will be located inside the fenced area. At request of staff, we have added a mixture of coniferous and deciduous trees to the northeast corner for screening from future development to the northeast. A total of 51 parking stalls will be provided.



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Site Area	- 73,512 s.f. (1.68 acres)
Existing Building	- 15,832 s.f.
New Building	- 6,000 s.f.
Total Building	- 21,832 s.f. (29.8%)
Impervious Surface	- 33,139 s.f. (45.1%)
Green Space	- 18,451 s.f. (25.1%)
Parking Stalls Required	- 60 Parking Stalls
Parking Stalls Provided	- 51 Parking Stalls
Employee/Laurel Shift	- 14 Occupants

Proposed Site plan

LEURY'S BODY REPAIR
1006 Main Street
Mukonago, WI 53149

ASP

12690 W. GREENBRIAR LN.
NEW BERLIN, WI 53151
PH : (262)751-5221
FAX: (262)754-4058
RAPOSADESIGN@GMAIL.COM

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Fluerys Auto Body
1006 Main Street
Mukonago, WI53149

PROJECT TITLE

Floor Plan, Schedules
& Details

DATE OF ISSUE 10/31/17

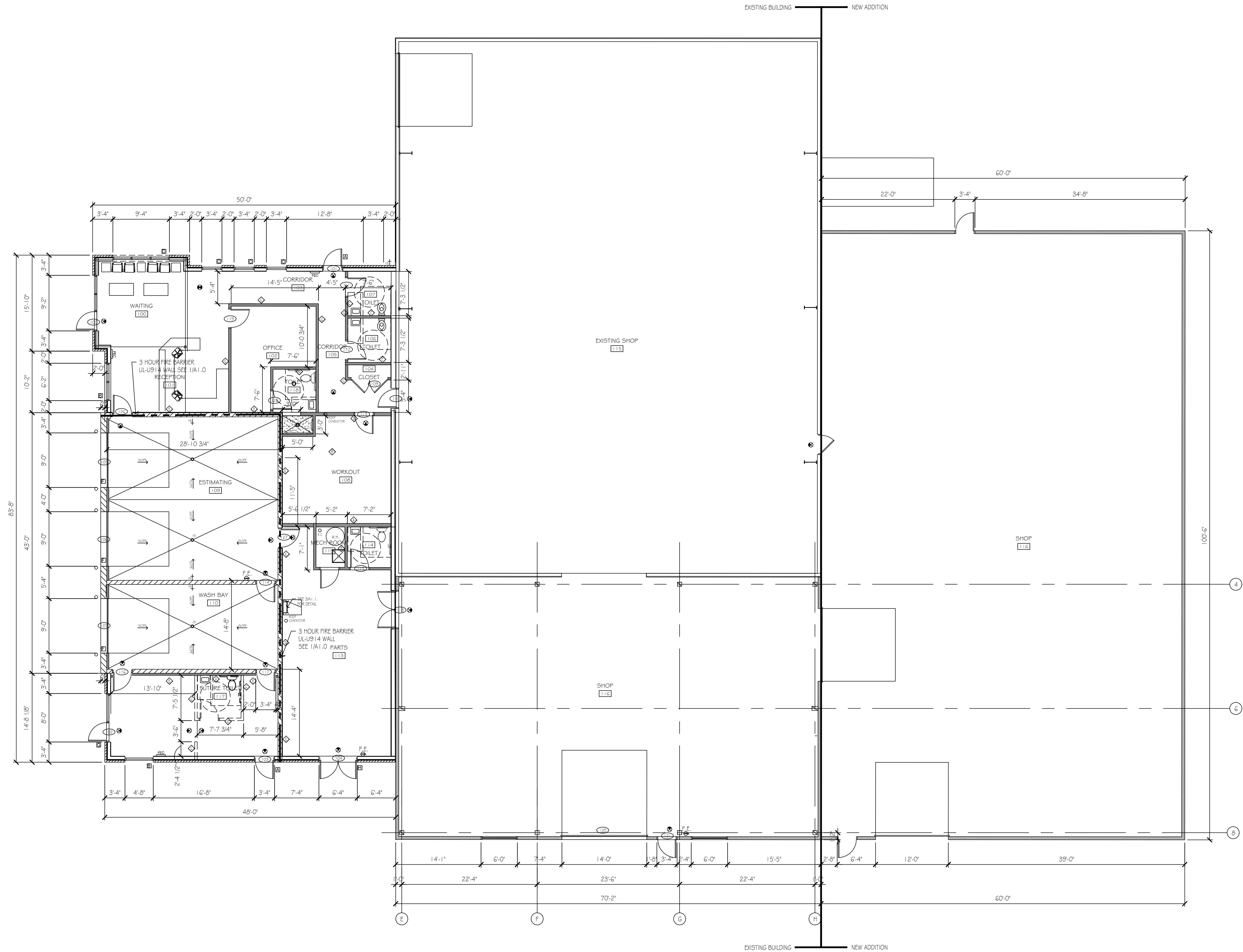
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10/25/1

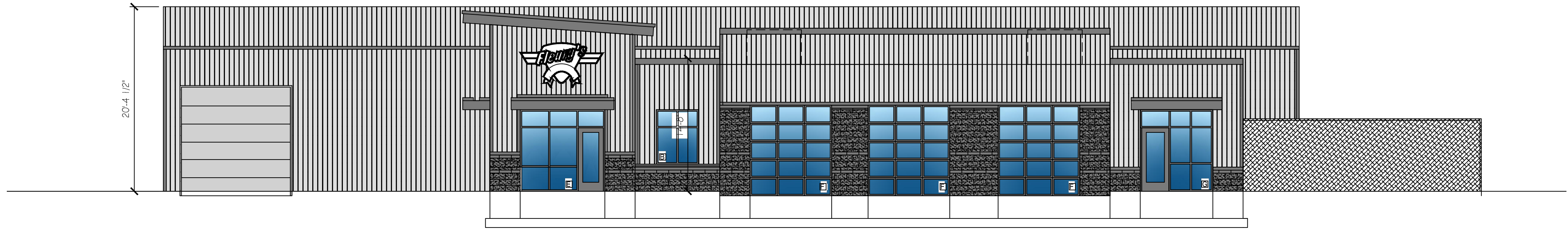
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DRAWN:	RJ
CHECKED:	RJ
DATE:	10/31/1

HEET:

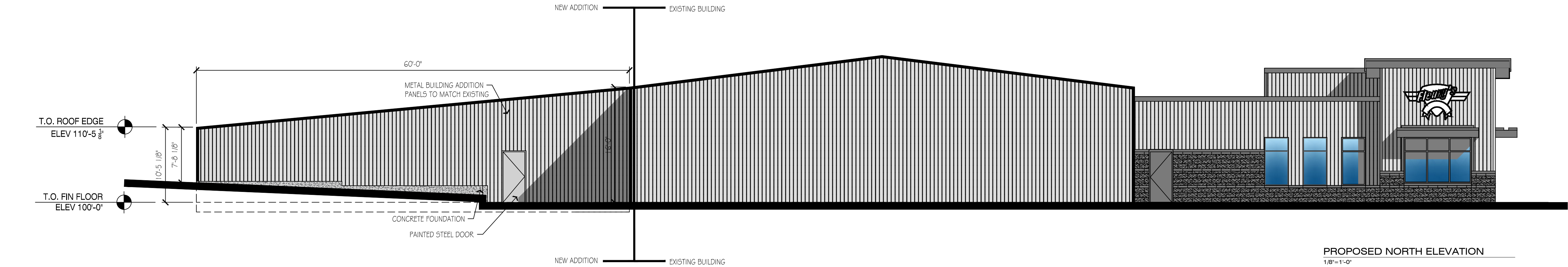
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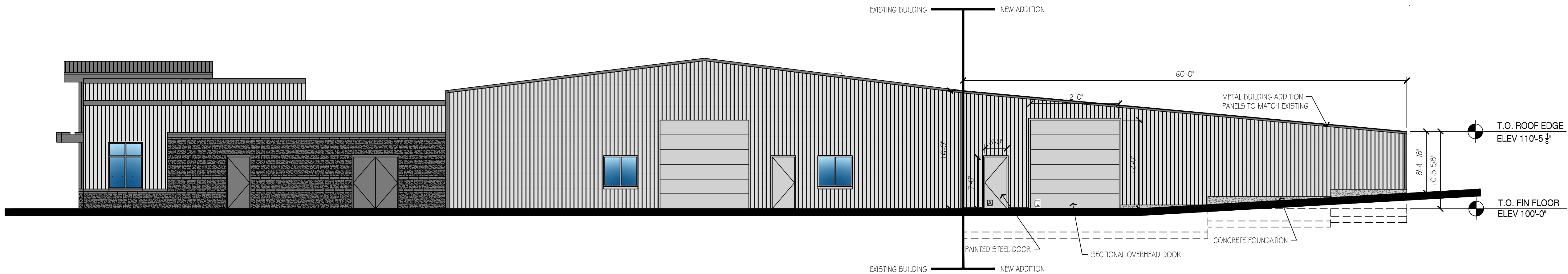
1 OVERALL FLOOR PLAN
1/8" = 1'-0"



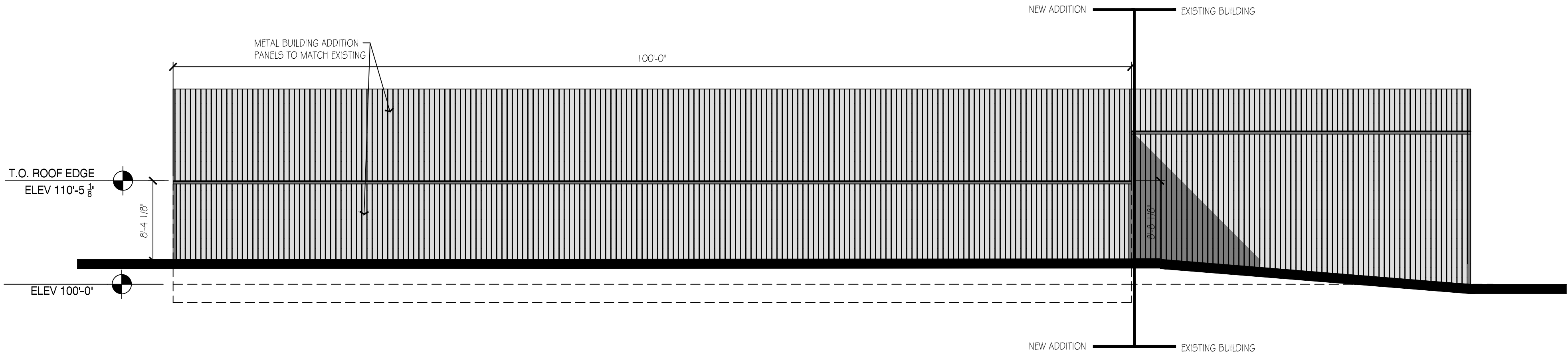
EXISTING WEST ELEVATION
1/8" = 1'-0"



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



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



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



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FLEURY'S BODY REPAIR
1006 Main Street
Mukonago, WI53149

SHEET TITLE

Elevations

DATE OF ISSUE 10/31/17

SYMBOL	REVISION DESCRIPTION	DATE
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JOB:	RD151.17
DRAWN:	RJR
CHECKED:	RJR
DATE:	10/31/17

SHEET:

A2.0



PLANNING COMMISSION

October 12, 2021 at 6:30pm

Mukwonago, WI

SITE PLAN AND ARCHITECTURAL REVIEW AND CONDITIONAL USE PERMIT

1006 Main Street

Parcel Number: MUKV2009984

Case Summary

Parcel Data

Proposal:	Building Addition 6,000 SF
Applicant:	James Fleury
Request:	Site Plan and Architectural Review Conditional Use Permit
Staff Recommendation:	Approve with Conditions

Parcel Characteristics / Conditions

Acreage:	1.964 acres
Current Use:	Auto Body Repair and Car Rental Facilities
Proposed Use:	Auto Body Repair and Car Rental Facilities
Reason for Request:	New Addition
Land Use Classification:	Low Intensity Commercial / Business
Zoning Classification:	B-2 General Business / Village Center Overlay
Census Tract:	2039.01

Public Notice

A public hearing notice was published two times in the Waukesha Freeman, and letters were mailed to surrounding property owners. Public comment as of this date, staff has not received any comments or other communications regarding this proposal.

Project Summary

Fleury's Body Repair is requesting approval of a 6,000 s.f. addition to their existing auto body repair facility. The addition would house shop area for additional body repair space for their clients damaged cars.

The building would be a metal building addition to match the existing shop building. Colors and materials would match the 2018 addition. Fleury's business hours would not change, currently M-F 6:30am to 5:30 pm.

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The body shop receives deliveries daily from small box vans and truck with parts. No large semi-trucks make deliveries. No outside storage would be added beyond the customer vehicles that will be located inside the fenced area. At request of staff, we have added a mixture of coniferous and deciduous trees to the northeast corner for screening from future development to the northeast. A total of 51 parking stalls will be provided.

Site Plan and Architectural Review Request

Architectural/ Site Review

Site Modifications	The applicant is proposing to add a new metal addition to the rear of the building. The roof line will be continuing from the existing structure. A service door and man door will be on the south elevation, while a man door will be on the north elevation. No other articulation is planned for the project.
Utilities	No modifications at this time.
Stormwater Management	No modifications at this time.
Wetlands	None
Signage	No modifications at this time.
Parking	Rear parking area will be paved.
Landscaping	Additional Landscaping will be provided along north and west property lines at rear.
Trash Enclosure	No modifications at this time.
Fencing	No modifications at this time.
Outdoor Lighting	No modifications at this time.
Misc. Performance Standards	None

Staff Review

Engineering	If the Planning Commission and the Village Board would choose to approve these documents, we would request that you make approvals subject to our detailed technical review of the construction drawings for the requirements of the Department Heads and Village Ordinances, such as erosion control measures which are lacking from the plans. We also request that the permits, especially a Village Erosion Control permit, to allow construction be withheld until this technical review is complete.
Public Works	No concerns
Utilities	No concerns
Police	No concerns
Fire	No concerns
Building Inspection	No concerns
Planning	No concerns

Conditional Use Request

Harmony with Village policies, ordinances, and programs

The land use and zoning polices anticipate such a use within this district.

Specific Location within harmony with Village polices, ordinances and programs

The use is allowed within this zoning district via a conditional use.

Potential Adverse Impact on surrounding:

No adverse impact. We are proposing landscape screening on the Northeast corner of the lot in preparation of the proposed restaurant.

Maintaining consistency within the environs of the property:

The proposed addition is located inside the lot behind the existing budling and does not pose any adverse effects to the surrounding properties. The addition will match the existing buildings in terms of materials and colors.

Adequate Services

The proposed changes to the property will have no adverse effects or undue burdens on serving the public agencies.

Benefits of the use outweigh adverse impacts.

Due to no adverse impacts to the public, we believe the benefits outweigh any adverse effects.

Hours of Operation:

Earliest 8:00am to the latest of 12:00am. Normally hours are noon to 11pm

Conditional Use Process / Findings

Review procedures the Plan Commission holds the public hearing and makes a recommendation to the Village Board which makes the final decision.

Following the close of the public hearing, the Plan Commission may recommend (1) approval, (2) approval with conditions, or (3) denial.

If approval is recommended, the Plan Commission can recommend conditions deemed necessary to protect the public health, safety, and welfare. The Plan Commission, in passing on the matter, will need to make the following determinations consistent with Section 100-354 of Mukwonago's zoning regulations:

1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or welfare of the Village.
2. The uses, values and enjoyment of other property in the surrounding neighborhood that are already permitted shall be, in no foreseeable manner, substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
3. The establishment of the conditional use will not impede the normal and ordinary development

and improvement of the surrounding property for uses permitted within the district and/or which are consistent with the standards in the Comprehensive Plan.

4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made to accommodate the use.
5. Adequate measures have been taken or will be taken providing ingress and egress to minimize traffic congestion on public streets so as not to diminish the level of service of any intersection which is impacted by traffic arising from the conditional use.

In addition, the property owner / tenant has shown compliance with the requirements set forth in the Village's zoning regulations for the specified use.

The Village Board will carefully review the recommendation of the Plan Commission and concurs with the Plan Commission's findings set forth above, provided the conditional use is operated pursuant to the conditions of approval set forth in this order.

These findings are incorporated into the draft conditional use order which is attached.

The Plan Commission shall approve a conditional use application if the terms and conditions of the zoning regulations are met. However, in the event the terms and conditions of the ordinance are not consented to and complied with by the applicant, the Commission may deny the application. In addition, the Commission may deny the application or place conditions on it if substantial evidence, as defined in §62.23(7) Wis. Stats. is presented. That evidence must demonstrate the inability of the applicant to comply with or meet the conditions of the zoning regulations or that the conditions to be applied by the Plan Commission are necessary to protect the public health, safety or welfare of the community based upon the presentation of substantial evidence. Potential motion for approval Recommend to the Village Board approval of the project as a conditional use as set forth in the attached conditional use order as drafted, provided the Village Attorney approves the final form of the conditional use order.

Recommendation

Site Plan and Architectural Review

Staff recommends the Planning Commission Approve a resolution for the Site Plan and Architectural Review, as set forth in the attached resolution.

1. Prior to any land disturbing activity, the applicant must submit a complete and final set of plans to the Village planner. All Village department heads must verify in writing whether they have approved the final plans within their purview. Any outstanding matters must be resolved to staff's satisfaction.
2. Prior to any land-disturbing activity, a pre-construction meeting must be held with the applicant's representatives and primary contractors, and Village department heads and representatives.
3. Prior to any land-disturbing activity, the applicant must reimburse the Village for any outstanding charges and establish an escrow account with the Village as may be required.
4. The applicant must obtain all required building permits within nine months of this date, and start construction within six months of the date of building permit issuance and continue in good faith to completion.
5. All work related to this project must comply with all project plans approved by the Village.
6. The developer must comply with all requirements related to impact fees imposed by the Village.
7. The developer shall comply with all parts of the Municipal Code as it relates to this project.

8. If the approved plans need to be revised to address any of the conditions of approval or to conform to Building and Fire Safety Codes, the Zoning Administrator and the Supervisor of Inspections are authorized to approve minor modifications so long as the overall project elements remain unchanged. If they determine that the revision is substantial, the plans must be submitted to the Plan Commission for review and approval.
9. The outdoor service area and storage areas of the property shall remain screened at all times. If plantings come to the end of their life, or die, etc. they shall be replaced to maintain screening.
10. Approval is conditioned upon a detailed technical review of the construction drawings for the requirements of the Department Heads and Village Ordinances, a full technical review of erosion control measures. All permits especially a Village Erosion Control permit shall not be issued until a full technical review is complete.
11. Any future modification to the site such as modification of building, parking, lighting, grading, retaining walls, fences, etc. shall require Site Plan and Architectural Review.

Conditional Use

Staff Recommends the Planning Commission recommend to the Village Board approval of a conditional use permit as set forth in the attached resolution.

To – Grant a Conditional Use permit for an Auto repair and auto rental facilities following on going conditions deemed necessary to protect the health, safety, and welfare

1. **Ongoing conditions of approval.** The following conditions shall constitute an ongoing obligation:

1. The on-going operation of auto body shop and auto rental facility shall be consistent with the written information and plans submitted by the applicant along with statements made at the public hearing by the applicant or by others on behalf of the applicant.
2. Any future expansion or changes to the plan of operation as presented shall gain a new or amended Conditional Use approval.
3. The property shall be always maintained in a clean and presentable condition. No debris shall accumulate on the site. Prior to the issuance of a building permit for the presented new building and addition, applicant shall designate one area on the site plan for the storage of scrap metal and used auto parts, as approved by the Zoning Administrator. All scrap metal and auto parts shall be stored only within the designated area and shall be periodically removed from the site.
4. This Conditional Use approval shall not be transferred within the subject property to another Conditional Use category without submittal and approval for a new Conditional Use.
6. Prior to issuance of building permits for the use, applicant shall pay all required charges and fees to the Village. In addition, any other charges and fees accrued during construction shall be paid before to issuance of an occupancy permit.
7. Applicant and/or property owner shall be responsible for enforcement of all requirements of this Conditional Use approval. If not enforced by property owner, the property owner will be responsible for compliance and financial penalties as allowed by municipal code.
8. Operating hours shall not exceed 6am to 8pm Monday- Friday for both businesses.
9. Rear parking area (fence in area) shall be screened from view of adjoining properties.

and determining that the conditions are consistent with Section 100-354 of Mukwonago's zoning regulations:

1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or welfare of the Village.
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5. Adequate measures have been taken or will be taken providing ingress and egress to minimize traffic congestion on public streets so as not to diminish the level of service of any intersection which is impacted by traffic arising from the conditional use.

Attachments

1. Maps
2. Plans
3. Resolution for approval of a Conditional Use
4. Resolution for approval of the Site Plan and Architectural Review



Village of Mukwonago GIS
Aerial Photo

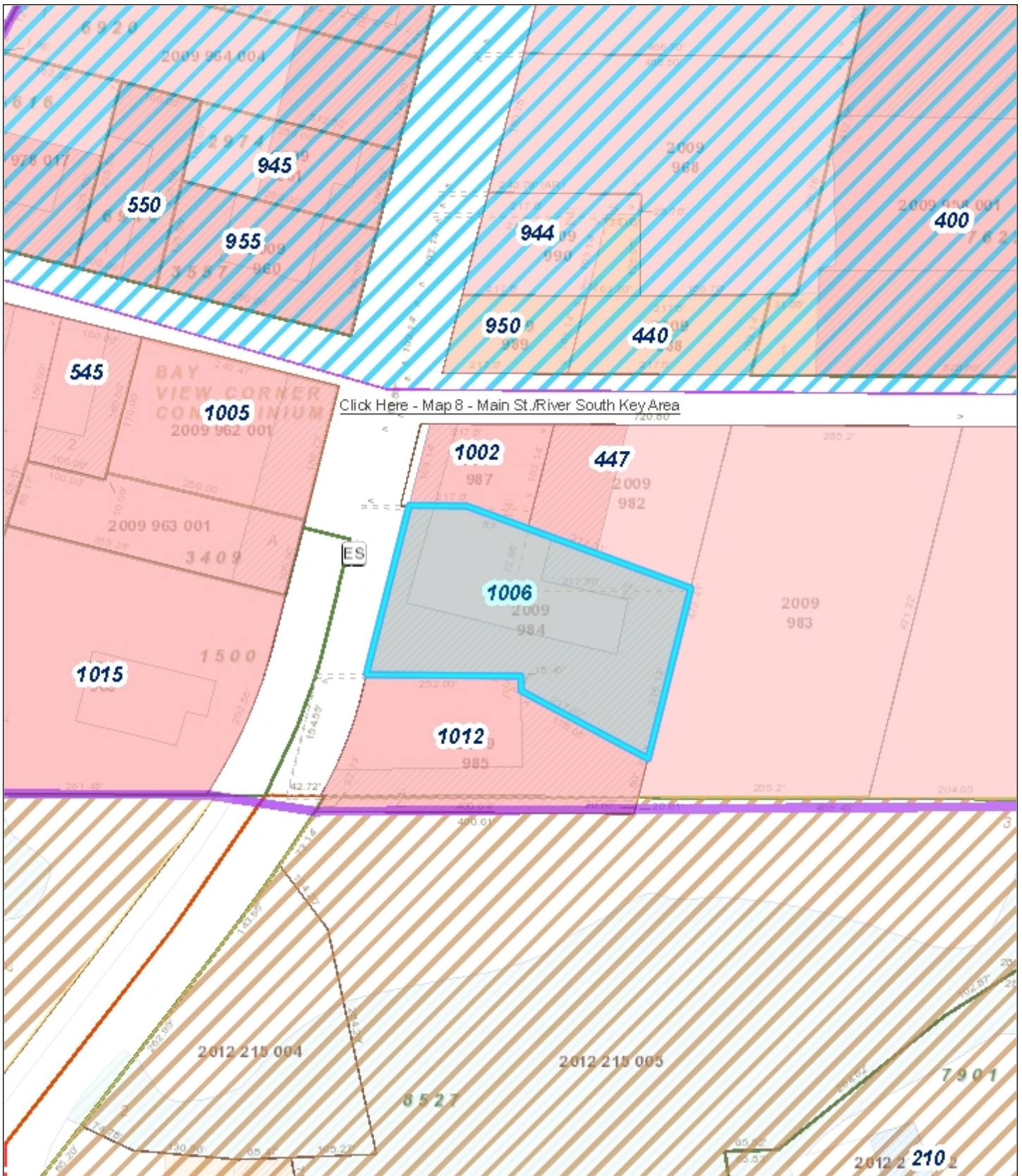
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Village of Mukwonago GIS

Land Use

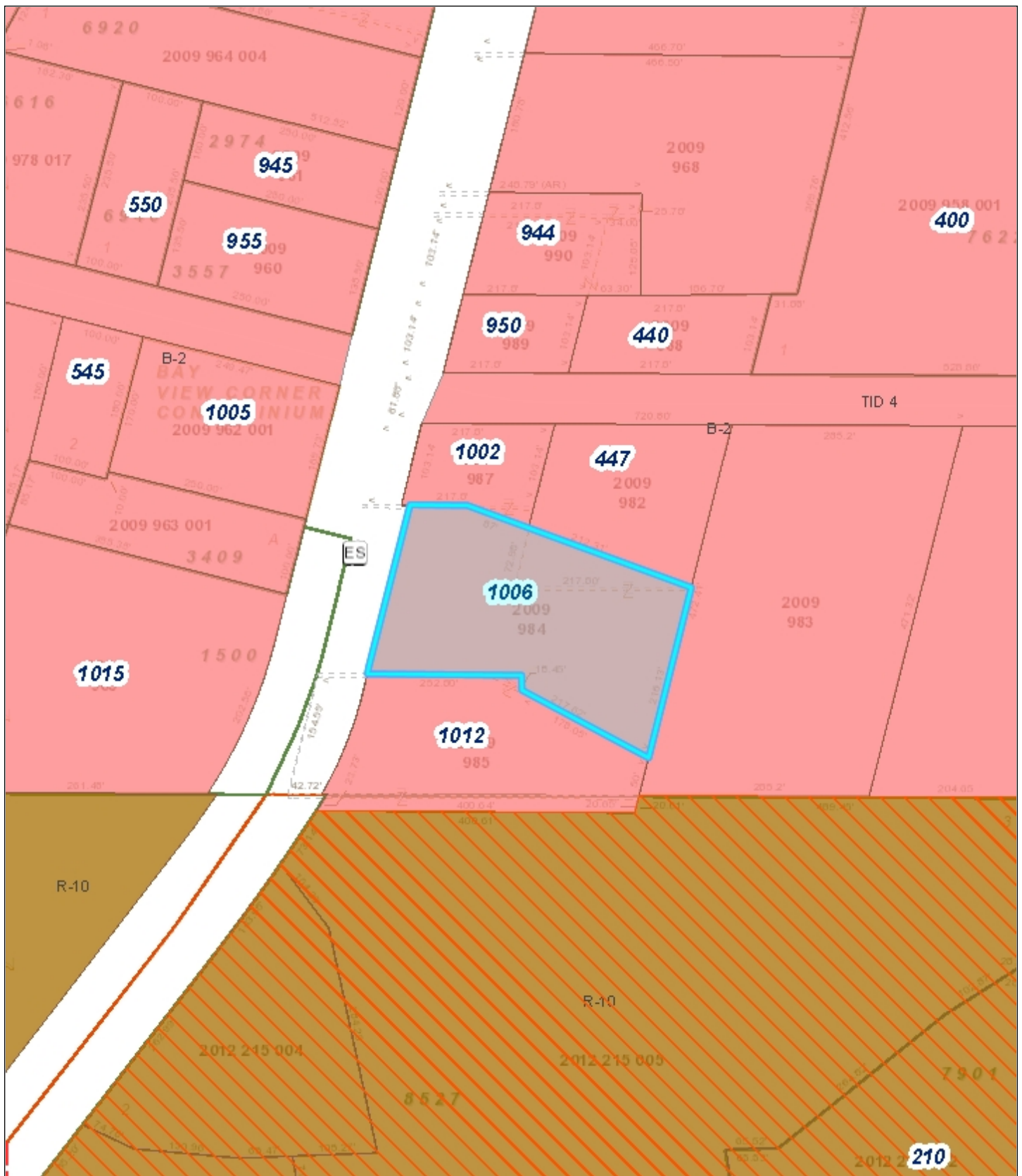
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Village of Mukwonago GIS Zoning

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Community Planner
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440 River Crest Court
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Mr. John Fellows, Assoc. AIA, CPM, AICP
Fluery's Expansion – Preliminary Storm Water Review
October 5, 2021
Page 2

Respectfully,

RUEKERT & MIELKE, INC.



Peter W. Gesch, E.I.T.
Project Engineer
pgesch@ruekertmielke.com

PWG:pwg

cc: Diana Dkystra, Village of Mukwonago
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Mark G. Blum, Village of Mukwonago
Dave Brown, Village of Mukwonago
Ron Bittner, Village of Mukwonago
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Village of Mukwonago Community Development and Planning.

John Fellows CPM,AICP

RE: FLEURYS BODY REPAIR SITE PLAN REVIEW

SEPTEMBER 10,2021

PROJECT SUMMARY

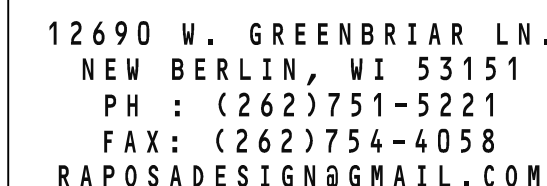
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FLEURY'S BODY REPAIR

11006 Main Street
Mukonago, WI53149

SHEET TITLE

Proposed Site Plan

DATE OF ISSUE	10/31/17
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SYMBOL	REVISION DESCRIPTION	DATE
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JOB:	RD151.
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CHECKED: _____ R
DATE: 10/31/2011

SHEET:

ASP

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 THE PRIOR WRITTEN CONSENT OF RAPOSA DESIGN.

HEET TITLE

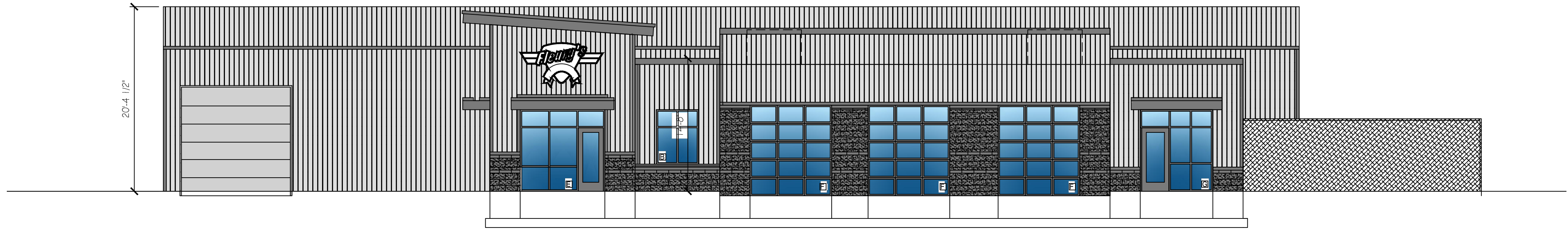
Floor Plan, Schedules
& Details

SYMBOL	REVISION	DESCRIPTION	DATE
			09/17

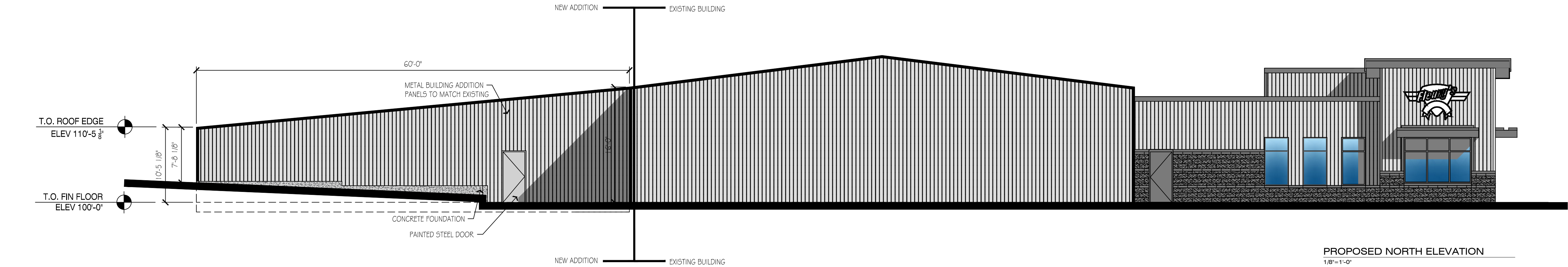
10/25

HEET:

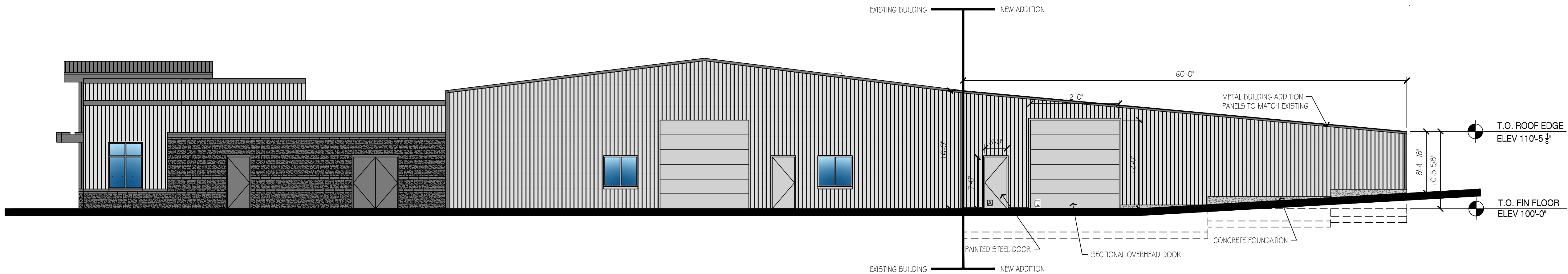
1 OVERALL FLOOR PLAN
1/8" = 1'-0"



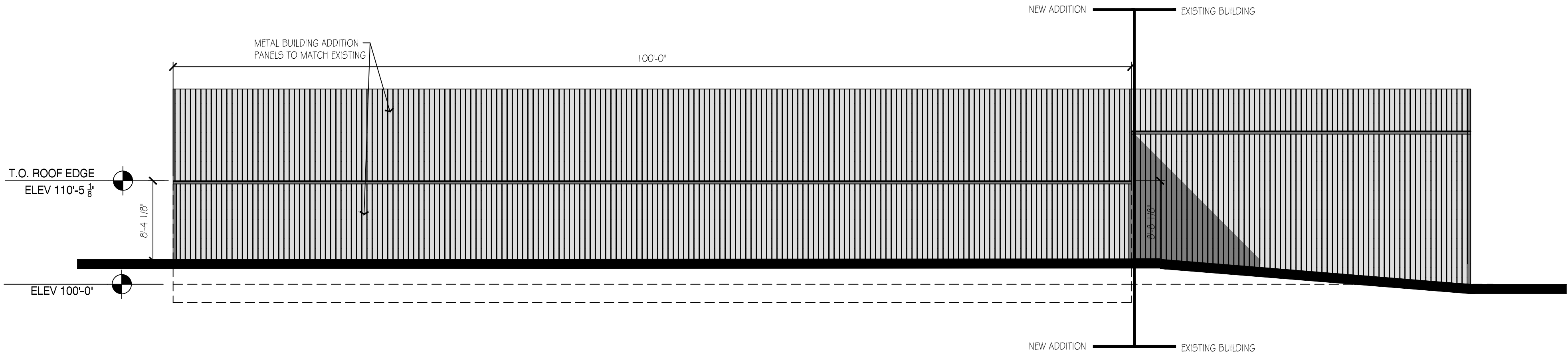
EXISTING WEST ELEVATION
1/8" = 1'-0"



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



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



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



RAPOSA
DESIGN

12690 W. GREENBRIAR LN.
NEW BERLIN, WI 53151
PH : (262)751-5221
FAX: (262)754-4058
RAPOSADDESIGN@GMAIL.COM

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FLEURY'S BODY REPAIR
1006 Main Street
Mukonago, WI53149

SHEET TITLE

Elevations

DATE OF ISSUE 10/31/17

SYMBOL	REVISION DESCRIPTION	DATE
--------	----------------------	------

JOB:	RD151.17
DRAWN:	RJR
CHECKED:	RJR
DATE:	10/31/17

SHEET:

A2.0

**VILLAGE OF MUKWONAGO
WAUKESHA AND WALWORTH COUNTIES**

RESOLUTION NO. 2021-77

**RESOLUTION APPROVING SITE PLAN AND ARCHITECTURAL REVIEW
FOR AN ADDITION AND ALTERATIONS TO FLUERY'S AUTO BODY
1006 MAIN STREET; MUKV 2009-984**

WHEREAS, pursuant to Section and 100-601, and 100-153 of the Zoning Code, an application for a site plan and architectural review has been filed for the approval for an outdoor smoking patio area, which application was filed in the office of the Village Clerk, Village of Mukwonago, Wisconsin, and

WHEREAS, the application has been submitted by the **FLUERY'S AUTO BODY**

WHEREAS, autobody repair facilities are allowed with a conditional use within the B-2 Commercial Zoning District in which the subject property is located, and

WHEREAS, the plan of operation and plans have been reviewed and recommended by the Village Plan Commission.

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Mukwonago, Wisconsin hereby approves the site plan and architectural review for automotive auto body facility at 1006 Main Street, based upon the plan of operation and plans submitted to the Village.

NOW, THEREFORE, BE IT FURTHER RESOLVED this site plan and architectural review approval shall be subject to the following conditions:

1. Prior to any land disturbing activity, the applicant must submit a complete and final set of plans to the Village planner. All Village department heads must verify in writing whether they have approved the final plans within their purview. Any outstanding matters must be resolved to staff's satisfaction.
2. Prior to any land-disturbing activity, a pre-construction meeting must be held with the applicant's representatives and primary contractors, and Village department heads and representatives.

3. Prior to any land-disturbing activity, the applicant must reimburse the Village for any outstanding charges and establish an escrow account with the Village as may be required.
4. The applicant must obtain all required building permits within nine months of this date and start construction within six months of the date of building permit issuance and continue in good faith to completion.
5. All work related to this project must comply with all project plans approved by the Village.
6. The developer must comply with all requirements related to impact fees imposed by the Village.
7. The developer shall comply with all parts of the Municipal Code as it relates to this project.
8. If the approved plans need to be revised to address any of the conditions of approval or to conform to Building and Fire Safety Codes, the Zoning Administrator and the Supervisor of Inspections are authorized to approve minor modifications so long as the overall project elements remain unchanged. If they determine that the revision is substantial, the plans must be submitted to the Plan Commission for review and approval.
9. The outdoor service area and storage areas of the property shall remain screened at all times. If plantings come to the end of their life, or die, etc. they shall be replaced to maintain screening.
10. Approval is conditioned upon a detailed technical review of the construction drawings for the requirements of the Department Heads and Village Ordinances, a full technical review of erosion control measures. All permits especially a Village Erosion Control permit shall not be issued until a full technical review is complete.
11. Any future modification to the site such as modification of building, parking, lighting, grading, retaining walls, fences, etc. shall require Site Plan and Architectural Review.

NOW THEREFORE BE IT RESOLVED, that the Village of Mukwonago,
Approved and Adopted this 20th day of October 2021 by the Village Board of the Village of Mukwonago, Wisconsin.

