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<https://www.youtube.com/c/CityofFranklinWIGov>

CITY OF FRANKLIN  
COMMON COUNCIL MEETING  
FRANKLIN CITY HALL – COMMON COUNCIL CHAMBERS  
9229 WEST LOOMIS ROAD, FRANKLIN, WISCONSIN  
AGENDA\*  
TUESDAY, MAY 17, 2022, AT 6:30 P.M.

- A. Call to Order and Roll Call.
- B.
  - 1. Citizen Comment Period.
  - 2. Mayoral Announcements - Wisconsin Public Health Association’s 2022 Spirit of Public Health Award to Ellen Henry.
- C. Approval of Minutes: Regular Common Council Meeting of May 3, 2022.
- D. Hearings.
- E. Organizational Business:
  - 1. Mayoral Appointment: James LeMere, 8061 S. River Ln., Dist. 5 – Economic Development Commission (2 year unexpired term expiring 06/30/22).
  - 2. Mayoral Appointment: James LeMere, 8061 S. River Ln., Dist. 5 – Economic Development Commission (2 year unexpired term expiring 06/30/24).
  - 3. Mayoral Appointment: James LeMere, 8061 S. River Ln., Dist. 5 – Community Development Authority (4 year unexpired term expiring 08/30/24).
  - 4. Alderwoman Hanneman, District 4 Board of Review Appointment: Dawn Kamalian, 3609 W. Sherwood Dr., Ald. Dist. 4 – Board of Review (3 year term expiring 04/19/25).
- F. Letters and Petitions: Letter and Petition from Debbie Davis Requesting Suspension of Noxious Weed Ordinance for Month of May, 2022 “No Mow May.”
- G. Reports and Recommendations:
  - 1. Project Updates for Ballpark Commons.
  - 2. A Resolution Authorizing Certain Officials to Accept a First Amendment to a Conservation Easement for and as Part of the Approval of a Natural Resource Special Exception for Property Located at 12000 West Loomis Road (Tax Key No. 891-9011-000 and 891-9012-000) (Mills Hotel Wyoming, LLC; Boomtown, LLC Applicant).
  - 3. Standards, Findings and Decision of the City of Franklin Common Council upon the Application of Stephen R. Mills, President, Bear Development, LLC, Applicant, for a Special Exception to Certain Natural Resource Provisions of the City of Franklin Unified Development Ordinance, Tax Key Nos. 891-1084-000 and 938-9994-004.
  - 4. An Ordinance to Amend the Unified Development Ordinance (Zoning Map) to Rezone a Certain Parcel of Land from R-8 Multiple-Family Residence District to R-6

Suburban Single-Family Residence District (Specifically Located at the Abrupt, West Dead End of West Lake Pointe Drive) (Approximately 3.45 Acres) (Karley J. Blake and Jacob W. Mutter, Applicants).

5. Standards, Findings and Decision of the City of Franklin Common Council Upon the Application of Karley J. Blake and Jacob W. Mutter, Applicants, for a Special Exception to Certain Natural Resource Provisions of the City of Franklin Unified Development Ordinance, Tax Key No. 839-9996-007.
6. A Resolution to Amend Resolution No. 2022-7816, a Resolution to Enter into a Contract with Hausch Design Agency, LLC to Develop a Messaging Program for Franklin Sewer Utilities Project/Private Property Infiltration & Inflow Reduction Project for \$32,500.
7. A Resolution Affirming the City of Franklin Code of Conduct and Ethics (Alderwoman Hanneman).
8. A Resolution to Direct the Mayor and Staff to Work with Milwaukee County to Obtain Land or Access to Land for Storm Water Purposes In/Near the New Corporate Business Park (Alderwoman Hanneman).
9. Request for Approval of memorandum of Agreement for Weights and Measures Inspection with the Wisconsin Department of Agriculture, Trade and Consumer Protection for July 1, 2022 through June 30, 2023.
10. Potential Acquisition of Property for Public Park Recommendations Purposes in the General Southwest Area of the City of Franklin. The Common Council May Enter Closed Session Pursuant to Wis. Stat. § 19.85(1)(e), to Consider the Potential Acquisition of Properties Intended to be Used for Public Park Purposes in the General Southwest Area of the City and to Reenter Open Session at the Same Place Thereafter to Act on Such Matters Discussed Therein as it Deems Appropriate.

H. Licenses and Permits.

Miscellaneous Licenses from License Committee Meeting of May 10, 2022 and May 17, 2022.

I. Bills.

Request for Approval of Vouchers and Payroll.

J. Adjournment.

\*Supporting documentation and details of these agenda items are available at City Hall during normal business hours

[Note Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services For additional information, contact the City Clerk’s office at (414) 425-7500 ]

REMINDERS:

May 19	Plan Commission Meeting	7:00 pm.
May 30	City Hall Closed-Memorial Day	
June 7	Common Council Meeting	6:30 pm.
June 9	Plan Commission Meeting	7:00 p.m.
June 21	Common Council Meeting	6:30 pm.
June 23	Plan Commission Meeting	7:00 p.m.



B.2.

563 Carter Court, Suite B  
Kimberly, WI 54136

920-882-3650  
www.wpha.org  
wpha@badgerbay.co

### **Wisconsin Public Health Association Selects Nominees for 2022 Public Health Awards**

**May 10, 2022** - The Wisconsin Public Health Association (WPHA) is excited to announce the recipients of WPHA Awards for 2022. These awards are a unique opportunity and a very important means that WPHA has for recognizing those who have made significant contributions to public health in Wisconsin over the last year and beyond. We are pleased to be able to recognize the remarkable work of talented health leaders in Wisconsin and recognize individuals who have devoted themselves to improving the public's health.

Nominations were received and reviewed by representatives of the WPHA Awards Committee, and endorsed by the WPHA Board of Directors. These awardees have demonstrated their dedication to public health through exemplary achievement in their award category.

Thank you to all who nominated their colleagues for a WPHA Award. We received over 20 awards submitted for consideration, which made for a competitive year! We are proud to announce the 2022 Award winners who will be recognized in conjunction with the Annual Public Health Conference, being held virtually and in person May 24-26, 2022. The following individuals are the recipients of the 2022 WPHA Awards.

- Robin Lankton, MPH, CHES – WPHA Presidential Citation Award
- Julie Willems Van Dijk, RN, PhD – Carol Graham Lifetime Achievement Award
- Martin Zabkowicz, RS – Distinguished Service to Public Health Award
- Terry Kruse, BSN – Distinguished Service to Public Health Award
- Winnebago County Collaboration for Equitable Vaccine Access - Excellence in Health Promotion and Disease Prevention Award
- Ellen Henry, CHES - Spirit of Public Health Award
- Yvonne Denise Greer, MPH, RD, CD - Spirit of Public Health Award
- David Nelson, PhD, MS – Excellence in Public Health Research Award
- Malia Jones, PhD, MPH – Excellence in Public Health Media Award
- Joe Potente – Excellence in Public Health Media Award
- Wisconsin Council of Churches – Excellence in Advancing Policy Award
- University of Wisconsin Population Health Institute – Advancing Health Equity (Organization) Award
- Kay'la Mumford – Advancing Health Equity (Individual) Award

Congratulations to the winners of this year's WPHA Awards! All are welcome to attend the Public Health Awards Ceremony, held May 25<sup>th</sup> at 6 p.m., both virtual and in person options available. More details on the WPHA website: <https://www.wpha.org/event/2022publichealthawards>

For more information about previous award recipients and details, go to the [WPHA Awards website](#).

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CITY OF FRANKLIN  
COMMON COUNCIL MEETING  
MAY 3, 2022  
MINUTES

- ROLL CALL                   A.       The regular meeting of the Common Council was held on May 3, 2022 and called to order at 6:30 p.m. by Mayor Steve Olson in the Franklin City Hall Council Chambers, 9229 W. Loomis Road, Franklin, Wisconsin. On roll call, the following were present: Alderman Ed Holpfer, Alderwoman Michelle Eichmann, Alderwoman Kristen Wilhelm, Alderwoman Shari Hanneman, Alderman Mike Barber and Alderman John R. Nelson. Also in attendance were Dir. of Administration Peggy Steeno, City Engineer Glen Morrow, City Attorney Jesse A. Wesolowski and City Clerk Sandra Wesolowski.
- CITIZEN COMMENT           B.       1.     Citizen comment period was opened at 6:31 p.m. and closed at 6:50 p.m.  
  2.     Mayoral Announcements - Intergovernmental Cooperation Council and Executive Council, Milwaukee Metropolitan Sewerage District Meeting at Franklin Law Enforcement Center on May 9, 2022 at 1:00 p.m.
- MINUTES  
APRIL 19, 2022              C.       Alderwoman Wilhelm moved to approve the minutes of the regular Common Council meeting of April 19, 2022, as amended and presented at this meeting. Seconded by Alderman Holpfer. All voted Aye; motion carried.
- ALDERMANIC  
APPOINTMENTS              E.1.     Alderman Holpfer moved to confirm the Aldermanic appointment of Peter Jankowski, 8160 S. 77th St., to the Board of Review for Aldermanic District 1 (3-year term expiring 04/19/25). Seconded by Alderwoman Eichmann. On roll call, all voted Aye. Motion carried.  
  
  E.2.     Alderwoman Eichmann moved to confirm the Aldermanic appointment of Rebekah Stuckart, 7548 S. 77th St., to the Board of Review for Aldermanic District 2 (3-year term expiring 04/19/25). Seconded by Alderman Nelson. On roll call, all voted Aye. Motion carried.
- LETTERS AND  
PETITIONS                   F.       Alderman Holpfer moved to place on file a letter from Ann Kaminski requesting suspension of the Noxious Weed Ordinance for the month of May, 2022 "No Mow May." Seconded by Alderman Nelson. All voted Aye; motion carried. (Alderwoman Wilhelm did not vote.)
- CONSENT AGENDA            G.1.     Alderman Barber moved to approve the following Consent Agenda items:

RES. 2022-7855  
OFFICIAL NEWSPAPER

(a) Adopt Resolution No. 2022-7855, A RESOLUTION DESIGNATING AN OFFICIAL NEWSPAPER; and

TEMPORARY STREET  
CLOSURES – BIKE  
RODEO ON 6/4/22

(b) Approve temporary street closures on S. Legend Drive and Schlueter Pkwy. on Saturday June 4 from 6 a.m. until 3 p.m. in conjunction with the City of Franklin Health Department Bike Rodeo.

Seconded by Alderwoman Hanneman. All voted Aye; motion carried.

REPORT ON PUBLIC  
LIBRARY BUILDING

G.2. Dennis McKnight, former Public Library President, presented a report on the Public Library Building. No action was taken.

PUBLIC FACILITIES  
NEEDS ASSESSMENT  
AND IMPACT FEE  
STUDY

G.3. Alderman Barber moved to accept the Public Facilities Needs Assessment and Impact Fee Study draft with any changes the Council deems appropriate and direct that a Public Hearing be held to consider input and adopt a revised Impact Fee Ordinance. Seconded by Alderwoman Hanneman. All voted Aye; motion carried.

AMEND 2025 FUTURE  
LAND USE MAP FOR  
TKN: 892-9999-002,  
S. 112TH ST., BEAR  
DEV., LLC, APPLICANT;  
IGNASIAK INV. CO.,  
LLC, OWNER

G.4. Alderwoman Wilhelm moved to table to the June 21, 2022, Common Council meeting, An Ordinance amending the City of Franklin 2025 Comprehensive Master Plan to Change the City of Franklin 2025 Future Land Use Map for Property Bearing Tax Key Number 892-9999-002 From “Recreational” Use and “Areas of Natural Resource Features” to “Residential” Use (By Stephen R. Mills, President of Bear Development, LLC, Applicant, Ignasiak Investment Company, LLC, Property Owner). Seconded by Alderman Nelson. All voted Aye; motion carried.

AMEND UDO ZONING  
MAP TKN: 892-9999-002  
TO SINGLE-FAMILY  
RESIDENCE, BEAR  
DEV., LLC, APPLICANT,  
IGNASIAK INV. CO.,  
LLC, OWNER

G.5. Alderman Nelson moved to table to the June 21, 2022 Common Council meeting, an Ordinance amending the Unified Development Ordinance (Zoning Map) to rezone the property bearing Tax Key Number 892-9999-002 from A-2 Prime Agricultural District and C-1 Conservancy District to R-5 Suburban Single-Family Residence District (By Stephen R. Mills, President Of Bear Development, LLC, Applicant, Ignasiak Investment Company, LLC, Property Owner). Seconded by Alderwoman Wilhelm. All voted Aye; motion carried.

SPECIAL EXCEPTION  
TO NATURAL  
RESOURCE  
PROVISIONS FO THE  
UDO

G.6. Alderwoman Hanneman moved to adopt the Standards, Findings and Decision of the City of Franklin Common Council upon the application of Fiduciary Real Estate Development, Inc., Applicant, for a Special Exception to Certain Natural Resource Provisions of the City of Franklin Unified Development Ordinance. Seconded by Alderman Wilhelm. All voted Aye; motion carried.

- RETURN-ON INVESTMENT ANALYSIS PRESENTATION
- G.7. No action was taken at this time on a request from Department of City Development for discussion regarding Return-on-Investment Analysis presentation for development, regarding City expenses for development and the maintenance and costs thereof and funding by way of property taxes from development.
- RES. 2022-7856  
MILW. CO.  
RECONDITIONING OF W. FOREST HOME AVE.
- G.8. Alderman Nelson moved to adopt Resolution No. 2022-7856, A RESOLUTION IN SUPPORT OF MILWAUKEE COUNTY'S RECONDITIONING OF W. FOREST HOME AVENUE (CTH 00) FROM HI VIEW DRIVE TO W. SPEEDWAY DRIVE TO INCLUDE A MULTI-USE PATHWAY FROM HI VIEW DRIVE TO THE SOUTHERN CROSSING OF THE EXISTING FRANKLIN HIKE-BIKE PATH. Seconded by Alderman Barber. All voted Aye; motion carried.
- AMEND RES. 2022-7816  
CONTRACT WITH HAUSCH DESIGN AGENCY, LLC FOR SEWER PROJECT MESSAGING PROGRAM
- G.9. Alderwoman Wilhelm moved to table to the May 17, 2022, Common Council meeting, A Resolution to Amend Resolution No. 2022-7816, A Resolution to Enter Into a Contract With Hausch Design Agency, LLC, to Develop a Messaging Program for Franklin Sewer Utilities Project/Private Property Infiltration & Inflow Reduction Project For \$31,000 to Increase the Price to \$32,500 to Provide for Additional Insurance Coverage. Seconded by Alderman Barber. All voted Aye; motion carried.
- RES. 2022-7857  
GREEN SOLUTIONS FUNDING AGREEMENT WITH MMSD FOR HICKORY ST. BIOSWALE
- G.10. Alderwoman Hanneman moved to adopt Resolution No. 2022-7857, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ENTER INTO A GREEN SOLUTIONS FUNDING AGREEMENT G98005P95 FOR HICKORY STREET BIOSWALES WITH MILWAUKEE METROPOLITAN SEWERAGE DISTRICT IN THE AMOUNT OF \$874,232.70. Seconded by Alderman Holpfer. All voted Aye; motion carried.
- ORD. 2022-2509  
AMEND WARD BOUNDARIES, SB 621
- G.11. Alderwoman Eichmann moved to adopt Ordinance No. 2022-2509, AN ORDINANCE TO AMEND §30-1. OF THE MUNICIPAL CODE TO AMEND WARD BOUNDARIES AS REQUIRED BY 2021 SENATE BILL 621. Seconded by Alderwoman Hanneman. All voted Aye; motion carried.
- RES. 2022-7858  
HARDSCAPE RENOVATIONS PARKING LOT MAINTENANCE, LLC
- G.12. Alderwoman Wilhelm moved to adopt Resolution No. 2022-7858, A RESOLUTION TO AWARD THE 2021-2022 CITY OF FRANKLIN FACILITY RENOVATIONS - HARDSCAPE RENOVATIONS TO PARKING LOT MAINTENANCE, LLC, IN THE AMOUNT OF \$69,265.30; and

RES. 2022-7859  
ROOFING CARLSON  
RACINE ROOFING &  
SHEET METAL, INC.

Adopt Resolution No. 2022-7859, A RESOLUTION TO AWARD THE 2021-2022 CITY OF FRANKLIN FACILITY RENOVATIONS ROOFING RENOVATIONS TO CARLSON RACINE ROOFING & SHEET METAL, INC., IN THE AMOUNT OF \$37,710; and

RES. 2022-7860  
BLDG. RENOVATIONS  
CUSTOM  
RESTORATION, INC.

Adopt Resolution No. 2022-7860, RESOLUTION TO AWARD THE 2021-2022 CITY OF FRANKLIN FACILITY RENOVATIONS - BUILDING ENVELOPE RENOVATIONS TO CUSTOM RESTORATION, INC., IN THE AMOUNT OF \$61,173.

Seconded by Alderman Holpfer. All voted Aye; motion carried.

ORD. 2022-2510  
AMEND ORD. 2020-2453  
ADOPTING 2021  
ANNUAL BUDGETS

G.13. Alderman Barber moved to adopt Ordinance No. 2022-2510, AN ORDINANCE TO AMEND ORDINANCE 2020-2453, AN ORDINANCE ADOPTING THE 2021 ANNUAL BUDGETS FOR THE GENERAL FUND, FIRE GRANT FUND, POLICE GRANT FUND, ST. MARTINS FAIR FUND, HEALTH GRANT FUND, CIVIC CELEBRATIONS FUND, CAPITAL OUTLAY FUND, TID #7 FUND, TID #3 FUND, DEVELOPMENT FUND, CAPITAL IMPROVEMENT FUND, AND THE SELF-INSURANCE/ RETIREE HEALTH FUNDS FOR THE CITY OF FRANKLIN TO TRANSFER AND RE-APPROPRIATE 2021 FUNDS. Seconded by Alderman Holpfer. On roll call, all voted Aye. Motion carried.

COMM. OF THE WHOLE  
RECOMMENDATIONS

G.14. Upon recommendation from the Committee of the Whole Meeting of May 2, 2022:

RES 2022-7861  
SOUTHWEST  
SANITARY SEWER  
DISTRICT

(a) Alderwoman Hanneman moved to adopt Resolution No. 2022-7861, A RESOLUTION TO MODIFY THE PLAN FOR THE SOUTHWEST SANITARY SEWER DISTRICT IN THE VICINITY OF W. RYAN ROAD BETWEEN S. 76TH STREET AND S. 92ND STREET. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.

COMPREHENSIVE  
MASTER PLAN

(b) No action was taken on the Review of Comprehensive Master Plan (Alderman Nelson):  
(i) Chapter 8: Utilities and Community Facilities.  
(ii) Chapter 10: Implementation.

CODE OF CONDUCT

(c) Alderman Nelson moved to table the City of Franklin Code of Conduct to the Common Council meeting of May 17, 2022. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.

LICENSES AND  
PERMITS

H. Alderwoman Hanneman moved to approve the following:

Grant New 2022-2023 Operator License to: Hydn Heisel, Lucien Kreiter;

Grant New 2021-2022 & Renewal 2022-2023 Operator License to: Jaclyn Bonk, Adriana-Cristina Bratel, Chloe Farrington, Amanda Julian, Jenel Karow, Navdeep Kaur, Hannah Mercado, Abigail Paskiewicz,, Tricia Peterson, Danielle Spinello, Katelyn Thousand, Shaye Zess;

Grant Renewal 2022-2023 Operator License to: Michael Bartolone, Sarah Berg, Pamela Brys, Desmon Fitzpatrick, Dennis Fons, Eric Gagliano, Halina Grachowski, Sierra Helgeland, Marie Idzikowski, Amber Ishaque, Yani Jin, Harpreet Kaur, Paramjeet Kaur, Taylor Klafka, Kelly Kuglitsch, Kimberlee Laughery, Marcia Lonzaga, Amanda Losiniecki, Anthony Megna, Ann Moehlenpah, Sarah Nickolaus, Zackary Niesen, Martha Norman, Michael Norman, Richard Rabiega, Brandon Rice, Kristen Rinke, Bobette Sakiewicz, Brian Sawinski, Amrit Singh, Catherine Smith, Jessica St. Louis, William Tietjen, Stacie Tripler, Isaiah Vargas;

Grant Extraordinary Entertainment & Special Event & Temporary Class B Beer License to: Xaverian Missionaries – Annual Festival, Fr Alejandro Rodriguez, 4500 W Xavier Dr, 6/25-2022 – 3:00 -11:00 pm, 6/26/2022 – 12:00 – 8:00 pm

Grant Extraordinary Entertainment & Special Event to: Rock Sports Complex – Fireworks Displays after Milkmen Games, Paul Cimoch, 7011 S. Ballpark Dr, 5/13, 6/4, 6/25, 7/9, 7/23 8/6, 8/20, 8/27 Contingent on Fire Department Permit;

Grant Extraordinary Entertainment & Special Event to: Rock Sports Complex – Summer Concert Series '22, Paul Cimoch, 7044 S. Ballpark Dr, Every Saturday from 6/4/22 – 9/24/2022 with 10:52 pm as Fireworks Start Cutoff Time;

Grant 2022-2023 Amusement Device Operator License to:

- 1) Mitchell Novelty Co, 3506 W. National Ave, Milwaukee, Ralph Fleege, Owner;
- 2) Reggie's Amusements, LLC, 4918 S. Packard Ave, Cudahy, Reginald Zeniecki; Owner

Hold 2022-2023 Amusement Device Operator License to: Red's Novelty Ltd, 1921 S. 74 St, Jay Jacomet, Owner for appearance;

Approve the PUBLIC (People Uniting for the Betterment of Life and Investment in the Community) Grant to: Franklin Police Department – National Night Out, Temporary Entertainment & Amusement, Food License, Non-intoxicating Beverages License, 8/1/2022, 6-9:00 pm, Franklin Public Library, 9151 W. Loomis Rd;

Grant Temporary Entertainment & Amusement License to: Franklin Police Dept – National Night Out, PO Gary Wallace, National Night Out Kick Off, 8/1/2022; and

Set Special License Committee meeting dates for review and recommendation of 2022-2023 Licenses to the following dates if necessary: 5/10 – 6-8 pm, 6/8 – 6-8 pm, 5/20 – 3-7 pm, 5/21 – 1-4 pm.

Seconded by Alderman Barber. All voted Aye; motion carried.

VOUCHERS AND  
PAYROLL

- I. Alderman Barber moved to approve City vouchers with an ending date of May 2, 2022 in the amount of \$2,792,485.83; payroll dated April 22 2022 in the amount of \$463,454.52 and payments of the various payroll deductions in the amount of \$455,768.12, plus City matching payments. Seconded by Alderwoman Hanneman. On roll call, all voted Aye. Motion carried.

CLOSED SESSION  
DIR. OF HEALTH AND  
HUMAN SERVICES  
APPOINTMENT

- G.15. Alderman Nelson moved to enter closed session at 8:43 p.m. pursuant to Wis. Stats. § 19.85(1)(c) and (f), to consider employment, promotion, compensation, or performance evaluation data of a public employee over which the Common Council has jurisdiction or exercises responsibility and to consider financial, social or personal histories of specific persons which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories and may reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderman Barber. On roll call, all voted Aye. Motion carried.

Upon re-entering open session at 8:50 p.m., Alderwoman Wilhelm moved to confirm the appointment of Lauren Gottlieb as Director of Health and Human Services for the City of Franklin pending successful completion of a background check and pre-employment drug screen. Seconded by Alderman Barber. All voted Aye; motion carried.

CLOSED SESSION  
DIR. OF FINANCE &  
TREASURER  
APPOINTMENT

- G.16. Alderwoman Hanneman moved to enter closed session at 9:00 p.m. pursuant to Wis. Stats. § 19.85(1)(c) and (f), to consider employment, promotion, compensation, or performance evaluation data of a public employee over which the Common Council has jurisdiction or exercises responsibility and to consider financial, social or personal histories of specific persons which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories and may re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderman Nelson. On roll call, all voted Aye. Motion carried.

Upon re-entering open session at 9:07 p.m., Alderman Holpfer moved to confirm the appointment of Denise Gilbert as Director of Finance & Treasurer for the City of Franklin pending successful completion of a background check and pre-employment drug screen, and to allow use of up to 9 days of vacation before it is earned. Seconded by Alderwoman Hanneman. All voted Aye; motion carried.

CLOSED SESSION  
ACQUISITION OF  
PROPERTIES TO BE  
USED FOR PUBLIC  
PARK PURPOSES

- G.17. Alderman Barber moved to enter closed session at 9:11 p.m. pursuant to Wis. Stats. § 19.85(1)(e), to consider the potential acquisition of properties Intended to be used for public park purposes in the general southwest area of the City and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate. Seconded by Alderman Holpfer. On roll call, all voted Aye. Motion carried.

The Common Council re-entered open session at 9:46 p.m.

ADJOURNMENT

- J. Alderman Holpfer moved to adjourn the meeting at 9:47 p.m. Seconded by Alderwoman Eichmann. All voted Aye; motion carried.

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<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">05-17-22</p>
<p style="text-align: center;">REPORTS &amp; RECOMMENDATIONS</p>	<p style="text-align: center;">Mayoral Commission Appointments and Aldermanic Appointment</p>	<p style="text-align: center;">E.</p>

1. Mayoral Appointment: James LeMere, 8061 S. River Ln., Dist. 5 – Economic Development Commission (2 year unexpired term expiring 06/30/22).
2. Mayoral Appointment: James LeMere, 8061 S. River Ln., Dist. 5 – Economic Development Commission (2 year unexpired term expiring 06/30/24).
3. Mayoral Appointment: James LeMere, 8061 S. River Ln., Dist. 5 – Community Development Authority (4 year unexpired term expiring 08/30/24).
4. Alderwoman Hanneman, District 4 Board of Review Appointment: Dawn Kamalian, 3609 W. Sherwood Dr., Ald. Dist. 4 – Board of Review (3 year term expiring 04/19/25).

### COUNCIL ACTION REQUESTED

Motion to approve the following Mayoral and Aldermanic Appointments:

1. Mayoral Appointment: James LeMere, 8061 S. River Ln., Dist. 5 – Economic Development Commission (2 year unexpired term expiring 06/30/22).
2. Mayoral Appointment: James LeMere, 8061 S. River Ln., Dist. 5 – Economic Development Commission (2 year unexpired term expiring 06/30/24).
3. Mayoral Appointment: James LeMere, 8061 S. River Ln., Dist. 5 – Community Development Authority (4 year unexpired term expiring 08/30/24).
4. Alderwoman Hanneman, District 4 Board of Review Appointment: Dawn Kamalian, 3609 W. Sherwood Dr., Ald. Dist. 4 – Board of Review (3 year term expiring 04/19/25).

## Shirley Roberts

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**From:** volunteerfactsheet@franklinwi.info  
**Sent:** Friday, April 22, 2022 6:00 PM  
**To:** Lisa Huening; Shirley Roberts, Sandi Wesolowski  
**Subject:** Volunteer Fact Sheet

**Name:** James LeMere  
**PhoneNumber:**  
**EmailAddress:** jim\_lemere@att.net  
**YearsasResident:** 8  
**Alderman:**  
**ArchitecturalBoard:** no  
**CivicCelebrations:** no  
**CommunityDevelopmentAuthority:** no  
**EconomicDevelopmentCommission:** yes  
**EnvironmentalCommission:** no  
**FinanceCommittee:** no  
**FairCommission:** no  
**BoardofHealth:** no  
**FirePoliceCommission:** no  
**ParksCommission:** no  
**LibraryBoard:** no  
**PlanCommission:** no  
**PersonnelCommittee:** no  
**BoardofReview:** no  
**BoardofPublicWorks:** no  
**QuarryMonitoringCommittee:** no  
**TechnologyCommission:** no  
**TourismCommission:** no  
**BoardofZoning:** no  
**WasteFacilitiesMonitoringCommittee:** no  
**BoardWaterCommissioners:** no  
**CompanyNameJob1:** Northwestern Mutual  
**CompanyAddressJob1:** 1 Northwestern Mutual Way, Franklin, WI 53132  
**TelephoneJob1:** 414-661-6336  
**StartDateandPositionJob1:** May 2014  
**EndDateandPositionJob1:** Vice President Servicing Capabilities & Enablement  
**CompanyNameJob2:** Great Wolf Resorts  
**AddressJob2:** Madison, WI  
**TelephoneJob2:**  
**StartDateandPositionJob2:** November 2009

**EndDateandPositionJob2:** May 2014 / Director Customer Contact Center

**CompanyNameJob3:**

**AddressJob3:**

**TelephoneJob3:**

**StartDateandPositionJob3:**

**EndDateandPositionJob3:**

**Signature:** James LeMere

**Date:** 4/22/2022

**Signature2:** James LeMere

**Date2:** 4/22/2022

**Address:** 8061 S River Ln, Franklin, WI 53132

**PriorityListing:**

**WhyInterested:**

I want to be a more active member of this community and serve in a way that could help us develop the services offered to our residents while boosting tax revenue to develop the city without that burden being the responsibility of the residents. Many years ago, I lived in Carmel, Indiana and lived through their planning and expansion, which was impressive as a resident and good perspective that I can bring to the group. Additionally, my father was in charge of economic development in Antioch, Illinois...so it runs in the family a bit. As a senior executive at Northwestern Mutual, Franklin is not only my home, but where I work...and where I plan to retire, as I am currently building our "forever" home in Franklin as well just a half a mile from my current Franklin home. I appreciate your consideration.

**DescriptionofDutiesJob1:**

I am responsible for all of the shared services that support the service centers across Northwestern Mutual. This includes nine functions, including Learning & Performance Enablement, Resource Planning & Enablement, Vendor Management, Quality Management, Project Management Office, Operational Reporting, Business Controls, Print/Mail, and Service Center Modernization. We do this with a team of about 220 people and an annual budget of over \$50M.

**DescriptionofDutiesJob2:**

I was responsible for the inbound service center that brought in over \$100M in revenue for the company through the conversion of inquiries to reservations for the 13 Great Wolf Resorts around the United States.

**DescriptionofDutiesJob3:**

**AdditionalExperience:**

See Current Results

## Shirley Roberts

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**From:** volunteerfactsheet@franklinwi.info  
**Sent:** Tuesday, May 10, 2022 10:03 PM  
**To:** Lisa Huenig, Shirley Roberts, Sandi Wesolowski  
**Subject:** Volunteer Fact Sheet

**Name:** Dawn Kamalian  
**PhoneNumber:**  
**EmailAddress:** dkamalian@shorewest.com  
**YearsasResident:** 24  
**Alderman:**  
**ArchitecturalBoard:** no  
**CivicCelebrations:** no  
**CommunityDevelopmentAuthority:** no  
**EconomicDevelopmentCommission:** no  
**EnvironmentalCommission:** no  
**FinanceCommittee:** no  
**FairCommission:** no  
**BoardofHealth:** no  
**FirePoliceCommission:** no  
**ParksCommission:** no  
**LibraryBoard:** no  
**PlanCommission:** no  
**PersonnelCommittee:** no  
**BoardofReview:** yes  
**BoardofPublicWorks:** no  
**QuarryMonitoringCommittee:** no  
**TechnologyCommission:** no  
**TourismCommission:** no  
**BoardofZoning:** no  
**WasteFacilitiesMonitoringCommittee:** no  
**BoardWaterCommissioners:** no  
**CompanyNameJob1:** Shorewest Realtors  
**CompanyAddressJob1:** 6725 W Layton Ave Greenfield WI 53220  
**TelephoneJob1:** 4144231500  
**StartDateandPositionJob1:** 6/2012 Realtor  
**EndDateandPositionJob1:** Current Position  
**CompanyNameJob2:** Hansen Interiors  
**AddressJob2:** Hwy 31 Racine WI  
**TelephoneJob2:**  
**StartDateandPositionJob2:** 7/2002

**EndDateandPositionJob2:** 10/2012  
**CompanyNameJob3:**  
**AddressJob3:**  
**TelephoneJob3:**  
**StartDateandPositionJob3:**  
**EndDateandPositionJob3:**  
**Signature:** Dawn Kamalian  
**Date:** 5/10/2022  
**Signature2:** Dawn Kamalian  
**Date2:** 5/10/2022  
**Address:** 3609 W Sherwood Drive Franklin WI 53132  
**PriorityListing:**  
**WhyInterested:** I am a realtor that specializes in the sale of homes in Franklin. I am known as the condo specialist in Franklin.  
**DescriptionofDutiesJob1:** To help clients purchase and sell homes, condos, investment properties, and second homes.  
**DescriptionofDutiesJob2:** Sell and advise clients on selection on furniture. Designed and special ordered imported furniture from several different countries.  
**DescriptionofDutiesJob3:**  
**AdditionalExperience:** Owned and operated family owned business for 20 years in Upstate NY. Responsibilities included hiring/firing, advertising, purchasing commercial properties, buyer for merchandise, training of employees, payroll, and writing scripts for radio commercials.

[See Current Results](#)

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F.

Letter of Petition

From: Debbie Davis

9460 S. 96<sup>th</sup> St.

Franklin, WI 53132

May 15th, 2022

To City of Franklin Common Council and Staff,

This is a resubmission of a request to the Common Council to postpone Noxious Weed Ordinance penalties for the month of May.

Please find included in your packet an April 26<sup>th</sup> article in the Milwaukee Journal Sentinel, *No Mow May: How preserving pollinators by letting your grass grow is gaining some popularity in the Milwaukee area, (Samantha Hendricksen)*. This article introduces a simple way for homeowners to positively impact our ecosystem. It has been promoted by Lawrence University in Appleton and adopted by many cities in Wisconsin, including our neighboring suburbs, Greendale and Greenfield.

Franklin's Environmental Commission could consider adopting a similar program in 2023 that includes community outreach and education. In the meantime, however, I believe it is within the Common Council's purview to provide citizens the opportunity to request an extension to the city's five-day warning, should a complaint be filed regarding their unmowed, temporary bee habitat.

Last weekend at Arbor Day (and later in my neighborhood), I surveyed 25 Franklin citizens on their position re: "No Mow May." All the citizens expressed support for No Mow May, regardless of their plans for their own yard. (One citizen abstained from comment and signing as he was a city employee on the clock. (Signers include members of the Environmental Commission). I intend to survey more citizens prior to Tuesday's council meeting.

I hope the Common Council will vote to support citizens who opt to positively impact the ecosystem on their private property by postponing potential penalties.

Thank you for your consideration.

Sincerely,

*Deborah Davis*

414-3305-9505

## **No Mow May: How preserving pollinators by letting your grass grow is gaining some popularity in the Milwaukee area**

*Overgrown grass, dandelions and Wisconsin's native flora help ensure that the state's pollinators have all the pollen and nectar they need once they come out of hibernation.*

**Samantha Hendrickson  
Milwaukee Journal Sentinel  
April 26, 2022**

"No Mow May" started in the United Kingdom, gained national attention in Appleton and now the pro-bee, shaggy lawn movement is creeping closer to the Milwaukee area.

More property owners are deciding to let their hair down about letting their yards go.

The overgrown grass, dandelions and Wisconsin's native flora help ensure that the state's pollinators have all the pollen and nectar they need once they come out of hibernation. "By waiting just a little bit longer to clear our yards and limiting our lawn mowing, you can support [pollinators] and their survival," said Auriana Donaldson, the conservation coordinator for the Zoological Society of Milwaukee.

Following Appleton's lead, Wausau, Stevens Point, Oshkosh and Fort Atkinson adopted No Mow May in 2021. This year, Green Bay, De Pere, Wisconsin Rapids, and La Crosse announced they would be doing their part to feed the bees. Other parts of the country, such as Michigan and New York, are seeing more communities participating.

As part of No Mow May ordinances passed by the municipalities, any citations for overgrown lawns will be waived for the month of May. "The [city staff] were very afraid that there would be massive complaints that they couldn't get on top of," said Appleton Alderperson Vered Meltzer. "But it turned out that this actually gave staff a break through May... I want to emphasize that there was not an avalanche of complaints waiting."

Milwaukee has not adopted No Mow May, and Greenfield is currently the only Milwaukee suburb to do so. More than 75 Greenfield residents have registered and received a little sign telling their neighbors what their growing grass is all about. Some hope Greenfield is just the beginning for the Milwaukee area.

### **Why No Mow May?**

Bee colonies are rapidly declining across the United States, making keeping them happy and healthy more important than ever. Bees of many species are vital to our world's food supply, and their decline has been called a threat by the United Nations. "Nearly 90% of the world's wild flowering plant species depend, entirely, or at least in part, on animal pollination, along with more than 75% of the world's food crops and 35% of global agricultural land," according to the UN.



The month of May is especially important, as it's when most of our flying friends come out of hibernation, but most importantly, it's when the Queen Bees emerge. "It's really a critically important time period for bees," Donaldson said. And letting your yards grow out isn't just about providing food, but also shelter for bees. "They'll actually go into our leaf piles... they'll reuse holes in the ground that other animals have created. And that's where they'll hibernate," Donaldson said. "If we disturb them or disturb where they are choosing to hibernate, we also might be accidentally eliminating these pollinators."

If you've visited the Milwaukee County Zoo and stopped by the Northwestern Mutual Family Farm, then you've seen a pollinator preservation site in action. The zoo's supervisor of horticulture, Noah Huber, said the pollinator area started as a way of preventing soil erosion with different plants and grasses, but soon became a hub for bees and other insects. That quickly spread to other grassy areas around the zoo, and are now marked by placards. "We take care of the pollinators at the insect level with the plant life in our backyards, then that's got a collective ripple effect on human beings at some point," Huber said.

### **Other ways to help**

No Mow May doesn't look the same for every yard, and some homeowners may not be able to participate. But there are plenty of ways to feed our bees, and make your landscape more pollinator friendly, whether or not your municipality is participating.

But the goal is not to just put in plants that bees like. It's to attract pollinators with native, non-invasive plant species. "We have to think of how we're doing things so we can replicate nature as best as possible," said Dennis Fermenich, Greenfield's city forester. "We have all this yard space. That gives us an opportunity to do that. And we're not taking advantage of it, for the most part."

Lauren Boos, a Greenfield resident for over 30 years, is taking that approach seriously during No Mow May. She and her husband are planning to make a one-third acre lot next to their home a haven for pollinators, as well as some parts of their yard, specifically with native plant species.

Lauren Boos and her husband, Erik, of Greenfield on Wednesday, April 20, 2022, have decided to not mow their lawn in order to let it grow out to help preserve pollinators like bees. They are participating in No Mow May in their neighborhood. "My hope is that people eventually will just start seeing that non-native stuff is not the best and native things are really better," Boos said.

But if you don't have a big lot to fill, or your municipality isn't participating, there are still plenty of options for No Mow May. Huber, who lives in West Allis, said he instead uses a 10-foot-by-5-foot area of his backyard to help preserve pollinators. "It doesn't have to be huge," he said. Huber also suggests going to your local gardening center and asking what native plants they have available.

All in all, what's important is making May a marvelous month for our pollinators, not just for our little corner of the world, but for a global food supply, one yard at a time.

Samantha Hendrickson can be reached at 414-223-5383 or shendrickson@jrn.com. Follow her on Twitter at @samanthajhendr.

## “No Mow May”, Franklin, WI Petition - 2022

We, the undersigned residents of Franklin, request that the Franklin Common Council approve a temporary suspension of the Noxious Weed Ordinance for the remainder of the month of May 2022. This suspension will allow homeowners the option to voluntarily delay mowing their lawns in support of pollinator habitat. Bee populations in Wisconsin and internationally are in critical decline. Their survival is critical to our own agricultural industry, food supply, and the general health of our ecosystem. We recommend that those residents who utilize professional lawn services, hire their landscaping companies in May to assist with other yard projects (such as planting native plants.)

Name	Address	Date
Deborah Davis	9460 S 96 St Franklin WI	5/7/2022
Laura G Hogrewe	4831 W Hunting Park Dr Franklin, WI	5/7/22
LINDA HORN	1451 W Petz Rd Franklin	5/7/22
Janie Croark	7971 CHAPEL HILL CT S FRANKLIN	5/7/22
Jan Croark	7971 CHAPEL HILL CT S FRANKLIN WI	5/7/22
Alan Jamedaran	6855 W BLAZING STAR RD FRANKLIN WI	5/7/22
Priyanka Soni	4855 W Blazing star rd Franklin	
SUDASHAN SHARMA	5885 W FOREST VIEW CT FRANKLIN WI 53132	5/7/22
Denise Kraklan	8761 W Whispering Oaks Ct Franklin 53132	5/7/22
Jeremy Depsch	8761 W Whispering Oaks Ct Franklin WI 53132	5/7/22
Patricia Best	9411 S. 92 ST FRANKLIN WI 53132	5/7/22
Ng Dpenen	10424 S. 2TH ST Franklin 53132	5/7/22

# “No Mow May”, Franklin, WI

## Petition - 2022

We, the undersigned residents of Franklin, request that the Franklin Common Council approve a temporary suspension of the Noxious Weed Ordinance for the remainder of the month of May 2022. This suspension will allow homeowners the option to voluntarily delay mowing their lawns in support of pollinator habitat. Bee populations in Wisconsin and internationally are in critical decline. Their survival is critical to our own agricultural industry, food supply, and the general health of our ecosystem. We recommend that those residents who utilize professional lawn services, hire their landscaping companies in May to assist with other yard projects (such as planting native plants.)

Name	Address	Date
Michael Herbst	7371 S 76th Franklin	050722
Shirley & Bill Simon	5335 W Princeton Pines Ct, Franklin	050722
Corinne Pedriana	9071 W Highland Park Ave, Franklin	5/7/22
Jason Kempitz	7931 S 48 St. #303 Franklin	5-7-22
Tim Cieslak	7589 S 24th St	5-07-22
Kristel Hoch	9443 S 94th Franklin	5-7-22
Brian Pich	9443 S 94th St Franklin	5-7-22
Kyle Hrupka	9472 S 96th St Franklin	5/7/22
Dan J. W.	9440 S. 96th Franklin	5/7/2022
John Zottner	9260 S. 94th Franklin	5/9/2022
Andy V. Bruno	9321 S 94th St Franklin	5/9/2022
Arianna V. Bruno	9321 S 94th St Franklin	5/9/22

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<p>APPROVAL <i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE 05-17-22</p>
<p>REPORTS &amp; RECOMMENDATIONS</p>	<p>Project Updates for Ballpark Commons</p>	<p>ITEM NUMBER <b>G.1.</b></p>

Representatives from Ballpark Commons will present an update on the development.

**COUNCIL ACTION REQUESTED**

No action requested. This presentation is only for providing updates on the Ballpark Commons project.

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APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE  05/17/2022
REPORTS & RECOMMENDATIONS	<p align="center"><b>RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A FIRST AMENDMENT TO A CONSERVATION EASEMENT FOR AND AS PART OF THE APPROVAL OF AN NATURAL RESOURCE SPECIAL EXCEPTION FOR PROPERTY LOCATED AT 12000 WEST LOOMIS ROAD (TAX KEY NO. 891 9011 000 AND 891 9012 000) (MILLS HOTEL WYOMING, LLC; BOOMTOWN, LLC APPLICANT)</b></p>	ITEM NUMBER  <b>G.2.</b>
<p>City Development staff recommends approval of a resolution authorizing certain officials to accept an amendment to a conservation easement for and as part of the approval of a Natural Resource Special Exception for property located at 12000 West Loomis Road (TAX KEY NO. 891 9011 000 and 891 9012 000) (MILLS HOTEL WYOMING, LLC; BOOMTOWN, LLC APPLICANT), subject to technical corrections by the City Attorney, City Engineering Department, and Department of City Development.</p> <p>The applicant has submitted an amendment to this conservation easement for Common Council approval to comply with condition No. 9 of the Standards, Findings and Decision of the Common Council (February 2, 2022) on the NRSE for TKNs 891 9011 000 and 891 9012 000 (12000 W Loomis Rd.):</p> <p><i>That the applicant provide for repair of the pond drainage tile/pipe between the pond edge and the outlet at Ryan Road, subject to a revised conservation easement, and for the removal of buckthorn with a minimum expenditure of \$10,000</i></p> <p>The existing easement is for the protected property upon lots bearing Tax Key Nos. 891-9004-000, 891-9005-000 and 891-9006-000, recorded in the Office of the Register of Deeds for Milwaukee County on April 19, 2019, as Document No. 10863505. These parcels are located immediately east of the property subject to the NRSE.</p> <p align="center"><b>COUNCIL ACTION REQUESTED</b></p> <p>A motion to adopt Resolution No. 2022-____, a resolution authorizing certain officials to accept an amendment to a conservation easement for and as part of the approval of a Natural Resource Special Exception for property located at 12000 West Loomis Road (TAX KEY NO. 891 9011 000 and 891 9012 000) (MILLS HOTEL WYOMING, LLC; BOOMTOWN, LLC APPLICANT), subject to technical corrections by the City Attorney, City Engineering Department, and Department of City Development.</p>		

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2022-\_\_\_\_\_

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A FIRST AMENDMENT TO CONSERVATION EASEMENT FOR AND AS PART OF THE APPROVAL OF A NATURAL RESOURCE SPECIAL EXCEPTION FOR PROPERTY LOCATED AT 12000 WEST LOOMIS ROAD (TAX KEY NO. 891-9011-000 AND 891-9012-000) (MILLS HOTEL WYOMING, LLC; BOOMTOWN, LLC APPLICANT)

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WHEREAS, the Common Council having approved a Natural Resource Special Exception for MILLS HOTEL WYOMING, LLC; BOOMTOWN, LLC on February 2, 2022; and the Common Council having conditioned approval thereof in part upon Common Council approval of an amendment to a Conservation Easement to protect the woodlands, wetlands, wetland buffers and setbacks, on lots bearing Tax Key Nos. 891-9004-000, 891-9005-000 and 891-9006-000 to allow for repairs to and maintenance of a damaged drain tile; and

WHEREAS, §15-4.0102K. of the Unified Development Ordinance requires the submission of a Conservation Easement and Natural Resource Protection Plan in the Natural Resource Special Exception review process and the Unified Development Ordinance requires conservation easements to be imposed for natural resource features identified within such Plan to protect such features, all as part of the approval process for a Natural Resource Special Exception; and

WHEREAS, the City Engineering Department, Department of City Development and the Office of the City Attorney having reviewed the proposed Conservation Easement and having recommended approval thereof to the Common Council.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the First Amendment to Conservation Easement submitted by MILLS HOTEL WYOMING, LLC and BOOMTOWN, LLC in the form and content as annexed hereto, be and the same is hereby approved, subject to technical corrections by the City Attorney, City Engineering Department, and Department of City Development; and the Mayor and City Clerk are hereby authorized to execute such First Amendment to Conservation Easement as evidence of the consent to and acceptance of such First Amendment to Conservation Easement by the City of Franklin.

