



AGENDA
PLAN COMMISSION MEETING
RICHFIELD VILLAGE HALL
4128 HUBERTUS ROAD, HUBERTUS, WISCONSIN
February 6, 2020
7:00 P.M.

Pursuant to the requirements of Section 19.84, Wis. Stats., notice is hereby given of a meeting of the Village of Richfield Plan Commission, at which a quorum of the Village Board may attend in order to gather information about a subject which they have decision making responsibility. The meeting will be held at the above noted date, time and location. Notice of Village Board Quorum, (Chairperson to announce the following if a quorum of the Village Board is in attendance at the meeting: "Please let the minutes reflect that a quorum of the Village Board is present and that the Village Board members may be making comments under the Public Comments section of the agenda, during any Public Hearing(s) or if the rules are suspended to allow them to do so.")

1. Call to Order/Determination of quorum
2. Verification of Open Meetings Law compliance
3. Pledge of Allegiance
4. APPROVAL OF MINUTES
 - a. November 7, 2019 – Regular Meeting
 - b. December 5, 2019 – Regular Meeting
5. DISCUSSION/ACTION
 - a. Discussion/Action regarding the expansion of a legal, non-conforming building and a Site and Building review for Pleasant Hill Pub and Grill located at 2102 STH 164 (Tax Key: V10_008200Z) – *Pleasant Hill Management LLC, Petitioner*
 - b. Discussion and possible recommendation to the Village Board regarding a One-Lot Certified Survey Map (CSM) for property located at 4167 Pioneer Road (Tax Key: V10_0066) – *Lofy Asset Trust, Petitioner*
 - c. Discussion and possible recommendation to the Village Board regarding a Rezoning petition for property located at 4167 Pioneer Road (V10_0066) from A-1, Exclusive Agricultural District to A-2, General Agricultural District – *Lofy Asset Trust, Petitioner*
 - d. Discussion and possible recommendation to the Village Board regarding a One-Lot CSM for property located at 2207 Hillside Road (Tax Key: V10_008400B) – *David W Lofy, Mary J Lofy, Petitioners*
 - e. Discussion and possible recommendation to the Village Board regarding a Rezoning petition for a portion of property identified by Tax Key: V10_008400Z and V10_008700Z from A-1, Exclusive Agricultural District to Rs-3, Single Family Residential District – *Lofy Asset Trust, Petitioner*
 - f. Discussion regarding Chapter 70 Zoning Code Recodification

6. ADJOURNMENT

Additional explanation of items on the agenda (Communication Forms) can be found on the village's website at www.richfieldwi.gov. Notification of this meeting has been posted in accordance with the Open Meeting Laws of the State of Wisconsin. It is possible that members of and possibly 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. Requests from persons with disabilities who need assistance to participate in this meeting or hearing should be made to the Village Clerk's office at 628-2260 with as much advance notice as possible.

4a

1. Call to Order/Determination of quorum

Chairman Jim Otto called the meeting to order at 7:00 PM, noting there was a quorum present.

Present: Chairman Otto, Vice-Chair Berghammer, Trustee Collins and Commissioners Lalk, Melzer, Bartel and Coté

Also present: Village Administrator Jim Healy and Deputy Clerk Donna Cox

2. Verification of Open Meetings Law compliance

Administrator Healy stated that the agendas were posted at the Richfield, Hubertus, and Colgate U.S. Post Offices as well as Village Hall. Digital copies of the agenda were sent to the West Bend Daily News, Germantown Express News, Hartford Times Press, and the Milwaukee Journal Sentinel.

3. Pledge of Allegiance

4. APPROVAL OF MINUTES

a. October 3, 2019 – Regular Meeting

Motion by Trustee Collins to approve the October 3, 2019 Regular Meeting Minutes as presented; Seconded by Commissioner Bartel; Motion passed 5-0-2 with Commissioner Lalk and Chairman Otto abstaining.

5. DISCUSSION/ACTION

a. Discussion/Action regarding a Temporary Use Permit for Wooded Hills Bible Church located at 777 STH 164 (Tax Key: V10_118800Z) – Morning Star Productions, Petitioner

Commissioner Cote requested reassurance that individuals would be assigned to caring for the animals and that there will be a maintenance plan set in place for the collection and disposal of the animal's waste. Commissioner Cote would also like the record to reflect that this property is not 1500 feet west of his property, but more like 50 feet from his property (backyard). Commissioner Cote request to add a maintenance plan and specific condition of approval to the list of conditions.

Motion by Commissioner Bartel to approve the proposed Temporary Use Zoning Permit for Wooded Hills Bible Church, located at 777 STH 164 (Tax Key: V10_118800Z), subject to the following:

Specific Conditions of Approval

- 1) Village Staff be directed to draft a "Decision Letter" outlining the allowable use with any terms and conditions determined to be necessary by the Plan Commission.
- 2) The granting of this Temporary Use Zoning Permit does not waive any obligations by the petitioner to follow the Municipal Code of Ordinances (Ex: signage, burning, etc.);
- 3) A maintenance plan for the animal waste be provided to Village Staff.

Seconded by Commissioner Melzer; Motion passed without objection.

b. Discussion/Action regarding a Site, Grading and Erosion Control Plan modification for Strohwig Industries located at 3285 Industrial Road (Tax Key: V10_025600G) – Excel Engineering, Petitioner

Motion by Commissioner Lalk to accept the recommendation of Village Engineer Ron Dalton for the Site, Grading and Erosion Control Plan modification for Strohwig Industries, Inc for property located at 3285 Industrial Road (Tax Key: V10_025600G) subject to the following Specific Conditions of Approval:

Specific Conditions of Approval:

- 1) The Project Manager place on the face of the Grading and Erosion Control Plan the notation requiring erosion matting at the 3:1 slope proposed adjacent to the pavement expansion.
- 2) The Village receive payment for professional services related to the development.
- 3) The Project Manager receive all necessary approvals from the Village's Building Inspection Department;

Seconded by Vice-Chair Berghammer; Motion passed without objection.

Clerk Note: Action was taken on Item 5d prior to 5c.

c. Discussion and possible recommendation to the Village Board regarding a Final Plat for Highland Ridge Subdivision (Tax Key: V10_1250 & V10_1255) – Monches Investments LLC., Petitioner

Motion by Commissioner Lalk to recommend to the Village Board the conditional approval of the proposed Final Plat for Highland Ridge Subdivision subject to the following Specific and General Conditions of Approval:

Specific Conditions of Approval:

- 1) The Plan Commission and Village Board must approve the proposed 1st Amendment to the Developer's Agreement and a copy of the same must be recorded with the County Register of Deeds.
- 2) The Petitioner must pay the \$1,000 Final Plat Fee.
- 3) The Village Board must approve the proposed Amendment to the Deed Restrictions and subsequent to filing the Final Plat must contemporaneously record the same against all lots in the Highland Ridge Subdivision.

General Conditions of Approval:

- 1) Staff and Governmental Approval: Subject to the developer satisfying all comments, conditions and concerns of the Village Planner, Village Engineer and all reviewing, objecting and approving bodies, which may include but not limited to the State of Wisconsin Department of Safety and Professional Services per ch. 236, Wisconsin Statutes and Ch. SPS 385, Wisconsin Administrative Code; the State of Wisconsin Department of Transportation per ch. Trans. 236, Wisconsin Statutes, and Washington County; in regard to the Final Plat, and obtaining all necessary permits and approvals, and satisfaction of applicable requirements of State, Federal and Village Codes, statutes lawful orders, prior to commencing recording of the Final Plat, whichever is earlier.
- 2) Financial Guarantee and Agreement: Subject to the Developer submitting to the Village Clerk and receiving approvals as to form from the Village Attorney and as to amount from the Village

- Engineer, a letter of credit, cash, or other approved financial guarantee, and subject to the Developer submitting to and receiving from the Village Administrator, Village Attorney, and Village Engineer, approval of a Developer's Agreement for the improvements (including all public, private and site development improvements), prior to commencing construction of any improvement, whether public or private or site development or recording of the Final Plat, whichever is earlier.
- 3) Deed Restrictions: Subject to the Developer submitting to and receiving from the Village Administrator, Village Attorney and the Village Engineer, approval of the final draft of the deed restrictions, prior to commencing construction of any improvement, whether public or private or site development, or recording of the Final Plat, whichever is earlier.
 - 4) Professional Fees: Petitioner shall, on demand, reimburse the Village of all costs and expenses of any type that the Village incurs in connection with this development, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
 - 5) Payment of Charges: 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, permits fees or any other fees owned 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 Section 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 the conditional approval;

Seconded by Commissioner Cote; Motion passed without objection

d. Discussion and possible recommendation to the Village Board regarding a proposed 1st Amendment to the Developer's Agreement for Highland Ridge Subdivision (Tax Key: V10_1250 & V10_1255) – Monches Investments LLC., Petitioner

Motion by Trustee Collins to recommend to the Village Board the conditional approval of the proposed 1st Amendment to the Developer's Agreement for Highland Ridge Subdivision subject to the following Specific and General Conditions of Approval:

Specific Conditions of Approval:

- 1) Subject to the final review and approval of the Village Attorney.
- 2) Subject to the final review and approval of the Village Engineer.
- 3) Subject to the Lots being staked by a surveyor prior to the filing of the Final Plat.
- 4) Subject to We Energies completing the utility installation.
- 5) Subject to the Village Board approving the proposed Final Plat for Highland Ridge Subdivision.

General Conditions of Approval:

- 1) **Staff and Governmental Approval:** Subject to the developer satisfying all comments, conditions and concerns of the Village Planner, Village Engineer and all reviewing, objecting and approving bodies, which may include but not limited to the State of Wisconsin Department of Safety and Professional Services per ch. 236, Wisconsin Statutes and Ch. SPS 385, Wisconsin Administrative Code; the State of Wisconsin Department of Transportation per ch. Trans. 236, Wisconsin Statutes, and Washington County; in regard to the Final Plat, and obtaining all

necessary permits and approvals, and satisfaction of applicable requirements of State, Federal and Village Codes, statutes lawful orders, prior to commencing recording of the Final Plat, whichever is earlier.

- 2) **Professional Fees:** Petitioner shall, on demand, reimburse the Village of all costs and expenses of any type that the Village incurs in connection with this development, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
- 3) **Payment of Charges:** 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, permits fees or any other fees owned 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 Section 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 the conditional approval;

Seconded by Commissioner Lalk; Motion passed without objection

- e. **Discussion and possible recommendation to the Village Board regarding a proposed Two-Lot Certified Survey Map (CSM) for St. Gabriel Congregation for property located at 3733 Hubertus Road (Tax Key: V10_0829 & V10_0830) – St. Gabriel Congregation, Petitioner**

Motion by Vice-Chair Berghammer to recommend to the Village Board the approval of the proposed Two-Lot CSM for St. Gabriel Congregation for property located at 3733 Hubertus Road (Tax Key: V10_0829 and V10_0830) Subject to the following Specific and General Conditions of Approval:

Specific Conditions of Approval:

- 1) The following be added to the Face of the CSM: “Lot 1 and Lot 2 are substandard lots and were approved by the Village of Richfield under authority of 330-11-1 of the Village of Richfield Code of Ordinances. Such parcel shall comply with all applicable regulations relating to legal nonconforming lots which may now exist or which may be established by the Village of Richfield.”
- 2) The following be added to the Face of the CSM: “Lot 2 contain structures which do not comply with the setback requirements in the Village’s zoning regulations in effect on the date this certified survey map was approved by the Village of Richfield. Such structures shall comply with all applicable regulations relating to legal nonconforming structures which may now exist or which may be established by the Village of Richfield”.
- 3) Easement Document No. 1108032 be added to the face of the CSM to show a grant of access from Scenic Road for the benefit of Tax Key: V10_082500C.
- 4) All road names (e.g., Hubertus Road and Scenic Road) must be underscored.
- 5) The CSM merges V10_0417001 with the larger parcel. Please show that parcel with a dashed line and add a label as such.
- 6) Any building on the adjacent lots that are located within 50 feet this CSM must be shown and labeled as to their use.
- 7) The location of all existing wells within this CSM and those on adjacent parcels that are within 50 feet of any existing or proposed septic systems must be shown.

- 8) The area for Lot 2 on sheet 1 and 2 are different. These should be corrected accordingly. Please also verify the area for Lot 1. The total of all lots and ROW dedications must total the acreage in the Surveyor's Certificate.
- 9) The surveyor must monument the corners separating Lot 1 and 2 and include corresponding notes in the Legend on sheet 1.
- 10) All sheets shall be label in the following format: Sheet 1 of X, Sheet 2 of X, etc.
- 11) The surveyor's seal, signature, and date must appear on all sheets of the final CSM. The same revision date must also be noted on each sheet.

General Conditions of Approval:

- 1) **Staff and Governmental Approval:** Subject to the developer satisfying all comments, conditions and concerns of the Village Planner, Village Engineer and all reviewing, objecting and approving bodies, which may include but not limited to the State of Wisconsin Department of Safety and Professional Services per ch. 236, Wisconsin Statutes and Ch. SPS 385, Wisconsin Administrative Code; the State of Wisconsin Department of Transportation per ch. Trans. 236, Wisconsin Statutes, and Washington County, in regard to the Final Plat, and obtaining all necessary permits and approvals, and satisfaction of applicable requirements of State, federal and Village Codes, statutes lawful orders, prior to commencing recording of the Final Plat, whichever is earlier.
- 2) **Professional Fees:** Petitioner shall, on demand, reimburse the Village of all costs and expenses of any type that the Village incurs in connection with this development, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
- 3) **Payment of Charges:** Any unpaid bills owned 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, permits fees or any other fees owned 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 Section 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 the conditional approval.

Seconded by Commissioner Lalk; Motion passed without objection

6. ADJOURNMENT

Motion by Vice-Chair Berghammer to adjourn; Seconded by Trustee Collins; Motion passed without objection at 7:46 p.m.

Respectfully Submitted,

Jim Healy
Village Administrator

4b

1. Call to Order/Determination of quorum

Chairman Jim Otto called the meeting to order at 7:05 PM, noting there was a quorum present.

Present: Chairman Otto, Vice-Chair Berghammer, Trustee Collins and Commissioners Lalk, Melzer, Bartel and Coté

Also present: Village Administrator Jim Healy

2. Verification of Open Meetings Law compliance

Administrator Healy stated that the agendas were posted at the Richfield, Hubertus, and Colgate U.S. Post Offices as well as Village Hall. Digital copies of the agenda were sent to the West Bend Daily News, Germantown Express News, Hartford Times Press, and the Milwaukee Journal Sentinel.

3. Pledge of Allegiance

4. DISCUSSION/ACTION

- a. **Discussion/Action regarding Plan of Operation Review for SDG Sales and Service located at 3053 Beechwood Industrial Court (Tax Key: V10_088200K)**

Motion by Commissioner Lalk to approve the proposed Plan of Operation for SDG Sales & Service, located at 3053 Beechwood Industrial Court (Tax Key: V10_088200K), as presented, subject to the following:

Specific Condition of Approval

1. The applicant receives an Occupancy Permit from the Village of Richfield Building Inspector and the Richfield Volunteer Fire Company.

Seconded by Commissioner Cote; Motion passed without objection.

- b. **Discussion regarding Chapter 70 Zoning Code Recodification**

Administrator Healy and Consultant Planner Schwecke, demonstrated the capabilities of the Village's "beta" Zoning Map online for the Plan Commission to see. Consultant Planner Schwecke and Administrator Healy handed the Plan Commission a packet of information and requested that they be prepared to discuss the same at their next meeting in January. Areas of the Village's 36-square miles were also divided up for the Plan Commissioners to review for any abnormalities or oddities on the Proposed Zoning Map. The different Zoning Districts were discussed and it was stated the process is approximately 85% complete. The next phase will be public participation.

5. ADJOURNMENT

Motion by Vice-Chair Berghammer to adjourn; Seconded by Commissioner Lalk; Motion passed without objection at 7:53 p.m.

Respectfully Submitted,
Jim Healy
Village Administrator

5a



VILLAGE OF RICHFIELD

PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: February 6, 2020

SUBJECT: Site and Building review for Pleasant Hill Pub and Grill located at 2102 STH 164 (Tax Key: V10_008200Z) – *Pleasant Hill Management LLC, petitioner*

DATE SUBMITTED: January 30, 2020

SUBMITTED BY: Jim Healy, Village Administrator

POLICY QUESTIONS: DOES THE PLAN COMMISSION WISH TO APPROVE: 1) THE EXPANSION OF A LEGAL, NON-CONFORMING BUILDING AND, 2) THE PROPOSED BUILDING ELEVATIONS, SITE, GRADING AND EROSION CONTROL PLANS?

ISSUE SUMMARY:

Architectural Design:

The proposal before you tonight is a 1,637sqft addition in the form of two (2) architectural projections to the east and a small vestibule on the northwest corner of the building. The primary building materials, as labeled, are permissible materials pursuant to Section 70.133 of the Zoning Code. These materials are noted on the drawings on Sheet A400 in the legend on the upper right-hand corner of the page. If the members of the Plan Commission were inclined to do so, the residing of the existing building has already started to take shape and in the opinion of Village Staff is a considerable improvement.

Village Staff in January scheduled an Architectural Review Board (ARB) meeting for the reconsideration of building plans for Pleasant Hill Pub and Grill. The plans were originally passed and approved by the Architectural Review Board in July of 2019 but were since modified by the property owner. At the January 15th ARB meeting, the following motion was made with the revised drawings:

Motion by Commissioner Otto to recommend approval to the Plan Commission for the proposed design elevations for the building expansion of Pleasant Hill Pub and Grill located at 2102 STH 164 (Tax Key: V10_008200Z) subject to the following Conditions of Approval:

- 1) Elongate the windows on the East, South, and North elevations to the “B Windows” shown on the A800 schedule.
- 2) Regarding the overhang on the East elevation, that should be cut to a vertical hang.
- 3) The material for the “gable transition” should be mimicked on the East elevation with hardiplank below and the gingerbread staggered shake in the gable peak

Seconded by Commissioner Jason Duehring; Motion passed without objection.

Staff has reviewed the revised drawings and they have made the changes requested by the ARB.

Legal, Non-Conforming Building Expansion:

Back in 2016, the Plan Commission and the Village Board approved Ordinance O2016-10-01, an Ordinance that allowed for the expansion of legal, non-conforming buildings when they are petitioned by property owners. The idea behind this regulation is the Village has several buildings that for whatever reason have a legal, non-conforming status. Meaning, at the time the buildings were established, they were legally constructed. But now, they do not conform to one or more regulations of the Zoning District.

The subject property is Zoned B-4, Highway Business District. Presently, the setback for buildings from the right-of-way is 40'. The existing building is mere feet off the property boundary line. This proposed addition is jogged to the north, so it is operating on a different plane than the existing building. In the B-4, Highway Business District, the setback on the side yard shall be not less than equivalent to the yards in the adjoining District but not less than 10'. The A-1, Exclusive Agricultural District has a side yard setback of 25' from principal buildings. Utilizing the 1" equals 20' scale provided on the site plan, this proposed addition does not infringe on the side yard setback.



VILLAGE OF RICHFIELD

PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: February 6, 2020

SUBJECT: Site and Building review for Pleasant Hill Pub and Grill located at 2102 STH 164 (Tax Key: V10_008200Z) – Pleasant Hill Management LLC, petitioner

DATE SUBMITTED: January 30, 2020

SUBMITTED BY: Jim Healy, Village Administrator

Pursuant to Village Code Section 70.242(F)(1), the following criteria must be met in addition to the processes contained in Section 70.161(A) regarding Special Exceptions:

Property owners directly adjacent to the subject property are mailed notice of the hearing via USPO 1 st Class Mail five days before the hearing at their last known address;	Completed on 1/31
The existing building to which the addition will be attached is currently located within a setback/street-yard, side-yard, and/or rear-yard area;	Street yard
The existing building was legally established;	The Village has record of this building being a prominent part of the Pleasant Hill Hamlet dating back to the early 1900s.
The use of the existing building is legal conforming;	The proposed use is permitted as a Principal Use pursuant to Sec. 70.200(B)(9) and the Plan of Operation has been previously reviewed and approved by the Plan Commission.
The building addition is in compliance with the height limitations of the zoning district in which it is located, and is not greater in height than the contiguous portion of the existing building;	The existing building is a two-story structure, the proposed addition is a single-story which complies with this requirement.
The building addition does not extend closer to the lot line that is the lot line that is creating the non-conforming situation than the existing building [(i.e. the non-conforming aspect(s) of the building addition is/are not made worse by the proposed expansion];	The proposed building addition is offset from the existing structure on the street side and on the northside of the building is flush with the existing structure.
The building addition does not extend into a setback/street-yard, side-yard, and/or rear-yard area the existing building does not currently encroach upon rendering the proposed building non-conforming in a manner it was not previously, prior to the proposed expansion; and	This building does not extend into the side yard setback requirements of 25'.
The building addition complies with all other requirements that may apply.	The building complies with all other aspects of the Village Code.

In addition to the requirements contained in Village Code Sec. 70.161(A), the Plan Commission should consider the following factors:

- The size and location of the existing legal, non-conforming building.
- The size and location of any other buildings on the subject property.
- The size and location of the proposed expansion.
- The necessity of constructing the building addition within the setback/street-yard, side yard, and/or rear-yard.
- The proximity of building and other structures on adjoining properties.

Regarding these points of discussion, it should be noted the property owner to the east gave Pleasant Hill Management LLC an additional acre of land to make this expansion possible. The surrounding farmland, owned by Herb and Sharon Lofy as well as the Richfield Historical Society has been placed in a conservation easement program with the Tall Pines Conservancy, which is based out of Nashotah. A conservation easement is a permanent, legally binding agreement between a landowner and a qualified



VILLAGE OF RICHFIELD

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DATE SUBMITTED: January 30, 2020

SUBMITTED BY: Jim Healy, Village Administrator

conservation organization or public agency that restricts the use of the land to protect its nature features. Currently, there are no other buildings on the property. The previously existing residential home and detached accessory garage were razed under permit with the Building Inspection Department in 2019. The existing first floor footprint is 1,873sqft. This proposed expansion is 1,568. On the existing building, the second story apartment has been converted for use of storage and administrative functions related to the business. As a part of this expansion, the property owner is proposing an expansion of the seating area and kitchen area of the building. In looking at the Site Plan, it is the opinion of Staff that the current layout is a logical expansion of the current floorplan.

Pursuant to Sec. 70.161A(C) regarding the “Basis of Decision”, the Plan Commission must consider the following:

- The size of the property in comparison to other properties in the area. *The surrounding property to the north and east is a 38-acre homestead farm. The properties directly south of 0.75ac, 2.03, and 1.73acres, respectively.*
- The extent to which the issuance of the special exception would be keeping with the overall intent of the Code. *This provision of the Code was expressly created by the Plan Commission and Village Board to consider these types of unique circumstances.*
- Whether there are any unique circumstances and the nature of those circumstances that warrant the issuance of the special exception permit. *This building dates to 1887, making it certainly one of the older buildings in the Village, especially one that is still used commercially to this day.*
- The nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception permit is granted. *The property owner is conducting a wetland delineation on the eastside of his property in early spring. Until the results are known, the property owner has designed this site to be protective of this area. Based on the review of wetland maps by Village Engineer Ron Dalton, he does not believe this will be an issue.*
- Actions the applicant will undertake to mitigate the negative effects, if any, of the proposed special exception. *The property owner has set the proposed building expansion further off Pleasant Hill Road and is proposing to not allow parking access off Pleasant Hill Road, temporarily. The Village may also institute “No Parking” in this area of Pleasant Hill Road.*
- A factor specifically listed under the Section authorizing the issuance of a special exception permit. *The aforementioned ordinance allows the expansion of legal, non-conforming buildings under this subsection.*

Site, Grading and Erosion Control:

The site plan is reflective of the CSM that was reviewed and approved by the Plan Commission in July of 2019. The CSM created a 1.416-acre parcel. In the B-4, Highway Business District, the minimum size for lots is 1-acre. Pursuant to Sect. 70.185 of the Village Code which deals with parking, “Restaurants, bars and places of entertainment” shall have 1 parking stall per 100sqft of gross floor area.

Existing First Floor – 1,873sqft
 Addition First Floor – 1,568
 TOTAL – 3,441
 Parking Stalls required – 34
 Parking Stalls proposed – 58 (4x handicapped)

Access has been given off of STH 164 with a 35’ wide commercial access point. Other, previously held, access points were vacated by the property owner in favor of the existing one shown on the site plan. The access off Pleasant Hill Road will be closed until the results of the wetland delineation have been completed in the Spring by a qualified engineer. This parking lot will be constructed with asphalt and done in two (2) lifts. At the request of the Village Engineer, a buffer yard off STH 164 has been installed consistent with our Village Code.



VILLAGE OF RICHFIELD

PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: February 6, 2020

SUBJECT: Site and Building review for Pleasant Hill Pub and Grill located at 2102 STH 164 (Tax Key: V10_008200Z) – Pleasant Hill Management LLC, petitioner

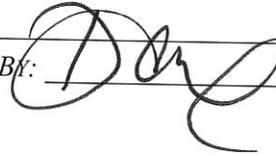
DATE SUBMITTED: January 30, 2020

SUBMITTED BY: Jim Healy, Village Administrator

On January 29th, Village Engineer Ron Dalton reviewed the site, grading and erosion control plan and provided four (4) comments back to the property owner. It is included in the attachments for your convenience and it is our recommendation that it be approved subject to the final review and approval of the Village Engineer.

Please be advised, the Landscaping Plan and Lighting Plan will be forthcoming. Regarding the Lighting Plan, there will be no parking lot lights, only fixtures on the building so the impact will be negligible. The Plan of Operation has been previously reviewed and approved by the Plan Commission. However, at the present time the restaurant is closed due to extensive interior remodeling currently taking place.

FUTURE IMPACT AND ANALYSIS:

REVIEWED BY:  Village Deputy Clerk

Forward to Village Board: No.
Additional Approvals Needed: No.
Signatures Required: No.

ATTACHMENTS

1. SBOP submittal materials prepared by Foundation Architects dated 12/3/2019
2. Letter dated January 29, 2020 from Village Engineer Ron Dalton
3. Ordinance O2016-10-01, An Ordinance amending Chapter 70 of the Village Code of Ordinances relating to legal, non-conforming structures
4. 70.161A Special Exception

STAFF RECOMMENDATION:

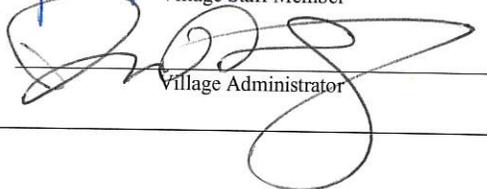
Architectural Design Plan:

Motion to accept the recommendation of the Architectural Review Board for the approval of the design elevations, as presented, for Pleasant Hill Pub and Grill, located at 2102 STH 164 (Tax Key: V10_008200Z) and to allow the expansion of the legal, non-conforming building subject to Village Code Section 70.161A relating to Special Exceptions and Ordinance O2016-10-01.

Site, Grading and Erosion Control Plan:

Motion to accept the recommendation of the Village Engineer per his letter dated January 23, 2020 for Pleasant Hill Pub and Grill located at 2102 STH 164 (Tax Key: V10_008200Z)

APPROVED FOR SUBMITTAL BY:


Village Staff Member

Village Administrator

VILLAGE CLERK USE ONLY
BOARD ACTION TAKEN

Resolution No. _____
Ordinance No. _____
Approved _____
Other _____

Continued To: _____
Referred To: _____
Denied _____
File No. _____

EROSION CONTROL PRACTICES SCHEDULE

1. SILT FENCE
2. INLET GRATE SCREEN

CONSTRUCTION SCHEDULE

1. OBTAIN PLAN APPROVAL AND OTHER APPLICABLE PERMITS.
2. INSTALL SILT FENCE.
3. INSTALL INLET GRATE SCREENS IN ALL EXISTING STORM INLETS AND CATCH BASINS IN AND NEAR THE CONSTRUCTION AREA.
4. ROUGH GRADE SITE.
5. BEGIN BUILDING CONSTRUCTION.
6. INSTALL NEW ASPHALT PAVEMENTS.
7. FINAL GRADE SLOPES AND TOPSOIL. CRITICAL SLOPES, VEGETATE AND MULCH ALL DISTURBED AREAS.
8. AFTER SITE IS STABILIZED, REMOVE ALL TEMPORARY MEASURES AND VEGETATE THE DISTURBED AREAS.

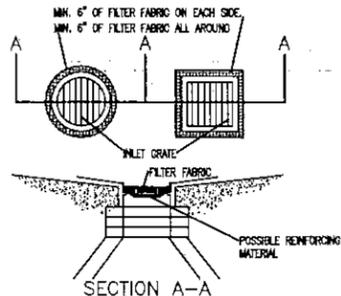
MAINTENANCE PLAN

1. ALL EROSION AND SEDIMENT CONTROL PRACTICES TO BE CHECKED FOR STABILITY AND OPERATION FOLLOWING EVERY 2ND RAINFALL-PRODUCTION RAINFALL BUT IN NO CASE LESS THAN ONCE EVERY WEEK. ANY NEEDED REPAIRS TO BE MADE IMMEDIATELY TO MAINTAIN ALL PRACTICES AS DESIGNED.
2. SEDIMENT TO BE REMOVED FROM BEHIND THE SILT FENCE WHEN IT BECOMES ABOUT 0.5 FT. DEEP AT THE FENCE. THE SILT FENCE IS TO BE REPAIRED AS NECESSARY TO MAINTAIN A BARRIER.
3. ALL SEEDING AREAS TO BE WATERED, FERTILIZED, RESEED AS NECESSARY, AND MULCHED TO MAINTAIN A WOODRUS, DENSE VEGETATIVE COVER.
4. ANY SEDIMENT REACHING A PUBLIC OR PRIVATE ROAD SHALL BE REMOVED BY STREET CLEANING BEFORE THE END OF EACH DAY.

INLET GRATE SCREEN CONSTRUCTION SPECIFICATIONS

1. REMOVE INLET GRATE AND PLACE A SINGLE SHEET OF FILTER FABRIC ACROSS THE OPENING. THE FABRIC SHOULD EXTEND AT LEAST 6" BEYOND THE INLET OPENING. A REINFORCING MATERIAL MAY BE REQUIRED TO PREVENT SAGGING.
2. SEDIMENT DEPOSITS SHALL BE REMOVED AFTER EACH STORM EVENT OR AT A DEPTH OF 1". EXTREME CARE SHALL BE TAKEN NOT TO SPILL ACCUMULATED SEDIMENT INTO INLET, WHEN CLEANING OR REPLACING FILTER FABRIC.
3. FILTER FABRIC SHALL HAVE THE FOLLOWING PROPERTIES:
 - A. GRAB STRENGTH: 100 LBS. (ASTM D-3786)
 - B. MULLEN BURST: 200 PSI (ASTM D-3786)
 - C. EQUIVALENT OPENING SIZE: BETWEEN 50 AND 140 FOR SOILS WITH MORE THAN 15 PERCENT BY WEIGHT PASSING A NO. 200 SIEVE, BETWEEN 20 AND 50 FOR SOILS WITH LESS THAN 15 PERCENT BY WEIGHT PASSING A NO. 200 SIEVE.
 - D. WATER FLOW RATE OF 10 GAL/MIN./SQ.FT. AT 50 MM CONSTANT HEAD (ASTM D-4491)
 - E. ULTRA VIOLET RADIATION STABILITY OF 80% F. IF SUPPORT NETTING IS REQUIRED, NETTING SHALL BE AN INDUSTRIAL POLYPROPYLENE WITH A 3/4 INCH SPACING OR EQUIVALENT.

NOTE: INSTALL IN ALL STORM INLETS AND CATCH BASINS LOCATED WITHIN AND ADJACENT TO THE CONSTRUCTION AREA



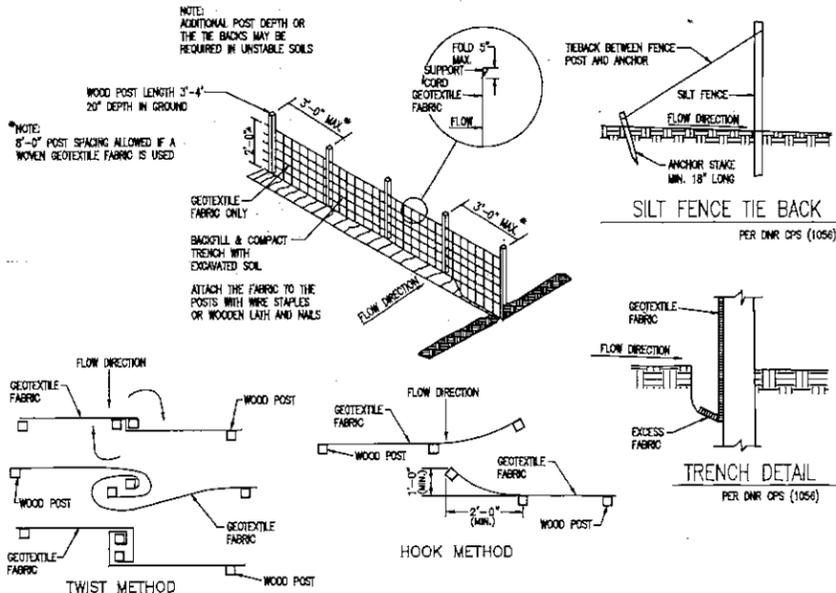
INLET GRATE SCREEN PER WDNR TECHNICAL STANDARD 1060

2 NOT TO SCALE

SILT FENCE CONSTRUCTION SPECIFICATIONS PER DNR OPS (1056)

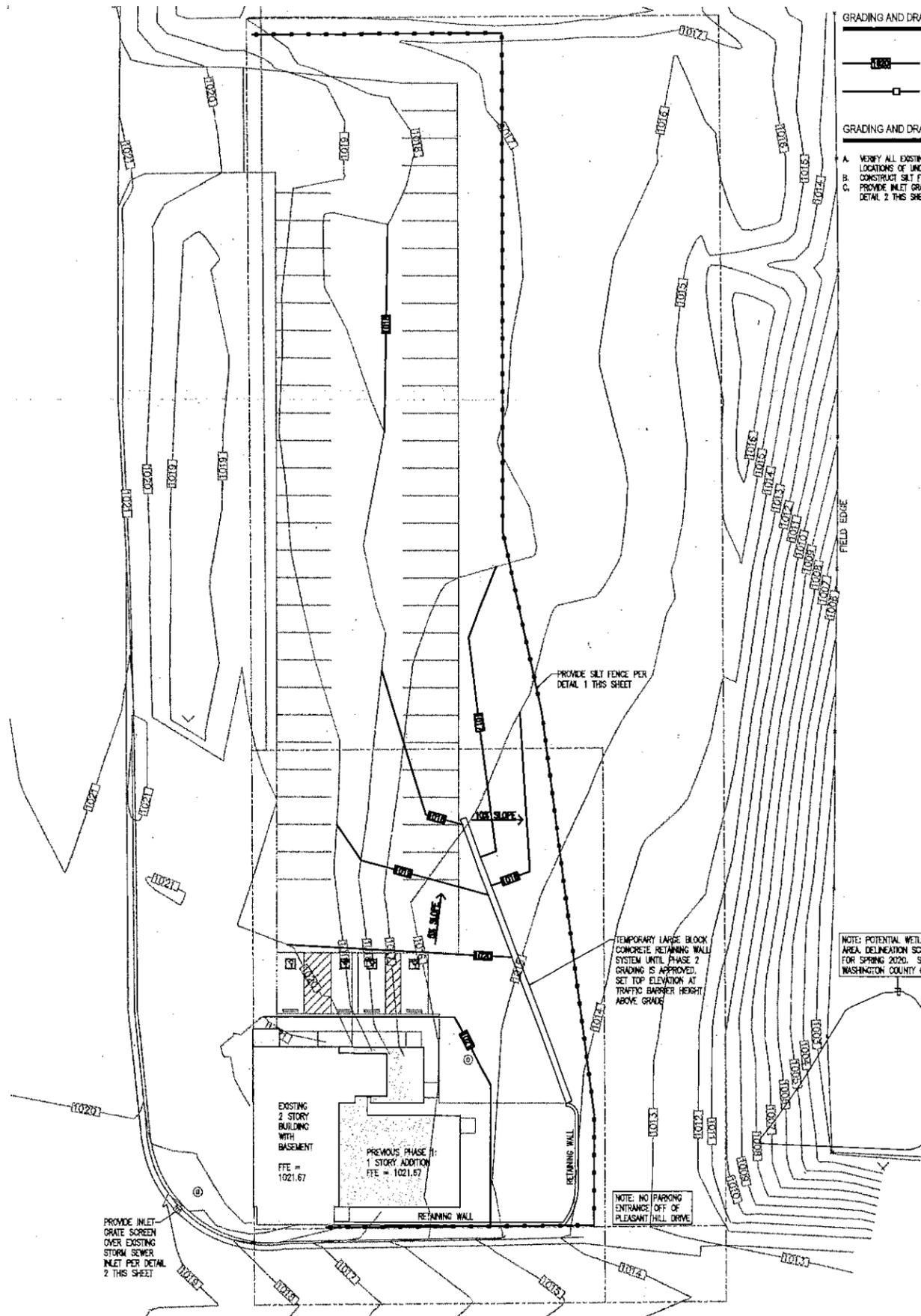
1. CONSTRUCTION SILT FENCE AROUND THE DISTURBED AREA AS SHOWN ON GRADING AND DRAINAGE PLAN, TO PREVENT SEDIMENT FROM BEING WASHED INTO THE DRAINAGE SYSTEM.
2. LOCATE POSTS PER DNR OPS (1056)
3. WHEN JOINTS ARE NECESSARY, REFER TO DNR OPS (1056)
4. FILTER FABRIC TO BE OF NYLON, POLYESTER, PROPYLENE OR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

NOTE: ADDITIONAL POST DEPTH OR THE TIE BACKS MAY BE REQUIRED IN UNSTABLE SOILS



SILT FENCE PER WDNR TECHNICAL STANDARD 1056

1 NOT TO SCALE



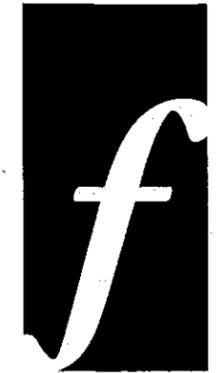
GRADING AND DRAINAGE PLAN - SYMBOLS LEGEND

- PROPOSED CONTOUR
- OUTLINE OF EXISTING BUILDING TO REMAIN
- SILT FENCE
- PROPOSED ADDITION

GRADING AND DRAINAGE PLAN - GENERAL NOTES

- A. VERIFY ALL EXISTING DIMENSIONS AND CONDITIONS. CONTACT DIGGERS HOTLINE AND VERIFY LOCATIONS OF UNDERGROUND UTILITIES PRIOR TO INITIATION OF SITEWORK.
- B. CONSTRUCT SILT FENCING AS SHOWN PER DETAIL 1 THIS SHEET.
- C. PROVIDE INLET GRATE SCREEN AT ALL EXISTING STORM INLETS NEAR AREA OF CONSTRUCTION PER DETAIL 2 THIS SHEET.

