

CITY OF CEDARBURG

PLAN COMMISSION

May 6, 2024

A regular meeting of the Plan Commission, City of Cedarburg, Wisconsin, will be held at 7:00 p.m. on Monday, May 6, 2024. Attendees have the option of joining the meeting in person at City Hall, W63N645 Washington Avenue, upper level, Council Chambers, or online via the following Zoom link:

<https://us02web.zoom.us/j/87521252357>.

AGENDA

1. CALL TO ORDER - Mayor Patricia Thome
2. ROLL CALL: Present - Mayor Patricia Thome, Jack Arnett, Adam Voltz, Sig Strautmanis, Sherry Bublitz, Jon Scholz

Also Present - Jon Censky, City Planner, Administrative Assistant Theresa Hanaman

3. STATEMENT OF PUBLIC NOTICE
4. APPROVAL OF MINUTES – April 1, 2024, Joint Meeting with Common Council, March 11, 2024
5. COMMENTS AND SUGGESTIONS FROM CITIZENS
6. REGULAR BUSINESS; AND ACTION THEREON

- * A. Petitioner: **Jordan Larson – Cedarway Development**
Request: **Final Approval of the Architectural details and Development Agreement**
Briefing: The petitioner is requesting approval of his detailed site, architectural and landscape plans, along with the Certified Survey Map, and the Development Agreement for the Cedarway project located on property at W61 N449 Washington Avenue.

Current Zoning: Rm1 PUD

Aldermanic District: W3/AD3

Tax Key No.: 13-0050-19-13-001

Previous Discussion Dates: March 6, 2023, April 3, 2023, September 6, 2023, March 4, 2024.

- * B. Petitioner: **City of Cedarburg**
Request: **Flood Plain Ordinance Recommendation**
Briefing: The Plan Commission will review and possibly recommend adoption of the updated Floodplain Ordinance which will now meet all State and Federal requirements under NR 116, Wis. Admin. Code, and those of the National Flood Insurance Program 44 CFR 59-72. Section 87.30(1)(b), Stats.

Current Zoning:

Aldermanic District:

Tax Key No.:

Previous Discussion Dates:

8. COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS
- **9. MAYOR'S ANNOUNCEMENTS
10. ADJOURNMENT

* *Information attached for Commission Members; available through City Clerk's office.*

** *This topic is to be limited to such items as establishing the next meeting date, items for the next agenda, reminders of scheduled community events, etc.*

City of Cedarburg is an affirmative action and equal opportunity employer. All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, age, sexual orientation, gender identity, national origin, veteran status, or genetic information. City of Cedarburg is committed to providing access, equal opportunity, and reasonable accommodation for individuals with disabilities in employment, its services, programs, and activities. To request reasonable accommodation, contact the Clerk's Office at (262) 375-7606 or email: cityhall@ci.cedarburg.wi.us.

**MEMBERS – PLEASE NOTIFY CITY CLERK'S
OFFICE IF UNABLE TO ATTEND MEETING**

It is possible that a quorum of members of the Common Council may attend Plan Commission meetings held the first Monday of each month at 7:00 p.m. No business will be conducted by the Common Council and no action will be taken. Attendance is for the purpose of information gathering and exchange.

05/02/2024

**CITY OF CEDARBURG
PLAN COMMISSION**

**PLN20240401-1
UNAPPROVED MINUTES**

April 1, 2024

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, April 1, 2024, at Cedarburg City Hall, W63N645 Washington Avenue, upper level, Council Chambers and online via the zoom app. The meeting was called to order at 7:00 p.m. by Mayor Michael J. O'Keefe.

Roll Call	Present -	Mayor Michael J. O'Keefe, Council Member Patricia Thome, Jack Arnett, Tom Wiza, Kip Kinzel
	Excused-	Commissioner Adam Voltz, Commissioner Sig Strautmanis
	Also Present -	City Planner Jon Censky, Administrative Secretary Theresa Hanaman, Ryan Fitting, Attorney Brian Randall, Bryan Lindgren, interested Citizens

STATEMENT OF PUBLIC NOTICE

Administrative Secretary Hanaman confirmed that the agenda for the meeting had been posted and distributed in compliance with the Wisconsin Open Meetings Law.

APPROVAL OF MINUTES

A motion was made by Commissioner Thome, seconded by Commissioner Wiza to approve the Planning Commission minutes from March 4, 2024. Motion carried without a negative vote, with Commissioner Voltz and Commissioner Strautmanis excused.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Terry King, W63N762 Sheboygan Road – expressed concerns regarding traffic and speeding with possible new developments.

Cathy Czech, N119W5835 James Circle – expressed concerns regarding direct communication with Plan Commission members.

REVIEW AND POSSIBLY APPROVE REQUEST TO DIVIDE THE EXISTING PARCEL LOCATED AT N50W7106 WESTERN AVENUE INTO TWO SEPARATE PARCELS OF 22,133SF AND 16,200SF IN SIZE.

The applicant is proposing a land division that will result in a front lot with 135' of frontage and the back lot with 30 feet of frontage extending back to the buildable area. While the applicant would like two side by-side lots, the existing lot lacks sufficient width to achieve the 90-foot width requirement for each lot.

Council Member Thome questioned the setbacks of the property and if it was possible to divide down the middle.

Planner Censky notes that the Rs-3 District requires a minimum lot size of 12,000 square feet and lot width of 90 feet, therefore, while the applicant has more than sufficient area to support two lots that exceed 12,000 square feet, the site cannot meet the width requirement for two side-by-side lots.

Planner Censky informed Plan Commission that Section 13-1-27 Site Restrictions (b) Public Road Frontage state: all lots shall abut upon a public street, and each lot shall have a minimum frontage of 30'. The land division does include the dedication of public right-of-way and therefore Common Council approval is required. After review, Planner Censky indicates compliance with the two sections of the code stated above and therefore recommends approval subject to Common Council approval.

Action: Motion made by Commissioner Thome to approve splitting the parcel located at N50W106 Western Avenue, seconded by Commissioner Wiza. Commissioner Arnett abstained. The motion was carried without a negative vote with Commissioner Voltz, and Commissioner Strautmanis excused.

REVIEW AND DISCUSSION OF LAND USE LOCATED AT THE SOUTHEAST CORNER OF HWY 60 AND SHEBOYGAN ROAD AND NORTH SIDE OF HWY 60 WEST OF SHEBOYGAN ROAD.

As regards to the Wirth property, the comments from last month's joint meeting seemed to suggest that a mix of commercial uses and less intense residential uses would be acceptable. The results of the discussion regarding the Neumann project seemed to indicate the Council and this Commission could support the combined single-family and two-family project but at a lower density and with a look that reflected Cedarburg's image.

In consideration of the comments received, Planner Censky drafted a new zoning district which could be applied to the Wirth property. The intent of this new zoning district is to allow for a mix of commercial and residential uses with the residential uses being restricted to the south portion of the site to serve as a transition from the apartment building to the south and future commercial development to the north along Highway 60. This Ordinance would limit residential uses to no more than 40% of the total developed area of the site and the commercial area to constitute the larger developable area of the site. The uses allowed in the commercial area are defined in the B-1 Neighborhood business District and the residential area would be limited to the restrictions of the Rm-1 Multiple-Family District which includes a maximum density of 10.9 units/net acre and a maximum 4 units/building, among other things. Furthermore, since this site is a gateway to the City of Cedarburg, the ordinance goes on to state that all buildings and sites shall be designed to reflect Cedarburg's historic image through architecture, use of materials, building placement, landscaping, and low intensive lighting.

Attorney Brian Randall spoke on behalf of the Wirth family. It was decided by Plan Commission to not have any further discussion regarding the Wirth property at this time until after Attorney Michael Herbrand and Attorney Randall meet.

Action: None

In response to the comments received at the joint meeting, Neumann Development Inc. has downsized their plans to reflect the direction they received. While the overall concept is similar in layout, the applicant has reduced the total number of lots/units for the area to be within the city from 570 down to 422 units at a density of 1.97 units/gross acre. A portion of this land is located in the Town of Cedarburg and will need to be annexed into the City as part of the approval process. The project is divided into two, single-family neighborhoods and two, two-family condo neighborhoods with an element of open space meandering throughout the project. The two single-family neighborhoods are distinguished from each other by the size of the lots with the minimum lot sizes in the Villas to be 8,400sf and the minimum lot sizes in the Residence at 11,000sf. The two-family condo portion includes 70 units, 35 structures and are also separated from Hwy 60 and County Trunk I, by a swath of open space.

Planner Censky reminded Commissioners that the 60 acres at the northwest corner of Sheboygan Road and Hwy 60 was annexed into the city as part of the larger area annexed in 2005. The Hwy 60 frontage of this site, extending 300 feet back, is classified on the Comprehensive Land Use Plan as future 'Office' uses with the remainder of the site being classified as "Medium Density Residential". The lands west thereof remain in the Town of Cedarburg and because public utilities were not available, those lands are shown on the Land Use Plan as Agricultural or Open Spaces (1 unit/35 acres). The areas that will need to be annexed into the city will result in the need to address the Land Use Designation and zoning upon annexation. Planner Censky mentioned some preliminary technical comments such as, the proposed road pattern is such that traffic flow and snow plowing operations will be difficult and therefore staff recommends a better-defined east to west and north to south roadway design, a side yard setback of at least 8', that the cul-de-sacs are sized to support Fire Department equipment and ensure fire hydrants are appropriately placed. Planner Censky asked for consideration of comments from the City Forester regarding a 66-foot right of way.

Bryan Lingren from Neumann Development discussed changes made to the original plans such as adding more green space and changing the size of the lots, eliminating the town homes, and making the condominiums ranch style. Properties have been pulled away from Hwy 60 with a club house and more green space, berms, plantings, and ponds continuing to Hwy I. There is added commercial space for possible small business or restaurant. The applicant believed the 60-foot right of way is sufficient as 66-feet would take up too much land.

Plan Commission asked what the process looks like regarding the development agreement, the annexation, and sanitary and sewer. Council Member Thome confirmed the builders as Harbor Homes, Halen Homes, and Tim O'Brien.

PUBLIC COMMENT

Cathy Czech N119W5835 James Cir.

Cathy mentioned liking the concept of a neighborhood for families. There is a 20-foot set back in The Glen with single story ranch homes and 15 ft between homes is too little.

Thomas Leja 1426 County I

Thomas is concerned about the fire department funding and their capabilities with this new subdivision.

Mark King W62N775 Sheboygan Rd.

Mark would like a development that looks more natural and believes that a 15 ft side setback is too small.

Terry King W63N762 Sheboygan Rd.

Terry questioned how much Washington Avenue is going to lengthen as regards to businesses with no room to expand and what it would look like for Cedarburg schools.

Travis Keshemberg 1219 Hwy I

Travis is concerned about the additional traffic around 5 Corners, Hwy I, and Sheboygan Rd should the project be approved.

Action: None

REVIEW AND APPROVAL THE UPDATED AND REVISED ZONING CODE

Since the last meeting, Planner Censky has made the changes as previously discussed and corrected Scribner's errors identified by Commissioner Arnett. Planner Censky also reworded the verbiage under the Purpose and Intent section to reflect the comments made at last month's meeting. Planner Censky is requesting Commissioners to recommend approval and send it to the Common Council for their review and ultimate adoption.

Residents are still concerned about the verbiage in the purpose and intent of the Zoning Code.

Action: None

COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS

Council Member Thome thanked Mayor O'Keefe, Commissioner Wiza and Commissioner Kinzel for their service.

MAYOR'S ANNOUNCEMENTS

Mayor O'Keefe thanked Plan Commission for their service.

ADJOURNMENT

A motion was made by Commissioner Arnett, seconded by Commissioner Wiza to adjourn the meeting at 8:40 p.m. The motion was carried without a negative vote with Commissioner Voltz and Commissioner Strautmanis excused.

Theresa Hanaman
Administrative Secretary

**CITY OF CEDARBURG
JOINT MEETING OF THE COMMON COUNCIL
AND PLAN COMMISSION
March 11, 2024**

**CC20240311-1
UNAPPROVED**

A joint meeting of the Common Council and Plan Commission of the City of Cedarburg, Wisconsin, was held on Monday, March 11, 2024 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers and online utilizing the Zoom app.

Mayor O’Keefe called the meeting to order at 6:03 p.m. A moment of silence was observed, and the Pledge of Allegiance was recited.

Roll Call: Present - Common Council - Mayor Michael O’Keefe, Council Members Melissa Bitter, Jim Fitzpatrick, Kristin Burkart, Kevin Curley, Robert Simpson, Patricia Thome, Mark Mueller (arrived at 6:08 p.m.)

Plan Commission - Commissioners Adam Voltz, Tom Wiza, Sig Strautmanis, Patricia Thome, Kip Kinzel, Jack Arnett, and Mayor Michael O’Keefe

Also Present - City Administrator Mikko Hilvo, Deputy City Clerk Jessica Campolo, City Attorney Michael Herbrand, City Planner Jon Censky, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor O’Keefe’s request, Deputy City Clerk Campolo verified that notice of this meeting was provided to the public by forwarding the agenda to the City’s official newspaper, the *News Graphic*, to all news media and citizens who requested copies, and by posting in accordance with the Wisconsin Open Meetings Law.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Cathy Czech N119W5835 James Cir.
Cathy went over the procedures for changing the Land Use Plan.

NEW BUSINESS

DISCUSSION AND POSSIBLE ACTION ON THE FUTURE LAND USE FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF SHEBOYGAN ROAD AND HWY 60

City Planner Censky explained the purpose of this joint meeting is to discuss future land use for the Wirth property located at the southeast corner of Sheboygan Road and Hwy 60. The most recent concept plan was from the Mandel Group and included 207 residential units with first floor commercial space. These plans were met with support from the Plan Commission but met with resistance by the Common Council. Mayor O’Keefe stated that it is fair for the Wirth family, as property owners, to understand what they can and cannot do with their property. Mayor O’Keefe asked Council Members and Plan Commissioners for their thoughts, and discussion ensued.

