



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2914
Fax: 262-242-9655

www.cityofmequonwi.gov

Office of the City Clerk

COMMITTEE OF THE WHOLE

Tuesday, May 13, 2025

7:00 PM

American Legion Post #457

6050 W. Mequon Road

Agenda

1. Call to Order, Roll Call
2. Approval of Meeting Minutes
 - a. March 11, 2025
3. Ordinance
 - a. **ORDINANCE 2025-1681** An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to Structures on the Lake Michigan Bluff
4. Discussion
 - a. New Hotel Development Feasibility Analysis Port Washington Road Request For Proposals (RFP)
5. Information Items
 - a. Committee of the Whole Planning Calendar
6. Adjourn

Dated: May 13, 2025

/s/ Andrew Nerbun, Mayor

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 City Administrator's Office at 262-236-2941, Monday through Friday, 8:00 AM – 4:30 PM.



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Office of the City Clerk
Taped & Televised

COMMITTEE OF THE WHOLE

Tuesday, March 11, 2025

6:00 PM

Christine Nuernberg Hall

Minutes

1. Call to Order, Roll Call

Mayor Nerbun called the meeting to order at 6:03 PM.

Present:

Mayor Andrew Nerbun
Alderman Robert Strzelczyk
Alderman Kelly Tolocko
Alderman Dale Mayr
Alderman Jeffrey Hansher
Alderman Gregg Bach
Alderman Brian Parrish
Alderman Peter Bratt
Alderman William Gebhardt

Also present: City Administrator Jones, Assistant City Administrator Schoenemann, City Attorney Sajdak, City Clerk Fochs, Finance Director Arnett, Police Chief Riley, Director of Public Works/City Engineering Lundeen, Deputy Director of Public Works Weyker, Director of Community Development Tollefson, Assistant Director of Community Development Zader, Sewer Maintenance Supervisor Weinrich, Managerial Fellow Randall, Executive Assistant Enea, Administrative Assistant Schlereth, press and interested public.

2. Approval of Meeting Minutes

a. February 11, 2025

RESULT: Approved by Voice Acclamation [Unanimous]
MOVED BY: Alderman Bach
SECONDED BY: Alderman Strzelczyk

Attachment: 3.11.25 (10272 : cotw 3/11)

AYES: Nerbun, Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

3. Discussion

a. Milwaukee River and Trinity Creek Floodplain Modeling Review

Assistant Director Zader introduced Kendra Gabbert from M Squared Engineering who was hired for the analysis of the floodplain maps following City's concern of accuracy of the DNR FEMA maps.

The City's concerns included the lack of accurate hydrology of the Milwaukee River, base flood elevation (BFEs) increases, floodway limits expansions between County Line Road and Donges Bay Road, and BFEs and floodways for Trinity Creek.

Ms. Gabbert presented detailed results from their investigation. While the FEMA maps were not incorrect, M Squared discovered that the maps were not created using FEMA's typical modeling to produce statistical data.

Milwaukee River findings include flow (BFE) reduction average of three feet from Pioneer and Highland Road, Highland Road to Thiensville Dam, and Thiensville Dam to Mequon Road. Mequon Road to County Line Road resulted in a reduction being under two feet. Floodway limits were also modified in respect to floodway encroachments as proposed by FEMA.

M Squared would not recommend updating the map for Trinity Creek, as the reevaluation did not provide significant changes from the FEMA map.

To move forward, the City would pursue a letter of map change including the results from M Squared. This would require additional modeling, a timeline of at least one year, and budgeting approximately \$75,000 in associated costs for engineering services in coordination with FEMA.

Committee discussion included, reaching out to surrounding municipalities on their interest of inclusion such as Thiensville and south of the City, the success rate of corrective submissions, timely action to allow residents to plan for the changes, and source of funding. The Mayor would lobby for State reimbursements towards the costly efforts with considerations that the errors made by the DNR were approved by FEMA.

A straw poll was taken to direct City staff to proceed with drafting a contract with M Squared for a map amendment, resulting in unanimous approval.

b. 2025 Community Survey

Assistant City Administrator Schoenemann and Executive Assistant Enea presented the drafted survey created with the assistance of ETC Institute and the Public Welfare Committee.

Attachment: 3.11.25 (10272 : cotw 3/11)

Currently the survey includes five sections and twenty-two questions with a planned release in mid-May by mail. ETC will finalize the results in August and provide a thorough presentation in September to the Committee of the Whole.

Committee comments and requests were compromised of a cover letter amendment to include how the collected data will be used, suggestions and adjustments to specific inquiries regarding apartments, population growth, and the community pool. The Committee also requested to simplify specific questions and redesign confusing layouts.

4. Informational Item

a. Committee of the Whole Planning Calendar

Alderman Strzelczyk mentioned a future discussion regarding police communications. This would likely appear before the Public Safety Committee prior to any Committee of the Whole involvement.

5. Adjourn

Motion to Adjourn at 7:22 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Mayr
SECONDED BY: Alderman Bratt

AYES: Nerbun, Strzelczyk, Tolocko, Mayr, Hansher, Bach, Parrish, Bratt, Gebhardt

Respectfully Submitted,

Janet Meyer
Deputy Clerk

Attachment: 3.11.25 (10272 : cotw 3/11)



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11333 N. Cedarburg Road
Mequon, WI 53092-1930
Phone: 262-236-2924
Fax: 262-242-9655

Office of Inspections

TO: Committee of the Whole
FROM: Kim Tollefson, Director of Community Development
DATE: May 13, 2025
SUBJECT: ORDINANCE 2025-1681 An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to Structures on the Lake Michigan Bluff

Background

In August 2024, the Common Council Committee of the Whole (COTW) directed staff to author proposed code amendments that would allow property owners along the Lake Michigan Bluff the ability to access the lake. Since that time, City staff has developed regulatory standards and consulted with agencies, municipalities and engineers. The draft regulations were presented to the Planning Commission at their meetings in March and April 2025.

Policy Objectives

To provide context of the issues associated with the policy objectives, the following outlines several considerations.

Issue: Bluff Stability

One important issue to understand when contemplating the idea of allowing structures on the Lake Michigan Bluff (LMB) is the known conditions of the LMB. The Wisconsin Shoreline Inventory & Oblique Photo Viewer provides relevant information regarding this. As illustrated in Exhibit A, the majority of the LMB in Mequon is classified as “Moderately Unstable” (yellow) or “Unstable/Failing” (red). In 2019, the Wisconsin Coastal Management Program along with the National Oceanic and Atmospheric Administration funded a comprehensive study entitled: *Southeastern Wisconsin Coastal Recession Between 1956 to 2015* (Exhibit B). This study produced the map referenced above in Exhibit A, and led to these classifications of the bluff documented through photographic evidence from 1956-2015.

Additionally, an interactive web-based tool for viewing the historical transformation of the bluff is available at:

<https://floodscience.maps.arcgis.com/apps/instant/minimalist/index.html?appid=c47ab45bb8c046e099a46df28837ca88>

Notably, one section classified as “Moderately Stable” (green) near Highland Road is the portion of the LMB at Concordia University, which had a stone revetment installed in 2007 to prevent further erosion. That project was the subject of a 2011 lawsuit claiming it was causing the LMB

on neighboring properties to collapse. An Ozaukee County jury “unanimously agreed that the stone revetment is a nuisance that has caused significant harm to neighboring properties”

Issue: Building Code Limitations

A second issue to take into consideration is how the City’s Building Code relates to structures constructed on the LMB. Per City ordinances and the City’s Building Code, structures are defined as follows:

- Section 58-8 - Definitions: Structure means a combination of materials other than natural terrain or plant growth erected or constructed to form among other things, a building, shelter, sign enclosure, retainer, container, support, base, or decoration.
- 2015 International Building Code - Definitions: Structure - That which is built or constructed.

Mequon currently adopts SPS 321, construction standards for all one- and two-family dwellings along with the 2015 International Building Code (IBC). A free-standing deck is the only structure, other than a one- or two-family dwelling, in which SPS 321 can be applied, and the IBC is silent on any structures not associated with a building. Walking paths and steps embedded in the ground are considered landscaping and not regulated by either code.

Staff evaluated neighboring communities which have properties along the LMB. Both Whitefish Bay (Exhibit C) and Fox Point (Exhibit D) have ordinances similar to one another regarding structures on the LMB. Those regulations rely heavily on the use of a registered professional engineer throughout the process. The LMB in these communities, according to the comprehensive study of the Southeastern Wisconsin Coastal Recession, has been classified as “Moderately Stable” (Exhibit E). Ozaukee County adopts ordinance 19.0300 (Exhibit F), very similar to the current Mequon Code of Ordinance 58-416 (Exhibit G). In particular, Whitefish Bay allows structures, while Fox Point does not.

Legal Summary

Recreational immunity statutes under Wisconsin State Law apply to the property owner, whether private or public land, and exempt the owner from liability, protecting the owner from a lawsuit. The City has no recreational immunity applicable to the Lake Michigan bluff because there is no City-owned land along the lake. The City’s legal authority and liability is limited to: 1) the approval of structures - if allowed by zoning; 2) the issuance of permits for construction; 3) the inspection of such structures; and 4) approval, if “at the time of inspection it is in compliance”. The City does not provide on-going inspection of structures, and does not evaluate the condition of, or any structure’s ongoing compliance with regulations after final inspection, unless enforcement ensues, or modifications are proposed to the structure through subsequent permit applications. The City must also enforce the code and as such, shall require removal of structures that are constructed but never permitted, if the City is aware of a known violation. According to City Attorney Sajdak, there is no record of case law related to the construction of structures on the bluff in the state.

Agency Input

Community Development routed the draft text amendment to potentially impacted departments, including the Southern Ozaukee Fire Department, the Mequon Police Department and the Mequon Engineering Division for review and commentary. Exhibit I contains their responses.

In addition, staff reached out to the Wisconsin Department of Natural Resources (DNR). DNR representative Haley Anderson advised that anything below the ordinary high-water mark (OHWM) would require permitting from the DNR. She also indicated that the County should be able to identify the OHWM for a homeowner or the DNR could perform that service for a \$200 fee. The DNR provided the following link to a free download of “Living on the Coast” which addresses the protection of investments in shore property on the Great Lakes:

<https://publications.aqua.wisc.edu/product/living-on-the-coast-protecting-investments-in-shore-property-on-the-great-lakes/>

Analysis

The building of any structure on the Lake Michigan bluff comes with inherent risks. A proposed text amendment (Exhibit H: Original Amendment with Track Changes and Exhibit K: Proposed Text Amendment) places the responsibility of design, construction and safety on a professional engineer (PE) and the property owner. The qualifications of the professional engineer required by the text amendment are very specific. Further, the regulations limit the size, height and location of these structures and addresses maintenance, should they fall into disrepair and/or become a visual nuisance or potential debris for the Great Lakes. These regulations are as follows:

- 1) Height restrictions always existed but further definition of how to measure height was added as follows:
 - a. Four (4) feet six (6) inches measured vertically from the structure’s walking surface to the top of the structure.
 - b. Fifteen (15) feet measured vertically from the walking surface to grade.
- 2) To ensure the professional engineer is properly qualified to design these structures, specific certifications were added.
- 3) Property owner shall maintain the structure to avoid such becoming dilapidated or in disrepair or debris, or to be unsightly, dangerous, unsafe, unsanitary, or otherwise unfit for human use. The owner shall provide the City with a repair or replacement plan within 60 days of being notified of non-compliance.