PHASE 1 GRADING AND DRAINAGE PLAN
 AREA OF LAND DISTURBANCE = .411 ACRES (17,824 SQ. FT.)
 1"=20'-0"



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 2625 S. Greeley Street, Ste 203
 Milwaukee, WI 53207
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CONSULTING
 PROJECT TITLE AND LOCATION

Pleasant Hill Bar Addition and Renovation
 2102 WI-164
 Richfield, Wisconsin 53076

REVISIONS

01-29-2020	SITE REVISIONS
12-3-2019	PLAN APPROVAL DRAWINGS
19012	FOUNDATION ARCHITECTS PROJECT NUMBER
12-3-2019	DATE
PHASE 1 GRADING AND DRAINAGE PLAN	SHEET TITLE
A002	SHEET NUMBER

CALL DIGGERS HOTLINE
 1-800-242-8511
 TOLL FREE
 IS STATUTE 182.0175(1974)
 REQUIRES MIN. 3 WORK DAYS
 NOTICE BEFORE YOU EXCAVATE
 M.L.W. AREA 256-1181



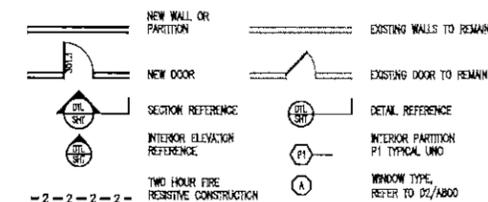
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DATE: 12-3-2019

FLOOR PLAN - SYMBOLS LEGEND



FLOOR PLAN - GENERAL NOTES

- A. FIELD VERIFY ALL DIMENSIONS AND CONDITIONS AT JOB SITE.
- B. PROVIDE TEMPERED GLASS IN ALL DOORS AND WHERE REQUIRED BY CODE.
- C. EXTEND ALL NEW SOUND PARTITIONS FULL HEIGHT (BOTH SIDES) TO UNDERSIDE OF DECK ABOVE AND SEAL PERIMETER AND PENETRATIONS TO REASONABLY SAFEGUARD PRIVACY.
- D. REFER TO DESIGN BUILD PLUMBING, HVAC AND ELECTRICAL PLANS FOR ADDITIONAL ITEMS AND NOTES. COORDINATE WORK WITH PLUMBING, HVAC AND ELECTRICAL REQUIREMENTS.

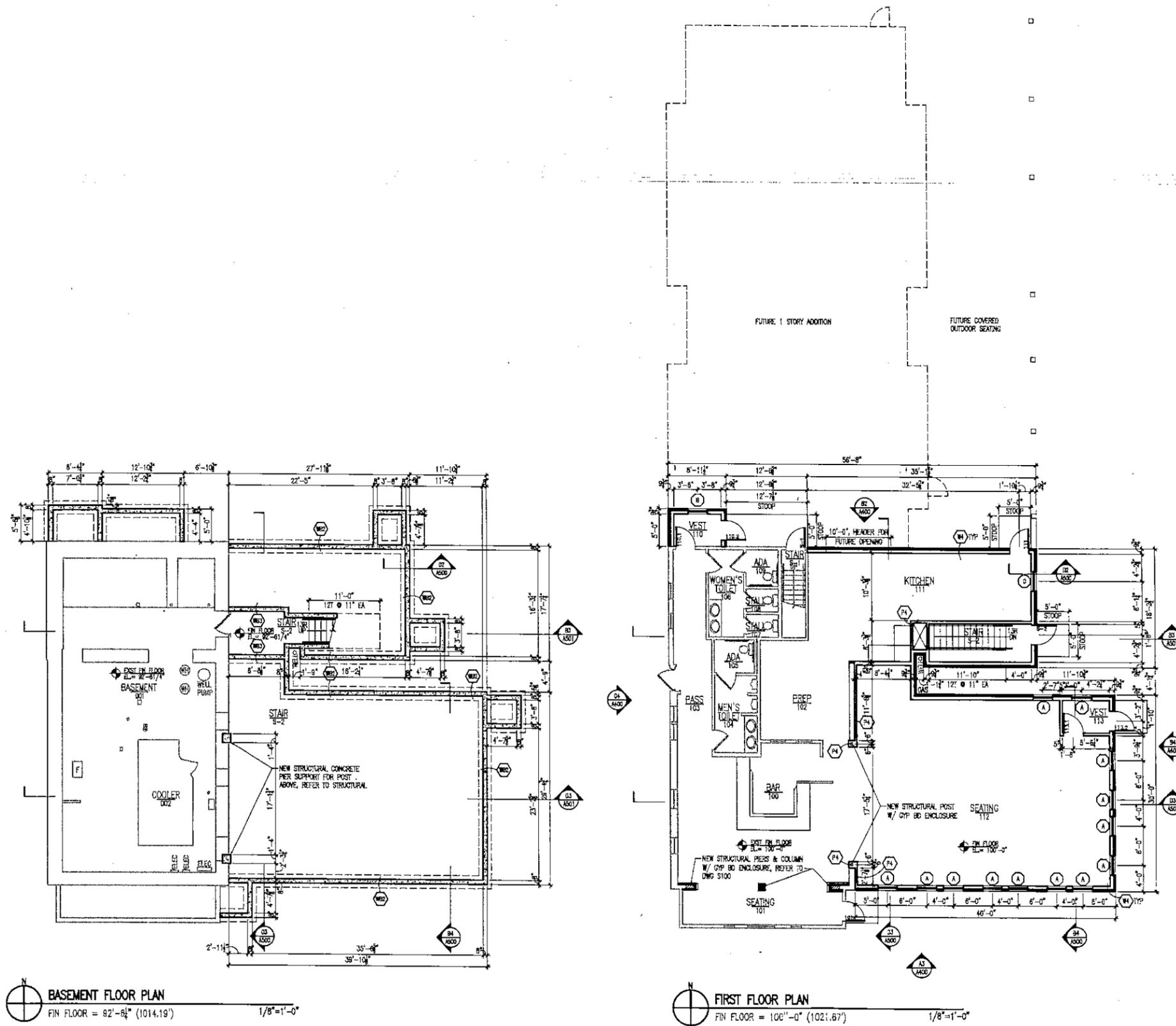
INTERIOR PARTITION LEGEND

- (P1) SOUND PARTITION: 2x4 WOOD STUDS @ 16" OC W/ 3" SOUND ATTENUATION INSUL & 5/8" GYP BO EA FACE. PROVIDE SEALANT AT ALL GYP BO PERIMETERS AND PENETRATIONS TO REASONABLY SAFEGUARD PRIVACY.
- (P2) 2 HR FIRE RATED WALL: 2x4 WOOD STUDS @ 16" OC W/ 3" GLASS FIBER BATT INSULATION & (2) LAYERS 5/8" TYPE X GYP BO EA FACE. PROVIDE 2 HR RATED UL (L300) DESIGN WHERE 2 HR CONSTRUCTION IS INDICATED. EXTEND FULL HEIGHT (BOTH SIDES) TO UNDERSIDE OF DECK ABOVE. PROVIDE SEALANT AT ALL GYP BO PERIMETERS AND PENETRATIONS TO REASONABLY SAFEGUARD PRIVACY AND TO MATCH FIRE RATING REQUIREMENTS.
- (P4) FURRED PARTITION: 2x4 WOOD STUDS @ 16" OC W/ 5/8" GYP BO. COORDINATE RELOCATION OF ELECTRICAL BOXES AND CONDUIT AS NECESSARY TO INSTALL NEW SURFACE. EXTEND 3" MIN ABOVE CEILING HEIGHT.

EXTERIOR WALL TYPE LEGEND

- GENERAL NOTES:
1. ALL EXTERIOR WALLS TYPE W4 UNLESS NOTED OTHERWISE.
 2. ALL EXTERIOR WALLS (BELOW GRADE) TYPE W62 UNLESS NOTED OTHERWISE.
 3. REFER TO EXTERIOR ELEVATIONS FOR LOCATIONS OF SOUND STYLE AND PATTERN CHANGES.

- (W4) EXTERIOR WALL: STUD WALL CONSISTING OF LP SMARTSIDE SIDING, 2" RIGID INSULATION, SPRAY APPLIED AIR BARRIER ON (1) LAYER 5/8" GLASS MAT GYPSUM SHEATHING, 2x6 WOOD STUDS @ 16" O.C. WITH FULL THICKNESS BATT INSULATION, VAPOR RETARDER AND (1) LAYER 5/8" TYPE X GYPSUM BOARD AT INTERIOR FACE. REFER TO EXTERIOR ELEVATIONS FOR SIDING TYPE AND COLOR CHANGES.
- (W62) EXTERIOR WALL (BELOW GRADE): REINFORCED CAST-IN-PLACE CONCRETE FOUNDATION WALL. PROVIDE 2" RIGID FOUNDATION INSULATION. EXTEND 48" VERTICALLY ON WALL AND 24" HORIZONTALLY BELOW FLOOR SLAB. REFER TO DRAWINGS FOR THICKNESSES.
- (W63) EXTERIOR WALL (BELOW GRADE): REINFORCED CAST-IN-PLACE CONCRETE FOUNDATION WALL W/ FLUID APPLIED WATERPROOFING SYSTEM. PROVIDE 2" RIGID FOUNDATION INSULATION. EXTEND 48" VERTICALLY ON WALL AND 24" HORIZONTALLY BELOW FLOOR SLAB. REFER TO DRAWINGS FOR THICKNESSES.



BASEMENT FLOOR PLAN
 FIN FLOOR = 82'-8 1/2" (1014.19)
 1/8"=1'-0"

FIRST FLOOR PLAN
 FIN FLOOR = 100'-0" (1021.67)
 1/8"=1'-0"

Pleasant Hill Bar Addition and Renovation
 2102 WI-164
 Richfield, Wisconsin 53076

REVISIONS

NET TYPE: PERMIT DRAWING SET

FOUNDER ARCHITECTS PROJECT NUMBER: 15012

DATE: 12-3-2019

PROJECT TITLE: BASEMENT FLOOR PLAN - FIRST FLOOR PLAN

PROJECT NUMBER: **A200**

DEMOLITION PLAN - SYMBOLS LEGEND

	EXISTING WALLS TO REMAIN		EXISTING DOOR TO REMAIN
	EXISTING WALLS TO BE REMOVED		EXISTING DOOR TO BE REMOVED
	EXISTING ITEM TO REMAIN		EXISTING ITEM TO BE REMOVED
	CONSTRUCTION LIMITS		

DEMOLITION PLAN - GENERAL NOTES

- VERIFY ALL EXISTING DIMENSIONS AND CONDITIONS. VERIFY ELECTRICAL IN PARTITIONS SHOWN TO BE DEMOLISHED AND RELOCATE PER CODE. COORDINATE WITH DESIGN BUILD PLANS.
- CONSTRUCT A DUST-PROOF PARTITION TO CONTAIN AREAS OF CONSTRUCTION.
- WHERE EXISTING PLUMBING IS REMOVED CAP PER CODE AND FIRE SEAL OR IN-fill PENETRATION TO MATCH EXISTING CONSTRUCTION.
- REFER TO DESIGN BUILD PLUMBING, HVAC AND ELECTRICAL PLANS FOR ADDITIONAL DEMOLITION ITEMS AND NOTES. COORDINATE WORK WITH PLUMBING, HVAC AND ELECTRICAL REQUIREMENTS.
- MAINTAIN CONTINUOUS UTILITY SERVICE TO ALL SPACES IN THE BUILDING NOT AFFECTED BY THIS WORK. COORDINATE WITH OWNER ANY DISRUPTION IN SERVICES REQUIRED TO PERFORM WORK OR TO MOOVE EXISTING PIPING, DUCTWORK OR ANY ASSOCIATED EQUIPMENT. RECEIVE AUTHORIZATION FROM JOHN LOESEN AND PLEASANT HILL BAR IF DISRUPTION WILL AFFECT THEIR OPERATION.
- REMOVE FLOOR FINISHES, INCLUDING SETTING BED IN CERAMIC TILE AREAS, WHERE NEW FLOORING IS INDICATED.
- REMOVE SUSPENDED CEILINGS AND RELATED HANGERS, OR GYPSUM BOARD/ PLASTER CEILINGS WHERE NEW CEILINGS ARE INDICATED ON REFLECTED CEILING PLAN OR ROOM FINISH SCHEDULE.
- REMOVE ALL INTERIOR AND WALL MOUNTED ITEMS IN AREAS INDICATED TO RECEIVE NEW FINISHES INCLUDING BUT NOT LIMITED TO, CABINETS, EQUIPMENT, SHELVING, HANDRAILS, CLOSET POLES, MIRRORS, WALL AND CEILING TRIM, BASE.



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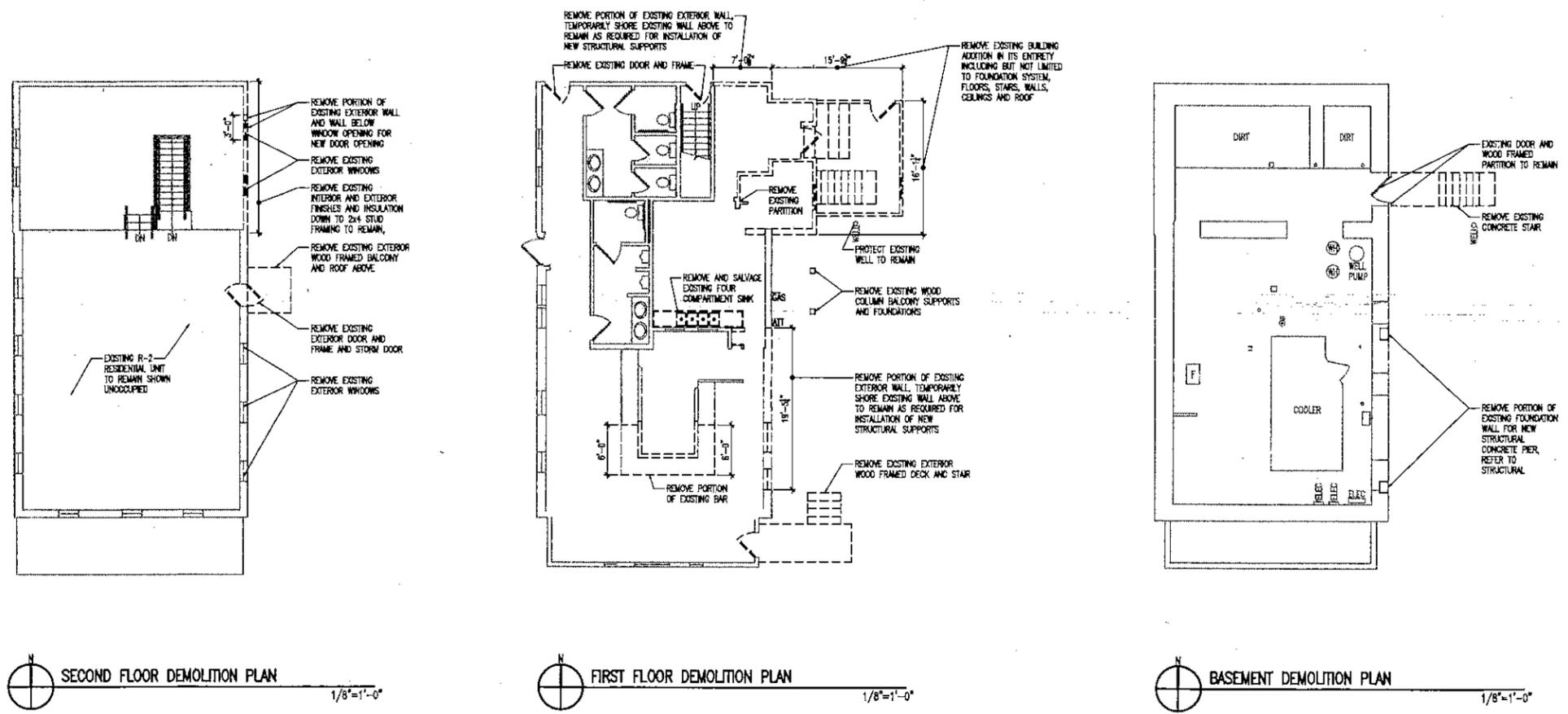
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Milwaukee, WI 53207

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CONSULTANT

PROJECT TITLE AND LOCATION



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

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

BASEMENT DEMOLITION PLAN
1/8"=1'-0"

Pleasant Hill Bar
Addition and Renovation
2102 WI-164
Richfield, Wisconsin 53076

REVISIONS

- ▲
- ▲
- ▲
- ▲
- ▲
- ▲

SET TITLE

PERMIT DRAWING SET

FOUNDATION AND PERMITS PROJECT NUMBER
19012

DATE

12-3-2016

SHEET TITLE

BASEMENT, FIRST FLOOR AND SECOND FLOOR DEMOLITION PLANS

SHEET NUMBER

A100

CEILING PLAN - SYMBOLS LEGEND

	2'-0" X 4'-0" SUSPENDED EXPOSED GRID WITH LAY-IN ACOUSTIC CEILING PANELS.		RECESSED DOWN LIGHT
	GYPSON BOARD CEILING OR BOLDBOARD		CEILING HEIGHT
	CONSTRUCTION LIMITS		

CEILING PLAN - GENERAL NOTES

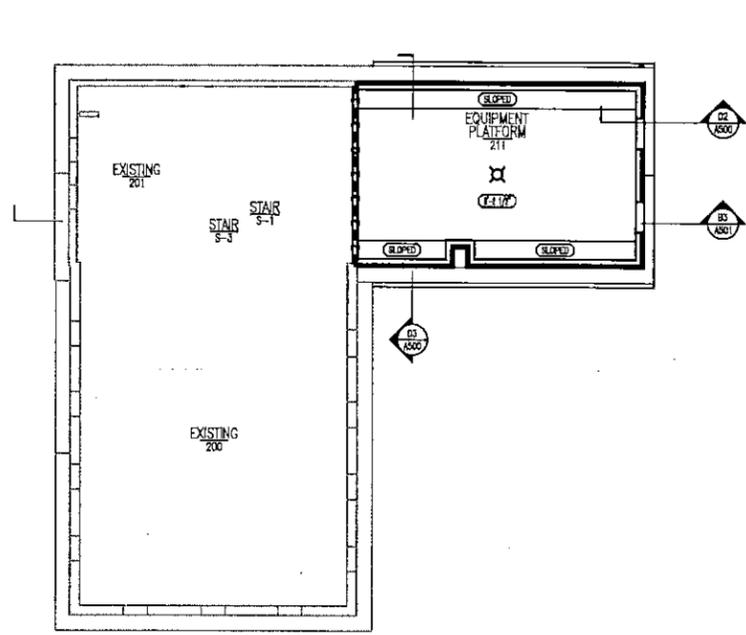
- LISTING DESIGN BUILT BY OTHERS. DESIGN ASSUMES LAYIN 2X4 FIXTURES. LIGHTING SHOWN DIAGRAMMATICALLY FOR SCOPE PURPOSES ONLY.
- DESIGN BUILT HAVG TO PROVIDE ACCESS PANELS TO OWNER FOR AREAS WHERE NEW OR ALTERED GYPSUM CEILINGS ARE SHOWN TO PROVIDE ACCESS TO HVAC EQUIPMENT WHERE REQUIRED.



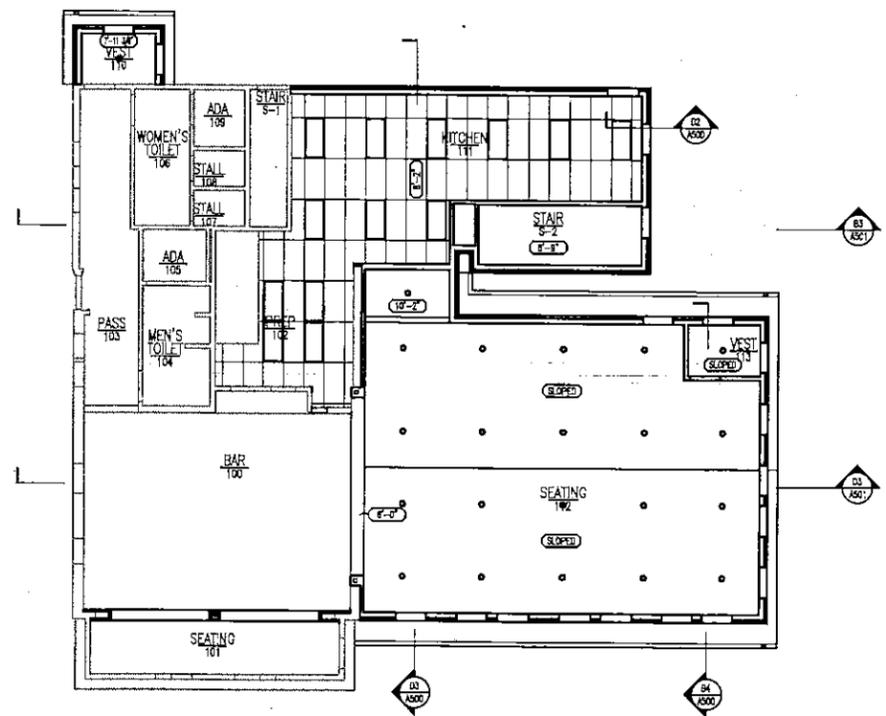
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CONTRACT

PROJECT NAME AND LOCATION



 **FIRST FLOOR REFLECTED CEILING PLAN**
 1/8"=1'-0"



 **FIRST FLOOR REFLECTED CEILING PLAN**
 1/8"=1'-0"

**Pleasant Hill Bar
 Addition and Renovation**
 2102 WI-164
 Richfield, Wisconsin 53076

A300



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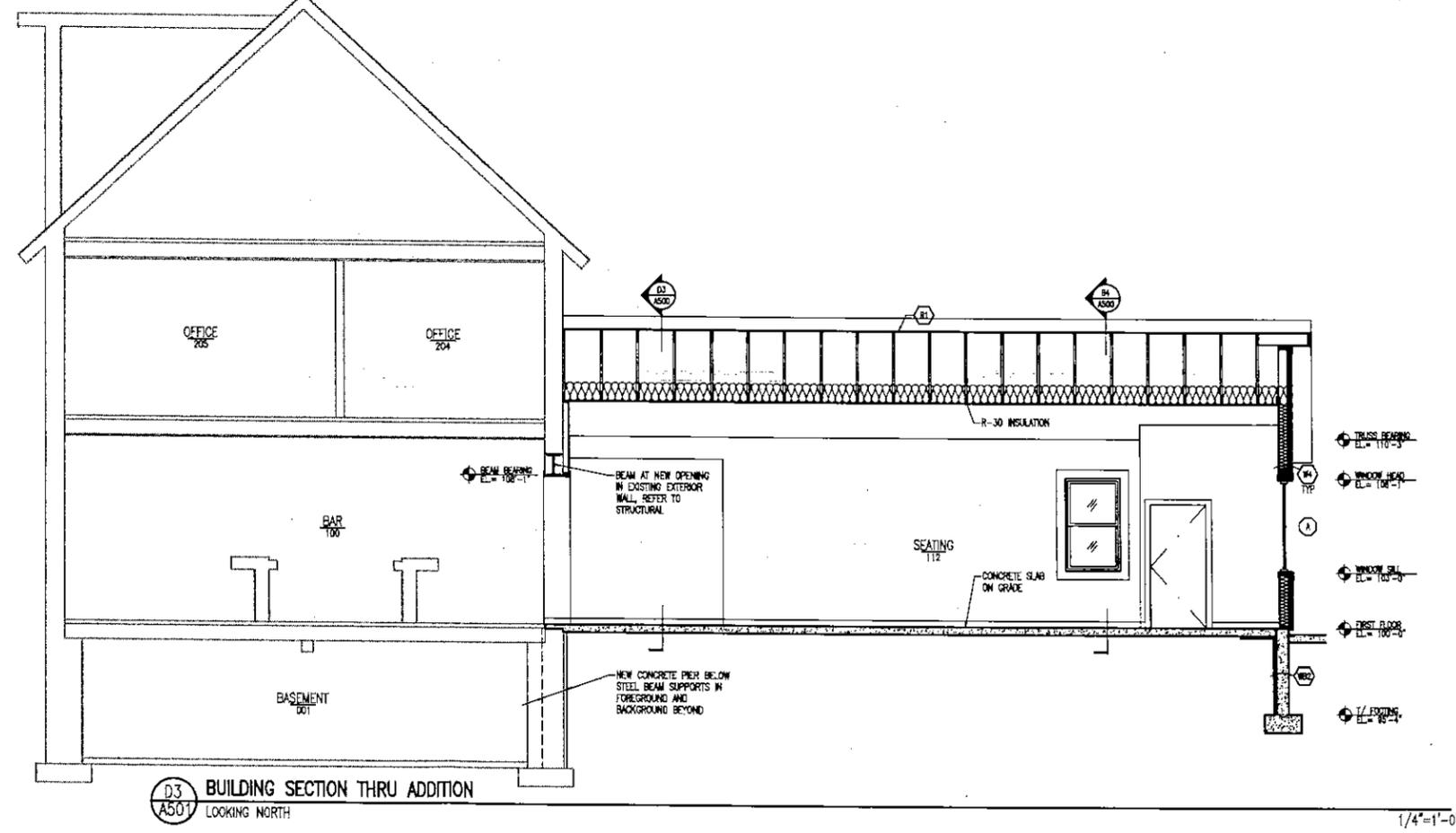
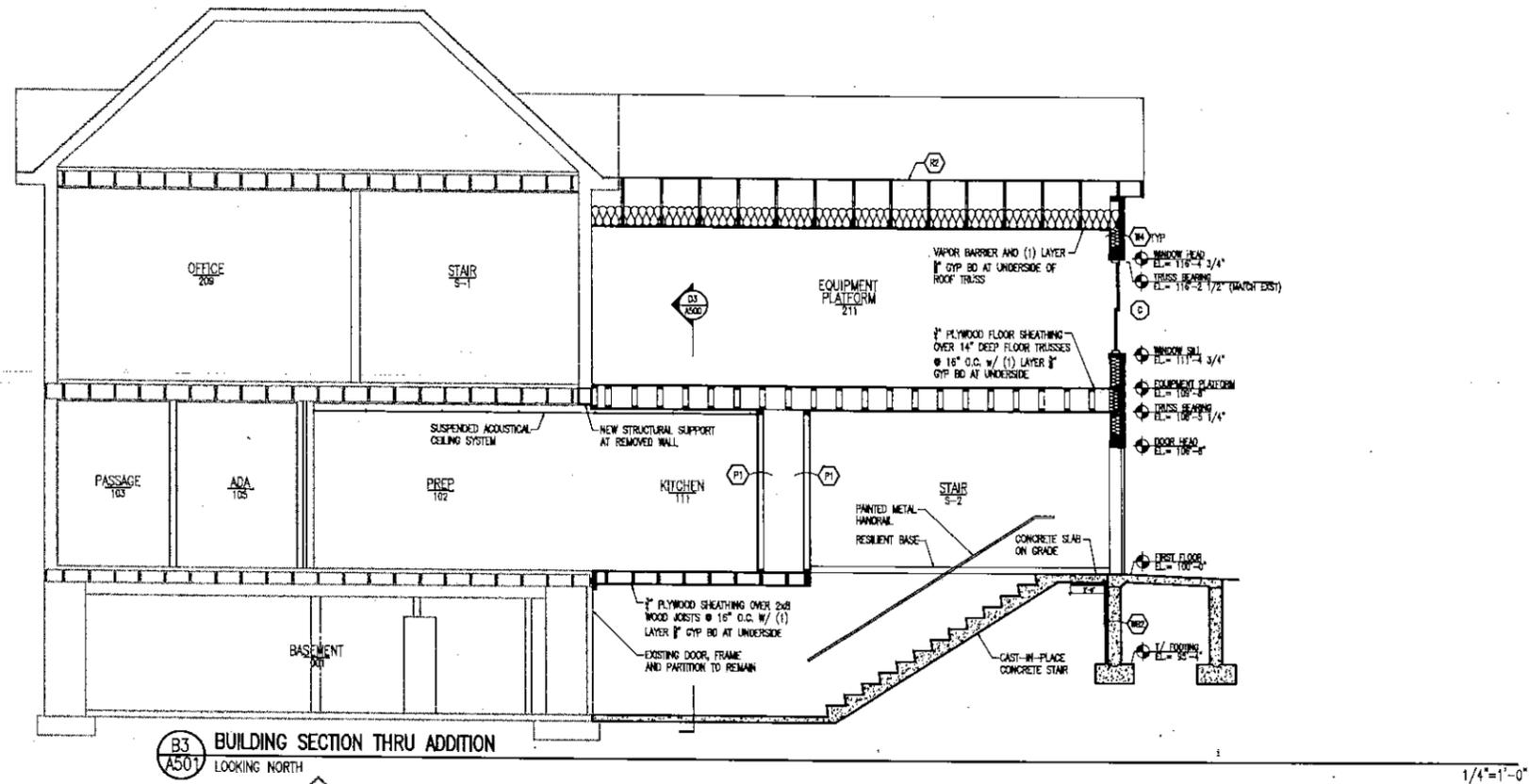
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CORNER

PROJECT NAME AND LOCATION



Pleasant Hill Bar
Addition and Renovation
2102 WI-164
Richfield, Wisconsin 53076

REVISIONS
NO. 1
NO. 2
NO. 3
NO. 4
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NO. 6
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PROJECT NUMBER
A501

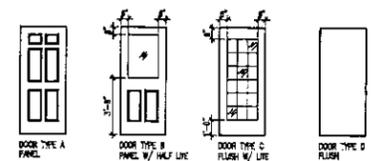
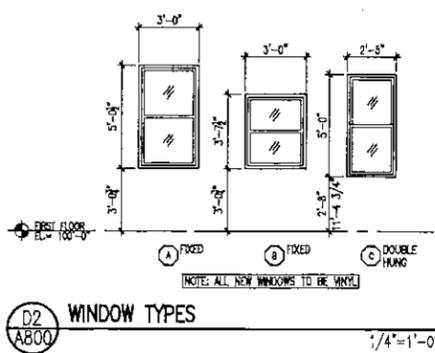
MATERIAL SCHEDULE				architecture : interior design FOUNDATION
CODE	PRODUCT	DESCRIPTION	MANUFACTURER	
CAST-IN-PLACE CONCRETE - DIVISION 3				
SCONC-1	Concrete - Sealer	Clear	3M	
ARCHITECTURAL WOODWORKING - DIVISION 6				
WD-1	Wood Veneer	TBD	TBD	
WB-1	Wood Casing & Base	* Profiled Wood Casing and Base Trim to match Existing	-	
FRP-1	Fiberglass Reinf. Plastic	85 White, Pebbled Embossed Glassboard w/Trim Accessories	Keritite/Crane Composites	
ACOUSTICAL CEILING - DIVISION 9				
AC-1	Acoustical Ceiling	3270 White, Sheetrock Lay-In Clirra Plus - 24"x48"x1/2", w/Sq Edge Use with 15/16" White, Donn grid	USG	
TILE - DIVISION 9				
QT-1	Quarry Tile	Color TBD	TBD	
GR-1	Grout	Natural, Standard Series by Hydroment	Boatik	
RESILIENT FLOORING - DIVISION 9				
RST-1	Resilient Tread w/Integrated Riser	63 Burnt Umber VTRTR-SQ Raised Square Tread w/Tan Grit Tape	Johnsonite	
RB-1	Resilient Base	COLOR TBD, Rubber - 4" High Cove	Johnsonite	
RB-2	Resilient Base	COLOR TBD, Rubber - 2-1/2" High Cove	Johnsonite	
RUB-1	Rubber - Landing Tile	RT-63 Burnt Umber - SQ, Rubber w/raised Square - 24"x24"	Johnsonite	
C-1	Walk-Off Mat	TBD	TBD	
VCT-1	Vinyl Composition Tile	Color TBD - 12"x12"x1/8"	TBD	
	Subfloor Leveler System	Black, Reduce height to 0 at transition	Johnsonite	
		* Provide Transition Strip TBD by Johnsonite		
PAINT - DIVISION 9 (Room Finish Schedule designations: PAF=FLAT, PAS=SEMI-GLOSS, PAT=SATIN)				
PA-1	Paint	Decorators White	Benjamin Moore	
PA-2	Paint	* Wall color to match existing	-	
PA-3	Paint	* Wood casing color to match existing	-	
PA-4	Paint	* Wood base color to match existing	-	
STN-1	Stain	* Custom color to match Architect sample	-	

ROOM FINISH SCHEDULE												architecture : interior design FOUNDATION
ROOM #	ROOM NAME	FLOOR	BASE	WALLS	NORTH	EAST	SOUTH	WEST	CEILING	TYPE	NOTES	
BASEMENT												
S-2 001 002	STAIR BASEMENT COOLER	SCONC-1/RST-1 EXST EXST	EXST EXST	CONC EXST	PAT-2 EXST	PAT-2 EXST	PAT-2 EXST	PAT-2 EXST	GYP BD EXPOSED EXST	PAF-1 EXST		
FIRST FLOOR												
S-1 S-2 100 101 102 103 104 105 106 107 108 109 110 111 112 113	STAIR STAIR BAR SEATING PREP PASSAGE MEN'S TOILET ADA WOMEN'S TOILET STALL STALL ADA VESTIBULE KITCHEN SEATING VESTIBULE	EXST RUB-1/RST-1 EXST/VCT-1 EXST EXST/QT-1 EXST EXST EXST EXST EXST EXST C-1 QT-1 VCT-1 C-1	EXST RB-1 EXST/WB-1 EXST EXST/QT-1 EXST EXST EXST EXST EXST EXST WB-1 QT-1 WB-1 WB-1	GYP BD EXST/GYP BD EXST EXST/GYP BD EXST EXST EXST EXST EXST EXST GYP BD GYP BD GYP BD GYP BD	PAT-2 EXST PAT-2 EXST EXST/FRP-1 EXST EXST EXST EXST EXST EXST PAT-2 FRP-1 PAT-2 PAT-2	PAT-2 EXST PAT-2 EXST EXST/FRP-1 EXST EXST EXST EXST EXST EXST PAT-2 FRP-1 PAT-2 PAT-2	PAT-2 EXST PAT-2 EXST EXST/FRP-1 EXST EXST EXST EXST EXST EXST PAT-2 FRP-1 PAT-2 PAT-2	PAT-2 EXST PAT-2 EXST EXST/FRP-1 EXST EXST EXST EXST EXST EXST PAT-2 FRP-1 PAT-2 PAT-2	GYP BD EXST/GYP BD EXST SUSP EXST EXST EXST EXST EXST EXST GYP BD SUSP GYP BD GYP BD	PAF-1 EXST EXST EXST AC-1 EXST EXST EXST EXST EXST PAF-1 AC-1 PAF-1 PAF-1	1,3,4,6,7 1,3,4,6 6,7 5 6,7 6,7	
SECOND FLOOR												
S-1 S-3 200 201 211	STAIR STAIR EQUIPMENT PLATFORM EQUIPMENT PLATFORM EQUIPMENT PLATFORM	EXST RST-1 EXST EXST PLYWOOD	EXST WB-1 EXST EXST WB-1	- - EXST/GYP BD EXST EXST/GYP BD	- - EXST EXST PAT-2	- - EXST EXST PAT-2	- - EXST EXST PAT-2	- - EXST EXST PAT-2	EXST EXST EXST EXST GYP BD	EXST EXST EXST EXST PAF-1	3,6,7 6,7	

- GENERAL NOTES**
- * Provide transition strips at all changes in floor finish.
 - * PAF = Paint with Flat Finish, PAT = Paint with Satin Finish, PAS = Paint with Semi-Gloss Finish, PAG = Paint with Gloss Finish
 - * Paint all surfaces of GYP Soffit color designated, TYP.
 - * All ductwork, hangers, supports and conduit that can be seen from any angle is to be painted.
 - * All wood doors and door frames to be painted per door schedule.
 - * All wood handrails and guardrails to be receive STN-1.
 - * All metal handrails and guardrails to be PAS-2.
 - * All electrical and HVAC equipment to be painted out to match wall and/or ceiling.
 - * Provide GR-1 w/floor tile. Provide GR-2 w/wall & base tile.
 - * Provide C-1 walk-off mat at each entrance.