Council Member Thome shared she was not in favor of more apartments, but possibly townhomes or rowhouses. She feels there should be a retail component. Council Member Burkart expressed that the

needs on the north end of the city are not yet known. She is in favor of commercial property that would serve the residents of the north end. She is not in favor of apartments. Council Member Bitter shared that with discussion of new residential development in that area, the dynamic has now changed, and she needs to learn more. Council Member Simpson agreed. Council Member Mueller does not want to add more apartments. He wants to look at the long-range plan for that specific area. Council Member Curley sees the intersection as a gateway to the City, and feels it needs to be well designed. He also feels there should not be any investment from taxpayers. Council Member Fitzpatrick shared that he supported the Mandel proposal, and that zoning laws should not be a tool to micromanage personal property owned by others.

Commissioner Wiza shared that any future development should meet the City's needs and the needs of the public. He would like to see commercial use, as well as residential that is more affordable for smaller, younger families or retirees. Commissioner Arnett would like to master plan the entire area with the Town of Cedarburg. Commissioner Strautmanis expressed that the property owner and the Council should be able to rely on the Land Use Plan. He supported the Mandel plan because it was consistent with the zoning. Commissioner Voltz shared that current market conditions are not ideal for commercial, he inquired what kind of commercial would support the area. He said given the major intersection and the gradient of the housing, denser housing like rowhouses or townhouses makes sense on the Wirth property. Commissioner Kinzel shared that he agrees with everything that has been said.

Mayor O'Keefe asked City Planner Censky about the options regarding zoning, and Censky went over the various options.

DISCUSSION ON THE PROPOSED CONCEPT PLAN FOR THE AREA ALONG THE NORTH SIDE OF HWY 60 FROM SHEBOYGAN ROAD WEST TO FIVE (5) CORNERS

Bryan Lindgren from Neumann Developments presented a concept development for the land north of Hwy 60, containing a variety of housing styles totaling 580 homes. It would be developed over a decade. Following the presentation the following comments were made by Council Members and Plan Commissioners:

Council Member Curley shared that the architecture should fit in with the City of Cedarburg. Council Member Bitter shared that the development looks dense, lacking enough green space. Commissioner Arnett shared that this would bring in about \$2 million in taxes and about the same amount to the school district. Commissioner Wiza thinks growth of fifty units per year for ten years is reasonable. A discussion was held regarding the backs of homes facing important roads and how that is not desirable. Ideas were shared regarding landscaping. Common Council Thome expressed that she knows this land will be residential eventually, and it must be done right, it must have a "Cedarburg" feel to it. Council Member Burkart said that she is concerned about the schools and does not feel that \$500,000 is affordable for a home. Council Member Curley agreed with Council Member Burkart about affordability, and stated the City should be attracting people who can build a legacy in Cedarburg. There was a consensus among Council Members and Plan Commissioners that this area of Cedarburg needs to be looked at holistically. Ideally this is done using a Master Plan.

PUBLIC COMMENT

Cathy Czech N119W5835 James Cir.

Cathy likes the idea of smaller, single-family homes on the north side of Hwy 60. She inquired if there will be sidewalks on Hwy 60 and if Hwy 60 will be made wider. She desires commercial space on the Wirth property.

Terry King W63N762 Sheboygan Rd.

Terry likes the idea of redoing the Master Plan, looking at the big picture, and involving the whole community in these discussions.

Mark King W62N775 Sheboygan Rd.

Mark wants commercial development on the Wirth property. He wants to see the current housing units that are in development come to fruition and learn the impact those have on the City.

Steve Leonard N91W5939 Dorchester Dr.

Steve stated with the loss of Baehmann's Golf and potential loss of Circle B, there needs to be more recreation/entertainment available to City residents. He supports the idea of a Master Plan.

ADJOURNMENT

Motion made by Commissioner Arnett, seconded by Commissioner Kinzel, to adjourn the meeting at 7:43 p.m. Motion carried without a negative vote.

Motion made by Council Member Burkart, seconded by Council Member Thome, to adjourn the meeting at 7:43 p.m. Motion carried without a negative vote.

Jessica Campolo
Deputy City Clerk

JORDAN LARSON FINAL DETAILED PLANS

To: Cedarburg Plan Commission

Prepared by: Jonathan Censky, City Planner

Agenda Item: 6.B.

Date: May 6, 2024

General Information

Applicant:

Jordan Larson

Location:

W61 N449 Washington Avenue

Requested Action:

Final Details

Existing Zoning:

Rm-1 PUD

Proposed Zoning:

Rm-1 PUD

Surrounding Zoning:

Rm-2 – W & S; Rs-5 - E

Lot Size:

30,615sf + 9,670sf + 5,281sf (row) = 45,565sf

Existing Land Use:

Vacant

Report:

Commission members are reminded that this project successfully went through the PUD rezoning process last year with your review of the development plans and recommendation of the PUD zoning on June 5, 2023. That recommendation was followed by the required public hearing at the Common Council meeting held on October 9, 2023, at which time the plans were approved by unanimous vote subject to the applicant returning to this Commission for approval of the final detailed plans.

You will recall that the applicant presented his detailed plans to you this past March however, at the request of the applicant, Commissioners voted to postpone action on these plans until they had time to review the Development Agreement with their Attorney. Having now completed that review, he is prepared to pursue approval of his detailed plans and the agreement in your packet.

Since the approval of the PUD zoning the applicant has been working with City Engineer Mike Wieser on the infrastructure, grading, drainage, and erosion control plans and with City Attorney Mike Herbrand on the development agreement. Most recently, Commissioners Voltz and Strautmanis and I again met with Jordan Larson to review his site and architectural plans and reiterate certain changes that were originally suggested but were not incorporated in the latest submittal. Those changes have now been made and are shown in this set of plans. The changes include such things as replacing the smaller gable roof dormers with shed roof style dormers, provide open space between garages, distinguishing the various building sections by changing the vertical siding with horizontal and to better balance the location of windows.

The plans otherwise propose to use LP Smartside Vertical, Horizontal and Shake siding in Desert Stone color for the exterior materials. The roof will be covered with 50-year-dimensional fiberglass dark shingles to complement the Midnight Shadow colors of the trim boards. The windows will be fiberglass single hung units, the buildings will be equipped with exterior insulated doors and the garage insulated pre-finished metal garage doors.

Landscape Plan:

At the direction of Commissioners Strautmanis and Voltz, the applicant has now introduced an element of green space centered in the parking/turning movement area which will serve to break up the massive, asphalted area. These plans also show a series of planting beds around the periphery of this project, each including two or three Black Hills Spruce trees accented with Bark Mulch. Adjacent to the building, each patio will be bordered with a planting bed of low grow deciduous shrubs, upright arborvitae, and a colorful assortment of flowers. Finally, in response to our suggestion, the plan shows the dumpsters to be screened by a cedar wood dog eared style.

Site Plan:

As you know, this project will consist of one 3-unit townhome condominium structure located south of the driveway court and one 4-unit townhome structure located on the northside of the court. The garage behind the existing home fronting Washington Avenue will be removed to make room for the 3-unit building. With the removal of the garage, the applicant will need to provide a parking stall behind the home for the tenants of the home. To address the safety concerns regarding the access from Washington Avenue, the applicant has redesigned the entryway to widen the drive at its intersection with Washington Avenue to provide a better turning radius for those entering the site from the south bound lane. Commissioners are reminded that the PUD zoning locked in the rear and side yard setbacks 12'.

Certified Survey Map

Commissioners will recall that as a condition of approval of this project, the applicant was required to combine the front lot that supports his home with the rear lot. To accomplish that task the applicant has submitted the certified survey map included herewith. In addition to combining the two lots into one, the CSM will serve to officially remove the Road Reservation located at the west end of this parcel.

Staff Comments:

As a reminder, the applicant did work with our fire department to satisfy their access needs and with our engineering department on the drainage details. As this will be a condominium project, the applicant will need to produce the condo documents for Plan Commission review and Common Council approval. Staff's review indicates compliance with former conditions of approval and therefore recommends approval subject to the following:

- The minimum slope of the 8" sanitary sewer pipe shall be 0.40%.
- The applicant shall show elevations of the water main.

- Staff recommends the applicant place a storm water BMP at the low point in the parking lot to slow surface drainage.
- Staff recommends the parking lot to slope between 1% and 6%
- The entrance drive shall have a vertical face curb and gutter radius and a depressed head curb and gutter along Washington Ave.
- The maximum drive approach slope shall be 8%.
- The dimensional scale on pages 6-9 is wrong.
- the applicant securing Engineering department approval of the grading plans for the area along the south property line.
- The applicant shall provide a 12' wide utility easement along the north, south and west property line.
- The applicant to work with Cedarburg Light and Water for water connection issues/questions.
- Submittal of the final condominium documents.

DEVELOPMENT AGREEMENT

Cedar Way LLC
Cedarburg, Wisconsin
For Cedar Way Condominium

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made as of the ____ day of _____, 2024, by and between the CITY OF CEDARBURG, a Wisconsin municipal corporation (the "City") and Cedar Way, LLC (the "Developer").

RECITATIONS

0.1 The Developer owns the Property (as hereinafter defined). The tax key number and legal description of the Property is provided in **Exhibit A**;

0.2 The Developer desires to develop a seven-unit condominium, consisting of two total buildings, one 3-unit condominium building and one 4-unit condominium building, on the Property and record a Certified Survey Map (as hereinafter defined) as provided in **Exhibit B** to combine the real properties comprising the Property and create easements for public utilities;

0.3 The Property is conditionally zoned as a Planned Unit Development Overlay District ("PUD") and City Ordinance § 13-1-69(n)(2) requires that the Plan Commission recommend and the City Council approve a Development Agreement which shall include, without limitation:

- (a) Timetables for performance/completion of the Improvements (as hereinafter defined);
- (b) Performance requirements and standards and assurances for all Improvements and/or modifications pertaining to the PUD;
- (c) Inspection requirements;
- (d) Prohibition on any division/combination of real estate lots included within the PUD District except as otherwise provided;
- (e) Provisions for lapsing of specific plan approval and automatic reversion of the zoning status of the Property to non-PUD District status upon specific changes of circumstances or failure of the Development (as hereinafter defined) to materialize as agreed to in the Development Agreement;
- (f) Agreements, provisions and/or covenants or additional deed restrictions to be recorded against the lot(s) within the PUD District that will perpetually govern the use, maintenance and continued preservation and protection of the Development and any of its common services, common open areas and/or other facilities;

- (g) Exhibits, drawings or other attachments that depict Improvements, including but not limited to structures, fixtures and landscaping and their relative locations in the Development area as well as design and engineering details as necessary to document to a reasonable degree of specificity the type, character and nature of Improvements to be made within the Development area.

0.4 The Developer has caused engineering, planning and design services to be performed in preparation for construction of certain Improvements for the Development and will cause additional such services to be performed as the site is developed; and

0.5 The Developer intends to contract for installation of certain other site Improvements; and

0.6 The City shall cause inspections and approvals of the Improvements being dedicated to the City during installation by Developer based on the City approved civil engineering plans.

0.7 The Developer shall record a Declaration of Condominium, as further defined herein, for the purpose of creating the condominium form of ownership for the units located on the Property and for such other purposes set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitations, which are acknowledged to be true and correct, the mutual covenants, representations and warranties set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Article 1

Definitions

The following terms, whenever used in this Agreement, shall have the following meanings:

1.01 "Contract Documents" means all documents now or hereafter evidencing contracts with the Developer or its contractors, sub-contractors or affiliates for construction and installment of the required Improvements set forth in the Improvement Plans and all addenda and amendments thereto.

1.02 "Improvements" means the improvements as described in § 4.02 below, to be installed for the benefit of the Development by the Developer (or by contract with the Developer, whether under the Contract Documents as described in § 1.01, or otherwise).

1.03 "Certified Survey Map" means the Certified Survey Map presented to the Cedarburg Common Council on _____, 2024 and other pertinent authorities for final approval and recording with the Ozaukee County Register of Deeds Office. For purposes of this Agreement, the Certified Survey Map is comprised of the Development site, certain utility easements to be dedicated to the City and those public roadway areas adjacent to the Development. A true and complete copy of the Certified Survey Map is attached hereto as **Exhibit B** and is incorporated herein by reference.

1.04 "Declaration of Condominium" means the instrument by which the Property becomes subject to Chapter 703 of the Wisconsin Statutes. Said Declaration of Condominium shall comply with Chapter 703, include all requirements of Section 703.09, Wis. Stats., and include a condominium plat of the Development and for the Property ("Condominium Plat"). For purposes of this Agreement, the Declaration of Condominium includes the Development site, the creation of the incorporated condominium owner's association certain public utility easements to be dedicated to the City and those public road right-of-way areas adjacent to and within the Development. A true and complete copy of the Condominium Plat is attached hereto as **Exhibit C** and is incorporated herein by reference.

1.04 "Improvement Plans" means the improvement, grading and landscape plans prepared by M Squared Engineering with last revision dated _____ submitted by the Developer as approved by the City, along with any approved amendments or supplements. A true and complete copy of the Improvement Plans is attached hereto as **Exhibit D** and is incorporated herein by reference.

1.05 "Financial Guarantee" means one or more letters of credit or development bonds issued in conformity with the terms and conditions of this Agreement in the amount determined by the "Schedule of Values for Financial Guarantees" with respect to the Property.

1.06 "Property" means all the real property as described on **Exhibit A**.

1.07 "Development" means the seven-unit condominium, consisting of two total buildings, one 3-unit condominium building and one 4-unit condominium building to be constructed on the Property.

Article 2

Term

The term of this Agreement shall commence upon due execution hereof by or on behalf of all parties.

Article 3

Developer's Representations and Warranties

The Developer represents and warrants that:

3.01 Good Title. The Developer owns all of the Property free and clear of all liens and encumbrances other than encumbrances shown on the title policy for the Property and mortgages for the purpose of developing the Property, and that it has retained sufficient rights in and to the balance of the Property so as to make all provisions of this Agreement valid and enforceable against the Developer and all successors in interest.

