

CITY OF FRANKLIN
PLAN COMMISSION MEETING*
FRANKLIN CITY HALL COUNCIL CHAMBERS
9229 W. LOOMIS ROAD, FRANKLIN, WISCONSIN
AGENDA
THURSDAY, MARCH 23, 2023, 7:00 P.M.

The YouTube channel “City of Franklin WI” will be live streaming the Plan Commission meeting so that the public will be able to watch and listen to the meeting.

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

A. **Call to Order and Roll Call**

B. **Approval of Minutes**

1. Approval of regular meeting of March 9, 2023.

C. **Public Hearing Business Matters** (action may be taken on all matters following the respective Public Hearing thereon)

1. **UNIFIED DEVELOPMENT ORDINANCE ZONING AND LAND DIVISION ADMINISTRATIVE FEE SCHEDULE UPDATE [CITY-WIDE]**. Unified Development Ordinance Text Amendment application by the City of Franklin, to amend Section 15-9.0401. Administrative Fees A. Fee Schedule to adjust the application fees to today’s prices with the Consumer Price Index (CPI) of the U.S. Bureau of Labor Statistics [the last update to the fee schedule was in 2004, the average increase from January 2004 to November 2022 is approximately 1.6 times using the CPI Inflation Calculator available at the website of the U.S. Bureau of Labor Statistics]. **A PUBLIC HEARING IS SCHEDULED FOR THIS MEETING UPON THIS MATTER.**

D. **Business Matters** (no Public Hearing is required upon the following matters; action may be taken on all matters)

1. **KRONES, INC. PRODUCT DEMONSTRATION AND TRAINING FACILITY LAND COMBINATION.** Land Combination application by Kronos, Inc., to combine parcel 1 located at 5601 West Ryan Road and 9600 South 58th Street, Tax Key No. 899-9990-067 (18.02 acres) with parcel 2 located at West Airways Avenue, Tax Key No. 899-9990-065 (1.06 acres), for a solar array project crossing the common lot line between these two parcels, property zoned M-1 Limited Industrial District.
2. **VACATE APPROXIMATELY 0.57 ACRES OF RIGHT-OF-WAY PREVIOUSLY USED FOR SERVICE ROAD PURPOSES WHICH ABUTS THE SOUTH SIDE OF WEST RYAN ROAD (STH 100) FROM SOUTH**

60TH STREET TO SOUTH 58TH STREET AND WHICH IS ABUTTED ON ITS SOUTH BOUNDARY BY THE 5921 WEST RYAN ROAD (TAX KEY NO. 899-9991-002), 5921 WEST RYAN ROAD (TAX KEY NO.899-9991-003) AND 5825 WEST RYAN ROAD (TAX KEY NO. 899-9991-004) PROPERTIES. The right-of-way vacation process was commenced by the Common Council by the introduction of a Resolution therefore on January 3, 2023. The deliberation process by the City includes that the Plan Commission prepare a report of its recommendation upon the right-of-way vacation and deliver the report to the Common Council.

3. **UNIFIED DEVELOPMENT ORDINANCE (UDO) REWRITE TASK FORCE:** session with project consultants Houseal Lavigne Associates and Birchline Planning, re: articles: 10. Planned Development Districts and 11. Nonconforming Structures, Lots and Uses.

E. Adjournment

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

**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.

[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:

Next Regular Plan Commission Meeting: April 6, 2023

City of Franklin
Plan Commission Meeting
March 9, 2023
Minutes

unapproved

A. Call to Order and Roll Call

Mayor Steve Olson called the March 9, 2023 regular Plan Commission meeting to order at 7:00 p.m. in the Council Chambers at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin.

Present were Mayor Steve Olson, Commissioners Patrick Leon and Kevin Haley and City Engineer Glen Morrow. Absent was Alderwoman Shari Hanneman, Commissioners Adam Burckhardt and Patricia Hogan. Also present was Associate Planner Marion Ecks and City Attorney Jesse Wesolowski.

B. Approval of Minutes

1. Regular Meetings of February 9, 2023 and February 23, 2023.

Commissioner Leon moved and Commissioner Haley seconded a motion to approve the February 9, 2023 and February 23, 2023 meeting minutes. On voice vote, all voted ‘aye’; motion carried (4-0-3).

C. Public Hearing Business Matters

1. JILLY’S CAR WASH FACILITY DEVELOPMENT. Special Use, Site Plan and Certified Survey Map applications by Jonathan J. Zimmerman, President of Jilly’s, LLC (Devo Properties/Rawson LLC, property owner), to allow for the development of a single-story building housing offices and a car wash facility (approximately 6,373 square feet including office, car wash bay, mechanical equipment and employee booth), with adjacent parking for vacuum stalls as well as general parking, three separate pay stations, landscaping and lighting, with hours of operation Monday through Saturday, from 7:00 a.m. to 8:00 p.m. and on Sunday, from 8:00 a.m. to 7:00 p.m. (stormwater facilities will be shared with the adjoining Sendik’s Food Market property, using an existing pond to the north of these parcels), on vacant property (1.4910 acres) proposed to be divided into three lots (the car wash facility will be located on the future Lot 1), located at 5450 West Rawson Avenue, such property being zoned M-1 Limited Industrial District and OL-2

The Official Notice of Public Hearing for a Special Use was read in to the record by Associate Planner Marion Ecks and the Public Hearing was opened at 7:13 p.m. and closed at 7:21 p.m..

Special Use

Associate Planner Marion Ecks presented the request by Jonathan J. Zimmerman, President of Jilly’s, LLC (Devo Properties/Rawson LLC, property owner), to allow for the development of a single-story building housing offices and a car wash facility (approximately 6,373 square feet including office, car wash bay, mechanical equipment and employee booth), with adjacent parking for vacuum stalls as well as general parking, three separate pay stations, landscaping and lighting, with hours of operation Monday through Saturday, from 7:00 a.m. to 8:00 p.m. and on Sunday, from 8:00 a.m. to 7:00 p.m. (stormwater facilities will be shared with the adjoining Sendik’s Food Market property, using an existing pond to the north of these parcels), on vacant property (1.4910 acres) proposed to be divided into three lots (the car wash facility will be located on the future Lot 1), located at 5450 West Rawson Avenue, such property being zoned M-1 Limited Industrial District and OL-2 General Business Overlay District; Tax Key No. 741-9996-001.

Commissioner Leon moved and Commissioner Haley seconded a motion to recommend approval of a Resolution imposing conditions and restrictions for the approval of a Special Use for the development of a single-story building housing offices and

General Business Overlay District; Tax Key No. 741-9996-001.

a car wash facility (Jilly’s Car Wash), with adjacent parking for vacuum stalls as well as general parking, three separate pay stations, landscaping and lighting upon property located at 5450 West Rawson Avenue. On voice vote, all voted ‘aye’; motion carried. (4-0-3).

Site Plan

Commissioner Leon moved and Commissioner Haley seconded a motion to adopt a Resolution approving a Site Plan for the development of a single-story building housing offices and a car wash facility (Jilly’s Car Wash), with adjacent parking for vacuum stalls as well as general parking, three separate pay stations, landscaping and lighting (located at 5450 West Rawson Avenue). On voice vote, all voted ‘aye’; motion carried. (4-0-3).

Certified Survey Map

Commissioner Leon moved and Commissioner Haley seconded a motion to recommend approval of a Resolution conditionally approving a 3 lot Certified Survey Map, being a redivision of all of lot 1 of Certified Survey Map No. 8120, located in the Southeast 1/4 of the Southwest 1/4 of Section 2, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin (at 5450 West Rawson Avenue). On voice vote, all voted ‘aye’; motion carried. (4-0-3).

D. Business Matters

1. UNIFIED DEVELOPMENT ORDINANCE (UDO) REWRITE TASK FORCE: informative session by City Development Staff re: articles: 10. Planned Development Districts and 11. Nonconforming Structures, Lots and Uses.

Discussion only, no action taken.

Adjournment

Commissioner Leon moved and Commissioner Haley seconded to adjourn the Plan Commission meeting of March 9, 2023 at 7:57 p.m.. On voice vote, all voted ‘aye’; motion carried (4-0-3).



CITY OF FRANKLIN
REPORT TO THE PLAN COMMISSION

Item C.1.

Meeting of March 23, 2023

Unified Development Ordinance Text Amendment

RECOMMENDATION: City Development Staff recommends approval of the attached ordinance to amend Section 15-9.0401 of the UDO to update the fee schedule for zoning and land division procedures to today’s prices.

Project Name:	Update to the fee schedule for zoning and land division procedures, UDO Section 15-9.0401
Project Address:	City-wide
Applicant:	City Development staff
Action Requested:	Recommendation of approval for the proposed Unified Development Ordinance Text Amendment

City Development staff is proposing to update the fee schedule for zoning and land division procedures of the Unified Development Ordinance (UDO) Section 15-9.0401. The intent is to adjust the application fees to today’s prices with the Consumer Price Index (CPI) of the U.S. Bureau of Labor Statistics. The last update to the fee schedule was in 2004, the average increase from January 2004 to November 2022 is approximately 1.6 times using the CPI Inflation Calculator available at the website of the U.S. Bureau of Labor Statistics, for example, a fee of \$100 in 2004 is equivalent to \$160 in 2022.

Attached is a draft version of this amendment, see the proposed filing fees in the 2023 column.

Staff Recommendation:

City Development Staff recommends approval of the attached ordinance to amend Section 15-9.0401 of the UDO to update the fee schedule for zoning and land division procedures to today’s prices.

ORDINANCE NO. 2023-_____

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TEXT IN SECTION 15-9.0401 ADMINISTRATIVE FEES A. FEE SCHEDULE TO ADJUST THE APPLICATION FEES TO TODAY’S PRICES WITH THE CONSUMER PRICE INDEX (CPI) OF THE U.S. BUREAU OF LABOR STATISTICS (CITY OF FRANKLIN, APPLICANT)

WHEREAS, Section 15-9.0401 of the Unified Development Ordinance sets forth the Zoning and Land Division administrative fee schedule; and

WHEREAS, the City of Franklin having applied for text amendments to Section 15-9.0401 Administrative Fees A. Fee Schedule, to adjust the application fees to today’s prices with the Consumer Price Index (CPI) of the U.S. Bureau of Labor Statistics; and

WHEREAS, the Plan Commission having reviewed the proposed amendments to adjust the application fees to today’s prices with the Consumer Price Index (CPI) of the U.S. Bureau of Labor Statistics, and having held a public hearing on the proposal on the 23rd day of March, 2023 and thereafter having recommended approval of such amendments; and

WHEREAS, the Common Council having accepted the recommendation of the Plan Commission and having determined that the proposed amendments are consistent with the 2025 Comprehensive Master Plan of the City of Franklin, Wisconsin and will serve to further orderly growth and development and 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: SECTION 15-9.0401 Administrative Fees A. Fee Schedule of the Unified Development Ordinance of the Municipal Code of the City of Franklin, Wisconsin, as amended hereunder, is as follows:

A. Fee Schedule

	2004	Proposed 2023
Zoning and Land Division Administrative Fee Schedule		
Rezoning	\$1,250	\$2,000
Rezoning (1 Parcel Res.)	\$350	\$550
Text Amendments	\$200	\$350
Site Plan Review (Tier 1)	\$2,000	\$3,200

Site Plan Review (Tier 2; Lot size ≤1 acre)	\$1,000	\$1,600
Site Plan Review (Tier 3 - ≤10% incr. or decr. In total floor area of all structures with no change to parking; or change to parking only;)	\$500	\$800
Conceptual Review	\$250	\$400
Variance Requests/Appeals	\$250	\$400
Special Exception (Bulk and Area)	\$300	\$500
Special Exception (Natural Resource)	\$500	\$800
Special Use Permit	\$1,500	\$2,500
Special Use Under 4,000 square feet	\$750	\$1,200
Amendment	\$1,000	\$1,600
SU Renewal (Annual)	\$300	\$500
Multi-year Renewal	\$1,000	\$1,600
PDD	\$6,000	\$9,500
PDD Amendment (Major = change in boundary, road network or use)	\$3,500	\$5,500
PDD Amendment (Minor site plan or building changes/no public hearing)	\$500	\$800
Certified Survey Map	\$1,500	\$2,500
Subdivision Preliminary Plat	\$5,000	\$8,000
Subdivision Final Plat	\$1,000	\$1,600
Plat Affidavit of Correction	\$125	\$200
Land Combination Permit	\$400	\$650
Building Move Request	\$200	\$350
Right-of-Way Vacation	\$300	\$500
Home Occupation	\$50	\$80
Zoning Compliance	\$100	\$160
Zoning letter	\$75	\$120
Miscellaneous	\$125	\$200

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 _____, 2023, by Alderman _____.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2023.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Karen L. Kastenson, City Clerk

AYES _____ NOES _____ ABSENT _____



REPORT TO THE PLAN COMMISSION

**Meeting of March 23, 2023
Land Combination**

RECOMMENDATION: City Development Staff recommends the Plan Commission forward this application to the Common Council for decision based on the recommended draft Resolution as attached.