- ROOM FINISH NOTES**
- 1 Patch floor to match existing.
 - 2 Patch ceiling to match existing.
 - 3 Patch wall to match existing finishes.
 - 4 Patch wall base and shoe molding to match existing profile and finishes.
 - 5 Provide full height FRP-1 at all walls this room.
 - 6 Paint new wood casing PA-3 to match existing.
 - 7 Paint new wood base PA-4 to match existing.

DOOR SCHEDULE												architecture : interior design FOUNDATION
DOOR #	ROOM #	ROOM NAME	SIZE (W x H)	TYPE	MAT'L	FINISH	CLASS	FRAME MAT'L	FRAME FINISH	HG	RATING	NOTES
FIRST FLOOR												
S-1	S-1	STAIR	3'-0" X 6'-8"	B	STL	PREF	IG	WD	PAS-3	1	-	1
S-2	S-2	STAIR	3'-0" X 6'-8"	A	STL	PREF	-	WD	PAS-3	1	-	1
101	101	SEATING	3'-0" X 6'-8"	B	STL	PREF	IG	WD	PAS-3	1	-	1
110.1	110	VESTIBULE	3'-0" X 6'-8"	B	WD	PAS-3	MG	WD	PAS-3	2	-	2
110.2	110	VESTIBULE	3'-0" X 6'-8"	B	STL	PREF	IG	WD	PAS-3	1	-	1
111	111	KITCHEN	3'-0" X 6'-8"	A	STL	PREF	-	WD	PAS-3	1	-	1
113.1	113	VESTIBULE	3'-0" X 6'-8"	C	WD	PAS-3	MG	WD	PAS-3	2	-	2
113.2	113	VESTIBULE	3'-0" X 6'-8"	C	STL	PREF	IG	WD	PAS-3	1	-	1
SECOND FLOOR												
211	211	EQUIPMENT PLATFORM	3'-0" X 6'-8"	D	WD	PAS-3	-	HM	PAS-3	3	90 MIN	3
NOTES:												
1 Prehung Prefinished Insulated Exterior Steel Door by Mastercraft												
2 Paint Grade Interior Door												
3 Fire rated mineral core door and frame assembly												



HARDWARE GROUPS

HQ1 BUTTS LEVER	HQ2 BUTTS LEVER CLOSER WALL STOP KICKPLATE	HQ3 BUTTS LEVER CLOSER - SPRING CUSH KICKPLATE
-----------------------	---	--

foundation architects LLC
2625 S. Greeley Street, Ste 203
Milwaukee, WI 53207
info@foundationarchitects.com
Phone (414) 403-9433
www.foundationarchitects.com

Lutheran Urban Mission Initiative, Inc.
Sherman Park Lutheran School Alteration
2703 North Sherman Boulevard
Milwaukee, Wisconsin 53210-2495

REVISIONS

BY DATE

PERMIT DRAWING SET

FOUNDATION AND FEES PROJECT NUMBER
19012

DATE
12-3-2019

W/WT REF.
ROOM FINISH, MATERIAL AND DOOR
SCHEDULES, HARDWARE GROUPS

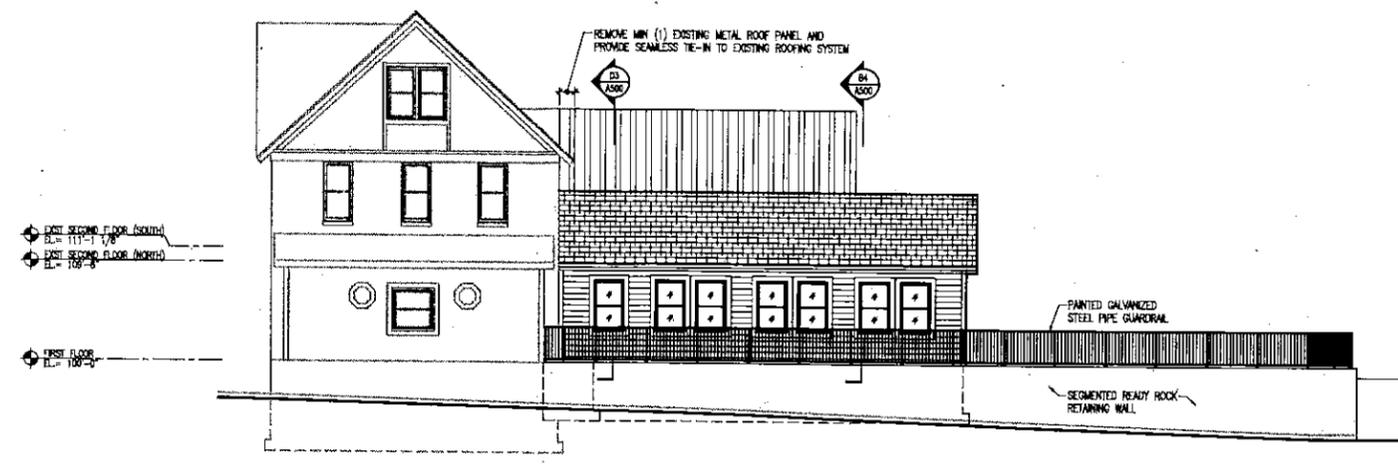
W/WT NUMBER
A800

EXTERIOR ELEVATION - MATERIALS LEGEND

- 
 SIDING-1: LP SMARTSIDE LAP SIDING, 8" LAP TO MATCH EXISTING, COLOR: SHERWIN WILLIAMS TBO
- 
 SIDING-2: LP SMARTSIDE STAGGER SHAWK SIDING, COLOR: SW 7019 GAUNTLET GRAY
- 
 SIDING-3: LP SMARTSIDE STAGGER SHAWK SIDING, COLOR: SW 7020 BLACK FOX
- 
 TRIM-1: LP 6" PROFILE, COLOR: SW 7004 SNOWBOUND, TYPICAL AT PERIMETER TRIM, WINDOW AND DOOR CASING
- 
 TRIM-2: LP 6" PROFILE, COLOR: SW 7004 SNOWBOUND, USED ONLY AS HORIZONTAL TRIM AT WINDOW HEAD AT ROOF GABLE
- 
 ROOFING-1: OWENS CORNING ARCHITECTURAL SHINGLE, COLOR: PEPPERMILL GRAY
- 
 ROOFING-2: METAL ROOF, STANDING SEAM ALUMINUM TO MATCH EXISTING

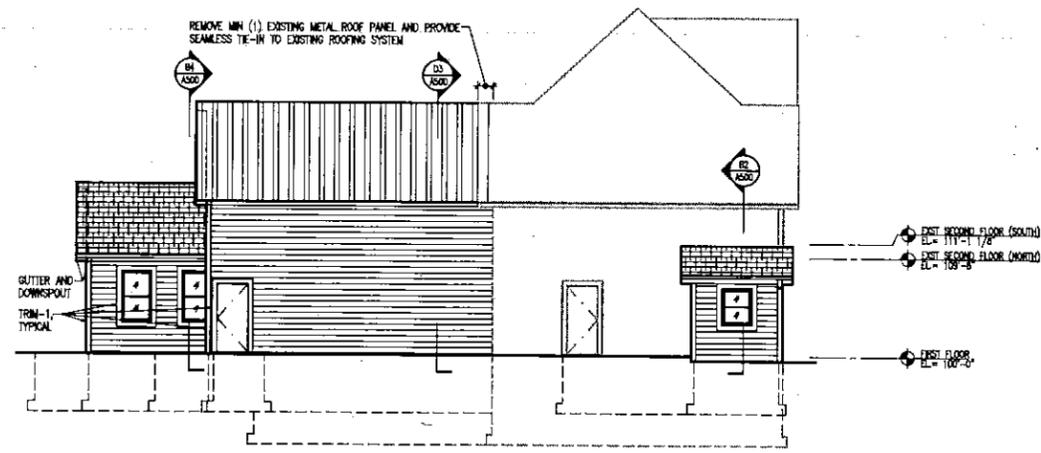


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 Phone (414) 403-3433
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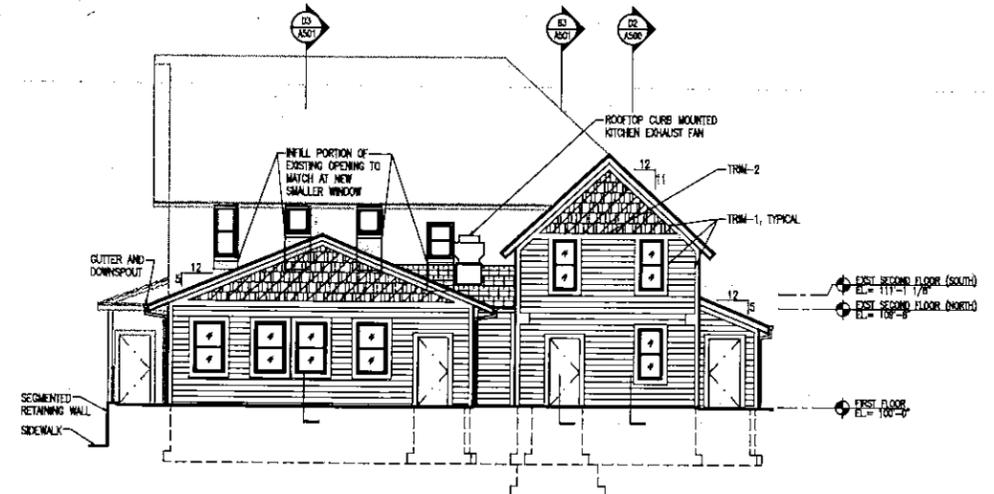
A3
A400 EXTERIOR ELEVATION
 SOUTH

1/8"=1'-0"



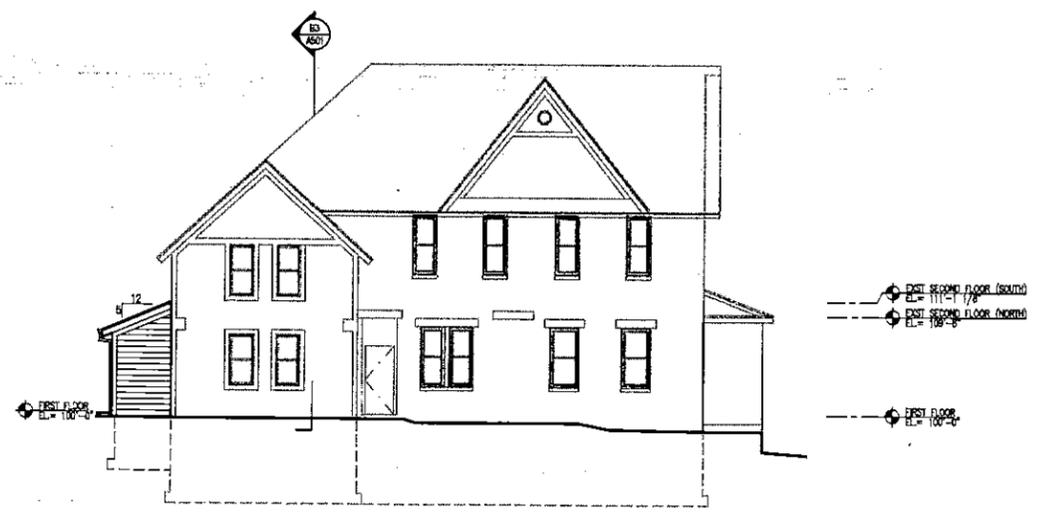
B2
A400 EXTERIOR ELEVATION
 NORTH

1/8"=1'-0"



B4
A400 EXTERIOR ELEVATION
 EAST

1/8"=1'-0"



C4
A400 EXTERIOR ELEVATION
 WEST

1/8"=1'-0"

Pleasant Hill Bar
 Addition and Renovation
 2102 WI-164
 Richfield, Wisconsin 53076

REVISIONS	▲
BY TYPE	PERMIT DRAWING SET
FOUNDATION ARCHITECTS PROJECT NUMBER	19612
DATE	12-3-2018
SHEET TITLE	EXTERIOR ELEVATIONS - PHASE 1
SHEET NUMBER	A400



W61 N497 Washington Avenue
Cedarburg, WI 53012

engineering | architecture | environmental | surveying
landscape architecture | planning | economic development

262-204-2360
800-472-7872
FAX 262-375-2688
www.cedarcorp.com

January 29, 2020

Mr. James Healy, Village Administrator
Village of Richfield
4128 Hubertus Road
Hubertus, WI 53033

RE: Pleasant Hill Bar
Site Plan and Erosion Control Review

Dear Mr. Healy:

We have completed our review of the Site Plan and Erosion Control Plan for grading and pavement modifications associated with a building addition for Pleasant Hill Bar in the Village of Richfield. Plans were prepared by Foundation Architects and received on January 28, 2020. We offer the following comments:

1. Please provide spot elevations for the proposed parking and site improvements associated with the building addition.
2. Show the location of the well and septic system.
3. Provide a guard rail or fence near the proposed retaining walls.
4. Provide verification from the Wisconsin Department of Transportation that the proposed private entrance off of STH-164 is acceptable.

Please contact me at our Cedarburg office (phone 262-204-2341) if you require any additional information or if you have any questions.

Sincerely,

CEDAR CORPORATION


Ronald D. Dalton, P.E.
Director/Office Manager

RDD/rm

cc: Craig Eide, A.I.A., Foundation Architects, LLC.

Cedarburg | Green Bay | Madison | Menomonie

ORDINANCE 2016-10-01

AN ORDINANCE AMENDING CHAPTER 70 OF THE VILLAGE CODE OF ORDINANCES RELATING TO LEGAL, NON-CONFORMING STRUCTURES

WHEREAS, the Village of Richfield recognizes that it has a number of properties within its municipal borders that are considered legal, non-conforming; and

WHEREAS, having this type of a status per the existing code, severely limits property owners' rights with respect to potential building expansions; and

WHEREAS, the Village's Plan Commission has worked for several months on developing an ordinance which allows the property owners to petition for expansions of the legal, non-conforming structures which shall be reviewed on a case-by-case basis; and

NOW, THEREFORE BE IT RESOLVED, the Village Board of the Village of Richfield, Washington County, Wisconsin, do ordain the following changes to Section 70.242(F) of the Village of Richfield municipal code entitled "Zoning" by repealing the section and recreating it as follows:

Section 1:

(F) Building addition(s) within setback/street-yard, side-yard, and/or rear-yard.

The Plan Commission may, pursuant to s. 70.161A, grant a special exception authorizing the construction of a building addition within a setback/street-yard, side-yard, and/or rear-yard area but no such building addition may be authorized in an existing or proposed street or highway provided:

- (1) property owners directly adjacent to the subject property are mailed notice of the hearing via USPO 1st Class Mail five days before the hearing at their last known address;
- (2) the existing building to which the addition will be attached is currently located within a setback/street-yard, side-yard, and/or rear-yard area;
- (3) the existing building was legally established;
- (4) the use of the existing building is legal conforming;
- (5) the building addition is in compliance with the height limitations of the zoning district in which it is located, and is not greater in height than the contiguous portion of the existing building;
- (6) the building addition does not extend closer to the lot line that is the lot line that is creating the non-conforming situation than the existing building [(i.e. the non-

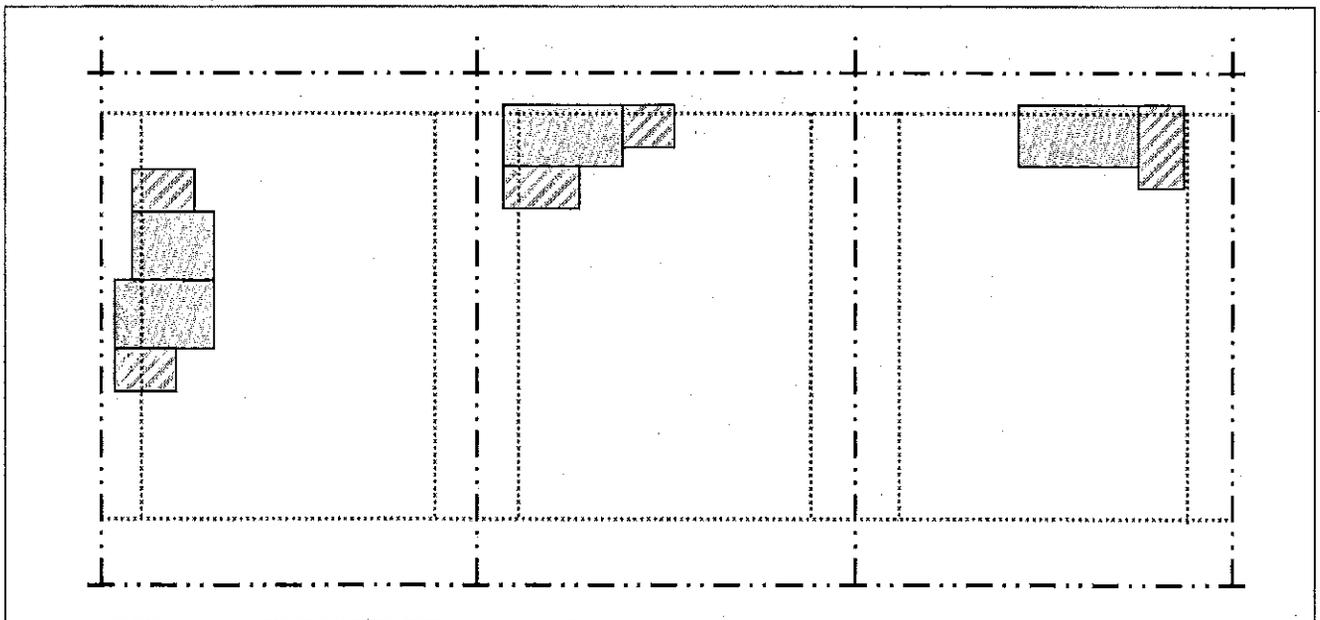
conforming aspect(s) of the building addition is/are not made worse by the proposed expansion];

- (7) the building addition does not extend into a setback/street-yard, side-yard, and/or rear-yard area the existing building does not currently encroach upon rendering the proposed building non-conforming in a manner it was not previously, prior to the proposed expansion; and
- (8) the building addition complies with all other requirements that may apply.

See Figure 1 for examples of permissible additions. In making its decision, the plan commission should consider the following factors, in addition to those factors listed in s. 70.161A:

- (1) The size and location of the existing legal nonconforming building.
- (2) The size and location of any other building(s) on the subject property.
- (3) The size and location of the proposed expansion.
- (4) The necessity of constructing the building addition within the setback/street-yard, side-yard, and/or rear-yard.
- (5) The proximity of buildings and other structures on adjoining properties.

Figure 1. Examples of permissible expansions within a setback/street-yard, side-yard, and/or rear-yard area



Section 2. Effective Date

This ordinance shall be in full force and effect from and after its passage and posting or publication as provided by law.

Passed and adopted this 20th day of October 2016.

John Jeffords, Village President

ATTEST:

Jim Healy, Administrator/Clerk/Treasurer

Village of Richfield, WI
Friday, January 31, 2020

Chapter 70. Zoning

ARTICLE II. Administration and Enforcement Generally

Division 5. Modifications and Amendments

70.161A. Special exception.

- A. Generally. Upon written petition, the Plan Commission may on a case-by-case basis grant a special exception permit for only those development standards specifically noted in this chapter.
- B. Application and review procedure. The review of a special exception application shall comply with the following steps and requirements:
 1. Submittal of application. The property owner shall submit a completed application to the Planning and Zoning Administrator along with the application fee as established by the Village Board.
 2. Notice. If the application is complete, the administrator shall place the matter on the agenda for the next meeting provided proper notice is given.
 3. Staff report. The administrator shall prepare a written staff report as described in this section and provide a copy of it to the Plan Commission members, the applicant, and the applicant's agent, if any, prior to the meeting at which the matter will be considered. He shall also provide a copy to interested people upon request.
 4. Decision. The Plan Commission shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include the findings in support of its decision and if approved any conditions as may be imposed.

5. Applicant notification. Within a reasonable time following the Plan Commission's decision, the administrator shall mail the applicant the official decision notice. If one or more conditions are imposed, the property owner shall also sign the approval notice to acknowledge the imposition of such condition or conditions.
 6. Public record copy. A copy of the official decision notice shall be retained for the public record.
- C. Basis of decision. In making its decision to approve the application, approve it with conditions, or deny it, the Plan Commission shall 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 permit would be in keeping with the overall intent of the zoning code;
 3. Whether there are any are unique circumstances and the nature of those circumstances that warrant the issuance of the special exception permit;
 4. The nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception permit 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 the section authorizing the issuance of a special exception permit; and
 8. Any other factor not specifically or generally listed, but deemed appropriate given the particular circumstances.
- D. Imposition of conditions. In granting a special exception permit, the Plan Commission 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, hours of operation, and submittal of building plans to the Architectural Review Committee for review and approval.
- E. Limitations on issuing a special exemption permit. A special exception permit shall only be granted in those instances where issuance is specifically authorized in this chapter.
- F. Staff report content. At a minimum, the staff report shall contain the following information:

1. A description of the requested special exception;
 2. Findings for each of the decision criteria listed in this section;
 3. A recommendation to approve the application, approve it with conditions, or deny the application; and
 4. A preliminary list of conditions whether the staff recommendation is for approval or denial.
- G. Expiration of approval. A special exception permit shall expire one year after the date of issuance unless substantial work has commenced under the approval and continues in good faith to completion.
- H. Violation of a condition. If a property owner accepts the terms of the approval and does not comply with one or more conditions of approval, such action shall be deemed a violation of this chapter.
- I. Application form. The planning and zoning administrator shall prepare an application form and may amend it from time to time.
- J. Application fee. The Village Board may by resolution establish an application fee for a special exception application and may amend such fee by resolution from time to time.
- K. Appeal. The applicant or an aggrieved person may appeal a final decision made pursuant to this section by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

5b-c



VILLAGE OF RICHFIELD

PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: February 6, 2020

SUBJECT: One-Lot CSM for property located at 4167 Pioneer Road (Tax Key: V10_0066) and Rezoning petition from A-1 to A-2 – Lofy Asset Trust, petitioner

DATE SUBMITTED: January 30, 2020

SUBMITTED BY: Jim Healy, Village Administrator

POLICY QUESTIONS: DOES THE PLAN COMMISSION WISH TO ACCEPT THE RECOMMENDATION OF THE VILLAGE ENGINEER FOR THE CREATION OF A ONE-LOT CSM AND THE RELATED REZONING REQUEST FROM A-1 TO A-2?

ISSUE SUMMARY:



The subject property is located at the southwest corner of Hillside Road and Pioneer Road is owned by Lofy Asset Trust. It is 48.40-acres and is zoned A-1, Exclusive Agricultural District. The property owner is looking to separate off the agricultural buildings from the balance of the land. This will create a One-Lot CSM that is 13.171 acres. The parent parcel is greater than 35-acres and pursuant to Code does not require a CSM. It also creates a parcel that is compliant with the lot design standards in our Village Code. On January 23, 2020 the Village Engineer reviewed the CSM and had no comments related to the changes on the face of the CSM. It is important to note, the CSM is not possible to approve without the approval of the corresponding Rezoning petition.

As previously mentioned, the petitioner is proposing to Rezone Lot 1 of the proposed CSM from A-1, Exclusive Agricultural District to A-2, General Agricultural District. The minimum lot size requirement in this Zoning District is 10-acres. This proposed Rezoning is compliant with the Village’s adopted Future Land Use Map which shows this property is being zoned “Single Family” and A-2 is an accepted class for “Single Family”. A Class II Public Hearing Notice is scheduled to run in the Daily News on February 13th and 20th, respectively. The Village Board will hold their Public Hearing on February 27th. Notices will be sent to property owners within 300’ of the subject property the week of February 10th.

FUTURE IMPACT AND ANALYSIS:

Forward to Village Board: Yes.
Additional Approvals Needed: Yes.
Signatures Required: Yes.

REVIEWED BY:

Village Deputy Clerk

ATTACHMENTS

1. Letter dated January 23, 2020 from Village Engineer Ron Dalton
2. Draft Ordinance for Rezoning
3. Legal Description for area to be rezoned to A-2



PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: February 6, 2020

SUBJECT: One-Lot CSM for property located at 4167 Pioneer Road (Tax Key: V10_0066) and Rezoning petition from A-1 to A-2 – Lofy Asset Trust, petitioner

DATE SUBMITTED: January 30, 2020

SUBMITTED BY: Jim Healy, Village Administrator

STAFF RECOMMENDATION:

CSM

Motion to recommend to the Village Board the approval of the proposed One-Lot CSM for Lofy Asset Trust for property located at 4167 Pioneer Road (Tax Key: V10_0066) subject to the following Specific and General Conditions of Approval:

Specific Conditions of Approval:

- 1. The Plan Commission Signature Block be removed from page 3 of the CSM.
2. The Village Board approve the proposed Rezoning of the subject property from A-1 to A-2.

General Conditions of Approval:

- 1. Staff and Governmental Approval: Subject to the developer satisfying all comments, conditions and concerns of the Village Planner, Village Engineer and all reviewing, objecting and approving bodies...
2. Professional Fees: Petitioner shall, on demand, reimburse the Village of all costs and expenses of any type that the Village incurs in connection with this development...
3. Payment of Charges: Any unpaid bills owned to the Village by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees... or for personal property taxes; or for real property taxes; or for licenses, permits fees or any other fees owned 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 Section 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 the conditional approval.

Rezoning

Motion to recommend to the Village Board the approval of the petitioned rezoning for Lofy Asset Trust for property located at 4167 Pioneer Road (Tax Key: V10_0066) from A-1, Exclusive Agricultural District to A-2, General Agricultural District.

APPROVED FOR SUBMITTAL BY:

[Signature of Village Staff Member]

Village Staff Member

[Signature of Village Administrator]

Village Administrator

VILLAGE CLERK USE ONLY
BOARD ACTION TAKEN

Resolution No.
Ordinance No.
Approved
Other

Continued To:
Referred To:
Denied
File No.

January 23, 2020

Mr. James Healy, Village Administrator
Village of Richfield
4128 Hubertus Road
Hubertus, Wisconsin 53033

RE Lofy Asset Trust Certified Survey Map (CSM) and **A-Z** Rezone Review

Dear Mr. Healy:

We have completed our review of the above referenced CSM received on January 16, 2020. The CSM was prepared by Donald J. Thoma P.L.S. of Accurate Surveying & Engineering LLP. It is our understanding that the proposed Land Division is being proposed under section 330 of the Village Code. We recommend approval of the proposed CSM.

We have the following comments and recommendations regarding the Rezoning Exhibit:

Rezoning Exhibit

Sheet 1: Add note "See Attached Exhibit "A" "

Sheet 2: Provide and Exhibit "A"

Submitted data has been reviewed for conformance with generally accepted surveying practices and Village policies. Although this data has been reviewed, the surveyor is responsible for the thoroughness and accuracy of survey and supplemental data and for compliance with all state and local codes, ordinances and procedures. Modification to the survey, etc., may be required should errors or changed conditions be found at a future date.

Please contact me at our Cedarburg office (phone 262-204-2341) if you require any additional information or if you have any questions.

Sincerely,

CEDAR CORPORATION



Ron Dalton, P.E.

Director/Office Manager

RD/MJR

Enclosure(s): As Noted

Cc: Donald J Thoma, Accurate Surveying & Engineering LLP, w/encl., via email

Cedarburg

| Green Bay

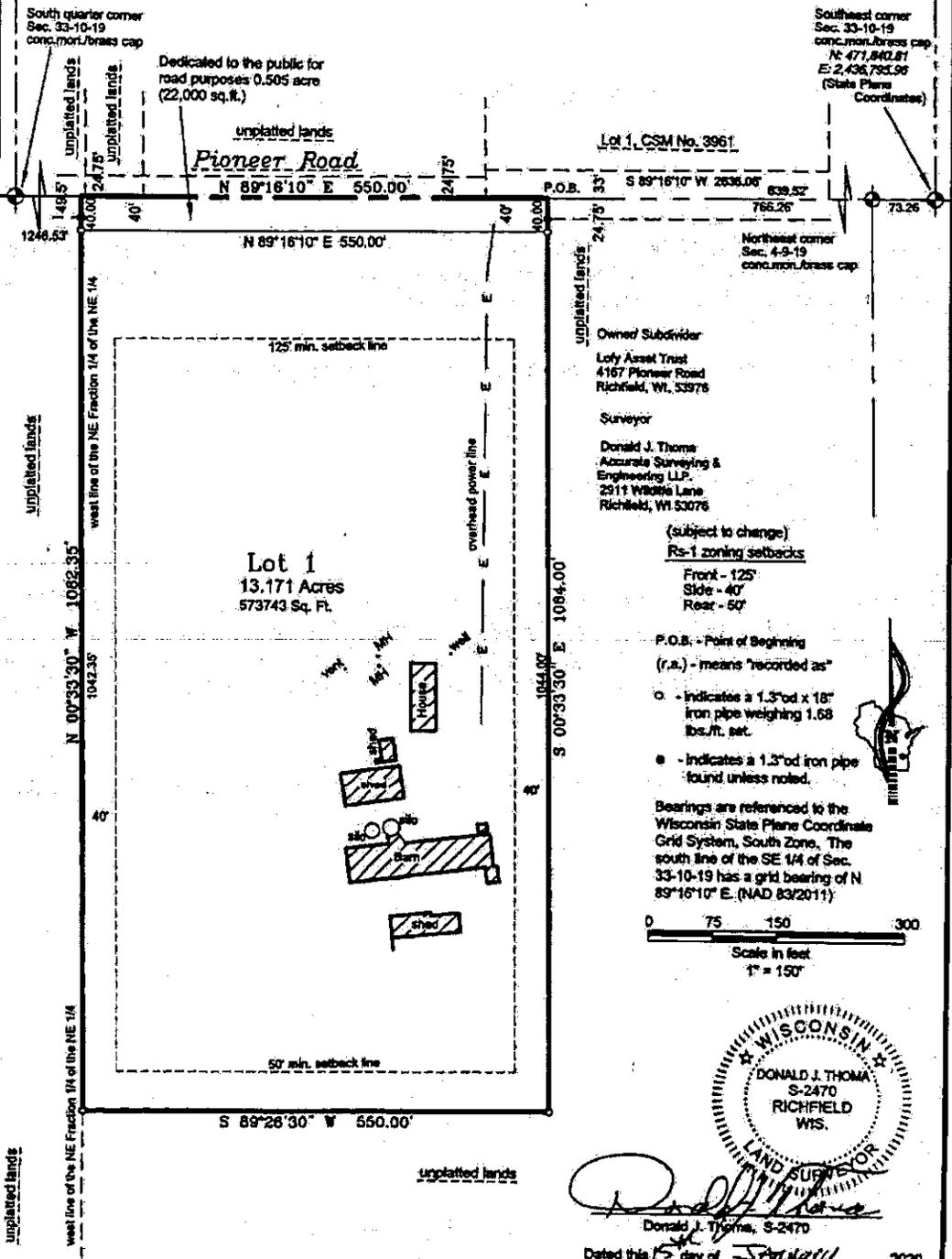
| Madison

| Menomonie

Washington County Certified Survey Map

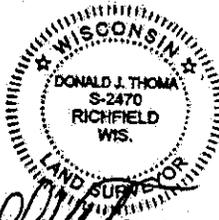
Part of the NE Fractional 1/4 of the NE 1/4 all in Section 4, Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin.

Sheet 1 of 3



This instrument was drafted by Donald J. Thoma, S-2470

Donald J. Thoma, S-2470
 Dated this 15 day of January, 2020.



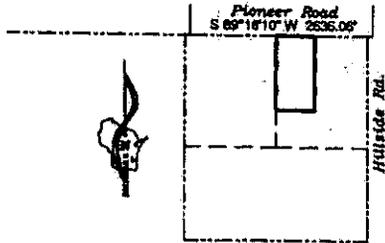
Washington County Certified Survey Map

Sheet 2 of 3

Part of the NE Fractional 1/4 of the NE 1/4 all in Section 4, Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin.

Location Sketch

NE 1/4 - Sec. 4-9-19
Scale: 1" = 2000'



Surveyor's Certificate:

I, Donald J. Thoma, Professional Land Surveyor, hereby certify that by the direction of trustee David W. Lofy, I have surveyed, divided, mapped and dedicated the land shown and described hereon, being part of the NE Fractional 1/4 of the NE 1/4 all in Section 4, Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin, which is bounded and described as follows:

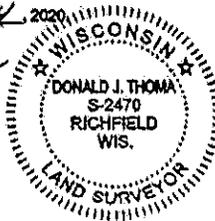
Commencing at the Southeast corner of Section 33, Township 10 North, Range 19 East; thence S 89°16'10" W, along the south line of said SE 1/4, 73.26 feet, to the Northeast corner of said Section 4; thence continuing S 89°16'10" W, along the north line of said NE 1/4 of Section 4, 768.26 feet, to the point of beginning of lands herein described; thence S 00°33'30" E, parallel with the west line of said NE Fractional 1/4 of the NE 1/4, 1084.00 feet; thence S 89°26'30" W, at right angles, 550.00 feet, to a point in said west line of the NE Fractional 1/4 of the NE 1/4; thence N 00°33'30" W, along said west line of the NE Fractional 1/4 of the NE 1/4, 1082.35 feet, to a point in said north line of said NE 1/4; thence N 89°16'10" E, along said north line of the NE 1/4, 550.00 feet, to the point of beginning.

Containing 13.676 acres (595,743 square feet) more or less.

I further certify that I have fully complied with the provisions of sec. 236.34 of Wisconsin Statutes and the Village of Richfield Land Division Ordinance in surveying, dividing, and mapping said land, and that this map is a correct representation of the exterior boundaries of the land surveyed and the division of said lands.

Dated this 15th day of January, 2020.