Fiscal Impact

The fiscal impact is neutral.

Recommendation

On April 21, 2025, the Planning Commission approved a recommendation in favor of adopting

the proposed ordinance amendments by a vote of 8-0. A recommendation is forthcoming from the Public Welfare Committee on May 13, 2025.

Attachments:

Exhibit A (PDF)
Exhibit B (PDF)
Exhibit C (PDF)
Exhibit D (PDF)
Exhibit E (PDF)
Exhibit F (PDF)
Exhibit G (PDF)
Exhibit H (DOCX)
Exhibit I (PDF)
Exhibit J (PDF)
Exhibit K (DOCX)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2025-1681

An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to Structures on the Lake Michigan Bluff

RECITALS

A. Pursuant to the authority granted to it under Section 62.23(7) of the Wisconsin Statutes, the City of Mequon previously adopted a comprehensive Zoning Code for the City which includes the Lake Michigan Bluff under Section 58-416 of the Municipal Code.

B. On April 21, 2025, the Planning Commission, by a majority vote, adopted a recommendation to approve a text amendment allowing for the building of certain structures on the Lake Michigan Bluff.

C. Following due notice and a public hearing by the Common Council, the Council finds that the proposed amendment is consistent with the City's comprehensive master plan and that the amendment would further the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Section 58-416(c)(2) is amended to read as follows (NOTE: Deleted text is ~~stricken~~; Added text is **bold underlined**):

(2) Setback from Lake Michigan Bluff. Except as otherwise provided in this section, all All permanent structures, including in-ground swimming pools erected or constructed after January 1, 1988, on property that is contiguous to Lake Michigan shall be set back from the top of the bluff a distance based on a slope ratio of two feet horizontal distance to every one foot vertical distance measured from the toe of the bluff. In no case, however, shall a building be set back less than 75 feet from the top edge of bluff at the time of construction. Additions or alterations to structures that were erected or constructed prior to January 1, 1988, on property that is contiguous to Lake Michigan shall in no case reduce the existing setback from the edge of the top of the bluff to the existing structure.

Structures to gain access to Lake Michigan shall be permitted subject to the following conditions:

a. The structure shall be limited to 5 feet in width and the following height restrictions shall apply:

1. Four (4) feet six (6) inches measured vertically from the structure's walking surface to the top of the structure.
2. Fifteen (15) feet measured vertically from the walking surface to grade.
- b. A building permit from the department of community development shall be obtained.
- c. A survey shall be provided with the building permit and shall include the ordinary high-water mark (OHWM).
- d. Structures shall comply with required side yard offsets of the city base zoning district. Structures and any component of the structures, whether above or below grade, including but not limited to cables, anchors, supports, are not eligible for the offset exemptions of Sec. 58-416.
- e. Regulations of Chapter 84 shall be met.
- f. Structures shall comply with all other applicable municipal codes and state or federal regulations.
- g. Property owners shall certify to the city their awareness of potential problems of lake shore erosion, including but not limited to, the possibility of adding fill of various types to stabilize the bluff area, the requirement for securing of a fill permit from the city engineering division for any such filling, the provisions of said fill permit ordinance, and the potential cost incurred. A memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.
- h. A registered professional engineer, board certified by the American Society of Civil Engineers, in geotechnical engineering (CPEGE), who is hired by the owner of the lot, shall certify to the city that the construction of any proposed structure located within 75 feet of the top edge of the bluff will be safe. Specifically, the professional engineer shall certify that:
 1. The design of any structure, the method of constructing such structure, and the materials used therefore are structurally adequate and will protect public health and safety.
 2. The proposed structure will not in any way adversely affect the structural integrity or safety of any building, or structure(s) located on adjoining or adjacent sites.
 3. The proposed structure will not adversely disturb ravine and bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession on the subject site or adjoining or adjacent site.
 4. The drainage system will not adversely affect the adjacent and adjoining properties.
 5. There is no danger to the proposed structure or existing buildings or structures and its occupants from slippage of the slope above and/or below the proposed structure.
 6. A memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.

7. The engineer shall make a technical report accompanying the certificate, which shall include, at a minimum:
- i. Recommendations regarding site preparation, foundation design, lateral earth pressure and support of the structure.
 - ii. The stability of the slope before, during and after construction.
 - iii. The effect of the construction on natural drainage in the areas, including any measures, such as "weepers," which are designed to improve natural drainage in the area.
- i. Property owner shall maintain the structure to avoid becoming dilapidated or in disrepair or debris, or to be unsightly, dangerous, unsafe, unsanitary, or otherwise unfit for human use. The owner shall provide the city a repair or replacement plan within 60 days of being notified of being in noncompliance.

All underground utilities including but not limited to sewer, water, gas, electric, or telephone shall be installed no closer than 75 feet from the top edge of the Lake Michigan bluff. Underground extensions of existing utilities shall not reduce the existing setback from the edge of the bluff if said utilities are closer than 75 feet to the top of the bluff. However, utilities located more than 75 feet from the top of the bluff may be extended underground to structures lacking the 75-foot setback from the top of the bluff. The city does not guarantee, warrant or represent that only those areas which lie within the required setback area from the top of the bluff will be subject to damage resulting from bluff erosion or instability and hereby asserts that there is no liability on the part of the common council, its agencies or employees for any damages that may occur as a result of reliance upon and conformance with this section.

SECTION II

The terms and provision of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

Approved by: Andrew Nerbun, Mayor

Date Approved: May 13, 2025

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 13, 2025.

Caroline Fochs, City Clerk

Published: _____

Exhibit A



Attachment: Exhibit A (ORDINANCE 2025-1681 : LM Bluff Structures)

Exhibit B

Southeastern Wisconsin Coastal Recession Between 1956 to 2015

Nick Jordan, FreshWater Engineering (formerly), Inver-Fluve (current affiliation)

Adam Bechle, Wisconsin Sea Grant, Wisconsin Coastal Management Program

Boyuan Lu, University of Wisconsin–Madison Department of Civil and Environmental Engineering

Isak Fruchtman, University of Wisconsin–Madison Department of Civil and Environmental Engineering

Prakriti Khanal, University of Wisconsin–Madison Department of Civil and Environmental Engineering

Chin H. Wu, University of Wisconsin–Madison Department of Civil and Environmental Engineering

May 6, 2019

Executive Summary

Lake Michigan coastal bluff and shoreline recession data are provided for Kenosha, Racine, Milwaukee, and Ozaukee Counties (collectively called “southeastern Wisconsin”) for a time period between 1956 to 2015 and is publicly available on the Wisconsin Shoreline Inventory and Oblique Viewer (http://floodatlas.org/asfpm/oblique_viewer/). Coastal recession is the distance that coastal bluff or shoreline features have receded, or moved landward. For areas with coastal bluffs, recession information is provided for the bluff crest, where the relatively flatter upland meets the steeper bluff face, and the bluff toe, where the bluff face meets the beach. In areas that lack a bluff, recession information is provided for the shoreline, where the beach meets the water. Recession was measured from the position of these features in historic aerial orthophotography over two analysis periods: a long-term period from 1956 to 2015 and a short-term period from 1995 to 2015. Recession is represented as both the distance coastal feature changed in position over the analysis period (“recession distance”) as well as the average annual of change of the coastal feature’s position (“recession rate”) Each recession data point represents an average of recession measurements along a 300-foot section of coast and does not represent any specific property or municipal boundary. Approximate uncertainty in the long-term recession distances is ± 4 feet (± 0.07 ft/year for recession rate) and in the short-term recession distances ± 2 feet (± 0.1 ft/yr for recession rate). This data should be considered preliminary and are intended for informational purposes. Care should be exercised in interpreting these data based on knowledge of coastal geology, engineering and mapping.

This data was produced as a part of ongoing studies at the University of Wisconsin-Madison Coastal Sustainability Laboratory with assistance from Freshwater Engineering. This data has been made public through collaborations of the University of Wisconsin-Madison, the Wisconsin Coastal Management Program, University of Wisconsin Sea Grant, and the Association of State Floodplain Managers.

Funding

Funded by the Wisconsin Coastal Management Program and the National Oceanic and Atmospheric Administration, Office for Coastal Management under Grant # NA17NOS4730144.



Southeastern Wisconsin's Coast

The Lake Michigan coast of Southeastern Wisconsin (defined here as Kenosha, Racine, Milwaukee, and Ozaukee Counties) is composed of low sandy shores of less than 10 feet in elevation, low bluffs 10 feet to 50 feet high, and high bluffs up to 130 feet high (Figure 1). Bluffs in this region are principally composed of clayey soil deposited by glaciers during the last Ice Age. The coast is also composed of breakwaters and harbor infrastructure near the port and harbor cities of Port Washington, Milwaukee, Racine, and Kenosha.

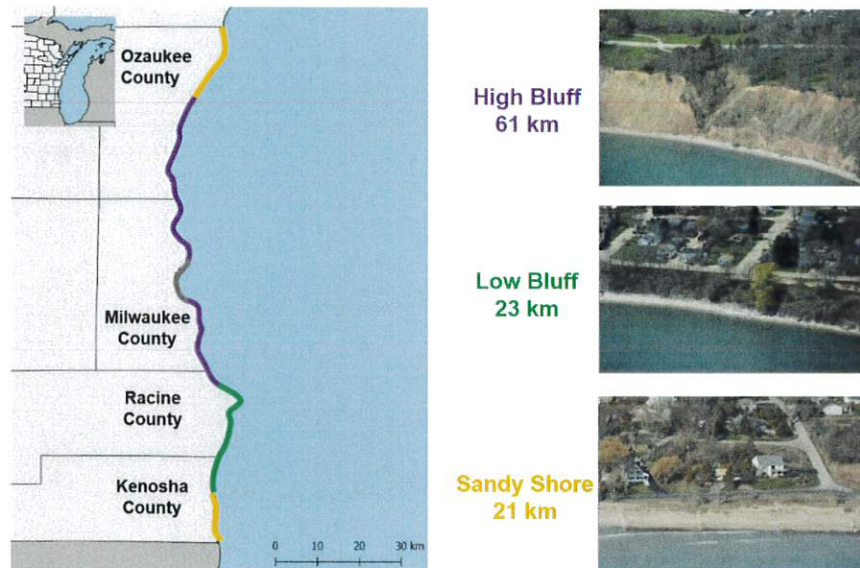


Figure 1: Southeastern Wisconsin's coast is composed of high bluffs (purple), low bluffs (green), sandy shores (tan), and harbor infrastructure (gray).