BE IT FURTHER RESOLVED, that the City Clerk be and the same is hereby directed to obtain the recording of the First Amendment to Conservation Easement in the Office of the Register of Deeds for Milwaukee County, Wisconsin.



A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A FIRST  
AMENDMENT TO CONSERVATION EASEMENT  
MILLS HOTEL WYOMING, LLC; BOOMTOWN, LLC  
RESOLUTION NO. 2022-\_\_\_\_\_

Page 2

Introduced at a regular meeting of the Common Council of the City of Franklin this  
\_\_\_\_\_ day of \_\_\_\_\_, 2022.

Passed and adopted at a regular meeting of the Common Council of the City of  
Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

**Exhibit**  
**FIRST AMENDMENT TO CONSERVATION EASEMENT**

*draft 4/25/22*

**(Tax Incremental District No. 6 (Bear Development); Mills Hotel Wyoming, LLC; Boomtown, LLC)**

This First Amendment to Conservation Easement is made by and between the City of Franklin, a municipal corporation of the State of Wisconsin, hereinafter referred to as “Grantee,” and Boomtown, LLC, Property Owner, a Wisconsin Limited Liability Company, hereinafter referred to as “Grantor,” and shall become effective upon the recording of this First Amendment to Conservation Easement, together with the Acceptance following, with the Office of the Register of Deeds for Milwaukee County, pursuant to § 700.40(2)(b) of the Wisconsin Statutes

WITNESSETH

WHEREAS, Grantor is the owner in fee simple of certain real property, located within the City of Franklin, Milwaukee County, Wisconsin, described in Exhibit A attached hereto and hereby made a part hereof (protected property), being the successor and assign of the Property upon its conveyance to Grantor from Mills Hotel Wyoming, LLC; and

WHEREAS, Grantee and Mills Hotel Wyoming, LLC entered into the Conservation Easement to which this First Amendment applies, on February 27, 2019, the date of full execution thereof by Grantee and Mills Hotel Wyoming, LLC (being the grantor thereof and thereunder), the Conservation Easement was recorded in the Office of the Register of Deeds for Milwaukee County on April 19, 2019, as Document No. 10863505; and the Conservation Easement being for the protected property upon properties bearing Tax Key Nos 891-9004-000, 891-9005-000 and 891-9006-000, the legal description of the protected property and the properties upon and to which the terms of this First Amendment and the Conservation Easement apply are set forth on the annexed hereto Exhibit A, Exhibit B, and Exhibit C respectively, and

WHEREAS, Grantor having applied to Grantee for a Natural Resources Special Exception, which application was approved by the City of Franklin Common Council on February 1, 2022, provided in part as a condition thereof that the Grantor provide of the repair/replacement and ongoing maintenance of a pond storm sewer system located on Lots 2 and 3 of Certified Survey Map #9050, from the pond edge to the drainage tile outlet at West Ryan Road, and

WHEREAS, the Grantor covenants provision 2 at the bottom of page 1 of the Conservation Easement provides in part that the Grantor “shall not” “construct or make any improvements, unless, the improvement is specifically and previously approved by the Common Council of the City of Franklin, and

WHEREAS, this First Amendment is entered into to provide for the record the approval of the repair/replacement and ongoing maintenance of a pond drainage tile by the Common Council of the City of Franklin

NOW, THEREFORE, the Grantor, for and in consideration of the granting of a Natural Resources Special Exception by the Grantee City of Franklin Common Council, hereby in conjunction with the Grantee, note for the record that on February 1, 2022, the Common Council of the City of Franklin authorized the approval of improvements to the protected property and the properties upon which the Conservation Easement is recorded and exists, as follows

*A storm system designed for the purpose of regulating normal water elevations of an existing pond, consisting of*

- *295 Linear Feet of 10” HDPE Storm Sewer*
- *2 Storm Sewer End Section*
- *1 Storm Sewer Drain Basin*
- *Rip Rap and Erosion Control measures*
- *Ongoing maintenance and management as necessary to maintain the designed drainage function.*

*The storm sewer system shall be in substantial conformance with the Franklin Pond Outlet Exhibit designed by Pinnacle Engineering Group and dated March 23, 2022, attached as Exhibit D*

*Any site disturbance to wetland, wetland buffer, or wetland setback shall be restored with appropriate plantings*

*It shall be and is the duty of the Grantor, its heirs, successors and assigns, to provide for the ongoing maintenance of the storm sewer, including, but not limited to any repair or replacement and ongoing maintenance of the pond drainage Storm*

*Sewer, the Storm Sewer Drain Basin, and components of the storm sewer system, and this duty, in conjunction with the Conservation Easement and this First Amendment thereto, shall run with the land.*

and that the foregoing, for the record, be and the same is hereby an amendment note to the Grantor covenants provision 2 in the Conservation Easement

All of the terms and provisions of the Conservation Easement remain, and together with this First Amendment shall remain in full force and effect

The Conservation Easement, together, with this First Amendment, may not be amended, except by in writing, by the Grantor and Grantee or their respective personal representatives, heirs, successors, and assigns Notices to the parties shall be personally delivered or mailed by U S Mail registered mail, return receipt requested, as follows

To Grantor  
Boomtown, LLC  
Attn S R. Mills  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142

To Grantee  
City of Franklin  
Office of the City Clerk  
9229 West Loomis Road  
Franklin, Wisconsin 53132

In witness whereof, the Grantor has set its hand [*and seal*] on this date of \_\_\_\_\_, 2022

Boomtown, LLC

By \_\_\_\_\_  
Stephen R Mills  
President

STATE OF WISCONSIN        )  
  ) ss  
KENOSHA COUNTY         )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Stephen R. Mills, as President of Boomtown, LLC, a Wisconsin Limited Liability Company, to me known to be the person who executed the foregoing First Amendment to Conservation Easement and acknowledged the same as the voluntary act and deed of said Boomtown, LLC

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

**Acceptance**

The undersigned does hereby consent to and accepts the First Amendment to Conservation Easement granted and conveyed to it under and pursuant to the foregoing First Amendment to Conservation Easement In consideration of the making of such First Amendment to Conservation Easement, the undersigned agrees that this acceptance shall be binding upon the undersigned and its successors and assigns and that the restrictions imposed upon the protected property may only be released or waived in writing by the Common Council of the City of Franklin, as contemplated by § 236 293 of the Wisconsin Statutes

In witness whereof, the undersigned has executed and delivered this acceptance on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_

CITY OF FRANKLIN

By \_\_\_\_\_  
Stephen R Olson, Mayor

By \_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

STATE OF WISCONSIN        )  
  ) ss  
COUNTY OF MILWAUKEE    )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, the above named Stephen R Olson, Mayor and Sandra L. Wesolowski, City Clerk, of the above named municipal corporation, City of Franklin, to me known to be such Mayor and City Clerk of said municipal corporation, and acknowledged that they executed the foregoing instrument as such officers as the Deed of said municipal corporation by its authority and pursuant to Resolution No \_\_\_\_\_, adopted by its Common Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

This instrument was drafted by the City of Franklin

Approved as to contents

\_\_\_\_\_  
Marion Ecks  
Associate Planner  
Department of City Development

\_\_\_\_\_  
Date

Approved as to form only

\_\_\_\_\_  
Jesse A. Wesolowski  
City Attorney

\_\_\_\_\_  
Date

**MORTGAGE HOLDER CONSENT**

The undersigned, (*[name of mortgagee]*), a *[Wisconsin]* banking corporation ("Mortgagee"), as Mortgagee under that certain Mortgage encumbering the protected property and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin, on \_\_\_\_\_, 20\_\_, as Document No \_\_\_\_\_, hereby consents to the execution of the foregoing First Amendment to Conservation Easement and its addition as an encumbrance title to the Property

IN WITNESS WHEREOF, Mortgagee has caused these presents to be signed by its duly authorized officer[s], and its corporate seal to be hereunto affixed, as of the day and year first above written.

*[Name of Mortgagee]*  
a *[Wisconsin]* Banking Corporation

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

STATE OF WISCONSIN        )  
  )ss  
COUNTY OF MILWAUKEE    )

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_ *[Name]* \_\_\_\_\_, as \_\_\_\_\_ *[Title]* \_\_\_\_\_ of \_\_\_\_\_ *[name of mortgagee]* \_\_\_\_\_, a *[Wisconsin]* banking corporation, and acknowledged that (s)he executed the foregoing instrument on behalf of said corporation, by its authority and for the purposes therein contained

Name \_\_\_\_\_

Notary Public, State of *[Wisconsin]*

My commission expires \_\_\_\_\_

Exhibit A



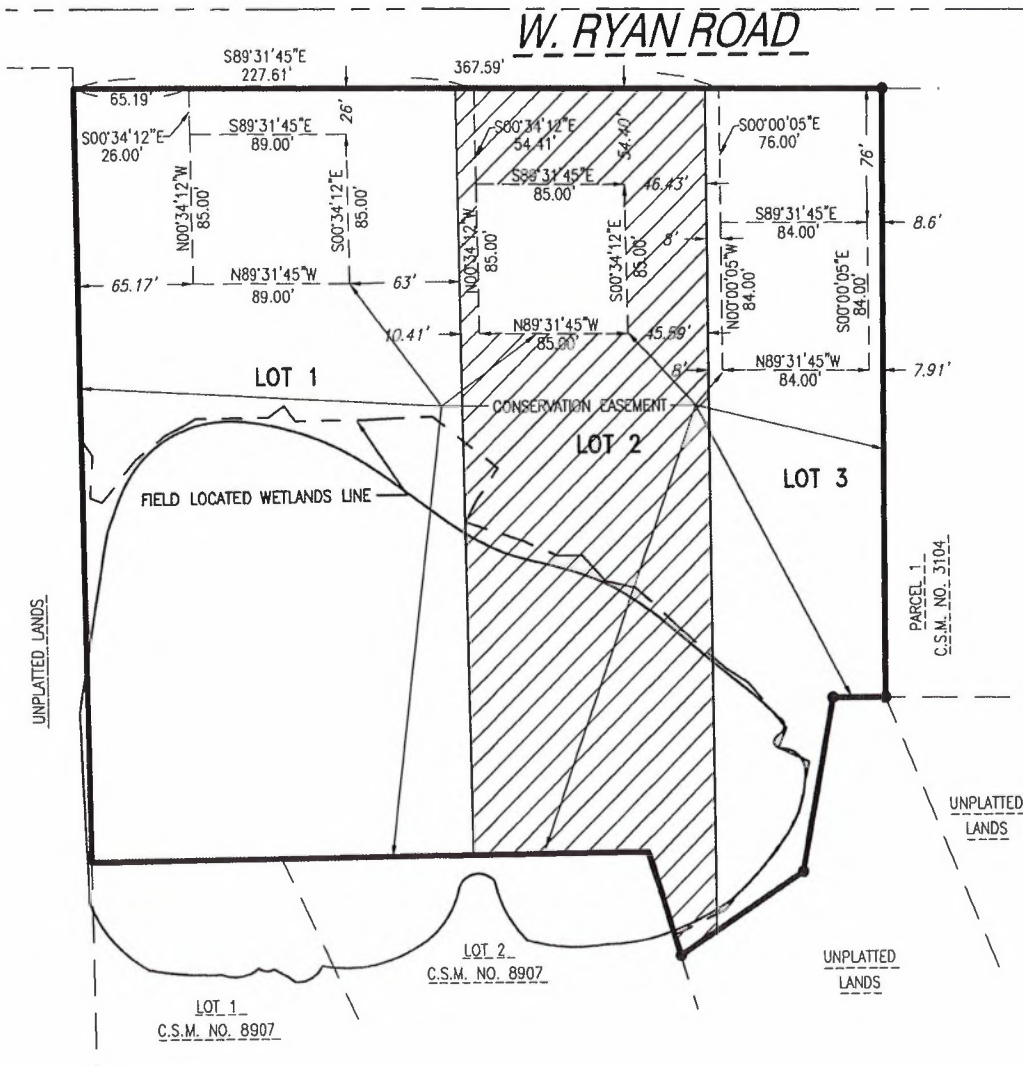
**Exhibit B**



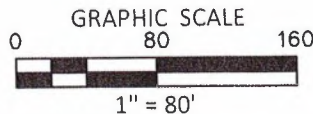
# EXHIBIT B

All of Lot 2 of Certified Survey Map No. 9050, being a redivision of Lot 3 of Certified Survey Map No. 8907 located in the Northeast 1/4 of the Northwest 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, excepting therefrom the following:

Commencing at the Northwest corner of said Lot 1 of Certified Survey Map No. 9050; thence South 89°31'45" East along the South line of West Ryan Road 227.61 feet to a point; thence South 00°34'12" East 54.41 feet to the point of beginning of lands hereinafter described; thence South 89°31'45" East 85.00 feet to a point; thence South 00°34'12" East 85.00 feet to a point; thence North 89°31'45" West 85.00 feet to a point; thence North 00°34'12" West 85.00 feet to the point of beginning.  
Containing 7,225 square feet or 0.1658 acres of land.



Note per the City of Franklin:  
 One driveway shall be allowed within the Conservation Easement for each lot, subject to City of Franklin Department of City Development staff approval. The driveway shall not increase the disturbance of woodland for the entire lot, including the area shown outside the Conservation Easement boundary, beyond 30%. Furthermore, significant trees having a DBH of 25 or greater shall be preserved unless otherwise allowed to be removed by the City of Franklin.



**CHAPUT**  
 LAND SURVEYS

214 W. Florida Street Milwaukee, WI 53204 414-222-0098 www.chaputland.com

Date: January 28, 2019

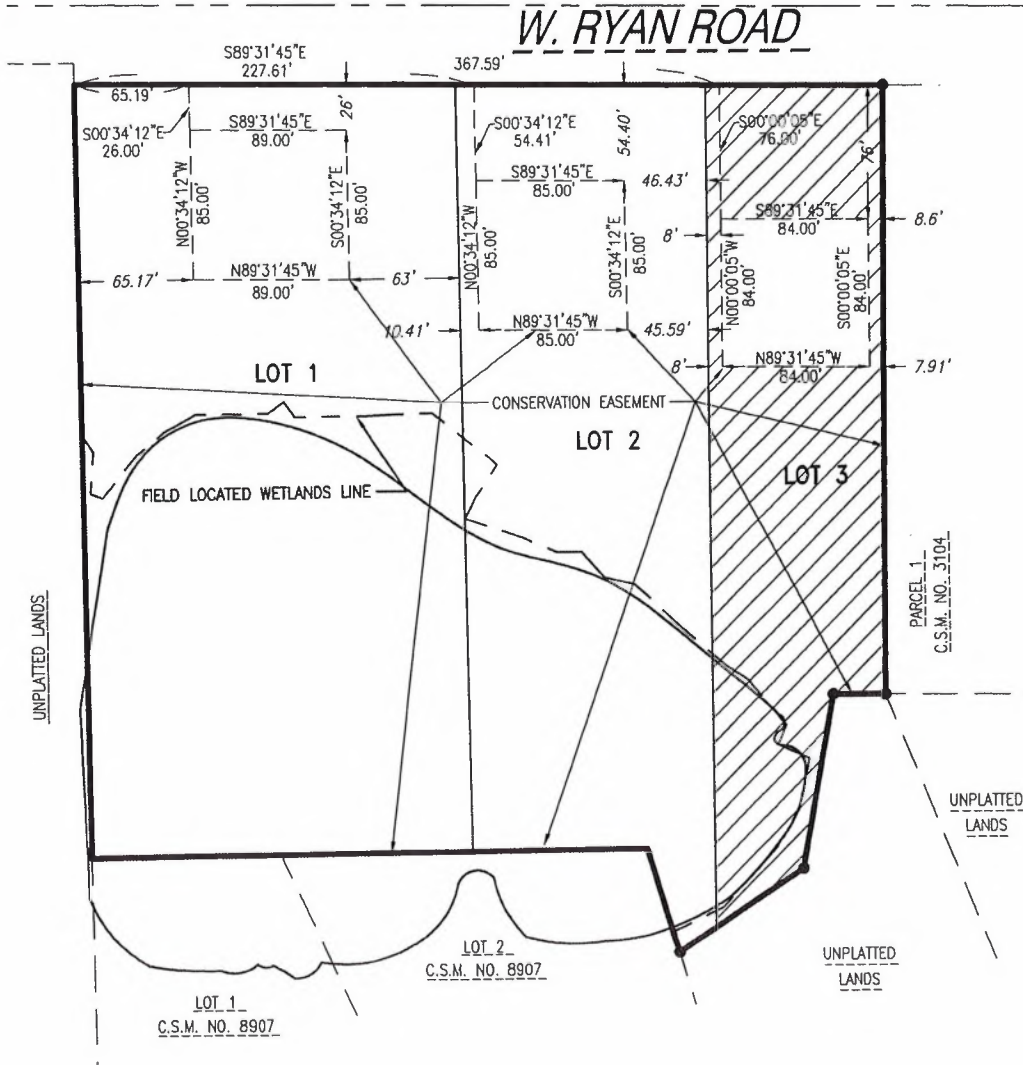
Drawing No. 20190128exconserv2160.03-deb

Exhibit C

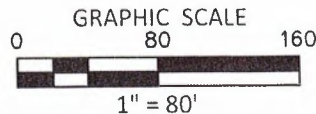
# EXHIBIT C

All of Lot 3 of Certified Survey Map No. 9050, being a revision of Lot 3 of Certified Survey Map No. 8907 located in the Northeast 1/4 of the Northwest 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, excepting therefrom the following:

Commencing at the Northwest corner of said Lot 1 of Certified Survey Map No. 9050; thence South 89°31'45" East along the South line of West Ryan Road 367.59 feet to a point; thence South 00°00'05" East 76.00 feet to the point of beginning of lands hereinafter described; thence South 89°31'45" East 84.00 feet to a point; thence South 00°00'05" East 84.00 feet to a point; thence North 89°31'45" West 84.00 feet to a point; thence North 00°00'05" West 84.00 feet to the point of beginning.  
Containing 7,056 square feet or 0.1619 acres of land.



Note per the City of Franklin:  
One driveway shall be allowed within the Conservation Easement for each lot, subject to City of Franklin Department of City Development staff approval. The driveway shall not increase the disturbance of woodland for the entire lot, including the area shown outside the Conservation Easement boundary, beyond 30%. Furthermore, significant trees having a DBH of 25 or greater shall be preserved unless otherwise allowed to be removed by the City of Franklin.



**CHAPUT**  
LAND SURVEYS

120 W. Florida Street Milwaukee, WI 53204 414.252-6268 www.chaputlandsurveys.com

Date: January 28, 2019

Drawing No. 20190128xconserv2160.03-dcb

Exhibit D

**UTILITY NOTES**

1. SEE ALL SHOWN OR IMPOSED UTILITIES AND DO NOT DISTURB THEM UNLESS NECESSARY FOR THE PROPOSED UTILITY AND LAYOUT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO ANY CONSTRUCTION. PROCEED WITH CAUTION. CONTACT THE UTILITY OWNERS FOR ANY NECESSARY INFORMATION.
2. ALL UTILITY WORK SHALL BE DONE IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION, LATEST EDITION, AND ANY APPLICABLE LOCAL, STATE, AND FEDERAL REGULATIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES PRIOR TO CONSTRUCTION.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES PRIOR TO CONSTRUCTION.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES PRIOR TO CONSTRUCTION.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES PRIOR TO CONSTRUCTION.

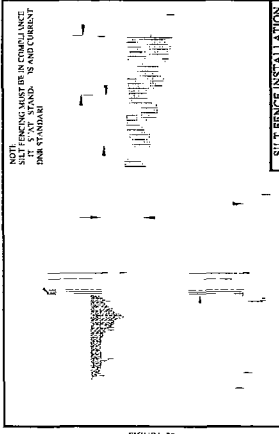


FIGURE 20



FIGURE 30

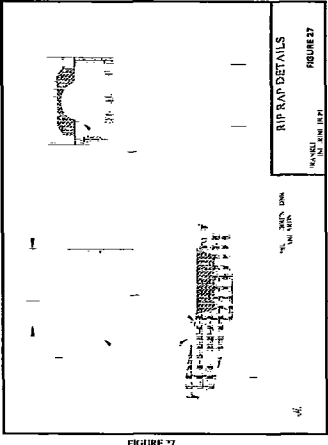


FIGURE 7

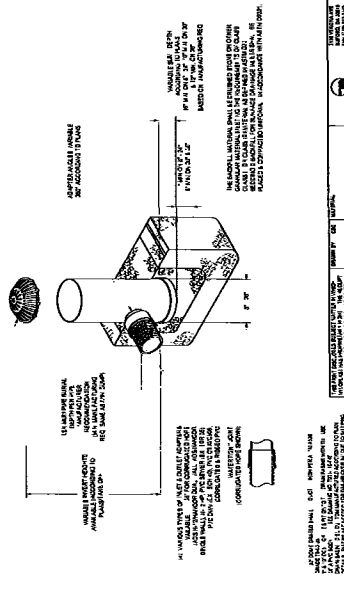


FIGURE 27



FIGURE 23

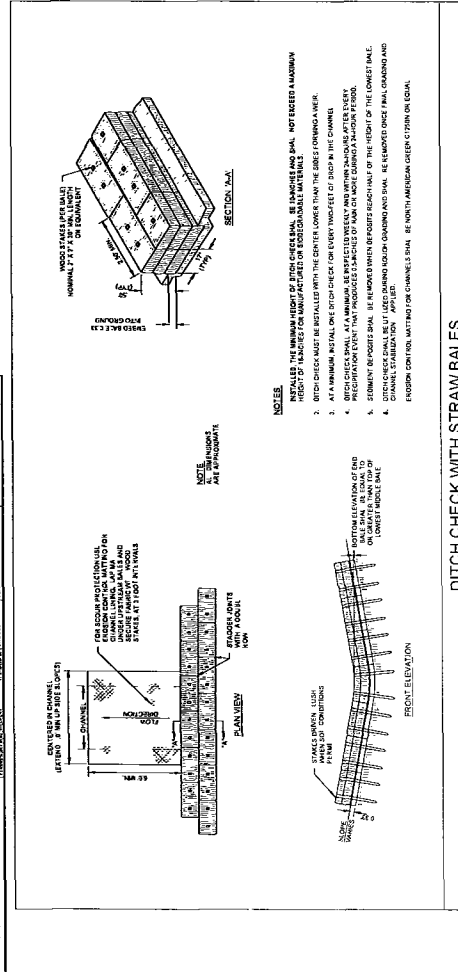
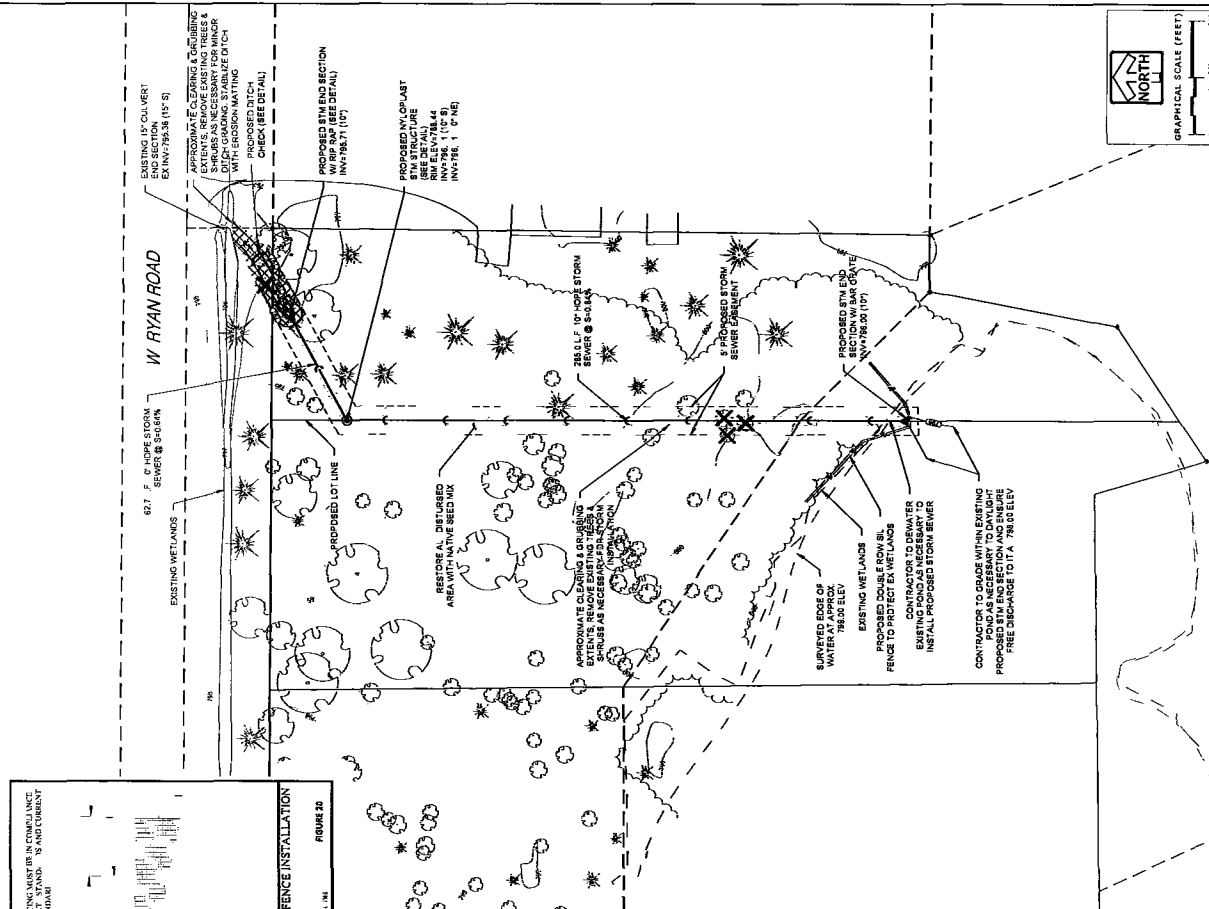


FIGURE 24



3/23/22  
 PLAN | DESIGN | DELIVER  
 PEGJOB# 809 01

20725 WATERTOWN ROAD | SUITE 100 | BROOKFIELD, WI 53186 | WWW.PINNACLE-ENGR.COM |  
 PINNACLE ENGINEERING GROUP  
 EXISTING FRANKLIN POND OUTLET EXHIBIT  
 GRAPHICAL SCALE (FEET)  
 0 1 2 3 4 5 6 7 8 9 10  
 1" = 30'

**BLANK PAGE**

<p style="text-align: center;"><b>APPROVAL</b> <i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b> May 17, 2022</p>
<p style="text-align: center;"><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL UPON THE APPLICATION OF STEPHEN R. MILLS, PRESIDENT, BEAR DEVELOPMENT, LLC APPLICANT, FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b>  <b>G.3.</b></p>

The applicant's Natural Resource Special Exception (NRSE) request is for impacts to Wetland Buffer and Wetland Setback areas of property currently identified as Ryan Meadows Lot 84 (TKN 891-1084-000) and TKN 938-9994-004, for the development of an 18-building business incubator for RISE Commercial District, the future owner of the property. The subject properties were previously approved for a Certified Survey Map (under Resolution 2022-7825) and approval of a Rezoning Application from R-2 Estate Single-Family Residence and C-1 Conservancy districts to M-1 Limited Industrial District (under Ordinance 2022-2494), both of which were approved by Common Council on February 15, 2022. The proposed development concerns Lot 2 of the approved-but-unrecorded CSM.

The request was for a total of

- Wetland Buffer: 14,399 square feet of disturbance (11,558 square feet of temporary disturbance, 3,381 square feet of permanent impact)
- Wetland Setback: 13,416 square feet of disturbance (228 square feet of temporary disturbance, 13,188 square feet of permanent impact)
- The provision of mitigation areas totaling 22,868 square feet of additional wetland buffer, along with 29,346 square feet of additional wetland setback, including provisions for restoration of areas of temporary disturbance and planting of mitigation areas (the minimums per the City of Franklin Unified Development Ordinance (UDO) would be 22,409 square feet of wetland buffer); and
- The provision of Conservation Easements on delineated wetlands, wetland buffers and wetland setbacks, including proposed mitigation areas, sufficient to meet or exceed the requirements of the UDO.

At their meeting on April 27, 2022, the Environmental Commission reviewed this Application and recommended approval with conditions as set forth in the attached City of Franklin Environmental Commission document.

The public hearing for this item was held by the Plan Commission on May 5, 2022. Following a properly noticed public hearing, the Plan Commission moved to recommend approval of the request by Stephen R. Mills, President of Bear Development, LLC, for a Natural Resource Features Special Exception, to allow for temporary and permanent impacts to Wetland Buffer and Wetland Setback, pursuant to the Standards, Findings and Decision recommended by the Plan Commission and Common Council consideration of the Environmental Commission recommendations. The Plan Commission included the Environmental Commission's recommended conditions, and added one further condition:

*that this Special Exception approval is conditioned and contingent upon the adoption of an amendment to the boundaries of Tax Incremental District No 6 and the execution of, and obtaining the recording of the Certified Survey Map for the subject property by the City*

This condition was added because the resulting property (following recording of the CSM) would be split by the TID-6 boundary line, which is not permitted by State Statute. Therefore, City staff will be working with the applicant to resolve the TID boundary location relative to the property line of the future Lot 2, after which development of the subject property can commence.

The Plan Commission's recommendations have been reflected in the Decision section of the attached draft Standards, Findings, and Decision document. The Staff Report to Plan Commission and related materials are attached for further information on the nature of the natural resource impact request.

### **COUNCIL ACTION REQUESTED**

Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of Stephen R. Mills, President, Bear Development, LLC, applicant, for a special exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance.

Department of City Development: HE



*Draft 5/9/22*

Standards, Findings and Decision  
of the City of Franklin Common Council upon the Application of Stephen R. Mills,  
President of Bear Development, LLC, applicant, for a Special Exception  
to Certain Natural Resource Provisions of the City of Franklin  
Unified Development Ordinance

Whereas, Stephen R. Mills, President of Bear Development, LLC, applicant, having filed an application dated December 8, 2021, for a Special Exception pursuant to Section 15-9.0110 of the City of Franklin Unified Development Ordinance pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature; a copy of said application being annexed hereto and incorporated herein as Exhibit A; and

Whereas, the application having been reviewed by the City of Franklin Environmental Commission and the Commission having made its recommendation upon the application, a copy of said recommendation dated April 27, 2022 being annexed hereto and incorporated herein as Exhibit B; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated May 5, 2022 being annexed hereto and incorporated herein as Exhibit C; and

Whereas, the properties which are the subject of the application for a Special Exception are generally located at the end of South Monarch Drive in the Ryan Meadows subdivision, zoned M-1 Limited Industrial District, R-2 Estate Single-Family Residence District and C-1 Conservancy District, and such properties are more particularly described upon Exhibit D annexed hereto and incorporated herein; and

Whereas, Section 15-10.0208B. of the City of Franklin Unified Development Ordinance, as amended by Ordinance No. 2003-1747, pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature, provides in part: “The decision of the Common Council upon any decision under this Section shall be in writing, state the grounds of such determination, be filed in the office of the City Planning Manager and be mailed to the applicant.”

Now, Therefore, the Common Council makes the following findings pursuant to Section 15-10.0208B.2.a., b. and c. of the Unified Development Ordinance upon the application for a Special Exception dated December 8, 2021, by Stephen R. Mills, President of Bear Development, LLC, applicant, pursuant to the City of Franklin Unified Development Ordinance, the proceedings heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *but rather, the request for Special Exception is based on the size, location and orientation of existing wetlands, which are being avoided. Further the land includes a large utility easement that restricts development area significantly. In planning the development of the subject property, the end user has designated the site using specific criteria that is required for the viability of their project. These criteria include significant access to proposed buildings, clear traffic circulation to and through the site and access for fire protection equipment Every effort has been made to design the site while minimizing impacts to the natural resource features.*

2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:

a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives: *The compliance with the wetland buffer/setback in this particular instance is unreasonably burdensome, as a typical wetland buffer does not exist. The area being regulated is open tilled agricultural land right to the wetland edge and in some cases into the wetland The project does not impact streams, waterways, wetlands or navigable waterways. All wetlands on the property have been avoided, or*

b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: *The applicant represents that the denial of the NRSE would be unreasonable and negatively impact the applicants proposed use of the property based on the fact that the impacts are minimal and are addressed with conventional engineering practices. In fact, the wetland resource health will be enhanced by the development of the site.*

3. The Special Exception, including any conditions imposed under this Section will:

a. be consistent with the existing character of the neighborhood: *the proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood The encroachment into the Wetland*

*Buffer and Setback will have no effect on the character of the neighborhood which consists of active farmland, a developing business park and existing residences along 112<sup>th</sup> Street; and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The situation and conditions related to this project are unique. The location and orientation of the existing wetlands and applied buffers and setbacks significantly impact the ability to develop the site. While the subject property includes wetlands, the areas of wetland buffer and setback are not vegetated and do not provide the protective function that typical, vegetated buffers offer. Applying the wetland setback/buffer for a developed site, but not for agricultural purposes, does and not protect the actual wetland resources. The proposed development includes protective measures to protect and enhance the delineated wetlands. The referenced protective measures are absent in the current use. Further, the property is impaired with a large utility easement that affects the ability to develop areas of the site that are not restricted with Wetland Buffers and Setbacks. Other properties seeking the same relief would need to meet similar standards; and*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *The applicant represents that the unique circumstances involved with this request is what the NRSE process was intended for. It will allow a highly valuable commercial development to locate in an established business park without impacting the wetland resource; and*

d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development: *(this finding only applying to an application to improve or enhance a natural resource feature). The existing Wetland Buffer and Setback do not provide any functional value to the wetland resources; in the post-development scenario, the wetland value will be enhanced as direct sedimentation loading from open tillage will be eliminated and all surface runoff and roof drainage will be directed to stormwater basins, allowing suspended solids to settle before captured stormwater is released at a measured rate back to the wetland areas*

The Common Council considered the following factors in making its determinations pursuant to Section 15-10.0208B.2.d. of the Unified Development Ordinance.

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The improvements will not negatively affect surrounding properties. Appropriate setbacks are established to reduce any land use conflicts.*

2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other

properties or uses in the same district: *The exceptional, extraordinary or unusual circumstance is that the property is encumbered with a large utility easement that cannot be developed, and lack of flexibility with regard to the protection standards in UDO §15-4 0101 and the determination requirements of UDO §15-4.0102 will render the property hard to develop.*

3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The future use of the property is permitted in the M-1 Limited Industrial District and is consistent with the City of Franklin 2025 Comprehensive Master Plan. The future improvements will be permanent.*

4. Aesthetics: *The proposed development will have no negative impact to aesthetics; the areas that are proposed to be impacted are currently tilled agricultural fields. In the post-development scenario, the impacted areas will be cohesively designed and enhanced via the proposed Restoration Plan. Further, the Applicant is providing mitigation areas that will consist of permanent open space planted with native vegetation.*

5. Degree of noncompliance with the requirement allowed by the Special Exception: *The applicant is not requesting relief beyond what is essential in order to gain development feasibility, and is reasonable in light of the current condition and use of the areas being impacted.*

6. Proximity to and character of surrounding property: *Proposed impacts will occur within the site and do not extend past the property line. The nearest location to the proposed impacts of this request is located over 510 feet away*

7. Zoning of the area in which property is located and neighboring area: *The subject property is zoned M-1 Limited Industrial and surrounding zoning is a combination of M-2 General Industrial (east), R-2 Estate Single-Family Residence (south and east), and M-1 and R-6 Suburban Single-Family Residence to the north. The area adjacent to R-2 District zoning is proposed to be a landscaped Bufferyard.*

8. Any negative affect upon adjoining property: *Proposed impacts will occur within the site and do not extend past the property line. There will be no negative effects to the surrounding property, and will be buffered with permanent open space.*

9. Natural features of the property: *The applicant proposed to impact Mature Woodlands located onsite, but these are within the operational limits of UDO §15-4 0101. No other natural features are proposed for disturbance*

10. Environmental impacts: *There are no proposed environmental impacts associated with this application.*

11. A recommendation from the Environmental Commission as well as a review and recommendation prepared by an Environmental Commission-selected person knowledgeable in natural systems: *The Environmental Commission recommendation and its reference to the report of April 27, 2022 is incorporated herein.*

12. The practicable alternatives analysis required by Section 15-9.0110C.4. of the Unified Development Ordinance and the overall impact of the entire proposed use or structure, performance standards and analysis with regard to the impacts of the proposal, proposed design solutions for any concerns under the Ordinance, executory actions which would maintain the general intent of the Ordinance in question, and other factors relating to the purpose and intent of the Ordinance section imposing the requirement: *The Plan Commission recommendation and the Environmental Commission recommendation address these factors and are incorporated herein.*

### Decision

*Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby grants a Special Exception for such relief as is described within Exhibit C, upon the conditions:*

- 1) that the natural resource features and mitigation areas upon the properties to be developed be protected by a perpetual conservation easement to be approved by the Common Council prior to any development within the areas for which the Special Exception is granted prior to prior to any land disturbing activities,*
- 2) that the applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted;*
- 3) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for Stephen R. Mills, President of Bear Development, LLC, applicant, and all other applicable provisions of the Unified Development Ordinance;*
- 4) that the applicant shall provide for financial sureties for implementation of the Restoration Plan;*
- 5) that the applicant shall place boulders or other markers to demarcate the wetland setback on the property;*
- 6) that the proposed Mitigation Areas and Restoration Plan shall be incorporated into the Landscape Plan and Site Plan for any proposed development of the subject property;*
- 7) that the applicant shall clarify the location of the proposed fence around the perimeter and verify that it will not present additional impacts to Wetlands, Wetland Buffers or Wetland Setbacks; and*
- 8) that this Special Exception approval is conditioned and contingent upon the adoption of an amendment to the boundaries of Tax Incremental District No. 6 and the execution of, and obtaining the recording of the Certified Survey Map for the subject property by the City.*

*The duration of this grant of Special Exception is permanent.*

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

## City of Franklin Environmental Commission

TO: Common Council  
DATE: April 18, 2022  
RE: Special Exception application review and recommendation  
APPLICATION: S.R. Mills, Bear Development, LLC, Applicant, dated:  
December 8, 2021  
(TKNs 891 1084 000, 938 9994 004)

### I. §15-9.0110 of the Unified Development Ordinance Special Exception to Natural Resource Feature Provisions Application information:

1. Unified Development Ordinance Section(s) from which Special Exception is requested: *The applicant is requesting an exception from §15-4.0101 Natural Resource Protection Standards, and §15-4.0102 Natural Resource Features Determination which require that identified natural resources features be protected from impacts of development.*
2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions): *The Special Exception is being requested to allow for impacts to wetland buffer, consisting of 11,558 SF of temporary grading impact and 3,381 SF of permanent impacts; and to wetland setback, consisting of 228 SF of temporary grading impacts and 13,188 SF of permanent impact related to structural footprint.*
3. Applicant's reason for request: *To allow for improved site design for new commercial project involving 18 individual building pads and orientation of buildings to circulation systems on the site.*
4. Applicant's reason why request appropriate for Special Exception: *The applicant states that "The site was previously operated as a permitted agricultural operation including tillage, planting and harvesting within the areas currently designated as protected wetland buffers and setbacks. The proposed incursions will permit the flexible design of the new commercial development while also permitting the operator to renew, restore and enhance the areas for protection with improved water quality, and reduced sediment load entering the existing wetlands.*

### II. Environmental Commission review of the §15-9.0110C.4.f. Natural Resource Feature impacts to functional values:

1. Diversity of flora including State and/or Federal designated threatened and/or endangered species: *There will be no impacts, as the wetland buffers and setbacks consist of open-tilled agricultural fields.*

2. Storm and flood water storage: *The property is not in a designated floodplain or floodway. Currently any surface water and sediment load are discharged directly into wetland unimpeded.*
3. Hydrologic functions: *The applicant states "the area that is defined as Wetland Buffer and Setback provide a minimal hydrologic function. They currently exist as open tilled agricultural field. While a portion of runoff from this unstabilized area is absorbed, the area does not provide any protection from siltation and sediment load entering the wetland areas."*
4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances: *The applicant states that "water quality protection and sediment loading will be improved in the post-development scenario."*
5. Shoreline protection against erosion: *Not applicable; impacts to shoreline or shoreline buffer are not proposed.*
6. Habitat for aquatic organisms: *Not applicable.*
7. Habitat for wildlife: *The applicant states that "the areas in question do not include wildlife habitat, as they are devoid of natural vegetation."*
8. Human use functional value: *The proposed areas of impacts are currently used for agricultural purposes. The areas in question appear to have been farmed since at least 1937 based on Milwaukee County aerial photography.*
9. Groundwater recharge/discharge protection: *The applicant states that "groundwater and surface water will continue to drain to the peripheral wetlands after being filtered and treated in the engineered stormwater basins."*
10. Aesthetic appeal, recreation, education, and science value: *The subject areas are currently used for agricultural purposes. (1) The proposed impacts in this area would not result in a loss of aesthetic appeal, as in a post developed condition the areas would be converted to maintained landscaped areas. (2) The proposed impacts would not result in a loss of recreational values, as the areas are not being used for recreational purposes. (3) The proposed impacts would not result in a loss of educational value, as the area is being used for agricultural purposes. (4) The proposed impacts would not result in a loss of science value, as the property is being used for agricultural purposes.*
11. State or Federal designated threatened or endangered species or species of special concern: *Owners are not aware of any State or Federal designated*



*threatened or endangered species on our site. The Endangered Resource screening process occurs as part of the WDNR NOI. The adjacent project, Ryan Meadows, was granted full WDNR approvals without any Endangered Resource concerns. Because the limits of grading/impact do not include any wetland areas, natural areas or forested areas, there is no habitat conversion contemplated.*

12. Existence within a Shoreland: *Not applicable.*

13. Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time: *Wetland 2 is designated as a Secondary Environmental Corridor and Isolated Natural Area as defined by SEWRPC; however, the wetland is not proposed for impact by this application.*

### **III. Environmental Commission review of the §15-10.0208B.2.d. factors and recommendations as to findings thereon:**

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *The request for Special Exception is based on the size, location and orientation of existing wetlands, which are being avoided. Further the land includes a large utility easement that restricts development area significantly. In planning the development of the subject property, the end user has designated the site using specific criteria that is required for the viability of their project. These criteria include significant access to proposed buildings, clear traffic circulation to and through the site and access for fire protection equipment. Every effort has been made to design the site while minimizing impacts to the natural resource features.*
2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:
  - a. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives: *The compliance with the wetland buffer/setback in this particular instance is unreasonably burdensome, as a typical wetland buffer does not exist. The area being regulated is open tilled agricultural land right to the wetland edge and in some cases into the wetland. The project does not impact streams, waterways, wetlands or navigable waterways. All wetlands on the property have been avoided.*  
; or
  - b. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives: *The applicant*

*represents that the denial of the NRSE would be unreasonable and negatively impact the applicants proposed use of the property based on the fact that the impacts are minimal and are addressed with conventional engineering practices. In fact, the wetland resource health will be enhanced by the development of the site.*

3. The Special Exception, including any conditions imposed under this Section will:
  - a. be consistent with the existing character of the neighborhood: *The proposed NRSE will have no impact on the existing character of the neighborhood. The encroachment into the Wetland Buffer and Setback will have no effect on the character of the neighborhood which consists of active farmland, a developing business park and existing residences along 112<sup>th</sup> Street; and*
  - b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The situation and conditions related to this project are unique. The location and orientation of the existing wetlands and applied buffers and setbacks significantly impact the ability to develop the site. While the subject property includes wetlands, the areas of wetland buffer and setback are not vegetated and do not provide the protective function that typical, vegetated buffers offer. Applying the wetland setback/buffer for a developed site, but not for agricultural purposes, does and not protect the actual wetland resources. The proposed development includes protective measures to protect and enhance the delineated wetlands. The referenced protective measures are absent in the current use. Further, the property is impaired with a large utility easement that affects the ability to develop areas of the site that are not restricted with Wetland Buffers and Setbacks. Other properties seeking the same relief would need to meet similar standards; and*
  - c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *The applicant represents that the unique circumstances involved with this request is what the NRSE process was intended for. It will allow a highly valuable commercial development to locate in an established business park without impacting the wetland resource; and*
  - d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development (*this finding only applying to an application to improve or enhance a natural resource feature*): *The existing Wetland Buffer and Setback do not provide any functional value to the wetland resources; in the post-development scenario, the wetland value will be enhanced as direct sedimentation loading from open tillage will be eliminated and all surface runoff and roof drainage will be directed to stormwater basins, allowing suspended solids to settle before captured stormwater is released at a measured rate back to the wetland areas.*

**IV. Environmental Commission review of the §15-10.0208B.2.a., b. and c. factors and recommendations as to findings thereon:**

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The improvements will not negatively affect surrounding properties. Appropriate setbacks are established to reduce any land use conflicts;*
2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *The exceptional, extraordinary or unusual circumstance is that the property is encumbered with a large utility easement that cannot be developed, and lack of flexibility with regard to the protection standards in UDO §15-4.0101 and the determination requirements of UDO §15-4.0102 will render the property hard to develop.*
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The future use of the property is permitted in the M-1 Limited Industrial District and is consistent with the City of Franklin 2025 Comprehensive Master Plan. The future improvements will be permanent.*
4. Aesthetics: *The proposed development will have no negative impact to aesthetics; the areas that are proposed to be impacted are currently tilled agricultural fields. In the post-development scenario, the impacted areas will be cohesively designed and enhanced via the proposed Restoration Plan. Further, the Applicant is providing mitigation areas that will consist of permanent open space planted with native vegetation.*
5. Degree of noncompliance with the requirement allowed by the Special Exception: *the applicant is not requesting relief beyond what is essential in order to gain development feasibility, and is reasonable in light of the current condition and use of the areas being impacted.*
6. Proximity to and character of surrounding property: *Proposed impacts will occur within the site and do not extend past the property line. The nearest location to the proposed impacts of this request is located over 510 feet away.*
7. Zoning of the area in which property is located and neighboring area: *The subject property is zoned M-1 Limited Industrial and surrounding zoning is a combination of M-2 General Industrial (east), R-2 Estate Single-Family Residence (south and east), and M-1 and R-6 Suburban Single-Family Residence to the north. The area adjacent to R-2 District zoning is proposed to be a landscaped Bufferyard.*

8. Any negative affect upon adjoining property: *Proposed impacts will occur within the site and do not extend past the property line. There will be no negative effects to the surrounding property, and will be buffered with permanent open space.*
9. Natural features of the property: *The applicant proposed to impact Mature Woodlands located onsite, but these are within the operational limits of UDO §15-4.0101. No other natural features are proposed for disturbance.*
10. Environmental impacts: *There are no proposed environmental impacts associated with this application.*

#### **V. Environmental Commission Recommendation:**

The Environmental Commission has reviewed the subject Application pursuant to §15-10.0208B. of the Unified Development Ordinance and makes the following recommendation:

1. The recommendations set forth in Sections III. and IV. Above are incorporated herein.
2. The Environmental Commission recommends [approval] [denial] of the Application upon the aforesaid recommendations for the reasons set forth therein.
3. The Environmental Commission recommends that should the Common Council approve the Application, that such approval be subject to the following conditions:
  - a) The applicant shall submit conservation easements for areas of preserved natural resources and mitigation areas (§15-4.0103.B.1.d, §15-7.0201.H), including amendments to the existing Conservation Easements for Ryan Meadows Lot 84, for Common Council review and approval, prior to any land disturbing activities.
  - b) The applicant shall obtain all necessary approvals from Federal and State regulatory agencies (§15-10.0208.B.3) prior to any land disturbing activities.
  - c) The applicant shall provide for financial sureties for implementation of restoration, as permitted by §15-4.0103.D.
  - d) The applicant shall place boulders or other markers to demarcate the wetland setback on the property.
  - e) The proposed Mitigation Areas and Restoration Plan shall be incorporated into the proposed Landscape Plan and Site Plan for the development of the subject property.
  - f) The applicant shall clarify the location of the proposed fence and whether it impacts wetland resources.