Donald J. Thoma
Donald J. Thoma, S-2470



Owner's Certificate:

As owner/trustee, I hereby certify that I caused the land shown and described to be surveyed, divided, mapped and dedicated as represented on this Certified Survey Map. I also certify that this Certified Survey Map is required to be submitted to the following for approval:

Village of Richfield Plan Commission
Village of Richfield Village Board

David W. Lofy - Trustee

STATE OF WISCONSIN)
WASHINGTON COUNTY) s.s.

Personally came before me this _____ day of _____, 202____, the above named trustee is to me known to be the same person who executed the foregoing instrument and acknowledge the same.

(Notary Seal) _____, Notary Public, _____, Wisconsin.

My commission expires _____

Washington County Certified Survey Map

Sheet 3 of 3

Part of the NE Fractional 1/4 of the NE 1/4 all in Section 4, Township 9 North, Range 19
East, Village of Richfield, Washington County, Wisconsin.

Village of Richfield Village Plan Commission Approval:

This land division is hereby approved by the Village of Richfield Plan Commission
this _____ day of _____, 202__.

John Jeffords - Chairperson

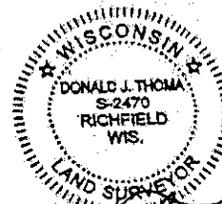
Jim Healy - Village Administrator/Clerk

Village of Richfield Village Board Approval:

This land division is hereby approved and road dedication hereby accepted by the Village of Richfield
Village Board this _____ day of _____, 202__.

John Jeffords - Village President

Jim Healy - Village Administrator/Clerk



Donald J. Thoma
Donald J. Thoma, S-2470

Dated this 15 day of January, 2020.

Accurate 
Surveying & Engineering LLP

Land Surveying, Developing and Consulting
2911 Wildlife Lane, Richfield, WI 53076 Phone (262)677-2120

January 15, 2020

RE: Legal description of area to be rezoned to AZ (Lofy Asset Trust)

Part of the NE Fractional 1/4 of the NE 1/4 all in Section 4, Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin, which is bounded and described as follows:

Commencing at the Southeast corner of Section 33, Township 10 North, Range 19 East; thence S 89°16'10" W, along the south line of said SE 1/4, 73.26 feet, to the Northeast corner of said Section 4; thence continuing S 89°16'10" W, along the north line of said NE 1/4 of Section 4, 766.26 feet, to the point of beginning of lands herein described; thence S 00°33'30" E, parallel with the west line of said NE Fractional 1/4 of the NE 1/4, 1084.00 feet; thence S 89°26'30" W, at right angles, 550.00 feet, to a point in said west line of the NE Fractional 1/4 of the NE 1/4; thence N 00°33'30" W, along said west line of the NE Fractional 1/4 of the NE 1/4, 1082.35 feet, to a point in said north line of said NE 1/4; thence N 89°16'10" E, along said north line of the NE 1/4, 550.00 feet, to the point of beginning.
Containing 13.676 acres (595,743 square feet) more or less.

See Attached Exhibit "A"

Accurate 

Surveying & Engineering LLP

Land Surveying, Developing and Consulting

2911 Wildlife Lane, Richfield, WI 53076 Phone (262)677-2120

January 31, 2020

RE: Legal description of area to be rezoned to A-2 (Lofy Asset Trust)

Part of the NE Fractional 1/4 of the NE 1/4 all in Section 4, Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin.

AN ORDINANCE TO REZONE THE FOLLOWING PARCEL V10_0066 IN THE VILLAGE OF RICHFIELD AND TO AMEND THE ZONING MAP OF THE VILLAGE OF RICHFIELD PURSUANT TO SECTION 70.163 OF THE MUNICIPAL CODE

WHEREAS, the property owner, Lofy Asset Trust, is acting as the petitioner to rezone the following parcel of land, Tax Key: V10_0066 from A-1, Exclusive Agricultural District to A-2, General Agricultural District; and

WHEREAS, the property is proposed to be rezoned so the owner can separate off the agricultural buildings and divide the land via a One Lot CSM; and

WHEREAS, the property owner is also preparing an amendment to the Village's Future Transportation Map to show how public infrastructure could potentially be constructed on the subject property; and

WHEREAS, the rezoning petition has been submitted to the Village of Richfield Plan Commission for report and recommendation; and

WHEREAS, the required public notice of the public hearing has been provided consistent with Section 62.23 of the Wisconsin Statutes and the Village's zoning regulations; and

WHEREAS, the Village Board conducted a public hearing on February 27, 2020; and

WHEREAS, the Plan Commission has recommended to the Village Board that the rezoning change be made; and of the recommendation of the Plan Commission, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, having determined that the rezoning is consistent with the Village's Comprehensive Plan, and having based its determination on the effect of granting of said rezoning on the health, safety, and welfare for the community, and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved, as well as the impact on the surrounding properties as to the noise, dust, smoke, odor and others, has hereby determined that the rezoning will not violate the spirit or intent the zoning ordinance for the Village of Richfield, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke odor or other similar factors and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the development is conducted pursuant to the following conditions and is in strict compliance with the same.

NOW, THEREFORE BE IT RESOLVED, the Village of Richfield Village Board, Washington County, Wisconsin ORDAINS AS FOLLOWS:

Section 1. Zoning Map Change

The subject property is hereby rezoned as described above and depicted in Exhibit A, attached hereto, and the zoning map of the Village of Richfield is hereby amended to incorporate the zoning of the subject property.

Section 2. Effective Date

This ordinance shall be in full force and effect from and after its passage and posting or publication as provided by law.

Adopted this ____ day of ____, 2020

Attest:

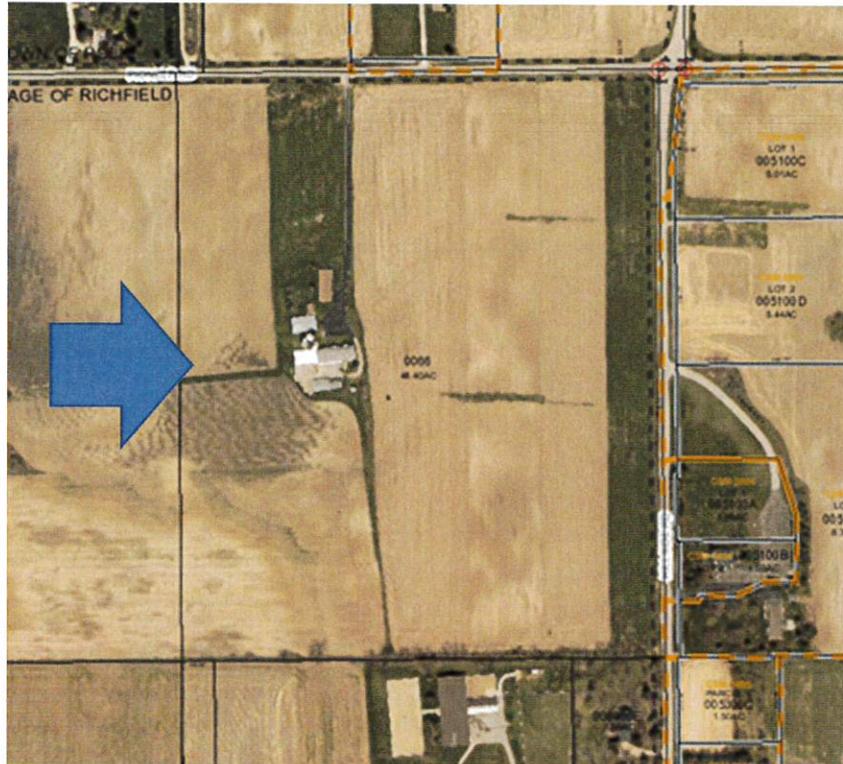
John Jeffords, Village President

Attest: Jim Healy, Village Administrator/Clerk

EXHIBIT A

V10 0066

Part of the NE Fractional 1/4 of the NE 1/4 all in Section 4, Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin.



5 d-e



VILLAGE OF RICHFIELD

PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: February 6, 2020

SUBJECT: One-Lot CSM for property located at 2207 Hillside Road (Tax Key: V10_008400B) and Rezoning petition from A-1 to Rs-3 – David W. Lofy and Mary J. Lofy, petitioner

DATE SUBMITTED: January 30, 2020

SUBMITTED BY: Jim Healy, Village Administrator

POLICY QUESTIONS: DOES THE PLAN COMMISSION WISH TO ACCEPT THE RECOMMENDATION OF THE VILLAGE ENGINEER FOR THE CREATION OF A ONE-LOT CSM AND THE RELATED REZONING REQUEST FROM A-1 TO RS-3?

ISSUE SUMMARY:



The subject property is located along Hillside Road, approximately 300’ south of Wexford Drive. The property is owned by David W. Lofy and Mary J. Lofy. It is 2.01-acres and is zoned Rs-3, Single Family District. The property owner is looking to add a 30’ buffer of yard around the perimeter of his property to bring his accessory structure into compliance with our residential setback requirements for detached structures. This will create a One-Lot CSM that is 2.119-acres, a diminutive addition to the property. On January 23, 2020 the Village Engineer reviewed the CSM and had no comments related to changes on the face of the CSM. It is important to note, the CSM is not possible to approve without the approval of the corresponding Rezoning petition.

As previously mentioned, the petitioner is proposing to Rezone the 30’ buffer yard surrounding Lot 1 from A-1, Exclusive Agricultural District to Rs-3, Single Family Residential District. This proposed Rezoning is compliant with the Village’s adopted Future Land Use Map which shows this property is being zoned “Single Family”. A Class II Public Hearing Notice is scheduled to run in the Daily News on February 13th and 20th, respectively. The Village Board will

hold their Public Hearing on February 27th. Notices will be sent to property owners within 300’ of the subject property the week of February 10th.

FUTURE IMPACT AND ANALYSIS:

REVIEWED BY:

Village Deputy Clerk

Forward to Village Board: Yes.
Additional Approvals Needed: Yes.
Signatures Required: Yes.

ATTACHMENTS

1. Letter dated January 23, 2020 from Village Engineer Ron Dalton
2. Draft Ordinance for Rezoning
3. Legal Description for area to be rezoned to Rs-3



VILLAGE OF RICHFIELD

PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: February 6, 2020

SUBJECT: One-Lot CSM for property located at 2207 Hillside Road (Tax Key: V10_008400B) and Rezoning petition from A-1 to Rs-3 – David W. Lofy and Mary J. Lofy, petitioner

DATE SUBMITTED: January 30, 2020

SUBMITTED BY: Jim Healy, Village Administrator

STAFF RECOMMENDATION:

CSM

Motion to recommend to the Village Board the approval of the proposed One-Lot CSM for David W Lofy and Mary J Lofy for property located at 2207 Hillside Road (Tax Key: V10_008400B) subject to the following Specific and General Conditions of Approval:

Specific Conditions of Approval:

- 1. The Plan Commission Signature Block be removed from page 3 of the CSM.
2. The Village Board approve the proposed Rezoning of the subject property from A-1 to Rs-3.

General Conditions of Approval:

- 1. Staff and Governmental Approval: Subject to the developer satisfying all comments, conditions and concerns of the Village Planner, Village Engineer and all reviewing, objecting and approving bodies...
2. Professional Fees: Petitioner shall, on demand, reimburse the Village of all costs and expenses of any type that the Village incurs in connection with this development...
3. Payment of Charges: Any unpaid bills owned 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, permits fees or any other fees owned 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 Section 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 the conditional approval.

Rezoning

Motion to recommend to the Village Board the approval of the petitioned rezoning for David W. Lofy and Mary J. Lofy for property located at 2207 Hillside Road (Tax Key: V10_008400B) from A-1, Exclusive Agricultural District to Rs-3, Single Family Residential District.

APPROVED FOR SUBMITTAL BY:

Handwritten signatures of Jennifer Keller (Village Staff Member) and Village Administrator.

VILLAGE CLERK USE ONLY
BOARD ACTION TAKEN

Resolution No.
Ordinance No.
Approved
Other

Continued To:
Referred To:
Denied
File No.



engineering | architecture | environmental | surveying
landscape architecture | planning | economic development

W61 N497 Washington Avenue
Cedarburg, WI 53012
262-204-2360
800-472-7372
FAX 262-375-2688
www.cedarcorp.com

January 23, 2020

Mr. James Healy, Village Administrator
Village of Richfield
4128 Hubertus Road
Hubertus, Wisconsin 53033

RE: David & Mary Lofy Certified Survey Map (CSM) and Rs-3 Rezone Review

Dear Mr. Healy:

We have completed our review of the above referenced CSM received on January 16, 2020. The CSM was prepared by Donald J. Thoma P.L.S. of Accurate Surveying & Engineering LLP. It is our understanding that the proposed Land Division is being proposed under section 330 of the Village Code. We recommend approval of the proposed CSM.

We have the following comments and recommendations regarding the Rezoning Exhibit:

Rezoning Exhibit

Sheet 1: Add note "See Attached Exhibit "A""

Sheet 2: Add notes- "Exhibit "A" on top of sheet, Embolden are to be rezoned, move the area and square footage note to be fully readable, grey scale property line not included in rezoning effort.

Submitted data has been reviewed for conformance with generally accepted surveying practices and Village policies. Although this data has been reviewed, the surveyor is responsible for the thoroughness and accuracy of survey and supplemental data and for compliance with all state and local codes, ordinances and procedures. Modification to the survey, etc., may be required should errors or changed conditions be found at a future date.

Please contact me at our Cedarburg office (phone 262-204-2341) if you require any additional information or if you have any questions.

Sincerely,

CEDAR CORPORATION

Ron Dalton, P.E.

Director/Office Manager

RD/MJR

Enclosure(s): As Noted

Cc: Donald J Thoma, Accurate Surveying & Engineering LLP, w/encl., via email

Cedarburg | Green Bay | Madison | Menomonee

Washington County Certified Survey Map

Part of the NE 1/4 of the SE 1/4 and part of the SE 1/4 of the SE 1/4 all in Section 4,
Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin.

P.O.B. - Point of Beginning
(r.a.) - means "recorded as"

○ - indicates a 1.3" od x 18" iron pipe weighing 1.68 lbs./ft. set.

● - indicates a 1.3" od iron pipe found unless noted.

Bearings are referenced to the Wisconsin Coordinate Grid System, South Zone. The south line of the SE 1/4 of Sec. 4-9-19 has a grid bearing of N 89°11'02" E. (NAD 27)

(subject to change)
Rs-3 zoning setbacks

Front - 20'
Side - 30'
Rear - 50'

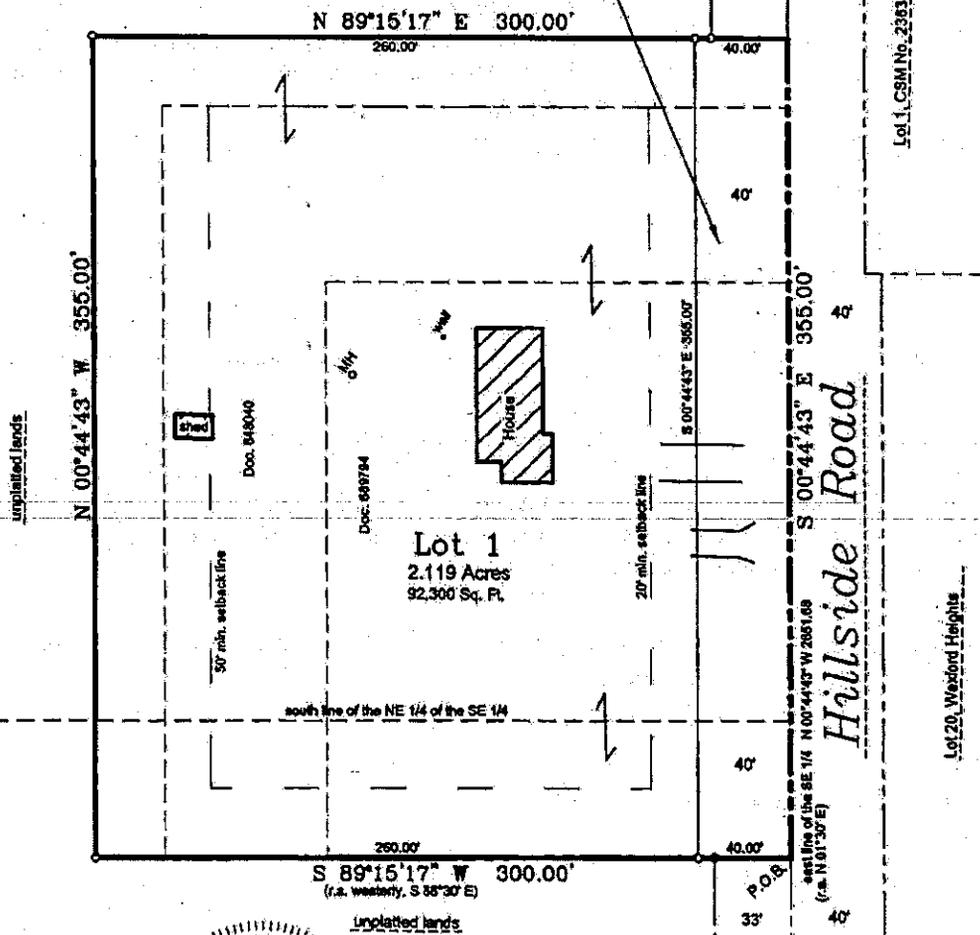
0 30 60 120
Scale in feet
1" = 60'

unplatted lands

Dedicated to the public for road purposes 0.326 acre (14,200 sq.ft.)

East quarter corner
Sec. 4-9-19
conc.mon/brass cap
found

Sheet 1 of 3



WISCONSIN
DONALD J. THOMA
S-2470
RICHFIELD
WIS.
SURVEYOR

Donald J. Thoma, S-2470
Dated this 5 day of January, 2020.

Owner/ Subdivider
David W. Lofy &
Mary J. Lofy
2207 Hillside Road
Richfield, WI, 53076

Surveyor
Donald J. Thoma
Accurate Surveying &
Engineering LLP
2911 Wildlife Lane
Richfield, WI 53076

Southeast corner
Sec. 4-9-19
conc.mon/brass cap
found
468,242.96
2,468,331.22
(State Plane Coordinate)

This instrument was drafted by Donald J. Thoma, S-2470

Washington County Certified Survey Map

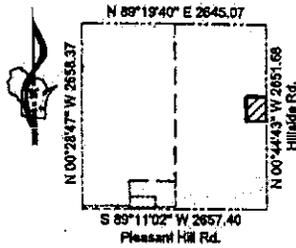
Sheet 2 of 3

Part of the NE 1/4 of the SE 1/4 and part of the SE 1/4 of the SE 1/4 all in Section 4,
Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin.

Location Sketch

SE 1/4 - Sec. 4-9-19

Scale: 1" = 2000'



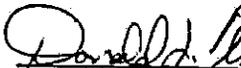
Surveyor's Certificate:

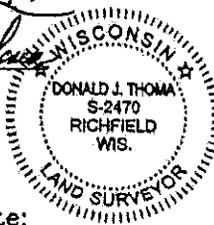
I, Donald J. Thoma, Professional Land Surveyor, hereby certify that by the direction of David W. Lofy, I have surveyed, divided, mapped and dedicated the land shown and described hereon, being part of the NE 1/4 of the SE 1/4 and part of the SE 1/4 of the SE 1/4 all in Section 4, Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin, which is bounded and described as follows:

Commencing at the Southeast corner of said Section 4; thence N 00°44'43" W, along the east line of said SE 1/4, 1266.00 feet, to the point of beginning of lands herein described; thence S 89°15'17" W, at right angles, 300.00 feet; thence N 00°44'43" W, at right angles, 355.00 feet; thence N 89°15'17" E, at right angles, 300.00 feet, to a point in said east line of the SE 1/4; thence S 00°44'43" E, along said east line of the SE 1/4, 355.00 feet, to the point of beginning.
Containing 2.445 acres (106,500 square feet) more or less.

I further certify that I have fully complied with the provisions of sec. 236.34 of Wisconsin Statutes and the Village of Richfield Land Division Ordinance in surveying, dividing, and mapping said land, and that this map is a correct representation of the exterior boundaries of the land surveyed and the division of said lands.

Dated this 15th day of January, 2020.


Donald J. Thoma, S-2470



Owner's Certificate:

As owners, we hereby certify that we caused the land shown and described to be surveyed, divided, mapped and dedicated as represented on this Certified Survey Map. We also certify that this Certified Survey Map is required to be submitted to the following for approval:

Village of Richfield Plan Commission
Village of Richfield Village Board

David W. Lofy - Owner

Mary J. Lofy - Owner

STATE OF WISCONSIN)
WASHINGTON COUNTY)s.s

Personally came before me this ____ day of _____, 202__, the above named owners are to me known to be the same persons who executed the foregoing instrument and acknowledge the same.

(Notary Seal) _____, Notary Public, _____, Wisconsin.

My commission expires _____

Washington County Certified Survey Map

Sheet 3 of 3

Part of the NE 1/4 of the SE 1/4 and part of the SE 1/4 of the SE 1/4 all in Section 4,
Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin.

Village of Richfield Village Plan Commission Approval:

This land division is hereby approved by the Village of Richfield Plan Commission
this ____ day of _____, 202__.

John Jeffords - Chairperson

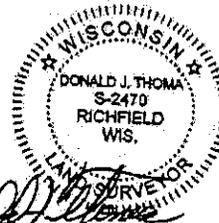
Jim Healy - Village Administrator/Clerk

Village of Richfield Village Board Approval:

This land division is hereby approved and road dedication hereby accepted by the Village of Richfield
Village Board this ____ day of _____, 202__.

John Jeffords - Village President

Jim Healy - Village Administrator/Clerk



Donald J. Thoma

Donald J. Thoma, S-2470

Dated this 13 day of January, 2020.

This instrument was drafted by Donald J. Thoma, S-2470

AN ORDINANCE TO REZONE A PORTION OF THE FOLLOWING PARCELS V10_008400Z AND V10_008700Z IN THE VILLAGE OF RICHFIELD AND TO AMEND THE ZONING MAP OF THE VILLAGE OF RICHFIELD PURSUANT TO SECTION 70.163 OF THE MUNICIPAL CODE

WHEREAS, the property owner, David W Lofy, Mary J Lofy are acting as the petitioners to rezone the a portion of the following parcels of land identified by Tax Keys: V10_008400Z and V10_008700Z from A-1, Exclusive Agricultural District to RS-3, Single Family Residential District; and

WHEREAS, the property is proposed to be rezoned so the owner can legalize the detached structure on the subject property by taking a 30' buffer around the perimeter of their land; and

WHEREAS, the rezoning petition has been submitted to the Village of Richfield Plan Commission for report and recommendation; and

WHEREAS, the required public notice of the public hearing has been provided consistent with Section 62.23 of the Wisconsin Statutes and the Village's zoning regulations; and

WHEREAS, the Village Board conducted a public hearing on February 27, 2020; and

WHEREAS, the Plan Commission has recommended to the Village Board that the rezoning change be made; and of the recommendation of the Plan Commission, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, having determined that the rezoning is consistent with the Village's Comprehensive Plan, and having based its determination on the effect of granting of said rezoning on the health, safety, and welfare for the community, and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved, as well as the impact on the surrounding properties as to the noise, dust, smoke, odor and others, has hereby determined that the rezoning will not violate the spirit or intent the zoning ordinance for the Village of Richfield, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke odor or other similar factors and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the development is conducted pursuant to the following conditions and is in strict compliance with the same.

NOW, THEREFORE BE IT RESOLVED, the Village of Richfield Village Board, Washington County, Wisconsin ORDAINS AS FOLLOWS:

Section 1. Zoning Map Change

The subject property is hereby rezoned as described above and depicted in Exhibit A, attached hereto, and the zoning map of the Village of Richfield is hereby amended to incorporate the zoning of the subject property.

Section 2. Effective Date

This ordinance shall be in full force and effect from and after its passage and posting or publication as provided by law.

Adopted this ____ day of _____, 2020

Attest:

John Jeffords, Village President

Attest: Jim Healy, Village Administrator/Clerk

EXHIBIT A

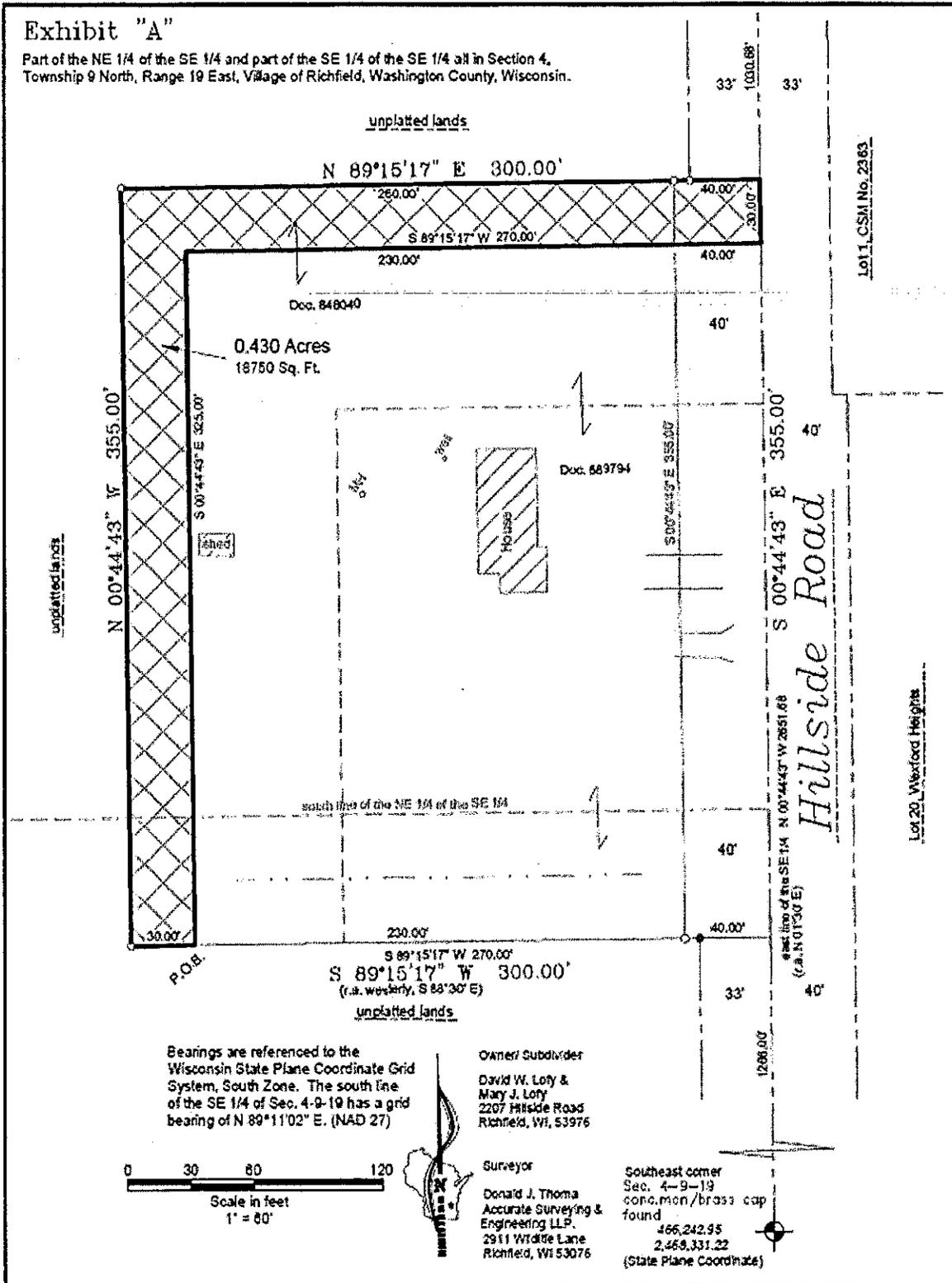
Part of the NE 1/4 of the SE 1/4 and part of the SE 1/4 of the SE 1/4 all in Section 4, Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin, which is bounded and described as follows:

Commencing at the Southeast corner of said Section 4; thence N 00°44'43" W, along the east line of said SE 1/4, 1266.00 feet; thence S 89°15'17" W, along the south line of lands described in Document Numbers 689794 and 848040, recorded in the Washington County Registry, 270.00 feet, being the point of beginning of lands herein described; thence continuing S 89°15'17" W, 30.00 feet; thence N 00°44'43" W, at right angles, 355.00 feet; thence N 89°15'17" E, at right angles, 300.00 feet, to a point in said east line of the SE 1/4; thence S 00°44'43" E, along said east line of the SE 1/4, 30.00 feet; thence S 89°15'17" W, at right angles and along the north line of said Document Number 848040, 270.00 feet; thence S 00°44'43" E, at right angles and along the west line of said Document Number 848040, 325.00 feet, to the point of beginning.

Continued on page 2 with visual exhibit.

Exhibit "A"

Part of the NE 1/4 of the SE 1/4 and part of the SE 1/4 of the SE 1/4 all in Section 4,
Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin.



Accurate 
Surveying & Engineering LLP

Land Surveying, Developing and Consulting
2911 Wildlife Lane, Richfield, WI 53076 Phone (262)677-2120

January 9, 2020

RE: Legal description of area to be rezoned to Rs-3

Part of the NE 1/4 of the SE 1/4 and part of the SE 1/4 of the SE 1/4 all in Section 4, Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin, which is bounded and described as follows:

Commencing at the Southeast corner of said Section 4; thence N 00°44'43" W, along the east line of said SE 1/4, 1266.00 feet; thence S 89°15'17" W, along the south line of lands described in Document Numbers 689794 and 848040, recorded in the Washington County Registry, 270.00 feet, being the point of beginning of lands herein described; thence continuing S 89°15'17" W, 30.00 feet; thence N 00°44'43" W, at right angles, 355.00 feet; thence N 89°15'17" E, at right angles, 300.00 feet, to a point in said east line of the SE 1/4; thence S 00°44'43" E, along said east line of the SE 1/4, 30.00 feet; thence S 89°15'17" W, at right angles and along the north line of said Document Number 848040, 270.00 feet; thence S 00°44'43" E, at right angles and along the west line of said Document Number 848040, 325.00 feet, to the point of beginning.

Containing 0.430 acre (18,750 square feet) more or less.

See Attached Exhibit "A"

Exhibit "A"

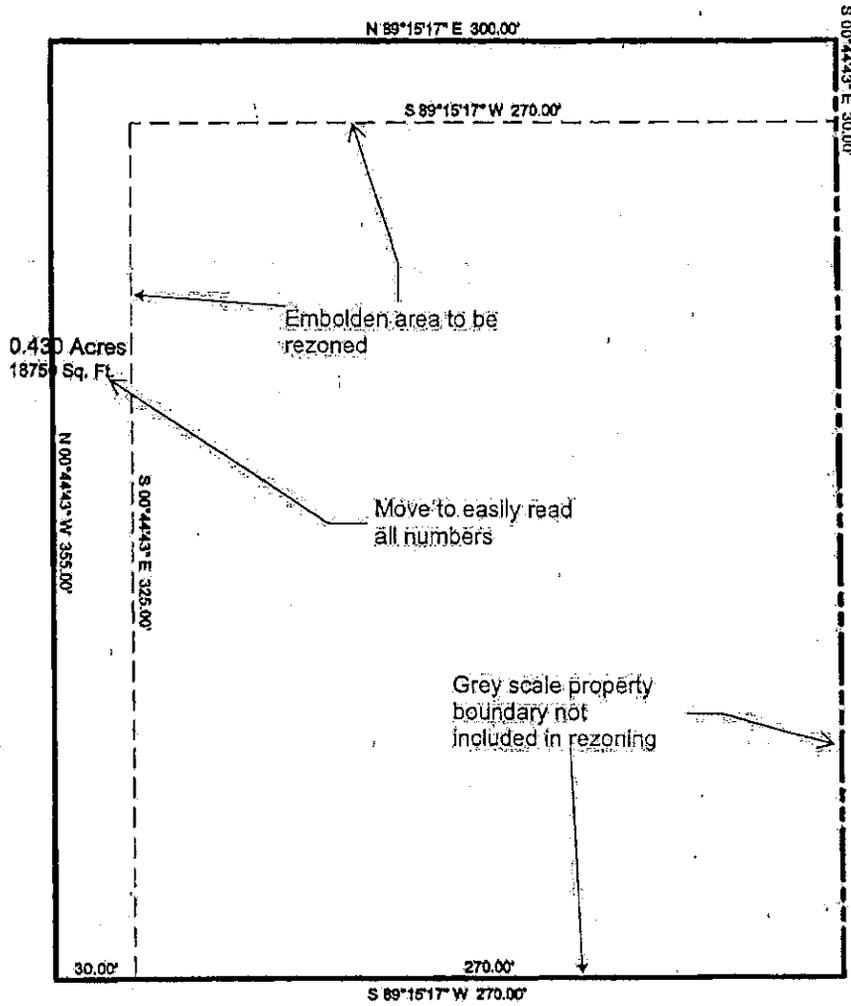
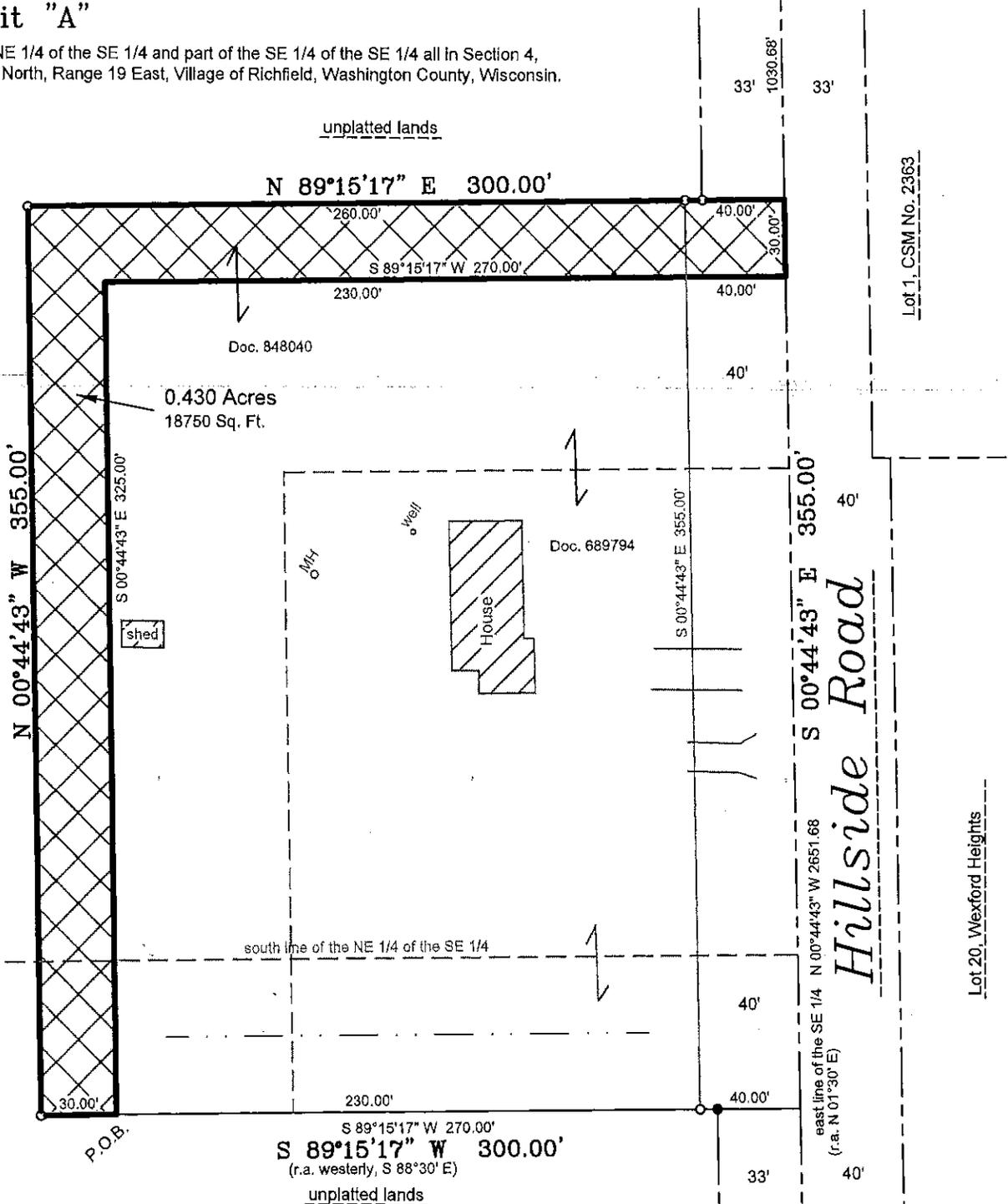


Exhibit "A"

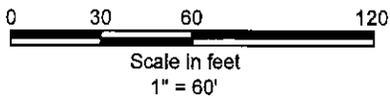
Part of the NE 1/4 of the SE 1/4 and part of the SE 1/4 of the SE 1/4 all in Section 4,
Township 9 North, Range 19 East, Village of Richfield, Washington County, Wisconsin.

unplatted lands



Bearings are referenced to the Wisconsin State Plane Coordinate Grid System, South Zone. The south line of the SE 1/4 of the SE 1/4 of Sec. 4-9-19 has a grid bearing of N 89°11'02" E. (NAD 27)

Owner/ Subdivider
David W. Lofy &
Mary J. Lofy
2207 Hillside Road
Richfield, WI, 53976



Surveyor
Donald J. Thoma
Accurate Surveying &
Engineering LLP.
2911 Wildlife Lane
Richfield, WI 53076

Southeast corner
Sec. 4-9-19
concrete/brass cap
found
466,242.95
2,488,331.22
(State Plane Coordinate)

5f



VILLAGE OF RICHFIELD

PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: February 6, 2020

SUBJECT: Zoning Code Recodification Discussion
DATE SUBMITTED: January 31, 2020
SUBMITTED BY: Jim Healy, Village Administrator

POLICY QUESTIONS: NOT APPLICABLE, DISCUSSION ONLY.