This coastline is subject to erosion and bluff slope failures which can cause the coast to recede, or move landward, and threaten upland coastal properties. Coastal recession is often referenced to key recognizable coastal features which are depicted in Figure 2 and defined as follows:

Bluff Crest: the location where the relatively flatter upland meets the steeper bluff face

Bluff Toe: the location where the bluff face meets the beach

Shoreline: the location where the beach meets the water

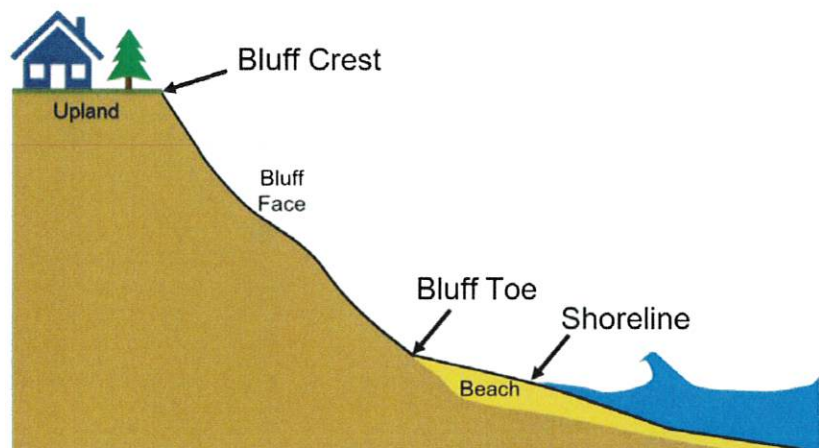


Figure 2: The bluff crest, bluff toe, and shoreline

Coastal Recession Measurements

Coastal recession is the distance the bluff or shoreline has receded, or moved landward over a given period of time. Recession was measured along bluffed coasts for the bluff crest and the bluff toe or, in areas that lack a bluff, for the shoreline (Figure 3). Coastal feature recession distances were measured from historical aerial photos in Geographic Information System (GIS) software for two analysis periods: 1956-2015 and 1995-2015.

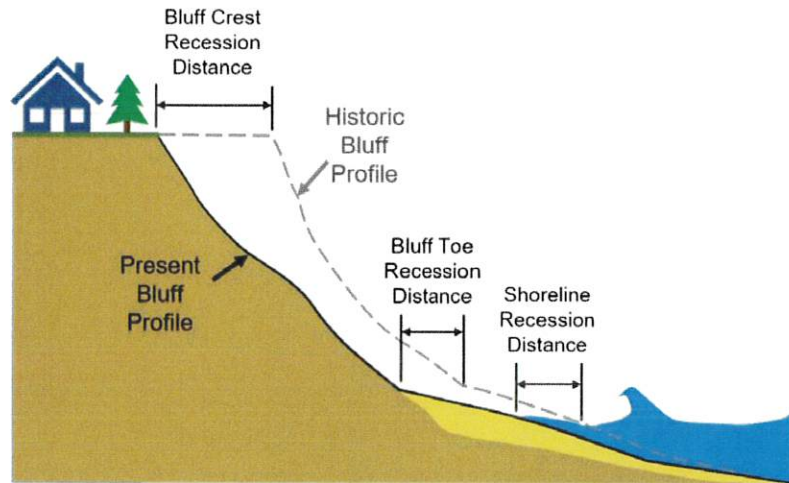


Figure 3: Coastal recession measurements which compare the positions of coastal features over time

The procedure for making coastal recession measurements explained below and summarized in Figure 4 (following page).

- 1) Photos from each analysis year (1956, 1995, and 2015) were orthorectified to remove vertical distortions caused by the camera lens and georeferenced to position them accurately in space. The photos used for this analysis are summarized in Table 1.

Table 1: Summary of aerial photos used in recession analysis

<i>Year</i>	<i>Month</i>	<i>Photo Source</i>	<i>Photo Description</i>	<i>Photo Scale</i>	<i>Resolution (m)</i>
1956	May/June	USDA	Scanned B&W Aerial Photo	1:20,000	N/A
1995	April	SEWRPC	B&W Aerial Orthophoto	1:20,000	N/A
2015	April	SEWRPC	Color Aerial Orthophoto	N/A	0.152

- 2) Coastal features were traced in each photo using differences in soil color, vegetation or other indicators to distinguish the features on each photo.
- 3) Once each feature is digitized, the United States Geological Survey (USGS) Digital Shoreline Analysis System (DSAS) software was used to measure the location of each digitized feature along transect lines spaced at 10-meter intervals (~33 feet) along the shoreline.
- 4) Recession distances are averaged at 100 meter intervals (~328 foot) along the coast using a spatial averaging technique. This spatial averaging serves two purposes: i) to represent recession over a distance wider than the typical scale of a single lot, and not at a specific parcel and ii) in order to removes spikes in the data which may result from localized erosion events.

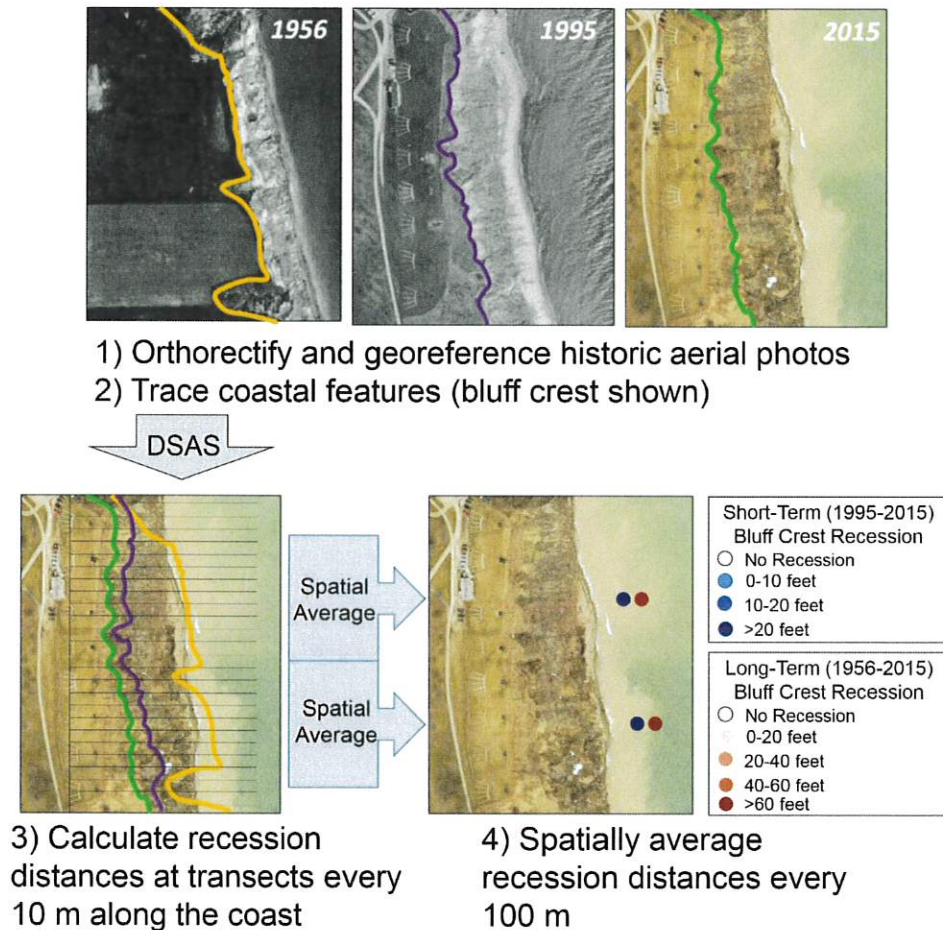


Figure 4: Coastal recession measurement procedure

The following recession measurements are available.

Layer	Description
Bluff Toe Recession – Long-term (1956 – 2015)	The distance the bluff toe has moved landward between 1956 and 2015.
Bluff Crest Recession - Long-term (1956 - 2015)	The distance the bluff crest has moved landward between 1956 and 2015.
Shoreline Recession – Long-term (1956 - 2015)	The distance the shoreline has moved landward between 1956 and 2015.
Bluff Toe Recession – Short-term (1995 – 2015)	The distance the bluff toe has moved landward between 1995 and 2015.
Bluff Crest Recession – Short-term (1995 - 2015)	The distance the bluff crest has moved landward between 1995 and 2015.
Shoreline Recession – Short-term (1995 - 2015)	The distance the shoreline has moved landward between 1995 and 2015.
Shoreline Position (2015)	The location where the beach met the water, as measured in 2015 aerial photographs

Each data point represents an average of recession measurements along a 300-foot section of coast and does not represent any specific property or municipal boundaries. By clicking on a point, the actual average measured recession distance and an average annual rate of recession can be viewed. Note that a positive recession value represents a landward movement of the feature and a negative recession value represents a lakeward movement of the feature, also known as accretion.

The recession information can provide useful insights into the historic migration of the southeastern Wisconsin coast. It should be noted that the recession distances provided here represent how the bluffs and shorelines have responded to historic environmental conditions and human actions over a specific time period in the past (1956-2015 and 1995-2015). There is always uncertainty in how bluff and shoreline recession will respond to future conditions. Bluff recession can also be sporadic. For example, a bluff crest that had remained unchanged for decades can recede many feet almost instantly due to a bluff collapse. Human actions may also change the evolution of the coast. For example, a bluff that may have been heavily eroded historically may have been recently stabilized or had shore protection added such that recession could be expected to decrease compared to historic rates.

Disclaimer

Please note that the data presented here should be considered preliminary and may not reflect current conditions along the coast. Care should be exercised in interpreting these data based on knowledge of coastal geology, engineering and mapping. Site assessments may be necessary to properly interpret this data. As the Lake Michigan coast is a dynamic and constantly changing environment, one should consider consulting with local authorities and qualified professionals before building or making other land use decisions along the coast.

Methods

Bluff recession distances were measured from historical aerial photos in Geographic Information System (GIS) software for two analysis periods: 1956-2015 and 1995-2015. Using GIS software, photos from each year are georeferenced to position them accurately in space and orthorectified to remove vertical distortions caused by the camera lens. The bluff crest, bluff toe, and shoreline are carefully traced on each photo. The bluff crest is identified as the break in slope between the upland and the bluff slope, the bluff toe is identified as the break in slope between the bluff slope and beach, and the shoreline is defined as the location that appears as the interface between the water and the land at the time the photo was acquired. Differences in soil color, vegetation or other indicators are used to distinguish the features on each photo. Once each feature is digitized, the Digital Shoreline Analysis System (DSAS) software is used to measure the location of each digitized feature along transect lines spaced at 10-meter intervals along the shoreline. The data presented here shows recession data which have been spatially averaged along 300-foot sections of coast. The data shown on this data viewer therefore represents average recession over a distance wider than a typical single lot, parcel, or shoreline frontage, and not at a specific parcel or location on the coast.

Measurement Uncertainty

Uncertainty is inherent in any measurement. Errors during the digitization process of coastal features are the primary source of uncertainty for these bluff recession measurements. The most important sources of uncertainty during the digitization process are georeferencing errors of older photographs, photo resolution and/or quality, and visual obstruction of features in photos (i.e., dense forests concealing the bluff crest). Approximate uncertainty in the long-term recession distances is ± 4 feet (± 0.07 ft/year for recession rate) and in the short-term recession distances ± 2 feet (± 0.1 ft/yr for recession rate). Uncertainty values may be higher in some areas that suffer from image quality issues.

Funding

Funded by the Wisconsin Coastal Management Program and the National Oceanic and Atmospheric Administration, Office for Coastal Management under Grant # NA17NOS4730144.