ATTESTATION:

APPROVED:

Fred H. Winchowky, Village President

Diana Dykstra, MMC
Village Clerk-Treasurer



PLANNING COMMISSION

October 12, 2021 at 6:30pm

Mukwonago, WI

Certified Survey Map (CSM) And Exceptions an Modifications to Lot Width

Hill Court

Parcel Number: #A493600002

Case Summary

Parcel Data

Proposal:	Certified Survey Map to create two (2) lots
Applicant:	Village of Mukwonago
Request:	Creation of two new lots
Staff Recommendation:	Approve with Conditions

Parcel Characteristics / Conditions

Lot 1 Acreage:	61915 SF (1.42 acres)
Lot 2 Acreage:	673,996 SF (15.47 acres)
Lot 1 Width:	Cord 52.99
Lot 2 Width:	Cord 77.79
Current Use:	Vacant Industrial Lot
Proposed Use:	Vacant Industrial Lot
Reason for Request:	Creation of new lot for future water tower
Land Use Classification:	Industrial
Zoning Classification:	M-4 Medium / Heavy Industrial District
Census Tract:	2039.01

Staff Review

Engineering	No Comment
Public Works	No Comment
Utilities	No Comment
Police	No Comment
Fire	No Comment
Building Inspection	No Comment
Planning	No Comment
Zoning	Both Lots will require a exception regarding lot width.

CSM

The CSM has been drafted following procedures of chapter 45 Article IV of the Municipal Code.

Exceptions and Modifications

As this property / proposed properties are located at the end of a cul de sac they will not meet the minimum lot width of 150 feet. Thus, an exception will need to be allowed by the Village Board.

Section 45-22 Exceptions and modifications states:

Where, in the judgment of the Village of Mukwonago Village Board, it would be inappropriate to apply literally the provisions of this section due to exceptional circumstances, the Village Board may waive or modify any requirement to the extent deemed just and proper on a case by case basis after receiving and considering a recommendation from the Village of Mukwonago Plan Commission. No exception or modification to the provisions of this section shall be granted unless the Village Board finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

(a) Exceptional circumstances. There are exceptional, extraordinary, or unusual circumstances or conditions where a literal enforcement of the requirements of this section would result in a severe burden. (Such circumstances should not apply generally to other properties or be of such a recurrent nature as to suggest that the Land Division Ordinance should be changed).

(b) Preservation of property rights. That such exception or modification is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.

(c) Absence of detriment. That the exception or modification will not create substantial detriment to adjacent property, the desirable general development of the Village and its environs, and will not materially impair or be contrary to the purpose and spirit of this section, or the adopted Village of Mukwonago Comprehensive Plan or adopted plan components, or the public interest.

Recommendation

CSM

Staff recommends the Planning Commission approve a resolution for a CSM, as set forth in the attached resolution.

1. All lots shall be complaint to the Zoning Classification of M-4 Manufacturing zoning, with the exception of Lot width.
2. Civil plans for utilities, grading and similar activity shall be submitted to the Village for approval by the Utilities Department and Village Engineer for review and approval prior to any building permits being submitted or approved.
3. Prior to any land-disturbing activity on either lot, a pre-construction meeting must be held with the developers / property owner(s) and primary contractors, and Village department heads and representatives.
4. Prior to any land-disturbing activity, the applicant must reimburse the Village for any outstanding charges and establish an escrow account with the Village as may be required.
5. The applicant / property owner(s) must obtain all applicable permits.
6. The developer must comply with all requirements related to impact fees imposed by the Village.
7. The developer must comply with all requirements related to the parkland fee imposed by the Village.
8. The developer shall comply with all parts of the Municipal Code as it relates to this project.
9. The developer shall comply with comments from the Village Engineer.
10. Each property will be permitted one driveway complaint with Village standards with the location of proposed driveways approved by the Village Engineer and Public Works Director or designees.

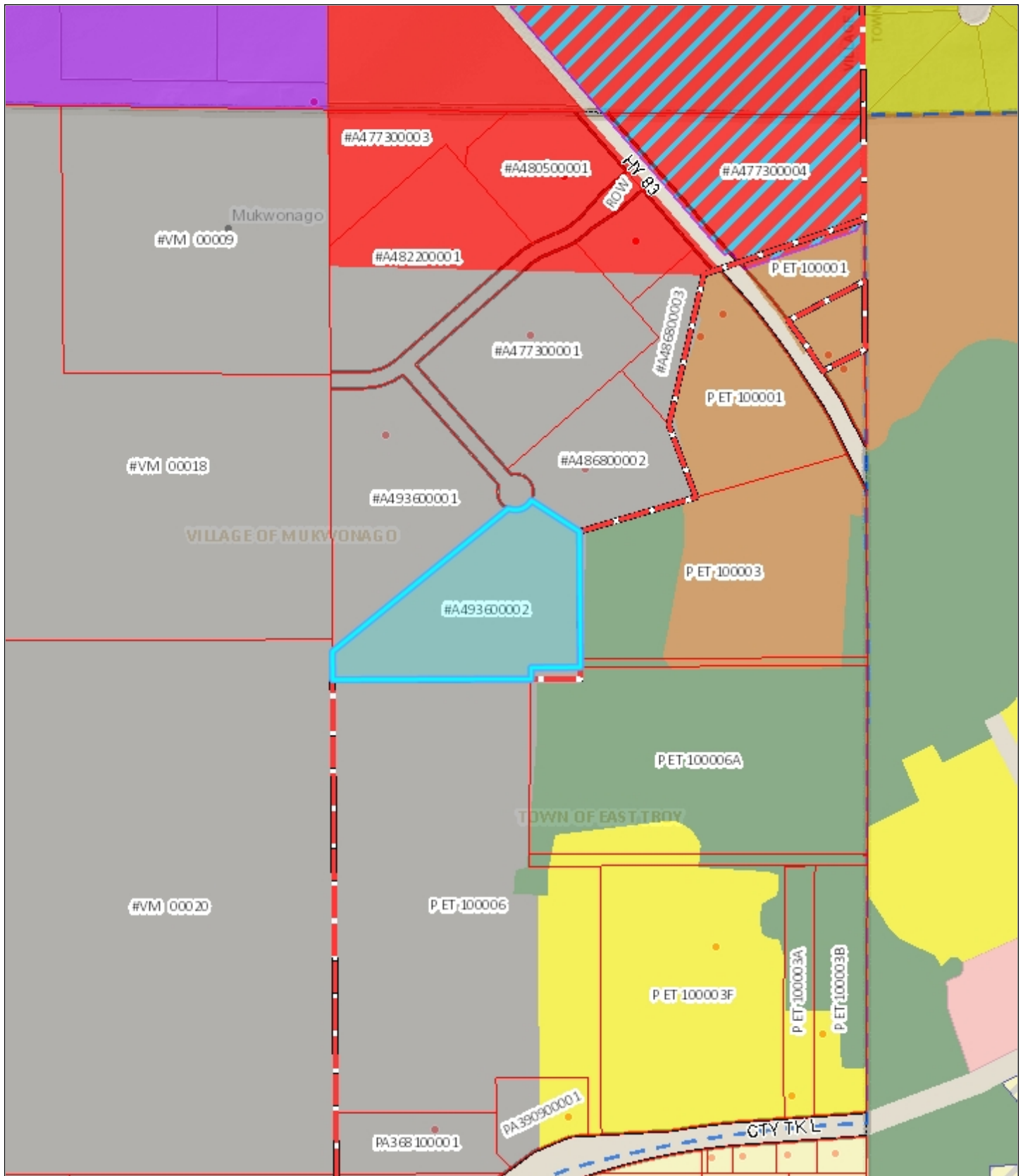
11. Any future modification to the proposed CSM prior to recording shall require review by the Planning Commission and Village Board.

Exceptions and Modifications

Staff recommends the Planning Commission approve a resolution for an exception / modification for the lot widths on Lots 1 and 2 of the proposed CSM to have lot widths less than the required 150ft.

Attachments

1. Maps
2. Draft CSM
3. Resolution for CSM / exception / modification



Village of Mukwonago GIS Land Use

DISCLAIMER: The Village of Mukwonago does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.

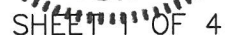


SCALE: 1" = 667'

VILLAGE OF MUKWONAGO
440 River Crest Court
PO Box 206
Mukwonago, WI 53149
262-363-6420

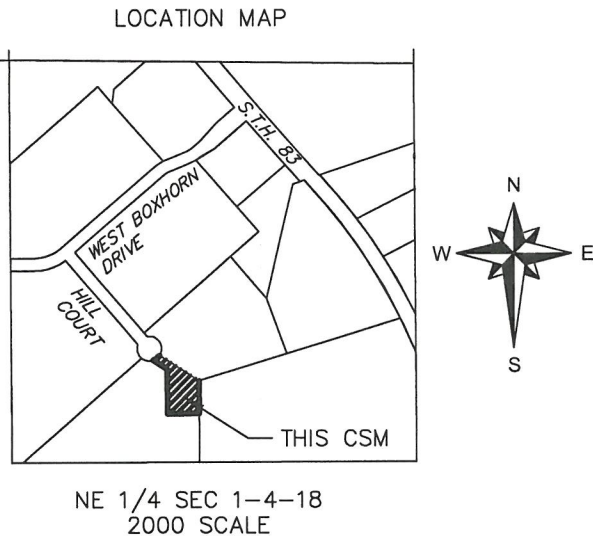
Print Date: 9/30/2021

BEING A PART OF LOT 2, CSM 4936,
LOCATED IN THE SOUTHWEST 1/4 OF THE
NORTHEAST 1/4 OF SECTION 1, TOWNSHIP
4 NORTH, RANGE 18 EAST, VILLAGE OF
MUKWONAGO, WALWORTH COUNTY,
WISCONSIN



CERTIFIED SURVEY MAP - _____

BEING A PART OF LOT 2, CSM 4936, LOCATED IN THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 18 EAST, VILLAGE OF MUKWONAGO, WALWORTH COUNTY, WISCONSIN



NOTES:

- 1. NO BUILDINGS EXIST WITHIN THIS PROPOSED CERTIFIED SURVEY MAP.
- 2. LOT SHOWN AS ZONE "X" UNSHADED, AREAS OF MINIMAL FLOODING, PER FEMA MAP AND PANEL NO. 55127C0125D, EFFECTIVE DATE NOVEMBER 5, 2014. BASED UPON CURRENT FEMA MAPPING AND COUNTY GIS DATA NO MAPPED OR STUDIED 100 YEAR FLOODPLAIN EXIST WITHIN 2400 +/- FEET OF THE PROPOSED CERTIFIED SURVEY MAP BOUNDARY, THEREFORE IT IS ASSUMED NO LANDS LIE AT OR BELOW THE 5 VERTICAL FEET ABOVE CONTOUR ELEVATION.
- 3. THE LOT WITHIN THIS DEVELOPMENT WILL BE SERVED BY PUBLIC SANITARY SEWER AND WATER.
- 4. BEARINGS ARE REFERENCED TO THE SOUTH LINE OF THE OF THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 18 EAST, BEARING OF S89°52'14"W.

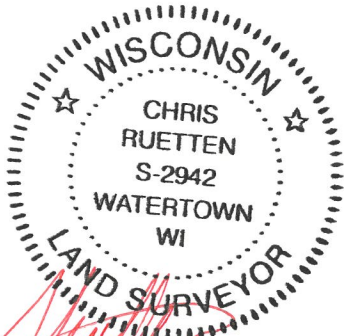
T:\3:\C3D_2018\12_Village of Mukwonago\10158 Hill Court Watertown\dwg\CSM\20210916 CSM\20210916 CSM.dwg

OWNER/SUBDIVIDER:
Village of Mukwonago
440 River Crest Ct.
Mukwonago, WI 53149
Ph. 262-363-6420

PREPARED BY:
Ruekert & Mielke, Inc.
W233 N2080 Ridgeview Pkwy.
Waukesha, WI 53188
262-547-5733



THIS INSTRUMENT WAS DRAFTED BY JOHN M. SCHULZ
CHECKED BY: CHRIS RUETTEN, PLS (09/16/21)



Chris Ruetten, P.L.S. 2942

Dated this 16th day of September, 2021

CERTIFIED SURVEY MAP - _____

BEING A PART OF LOT 2, CSM 4936, LOCATED IN THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 18 EAST, VILLAGE OF MUKWONAGO, WALWORTH COUNTY, WISCONSIN

SURVEYOR’S CERTIFICATE

STATE OF WISCONSIN }
COUNTY OF WALWORTH } SS

I Chris Ruetten, Professional Land Surveyor, do hereby certify that at the direction of the Village of Mukwonago, that I have surveyed, divided and mapped part of Lot 2 of Certified Survey Map No. 4936, being a part of the Southwest 1/4 of the Northeast 1/4 of Section 1, Township 4 North, Range 18 East, Village of Mukwonago, Walworth County, Wisconsin, more particularly described as follows:

Commencing at the Southeast corner of said Northeast 1/4; thence bearing S89°52’14”W, a distance of 1417.36 feet along the South line of the Northeast 1/4 to the East line of Lot 2 of CSM 4936; thence bearing N00°26’32”W along said line, a distance of 315.63 feet to the POINT OF BEGINNING (POB); thence bearing S89°33’28”W, a distance of 209.00 feet; thence bearing N00°26’32”W, a distance of 285.92 feet; thence bearing N57°15’42”W, a distance of 107.38 feet to the Right-of-Way (ROW) line of Hill Court; thence 54.01 feet along the arc of a curve to the left, whose radius is 80.00 and whose chord bears N52°04’46”E, a distance of 52.99 feet to a Westerly line of Lot 2 of CSM 4868; thence bearing S57°15’42”E along said line, a distance of 306.85 feet to the East line of Lot 2 of CSM 4936; thence bearing S00°26’32”E along said line, a distance of 209.00 feet to the POINT OF BEGINNING. Said lands contain 61,915 square feet more-or-less (1.42 acres ±). Subject to covenants, conditions, restrictions and easements of record.

That I have made this survey, land division and map by the direction of the Village of Mukwonago, Owner(s) of said land.

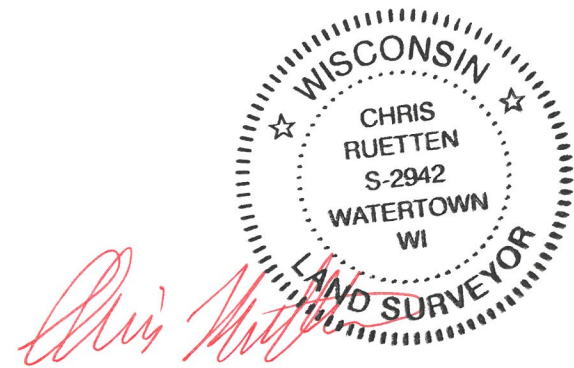
That such map is a correct representation of all the exterior boundaries of the land surveyed and the division thereof made.

That I have fully complied with the provisions of Section 236.34 of the Wisconsin Statutes and the Village of Mukwonago ordinances in surveying, dividing and mapping of same.

PREPARED BY:
Ruekert & Mielke, Inc.
W233 N2080 Ridgeview Pkwy.
Waukesha, WI 53188
262-547-5733



OWNER/SUBDIVIDER:
Village of Mukwonago
440 River Crest Ct.
Mukwonago, WI 53149
Ph. 262-363-6420



Chris Ruetten, P.L.S. 2942

Dated this 16th day of September, 2021

THIS INSTRUMENT WAS DRAFTED BY JOHN M. SCHULZ
CHECKED BY: CHRIS RUETTEN, PLS (09/16/21)

ZS:: \\C3D_2018\\12_Village of Mukwonago\\10158 Hill Court Watertown\\dwg\\CSM\\20210916 CSM\\20210916 CSM.dwg 52

CERTIFIED SURVEY MAP - _____

BEING A PART OF LOT 2, CSM 4936, LOCATED IN THE SOUTHWEST 1/4 OF THE NORTHEAST
1/4 OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 18 EAST, VILLAGE OF MUKWONAGO,
WALWORTH COUNTY, WISCONSIN

CORPORATE OWNER'S CERTIFICATE

The Village of Mukwonago, a Municipal Corporation duly organized and existing under, and by virtue of, the laws of the State of WI, and as owner(s), do hereby certify that said Municipal Corporation, caused the land described on this map to be surveyed, divided, mapped, and dedicated as represented on this map.

The Village of Mukwonago, does further certify that this Certified Survey Map is to be submitted to the following for approval or objection:
(Village of Mukwonago)

WITNESS the hand and seal of said owner(s) this _____ day of _____, 2021.

In the presence of:

Signed: _____
Fred Winchowky, Village President

Countersigned: _____
Diana Dykstra, Village Clerk

STATE OF WISCONSIN }
COUNTY OF _____ }SS

Personally came before me this _____ day of _____, 2021, Fred Winchowky, Village President, and Diana Dykstra, Village Clerk of the above named Municipal Corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such Village President and Village Clerk of said Municipal Corporation, and acknowledged that they executed the foregoing instrument as such officer(s) as the deed of said Municipal Corporation, by its authority.

Notary Public, _____ County, Wisconsin

My Commission Expires _____

VILLAGE BOARD CERTIFICATE

Resolved, that this Certified Survey Map, in the Village of Mukwonago, is hereby approved by the Village Board.

Dated this _____ day of _____, 2021.

Fred Winchowky, Village President

I hereby certify that the foregoing is a copy of a resolution adopted by the Village of Mukwonago Board.

Diana Dykstra, Village Clerk

VILLAGE PLANNING COMMISSION CERTIFICATE

Resolved, that this Certified Survey Map, in the Village of Mukwonago, is hereby approved by the Village Planning Commission.

Fred Winchowky, Village President

I hereby certify that the foregoing is a copy of a resolution adopted by the Planning Commission of the Village of Mukwonago.

Diana Dykstra, Village Clerk

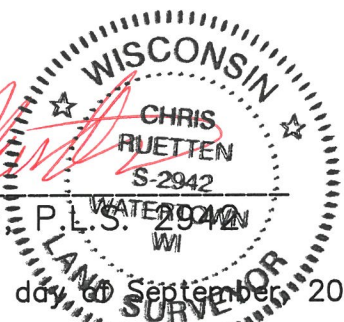
PREPARED BY:
Ruekert & Mielke, Inc.
W233 N2080 Ridgeview Pkwy.
Waukesha, WI 53188
262-547-5733

 **Ruekert • Mielke**
www.ruekertmielke.com

OWNER/SUBDIVIDER:
Village of Mukwonago
440 River Crest Ct.
Mukwonago, WI 53149
Ph. 262-363-6420

THIS INSTRUMENT WAS DRAFTED BY JOHN M. SCHULZ
CHECKED BY: CHRIS RUETTEN, PLS (09/16/21)


Chris Ruetten, P.L.S. 2942
Dated this 16th day of September, 2021



SHEET 4 OF 4

RESOLUTION 2021- 74

**RESOLUTION APPROVING A CERTIFIED SURVEY MAP (CSM)
And Exceptions on Modifications to Lot Width
FOR HILL COURT, #A493600002
THE VILLAGE OF MUKWONAGO**

WHEREAS, pursuant to Section 45, of the Municipal Code, an application for Certified Survey Map (CSM) has been filed for the approval for a two lot CSM, which application has been filed in the office of the Village Clerk, Village of Mukwonago, Wisconsin, and

WHEREAS, the application has been submitted by the VILLAGE OF MUKWONAGO

WHEREAS, the proposed lots within the Industrial Land Use Classification in which the subject property is located, and

WHEREAS, the proposed lots within the M-4 Medium / Heavy Industrial Zoning District in which the subject property is located, and

WHEREAS, the proposed division of land / Certified Survey Map (CSM) has been reviewed and recommended by the Village Plan Commission, and

WHEREAS, the proposed Exceptions an Modifications to Lot Width has been reviewed and recommended by the Planning Commission to allow the lots widths of both lots of the CSM to be less than 150 ft as required by the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Mukwonago, Wisconsin hereby approves the proposed division of land / Certified Survey Map (CSM), based upon the draft CSM submitted.

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Mukwonago, Wisconsin hereby approves the Exceptions and Modifications to both lots to have a frontage of less than 150ft.

NOW, THEREFORE, BE IT FURTHER RESOLVED this proposed division of land / Certified Survey Map (CSM), shall be subject to the following conditions:

1. All lots shall be complaint to the Zoning Classification of M-4 Manufacturing zoning, with the exception of Lot width.
2. Civil plans for utilities, grading and similar activity shall be submitted to the Village for approval by the Utilities Department and Village Engineer for review and approval prior to any building permits being submitted or approved.
3. Prior to any land-disturbing activity on either lot, a pre-construction meeting must be held with the developers / property owner(s) and primary contractors, and Village department heads and representatives.
4. Prior to any land-disturbing activity, the applicant must reimburse the Village for any outstanding charges and establish an escrow account with the Village as may be required.
5. The applicant / property owner(s) must obtain all applicable permits.
6. The developer must comply with all requirements related to impact fees imposed by the Village.
7. The developer must comply with all requirements related to the parkland fee imposed by the Village.
8. The developer shall comply with all parts of the Municipal Code as it relates to this project.
9. The developer shall comply with comments from the Village Engineer.

Village of Mukwonago
Walworth and Waukesha Counties, State of Wisconsin

10. Each property will be permitted one driveway complaint with Village standards with the location of proposed driveways approved by the Village Engineer and Public Works Director or designees.
11. Any future modification to the proposed CSM prior to recording shall require review by the Planning Commission and Village Board.

NOW, THEREFORE, BE IT FURTHER RESOLVED the applicant, of the proposed division of land / Certified Survey Map (CSM), shall agree to accept the same in writing.

Passed and dated this 20th day of October 2021.

VILLAGE OF MUKWONAGO

By: _____
Fred Winchowky, Village President

Attest: _____
Diana Dykstra, Village Clerk-Treasurer



PLANNING COMMISSION

October 12, 2021 at 6:30pm

Mukwonago, WI

Conceptual Review of Preliminary Plat for Chapman Farms Subdivision (Phase 1, 2, 3, and 4)

Parcel Numbers: MUKV1957001010, MUKV1957001001, MUKV1957007, MUKV1957006, MUKV1957004, MUKV1957005, MUKV1957011, MUKV1957010, MUKV1957997001

Case Summary

Parcel Data

Proposal:	New Preliminary Plat for Chapman Farms Subdivision
Applicant:	Frank Bielinski, President / Bielinski Homes, Inc.
Request:	Conceptual Review of Preliminary Plat
Staff Recommendation:	No Action Required – Informational Only

Parcel Characteristics / Conditions

Acreage:	86.5885 acres
Total Number of Units:	172
R-1 Single Family Area:	73.67 Acres, 124 Lots, 1.68 lots per acre
R-5 Multi Family Area (Villas):	11.05 Acres, 48 Units, 24 buildings
Density:	4.98 units per acre
Total Green Space:	60% of lot area
Park Area Dedication:	1.87 acres
Stormwater:	On Lot 1, Out Lots 1, 2, 5 and 8
Current Use:	Farmland, Construction Site, Improved Right of way yet to be dedicated.
Proposed Use:	Single Family Lots, Duplex Units, right of way, Park, Private out lots, and stormwater Facilities
Reason for Request:	Addition of 22+/- acres to Plat
Land Use Classification:	Medium Lot Single Family II – 15,000 SF Low Density Multi- Family
Zoning Classification:	R-1 Single Family Community Residential District R-5 Low Density Multi Family Residential District
Census Tract:	2039.01

Project Summary

- Bielinski Homes, Inc. received approval of a CSM to divide land on April 18th, 2018. (Resolution 2018-23)

- Bielinski Homes, Inc. received approval of a preliminary plat approval on April 18, 2018. (Resolution 2018-024.)
- Bielinski Homes, Inc. received approval for a Planned Unit Development via a Conditional Use Permit on June 20th 2018. (Resolution 2018-035)
- Bielinski Homes, Inc. received approval for landscaping and building design for condominiums within the PUD portion of the development on July 18th, 2018. (Resolution 2018-043)
- Bielinski Homes, Inc. received approval for a final plat of for phase 1 of the subdivision on January 19, 2019. (Resolution 2019-004)
- Bielinski Homes, Inc. received approval for a Development Agreement (first phase) on June 17th 2020. Recorded with ROD on July 13, 2020.
- Bielinski Homes, Inc. received approval for a Development Agreement (second phase) on July 21st 2021. (Resolution 2021-60)

Currently, Bielinski Homes, Inc has an offer pending for the purchase of 22 additional acres to the west of the original plat approved in April of 2018. Bielinski would like to create one new preliminary plat to include the originally approved plat with the addition of the 22 acres. With this new plat they are requesting modifications of lots and road layout in what would be phase three of the development.

This is a rather unique situation. Moving forward the plan as discussed between the Developer, Village Attorney and Planning Staff is as follows:

Step One – Rescind the preliminary plat, Development Agreements and Stormwater maintenance Agreements previously adopted.

Step Two – Adopt a new preliminary plat, Development Agreements and Stormwater Maintenance Agreements.

Note: All of the above actions will need to occur at the same meeting and in a specific order.

The actions will be essentially to rescind old documents and adopt various new documents. The new preliminary plat will be a new document, however many of the other resolutions and development agreements will include edits such as lot numbers, new exhibits, etc.

The amendments and changes will be provided to the planning commission with a red line and strike out feature on all the documents.

Staff Review

Engineering

A water main easement in the northwest corner of the development shall be provided for the extension to the property line to service parcels to the north and west. The preferred location is between Lots 117 and 116, but if the grade is too difficult, then lots 117 and 118 are an acceptable second option.

A number of notes on the plans such as #10 will need to be coordinated with the intent of the SWMA documents.

**Public Works
Utilities**

No concerns at this time.

A water main easement in the northwest corner of the development shall be provided for the extension to the property line to service parcels to the north and west. The preferred location is between Lots 117 and 116, but if the grade is too difficult, then lots 117 and 118 are an acceptable second option.

**Police
Fire
Building Inspection
Planning**

No concerns at this time.

No concerns at this time.

No concerns at this time.

Planning Staff has reviewed the Preliminary Plat and suggested out lot #8 be reviewed for the possibility of adding a stone walking path through the non INRA of the out lot similar to out lot #5. In addition, Staff recommend at least two access points for the access to the out lot. Access points shall not conflict with but coordinate with other easements.

Action

No action is required by the Planning Commission at this time, however if the commission members have any comments, concerns or suggestions staff recommends that they be provided at this time to allow for the developer to make any modifications to the preliminary plat and to coordinate revisions with staff.

Attachments

1. Maps
2. Preliminary Plat - Concept



Village of Mukwonago GIS

Aerial Photo

DISCLAIMER: The Village of Mukwonago does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.



SCALE: 1" = 667'

VILLAGE OF MUKWONAGO

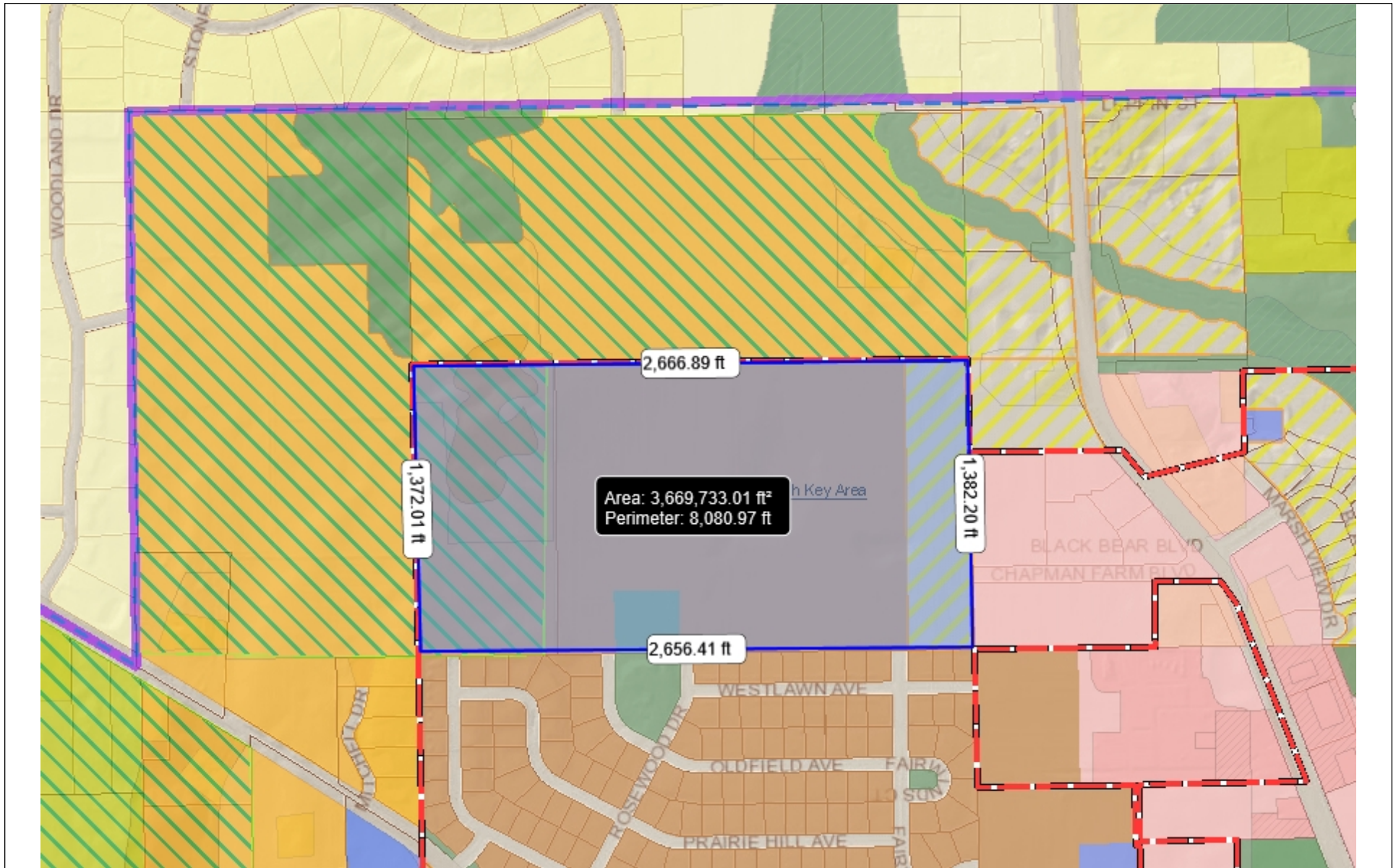
440 River Crest Court

PO Box 206

Mukwonago, WI 53149

262-363-6420

Print Date: 9/16/2021



Village of Mukwonago GIS

Land Use

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VILLAGE OF MUKWONAGO

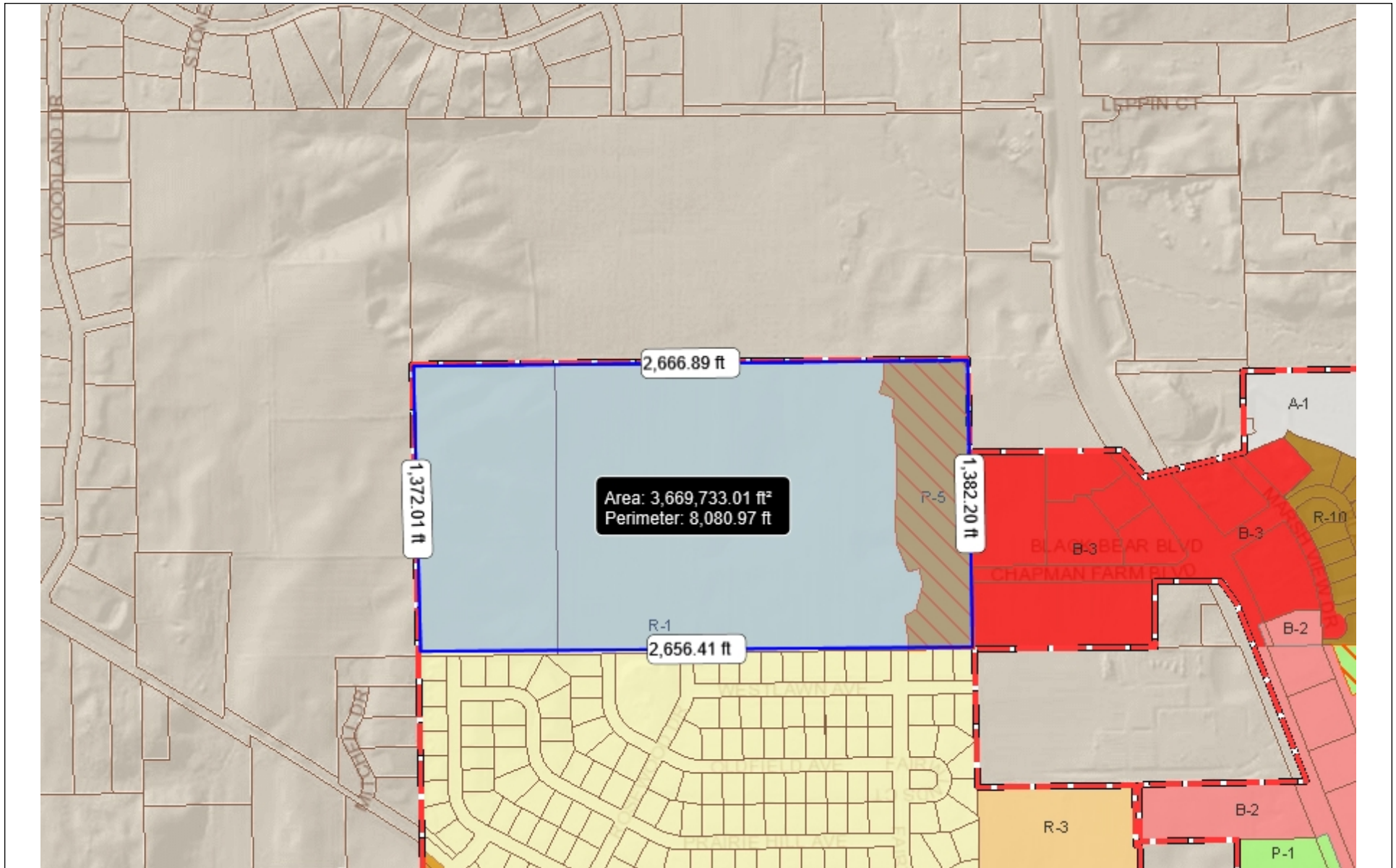
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Village of Mukwonago GIS

Zoning

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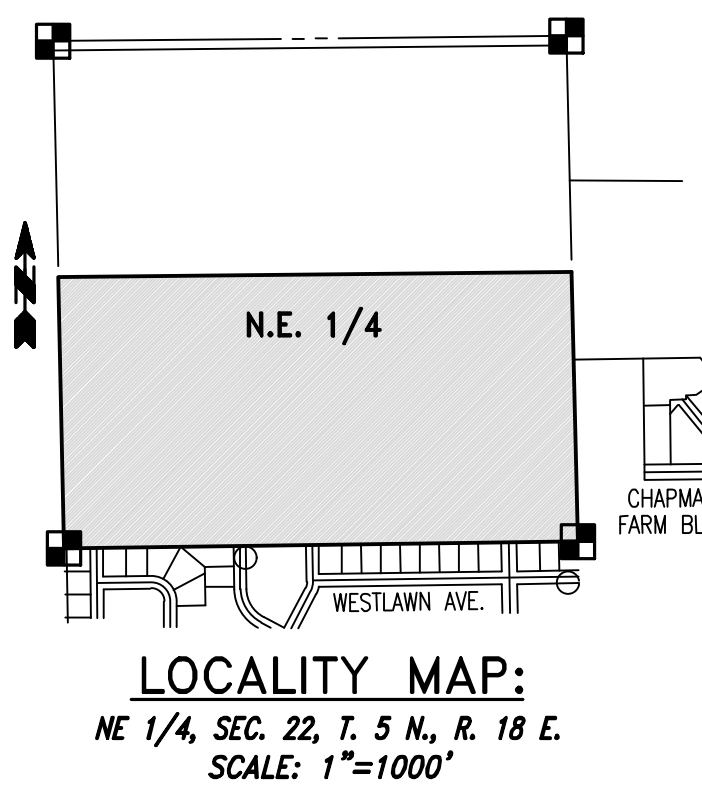
SCALE: 1" = 667'

VILLAGE OF MUKWONAGO
440 River Crest Court
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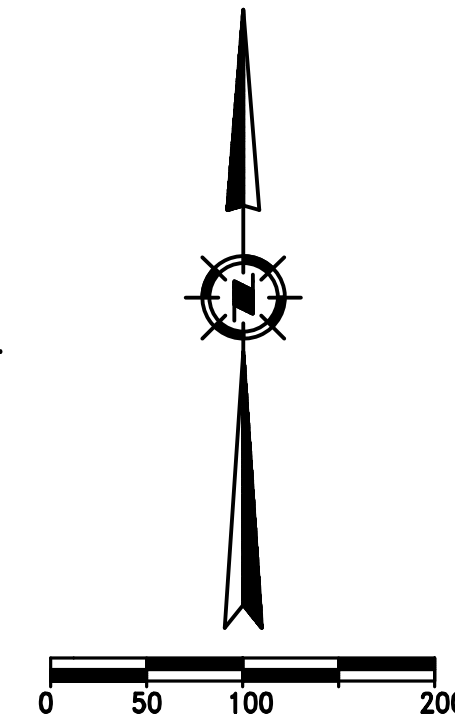
Print Date: 9/16/2021

Those areas identified as WETLAND on this Plat shall be subject to the following restrictions:

1. Grading, filling and removal of topsoil or other earthen materials are prohibited, unless specifically authorized by the municipality in which this land is located and, if applicable, the Waukeasha County Department of Parks and Land Use, the Wisconsin Department of Natural Resources and the Army Corps of Engineers.
2. The removal or destruction of any vegetative cover, i.e., trees, shrubs, grasses, etc., is prohibited, with the exception that dead, diseased, or dying vegetation may be removed, at the discretion of the landowner and with approval from the municipality in which this land is located and, if applicable, the Waukeasha County Department of Parks and Land Use-Planning and Zoning Division. The removal or destruction of a forest or naturalized area with approval from the municipality in which this land is located and, if applicable, the Waukeasha County Department of Parks and Land Use-Planning and Zoning Division shall also be permitted. The removal of any vegetative cover that is necessitated to provide access or service to an approved residence or accessory building, shall be permitted only when the access or service cannot be located outside the the Conservancy/Wetland/Pool/Primary Environmental Corridor and with approval from the municipality in which this land is located and, if applicable, the Waukeasha County Department of Parks and Land Use-Planning and Zoning Division.
3. Grazing by domesticated animals, i.e., horses, cows, etc., is prohibited within the Conservancy/Wetland/Pool/Primary Environmental Corridor and shall be discouraged to the greatest extent possible within the Primary Environmental Corridor area.
4. The introduction of plant material not indigenous to the existing environment is prohibited.
5. Ponds may be permitted subject to the approval of the municipality in which they are located and, if applicable, the Waukeasha County Department of Parks and Land Use, the Wisconsin Department of Natural Resources and the Army Corps of Engineers.
6. The construction of buildings is prohibited.



BEING A REDIVISION OF OUTLOTS 1 AND 2 OF C.S.M. NO. 11755, LOCATED IN A PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHWEST 1/4 AND SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22, TOWN 5 NORTH, RANGE 18 EAST, IN THE VILLAGE OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN.



