



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2904
Fax: 262-242-9655

www.ci.mequon.wi.us

Department of Community Development
Taped and Televised

PLANNING COMMISSION

Regular Meeting
Monday, May 3, 2021
6:00 PM
Virtual Meeting

Agenda

ELECTRONIC MEETING NOTICE: Pursuant to the current recommendation of the CDC limiting the size of public gatherings and the various federal and state orders implementing that recommendation, and to help protect our community from the Coronavirus (COVID-19) pandemic, this meeting will be held virtually through the GoToMeeting platform with each member accessing the meeting remotely. Citizens may join the meeting online or by phone. Please go to <https://global.gotomeeting.com/join/116424117> to join the meeting online or call into the meeting by dialing 1.877.309.2073 and enter access code 116-424-117.

WRITTEN PUBLIC COMMENTS may be made in writing in advance of the meeting. Written comments should be directed to the Department of Community Development at least 2 hours prior to the meeting by email at DCD1@ci.mequon.wi.us addressed to the intended committee. Written public comment may also be deposited in the drop box at City Hall on 11333 N. Cedarburg Road, Mequon at least 2 hours prior to the meeting. Comments received timely will be forwarded to all members of the body for their consideration.

VERBAL PUBLIC COMMENTS will be accepted only from members of the public who register in advance. Registration shall be made by sending an email to Planner Pa Phouala Vang at DCD1@ci.mequon.wi.us or by leaving a message at 262.236.2904 no later than 2 hours prior to the meeting.

1) Call to Order, Roll Call

- a) Approval of Minutes from March 22, 2021

2) Public Hearing/Consent Agenda

- a) Fresh Coast Dance, LLC. The applicant is seeking conditional use grant approval for a proposed 9,170 sq. ft. dance studio in a multi-tenant building for the property located at 7170 W. Donges Bay Road.
- b) Thompson Project Management for Foxtown Brewery. The applicant is seeking conditional use grant approval to allow for a distillery within Foxtown Brewing for the property located at 6411 W. Mequon Road.

3) Consent Agenda/Regular Business

- a) Wallace and Jane Rieger Trust. The applicant is seeking minor request approval to allow for an accessory structure over 1,000 sq. ft. (6,720 sq. ft.) for agricultural storage for the property located at 12300 N. Wasaukee Road.

4) Policy

- 1) Chapter 58 of the Zoning Code as it relates to Conservation Subdivisions in the R-1 Zoning district and Conditional Uses in Residential zones.

5) Announcements

The next meeting is Monday, May 24th at 6:00 p.m.

6) Adjourn

Dated: April 28, 2021

/s/ John Wirth, Chair

Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the Department of Community Development's Office at 262-236-2904, Monday through Friday, 8:00 AM – 4:30 PM



See Agenda Packet for
Login and Complete Packet Details
Mequon, WI 53092
Phone: 262-236-2904
Fax: 262-242-9655

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Department of Community Development
Taped and Televised

PLANNING COMMISSION

Regular Meeting

Monday, March 22, 2021

6:00 PM

Virtual Meeting

Minutes

1) Call to Order, Roll Call

Present:

Chair John Wirth
Alderman Brian Parrish
Commissioner Martin Choren
Commissioner Rick Lemke
Commissioner Rebecca Schaefer
Commissioner James Schaefer
Commissioner John Stoker
Alternate Stephanie Hawley
Alternate Gregg Bach
Commissioner Dan Gentges - **Absent**

Ald. Parrish called the meeting to order at 6:02 p.m.

a) Approval of Minutes from February 22, 2021

Action

Commissioner Jim Schaefer made a motion to approve the February 22, 2021 meeting minutes.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (6-0)

Attachment: PC_03.22.21-DRAFT (6180 : Meeting Minutes from March 22, 2021)

RESULT: **APPROVED [7 TO 0]**
MOVER: James Schaefer, Commissioner
SECONDER: Martin Choren, Commissioner
AYES: Parrish, Choren, Hawley, Lemke, J. Schaefer, Stoker
ABSENT: Gentges
NOT PRESENT: Wirth, R. Schaefer

2) Public Hearing

- a) Anderson Ashton. The applicant is seeking conditional use grant, building and site plan and rezoning recommendation to amend the PUD approval to allow for the redevelopment of the site for a class-A self-storage facility for the property located at 10448 N. Port Washington Road.

Action

Commissioner Becky Schaefer made a motion to go into Public Hearing.
Ald. Parrish seconded the motion.
A voice vote was taken; vote passed (8-0)

Mr. Scott Kimmer had registered to speak but was not available on the call.

Action

Ald. Parrish made a motion to close the Public Hearing.
Commissioner Choren seconded the motion.
A voice vote was taken; vote passed (8-0)

Asst. Dir. Zader stated that the applicant is seeking a rezoning recommendation, conditional use grant and building and site plan approvals. He reminded the Commission that this item was before the Commission in December for a consultation, and they received positive feedback and support for their proposal. He explained that the rezoning change is from B-4 to B-4 with an amended PUD. The changes to the existing PUD will primarily include the conditions of the PUD related to FAR and green space ratio. The original PUD had a shared green space ratio at 26.5 for both parcels and a FAR of 31%. Due to the new use as a storage facility, there is not a need for so many parking stalls; so the amended FAR will be 30% on the main parcel and 40% on the vacant parcel. Both of these comply with the zoning code. The tradeoff is that the FAR for the vacant parcel will be 30% which meets the code but the storage facility will be 73% mainly due to the 2nd story mezzanine and a small building addition off the back. A condition has been added to the PUD that would require an amendment to the PUD if the use of storage ever changes.

Conditional Use Grant findings:

- Hours of operation – staff will allow the facility to have 24-hour operations due to the security measure plan, approval from the Police Chief of the plan and to be consistent with the existing Mequon Storage Facility that has 24-hour operations. Ald. Parrish

would like some limited hours and the applicant is receptive to a conversation about amending the hours.

- There will be considerably less traffic at the site with the new use.
- The use is more in line with the type of use for the surrounding neighborhood, service use versus previous warehousing use.

Staff is supportive of the conditional use grant. Asst. Dir. Zader explained that the site plan is similar to what was shown in December. There is a reduction in parking spaces; there are 6 stalls on the outside of the building and 6 stalls on the inside of the building. The code requires 70 spaces which is agreed to be excessive given the type of use. The applicant has provided information from their other facilities and staff did some research as well and staff is supportive that the proposed parking stalls are adequate for the type of use.

There have been conversations regarding the driveway to the north and whether that could be removed. One easement along this stretch has expired but there is still an easement in place for the cell tower. The applicant has reduced the asphalt to 20 feet which is the requirement of the easement for the cell tower. A small sliver of green space will be gained. There are two cross accesses that are not shown on the plan that staff recommends be eliminated.

Regarding the building design, there was feedback at the consultation that the door be relocated to the south side of the building from the front facing Port Washington Road, which the applicant has done. Staff is also requesting the following changes:

- The window wrapping around the north side (like they are on the south side).
- The office area should be bumped out to match the corner area bump outs.
- The north elevation should also include a bump out at the rear of the site to break up the long stretch of flat building and there is some visibility of it from neighboring properties.
- The south side addition should be constructed of the same brick or fiber cement as is shown on the rest of the building.
- The building color panel is more earth tone than the gray shown.

Staff recommends that this portion come back to the Commission for approval next month. The rezoning will be ongoing through the approval process and this will not delay the project.

There were also several changes to the landscaping plan that staff requests and staff recommends the landscape plan come back before the Commission next month for approval. The lighting plan shows wall packs on the building and no parking lot lighting. A condition was added that the lighting on the interior adjacent to the windows be limited to 10-foot candles as required in the code for passageways.

A master sign plan was not included but they are allowed one sign on the building and one sign along I-43, which will require Planning Commission approval. The plan shows additional signs that will need approval. Asst. Dir. Zader stated that this is a good opportunity for feedback from the Commission regarding allowing additional signage.

Staff recommends approval of the rezoning subject to approval from the Common Council and recommends tabling the conditional use grant and building and site plans until updated plans are

submitted at the next meeting. The CSM is on the Regular Business Agenda and is also recommended for approval as it is not affected by the conditional use or the building and site plan.

Action

Commissioner Choren made a motion approve the rezoning recommendation.

Commissioner Stoker seconded the motion.

A voice vote was taken; vote passed (8-0)

The applicant, represented by Michael Kelly, stated that they are willing to compromise the hours of operation to 6:00 a.m. to midnight instead 24-hour access. He explained that they are proposing 3 signs: 2 facing Port Washington Road at different angles and the third one would face I-43. There are also 2 directional signs; one to highlight the office and one over the loading area. They have not yet selected the national operator; although they will most likely selected Life Storage, and they will submit a sign package once the operator selection is finalized.

Brian Fisher, from the design team, stated that they listened to the feedback from the Commission in December and worked to incorporate many changes, most notably the location change of the garage door. He addressed the recommended changes from staff:

- North side windows – they feel that the proposed plan does a nice job of changing up the façade and he would like to discuss whether windows are needed on the north side.
- They are bumping out the office portion by incorporating 6-inch structural metal studs along the building and bumping the wood section out. They feel that it gives relief to the façade.
- East elevation – a new concrete approach will be poured, and a 14-foot canopy will be added above the door. There is a lot of vegetation back there and the panels will be painted to match, and they feel that area is fine, and they do not want to spend additional money back there.
- The south side of the building/office – way-finding signage is proposed for the overhang and that area will be 6-8 inches bumped out and breaks up the façade along that elevation.

They are receptive to landscaping enhancements that will be discussed and to make changes to the landscape code. They believe that the building changes they are proposing are a significant positive change to the appearance of the building. They believe that the recommended changes are minor and should be approved tonight and not tabled.

Commission feedback includes:

- Office location as proposed by the applicant is acceptable, the applicant does not need to meet staff recommendations.
- North elevation - agreement that windows should be wrapped as recommended by staff.
- Northwest corner should have windows wrapped around.
- Add element on the north elevation.
- There are mixed opinions on whether windows should be required on the northeast corner.

There was discussion about the north elevation and the recommendation from staff to incorporate some elements. Asst. Dir. Zader showed photos of this elevation and stated that there is visibility from other properties.

Mayor Wirth stated that he is less concerned about the view from the highway, but he is concerned about neighboring properties' views as well as the view from Port Washington Road.

Action

Commissioner Choren made a motion to approve the building and site plan to include staff recommendation of an added element to the north elevation, eliminate staff recommendation regarding the office entrance and the amended hours of operation in the conditional use grant to 6:00 a.m. to midnight in addition to all other staff recommendations for both items.

Commissioner Jim Schaefer seconded the motion.

A roll call vote was taken; vote passed (8-0)

RESULT:	APPROVED WITH CONDITIONS [8 TO 0]
MOVER:	Martin Choren, Commissioner
SECONDER:	James Schaefer, Commissioner
AYES:	Wirth, Parrish, Choren, Hawley, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Gentges

3) Consent

- a) Lawrence Katz. The applicant is seeking certified survey map approval to allow for a 2-lot land division for the property located at 10448 N. Port Washington Road.
- b) Trustway Homes for John Alden. The applicant is seeking minor request approval for fill in excess of 1,000 C.Y. (4,500 C.Y.) for the property located at 12837 Highgate Court.
- c) John Graham for Kathleen & Tim Carr. The applicant is seeking certified survey map approval to allow for a 3-lot land division for the property located at 8501 W. Pioneer Road.
- d) Thompson Project Management for Foxtown Brewery. The applicant is seeking text amendment approval to allow for a distillery at Foxtown Brewing for the property located at 6411 W. Mequon Road.

Action

Commissioner Stoker made a motion to approve all 4 Consent Agenda items.

Commissioner Lemke seconded the motion.

A voice vote was taken; vote passed (8-0)

RESULT:	APPROVED [8 TO 0]
MOVER:	John Stoker, Commissioner
SECONDER:	Rick Lemke, Commissioner
AYES:	Wirth, Parrish, Choren, Hawley, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Gentges

4) Regular Business

- a) Graphic House, Inc. for Alliance Bible Church. The applicant is seeking master sign plan approval to allow for five wall signs and a waiver to the setback requirement for the property located at 13939 N. Cedarburg Road.

Planner Vang stated that the Alliance Bible Church is requesting master sign plan (MSP) approval which includes 5 wall signs. They are also requesting a setback waiver to the monument sign as part of the MSP. The property only has one principal building and per the code it is only allowed one wall sign at 2.5% of the building wall area or 60 sq. ft., whichever is less. They are proposing 5 wall signs due to the multiple entrances for the various users that visit the site. Staff is not opposed to the 5 signs although staff cannot identify a hardship that would warrant for the number of signs requested. Staff recommends 2 directional signs in place of 2 of the proposed wall signs (shown in Exhibit A of the packet). The entrances for the offices and student ministries are set further back from the drive aisle and wall signs are warranted here but staff believes directional signs can be used as allowed per the code to direct patrons to the entrances. Staff does support the other 3 wall signs subject to the conditions in the report.

She explained that one of the conditions is that the Alliance Bible Church sign needs to be reduced in size to the 60 sq. ft. requirement. Regarding the requested setback waiver to the monument sign, the applicant is requesting that the sign extend to the property line, although the code requires a 10-foot setback. The applicant stated that due to the church being set so far back from the road, visitors have a difficult time finding the site. They also noted that The White Rabbit sign on the property to the north impedes their sign. Staff did conduct a site visit and does not agree that the White Rabbit sign impedes the visibility. Staff concurs that the current monument sign is low to the ground, but the new proposed sign will increase the height and the visibility of the sign; staff does not support the setback waiver request.

As part of the MSP, the applicant submitted renderings with changes to the exterior of the building which staff supports and has instructed the applicant to submit a formal building application so that the Commission can review and approve their proposed exterior building changes. The application was not received in time for this meeting but the changes are minor so staff has included a condition, if the Commission agrees, that the changes be reviewed and approved at staff level.

In conclusion, staff recommends approval of the master sign plan subject to the conditions in the report.

The applicant, Pastor Wiley from the Alliance Bible Church stated that they host many different groups throughout the week with constantly changing visitors. Due the property being 5 acres with an oddly shaped “L” parking lot and 4 entrances to their building there is often confusion about where to enter for those visiting the site. They are requesting the wall signs to better identify and distinguish the appropriate entrance that should be used for the various visitors. He is requesting signage for all 4 entrances.

There was discussion about using directional signs instead of wall signs and the challenges of the site. Other institutions in town were noted as examples that have used directional signs to direct visitors to their site.

Action

Commissioner Jim Schaefer made a motion to approve per the conditions in the staff report.

Commissioner Becky Schaefer seconded the motion.

A voice vote was taken; vote passed (8-0)

RESULT:	APPROVED [8 TO 0]
MOVER:	James Schaefer, Commissioner
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Wirth, Parrish, Choren, Hawley, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Gentges

- b) Berengaria Development for BMSL Mequon Invest LLC. The applicant is seeking certified survey map approval to allow for a 4-lot land division which reconfigures the existing four parcels (7.4-acres) and ultimately creates 5 lots out of the four lots located immediately south of 11104 N. Oriole Lane.

Planner Vang stated that the CSM would normally be on the Consent Agenda, but staff wanted to be able to explain the request. There are currently four lots, which meet and exceed the R-3 zoning code requirements. The applicant wants to create five lots out of the total 7.4 acres so that the water main cost can be spread out amongst five parcels as opposed to the four parcels that currently exist. Through a boundary lot line adjustment and the proposed CSM, five lots will be created. These lots all meet the R-3 zoning district requirements, and the site does have wetlands and specimen trees. They do not plan to disrupt any of the wetlands and the City Forester did review the tree survey that was submitted, and he agrees that the survey accurately conveys the conditions of the trees on site, and he supports the house placements as indicated on the proposed plans. Staff supports the land division subject to the conditions in the staff report.

There was a comment from the Commission that the proposed layout does not impact the existing specimen trees or the wetlands and there is the hope that none of the future owners of these parcels will ask for approval for specimen tree removal.

Action

Commissioner Stoker made a motion to approve per staff recommendations.

Commissioner Choren seconded the motion.

A voice vote was taken; vote passed (8-0)

RESULT:	APPROVED [8 TO 0]
MOVER:	John Stoker, Commissioner
SECONDER:	Martin Choren, Commissioner
AYES:	Wirth, Parrish, Choren, Hawley, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Gentges

- c) The Residence at Foxtown. The applicant is seeking development agreement amendment approval for a proposed 23 single-family home development for the property located immediately east of 11050 N. Weston Drive. (REMOVE FROM TABLE).

Action

Ald. Parrish made a motion to remove this item from the table.

Commissioner Stoker seconded the motion.

A voice vote was taken, vote passed (8-0)

Eng. Dir. Lundeen stated that staff has worked with the applicant to address several of the requested amendments. Staff is recommending approval of some modified language to allow for an interim grading plan because of the layout of the parcel; it makes sense not to request the final grading at the time of final plat. This has been allowed for other subdivisions as well.

The applicant requested some amendments to the timeline of the installation of trees and sidewalk. Staff has provided some modified language and agree to allow for a delayed installation of these items.

The only request by the applicant that is not recommend by staff is the modifications to the asphalt installation requirements. This was previously requested at 75% and was denied and it is now being requested at 100% of occupancy and staff again recommends denial.

It was noted that the timeline allowed for re-requesting an item that has been previously denied is 3 months, which has passed.

The applicant, Tom Zabjek, stated that the streets are private, and he requests the flexibility regarding the timing of the final asphalt. He is willing to put up 150% of the final binder course expense as collateral but he believes the road is going to be trashed if it is installed prior to final occupancy.

Mr. Zabjek explained the reason for his request is due to the uniqueness of this project, which includes very small parcels along with his intention of providing a pristine development.

Action

Ald. Parrish made a motion to approve per staff recommendations.

Commissioner Lemke seconded the motion.

A voice vote was taken; vote passed (8-0)

RESULT:	APPROVED [8 TO 0]
MOVER:	Brian Parrish, Alternate Alderman
SECONDER:	Rick Lemke, Commissioner
AYES:	Wirth, Parrish, Choren, Hawley, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Gentges

5) Policy

- 1) Amendment to Chapter 58 of the Zoning Code as it relates to Conditional Uses in the B-5 Zoning District.

Mayor Wirth stated that he is sponsoring this text amendment due to an interest from the property owner of Mequon Lawn and Garden. They have sold their location on Port Washington Road and are looking for a new location. They have a contract for the Fox Welding building but a text amendment is needed to be rezoned in order to be in compliance with their type of use. This alone is not justification for a text amendment, but he believes it is consistent with some of the other uses that already are allowed in the B-5 zoning district (for example Grubes Towing).

Action

Commissioner Stoker made a motion to recommend this to the Common Council.

Commissioner Jim Schaefer seconded the motion.

A voice vote was taken; vote passed (8-0)

6) Announcements

The next meeting will be Monday, April 26th at 6:00 p.m.

7) Adjourn

Action

Commissioner Stoker made a motion to adjourn the meeting.

Commissioner Choren seconded the motion.

A voice vote was taken, vote passed (8-0)

The meeting was adjourned at 7:31 p.m.

Respectfully Submitted,

Jac Zader



11333 N. Cedarburg Rd
Mequon, WI 53092-1930
Phone: 262-236-2902
Fax: 262-242-9655

www.ci.mequon.wi.us

Department of Community Development

TO: Planning Commission
FROM: PA PHOUALA VANG, PLANNER
DATE: May 3, 2021
SUBJECT: Fresh Coast Dance, LLC. The applicant is seeking conditional use grant approval for a proposed 9,170 sq. ft. dance studio in a multi-tenant building for the property located at 7170 W. Donges Bay Road.

Applicant:	Fresh Coast Dance, LLC
Status of Applicant:	Agent
Requested:	Conditional Use Grant
Existing Zoning:	B-5 (Light Industrial) PUD (Planned Unit Development)
Land Use Plan:	Business Park
Lot size:	2.64 acres
Location:	7170 W. Donges Bay Road
Tax Key:	#14-027-12-006.00
District:	#4

Background:

The applicant is requesting a Conditional Use Grant for a dance studio located within the existing multi-tenant building at 7170 W. Donges Bay Road. Fresh Coast Dance Studio will occupy 9,170 square feet in the multi-tenant building and offer classes for children, teens, and adults. The site is zoned B-5/PUD (Light Industrial/Planned Unit Development) in the Business Park. Dance studios are a conditional use in the B-5 zoning district.

According to Section 3.05(1)(b) of the Zoning Code, the following findings shall be considered when analyzing a conditional use grant application:

1. The proposed use should not endanger the public health, safety or general welfare of the city and the immediate neighborhood.

The proposed use should not endanger the surrounding area; all of the activities will take place within the building and will be monitored by staff.