Appendix: Metadata

Dataset Title	Southeastern Wisconsin 2015 Shoreline Position
Dataset Reference Date	1/4/2019
Dataset Responsible Party	UW-Madison Coastal Sustainability Lab
Geographic location of the dataset	Northernmost Latitude: 43 32' 44" Southernmost Latitude: 42 29' 36" Easternmost Longitude: 87 45' 26" Westernmost Longitude: 87 51' 44"
Dataset language	English
Dataset topic category	Shoreline Lake Michigan Great Lakes Coastal Erosion Environmental Hazard Landform Land Status
Abstract defining the dataset	This dataset contains a digitized shoreline position in 2015 in Kenosha, Racine, Milwaukee, and Ozaukee Counties on Southeastern Wisconsin's Lake Michigan coast. The shoreline is traced in GIS software from vertical aerial photos taken in Spring 2015 by the Southeastern Wisconsin Regional Planning Commission. The position of the shoreline is defined as the wet/dry line visible in photos. Shoreline position in the Great Lakes is highly sensitive to lake level fluctuation, wave conditions, beach material, and beach slope. The shoreline position in this dataset represents one moment in time and may not reflect current shoreline positions.
Update Frequency	Not planned
Spatial representation type	ESRI Shapefile
Reference system	EPSG 3069
Metadata language	English
Metadata point of contact	Chin Wu - chinwu@engr.wisc.edu
Metadata date stamp	

Dataset Title	Southeastern Wisconsin Bluff Recession Rates
Dataset Reference Date	1/4/2019
Dataset Responsible Party	UW-Madison Coastal Sustainability Lab
Geographic location of the dataset	Northernmost Latitude: 43 32' 44" Southernmost Latitude: 42 29' 36" Easternmost Longitude: 87 45' 26" Westernmost Longitude: 87 51' 44"
Dataset language	English
Dataset topic category	Bluff Shoreline Lake Michigan Great Lakes Coastal Erosion Environmental Hazard Landform Land Status
Abstract defining the dataset	This dataset contains bluff crest, bluff toe, and shoreline change data in Kenosha, Racine, Milwaukee, and Ozaukee Counties on Wisconsin's Lake Michigan coast. Rates of change are presented for two time periods: 1956-2015 and 1995-2015. Rates are calculated at 10 m intervals from features digitized from leaf-off vertical aerial photos in GIS software and measured using the Digital Shoreline Analysis System. A spatial averaging technique is applied to the dataset to provide data at 100 m intervals along the coast.
Update Frequency	Not planned
Spatial representation type	ESRI Shapefile
Reference system	EPSG 3069
Metadata language	English
Metadata point of contact	Chin Wu - chinwu@engr.wisc.edu
Metadata date stamp	

Chapter 16. Zoning

Article III. Zoning Districts

§ 16-8. District 1 - Lake Shore Residence District.

[Amended by Ord. No. 1227; Ord. No. 1343; Ord. No. 1365; Ord. No. 1467; Ord. No. 1685; Ord. No. 1722; Ord. No. 1723; Ord. No. 1724]

A. In District 1, except as in this chapter otherwise provided, no building or premises shall be used and no building or structure shall be erected, altered, or maintained which is arranged, intended or designed to be used except for one or more of the following uses:

- (1) Single-family dwellings. Not more than one dwelling shall be located on any lot.
- (2) Noncommercial greenhouses, nurseries and gardens.
- (3) Accessory.
 - (a) Uses and buildings accessory to those enumerated above in this subsection, including private garages designed for not more than one motor vehicle for each 2,400 square feet of top land area, but not including any store, trade, professional office, business or industry. However, not exceeding one person may, in a dwelling used as his residence:
 - [1] Furnish room or table board to no more than two persons.
 - [2] Carry on a customary home occupation, provided no persons other than members of his own household are employed therein. (Cannot stock materials and cannot create parking problems.)
 - (b) Improved space is not allowed in accessory buildings or structures, except that one area of up to 220 square feet of improved space on the ground floor of any garage is allowed, provided at least 440 square feet of garage space in the garage is maintained for vehicle parking. In no event may accessory buildings or structures be used for sleeping.
- (4) Garage.
[Amended 3-2-2020 by Ord. No. 1862]
- (5) Access from the public street or alley or from a private road to each garage required in Subsection A(4) above shall be by means of an approved driveway.
- (6) Newly constructed driveways shall have a concrete, an asphaltic concrete or an asphaltic penetration surface, free of dust, loose stones or gravel, constructed on an adequate base.
- (7) Parking spaces shall have an adequate concrete, asphaltic concrete, asphaltic penetration, or a geogrid with organic ground cover surface, free of dust, loose stones or gravel, constructed on an adequate base.
[Amended 8-5-2019 by Ord. No. 1853; 8-1-2022 by Ord. No. 1892]
 - (a) The minimum setbacks for an approved parking space shall be as follows:
 - [1] In Districts 1, 1A, 2 and 3, three feet from side and rear property lines where no alley exists.
 - [2] In Districts 1, 1A, 2 and 3, five feet from the adjacent alley line.

[3] In Districts 1, 1A, 2 and 3, the established setback from the adjacent street property line.

3.a.c

[4] In Districts 4, 4A, 5, 6 and 7, as required under § 16-17.

- (b) The maximum number of vehicles permitted to be parked on an approved parking space in Districts 1, 1A, 2 and 3 shall be two.
- (c) A plot plan to a minimum scale of one inch equals 20 feet, showing the location and size of the proposed parking space, the location and dimensions of all buildings and physical features on the premises and the location of buildings immediately adjacent to the parking space shall be submitted to the Building Inspector.
- (d) The Building Inspector may refer said plot plan to the Architectural Review Commission for approval or denial if he believes the proposal will have a depreciating effect on the property values of the neighborhood.
- (e) The permit fee for construction of the parking space, if approved, shall be as set from time to time by the Village Board.

(8) Parking of vehicles, except on public streets, where not otherwise prohibited or restricted; on approved off-street parking facilities; in garages; on approved driveways or approved parking spaces, is prohibited.

(9) Parking in the public way, except upon the public street where permitted, is prohibited.

(10) Notwithstanding Subsection A(8) above, no vehicle except an automobile may be parked in the front setback area of an interior lot, nor between adjacent residences which front on the same street, nor in the side setback area which fronts on a street or a corner lot.

B. In District 1, each lot shall abut either upon a public street or upon the westerly line of said district; shall extend from such public street or the westerly line of District 1 to the shore of Lake Michigan; shall contain at least 9,600 square feet of top land lot area and have an average width from north to south of at least 80 feet for each single-family dwelling erected, altered or maintained thereon. No dwelling shall be erected, altered or maintained on any lot in District 1 which occupies more than 30% of the top land area of the lot. No building accessory to a dwelling, including garages, shall occupy more than 10% of the top area of the lot. The combined area of the dwelling and all accessory buildings including garages and any satellite earth station shall not exceed 40% of the top land lot area of the lot.

C. Yard minimums; structure maximums.

(1) Each dwelling shall have two side yards each at least three feet in width; in case the height of any building exceeds 25 feet, the required width of the side yards shall be increased 10% for each foot that such dwelling exceeds such height. Dwellings shall have a rear yard of at least 10 feet in depth. No building, when accessory to a dwelling, shall be over 18 feet in height. Subject to the provisions of § 16-35A, each garage attached or detached, and each accessory building, shall have a minimum side yard of three feet; a detached garage or an accessory building, except where adjacent to alley (see § 16-36), shall have a minimum rear setback of three feet; an attached garage shall have a minimum rear yard of five feet except when dwelling space or quarters are provided over said garage, in which event a minimum rear yard of 10 feet shall be provided.

(2) The maximum height of single- and two-family residential structures shall be as designated in Article XVI, Single-Family and Two-Family Residential Design Guidelines.^[1]

[1] Editor's Note: Original Subsection (3)(c), which immediately followed this subsection, was repealed by Ord. No. 1724.

D. In the event that the property is on the bluff of Lake Michigan, the following requirements shall also apply:

(1) A registered professional engineer, having a minimum of 10 years of geotechnical experience involving foundation investigation/engineering and shoreline slope stability evaluation, and who is hired by the owner of the lot, shall certify to the Village that the construction of any building and structure(s) proposed to be located within 100 feet of the top edge of the bluff will be safe. Specifically, he shall certify that:

- (a) The design of any building or structure(s), the method of constructing such building or structure(s), and the materials used therefor are structurally adequate and will protect the public health and safety;
 - (b) The proposed building and structure(s) will not in any way adversely affect the structural integrity or safety of any building, or structure(s) located on adjoining or adjacent sites;
 - (c) The proposed building and structure(s) will not adversely disturb ravine and bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession;
 - (d) The drainage system will not adversely affect the adjacent and adjoining properties;
 - (e) There is no danger to the proposed or existing buildings or structures and its occupants from slippage of the slope above and/or below the proposed structure.
- (2) The engineer shall make a technical report accompanying the certificate, which shall include, at a minimum:
- (a) Recommendations regarding site preparation, foundation design, lateral earth pressure and support of slabs on grade;
 - (b) The stability of the slope before, during and after construction;
 - (c) The effect of the construction on the natural drainage in the areas, including any measures, such as "weepers," which are designed to improve natural drainage in the area.
- (3) The owner of the property shall certify to the Village that he/she is aware of potential problems of lake shore erosion, including but not limited to the possibility of adding fill of various types to stabilize the bluff area, is aware of the requirement for securing of a fill permit from the Village for any such filling, is aware of the provisions of said fill permit ordinance, and is further aware of the potential cost involved.
- (4) A memorandum of said certifications, including the legal description of the property, shall be recorded with the Register of Deeds of Milwaukee County.

