

N64W23760 Main Street Sussex, Wisconsin 53089 Phone (262) 246-5200 FAX (262) 246-5222

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# AGENDA VILLAGE OF SUSSEX PLAN COMMISSION MEETING 6:30 PM TUESDAY, AUGUST 18, 2020 SUSSEX CIVIC CENTER – BOARD ROOM 2<sup>nd</sup> FLOOR N64W23760 MAIN STREET

## THIS MEETING CAN ALSO BE ACCESSED IN ONE OF THE FOLLOWING WAYS:

- 1. BY CALLING 1 312-626-6799 AND ENTERING MEETING ID: 816 0781 9220 THE MEETING MATERIALS WILL BE AVAILABLE AT WWW.VILLAGESUSSEX.ORG AND DURING THE MEETING BY WATCHING CHANNEL 25 THE VILLAGE'S CABLE CHANNEL ON SPECTRUM CABLE.
- 2. CLICKING THE FOLLOWING LINK: https://us02web.zoom.us/j/81607819220

Pursuant to the requirements of Section 19.84, Wis. Stats., notice is hereby given of a meeting of the Village of Sussex Plan Commission, at which a quorum of the Village Board may attend virtually. 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 during any portion where the public is allowed to comment or if the rules are suspended to allow them to do so.)

- 1. Roll call.
- 2. Consideration and possible action on the <u>minutes</u> of the Plan Commission meeting of July 21, 2020.
- 3. Consideration and possible action on Permitted Uses and Plans:
  - A. Consideration and possible action on a <u>Plan of Operation</u> and <u>site plan</u> for Gary Lawless condominium <u>N60W22951 Silver Spring</u> building 11 unit 21 and 22.
- 4. Conditional Use Public Hearing(s) and consideration and possible action on Conditional Use Permits and Plans on the following items:
  - A. Reconvene the public hearing of a Legal Non-Conforming Conditional Use, <u>Plan of</u> Operation and <u>site plan</u> for Harvest View Farms Inc. (<u>N67W25913 Silver Spring</u> Drive).
  - B. Consideration and possible action on a Legal Non-Conforming Conditional Use, Plan of Operation and site plan for <u>Harvest View Farms Inc</u>. (N67W25913 Silver Spring Drive).
  - C. Convene the public hearing for a Conditional Use, <u>Plan of Operation</u> and <u>site plan</u> for <u>Tim Carberry condominium N60W22951 Silver Spring building 2 unit 3.</u>

- D. Convene the public hearing for a Conditional Use, <u>Plan of Operation</u> and <u>site plan</u> for Jim Carberry condominium <u>N60W22951 Silver Spring</u> building 2 unit 4.
- 5. Consideration and possible action on CSM's, Plats, Zoning and Planning Items:
  - A. Consideration and possible action on <u>Final Plat for Hillside Ridge</u> west of Hillside Road Extra Territorial Review Town of Lisbon.
- 6. Other items for future discussion.
- 7. Adjournment.

Anthony LeDonne Chairperson

Jeremy J. Smith Village Administrator

Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Village Clerk at 246-5200.

## DISCLAIMER- THE FOLLOWING ARE DRAFT MINUTES FROM THE PLAN COMMISSION AND ARE SUBJECT TO CHANGE UPON APPROVAL OF THE PLAN COMMISSION VILLAGE OF SUSSEX SUSSEX, WISCONSIN

#### Minutes of the Plan Commission meeting held on July 21, 2020.

Kasey Fluet call the meeting to order at 6:35 pm. A motion by Anderson, seconded by Muckerheide to appoint Roger Johnson as the Chairperson Pro-Tem for this meeting.

Motion carried 4-0.

Members present: Commissioners Deb Anderson, Jim Muckerheide, Roger Johnson and Michael

Knapp. President Anthony LeDonne joined the meeting at 7:03 pm.

Members excused: Trustee Scott Adkins.

Others present: Assistant Development Director Kasey Fluet, Village Attorney John Macy, Deputy

Clerk Linda Steinmetz and applicants.

Attorney Macy let it be known that Annette Kremer has resigned from the Plan Commission.

A quorum of the Village Board was not present at the meeting.

### Consideration and possible action on the minutes on the Plan Commission meeting of June 16, 2020.

A motion by Anderson, seconded by Johnson to approve the minutes of the Plan Commission meeting of June 16, 2020 as presented.

Motion carried 4-0

### Consideration and possible action on a on a Plan of Operation and site plan for EXIT Realty Results (N64W24678 Main Street Suite 1).

Gayle and Mike Matt were in attendance.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zoned BP-1. The real estate office is a permitted use in accordance with Section 17.0416 (A)(4)(c) in the B-1 Neighborhood Business District. Exit Realty Results is leasing 1,637 square feet of space at the complex known as the Wessex Centre, in the former Amy B. Hair Salon suite. EXIT Realty is a residential real estate franchise, the hours of operation are Monday through Friday 9:00 a.m. to 3:00 p.m., any after hours are by appointment only. They will have 4 to 5 employees. This site has 87 marked parking stalls, with 71 allocated to other users, by code this user requires 7 stalls.

Any signage for this building must be reviewed by the Building Inspector.

Plan Commission Comments: None

Public Comments: None

A motion by Knapp, seconded by Anderson to approve the Plan of Operation and site plan for EXIT Realty Results (N64W24678 Main Street Suite 1) a finding that the use and structures meet the principals of 17.1002(A-H), subject to the standard conditions of Exhibit A. Motion carried 4-0

### Consideration and possible action on a Plan of Operation and site plan, for Shannon Real Estate LLC condominium N60W22951 Silver Spring building 10 unit 19

Petitioner was not in attendance.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zoned M-1. The property maintenance services for rental properties is a permitted use in accordance with Section 17.0422

(A)(3)(c) in the M-1 Industrial District. The owner of Shannon Real Estate LLC is purchasing a 1,500 square foot condominium unit for his equipment for his business. The owners must also follow the declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

Attorney Macy provided a brief history of development and explained the reason for the different approval processes regarding Venture Space Condominiums to the new Commissioners.

Plan Commission Comments: None

Public Comments: None

A motion by Anderson, seconded by Muckerheide to approve the Plan of Operation and site plan for Shannon Real Estate LLC condominium N60W22951 Silver Spring building 10 unit 19 a finding that the use and structures meet the principals of 17.1002(A-H), subject to payment of any water RCA fees, receiving final occupancy from the Building Inspector and the standard conditions of Exhibit A.

Motion carried 4-0.

#### Consideration and possible action on a Plan of Operation and site plan for KLM Machining, Inc. condominium N60W22951 Silver Spring building 12 unit 23 and 24.

Petitioner was not in attendance.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zoned M-1. The CNC machining manufacturer is a permitted use in accordance with Section 17.0422 (A)(4)(e) in the M-1 Industrial District. KLM Machining, Inc. located in the Sussex Industrial Park is purchasing a 3,000 square foot condominium building for storage of tools, equipment and overflow product from the business. The owners must also follow the declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

Plan Commission Comments: None

Public Comments: None

A motion by Knapp, seconded by Anderson to approve the Plan of Operation and site plan for KLM Machining, Inc. condominium N60W22951 Silver Spring building 12 unit 23 and 24 a finding that the use and structures meet the principals of 17.1002(A-H), subject to payment of any water RCA fees, receiving final occupancy from the Building Inspector and the standard conditions of Exhibit A.

Motion carried 4-0.

#### Reconvene the public hearing of a Legal Non-Conforming Conditional Use, Plan of Operation and site plan for Harvest View Farms Inc. (N67W25913 Silver Spring Drive).

Pete Meissner and Bryan Lindgren were in attendance representing Harvest View Farms Inc, N67W25913 Silver Spring Dr.

Attorney Macy explained the process regarding approval of a legal non-conforming conditional use to the new Plan Commissioners.

Comments from Plan Commission: Commissioner Knapp expressed his concerns on taking action on item due to the fact that he is new to the commission and has not had time to acquaint himself with the project, plus two members of the commission were not in attendance. Commissioner Knapp stated he was not willing to vote at this time. Attorney Macy stated that Commissioner Knapp should not vote on the agenda item since he was not present at the initial public hearing. Procedurally he will need to abstain from the vote.

Commissioner Johnson asked Mr. Meissner to give a synopsis of the project for the new commissioners. Mr. Meissner stated the site will be developed over the next few years. Petitioner wishes to square off the site he owns by moving his lot line to the south and west which will enable him to include the farm office on his lot. The lot lines were drawn many years ago when the property was part of Lisbon and those lot lines run through some of the silos and outbuildings. By squaring off the lot, it will go from 1.54 to 2.4 acres and eliminate the lot line issues. Commissioner Johnson explained that this has nothing to do with the rest of the property and the subdivision to be developed. This is just about the split off of the farming operation. Commissioner Muckerheide asked if the animals were staying. Petitioner stated that as the property is developed, the barns and animals will be removed.

Bryan Lindgren stated that the development has already been approved. This is a conditional use to allow Mr. Meissner to continue his farming operations on the smaller parcel that Harvest View Farms will retain. The larger portion of land will be developed. The Zoning and land use was approved previously.

Attorney Macy verified that ultimately this small parcel will be used as the farm office only. The farming operations will be phased out as the subdivision is developed. Mr. Meissner stated that was correct. Mr. Meissner lives in Sussex so that is where the farm office is located. Attorney Macy stated the CU is allowing Mr. Meissner to make the parcel a little bigger and maintain what he has.

Mrs. Fluet reviewed the staff memo (copy attached). The site is zoned CR-1. The zoning of the farm as CR-1 residential was placed on the property to meet the requirement of the Wisconsin Statutes, the zoning must match the Land Use designation. The owners of the property want to sell 176 acres of the land to a developer and keep 2.4 acres for farming operations. Farming includes processing various agricultural crops and buildings associated with the management of the operations. Some of the buildings and silos on the property do not meet the setback requirements making the use legal non-conforming. In accordance with Section 17.0507 a legal non-conforming use may be granted a conditional use.

Commissioner Johnson asked that the berm be extended along the east end of the property. Mr. Lindgren stated they had no objection to extending the berm. Mr. Meissner stated he had read the CU and had no objections.

Commissioner Knapp inquired if the well was staying. Staff informed the Commission that the well is permitted. If the well should fail and water is available, Mr. Meissner will have to hook up to the water system. Attorney Macy verified that Mr. Meissner was aware that there are rules and ordinances regarding the well. He stated he was aware of the rules regarding his well.

President LeDonne arrived and resumed his role as Chairperson.

Commissioners had no further questions.

A motion by Knapp, seconded by LeDonne to adjourn the public hearing until the August 18 meeting.

Motion carried 5-0.

Consideration and possible action on a Legal Non-Conforming Conditional Use, Plan of Operation and site plan for Harvest View Farms Inc. (N67W25913 Silver Spring Drive).

Due to adjournment of public hearing, item was tabled until the August Plan Commission meeting.

## Introduction of a Conditional Use, Plan of Operation and site plan for Tim Carberry condominium N60W22951 Silver Spring building 2 unit 3.

Tim Carberry, W195N5748 Alder Court, Menomonee Falls was present.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zone M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owners are purchasing a condominium unit at the Venture Space site. The 1,500 square foot unit will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the standards/conditions in the attached memo during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) in the attached memo reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

Mrs. Fluet stated that staff has found the application complete and recommends scheduling the Public Hearing.

Plan Commission Comments: None

Public Comments: None

A motion by Johnson, seconded by Anderson to direct staff to schedule a public hearing for 6:30 pm on August 18, 2020.

Motion carried 5-0.

### Introduction of a Conditional Use, Plan of Operation and site plan for Jim Carberry condominium N60W22951 Silver Spring building 2 unit 4.

Jim Carberry was not in attendance.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zone M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owners are purchasing a condominium unit at the Venture Space site. The 1,500 square foot unit will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the standards/conditions in the attached memo during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) in the attached memo reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

Mrs. Fluet stated that staff has found the application complete and recommends scheduling the Public Hearing.

Plan Commission Comments: None

Public Comments: None

A motion by LeDonne, seconded by Anderson to direct staff to schedule a public hearing for 6:30 pm on August 18, 2020.

Motion carried 5-0.

## Consideration and possible action on a CSM for Sussex Town Center to adjust Lot 1 and Lot 2 property lines.

Petitioner was not in attendance.

Staff explained that the developer of Sussex Town Center is presenting a CSM to adjust the lot line for Lot 1 and Lot 2 at the southwest corner along the frontage road, Prospect Circle. Originally the lot lines where determined based on a particular user for Lot 1. In order for Dunkin'/Baskin Robbins to develop their building on Lot 2 they need for the lot line to be adjusted.

Plan Commission Comments: None

Public Comments: None

A motion by Anderson, seconded by Knapp to recommend approval of the CSM to the Village Board for Sussex Town Center subject to review by the Village Engineer, the standard conditions of CSM approval and Exhibit A.

Motion carried 5-0.

### Consider and possible action on an Ordinance to repeal and recreate sideyard setbacks for Single Family Residential District RS-3 Section 17.0410 (F)(2) and RS-4 Section 17.0411 (F)(2).

Mr. Smith explained that this change came at the request of a resident. The Village has a number of homes that were built too close to side lot lines on Sunset and Butternut prior to 1980. Staff is presenting an ordinance change for two of the residential single-family districts. The areas zoned with these designations prior to 1980 in many cases do not conform to the side yard setbacks making expansions to principal structures impossible. This has the unintended consequence of prohibiting natural growth and upkeep that would be beneficial to these neighborhoods and the Community.

Plan Commission comments: None

Public Comments: None

A motion by LeDonne, seconded by Anderson to recommend to the Village Board to approve the Ordinance to repeal and recreate the language for the Single Family Residential District RS-3 Section 17.0410 (F)(2) and RS-4 Section 17.0411 (F)(2).

Motion carried 5-0.

## Consideration and possible action on a second amendment of the Developers Agreement for Highland Business Park by owners Sussex Corporate Park LLC.

Matt Moroney of Wangard, 1200 N Mayfair Rd, Milwaukee spoke on behalf of Highland Business Park. Developer has been working with a potential user at the corporate park and to accommodate this user an alternative site design is needed. This change will give the developer the flexibility to move the completion date of the infrastructure back and also permit them time to get approval of the alternaltive design plan.

The Developer of the Highland Business Park, which is under construction, is under negotiations with potential users that would adjust the road pattern internal to the site. This adjusted plan would still need approval from the Village, but it is advantageous to the Village and the Developer to see these negotiations through prior to completing the improvements on the site. The amendment reflects this potential new site layout and extends the deadline to October of 2021 to complete the improvements.

Amendments to the Developers Agreement are first reviewed by the Plan Commission prior to going to the Village Board.

Plan Commission comments: None

Public Comments: None

A motion by LeDonne, seconded by Anderson, to recommend to the Village Board approval of the second amendment to the Developers Agreement for Highland Business Park by owners Sussex Corporate Park LLC to extend the date for the completion of the improvements.

Motion carrie 5-0.

Topics for Future Agendas: None.

#### <u>Adjournment</u>

A motion by LeDonne, seconded by Anderson to adjourn the meeting at 7:24 pm.

Motion carried 5-0

Respectfully Submitted,

Linda Steinmetz Deputy Clerk



N64W23760 Main Street Sussex, Wisconsin 53089 Phone (262) 246-5200 FAX (262) 246-5222

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#### **MEMORANDUM**

TO: Plan Commission

FROM: Kasey Fluet, Assistant Development Director

RE: Plan Commission meeting of July 21, 2020

DATE: July 15, 2020

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All Code Sections in this memo refer to the Sussex Municipal Code Chapter 17 version dated March 25, 2014 with subsequent amendments thereto.

- 01. Roll call.
- 02. <u>Consideration and possible action on the minutes of the Plan Commission meeting of June 16, 2020.</u>
- 03. Consideration and possible action on Permitted Uses and Site Plans:

  A. Consideration and possible action on a Plan of Operation and site plan for EXIT Realty Results (N64W24678 Main Street Suite 1).

This site is zoned B-1. The real estate office is a permitted use in accordance with Section 17.0416 (A)(4)(c) in the B-1 Neighborhood Business District. Exit Realty Results is leasing 1,637 square feet of space at the complex known as the Wessex Centre, in the former Amy B. Hair Salon suite. EXIT Realty is a residential real estate franchise, the hours of operation are Monday through Friday 9:00 a.m. to 3:00 p.m., any after hours are by appointment only. They will have 4 to 5 employees. This site has 87 marked parking stalls, with 71 allocated to other users, by code this user requires 7 stalls. The site has additional pavement that is not currently stripped which could be utilized for parking.

This complex has a master sign plan, any signage for this building must be reviewed by the Building Inspector.

#### **Policy Ouestion:**

- 1. Are there any concerns with the Plan of Operation?
- 2. Are there any concerns with the property?

#### **Action Items:**

1. Act on the plan of operation and plans.

**Staff Recommendation:** Staff recommends the Plan Commission approve the Plan of Operation and site plan for EXIT Realty Results (N64W24678 Main Street Suite 1) a finding that the use and structures meet the principals of 17.1002(A-H), subject to the standard conditions of Exhibit A.

## B. Consideration and possible action on a Plan of Operation and site plan for Shannon Real Estate LLC condominium N60W22951 Silver Spring building 10 unit 19.

This site is zoned M-1. The property maintenance services for rental properties is a permitted use in accordance with Section 17.0422 (A)(3)(c) in the M-1 Industrial District. The owner of Shannon Real Estate LLC is purchasing a 1,500 square foot condominium unit for his equipment for his business. The owners must also follow the declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

#### **Policy Question:**

- 1. Are there any concerns with the Plan of Operation?
- 2. Are there any concerns with the property?

#### **Action Items:**

1. Act on the plan of operation and plans.

**Staff Recommendation:** Staff recommends the Plan Commission approve the Plan of Operation and site plan for Shannon Real Estate LLC condominium N60W22951 Silver Spring building 10 unit 19 a finding that the use and structures meet the principals of 17.1002(A-H), subject to payment of any water RCA fees, receiving final occupancy from the Building Inspector and the standard conditions of Exhibit A.

## C. Consideration and possible action on a Plan of Operation and site plan for KLM Machining, Inc. condominium N60W22951 Silver Spring building 12 unit 23 and 24.

This site is zoned M-1. The CNC machining manufacturer is a permitted use in accordance with Section 17.0422 (A)(4)(e) in the M-1 Industrial District. KLM Machining, Inc. located in the Sussex Industrial Park is purchasing a 3,000 square foot condominium building for storage of tools, equipment and overflow product from the business. The owners must also follow the declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

#### **Policy Question:**

- 1. Are there any concerns with the Plan of Operation?
- 2. Are there any concerns with the property?

#### **Action Items:**

1. Act on the plan of operation and plans.

**Staff Recommendation:** Staff recommends the Plan Commission approve the Plan of Operation and site plan for KLM Machining, Inc. condominium N60W22951 Silver Spring building 12 unit 23 and 24 a finding that the use and structures meet the principals of 17.1002(A-H), subject to payment of any water RCA fees, receiving final occupancy from the Building Inspector and the standard conditions of Exhibit A.

## 04. <u>Conditional Use Public Hearing(s) and consideration and possible action on</u> Conditional Use Permits and Plans on the following items:

## A. Reconvene the public hearing of a Legal Non-Conforming Conditional Use, Plan of Operation and site plan for Harvest View Farms Inc. (N67W25913 Silver Spring Drive).

This site is zoned CR-1. The zoning of the farm as CR-1 residential was placed on the property to meet the requirement of the Wisconsin Statutes, the zoning must match the Land Use designation. The owners of the property want to sell 176 acres of the land to a developer and keep 2.4 acres for farming operations. Farming includes processing various agricultural crops and buildings associated with the management of the operations. Some of the buildings and silos on the property do not meet the setback requirements making the use legal non-conforming. In accordance with Section 17.0507 a legal non-conforming use may be granted a conditional use.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

#### The Conditional Use Permit Standards to be met:

- A. This conditional use is granted for the Petitioner for the above for the above enumerated uses, incorporating the findings as set forth above and subject to the following conditions:
  - 1. <u>Presentation Compliance.</u> The operating farm is approved herein on the Subject Property, and the use thereof, shall be used in substantial conformity with the presentation at the Public Hearings before the Plan Commission held on June 16, 2020 and July 21, 2020.
  - 2. <u>Subject Property.</u> This conditional use permit issued to the Petitioners, shall be limited to the property described in **Exhibit A** attached hereto and incorporated herein and to the site plan presented at public hearing.
  - 3. Plans. The Petitioners are required and must have all plans current, approved by the Plan Commission for the Village of Sussex, and on file with the Village Clerk for the Village of Sussex in order for this CU to be in effect. The Petitioner shall be entitled to amend or change any plan contemplated herein subject to the specific language of the Conditional use and subject to the Plan Commission for the Village of Sussex approval and without a public hearing, if such amendments and/or change is not a substantial amendment or change in any plan contemplated herein as solely determined by the Plan Commission. If the Plan Commission for the Village of Sussex feels, in its sole discretion, that the amendment or change to any plan contemplated herein is substantial, the amendment or change will require a new permit and all Village procedures in place at the time must be followed.
    - A <u>Site Plan</u>. The Petitioners shall maintain the existing site plan, which shall be attached hereto and incorporated herein as **Exhibit A-1**.
    - B <u>Plan of Operation.</u> The Petitioners shall submit to and receive approval from the Village Plan Commission a specific plan of operation for the Subject Property, the same to be in substantial conformance with the

- preliminary plans on file and with the presentations at the Meetings. Once approved the plan of operation shall be attached hereto and incorporated herein as **Exhibit B**.
- C <u>Traffic, Access, Loading, and Parking Plans</u>. The Petitioner shall comply with the existing traffic parking, loading, and egress plan for the subject property on file with the Village Clerk which is shown in **Exhibit A-2**.
- D. <u>Lighting Plan.</u> The Petitioner shall maintain the existing lighting plan for the Subject Property on file with the Village Clerk
- E. <u>Signage Plan.</u> There is no current signage plan.
- F. <u>Public Improvements.</u> There are no current public improvements required at this time.
- G. <u>Sewer, Water, Stormwater and Erosion Control Plans.</u> The Petitioner shall comply with the specific sewer, water, stormwater, and erosion control plans on file with the Village Clerk.
- H. <u>Fence, Landscaping, Berm, and Open Space Utilization Plan.</u> The Petitioner shall comply with the specific Fence, Landscaping, Berm, and Open Space Utilization Plan for the Subject Property. Once approved the plan shall be attached hereto and incorporated herein as **Exhibit C.**
- I. <u>Architectural and Building Plan.</u> The Petitioner shall comply with the specific Architectural and Building Plan for the Subject Property on file with the Village Clerk.
  - 1. This property has 13 structures: 6 silos, 3 garages, 2 sheds, 1 two story house and 1 office. Several of these structures do not meet the setbacks required in the zoning district, but through this Legal-Non Conforming CU said structures as established on the property at the time of adoption of this ordinance are considered legal non-conforming. Any additional buildings to the site will require Plan Commission review.
- J. Outdoor Storage and Uses Plan. Outside Storage shall be limited to the site plan in **Exhibit A-1**. Only items related to the business operation are allowed to be stored. This plan may be amended by approval of the Village Administrator from time to time and the Village Administrator shall look to the impacts caused from the changed storage onto adjoining properties.
- 4. <u>Adult-Oriented Materials.</u> No adult-oriented materials or pornographic videotapes, magazines, or gift items will be sold or rented from the subject facility.
- 5. <u>Licenses</u>. The Petitioner shall be required to obtain any and all required licenses and permits from the Village, County, State, and Federal Government. If any

- license or permit is issued, any and all conditions of the same are incorporated herein and made a part of this conditional use permit.
- 6. <u>Laws</u>. The Petitioner shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property.
- 7. <u>Building and Fire Inspection.</u> The Petitioner is required to keep the Subject Property in compliance with all federal, State, and local laws, statutes, codes, ordinances, policies, and guidelines as determined by the Building and Fire Inspectors of the Village of Sussex.
- 8. <u>Aesthetics.</u> The Petitioner is required to properly maintain the Subject Property at all times and in full compliance with the Village Property Maintenance Code, Section 9.07 of the Village of Sussex Code all to the satisfaction of the Plan Commission for the Village of Sussex.
- 9. <u>Junk</u>. No junk shall be accumulated or stored on the Subject Property. No burying or burning of junk is permitted on the Subject Property.
- 10. <u>Temporary Use or Activity.</u> No temporary use or special activity or event shall be permitted without prior approval of the Plan Commission of the Village of Sussex and the same must be in compliance with all ordinance, rules, and regulations of the Village of Sussex and all necessary permits must be obtained except for as allowed by Outdoor Establishment Permit under Chapter 4 or Auxiliary Use under Section 17.0710.
- 11. <u>Fees and Expenses.</u> The Petitioner, upon issuance of this conditional use permit, shall reimburse the Village of Sussex for all expenses incurred by the Village, including, but not limited to, expenses for the Village Administrator, Village Engineer, Village Attorney, and all other professionals and technical assistance realized by the Village in approving and granting this conditional use permit. The Village Clerk shall provide the Petitioner with copies of all itemized invoices.
- 12. <u>Enforcement.</u> Any attorney fees incurred by the Village of Sussex to enforce any of the conditions or requirements of this conditional use permit must be paid by the Petitioner.
- 13. <u>Complaints</u>. In the event the Petitioner receives any complaints with regard to the operation authorized by this conditional use, the Petitioner shall respond to such complaints in writing within a reasonable time not to exceed two weeks from the date of the complaint and shall provide a copy of the written response to the Sussex Village Administrator within the same period of time. If the complaint was made in writing, the copy provided to the Village Administrator shall include a copy of the complaint.
- 14. <u>No Nuisance</u>. The Village reserves the right to rescind its approval of this conditional use permit based upon the finding that the use is incompatible and a nuisance to surrounding uses, that the use is not in the public interest, or that the

use adversely affects the use of adjacent lands, provided the Petitioner is given an opportunity to be heard on the matter and, if so rescinded the Petitioner and Subject Property shall thereupon be immediately subject to the Village of Sussex Zoning Ordinances , as applicable, regarding the use of the Subject Property as though no conditional use permit was granted.

- 15. <u>Subject to Acceptance.</u> Subject to the Owner approving in writing the issuance of the same and Petitioner acknowledging in writing that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioner will therefore need to recommence the application process.
- 16. <u>Review.</u> The Plan Commission for the Village of Sussex reserves its right to review the operation and amend the conditional use permit as the Plan Commission for the Village of Sussex deems appropriate
- B. 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 the Village of Sussex for determination.
- C. 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 Village of Sussex, the County of Waukesha, 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.
- D. This conditional use hereby authorized 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 for the Village of Sussex as being in compliance with all pertinent ordinances.
- E. Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (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 municipality, 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 for the Village of Sussex.
- F. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to a change in the use, premises, lands or

- owners, other than as specifically authorized herein, shall require a new permit and all Village procedures in place at the time must be followed.
- G. Unless this conditional use permit 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, in its sole discretion, finds to be substantial shall require a new permit, and all procedures in place at the time must be followed.
- H. Should any paragraph or phrase of this conditional use permit 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 and the remainder shall continue in full force and effect.
- I. This conditional use permit shall be effective for an initial term that ends five years from the date of January 1 of the year the conditional use is approved. During the final year of the 5 year term of the CU the Village Administrator or designee shall examine the record to determine if concerns about the operation have been raised in writing by the public, a governmental body or official, or anyone else, and shall also review the site and the adjoining area for compliance with the conditions of the CU. If based upon that review the use of the property is compatible with the surrounding areas and the Petitioner is in substantial compliance with all terms of this conditional use agreement, then, in that event, the Conditional Use can be automatically renewed for another 5 year term. If based upon that review the Village Administrator finds concerns about compliance with the conditions of the Conditional Use, the Petitioner shall be brought back before the Plan Commission for consideration of the renewal. The Petitioner shall have the responsibility to apply for the renewal by January 30<sup>th</sup> of the final year of the term of the CU. Failure of Petitioner to apply for the renewal as provided herein shall be deemed a violation of the conditions of the conditional use and may serve as a basis for termination of the conditional use permit. The Plan Commission for the Village of Sussex may add additional conditions at any time.
  - 1. Where the changing character of the surrounding area causes the original conditional use or subsequent approved amendments thereto to no longer be compatible with the surrounding area, or for similar cause, based upon consideration for the public welfare, the conditional use order and any subsequent approved amendments or changes may be terminated by action of the Plan Commission of the Village of Sussex. Such use shall thereafter be classified as a legal nonconforming use as it was permitted to exist on the day it was terminated.
  - 2. Where this permitted conditional use does not continue in conformity with the conditions of the original approval or subsequent approved amendments or changes, the conditional use grant and any subsequent approved amendments thereto may be amended or terminated by action of the Plan Commission for the Village of Sussex. The Plan Commission for the Village of Sussex may require complete termination of such use.

- 3. This conditional use may be reviewed annually. Additionally, this conditional use may be reviewed by the Plan Commission for the Village of Sussex at any time upon complaint or upon Plan Commission initiative.
- J. Upon acceptance by Petitioner of this conditional use permit, all prior conditional use permits granted to the Subject Property are hereby revoked and terminated.
- K. If any aspect of this conditional use permit 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 for the Village of Sussex.
- L. If any paragraph or phrase of this conditional use order is declared by a Court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific paragraph or phrase thereof directly specified in the decision and shall not affect the validity of any other provisions, sections, or portions thereof of this order. The remainder of the order shall remain in full force and effect.

Comments from the public if any.

#### **Additional Plan Commission conditions:**

The Petitioner, Public and Plan Commission will have a chance to present evidence and discuss the Conditional Use Order.

#### **Policy Questions:**

1. Is there any further unanswered questions by the Plan Commission or any other items requiring a continuation of the Public Hearing?

#### **Action:**

1. Close the public hearing or continue the public hearing with specific information sought by the Petitioner/Public.

## B. Consideration and possible action on a Legal Non-Conditional Use, Plan of Operation and site plan for Harvest View Farms Inc. (N67W25913 Silver Spring Drive).

Staff has prepared a legal non-conditional use document for consideration at this meeting. The Plan Commission has heard testimony on the application for the Conditional Use and site plan for Harvest View Farms.