2. The proposed use should not injure the value of adjoining or abutting property.

The Land Use Plan designates the site as Business Park. The site is zoned B-5/PUD. Adjacent properties are zoned B-5/PUD and B-5. A dance studio can be considered compatible with the Land Use Plan designation and with other industrial uses in the area. The Planning Commission has approved other similar uses (North Shore Dance Studio, Athlete Performance, Splash! Swim + Fitness) in areas that have a mixture of industrial, commercial and office uses. Since the zoning code does not have a parking requirement that relates to this specific use, an industry standard of one parking spot per three students and one per staff member during the business hours was used

to calculate the parking requirements. There are two other tenants in the building. The applicant provided the number of employees for the other two tenants. Based on the number of employees for each tenant and students for the dance studio, staff calculated a total parking requirement of 38 stalls. The site has a total of 87 parking stalls. The site plan also shows potential future parking spaces. Staff believes there is sufficient parking on site to accommodate the proposed dance studio.

3. The proposed use shall be harmonious or compatibility with the area in which it is located.

The proposed activities of the dance studio fit the character of the surrounding area. The dance studio hours are from 5:00 PM – 9:00 PM on Monday-Thursday, 5:00 PM – 8:00 PM on Friday and 9:00 AM – 1:00 PM on Saturday. In order to accommodate for changes to the hours of operation for the business, and in keeping with previous Planning Commission approvals, a condition of approval includes that the hours of operation for the conditional use is permitted between 9:00 AM – 10:00 PM Monday-Sunday. Planning staff believes the proposed use and activities should be harmonious with the surrounding uses.

Staff Recommendation:

Staff recommends approval of the conditional use grant based on the following condition(s):

1. The applicant shall submit final plans within 60 days of Planning Commission action. Such final plans shall be subject to staff review and approval prior to issuance of permits. Approval shall be based on consistency with applicant's application and the requirements of the Planning Commission's approval. If final plans are not submitted within such time period, or the plans are not approved by staff, the plan(s) shall be submitted to Planning Commission for additional review and action and applicant shall be responsible for all city-imposed fees associated with such additional review.
2. Any new signage will require sign permit approval and may require Planning Commission approval.
3. Hours of operation from 9:00 AM to 10:00 PM Monday – Sunday.

Attachments:

Packet Docs (PDF)

Fresh Coast Dance LLC

AC Arrival Corridor
 A-1 Agricultural Preserve
 A-2 General Agricultural
 B-1 Neighborhood Business
 B-2 Community Business
 B-3 Office & Service Business
 B-4 Business Park
 B-5 Light Industrial
 B-6 Rural Industrial
 B-7 Rural Business
 C-1 Shoreland/Wetland Conservancy
 C-2 General Conservancy
 CGO Central Growth Overlay
 FFO Flood Fringe Overlay
 FW Floodway
 IPS Institutional & Public Service

LTD Limited Use
 OA Agricultural Overlay
 PUD Planned Unit Development Overlay
 P-1 Park & Recreation
 R-1 Single-Family Residential (5 Ac. Min.)
 R-1B Single-Family Residential (2.5 Ac. Min.)
 R-2 Single-Family Residential (2.0 Ac. Min.)
 R-2B Single-Family Residential (1.5 Ac. Min.)
 R-3 Single-Family Residential (1.0 Ac. Min.)
 R-4 Single-Family Residential (3/4 Ac. Min.)
 R-5 Single-Family Residential (1/2 Ac. Min.)
 R-6 Single-Family Residential (4 du/Ac)
 RM Multi-Family Residential
 TC Town Center
 TDR Transfer of Development Rights

2.a.a

COMMERCE STREET

7100W-7190W

B-5/PUD

C-2/PUD

C-2

DONGES BAY ROAD 104N

R-2B

B-5

7031W/

Fresh Coast Dance LLC

March 18th, 2021

Mequon Planning Commission
City of Mequon
11333 N. Cedarburg Rd. 60W
Mequon, WI 53092

Re: Conditional Use Grant for 7170 W. Donges Bay Rd. Mequon, WI 532092

To Whom It May Concern,

Fresh Coast Dance LLC is a technique-focused dance studio for children, teens and adults. Our services include classes in ballet, jazz, lyrical, tap, contemporary, pointe, hip hop, musical theatre, pilates and yoga. We specialize in strong technical dance training for high-performing competitive dancers, while also providing offerings for children and adults interested in casual and recreational dance classes.

The building we plan to lease is 7170 W. Donges Bay Ave, a 9,170 square foot space in a multi-tenant building located in a conditional B-5 zoning district in Mequon. Three dance studio rooms are proposed for the space, with room allocated for a future fourth studio room to be built at a later date. A parent waiting/retail area, two dancer lounges, four ADA changing rooms, two ADA bathrooms with three stalls each and storage/office space are also included in the architectural plans. Please see attached architectural drawing for more detail.

Our hours of operation will be Monday through Thursday, 5:00 p.m.-9:00 p.m., Friday 5:00-8:00 and Saturday 9 a.m.-1:00 p.m. We will operate one to three dance studio rooms during our hours of operation, for a total of 3-12 classes each day. During business hours, we will have one to four employees and approximately 10-30 dancers in the space.

There are currently two other tenants leasing space in the building. Tenant One is Carpenter Brothers, an industrial equipment supplier with 15-20 employees working during the hours of 9:00 a.m.-5:00 p.m. Tenant Two is Fastenal, a quasi-retail industrial supply company with 1-4 employees working during the hours of 9:00 a.m.-5 p.m. There are 118 parking spaces allocated

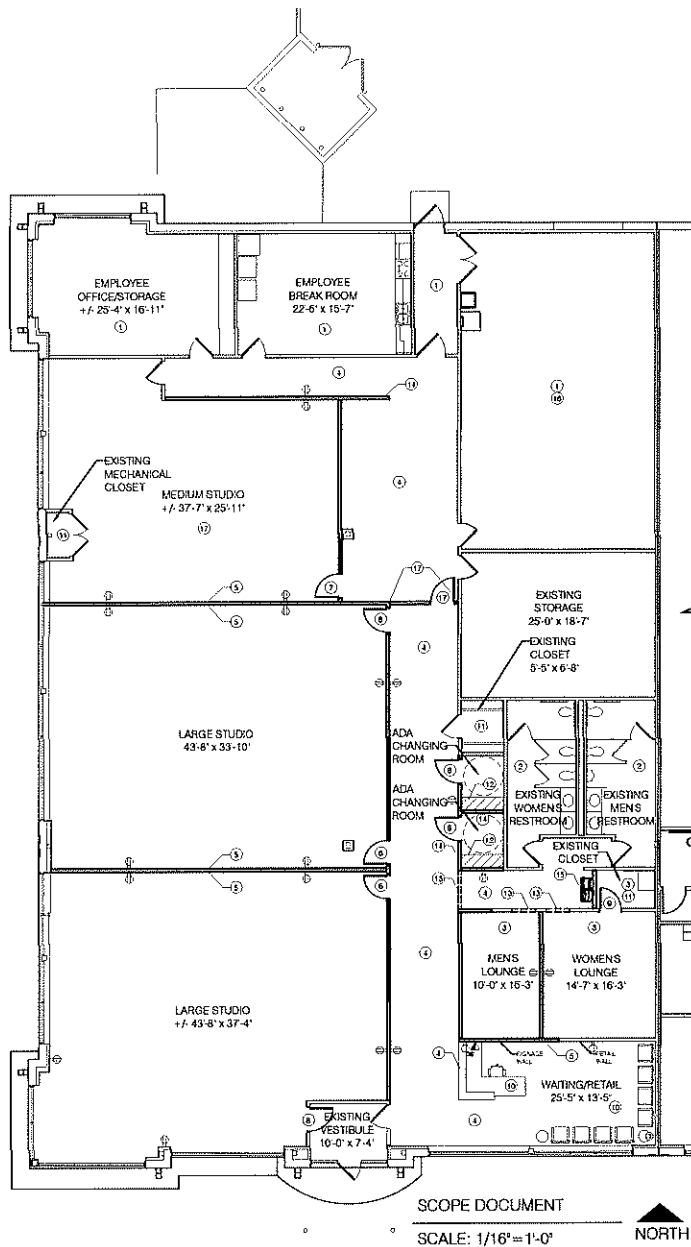
for the building, on a first-come, first-served basis. Please see attached parking site plan for more detail.

Thank you for your consideration,

Jessica Cigelske, Owner
Fresh Coast Dance LLC

Enclosures:
Planning Commission Application
Parking Site Plan
Architectural Drawing

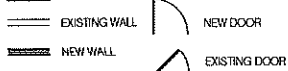
Attachment: Packet Docs (6181 : Fresh Coast Dance, LLC)



EXCLUSIONS:

1. AV, VOICE/DATA CABLING, IT RACKS, SECURITY AND FURNITURE BY OTHERS
2. LEED CERTIFICATION IS NOT INCLUDED

LEGEND



in.studio
architecture

833 E. Michigan St. Ste. 540 | Milwaukee, WI 53202

FRESH COAST DANCE

7170 W. DONGES BAY RD.
MEQUON, WI

MARCH 01

Packet Pg. 17

GENERAL NOTES

- NEW LVT AND VINYL WALL BASE AT VESTIBULE, WAITING/RETAIL, CORRIDORS, MEN'S/WOMEN'S LOUNGE, CLOSET, & CHANGING ROOMS (\$3.50/SF ALLOWANCE). NEW MARLEY BRAND DANCE FLOORS IN ALL STUDIOS AND VINYL WALL BASE. FLOORING IN EXISTING STORAGE ROOM TO REMAIN, CLEAN AS REQUIRED.
- NEW PAINT THROUGHOUT SUITE
- CONTRACTOR TO PROVIDE ALL WORK AND MATERIALS NOTED ON DRAWING, UNLESS NOTED OTHERWISE
- EXISTING ACOUSTICAL CEILING TILE AND GRID TO REMAIN IN VESTIBULE, MEN'S/WOMEN'S LOUNGE, MEN'S/WOMEN'S RESTROOM, STORAGE ROOM, AND EXISTING CLOSETS ONLY, RECONFIGURE AS REQUIRED FOR NEW LAYOUT. PROVIDE NEW ACOUSTICAL CEILING TILE AND GRID (ARMSTRONG - ULTIMA 2X2) AT RECEPTION AND CORRIDOR. ALL OTHER AREAS TO HAVE OPEN CEILING TO DECK. RECONFIGURE MEPS AS REQUIRED FOR NEW OPEN CEILING. PAINT CEILING AS REQUIRED.
- ALL NEW LIGHTING THROUGHOUT, LED 2x2 (AMICA 2) FOR AREAS WITH ACT CEILING AND GENERAL LINEAR PENDANT LIGHTING IN OPEN CEILING AREAS. ALLOWANCE FOR 1 ACCT PENDANTS AT \$800 FOR OVER RECEPTION DESK. ALL SWITCHING TO BE CODE COMPLIANT, PROVIDE 3-WAY SWITCHING AT OPEN AREAS.
- ALL FURNITURE BY TENANT
- SEE PLAN FOR PROPOSED POWER/DATA LOCATIONS. EXISTING OUTLETS/DATA NOT LOCATED ON PLANS.
- EXTEND ALL WALLS TO CEILING GRID, U.N.O.
- REWORK EXISTING FIRE SUPPRESSION SYSTEM AS REQUIRED TO MEET CODE PER CURRENT PLAN.
- PLUMBING TO INCLUDE:
 - WATER LINE TO FRIDGE AND COFFEE/WATER SYSTEM
 - NEW HIGH/LOW DRINKING FOUNTAIN W/ FILTERED BOTTLE FILLING STATION
- HVAC TO INCLUDE:
 - RELOCATE EXISTING SLOT DIFFUSERS AND TRANSFER GRILLES AS REQUIRED FOR NEW CEILING LAYOUT
 - PROVIDE DUCT MODIFICATIONS FOR NEW SPACE LAYOUT USING EXISTING VAV BOX LOCATIONS
 - HVAC PLAN REVIEW AND PERMIT
 - EXISTING PERIMETER HEATERS TO REMAIN THROUGHOUT SUITE, PAINT TO MATCH WALL.
- EXISTING APPLIANCES TO REMAIN. TENANT TO PROVIDE NEW REFRIGERATOR, GC TO INSTALL.
- EXISTING WINDOW BLINDS TO REMAIN. GC TO PROVIDE ALTERNATE FOR NEW SWF CONTRACT ROLLER SHADES.
- PROVIDE ALL FIRE AND LIFE SAFETY DEVICES TO MEET CURRENT CODE
- ALL WORK TO BE PERFORMED DURING REGULAR BUSINESS HOURS, LOUD AND ODOROUS WORK TO BE PERFORMED OUTSIDE OF BUSINESS HOURS
- PROVIDE ALTERNATE FOR ARMSTRONG ACOUSTICAL CEILING CLOUDS IN DANCE STUDIOS - DESIGN TBD. SF PER ROOM = APPROX. 1/2 ROOM SQUARE FOOTAGE.

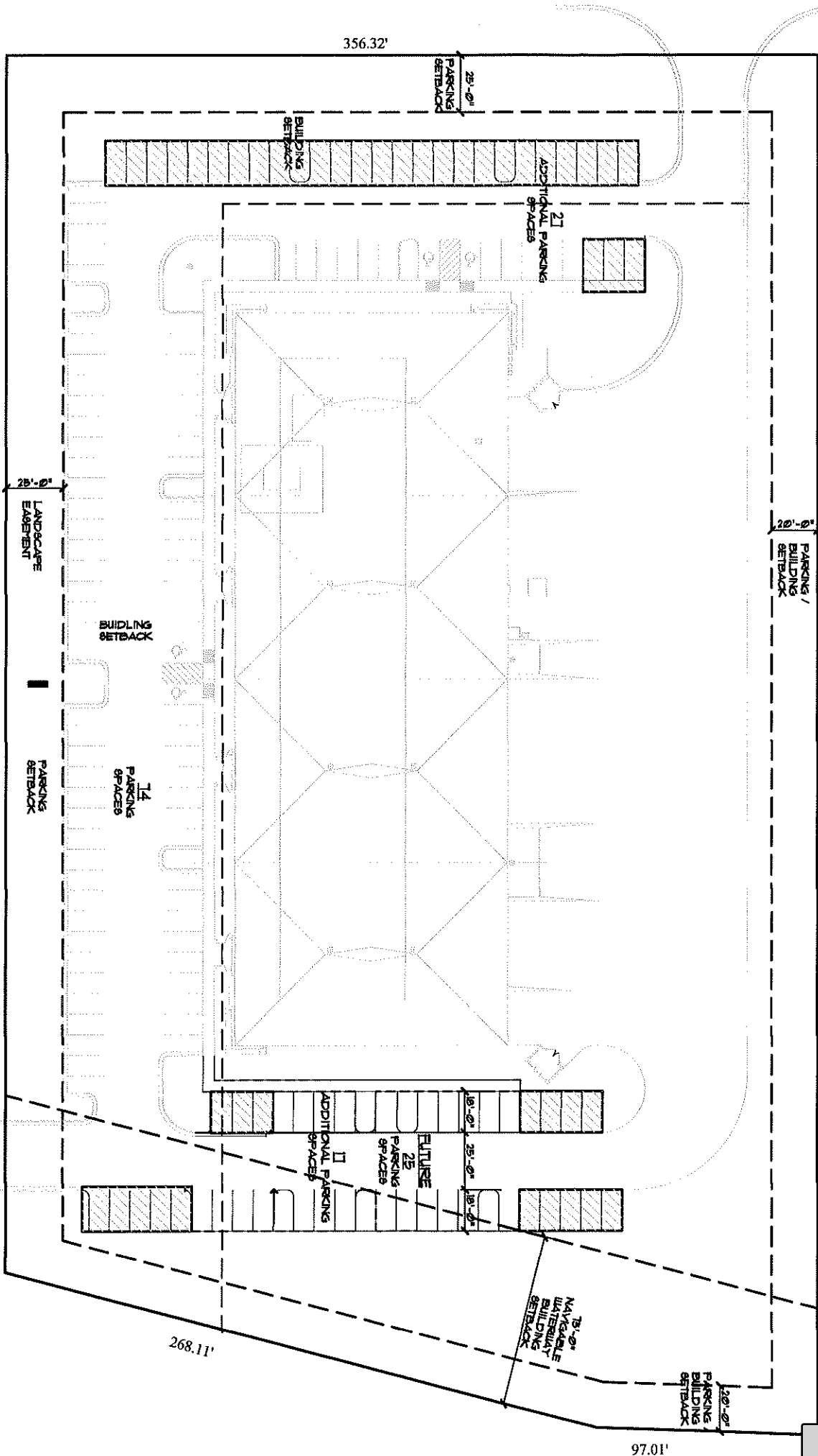
CONSTRUCTION SCOPE PLAN NOTES

- 1 AREA NOT IN SCOPE
- 2 PROVIDE ALTERNATE FOR NEW PORCELAIN TILE AT FLOOR AND WET WALLS. NEW P.LAM VANITY WITH SOLID SURFACE TOP, NEW TOILET PARTITIONS, NEW MIRROR AND VANITY LIGHT. REUSE EXISTING PLUMBING FIXTURES AND ACCESSORIES.
- 3 RECONFIGURE EXISTING ACOUSTICAL CEILING TILE AND GRID
- 4 NEW ACOUSTICAL CEILING TILE AND GRID
- 5 PROVIDE BLOCKING IN WALL FOR NEW SIGNAGE/RETAIL PRODUCTS & WALL-MOUNTED BARRES
- 6 NEW SOLID CORE FULL-LITE MAPLE VENEER DOORS (7'-0"x3'-0") AND HM FRAMES WITH 1/2" CLEAR TEMPERED GLASS SIDELIGHTS (13'-2" WIDE). NEW DOOR HARDWARE THROUGHOUT.
- 7 NEW SOLID CORE FULL-LITE MAPLE VENEER DOORS (7'-0"x3'-0") AND HM FRAMES WITH 1/2" CLEAR TEMPERED GLASS SIDELIGHTS (4'-6" WIDE). NEW DOOR HARDWARE THROUGHOUT.
- 8 NEW SOLID CORE MAPLE VENEER DOORS (7'-0"x3'-0") AND HM FRAMES. NEW HARDWARE THROUGHOUT.
- 9 NEW SOLID CORE MAPLE VENEER DOORS (7'-0"x2'-6") AND HM FRAMES. NEW HARDWARE THROUGHOUT.
- 10 ALL FURNITURE BY TENANT, INCLUDING RECEPTION DESK.
- 11 EXISTING CLOSET TO REMAIN
- 12 NEW BUILT-IN P.LAM BENCHES
- 13 NEW GYP. BOARD HEADER AT 7'-2" A.F.F.
- 14 NOTED WALLS TO EXTEND TO 9'-0" A.F.F.
- 15 NEW HIGH/LOW DRINKING FOUNTAIN WITH FILTERED BOTTLE FILLER
- 16 AREA CURRENTLY NOT IN SCOPE, PROVIDE ALTERNATE COST TO DO THIS ROOM AND EXISTING STORAGE AS SHOWN ON THE SCOPE DOCUMENT DATED 2-9-2021.
- 17 AREA CURRENTLY IN SCOPE, PROVIDE COST DEDUCT TO REMOVE THIS ROOM FROM BID AND KEEP AS IS. IF ROOM IS REMOVED FROM BID, BUILD NEW WALL TO GRID, WITH NEW SOLID CORE FULL-LITE MAPLE VENEER DOOR (7'-0"x3'-0"), HM FRAME, AND PASSAGE LOCKSET. NO WORK TO BE DONE BEYOND NEW WALL.