3.02 Contract Documents. The Developer has examined the Contract Documents, is familiar with the specifications set forth therein, and has determined that they are adequate and sufficient for the Developer's purposes.

3.04 Authority. The Developer has received all required approvals to enter into this Agreement and the signatures below shall bind the Developer.

Article 4

Duties of the Developer

4.01 Storm Water BMP Maintenance. This development will install a biofilter pond to treat and store site storm water runoff. Upon completion of the installation of the biofilter by Developer, the Developer and/or condominium owner's association shall accept perpetual maintenance responsibilities for the biofilter.

4.02 Construction Duties of the Developer. The Developer shall construct and install the Improvements in a single phase and pay all costs therefor, pursuant to the applicable Contract Documents and Improvement Plans, as follows:

- (a) Site Grading. Grade the site pursuant to the Improvement Plans and § 14-1-73(c) of the City of Cedarburg Zoning Code approved by the City Engineer. The City acknowledges that a portion of the site (up to 1 acre in size) may be used for storing topsoil and/or fill during construction and may remain ungraded until completion of construction of all of the units in the Development. Prior to the installation of all underground utilities, Developer shall certify to the City that the grading has been completed in compliance with the aforementioned Improvement Plans. In the event that the actual grade is not in compliance, Developer shall pay all costs associated with making the grade compliant relaying the underground electrical services.
- (b) Sanitary Sewerage Systems. Developer agrees to pay for and install all onsite sanitary sewerage facilities including all sewer mains and service laterals necessary to serve the Development as depicted in the Improvement Plans. All sanitary sewer mains shall be dedicated to the City.
- (c) Water Supply Facilities. Developer agrees to pay for and install all onsite water supply facilities including all water mains, service laterals and appurtenances necessary to serve the Development as depicted in the Improvement Plans as approved by the City. All water mains shall be dedicated to the City.
- (d) Storm Water Drainage Facilities. Developer agrees to pay for and install all onsite storm water drainage facilities pursuant to § 14-2 necessary to serve the Development as depicted in the Improvement Plans as approved by the City. All on-site biofilters and grass swales shall be private and shall be maintained by the Developer and subsequent condominium owners' association in perpetuity.
- (e) Private Utilities. Developer shall file preliminary plans and Developer agrees to pay for and install private underground gas mains, electric distribution lines, cable television and telephone cables, pursuant to § 14-1-59.
- (f) Record Drawings. Prepare record drawings for those portions of the above work that are being dedicated to the City, pursuant to § 14-1-52(e). Developer shall prepare such drawings for work completed during each phase of the Development.

Provide full sized prints on 4 mil mylar as well as an electronic version in Auto Cad.

- (g) Curb and Gutter. Developer agrees to pay for and install concrete curb and gutter at the entrance to the Development as shown on the Improvement Plans and pursuant to § 14-1-54.
- (h) Sidewalks and Walking Paths. Developer agrees to pay for and install 5-foot wide concrete sidewalk along the Washington Avenue frontage, and as shown on the Improvement Plans and as approved by the City Engineer, pursuant to § 14-1-67. . All sidewalks installed for public use shall be located in the public road right-of-way and be dedicated to the City. The Developer and subsequent condominium owners association shall be responsible for the clearing of snow, ice or other materials that might limit the public use of the sidewalks.
- (i) Intersection Improvements. Developer agrees to pay for and install a fully improved connection to Washington Avenue to include concrete curb and gutter and sidewalk as required by the City. Such improvements shall be dedicated to the City.
- (j) Street Lighting. Street lighting within the site shall be private lighting maintained by the Developer as approved by the Plan Commission.
- (k) Landscaping Other Than Street Trees. Developer shall pay for and install landscape features as shown in the Improvement Plans. Such landscape features shall be maintained in perpetuity by the Developer or subsequent condominium owners association.
- (m) Erosion Control. Developer shall pay for, install and maintain erosion control using best management practices and pursuant to § 14-1-63, Chapter 14-2, and Chapter 15-2. Developer must comply with all applicable DNR permits, the City's Erosion Control Permit, and the Storm Water Management Permit.
- (n) Emergency Services and Utility Access Easement Grant. Developer hereby grants to the City, its employees, agents, contractors, successors, and assigns, pedestrian and motor vehicle access over, across, through and under all private drives and parking lots within the Development for purposes of pedestrian and vehicular access to maintain and repair all public utilities within the Development and for pedestrian and vehicular access for all governmental emergency services, including, but not limited to, police, fire, ambulance and emergency government. Such Easement grant shall be expressly stated on the Certified Survey Map and Final Condominium Plat for the Development.

(o)

4.03 Time for Completion. Each of the items in § 4.02 above shall be completed on the dates specified in this Agreement. Pursuant to § 13-1-69(o)(2)(4), if a building permit is not issued

for the first condominium unit in the Development within one (1) year of receiving the PUD zoning, the PUD district zoning for the Property shall be automatically discontinued and replaced with the zoning designation that existed prior to the PUD rezoning.

4.04 Impact and Connection Fees. Subject to the provisions of any State of Wisconsin law, prior to issuance of any building permit for a condominium building and payable at the time of building permit application, the following impact and connection fees will be due for condominium unit:

Sanitary Sewer Connection Fee	\$ 2,781.23
Library Building Fee	\$ 1,586.57 per unit
Police Station Fee	\$ 1,540.53 per unit
Park Facilities Fee	\$ 1,475.98per unit
Water Supply Facilities Fee	\$ 2,107.32 per unit

The fees set forth above are based on the City's rates for 2024

All of the above impact and connection fees are subject to an annual adjustment pursuant to § 3-6-9 of the Code of Ordinances.

4.05 Developer Payments.

- (a) Parkland Dedication and Fee in Lieu of Parkland Dedication. Developer shall pay a fee-in-lieu of Parkland Dedication for the Development in the amount of \$869.29 per condominium unit. The fee for each unit is due at the time of Building permit issuance for such unit.
- (b) Other Improvement Costs. Developer is responsible to pay for all reasonable engineering, administrative and legal fees associated with the Development, during the installation of public utilities, including the cost of construction inspection, materials testing, preparation of as-built drawings, and other fees associated therewith.
- (c) Account Statements. Developer shall review and approve all engineering, inspection, and attorney draw requests received by the City and pertaining to the Improvements. The City shall provide copies of each such request with supporting documentation to the Developer.

- (d) Recording Fees. Developer shall pay to the Register of Deeds for Ozaukee County all recording fees due for the recording of the Certified Survey Map, and any separate dedication instruments and grants of easements as are directly attributable to the Development.

4.06 Property Manager. The Developer and subsequent condominium owners association shall act as or shall retain a property manager who will be responsible for the maintenance of the private driveway, biofilter and all common elements.

4.07 Financial Guarantee. Developer shall provide an irrevocable letter of credit or an approved development bond to the City, which shall not expire prior to fourteen (14) months following the completion of all Improvements being dedicated to the City shown on the Improvement Plans, for the estimated costs of the installation of all such Improvements including: erosion control, biofilter, surface lift of asphalt pavement, public utilities, sidewalks, inspection and engineering fees. The Developer may apply for a reduction of the Financial Guarantee pursuant to § 14-1-51 of the Cedarburg Zoning Code Regulations. The City shall be authorized from time to time to draw against the Financial Guarantee for costs incurred and due the City pursuant to this Agreement if the Developer has not made payments or not completed required work in a timely manner as determined by the City Engineer.

The amount of the Financial Guarantee shall be based on the Bids/Estimates for the Improvements as set forth in the Schedule of Values in § 4.08 of this Agreement.

4.08 Schedule of Values for Financial Guarantee. Developer shall provide the Financial Guarantee which shall be dated no later than seven (7) days prior to the commencement of construction of the Improvements, in the amounts set for in § 4.06 and the Schedule of Values attached hereto. The Financial Guarantee shall be sufficient to cover the estimated costs to complete the Improvements for the Development that are being dedicated to the City based on § 4.02 and the Schedule of Values for the Development which include, but are not limited to, the required sewer and water main extensions and street signs.

[SCHEDULE OF VALUES FOR FINANCIAL GUARANTEE ON NEXT PAGE]

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SCHEDULE OF VALUES FOR FINANCIAL GUARANTEE

Item

	ESTIMATED COST
Biofilter	\$3,000
Erosion control	\$4,000
Sanitary Sewer	\$80,000
Water Main	\$75,000
Asphalt Pavement surface layer	\$15,000
Washington Avenue entrance (concrete curb, sidewalk, and pavement	\$15,000
Street Signs	\$100
Legal Fees (City)	\$5,000
Inspection Fees (including but not limited to City Administration fees)	\$16,000
Sub Total of Construction and Related Costs (Rounded)	\$213,100
Add 20% additional Contingency	\$42,620
THE SCHEDULE OF VALUES FOR EACH LINE ITEM IS BASED ON ESTIMATES. ACTUAL LINE-ITEM COSTS MAY VARY. THE TOTAL FINANCIAL GUARANTEE IS AVAILABLE TO THE CITY FOR COMPLETION OF EACH LINE ITEM. THE CITY IS NOT ACTING IN A FIDUCIARY CAPACITY AS TO THE FINANCIAL GUARANTEE.	

TOTAL OF FINANCIAL GUARANTEE:

\$255,720

4.09 Completion Schedule. Developer shall complete the Improvements being dedicated to the City no later than December 31, 2024.

4.10 Quality of Work.

- (a) All work performed under the provisions of this Agreement shall be done in a workmanlike manner in accordance with prevailing standards in the construction industry and all Improvements being dedicated to the City shall be done in accordance with established standards and specifications of the City as directed by the City Engineer.
- (b) The City shall have the right during the course of construction of Improvements being dedicated to the City under this Agreement to direct the Developer to issue contract change orders to be paid by Developer, and to amend the plans and specifications, but only to the extent required to assure that construction will conform to City standards and specifications. All contract change orders proposed by Developer involving public rights of way or easements shall be approved by the City.

Article 5

Indemnification

5.01 Indemnification Agreement.

- (a) In addition to, and not to the exclusion or prejudice of, any other provision of this Agreement, the Developer shall indemnify and hold harmless the City, its officers, agents and employees, and shall defend the same, from and against any and all liability, claims, loss, damages, interest, action, suits, judgments, costs, expenses, reasonable attorneys' fees and the like, to whomsoever owed and by whomsoever and whenever brought or obtained, which may in any manner result from the work performed or the responsibilities of the Developer under this Agreement, expressly including, though not limited to, negligence and the breach of any duty whether imposed by statutes, ordinances, regulations, order, decree or law of any other sort or by contract, on the part of the Developer or its officers, employees, agents or independent contractors, in carrying out the work and in supervising and safeguarding the same in any respect whatever, and including claims arising under any federal, state or local law, including Worker's Compensation laws and including negligence and the breach of any duty whether imposed by statutes, ordinances, regulations, order, decree or law of any other sort or by contract, on the part of the Developer or its officers, employees, agents or independent contractors, in carrying out the work and in supervising and safeguarding the same in any respect.
- (b) If a claim is made against the City related to work performed by the Developer or the responsibilities of the Developer under this Agreement, the City agrees that it shall, within ten (10) days of its notice thereof, notify the Developer and any liability insurance carrier, which has been designated by the Developer. The

Developer shall thereafter provide full cooperation in defense of the claim. The Developer shall, at the option of the City, defend any claim on behalf of the City in which case the Developer or its insurer is authorized to act on behalf of the City in responding to any claim to the extent of this indemnity. Such authorization includes the right to investigate, negotiate, settle and litigate any such claim and control of the defense thereof subject to the approval of the City.

5.02 Extent of Damages. In every case, but not as a limitation on the liability of the Developer to the City, where judgment is recovered against the City on any such claim as provided in this Article 5, if notice has been given to Developer under § 5.01 above, any judgment thereon shall be conclusive upon the Developer as to the amount of damages and as to its liability therein; provided, however, notwithstanding anything to the contrary contained herein, the City shall reserve and maintain all of its rights and remedies to pursue recovery of all legal and equitable remedies.

5.03 Limitations as to Financial Guarantee. It is expressly understood and agreed by the City, unless specifically directed and authorized by the Developer, that the Financial Guarantee as required of the Developer pursuant to § 4.07 above, is not subject to any draw by the City, or any other party or person, to pay for any, or all, claims for personal injury and property damage arising from the construction or installation of such Improvements, but that the Financial Guarantee is exclusively limited to the payment for the Improvements not provided for by the Developer pursuant to the terms hereof, and for no other purposes.

Article 6

Compliance

6.01 Compliance With Law and Regulations. The Developer shall, in the performance of this Agreement, comply with, and give all stipulations and representations required by all applicable federal, state and local laws, ordinances and regulations. The Developer shall also require such compliance, stipulations and representations with respect to any contract entered into by Developer with others pertaining to the work covered by this Agreement.

6.02 Public Records Law The Developer understands that the City is bound by the Wisconsin Public Records Law, Wis. Stat. Sec. 19.21, *et. Seq.*, Pursuant to Wis. Stat. Sec. 19.36(3), City may be obligated to produce, to a third party, the records of Developer that are “produced or collected” by Developer under this Agreement (“Records”). Developer is further directed to Wis. Stat. Sec. 19.21, *et. Seq.*, for the statutory definition of Records subject to disclosure under this paragraph, and Developer acknowledges that it has read and understands that definition. Irrespective of any other term of this Agreement, Developer is (1) obligated to retain Records for seven years from the date of the Record’s creation, and (2) produce such Records to City if, in City’s determination, City is required to produce the Records to a third party in response to a public records request. Developer’s failure to retain and produce Records as required by this paragraph shall constitute a material breach of this Agreement, and Developer must defend and hold the City harmless from liability due to such breach.

Article 7

Conditions and Waivers

Except as otherwise provided in this Agreement, the City shall have no duty to issue building permits for construction of buildings within the Development unless and until all the following have occurred:

7.01 Improvement Plans. Improvement plans including sanitary sewer, watermain, biofilter, and grading plans for the Development have been approved by the City Engineer.