**Policy Questions:** Has the Petitioner provided substantial evidence proving they meet the standards/regulations of the Ordinance, the conditions and standards of the Conditional Use Permit, and the other conditions as setforth by the Plan Commission? If No, the deficiency will need to be detailed.

Has the Petitioner provided substantial evidence with regards to the following Standards/Regulations?

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Yes or No

The use(s) and plans are compliant with 17.0503 & 17.0507 (Review of CU's)

Yes or No

The use(s) and plans are compliant with 17.0200 (General Conditions) Yes or No

The uses(s) and plans are compliant with 17. 1000 (Site Plan Review) Yes or No

Has the Petitioner provided substantial evidence and adequately addressed the findings of the impact report per 17.0506.A.

Yes or No

Has the Petitioner provided substantial evidence with regards to the Conditional Use Permit as follows:

Yes or No

A.3.B. Plan of Operation compliance

Yes or No

A.3.C.-H. Various Plan(s) compliance

Yes or No

A.4.-16. CU condition compliance

Yes or No

**B-L.** Administrative CU Condition compliance

Yes or No

#### **Action Items:**

1. Act on the CU and site plan.

**Staff Recommendation:** Staff recommends approval of the Conditional Use and site plan based upon the evidence presented at the Public Hearings for Harvest View Farms Inc. (N67W25913 Silver Spring Drive); a finding the use and structures meet the principals of 17.1002(A-H); subject to the standard conditions of Exhibit A.

## C. Introduction of a Conditional Use, Plan of Operation and site plan for Tim Carberry condominium N60W22951 Silver Spring building 2 unit 3.

This site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owners are purchasing a condominium unit at the Venture Space site. The 1,500 square foot unit will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

#### The Conditional Use Standards:

17.0502 APPLICATION. Applications for conditional use permits shall be made to the Village on forms furnished by the Village and shall include Sections A, E, F and G. and may include any or all of Sections B, C, and D. as determined by the Administrator:

- A. Names and addresses of the applicant, owner of the site, or other appropriate entities or persons implementing the project as required by the Administrator.
- B. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land survey or, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.
- C. A topographic map, drawn to a scale of not less than 200' to 1" showing the land in question, its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable water within 100' of the land in question; and the proposed location and use of any buildings, sanitary systems and wells on such land and within 100' of such land in question.
- D. An impact Report as outlined in Section 17.0506 A or Section 17.0506 B.
- E. A fee, as may be established and periodically modified by resolution of the Village Board, shall accompany each application. Such fee shall be paid by cash, check or money order to the Village. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.
- F. Where necessary to comply with certain Wisconsin Statutes, an application will be submitted at the appropriate time to the Department of Natural Resources.
- G. The site plan and plan of operation information sheet and plan of operation approval form furnished by the Village shall be submitted prior to scheduling before the Plan Commission.

#### 17.0503 REVIEW AND APPROVAL.

The Plan Commission shall review the site, 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 determines are appropriate when considering a Conditional Use Permit.

- A. Conditional Use permits shall have the following process:
- 1. The Applicant shall meet with Administrator or designee in a pre-application conference to discuss the application and plans.
- 2. The Applicant applies for a Conditional Use Permit by completing the Village application form. Incomplete applications will not be accepted. If that threshold is met, the Administrator or designee sets the application for introduction to the Plan Commission. If the minimum threshold is not met the application is returned to the petitioner with a rational for denial.
- 3. The Administrator or designee introduces the CU application at the next available Plan Commission meeting after completion by the Administrator of the response to the Applicant's Impact Report if applicable under 17.0506 A or 17.0506 B. The application materials are provided to the Plan Commission along with a staff report on the matter outlining critical details of the application and code compliance. The

Plan Commission concurs the application is complete and sets forth the application for public hearing or the Plan Commission finds the application incomplete and remands it to the Petitioner for completion.

- a) Procedure for a Public Hearing before the Plan Commission:
  - 1) Refer to Section 17.1401.
  - 2) Any person may appear in person, by agent, or attorney.
- 3) The Plan Commission shall afford the applicant and each interested person opportunity to present evidence to rebut or offer countervailing evidence.
- 4) The Plan Commission shall take minutes of the proceedings and shall mark and preserve all exhibits. The Plan Commission shall, when requested by an applicant or a petitioner objecting to the action, cause the proceedings to be taken by a stenographer or by a recording device provided that the applicant or the petitioner objecting making the request pays any and all costs for the stenographer or recording device and any copies of the proceedings. If requested by both the applicant and the petitioner, the costs shall be split evenly unless otherwise agreed to by the parties.
- 4. At the public Hearing the Plan Commission will hear from the applicant, Village, and the public on the application's compliance with the standards of the Code. The purpose of the hearing is to gather the record, for the Petitioner to prove with substantial evidence they meet the standards of the code or the public to prove they don't and to address concerns from the public and or Plan Commission and render a decision if appropriate or to determine what remains to be discussed at the next meeting. Only substantial evidence may be considered by the Plan Commission. At the summation of the initial public hearing date the Plan Commission may give the following direction to the petitioner and to the public:
  - a) The remaining questions/standards that need to be proved/responded to.
- b) Additional conditions to include in the CU Order that the Plan Commission deems appropriate. The Petitioner will need to prove they can meet those at the adjourned public hearing date.
- c) Direction to staff to prepare the Conditional Use Order or a finding the Petitioner does not meet the standards for approval for consideration at the next meeting. The Plan Commission may also delay either of these directions to hear more evidence at the next meeting, although such delay will result in another adjourned public hearing date for due process purposes.
  - d) Adjourn the public hearing to a date certain.
- 5. At the adjourned public hearing date if the public hearing was extended for additional evidence collection, the Plan Commission will hear from the applicant, Village, and the public on evidence in support or opposition to items from 17.0503 A 4.(A. and B.) and to the CU Order itself. The purpose of the hearing is to gather the record on any additional standards imposed by the Plan Commission from the first public hearing and to gather evidence on the CU Order itself. Only substantial evidence will be considered by the Plan Commission. At the summation of the public hearing the Plan Commission will give direction requesting additional evidence and adjourn the public hearing to a date certain or close the public hearing.
- 6. After the closing of the public hearing the Plan Commission during its regular meeting or at a subsequent meeting where the agenda item is duly noticed shall discuss the plans and Conditional Use Order or Findings for Denial and act on the agenda item(s). The decision shall be based upon the record from the public hearings. The burden of proof is on the applicant to prove they have met the standards of the Ordinance and those set forth by the Plan Commission during the process. The Plan Commission shall render its written determination and the reasons for the same within 95 days from completion of the public hearing unless an extension is consented to in writing by the applicant. The Clerk shall mail a copy of the determination to the applicant.
- 7. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, parking requirements, or length of approval may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.
- B. Compliance with all other provisions of this ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses unless otherwise

specifically authorized to be modified by this Code Variances shall only be granted as provided in Section 17.1200 of this ordinance.

- C. Changes in use subsequent to the initial issuance of a conditional use permit shall result in a need to change the initial conditions and shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. If any holder of a conditional use permit wishes to extend or alter the terms of such permit, the permit holder must apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Sections 17.0501, 17.0502 and 17.0503, and shall require the filing of an application and a hearing as provided above. The Conditional Use Order may describe changes that can be made without requiring a new permit.
- D. Conditional Use Orders shall generally have 5 year terms unless otherwise specified by the Plan Commission. The Orders shall have an administrative renewal process established within the order to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission to remove the Conditional Use Order from automatic renewal if there are concerns with compliance with the CU order or concerns raised by the public about the applicant's operations. If the Plan Commission pulls the CU order from automatic approval the CU order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the CU Order and its renewal.
- E. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in a CU 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 Village Board, County of Waukesha, State of Wisconsin, or the United States of America, or other duly constituted authority. A CU order does not constitute a building permit, nor shall a CU order constitute any other license or permit required by Village Ordinance or law.

#### 17.0506 CONDITIONAL USES

- A. The following agricultural, mining, commercial, industrial, and institutional uses shall be conditional uses and may be permitted as specified, but all Conditional Use applicants must produce a "Impact Report" detailing the impacts of said use to neighboring properties and to Village services from traffic, parking, and overflow parking, noise, odor, safety, crime, hours of operation, health and sanitation, and property maintenance issues. The Village Administrator shall analyze said report along with any supplemental reports from the Village, and its agents, to create an impact report for the application utilizing the Professional and Technical Trade standards for traffic, noise, dust, light, crime and fire prevention, etc. as a guide for the same. The Petitioner shall then prove by substantial evidence how their use will mitigate and address the findings of the impact report. In addition additional standards shall apply for specific types of uses as follows:
- 5. Finance, Insurance, Real Estate, and Leasing
  - Mini-Warehousing, small cubicle storage, and indoor storage facility
    - 1) Mini-Warehousing, small cubicle storage, and indoor storage facility in the M-1 district, if the following items are found: that traffic from the use will not reduce the functionality grade of any nearby intersection(s) without the same being mitigated; that the site is paved where any vehicles will travel, that a report from the Director of Police Services shows no substantial impact to police services or crime in the community from the operation of the facility, and that noise standards of the operations shall be at least 10% lower at the property line than the Village Ordinance. The Plan Commission must also find the design standards of the Village have fully been adhered to, and that the operation are as limited below:
    - 2) Indoor storage facility in the M-1 districts provided that no perishable products, no flammable or explosive materials,

and no sales of merchandise or operation of businesses may be conducted within the facility and its sub-leased spaces. The type of facility described in this section is like a mini-warehousing or small cubicle storage, but the rental spaces are all combined together within one larger building that has the appearance of an office/industrial building. The Site for said use must be of such a remote nature that the site operations do not detract from the appearance of the surrounding business park or neighboring properties.

#### The General Provisions of Chapter 17.0200

#### The Zoning District Standards 17.0400

#### 17.0422 M-1 INDUSTRIAL DISTRICT

The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Village as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. Uses which are generally perceived as being of a nuisance nature or considered to be a hazard to human life should not be permitted as a matter of right, but permitted only as conditional uses after careful study and review. Listed conditional uses should not normally abut directly upon residential districts.

#### A. Permitted Uses

- Educational, Health Services, and Social Services
  - (a) General medical services if use is part of the operation of a permitted manufacturer operation in the same district.
  - (b) Commercial day care centers if the use is part of the operation of a permitted manufacturer operation in the same district and provided that any outside play area is surrounded by a security fence; that no day care center is located within 300 feet of a gasoline service station, under-ground gasoline storage tanks, or any other storage of explosive material; that no day care center shall be located in an area where air pollution caused by smoke, dust, gases, or other particulate matter would endanger children; that no day care center shall be located in an area where noise would be so loud, shrill, or have an impulse to endanger children; that traffic be managed in a manner to minimize danger to children; and provided that adequate parking and circulation be provided on the day care facility site in accordance with the standards set forth in Section 17.0603(K)(6)(h)(3) of this Ordinance.
- 2. Finance, Insurance, Real Estate, and Leasing
  - (a) Commercial air, rail, and water transportation equipment rental and leasing.
  - (b) Construction, mining, and forestry machinery and equipment rental and leasing.
- 3. General Services
  - (a) Repair and maintenance of consumer electronics, electronic and precision equipment, commercial and industrial machinery and equipment, appliances, furniture/reupholstery
  - (b) Photofinishing laboratories
  - (c) General Construction trade services (carpenters, electricians, flooring services, lawn and landscaping services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services, welding services, and building showrooms)
  - (d) Industrial launders under permit from the Wastewater Utility.
  - (e) Fitness centers
- 4. Manufacturing: The manufacture, fabrication, assembly, or processing of the following:
  - (a) Food and Beverage Products
    - (1) Bakery and flour products
    - (2) Dairy products
    - (3) Fruits, vegetables, and nuts

- (4) Grains, seed and plant oils, cereal, and chocolate confections
- (5) Snack food products
- (6) Syrups, flavorings, extracts, spices, and dressings
- (7) Tobacco and tobacco products
- (b) Fabrics and Textile Products
  - (1) Yarn, felt, and fabric
  - (2) Carpet, rugs, drapes, canvas, and rope
  - (3) Clothing, hosiery, hats, gloves, shoes
  - (4) Packing and assembly of fur and leather products, no tanning
  - (5) Upholstery of furniture, automotive
- (c) Wood and Paper Products
  - (1) Wood furniture and wood products
  - (2) Paper products (non pulp)
  - (3) Printing, binding, and associated printing services
- (d) Home, health, beauty, and cleaning Products
  - (1) Toiletries
  - (2) Medical, botanical, and pharmaceutical processing (non-hazardous)
  - (3) Cosmetic manufacturing
  - (4) China, pottery, porcelain, clay, ceramics, silverware
  - (5) Glass and glass products
  - (6) Jewelry
  - (7) Home décor items, art, lamps, furniture, wallpaper
  - (8) Brooms and brushes
- (e) Machinery and Metal Products
  - (1) Rolled wire, metal product manufacturing
  - (2) Tool and die, and machining
  - (3) Machinery for farming, construction, mining, woodworking, paper, textile, printing, food products, commercial or industrial uses, service industry, mechanical, crane, elevator, pumps, and motors.
- (f) General manufacturing
  - (1) Electronics, telecommunications, medical instruments, scientific and laboratory equipment, measuring and recording devices
  - (2) Electrical appliances, switches, cable, and components
  - (3) Vehicles, vehicle parts, and equipment
  - (4) Sporting goods, hobby products, and marking devices
  - (5) Signage and advertising products
- 5. Professional, Technical, Scientific, and Administrative Services
  - (a) Laboratories, research, and development facilities
  - (b) Packaging and labeling services
- 6. Retail Trade
  - (a) Mail-order businesses
  - (b) Building supply stores and general sales of industrial products, such as building materials, electrical supplies, heating supplies, lighting supplies, paint and painting supplies, plumbing supplies, roofing supplies, wallpaper and wallpaper supplies, and windows and doors.
  - (c) Pharmacy if use is part of the operation of a permitted manufacturer operation in the same district.
  - (d) Commercial service facilities such as restaurants and fueling stations if use is part of the operation of a permitted manufacturer operation in the same district.
  - (e) Factory Outlets and retail sales of products made onsite in the principal industrial operation.
- 7. Public Administration and Government Services
  - (a) Governmental and cultural uses such as fire and police stations, community centers, public works garages, government administration buildings, parks and playgrounds.
- 8. Transportation, and Warehousing as follows:
  - (a) Warehousing and wholesaling, except metal, coal, and ore materials, chemicals, and bulk petroleum.
  - (b) Courier, delivery, postal service businesses
  - (c) Household and office goods moving company
- 9. Parking Lots

(a) Parking Lots are permitted without a principal structure if the Plan Commission finds that parking lot is adjacent to and necessary for the manufacturing operation.

#### B. Permitted Accessory Uses

- Garages for storage of vehicles used in conjunction with the operation of an industry.
- Off-street parking and loading areas. Multi-level parking garages shall be designed
  to minimize impact to adjacent properties and be designed to architecturally match
  the principal structure.
- 3. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
- 4. Residential quarters for the owner or caretaker.
- 5. Satellite dish antennas located on the roof of the principal structure or in the rear yard. Where the satellite dish is roof-mounted, a registered engineer shall certify that the structure is adequate to support the load.
- 6. Roof-mounted solar collectors provided that a registered engineer shall certify that the structure is adequate to support the load.

#### C.Conditional Uses

- 1. Conditional uses as allowed in Section 17.0500 Conditional Uses
- No Adult Oriented Establishment except as permitted in accordance with Conditional Uses Section 17,0508.

#### D. Certain Incompatible Uses Prohibited

The following uses are considered to be incompatible with the residential characteristics of the Village and surrounding area and are herewith prohibited:

- Manufacturing/processing of ammonia, asbestos, asphalt (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, glue, grease, gypsum, insecticide, lampblack, offal, poison, pulp, pyroxylin, and radioactive materials.
- 2. Storage of bulk fertilizer, explosives (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), gasoline in excess of 50,000 gallons, grease, and radioactive materials.
- 3. Forges, foundries, garbage incinerators, animal reduction, rubbish storage, slaughter houses, smelters, stockyards, and tanneries.

#### E. Lot Area and Width

- 1. Lots shall have a minimum of 15,000 square feet in area and shall be not less than 100 feet in width.
- Lot coverage by buildings, accessory structures, surface parking and loading areas, and driveways shall occupy no more than 80 percent of the lot area. Landscaped open space shall occupy not less than 20 percent of the lot area.

#### F. Building Height and Area

- 1. No building or parts of a building shall exceed 60 feet in height.
- 2. No building or buildings shall occupy more than 50 percent of the lot area.

#### G. Setback and Yards

- There shall be a minimum structure setback of 40 feet from the street right-of-way.
   This setback may be reduced for essential services structures by the Building Inspector for the efficient delivery of services to the public.
- 2. There shall be two side yards totaling not less than 40 feet in width. No single side yard shall be less than 10 feet in width for structures up to 45 feet in height. Structures in excess of 45 feet in height shall increase the minimum side yards one (1) foot for each additional one (1) foot of building height over 45 feet.
  - (a) The Plan Commission may allow a structure over 45 feet to have a smaller sideyard than required by 17.0422(G)(2), but not less than 10 feet in width if it makes a finding that:
    - (1) A railroad line runs adjacent to the side of the property that is under consideration for the reduced side yard, and
    - (2) The width of the railroad owned property plus the side yard of the property in question is sufficient to meet the side yard requirements of 17.0422(G)(2), and

- (3) The structure height and side yard are consistent with Design Standards, The Downtown Development and Design Standards, and other development plans of the Village.
- 3. There shall be a rear yard of not less than 25 feet.
- 4. No building or structure shall be located closer than 15 feet to an F-1 Floodway District, F-2 Floodplain Conservancy District, or LCO Lowland Conservancy Overlay District boundary. Where shoreland regulations apply no building or structures shall be located closer than as allowed by Village shoreland regulations.

#### H. Erosion Control

See Chapter 14 of the Village Municipal Code.

#### I. Development Design Standards

The Village has established clear land use and design principals, as documented in the Village Development Design Guidelines, to guide future development planning decisions towards implementation of the Village's Smart Growth 2020 Comprehensive Plan. These guidelines are intended to serve as basic criteria during reviews, and are not to be construed as the only applicable design elements. All development proposals shall be evaluated against the adopted Village vision of maintaining a small town atmosphere within the Village, featuring a generous amount of greenspace in residential, commercial, and industrial developments.

#### J. Plans and Specifications to be Submitted to Plan Commission

To encourage an industrial use environment that is compatible with the residential character of the Village, building permits for permitted uses in Industrial Districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.

#### K. Waiver of Setback and Yard Requirements.

Property owners may petition the Plan Commission to request a waiver of the side yard and rear yard requirements as set forth in Section 17.0422(G)(2) and (3), respectively, to allow two existing buildings upon existing adjoining lots to be connected. Upon consideration of any such petition, the Plan Commission may waive the side yard and rear yard requirements set forth in Section 17.0422(G)(2) and/or (3), only upon finding that all of the following conditions have been satisfied:

- Subject to the petitioner submitting to and receiving approval from the Plan Commission, proof that connecting the buildings in this manner serves the purpose of creating one cohesive industrial operation, that will operate under one common plan of operation, and that each of the combined buildings will serve the purpose of creating the same products.
- Subject to the petitioner submitting to and receiving approval from the Plan Commission proof the lots are owned separately and will be leased by a single operator, who will conduct the industrial operation on both properties. All persons and entities, moreover, having an interest in the lots, buildings, improvements, or operations on those lots, must join in the petition.
- 3. Subject to the petitioner acknowledging that each separate parcel of land must still stand alone for all purposes as a separate and distinct lot, even though the buildings will be combined at the lot line, except as further restricted herein.
- 4. Subject to the property owners of the affected lots submitting to and receiving approval from the Plan Commission and Village Attorney of a deed restriction on each of the affected properties to state that at any time the combined building no longer operates as a single cohesive industrial operation under one plan of operation, then the two buildings must be separated such that each portion of each of the buildings fully complies with all then-existing setback and side yard requirements of the Village Zoning Ordinance.
- 5. Subject to the petitioner and all persons and entities having an interest in the lots, buildings, improvements and operations on these lots acknowledging in writing their acceptance of these conditions, and thereby acknowledging that failure to comply with the conditions or any one of them, may result in this waiver being null and void. In the event that this waiver becomes null and void, said persons and entities may then be in violation of the setback and side yard requirements stated in the Village Zoning Ordinance, and the Village shall have all lawful authority to

- enforce compliance with the Zoning Ordinance, including ordering the removal of that portion of the buildings that lie within the setback and offset areas.
- 6. Subject to all such other conditions as the Plan Commission may deem to be necessary or appropriate in order to preserve the intent of the Zoning Ordinance, to preserve property values, and to protect the health, safety and welfare. Such additional conditions may include, but not be limited to: additional yard requirements elsewhere on the property; landscaping requirements; parking requirements; open space requirements; and green space requirements.
- 7. Subject to the petitioner's full compliance with all other applicable requirements of the Zoning Ordinance including, but not limited to providing all other plans and specifications required by the Plan Commission. Petitioner shall also fully comply with all Village, Waukesha County, State of Wisconsin or federal ordinances, statutes, codes, rules and lawful orders.

#### Site Plan Review Standards 17.1000

- 17.1002 PRINCIPLES To implement and define criteria for the purposes set forth in Section 17.1001, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.
- A. No structure, or use shall be established that is counter to the intent of the Design Standards nor shall the same be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village. Structures and uses in the B-4 Central Mixed Use District shall also ahere to the intent of the Downtown Development and Design Plan.
- B. No structure shall be permitted:
- 1. The design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
- 2. The design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates excessive monotony or 17.1000 drabness, in order to realize architectural uniqueness between lots.
- 3. Where any exposed facade is not constructed or faced with a finished material or color which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
- C. The facade of a manufacturing building which faces upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 50 percent of a facade facing a street shall be finished with brick or decorative masonry material. Such masonry facing shall extend for a distance of at least 10 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade facing each street. Metal buildings may be constructed in any business, manufacturing, institutional, or park district, but only by a 3/4 affirmative vote of the Plan Commission.
- D. Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
- E. Structures and uses shall make appropriate use of open spaces and the Plan Commission may require appropriate landscaping and planting screens. All landscaped areas shall provide a mix of climax trees, tall and medium deciduous trees, tall and medium coniferous trees, deciduous and coniferous shrubs, and grasses. The appropriate mix shall be determined by the Plan Commission.
- F. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment shall be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers shall be screened from the street and from neighboring facilities. The Plan Commission may permit the outdoor display of product or merchandise when it makes a finding that such display in essential to a business or industrial use.

- G. Structures and uses shall be provided with adequate services as approved by the appropriate utility and serve to implement the recommendations of Utility and Stormwater Management Plans of the Village.
- H. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Plan Commission to allow the same, as described herein.
  - 1. The Plan Commission shall not allow the same unless the Plan Commission first finds either a or b: (a) That the loading dock or overhead door is set back at least 75 feet from the street right-of-way and adequate vehicle turnaround areas have been provided on the lot, such that no maneuvering of vehicles will take place within the street right-of-way in order to access the loading dock or overhead door. (b) That the building is on a lot within the M-1 Industrial District and the building has a previously approved loading dock facing the street.
  - 2. If the Plan Commission finds (1) (a) or (1) (b), above, then the Plan Commission may allow the loading dock or overhead door to face the street right-of-way upon consideration of the following additional factors, without limitation by reason of enumeration: 17.1000 (a) Whether the loading dock or overhead door is set back sufficiently from the street right-of-way to adequately limit the adverse visual impact of the loading dock or overhead door; (b) Whether the number of loading docks or overhead doors that are proposed to face the street right-of-way, due to their number, would create an adverse visual impact; (c) Whether the natural terrain and other existing features of the lot may affect the visual impact of the loading dock or overhead door; and (d) Whether the loading dock or overhead door will be appropriately screened with landscape berms or other landscaping.

Any other standards from Chapter 17 that may be relevant.

## Staff has found the application complete and recommends scheduling the Public Hearing.

#### **Policy Question:**

1. There are no policy questions this month as this item is on the agenda for scheduling purposes only.

#### **Action Items:**

1. Direct staff to schedule the public hearing.

**Staff Recommendation:** Staff recommends scheduling the public hearing for the August meeting.

## D. Introduction of a Conditional Use, Plan of Operation and site plan for Jim Carberry condominium N60W22951 Silver Spring building 2 unit 4.

This site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owners are purchasing a condominium unit at the Venture Space site. The 1,500 square foot unit to will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

#### The Conditional Use Standards:

17.0502 APPLICATION. Applications for conditional use permits shall be made to the Village on forms furnished by the Village and shall include Sections A, E, F and G. and may include any or all of Sections B, C, and D. as determined by the Administrator:

- A. Names and addresses of the applicant, owner of the site, or other appropriate entities or persons implementing the project as required by the Administrator.
- B. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land survey or, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.
- C. A topographic map, drawn to a scale of not less than 200' to 1" showing the land in question, its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable water within 100' of the land in question; and the proposed location and use of any buildings, sanitary systems and wells on such land and within 100' of such land in question.
- D. An impact Report as outlined in Section 17.0506 A or Section 17.0506 B.
- E. A fee, as may be established and periodically modified by resolution of the Village Board, shall accompany each application. Such fee shall be paid by cash, check or money order to the Village. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.
- F. Where necessary to comply with certain Wisconsin Statutes, an application will be submitted at the appropriate time to the Department of Natural Resources.
- G. The site plan and plan of operation information sheet and plan of operation approval form furnished by the Village shall be submitted prior to scheduling before the Plan Commission.

#### 17.0503 REVIEW AND APPROVAL.

The Plan Commission shall review the site, 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 determines are appropriate when considering a Conditional Use Permit.

- A. Conditional Use permits shall have the following process:
- 1. The Applicant shall meet with Administrator or designee in a pre-application conference to discuss the application and plans.
- 2. The Applicant applies for a Conditional Use Permit by completing the Village application form. Incomplete applications will not be accepted. If that threshold is met, the Administrator or designee sets the application for introduction to the Plan Commission. If the minimum threshold is not met the application is returned to the petitioner with a rational for denial.

- 3. The Administrator or designee introduces the CU application at the next available Plan Commission meeting after completion by the Administrator of the response to the Applicant's Impact Report if applicable under 17.0506 A or 17.0506 B. The application materials are provided to the Plan Commission along with a staff report on the matter outlining critical details of the application and code compliance. The Plan Commission concurs the application is complete and sets forth the application for public hearing or the Plan Commission finds the application incomplete and remands it to the Petitioner for completion.
  - a) Procedure for a Public Hearing before the Plan Commission:
    - 1) Refer to Section 17.1401.
    - 2) Any person may appear in person, by agent, or attorney.
- 3) The Plan Commission shall afford the applicant and each interested person opportunity to present evidence to rebut or offer countervailing evidence.
- 4) The Plan Commission shall take minutes of the proceedings and shall mark and preserve all exhibits. The Plan Commission shall, when requested by an applicant or a petitioner objecting to the action, cause the proceedings to be taken by a stenographer or by a recording device provided that the applicant or the petitioner objecting making the request pays any and all costs for the stenographer or recording device and any copies of the proceedings. If requested by both the applicant and the petitioner, the costs shall be split evenly unless otherwise agreed to by the parties.
- 4. At the public Hearing the Plan Commission will hear from the applicant, Village, and the public on the application's compliance with the standards of the Code. The purpose of the hearing is to gather the record, for the Petitioner to prove with substantial evidence they meet the standards of the code or the public to prove they don't and to address concerns from the public and or Plan Commission and render a decision if appropriate or to determine what remains to be discussed at the next meeting. Only substantial evidence may be considered by the Plan Commission. At the summation of the initial public hearing date the Plan Commission may give the following direction to the petitioner and to the public:
  - a) The remaining questions/standards that need to be proved/responded to.
- b) Additional conditions to include in the CU Order that the Plan Commission deems appropriate. The Petitioner will need to prove they can meet those at the adjourned public hearing date.
- c) Direction to staff to prepare the Conditional Use Order or a finding the Petitioner does not meet the standards for approval for consideration at the next meeting. The Plan Commission may also delay either of these directions to hear more evidence at the next meeting, although such delay will result in another adjourned public hearing date for due process purposes.
  - d) Adjourn the public hearing to a date certain.
- 5. At the adjourned public hearing date if the public hearing was extended for additional evidence collection, the Plan Commission will hear from the applicant, Village, and the public on evidence in support or opposition to items from 17.0503 A 4.(A. and B.) and to the CU Order itself. The purpose of the hearing is to gather the record on any additional standards imposed by the Plan Commission from the first public hearing and to gather evidence on the CU Order itself. Only substantial evidence will be considered by the Plan Commission. At the summation of the public hearing the Plan Commission will give direction requesting additional evidence and adjourn the public hearing to a date certain or close the public hearing.
- 6. After the closing of the public hearing the Plan Commission during its regular meeting or at a subsequent meeting where the agenda item is duly noticed shall discuss the plans and Conditional Use Order or Findings for Denial and act on the agenda item(s). The decision shall be based upon the record from the public hearings. The burden of proof is on the applicant to prove they have met the standards of the Ordinance and those set forth by the Plan Commission during the process. The Plan Commission shall render its written determination and the reasons for the same within 95 days from completion of the public hearing unless an extension is consented to in writing by the applicant. The Clerk shall mail a copy of the determination to the applicant.
- 7. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, parking requirements, or length of approval may be required by

the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.

- B. Compliance with all other provisions of this ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses unless otherwise specifically authorized to be modified by this Code Variances shall only be granted as provided in Section 17.1200 of this ordinance.
- C. Changes in use subsequent to the initial issuance of a conditional use permit shall result in a need to change the initial conditions and shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. If any holder of a conditional use permit wishes to extend or alter the terms of such permit, the permit holder must apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Sections 17.0501, 17.0502 and 17.0503, and shall require the filing of an application and a hearing as provided above. The Conditional Use Order may describe changes that can be made without requiring a new permit.
- D. Conditional Use Orders shall generally have 5 year terms unless otherwise specified by the Plan Commission. The Orders shall have an administrative renewal process established within the order to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission to remove the Conditional Use Order from automatic renewal if there are concerns with compliance with the CU order or concerns raised by the public about the applicant's operations. If the Plan Commission pulls the CU order from automatic approval the CU order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the CU Order and its renewal.
- E. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in a CU 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 Village Board, County of Waukesha, State of Wisconsin, or the United States of America, or other duly constituted authority. A CU order does not constitute a building permit, nor shall a CU order constitute any other license or permit required by Village Ordinance or law.