Village of Fox Point, WI
Wednesday, July 31, 2024

Chapter 285. Stormwater Management, Erosion Control and Bluff Regulation

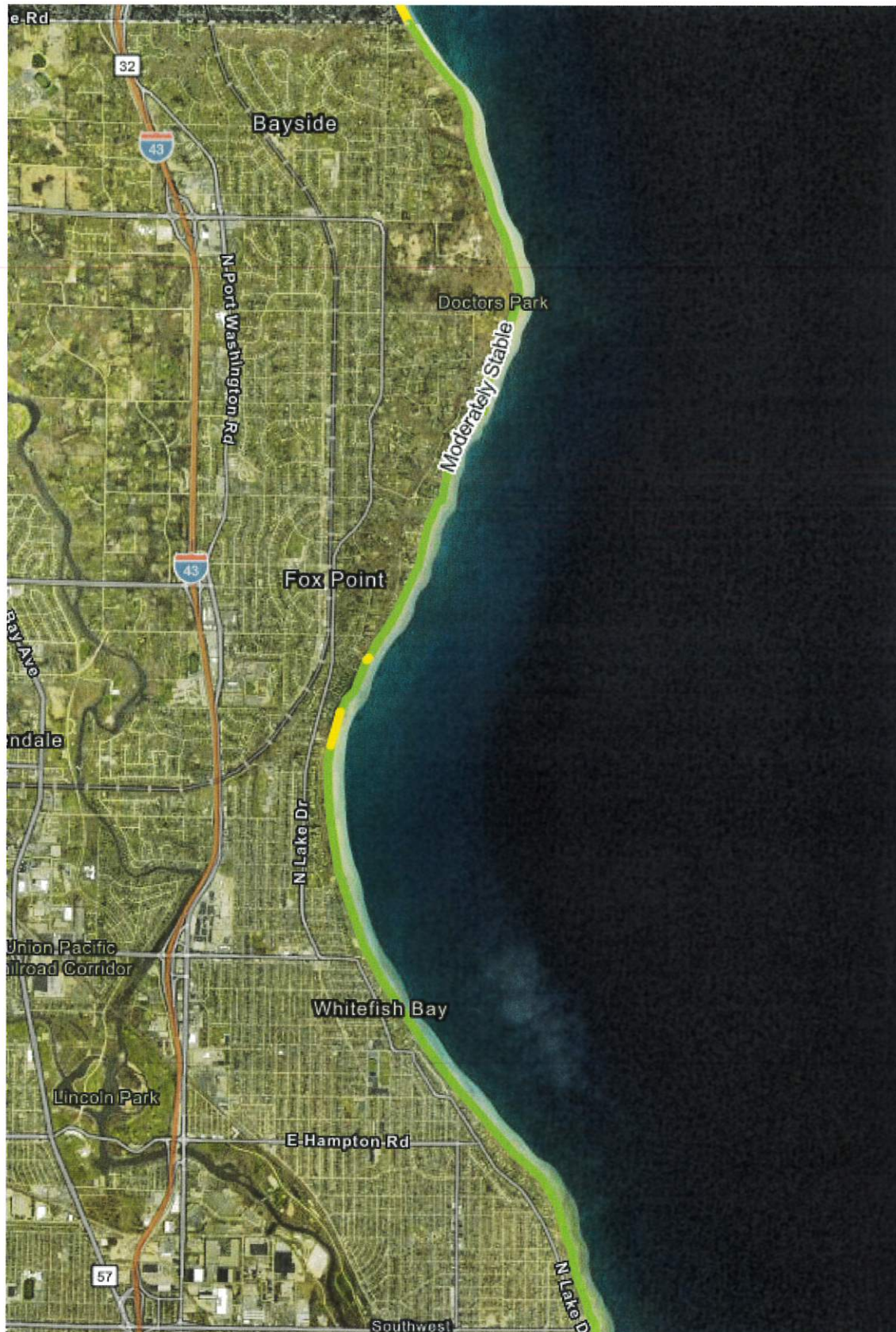
Article I. Construction and Cutting on Banks of Ravines and Lake Bluff

§ 285-6. Structure or building at foot of lake bluff or ravine bank.

- A. A structure or building may be built at the foot of the lake bluff where the bluff abuts on North Beach Drive or on flat land that abuts on North Beach Drive or a ravine bank.
- B. A registered professional engineer retained by the owner of the lot shall certify to the Village that the construction of the proposed building and structure(s) will be safe. The engineer shall have recognized experience and expertise in geotechnical investigations, soil mechanics, and structural and coastal engineering. Specifically, he shall certify that:
 - (1) The design of any building or structure(s), the method of constructing such building or structure(s), and the materials used therefor are structurally adequate and will protect the public health and safety.
 - (2) The proposed building and structure(s) will not in any way adversely affect the structural integrity or safety of any building or structure(s) located on adjoining or adjacent sites.
 - (3) The proposed building and structure(s) will not adversely disturb ravine or bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession, assuring the continued integrity of the ravine or bluff slopes involved.
 - (4) The drainage system will protect the downhill properties or downstream properties.
 - (5) There is no danger to the proposed structure or building and its occupants from slippage of the slope above and/or below the proposed structure or building.
- C. The engineer shall make a technical report accompanying the certificate which shall include, at a minimum:
 - (1) Recommendations regarding site preparation, foundation, design, lateral earth pressure, and support of slabs on grade.
 - (2) The stability of the slope before, during, and after construction.
 - (3) The effect of the construction on the natural drainage in the area, including any measures such as "weepers" which are designed to improve natural drainage in the area.
 - (4) The effect of the construction on flora and fauna.
- D. In addition to the standards contained in Chapter 19, Article II, Building Board, of this Code, no building permit for any structure on the foot of the lake bluff or ravine shall be issued unless it has been found as a fact by the Building Board by at least a majority vote, after a view of the site of the propose structure and an examination of the application papers for a building permit, that the location of the proposed structure will, when erected, not be so at variance with the structures already constructed on the neighboring properties or in the character of the immediate neighborhood as to cause a substantial depreciation in the property values of a neighboring property or of the immediate neighborhood. The Building Board shall give notice of the meeting at which it will consider an application for approval of a building or structure. Such notice shall be given to the applicant and to the owners of properties within 500 feet of the property in question; it shall be in writing and mailed not less than seven days before the day of the meeting. Persons to whom the notice is required to be given may attend the Building Board meeting and be heard.

Attachment: Exhibit D (ORDINANCE 2025-1681 : LM Bluff Structures)

Exhibit E



Attachment: Exhibit E (ORDINANCE 2025-1681 : LM Bluff Structures)

19.03000 SHORELAND-WETLAND DISTRICT**19.03100 DESIGNATION**

This district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

<https://dnrm.wisconsin.gov/H5/?viewer=SWDV>

01 LOCATING SHORELAND-WETLAND BOUNDARIES

Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the county shall contact the Department of Natural Resources (DNR) to determine if the map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.

19.03200 PURPOSE

This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

19.03300 PERMITTED USES

The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of chs. 30, 31, and 281.36, Wis. Stats., and the provisions of other applicable local, state and federal laws:

01 Activities and uses which do not require the issuance of a shoreland permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:

(A) Hiking, fishing, trapping, hunting, swimming, and boating.

(B) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.

(C) The pasturing of livestock.

(D) The cultivation of agricultural crops.

(E) The practice of silviculture, including the planting, thinning, and harvesting of timber.

(F) The construction or maintenance of duck blinds.

02 Uses which do not require the issuance of a shoreland permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:

(A) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.

(B) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries.

(C) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system

provided that dredged spoil is placed on existing spoil banks where possible.

(D) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.

(E) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.

(F) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.

03 Uses which require the issuance of a shoreland permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:

(A) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:

(01) The road cannot as a practical matter be located outside the wetland.

(02) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in s. 19.03502.

(03) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.

(04) Road construction activities are carried out in the immediate area of the roadbed only.

(B) The construction or maintenance of nonresidential buildings, provided that:

(01) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district.

(02) The building cannot, as a practical matter, be located outside the wetland.

(03) Such building is not designed for human habitation and does not exceed five hundred (500) sq. ft. in floor area.

(04) Only limited filling or excavating necessary to provide structural support for the building is authorized.

(C) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:

(01) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable.

(02) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in s. 19.03303(A).

(03) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

(D) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing

heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:

- (01) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.
- (02) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in s. 19.03502.

19.03400 PROHIBITED USES

Any use not listed in ss. 19.03301, 19.03302, or 19.03303 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with s. 19.03500 of this ordinance and ch. 59.69(5)(e), Wis. Stats.

19.03500 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT

01 For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office with the Department of Natural Resources (DNR) shall be provided with the following:

- (A) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within five (5) days of the filing of such petition with the zoning administrator. Such petition shall include a copy of the Wisconsin Wetland Inventory map describing any proposed rezoning of a shoreland-wetland.
- (B) Written notice of the public hearing to be held on a proposed amendment at least ten (10) days prior to such hearing.
- (C) A copy of the Natural Resource Committee findings and recommendations on each proposed amendment within ten (10) days after the submission of those findings and recommendations to the county board.
- (D) Written notice of the county board decision on the proposed amendment within ten (10) days after it is issued.

02 A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

- (A) Storm and flood water storage capacity.
- (B) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.
- (C) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters.
- (D) Shoreline protection against soil erosion.
- (E) Fish spawning, breeding, nursery or feeding grounds.
- (F) Wildlife habitat.
- (G) Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in ch. NR 103.04, Wis. Adm. Code, which can be accessed at the following web site:
<http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.

03 If the Department of Natural Resources (DNR) notifies the county zoning administrator that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in s. 19.03502 of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

"This amendment shall not take effect until more than thirty (30) days have elapsed after written notice of the county board approval of this amendment is mailed to the Department of Natural Resources (DNR). During that thirty (30) day period, the Department may notify the county board that it will adopt a superseding shoreland ordinance for the county under s. 59.692(6), Wis. Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.692(6), Wis. Stats., adoption procedure is completed or otherwise terminated."

Sec. 58-416. - Building and structure location.

(a) *Purpose and intent.* The purpose and intent of regulating building and structure location is as follows:

- (1) To require the provision of a buffer zone between noise-intolerant land uses (e.g. residences, nursing homes, day care centers, schools, churches) and adjacent streets or highways to effectively attenuate noise and buffer such developments from the pollution and hazards attendant to vehicular traffic.
- (2) To require the provision of adequate physical separation between uses to minimize conflict.
- (3) To allow exposure to optimum amounts of light, air, and ventilation.
- (4) To attenuate noise, odors, fumes, and dust generated by land use before they infringe upon adjacent land use.
- (5) To provide aesthetic open space of sufficient size to accommodate landscaping and to soften, compliment, and enhance architectural design of buildings, parking areas, loading facilities, and utilities.
- (6) To provide adequate area for snow piling.
- (7) To insure adequate separation between pedestrian and vehicular circulation.
- (8) To promote cluster development and other internally oriented living, shopping and working environments, and to discourage strip development.
- (9) To provide adequate area to detain, retain, and facilitate surface drainage.
- (10) To protect and preserve the quality and quantity of ground water resources.
- (11) To prevent development which may result in unacceptable non-point source pollution.
- (12) To provide diversified and balanced growth.

(b) *Base setback line.* The following base setback lines are hereby established parallel to the centerline of all public streets and highways:

- (1) For all streets designated as "local streets", the base setback line shall be located 30 feet from the centerline of such street or 75 feet from the center point of a cul-de-sac unless otherwise specifically established by action of the common council.
- (2) For all streets and highways, other than those designated as "local" streets, a base setback line shall be located at a distance from the centerline of such street or highway equal to one-half the width of its ultimate right-of-way as established by the common council.
- (3) The width of frontage roads shall not be included in the above designated rights-of-way.

(c) *Setbacks.* Unless otherwise specified within an individual zoning district or in accordance with section 58-41, no building or structure shall be erected, constructed, structurally altered, or relocated on a lot closer to the base setback line than the minimum setback distance specified in

the established zoning district.

- (1) *Frontage roads, service drives and parking areas setback.* Frontage roads, service drives, parking areas, etc., shall be set back a minimum of 25 feet from the adjacent base setback line.
- (2) *Setback from Lake Michigan Bluff.* All permanent structures, including in-ground swimming pools erected or constructed after January 1, 1988, on property that is contiguous to Lake Michigan shall be set back from the top of the bluff a distance based on a slope ratio of two feet horizontal distance to every one foot vertical distance measured from the toe of the bluff. In no case, however, shall a building be set back less than 75 feet from the top edge of bluff at the time of construction. Additions or alterations to structures that were erected or constructed prior to January 1, 1988, on property that is contiguous to Lake Michigan shall in no case reduce the existing setback from the edge of the top of the bluff to the existing structure.