Property Owner:	Krones, Inc.
Applicant:	Holder Beckman, Krones, Inc.
Property Address/Tax Key Number:	9600 S 58 th St / 899 9990 067
Aldermanic District:	District 4
Agent:	Thomas Schulz, Krones Inc.
Zoning District:	M-1, Limited Industrial District
Use of Surrounding Properties:	West: Industrial Zoned M-1 South: Public Wastewater Facility Zoned M-1 North: Industrial Zoned M-1 and Ryan Rd. East: Industrial Zoned PDD District 18
Application Request:	To permit a land combination of the existing parcel with a south existing parcel through a plat of survey for a solar energy system array project.
Staff Planner:	Régulo Martínez-Montilva, AICP, CNUa

APPLICANT’S REQUEST

The applicant requests approval of a land combination to combine two existing parcels into a single lot to accommodate a newly proposed solar energy system array project to be considered on a companion application for a minor site plan amendment, which will be an administrative review.

This request is in conjunction with a minor site plan review and approval process.

CHARACTER OF THE SITE AND SURROUNDING AREA

The subject property is an industrial property, housing operations for Krones, Inc. The property to the south is currently an open green space that provides stormwater facilities for the Krones operations property. The surrounding area is comprised of other industrial properties.

DESCRIPTION OF THE APPLICATION

The applicant requests approval of a land combination by means of a new boundary survey to combine the existing parcel with another parcel under common ownership. The typical fashion this process occurs is when the applicant supplies two legal descriptions of land to be combined and they are subsequently reviewed by the Plan Commission and Common Council prior to approval. The legal descriptions are supplied, in addition to a boundary survey, the means by which the applicant is choosing to pursue this process.

The proposed land combination would produce one industrial lot consistent with the requirements of the M-1 zoning. The resulting combining of the lots is 19.17 acres in size. The resulting combination

of the two separate parcels provides for an existing greenspace on the south to be utilized for a solar energy system, with five rows of solar panels, running the length of 295 feet and all facing south. This solar energy system is reviewed and proposed as a minor site plan amendment, which is under staff review and approval through provisions in Section 15-7.0107 of the City of Franklin Unified Development Ordinance with this request. Should this proposal for land combination be denied, the minor site plan will not be able to be pursued.

PROJECT ANALYSIS

Staff provided the applicant with staff comments on February 9, 2023. The applicant responded to review comments in letter dated February 27, addressing staff comments for the Land Combination application.

STAFF RECOMMENDATION

The Department of City Development staff recommends the Plan Commission forward this application to the Common Council for decision based on the recommended draft Resolution as attached.

RESOLUTION NO. 2023-_____

A RESOLUTION CONDITIONALLY APPROVING A LAND
COMBINATION FOR TAX KEY NOS. 899-9990-067 AND 899-9990-065
(5601 WEST RYAN ROAD/9600 SOUTH 58TH
STREET AND WEST AIRWAYS AVENUE)
(KRONES, INC., APPLICANT)

WHEREAS, the City of Franklin, Wisconsin, having received an application for approval of a proposed land combination for Kronos, Inc. to combine parcel 1 located at 5601 West Ryan Road and 9600 South 58th Street, Tax Key No. 899-9990-067 (18.02 acres) with parcel 2 located at West Airways Avenue, Tax Key No. 899-9990-065 (1.06 acres), for a solar array project crossing the common lot line between these two parcels, properties more particularly described as follows:

5601 West Ryan Road/9600 South 58th Street:

Parcel 1 of Certified Survey Map No. 5511, being a redivision of Parcels 1 & 2 of Certified Survey Map No. 4916, part of the Northwest 1/4 & Southwest 1/4 of the Northwest 1/4 of Section 26, Town 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin. Tax Key No. 899-9990-067 (18.02 acres).

West Airways Avenue:

Parcel 1 of Certified Survey Map No. 6167 located in the Northwest 1/4 and Southwest 1/4 of the Northwest 1/4 of Section 26, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin. Tax Key No. 899-9990-065 (1.06 acres); and

WHEREAS, the Plan Commission having reviewed such application and recommended approval thereof and the Common Council having reviewed such application and Plan Commission recommendation and the Common Council having determined that such proposed land combination is appropriate for approval pursuant to law upon certain conditions, all pursuant to §15-9.0312 of the Unified Development Ordinance, Land Combination Permits.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the proposed land combination for Kronos, Inc., as submitted by Kronos, Inc., as described above, be and the same is hereby approved, subject to the following conditions:

1. Kronos, Inc., successors and assigns shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin,

KRONES, INC. – LAND COMBINATION
RESOLUTION NO. 2023-_____

Page 2

including fees of consults to the City of Franklin, for the Krones, Inc. land combination project, within 30 days of invoice for same. Any violation of this provision shall be a violation of the Unified Development Ordinance, and subject to §15-9.0502 thereof and §1-19 of the Municipal Code, the general penalties and remedies provisions, as amended from time to time.

2. The approval granted hereunder is conditional upon Krones, Inc. and the Krones, Inc. land combination project for the properties located at 5601 West Ryan Road/9600 South 58th Street and the property located at West Airways Drive: (i) being in compliance with all applicable governmental laws, statutes, rules, codes, orders and ordinances; and (ii) obtaining all other governmental approvals, permits, licenses and the like, required for and applicable to the project to be developed and as presented for this approval.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2023.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2023.

APPROVED:

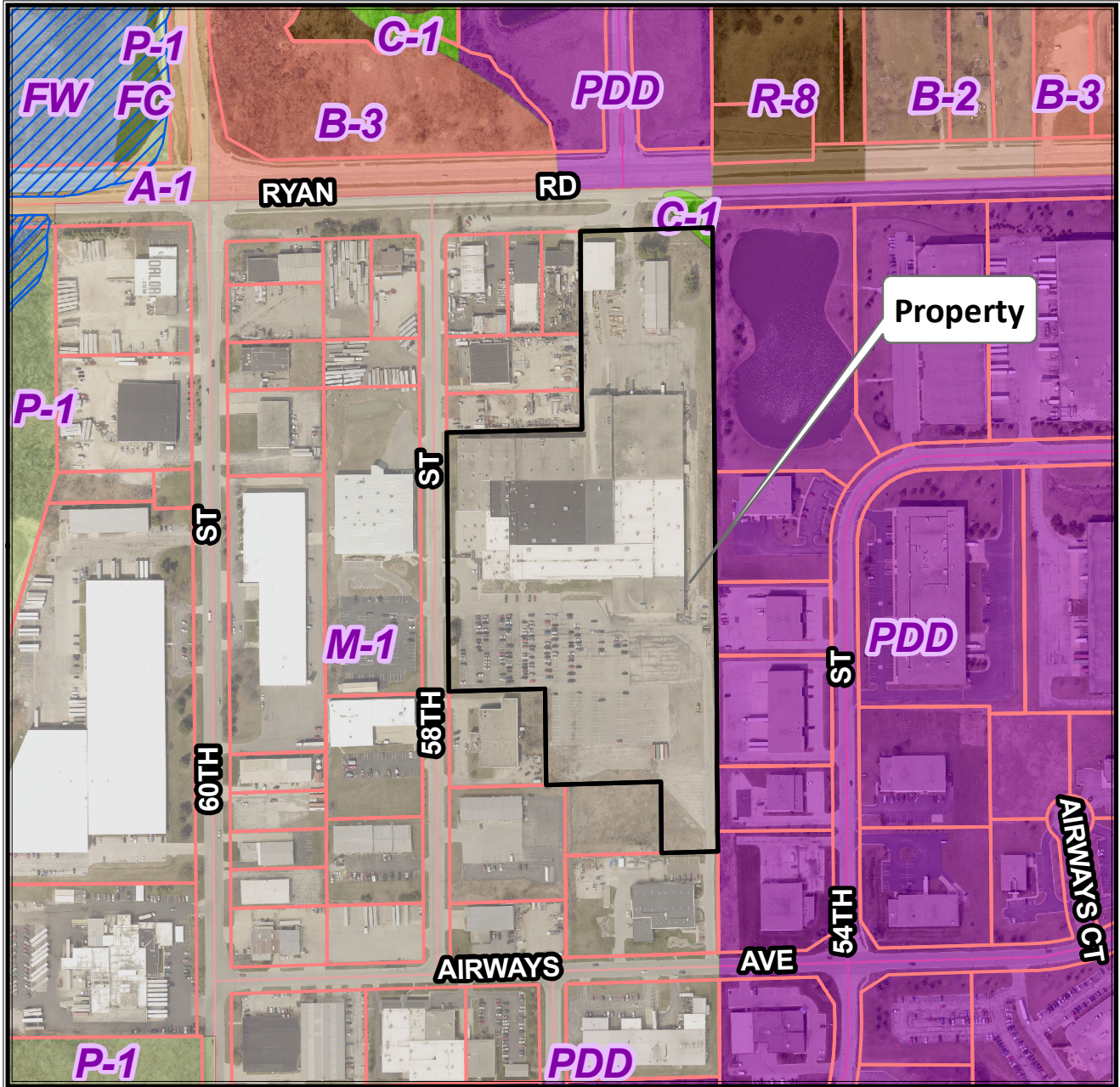
Stephen R. Olson, Mayor

ATTEST:

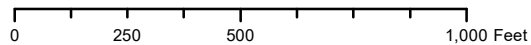
Karen L. Kastenson, City Clerk

AYES _____ NOES _____ ABSENT _____

5601 W. Ryan Road & 9600 S. 58th Street
TKN 899 9990 067

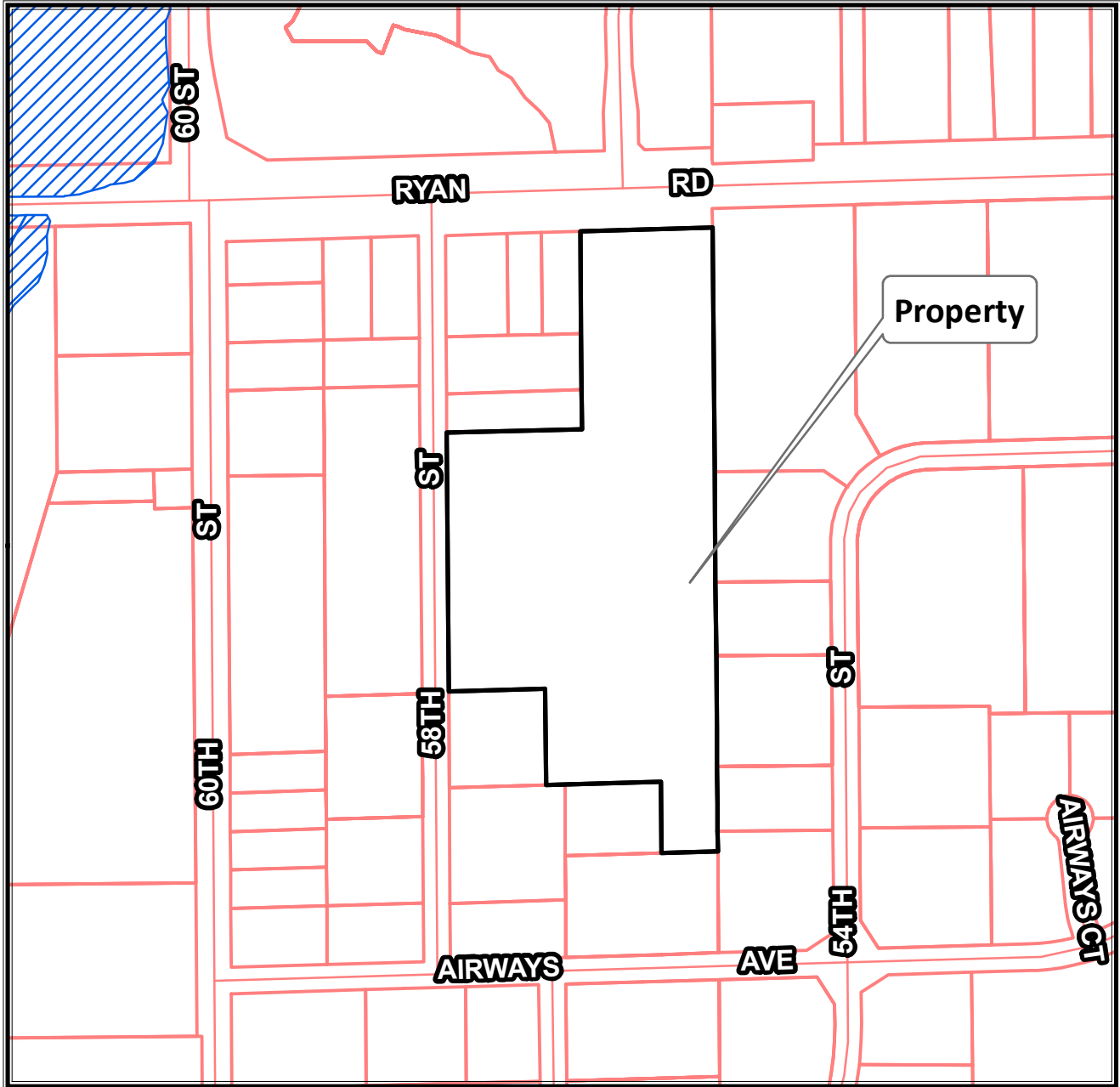


Planning Department
(414) 425-4024

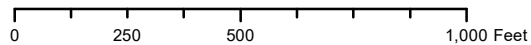


This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.

5601 W. Ryan Road & 9600 S. 58th Street
TKN 899 9990 067



Planning Department
(414) 425-4024



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.