#### 17.0506 CONDITIONAL USES

- A. The following agricultural, mining, commercial, industrial, and institutional uses shall be conditional uses and may be permitted as specified, but all Conditional Use applicants must produce a "Impact Report" detailing the impacts of said use to neighboring properties and to Village services from traffic, parking, and overflow parking, noise, odor, safety, crime, hours of operation, health and sanitation, and property maintenance issues. The Village Administrator shall analyze said report along with any supplemental reports from the Village, and its agents, to create an impact report for the application utilizing the Professional and Technical Trade standards for traffic, noise, dust, light, crime and fire prevention, etc. as a guide for the same. The Petitioner shall then prove by substantial evidence how their use will mitigate and address the findings of the impact report. In addition additional standards shall apply for specific types of uses as follows:
- 5. Finance, Insurance, Real Estate, and Leasing
  - a) Mini-Warehousing, small cubicle storage, and indoor storage facility
    - Mini-Warehousing, small cubicle storage, and indoor storage facility in the M-1 district, if the following items are found: that traffic from the use will not reduce the functionality grade of any nearby intersection(s) without the same being mitigated; that the site is paved where any vehicles will travel, that a report from the Director of Police Services shows no substantial impact to police services or crime in the community from the operation of the facility, and that noise standards of the operations shall be at least 10% lower at the property line than the Village

- Ordinance. The Plan Commission must also find the design standards of the Village have fully been adhered to, and that the operation are as limited below:
- 2) Indoor storage facility in the M-1 districts provided that no perishable products, no flammable or explosive materials, and no sales of merchandise or operation of businesses may be conducted within the facility and its sub-leased spaces. The type of facility described in this section is like a mini-warehousing or small cubicle storage, but the rental spaces are all combined together within one larger building that has the appearance of an office/industrial building. The Site for said use must be of such a remote nature that the site operations do not detract from the appearance of the surrounding business park or neighboring properties.

#### The General Provisions of Chapter 17.0200

#### The Zoning District Standards 17.0400

#### 17.0422 M-1 INDUSTRIAL DISTRICT

The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Village as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. Uses which are generally perceived as being of a nuisance nature or considered to be a hazard to human life should not be permitted as a matter of right, but permitted only as conditional uses after careful study and review. Listed conditional uses should not normally abut directly upon residential districts.

#### A. <u>Permitted Uses</u>

- 1. Educational, Health Services, and Social Services
  - (a) General medical services if use is part of the operation of a permitted manufacturer operation in the same district.
  - (b) Commercial day care centers if the use is part of the operation of a permitted manufacturer operation in the same district and provided that any outside play area is surrounded by a security fence; that no day care center is located within 300 feet of a gasoline service station, under-ground gasoline storage tanks, or any other storage of explosive material; that no day care center shall be located in an area where air pollution caused by smoke, dust, gases, or other particulate matter would endanger children; that no day care center shall be located in an area where noise would be so loud, shrill, or have an impulse to endanger children; that traffic be managed in a manner to minimize danger to children; and provided that adequate parking and circulation be provided on the day care facility site in accordance with the standards set forth in Section 17.0603(K)(6)(h)(3) of this Ordinance.
- 2. Finance, Insurance, Real Estate, and Leasing
  - (a) Commercial air, rail, and water transportation equipment rental and leasing.
  - (b) Construction, mining, and forestry machinery and equipment rental and leasing.
- 3. General Services
  - (a) Repair and maintenance of consumer electronics, electronic and precision equipment, commercial and industrial machinery and equipment, appliances, furniture/reupholstery
  - (b) Photofinishing laboratories
  - (c) General Construction trade services (carpenters, electricians, flooring services, lawn and landscaping services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services, welding services, and building showrooms)
  - (d) Industrial launders under permit from the Wastewater Utility.
  - (e) Fitness centers

- 4. Manufacturing: The manufacture, fabrication, assembly, or processing of the following:
  - (a) Food and Beverage Products
    - (1) Bakery and flour products
    - (2) Dairy products
    - (3) Fruits, vegetables, and nuts
    - (4) Grains, seed and plant oils, cereal, and chocolate confections
    - (5) Snack food products
    - (6) Syrups, flavorings, extracts, spices, and dressings
    - (7) Tobacco and tobacco products
  - (b) Fabrics and Textile Products
    - (1) Yarn, felt, and fabric
    - (2) Carpet, rugs, drapes, canvas, and rope
    - (3) Clothing, hosiery, hats, gloves, shoes
    - (4) Packing and assembly of fur and leather products, no tanning
    - (5) Upholstery of furniture, automotive
  - (c) Wood and Paper Products
    - (1) Wood furniture and wood products
    - (2) Paper products (non pulp)
    - (3) Printing, binding, and associated printing services
  - (d) Home, health, beauty, and cleaning Products
    - (1) Toiletries
    - Medical, botanical, and pharmaceutical processing (nonhazardous)
    - (3) Cosmetic manufacturing
    - (4) China, pottery, porcelain, clay, ceramics, silverware
    - (5) Glass and glass products
    - (6) Jewelry
    - (7) Home décor items, art, lamps, furniture, wallpaper
    - (8) Brooms and brushes
  - (e) Machinery and Metal Products
    - (1) Rolled wire, metal product manufacturing
    - (2) Tool and die, and machining
    - (3) Machinery for farming, construction, mining, woodworking, paper, textile, printing, food products, commercial or industrial uses, service industry, mechanical, crane, elevator, pumps, and motors.
  - (f) General manufacturing
    - (1) Electronics, telecommunications, medical instruments, scientific and laboratory equipment, measuring and recording devices
    - (2) Electrical appliances, switches, cable, and components
    - (3) Vehicles, vehicle parts, and equipment
    - (4) Sporting goods, hobby products, and marking devices
    - (5) Signage and advertising products
- 5. Professional, Technical, Scientific, and Administrative Services
  - (a) Laboratories, research, and development facilities
  - (b) Packaging and labeling services
- 6. Retail Trade
  - (a) Mail-order businesses
  - (b) Building supply stores and general sales of industrial products, such as building materials, electrical supplies, heating supplies, lighting supplies, paint and painting supplies, plumbing supplies, roofing supplies, wallpaper and wallpaper supplies, and windows and doors.
  - (c) Pharmacy if use is part of the operation of a permitted manufacturer operation in the same district.
  - (d) Commercial service facilities such as restaurants and fueling stations if use is part of the operation of a permitted manufacturer operation in the same district.
  - (e) Factory Outlets and retail sales of products made onsite in the principal industrial operation.
- 7. Public Administration and Government Services
  - (a) Governmental and cultural uses such as fire and police stations, community centers, public works garages, government administration buildings, parks and playgrounds.
- 8. Transportation, and Warehousing as follows:

- (a) Warehousing and wholesaling, except metal, coal, and ore materials, chemicals, and bulk petroleum.
- (b) Courier, delivery, postal service businesses
- (c) Household and office goods moving company

#### Parking Lots

(a) Parking Lots are permitted without a principal structure if the Plan Commission finds that parking lot is adjacent to and necessary for the manufacturing operation.

#### **B. Permitted Accessory Uses**

- Garages for storage of vehicles used in conjunction with the operation of an industry.
- Off-street parking and loading areas. Multi-level parking garages shall be designed to minimize impact to adjacent properties and be designed to architecturally match the principal structure.
- 3. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
- 4. Residential quarters for the owner or caretaker.
- 5. Satellite dish antennas located on the roof of the principal structure or in the rear yard. Where the satellite dish is roof-mounted, a registered engineer shall certify that the structure is adequate to support the load.
- 6. Roof-mounted solar collectors provided that a registered engineer shall certify that the structure is adequate to support the load.

#### C.Conditional Uses

- 1. Conditional uses as allowed in Section 17.0500 Conditional Uses
- No Adult Oriented Establishment except as permitted in accordance with Conditional Uses Section 17.0508.

#### D. Certain Incompatible Uses Prohibited

The following uses are considered to be incompatible with the residential characteristics of the Village and surrounding area and are herewith prohibited:

- Manufacturing/processing of ammonia, asbestos, asphalt (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, glue, grease, gypsum, insecticide, lampblack, offal, poison, pulp, pyroxylin, and radioactive materials.
- 2. Storage of bulk fertilizer, explosives (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), gasoline in excess of 50,000 gallons, grease, and radioactive materials.
- 3. Forges, foundries, garbage incinerators, animal reduction, rubbish storage, slaughter houses, smelters, stockyards, and tanneries.

#### E. Lot Area and Width

- 1. Lots shall have a minimum of 15,000 square feet in area and shall be not less than 100 feet in width.
- 2. Lot coverage by buildings, accessory structures, surface parking and loading areas, and driveways shall occupy no more than 80 percent of the lot area. Landscaped open space shall occupy not less than 20 percent of the lot area.

#### F. Building Height and Area

- 1. No building or parts of a building shall exceed 60 feet in height.
- 2. No building or buildings shall occupy more than 50 percent of the lot area.

#### G. Setback and Yards

- There shall be a minimum structure setback of 40 feet from the street right-of-way.
   This setback may be reduced for essential services structures by the Building Inspector for the efficient delivery of services to the public.
- 2. There shall be two side yards totaling not less than 40 feet in width. No single side yard shall be less than 10 feet in width for structures up to 45 feet in height. Structures in excess of 45 feet in height shall increase the minimum side yards one (1) foot for each additional one (1) foot of building height over 45 feet.
  - (a) The Plan Commission may allow a structure over 45 feet to have a smaller sideyard than required by 17.0422(G)(2), but not less than 10 feet in width if it makes a finding that:

- (1) A railroad line runs adjacent to the side of the property that is under consideration for the reduced side yard, and
- (2) The width of the railroad owned property plus the side yard of the property in question is sufficient to meet the side yard requirements of 17.0422(G)(2), and
- (3) The structure height and side yard are consistent with Design Standards, The Downtown Development and Design Standards, and other development plans of the Village.
- 3. There shall be a rear yard of not less than 25 feet.
- 4. No building or structure shall be located closer than 15 feet to an F-1 Floodway District, F-2 Floodplain Conservancy District, or LCO Lowland Conservancy Overlay District boundary. Where shoreland regulations apply no building or structures shall be located closer than as allowed by Village shoreland regulations.

#### H. Erosion Control

See Chapter 14 of the Village Municipal Code.

#### I. Development Design Standards

The Village has established clear land use and design principals, as documented in the Village Development Design Guidelines, to guide future development planning decisions towards implementation of the Village's Smart Growth 2020 Comprehensive Plan. These guidelines are intended to serve as basic criteria during reviews, and are not to be construed as the only applicable design elements. All development proposals shall be evaluated against the adopted Village vision of maintaining a small town atmosphere within the Village, featuring a generous amount of greenspace in residential, commercial, and industrial developments.

#### J. Plans and Specifications to be Submitted to Plan Commission

1. To encourage an industrial use environment that is compatible with the residential character of the Village, building permits for permitted uses in Industrial Districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.

#### K. Waiver of Setback and Yard Requirements.

Property owners may petition the Plan Commission to request a waiver of the side yard and rear yard requirements as set forth in Section 17.0422(G)(2) and (3), respectively, to allow two existing buildings upon existing adjoining lots to be connected. Upon consideration of any such petition, the Plan Commission may waive the side yard and rear yard requirements set forth in Section 17.0422(G)(2) and/or (3), only upon finding that all of the following conditions have been satisfied:

- Subject to the petitioner submitting to and receiving approval from the Plan Commission, proof that connecting the buildings in this manner serves the purpose of creating one cohesive industrial operation, that will operate under one common plan of operation, and that each of the combined buildings will serve the purpose of creating the same products.
- Subject to the petitioner submitting to and receiving approval from the Plan Commission proof the lots are owned separately and will be leased by a single operator, who will conduct the industrial operation on both properties. All persons and entities, moreover, having an interest in the lots, buildings, improvements, or operations on those lots, must join in the petition.
- 3. Subject to the petitioner acknowledging that each separate parcel of land must still stand alone for all purposes as a separate and distinct lot, even though the buildings will be combined at the lot line, except as further restricted herein.
- 4. Subject to the property owners of the affected lots submitting to and receiving approval from the Plan Commission and Village Attorney of a deed restriction on each of the affected properties to state that at any time the combined building no longer operates as a single cohesive industrial operation under one plan of operation, then the two buildings must be separated such that each portion of each of the buildings fully complies with all then-existing setback and side yard requirements of the Village Zoning Ordinance.
- 5. Subject to the petitioner and all persons and entities having an interest in the lots, buildings, improvements and operations on these lots acknowledging in writing

their acceptance of these conditions, and thereby acknowledging that failure to comply with the conditions or any one of them, may result in this waiver being null and void. In the event that this waiver becomes null and void, said persons and entities may then be in violation of the setback and side yard requirements stated in the Village Zoning Ordinance, and the Village shall have all lawful authority to enforce compliance with the Zoning Ordinance, including ordering the removal of that portion of the buildings that lie within the setback and offset areas.

- 6. Subject to all such other conditions as the Plan Commission may deem to be necessary or appropriate in order to preserve the intent of the Zoning Ordinance, to preserve property values, and to protect the health, safety and welfare. Such additional conditions may include, but not be limited to: additional yard requirements elsewhere on the property; landscaping requirements; parking requirements; open space requirements; and green space requirements.
- 7. Subject to the petitioner's full compliance with all other applicable requirements of the Zoning Ordinance including, but not limited to providing all other plans and specifications required by the Plan Commission. Petitioner shall also fully comply with all Village, Waukesha County, State of Wisconsin or federal ordinances, statutes, codes, rules and lawful orders.

#### Site Plan Review Standards 17.1000

17.1002 PRINCIPLES To implement and define criteria for the purposes set forth in Section 17.1001, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

A. No structure, or use shall be established that is counter to the intent of the Design Standards nor shall the same be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village. Structures and uses in the B-4 Central Mixed Use District shall also ahere to the intent of the Downtown Development and Design Plan.

#### B. No structure shall be permitted:

- 1. The design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
- 2. The design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates excessive monotony or 17.1000 drabness, in order to realize architectural uniqueness between lots.
- 3. Where any exposed facade is not constructed or faced with a finished material or color which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
- C. The facade of a manufacturing building which faces upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 50 percent of a facade facing a street shall be finished with brick or decorative masonry material. Such masonry facing shall extend for a distance of at least 10 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade facing each street. Metal buildings may be constructed in any business, manufacturing, institutional, or park district, but only by a 3/4 affirmative vote of the Plan Commission.
- D. Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
- E. Structures and uses shall make appropriate use of open spaces and the Plan Commission may require appropriate landscaping and planting screens. All landscaped areas shall provide a mix of climax trees, tall and medium deciduous trees, tall and medium coniferous trees, deciduous and coniferous shrubs, and grasses. The appropriate mix shall be determined by the Plan Commission.

- F. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment shall be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers shall be screened from the street and from neighboring facilities. The Plan Commission may permit the outdoor display of product or merchandise when it makes a finding that such display in essential to a business or industrial use.
- G. Structures and uses shall be provided with adequate services as approved by the appropriate utility and serve to implement the recommendations of Utility and Stormwater Management Plans of the Village.
- H. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Plan Commission to allow the same, as described herein.
  - 1. The Plan Commission shall not allow the same unless the Plan Commission first finds either a or b: (a) That the loading dock or overhead door is set back at least 75 feet from the street right-of-way and adequate vehicle turnaround areas have been provided on the lot, such that no maneuvering of vehicles will take place within the street right-of-way in order to access the loading dock or overhead door. (b) That the building is on a lot within the M-1 Industrial District and the building has a previously approved loading dock facing the street.
  - 2. If the Plan Commission finds (1) (a) or (1) (b), above, then the Plan Commission may allow the loading dock or overhead door to face the street right-of-way upon consideration of the following additional factors, without limitation by reason of enumeration: 17.1000 (a) Whether the loading dock or overhead door is set back sufficiently from the street right-of-way to adequately limit the adverse visual impact of the loading dock or overhead door; (b) Whether the number of loading docks or overhead doors that are proposed to face the street right-of-way, due to their number, would create an adverse visual impact; (c) Whether the natural terrain and other existing features of the lot may affect the visual impact of the loading dock or overhead door; and (d) Whether the loading dock or overhead door will be appropriately screened with landscape berms or other landscaping.

Any other standards from Chapter 17 that may be relevant.

## Staff has found the application complete and recommends scheduling the Public Hearing.

#### **Policy Question:**

1. There are no policy questions this month as this item is on the agenda for scheduling purposes only.

#### **Action Items:**

1. Direct staff to schedule the public hearing.

**Staff Recommendation:** Staff recommends scheduling the public hearing for the August meeting.

## 05. Consideration and possible action on CSM's, Plats, Zoning, and Planning Items: A. Consideration and possible action on a CSM for Sussex Town Center to adjust Lot 1 and Lot 2 property lines.

The developer of Sussex Town Center is presenting a CSM to adjust the lot line for Lot 1 and Lot 2 at the southwest corner along the frontage road, Prospect Circle. Originally the lot lines where determined based on a particular user for Lot 1. In order for Dunkin'/Baskin Robbins to develop their building on Lot 2 they need for the lot line to be adjusted. The change is quite small.

#### **Policy Question:**

1. Are there any concerns with the CSM?

#### **Action Items:**

1. Act on the CSM.

**Staff Recommendation:** Staff recommends the Plan Commission recommend approval of the CSM to the Village Board for Sussex Town Center subject to review by the Village Engineer, the standard conditions of CSM approval and Exhibit A.

## B. Consider and possible action on an Ordinance to repeal and recreate sideyard setbacks for Single Family Residential District RS-3 Section 17.0410 (F)(2) and RS-4 Section 17.0411 (F)(2).

Staff has prepared an ordinance change for two of the residential single-family districts. The areas zoned with these designations prior to 1980 in many cases do not conform to the side yard setbacks making expansions to principal structures impossible. This has the unintended consequence of prohibiting natural growth and upkeep that would be beneficial to these neighborhoods and the Community. The following in red is the proposed language:

**SECTION 1.** To repeal and recreate RS-3 Section 17.0410 F. 2. Setback and Yards to read as follows:

#### 2. Side Yard

- (a). There shall be a side yard on each side of the principal structure of not less than 15 feet in width; or
- (b). The Plan Commission may make a finding to allow the expansion/reconstruction of a principal structure such that one side yard is reduced in width if it finds the following:
  - (1) The principal structure was constructed prior to 1980.
  - (2) One side yard width remains at least 15 feet in width.
  - (3) The reduced side yard is the greater of at least 1 foot in width or the narrowest current side yard setback of the existing principal structure or detached garage.
  - (4) The expansion of the principal structure within the reduced side yard setback does not encroach into the street yard closer than the existing principal structure.
  - (5) The expansion does not impact the welfare and safety of the area.

SECTION 2. To repeal and recreate RS-4 Section 17.0411 F. 2. Setback and Yards to read as follows:

- Side Yard
- (a). There shall be a side yard on each side of the principal structure of not less than 10 feet in width; or
- (b). The Plan Commission may make a finding to allow the expansion/reconstruction of a principal structure such that one side yard is reduced in width if it finds the following:
  - (1) The principal structure was constructed prior to 1980.
  - (2) One side yard width remains at least 10 feet in width.
  - (3) The reduced side yard is the greater of at least 1 foot in width or the narrowest current side yard setback of the existing principal

- structure or detached garage.
- (4) The expansion of the principal structure within the reduced side yard setback does not encroach into the street yard closer than the existing principal structure.
- (5) The expansion does not impact the welfare and safety of the area.

#### **Policy Question:**

1. Are there any concerns with the Ordinance?

#### **Action Items:**

Act on the Ordinance.

**Staff Recommendation:** Staff recommends the Plan Commission recommend to the Village Board to approve the Ordinance to repeal and recreate the language for the Single Family Residential District RS-3 Section 17.0410 (F)(2) and RS-4 Section 17.0411 (F)(2).

## C. Consideration and possible action on a second amendment of the Developers Agreement for Highland Business Park by owners Sussex Corporate Park LLC.

The Developer of the Highland Business Park, which is under construction, is under negotiations with potential users that would adjust the road pattern internal to the site. This adjusted plan would still need approval from the Village, but it is advantageous to the Village and the Developer to see these negotiations through prior to completing the improvements on the site. The amendment reflects this potential new site layout and extends the deadline to October of 2021 to complete the improvements.

Amendments to the Developers Agreement are first reviewed by the Plan Commission prior to going to the Village Board.

#### **Policy Questions:**

1. Are there any concerns with the amendment to the Developers Agreement?

#### **Action Items:**

1. Act on the Developers Agreement.

<u>Plan Commission - Staff Recommendation:</u> Staff recommends the Plan Commission recommend to the Village Board approval of the second amendment to the Developers Agreement for Highland Business Park by owners Sussex Corporate Park LLC to extend the date for the completion of the improvements.

- 06. Other Items for future discussion.
- 07. Adjournment.

### Exhibit "A"

# Village of Sussex Plan Commission

# Standard Conditions of Approval Plan of Operation and Site Plan

The Plan Commission for the Village of Sussex authorizes the Building Inspector to issue a building permit to the Petitioner and approves the general layout, architectural plans, ingress and egress, parking, loading and unloading, landscaping, open space utilization, site plan and plan of operation subject to the following conditions:

- 1. Presentation compliance. Subject to Petitioner operating the premises at all times in substantial conformity with the presentation made to the Village Plan Commission, as modified or further restricted by the comments or concerns of the Village Plan Commission.
- 2. Inspection compliance. Subject to the Petitioner submitting to and receiving the approval from the Village Administrator, written proof that the Village Building Inspector and Fire Chief have inspected the subject property and have found that the subject property is in substantial compliance with applicable federal, State, and local laws, statutes, codes, ordinances, policies, guidelines and best management practices, prior to this approval being effective.
- 3. Regulatory compliance. Subject to the Petitioner and Owner fully complying with all Village, County of Waukesha, State of Wisconsin and federal government codes, ordinances, statutes, rules, regulations and orders regarding the premises, including but not limited to compliance with Section 17.1000 of the Village of Sussex Zoning Code entitled "Site Plan Review and Architectural Control," as determined by Village Staff.
- 4. Satisfaction of Engineer. Subject to the Developer satisfying all comments, conditions, and concerns of the Village Engineer regarding the Petitioner's application prior to this approval being effective.
- 5. Required plans. Subject to the Developer submitting to and receiving written approval from the Village Administrator of all of the following plans as deemed necessary by the Village Administrator:
  - A. Landscaping plan
  - B. Parking plan
  - C. Lighting plan
  - D. Signage plan
  - E. Traffic plan
  - F. Grading plan

G.	Tree preservation plan
H.	Open space plan
I.	Water plan
J.	Surface and stormwater management plan
K.	Sewer plan
L.	Erosion control plan
M.	
N.	
O.	
P.	

- 6. Screening of All Dumpsters. Subject to the Petitioner and Owner screening all dumpsters as required by the ordinance to the satisfaction of the Village Administrator.
- 7. Payment and reimbursement of fees and expenses. Subject to the Petitioner and Owner paying all costs, assessments and charges due and owing to the Village of Sussex either by the Petitioner or imposed on the subject property, including, but not limited to, real estate taxes, personal property taxes, utility bills, special assessments, permit fees, license fees and professional fees which shall include all costs and expenses of any type that the Village incurs in connection with Petitioner's application, including the cost of professional services incurred by the Village (including engineering, legal and other consulting fees) for the review of and preparation of the conditions of approval, 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 any of the conditions of this approval due to a violation of these conditions by the Petitioner or the Owner, as authorized by law.
- 8. Condition if the Property is in the B-4 Central Business District. If the property is in the B-4 Central Business District, the Petitioner shall comply with the standards and conditions found within the Village of Sussex Downtown Design and Development Plan and other plans as may be approved from time to time by the Community Development Authority in its role as a Redevelopment Authority to guide development within the Village's Downtown.
- 9. Subject to acceptance. The Owner by requesting a permit either directly or through an agent, and accepting the same is acknowledging that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioner will therefore need to re-commence the application process.
- 10. Any official named in this document can appoint a designee to perform his or her duties.



N64W23760 Main Street Sussex, Wisconsin 53089 Phone (262) 246-5200 FAX (262) 246-5222

Email: <u>info@villagesussex.org</u>
Website: www.villagesussex.org

# **MEMORANDUM**

TO: Plan Commission

FROM: Kasey Fluet, Assistant Development Director

RE: Plan Commission meeting of August 18, 2020

DATE: August 12, 2020

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All Code Sections in this memo refer to the Sussex Municipal Code Chapter 17 version dated March 25, 2014 with subsequent amendments thereto.

- 01. Roll call.
- 02. <u>Consideration and possible action on the minutes of the Plan Commission meeting of July 21, 2020.</u>
- 03. <u>Consideration and possible action on Permitted Uses and Site Plans:</u>

# A. Consideration and possible action on a Plan of Operation and site plan for Gary Lawless, condominium N60W22951 Silver Spring building 11 unit 21 and 22.

This site is zoned M-1. The general metal shop services is a permitted use in accordance with Section 17.0422 (A)(3)(c) in the M-1 Industrial District. Mr. Lawless will use this 3,000 square foot building for office space for his metallurgical business. The owners must also follow the declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

#### **Policy Question:**

- 1. Are there any concerns with the Plan of Operation?
- 2. Are there any concerns with the property?

# **Action Items:**

1. Act on the plan of operation and plans.

**Staff Recommendation:** Staff recommends the Plan Commission approve the Plan of Operation and site plan for Gary Lawless condominium N60W22951 Silver Spring building 11 unit 21 and 22 a finding that the use and structures meet the principals of 17.1002(A-H), subject to payment of any water RCA fees, receiving final occupancy from the Building Inspector and the standard conditions of Exhibit A.

# 04. <u>Conditional Use Public Hearing(s) and consideration and possible action on</u> Conditional Use Permits and Plans on the following items:

# A. Reconvene the public hearing of a Legal Non-Conforming Conditional Use, Plan of Operation and site plan for Harvest View Farms Inc. (N67W25913 Silver Spring Drive).

This site is zoned CR-1. The zoning of the farm as CR-1 residential was placed on the property to meet the requirement of the Wisconsin Statutes, the zoning must match the

Land Use designation. The owners of the property want to sell 176 acres of the land to a developer and keep 2.4 acres for farming operations. Farming includes processing various agricultural crops and buildings associated with the management of the operations. Some of the buildings and silos on the property do not meet the setback requirements making the use legal non-conforming. In accordance with Section 17.0507 a legal non-conforming use may be granted a conditional use.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

#### The Conditional Use Permit Standards to be met:

- A. This conditional use is granted for the Petitioner for the above for the above enumerated uses, incorporating the findings as set forth above and subject to the following conditions:
  - 1. <u>Presentation Compliance.</u> The operating farm is approved herein on the Subject Property, and the use thereof, shall be used in substantial conformity with the presentation at the Public Hearings before the Plan Commission held on June 16, 2020, July 21, 2020 and August 18, 2020.
  - 2. <u>Subject Property.</u> This conditional use permit issued to the Petitioners, shall be limited to the property described in **Exhibit A** attached hereto and incorporated herein and to the site plan presented at public hearing.
  - 3. Plans. The Petitioners are required and must have all plans current, approved by the Plan Commission for the Village of Sussex, and on file with the Village Clerk for the Village of Sussex in order for this CU to be in effect. The Petitioner shall be entitled to amend or change any plan contemplated herein subject to the specific language of the Conditional use and subject to the Plan Commission for the Village of Sussex approval and without a public hearing, if such amendments and/or change is not a substantial amendment or change in any plan contemplated herein as solely determined by the Plan Commission. If the Plan Commission for the Village of Sussex feels, in its sole discretion, that the amendment or change to any plan contemplated herein is substantial, the amendment or change will require a new permit and all Village procedures in place at the time must be followed.
    - A <u>Site Plan</u>. The Petitioners shall maintain the existing site plan, which shall be attached hereto and incorporated herein as **Exhibit A-1**.
    - B <u>Plan of Operation.</u> The Petitioners shall submit to and receive approval from the Village Plan Commission a specific plan of operation for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentations at the Meetings. Once approved the plan of operation shall be attached hereto and incorporated herein as **Exhibit B**.

- C <u>Traffic, Access, Loading, and Parking Plans</u>. The Petitioner shall comply with the existing traffic parking, loading, and egress plan for the subject property on file with the Village Clerk which is shown in **Exhibit A-2**.
- D. <u>Lighting Plan.</u> The Petitioner shall maintain the existing lighting plan for the Subject Property on file with the Village Clerk
- E. <u>Signage Plan.</u> There is no current signage plan.
- F. <u>Public Improvements.</u> There are no current public improvements required at this time.
- G. <u>Sewer, Water, Stormwater and Erosion Control Plans.</u> The Petitioner shall comply with the specific sewer, water, stormwater, and erosion control plans on file with the Village Clerk.
- H. Fence, Landscaping, Berm, and Open Space Utilization Plan. The Petitioner shall comply with the specific Fence, Landscaping, Berm, and Open Space Utilization Plan for the Subject Property. Once approved the plan shall be attached hereto and incorporated herein as **Exhibit C**.
- I. <u>Architectural and Building Plan.</u> The Petitioner shall comply with the specific Architectural and Building Plan for the Subject Property on file with the Village Clerk.
  - 1. This property has 13 structures: 6 silos, 3 garages, 2 sheds, 1 two story house and 1 office. Several of these structures do not meet the setbacks required in the zoning district, but through this Legal-Non Conforming CU said structures as established on the property at the time of adoption of this ordinance are considered legal non-conforming. Any additional buildings to the site will require Plan Commission review.
- J. Outdoor Storage and Uses Plan. Outside Storage shall be limited to the site plan in **Exhibit A-1**. Only items related to the business operation are allowed to be stored. This plan may be amended by approval of the Village Administrator from time to time and the Village Administrator shall look to the impacts caused from the changed storage onto adjoining properties.
- 4. <u>Adult-Oriented Materials.</u> No adult-oriented materials or pornographic videotapes, magazines, or gift items will be sold or rented from the subject facility.
- 5. <u>Licenses</u>. The Petitioner shall be required to obtain any and all required licenses and permits from the Village, County, State, and Federal Government. If any license or permit is issued, any and all conditions of the same are incorporated herein and made a part of this conditional use permit.