ISSUE SUMMARY:

At our last meeting in December of 2019, Consultant Planner Schwecke presented the Plan Commission and the public with the outward facing website Staff intends to unveil as a part of the Zoning Code Recodification that is located here: <https://villageofrichfield.zoninghub.com/home.aspx>. The website is still in "Beta" form meaning that is not quite ready to publicly utilize, but it is available online for people to review.

The Plan Commission was also presented with "homework" in the form of reviewing the Village's proposed Zoning Map which was broken down by quadrant. Members of the Commission were asked to review the map to see if there were any ambiguities or abnormalities with the way it was laid out. Consistent with the direction of the Plan Commission and the Subcommittee, each parcel has a single "base layer" Zoning District. We have eliminated any instance of a single parcel having multiple "base layer" Zoning Districts. An example of an abnormality you might be looking for could be a business in the middle of a residential subdivision or similar "fat finger" errors of GIS. This map has been thoroughly reviewed by Staff and while there are not believed to be errors, we were enlisting the help of the Plan Commission for their fresh set of eyes. It is the expectation of the Plan Commission Chairman that we will discuss this map as the first part of our discussion series. The Map is titled "Proposed Zoning Map" and has a revision date of June 2019.

Additionally, as a part of the handout "homework" in December, approximately 60 pages were distributed for the Plan Commission to also begin their review. This packet was titled:

**Chapter 70- Zoning
Table of Contents
(Draft November 15, 2019)**

Consultant Planner Schwecke will be circulating on Monday a table, like the one created by Village Staff and our Consultant Planner in our packet tonight, that outlines whether any of this text is "*existing*" or "*proposed*". Our intent is to not rehash the information that is existing but focus more deeply on what is proposed to be changed. Unfortunately, this was not able to be accomplished during our work week and will be finished over the weekend then directly distributed via email and hardcopy. Please note, the Appendix is not included with this attachment. It is important to note, Articles 1-10 are very administrative in manner. Much of this language is considered "boilerplate" as you will see on Monday. The information related to Floodplain Overlay Districts, Shoreland-Wetland District, and Shoreland Overlay District are required by the Wisconsin Department of Natural Resources (WI-DNR) and FEMA.

Due to some scheduling difficulties the Subcommittee was experiencing during the holiday season, Village Staff felt it was best to have a Subcommittee meeting in January to have an extended focus on the "process and procedures" which are both *existing* and *proposed*. At the request of Chairman Otto, a summary table has been prepared outlining these various Divisions of the Code. Again, this level of detail is what the Plan Commission can expect for the packet material handed out in December. It is the hope of Village Staff that we can either start touching on the "process and procedures" on February 6th or it is what will be the focus of discussion in March. Of importance, is the verbiage proposed for Conditional Use Administration. This has been a discussion point with Village Staff and individual members of the Village Board over the course of the last several months.



VILLAGE OF RICHFIELD

PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: February 6, 2020

SUBJECT: Zoning Code Recodification Discussion

DATE SUBMITTED: January 31, 2020

SUBMITTED BY: Jim Healy, Village Administrator

FUTURE IMPACT AND ANALYSIS:

Forward to Village Board: No.
Additional Approvals Needed: No.
Signatures Required: No.

REVIEWED BY:

[Signature]
Village Deputy Clerk

ATTACHMENTS

- 1. Village of Richfield - Zoning Code Rewrite Project - Summary of Existing and Proposed Review Authority (dated January 9, 2020)
2. "Article 5- Specific Procedural Requirements" draft date December 26, 2019
3. Chapter 70 Zoning - Table of Contents (draft November 15, 2019)
4. Village of Richfield - Zoning Code Rewrite Project - Summary of Existing and Proposed Text for Articles 1 through 16 - FORTHCOMING on Monday, February 3, 2020.

STAFF RECOMMENDATION:

None, discussion only.

APPROVED FOR SUBMITTAL BY:

[Signature]
Village Staff Member

[Signature]
Village Administrator

VILLAGE CLERK USE ONLY
BOARD ACTION TAKEN

Resolution No.
Ordinance No.
Approved
Other

Continued To:
Referred To:
Denied
File No.

Village of Richfield – Zoning Code Rewrite Project
Summary of Existing and Proposed Review Authority – January 9, 2020

Type of Application		Public Hearing	Zoning Admin.	Arch. Review Committee	Plan Commission	Village Board	Zoning Board of Appeals	Court of Competent Jurisdiction
1. Code amendment – text and map	Existing	PC	SR	-	R	D	-	CA
	Proposed	Joint PC + VB	SR	-	R	D	-	CA
2. Planned development district	Existing	PC	SR	-	R	D	-	CA
	Proposed	Joint PC + VB	SR	-	R	D	-	CA
3. Conditional use	Existing	PC	SR	-	R	D	-	CA
	Proposed	Joint PC + VB	SR	-	R	D	-	CA
4. Wireless telecommunication facility	New procedure	• New tower & Class 1 collocation	PC	SR	-	D	-	CA
		• Class 2 collocation	-	D	-	-	LA	CA
5. Site plan/plan of operation	Existing	-	SR	-	D	-	-	CA
6. Architectural review (building plans)	Existing	-	SR	R	D	-	-	CA
7. Special exception	New procedure	-	SR	-	D	-	-	CA
8. Zoning permit	Existing	-	D	-	-	-	LA	CA
9. Floodplain permit	Existing	-	D	-	-	-	LA	CA
10. Berm permit	Existing	-	D	-	-	-	LA	CA
11. Temporary use permit - 30 days or less	Existing	-	D	-	-	-	LA	CA
12. Temporary use permit - more than 30 days but less than 90	Existing	-	SR	-	D	-	-	CA
13. Termination of use - voluntary	New procedure	-	SR	-	-	D	-	CA
Termination of use - involuntary	Existing	-	SR	-	R	D	-	CA
14. Registration of a nonconforming use	New procedure	-	SR	-	R	D	-	CA
15. Conversion of a nonconforming use	Existing	-	SR	-	-	-	D	CA
	Proposed	Joint PC + VB	SR	-	R	D	-	CA
16. Expansion of a nonconforming building	New procedure	-	SR	-	R	D	-	CA
17. Code interpretation	Existing	-	SR	-	-	-	D	CA
	Proposed change	-	D	-	LA	-	-	CA
18. Administrative appeal	Existing	Appeals Board	SR	-	-	-	D	CA
19. Variance	Existing	Appeals Board	SR	-	-	-	D	CA

Key:

SR – staff report; R – recommendation; D – final decision; LA – local appeal; CA – court appeal

**ARTICLE 5
SPECIFIC PROCEDURAL REQUIREMENTS**

Divisions

1. Code amendment
2. Planned development district
3. Conditional use
4. Wireless telecommunication facility
5. Site plan and plan of operation
6. Architectural review
7. Special exception
8. Zoning permit
9. Floodplain permit
10. Berm permit
11. Temporary Use – 30 Days or Less
12. Temporary Use – More than 30 Days but Less than 90 Days
13. Termination of approval
14. Registration of a nonconforming use
15. Conversion of a nonconforming use
16. Expansion of a nonconforming building
17. Code interpretation
18. Administrative appeal
19. Variance

**DIVISION 1
CODE AMENDMENT**

70.500 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.

70.501 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 Zoning Board of Appeals, and
5. the Village Board.

70.502 Review procedure¹

The general steps outlined below shall be used to amend the text of this chapter and 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.

¹ Commentary: See s. 62.23(7)(d), Wis. Stats.

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 within 10 days of receiving the application and other required materials 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.
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 class 2 public notice, distribution list notice, and meeting agenda notice consistent with Division 2 of Article 4. If a property owner initiates a proposed amendment that would revise the zoning map, the zoning administrator provides for class 2 public notice, property owner notice, distribution list notice, and meeting agenda notice consistent with Division 2 of Article 4. If the Village initiates a proposed amendment that would revise the zoning map, the zoning administrator provides for class 2 public notice, distribution list notice, and meeting agenda notice consistent with Division 2 of Article 4.
8. **Staff report preparation and distribution.** The zoning administrator prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
9. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Division 3 of Article 4. 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. **Recommendation.** After considering the public comments received at the public hearing and the staff report, the Plan Commission, no more than 40 calendar days after the public hearing, makes a recommendation to the Village Board based on the decision criteria contained in this division to (i) approve the amendment, (ii) approve the amendment with conditions, or (iii) deny the amendment.
11. **General notice.** Consistent with Division 2 of 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 contained 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

² Commentary: See s NR 116.20(2)(c) and ch. NR 117, Wis. Admin. Code

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 s. 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, the zoning administrator shall cause a new zoning map to be prepared consistent with Article 6.

70.503 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.

70.504 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 shall 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 ss. 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 s. 62.231, Wis. Stats.; ch. NR 117, Wis. Admin. Code; and other state laws;

³ Commentary: See s. 66.10015(3), Wis. Stats.

⁴ Commentary: See s. 62.23(7)(d)(2m)(a), Wis. Stats.

⁵ Commentary: See s. 62.23(7)(d)(2m)(b), Wis. Stats.

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 shall 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 s. 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.

70.505 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 shall 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 shall 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.

70.506 Application content

- A. **Landowner-initiated map amendment.** An application for a landowner-initiated zoning map amendment shall include the following:
 1. an application form as may be used by the Village,
 2. a project map prepared at an appropriate scale depicting the information listed in **Appendix E**, and
 3. other supporting information the applicant deems appropriate.
- B. **Other amendments.** For all other types of amendments, the application shall include the following:
 1. an application form as may be used by the Village, and

2. other supporting information the applicant deems appropriate.

70.507 Staff report content

The staff report should contain the following:

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

70.508 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 final decision.

70.509 to 70.510 Reserved

**DIVISION 2
PLANNED DEVELOPMENT DISTRICT**

70.511 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.

70.512 Initiation

The owner of the subject property may submit an application for the establishment of a planned development district.

70.513 Where allowed

A planned development district may be established in those area listed in Exhibit 6-1.

70.514 Ownership

At the time of establishment, all land within a planned development district shall be under single ownership or control.

70.515 Minimum size

To qualify for consideration as a planned development district, the area shall include at least 5 acres.

70.516 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.

70.517 Allowable uses

Land uses allowed in the underlying zoning district(s) may be allowed in a planned development district as specified in a general development plan. When the underlying zoning district is a residential or commercial district, a combination of residential, recreational, institutional, and/or commercial uses may be allowed. When the underlying zoning is an industrial district, a combination of commercial and industrial uses may be allowed. A planned development district with a mix of residential and industrial uses is prohibited.

70.518 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 shall be used in the review of an application for the establishment of a planned development district.

Step One – General Development Plan

1. **Pre-submittal meeting with zoning administrator.** 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 and 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. **Pre-application conference with Plan Commission.** The applicant meets with the Plan Commission for an informal discussion relating to the proposed project. At that meeting, the applicant shall provide the Plan Commission with materials that describe the proposed project in sufficient detail for a preliminary, non-binding review.
3. **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.
4. **Determination of completeness.** The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials 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.
5. **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.
6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator provides for class 2 public notice, property owner notice, and meeting agenda notice.
7. **Staff report preparation and distribution.** The zoning administrator prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
8. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Plan Commission may direct the zoning administrator to conduct additional research related to the proposed district.
9. **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.
10. **Recommendation.** No more than 60 calendar days after the public hearing, the Plan Commission makes a recommendation to the Village Board based on the decision criteria contained 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.
11. **General notice.** Consistent with Division 2 of 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 contained 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.

14. **Preparation of decision document.** If the general development plan is approved, the zoning administrator prepares a final ordinance.
15. **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.
16. **Acceptance by property owner.** If the general development plan 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 2 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 become null and void without any further action by the Village. The decision document shall only become effective when all of the property owner signatures have been obtained and the original signature copy is returned to the zoning administrator.

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 within 10 days of receiving the application and other required materials 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.
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 Division 2 of Article 4, the zoning administrator shall provide for a meeting agenda notice.
5. **Staff report preparation and distribution.** The zoning administrator prepares a staff report 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. The zoning administrator provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
6. **Meeting.** Allowing for proper notice, the Plan Commission reviews the precise implementation plan and the staff report.
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. **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 contained 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 Division 2 of 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 contained 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.
14. **Acceptance by property owner.** If an approval includes one or more conditions of approval, the property owner must sign the decision document to acknowledge the imposition of such condition or conditions and return the same to the zoning administrator within 2 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 become null and void without any further action by the Village. 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.

70.519 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 shall 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, open space, and/or farmland 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 superior to development that is permitted based on the design and development standards of the underlying zoning district; and
14. any other factor that relates to the purposes of this chapter set forth in s. 70.05 or as allowed by state law.

70.520 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.⁶

70.521 Application form and content

- A. **General development plan.** The application submittal for a general development plan shall include the following:
1. an application form as may be used by the Village;
 2. a general development plan prepared at an appropriate scale depicting the information listed in **Appendix F**;
 3. a preliminary draft of covenants if any are to be imposed; and
 4. a development schedule, if the project is to be constructed in phases, which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.
- B. **Precise implementation plan.** The application submittal for a precise implementation plan shall include the following:
1. an application form as may be used by the Village;
 2. a precise implementation plan prepared at an appropriate scale depicting the information listed in **Appendix F**;
 3. a final draft of covenants if any are to be imposed;
 4. homeowners association documents, if proposed or required;
 5. a development agreement, if proposed or required; and
 6. a development schedule, if the project is to be constructed in phases, which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.

70.522 Staff report content

The staff report should contain 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.

70.523 Effect of approval

If the Village Board approves a planned development district, the approval shall run with the land and is binding on all subsequent property owners.

70.524 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.

70.525 Review of actual development within an approved planned development district

If the Village Board approves a planned development district, proposed development in the district is reviewed consistent with the requirements of this article as may apply (e.g., building, site, and plan of operation).

⁶ Commentary: See s. 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.

70.526 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.

70.527 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.

70.528 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 final decision.

70.529 to 70.530 Reserved

**DIVISION 3
CONDITIONAL USE**

70.531 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.

70.532 Applicability and limitations

- 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 parcel is classified as nonconforming (e.g., lot area, lot width), the Village may not process an application for a conditional use as set forth in s. 70.534, unless the Plan Commission makes a determination that the nature of the nonconformity does not affect the appropriateness of the parcel for the conditional use.
- C. **Limitation due to a nonconforming use on the lot.** In the event a parcel has a nonconforming use, the Village may not process an application for a conditional use as set forth in s. 70.534, unless the Plan Commission makes a determination that the nonconforming use and proposed conditional use are compatible.
- D. **Limitation due to existing conditional use on the lot.** In the event a parcel has an approved conditional use, the Village may not process an application for another conditional use as set forth in s. 70.534, unless the Plan Commission makes a determination that the existing and proposed conditional uses are compatible.

70.533 Initiation

The owner of the subject property may submit an application for the establishment of a conditional use.

70.534 Review procedure

- A. **Review and approval.** The Plan Commission and Village Board shall review existing and proposed site conditions, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway

locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, the proposed operation, and other factors the Plan Commission and/or Village Board determines are appropriate when considering a conditional use application.

- B. **Steps in the review process.** The general steps outlined below shall be used in the review of a conditional use application.
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 submittal within 10 days of receiving the application and other required materials 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.
 4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Village Board and 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 Division 2 of Article 4, the zoning administrator shall provide for a class 2 public notice, property owner notice, and meeting agenda notice.
 7. **Staff report preparation and distribution.** The zoning administrator prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
 8. **Public hearing.** Allowing for proper notice, the Village Board and the Plan Commission conduct a joint public hearing to review the application consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant, Village Board, or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board and/or 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 will make 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. The Plan Commission shall render its recommendation within 35 days from the close of the public hearing unless an extension is consented to in writing by the applicant.
 11. **Village Board meeting.** Allowing for proper notice, the Village Board shall consider 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, 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.
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 become null and void without any further action by the Village. 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. **Public record copy.** A duplicate copy of the decision document is retained as a public record.
18. **Recording of decision document.** If the property owner returns the decision document within the required time period with the required signatures, the zoning administrator records the decision document against the subject property in the office of the Washington County register of deeds.
19. **Administrative steps.** If the conditional use is approved and the zoning administrator has created a map showing conditional uses, the zoning administrator adds the conditional use to that map.

70.535 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its final decision shall consider whether the proposal complies with (1) each of the special conditions of approval set forth in s. 70.536, (2) each of the performance standards set forth in s. 70.537, (3) each of the development standards prescribed for the requested conditional use, (4) all other applicable sections of the zoning code, and (5) all other applicable sections of the municipal code, including the Village's groundwater regulations. The recommendation of the Plan Commission and the decision by the Village Board must be based on substantial evidence.

70.536 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 deliver 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 contained 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.⁷
- D. **Special condition for business as property owner.** As a condition of approval of a conditional use, the property owner if it is a business entity, such as a limited liability company or a corporation, 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.

70.537 Conditional use performance standards

- A. **Generally.** This section describes performance standards for the regulation of uses and to establish an objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All structures, lands, air, and water shall hereafter comply with the performance standards set forth in this section.
- B. **Odors.** No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor. The Plan Commission and/or Village Board reserves the right to request an odor control plan from the applicant to identify potential odors and implement recommendations from the plan.
- C. **Fire and explosive hazards.**

⁷ Commentary: See s. 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.

1. All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices as may be required by the Fire Prevention Code.
2. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.
3. The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the village fire department and in accord with their requirements to minimize fire and explosive hazards.

D. Glare, heat and external lighting.

1. No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the property line. Operations producing light, glare, or heat shall be conducted within an enclosed building.
2. External lighting shall be shielded so that light rays do not adversely affect adjacent uses.

E. Water quality.

1. No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.
2. No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate water quality.

F. Noise. No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.

G. Vibration. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities are exempt from this standard.

H. Traffic impact. The Plan Commission and/or the Village Board reserves the right to require a traffic impact study in order to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements the conclusions and recommendations of the study. The traffic study shall be prepared by a registered professional engineer in accordance with the following standards:

1. Manual on Transportation Studies (Institute of Transportation Engineers (ITE))
2. Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
3. Manual on Uniform Traffic Control Devices (Federal Highway Administration)
4. Trip Generation Manual (Institute of Transportation Engineers)
5. Other local, county or state standards

70.538 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 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, the Washington County of, 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. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village ordinance or other law.
3. 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.
4. All buildings and grounds shall be maintained in a neat, attractive and orderly way.
5. The property shall comply with all rules and regulations of the Village of Richfield 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 Plan Commission, 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 shall 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. Petitioner shall, 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 s. 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 is obligated to 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 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 deed restrictions or restrictive covenants.
20. If this conditional use terminates for any reason, the property owner is obligated to remove 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.

70.539 Application form and content

The application submittal shall include an application form as may be used by the Village and a project map prepared at an appropriate scale depicting the information listed in Appendix E.

70.540 Staff report content

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

70.541 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 zoning administrator on behalf of the Village Board; 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 zoning administrator on behalf of the Village Board, and
 8. the date of the decision.

70.542 Term for an approval

A conditional use order authorizing a conditional use shall generally have 5-year terms unless otherwise specified in the conditional use order. The order shall 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 automatic 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 automatic approval 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.

70.543 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 **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.

70.544 Expiration of an approval

- A. **Non-establishment of use.** 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 of use.** 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.

70.545 Amendment of an approved conditional use

Following approval of a conditional use, 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.

70.546 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 final decision.

70.547 Effect of comprehensive plan

Pursuant to Wis. Stats. 66.1001(2m)(b), a conditional use approval that may be issued by the Village Board does not need to be consistent with the Village's adopted comprehensive plan.

70.548 to 70.550 Reserved

DIVISION 4 WIRELESS TELECOMMUNICATION FACILITY

70.551 Review procedure

- A. **New telecommunication tower and Class 1 collocation.** The general steps outlined below shall be used to review 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.
 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 Division 2 of Article 4, the zoning administrator provides for a class 2 public notice, property owner notice, and meeting agenda notice.
 5. **Staff report preparation and distribution.** The zoning administrator prepares a written staff report and provides a copy of it to each member of the Plan Commission, the applicant, and any other interested person upon request.
 6. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Division 2 of Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Division 3 of 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, the Plan Commission, no more than 40 calendar days after the public hearing, 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.
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. **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 Plan Commission 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 is null and void without any further action by the Village. 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.
12. **Public record copy.** A duplicate copy of the decision document is retained as a public record.
13. **Recording of decision document.** If the property owner returns the decision document within the required time period with the required signatures, the zoning administrator records the decision document against the subject property in the Washington County register of deeds office.

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

- B. **Class 2 collocation.** The general steps outlined below shall be used to review an application for a Class 2 collocation which is allowed in all zoning districts.
 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.
 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.
 4. **Public record copy.** A duplicate copy of the decision document is retained as a public record.

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

70.552 Application form

- A. **New telecommunication tower and Class 1 collocation.** 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.
- B. **Class 2 collocation.** An application form for a Class 2 collocation must include the following information:
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.

70.553 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.

70.554 Expiration of an approval

- A. **Non-establishment of use.** 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 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 of use.** 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.

70.555 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.

70.556 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 s. 70.409.
- 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 s. 66.0404(4)(d), Wis. Stats.

70.557 to 70.560 Reserved

**DIVISION 5
SITE PLAN AND PLAN OF OPERATION**

70.561 Generally

- A. **Site plans.** 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.
- B. **Plan of operations.** The way in which many land uses operate has a direct effect on the nature of the use and potential effects on nearby properties, including existing and anticipated land uses. This division describes the requirements and procedures for reviewing a plan of operation.

70.562 Applicability

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

70.563 Initiation

The owner of the subject property may submit an application for a site plan and plan of operation.

70.564 Review procedure

The general steps outlined below shall be used in the review of a site plan and plan of operation application.

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 within 10 days of receiving the application and other required materials 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.
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 prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the

applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.

5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
6. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
7. **Decision.** The Plan Commission makes a decision to (i) approve the site plan/plan of operation, (ii) approve the site plan/plan of operation with conditions, or (iii) deny the site plan/plan of operation. The Plan Commission may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the initial meeting unless the applicant agrees to an extension of a specified duration.
8. **Preparation of decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a decision document consistent with this division.
9. **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.
10. **Acceptance by property owner.** If the application is approved, the property owner and the operator, if different, 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 or operator, if different, may submit a petition to the village clerk 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 become null and void without any further action by the Village. 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.
11. **Public record copy.** A duplicate copy of the decision document is retained as a public record.

70.565 Basis of decision

- A. **Site plan.** The review authority shall consider the following factors in making their decision:
 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. compliance with the general site design principles enumerated in s. 70.05;
 5. compliance with the design principles for parking lots enumerated in Article 13;
 6. compliance with other applicable requirements contained in this chapter; and
 7. any other factor that relates to the purposes of this chapter set forth in s. 70.05 or as allowed by state law.
- B. **Plan of operation.** The review authority shall consider the following factors in making their decision:
 1. the nature of the land use with regard to the number of employees, nature and extent of truck shipments to and from the site, hours of operation, use of hazardous substances, and other operational characteristics;
 2. the nature and extent of anticipated positive and negative effects on properties in the area;
 3. actions the applicant will undertake to mitigate the negative effects, if any, of the proposed land use; and
 4. any other factor that relates to the purposes of this chapter set forth in s. 70.05 or as allowed by state law.

70.566 Imposition of conditions

- A. **Site plan.** In approving a site plan, the Plan Commission 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, revisions to the site design, and outdoor lighting.
- B. **Plan of operation.** In approving a plan of operation, the Plan Commission may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to operational characteristic of the land use, including hours of operation and processes or activities related to the land use.
- C. **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.⁸

70.567 Application form and content

The application submittal shall include an application form as may be used by the Village.

70.568 Staff report content

The staff report should contain the following:

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

70.569 Content of decision document

- A. **Approval.** If the application for a site plan or plan of operation 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;
 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 zoning administrator on behalf of the reviewing authority; and
 10. the date of the decision.
- B. **Denial.** If the application for a site plan or plan of operation 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,

⁸ Commentary: See s. 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.

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 zoning administrator on behalf of the reviewing authority, and
8. the date of the decision.

70.570 Effect of approval

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

70.571 Expiration of an approval

An approval of a site plan/plan of operation shall automatically expire 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.

70.572 Amendment of an approval

Following approval of a site plan or plan of operation, 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.

70.573 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 final decision.

70.574 to 70.575 Reserved

DIVISION 6 ARCHITECTURAL REVIEW

70.576 Generally

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

70.577 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.

70.578 Initiation

The owner of the subject property may submit an application for architectural review.

70.579 Review procedure

The general steps outlined below shall be used in the review of an architectural plan application.

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 within 10 days of receiving the application and other required materials 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.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Architectural Review Committee consistent with its adopted calendar.
4. **Recommendation.** The Architectural Review Committee makes a recommendation to the Plan Commission to (i) approve the architectural plan, (ii) approve the architectural plan with conditions, or (iii) deny the architectural plan.
5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
6. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
7. **Decision.** The Plan Commission makes a decision to (i) approve the architectural plan, (ii) approve the architectural plan with conditions, or (iii) deny the architectural plan. The Plan Commission may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the public meeting unless the applicant agrees to an extension of a specified duration.
8. **Preparation of decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a decision document consistent with this division.
9. **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.
10. **Public record copy.** A duplicate copy of the decision document is retained as a public record.

70.580 Basis of decision

The review authority shall determine whether the building complies with all applicable provisions of this chapter.

70.581 Imposition of conditions

- A. **Generally.** In approving an architectural plan, 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.⁹

70.582 Application form and content

The application submittal shall include an application form as may be used by the Village and a set of architectural plans prepared at an appropriate scale.

70.583 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;

⁹ Commentary: See s. 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.

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 Plan Commission or administrator deems appropriate;
 9. the signature of the zoning administrator on behalf of the Plan Commission; and
 10. 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 Plan Commission or zoning administrator deems appropriate,
 7. the signature of the zoning administrator on behalf of the Plan Commission, and
 8. the date of the decision.

70.584 Effect of approval

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

70.585 Expiration of an approval

An approval of an architectural plan shall automatically expire 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.

70.586 Amendment of an approval

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.

70.587 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 final decision.

70.588 to 70.590

Reserved

DIVISION 7 SPECIAL EXCEPTION

70.591 Generally

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

70.592 Initiation

The owner of the subject property may submit an application for a special exception.

70.593 Review procedure

The general steps outlined below shall be used in the review of a special exception application.

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 within 10 days of receiving the application and other required materials 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.
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 prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
6. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
7. **Decision.** After considering all of the information submitted by the applicant and the staff report, the Plan Commission makes a decision based on the decision criteria contained in this division to (i) approve the special exception, (ii) approve the special exception with conditions, or (iii) deny the special exception.
8. **Preparation of final decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a final decision document consistent with this division.
9. **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.
10. **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 become null and void without any further action by the Village. 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.
11. **Public record copy.** A duplicate copy of the decision document is retained as a public record.

70.594 Basis of decision

The review authority shall 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 s. 70.05 or as allowed by state law.

70.595 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.¹⁰

70.596 Limitations on issuing a special exception

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

70.597 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

70.598 Staff report content

The staff report should contain the following:

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

70.599 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;

¹⁰ Commentary: See s. 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.

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;
 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 zoning administrator on behalf of the reviewing authority; 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 zoning administrator on behalf of the reviewing authority, and
 8. the date of the decision.

70.600 Effect of approval

If a special exception is approved, such approval shall run with the land and is binding on all subsequent property owners.

70.601 Expiration of an approval

An approval for a special exception shall automatically expire 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.

70.602 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 final decision.

70.603 to 70.605 Reserved

DIVISION 8 ZONING PERMIT

70.606 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).

70.607 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.

70.608 Initiation

The owner of the subject property may submit an application for a zoning permit.

70.609 Review procedure

The general steps outlined below shall be used in the review of 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 within 10 days of receiving the application and other required materials 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.
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 to approve or deny the application, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
5. **Public record copy.** A duplicate copy of the decision document is retained as a public record.

70.610 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.

70.611 Expiration of an approval

- A. **Project involving construction.** For a project involving any construction, a zoning permit shall automatically expire 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 shall automatically expire 6 months after the date of issuance if the applicant does not move into the vacant space.

70.612 Appeal

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

70.613 to 70.615 Reserved

DIVISION 9 FLOODPLAIN PERMIT

70.616 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 8.

70.617 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.

70.618 Initiation

The owner of the subject property may submit an application for a floodplain permit.

70.619 Review procedure

The general steps outlined below shall be used in the review of 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 within 10 days of receiving the application and other required materials 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.
3. **Decision.** When the zoning administrator determines the application is complete, he or she makes a decision based on the decision criteria contained 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 to approve or deny the application, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
5. **Public record copy.** A duplicate copy of the decision document is retained as a public record.

70.620 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 8.

70.621 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F. The application at a minimum shall include the following:

1. name and address of the property owner;
2. legal description of the subject property;
3. a description of the proposed project;

4. the elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
5. data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Division 4 or 6 [3.0 or 4.0] of Article 8 are met; and
6. data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 70. [11.12.142 [2.1]]. This may include any of the information noted in s. 70. [11.12.63. [3.3(1)]].

In addition to the information listed in Appendix F, the following shall be depicted on the site map:

1. elevation of existing and proposed roads located in the floodplain,
2. elevation of existing and proposed wellheads located in the floodplain, and
3. elevation of existing and proposed buildings located in the floodplain.

70.622 Expiration of an approval

- A. **Project involving construction.** For a project involving any construction, a floodplain permit shall automatically expire 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 shall automatically expire 6 months after the date of issuance if the applicant does not move into the vacant space.

70.623 Appeal

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

70.624 to 70.625 Reserved

**DIVISION 10
BERM PERMIT**

70.626 Generally

A berm permit is administrative in nature and is intended to ensure the proposed project complies with all applicable sections of this code.

70.627 Applicability

A berm permit must be obtained before any work is done to construct or modify an existing berm.

70.628 Initiation

The owner of the subject property may submit an application for a berm permit.

70.629 Review procedure

The general steps outlined below shall be used in the review of an application for a berm permit.

1. **Submission 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 within 10 days of receiving the application and other required materials 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.
3. **Decision.** When the zoning administrator determines the application is complete, he or she makes a decision based on the decision criteria contained in this division to (i) approve the berm permit, (ii) approve the berm permit with conditions, or (iii) deny the berm permit.
4. **Applicant notification.** Within a reasonable time following his or her decision to approve or deny the application, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
5. **Public record copy.** A duplicate copy of the decision document is retained as a public record.

70.630 Basis of decision

In determining whether to issue a berm permit or deny the permit, the zoning administrator shall determine whether the proposed berm complies with all applicable sections of this code.

70.631 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

70.632 Expiration of an approval

A berm permit shall automatically expire 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.

70.633 Appeal

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

70.634 to 70.635 Reserved

**DIVISION 11
TEMPORARY USE – 30 DAYS OR LESS**

70. to 70. Reserved

**DIVISION 12
TEMPORARY USE – MORE THAN 30 DAYS BUT LESS THAN 90 DAYS**

70. to 70. Reserved

DIVISION 13 TERMINATION OF APPROVAL

70.675 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.

70.676 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.

70.677 Review procedure for voluntary termination

The general steps outlined below shall be used in the review of 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 within 10 days of receiving the application and other required materials 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.
3. **General notice.** Consistent with Division 2 of 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. The Village Board may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
6. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.

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. **Public record copy.** A duplicate copy of the decision document is retained as a public record.
9. **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.

70.678 Review procedure for involuntary termination

The general steps outlined below shall be used in the review of 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 within 10 days of receiving the application and other required materials 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.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Village Board and 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 Division 2 of 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 Village Board and the Plan Commission conduct a joint public hearing consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant, the Village Board, or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board or 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. **Recommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the Plan Commission, no more than 40 calendar days after the public hearing, makes a recommendation to the Village Board based on the decision criteria contained in this division to (i) approve the termination, (ii) approve the termination with conditions, or (iii) deny the termination.
8. **General notice.** Consistent with Division 2 of 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 contained 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.

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. **Public record copy.** A duplicate copy of the decision document is retained as a public record.
14. **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.

70.679 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its decision shall 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 s. 70.05 or as allowed by state law.

70.680 Application form and content

The application submittal shall include an application form as may be used by the Village. The application form shall request the following information:

1. the subject property location;
2. a description of the original approval, including conditions of approval, if any;
3. verification that the property owner is voluntarily seeking termination of a conditional use approval or evidence supporting the assertion that the use may be involuntarily terminated consistent with this division;
4. a description 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; and
5. other information deemed necessary.

70.681 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 zoning administrator on behalf of the Village Board; 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 zoning administrator on behalf of the Village Board, and
7. the date of the decision.

70.682 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.

70.683 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 final decision.

70.684 to 70.686 Reserved

DIVISION 14 REGISTRATION OF A NONCONFORMING USE

70.687 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 14 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.

70.688 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.

70.689 Review procedure

The general steps outlined below shall be used to determine if an existing use should be registered as 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 Division 2 of 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. **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. The Plan Commission may render its recommendation at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
6. **General notice.** Consistent with Division 2 of 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 within 15 calendar days of such decision prepares a decision document consistent with this division.
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. **Public record copy.** A duplicate copy of the decision document is retained as a public record.
12. **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 5.

70.690 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.

70.691 Application form and content

The application submittal shall include an application form as may be used by the Village and scaled drawing of the property and the location of the land use on the property. At a minimum, the application shall request the following information:

1. the date, or approximate date, the use was first established or believed to be first established;
2. evidence showing that the use at the time of establishment was legally established;
3. the date, or approximate date, when the use became nonconforming;
4. the section of the zoning regulation causing the use to be nonconforming;
5. evidence showing that the use has continued from the date, or approximate date, of establishment to the current date without an interruption of more than 12 continuous months; and

6. the nature of the use and location on the property.

Sources of such information may be derived from any of the following:

1. written document (e.g., business license, meeting minutes, reports, planning documents, or a permit or other authorization) maintained by a local, state, or federal governmental body;
2. a newspaper article;
3. a dated photograph;
4. an aerial photograph;
5. a sworn affidavit supplied by the applicant or any other person; and
6. any other authoritative source as approved by the zoning administrator.

70.692 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 zoning administrator on behalf of the Plan Commission, 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 zoning administrator on behalf of the Plan Commission, and
 8. the date of the decision.

70.693 Effect of decision

If the Plan Commission 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.

70.694 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 final decision

70.695 to 70.697

Reserved

DIVISION 15 CONVERSION OF A NONCONFORMING USE

70.698 Generally

An existing nonconforming use (e.g., a tavern in a residential district) may be converted to another nonconforming use provided the new use is less nonconforming (e.g., from a tavern to a restaurant).

70.699 Initiation

The owner of the subject property may submit an application for a conversion of a nonconforming use, but only when the nonconforming use has been registered as a nonconforming use pursuant to Division 14 of this article.