All underground utilities including but not limited to sewer, water, gas, electric, or telephone shall be installed no closer than 75 feet from the top edge of the Lake Michigan bluff.

Underground extensions of existing utilities shall not reduce the existing setback from the edge of the bluff if said utilities are closer than 75 feet to the top of the bluff. However, utilities located more than 75 feet from the top of the bluff may be extended underground to structures lacking the 75-foot setback from the top of the bluff. The city does not guarantee, warrant or represent that only those areas which lie within the required setback area from the top of the bluff will be subject to damage resulting from bluff erosion or instability and hereby asserts that there is no liability on the part of the common council, its agencies or employees for any damages that may occur as a result of reliance upon and conformance with this section.

(d) *Setback exceptions.*

- (1) Additions to existing buildings which lack the required setback may be allowed if either:
 - a. The addition is set back at a distance greater than or equal to the average of the existing building setback and the required setback; or
 - b. The addition is set back at a distance at least equal to the building setback and the planning commission determines that the addition will neither impede any likely public improvements nor cause any hardship, inconvenience, or diminution in value to any adjacent properties and further determines that the addition will be harmonious with neighboring properties.
- (2) On corner lots, on record as of the effective date of the ordinance from which this section is derived, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than 30 feet.

- (e) *Offsets.* The proximity of any portion of a structure to the side or rear lot lines shall be regulated as follows:
- (1) Except as specifically otherwise provided by ordinance, no structure shall hereinafter be erected, structurally altered, or relocated so that it is closer to any lot line than the offset distance specified by the regulations for the district in which it is located:
 - (2) No non-residential structure shall be erected, structurally altered, or relocated on any property so that it is closer to the lot line of a residentially zoned property than the greater of (i) the distance set forth in paragraph (1) or (ii) one times the height of the non-residential structure as deemed pursuant to section 58-418.
 - (3) Offset exceptions.
 - a. In the case of any lot of record which has a minimum average width less than that required by the district in which it is located, the offset from a side lot line may be reduced proportionally to the ratio of the actual minimum average width and the required minimum average width (i.e. actual width/required width) provided, however, that no offset shall in any case be less than 75 percent of the required offset.
 - b. Where a lot abuts a district boundary line, the offset from such line in the district of less restrictive use shall not be less than that required for the district of more restrictive use.
 - c. The required offset area on one property may be reduced if the offset area on the adjoining property is increased by deed restriction to include the required offset area plus the equivalent amount of offset area resulting from the adjacent reduction.
 - d. In the case of attached single-family, row, multiple-family, commercial, or industrial use structures, two or more buildings on adjoining lots may be erected with common or directly adjoining walls provided the requirements of the state industrial code relative to such construction are complied with and provided that at both ends of such row type buildings the applicable offset requirements shall be complied with.
 - e. Structures that are specifically Structures that are specifically excluded from offset regulations by ordinance including those structures excluded by section 58-419 are not subject to subsection (e).
 - f. Garages allowed as accessory uses to residences are subject to subsection (e)(1) but not subsection (e)(2) or (e)(3).
 - (4) Any required offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse, and shall not be used for the storage or display of equipment, products, vehicles, or any other material.
- (f) *Driveway offsets.* Residential driveways shall be located no closer than three feet to a side or rear property line unless written approval is granted by the adjacent property owner.

(Code 1957, § 3.03(5); Ord. No. 96-878, 5-14-1996; Ord. No. 96-890, 6-25-1996; Ord. No. 2003-1065, § I, 4-8-2003; Ord. No. 2008-1238, § I, 4-8-2008; Ord. No. 2016-1488, § I(Att.), 1-10-2017)

Exhibit H

58-416 (c)

Setbacks. Unless otherwise specified within an individual zoning district or in accordance with section 58-41, no building or structure shall be erected, constructed, structurally altered, or relocated on a lot closer to the base setback line than the minimum setback distance specified in the established zoning district.

(1)

Frontage roads, service drives and parking areas setback. Frontage roads, service drives, parking areas, etc., shall be set back a minimum of 25 feet from the adjacent base setback line.

(2)

Setback from Lake Michigan Bluff. All permanent structures, **except as listed below**, including in-ground swimming pools erected or constructed after January 1, 1988, on property that is contiguous to Lake Michigan shall be set back from the top of the bluff a distance based on a slope ratio of two feet horizontal distance to every one foot vertical distance measured from the toe of the bluff. In no case, however, shall a building be set back less than 75 feet from the top edge of bluff at the time of construction. Additions or alterations to structures that were erected or constructed prior to January 1, 1988, on property that is contiguous to Lake Michigan shall in no case reduce the existing setback from the edge of the top of the bluff to the existing structure.

Structures to gain access to Lake Michigan shall be permitted subject to the following conditions:

- 1. The structure shall be limited to 5 feet in width and the following height restrictions shall apply:**
 - a. Four (4) feet six (6) inches measured vertically from the structure's walking surface to the top of the structure.**
 - b. Fifteen (15) feet measured vertically from the walking surface to grade.**
- 2. A building permit from the department of community development shall be obtained.**
- 3. A survey shall be provided with the building permit and shall include the ordinary high-water mark (OHWM).**
- 4. Structures shall comply with required side yard offsets of the city base zoning district. Structures and any component of the structures, whether above or below grade, including but not limited to cables, anchors, supports, are not eligible for the offset exemptions of Sec. 58-416.**
- 5. Regulations of Chapter 84 shall be met.**
- 6. Structure shall comply with all other applicable municipal codes and state or federal regulations.**
- 7. Property owners shall certify to the city their awareness of potential problems of lake shore erosion, including but not limited to, the possibility of adding fill of various types to stabilize the bluff area, the requirement for securing of a fill permit from the city engineering department for any such filling, the provisions of said fill permit ordinance, and the potential cost incurred. A**

memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.

8. A registered professional engineer, board certified by the American Society of Civil Engineers, in geotechnical engineering (CPEGE), who is hired by the owner of the lot, shall certify to the City that the construction of any proposed structure located within 75 feet of the top edge of the bluff will be safe. Specifically, the professional engineer shall certify that:
 - a. The design of any structure, the method of constructing such structure, and the materials used therefore are structurally adequate and will protect public health and safety.
 - b. The proposed structure will not in any way adversely affect the structural integrity or safety of any building, or structure(s) located on adjoining or adjacent sites.
 - c. The proposed structure will not adversely disturb ravine and bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession on the subject site or adjoining or adjacent site.
 - d. The drainage system will not adversely affect the adjacent and adjoining properties.
 - e. There is no danger to the proposed structure or existing buildings or structures and its occupants from slippage of the slope above and/or below the proposed structure.
 - f. A memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.
 - g. The engineer shall make a technical report accompanying the certificate, which shall include, at a minimum:
 - i. Recommendations regarding site preparation, foundation design, lateral earth pressure and support of the structure.
 - ii. The stability of the slope before, during and after construction.
 - iii. The effect of the construction on natural drainage in the areas, including any measures, such as "weepers," which are designed to improve natural drainage in the area.
9. Property owner shall maintain the structure to avoid becoming dilapidated or in disrepair or debris, or to be unsightly, dangerous, unsafe, unsanitary, or otherwise unfit for human use. The owner shall provide the City a repair or replacement plan within 60 days of being notified of being in noncompliance.

All underground utilities including but not limited to sewer, water, gas, electric, or telephone shall be installed no closer than 75 feet from the top edge of the Lake Michigan bluff. Underground extensions of existing utilities shall not reduce the existing setback from the edge of the bluff if said utilities are closer than 75 feet to the top of the bluff. However, utilities located more than 75 feet from the top of the bluff may be extended underground to structures lacking the 75-foot setback from the top of the bluff. The city does not guarantee, warrant or represent that only those areas which lie within the required setback area from the top of the bluff will be subject to damage resulting from bluff erosion or instability and hereby asserts that there is no liability on the part of the common council, its agencies or employees for any damages that may occur as a result of reliance upon and conformance with this section.

Greg Golden

From: David Bialk
Sent: Wednesday, February 19, 2025 11:15 AM
To: Greg Golden
Subject: RE: Lake Michigan Bluff Text Amendment

I don't have any concerns, but if someone is injured at the bottom of the bluff, and needs to be carried up, it will take time.

Fire Chief David L Bialk

Southern Ozaukee Fire and EMS
11300 N Buntrock Ave.
Mequon, WI 53092
dbialk@sofdwi.gov
262-242-2530



Integrity • Trust • Empathy • Grit • Excellence • Stewardship

From: Greg Golden <GGolden@cityofmequonwi.gov>
Sent: Wednesday, February 19, 2025 10:58 AM
To: David Bialk <dbialk@sofdwi.gov>
Cc: Brian Sajdak <brian@wrslegal.net>; Kimberly Tollefson <KTollefson@cityofmequonwi.gov>; Cole McCraw <CMcCraw@cityofmequonwi.gov>; Chris Butschke <cbutschke@cityofmequonwi.gov>; Jac Zader <JZader@cityofmequonwi.gov>
Subject: RE: Lake Michigan Bluff Text Amendment

Morning Chief,

The Committee Of The Whole (COTW) asked staff to investigate permitting a way for homeowners who own property along Lake Michigan to have access to the lake. The text amendment is a proposal to change the language (or amend the text) of the Mequon Code of Ordinances to allow this. One of the directives of the COTW was to get input from SOFD with any concerns they might have with allowing structures to be built on the bluff to access the lake from an EMS point of view. Please let me know if you have any concerns regarding the permitting of structures on the bluff to access Lake Michigan from an EMS point of view so that I may put them in my staff report. Thanks so much.

Respectfully,

**Greg Golden**

Building Inspections Supervisor
City of Mequon
Master Electrician
11333 N. Cedarburg Rd. | Mequon, WI 53092
262-236-2921 | ggolden@cityofmequonwi.gov
Central Scheduling: (262)236-2930

Attachment: Exhibit I (ORDINANCE 2025-1681 : LM Bluff Structures)

Greg Golden

From: Mark Riley
Sent: Wednesday, February 19, 2025 2:03 PM
To: Greg Golden
Subject: RE: Lake Michigan Bluff Text Amendment

Thanks Greg,

I do not see an issue with the regulations. Thanks for including us.



Mark Riley
 Police Chief
 Mequon Police Department
 11300 N. Buntrock Ave. | Mequon, WI 53092
 262-242-3500 | mriley@ci.mequon.wi.us
[City Website](#) | [Staff Directory](#)

From: Greg Golden <GGolden@cityofmequonwi.gov>
Sent: Wednesday, February 19, 2025 1:24 PM
To: Mark Riley <MRiley@cityofmequonwi.gov>
Subject: FW: Lake Michigan Bluff Text Amendment

Good Afternoon, Chief,

I had sent the below email out to several groups among the City and when corresponding with the Fire Chief, I realized I probably should have included you in the email chain. I apologize for that. Please take a few moments to read and let me know if you have any concerns from a policing standpoint that I should include in my staff report.

Thanks!