R-1 SINGLE-FAMILY MEDIUM LOT RESIDENTIAL
 LOT AREA = 15,000 s.f. min.
 LOT WIDTH =
 Interior = 100 feet
 Corner = 120 feet
SETBACK
 Street = 35 feet
 Interior Side (1-story) = 15 feet
 Interior Side (Others) = 20 feet one side
 15 feet other side
 Rear = 40 feet

R-5 LOW-DENSITY MULTI-FAMILY RESIDENTIAL
 LOT AREA = 18,000 s.f./ building
 LOT WIDTH = 200 feet

SETBACK
 Street = 35 feet
 Interior Side (1-story) = 15 feet
 Interior Side (others) = 20 feet one side
 15 feet other side
 Dist. between bldgs = 30 feet minimum
 Rear = 50 feet
MINIMUM GREEN SPACE = 60%

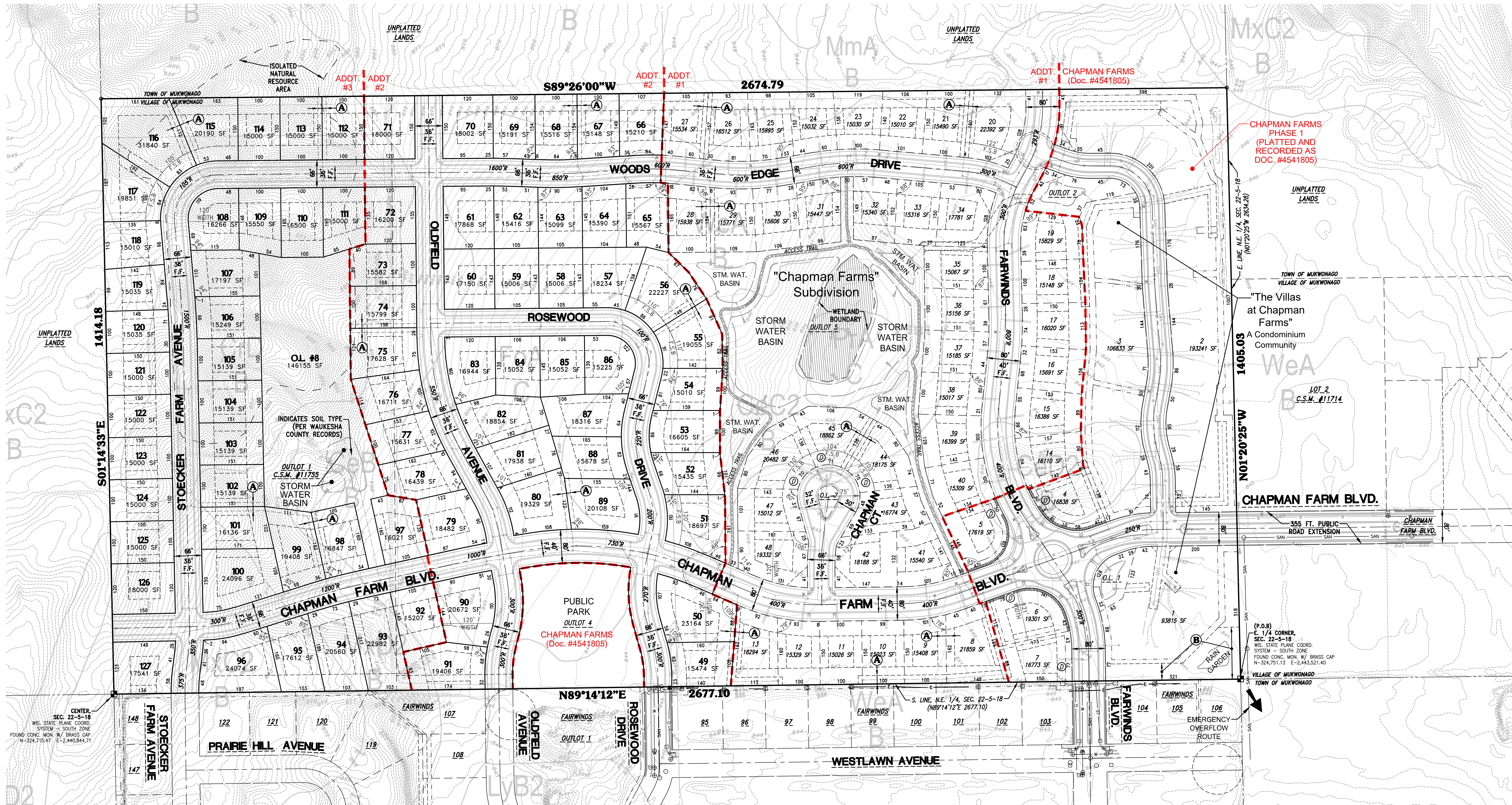
DEVELOPMENT SUMMARY	
Total Area =	86.5885 acres
Total # of Units =	172 units
Chapman Farms Subdivision	
R-1 Single Family Area =	73.67 acres
Total Lots =	124 lots
Density =	1.68 lots/acre
The Villas at Chapman Farms Condominiums	
R-5 Multi-Family Area =	11.05 acres
Total Area (excl ROW) =	9.63 acres
Total Units =	48 units
	(24 buildings)
Density =	4.98 units/acre
Total Green Space =	60% of lot area
Miscellaneous Site Information	
- Public Park Area = 1.87 acres	
- Storm water on Lot 1 and Outlots 1, 2, 5 and 8)	

Lots containing side lot lines which are not perpendicular to right-of-way due to road curvature and parcel configuration;

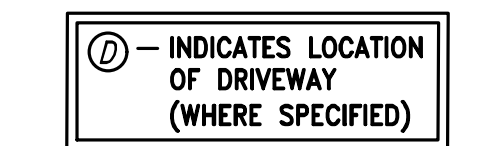
Lots 5, 8, 9, 12-15, 19, 24, 25, 28-33, 35-38, 41-43, 46-55, 62-69, 76-83, 86-91, 94-96, 98-100, and 106-108.

Lots which do not meet the minimum width at the right-of-way line due to road curvature and parcel configuration. These lots meet the minimum width at the front setback and/or as dimensioned on the plat.

Lots 6, 20, 44, 45, 46, 48, 50, 51, 55, 56, 90, 108, 116, and 117.



(A) — 20' WIDE STORM SEWER
AND DRAINAGE EASEMENT
(B) — STORM WATER DRAINAGE
EASEMENT (WIDTH VARIES)



1. Tax Key No.'s. MUKY19577997.
2. Development contains approximately 86.5885 Acres.
3. Subdivision contains 124 Single Family Lots.
4. R-5 Multi-Family area (Lots 1, 2 & 3) contain 24 Condominium Bldgs (48 total units).
5. All lots to be served by Sanitary Sewer and Watermain.
6. Public Roads to have Concrete Curb and Gutter, Asphalt Pavement with Storm Sewer.
7. Outlot 4 has been dedicated to the Village of Mukwonago.
8. Outlot 8 contains INRA, which is to remain undisturbed.
9. The Owners of all Lots within this Subdivision shall each own an equal undivided fractional interest in the remaining outlots of this Subdivision. Waushesha County shall not be liable for fees or special assessments if the event they become the owner of any Lot or Outlot in the Subdivision by reason of tax delinquency.
10. Stormwater Management Facilities are located on Outlots of this Subdivision. The Owners of the residential Lots within this Subdivision shall each be liable for an equal undivided fractional share of the cost to repair, maintain or restore said Stormwater Management Facilities within this Subdivision. Said repair, maintenance and restoration shall be performed by the Owners of all Lots within this Subdivision.

Wetland boundaries shown herein were delineated by Stantec in November 2017

All bearings are referenced to Grid North of the Wisconsin State Plane Coordinate System, South Zone (NAD-27), in which the South line of the N.E. 1/4 of Section 22, Town 5 North, Range 18 East, bears North 89°14'12" East.

All elevations are referenced to the National Geodetic Vertical Datum of 1929 via a ground survey by Trio Engineering, LLC. and Waukesha County GIS topographic data.

- State of Wisconsin, Department of Administration
- Waukesha County, Department of Parks and Land Use

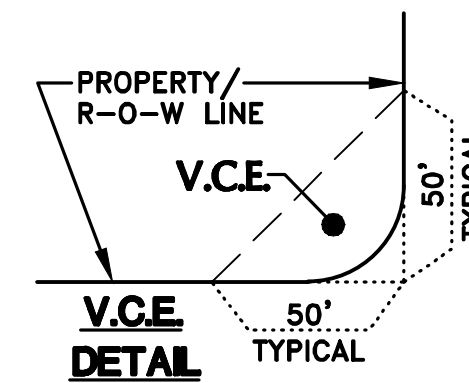
– Village of Mukwonago

Although all Lots in the Subdivision have been reviewed and approved for development with single-family residential use in accordance with Section 236 Wisconsin Statutes, some Lots contain soil conditions that, due to the presence of the Wisconsin Corners Easement, may require additional geotechnical soil engineering and foundation design with regard to basement construction. It is recommended that a licensed professional engineer design and construct a foundation that will be suitable to allow for the various problems associated with saturated soil conditions on basement walls or floors or that other special measures be taken. Soil conditions should be subject to each owner's special investigation prior to construction and no specific representation is made herein.

Cornor lots as shown on this plat are subject to a Vision Cornor Easement in that no structure or improvements of any kind is permitted within the Vision Cornor Easement (except trees) shall exceed a maximum height of 30 inches, as measured from the road edge to the top of the vegetation, in the location designated as the vision corner. Trees in the vision corner shall be trimmed to a height of 30 inches, as measured from the road edge to the bottom branches, to allow for a clear view of approaching traffic.

PROPERTY

Corner lots as shown on this plat are subject to a Vision Corner Easement in that no structure or improvements of any kind is permitted within the Vision Corner. No vegetation (except trees) shall exceed a maximum height of 30 inches, as measured from the road edge to the top of the vegetation, in the location designated as the vision corner. Trees in the vision corner shall be trimmed to a height of 60 inches, as measured from the road edge to the bottom branches, to allow for a clear view of oncoming traffic.



TRIO ENGINEERING, LLC
4100 N. CALHOUN ROAD, SUITE 300
BROOKFIELD, WISCONSIN 53005
PHONE: (262) 790-1480
FAX: (262) 790-1481

BIELINSKI HOMES
1830 MEADOW LN. SUITE A
PEWAUKEE, WISCONSIN 53072
PHONE: (262) 548-5570

I hereby certify that this preliminary plat is a correct representative of all existing land divisions and features and that I have fully complied with the provisions of the subdivision and platting code of the Village of Mukwonago.

Date: 03-08-18
Revised: 03-14-18
Revised: 08-04-21
Revised: 08-13-21
Revised: 08-31-21
Revised: 09-29-21


Grady L. Gosser, R.L.S.
Registered Land Surveyor S-2972

PROJECT:
CHAPMAN FARMS
RESIDENTIAL COMMUNITY
VILLAGE OF MUKWONAGO, WISCONSIN
BY: BIELINSKI HOMES
1830 MEADOW LN., SUITE A
PEWAUKEE, WI 53072

DATE	DESCRIPTION
08/08/2018	VILLAGE SUBMITTAL
01/14/2018	DOA SUBMITTAL
04/04/2021	PLAT UPDATES
03/13/2021	VILLAGE SUBMITTAL
03/31/2021	VILLAGE SUBMITTAL
02/29/2021	VILLAGE SUBMITTAL

DATE:
SEPTEMBER 29, 2021

JOB NUMBER:
14023-02

**PRELIMINARY
PLAT**

SHEET

1 OF 1



PLANNING COMMISSION

October 12, 2021 at 6:30pm

Mukwonago, WI

Sign Approval

240 Maple Street

Parcel Number: MUKV 2016-993-002

Case Summary

Overview

Pro Health Care is seeking multiple Approvals from both the Planning Commission and Village Board. The Municipal ordinance (Chapter 64 Signs) has a number of procedures many of which are required for processing of the signage package for the Hospital.

First, The Code requires all institutional uses within the village have their signage reviewed and approved by the Planning Commission.

Second, The Code also required properties that have multiple signage in a campus setting have a master sign program for the campus to be approved by the Planning Commission.

Third, the code also allows for special exceptions for signage. The applicant at this time is seeking one special exception for one monument signs which requires a public hearing before the Planning Commission which will be scheduled for November 9th, 2020, upon receipt of fees.

Fourth, the sign code was written for small institutional properties and did not envision or provide language for larger campus like developments such as hospitals, large educational complexes, or larger manufacturing developments that might need a series of directional signs to allow for ease of movement through the development.

Below is a summary of each sign, followed by a summary of the campus program. Finally, this report provides a summary of staff recommendations by sign. Staff recommends for clarity that each suggested motion be taken individually.

Please also note that the hospital is still in the process of designing wall signs for the building. These signs will be brought before the commission at a later date with an amendment to the master campus sign program.

Sign #1- Monument Sign with Special Exception

Proposal:	1. Proposal for institutional use signage requiring approval by the Planning Commission Section 64-21 (a) (1) (3) 2. Proposal to request a special exception to have one additional Freestanding Monument Sign per section 64-34 (b) (3) <i>The allowance of additional freestanding monument signs on large properties over 10 acres in size with multiple right-of-way access points and an excessive right-of-way to property size ratio not typical in the Village.</i> 3. Request for approval of signage under 64-21 (a) (1) institutional uses signs requiring Planning Commission Approval and subsection (3) facilities which have a campus for which more than one sign is proposed requiring submission of overall sign plan for the site.
Applicant:	Pro Health Care
Request:	Sign Design Approval subject to a Special Exception to be notices and scheduled for the November Planning Commission meeting.
Planning Commission Action:	Staff recommend the commission consider a motion to approval the sign design subject to the commission holding a public hearing and issuance a special exception for a third sign at the November 9, 2021.

Sign #2- Monument Sign

Proposal:	1. Proposal for institutional use signage requiring approval by the Planning Commission Section 64-21 (a) (1) (3) for a monument sign. 2. Request for approval of signage under 64-21 (a) (1) institutional uses signs requiring Planning Commission Approval and subsection (3) facilities which have a campus for which more than one sign is proposed requiring submission of overall sign plan for the site.
Applicant:	Pro Health Care
Request:	Approval of one of two permitted monument signs
Staff Recommendation:	Staff recommend the commission consider a motion to approve the sign design.

Sign #3 Monument Sign

Proposal:	Monument Sign #3 was approved in November of 2020 and staff has processed the application for permits. Permits for this sign can move forward at the applicant's request.
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Sign #4 Directional Sign

Note:

Direction Sign #4 was approved by the planning Commission in November of 2020 as one of two permitted monument signs. The applicant has over the past 12 months decided they would like to have three monument signs along Maple. The code allows for two monument signs, with the possibility of the planning commission granting a special exception for a third sign. Four monument signs are not permitted with a special exception. Staff and the applicant have discussed that this sign could be classified as an illuminated directional sign. However, the design of the sign has not been updated at the time of this report.

Proposal:	Illuminated Directional Sign.
Applicant:	Pro Health Care
Request:	Sign Approval subject to staff approval of coordination with other directional signs and campus master plan.
Staff Recommendation:	Staff recommend the commission consider a motion to approve the location and general concept of an illuminated directional sign as this location and for the final design to be approved by staff following modification of the sign code, matching the campus sign program without returning back to the Commission.

Sign #5 Directional Sign - Code Amendment

Proposal:	Request for Code Amendment to Chapter 64-24 Exempt signs. Request approval of the design of the directional signage
Applicant:	Pro Health Care
Request:	Amend Code to allow for Directional wall signage directing people to Emergency rooms/ Ambulance Facilities/ Urgent care that are under 75 SF of area.
Staff Recommendation:	Approve with Conditions
Propose text:	<u>Underline text</u> = new text. Strick-Out text = deleted text.

§ 64-24Exempt signs.

The following types of signs are exempted from all of the provisions of this chapter:

(a) *Public signs erected by or under the order of or by permission of a governmental entity, provided that the governing body makes a finding that such sign does not adversely impact the public health, safety or welfare of the Village of Mukwonago and, in fact, will promote the public health, safety and welfare of the community.*

(b) *Historical markers as recognized by local, state or federal authorities.*

(c) Directional wall signage directing people to Emergency rooms/ Ambulance Facilities/ Urgent care that are under 75 SF of area

Staff Recommendation:

Staff recommend the planning commission recommend to the Village Board adoption of a cod amendment excepting directional wall signs for emergency rooms, ambulance facilities and urgent care centers that are under 75 SF in area.

Sign #9, 14, and 15 Informational Signs

Proposal:

1. Request approval for signage 64-19 (e). Signs for Informational reasons note exceeding four square feet in area.

2. Request for approval of signage under 64-21 (a) (1) institutional uses signs requiring Planning Commission Approval and subsection (3) facilities which a have a campus for which more than one sign is proposed requiring submission of overall sign plan for the site.

Applicant:

Pro Health Care

Request:

Approval of informational signs under 4sf.

- Signs Identified on application material as sign #9: one at 2.38 SF(main), one at 3.13 SF (Entry).
- Signs identified on application material as sign # 14: one at 3.14 SF (Upper), one at 2.95SF (Level), one at 3.09sf (Entry).
- Signs Identified on application material as sign #15: one at .98 SF (Cancer), one at .95 SF (Center), and one at .8 SF (Entry),

Staff Recommendation:

Staff recommend the Planning Commission grant design approval for informational signs.

Sign #11, 12, 13, 16, 17 - Directional Signs and Code Text Amendment

Proposal:

1. Request for a sign code amendment under 64-40 to amend section 64-20 (d)

2. Request for approval of signage under 64-21 (a) (1) institutional uses signs requiring Planning Commission Approval and

3. Request approval regarding 64-21 (a) subsection (3) facilities which a have a campus for which more than one sign is proposed requiring submission of overall sign plan for the site.

Applicant:

Pro Health Care

Request:

Approval of a sign code amendment and approval of sign design and overall campus sign plan.

Propose text:

Underline text = new text. ~~Strick-Out text~~ = deleted text.

64-20 Temporary and/or quasi-permanent signs and other advertising devices allowed on business and manufacturing zoned properties requiring a permit.

(d) Traffic directional signs, off-street on private property.

(1) Free Standing Traffic Directional Signs on properties 20 acres or less:

(a) Off-street traffic directional signs on private property that direct traffic from public right-of-way shall require permits.

(b.) No more than one single-faced or double-faced freestanding off-street traffic directional sign shall be permitted for each driveway; except that multiple signs may be allowed for orderly traffic flow within manufacturing zoning districts, with approval of the Zoning Administrator.

(c.) The traffic directional sign shall be installed on a durable base of at least 12 inches in height, and at least as wide as the sign. The sign base shall be in a color and material consistent with the sign. The traffic directional sign shall not be placed on a pole.

(d.) The traffic directional sign shall not exceed two square feet per side; except shall not exceed nine square feet per side within manufacturing zoning districts.

(e.) The traffic directional sign shall not exceed three feet in height; except shall not exceed five feet in height within manufacturing zoning districts.

(f.) The traffic directional sign shall be setback a minimum of five feet from any property line and shall be located so as not to impede vehicular or pedestrian traffic flow.

(g.) If a driveway is shared by two or more businesses or other premises the size and height maximums remain as above.

(h.) A traffic directional sign shall not identify any business or organization name, logo or advertising; except within manufacturing zoning districts with approval of the Zoning Administrator.

(i.) Notwithstanding procedures elsewhere in this Chapter 64, any traffic directional sign permit may be approved by the Building Inspector after approval by the Zoning Administrator; however, review assistance by the plan commission may be requested.

(2) Free Standing Traffic Directional Signs on properties 20 acres or more:

(a) Off-street traffic directional signs on private property that direct traffic from public right-of-way shall require permits.

(b.) There is no limit to the number of directional signs to allow for orderly traffic flow with approval of the Zoning Administrator.

- (c.) The traffic directional sign shall be monument style signs. No post signs are permitted. At least a 10 inch base shall be provided. The signs shall be coordinate with regard to design with all other signs on the property with regard to design, style, fonts, colors, etc.
- (d.) The overall sign shall not exceed 18 square feet.
- (e.) The traffic directional sign shall not exceed eight(8) feet including base.
- (f.) The traffic directional sign shall be setback a minimum of 10 feet from any property line and shall be located so as not to impede vehicular or pedestrian traffic flow.
- (g.) The traffic directional sign shall not impede vehicular or pedestrian traffic throughout the site/property.
- (i.) Notwithstanding procedures elsewhere in this Chapter 64, any traffic directional sign permit may be approved by the Building Inspector after approval by the Zoning Administrator; however, review assistance by the plan commission may be requested.
- (3) Wall Sign Traffic Directional Signs on properties 20 acres or more.
 - (a.) Off-street traffic directional signs on private property that direct traffic from public right-of-way to specific building entrances
 - (b.) The number of wall directional signs shall be limited to 10 for orderly traffic flow with approval of the Zoning Administrator.
 - (c.) Wall signs shall be proportional to the building element which is attached. The signs shall be coordinate with regard to design with all other signs on the property with regard to design, style, fonts, colors, etc.
 - (d.) The overall sign size shall not exceed10 SF.

Staff Recommendation:

Staff recommends the following:

- A. Recommend to the Village Board an ordinance change to section 64-20 (d).
- B. Recommend approval of the design for signs #11, 12, 13, 16, 17, condition upon the Village Board approving an ordinance change to 64-20(d).

Campus Signage Program

Proposal:

- 1. Request approval regarding 64-21 (a) subsection (3) facilities which a have a campus for which more than one sign is proposed requiring submission of overall sign plan for the site.

Applicant:

Pro Health Care

Request: Approval of the proposed campus signage plan as depicted on the site plan map and overall design image within submitted packet.

Staff Recommendation: Staff recommends the following:

- A. Recommend approval of a campus sign program as indicated within the submitted site plan map and images provided within the submission packet, subject to the Village Board approval of ordinance changes and planning commission issuance of special exceptions as applicable.

Recommendation

Staff recommends the Planning Commission the following suggested motion:

To:

1. Grant approval for Sign #1 subject to the commission holding a public hearing and issuance a special exception for a third sign at the November 9, 2021.
2. Grant approval for Sign #2 as presented.
3. Take no further action on Sign #3 as it was approved in November of 2020 by the commission.
4. Grant approval of the location of Sign #4 and the concept that the sign will be an internally illuminated directory sign that will coordinate with the other direction signs an monument signs on the property with final design approval to be granted by staff without needing to return to the Planning Commission.
5. Recommend to the Village Board adoption of a code amendment excepting directional wall signs for emergency rooms, ambulance facilities and urgent care centers that are under 75 SF in area.
6. Grant approval for informational signs # 9, 14, and 15.
7. Recommend to the Village Board adoption of an ordinance change to section 64-20 (d)
8. Grant approval of the design for signs #11, 12, 13, 16, 17, condition upon the Village Board approving an ordinance change to 64-20(d).
9. Recommend approval of a campus sign program as indicated within the submitted site plan map and images provided within the submission packet, subject to the Village Board approval of ordinance changes and planning commission issuance of special exceptions as applicable and the following Conditions:
 - a. Additional directional signage with an application and fee for a sign permit and approval from the Planner shall be required for additional signage on the property. No review from Planning Commission shall be required unless referred to by the Planner.
 - b. Informational signage with and application and fee for a sign permit and approval for the planner shall be required for additional signage on the property. No review from Planning Commission shall be required unless referred to by the Planner.
 - c. No additional Monument signs are allowed along Maple Drive as the current Master Plan as provide the maximum # allowed under the ordinance and special exception process.

Attachments

1. Maps
2. Plans
3. Ordinance (Draft)



Village of Mukwonago GIS
Aerial Photo

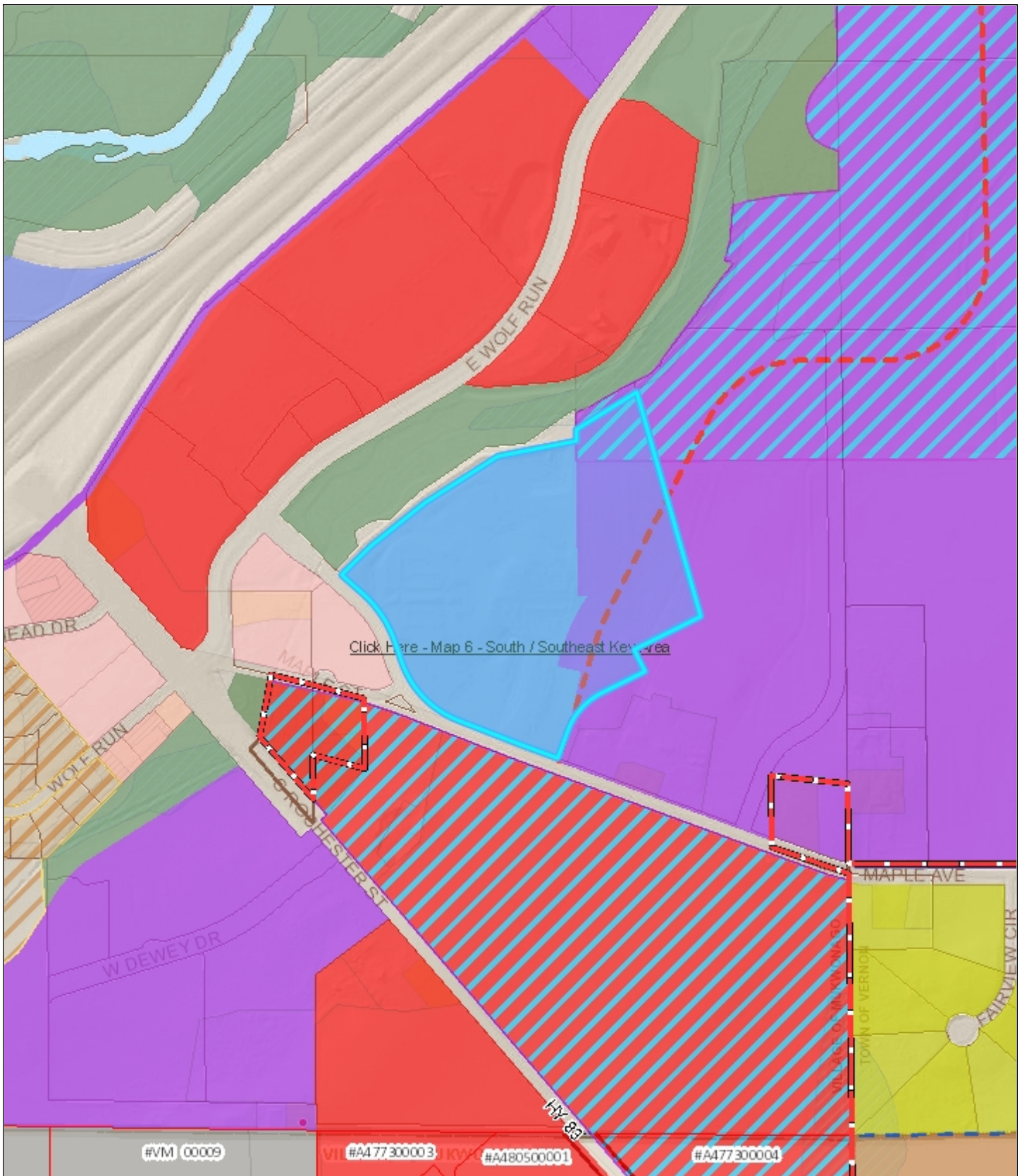
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Land Use

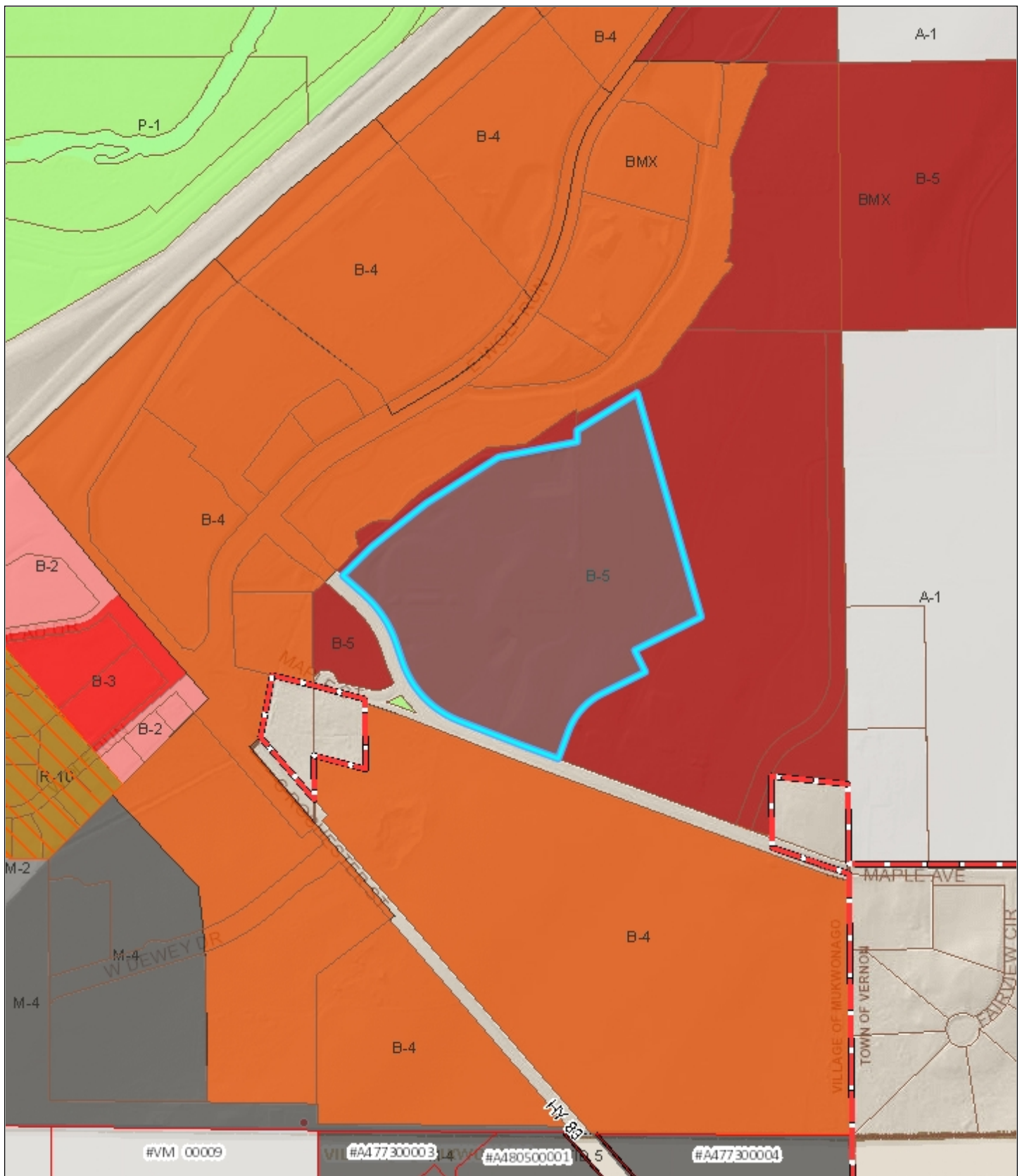
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Village of Mukwonago GIS Zoning

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**VILLAGE OF MUKWONAGO
WAUKESHA AND WALWORTH COUNTIES**

ORDINANCE NO. XXX

**ORDINANCE TO AMEND SECTION 64-20(D) AND SECTION 64-24 OF THE
MUNICIPAL CODE OF THE VILLAGE OF MUKWONAGO REGARDING
TEMPORARY AND/OR QUASI-PERMANENT SIGNS AND OTHER
ADVERTISING DEVICES ALLOWED ON BUSINESS AND MANUFACTURING
ZONED PROPERTIES REQUIRING A PERMIT / TRAFFIC DIRECTIONAL SIGNS,
OFF-STREET ON PRIVATE PROPERTY AND EXEMPT SIGNS**

The Village Board of the Village of Mukwonago, Waukesha/Walworth Counties, Wisconsin do ordain as follows:

SECTION I

Section 60-20 (d) of the Municipal Code of the Village of Mukwonago is hereby amended as follows:

64-20 Temporary and/or quasi-permanent signs and other advertising devices allowed on business and manufacturing zoned properties requiring a permit.

(d) Traffic directional signs, off-street on private property.

- (1) Free Standing Traffic Directional Signs on properties 20 acres or less:
 - a. Off-street traffic directional signs on private property that direct traffic from public right-of-way shall require permits.
 - b. No more than one single-faced or double-faced freestanding off-street traffic directional sign shall be permitted for each driveway; except that multiple signs may be allowed for orderly traffic flow within manufacturing zoning districts, with approval of the Zoning Administrator.
 - c. The traffic directional sign shall be installed on a durable base of at least 12 inches in height, and at least as wide as the sign. The sign base shall be in a color and material consistent with the sign. The traffic directional sign shall not be placed on a pole.
 - d. The traffic directional sign shall not exceed two square feet per side; except shall not exceed nine square feet per side within manufacturing zoning districts.
 - e. The traffic directional sign shall not exceed three feet in height; except shall not exceed five feet in height within manufacturing zoning districts.
 - f. The traffic directional sign shall be setback a minimum of five feet from any property line and shall be located so as not to impede vehicular or pedestrian traffic flow.
 - g. If a driveway is shared by two or more businesses or other premises the size and height maximums remain as above.
 - h. A traffic directional sign shall not identify any business or organization

name, logo or advertising, except within manufacturing zoning districts with approval of the Zoning Administrator.

- i. Notwithstanding procedures elsewhere in this Chapter **64**, any traffic directional sign permit may be approved by the Building Inspector after approval by the Zoning Administrator; however, review assistance by the plan commission may be requested.

(2) Free Standing Traffic Directional Signs on properties 20 acres or more:

- a. Off-street traffic directional signs on private property that direct traffic from public right-of-way shall require permits.
- b. There is no limit to the number of directional signs to allow for orderly traffic flow with approval of the Zoning Administrator.
- c. The traffic directional sign shall be monument style signs. No post signs are permitted. At least a 10 inch base shall be provided. The signs shall be coordinate with regard to design with all other signs on the property with regard to design, style, fonts, colors, etc.
- d. The overall sign shall not exceed 18 square feet.
- e. The traffic directional sign shall not exceed eight(8) feet including base.
- f. The traffic directional sign shall be setback a minimum of 10 feet from any property line and shall be located so as not to impede vehicular or pedestrian traffic flow.
- g. The traffic directional sign shall not impede vehicular or pedestrian traffic throughout the site/property.
- h. Notwithstanding procedures elsewhere in this Chapter **64**, any traffic directional sign permit may be approved by the Building Inspector after approval by the Zoning Administrator; however, review assistance by the plan commission may be requested.

(3) Wall Sign Traffic Directional Signs on properties 20 acres or more.

- a. Off-street traffic directional signs on private property that direct traffic from public right-of-way to specific building entrances.
- b. The number of wall directional signs shall be limited to 10 for orderly traffic flow with approval of the Zoning Administrator.
- c. Wall signs shall be proportional to the building element which is attached. The signs shall be coordinate with regard to design with all other signs on the property with regard to design, style, fonts, colors, etc.
- d. The overall sign size shall not exceed 10 SF.

SECTION II

Section 60-24 (c) of the Municipal Code of the Village of Mukwonago is hereby created as follows:

- (c) Directional wall signage directing people to Emergency rooms/ Ambulance Facilities/ Urgent care that are under 75 SF of area.

SECTION III

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

SECTION IV

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

SECTION V

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

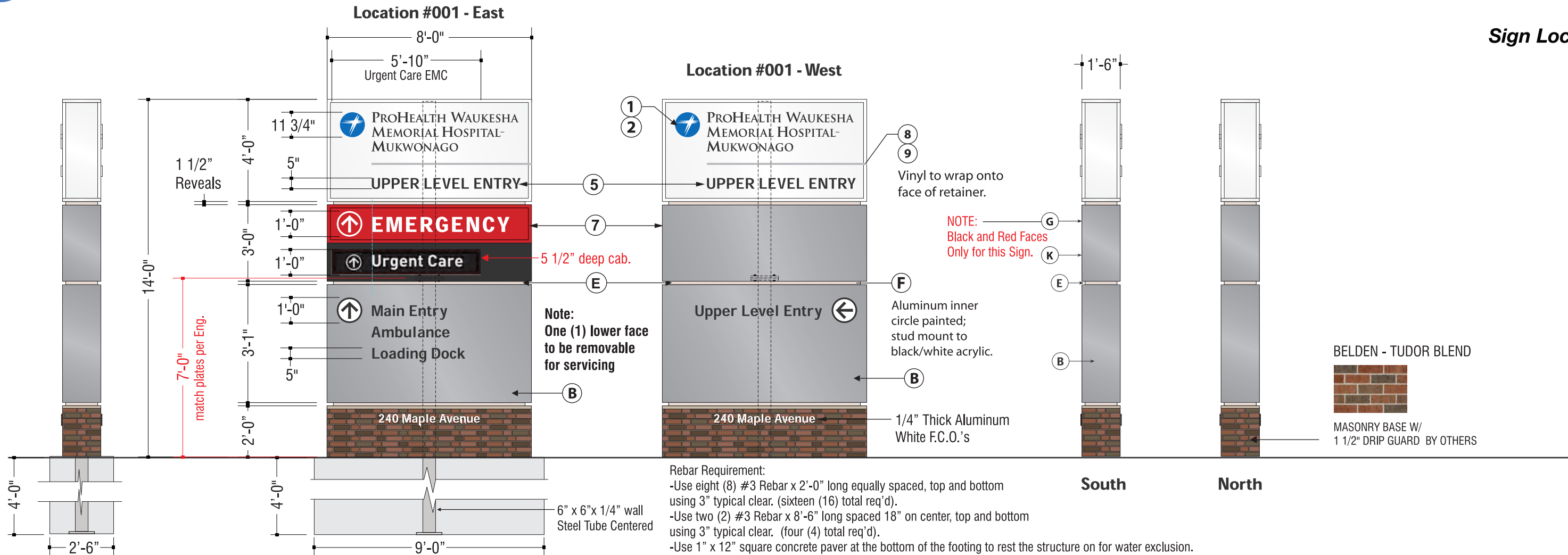
PASSED AND ADOPTED by the Village Board of the Village of Mukwonago, this ____ day of ____,
2021.

APPROVED:

Fred Winchowky, Village President

Countersigned:

Diana Dykstra, Village Clerk



GENERAL SPECIFICATIONS:

Header construction: 1/2" thick acrylic with SANDED FROSTED FIRST SURFACE FINISH/SECOND SURFACE APPLIED DIFFUSER FILM (all 4 sides) with internal support frame and retainers. Logo/letters to be routed out w/ 1/2" clear acrylic push-thru (3/8" actual exposed) and decorated w/flat cut vinyl applied to first surface w/ returns to be flame polished. 2447 back-up acrylic. Illumination to be provided by 4000K WHITE LED.

EMERGENCY and Urgent Care cabinet are one cabinet painted to look like two cabinets. EMERGENCY band/circle to be White acrylic face with 3M translucent vinyl 3730-33L "Red" applied first surface with graphics weeded out. Aluminum frames and side painted to match Prohealth Main Body Silver. Urgent Care is an exterior EMC with recessed frame mounted flush with cabinet. Exterior blank-out unit with White LEDs. Frame painted Black to match cabinet.

Main cabinet to be custom fabricated aluminum with routed graphics backed up with Acrylite 9K004; gloss side first surface. Construct so faces can be replaced to accommodate change and future needs. Inner white arrow circle to be aluminum painted and stud mounted to Acrylite 9K004. Illumination to be 4000K WHITE LED.

All exposed hardware to be painted to match sign. Client to provide electrical to location (1) 20 amp 277 volt circuit.

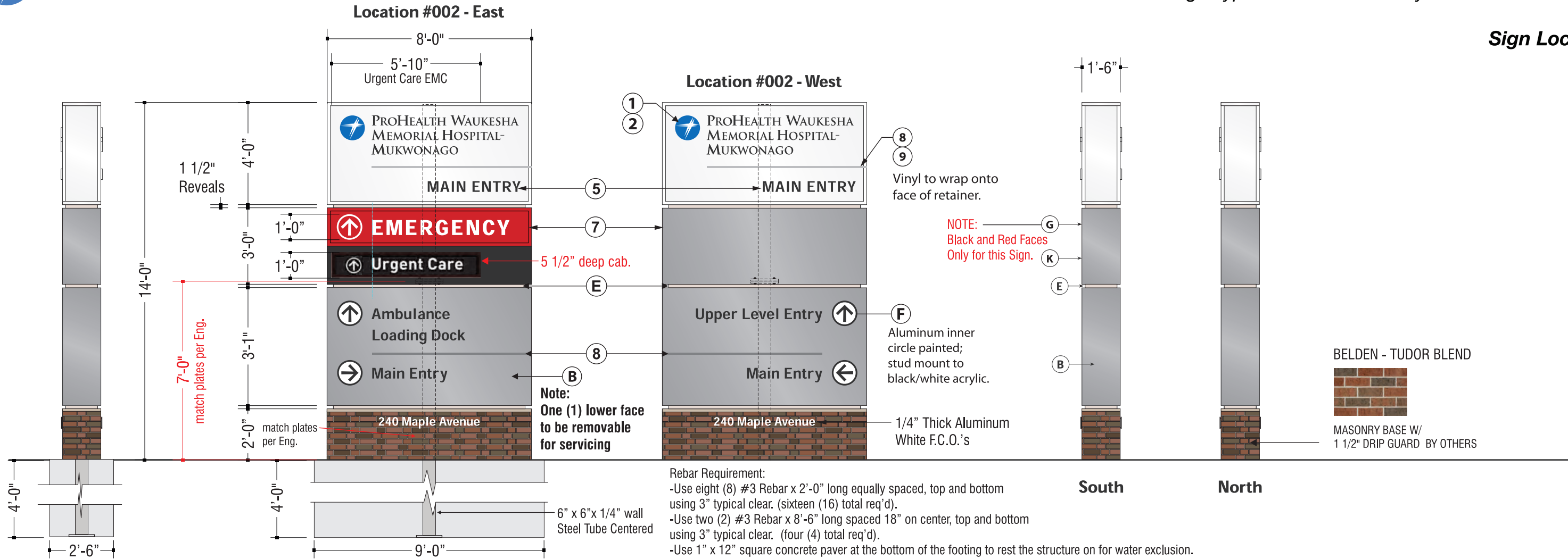
Masonry base by others done after sign is installed.