DONGES BAY ROAD



531.66'



602.86'

		2.a.a
CONDITIONAL USE GRANT Articles of Agreement made and entered into this 3rd day of May, 2021 by and between West Bay Commerce, LLC, owner of the property located at 7170 W Donges Bay Road, and the City of Mequon Planning Commission. Before the Planning Commission of the City of Mequon, Ozaukee County, Wisconsin, in regard to the premise located in Section 27, Range 21 East, in Township 9 North, Ozaukee County, State of Wisconsin, further described as follows: LEGAL DESCRIPTION Exhibit A-1 WHEREAS, the Zoning Code and Zoning District Map of the above named municipality, pursuant to State Statues, provide that the premises may not be used of right for the purpose hereinafter described but that upon petition such use may be approved by the municipality as a Conditional Use Grant in particular circumstances as defined by the standards in the Zoning Ordinance; and Petition therefore having been made, and public hearing held thereon, and the Planning Commission of the <u>City of Mequon</u> having determined that by reason of the particular nature, character, and circumstances of the proposed use, grant of such use upon the terms and conditions hereinafter prescribed would be consistent with the requirements of the Zoning Ordinance. Now, therefore, IT IS GRANTED, subject to compliance with the terms and conditions hereinafter stated that the Premises may be used for the purpose of <u>dance studio</u>. GRANTED by action of the Planning Commission of the City of Mequon this 3rd day of May 2021. John Wirth, Mayor, Planning Commission Chairperson Acknowledgment: STATE OF WISCONSIN))SS OZAUKEE COUNTY) Personally came before me, this ____ day of _____, 2021, the above named John Wirth, Mayor, to me known to be the person who executed the foregoing instrument and acknowledged the same. Notary Public, Ozaukee County, Wisconsin My Commission (expires) _____ Planning Commission Secretary Acknowledgment: STATE OF WISCONSIN))SS OZAUKEE COUNTY) Personally came before me, this ____ day of _____, 2021, the above named _____, Planning Commission Secretary, to me known to be the person who executed the foregoing instrument and acknowledged the same. Notary Public, Ozaukee County, Wisconsin My Commission (expires) _____ RETURN TO: City of Mequon 11333 North Cedarburg Road 60W Mequon, WI 53092 PARCEL NO.: 140271200600		

Attachment: Packet Docs (6181 : Fresh Coast Dance, LLC)

The **CONDITIONS** of this Grant are:

1. This grant shall become effective upon the execution and recording by the owners and operators of the Premises of an acceptance hereof in such form as to constitute an effective covenant running with the land.
2. This grant shall expire and become void unless, pursuant to the building and zoning codes of the City, the approved use is commenced or the building permit is obtained within twelve (12) months of the date of Planning Commission approval noted above, or actual construction is commenced within twelve (12) months of the date on which the building permit was issued.
3. This grant is subject to amendment and termination in accordance with the provisions of the Zoning Code of this municipality.
4. Construction and operation of the use granted shall be in strict conformity to the approved site, building, and operations plans filed in connection with the Petition for this Grant, and annexed hereto.
5. Any of the conditions of this Grant which would normally be the responsibility of tenants of the Premises shall be made a part of their lease by the Owner, which lease shall contain provisions for posting of the pertinent conditions to notify employees thereof.
6. This grant shall automatically be null and void if this use is discontinued for a period of twelve (12) months.
7. The Grantee and its successors in interest shall hold the City of Mequon harmless from any claims or losses to the City or its residents including reasonable attorney fees arising from or related to use of the facilities.
8. Any change to the approved use or change to the building or site plan will require an amendment to the Conditional Use. Minor changes to the building and site plan shall be approved by the Department of Community Development.
9. **Conditions on the Operations:**
 - a. Hours of operation: Monday-Sunday 9:00 AM –10:00 PM. Hours and days may vary depending on client demand.
 - b. Performance standards relating to parking, noise, vibration, odor, smoke, dust, and light: As per City ordinance and as further designated under letter (e.) below.
 - c. Water supply requirements:
Public
 - d. Provisions for sewage disposal:
Public
 - e. Other:
 - If the conditional use shall become hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, or if material problems shall arise with respect to noise, traffic circulation, ingress and egress, parking, unenclosed storage, lighting, maintenance, or any other condition which shall materially threaten health or safety or to become a nuisance condition, the Grantee shall correct or improve such condition, and toward that end, the Planning Commission, after public hearing, may alter, amend or add reasonable additional Conditional User Grant conditions in order to ameliorate such effects, or in the case of violation of the Conditional Use Permit, may revoke the Conditional Use Grant.
 - If, despite efforts to prescribe conditions which render the conditional use harmonious in the surrounding neighborhood, problems shall arise with respect to noise, traffic circulation, ingress and egress, parking, unenclosed storage, lighting, maintenance, or any other condition which shall materially threaten the peace and enjoyment of neighboring properties, or shall become hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, or shall threaten health or safety, the Grantee shall correct or improve such condition, and toward that end, the Planning Commission, after public hearing, may alter, amend or add reasonable additional Conditional User Grant conditions in order to ameliorate such effects, and in the case of violation of the Conditional Use Permit, may revoke the Conditional Use Grant.
10. **Conditions of the Structures:**
 - a. Site Plan: As on file with Community Development Department, City of Mequon
 - b. Landscaping Plan: N/A
 - c. Elevations: As on file with Community Development Department, City of Mequon
 - d. Signs: As on file with Community Development Department, City of Mequon
 - e. Floor Plan: Exhibit B
 - f. Exterior lighting of the site and building: As on file with Community Development Department, City of Mequon
 - g. Fence / Wall / Dumpster plan details: As on file with Community Development Department, City of Mequon
 - h. The building shall comply with the building code.

11. **Conditions on the site:**
- a. Street access (number, location, design): As per attached Exhibit A

b. Off-Street Parking (location and design including screening thereof): As on file with Community Development Department, City of Mequon

c. Outside storage of materials, products or refuse (location and screening thereof): As on file with Community Development Department, City of Mequon

d. Parking, exterior lighting of the site, location design and power: Any changes subject to Planning Commission approval.

e. Other: N/A

Owner

Acknowledgment:

STATE OF WISCONSIN))SS
OZAUKEE COUNTY)
Personally came before me, this ____ day of _____, 2021, the above named_____, Owner, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, Ozaukee County, Wisconsin

Receipt of a true Copy of this instrument on behalf of the petitioner acknowledged the _____ day of _____, 2021

PARKING CALCULATION FOR FRESH COAST DANCE LLC

PARKING REQUIREMENT	
Use	Dance Studio
Parking Requirement (industry standard)	<i>One parking spot per three students and one per staff member during the business hours was used to calculate the parking requirements.</i>

PROPOSED DANCE STUDIO	
Max. Dancers	30
Total square footage	9,170 square feet
Max. employees on one shift	4 employees
Parking Required	14 stalls

EXISTING TENANTS	
Parking Requirement	<i>One space per employee for the two consecutive work shifts with the largest number of employees.</i>
Carpenter Brothers	11,294 SF
Employees	15-20 employees
Parking Required	20 stalls
Hours of Operation	9:00 AM – 5:00 PM
Fastenal	7,906 SF
Employees	1-4 employees
Hours of Operation	9:00 AM – 5:00 PM
Parking Required	4 stalls

PARKING CALCULATION	
Parking Required for Existing tenants	24 stalls
Parking Required per dance studio	14 stalls
Parking on Site	87 shared stalls - part of multi-tenant building
Code Compliance	Meets parking requirements

TO: Planning Commission
FROM: PA PHOUALA VANG, PLANNER
DATE: May 3, 2021
SUBJECT: Thompson Project Management for Foxtown Brewery. The applicant is seeking conditional use grant approval to allow for a distillery within Foxtown Brewing for the property located at 6411 W. Mequon Road.

Applicant:	Thompson Project Management
Status of Applicant:	Agent
Requested:	Conditional Use Grant
Existing Use:	Town Center
Existing Zoning:	TC (Town Center) PUD (Planned Unit Development)
Lot size:	1.36 acres
Location:	6411 W. Mequon Road
Tax Key:	#14-027-01-025.00
District:	#4

Background:

The applicant requests conditional use grant for a distillery located at 6411 W Mequon Road. The Common Council approved the mixed-use PUD on January 9, 2017. The Planning Commission recommended approval of the text amendment to allow for distillery as a conditional use on March 22, 2011. The approval of the Conditional Use Grant approval will be conditioned upon Common Council approval of the text amendment at their May 11, 2021 meeting.

Conditional Use Grant Analysis:

According to Section 3.05(1)(b) of the Zoning Code, the following findings shall be considered when analyzing a conditional use grant application:

The proposed use should not endanger the public health, safety or general welfare of the city and the immediate neighborhood.

The proposed use of a distillery is licensed and regulated by the State of Wisconsin. The use should not endanger the health and safety of the surrounding neighborhood.

The proposed use should not injure the value of adjoining or abutting property.

The craft distillery is a small operation and shares space with the existing brewery on the main level of the building. The same two employees who operate the brewery will operate the distillery. The applicant anticipates there will be daily morning deliveries to the south dock related to the distillery operation. The distillery will have the same hours of operation as the brewery which is open Monday thru Saturday from 6:30 AM to 6:00 PM. The proposed use should have minimal impact on the surrounding properties.

One concern that may arise with a distillery operation is the smell of the production process. The applicant indicated that during the distillation process, volatile aromatic vapors are condensed to liquid spirit so there is little or no odor. In addition, aromas from the restaurant kitchen exhaust fan would overwhelm any negligible odor generated by the small craft distillery.

A floor plan was submitted to show the proposed layout. Per the floor plan, there will be a mash tank located in front of one of the windows on the west elevation. The tank is 9 feet in height, and the applicant does not believe the tank will be readily visible to passersby. The window itself is tinted and staff agrees that the tank is not readily visible from public view nor will it adversely affect the subject or adjoining property. An image of the west elevation window and the proposed tank is included in the packet.

The proposed use shall be harmonious or compatibility with the area in which it is located.

The distillery is located within the Town Center zoning district. Planning Commission recommended approval of a text amendment to allow for micro-distilleries as a conditional use in the district. Since Common Council has not approved the text amendment, a condition states that the conditional use grant will not be finalized with signatures or recorded nor will any building permit will be issued for the distillery until the text amendment is approved.

The text amendment to allow micro- distilleries in the TC zoning district included several specific operation and feature requirements to ensure the use would enhance the vitality of the district, including the following requirements:

Micro-distillery. A *micro-distillery* is an establishment that produces less than 10,000 gallons of spirits on site per year. Distilleries shall provide the following operations and features:

- a) Manufacture, bottle, pack and store spirits on premise and ship spirits from premises.
- b) Retail sale of spirits on premises.
- c) Consumption of spirits on premises.
- d) Tasting room for samples on premises.
- e) Indoor and outdoor event space on premises.

The operations and features associated with Section A on the list above, shall not exceed 60 percent of the total distillery operations on premise.

Micro-distilleries may provide the following operations:

- a) Sit-down restaurant on premises.
- b) Delicatessen on premises.
- c) Similar ancillary uses on premises as approved by the Planning Commission.

Micro-distilleries shall not conduct the following operations:

- a) Fast food restaurant on premises.
- b) Drive thru services.

The distillery shares the space with the brewery which has the attached restaurant and indoor and outdoor event space. The craft distillery will produce approximately 30 proof gallons of spirits per week. Additional spirits retailed on premises will be brought in from an offsite distillery for onsite blending and packaging.

Staff recommendation: Staff recommends approval of the conditional use grant based on the following condition(s):

1. The applicant shall submit final plans within 60 days of Planning Commission action. Such final plans shall be subject to staff review and approval prior to issuance of permits.

Approval shall be based on consistency with applicant's application and the requirements of the Planning Commission's approval. If final plans are not submitted within such time period, or the plans are not approved by staff, the plan(s) shall be submitted to Planning Commission for additional review and action and applicant shall be responsible for all city-imposed fees associated with such additional review.

2. Compliance with the approved conditional use grant for the brewery.
3. Common Council approval of text amendment to allow for craft distilleries as a conditional use in the TC town center district.
4. Finalization of the conditional use grant and building permits will not be issued for the distillery until Common Council approval of the text amendment.
5. There shall be no amplified music past 11:00 PM on the outdoor patio.
6. The distillery hours are limited to the hours of the brewery which are 6:30 AM to 6:00 PM.
7. The distillery shall provide the following operations and features:
 - Manufacture, bottle, pack and store spirits on premise and ship spirits from premises.
 - Retail sale of spirits on premises.
 - Consumption of spirits on premises.
 - Tasting room for samples on premises.
 - Indoor and outdoor event space on premises.
8. The operations and features associated with Section A on the list above, shall not exceed 60 percent of the total distillery operations on premise.
9. *Micro-distilleries* may provide the following operations:
 - Sit-down restaurant on premises.
 - Delicatessen on premises.
 - Similar ancillary uses on premises as approved by the Planning Commission.
10. *Micro-distilleries* shall not conduct the following operations:
 - Fast food restaurant on premises.
 - Drive thru services.

Attachments:
Packet Docs (PDF)

Foxtown Distillery

AC Arrival Corridor
 A-1 Agricultural Preserve
 A-2 General Agricultural
 B-1 Neighborhood Business
 B-2 Community Business
 B-3 Office & Service Business
 B-4 Business Park
 B-5 Light Industrial
 B-6 Rural Industrial
 B-7 Rural Business
 C-1 Shoreland/Wetland Conservancy
 C-2 General Conservancy
 CGO Central Growth Overlay
 FFO Flood Fringe Overlay
 FW Floodway
 IPS Institutional & Public Service

LTD Limited Use
 OA Agricultural Overlay
 PUD Planned Unit Development Overlay
 P-1 Park & Recreation
 R-1 Single-Family Residential (5 Ac. Min.)
 R-1B Single-Family Residential (2.5 Ac. Min.)
 R-2 Single-Family Residential (2.0 Ac. Min.)
 R-2B Single-Family Residential (1.5 Ac. Min.)
 R-3 Single-Family Residential (1.0 Ac. Min.)
 R-4 Single-Family Residential (3/4 Ac. Min.)
 R-5 Single-Family Residential (1/2 Ac. Min.)
 R-6 Single-Family Residential (4 du/Ac)
 RM Multi-Family Residential
 TC Town Center
 TDR Transfer of Development Rights

IPS

MEQUON ROAD 112N

6411W

6375W

TC/PUD

11130N

111

TC

BUNTROCK AVENUE 64W

6W

Business Narrative and Plan of Operation

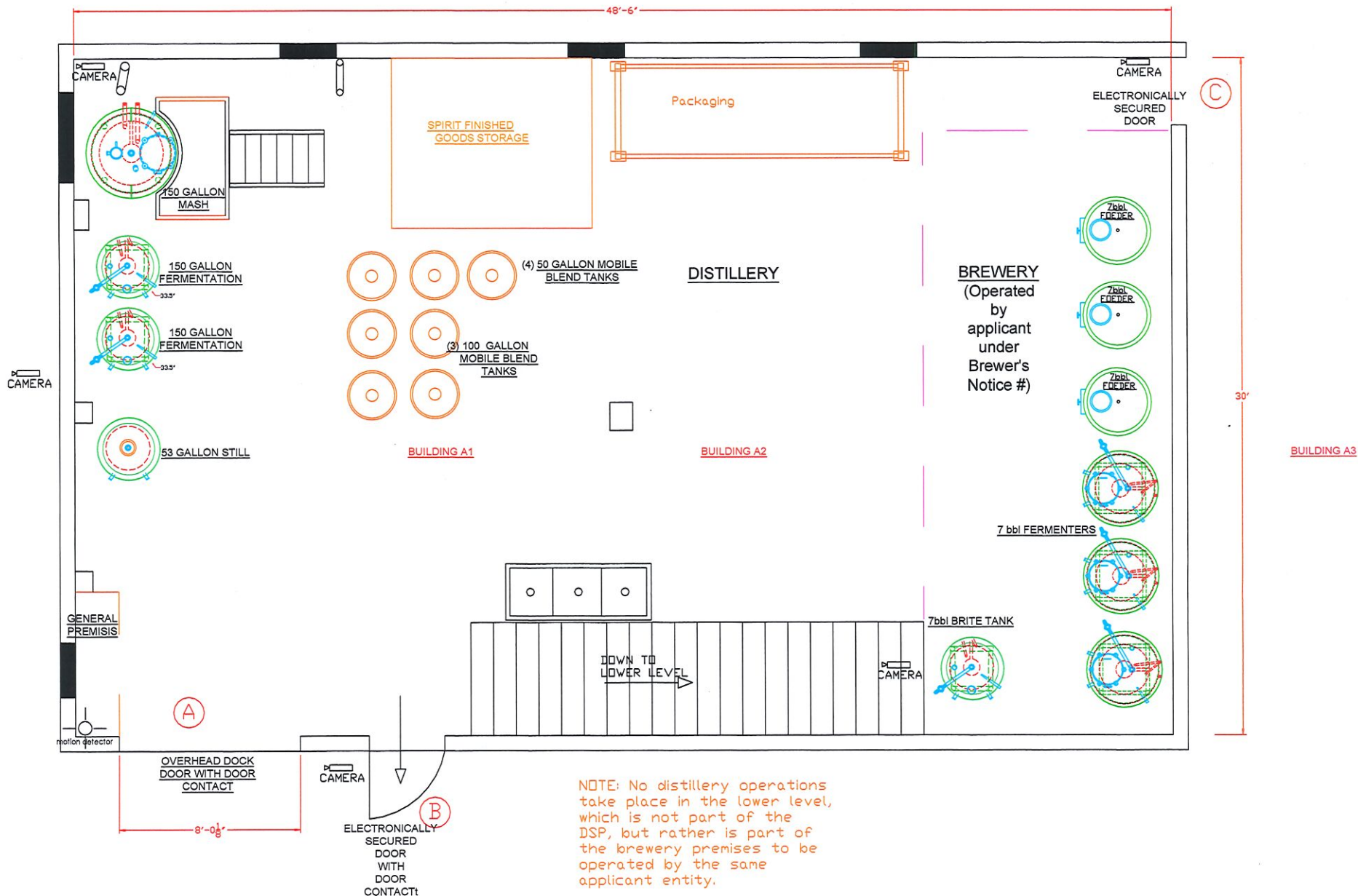
The Foxtown Brewery is located in the historic property at 6411 Mequon Road, the site of previous breweries including Jung Brewing, Mequon Brewing and Opitz & Zimmermann Brewing.

Both Opitz and Zimmermann were among the earliest pioneers of Ozaukee County. William F. Opitz was active in the political formation of Ozaukee County, specifically of Mequon and Grafton, the latter of which he served as Town Chairman for three years. Adolphus Zimmermann held various elected offices in Ozaukee County that later culminated with him serving on the first Wisconsin Legislature in 1848.

The building, which dates back to 1857 was originally erected by William F. Opitz and Adolphus Zimmermann and includes two levels of lagering caves that were used before the invention of refrigeration to age and cellar beers in accordance with old world methods. The building also has history in the prohibition era, when it was raided on July 23, 1926 for having 3000 gallons of beer in various stages of production removed by federal agents.

Continuing this storied history, Foxtown Brewery will operate a small single shift 7.5 barrel micro-brewery with a staff of 2 people, offering tours of both the new brewery as well as tours of the historic Opitz and Zimmermann lager caves, providing visitors a unique look into 1850's brewing methods and historic Ozaukee County.

In addition to the micro-brewery there will be a small craft distillery. The craft distillery will share space with the brewery and have a small 53 gallon boiler producing about 30 proof gallons of spirits per week. Gin and liqueurs will be main products produced on site for retail sales. Additional spirits retailed on premises will be brought in from an offsite distillery for on-site blending and packaging. The same 2 people who staff the brewery will also operate the distillery. During Brewery tours, guests will also have the opportunity to observe the distillery. The hours of operation for the brewery and distillery will be Monday thru Friday 6:00 AM – 6:00 PM.



West Elevation Window



Attachment: Packet Docs (6182 : Thompson Project Management for Foxtown Brewery)

9 foot tall tank



CONDITIONAL USE GRANT

Articles of Agreement made and entered into this 3rd day of May 2021, by and between _____, owners of the property located at 6411 W Mequon Road, and the City of Mequon Planning Commission.

Before the Planning Commission of the City of Mequon, Ozaukee County, Wisconsin, in regard to the premise located in Section 27, Range 21 East, in Township 9 North, Ozaukee County, State of Wisconsin, further described as follows:

LEGAL DESCRIPTION

Exhibit A-1

WHEREAS, the Zoning Code and Zoning District Map of the above named municipality, pursuant to State Statues, provide that the premises may not be used of right for the purpose hereinafter described but that upon petition such use may be approved by the municipality as a Conditional Use Grant in particular circumstances as defined by the standards in the Zoning Ordinance; and

Petition therefore having been made, and public hearing held thereon, and the Planning Commission of the City of Mequon having determined that by reason of the particular nature, character, and circumstances of the proposed use, grant of such use upon the terms and conditions hereinafter prescribed would be consistent with the requirements of the Zoning Ordinance.

Now, therefore, **IT IS GRANTED**, subject to compliance with the terms and conditions hereinafter stated that the Premises may be used for the purpose of micro-distillery.

GRANTED by action of the Planning Commission of the City of Mequon this 3rd day of May 2021.