Krones Exhibit Listing

For

City of Franklin

- **Exhibit A – City of Franklin Staff Comments**
- **Exhibit B1, B2, B3 – Revised Plat of Survey and City of Franklin Property Parcel Maps**
- **Exhibit C – Revised Site Plan**
- **Exhibit D – Building Permit Application - **Draft** and Solar Array Photo 1 and 2**
- **Exhibit E – Electrical Permit Application - **Draft****



KRONES, INC.
9600 South 58th Street
P.O. Box 321801
Franklin, WI 53132-6241 USA

February 27, 2023

City of Franklin Department of Development Staff:

In response to comments received by City of Franklin Department of Development Staff, Krones has provided this information submittal regarding our proposed solar installation project. More specifically, for our proposed land combination (of two parcels) & Site Amendment, Krones has provided responses to each of the City of Franklins written comments contained in their memorandum dated 2/9/2023 from the City Development staff to Krones Inc. In conjunction with this letter, please see the referenced exhibits that support this submittal.

Department of City Development

Unified Development Ordinance (UDO) Requirements

The lot is zoned M-1 Institutional District (UDO Section 15-3.0309).

1. The proposed lot meets the minimum lot area, depth, and width requirements of the zoning district.
Krones Response – Krones acknowledges the City of Franklin statement that the subject lots meet the stated lot area, depth, and width ordinance requirements. No additional information provided as part of this response with respect to this comment.

Land Combination

Division 15-9.0300: Land Division Procedures and Administration describes the required elements of Land Combination Permits:

2. The applicant shall include on a revised description of each parcel to be combined the Zoning is M-1, Limited Industrial District for each parcel.
Krones Response – There is no proposed change to zoning or land use for these parcels that are proposed to be combined as referenced here. Parcel 899-9990-065 is Zoning M-1 Limited Industrial District and Parcel 899-9990-067 is Zoning M-1, Limited Industrial District. Parcel surveys for these two lots and parcel information from the web-based Franklin Property Map Viewer is included in Exhibit B1. Exhibit B2 contains the combined parcel survey information description as proposed.

3. The applicant shall include on a revised description of each parcel to be combined the City of Franklin Comprehensive Master Plan Land Use District designation of each parcel to be combined is Industrial.

Krones Response - Parcel 899-9990-065 under the City of Franklin Comprehensive Master Plan Land Use District designation is **Industrial**. Parcel 899-9990-067 under the City of Franklin Comprehensive Master Plan Land Use District designation is **Industrial**. This land use coincides with City of Franklin Future Land Use Map Information found at: https://www.franklinwi.gov/Files/Maps/Future_Land_Use_Map5.7_2025.pdf

4. The applicant shall include on a revised description of each parcel to be combined the present use of the parcels.

Krones Response - Parcel 899-9990-065 & Parcel 899-9990-067 present use is Class C-Manufacturing. Parcel surveys for these two lots and parcel information from the web-based Franklin Property Map Viewer is included in Exhibit B1. Exhibit B2 contains the combined parcel survey information description as proposed. Parcel B is an unused portion of Krones parking area.

5. The applicant shall include on a revised description of each parcel to be combined the proposed use of the resulting parcel.

Krones Response – Parcel 899-9990-065 & Parcel 899-9990-067 proposed use is Industrial. Parcel surveys for these two lots and parcel information from the web-based Franklin Property Map Viewer is included in Exhibit B1. Exhibit B2 contains the combined parcel survey information description as proposed. The area shown in Exhibit C is proposed to be used for a solar energy project as described in Krones Minor Site Plan Amendment pending City of Franklin Approval.

6. The applicant shall include on a revised description of each parcel to be combined the area of each parcel to be combined (acres/square feet).

Krones Response – Parcel 899-9990-065 is 1.067 acres (46,479 sq. ft.) & Parcel 899-9990-067 is 18.024 acres (785,125 sq. ft.). Parcel surveys for these two lots and parcel information from the web-based Franklin Property Map Viewer is included in Exhibit B1. Exhibit B2 contains the combined parcel survey information description as proposed.

7. The applicant shall amend the title of the survey instrument provided for review from “Certified Survey Map” to appropriate title and provide a document matching boundary survey standards of the parcels to be combined that fulfill the standard of graphically showing the relationship to street access and to adjoining properties.

Krones Response – Please see the attached Exhibits B1 and B2 that contains the requested survey title change revision.

Minor Site Plan Amendment

Division 15-7.0107: Site Plan Amendment Procedures and Administration describes the required conditions upon which a minor site plan may be submitted to the Planning Manager for administrative approval. No formal Plan Commission or Common Council Action is required.

8. Please clarify whether the building addition depicted on the site plan to the north of the solar array project is part of this project. If so, then what is the use? If not proposed as part of this minor site plan amendment, please remove from the site plan.

Krones Response –The revised site plan in Exhibit C, no longer shows this building addition.

9. Please clarify on the site plan the surface being proposed for the area under the solar panels and within the 16-foot and 20-foot open areas around the solar panel structures.

Krones Response - The surface area under the solar panels and within the perimeter fencing is a combination of asphalt and asphalt regrind material surfaces. There will be no change from the current surface.

10. Are the existing light poles within the solar panel array project area being removed? If so, please check with the Building Inspection Department regarding permitting requirements for demolition/removal.

Krones Response – Four light poles have been removed. At this time, all-weather junction boxes have been installed at each pole location by a licensed electrician. This electrician has already contacted the City of Franklin to inspect the electrical work.

11. Pursuant to 15-3.0803., C.,1.e, fencing will require a building permit from the Building Inspector.

Krones Response – Please see Exhibit D, building permit request. A copy of the completed building permit application is included for reference. The perimeter fencing will be 6 ft. tall comprised of standard steel chain link or steel grid type or similar shown in Exhibit D3.

12. No action may be taken on the minor site plan until the land combination has been approved by the Common Council.

Krones Response - Krones understands approval by the Common Council is required per the comment provided above.

13. Regarding stormwater management and drainage considerations, the applicant shall consult with the City Engineer to determine if the proposed solar panel area, any proposed grading and fencing areas and equipment may impact the surface water drainage capabilities of the original site design, as the property appears to drain from north to south into an existing area south of the proposed solar panel array area.

Krones Response - The property currently drains from north to south into an existing drainage ditch on the south side of the property. There will be no change to the existing parking lot area drainage pattern related to the installation of this solar energy project. The solar panels will be supported by a series steel posts pounded into the ground so there will be minimal surface disturbance within this area.

General Planning Comments

14. The applicant shall work with the Franklin City Engineer on the stormwater drainage plan for the proposed project site and subsequent grading to ensure any future development plans will be approved. All plans will be required to be reviewed, amended if necessary and approved by the Franklin City Engineer prior to building permit approval.

Krones Response – Krones will work with the City Engineer on this item. For information purposes, our solar installer has indicated that there will be minimal site disturbance and Krones will be sure to provide details of the installation to the City Engineer and incorporate any additional stormwater drainage measures that may be needed.

Engineering Department

15. *If disturbing land of more than 25 cubic yards, you must acquire a land disturbance permit if no building permit is required.*

Krones Response - The site disturbance associated with this proposed project will consist of putting up a perimeter fence and pounding steel posts into the ground to hold the racking panels. There will also be horizontal boring done to run electrical conduit to the Krones building. Krones will check with the City engineer on this item.

Inspection Services Department

16. *Project will require separate Building and Electrical Permits.*

Krones Response – Please see the attached Exhibits C and D

Police Department

17. *The PD has no comment regarding this request.*

Krones Response – Understood.

If there is anything I can help with or if you have any questions, please feel free to contact me.

Sincerely,



Luke Carlson
Director of IOS
Head of Facilities, Maintenance, and Sustainability
Krones North America
Phone: 414-409-4000
MobilCell: 414-217-2760
Email: luke.carlson@kronesusa.com

krones, inc.

9600 South 58th Street
P.O. Box 321801
Franklin, WI 53132-6241

Phone: (414) 409-4000
Fax: (414) 409-4100
Internet: www.kronesusa.com

Krones Inc. Lot Combination

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Exhibit A

City of Franklin – Staff Comments

02/09/2023

City of Franklin
Department of City Development

February 9, 2023

To: Luke Carlson and Thomas Schulz, Krones Inc.

From: City Development Staff

RE: Staff Comments –LC, Minor SPA – 9600 S 58th St

Please be advised that City Staff has reviewed the above applications. Department comments are as follows for the Land Combination and Minor Site Plan Amendment Applications submitted by Krones Inc. on October 12, 2022, but deemed complete for review on December 28, 2022.

Department of City Development

Unified Development Ordinance (UDO) Requirements

The lot is zoned M-1 Institutional District (UDO Section 15-3.0309).

1. The proposed lot meets the minimum lot area, depth, and width requirements of the zoning district.

Land Combination

Division 15-9.0300: Land Division Procedures and Administration describes the required elements of Land Combination Permits:

2. The applicant shall include on a revised description of each parcel to be combined the Zoning is M-1, Limited Industrial District for each parcel.
3. The applicant shall include on a revised description of each parcel to be combined the City of Franklin Comprehensive Master Plan Land Use District designation of each parcel to be combined is Industrial.
4. The applicant shall include on a revised description of each parcel to be combined the present use of the parcels.
5. The applicant shall include on a revised description of each parcel to be combined the proposed use of the resulting parcel.
6. The applicant shall include on a revised description of each parcel to be combined the area of each parcel to be combined (acres/square feet).
7. The applicant shall amend the title of the survey instrument provided for review from “Certified Survey Map” to appropriate title and provide a document matching boundary survey standards of the parcels to be combined that fulfill the standard of graphically showing the relationship to street access and to adjoining properties.

Minor Site Plan Amendment

Division 15-7.0107: Site Plan Amendment Procedures and Administration describes the required conditions upon which a minor site plan may be submitted to the Planning

Manager for administrative approval. No formal Plan Commission or Common Council Action is required.

8. Please clarify whether the building addition depicted on the site plan to the north of the solar array project is part of this project. If so, then what is the use? If not proposed as part of this minor site plan amendment, please remove from the site plan.
9. Please clarify on the site plan the surface being proposed for the area under the solar panels and within the 16-foot and 20-foot open areas around the solar panel structures.
10. Are the existing light poles within the solar panel array project area being removed? If so, please check with the Building Inspection Department regarding permitting requirements for demolition/removal.
11. Pursuant to 15-3.0803., C., i.e., fencing will require a building permit from the Building Inspector.
12. No action may be taken on the minor site plan until the land combination has been approved by the Common Council.
13. Regarding stormwater management and drainage considerations, the applicant shall consult with the City Engineer to determine if the proposed solar panel area, any proposed grading and fencing areas and equipment may impact the surface water drainage capabilities of the original site design, as the property appears to drain from north to south into an existing area south of the proposed solar panel array area.

General Planning Comments

14. The applicant shall work with the Franklin City Engineer on the stormwater drainage plan for the proposed project site and subsequent grading to ensure any future development plans will be approved. All plans will be required to be reviewed, amended if necessary and approved by the Franklin City Engineer prior to building permit approval.

Engineering Department

15. *If disturbing land of more than 25 cubic yards, you must acquire a land disturbance permit if no building permit is required.*

Inspection Services Department

16. *Project will require separate Building and Electrical Permits.*

Police Department

17. *The PD has no comment regarding this request.*

Krones Inc. Lot Combination

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Exhibit B1, B2, B3

- **Plat of Survey**
- **Plat of Survey for Parcels A & B**
- **City of Franklin Property Parcel Maps
for Parcels A & B**

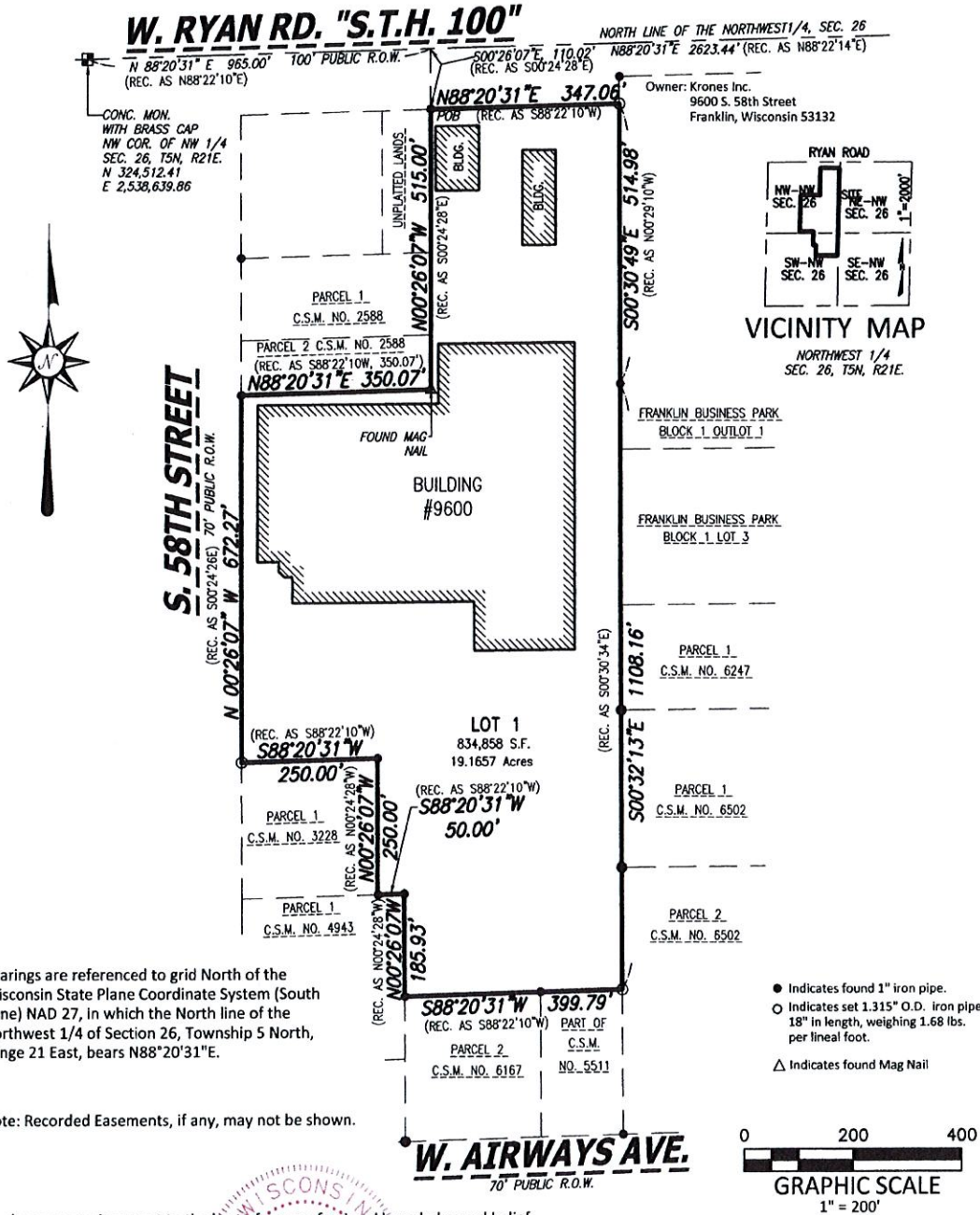
PLAT OF SURVEY

CLIENT

Krones, Inc.