Scale: 1/4" = 1'-0"

COLOR SPECIFICATIONS:

PAINT SPECIFICATIONS			
(B)	PROHEALTH MAIN BODY SILVER CUSTOM	(F)	Match Acrylic - White
(C)	Mp07897 (Top Coat 5% Fine METALLIC by Weight in SATIN CLEAR)	(G)	Match #3730-33L Red
(D)	Pantone Cool Gray 8c	(K)	Black
(E)	Pantone Warm Gray 1c		

VINYL SPECIFICATIONS			
(1)	3M #VT4-3630-8429 ProHealth Care Blue Logos	(7)	#3730-33L Red Emergency Sign
(2)	#3730-20L White Logos/ 1st surface	(5)	#7725-12 Black Main ID Copy
(3)	#3735-60 Diffuser Film 2nd surface	(6)	#680-85 Reflective Black Address Copy
		(8)	#3630-51 Silver Gray Main Face Strip
		(9)	#3635-20B White 3M Block Out



GENERAL SPECIFICATIONS:

Scale: 1/4"=1'-0"

Header construction: 1/2" thick acrylic with SANDED FROSTED FIRST SURFACE FINISH/SECOND SURFACE APPLIED DIFFUSER FILM (all 4 sides) with internal support frame and retainers. Logo/letters to be routed out w/ 1/2" clear acrylic push-thru (3/8" actual exposed) and decorated w/flat cut vinyl applied to first surface w/ returns to be flame polished. 2447 back-up acrylic. Illumination to be provided by 4000K WHITE LED.

EMERGENCY and Urgent Care cabinet are one cabinet painted to look like two cabinets. EMERGENCY band/circle to be White acrylic face with 3M translucent vinyl 3730-33L "Red" applied first surface with graphics weeded out. Aluminum frames and side painted to match Prohealth Main Body Silver. Urgent Care is an exterior EMC with recessed frame mounted flush with cabinet. Exterior blank-out unit with White LEDs. Frame painted Black to match cabinet.

Main cabinet to be custom fabricated aluminum with routed graphics backed up with Acrylite 9K004; gloss side first surface. Construct so faces can be replaced to accommodate change and future needs. Inner white arrow circle to be aluminum painted and stud mounted to Acrylite 9K004. Illumination to be 4000K WHITE LED.

All exposed hardware to be painted to match sign. Client to provide electrical to location (1) 20 amp 277 volt circuit.

Masonry base by others done after sign is installed.

COLOR SPECIFICATIONS:

PAINT SPECIFICATIONS

- | | | | |
|-----|--|-----|-----------------------|
| (B) | PROHEALTH MAIN BODY SILVER CUSTOM | (F) | Match Acrylic - White |
| (C) | Mp07897 (Top Coat 5% Fine METALLIC by Weight in SATIN CLEAR) | (G) | Match #3730-33L Red |
| (D) | Pantone Cool Gray 8c | (K) | Black |
| (E) | Pantone Warm Gray 1c | | |

VINYL SPECIFICATIONS

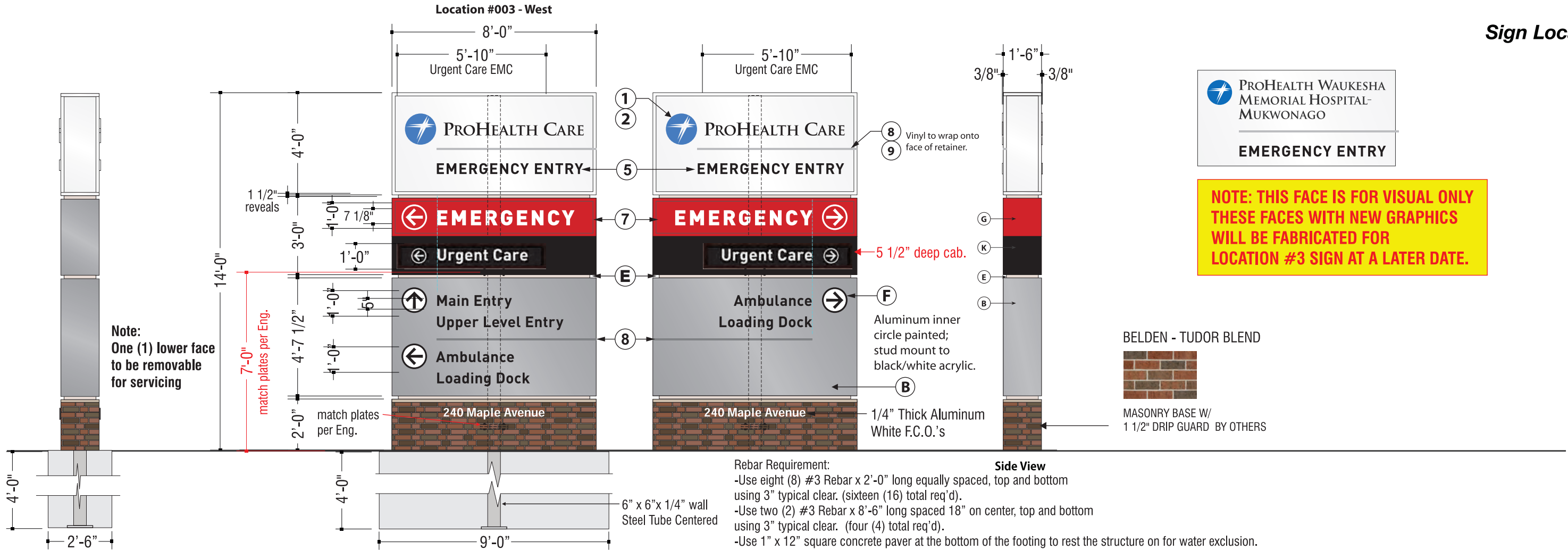
- | | | | |
|-----|---|-----|---------------------------------------|
| (1) | 3M #VT4-3630-8429 ProHealth Care Blue Logos | (7) | #3730-33L Red Emergency Sign |
| (2) | #3730-20L White Logos/ 1st surface | (5) | #7725-12 Black Main ID Copy |
| (3) | #3735-60 Diffuser Film 2nd surface | (6) | #680-85 Reflective Black Address Copy |
| | | (8) | #3630-51 Silver Gray Main Face Strip |
| | | (9) | #3635-20B White 3M Block Out |

REVISIONS:

- | | | |
|---|--|----------------|
| A | Revised Top Header | 03/15/21 |
| B | Revised Black and Red Stripes to Main Body Silver | 03/22/21 |
| C | Add foundation details; update EMC w/actual unit; add Note | KB 6/15/21 |
| D | Revised notes and sizes. | ETD - 07/26/21 |
| E | Update foundation information / add electrical circuit info. | DwB 7/28/21 |
| F | Remove 'hybrid' copy within header | KB 9/14/21 |
| G | | |
| H | | |

INITIALS & DATE:

- | | |
|--|----------------|
| | 03/15/21 |
| | 03/22/21 |
| | KB 6/15/21 |
| | ETD - 07/26/21 |
| | DwB 7/28/21 |
| | KB 9/14/21 |
| | |
| | |



GENERAL SPECIFICATIONS:

Header construction: 1/2" thick acrylic with SANDED FROSTED FIRST SURFACE FINISH/SECOND SURFACE APPLIED DIFFUSER FILM (all 4 sides) with internal support frame and retainers. Logo/letters to be routed out w/ 1/2" clear acrylic push-thru (3/8" actual exposed) and decorated w/flat cut vinyl applied to first surface w/ returns to be flame polished. 2447 back-up acrylic. Illumination to be provided by 4000K WHITE LED.

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All exposed hardware to be painted to match sign. Client to provide electrical to location (1) 20 amp 277 volt circuit.

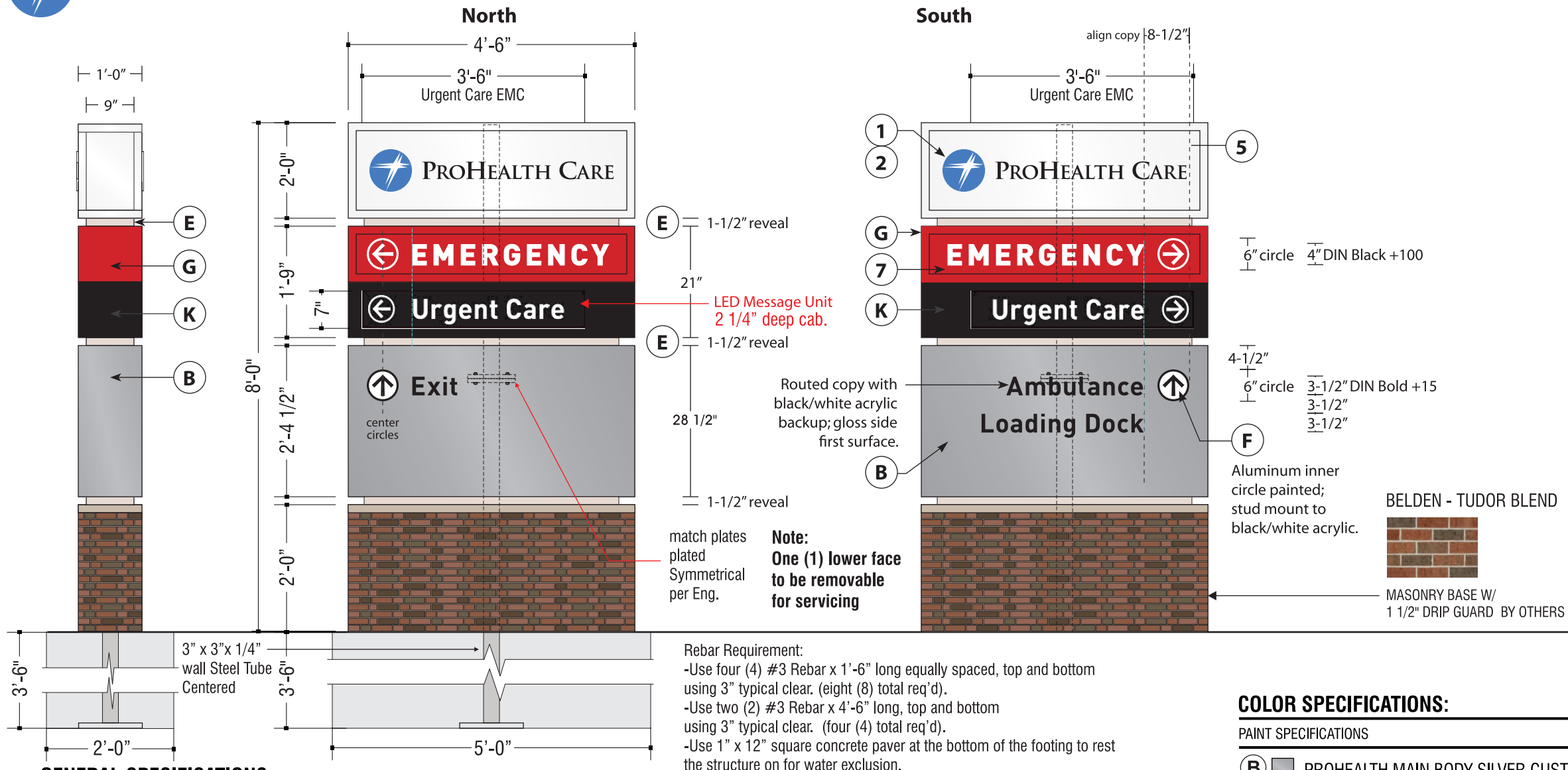
Masonry base by others done after sign is installed.

Scale: 1/4" = 1'-0"

COLOR SPECIFICATIONS:

PAINT SPECIFICATIONS	
(B) PROHEALTH MAIN BODY SILVER CUSTOM	(F) Match Acrylic - White
(C) Mp07897 (Top Coat 5% Fine METALLIC by Weight in SATIN CLEAR)	(G) Match #3730-33L Red
(D) Pantone Cool Gray 8c	(K) Black
(E) Pantone Warm Gray 1c	

VINYL SPECIFICATIONS	
(1) 3M #VT4-3630-8429 ProHealth Care Blue Logos	(7) #3730-33L Red Emergency Sign
(2) #3730-20L White Logos/ 1st surface	(5) #7725-12 Black Main ID Copy
(3) #3735-60 Diffuser Film 2nd surface	(6) #680-85 Reflective Black Address Copy
	(8) #3630-51 Silver Gray Main Face Strip
	(9) #3635-20B White 3M Block Out



NOTE: THIS FACE IS FOR VISUAL ONLY
THESE FACES WITH NEW GRAPHICS
WILL BE FABRICATED FOR
LOCATION #3 SIGN AT A LATER DATE.

GENERAL SPECIFICATIONS:

Header construction: 1/2" thick acrylic with **SANDED FROSTED FIRST SURFACE FINISH/SECOND SURFACE APPLIED DIFFUSER FILM** (all 4 sides) with internal support frame and retainers. 2447 back-up acrylic. Logo/letters to be flat cut vinyl applied to first surface. Illumination to be provided by 4000K WHITE LED.

EMERGENCY and Urgent Care cabinet are one cabinet painted to look like two cabinets.
EMERGENCY band/circle to be White acrylic face with 3M translucent vinyl 3730-33L "Red" applied first surface with graphics weeded out. Aluminum frames and side painted to match red vinyl.
Urgent Care is an exterior EMC with recessed frame mounted flush with cabinet. Exterior blank-out unit with White LEDs. Frame painted Black to match cabinet.

Main cabinet to be custom fabricated aluminum with routed graphics backed up with Acrylite 9K004; gloss side first surface. Construct so faces can be replaced to accommodate change and future needs. Inner white arrow circle to be aluminum painted and stud mounted to Acrylite 9K004. Illumination to be 4000K WHITE LED.

All exposed hardware to be painted to match sign. Client to provide electrical to location (1) 20 amp 277 volt circuit.
Masonry base by others done after sign is installed.

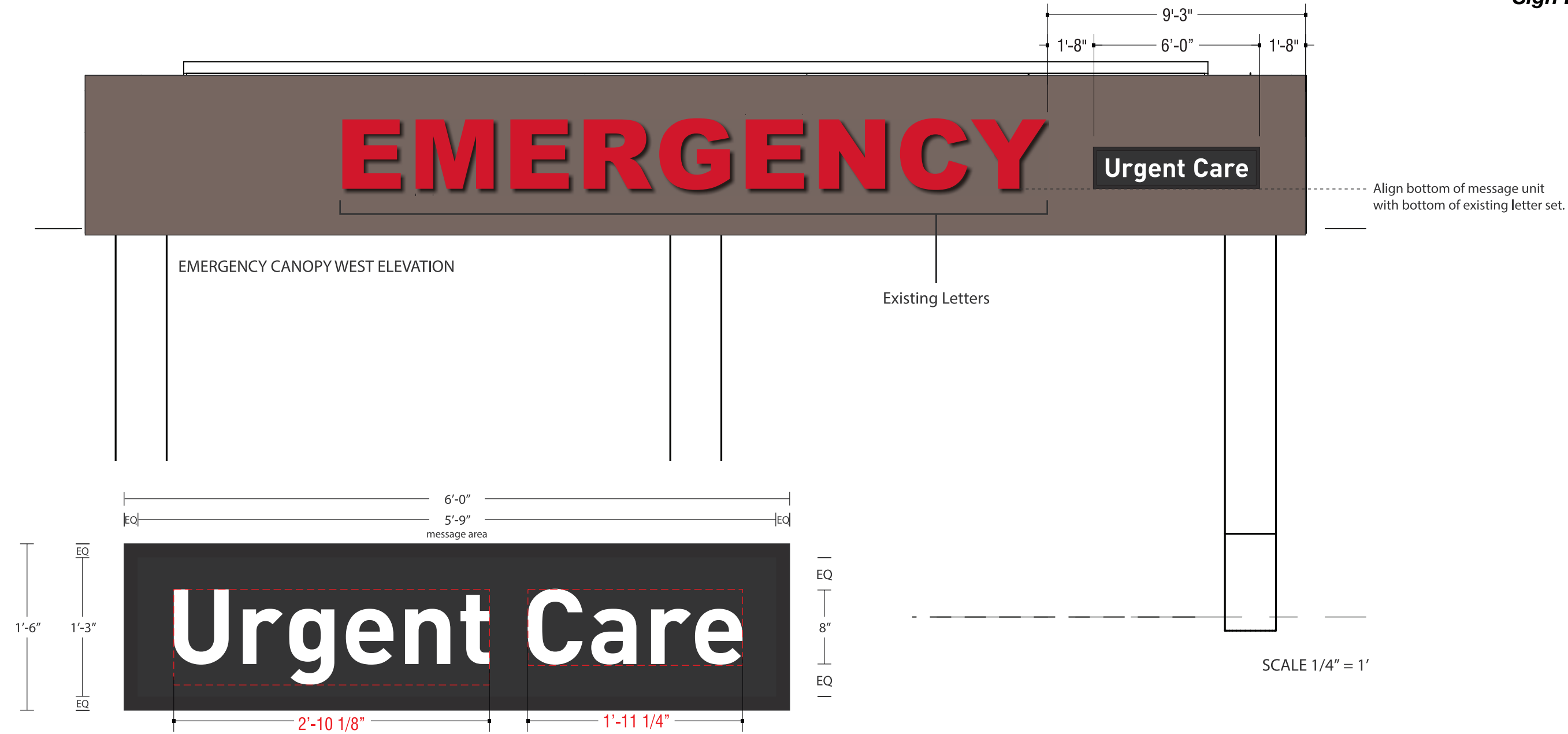
COLOR SPECIFICATIONS:

PAINT SPECIFICATIONS

- | | |
|---------------------------------------|---------------------------|
| (B) PROHEALTH MAIN BODY SILVER CUSTOM | (F) Match Acrylic - White |
| (D) Pantone Cool Gray 8c | (G) Match #3730-33L Red |
| (E) Pantone Warm Gray 1c | (K) Black |

VINYL SPECIFICATIONS

- | | |
|---|--|
| (1) 3M #VT4-3630-8429 ProHealth Care Blue Logos | (7) #3730-33L Red Emergency Sign |
| (2) #3730-20L White Logos/ 1st surface | (5) #7725-12 Black Main ID Copy |
| (3) #3735-60 Diffuser Film 2nd surface | (8) #3630-51 Silver Gray Main Face Strip |



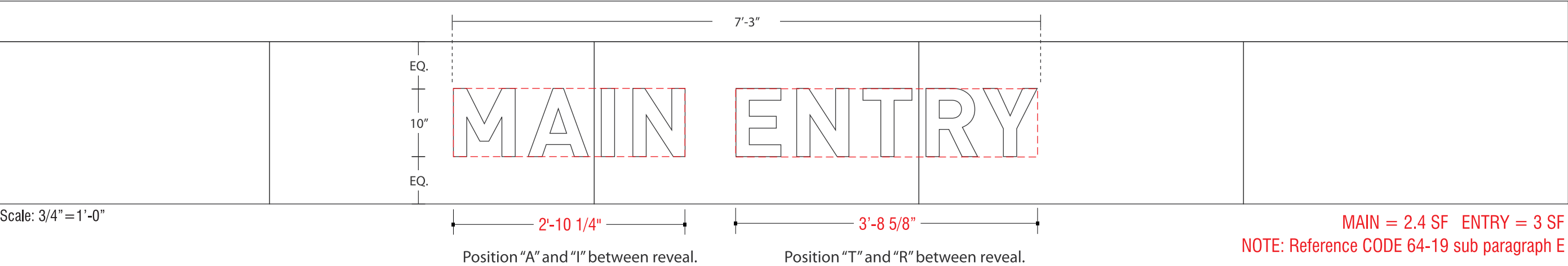
S/F EXTERIOR ELECTRONIC MESSAGE UNIT
Exterior blank-out unit with White LEDs.
Sign frame painted Satin Black with semi-gloss finish.
Any exposed hardware painted to match.
Align bottom of unit with bottom of existing "EMERGENCY"

NOTE: Sign requires (1) 20amp 120/277VAC circuit. (sign is dual voltage)

COLOR SPECIFICATIONS:

PAINT SPECIFICATIONS

■ Satin Black with Semi-Gloss Finish



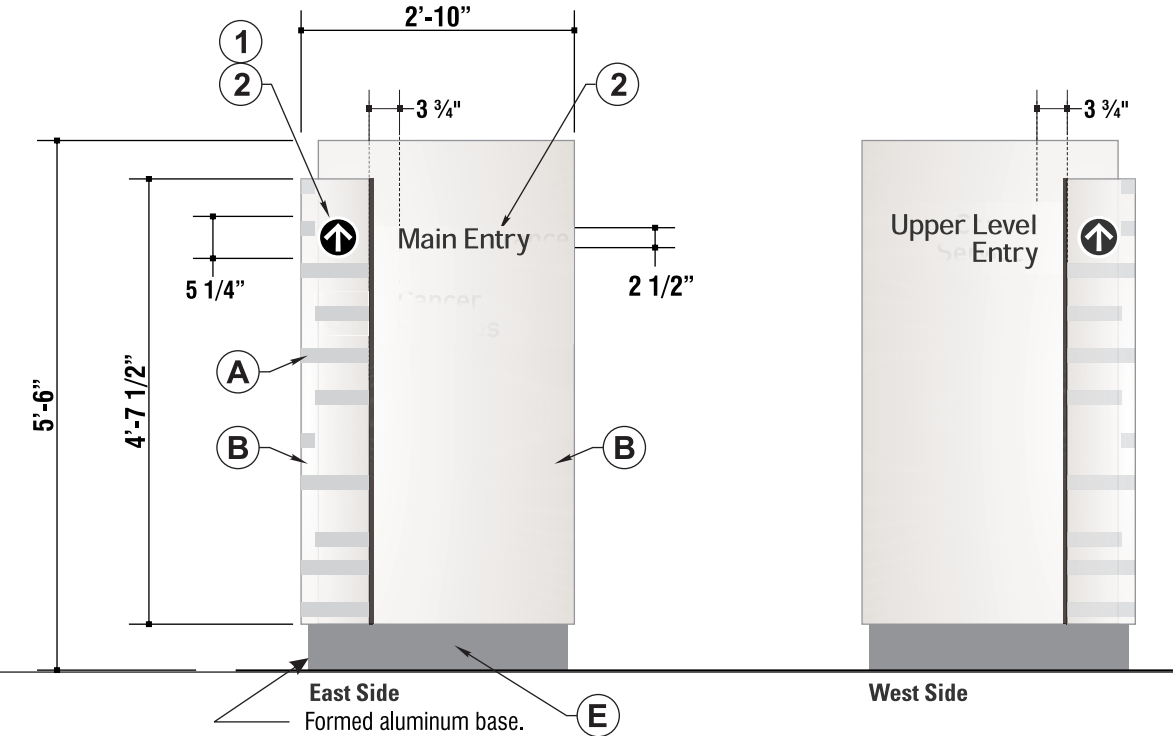
APPLY LETTERS ON THREE CENTER PANELS OF CANOPY.POSITION AS SHOWN SO THAT COPY DOES NOT OVERLAP REVEALS. COPY WILL BE SLIGHTLY OFF CENTER.



Proposed vinyl graphics on canopy.Photo not to scale.



Existing condition shown for reference.Photo not to scale.



COLOR SPECIFICATIONS:

PAINT SPECIFICATIONS

(A) MP07897 (E) PMS Cool Gray 8c

(B) MP18914

VINYL SPECIFICATIONS

(1) #680-10 Reflective White

(2) #680-85 Reflective Black



EXISTING CONDITION - EAST SIDE
Shown for reference (not to scale).

EXISTING D/F NON-ILLUMINATED DIRECTIONAL SIGN

East Side:
Remove vinyl graphics as noted and replace with new flat cut vinyl applied to first surface.

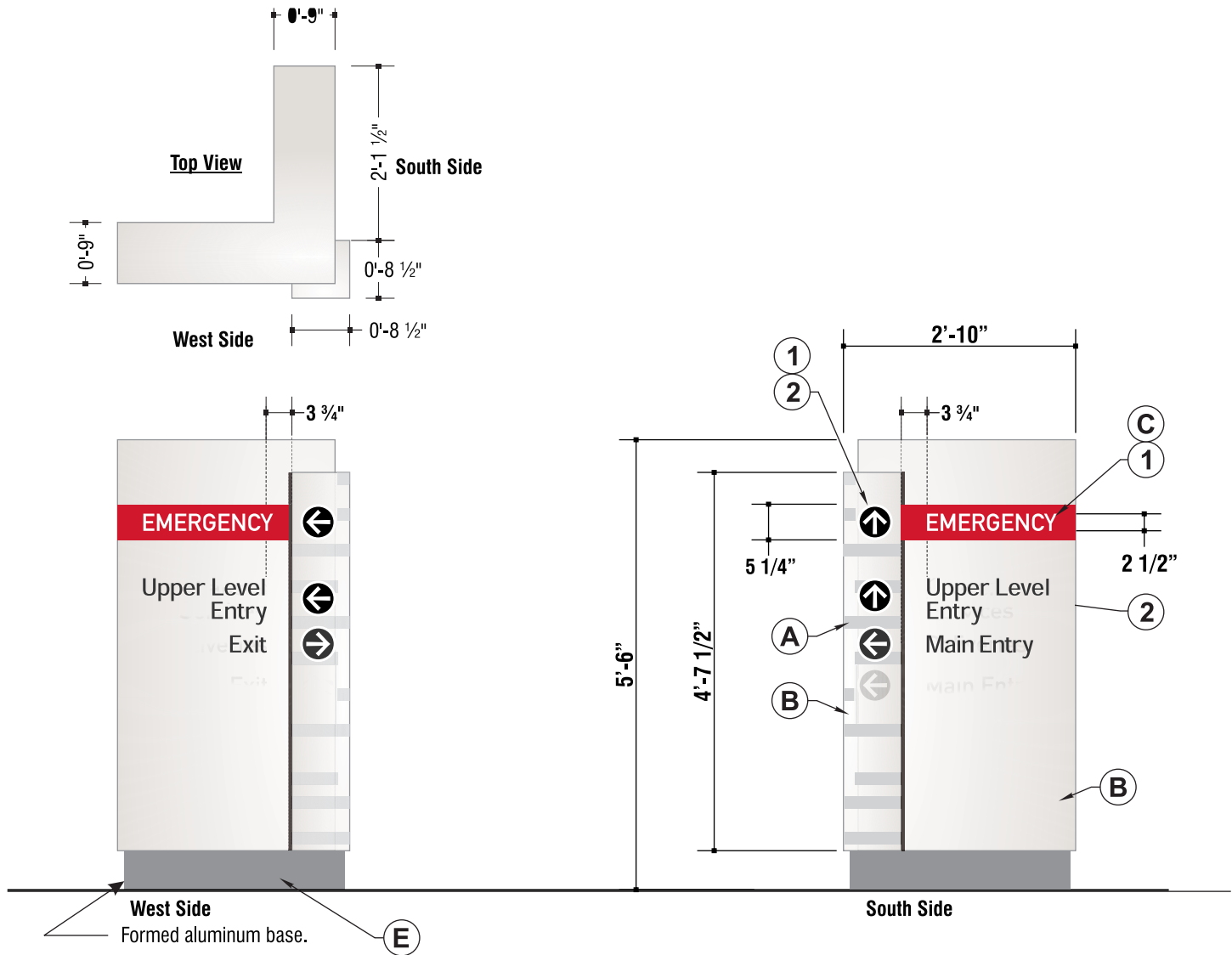
West Side:
Remove vinyl graphics as noted and replace with new flat cut vinyl applied to first surface.

Vinyl Colors:
3M Reflective 680-85 Black



EXISTING CONDITION - WEST SIDE
Shown for reference (not to scale).

ORIGINAL DRAWING SHOWN WITH PROPOSED COPY CHANGES TO EXISTING SIGN



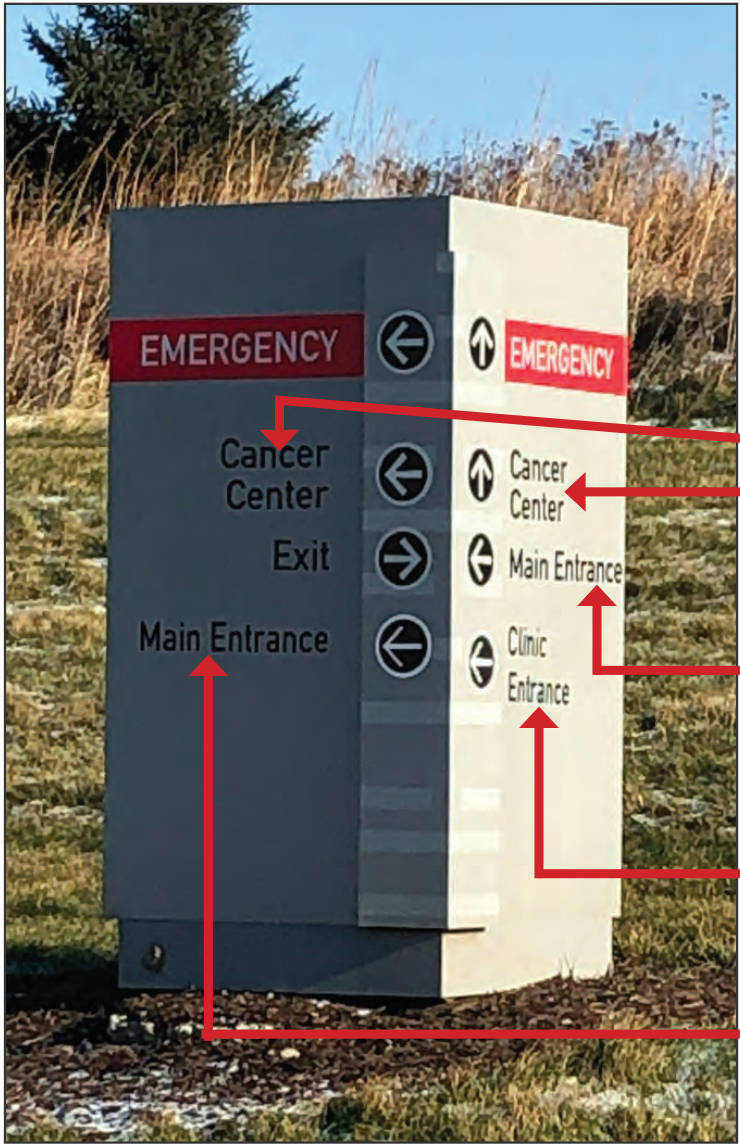
COLOR SPECIFICATIONS:

PAINT SPECIFICATIONS

- (A) MP07897 (C) PMS 186C Red
(B) MP18914 (E) PMS Cool Gray 8c

VINYL SPECIFICATIONS

- (1) #680-10 Reflective White
(2) #680-85 Reflective Black



Remove "Cancer Center" on both sides. Replace with "Upper Level" on first line and "Entry" on second line.

Remove "Main Entrance" and replace with "Main Entry".

Remove "Clinic Entrance" and arrow on South face.

Remove "Main Entrance" and arrow on West face.

EXISTING CONDITION

Shown for reference (not to scale).

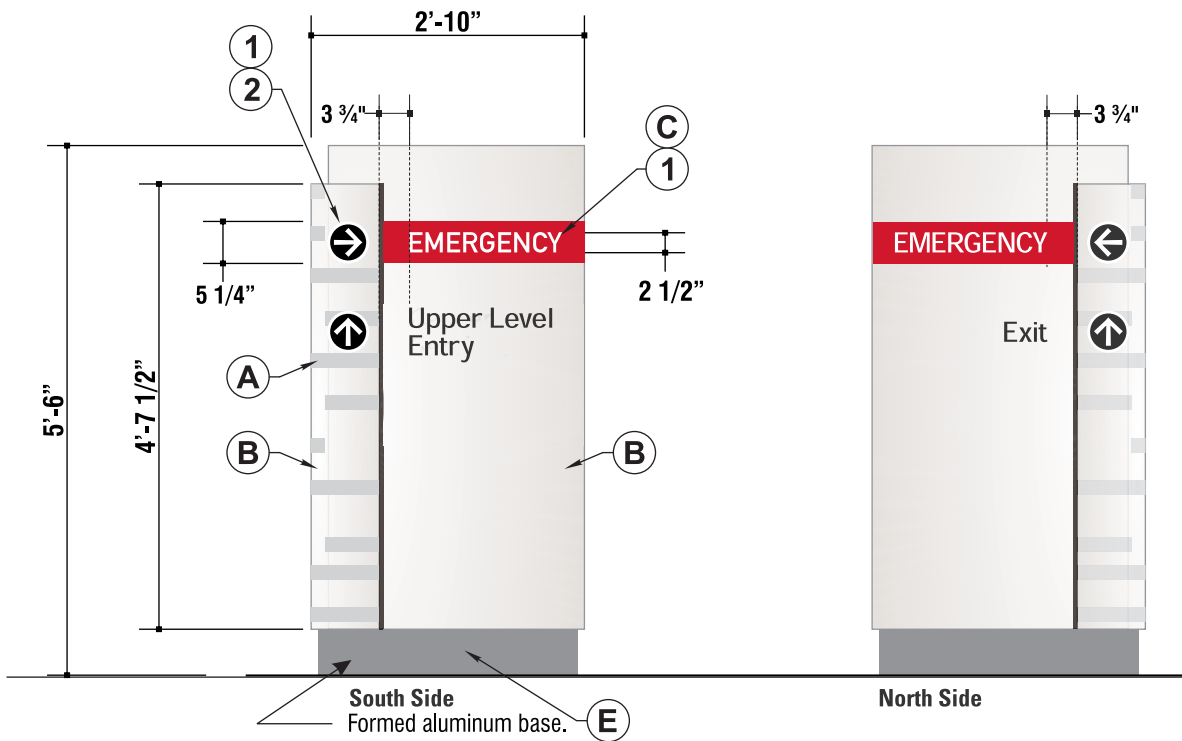
EXISTING D/F NON-ILLUMINATED "V" DIRECTIONAL SIGN

Remove vinyl graphics as noted and replace with new flat cut vinyl applied to first surface.

Copy Color: 3M Reflective 680-85 Black

ORIGINAL DRAWING SHOWN WITH PROPOSED COPY CHANGES TO EXISTING SIGN

A	-	INITIALS & DATE:	-
B	-		-
C	-		-
D	-		-
E	-		-
F	-		-
G	-		-
H	-		-



COLOR SPECIFICATIONS:

PAINT SPECIFICATIONS

- (A) MP07897 (C) PMS 186C Red
(B) MP18914 (E) PMS Cool Gray 8c

VINYL SPECIFICATIONS

- (1) #680-10 Reflective White
(2) #680-85 Reflective Black

ORIGINAL DRAWING SHOWN WITH PROPOSED COPY CHANGES TO EXISTING SIGN



EXISTING CONDITION - SOUTH SIDE
Shown for reference (not to scale).

EXISTING D/F NON-ILLUMINATED DIRECTIONAL SIGN

South Side:

Remove vinyl graphics as noted and replace with new flat cut vinyl applied to first surface.

North Side:

Remove all vinyl graphics and replace with new. See drawing and sign schedule for details.

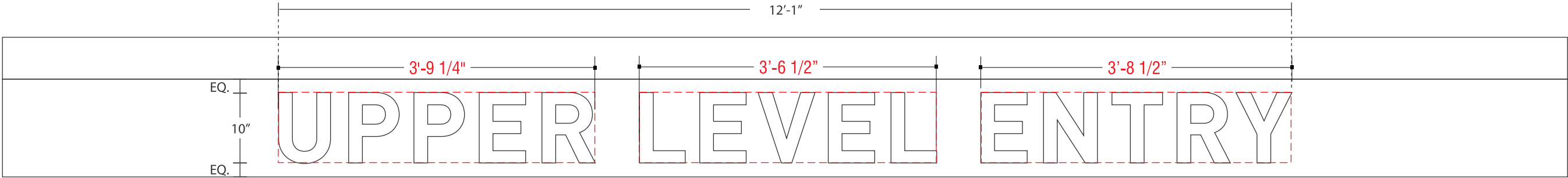
Vinyl Colors:

- 3M Reflective 680-10 White
- 3M Reflective 680-85 Black
- 3M Opaque 7725-263 Perfect Match Red



EXISTING CONDITION - NORTH SIDE
Shown for reference (not to scale).

A	-	INITIALS & DATE:	-
B	-		-
C	-		-
D	-		-
E	-		-
F	-		-
G	-		-
H	-		-



3M Opaque Vinyl Graphics 7725-10 White

UPPER= 3.13SF LEVEL=2.94 SF ENTRY = 3.1 SF
NOTE: Reference CODE 64-19 sub paragraph E



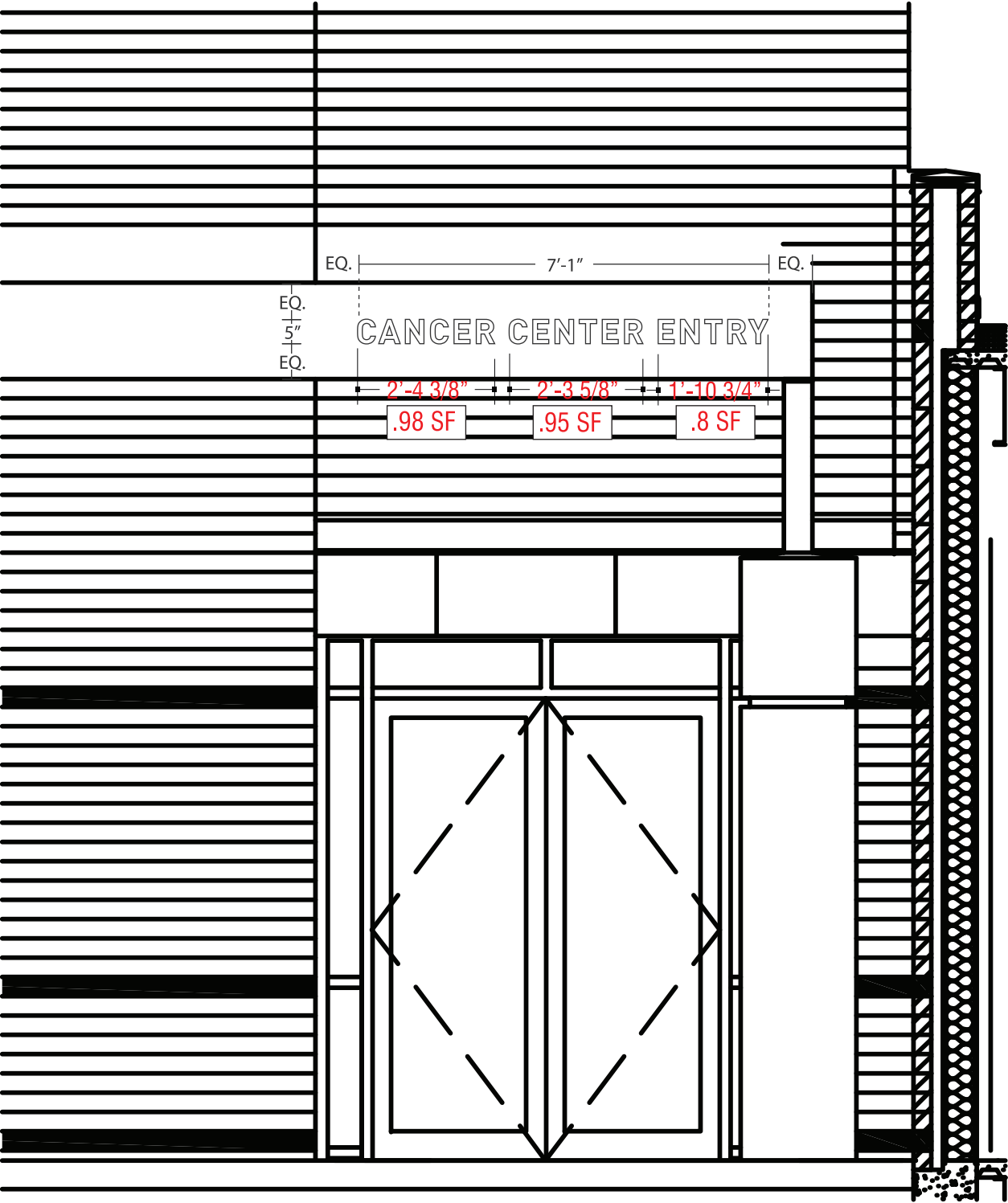
Proposed vinyl graphics on canopy. Photo not to scale.