- 6. <u>Laws</u>. The Petitioner shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property.
- 7. <u>Building and Fire Inspection.</u> The Petitioner is required to keep the Subject Property in compliance with all federal, State, and local laws, statutes, codes, ordinances, policies, and guidelines as determined by the Building and Fire Inspectors of the Village of Sussex.
- 8. <u>Aesthetics.</u> The Petitioner is required to properly maintain the Subject Property at all times and in full compliance with the Village Property Maintenance Code, Section 9.07 of the Village of Sussex Code all to the satisfaction of the Plan Commission for the Village of Sussex.
- 9. <u>Junk</u>. No junk shall be accumulated or stored on the Subject Property. No burying or burning of junk is permitted on the Subject Property.
- 10. <u>Temporary Use or Activity.</u> No temporary use or special activity or event shall be permitted without prior approval of the Plan Commission of the Village of Sussex and the same must be in compliance with all ordinance, rules, and regulations of the Village of Sussex and all necessary permits must be obtained except for as allowed by Outdoor Establishment Permit under Chapter 4 or Auxiliary Use under Section 17.0710.
- 11. <u>Fees and Expenses.</u> The Petitioner, upon issuance of this conditional use permit, shall reimburse the Village of Sussex for all expenses incurred by the Village, including, but not limited to, expenses for the Village Administrator, Village Engineer, Village Attorney, and all other professionals and technical assistance realized by the Village in approving and granting this conditional use permit. The Village Clerk shall provide the Petitioner with copies of all itemized invoices.
- 12. <u>Enforcement.</u> Any attorney fees incurred by the Village of Sussex to enforce any of the conditions or requirements of this conditional use permit must be paid by the Petitioner.
- 13. <u>Complaints</u>. In the event the Petitioner receives any complaints with regard to the operation authorized by this conditional use, the Petitioner shall respond to such complaints in writing within a reasonable time not to exceed two weeks from the date of the complaint and shall provide a copy of the written response to the Sussex Village Administrator within the same period of time. If the complaint was made in writing, the copy provided to the Village Administrator shall include a copy of the complaint.
- 14. <u>No Nuisance</u>. The Village reserves the right to rescind its approval of this conditional use permit based upon the finding that the use is incompatible and a nuisance to surrounding uses, that the use is not in the public interest, or that the use adversely affects the use of adjacent lands, provided the Petitioner is given an opportunity to be heard on the matter and, if so rescinded the Petitioner and Subject Property shall thereupon be immediately subject to the Village of Sussex

- Zoning Ordinances, as applicable, regarding the use of the Subject Property as though no conditional use permit was granted.
- 15. <u>Subject to Acceptance.</u> Subject to the Owner approving in writing the issuance of the same and Petitioner acknowledging in writing that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioner will therefore need to recommence the application process.
- 16. <u>Review.</u> The Plan Commission for the Village of Sussex reserves its right to review the operation and amend the conditional use permit as the Plan Commission for the Village of Sussex deems appropriate
- B. 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 the Village of Sussex for determination.
- C. 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 Village of Sussex, the County of Waukesha, 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.
- D. This conditional use hereby authorized 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 for the Village of Sussex as being in compliance with all pertinent ordinances.
- E. Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (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 municipality, 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 for the Village of Sussex.
- F. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to a change in the use, premises, lands or owners, other than as specifically authorized herein, shall require a new permit and all Village procedures in place at the time must be followed.

- G. Unless this conditional use permit 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, in its sole discretion, finds to be substantial shall require a new permit, and all procedures in place at the time must be followed.
- H. Should any paragraph or phrase of this conditional use permit 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 and the remainder shall continue in full force and effect.
- I. This conditional use permit shall be effective for an initial term that ends five years from the date of January 1 of the year the conditional use is approved. During the final year of the 5 year term of the CU the Village Administrator or designee shall examine the record to determine if concerns about the operation have been raised in writing by the public, a governmental body or official, or anyone else, and shall also review the site and the adjoining area for compliance with the conditions of the CU. If based upon that review the use of the property is compatible with the surrounding areas and the Petitioner is in substantial compliance with all terms of this conditional use agreement, then, in that event, the Conditional Use can be automatically renewed for another 5 year term. If based upon that review the Village Administrator finds concerns about compliance with the conditions of the Conditional Use, the Petitioner shall be brought back before the Plan Commission for consideration of the renewal. The Petitioner shall have the responsibility to apply for the renewal by January 30<sup>th</sup> of the final year of the term of the CU. Failure of Petitioner to apply for the renewal as provided herein shall be deemed a violation of the conditions of the conditional use and may serve as a basis for termination of the conditional use permit. The Plan Commission for the Village of Sussex may add additional conditions at any time.
  - 1. Where the changing character of the surrounding area causes the original conditional use or subsequent approved amendments thereto to no longer be compatible with the surrounding area, or for similar cause, based upon consideration for the public welfare, the conditional use order and any subsequent approved amendments or changes may be terminated by action of the Plan Commission of the Village of Sussex. Such use shall thereafter be classified as a legal nonconforming use as it was permitted to exist on the day it was terminated.
  - 2. Where this permitted conditional use does not continue in conformity with the conditions of the original approval or subsequent approved amendments or changes, the conditional use grant and any subsequent approved amendments thereto may be amended or terminated by action of the Plan Commission for the Village of Sussex. The Plan Commission for the Village of Sussex may require complete termination of such use.
  - 3. This conditional use may be reviewed annually. Additionally, this conditional use may be reviewed by the Plan Commission for the Village of Sussex at any time upon complaint or upon Plan Commission initiative.

- J. Upon acceptance by Petitioner of this conditional use permit, all prior conditional use permits granted to the Subject Property are hereby revoked and terminated.
- K. If any aspect of this conditional use permit 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 for the Village of Sussex.
- L. If any paragraph or phrase of this conditional use order is declared by a Court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific paragraph or phrase thereof directly specified in the decision and shall not affect the validity of any other provisions, sections, or portions thereof of this order. The remainder of the order shall remain in full force and effect.

Comments from the public if any.

## **Additional Plan Commission conditions:**

The Petitioner, Public and Plan Commission will have a chance to present evidence and discuss the Conditional Use Order.

# **Policy Questions:**

1. Is there any further unanswered questions by the Plan Commission or any other items requiring a continuation of the Public Hearing?

### Action:

1. Close the public hearing or continue the public hearing with specific information sought by the Petitioner/Public.

# B. Consideration and possible action on a Legal Non-Conditional Use, Plan of Operation and site plan for Harvest View Farms Inc. (N67W25913 Silver Spring Drive).

Staff has prepared a legal non-conditional use document for consideration at this meeting. The Plan Commission has heard testimony on the application for the Conditional Use and site plan for Harvest View Farms.

<u>Policy Questions:</u> Has the Petitioner provided substantial evidence proving they meet the standards/regulations of the Ordinance, the conditions and standards of the Conditional Use Permit, and the other conditions as setforth by the Plan Commission? If No, the deficiency will need to be detailed.

Has the Petitioner provided substantial evidence with regards to the following Standards/Regulations?

The Application is complete and consistent with 17.0502

Yes or No

The use(s) and plans are compliant with 17.0503 & 17.0507 (Review of CU's)

Yes or No

The use(s) and plans are compliant with 17.0200 (General Conditions) Yes or No

The uses(s) and plans are compliant with 17. 1000 (Site Plan Review) Yes or No

Has the Petitioner provided substantial evidence and adequately addressed the findings of the impact report per 17.0506.A.

Yes or No

Has the Petitioner provided substantial evidence with regards to the Conditional Use Permit as follows:

A.3.A. Site Plan Standards compliance
Yes or No

**A.3.B. Plan of Operation compliance**Yes or No

A.3.C.-H. Various Plan(s) compliance
Yes or No

**A.4.-16.** CU condition compliance Yes or No

**B-L. Administrative CU Condition compliance**Yes or No

# **Action Items:**

1. Act on the CU and site plan.

**Staff Recommendation:** Staff recommends approval of the Conditional Use and site plan based upon the evidence presented at the Public Hearings for Harvest View Farms Inc. (N67W25913 Silver Spring Drive); a finding the use and structures meet the principals of 17.1002(A-H); subject to the standard conditions of Exhibit A.

# C. Convene the public hearing for a Conditional Use, Plan of Operation and site plan for Tim Carberry condominium N60W22951 Silver Spring building 2 unit 3.

This site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owners are purchasing a condominium unit at the Venture Space site. The 1,500 square foot unit will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

#### The Conditional Use Standards:

17.0502 APPLICATION. Applications for conditional use permits shall be made to the Village on forms furnished by the Village and shall include Sections A, E, F and G. and may include any or all of Sections B, C, and D. as determined by the Administrator:

- A. Names and addresses of the applicant, owner of the site, or other appropriate entities or persons implementing the project as required by the Administrator.
- B. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land survey or, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.
- C. A topographic map, drawn to a scale of not less than 200' to 1" showing the land in question, its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable water within 100' of the land in question; and the proposed location and use of any buildings, sanitary systems and wells on such land and within 100' of such land in question.
- D. An impact Report as outlined in Section 17.0506 A or Section 17.0506 B.
- E. A fee, as may be established and periodically modified by resolution of the Village Board, shall accompany each application. Such fee shall be paid by cash, check or money order to the Village. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.
- F. Where necessary to comply with certain Wisconsin Statutes, an application will be submitted at the appropriate time to the Department of Natural Resources.
- G. The site plan and plan of operation information sheet and plan of operation approval form furnished by the Village shall be submitted prior to scheduling before the Plan Commission.

#### 17.0503 REVIEW AND APPROVAL.

The Plan Commission shall review the site, 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 determines are appropriate when considering a Conditional Use Permit.

- A. Conditional Use permits shall have the following process:
- 1. The Applicant shall meet with Administrator or designee in a pre-application conference to discuss the application and plans.
- 2. The Applicant applies for a Conditional Use Permit by completing the Village application form. Incomplete applications will not be accepted. If that threshold is met, the Administrator or designee sets the application for introduction to the Plan Commission. If the minimum threshold is not met the application is returned to the petitioner with a rational for denial.
- 3. The Administrator or designee introduces the CU application at the next available Plan Commission meeting after completion by the Administrator of the response to the Applicant's Impact Report if applicable under 17.0506 A or 17.0506 B. The application materials are provided to the Plan Commission along with a staff report on the matter outlining critical details of the application and code compliance. The Plan Commission concurs the application is complete and sets forth the application for public hearing or the Plan Commission finds the application incomplete and remands it to the Petitioner for completion.
  - a) Procedure for a Public Hearing before the Plan Commission:
    - 1) Refer to Section 17.1401.

- 2) Any person may appear in person, by agent, or attorney.
- 3) The Plan Commission shall afford the applicant and each interested person opportunity to present evidence to rebut or offer countervailing evidence.
- 4) The Plan Commission shall take minutes of the proceedings and shall mark and preserve all exhibits. The Plan Commission shall, when requested by an applicant or a petitioner objecting to the action, cause the proceedings to be taken by a stenographer or by a recording device provided that the applicant or the petitioner objecting making the request pays any and all costs for the stenographer or recording device and any copies of the proceedings. If requested by both the applicant and the petitioner, the costs shall be split evenly unless otherwise agreed to by the parties.
- 4. At the public Hearing the Plan Commission will hear from the applicant, Village, and the public on the application's compliance with the standards of the Code. The purpose of the hearing is to gather the record, for the Petitioner to prove with substantial evidence they meet the standards of the code or the public to prove they don't and to address concerns from the public and or Plan Commission and render a decision if appropriate or to determine what remains to be discussed at the next meeting. Only substantial evidence may be considered by the Plan Commission. At the summation of the initial public hearing date the Plan Commission may give the following direction to the petitioner and to the public:
  - a) The remaining questions/standards that need to be proved/responded to.
- b) Additional conditions to include in the CU Order that the Plan Commission deems appropriate. The Petitioner will need to prove they can meet those at the adjourned public hearing date.
- c) Direction to staff to prepare the Conditional Use Order or a finding the Petitioner does not meet the standards for approval for consideration at the next meeting. The Plan Commission may also delay either of these directions to hear more evidence at the next meeting, although such delay will result in another adjourned public hearing date for due process purposes.
  - d) Adjourn the public hearing to a date certain.
- 5. At the adjourned public hearing date if the public hearing was extended for additional evidence collection, the Plan Commission will hear from the applicant, Village, and the public on evidence in support or opposition to items from 17.0503 A 4.(A. and B.) and to the CU Order itself. The purpose of the hearing is to gather the record on any additional standards imposed by the Plan Commission from the first public hearing and to gather evidence on the CU Order itself. Only substantial evidence will be considered by the Plan Commission. At the summation of the public hearing the Plan Commission will give direction requesting additional evidence and adjourn the public hearing to a date certain or close the public hearing.
- 6. After the closing of the public hearing the Plan Commission during its regular meeting or at a subsequent meeting where the agenda item is duly noticed shall discuss the plans and Conditional Use Order or Findings for Denial and act on the agenda item(s). The decision shall be based upon the record from the public hearings. The burden of proof is on the applicant to prove they have met the standards of the Ordinance and those set forth by the Plan Commission during the process. The Plan Commission shall render its written determination and the reasons for the same within 95 days from completion of the public hearing unless an extension is consented to in writing by the applicant. The Clerk shall mail a copy of the determination to the applicant.
- 7. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, parking requirements, or length of approval may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.
- B. Compliance with all other provisions of this ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses unless otherwise specifically authorized to be modified by this Code Variances shall only be granted as provided in Section 17.1200 of this ordinance.

- C. Changes in use subsequent to the initial issuance of a conditional use permit shall result in a need to change the initial conditions and shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. If any holder of a conditional use permit wishes to extend or alter the terms of such permit, the permit holder must apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Sections 17.0501, 17.0502 and 17.0503, and shall require the filing of an application and a hearing as provided above. The Conditional Use Order may describe changes that can be made without requiring a new permit.
- D. Conditional Use Orders shall generally have 5 year terms unless otherwise specified by the Plan Commission. The Orders shall have an administrative renewal process established within the order to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission to remove the Conditional Use Order from automatic renewal if there are concerns with compliance with the CU order or concerns raised by the public about the applicant's operations. If the Plan Commission pulls the CU order from automatic approval the CU order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the CU Order and its renewal.
- E. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in a CU 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 Village Board, County of Waukesha, State of Wisconsin, or the United States of America, or other duly constituted authority. A CU order does not constitute a building permit, nor shall a CU order constitute any other license or permit required by Village Ordinance or law.

#### 17.0506 CONDITIONAL USES

- A. The following agricultural, mining, commercial, industrial, and institutional uses shall be conditional uses and may be permitted as specified, but all Conditional Use applicants must produce a "Impact Report" detailing the impacts of said use to neighboring properties and to Village services from traffic, parking, and overflow parking, noise, odor, safety, crime, hours of operation, health and sanitation, and property maintenance issues. The Village Administrator shall analyze said report along with any supplemental reports from the Village, and its agents, to create an impact report for the application utilizing the Professional and Technical Trade standards for traffic, noise, dust, light, crime and fire prevention, etc. as a guide for the same. The Petitioner shall then prove by substantial evidence how their use will mitigate and address the findings of the impact report. In addition additional standards shall apply for specific types of uses as follows:
- 5. Finance, Insurance, Real Estate, and Leasing
  - Mini-Warehousing, small cubicle storage, and indoor storage facility
    - 1) Mini-Warehousing, small cubicle storage, and indoor storage facility in the M-1 district, if the following items are found: that traffic from the use will not reduce the functionality grade of any nearby intersection(s) without the same being mitigated; that the site is paved where any vehicles will travel, that a report from the Director of Police Services shows no substantial impact to police services or crime in the community from the operation of the facility, and that noise standards of the operations shall be at least 10% lower at the property line than the Village Ordinance. The Plan Commission must also find the design standards of the Village have fully been adhered to, and that the operation are as limited below:
    - 2) Indoor storage facility in the M-1 districts provided that no perishable products, no flammable or explosive materials, and no sales of merchandise or operation of businesses may be conducted within the facility and its sub-leased spaces. The type of facility described in this section is like

a mini-warehousing or small cubicle storage, but the rental spaces are all combined together within one larger building that has the appearance of an office/industrial building. The Site for said use must be of such a remote nature that the site operations do not detract from the appearance of the surrounding business park or neighboring properties.

### The General Provisions of Chapter 17.0200

### The Zoning District Standards 17.0400

#### 17.0422 M-1 INDUSTRIAL DISTRICT

The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Village as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. Uses which are generally perceived as being of a nuisance nature or considered to be a hazard to human life should not be permitted as a matter of right, but permitted only as conditional uses after careful study and review. Listed conditional uses should not normally abut directly upon residential districts.

#### A. <u>Permitted Uses</u>

- 1. Educational, Health Services, and Social Services
  - (a) General medical services if use is part of the operation of a permitted manufacturer operation in the same district.
  - (b) Commercial day care centers if the use is part of the operation of a permitted manufacturer operation in the same district and provided that any outside play area is surrounded by a security fence; that no day care center is located within 300 feet of a gasoline service station, under-ground gasoline storage tanks, or any other storage of explosive material; that no day care center shall be located in an area where air pollution caused by smoke, dust, gases, or other particulate matter would endanger children; that no day care center shall be located in an area where noise would be so loud, shrill, or have an impulse to endanger children; that traffic be managed in a manner to minimize danger to children; and provided that adequate parking and circulation be provided on the day care facility site in accordance with the standards set forth in Section 17.0603(K)(6)(h)(3) of this Ordinance.
- Finance, Insurance, Real Estate, and Leasing
  - (a) Commercial air, rail, and water transportation equipment rental and leasing.
  - (b) Construction, mining, and forestry machinery and equipment rental and leasing.
- 3. General Services
  - (a) Repair and maintenance of consumer electronics, electronic and precision equipment, commercial and industrial machinery and equipment, appliances, furniture/reupholstery
  - (b) Photofinishing laboratories
  - (c) General Construction trade services (carpenters, electricians, flooring services, lawn and landscaping services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services, welding services, and building showrooms)
  - (d) Industrial launders under permit from the Wastewater Utility.
  - (e) Fitness centers
- 4. Manufacturing: The manufacture, fabrication, assembly, or processing of the following:
  - (a) Food and Beverage Products
    - (1) Bakery and flour products
    - (2) Dairy products
    - (3) Fruits, vegetables, and nuts
    - (4) Grains, seed and plant oils, cereal, and chocolate confections
    - (5) Snack food products
    - (6) Syrups, flavorings, extracts, spices, and dressings
    - (7) Tobacco and tobacco products

- (b) Fabrics and Textile Products
  - (1) Yarn, felt, and fabric
  - (2) Carpet, rugs, drapes, canvas, and rope
  - (3) Clothing, hosiery, hats, gloves, shoes
  - (4) Packing and assembly of fur and leather products, no tanning
  - (5) Upholstery of furniture, automotive
- (c) Wood and Paper Products
  - (1) Wood furniture and wood products
  - (2) Paper products (non pulp)
  - (3) Printing, binding, and associated printing services
- (d) Home, health, beauty, and cleaning Products
  - (1) Toiletries
  - (2) Medical, botanical, and pharmaceutical processing (non-hazardous)
  - (3) Cosmetic manufacturing
  - (4) China, pottery, porcelain, clay, ceramics, silverware
  - (5) Glass and glass products
  - (6) Jewelry
  - (7) Home décor items, art, lamps, furniture, wallpaper
  - (8) Brooms and brushes
- (e) Machinery and Metal Products
  - (1) Rolled wire, metal product manufacturing
  - (2) Tool and die, and machining
  - (3) Machinery for farming, construction, mining, woodworking, paper, textile, printing, food products, commercial or industrial uses, service industry, mechanical, crane, elevator, pumps, and motors.
- (f) General manufacturing
  - (1) Electronics, telecommunications, medical instruments, scientific and laboratory equipment, measuring and recording devices
  - (2) Electrical appliances, switches, cable, and components
  - (3) Vehicles, vehicle parts, and equipment
  - (4) Sporting goods, hobby products, and marking devices
  - (5) Signage and advertising products
- 5. Professional, Technical, Scientific, and Administrative Services
  - (a) Laboratories, research, and development facilities
  - (b) Packaging and labeling services
- 6. Rétail Trade
  - (a) Mail-order businesses
  - (b) Building supply stores and general sales of industrial products, such as building materials, electrical supplies, heating supplies, lighting supplies, paint and painting supplies, plumbing supplies, roofing supplies, wallpaper and wallpaper supplies, and windows and doors.
  - (c) Pharmacy if use is part of the operation of a permitted manufacturer operation in the same district.
  - (d) Commercial service facilities such as restaurants and fueling stations if use is part of the operation of a permitted manufacturer operation in the same district.
  - (e) Factory Outlets and retail sales of products made onsite in the principal industrial operation.
- 7. Public Administration and Government Services
  - (a) Governmental and cultural uses such as fire and police stations, community centers, public works garages, government administration buildings, parks and playgrounds.
- 8. Transportation, and Warehousing as follows:
  - (a) Warehousing and wholesaling, except metal, coal, and ore materials, chemicals, and bulk petroleum.
  - (b) Courier, delivery, postal service businesses
  - (c) Household and office goods moving company
- 9. Parking Lots
  - (a) Parking Lots are permitted without a principal structure if the Plan Commission finds that parking lot is adjacent to and necessary for the manufacturing operation.

#### **B. Permitted Accessory Uses**

- 1. Garages for storage of vehicles used in conjunction with the operation of an industry.
- Off-street parking and loading areas. Multi-level parking garages shall be designed to minimize impact to adjacent properties and be designed to architecturally match the principal structure.
- 3. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
- 4. Residential quarters for the owner or caretaker.
- 5. Satellite dish antennas located on the roof of the principal structure or in the rear yard. Where the satellite dish is roof-mounted, a registered engineer shall certify that the structure is adequate to support the load.
- 6. Roof-mounted solar collectors provided that a registered engineer shall certify that the structure is adequate to support the load.

#### C.Conditional Uses

- Conditional uses as allowed in Section 17.0500 Conditional Uses
- No Adult Oriented Establishment except as permitted in accordance with Conditional Uses Section 17.0508.

#### D. Certain Incompatible Uses Prohibited

The following uses are considered to be incompatible with the residential characteristics of the Village and surrounding area and are herewith prohibited:

- Manufacturing/processing of ammonia, asbestos, asphalt (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, glue, grease, gypsum, insecticide, lampblack, offal, poison, pulp, pyroxylin, and radioactive materials.
- 2. Storage of bulk fertilizer, explosives (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), gasoline in excess of 50,000 gallons, grease, and radioactive materials.
- 3. Forges, foundries, garbage incinerators, animal reduction, rubbish storage, slaughter houses, smelters, stockyards, and tanneries.

#### E. Lot Area and Width

- 1. Lots shall have a minimum of 15,000 square feet in area and shall be not less than 100 feet in width.
- Lot coverage by buildings, accessory structures, surface parking and loading areas, and driveways shall occupy no more than 80 percent of the lot area. Landscaped open space shall occupy not less than 20 percent of the lot area.

#### F. Building Height and Area

- 1. No building or parts of a building shall exceed 60 feet in height.
- 2. No building or buildings shall occupy more than 50 percent of the lot area.

#### G. Setback and Yards

- There shall be a minimum structure setback of 40 feet from the street right-of-way.
   This setback may be reduced for essential services structures by the Building Inspector for the efficient delivery of services to the public.
- 2. There shall be two side yards totaling not less than 40 feet in width. No single side yard shall be less than 10 feet in width for structures up to 45 feet in height. Structures in excess of 45 feet in height shall increase the minimum side yards one (1) foot for each additional one (1) foot of building height over 45 feet.
  - (a) The Plan Commission may allow a structure over 45 feet to have a smaller sideyard than required by 17.0422(G)(2), but not less than 10 feet in width if it makes a finding that:
    - (1) A railroad line runs adjacent to the side of the property that is under consideration for the reduced side yard, and
    - (2) The width of the railroad owned property plus the side yard of the property in question is sufficient to meet the side yard requirements of 17.0422(G)(2), and
    - (3) The structure height and side yard are consistent with Design Standards, The Downtown Development and Design Standards, and other development plans of the Village.
- 3. There shall be a rear yard of not less than 25 feet.

4. No building or structure shall be located closer than 15 feet to an F-1 Floodway District, F-2 Floodplain Conservancy District, or LCO Lowland Conservancy Overlay District boundary. Where shoreland regulations apply no building or structures shall be located closer than as allowed by Village shoreland regulations.

#### H. Erosion Control

1. See Chapter 14 of the Village Municipal Code.

#### I. Development Design Standards

- The Village has established clear land use and design principals, as documented in the Village Development Design Guidelines, to guide future development planning decisions towards implementation of the Village's Smart Growth 2020 Comprehensive Plan. These guidelines are intended to serve as basic criteria during reviews, and are not to be construed as the only applicable design elements. All development proposals shall be evaluated against the adopted Village vision of maintaining a small town atmosphere within the Village, featuring a generous amount of greenspace in residential, commercial, and industrial developments.
- J. Plans and Specifications to be Submitted to Plan Commission
  - To encourage an industrial use environment that is compatible with the residential character of the Village, building permits for permitted uses in Industrial Districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.
- K. Waiver of Setback and Yard Requirements.

Property owners may petition the Plan Commission to request a waiver of the side yard and rear yard requirements as set forth in Section 17.0422(G)(2) and (3), respectively, to allow two existing buildings upon existing adjoining lots to be connected. Upon consideration of any such petition, the Plan Commission may waive the side yard and rear yard requirements set forth in Section 17.0422(G)(2) and/or (3), only upon finding that all of the following conditions have been satisfied:

- Subject to the petitioner submitting to and receiving approval from the Plan Commission, proof that connecting the buildings in this manner serves the purpose of creating one cohesive industrial operation, that will operate under one common plan of operation, and that each of the combined buildings will serve the purpose of creating the same products.
- 2. Subject to the petitioner submitting to and receiving approval from the Plan Commission proof the lots are owned separately and will be leased by a single operator, who will conduct the industrial operation on both properties. All persons and entities, moreover, having an interest in the lots, buildings, improvements, or operations on those lots, must join in the petition.
- 3. Subject to the petitioner acknowledging that each separate parcel of land must still stand alone for all purposes as a separate and distinct lot, even though the buildings will be combined at the lot line, except as further restricted herein.
- 4. Subject to the property owners of the affected lots submitting to and receiving approval from the Plan Commission and Village Attorney of a deed restriction on each of the affected properties to state that at any time the combined building no longer operates as a single cohesive industrial operation under one plan of operation, then the two buildings must be separated such that each portion of each of the buildings fully complies with all then-existing setback and side yard requirements of the Village Zoning Ordinance.
- 5. Subject to the petitioner and all persons and entities having an interest in the lots, buildings, improvements and operations on these lots acknowledging in writing their acceptance of these conditions, and thereby acknowledging that failure to comply with the conditions or any one of them, may result in this waiver being null and void. In the event that this waiver becomes null and void, said persons and entities may then be in violation of the setback and side yard requirements stated in the Village Zoning Ordinance, and the Village shall have all lawful authority to enforce compliance with the Zoning Ordinance, including ordering the removal of that portion of the buildings that lie within the setback and offset areas.
- 6. Subject to all such other conditions as the Plan Commission may deem to be necessary or appropriate in order to preserve the intent of the Zoning Ordinance,

- to preserve property values, and to protect the health, safety and welfare. Such additional conditions may include, but not be limited to: additional yard requirements elsewhere on the property; landscaping requirements; parking requirements; open space requirements; and green space requirements.
- 7. Subject to the petitioner's full compliance with all other applicable requirements of the Zoning Ordinance including, but not limited to providing all other plans and specifications required by the Plan Commission. Petitioner shall also fully comply with all Village, Waukesha County, State of Wisconsin or federal ordinances, statutes, codes, rules and lawful orders.

#### Site Plan Review Standards 17.1000

- 17.1002 PRINCIPLES To implement and define criteria for the purposes set forth in Section 17.1001, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.
- A. No structure, or use shall be established that is counter to the intent of the Design Standards nor shall the same be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village. Structures and uses in the B-4 Central Mixed Use District shall also ahere to the intent of the Downtown Development and Design Plan.
- B. No structure shall be permitted:
- 1. The design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
- 2. The design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates excessive monotony or 17.1000 drabness, in order to realize architectural uniqueness between lots.
- 3. Where any exposed facade is not constructed or faced with a finished material or color which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
- C. The facade of a manufacturing building which faces upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 50 percent of a facade facing a street shall be finished with brick or decorative masonry material. Such masonry facing shall extend for a distance of at least 10 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade facing each street. Metal buildings may be constructed in any business, manufacturing, institutional, or park district, but only by a 3/4 affirmative vote of the Plan Commission.
- D. Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
- E. Structures and uses shall make appropriate use of open spaces and the Plan Commission may require appropriate landscaping and planting screens. All landscaped areas shall provide a mix of climax trees, tall and medium deciduous trees, tall and medium coniferous trees, deciduous and coniferous shrubs, and grasses. The appropriate mix shall be determined by the Plan Commission.
- F. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment shall be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers shall be screened from the street and from neighboring facilities. The Plan Commission may permit the outdoor display of product or merchandise when it makes a finding that such display in essential to a business or industrial use.
- G. Structures and uses shall be provided with adequate services as approved by the appropriate utility and serve to implement the recommendations of Utility and Stormwater Management Plans of the Village.