LEGAL DESCRIPTION

Parcel 1 of Certified Survey Map No. 5511 and Parcel 1 of Certified Survey Map No. 6167 located in the Northwest 1/4 and Southwest 1/4 of the Northwest 1/4 of Section 26, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows: Commencing at the Northwest corner of said Northwest 1/4 of Section; thence North 88°20'31" East along said North line 965.00 feet; thence South 00°26'07" East 110.02 feet to the South line of W. Ryan Road (S.T.H. 100), the Northwest corner of Parcel 1 of Certified Survey Map No. 5511 and to the point of beginning of the lands hereinafter described; thence North 88°20'31" East along said South line 347.06 feet; thence South 00°30'49" East 514.98 feet; thence South 00°32'13" East 1108.16 feet; thence South 88°20'31" West 399.79 feet; thence North 00°26'07" West 185.93 feet; thence South 88°20'31" West 50.00 feet; thence North 00°26'07" West 250.00 feet; thence South 88°20'31" West 250.00 feet to the East line of South 58th Street; thence North 00°26'07" West along said East line 672.27 feet; thence North 88°20'31" East 350.07 feet; thence North 00°26'07" West 515.00 feet to the point of beginning.



Bearings are referenced to grid North of the Wisconsin State Plane Coordinate System (South Zone) NAD 27, in which the North line of the Northwest 1/4 of Section 26, Township 5 North, Range 21 East, bears N88°20'31"E.

Note: Recorded Easements, if any, may not be shown.

The above survey is correct to the best of my professional knowledge and belief.

Date: February 17, 2023



Donald C. Chaput
 Donald C. Chaput
 Professional Land Surveyor
 Registration Number S-1316

CHAPUT
 LAND SURVEYS

234 W. Florida Street Milwaukee, WI 53204
 414-224-8068
 www.chaputlandsurveys.com

Drawing No. 4250-mem

PLAT OF SURVEY

CLIENT

Krones, Inc.

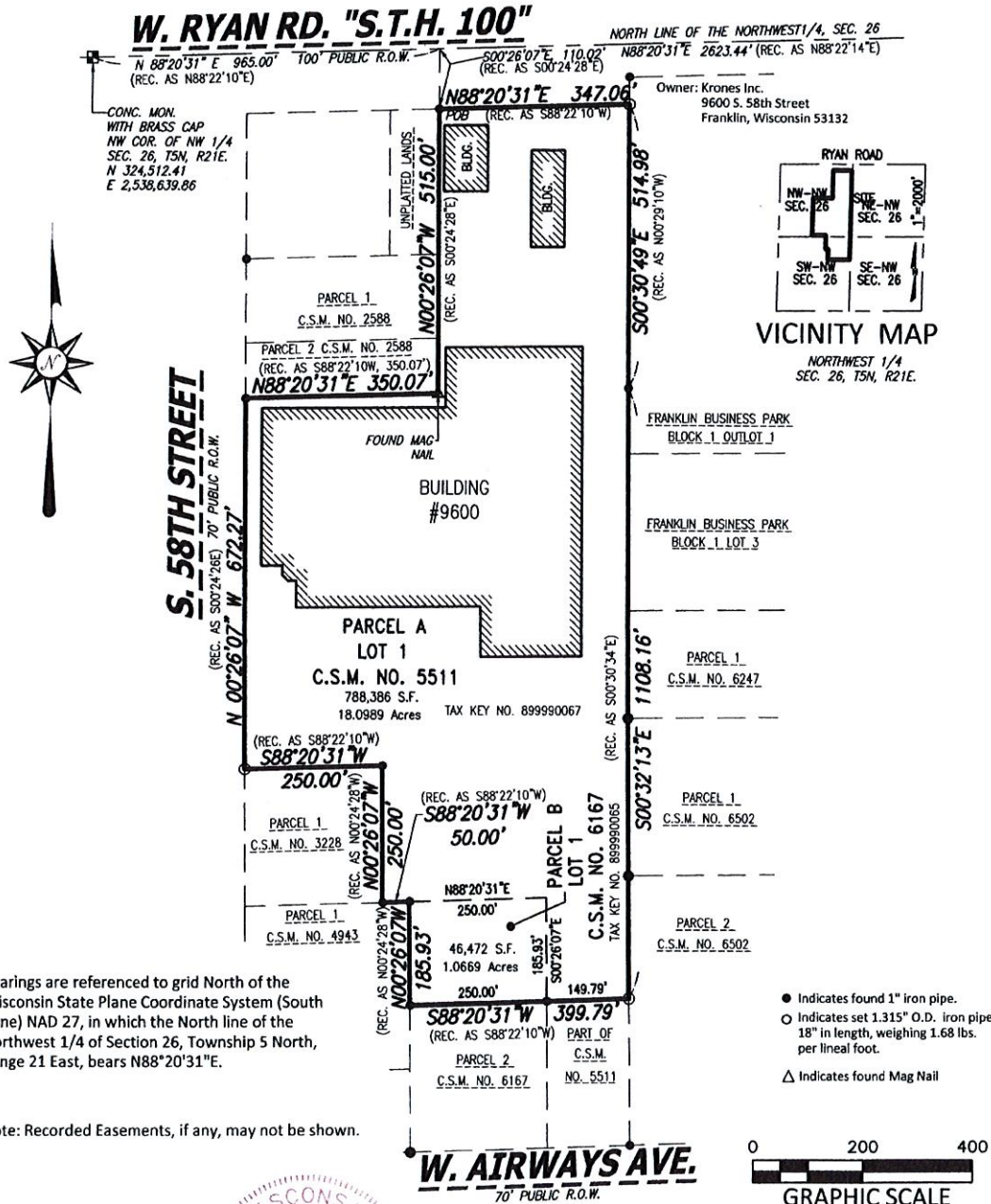
LEGAL DESCRIPTION

Parcel A:

Parcel 1 of Certified Survey Map No. 5511 located in the Northwest 1/4 and Southwest 1/4 of the Northwest 1/4 of Section 26, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin

Parcel B:

Parcel 1 of Certified Survey Map No. 6167 located in the Southwest 1/4 of the Northwest 1/4 of Section 26, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.



The above survey is correct to the best of my professional knowledge and belief.

Date: February 17, 2023



Donald C. Chaput
Donald C. Chaput
Professional Land Surveyor
Registration Number S-1316

CHAPUT
LAND SURVEYS

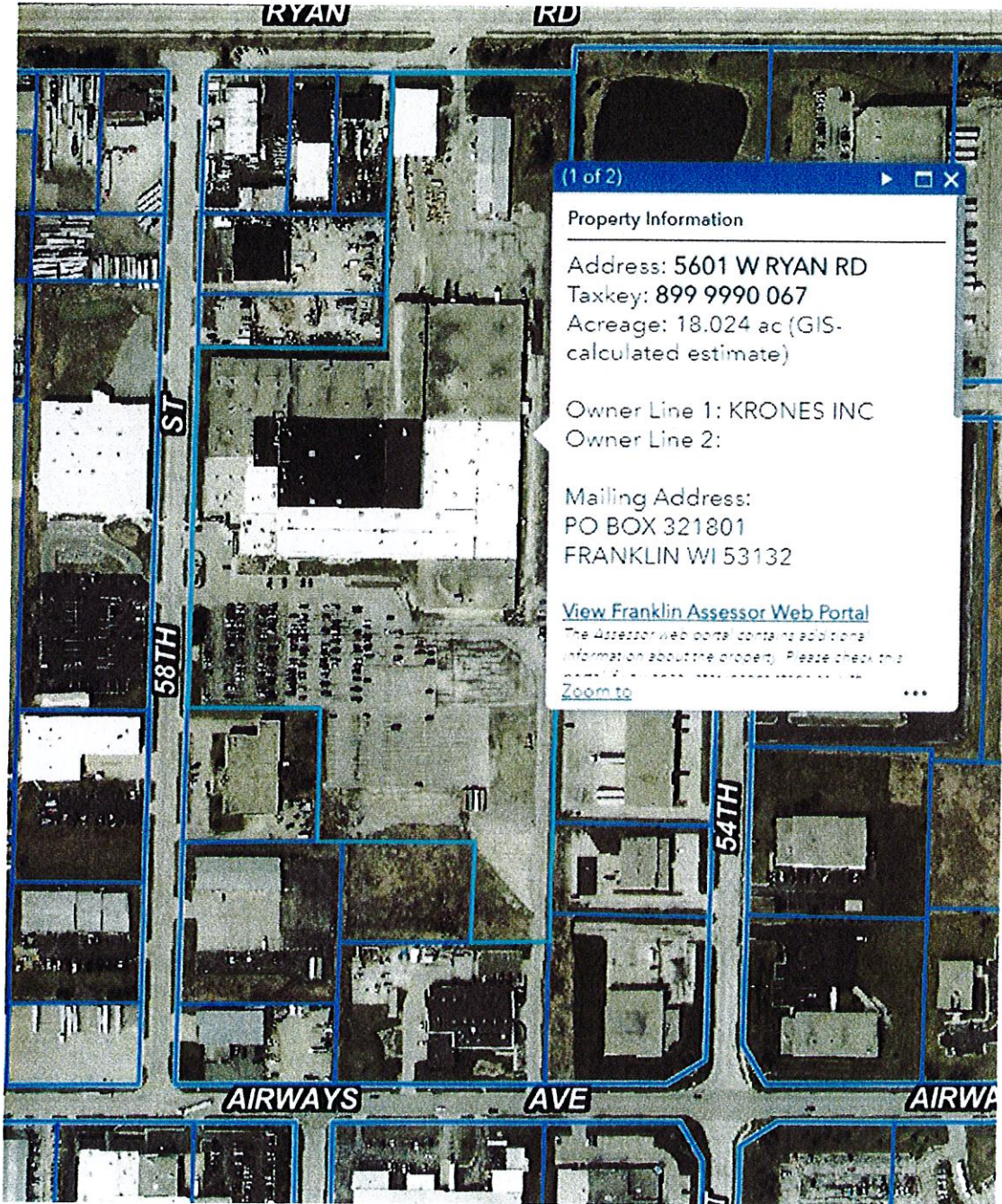
234 W. Florida Street
Milwaukee, WI 53204
414-224-8068
www.chaputlandsurveys.com