Existing condition shown for reference. Photo not to scale.



3M Opaque Vinyl Graphics 7725-10 White



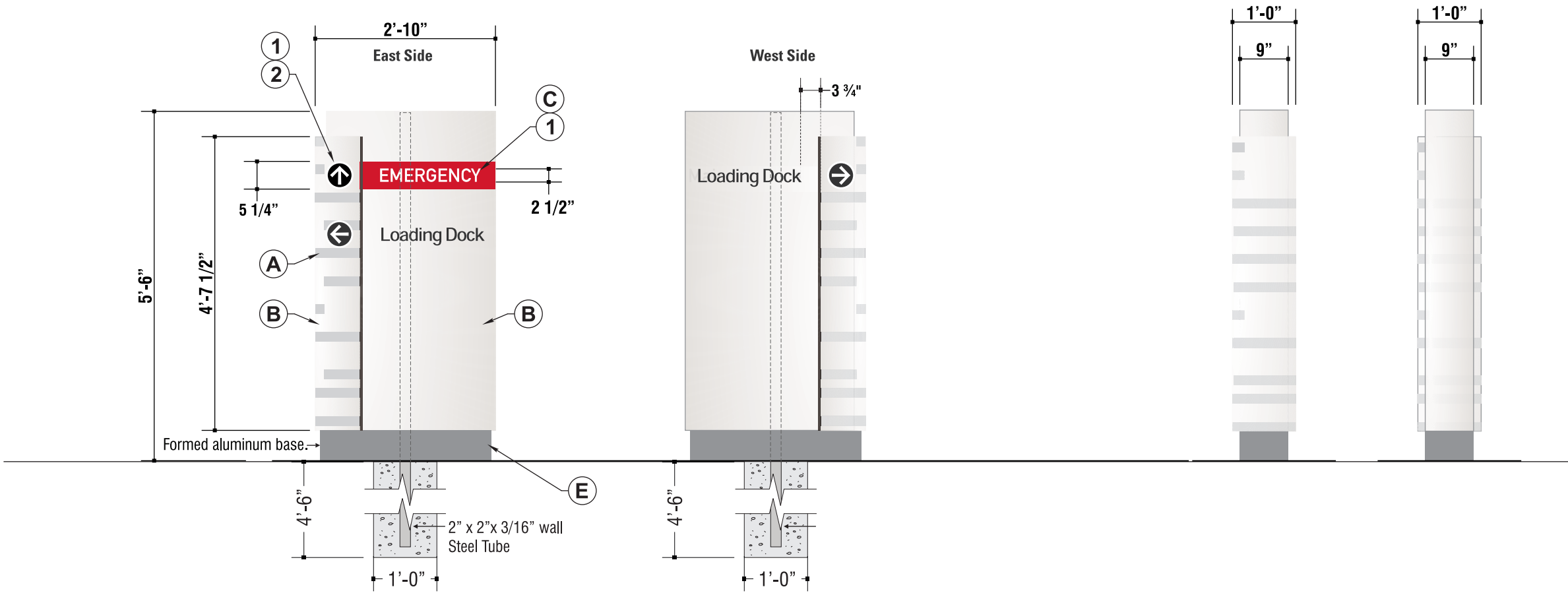
NOTE: Reference CODE 64-19 sub paragraph E



Proposed vinyl graphics on canopy. Photo not to scale.



Existing condition shown for reference. Photo not to scale.



GENERAL SPECIFICATIONS:

Scale: 1/2" = 1'-0"

D/F Non-Illuminated Monument Sign -
Base cabinet to be custom fabricated cabinet w/ aluminum faces and filler. Faces to have painted finish and decorated w/ flat cut vinyl film applied to first surface - SEE COLOR SPECIFICATIONS.

Side panel to be aluminum wrapped around (3) sides of sign w/ painted graphics and vinyl applied to first surface - SEE COLOR SPECIFICATIONS.

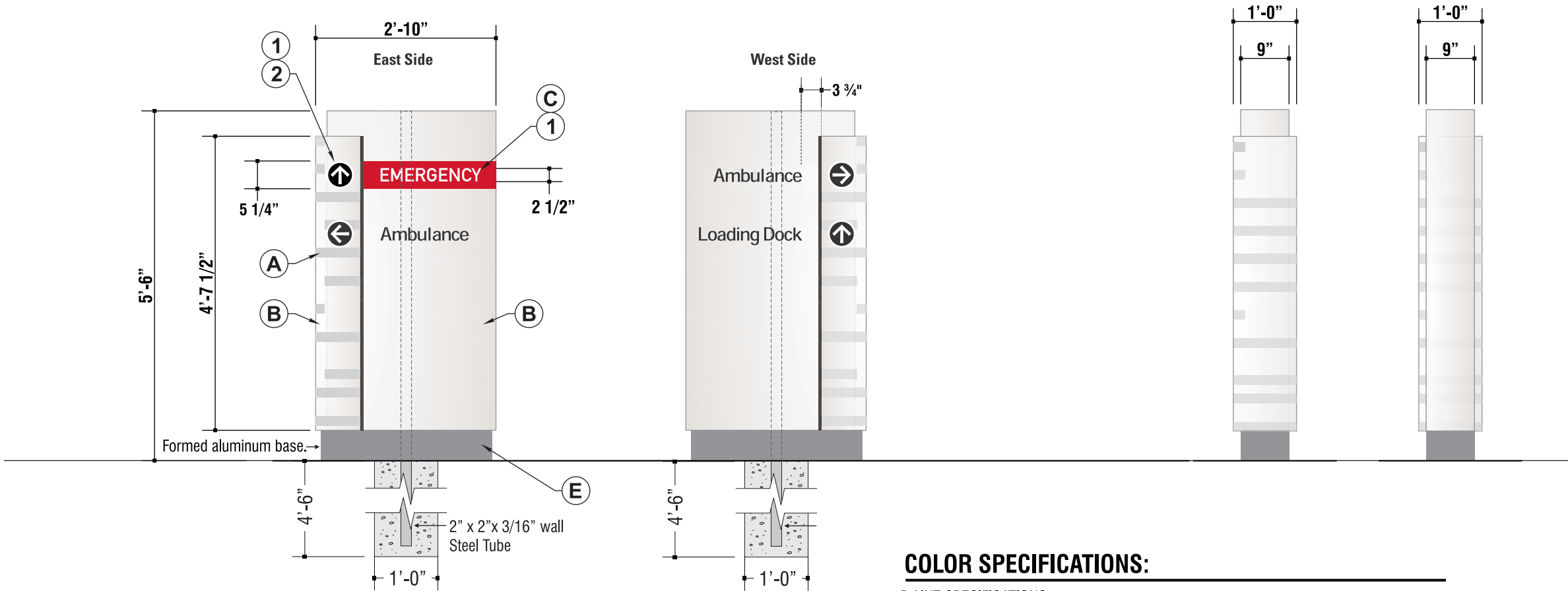
COLOR SPECIFICATIONS:

PAINT SPECIFICATIONS

- (A) MP07897 (C) PMS 186C Red
(B) MP18914 (E) PMS Cool Gray 8c

VINYL SPECIFICATIONS

- (1) #680-10 Reflective White
(2) #680-85 Reflective Black



GENERAL SPECIFICATIONS:

D/F Non-Illuminated Monument Sign -
Base cabinet to be custom fabricated cabinet w/ aluminum faces and filler. Faces to have painted finish and decorated w/ flat cut vinyl film applied to first surface - SEE COLOR SPECIFICATIONS.

Side panel to be aluminum wrapped around (3) sides of sign w/ painted graphics and vinyl applied to first surface - SEE COLOR SPECIFICATIONS.

Scale: 1/2"=1'-0"

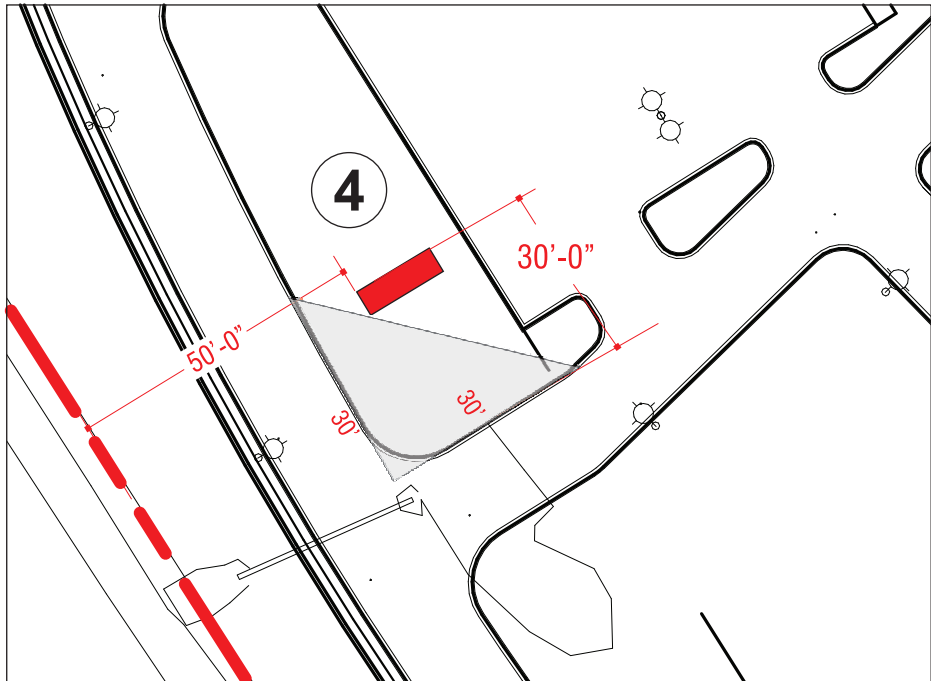
COLOR SPECIFICATIONS:

PAINT SPECIFICATIONS

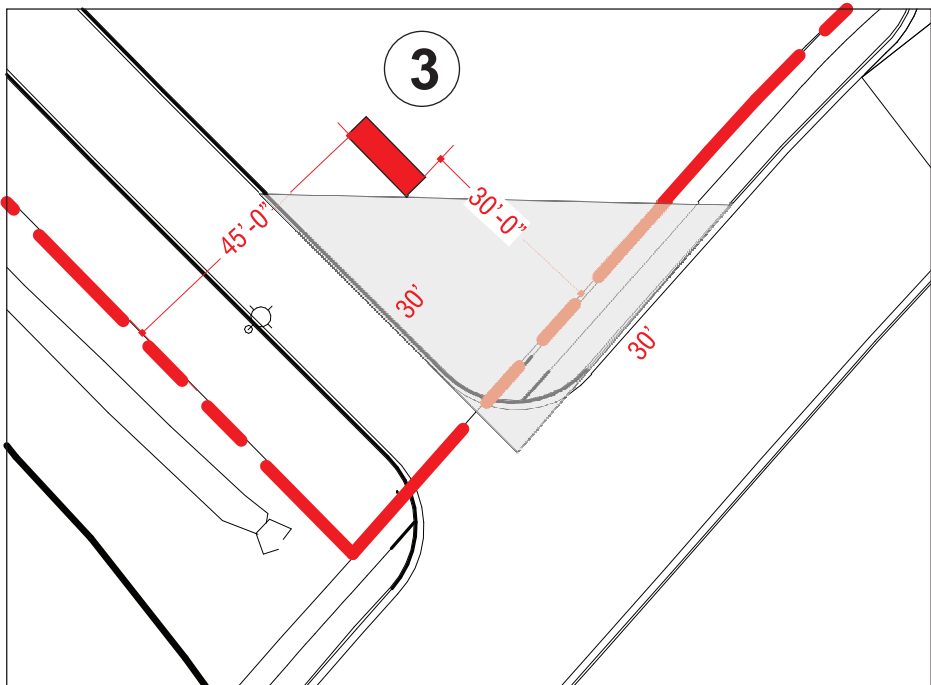
- (A) MP07897 (C) PMS 186C Red
(B) MP18914 (E) PMS Cool Gray 8c

VINYL SPECIFICATIONS

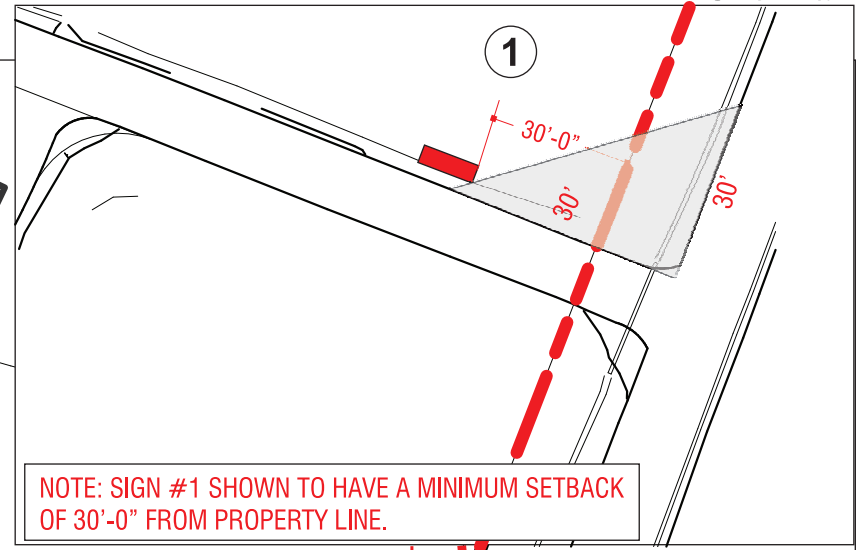
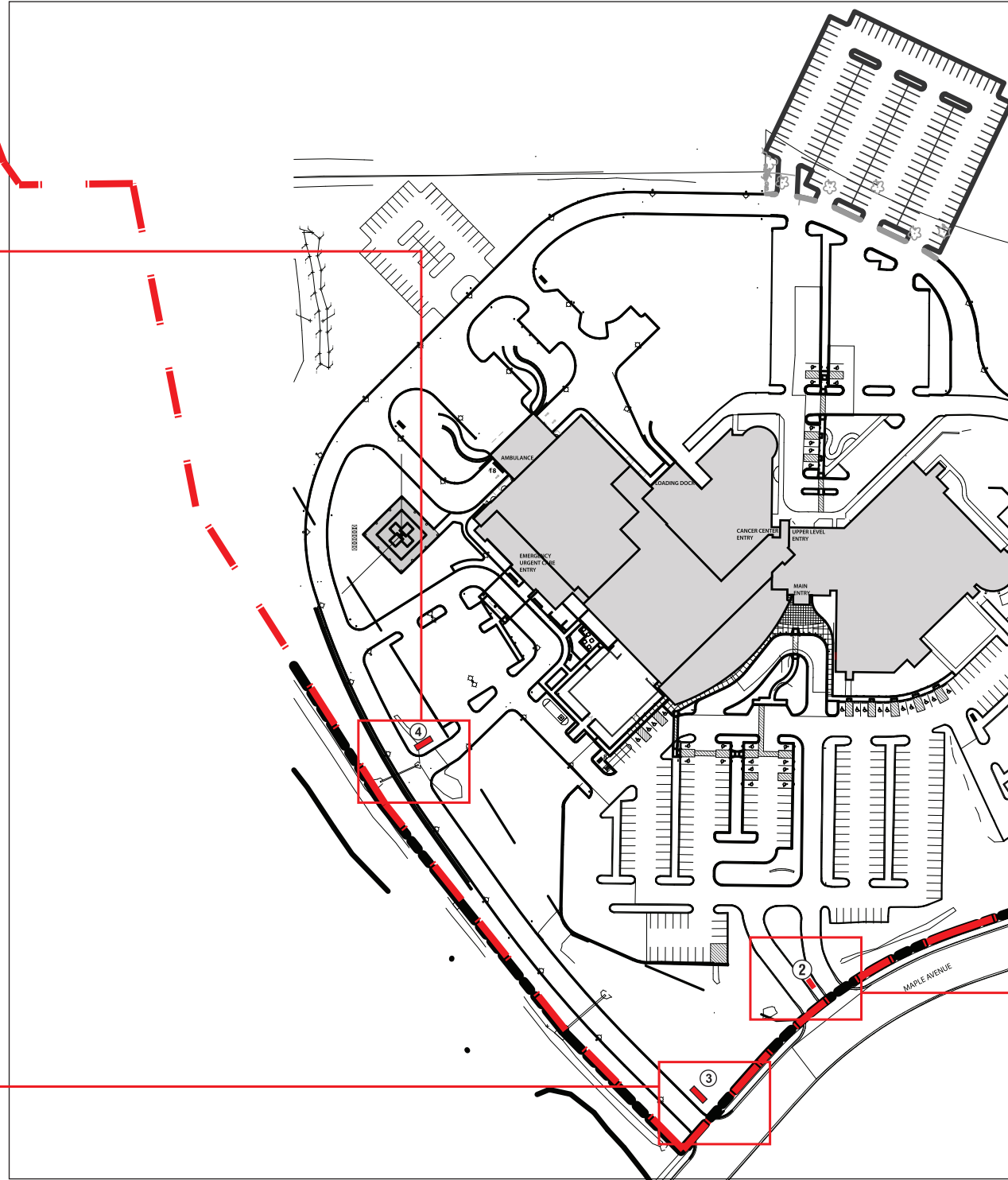
- (1) #680-10 Reflective White
(2) #680-85 Reflective Black



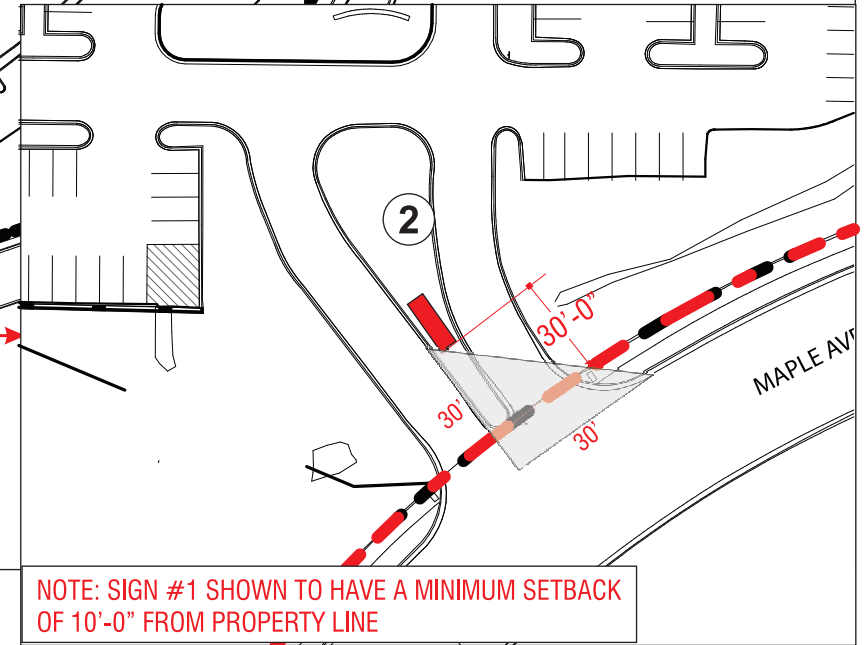
NOTE: SIGN #4 SHOWN TO HAVE A SETBACK OF 30'-0" FROM CURB & 50'-0" FROM PROPERTY LINE FOR VISION TRIANGLE



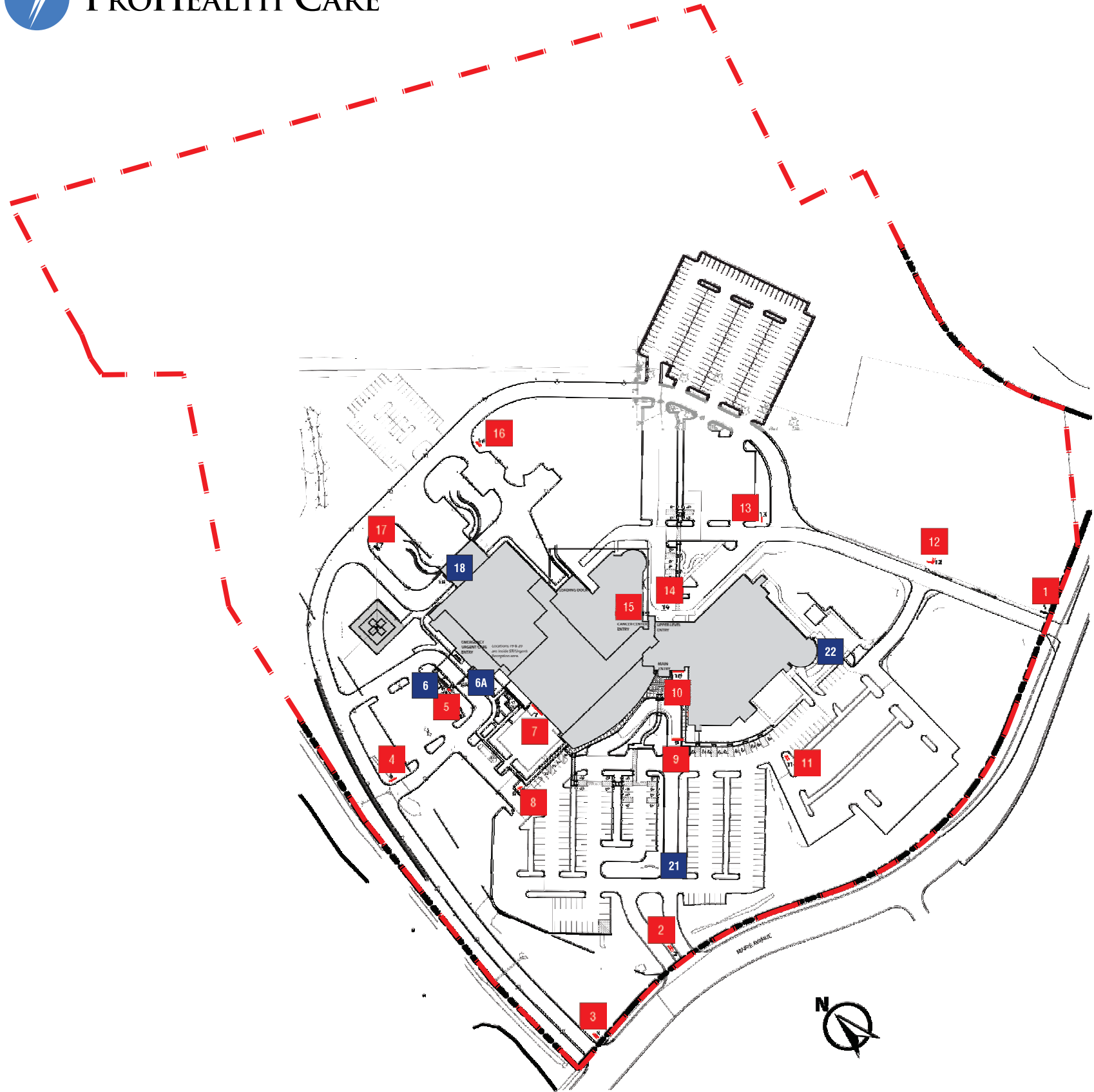
NOTE: SIGN #3 SHOWN TO HAVE A SETBACK OF 30'-0" & 45'-0" FROM PROPERTY LINES FOR VISION TRIANGLE



NOTE: SIGN #1 SHOWN TO HAVE A MINIMUM SETBACK OF 30'-0" FROM PROPERTY LINE.



NOTE: SIGN #1 SHOWN TO HAVE A MINIMUM SETBACK OF 10'-0" FROM PROPERTY LINE



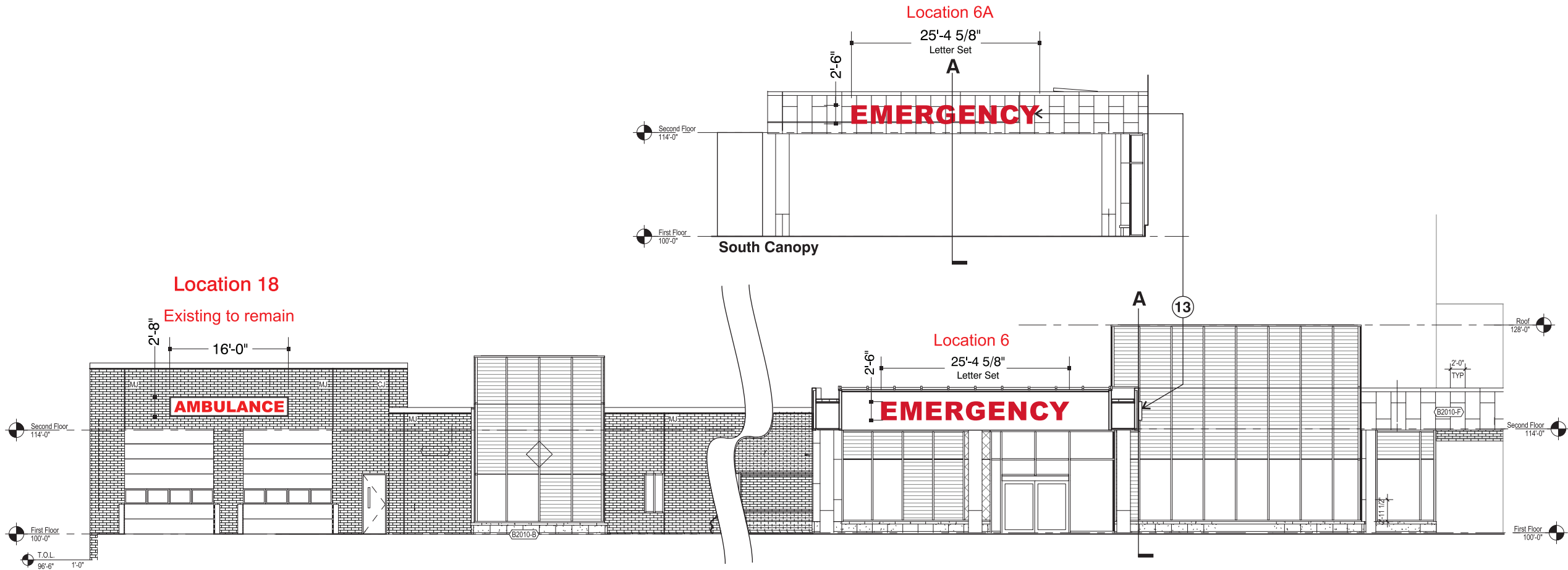
EXISTING SIGN LOCATION

6	EMERGENCY	21	MONUMENT CH. LTRS.
6A	EMERGENCY	22	WALL CH. LTRS.
18	AMBULANCE		

SIGN LOCATION

1	Main I.D. Directional Unit Sign Location #1	11	D/F N.I. Directional Sign Location #11
2	Main I.D. Directional Unit Sign Location #2	12	D/F N.I. 'V' Directional Sign Location #12
3	Main I.D. Directional Unit Sign Location #3	13	D/F N.I. Directional Sign Location #13
4	D5 Secondary Directional Sign Location #4	14	10" H. Opaque Vinyl Graphics Sign Location #14
5	LED Message Unit Sign Location #5	15	5" H. Opaque Vinyl Graphics Sign Location #15
7	Logo/Letter Set on Raceway Sign Location #7	16	D/F N.I. Directional Sign Location #16
9	10" H. Opaque Vinyl Graphics Sign Location #9	17	D/F N.I. Directional Sign Location #17
10	Logo/Letter Set on Raceway Sign Location #10		

EXISTING SIGNS ON SITE



Partial West Elevation - Area A

Scale: 1/16" = 1'-0"



Village of Mukwonago

440 River Crest Court, Mukwonago, Wisconsin 53149
www.villageofmukwonago.com | (262) 363-6420 | Fax: (262)363-6425

To: Planning Commission
From: John Fellows, Community Planner, Interim Economic Development Director
Date: September 30, 2021
Regarding: Zoning Code and Sign Code – Draft Article 5 and Articles 12-15

Attached you will find a draft of Article 5 to date. This Chapter relates to specific procedural elements of the code. At the meeting we will provide a summary of the document and have a series of question for you that will provide us direction as we move forward with the drafting of the documents.

Also attached you will find Articles 12-15 for review. These articles are standard articles required by state statutes. Language within these drafts meets standard requirements and updated our current ordinance for clarity. These articles are specifically:

- 12 Floodplain Overlay District
- 13 Well Head Protection Overlay District
- 14 Shoreland – Wetland Overlay District
- 15 Shoreland Overlay District

Please review the document and bring any questions, comments, or suggestions to the meeting so we can address. At this time the document is a draft and there are still elements and components that have not been drafted, but we both feel it is important to provide drafts of the documents to the commission as we move forward.

Article 5

ARTICLE 5 SPECIFIC PROCEDURAL REQUIREMENTS

Divisions

1. Code amendment
2. Planned development district
3. Designation of historic district
4. Designation of historic structure and site
5. Conditional use
6. Wireless telecommunication facility – New tower and class 1 collocation
7. Wireless telecommunication facility – Class 2 collocation
8. Site plan
9. Architectural review
10. Special exception
11. Registration of a nonconforming use
12. Conversion of a nonconforming use
13. Expansion of a nonconforming building
14. Certificate of appropriateness
15. Zoning permit
16. Floodplain permit
17. Termination of approval
18. Code interpretation
19. Administrative appeal
20. Variance

DIVISION 1 CODE AMENDMENT

102.300 Generally

From time to time, it may be necessary or desirable to amend the text of this chapter and the zoning map. This division describes the procedures and requirements to amend this chapter and the zoning map.

102.301 Initiation

Any of the following may submit an application to amend the text of this chapter or the zoning map:

- (1) a property owner in the area to be affected by the proposed amendment,
- (2) the zoning administrator,
- (3) the Plan Commission,
- (4) the Historic Preservation Commission,
- (5) the Board of Zoning and Building Appeals, and
- (6) the Village Board.

102.302 Review procedure^[1]

The general steps outlined below describe the process for reviewing an application to amend the zoning regulations, including the zoning map.

1. **Submittal of application materials.** The applicant submits a complete application to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Distribution to Department of Natural Resources.** If the proposed amendment would revise floodplain or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the application to the regional office of the Wisconsin Department of Natural Resources within 5 work days of receipt.
3. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
5. **Special notice to specified municipalities.** At least 10 calendar days prior to the date of the public hearing, the zoning administrator gives notice of the proposed amendment to the clerk of any municipality whose boundary are within 1,000 feet of any lands included in the proposed amendment.
6. **Special notice to Department of Natural Resources.** If the proposed amendment would revise the floodplain regulations in this chapter, the zoning administrator sends a copy of the public hearing notice to the regional office of the Wisconsin Department of Natural Resources at least 10 calendar days before the date of the public hearing.^[2]
7. **General notice by type of application.** If a proposed amendment would revise the text of this chapter, the zoning administrator provides for (i) a class 2 public notice, (ii) distribution list notice, and (iii) meeting agenda notice consistent with Article 4. If a property owner initiates a proposed amendment that would revise the zoning map, the zoning administrator provides for (i) class 2 public notice, (ii) property owner notice, (iii) distribution list notice, and (iv) meeting agenda notice consistent with Article 4. If the Village initiates a proposed amendment that would revise the zoning map, the zoning administrator provides for (i) class 2 public notice, (ii) distribution list notice, and (iii) meeting agenda notice consistent with Article 4.
8. **Staff report preparation and distribution.** The zoning administrator may prepare a staff report as set forth in this division. If one is prepared, the zoning administrator provides a copy to the applicant, each member of the Plan Commission, and any other person upon request.
9. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance. If the public hearing is adjourned, the Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research and to prepare such documents it deems necessary, including a preliminary decision document.
10. **Plan Commission recommendation.** After considering the public comments received at the public hearing and the staff report, if any, the Plan Commission makes a recommendation to the Village Board based on the decision criteria in this division to (i) approve the amendment, (ii) approve the amendment with conditions, or (iii) deny the amendment.
11. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
12. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.

13. **Decision.** The Village Board after considering the Plan Commission's recommendation makes a decision based on the decision criteria in this division to (i) approve the amendment, (ii) approve the amendment with conditions, or (iii) deny the amendment.
14. **Required vote with downzoning.** An amendment must be approved by at least two-thirds of the members-elect if the amendment would decrease the development density of the land to be less dense than was allowed under its previous usage or that would reduce the number of permitted uses of the land to fewer uses than were allowed under its previous usage. If a person requests or agrees to such downzoning, the ordinance may be enacted by a simple majority of the members-elect.^[3]
15. **Required vote with a protest by qualified property owners.** Prior to January 1, 2019, an amendment to the zoning map may not become effective except upon a favorable vote of three-quarters of the Village Board members voting on the proposed change when:
 - (i) those owning 20 percent or more of the land area within the proposed map amendment file a written protest,
 - (ii) those owning 20 percent or more of the land area within 100 feet of the proposed map amendment file a written protest, or
 - (iii) those owning 20 percent or more of the land directly opposite of the proposed map amendment but within 100 feet of the street frontage file a written protest.^[4]
16. **Required vote with protest of airport.** If a proposed amendment would make any change in an airport affected area, as defined under § 62.23(6)(am)1.b., Wis. Stats., and the owner or operator of the airport bordered by the airport affected area files a protest against the proposed amendment, no ordinance which makes such change may be approved except by the affirmative vote of two-thirds of the members of the Village Board present and voting.^[5]
17. **Preparation of decision document.** If the Village Board approves the proposed amendment, the zoning administrator prepares a final ordinance.
18. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
19. **Notification to Department of Natural Resources.** If the proposed amendment is approved and modifies the floodplain regulations in this chapter, the zoning administrator sends a copy of the ordinance to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email within 10 calendar days of the date of decision.
20. **Preparation of new zoning map.** If the proposed amendment is approved and modifies the zoning map, a new zoning map is prepared consistent with Article 6.

Editorial notes:

[1] See § 62.23(7)(d), Wis. Stats.

[2] See § NR 116.20(2)(c) and ch. NR 117, Wis. Admin. Code

[3] See § 66.10015(3), Wis. Stats.

[4] See § 62.23(7)(d)(2m)(a), Wis. Stats.

[5] See § 62.23(7)(d)(2m)(b), Wis. Stats.

102.303 Effective date of adopted ordinance

- A. **Generally.** An adopted ordinance shall take effect as prescribed in state law.
- B. **Exceptions.** An amendment involving floodplain regulations shall not become effective until it is reviewed and approved by the regional office of the Wisconsin Department of Natural Resources. An amendment that modifies official floodplain zoning maps, floodway lines, or water surface profiles shall not become effective until it is reviewed and approved by the Federal Emergency Management Agency.

102.304 Basis of decision

- A. **Text amendment.** If a proposed amendment would revise the text of this chapter, the Plan Commission in making its recommendation and the Village Board in making its decision should consider the following factors:
 - (1) whether the amendment is consistent with the Village's comprehensive plan;

- (2) whether the amendment is consistent with other planning documents adopted by the Village Board;
 - (3) whether this chapter with the amendment is internally consistent;
 - (4) whether the amendment is the least restrictive approach to address issues of public health, safety, and welfare;
 - (5) the extent to which the text amendment will likely create new nonconforming uses and structures;
 - (6) if the proposed amendment relates to floodplain regulations, whether the chapter as amended complies with § 62.23 and 87.30, Wis. Stats., ch. NR 116, Wis. Admin. Code, and other state laws;
 - (7) if the proposed amendment relates to shoreland-wetland regulations, whether the chapter as amended complies with § 62.231, Wis. Stats.; ch. NR 117, Wis. Admin. Code; and other state laws;
 - (8) whether the proposed amendment is needed to comply with a new or revised state or federal law; and
 - (9) any other factor not specifically or generally listed, but deemed appropriate by the Plan Commission or Village Board given the particular circumstances.
- B. **Zoning map amendment.** If a proposed amendment would revise the zoning map, the Plan Commission in making its recommendation and the Village Board in making its decision should consider the following factors:
- (1) whether the amendment is consistent with the Village's comprehensive plan, including future land use maps or similar maps;
 - (2) whether the amendment is consistent with other planning documents adopted by the Village Board;
 - (3) the extent to which the amendment will or will likely increase or decrease the number of nonconforming uses and structures; and
 - (4) any other factor not specifically or generally listed, but deemed appropriate by the Plan Commission or Village Board given the particular circumstances.
- C. **Special review criteria for amendments to the shoreland-wetland overlay district boundary.** To ensure this chapter remains consistent with the shoreland protection objectives of § 144.26, Wis. Stats., the Village Board shall not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:
- (1) storm and flood water storage capacity;
 - (2) maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - (3) filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (4) shoreline protection against erosion;
 - (5) fish spawning, breeding, nursery, or feeding grounds;
 - (6) wildlife habitat; or
 - (7) areas of special recreational, scenic, or scientific interest, including scarce wetland types and habitat of endangered species.

102.305 Imposition of conditions

- A. **Generally.** The Plan Commission may recommend and the Village Board may impose one or more conditions of approval as may be necessary to grant approval.
- B. **Mandatory conditions of approval relating to certain existing land uses.** If a proposed amendment would revise the zoning map and is initiated by a property owner and the subject property hosts a land use that at the time of application is not permitted in the proposed zoning district, such use must be

removed as a condition of approval. If the subject property hosts a land use that at the time of application is classified as a conditional use in the proposed zoning district, the property owner must as a condition of approval submit a conditional use application and obtain approval for that land use or, if conditional use approval is not granted, remove such use.

102.306 Staff report content

The staff report should include the following:

- (1) preliminary findings for the decision criteria listed in this division;
- (2) proposed revisions, if appropriate; and
- (3) other information deemed necessary.

102.307 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.308 through 102.319 Reserved

DIVISION 2 PLANNED DEVELOPMENT DISTRICT

102.320 Generally

A planned development district allows for more flexibility in the development of land while ensuring substantial compliance with the intent of this chapter and the Village's comprehensive plan. As further described in Article 9, the following may be reviewed as a planned development district:

- (1) conventional planned unit development,
- (2) conservation subdivision,
- (3) cottage housing project; and
- (4) adaptive reuse project.

102.321 Development agreement

If a planned development district is established pursuant to this division, the Village and developer may enter into a development agreement that specifies the duties and obligations of both parties with respect to the development project.

102.322 Review procedure

Establishment of a planned development district involves a two-step process. The review of a proposed project begins with a general development plan. If the general development plan is approved (i.e., an ordinance is adopted), a precise implementation plan for all or a part of the project is reviewed. If the precise implementation plan is approved, the project is officially approved. The general steps outlined below describe the process for reviewing an application for a planned development district.