- H. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Plan Commission to allow the same, as described herein.
  - 1. The Plan Commission shall not allow the same unless the Plan Commission first finds either a or b: (a) That the loading dock or overhead door is set back at least 75 feet from the street right-of-way and adequate vehicle turnaround areas have been provided on the lot, such that no maneuvering of vehicles will take place within the street right-of-way in order to access the loading dock or overhead door. (b) That the building is on a lot within the M-1 Industrial District and the building has a previously approved loading dock facing the street.
  - 2. If the Plan Commission finds (1) (a) or (1) (b), above, then the Plan Commission may allow the loading dock or overhead door to face the street right-of-way upon consideration of the following additional factors, without limitation by reason of enumeration: 17.1000 (a) Whether the loading dock or overhead door is set back sufficiently from the street right-of-way to adequately limit the adverse visual impact of the loading dock or overhead door; (b) Whether the number of loading docks or overhead doors that are proposed to face the street right-of-way, due to their number, would create an adverse visual impact; (c) Whether the natural terrain and other existing features of the lot may affect the visual impact of the loading dock or overhead door; and (d) Whether the loading dock or overhead door will be appropriately screened with landscape berms or other landscaping.

### Any other standards from Chapter 17 that may be relevant.

Comments from the public if any.

The Plan Commission continues the public hearing and:

- 1. Requests the Petitioner to provide additional information next month based upon the testimony at the Public Hearing in order to make a determination on the standards of the Code; or
- 2. Directs staff to prepare for consideration next month:
  - i. A Conditional Use Order; or
  - ii. An Order finding the Petitioner does not meet the standards.

If the Plan Commission directs a Conditional Use Order be drafted any Plan Commission member may ask for a specific condition to be drafted for consideration in the CU Order. The continued Public Hearing will allow the Plan Commission to hear testimony on the CU Order from the Petitioner and the Public and in the case of a specific condition requested by a Plan Commission member for the Village to provide evidence for the same.

If the Plan Commission directs an Order finding the Petitioner does not meet the standards the continued public hearing will allow the Plan Commission to hear testimony on the Denial Order.

Adjourn hearing to September 15, 2020 at 6:30 p.m.

# D. Convene the public hearing for a Conditional Use, Plan of Operation and site plan for Jim Carberry condominium N60W22951 Silver Spring building 2 unit 4.

This site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owners are purchasing a condominium unit at the Venture Space site. The 1,500 square foot unit to

will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

#### The Conditional Use Standards:

17.0502 APPLICATION. Applications for conditional use permits shall be made to the Village on forms furnished by the Village and shall include Sections A, E, F and G. and may include any or all of Sections B, C, and D. as determined by the Administrator:

- A. Names and addresses of the applicant, owner of the site, or other appropriate entities or persons implementing the project as required by the Administrator.
- B. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land survey or, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.
- C. A topographic map, drawn to a scale of not less than 200' to 1" showing the land in question, its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable water within 100' of the land in question; and the proposed location and use of any buildings, sanitary systems and wells on such land and within 100' of such land in question.
- D. An impact Report as outlined in Section 17.0506 A or Section 17.0506 B.
- E. A fee, as may be established and periodically modified by resolution of the Village Board, shall accompany each application. Such fee shall be paid by cash, check or money order to the Village. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.
- F. Where necessary to comply with certain Wisconsin Statutes, an application will be submitted at the appropriate time to the Department of Natural Resources.
- G. The site plan and plan of operation information sheet and plan of operation approval form furnished by the Village shall be submitted prior to scheduling before the Plan Commission.

#### 17.0503 REVIEW AND APPROVAL.

The Plan Commission shall review the site, 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 determines are appropriate when considering a Conditional Use Permit.

- A. Conditional Use permits shall have the following process:
- 1. The Applicant shall meet with Administrator or designee in a pre-application conference to discuss the application and plans.
- 2. The Applicant applies for a Conditional Use Permit by completing the Village application form. Incomplete applications will not be accepted. If that threshold is met, the Administrator or designee sets the application for introduction to the Plan Commission. If the minimum threshold is not met the application is returned to the petitioner with a rational for denial.
- 3. The Administrator or designee introduces the CU application at the next available Plan Commission meeting after completion by the Administrator of the response to the Applicant's Impact Report if applicable under 17.0506 A or 17.0506 B. The application materials are provided to the Plan Commission along with a staff report on the matter outlining critical details of the application and code compliance. The Plan Commission concurs the application is complete and sets forth the application for public hearing or the Plan Commission finds the application incomplete and remands it to the Petitioner for completion.
  - a) Procedure for a Public Hearing before the Plan Commission:
    - 1) Refer to Section 17.1401.
    - 2) Any person may appear in person, by agent, or attorney.
- 3) The Plan Commission shall afford the applicant and each interested person opportunity to present evidence to rebut or offer countervailing evidence.
- 4) The Plan Commission shall take minutes of the proceedings and shall mark and preserve all exhibits. The Plan Commission shall, when requested by an applicant or a petitioner objecting to the action, cause the proceedings to be taken by a stenographer or by a recording device provided that the applicant or the petitioner objecting making the request pays any and all costs for the stenographer or recording device and any copies of the proceedings. If requested by both the applicant and the petitioner, the costs shall be split evenly unless otherwise agreed to by the parties.
- 4. At the public Hearing the Plan Commission will hear from the applicant, Village, and the public on the application's compliance with the standards of the Code. The purpose of the hearing is to gather the record, for the Petitioner to prove with substantial evidence they meet the standards of the code or the public to prove they don't and to address concerns from the public and or Plan Commission and render a decision if appropriate or to determine what remains to be discussed at the next meeting. Only substantial evidence may be considered by the Plan Commission. At the summation of the initial public hearing date the Plan Commission may give the following direction to the petitioner and to the public:
  - a) The remaining questions/standards that need to be proved/responded to.
- b) Additional conditions to include in the CU Order that the Plan Commission deems appropriate. The Petitioner will need to prove they can meet those at the adjourned public hearing date.
- c) Direction to staff to prepare the Conditional Use Order or a finding the Petitioner does not meet the standards for approval for consideration at the next meeting. The Plan Commission may also delay either of these directions to hear more evidence at the next meeting, although such delay will result in another adjourned public hearing date for due process purposes.
  - d) Adjourn the public hearing to a date certain.
- 5. At the adjourned public hearing date if the public hearing was extended for additional evidence collection, the Plan Commission will hear from the applicant, Village, and the public on evidence in support or opposition to items from 17.0503 A 4.(A. and B.) and to the CU Order itself. The purpose of the hearing is to gather the record on any additional standards imposed by the Plan Commission from the first public hearing and to gather evidence on the CU Order itself. Only substantial evidence will be considered by the Plan Commission. At the summation of the public hearing the Plan Commission will give direction requesting additional evidence and adjourn the public hearing to a date certain or close the public hearing.
- 6. After the closing of the public hearing the Plan Commission during its regular meeting or at a subsequent meeting where the agenda item is duly noticed shall discuss the plans and Conditional Use Order or Findings for Denial and act on the agenda item(s). The decision shall be based upon the record from the public hearings. The burden of proof is on the applicant to prove they have met the standards of the Ordinance and those set forth by the Plan Commission during the process. The Plan Commission shall render

its written determination and the reasons for the same within 95 days from completion of the public hearing unless an extension is consented to in writing by the applicant. The Clerk shall mail a copy of the determination to the applicant.

- 7. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, parking requirements, or length of approval may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.
- B. Compliance with all other provisions of this ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses unless otherwise specifically authorized to be modified by this Code Variances shall only be granted as provided in Section 17.1200 of this ordinance.
- C. Changes in use subsequent to the initial issuance of a conditional use permit shall result in a need to change the initial conditions and shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. If any holder of a conditional use permit wishes to extend or alter the terms of such permit, the permit holder must apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Sections 17.0501, 17.0502 and 17.0503, and shall require the filing of an application and a hearing as provided above. The Conditional Use Order may describe changes that can be made without requiring a new permit.
- D. Conditional Use Orders shall generally have 5 year terms unless otherwise specified by the Plan Commission. The Orders shall have an administrative renewal process established within the order to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission to remove the Conditional Use Order from automatic renewal if there are concerns with compliance with the CU order or concerns raised by the public about the applicant's operations. If the Plan Commission pulls the CU order from automatic approval the CU order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the CU Order and its renewal.
- E. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in a CU 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 Village Board, County of Waukesha, State of Wisconsin, or the United States of America, or other duly constituted authority. A CU order does not constitute a building permit, nor shall a CU order constitute any other license or permit required by Village Ordinance or law.

#### 17.0506 CONDITIONAL USES

- A. The following agricultural, mining, commercial, industrial, and institutional uses shall be conditional uses and may be permitted as specified, but all Conditional Use applicants must produce a "Impact Report" detailing the impacts of said use to neighboring properties and to Village services from traffic, parking, and overflow parking, noise, odor, safety, crime, hours of operation, health and sanitation, and property maintenance issues. The Village Administrator shall analyze said report along with any supplemental reports from the Village, and its agents, to create an impact report for the application utilizing the Professional and Technical Trade standards for traffic, noise, dust, light, crime and fire prevention, etc. as a guide for the same. The Petitioner shall then prove by substantial evidence how their use will mitigate and address the findings of the impact report. In addition additional standards shall apply for specific types of uses as follows:
- 5. Finance, Insurance, Real Estate, and Leasing
  - Mini-Warehousing, small cubicle storage, and indoor storage facility
    - 1) Mini-Warehousing, small cubicle storage, and indoor storage facility in the M-1 district, if the following items are

found: that traffic from the use will not reduce the functionality grade of any nearby intersection(s) without the same being mitigated; that the site is paved where any vehicles will travel, that a report from the Director of Police Services shows no substantial impact to police services or crime in the community from the operation of the facility, and that noise standards of the operations shall be at least 10% lower at the property line than the Village Ordinance. The Plan Commission must also find the design standards of the Village have fully been adhered to, and that the operation are as limited below:

2) Indoor storage facility in the M-1 districts provided that no perishable products, no flammable or explosive materials, and no sales of merchandise or operation of businesses may be conducted within the facility and its sub-leased spaces. The type of facility described in this section is like a mini-warehousing or small cubicle storage, but the rental spaces are all combined together within one larger building that has the appearance of an office/industrial building. The Site for said use must be of such a remote nature that the site operations do not detract from the appearance of the surrounding business park or neighboring properties.

# The General Provisions of Chapter 17.0200

# The Zoning District Standards 17.0400

#### 17.0422 M-1 INDUSTRIAL DISTRICT

The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Village as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. Uses which are generally perceived as being of a nuisance nature or considered to be a hazard to human life should not be permitted as a matter of right, but permitted only as conditional uses after careful study and review. Listed conditional uses should not normally abut directly upon residential districts.

#### A. Permitted Uses

- Educational, Health Services, and Social Services
  - (a) General medical services if use is part of the operation of a permitted manufacturer operation in the same district.
  - (b) Commercial day care centers if the use is part of the operation of a permitted manufacturer operation in the same district and provided that any outside play area is surrounded by a security fence; that no day care center is located within 300 feet of a gasoline service station, under-ground gasoline storage tanks, or any other storage of explosive material; that no day care center shall be located in an area where air pollution caused by smoke, dust, gases, or other particulate matter would endanger children; that no day care center shall be located in an area where noise would be so loud, shrill, or have an impulse to endanger children; that traffic be managed in a manner to minimize danger to children; and provided that adequate parking and circulation be provided on the day care facility site in accordance with the standards set forth in Section 17.0603(K)(6)(h)(3) of this Ordinance.
- 2. Finance, Insurance, Real Estate, and Leasing
  - (a) Commercial air, rail, and water transportation equipment rental and leasing.
  - (b) Construction, mining, and forestry machinery and equipment rental and leasing.
- 3. General Services
  - (a) Repair and maintenance of consumer electronics, electronic and precision equipment, commercial and industrial machinery and equipment,

- appliances, furniture/reupholstery
- (b) Photofinishing laboratories
- (c) General Construction trade services (carpenters, electricians, flooring services, lawn and landscaping services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services, welding services, and building showrooms)
- (d) Industrial launders under permit from the Wastewater Utility.
- (e) Fitness centers
- 4. Manufacturing: The manufacture, fabrication, assembly, or processing of the following:
  - (a) Food and Beverage Products
    - (1) Bakery and flour products
    - (2) Dairy products
    - (3) Fruits, vegetables, and nuts
    - (4) Grains, seed and plant oils, cereal, and chocolate confections
    - (5) Snack food products
    - (6) Syrups, flavorings, extracts, spices, and dressings
    - (7) Tobacco and tobacco products
  - (b) Fabrics and Textile Products
    - (1) Yarn, felt, and fabric
    - (2) Carpet, rugs, drapes, canvas, and rope
    - (3) Clothing, hosiery, hats, gloves, shoes
    - (4) Packing and assembly of fur and leather products, no tanning
    - (5) Upholstery of furniture, automotive
  - (c) Wood and Paper Products
    - (1) Wood furniture and wood products
    - (2) Paper products (non pulp)
    - (3) Printing, binding, and associated printing services
  - (d) Home, health, beauty, and cleaning Products
    - (1) Toiletries
    - (2) Medical, botanical, and pharmaceutical processing (non-hazardous)
    - (3) Cosmetic manufacturing
    - (4) China, pottery, porcelain, clay, ceramics, silverware
    - (5) Glass and glass products
    - (6) Jewelry
    - (7) Home décor items, art, lamps, furniture, wallpaper
    - (8) Brooms and brushes
  - (e) Machinery and Metal Products
    - (1) Rolled wire, metal product manufacturing
    - (2) Tool and die, and machining
    - (3) Machinery for farming, construction, mining, woodworking, paper, textile, printing, food products, commercial or industrial uses, service industry, mechanical, crane, elevator, pumps, and motors.
  - (f) General manufacturing
    - (1) Electronics, telecommunications, medical instruments, scientific and laboratory equipment, measuring and recording
    - (2) Electrical appliances, switches, cable, and components
    - (3) Vehicles, vehicle parts, and equipment
    - (4) Sporting goods, hobby products, and marking devices
      - Signage and advertising products
- 5. Professional, Technical, Scientific, and Administrative Services
  - (a) Laboratories, research, and development facilities
  - (b) Packaging and labeling services
- 6. Retail Trade
  - (a) Mail-order businesses

(5)

- (b) Building supply stores and general sales of industrial products, such as building materials, electrical supplies, heating supplies, lighting supplies, paint and painting supplies, plumbing supplies, roofing supplies, wallpaper and wallpaper supplies, and windows and doors.
- (c) Pharmacy if use is part of the operation of a permitted manufacturer operation in the same district.
- (d) Commercial service facilities such as restaurants and fueling stations if use

- is part of the operation of a permitted manufacturer operation in the same district.
- (e) Factory Outlets and retail sales of products made onsite in the principal industrial operation.
- 7. Public Administration and Government Services
  - (a) Governmental and cultural uses such as fire and police stations, community centers, public works garages, government administration buildings, parks and playgrounds.
- 8. Transportation, and Warehousing as follows:
  - (a) Warehousing and wholesaling, except metal, coal, and ore materials, chemicals, and bulk petroleum.
  - (b) Courier, delivery, postal service businesses
  - (c) Household and office goods moving company
- Parking Lots
  - (a) Parking Lots are permitted without a principal structure if the Plan Commission finds that parking lot is adjacent to and necessary for the manufacturing operation.

#### **B.Permitted Accessory Uses**

- 1. Garages for storage of vehicles used in conjunction with the operation of an industry.
- Off-street parking and loading areas. Multi-level parking garages shall be designed to minimize impact to adjacent properties and be designed to architecturally match the principal structure.
- Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
- 4. Residential quarters for the owner or caretaker.
- 5. Satellite dish antennas located on the roof of the principal structure or in the rear yard. Where the satellite dish is roof-mounted, a registered engineer shall certify that the structure is adequate to support the load.
- 6. Roof-mounted solar collectors provided that a registered engineer shall certify that the structure is adequate to support the load.

#### C.Conditional Uses

- 1. Conditional uses as allowed in Section 17.0500 Conditional Uses
- No Adult Oriented Establishment except as permitted in accordance with Conditional Uses Section 17.0508.

#### D. Certain Incompatible Uses Prohibited

The following uses are considered to be incompatible with the residential characteristics of the Village and surrounding area and are herewith prohibited:

- Manufacturing/processing of ammonia, asbestos, asphalt (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, glue, grease, gypsum, insecticide, lampblack, offal, poison, pulp, pyroxylin, and radioactive materials.
- Storage of bulk fertilizer, explosives (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), gasoline in excess of 50,000 gallons, grease, and radioactive materials.
- 3. Forges, foundries, garbage incinerators, animal reduction, rubbish storage, slaughter houses, smelters, stockyards, and tanneries.

#### E. Lot Area and Width

- 1. Lots shall have a minimum of 15,000 square feet in area and shall be not less than 100 feet in width.
- Lot coverage by buildings, accessory structures, surface parking and loading areas, and driveways shall occupy no more than 80 percent of the lot area. Landscaped open space shall occupy not less than 20 percent of the lot area.

#### F. Building Height and Area

- 1. No building or parts of a building shall exceed 60 feet in height.
- 2. No building or buildings shall occupy more than 50 percent of the lot area.

#### G. Setback and Yards

There shall be a minimum structure setback of 40 feet from the street right-of-way.

This setback may be reduced for essential services structures by the Building Inspector for the efficient delivery of services to the public.

- 2. There shall be two side yards totaling not less than 40 feet in width. No single side yard shall be less than 10 feet in width for structures up to 45 feet in height. Structures in excess of 45 feet in height shall increase the minimum side yards one (1) foot for each additional one (1) foot of building height over 45 feet.
  - (a) The Plan Commission may allow a structure over 45 feet to have a smaller sideyard than required by 17.0422(G)(2), but not less than 10 feet in width if it makes a finding that:
    - (1) A railroad line runs adjacent to the side of the property that is under consideration for the reduced side yard, and
    - (2) The width of the railroad owned property plus the side yard of the property in question is sufficient to meet the side yard requirements of 17.0422(G)(2), and
    - (3) The structure height and side yard are consistent with Design Standards, The Downtown Development and Design Standards, and other development plans of the Village.
- 3. There shall be a rear yard of not less than 25 feet.
- 4. No building or structure shall be located closer than 15 feet to an F-1 Floodway District, F-2 Floodplain Conservancy District, or LCO Lowland Conservancy Overlay District boundary. Where shoreland regulations apply no building or structures shall be located closer than as allowed by Village shoreland regulations.

#### H. Erosion Control

See Chapter 14 of the Village Municipal Code.

#### I. Development Design Standards

- The Village has established clear land use and design principals, as documented in the Village Development Design Guidelines, to guide future development planning decisions towards implementation of the Village's Smart Growth 2020 Comprehensive Plan. These guidelines are intended to serve as basic criteria during reviews, and are not to be construed as the only applicable design elements. All development proposals shall be evaluated against the adopted Village vision of maintaining a small town atmosphere within the Village, featuring a generous amount of greenspace in residential, commercial, and industrial developments.
- J. Plans and Specifications to be Submitted to Plan Commission
  - To encourage an industrial use environment that is compatible with the residential character of the Village, building permits for permitted uses in Industrial Districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.
- K. Waiver of Setback and Yard Requirements.

Property owners may petition the Plan Commission to request a waiver of the side yard and rear yard requirements as set forth in Section 17.0422(G)(2) and (3), respectively, to allow two existing buildings upon existing adjoining lots to be connected. Upon consideration of any such petition, the Plan Commission may waive the side yard and rear yard requirements set forth in Section 17.0422(G)(2) and/or (3), only upon finding that all of the following conditions have been satisfied:

- Subject to the petitioner submitting to and receiving approval from the Plan Commission, proof that connecting the buildings in this manner serves the purpose of creating one cohesive industrial operation, that will operate under one common plan of operation, and that each of the combined buildings will serve the purpose of creating the same products.
- Subject to the petitioner submitting to and receiving approval from the Plan Commission proof the lots are owned separately and will be leased by a single operator, who will conduct the industrial operation on both properties. All persons and entities, moreover, having an interest in the lots, buildings, improvements, or operations on those lots, must join in the petition.
- 3. Subject to the petitioner acknowledging that each separate parcel of land must still stand alone for all purposes as a separate and distinct lot, even though the buildings will be combined at the lot line, except as further restricted herein.

- 4. Subject to the property owners of the affected lots submitting to and receiving approval from the Plan Commission and Village Attorney of a deed restriction on each of the affected properties to state that at any time the combined building no longer operates as a single cohesive industrial operation under one plan of operation, then the two buildings must be separated such that each portion of each of the buildings fully complies with all then-existing setback and side yard requirements of the Village Zoning Ordinance.
- 5. Subject to the petitioner and all persons and entities having an interest in the lots, buildings, improvements and operations on these lots acknowledging in writing their acceptance of these conditions, and thereby acknowledging that failure to comply with the conditions or any one of them, may result in this waiver being null and void. In the event that this waiver becomes null and void, said persons and entities may then be in violation of the setback and side yard requirements stated in the Village Zoning Ordinance, and the Village shall have all lawful authority to enforce compliance with the Zoning Ordinance, including ordering the removal of that portion of the buildings that lie within the setback and offset areas.
- 6. Subject to all such other conditions as the Plan Commission may deem to be necessary or appropriate in order to preserve the intent of the Zoning Ordinance, to preserve property values, and to protect the health, safety and welfare. Such additional conditions may include, but not be limited to: additional yard requirements elsewhere on the property; landscaping requirements; parking requirements; open space requirements; and green space requirements.
- 7. Subject to the petitioner's full compliance with all other applicable requirements of the Zoning Ordinance including, but not limited to providing all other plans and specifications required by the Plan Commission. Petitioner shall also fully comply with all Village, Waukesha County, State of Wisconsin or federal ordinances, statutes, codes, rules and lawful orders.

#### Site Plan Review Standards 17.1000

- 17.1002 PRINCIPLES To implement and define criteria for the purposes set forth in Section 17.1001, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.
- A. No structure, or use shall be established that is counter to the intent of the Design Standards nor shall the same be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village. Structures and uses in the B-4 Central Mixed Use District shall also ahere to the intent of the Downtown Development and Design Plan.
- B. No structure shall be permitted:
- 1. The design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
- 2. The design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates excessive monotony or 17.1000 drabness, in order to realize architectural uniqueness between lots.
- 3. Where any exposed facade is not constructed or faced with a finished material or color which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
- C. The facade of a manufacturing building which faces upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 50 percent of a facade facing a street shall be finished with brick or decorative masonry material. Such masonry facing shall extend for a distance of at least 10 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade facing each street. Metal buildings may be constructed in any business, manufacturing, institutional, or park district, but only by a 3/4 affirmative vote of the Plan Commission.

- D. Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
- E. Structures and uses shall make appropriate use of open spaces and the Plan Commission may require appropriate landscaping and planting screens. All landscaped areas shall provide a mix of climax trees, tall and medium deciduous trees, tall and medium coniferous trees, deciduous and coniferous shrubs, and grasses. The appropriate mix shall be determined by the Plan Commission.
- F. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment shall be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers shall be screened from the street and from neighboring facilities. The Plan Commission may permit the outdoor display of product or merchandise when it makes a finding that such display in essential to a business or industrial use.
- G. Structures and uses shall be provided with adequate services as approved by the appropriate utility and serve to implement the recommendations of Utility and Stormwater Management Plans of the Village.
- H. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Plan Commission to allow the same, as described herein.
  - 1. The Plan Commission shall not allow the same unless the Plan Commission first finds either a or b: (a) That the loading dock or overhead door is set back at least 75 feet from the street right-of-way and adequate vehicle turnaround areas have been provided on the lot, such that no maneuvering of vehicles will take place within the street right-of-way in order to access the loading dock or overhead door. (b) That the building is on a lot within the M-1 Industrial District and the building has a previously approved loading dock facing the street.
  - 2. If the Plan Commission finds (1) (a) or (1) (b), above, then the Plan Commission may allow the loading dock or overhead door to face the street right-of-way upon consideration of the following additional factors, without limitation by reason of enumeration: 17.1000 (a) Whether the loading dock or overhead door is set back sufficiently from the street right-of-way to adequately limit the adverse visual impact of the loading dock or overhead door; (b) Whether the number of loading docks or overhead doors that are proposed to face the street right-of-way, due to their number, would create an adverse visual impact; (c) Whether the natural terrain and other existing features of the lot may affect the visual impact of the loading dock or overhead door; and (d) Whether the loading dock or overhead door will be appropriately screened with landscape berms or other landscaping.

# Any other standards from Chapter 17 that may be relevant.

Comments from the public if any.

The Plan Commission continues the public hearing and:

- 1. Requests the Petitioner to provide additional information next month based upon the testimony at the Public Hearing in order to make a determination on the standards of the Code; or
- 2. Directs staff to prepare for consideration next month:
  - i. A Conditional Use Order; or
  - ii. An Order finding the Petitioner does not meet the standards.

If the Plan Commission directs a Conditional Use Order be drafted any Plan Commission member may ask for a specific condition to be drafted for consideration in the CU Order.

The continued Public Hearing will allow the Plan Commission to hear testimony on the CU Order from the Petitioner and the Public and in the case of a specific condition requested by a Plan Commission member for the Village to provide evidence for the same.

If the Plan Commission directs an Order finding the Petitioner does not meet the standards the continued public hearing will allow the Plan Commission to hear testimony on the Denial Order.

Adjourn hearing to September 15, 2020 at 6:30 p.m.

# 05. Consideration and possible action on CSM's, Plats, Zoning, and Planning Items: A. Consideration and possible action on Final Plat for Hillside Ridge west of Hillside Road Extra Territorial Review Town of Lisbon.

# **Policy Question:**

1. Are there any concerns with the Final Plat?

# **Action Items:**

1. Act on the Final Plat.

**Staff Recommendation:** Staff recommends the Plan Commission recommend approval of the Final Plat to the Village Board for Hillside Ridge subject to review by the Village Engineer, the standard conditions of Plat approval and Exhibit A.

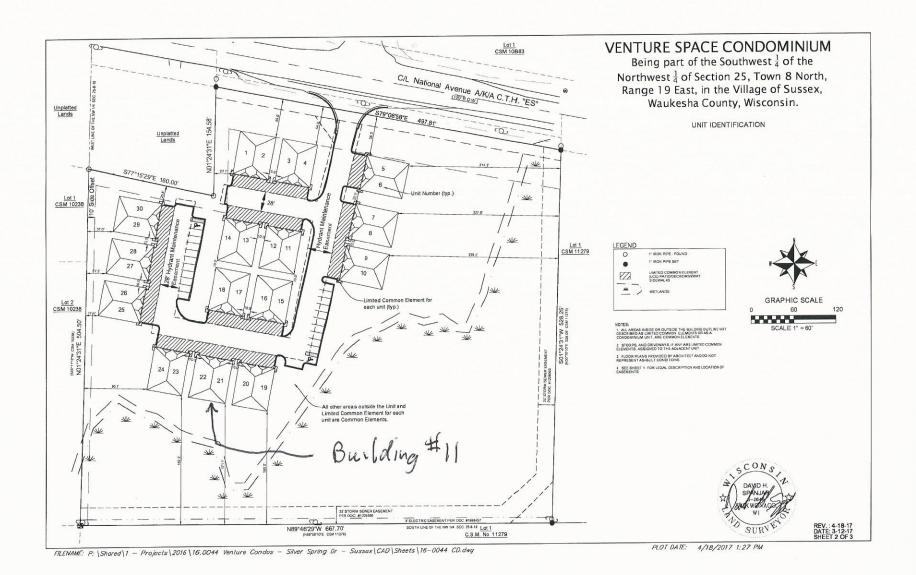
- 06. Other Items for future discussion.
- 07. Adjournment.



# PLAN OF OPERATION

To be used for	or a business	with changes	or new business	s in an existir	ig building.		
Is this reques	t to be consid	dered for a Co	nditional Use?	I	f yes, is thi	s a new CU?	
(Conditional	Use Permits req	uire a Public Heari	ing)	OR	an amendm	ent to a CU?	
Tax Key#_		20.000	_		ning:		
Address of T	enant Space:	N60W	22951 571	ver Spring	1 Drive 1	Building	11
1. Name of 1	Business: - a Hack	red sta	eteme yt				
Business							
Address		Ci	ity, State, Zip		Pho	ne#	
Fax #			Email add	ress			
2. Business	owner contac	et information					
Contact							
Address	ddress City, State, Zip				Phone #		
Fax #			Email add	lress			
3. Building/	3. Building/Land owner contact information:						
Contact	Contact 34602 Bartle HRd Sammit WI 53066 510-589-4742					4747	
Address							
Fax #		9	Email add				
4. Number of	of Employees	S/Shifts:	NA		NA		
5. Days of	Operation:	NA	Employees		Shifts		
Put an X in box that applies: Hours	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open for business Preparation/cleaning							

6. Is this an extension of an existing operation? <u>see a Hacked</u>
7. On a separate sheet of paper explain your business use and/or the change to your business. Attach a list of all items to be sold, produced or stored on the premises.
8. Is a liquor license or any other special license to be obtained from the Village Board or State Licensing Agencies? Do you need an Outdoor Establishment Permit? If yes, explain:
If yes, please obtain and complete permit application.
9. If your proposed operation will utilize a liquor license, what types of entertainment are you proposing?
10. Do you feel there will be any problems such as odor, smoke or noise resulting from this operation? If yes, explain:
11. Dimension of area to be occupied $50 \times 60 + 7$ Total square footage $3000$
If applicable list square footage according to 1st floor 2nd floor
Please provide a copy of the site plan showing parking and layout of the building and if a multi tenant building, label the space which will be occupied by your business.
12. Parking:  Total Number of Parking Spaces See Site Day Number of spaces needed per code  Number of spaces allocated for employee parking  Dimensions of parking lot Is parking lot paved?
13. Signage: What type of signage are you proposing for your business?
If applicable, complete a Sign Permit application and submit to the Building Inspection Dept. Please refer to Chapter 17.0800.
I have reviewed a copy of the Zoning Ordinance in the Village of Sussex and hereby agree to abide by the same, as well as any and all terms and conditions of any permit issued pursuant to this application.
I do swear to or affirm that all statements contained herein are true and correct to the best of our knowledge.  7/13/20
Name ! Date Building GWAEV Title or Position
I am aware and approve of the business to be operating in the building owned by
Name Date
Title or Position
Print Form Clear Form



STATEMENT IN SUPPORT OF VILLAGE OF SUMMIT BUSINESS PLAN OF OPERATION DATED JULY 13, 2020 FOR VENTURE SPACE CONDOMINIUM BUILDING 11 N60W22951 SILVER SPRING DRIVE, SUSSEX, WISCONSIN

I contracted to buy the above building 7/8/2020 which will be completed by 10/31/2020. I restore vintage motorcycles and cars and run a metallurgical consulting business as Gregory D. Lawless, sole proprietor in Incline Village, NV.