Drawing No. 4250-mem

Franklin Property Map Viewer - shows Krones property, Parcel A, Lot 1

Physical location: 5601 W. Ryan Road Franklin, WI 53132

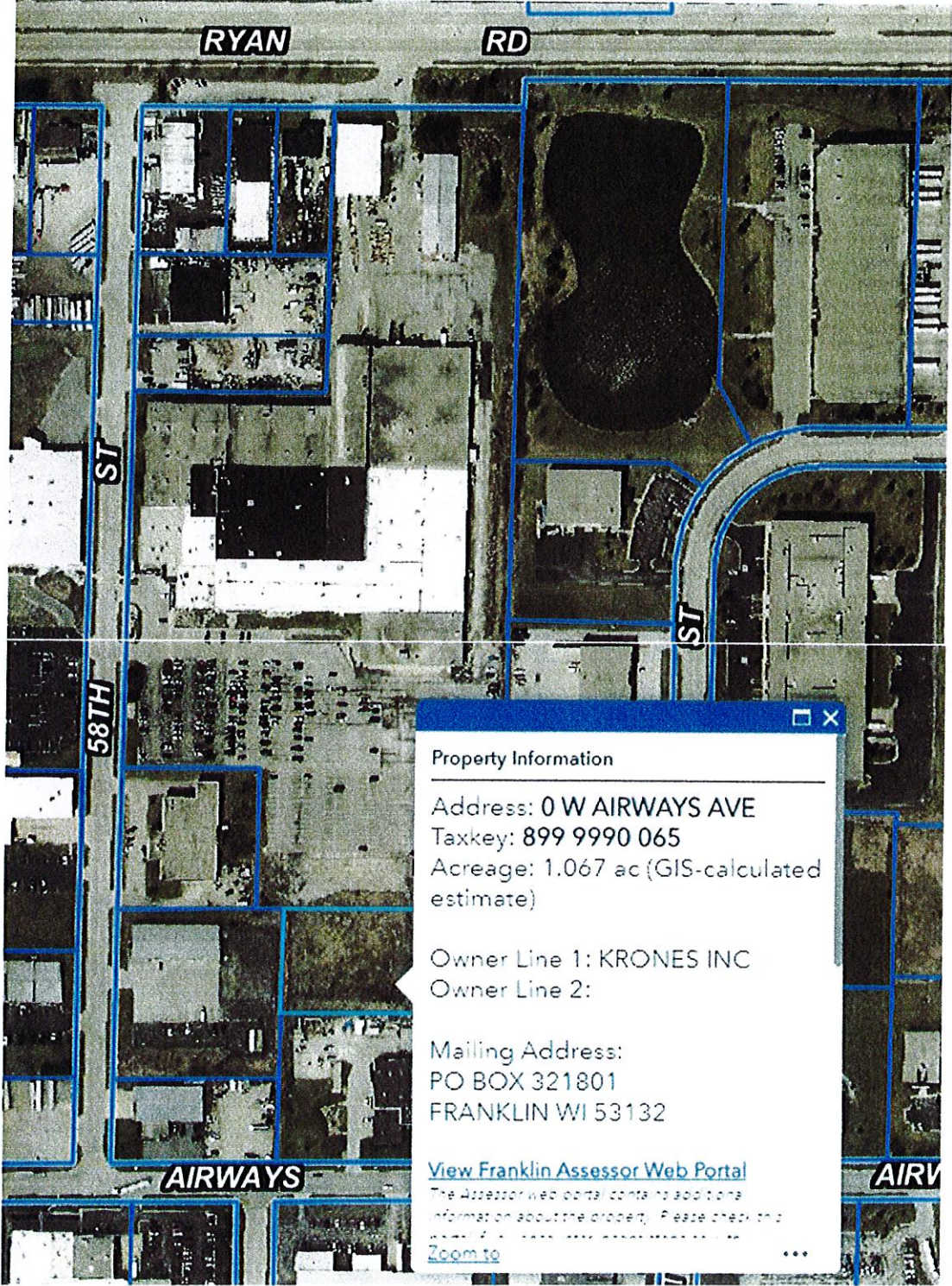
Web ref: <https://experience.arcgis.com/experience/6053058ef4fb42ea88d13235a362aa6e>



Franklin Property Map Viewer - shows Krones property, Parcel B, Lot 1

Physical location: 0 West Airways Ave, WI 53132 Web ref:

<https://experience.arcgis.com/experience/6053058ef4fb42ea88d13235a362aa6e>



Krones Inc. Minor Site Plan Amendment

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Exhibit C

Revised Site Plan – Arch Electric

Array #:

1

Array Pitch:

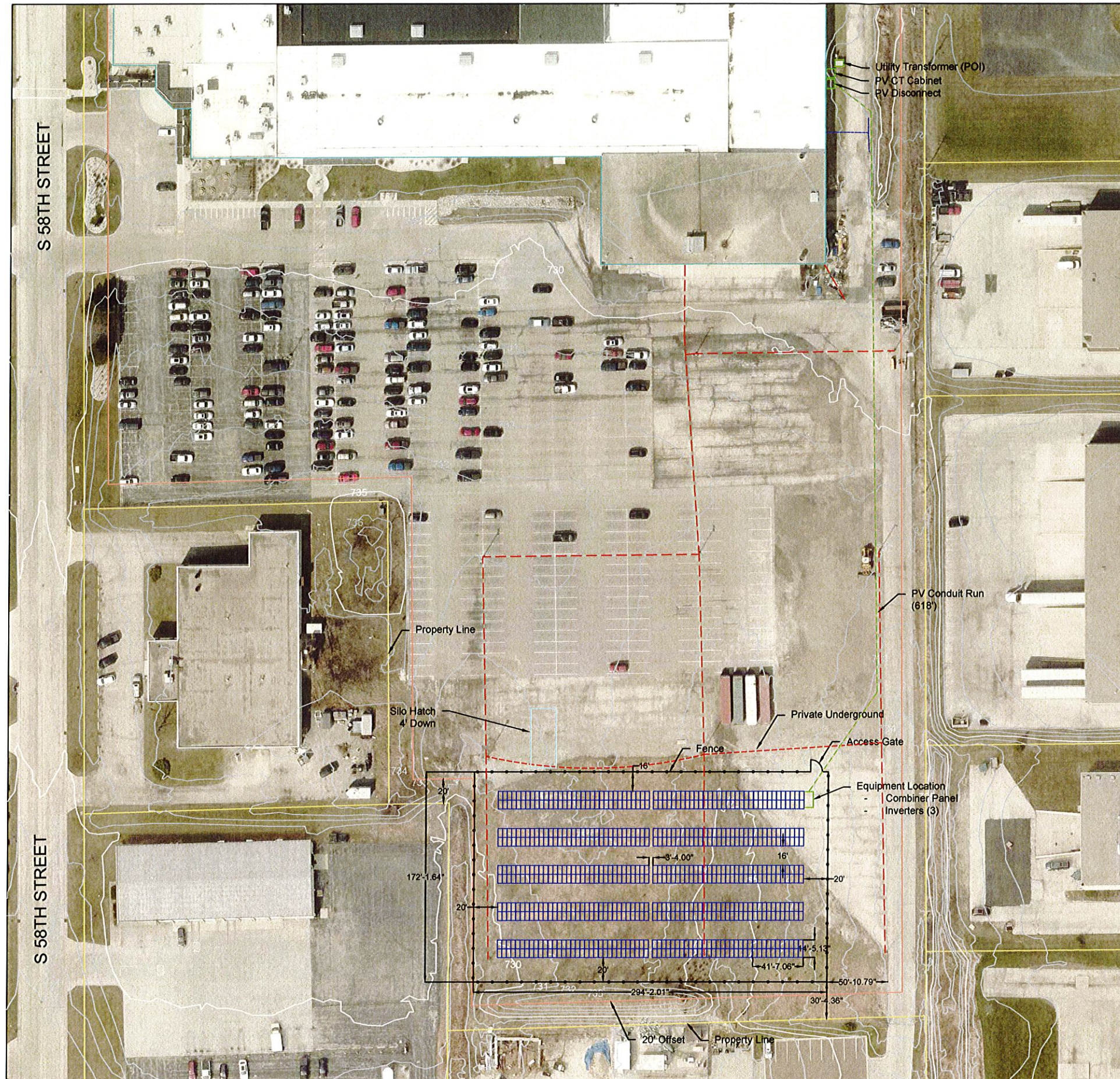
25°

Azimuth:

180°

Modules:

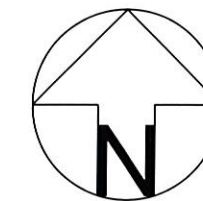
660



Equipment Locations:

Inverters (23) and PV combiner panel to be located on the Northeast corner of array. PV disconnect and PV CT cabinet to be mounted on the building wall just South of the utility transformer.

Solar will be considered as its own service. Interconnection to take place in the utility transformer.



1237 Pilgrim Road
 Plymouth WI, 53073
 Phone: (920) 838-5368
 www.archelec.com

Krones Inc

Customer: Krones Inc
 Address: 9600 S 58th St
 City: Franklin
 State: WI
 Zip Code: 53132
 Contact:
 Phone:
 Email:

Project Number: System Size:
PV 22.042 382.2kW

Designer: 920.838.5368
Justin Van Camp

Site Plan

Revision: 4 Date: 11.21.22

Page A.2

Krones Inc. Minor Site Plan Amendment

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Exhibit D

**City of Franklin – Building Permit
Application – Draft and Proposed Solar
Array Pictures**

CITY OF FRANKLIN BUILDING PERMIT APPLICATION 9229 W. LOOMIS ROAD, FRANKLIN, WI 53132 Phone (414) 425-0084 Fax (414) 425-7513 Application Forms and Handouts can be found at www.franklinwi.gov	Application No. Permit No.
--	-----------------------------------

Project Address 9600 S 58th St, Franklin, WI 53132	Unit or Suite # NA	Project/Business Name (if applicable) Kronos
--	------------------------------	--

Property Owner's Name Kronos	<input checked="" type="checkbox"/> Owner resides or will reside at job address	Email Address Luke.Carlson@kronesusa.com
--	---	--

Mailing Address 9600 S 58th St, Franklin, WI 53132	City	Zip	Phone 414-409-4000
--	-------------	------------	------------------------------

Contractor Name Arch Solar C&I	WI DC# / Exp. Date: DC-072-200-761 7/7/2023 WI DCQ# / Exp. Date: DCQ-082-000-909 8/18/24
--	--

Dwelling Contractor Qualifier Name (1 or 2 family dwellings)	Email Address: jillian@archelec.com
--	---

Mailing Address 1237 Pilgrim Rd., Plymouth, WI 53073	City	Zip	Phone: 920-838-3923 Fax:
--	-------------	------------	---

Applicant (if other than owner or contractor)	Email Address
--	----------------------

Mailing Address	City	Zip	Phone
------------------------	-------------	------------	--------------

Project Type:
 1 & 2 Family
 Commercial
 Industrial
 Institutional
 Multi Family - # of Units _____

PERMIT TYPE: *THESE ITEMS HAVE PLAN REVIEW FEES DUE WITH APPLICATION – PLEASE SEE RESPECTIVE HANDOUTS.

- * New (other than 1 & 2 family)
- * Addition
- * Alteration - **WORK AREA** _____ sq. ft.
- Demolition
- Building Damage Repair
- Building Move
- Foundation Repair
- * Fireplace
- Other Installation of 382.8kW ground mount Photovoltaic System
- Accessory Building (wood) **OR** Prefab. Storage Encl. (metal, vinyl, resin) (120 sq. ft. or <) Size _____
- Reroofing Complete Tear Off Over One Layer - Type of Material _____
- Residing - Existing Material _____ Replacement Material _____
- Fence – Type and Height _____
- Spa/Hot Tub On Slab On Deck
- * Pool In Ground Above Ground (Ht. above ground) _____
- * Deck Attached Detached Pool
- Occupancy - \$225 plus \$7 Technology Fee (Commercial, Industrial, Institutional only).
- Accessory Bldg./Garage (> 120 sq. ft.) Size _____ on slab
- *(plan review fee required for > 150 sq. ft.)

Additional Project Description: Install south facing array tilted to 25 degrees via Sinclair racking. Disconnect and PV CT cabinet will be on outside wall near the utility transformer (farther south transformer as there are two on the east side of the building). We are interconnecting in the utility transformer via a new special service. Site will need to be installed and inspected. WE Energies will pull in wire from the transformer to the CT cabinet. Our inverters and combiner will be located at the array area.

Estimate "Net" Total Project Cost: \$ _____ **Estimate Total Project Cost:** \$ 512,418
 ("Net" excludes cost for Plumbing/Electrical/HVAC work)

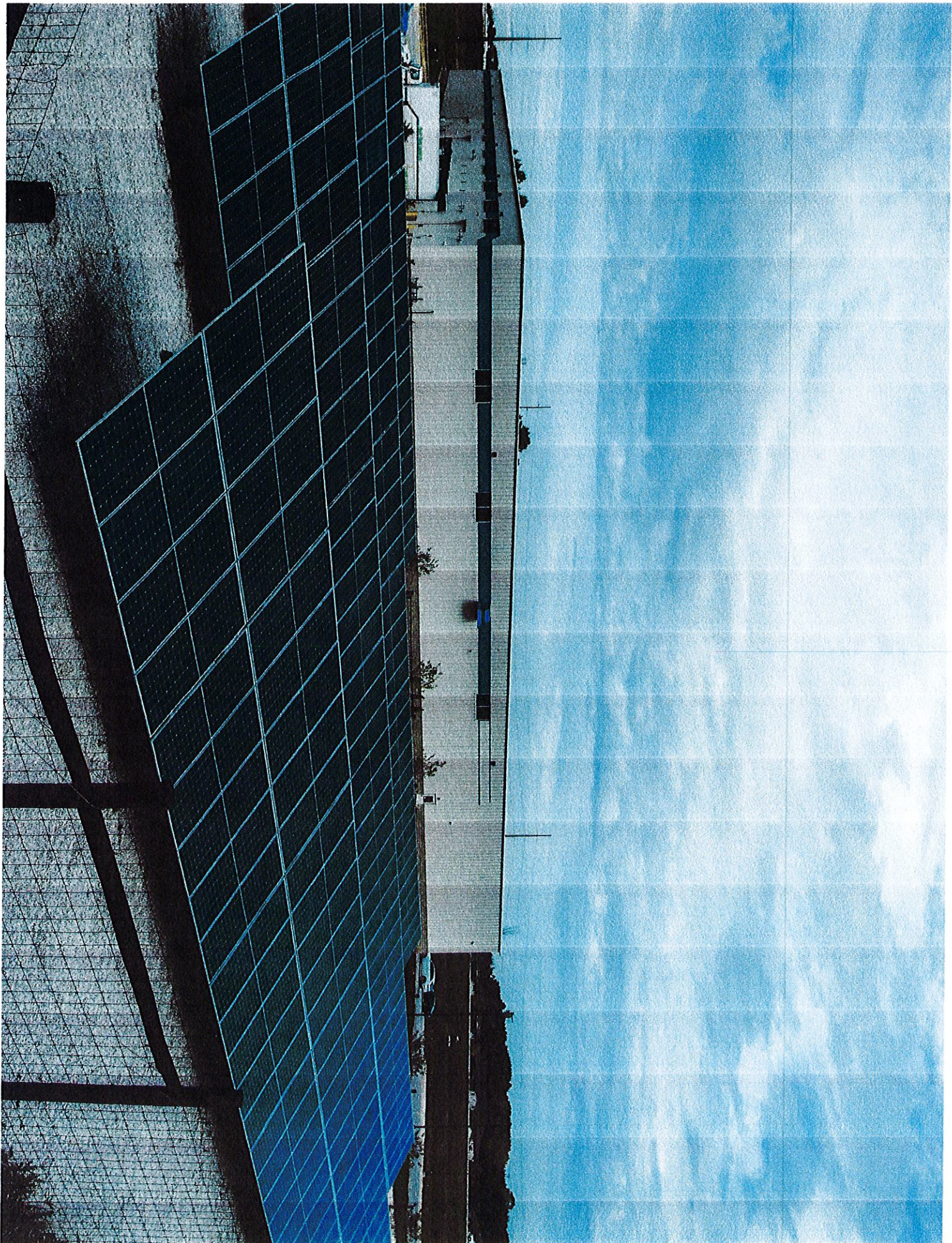
Cautionary Statement To Owners Obtaining Building Permits