Mayor Wirth, Mayor, Planning Commission Chairperson

Acknowledgment:

STATE OF WISCONSIN))SS
OZAUKEE COUNTY)
Personally came before me, this ____ day of _____, 2021, the above named John Wirth, Mayor, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, Ozaukee County, Wisconsin
My Commission (expires) _____

Planning Commission Secretary

Acknowledgment:

STATE OF WISCONSIN))SS
OZAUKEE COUNTY)
Personally came before me, this ____ day of _____, 2021, the above named _____, Planning Commission Secretary, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, Ozaukee County, Wisconsin
My Commission (expires) _____

RETURN TO:

City of Mequon
11333 North Cedarburg Road 60W
Mequon, WI 53092

PARCEL NO.:
14-027-01-025.00

Attachment: Packet Docs (6182 : Thompson Project Management for Foxtown Brewery)

The **CONDITIONS** of this Grant are:

1. This grant shall become effective upon the execution and recording by the owners and operators of the Premises of an acceptance hereof in such form as to constitute an effective covenant running with the land.
2. This grant shall expire and become void unless, pursuant to the building and zoning codes of the City, the approved use is commenced or the building permit is obtained within twelve (12) months of the date of Planning Commission approval noted above, or actual construction is commenced within twelve (12) months of the date on which the building permit was issued.
3. This grant is subject to amendment and termination in accordance with the provisions of the Zoning Code of this municipality.
4. Construction and operation of the use granted shall be in strict conformity to the approved site, building, and operations plans filed in connection with the Petition for this Grant, and annexed hereto.
5. Any of the conditions of this Grant which would normally be the responsibility of tenants of the Premises shall be made a part of their lease by the Owner, which lease shall contain provisions for posting of the pertinent conditions to notify employees thereof.
6. This grant shall automatically be null and void if this use is discontinued for a period of twelve (12) months.
7. The Grantee and its successors in interest shall hold the City of Mequon harmless from any claims or losses to the City or its residents including reasonable attorney fees arising from or related to use of the facilities.
8. Any change to the approved use or change to the building or site plan will require an amendment to the Conditional Use. Minor changes to the building and site plan shall be approved by the Department of Community Development.
9. **Conditions on the Operations:**
 - a. Hours of operation: 6:30 AM -6:00 PM
 - b. Performance standards relating to parking, noise, vibration, odor, smoke, dust, and light: As per City ordinance and as further designated under letter (e.) below.
 - c. Water supply requirements:
City Water
 - d. Provisions for sewage disposal:
City Sewer
 - e. Other:
 - If the conditional use shall become hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, or if material problems shall arise with respect to noise, traffic circulation, ingress and egress, parking, unenclosed storage, lighting, maintenance, or any other condition which shall materially threaten health or safety or to become a nuisance condition, the Grantee shall correct or improve such condition, and toward that end, the Planning Commission, after public hearing, may alter, amend or add reasonable additional Conditional User Grant conditions in order to ameliorate such effects, or in the case of violation of the Conditional Use Permit, may revoke the Conditional Use Grant.
 - If, despite efforts to prescribe conditions which render the conditional use harmonious in the surrounding neighborhood, problems shall arise with respect to noise, traffic circulation, ingress and egress, parking, unenclosed storage, lighting, maintenance, or any other condition which shall materially threaten the peace and enjoyment of neighboring properties, or shall become hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, or shall threaten health or safety, the Grantee shall correct or improve such condition, and toward that end, the Planning Commission, after public hearing, may alter, amend or add reasonable additional Conditional User Grant conditions in order to ameliorate such effects, and in the case of violation of the Conditional Use Permit, may revoke the Conditional Use Grant.
- The micro-distillery shall provide the following operations and features:
 - a) Manufacture, bottle, pack and store spirits on premise and ship spirits from premises.
 - b) Retail sale of spirits on premises.
 - c) Consumption of spirits on premises.
 - d) Tasting room for samples on premises.
 - e) Indoor and outdoor event space on premises.
- The operations and features associated with Section A listed above shall not exceed 60 percent of the total distillery operations on premise.
- *Micro-distilleries* may provide the following operations:
 - a) Sit-down restaurant on premises.
 - b) Delicatessen on premises.

c) Similar ancillary uses on premises as approved by the Planning Commission.

- *Micro-distilleries* shall not conduct the following operations:
 - a) Fast food restaurant on premises.
 - b) Drive thru services.

10. **Conditions of the structures:**

- a. Site Plan: As on file with Community Development Department, City of Mequon
- b. Landscaping Plan: As on file with Community Development Department, City of Mequon
- c. Elevations: As on file with Community Development Department, City of Mequon
- d. Sign: As on file with Community Development Department, City of Mequon
- e. Floor Plan: Exhibit B
- f. Exterior lighting of the site and building: As on file with Community Development Department, City of Mequon
- g. Fence / Wall / Dumpster plan details: As on file with Community Development Department, City of Mequon
- h. The building shall comply with the building code.

11. **Conditions on the site:**

- a. Street access (number, location, design): As on file with Community Development Department, City of Mequon
- b. Off-Street Parking (location and design including screening thereof): As on file with Community Development Department, City of Mequon
- c. Outside storage of materials, products or refuse (location and screening thereof): As on file with Community Development Department, City of Mequon
- d. Parking, exterior lighting of the site, location design and power:
Any changes subject to Planning Commission approval.
- e. Other:

Owner

Acknowledgment:

STATE OF WISCONSIN))SS
OZAUKEE COUNTY)
Personally came before me, this ____ day of _____, 2021, the above named _____, Owner, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, Ozaukee County, Wisconsin

Receipt of a true Copy of this instrument
on behalf of the petitioner acknowledged
the _____ day of _____, 2021

DRAFTED BY:
City of Mequon
11333 N Cedarburg Road
Mequon, WI 53092

Attachment: Packet Docs (6182 : Thompson Project Management for Foxtown Brewery)



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2904
Fax: 262-242-9655

www.ci.mequon.wi.us

Department of Community Development
Taped and Televised

PLANNING COMMISSION

Regular Meeting

Monday, March 12, 2018

4:30 PM

Christine Nuernberg Hall

Minutes

1) Call to Order, Roll Call

Present:

Chairman Dan Abendroth
Commissioner Brian Parrish
Alternate John Stoker
Commissioner James Schaefer
Commissioner Rebecca Schaefer
Alderman John Wirth
Commissioner Rick Lemke
Alternate Stephanie Hawley

- a) Approval of Planning Commission Meeting Minutes from February 12, 2018.

Action

Ald. Wirth made a motion to approve the minutes from February 12, 2018.

Commissioner Stoker seconded the motion.

A voice vote was taken, vote passed (8-0)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Wirth, Alderman
SECONDER:	John Stoker, Alternate
AYES:	Abendroth, Parrish, Stoker, B. Schaefer, J. Schaefer, Wirth, Lemke, Hawley
ABSENT:	Choren, Mason
EXCUSED:	Strzelczyk

2) **Public Hearing**

- a) Fox Tale Brewing Co., Inc. The applicant is seeking conditional use grant, building and site plan, sign waiver and certified survey map approval for a proposed brewery and restaurant located at 6411 W. Mequon Road.

Attachment: Packet Docs (6182 : Thompson Project Management for Foxtown Brewery)

Action

Commissioner Parrish made a motion to go into public hearing.

Commissioner Stoker seconded the motion.

A voice vote was taken, vote passed (8-0)

Action

Commissioner Parrish made a motion to close the public hearing.

Ald. Wirth seconded the motion.

A voice vote was taken, vote passed (8-0)

Asst. Dir. Zader stated that the request is for conditional use grant, building and site plan and certified survey map approval for the Fox Tale brewery and restaurant. The PUD was approved in December and January. The conditional use text amendment was approved in September of 2017 for breweries. Everything is very similar to what was presented on the concept plan but now shows more details. The site plan shows a 6,100 sq. ft. restaurant with a 1,700 sq. ft. brewery. The parking lot and building layout is the same as shown previously.

One of the changes is that there is a draft CSM of where this parcel will be split in two. The restaurant will be where parcel B was shown on the concept plan. They did add some fencing to maintain the street edge.

The site shows 100 parking stalls which does comply with the code based on the proposed uses. As a part of the rezoning TADI did a tabletop exercise regarding parking and the analysis shows that the site does meet the parking demand except during the peak summer hours at dinner and on weekends. As a condition of approval staff listed the vehicular access and parking lot shown on the concept plan for building B must be completed by spring of 2019. The restaurant is anticipated to be completed in the late fall or early winter so there are not any peak issues until the summer of 2019.

There have been conversations with the applicant regarding deliveries. The applicant provided templates in the packet with regards to turning movements. The applicant stated that all deliveries will occur prior to business hours and that there will be no need for on-street deliveries on Buntrock Avenue or Mequon Road. The plan also shows a number of improvements in the right of way including sidewalks, landscaping and curb and gutter. There will be a development agreement that will outline all the changes and improvements made to the public improvement area especially along the intersection.

The building design is similar to the concept plan and the elevations shown at the PUD approval. Staff is supportive of all the materials and the look of the building. The only recommendation from staff is that the code requires that the front entranceway off of Mequon Road be enhanced. They did add a planter area as well as some outdoor seating but staff feels that a few more design elements in that area would be beneficial; some signage or lighting that will enhance that entranceway.

The lighting plan complies with most of the lighting requirement. They show the same street light design from Cedarburg Road for their parking lot lights. The plan shows some wall

packs and bollards that comply with the code. They are showing the same festoon string lighting that Café Hollander has on their patio. The same requirements were added of 70 lumens maximum per bulb and that the lights stay static and cannot flash or blink.

Terry Higgins did a review of the landscape plan and staff has gone over it several times with the applicant and has addressed most of the issues. There are still a few items that staff would like to have included which are bulleted in the staff report in the board packet.

The applicant is requesting several sign waivers as part of the approval process. The code currently allows for 2 wall signs due to being located on a corner. The applicant is showing 4 signs (1 on the east elevation, 1 on the west elevation and 2 on the south elevation). The size of the signs warrants a waiver as well. The sign size is limited by 2 percent of the building with a 60 sq. ft. maximum. The third waiver would be for the rooftop signage on the east elevation of the patio area. Staff is not supportive of both of the signs on the south elevation as it seems redundant and staff feels it may be better suited that the sign on the west portion of the building remain and the one on the east be removed. Staff supports the size waiver for the sign to the east roof area as the code would require the sign to be half the proposed size and would be difficult to see from the road. Staff is not supportive of the waiver for the sign on the west side of the building. Staff suggested a monument sign for the corner instead of a wall sign to take advantage of eastbound traffic on Mequon Road.

The restaurant use is permitted per the code but the applicant is requesting extended hours of operations (similar to Café Hollander). They are looking to be open until midnight on weekdays and 1:00 am on weekends. Staff is supportive of the extended hours with the condition that there is no outdoor amplified music on the patio beyond 11:00 pm.

The conditional use grant is specific to the brewery operations. It is a relatively small operation with 2-4 deliveries a week and only 1-2 staff members on the site at any given time. The hours of the brewery will be 6:30 am – 6:00 pm. Staff does not feel that this will have a major impact on the area. Conditions that the brewery must maintain were added; including specifically the consumption of beer on site, tasting rooms and indoor and outdoor event space.

The CSM shows the division of the two pieces for this restaurant and the proposed restaurant to the east. It meets all technical requirements for size and area for Town Center zoning.

Staff recommends approval according to the 29 conditions in the staff report.

The applicant, Gregg Thompson, stated that they are comfortable with all the conditions but they have one request for approval to begin interior demo work and to begin construction work this month.

Asst. Dir. Zader stated that there are triggers that will allow for the permit to be released in a short time frame with the one condition being the storm water management plan approval by engineering.

Asst. Eng. Henk stated that the storm water management plan is scheduled to be delivered this week. They are working with the consultant to push this project to continue to move forward.

Commissioner Jim Schaefer stated that he wants to ensure the windows will have castings around them.

The applicant confirmed that the windows will have castings.

Commissioner Becky Schaefer asked if the parking for both the restaurant and brewery at peak times is sufficient.

Asst. Dir. Zader stated that the 100 spaces meet the zoning code. The zoning code does not address peak times. The TADI report looks at peak times of operations and breaks it down by hours. During the summer time of peak hours (6:00 pm – 8:00 pm) the report indicated that up to 130 parking spaces could be needed and that is where the shared parking agreement will come into play. If that does not work, they would need to find other options. Staff feels comfortable as they do meet the zoning code requirements and this issue is being monitored.

Action

Commissioner Stoker made a motion to approve per the 29 conditions in the staff report. Commissioner Jim Schaefer seconded the motion.

A voice vote was taken, vote passed (8-0)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Stoker, Alternate
SECONDER:	James Schaefer, Commissioner
AYES:	Abendroth, Parrish, Stoker, B. Schaefer, J. Schaefer, Wirth, Lemke, Hawley
ABSENT:	Choren, Mason
EXCUSED:	Strzelczyk

3) Regular Business

- a) Sterling Hasey Co., for Robert and Ellen Venable. The applicant is seeking specimen tree removal to remove two specimen trees and fill permit approval to allow for C.Y. for grading and drainage for new construction for the property located at 11220 N. Lakeview Place.

Mayor Abendroth stated that the specimen tree report was not included in the board packet but the report was presented to all the Commissioners.

City Forester Gies stated that this is an unique and older site in Mequon. There were 13 Tilia Americana (Linden) trees and the rest of the site was mainly Ash. He commented that it was shocking to see the all the removal that had happened. Of the 13 American Linden only 2 of them meet condition grade to be considered specimen. The 11 that were removed had severe

TO: Planning Commission
FROM: PA PHOUALA VANG, PLANNER
DATE: May 3, 2021
SUBJECT: Wallace and Jane Rieger Trust. The applicant is seeking minor request approval to allow for an accessory structure over 1,000 sq. ft. (6,720 sq. ft.) for agricultural storage for the property located at 12300 N. Wasaukee Road.

Applicant:	Wallace and Jane Rieger Trust
Status of Applicant:	Owner
Requested:	Approval of an agricultural structure in excess of 1,000 square feet
Existing Zoning:	R-1 (5-Acre Minimum Rural Residential) OA (Agricultural Overlay)
Land Use Plan:	Residential 5 Acre Critical Environment
Lot size:	24.9 acres
Location:	12300 N. Wasaukee Road
Tax Key:	14-018-10-007.00
District:	#3

Background:

The applicant is requesting Planning Commission approval for a 6,720 square foot agricultural building at 12300 N Wasaukee road. The structure will be used for storage of equipment related to the agriculture use of the property. The property is zoned R-1 (5 acre minimum rural residential) with an Agricultural Overlay. Planning Commission approval is required for agricultural structures over 1,000 square feet.

Accessory Structure:

The proposed building is designed with steel-panel siding with decorative wainscot paneling on all four elevations. The plan shows a 16' x 10' overhead door on the south elevation and windows on all elevations. The applicant indicated that the proposed building will match the color of the other structure on site. A condition of approval requires the proposed building to match the existing beige and tan barn. An image of the existing barn approved by Planning Commission in 1998 is included in the packet. The proposed structure is located 120 feet from the closest/south property line and meets the R-1 district requirements including lot coverage, setback, offsets, and height and would permit the housing of livestock.

Engineering Report:

Kristen Lundeen, City Engineer, has reviewed the application and has the following comments:

Access is provided through an existing driveway on Wasaukee Road. No access modifications are proposed in association with the project.

There is no indication of wetlands on the site.

The site is not located within the City's sewer service area, and therefore is not required to connect to public sewer or water. Soil evaluation reports were not provided with the application. If sanitary or water service for the building is contemplated, it shall be permitted through Ozaukee County and the WDNR.

The proposed structure will add more than 5,000 square feet of impervious surface and is not covered by a stormwater management plan, therefore per MMSD rules, green infrastructure will be required. Prior to the issuance of a building permit, the applicant shall design and submit for review and approval a green infrastructure plan in conformance with MMSD rules and City ordinances. Green infrastructure plans also require the execution of a Stormwater Maintenance and Easement Agreement and a drainage financial guarantee.

The proposed structure will disturb a surface area of more than 4,000 square feet and is therefore subject to a City of Mequon Erosion Control Permit. The permit is required prior to the issuance of a building permit.

Staff Recommendation:

Since the proposed structure is consistent with prior approvals of agricultural structures and appears to be harmonious with the surrounding area, staff recommends **approval** based on the following condition(s):

1. The applicant shall submit final plans within 60 days of Planning Commission action. Such final plans shall be subject to staff review and approval prior to issuance of permits. Approval shall be based on consistency with applicant's application and the requirements of the Planning Commission's approval. If final plans are not submitted within such time period, or the plans are not approved by staff, the plan(s) shall be submitted to Planning Commission for additional review and action and applicant shall be responsible for all city-imposed fees associated with such additional review.
2. The structure shall be used for agricultural related equipment and activities only.
3. The structure shall match the color of other agricultural building on site.
4. Any proposed lighting for the building shall be approved by staff.
5. Prior to the issuance of a building permit, the applicant shall design and submit for review and approval a green infrastructure plan in conformance with MMSD rules and City ordinances.
6. Submittal and City Attorney approval of a Stormwater Maintenance and Easement Agreement.
7. Application for and approval of a City erosion control permit, subject to applicable fees and conditioned upon WDNR issuance of a WRAPP permit, if applicable.
8. Application for and approval of a City Filling and Excavation Permit, if applicable.
9. As a condition of approval and issuance of the permit, the city engineer will require in accordance with City ordinance 58-677(b) that the applicant deposit an escrow or letter of credit to guarantee a good faith execution of the approved control plan and any permit conditions. The escrow / letter of credit shall be in an amount equal to 125% of the estimated cost of construction and maintenance of the storm water management practices and the City will release the portion of the Financial Guarantee less any costs incurred by the city to complete installation of practices, upon submission of a certification in accordance with 58-678(h).

Attachments:
Docs (PDF)

Wallace and June Rieger Trust

AC Arrival Corridor
A-1 Agricultural Preserve
A-2 General Agricultural
B-1 Neighborhood Business
B-2 Community Business
B-3 Office & Service Business
B-4 Business Park
B-5 Light Industrial
B-6 Rural Industrial
B-7 Rural Business
C-1 Shoreland/Wetland Conservancy
C-2 General Conservancy
CGO Central Growth Overlay
FFO Flood Fringe Overlay
FW Floodway
IPS Institutional & Public Service

LTD Limited Use
OA Agricultural Overlay
PUD Planned Unit Development Overlay
P-1 Park & Recreation
R-1 Single-Family Residential (5 Ac. Min.)
R-1B Single-Family Residential (2.5 Ac. Min.)
R-2 Single-Family Residential (2.0 Ac. Min.)
R-2B Single-Family Residential (1.5 Ac. Min.)
R-3 Single-Family Residential (1.0 Ac. Min.)
R-4 Single-Family Residential (3/4 Ac. Min.)
R-5 Single-Family Residential (1/2 Ac. Min.)
R-6 Single-Family Residential (4 ac/Ac.)
RM Multi-Family Residential
TC Town Center
TDR Transfer of Development Rights

R-1B

R-1

12414N

R-1/OA

12300N

12200N

C-2/OA

WASAUKEE ROAD 124W



R-2B

Attachment: Packet Docs 04.26.21 (6165 : Wallace and June Rieger Trust)
Attachment: Docs (6183 : Wallace and June Rieger Trust)



Walters
Buildings

John Walters & Son, Inc.
P.O. Box 381
Janesville, WI 53402
1-800-258-7822
www.waltersbuildings.com

REV: 02/2008

OWNER
JOHN
RIEGER

PROJECT

LOCATION
COAUNEE COUNTY

SALES REP / DEALER
JANIS DUEL

DRAWN BY
JOHN SCHNEIDER, JR.