My intent for operation of Building 11 Venture Space will be only storage and minor restoration projects for a period of approximately 2 years, after which I will be selling my 3500 sq ft commercial building (and residence) in NV and moving permanently to the Venture Space Condominium for my car/motorcycle/metallurgical activities and to our now part time Wisconsin residence.

The continued use of the building will be primarily storage with minor vehicle restoration that includes no large-scale painting. I will also have offices for my metallurgical consulting business.

Gregory D. Lawless 7/13/2020





# PLAN OF OPERATION

To be used for a business with changes or new business in an existing building. Is this request to be considered for a Conditional Use? Yes If yes, is this a new CU? Yes OR an amendment to a CU? \_\_\_\_\_ (Conditional Use Permits require a Public Hearing) Tax Key # 0227 999003 Address of Tenant Space: N67 W25727 Silver Spring Rd. 1. Name of Business: Harvest View Farms Inc. **Business** Address Fax # 2. Business owner contact information: Peter W Meissner Contact Same as al Address City, State, Zip Phone # Fax # Email address 3. Building/Land owner contact information: Same as Contact Address City, State, Zip Phone # Fax # Email address 4. Number of Employees/Shifts: 5. Days of Operation:

Put an X in box that applies:

Hours
Open for business

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
X	X	X	X	X	X	X
7am-Spm					$\rightarrow$	Pan-Sam

o. Is this an extension of an existing operation?	<u>'S</u>
7. On a separate sheet of paper explain your business us list of all items to be sold, produced or stored on the	
8. Is a liquor license or any other special license to be of Licensing Agencies? Do you need a If yes, explain: If yes, please obtain and complete permit application.	n Outdoor Establishment Permit?
9. If your proposed operation will utilize a liquor licens proposing?	•
10. Do you feel there will be any problems such as odor operation? If yes, explain:	, smoke or noise resulting from this
11. Dimension of area to be occupied Malliple Form Build	Total square footage
If applicable list square footage according to 1st flo	oor 2 <sup>nd</sup> floor
Please provide a copy of the site plan showing parking a building, label the space which will be occupied by your	•
12. Parking:  Total Number of Parking Spaces Nu Number of spaces allocated for employee parking Dimensions of parking lot Is	
13. Signage: What type of signage are you proposing for Nore	
If applicable, complete a Sign Permit application and submit to the Buildin	g Inspection Dept. Please refer to Chapter 17.0800.
I have reviewed a copy of the Zoning Ordinance in the V the same, as well as any and all terms and conditions of	
I do swear to or affirm that all statements contained here knowledge.	in are true and correct to the best of our
Peter W. Meissner	4-17-20
Peter W. Meissrer  Name President - Harvest View Farms Inc.  Date	e
Title or Position	
I am aware and approve of the business to be operating in owned by	n the building 
	4-17-20
Name Date	
Title or Position	



April 21, 2020

Village of Sussex Attn: Kasey Fluet N64 W23760 Main Street Sussex, WI 53089

Dear Ms. Fluet,

As a supplement to the Plan of Operation application for Harvest View Farms, we are attaching this letter describing the nature of the ongoing business on the property. Harvest View Farms Inc. is an existing farming operation that plants, harvests, and stores various agricultural crops on the property, primarily wheat, corn, and soybeans. No processing of livestock or crops occurs on the property. The various buildings on the property are associated with the management of operations, storage of farm implements and materials, and storage of materials generated and associated with the ongoing farming operations.

Sincerely,

Bryan Lindgren

Neumann Developments Inc.





#### 2020

# VILLAGE OF SUSSEX ORDER GRANTING A LEGAL NON-CONFORMING CONDITIONAL USE AND PRESCRIBING CONDITIONS FOR HARVEST VIEW FARMS INC.

#### HARVEST VIEW FARMS INC TO CONTINUE FARM OPERATIONS IN THE VILLAGE OF SUSSEX

WHEREAS, an application has been filed by Peter W. Meissner, President of Harvest View Farms Inc. on the subject property (hereinafter collectively "Petitioners"); and

WHEREAS, the Petitioner is requesting that a legal non-conforming conditional use permit be granted pursuant to the Zoning Ordinance for the Village of Sussex for property N67W25727 Silver Spring in the Village of Sussex, Wisconsin, all as described on **Exhibit A** attached hereto and incorporated herein (hereinafter "Subject Property"); and

WHEREAS, upon referral of the application by the Village Clerk, the Plan Commission for the Village of Sussex determined that the application met all requirements as set forth in Section 17.0502 and scheduled a public hearing thereon as soon as practical; and

WHEREAS, upon publication of the required "Notice of Public Hearing" and mailing of said "Notice of Public Hearing" to all parties-in-interest as required by Section 17.1401 of the Zoning Ordinance, the Plan Commission held a public hearing on June 16, 2020 and July 21, 2020 as required by Section 17.0505 of the Zoning Ordinance for the Village of Sussex; and

WHEREAS, the Plan Commission has followed the review procedures of Section 17.0503 by reviewing the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation; and

WHEREAS, the Petitioner has been operating a farm which has been deemed to be a legal non-conforming use;

WHEREAS, the Petitioner would like to continue to operate the farm on 2.4 acres and sell off approximately 176 acres; and

WHEREAS, legal nonconforming uses may be granted legal non-conforming conditional use status under section 17.0507 (A) when upon petition of the owner where such use is determined to not be any of the following:

- 1. Adverse to any of the following:
- (a) public health
- (b) safety, or
- (c) welfare;
- 2. In conflict of the spirit or intent of this chapter; or

3. Otherwise detrimental to the community and particularly the surrounding neighborhood, and

WHEREAS, the Plan Commission finds the application is consistent with the intended to preserve, protect, enhance, and restore significant woodlands, areas of rough topography, and related scenic areas; and

WHEREAS, the Plan Commission for the Village of Sussex, following the public hearing and necessary study and investigation, having given the matter due consideration, and having based its determination on the effect of granting such conditional use permit on the health, general welfare, safety, and economic prosperity of the Village and specifically of the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved, as well as impact on the surrounding properties as to noise, dust, smoke, odor, or other similar factors, hereby determines that the use will not violate the spirit or intent of the Zoning Ordinance for the Village of Sussex, will not be contrary to the public health, safety or general welfare of the Village of Sussex, will not be a hazardous, harmful, noxious, offensive, or nuisance by reason of smoke, dust, 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 conditional use is operated pursuant to the following conditions and in strict compliance with the same.

#### THEREFORE, IT IS ORDERED AS FOLLOWS:

Commencing upon the date hereof, a conditional use permit for the Subject Property is hereby granted. The conditional use permit granted herein shall apply only to the specific use of the Subject Property by the Petitioners for farm operations, as currently constituted on the property, as well as permitted and accessory uses set forth in Section 17.0404 CR-1 Conservancy Residential District and auxiliary uses as set forth in Section 17.0710 if approved as part of a Plan of Operation and site plan; and the conditional use permit shall continue in existence only so long as the conditional use is operated in compliance with this permit. This conditional use permit is subject to initial and continued compliance with each and every one of the following conditions, restrictions, and limitations.

- A. This conditional use is granted for the Petitioner for the above for the above enumerated uses, incorporating the findings as set forth above and subject to the following conditions:
  - 1. <u>Presentation Compliance.</u> The operating farm is approved herein on the Subject Property, and the use thereof, shall be used in substantial conformity with the presentation at the Public Hearings before the Plan Commission held on June 16, 2020, July 21, 2020 and August 18, 2020.
  - 2. <u>Subject Property.</u> This conditional use permit issued to the Petitioners, shall be limited to the property described in **Exhibit A** attached hereto and incorporated herein and to the site plan presented at public hearing.
  - 3. <u>Plans.</u> The Petitioners are required and must have all plans current, approved by the Plan Commission for the Village of Sussex, and on file with the Village Clerk for the Village of Sussex in order for this CU to be in effect. The Petitioner shall be entitled

to amend or change any plan contemplated herein subject to the specific language of the Conditional use and subject to the Plan Commission for the Village of Sussex approval and without a public hearing, if such amendments and/or change is not a substantial amendment or change in any plan contemplated herein as solely determined by the Plan Commission. If the Plan Commission for the Village of Sussex feels, in its sole discretion, that the amendment or change to any plan contemplated herein is substantial, the amendment or change will require a new permit and all Village procedures in place at the time must be followed.

- A. <u>Site Plan</u>. The Petitioners shall maintain the existing site plan, which shall be attached hereto and incorporated herein as **Exhibit A-1**.
- B. <u>Plan of Operation</u>. The Petitioners shall submit to and receive approval from the Village Plan Commission a specific plan of operation for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentations at the Meetings. Once approved the plan of operation shall be attached hereto and incorporated herein as **Exhibit B**.
- C. <u>Traffic, Access, Loading, and Parking Plans</u>. The Petitioner shall comply with the existing traffic parking, loading, and egress plan for the subject property on file with the Village Clerk which is shown in **Exhibit A-2**.
- D. <u>Lighting Plan.</u> The Petitioner shall maintain the existing lighting plan for the Subject Property on file with the Village Clerk
- E. Signage Plan. There is no current signage plan.
- F. <u>Public Improvements.</u> There are no current public improvements required at this time.
- G. <u>Sewer, Water, Stormwater and Erosion Control Plans.</u> The Petitioner shall comply with the specific sewer, water, stormwater, and erosion control plans on file with the Village Clerk.
- H. <u>Fence, Landscaping, Berm, and Open Space Utilization Plan.</u> The Petitioner shall comply with the specific Fence, Landscaping, Berm, and Open Space Utilization Plan for the Subject Property. Once approved the plan shall be attached hereto and incorporated herein as **Exhibit C.**
- I. <u>Architectural and Building Plan.</u> The Petitioner shall comply with the specific Architectural and Building Plan for the Subject Property on file with the Village Clerk.
  - 1. This property has 13 structures: 6 silos, 3 garages, 2 sheds, 1 two story house and 1 office. Several of these structures do not meet the setbacks required in the zoning district, but through this Legal-Non Conforming CU said structures as established on the property at the time of adoption of this

ordinance are considered legal non-conforming. Any additional buildings to the site will require Plan Commission review.

- J. Outdoor Storage and Uses Plan. Outside Storage shall be limited to the site plan in **Exhibit A-1**. Only items related to the business operation are allowed to be stored. This plan may be amended by approval of the Village Administrator from time to time and the Village Administrator shall look to the impacts caused from the changed storage onto adjoining properties.
- 4. <u>Adult-Oriented Materials.</u> No adult-oriented materials or pornographic videotapes, magazines, or gift items will be sold or rented from the subject facility.
- 5. <u>Licenses</u>. The Petitioner shall be required to obtain any and all required licenses and permits from the Village, County, State, and Federal Government. If any license or permit is issued, any and all conditions of the same are incorporated herein and made a part of this conditional use permit.
- 6. <u>Laws</u>. The Petitioner shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property.
- 7. <u>Building and Fire Inspection.</u> The Petitioner is required to keep the Subject Property in compliance with all federal, State, and local laws, statutes, codes, ordinances, policies, and guidelines as determined by the Building and Fire Inspectors of the Village of Sussex.
- 8. <u>Aesthetics.</u> The Petitioner is required to properly maintain the Subject Property at all times and in full compliance with the Village Property Maintenance Code, Section 9.07 of the Village of Sussex Code all to the satisfaction of the Plan Commission for the Village of Sussex.
- 9. <u>Junk</u>. No junk shall be accumulated or stored on the Subject Property. No burying or burning of junk is permitted on the Subject Property.
- 10. <u>Temporary Use or Activity.</u> No temporary use or special activity or event shall be permitted without prior approval of the Plan Commission of the Village of Sussex and the same must be in compliance with all ordinance, rules, and regulations of the Village of Sussex and all necessary permits must be obtained except for as allowed by Outdoor Establishment Permit under Chapter 4 or Auxiliary Use under Section 17.0710.
- 11. <u>Fees and Expenses.</u> The Petitioner, upon issuance of this conditional use permit, shall reimburse the Village of Sussex for all expenses incurred by the Village, including, but not limited to, expenses for the Village Administrator, Village Engineer, Village Attorney, and all other professionals and technical assistance realized by the Village in approving and granting this conditional use permit. The Village Clerk shall provide the Petitioner with copies of all itemized invoices.

- 12. <u>Enforcement.</u> Any attorney fees incurred by the Village of Sussex to enforce any of the conditions or requirements of this conditional use permit must be paid by the Petitioner.
- 13. Complaints. In the event the Petitioner receives any complaints with regard to the operation authorized by this conditional use, the Petitioner shall respond to such complaints in writing within a reasonable time not to exceed two weeks from the date of the complaint and shall provide a copy of the written response to the Sussex Village Administrator within the same period of time. If the complaint was made in writing, the copy provided to the Village Administrator shall include a copy of the complaint.
- 14. No Nuisance. The Village reserves the right to rescind its approval of this conditional use permit based upon the finding that the use is incompatible and a nuisance to surrounding uses, that the use is not in the public interest, or that the use adversely affects the use of adjacent lands, provided the Petitioner is given an opportunity to be heard on the matter and, if so rescinded the Petitioner and Subject Property shall thereupon be immediately subject to the Village of Sussex Zoning Ordinances, as applicable, regarding the use of the Subject Property as though no conditional use permit was granted.
- 15. <u>Subject to Acceptance.</u> Subject to the Owner approving in writing the issuance of the same and Petitioner acknowledging in writing that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioner will therefore need to re-commence the application process.
- 16. <u>Review.</u> The Plan Commission for the Village of Sussex reserves its right to review the operation and amend the conditional use permit as the Plan Commission for the Village of Sussex deems appropriate
- B. 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 the Village of Sussex for determination.
- C. 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 Village of Sussex, the County of Waukesha, 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.

- D. This conditional use hereby authorized 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 for the Village of Sussex as being in compliance with all pertinent ordinances.
- E. Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (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 municipality, 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 for the Village of Sussex.
- F. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to a change in the use, premises, lands or owners, other than as specifically authorized herein, shall require a new permit and all Village procedures in place at the time must be followed.
- G. Unless this conditional use permit 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, in its sole discretion, finds to be substantial shall require a new permit, and all procedures in place at the time must be followed.
- H. Should any paragraph or phrase of this conditional use permit 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 and the remainder shall continue in full force and effect.
- I. This conditional use permit shall be effective for an initial term that ends five years from the date of January 1 of the year the conditional use is approved. During the final year of the 5 year term of the CU the Village Administrator or designee shall examine the record to determine if concerns about the operation have been raised in writing by the public, a governmental body or official, or anyone else, and shall also review the site and the adjoining area for compliance with the conditions of the CU. If based upon that review the use of the property is compatible with the surrounding areas and the Petitioner is in substantial compliance with all terms of this conditional use agreement, then, in that event, the Conditional Use can be automatically renewed for another 5 year term. If based upon that review the Village Administrator finds concerns about compliance with the conditions of the Conditional Use, the Petitioner shall be brought back before the Plan Commission for consideration of the renewal. The Petitioner shall have the responsibility to apply for the renewal by January 30th of the final year of the term of the CU. Failure of Petitioner to apply for the renewal as provided herein shall be deemed a violation of the conditions of the conditional use and may serve as a basis for termination of the conditional use permit. The Plan Commission for the Village of Sussex may add additional conditions at any time.

- 1. Where the changing character of the surrounding area causes the original conditional use or subsequent approved amendments thereto to no longer be compatible with the surrounding area, or for similar cause, based upon consideration for the public welfare, the conditional use order and any subsequent approved amendments or changes may be terminated by action of the Plan Commission of the Village of Sussex. Such use shall thereafter be classified as a legal nonconforming use as it was permitted to exist on the day it was terminated.
- 2. Where this permitted conditional use does not continue in conformity with the conditions of the original approval or subsequent approved amendments or changes, the conditional use grant and any subsequent approved amendments thereto may be amended or terminated by action of the Plan Commission for the Village of Sussex. The Plan Commission for the Village of Sussex may require complete termination of such use.
- 3. This conditional use may be reviewed annually. Additionally, this conditional use may be reviewed by the Plan Commission for the Village of Sussex at any time upon complaint or upon Plan Commission initiative.
- J. Upon acceptance by Petitioner of this conditional use permit, all prior conditional use permits granted to the Subject Property are hereby revoked and terminated.
- K. If any aspect of this conditional use permit 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 for the Village of Sussex.
- L. If any paragraph or phrase of this conditional use order is declared by a Court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific paragraph or phrase thereof directly specified in the decision and shall not affect the validity of any other provisions, sections, or portions thereof of this order. The remainder of the order shall remain in full force and effect.

Let copies of this order be filed in the permanent records of the Plan Commission for the Village of Sussex, and let copies be sent to the proper Village authorities and the Petitioner.							
Approved this VILLAGE OF SUSSEX	_ day of	, 2020 BY THE PLAN COMMISSION FOR THE					

Anthony LeDonne Village President

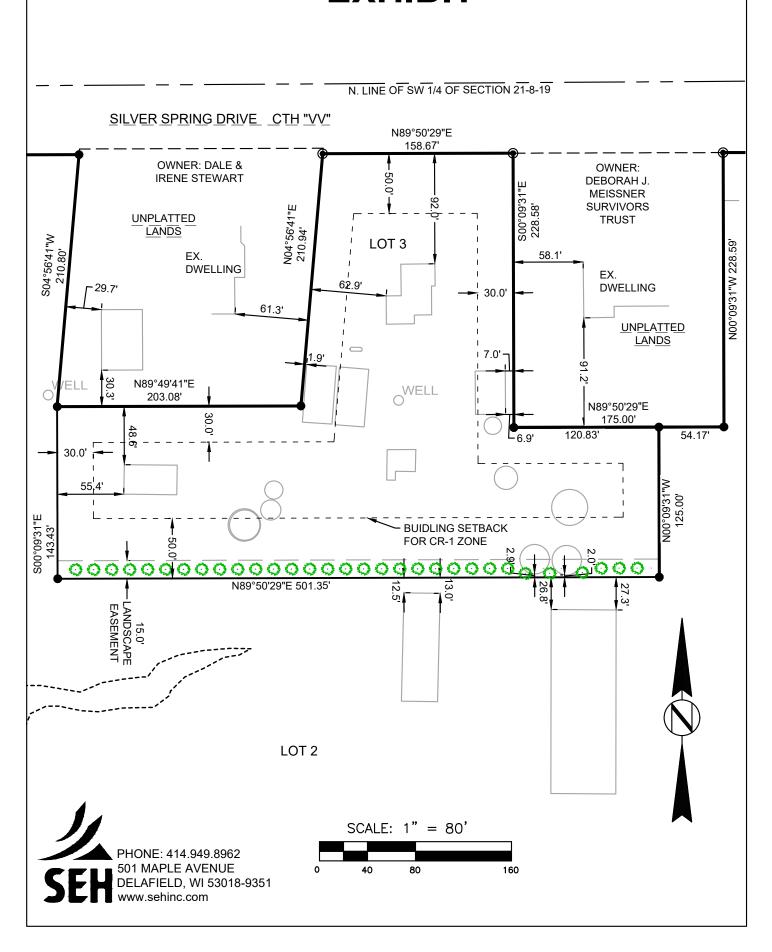
Samuel E. Liebert

Village Clerk

### PETITIONER ACCEPTANCE

I hereby accept the	e terms of this Cond	itional Use in its entirety.
Dated this	day of	, 2020
Harvest View Fari	n Inc.	
By:	, M	Tember
	rafted by Jeremy Smith, Villagorneys for the Village of Susse	ge Administrator off of a model by Attorney John P. Macy ARENZ, MOLTER, MACY & ex.

# **EXHIBIT**





#### PLAN OF OPERATION

To be used for a business w	ith changes	or new busines	ss in an existin	ng building.			
Is this request to be conside	s request to be considered for a Conditional Use? Yes If yes, is this a new CU? Yes						
(Conditional Use Permits require	e a Public Hear	ing)	OR	an amendme	ent to a CU?	-	
Tax Key # Zoning: Zoning:							
Address of Tenant Space:	N60W2	2951 Silv	erSprit	g Bldg	a unit	3	
<ol> <li>Name of Business:</li> <li>Timothy J Carberry</li> </ol>		<u>,                                      </u>					
Business					W 200	,	
N60W22951 Silver Spring Dr, Bldg. #		issex, WI 53089	··········		15-5726		
Address	Cı	ity, State, Zip	y@outlook.com	Phone	e #		
Fax #		Email add					
2. Business owner contact in Timothy J Carberry	nformation:						
Contact W195N5748 Alder Court	Ma	enomonee Falls, V	VI 53051	262-4	15-5726		
Address		ty, State, Zip	VI 00001	Phone			
			@outlook.com		- ,,		
Fax #		Email add	lress				
3. Building/Land owner con Venturespace Condos - E							
Contact	0	W. 52000		4.000	050 0405	•	
N60W22951 Silver Spring Drive Address		ty State Zin	***************************************		1-920-253-6165 Phone #		
Address	City, State, Zip Phone # daniel.marks5579@gmail.com						
Fax #		Email add	lress	BAPANAN AND AND AND AND AND AND AND AND AND			
4. Number of Employees/Si							
5. Days of Operation:	E	Employees		Shifts			
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	
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irs							
for business							
aration/cleaning							

6. Is this an extension of an existing operation?
7. On a separate sheet of paper explain your business use and/or the change to your business. Attach a list of all items to be sold, produced or stored on the premises.
8. Is a liquor license or any other special license to be obtained from the Village Board or State  Licensing Agencies? Do you need an Outdoor Establishment Permit?  If yes, explain: If yes, please obtain and complete permit application.
9. If your proposed operation will utilize a liquor license, what types of entertainment are you proposing?
10. Do you feel there will be any problems such as odor, smoke or noise resulting from this operation? If yes, explain:
11. Dimension of area to be occupied Total square footage
If applicable list square footage according to 1st floor 2nd floor
Please provide a copy of the site plan showing parking and layout of the building and if a multi tenant building, label the space which will be occupied by your business.
12. Parking:  Total Number of Parking Spaces Number of spaces needed per code  Number of spaces allocated for employee parking  Dimensions of parking lot Is parking lot paved?
13. Signage: What type of signage are you proposing for your business?
If applicable, complete a Sign Permit application and submit to the Building Inspection Dept. Please refer to Chapter 17.0800.
I have reviewed a copy of the Zoning Ordinance in the Village of Sussex and hereby agree to abide by the same, as well as any and all terms and conditions of any permit issued pursuant to this application.
I do swear to or affirm that all statements contained herein are true and correct to the best of our knowledge.
Surtly Cauly Date Date
Title or Position
I am aware and approve of the business to be operating in the building owned by
Name Date
Title or Position
Print Form Clear Form

Kasey Fluet
Assistant Development Director
Village of Sussex
N64W23760 Main Street
Sussex, WI 53089

Dear Kasey:

Per your request, here is my explanation on our plan for a conditional use permit for the Venture Space Condominium we purchased.

I retired from our family business after 45 years of service to them. I retired on June  $1^{st}$ , 2019 and am age 65 at this point.

I purchased building #2, unit #3, with the intent of putting my winter things in the unit for the summer and my summer things in for the winter. Being the fussy person, I am, I insist on keeping my things indoors and maintaining each piece in as much of a like new condition as I can. Including my cars.

I like to putz, as they call it, so much of my time will be working on my things and keeping them repaired and clean.

Being in business most of my life I have no interest in starting a new business. Everything will be strictly personal.

I have filled out the applicable forms to the best of my ability and have included the check as you requested.

Kasey, if there is anything else you need please let me know.

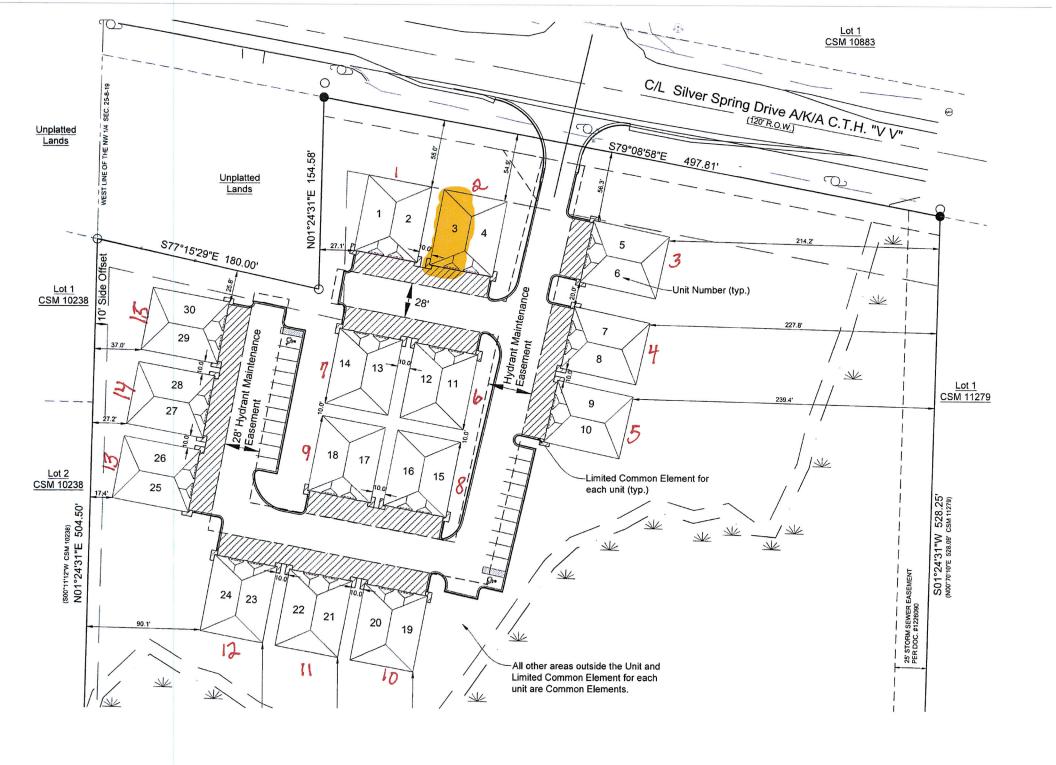
E-Mail tim.carberry@outlook.com

Phone 262-415-5726

Cell 262-613-4088

Thanks for your help. Our closing on the project is expected to be on or about July 30<sup>th</sup>, 2020.

Tim Carberry





N64W23760 Main Street Sussex, Wisconsin 53089 Phone (262) 246-5200 FAX (262) 246-5222

Email: <u>info@villagesussex.org</u>
Website: www.villagesussex.org

#### <u>MEMORANDUM</u>

TO: Plan Commission

FROM: Jeremy Smith, Village Administrator

RE: Impact Report on Conditional Use Permit for Tim Carberry

DATE: August 18, 2020

This impact report for the Conditional Use request for indoor storage from Tim Carberry detailing the impacts of said use to neighboring properties and toVillage Services.

**SITE LOCATION:** N60W22951 Silver Spring **ZONING:** M-1

#### TRAFFIC AND PARKING IMPACTS:

The anticipated impact to the area will be less than two vehicle trips per day to the site location. This will have a neglible impact on County Highway VV. The site has parking and assigned parking for each unit owner.

#### NOISE, ODOR, DUST AND LIGHT IMPACTS:

Noise generated from the operation is likely to be minimal and nothing is anticipated to cause consistent or peaking noise volumes that would impact adjacent property owners.

The storage of the type of items listed by the owners is not likely to cause and odor or dust problem and would not likely impact adjacent property owners.

The lighting is only that which was approved for the building and therefore no additional lighting concerns are present.

#### **SAFETY, CRIME, FIRE PROVENTION IMPACTS:**

The Director of Police Services has instructed the owners keep the building locked, but otherwise anticipates no significant impacts from the operation.

The Sussex Fire Department needs information about the Knox Box to the building, but has no specific concerns about fire impacts from the operation.

There is not likely to be any additional nuisance from said operations and no specific concerns with respect to crime or fire.

#### **HEALTH AND SANITATION IMPACTS:**

All trash, debris and recycle materials are disposed of by the owner. A use as proposed by the owner is not likely to produce significant waste streams. The Condo Association must maintain proper waste management so that debris is not allowed to accumulate on site, no matter how limited any individual user's garbage footprint will be.

There is not likely to be any health concerns from the operation as proposed.

#### **PROPERTY MAINTENANCE IMPACTS:**

The property has Codominium By-Laws for the owners to comply with regarding Property Maintenance and the owner will be required to adhere to all Village Ordinances.

#### **MISCELLANEOUS IMPACTS:**

The Operation as proposed is unlikely to lead to any measurable impact to most Village services beyond normal business operations. It's operation will not result in the need for the Village to fund/hire additional Fire, Police, Public Works, Parks, Library, or Garbage resources. This site in general does require additional Zoning Administration and storage type operations can lead to property maintenance issues over time.