Step One – General Development Plan

1. **Pre-submittal meeting.** The applicant or the applicant's agent meets with the zoning administrator to review (i) applicable regulations and procedures; (ii) applicable sections of the Village's comprehensive plan an applicable neighborhood plans, if any; and (iii) the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the Village's zoning requirements.

2. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
3. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
5. **General notice.** Consistent with Article 4, the zoning administrator provides for (i) a class 2 public notice, (ii) property owner notice, and (iii) meeting agenda notice.
6. **Staff report preparation and distribution.** The zoning administrator may prepare a staff report as set forth in this division. If one is prepared, the zoning administrator provides a copy to the applicant, each member of the Plan Commission, and any person upon request.
7. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance. If the public hearing is adjourned, the Plan Commission may direct the zoning administrator to conduct additional research related to the proposed district.
8. **Staff follow-up.** After the close of the public hearing, the Plan Commission may direct the zoning administrator, village engineer, and/or the village attorney to prepare a preliminary decision document.
9. **Plan Commission recommendation.** The Plan Commission makes a recommendation to the Village Board based on the decision criteria in this division to (i) approve the general development plan, subject to approval of a precise implementation plan; (ii) approve the general development plan with conditions, subject to approval of a precise implementation plan; or (iii) deny the general development plan.
10. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
11. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
12. **Decision.** The Village Board after considering the Plan Commission's recommendation makes a decision based on the decision criteria in this division to (i) approve the general development plan, subject to approval of a precise implementation plan; (ii) approve the general development plan with conditions, subject to approval of a precise implementation plan; or (iii) deny the general development plan.
13. **Preparation of decision document.** If the general development plan is approved, the zoning administrator prepares a final ordinance.
14. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.

Step Two – Precise implementation plan

1. **Submittal of precise implementation plan.** The applicant submits a precise implementation plan and other required materials to the zoning administrator along with the application fee as may be established by the Village Board. At the discretion of the applicant, such materials may be submitted concurrently with the review of the general development plan.
2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the

applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.

3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
4. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
5. **Staff report preparation and distribution.** The zoning administrator may prepare a staff report as set forth in this division that evaluates whether the precise implementation plan is consistent with the approved general development plan and the suitability of the proposed plan given the additional information provided in the plan and supplemental materials. If one is prepared, the zoning administrator provides a copy to the applicant, each member of the Plan Commission, and any person upon request.
6. **Meeting.** Allowing for proper notice, the Plan Commission reviews the precise implementation plan and the staff report, if any.
7. **Determination of consistency.** The Plan Commission determines whether the precise implementation plan is generally consistent with the approved general development plan with respect to density/intensity and permissible land uses. If the Plan Commission determines that the precise implementation plan is not generally consistent, the Plan Commission shall render that decision in writing and take no further action on the precise implementation plan.
8. **Plan Commission recommendation.** If the precise implementation plan is deemed to be consistent with the general development plan, the Plan Commission makes a recommendation to the Village Board based on the decision criteria in this division to (i) approve the precise implementation plan, (ii) approve the precise implementation plan with conditions, or (iii) deny the precise implementation plan.
9. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
10. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
11. **Decision.** The Village Board after considering the Plan Commission's recommendation makes a decision based on the decision criteria in this division to (i) approve the precise implementation plan, (ii) approve the precise implementation plan with conditions, or (iii) deny the precise implementation plan.
12. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.
13. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.

102.323 Basis of decision

In the review of a general development plan and the precise implementation plan, the Plan Commission in making its recommendation and the Village Board in making its decision should consider the following factors:

- (1) whether development in the proposed project is in keeping with the spirit and intent of this chapter;
- (2) whether development in the proposed project is consistent with the Village's comprehensive plan;
- (3) whether development in the proposed district is consistent with a neighborhood plan or other subarea plan that may have been prepared for land in or near the proposed district;
- (4) the effects of development in the proposed project on traffic safety and efficiency, both within and outside of the district;

- (5) whether the proposed plan for development in the proposed project is properly planned and is properly coordinated with the existing and anticipated land uses on properties in the immediate and surrounding area;
- (6) the extent to which the natural features and open space on the site are preserved;
- (7) whether development in the proposed project complies with provisions of this chapter and other land development regulations of the Village that may apply;
- (8) the effects of development in the proposed project on public services and facilities;
- (9) whether adequate water and sanitary sewer facilities can be provided;
- (10) the proposed means of maintaining any undeveloped areas of the proposed project for the purpose for which it was set aside;
- (11) effects of the proposed use on surrounding properties, including existing and anticipated uses;
- (12) effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts;
- (13) whether the plan for development is clearly better than what is currently permitted based on the design and development standards of the underlying zoning district;^[1] and
- (14) any other factor that relates to the purposes of this chapter set forth in § 102.05 or as allowed by state law.

Editorial notes:

- [1] For example, a planned development district is better than what is otherwise allowed, when it includes desirable features or amenities that are not otherwise required, such as additional landscaping/buffering, open space, or enhanced design elements.

102.324 Imposition of conditions

- A. **Generally.** The Plan Commission may recommend and the Village Board may impose conditions as may be necessary to grant approval. Such conditions may relate to any of the factors it considered in reaching its decision. In addition, the Plan Commission may recommend and the Village Board may require the provision of off-site exactions that may be necessary to approve the establishment of the planned development district project.
- B. **Effect on contracts with another party.** The Village Board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.^[1]

Editorial notes:

- [1] See § 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

102.325 Staff report content

The staff report should include the following:

- (1) preliminary findings for the decision criteria listed in this division;
- (2) a preliminary list of recommended conditions of approval; and
- (3) other information deemed necessary.

102.326 Effect of approval

The approval of a planned development district runs with the land and is binding on all subsequent property owners.

102.327 Effect of approved planned development district on land division standards

Development in a planned development district is subject to the Village's land division regulations to the extent applicable, except that the Plan Commission or Village Board may waive a development standard in the land division regulations as provided therein.

102.328 Amendment of an approved planned development district

If the Village Board approves a planned development district, the Plan Commission and Village Board shall review all proposed changes to the project plan that was approved at the time of approval. If in the opinion of the Village Board, the proposed change constitutes a minor alteration, the Village Board may approve the requested change at a regular or special meeting of the Village Board. If the proposed change constitutes a major alteration, the review procedure in this division must be followed.

102.329 Expiration of an approval

If any portion of a planned development district that can be developed remains substantially undeveloped 3 years after final approval, the Village Board may rescind the approval, in whole or in part, following a public hearing. Upon petition and with cause, the Village Board may grant a one-time extension, not to exceed 4 years. In the event the Village Board rescinds an approval, the Village Board shall at that time reclassify undeveloped lands in the district based on the zoning regulations in effect at that time. Developed portions of the planned development district may either be allowed to retain the planned development district designation or reclassified based on the zoning regulations in effect at that time.

102.330 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.331 through 102.349 Reserved

DIVISION 3 DESIGNATION OF HISTORIC DISTRICT

102.350 Generally

The Historic Preservation Commission may select geographically defined areas within the Village to be designated as historic districts and shall, with the assistance of the Plan Commission, prepare a historic preservation plan in ordinance form for each area.

102.351 Historic district preservation plans

A. **Criteria.** Guideline criteria to be considered in the development of historic district plans are as follows:

- (1) Regulation of construction, reconstruction, alteration and demolition shall conform to the criteria and standards in § 102-____. **[(305(b)(1), (2) and (3))]**
- (2) All new structures shall be constructed to a height visually compatible with the building and environment with which they are visually related.
- (3) The gross volume of any new structure shall be visually compatible with the buildings and environment with which it is visually related.
- (4) In the street elevation of a building, the proportion between the width and height in the facade shall be visually compatible with the building and environment with which it is visually related.
- (5) The proportions and relationships between doors and windows in the street facade should be visually compatible with the buildings and environment with which it is visually related.
- (6) The rhythm of solids to voids, created by openings in the facade, should be visually compatible with the buildings and environment with which it is visually related.
- (7) The existing rhythm created by existing building masses and spaces between them should be preserved.
- (8) The materials used in the final facade should be visually compatible with the buildings and environment with which it is visually related.

- (9) The texture inherent in the facade should be visually compatible with the buildings and environment with which it is visually related.
- (10) Colors and patterns used on the facade (especially trim) should be visually compatible with the buildings and environment with which it is visually related.
- (11) The design of the roof should be visually compatible with the buildings and environment with which it is visually related.
- (12) The landscape plan should be sensitive to the individual building, its occupants and their needs. Further, the landscape treatment should be visually compatible with the buildings and environment with which it is visually related.
- (13) The street facade should blend with other buildings via directional expression. When adjacent buildings have a dominant horizontal or vertical expression, this expression should be carried over and reflected.
- (14) Architectural elements should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

In addition to the above, the Historic Preservation Commission may also refer to any guidelines promulgated by the Secretary of the Interior.

- B. **Analysis.** Each historic preservation plan prepared for or by the Historic Preservation Commission must include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

102.352 Review procedure

The general steps outlined below describe the process for reviewing an application to create a historic district.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the application to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Historic Preservation Commission consistent with its adopted calendar.
4. **Special notice to owners.** The zoning administrator sends a notice to all property owners within the proposed district.
5. **General notice.** Consistent with Article 4, the zoning administrator provides for (i) a class 1 public notice, (ii) property owner notice, and (iii) meeting agenda notice.
6. **Public hearing.** Allowing for proper notice, the Historic Preservation Commission conducts a public hearing to review the application consistent with Article 4. Prior to the close of the public hearing, the applicant or Historic Preservation Commission may request a continuance. If the public hearing is adjourned, the Historic Preservation Commission may direct the zoning administrator, building inspector, village engineer, and/or village attorney to conduct additional research. In addition, the Historic Preservation Commission may direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document.
7. **Staff follow-up.** After the close of the public hearing, the Historic Preservation Commission may direct the zoning administrator to prepare a preliminary decision document.
8. **Historic Preservation Commission recommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the Historic Preservation Commission

makes a recommendation to (i) approve the establishment of the district, (ii) approve the establishment of the district with conditions, or (iii) deny the establishment of the district.

9. **Plan Commission meeting.** If the Historic Preservation Commission recommends approval, the Plan Commission considers the application at a regular or special meeting allowing for proper notice.
10. **Plan Commission recommendation.** After considering the Historic Preservation Commission's recommendation, the Plan Commission makes a recommendation within 30 days of the commission's action to (i) approve the establishment of the district, (ii) approve the establishment of the district with conditions, or (iii) deny the establishment of the district.
11. **Notice.** Notice for the public hearing by the Village Board must be provided as described in steps 4 and 5 above.
12. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
13. **Public hearing.** Allowing for proper notice, the Village Board conducts a public hearing to review the application consistent with Article 4. Prior to the close of the public hearing, the applicant or Historic Preservation Commission may request a continuance. If the public hearing is adjourned, the Village Board may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research. In addition, the Village Board may direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document.
14. **Decision.** The Village Board after considering the recommendation of the Historic Preservation Commission and the Plan Commission makes a decision based on the decision criteria in this division to (i) approve the establishment of the district, (ii) approve the establishment of the district with conditions, or (iii) deny the establishment of the district.
15. **Preparation of final decision document.** Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division, subject to the direction given by the Village Board.
16. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to all property owners within the historic district by regular mail and/or email.
17. **Administrative steps.** If the historic district is approved, a new zoning map is prepared consistent with Article 6.

102.353 Basis of decision

The Historic Preservation Commission and Plan Commission in making their recommendation and the Village Board in making its decision must determine whether the proposed district:

- (1) exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, or community;
- (2) is identified with historic personages or with important events in national, state, or local history;
- (3) embodies the distinguishing characteristics of architectural types or specimens inherently valuable for the study of a period or periods, styles, methods, or construction, or of indigenous materials or craftsmanship;
- (4) is representative of the notable works of master builders, designers, or architects who influenced their age; or
- (5) has yielded, or may be likely to yield, information important to history or prehistory.

102.354 Interim control

The building inspector shall not issue a building permit for the alteration, construction, demolition, or removal of a property or structure within a nominated historic district from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination, unless such alteration, removal, or demolition is authorized by resolution of the Village Board as necessary for public health, welfare or safety. In no event shall the delay be for more than 180 days.

102.355 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.356 through 102.369 Reserved

DIVISION 4 DESIGNATION OF HISTORIC STRUCTURE AND SITE

102.370 Review procedure

The general steps outlined below describe the process for reviewing an application to designate a historic structure or site and rescind such designation.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the application to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Historic Preservation Commission consistent with its adopted calendar.
4. **Special notice.** The Historic Preservation Commission must notify the following of the pending application: department of public works, parks division, fire and police departments, health department, building inspector, and Plan Commission. Each such department may respond to the commission with its comments on the proposed designation or rescission.
5. **General notice.** Consistent with Article 4, the zoning administrator provides for (i) a class 1 public notice, (ii) property owner notice, and (iii) meeting agenda notice.
6. **Public hearing.** Allowing for proper notice, the Historic Preservation Commission conducts a public hearing to review the application consistent with Article 4. Prior to the close of the public hearing, the applicant or commission may request a continuance. If the public hearing is adjourned, the Historic Preservation Commission may direct the zoning administrator, building inspector, village engineer, and/or village attorney to conduct additional research. In addition, the Historic Preservation Commission may direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document. The Historic Preservation Commission may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary.
7. **Independent investigation.** The Historic Preservation Commission may conduct an independent investigation into the proposed designation or rescission.
8. **Staff follow-up.** After the close of the public hearing, the Historic Preservation Commission may direct the zoning administrator to prepare a preliminary decision document.
9. **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the Historic Preservation Commission makes a decision to (i) approve the designation/recession of the historic structure or site, (ii) approve the designation/recission of the historic structure or site with conditions, or (iii) deny the designation/recission of the historic structure or site.

10. **Preparation of final decision document.** Based on the action of the Historic Preservation Commission, the zoning administrator prepares a final decision document consistent with this division, subject to the direction given by the commission.
11. **Applicant notification.** Within a reasonable time following the Historic Preservation Commission's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
12. **Administrative actions.** If the application for a designation or recession is approved, the zoning administrator sends the decision document to the village clerk, building inspector, Plan Commission, assessor for the Village, and others as appropriate.
13. **Recording of decision document.** If the application for a designation or recession is approved, the decision document is recorded, at the Village's expense, in the register of deeds office for Walworth County or Waukesha County, as appropriate.

102.371 Basis of decision

The Historic Preservation Commission in making its decision must determine whether the historic site or structure:

- (1) exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, or community;
- (2) is identified with historic personages or with important events in national, state, or local history;
- (3) embodies the distinguishing characteristics of architectural types or specimens inherently valuable for the study of a period or periods, styles, methods, or construction, or of indigenous materials or craftsmanship;
- (4) is representative of the notable works of master builders, designers, or architects who influenced their age; or
- (5) has yielded, or may be likely to yield, information important to history or prehistory.

102.372 Interim control

The building inspector shall not issue a building permit for the alteration, construction, demolition, or removal of a property or structure from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination, unless such alteration, removal, or demolition is authorized by resolution of the Village Board as necessary for public health, welfare or safety. In no event shall the delay be for more than 180 days.

102.373 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.374 through 102.389 Reserved

DIVISION 5 CONDITIONAL USE

102.390 Generally

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as conditional uses. This division describes the requirements and procedures for reviewing a conditional use, including an amendment of an approved conditional use.

102.391 Applicability and restrictions

- A. **General applicability.** Those land uses designated as a conditional use in the land use matrix (Appendix A) must comply with the requirements in this division.
- B. **Limitation due to nonconforming lot.** In the event a lot is classified as a nonconforming lot (e.g., lot area, lot width), all conditional uses are prohibited, unless the Plan Commission determines, on a case-by-case basis, that the nature of the nonconformity does not affect the appropriateness of the lot for the conditional use. Any such determination in the affirmative shall have no bearing on the Plan Commission's recommendation and/or Village Board's decision under this division.
- C. **Limitation due to a nonconforming use on the lot.** In the event a lot has a nonconforming use, all conditional uses are prohibited, unless the Plan Commission determines, on a case-by-case basis, the non-conforming use and the proposed conditional use are compatible. Any such determination in the affirmative shall have no bearing on the Plan Commission's recommendation and/or Village Board's decision under this division.
- D. **Limitation due to existing conditional use on the lot.** In the event a lot has an approved conditional use, all other conditional uses are prohibited, unless the Plan Commission determines, on a case-by-case basis, that the existing and proposed conditional uses are compatible. Any such determination in the affirmative shall have no bearing on the Plan Commission's recommendation and/or Village Board's decision under this division.

102.392 Review procedure

The general steps outlined below describe the process for reviewing an application for a conditional use.

- 1. **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent must meet with the zoning administrator to review applicable regulations and procedures and the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the Village's zoning requirements.
- 2. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
- 3. **Determination of completeness.** The zoning administrator reviews the application to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
- 4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
- 5. **Special notice to Department of Natural Resources.** If the application relates to the floodplain regulations in this chapter, the zoning administrator shall send a copy of the application and public hearing notice to the regional office of the Wisconsin Department of Natural Resources at least 10 calendar days before the date of the public hearing.
- 6. **General notice.** Consistent with Article 4, the zoning administrator provides for (i) a class 2 public notice, (ii) property owner notice, and (iii) meeting agenda notice.
- 7. **Staff report preparation and distribution.** The zoning administrator may prepare a staff report as set forth in this division. If one is prepared, the zoning administrator provides a copy to the applicant, each member of the Plan Commission, and any person upon request.
- 8. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance. If the public hearing is adjourned, the Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional

research. In addition, the Plan Commission may direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document.

9. **Staff follow-up.** After the close of the public hearing, the Plan Commission may direct the zoning administrator to prepare a preliminary decision document.
10. **Plan Commission recommendation.** After the public hearing has been closed, the Plan Commission makes a recommendation to the Village Board for approval or denial. The recommendation shall state the terms of the approval or reasons for denial as set forth in a draft conditional use order. The burden of proof is on the applicant to prove they have met the standards of the chapter and those set forth by the Plan Commission/Village Board during the process.
11. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
12. **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the staff report, if any, and the Plan Commission's recommendation, the Village Board makes a decision to (i) approve the conditional use, (ii) approve the conditional use with conditions, or (iii) deny the conditional use.
13. **Preparation of final decision document.** Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division, subject to the direction given by the Village Board.
14. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
15. **Notification to Department of Natural Resources.** If the application relates to the floodplain regulations in this chapter, the zoning administrator sends a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email within 10 calendar days of the date of decision.
16. **Acceptance by property owner.** If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
17. **Recording of decision document.** If the property owner returns the decision document within the required time period with the required signatures, the decision document is recorded against the subject property in the register of deeds office for Walworth County or Waukesha County, as appropriate.

102.393 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its final decision should consider whether the proposal complies with:

- (1) the standard conditions of approval set forth in § 102.356,
- (2) each of the special conditions of approval set forth in § 102.355,
- (3) each of the performance standards set forth in Article 8,
- (4) each of the development standards prescribed for the requested conditional use,
- (5) all other applicable sections of the zoning code, and
- (6) all other applicable sections of the Municipal Code.

In addition, the Plan Commission in making its recommendation and the Village Board in making its decision must ensure compliance with the following standards:

- (1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or welfare of the Village.
- (2) The uses, values, and enjoyment of other property in the surrounding area that are already permitted shall be, in no foreseeable manner, substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
- (3) The establishment, maintenance, or operation of the conditional use is compatible with surrounding properties, whether in the same or different zoning districts. In making this determination, the Plan Commission and Village Board must determine whether the petitioner has demonstrated there are no adverse effects on surrounding properties or that potentially adverse effects have been eliminated or reduced to an acceptable level. Approaches that could be employed to mitigate potentially adverse effects will depend on the particular circumstances but may include (i) adjusting the location of the use, or parts thereof, on the subject property; (ii) limiting hours of operation; (iii) limiting the size or scope of the use, or parts thereof; (iv) controlling how the use is managed on an on-going basis; (v) providing additional landscaping; (vi) providing additional screening; and (vii) limiting operations conducted out-of-doors, if otherwise allowed.
- (4) The establishment, maintenance, or operation of the conditional use will not impede the normal and ordinary development and improvement of the surrounding property for uses permitted within the district and/or which are consistent with the standards in the Comprehensive Plan.
- (5) Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made to accommodate the use.
- (6) Adequate measures have been taken or will be taken providing ingress and egress to minimize traffic congestion on public streets so as not to diminish the level of service of any intersection which is impacted by traffic arising from the conditional use.

In making such determination, the personal experience of surrounding property owners may be considered substantial evidence to the extent deemed appropriate.

102.394 Effect of comprehensive plan

While § 66.1001(2m)(b), Wis. Stats does not require a conditional use be consistent with the Village's adopted comprehensive plan, the Village encourages consistency.

102.395 Special conditions of approval

- A. **Generally.** Based on substantial evidence, the Plan Commission may recommend and the Village Board may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, or general welfare. Examples of such conditions are listed below.

Issue	Potential Condition
1. Hours of operation	Limit hours of operation to hours to be more compatible with surrounding uses.
2. Buffering	Require more of a buffer than what is otherwise required by this chapter. Buffering may include landscaping, walls or fences, berms, and other features to physically separate adjoining uses.
3. Maximum floor area	Establish a maximum floor area that may be less than what is otherwise allowed.
4. Maximum number of patrons	Limit the size of the use by establishing maximum patron loads, often by seats and/or tables.
5. Uses within buildings	Limit commercial uses to the first floor of a multistory building.
6. Number and/or location of entrances	Design the site and building so that entrances are located in areas away from adjoining properties.

7. Outdoor activity	Restrict locations and/or times of outdoor activity.
8. Outdoor storage	Establish a maximum area for outdoor storage that may be less than what is otherwise allowed.
9. Take-out food service	Prohibit drive-up service windows and/or walk-up service windows in certain areas of the property (e.g., near a residential use). If these are allowed, limitations could be set.
10. Delivery services	Prohibit delivery services that entail frequent trips or establish upper limits on the activity.
11. Signage	Prohibit signage in areas of the property that may cause an impact on surrounding areas.

- B. **Limitation on imposing conditions.** A condition of approval shall not lessen a development standard or other requirement in this chapter.
- C. **Effect on contracts with another party.** The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.^[1]

Editorial notes:

[1] See § 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

102.396 Standard terms for an approved conditional use

The terms and conditions listed below are automatically incorporated into a conditional use order authorizing a use, unless otherwise specifically stated in the conditional use order.

- (1) Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Plan Commission for determination.
- (2) No use is hereby authorized unless the use is conducted in a lawful, orderly, and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order or rule of either the municipal governing body, Walworth County, Waukesha County, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein.
- (3) This conditional use order does not constitute a building permit or any license or other permit required by Village ordinance or other law.
- (4) The approved conditional use shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Plan Commission as being in compliance with all pertinent ordinances.
- (5) The property shall comply with all rules and regulations of the Village and the local fire department, including submission to routine inspections by the village staff and fire department staff.
- (6) Prior to the execution of the conditional use permit, the applicant must obtain any and all approvals that must be obtained before the use may be established or the commencement of any land-disturbing activity related to the approved conditional use.
- (7) Should the permitted conditional use be abandoned in any manner, or discontinued in use for 12 months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to the Village, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Village Board, pursuant to the enforcement provisions of this conditional use order, and all applicable ordinances.

- (8) Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
- (9) Unless this conditional use order expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Plan Commission if the Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Plan Commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.
- (10) As a condition precedent to the issuance of the conditional use permit, the owner of the subject property must approve the issuance of this conditional use order upon the terms and conditions described herein in writing, and the petitioner is required to accept the terms and conditions of the same in its entirety in writing.
- (11) The petitioner must, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this application, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Village is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.
- (12) Any unpaid bills owed to the Village by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village; shall be placed upon the tax roll for the subject property if not paid within 30 days of billing by the Village, pursuant to § 66.0627, Wis. Stats. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of this approval.
- (13) The petitioner must file with the village clerk a current mailing address and current phone number at which the petitioner can be reached, which must be continually updated by the petitioner if such contact information should change, for the duration of the conditional use. If the petitioner fails to maintain such current contact information, the petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.
- (14) All conditions of approval imposed by duly adopted motion of the Village Board in its consideration of the petitioner's application, as noted in the minutes of the Village Board meeting at which approval was granted, are specifically incorporated herein by reference.
- (15) Should any paragraph or phrase of this conditional use order be determined by a court of competent jurisdiction to be unlawful, illegal, or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use order and the remainder shall continue in full force and effect.
- (16) If any aspect of this conditional use order or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Plan Commission.
- (17) If the property owner/operator is a business entity, such as a limited liability company or a corporation, such entity shall for the life of the conditional use continuously maintain a registered office in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.
- (18) The property owner shall not change the size and/or shape of the subject property by any means without the approval of the Village Board. If the Village Board determines that a proposed change is substantial with regard to the overall size of the parcel and/or configuration, such change shall require issuance of a new conditional use approval pursuant to the requirements in effect at the time of application.
- (19) This approval is given under the Village's zoning code and is not to be, in any way, interpreted to abrogate any private rights other property owners may have pursuant to an easement or a deed restriction.

- (20) If this conditional use terminates for any reason, the property owner must remove equipment, buildings, structures, or any improvements specifically related to the conditional use and which cannot be utilized for an approved use (i.e., a use permitted by right or a different conditional use as approved).
- (21) In the event the subject property is found to be in violation and then brought into compliance, the Village Board reserves the right to impose periodic reviews to ensure continued compliance.
- (22) Following approval, the petitioner must meet with the Plan Commission every **2 years** for the purpose of verifying compliance with the conditional use approval.

102.397 Financial guarantee

- A. **Generally.** The Plan Commission may recommend and the Village Board may require, in its reasonable discretion, a financial guarantee as set forth in Article **3** to remove an equipment, building, structure, or other improvement that may pose a hazard or nuisance after a conditional use has been terminated or abandoned, unless otherwise required by an applicable State Law or Administrative Code provision. Any such financial guarantee must expressly state that it will remain in full force and effect for a period of at least 6 months after the Village receives a written notice of an expiration or termination of the financial guarantee. The applicant must remove any equipment or structure placed or erected pursuant to a conditional use order that may pose a hazard or nuisance after the use has abandoned or revoked not less than 30 days prior to termination or expiration of the financial guarantee.
- B. **Amount.** Unless specifically stated in the zoning code, the amount of the financial guarantee is based upon the estimated cost of the removal of the equipment, building or structure, or any other improvement plus 20 percent.

Temporary note: This section derived from s. 100-354(j). The village attorney to review in particular

102.398 Staff report content

The staff report should include preliminary findings for the decision criteria listed in this division and other information deemed appropriate.

102.399 Content of decision document

- A. **Approval.** If the application for a conditional use is approved, the decision document should include the following:
 - (1) a statement that the conditional use is approved;
 - (2) a description of the conditional use;
 - (3) a description of where the conditional use will occur on the property;
 - (4) reasons for the decision based on the criteria listed in this division;
 - (5) conditions of approval that must be satisfied prior to the establishment of the conditional use, if any;
 - (6) conditions of approval that must be complied with during the life of the conditional use, if any;
 - (7) a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
 - (8) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - (9) a statement that an aggrieved person, other than the applicant, may appeal the decision to a court of competent jurisdiction and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (10) a statement indicating the nature of the approval (i.e., personal to the property owner or runs with the land);
 - (11) other information the Village Board or zoning administrator deems appropriate;
 - (12) the signature of the village president; and

(13) the date of the decision.

- B. **Denial.** If the application for a conditional use is denied, the decision document should include the following:

- (1) a statement that the conditional use is denied,
- (2) a description of the project, including acreage and proposed use characteristics,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the Village Board or zoning administrator deems appropriate,
- (7) the signature of the village president, and
- (8) the date of the decision.

102.400 Term for an approval

- A. **Generally.** A conditional use order authorizing a conditional use shall have a 5-year term unless otherwise specified in the conditional use order.
- B. **Change in term as part of renewal.** If a term is specified in a conditional use order (i.e., the approval is not permanent), the Plan Commission during the renewal process may revise the term to be a longer period (e.g., change renewal from 5 years to 10 years) or make the approval permanent (e.g., remove the renewal requirement from the order).
- C. **Administrative renewal.** The order may describe an administrative renewal process to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission and/or the Village Board to remove the conditional use order from administrative renewal if there are concerns with compliance with the conditional use order or concerns raised by the public about the applicant's operations. If the Plan Commission or the Village Board pulls the conditional use order from administrative renewal, the conditional use order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the conditional use order and its potential renewal.

102.401 Effect of approval

- A. **Generally.** Unless otherwise specified in the conditional use order, approvals run with the land.
- B. **Temporary uses.** If a use is listed as a temporary use in the land use matrix (Appendix A) and is approved by the Village Board as a conditional use, the use may be re-established with the written approval of the zoning administrator if he or she determines that the use to be re-established is substantially the same as what was originally approved and that the approved use did not create any potentially adverse impacts on the public health, safety, or welfare.

102.402 Expiration of an approval

- A. **Non-establishment.** If the zoning administrator determines that substantial work as authorized by a conditional use approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months, provided (1) the permit holder requests the extension prior to the expiration of the approval, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. **Cessation.** If the zoning administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article.

102.403 Amendment of an approved conditional use

Following approval of a conditional use, the Plan Commission reviews all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

102.404 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.405 through 102.419 Reserved**DIVISION 6****WIRELESS TELECOMMUNICATION FACILITY – NEW TOWER AND CLASS 1 COLLOCATION****102.420 Review procedure**

The general steps outlined below describe the process for reviewing an application for a new telecommunication tower and a Class 1 collocation as designated in the land use matrix (Appendix A).

1. **Submittal of application materials.** The applicant submits a completed application to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the application and determines whether the application is complete. If the application includes all of the required information, the application shall be found to be complete. The zoning administrator notifies the applicant in writing within 10 days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their application as often as necessary until it is complete. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
4. **General notice.** Consistent with Article 4, the zoning administrator provides for (i) a class 2 public notice, (ii) property owner notice, and (iii) meeting agenda notice.
5. **Staff report preparation and distribution.** The zoning administrator may prepare a staff report as set forth in this division. If one is prepared, the zoning administrator provides a copy to the applicant, each member of the Plan Commission, and any person upon request.
6. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Article 4.
7. **Staff follow-up.** If the Plan Commission does not render a decision immediately following the public hearing, the Plan Commission may direct the zoning administrator to prepare a preliminary decision document.
8. **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, and the staff report, if any, the Plan Commission makes a decision to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
9. **Preparation of final decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a final decision document, subject to the direction given by the Plan Commission.

10. **Applicant notification.** Within a reasonable time following the Plan Commission's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
11. **Recording of decision document.** If the property owner returns the decision document within the required time period with the required signatures, the decision document is recorded against the subject property in the register of deeds office for Walworth County or Waukesha County, as appropriate.

In the event an applicant believes the Village has exceeded its authority as set forth in § 66.0404, Wis. Stats., and other such laws as may apply which may include 47 USCA § 1455, the applicant must notify the zoning administrator in writing and the reviewing authority reserves the right to reconsider the matter, to ensure that applicable laws are followed.

102.421 Application form

An application form for a new telecommunication tower or a Class 1 collocation must include all of the following information as appropriate:

- (1) The name and business address of, and the contact individual for, the applicant.
- (2) The location of the proposed tower or affected tower.
- (3) The location of the proposed mobile service facility.
- (4) If an application is to substantially modify an existing telecommunication tower, a construction plan which describes the proposed modifications to the tower, and equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
- (5) If an application is to construct a new telecommunication tower, a construction plan which describes the proposed tower and equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
- (6) If an application is to construct a new telecommunication tower, an explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.

102.422 Imposition of conditions

- A. **Generally.** The reviewing authority may impose one or more conditions of approval as may be necessary to grant approval. Such conditions may relate to any aspect of the use that impacts the public health, safety, or general welfare, subject to subsection (B) below.
- B. **Limitations.** The reviewing authority may not impose any of the following as a condition of approval:
 - (1) A requirement relating to environmental testing, sampling, or monitoring.
 - (2) A requirement relating to radio frequency emissions.
 - (3) A requirement to pay a reoccurring fee.
 - (4) A requirement that the structure or mobile service facility owner must provide space on or near the structure for the use of or by the Village at less than the market rate, or to provide the Village other services via the structure or facilities at less than the market rate.
 - (5) Limit the duration of the approval.
 - (6) A requirement that the applicant must indemnify or insure the Village in connection with the political subdivision's exercise of its authority to approve the application.
 - (7) A requirement that the applicant must give the Village the right to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the Village or an entity in which the Village has a governance, competitive, economic, financial, or other interest.

102.423 Expiration of an approval

- A. **Non-establishment.** If the zoning administrator determines that substantial work as authorized by the approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 17 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months, provided (1) the permit holder requests the extension prior to the expiration of the approval, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. **Cessation.** If the zoning administrator determines that a wireless telecommunication facility has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 17 of this article.

102.424 Amendment of an approval

Following approval, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

102.425 Fees

- A. **Professional service reimbursement.** Costs incurred by the Village in obtaining legal, planning, engineering, and other technical and professional advice in connection with an application shall be charged to the applicant as set forth in § 102.209.
- B. **Limitation on fees.** The total of all fees, excluding professional service reimbursement, associated with the review of an application shall not exceed the limits established by § 66.0404(4)(d), Wis. Stats.

102.426 through 102.439 Reserved**DIVISION 7****WIRELESS TELECOMMUNICATION FACILITY – CLASS 2 COLLOCATION****102.440 Review procedure**

The general steps outlined below describe the process for reviewing an application for a Class 2 collocation as designated in the land use matrix (Appendix A).

1. **Submittal of application materials.** The applicant submits a completed application to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the application and determines whether the application is complete. If the application includes all of the required information, the application shall be found to be complete. The zoning administrator must notify the applicant in writing within 5 days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their application as often as necessary until it is complete. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.

3. **Decision.** The zoning administrator makes a decision on the application within 45 days of the date the application is deemed complete, unless the time is extended by the applicant. The decision shall be stated in writing. If approval is not granted, the reasons therefor must be stated.

In the event an applicant believes the Village has exceeded its authority as set forth in § 66.0404, Wis. Stats., and other such laws as may apply which may include 47 USCA § 1455, the applicant must notify the zoning administrator in writing and the reviewing authority reserves the right to reconsider the matter, to ensure that applicable laws are followed.

102.441 Expiration of an approval

- A. **Non-establishment.** If the zoning administrator determines that substantial work as authorized by the approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 17 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months, provided (1) the permit holder requests the extension prior to the expiration of the approval, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. **Cessation.** If the zoning administrator determines that a wireless telecommunication facility has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 17 of this article.

102.442 Amendment of an approval

Following approval, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

102.443 Fees

- A. **Professional service reimbursement.** Costs incurred by the Village in obtaining legal, planning, engineering, and other technical and professional advice in connection with an application shall be charged to the applicant as set forth in § 102.209.
- B. **Limitation on fees.** The total of all fees, excluding professional service reimbursement, associated with the review of an application shall not exceed the limits established by § 66.0404(4)(d), Wis. Stats.

102.444 through 102.459 Reserved

DIVISION 8 SITE PLAN

102.460 Generally

The operational characteristics of a land use and the way in which a land use occupies a lot has a direct effect on the overall functionality of the site, the extent to which the land use can be expanded on the site in the future, effects of the land use on nearby properties, and impacts on existing and anticipated public and private infrastructure. This division describes the requirements and procedures for reviewing a site plan.

102.461 Applicability

Those land uses designated as requiring site plan review (SP) in the land use matrix (Appendix A) must comply with the requirements in this division.

102.462 Review procedure

The general steps outlined below describe the process for reviewing an application for a site plan.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
4. **Staff report preparation and distribution.** The zoning administrator may prepare a staff report as set forth in this division. If one is prepared, the zoning administrator provides a copy to the applicant, each member of the Plan Commission, and any person upon request.
5. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
6. **Plan Commission meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
7. **Recommendation.** The Plan Commission makes a recommendation to the Village Board to (i) approve the site plan, (ii) approve the site plan with conditions, or (iii) deny the site plan.
8. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
9. **Decision.** After considering all of the information submitted by the applicant, the staff report, if any, and the Plan Commission's recommendation, the Village Board makes a decision to (i) approve the site plan, (ii) approve the site plan with conditions, or (iii) deny the site plan.
10. **Preparation of decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a decision document consistent with this division.
11. **Applicant notification.** Within a reasonable time following the Plan Commission's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.

102.463 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its final decision should consider the following factors:

- (1) effects of the project on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
- (2) effects of the project on the natural environment;
- (3) effects of the project on surrounding properties;
- (4) actions the applicant will undertake to mitigate the negative effects, if any, of the proposed land use;
- (5) compliance with the general site design principles and requirements in Article 6;
- (6) compliance with the landscaping requirements in Article 17;
- (7) compliance with the parking requirements in Article 18;
- (8) compliance with the outdoor lighting requirements in Article 19;

- (9) compliance with other applicable requirements in this chapter; and
- (10) any other factor that relates to the purposes of this chapter set forth in § 102.05 or as allowed by state law.

102.464 Imposition of conditions

- A. **Generally.** In approving a site plan, the Plan Commission may recommend and the Village Board may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping and screening, and revisions to the site design.
- B. **Effect on contracts with another party.** The Plan Commission shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.^[1]

Editorial notes:

- [1] See § 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

102.465 Staff report content

The staff report should include the following:

- (1) a description of the proposed project;
- (2) preliminary findings for the decision criteria listed in this division;
- (3) a preliminary recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions whether the preliminary staff recommendation is for approval or denial; and
- (5) other information deemed necessary.

102.466 Content of decision document

- A. **Approval.** If the application for a site plan is approved, the decision document should include the following:
 - (1) a statement that the site plan/plan of operation is approved;
 - (2) a description of the land use along with operational characteristics;
 - (3) reasons for the decision based on the criteria listed in this division;
 - (4) conditions of approval, if any;
 - (5) a statement indicating that the property owner and operator, if different, must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same; (verify if needed)
 - (6) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - (7) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (8) other information the reviewing authority or zoning administrator deems appropriate;
 - (9) the signature of the village president; and
 - (10) the date of the decision.
- B. **Denial.** If the application for a site plan is denied, the decision document should include the following:
 - (1) a statement that the site plan/plan of operation is denied,
 - (2) a description of the land use,
 - (3) reasons for the decision based on the criteria listed in this division,

- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the reviewing authority or zoning administrator deems appropriate,
- (7) the signature of the village president, and
- (8) the date of the decision.

102.467 Effect of approval

The approval of a site plan runs with the land and is binding on all subsequent property owners.

102.468 Expiration of an approval

An approval of a site plan automatically expires 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

102.469 Amendment of an approved site plan

Following approval of a site plan, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

102.470 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.471 through 102.489 Reserved

DIVISION 9 ARCHITECTURAL REVIEW

102.490 Generally

Architectural review is intended to ensure that buildings fit in to the context in which they occur.

102.491 Applicability

Those land uses designated as requiring architectural review in the land use matrix (Appendix A) must comply with the requirements in this division. The exterior of an existing building designated as requiring architectural review may be resided or re-roofed with the same or similar type of materials.

102.492 Review procedure

The general steps outlined below describe the process for reviewing an application for an architectural plan.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.

2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
4. **Plan Commission meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
5. **Recommendation.** The Plan Commission makes a recommendation to the Village Board to (i) approve the architectural plan, (ii) approve the architectural plan with conditions, or (iii) deny the architectural plan.
6. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
7. **Decision.** After considering all of the information submitted by the applicant, the staff report, if any, and the Plan Commission's recommendation, the Village Board makes a decision to (i) approve the architectural plan, (ii) approve the architectural plan with conditions, or (iii) deny the architectural plan.
8. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.
9. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.

102.493 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its final decision should determine whether the building complies with all applicable provisions of this chapter.