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the 27<sup>th</sup> day of APRIL, 2022.

Dated this 2 day of May, 2022.

Linda Horn  
Linda Horn, Chairman

Attest:

Jamie Groark  
Jamie Groark, Vice-Chairman



# CITY OF FRANKLIN



## REPORT TO THE PLAN COMMISSION

Meeting of May 5, 2022

### Natural Resource Special Exception

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**RECOMMENDATION:** Department of City Development Staff recommends a motion with conditions of approval provided in the draft Standards, Findings and Decision attached.

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<b>Project Name:</b>	Bear Development, LLC
<b>Project Location:</b>	South Monarch Drive (TKN 891-1084-000, 938-9994-004)
<b>Property Owner:</b>	TKN 891-1084-000 – Loomis & Ryan, Inc. TKN 938-9994-004 – Gurjit Singh, Gurmit Kaur
<b>Applicant:</b>	S.R. Mills, Bear Development, LLC
<b>Agent:</b>	Daniel Szczap
<b>Current Zoning:</b>	M-1 Limited Industrial, R-2 Estate Single-Family Residence
<b>2025 Comprehensive Plan:</b>	Business Park and Areas of Natural Resource Features
<b>Applicant's Action Requested:</b>	Recommendation to the Plan Commission for approval of the Natural Resource Special Exception Application
<b>Planner:</b>	Heath Eddy, AICP, Planning Manager

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On December 8, 2022, the applicant submitted an application requesting approval of a Natural Resource Special Exception to allow for grading and construction related to the development of a multi-building business incubator facility to be run by a company called RISE. The project design required impacts to wetland buffers and wetland setbacks. The application was deemed complete for review March 1, 2022. Staff prepared an initial set of review comments dated March 11, 2022, and followed up with additional comments after a resubmission of materials on March 30, 2022. Both sets of comments are attached as part of this application review package.

Pursuant to Section 15-10.0208 of the Unified Development Ordinance (UDO), all requests for a Natural Resource Special Exception shall be provided to the Environmental Commission for its review and recommendation.

#### **Project Description:**

This site is located along the east side of South Monarch Drive in the Loomis Business Park portion of Ryan Meadows subdivision. The subject property is a combination of the prior Lot 84 of Ryan Meadows and a portion of the adjacent property currently owned by the Singhs. A prior Certified Survey Map application was approved for recording, and the applicant is working with City staff to address any remaining conditions prior to recording, which is why this review encompasses two lots and two Tax Key Numbers. The Singh property is currently zoned R-2 Estate Single-Family Residence but the portion to be combined with Lot 84 to form the development site for this project was approved for rezoning to M-1 Limited Industrial by Common Council.

According to the attached Site Plan the applicant, on behalf of RISE, proposes 18 buildings on the 23.08-acre property to accommodate up to 177 individual rental/lease spaces for businesses to use for storage, materials, equipment, and other operations within the complex. This proposal is designed as a “business incubator” to provide a legal location to operate a business that is too large to operate out of a residence but not large enough to have its own property and development.

Site Intensity calculations have been prepared (§15-3.0500), and the proposed development meets specifications regarding “site intensity” or balance of developed land to open space. The proposed development will be served by municipal water and public sanitary sewer.

The property is currently vacant but was very recently used for agricultural crop production. A central tenet of the applicant’s argument in support of the request is linked primarily to this prior and continuing use of property.

A Natural Resource Protection Plan (NRPP) has been completed for the development as part of these approvals. The property contains approximately 6.48 acres of wetlands in the central/north section adjacent to South Monarch Drive, and the larger portion part of a multi-property complex along the southern property line. None of the delineated wetland areas are proposed for disturbance with this application. A small tributary to Ryan Creek runs through the extreme southern portion of the application property, with a larger segment running through Lot 3 of the approved CSM (which is retained in ownership by the Singhs). For simplicity of application the Shoreland Buffer is illustrated on the NRPP, though it should be noted that the stream is intermittent and therefore unlikely to be considered navigable. The property also features a little more than one acre of mature woodland of which about 0.163 acres are proposed for disturbance which is well within the limits of the Unified Development Ordinance (contained in Table 15-4.0100, below).



Table 15-4.0100						
Natural Resource Protection Standards						
Natural Resource Feature	Zoning District Type					
	Agricultural (g)		Residential (a), (g)		Nonresidential (b), (g)	
	Protection Standard	Mitigation Permitted	Protection Standard	Mitigation Permitted	Protection Standard	Mitigation Permitted
	Steep Slopes: 10-19% 20-30% +30%	0% 65% (d) 90% (d)	N/A No No	60% (d) 75% (d) 85% (d)	No No No	40% (d) 70% (d) 80% (d)
Woodlands & Forests: Mature Young	70% (d)(e) 50% (d)(e)	No No	70% (d)(e) 50% (e)	No Yes	70% (e) 50% (e)	Yes Yes
Lakes & Ponds	100% (d)	No	100%	Yes	100%	Yes
Streams	100% (c)(d)	No	100% (c)(d)	No	100% (c)(d)	No
Shore Buffers	100% (c)(d)	No	100% (c)(d)	No(f)	100% (c)(d)	No(f)
Flood- plains/ Flood- ways	100% (c)(d)	No	100% (c)(d)	No	100%(c)	Yes
Wetlands & Shoreland Wetlands	100% (c)(d)	No	100% (c)(d)	No	100% (c)	Yes
Wetland Buffers	100% (c)(d)	No	100% (c)(d)	No	100% (c)	Yes

### **NATURAL RESOURCE SPECIAL EXCEPTION REQUEST**

The applicant has provided the attached Natural Resource Special Exception Application, Questionnaire, Project Description, and associated information.

The requested Natural Resource Special Exception is for property bearing Tax Key No. 891 1084 000 and 938 9994 004. The NRSE request is to allow for impacts to wetland buffer and setback as follows:

- Wetland Buffer (1.88 acres total protection area):
  - 11,558 square feet (0.265 acres) of temporary grading impact (14.1% of total Wetland Buffer area) and,
  - 3,381 square feet (0.08 acres) of permanent impacts (4.1% of total Wetland Buffer area)
- Wetland Setback (1.40 acres total protection area):
  - 228 square feet (0.005 acres) of temporary grading impacts (0.4% of total Wetland Setback)
  - 13,188 square feet (0.30 acres) of permanent structure impacts (21.6% of total Wetland Setback)

Conservation easements must be submitted for all natural resources to be protected. Staff notes that there is an existing Conservation Easement recorded for the northern wetland feature and surrounding protection area which will need to be amended to account for the changes in the configuration both to the impact area as well as the proposed mitigation area. Also, staff normally



recommends that wetland setbacks shall have conservation signage or boulders placed to delineate the area(s) as protected and unbuildable for the long-term use of the property.

Restoration is proposed for areas of disturbance in accordance with §15-4.0102I for appropriate plantings; staff recommends that Plan Commission require financial sureties for restoration (§15-4.0103.D.).

### **Mitigation Plan**

The applicant has proposed a significant mitigation area to accommodate the requirements of the Unified Development Ordinance. The proposed planting program conceived by the applicant appears to meet the requirements for mitigation planting and stabilization. These measures will be required to be included in the Landscape Plan for implementation of the site plan approval, which is being reviewed under separate cover.

### **Natural Resource Protection Plan**

A few technical corrections to the Natural Resource Protection Plan were required by the initial staff comments dated March 11, 2022, and were met with the subsequent submittal. No additional changes are anticipated.

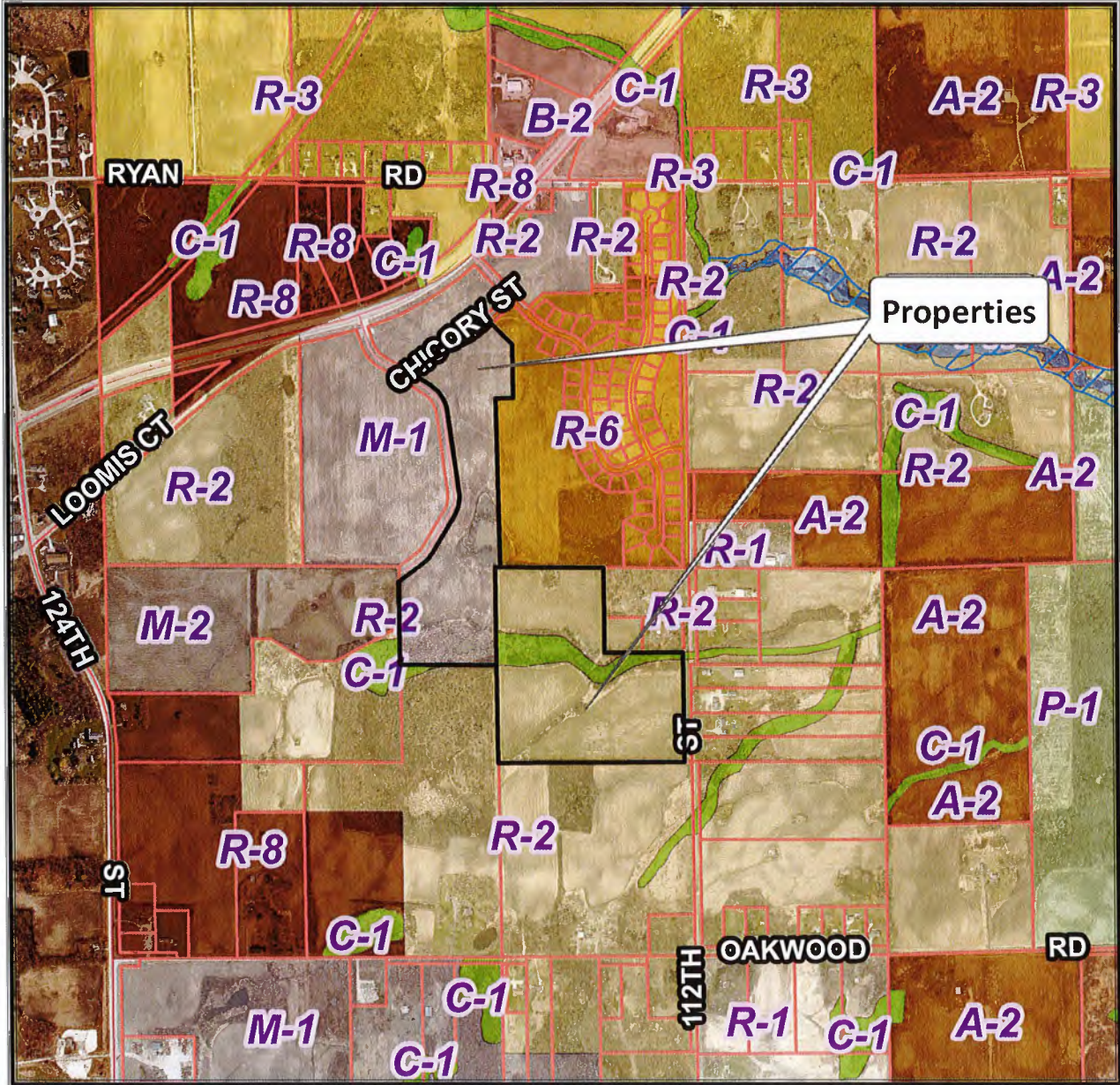
### **CONCLUSION**

Staff finds that the NRSE application is reasonable, based on the underlying assumption that (1) the development site is impacted by the overhead power lines and (2) the required protection areas are already impacted as a result of continuous farmland operation. Staff recommendations for proposed conditions of approval are incorporated into the draft Environmental Commission Special Exception Review and Recommendation as recommended conditions of approval.

Per Section 15-10.0208 of the Unified Development Ordinance (UDO), the applicant shall have the burden of proof to present evidence sufficient to support a Natural Resource Special Exception (NRSE) request. The applicant has presented evidence for the request by answering the questions and addressing the statements that are part of the Natural Resource Special Exception (NRSE) application. The applicant's responses to the application's questions and statements are attached for your review.

*Also attached is a document titled, "City of Franklin Environmental Commission" that the Environmental Commission must complete and forward to the Common Council. The questions and statements on this document correspond with the Natural Resource Special Exception (NRSE) application questions and statements that the applicant has answered and addressed.*

TKNs: 891 1084 000 & 938 9994 004



Planning Department  
(414) 425-4024

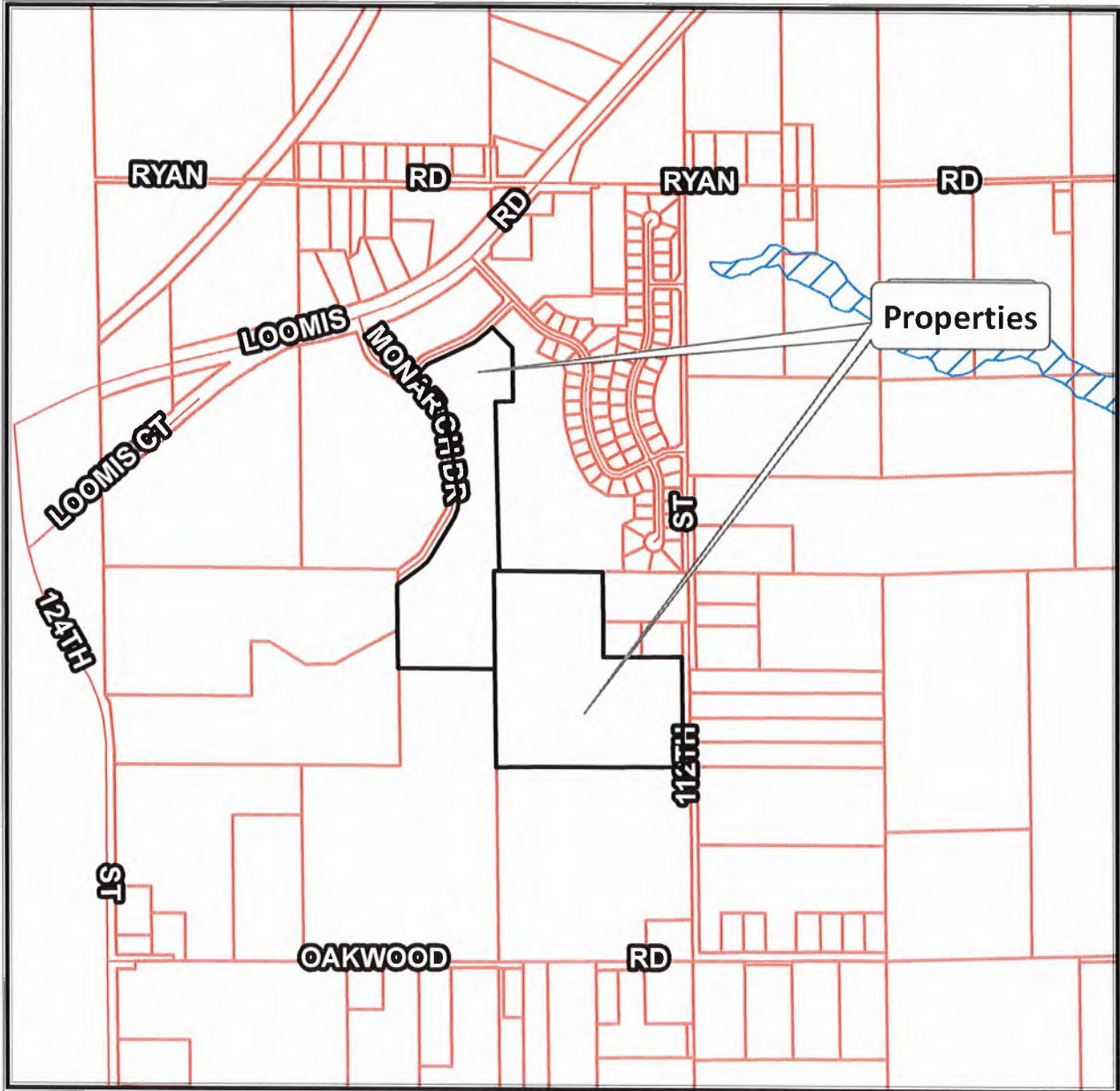


2021 Aerial Photo

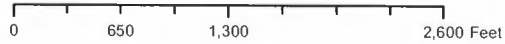
*This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.*



TKNs: 891 1084 000 & 938 9994 004



Planning Department  
(414) 425-4024



2021 Aerial Photo

*This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.*

## MEMORANDUM

Date: March 11, 2022

To: Daniel Szczap, Bear Development, LLC

From: Heath Eddy, AICP, Planning Manager  
City of Franklin, Department of City Development

RE: Review comments for Natural Resource Features Special Exception (NRSE) application, Lot 2 of CSM approved February 15, 2022, currently bearing TKNs 891 1084 000 and 938 9994 004.

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Below are review comments and recommendations for the above-referenced applications submitted by S.R. Mills, Bear Development LLC, o.b.o. Loomis & Ryan Inc. and Gurjit Singh, and deemed complete for review on March 2, 2022. NOTE: this is not to say that the current documentation is complete, but that staff is required to provide review comments for the documentation as it has been provided to-date.

### Department of City Development comments

1. **Application Form.** The property records of Milwaukee County indicate that TKN 938-9994-004 is co-owned by Gurmit Kaur. **Please provide a Revised Application Form identifying all applicants and property owners.** Also, for the record, we require that all property owners acknowledge consent for the submission of the application. **Please provide the required Consent from all property owners.**
2. **Legal Description.** The application form includes that the legal description for the property in question shall be provided as a Word document. **Please provide such documentation, as it was not included with the application submission and WE CANNOT PROCEED WITH THE PUBLIC NOTICE WITHOUT IT.**
3. **NRPP Revised.** Please provide a revised paper and electronic copy with the following revisions:
  - a. **The original version as submitted was already revised with the Shore Buffer added, but that was not provided in paper format** (only electronic).
  - b. There is no inclusion of EXISTING Conservation Easements as they are currently applied to either this property or the immediately adjacent properties. **Please show ALL recorded Conservation Easements on or immediately adjacent to the subject property on the NRPP.**
  - c. **The NRPP must enumerate the lot areas for all 3 lots of the approved CSM.**
  - d. **The NRPP shall provide the total level of impacts to wetland buffers and setbacks (the required protection areas and the proposed impact on such areas).** We want an NRPP that shows the “final result” that can be used to verify approved grading areas later on.
  - e. **The boundary of the Secondary Environmental Corridor shall be depicted on the NRPP.**
4. **Conservation Easement Impacts.** The submitted documentation does not specify the total impacts to the Conservation Easement previously recorded for this property. As the City is the easement holder, **these areas must be identified specifically by type (see 5.a. below for more information). Please include with the revised Narrative under 6. below.**
5. **Schematic Concept Plan.** Please note the following:



- a. The proposed design identifies areas of impact to the buffers and setbacks, but does not specify what are the “temporary” (grading only) impacts or “permanent” impacts numerically. We have sum totals; we need this broken down by type as this forms the basis of the public notice. **WE CANNOT PROCEED WITH A PUBLIC NOTICE ABSENT THIS INFORMATION.** The plan also does not include the area specific for setback grading, which should be included as a “temporary impact” because **it is required to be restored per the City of Franklin Unified Development Ordinance.**
  - b. The design indicates areas of proposed mitigation, which are essentially extensions of buffers and setbacks. However, **there is no specific mitigation plan or proposal that included the required seed mixes and soils to remediate or enhance such areas as part of the plan. This is a requirement for this application submission.**
6. The Following Comments are with respect to the document titled “Natural Resource Special Exception Question and Answer Form”. **Please provide a revised version of this Narrative for the public process to proceed.**
- a. Page 1, under “Abutting Property Owners” the list is missing Amy Serafin, 9951 S. 112<sup>th</sup> Street, Franklin WI 53132.
  - b. Page 2, subpart C.2. – The statement identifying the request, location and dimensions is lacking any such references. It simply provides a series of inputs, unnecessary meeting references, and irrelevant financial justifications for this request. THIS is a special exception that is modeled on the Variance criteria. We need to identify the specific request and locations of same.
  - c. Page 3, subpart C.2. top paragraph belongs under the “justification” section in C.3. (see below)
  - d. Page 3, subpart C.3.
    - i. The first 3 paragraphs (down to “Please note...”) belong under C.2.
    - ii. Paragraph starting “If the UDO” – this is a financial justification that is not suitable to a Variance request. Such requests are not based on a financial hardship/rationale. Therefore it is not a justification.
    - iii. Last bullet point doesn’t specifically indicate “WHAT” or “HOW” the post-development scenario benefits the delineated wetlands. What is the justification to develop and encroach on areas designated under the requirements of UDO Division 15-4.0100?
  - e. Page 4, subpart C.4. fourth paragraph, as noted above, financial or “tax increment” justifications are not appropriate for this type of application. The appropriate justification is with respect to the proposed development and the Natural Resource Features Protections, and how the request is intended to meet the “intent” of such protections, and how the site has such circumstances as would require a Special Exception. Also note as follows:
    - i. Under a.i., the enclosed site plan is not an “engineered” plan, but a schematic plan.
  - f. Page 5, subpart C.4. continued:
    - i. Under a.iii., the property is indicated as “narrow shape” but this was a subdivision approved three years ago, so how is the existing lot configuration (even accounted for the addition of property under the approved CSM) NOT a self-created hardship? The

second paragraph more suitably identifies the ATC powerline easement as a difficult design limitation.

- ii. There is a phantom subpart C.4.c. which results in all further sections being mis-numbered.
  - iii. The c.i. response identifies “access on four sides for traffic circulation and fire protection” but the schematic plan doesn’t show full access around all buildings on the site. In fact, the schematic plan shows that 10 of the 18 buildings lack “full” access around all four sides. Four of the 5 buildings that are located in wetland setbacks/buffers also lack “full” access.
  - iv. The c.ii. response states “restraints related to property size, shape, access requirements, and existing easements” when 3 of these are either not demonstrated by the schematic design (only the easements are demonstrated) or are self-created by prior subdivision design.
  - v. The c.iv. response is a non-response. It provides a justification for locating at this site but doesn’t indicate WHERE other alternative sites were.
- g. Page 6, subpart C.4. continued:
- i. The d. and e. responses refer to a “sub.2” which is really “sub.b.” please revise.
  - ii. The whole point of subpart C.4.d (actually C.4.c.) is to compare alternatives. As you have provided no alternatives and not evaluated whether an alternative design would yield better results, there is no reason to support this request. This also applies to the first paragraph under your C.4.e.
- h. Page 7, subpart C.4. continued:
- i. The responses under f. (actually C.4.e.) are the best justification for this request. They should form the basis of the entire submission, rather than ending up on Page 7.
  - ii. The response under g.iii. is incorrect. Wetland buffering of any kind serves as a hydrologic filter for surface flow into a wetland. Actually, just about any natural, permeable surface feature provides a hydrologic function.
- i. Page 8, subpart C.4. continued:
- i. The response under g.viii. is incorrect. The proposed areas of impact are elsewhere described as tilled land, which is a human use. The proposed areas of PROTECTION are not supposed to be for human use or human functional value.
  - ii. The response under g.x. would be more correct to state what the impact areas are currently used for, rather than getting into an argument about whether or not the areas has aesthetic, recreational, educational or science value. To a certain extent, the existing use as tilled field provides some educational value, or as a protection area would represent an educational or science value. But the argument here is whether or not the proposed impacts would result in a diminution of that value that would be balanced by the changes as proposed.
  - iii. The response under g.xi. requires verification. Being “unaware” is an insufficient response to a criterion that requires specificity.

- j. Page 9, Section 2.
  - i. The response under subpart a. is missing justification. As currently written it amounts to “the City is unfair in requiring a buffer and a setback to a wetland” even though the City has been applying said buffers/setbacks for 24 years. A reviewer would need to overlook the configuration of the property as provided, which was initially a single vertical lot with a wetland in the middle, which would have prevented significant development due largely to configuration. The response to this section SHOULD include that the proposed user of this site has specific design requirements, or other kinds of justifications for access or fire protection, that necessitate some kind of intrusion into these City-mandated protection areas.
- k. Page 10, Section 2.b.ii. – the last statement is irrelevant to a Special Exception that is a detailed variance provision. Financial impacts are not a suitable rationale.
- l. Page 10, Section 2.c.
  - i. Under c.i., the response is overly broad. The neighborhood consists of tilled farmland, a developing residential neighborhood and adjacent roadside residential lots. How does the SPECIAL EXCEPTION as approved contribute to the existing character of this neighborhood?
  - ii. Under c.ii. the response is nonsensical. The phrase “does not included typical wetland buffers” requires clarity, since the City has imposed wetland buffers on new development since 1998. The third sentence suggests that wetland setbacks/buffers “serve no ecological purpose” but the response doesn’t elaborate on HOW that is the case. The purpose of these buffers is to ENHANCE protection of these features and ensure that standard development doesn’t impede the future vitality of the wetland features. The last sentence is the only part of this response that is entirely correct and germane to the standard.
  - iii. Under c.iv. the applicant suggests and agrees to the Conservation Easement requirement, but doesn’t indicate anywhere in the submitted statements that an amendment to an EXISTING Conservation Easement (which is held by the City) is also required as part of this process. THAT should be a required addition to this overall request.
- m. Page 11, Section 2.d.
  - i. Under d.ii. the response second sentence is not relevant and is not an exceptional, extraordinary or unusual circumstance or condition.
  - ii. Under d.iv. the response is not sufficient. It indicates no “negative impact” to aesthetics but doesn’t specify what exactly would be done to maintain or improve aesthetics of the proposal overall. This section of the “Factors” includes consideration of the overall aspects of the development; therefor, it is permissible to include discussion of the overall design of the proposed development and how that would be used to counter any proposed reductions to required protections.
- n. Page 12, Section 2.d. continued

- i. Under d.vii., this response is not what is asked for. This should be a straight up zoning response. Adding the Comprehensive Plan is irrelevant.
- ii. Under d.viii., the response suggests the “proposed use is low impact” but doesn’t specify how that is, or what it is based on, or what this is referring to. Low impact for what? For whom? On what features? This requires clarity.

Inspection Services Department comments

7. Inspection Services has no comments on the proposal at this time.

Fire Department comments

8. FD has no specific comments on the NRSE. More comments will follow plan submission.



## MEMORANDUM

Date: March 30, 2022

To: Daniel Szczap, Bear Development, LLC

From: Heath Eddy, AICP, Planning Manager  
City of Franklin, Department of City Development

RE: **REVISED** Review comments for Natural Resource Features Special Exception (NRSE) application,  
Lot 2 of CSM approved February 15, 2022, currently bearing TKNs 891 1084 000 and 938 9994 004.

---

Below are review comments and recommendations for the above-referenced applications submitted by S.R. Mills, Bear Development LLC, o.b.o. Loomis & Ryan Inc. and Gurjit Singh, and deemed complete for review on March 2, 2022. NOTE: this is not to say that the current documentation is complete, but that staff is required to provide review comments for the documentation as it has been provided to-date.

### Department of City Development comments

1. **Application Form.** The property records of Milwaukee County indicate that TKN 938-9994-004 is co-owned by Gurmit Kaur. **Please provide a Revised Application Form identifying all applicants and property owners.** Also, for the record, we require that all property owners acknowledge consent for the submission of the application. **Please provide the required Consent from all property owners.**
2. **Legal Description.** Submitted. Prior comment has been addressed.
3. **NRPP Revised.** All prior comments have been addressed.
4. **Conservation Easement Impacts.** The recorded Conservation Easements will need to be amended via approval process with Common Council, which could occur concurrent with the NRSE or separately. A revised legal description and exhibit will be needed for those prior recorded Easements, as well as for the additional Conservation Easements. Staff can stipulate to those requirements as a Condition of Approval.
5. **Schematic Concept Plan.** All prior comments have been addressed.
6. The Following Comments are with respect to the document titled “Natural Resource Special Exception Question and Answer Form”. **Note: all comments below are what remain or are unaddressed and can be discussed during the public review process. No additional revisions are necessary at this point.**
  - a. Page 5, subpart C.4. continued:
    - i. The c.ii. response states “restraints related to property size, shape, access requirements, and existing easements” when 3 of these are either not demonstrated by the schematic design (only the easements are demonstrated) or are self-created by prior subdivision design.
  - b. Page 8, subpart C.4. continued:

- i. The response under g.viii. is incorrect. The proposed areas of impact are elsewhere described as tilled land, which is a human use. The proposed areas of PROTECTION are not supposed to be for human use or human functional value.

Inspection Services Department comments

7. Inspection Services has no comments on the proposal at this time.

Fire Department comments

8. FD has no specific comments on the NRSE. More comments will follow plan submission.



**April 21, 2022**

Ms. Marion Ecks  
City of Franklin  
9229 W. Loomis Road  
Franklin, WI 53132

**Re: Loomis & Ryan Inc./Singh – Natural Resource Special Exception**

Dear Ms. Ecks:

Bear Development is pleased to submit this letter and the revised submittal materials as formal application for a Natural Resource Special Exception. Our original submittal was made in December 2021. We appreciate the Staff's review and comments and understand that the materials, as revised and re-submitted, have been deemed complete for review. We look forward to discussing this matter with the City of Franklin Plan Commission on March, 2022.

Bear Development is acting on behalf and with authorization of the owners of record, Loomis & Ryan, Inc. and Gurjit Singh

**Property Information**

Loomis & Ryan Inc. and Gurjit Singh are the owners of 23.90 acres of vacant land in the City of Franklin. The portion owned by Loomis & Ryan, Inc. is part of Lot 84 of Ryan Meadows Subdivision and is approximately 16 acres. Loomis & Ryan, Inc. is the contract purchaser for an additional 8 acres, currently owned by Singh. The intention of the Applicant is to combine the subject properties via Certified Survey Map and develop the site for commercial purposes.

The property in question has recently been granted Certified Survey Map and Zoning Amendment approval from the City of Franklin Common Council. The property is currently zoned M-1 Limited Industrial. The property is planned for light industrial in conformance with the City of Franklin Comprehensive Plan designation; Business Park. The proposed end user, RISE Commercial, has submitted detailed engineering plans scheduled for Site Plan Review before the Plan Commission on May 5, 2022.

**Specific Request**

Bear Development, LLC is requesting approval of a Natural Resource Special Exception to encroach within wetland setbacks and buffers. No wetland impact is proposed.

To date, Bear Development has submitted the following items for City Staff review and comment:

- Natural Resource Special Exception Application and Fee
- NRSE Questions & Answer Document
- Plat of Survey
- Legal Description
- Natural Resource Protection Plan
- Site Plan- RISE Commercial
- On-Mitigation/Restoration Plan

We appreciate your time and consideration of this matter and respectfully request approval of the Natural Resource Exception to place buildings within the wetland setback and buffer.

Should you have any questions regarding this request, please do not hesitate to contact me. I can be reached at (262) 842-0556 or by email, [dan@beardevelopment.com](mailto:dan@beardevelopment.com)

Thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Daniel Szczap". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel Szczap  
Bear Development, LLC

**Natural Resource Special Exception Question and Answer Form**

**Section 1: Per Section 15-9.0110, Applications for a Special Exception to stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback provisions, and for improvements or enhancements to a natural resource feature of this Ordinance shall include the following:**

- A. Name and address of the applicant and all abutting and opposite property owners of records.  
*(Please attach supplemental documents as necessary)*

Applicant: **Bear Development, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142**

Abutting Property Owners:

North: **Loomis & Ryan, Inc.  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142**

**City of Franklin  
9229 W. Loomis Road  
Franklin, WI 53132**

South: **Ruth Grandlich  
11722 W. Oakwood Road  
Franklin, WI 53132**

**Gurjit Singh  
15308 67<sup>th</sup> Street  
Kenosha, WI 53142**

East: **Michael & Katherine Delamont  
9917 S. 112<sup>th</sup> Street  
Franklin, WI 53132**

**Amy Serafin  
9951 S. 112<sup>th</sup> Street  
Franklin, WI 53132**

West: **Copart of Connecticut, Inc.  
14185 Dallas Parkway, Ste 300  
Dallas, TX 75454**

**Strauss Investments, LLC  
5129 W. Franklin Drive  
Franklin, WI 53132**

- B. Plat of survey. Plat of survey prepared by a registered land surveyor showing all of the information required under §15-9.0102 of this Ordinance for a Zoning Compliance Permit.

**Please see attached exhibits.**

- C. Questions to be answered by the applicant. Items on the application to be provided in writing by the applicant shall include the following:

1. Indication of the section(s) of the UDO for which a Special Exception is requested.

**15-4.0102 (H) Wetland Buffer**

**15-4.0102 (I) Wetland Setback**

2. Statement regarding the Special Exception requested, giving distances and dimensions where appropriate.

**As part of a comprehensive site design for new commercial project, proposed mass grading, storm sewer utilities, pavement and building footprints encroach within the wetland buffer and setback. Specifically, the applicant is requesting Natural Resource Exceptions in the following areas:**

**Area 1**

Area 1 is located in the southwest quadrant of the subject property.

***Wetland Setback***

The total area of proposed impact to the Wetland Setback is 5434 square feet. The impact is requested to allow a portion of Building 52, pavement and a pond outlet structure to encroach into the Wetland Setback. The permanent impact is 5326 square feet.

***Wetland Buffer***

The total area of proposed impact to Wetland Buffer is 6818 square feet. The impact is requested to allow site grading and the installation of pavement within the Wetland Buffer. The permanent impact is 1302 square feet.

**Area 2**

Area 2 is located in the northwest quadrant of the site.

***Wetland Setback***

The total area of proposed impact to the Wetland Setback is 120 square feet to accommodate the installation of a pond outlet pipe.

**Area 3**

Area 3 is located on the north line of the property, directly south of Ryan Meadows Outlot 2.

***Wetland Setback***

The total area of proposed impact is 5758 square feet. The impact is requested to allow the placement of Buildings 72 and 83 and the installation of pavement. The impact is permanent.

***Wetland Buffer***

The total area of proposed impact in the Wetland Buffer area is 7063 square feet. The special exception is being requested to accommodate the placement of Building 73, site grading and the installation of pavement. The permanent impact is measured at 2079 square feet.

**Area 4**

Area 4 is located in the southwest quadrant of the property.

***Wetland Setback***

The total area of proposed encroachment within the Wetland Setback is 2104 square feet (0.048 acres) to accommodate the placement of Buildings 61 and 62. The impact is permanent.

***Wetland Buffer***

The total area of proposed impact to the Wetland Buffer area is 1060 square feet (0.024 acres) to allow for site grading.

Please note that portions of the proposed Natural Resource Special Exceptions occur in Conservation Easements that were recorded in conjunction with the Ryan Meadows Subdivision Plat. Impacts specific to Conservations Easements include:

**Summary Table**

Location	Wetland Buffer	Wetland Setback	Permanent	Temporary
Area 1	6816 SF		1302 SF	5514 SF
Area 1		5434 SF	5326 SF	108 SF
Area 2		120 SF		120 SF
Area 3	7063 SF		2079 SF	4984 SF
Area 3		5758 SF	5758 SF	
Area 4	1060 SF			1060 SF
Area 4		2104 SF	2104 SF	
TOTAL	14,939 SF	13,416 SF	16,569 SF	11,786 SF

- The total Site Area is 23.08 acres; however, 13.90 acres is proposed as permanent green space.
- The proposed development does not impact the delineated wetland boundaries.

**Conservation Easements**

As part of the Ryan Meadows Subdivision Plat, two (2) separate Conservation Easements were recorded over wetlands and associated setback/buffers. The subject property includes both Conservation Easements. As part of the Natural Resource Special Exception, the Applicant is respectfully requesting the Conservation Easements be amended. The proposed project and NRSE application affect the Easements as follows:

**North Conservation Easement**

- Wetland Setback: 3172 Square Feet which is entirely temporary grading.
- But for the Conservation Easement, the grading would be allowed by right.

**South Conservation Easement**

- **Wetland Buffer: 6,816 Square Feet of impact which includes grading and pavement installation.**
- **Wetland Setback: 10,818 Square feet of impact which includes temporary grading, pavement and building.**

3. Statement of the reason(s) for the request.

**The subject property consists of a total of 23.08 acres and is located on the south side of Monarch Drive in the Loomis Business Park. The City of Franklin Comprehensive Plan designated the property as Business Park. The property is currently zoned M-1 Limited Industrial and a Certified Survey Map. The property is being proposed as a co-warehousing and business accelerator development consisting of multiple buildings, parking, and stormwater facilities.**

**The subject property has several constraints, namely the location and orientation of wetland areas, recorded Conservation Easements and the existence of a large ATC Utility easement. These constraints require the need for a Natural Resource Special Exception to accommodate the proposed commercial project.**

**An Assured Wetland Delineation was conducted on the property in November 2021. The property includes two (2) delineated wetlands.**

**Wetland 1 is located on the south side of the property and is approximately 4.49 acres in size. It is part of a larger wetland complex and is dominated by Willow, Reed Canary Grass, Buckthorn and Boxelder. Active agricultural practices (tillage) occur within the wetland. The proposed development does not impact the wetland resource.**

**Wetland 2 is located on the north side of the property and is approximately 0.40 acres in size. The wetland is classified as a hardwood swamp and is dominated with Cottonwood, Buckthorn, Reed Canary Grass and Dogwood. Active agricultural practices (tillage) occurs to the wetland edge. The proposed development does not impact the wetland resource.**

**Please note that lawful, permitted agricultural practices (tillage, planting and harvesting) have occurred within the wetland buffer and setback since at least 1937. Please see historical aerial photography.**

**Please note that the subject property includes an American Transmission Company easement which comprises 41,750 square feet that cannot be developed as buildings. The easement, as an encumbrance, restricts the buildable area of the site, forcing buildings, gradings and pavement to other areas of the site.**

**The Applicant is requesting a Natural Resource Exception to position buildings within the wetland buffer and setback.**

**It is important to emphasize:**

- **No wetlands are being impacted by the proposed project.**



- **The areas that are being requested are currently being farmed. The wetland buffer and setback are tilled annually, into the wetland, without erosion control measures.**
  - **The post-development scenario will result in improved water quality and reduced sediment load entering the wetlands. Currently, the areas classified as wetland buffers and setback consists of areas of tilled farmland. During rain events and snowmelt, drainage enters the wetlands unimpeded, carrying sediment load and any residual fertilizer/pesticides. The site, designed in a post-development scenario, will direct surface and roof drainage to engineered storm basins, where is treated before being released from the storm basins back to the watershed. Further, most of areas classified as wetland buffer and setback will be designed as yards and landscaped areas that will be permanently stabilized.**
4. Statement of the reasons why the request is an appropriate case for a Special Exception, together with any proposed conditions or safeguards, and the reasons why the proposed Special Exception is in harmony with the general purpose and intent of the Ordinance. In addition, the statement shall address any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, including a practicable alternative analysis as follows:

**The request for Natural Resource Exception is appropriate in this particular case because the location and orientation of the wetlands and the presence of a large utility easement cause considerable difficulty in planning, designing and constructing a feasible project.**

**There are several exceptional, extraordinary or unusual conditions related to the property that do not generally apply to other properties in the same district, including:**

- **An existing ATC Utility Easement bisects the property. The easement area is 41,750 square feet and occupies a significant area that does not include protected natural resource features.**
- **Wetland size, location and orientation that create irregular buildable areas.**
- **No wetlands are being impacted by the proposed project.**
- **The fact that the areas identified as wetland buffer and setback consist of tilled agricultural ground. Therefore the “typical” wetland protection areas (native or stabilized buffers) do not exist.**
- **No permits from either the Wisconsin Department of Natural Resources or the US Army Corps of Engineers are required, as no impact to the wetlands will occur.**
- **At the current time, there is minimal upland vegetation on the periphery of the wetland , therefore, there are no significant plants, wildlife, hydrology and soils that are being impacted by the proposed use.**
- **In the post-development condition, the areas of impacted Wetland Setback and Buffer will not be farmed, rather they will be shaped by grading to accommodate building envelopes and small areas of pavement. Per WDNR requirements, the wetland itself will not be impacted by surface drainage or roof drainage. Drainage from the site will be directed and conveyed to engineered storm water basins that will allow suspended solids to settle, before water is discharged.**

Further, the request is appropriate because the Applicant is proposing measures to protect and enhance the existing wetlands. Protection measures include engineered stormwater design that directs surface drainage to stormwater basins, on-site mitigation areas and the establishment of permanent landscape areas adjacent to the wetlands. In present conditions, lawful agricultural practices, including tillage, are being conducted to the wetland edge and in some case in the wetland itself.

Upon completion of the proposed project most of the prescribed wetland buffers and setbacks will be maintained. The areas that will be impacted will be mitigated at a 1:1.50 ratio.

The entire project will be designed to comply with Wisconsin Department of Natural Resources Wetland Protective measures, including directing all surface drainage and roof run-off to engineered storm water basins. This re-direction of drainage will improve the health of the wetlands by eliminating sedimentation from farming practices.

It is important to emphasize:

- No wetlands are being impacted by the proposed project.
- The areas that are being requested are currently being farmed. The wetland buffer and setback are tilled annually, into the wetland, without erosion control measures.
- The post-development scenario will result in improved water quality and reduced sediment load entering the wetlands. Currently, the areas classified as wetland buffers and setback consists of areas of tilled farmland. During rain events and snowmelt, drainage enters the wetlands unimpeded, carrying sediment load. The site, designed in a post-development scenario, will direct surface and roof drainage to engineered storm basins, where is treated before being released from the storm basins back to the watershed. Further, most of areas classified as wetland buffer and setback will be designed as yards and landscaped areas that will be permanently stabilized.

a. Background and Purpose of the Project.

- i. Describe the project and its purpose in detail Include any pertinent construction plans

**The project is planned for a multi-phased co-warehousing and business accelerator facility. Please see enclosed Conceptual Site Plan.**

- ii State whether the project is an expansion of an existing work or new construction.

**New Construction**

- iii. State why the project must be located in or adjacent to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback to achieve its purpose

**The development plans of the property include buildings, pavement and storm sewer outlets that extend into the wetland buffer and setback. Because of the narrow buildable area of the property, due to the location and orientation of the wetland resources, the project cannot be feasibly completed without locating the buildings within the wetland buffer and setback.**

**Further the property is encumbered with an existing American Transmission Company Easement 100 feet in width which bisects the property. The total area of the ATC easement is 41,750 square feet, which does not include wetlands.**

b. Possible Alternatives.

- i State all of the possible ways the project may proceed without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback as proposed.

**The project cannot proceed without the requested NRSE. The buildings, because of the intended use, are restricted to single story structures. Each building requires reasonable access for traffic circulation and fire protection. In positioning the buildings for circulation, the minimum area of the site is used, which results in encroachment into the Wetland Buffer and Setback areas. To facilitate a feasible project, the minimum number of buildings are shown.**

**One alternative which could be *physically* possible, would be convert Pond 2 to an underground stormwater storage chamber. Utilizing this system would provide flexibility in site design by providing more buildable area. While this could be evaluated as an alternative, it is financially unfeasible.**

- ii. State how the project may be redesigned for the site without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback

**Because of restraints related to property size, shape, access requirements and existing easements, the development cannot be redesigned while still being viable.**

**The utilization of underground stormwater storage would provide more buildable area to the site.**

- iii State how the project may be made smaller while still meeting the project's needs.

**The project, as proposed, includes the minimum number of buildings and square feet while maintaining an economically feasible project.**

- iv State what geographic areas were searched for alternative sites

**The prospective developer has/ is seeking suitable properties in the Milwaukee Metro area including sites in the City of Milwaukee, Village of Pewaukee, Village of Menomonee Falls and the City of Brookfield. In Franklin, the developer evaluated other commercial lots within Loomis Business Park, however the available sites were not large enough to accommodate their intended use. Loomis Business Park is particularly desirable due to the existing public improvements, zoning and location. The City of Franklin includes unique demographics that make the subject property an ideal site.**

- v. State whether there are other, non-stream, or other non-navigable water, non-shore buffer, non-wetland, non-wetland buffer, and/or non-wetland setback sites available for development in the area.

**Loomis Business Park was planned and approved to accommodate this land use. The public improvements extended to the site allow for immediate development. To the Applicants knowledge, there are no other “shovel ready” sites in the City of Franklin that allow this particular land use.**

- vi. State what will occur if the project does not proceed.

**If the project does not proceed, the anticipated tax increment contemplated by the future development will not be generated. The land will remain fallow and vacant within the City of Franklin.**

- c. Comparison of Alternatives.

- i. State the specific costs of each of the possible alternatives set forth under sub.2., above as compared to the original proposal and consider and document the cost of the resource loss to the community.

**An underground stormwater storage chamber system to eliminate Pond 2 would need to be designed to accommodate 100,000 cubic feet of stormwater volume. Underground systems range in price from \$6.00-\$8.00 per cubic foot of volume. Therefore, an underground system would cost approximately \$800,000.00.**

**Other possible alternatives were not considered as it is clear from the size, shape and orientation of the wetland buffer and setbacks that the property cannot be developed without the requested relief.**

- ii State any logistical reasons limiting any of the possible alternatives set forth under sub. 2 , above

**The cost for an underground stormwater system is cost prohibitive.**

- iii State any technological reasons limiting any of the possible alternatives set forth under sub. 2., above.