7.02 Improvements. Construction of site grading, sanitary, sewerage systems, water supply facilities, stormwater drainage facilities, and gravel base for driveway and/or parking lots are completed pursuant to Section 4.02 and the sewer and watermain improvements are dedicated and accepted by the city in accordance with the schedule specified in Section 4.09.

7.03 Impact Fees. The Developer has paid the fees referenced in 4.05 (a) and (b) for the condominium units for which the building permit is requested and all impact and connection fees for the issuance of a building permit for such condominium unit.

7.04 Except as otherwise provided in the Agreement, the city shall have no duty to issue occupancy permits for buildings within the Development unless and until all the following have occurred.

(a) Natural gas, electrical, communications cable have been completely installed servicing the building for which Developer is seeking occupancy.

(b) Sanitary sewer, watermain, storm sewer, and all laterals in the right-of-way have been completely installed and approved serving the building for which Developer is seeking occupancy.

(c) Paved parking is constructed and completed serving the building for which Developer is seeking occupancy.

(d) Developer or Landowner has granted all access and maintenance easements to the City, as required in Article 4, herein.

Article 8

Additional Terms

8.01 Time is of Essence. The times of performance of the terms and requirements of this Agreement and of the satisfaction and waiver of the conditions hereof are essential to the whole of this Agreement.

8.02 Dedication. Subject to the applicable provisions of the City Ordinances, as amended, upon the final approvals of the Common Council and recording of the Certified Survey Map, the public utility easements dedicated therein by the Developer may be accepted by the City. Additionally, the Developer shall, without charge to the City, upon completion of all of the

Improvements being dedicated to the City pursuant to § 4.02, unconditionally give, grant, convey, and fully dedicate the same to the City, and its successors and assigns forever, free and clear of all encumbrances whatsoever, including, without limitation, any and all structures, mains, conduits, pipes, lines, equipment, and appurtenances pertaining to such Improvements. After such Dedication, the City shall be solely responsible for the maintenance, repair and replacement of such Improvements and have the right to connect or integrate other Improvements or public facilities to the Improvements hereunder as the City decides, without payment or award to, or consent required of, the Developer.

8.03 No Waiver: Remedies. The failure of any party to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any parties' rights thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect. In no event shall any terms or conditions of this Agreement be deemed or interpreted as a waiver by the City or its insurer of any Statutory immunities, defenses, or other rights provided by law, including, but not limited to, notice rights under Chapter 893, Wis. Stats., damage limitations and statutory immunities or any kind. To the extent that indemnification is available and enforceable, neither the City nor its insurer shall be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law.

8.04 Notices. All notices and other communications provided for under this Agreement shall be in writing (including telefax communications) and mailed (certified), sent by facsimile, or personally delivered:

If to the City, as follows:

With a copy to:

Mike Wieser, P.E.
Director of Engineering and Public Works
Cedarburg City Hall
W63 N645 Washington Avenue
Cedarburg, WI 53012
Fax: (262) 387-2051

Attorney Michael Herbrand
Houseman and Feind, LLP
Attorneys at Law
1650 9th Avenue
Grafton, WI 53024
Fax: (262) 377-6080

If to Developer, as follows:

Cedar Way, LLC
Attn: Jordan D. Larson

or, as to each party, at such other address as shall be designated by such party in a written notice to the other party in accordance herewith. Delivery of all such notices and communications shall be deemed complete, (a) if mailed, when deposited in the mail for certified mail, return receipt

requested, postage prepaid, or (b) if sent by facsimile, when confirmed as being received by the party to whom faxed or delivered, or (c) when personally delivered.

8.05 Force Majeure. The obligations of either of the parties hereunder shall be suspended to the extent that it is hindered or prevented from complying therewith because of labor disturbances, including strikes and lockouts, acts of God, fires, storms, accidents, or any cause whatsoever beyond the control of the parties.

8.06 Amendments. No amendment, modification, termination, or waiver of any provision of this Agreement, nor consent to any departure from this Agreement shall in any event be effective unless the same shall be in writing and signed by both parties, and it shall be effective only in the specific instance and for the specific purpose for which given.

8.07 Assignment. This Agreement, and the interests hereunder, shall not be assigned except with the prior, written consent of the City.

8.08 Survival. All of the terms, conditions, and provisions of this Agreement, including but not limited to, all indemnification provisions, shall survive the completion of this Agreement.

8.09 Severability of Provisions. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement.

8.10 Headings. Article and Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

8.11 Integration of Terms. This Agreement represents the entire agreement of the parties.

by: _____
Jordan Larson, Member

Personally came before me this ____ day of _____, 2024, the above-named Jordan Larson, to me known to be the person who executed the foregoing instrument and acknowledged the same on behalf of, Inc. by its authority.

Notary Public, State of Wisconsin
My commission: _____

After recording, please return to:
Tracie Sette, City Clerk
City of Cedarburg
P.O. Box 49
Cedarburg, WI 53012-0049

EXHIBIT A

Legal Description of Property

[To be inserted]

The Tax Key Numbers for the Property are Tax Key No. 130501913001 and 130501911003

Lot One (1) of Certified Survey Map No. 1246 recorded in the office of the Register of Deeds for Ozaukee County, Wisconsin, as Document No. 318654, being a division of all of Lot 12 and part of Lots 11 and 13, Block 19, Assessor's Plat of the City of Cedarburg, in the North East ¼ of Section 34, Township 10 North, Range 21 East, in the City of Cedarburg, Ozaukee County, Wisconsin.

AND TOGETHER WITH an easement for ingress and egress as contained in Access Easement Reservation recorded on January 3, 2006 as Document No. 833625.

And:

Lot Four (4) of Certified Survey Map No. 1246 recorded in the office of the Register of Deeds for Ozaukee County, Wisconsin, as Document No. 318654, being a division of all of Lot 12 and part of Lots 11 and 13, Block 19, Assessor's Plat of the City of Cedarburg, in the North East ¼ of Section 34, Township 10 North, Range 21 East, in the City of Cedarburg, Ozaukee County, Wisconsin.

AND TOGETHER WITH an easement for ingress and egress as contained in Access Easement Reservation recorded on January 3, 2006 as Document No. 833625.

EXHIBIT B

Certified Survey Map

[To be inserted]

EXHIBIT C

Improvements Plans, including Landscape Plans, Completed by

[To be inserted]

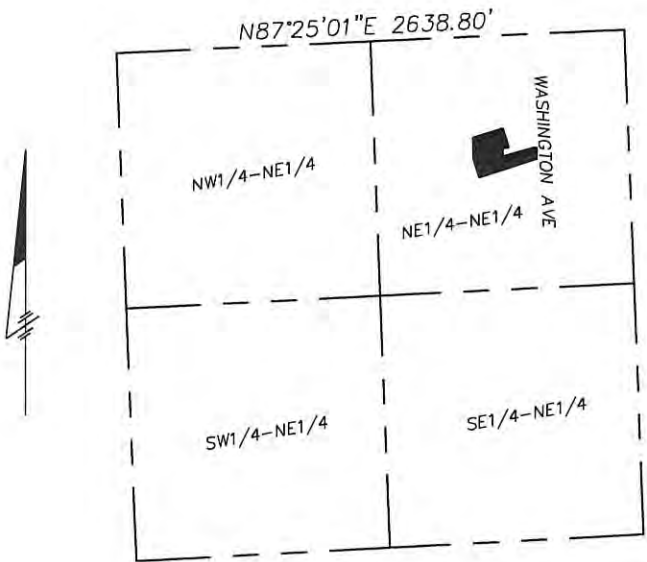
EXHIBIT D
Condominium Plat

OZAUKEE COUNTY CERTIFIED SURVEY MAP NO. _____

LOTS 1 AND 4, AND THAT PART DEDICATED FOR THE FUTURE HANOVER STREET, OF CERTIFIED SURVEY MAP NO. 1246,
LOCATED IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 10 NORTH, RANGE 21 EAST,
CITY OF CEDARBURG, OZAUKEE COUNTY, WISCONSIN

OWNER:
JORDAN D. LARSON
N81W6995 PINE ST
CEDARBURG, WI 53012

SURVEYOR:
ANTHONY J. GROMACKI, PLS
M SQUARED ENGINEERING, LLC
N19W6719 COMMERCE CT
CEDARBURG, WI 53012
PHONE 262-376-4246



VICINITY MAP

NE 1/4, SECTION 34, T. 10 N., R. 21 E.
SCALE 1" = 1000'

SHEET INDEX

SHEET 1	VICINITY MAP & NOTES
SHEET 2	EXTERIOR BOUNDARY
SHEET 3	SURVEYOR'S CERTIFICATE
SHEET 4	OWNER'S CERTIFICATE & APPROVALS

COORDINATE SYSTEM - BASIS OF BEARINGS

WISCONSIN SPC SOUTH ZONE - US SURVEY FEET
GEODETIC DATUM: NAD 83 (2011) EPOCH 2010.00
THE NORTH LINE OF THE NE 1/4, SECTION 34, T.10N., R.21E.
RECORDED AS N.87°25'01"E.

SURVEY NOTES

1. THE PURPOSE OF THIS CSM IS THE RE-DIVISION OF LOTS 1 & 4, AND THE MERGING OF THAT PART DEDICATED FOR THE FUTURE HANOVER STREET, OF CERTIFIED SURVEY MAP NO. 1246.
2. THE PROPERTY WAS REZONED BY CITY OF CEDARBURG ORDINANCE NO.xxxxxx

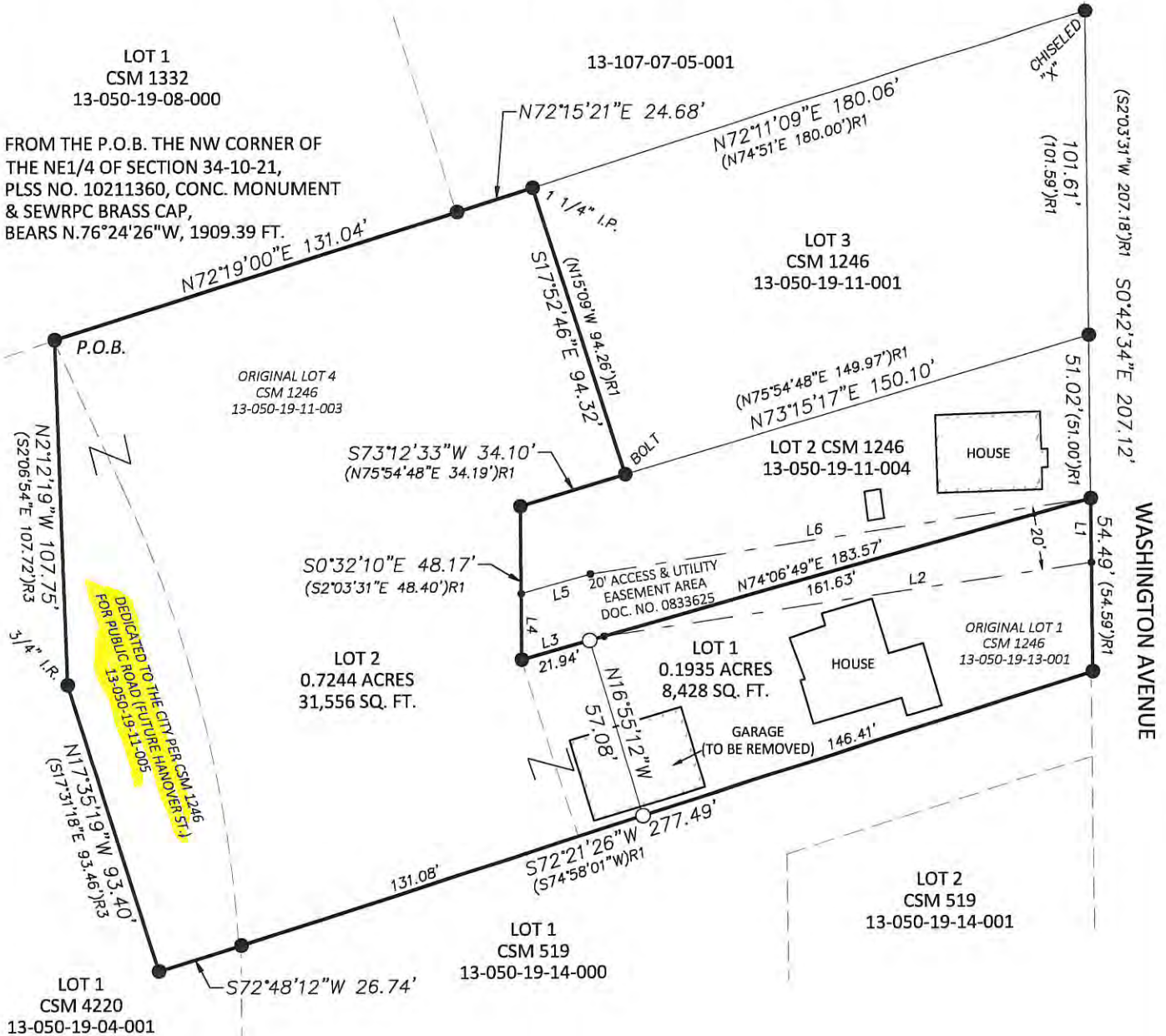


M SQUARED ENGINEERING LLC
N19 W6719 COMMERCE CT
CEDARBURG, WI 53012
PHONE (262) 376-4246
msquaredengineering.com



OZAUKEE COUNTY CERTIFIED SURVEY MAP NO. _____

LOTS 1 AND 4, AND THAT PART DEDICATED FOR THE FUTURE HANOVER STREET, OF CERTIFIED SURVEY MAP NO. 1246, LOCATED IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 10 NORTH, RANGE 21 EAST, CITY OF CEDARBURG, OZAUKEE COUNTY, WISCONSIN