### PLAN OF OPERATION

To be used f	or a business	with changes	or new busines	s in an existii	ng building.		
Is this reque	st to be consid	lered for a Co	nditional Use?	Yes	If yes, is this	a new CU?	Yes
(Conditiona	al Use Permits requ	nire a Public Hearin	ng)	OR	an amendme	ent to a CU?	
Tax Key #				Zo	ning:	M-1	
Address of T	Tenant Space:	N60W22951 Silve	er Spring Dr. Sussex	c, WI 53089	ning: Bldg. 3	2 unit 6	t
1. Name of James B. (							
Business N60W22951 Silv	er Spring Drive	Su	ssex, WI 53089		262-25	52-4599	
Address	City, State, Zip Phone #						
Fax #			Email add	lress			
N63W15656 Cla Address	remore Circle		nomonee Falls, WI ty, State, Zip carberry.jim1	1@gmail.com	262-25 Phone	e #	
			ty, State, Zip				
Fax #			Email add				
3. Building/ Same as 2 Contact		ontact informa	ation:				
Address	Address City, State, Zip Phone #						
Fax #			Email add	lress			
4. Number of	of Employees/		mployees		O Shifts		
5. Days of	Operation:		- •				
ut an X in box that	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
oplies: OUIS Den for business							

6. Is this an extension of an existing operation?	No	
7. On a separate sheet of paper explain your bus list of all items to be sold, produced or stored		
8. Is a liquor license or any other special license Licensing Agencies? No Do you If yes, explain:  If yes, please obtain and complete permit	ı need an Out	door Establishment Permit? No
9. If your proposed operation will utilize a liquo proposing? No		
10. Do you feel there will be any problems such operation? No If yes, explain:		, — ,
11. Dimension of area to be occupied 25' x 60'		Total square footage
If applicable list square footage according to	o 1 <sup>st</sup> floor _	2 <sup>nd</sup> floor
Please provide a copy of the site plan showing pa building, label the space which will be occupied	arking and lay	yout of the building and if a multi tenant ness.
12. Parking:  Total Number of Parking Spaces Unknown  Number of spaces allocated for employee par  Dimensions of parking lot	1.1	
13. Signage: What type of signage are you propo	sing for your	business?
If applicable, complete a Sign Permit application and submit to the	he Building Inspe	ction Dept. Please refer to Chapter 17.0800.
I have reviewed a copy of the Zoning Ordinance the same, as well as any and all terms and conditi		
I do swear to or affirm that all statements contain knowledge.	ned herein are	true and correct to the best of our
James B, Carberry	6/15/2020	
Name Long 3 Center	Date	
Title or Position		
I am aware and approve of the business to be open owned by		building
Name	Date	
Title or Position		

To: Village of Sussex

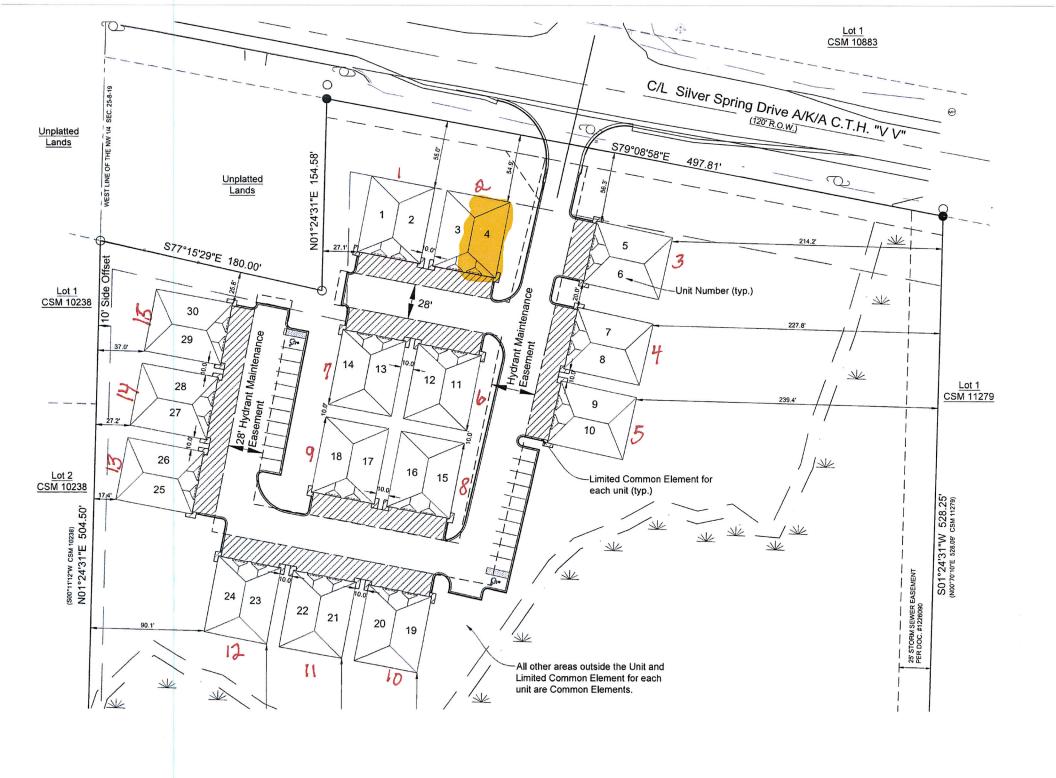
N64W23760 Main St.

Sussex, WI 53089

Re: Plan of Operation, VentureSpace

Per request, line 7 asked to explain the business. This will not be a business. The use will be for storage and maintenance of personal items such as motorhome, boats, tractors, snow blowers etc.

James B. Carberry





N64W23760 Main Street Sussex, Wisconsin 53089 Phone (262) 246-5200 FAX (262) 246-5222

Email: <u>info@villagesussex.org</u>
Website: www.villagesussex.org

#### MEMORANDUM

TO: Plan Commission

FROM: Jeremy Smith, Village Administrator

RE: Impact Report on Conditional Use Permit for Jim Carberry

DATE: August 18, 2020

This impact report for the Conditional Use request for indoor storage from Jim Carberry detailing the impacts of said use to neighboring properties and toVillage Services.

**SITE LOCATION:** N60W22951 Silver Spring **ZONING:** M-1

#### **TRAFFIC AND PARKING IMPACTS:**

The anticipated impact to the area will be less than two vehicle trips per day to the site location. This will have a neglible impact on County Highway VV. The site has parking and assigned parking for each unit owner.

#### NOISE, ODOR, DUST AND LIGHT IMPACTS:

Noise generated from the operation is likely to be minimal and nothing is anticipated to cause consistent or peaking noise volumes that would impact adjacent property owners.

The storage of the type of items listed by the owners is not likely to cause and odor or dust problem and would not likely impact adjacent property owners.

The lighting is only that which was approved for the building and therefore no additional lighting concerns are present.

#### **SAFETY, CRIME, FIRE PROVENTION IMPACTS:**

The Director of Police Services has instructed the owners keep the building locked, but otherwise anticipates no significant impacts from the operation.

The Sussex Fire Department needs information about the Knox Box to the building, but has no specific concerns about fire impacts from the operation.

There is not likely to be any additional nuisance from said operations and no specific concerns with respect to crime or fire.

#### **HEALTH AND SANITATION IMPACTS:**

All trash, debris and recycle materials are disposed of by the owner. A use as proposed by the owner is not likely to produce significant waste streams. The Condo Association must maintain proper waste management so that debris is not allowed to accumulate on site, no matter how limited any individual user's garbage footprint will be.

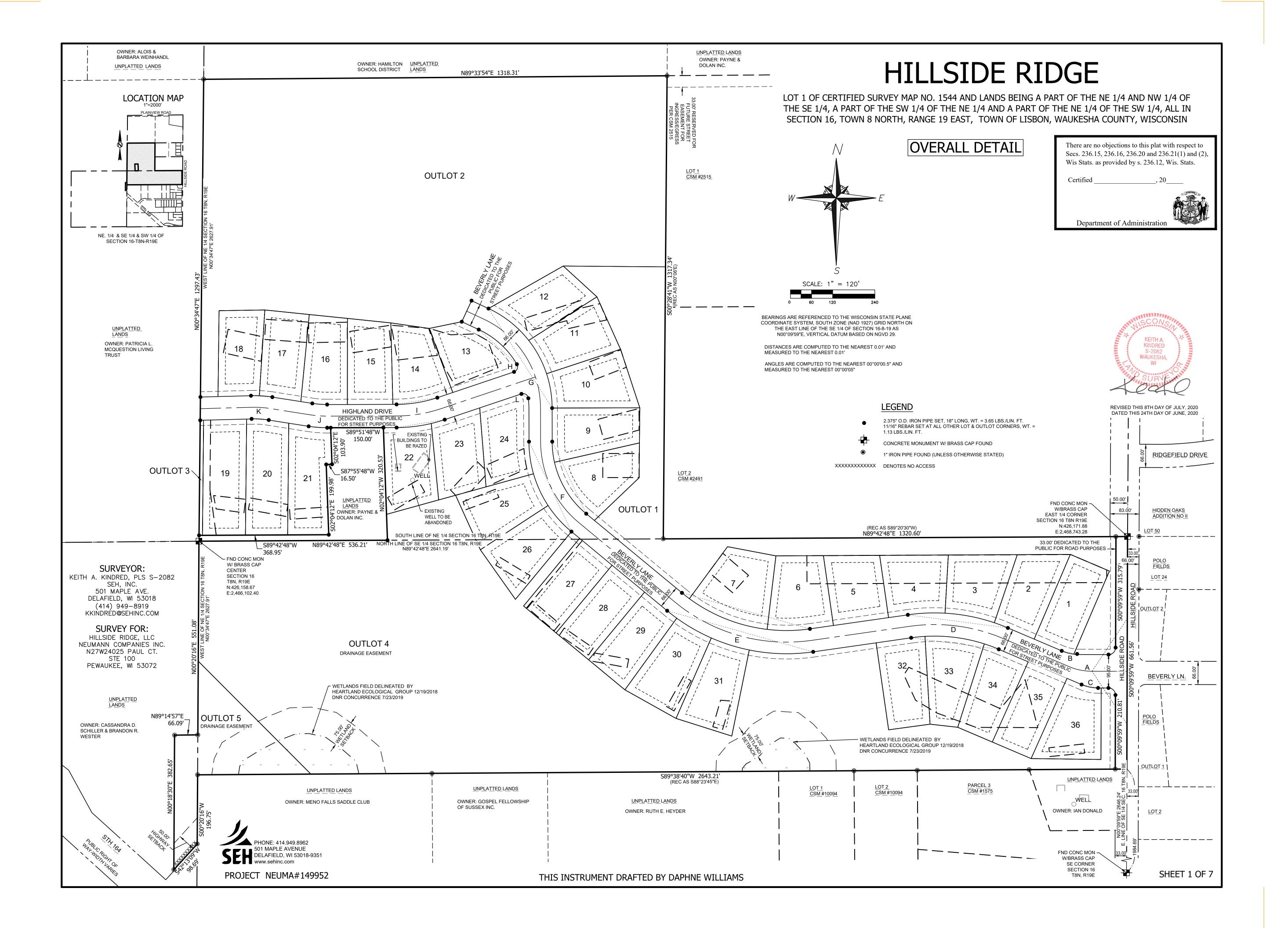
There is not likely to be any health concerns from the operation as proposed.

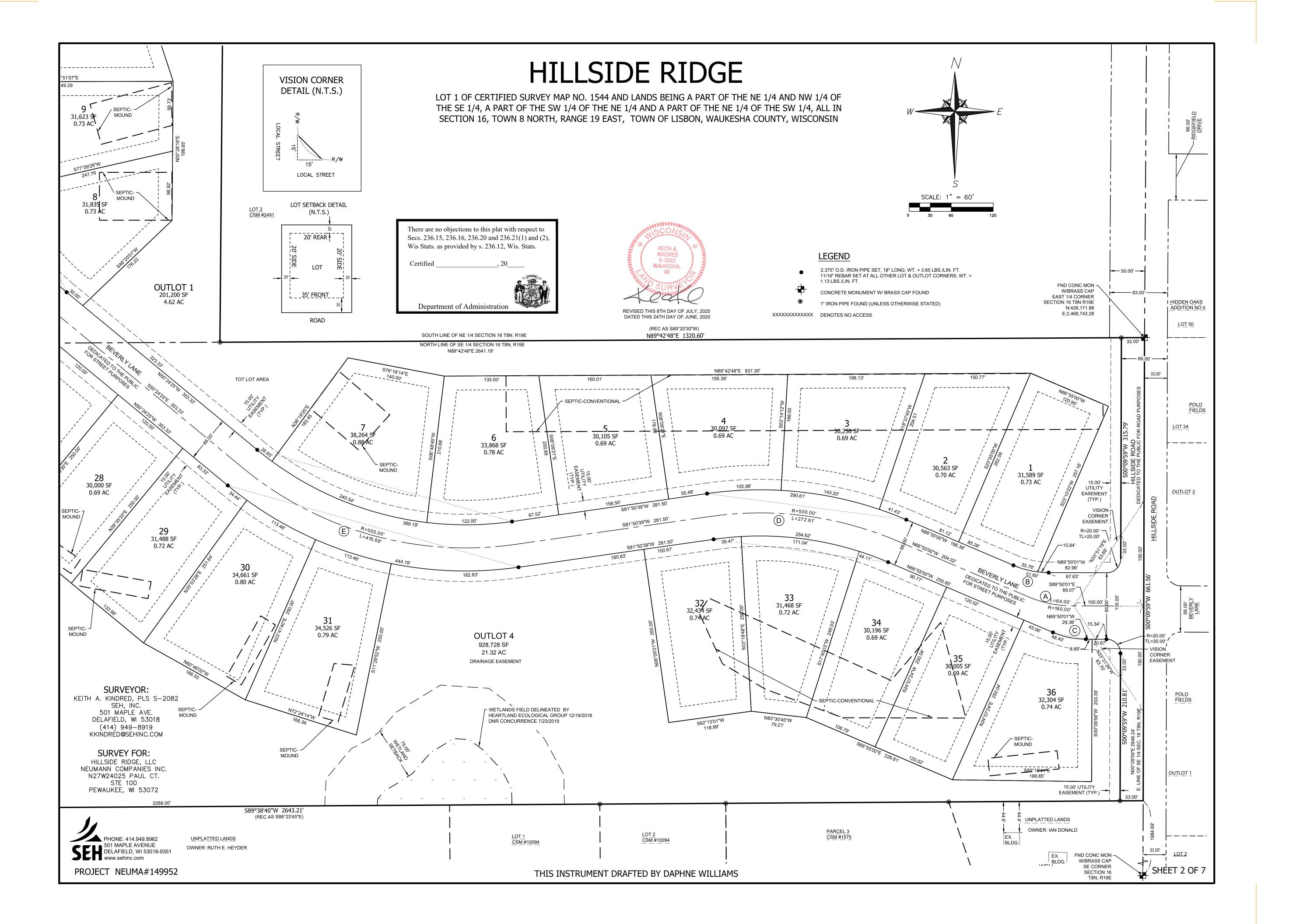
#### **PROPERTY MAINTENANCE IMPACTS:**

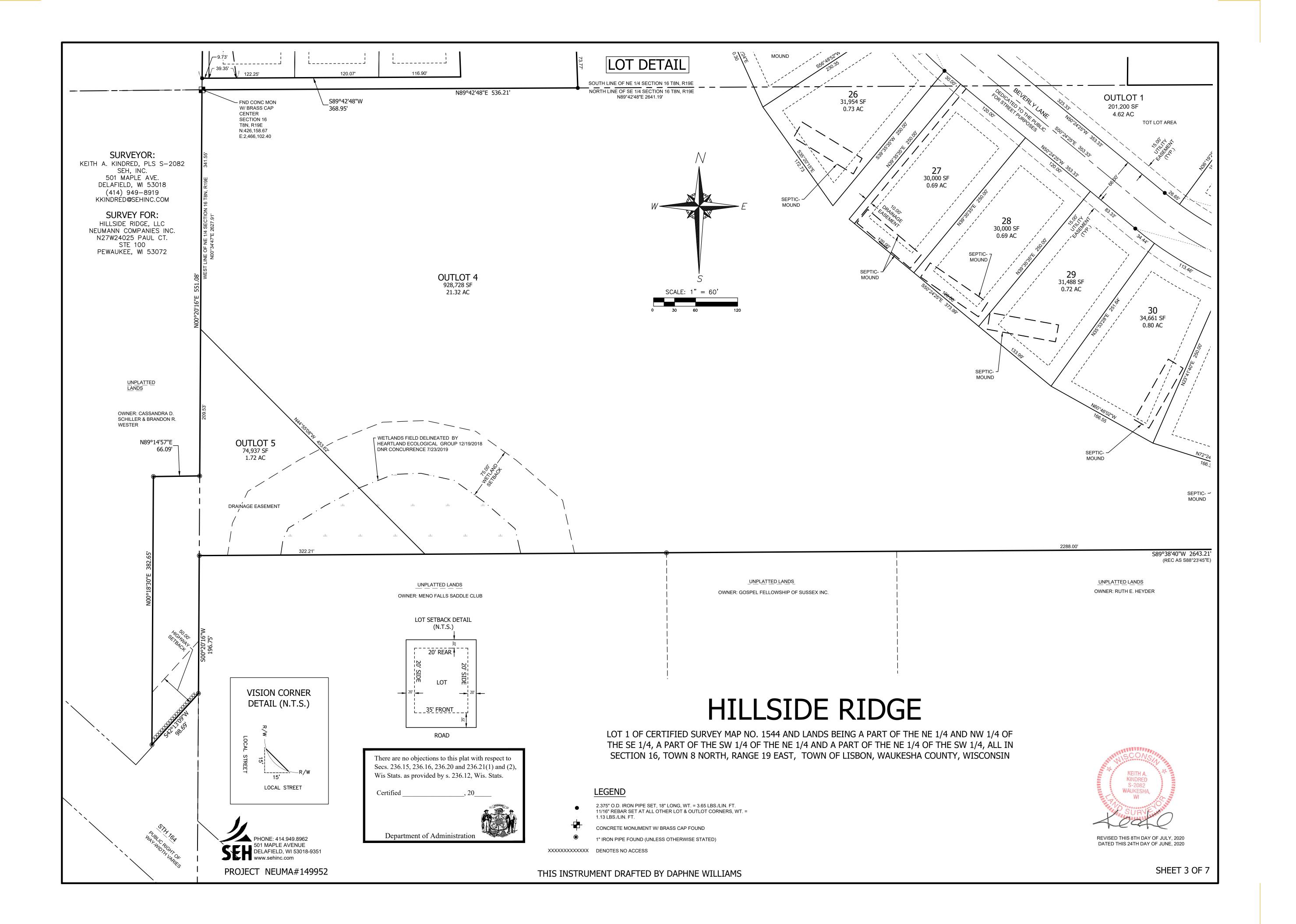
The property has Codominium By-Laws for the owners to comply with regarding Property Maintenance and the owner will be required to adhere to all Village Ordinances.

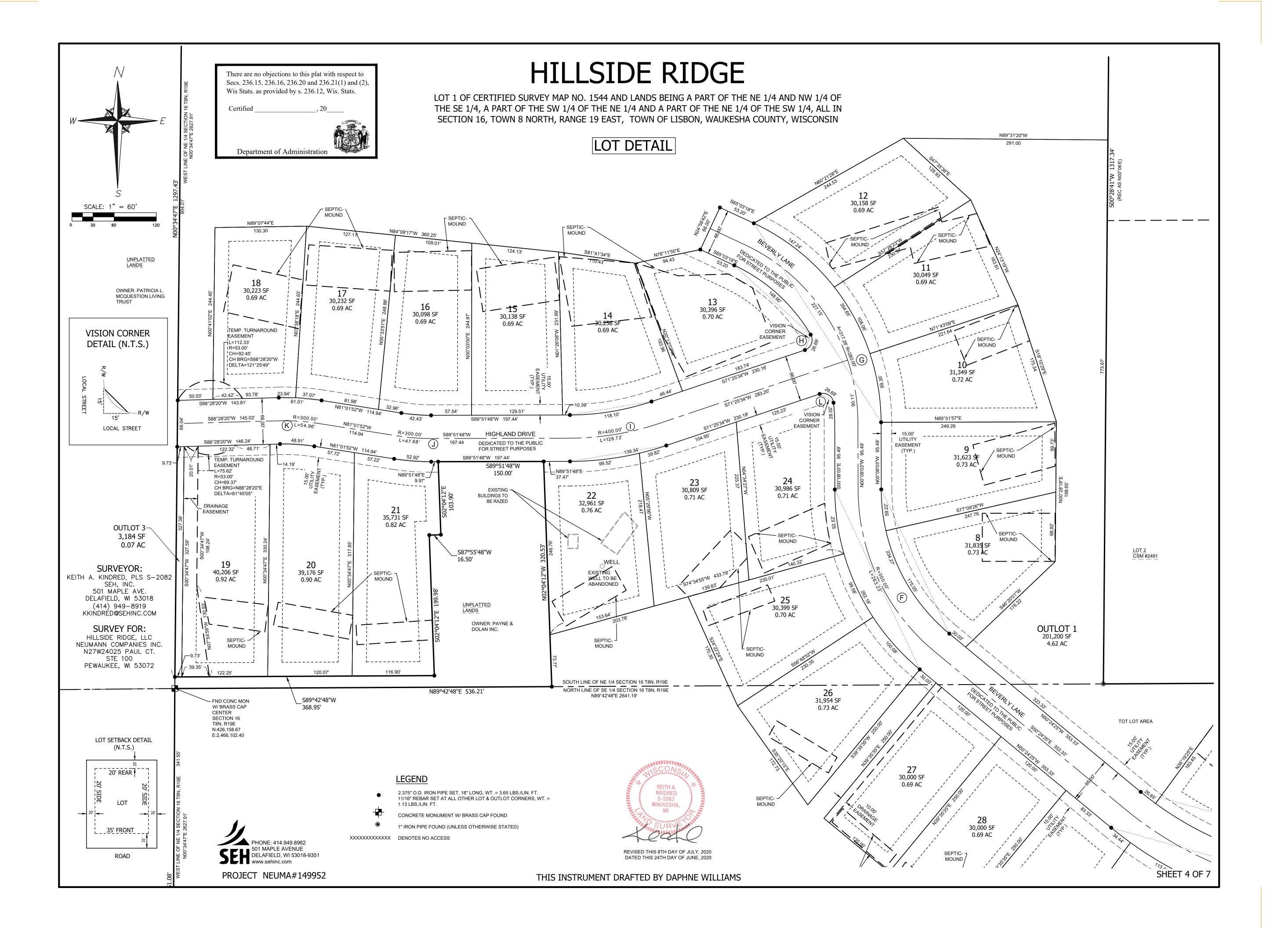
#### **MISCELLANEOUS IMPACTS:**

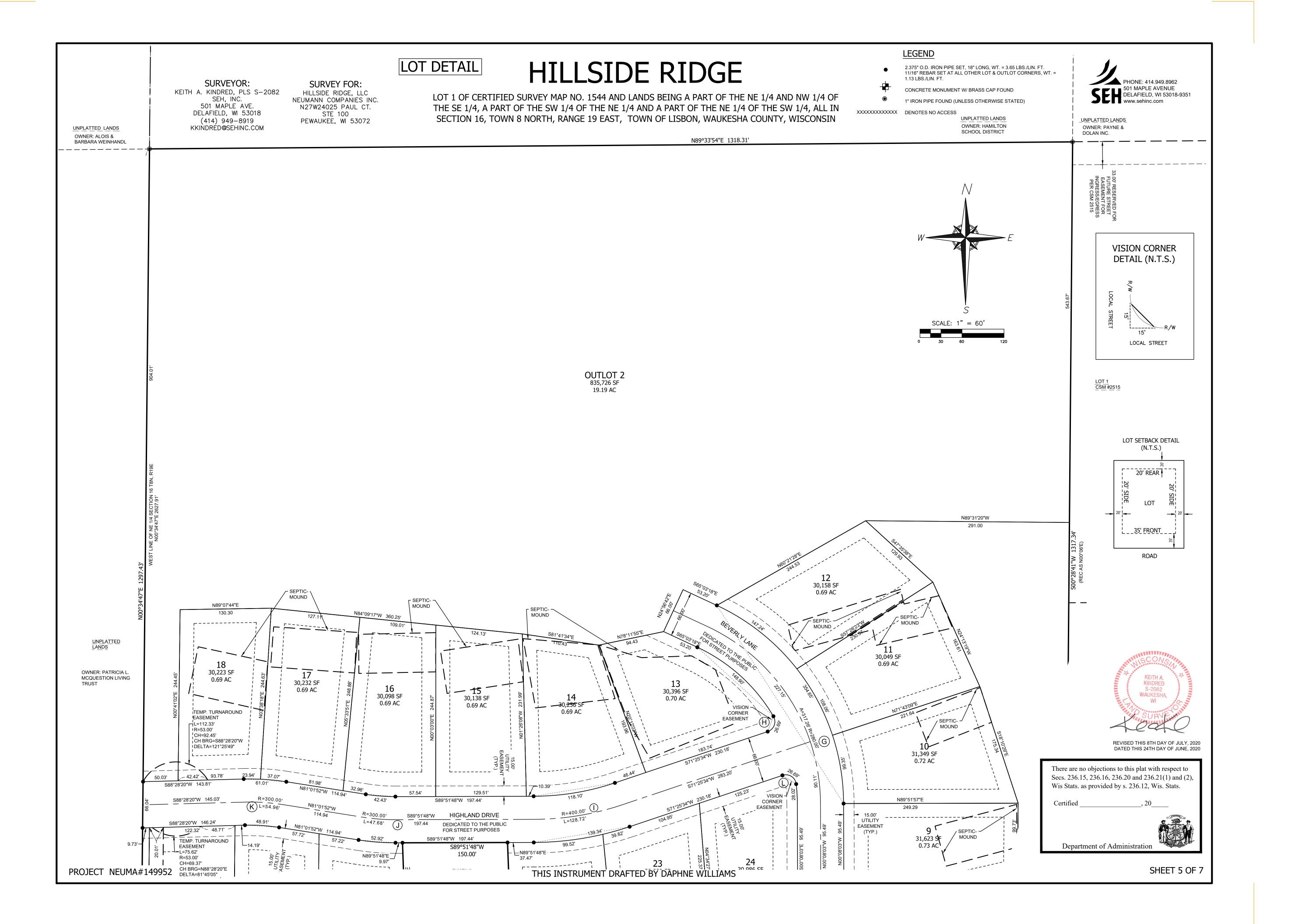
The Operation as proposed is unlikely to lead to any measurable impact to most Village services beyond normal business operations. It's operation will not result in the need for the Village to fund/hire additional Fire, Police, Public Works, Parks, Library, or Garbage resources. This site in general does require additional Zoning Administration and storage type operations can lead to property maintenance issues over time.











					Curve Ta	hle		
	CURVE#	RADIUS	DELTA	ARC DIST	CHORD DIST	CHORD BEARING	TAN BEARING 1	TAN BEARING
A	C/L	160.00'	22°55'01"	64.00'	63.57'	S78°22'31"E	S66°55'00"E	S89°50'01"E
В	R/W-N	129.00'	22°55'01"	51.60'	51.25'	N78°22'31"W	N89°50'01"W	N66°55'00"W
	OL 1	129.00'	7°02'12"	15.84'	15.83'	S86°18'55"E		S89°50'01"E
	LOT 1	129.00'	15°52'49"	35.76'	35.64'	S74°51'25"E	S66°55'00"E	
С	LOT 36	121.00'	22°55'01"	48.40'	48.08'	N78°22'31"W	N89°50'01"W	N66°55'00"W
D	C/L	500.00'	31°14'21"	272.61'	269.25'	N82°32'11"W	N66°55'00"W	S81°50'39"W
	R/W-N	533.00'	31°14'21"	290.61'	287.02'	N82°32'11"W	N66°55'00"W	S81°50'39"W
	LOT 2	533.00'	4°27'15"	41.43'	41.42'	S69°08'37"E		S66°55'00"E
	LOT 3	533.00'	15°23'33"	143.20'	142.76'	S79°04'02"E		
	LOT 4	533.00'	11°23'33"	105.98'	105.81'	N87°32'25"E	N81°50'39"E	
	R/W-S	467.00'	31°14'21"	254.62'	251.48'	N82°32'11"W	N66°55'00"W	S81°50'39"W
	LOT 32	467.00'	4°50'33"	39.47'	39.46'	S84°15'55"W		S81°50'39"W
	LOT 33	467.00'	20°59'03"	171.04'	170.08'	N82°49'17"W		
	LOT 34	467.00'	5°24'45"	44.11'	44.10'	N69°37'23"W	N66°55'00"W	
Е	C/L	500.00'	47°44'56"	416.69'	404.73'	S74°16'53"E	S50°24'25"E	N81°50'39"E
	R/W-N	467.00'	47°44'56"	389.19'	378.02'	N74°16'53"W	S81°50'39"W	N50°24'25"W
	LOT 6	467.00'	14°58'06"	122.00'	121.66'	N89°19'42"E		N81°50'39"E
	LOT 7	467.00'	29°30'40"	240.54'	237.88'	S68°25'55"E		
	OL-1	467.00'	3°16'10"	26.65'	26.65'	S52°02'30"E	S50°24'25"E	
	R/W-S	533.00'	47°44'56"	444.19'	431.45'	N74°16'53"W	S81°50'39"W	N50°24'25"W
	LOT 29	533.00'	3°42'07"	34.44'	34.43'	N52°15'29"W		N50°24'25"W
	LOT 30	533.00'	12°11'48"	113.46'	113.25'	N60°12'26"W		
	LOT 31	533.00'	12°11'48"	113.46'	113.25'	N72°24'14"W		
	OL-4	533.00'	19°39'13"	182.83'	181.94'	N88°19'45"W	S81°50'39"W	
F	C/L	300.00'	50°16'22"	263.23'	254.86'	S25°16'14"E	S00°08'03"E	S50°24'25"E
	R/W-E	267.00'	50°16'22"	234.27'	226.83'	N25°16'14"W	N50°24'25"W	N00°08'03"W
	LOT 8	267.00'	37°33'51"	175.05'	171.93'	S31°37'29"E		S50°24'25"E
	LOT 9	267.00'	12°42'31"	59.22'	59.10'	S06°29'19"E	S00°08'03"E	
	R/W-W	333.00'	50°16'22"	292.18'	282.90'	N25°16'14"W	N50°24'25"W	N00°08'03"W
	LOT 24	333.00'	15°55'06"	92.52'	92.22'	N08°05'36"W		N00°08'03"W
	LOT 25	333.00'	17°07'59"	99.58'	99.21'	N24°37'08"W		
	LOT 26	333.00'	17°13'17"	100.08'	99.71'	N41°47'47"W	N50°24'25"W	
G	C/L	280.00'	64°55'15"	317.26'	300.56'	N32°35'41"W	N00°08'03"W	N65°03'18"W
	C/L-S	280.00'	18°26'23"	90.11'	89.73'	N09°21'15"W	N00°08'03"W	
	C/L-N	280.00'	46°28'52"	227.15'	220.97'	N41°48'52"W		N65°03'18"W
	R/W-E	313.00'	64°55'15"	354.65'	335.98'	N32°35'41"W	N00°08'03"W	N65°03'18"W
	LOT 10	313.00'	18°11'13"	99.35'	98.94'	S09°13'40"E		S00°08'03"E
	LOT 11	313.00'	19°46'48"	108.06'	107.52'	S28°12'40"E		
	LOT 12	313.00'	26°57'14"	147.24'	145.89'	S51°34'41"E		
	LOT 13	247.00'	34°32'26"	148.90'	146.66'	S47°47'05"E	S65°03'18"E	
	LOT 24	247.00'	6°29'57"	28.02'	28.00'	N03°23'02"W	N00°08'03"W	N06°38'00"W
Н	LOT 13	15.00'	101°56'26"	26.69'	23.30'	N20°27'21"E	N71°25'34"E	N30°30'52"W
ı	C/L	400.00'	18°26'14"	128.72'	128.16'	S80°38'41"W	S71°25'34"W	S89°51'48"W
	LOT 14	367.00'	18°26'14"	118.10'	117.59'	S80°38'41"W	S71°25'34"W	S89°51'48"W
	RW-S	433.00'	18°26'14"	139.34'	138.73'	S80°38'41"W	S71°25'34"W	S89°51'48"W
	LOT 22	433.00'	13°10'06"	99.52'	99.30'	S83°16'45"W		S89°51'48"W
	LOT 23	433.00'	5°16'08"	39.82'	39.80'	S74°03'38"W	S71°25'34"W	
J	C/L	300.00'	9°06'20"	47.68'	47.63'	N85°35'02"W	S89°51'48"W	N81°01'52"W
	LOT 16	267.00'	9°06'20"	42.43'	42.39'	N85°35'02"W	S89°51'48"W	N81°01'52"W
	LOT 21	333.00'	9°06'20"	52.92'	52.87'	N85°35'02"W	S89°51'48"W	N81°01'52"W
K	C/L	300.00'	10°29'48"	54.96'	54.88'	N86°16'46"W	N81°01'52"W	S88°28'20"W
- <del>-</del>	R/W-N	333.00'	10°29'48"	61.01'	60.92'	N86°16'46"W	N81°01'52"W	S88°28'20"W
	LOT 17	333.00'	6°22'42"	37.07'	37.05'	S84°13'13"E		S81°01'52"E
	LOT 18	333.00'	4°07'06"	23.94'	23.93'	S89°28'07"E	N88°28'20"E	
	LOT 20	267.00'	10°29'48"	48.91'	48.85'	N86°16'46"W	N81°01'52"W	S88°28'20"W
		_07.00	.5 20 70			10 10 VV	VI VV	

# HILLSIDE RIDGE

LOT 1 OF CERTIFIED SURVEY MAP NO. 1544 AND LANDS BEING A PART OF THE NE 1/4 AND NW 1/4 OF THE SE 1/4, A PART OF THE SW 1/4 OF THE NE 1/4 AND A PART OF THE NE 1/4 OF THE SW 1/4, ALL IN SECTION 16, TOWN 8 NORTH, RANGE 19 EAST, TOWN OF LISBON, WAUKESHA COUNTY, WISCONSIN

### **GENERAL NOTES:**

1) EACH INDIVIDUAL LOT OWNER SHALL HAVE AN UNDIVIDED FRACTIONAL OWNERSHIP IN OUTLOTS 1-5. WAUKESHA COUNTY SHALL NOT BE LIABLE FOR ANY FEES OR SPECIAL ASSESSMENTS IN THE EVENT THEY BECOME THE OWNER OF ANY LOT IN THE SUBDIVISION BY REASON OF TAX DELINQUENCY. THE INDIVIDUAL HOME OWNERS ARE RESPONSIBLE FOR MAINTENANCE OF SAID OUTLOTS.