Greg Golden
 Building Inspections Supervisor
 City of Mequon
 Master Electrician
 11333 N. Cedarburg Rd. | Mequon, WI 53092
 262-236-2921 | ggolden@cityofmequonwi.gov
 Central Scheduling: (262)236-2930

Please Note: The City of Mequon is transitioning its website and email addresses to cityofmequonwi.gov. Emails sent to/from the City's prior ci.mequon.wi.us addresses will forward to the new cityofmequonwi.gov domain through January 31, 2026. Please update your records accordingly.

From: Greg Golden
Sent: Tuesday, February 18, 2025 2:30 PM
To: Brian Sajdak <brian@wrslegal.net>; David Bialk <dbialk@sofdwi.gov>; Cole McCraw

Attachment: Exhibit I (ORDINANCE 2025-1681 : LM Bluff Structures)

Greg Golden

From: Cole McCraw
Sent: Thursday, March 6, 2025 2:23 PM
To: Greg Golden
Subject: RE: Lake Michigan Bluff Text Amendment

Greg,

I don't have any comments on the proposed changes.

Thanks,
 Cole



Cole McCraw, PE
 Assistant City Engineer
 City of Mequon
 11333 N. Cedarburg Rd. | Mequon, WI 53092
 262-236-2957 | cmccraw@cityofmequonwi.gov
[City Website](#) | [Facebook](#)

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From: Greg Golden <GGolden@cityofmequonwi.gov>
Sent: Wednesday, March 5, 2025 8:07 AM
To: Cole McCraw <CMcCraw@cityofmequonwi.gov>
Subject: Lake Michigan Bluff Text Amendment

Cole, welcome back. Please have a look at this and let me know if engineering has any issues. Your response will be added as an attachment to the memo going to PC on the 17th. Please have a response to me by tomorrow, 3-6-25 (my memo is due next Tuesday). This is a little different than the draft I sent you before you left.

Thanks ☺



Greg Golden
 Building Inspections Supervisor
 City of Mequon
 Master Electrician
 11333 N. Cedarburg Rd. | Mequon, WI 53092
 262-236-2921 | ggolden@cityofmequonwi.gov
 Central Scheduling: (262)236-2930

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Private Office:
Wesolowski, Reidenbach & Sajdak, S.C.
11402 W. Church St.
Franklin, WI 53132
(414) 529-8900

www.ci.mequon.wi.us

Office of the City Attorney

MEMORANDUM

TO: Planning Commission
FROM: Brian C. Sajdak, City Attorney
DATE: April 15, 2025
RE: City Liability for Issuing Building Permits

Background

As part of the consideration of the code amendment to allow certain structures on the Lake Michigan bluff, a question was raised as to whether the City would have any liability for any damage caused by the structures placed on the bluff under this code amendment. In my opinion, there would be no liability in this circumstance.

Discussion

In Wisconsin, municipal liability is addressed in section 893.80 of the Statutes:

No suit may be brought against any . . . political corporation, governmental subdivision or any agency thereof for the intentional torts of its officers, officials, agents or employees nor may any suit be brought against such corporation, subdivision or agency . . . or against its officers, officials, agents or employees for acts done in the exercise of legislative, quasi-legislative, judicial or quasi-judicial functions.

Wis. Stat. § 893.80(4). The phrase “legislative, quasi-legislative, judicial, or quasi-judicial functions” “have been collectively interpreted to include any act that involves the exercise of discretion and judgment.” Lodl v. Progressive N. Ins. Co., 2002 WI 71, ¶ 21, 253 Wis.2d 323, 646 N.W.2d 314. Thus, the statute provides immunity from liability for those acts which involve the exercise of discretion. “[T]he purpose of this discretionary immunity was to insulate legislative policy decisions from judicial examination. We reasoned that the tort process was an “inadequate crucible” for testing the merits of choices made in the political arena.” Est. of Lyons v. CNA Ins. Companies, 207 Wis. 2d 446, 453, 558 N.W.2d 658, 661 (Ct. App. 1996)(quoting Gordon v. Milwaukee County, 125 Wis.2d 62, 65–66, 370 N.W.2d 803, 805 (Ct.App.1985)).

In this case, the decision to allow for structures on the Lake Michigan bluff is a legislative decision immune from tort liability. “Both the power to zone and the power to veto a zoning change represent legislative functions.” Willow Creek Ranch, L.L.C. v. Town of Shelby, 2000 WI 56, ¶ 41, 235 Wis. 2d 409, 431, 611 N.W.2d 693, 703. See, also, Schmeling v. Phelps, 212 Wis. 2d 898, 911-12, 569 N.W.2d 784 (Ct. App. 1997)(“Zoning actions, however, because they affect the *property rights of specific individuals*, have traditionally been treated differently than general municipal legislation under both statute and case law.”(emphasis added)); Dyersville Ready Mix

Inc. D/B/A BARD Materials v. Iowa Cnty. Bd. of Supervisors, et al., No. 2024AP1091, 2025 WL 1078289, at ¶¶ 57–59 (Wis. Ct. App. Apr. 10, 2025)(Citing Schmeling in finding a difference between judicial review of zoning actions as applied to the approval/denial for specific property requests versus general legislative actions). As the Supreme Court noted in Willow Creek Ranch:

Decisions to enforce a zoning ordinance and to veto zoning changes represent legislative acts. Quinn v. Town of Dodgeville, 122 Wis.2d 570, 578, 364 N.W.2d 149 (1985). Thus, they are discretionary decisions subject to the immunity provisions. Beres v. City of New Berlin, 34 Wis.2d 229, 232, 148 N.W.2d 653 (1967). . . . Willow Creek concedes that the decision to enact a zoning ordinance represents a discretionary act.

Willow Creek Ranch at ¶ 28. The Court continued:

Judicial review of legislative functions is limited to cases in which the authority acted in excess of its power or under error of law. Buhler v. Racine County, 33 Wis.2d 137, 146, 146 N.W.2d 403 (1966). Although this court may debate the wisdom or the desirability of a particular zoning decision, we are constrained from substituting our judgment for that of the zoning authority. Bessent, 27 Wis.2d at 546, 135 N.W.2d 317. This rule applies not only to decisions as to the necessity of zoning but also to decisions as to the determination of whether a change in circumstances justifies rezoning. Buhler, 33 Wis.2d at 147, 146 N.W.2d 403.

Willow Creek Ranch at ¶ 41. Thus, a municipality is immune from liability for legislatively enacting a zoning ordinance, such as the ordinance now under consideration to allow structures on the bluff.

This conclusion is further supported by the general rules related to building permits. “Generally, the grant or refusal of building permits is considered a discretionary or a governmental function for which a municipality is traditionally held not liable for damages.” Nature and purpose—Municipal immunity, 9A McQuillin Mun. Corp. § 26:218 (3d ed.). “The issuance of a building permit is not an official action by which a local government implicitly approves a builder's plans to erect a structure of the type and at the place approved.” Compliance with requirements, 9A McQuillin Mun. Corp. § 26:227 (3d ed.). “The issuance of a building permit is not an official action by which a local government implicitly approves a builder's plans to erect a structure of the type and at the place approved. Building permits and building code inspections only authorize construction to proceed. They do not guarantee that all provisions of all applicable codes have been complied with.” Nature and purpose—Municipal immunity, 9A McQuillin Mun. Corp. § 26:218 (3d ed.). Thus, there is in general no liability simply by the issuance of a building permit.

Exhibit K

58-416 (c)

Setbacks. Unless otherwise specified within an individual zoning district or in accordance with section 58-41, no building or structure shall be erected, constructed, structurally altered, or relocated on a lot closer to the base setback line than the minimum setback distance specified in the established zoning district.

(1)

Frontage roads, service drives and parking areas setback. Frontage roads, service drives, parking areas, etc., shall be set back a minimum of 25 feet from the adjacent base setback line.

(2)

Setback from Lake Michigan Bluff. All permanent structures, except as listed below, including in-ground swimming pools erected or constructed after January 1, 1988, on property that is contiguous to Lake Michigan shall be set back from the top of the bluff a distance based on a slope ratio of two feet horizontal distance to every one foot vertical distance measured from the toe of the bluff. In no case, however, shall a building be set back less than 75 feet from the top edge of bluff at the time of construction. Additions or alterations to structures that were erected or constructed prior to January 1, 1988, on property that is contiguous to Lake Michigan shall in no case reduce the existing setback from the edge of the top of the bluff to the existing structure.

Structures to gain access to Lake Michigan shall be permitted subject to the following conditions:

1. The structure shall be limited to 5 feet in width and the following height restrictions shall apply:
 - a. Four (4) feet six (6) inches measured vertically from the structure's walking surface to the top of the structure.
 - b. Fifteen (15) feet measured vertically from the walking surface to grade.
2. A building permit from the department of community development shall be obtained.
3. A survey shall be provided with the building permit and shall include the ordinary high-water mark (OHWM).
4. Structures shall comply with required side yard offsets of the city base zoning district. Structures and any component of the structures, whether above or below grade, including but not limited to cables, anchors, supports, are not eligible for the offset exemptions of Sec. 58-416.
5. Regulations of Chapter 84 shall be met.
6. Structure shall comply with all other applicable municipal codes and state or federal regulations.
7. Property owners shall certify to the city their awareness of potential problems of lake shore erosion, including but not limited to, the possibility of adding fill of various types to stabilize

the bluff area, the requirement for securing of a fill permit from the city engineering department for any such filling, the provisions of said fill permit ordinance, and the potential cost incurred. A memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.

8. A registered professional engineer, board certified by the American Society of Civil Engineers, in geotechnical engineering (CPEGE), who is hired by the owner of the lot, shall certify to the City that the construction of any proposed structure located within 75 feet of the top edge of the bluff will be safe. Specifically, the professional engineer shall certify that:
 - a. The design of any structure, the method of constructing such structure, and the materials used therefore are structurally adequate and will protect public health and safety.
 - b. The proposed structure will not in any way adversely affect the structural integrity or safety of any building, or structure(s) located on adjoining or adjacent sites.
 - c. The proposed structure will not adversely disturb ravine and bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession on the subject site or adjoining or adjacent site.
 - d. The drainage system will not adversely affect the adjacent and adjoining properties.
 - e. There is no danger to the proposed structure or existing buildings or structures and its occupants from slippage of the slope above and/or below the proposed structure.
 - f. A memorandum of said certification, including the legal description of the property, shall be recorded in the office of the register of deeds for Ozaukee County.
 - g. The engineer shall make a technical report accompanying the certificate, which shall include, at a minimum:
 - i. Recommendations regarding site preparation, foundation design, lateral earth pressure and support of the structure.
 - ii. The stability of the slope before, during and after construction.
 - iii. The effect of the construction on natural drainage in the areas, including any measures, such as "weepers," which are designed to improve natural drainage in the area.
9. Property owner shall maintain the structure to avoid becoming dilapidated or in disrepair or debris, or to be unsightly, dangerous, unsafe, unsanitary, or otherwise unfit for human use. The owner shall provide the City a repair or replacement plan within 60 days of being notified of being in noncompliance.