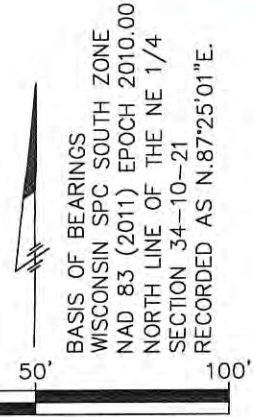


LINE TABLE

NO.	BEARING	DIST.	
L1	S00°42'34"E	20.19	(S02°03'31"W 20.20 FT)R2
L2	S81°26'03"W	152.92	(S84°01'19"W 152.73 FT)R2
L3	S74°06'49"W	26.61	(S76°41'44"W 26.20 FT)R2
L4	N00°32'10"W	20.74	(N02°03'31"E 20.74 FT)R2
L5	S74°06'49"W	22.39	(N76°41'44"E 22.39 FT)R2
L6	S81°26'03"W	156.97	(N84°01'19"E 156.84 FT)R2

LEGEND

- = FOUND 1.3" O.D. (1" I.D.) IRON PIPE OR AS NOTED
- = SET 3/4" x 18" REBAR - 1.502 LB/FT W/P.C. "PLS 2090"
- = FOUND EASEMENT POINT - 1.3" O.D. (1" I.D.) IRON PIPE
- = EXTERIOR BOUNDARY
- - - = EASEMENT LINES
- - - = PARCEL LINES
- ()R1 = RECORD PER CSM NO. 1246
- ()R2 = RECORD PER DOC. NO. 0833625
- ()R3 = RECORD PER CSM NO. 4220



OZAUKEE COUNTY CERTIFIED SURVEY MAP NO. _____

LOTS 1 AND 4, AND THAT PART DEDICATED FOR THE FUTURE HANOVER STREET, OF CERTIFIED SURVEY MAP NO. 1246,
LOCATED IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 10 NORTH, RANGE 21 EAST,
CITY OF CEDARBURG, OZAUKEE COUNTY, WISCONSIN

SURVEYOR'S CERTIFICATE

I, ANTHONY J. GROMACKI, PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY:

THAT I HAVE SURVEYED, DIVIDED, AND MAPPED LOTS 1 AND 4, AND THAT PART DEDICATED FOR THE FUTURE HANOVER STREET, OF CERTIFIED SURVEY MAP NO. 1246, RECORDED IN THE OFFICE OF THE REGISTER FOR DEEDS FOR OZAUKEE COUNTY, WISCONSIN, AS DOCUMENT NO. 318654, BEING A DIVISION OF ALL OF LOT 12 AND PART OF LOTS 11 AND 13, BLOCK 19, ASSESSOR'S PLAT OF THE CITY OF CEDARBURG, IN THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 10 NORTH, RANGE 21 EAST, IN THE CITY OF CEDARBURG, OZAUKEE COUNTY, WISCONSIN, BEING BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 34; THENCE S.76°24'26"E., 1909.39 FEET TO THE **POINT OF BEGINNING**, BEING THE NORTHWEST CORNER OF LOT 4, CSM 1246; THENCE N.72°19'00"E., 131.04 FEET TO THE SOUTHEAST CORNER OF LOT 1, CSM 1332; THENCE N.72°15'21"E., 24.68 FEET TO THE NORTHWEST CORNER OF LOT 3, CSM 1246; THENCE S.17°52'46"E., 94.32 FEET TO THE SOUTHWEST CORNER OF LOT 3, CSM 1246; THENCE S.73°12'33"W., 34.10 FEET TO THE NORTHWEST CORNER OF LOT 2, CSM 1246; THENCE S.00°32'10"E., 48.17 FEET TO THE SOUTHWEST CORNER OF LOT 2, CSM 1246; THENCE N.74°06'49"E., 183.57 FEET TO THE SOUTHEAST CORNER OF LOT 2, CSM 1246; THENCE S.00°42'34"E., 54.49 FEET TO THE NORTHEAST CORNER OF LOT 1, CSM 519; THENCE S.72°21'26"W., 277.49 FEET TO THE NORTHWEST CORNER OF LOT 1, CSM 519; THENCE S.72°48'12"W., 26.74 FEET TO THE SOUTHWEST CORNER OF THE ROAD DEDICATED BY CSM 1246, ALSO A BOUNDARY CORNER OF LOT 1, CSM 4220; THENCE N.17°35'19"W. ALONG THE BOUNDARY OF CSM 4220, 93.40 FEET; THENCE CONTINUING ALONG SAID CSM 4220 BOUNDARY N.2°12'19"W., 107.75 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 0.9179 ACRES OR 39,984 SQUARE FEET.

THAT I HAVE MADE THIS SURVEY AND MAP AT THE DIRECTION OF JORDAN D. LARSON , OWNER OF SAID LANDS.

THAT SUCH MAP IS A CORRECT REPRESENTATION OF ALL EXTERIOR BOUNDARIES OF THE LAND SURVEYED, THE LAND DIVISION THEREOF MADE.

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236 OF THE WISCONSIN STATUTES AND THE CITY OF CEDARBURG LAND DIVISION ORDINANCE IN SURVEYING, DIVIDING, AND MAPPING THE SAID LAND.

DATED THIS 15 DAY OF FEBRUARY, 2024.

PRELIMINARY

ANTHONY J. GROMACKI
PROFESSIONAL LAND SURVEYOR S-2090



OZAUKEE COUNTY CERTIFIED SURVEY MAP NO. _____

LOTS 1 AND 4, AND THAT PART DEDICATED FOR THE FUTURE HANOVER STREET, OF CERTIFIED SURVEY MAP NO. 1246,
LOCATED IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 10 NORTH, RANGE 21 EAST,
CITY OF CEDARBURG, OZAUKEE COUNTY, WISCONSIN

OWNER'S CERTIFICATE

I, JORDAN D. LARSON, HEREBY CERTIFY THAT I HAVE CAUSED THE LAND SHOWN AND DESCRIBED HEREIN TO BE SURVEYED,
DIVIDED, AND MAPPED AS REPRESENTED ON THIS CERTIFIED SURVEY MAP.

I ALSO CERTIFY THAT THIS CERTIFIED SURVEY MAP IS REQUIRED BY §236.10 OR §236.12 TO BE SUBMITTED TO THE
FOLLOWING FOR APPROVAL OR OBJECTION: CITY OF CEDARBURG

PRELIMINARY

JORDAN D. LARSON, OWNER

CITY OF CEDARBURG PLAN COMMISSION APPROVAL

THIS CERTIFIED SURVEY MAP IS HEREBY APPROVED BY THE PLAN COMMISSION OF THE CITY OF CEDARBURG
ON THIS _____ DAY OF _____, 2024.

PRELIMINARY
MICHAEL O'KEEFE, MAYOR

PRELIMINARY
TRACIE SETTE, CITY CLERK

CITY OF CEDARBURG COMMON COUNCIL APPROVAL

THIS CERTIFIED SURVEY MAP IS HEREBY APPROVED AND ACCEPTED BY THE COMMON COUNCIL OF THE CITY OF CEDARBURG
ON THIS _____ DAY OF _____, 2024.

PRELIMINARY
MICHAEL O'KEEFE, MAYOR

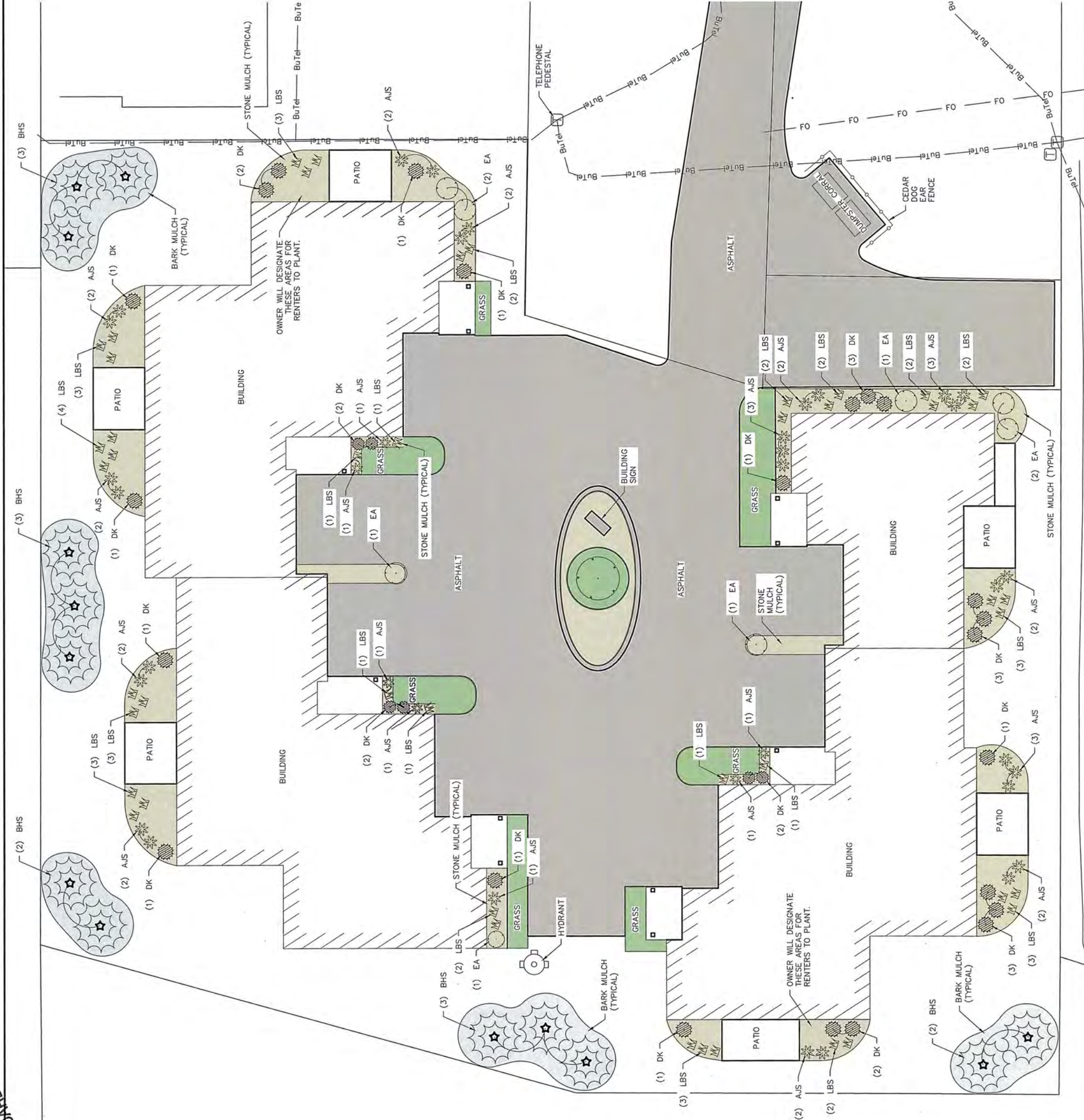
PRELIMINARY
TRACIE SETTE, CITY CLERK



RECEIVED

APR 2 2024

CITY OF CEDARBURG



PLANT LIST				ROOT
KEY	QTY	SIZE	COMMON NAME	
BHS	(13)	4"	EVERGREEN TREES	BB
			BLACK HILLS SPRUCE	
DK	(29)	18"	DECIDUOUS SHRUBS	POT
			KODIAK ORANGE DIERVILLA	
EA	(6)	4"	UPRIGHT EVERGREEN SHRUBS	BB
			EMERALD ARBORVITAE	
AJS	(81)	1' 6"	PERENNIALS	CON
LBS	(45)	1' 6"	AUTUMN JOY SEDUM	CON
			LITTLE BLUESTEM GRASS	

NOTES:

- 1) DESIGNATED LAWN AREAS TO RECEIVE A MINIMUM OF 6" OF TOPSOIL, STARTER FERTILIZER, AND ANNUAL GRASS SEED. DESIGNATED PLANTING BEDS TO BE MULCHED WITH #2 WASHED STONE.
- 2) FOUNDATION PLANTING BEDS AND DESIGNATED PLANTING BEDS TO BE MULCHED WITH #2 WASHED STONE MULCH SPREAD TO A DEPTH OF 3" OVER WEED BARRIER FABRIC.
- 3) INDIVIDUAL TREES GROUPINGS IN LAWN AREAS TO RECEIVE SHREDDED HARDWOOD BARK MULCH. MULCH DEPTH TO BE 3".
- 4) DESIGNATED PLANTING BEDS TO BE SEPARATED FROM LAWN AREAS WITH 5" BLACK VINYL EDGING.
- 5) OWNER WILL BE RESPONSIBLE FOR LANDSCAPE MAINTENANCE AFTER COMPLETION AND ACCEPTANCE OF THE PROJECT.