**The proposed use precludes multi-story buildings. The proposed buildings require adequate access for circulation and fire protection.**

- iv. State any other reasons limiting any of the possible alternatives set forth under sub. 2., above.

N/A

- d. Choice of Project Plan. State why the project should proceed instead of any of the possible alternatives listed under sub.b, above, which would avoid stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback impacts.

**There are no reasonable alternatives for completing this particular project without an NRSE. The project should proceed because it implements the best design practices and engineering to develop this unique site.**

**Further, the resource that is being buffered will be enhanced in the post-development scenario, as the wetlands will be protected from unimpeded sedimentation from farming. Further, no impact to the actual resource will occur.**

- e. Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Description. Describe in detail the stream or other navigable water shore buffer, wetland, wetland buffer, and/or wetland setback at the site which will be affected, including the topography, plants, wildlife, hydrology, soils and any other salient information pertaining to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback.

**The wetland buffers and setbacks that are subject to the NRSE exist as open tilled agricultural land. The topography is generally flat, with minor grade changes being lower at the wetland edge. There is generally a lack of native vegetation and wildlife in the areas being considered for impact.**

- f. Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Impacts. Describe in detail any impacts to the above functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback.

- i. Diversity of flora including State and/or Federal designated threatened and/or endangered species.

**There will be no impacts, as the wetland buffers and setback consist of open-tilled agricultural fields.**

- ii. Storm and flood water storage.

**The property is not in a designated floodplain or floodway. Currently any surface water and sediment load are discharged directly into the wetland, unimpeded.**

- iii Hydrologic functions

**The area that is defined as Wetland Buffer and Setback provide a minimal hydrologic function. They currently exist as open tilled agricultural field. While a portion of runoff from this unstabilized area is absorbed, the area does not provide any protection from siltation and sediment load entering the wetland areas.**

- iv Water quality protection including filtration and storage of sediments, nutrients or toxic substances.

**Water quality protection and sediment loading will be improved in the post-development scenario.**

- v. Shoreline protection against erosion.

N/A

- vi. Habitat for aquatic organisms.

N/A

- vii. Habitat for wildlife.

**The areas in question do not include wildlife habitat, as they are devoid of natural vegetation.**

- viii. Human use functional value.

**The proposed areas of impacts are currently used for agricultural purposes. The areas in question appear to have been farmed since at least 1937, based in Milwaukee County aerial photography.**

- ix. Groundwater recharge/discharge protection.

**Groundwater and surface water will continue to drain to the peripheral wetlands after being filtered and treated in the engineered storm water basins.**

- x Aesthetic appeal, recreation, education, and science value.

**The subject areas are currently used for agricultural purposes.**

- 1. The proposed impacts in this area would not result in a loss of aesthetic appeal, as in a post developed condition the areas would be converted to maintained landscaped areas.**
- 2. The proposed impacts would not result in a loss of recreational values, as the areas are not being used for recreational purposes.**
- 3. The proposed impacts would not result in a loss of educational value, as the area is being used for agricultural purposes.**

**4. The proposed impacts would not result in a loss of science value, as the property is being used for agricultural purposes.**

- xi. Specify any State or Federal designated threatened or endangered species or species of special concern.

**Owners are not aware of any State or Federal designated threatened or endangered species on our site. The Endangered Resource screening process occurs as part of the WDNR NOI. The adjacent project, Ryan Meadows, was granted full WDNR approvals without any Endangered Resource concerns. Because the limits of grading/impact do not include any wetland areas, natural areas or forested areas, there is no habitat conversion contemplated.**

- xii. Existence within a Shoreland.

**N/A**

- xiii. Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time.

**Wetland 2 is designated as a Secondary Environmental Corridor and Isolated Natural Area as defined by SEWRPC, however, the wetland resource is not subject to the NRSE.**

- g. Water Quality Protection. Describe how the project protects the public interest in the waters of the State of Wisconsin.

**The installation of professionally engineered/designed storm sewer through the area of impact will eliminate sediment loading into the adjacent wetlands. Further, on-site storm water detention will improve the quality and rate of storm drainage leaving the site.**

- 5. Date of any previous application or request for a Special Exception and the disposition of that previous application or request (if any)

**N/A**

- D. Copies of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit. *(Please attach accordingly)*

**N/A. Because the project is not proposing any impacts to wetlands or waterways, no Federal or State Permits are required for resource impact.**

Section 2. Staff recommends providing statements to the following findings that will be considered by the Common Council in determining whether to grant or deny a Special Exception to the stream, shore buffer, navigable water-related, wetland, wetland buffer and wetland setback regulations of this Ordinance and for improvements or enhancements to a natural resource feature, per Section 15-10 0208B.2 of the Unified Development Ordinance.

- a. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature):

**The request for Natural Resource Exception is based on the size, location, and orientation of existing wetlands, which are being avoided. Further, the land includes a large utility easement that restricts the development area significantly.**

**In planning the subject property, the end user has designed the site using specific criteria that is required for the viability for their use. These criteria include significant access to proposed buildings, clear traffic circulation to and through the site and access for fire protection equipment.**

**Every effort has been used to design the site while minimizing impacts to the natural resource features.**

- b. Compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:
- i. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives.

**The compliance with the wetland buffer/setback in this particular instance is unreasonably burdensome, as a typical wetland buffer does not exist. The area being regulated is open tilled agricultural land right to the wetland edge and in some cases into the wetland. The project does not impact streams, waterways, wetlands or navigable waterways. All wetlands on the property have been avoided.**

*, or*

- ii. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives:

**Applicant represents that the denial of the NRSE would be unreasonable and negatively impact the applicants proposed use of the property based on the fact that the impacts are minimal and are addressed with conventional engineering practices. In fact, the wetland resource health will be enhanced by the development of the site.**

- c. The Special Exception, including any conditions imposed under this Section will:

- i. be consistent with the existing character of the neighborhood

**The proposed NRSE will have no impact on the existing character of the neighborhood. The encroachment into the Wetland Buffer and Setback will have no effect on the character of the neighborhood which consists of active farmland, a developing business park and existing residences along 112<sup>th</sup> Street.**

*, and*



- ii. not effectively undermine the ability to apply or enforce the requirement with respect to other properties:

**The situation and conditions related to this project are unique. The location and orientation of the existing wetlands and applied buffers and setbacks significantly impact the ability to develop the site. While the subject property includes wetlands, the areas of wetland buffer and setback are not vegetated and do not provide the protective function that typical, vegetated buffers offer. Applying the wetland setback/buffer for a developed site, but not for agricultural purposes, does and not protect the actual wetland resources. The proposed development includes protective measures to protect and enhance the delineated wetlands. The referenced protective measures are absent in the current use.**

**Further, the property is impaired with a large utility easement that affects the ability to develop areas of the site that are not restricted with Wetland Buffers and Setbacks.**

**Other properties seeking the same relief would need to meet similar standards.**

*, and*

- iii. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement:

**Applicant represents that the unique circumstances involved with this request is what the NRSE process was intended for. It will allow a highly valuable commercial development to locate in an established business park without impacting the wetland resource.**

*, and*

- iv. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development (*this finding only applying to an application to improve or enhance a natural resource feature*):

**The applicant understands and agrees to place Conservation Easements on other natural resource features within the site, including any areas of on-site mitigation.**

**The Wetland Buffer and Setback in its current state do not provide any functional lift to the wetland resource.**

**In the post development condition, the wetland value will be enhanced as direct sedimentation loading from open tillage will be eliminated and all surface runoff and roof drainage will be directed to storm basins, allowing suspended solids to settle before captured stormwater is released at a measured rate back to the wetland area.**

**Of the 23.90 acres included in the proposed development, 60% of the site (13.90 acres) will remain green space.**

- d In making its determinations, the Common Council shall consider factors such as:
- i. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks:  
**The improvements will not negatively affect surrounding properties. Appropriate setbacks are established to reduce any land use conflicts.**
  - ii Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district:  
**The exceptional, extraordinary, or unusual circumstance is that the property is encumbered with a large utility easement that cannot be developed.**
  - iii. Existing and future uses of property; useful life of improvements at issue; disability of an occupant  
**The future use of the property has been affirmed through zoning and the City of Franklin Comprehensive Plan.**  
**The future improvements will be permanent.**
  - iv. Aesthetics  
**There will be no negative impact to aesthetics due to the NRSE. The areas that are proposed to be impacted are currently agricultural fields. In the post development condition, the impacted areas will be cohesively designed and enhanced with site landscaping. Further the Applicant is providing mitigation areas that will consist of permanent open spaces planted in native vegetation at a ratio of 1:1.5.**  
**The subject property is located in an existing Business Park and is buffered on 2 sides by permanent open space.**  
**Of the 23.90 acres included in the proposed development, 60% of the site (13.90 acres) will remain green space.**
  - v. Degree of noncompliance with the requirement allowed by the Special Exception:  
**The Applicant represents that the request is reasonable based on the current condition and use of the areas being impacted.**
  - vi Proximity to and character of surrounding property.  
**The proposed project is located within an existing Business Park that has been improved with full public utilities. The use is consistent with the City of Franklin Comprehensive Plan.**  
**The site is buffered on 2 sides by permanent open space.**  
**The proposed use is consistent with the existing and planned use in the general area**

- vii. Zoning of the area in which property is located and neighboring area:  
**Zoning in the general area is a mix of M-1 Industrial and R-2 Residential.**
  
- viii. Any negative affect upon adjoining property:  
**There will be no negative affects to the surrounding property due to the NRSE. The proposed NRSE will not increase noise, traffic or lighting and is buffered with permanent open space and appropriate setbacks from the adjoining property.**
  
- ix. Natural features of the property:  
**The natural features of the property are not proposed for disturbance. The project does not include any wetland impact.**
  
- x. Environmental impacts:  
**There are no other environmental impacts associated with the NRSE.**

**WETLAND IMPACTS DATA TABLE**

TOTAL WETLAND SETBACK IMPACT	13,383 SF (0.307 AC)
REG. SETBACK MITIGATION (A.13)	70,893 SF (0.481 AC)
PROP. SETBACK ADDITION	18,366 SF (0.419 AC)
TOTAL WETLAND BUFFER IMPACT	14,373 SF (0.330 AC)
REG. BUFFER MITIGATION (A.13)	71,383 SF (0.510 AC)
PROP. BUFFER ADDITION	21,793 SF (0.500 AC)

**SITE DATA TABLE**

BASE SITE AREA	1,002,318 SF (23.08 AC)
PROPOSED IMPROVED AREA	393,328 SF (9.03 AC)
PROPOSED GREEN SPACE AREA	812,991 SF (18.49 AC)
CAR PARKING	9181
ZONING DISTRICT	M1 - LIMITED INDUSTRIAL



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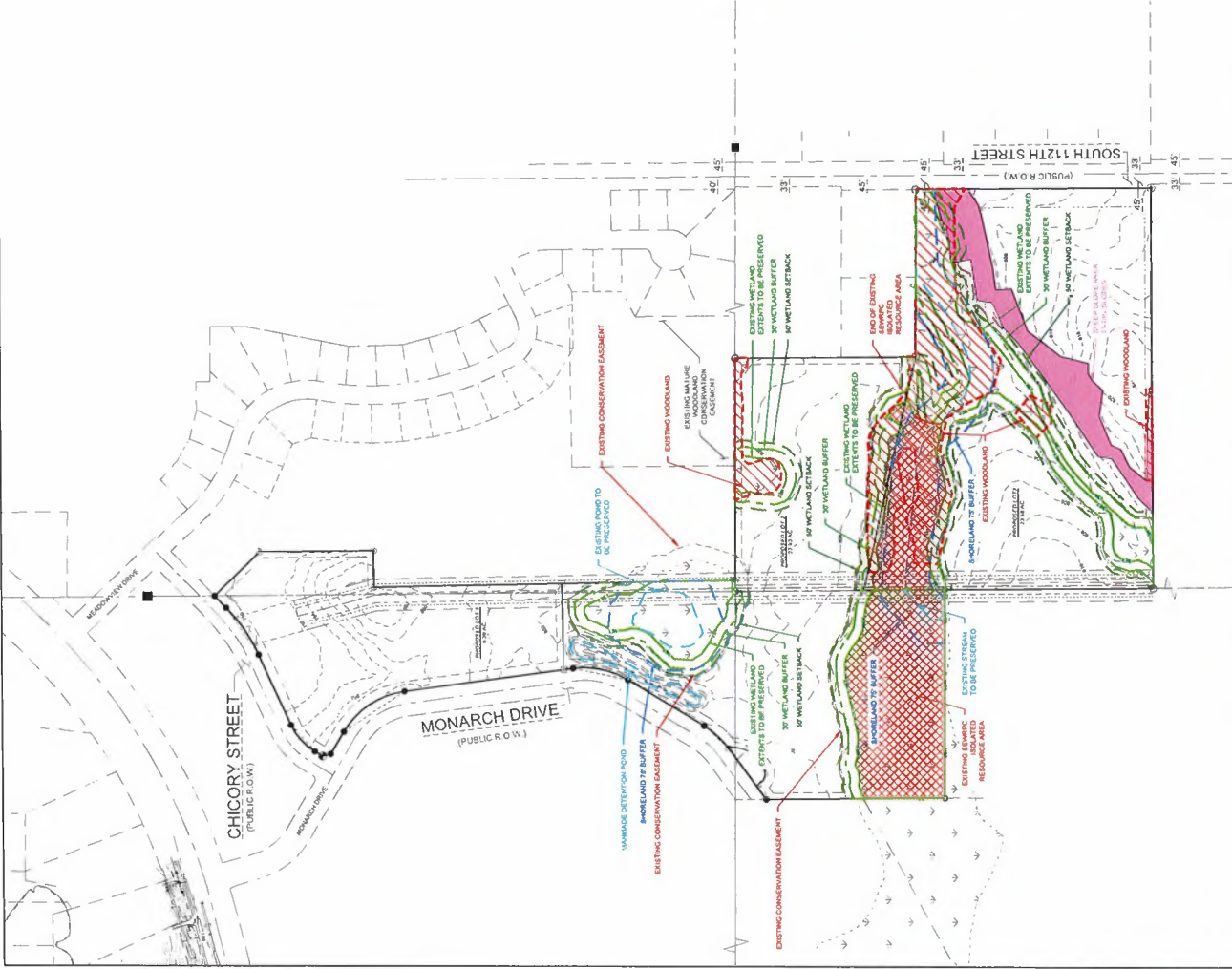
GRAPHICAL SCALE (FEET)  
0 1" = 200' 400'

SITE DATA	
PROJECT NAME	FRANKLIN BUSINESS PARK LOT 14
LOCATION/ADDRESS	FRANKLIN, VA 23103
OWNER CONTACT INFORMATION	DAN SZCZAP 4011 80TH ST KENSINGTON, VA 23142 DAN@PINNACLE-ENGR.COM

RESOURCE TYPE	AREAS OF RESOURCE	LOT 2 (22.93 AC)	AREAS OF RESOURCE	LOT 3
	LOT 1 (9.39 AC)	PROPOSED IMPACT AREA	REQUIRED MITIGATION AREA	(23.89 AC)
STEEP SLOPES AREA - 10-15% SLOPES - PER PFC SURVEYED CONTIGS	N/A	N/A	N/A	103,526 SF*** (2.38 AC)
STEEP SLOPES AREA - 20-30% SLOPES - PER PFC SURVEYED CONTIGS	N/A	N/A	N/A	N/A
WETLANDS - SEE DEDICATION - HIDDEN TREE BELT***	N/A	N/A	N/A	N/A
WETLAND BUFFER - 20' OFFSET - BASED OFF - PFC SURVEYED CONTIGS	N/A	262,305 SF (6.48 AC)	N/A	160,957 SF (4.38 AC)
WETLAND SETBACK - 20' OFFSET - BASED OFF - PFC SURVEYED CONTIGS	N/A	81,994 SF (1.88 AC)	22,409 SF (0.514 AC)	118,932 SF (2.73 AC)
LAKES & PONDS - FILL DELIMITED BY PFC - BASED OFF PFC SURVEY	N/A	60,987 SF (1.40 AC)	13,416 SF (0.308 AC)	68,482 SF (1.57 AC)
SHORE BUFFER - 20' OFFSET - BASED OFF - PFC SURVEYED CONTIGS	N/A	28,733 SF (0.66 AC)	N/A	N/A
MATURE WOODLANDS & FORESTS - BASED OFF PFC SURVEY	N/A	82,454 SF (1.89 AC)	N/A	180,431 SF (4.14 AC)
STREAMS - FLOODPLAINS - NOT PRESENT ON SITE	N/A	51,410 SF (1.18 AC)	7,106 SF**** (0.163 AC)	213,959 SF (4.91 AC)
		845 SF (0.02 AC)	N/A	5,667 SF (0.13 AC)
		N/A	N/A	N/A

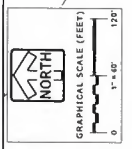
### NATURAL RESOURCE FEATURE AREAS

\* ADDITIONAL INFORMATION IS INCLUDED IN THE ATTACHED SITE INTENSITY CALCULATIONS.  
 \*\* WETLANDS DELIMITED BY HEARTLAND ECOLOGICAL GROUP, INC. ON 10/7/2021 AND R.A. SMITH NATIONAL, INC. ON 12-8-2014.  
 \*\*\* HIDDEN TREE BELT - SEE EXHIBIT FOR PROPOSED MITIGATION AREAS.  
 \*\*\*\* WOODLAND IMPACTS ARE LESS THAN ALLOWABLE (30%).

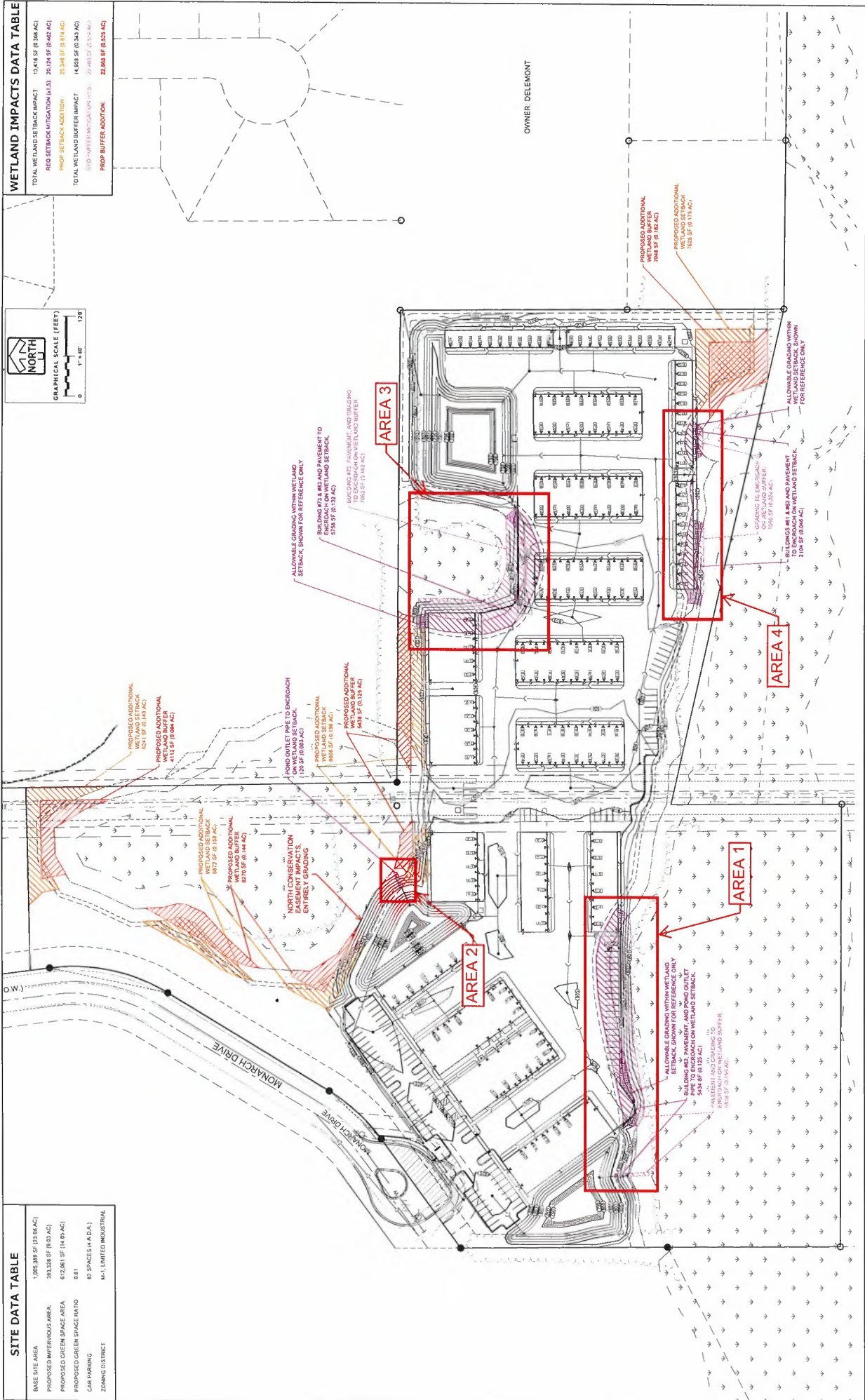




BASE SITE AREA	1,065,389 SF (23.96 AC)
PROPOSED IMPERVIOUS AREA	293,338 SF (6.70 AC)
PROPOSED GREEN SPACE AREA	612,081 SF (14.00 AC)
CAR PARKING	87 SPACES (4 A.D.A.)
ZONING DISTRICT	M-1, LIMITED INDUSTRIAL

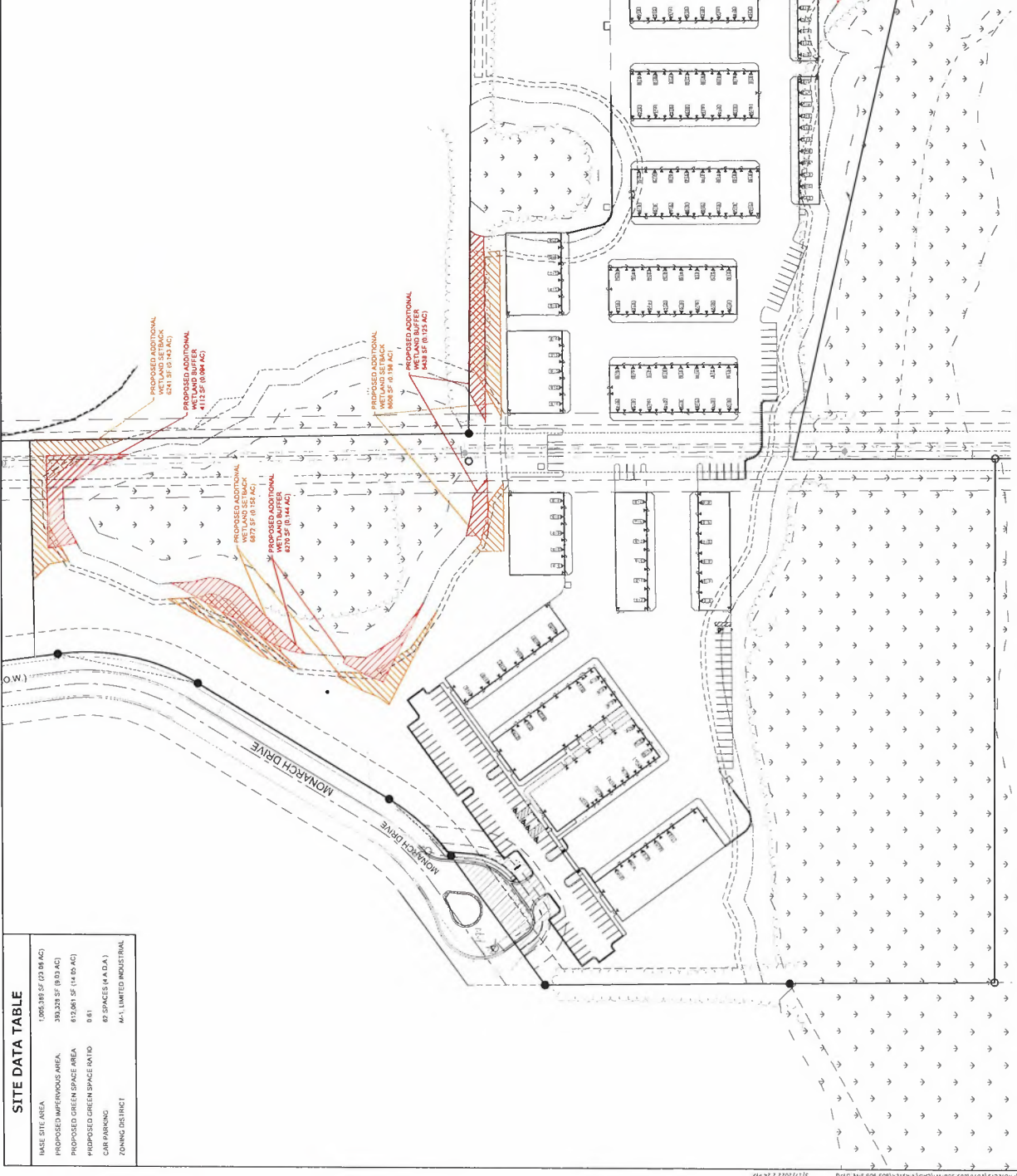
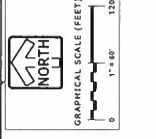


TOTAL WETLAND SETBACK IMPACT	13,416 SF (0.308 AC)
REG. SETBACK MITIGATION (A.13)	25,026 SF (0.582 AC)
PROJ. SETBACK ADDITION	25,348 SF (0.584 AC)
TOTAL WETLAND BUFFER IMPACT	14,938 SF (0.342 AC)
REG. BUFFER MITIGATION (A.13)	27,480 SF (0.624 AC)
PROP. BUFFER ADDITION	23,008 SF (0.523 AC)



WETLAND IMPACTS DATA TABLE	
TOTAL WETLAND SETBACK IMPACT	13,418 SF (0.308 AC)
REQ SETBACK MITIGATION (P1-S)	20,124 SF (0.462 AC)
PROF SETBACK ADDITION	23,548 SF (0.542 AC)
TOTAL WETLAND IMPACT	14,839 SF (0.342 AC)
REQ MITIGATION (P1-S)	22,402 SF (0.514 AC)
PROF BUFFER ADDITION	22,408 SF (0.515 AC)

SITE DATA TABLE	
BASE SITE AREA	1,005,395 SF (23.01 AC)
PROPOSED IMPERVIOUS AREA	393,335 SF (9.03 AC)
PROPOSED GREEN SPACE AREA	612,061 SF (14.00 AC)
PROPOSED GREEN SPACE (W/10'	9,81
CAR PARKING	62 SPACES (N.A.O.A.)
ZONING DISTRICT	M-1, LIMITED INDUSTRIAL



# FRANKLIN - RISE COMM WETLAND BUFFER & SETBACK MITIGATION AREAS

PLAN | DESIGN | DELIVER

3/22/22

PEGJOB# 809.90B

20725 WATERTOWN ROAD | SUITE 100 | BROOKFIELD, WI 53186 | WWW.PINNACLE-ENGR.COM |

PINNACLE ENGINEERING GROUP



# Heartland

**ECOLOGICAL GROUP INC**

506 Springdale Street, Mount Horeb, WI 53572

March 22, 2021

Mr. Dan Szczap  
Bear Development, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142  
[dan@beardevelopment.com](mailto:dan@beardevelopment.com)  
(262) 842-0556

**RE: Mitigation Plan – Rise Commercial District Wetland Buffers and Setbacks,  
City of Franklin, Milwaukee County, WI**

Dear Mr. Szczap:

Heartland Ecological Group, Inc. (Heartland) is pleased to present this Mitigation Plan for wetland buffer and setback areas impacts associated with the proposed Rise Commercial Development by Bear Development, LLC (Bear). This plan was prepared by Eric C. Parker, SPWS and Jason Behrends, both of Heartland (Qualifications in Attachment 1). Eric has 34 years experience as a wetland scientist in Wisconsin and numerous other states, including extensive wetland delineation, functional assessment, and wetland mitigation work in the City of Franklin since the early 1990's. Jason is Heartland's Ecosystem Restoration Operations Manager and has 10 years experience mostly in preparation and implementation of wetland mitigation and restoration plans.

## **PROJECT UNDERSTANDING**

### **PURPOSE**

Heartland has been engaged by Bear to first assess the impacts of the development on proposed wetland buffers and setbacks, and offer their professional opinion on the effectiveness of mitigating these areas adjacent to the wetlands. Bear has also engaged Heartland to prepare this Mitigation Plan for the development using their on-site knowledge from the wetland delineation completed in 2021 and past experience. This mitigation plan is to satisfy the City's requirements for a Natural Resource Special Exception.

### **PROJECT LOCATION**

The project is located within the Ryan Meadows subdivision, between Monarch Drive and 112<sup>th</sup> Street in the City of Franklin, Milwaukee County, Wisconsin.

Solutions for people, projects, and ecological resources.





## **EXISTING CONDITIONS**

The subject property is rolling, with various hills, depressions, and slopes. Land uses within the Project Area is primarily agricultural row cropping with residential, wetland, and woodland areas also present in and adjacent to the Project Area. Hardwood swamp, shrub carr, and partially farmed wet meadow comprise the southern edge of the Project Area, while two similar depressional wetlands abut the northern portions. These wetlands are dominated by invasive and ruderal species such as reed canary grass (*Phalaris arundinacea*, FACW), non-native cattails (*Typha* spp., OBL), common buckthorn (*Rhamnus cathartica*, FAC), box elder (*Acer negundo*, FAC), crack willow (*Salix x fragilis*, FAC), and riverbank grape (*Vitis riparia*, FACW).

Significant portions of the wetland buffer and setback areas for the above described degraded wetlands are presently or have historically been open tilled agricultural ground for the northern wetlands and west half of the southern wetlands. These buffer and setback areas are seasonally devoid of vegetation, and when planted are maintained by herbicides as mostly bare soil other than the row crop itself. Additionally, fertilizer and pesticide applications are and have been utilized per standard agricultural practice. The wetlands along the eastern half of the southern edge of the Project Area currently are abutted by upland buffer and setbacks that are degraded brushy woods. These adjacent upland areas are dominated by the invasive or ruderal shrubs common buckthorn, hybrid bush honeysuckle (*Lonicera x bella*, FACU), gray dogwood (*Cornus racemosa*, FAC), and multiflora rose (*Rosa multiflora*, FACU). These species are dominating as a result of being subjected to sediment, herbicide, fertilizer, and pesticide contributions from adjacent row-cropped fields. Invasive shrubs in these existing buffer and setback areas preclude a healthy cover of perennial groundlayer species due to light restrictions. Therefore, the function of the existing buffer and setback areas may be considered low.

## **PROPOSED IMPACTS**

No direct fill impacts to wetlands will occur. The proposed impacts to minimized areas of the wetland buffer and setbacks include site grading, installation of paved surfaces, and buildings. Areas of site grading are temporary and will be permanently restored to a stabilized condition with perennial plant cover. In the post-development condition, stormwater is directed to engineered stormwater basins where its is treated and released into the wetlands to reduce sediment and other pollutants while also preventing flooding and flood water surges. Re-introduction of stormwater will maintain wetland hydrology.



## **MITIGATION PLAN**

Bear is required to submit a mitigation plan for impacts to wetland buffers within the Project area. Heartland understands that the earthwork and improvements required for the development will impact 13,416 sq ft of wetland setback and 14,939 sq ft of wetland buffer. To compensate for these impacts, mitigation is to be provided at a ratio of 1:1.5. To satisfy these requirements Bear has proposed to restore a setback addition of 29,346 sq ft and buffer addition of 22,868 sq ft. These areas of mitigation are shown on the attached plan.

1) Non-native and invasive species removal

Non-native and invasive herbaceous vegetation will be removed during clearing / grubbing and the native topsoil shall be exposed.

2) Buckthorn and honeysuckle removal and herbicide treatment

Invasive, non-native, and ruderal shrub species including buckthorn and hybrid honeysuckle within the mitigation areas will be treated with an appropriate herbicide at least one week prior to beginning of clearing and grubbing activities.

3) Soil surface treatment and seed bed preparation

Soil surface conditions prior to seeding should be similar to those described in the Wisconsin Department of Natural Resources Technical Standard 1059 – Seeding for Construction Site Erosion Control. This includes a seedbed comprised of native topsoil that has been loosened via disking or a Harley rake to a depth of 4 inches and is free of rocks, sticks, and soil clods over two inches in diameter.

4) Seeding

Seed will be installed via broadcast, seed drill, or hydroseeding methods. If seed is broadcasted a drag or cultipacker will be used to ensure proper seed-soil contact. Seed will not be installed more than ¼ inch deep within the seedbed. A nurse crop of common oats (*Avena sativa*) will also be used at a rate of 25 lbs/acre to help establish growth and prevent erosion. The seed mix to be used shall be the Native Slope Stabilization Mix from Agrecol, or other approved equivalent. Seed mix is attached for reference. Native seed mix should be installed as either a dormant season or spring seeding occurring after October 10 and prior to June 15<sup>th</sup>.

5) Management

The seeded areas will be monitored and managed by Heartland as required through the use of spot-herbicide treatment, timed to meet targeted invasive, non-native, or ruderal species that threaten the establishment of the seeded species.



## SUMMARY & OPINION

In Heartland's opinion, the health and ecological function of the existing wetlands are at greater risk of degradation from siltation, nutrient loading, and invasive species proliferation from the continued use of conventional agricultural practices than from thoughtful development. It is also Heartland's opinion that the proposed impacts to the standard wetland buffer will not cause significant impacts to the wetlands. Under existing conditions, the buffer and setback areas are currently being farmed or are degraded by adjacent farming due to being subjected to enhanced erosion via regular soil disturbance from plowing and otherwise farming the wetlands' side slopes. The buffer impacts have greatly degraded the wetlands from their pre-agricultural state in additional ways such as compaction and inadvertent spread of invasive species.

A project that permanently stabilizes the wetland periphery, properly treats and controls stormwater runoff and enhances nearby areas with native vegetation promotes a healthier wetland ecosystem. All side slopes, post construction, will be stabilized with perennial native plant species, greatly reducing slope wash materials entering directly into the adjacent wetland. Furthermore, stormwater generated in the developed part of the project area, where untreated agricultural stormwater runoff now prevails, will be quantitatively and qualitatively treated per the engineered stormwater management plan. This is also expected to reduce sediment and pollutants entering the wetland.

Thank you for the opportunity to prepare this wetland buffer and setback restoration plan. Please feel free to call or email should you have any further questions.

Sincerely,

Jason Behrends  
Ecosystem Restorations Manager  
Heartland Ecological Group, Inc.  
[jason@heartlandecological.com](mailto:jason@heartlandecological.com)  
(608)490-2450 Ext. 5  
(815)760-0184

Eric C. Parker, SPWS  
Principal Scientist  
Heartland Ecological Group, Inc.  
[eric@heartlandecological.com](mailto:eric@heartlandecological.com)  
414-380-0269

### Attachments:

1. Qualifications
2. Mitigation Plan Map
3. Seed Mix
4. WDNR Tech Standard 1059



Rise Commercial District  
Bear Development, LLC  
March 22, 2022

## Attachment 1 | Qualifications





## Jason Behrends

Ecosystems Restorations Manager  
Senior Scientist I  
506 Springdale Street  
Mount Horeb, WI 53572  
jason@heartlandecological.com  
(608) 490-2450



Jason Behrends serves as the Ecosystem Restorations Operations Manager and a Senior Scientist for Heartland Ecological Group. He has a broad range of responsibilities for these positions including ensuring completion of contractual requirements, time and project management, public relations, data recording, adaptive restoration plan writing, and development of safety and technical protocols.

Jason has gained a large amount of experience in the natural resources field with past professional and personal opportunities. He joined the Heartland team in May of 2020 after managing the Indiana office for Applied Ecological Services for the previous four years. He is highly proficient in plant identification, native plant material installation, invasive species management, erosion control practices, prescribed burning, equipment operation, and GIS/GPS operation and mapping.

Career experiences have allowed Jason to work on a variety of project types for differing clients. These include directing large-scale habitat construction and restoration for federal agencies, invasive species management in highly sensitive habitats for state/local departments, stormwater basin restoration and management, and native rain garden installations for local municipalities and non-profits. Jason has even been considered a subject expert and has helped differing municipalities in their efforts to better manage their natural areas.

### Education

BS, Reclamation, Environment, and Conservation, with an emphasis in Biology, University of Wisconsin – Platteville, WI, 2013

### Training & Certifications

Certified IL Prescribed Burn Manager  
NWCG S-130, 190, 290, 301, 341 certified  
Licensed commercial pesticide applicator: WI  
OSHA 30-hour Construction Industry Outreach  
Qualified Compliance Inspector of Stormwater: Indiana  
Wilderness First Aid/CPR Certifications  
Chainsaw Safety Certification

### Project Experience

#### **Soik Wetland Mitigation** (WDNR) Project Manager

*Responsible for performing ecological restoration activities, communicating schedule with client, and insuring performance standards are being met. This includes leading project meetings, time and budget management, vegetation monitoring, report writing, subcontractor hiring and supervision, invasive species removal, and native plant and seed installation.*

#### **Morey Solar Field** (Madison Gas and Electric) Ecosystem Restorations Lead

*Responsible for the creation of the Restoration Plan to be implemented within the solar field to improve surface disturbances, remove invasive species, and promote native pollinator plantings. Jason also leads the implementation of the Restoration Plan by directing field crews, project meetings, ensuring safety procedures are being followed, and writing work reports.*

#### **Terravessa Housing Development**

**(Fitchburg Lands, LLC.) Project Manager**  
*Communicated project schedule with other contractors on the project site and lead on-site native plant material installation, design, and natural areas management.*

#### **Evansville Wildlife Area Wetland Mitigation** (Wisconsin DNR) Project Manager

*Work alongside WDNR officials to create and implement wetland mitigation goals on 40 acres of the Evansville Wildlife Area. The project will create upwards of 25 wetland credits for the Rock Bank Service Area.*



## **Eric C. Parker, SPWS**

Principal Botanist  
506 Springdale Street  
Mount Horeb, WI 53572  
eric@heartlandecological.com  
(414) 380-0269



Mr. Parker is a Senior Professional Wetland Scientist and Professionally Assured Wetland Delineator in Wisconsin with 34 years of experience assisting public and private clientele. He has completed wetland projects in other states including IL, IN, OH, MI, ND, MO, PA, TX, MD, VA, and NC. His work has supported thousands of institutional, commercial, utility, residential, industrial & transportation projects. Mr. Parker's natural resource specialties include botanical surveys, wetland science, restoration and mitigation, and environmental corridor mapping. He has a widespread understanding of the scientific, technical, and regulatory aspects of natural resources projects. His interests also include floristic quality assessment (FQA) and wetness categorization of plant species.

Mr. Parker's experience includes the following: Botanical / Biological Surveys and Natural Resource Inventories; Rare Species Surveys, Conservation Plans and Monitoring; Wetland Determination, Delineation and Functional Assessment; Wetland Exemptions; Environmental Corridor Determinations/Mapping; Stakeholder Meetings and Wetland Restoration Planning; Wetland Mitigation Bank Monitoring; Habitat Restoration, Wildlife Surveys, Tree Surveys, Environmental Assessments; Local, state, federal permit applications; Public Hearings; Expert Witness testimony; and Regulatory permit compliance, including serving as 3<sup>rd</sup> Party Monitor for the Wisconsin DNR.

## **Education**

BS, Watershed Management, Soils Minor University of WI - Stevens Point, 1983

US Army Terrain Analysis Course, Distinguished Graduate, Defense Mapping School, Fort Belvoir, VA, 1984

Wetland Ecosystems (including delineation & assessment), USEPA Graduate School Washington DC, 1988

Field Oriented Wetland Delineation Course (1987 Corps Manual) Wetlands Training Institute (WTI) St. Paul, MN, 1994

Basic Wetland Delineation Training Wisconsin Dept. of Administration Waukesha, WI, 1997

Vegetation Description, UWM (CBFS), Saukville, WI, 1998

Advanced Wetland Delineation, U. of WI - La Crosse, Bayfield County, WI, 2001

Critical Methods in Wetland Delineation, University of WI - La Crosse Continuing Education and Extension, Madison, WI, 2006, 2008, 2010, 2014, 2016-2020

Introductory NHI Training (T&E Database), WDNR, Madison, WI, 2005, 2011

Mosses ID/ Ecology, UWM, Cedarburg Bog Field Station (CBFS), Saukville, WI, 1998

Sedges ID/ Ecology, UWM CBFS, Saukville, WI, 2002, 2006, 2010

Grasses ID/ Ecology, UWM CBFS, Saukville, WI, 1998

Mosses ID & Ecology, UWM CBFS, Saukville, WI, 1998

## **Registrations**

Senior Professional Wetland Scientist #838, (SPWS), Society of Wetland Scientists Professional Certification Program, 1995-current

Certified Wetland Scientist #C-058, (CWS), Stormwater Management Commission Lake County, IL, 2002-current

Qualified Wetland Review Specialist #W-057, (QWRS), Kane County, IL, 2006-current



## Project Experience

### **Natural Area Assessment and Restoration**

L.B. Palmer Family Wetland Mitigation Bank Botanical Monitoring, Walworth County, WI.

*Project manager and botanist for monitoring to comply with the compensation site plan. Collected data at 23 sample plots and conducted meander surveys in various plant communities throughout the site. Provided recommendations for wetland restoration noting important potential deficiencies in meeting hydrological performance standards based on species composition and qualitative observations of wetland hydrology. Mapped invasive non-native (INN) plant species as well as native invasive species populations that hinder wetland and upland buffer restoration. Searched for rare plant species.*

Kalamazoo River and Talmadge Creek 2013 (Baseline) and 2014-2017 Botanical Surveys, Calhoun and Kalamazoo Counties, MI.

*Head botanist for five years for comprehensive floristic sampling along 40 miles of creek and river floodplain. Collected data and provided recommendations for wetland restoration after an oil release as required by the U.S. EPA and the MI DEQ. Identified and measured cover, height, and density of herbaceous, shrub, tree, and woody vines at randomly selected points in both impact and control areas. Mapped invasive plant species and determined percent cover. Rare plant species were identified, documented, and specimens collected as required.*

West Central Lateral Corridor Environmental Surveys (190 Miles, 400ft-wide Corridor), Clark, Eau Claire, Jackson, and Monroe Counties, WI (Project Manager and Crew Lead, 2012-2013)

*Determined and delineated wetlands completing sample points and photo points, identified and mapped streams, open water; identified dominant and invasive plant species in each wetland and adjacent upland. Searched for and mapped rare species and rare species habitat; completed wetland and stream evaluation forms; prepared reports, wetland-waterway permit applications, and Certificate of Authority through the Wisconsin DNR and PSC.*

McMahon Woods and Fen Restoration Monitoring, Cook County, IL (Lead Scientist)

*Budgeted, scheduled, coordinated, and participated in numerous tasks to map and classify plant communities on a 470-acre site where rare habitat for the federally listed Hines emerald dragonfly and uncommon flora exist. Supervised and participated in the identification of 75 plant communities in accordance with the Chicago Wilderness Terrestrial Community Classification System outlined in their Biodiversity Recovery Plan; Used GPS to locate plant community boundaries and coordinated with the client, forest preserve district staff and US Army Corps of Engineers regulatory staff; Assisted in the preparation and reviewed the report; Assisted in the preparation of a wetland restoration concept plan.*

Deer Grove East Restoration Area Botanical Surveys, Cook County, IL

*Inventoried vascular plant species and assessed floristic quality via transects and meander surveys in wetlands and upland buffer areas for a four-year term on a 230-acre mitigation site located on lands owned by the Forest Preserve District of Cook County. Provided floristic quality assessment metrics and documented rare species via GPS, photos, and specimen collections. Assisted in preparing the wetland and upland prairie/woodland restoration concepts and plans. Assisted in the preparation and reviewed the report.*

Busse Woods Vascular Plant Inventory, Cook County, IL (Lead Scientist)

*Budgeted, scheduled, coordinated, and participated in numerous tasks to provide a comprehensive plant species inventory for a 489-acre state natural area within a forest preserve over a period of two years. Completed meander surveys for floristic quality assessments for three mobilizations per year. The work was being completed for pond design purposes and to model the effects of altering the water level. Documented rare species populations via photos and GPS; and coordinated with the client and forest preserve district staff. Prepared the report.*

Bartlett Ravine Restoration, Lake County, IL.