All underground utilities including but not limited to sewer, water, gas, electric, or telephone shall be installed no closer than 75 feet from the top edge of the Lake Michigan bluff. Underground extensions of existing utilities shall not reduce the existing setback from the edge of the bluff if said utilities are closer than 75 feet to the top of the bluff. However, utilities located more than 75 feet from the top of the bluff may be extended underground to structures lacking the 75-foot setback from the top of the bluff. The city does not guarantee, warrant or represent that only those areas which lie within the required setback area from the top of the bluff will be subject to damage resulting from bluff erosion or instability and hereby asserts that there is no liability on the part of the common council, its

agencies or employees for any damages that may occur as a result of reliance upon and conformance with this section.



11333 N. Cedarburg Road
 Mequon, WI 53092-1930
 Phone: 262-242-3100
 Fax: 262-242-9655

www.cityofmequonwi.gov

Office of Community Development

TO: Committee of the Whole
FROM: Kim Tollefson, Director of Community Development
DATE: May 13, 2025
SUBJECT: New Hotel Development Feasibility Analysis Port Washington Road Request For Proposals (RFP)

Background

The City of Mequon has completed a Real Estate Market Analysis: Port Washington Road Corridor (final report dated November 2024) which recommends the following targeted goals:

- Commercial developments appropriate for locating Port Washington Road include full-service restaurants, higher-end and/or business-class hotels, family and adult indoor entertainment/recreation venues.
- The market can support at least one new hotel, with 60-100 rooms. With the medical cluster, senior living communities, plus business travel, the area could support a 4+ star hotel in this corridor.
- The corridor may benefit from the addition of venues that cater to more weekend entertainment.
- Redevelopment of thirteen (13) prioritized redevelopment sites.

Based on the analysis, which includes several other recommendations, staff has developed a work program for the Economic Development Board. In 2025, the Board developed zoning recommendations and forwarded such to the Planning Commission, which were presented at their meeting on April 21, 2025. An additional work program item is the completion of a new hotel development feasibility analysis.

Analysis

Regarding a new hotel development feasibility analysis, staff drafted an RFP for the Port Washington Road commercial corridor from County Line Road to Glen Oaks Lane (see attached) for review and approval. The RFP acknowledges the analysis and work of the prior market analysis which includes extensive reporting on the city's demographics, employment industry, housing, commercial competitive analysis including development trends, traffic, resident and visitor profiles and trade area, market value and outlook.

Solicitation:

The RFP will be advertised on the following websites:

- City of Mequon
- League of Wisconsin Municipalities
- Wisconsin Planning Association

Requests will also be direct mailed to a solicitation list staff received from our former real estate consultant.

Fiscal Impact:

There is cash available in both TIF Districts #4 and #5 to cover the anticipated cost of the RFP. The Department of Community Development also has approximately \$10,000 in available funds in the 2025 budget that can be allocated to the cost of the RFP if preferred.

Timeline:

The draft, initial timeline for the RFP process is as follows:

- Issuance: May 15th
- Submission Deadline: June 12th
- Candidate Interviews: TBD
- EDB special meeting for recommendation: June 24th
- Finance & Personnel / Common Council Action: July 8th
- Project Kick-Off: July 21st

Recommendation:

The Economic Development Board recommends the solicitation of the RFP by a vote of 7-0 on April 22, 2025. The Finance & Personnel Committee's recommendation will be forwarded to the Common Council Committee of the Whole on May 13, 2025.

Attachments:

Draft RFP (DOCX)

**CITY OF MEQUON, WISCONSIN
COMPREHENSIVE HOTEL MARKET FEASIBILITY STUDY
REQUEST FOR QUALIFICATIONS**



Issued:
Submittal Deadline:
City Representative:

May 15, 2025
June 20, 2025 | 1:00 pm
Kim Tollefson, Director of Development

Attachment: Draft RFP (10306 : PW Road RFP Hotel Feasibility)

PURPOSE

The City of Mequon is soliciting proposals (RFPs) from firms who are interested and qualified to determine the feasibility of attracting a new hotel to the I-43 | Port Washington Road commercial corridor. The RFP is issued on _____, 2025, and posted to the City website at _____. For copies of and questions related to the RFP, you may contact Kim Tollefson at 262.236.2903 or ktollefson@cityofmequonwi.gov

All proposals must be received by the City of Mequon – Department of Community Development Planning Division on or before _____ 1:00 p.m. CST. Proposals may be received by mail or hand delivered to the department. Proposals will be date and time stamped upon receipt.

The City of Mequon reserves the right to reject any or all submission, to waive any informalities in bidding and to accept the response deemed most advantageous to the City.

PROJECT BACKGROUND

The Port Washington Road commercial corridor is a thriving district with most of the properties contributing positively to the local economic base. There is an active retail center, thriving medical cluster and an abundance of financial institutions. The corridor runs parallel to Interstate – 43 and intersects with State Hwy 57 - Mequon Road. The study area is three miles long from County Line Road (south boundary) to Glen Oaks Lane (north boundary) and I-43 (east boundary).

The City of Mequon has completed a Real Estate Market Analysis: Port Washington Road Corridor (final report dated November 2024) which recommends the following targeted goals:

- Commercial developments appropriate for locating Port Washington Road include full-service restaurants, higher end and/or business class hotels, family and adult indoor entertainment/recreation venues.
- The market can support at least one new hotel, with 60-100 rooms. With the medical cluster, senior living communities, plus business travel, the area could support a **4+ star hotel** in this corridor.
- The corridor may benefit from the addition of venues that cater to more weekend entertainment.
- Redevelopment of thirteen (13) prioritized redevelopment sites.

The Real Estate Market Analysis of Port Washington Road has extensive reporting on the city's demographics, employment industry, housing, commercial competitive analysis including development trends, traffic, resident and visitor profiles and trade area, market value and outlook.

REQUEST

The City of Mequon requests all interested and qualified firms capable of providing the required information to submit turnkey proposals to the following timeline and scope as outline below.

Issue Request for Proposal	May 15, 2025
Proposals Due to the City of Mequon	June 12, 2025

Contract Award	July 8, 2025
Project Kick-Off	July 21, 2025
Project Completion	TBD

SCOPE OF SERVICES AND OBJECTIVES

The scope of services include:

1 RESEARCH & COMMUNITY OUTREACH

Conduct field research to determine the relationship between the community and its lodging needs such as:

- Current and potential future need
- Current and desired essential amenities
- Scale or quality preferences
- Employer overview
- Demand generators and attractions including peak
- Demographic assessment and report

2 DATA COMPIATION

Comprehensive compilation of city's economic indicators, competitive lodging supply and lodging demand.

- Costar global data
- Competitive hotel properties data summary
- Primary and secondary competitive performance
- Key performance indicators supply & demand/supply & demand changes, occupancy rate average, daily rate, monthly revenue, unit type, rental growth, property and unit amenities, inventory and sales
- Key performance trends/changes
- Market segmentation projections

3 ECONOMICS

Assess the stability and growth potential of the market.

- Present projections for stabilized hotel operations based on current and prospective operating performances in the market including occupancy, daily room rates and sales revenue
- Overall economic condition of community
- Trending lodging data of current lodging supply

4 FORECASTING

Assess the impact and proforma of a new hotel development

- Economic Impact: Direct and Indirect

- Impact of new hotel development on current lodging supply
- Cost of construction of new hotel development
- Cost of operation of new hotel development
- Potential revenue for new hotel development
- Economic proforma shall include impact of a hotel room tax

5 SITE SELECTIONS

Recommend sites, including consideration of the thirteen (13) prioritized redevelopment sites of the Real Estate Market Analysis: Port Washington Road Corridor, and identify the following:

- Property type
- Property size
- Location criteria
- Services and amenities

Compare and rank prospective sites.

CITY INVESTMENT

Address Overall Project Timeline and Breakdown Any Proposed Phasing
Address Phased Implementation by Scope, Cost and Seasonal Impact

Performance Requirements EVALUATION CRITERIA AND PROCESS

Those consultants responding to this RFP must address the following criteria:

- Qualified candidates shall have extensive experience in hospitality industry market analysis.
- Describe how your firm's expertise meets and enhances the project's needs.
- Demonstrated experience in successfully working with various public stakeholders and public sector agencies in accomplishing projects of this type.
- Provide examples of similar successful projects that your firm has undertaken.
- Provide examples of your firm's work concerning partnerships and contracts with municipal entities and interaction with the public.
- Provide examples of your firm's work concerning partnerships and contracts with hospitality brands.
- Describe your business's level of interest and availability for this project, address philosophies concerning the outlined scope and any obstacles in project initiation, process and management, schedule, estimated budget, and implementation. Address any post-project support provided, if any.
- Submit the resumes of the specific project team members that would be involved in this project.
- Provide details regarding any planned changes, enhancements and news releases regarding your firm's activity in the marketplace in the near future that may impact this project.

Questions may be directed to Kimberly Tollefson, Director of Community Development, at 262.236.2903 or ktollefson@cityofmequonwi.gov.

Proposal Submittal Format

Consultants must submit their proposals to the City of Mequon Community Development Department, addressed to:

Community Development Director, Kimberly Tollefson
11333 North Cedarburg Road
Mequon, WI 53092

Submissions shall be received by 1:00 P.M. on _____, 2025. Please provide three (3) bound proposal copies. Electronic copies are also acceptable and may be submitted to ktollefson@cityofmequonwi.gov, by the same deadline. Electronic copies require

acknowledgment of receipt by the city to be considered. Consultant selection will be based on quality of proposal, qualifications of the project team, and fee to complete the work.

The City reserves the right to reject any and all proposals. The City reserves the right to negotiate the terms of the contract, including the award amount, with the selected proposer prior to entering into a contract. If contract negotiations cannot be concluded successfully with the preferred proposer, the City may negotiate a contract with the next preferred proposer.

DRAFT

COMMITTEE OF THE WHOLE PLANNING CALENDAR - 2025

ITEM	PRINCIPAL	TIME
January 14		
Community Pool Discussion	Lundeen	15
February 11		
Civic Campus Planning	Tollefson	30
March 11		
Floodplain Modeling Review Presentation	Zader	60
Community Survey Discussion	Schoenemann	45
April 8		
No Meeting	-	-
May 13		
Lake Michigan Bluff Text Amendment	Tollefson	15
Hotel Feasibility RFP	Tollefson	15
June 10		
Legal Compliance Update	Sajdak	60
TID #3 Public Improvements Update - Budget, Banners, Etc.	Tollefson	15
July 8		
WISDOT Projects Update: Highland Road, I-43, Mequon Road	WISDOT	30
Police Department Reaccreditation	Riley	15
SOFD Update	Bialk	15

Attachment: COTW PLANNING CALENDAR (10358 : cotw calendar)

COMMITTEE OF THE WHOLE PLANNING CALENDAR - 2025

ITEM	PRINCIPAL	TIME
August 12		
2026 Budget Workshop (Early Start)	Jones	90
Long-Range Financial Plan/5-Year CIP		
September 9		
2025 Community Survey	Schoenemann	60
October 14		
Forestry Update Emerald Ash Borer/Specimen Tree Ordinance	Lundeen	60
November 11		
Water Utility Master Plan Update	Lundeen	45
December 9		
Future/Other Policy Items for Discussion/Consideration/Analysis		
Employee Handbook; Fleet Study Update; SW Industrial; Opitz Cemetery, Facilities Study Update		

Attachment: COTW PLANNING CALENDAR (10358 : cotw calendar)