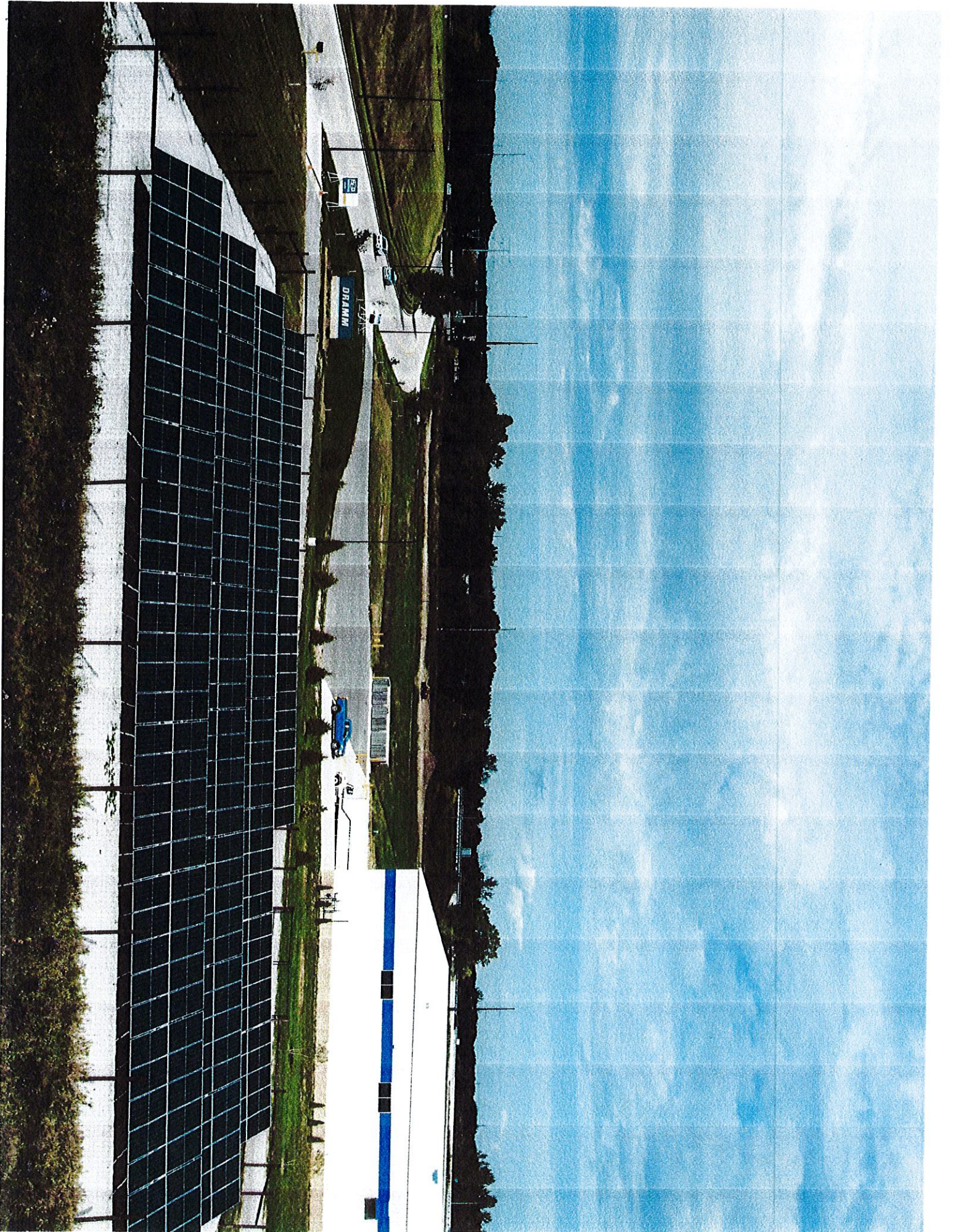
101.65(Ir) of the Wisconsin Statutes requires municipalities that enforce the Uniform Dwelling Code to provide an owner who applies for a building permit with a statement advising the owner that: If the owner hires a contractor to perform work under the building permit and the contractor is not bonded or insured as required under s. 101.654 (2) (a), the following consequences might occur: (a) The owner may be held liable for any bodily injury to or death of others or for any damage to the property of others that arises out of the work performed under the building permit or that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit. (b) The owner may not be able to collect from the contractor damages for any loss sustained by the owner because of a violation by the contractor of the one- and two- family dwelling code or an ordinance enacted under sub. (1) (a), because of any bodily injury to or death of others or damage to the property of others that arises out of the work performed under the building permit or because of any bodily injury to or death of others or damage to the property of others that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit.

CONTACT PERSON (print) Jillian Rooker **PHONE** 920-838-3923

APPLICANT'S SIGNATURE _____ **DATE** _____

**FAILURE TO OBTAIN PERMIT PRIOR TO STARTING WORK
 FIRST OFFENSE TRIPLE FEES, SUBSEQUENT OFFENSES QUADRUPLE FEES
 SEPARATE PERMITS REQUIRED FOR PLUMBING, ELECTRICAL AND HVAC**





Krones Inc. Minor Site Plan Amendment

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Exhibit E

**City of Franklin – Electrical Permit
Application – Draft**

**CITY OF FRANKLIN
APPLICATION FOR ELECTRICAL PERMIT**

9229 W. LOOMIS ROAD, FRANKLIN WISCONSIN 53132
Phone (414) 425-0084 Fax (414) 425-7513

(applications can be downloaded and/or applied/paid for online at www.franklinwi.gov)

JOB ADDRESS: 9600 S 58th St, Franklin, WI 53132				OWNER or OCCUPANT'S NAME: (circle which) Krones			
ELECTRICAL CONTRACTOR NAME: Arch Solar C&I			State Master #: 270617	OWNER MAILING ADDRESS: (if different from job)			
CONTRACTOR MAILING ADDRESS: 1237 Pilgrim Rd.			State Contr #: 1564394	OWNER CITY: (if different from job)		State: ZIP:	
CONTRACTOR CITY: Plymouth, WI 53073			State: ZIP:	Owner Email: Luke.Carlson@kronesusa.com			
Contractor Phone: 920-838-3923			Contractor Email: jillian@archelec.com	SHORT DESCRIPTION OF WORK; REQUIRED TO BE FILLED OUT Installation of 382.8kW ground mount Photovoltaic System			
SWITCHES AND convenience outlets, receptacles, dimmers, occ sensors, surge protectors etc (** if 1 only single item see below)	\$1.10	#	\$	LED, HID, MERCURY, SODIUM & METAL HALITE [for poles, each head, commercial type]	\$2.25	#	\$
LIGHT FIXTURES	\$1.40			LIGHT POLES [commercial type]	\$11.00		
FLUORESCENT-LED lighting [grid ceiling type]	\$3.35			POWER RECEPTACLES: 1-30amp [commercial type] over 30amp	\$7.00		
GARBAGE DISPOSAL	\$11.00				\$9.00		
CLOTHES DRYER 220V	\$11.00			MACHINES, X-RAY, MOTION PICTURE, WELDER	\$35.00		
RANGE, COOKTOP 220V	\$11.00			TRANSFORMERS and/or GENERATORS:	\$35.00		
WATER HEATER 220V (*replacement see below)	\$11.00			REFRIGERATION, CHILLERS UNITS – COMMERCIAL [display case, walk-in freezer/coolers]	\$11.00		
SPACE HEATING system (*replacement see below)	\$11.00			STAGE LIGHTS	\$0.45		
FURNACES, HTG DEVICES(*replacement below)	\$11.00			SIGNS [illuminated from the inside]	\$35.00		
A/C (* replacement see below)	\$35.00			CRANES & HOISTS	\$35.00		
POST LIGHT [residential type]	\$7.00			ELEVATORS	\$17.00		
FIRE, carbon monoxide, smoke alarm [120v type]	\$3.35			FOUNTAINS	\$17.00		
FANS/motors [bath, exhaust, ceiling type]	\$6.00			FUEL or WATER PUMPS, MOUND SYSTEMS	\$11.00		
WHIRLPOOL, HOT TUB, SPA (circle which)	\$35.00			MOTORS [commercial type] \$6 each + \$1/hp	\$6.00		
ABOVE or INGROUND POOL (circle which)	\$70.00				\$1.10hp		
IN POOL LIGHTING	\$17.00			MOTOR DISCONNECTS OR CONTROLLERS	\$6.00		
SERVICE DISCONNECT - per each handle/breaker	\$22.00			WIRE/BUSWAY/UNDERFLOOR Raceway (per/ft)	\$1.10		
SERVICE SIZE – per each 100 amp capacity	\$40.00			*** FIRE ALARM PANEL/CONTROL (New-120v)	\$6.00		
FEEDERS/sub feeders/ sub panels per 100 amp capacity	\$22.00			*** FIRE PROTECTION any signal device [low voltage] & panel/control replaced			
TEMPORARY Service/Construction/Fire wiring	\$95.00			Contact Fire Dept 414-425-1420 for their permit/inspect requirements			
SOLAR SYSTEM includes meter/service/feeder/array	\$95.00	1	95.00				
Subtotal of items above						\$ 95.00	
MINIMUM FEE (except *Replacements or **Single Item only below)			Choose either		1 & 2 Family Homes & Multi-Family Uses \$95.00		\$95.00
					Commercial/ Business/all other Uses \$115.00		\$115.00
Your Regular Electrical Permit Fee Total, ENTER>						\$ 115.00	
*REPLACEMENTS Note; If there are any items listed above in addition to replacement items listed here, default to Regular Electrical Permit Fee Total				Replacement; ___ Water Heater, ___ Furnace, A/C ___ Heating Device, ___ all-in-one wall/floor unit, RTU etc # ___ x \$35.00 each			\$ na
**1 only SINGLE SWITCH or OUTLET or RECEPTACLE either added or replaced (it can be only itme on this application)						\$35.00	na
TECHNOLOGY FEE, needed for ALL Permits (none needed if just adding to an existing permit or if only special inspection below)						\$7	\$7
REQUESTS FOR INSPECTIONS DURING NON-WORKING HOURS or SPECIAL INSPECTION [advance approval required] \$110/hr with 2hr/minimum							na
GRAND TOTAL Payable to "City of Franklin"						\$ 122.00	

SUPERVISING ELECTRICIAN'S SIGNATURE _____

DATE _____

FAILURE TO OBTAIN PERMIT PRIOR TO STARTING WORK - - FIRST OFFENSE TRIPLE FEES, SUBSEQUENT OFFENSES QUADRUPLE FEES
IF PERMIT IS NOT USED PRIOR TO EXPIRATION, THAT PORTION OF THE FEE OVER THE MINIMUM WILL BE REFUNDED UPON WRITTEN REQUEST.

CALL (414) 425-0084 FOR ALL INSPECTIONS! 24 HOURS MINIMUM NOTICE REQUIRED!