*Conducted meander and transect comprehensive vascular plant species inventories to provide floristic quality assessments and to map unique relict plant communities in the ravine for the purpose of determining restoration strategies. Documented rare species locations with photos and GPS. Delineated and mapped wetlands.*

#### **Prairie White-Fringed Orchid Surveys, IL, and WI.**

*Conducted surveys for this federally listed plant species along transmission line rights-of-way and proposed gas / oil pipe routes for various clients in 2013.*

#### **ATC Rare Plant Species Survey, Straits to Pine River, MI**

*Conducted rare plant species surveys, invasive plant surveys, and natural resources inventories along a 15-mile existing transmission line corridor. Assessed floristic quality and documented rare element occurrences and plant community types*

#### **Tank 80 Mitigation Site Monitoring Botanical Survey, Lake County, IN**

*Lead botanist for floristic sampling along transects using 50 herbaceous quadrats and meander surveys. Prepared floristic quality assessments, documented invasive species, and recommended management tasks*

#### **Botanical Survey, Greene County, PA.**

*Lead botanist for a proposed natural gas gathering pipeline in Greene County, PA. Evaluated potential impacts on two state-listed rare plant species in a late season survey for passionflower (*Passiflora lutea*, PA Endangered) and leaf-cup (*Smalanthus uvedalius*, PA Rare). Provided habitat mapping by community type and compiled species lists. Provided locations of leaf-cup. Coordinated with the state regulatory agency for avoidance strategies. Facilitated client's ability to proceed and provided documentation of rare plant populations to the state agency*

#### **ATC T&E Survey, Mukwonago to Whitewater, WI (Subconsultant Lead Scientist)**

*Surveyed a 22-mile corridor where transmission lines were being upgraded for state and federally listed special concern, threatened, and endangered plant species. Provided completed rare plant reporting forms, photographs, and site sketches for the report*

#### **Germantown Sand & Gravel Pit Wetland Restoration, Washington County, WI (Lead Scientist)**

*Budgeted, scheduled, coordinated and participated in numerous tasks for analyzing alternatives to discharging water from a non-metallic mining operation, and analyzing the effects of ceasing water discharges through an existing waterway into downstream wetlands on an adjacent property; Completed wetland functional assessment and water budget analysis to determine the effects of the discharge on the sustainability and quality of the wetlands; Prepared applications and plans to obtain Wisconsin Pollution Discharge Elimination System (WPDES) and Chapter 30 permits to discharge into a state navigable waterway; Provided expert testimony for same; Assisted in the design of a sedimentation pond to remove 80% of the suspended solids at a discharge flow of over 1,000,000 gallons per day from the 130-Acre sand & gravel pit; Coordinated with the adjacent landowner, client, agency staff to prepare and implement a plant to remove sediment deposited on an adjacent property*

#### **Wetland Delineation with Botanical Surveys**

##### **I-94 Corridor Wetland and Primary Environmental Corridor Mapping and Endangered Species Study, Milwaukee, Racine, and Kenosha Counties, WI (Project Manager and Lead Scientist)**

*Budgeted, scheduled, coordinated and participated in numerous tasks to map wetlands, primary environmental corridor and waterways, and search for rare species in a freeway corridor approximately 34 miles long. Supervised and conducted a rare species survey during the 2006 growing season to search for plant species that were listed as special concern, threatened or endangered by the State of Wisconsin. Prepared the report, Mapped locations of rare species using a GPS, and coordinated with the client and regulatory agency staff; Prepared a plan to mitigate roadway improvement impacts to seaside crowfoot (*Ranunculus cymbalaria*) through transplantation to an on-site location and obtained concurrence from the WDNR, Supervised and participated in the preliminary determination, delineation, GPS mapping, and classification of 171 wetlands and 19 separate plant communities within primary environmental corridor, Supervised and participated in the final determination, delineation, classification and surveying of 85 wetlands within seven interchange areas that were designated for significant improvements, Reviewed and helped write the report.*

##### **Elm Road Generating Station, Oak Creek & Caledonia, WI (Project Manager & Lead Scientist)**

*Budgeted, scheduled, coordinated, and participated in numerous environmental projects involving the planning and construction of a power plant. Beginning in 2002 determined, delineated, and classified over 70 different wetlands on properties totaling approximately 1,000 acres including over three miles of railroad. Assessed the functions of 127 wetlands, Searched for suitable restoration sites (on-site and near-site) as mitigation for 20 acres of wetland*



*impacts; Studied potential sites for wetland restoration feasibility; Prepared conceptual and final compensation site plans and designed four selected sites that included restoration and/or enhancements to wet meadow, shallow marsh, hardwood swamp, mesic woodland, savanna, tallgrass prairie and streams; Submitted the mitigation plans to the client and agencies and obtained permits and approvals; Prepared bid documents for the construction of the mitigation sites, Provided direct consultation with the site contractor during construction of the mitigation sites Located wetland boundaries, sample points and other natural features using GPS*

Tri-State Tollway, Deerfield Plaza Wetland and Endangered Species Investigation, Lake and Cook Counties, IL (Lead Scientist)

*Conducted wetland delineation and assessment services for segments of the Tollway, totaling 5 miles Wetland impacts were determined for reconstruction of the toll plaza and widening of the highway facilities adjacent to the plaza. Investigated to determine the extent of occurrence of seaside crowfoot, an endangered plant species in Illinois Prepared plans to mitigate impacts of the highway and toll plaza reconstruction on both wetlands and the endangered species. Coordinated with agency personnel, prepared construction documents and specifications and wrote reports. Prepared Section 404 permit applications and obtained the permits with 401 Certification from the Illinois Department of Natural Resources. Investigated trees and shrubs impacted by the toll plaza expansion.*

Guardian II Laterals, Fox Valley, Hartford and West Bend, WI (Project Manager and Lead Scientist)

*Budgeted, scheduled, coordinated and participated in numerous activities and scopes of work for the planning and permitting phases of three gas laterals for power plant upgrades; Collected required data and documented all types of natural resources through photography and data forms, Searched for and documented rare species; Assisted in the preparation of data tables summarizing and quantifying impacts to wetlands, woodlands, waterways and agricultural lands, Coordinated with client on minor modifications to the pipeline routes to better protect various natural resources; Coordinated with landowners; determined, delineated and mapped with a GPS, wetlands, woodlands and waterways; Assisted client in regulatory coordination, Assisted prepare, and reviewed all reports*

ATC Paris to St. Martins (KK3025) 138KV Line Rebuild, Kenosha, Racine and Milwaukee Counties, WI (Project Manager and Lead Scientist)

*Budgeted, scheduled, coordinated, and participated in numerous project scope activities for an 18-mile corridor such as wetland delineation, waterway identification and data collection, rare species surveys, equipment access road location identification and invasive species populations identification. During the investigation, a total of 59 wetland areas, 10 ditches, 6 ponds, and 3 streams were located within the corridor route. Used GPS for mapping natural resources Coordinated with landowners Assisted in the preparation and reviewed the report that documented the work during the year prior to construction*

### **United States Military (Active-Duty Army) Fort Bragg NC (1984 - 1987)**

*Eric proudly served in the US Army, was honorably discharged with the rank of Sergeant from the Reserves in 1988. Obtained military honors and medals including expert marksman and graduated top of his class in Terrain Analysis (81Q) advanced training; Deployed to Honduras in 1986. Maintained a top-secret clearance for aerial analysis in both active duty and reserves.*

### **PUBLICATIONS / PRESENTATIONS**

Moderator Wetland Practitioners Workgroup, WI Wetlands Association Annual Conferences, 2019 and 2021

Potentially Mis-Categorized Wetland Plant Species NC-NE & Midwest Land Resource Regions of the U S *Wisconsin Wetlands Association Annual Conference, 2012*

Presentation Importance of Strategic Planning for Long Range Success in Natural Area Restoration and Management (Parker, Parish, Feggstad, Sellar, Wilhelm) *LTA Midwest Land Conservation Conference, 2009*

Saving the Hines Emerald Dragonfly (Parker, Parish) *LTA Midwest Land Conservation Conference, 2009*

Presentation Arriving at a Workable Definition of Coastal Wetlands (Parker, Parish, Schumacher) *WWA, 2006*

Presentation General Wetland Functions *American Public Works Association, 2000*

Presentation Wetland Permitting Primer *WDNR Permitting Workshop, 1996*

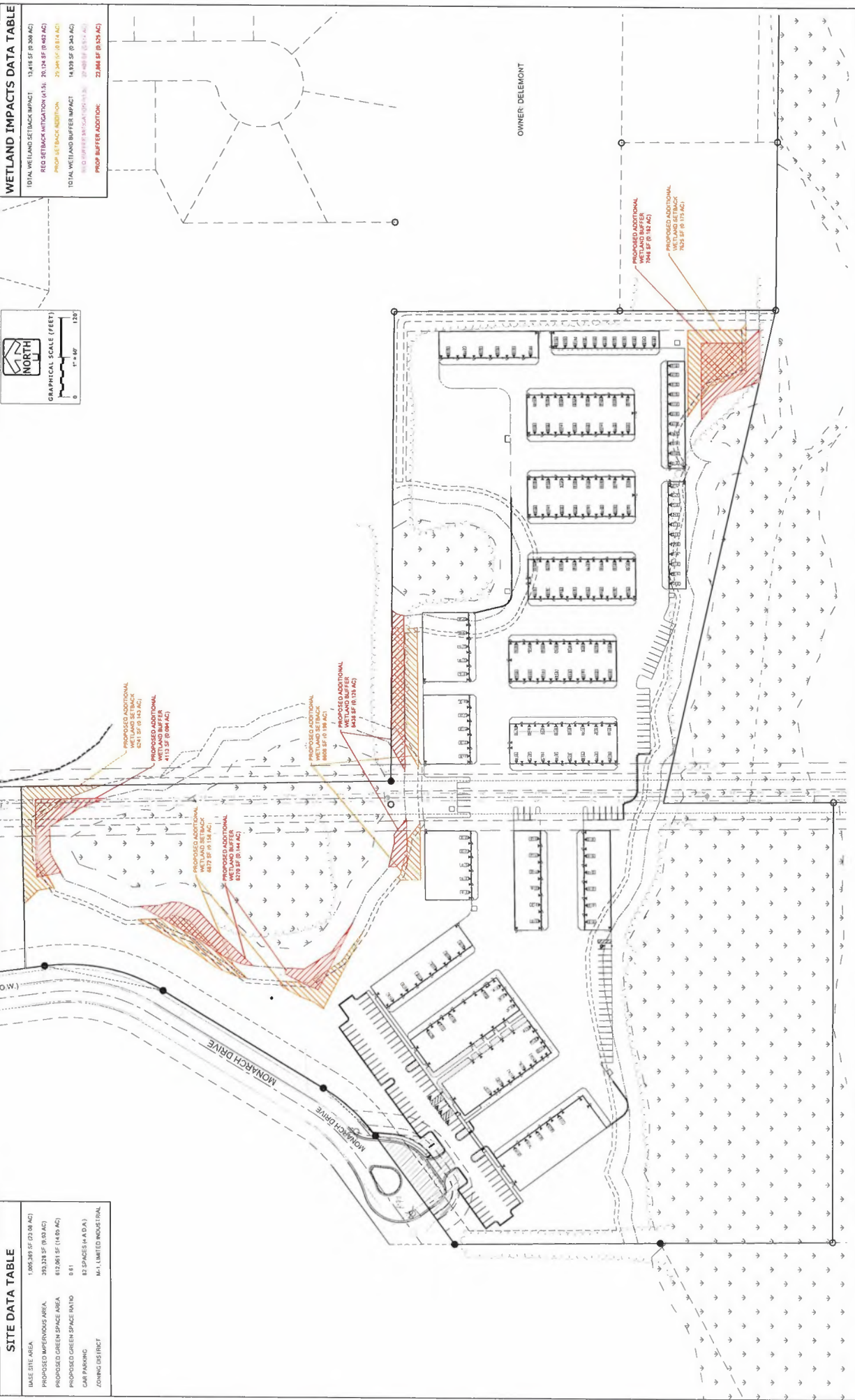


Rise Commercial District  
Bear Development, LLC  
March 22, 2022

## Attachment 2 | Mitigation Plan Map

SITE DATA TABLE	
BASE SITE AREA	1,096,395 SF (25.08 AC)
PROPOSED IMPERVIOUS AREA	393,328 SF (9.03 AC)
PROPOSED GREEN SPACE AREA	812,861 SF (18.65 AC)
PROPOSED GREEN SPACE (W/O CAR PARKING)	0.61
ZONING DISTRICT	M-1, LIMITED INDUSTRIAL

WETLAND IMPACTS DATA TABLE	
TOTAL WETLAND SETBACK IMPACT	13,418 SF (0.308 AC)
REG. SETBACK MITIGATION (4.15)	20,124 SF (0.462 AC)
PROP. SETBACK ADDITION	25,349 SF (0.584 AC)
TOTAL WETLAND BUFFER IMPACT	14,033 SF (0.320 AC)
REG. BUFFER MITIGATION (10.13)	27,488 SF (0.631 AC)
PROP. BUFFER ADDITION	22,448 SF (0.512 AC)





Rise Commercial District  
Bear Development, LLC  
March 22, 2022

## Attachment 3 | Seed Mix

## Native Slope Stabilization

This erosion control mix is specially designed to provide quick vegetation and permanent native grass establishment. Spring seeding is recommended.

**#NSS Wet Mesic to Dry Mesic Full Sun to Part Sun 25.00 PLS LBS/Acre 125.00 Seeds/ Sq. Ft**

<b>Wildflowers</b>		<b>Oz/Acre</b>
Chamaecrista fasciculata	Partridge Pea	16.00
Coreopsis lanceolata	Lance-Leaf (Sand) Coreopsis	1.50
Echinacea purpurea	Purple Coneflower	2.00
Heliopsis helianthoides	Early Sunflower	2.00
Monarda fistulosa	Wild Bergamot	1.00
Ratibida pinnata	Yellow Coneflower	2.50
Rudbeckia hirta	Black-Eyed Susan	3.00
Rudbeckia subtomentosa	Sweet Black-Eyed Susan	2.00
<b>Grasses, Sedges, &amp; Rushes</b>		<b>Oz/Acre</b>
Andropogon gerardii	Big Bluestem	10.00
Bouteloua curtipendula	Side Oats Grama	32.00
Elymus canadensis	Canada Wild Rye	24.00
Elymus trachycaulus	Slender Wheatgrass	32.00
Elymus virginicus	Virginia Wild Rye	32.00
Panicum virgatum	Switchgrass	12.00
Schizachyrium scoparium	Little Bluestem	16.00
Sorghastrum nutans	Indian Grass	20.00
<b>Temporary Cover</b>		<b>Oz/Acre</b>
Lolium multiflorum	Annual Ryegrass	192.00



Rise Commercial District  
Bear Development, LLC  
March 22, 2022

## Attachment 4 | WDNR Technical Standard 1059

# Seeding For Construction Site Erosion Control (1059)

Wisconsin Department of Natural Resources  
Technical Standard

## I. Definition

Planting seed to establish temporary or permanent vegetation for erosion control

## II. Purpose

The purpose of *temporary seeding*<sup>1</sup> is to reduce runoff and erosion until permanent vegetation or other erosion control practices can be established. The purpose of *permanent seeding* is to permanently stabilize areas of exposed soil.

## III. Conditions Where Practice Applies

This practice applies to areas of exposed soil where the establishment of vegetation is desired. Temporary seeding applies to disturbed areas that will not be brought to final grade or on which land-disturbing activities will not be performed for a period greater than 30 days, and requires vegetative cover for less than one year. Permanent seeding applies to areas where perennial vegetative cover is needed.

## IV. Federal, State and Local Laws

Users of this standard shall be aware of all applicable federal, state and local laws, rules, regulations or permit requirements governing seeding. This standard does not contain the text of federal, state or local laws.

## V. Criteria

This section establishes the minimum standards for design, installation and performance requirements.

### A Site and Seedbed Preparation

Site preparation activities shall include

### 1 Temporary Seeding

- a Temporary seeding requires a seedbed of loose soil to a minimum depth of 2 inches.
- b Fertilizer application is not generally required for temporary seeding. However, any application of fertilizer or lime shall be based on soil testing results.
- c The soil shall have a pH range of 5.5 to 8.0.

### 2 Permanent Seeding

- a *Topsoil* installation shall be completed prior to permanent seeding.
- b Permanent seeding requires a seedbed of loose topsoil to a minimum depth of 4 inches with the ability to support a *dense* vegetative cover.
- c Application rates of fertilizer or lime shall be based on soil testing results.
- d Prepare a tilled, fine, but firm seedbed. Remove rocks, twigs, foreign material and clods over two inches that cannot be broken down.
- e The soil shall have a pH range of 5.5 to 8.0.

<sup>1</sup> Words in the standard that are shown in italics are described in X. Definitions. The words are italicized the first time they are used in the text.

B Seeding

1 Seed Selection

- a. Seed mixtures that will produce dense vegetation shall be selected based on soil and site conditions and intended final use. Section IX References, lists sources containing suggested seed mixtures
- b. All seed shall conform to the requirements of the Wisconsin Statutes and of the Administrative Code Chapter ATCP 20.01 regarding noxious weed seed content and labeling
- c. Seed mixtures that contain potentially invasive species or species that may be harmful to native plant communities shall be avoided
- d. Seed shall not be used later than one year after the test date that appears on the label
- e. Seed shall be tested for purity, germination and noxious weed seed content and shall meet the minimum purity and germination requirements as prescribed in the current edition of Rules for Testing Seed, published by the Association of Official Seed Analysts

2 Seed Rates

a Temporary Seeding (Cover Crop)

Areas needing protection during periods when permanent seeding is not applied shall be seeded with annual species for temporary protection. See Table 1 for seeding rates of commonly used species. The residue from this crop may either be incorporated into the soil during seedbed preparation at the next permanent seeding period or left on the soil surface and the planting made as a no-till seeding.

Table 1 Temporary Seeding Species and Rates

Species	Lbs/Acre	Percent Purity
Oats	131 <sup>1</sup>	98
Cereal Rye	131 <sup>2</sup>	97
Winter wheat	131 <sup>2</sup>	95
Annual Ryegrass	80 <sup>2</sup>	97

<sup>1</sup> Spring and summer seeding

<sup>2</sup> Fall seeding

b Permanent Seeding

Rates shall be based on pounds or ounces of Pure Live Seed (PLS) per acre. Section IX contains some possible reference documents that provide seeding rates. Permanent seeding rates may be increased above the minimum rates shown in the reference documents to address land use and environmental conditions.

If a nurse crop is used in conjunction with permanent seeding, the nurse crop shall not hinder establishment of the permanent vegetation.

A nurse crop shall be applied at 50% its temporary seeding rate when applied with permanent seed.

3 Inoculation

Legume seed shall be inoculated in accordance with the manufacturer's recommendations. Inoculants shall not be mixed with liquid fertilizer.

4 Sowing

Seed grasses and legumes no more than ¼ inch deep. Distribute seed uniformly. Mixtures with low seeding rates require special care in sowing to achieve proper seed distribution.

Seed may be broadcast, drilled, or hydroseeded as appropriate for the site.

Seed when soil temperatures remain consistently above 53° F. *Dormant seed* when the soil temperature is consistently below 53° F (typically



Nov 1st until snow cover) Seed shall not be applied on top of snow

## VI. Considerations

- A Consider seeding at a lower rate and making two passes to ensure adequate coverage
- B Compacted soil areas may need special site preparation prior to seeding to mitigate compaction This may be accomplished by chisel plowing to a depth of 12 inches along the contour after heavy equipment has left the site
- C Sod may be considered where adequate watering is available
- D When working in riparian areas refer to the NRCS Engineering Field Handbook, Chapter 16, Streambank and Shoreline Protection and Chapter 18, *Soil Bioengineering* for Upland Slope Protection and Erosion Reduction
- E A site assessment should be conducted to evaluate soil characteristics, topography, exposure to sunlight, proximity to natural plant communities, proximity to nuisance, noxious and/or invasive species, site history, moisture regime, climatic patterns, soil fertility, and previous herbicide applications
- F Use *introduced species* only in places where they will not spread into existing natural areas
- G Lightly roll or compact the area using suitable equipment when the seedbed is judged to be too loose, or if the seedbed contains clods that might reduce seed germination
- H See Section IX References for suggested seed mixes (NRCS, WisDOT, UWEX) or use their equivalent
- I Turf seedlings should not be mowed until the stand is at least 6 inches tall Do not mow closer than 3 inches during the first year of establishment.
- J Seeding should not be done when the soil is too wet

- K Consider watering to help establish the seed Water application rates shall be controlled to prevent runoff and erosion
- L Prairie plants may not effectively provide erosion control during their establishment period without a nurse crop
- M. Topsoil originating from agricultural fields may contain residual chemicals The seedbed should be free of residual herbicide or other contaminants that will prevent establishment and maintenance of vegetation Testing for soil contaminants may be appropriate if there is doubt concerning the soil's quality
- N Consider using mulch or a nurse crop if selected species are not intended for quick germination. When mulching refer to WDNR Technical Standard Mulching for Construction Sites (1058)

## VII. Plans and Specifications

Plans and specifications for seeding shall be in keeping with this standard and shall describe the requirements for applying this practice

All plans, standard detail drawings, or specifications shall include schedule for installation, inspection, and maintenance The responsible party shall be identified

## VIII. Operation and Maintenance

- A During construction areas that have been seeded shall at a minimum be inspected weekly and within 24 hours after every precipitation event that produces 0.5 inches of rain or more during a 24-hour period Inspect weekly during the growing season until vegetation is densely established or permit expires. Repair and reseed areas that have erosion damage as necessary
- B Limit vehicle traffic and other forms of compaction in areas that are seeded
- C A fertilizer program should begin with a soil test Soil tests provide specific fertilizer recommendations for the site and can help to avoid over-application of fertilizers

## IX. References

### A. Seed Selection References

United States Department of Agriculture –  
Natural Resources Conservation Service  
Field Office Technical Guide Section IV,  
Standard 342, Critical Area Planting

UWEX Publication A3434 Lawn and  
Establishment & Renovation

WisDOT, 2003 State of Wisconsin  
Standard Specifications For Highway and  
Structure Construction Section 630,  
Seeding

### B. General References

Association of Official Seed Analysts, 2003.  
Rules for Testing Seed  
<http://www.aosaseed.com>

Metropolitan Council, 2003 Urban Small  
Sites Best Management Practice Manual,  
Chapter 3, Vegetative Methods 3-85 – 3-91  
Minneapolis

The State of Wisconsin list of noxious  
weeds can be found in Statute 66.0407

United States Department of Agriculture –  
Natural Resources Conservation Service  
Engineering Field Handbook, Chapters 16  
and 18

UWEX Publication GWQ002 Lawn &  
Garden Fertilizers

Nurse Crop (V.B 2 b) Also known as a  
companion crop, is the application of temporary  
(annual) seed with permanent seed

Permanent seeding (II) Seeding designed to  
minimize erosion for an indefinite period after  
land disturbing construction activities have  
ceased on the site.

Soil Bioengineering (VI.D) Practice of  
combining mechanical, biological and ecological  
concepts to arrest and prevent shallow slope  
failures and erosion

Temporary Seeding (II) Seeding designed to  
control erosion for a time period of one year or  
less that is generally removed in order to perform  
further construction activities or to permanently  
stabilize a construction site

Topsoil (V A 2 a) Consists of loam, sandy loam,  
silt loam, silty clay or clay loam humus-bearing  
soils adapted to sustain plant life with a pH range  
of 5.5 – 8.0. Manufactured topsoil shall through  
the addition of sand or organic humus material,  
peat, manure or compost meet the above criteria

## X. Definitions

Dense (V A 2 b) A stand of 3-inch high grassy  
vegetation that uniformly covers at least 70% of  
a representative 1 square yard plot

Dormant seed (V B.4) Seed is applied after  
climatic conditions prevent germination until the  
following spring

Introduced Species (VI F) Plant species that  
historically would not have been found in North  
America until they were brought here by  
travelers from other parts of the world. This  
would include smooth brome grass and alfalfa.  
Some of these species may have a wide  
distribution such as Kentucky bluegrass

CONSERVATION EASEMENT

Ryan Meadows  
Wetland 1- Lot 84 & Outlot 3

This Conservation easement is made by and between the CITY OF FRANKLIN, a municipal corporation of the State of Wisconsin, hereinafter referred to as "Grantee," and Mills Hotel Wyoming, LLC, a e.g. Limited Liability Corporation, hereinafter referred to as "Grantor," and shall become effective upon the recording of this Grant of Conservation Easement, together with the Acceptance following, with the Office of the Register of Deeds for Milwaukee County, pursuant to §700.40(2)(b) of the Wisconsin Statutes.

WITNESSETH

WHEREAS, Grantor is the owner in fee simple of certain real property, located within Ryan Meadows Subdivision, being Lot 1, Lot 2, Lot 3 and Outlot 1 of Certified Survey Map No. 9095 and additional lands in the Southwest ¼ and Northwest ¼ of the Northeast ¼ and the Northeast ¼ of the Southwest ¼ and the Northeast ¼ and the Southeast ¼ of the Northwest ¼ all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin., described in Exhibit A attached hereto and hereby made a part hereof (protected property); and

WHEREAS, the Grantor desires and intends that the natural elements and the ecological and aesthetic values of the protected property including, without limitation, steep slopes, mature woodlands, young woodlands, lakes, ponds, streams, floodplains, floodways, floodlands, shore buffers, wetland buffers, wetlands and shoreland wetlands, as identified in the Natural Resource Protection Plan compiled by Pinnacle Engineering Group, dated April 25, 2019, which is located in the office of the Department of City Development, be preserved and maintained by the continuation of land use that will not interfere with or substantially disrupt the natural elements or the workings of natural systems; and

WHEREAS, Grantee is a "holder", as contemplated by §700.41(1)(b)1. of the Wisconsin Statutes, whose purposes include, while exercising regulatory authority granted to it, *inter alia*, under §62.23 and §236.45 of the Wisconsin Statutes, the conservation of land, natural areas, open space, and water areas; and

WHEREAS, the Grantor and Grantee, by the conveyance to the Grantee of the conservation easement on, over, and across the protected property, desire to conserve the natural values thereof and prevent the use or development of the protected property for any purpose or in any manner inconsistent with the terms of this conservation easement, and

WHEREAS, the Grantee is willing to accept this conservation easement subject to the reservations and to the covenants, terms, conditions, and restrictions set out herein and imposed hereby;

NOW, THEREFORE, the Grantor, for and in consideration of the foregoing recitations and of the mutual covenants, terms, conditions, and restrictions subsequently contained, and as an absolute and unconditional dedication, does hereby grant and convey unto the Grantee a conservation easement in perpetuity on, over, and across the protected property.

Grantee's rights hereunder shall consist solely of the following:

1. To view the protected property in its natural, scenic, and open condition;
2. To enforce by proceeding at law or in equity the covenants subsequently set forth, including, and in addition to all other enforcement proceedings, proceedings to obtain all penalties and remedies set forth under Division 15-9.0500 of the Unified Development Ordinance of the City of Franklin, as amended from time to time, any violation of the covenants subsequently set forth being and constituting a violation of such Unified Development Ordinance, as amended from time to time, or such local applicable ordinance as may be later adopted or in effect to enforce such covenants or the purposes for which they are made, it being agreed that there shall be no waiver or forfeiture of the Grantee's right to insure compliance with the covenants and conditions of this grant by reason of any prior failure to act; and
3. To enter the protected property at all reasonable times for the purpose of inspecting the protected property to determine if the Grantor is complying with the covenants and conditions of this grant.

And in furtherance of the foregoing affirmative rights of the Grantee, the Grantor makes the following covenants which shall run with and bind the protected property in perpetuity, namely, that, on, over, or across the protected property, the Grantor, without the prior consent of the Grantee, shall not:

1. Construct or place buildings or any structure;
2. Construct or make any improvements, unless, notwithstanding Covenant 1 above, the improvement is specifically and previously approved by the Common Council of the City of Franklin, upon the advice of such other persons, entities, and agencies as it may elect; such improvements as may be so approved being intended to enhance the resource value of the protected property to the environment or the public and including, but not limited to animal and bird feeding stations, park benches, the removal of animal blockage of natural drainage or other occurring blockage of natural drainage, and the like;
3. Excavate, dredge, grade, mine, drill, or change the topography of the land or its natural condition in any manner, including any cutting or removal of vegetation, except for the removal of dead or diseased trees; with the exception of limited grading within the wetland setback area as defined by the City of Franklin Unified Development Ordinance. Grading within the wetland setback is limited to the grading shown in the approved Final Engineering Plans for the Ryan Meadows Subdivision.
4. Conduct any filling, dumping, or depositing of any material whatsoever, including, but not limited to soil, yard waste, or other landscape materials, ashes, garbage, or debris;
5. Plant any vegetation not native to the protected property or not typical wetland vegetation;
6. Operate snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any other types of motorized vehicles.

To have and to hold this conservation easement unto the Grantee forever. Except as expressly limited herein, the Grantor reserves all rights as owner of the protected property, including, but not limited to, the right to use the protected property for all purposes not inconsistent with this grant. Grantor shall be responsible for the payment of all general property taxes levied, assessed, or accruing against the protected property pursuant to law.

The covenants, terms, conditions, and restrictions set forth in this grant shall be binding upon the Grantor and the Grantee and their respective agents, personal representatives, heirs, successors, and assigns, and shall constitute servitudes running with the protected property in perpetuity. This grant may not be amended, except by a writing executed and delivered by Grantor and Grantee or their respective personal representatives, heirs, successors, and assigns. Notices to the parties shall be personally delivered or mailed by U.S. Mail registered mail, return receipt requested, as follows:

To Grantor:  
Mills Hotel Wyoming, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142

To Grantee:  
City of Franklin  
Office of the City Clerk  
9229 W. Loomis Road  
Franklin, Wisconsin 53132

In witness whereof, the grantor has set its hand and seals this on this date of \_\_\_\_\_, 20\_\_.

Mills Hotel Wyoming, LLC

By. Mills Enterprises, LLC its Manager

\_\_\_\_\_  
Stephen C. Mills, Member

\_\_\_\_\_  
Martha L. Mills, Member

STATE OF WISCONSIN        )  
  ) ss  
COUNTY OF MILWAUKEE    )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_ by

Stephen C. Mills. Member, Mills Enterprises, LLC

To me known to be the person(s) who executed the foregoing Easement and acknowledged the same as the voluntary act and deed of said Mills Hotel Wyoming, LLC.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

STATE OF WISCONSIN        )  
  ) ss  
COUNTY OF MILWAUKEE    )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_ by

Martha L. Mills. Member, Mills Enterprises, LLC

To me known to be the person(s) who executed the foregoing Easement and acknowledged the same as the voluntary act and deed of said Mills Hotel Wyoming, LLC

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_  
Company Name

**Acceptance**

The undersigned does hereby consent to and accepts the Conservation Easement granted and conveyed to it under and pursuant to the foregoing Grant of Conservation Easement. In consideration of the making of such Grant Of Conservation Easement, the undersigned agrees that this acceptance shall be binding upon the undersigned and its successors and assigns and that the restrictions imposed upon the protected property may only be released or waived in writing by the Common Council of the City of Franklin, as contemplated by §236.293 of the Wisconsin Statutes.

In witness whereof, the undersigned has executed and delivered this acceptance on the \_\_\_\_ day of \_\_\_\_\_, A.D.20\_\_.

**CITY OF FRANKLIN**

By: \_\_\_\_\_  
Stephen R. Olson, Mayor

By: \_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

STATE OF WISCONSIN        )  
  ) ss  
COUNTY OF MILWAUKEE    )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_, the above named Stephen R. Olson, Mayor and Sandra L. Wesolowski, City Clerk, of the above named municipal corporation, City of Franklin, to me known to be such Mayor and City Clerk of said municipal corporation, and acknowledged that they executed the foregoing instrument as such officers as the Deed of said municipal corporation by its authority and pursuant to Resolution No. \_\_\_\_\_, adopted by its Common Council on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

This instrument was drafted by the City of Franklin.

Approved as to contents:

\_\_\_\_\_  
Joel Dietl, Planning Manager  
Department of City Development

\_\_\_\_\_  
Date

Approved as to form only:

\_\_\_\_\_  
Jesse A. Wesolowski  
City Attorney

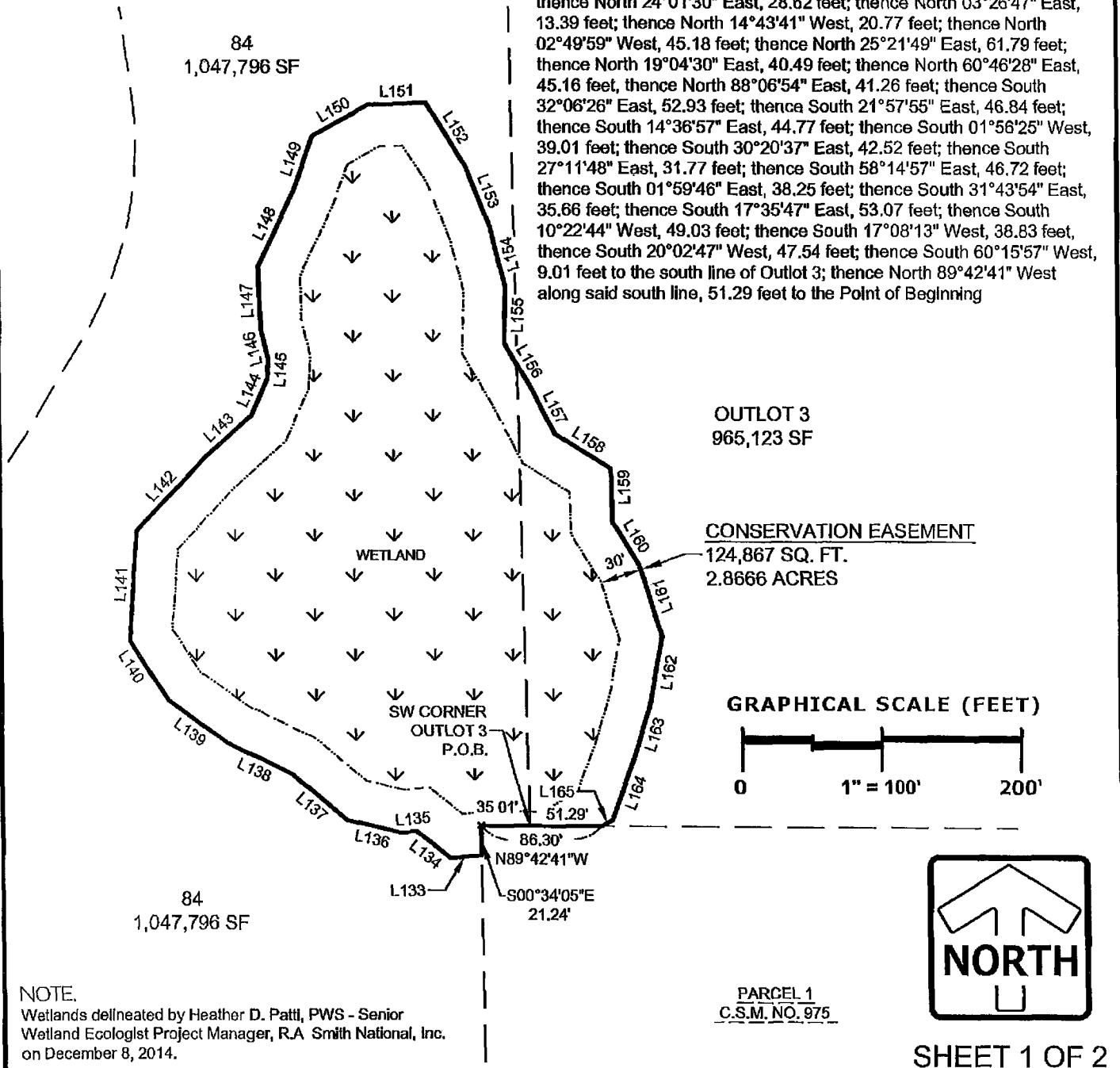
\_\_\_\_\_  
Date

**LEGAL DESCRIPTION:**

Being a part of Lot 84 and Outlot 3 in Ryan Meadows, located in the Southwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Southeast 1/4 of the Northwest 1/4, Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County Wisconsin, described as follows:

Beginning at the southwest corner of said Outlot 3; thence North 89°42'41" West along the south line of said Lot 84, 35.01 feet; thence South 00°34'05" East along the east line of said Lot 84, 21.24 feet; thence South 85°51'26" West, 22.70 feet; thence North 52°02'25" West, 30.32 feet; thence South 85°12'42" West, 10.31 feet; thence North 76°55'48" West, 39.91 feet; thence North 49°54'31" West, 50.79 feet; thence North 64°32'14" West, 51.54 feet; thence North 54°16'58" West, 51.58 feet; thence North 32°49'08" West, 50.00 feet; thence North 03°52'01" East, 77.90 feet; thence North 43°11'30" East, 71.13 feet; thence North 47°54'45" East, 45.57 feet;

thence North 24°01'30" East, 28.62 feet; thence North 03°26'47" East, 13.39 feet; thence North 14°43'41" West, 20.77 feet; thence North 02°49'59" West, 45.18 feet; thence North 25°21'49" East, 61.79 feet; thence North 19°04'30" East, 40.49 feet; thence North 60°46'28" East, 45.16 feet, thence North 88°06'54" East, 41.26 feet; thence South 32°06'26" East, 52.93 feet; thence South 21°57'55" East, 46.84 feet; thence South 14°36'57" East, 44.77 feet; thence South 01°56'25" West, 39.01 feet; thence South 30°20'37" East, 42.52 feet; thence South 27°11'48" East, 31.77 feet; thence South 58°14'57" East, 46.72 feet; thence South 01°59'46" East, 38.25 feet; thence South 31°43'54" East, 35.66 feet; thence South 17°35'47" East, 53.07 feet; thence South 10°22'44" West, 49.03 feet; thence South 17°08'13" West, 38.83 feet, thence South 20°02'47" West, 47.54 feet; thence South 60°15'57" West, 9.01 feet to the south line of Outlot 3; thence North 89°42'41" West along said south line, 51.29 feet to the Point of Beginning



NOTE:  
Wetlands delineated by Heather D. Patti, PWS - Senior Wetland Ecologist Project Manager, R.A. Smith National, Inc. on December 8, 2014.

PARCEL 1  
C.S.M. NO. 975

SHEET 1 OF 2

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L133	S85°51'28"W	22.70'
L134	N52°02'25"W	30.32'
L135	S85°12'42"W	10.31'
L136	N76°55'48"W	39.91'
L137	N49°54'31"W	50.79'
L138	N64°32'14"W	51.54'
L139	N54°16'58"W	51.58'
L140	N32°49'08"W	50.00'
L141	N03°52'01"E	77.90'
L142	N43°11'30"E	71.13'
L143	N47°54'45"E	45.57'
L144	N24°01'30"E	28.82'
L145	N03°28'47"E	13.39'
L146	N14°43'41"W	20.77'
L147	N02°49'59"W	45.18'
L148	N25°21'49"E	61.79'
L149	N19°04'30"E	40.49'

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L150	N60°46'28"E	45.16'
L151	N88°06'54"E	41.26'
L152	S32°06'26"E	52.93'
L153	S21°57'55"E	46.84'
L154	S14°36'57"E	44.77'
L155	S01°58'25"W	39.01'
L156	S30°20'37"E	42.52'
L157	S27°11'48"E	31.77'
L158	S58°14'57"E	46.72'
L159	S01°59'46"E	38.25'
L160	S31°43'54"E	35.66'
L161	S17°35'47"E	53.07'
L162	S10°22'44"W	49.03'
L163	S17°08'13"W	38.83'
L164	S20°02'47"W	47.54'
L165	S60°15'57"W	9.01'

SHEET 2 OF 2



# CONSERVATION EASEMENT

**PINNACLE ENGINEERING GROUP**

15850 W. BLUEMOUND ROAD | SUITE 210 | BROOKFIELD, WI 53005

WWW.PINNACLE-ENGR.COM

08/22/19

**PLAN | DESIGN | DELIVER**

PEG JOB#809.20



Planning Department  
 9229 West Loomis Road  
 Franklin, Wisconsin 53132  
[generalplanning@franklinwi.gov](mailto:generalplanning@franklinwi.gov)  
 (414) 425-4024  
[franklinwi.gov](http://franklinwi.gov)



APPLICATION DATE: \_\_\_\_\_  
 STAMP DATE: \_\_\_\_\_ city use only \_\_\_\_\_

## NATURAL RESOURCE SPECIAL EXCEPTION APPLICATION

### PROJECT INFORMATION [print legibly]

APPLICANT [FULL LEGAL NAMES]	APPLICANT IS REPRESENTED BY [CONTACT PERSON]
NAME: S.R. Mills	NAME: Daniel Szczap
COMPANY: Bear Development, LLC	COMPANY: Bear Development, LLC
MAILING ADDRESS: 4011 80th Street	MAILING ADDRESS: 4011 80th Street
CITY/STATE: Kenosha, WI ZIP: 53142	CITY/STATE: Kenosha, WI ZIP: 53142
PHONE: (262) 949-3788	PHONE: (262) 949-3788
EMAIL ADDRESS: dan@beardevelopment.com	EMAIL ADDRESS: dan@beardevelopment.com

### PROJECT PROPERTY INFORMATION

PROPERTY ADDRESS: Vacant Land, Monarch Drive	TAX KEY NUMBER: 891-1084-000 & 938-9994-004
PROPERTY OWNER: Loomis & Ryan, Inc. & Gurjit Singh	PHONE: (262) 949-3788
MAILING ADDRESS: 4011 80th Street	EMAIL ADDRESS: dan@beardevelopment.com
CITY/STATE: Kenosha, WI ZIP: 53142	DATE OF COMPLETION: _____ office use only _____

### APPLICATION MATERIALS

The following materials must be submitted with this application form. \*incomplete applications and submittals cannot be reviewed.

- This application form accurately filled out with signature or authorization letters (see below).
- \$500 Application fee payable to the City of Franklin
- Word Document Legal description for the subject property.
- Three (3) collated sets of the following ...
  - Three (3) folded full size Plats of Survey, drawn to scale copies on 24" X 36" paper as required by Section 15-9.0110(B) of the Unified Development Ordinance.
  - Three (3) folded full size of the Natural Resource Protection Plan drawn to scale copies on 24" X 36" paper, see Sections 15-4.0102 and 15-7.0201 for information that must be denoted on or included with the NRPP.
  - Three (3) copies of the Natural Resource Protection Report if applicable. (see Section 15-7.0103Q of the UDO).
- One copy of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit.
- Email or flash drive with all plans/submittal materials.

Natural Resource Special Exception requests require review by the Environmental Commission, public hearing at and review by the Plan Commission, and Common Council approval prior to recording with Milwaukee County Register of Deeds.

Applicant is responsible for providing Plan Commission and Environmental Commission resubmittal materials up to 12 copies pending staff request and comments.

### SIGNATURES

The applicant and property owner(s) hereby certify that: (1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s)' knowledge; (2) the applicant and property owner(s) has/have read and understand all information in this application; and (3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval. By execution of this application, the property owner(s) authorize the City of Franklin and/or its agents to enter upon the subject property(ies) between the hours of 7:00 a.m. and 7:00 p.m. daily for the purpose of inspection while the application is under review. The property owner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis. Stat. §943.13.

*(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature[s] below. If more than one, all of the owners of the property must sign this Application).*

- I, the applicant, certify that I have read the above page detailing the requirements for NRSE approval and submittals and understand that incomplete applications and submittals cannot be reviewed.

X PROPERTY OWNER SIGNATURE: NAME & TITLE: Gurjit Singh DATE: 12/8/2021	APPLICANT SIGNATURE: NAME & TITLE: S.R. Mills, President DATE: 12/8/21
PROPERTY OWNER SIGNATURE: NAME & TITLE: DATE:	APPLICANT REPRESENTATIVE SIGNATURE: NAME & TITLE: Daniel Szczap, Project Manger DATE: 12/8/2021

## LEGAL DESCRIPTION PROPOSED LOT 2

Being a part of Lot 84 in Ryan Meadows, as recorded in the Register of Deeds office for Milwaukee County as Document No. 10962414 and a part of Parcel 1 of Certified Survey Map No. 975, as recorded in the Register of Deeds office for Milwaukee County as Document No. 4446377, located in the Southwest 1/4 of the Northeast 1/4 AND the Northwest 1/4 of the Southeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County Wisconsin, described as follows:

Commencing at the southwest corner of the Northwest 1/4 of said Section 30; Thence South 89°39'32" East along the south line of said Northwest 1/4 and then along a south line of Ryan Meadows, a recorded subdivision, 2008.73 feet to the north right of way line of Monarch Drive and a west line of said Ryan Meadows; Thence South 00° 34'08" East along said west line of Ryan Meadows, 98.50 feet to the south right of way line of Monarch Drive and the Point of Beginning;

Thence North 53°44'29" East along said south right of way line, 53.80 feet; Thence South 36°15'32" East, 20.52 feet to a point of curvature; Thence southeasterly 47.91 feet along the arc of said curve to the left, whose radius is 30.50 feet and whose chord bears South 81°15'32" East, 43.13 feet; Thence North 53°44'29" East, 42.59 feet to a point of curvature; Thence northeasterly 68.46 feet along the arc of said curve to the left, whose radius is 80.50 feet and whose chord bears North 29°22'38" East, 66.42 feet; Thence North 05°00'46" East, 31.55 feet to a point on a curve and the aforesaid south right of way line of Monarch Drive; Thence northeasterly 99.71 feet along the arc of said curve to the left and said right of way line, whose chord bears North 41°39'59" East, 99.14 feet; Thence North 31°05'13" East along said right of way line, 282.33 feet to a point of curvature; Thence northeasterly 183.30 feet along the arc of said curve to the left and said right of way line, whose radius is 270.00 feet and whose chord bears North 11°38'18" East, 179.80 feet; Thence North 07°48'36" West along said right of way line, 28.88; Thence North 88°49'54" East, 273.89 feet to the west line of Outlot 3 of Ryan Meadows; Thence South 01°10'06" East along said west line, 555.10 feet to the south line of the Northeast 1/4 of said Section 30 and a south line of Ryan Meadows and a north line of Parcel 1 of Certified Survey Map No. 975; Thence South 89°42'41" East along said south line, 708.82 feet; Thence South 00°33'39" East along an east line of said Parcel 1 and then continuing, 575.04 feet, Thence North 77°18'53" West, 764.02 feet to the west line of said Southeast 1/4; Thence South 00°34'05" East along said west line, 256.46 feet to the south line of said Ryan Meadows; Thence North 89°47'21" West along said south line, 662.96 feet to a west line of said Ryan Meadows; Thence North 00°34'08" West along said west line, 570.47 feet to the Point of beginning.

Containing 999,038 square feet (22.9347 acres) of land, more or less.