ESTIMATED BY

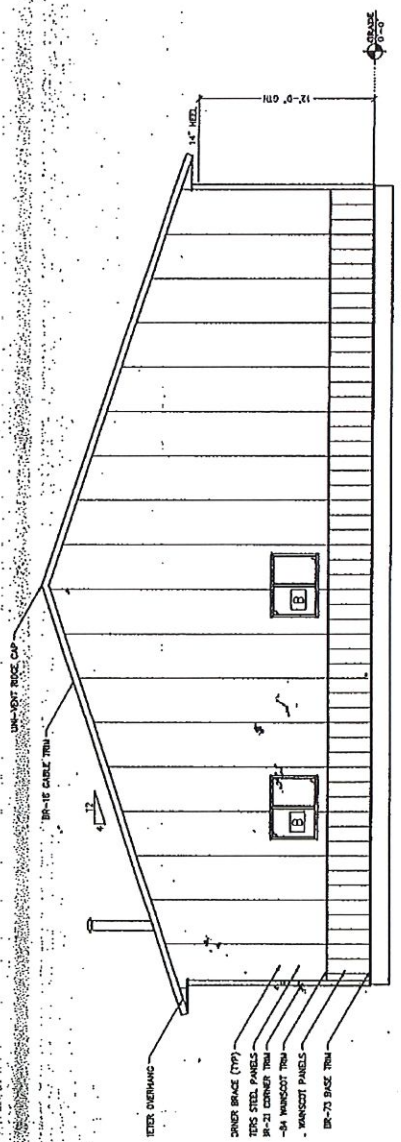
LAST SAVED BY
DATE ON: 10/10/08

SCALE
AS SHOWN

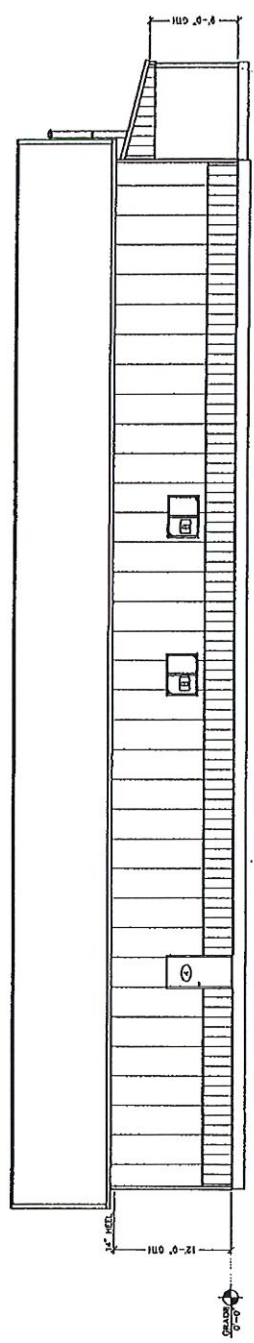
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P95-1577

SHEET NUMBER
A2.1

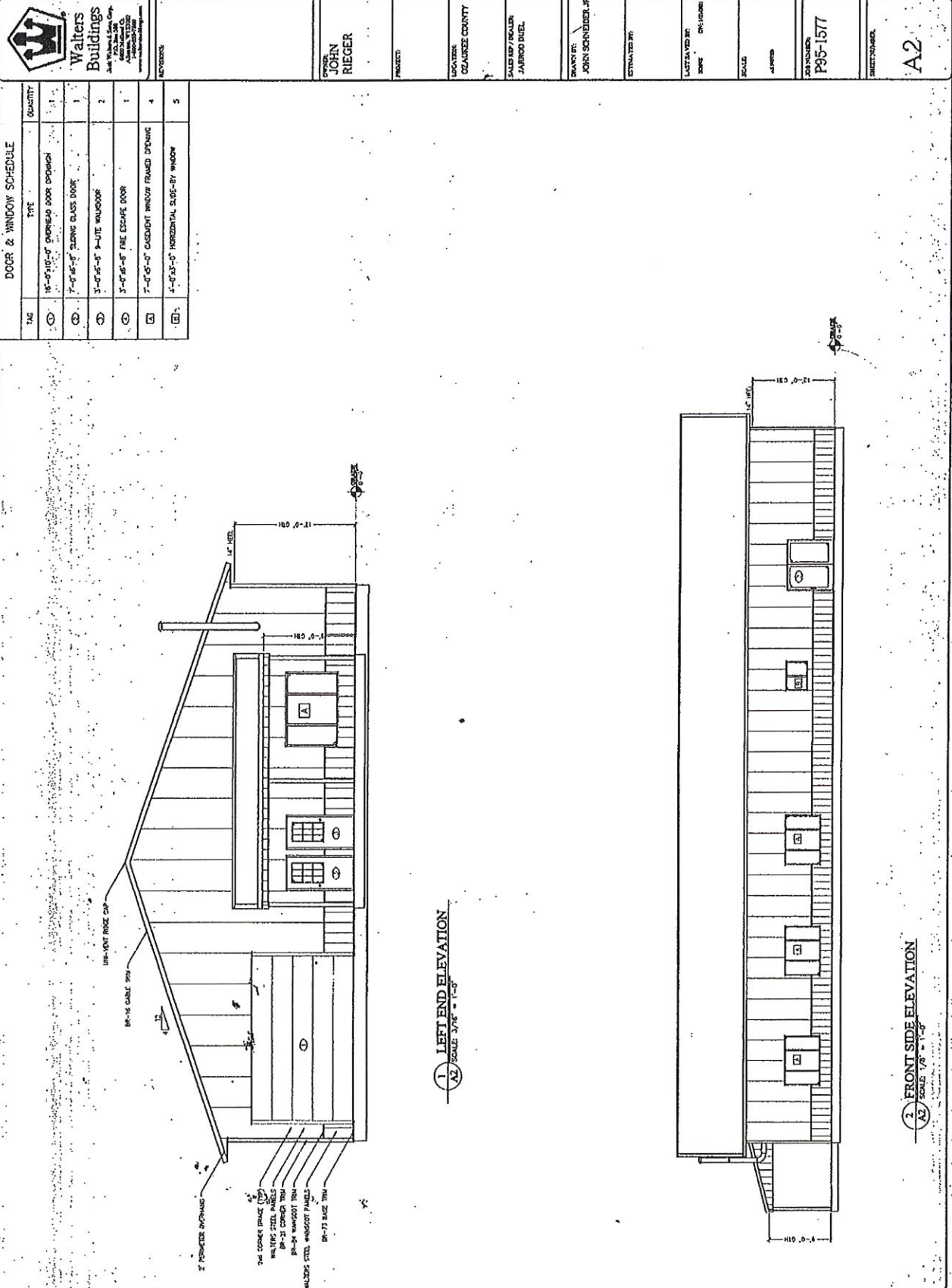
DOOR & WINDOW SCHEDULE		
TAG	TYPE	QUANTITY
①	16'-0"X10'-0" OVERHEAD DOOR OPENING	1
②	7'-0"X6'-8" SLIDING GLASS DOOR	1
③	3'-0"X6'-8" 4-LITE W/DOOR	2
④	3'-0"X6'-8" FIRE ESCAPE DOOR	1
⑤	7'-0"X5'-0" CASEMOUNT WINDOW FRAMED OPENING	4
⑥	4'-0"X3'-0" HORIZONTAL SLIDE-BY WINDOW	5



1 RIGHT END ELEVATION
A2.1 SCALE 3/16" = 1'-0"



2 BACK SIDE ELEVATION
A2.1 SCALE 1/8" = 1'-0"





Attachment: Packet Docs 04 26 21 (6165 - Wallace and Jane Rieger Trust)
Attachment: Docs (6183 : Wallace and Jane Rieger Trust)

6. **Dr. Tsao**

District: 1; Tax Key: #15-005-15-012.00; Zoning: R-2

Request:

Land division approval

Briefing:

The applicant is seeking approval to split his 9.71-acre parcel of land located at 13640 N. Lake Shore Drive into two 4.85-acre parcels.

Action:

Commissioner Falkman moved approval of the land division and stated that while the division does not meet the 5-acre minimum required by the Land Use Plan, the division is very close and meets the spirit and intent of the 5-acre residential minimum. Commissioner Cutler seconded.

Discussion:

Upon Commissioner Schaefer's query, Steinke responded that if the Commission is going to approve a division of land that is close to the minimum size required by the Land Use Plan, but does not meet the specific 5-acre minimum, then the Planning Commission sets a precedent for others who propose land divisions that are close to complying to the Land Use Plan. Steinke concluded that other similar situations must be afforded similar treatment.

Further action:

The motion passed by majority voice vote with Commissioner Schaefer voting "No."

7. **Bob and Sue Rakow**

District: 3; Tax Key: #14-018-10-000.00; Zoning: R-1

Request:

Approval of an indoor riding arena/horse barn

Briefing:

The applicant is seeking approval to construct a 15,840 square foot private indoor riding arena/horse barn on their property located at 12200 N. Wausaukee Road.

Discussion:

Upon Commissioner Dill's query as to the need for the size of the structure proposed, Sue Rakow responded that she exercises with her horses and does daily exercising and training with the horses for the purpose of showing and entering the horses in sporting events.

Action:

Commissioner Schaefer moved approval of the accessory structure subject to the following:

1. Submittal and Engineering Dept. approval of the grading and drainage plans;
2. The barn/indoor riding arena shall be restricted to the applicant's use only (i.e., commercial boarding of horses, non-resident use, and horse shows are strictly prohibited);
3. The barn/indoor horse riding arena shall be consistent in color with the onsite residence.

Commissioner Wucherer seconded. The motion passed with a unanimous voice vote.

TO: Planning Commission
FROM: Jac Zader, Assistant Director Community Development
DATE: May 3, 2021
SUBJECT: Chapter 58 of the Zoning Code as it relates to Conservation Subdivisions in the R-1 Zoning district and Conditional Uses in Residential zones.

Background:

The proposed text amendment includes changes to Chapter 58 of the Municipal Code related to conditional uses in all residential zoning districts and conservation subdivisions in the R-1 zoning district. The reason for and benefits of these changes include the following:

- Create clear and concise code language so expectations are known upfront.
- Incorporate design criteria into the code language.
- Resolve formatting changes and inconsistencies in the code.
- Achieve consistency with enacted state legislation.
- Create a more streamlined process.

Conditional Uses: The changes to the conditional use in the residential zoning districts was based on recently enacted legislation (2017 Wisconsin Act 67) which among other things, makes significant changes to the rules and requirements regarding conditional use grants. The changes have been reviewed by the PC Policy Subcommittee and the Planning Commission in the past and are now ready for final review and approval.

In making changes to the conditional use section in the residential districts, staff made changes by one of the following methods:

- Change the use from conditional to permitted (In home daycare)
- Move the use to the OA district (Microbrewers, Wineries)
- Remove the use and effectively make it prohibited (Churches, Public Admin.)
- Add specific conditions to the listed conditional use (Guesthouse, ADU's)

As part of this process staff tried to identify any existing uses that would become nonconforming based on the changes being proposed. If the proposed changes are acceptable, then additional action is necessary for a few specific sites (see attached list). To be consistent with other similar uses the impacted sites will be rezoned to IPS (Institutional).

Conservation Subdivisions: The use of conservation design subdivisions in the rural area of Mequon has been extremely popular over the last 20 years not only for developers but for home buyers and residents. Currently, the process to approve a conservation subdivision requires a rezoning amendment to a Planned Unit Development. The proposed language would eliminate the need to seek a rezoning of the property to utilize a conservation design. This is similar to the approval process and approach taken for the Central Growth area in which conservation design subdivisions were permitted. The rezoning process can add at least three months to the approval process and adds a layer of uncertainty to all stakeholders involved in the process. In conjunction with eliminating the rezoning requirement, the proposed amendment provides specific design criteria for conservation subdivisions. In the past, staff has relied on several established guidelines that have been used as a template to evaluate proposed development requests. Incorporating these requirements into the ordinance, as done with Central Growth, will make the process clear and transparent for all those involved or impacted by the development.

As stated above, the proposed text amendment details specific design and development requirements including the following:

- Specifying a minimum .75-acre lot size
- Requiring a maximum 10% lot coverage ratio
- Requiring a minimum 25 acres
- Specifying each development shall have at least two road connections.
- Requiring 60% of the land area as open space.
- Allowing a bonus lot for every 40 acres of land that is part of the subdivision.
- Requiring a minimum 300-foot open space buffer to existing public roadways and residential lots.

Many of the provisions listed above have been required conditions in previously approved PUD's. The most significant deviation from what has occurred in previously approved developments is the allowance for lots to be .75 acres in size. A majority of previously approved conservation subdivisions in the R-1 had lot minimums around 1.5 acres. The smaller lot size minimum because it will allow for more flexibility in the design and will create larger clusters of homesites. This will in turn create larger areas of protected open space. The open space buffer requirement has also been increased from 200 feet to 300 feet as part of these changes. This will allow for a greater setback along existing roads to keep it in a natural setting.

There is a new provision that would allow a density bonus of one lot for every 40 acres. On a 40-acre development, this would change the density from 5-acre lot size to 4.44-acre lot size. The density bonus is meant to encourage the use of conservation subdivisions by offsetting some of the cost associated with developing in this manner. The bonus will also encourage consolidation of smaller parcels to get to the 40-acre threshold.

The proposed ordinance will now require two or more road connections for every new development. For future connections to undeveloped parcels, the code will dictate that an eyebrow be installed within 150 feet of the property line unless the Planning Commission determines that the adjacent parcel will be developed in a near future. The area from the eyebrow to the property line will be dedicated as unimproved right of way and will be the responsibility of the developer of the adjacent parcel to install.

Other Changes: As part of the proposed text amendment, the structure of the residential zoning districts have been modified to make it more user friendly. This includes the addition of use tables similar to what is found in the TC (Town Center) zoning district. Changes have also been made to Section 58-8 (Definitions) and 58-265 (Agricultural Overlay) of the code to be consistent with the changes to residential sections.

Attachments:

Packet Docs (PDF)

DIVISION 3. - RESIDENTIAL DISTRICTS**Sec. 58-234. - R-1 single-family rural residential ~~detached~~ district.**

- (a) *Purpose.* The R-1 district is intended to provide for large lot single-family ~~detached~~ residential development in rural areas that are not served by public water or sewerage facilities and that are not yet appropriate for development at higher densities. This district shall generally be located within the area designated on the land use plan map as "rural service area."
- (b) *Design standards – generally.* The following design standards shall apply to all residential developments on development sites of 25 acres or larger developed after the effective date of the ordinance from which this section is derived, including both estate lot design subdivisions and conservation subdivisions:
- (1) Residential dwelling lots shall be accessed from streets classified as land access by Resolution 607.
 - (2) Developments shall include hard surface (asphalt, stone or other materials approved by the planning commission) bikeway/pedestrian path connections to adjoining sites unless, as determined by the planning commission, such connections are not feasible. Connections shall be required even if the adjoining sites do not yet have paths. The owners of a development shall be responsible for the operation, maintenance and replacement as required of the bikeway/pedestrian path connections, including any requirements for snow removal as set forth in this code.
 - (3) Public and private streets shall satisfy the following requirements:
 - a. The development shall have two or more street connections at the boundaries of the development.
 - b. Provided at least one street connection creates legal access to an existing street, any other connection may be made to one or more adjoining undeveloped parcels or, as approved by the planning commission, parcels likely to be redeveloped. For future street connections to undeveloped parcels, the street shall terminate in an eyebrow, in accordance with Standard Specifications of Land Development, within 150 feet of the property line of the undeveloped parcel. The area from the eyebrow to the property line shall be designated as right of way and shall be at least 60 feet wide. The developer shall install bollards on each side of the right of way. The bollards shall be placed at the property line and halfway to the eyebrow. The owners shall maintain the bollards in good condition and repair and replace them as necessary until such time as a street is constructed over the right of way. If an adjoining site has constructed one or more eyebrows as part of a prior development, the subject parcel shall be required to provide a street connection to each previously constructed eyebrow.

- c. In lieu of the eyebrow described in the preceding paragraph, the planning commission may, if it determines in its discretion that development of an adjoining parcel is likely to occur in the foreseeable future, require the right of way area to be constructed as a street with a hammerhead termination. The planning commission may eliminate the hammerhead requirement if it determines, in its discretion, that the adjoining parcel will be developed before conclusion of the subject development.
- d. Streets shall be designed, as determined by the planning commission, to ensure that adjoining parcels have adequate connection to maximize development.
- e. Public streets and required rights of way shall be dedicated to the city at or prior to final plat final approval.

(c) *Conservation subdivisions.*

- (1) *Purposes.* The city encourages conservation subdivision design for development sites of 25 acres or larger, having determined that, if the majority of future residential developments in the R-1 district are conservation subdivisions, the city will:
 - a. Implement adopted city policies seeking to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the city's land use plan and other similar plans.
 - b. Conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, wetlands, floodplains, drainage courses, natural meadows, specimen trees and scenic features, by setting them aside from development.
 - c. Provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce utility runs and the amount of paving required for residential development.
 - d. Reduce erosion and sedimentation by retaining existing vegetation and the minimizing development on steep slopes.
 - e. Protect areas of the city with productive agricultural soils for continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations.
 - f. Create neighborhoods with direct visual access to open land, neighborhood open space and a strong neighborhood identity.

- g. Create environmental amenities through creative design.
 - h. Conserve scenic views and elements of the city's rural character, and minimize perceived density, by minimizing views of new development from existing streets.
 - i. Protect the physical and visual integrity of environmental corridors and natural isolated areas as defined by the Southeastern Wisconsin Regional planning commission.
- (2) *Minimum development site size.* Conservation subdivisions shall only be permitted on development sites of 25 acres or larger. Two or more adjoining parcels may be combined to create a development site of 25 acres or larger.
- (3) *Minimum protected conservancy area.* At least 60% of the land area in a conservation subdivision shall be protected conservancy area(s).
- (4) *Density.* One dwelling shall be allowed for every five acres (including protected conservancy areas) in a conservation subdivision. Additionally, as an incentive to develop as a conservation subdivision rather as an estate lot design subdivision, there shall be one bonus dwelling for every 40 acres in a conservation subdivision.
- (5) *Design standards.* In addition to the standards set forth in (m), the following design standards shall apply to all conservation subdivisions developed after the effective date of the ordinance from which this section is derived:
- a. A minimum 300-foot open space buffer shall be maintained between preexisting public streets and any residential dwelling lot unless, and only to the extent that, the planning commission determines that a lesser buffer is required to allow construction of the allowed homes while maintaining critical environmental features.
 - b. For lots in conservation subdivisions on which a residential dwelling may be located, the minimum average lot width and lot length shall be flexible and subject to planning commission approval of the conservation subdivision plan.
 - c. For structures on lots in conservation subdivisions on which a residential dwelling may be located, the minimum building setback shall be flexible and subject to planning commission approval of the conservation subdivision plan; however, the location of residential lots shall be subject to the design standards for conservation subdivisions set forth below.
 - d. In addition to bikeway/pedestrian paths, nature trails shall be included to provide subdivision resident access from internal streets to the protected conservancy area(s). The owners of a development shall be responsible for the operation, maintenance and replacement as required of the nature trails.

(d) *Protected conservancy areas and other common areas and facilities.*

(1) *Ownership.*

- a. *Homeowner Association or Condominium Association.* Protected conservancy areas and other common areas and facilities shall be held in common ownership by a homeowner association or shall be controlled through a condominium declaration and held as common elements. In either instance, the following regulations shall apply:
1. Prior to approval of the final plat, the applicant shall provide the city a description of the organization of the proposed homeowner or condominium association, together with copies of its governing documents, including all documents governing ownership, maintenance and use restrictions for common facilities or common elements. All such documents shall be consistent with the provisions of this ordinance.
 2. The homeowner or condominium association shall be operating (with financial subsidization by the owner or applicant, if necessary) before the earlier of the sale of any dwelling or approval of the final plat
 3. Membership in the homeowner or condominium association shall be mandatory for all purchasers of property in the development and their successors in title.
 4. The homeowner or condominium association shall be responsible for maintaining in good condition and repair, repairing, replacing as necessary and maintaining insurance in connection with common facilities (including without limitation bikeway/pedestrian trails and nature paths), common elements and the protected conservancy area. Such responsibility shall be memorialized in recordable agreements acceptable to the city.
 5. The homeowner or condominium association shall have the power and authority to assess members for their proportionate share of costs associated with maintenance of such common facilities and areas. If the homeowner or condominium association fails to perform the work, the city may do so and special assess all homeowners or condominium unit owners for such costs..
 6. The governing documents for the homeowner or condominium association shall confer legal authority on the homeowner or condominium association to place a lien on the property of any member who falls delinquent in dues or assessments. Such dues and assessments shall be paid with the accrued interest before the lien may be lifted.
 7. Written notice of any proposed transfer of common facilities by the homeowner or condominium association or the assumption of

maintenance for common facilities must be given to all members of the homeowner or condominium association and to the city no less than 30 days prior to such event.

8. The homeowner or condominium association shall administer, maintain, replace as necessary and operate such common facilities.
9. If at any time the homeowner or condominium association does not exist for any reason, each owner of record of property rights in the development shall be liable for the owners' obligations set forth in this ordinance to the same extent such owner would have been liable for the costs of such obligations if such association had been properly formed and currently existing.

- b. *Private conservation organization.* Alternatively, with consent of the city, an owner may transfer either fee simple title of the protected conservancy areas or easements on the protected conservancy areas to a private nonprofit conservation organization provided that:
 1. The conservation organization is acceptable to the city and is a bona fide conservation organization intended to exist indefinitely in accordance with the Internal Revenue Service Code requirements.
 2. The conveyance contains appropriate provisions for reverter or retransfer if the organization becomes unwilling or unable to continue carrying out its functions.
 3. The protected conservancy area is permanently restricted from future development through a conservation easement and the city is given the ability to enforce these restrictions; and
 4. A maintenance agreement acceptable to the city is established between the owner and the organization.

- c. *Dedication of easements to the city.* The city may, but shall not be required to, accept easements for public use of any portion of the common land or facilities. In such cases, the facility remains in the ownership of the condominium association, homeowner association or private conservation organization while the city holds the easements. In addition, the following requirements shall apply:
 1. There shall be no cost of acquisition to the city.
 2. A satisfactory maintenance agreement shall be reached between the owner and the city designating the owner as responsible for operation and maintenance.

- (2) *Uses.* The following uses and no others are allowed in a protected conservancy area unless otherwise prohibited pursuant to applicable law. A use described below is only allowed if it is specified in the easement described below. Each of the

following uses is limited as provided by other applicable laws and shall be subject to all applicable approvals and permits required for them under this code.