PROJECT TITLE:
CEDARWAY
W61 N449 WASHINGTON AVENUE
CEDARBURG, WI 53012

PLAN TITLE:
LANDSCAPE
PLAN

DRAWN BY: JAB
DESIGNED BY: KJP
CHECKED BY: KJP

PLAN DATE:
03-18-2024

PROJECT NO:
23008 - Cedarway
Cedarway
Cedarway

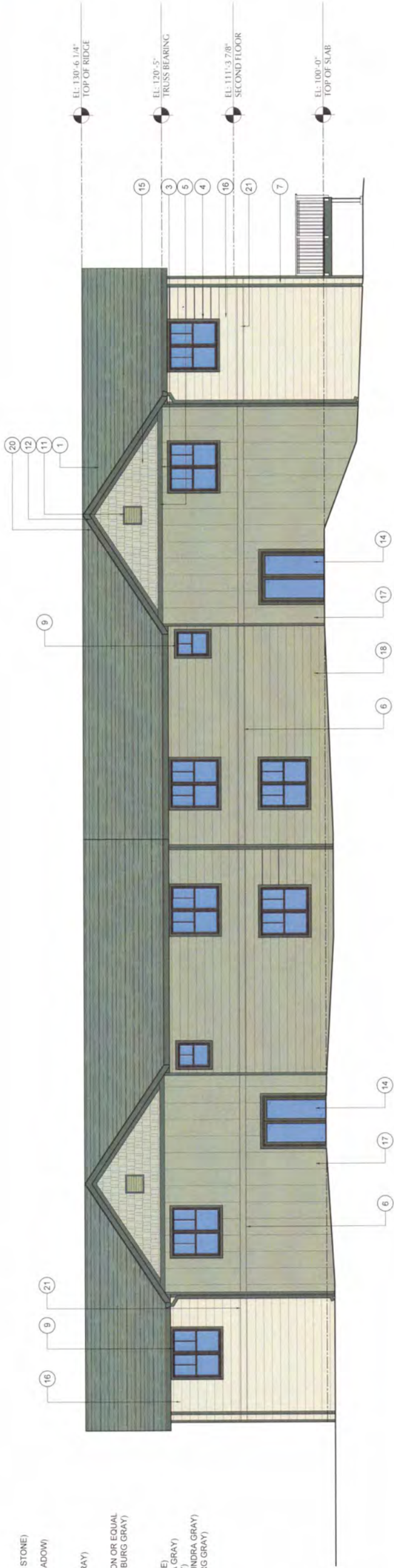
FINAL

SHEET NO:

L1.01

EXTERIOR MATERIALS:

- 50 YEAR DIMENSIONAL FIBERGLASS SHINGLES
- LP SMARTSIDE VERTICAL SIDING - SMOOTH (COLOR: DESERT STONE)
- ALUMINUM VENTED SOFFIT (COLOR: MIDNIGHT SHADOW)
- 1 x 4 WINDOW AND DOOR TRIM BOARD (COLOR: MIDNIGHT SHADOW)
- 1 x 8 TRIM BOARD (COLOR: MIDNIGHT SHADOW)
- 1 x 6 TRIM BOARD (COLOR: MIDNIGHT SHADOW)
- PRE-FINISHED GUTTERS AND DOWNSPOUTS
- INSULATED PRE-FINISHED METAL GARAGE DOOR (COLOR: GRAY)
- FIBERGLASS SINGLE HUNG WINDOW
- FRONT PORCH COLUMN (COLOR: WHITE) PYLON OR EQUAL
- 24" DECORATIVE VENTED DOWNER (COLOR: WHITE)
- 1 x 6 TRIM BOARD (COLOR: MIDNIGHT SHADOW)
- EXTERIOR INSULATED STEEL DOOR
- FIBERGLASS SLIDING PATIO DOOR
- LP SMARTSIDE SHAKE SIDING - (COLOR: QUARRY GRAY)
- LP SMARTSIDE HORIZONTAL SIDING - (COLOR: DESERT STONE)
- LP SMARTSIDE VERTICAL SIDING - (COLOR: TUNDRA GRAY)
- INSULATED PRE-FINISHED METAL GARAGE DOOR (COLOR: TUNDRA GRAY)
- 1x6 ROOF GABLE FRIESS TRIM BOARD (COLOR: WILLAMSBURG GRAY)
- 1 x 10 TRIM BOARD (COLOR: DESERT STONE)



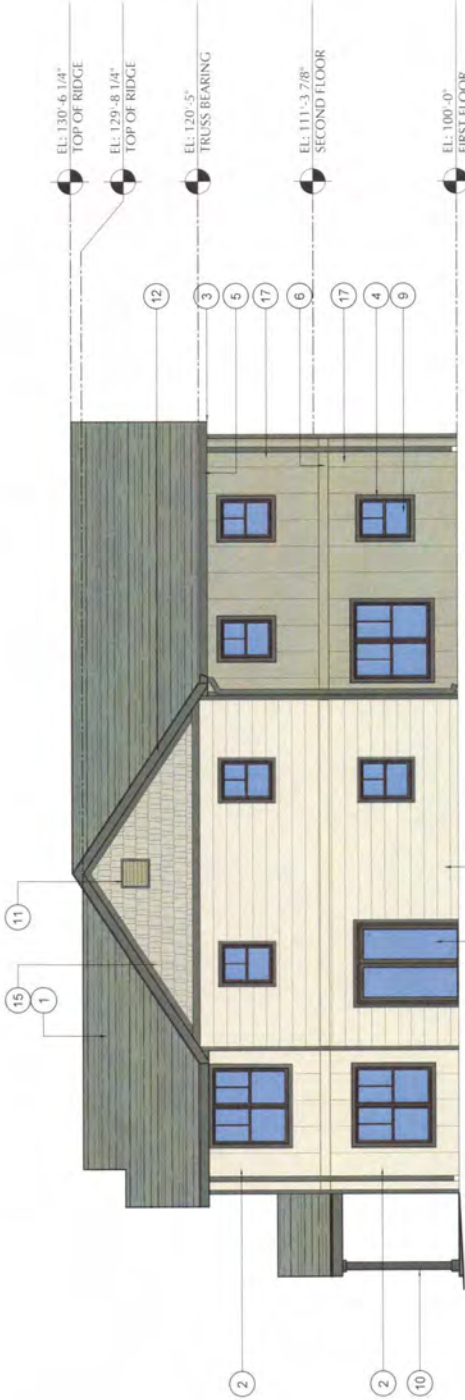
NORTH ELEVATION - BUILDING 1

1/8" = 1'-0"



WEST ELEVATION - BUILDING 1

1/8" = 1'-0"



EAST ELEVATION - BUILDING 1

1/8" = 1'-0"



SOUTH ELEVATION - BUILDING 1

1/8" = 1'-0"

Issue Date:
02 / 16 / 2024

Revision:

Project Number:
23008

Sheet Title:
EXTERIOR
ELEVATIONS -
BUILDING 1

Sheet Number:

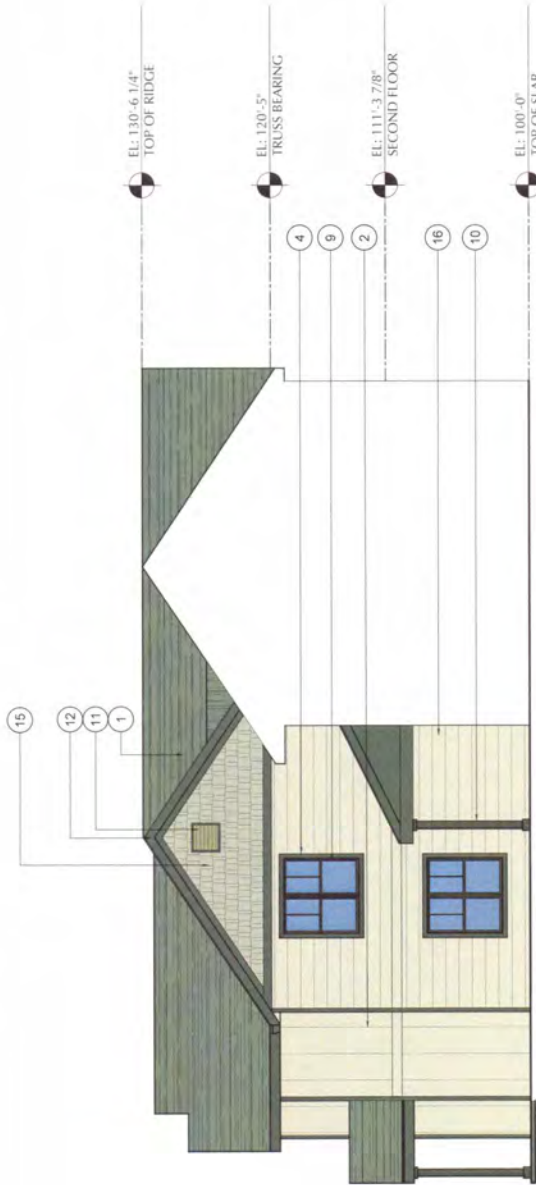
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- 20. 1/6" ROOF GABLE FRIESS TRIM BOARD (COLOR: WILLAMSBURG GRAY)
- 21. 1 x 10 TRIM BOARD (COLOR: DESERT STONE)



WEST INSET ELEVATION - BUILDING 1

2 1/8" = 1'-0"



EAST INSET ELEVATION - BUILDING 1

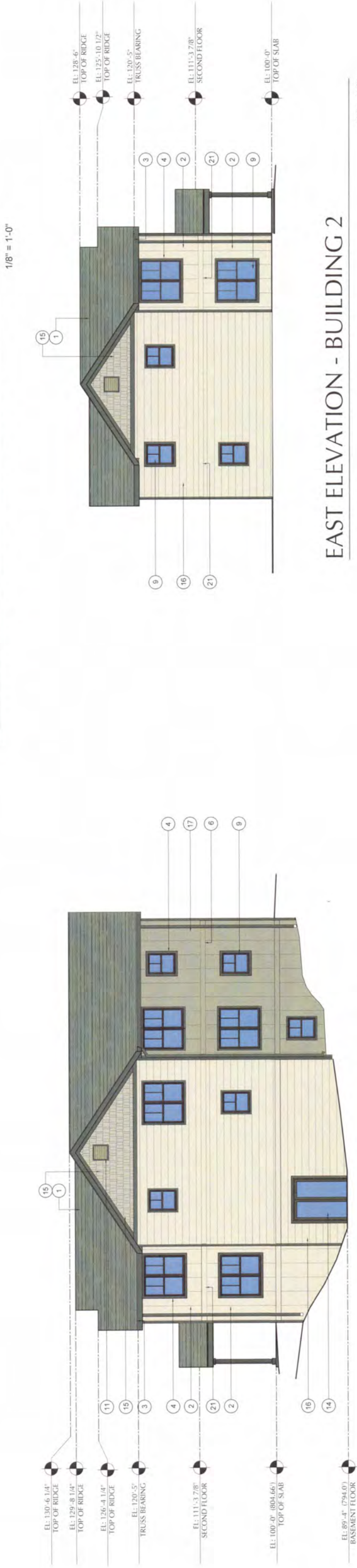
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SOUTH ELEVATION - BUILDING 2



WEST ELEVATION - BUILDING 2



NORTH ELEVATION - BUILDING 2

PROPOSED
Cedarway Condos
W61N449 WASHINGTON AVE
Cedarburg, Ozaukee

Issue Date:
02 / 16 / 2024

Revision:

Project Number:
23008

Sheet Title:
EXTERIOR
ELEVATIONS -
BUILDING 2

Sheet Number:

A-203

EXTERIOR MATERIALS:

- 1. 50 YEAR DIMENSIONAL FIBERGLASS SHINGLES
- 2. LP SMARTSIDE VERTICAL SIDING - SMOOTH (COLOR: DESERT STONE)
- 3. ALUMINUM VENTED SOFFIT (COLOR: MIDNIGHT SHADOW)
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AMERICAN
ARCHITECTURAL GROUP, INC.

3350 SOUTH RIVER ROAD
WEST BEND, WI 53095-7884
(262) 334-3811 FAX: (262) 334-4990

PREPARED FOR: CEDARWAY CONDOS

PROPOSED
Cedarway Condos
W61N449 WASHINGTON AVE
Cedarburg, Ozaukee

Issue Date:
02 / 16 / 2024

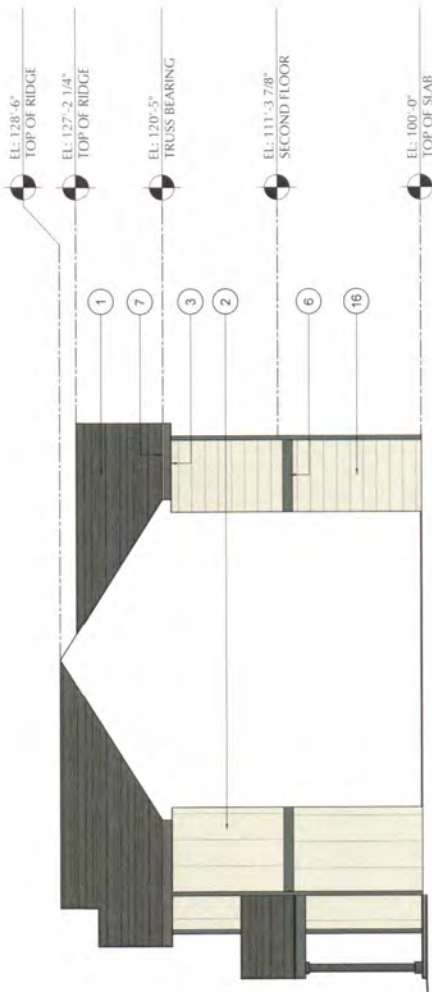
Revision:

Project Number:
23008

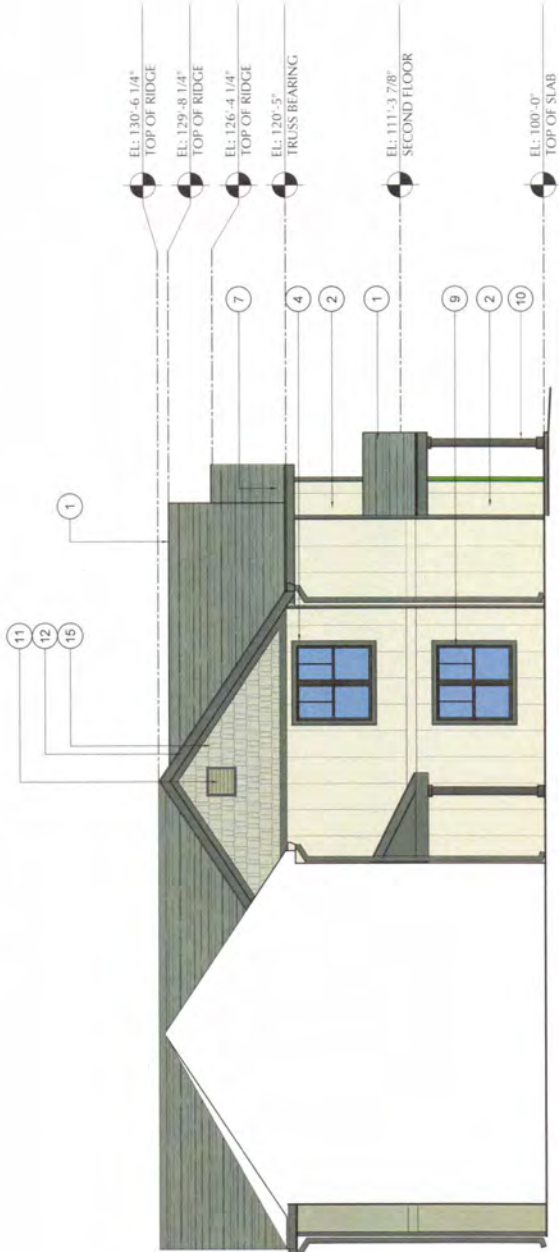
Sheet Title:
SECTIONS AND
EXTERIOR ELEVATIONS
- BUILDING 2

Sheet Number:

A-204



WEST INSET ELEVATION - BUILDING 2



EAST INSET ELEVATION - BUILDING 2

FLOODPLAIN ORDINANCE

To: City of Cedarburg Plan Commission

Prepared by: Jonathan P. Censky, City Planner

Agenda Item: 6.C.