70.700 Review procedure

The general steps outlined below shall be used in the review of an application for a 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 within 10 days of receiving the application and other required materials 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.
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 prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator provides for a class 2 public notice, property owner notice, and meeting agenda notice.
7. **Public hearing.** Allowing for proper notice, the Village Board and Plan Commission conduct a joint public hearing consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant, Village Board, or Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board or 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. **Recommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the Plan Commission, no more than 40 calendar days after the public hearing, makes a recommendation to the Village Board based on the decision criteria contained in this division to (i) approve the conversion, (ii) approve the conversion with conditions, or (iii) deny the conversion.
9. **General notice.** Consistent with Division 2 of 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 contained 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, and a conversion order if approved.
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 become null and void without any further action by the Village. 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. **Public record copy.** A duplicate copy of the decision document is retained as a public record.
16. **Recordation.** If the property owner signs the approved conversion order, the zoning administrator records the conversion order in the office of the Washington County register of deeds.

70.701 Basis of decision

The Plan Commission and Village Board shall 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 new nonconforming use would be more of a nonconformity than the existing nonconforming use.

70.702 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.¹¹

70.703 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

70.704 Staff report content

The staff report should contain the following:

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

¹¹ Commentary: See s. 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.

70.705 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 zoning administrator on behalf of the review authority;
 8. the date of the decision; and
 9. the copy of the conversion order described in s. 70.706.
- 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 zoning administrator on behalf of the Village Board, and
 8. the date of the decision.

70.706 Content of conversion order

If the conversion is approved, a conversion order shall be prepared and adopted that contains (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.

70.707 Effect of approval

If the Village Board approves the conversion, such approval shall run with the land and is binding on all subsequent property owners.

70.708 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.

70.709 Amendment of an approval

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.

70.710 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 final decision.

70.711 to 70.712 Reserved

DIVISION 16 EXPANSION OF A NONCONFORMING BUILDING

70.713 Generally

A nonconforming building (i.e., 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.

70.714 Initiation

The owner of the subject property may submit an application to expand a nonconforming building with a conforming use.

70.715 Review procedure

The general steps outlined below shall be used in the review of 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 within 10 days of receiving the application and other required materials 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.
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 prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
6. **General notice.** Consistent with Division 2 of 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. **Recommendation.** The Plan Commission makes a recommendation to (i) approve the expansion, (ii) approve the expansion with conditions, or (iii) deny the expansion. The Plan Commission may render its recommendation at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the public meeting unless the applicant agrees to an extension of a specified duration.

9. **General notice.** Consistent with Division 2 of 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 imposition of such condition or conditions 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 become null and void without any further action by the Village. 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.
15. **Recording of decision document.** The decision document is recorded in the Washington County register of deeds office when approval is granted.
16. **Public record copy.** A duplicate copy of the decision document is retained as a public record.

70.716 Basis of decision

The review authority shall 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 s. 70.05 or as allowed by state law.

70.717 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.¹²

¹² Commentary: See s. 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.

70.718 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in [Appendix F](#).

70.719 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 zoning administrator on behalf of the Village Board; 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 zoning administrator on behalf of the Village Board, and
 7. the date of the decision.

70.720 Effect of decision

If the review authority approves the expansion of a nonconforming building, the approval runs with the land and is binding on all subsequent property owners.

70.721 Expiration of an approval

An approval to expand a nonconforming building shall automatically expire 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.

70.722 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 final decision.

70.723 to 70.725**Reserved**

**DIVISION 17
CODE INTERPRETATION**

70.726 Generally

From time to time, there may be instances where a person may have a question concerning a provision of this chapter or the application of a provision of this chapter. To ensure this chapter is consistently interpreted over time, a mechanism is needed to issue written interpretations. This division describes the procedures and requirements to issue such interpretations.

70.727 Initiation

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

70.728 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.

70.729 Review procedure

- A. **Zoning administrator review.** The general steps outlined below shall be used to render an interpretation.
1. **Submittal of question.** The individual requesting the interpretation shall submit 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, the zoning administrator shall make 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 duplicate 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.
 4. **Public record copy.** A duplicate copy of the interpretation is retained as a public record.
- 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 shall be used to render an interpretation.
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 Division 2 of 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 within 15 calendar days of such decision 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.
 7. **Public record copy.** A duplicate copy of the decision document is retained as a public record.

70.730 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 s. 70.05 and other parts of the chapter along with applicable legislative findings contained 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 s. 70.06, [11.06.32] 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.

70.731 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.

70.732 Interpretation content

An interpretation shall be in writing and contain 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.

70.733 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.

70.734 Compilation of interpretations

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

70.735 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.

70.736 to 70.739 Reserved**DIVISION 18
ADMINISTRATIVE APPEAL****70.740 Generally**

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

70.741 Initiation

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

70.742 Review procedure

The general steps outlined below shall be used in the review of 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 duplicate copy of the appeal to the Zoning Board of 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 Zoning Board of 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 Zoning Board of 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 Zoning Board of Appeals provides a class 2 public notice and meeting agenda notice consistent with Division 2 of Article 4.
7. **Public hearing.** Allowing for proper notice, the Zoning Board of Appeals conducts a public hearing consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant or the Zoning Board of Appeals may request a continuance consistent with Division 3 of Article 4.
8. **Decision.** After the public hearing has been closed, the Zoning Board of Appeals makes a decision to affirm the zoning administrator's decision, set aside the decision, or modify the decision. The Zoning Board of Appeals may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
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 duplicate 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.
11. **Public record copy.** A duplicate copy of the decision document is retained as a public record.

70.743 Basis of decision

- A. **Generally.** The Zoning Board of Appeals shall determine if 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 s. 44.31(3), Wis. Stats., the Zoning Board of Appeals shall consider any suggested alternatives or recommendations submitted by the landmarks commission, if one has been established, or the Plan Commission.

70.744 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 Zoning Board of 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 Zoning Board of Appeals or by a court of record on application, with notice to the zoning administrator from whom appeal is made.

70.745 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 final decision.

70.746 to 70.749 Reserved

**DIVISION 19
VARIANCE**

70.750 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.

70.751 Initiation

The owner of the subject property may submit an application for a variance.

70.752 Review procedure

The general steps outlined below shall be used in the review of a variance application.

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 within 10 days of receiving the application and other required materials 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.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Zoning Board of 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 Division 2 of Article 4, the zoning administrator provides for class 2 public notice, property owner notification, and meeting agenda notice.
6. **Staff report preparation and distribution.** The zoning administrator prepares a written staff report as described in this division and provides a copy to each member of the Zoning Board of Appeals and the applicant. The zoning administrator provides a copy to interested people upon request.
7. **Public hearing.** Allowing for proper notice, the Zoning Board of Appeals holds a public hearing consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant or the board may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Zoning Board of 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 Zoning Board of Appeals after considering the comments and the staff report makes a decision based on the decision criteria contained in this division to (i) approve the variance, (ii) approve the variance with conditions, or (iii) deny the variance. The Zoning Board of Appeals may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 calendar days after the public hearing unless the applicant agrees to an extension of a specified duration.
9. **Preparation of decision document.** Based on the action of the Zoning Board of Appeals, the zoning administrator prepares a decision document consistent with this division.
10. **Applicant notification.** Within a reasonable time following the Zoning Board of 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. **Acceptance by property owner.** If the Zoning Board of Appeals grants the variance with one or more condition of approval, the property owner must sign the decision document to acknowledge the imposition of such condition or conditions 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 become null and void without any further action by the Village. 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.
13. **Public record copy.** A duplicate copy of the decision document is retained as a public record.
14. **Additional procedural steps.** If the Zoning Board of Appeals grants the variance, the applicant shall then follow other review procedures as may be required.

70.753 Basis of decision

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

70.754 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 s. 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.

70.755 Imposition of conditions

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

70.756 Application form and content

The application submittal shall include an application form as may be used by the Village and a project map prepared at an appropriate scale depicting the information listed in **Appendix F**.

70.757 Staff report content

The staff report should contain 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 staff recommendation is for approval or denial; and
4. other information deemed necessary.

70.758 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. 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 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 Zoning Board of Appeals may, with cause, grant a one-time extension, not to exceed 6 months;
7. a statement that the applicant may appeal the decision to a court of competent jurisdiction;
8. 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;
9. other information the Zoning Board of Appeals or zoning administrator deems appropriate;
10. the signature of the chairperson of the Zoning Board of Appeals; and
11. 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 Zoning Board of Appeals or zoning administrator deems appropriate,

7. the signature of the chairperson of the Zoning Board of Appeals, and
8. the date of the decision.

70.759 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. The variance runs with the land.
- 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 14.

70.760 Effect of denial

If the Zoning Board of 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.¹³

70.761 Expiration of an approval

A variance approval shall automatically expire 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.

70.762 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 final decision.

¹³ Commentary: See *Tateoka v City of Waukesha Bd. of Zoning Appeals*, 220 Wis.2d 656, 583 N.W. 2d 871 (Cl. App. 1998).

Village of Richfield – Zoning Code Rewrite Project
Summary of Existing and Proposed Review Authority – December 26, 2019

Type of Application		Zoning Administrator	Architectural Review Committee	Plan Commission	Village Board	Zoning Board of Appeals	Court of Competent Jurisdiction
1. Code amendment – text and map	Existing	SR	-	R	D	-	CA
2. Planned development district	Existing	SR	-	R	D	-	CA
3. Conditional use	Existing	SR	-	R	D	-	CA
4. Wireless telecommunication facility	New procedure						
• New tower & Class 1 collocation		SR	-	D	LA?	-	CA
• Class 2 collocation		D	-	-		LA	CA
5. Site plan/plan of operation	Existing	SR	-	D	-	-	CA
	Proposed change	SR	-	D	LA?	-	CA
6. Architectural review (building plans)	Existing	SR	R	D	LA?	-	CA
7. Special exception	New procedure	SR	-	D	LA?	-	CA
8. Zoning permit	Existing	D	-	-	-	LA	CA
9. Floodplain permit	Existing	D	-	-	-	LA	CA
10. Berm permit	Existing	D	-	-	-	LA	CA
11. Temporary use permit - 30 days or less	Existing	D	-	-	-	LA	CA
12. Temporary use permit - more than 30 days but less than 90	Existing	SR	-	D	-	-	CA
13. Termination of use - voluntary	New procedure	SR	-	-	D	-	CA
Termination of use - involuntary	Existing	SR	-	R	D	-	CA
14. Registration of a nonconforming use	New procedure	SR	-	R	D	-	CA
15. Conversion of a nonconforming use	Existing	SR	-	-	-	D	CA
	Proposed	SR	-	R	D	-	CA
16. Expansion of a nonconforming building	New procedure	SR	-	R	D	-	CA
17. Code interpretation	Existing	SR	-	-	-	D	CA
	Proposed change	D	-	LA	-	-	CA
18. Administrative appeal	Existing	SR	-	-	-	D	CA
19. Variance	Existing	SR	-	-	-	D	CA

Key:

SR – staff report; R – recommendation; D – final decision; LA – local appeal; CA – court appeal

Chapter 70 – Zoning

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(Draft November 15, 2019)

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**CHAPTER 70
ZONING**

**ARTICLE 1
GENERAL PROVISIONS**

70.100 Title

This chapter shall be known as "Zoning" and may be referred to herein as "this chapter."

70.101 Authority

This chapter is adopted under the authority granted under ss. 60.62, 61.35, and 62.23, Wis. Stats., as amended.

70.102 Jurisdiction

This chapter shall only apply to that land lying within the corporate limits of the Village of Richfield, Washington County, the boundary of which may change over time through annexations and detachments.

70.103 Legislative findings

- A. **General findings.** The Village Board makes the following legislative findings:
 - 1. The Village Board adopted a comprehensive plan pursuant to s. 66.1001, Wis. Stats., and has made various amendments since then.
 - 2. This chapter is intended to be consistent with the overall intent of the village's comprehensive plan, as may be amended.
- B. **Other findings.** Other legislative findings are included in various articles, divisions, and sections of this chapter as may be appropriate.

70.104 Purpose

- A. **General purpose.** This chapter promotes the public health, safety, and welfare and is intended to:
 - 1. implement the goals, objectives, and policies of the village's comprehensive plan to the greatest extent practicable;
 - 2. encourage the most appropriate use of land throughout the village;
 - 3. conserve the value of buildings;
 - 4. establish clear and consistent standards, regulations, and procedures for the review of proposed development as may be regulated by this chapter; and
 - 5. establish minimum standards for the use or development of land within the village.
- B. **Specific purposes.** Consistent with s. 62.23(7), Wis. Stats., this chapter is also intended to:
 - 1. secure safety from fire, panic, and other dangers;
 - 2. promote health and general welfare;
 - 3. provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems;
 - 4. encourage the protection of groundwater resources;
 - 5. prevent the overcrowding of land;
 - 6. avoid undue concentration of population;

7. facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and
 8. preserve burial sites, as defined in s. 157.70(1)(b), Wis. Stats.
- C. **Other purposes.** Other purposes may be included in various articles, divisions, and sections as may be appropriate.

70.105 Re-enactment and repeal

This chapter carries forward by re-enactment some of the provisions of the regulations governing zoning and related matters which the Village Board adopted under authority of state law prior to the effective date of this chapter. This chapter is not intended to repeal those regulations in their entirety, but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced, unless explicitly surrendered by specific provisions of this chapter. If a provision in the regulations which were in effect on the date this chapter became effective is not specifically carried forward in this chapter, such provision is repealed. As to the effect of this section on existing land uses refer to Article 14.

70.106 Compliance

- A. **Generally.** Except as specifically provided, the provisions of this chapter shall apply to all development within the Village of Richfield. No development shall be undertaken without the prior authorizations required by this chapter and other applicable rules and regulations of the Village of Richfield.
- B. **Exception for a previously granted permit or other approval.** If a permit or other approval has been previously granted and the authorized work, in whole or in part, is no longer allowed under the current zoning regulations, the holder of the permit is authorized to establish the use or undertake the authorized work within one year of the date of the approval. If the authorized work does not commence within that time period and continue in good faith to completion, such permit or other approval shall lapse and be null and void.
- C. **Exception for the establishment of a use, structure, or building not requiring authorization.** If prior to the adoption of this chapter, or amendment thereto, a lawful land use, structure, or building is actively being established that did not require a permit or other approval under the zoning regulations in effect at that time, said work may continue to completion even when such land use, structure, or building (1) now requires a permit or other authorization under this chapter, (2) is being developed contrary to this chapter, or (3) is otherwise prohibited under this chapter. If such work does not continue in good faith to completion, any work must thereafter conform to this chapter.

70.107 Liability

The Village of Richfield and its officials, agencies, employees, agents, and assigns shall not be liable for any flood damage, sanitation problems, structural damage, or other damages or loss of property value that may occur as a result of reliance upon and conformance with this chapter.

70.108 Severability

- A. If any section, clause, provision, or portion of this chapter is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected by such ruling.
- B. If any application of this chapter to a particular structure or parcel is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not apply to any other structure or parcel not specifically included in the ruling.

70.109 Relationship of this chapter to other regulations

In addition to meeting the requirements contained in this chapter, development shall comply with all applicable regulations of federal and state agencies. In all cases, the strictest of the applicable provisions shall apply.

70.110 Relationship of this chapter to private agreements

This chapter is not intended to repeal, abrogate, annul, impair, or interfere with any easement, covenant, deed restriction, or other private agreement governing land development. However, when this chapter imposes a greater restriction than the aforementioned, the provisions of this chapter shall apply.

70.111 Additional local regulations

In addition to meeting the regulations contained in this chapter, development shall comply with all applicable regulations in the municipal code, including the following and any amendments thereto:

1. Chapter 66 – Subdivision Regulations
2. Chapter 119 – Animal Waste Storage Facilities
3. Chapter 135 – Building Construction
4. Chapter 143 – Business Licenses and Permits
5. Chapter 167 – Erosion Control and Stormwater Management (Groundwater Protection)
6. Chapter 212 – Impact Fees
7. Chapter 234 – Outdoor Lighting
8. Chapter 248 – Mobile/Manufactured Homes
9. Chapter 286 – Property Maintenance
10. Chapter 309 – Signs

In all cases, the strictest of the applicable provisions shall apply.

70.112 No defense to nuisance action

Compliance with the standards and requirements in this chapter shall not constitute an absolute defense to an action to abate a public or private nuisance.

70.113 Applicability to public entities

This chapter shall apply to all publicly-owned land to the fullest extent allowed by state and federal law. When a public entity undertakes any development that is exempted by state or federal law from this chapter, in whole or in part, it is strongly encouraged to meet the provisions of this chapter.

70.114 Relief from other provisions

Nothing in these provisions shall relieve any person from satisfying any condition or requirement associated with a previous approval issued under this chapter, or any local, state, or federal law or requirement.

70.115 Applicability to projects under the purview of the Public Service Commission

This chapter shall apply to projects under the purview of the Wisconsin Public Service Commission (PSC) to the fullest extent allowed by state law.¹ The Plan Commission or the Village Board, or both, may submit a written

¹ Commentary: See s. 196.491 (3)(f), Wis. Stats., and also *American Transmission Co., LLC v. Dane County*, 2009 WI App. 126

request to the PSC outlining those standards and/or requirements of this chapter that the PSC should impose as conditions of project approval, if approval is to be granted.

70.116 Repeal of conflicting provisions

All other ordinances or parts of ordinances of the village that are inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are hereby repealed.

70.117 Copyright protection

This chapter contains images that are copyright protected and are denoted as such. All such images are used with permission of the copyright holder for the exclusive purposes of this chapter. Any images subject to copyright protection may be reproduced as part of this chapter and are subject to the open records law of Wisconsin, but may not be used in other works without the permission of the copyright holder.

ARTICLE 2 INTERPRETATION, CONSTRUCTION AND DEFINITIONS

70.200 General rules

- A. **Generally.** In the interpretation and application of this chapter, all provisions shall be liberally construed in favor of the village so the true intent and meaning of this chapter is carried out as set forth in s. 70.104.
- B. **Minimum requirements.** The interpretation and application of any provision of this chapter shall be held to be the minimum requirement adopted for the promotion of the public health, safety, and general welfare and not be deemed a limitation or repeal of any other power granted by state statute.

70.201 Interpretation

In the event a question arises concerning any provision or the application of any provision of this chapter, interpretations shall be issued consistent with Article 5.

70.202 Delegation of authority

If a provision in this chapter states that an elected official, department supervisor, or some other employee is to perform some act, such individual may designate, delegate, or authorize a subordinate to perform the act unless state law or the provision clearly specifies otherwise.

70.203 Internal conflicts

More specific provisions of this chapter shall be followed in lieu of more general provisions unless the context otherwise requires. Additionally, the most restrictive provisions shall apply.

70.204 Website

The village may create and maintain a website to share the key aspects of this chapter, including the zoning map, in an interactive platform. If there is any discrepancy between such website and this chapter, this chapter controls.

70.205 Use of graphics, illustrations, headings, references, and commentary notes

- A. **Purpose.** Graphics, illustrations, headings, references, statutory citations, and commentary notes are included to improve the readability of this chapter and increase reader comprehension. Specifically, graphics and illustrations are included to help the reader visualize the meaning of the text. Headings and subheadings generally state the content of that section and are intended to help the reader quickly find information. References are included when the section is related to a state or local law or another section in this chapter. These are included to help the reader understand the relationship among various provisions. Commentary notes are included to supplement and/or further clarify a sentence or provision but are not part of this chapter.
- B. **Interpretation.** A graphic, illustration, heading, reference, statutory citation, or commentary note shall not govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision.
- C. **Effect of deficiency.** Because the text controls, no provision shall be held invalid by reason of any deficiency in any graphic, illustration, heading, reference, statutory citation, or commentary note.

70.206 Reference to state and federal law

If a provision in this chapter references a specific state or federal law, such reference shall be interpreted to mean the most current version of the referenced section at the time the reference is applied. If a referenced section is repealed and replaced by another section with comparable subject matter, the replacement section shall control. If a referenced section is repealed and not replaced, the repealed section shall control if it is determined by the village attorney that the village has the authority to apply the repealed language.

70.207 Interpretation of boundaries and designations for zoning districts

- A. **Boundary line interpretations.** Interpretations regarding boundaries of zoning districts shall be made in accordance with the following rules:
1. **Political boundaries.** Boundaries shown as following, or approximately following, any political boundary shall be construed as following such line.
 2. **Section lines.** Boundaries shown as following, or approximately following, a section line, half-section line, or quarter-section line shall be construed as following such line.
 3. **Centerlines.** Boundaries shown as following, or approximately following, any railroad, alley, road, street, highway, or similar feature shall be construed as following the centerline of such feature.
 4. **Property lines.** Boundaries shown as following, or approximately following, any platted lot line or other property line shall be construed as following such line.
 5. **Natural boundaries.** Boundaries shown as following, or approximately following, any natural feature such as a stream, river, canal, other bodies of water, or topographical features, such as a watershed boundary, shall be construed as following such natural feature as verified by field inspection when necessary.
- In the event there is a question as to the location of a zoning district boundary, the Plan Commission shall review such matter at a regular or special meeting and render a decision.
- B. **Street abandonment.** In the event a public road, street, or alley is officially vacated or abandoned, the zoning provisions applicable to the land to which it reverted shall apply to such vacated or abandoned road, street, or alley, unless otherwise provided by village action.

70.208 General rules of interpretation

In the construction of this chapter, the following shall be observed, unless such construction would be inconsistent with the text or with the manifest intent of this chapter:

1. **Gender.** Words of the masculine gender include the feminine and neuter, and vice versa.
2. **Singular and plural words.** Words in the singular include the plural and words in the plural include the singular.
3. **Tense.** Words in the present tense include the past and future tense, and the future tense includes the present tense.
4. **"Must", "shall" and "will".** The words "must", "shall" and "will" imply a mandatory condition.
5. **"May" or "should".** The words "may" and "should" imply a permissive condition.
6. **"Includes" or "including".** The words "includes" or "including" shall not limit a provision to the specific example(s) listed, but are intended to extend their meaning to all other instances or circumstances of like kind or character.
7. **"Such as".** The phrase "such as" shall not limit a provision to the specific example(s) listed, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
8. **Conjunctions.** When used at the end of a series, the word "and" indicates that all listed items apply. When the word "or" is used at the end of a series, it indicates that one or more of the listed items apply.

70.209 Computation of time

When a time period is specified in this chapter, the first day of the period shall be the first day after the event that triggered the time clock to start. If the last day of the time period is a Saturday, Sunday, or a legal holiday recognized by the state of Wisconsin, that day shall be excluded and the time period shall be extended to the next business day.

70.210 Land use descriptions

For the purpose of chapter, land uses that are permissible in one or more of the zoning districts are described as set forth in Appendix B. For organizational purposes, similar land uses are grouped together to form a series. The first 17 series are for principal land uses, accessory land uses are found in Series 18, and temporary land uses are found in Series 19.

70.211 General definitions

- A. **Words and phrases not defined.** Unless specifically defined in this section, words and phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.
- B. **Words and phrases defined.** For the purpose of this chapter, certain words and phrases are defined in Appendix D and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning.

**ARTICLE 4
GENERAL PROCEDURAL REQUIREMENTS**

**DIVISION 1
GENERALLY**

70.400 Legislative findings

The Village Board makes the following legislative findings:

1. Development review procedures should be easily understood and well-structured, and only involve those steps and requirements that are needed to properly review the application. Excessive procedural requirements add unnecessary costs to development projects.
2. The general public, property owners in the area, and affected agencies have a right to know about proposed development projects and have meaningful participation in the review process to the extent allowed or required by this chapter.
3. Enforcing the rules and regulations contained in this chapter is an important function of government.

70.401 Purpose

The development review requirements and procedures in this chapter are intended to:

1. provide efficient and timely review of applications and ensure fairness and due process,
2. ensure that applications are reviewed consistently by establishing criteria in making recommendations and final decisions, and
3. ensure complete and timely compliance.

70.402 Authority to file an application

Unless otherwise specified in this chapter, the owner of the property or a person having the power of attorney for the property owner shall sign the application submitted for review. A person signing an application under the authority of a power of attorney shall include a copy of the power of attorney with the application.

70.403 Permission to enter subject property

Submission of an application as may be required in this chapter authorizes village officials and employees, or other designated agents to enter the subject property to verify information in the application and to conduct other site investigations as may be necessary to review the application. This does not authorize any individual to enter any building on the subject property in the absence of the property owner or his or her authorized agent. Failure to allow access to the subject property is sufficient grounds to deny the application.

70.404 Burden of proof

- A. **During application review process.** During the application review process, the applicant has the burden of proof to show that the application should be approved based on the decision criteria relating to that application.
- B. **During appeal of an administrative decision.** During an administrative appeal proceeding, the petitioner has the burden of proof to show that such decision is not consistent with this chapter.
- C. **During enforcement proceedings.** During an enforcement proceeding, the zoning administrator or administrative unit taking enforcement action has the burden of proof to show that the action or development is in violation of this chapter.

70.405 Effect of an outstanding violation

If the zoning administrator determines that a parcel is in violation of this chapter, no permit or approval of any kind shall be granted under this chapter that would benefit such parcel, except to correct the violation or as may be required by state law.

70.406 Effect of an outstanding obligation

No permit or approval of any kind shall be granted under this chapter that would benefit a parcel for which taxes, assessments, special assessments, or other required payments are delinquent and unpaid.

70.407 Concurrent review

To the extent possible, a development project requiring multiple reviews should be done concurrently. When one approval is a condition precedent to approval of another application, the approvals shall be issued in the requisite order.

70.408 Application fees and other charges

- A. **Assessment of fees.** From time to time, the Village Board may by resolution establish application fees and other charges it deems necessary in the administration of this chapter.
- B. **After the fact fees.** The Village Board may establish an "after-the-fact" fee for any procedure it deems appropriate. Payment of such fees shall not release the applicant from full compliance with this chapter nor from prosecution for a violation of this chapter.
- C. **Timing for payment.** Application fees shall be paid at the time the application is submitted for review.
- D. **Refunds.** Application fees are nonrefundable, except when the application and fee were accepted by the zoning administrator or village staff in error.

70.409 Charge back of professional service fees

- A. **Generally.** When specifically authorized by this chapter and pursuant to s. 66.0628, Wis. Stats., an applicant shall be responsible for paying the professional service fees of individuals or private firms the Village Board elects to hire to assist in the review of a submitted application. Such fees may cover time, materials, and other related expenses of attorneys, planners, engineers, and other specialists, and their support staff. Payment of fees is required whether the application is approved or not.
- B. **Upfront payment.** The applicant shall submit an upfront payment established by the village when submitting an application. In the event the amount in the escrow account is not anticipated to cover related costs, the applicant shall promptly submit additional funds. In the event, the amount in the escrow is not sufficient, no additional work should proceed. In addition, the village clerk shall automatically charge any unpaid balance as a delinquent tax against the property as provided by state law.

70.410 Non-confidentiality of submitted information

All written information that an applicant submits to the zoning administrator during a pre-submittal meeting or at any point in the review process is considered part of the public record subject to disclosure under state and local law.

70.411 Nature of staff comments

Statements and recommendations that are made by the zoning administrator, village staff and officials, and other representatives prior to or during the application review process shall not be binding on the decision-making body responsible for making the final decision.

70.412 Withdrawal of application

- A. **Timing of withdrawal.** An applicant may withdraw an application anytime after submittal, but prior to a final decision.
- B. **Effect of withdrawal.** A request to withdraw an application terminates the review process and no decision shall be rendered.
- C. **Retention of application materials.** A withdrawn application and related review documents shall be kept as a permanent public record.

70.413 Appeals

If a development project is approved under this chapter, the applicant may, upon receipt of the decision notice and satisfaction of all precedent conditions of approval, commence the work as authorized under the approval with the understanding that an aggrieved person may file an appeal with the appropriate review body. Prior to the end of the appeal period, all such work proceeds at the risk of the applicant. Similarly, any work that is done while an appeal is pending is done at the risk of the applicant.

70.414 Application review schedule

- A. **Authority.** The zoning administrator shall from time to time prepare a schedule establishing deadlines for submitting the various types of applications.
- B. **Publication of schedule.** The zoning administrator shall make the current review schedule available to the public and may post it on the village's website.

70.415 Application forms

The zoning administrator shall prepare application forms and may amend them from time to time.

70.416 Other approvals

It is the responsibility of those undertaking development projects within the village to obtain all applicable permits and other approvals as may be required by the Village of Richfield, Washington County, and federal and state authorities as may be required.

70.417 Building permit

A building permit for the construction of a new building or the expansion of an existing building shall not be issued until such time as a zoning permit has been issued or a written determination is made that one is not required.

70.418 to 70.429 Reserved**DIVISION 2
NOTICE REQUIREMENTS****70.430 Generally**

The type of notice that is given for each of the various procedures outlined in this article is dictated by the nature of the decision. Administrative decisions, such as a zoning permit, involve very little discretion. Either the proposed development meets the standards in this chapter or it does not. In contrast, there are other decisions that involve more discretion and judgment based on particular circumstances. The review of a conditional use application, for example, involves discretion on the part of those involved in making recommendations and a final determination whether the application should be approved or not. As a general rule, notice for an

application is not given for administrative decisions. More notice is given when a proposed action could potentially affect other parties, including nearby property owners, other governmental bodies, and the general public. This division outlines when notice is to be given and the nature of the notice when it is required.

70.431 When notice is required

Notice shall be provided as shown in Exhibit .

Exhibit 4-1. Notice

Division in Article 5	Type of Action	Class 1 Public Hearing Notice [1]	Class 2 Public Hearing Notice [1]	Property Owner Notice [2]	Distribution List Notice [3]	Meeting Agenda [4]
1.	Code amendment – map amendment – landowner initiated	-	X [5]	X	X	X
1.	Code amendment – map amendment – village initiated	-	X [5]	-	X	X
1.	Code amendment – text amendment	-	X [5]	-	X	X
2.	Zoning map amendment due to annexation	-	-	-	-	X
3.	Planned unit development	-	X	X	-	X
4.	Conditional use	-	X	X	-	X
6.	Determination of unsafe conditions	-	X	X	-	X
7.	Termination of approval	-	X	X	-	X
8.	Conversion of a nonconforming use	-	X	X	-	X
9.	Special exception	-	-	X	-	X
10.	Wireless telecommunication facilities	-	X	X	-	X
11.	Variance	-	X	X	-	X
12.	Administrative appeal	-	X	-	-	X
13.	Zoning permit	-	-	-	-	-
14.	Building, site plan, and operation plan	-	-	-	-	X
16.	Registration of a nonconforming use	-	-	X	-	X
17.	Code interpretation	-	-	-	-	X
18.	Expansion of a nonconforming structure	-	-	-	-	X

Key: An "X" means that the indicated notice is required; a dash "-" means that the indicated notice is not required

Notes:

1. See s. 70.434 for more details
2. See s. 70.435 for more details
3. See s. 70.436 for more details
4. See s. 70.437 for more details
5. If the proposed amendment would have the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the village clerk.

70.432 Content of required notice

Notices shall include the information listed in Exhibit 4-2.

Exhibit 4-2. Content of notice

	Public Notice	Property Owner Notice	Distribution List Notice
Applicant name	X	X	X
Subject property address or other description by which the public can locate the subject property	X	X	X
Nature of the application	X	X	X
A description of the proposed project	X	X	X
Name of body or official who will consider the application	X	X	X
Date, time and location of the public hearing	X	X	X
Location where the public can view the application	X	X	X
The criteria that will be used to evaluate the proposal	-	X	-
General location map (or available from the village clerk during normal office hours)	-	X	-

Key: An "X" means that the indicated information is required; a dash "-" means that the indicated information is not required

70.433 Cost to provide notice

The village pays the costs related to the provision of notice required under this division, unless otherwise specified by the Village Board.

70.434 Public notice

When required, the official responsible for processing the application shall place public notice in the official newspaper consistent with the following provisions:

- A. **Time requirements.** A class 1 notice shall be published one time at least 7 days before the meeting or hearing. A class 2 notice shall be published once each week for 2 consecutive weeks, the last one occurring at least 7 days before the meeting or hearing.¹
- B. **Content.** The notice shall include the information listed in Exhibit 4-2.

70.435 Property owner notice

- A. **Generally.** When required, the zoning administrator shall mail a notice to property owners within 300 feet of the subject property involved in the application consistent with the following provisions:
- B. **Time requirements.** The notice shall be mailed by regular mail at least 10 business days prior to the date of the meeting at which the matter will be considered.
- C. **Content.** The notice shall include the information listed in Exhibit 4-2.
- D. **Source of names and addresses.** The names and addresses of property owners shall be deemed to be those listed on the tax records maintained by Washington County.
- E. **Failure to receive notice.** The failure of a person to receive notice as described in this section shall not invalidate or otherwise have any effect upon a public hearing or other action taken on the application.

¹ Commentary: See ss. 985.01(1m) and 985.07, Wis. Stats.

- F. **Additional notice.** When the applicant also owns the land adjoining the subject property involved in the application, the administrator shall mail a notice to those property owners within 300 feet of such property.
- G. **Affidavit of mailing.** The person sending the notices shall prepare an affidavit of mailing to certify that notice was provided as described in this section.

70.436 Distribution list notice ²

- A. **Establishment of distribution list.** The village clerk shall maintain a list of persons who submit a written request to receive notice of any proposed regulation or amendment thereof that may affect the allowable use of the person's property.
- B. **When notice is required.** The body conducting the public hearing shall send a notice, which contains a copy of the proposed regulation or amendment, to each person on the distribution list whose property, the allowable use of which may be affected by the proposed regulation or amendment.
- C. **Method of distribution of notices.** The notice shall be by mail or in any reasonable form that is agreed to by the person and the village clerk.
- D. **Establishment of charges.** The Village Board may from time to time adopt a resolution establishing a processing fee that shall be charged to each person on the list who is sent a notice. The amount of such fee shall not exceed the approximate cost of providing the notice to the person.
- E. **Effect of failure to send notice.** An ordinance or amendment shall take effect if the body conducting the meeting fails to send the notice as required by this section.
- F. **Affidavit of mailing.** The person sending the notices shall prepare an affidavit of mailing to certify that notice was provided as described in this section.

70.437 Meeting agenda notice

When required, the body responsible for acting on the application shall place the item on its meeting agenda.

70.438 Affidavit of mailing

An affidavit of mailing provides documentary evidence that a mailing as required in this chapter was mailed. An affidavit of mailing must be kept as a public record.

70.439 to 70.449 Reserved

**DIVISION 3
PUBLIC HEARINGS**

70.450 Legislative findings

The Village Board makes the following legislative findings relating to public hearings:

- 1. Public hearings should be conducted in an orderly, timely, and efficient manner.
- 2. Public input is important and should be encouraged.

70.451 General requirements

- 1. **Meetings to be public.** All public hearings shall be conducted in the village hall or in such other public place as may be selected by the body conducting the hearing.

² Commentary: See s. 62.23(7)(d)(4), Wis. Stats.

2. **Notice of meetings.** Notice of public hearings shall be given as provided for in Division 2 of this article.

70.452 General procedure

The presiding officer conducting the public hearing may follow the following procedure listed in this section as a general guideline. For matters of little complexity or controversy, the presiding officer may adjust the procedures as appropriate.

1. Announce the purpose and subject of the public hearing.
2. Determine whether public notice as required by this chapter has been provided. If notice has not been provided, the hearing shall be postponed until such time as proper notice has been provided.
3. Ask if any member of the body conducting the public hearing has a conflict of interest in regard to the matter being discussed and excuse those who do.
4. Ask if any member of the body conducting the public hearing believes another member has a conflict of interest in regard to the matter being discussed. If so, and following a discussion of the alleged conflict of interest, the members (except the member with the alleged conflict) shall determine by vote whether a reasonable person may conclude that the member has a conflict of interest and should be removed from the pending decision.
5. Ask the applicant to describe the proposal.
6. Ask the staff to present a staff report, if required.
7. Allow members of the body conducting the public hearing to direct questions to the applicant and staff, if present.
8. Ask for statements from the public.
9. Read aloud written comments which were submitted when the individual submitting the comments is not in attendance.
10. Call for discussion of the members of the body conducting the public hearing during which time they may ask questions of a member of the public, the applicant, and the staff, if present.
11. Ask the applicant if he or she wishes to (1) respond to any comment made by an individual during the proceeding, (2) submit additional information, (3) amend the application, or (4) request a continuance.
12. Announce that the body shall not accept any additional comment from the applicant or any member of the public once the public hearing is closed.
13. Ask for a motion and second to close the public hearing.