- a. Each of the following uses is permitted in protected conservancy areas:
 1. Conservation of open land (e.g., woodland, wetland or managed meadow).
 2. Silviculture in accordance with approved standards for selective harvesting and sustained yield forestry and subject to the city's specimen tree ordinance.
- b. Each of following uses is permitted in protected conservancy areas provided the planning commission, as part of the concept plan approval or upon separate application, determines that the use, in the location proposed, does not interfere with or propose a threat to sensitive natural features and provided such use complies with all other applicable laws:
 1. Agricultural and animal-related uses that are permitted uses in the R-1 district.
 2. Pastureland for horses for non-commercial recreational use.
 3. Passive recreational amenities and designated areas for active recreational amenities. Amenities include, but are not limited to, features such as gardens, trail systems leading to destinations, sport courts, gathering and seating areas and children's play equipment.
 4. Sewage disposal systems, wells and storm water detention/retention systems that service individual lots or for all or part of the subdivision.
 5. Easements and facilities for drainage, access and public sewer and water.
 6. Easements for gas, electric, telecommunications and other city-approved private purpose.
- c. The following are conditional uses in protected conservancy areas:
 1. Agricultural and animal-related uses that are conditional uses in the OA or R-1 district.
 2. Golf courses.
 3. Equestrian facilities for subdivision recreational use.

The planning commission may deny or impose conditions on approval of any such conditional use if the planning commission determines that such use is inconsistent with the protection of the specific natural features of the protected conservancy area or if and to the extent the planning commission would otherwise be allowed to deny or impose conditions upon such use under this code or other applicable law.

- (3) *Design standards.* The following design standards shall apply to all protected conservancy areas:
- a. There shall be no minimum lot size, minimum average lot width or minimum lot length for a protected conservancy area.
 - b. Any structure in a protected conservancy area shall be at least 100 feet from any local street or arterial.
 - c. Whenever possible, protected conservancy areas shall connect with existing or likely protected conservancy areas on adjoining parcels.
 - d. Protected conservancy areas shall be delineated outside individual dwelling lots.
 - e. Each protected conservancy area shall be accessible by subdivision residents from internal streets either directly or from paths that connect to such streets.
 - f. Protected conservancy areas shall be designed with appropriate advice and counsel from professional naturalists, landscape architects, biologists, horticulturists, or other qualified professional acceptable to the city.
 - g. Berms shall be permitted in a protected conservancy area, subject to the city's berm and other applicable regulations, unless and to the extent that the planning commission determines that a proposed berm would be inconsistent with the protection of the specific natural features of the protected conservancy area.
- (4) *Protected conservancy area easement.* Each protected conservancy area shall be subject to an easement in form and content approved by the planning commission. The easement shall, among other things:
- a. Define ownership.
 - b. Obligate the owner for the cost and responsibility of maintaining, replacing as necessary and maintaining insurance in connection with all common facilities (including without limitation bikeway/pedestrian trails and nature paths regardless of whether located in the protected conservancy areas), common elements and the protected conservancy area.
 - c. Define the range of permitted activities and uses and prohibit activities and uses not approved by the planning commission.
 - d. Incorporate the stewardship plan described below.

- e. Define the means for funding the owner's maintenance and insurance obligations, including both long-term capital improvements and annual operating and maintenance costs.
- f. Permit the city to enter the premises and correct any violation of the terms of the easement and provide that the costs of such corrective action, plus administrative costs and penalties, may be charged to the responsible owner and/or individual property owners who make up a condominium or homeowner association and may include administrative costs and penalties. All such costs shall become a lien against all properties in the development.

The approved and executed easement shall perpetually run with the land and be recorded in the Office of the Ozaukee County Register of Deeds.

- (5) *Stewardship plan.* Protected conservancy areas and rights of way adjoining the protected conservancy areas shall be subject to a stewardship plan professionally prepared and in form and content acceptable to the planning commission. The stewardship plan shall:
- a. Establish objectives and timelines for each open space area and critical environmental area, including:
 - 1. Restoration efforts.
 - 2. Correction of increasing destructive conditions such as erosion.
 - 3. Measures for restoring historic features.
 - 4. The proposed end state for the area.
 - 5. The measures proposed for achieving the end state.
 - b. Commit the owner to control regulated weeds within the protected conservancy areas and adjoining rights of way within a reasonable time established in the stewardship plan, and effectively maintain that control, using either integrated management methods or a single management method only if such method is the most practical and economical method for achieving and maintaining control. As used in this paragraph, the following terms have the following meanings:
 - 1. "Control" means to destroy the above-ground portion of a regulated Weed in a manner and at the proper time to prevent the development and distribution of the Regulated Weed, and to prevent the spread of such Regulated Weed from one area to another.
 - 2. "Integrated management" means the use of a combination of several weed control tools to suppress regulated weeds, stimulate the competitive vigor of desirable plants or landscaping and prevent additional regulated weeds or the growth or expansion of regulated

weeds, including without limitation the replacement of regulated weeds with recommended plants.

3. “Regulated weeds” means:

- i. All noxious weeds (as defined in Wis. Stat. § 66.96, as amended from time to time);
- ii. Nuisance weeds (as defined in Wis. Stat. § 66.995, as amended time to time);
- iii. The following health-related weeds: common burdock (*arctium minus*), common ragweed (*ambrosia artemisiifolia*), giant ragweed (*ambrosia trifida*), poison ivy (*rhus radicans*) and wild parsnip (*pastinaca sativa*);
- iv. The following woody plants: autumn-olive (*elaegnus umbellata*); buckthorn bushes (common buckthorn/*rhamnus cathartica*; glossy buckthorn/*rhamnus frangula*); honeysuckle bushes (morrow’s honeysuckle/*lonicera morrowii*; tartarian honeysuckle/*lonicera tatarica*; bella honeysuckle/*lonicera x bella*); and oriental or Chinese bittersweet (*celastrus orbiculatus*); and
- v. The following herbaceous plants: velvet leaf or indian mallow (*abutilon theophrasti*); garlic mustard (*allaria petiolata*); spotted knapweed (*centaurea maculosa*); yellow nutsedge (*cyperus esculentus*); common and cut-leaved teasel (*dipsacus laciniatus* and *dipsacus sylvestris*); black nightshade (*solanum nigrum*); and cocklebur (*xanthium strumarium*).

c. Establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (i.e., lawns, playing field, meadows, pastures, croplands, woodlands, etc.) including:

1. Mowing schedules.
2. Weed control.
3. Planting schedules.
4. Clearing and clean-up.

d. Be incorporated in the easement described above.

e. Be a perpetual obligation of the owner of the protected conservancy area.

(e) *Process.*

- (1) *Concept plan.* For all developments, the planning commission shall take action on a concept development layout plan prior to the applicant filing for approval of a preliminary plat. The concept plan shall identify the following:

- a. Primary conservation features including but not limited to wetlands, floodplains, drainage courses, steep slopes and specimen trees.
 - b. Secondary conservation features including but not limited to woodlands, natural meadows, scenic features, passive and active recreational amenities and view sheds.
 - c. Location of house sites.
 - d. Street alignments and trails.
- (2) Easement and stewardship plan. For any application containing protected conservancy areas, including all conservation subdivisions, the easement and stewardship plan are required to be submitted with the preliminary plat and are subject to planning commission approval at the time of the preliminary plat.

Sec. 58-235. - R-1B single-family rural residential-~~detached~~ district.

The R-1B district is intended to provide for large lot single-family-~~detached~~ residential development primarily within the area designated on the land use plan map as "rural service area." The district regulations are designed to accommodate homes which will generally be served with private on-site waste facilities.

Sec. 58-236. - R-2 single-family rural residential-~~detached~~ district.

The R-2 district is intended to provide for large lot single-family-~~detached~~ residential development of a semi-rural nature in areas where public water or sewerage facilities are not reasonably available. This district shall generally serve as a transition between the urban and rural service area illustrated on the land use plan map. Additionally, this district is appropriate for development adjacent to rivers, streams, Lake Michigan, and other sensitive environmental areas.

Sec. 58-237. - R-2B single-family suburban residential-~~detached~~ district.

The R-2B district is intended to provide for large lot single-family-~~detached~~ residential development primarily within the area designated on the land use plan map as "urban service area." The district regulations are designed to reasonably accommodate large homes which may potentially be served by public sewerage facilities.

Sec. 58-238. - R-3 single-family suburban residential ~~detached~~district.

The R-3 district is intended to provide for large lot single-family-~~detached~~ residential development primarily within the area designated on the land use plan map as "urban service area." The district regulations are designed to reasonably accommodate large homes which may potentially be served by public sewerage facilities.

Sec. 58-239. - R-4 single-family suburban residential ~~detached~~ district.

The R-4 district is intended to provide for medium sized lot single-family ~~detached~~ residential development within the area designated on the land use plan map as "urban service area." The district regulations are designed to accommodate moderately large homes in a manner which efficiently utilizes potential public water and sewerage facilities.

Sec. 58-240. - R-5 single-family suburban residential ~~detached~~ district.

The R-5 district is intended to provide for relatively small lot single-family ~~detached~~ residential development within the area designated on the land use plan map as "urban service area." The district regulations are designed to accommodate specialized housing needs characteristic of reduced lot and home size.

Sec. 58-241. - R-6 two-family and three to four unit multiple-family suburban residential ~~attached~~ district.

The R-6 district is intended to provide for high quality medium density ~~single-family attached~~ residential development for two-family dwellings and multiple-family dwellings with no more than four units per structure within the areas designated on the land use plan map as "single-family attached." All uses are subject to planning commission approval of the building, site and operational plans.

Sec. 58-242. - RM multiple-family residential district.

The RM district is intended to provide for high quality, low density multiple-family development within the areas designated on the land use plan map as "multi-family." All uses are subject to planning commission approval of the building, site and operational plans.

Secs. 58-243—58-245. - Reserved.

Sec. 58-246. – Permitted uses in residential districts.

Table 58-246 sets forth the permitted uses for each residential zoning district. Permitted uses in any protected conservancy area in the R-1 district are set forth in section 58-234(d)(2).

[INSERT TABLE]

Sec. 58-247. – Permitted accessory uses in residential districts.

- (a) *Permitted accessory uses generally.* Table 58-247 sets forth the permitted accessory uses for each residential zoning district.

[INSERT TABLE]

(b) *Garages and carports.*

- (1) No garage or carport shall be erected prior to the erection of the principal building to which it is accessory.
- (2) The following provisions apply to properties zoned R-1 through R-5:
 - a. Except as otherwise specifically provided below, no more than one principal garage, either attached or detached, shall be permitted on a lot.
 - b. If there is a residence without an attached garage, one principal detached garage not to exceed 800 square feet in area shall be permitted.
 - c. If a residence was constructed prior to year 2003 with an attached garage in which two full-sized personal automobiles cannot reasonably be stored side-by-side, one principal detached garage not to exceed 675 square feet in area shall be permitted, provided no such garage structure shall be sited in front of an existing residence or in such other location as shall unreasonably affect or adversely impact the beauty and general enjoyment of existing residences or adjoining properties.
 - d. Enclosed vehicular storage space for not more than one vehicle may be rented to persons not resident on the lot, such space being defined as an area not to exceed 300 square feet.

(c) *Detached storage structures.*

In addition to any permissible garages, a single detached storage shall be permitted in the following zoning districts subject to the following conditions:

- (1) On any property zoned R-1 provided that no such detached storage structure shall exceed the lesser of 2,178 square feet or one percent of the area of the property; however, if the property is subject to an AO agricultural overlay, the property shall not be restricted in the number or size of detached storage structures.
- (2) On any property zoned R-1B through R-5 subject to the following conditions:
 - a. If a guesthouse is constructed as a conditional use, no detached storage structure is permitted.
 - b. A detached storage structure shall not exceed one percent of the lesser of (a) five acres or (b) the area of the property if the property is not divisible in the current zoning district or, if it is divisible, the zoning district's minimum lot size.

(d) *Parking requirements for the RM Zoning District.*

- (1) *Enclosed Parking.* Each dwelling unit shall be provided a minimum of the following number of enclosed parking spaces:
 - a. One-bedroom units: 1.75 parking spaces.
 - b. Two-bedroom units: 2.00 parking spaces.
 - c. Three-bedroom units: 2.00 parking spaces.
- (2) *Off-street parking ratio.* Off-street parking for guest parking shall be provided at the rate of one space for every two dwelling units, but no less than four spaces per development.

(e) *Home occupations.*

- (1) The home occupations shall be clearly incidental to the principal residential use.
- (2) The home occupation shall be carried on wholly within the principal residential dwelling or within a permitted accessory structure and only by residents occupying the premises and one additional person not a resident on the premises.
- (3) No article or service shall be sold or offered for sale on the premises except by telephone or electronically with products stored and any physical delivery occurring elsewhere.
- (4) The home occupation shall not normally generate customer or client traffic to the residential premises.
- (5) No retail or wholesale business shall be conducted on the premises.
- (6) No sand, gravel, stone, topsoil or peat moss shall be removed from the premises for commercial purposes.
- (7) No materials, equipment or vehicles used in the home occupation shall be stored outside.
- (8) Any off-street parking area shall be maintained reasonably dustless and adequately screened from adjoining residential properties.
- (9) The home occupation shall not generate or result in offensive noise, vibration, smoke, dust, odors, heat, or glare if any of the foregoing creates a nuisance or is otherwise incompatible with the surrounding residential area.

- (10) In the R-6 zoning district, there shall be no signs for the home occupation. A sign for a home occupation in any other residential zoning district shall comply in all respects with the requirements in the sign code for home occupation signs.

Sec. 58-248. – Conditional uses in residential districts.

- (a) *Generally.* Table 58-248 sets forth the conditional uses for each residential zoning district. Specific conditions and requirements for each conditional use are set forth in the provisions following Table 58-248. These conditions and requirements are in addition to those set forth in, and imposed, under article II, division 3 and elsewhere in this Code.

[INSERT TABLE]

- (b) *Commercial outdoor recreational facilities.*

- (1) Such facilities are open to the public or available through membership.
- (2) Examples include, but are not limited to, athletic fields, sport courts, playgrounds, and golf courses.
- (3) Structures customary to such facilities may be approved; however, the primary activity shall be conducted outdoors.
- (4) These Except for conservation subdivisions in the R-1 zoning district, these uses must be approved through a planned unit development.

- (c) *Utility, transmission and distribution lines, poles, and other accessories.*

- (1) When a utility proposes a main inter-city transmission facility, the utility shall give notice to the planning commission of such intention and of the date of hearing before the public service commission and, before actual construction, shall file with the planning commission a map description of the route of transmission line.
- (2) Public and/or private utility installations less than three feet in height shall be subject only to city staff approval and may be allowed subject to staff-imposed conditions regarding, among other things, effective screening from public view with all-season vegetation.

- (d) *Community living arrangements.*

- (1) No structure shall be greater than two stories.
- (2) Structures shall comply with the city's Architectural Guidelines for Residential Structures in effect at the time of approval.

- (3) The maximum floor area ratio shall be 20%.
- (4) Parking shall be located on the side or rear of the primary structure, shall be offset at least 30 feet from all property lines and shall be screened with all-season vegetation from adjoining one-family dwelling or two-family dwelling.
- (5) No signs shall be allowed.

(6) The use shall be licensed to the extent required by state law, located as restricted by state law and subject to hearings before the common council to the extent allowed by state law.

~~(6)~~(7) The planning commission, subject to all fair housing law requirements, may reject any application for a conditional use for a community living arrangement at its discretion.

(e) *Accessory dwelling units.*

- (1) An accessory dwelling unit is an area, other than an area in a basement, attached to or contained within a primary dwelling unit with its own bathroom, kitchen and sleeping area. As used in this paragraph, a kitchen is an area with a sink, a refrigerator and a stove, range, oven or cooktop.
- (2) The primary dwelling unit must be owner occupied at any time that a person other than the owner or a legal dependent of the owner occupies the accessory dwelling unit. A property shall be deemed to be owner occupied if an owner or in the case of an owner entity, the person who has voting control of the entity, is either registered to vote using that address or claims the property as the person's primary residence for the Wisconsin lottery and gaming credit.
- (3) An accessory dwelling unit may only be occupied by a family member, blood relative, legal dependent, caretaker or paid servant of a resident of the primary dwelling unit.
- (4) There can be no more than one accessory dwelling unit per one-family dwelling.
- (5) The total living area of an accessory dwelling unit can be no larger than 40% of the total living area of the primary dwelling to which it is attached or contained. Total living area shall be measured from the outside of exterior walls (excluding cellars, basements, open porches, breezeways, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes).
- (6) The accessory dwelling unit must have at least one common entrance with the primary dwelling unit.

- (7) There shall not be separate direct entrances for each dwelling unit on the front of the building unless this prohibits handicapped access.
- (8) An accessory dwelling unit may not have a separate postal address.
- (9) An area in a basement that would qualify as an accessory dwelling unit if not in a basement shall be permitted without a conditional use grant provided there is no accessory dwelling unit on the property and provided that the city and the owner record an agreement that encumbers the property by which the owner covenants that no accessory dwelling unit may be constructed on the property and the use of such basement area shall be subject to the requirements of (2), (3), (6), (7) and (8)..

(f) *Guesthouses.*

- (1) A guesthouse is a detached structure with living quarters and is intended for the temporary stay of occasional guests.
- (2) A guesthouse may not contain a stove, oven, range or cooktop.
- (3) A guesthouse may not be rented or used as a separate dwelling.
- (4) A guesthouse may not be constructed unless the property contains a primary residence.
- (5) If a guesthouse is constructed, no detached storage structure is permitted unless the property is in the R-1 zoning district.
- (6) A guesthouse shall not exceed one percent of the lesser of (a) five acres or (b) the area of the property if the property is not divisible in the current zoning district or, if it is divisible, the zoning district's minimum lot size.
- (7) A guesthouse may not have a separate postal address.

(g) *Historically significant structures used as private clubs or private lodges.*

- (1) A structure is only historically significant if it is listed on the National Register of Historic Places or has been designated a local landmark by the Mequon Landmarks Commission.
- (2) No more than one vehicle may be temporarily parked in a driveway in front of the primary structure. All other exterior parking shall be located on the side or rear of the primary structure, shall be offset at least 30 feet from all property lines and shall be screened with all-season vegetation from any adjoining one-family dwelling or two-family dwelling.

(h) *Bed and breakfast establishments.*

Bed and breakfast establishments shall be licensed under, meet the requirements of and be operated in accordance with Wis. Stat. § 97.01 and Wis. Admin. Code § ATCP 73, as amended or renumbered from time to time, and all other applicable laws.

(i) *Landscape contracting businesses.*

- (1) The business shall occupy no more than 10 acres.
- (2) No outside storage of materials or equipment.
- (3) The business and its primary operations must be at least 500 feet from any dwelling on any adjoining parcel.
- (4) No on-site sales of mulch or other related products.

Sec. 58-249. – Technical requirements of residential districts.

- (a) *Generally.* Table 58-249 sets forth the technical requirements for each residential zoning district.

[INSERT TABLE]

- (b) *Explanations.* As used in Table 28-248:

- (1) Minimum living area shall be measured from the outside of exterior walls (excluding cellars, basements, open porches, breezeways, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes).
- (2) Minimum building setback shall be measured from the ultimate right-of-way line of each public street, road, or highway which abuts the subject property.
- (3) Minimum building offset shall be measured from each side and rear lot line other than a lot line subject to a minimum building setback.
- (4) Maximum lot coverage percentage shall be the percentage of a property covered by buildings and structures.

- (c) *Special maximum lot coverage standards.*

- (1) maximum lot coverage percentage shall not apply to a residential planned unit development unless the common council determines otherwise in the ordinance that creates the planned unit development.

- (2) If a property is in the R-1 through R-3 zoning districts and the property is smaller than the minimum lot size for the zoning district in which it is located, the maximum lot coverage percentage shall be the percentage applicable to the zoning district with a minimum lot size smaller than, but closest in size to, the property.

Secs. 58-250—58-262. - Reserved.

Sec. 58-8

The following definitions shall be added to section 58-8 (the definitions section for the zoning code):

Attached means, when referencing a structure attached to a dwelling, that (a) the attached structure has interior access to the dwelling at or above grade, (b) a wall on the attached structure shares a wall on the primary dwelling, or is continually connected to a wall on the primary dwelling, for at least 30% of the shared or connected wall on the primary dwelling, but in any event for no less than six feet, (c) the attached structure and the primary dwelling have a common roof line or the attached structure has a connection between its roofline and the primary dwelling, and (d) there is a connection between the foundation of the attached structure and the primary dwelling. An attached structure shall be deemed to be part of the dwelling. This definition shall not modify the definition for the defined term *attached dwelling*. *Detached* means an adjoining structure or other structure on the property that does not meet the foregoing definition of attached and is not an attached dwelling.

Conservation subdivision means a residential development other than an estate lot design subdivision.

Estate lot design subdivision means a residential subdivision in which the minimum residential lot size is at least five acres.