# CERTIFIED SURVEY MAP NO. \_\_\_\_\_

SEE SHEET 14 FOR  
BOUNDARY  
CURVE TABLE  
AND NOTES



**CHICORY STREET**  
(PUBLIC R.O.W.)

N45°57'27"E  
53.22'

NW CORNER, NE 1/4 SEC. 30, T5N, R21E  
N=324,097.27; E=2,520,162.66  
(FOUND CONC. MON. W/ BRASS CAP)  
(WISCONSIN STATE PLANE CO-ORDINATE SYSTEM, SOUTH ZONE)

N30°52'54"E 29.00'  
N14°02'32"W 27.27'  
N59°07'06"W 82.77'

**LOT 1**  
409,070  
SQ. FT.  
9.3910  
ACRES

Being all of Lot 84 in Ryan Meadows and a part of Parcel I of Certified Survey Map No. 975, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northwest 1/4 of the Southeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 of the Northwest 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin

**LEGEND:**

- - Denotes Found 1" Iron Pipe
- - Denotes Found 1-1/4" Iron Rod
- ⊙ - Denotes Found 3/4" Iron Rod
- ⊠ - Denotes Found Mag Nail
- ⊞ - Denotes Set 3/4" X 18" Iron Rebar, 150 LBS./FT
- ↘ - Denotes Wetland
- (R) - Denotes "Recorded As"

LOT 83  
RYAN MEADOWS

OWNER: STRAUSS INVESTMENTS LLC  
ZONED: M1

NW CORNER, SW 1/4  
SW CORNER, NW 1/4  
SEC. 30, T5N, R21E  
(FOUND CONC. MON. W/ BRASS CAP)

N53°44'29"E  
201.16'

N89°39'32"W 2671.72'  
SOUTH LINE OF THE NW 1/4  
SEC. 30, T5N, R21E

2008.73'  
NORTH LINE OF THE SW 1/4  
SEC. 30, T5N, R21E

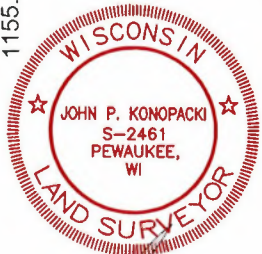
S00°34'08"E  
98.50'

LOT 1  
C.S.M. NO. 9276  
OWNER: COPART OF CONNECTICUT INC  
ZONED: M2

LOT 2  
C.S.M. NO. 9276  
OWNER: MATHSON  
ZONED: C1

**LOT 2**  
1,005,391 SQ. FT.  
23.0806 ACRES

UNPLATTED LANDS  
OWNER: GRANDLICH  
ZONED: R2



NOVEMBER 8, 2021

((R) N89°20'00"W (CSM 975))  
S89°42'41"E 2645.59'  
SOUTH LINE OF THE NE 1/4  
SEC. 30, T5N, R21E

S89°42'41"E 708.82'

CENTER  
SEC. 30  
T5N, R21E  
(FOUND 1" IRON PIPE)

**GRAPHICAL SCALE (FEET)**

0 1" = 250'

SEE SHEET 3

Prepared By:  
**PINNACLE ENGINEERING GROUP**  
20725 WATERTOWN ROAD | SUITE 100  
BROOKFIELD, WI 53186  
OFFICE: (262) 754-8888

This instrument drafted by John P. Konopacki, PLS-License No. S-2461

PEG JOB#809.90A  
**SHEET 2 OF 18**

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<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>05/17/22</p>
<p>REPORTS &amp; RECOMMENDATIONS</p>	<p><b>AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (ZONING MAP) TO REZONE A CERTAIN PARCEL OF LAND FROM R-8 MULTIPLE-FAMILY RESIDENCE DISTRICT TO R-6 SUBURBAN SINGLE-FAMILY RESIDENCE DISTRICT (SPECIFICALLY LOCATED AT THE ABRUPT, WEST DEAD END OF WEST LAKE POINTE DRIVE) (APPROXIMATELY 3.45 ACRES) (KARLEY J. BLAKE AND JACOB W. MUTTER, APPLICANTS)</b></p>	<p>ITEM NUMBER</p> <p><b>G.4.</b></p>

At its May 5, 2022, regular meeting, the Plan Commission carried a motion to recommend approval of this Ordinance to amend the Unified Development Ordinance (zoning map) to rezone a certain parcel of land from R-8 Multiple-Family Residence District to R-6 Suburban Single-Family Residence District (specifically located at the abrupt, west dead end of West Lake Pointe Drive) (approximately 3.45 acres).

This meeting's agenda includes the applicant's request for a Natural Resources Special Exception. The staff report about the rezoning items is included with the NRSE item.

**COUNCIL ACTION REQUESTED**

A motion to adopt Ordinance 2022-\_\_\_\_\_, an Ordinance to amend the Unified Development Ordinance (zoning map) to rezone a certain parcel of land from R-8 Multiple-Family Residence District to R-6 Suburban Single-Family Residence District (specifically located at the abrupt, west dead end of West Lake Pointe Drive) (approximately 3.45 acres). (Karley J Blake and Jacob W Mutter, applicants)



ORDINANCE NO. 2022-\_\_\_\_\_

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT  
ORDINANCE (ZONING MAP) TO REZONE A CERTAIN PARCEL OF  
LAND FROM R-8 MULTIPLE-FAMILY RESIDENCE DISTRICT TO  
R-6 SUBURBAN SINGLE-FAMILY RESIDENCE DISTRICT  
(SPECIFICALLY LOCATED AT THE ABRUPT, WEST DEAD  
END OF WEST LAKE POINTE DRIVE)  
(APPROXIMATELY 3.45 ACRES)  
(KARLEY J. BLAKE AND JACOB W. MUTTER, APPLICANTS)

---

WHEREAS, Karley J. Blake and Jacob W. Mutter, LLC having petitioned for the rezoning of approximately 3.45 acres of land, from R-8 Multiple-Family Residence District to R-6 Suburban Single-Family Residence District, such land specifically located at the abrupt, west dead end of West Lake Pointe Drive (on the east property line of the parcel, abutting the northwest portion of Lake Pointe Estates subdivision); and

WHEREAS, a public hearing was held before the City of Franklin Plan Commission on the 5th day of May, 2022, upon the aforesaid petition and the Plan Commission thereafter having determined that the proposed rezoning would promote the health, safety and welfare of the City and having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the petition and having concurred with the recommendation of the Plan Commission and having determined that the proposed rezoning is consistent with the 2025 Comprehensive Master Plan of the City of Franklin, Wisconsin and would promote the health, safety and welfare of the Community.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1: §15-3.0102 (Zoning Map) of the Unified Development Ordinance of the City of Franklin, Wisconsin, is hereby amended to provide that the zoning district designation for land specifically located at the abrupt, west dead end of West Lake Pointe Drive (on the east property line of the parcel, abutting the northwest portion of Lake Pointe Estates subdivision), described below, be changed from R-8 Multiple-Family Residence District to R-6 Suburban Single-Family Residence District:

Outlot 1 of Certified Survey Map No. 6416 – Southwest 1/4 of Section 16, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

Tax Key No.: 839-9996-007.

SECTION 2: The terms and provisions 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 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Alderman \_\_\_\_\_.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

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<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;">05/17/2022</p>
<p style="text-align: center;"><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL UPON THE APPLICATION OF KARLEY J. BLAKE AND JACOB W. MUTTER, APPLICANTS, FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><b>G.5.</b></p>

The request is for a Natural Resource Special Exception (NRSE) is for property bearing Tax Key No. 839 9996 007; a 3.5-acre lot located at the dead end of Lake Pointe Drive. The NRSE request is to allow for impacts to wetland setback, due to the installation of a driveway.

At their meeting on April 27, 2022, the Environmental Commission recommended approval of the Special Exception to natural resource provisions of the Unified Development Ordinance with, conditions as presented at their meeting and as set forth in the attached City of Franklin Environmental Commission document.

The public hearing for this item was opened at the regular meeting of the Plan Commission on May 5, 2022. During the public hearing, several residents expressed concerns about the impact of this development on the wetland and surrounding neighborhood.

Following a properly noticed public hearing, the following action was approved: motion to recommend approval of the Karley Blake and Jacob Mutter Natural Resource Features Special Exception pursuant to the Standards, Findings and Decision recommended by the Plan Commission and Common Council consideration of the Environmental Commission recommendations, with the deletion of the requirement for financial sureties.

Draft conditions include a recommended condition No. 4 with the requirement that the applicant shall provide “financial sureties for implementation of restoration, as permitted by §15-4.0103.D.” The Plan Commission may impose sureties, but in this case opted not to due to the fact that the applicant must install green infrastructure, which must also be financially secured.

The Plan Commission’s recommendation has been reflected in the Decision section of the attached draft Standards, Findings, and Decision document, attached here.

**COUNCIL ACTION REQUESTED**

Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of the Karley J. Blake and Jacob W. Mutter request for a special

exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance.

Department of City Development: MX

*Draft 5/10/22*

Standards, Findings and Decision  
of the City of Franklin Common Council upon the Application of Karley J. Blake and  
Jacob W. Mutter, applicants, for a Special Exception  
to Certain Natural Resource Provisions of the City of Franklin  
Unified Development Ordinance

Whereas, Karley J. Blake and Jacob W. Mutter, applicants, having filed an application dated December 23, 2021, for a Special Exception pursuant to Section 15-9.0110 of the City of Franklin Unified Development Ordinance pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature; a copy of said application being annexed hereto and incorporated herein as Exhibit A; and

Whereas, the application having been reviewed by the City of Franklin Environmental Commission and the Commission having made its recommendation upon the application, a copy of said recommendation dated April 27, 2022 being annexed hereto and incorporated herein as Exhibit B; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated May 5, 2022 being annexed hereto and incorporated herein as Exhibit C; and

Whereas, the property which is the subject of the application for a Special Exception is specifically located at the abrupt, west dead end of West Lake Pointe Drive (on the east property line of the parcel, abutting the northwest portion of Lake Pointe Estates subdivision), currently zoned R-8 Multiple-Family Residence District (the requested Special Exception to Natural Resource Feature Provisions is contingent upon approval of a concurrent rezoning application to rezone the property to R-6 Suburban Single-Family Residence District), and such property is more particularly described upon Exhibit D annexed hereto and incorporated herein; and

Whereas, Section 15-10.0208B. of the City of Franklin Unified Development Ordinance, as amended by Ordinance No. 2003-1747, pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature, provides in part: “The decision of the Common Council upon any decision under this Section shall be in writing, state the grounds of such determination, be filed in the office of the City Planning Manager and be mailed to the applicant.”

Now, Therefore, the Common Council makes the following findings pursuant to Section 15-10.0208B.2.a., b. and c. of the Unified Development Ordinance upon the application for a Special Exception dated December 23, 2021, by Karley J. Blake and Jacob W. Mutter, applicants, pursuant to the City of Franklin Unified Development Ordinance, the proceedings heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *but rather, the wetland on the parcel is a naturally occurring feature. The location and configuration of the wetland limits the possible locations for structures.*
  
2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:
  - a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives: *or*
  
  - b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: *The location and configuration of the wetland limits the possible locations for structures. Alternative configurations would still require impacts to natural resources.*
  
3. The Special Exception, including any conditions imposed under this Section will:
  - a. be consistent with the existing character of the neighborhood: *the proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood; and*
  
  - b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City. This request is in harmony with the purpose of the Natural Resource Protection Standards; and*
  
  - c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City. This request is in harmony with the purpose of the Natural Resource Protection Standards, and*

d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development: *(this finding only applying to an application to improve or enhance a natural resource feature).*

The Common Council considered the following factors in making its determinations pursuant to Section 15-10.0208B.2.d. of the Unified Development Ordinance.

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The setback requirements (e.g. side yard, front yard, etc.) of the proposed R-6 Suburban Single-Family Residence District Setback Development Standards (Table §15-3.0207) will be followed. The applicant has proposed a design based on these requirements that still attempts to minimize impacts to natural resources to the degree possible.*

2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *The location and configuration of the wetland limits the possible locations for structures.*

3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *Prior to this development proposal, the property was designated as an Outlot, with R-8 multifamily zoning which would allow for a greater intensity of development. By allowing reasonable development that meets the protection standards (Natural Resource Protection Standards §15-4.0101) the majority of existing natural resources will be preserved.*

4. Aesthetics: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City. This request is in harmony with the purpose of the Natural Resource Protection Standards,*

5. Degree of noncompliance with the requirement allowed by the Special Exception: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City. This request is in harmony with the purpose of the Natural Resource Protection Standards;*

6. Proximity to and character of surrounding property: *The proposed development will not impact surrounding properties to a greater degree than any other development proposal.*

7. Zoning of the area in which property is located and neighboring area: *Residential.*

8. Any negative affect upon adjoining property: *No negative affect upon adjoining property is perceived.*

9. Natural features of the property: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City. This request is in harmony with the purpose of the Natural Resource Protection Standards;*

10. Environmental impacts: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City. This request is in harmony with the purpose of the Natural Resource Protection Standards. The applicant will provide Green Infrastructure to manage rainfall on impermeable surfaces.*

11. A recommendation from the Environmental Commission as well as a review and recommendation prepared by an Environmental Commission-selected person knowledgeable in natural systems: *The Environmental Commission recommendation and its reference to the report of April 27, 2022 is incorporated herein.*

12. The practicable alternatives analysis required by Section 15-9.0110C.4. of the Unified Development Ordinance and the overall impact of the entire proposed use or structure, performance standards and analysis with regard to the impacts of the proposal, proposed design solutions for any concerns under the Ordinance, executory actions which would maintain the general intent of the Ordinance in question, and other factors relating to the purpose and intent of the Ordinance section imposing the requirement: *The Plan Commission recommendation and the Environmental Commission recommendation address these factors and are incorporated herein*

#### Decision

*Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby grants a Special Exception for such relief as is described within Exhibit C, upon the conditions:*

*1) that the natural resource features and mitigation areas upon the properties to be developed be protected by a perpetual conservation easement to be approved by the Common Council prior to any development within the areas for which the Special Exception is granted prior to the issuance of any Occupancy Permits;*

*2) that the applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted;*

*3) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for Karley J Blake and Jacob W. Mutter, applicants, and all other applicable provisions of the Unified Development Ordinance*

4) that the applicant shall provide for restoration of wetland setback that conforms to the standards of §15-4.0102I for appropriate plantings. Turf grasses are prohibited. Non-vegetative cover is permitted in areas subject to erosion.

5) that the applicant shall place boulders or other markers to demarcate the conservation easement boundary on the property.

6) that the applicant shall install temporary orange construction fencing at the boundary of the 30' wetland buffer during construction to protect Natural Resources.

*The duration of this grant of Special Exception is permanent.*

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_



CITY OF FRANKLIN

Item C.2

REPORT TO

THE PLAN COMMISSION

Meeting of May 5, 2022

Natural Resource Special Exception and Rezoning

RECOMMENDATION: Department of City Development Staff recommends approval of the rezoning request for the Blake and Mutter development. Recommended conditions of approval for the NRSE of are incorporated into the draft Standards, Findings and Decision of the Common Council.

Table with 2 columns: Label (Project Name, Project Location, Property Owner, Applicant, Current Zoning, 2025 Comprehensive Plan, Applicant's Action Requested, Planner) and Value (Blake NRSE and Rezoning, 0 W Lake Pointe Drive (839 9996 007), Crescent Construction, Karley J Blake & Jacob W Mutter, R-8 Multiple-Family Residence District, Residential and Areas of Natural Resource Features, Recommendation to the Common Council for approval of the Natural Resource Special Exception Application, Recommendation to the Common Council for approval of the Rezoning, Marion Ecks, Associate Planner)

On December 22, 2021, the applicant submitted applications requesting a rezoning of the property from R-8 Multiple Family Residence District to R-6 Suburban Single-Family Residence District, and approval of a Natural Resource Special Exception to allow for grading and installation of a driveway for a single family home.

Project Description and Analysis

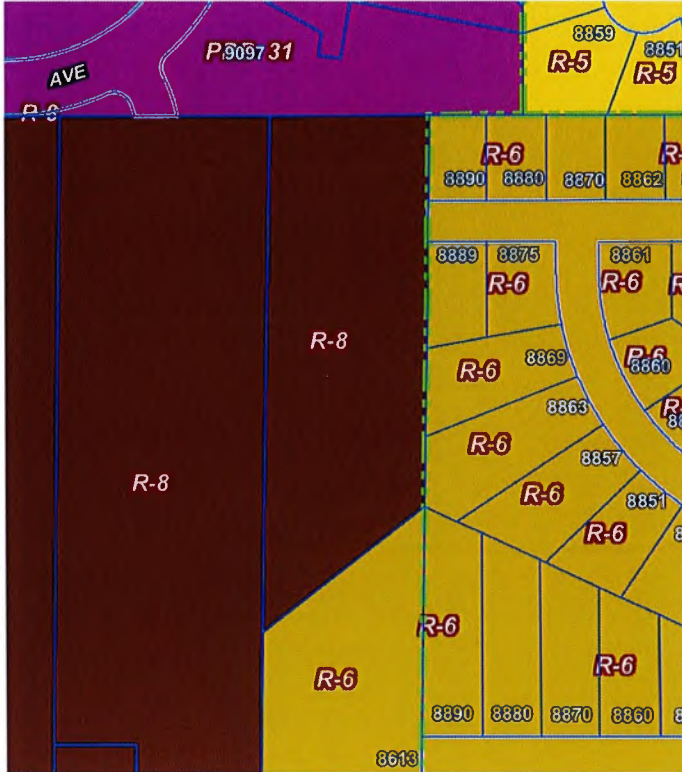
The property is vacant of improvements or structures, and contains woodland, and a large wetland complex and related buffer and setback. W. Lakepoint Drive terminates at the northwest corner of the parcel. The applicant proposes to dedicate a 2,269 square foot area to the City and connect a driveway to this stub of W. Lake Pointe Drive.

Approved Certified Survey Map (CSM):

The property is currently Outlot 1 of CSM No. 6416, located at a stub of W. Lakepoint Dr. The applicant has obtained approval for a one-lot Certified Survey Map and Land Division Variance to allow for development of this single family home, which was approved on March 15, 2022. The Certified Survey Map request removed the outlot designation on this 3.45 acre property. Properties designated as outlots may not be developed without removal of the designation via a CSM.



Rezoning



The lot is currently zoned R-8 Multiple Family Residence District (UDO Section 15-3.0209). The applicant wishes to construct a single-family home, which would require Special Use approval in R-8 zoning. The applicant proposes to rezone the property to R-6 Suburban Single-Family Residence District (UDO Section 15-3.0207), to better align with the single-family residential use proposed. The Lake Pointe Estates subdivision to the east, and the parcel to the south are zoned R-6. To the north is PDD 31, a multifamily development. The lot immediately west is zoned R-8.

The proposed lot meets the minimum area and general setback requirements of the existing and proposed zoning.

Rezoning applications require submittal of a landscape plan (§15-9.0203.F).

The applicant has provided a

preliminary plan, and will need to submit a final plan for staff review as a condition of approval.

The property is significantly constrained by natural resources, and is designated as “Areas of Natural Resources” in the future land use map of the City of Franklin 2025 Comprehensive Master Plan, abutting residential land uses. The Natural Resource designation serves to indicate natural resources, not preclude development. This lot was previously determined to be developable by the Common Council through the Certified Survey Map approval. It should be noted that proposal for a single-family residential home will result in a lesser degree of disturbance to natural resource areas than a more intense multi-family development allowed under the current zoning. The applicant produced site intensity calculations, which indicate a maximum allowable density of one dwelling unit in R-6 zoning, or five dwelling units in R-8 zoning as a result of land set aside for natural resource protection.

Natural Resource Special Exception (NRSE) Request

The applicant proposes to install a driveway in a portion of the wetland setback, which requires approval of a Natural Resource Special Exception. The applicant has provided a Natural Resource Protection Plan; the property includes a 38,625 square foot (0.89 acres) wetland and woodlands. The wetland delineations were prepared by Assured Delineators. Impacts to 8,410 square feet of woodland do not require an NRSE at this time.

The requested Special Exception to Natural Resource Feature Provisions is for permanent impacts to approximately 1,730 square feet of wetland setbacks for grading, installation of a driveway and installation of green infrastructure stormwater areas. The driveway and house together exceed the amount of paved or “impervious” area allowed Milwaukee Metropolitan

Sewerage District (MMSD) without stormwater retention facilities. In this case, the applicant has opted for installation of Green Infrastructure stormwater facilities, which typically include native plantings.

Because impacts to the wetland itself are not proposed, additional approvals from the Department of Natural Resources are not required.

Temporary impacts to wetland setbacks must be restored to the standards of §15-4.0102.I.1 for plantings; native plantings are preferred. Plan Commission may also require the applicant to provide financial sureties securing this restoration. Staff recommends that orange construction fencing be installed during construction to protect the wetland buffer.

Conservation easements must be submitted for all natural resources to be protected (§15-4.0103.B.1.d, §15-7.0201.H), and staff recommends that boulders be placed at the boundary of the conservation easement areas to demarcate them.

The applicant has provided the attached Natural Resource Special Exception Application, Questionnaire, Project Description, and associated information.

Pursuant to Section 15-10.0208 of the Unified Development Ordinance (UDO), all requests for a Natural Resource Special Exception shall be provided to the Environmental Commission for its review and recommendation. The Environmental Commission heard the matter at their April 27, 2022 meeting and recommended approval without changes. Their recommendation is attached, and recommended conditions of approval have been incorporated into the draft Standards, Findings and Decision of the Common Council.

## **CONCLUSION**

### **Natural Resource Special Exception (NRSE) Request**

Staff and Environmental Commission recommendations for proposed conditions of approval for the NRSE are incorporated into the decisions section of the draft Standards, Findings, and Decision of the Common Council as recommended conditions of approval.

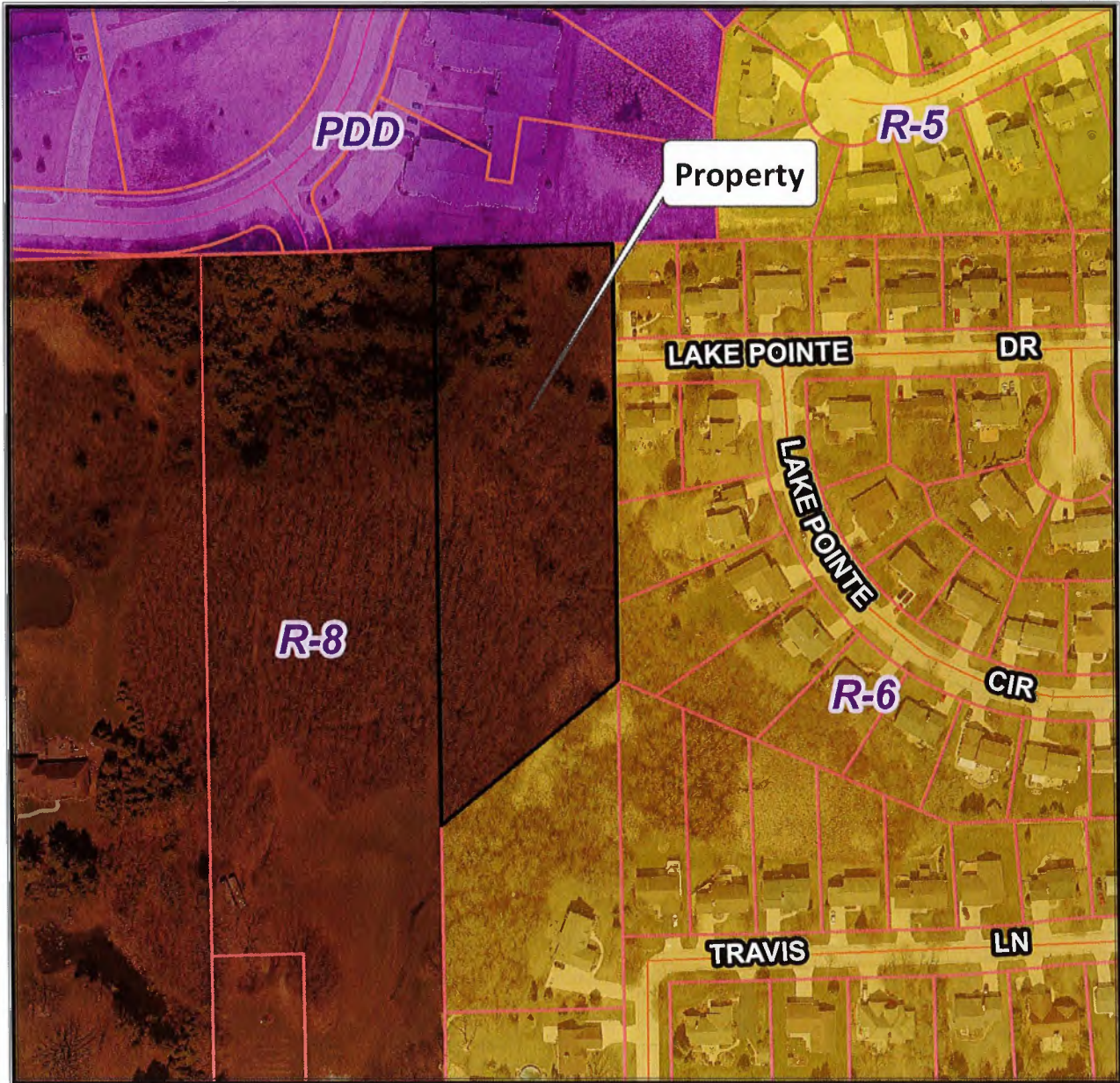
Per Section 15-10.0208 of the Unified Development Ordinance (UDO), the applicant shall have the burden of proof to present evidence sufficient to support a Natural Resource Special Exception (NRSE) request. The applicant has presented evidence for the request by answering the questions and addressing the statements that are part of the Natural Resource Special Exception (NRSE) application. The applicant's responses to the application's questions and statements are attached for your review.

Also attached is a copy of the document titled, "City of Franklin Environmental Commission" that reflects the review of the Environmental Commission which must be forwarded to the Common Council. The questions and statements on this document correspond with the Natural Resource Special Exception (NRSE) application questions and statements that the applicant has answered and addressed.

### **Rezoning**

City Development staff recommends approval of the Rezoning, subject to the conditions set forth in the attached ordinance.





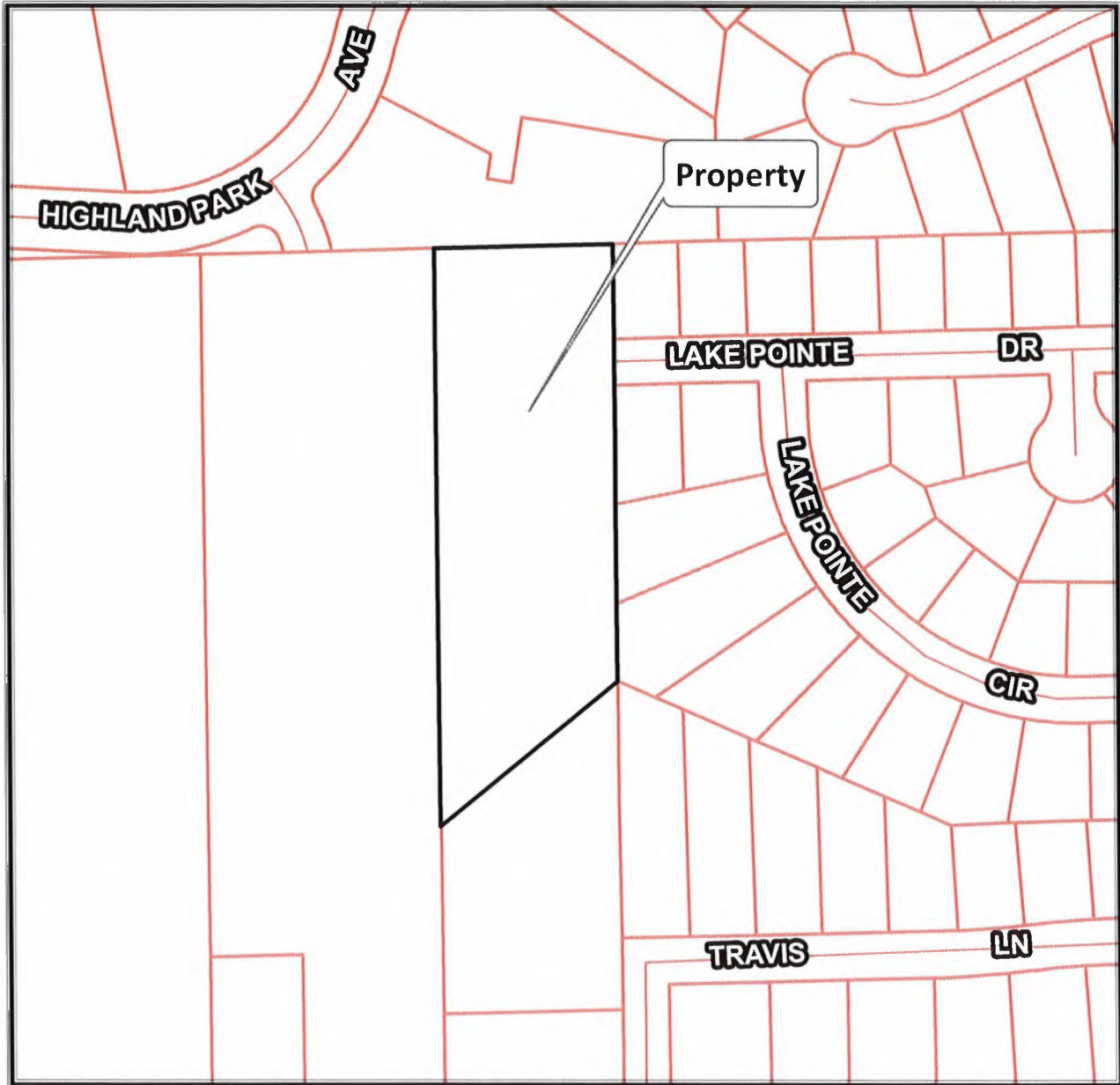
**Planning Department**  
**(414) 425-4024**

0 125 250 500 Feet

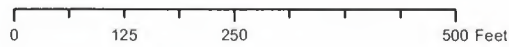


2021 Aerial Photo

*This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.*



**Planning Department**  
**(414) 425-4024**



2021 Aerial Photo

*This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.*



STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

*[redraft 4-28-22]*

ORDINANCE NO. 2022-\_\_\_\_

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT  
ORDINANCE (ZONING MAP) TO REZONE A CERTAIN PARCEL OF  
LAND FROM R-8 MULTIPLE-FAMILY RESIDENCE DISTRICT TO  
R-6 SUBURBAN SINGLE-FAMILY RESIDENCE DISTRICT  
(SPECIFICALLY LOCATED AT THE ABRUPT, WEST DEAD  
END OF WEST LAKE POINTE DRIVE)  
(APPROXIMATELY 3.45 ACRES)  
(KARLEY J. BLAKE AND JACOB W. MUTTER, APPLICANTS)

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WHEREAS, Karley J. Blake and Jacob W. Mutter, LLC having petitioned for the rezoning of approximately 3.45 acres of land, from R-8 Multiple-Family Residence District to R-6 Suburban Single-Family Residence District, such land specifically located at the abrupt, west dead end of West Lake Pointe Drive (on the east property line of the parcel, abutting the northwest portion of Lake Pointe Estates subdivision); and

WHEREAS, a public hearing was held before the City of Franklin Plan Commission on the 5th day of May, 2022, upon the aforesaid petition and the Plan Commission thereafter having determined that the proposed rezoning would promote the health, safety and welfare of the City and having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the petition and having concurred with the recommendation of the Plan Commission and having determined that the proposed rezoning is consistent with the 2025 Comprehensive Master Plan of the City of Franklin, Wisconsin and would promote the health, safety and welfare of the Community.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1: §15-3.0102 (Zoning Map) of the Unified Development Ordinance of the City of Franklin, Wisconsin, is hereby amended to provide that the zoning district designation for land specifically located at the abrupt, west dead end of West Lake Pointe Drive (on the east property line of the parcel, abutting the northwest portion of Lake Pointe Estates subdivision), described below, be changed from R-8 Multiple-Family Residence District to R-6 Suburban Single-Family Residence District:

Outlot 1 of Certified Survey Map No. 6416 – Southwest 1/4 of Section 16, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

Tax Key No.: 839-9996-007.

SECTION 2: The terms and provisions 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 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Alderman \_\_\_\_\_.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

**City of Franklin Environmental Commission**

TO: Common Council  
DATE: April 27, 2022  
RE: Special Exception application review and recommendation  
APPLICATION: Karley J. Blake and Jacob W. Mutter, Applicants, dated:  
December 23, 2021  
(specifically located at the abrupt, west dead end of West Lake  
Pointe Drive (on the east property line of the parcel, abutting the  
northwest portion of Lake Pointe Estates subdivision)

**I. §15-9.0110 of the Unified Development Ordinance Special Exception to  
Natural Resource Feature Provisions Application information:**

1. Unified Development Ordinance Section(s) from which Special Exception is requested: *The Special Exception is being requested to waive the standards of UDO Part 4 Natural Resource Protection, specifically the requirements of §15-4.0102I Natural Resource Features Determination for Wetland Setbacks*
2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions): *Permanent impacts to approximately 1,730 square feet of wetland setbacks*
3. Applicant's reason for request: *Grading, installation of a driveway and installation of green infrastructure stormwater areas*
4. Applicant's reason why request appropriate for Special Exception: *The applicant states that "Unlike the adjoining parcels surrounding the site, this parcel is fully undeveloped and comprised of natural resources including approximately 0.9 acres of delineated wetland. As a result, invasive common buckthorn has been able to proliferate without incentive to apply mitigation strategies. This has resulted in the deterioration of beneficial natural resources on the property, including but not limited to the reduction of the present wetland by approximately 35% of the previously delineated size (previous delineation completed July 24, 2002 by Thompson and Associates Wetland Service). The development, including the relatively minimal encroachment of the 50ft wetland setback, would employ incentive, starting at the initial stages of development, to largely mitigate the negative impacts of*

*the invasive common buckthorn while also continuing to incentivize mitigation strategies in the future. Thus, this request is an appropriate case for approval of a Special Exception because the impacts of the requested exception are minimal in comparison to natural resource benefits gained as a result of such exception.”*

**II. Environmental Commission review of the §15-9.0110C.4.f. Natural Resource Feature impacts to functional values:**

1. Diversity of flora including State and/or Federal designated threatened and/or endangered species: *Not applicable*
2. Storm and flood water storage: *The applicant will provide Green Infrastructure to manage rainfall on impermeable surfaces*
3. Hydrologic functions: *The applicant will provide Green Infrastructure to manage rainfall on impermeable surfaces*
4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances: *The applicant will provide Green Infrastructure to manage rainfall on impermeable surfaces*
5. Shoreline protection against erosion: *Not applicable*
6. Habitat for aquatic organisms: *Not applicable*
7. Habitat for wildlife: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City. This request is in harmony with the purpose of the Natural Resource Protection Standards.*
8. Human use functional value: *The location and configuration of the wetland limits the possible locations for structures. The applicant has proposed a minimally impactful design that still allows for development and human use*
9. Groundwater recharge/discharge protection: *The applicant will provide Green Infrastructure to manage rainfall on impermeable surfaces*
10. Aesthetic appeal, recreation, education, and science value: *The location and configuration of the wetland limits the possible locations for structures. The applicant has proposed a minimally impactful design that still allows for development and human use. The minimal impact to the 50ft wetland setback would not negatively affect the aesthetics of the parcel as removal of invasive common buckthorn would allow other, non-impacted areas, to flourish accordingly*



11. State or Federal designated threatened or endangered species or species of special concern: *Not applicable*
12. Existence within a Shoreland: *Not applicable*
13. Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time: *Not applicable*

**III. Environmental Commission review of the §15-10.0208B.2.d. factors and recommendations as to findings thereon:**

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *the wetland on the parcel is a naturally occurring feature. The location and configuration of the wetland limits the possible locations for structures*
2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:
  - a. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives: \_\_\_\_\_, *or*
  - b. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives: *The location and configuration of the wetland limits the possible locations for structures Alternative configurations would still require impacts to natural resources*
3. The Special Exception, including any conditions imposed under this Section will:
  - a. be consistent with the existing character of the neighborhood: *The proposed development of a single-family home is consistent with the proposed zoning (R-6) and the zoning and character of the neighborhood* \_\_\_\_\_, *and*
  - b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City This request is in harmony with the purpose of the Natural Resource Protection Standards, and*
  - c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *The applicant has proposed a*

*minimally impactful design and developed alternatives based on feedback from the City This request is in harmony with the purpose of the Natural Resource Protection Standards; and*

- d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development (*this finding only applying to an application to improve or enhance a natural resource feature*):

**IV. Environmental Commission review of the §15-10.0208B.2.a., b. and c. factors and recommendations as to findings thereon:**

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The setback requirements (e g side yard, front yard, etc ) of the proposed R-6 Suburban Single-Family Residence District Setback Development Standards (Table §15-3 0207) will be followed. The applicant has proposed a design based on these requirements that still attempts to minimize impacts to natural resources to the degree possible*
2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *the wetland on the parcel is a naturally occurring feature. The location and configuration of the wetland limits the possible locations for structures.*
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *Prior to this development proposal, the property was designated as an Outlot, with R-8 multifamily zoning which would allow for a greater intensity of development By allowing reasonable development that meets the protection standards (Natural Resource Protection Standards §15-4 0101) the majority of existing natural resources will be preserved*
4. Aesthetics: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City This request is in harmony with the purpose of the Natural Resource Protection Standards,*
5. Degree of noncompliance with the requirement allowed by the Special Exception: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City This request is in harmony with the purpose of the Natural Resource Protection Standards,*
6. Proximity to and character of surrounding property: *The proposed development will not impact surrounding properties to a greater degree than any other development proposal*

7. Zoning of the area in which property is located and neighboring area: *Prior to this development proposal, the property was designated as an Outlot, with R-8 multifamily zoning which would allow for a greater intensity of development. The applicant proposes to rezone the parcel to R-6 to conform with the adjacent developed subdivision's zoning classification. By allowing reasonable development that meets the protection standards (Natural Resource Protection Standards §15-4 0101) the majority of existing natural resources will be preserved*

8. Any negative affect upon adjoining property: *The proposed development will not impact surrounding properties to a greater degree than any other development proposal*

9. Natural features of the property: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City This request is in harmony with the purpose of the Natural Resource Protection Standards,*

10. Environmental impacts: *The applicant has proposed a minimally impactful design and developed alternatives based on feedback from the City This request is in harmony with the purpose of the Natural Resource Protection Standards The applicant will provide Green Infrastructure to manage rainfall on impermeable surfaces*

#### **V. Environmental Commission Recommendation:**

The Environmental Commission has reviewed the subject Application pursuant to §15-10.0208B. of the Unified Development Ordinance and makes the following recommendation:

1. The recommendations set forth in Sections III. and IV. Above are incorporated herein.
2. The Environmental Commission recommends [approval] [denial] of the Application upon the aforesaid recommendations for the reasons set forth therein.
3. The Environmental Commission recommends that should the Common Council approve the Application, that such approval be subject to the following conditions:
  - a. The applicant shall submit conservation easements for areas of preserved natural resources (§15-4.0103.B.1.d, §15-7.0201.H) for Common Council review and approval, prior to any land disturbing activities.
  - b. The applicant shall obtain any necessary approvals from Federal and State regulatory agencies (§15-10.0208.B.3) prior to any land disturbing activities.

- c. The applicant shall provide for restoration of wetland setback that conforms to the standards of §15-4.0102I for appropriate plantings. Turf grasses are prohibited. Non-vegetative cover is permitted in areas subject to erosion. Plan Commission may require financial sureties for implementation of restoration, as permitted by §15-4.0103.D.
- d. The applicant shall place boulders or other markers to demarcate the conservation easement boundary on the property.
- e. The applicant shall install temporary orange construction fencing at the boundary of the 30' wetland buffer during construction to protect Natural Resources.

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Linda Horn, Chairman

Attest:

\_\_\_\_\_  
Jamie Groark, Vice-Chairman

*Draft 5/5/22*

Standards, Findings and Decision  
of the City of Franklin Common Council upon the Application of Karley J. Blake and  
Jacob W. Mutter, applicants, for a Special Exception  
to Certain Natural Resource Provisions of the City of Franklin  
Unified Development Ordinance

Whereas, Karley J. Blake and Jacob W. Mutter, applicants, having filed an application dated December 23, 2021, for a Special Exception pursuant to Section 15-9.0110 of the City of Franklin Unified Development Ordinance pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature; a copy of said application being annexed hereto and incorporated herein as Exhibit A; and

Whereas, the application having been reviewed by the City of Franklin Environmental Commission and the Commission having made its recommendation upon the application, a copy of said recommendation dated April 27, 2022 being annexed hereto and incorporated herein as Exhibit B; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated May 5, 2022 being annexed hereto and incorporated herein as Exhibit C; and

Whereas, the property which is the subject of the application for a Special Exception is specifically located at the abrupt, west dead end of West Lake Pointe Drive (on the east property line of the parcel, abutting the northwest portion of Lake Pointe Estates subdivision), currently zoned R-8 Multiple-Family Residence District (the requested Special Exception to Natural Resource Feature Provisions is contingent upon approval of a concurrent rezoning application to rezone the property to R-6 Suburban Single-Family Residence District), and such property is more particularly described upon Exhibit D annexed hereto and incorporated herein; and

Whereas, Section 15-10.0208B. of the City of Franklin Unified Development Ordinance, as amended by Ordinance No. 2003-1747, pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature, provides in part: “The decision of the Common Council upon any decision under this Section shall be in writing, state the grounds of such determination, be filed in the office of the City Planning Manager and be mailed to the applicant.”

Now, Therefore, the Common Council makes the following findings pursuant to Section 15-10.0208B.2.a., b. and c. of the Unified Development Ordinance upon the application for a Special Exception dated December 23, 2021, by Karley J. Blake and Jacob W. Mutter, applicants, pursuant to the City of Franklin Unified Development Ordinance, the proceedings heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *but rather*, \_\_\_\_\_
2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:
  - a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives: \_\_\_\_\_, *or*
  - b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: \_\_\_\_\_
3. The Special Exception, including any conditions imposed under this Section will:
  - a. be consistent with the existing character of the neighborhood: *the proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood, and*
  - b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: \_\_\_\_\_, *and*
  - c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: \_\_\_\_\_, *and*
  - d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development: *(this finding only applying to an application to improve or enhance a natural resource feature)*

The Common Council considered the following factors in making its determinations pursuant to Section 15-10.0208B.2.d. of the Unified Development Ordinance.

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: \_\_\_\_\_
2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: \_\_\_\_\_
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: \_\_\_\_\_
4. Aesthetics: \_\_\_\_\_
5. Degree of noncompliance with the requirement allowed by the Special Exception: \_\_\_\_\_
6. Proximity to and character of surrounding property: \_\_\_\_\_
7. Zoning of the area in which property is located and neighboring area: *Residential*
8. Any negative affect upon adjoining property: *No negative affect upon adjoining property is perceived*
9. Natural features of the property: \_\_\_\_\_
10. Environmental impacts: \_\_\_\_\_
11. A recommendation from the Environmental Commission as well as a review and recommendation prepared by an Environmental Commission-selected person knowledgeable in natural systems: *The Environmental Commission recommendation and its reference to the report of April 27, 2022 is incorporated herein.*
12. The practicable alternatives analysis required by Section 15-9.0110C.4. of the Unified Development Ordinance and the overall impact of the entire proposed use or structure, performance standards and analysis with regard to the impacts of the proposal, proposed design solutions for any concerns under the Ordinance, executory actions which would maintain the general intent of the Ordinance in question, and other factors relating to the purpose and intent of the Ordinance section imposing the requirement: *The Plan Commission recommendation and the Environmental Commission recommendation address these factors and are incorporated herein*

Decision

*Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby grants a Special Exception for such relief as is described within Exhibit C, upon the conditions*

- 1) that the natural resource features and mitigation areas upon the properties to be developed be protected by a perpetual conservation easement to be approved by the Common Council prior to any development within the areas for which the Special Exception is granted prior to the issuance of any Occupancy Permits,*
- 2) that the applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted,*
- 3) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for Karley J Blake and Jacob W Mutter, applicants, and all other applicable provisions of the Unified Development Ordinance*
- 4) that the applicant shall provide for restoration of wetland setback that conforms to the standards of §15-4 0102I for appropriate plantings. Turf grasses are prohibited. Non-vegetative cover is permitted in areas subject to erosion. Plan Commission may require financial sureties for implementation of restoration, as permitted by §15-4 0103 D*
- 5) that the applicant shall place boulders or other markers to demarcate the conservation easement boundary on the property*
- 6) that the applicant shall install temporary orange construction fencing at the boundary of the 30' wetland buffer during construction to protect Natural Resources*

*The duration of this grant of Special Exception is permanent.*

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_



## Legal Description

Outlot 1 of Certified Survey Map No. 6416 – Southwest ¼ of Section 16, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

## Project Summary

### General

The site is located in the SW ¼ of Section 16, Township 5 North, Range 21 East in the City of Franklin, Milwaukee County, Wisconsin – it abuts the northwest portion of Lake Pointe Estates subdivision. The parcel is approximately 3.45 acres and is currently zoned R-8 Multiple-Family Residence District with intention of re-zoning to R-6 Suburban Single-Family Residence District.

The parcel contains approximately 0.9 acres of delineated wetland (assured wetland delineation completed by Thompson and Associates Wetland Service on May 12, 2021). The wetland extends north to the center of the parcel from the southeast corner of the parcel. The land slopes to the wetland at varying degrees and is covered with mature hardwood forest on the west side of the parcel and mature conifer forest on the north end of the parcel.

### Proposed Development

The proposed development for the site looks to maximize and maintain the natural resources of the parcel while developing the parcel to an extent consistent with adjacent parcels within the Lake Pointe Estates subdivision. The wetland boundaries, as determined by Thompson and Associates Wetland Service, May 12, 2021, would be respected fully with no additional impact to the identified wetland buffer per Wisconsin Department of Natural Resources and City of Franklin requirements, respectively. A Natural Resource Special Exception will be requested to allow for driveway and landscaping impacts, primarily rain gardens to effectively manage storm water runoff (see Storm Water Management Plan), to the wetland setback due to the expanse and location of the wetland within the parcel. Invasive common buckthorn (*Rhamnus cathartica*), absent from previous ecologist survey and delineations (circa 2002), has begun to severely impact the parcel (Wetland Delineation Report can be provided upon request) by significantly affecting the mature hardwood forest and wetland established on the property (see Figure 1 – 3). Lack of development of the property has resulted in inadequate incentive to reduce and remove this invasive species which will continue to propagate the established natural resources both within the parcel as well as adjacent to the parcel. The proposed development of the parcel will require removing invasive common buckthorn from areas with the highest concentration (see Natural Resource Protection Plan) of the invasive species while also establishing an incentive for the developer (i.e. home owner) to continue to remove invasive common buckthorn throughout the rest of the parcel to maintain the valuable natural resources that still exist.

The development proposal includes re-zoning from a higher-density R-8 Multiple-Family Residence District to a more density-appropriate R-6 Single-Family Residential District and removing the current outlot designation from the parcel. The development would include erecting a two-story, single-family home, roughly 3,500sq.ft. in size, as well as a potential secondary, detached garage as a future development. It is believed, due to the extent of the natural resources on the property, that developments typical to R-8 zoning would exceed the Natural Resource Protection Standards (Unified Development Ordinance §15-4.0101) established by the City of Franklin and would likely require more severe impacts to the established wetlands. However, R-6 zoning, which is consistent with the parcels east and south of the identified site, would be more appropriate to meet the Natural Resource Protection Standards while also developing the site fully. The Comprehensive Master Plan (2025) identifies the site as an area of natural resource which doesn't preclude development. Yet maintaining the parcel as an outlot will not incentivize removal of the invasive common buckthorn infiltrating the parcel. Thus, allowing the parcel to be developed to R-6 zoning standards will elicit motivation to maintain the valuable natural resources that still exists.