Date: May 6, 2024

General Information

Applicant:

City of Cedarburg

Requested Action:

Recommend Proposed Floodplain Ordinance

Report:

Over the past several months, staff has been working with the Wisconsin Department of Natural Resources to finalize the updated version of the City's Floodplain Ordinance. By adopting this new ordinance, the City will officially be adopting the new Flood Insurance Rate Maps (FIRMs) and the Flood Insurance Study (FIS) which are now on file in the Engineering Department. The Department of Natural Resource advise that the city must adopt this updated ordinance to remain in **the National Insurance Flood Insurance Program (NFIP)**. Commissioners are reminded that this update does serve to remove certain areas of the city that were previously, and incorrectly, shown to be in the 100yr floodplain.

Wisconsin Department of Natural Resource staff has provided the city with the attached updated Ordinance to ensure that the City's Ordinance meets all State and Federal requirements. Accordingly, this ordinance includes both the minimum regulatory standards required in Ch. NR 116, Wis. Admin. Code, and those of the National Flood Insurance Program 44 CFR 59-72. Section 87.30(1)(b), Stats., and permits a county, city, village, or town to adopt a floodplain zoning ordinance that is more restrictive than the provisions required by the State, but not less restrictive than those requirements.

Accordingly, this is before you for a recommendation which will be followed by an official public hearing at the May 13, 2024, Common Council meeting.

FLOODPLAIN ORDINANCE FOR CITY OF CEDARBURG

Effective **xxxx**, 2024

Adoption schedule tracking (for your use if helpful)

1. Date of Public Hearing: _____
 - a. (Requires a Class 2 Hearing Notice of Publication or Posting)
2. Date of Adoption: _____
3. Dates of Publication or Posting: _____
 - a. (Second/last date must be at least 7 days before hearing, see definition, Ch 985 Stats)
4. Date of Publication or Posting of Notice of Enacted Ordinance:
 - a. _____

STATE OF WISCONSIN)
) SS.
ADAMS COUNTY)

**NOTICE OF PUBLIC HEARING
VILLAGE OF FRIENDSHIP, WISCONSIN
VILLAGE FLOODPLAIN ZONING ORDINANCE**

NOTICE IS HEREBY GIVEN that a public hearing will be held on **Monday, August 6, 2018, at 6:00 P.M.** at the Village Hall, 507 W. Lake Street, Friendship, WI, before the Village of Friendship Board of Trustees, to solicit comments on proposed floodplain zoning ordinance and map revisions that are required by state and federal law. These revisions govern development in mapped floodplain areas. The proposed ordinance/ map revisions are on file in the office of the Village Clerk.

The proposed regulations are intended to protect life, health and property in floodplain areas and will govern uses permitted in mapped floodplains. Activities such as dredging, filling, excavating and construction of buildings are generally allowed, but may be restricted according to which flood zone the property is in. A copy of the proposed ordinance will be on file and open for public inspection in the office of the Village Clerk for a period of two weeks prior to this Public Hearing.

All persons interested are invited to attend this hearing and be heard. Written comments may be submitted to the Village Clerk at 507 W. Lake Street, P. O. Box 206, Friendship, WI.
Publish: 7/18/18, 7/25/18 **WNAXLP**

(SEAL)

Nancy Price, being duly sworn,
doth depose and say that he (she) is an authorized representative
of THE ADAMS-FRIENDSHIP TIMES-REPORTER; a legal news-
paper of general circulation, published in the Village of Friendship,
Adams County, Wisconsin, and that an advertisement of which the
annexed is a true copy, taken from said paper, was published
therein on

July 18, 2018
July 25, 2018

Signed

Nancy Price
manager (Title)

Subscribed and sworn to before me this 26 day of
July, 2018.

Jessica Zerk

Notary Public, Adams County, Wisconsin

My Commission expires July 9, 2022
No. Lines _____ No. Times _____ Publication Fees \$ 40.42
Affidavit 1.00
Total \$ 41.42

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1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE, AND GENERAL PROVISIONS

1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in s. 61.35 and 62.23, for villages and cities; and the requirements in s. 87.30, Stats.

1.2 FINDING OF FACT

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

1.3 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

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

1.4 TITLE

This ordinance shall be known as the Floodplain Zoning Ordinance for City of Cedarburg, Wisconsin.

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, or AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable.

(2) OFFICIAL MAPS & REVISIONS

Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, or AO on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in subd. (b) below. These maps and revisions are on file in the office of the City Clerk, (*City of Cedarburg*).

(a) OFFICIAL MAPS: Based on the Flood Insurance Study (FIS):

1. Flood Insurance Rate Map (FIRM), panel numbers 55089C0159G, 55089C0167G, 55089C0178G, 55089C0186G, 55089C0187G, 55089C0188G, and 55089C0189G, dated 07/31/2024;
2. Flood Insurance Study (FIS) for Ozaukee County, 55089CV001B, 55089CV002B, and 55089CV003B, dated 07/31/2024.

Approved by: The DNR and FEMA

- (b) OFFICIAL MAPS: Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

1. A combined Dam Failure Analysis for Cedarburg Woolen Mills Dam, Ruck Dam, Columbia Mills Dam, and Wire & Nail Factory Dam, prepared and approved by the Department of Natural Resources, whose related exhibits conforming to NR 333.05(2)(L)6. and 7., were transmitted to City of Cedarburg on October 15, 2007, including:
 - i. Map consisting of one sheet, titled "Cedar Creek/Milwaukee River Dambreak Hazard Map", dated October 4, 2007, showing cross section labels and shaded flood areas. Areas governed by this analysis include locations from a point above the Cedarburg Woolen Mills Dam to a point at the confluence with the Milwaukee River.
 - ii. Floodway data table, consisting of four sheets, titled "Floodway Data – Cedar Creek", dated October 4, 2007, listing cross sections lettered A through AM. The value in the column headed "Regulatory (feet NGVD)" is the governing elevation for each cross section on the map corresponding to the label in the "Cross Section" column in the table.
 - iii. Flood profiles, consisting of three sheets, titled "Dambreak Hazard Profile – Cedar Creek", dated October 4, 2007, showing cross sections lettered A through AM.

(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

The flood hazard areas regulated by this ordinance are divided into districts as follows:

- a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to s. 5.1(5).
- b) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to s. 5.1(5), within A Zones shown on the FIRM.
- c) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0 *Amendments*. The City Planner can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The City Planner shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined. Disputes between the City Planner and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 8.0 *Amendments*.

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

(5) REMOVAL OF LANDS FROM FLOODPLAIN

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

(6) COMPLIANCE

- a) No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
- b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with s. 9.0.
- c) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the Floodplain Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with s. 9.0.

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies. Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community

is in compliance with Federal, State, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under s. 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the Floodplain Administrator that the proposed project is a culvert replacement or bridge replacement under 20' span at the same location, the project is exempt from a DNR permit under s. 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from a federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the applicant in the analysis of the project site.

(8) ABROGATION AND GREATER RESTRICTIONS

- a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 for cities or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- b) This ordinance is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(9) INTERPRETATION

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

(10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(11) SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

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

2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

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

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

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

- 3) Ozaukee County oversees the regulation of all private, onsite, wastewater treatment systems (POWTS), as regulated under SPS 383 in incorporated parts of the county.
- 4) Ozaukee County oversees the regulation for private wells on properties served by Private Onsite Wastewater Treatment Systems in incorporated parts of the county.

2.1 HYDRAULIC AND HYDROLOGIC ANALYSES

- 1) No floodplain development shall:
 - a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
 - b. Cause any increase in the regional flood height due to floodplain storage area lost.
- 2) The City Planner shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 8.0 *Amendments* are met.

2.2 WATERCOURSE ALTERATIONS

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

As soon as is practicable, but not later than six months after the date of the watercourse alteration or

relocation and pursuant to s. 8.0 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT

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

2.4 PUBLIC OR PRIVATE CAMPGROUNDS

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

- 1) The campground is approved by the Department of Agriculture, Trade and Consumer Protection;
- 2) A land use permit for the campground is issued by the City Planner;
- 3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
- 4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the floodplain zoning agency or City Planner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- 5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection and all other applicable regulations;
- 6) All mobile recreational vehicles placed on site must meet one of the following:
 - a. Be fully licensed, if required, and ready for highway use; or
 - b. Not occupy any site in the campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the floodplain for a minimum of 24 hours; or
 - c. Meet the requirements in either s. 3.0, 4.0, or 5.1 for the floodplain district in which the structure is located;

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

- 7) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit consistent with

- 2.4(6) and shall ensure compliance with all the provisions of this section;
- 8) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
 - 9) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
 - 10) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation; and
 - 11) Standards for structures in a campground:
 - a. All structures must comply with section 2.4 or meet the applicable requirements in ss. 3.0, 4.0, or 5.1 for the floodplain district in which the structure is located;
 - b. Deck/landing-a portable landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with the municipality compliant with section 2.4(4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
 - c. Decks/patios that are constructed completely at grade may be allowed but must also comply with applicable shoreland zoning standards.
 - d. Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with section 2.4(4).
 - e. Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with section 2.4(4).
 - 12) A land use permit shall be obtained as provided under 7.1(2) before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated.

2.0 FLOODWAY DISTRICT (FW)

3.1 APPLICABILITY

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

3.2 PERMITTED USES

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
 - they meet the standards in s. 3.3 and 3.4; and
 - all permits or certificates have been issued according to s. 7.1.
- 1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
 - 2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - 3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap, and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
 - 4) Uses or structures accessory to open space uses or classified as historic structures that comply with s. 3.3 and 3.4.
 - 5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
 - 6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
 - 7) Public utilities, streets and bridges that comply with s. 3.3(3).
 - 8) Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Ch. SPS 383, Wis. Adm. Code.
 - 9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
 - 10) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.
 - 11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

3.3 STANDARDS FOR DEVELOPMENT IN THE FLOODWAY

1) GENERAL

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

flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in s. 1.5(5).

2) STRUCTURES

Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- a. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- b. Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
 1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
 2. Have structural components capable of meeting all provisions of Section 3.3(2)(g) and;
 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 3.3(2)(g).
- c. Must be anchored to resist flotation, collapse, and lateral movement;
- d. Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
- e. Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- f. For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets s. 3.3(2)(a) through 3.3(2)(e) and meets or exceeds the following standards:
 1. The lowest floor must be elevated to or above the regional flood elevation;
 2. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 3. the bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
 4. The use must be limited to parking, building access or limited storage.
- g. Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:

1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sections 3.4(4) and 3.4(5);
3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
5. Placement of utilities to or above the flood protection elevation.

3) **PUBLIC UTILITIES, STREETS AND BRIDGES**

Public utilities, streets and bridges may be allowed by permit, if:

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

4) **FILLS OR DEPOSITION OF MATERIALS**

Fills or deposition of materials may be allowed by permit, if:

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

3.4 PROHIBITED USES

All uses not listed as permitted uses in s. 3.2 are prohibited, including the following uses:

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

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

4.0 FLOODFRINGE DISTRICT (FF)

4.1 APPLICABILITY

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

4.2 PERMITTED USES

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 4.3 are met, the use is not prohibited by this, or any other ordinance or regulation and all permits or certificates specified in s. 7.1 have been issued.

4.3 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE

Section 2.0 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of s. 6.0 *Nonconforming Uses*;

(1) RESIDENTIAL USES

Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards;

- a) All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be shown to meet s. 1.5(5).
- b) Notwithstanding s. 4.3 (1)(a), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed below the regional flood elevation;
- c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).
- d) In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 1. The municipality has written assurance from police, fire and emergency services that rescue, and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

2. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.

(2) ACCESSORY STRUCTURES OR USES

In addition to s. 2.0, new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(3) COMMERCIAL USES

In addition to s. 2.0, any commercial structure which is erected, altered, or moved into the floodfringe shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES

In addition to s. 2.0, any manufacturing or industrial structure which is erected, altered, or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s 7.5. Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) STORAGE OF MATERIALS

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish, or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 7.5.
- b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS

All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 7.5(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(8) WELLS

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 7.5(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

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

(10) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this ordinance.

(11) MANUFACTURED HOMES

- a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval, and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - 1. have the lowest floor elevated to the flood protection elevation; and
 - 2. be anchored so they do not float, collapse, or move laterally during a flood;
- c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles must be on site for less than 180 consecutive days and be either:

- a) fully licensed and ready for highway use; or
- b) shall meet the elevation and anchoring requirements in s. 4.3 (11)(b) and (c).

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

5.0 OTHER FLOODPLAIN DISTRICTS

5.1 GENERAL FLOODPLAIN DISTRICT (GFP)

1) APPLICABILITY

The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in s. 1.5(2)(a).

2) FLOODWAY BOUNDARIES

For proposed development in zone A, or in zone AE within which a floodway is not delineated on

the Flood Insurance Rate Map identified in s. 1.5(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to s. 5.1(5). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of s. 3.0. If the development is located entirely within the floodfringe, the development is subject to the standards of s. 4.0.