2) OUTLOT 4 AND OUTLOT 5 TO BE ENCOMPASSED BY A DRAINAGE EASEMENT GRANTED TO TOWN OF LISBON AND MAINTAINED BY THE LOT OWNERS. SEE STORMWATER MANAGEMENT PRACTICES NOTES.

3) OUTLOT 1 INCLUDES A TOT LOT. OUTLOTS 1 AND 4 CONTAIN A PROPOSED TRAIL. THE TOT LOT AND PROPOSED TRAIL TO BE MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.

4) OUTLOT 2 TO BE RETAINED BY THE DEVELOPER FOR FUTURE DEVELOPMENT.

5) ALL EASEMENTS ARE GRANTED TO THE TOWN OF LISBON UNLESS OTHERWISE STATED.

6) THERE SHALL BE A 12' WIDE PUBLIC ACCESS EASEMENT CENTERED UPON AND LOCATED OVER THE PUBLIC ASPHALT TRAIL SYSTEM TO BE CREATED BY SEPARATE DOCUMENT AND GRANTED TO THE TOWN OF LISBON FOR PUBLIC TRAIL PURPOSES.

7) NO POLES, PADS BOXES OR BURIED CABLES ARE TO BE PLACED SUCH THAT THE INSTALLATION WOULD DISTURB ANY SURVEY STAKE. THE DISTURBANCE OF A SURVEY STAKE BY ANYONE IS A VIOLATION OF SECTION 236.32 OF WISCONSIN STATUTES.

8) AREA SHOWN IS ZONE X, AREA OF MINIMAL FLOODING, PER FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER 55133C0088G, EFFECTIVE DATE NOVEMBER 5, 2014.

9) THE OVERALL AREA OF THIS FINAL PLAT IS 3,452,941 S.F., 79.27 AC.

10) ALL ROADS WITHIN THE SUBDIVISION ARE DEDICATED TO THE PUBLIC.

11) ALL VISIBLE BUILDINGS, WELLS, SEPTIC ACCESS LIDS AND VENTS (IF ANY) WITHIN 50' OF THE PROPERTY BOUNDARY ARE DEPICTED. NO DRAIN TILE WAS OBSERVED ON SITE AT TIME OF FIELD WORK.

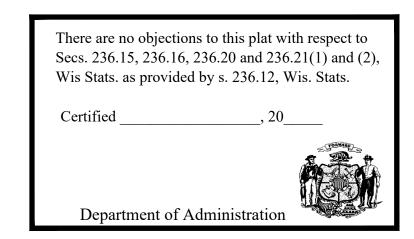
12) PER THE WISCONSIN HISTORIC PRESERVATION DATABASE, THERE ARE NO REPORTED ARCHEOLOGICAL SITES WITHIN THE SUBDIVISION.

13) THERE SHALL BE NO LAND ALTERING ACTIVITIES INCLUDING 15 FEET DOWN SLOPE FROM THE PROPOSED APPROVED PRIVATE SEWAGE SYSTEM SITES.

14) "ALL LOTS AND BLOCKS ARE HEREBY RESTRICTED SO THAT NO OWNER, POSSESSOR, USER, LICENSEE OR OTHER PERSON MAY HAVE ANY RIGHT OF DIRECT VEHICULAR INGRESS FROM OR EGRESS TO ANY HIGHWAY LYING WITHIN THE RIGHT-OF-WAY OF S.T.H. 164; IT IS EXPRESSLY INTENDED THAT THIS RESTRICTION CONSTITUTE A RESTRICTION FOR THE BENEFIT OF THE PUBLIC AS PROVIDED IN S. 236.293, STATS., AND SHALL BE ENFORCEABLE BY THE DEPARTMENT OR ITS ASSIGNS. ANY ACCESS SHALL BE ALLOWED ONLY BY SPECIAL EXCEPTION. ANY ACCESS ALLOWED BY SPECIAL EXCEPTION SHALL BE CONFIRMED AND GRANTED ONLY THROUGH THE DRIVEWAY PERMITTING PROCESS AND ALL PERMITS ARE REVOCABLE."

15) "NO IMPROVEMENTS OR STRUCTURES ARE ALLOWED BETWEEN THE RIGHT-OF-WAY LINE AND THE HIGHWAY SETBACK LINE. IMPROVEMENTS AND STRUCTURES INCLUDE, BUT ARE NOT LIMITED TO, SIGNS, PARKING AREAS, DRIVEWAYS, WELLS, SEPTIC SYSTEMS, DRAINAGE FACILITIES, BUILDINGS AND RETAINING WALLS. IT IS EXPRESSLY INTENDED THAT THIS RESTRICTION IS FOR THE BENEFIT OF THE PUBLIC AS PROVIDED IN SECTION 236.293, WISCONSIN STATUTES, AND SHALL BE ENFORCEABLE BY THE WISCONSIN DEPARTMENT OF TRANSPORTATION OR ITS ASSIGNS. CONTACT THE WISCONSIN DEPARTMENT OF TRANSPORTATION FOR MORE INFORMATION. THE PHONE NUMBER MAY BE OBTAINED BY CONTACTING THE COUNTY HIGHWAY DEPARTMENT."

16) THE LOTS OF THIS LAND DIVISION MAY EXPERIENCE NOISE AT THE LEVELS EXCEEDING THE LEVELS IN s.TRANS 405.04, TABLE I. THESE LEVELS ARE BASED ON FEDERAL STANDARDS. THE DEPARTMENT OF TRANSPORTATION IS NOT RESPONSIBLE FOR ABATING NOISE FROM EXISTING STATE TRUNK HIGHWAYS OR CONNECTING HIGHWAYS, THE ABSENCE OF ANY INCREASE BY THE DEPARTMENT TO THE HIGHWAY'S THROUGH—LANE CAPACITY.



## WETLAND RESTRICTIONS

THOSE AREAS IDENTIFIED ON THIS SUBDIVISION PLAT AS WETLANDS, SHALL BE SUBJECT TO THE FOLLOWING RESTRICTIONS:

1. GRADING, FILLING AND REMOVAL OF TOPSOIL OR OTHER EARTHEN MATERIALS ARE PROHIBITED, UNLESS SPECIFICALLY AUTHORIZED BY THE MUNICIPALITY IN WHICH THIS LAND IS LOCATED AND, IF APPLICABLE, THE WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE, THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND THE ARMY CORPS OF ENGINEERS.

2. THE REMOVAL OR DESTRUCTION OF ANY VEGETATIVE COVER, I.E., TREES, SHRUBS, GRASSES, ETC., IS PROHIBITED, WITH THE EXCEPTION THAT INVASIVE, DEAD, DISEASED, OR DYING VEGETATION MAY BE REMOVED, AT THE DISCRETION OF THE LANDOWNER AND WITH THE APPROVAL FROM THE WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE - PLANNING AND ZONING DIVISION. SILVICULTURAL THINNING, UPON THE RECOMMENDATION OF A FORESTER OR NATURALIST AND WITH APPROVAL FROM THE WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE-PLANNING AND ZONING DIVISION, SHALL ALSO BE PERMITTED.

3. GRAZING BY DOMESTICATED ANIMALS, I.E., HORSES, COWS, ETC., IS PROHIBITED.

4. THE INTRODUCTION OF PLANT MATERIAL NOT INDIGENOUS TO THE EXISTING ENVIRONMENT IS PROHIBITED.

5. PONDS ARE PROHIBITED UNLESS DESIGNED TO ENHANCE THE NATURAL ENVIRONMENT. PONDS THAT MAY BE PERMITTED ARE SUBJECT TO THE APPROVAL OF THE MUNICIPALITY IN WHICH THEY ARE LOCATED, AND IF APPLICABLE, THE WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE, THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND THE ARMY CORPS OF ENGINEERS.

6. THE CONSTRUCTION OF BUILDINGS IS PROHIBITED.

7. THE RESOURCE BOUNDARIES AND RESTRICTIONS CONTAINED HEREIN MAY ONLY BE MODIFIED IN COMPLIANCE WITH THE TOWN OF LISBON ZONING ORDINANCE.

## STORM WATER MANAGEMENT PRACTICE MAINTENANCE

THE TITLEHOLDERS AND UNIT OWNERS OF THE HILLSIDE RIDGE SUBDIVISION SHALL EACH HOLD AN UNDIVIDED AND NONTRANSFERABLE INTEREST IN OUTLOT 4 AND OUTLOT 5 WHERE THE STORM WATER MANAGEMENT PRACTICES ARE LOCATED.

THERE ARE ONE OR MORE SEPARATE DOCUMENTS RECORDED ON THE PROPERTY TITLE THROUGH THE WAUKESHA COUNTY REGISTER OF DEEDS ENTITLED "STORM WATER MANAGEMENT PRACTICE MAINTENANCE AGREEMENT" ("MAINTENANCE AGREEMENT") THAT APPLY TO OUTLOT 4 AND OUTLOT 5. THE MAINTENANCE AGREEMENT SUBJECTS THIS SUBDIVISION PLAT, AND ALL LOT OWNERS THEREIN, TO COVENANTS, CONDITIONS AND RESTRICTIONS NECESSARY TO ENSURE THE LONG-TERM MAINTENANCE OF THE STORM WATER MANAGEMENT PRACTICE. THE AGREEMENT ALSO OUTLINES A PROCESS BY WHICH THE TOWN OF LISBON MAY LEVY AND COLLECT SPECIAL ASSESSMENTS OR CHARGES FOR ANY SERVICES THE COMMUNITY MIGHT PROVIDE RELATING TO ENFORCEMENT OF THE MAINTENANCE AGREEMENT.

IN ACCORDANCE WITH CHAPTER 14 - ARTICLE VIII OF THE WAUKESHA COUNTY CODE OF ORDINANCES ("STORM WATER ORDINANCE"), THE STORM WATER PERMIT HOLDER IS RESPONSIBLE FOR CONSTRUCTING THE STORM WATER MANAGEMENT PRACTICES FOLLOWING PLANS APPROVED BY WAUKESHA COUNTY AND IS RESPONSIBLE FOR MAINTAINING THE STORM WATER PRACTICES UNTIL PERMIT TERMINATION BY WAUKESHA COUNTY. UPON TERMINATION OF THE STORM WATER PERMIT, THE OWNERS OF LOTS 1-36 SHALL BE RESPONSIBLE FOR MAINTENANCE OF THE STORM WATER MANAGEMENT PRACTICES IN ACCORDANCE WITH THE MAINTENANCE AGREEMENT.

ALL SIDE AND REAR LOT LINES NOT REGULATED BY WAUKESHA COUNTY OR THE TOWN OF LISBON SHALL BE GRADED AND MAINTAINED IN COOPERATION WITH ABUTTING PROPERTY OWNERS SO AS TO NEITHER IMPEDE THE FLOW OF STORMWATER, NOR NEGATIVELY IMPACT ANY ABUTTING PROPERTY, WHILE ALSO ADHERING TO THE ESTABLISHED, APPROVED, AND ACCEPTED STORMWATER MANAGEMENT PLAN.

# EASEMENTS

ALL LANDS WITHIN AREAS LABELED "DRAINAGE EASEMENT" ARE RESERVED FOR STORM WATER COLLECTION, CONVEYANCE, TREATMENT OR INFILTRATION. NO BUILDINGS OR OTHER STRUCTURES ARE ALLOWED IN THESE AREAS. NO GRADING OR FILLING IS ALLOWED IN THESE AREAS THAT MAY INTERRUPT STORM WATER FLOWS IN ANY WAY. THE MAINTENANCE AGREEMENT MAY CONTAIN SPECIFIC MAINTENANCE REQUIREMENTS FOR THESE AREAS. THE TOWN OF LISBON, WAUKESHA COUNTY OR THEIR DESIGNEE ARE AUTHORIZED ACCESS IN THESE AREAS FOR PURPOSES OF INSPECTING THE STORM WATER MANAGEMENT PRACTICES OR ENFORCING THE TERMS OF MAINTENANCE AGREEMENT.

# **VISION CORNER RESTRICTIONS**

WITHIN THE AREA OF THE VISION CORNER EASEMENT (V.C.E.) THE HEIGHT OF ALL PLANTINGS, BERMS, FENCING, SIGNS OR ANY OTHER STRUCTURE WITHIN THE VISION CORNER EASEMENT IS LIMITED TO 24" ABOVE THE INTERSECTION ELEVATION. NO ACCESS TO ANY ROADWAY SHALL BE PERMITTED WITHIN THE VISION CORNER EASEMENT.

WAR WISCONS IN THE
KEITH A. KINDRED S-2082 WAUKESHA, WI
REVISED THIS 8TH DAY OF JULY, 2020

DATED THIS 24TH DAY OF JUNE, 2020

Lot#	Soil Observ.#	Surface Elev	Bottom Elev. of Soil Profile	Soil Map Unit Symbol	Elevation of Seasonal High Water Table	Depth to Seasonal High Water Table	Minimum Basement Floor Elevation	Septic System Type	Lot#	Soil Observ.#	Surface Elev	Bottom Elev. of Soil Profile	Soil Map Unit Symbol	Elevation of Seasonal High Water Table	Depth to Seasonal High Water Table	Minimum Basement Floor Elevation	Septic System Type
1	1-102	974.5	966.5	ScA	≤966.5	≥8.0'	≥968.0	Conventional	19	534	989.3	980.97	ThB	985.3	4'	≥986.8	Mound
2	501	973.5	964.5	ScA	≤964.5	≥9'	≥966	Conventional	20	535	988.6	980.6	ThB	985.6	3'	≥987.1	Mound
3	502	972.5	963.5	ScA	≤963.5	≥9.0'	≥965.0	Conventional	21	536	993.4	985.4	ThB	990.4	3'	≥991.9	Mound
4	503	970.7	961.37	ScA	≤961.37	≥9.33'	≥962.87	Conventional	22	537	985.2	977.2	HmC2	≤977.2	≥8'	≥978.7	Mound
5	504	968.7	959.7	ScA	962.62	7.08	≥964.12	Conventional	23	538	975	967	HmC2	973.5	1.5'	≥975	Mound
6	505	966.2	958.2	ScA	961.37	4.83	≥962.87	Conventional	24	539	974.4	966.07	ThB	972.4	2'	≥973.9	Mound
7	506	963.8	955.8	LmB	961	2.8	≥962.5	Mound	25	37-101	967.9	959.9	ScA	964.9	3.0'	≥966.4	Mound
8	511	967.3	959.3	ScA	965.3	2	≥966.8	Mound	26	38-101	967.2	959.2	ScA	963.87	3.33	≥965.37	Mound
9	512	969.8	961.13	ScA	966.22	3.58'	≥967.72	Mound	27	39-101	966.4	958.82	ScA	963.07	3.33'	≥964.57	Mound
10	513	973.6	965.6	ScA	971.93	1.67'	≥973.43	Mound	28	40-101	965.6	959.27	ScA	963.1	2.5'	≥964.6	Mound
11	514	980.8	972.8	ThB	977.3	3.5'	≥978.8	Mound	29	41-101	964.2	957.87	ScA	962.2	2.0'	≥963.7	Mound
12	515	989.9	981.9	ThB	≤981.9	≥8'	≥983.4	Mound	30	42-102	964.3	958.3	ScA	962.2	2.08	≥963.7	Mound
13	528	982.4	974.4	ThB	980.48	1.92'	≥981.98	Mound	31	51-2	966.2	958.7	LmB	963.2	3.0'	≥964.7	Mound
14	529	982.6	974.6	HmB	980.85	1.75'	≥982.35	Mound	32	44-101	969.7	962.2	ThB	≤962.2	≥7.5'	≥963.7	Conventional
15	530	987	979	HmB	984.5	2.5'	≥986	Mound	33	553	972.5	963.5	ThB	≤963.5	≥9'	≥965	Conventional
16	531	989.4	981.07	DdB	986.73	2.67'	≥988.23	Mound	34	30	973.1	964.1	ThB	≤964.1	≥9'	≥965.6	Conventional
17	532	990.5	981.5	DdB	987	3.5'	≥988.5	Mound	35	554	973.1	964.1	ThB	≤964.1	≥9'	≥965.6	Conventional
18	533	990.3	982.3	DdB	987.3	3'	≥988.8	Mound	36	48-103	973.4	966.73	ThA	966.73	≥6.67'	968.23	Mound

Hillside Ridge - Phase I



SURVEYOR:
KEITH A. KINDRED, PLS S-2082
SEH, INC.
501 MAPLE AVE.
DELAFIELD, WI 53018
(414) 949-8919

KKINDRÉD@SEHINC.COM

SURVEY FOR:
HILLSIDE RIDGE, LLC
NEUMANN COMPANIES INC.
N27W24025 PAUL CT.
STE 100
PEWAUKEE, WI 53072

SHEET 6 of 7

## SURVEYOR'S CERTIFICATE:

I, Keith A. Kindred, Professional Land Surveyor hereby certify; That I have surveyed, divided and mapped All of Lot 1 of Certified Survey Map No. 1544 and lands being a part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4, a part of the Southwest 1/4 of the Northeast 1/4 and a part of the Northeast 1/4 of the Southwest 1/4, all in Section 16, Town 8 North, Range 19 East, Town of Lisbon, Waukesha County, Wisconsin, bounded and described as follows;

Beginning at the East 1/4 corner of Section 16; thence South 00°09'59" West, along the East line of the Southeast 1/4 of said Section 16 a distance of 661.56 feet; thence South 89°38'40" West, 2,643.21 feet to the West line of the Southeast 1/4 of Section 16; thence South 00°20'16" West along said West line, 196.75 feet; thence South 42°13'09" West, 98.69 feet to the right of way of STH 164; thence North 00"18'30" East, 382.65 feet; thence North 89"14'57" East, 66.09 feet to the West line of the Southeast 1/4 of Section 16; thence North 00°20'16" East along said West line 551.08 feet to the Center of Section 16; thence North 89°42'48" East, 536.21 feet; thence North 02°04'12" West, 320.53 feet; thence South 89°51'47" West, 150.00 feet; thence South 02°04'12" East, 103.90 feet; thence South 87°55'48" West, 16.50 feet; thence South 02°04'12" East, 199.98 feet; thence South 89°42'48" West, 368.95 feet to the West line of the Northeast 1/4 of Section 16; thence North 00°34'47" East along said West line, 1,297.43 feet; thence North 89°33'54" East, 1,318.31 feet to the West line of Lot 1 of Certified Survey Map No. 2515; thence South 00°28'41" West, along said West line and the extension thereof 1,317.34 feet to the South line of Lot 2 of Certified Survey Map No. 2491; thence North 89°42'48" East along said North line 1,320.60 feet to the point of beginning. Containing 3,452,941 square feet, 79.27 acres

That I have made such survey, land division and plat by the direction of Hillside Ridge LLC, owner of said lands.

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

That I have fully complied with the provisions of Chapter 236 of the Wisconsin State Statutes, Waukesha County and the subdivision regulations of the Town of Lisbon in surveying, dividing and mapping the same.

> There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2),

Wis Stats. as provided by s. 236.12, Wis. Stats.

Department of Administration

Dated this 24th day of June, 2020. Revised this 8th day of July, 2020.



Keith A. Kindred, PLS S-2082

## **UTILITY EASEMENT PROVISIONS**

An easement for electric, natural gas, and communications service is hereby granted by

HILLSIDE RIDGE LLC, Grantor, to

WISCONSIN ELECTRIC POWER COMPANY and WISCONSIN GAS, LLC, Wisconsin corporations doing business as We Energies, Grantee,

WISCONSIN BELL INC d/b/a AT&T WISCONSIN. Grantee, and

SPECTRUM MID-AMERICA, LLC, Grantee

their respective successors and assigns, to construct, install, operate, repair, maintain and replace from time to time, facilities used in connection with overhead and underground transmission and distribution of electricity and electric energy, natural gas, telephone and cable TV facilities for such purposes as the same is now or may hereafter be used, all in, over, under, across, along and upon the property shown within those areas on the plat designated as "Utility Easement Areas" and the property designated on the plat for streets and alleys, whether public or private, together with the right to install service connections upon, across within and beneath the surface of each lot to serve improvements, theron, or on adjacent lots; also the right to trim or cut down trees, brush and roots as may be reasonably required incident to the rights herein given, and the right to enter upon the subdivided property for all such purposes. The Grantees agree to restore or cause to have restored, the property, as nearly as is reasonably possible, to the condition existing prior to such entry by the Grantees or their agents. This restoration, however, does not apply to the initial installation of said underground and/or above ground electric facilities, natural gas facilities, or telephone and cable TV facilities or to any trees, brush or roots which may be removed at any time pursuant to the rights herein granted. Buildings shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "Utility Easement Areas" without the prior written consent of Grantees. After installation of any such facilities, the grade of the subdivided property shall not be altered by more than four inches without written consent of grantees.

The grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

# WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE:

The above, which has been filed for approval as required by Chapter 236, WI. Statutes and Waukesha County Shoreland and Floodland Subdivision Control Ordinance, is hereby approved on this

day of	, 20

# CERTIFICATE OF COUNTY TREASURER:

STATE OF WISCONSIN) COUNTY) SS

Dale Shaver, Director

I, Pamela Reeves, being duly elected, qualified and acting Treasurer of Waukesha County, do hereby certify that the records in my office show no unredeemed tax sales and no unpaid taxes or special assessments as of \_\_\_\_\_\_ of Hillside Ridge.

Pamela Reeves, County Treasurer



SURVEYOR: KEITH A. KINDRED, PLS S-2082 SEH, INC. 501 MAPLE AVE. DELAFIELD, WI 53018 (414) 949-8919 KKINDRED@SEHINC.COM

SURVEY FOR: HILLSIDE RIDGE, LLC NEUMANN COMPANIES INC. N27W24025 PAUL CT. STE 100 PEWAUKEE, WI 53072

# HILLSIDE RIDGE

LOT 1 OF CERTIFIED SURVEY MAP NO. 1544 AND LANDS BEING A PART OF THE NE 1/4 AND NW 1/4 OF THE SE 1/4, A PART OF THE SW 1/4 OF THE NE 1/4 AND A PART OF THE NE 1/4 OF THE SW 1/4, ALL IN SECTION 16, TOWN 8 NORTH, RANGE 19 EAST, TOWN OF LISBON, WAUKESHA COUNTY, WISCONSIN

#### LIMITED LIABILITY OWNER'S CERTIFICATE OF DEDICATION:

Hillside Ridge LLC, a limited liability company duly organized and existing under and by virtue of the laws of the State of Wisconsin, as owner, does hereby certify that said corporation caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on this plat.

Hillside Ridge LLC, does further certify that this plat is required by S236.10 or S236.12 to be submitted to the following for approval or

- 1) Department of Administration
- 2) Town of Lisbon
- Village of Sussex 4) Waukesha County
- 5) Wisconsin Department of Transportation

WITNESS WHEREOF, said Hillside Ridge LLC	C, has caused these presents to be signed by	, member, at
, Wisconsin, and	its corporate seal to be hereunto affixed on this	day of
In Presence of:		

, member

STATE OF WISCONSIN)				
COUNTY) SS				
Personally came before me this	day of	, 20_	, the above name	d
member of the above named corporati	on, to me known to be	such member of said	corporation, and acknowle	dged that they executed the

Notary Public		
	Notary Public	

My Commission Expires \_\_\_\_\_

foregoing instrument as such officers as the deed of said corporation, by its authority.

# CONSENT OF CORPORATE MORTGAGEE

My commission expires

Wisconsin, mortgagee of the abov	·	
	, mapping and dedication of the land described on this plat, and do	es hereby consent to the above
certificate of	<del></del>	hasa praganta ta ha aignad hu
	has caused t its President, and countersigned by	
	, Wisconsin, and its corporate seal to be hereunto affixed this	
ат , 20		day or
In presence of:	<del></del> ·	
	(Corporate Seal)	
Corporate Name	Countersigned	
President	Secretary (Cashier)	
STATE OF WISCONSIN)		
COUNTY) SS)		
Personally came before me this	s day of	, 20,
the above named	, President, and, S	ecretary (cashier) of the above named
corporation, to me known to be the	e persons who executed the foregoing instrument, and to me known	n to be such President and Secretary
(cashier) of said corporation, and a	acknowledged that they executed the foregoing instrument as such	officers as the deed of said corporation
by its authority.		

TOWN BOARD AI	PROVAL CERTIFICATE:	
Resolved that the plat of Hillside of Lisbon.	Ridge, in the Town of Lisbon, Hillside Ridge LLC, owner, is hereby approved by the Town Board of the Town	
All conditions have been met as	of the day of, 2020.	
Date:	Signed Joseph Osterman, Town Chairman	
Date:	Signed Steven Braatz, Interim Town Clerk	
PLAN COMMISSIO	N APPROVAL CERTIFICATE:	
Resolved that the plat of Hillsic	Ridge, in the Town of Lisbon, Hillside Ridge LLC, owner, is hereby approved by the Plan Commission.	
Approved as of the day of	, 2020.	
Date:	Signed Joseph Osterman, Chairperson	

#### CERTIFICATE OF TOWN TREASURER:

STATE OF WISCONSIN)	
COUNTY) SS	
I, Amy Buchman, being the duly appointed, qualified and acting Town Treasurer of the Town	wn of Lisbon, do hereby certify that in accordance with the records in
office, there are no unpaid taxes or unpaid special assessments as of	on any of the land in the plat of Hillside Ridge.
Dated	
Amy Buchman, Town Treasurer	

Steven Braatz, Interim Town Clerk

# VILLAGE OF SUSSEX VILLAGE BOARD EXTRA-TERRITORIAL APPROVAL CERTIFICATE:

solved that the plat of Hillsido age of Sussex.	e Ridge, in the Town of Lisbon, Hillside Ridge LLC, owner, is hereby approved by the Village Board of the
conditions have been met as	s of the day of, 2020.
e:	Signed Anthony J. LeDonne, Village President
e:	Signed Sam Liebert, Village Clerk

# VILLAGE OF SUSSEX PLAN COMMISSION EXTRA-TERRITORIAL APPROVAL CERTIFICATE:

Resolved that the plat of Hillside Ridge, in	the Town of Lisbon, Hillside Ridge LLC, owner, is hereby approved by the Plan Commission of the
Village of Sussex.	
Approved as of the day of	, 2020.
Date: Signed	
An	nthony J. LeDonne, Chairperson
Date: Signed	
S	am Liebert, Village Clerk