The proposed development will also support the community by improving the dead-end located at the west end of W Lake Pointe Drive. Currently, without an established cul-de-sac typically required (§15-5.0106.C), or an adequate extended right-of-way at the end of W Lake Pointe Drive, this type of abrupt dead-end (Figure 4) can create access and service difficulties for emergency services, delivery services (i.e. USPS), and the department of public works (i.e. snow plows), among other agencies. For example, currently during winter months, snow from W Lake Pointe Drive is pushed directly on to this parcel via City of Franklin snow removal efforts; with enough snow, the fire hydrant located in the north right-of-way at the end of W Lake Pointe Drive (Figure 5), becomes blocked with >8-foot-high snow drifts. The proposed development would extend, to City of Franklin Design Standards and Construction Specifications, W Lake Pointe Drive an estimated 20 feet beyond the fire hydrant and would establish an additional estimated 15 feet of functional right-of-way at the newly constructed west end of W Lake Pointe Drive to allow for snow removal efforts to be contained to the public right-of-way. The extension of the road and right-of-way would also allow for increased space for emergency services, delivery services, etc. to more effectively access and serve residences already established on W Lake Pointe Drive since gutters, curb, etc. would not be extended on the south side of the road (e.g. flat, inhibited, surface available to turn around emergency vehicles, snow plows, etc.) but instead would contain a 3-foot gravel shoulder. A 90-foot radius cul-de-sac typically required by the City of Franklin to terminate existing subdivision roadways (§15-5.0106.C) would not be feasible for this parcel due to the proximity of established wetlands to W Lake Pointe Drive (see Natural Resource Protection Plan). The extension of the road, in addition to the single-family home development, still meets the established Natural Resource Protection Standards (§15-4.0101) required of the parcel.

Per determination of the City of Franklin City Engineer, Plumbing Inspector and Department of Water Utility, the proposed development would also be required to connect to both city water and city sewer. Discussion on what these utility connections would entail continue with the Engineering department.

List of Figures



Figure 1. Area of nearly 100% coverage of invasive common buckthorn located at the end of W Lake Pointe Drive (see Natural Resource Protection Plan Map).





Figure 2-3. Examples of invasive common buckthorn infiltrating and out-competing beneficial natural resources within the mature hardwood forest areas.





Figure 4. Abrupt dead-end located at the west end of W Lake Pointe Drive on the east property line of parcel.



Figure 5. Proximity of fire hydrant to the dead-end located at the west end of W Lake Pointe Drive.

Date: April 22, 2022  
To: Department of City Development  
From: Karley J Blake & Jacob W Mutter  
RE: Rezoning – Staff Comments – TKN 839 9996 007

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Please see comments and responses *italicized* below.

**City of Franklin - Department of City Development**

Date: April 14, 2022  
To: Karley J Blake & Jacob W Mutter  
From: Department of City Development  
RE: Rezoning – Staff Comments – TKN 839 9996 007

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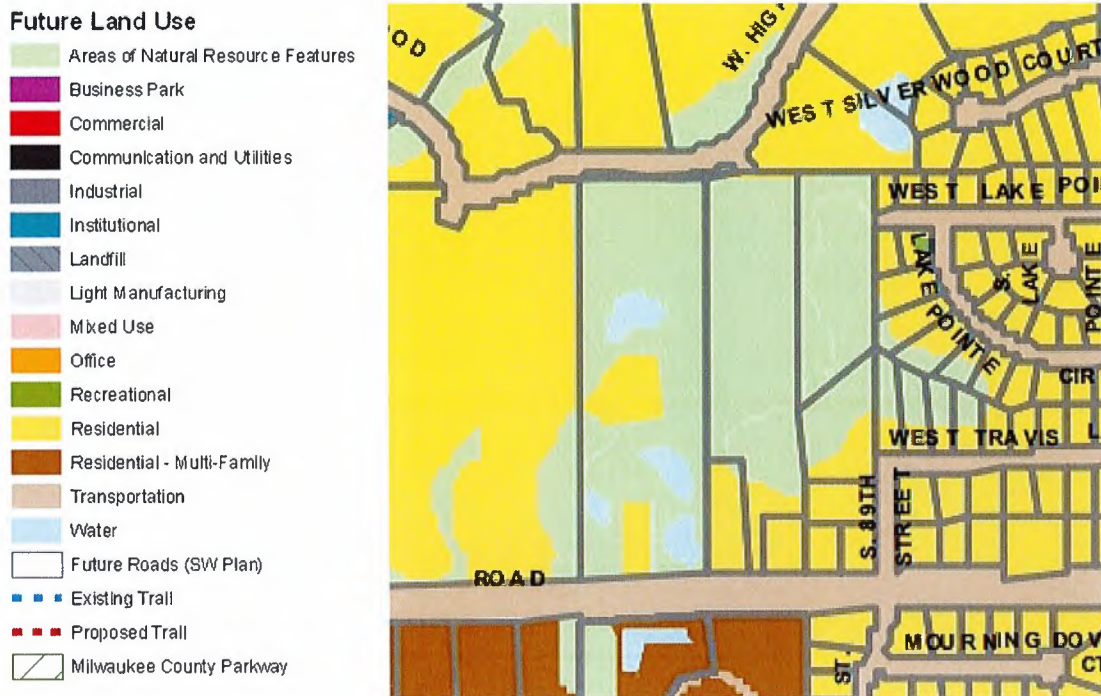
Department comments are as follows for the application to Rezone the property bearing TKN 839 9996 007 from R-8 Multiple Family Residence District to R-6 Suburban Single Family Residence District submitted by Karley J Blake & Jacob W Mutter, date stamped by the City of Franklin on December 22, 2021.

**Unified Development Ordinance (UDO) Requirements:**

Requests for change or amendment to zoning of specific properties are regulated by the standards of UDO Division 15-9.0200 “Unified Development Ordinance Text and Zoning Map Changes and Amendments.”

1. **Future Land Use Designation.** Pursuant to Wis. Stats. § 66.1001(3), a rezoning ordinance needs to be consistent with the local comprehensive plan. The property to be rezoned is designated as “Areas of Natural Resources” in the future land use map of the City of Franklin 2025 Comprehensive Master Plan, abutting residential land uses. The Natural Resource designation serves to indicate natural resources, not preclude development. This lot was previously determined to be developable by the Common Council through a Certified Survey Map. It should be noted that proposal for a single-family residential home will result in a lesser degree of disturbance to natural resource areas than a more intense multi-family development.

*As noted, although the future land use map of the City of Franklin 2025 Comprehensive Master Plan identifies the parcel as an “Areas of Natural Resource Features”, the proposed development would mimic the degree of development to the west, south, and east of the parcel, as indicated on the same map. With the development as proposed having a total estimated impact of <8% of the area of the parcel, in conjunction with a proposed conservation easement to cover nearly half of the parcel (see NRPP Map), the parcel will largely maintain it’s land use as prescribed in the 2025 Comprehensive Master Plan*



2. Please provide the following information required by § 15-9.0203.

A. A Site Plan indicating the location of the proposed house (§15-9.0203.E).

*Proposed house placement has been indicated on the corresponding Natural Resource Protection Plan Map.*

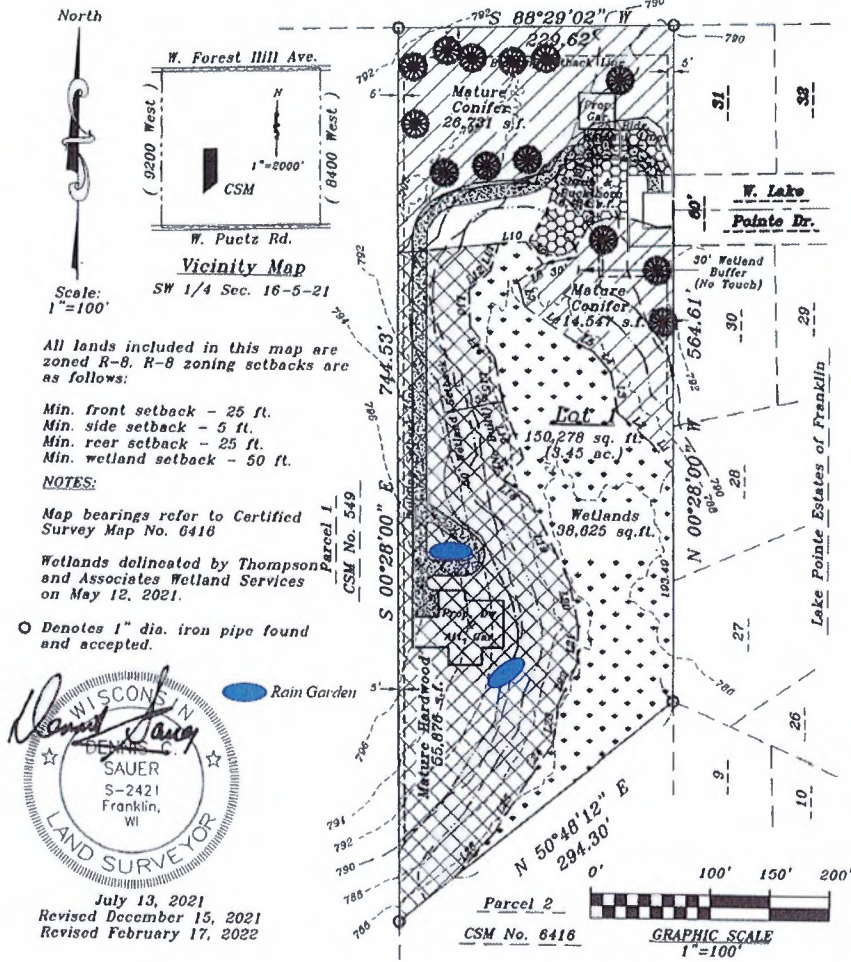
B. Rezoning applications require submittal of a landscape plan (§15-9.0203.F). A preliminary or draft plan is acceptable; you may revise your NRPP to show the location of proposed green infrastructure, and any bufferyards, to meet this requirement. You will need to submit a final plan for staff review as a condition of approval.

*Since house placement has yet to be confirmed due to the pending approval of the NRSE Application, only a preliminary drawing (below) indicating target placement of the Green Infrastructure strategy (e.g. rain gardens) recommended by Fresh Coast Resource Center, consistent with the pending Stormwater Management Plan, can be provided. Final landscape plans will not be available until after building permits are granted by the City of Franklin as the development will look to minimize impacts, both temporary and permanent, to the existing natural resources during construction, incorporating existing natural resource features, where possible, into the resulting landscaping.*



PREPARED FOR:  
 Karley Blake  
 6426 S. 35th Street, Apt. #12  
 Franklin, WI 53132

PREPARED BY: Dennis C. Sauer  
 Metropolitan Survey Service, Inc.  
 9415 West Forest Home Avenue  
 Hales Corners, WI 53130



C. Site intensity and capacity calculations meeting the requirements set forth in Division 15-3.0500 and in the prescribed format set forth in the City's application form (§15-9.0203.H).

See the worksheets (Table 15-3.0502, Table 15-3.0503 and Table 15-3.0504) below reflecting R-6 Suburban Single-Family Residence District Development Standards.



**Table 15-3.0502**

<b>Worksheet for the Calculation of Base Site Area for Both Residential and Nonresidential Development</b>	
Indicate the total gross site area (in acres) as determined by an actual on-site boundary survey of the property.	<b>3.45 acres</b>
Subtract (-) land which constitutes any existing dedicated public street rights-of-way, land located within the ultimate road rights-of-way of existing roads, the rights-of-way of major utilities, and any dedicated public park and/or school site area.	<b>0.05 acres</b>
Subtract (-) land which, as a part of a previously approved development or land division, was reserved for open space.	<b>0 acres</b>
In the case of "Site Intensity and Capacity Calculations" for a proposed residential use, subtract (-) the land proposed for nonresidential uses; or In the case of "Site Intensity and Capacity Calculations" for a proposed nonresidential use, subtract (-) the land proposed for residential uses.	<b>0 acres</b>
Equals "Base Site Area"	<b>3.40 acres</b>

**Table 15-3.0503**

<b>Worksheet for the Calculation of Resource Protection Land</b>			
<b>Natural Resource Feature</b>	<b>Residential District Protection Standard</b>	<b>Acres of Land in Resource Feature</b>	
		<b>Total Acres:</b>	<b>X Protection Standard:</b>
Steep Slopes:			
10-19%	0.60	0 acres	0 acres
20-30%	0.75	0 acres	0 acres
+30%	0.85	0 acres	0 acres
Woodlands & Forests:			
Mature	0.70	1.88 acres	1.32 acres
Young	0.50	0 acres	0 acres
Lakes & Ponds	1.00	0 acres	0 acres
Streams	1.00	0 acres	0 acres
Shore Buffer	1.00	0 acres	0 acres
Floodplains	1.00	0 acres	0 acres
Wetland Buffers	1.00	0.63 acres	0.63 acres
Wetlands & Shoreland Wetlands	1.00	0.89 acres	0.89 acres
<b>Total Resource Protection Land =</b>			<b>2.84 acres</b>

<b>Table 15-3.0504</b>	
<b>Worksheet for the Calculation of Site Intensity and Capacity for Residential Development</b>	
<i>Calculate Minimal Required On-Site Open Space.</i>	
Take Base Site Area: <b>3.40</b>	
Multiply by Minimum Open Space Ratio (OSR): X <b>0</b>	
Equals Minimum Required On-Site Open Space = <b>0</b>	<b>0 acres</b>
<i>Calculate Net Buildable Site Area</i>	
Take Base Site Area: <b>3.40</b>	
Subtract Total Resource Protection Land or Minimum Required On-Site Open Space, whichever is greater: - <b>2.84</b>	
Equals Net Buildable Site Area = <b>0.56</b>	<b>0.56 acres</b>
<i>Calculate Maximum Net Density Yield of Site</i>	
Take Net Buildable Site Area: <b>0.56</b>	
Multiply by Maximum Net Density: X <b>2.972</b>	
Equals Maximum Net Density Yield of Site = <b>1.66</b>	<b>1 D.U.s</b>
<i>Calculate Maximum Gross Density Yield of Site</i>	
Take Base Site Area: <b>3.40</b>	
Multiply by Maximum Gross Density: X <b>2.972</b>	
Equals Maximum Gross Density Yield of Site = <b>10.10</b>	<b>10 D.U.s</b>
<i>Determine Maximum Permitted D U.s of Site</i>	
Take the lowest of Maximum Net Density Yield of Site or Maximum Gross Density Yield of Site = <b>1.66</b>	<b>1 D.U.s</b>

D. Note that additional information may be required by the Plan Commission or the Common Council (§15-9.0203.J).

**Other Department Comments**

None.

Date: April 18, 2022  
To: City Development Staff  
From: Karley Blake and Jacob Mutter  
RE: Natural Resource Special Exception – Staff Comments – TKN 839 9996 007

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Please see comments and responses *italicized* below.

## **City of Franklin - Department of City Development**

Date: April 8, 2022  
To: Karley J Blake & Jacob W Mutter  
From: Department of City Development  
RE: Natural Resource Special Exception – Staff Comments – TKN 839 9996 007

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Department comments are as follows for the Natural Resource Special Exception (NRSE) materials submitted by Karley J Blake & Jacob W Mutter, date stamped by the City of Franklin on December 22, 2021.

### **Unified Development Ordinance (UDO) Requirements:**

Natural Resources are protected by the City of Franklin UDO Part 4: Natural Resource Protection. Impacts to resources in excess of these standards require a Natural Resource Special Exception under §15-10.0208; the application currently under review. In addition to the standards of Part 4, which regulates the degree of allowable disturbance, and procedures to mitigate or restore such disturbance, the standards of §15-7.0201 also apply to Natural Resource Protection Plan (NRPP) documents to be filed with the City.

1. Please submit conservation easements for areas of preserved natural resources (§15-4.0103.B.1.d, §15-7.0201.H). Please be aware that conservation easements require Common Council approval.

*Since no impacts to the parcel will exceed the established 70% Residential Protection Standard designated for Mature Woodlands and Forests (§Table 15-4 100), mitigation standards (§15- 4.0103 B 1) would be unnecessary, and therefore deed restriction and conservation easement requirement (§15- 4 0103 B 1 d) relative to these mitigation standards would also be unnecessary. Similarly, no easements have been identified on the subject property boundary lines (§15- 7 0201 H) requiring specific deed restrictions and/or conservation easements. That being said, a voluntary conservation easement is*

*being proposed to mimic the delineated 30ft wetland buffer boundary which covers nearly half of the parcel under a conservation easement*

**Natural Resource Protection Plan (NRPP)**

2. Note that wetland delineations used in the NRPP cannot be older than 5 years, per the standards of §15-4.0102.G. Electronic copies of delineation reports should be submitted with the NRPP.

*The wetland delineation reflected on both the corresponding CSM and NRPP Map was completed May 12, 2021. The full wetland delineation report will also be provided electronically for further review by the Planning Department*

3. Please include the following information on the NRPP Map:
  - a. Date of the plan and any applicable revision dates (§15-7.0201.D).

*This has been included on the latest revision of the NRPP Map*

- b. Location of any disturbances to natural resources, including temporary disturbances for grading or other work. (§15-7.0201.J)

*This has been included on the latest revision of the NRPP Map*

- c. A graphic scale bar (§15-7.0201.L)

*This has been included on the latest revision of the NRPP Map*

- d. The total site area in the Natural Resource impact table (§15-7.0201.E)

*This has been included on the latest revision of the NRPP Map*

**Natural Resource Special Exception (NRSE)**

4. Please provide an electronic copy of the wetland delineation report for this property.

*The full wetland delineation report will be provided electronically for further review by the Planning Department*

5. Please revise the response to Question C.1 to include a statement that this NRSE is being requested also to waive the standards of UDO Part 4 Natural Resource Protection, specifically the requirements of §15-4.0102I Natural Resource Features Determination for Wetland Setbacks.

*This request has been included in the latest revision of the NRSE Questionnaire*

6. Please provide information seed mixes and soils proposed for Green Infrastructure areas.

*The Green Infrastructure strategy recommended by Andy Kaminski, Project Manager with Fresh Coast Guardians, for this specific development is the implementation of two rain gardens to capture storm water runoff. Per the terms defined in the in-progress Storm Water Facility Maintenance Agreement, final placement of the rain gardens will be determined post-development once final site grading is achieved to maximize capture of storm water runoff. Placement determination will also take into account minimizing impact to existing natural resources. Thus, specific seed mixes for silt loam and silty-clay loam soils will need to be determined post-development once placement, and thus expected sun exposure for the respective rain gardens, is understood.*

7. Impacts to woodlands do not require a Natural Resource Special Exception at this time. Please note that future impacts in excess of the standards of UDO Part 4 would require an NRSE.

*The proposed development impacts will not exceed the established 70% Residential Protection Standard designated for Mature Woodlands and Forests (§Table 15-4 100) nor are any additional developments, beyond what has been included on the NRPP Map, foreseen at this time.*

**Additional Planning Comments:**

8. Note that §15-4.0103D allows for financial sureties to be required for restoration. Plan Commission may choose to impose this requirement on landscape and restoration plans.

*Since significant financial sureties are being requested of the developers (i.e. home owners) as it relates to the public infrastructure improvements required for the development, it is requested that additional financial sureties not be imposed on the developers in a way that would create undue burden on the developers to initiate the development. Additionally, appropriate storm water management of the parcel has already required that the developers engage in contractual agreement with the City of Franklin regarding Green Infrastructure strategies that are consequently directly related to future landscape and restoration plans, making additional financial sureties immoderate.*

**Other Department Comments**

None.

## **Natural Resource Special Exception Question and Answer Form**

**Section 1: Per Section 15-9.0110, Applications for a Special Exception to stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback provisions, and for improvements or enhancements to a natural resource feature of this Ordinance shall include the following:**

- A. Name and address of the applicant and all abutting and opposite property owners of records.  
*(Please attach supplemental documents as necessary)*
- B. Plat of survey. Plat of survey prepared by a registered land surveyor showing all of the information required under §15-9.0102 of this Ordinance for a Zoning Compliance Permit.  
*(Please attach)*
- C. Questions to be answered by the applicant. Items on the application to be provided in writing by the applicant shall include the following:
  1. Indication of the section(s) of the UDO for which a Special Exception is requested.  
The Special Exception is being requested to waive the standards of UDO Part 4 Natural Resource Protection, specifically the requirements of §15-4.0102I Natural Resource Features Determination for Wetland Setbacks.
  2. Statement regarding the Special Exception requested, giving distances and dimensions where appropriate.  
The requested Special Exception pertains to placement of a single-family, residential driveway and respective landscaping, including but not limited to landscaping used to manage stormwater run-off per recommendation of Fresh Coast Guardians, within the required 50ft wetland setback but peripheral to the 30ft wetland buffer (Table §15-3.0207). The driveway placement would need to transverse the 50ft wetland setback by, at minimum, approximately 100ft in length with an approximately 12ft width of impervious driveway surface to allow access to the single-family home. The landscaping, including recommended rain gardens for management of stormwater run-off from impervious surfaces prior to entering designated wetland areas, would require, at minimum, an additional 300sq.ft. of impact to the 50ft wetland setback. The single-family home itself would not impose on the 50ft wetland setback. No impacts to the 30ft wetland buffer, nor the wetland itself, are expected to meet the objectives of the proposed development.
  3. Statement of the reason(s) for the request.  
The Special Exception is being requested due to the placement of the single-family home which would look to minimize impacts to the beneficial natural resources (e.g. mature hardwood and conifer forest) within the parcel while maximizing the removal of the invasive common buckthorn (*Rhamnus cathartica*) from the parcel – the development would still meet all required Natural Resource Protection Standards (§15-4.0101). Thus, the single-family home, and subsequent driveway, landscaping, etc., would be placed in areas of higher-density invasive common buckthorn while avoiding areas of less buckthorn. To achieve this objective, driveway and landscaping impacts to the 50ft wetland setback are unavoidable.
  4. Statement of the reasons why the particular request is an appropriate case for a Special Exception, together with any proposed conditions or safeguards, and the reasons why the proposed Special Exception is in harmony with the general purpose and intent of the



Ordinance. In addition, the statement shall address any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, including a practicable alternative analysis as follows:

Unlike the adjoining parcels surrounding the site, this parcel is fully undeveloped and comprised of natural resources including approximately 0.9 acres of delineated wetland. As a result, invasive common buckthorn has been able to proliferate without incentive to apply mitigation strategies. This has resulted in the deterioration of beneficial natural resources on the property, including but not limited to the reduction of the present wetland by approximately 35% of the previously delineated size (previous delineation completed July 24, 2002 by Thompson and Associates Wetland Service). The development, including the relatively minimal encroachment of the 50ft wetland setback, would employ incentive, starting at the initial stages of development, to largely mitigate the negative impacts of the invasive common buckthorn while also continuing to incentivize mitigation strategies in the future. Thus, this request is an appropriate case for approval of a Special Exception because the impacts of the requested exception are minimal in comparison to natural resource benefits gained as a result of such exception.

- a. Background and Purpose of the Project.
  - i. Describe the project and its purpose in detail. Include any pertinent construction plans.  
See Project Summary and Natural Resource Protection Plan Map.
  - ii. State whether the project is an expansion of an existing work or new construction.  
The project would constitute new construction of a single-family home with respective driveway, hardscape, and landscape developments.
  - iii. State why the project must be located in or adjacent to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback to achieve its purpose.  
Over 25% of the parcel is covered with wetland (see Natural Resource Protection Plan Map) and therefore, when implementing the required 50ft wetland setback, any and all development would be, at minimum, adjacent to the designated wetland setback if not, as the proposed request states, intruding within the wetland setback.
- b. Possible Alternatives.
  - i. State all of the possible ways the project may proceed without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback as proposed.  
Placement of the single-family home on the north end of the parcel would allow for less impact to the designated 50ft wetland setback – the City of Franklin Engineering Department requirement of road and right-of-way extension could still result in impacts to the wetland setback pending this alternative home placement.
  - ii. State how the project may be redesigned for the site without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback.  
See Section 1 C.4.b.i. above.

- iii. State how the project may be made smaller while still meeting the project's needs.

Adjustment to project size (i.e. construction of a smaller single-family home) would not impact the exception request as the majority of the exception requested corresponds directly to access (e.g. driveway) to the single-family home. The driveway, especially in areas encroaching the 50ft wetland setback, has been designed in the slimmest, most-reasonable size for standard vehicle access.

- iv. State what geographic areas were searched for alternative sites.

All parcels >1.5 acres in size located within the Caledonia, Franklin, Greendale, Greenfield, Oak Creek, and Raymond areas, available for purchase between January 2019 and present times, were seriously reviewed by the parcel developers (i.e. home owners). Offers were made on at least five of these properties with no success found due to similar natural resource restrictions among other property issues.

- v. State whether there are other, non-stream, or other non-navigable water, non-shore buffer, non-wetland, non-wetland buffer, and/or non-wetland setback sites available for development in the area.

All properties referenced in Section 1 C.4.b.iv. contained some type of natural resource limitation (e.g. stream, wetland, mature forests, etc.).

- vi. State what will occur if the project does not proceed.

Developers (i.e. home owners) would resign to building their home on the north end of the parcel which would require larger impacts to beneficial natural resources on the parcel.

c. Comparison of Alternatives.

- i. State the specific costs of each of the possible alternatives set forth under sub.2., above as compared to the original proposal and consider and document the cost of the resource loss to the community.

The alternative option determined in Section 1 C.4.b.i. above would actually result in a reduced total development fiscal cost for the developers (i.e. home owners). This would be due to the reduced distance needed of both the driveway and respective utilities to support the single-family home.

- ii. State any logistical reasons limiting any of the possible alternatives set forth under sub. 2., above.

N/A

- iii. State any technological reasons limiting any of the possible alternatives set forth under sub. 2., above.

N/A

- iv. State any other reasons limiting any of the possible alternatives set forth under sub. 2., above.

The alternative option determined in Section 1 C.4.b.i. above does not adequately address the invasive common buckthorn issue of the parcel. The alternative option instead requires a more significant impact to the beneficial mature conifer forest delineated on the parcel (see Natural



Resource Protection Plan Map) which contains significantly less invasive common buckthorn than the rest of the parcel due to the shade cover of the mature conifer trees present, limiting the growth ability of the buckthorn. Additionally, the alternative option also then results in a much smaller impact, if at all, on the mature hardwood forest; an area of much higher-density invasive common buckthorn.

- d. Choice of Project Plan. State why the project should proceed instead of any of the possible alternatives listed under sub.2., above, which would avoid stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback impacts.

The project should proceed as proposed in lieu of the identified alternative because, although it will increase the total project cost for the developer (i.e. home owner), it is the most reasonable way to protect the valuable natural resources present on the property whilst also contributing the most significant reduction to the established invasive common buckthorn. The minimal impact of the imposing impervious surface (e.g. driveway) within the 50ft wetland setback, in addition to the natural improvement (e.g. landscaping, rain gardens, etc.) to other portions of the wetland setback, are disadvantages largely outweighed by the benefits of reducing the proliferation of invasive common buckthorn throughout the parcel and beyond.

- e. Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Description. Describe in detail the stream or other navigable water shore buffer, wetland, wetland buffer, and/or wetland setback at the site which will be affected, including the topography, plants, wildlife, hydrology, soils and any other salient information pertaining to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback.

The sampling points identified within the Wetland Delineation Report most closely associated with the 50ft wetland setback include sampling points #2 and #4. The report states of sampling point #2 that it is based as “bare ground” with the most dominant vegetative species being invasive common buckthorn followed by Chokecherry and Tatarian Honeysuckle. The soils at this sampling point are comprised of silty clay loam and fine gravels with no hydric soils present being “upslope of wetland”. Sampling point #4 reflects “steep slope from wetland basin” with the dominant vegetative species being, again, invasive common buckthorn followed by Hawthorn trees and Virginia Strawberry herbs – there also includes a comment of “dead green ash”, likely a result of the proliferation of the invasive common buckthorn. The soils at this sampling point are comprised of silt loam and silty clay loam with no hydric soils present.

- f. Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Impacts. Describe in detail any impacts to the above functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback:

- i. Diversity of flora including State and/or Federal designated threatened and/or endangered species.

N/A – no threatened and/or endangered species were identified in areas of proposed impact.

- ii. Storm and flood water storage.  
N/A – areas of proposed impact would be up slope of natural water storage areas. Appropriate storm water management plans are in place to accommodate the impervious surfaces as a result of the proposed development within the 50ft wetland setback.
  
- iii. Hydrologic functions.  
Appropriate storm water management plans are in place to accommodate the impervious surfaces as a result of the proposed development within the 50ft wetland setback.
  
- iv. Water quality protection including filtration and storage of sediments, nutrients or toxic substances.  
Appropriate storm water management plans are in place to accommodate the impervious surfaces as a result of the proposed development within the 50ft wetland setback.
  
- v. Shoreline protection against erosion.  
N/A
  
- vi. Habitat for aquatic organisms.  
N/A
  
- vii. Habitat for wildlife.  
The proposed development within the 50ft wetland setback would likely reduce the available habitat for wildlife. However, the extent of this impact is uncertain since lack of development (i.e. no impact to the 50ft wetland setback) would also likely reduce the available habitat for wildlife as invasive common buckthorn continues to diminish the beneficial natural resources on the parcel.
  
- viii. Human use functional value.  
The proposed development would increase the human use functional value of the 50ft wetland setback greatly as all impacts would support access to the development of a single-family home.
  
- ix. Groundwater recharge/discharge protection.  
N/A
  
- x. Aesthetic appeal, recreation, education, and science value.  
The proposed development within the 50ft wetland setback would remove invasive common buckthorn which would likely allow other, non-impacted areas, to flourish, increasing the total aesthetic appeal of the beneficial natural resources.
  
- xi. Specify any State or Federal designated threatened or endangered species or species of special concern.  
N/A – no threatened and/or endangered species were identified in areas of proposed impact.

xii. Existence within a Shoreland.

N/A

xiii. Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time.

N/A

g. Water Quality Protection. Describe how the project protects the public interest in the waters of the State of Wisconsin.

Appropriate storm water management plans are in place to accommodate the impervious surfaces as a result of the proposed development within the 50ft wetland setback.

5. Date of any previous application or request for a Special Exception and the disposition of that previous application or request (if any).

N/A

D. Copies of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit. *(Please attach accordingly)*

**Section 2: Staff recommends providing statements to the following findings that will be considered by the Common Council in determining whether to grant or deny a Special Exception to the stream, shore buffer, navigable water-related, wetland, wetland buffer and wetland setback regulations of this Ordinance and for improvements or enhancements to a natural resource feature, per Section 15-10.0208B.2. of the Unified Development Ordinance.**

a. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature):

The location of the wetland, and thus respective wetland buffer and setback, in relation to the parcel, are not a result of any actions on the part of the proposed developer (i.e. home owner).

b. Compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:

i. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives:

*;or*

ii. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives:

The reasonable practical alternative (identified in Section 1 C.4.b.i) would not adequately address the invasive common buckthorn issue afflicting the parcel.



- c. The Special Exception, including any conditions imposed under this Section will:
- i. be consistent with the existing character of the neighborhood:  
Parcels to the east, south and west of the parcel of proposed development contain single-family homes and therefore a single-family home development would be consistent with the existing character of the surrounding neighborhood; *and*
  - ii. not effectively undermine the ability to apply or enforce the requirement with respect to other properties:  
Other adjacent properties of which also contain portions of the identified wetland have already been fully developed (e.g. established single-family home). Therefore, the Special Exception requested would not be relevant to further development of said properties (i.e. for recreational use (e.g. installation of a swimming pool, deck, etc.)) since the Special Exception is based on access (e.g. driveway) and development mitigation strategies (e.g. rain garden installation for storm water management); *and*
  - iii. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement:  
The Special Exception requested would not create significant impacts to the established wetland as appropriate storm water management plans have been established to accommodate the impervious surface of the driveway; *and*
  - iv. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development (*this finding only applying to an application to improve or enhance a natural resource feature*):  
The Special Exception requested would allow the resulting development to impact the areas of highest-density invasive common buckthorn on the parcel, which would help preserve the wetland, wetland buffer and wetland setback more effectively compared to the alternative (identified in Section 1 C.4.b.i). The alternative would not adequately address the invasive common buckthorn issue of which the invasive common buckthorn would likely continue to diminish the functional value of the wetland, wetland buffer and wetland setback.
- d. In making its determinations, the Common Council shall consider factors such as:
- i. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks:  
All remaining setback requirements (e.g. side yard, front yard, etc.) would be respected as determined by the proposed R-6 Suburban Single-Family Residence District Setback Development Standards (Table §15-3.0207).
  - ii. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district:  
Unlike the adjoining R-6 parcels surrounding the site, this parcel is fully undeveloped and comprised of natural resources including approximately 0.9 acres of delineated wetland. As a result, invasive common buckthorn has been able to proliferate without incentive to apply mitigation strategies. This has resulted in the deterioration of beneficial natural resources on the property. The development, including the relatively minimal encroachment of the 50ft wetland setback, would employ incentive, starting at the initial stages of development, to

largely mitigate the negative impacts of the invasive common buckthorn while also continuing to incentivize mitigation strategies in the future.

Additionally, the City of Franklin Engineering Department is requiring an extension of W Lake Pointe Drive (see Project Summary) to accommodate the driveway for the single-family home development as driveway access off of the end of a dead-end street (e.g. W Lake Pointe Drive) is not recommended due to snow removal concerns. The road extension will not impact the development standards in terms of meeting the proposed R-6 zoning requirements (§15-3.0207), nor will it impact the protection standards required of the development identified in the Natural Resource Protection Standards (§15-4.0101) as the extension would occur in areas of high-density of invasive common buckthorn.

- iii. Existing and future uses of property; useful life of improvements at issue; disability of an occupant:  
Until recent determination (Common Council approval: March 15, 2022) the parcel was previously designated as an unbuildable Out Lot. Thus, the natural resources within the parcel have suffered as a result of this prior designation as incentive to manage the invasive common buckthorn has been non-existent. By allowing reasonable development that meets the protection standards (Natural Resource Protection Standards §15-4.0101) required of such natural resource-dense parcels, incentive to mitigate the invasive common buckthorn would become apparent for the owner/developer (i.e. home owner) of the parcel.
- iv. Aesthetics:  
The minimal impact to the 50ft wetland setback would not negatively affect the aesthetics of the parcel as removal of invasive common buckthorn would allow other, non-impacted areas, to flourish accordingly.
- v. Degree of noncompliance with the requirement allowed by the Special Exception:  
The degree of noncompliance with the requirement allowed by the Special Exception includes estimates of <10% of the total 50ft wetland setback identified on the parcel being impacted by an impervious driveway surface while an additional <2% of the total 50ft wetland setback being developed with natural improvements (e.g. landscaping, rain gardens, etc.).
- vi. Proximity to and character of surrounding property:  
Special Exception impacts reside in areas of natural resources, primarily on the west side of the parcel, away from other residences.
- vii. Zoning of the area in which property is located and neighboring area:  
Proposed R-6 zoning of the parcel is consistent with the parcels to the east and south within the Lake Pointe Estates subdivision of which access of the proposed single-family home to W Lake Pointe Drive resides.
- viii. Any negative affect upon adjoining property:  
Granting the Special Exception would not affect adjoining properties in a negative fashion as all points of exception are within in the bounds of the parcel.

- ix. Natural features of the property:  
Granting the Special Exception would reduce the natural resources in the areas of exception, including areas of invasive common buckthorn, however, the natural resource reduction would be within the limits granted by the Natural Resource Protection Standards (§15-4.0101) for the parcel.
  
- x. Environmental impacts:  
Granting the Special Exception would allow developers (i.e. home owners) to target areas of invasive common buckthorn on the parcel, replacing buckthorn-dense areas with impervious surface, landscaping, rain gardens, etc., while minimizing impacts to other beneficial natural resources.

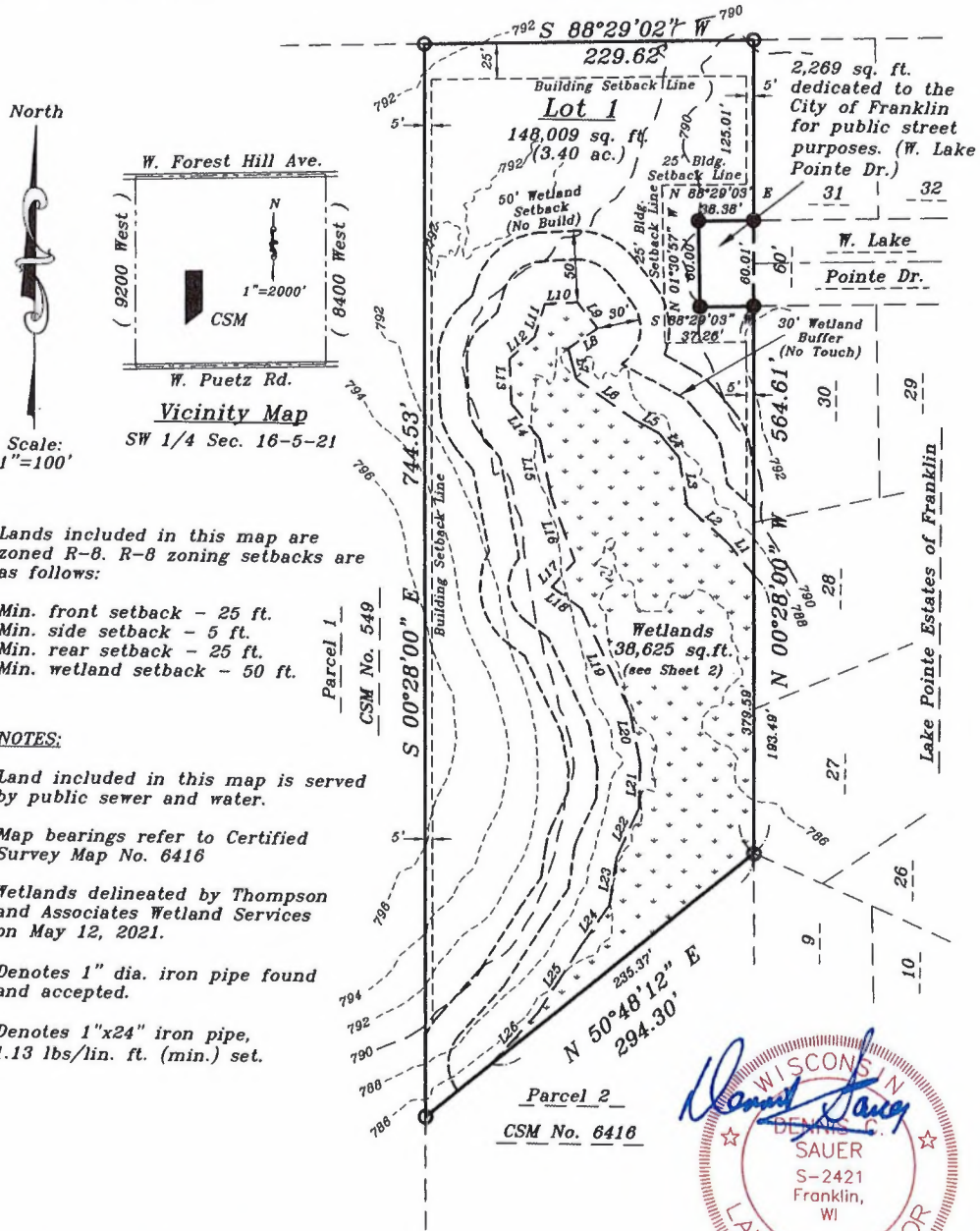


CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Being a remapping of Outlot 1 of Certified Survey Map No. 6416, being a part of the Southwest 1/4 of Section 16, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

PREPARED FOR:  
 Karley Blake  
 6426 S. 35th Street, Apt. #12  
 Franklin, WI 53132

PREPARED BY: Dennis C. Sauer  
 Metropolitan Survey Service, Inc.  
 9415 West Forest Home Avenue  
 Hales Corners, WI 53130



Lands included in this map are zoned R-8. R-8 zoning setbacks are as follows:

- Min. front setback - 25 ft.
- Min. side setback - 5 ft.
- Min. rear setback - 25 ft.
- Min. wetland setback - 50 ft.

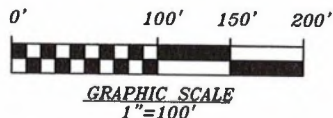
**NOTES:**

Land included in this map is served by public sewer and water.

Map bearings refer to Certified Survey Map No. 6416

Wetlands delineated by Thompson and Associates Wetland Services on May 12, 2021.

- Denotes 1" dia. iron pipe found and accepted.
- Denotes 1"x24" iron pipe, 1.13 lbs/lin. ft. (min.) set.



July 13, 2021  
 Revised November 3, 2021  
 Revised December 15, 2021  
 Revised February 17, 2022



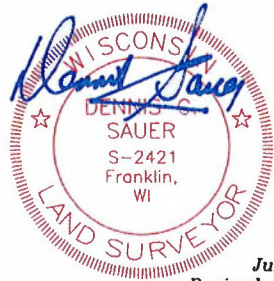
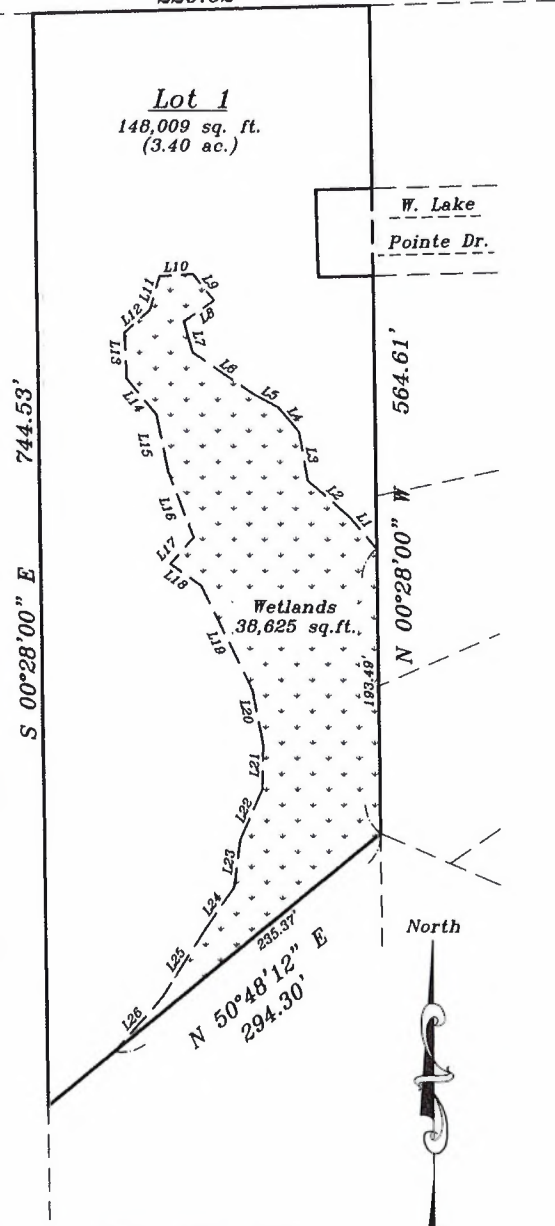
CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Being a remapping of Outlot 1 of Certified Survey Map No. 6416,  
 being a part of the Southwest 1/4 of Section 16, Township 5 North,  
 Range 21 East, in the City of Franklin, Milwaukee County,  
 Wisconsin.

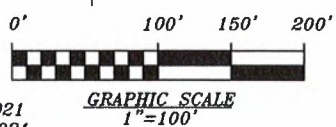
S 88°29'02" W  
 229.62'

Lot 1  
 148,009 sq. ft.  
 (3.40 ac.)

WETLAND LINE TABLE		
LINE	BEARING	LENGTH
L1	N40°00'43"W	27.67
L2	N48°39'34"W	38.39
L3	N09°56'34"W	33.64
L4	N40°09'47"W	22.23
L5	N62°17'02"W	18.55
L6	N55°39'22"W	50.36
L7	N15°34'05"W	21.77
L8	N55°09'30"E	25.07
L9	N38°20'11"W	22.88
L10	S86°11'58"W	22.80
L11	S16°44'35"W	24.15
L12	S48°35'13"W	23.02
L13	S02°33'00"E	31.38
L14	S39°20'20"E	31.82
L15	S11°25'01"E	39.67
L16	S20°41'40"E	47.85
L17	S41°52'06"W	23.97
L18	S54°40'19"E	25.65
L19	S25°55'25"E	79.00
L20	S11°27'41"E	36.70
L21	S01°10'42"W	30.85
L22	S24°12'27"W	37.82
L23	S07°52'20"W	33.31
L24	S34°35'56"W	36.18
L25	S32°37'05"W	54.25
L26	S41°32'21"W	48.39



July 13, 2021  
 Revised November 3, 2021  
 Revised December 15, 2021  
 Revised February 17, 2022



CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Being a remapping of Outlot 1 of Certified Survey Map No. 6416, being a part of the Southwest 1/4 of the Southwest 1/4 of Section 16, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)  
MILWAUKEE COUNTY) SS

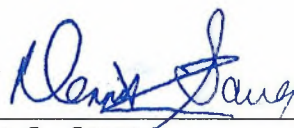
I, Dennis C. Sauer, Professional Land Surveyor, do hereby certify:  
That I have surveyed, divided and mapped, a remapping of Outlot 1 of Certified Survey Map No. 6416, being a part of the Southwest 1/4 of the Southwest 1/4 of Section 16, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin. Said lands contain 150,278 square feet (3.45 acres).

That I have made such survey, land division and map by the direction of Crescent Construction, Inc., owner of said land.

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

That I have fully complied with the provisions of Chapter 236.34 of the Wisconsin State Statutes and the Unified Development Ordinance - Division 15, of the City of Franklin Municipal Code in surveying, dividing and mapping the same.

July 13, 2021  
Date  
Revised 11/3/21  
12/15/21  
2/17/22

  
Dennis C. Sauer  
Professional Land Surveyor S-2421



PREPARED FOR:  
Karley Blake  
7213 W. Drexel Avenue  
Franklin, WI 53132

PREPARED BY: Dennis C. Sauer  
Metropolitan Survey Service, Inc.  
9415 West Forest Home Avenue  
Hales Corners, WI 53130

CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Being a remapping of Outlot 1 of Certified Survey Map No. 6416, being a part of the Southwest 1/4 of the Southwest 1/4 of Section 16, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

CORPORATE OWNER'S CERTIFICATE

Crescent Construction, Inc., as owner, do hereby certify that I have caused the land described on this map to be surveyed, divided, mapped and dedicated as represented on this map in accordance with the requirements of Chapter 236.34 of the Wisconsin State Statutes and Unified Development Ordinance - Division 15, of the City of Franklin Municipal Code.