3) PERMITTED USES

Pursuant to s. 5.1(5) it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway (s. 3.2) and Floodfringe (s. 4.2) Districts are allowed within the General Floodplain District, according to the standards of s. 5.1(4) provided that all permits or certificates required under s. 7.1 have been issued.

4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

Section 3.0 applies to floodway areas, determined to pursuant to 5.1(5); Section 4.0 applies to floodfringe areas, determined to pursuant to 5.1(5).

- a) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:
 - 1. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or
 - 2. If the depth is not specified on the FIRM, two feet (2) above the highest adjacent natural grade or higher.
- b) New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
- c) In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures.
- d) All development in zones AO and zone AH shall meet the requirements of s. 4.0 applicable to flood fringe areas.

5) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

Upon receiving an application for development within zone A, or within zone AE where a floodway has not been delineated on the Flood Insurance Rate Maps, the City Planner shall:

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

3. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

6.0 NONCONFORMING USES

6.1 GENERAL

1) Applicability

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

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification, or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
 - b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
 - c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
 - d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating the lowest floor of a

nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

- e) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value, the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1).
- g) Except as provided in subd. (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed, or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
- h) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met, and all required permits have been granted prior to the start of construction:

1. Residential Structures

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

2. Nonresidential Structures

- a. Shall meet the requirements of s. 6.1(2)(h)1a-f.
 - b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 7.5 (1) or (2).
 - c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.1(4).
- 3) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 6.1 (2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.
- 4) Notwithstanding anything in this chapter to the contrary, modifications, additions, maintenance, and repairs to a nonconforming building shall not be prohibited based on cost and the building's nonconforming use shall be permitted to continue if:
- a) Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
 - b) The lowest floor of the nonconforming building, including the basement, is elevated to or above the regional flood elevation;
 - c) The nonconforming building is permanently changed to conform to the applicable requirements of 2.0;
 - d) If the nonconforming building is in the floodway, the building is permanently changed to conform to the applicable requirements of 3.3(1), 3.3(2)(b) through (e), 3.3(3), 3.3(4), and 6.2. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway, it must meet the standards in section 3.3(4);
 - e) If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of 4.3 and 6.3;
 - f) Repair or reconstruction of nonconforming structures and substantial improvements of residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation;
 - g) Repair or reconstruction of nonconforming structures and substantial improvements of non-residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation, or (together with attendant utility and sanitary facilities) be designed so that below the base flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:

- i. Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of s. 6.1(4)(g) above.
 - ii. The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed;
- h) Fully enclosed areas below the lowest floor of repair or reconstruction of nonconforming structures and substantial improvements in zones A1-30, AE, and AH that are usable solely for parking of vehicles, building access, or storage, must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Subsequent improvements to repaired or reconstructed nonconforming structures must not increase the degree of their nonconformity. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:
 - i. A minimum of two openings into each enclosed area must be located below the base flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area.
 - ii. The bottom of all openings must be no higher than one foot above the adjacent grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings if they permit the automatic entry and exit of floodwaters;
- i) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- j) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH on existing sites in an existing manufactured home park that is not undergoing expansion and on which a manufactured home has not incurred substantial damage as a result of flood must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- k) Recreational vehicles placed on sites within zones A1-30, AH, and AE must either:
 - i. Be on site for fewer than 180 consecutive days; or
 - ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

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

6.2 FLOODWAY DISTRICT

- 1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
 - a) Has been granted a permit or variance which meets all ordinance requirements;
 - b) Meets the requirements of s. 6.1;
 - c) Shall not increase the obstruction to flood flows or regional flood height;

- d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation; and,
- e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - 4. The use must be limited to parking, building access or limited storage.
- 2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and Ch. SPS 383, Wis. Adm. Code.
- 3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair, or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

6.3 FLOODFRINGE DISTRICT

- 1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality and meets the requirements of s. 4.3 except where s. 6.3(2) is applicable.
- 2) Where compliance with the provisions of subd. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of subd. (1) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - a) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - b) Human lives are not endangered;
 - c) Public facilities, such as water or sewer, shall not be installed;
 - d) Flood depths shall not exceed two feet;
 - e) Flood velocities shall not exceed two feet per second; and

- f) The structure shall not be used for storage of materials as described in s. 4.3(5).
- 3) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, s. 7.5 (3) and ch. SPS 383, Wis. Adm. Code.
- 4) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this ordinance, s. 7.5 (3) and ch. NR 811 and NR 812, Wis. Adm. Code.

7.0 ADMINISTRATION

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

7.1 CITY PLANNER

1) DUTIES AND POWERS

The City Planner is authorized to administer this ordinance and shall have the following duties and powers:

- a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- d) Keep records of all official actions such as:
 - 1. All permits issued, inspections made, and work approved;
 - 2. Documentation of certified lowest floor and regional flood elevations;
 - 3. Floodproofing certificates.
 - 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - 5. All substantial damage assessment reports for floodplain structures.
 - 6. List of nonconforming structures and uses.
- e) Submit copies of the following items to the Department Regional office:
 - 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - 2. Copies of case-by-case analyses and other required information.
 - 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

- f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- g) Submit copies of amendments to the FEMA Regional office.

2) LAND USE PERMIT

A land use permit shall be obtained before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the City Planner shall include:

a) GENERAL INFORMATION

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

b) SITE DEVELOPMENT PLAN

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

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

c) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT

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

1. Zone A floodplains and in AE zones within which a floodway is not delineated:
 - a. Hydrology
 - i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - b. Hydraulic modeling

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

 - i. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 - ii. channel sections must be surveyed.
 - iii. minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - iv. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 - v. the most current version of HEC-RAS shall be used.
 - vi. a survey of bridge and culvert openings and the top of road is required at each structure.
 - vii. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 - viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high-water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 - ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
 - c. Mapping

A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

 - i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.

- ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

2. Zone AE Floodplains

a. Hydrology

If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

b. Hydraulic model

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

i. Duplicate Effective Model

The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

ii. Corrected Effective Model.

The Corrected Effective Model shall not include any man-made physical changes since the effective model date but shall import the model into the most current version of HEC-RAS for Department review.

iii. Existing (Pre-Project Conditions) Model.

The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.

iv. Revised (Post-Project Conditions) Model.

The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

c. Mapping

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

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

d) EXPIRATION

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

3) CERTIFICATE OF COMPLIANCE

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

- a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- b) Application for such certificate shall be concurrent with the application for a permit;
- c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- d) The applicant shall submit a certification signed by a registered professional engineer, architect, or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 7.5 are met.

- e) Where applicable pursuant to s. 5.1(4), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
 - f) Where applicable pursuant to s. 5.1(4), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by s. 5.1(4).
- 4) **OTHER PERMITS**
Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

7.2 ZONING AGENCY

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

7.3 BOARD OF APPEALS

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

- 1) **POWERS AND DUTIES**
The Board of Appeals shall:
 - a) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
 - b) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
 - c) Variances - Hear and decide, upon appeal, variances from the ordinance standards.
- 2) **APPEALS TO THE BOARD**
 - a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the City Planner or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of

appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice - The board shall:

- a. Fix a reasonable time for the hearing;
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and
- c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

2. Hearing - Any party may appear in person or by agent. The board shall:

- a. Resolve boundary disputes according to s. 7.3(3);
- b. Decide variance applications according to s. 7.3(4); and
- c. Decide appeals of permit denials according to s. 7.4.

c) DECISION: The final decision regarding the appeal or variance application shall:

1. Be made within a reasonable time;
2. Be sent to the Department Regional office within 10 days of the decision;
3. Be a written determination signed by the chairman or secretary of the Board;
4. State the specific facts which are the basis for the Board's decision;
5. Either affirm, reverse, vary or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

3) BOUNDARY DISPUTES

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

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

4) VARIANCE

- a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

1. Literal enforcement of the ordinance will cause unnecessary hardship;

2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 3. The variance is not contrary to the public interest; and
 4. The variance is consistent with the purpose of this ordinance in s. 1.3.
- b) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the Board must find that the following criteria have been met:
1. The variance shall not cause any increase in the regional flood elevation;
 2. The applicant has shown good and sufficient cause for issuance of the variance;
 3. Failure to grant the variance would result in exceptional hardship;
 4. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 5. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- c) A variance shall not:
1. Grant, extend or increase any use prohibited in the zoning district;
 2. Be granted for a hardship based solely on an economic gain or loss;
 3. Be granted for a hardship which is self-created.
 4. Damage the rights or property values of other persons in the area;
 5. Allow actions without the amendments to this ordinance or map(s) required in s. 8.0 *Amendments*; and
 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- d) When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

7.4 TO REVIEW APPEALS OF PERMIT DENIALS

- (1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
 - a. Permit application data listed in s. 7.1(2);
 - b. Floodway/floodfringe determination data in s. 5.1(5);

- c. Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the City Planner; and
 - d. Other data submitted with the application or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
- a. Follow the procedures of s. 7.3;
 - b. Consider zoning agency recommendations; and
 - c. Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
- a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 8.0 *Amendments*; and
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

7.5 FLOODPROOFING STANDARDS

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

- f. Placement of essential utilities to or above the flood protection elevation; and
- g. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - 4. The use must be limited to parking, building access or limited storage.

7.6 PUBLIC INFORMATION

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

8.0 AMENDMENTS

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

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

8.1 GENERAL

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

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (3) Any changes to any other officially adopted floodplain maps listed in s. 1.5 (2)(b);

- (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- (6) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
- (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

8.2 PROCEDURES

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

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

9.0 ENFORCEMENT AND PENALTIES

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

10.0 DEFINITIONS

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

1. A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

2. AH ZONE – See “AREA OF SHALLOW FLOODING”.
3. AO ZONE – See “AREA OF SHALLOW FLOODING”.
4. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.
5. ALTERATION – An enhancement, upgrade or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
6. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
7. BASE FLOOD – Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
8. BASEMENT – Any enclosed area of a building having its floor sub-grade on all sides.
9. BUILDING – See STRUCTURE.
10. BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
11. CAMPGROUND – Any parcel of land which is designed, maintained, intended, or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
12. CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
13. CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
14. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
15. CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
16. DECK – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.
17. DEPARTMENT – The Wisconsin Department of Natural Resources.
18. DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged

structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

19. **DRYLAND ACCESS** – A vehicular access route which is above the regional flood elevation, and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
20. **ENCROACHMENT** – Any fill, structure, equipment, use or development in the floodway.
21. **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** – The federal agency that administers the National Flood Insurance Program.
22. **FLOOD INSURANCE RATE MAP (FIRM)** – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
23. **FLOOD or FLOODING** – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - The overflow or rise of inland waters;
 - The rapid accumulation or runoff of surface waters from any source;
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
 - The sudden increase caused by an unusually high-water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
24. **FLOOD FREQUENCY** – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
25. **FLOODFRINGE** – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
26. **FLOOD HAZARD BOUNDARY MAP** – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
27. **FLOOD INSURANCE STUDY** – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
28. **FLOODPLAIN** – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.

29. **FLOODPLAIN ISLAND** – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
30. **FLOODPLAIN MANAGEMENT** – Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
31. **FLOOD PROFILE** – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
32. **FLOODPROOFING** – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
33. **FLOOD PROTECTION ELEVATION** – An elevation of two feet of freeboard above the Regional Flood Elevation. (Also see: **FREEBOARD**.)
34. **FLOOD STORAGE** – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
35. **FLOODWAY** – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
36. **FREEBOARD** – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
37. **HABITABLE STRUCTURE** – Any structure or portion thereof used or designed for human habitation.
38. **HEARING NOTICE** – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
39. **HIGH FLOOD DAMAGE POTENTIAL** – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
40. **HIGHEST ADJACENT GRADE** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
41. **HISTORIC STRUCTURE** – Any structure that is either:
- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as

determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

- 42. INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- 43. LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- 44. LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
- 45. LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement).
- 46. MAINTENANCE – The act or process of ordinary upkeep and repairs, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems, or structures.
- 47. MANUFACTURED HOME – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- 48. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.
- 49. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- 50. MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- 51. MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- 52. MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
- 53. MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

54. **MODEL, EFFECTIVE** – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
55. **MODEL, EXISTING (PRE-PROJECT)** – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
56. **MODEL, REVISED (POST-PROJECT)** – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
57. **MUNICIPALITY or MUNICIPAL** – The county, city or village governmental units enacting, administering, and enforcing this zoning ordinance.
58. **NAVD or NORTH AMERICAN VERTICAL DATUM** – Elevations referenced to mean sea level datum, 1988 adjustment.
59. **NGVD or NATIONAL GEODETIC VERTICAL DATUM** – Elevations referenced to mean sea level datum, 1929 adjustment.
60. **NEW CONSTRUCTION** – Structures for which the start of construction commenced on or after the effective date of a floodplain zoning regulation adopted by this community and includes any subsequent improvements to such structures.
61. **NON-FLOOD DISASTER** – A fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.
62. **NONCONFORMING STRUCTURE** – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
63. **NONCONFORMING USE** – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
64. **OBSTRUCTION TO FLOW** – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
65. **OFFICIAL FLOODPLAIN ZONING MAP** – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.
66. **OPEN SPACE USE** – Those uses having a relatively low flood damage potential and not involving structures.
67. **ORDINARY HIGHWATER MARK** – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

68. **PERSON** – An individual, or group of individuals, corporation, partnership, association, municipality, or state agency.
69. **PRIVATE SEWAGE SYSTEM** – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure, or a system located on a different parcel than the structure.
70. **PUBLIC UTILITIES** – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, and storm sewer.
71. **REASONABLY SAFE FROM FLOODING** – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
72. **REGIONAL FLOOD** – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
73. **START OF CONSTRUCTION** – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
74. **STRUCTURE** – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
75. **SUBDIVISION** – Has the meaning given in s. 236.02(12), Wis. Stats.
76. **SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
77. **SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

78. **UNNECESSARY HARDSHIP** – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
79. **VARIANCE** – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
80. **VIOLATION** – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
81. **WATERSHED** – The entire region contributing runoff or surface water to a watercourse or body of water.
82. **WATER SURFACE PROFILE** – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
83. **WELL** – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.