70.453 Continuances

- A. **Prior to start of public hearing.** In the event the applicant or the applicant's agent is not present for the public hearing, the body conducting the public hearing may authorize a continuance.
- B. **During a public hearing.** Prior to the close of the public hearing, the applicant may request a continuance and the body conducting the public hearing may agree to the continuance upon a showing of good cause. Likewise, the body conducting the public hearing may ask the applicant for a continuance, but the applicant is not required to grant such request. If the applicant does not grant a continuance, the body shall act on the information at its disposal.
- C. **Effect.** A continuance stops the time clock for making a decision.
- D. **Notice requirements.** A public hearing may be continued to a later date without again providing public notice, provided the location, date, time for the continued hearing are announced at the time of the continuance.

70.454 Public comment

- A. **Time limitations on public comment.** The presiding officer may impose a time limit on members of the public who wish to address the body conducting the public hearing to assure completion of the agenda in a timely manner. Under no circumstance shall such time limit be less than 3 minutes.
- B. **Written comment.** Prior to the close of the public hearing, members of the public may submit written comments to the body conducting the public hearing. Such documents shall be retained and made part of the public record for the proceeding.

70.455 to 70.459 Reserved

**DIVISION 4
SITE VISITS****70.460 Authorization**

The Zoning Board of Appeals, Plan Commission, and Village Board may conduct a site visit to inspect a property as it relates to a pending development application.

70.461 Open meeting requirements

A site visit is a public meeting and must comply with Wisconsin's open meeting requirements and the requirements of the Americans with Disabilities Act (ADA).

70.462 Rules of conduct

- A. **Participation.** To ensure everyone hears what is being said during a site visit, participants should stay together as they tour the subject property.
- B. **Comments.** No recommendations can be offered, and no decisions can be made during a site visit.
- C. **Quorum required.** A site visit must be attended by a quorum of the review authority.
- D. **Overview of site visit.** When the review authority reconvenes their meeting or public hearing, the presiding officer should initiate a discussion of the members to document the major points that were discussed and/or observations made on the site visit.

70.463 Site visit during a public hearing

If a site visit is conducted as part of a public hearing, discussion is strictly limited to points of clarification, such as (1) the location of features (e.g., property boundary lines), (2) placement of proposed improvements, (3) features to be retained or removed as part of the proposed project, and the like. The merits of the proposal must not be discussed during the site visit.

70.464 Site visit not part of a public hearing

If a site visit is not part of a public hearing, the petitioner and plan commission members may engage in a general discussion related to the pending application. Such discussion should however be limited to what is observed during the tour as it relates to the proposed project.

70.465 to 70.469 Reserved

DIVISION 5 FINANCIAL GUARANTEES

70.470 Performance bond

For the purpose of this chapter, a performance bond is not an acceptable financial guarantee.

70.471 Letter of credit

- A. **Form.** The letter of credit shall be irrevocable and shall be in a form acceptable to the village attorney.
- B. **Amount.** The amount of the letter of credit shall conform to the amount established in this chapter. If an amount is not specified in this chapter, the Village Board shall establish the amount.
- C. **Acceptance required.** A letter of credit is not accepted by the village until formal action by the Village Board upon the recommendation of the village attorney.
- D. **Minimum requirements for issuer.** The bank, savings and loan, or other financial institution issuing the letter of credit must be authorized to do business in the state of Wisconsin and have a financial standing acceptable to the village attorney.
- E. **Obligation of private party.** The provision of a letter of credit shall not remove the burden of performing the work the letter of credit is intended to guarantee.

70.472 Cash deposit

- A. **Generally.** If a cash deposit is provided under this chapter, the village is not obligated to pay interest thereon. Any such cash deposit shall remain in the custody of the village treasurer.
- B. **Amount.** The amount of the cash deposit shall conform to the amount established in this chapter. If an amount is not specified in this chapter, the Village Board shall establish the amount.
- C. **Acceptance required.** A cash bond is not accepted by the village until formal action by the Village Board.
- D. **Obligation of private party.** The provision of a cash deposit shall not remove the burden of performing the work the cash deposit is intended to guarantee.
- E. **Administrative fee.** When a cash deposit is offered as a financial guarantee, the village may charge a fee for the additional work required of the village clerk and village treasurer to monitor and handle the cash deposit. The amount of such fee shall be set by the Village Board from time-to-time by resolution.

70.473 Insufficient funds

If the village exercises its right to use a financial guarantee and the cost of performing the authorized work exceeds the amount of the financial guarantee, the village shall send a bill to the property owner for the outstanding balance. If the property owner does not pay such costs within 30 days after billing, such costs shall constitute a special charge under s. 66.0628, Wis. Stats., or as otherwise authorized by state law.

**ARTICLE 8
FLOODPLAIN OVERLAY DISTRICT**

**DIVISION 1
GENERAL PROVISIONS**

70.832 Authorization

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

70.833 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 s. 44 CFR 59-72 which relates to the National Flood Insurance Program.

70.834 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.

70.835 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 Washington 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.

70.836 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 s. 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 s. 30.2022, Wis. Stats., applies.

70.805 to 70.806 Reserved

**DIVISION 2
MAPS AND DISTRICTS**

70.807 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 s. 70.847) 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) Flood insurance rate map (FIRM) panel number 550518, dated October 16, 2015; with corresponding profiles that are based on the flood insurance study dated October 16, 2015: 55131CV001B, 55131CV002B; and 55131CV003B.

55131C0241E, 55131C0242E, 55131C0243E, 55131C0244E, 55131C0262D (not printed), 55131C0263E, 55131C0264D, 55131C0266D, 55131C0268D, 55131C0331E, 55131C0332E, 55131C0333E, 55131C0334E, 55131C0351E, 55131C0352E, 55131C0353E, 55131C0354E, 55131C0356E, and 55131C0358E (approved by the DNR and FEMA)
 - (2) Flood storage maps: Panel 5, 6, 7, and 8, dated April 16, 2015, as approved by the Wisconsin Department of Natural Resources.
 - (3) 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.

70.808 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.

70.809 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 s. 70.847. 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 Zoning Board of 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 s. 70.847.

70.810 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 s. 70.847.

70.811 to 70.812 Reserved

DIVISION 3 GENERAL PROVISIONS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

70.813 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 s. 70.848. 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.

70.814 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.

70.815 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 s. 70.814 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 s. 70.847, the village shall 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.

70.816 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 s. 70.847.

70.817 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.

70.818 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.

70.819 to 70.820 Reserved

DIVISION 4 FLOODWAY DISTRICT

70.821 Applicability

This division applies to all floodway areas on the floodplain zoning maps and those delineated pursuant to s. 70.837.

70.822 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 s. 70.823(D).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 70.823 and 70.824.
- (5) Extraction of sand, gravel, or other materials that comply with s. 70.823(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 s. 70.823(C).

70.823 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 s. 70.813. An applicant shall provide the following data to determine the effects of the proposal according to s. 70.814:
- (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 s. 70.814.
- D. **Fills or deposition of materials.** Fills or deposition of materials may be allowed by permit, if (1) the requirements of s. 70.814 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 s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met; (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.

70.824 Prohibited uses

Any use that is not listed in s. 70.822 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 s. 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.

70.825 to 70.826 Reserved

DIVISION 5 FLOODFRINGE DISTRICT

70.827 Applicability

This division applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 70.837.

70.828 Permitted uses

Any structure, land use, or development is allowed in the floodfringe district if the standards in s. 70.829 are met, the use is not prohibited by the underlying zoning regulations, and the zoning administrator has issued a floodplain permit.

70.829 Development standards

- A. **General standards.** Development shall not cause an obstruction or raise the flood elevations upstream or downstream as more fully described in s. 70.814.
- 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 s. 70.829 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 s. 70.829. Subject to the requirements of s. 70.829, 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 s. 70.817. Subject to the requirements of s. 70.829, 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 s. 70.817. 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 s. 70.817. 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 s. 70.817, 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 s. 70.817, 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 s. 70.829.
- 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 s. 70.829. 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.

70.830 Solid waste disposal

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

70.831 to 70.833 Reserved

**DIVISION 6
GENERAL FLOODPLAIN DISTRICT**

70.834 Applicability

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

70.835 Permitted uses

Pursuant to s. 70.837, it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses listed in s. 70.822 are permitted in the floodway and those uses listed in s. 70.828 are allowed in the floodfringe within the general floodplain district, according to the standards of s. 70.836, provided the zoning administrator has issued a floodplain permit consistent with this division.

70.836 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.

70.837 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 s. 70.843.
 - (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.

70.838 to 70.839 Reserved

**DIVISION 7
FLOOD STORAGE DISTRICT**

70.840 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.

70.841 Applicability

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

70.842 Permitted uses

Any use or development which occurs in a flood storage district must meet the applicable requirements in s. 70.213(H)(3).

70.843 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 s. 70.213(L).
- 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.

70.844 to 70.845 Reserved

**DIVISION 8
ADMINISTRATION**

70.846 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 s. 70.817 are met.

70.847 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 Common Council 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 s. 70.807;

- (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 s. 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.

70.848 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 s. 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 s. 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 s. 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 s. 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.

70.849 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.

70.850 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.

70.851 to 70.852 Reserved

DIVISION 8 NONCONFORMITIES

70.853 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 s. 70.829. 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 s. 70.829.
- 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 s. 70.829.
- 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 s. 70.817.
 - 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 s. 70.836(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 s. 70.817(A) or (B).
 - c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 70.836(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 s. 70.823(A), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 70.817 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 70. (11.09.145(h)) 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.

70.854 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 s. 70.853;
 - (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 s. 70.817, 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, s. 70.817 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, s. 70.817 and chs. NR 811 and NR 812, Wis. Admin. Code.

70.855 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 s. 70.829 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 Zoning Board of 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 s. 70.829.
- 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, s. 70.817, 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, s. 70.817, and ch. NR 811 and NR 812, Wis. Admin. Code.

70.856 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 s. 70.843 are met.

ARTICLE 9**SHORELAND-WETLAND OVERLAY DISTRICT****70.900 Legislative findings**

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

- (1) Villages are required by s. 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 incorporated as a village on February 18, 2008.
- (3) The village adopted zoning regulations on November 12, 1985 which included shoreland-wetland regulations and the wetland inventory maps with a date of November 12, 1985.
- (4) 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.

70.901 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.

70.902 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.

70.903 Boundary of district

The shoreland-wetland overlay district includes those areas designated as a wetland on the wetland inventory map with a date of November 12, 1985 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 November 12, 1985 and cannot be classified as a wetland; (4)

are not located between the original ordinary high-water mark and a bulkhead line established prior to May 7, 1982 under s. 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 8 are used in determining the extent of the 100-year floodplain.

70.904 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 district 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 shall 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.

70.905 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 s. 70.902; 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.

70.906 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 s. 70.902 above; (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 s. 70.902 above.

70.907 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.

70.908 Rezoning of lands in the shoreland wetland district

For all proposed text and map amendments to the shoreland-wetland provisions of this chapter, the regional office of the Wisconsin Department of Natural Resources shall be provided with the following:

- (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 s. 59.971 (6), Wis. Stats. If the Department does so notify the Village Board, the effect of this amendment shall be stayed until the s. 59.971 (6) adoption procedure is completed or otherwise terminated."

70.909 Nonconforming uses and structures

- A. A legal nonconforming structure or an environmental control facility related to a legal nonconforming structure, in existence on 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 shall comply with s. 30.121, Wis. Stats.

**ARTICLE 10
SHORELAND OVERLAY DISTRICT**

70.1000 Legislative findings

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

- (1) Villages are required by s. 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 May 15, 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.

70.1001 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.

70.1002 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 8 of this chapter are used in determining the extent of the 100-year floodplain.

70.1003 Vegetation management within shoreline buffer zone

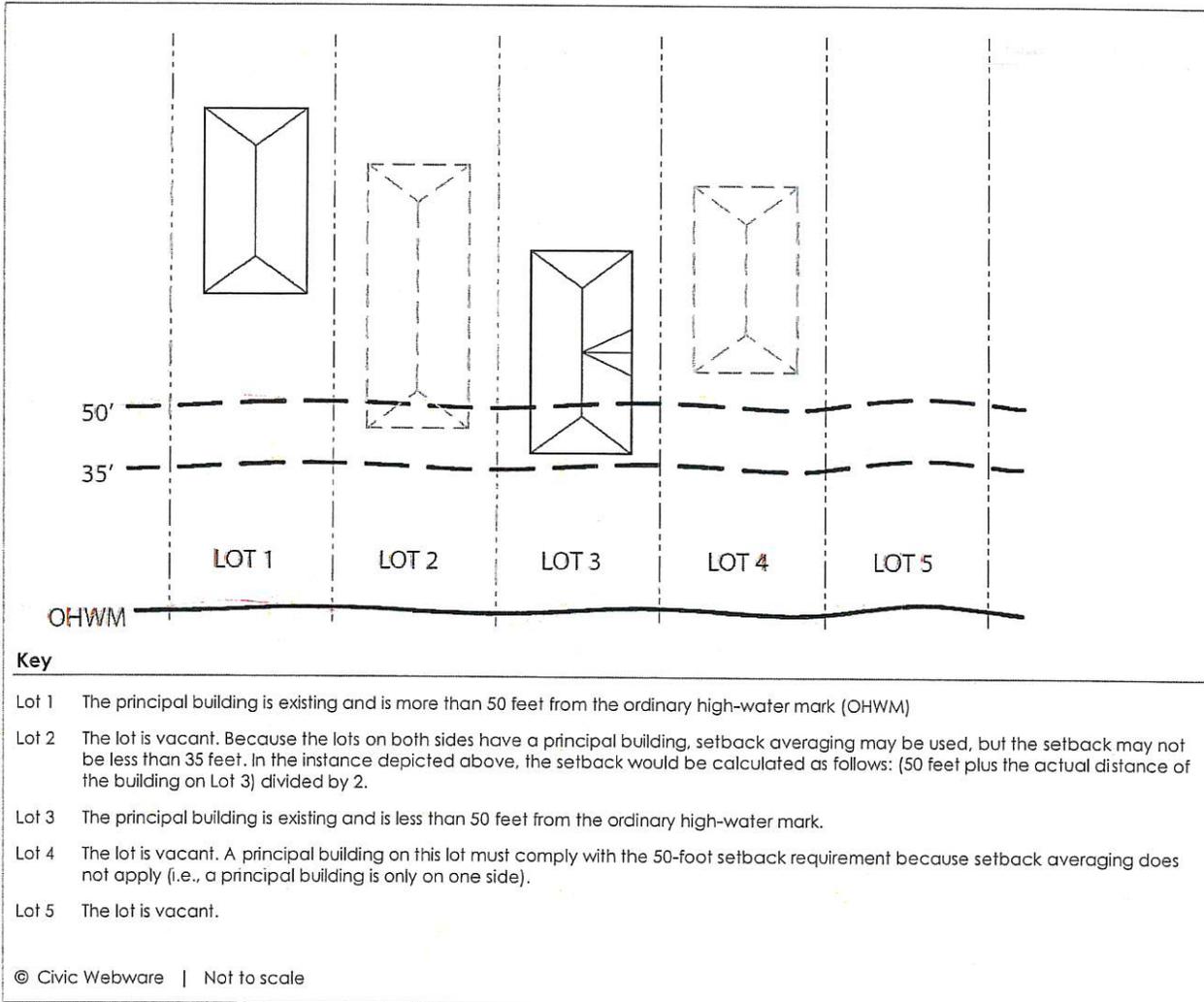
- A. **Generally.** Woody vegetation not located in a wetland and woody and non-woody vegetation in a wetland located in the shoreline buffer zone (i.e., 35 feet landward from the ordinary high-water mark) shall not be removed, except as described in this section.
- B. **Removal of invasive species.** 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.

70.1004 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 s. 70.1005.

Exhibit 10-1. Shoreline setback requirements



70.1005 Boathouses

A boathouse if otherwise allowed may be constructed in the viewing/access corridor as allowed in s. 70.1003.

ARTICLE 12
LANDSCAPING AND BUFFERS

70.1200 Legislative findings

The Village Board makes the following legislative findings:

- (1) A healthy environment is an indication of a healthy community.
- (2) Landscaping helps to maintain and increase property values, which helps to protect public and private investment in a community.
- (3) Landscaping provides lasting social, economic, environmental, and aesthetic benefits to the community.
- (4) Landscaping helps to reduce the heat-island effect by shading parking lots, streets, and other hard-surfaced areas.
- (5) Flexible standards allow alternative design options that may better fit the needs of the landowner and that may be needed to address unique site characteristics.
- (6) Landscaped buffers are needed between parcels of incompatible land uses, and as the degree of incompatibility increases, the amount of buffering (width and landscaping) should increase.
- (7) Xeriscape planting techniques help promote water and energy conservation.
- (8) A variety of landscape plants is needed to ensure that the effect of a single disease (e.g., Dutch elm disease) or pest (e.g., emerald ash borer) on landscape plants is minimized.

70.1201 Purpose

This article is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

- (1) make the village more attractive and aesthetically pleasing;
- (2) provide flexible standards where possible, rather than overly prescriptive requirements;
- (3) promote and improve public health and safety through the abatement of noise, the glare of lights, dust, and air pollution;
- (4) improve the aesthetic appearance of the built environment;
- (5) ensure that land uses of different intensity have sufficient buffering between them to minimize negative effects;
- (6) create aesthetically pleasing tree-lined streetscapes;
- (7) promote economic development by providing a high quality of life;
- (8) enhance ambient environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, storm water runoff retardation, and noise, glare, and heat abatement; and
- (9) encourage the preservation, expansion, protection, and proper maintenance of the community forest.

70.1202 Landscape plan

The landscape plan shall include preparer's name, date of preparation, a base site plan that matches the site plan submitted for approval, showing planting locations and existing plantings to be preserved, the landscape surface ratio percentage, a planting schedule of common name, botanical name, planting size, and calculations showing how the plan exceeds the minimum quantity. Landscape plans with the information below shall be submitted with initial application and for building permit.

- (1) The proposed name of the development, project, certified survey map, subdivision plat, planned unit development (PUD) or walkable hamlet district (WHD).

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- (2) The location of the proposed development, project, certified survey map, subdivision plat, PUD, or WHD.
- (3) The names, addresses, and telephone numbers of the owners, subdividers, lessee and/or developer(s) of the property, landscape architect (if any), and of the designer of the plan.
- (4) Date of the landscape plan submittal and all applicable revision dates.
- (5) The boundary line of the site with dimensions and bearings, indicated by a solid line, and the total land area shall be encompassed on the plan.
- (6) All proposed landscape bufferyard easements and/or areas of natural resource mitigation clearly delineated and dimensioned and graphically shown in relation to all proposed lot lines and lots upon which said landscape bufferyard easements or mitigation areas are located. A bufferyard is an area of transition along the property line setback or within the green space periphery of a residentially zoned district development. The intent of the buffer is to screen the abutting land use next to the adjoining property with an additional amount of landscaping as specified in this section.
- (7) Location, extent, type (i.e., common name and scientific name in the case of plant materials), and sizes of all existing trees and natural resource features in all areas of the proposed development, subdivision, certified survey map, PUD or WHD such as woods, wetlands, streams, ponds, kames, kettles and other glacial features which are designated in a landscape bufferyard easement and/or mitigation area shall be indicated on the landscape plan. If any existing vegetation or other natural resource features are to be demolished or mitigated, the extent of such demolition or area to be mitigated shall be clearly delineated and so noted on the landscape plan. The 75-foot buffer from all waterbodies may be part of a wetland, floodway fringe or floodway area bufferyard.
- (8) Location, extent, type (common name and scientific name in case of plant materials), and sizes of proposed landscaping and landscape plantings in all areas of the proposed development, subdivision, certified survey map, PUD or WHD which are designated as a landscape bufferyard easement or for areas which are to serve as landscaped entrances or other special landscaped features of the development, subdivision, certified survey map, PUD, or WHD.
- (9) If any natural resource feature is to be mitigated, either on-site or off-site, the plan for such mitigation in adequate detail, as required by the Plan Commission, shall be submitted with the landscape plan.
- (10) Areas of a development, subdivision, certified survey map, WHD or PUD designated as landscape easement areas shall be maintained by the property owner and kept free of all debris, rubbish, weeds, and tall grass by the property owner or homeowner's association (whichever is applicable).
- (11) A sketch plan is required and shall be based upon a survey by a registered land surveyor. The sketch plan shall be prepared at a map scale of not more than 100 feet to the inch and shall show the information set forth in this article as applicable.

70.1203 Landscaping required

- A. **Generally.** Landscaping is required for on-lot landscaping, street bufferyards, peripheral bufferyards, and in off-street parking areas and in areas where vegetative mitigation is required. The area and/or length of each, as required herein must be measured in order to determine the amount of landscaping required.
- B. **Additions to buildings which increase overall building area up to 50 percent.** Additions to buildings which increase their overall building area up to 50 percent shall conform to the landscaping standards set forth in this division reduced by 25 percent.
- C. **Floodplain and wetland areas.** Areas located within the F-1 S-O and LC districts are exempt from the landscaping requirements set forth in this division. Vegetation that is indigenous to the environmental district is exempt from this section.
- D. **Snow storage areas.** Areas landscaped with shrubs and/or trees shall not be used as snow storage areas.
- E. **Bufferyards to resolve nuisances between adjacent zoning districts.** The amount of land, the type of planting, and the amount of planting specified for each bufferyard requirement of this section are designed to resolve nuisances between adjacent zoning districts. Bufferyards are also designed to ensure a desired character along public streets and roads.

- F. **Bufferyards.** Required to separate different zoning districts. Bufferyards shall be required to separate different zoning districts from each other. Bufferyards function to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.

70.1204 Minimum landscape standards

Standard plant units. The type, plantings, sizes, and minimum quantities of landscaping, in terms of the number of standard plant units required is stated below. This section defines the standard plant unit and its definitions of this section. Table 12-1 states these plant unit requirements.

Table 12-1. Minimum Number of Standard Plant Units

Single Family and Two-Family Landscaped Outlots		
Type	Minimum Planting Size	Minimum Quantity
Canopy/Shade Tree	2.5-inch caliper	1.5 per dwelling unit
Evergreen Trees	4 ft. tall	1 per dwelling unit
Decorative Trees	1.5-inch caliper or multi-stem	1 per dwelling unit
Shrubs (flowering or evergreen)	5-gallon	3 per dwelling unit
Business, Industrial, Institutional, and Park and Recreation [1]		
Type	Minimum Planting Size	Minimum Quantity
Canopy/Shade Trees	2.5-inch caliper	1 per 3 parking spaces
OR		
Evergreen Trees	4 feet tall	1 per 3 parking spaces
**Must contain a combination of the 2 types- See (d)(i)(7) of this section		
Decorative Trees	1.5-inch caliper or multi-stem	1 per 10 parking spaces
Shrubs (flowering or evergreen)	5-gallon	1 per 1 parking spaces

[1] Park & ride lots are exempt from the minimum number of standard plant units. The minimum landscaping requirements shall be determined during the site plan review process by the Plan Commission, taking into consideration screening of the public way and adjacent properties with the intent of providing a comparable level of aesthetic character of the adjoining properties.

The following definitions and conditions shall apply to the application of Table 12-1.

1. All landscape standard requirements are based on the amount of parking spaces required for each property, unless otherwise stated in this section, based on s. 70.185 of the zoning ordinance.
2. Canopy/shade trees are deciduous trees, evergreens are coniferous trees, and decorative trees are flowering and/or fruit bearing trees, normally growing to a shorter height as compared to a shade tree. A decorative tree may be considered as a standard or multi-stem related decorative tree, depending on the geography of the property and areas that require landscape decorative plantings.
3. The number of plantings required per parking space shall be rounded to the next highest range. For example, 52 spaces in a commercial development shall require six decorative trees, not five.
4. The minimum number of plantings shall be five per property, for each type of specie.
5. In the event a use does not provide an amount of parking commensurate with the use (i.e., service station), then the minimum amount of landscaping shall be four canopy/shade or evergreen trees per acre, one decorative tree per acre, and five shrubs per acre. Each acre shall be divisible, rounded to the next number of plantings (i.e., 1.68 acres would require seven canopy/shade or evergreen trees - 6.72 rounded to 7).
6. In the event decorative trees and/or shrubs are not appropriate for a development, then those types may be replaced by one shade tree for every one required decorative tree and one shade tree or evergreen for every two required shrubs.

7. In the event evergreens are not appropriate for a non-multi-family development, then each required evergreen may be replaced by a shade tree, but not greater than 70 percent replacement.
8. Upright growing evergreens (i.e., junipers or arborvitae) may be used as an evergreen tree, given the same minimum planting size.
9. Shrub-type evergreens (i.e., arborvitae or Japanese Yew) may be used as shrub, given the same minimum planting size.
10. Additional plantings are required to fully screen on all exposed sides, such as but not limited to refuse enclosures, utility boxes and buildings, underground utility vaults and outdoor areas of activity (i.e., a kennel-running operation, or outdoor dining facility). The additional amount of landscaping shall include a diversity of plantings, to include at least 1/4 of all plantings as evergreen trees, with the remaining portion as shrub and shade trees, in accordance with the minimum plant size requirements as stated in Table 12-1.
11. Properties zoned walkable hamlet district shall also meet all landscaping standards for such district.
12. All outlot related landscaping for single-family subdivisions, manufacturing or business parks, or mixed-use related developments must receive Plan Commission approval through a site, building and operation plan review prior to final plat approval.

70.1205 Bufferyard

A bufferyard consists of a line of trees and shrubs that provide a buffer from one lot or zoning district to the next. When development abuts or is across the street from a residential zoning or use, or a less intensity use, such as a church or school, a bufferyard shall be required, the following shall apply:

1. The minimum quantity of plantings required in Table 12-1 increases by 20 percent.
2. Emphasis shall be placed on the increased amount of plantings within the bufferyard, except where preservation of existing plant material does not allow additional plantings.
3. Evergreens and arborvitae are required within the bufferyard with a minimum planting height of six feet.

70.1206 Credit for preserved existing plant materials

Every attempt shall be made to preserve existing plant materials, especially around wetlands and groundwater recharge areas, in which case the following shall apply:

1. In a non-bufferyard, existing healthy, high quality landscape shade trees, evergreens, and decorative trees over six feet in height shall replace one equivalent type of required planting.
2. In a bufferyard, existing healthy, high quality landscape shade trees, evergreens and decorative trees over six feet in height shall replace one-half equivalent type of required planting.
3. In both a non-buffer and bufferyard; existing healthy, high quality landscape shrubs over five feet in height shall replace one required shrub planting.
4. Plantings to be preserved shall be shown on the submitted landscape plan, including exact location, size and type.

70.1207 Alternative minimum landscape surface ratio

- A. **Alternative No. 1 minimum landscape surface ratio.** Use of the alternative minimum landscape surface ratio shall require a minimum caliper of three-inch shade trees, a minimum caliper greater than one and one-half-inch decorative trees and a minimum size of six-foot evergreens, along with an increase by 20 percent of the minimum quantity of plantings required by Table A. If a bufferyard is present, then the required quantity increases by 30 percent. This alternate plan shall be used to buffer significant changes in land use, to screen arterial or collector roadways or residential development, or for conditional uses, PUD's or WHD's that shall require additional landscaping, buffering or screening.
- B. **Alternative No. 2 minimum landscape surface ratio.** If the development is within ten percent of the maximum amount of impervious surface for the district an additional amount of landscaping is required to

meet or exceed a 40 percent increase in landscaping, based on the minimum quantity of plantings required in Table A. The minimum caliper size of species shall be consistent with the requirements of the Alternative No. 1 landscape surface ratio. The intent of this section is to create additional landscaping around all buildings, in parking lot islands and around all parking lot perimeters.

70.1208 Species of plantings

To encourage a variety of year-round colors and planting of native vegetation, and to prevent destruction of the landscaping through disease, the following species mix is required for each planting type (Table 12-2).

No one species shall exceed 35 percent of species planted within a planting type, with three or more species required.

At least two species of shade trees must be native to the village, such as ash, elm, sugar maple, red oak, basswood, or black walnut.

Table 12-2. Plant Mix

Provided Plantings	Minimum Number of Different Species	Minimum Number of Each Species Planted
5 to 11	2	2
12 to 20	3	4
21 to 30	4	5
31 to 40	4	6
41 to 50	4	8
51 and above	4	10

70.1209 Ground cover

- A. All areas not covered by buildings or paving shall be covered with landscaping, grass or prairie grasses, or other organic ground materials.
- B. Open areas not covered by plantings shall be covered with grass, low growing ground cover, or other landscape materials, except where existing natural vegetation of the site makes the growing of grass impossible. The use of trees to reduce water consumption is necessary, and the use of grass and prairie grass as ground cover on flat open areas is suggested. The use of growing, low maintenance ground cover on slopes is encouraged. The landscape plan shall indicate which areas are designated, or best suited, for manicured lawns, prairie grasses, or reforestation such as within residential open spaces.
- C. All parking lot landscaped islands shall be covered by grass, hardwood mulch, decorative stone, or other perennial-related ground cover.
- D. The type of ground cover to be used shall be shown on the landscape plan, and the cost of the ground cover shall be included with the submitted estimated landscape costs.
- E. The use of invasive species, such as buckthorn, garlic mustard, and purple loosestrife, is not be permitted in the village.

70.1210 Placement

Generally, placement of all types of plantings shall be dispersed across the entire site at discretion of the developer, with the following minimum guidelines:

- 1. Hardest species of plantings (including those engineered for high traffic areas) in the highest vehicular and pedestrian traffic areas.
- 2. The native species of shade trees away from the highest vehicular and pedestrian traffic areas.
- 3. Located to not obscure vehicle sight distances.
- 4. Located so future growth is not over or inhibiting a sidewalk or parking/drive area.
- 5. Located to soften and accentuate tall and elongated building walls.
- 6. Emphasis of trees and plantings within bufferyards.
- 7. Any fruit bearing trees located away from parking/drive areas.

70.1211 Protection of existing trees and flora

The subdivider or developer (as applicable) shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by well islands or retaining walls whenever abutting grades are altered.

Towards that end, the following minimum procedures shall be followed during construction:

1. **Generally.** The subdivider's or developer's (as applicable) proposed method for preserving trees shall be reviewed by the Plan Commission or its staff during the preliminary plat, certified survey map, PUD or WHD approval phase of application to the Village. If, in the opinion of the Plan Commission, the subdivider or developer (as applicable) has not taken the necessary precaution in preserving existing trees as required by this section, no zoning compliance permit or conditional use permit shall be issued, or plat approved, until such time as the subdivider or developer (as applicable), amends the plans for the preservation of such existing trees.
2. **Snow fence required.** During grading and construction, a snow fence shall be installed at the periphery of the tree's drip line. All construction equipment and vehicles shall be kept away from the perimeter of the trees at all times.
3. **Limitation on encroachment of grading and construction equipment.** All grading and construction equipment shall be forbidden from encroaching within the tree's drip line.
4. **Material dumping prohibited within tree drip line.** Materials detrimental to the tree shall not be dumped or placed within a tree's drip line or near the base of the tree where drainage toward the tree could adversely affect the health of the tree. Said materials shall include, but not necessarily be limited to, excess soil, stone or rock, additional fill, equipment, liquids, or construction debris.
5. **Attachments to trees prohibited.** No attachments or wires, other than those of a protective or non-damaging nature, shall be attached to trees to be preserved during construction.
6. **Tree destruction and replacement.** In the event that a tree designated on the approved preliminary plat, certified survey map, PUD, WHD or Natural Resources Protection Plan for preservation should be destroyed or razed during the construction process, the subdivider or developer (as applicable) shall replace such tree of a species approved by the Plan Commission and having a diameter of not less than the tree so destroyed or razed. No one replacement, however, shall exceed three inches in diameter as measured at 12 inches above the ground level. However, several smaller diameter trees having a combined diameter equal to the tree razed or destroyed shall be planted for trees larger than three inches at the ratios set forth in Table 12-3. Said replacement trees shall be placed in the approximate location of the tree, or trees, so destroyed. Said replacement trees shall not be counted toward any mitigation measures which may be required of the subdivider or developer (as applicable) as specified elsewhere in this section.

Table 12-3. Minimum Tree Replacement Requirements

Size of Tree Destroyed or Razed (in DBH)	Replacement Tree Requirements	
	Number of Trees Required	Maximum Size of Each Tree Required (in caliper)
8 to 10 inches	1	3 inches
10 to 16 inches	2	3 inches
16 to 24 inches	3	3 inches
24 to 30 inches	4	3 inches
30 to 36 inches	5	3 inches
36 inches or greater	6	3 inches

70.1212 Requirements for installation and maintenance of landscape plants

- A. All landscaping and bufferyard material shall be installed on the property within one year after the building permit has been issued.
- B. Maintenance of the landscaping is the responsibility of the property owner or homeowner's association. Landscaping shall be maintained in substantial conformity with the approved landscape plan. Maintenance of the landscaping may include watering, mowing, pruning, fertilizing, and/or replacement of irrigation systems.

70.1213 Review of plans and specifications by the zoning administrator

The zoning administrator shall review the plans and specifications for conformance with the requirements of this section and other pertinent village ordinances and design standards. If the zoning administrator rejects the plans and specifications, the zoning administrator shall notify the subdivider or developer (as applicable), who shall cause the modification of the plans or specifications or both accordingly. When the plans and specifications are corrected, the zoning administrator shall approve the plans and specifications.

70.1214 Authorization to start construction

Prior to starting the work covered by the approved plans and specifications, a pre-construction meeting shall be held with the zoning administrator before work begins and written authorization to start said work shall be obtained from the zoning administrator upon receipt of all necessary and required permits and in accordance with the construction methods prescribed by this section and subdivision development agreement. Building permits shall not be issued until all improvements required by this section and subdivision development agreement are satisfactorily completed.

- DRAFT November 15, 2019 -

ARTICLE 13
PARKING AND LOADING FACILITIES

70.1300 Legislative findings

The Village Board makes the following legislative findings:

- (1) The design of parking areas is critically important to the economic viability of commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability.
- (2) Standards are needed to establish the minimum and maximum number of parking spaces that are needed to serve various land uses.
- (3) Excessively large parking lots reduce density, increase the cost of development, create an unhealthy built environment, contribute to the heat island effect associated with urban areas, and decrease the infiltration of storm water into the ground.
- (4) Special standards are needed to accommodate the needs of the disabled.
- (5) Shared parking can reduce parking facility costs (including aesthetic and environmental impacts), allows greater flexibility in facility location and site design, and encourages more efficient land use.
- (6) Parking lots and their access represent a vital connection between the local transportation network and land uses.
- (7) Incorrectly designed parking lots and site access can have negative impacts on the site itself, the adjacent and nearby public roadways, and the image of the business community.

70.1301 Purpose

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

- (1) increase the safety and capacity of public streets by requiring off-street parking and off-street loading facilities,
- (2) minimize adverse effects of off-street parking and off-street loading facilities on adjacent properties and surrounding neighborhoods,
- (3) lessen congestion and prevent the overtaxing of public roads by regulating the location and capacity of off-street parking and off-street loading facilities,
- (4) maintain and enhance a safe and efficient transportation system,
- (5) minimize the occurrences of motor vehicles backing into public roads,
- (6) encourage bicycle use by providing adequate and safe facilities for the storage of bicycles, and
- (7) minimize impervious surfaces.

70.1302 Off-street parking

A. **Applicability.** The off-street parking requirements in this article apply as follows:

- (1) **New construction.** A new use shall comply with the off-street parking requirements.
- (2) **Change in use.** When an existing use is changed to another permitted use with a higher parking demand and the required number of parking spaces for the new use is less than 125 percent of the number of existing spaces, additional spaces are not required.
- (3) **Expansion of existing use.** When an existing use is enlarged and the required number of parking spaces is more than 125 percent of the number of existing spaces, the expanded use shall comply.