Protected conservancy area means that portion of a development that is permanently set aside for the protection of sensitive natural features, farmland, scenic views and other unique features.

The following definitions already existing in section 58-8 shall be modified as follows (additions are underlined and deletions are stricken):

Dwelling, ~~single-one~~ family, means a structure designed exclusively for use and occupancy by one family and that is not an attached dwelling.

Dwelling, two-family means a structure arranged or designed ~~to~~ provide dwelling units as attached dwellings for occupancy by two families living independently of each other.

Dwelling, multiple-family, means a structure arranged or designed as attached dwellings to be occupied by three or more families living independently of each other.

Lot coverage means that portion of the lot that is covered by buildings, and structures, ~~and all other impervious improvements on the ground surface such as paving, driveways, etc.~~

The term “one-family” shall be replaced with “single-family” in the following locations of the code.

Section 58-301 – h1, k1, k2, m3

Section 58-302 - h1, k1, k2, m3

Section 58-303 -(B) Planned Residential Neighborhood a, b,

The following sections of the code shall be modified as follows (additions are underlined and deletions are stricken):

Sec. 58-202. Establishment of districts.

In order to carry out the purpose and provisions of this chapter, the City of Mequon is hereby divided into the following districts:

R-1 single-family rural residential ~~detached~~-district five-acre minimum)

R-1B single-family rural residential ~~detached~~-district (2.5-acre minimum)

R-2 single-family rural residential ~~detached~~-district (two-acre minimum)

R-2B single-family suburban residential ~~detached~~-district (1.5-acre minimum)

R-3 single-family suburban residential ~~detached~~-district (one-acre minimum)

R-4 single-family suburban residential ~~detached~~-district (¾-acre minimum)

R-5 single-family suburban residential ~~detached~~-district (½-acre minimum)

R-6 two-family and three to four unit multiple-family suburban residential ~~attached~~ district (20,000-square-foot minimum structure)

RM multiple-family residential ~~detached~~-district (low density: four ~~to~~ eight units/acre ~~multiple-family dwellings~~)

Sec. 58-530(c)(4)

- (4) Feces shall be removed from yards and enclosures daily and stored in tightly covered metal containers that are setback at least ~~50~~100 feet from the property line.

Sec. 58-532(f)(2)

- (2) ~~Except with planning commission approval, n~~No building housing producing animals shall be closer than ~~50~~100 feet to any lot line except for chicken enclosures on residentially zoned properties, which are governed by the specific standards for chickens set forth above.

Sec. 58-639. - Dedications.

- (a) All facilities and improvements installed prior to the final approval of the plat shall be considered dedicated along with streets and other public areas upon the approval of the plat, certified survey map or condominium declaration. Facilities and improvements completed under bond or other financial guarantee after the approval of the plat shall be considered dedicated upon their approval and acceptance and release of the bond or other guarantee. The city may require one or more transfer documents.

- (b) In the case of a land division, subdivision or condominium in the R-1 zoning district of a development site of more than 25 acres (including two or more parcels that in the aggregate are greater than 25 acres) for a conservation subdivision for which approval is sought after the effective date of the ordinance from which this article is derived, and the approval for which shall be conditioned upon the dedication of public right of way, then for the purpose of determining lot size compliance and/or permissible lot yield, the area of land so dedicated shall not be subtracted from the total area of the ~~resultant parcel~~ resulting development site or parcels.
- ~~(c) In the case of land division, subdivision or condominium in the R-1 zoning district for which approval is sought after the effective date of the ordinance from which this article is derived, and the approval for which shall be conditioned upon the dedication of public right of way, then for the purpose of determining lot size compliance and/or permissible lot yield, the area of land so dedicated shall not be subtracted from the total area of the resultant parcel or parcels.~~

Sec. 58-265. - OA agricultural overlay district.

(a) *Purpose.* The OA agricultural overlay district is intended to provide for, maintain, preserve, and enhance agricultural lands. The purposes of the district are to:

- (1) Protect and encourage the continuation of existing farm operations.
- (2) Minimize conflicts between farm and non-farm uses.

(b) *Permitted uses.*

- (1) Any use by right in the underlying base district.
- (2) All uses commonly classified as agriculture, horticulture, or forestry, including crop and tree farming, truck farming, gardening, nursery operation, stock raising (not including raising of fur-bearing animals, or animal hospitals), dairy farming, and forestry operations, together with the operation of any machinery or vehicles incidental to the above uses.
- (3) Municipal utilities.
- (4) Barns, sheds and other similar agricultural structures, but not greenhouses or structures that will house domestic animals or wild animals, each as defined in section 58-516. Greenhouses are regulated by the provisions of the underlying zoning district. Structures housing domestic animals and wild animals are regulated by the provisions of division 11 of this chapter. If a structure permitted under this provision is more than 1,000 square feet, the design is subject to planning commission approval. Other district standards, such as lot coverage ratio, apply. The application processing fee will be waived. The common council has approved this waiver to minimize the burden to the city's farmers and to encourage agricultural pursuits.

(c) *Permitted accessory uses.*

- (1) [Permitted accessory uses in the underlying base district.](#)
- (2) Temporary roadside stands for display and sale of agricultural products grown or produced on the premises. Such uses shall be subject to planning commission approval and the following requirements:
 - a. Off-street parking for a minimum of four vehicles shall be provided.
 - b. No stand shall be permitted in a location where it would create a traffic hazard or nuisance. Driveways shall be located to minimize possible interference with normal flow of highway traffic.

- c. No such stand shall be closer than 50 feet to the existing street line or closer than 20 feet to any other lot line.
- d. One sign, not exceeding 20 square feet in area, shall be set back at least ten feet from the road right-of-way.

(d) *Conditional uses.*

(1) [Conditional uses in the underlying base district.](#)

~~(2)~~ Commercial hatcheries.

~~(23)~~ Commercial greenhouses [and nurseries.](#)

~~(34)~~ Animal and animal-related uses specified in division 11 as conditional uses in the OA district.

~~(45)~~ Parks, forest preserves, and recreational areas.

~~(56)~~ Public and or private utility, transmission and distribution lines, poles, and other accessories provided that when the utility proposes a main inter-city transmission facility, the utilities shall give notice to the planning commission of such intention and of date of hearing before the public service commission, and before actual construction shall file with the planning commission a map description of the route of transmission line. Public and/or private utility installations less than three feet in height shall be subject only to City of Mequon staff approval and may be allowed subject to staff-imposed conditions of section 58-265 regarding, among other things, effective screening from public view with all season vegetation.

~~(67)~~ Landscape contracting businesses.

~~(78)~~ [Commercial outdoor recreational facilities subject to the conditions set forth in section 58-248\(b\).](#)

~~(89)~~ [Wineries.](#)

(e) *Lot size.* The minimum lot size shall have an area of not less than ten acres for uses in the OA district. The minimum lot size for property used only as residential shall be in accordance with the underlying base district.

(f) *Building height.*

(1) The height of any dwelling unit shall not exceed 42 feet.

(2) The height of other farm structures shall not exceed 60 feet.

- (g) *Minimum average lot width.* The minimum average lot width shall be no less than 400 feet when land is used in accordance with the OA district. Average lot widths for other uses shall be in accordance with the underlying base district.
- (h) *Minimum building setback.* In accordance with the underlying base district.
- (i) *Minimum building offset.* Residential structures shall be in accordance with the underlying base district. Buildings or structures housing livestock shall not be erected closer than 50 feet to a side or rear lot line. Structures for the housing of farm equipment shall not be erected closer than 30 feet to the side or rear lot line.

Rezone the following parcels to IPS to make them conforming:

MATC

Unitarian Church

Vessels of Honor 10055 Wauwatosa

St Johns 1600 W Mequon Rd

Congregation ACC 2233 W Mequon Rd

Congregation AL 2415 W Mequon Rd

NS Jehovah Witnesses 7420 W Donges Bay

These parcels are in the ULAO creek neighborhood. Based on the approved draft ULAO Creek zoning, both uses will become permitted. Director Tollefson has spoken with both property owners.

Lakeside Landscape

Oberndorfer Landscape

	R-1	R-1B	R-2	R-2B	R-3	R-4	R-5	R-6	RM
Single-family dwellings	X	X	X	X	X	X	X		
Two-family dwellings and multiple-family dwellings for no more than four families								X	
Multiple-family dwellings with no more than eight units per building									X
Community living arrangements for eight or fewer persons in accordance with Wis. Stat. § 62.23(7)(i)	X	X	X	X	X	X	X	X	X
Community living arrangements for more than eight but less than 16 residents in accordance with Wis. Stat. § 62.23(7)(i)									X
Animals and animal-related uses specified in division 11 as permitted uses in this zoning district	X	X	X	X	X	X	X	X	X
Long-term rental of a dwelling	X	X	X	X	X	X	X	X	X

	Additional Regulations Below	R-1	R-1B	R-2	R-2B	R-3	R-4	R-5	R-6	RM
Private garages	X	X	X	X	X	X	X	X	X	X
Private carports	X	X	X	X	X	X	X	X		
Paved parking areas	X	X	X	X	X	X	X	X	X	X
Home occupations and professional offices	X	X	X	X	X	X	X	X	X	X
Detached storage structures	X	X	X	X	X	X	X	X	X	X
Family child care homes in accordance with Wis. Stat. §§ 66.1017 and 48.65		X	X	X	X	X	X	X	X	X
Private outdoor recreational facilities normally accessory to a residential use		X	X	X	X	X	X	X	X	X
Short-term rental of a dwelling in accordance with section 58-422		X	X	X	X	X	X	X		
Non-commercial greenhouses that do not exceed 150 square feet - such uses do not count against the total detached storage structures allowed		X								

	R-1	R-1B	R-2	R-2B	R-3	R-4	R-5	R-6	RM
Commercial outdoor recreational facilities	X	X	X	X	X	X	X	X	
Public and or private utility, transmission and distribution lines, poles, and other accessories	X	X	X	X	X	X	X	X	X
Community living arrangements for more than eight but less than 16 residents in accordance with Wis. Stat. § 62.23(7)(i)	X	X	X	X	X	X	X	X	X
Community living arrangements for 16 or more persons in accordance with Wis. Stat. § 62.23(7)(i)	X	X	X	X	X	X	X	X	X
Accessory dwelling units	X	X	X	X	X	X			
Guesthouses	X	X	X	X	X				
Historically significant structures used as private clubs or private lodges	X	X	X	X	X				
Bed and breakfast establishments	X		X						
Landscape contracting businesses	X								

	R-1									
	Estate Lot Design	Conservation	R-1B	R-2	R-2B	R-3	R-4	R-5	R-6	RM
Minimum Lot Size	5.0 acres (217,800 sq. ft.)	0.75 acres (32,670 sq. ft.)	2.5 acres (108,900 sq. ft.)	2.0 acres (87,120 sq. ft.)	1.5 acres (65,340 sq. ft.)	1.0 acre (43,560 sq. ft.)	0.75 acres (32,670 sq. ft.)	0.5 acres (21,780 sq. ft.)	1.0 acre (43,560 sq. ft.)	One-bedroom units, 6,000 square feet (i.e., 7.26 units per acre) Two-bedroom units, 7,000 square feet (i.e., 6.2 units per acre) Three-bedroom units, 10,000 square feet (i.e., 4.35 units per acre)
Density	N/A	one dwelling per five acres	N/A	N/A	N/A	N/A	N/A	N/A	Four units per acre	N/A
Minimum Living Area										
Single-family dwelling units	1,800 sq. ft.	1,800 sq. ft.	1,600 sq. ft.	1,800 sq. ft.	1,400 sq. ft.	1,800 sq. ft.	1,600 sq. ft.	1,400 sq. ft.	N/A	N/A
One-bedroom units	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1,000 sq. ft.	900 sq. ft.
Two-bedroom units	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1,200 sq. ft.	1,100 sq. ft.
Three-bedroom units	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1,400 sq. ft.	1,300 sq. ft.
Maximum Building Height*										
Dwelling Height	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.	42 ft.
Accessory Structures	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.
Minimum Average Lot Width and Minimum Average Lot Length	300 ft.	N/A	200 ft.	200 ft.	175 ft.	150 ft.	130 ft.	120 ft.	150 ft.	150 ft.
Minimum Building Setbacks										
Local Streets	100 ft.	See text	50 ft.	75 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 feet (planning commission may vary to no less than 25 feet)
Expressways - Freeways	100 ft.	See text	200 ft.	75 ft.	200 ft.	200 ft.	200 ft.	200 ft.	100 ft.	100 ft.
Primary Arterials	100 ft.	See text	100 ft.	75 ft.	100 ft.	100 ft.	100 ft.	100 ft.	100 ft.	100 ft.
Secondary Arterials	100 ft.	See text	80 ft.	75 ft.	80 ft.	80 ft.	80 ft.	80 ft.	80 ft.	80 ft.
Local Arterials	100 ft.	See text	70 ft.	75 ft.	70 ft.	70 ft.	70 ft.	70 ft.	70 ft.	70 ft.
Minimum Building Offset										
Generally	30 ft.	30 ft.	25 ft.	30 ft.	25 ft.	20 ft.	20 ft.	20 ft.	20 ft. (side); 35 ft. (rear)	15 ft.
Building or structures housing livestock	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	N/A	N/A	N/A
Maximum Lot Coverage Percentage	5%	10%	10%`	10%	15%	15%	15%	20%	30%	30%

* See section 58-418(d)

DIVISION 3. - RESIDENTIAL DISTRICTS**Sec. 58-234. - R-1 single-family rural residential district.**

- (a) *Purpose.* The R-1 district is intended to provide for large lot single-family residential development in rural areas that are not served by public water or sewerage facilities and that are not yet appropriate for development at higher densities. This district shall generally be located within the area designated on the land use plan map as "rural service area."
- (b) *Design standards – generally.* The following design standards shall apply to all residential developments on development sites of 25 acres or larger developed after the effective date of the ordinance from which this section is derived, including both estate lot design subdivisions and conservation subdivisions:
 - (1) Residential dwelling lots shall be accessed from streets classified as land access by Resolution 607.
 - (2) Developments shall include hard surface (asphalt, stone or other materials approved by the planning commission) bikeway/pedestrian path connections to adjoining sites unless, as determined by the planning commission, such connections are not feasible. Connections shall be required even if the adjoining sites do not yet have paths. The owners of a development shall be responsible for the operation, maintenance and replacement as required of the bikeway/pedestrian path connections, including any requirements for snow removal as set forth in this code.
 - (3) Public and private streets shall satisfy the following requirements:
 - a. The development shall have two or more street connections at the boundaries of the development.
 - b. Provided at least one street connection creates legal access to an existing street, any other connection may be made to one or more adjoining undeveloped parcels or, as approved by the planning commission, parcels likely to be redeveloped. For future street connections to undeveloped parcels, the street shall terminate in an eyebrow, in accordance with Standard Specifications of Land Development, within 150 feet of the property line of the undeveloped parcel. The area from the eyebrow to the property line shall be designated as right of way and shall be at least 60 feet wide. The developer shall install bollards on each side of the right of way. The bollards shall be placed at the property line and halfway to the eyebrow. The owners shall maintain the bollards in good condition and repair and replace them as necessary until such time as a street is constructed over the right of way. If an adjoining site has constructed one or more eyebrows as part of a prior development, the subject parcel shall be required to provide a street connection to each previously constructed eyebrow.

- c. In lieu of the eyebrow described in the preceding paragraph, the planning commission may, if it determines in its discretion that development of an adjoining parcel is likely to occur in the foreseeable future, require the right of way area to be constructed as a street with a hammerhead termination. The planning commission may eliminate the hammerhead requirement if it determines, in its discretion, that the adjoining parcel will be developed before conclusion of the subject development.
- d. Streets shall be designed, as determined by the planning commission, to ensure that adjoining parcels have adequate connection to maximize development.
- e. Public streets and required rights of way shall be dedicated to the city at or prior to final plat final approval.

(c) *Conservation subdivisions.*

- (1) *Purposes.* The city encourages conservation subdivision design for development sites of 25 acres or larger, having determined that, if the majority of future residential developments in the R-1 district are conservation subdivisions, the city will:
 - a. Implement adopted city policies seeking to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the city's land use plan and other similar plans.
 - b. Conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, wetlands, floodplains, drainage courses, natural meadows, specimen trees and scenic features, by setting them aside from development.
 - c. Provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce utility runs and the amount of paving required for residential development.
 - d. Reduce erosion and sedimentation by retaining existing vegetation and the minimizing development on steep slopes.
 - e. Protect areas of the city with productive agricultural soils for continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations.
 - f. Create neighborhoods with direct visual access to open land, neighborhood open space and a strong neighborhood identity.
 - g. Create environmental amenities through creative design.

- h. Conserve scenic views and elements of the city's rural character, and minimize perceived density, by minimizing views of new development from existing streets.
 - i. Protect the physical and visual integrity of environmental corridors and natural isolated areas as defined by the Southeastern Wisconsin Regional planning commission.
- (2) *Minimum development site size.* Conservation subdivisions shall only be permitted on development sites of 25 acres or larger. Two or more adjoining parcels may be combined to create a development site of 25 acres or larger.
 - (3) *Minimum protected conservancy area.* At least 60% of the land area in a conservation subdivision shall be protected conservancy area(s).
 - (4) *Density.* One dwelling shall be allowed for every five acres (including protected conservancy areas) in a conservation subdivision. Additionally, as an incentive to develop as a conservation subdivision rather as an estate lot design subdivision, there shall be one bonus dwelling for every 40 acres in a conservation subdivision.
 - (5) *Design standards.* In addition to the standards set forth in (m), the following design standards shall apply to all conservation subdivisions developed after the effective date of the ordinance from which this section is derived:
 - a. A minimum 300-foot open space buffer shall be maintained between preexisting public streets and any residential dwelling lot unless, and only to the extent that, the planning commission determines that a lesser buffer is required to allow construction of the allowed homes while maintaining critical environmental features.
 - b. For lots in conservation subdivisions on which a residential dwelling may be located, the minimum average lot width and lot length shall be flexible and subject to planning commission approval of the conservation subdivision plan.
 - c. For structures on lots in conservation subdivisions on which a residential dwelling may be located, the minimum building setback shall be flexible and subject to planning commission approval of the conservation subdivision plan; however, the location of residential lots shall be subject to the design standards for conservation subdivisions set forth below.
 - d. In addition to bikeway/pedestrian paths, nature trails shall be included to provide subdivision resident access from internal streets to the protected conservancy area(s). The owners of a development shall be responsible for the operation, maintenance and replacement as required of the nature trails.

(d) *Protected conservancy areas and other common areas and facilities.*

(1) *Ownership.*

- a. *Homeowner Association or Condominium Association.* Protected conservancy areas and other common areas and facilities shall be held in common ownership by a homeowner association or shall be controlled through a condominium declaration and held as common elements. In either instance, the following regulations shall apply:
 1. Prior to approval of the final plat, the applicant shall provide the city a description of the organization of the proposed homeowner or condominium association, together with copies of its governing documents, including all documents governing ownership, maintenance and use restrictions for common facilities or common elements. All such documents shall be consistent with the provisions of this ordinance.
 2. The homeowner or condominium association shall be operating (with financial subsidization by the owner or applicant, if necessary) before the earlier of the sale of any dwelling or approval of the final plat
 3. Membership in the homeowner or condominium association shall be mandatory for all purchasers of property in the development and their successors in title.
 4. The homeowner or condominium association shall be responsible for maintaining in good condition and repair, repairing, replacing as necessary and maintaining insurance in connection with common facilities (including without limitation bikeway/pedestrian trails and nature paths), common elements and the protected conservancy area. Such responsibility shall be memorialized in recordable agreements acceptable to the city.
 5. The homeowner or condominium association shall have the power and authority to assess members for their proportionate share of costs associated with maintenance of such common facilities and areas. If the homeowner or condominium association fails to perform the work, the city may do so and special assess all homeowners or condominium unit owners for such costs..
 6. The governing documents for the homeowner or condominium association shall confer legal authority on the homeowner or condominium association to place a lien on the property of any member who falls delinquent in dues or assessments. Such dues and assessments shall be paid with the accrued interest before the lien may be lifted.
 7. Written notice of any proposed transfer of common facilities by the homeowner or condominium association or the assumption of maintenance for common facilities must be given to all members of

the homeowner or condominium association and to the city no less than 30 days prior to such event.