WITNESS the hand and seal of said owner this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Inaam Arshad, Owner

STATE OF WISCONSIN)  
Milwaukee COUNTY) SS

PERSONALLY came before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, Inaam Arshad, Owner, to me known to be the person who executed the foregoing instrument and acknowledged the same.

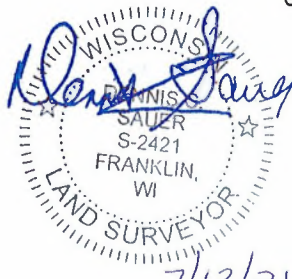
\_\_\_\_\_  
Notary Public  
State of Wisconsin  
My Commission Expires: \_\_\_\_\_

COMMON COUNCIL APPROVAL

APPROVED and dedication accepted by the Common Council of the City of Franklin, Resolution No. \_\_\_\_\_, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Stephen R. Olson, Mayor  
City of Franklin

\_\_\_\_\_  
Sandra L. Wesolowski, Clerk  
City of Franklin



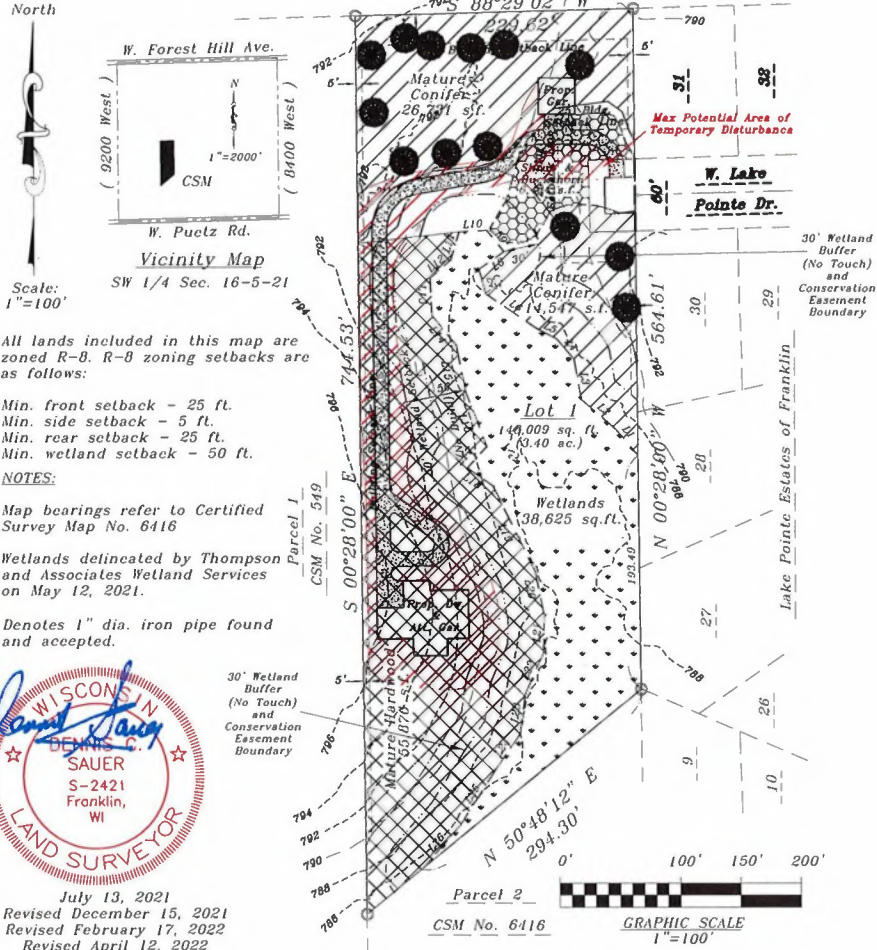
7/13/21  
Revised 11/13/21  
12/15/21  
2/17/22  
Sheet 4 of 4

NATURAL RESOURCE PROTECTION PLAN

Being a remapping of Outlot 1 of Certified Survey Map No. 6416, being a part of the Southwest 1/4 of Section 16, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

PREPARED FOR:  
 Karley Blake  
 6426 S. 35th Street, Apt. #12  
 Franklin, WI 53132

PREPARED BY: Dennis C. Sauer  
 Metropolitan Survey Service, Inc.  
 9415 West Forest Home Avenue  
 Hales Corners, WI 53130



All lands included in this map are zoned R-8. R-8 zoning setbacks are as follows:

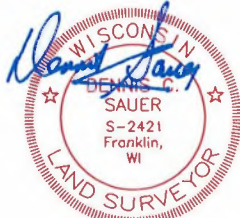
- Min. front setback - 25 ft.
- Min. side setback - 5 ft.
- Min. rear setback - 25 ft.
- Min. wetland setback - 50 ft.

NOTES:

Map bearings refer to Certified Survey Map No. 6416

Wetlands delineated by Thompson and Associates Wetland Services on May 12, 2021.

- Denotes 1" dia. iron pipe found and accepted.



July 13, 2021  
 Revised December 15, 2021  
 Revised February 17, 2022  
 Revised April 12, 2022  
 Revised April 15, 2022  
 Revised April 16, 2022  
 Revised April 18, 2022

Natural Resource Impacts					
Total Site Area = 148,009 sq. ft.					
Natural Resource Feature	square feet	square feet	Degree of Disturbance (%)	Protection Standard	
	Total Area of Resource	Total Area of Disturbance			
Steep Slopes:	10-15%	0	0	0	40%
	20-30%	0	0	0	70%
	30%	0	0	0	80%
Woodlands & Forests:	Mature	63,319	8<10	13.28	70%
	Young	0	0	0	50%
Water Resources:	Lakes & Ponds	0	0	0	100%
	Streams	0	0	0	100%
	Shore Buffers	0	0	0	100%
	Flood-plains/ Flood-ways	0	0	0	100%
	Wetlands & Shoreland Wetlands	38,625	0	0	100%
	30 foot Wetland Buffers	27,312	0	0	100%

An additional 20 foot wetland setback to the 30 foot wetland buffer is 18,723 square feet, of that 1720 square feet are disturbed for a driveway or 9.2%  
 Data supplied by Metropolitan Survey, delineation & table by Alice Thompson

Legend

- Property Line
- - - - - House Setback Line
- - - - - Wetland Boundary
- - - - - 30' Wetland Buffer and Conservation Easement Boundary
- - - - - 50' Wetland Setback
- [Pattern] Wetlands
- [Pattern] Mature Hardwoods
- [Pattern] Mature Conifers
- [Pattern] Shrub & Buckthorn

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<b>APPROVAL</b> <i>Slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MTG. DATE</b> May 17, 2022
Reports & Recommendations	<b>AMEND RESOLUTION 2022-7816 TO ENTER INTO A CONTRACT WITH HAUSCH DESIGN AGENCY, LLC TO DEVELOP A MESSAGING PROGRAM FOR FRANKLIN SEWER UTILITIES PROJECT/PRIVATE PROPERTY INFILTRATION &amp; INFLOW REDUCTION PROJECT FOR \$32,500</b>	<b>ITEM NO.</b> <b>G.6.</b>

**BACKGROUND**

On May 3, 2022, Common Council tabled this item for the May 17, 2022 meeting. Mr. Hausch is still working with his insurance provider on errors and omission insurance coverage and Staff requests that this item be tabled again to the June 7, 2022, Common Council meeting.

**ANALYSIS**

None at this time.

**FISCAL NOTE**

None at this time.

**RECOMMENDATION**

Motion to table the amendment of Resolution 2022-7816, “a resolution amend to enter into a contract with Hausch Design Agency, LLC to develop a messaging program for Franklin Sewer Utilities Project/Private Property Infiltration & Inflow Reduction Project for a not to exceed amount of \$31,000,” to approve the contract with an increased cost of \$1,500, for a contract total not to exceed amount of \$32,500.

Engineering Department: GEM

APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MTG. DATE May 3, 2022
Reports & commendations	A RESOLUTION TO AMEND RESOLUTION NO. 2022-7816, A RESOLUTION TO ENTER INTO A CONTRACT WITH HAUSCH DESIGN AGENCY, LLC TO DEVELOP A MESSAGING PROGRAM FOR FRANKLIN SEWER UTILITIES PROJECT/PRIVATE PROPERTY INFILTRATION & INFLOW REDUCTION PROJECT FOR \$31,000, TO INCREASE THE PRICE TO \$32,500 TO PROVIDE FOR ADDITIONAL INSURANCE COVERAGE	ITEM NO.  G.9.

**BACKGROUND**

On January 18, 2022, Council adopted Resolution 2022-7816, resolution to enter into a contract with Hausch Design Agency, LLC to develop a messaging program for Franklin Sewer Utilities Project/Private Property Infiltration & Inflow Reduction Project for \$31,000.

During the process to execute the agreement, Staff consulted with the City's insurance carrier and the proposed insurance levels provided by Hausch are insufficient for the City's needs.

**ANALYSIS**

Hausch will have to procure special insurance to meet the requirements of the City. The contract has been revised to include the needed insurance as a lump sum item payable with the first invoice. This reflects an additional \$1,500.

**FISCAL NOTE**

This PPII program is in the 2022 Sewer Utility budget (61-0731-5829) and primarily funded using Franklin's allotment of MMSD funds earmarked for this purpose. The non-MMSD-funds needed relate to a large portion of this messaging program and will use local sewer utility funds.

**RECOMMENDATION**

A motion to adopt A Resolution to Amend Resolution No. 2022-7816, A Resolution to Enter into a Contract With Hausch Design Agency, LLC to Develop a Messaging Program for Franklin Sewer Utilities Project/Private Property Infiltration & Inflow Reduction Project for \$31,000, to Increase the Price to \$32,500 to Provide for Additional Insurance Coverage.

Engineering Department: GEM



STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2022-\_\_\_\_\_

A RESOLUTION TO AMEND RESOLUTION NO. 2022-7816, A RESOLUTION TO ENTER INTO A CONTRACT WITH HAUSCH DESIGN AGENCY, LLC TO DEVELOP A MESSAGING PROGRAM FOR FRANKLIN SEWER UTILITIES PROJECT/PRIVATE PROPERTY INFILTRATION & INFLOW REDUCTION PROJECT FOR \$31,000, TO INCREASE THE PRICE TO \$32,500 TO PROVIDE FOR ADDITIONAL INSURANCE COVERAGE

WHEREAS, the Common Council adopted Resolution No. 2022-7816, a Resolution to Enter into a Contract With Hausch Design Agency, LLC to Develop a Messaging Program for Franklin Sewer Utilities Project/Private Property Infiltration & Inflow Reduction Project for \$31,000, subject to liability insurance changes as authorized by the Director of Administration, at its meeting on January 18, 2022; and

WHEREAS, such insurance changes have been processed and obtained, which result in an increase to the contract price of \$1,500, and City staff having recommended approval of an amendment to the contract to provide for same; and

WHEREAS, the Common Council having determined such amendment to the contract to be fair and reasonable.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that Hausch Design Agency, LLC is to develop a messaging program for Franklin Sewer Utilities project/private property infiltration & inflow reduction project for a not-to-exceed amount of \$32,500, that the contract therefore as presented to the Common Council at this meeting be and the same is hereby approved, and that Resolution No. 2022-7816 be and the same is hereby amended accordingly.

BE IT FURTHER RESOLVED, that the Mayor, City Clerk and Director of Finance and Treasurer be and the same are hereby authorized to execute and deliver such contract.

Introduced at a regular meeting of the Common Council of the City of Franklin the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Alderman \_\_\_\_\_.

PASSED AND ADOPTED by the Common Council of the City of Franklin on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

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<p><b>APPROVAL</b></p> <p><i>Slw</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p><b>5/17/2022</b></p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p><b>A Resolution Affirming the City of Franklin Code of Conduct and Ethics (Alderwoman Shari Hanneman)</b></p>	<p><b>ITEM NUMBER</b></p> <p><b>G.7.</b></p>

**COUNCIL ACTION REQUESTED**

Motion to adopt Resolution No. 2022-\_\_\_\_, A Resolution Affirming the City of Franklin Code of Conduct and Ethics.

RESOLUTION NO. 2022-\_\_\_\_\_

A RESOLUTION AFFIRMING THE CITY OF FRANKLIN  
CODE OF CONDUCT AND ETHICS

---

WHEREAS, the City of Franklin embarked on a process to improve its communications upon a recommendation from legal counsel hired by the City's risk/insurance provider that the City make efforts to create proper, respectful, and effective communication protocols; and

WHEREAS, the Common Council and staff worked together for approximately seven months, in twelve public meetings as well as additional time meeting individually with staff to discuss concerns, questions, additional information to be presented to the full Council for discussion, feedback, and decisions on what to include and not include; and

WHEREAS, advice and applicable documentation from the League of Wisconsin Municipalities, best practices from other communities, and advice and review from outside legal counsel, were all utilized to create the Code of Conduct and Ethics; and

WHEREAS, the result of that research and hard work was the creation and refining of two very important documents, a Code of Conduct and Rules of the Common Council, as well as adding an Ethics section to the Code of Conduct at Council's request; and

WHEREAS, on October 5, 2021, the City of Franklin Common Council, by a vote of 5-0, with one Council Member not present, adopted and enacted its Code of Conduct and Ethics; and

WHEREAS, the purpose of the Code of Conduct and Ethics is to ensure that all elected and appointed officials have clear guidelines for carrying out their responsibilities, and to ensure a safe and positive work environment for those who conduct the business of the City of Franklin; and

WHEREAS, the Code of Conduct details the process by which complaints of violations to the Code of Conduct, other than ethics which follow a separate statewide process, will be investigated and resolved in a timely manner; and

WHEREAS, there is a statewide established process for the enforcement of ethics violations by the local district attorney (in Milwaukee County, this is Corporation Counsel) which may be petitioned to the Attorney General if the district attorney fails to act.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the City of Franklin Code of Conduct and Ethics stands as a necessary and viable Code of Conduct to be maintained, updated as is appropriate, followed, and subscribed to by all City of Franklin elected officials, appointed board/commission/committee members, and appointed officials.

Introduced at a regular meeting of the Common Council of the City of Franklin this 17th day of May, 2022 by Alderman \_\_\_\_\_.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin  
this 17th day of May, 2022.

**APPROVED:**

\_\_\_\_\_  
Stephen R. Olson, Mayor

**ATTEST:**

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

YES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

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<p><b>APPROVAL</b></p> <p><i>Slw</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p><b>5/17/2022</b></p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p><b>A Resolution to Direct the Mayor and Staff to Work with Milwaukee County to Obtain Land or Access to Land for Storm Water Purposes In/Near the New Corporate Business Park (Alderman Shari Hanneman)</b></p>	<p><b>ITEM NUMBER</b></p> <p><b>G.8.</b></p>

**COUNCIL ACTION REQUESTED**

Motion to adopt Resolution No. 2022-\_\_\_\_, A Resolution to Direct the Mayor and Staff to Work with Milwaukee County to Obtain Land or Access to Land for Storm Water Purposes In/Near the New Corporate Business Park.



RESOLUTION NO. 2022-\_\_\_\_\_

A RESOLUTION TO DIRECT THE MAYOR AND STAFF TO WORK WITH MILWAUKEE COUNTY TO OBTAIN LAND OR ACCESS TO LAND FOR STORM WATER PURPOSES IN/NEAR THE NEW CORPORATE BUSINESS PARK

WHEREAS, the City of Franklin, Milwaukee County, Oak Creek-Franklin School District, and Milwaukee Area Technical College (MATC) jointly make up the Joint Review Board which created Tax Incremental Financing District #8 (TID #8) in 2020; and

WHEREAS, TID #8 is being developed as a corporate business park to allow for approximately \$125 Million in new property value within the district; and

WHEREAS, development in TID #8 will benefit all overlapping taxing entities, including the City of Franklin, Milwaukee County, Oak Creek-Franklin School District, MATC, and Milwaukee Metropolitan Sewerage District (MMSD); and

WHEREAS, there is a significant need for storm water solutions in TID #8 to make public infrastructure, including a reliable, sustainable connection to I-94 and main thoroughfares of the new Hickory Road and substantial improvements to Elm Road, a reality to develop the corporate park as planned, to maximize the benefit to all taxing entities; and

WHEREAS, Milwaukee County owns land adjacent to the corporate park that is a strong option to contribute to the needed storm water solution in the area; and

WHEREAS, it is in the best interest of all taxing entities involved for the City and County to collaborate and work together on the storm water solution to ensure the success of the corporate park.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Mayor is hereby directed to work with Milwaukee County elected officials, commissions, and staff, in conjunction with other related programs and entities, including the MMSD Greenseams Program to obtain land, or access to land, for storm water purposes in/near TID #8.

Introduced at a regular meeting of the Common Council of the City of Franklin this 17th day of May, 2022 by Alderman \_\_\_\_\_.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 17th day of May, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

YES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

<p style="text-align: center;"><b>APPROVAL</b> <i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b>  5/17/2022</p>
<p style="text-align: center;"><b>REPORTS AND RECOMMENDATIONS</b></p>	<p style="text-align: center;">Request for Approval of Memorandum of Agreement for Weights and Measures Inspection with the Wisconsin Department of Agriculture, Trade and Consumer Protection for July 1, 2022 through June 30, 2023</p>	<p style="text-align: center;"><b>ITEM NUMBER</b>  G.9.</p>

Attached is the (renewal) Memorandum of Agreement for Weights and Measures Inspection with the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) for July 1, 2022 through June 30, 2023. Weights and measures includes every kind of instrument and device for weighing and measuring, and any appliances and accessories used with any or all such instruments and devices. Some examples are fuel pumps, small scales (300 lbs. or less), medium scales (300-5,000 lbs.), heavy scales (more than 5,000 lbs.), devices for timing (such as a laundromat dryer or car wash dryer), devices for measuring length, and point of sale scanners.

At the current time, there are 39 locations that hold a Weights and Measures license issued by the City Clerk. During the 2021-2022 license year, DATCP conducted inspections at 25 locations during a 19-day period at a cost of \$400 per day. This fee has not changed in 20 years; however, after a statewide review of its inspection program, DATCP has determined that there will be a decrease to 9 contract days for 2022-2023. In order to ensure that businesses inspected by the State are equally served and regulated, DATCP is moving to a two-year inspection interval for most inspection types and a complaint inspection basis for some other business types. This means that the 2022-2023 fiscal year costs will be reduced from \$7,600 to \$3,600. Pursuant to Municipal Code § 26-8., the City assesses these fees on the person who receives the actual services rendered during the July-through-June contract period. The City may only recover an amount not to exceed DATCP's fees.

Fiscal Note

The 2021-2022 DATCP invoice in the amount of \$7,600 has been paid from funds in the 2022 adopted budget, and matching revenue has been received for those inspections. Revenue also includes annual license fees of \$20 per location with qualifying devices. There is no impact on the current year budget.

The 2022-2023 inspection year will result in a decrease of expenditures and revenues requested in the 2023 budget for Weights and Measures from \$7,600 to \$3,600.

**COUNCIL ACTION REQUESTED**

Motion to authorize City officials to execute the Memorandum of Agreement for Weights and Measures Inspection with the Wisconsin Department of Agriculture, Trade and Consumer Protection for July 1, 2022 through June 30, 2023 at a cost of \$400 per day for 9 days, subject to review by the City Attorney.



State of Wisconsin  
Governor Tony Evers

---

**Department of Agriculture, Trade and Consumer Protection**  
Secretary Randy Romanski

April 22, 2022

SANDI WESOLOWSKI CLERK  
CITY OF FRANKLIN  
9229 W LOOMIS RD  
FRANKLIN WI 53132

Dear Sandi Wesolowski:

The City of Franklin has a contract with the Department of Agriculture, Trade and Consumer Protection for weights and measures inspection services. The contract is renewable each July 1st.

State law requires that the Department charge municipalities fees sufficient to cover the cost of services rendered. The Bureau of Weights and Measures recently conducted an analysis of its inspection program. This review identified disparities in inspection intervals which resulted in inconsistent inspection frequencies statewide. As a result, the Bureau has determined that a decrease in the number of contract days is warranted.

The City of Franklin will be charged for nine days in FY23 (July 1, 2022 through June 30, 2023), at \$400 per day. If the city intends to continue to contract with the State for its weights and measures inspection program, please sign and return the enclosed contract by June 15, 2022 to:

Holly Wing  
DATCP  
PO Box 8911  
Madison, WI 53708-8911

A completed copy of the contract will be returned to you for your records. The municipality will be billed for this service in April 2023.

Sincerely,

Stephen Peter  
Manager, Field Operations Section  
Bureau of Weights and Measures  
Phone 608-224-4954  
[Stephen.peter@wisconsin.gov](mailto:Stephen.peter@wisconsin.gov)

Enclosures: Wis. Stat. Ch 98, Inspection Frequency Change Memo, FY23 Contract

*Wisconsin - America's Dairyland*

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## MEMORANDUM OF AGREEMENT WEIGHTS AND MEASURES INSPECTION

THIS AGREEMENT is entered into by and between the STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION, hereinafter referred to as the Department, and the MUNICIPALITY OF FRANKLIN, hereinafter referred to as the Municipality.

Pursuant to Wis. Stat. § 98.04(2), the Department agrees to furnish the services and perform the duties required to enforce the provisions of Wis. Stat. ch. 98 in the Municipality. The Department further agrees to report to the Municipality at least annually on the extent and nature of the services performed. It is understood and agreed that the Municipality shall not be required to maintain a department of weights and measures or appoint sealers of weights and measures while this agreement is in effect.

Pursuant to Wis. Stat. §§ 66.0301 and 98.04(2), the Municipality agrees to pay to the Department fees sufficient to cover the Department's annual costs of providing such services on a fiscal year basis that starts on July 1 and continues through the following June 30, with payment to be made not later than May 1 of the fiscal year of this agreement. Payment for services performed by the Department for less than any contract period shall be prorated accordingly.

This agreement shall be self-renewing for succeeding fiscal year periods, except that the sum to be paid to the Department for services rendered shall be subject to renegotiation for each succeeding contract period based on the cost of providing services. This agreement may be terminated at the end of any fiscal year by either party giving the other party written notice at least 60 days prior to July 1 of the following fiscal year. Annual fees payable to the Department shall be in the amount of **\$3,600.00**, except as otherwise agreed upon for succeeding contract periods. Under Wis. Stat. § 98.04(2), a municipality may recover an amount not to exceed the cost of fees paid to the Department by assessing fees on the persons who receive services under the weights and measures program.

The parties have entered into this agreement effective the **1<sup>st</sup> day of July 2022**.

WISCONSIN DEPARTMENT OF  
AGRICULTURE, TRADE AND CONSUMER  
PROTECTION

By \_\_\_\_\_  
Signature Date

Administrator  
Division of Trade & Consumer Protection  
(608) 224-4929

MUNICIPALITY OF \_\_\_\_\_

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title Telephone Number

## Chapter 26. Weights and Measures Regulations

[HISTORY: Adopted by the Common Council of the City of Franklin 12-3-2002 by Ord. No. 2002-1736. This ordinance also repealed former Ch. 26, Department of Weights and Measures, adopted 8-5-1997 by Ord No 97-1461 as Sec. 1.07 of the 1997 Code, as amended. Amendments noted where applicable.]

### § 26-1. Regulations adopted.

The statutory provisions of Ch. 98, Wis. Stats., and Wisconsin Administrative Code, ATCP 92, Weighing and Measuring Devices, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this chapter. Any further amendments, revisions or modifications of the statutes incorporated herein or Wisconsin Administrative Code provisions incorporated herein are intended to be made a part of this chapter. This chapter is adopted pursuant to the provisions of Chapter 98, Wis. Stats.

### § 26-2. Appointment of inspectors.

In order to assure compliance with this chapter, the City hereby grants the authority and duties of sealers and inspectors required by this chapter to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.

### § 26-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### **COMMERCIAL WEIGHING OR MEASURING DEVICES**

Devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, items, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.

#### **WEIGHTS AND MEASURES PROGRAM**

The program that includes administration and enforcement of this chapter, Chapter 98, Wis. Stats., Wisconsin Administrative Code provisions and any related actions.

### § 26-4. Weights and measures license required.

- A. License requirements. Except as provided in Subsection B, no person shall operate or maintain any commercial weighing or measuring devices or any other weights and measures or systems and accessories related thereto which are used commercially within the City of Franklin for determining the weight, measure or count unless each such device is licensed by an annual weights and measures license issued pursuant to the provisions of this chapter.
- B. Exemptions. Sales permitted at St. Martins Fair or sales permitted by direct seller, transient merchants and solicitors are exempt from licensing under this chapter.

### § 26-5. Application for license.

An application for a weights and measures license shall be made in writing on a form provided for such purpose by the City Clerk and shall be signed by the owner of the commercial business or by its authorized agent. Such applications shall state the type and number of weighing and measuring devices to be licensed, location of the

devices, the applicant's full name and post office address, and whether such applicant is an individual, partnership, limited liability company, corporation or other entity. If the applicant is a partnership, the application shall state the names and addresses of each partner. If the applicant is a corporation or limited liability company, the application shall state the name and address of all officers and agents of the applicant, including the registered agent thereof.

## § 26-6. Weights and measures license fee.

Upon compliance of this chapter, the City Clerk shall issue a license to the applicant upon payment of the license fee as set forth in Ch. 169, Licenses and Permits. Each store or business location shall require a separate license. The license fee shall not be prorated for a partial year.

## § 26-7. License term.

A license issued under this chapter shall expire on June 30 of each year

## § 26-8. Fees assessment.

Pursuant to § 98.04(2), Wis. Stats, the Department of Agriculture, Trade and Consumer Protection enforces this chapter within the City of Franklin and charges the costs thereof to the City of Franklin upon an itemized service fee assessment per licensee basis following the expiration of each license year on June 30; the City shall invoice such actual service costs to each licensee by regular mail, and each licensee shall pay such invoice within 30 days of the date of the City mailing thereof. Payment of the service fee assessment by a licensee shall be in addition to the payment of the annual license fee set forth under § 26-6 of this chapter. A licensee's failure to timely pay the fee assessment shall be grounds for the suspension or revocation of any municipal license held by such licensee, and the payment of such fee assessment shall be a precondition to the issuance of any renewal, subsequent or other municipal license to such licensee.

## § 26-9. Violations and penalties.

Any person or entity who shall violate any provision of this chapter shall be subject to the penalties and remedial actions as provided in Chapter 1, General Provisions, § 1-19 of this Code, and in addition thereto, the penalties and remedial actions available under § 98.26, Wis. Stats.

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<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;">5/17/2022</p>
<p style="text-align: center;"><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>Potential Acquisition of Property for Public Park Recommendations Purposes in the General Southwest Area of the City of Franklin.</b>  <b>The Common Council may enter closed session pursuant to Wis. Stats. §19.85(1)(e), to consider the potential acquisition of properties intended to be used for public park purposes in the general southwest area of the City and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><b>G.10.</b></p>

**COUNCIL ACTION REQUESTED**

The Common Council may enter closed session pursuant to Wis. Stats. §19.85(1)(e), to consider the potential acquisition of properties intended to be used for public park purposes in the general southwest area of the City and to re-enter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

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<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>05/17/2022</b>
<b>LICENSES AND PERMITS</b>	<b>MISCELLANEOUS LICENSES</b>	<b>ITEM NUMBER</b> <b>H.</b>

See attached minutes from the License Committee Meeting held May 10, 2022.

Also, see attached listing from meeting of May 17, 2022.

**COUNCIL ACTION REQUESTED**

As recommended by the License Committee.



414-425-7500

**License Committee  
Agenda\*  
Alderman Room  
May 10, 2022 – 6:00 p.m.**

<b>1.</b>	<b>Call to Order &amp; Roll Call</b>	<b>Time:</b>
<b>2.</b>	<b>Applicant Interviews &amp; Decisions</b>	
<b>License Applications Reviewed</b>		<b>Recommendations</b>

<b>Type/ Time</b>	<b>Applicant Information</b>	<b>Approve</b>	<b>Hold</b>	<b>Deny</b>
<b>Extraordinary Entertainment &amp; Special Event 6:05 p.m.</b>	<b>Rock Sports Complex – The Hill Has Eyes</b> Person in Charge: Paul Cimoch Location: 7005 S. Ballpark Dr. Dates of Event: Every Friday & Saturday from 9/30/2022 through 10/29/2022	√ Pending Insp & Proof of Insurance		
<b>Amusement Device Operator 2022-2023 6:10 p.m.</b>	<b>Red's Novelty Ltd</b> 1921 S 74 St West Allis, WI 53219 Jay Jacomet, Owner		√	
<b>Operator 2022-2023 New</b>	<b>Fisher, Andrew J</b> Pick 'n Save #6431	√		
<b>Operator 2022-2023 New</b>	<b>Monnie, Justin A</b> Pick 'n Save #6431	√		
<b>Operator 2022-2023 New</b>	<b>Palasz, Dylan J</b> Kwik Trip #287	√		
<b>Operator 2021-2022 New</b>	<b>Fisher, Heidi A</b> Tuckaway Country Club		√ For Appearance	
<b>Operator 2022-2023 Renewal</b>	<b>Fisher, Heidi A</b> Tuckaway Country Club		√ For Appearance	
<b>Operator 2021-2022 New</b>	<b>Grenz, Megan E</b> The Rock Sports Complex	√		

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2022-2023 Renewal	<b>Grenz, Megan E</b> The Rock Sports Complex	√		
Operator 2021-2022 New	<b>Talaska, James E</b> Country Lanes Bowling Center		√ For Appearance	
Operator 2022-2023 Renewal	<b>Talaska, James E</b> Country Lanes Bowling Center		√ For Appearance	
Operator 2021-2022 New	<b>Wolff, Pamela J</b> Walgreens #05884	√		
Operator 2022-2023 Renewal	<b>Wolff, Pamela J</b> Walgreens #05884	√		
Operator 2022-2023 Renewal	<b>Aguilar, Jennifer M</b> Walgreens #05884	√		
Operator 2022-2023 Renewal	<b>Arora, Agam S</b> Walgreens #15020	√		
Operator 2022-2023 Renewal	<b>Banks, Lorese C</b> Target Store T-2388	√		
Operator 2022-2023 Renewal	<b>Bishop, Joshua I</b> On The Border	√		
Operator 2022-2023 Renewal	<b>Cauley, Joseph A</b> Rawson Pub	√		
Operator 2022-2023 Renewal	<b>Cieslak, Tadeusz A</b> Polonia Sport Club	√		
Operator 2022-2023 Renewal	<b>Cruz, Nicole M</b> Mulligan's Irish Pub & Grill	√		

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2022-2023 Renewal	<b>Danowski, Samuel L</b> Kwik Trip #287	√		
Operator 2022-2023 Renewal	<b>Fenelon, John J</b> Kwik Trip #287	√		
Operator 2022-2023 Renewal	<b>Graf, Corie L</b> Iron Mike's	√		
Operator 2022-2023 Renewal	<b>Haase, Jody L</b> 7-Eleven	√		
Operator 2022-2023 Renewal	<b>Hoffman, Carinn N</b> The Rock Sports Complex	√		
Operator 2022-2023 Renewal	<b>Jaskie, Shane R</b> Iron Mike's	√		
Operator 2022-2023 Renewal	<b>Jensen, Ellen L</b> Buckhorn Bar & Grill	√		
Operator 2022-2023 Renewal	<b>Karampelas, Elizabeth</b> Honey Butter Cafe	√		
Operator 2022-2023 Renewal	<b>Klinko, Dawn M</b> Walgreens #15020	√		
Operator 2022-2023 Renewal	<b>Knurowski, Robert</b> Walgreens #05884	√		
Operator 2022-2023 Renewal	<b>Kochan, Lori A</b> Swiss Street Pub & Grill	√		
Operator 2022-2023 Renewal	<b>Kuklinski, Kim T</b> Kwik Trip #287	√		

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2022-2023 Renewal	<b>Lockett, Angela</b> Walgreens #05884	√		
Operator 2022-2023 Renewal	<b>Martinez, Jennifer L</b> Swiss Street Pub & Grill	√		
Operator 2022-2023 Renewal	<b>Meier, Lee Ann</b> Country Lanes Bowling Center	√		
Operator 2022-2023 Renewal	<b>Mora, Josefina</b> Walgreens #05884	√		
Operator 2022-2023 Renewal	<b>Murphy, Melissa A</b> Walgreens #15020	√		
Operator 2022-2023 Renewal	<b>Pelzek, Alexandria P</b> Kwik Trip #287	√		
Operator 2022-2023 Renewal	<b>Peters, Miranda R</b> Iron Mike's	√		
Operator 2022-2023 Renewal	<b>Riley, Olivia P</b> Walgreens #15020	√		
Operator 2022-2023 Renewal	<b>Robinson, Corey A</b> Target Store T-2388	√		
Operator 2022-2023 Renewal	<b>Ruyle, Toni M</b> Swiss Street Pub & Grill	√		
Operator 2022-2023 Renewal	<b>Short, Krystal M</b> Iron Mike's	√		
Operator 2022-2023 Renewal	<b>Steffes, Mark</b> Kwik Trip #287	√		



Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2022-2023 Renewal	<b>Theis, Kathryn M</b> Target Store T-2388	√		
Operator 2022-2023 Renewal	<b>Tode, Sarah A</b> Country Lanes Bowling Center	√		
Operator 2022-2023 Renewal	<b>Valadez-Servin, Brenda P</b> Sendik's Fruit Market	√		
Operator 2022-2023 Renewal	<b>Widenski, Denise R</b> Kwik Trip #287	√		
Operator 2022-2023 Renewal	<b>Wotnoske, Erika A</b> The Rock Sports Complex	√		
Amusement Device Operator 2022-2023	<b>American Entertainment Services, Inc</b> W337 S5059 Hwy GG Dousman, WI 53118 Kenneth Grothman, Owner	√		
Amusement Device Operator 2022-2023	<b>Games Are Us, Inc</b> W144 S6315 College Ct Muskego, WI 53150 Steven Murphy, Owner	√		
Amusement Device Operator 2022-2023	<b>National Entertainment</b> 246 S Taylor Ave, Unit 200 Louisville, CO 80027 James Sevalt, Manager	√		
Amusement Device Operator 2022-2023	<b>Wisconsin P &amp; P Amusement</b> 12565 W Lisbon Rd Brookfield, WI 53005 Michael Weigel, Owner	√ Pending Payment of Fees		
Auto Salvage 2022-2023	<b>AI's auto Salvage, Inc</b> DBA AI's Auto Salvage 10942 S 124 <sup>th</sup> St Albert Schill, Manager	√ Pending Insp.		
Day Care 2022-2023	<b>Ingenious, Inc</b> DBA Ingenious, Inc 7260 S 76 St Marilyn Quinonez, Manager	√ Pending Insp.		
Day Care 2022-2023	<b>Jubilee Faith Center, Inc</b> DBA Jubilee Christian School 3639 W Ryan Rd Tanya Soich, Manager	√ Pending Insp		





414-425-7500

**License Committee  
Agenda\*  
Alderman Room  
May 17, 2022 – 5:30 p.m.**

<b>1.</b>	<b>Call to Order &amp; Roll Call</b>	<b>Time:</b>
<b>2.</b>	<b>Applicant Interviews &amp; Decisions</b>	
<b>License Applications Reviewed</b>		<b>Recommendations</b>

<b>Type/ Time</b>	<b>Applicant Information</b>	<b>Approve</b>	<b>Hold</b>	<b>Deny</b>
<b>Amusement Device Operator 2022-2023 5:35 p.m.</b>	<b>Red's Novelty Ltd</b> 1921 S 74 St West Allis, WI 53219 Jay Jacomet, Owner			
<b>Operator 2021-2022 New 5:40p.m.</b>	<b>Fisher, Heidi A</b> Tuckaway Country Club			
<b>Operator 2022-2023 Renewal</b>	<b>Fisher, Heidi A</b> Tuckaway Country Club			
<b>Operator 2021-2022 New 5:45 p.m.</b>	<b>Talaska, James E</b> Country Lanes Bowling Center			
<b>Operator 2022-2023 Renewal</b>	<b>Talaska, James E</b> Country Lanes Bowling Center			
<b>Operator 2022-2023 New</b>	<b>Corres-Coria, Manuel</b> On the Border			
<b>Operator 2022-2023 New</b>	<b>Ives, Kevin M</b> The Rock Sports Complex			
<b>Operator 2022-2023 New</b>	<b>Pollack, Joseph M</b> On the Border			
<b>Operator 2022-2023 New</b>	<b>Sett, Brynn E</b> The Rock Sports Complex			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2021-2022 New	<b>Young, Connie L</b> Croatian Park/Milwaukee Highland Games			
Operator 2021-2022 New	<b>Gonzalez, Aarion A</b> 7-Eleven			
Operator 2022-2023 Renewal	<b>Gonzalez, Aarion A</b> 7-Eleven			
Operator 2021-2022 New	<b>Patel, Rajendra N</b> Andy's On Ryan Rd			
Operator 2022-2023 Renewal	<b>Patel, Rajendra N</b> Andy's On Ryan Rd			
Operator 2021-2022 New	<b>Peiffer, Megan T</b> On the Border			
Operator 2022-2023 Renewal	<b>Peiffer, Megan T</b> On the Border			
Operator 2021-2022 New	<b>Radmer, Amber R</b> Hideaway Pub & Eatery			
Operator 2022-2023 Renewal	<b>Radmer, Amber R</b> Hideaway Pub & Eatery			
Operator 2022-2023 Renewal	<b>Bartels, Daniel P</b> Point After Pub & Grille			
Operator 2022-2023 Renewal	<b>Beilinski, Tanya</b> Swiss Street Pub & Grill			
Operator 2022-2023 Renewal	<b>Cottman, Eric J</b> Walgreens #05459			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2022-2023 Renewal	<b>Davison, Barbara J</b> Pick'n Save #6431			
Operator 2022-2023 Renewal	<b>DeGeorge, Susan M</b> Point After Pub & Grille			
Operator 2022-2023 Renewal	<b>Elliott, Richard G</b> Buckhorn Bar & Grill			
Operator 2022-2023 Renewal	<b>Hansen, Lisa M</b> 7-Eleven			
Operator 2022-2023 Renewal	<b>Hartung, Patti S</b> Walgreens #05459			
Operator 2022-2023 Renewal	<b>Henzig, Kimberly A</b> Iron Mike's			
Operator 2022-2023 Renewal	<b>Hill, Kimberly L</b> Country Lanes Bowling Center			
Operator 2022-2023 Renewal	<b>Krasinski, Miranda F</b> Point After Pub & Grille			
Operator 2022-2023 Renewal	<b>Lloyd, Michael J</b> The Rock Sports Complex			
Operator 2022-2023 Renewal	<b>Matecki, Mark J</b> Buckhorn Bar & Grill			
Operator 2022-2023 Renewal	<b>Mayer, Brianna M</b> Point After Pub & Grille			
Operator 2022-2023 Renewal	<b>McMillan, Ciara M</b> Point After Pub & Grille			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2022-2023 Renewal	<b>Mlynczak, Susan</b> Point After Pub & Grille			
Operator 2022-2023 Renewal	<b>Olszewski, Derek J</b> On the Border			
Operator 2022-2023 Renewal	<b>Page, Andrew M</b> Point After Pub & Grille			
Operator 2022-2023 Renewal	<b>Valle, Katiana L</b> Walgreens #05459			
Operator 2022-2023 Renewal	<b>Waulters, Melissa K</b> Wegner's St Martins Inn			
Operator 2022-2023 Renewal	<b>Wegner, Kathleen R</b> Wegner's St Martins Inn			
Operator 2022-2023 Renewal	<b>Zimmer, Sandra M</b> Walgreens #05459			
Operator 2022-2023 Renewal	<b>Ziolkowski, Remy E</b> The Rock Sports Complex			
Day Care 2022-2023	<b>Cadence Education, LLC</b> DBA Discovery Days of Franklin 9758 S Airways Ct Tanya Graser, Manager			
Day Care 2022-2023	<b>Faith Community Church, Inc.</b> DBA Faith Academy 7260 S 76 St Caitlin Arterburn, Manager			
Entertainment & Amusement 2022-2023	<b>Milwaukee County Parks</b> DBA Milwaukee County Sports Complex 6000 W Ryan Rd Andrea Wallace, Agent			
Entertainment & Amusement 2022-2023	<b>Milwaukee County Parks</b> DBA Oakwood Park Golf Course 3600 W Oakwood Rd Andrea Wallace, Agent			

Type/ Time	Applicant Information	Approve	Hold	Deny
Entertainment & Amusement 2022-2023	<b>Milwaukee County</b> DBA Milwaukee County Sports Complex 6000 W Ryan Rd Andrea Wallace, Agent			
People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grant	<b>Franklin Lioness Club – St Martin’s Fair</b> Fee Waivers: St Martin’s Fair Permit, Temporary Class B Beer and Wine Licenses, and Operator Permits Dates of Event: 9/4/22 – 9/5/22 Location: St Martin’s Labor Day Fair			
Class A Combination 2022-2023	<b>Dairyland Retail Group, LLC</b> DBA 7-Eleven 7610 W Rawson Ave Elizabeth Evans, Agent			
Class A Combination 2022-2023	<b>Ryan Fuel LLC</b> DBA Andy’s On Ryan Rd 5120 W Ryan Rd Kavita Khullar, Agent			
Class A Combination 2022-2023	<b>Wisconsin CVS Pharmacy, LLC</b> DBA CVS Pharmacy #5390 5220 W Rawson Ave Richard Verdoni, Agent			
Class A Combination 2022-2023	<b>Andyone Inc.</b> DBA Discount Cigarettes & Liquor 6507A S 27th St Sunny Patel, Agent			
Class A Combination 2022-2023	<b>New Liquor &amp; Food, Inc.</b> DBA Franklin Liquor Store 8305 S 27th St Gurjeet Singh, Agent			
Class A Combination 2022-2023	<b>Kwik Trip, Inc.</b> DBA Kwik Trip #287 5040 W Rawson Ave Jill Le Claire, Agent			
Class A Combination 2022-2023	<b>Kwik Trip, Inc.</b> DBA Kwik Trip #857 10750 W Speedway Dr Andrew Wichmann, Agent			
Class A Combination 2022-2023	<b>Nerankar LLC</b> DBA Mann Liquor & Indian Grocery 7158 S 76th St Vinder Kumar, Agent			
Class A Combination 2022-2023	<b>Jujhar, LLC</b> DBA Midtown Gas & Liquor 11123 W Forest Home Ave Andrew Wichmann, Agent			
Class A Combination 2022-2023	<b>Ultra Mart Foods, LLC</b> DBA Pick 'n Save #6360 7201 S 76th St Ricky Kloth, Agent			



Type/ Time	Applicant Information	Approve	Hold	Deny
Class A Combination 2022-2023	<b>Mega Marts, LLC</b> DBA Pick 'n Save #6431 7780 S Lovers Lane Rd Mark Waraksa, Agent			
Class A Combination 2022-2023	<b>Sam's East, Inc.</b> DBA Sam's Club #8167 6705 S 27th St Michelle Peterson, Agent			
Class A Combination 2022-2023	<b>Sendik's Food Markets, LLC</b> DBA Sendik's Food Market 5200 W Rawson Ave Theodore Balistreri, Agent			
Class A Combination 2022-2023	<b>Target Corporation</b> DBA Target Store T-2388 7800 S Lovers Lane Rd Daniel Olsen, Agent			
Class A Combination 2022-2023	<b>Walgreen Co.</b> DBA Walgreens #05459 9909 W Loomis Rd Kayla Priebe, Agent			
Class A Combination 2022-2023	<b>Walgreen Co.</b> DBA Walgreens #05884 9527 S 27th St Brian Hilber, Agent			
Class A Combination 2022-2023	<b>Walgreen Co.</b> DBA Walgreens #15020 7130 S 76th St Elaine Blumrieter, Agent			
Class A Combination 2022-2023	<b>Wal-Mart Stores East, LP</b> DBA Walmart #1551 6701 S 27th St Heather Burns, Agent			
<b>3.</b>	<b>Adjournment</b>			
		Time		

\*Notice is given that a majority of the Common Council may attend this meeting to gather information about an agenda item over which they have decision-making responsibility. This may constitute a meeting of the Common Council per State ex rel. Badke v. Greendale Village Board, even though the Common Council will not take formal action at this meeting.

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<b>APPROVAL</b> <i>RS Slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>5/17/2022</b>
<b>Bills</b>	<b>Vouchers and Payroll Approval</b>	<b>ITEM NUMBER</b> <b>I</b>

Attached are vouchers dated May 3, 2022 through May 12, 2022 Nos 187896 through Nos 188073 in the amount of \$ 2,550,939 89 Also included in this listing are EFT's Nos 4944 through Nos 4957, Library vouchers totaling \$ 1,878 47, Water Utility vouchers totaling \$ 714,520 79 and Property tax vouchers totaling \$ 11,727 12 Voided checks in the amount of (\$6,612 21) are separately listed

Early release disbursements dated May 3, 2022 through May 11, 2022 in the amount of \$ 519,846 12 are provided on a separate listing and are also included in the complete disbursement listing These payments have been released as authorized under Resolutions 2013-6920, 2015-7062 and 2022-7834

The net payroll dated May 6, 2022 is \$ 457,745 91, previously estimated at \$ 460,000 Payroll deductions dated May 6, 2022 are \$ 258,100 04, previously estimated at \$ 256,000

The estimated payroll for May 20, 2022 is \$ 430,000 with estimated deductions and matching payments of \$ 445,000

Attached is a list of property tax disbursements, EFT No 425 dated May 3, 2022 through May 12, 2022, in the amount of \$ 5,114 91 These payments have been released as authorized under Resolutions 2013-6920, 2015-7062 and 2022-7834

The Library Board has not approved May 2022 vouchers for payment as of this writing Approval of the Library vouchers will be considered at the May 23, 2022 meeting Upon their approval, request is made to authorize the release of these payments not to exceed \$ 15,000 00

### **COUNCIL ACTION REQUESTED**

Motion approving the following

- City vouchers with an ending date of May 12, 2022 in the amount of \$ 2,550,939 89 and
- Payroll dated May 6, 2022 in the amount of \$ 457,745 91 and payments of the various payroll deductions in the amount of \$ 258,100 04, plus City matching payments and
- Estimated payroll dated May 20, 2022 in the amount of \$ 430,000 and payments of the various payroll deductions in the amount of \$ 445,000, plus City matching payments and
- Property Tax disbursements with an ending date of May 12, 2022 in the amount of \$ 5,114 91 and
- Approval to release Library vouchers not to exceed \$ 15,000 00

**ROLL CALL VOTE NEEDED**