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

DRAFT 1/3/23 [1/26/23]

RESOLUTION NO. 2023-_____

A RESOLUTION TO VACATE A TOTAL OF APPROXIMATELY 0.57 ACRES OF RIGHT-OF-WAY PREVIOUSLY USED FOR SERVICE ROAD PURPOSES WHICH ABUTS THE SOUTH SIDE OF WEST RYAN ROAD (STH 100) FROM SOUTH 60TH STREET TO SOUTH 58TH STREET AND WHICH IS ABUTTED ON ITS SOUTH BOUNDARY BY THE 5921 WEST RYAN ROAD (TAX KEY NO. 899-9991-002), 5921 WEST RYAN ROAD (TAX KEY NO. 899-9991-003) AND 5825 WEST RYAN ROAD (TAX KEY NO. 899-9991-004) PROPERTIES

WHEREAS, the Common Council of the City of Franklin finds that the public interest requires that approximately 0.57 acres of right-of-way previously used for service road purposes which abuts the south side of West Ryan Road (STH 100) from South 60th Street to South 58th Street and which is abutted on its south boundary by the 5921 West Ryan Road (Tax Key No. 899-9991-002), 5921 West Ryan Road (Tax Key No. 899-9991-003) and 5825 West Ryan Road (Tax Key No. 899-9991-004) properties, respectively, be discontinued, pursuant to Wis. Stat. § 66.1003(4); and

WHEREAS, such approximately 0.57 acres of right-of-way previously used for service road purposes which abuts the south side of West Ryan Road (STH 100) from South 60th Street to South 58th Street and which is abutted on its south boundary by the 5921 West Ryan Road (Tax Key No. 899-9991-002), 5921 West Ryan Road (Tax Key No. 899-9991-003) and 5825 West Ryan Road (Tax Key No. 899-9991-004) properties, respectively, is more particularly described **[together with a map thereof]** upon Exhibit A annexed hereto and the map annexed hereto as Exhibit B **[depicts and lists the abutting property owners]**; and

WHEREAS, notice of pendency of proceedings to vacate the subject property was submitted to the Office of the Register of Deeds for Milwaukee County on _____, 2023, by way of a ~~[copy of this Resolution as introduced, for recording as may be required]~~ **lis pendens Notice of Pendency, for recording]** pursuant to Wis. Stat. § 840.11; and

WHEREAS, this Resolution was first introduced before the Common Council of the City of Franklin at its regular meeting on **[January 3]**, 2023; and

WHEREAS, the Common Council scheduled a Public Hearing upon this Resolution pursuant to Wis. Stat. § 66.1003(4)(b) for _____, 2023; with notice of such hearing being published as a Class III notice in the Official City Newspaper, with the first publication date being _____, 2023; and

WHEREAS, a Public Hearing as so duly noticed having been held on _____, 2023, before the Common Council of the City of Franklin, and a report having been received

RIGHT-OF-WAY PREVIOUSLY USED FOR SERVICE ROAD PURPOSES VACATION
RESOLUTION NO. 2023-_____

Page 2

from the Plan Commission, upon all of the foregoing pursuant to law, the Common Council having been so informed and having made its determinations.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that pursuant to the authority vested in the Common Council by Wis. Stat. § 66.1003(4)(b), that the approximately 0.57 acres of right-of-way previously used for service road purposes which abuts the south side of West Ryan Road (STH 100) from South 60th Street to South 58th Street and which is abutted on its south boundary by the 5921 West Ryan Road (Tax Key No. 899-9991-002), 5921 West Ryan Road (Tax Key No. 899-9991-003) and 5825 West Ryan Road (Tax Key No. 899-9991-004) properties, respectively, as described upon Exhibit A and Exhibit B annexed hereto and incorporated herein, be and the same is hereby discontinued and vacated.

BE IT FURTHER RESOLVED, that the aforesaid Resolved to discontinue and vacate has been reached upon the receipt and acceptance and approval thereof by the Common Council concurrent with the adoption of this Resolution, of two easements from the adjoining property owners to the south of the right-of-way being vacated, to the City, to allow for City use upon the subject right-of-way property being vacated for access to and for each of the two existing Franklin Business park monument signs thereon, which signs the City will maintain.

BE IT FURTHER RESOLVED, that the aforesaid Resolved to discontinue and vacate has been reached upon the receipt and approval thereof by the Common Council concurrent with the adoption of this Resolution, of an application for a land combination permit for the no address (Tax Key No. 899-9991-005) and 5921 West Ryan Road (Tax Key No. 899-9991-003) properties so as to protect the 5921 West Ryan Road (Tax Key No. 899-9991-003) property from being landlocked by the right-of-way discontinuance and vacation.

BE IT FURTHER RESOLVED, that the aforesaid Resolved to discontinue and vacate has been reached upon receipt of communication from the Wisconsin Department of Transportation that it has no objection to the discontinuance and vacation of the subject right-of-way and that the subject right-of-way as such shall be subject to the full reversion to the owners of the lands adjoining to the south, with each such owner and property receiving a portion of the subject right-of-way within the east and west boundaries within the subject right-of-way property of the portion thereof adjoining the property to the south and with the east and west boundaries thereof continuing and proceeding north thereof to the north boundary of the subject right-of-way property.

BE IT FINALLY RESOLVED, that the City Clerk be and the same is hereby directed to record a copy of this Resolution with the Register of Deeds for Milwaukee County.

RIGHT-OF-WAY PREVIOUSLY USED FOR SERVICE ROAD PURPOSES VACATION
RESOLUTION NO. 2023-_____

Page 3

Introduced at a regular meeting of the Common Council of the City of Franklin this
[3rd] day of [January], 2023.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Karen L. Kastenson, City Clerk

Passed and adopted at a regular meeting of the Common Council of the City of
Franklin this _____ day of _____, 2023.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Karen L. Kastenson, City Clerk

AYES _____ NOES _____ ABSENT _____

CITY OF FRANKLIN
NOTICE OF PUBLIC HEARING

The Common Council of the City of Franklin will hold a public hearing Tuesday, March 7, 2023, at 6:30 p.m. or as soon thereafter as the matter may be heard in the Common Council Chambers of Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin 53132, upon a resolution introduced at the Common Council meeting held January 3, 2023, and which proposes the vacation of approximately 0.57 acres of right-of-way previously used for service road purposes which abuts the south side of West Ryan Road (STH 100) from South 60th Street to South 58th Street and which is abutted on its south boundary by the 5921 West Ryan Road (Tax Key No. 899-9991-002), 5921 West Ryan Road (Tax Key No. 899-9991-003) and 5825 West Ryan Road (Tax Key No. 899-9991-004) properties, respectively, which is bounded and legally described as follows:

Being a part of the recorded Certified Survey map No. 1330, Document # 4538848, Reel # 542 Image # 304-305, Recorded on July 27, 1970 at Milwaukee County Register of Deeds, also being a part of the NW 1/4 of Section 26, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, bounded and described as follows:

Commencing at the Northwest corner of said NW 1/4 of Section 26; thence S0°24'28"E along the West line of said 1/4 of Section, 110.02 feet to a point; thence N88°22'10"E, 45.01 feet to a point of beginning of the land to be described; thence continuing N88°22'10"E, 499.98 feet to a point; thence N00°24'28"W, 50.01 feet to a point; thence S88°22'10"W, 499.98 feet to a point; thence S0°24'28"E, 50.01 feet to a place of beginning.

Said lands containing 25004.0 square feet or 0.57 acres.

The legal description and map of the area involved and a copy of the proposed resolution are on file in the Office of the City Clerk of Franklin, Wisconsin. This public hearing is being held pursuant to the requirements of §§66.1003(4)(b) and (8)(b). of the Wisconsin Statutes. A copy of the proposed resolution in draft form is available and open for inspection by the public in the office of the City Clerk at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin 53132, during normal business hours. The public is invited to attend the public hearing and to provide input. The proposed draft form resolution is subject to revisions following public hearing and the further consideration by the Plan Commission and the City of Franklin Common Council.

Dated this ____ day of January, 2023.

Karen L. Kastenson
City Clerk

N.B. Class III



Right-of-way Vacation

APPROVAL	REQUEST FOR COUNCIL ACTION	MTG. DATE December 6, 2022
Reports & Recommendations	A Resolution to Vacate a Service Road from S. 60th Street to S. 58th Street Located on the South Side of W. Ryan Road Between S. 60th Street and S. 58th Street (Part of the NW ¼ of Section 26, Township 5, Range 21 East in the City of Franklin, Milwaukee County, Wisconsin)	ITEM NO.

BACKGROUND

Dorsey Trailer Sales WI (Spellman Trailer) located at 5921 W. Ryan Road is requesting that the City right-of-way on the north side of their parcels (between S. 60th Street and S. 58th Street along the south right-of-way of W. Ryan Road) be vacated and transferred to them. This right-of-way was created with Certified Survey Map (CSM) 1330 in 1970 as a “service road” in addition to the expanded right-of-way for W. Ryan Road (STH 100). As the City accepted and signed the CSM documents, the City is the owner of this right of way.

Resolution 86-2718 provided that the service road be closed but access to S. 60th Street from the service road be preserved. That resolution essentially provided a private drive/parking lot for Dorsey Trailer for their parcels.

The process of vacating a right-of-way is spelled out in Wisconsin Statute §66.1003 Discontinuance of a Public Way. The Wisconsin Department of Transportation (WisDOT) is also an adjacent landowner and may have reason to keep part of the right-of-way. Any public road within a ¼ mile of a State Highway is also reviewed by WisDOT (as an objecting authority).

ANALYSIS

Although it is apparent why the service road was provided in 1970, proximity of a public road intersection on S. 60th Street that close to W. Ryan Road is not appropriate and the 1986 resolution that essentially made this public road a private driveway was appropriate. Ideally, this access so close to a signalized intersection should be removed altogether, but it is there and not practical to require Spellman Trailers to reconfigure their building and vacate the driveway.

There are some industrial park sign issues that should be addressed in this discussion. There is a monument sign/wall at the southeast corner of the service drive and S. 60th Street that appears to be placed on Spellman’s property without an easement. Furthermore, there is a monument sign for the industrial park located within the area that is requested to be vacated.

Staff further recommends that any vacation of right-of-way be contingent on a land combination for Dorsey Trailer Sales WI (Spellman Trailers) as lot 2 (TKN 899-9991-003) would essentially be land locked if the City were to vacate the right-of-way since WisDOT would not allow a driveway connection to W. Ryan Road.

Charging for vacation of a right-of-way has not traditionally been done. However it is noted that the City is selling a 0.23-acre parcel to the south of this area at \$57,959.18/acre (total \$13,330.61). Staff would suggest that consideration of a permanent easement and upkeep of the industrial park sign is just compensation. The resolution would need to be modified if Common Council were to decide to sell the property. For reference, this vacation involves approximately 25,000 square feet and \$57,959.18/acre would equate to \$33,263.99.

A draft resolution is not enclosed as it will be written to address the appropriate details to be included in the conditions.

OPTIONS

- Does the City want to vacate this Right-of-way?
- Does the City want to charge for this vacation?
- How does the City want to address the business park signage?

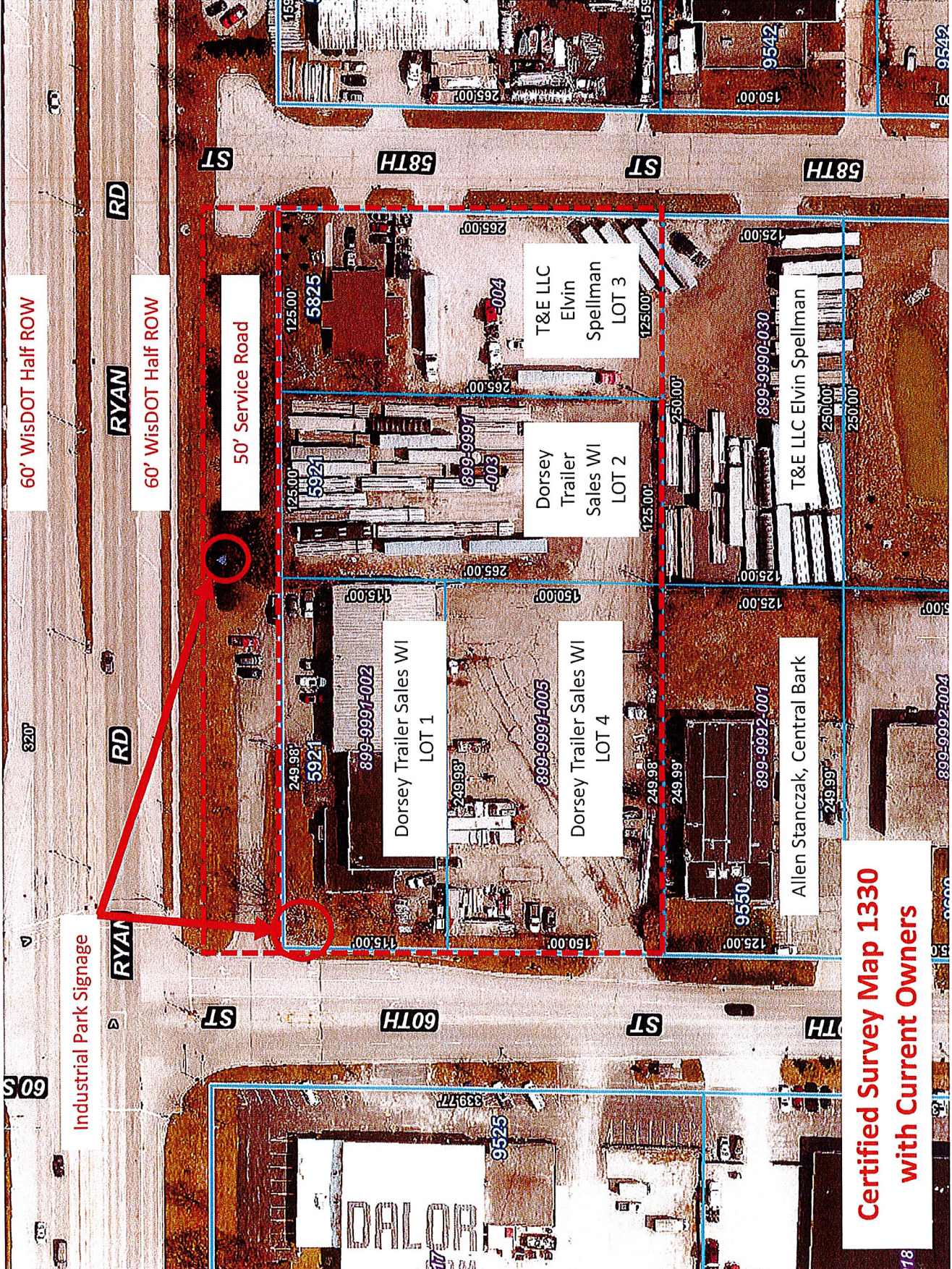
Ultimatel; introduce resolution or table request.