102.494 Imposition of conditions

- A. **Generally.** In approving an architectural plan, the Plan Commission may recommend and the Village Board may impose one or more conditions deemed necessary to further the intent and purposes of this chapter.
- B. **Effect on contracts with another party.** The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.^[1]

Editorial notes:

[1] See § 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

102.495 Content of decision document

- A. **Approval.** If the architectural plan is approved, the decision document should include the following:
 - (1) a statement that the architectural plan is approved;
 - (2) a description of the project;
 - (3) reasons for the decision based on the criteria listed in this division;
 - (4) conditions of approval, if any;

- (5) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
 - (6) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - (7) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (8) other information the Village Board or administrator deems appropriate; and
 - (9) the date of the decision.
- B. **Denial.** If the architectural plan is denied, the decision document should include the following:
- (1) a statement that the architectural plan is denied,
 - (2) a description of the project,
 - (3) reasons for the decision based on the criteria listed in this division,
 - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - (5) a statement that the decision may be appealed as provided for in this division,
 - (6) other information the Village Board or zoning administrator deems appropriate, and
 - (7) the date of the decision.

102.496 Effect of approval

An approval of an architectural plan runs with the land and is binding on all subsequent property owners.

102.497 Expiration of an approval

An approval of an architectural plan automatically expires 12 months after the date of issuance unless substantial work has commenced and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

102.498 Amendment of an approved architectural plan

Following approval of an architectural plan, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

102.499 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.500 through 102.519 Reserved

DIVISION 10 SPECIAL EXCEPTION

102.520 Generally

Upon written petition, the Village Board may, on a case-by-case basis, grant a special exception for those development standards specifically noted as special exceptions in this chapter.

102.521 Review procedure

The general steps outlined below describe the process for reviewing an application for a special exception.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
4. **Staff report preparation and distribution.** The zoning administrator may prepare a staff report as set forth in this division. If one is prepared, the zoning administrator provides a copy to the applicant, each member of the Plan Commission, and any person upon request.
5. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
6. **Plan Commission meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
7. **Recommendation.** After considering all of the information submitted by the applicant and the staff report, if any, the Plan Commission makes a recommendation to the Village Board based on the decision criteria in this division to (i) approve the special exception, (ii) approve the special exception with conditions, or (iii) deny the special exception.
8. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
9. **Decision.** After considering all of the information submitted by the applicant, the staff report, if any, and the Plan Commission's recommendation, the Village Board makes a decision to (i) approve the special exception, (ii) approve the special exception with conditions, or (iii) deny the special exception.
10. **Preparation of final decision document.** Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division subject to the direction given by the Village Board.
11. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
12. **Acceptance by property owner.** If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all

required signatures have been obtained and the original signature copy is returned to the zoning administrator. (verify if needed)

102.522 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its final decision should consider the following factors:

- (1) the size of the property in comparison to other properties in the area;
- (2) the extent to which the issuance of the special exception would be in keeping with the overall intent of this chapter;
- (3) whether there are any unique circumstances and the nature of those circumstances that warrant the issuance of the special exception;
- (4) the nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception was granted;
- (5) the nature and extent of anticipated positive and negative effects on properties in the area;
- (6) actions the applicant will undertake to mitigate the negative effects, if any, of the proposed special exception;
- (7) a factor specifically listed under a section of this chapter authorizing the issuance of a special exception; and
- (8) any other factor that relates to the purposes of this chapter set forth in § 102.05 or as allowed by state law.

102.523 Imposition of conditions

- A. **Generally.** In approving a special exception, the review authority may impose one or more conditions deemed necessary to further the intent and purposes of this chapter.
- B. **Effect on contracts with another party.** The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.^[1]

Editorial notes:

- [1] See § 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

102.524 Limitations on issuing a special exception

A special exception shall only be approved in those instances where issuance is specifically authorized in this chapter.

102.525 Staff report content

The staff report should include the following:

- (1) a description of the requested special exception;
- (2) preliminary findings for the decision criteria listed in this division;
- (3) a preliminary recommendation to approve the application, approve the application with conditions, or deny the application; (verify)
- (4) a preliminary list of conditions whether the preliminary staff recommendation is for approval or denial; and (verify)
- (5) other information deemed necessary.

102.526 Content of decision document

- A. **Approval.** If the application for a special exception is approved, the decision document should include the following:
- (1) a statement that the special exception is approved;
 - (2) a description of the special exception;
 - (3) reasons for the decision based on the criteria listed in this division;
 - (4) conditions of approval, if any;
 - (5) a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same; (verify)
 - (6) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - (7) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (8) other information the review authority or zoning administrator deems appropriate;
 - (9) the signature of the village president; and
 - (10) the date of the decision.
- B. **Denial.** If the application for a special exception is denied, the decision document should include the following:
- (1) a statement that the special exception is denied,
 - (2) a description of the special exception,
 - (3) reasons for the decision based on the criteria listed in this division,
 - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - (5) a statement that the decision may be appealed as provided for in this division,
 - (6) other information the review authority or zoning administrator deems appropriate,
 - (7) the signature of the village president, and
 - (8) the date of the decision.

102.527 Effect of approval

An approval of a special exception runs with the land and is binding on all subsequent property owners.

102.528 Expiration of an approval

An approval for a special exception automatically expires 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

102.529 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.530 through 102.549 Reserved

DIVISION 11 REGISTRATION OF A NONCONFORMING USE

102.550 Generally

There may be now or in the future certain uses of land that are not in compliance with this chapter, but which were legally established. These uses are referred to as "nonconforming uses," and consistent with the provisions of Article 20 are allowed to continue to operate within certain parameters. For this reason, it is necessary to document those uses that are considered nonconforming. Registration of a use as a nonconforming use provides documentary evidence establishing (1) when the use was first established; (2) that the use was established consistent with the rules and regulations in effect at the time, if any; (3) that the use has operated continuously, without cessation of more than 12 continuous months; and (4) the nature of the use. Failure to register a nonconforming use does not result in prohibition of the use, but in any future situation where the owner asserts the use is a nonconforming use, the property owner shall have the burden of so proving.

102.551 Initiation

Any of the following may submit an application to determine whether a use should be registered as a nonconforming use:

- (1) a person having a financial interest in the property or in the use occurring on the property;
- (2) the zoning administrator;
- (3) the Plan Commission, or any member thereof; and
- (4) the Village Board, or any member thereof.

102.552 Review procedure

The general steps outlined below describe the process for reviewing an application to register a nonconforming use.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
3. **Special notice to property owner.** If the application process is not initiated by the property owner, the zoning administrator sends a written notice to the property owner by regular and certified mail at least 60 calendar days prior to the date of the Plan Commission meeting. Such notice shall invite the property owner to submit evidence relating to the pending determination. In addition, the notice should state (i) the reasons why the application has been submitted; (ii) the date and time of the meeting; (iii) contact information for the zoning administrator; and (iv) other information deemed appropriate by the zoning administrator.
4. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
5. **Plan Commission recommendation.** The Plan Commission determines whether it has sufficient evidence to make a recommendation, and if so whether the use should or should not be classified as a nonconforming use.
6. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
7. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
8. **Decision.** After considering the Plan Commission's recommendation, the Village Board determines whether it has sufficient evidence to make a final decision, and if so whether the use should or should not be classified as a nonconforming use.

9. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division, subject to the direction provided by the Village Board.
10. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the property owner by regular mail and/or email.
11. **Inclusion in registry.** If the use is determined to be a nonconforming use, the zoning administrator shall include the nonconforming use in the registry authorized in Article 6.

102.553 Basis of decision

In making its decision, the review authority shall determine whether there is sufficient evidence to show that (1) the use in question was legally established; (2) such use does not now comply with one or more of the requirements of this chapter; and (3) such use has continued from the date, or approximate date, of establishment to the current date without an interruption of more than 12 continuous months.

102.554 Content of decision document

- A. **Approval.** If the application for registering a nonconforming use is approved, the decision document should include the following:
 - (1) a statement that the application is approved,
 - (2) a description of the use,
 - (3) reasons for the decision based on the criteria listed in this division,
 - (4) a statement that the applicant may appeal the decision as provided for in this division,
 - (5) other information the Plan Commission or the zoning administrator deems appropriate,
 - (6) the signature of the village president, and
 - (7) the date of the decision.
- B. **Denial.** If the application for registering a nonconforming use is denied, the decision document should include the following:
 - (1) a statement that the application is denied,
 - (2) a description of the use,
 - (3) reasons for the decision based on the criteria listed in this division,
 - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - (5) a statement that the applicant may appeal the decision as provided for in this division,
 - (6) other information the Plan Commission or the zoning administrator deems appropriate,
 - (7) the signature of the village president, and
 - (8) the date of the decision.

102.555 Effect of decision

If the Village Board determines that a land use meets the criteria for a nonconforming use, such decision constitutes documentary evidence establishing the legitimacy and nature of the use as a nonconforming use.

102.556 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.557 through 102.569 Reserved**DIVISION 12
CONVERSION OF A NONCONFORMING USE****102.570 Generally**

An existing nonconforming use (e.g., a tavern in a residential district) which has been registered as a nonconforming use, pursuant to Division 11 of this article, may be converted to another nonconforming use provided the new use is less nonconforming (e.g., from a tavern to a restaurant).

102.571 Review procedure

The general steps outlined below describe the process for reviewing an application for the conversion of a nonconforming use.

1. **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (i) applicable regulations and procedures, (ii) applicable sections of the Village's comprehensive plan, and (iii) the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the Village's zoning requirements.
2. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
3. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
5. **Staff report preparation and distribution.** The zoning administrator may prepare a staff report as set forth in this division. If one is prepared, the zoning administrator provides a copy to the applicant, each member of the Plan Commission, and any person upon request.
6. **General notice.** Consistent with Article 4, the zoning administrator provides for (i) a class 2 public notice, (ii) property owner notice, and (iii) meeting agenda notice.
7. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing consistent with Article 4. Prior to the close of the public hearing, the applicant or Plan Commission may request a continuance. If the public hearing is adjourned, the Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research and to prepare such documents it deems necessary, including a preliminary decision document.
8. **Plan Commission recommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the Plan Commission makes a recommendation to the Village Board based on the decision criteria in this division to (i) approve the conversion, (ii) approve the conversion with conditions, or (iii) deny the conversion.
9. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.

10. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
11. **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, and the Plan Commission's recommendation, the Village Board makes a decision based on the decision criteria in this division to (i) approve the conversion, (ii) approve the conversion with conditions, or (iii) deny the conversion.
12. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division, subject to the direction given by the Village Board. If approved, the zoning administrator shall also prepare a conversion order.
13. **Applicant notification.** If the application is denied, the zoning administrator, within a reasonable time following the Village Board's decision, sends the decision document to the applicant by regular mail and/or email.
14. **Acceptance by property owner.** If the application is approved, the property owner must sign the conversion order to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The conversion order shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
15. **Recording of decision document.** If the property owner signs the approved conversion order, the conversion order is recorded, at the applicant's expense, in the register of deeds office for Walworth County or Waukesha County, as appropriate.

102.572 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its final decision should compare the known and anticipated impacts of the existing nonconforming use on properties in the area and those of the proposed nonconforming use. The Plan Commission shall not recommend and the Village Board shall not approve a conversion when the proposed nonconforming use would be more of a nonconformity than the existing nonconforming use.

102.573 Imposition of conditions

- A. **Generally.** In approving a conversion, the Village Board may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping and screening, outdoor lighting, and hours of operation.
- B. **Effect on contracts with another party.** The Village Board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.^[1]

Editorial notes:

[1] See § 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

102.574 Staff report content

The staff report should include the following:

- (1) a description of the requested conversion;
- (2) preliminary findings for the decision criteria listed in this division;
- (3) a preliminary recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions whether the preliminary staff recommendation is for approval or denial; and

- (5) other information deemed necessary.

102.575 Content of decision document

- A. **Approval.** If the application for a conversion is approved, the decision document should include the following:
- (1) a statement that the conversion is approved;
 - (2) a description of the new nonconforming use;
 - (3) a statement indicating that the property owner must sign the conversion order and return it to the zoning administrator;
 - (4) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - (5) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (6) other information the review authority or zoning administrator deems appropriate;
 - (7) the signature of the village president;
 - (8) the date of the decision; and
 - (9) the copy of the conversion order described in § 102.576.
- B. **Denial.** If the application for a conversion is denied, the decision document should include the following:
- (1) a statement that the application is denied,
 - (2) a description of the proposed conversion,
 - (3) reasons for the decision based on the criteria listed in this division,
 - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - (5) a statement that the decision may be appealed as provided for in this division,
 - (6) other information the Village Board or zoning administrator deems appropriate,
 - (7) the signature of the village president, and
 - (8) the date of the decision.

102.576 Content of conversion order

If the conversion is approved, a conversion order shall be prepared and adopted that includes (1) a description of the subject property's location (e.g., address, parcel number, reference to a parcel in a certified survey map or subdivision plat); (2) a description of the existing and of the new nonconforming use; (3) conditions of approval, if any; and (4) other provisions deemed necessary given the nature of the approval.

102.577 Effect of approval

An approval of a conversion runs with the land and is binding on all subsequent property owners.

102.578 Expiration of an approval

If the zoning administrator determines that substantial work as authorized by a conversion approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months.

102.579 Amendment of an approved conversion

Following approval of a conversion, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

102.580 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.581 through 102.589 Reserved

DIVISION 13 EXPANSION OF A NONCONFORMING BUILDING

102.590 Generally

A nonconforming building (e.g., a building built too close to a lot line) with a conforming use may be expanded in compliance with all requirements of the zoning code and with the procedures and requirements of this division.

102.591 Review procedure

The general steps outlined below describe the process for reviewing an application to expand a nonconforming building.

1. **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposal.
2. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
3. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
5. **Staff report preparation and distribution.** The zoning administrator may prepare a staff report as set forth in this division. If one is prepared, the zoning administrator provides a copy to the applicant, each member of the Plan Commission, and any person upon request.
6. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
7. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
8. **Plan Commission recommendation.** The Plan Commission makes a recommendation to (i) approve the expansion, (ii) approve the expansion with conditions, or (iii) deny the expansion.

9. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
10. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
11. **Decision.** The Village Board makes a decision to (i) approve the expansion, (ii) approve the expansion with conditions, or (iii) deny the expansion.
12. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.
13. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
14. **Acceptance by property owner.** If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator. (Should this be included or not?)
15. **Recording of decision document.** When approval is granted, the decision document is recorded in the register of deeds office for Walworth County or Waukesha County, as appropriate. (Should this be included or not?)

102.592 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its final decision should consider the following factors:

- (1) the degree of the existing nonconformity (i.e., 1 foot into the setback or 1 foot from the property boundary line),
- (2) the size and configuration of the lot,
- (3) whether the lot conforms to the dimensional standards of the zoning district in which it is located,
- (4) the size and location of the existing nonconforming building,
- (5) the size and location of other existing structures and those structures reasonably anticipated on the lot,
- (6) the impact, if any, that the expansion may have on adjoining properties,
- (7) whether the proposed expansion would violate the intent of this chapter, and
- (8) any other factor that relates to the purposes of this chapter set forth in § 102.05 or as allowed by state law.

102.593 Imposition of conditions

- A. **Generally.** In approving an expansion of a nonconforming building, the Village Board may impose one or more conditions of approval deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping, screening, and the maximum size of the building(s), or impose limitations on additional buildings otherwise allowed on the subject property under the applicable zoning district regulations.
- B. **Effect on contracts with another party.** The Village Board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.^[1]

Editorial notes:

[1] See § 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

102.594 Content of decision document

- A. **Approval.** If the application for an expansion of a nonconforming building is approved, the decision document should include the following:
- (1) a statement that the building expansion is approved;
 - (2) a description of the building project;
 - (3) reasons for the decision based on the criteria listed in this division;
 - (4) conditions of approval, if any;
 - (5) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - (6) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (7) other information the Village Board or zoning administrator deems appropriate;
 - (8) the signature of the village president; and
 - (9) the date of the decision.
- B. **Denial.** If the application for expansion of a nonconforming building is denied, the decision document should include the following:
- (1) a statement that the building expansion is denied,
 - (2) reasons for the decision based on the criteria listed in this division,
 - (3) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - (4) a statement that the applicant may appeal the decision to a court of competent jurisdiction,
 - (5) other information the Village Board or zoning administrator deems appropriate,
 - (6) the signature of the village president, and
 - (7) the date of the decision.

102.595 Effect of decision

An approval of an expansion of a nonconforming building runs with the land and is binding on all subsequent property owners.

102.596 Expiration of an approval

An approval to expand a nonconforming building automatically expires 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

102.597 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.598 through 102.619 Reserved

DIVISION 14

CERTIFICATE OF **HISTORIC** APPROPRIATENESS

102.620 Generally

A certificate of appropriateness is required for the following:

- (1) Reconstruction or alteration of a historic structure or site. A certificate of appropriateness is not needed for ordinary maintenance and repairs, provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.
- (2) Construction of a new improvement on a property with a historic structure or site.
- (3) Demolition in whole or in part of any historic structure or site.
- (4) Any project undertaken by a Village department, or by a public utility and transportation company that affects historic structures, historic sites or historic districts including street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the Village.

The building inspector shall not issue a permit for any such work, if otherwise required, without a certificate of appropriateness.

102.621 Review procedure

- A. **Commission review.** The general steps outlined below describe the process for reviewing an application for a certificate of appropriateness.
 1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
 2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
 3. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Historic Preservation Commission.
 4. **Meeting.** Allowing for proper notice, the Historic Preservation Commission considers the application at a regular or special meeting.
 5. **Decision.** After considering all of the information submitted by the applicant, the staff report, if any, the Historic Preservation Commission makes a decision within 45 day of the filing of the application to (i) approve the proposed work, (ii) approve the proposed work with conditions, or (iii) deny the proposed work.
 6. **Preparation of decision document.** Based on the action of the Historic Preservation Commission, the zoning administrator prepares a decision document consistent with this division.
 7. **Applicant notification.** Within a reasonable time following the Historic Preservation Commission's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- B. **Village Board review on appeal.** If a final decision of the Historic Preservation Commission is appealed as provided for in this division, the general steps outlined below apply.

1. **Submittal of application materials.** The zoning administrator forwards the application and other materials the applicant submitted to the Historic Preservation Commission along with the commission's decision.
2. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
3. **Meeting.** Allowing for proper notice, the Village Board considers the appeal at a regular or special meeting.
4. **Decision.** In consultation with the village attorney, the Village Board makes a written decision within 60 calendar days of when the Historic Preservation Commission's decision was appealed.
5. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.
6. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.

102.622 Basis of decision

The Historic Preservation Commission must approve the application unless:

- (1) In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement or site upon which such work is to be done;
- (2) In the case of the construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of the other neighboring improvements on such site or within the district;
- (3) In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this chapter and to the objectives and design criteria of the historic preservation plan for such district;
- (4) The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the Village and state;
- (5) The building or structure is of such old and unusual or uncommon design, texture, and/or material that it could not be reproduced without great difficulty and/or expense;
- (6) In the case of a request for a demolition permit, the denial of the permit would result in the loss of all reasonable and beneficial use of or return from the property;
- (7) In the case of a request for the demolition of a deteriorated building or structure, any hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair;
- (8) The owner of the historic property submits information that the denial of the certificate of appropriateness will deprive the owner of all reasonable use of, or economic return on, the property.

In addition, in determining whether to issue a certificate of appropriateness, the commission must consider and may give decisive weight to any or all of the following standards:

- (1) A property must be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of a property must be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- (3) Each property must be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right must be retained and preserved.

- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property must be preserved.
- (6) Deteriorated historic features must be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by a project must be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions and adjacent or related new construction must be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

102.623 Imposition of conditions

- A. **Generally.** In approving a certificate of appropriateness, the Historic Preservation Commission may impose one or more conditions deemed necessary to further the intent and purposes of this chapter.
- B. **Effect on contracts with another party.** The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.^[1]

Editorial notes:

- [1] See § 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

102.624 Consultation

If the Historic Preservation Commission does not approve a petitioner's application, the commission should work with the applicant in an attempt to obtain a certificate of appropriateness within the established guidelines.

102.625 Content of decision document

- A. **Approval.** If the proposed work is approved, the decision document should include the following:
 - (1) a statement that the proposed work is approved;
 - (2) a description of the project;
 - (3) reasons for the decision based on the criteria listed in this division;
 - (4) conditions of approval, if any;
 - (5) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - (6) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (7) other information the Historic Preservation Commission or zoning administrator deems appropriate; and
 - (8) the date of the decision.
- B. **Denial.** If the proposed work is denied, the decision document should include the following:
 - (1) a statement that the proposed work is denied,
 - (2) a description of the proposed work,
 - (3) reasons for the decision based on the criteria listed in this division,

- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the Historic Preservation Commission or zoning administrator deems appropriate, and
- (7) the date of the decision.

102.626 Effect of approval

An approval of a certificate of appropriateness runs with the land and is binding on all subsequent property owners.

102.627 Expiration of an approval

An approval granted under this division automatically expires 12 months after the date of issuance unless substantial work has commenced and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

102.628 Amendment of an approval

Following issuance of a certificate of appropriateness, the Historic Preservation Commission shall review all proposed changes to the approval. If in the opinion of the Historic Preservation Commission, the proposed change constitutes a minor alteration, the Historic Preservation Commission may approve the requested change in writing at a regular or special meeting of the Historic Preservation Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

102.629 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with the Village Board within 30 calendar days of the date of the final decision.

102.630 through 102.659 Reserved

DIVISION 15 ZONING PERMIT

102.660 Generally

A zoning permit is administrative in nature and is intended to ensure that certain types of land uses are in compliance with this chapter and any precedent approvals (e.g., conditional use approval).

102.661 Applicability

Those land uses designated as requiring a zoning permit in the land use matrix (Appendix A) must comply with the requirements in this division when a new use is being established and when there is a change in occupancy of an existing non-residential building.

102.662 Review procedure

The general steps outlined below describe the process for reviewing an application for a zoning permit.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Decision.** When the zoning administrator determines the application is complete, he or she makes a decision to (i) approve the zoning permit, (ii) approve the zoning permit with conditions, or (iii) deny the zoning permit
4. **Applicant notification.** Within a reasonable time following his or her decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.

102.663 Basis of decision

In determining whether to issue a zoning permit or deny the permit, the zoning administrator shall determine whether the proposed use is consistent with (1) any prior approvals, such as a conditional use approval, (2) this chapter, and (3) other provisions of the municipal code.

102.664 Expiration of an approval

- A. **Project involving construction.** For a project involving any construction, a zoning permit automatically expires 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3i) the project complies with this chapter in effect at the time the extension is granted.
- B. **Change in use.** For a change in use, the zoning permit automatically expires 6 months after the date of issuance if the applicant does not move into the vacant space.

102.665 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Board of Zoning and Building Appeals within 30 calendar days of the date of the final decision.

102.666 through 102.679 **Reserved**

DIVISION 16 FLOODPLAIN PERMIT

102.680 Generally

A floodplain permit is administrative in nature and is intended to ensure that land uses located in the floodplain overlay district comply with the requirements in Article 12.

102.681 Applicability

A floodplain permit must be obtained before any of the following is initiated in the floodplain overlay district:

- (1) new development, broadly construed;
- (2) repair, modification, or addition to an existing structure; or
- (3) change in the use of a building or structure.

102.682 Review procedure

The general steps outlined below describe the process for reviewing an application for a floodplain permit.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. If the application is deemed incomplete or if additional information is requested, the zoning administrator will take no further steps to process the application until the deficiencies are remedied or the information is provided. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Decision.** When the zoning administrator determines the application is complete, he or she makes a decision based on the decision criteria in this division to (i) approve the floodplain permit, (ii) approve the floodplain permit with conditions, or (iii) deny the floodplain permit.
4. **Applicant notification.** Within a reasonable time following his or her decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.

102.683 Basis of decision

In determining whether to issue a floodplain permit or deny the permit, the zoning administrator shall determine whether the proposed use is consistent with the standards in Article 12.

102.684 Expiration of an approval

- A. **Project involving construction.** For a project involving any construction, a floodplain permit automatically expires 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. **Change in use.** For a change in use, the floodplain permit automatically expires 6 months after the date of issuance if the applicant does not move into the vacant space.

102.685 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Board of Zoning and Building Appeals within 30 calendar days of the date of the final decision.

102.686 through 102.699 Reserved

DIVISION 17 TERMINATION OF APPROVAL

102.700 Generally

There are certain situations when the approval for a land use may be terminated. This division describes the procedures for terminating an approved use.

102.701 Initiation

- A. **Voluntary termination of a conditional use.** The property owner is authorized to submit an application to terminate a conditional use approval for his or her property.
- B. **Involuntary termination of conditional use approval due to cessation.** The zoning administrator is authorized to submit an application to terminate a conditional use approval when he or she determines the land use authorized by such approval has ceased to operate for more than 12 months.
- C. **Involuntary termination of a conditional use approval due to violation.** The zoning administrator is authorized to submit an application to terminate a conditional use approval when he or she determines that the property owner has violated one or more conditions of approval and satisfactory action has not been taken to correct the violation.
- D. **Involuntary termination of a specified land use due to cessation.** The zoning administrator is authorized to submit an application to terminate an approved land use when he or she determines that such use is no longer in use for the time period specified for such use.
- E. **Involuntary termination of a nonconforming use.** The zoning administrator is authorized to submit an application to terminate a nonconforming use when he or she determines that such use is having a significant harmful effect on the public health, safety, and welfare or the nonconforming use has ceased to operate for the period of time required by this chapter to retain designation as a nonconforming use.

102.702 Review procedure for voluntary termination

The general steps outlined below describe the process for reviewing an application to voluntarily terminate an approval of a land use authorized under this chapter.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
4. **Meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
5. **Decision.** The Village Board makes a decision to (i) approve the termination, (ii) approve the termination with conditions, or (iii) deny the termination.
6. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division, subject to the direction provided by the Village Board.

7. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
8. **Administrative steps.** If the application is approved, the zoning administrator updates any village records to indicate that the use as specified in the application has been terminated.

102.703 Review procedure for involuntary termination

The general steps outlined below describe the process for reviewing an application to involuntarily terminate an approval of a land use authorized under this chapter.

1. **Submittal of application materials.** The zoning administrator shall complete an application and other required materials.
2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
4. **Special notice to property owner.** The zoning administrator sends a written notice to the property owner by regular and certified mail at least 30 calendar days prior to the date of the public hearing. Such notice should state (i) the reasons why the zoning administrator has submitted an application to terminate the specified use; (ii) the date and time of the public hearing; (iii) contact information for the zoning administrator, including telephone number; and (iv) other information deemed appropriate by the zoning administrator. If the action is intended to terminate a conditional use for a violation, the notice shall state the alleged violation along with supporting evidence. If the action is intended to terminate an inactive land use, the notice shall state the time period when the land use was not in use along with any supporting evidence.
5. **General public notice.** Consistent with Article 4, the zoning administrator provides for a class 2 public notice, property owner notice, and meeting agenda notice.
6. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing consistent with Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance. If the public hearing is adjourned, the Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research. In addition, the Plan Commission may direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document.
7. **Plan Commission recommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the Plan Commission makes a recommendation to the Village Board based on the decision criteria in this division to (i) approve the termination, (ii) approve the termination with conditions, or (iii) deny the termination.
8. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
9. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
10. **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, and the Plan Commission's recommendation, the Village Board makes a decision based on the decision criteria in this division to (i) approve the termination, (ii) approve the termination with conditions, or (iii) deny the termination.
11. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division, subject to the direction given by the Village Board.

12. **Applicant notification.** Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the property owner by regular mail and/or email.
13. **Administrative steps.** If the application is approved, the zoning administrator updates any village records to indicate that the use as specified in the application has been terminated.

102.704 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its decision should consider the following factors:

- (1) the nature of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located;
- (2) effects of the existing use on surrounding properties, including detriment to the full and complete use of such properties and potential for concerns related to possible nuisances;
- (3) effects of the existing use on the normal and orderly development and improvement of the surrounding property for those uses permitted in the zoning district in which they are located; and
- (4) any other factor that relates to the purposes of this chapter as set forth in § 102.05 or as allowed by state law.

102.705 Content of decision document

- A. **Approval.** If the application to terminate an approval is approved, the decision document should include the following:
 - (1) a statement that the specified use is terminated;
 - (2) a description of the land use being terminated;
 - (3) reasons for the decision based on the criteria listed in this division;
 - (4) requirements for the removal of any building or other structure, if any, on the subject property that are related to the terminated use and that are not otherwise permitted in the zoning district in which the subject property is located;
 - (5) a statement that the decision may be appealed as provided for in this division;
 - (6) other information the Village Board or zoning administrator deems appropriate;
 - (7) the signature of the village president; and
 - (8) the date of the decision.
- B. **Denial.** If the application to terminate an approval is denied, the decision document should include the following:
 - (1) a statement that the specified use continues to be an approved use,
 - (2) a description of the land use,
 - (3) reasons for the decision based on the criteria listed in this division,
 - (4) a statement that the decision may be appealed as provided for in this division,
 - (5) other information the Village Board or zoning administrator deems appropriate,
 - (6) the signature of the village president;, and
 - (7) the date of the decision.

102.706 Compliance with requirements of zoning district

If the Village Board terminates an approval under this division, the property owner shall bring the subject property into conformity with the permitted use regulations of the zoning district in which the property is located. The Village Board shall establish a timeframe it determines appropriate to bring the property into

compliance. In making such determination, the Village Board should consider the type of actions the property owner will need to take to bring the property into compliance and weather conditions. In no event, shall the compliance period be less than 30 calendar days or more than 9 months.

102.707 Appeal

The property owner or other person having a development interest in the terminated use may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.708 through 102.729 Reserved

DIVISION 18 CODE INTERPRETATION

102.730 Generally

When there is uncertainty or disagreement as to the intent or meaning of a provision in this chapter, a person can ask for a code interpretation. For example, the question may relate to (1) the zoning map, (2) a specific provision in the code, (3) how a specific provision in the code is applied in a specific instance, or (4) terms and conditions of an approval. This division describes the procedures and requirements to issue such interpretations.

102.731 Initiation

Any person, including the zoning administrator, may submit a question for interpretation.

102.732 Limitations on interpretations

The responsibility for issuing an interpretation shall not be construed as overriding the responsibilities specifically given to any commission, board, or official named in any other part of this chapter.

102.733 Review procedure

- A. **Zoning administrator review.** The general steps outlined below describe the process for reviewing an application for a code interpretation.
 1. **Submittal of question.** The individual requesting the interpretation submits the question in writing to the zoning administrator and the application fee as may be established by the Village Board.
 2. **Decision.** In consultation with the village attorney, if deemed necessary, the zoning administrator makes a written decision within 60 calendar days of when the petition was submitted.
 3. **Notification of decision.** Within a reasonable time following completion of the interpretation, the zoning administrator sends a copy of the interpretation by regular mail and/or email to the individual requesting the interpretation and provides a copy of the same to the Plan Commission, the village attorney, and those village employees and agents involved in the administration of this chapter, as appropriate.
- B. **Plan Commission review on appeal.** If a final decision of the zoning administrator is appealed as provided for in this division, the general steps outlined below apply.
 1. **Submittal of application materials.** The zoning administrator forwards the application and other materials the applicant submitted to the Plan Commission along with the administrator's interpretation.
 2. **General notice.** Consistent with Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.

3. **Meeting.** Allowing for proper notice, the Plan Commission considers the appeal at a regular or special meeting.
4. **Decision.** In consultation with the village attorney, the Plan Commission makes a written decision within 60 calendar days of when the zoning administrator's decision was appealed.
5. **Preparation of decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a decision document consistent with this division.
6. **Applicant notification.** Within a reasonable time following the Plan Commission's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.

102.734 Basis of decision

- A. **General.** In consultation with the village attorney and others as appropriate, the review authority shall (1) evaluate the section of this chapter in question and those that are related, (2) consider the purposes of this chapter set forth in § 102.05 and other parts of the chapter along with applicable legislative findings in this chapter, and (3) consider other applicable interpretations that have previously been made and make a decision consistent with this division giving this chapter its most reasonable application. If the review authority cannot make a reasonable interpretation, a determination shall not be issued.
- B. **Floodplain zoning.** If an unclear provision relates to the floodplain regulations and is required by ch. NR 116, Wis. Admin. Code, the provision shall be interpreted in light of the standards in ch. NR 116 in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- C. **Shoreland-wetland zoning.** If an unclear provision relates to the shoreland-wetland regulations and is required by ch. NR 117, Wis. Admin. Code, the provision shall be interpreted in light of the standards in ch. NR 117 in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- D. **Similarity of land uses.** In making a determination as allowed under § 102.841 with respect to similarity of land uses, the zoning administrator should consider (1) the nature of the requested use; (2) whether the requested use is consistent with the Village's comprehensive plan; and (3) whether the requested use is consistent with the purposes of each of the zoning districts where the similar use is allowed either by right or as a conditional use.

102.735 Repeal or revision of an interpretation

The review authority may rescind or modify an interpretation the review authority issued if such interpretation is deemed to be incorrect in whole or in part.

102.736 Interpretation content

An interpretation must be in writing and include the following:

- (1) the name of the person posing the question,
- (2) the section number of this chapter in question,
- (3) the question or alleged ambiguity,
- (4) the factors that were considered in making the interpretation,
- (5) the interpretation,
- (6) other information the review authority deems appropriate,
- (7) the signature of the zoning administrator, and
- (8) the date of decision.

102.737 Effect of interpretation

An interpretation once rendered shall have full effect as if set forth in this chapter. Where appropriate, interpretations should be addressed through the amendment process. If the review authority determines that it

is not possible to make a reasonable interpretation, such decision shall not affect the validity of any section of this chapter.

102.738 Compilation of interpretations

The zoning administrator must keep a written record of all interpretations in effect and make them available for public inspection during normal office hours.

102.739 Appeal

An aggrieved person may, without time constraint, appeal an interpretation made pursuant to this division by filing an appeal with the Plan Commission. Following the final decision of the Plan Commission, an aggrieved person may appeal such decision to a court of competent jurisdiction without time constraint.

102.740 through 102.759 Reserved

DIVISION 19 ADMINISTRATIVE APPEAL

102.760 Generally

Recognizing that there may be situations where a property owner or another party believes that the zoning administrator made an error in administering the zoning code, the state legislature established a mechanism to allow the Board of Zoning and Building Appeals to review alleged administrative errors. This division describes the requirements and procedures for reviewing an alleged administrative error.

102.761 Initiation

Any person aggrieved by a final decision of the zoning administrator may file an appeal with the Board of Zoning and Building Appeals consistent with this division.

102.762 Review procedure

The general steps outlined below describe the process for reviewing an application for an administrative appeal.

1. **Submittal of appeal.** The applicant submits a written appeal to the village clerk within 30 calendar days of the date of the administrative decision being appealed, unless a different timeframe is established.
2. **Notification of appeal.** The village clerk provides a copy of the appeal to the Board of Zoning and Building Appeals and the zoning administrator.
3. **Compilation and submittal of record.** The zoning administrator compiles a complete and accurate record relating to the action being appealed and transmits it to the Board of Zoning and Building Appeals in a timely manner.
4. **Special notice to Department of Natural Resources.** If the administrative appeal relates to a decision relating to the floodplain regulations or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the application and public hearing notice to the regional office of the Wisconsin Department of Natural Resources by regular mail and/or email at least 10 calendar days before the date of the public hearing.
5. **Special notice to parties in interest.** The chairperson of the Board of Zoning and Building Appeals gives notice for the public hearing to the parties in interest, including the applicant and the zoning administrator.
6. **General notice.** The chairperson of the Board of Zoning and Building Appeals provides for (i) a class 2 public notice and (ii) meeting agenda notice consistent with Article 4.

7. **Public hearing.** Allowing for proper notice, the Board of Zoning and Building Appeals conducts a public hearing consistent with Article 4. Prior to the close of the public hearing, the applicant or the Board of Zoning and Building Appeals may request a continuance consistent with Article 4.
8. **Decision.** After the public hearing has been closed, the Board of Zoning and Building Appeals makes a decision to affirm the zoning administrator's decision, set aside the decision, or modify the decision.
9. **Notification of decision.** Within a reasonable time following the Zoning Board of Appeals' decision, the village clerk sends the decision document to the applicant by regular mail and/or email and provides a copy of the same to the zoning administrator and the Plan Commission.
10. **Notification to Department of Natural Resources.** If the administrative appeal relates to a decision relating to the floodplain regulations or shoreland-wetland regulations in this chapter, the village clerk sends a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources by regular mail and/or email.

102.763 Basis of decision

- A. **Generally.** The Board of Zoning and Building Appeals must determine whether the zoning administrator made an error in judgment as applied to the instance being appealed.
- B. **Historic property.** In an action involves a historic property, as defined in § 44.31(3), Wis. Stats., the Board of Zoning and Building Appeals shall consider any suggested alternatives or recommendations submitted by the landmarks commission, if one has been established, or the Plan Commission.

102.764 Effect of appeal

An appeal shall stay all legal proceedings in furtherance of the action from which the appeal is made, unless the zoning administrator certifies in writing to the Board of Zoning and Building Appeals that a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Zoning and Building Appeals or by a court of record on application, with notice to the zoning administrator from whom appeal is made.

102.765 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.764 through 102.779 Reserved

DIVISION 20 VARIANCE

102.780 Generally

Recognizing that there may be situations where a zoning regulation that if enforced would cause unnecessary hardship to individual landowners, the state legislature established a mechanism to allow a municipality to issue a variance in those instances where a minor deviation would be appropriate to alleviate such hardship without circumventing or undermining the intent of the municipality's zoning regulations. This division describes the requirements and procedures for reviewing variance applications for dimensional standards.

102.781 Review procedure

The general steps outlined below describe the process for reviewing an application for a variance.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.

2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Board of Zoning and Building Appeals consistent with its adopted calendar.
4. **Special notice to Department of Natural Resources.** If the application relates to the floodplain regulations or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the application and public hearing notice to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email at least 10 calendar days before the date of the public hearing.
5. **General notice.** Consistent with Article 4, the zoning administrator provides for (i) a class 2 public notice, (ii) property owner notification, and (iii) meeting agenda notice.
6. **Staff report preparation and distribution.** The zoning administrator may prepare a staff report as set forth in this division. If one is prepared, the zoning administrator provides a copy to the applicant, each member of the Board of Zoning and Building Appeals, and any person upon request.
7. **Public hearing.** Allowing for proper notice, the Board of Zoning and Building Appeals holds a public hearing consistent with Article 4. Prior to the close of the public hearing, the applicant or the board may request a continuance. If the public hearing is adjourned, the Board of Zoning and Building Appeals may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research and to prepare such documents it deems necessary, including a preliminary decision document.
8. **Decision.** After the public hearing has been closed, the Board of Zoning and Building Appeals after considering the comments and the staff report, if any, makes a decision based on the decision criteria in this division to (i) approve the variance, (ii) approve the variance with conditions, or (iii) deny the variance. The Board of Zoning and Building Appeals may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting.
9. **Preparation of decision document.** Based on the action of the Board of Zoning and Building Appeals, the zoning administrator prepares a decision document consistent with this division.
10. **Applicant notification.** Within a reasonable time following the Board of Zoning and Appeals' decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
11. **Notification to Department of Natural Resources.** If the application relates to the floodplain regulations or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email.
12. **Additional procedural steps.** If the Board of Zoning and Building Appeals grants the variance, the applicant shall then follow other review procedures as may be required.

102.782 Basis of decision

The Board of Zoning and Building Appeals shall base its decision upon the standard for a variance described in § 62.23(7)(e)(7), Wis. Stats., and applicable judicial interpretations of such statute.

102.783 Limitations on issuing a variance

The following actions shall not be allowed by an area variance, and shall be deemed to be a use variance subject to the use variance standard in § 62.23(7)(e)(7)(d), Wis. Stats.:

- (1) expansion of a nonconforming use (e.g., expansion of area, increase in operational characteristics, etc.), or

- (2) modification to lot size requirements so as to increase the permitted density or intensity of use.

102.784 Imposition of conditions

In approving a variance, the Board of Zoning and Building Appeals may impose such conditions and restrictions as may be necessary to grant approval.