8. The homeowner or condominium association shall administer, maintain, replace as necessary and operate such common facilities.
9. If at any time the homeowner or condominium association does not exist for any reason, each owner of record of property rights in the development shall be liable for the owners' obligations set forth in this ordinance to the same extent such owner would have been liable for the costs of such obligations if such association had been properly formed and currently existing.

b. *Private conservation organization.* Alternatively, with consent of the city, an owner may transfer either fee simple title of the protected conservancy areas or easements on the protected conservancy areas to a private nonprofit conservation organization provided that:

1. The conservation organization is acceptable to the city and is a bona fide conservation organization intended to exist indefinitely in accordance with the Internal Revenue Service Code requirements.
2. The conveyance contains appropriate provisions for reverter or retransfer if the organization becomes unwilling or unable to continue carrying out its functions.
3. The protected conservancy area is permanently restricted from future development through a conservation easement and the city is given the ability to enforce these restrictions; and
4. A maintenance agreement acceptable to the city is established between the owner and the organization.

c. *Dedication of easements to the city.* The city may, but shall not be required to, accept easements for public use of any portion of the common land or facilities. In such cases, the facility remains in the ownership of the condominium association, homeowner association or private conservation organization while the city holds the easements. In addition, the following requirements shall apply:

1. There shall be no cost of acquisition to the city.
2. A satisfactory maintenance agreement shall be reached between the owner and the city designating the owner as responsible for operation and maintenance.

(2) *Uses.* The following uses and no others are allowed in a protected conservancy area unless otherwise prohibited pursuant to applicable law. A use described below is only allowed if it is specified in the easement described below. Each of the

following uses is limited as provided by other applicable laws and shall be subject to all applicable approvals and permits required for them under this code.

- a. Each of the following uses is permitted in protected conservancy areas:
 1. Conservation of open land (e.g., woodland, wetland or managed meadow).
 2. Silviculture in accordance with approved standards for selective harvesting and sustained yield forestry and subject to the city's specimen tree ordinance.
- b. Each of following uses is permitted in protected conservancy areas provided the planning commission, as part of the concept plan approval or upon separate application, determines that the use, in the location proposed, does not interfere with or propose a threat to sensitive natural features and provided such use complies with all other applicable laws:
 1. Agricultural and animal-related uses that are permitted uses in the R-1 district.
 2. Pastureland for horses for non-commercial recreational use.
 3. Passive recreational amenities and designated areas for active recreational amenities. Amenities include, but are not limited to, features such as gardens, trail systems leading to destinations, sport courts, gathering and seating areas and children's play equipment.
 4. Sewage disposal systems, wells and storm water detention/retention systems that service individual lots or for all or part of the subdivision.
 5. Easements and facilities for drainage, access and public sewer and water.
 6. Easements for gas, electric, telecommunications and other city-approved private purpose.
- c. The following are conditional uses in protected conservancy areas:
 1. Agricultural and animal-related uses that are conditional uses in the OA or R-1 district.
 2. Golf courses.
 3. Equestrian facilities for subdivision recreational use.

The planning commission may deny or impose conditions on approval of any such conditional use if the planning commission determines that such use is inconsistent with the protection of the specific natural features of the protected conservancy area or if and to the extent the planning commission would otherwise be allowed to deny or impose conditions upon such use under this code or other applicable law.

- (3) *Design standards.* The following design standards shall apply to all protected conservancy areas:
- a. There shall be no minimum lot size, minimum average lot width or minimum lot length for a protected conservancy area.
 - b. Any structure in a protected conservancy area shall be at least 100 feet from any local street or arterial.
 - c. Whenever possible, protected conservancy areas shall connect with existing or likely protected conservancy areas on adjoining parcels.
 - d. Protected conservancy areas shall be delineated outside individual dwelling lots.
 - e. Each protected conservancy area shall be accessible by subdivision residents from internal streets either directly or from paths that connect to such streets.
 - f. Protected conservancy areas shall be designed with appropriate advice and counsel from professional naturalists, landscape architects, biologists, horticulturists, or other qualified professional acceptable to the city.
 - g. Berms shall be permitted in a protected conservancy area, subject to the city's berm and other applicable regulations, unless and to the extent that the planning commission determines that a proposed berm would be inconsistent with the protection of the specific natural features of the protected conservancy area.
- (4) *Protected conservancy area easement.* Each protected conservancy area shall be subject to an easement in form and content approved by the planning commission. The easement shall, among other things:
- a. Define ownership.
 - b. Obligate the owner for the cost and responsibility of maintaining, replacing as necessary and maintaining insurance in connection with all common facilities (including without limitation bikeway/pedestrian trails and nature paths regardless of whether located in the protected conservancy areas), common elements and the protected conservancy area.
 - c. Define the range of permitted activities and uses and prohibit activities and uses not approved by the planning commission.
 - d. Incorporate the stewardship plan described below.

- e. Define the means for funding the owner's maintenance and insurance obligations, including both long-term capital improvements and annual operating and maintenance costs.
- f. Permit the city to enter the premises and correct any violation of the terms of the easement and provide that the costs of such corrective action, plus administrative costs and penalties, may be charged to the responsible owner and/or individual property owners who make up a condominium or homeowner association and may include administrative costs and penalties. All such costs shall become a lien against all properties in the development.

The approved and executed easement shall perpetually run with the land and be recorded in the Office of the Ozaukee County Register of Deeds.

- (5) *Stewardship plan.* Protected conservancy areas and rights of way adjoining the protected conservancy areas shall be subject to a stewardship plan professionally prepared and in form and content acceptable to the planning commission. The stewardship plan shall:
 - a. Establish objectives and timelines for each open space area and critical environmental area, including:
 - 1. Restoration efforts.
 - 2. Correction of increasing destructive conditions such as erosion.
 - 3. Measures for restoring historic features.
 - 4. The proposed end state for the area.
 - 5. The measures proposed for achieving the end state.
 - b. Commit the owner to control regulated weeds within the protected conservancy areas and adjoining rights of way within a reasonable time established in the stewardship plan, and effectively maintain that control, using either integrated management methods or a single management method only if such method is the most practical and economical method for achieving and maintaining control. As used in this paragraph, the following terms have the following meanings:
 - 1. "Control" means to destroy the above-ground portion of a regulated Weed in a manner and at the proper time to prevent the development and distribution of the Regulated Weed, and to prevent the spread of such Regulated Weed from one area to another.
 - 2. "Integrated management" means the use of a combination of several weed control tools to suppress regulated weeds, stimulate the competitive vigor of desirable plants or landscaping and prevent additional regulated weeds or the growth or expansion of regulated

weeds, including without limitation the replacement of regulated weeds with recommended plants.

3. “Regulated weeds” means:

- i. All noxious weeds (as defined in Wis. Stat. § 66.96, as amended from time to time);
- ii. Nuisance weeds (as defined in Wis. Stat. § 66.995, as amended time to time);
- iii. The following health-related weeds: common burdock (*arctium minus*), common ragweed (*ambrosia artemisiifolia*), giant ragweed (*ambrosia trifida*), poison ivy (*rhus radicans*) and wild parsnip (*pastinaca sativa*);
- iv. The following woody plants: autumn-olive (*elaeagnus umbellata*); buckthorn bushes (common buckthorn/*rhamnus cathartica*; glossy buckthorn/*rhamnus frangula*); honeysuckle bushes (morrow’s honeysuckle/*lonicera morrowii*; tartarian honeysuckle/*lonicera tatarica*; bella honeysuckle/*lonicera x bella*); and oriental or Chinese bittersweet (*celastrus orbiculatus*); and
- v. The following herbaceous plants: velvet leaf or indian mallow (*abutilon theophrasti*); garlic mustard (*allaria petiolata*); spotted knapweed (*centaurea maculosa*); yellow nutsedge (*cyperus esculentus*); common and cut-leaved teasel (*dipsacus laciniatus* and *dipsacus sylvestris*); black nightshade (*solanum nigrum*); and cocklebur (*xanthium strumarium*).

c. Establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (i.e., lawns, playing field, meadows, pastures, croplands, woodlands, etc.) including:

1. Mowing schedules.
2. Weed control.
3. Planting schedules.
4. Clearing and clean-up.

d. Be incorporated in the easement described above.

e. Be a perpetual obligation of the owner of the protected conservancy area.

(e) *Process.*

- (1) *Concept plan.* For all developments, the planning commission shall take action on a concept development layout plan prior to the applicant filing for approval of a preliminary plat. The concept plan shall identify the following:

- a. Primary conservation features including but not limited to wetlands, floodplains, drainage courses, steep slopes and specimen trees.
 - b. Secondary conservation features including but not limited to woodlands, natural meadows, scenic features, passive and active recreational amenities and view sheds.
 - c. Location of house sites.
 - d. Street alignments and trails.
- (2) Easement and stewardship plan. For any application containing protected conservancy areas, including all conservation subdivisions, the easement and stewardship plan are required to be submitted with the preliminary plat and are subject to planning commission approval at the time of the preliminary plat.

Sec. 58-235. - R-1B single-family rural residential district.

The R-1B district is intended to provide for large lot single-family residential development primarily within the area designated on the land use plan map as "rural service area." The district regulations are designed to accommodate homes which will generally be served with private on-site waste facilities.

Sec. 58-236. - R-2 single-family rural residential district.

The R-2 district is intended to provide for large lot single-family residential development of a semi-rural nature in areas where public water or sewerage facilities are not reasonably available. This district shall generally serve as a transition between the urban and rural service area illustrated on the land use plan map. Additionally, this district is appropriate for development adjacent to rivers, streams, Lake Michigan, and other sensitive environmental areas.

Sec. 58-237. - R-2B single-family suburban residential district.

The R-2B district is intended to provide for large lot single-family residential development primarily within the area designated on the land use plan map as "urban service area." The district regulations are designed to reasonably accommodate large homes which may potentially be served by public sewerage facilities.

Sec. 58-238. - R-3 single-family suburban residential district.

The R-3 district is intended to provide for large lot single-family residential development primarily within the area designated on the land use plan map as "urban service area." The district regulations are designed to reasonably accommodate large homes which may potentially be served by public sewerage facilities.

Sec. 58-239. - R-4 single-family suburban residential district.

The R-4 district is intended to provide for medium sized lot single-family residential development within the area designated on the land use plan map as "urban service area." The district regulations are designed to accommodate moderately large homes in a manner which efficiently utilizes potential public water and sewerage facilities.

Sec. 58-240. - R-5 single-family suburban residential district.

The R-5 district is intended to provide for relatively small lot single-family residential development within the area designated on the land use plan map as "urban service area." The district regulations are designed to accommodate specialized housing needs characteristic of reduced lot and home size.

Sec. 58-241. - R-6 two-family and three to four unit multiple-family suburban residential district.

The R-6 district is intended to provide for high quality medium density residential development for two-family dwellings and multiple-family dwellings with no more than four units per structure within the areas designated on the land use plan map as "single-family attached." All uses are subject to planning commission approval of the building, site and operational plans.

Sec. 58-242. - RM multiple-family residential district.

The RM district is intended to provide for high quality, low density multiple-family development within the areas designated on the land use plan map as "multi-family." All uses are subject to planning commission approval of the building, site and operational plans.

Secs. 58-243—58-245. - Reserved.**Sec. 58-246. – Permitted uses in residential districts.**

Table 58-246 sets forth the permitted uses for each residential zoning district. Permitted uses in any protected conservancy area in the R-1 district are set forth in section 58-234(d)(2).

[INSERT TABLE]

Sec. 58-247. – Permitted accessory uses in residential districts.

- (a) *Permitted accessory uses generally.* Table 58-247 sets forth the permitted accessory uses for each residential zoning district.

[INSERT TABLE]

(b) *Garages and carports.*

- (1) No garage or carport shall be erected prior to the erection of the principal building to which it is accessory.
- (2) The following provisions apply to properties zoned R-1 through R-5:
 - a. Except as otherwise specifically provided below, no more than one principal garage, either attached or detached, shall be permitted on a lot.
 - b. If there is a residence without an attached garage, one principal detached garage not to exceed 800 square feet in area shall be permitted.
 - c. If a residence was constructed prior to year 2003 with an attached garage in which two full-sized personal automobiles cannot reasonably be stored side-by-side, one principal detached garage not to exceed 675 square feet in area shall be permitted, provided no such garage structure shall be sited in front of an existing residence or in such other location as shall unreasonably affect or adversely impact the beauty and general enjoyment of existing residences or adjoining properties.
 - d. Enclosed vehicular storage space for not more than one vehicle may be rented to persons not resident on the lot, such space being defined as an area not to exceed 300 square feet.

(c) *Detached storage structures.*

In addition to any permissible garages, a single detached storage shall be permitted in the following zoning districts subject to the following conditions:

- (1) On any property zoned R-1 provided that no such detached storage structure shall exceed the lesser of 2,178 square feet or one percent of the area of the property; however, if the property is subject to an AO agricultural overlay, the property shall not be restricted in the number or size of detached storage structures.
- (2) On any property zoned R-1B through R-5 subject to the following conditions:
 - a. If a guesthouse is constructed as a conditional use, no detached storage structure is permitted.
 - b. A detached storage structure shall not exceed one percent of the lesser of (a) five acres or (b) the area of the property if the property is not divisible in the current zoning district or, if it is divisible, the zoning district's minimum lot size.

(d) *Parking requirements for the RM Zoning District.*

- (1) *Enclosed Parking.* Each dwelling unit shall be provided a minimum of the following number of enclosed parking spaces:
 - a. One-bedroom units: 1.75 parking spaces.
 - b. Two-bedroom units: 2.00 parking spaces.
 - c. Three-bedroom units: 2.00 parking spaces.
- (2) *Off-street parking ratio.* Off-street parking for guest parking shall be provided at the rate of one space for every two dwelling units, but no less than four spaces per development.

(e) *Home occupations.*

- (1) The home occupations shall be clearly incidental to the principal residential use.
- (2) The home occupation shall be carried on wholly within the principal residential dwelling or within a permitted accessory structure and only by residents occupying the premises and one additional person not a resident on the premises.
- (3) No article or service shall be sold or offered for sale on the premises except by telephone or electronically with products stored and any physical delivery occurring elsewhere.
- (4) The home occupation shall not normally generate customer or client traffic to the residential premises.
- (5) No retail or wholesale business shall be conducted on the premises.
- (6) No sand, gravel, stone, topsoil or peat moss shall be removed from the premises for commercial purposes.
- (7) No materials, equipment or vehicles used in the home occupation shall be stored outside.
- (8) Any off-street parking area shall be maintained reasonably dustless and adequately screened from adjoining residential properties.
- (9) The home occupation shall not generate or result in offensive noise, vibration, smoke, dust, odors, heat, or glare if any of the foregoing creates a nuisance or is otherwise incompatible with the surrounding residential area.

- (10) In the R-6 zoning district, there shall be no signs for the home occupation. A sign for a home occupation in any other residential zoning district shall comply in all respects with the requirements in the sign code for home occupation signs.

Sec. 58-248. – Conditional uses in residential districts.

- (a) *Generally.* Table 58-248 sets forth the conditional uses for each residential zoning district. Specific conditions and requirements for each conditional use are set forth in the provisions following Table 58-248. These conditions and requirements are in addition to those set forth in, and imposed, under article II, division 3 and elsewhere in this Code.

[INSERT TABLE]

- (b) *Commercial outdoor recreational facilities.*

- (1) Such facilities are open to the public or available through membership.
- (2) Examples include, but are not limited to, athletic fields, sport courts, playgrounds, and golf courses.
- (3) Structures customary to such facilities may be approved; however, the primary activity shall be conducted outdoors.
- (4) Except for conservation subdivisions in the R-1 zoning district, these uses must be approved through a planned unit development.

- (c) *Utility, transmission and distribution lines, poles, and other accessories.*

- (1) When a utility proposes a main inter-city transmission facility, the utility shall give notice to the planning commission of such intention and of the date of hearing before the public service commission and, before actual construction, shall file with the planning commission a map description of the route of transmission line.
- (2) Public and/or private utility installations less than three feet in height shall be subject only to city staff approval and may be allowed subject to staff-imposed conditions regarding, among other things, effective screening from public view with all-season vegetation.

- (d) *Community living arrangements.*

- (1) No structure shall be greater than two stories.
- (2) Structures shall comply with the city's Architectural Guidelines for Residential Structures in effect at the time of approval.

- (3) The maximum floor area ratio shall be 20%.
 - (4) Parking shall be located on the side or rear of the primary structure, shall be offset at least 30 feet from all property lines and shall be screened with all-season vegetation from adjoining one-family dwelling or two-family dwelling.
 - (5) No signs shall be allowed.
 - (6) The use shall be licensed to the extent required by state law, located as restricted by state law and subject to hearings before the common council to the extent allowed by state law.
 - (7) The planning commission, subject to all fair housing law requirements, may reject any application for a conditional use for a community living arrangement at its discretion.
- (e) *Accessory dwelling units.*
- (1) An accessory dwelling unit is an area, other than an area in a basement, attached to or contained within a primary dwelling unit with its own bathroom, kitchen and sleeping area. As used in this paragraph, a kitchen is an area with a sink, a refrigerator and a stove, range, oven or cooktop.
 - (2) The primary dwelling unit must be owner occupied at any time that a person other than the owner or a legal dependent of the owner occupies the accessory dwelling unit. A property shall be deemed to be owner occupied if an owner or in the case of an owner entity, the person who has voting control of the entity, is either registered to vote using that address or claims the property as the person's primary residence for the Wisconsin lottery and gaming credit.
 - (3) An accessory dwelling unit may only be occupied by a family member, blood relative, legal dependent, caretaker or paid servant of a resident of the primary dwelling unit.
 - (4) There can be no more than one accessory dwelling unit per one-family dwelling.
 - (5) The total living area of an accessory dwelling unit can be no larger than 40% of the total living area of the primary dwelling to which it is attached or contained. Total living area shall be measured from the outside of exterior walls (excluding cellars, basements, open porches, breezeways, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes).
 - (6) The accessory dwelling unit must have at least one common entrance with the primary dwelling unit.

- (7) There shall not be separate direct entrances for each dwelling unit on the front of the building unless this prohibits handicapped access.
 - (8) An accessory dwelling unit may not have a separate postal address.
 - (9) An area in a basement that would qualify as an accessory dwelling unit if not in a basement shall be permitted without a conditional use grant provided there is no accessory dwelling unit on the property and provided that the city and the owner record an agreement that encumbers the property by which the owner covenants that no accessory dwelling unit may be constructed on the property and the use of such basement area shall be subject to the requirements of (2), (3), (6), (7) and (8).
- (f) *Guesthouses.*
- (1) A guesthouse is a detached structure with living quarters and is intended for the temporary stay of occasional guests.
 - (2) A guesthouse may not contain a stove, oven, range or cooktop.
 - (3) A guesthouse may not be rented or used as a separate dwelling.
 - (4) A guesthouse may not be constructed unless the property contains a primary residence.
 - (5) If a guesthouse is constructed, no detached storage structure is permitted unless the property is in the R-1 zoning district.
 - (6) A guesthouse shall not exceed one percent of the lesser of (a) five acres or (b) the area of the property if the property is not divisible in the current zoning district or, if it is divisible, the zoning district's minimum lot size.
 - (7) A guesthouse may not have a separate postal address.
- (g) *Historically significant structures used as private clubs or private lodges.*
- (1) A structure is only historically significant if it is listed on the National Register of Historic Places or has been designated a local landmark by the Mequon Landmarks Commission.
 - (2) No more than one vehicle may be temporarily parked in a driveway in front of the primary structure. All other exterior parking shall be located on the side or rear of the primary structure, shall be offset at least 30 feet from all property lines and shall be screened with all-season vegetation from any adjoining one-family dwelling or two-family dwelling.

(h) *Bed and breakfast establishments.*

Bed and breakfast establishments shall be licensed under, meet the requirements of and be operated in accordance with Wis. Stat. § 97.01 and Wis. Admin. Code § ATCP 73, as amended or renumbered from time to time, and all other applicable laws.

(i) *Landscape contracting businesses.*

- (1) The business shall occupy no more than 10 acres.
- (2) No outside storage of materials or equipment.
- (3) The business and its primary operations must be at least 500 feet from any dwelling on any adjoining parcel.
- (4) No on-site sales of mulch or other related products.

Sec. 58-249. – Technical requirements of residential districts.

- (a) *Generally.* Table 58-249 sets forth the technical requirements for each residential zoning district.

[INSERT TABLE]

- (b) *Explanations.* As used in Table 28-248:

- (1) Minimum living area shall be measured from the outside of exterior walls (excluding cellars, basements, open porches, breezeways, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes).
- (2) Minimum building setback shall be measured from the ultimate right-of-way line of each public street, road, or highway which abuts the subject property.
- (3) Minimum building offset shall be measured from each side and rear lot line other than a lot line subject to a minimum building setback.
- (4) Maximum lot coverage percentage shall be the percentage of a property covered by buildings and structures.

- (c) *Special maximum lot coverage standards.*

- (1) Maximum lot coverage percentage shall not apply to a residential planned unit development unless the common council determines otherwise in the ordinance that creates the planned unit development.

- (2) If a property is in the R-1 through R-3 zoning districts and the property is smaller than the minimum lot size for the zoning district in which it is located, the maximum lot coverage percentage shall be the percentage applicable to the zoning district with a minimum lot size smaller than, but closest in size to, the property.

Secs. 58-250—58-262. - Reserved.