B. **General design principles.** Parking areas shall be designed based on the following principles:

- (1) Provide continuous flow of traffic through the parking area.
 - (2) Allow safe movement of pedestrians from parking to buildings.
 - (3) Avoid conflicts between vehicular, bicycle, and pedestrian traffic. Pedestrian circulation shall take precedence over vehicular circulation.
 - (4) Allow for appropriate landscaping of parking areas without conflicting with outdoor lighting.
 - (5) Ensure that site facilities and amenities are accessible to people with disabilities as required by this article and the Americans with Disabilities Act (ADA).
 - (6) Ensure that emergency service vehicles are able to travel through parking areas, including fire trucks (having a curb-to-curb turning radius of 40 feet) and tow trucks (having a curb-to-curb turning radius of 47 feet with a car in tow).
 - (7) Minimize impervious surfaces.
 - (8) Allow for the logical expansion of parking areas to accommodate different land uses or an expansion of an existing use.
 - (9) Ensure that the stormwater generated on the site is accommodated consistent with village requirements.
- C. **Proximity of parking to principal use.** Parking spaces required by this article shall be located on the same lot with the principal use, except as provided in this subsection. When required parking spaces cannot be located on the same lot, parking spaces may be located on a different lot provided the parking spaces are located in the same zoning district. Parking for nonresidential uses shall not be located more than 500 feet from the lot with the principal use. Parking for residential uses shall not be located more than 200 feet from the principal entrance of the residential building. If required off-street parking is to be provided off-site, the use of such site shall be secured with a permanent agreement acceptable to the village attorney and recorded in the office of the Washington County register of deeds. The Village of Richfield shall be named in that agreement as a party having the right of enforcement.
- D. **Location of parking on a lot.** In commercial and industrial zoning districts, parking may be located in any yard provided such spaces and aisles are located (1) at least 5 feet from another property in a commercial or industrial zoning district, except when such lots are developed with a joint parking lot and there is a cross-access easement in place, (2) at least 15 feet from the side lot line or rear lot line of a property in a residential zoning district, and (3) at least 5 feet from the front lot line. In a residential zoning district, parking for a multi-family building with three or more dwelling units may be located in the side or rear yards provided such spaces and aisles are located at least 5 feet from any property boundary line. Parking is only allowed in the front yard for single-family dwellings and duplex units when on a driveway.
- E. **Accessibility.** Parking spaces shall be accessible at all times from a street, an alley, or a driveway intended to serve such parking. No parking area consisting of 2 or more parking spaces shall be designed as to require a motor vehicle to back into a public street, except for single-family dwellings and duplex units.
- F. **Use of parking spaces.** Off-street parking areas shall be for occupants, employees, visitors, and patrons. The storage of merchandise, supplies, motor vehicles for sale, or the repair of vehicles in a parking area is prohibited, unless otherwise allowed in this chapter. In addition, the use of an off-street parking area for overnight camping, including recreational vehicle camping, is prohibited.
- G. **Pedestrian routes in a parking area.** When a pedestrian circulation route crosses a vehicular route, a crosswalk shall be provided to improve pedestrian safety (Exhibit 13-1).
- H. **Surfacing.** An off-street parking area (i.e., spaces and aisles) shall be hard surfaced (e.g., pervious concrete, asphaltic concrete, pavers, or similar product), except for those land uses listed as agriculture or resource-based in Appendix A which may be surfaced with crushed gravel. If it is not possible to hard surface the parking area between November 1 and April 1, the village building inspector may issue an occupancy permit provided the

Exhibit 13-1. A pedestrian crosswalk in the parking lot of a fast food restaurant



property owner and zoning administrator enter into a written agreement that requires completion no later than June 1.

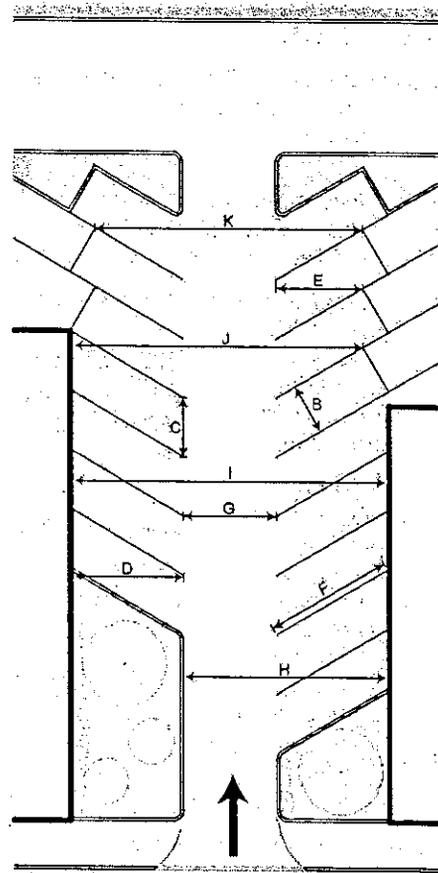
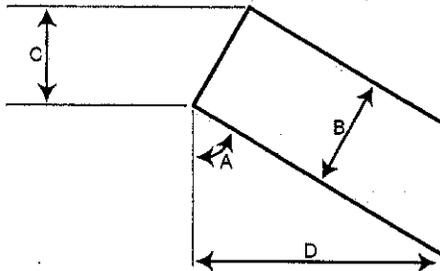
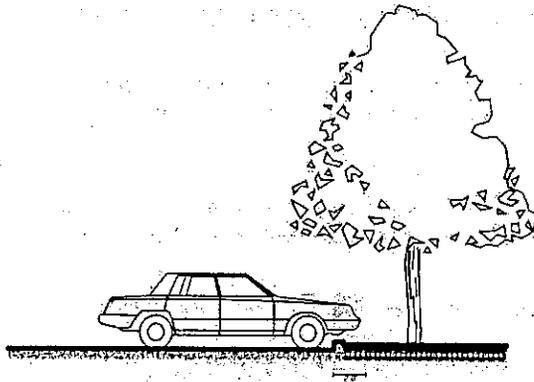
- I. **Marking of parking spaces.** Parking spaces within an off-street parking area shall be clearly marked, except for single-family dwellings, two-family dwellings, twin homes, and townhouses.
- J. **Drainage.** An off-street parking area shall be properly graded for drainage.
- K. **Snow storage.** Required parking spaces and access aisles shall not be used for snow storage. Areas used for snow storage shall be clearly depicted on the site plan if snow will be stored on site.
- L. **Landscaping.** Landscaping for an off-street parking area must be provided consistent with the requirements set forth in Article 12.
- M. **Electric charging station.** One or more electric charging stations may be included in the parking lot design. If charging stations are not installed at the time of construction, underground conduits to potential charging stations should then be installed to lessen installation costs when a station is added at a later date.
- N. **Signage.** Signage related to off-street parking and on-site traffic circulation must comply with the requirements set forth in Chapter 309 of the municipal code.
- O. **Outdoor lighting.** Outdoor lighting within a parking area must be provided consistent with the requirements set forth in Chapter 234 of the municipal code.
- P. **Screening.** When a parking area with 5 or more parking spaces adjoins a property in a residential zoning district, a 4-foot screen (e.g., landscaping, berm, fence, or any combination) shall be installed and maintained.
- Q. **Dimensional standards.** Parking spaces, except for handicapped parking; access aisles; and other features in a parking area shall conform to the dimensions in Exhibit 13-2.

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Exhibit 13-2. Parking area dimensional standards

	Parking angle - A				
	0°	45°	60°	75°	90°
B Stall width at parking angle	9.0 ft.	9.0 ft.	9.0 ft.	9.0 ft.	9.0 ft.
C Stall width parallel to access aisle	17.0 ft.	12.7 ft.	10.4 ft.	9.3 ft.	9.0 ft.
D Stall depth to wall	9.0 ft.	17.5 ft.	19.0 ft.	19.5 ft.	18.5 ft.
E Stall depth to interlock	-	15.3 ft.	17.5 ft.	18.8 ft.	-
F Stall length	18.0 ft.	18.0 ft.	18.0 ft.	18.0 ft.	18.0 ft.
G Aisle width one-way	12.0 ft.	12.0 ft.	16.0 ft.	17.2 ft.	24.0 ft.
H Module width – wall to wall (single-loaded)	21.0 ft.	29.5 ft.	35.0 ft.	42.5 ft.	44.5 ft.
I Module width – wall to wall (double-loaded)	30.0 ft.	47.0 ft.	54.0 ft.	62.0 ft.	63.0 ft.
J Module width – wall to interlock (double-loaded)	-	44.8 ft.	52.5 ft.	61.3 ft.	-
K Module width – interlock to interlock (double-loaded)	-	42.6 ft.	51.0 ft.	60.6 ft.	-

Stall reduction for landscaped areas. When a parking space abuts a landscape island or planter, the front 2 feet of the required parking space length may overhang the planter, provided that wheel stops or curbing are provided.



- R. **Minimum number of spaces.** Off-street parking spaces shall be provided in the number specified in Appendix B, except as follows:
 - (1) Land uses located in **the downtown zoning district** are not required to provide off-street parking.
 - (2) When bicycle parking is provided consistent with this article, bicycle parking spaces may be used to satisfy the number of required parking spaces up to a maximum of 4 percent provided the number of required parking spaces is 25 or more. For example, if the parking standards as applied to a project call for 100 vehicle parking spaces, no more than 4 bicycle parking spaces may be substituted (96 vehicle parking spaces and 4 bicycle parking spaces).
 - (3) Pursuant to the procedures and requirements in Article 5, the Plan Commission may authorize the use of a lesser parking standard for a particular land use as a special exception provided sufficient evidence is provided that shows actual off-street parking demand for that use is less than the standard set forth in Appendix B.
- S. **Maximum number of spaces.** For land uses located in a business, mixed-use, or industrial zoning district, the number of parking spaces provided in a ground surface parking lot shall not exceed the number of minimum parking spaces by more than 15 percent, except that the Plan Commission may allow more parking spaces above that threshold as a special exception pursuant to the procedures and requirements in Article 5 provided the commission determines that additional spaces are needed for that particular use or location. There shall be no limitation on the number of parking spaces when located in a parking garage or similar structure.
- T. **Mixed-use requirements.** For mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various land uses. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except when considered shared parking as allowed in this article.
- U. **Compact cars.** Up to 10 percent of the required number of parking spaces may be sized for compact cars. A compact vehicle parking space shall be so designated by a sign or other means approved by the village building inspector.
- V. **Shared parking.** There may be instances where two or more land uses could share the same parking facilities as shown in **Exhibit 13-3**. The zoning administrator may, upon written petition, authorize the joint use of parking facilities required by such uses, provided:

(1) the applicant shows that there is no substantial conflict or overlap in the principal operating hours of the building or use for which the joint use of parking facilities is proposed;

Exhibit 13-3. Examples of uses that could potentially share a parking area

Land uses with typical weekday peaks	Land uses with typical evening peaks	Land uses with typical weekend peaks
Banks	Auditoriums	Religious institutions
Schools	Bars and dance halls	Parks
Distribution facilities	Meeting halls	Malls (some types, but not all)
Factories	Restaurants (some types, but not all)	
Medical clinics	Movie theaters	
Offices		
Professional services		

(2) the parking facility for which joint use is proposed is located within 500 feet of the building or use required to provide parking;

- (3) directional signage is provided where appropriate and allowed; and
- (4) pedestrian routes are direct, clear, and safe.

The parties involved in the joint use of off-street parking facilities shall document their agreement for such joint use by a legal instrument approved by the village attorney as to form and content. Such instrument, when approved as conforming to the provisions of this part, shall be recorded in the office of the Washington County register of deeds and a copy filed with the zoning administrator.



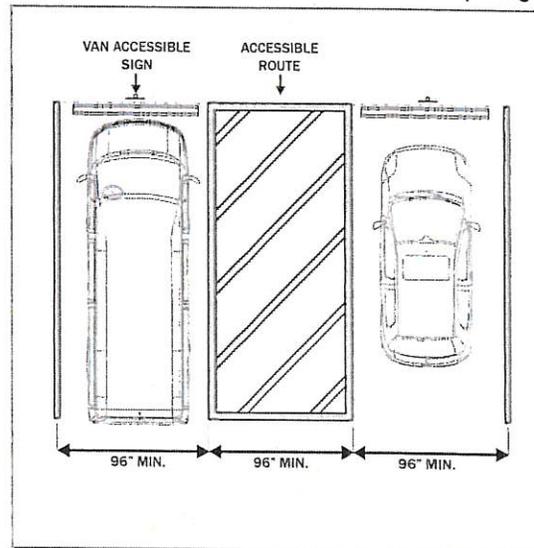
70.1303 Accessible parking and passenger loading

- A. **Generally.** Accessible parking spaces shall be provided subject to this part; the Americans with Disability Act (ADA), as may be amended; and the *ADA Standards for Accessible Design* 28 CFR 36, revised as of July 1, 1994 as may be amended.
- B. **Number required.** If parking spaces are required, then accessible spaces shall be provided in addition to the required number of regular spaces in the quantity as shown in Exhibit 13-4. One of 8 accessible parking spaces, but always at least one, must be van-accessible.
- C. **Location.** Accessible spaces serving a particular building shall be located on the shortest accessible route of travel between the parking and the accessible entrance. When there are multiple entrances to a building of similar prominence (e.g., shopping mall) with near-by parking, accessible spaces shall be dispersed and provided at each location. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
- D. **Dimensions.** Accessible parking spaces shall be at least 96 inches wide.
- E. **Vertical clearance.** For van-accessible parking spaces, a 98-inch high clearance shall be maintained above the space, access aisle, and on the route to and from the van-accessible space.
- F. **Maximum slope.** Accessible spaces and adjoining access aisles shall have a maximum slope of 1:50 in all directions. When accessible spaces are provided in an existing parking lot, the spaces shall be located on the most level surface close to the accessible building entrance.
- G. **Signage.** Each accessible space shall be so designated with a sign identified by the international symbol of accessibility mounted on a vertical pole. In addition, van-accessible spaces shall be so designated with a sign indicating "Van Accessible." Such signs shall be located so they cannot be obscured by a vehicle parked in the space (at least 6 feet in height).
- H. **Pavement striping and markings.** The boundary of the access aisle must be marked and the end of which may be squared or a semicircle. Additional pavement markings denoting the space are optional.
- I. **Accessible route.** An accessible route must be provided from the accessible parking space to the accessible entrance of the building. It shall be at least 36 inches wide, without steps or curbs. It shall be paved and not contain any feature that would restrict, inhibit, or unreasonably impeded the movement of a physically disabled individual.
- J. **Access aisle.** An access aisle for an accessible space shall be the same length as the adjacent parking space it serves and be at least 60 inches wide for car access and 96 inches wide for van-accessibility. Two adjoining accessible parking spaces may share a common access aisle (Exhibit 13-5). An access aisle for a passenger loading zone shall be 60 inches wide and 20 feet long and adjacent and parallel to the space.

Exhibit 13-4. Minimum number of accessible parking spaces

Number of required parking spaces	Number of additional accessible spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1,001 and over	20; plus 1 for each 100 over 1,000

Exhibit 13-5. Layout of standard and van accessible parking



70.1304 Off-street loading berths

- A. **Generally.** Off-street loading berths are required for new buildings and building expansions with any use that receives deliveries or makes shipments from large trucks including retail stores, manufacturing, warehousing, processing, offices, health care centers, and schools.
- B. **Dimensional standards.** A loading berth shall comply with the dimensional standards in Exhibit 13-6. The minimum vertical clearance also applies to all areas providing access to the loading berth.
- C. **Location.** A loading berth shall not be located on the front of the building, except when entirely located within the building and the access door is integrated into the overall design of the building. A loading berth shall not be located within a required side yard setback area. A loading berth shall not be located within a public road right-of-way or interfere with the intended use of a public road right-of-way. A loading berth or access to a loading berth shall not interfere with onsite traffic or pedestrian circulation or on-site parking.
- D. **Surfacing.** A loading berth shall be hard surfaced (e.g., pervious concrete, asphaltic concrete, pavers, or similar product). If it is not possible to hard surface a loading berth between November 1 and April 1, the village building inspector may issue an occupancy permit provided the property owner and zoning administrator enter into a written agreement that requires completion no later than June 1.
- E. **Marking.** A loading berth shall be clearly marked.
- F. **Use.** A loading berth shall only be used for loading and unloading of vehicles.
- G. **Drainage.** A loading berth shall be graded for proper drainage.
- H. **Outdoor lighting.** Outdoor lighting for a loading berth shall comply with the requirements set forth in Chapter 234.
- I. **Screening.** The reviewing authority may require screening (e.g., landscaping, berm, fence, or any combination) when the use of the loading berth has the potential of negatively impacting adjoining residential uses.
- J. **Minimum number of loading berths.** Those buildings subject to this section shall provide one or more loading berths as specified in Exhibit 13-7.

Exhibit 13-6. Dimensions of loading berths by type

Type	Minimum width	Minimum length	Minimum overhead clearance
Small berth	10 feet	25 feet	14 feet
Large berth	12 feet	50 feet	14 feet

Exhibit 13-7. Minimum number of loading berths

Floor area	Minimum number of loading berths
6,000 to 12,499 square feet	1 small berth
12,500 to 24,999 square feet	2 small berths
25,000 to 39,999 square feet	1 large berth
40,000 to 99,999 square feet	2 large berths
100,000 square feet or more	2 large berths plus 1 large berth for each additional 80,000 square feet over 100,000 square feet

70.1305 Bicycle parking

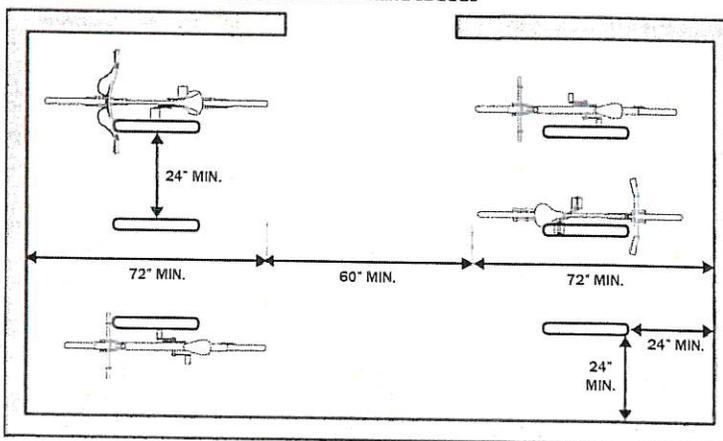
- A. **Generally.** Bicycle parking may be provided consistent with the recommended standards contained in Exhibit 13-8.

Exhibit 13-8. Recommended number of bicycle parking spaces

Land use	Number of recommended spaces
Primary or secondary school	10 percent of the number of students, plus 3 percent of the number of employees
College or university	6 percent of the number of students, plus 3 percent of the number of employees
Dorms, fraternities, sororities	1 space per 3 students
Shopping mall	5 percent of the number of required vehicle parking spaces
Office	5 percent of the number of required vehicle parking spaces
Governmental	10 percent of the number of required vehicle parking spaces
Movie theater	3 percent of the number of required vehicle parking spaces
Restaurant	3 percent of the number of required vehicle parking spaces
Manufacturing / industrial	3 percent of the number of required vehicle parking spaces
Other	3 to 7 percent of the number of required vehicle parking spaces

- B. **Location.** Bicycle parking shall be located in visible and prominent locations near the building entrance and shall be as close, or closer to the entrance than the nearest parking space. Under no circumstance should bicycle parking be more than 100 feet from the building entrance. Where there is more than one building on a site, or where a building has more than one main entrance, the parking shall be distributed to serve all buildings or main entrances. If possible, racks should be protected from the elements by an awning, overhang, or similar covering. Racks shall not be placed so they block the entrance or inhibit pedestrian flow in or out of the building.
- C. **Design.** Bicycle parking areas should be incorporated into the overall building design, parking lot layout, and pedestrian circulation and coordinated with street furniture (e.g., benches, street lights, planters) when it is part of the overall project.
- D. **Accessibility.** Each bicycle parking space shall be accessible without moving another bicycle. In most circumstances, a space 2 feet by 6 feet is adequate. When needed, an aisle at least 5 feet wide shall be provided. (Exhibit 13-9)
- E. **Lighting.** Bicycle parking spaces shall have adequate lighting to promote security and avoid vandalism and theft.
- F. **Rack design.** Bicycle parking may be provided in floor, wall, or ceiling mounted racks. Racks should meet the following requirements:
 - (1) The rack holds the bicycle frame, not just a wheel.
 - (2) A U-shaped shackle lock can be used to secure the bicycle to the rack.
 - (3) The rack is designed to accommodate a wide range of bicycle sizes, wheel sizes, and types.
 - (4) The rack is covered with material that will not chip the paint off of a bicycle that leans against it.
 - (5) The rack does not have hazards, such as sharp edges.

Exhibit 13-9. General layout of bicycle parking spaces



The rack is securely fastened to the ground, a wall, or other solid surface.

ARTICLE 14 NONCONFORMITIES

70.1400 Legislative findings

The Village Board makes the following legislative findings relating to nonconformities:

- (1) There may exist lots, structures, uses, and signs in the village that were lawfully established but that do not now comply with one or more provisions of the zoning district in which they are located.
- (2) It is not the intent of this chapter to perpetuate and/or encourage the long-term continuance of nonconformities because they are inconsistent with the requirements and character of the zoning districts involved, or to permit nonconformities to be generally enlarged upon, expanded, or extended except as provided for herein.
- (3) State law permits the reconstruction of nonconforming structures under certain circumstances.

70.1401 Official registry of nonconforming lots, buildings and land uses

- A. **Content of registry.** The zoning administrator is authorized to develop and maintain a registry of (1) lots known by him or her to be considered nonconforming, (2) buildings known by him or her to be considered nonconforming, and (3) land uses known by him or her to be considered nonconforming and those which have registered as a nonconforming use consistent with the requirements in Article 5.
- B. **Form of registry.** At the discretion of the zoning administrator, the registry may consist of either a written list or digital records.
- C. **Disclaimer.** Given the nature of the registry, the village does not warrant that such information is complete and/or accurate in all respects.

70.1402 Nonconforming lots

- A. **Generally.** A legal nonconforming lot may be used for an allowable use, provided such use complies with all other development standards of the zoning district in which the lot is located.
- B. **Alteration of property boundary lines.** The location of a property boundary line of a nonconforming lot shall not be modified by any means, except when the new property boundary line location will make the nonconforming lot to be conforming or lessen the nonconformity. Any such change in a property boundary location shall be reviewed and approved by the Plan Commission.

70.1403 Nonconforming buildings

- A. **Generally.** A legal nonconforming building may be used for any conforming use.
- B. **Enlargement.** A nonconforming building that is used for a conforming use may be enlarged provided the Plan Commission authorizes such enlargement pursuant to the requirements in Article 5.
- C. **New foundation/basement.** The placement of a new foundation or basement under an existing nonconforming building that is not located in the 100-year floodplain is permitted provided the foundation or basement does not extend beyond the vertical extent of the existing exterior wall.
- D. **Unsafe conditions.** Nothing in this article shall preclude the building inspector or any other city official from initiating remedial or enforcement actions when a nonconforming building is declared unsafe or presents a danger to the public health, safety, or welfare; constitutes a public nuisance; or is in violation of any licensing regulation.
- E. **Ordinary repair and maintenance, and remodeling.** Nothing in this article shall be deemed to prohibit or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming building.
- F. **Reconstruction following damage.** A nonconforming building that is damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation on or after March 2, 2006, may be restored to its condition (e.g., size, location, and use) prior to the damage, except the building may be larger when necessary to comply with state or federal requirements.¹

¹ Commentary: See s. 62.23(7) (h), Wis. Stats.

- G. **Relocation.** A nonconforming building shall not be moved or relocated to any other location on the lot unless such building is made to conform to all regulations of the zoning district in which it is located.

70.1404 Nonconforming uses

- A. **Generally.** A legal nonconforming use may continue to exist so long as it remains otherwise lawful, subject to the provisions in this section.
- B. **Cessation of use.** If a nonconforming use ceases for any reason, whether intentional or otherwise, for more than 12 continuous months, such use shall not thereafter be reestablished.² A business of a seasonal nature shall not be deemed to be discontinued during periods in which it is normally inactive (e.g., marinas, summer camps). If the zoning administrator determines that a nonconforming use has ceased to operate for more than the aforementioned time period, he or she shall initiate the process established under Article 5 to terminate the nonconforming use. However, if a temporary structure houses a nonconforming use, such use shall terminate when the temporary structure is removed.
- C. **Change in extent.** Except as may be provided in this article or in state law, a nonconforming use shall not be enlarged, increased, or expanded and shall not occupy a greater area than what existed on the effective date of this chapter or any amendment thereto that created the nonconforming use.
- D. **Limitation on structural alterations to building housing nonconforming use.** Structural alterations to a building housing a nonconforming use shall not exceed, on an accumulative percentage basis, 50 percent of the equalized assessed value of such structure.³ For example, if a property owner makes structural alterations, the cost of which equals 40 percent of the current equalized assessed value of the building, any additional structural alterations are limited to 10 percent of the equalized assessed value at the time of the work.
- E. **Damage to structure housing nonconforming use.** If a building housing a nonconforming use is damaged beyond 50 percent of its present equalized assessed value, such nonconforming use shall not be reestablished.
- F. **Change of location.** A nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied on the effective date of this chapter or any amendment thereto that created the nonconforming use.
- G. **Casual, occasional, accessory, or incidental use.** Casual, occasional, accessory, or incidental use after the primary nonconforming use has terminated, shall not be deemed to perpetuate a nonconforming use.⁴
- H. **Change of production.** A change in the method or quantity of production and the incorporation of new technology into a nonconforming use is permitted provided the original character of the use remains the same.⁵
- I. **Termination due to effects on public health, safety, and welfare.** In the event the zoning administrator determines that a nonconforming use, regardless of its duration, is harmful to the public health, safety, or welfare, he or she shall follow the procedure outlined in Article 5 relating to termination of a use.⁶
- J. **Unsafe conditions.** Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, provided that such work conforms to the provisions in this chapter.
- K. **Licensing.** The operator of a nonconforming use shall obtain such licenses as may be required by the state of Wisconsin, or its designated agent; Washington County; or the Village of Richfield, and maintain such licenses for the life of the use or until the entity no longer requires such license.
- L. **Conversion to another nonconforming use.** Subject to the requirements in Article 5, a nonconforming use may be converted to a different nonconforming use provided the new use is less nonconforming. Any nonconforming use that has been converted shall continue to be subject to all applicable provisions related to nonconforming uses and to the conversion order as approved by the Village Board.

² Commentary: See s. 62.23(7)(h), Wis. Stats.

³ Commentary: See s. 62.23(7)(h), Wis. Stats.

⁴ Commentary: See *Village of Menominee Falls v. Veistahler*, 183 Wis. 2d 96, 515 N.W.2d 290 (Ct. App. 1994)

⁵ Commentary: See *Racine County v. Cape*, 2002 WI App 19, 250 Wis. 2d 44, 639 N.W.2d 782, 01-0740

⁶ Commentary: See *Town of Delafield v. Sharpley*, 212 Wis. 2d 332, 568 N.W.2d 779 (Ct. App. 1997, 96-2458)

- M. **Permissible accessory residential uses.** If an existing single-family dwelling unit is classified as a nonconforming use, the establishment of accessory residential uses normally incidental to a single-family dwelling is not considered to be an expansion of a nonconforming use and is permitted provided the accessory use is otherwise allowed by the zoning code and all accessory buildings exceeding 600 square feet must be approved by the Plan Commission upon a determination that the accessory building is otherwise allowed in the zoning district in which it is located.

70.1405 Special provisions for manufactured home communities

Notwithstanding subsection 70.1404(D) above, a manufactured home community licensed under s. 101.935, Wis. Stats., that is a legal nonconforming use continues to be a legal nonconforming use notwithstanding the occurrence of any of the following activities within the community:

- (1) Repair or replacement of any manufactured homes
- (2) Repair or replacement of infrastructure.⁷

70.1406 Special provisions for mobile home and manufactured homes not in a mobile home park

A mobile home or a manufactured home not located in a mobile home park is considered a nonconforming use and must comply with s. 24.02(4) of the municipal code.

70.1407 Special provisions for nonconforming boathouses

The ordinary maintenance and repair of a nonconforming boathouse that extends beyond the ordinary high-water mark shall comply with s. 30.121, Wis. Stats.

70.1408 Special provisions related to the shoreland-wetland overlay district

The shoreland-wetland provisions of this chapter authorized by s. 62.231, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling, or expansion of a nonconforming structure in existence on the effective date of the shoreland wetland provisions, or of any environmental control facility in existence on May 7, 1982 related to such a structure. All other modifications to nonconforming structures are subject to s. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50 percent of current fair market value.

70.1409 Special provisions related to the floodplain overlay district

Special provisions relating to nonconformities in the floodplain overlay district are included in Article 8.

⁷ Commentary: See s. 62.23(7)(ham), Wis. Stats.

ARTICLE 15 REASONABLE ACCOMMODATIONS

70.1500 Legislative findings

The Village Board makes the following legislative findings relating to reasonable accommodations for persons with disabilities:

- (1) The federal government has adopted laws with respect to various rights afforded persons with disabilities.
- (2) Some of these laws, most notably the Fair Housing Act and the Americans with Disabilities Act, affect how local zoning rules and regulations are administered by municipalities.
- (3) Under the Fair Housing Act, reasonable accommodations must be made with respect to local zoning laws so that a person with a disability has an equal opportunity to use and enjoy a dwelling unit.
- (4) Under Title II of the Americans with Disabilities Act, reasonable accommodations must be made with respect to local zoning laws to avoid discrimination as provided in the act.
- (5) If a local municipality can demonstrate that a requested modification would fundamentally alter the nature of its service, program, or activity (in this instance zoning requirements) it is not required to grant the modification.
- (6) Requests for wheelchair ramps in setback and offset areas as authorized in this section do not fundamentally alter the nature of this zoning code.
- (7) Requests for all other types of reasonable accommodations will be reviewed individually to determine if the requested accommodation fundamentally alters the nature of this zoning code.

70.1501 Reviews

- A. **Wheelchair ramps in setback and offset areas.** The building inspector is authorized to approve the construction of wheelchair access ramps in setback areas pursuant to s. 70. [REDACTED]
- B. **Other reasonable accommodations.** All other requests for reasonable accommodations under the above-mentioned federal laws shall be accomplished through the variance process described in Article 5.

70.1502 General requirements

If a person's disability is not obvious or otherwise known, the reviewing authority may request information that (1) is necessary to verify that the person meets the federal government's definition of disability (i.e., has a physical or mental impairment that substantially limits one or more major life activities), (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation.

70.1503 Confidentiality of applicant information

In reviewing petitions for reasonable accommodations, the reviewing authority will attempt to balance the privacy rights and reasonable request of an applicant for confidentiality, with normal procedural requirements relating to public notice, public hearings, written decision documents that may include findings of fact and conclusions of law, and maintaining adequate records. Any document identifying the disability or medical condition of any specific person shall be treated as confidential and shall not be subject to disclosure by the village for any reason, including Wisconsin's Open Records law, unless ordered to do so by a court of competent jurisdiction and notice is given to the person who provided the document to the village. Specifically, any medical records regardless of source, including statements of medical providers, shall not be subject to disclosure. For any other type of document, such as an application or determination, the document may be subject to disclosure, but only after the nature or description of the person's disability or medical condition has been redacted by the village attorney. A statement regarding the village's handling of information subject to this provision should be included in the decision document.

70.1504 Nature of approval

Any accommodation approved under this chapter is considered a personal accommodation for the individual applicant and does not run with the land.

70.1505 Imposition of conditions

The reviewing authority may impose conditions of approval deemed necessary to uphold the overall intent of this chapter. Typical conditions of approval include, but are not limited to, the following:

- (1) periodic inspection of the property to verify compliance with this section and any conditions of approval;
- (2) removal of the improvements, where removal would not constitute an unreasonable financial burden, when the need for which the accommodation was granted no longer exists;
- (3) time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists;
- (4) recordation of a deed restriction requiring removal of the accommodating feature once the need for it no longer exists;
- (5) measures to reduce the impact on surrounding properties and uses;
- (6) measures in consideration of the physical attributes of the property and structures; and

other conditions necessary to protect the public health, safety,

ARTICLE 16 ENFORCEMENT

70.1600 Authority for enforcement

The village has the authority under s. 62.23(7)(f), Wis. Stats., to enforce the provisions of this chapter and establish penalties.

70.1601 Actions constituting a violation

Each action that is not in full compliance with this chapter and/or with a condition or requirement of an approval issued pursuant to this chapter shall constitute a separate and distinct violation. Each day that a violation continues is considered a separate offense.

70.1602 General procedure

- A. **General steps.** After observing or receiving a complaint of an alleged violation, the zoning administrator shall investigate to determine if a violation does exist. If the property owner does not allow the zoning administrator the right to enter the subject property for the purpose of determining whether a violation exists or not, he or she may request a special inspection warrant from the court pursuant to s. 66.0119, Wis. Stats. If the zoning administrator determines that a violation does not exist, he or she shall notify the complainant and the property owner explaining his or her determination.

If the administrator determines that a violation does exist and the violation does not constitute an immediate threat to public health, safety, or welfare, the following general steps shall be followed.

- (1) **Notification of violation.** The zoning administrator shall send a violation notice, as described in this article, to the property owner by regular mail and certified mail.
- (2) **Stop work order.** If the violation involves construction and/or any land-disturbing activity, the zoning administrator shall prepare a stop work order and send a copy of the order to the property owner by regular mail. The stop work order shall be posted on the property in a prominent location.
- (3) **Issuance of a citation.** If the property owner does not bring the property into compliance as set forth in the notice and the property owner has not obtained an extension, the zoning administrator or other authorized agent employed by the village shall send a citation to the property owner consistent with the municipal code.

If the violation is an immediate threat to the public health, and/or safety, the village may pursue all remedies, penalties, and enforcement powers available under this article and state law without any prior notice as described in this section. If a stop work order is issued and work continues in violation of that order, the village may then pursue all remedies, penalties, and enforcement powers available under this article and state law without any prior notice as described in this section.

- B. **Extension to compliance period.** Upon request, the zoning administrator may grant an extension to the compliance period if the property owner has demonstrated a good faith effort to comply and additional time is needed because of the weather and practical difficulties in meeting the timeline. Any forbearance on the part of the zoning administrator in this regard shall not be construed as waiving any provision of this chapter.
- C. **Stay of enforcement proceedings.** If the property owner submits an administrative appeal application or variance application to the village consistent with the procedures and requirements set forth in Article 5 and the appeal or variance relates specifically to the enforcement action, all legal proceedings relating to the enforcement action may be stayed, unless the zoning administrator certifies to the Zoning Board of Appeals that such stay in his or her opinion, would 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 Zoning Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.¹

¹ Commentary: See s. 62.23(7)(e)5, Wis. Stats.

- D. **Reoccurring violation.** If the zoning administrator determines that the property owner has violated this chapter a second time for the same offense within 12 months of bringing the property into compliance, the zoning administrator or other authorized agent employed by the village shall send a citation to the property owner consistent with the procedures and requirements set forth in the municipal code.

70.1603 Violation notice

- A. **Content.** A violation notice shall include the following:

- (1) a description of the violation,
- (2) the section(s) of this chapter being violated,
- (3) a statement describing the measures that would remedy the violation,
- (4) a statement that the property owner has 30 days from the date of the violation notice to comply (or 15 days for the second notice),
- (5) information about how the property owner may request an extension to the compliance period,
- (6) information about the appeal process, and
- (7) information concerning penalties for continued non-compliance.

- B. **Effect of violation notice.** Once a violation notice has been issued all construction or any land development activity related to the violation, except that which is done to ensure compliance, shall cease. In addition, if a property remains in violation the village shall not issue any other permits or approvals for any development on the premises.

70.1604 Stop work order

- A. **Content.** A stop work order shall state the section of this chapter that is being violated, the name of an individual who should be contacted along with his or her work telephone number, a statement that all work on the premises must cease immediately until the zoning administrator rescinds the stop work order, and that removal of the stop work order constitutes a violation of this chapter.
- B. **Effect of stop work order.** Once a stop work order has been issued pursuant to this article all work on the property shall cease until such time as it is lifted by the zoning administrator.
- C. **Unauthorized removal of stop work order.** No person, other than the zoning administrator, shall remove a stop work order from the location it was posted. The removal of a stop work order by a person without authority to do so constitutes a violation of this chapter.

70.1605 Other remedies

The village or any aggrieved person may seek an injunction, restraining order, or other equitable relief in court to stop any violation of this chapter and/or an order requiring the property owner to restore the property to the condition that existed prior to the violation.

70.1606 Continuation

Nothing in this chapter shall prohibit the continuation of previous enforcement actions undertaken by the village pursuant to previous and valid ordinances and laws.

70.1607 Penalties

Any person that violates this chapter shall be subject to a penalty as provided in the municipal code.