102.785 Staff report content

The staff report should include the following:

- (1) preliminary findings for the decision criteria listed in this division;
- (2) a preliminary recommendation to approve the application, approve the application with conditions, or deny the application;
- (3) a preliminary list of conditions for approval whether the preliminary staff recommendation is for approval or denial; and
- (4) other information deemed necessary.

102.786 Content of decision document

- A. **Approval.** If an application for a variance is approved, the decision document should include the following:

- (1) a statement that the variance is approved;
- (2) a description of the variance;
- (3) reasons for the decision based on the criteria listed in this division;
- (4) conditions of approval, if any;
- (5) a statement that the approval will automatically expire 12 months after the date of approval unless substantial work as authorized by the approval has commenced and continues in good faith to completion and that the Board of Zoning and Building Appeals may, with cause, grant a one-time extension, not to exceed 6 months;
- (6) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (7) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (8) other information the Board of Zoning and Building Appeals or zoning administrator deems appropriate;
- (9) the signature of the chairperson of the Zoning Board of Appeals; and
- (10) the date of the decision.

- B. **Denial.** If the application for a variance is denied, the decision should include the following:

- (1) a statement that the variance request is denied,
- (2) a description of the proposed variance,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration provided there is a substantial change in the circumstances relating to the application,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the Board of Zoning and Building Appeals or zoning administrator deems appropriate,
- (7) the signature of the chairperson of the Board of Zoning and Building Appeals, and

(8) the date of the decision.

102.787 Effect of approval

- A. **Generally.** An approved variance merely sets aside the rule or regulation from which relief is sought. All other rules and regulations not part of the variance decision must be followed. An approval of a variance runs with the land and is binding on all subsequent property owners.
- B. **Creation of nonconformity.** If a variance is granted and creates a nonconforming situation, the premises is subject to all applicable provisions relating to nonconformities set forth in Article 20.

102.788 Effect of denial

If the Board of Zoning and Building Appeals denies a variance application, the board may not rehear the same, or essentially the same, application unless there has been substantial change in the circumstances relating to the application.

Editorial notes:

[1] See *Tateoka v City of Waukesha Bd. of Zoning Appeals*, 220 Wis.2d 656, 583 N.W. 2d 871 (Ct. App. 1998).

102.789 Expiration of an approval

A variance approval automatically expires 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

102.790 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the date of the final decision.

102.791 through 102.899 Reserved

Articles 12-15

ARTICLE 12 FLOODPLAIN OVERLAY DISTRICT

DIVISION 1 GENERAL PROVISIONS

102.1800 Authorization

This article is adopted under authority granted by §§ 61.35 and 62.23, Wis. Stats., and the requirements in § 87.30, Wis. Stats.

102.1801 Legislative findings

The Village Board makes the following legislative findings:

- (1) Uncontrolled development and use of the floodplains and rivers in the village would impair the public health, safety, convenience, general welfare, and tax base.
- (2) The requirements in this chapter relating to floodplain use and development are intended to comply with the minimum regulatory standards required in ch. NR 116, Wis. Admin. Code and § 44 CFR 59-72 which relates to the National Flood Insurance Program.

102.1802 Purpose

This article promotes the public health, safety, and welfare and is intended to regulate floodplain development to:

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

102.1803 Areas to be regulated

- A. **Generally.** This article regulates all areas within the village that would be covered by the regional flood or base flood as shown on the flood insurance rate map (FIRM) or other maps approved by the Wisconsin Department of Natural Resources. Base flood elevations (BFEs) are derived from the flood profiles in the flood insurance study (FIS) and are shown as AE, A1-30, and AH Zones on the flood insurance rate maps. Other regulatory zones are displayed as A and AO zones. Regional flood elevations (RFEs) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.
- B. **Annexed areas.** The Walworth/Waukesha County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the village adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the

purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

102.1804 Municipalities and state agencies regulated

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022, Wis. Stats., applies.

102.1805 through 102.1809 Reserved

DIVISION 2 MAPS AND DISTRICTS

102.1810 Official floodplain maps

- A. **Generally.** The boundaries of all floodplain districts are designated as A, AE, AH, AO, or A1-30 on the maps based on the flood insurance study listed below. Any change to the base flood elevations or any change to the boundaries of the floodplain or floodway in the flood insurance study or on the flood insurance rate map must be reviewed and approved by the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency through the letter of map change process (see § 102.1871) before it is effective. No changes to regional flood elevations on non-FEMA maps shall be effective until approved by the Wisconsin Department of Natural Resources. These maps and revisions are on file in the office of the zoning administrator. If more than one map or revision is referenced, the most restrictive information shall apply.
- B. **Official floodplain maps.** The following are adopted for the purpose of this article:
 - (1) Based on the flood insurance study (FIS) volume number 55133CV001C, 55133CV002C and 55133CV003C, dated November 5, 2014, for Village lands within Waukesha County, and FIS volume number 55127CV000B for Village lands within Walworth County panel numbers 55133C0314G, 55133C0318G, 55133C0426G, 55133C0427G and 55133C0431G, dated November 5, 2014, for Village lands within Waukesha County.
 - (2) In Waukesha County, flood storage maps Panel 11 of 12, dated November 5, 2014, as approved by the Wisconsin Department of Natural Resources.

If land is annexed and is not included in any of the above-mentioned flood insurance rate map panels, such panel is included in this article upon the date of annexation.

102.1811 Establishment of floodplain zoning districts

The floodplain overlay district is divided into four districts as follows:

- (1) The Floodway District includes the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the flood insurance rate maps.
- (2) The Floodfringe District includes that portion between the regional flood limits and the floodway and displayed as AE Zones on the flood insurance rate maps.
- (3) The General Floodplain District includes those areas that may be covered by floodwater during the regional flood and does not have a base flood elevation or floodway boundary determined, including A, AH, and AO zones on the flood insurance rate maps.
- (4) The Flood Storage District is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

102.1812 Locating floodplain boundaries

- A. **Generally.** Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in this section. If a significant difference exists, the map shall be amended according to § 102.1871. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section.
- B. **Criteria.** If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. Regional flood elevations or base flood elevations shall govern if there are any discrepancies. If flood profiles do not exist, the location of the boundary shall be determined by the map scale.
- C. **Disputes.** If an applicant does not agree with the boundary determination made by the zoning administrator, he or she shall file an administrative appeal as provided for in Article 5. If the Board of Zoning and Building Appeals determines, based on the criteria in this section, that the boundary location is incorrectly mapped, the board should inform the Plan Commission or the person contesting the boundary location to submit an application for a map amendment pursuant to the requirements and procedures in § 102.1871.

102.1813 Removal of lands from floodplain

Compliance with the provisions of this division shall not be grounds for removing land from the floodplain unless (1) it is filled at least 2 feet above the regional flood elevation or base flood elevation, (2) the fill is contiguous to land outside of the floodplain, and (3) the map is amended pursuant to § 102.1871.

102.1814 through 102.1819 Reserved

**DIVISION 3
GENERAL PROVISIONS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

102.1820 General standards

The zoning administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this chapter and all other requirements in § 102.1872. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

102.1821 Hydraulic and hydrologic analyses

No floodplain development shall obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or cause any increase in the regional flood height due to floodplain storage area lost. The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted flood insurance rate map or other adopted map.

102.1822 Watercourse alterations

No floodplain permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the zoning administrator has notified in writing all adjacent municipalities, the regional office of the Wisconsin Department of Natural Resources, and the regional office of the Federal Emergency Management Agency, and required the applicant to secure all necessary state and federal permits. The standards in § 102.1821 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than 6 months after the date of the watercourse alteration or relocation and pursuant to § 102.1871, the Village must apply for a letter of map revision (LOMR) from the Federal Emergency Management Agency. Any such alterations must be reviewed and approved by the Federal Emergency Management Agency and the Wisconsin Department of Natural Resources through the letter of map correction (LOMC) process.

102.1823 Docks, piers, wharves, bridges, and similar structures

Any development that requires a permit from the Wisconsin Department of Natural Resources under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams, and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning regulations are made according to § 102.1871.

102.1824 Floodproofing standards

- A. No permit or variance shall be issued for a nonresidential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA floodproofing certificate.
- B. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan prepared by a certified by a registered professional engineer or architect or that meets or exceeds the following standards:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (2) the bottom of all openings shall be no higher than one foot above grade; and
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- C. Floodproofing measures shall be designed, as appropriate, to (1) withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors; (2) protect structures to the flood protection elevation; (3) anchor structures to foundations to resist flotation and lateral movement; (4) minimize or eliminate infiltration of flood waters; and (5) minimize or eliminate discharges into flood waters.

102.1825 Public or private campgrounds

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Wisconsin Department of Health Services;
- (2) A land use permit for the campground is issued by the zoning administrator;
- (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;

- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in subsection (4) above - to remain in compliance with all applicable regulations, including those of the Wisconsin Department of Health Services and all other applicable regulations;
- (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed;
- (7) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Division 4, 6, or 7 for the floodplain district in which the structure is located;
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
- (12) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

102.1826 through 102.1829 Reserved

DIVISION 4 FLOODWAY DISTRICT

102.1830 Applicability

This division applies to all floodway areas on the floodplain zoning maps and those delineated pursuant to § 102.1853.

102.1831 Permitted uses

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district if they are not prohibited in the underlying zoning district, meet the development standards in this division; and the zoning administrator has issued a floodplain permit:

- (1) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas, and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of § 102.1832(D).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with §§ 102.1832 and 102.1833.
- (5) Extraction of sand, gravel, or other materials that comply with § 102.1832(D).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Wis. Stats.

- (7) Public utilities, streets, and bridges that comply with § 102.1832(C).

102.1832 Development standards

- A. **General standards.** Development shall have a low flood damage potential and shall not cause an obstruction or raise the flood elevations upstream and downstream as more fully described in § 102.1820. An applicant shall provide the following data to determine the effects of the proposal according to § 102.1821:
- (1) A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - (2) An analysis calculating the effects of this proposal on regional flood height.
- B. **Structures.** Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
- (1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - (2) Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - (3) Must be anchored to resist flotation, collapse, and lateral movement;
 - (4) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
 - (5) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- C. **Public utilities, streets and bridges.** Public utilities, streets and bridges may be allowed by permit, if adequate floodproofing measures are provided to the flood protection elevation, and construction meets the development standards of § 102.1821.
- D. **Fills or deposition of materials.** Fills or deposition of materials may be allowed by permit, if (1) the requirements of § 102.1821 are met; (2) no material is deposited in navigable waters unless a permit is issued by the Wisconsin Department of Natural Resources pursuant to ch. 30, Wis. Stats., and a permit pursuant to § 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met; (3) the fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling, or bulkheading; and (4) the fill is not classified as a solid or hazardous material.

102.1833 Prohibited uses

Any use that is not listed in § 102.1831 is prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Admin. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Admin. Code;
- (6) Any solid or hazardous waste disposal sites;

- (7) Any wastewater treatment ponds or facilities, except those permitted under § NR 110.15(3)(b), Wis. Admin. Code; and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

102.1834 through 102.1839 Reserved

**DIVISION 5
FLOODFRINGE DISTRICT**

102.1840 Applicability

This division applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to § 102.1853.

102.1841 Permitted uses

Any structure, land use, or development is allowed in the floodfringe district if the standards in § 102.1842 are met, the use is not prohibited by the underlying zoning regulations, and the zoning administrator has issued a floodplain permit.

102.1842 Development standards

- A. **General standards.** Development shall not cause an obstruction or raise the flood elevations upstream or downstream as more fully described in § 102.1821.
- B. **Residential structures.** Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards.
 - (1) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of § 102.1842(B)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
 - (2) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.
 - (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except that in developments where existing street or sewer line elevations make compliance impractical, the zoning administrator may permit new development and substantial improvements where streets are below the regional flood elevation, if the municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or the municipality has an emergency evacuation plan as approved by the Wisconsin Department of Natural Resources.
- C. **Accessory structures or uses.** Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- D. **Commercial structures.** Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of § 102.1842(B). Subject to the requirements of § 102.1842(F), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- E. **Manufacturing and industrial uses.** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in § 102.1824. Subject to the requirements of § 102.1842(F), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

- F. **Storage of materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with § 102.1824. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- G. **Public utilities, streets and bridges.** Utilities, streets, and bridges shall be designed to be compatible with comprehensive floodplain development plans. When failure of public utilities, streets, and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with § 102.1824. Minor streets or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- H. **Sewage systems.** Sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to § 102.1824(C), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Admin. Code.
- I. **Wells.** Wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to § 102.1824(C), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Admin. Code.
- J. **Deposition of materials.** Any deposited material must meet all the provisions of this article.
- K. **Manufactured homes.** Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities. In an existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall have the lowest floor elevated to the flood protection elevation and be anchored so they do not float, collapse or move laterally during a flood. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in § 102.1842(B).
- L. **Mobile recreational vehicles.** All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in § 102.1842(K). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

102.1843 Solid waste disposal

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

102.1844 through 102.1849

Reserved

DIVISION 6 GENERAL FLOODPLAIN DISTRICT

102.1850 Applicability

This division applies to those floodplains mapped as A, AO, or AH zones.

102.1851 Permitted uses

Pursuant to § 102.1853, it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses listed in § 102.1831 are permitted in the floodway and those uses listed in § 102.1841 are allowed in the floodfringe within the general floodplain district, according to the standards of § 102.1852, provided the zoning administrator has issued a floodplain permit consistent with this division.

102.1852 Development standards

- A. The development standards in Division 4 apply to floodway areas and the standards in Division 5 apply to floodfringe areas. The rest of this article applies to either district.
- B. In AO and AH zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:
 - (1) at or above the flood protection elevation; or
 - (2) 2 feet above the highest adjacent grade around the structure; or
 - (3) the depth as shown on the flood insurance rate map.
- C. In AO and AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

102.1853 Determining the extent of the floodway and floodfringe

- A. **Request for determination.** Upon receiving an application for development within the general floodplain district, the zoning administrator shall require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the flood insurance rate map and require the applicant to furnish any of the following information deemed necessary by the Wisconsin Department of Natural Resources to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - (1) A hydrologic and hydraulic study as specified in § 102.1872.
 - (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information; and
 - (3) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- B. **Determination.** The extent of the floodway and floodfringe shall be as determined by the Wisconsin Department of Natural Resources.

102.1854 through 102.1859**Reserved**

**DIVISION 7
FLOOD STORAGE DISTRICT**

102.1860 Flood storage district

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

102.1861 Applicability

The provisions of this section apply to all areas within the Flood Storage District as shown on the official floodplain zoning maps.

102.1862 Permitted uses

Any use or development which occurs in a flood storage district must meet the applicable requirements in § 102.1842.

102.1863 Standards for development in flood storage districts

- A. Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
- B. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
- C. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as set forth in § 102.1871.
- D. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

102.1864 through 102.1869**Reserved****DIVISION 8
ADMINISTRATION****102.1870 Certificate of compliance**

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt, or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (4) The applicant shall submit a certificate signed by a registered professional engineer, architect, or land surveyor that the fill, lowest floor, and floodproofing elevations are in compliance with the permit issued.
- (5) If the project involves floodproofing measures, the applicant shall submit a certificate signed by a registered professional engineer or architect stating that the requirements of § 102.1824 are met.

102.1871 Amendments

- A. **Obstructions or increases.** Obstructions or increases may only be permitted if amendments are made to this chapter, the official floodplain zoning maps, floodway lines, and water surface profiles consistent with this section.

In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from the Federal Emergency Management Agency and amendments are made to this chapter, the official floodplain zoning maps, floodway lines, and water surface profiles, consistent with this section. Any such alterations must be reviewed and approved by the Federal Emergency Management Agency and the Wisconsin Department of Natural Resources.

In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a conditional letter of map revision from the Federal Emergency Management Agency and amendments are made to this chapter, the official floodplain maps, floodway lines, and water surface profiles, consistent with this section.

- B. **Generally.** The Village Board may change the floodplain overlay district boundaries and the text of this article pursuant to the requirements and procedures in Article 5. Actions requiring an amendment include, but are not limited to, the following:
- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
 - (2) Any change to the floodplain boundaries and/or watercourse alterations on the flood insurance rate map;
 - (3) Any changes to any other officially adopted floodplain maps listed in § 102.1810;
 - (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
 - (5) Correction of discrepancies between the water surface profiles and floodplain maps;
 - (6) Any upgrade to floodplain zoning regulations required by § NR 116.05, Wis. Admin. Code, or otherwise required by law, or for changes by the municipality; and
 - (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a flood insurance rate map requires prior approval by the Federal Emergency Management Agency.
- C. **Flood easements.** A person petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

102.1872 Hydraulic and hydrologic studies

- A. **Generally.** All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state of Wisconsin. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Wisconsin Department of Natural Resources.
- B. **Zone A floodplains.** For projects located in a Zone A floodplain, the following provisions apply:
- (1) **Hydrology.** The appropriate method shall be based on the standards in § NR 116.07(3), Wis. Admin. Code, entitled *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - (2) **Hydraulic modeling.** The regional flood elevation shall be based on the standards in § NR 116.07(4), Wis. Admin. Code, entitled *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - (i) Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 - (ii) Channel sections must be surveyed.
 - (iii) Minimum 4-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - (iv) A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 - (v) The most current version of HEC-RAS shall be used.
 - (vi) A survey of bridge and culvert openings and the top of street is required at each structure.

- (vii) Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 - (viii) Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 - (ix) The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- (3) **Mapping.** A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
- (i) If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - (ii) If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

C. **Zone AE Floodplains.** For projects located in a Zone AE floodplain, the following provisions apply:

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

- (i) Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or flood boundary floodway maps, construction plans, bridge plans.
- (ii) Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the flood insurance rate map may be more easily revised.
- (iii) Annotated flood insurance rate map panel showing the revised 1 percent and 0.2 percent annual chance floodplains and floodway boundaries.
- (iv) If an annotated flood insurance rate map and/or flood boundary floodway maps and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System consistent with mapping specifications established by the Federal Emergency Management Agency.
- (v) The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- (vi) All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- (vii) Both the current and proposed floodways shall be shown on the map.
- (viii) The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

102.1873 Record of nonconforming uses and structures

- A. **Nonconforming uses.** The zoning administrator shall maintain a list of those properties that contain a nonconforming use.
- B. **Nonconforming structures.** The zoning administrator shall maintain a list of those properties that have a nonconforming structure. For every such structure, the following information shall be recorded:
 - (1) present assessed value,
 - (2) cost of all modifications or additions which have been permitted, and
 - (3) percentage of the structure's total current value those modifications represent.

102.1874 Public information

- A. The zoning administrator shall place marks on structures to show the depth of inundation during the regional flood.
- B. All maps, engineering data, and regulations shall be available and widely distributed.
- C. Real estate transfers should show what floodplain district any real property is in.

102.1875 Interpretation

In their interpretation and application, the provisions of this article are the minimum requirements liberally construed in favor of the Village of Mukwonago and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this article or in effect on the date of the most recent text amendment to this article.

102.1876 through 102.1879 Reserved

DIVISION 8 NONCONFORMITIES

102.1880 General

- A. **Generally.** As used in this division, the words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding, or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling, and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

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

- B. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this chapter.
- C. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
- D. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent of its present assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements in Article 19. Contiguous dry land access must be provided for residential and commercial uses in compliance with § 102.1842(B)(3). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this section.
- E. No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50 percent of its present assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with § 102.1842(B)(3).
- F. If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50 percent of the present assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with § 102.1842(B)(3).
- G. Except as provided in subsection (H), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed, or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present assessed value.
- H. For nonconforming buildings that are substantially damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.
- (1) Residential.
- a. The lowest floor, including basement, is elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of § 102.1824.
 - b. The structure is anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

- c. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - d. In A Zones, obtain, review, and utilize any flood data available from a federal, state, or other source.
 - e. In AO Zones with no elevations specified, the lowest floor, including basement, meets the standards in § 102.1852(B).
 - f. In AO Zones, adequate drainage paths around structures are provided on slopes to guide floodwaters around and away from the structure.
- (2) Nonresidential structures.
- a. Shall meet the requirements of subsection (H)(1)a-f.
 - b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in § 102.1824(A) or (B).
 - c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in § 102.1852(B).
- (3) Historic structures. A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with § 102.1832(A), flood resistant materials are used, and construction practices and floodproofing methods that comply with § 102.1824 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of § 102.1880(H)(1) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

102.1881 Nonconformities in the floodway district

- A. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the floodway district, unless such modification or addition:
- (1) has been granted a permit or variance which meets all ordinance requirements;
 - (2) meets the requirements of § 102.1880;
 - (3) shall not increase the obstruction to flood flows or regional flood height;
 - (4) any addition to the existing structure shall be floodproofed, pursuant to § 102.1824, by means other than the use of fill, to the flood protection elevation; and
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking, building access, or limited storage.
- B. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, § 102.1824 and ch. SPS 383, Wis. Admin. Code.

- C. No new well or modification to an existing well used to obtain potable water shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing well in the floodway district shall meet the applicable requirements of all municipal ordinances, § 102.1824(C) and chs. NR 811 and NR 812, Wis. Admin. Code.

102.1882 Nonconformities in the floodfringe district

- A. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of § 102.1842 except where subsection (B) is applicable.
- B. Where compliance with the provisions of subsection (A) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Zoning and Building Appeals, using the procedures established in Article 5, may grant a variance from those provisions of subsection (A) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if (i) no floor is allowed below the regional flood elevation for residential or commercial structures; (ii) human lives are not endangered; (iii) public facilities, such as water or sewer, shall not be installed; (iv) flood depths shall not exceed 2 feet; (v) flood velocities shall not exceed 2 feet per second; and (vi) the structure shall not be used for storage of materials as described in § 102.1842(G).
- C. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, § 102.1824(C), and ch. SPS 383, Wis. Admin. Code.
- D. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, § 102.1824(C), and ch. NR 811 and NR 812, Wis. Admin. Code.

102.1883 Nonconformities in the flood storage district

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in § 102.1863 are met.

102.1884 through 102.1899 Reserved

ARTICLE 13

WELL HEAD PROTECTION OVERLAY DISTRICT

102.1900 Legislative findings

The Village Board makes the following legislative findings relating to the well head protection overlay district:

- (1) The residents of the Village of Mukwonago depend exclusively on groundwater for a safe drinking water supply.
- (2) Certain land use practices and activities can seriously threaten or degrade groundwater quality.
- (3) The Village has the authority to adopt regulations relating to well head protection under §§ 62.23(7)(a) and (c), Wis. Stats.
- (4) Regulations in this chapter relating to well head protection are adopted to promote the public health, safety, and general welfare of village residents.

102.1901 Boundary of district

The boundary of the well head protection overlay districts are as follows:

- (1) Well #3 – 1,200-foot radius
- (2) Well #4 – 1,200-foot radius
- (3) Well #5 – 1,200-foot radius
- (4) Well #6 – 1,200-foot radius
- (5) Well #7 – 3,612-foot radius

102.1902 Permitted land uses and activities

The land uses/activities listed below are permitted in a well head overlay district provided the specified separation distances are met and the use/activity is otherwise allowed in the base zoning district.

- (1) Ten feet between a well and an emergency or standby power system that is operated by the same facility which operates the well and that has a double wall above ground storage tank with continuous electronic interstitial leakage monitoring. These facilities shall meet the installation requirements of § ATP 93.260, Wis. Admin. Code and receive written approval from the department of safety and professional services or its designated Local Program Operator under § ATP 93.110, Wis. Admin. Code.
- (2) Fifty feet between a well and a storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints. Gravity sanitary sewers shall be successfully air pressure tested in place. The air pressure test shall meet or exceed the requirements of the 4 psi low pressure air test for plastic gravity sewer lines found in the latest edition of Standard Specifications for Sewer & Water Construction in Wisconsin. Force mains shall be successfully pressure tested with water to meet the AWWA C600 pressure and leakage testing requirements for one hour at 125 percent of the pump shut-off head.
- (3) Two hundred feet between a well and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one or two-family residential heating fuel oil underground storage tank or above ground storage tank or POTS treatment tank or holding tank component and associated piping.
- (4) Three hundred feet between a well and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it. These installations shall meet the most restrictive installation requirements of § ATP 93.260, Wis. Admin. Code and receive written approval from the department of safety and professional services or its designated Local Program Operator under § ATP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

- (5) Three hundred feet between a well and any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the most restrictive installation requirements of § ATCP 93.260, Wis. Admin. Code and receive written approval from the department of safety and professional services or its designated Local Program Operator under § ATCP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
- (6) Four hundred feet between a well and a private onsite wastewater treatment system (POWTS) dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery, or a storm water retention or detention pond.
- (7) Six hundred feet between a well and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of § ATCP 93.260, Wis. Admin. Code and receive written approval from the department of safety and professional services or its designated Local Program Operator under § ATCP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
- (8) One thousand feet between a well and land application of municipal, commercial, or industrial waste; the boundaries of a landspreading facility for spreading of petroleum-contaminated soil regulated under ch. NR 718, Wis. Admin. Code, while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment plant treatment units, lagoons, or storage structures; manure stacks or storage structures; or POWTS dispersal component with a design capacity of 12,000 gallons per day or more.
- (9) Twelve hundred feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; any property with residual groundwater contamination that exceeds ch. NR 140, Wis. Admin. Code enforcement standards; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage tank or other single wall underground storage tank or above ground storage tank that has or has not received written approval from the department of safety and professional services or its designated Local Program Operator under § ATCP 93.110, Wis. Admin. Code for a single wall tank installation. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances; and bulk pesticide or fertilizer handling or storage facilities.

102.1903 Nonconforming uses

Land uses that were legally established, but do not comply with the regulations in this article are nonconforming and are subject to the requirements set forth in Article 20. In addition, the operator of a nonconforming use must (1) provide copies of all current, revised or new federal, state and local facility operation approvals, permits or certificates; operational safety plans; and on-going environmental monitoring results to the Village; (2) provide additional environmental or safety structures/monitoring as deemed necessary by the Village Board, which may include but is not limited to stormwater runoff management and monitoring; (3) replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence; and (4) prepare and submit a contingency plan satisfactory to the zoning administrator for the immediate notification of village officials in the event of an emergency.

102.1904 Responsibility for contamination cleanup

An individual and/or facility that releases a contaminant in the well head protection overlay district that has the potential of endangering the municipal water supply must immediately stop the release and clean up the contaminant to the satisfaction of the Village Board and other state and federal regulatory agencies. The individual/facility shall be responsible for all costs of cleanup, including those incurred by the Village, which may include:

- (1) consultant fees at the invoice amount plus administrative costs for oversight, review, and documentation;
- (2) the cost of village employees' time associated in any way with cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the village administrator representing the Village's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits;
- (3) the cost of village equipment used in the response and cleanup; and
- (4) the cost of mileage reimbursed to village employees attributed to the cleanup.

The Village Board may require the responsible party to establish a monitoring program based on the nature of the contamination and the risk posed to the municipal water supply. In addition, the Village Board may require the responsible party to provide a financial security in such amount and type it deems necessary to safeguard the municipal water supply.

102.1905 through 102.1999 Reserved

ARTICLE 14

SHORELAND-WETLAND OVERLAY DISTRICT

102.2000 Legislative findings

The Village Board makes the following legislative findings relating to the shoreland-wetland overlay district:

- (1) Villages are required by § 61.351, Wis. Stats., to adopt shoreland-wetland zoning regulations within 6 months after receipt of final wetland inventory maps prepared by the Wisconsin Department of Natural Resources.
- (2) The Village adopted zoning regulations on ___, ___ which included shoreland-wetland regulations and the wetland inventory maps with a date of ___, ___.
- (3) Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, and general welfare and impair the tax base.

102.2001 Purpose

This article promotes the public health, safety, and welfare and is intended to:

- (1) maintain the storm and flood water storage capacity of wetlands;
- (2) prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (3) protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (4) prohibit certain uses detrimental to the shoreland-wetland area; and
- (5) preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling, and other earth moving activities.

102.2002 Wetland functions

In the context of this article, wetlands serve the following important functions:

- (1) storm and flood water storage capacity;
- (2) maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
- (3) filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters;
- (4) shoreline protection against erosion;
- (5) fish spawning, breeding, nursery or feeding grounds;
- (6) wildlife habitat; or
- (7) areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

102.2003 Boundary of district

The shoreland-wetland overlay district includes those areas designated as a wetland on the wetland inventory map with a date of ___, ___ that (1) are 5 acres or more; (2) are located within 1,000 feet of the ordinary high-water mark of a navigable lake, pond, or flowage, or are located within 300 feet of the ordinary high-water mark of a navigable river or stream, or to the landward side of the 100-year floodplain, whichever distance is greater; (3) were not legally filled before ___, ___ and cannot be classified as a wetland; and (4) are not located

between the original ordinary high-water mark and a bulkhead line established prior to May 7, 1982 under § 30.11, Wis. Stats.

Any feature designated as a lake or as a stream on the zoning map has been determined to be navigable for the purpose of this section. The flood insurance rate maps adopted under Article 12 are used in determining the extent of the 100-year floodplain.

102.2004 Discrepancies between delineated wetlands and field conditions

If the zoning administrator believes there is a discrepancy between the wetland inventory map and actual field conditions at the time the map was adopted, he or she shall contact the regional office of the Wisconsin Department of Natural Resources and request a determination. If the department determines that the area in question was incorrectly mapped as a wetland, this article will not apply to such area. As soon as is practical after such determination, the zoning administrator shall submit an application to amend the zoning map consistent with the procedures and requirements in this chapter.

102.2005 Permitted activities without a permit

The following uses are allowed without issuance of a zoning permit, provided there is no wetland alteration:

- (1) hiking, fishing, trapping, hunting, swimming, snowmobiling, and boating;
- (2) the harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
- (3) the practice of silviculture, including the planting, thinning, and harvesting of timber;
- (4) the pasturing of livestock;
- (5) the cultivation of agricultural crops; and
- (6) the construction and maintenance of duck blinds.

The following uses, which may involve wetland alterations, are allowed without issuance of a zoning permit, provided any wetland alterations comply with the following terms:

- (1) the practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
- (2) the cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
- (3) the maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;
- (4) the construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
- (5) the construction and maintenance of piers, docks, walkways, observation decks, and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
- (6) the installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in § 102.2002; and
- (7) the maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

102.2006 Permitted activities with a permit

Upon issuance of a zoning permit, the following uses are allowed, which may involve wetland alterations but only to the extent specifically allowed:

- (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services, or to provide access to uses permitted in this section provided (i) the road cannot, as a practical matter, be located outside the wetland; (ii) the road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in § 102.2002; (iii) the road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; (iv) road construction activities are carried out in the immediate area of the roadbed only; and (v) any wetland alteration must be necessary for the construction or maintenance of the road.
- (2) The construction and maintenance of nonresidential buildings provided (i) the building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows, or other wetland or aquatic animals; (ii) the building cannot, as a practical matter, be located outside the wetland; (iii) the building does not exceed 500 square feet in floor area; and (iv) only limited filling and excavating necessary to provide structural support for the building is allowed.
- (3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided (i) any private development allowed under this paragraph shall be used exclusively for the permitted purpose; (ii) only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed; (iii) the construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in subsection (1) above; and (iv) wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (4) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided (i) the utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland; (ii) only limited filling or excavating necessary for such construction or maintenance is allowed; and (iii) such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in § 102.2002.

102.2007 Prohibited uses

Any use not listed in this article as being permitted, is prohibited. The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are strictly prohibited.

102.2008 Rezoning of lands in the shoreland wetland district

For all proposed text and map amendments to the shoreland-wetland provisions of this chapter, the following are submitted to the regional office of the Wisconsin Department of Natural Resources:

- (1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within five days of the filing of such petition with the village clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
- (2) Written notice of the public hearing to be held on the proposed amendment at least 10 days prior to such hearing;
- (3) A copy of the village zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the Village Board; and
- (4) Written notice of the Village Board's decision on the proposed amendment within 10 days after it is issued.

A wetland, or a portion thereof, in the shoreland-wetland overlay district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

- (1) storm and flood water storage capacity;
- (2) maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
- (3) filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) shoreline protection against soil erosion;
- (5) fish spawning, breeding, nursery or feeding grounds;
- (6) wildlife habitat; or
- (7) areas of special recreational, scenic or scientific interest, including scarce wetland types.

If the department notifies the Village that a proposed text or map amendment to the shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in this section, that amendment, if approved by the Village Board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the Village Board's approval of this amendment is mailed to the Department of Natural Resources. During that thirty-day period the Department of Natural Resources may notify the Village Board that it will adopt a superseding shoreland ordinance for the village under § 59.971(6), Wis. Stats. If the Department does so notify the Village Board, the effect of this amendment shall be stayed until the § 59.971(6) adoption procedure is completed or otherwise terminated."

102.2009 Nonconforming uses and structures

- A. A legal nonconforming structure or an environmental control facility related to a legal nonconforming structure, in existence on [REDACTED], the effective date of this article, may be repaired, reconstructed, renovated, remodeled, or expanded.
- B. If a nonconforming use or the use of a nonconforming structure is discontinued for a period of 12 consecutive months, any future use of the property or structure shall conform to the requirements of this section.
- C. Any legal nonconforming use of property which does not involve the use of a structure may be continued although such use does not conform with this article, provided such nonconforming use may not be extended.
- D. The maintenance and repair of a nonconforming boathouse that extends beyond the ordinary high-water mark of a navigable waterway must comply with § 30.121, Wis. Stats.

102.2010 through 102.2099 Reserved

ARTICLE 15 SHORELAND OVERLAY DISTRICT

102.2100 Legislative findings

The Village Board makes the following legislative findings relating to the shoreland overlay district:

- (1) Villages are required by § 62.353, Wis. Stats., to adopt shoreland zoning regulations meeting the minimum standards set forth in that section by July 1, 2014.
- (2) The Village Board adopted such regulations on ____ 2014.
- (3) Uncontrolled use of the shorelands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, and general welfare and impair the tax base.

102.2101 Purpose

This article promotes the public health, safety, and welfare and is intended to:

- (1) further the maintenance of safe and healthful conditions and prevent and control water pollution;
- (2) protect spawning grounds, fish, and aquatic life by controlling the removal of shoreline vegetation;
- (3) control the placement of principal buildings by establishing setbacks from waterways; and
- (4) preserve shore cover and natural beauty by (i) restricting the removal of natural shoreland cover; (ii) preventing shoreline encroachment by structures; (iii) controlling shoreland excavation and other earth moving activities; and (iv) regulating the use and placement of boathouses and other structures.

102.2102 Boundary of district

The shoreland overlay district includes land located within 1,000 feet of the ordinary high-water mark of a navigable lake, pond, or flowage, or within 300 feet of the ordinary high-water mark of a navigable river or stream, or to the landward side of the 100-year floodplain, whichever distance is greater.

Any feature designated as a lake or as a stream on the zoning map has been determined to be navigable for the purpose of this section. The flood insurance rate maps adopted under Article 12 are used in determining the extent of the 100-year floodplain.

102.2103 Vegetation management within shoreline buffer zone

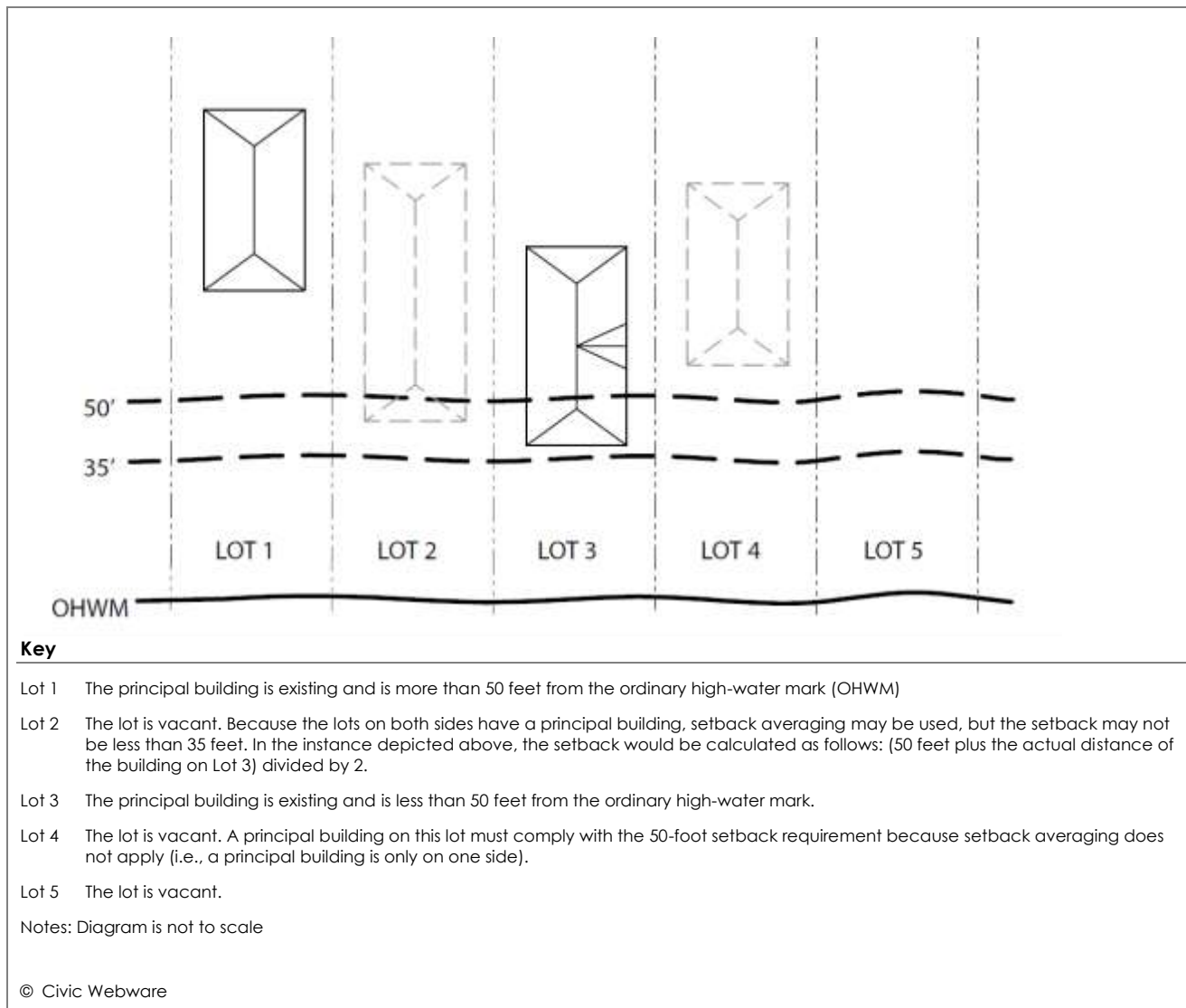
- A. **Generally.** Woody vegetation not located in a wetland and woody and non-woody vegetation in a wetland located in the shoreline buffer zone (i.e., 35 feet landward from the ordinary high-water mark) shall not be removed, except as described in this section.
- B. **Removal of invasive species.** Vegetation in the shoreline buffer zone that is listed by the Wisconsin Department of Natural Resources as an invasive species under ch. NR 40, Wis. Admin. Code may be removed provided the property owner reestablishes vegetation within the shoreline buffer zone consistent with a management plan approved by the Plan Commission.
- C. **Viewing/access corridor.** The property owner may remove vegetation in the shoreline buffer zone to create and maintain a viewing/access corridor no more than 30 feet wide for every 100 feet of shoreline frontage.

102.2104 Shoreline setback

- A. **Principal buildings.** Principal buildings shall be no closer than 50 feet to the ordinary high-water mark, except that a lesser setback is allowed if all of the following apply:
 - (1) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.

- (2) The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.
- B. **Accessory buildings.** Accessory buildings shall comply with the setback standards for principal buildings described in this subsection, except that a boathouse may be constructed within 35 feet of the ordinary high-water mark as set forth in § 102.2105.

Exhibit 15-1. Shoreline setback requirements



102.2105 Boathouses

A boathouse if otherwise allowed may be constructed in the viewing/access corridor as allowed in § 102.2103.

102.2106 through 102.2199 Reserved