FISCAL NOTE

No impact to the City

RECOMMENDATION

Motion to adopt a resolution that Staff would write considering the options _____ as Resolution No. 2022- _____ a resolution to vacate a service road from S. 60th Street to S. 58th Street located on the south side of W. Ryan Road between S. 60th Street and S. 58th Street (Part of the NW ¼ of Section 26, Township 5, Range 21 East in the City of Franklin, Milwaukee County, Wisconsin).



60' WisDOT Half ROW

Industrial Park Signage

RYAN RD

RYAN RD

RD

60' WisDOT Half ROW

50' Service Road

Dorsey Trailer Sales WI
LOT 1

Dorsey Trailer Sales WI
LOT 4

Dorsey Trailer Sales WI
LOT 2

T&E LLC Elvin Spellman
LOT 3

Allen Stanczak, Central Bark

T&E LLC Elvin Spellman

**Certified Survey Map 1330
with Current Owners**



Industrial Park Signage / Landscaping

Intersection of W. Ryan Road (STH 100) and S. 60th Street.
Looking Southeast

JUL-27-70 6 1 1 2 6 • 4538848 B CA REC **300

REV 542 IM 304

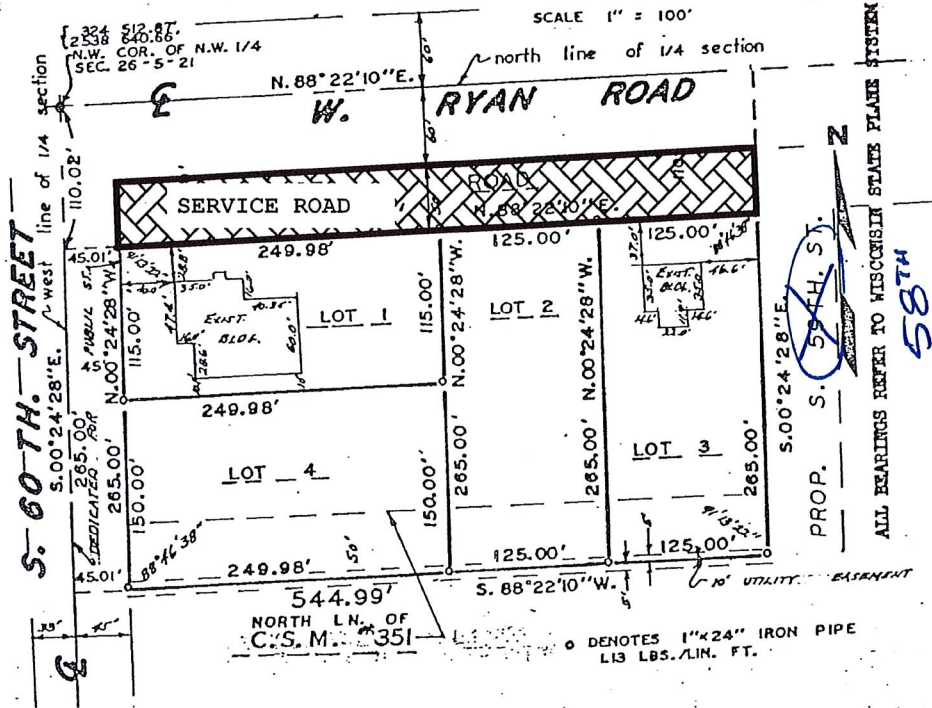
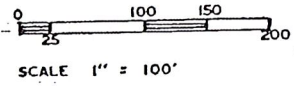
4538848

REGISTER'S OFFICE
Milwaukee County, Wis.
RECORDED AT 2:35 PM

CERTIFIED SURVEY MAP NO. 1330
A PART OF CERTIFIED SURVEY MAP # 351
A PART OF THE N.W. 1/4 OF SECTION 26
TOWNSHIP 5 NORTH, RANGE 21 EAST
CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN

on JUL 27 1970 in
Reel 572 Image 304-305

Robert Horvinski
Register of Deeds



PROP. S. 58TH ST.
ALL BEARINGS REFER TO WISCONSIN STATE PLANE SYSTEM
58TH

○ DENOTES 1"X24" IRON PIPE
113 LBS./LIN. FT.

100-1666-668

Legal Description

Service Road South of West Ryan Road

Being a part of the recorded Certified Survey map No. 1330, Document # 4538848, Reel # 542 Image # 304-305, Recorded on July 27, 1970 at Milwaukee County Register of Deeds, also being a part of the NW 1/4 of Section 26, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, bounded and described as follows:

Commencing at the Northwest corner of said NW 1/4 of Section 26; thence $S0^{\circ}24'28''E$ along the West line of said 1/4 of Section, 110.02 feet to a point; thence $N88^{\circ}22'10''E$, 45.01 feet to a point of beginning of the land to be described; thence continuing $N88^{\circ}22'10''E$, 499.98 feet to a point; thence $N00^{\circ}24'28''W$, 50.01 feet to a point; thence $S88^{\circ}22'10''W$, 499.98 feet to a point; thence $S0^{\circ}24'28''E$, 50.01 feet to a place of beginning.

Said lands containing 25004.0 square feet or 0.57 acres.



MEMORANDUM

Date: March 2, 2023

SENT VIA EMAIL

To: City of Franklin UDO Update Task Force
Régulo Martínez-Montilva, AICP, Principal Planner
Marion Ecks, AICP, Associate Planner

From: Houseal Lavigne Associates
Jackie Wells, AICP, Practice Lead
Ruben Shell, AICP, Planner II

Re: **Franklin, WI Unified Development Ordinance
Draft Articles 10 - 11 Overview**

The purpose of this memorandum is to provide a high-level overview of the major changes proposed to the draft UDO Articles 10 - Planned Development Standards and Procedures and Article 11 - Nonconforming Buildings, Structures, and Uses from the existing UDO. Questions identified by City staff and the project team for discussion by the Task Force are also provided.

ARTICLE 10. PLANNED DEVELOPMENT STANDARDS AND PROCEDURES

The City's current planned development standards and procedures are proposed to be largely rewritten. The proposed standards will require any development on a lot or lots greater than 25,000 square feet or any development containing non-residential uses that would result in 10,000 square feet or more of gross floor area to go through the Planned Development process while any development other than single-family residential may apply to go through the Planned Development process.

Additionally, modification standards are proposed to be established to be used in the review of site development allowances (requested deviations from underlying district standards) in the draft Section 15-10-04. The proposed standards will ensure that modifications requested through the process are considered and granted only in direct response to the accrual of tangible benefits to the City or neighborhood in which it would be located. To accomplish this, standards of review are proposed by which the Plan Commission and Common Council would review Planned Development applications as a whole in Section 15-10-05. Modifications to the base district standards are approved as part of the Planned Development Overlay District. Procedures to modify previously approved Planned Developments are also established. Major amendments are changes that generate substantial alteration to previously approved Planned Developments such as a substantial change to the intensity of the uses on-site or that create a change in the site's built character and require approval through the Planned Development process. For example, modification of the housing types, an increase in gross floor area, or a change in impervious surface are major amendments.

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Questions For Task Force Discussion

The following issues have been identified for discussion and policy direction as the Task Force considers the draft Article 10.

- Are there any types of development that should be required to go through the Planned Development process?
- Are there any types of development that should be prohibited from being approved as Planned Developments?
- Are the modification standards in Section 15-10-04 appropriate standards to allow deviations for the base zoning?
- Are the standards of review in Section 15-10-05 appropriate standards to consider and approve Planned Developments overall?

ARTICLE 11. NONCONFORMING BUILDINGS, STRUCTURES, AND USES

Article 11: Nonconforming Buildings, Structures, and Uses is proposed to include the regulations for nonconforming buildings, structures, lots, and uses that exist in Division 15-3.1000 of the UDO currently. The existing provisions that govern nonconforming uses and structures in the floodplain districts that are in the existing Section 15-3.1011 of the UDO are removed from the draft Article 11, as updated provisions regarding nonconformities in floodplain districts are contained in the draft of Article 3 in Section 15-3-06. No other major changes are proposed, aside from updates to ensure that the Article aligns with other Articles of the draft UDO.

Article 10. Planned Development Standards and Procedures

15-10-01. Intent and Purpose 1
 15-10-02. General Provisions 1
 15-10-03. Planned Development Relation to Base District Standards 2
 15-10-04. Modification Standards 2
 15-10-05. Standards of Review 3
 15-10-06. Procedures 4
 15-10-07. Amendments to Planned Developments 5

15-10-01. Intent and Purpose

The purpose of the regulations, standards, and criteria contained in this Article is to provide an alternative procedure under which land can be developed or redeveloped with innovation, imagination, and creative architectural design, when sufficiently justified under the provisions of this Article. The objective of the Planned Development standards is to encourage a higher level of design and amenity than is possible to achieve under otherwise applicable zoning regulations. The end result should fulfill the objectives of City plans and policies, including but not limited to the City of Franklin Comprehensive Master Plan, while departing from the strict application of the regulations of this UDO. The planned development standards are intended to permit and encourage such flexibility and to accomplish the following purposes:

- A. To stimulate creative approaches to the commercial, residential, and mixed-use development of land.
- B. To provide for more efficient use of land.
- C. To preserve natural features and provide open space areas and recreation areas in excess of that required under existing zoning regulations.
- D. To develop new approaches to the living environment through variety in type, design and layout of buildings, transportation systems, and public facilities.
- E. To unify buildings and structures through design.
- F. To promote long term planning, pursuant to the City of Franklin Comprehensive Master Plan and other relevant plans and City policies, which will allow harmonious and compatible land uses or combination of uses with surrounding areas.

15-10-02. General Provisions

- A. The following must be approved as a planned development in accordance with this UDO:
 - 1. Any development on a lot or lots with an area equal to or greater than **twenty-five thousand (25,000)** square feet.
 - 2. Any development containing non-residential uses that would result in **ten thousand (10,000)** square feet or more of gross floor area.
- B. Any development containing uses other than single-family residential uses may be approved as a planned development.

- C. Each Planned Development should be presented and judged on its own merits. It shall not be sufficient to base justification for approval of a Planned Development solely upon an already existing planned development except to the extent such Planned Development has been approved as part of a development master plan.
- D. The burden of providing evidence and persuasion that any Planned Development is necessary and desirable shall rest with the applicant.

15-10-03. Planned Development Relation to Base District Standards

- A. A planned development, if approved, shall constitute an overlay district, and all base district designations shall be maintained.
- B. A planned development, if approved, may incorporate modifications to the base district standards that shall become part of the overlay district. All such modifications shall be referred to as site development allowances.
- C. Notwithstanding any limitations on waivers or modifications of standards contained elsewhere in this UDO, site development allowances may be approved provided the applicant specifically identifies each site development allowance in the planned development application and demonstrates how each site development allowance:
 1. Would be compatible with surrounding development;
 2. Is necessary for development of the site in accordance with the purposes of this section; and
 3. Incorporates a minimum of one (1) of the modification standards detailed in [Section 15-10-04](#).
- D. All approved site development allowances shall be delineated in the ordinance approving the Planned Development and shall be considered the standards of the Planned Development overlay district as it applies to the subject property.

15-10-04. Modification Standards

An applicant seeking a site development allowance shall be required to justify each request through the provision of tangible benefits to the City of Franklin by meeting a minimum of one (1) of the modification standards detailed below per requested site development allowance.

- A. **Landscape Conservation and Enhancement.** The Planned Development preserves, restores, or enhances landscape elements, trees, and natural features, such as rivers, streams, ponds, groves, and landforms.
- B. **Sustainable Design.** The Planned Development is designed with demonstrable reductions in energy consumption and/or stormwater management as a result of methods of site design and building location, architectural design of individual buildings, and landscaping design.
- C. **Public Gathering Space.** The Planned Development includes public gathering space, the amount of which is proportional to the size of buildings or number of dwelling units. The public gathering space is activated through the use of elements or features such as moveable tables and chairs, a fountain or other water feature, a sculpture or other public art feature, benches, seat walls, raised landscape planters, or pedestrian scaled and celebratory lighting such as string or tivolì lights. The public gathering space is integrated into the overall design of the planned development and has a direct functional or visual relationship to the main building(s) and is not of an isolated or leftover character.
- D. **Mix of Uses.** The Planned Development is comprised of a mix of non-residential uses and/or a mix of two (2) or more housing unit types.
- E. **Placemaking.** The Planned Development has a distinctive identity and brand that is carried through design features in a manner that fosters a cohesive visual character for the public areas, incorporated in the design of features including but not limited to sign design, unique streetscape elements, architectural features, the creation of public gathering spaces, the incorporation of natural areas, parks, and trails, and other elements of site design.

- F. **Affordability.** The Planned Development includes fifteen (15) percent of the total residential dwellings deed restricted for households that make less than or equal to eighty (80) percent of the area median income as defined by the US Department of Housing and Urban Development.
- G. **Universal Design.** The Planned Development includes buildings and site features designed with accessible features such as level access from the street and/or zero entry thresholds.
- H. **High-Quality Building Materials.** The Planned Development uses time- and weather-tested building materials that are of a higher quality than what is otherwise required by this UDO.

15-10-05. Standards of Review

The following standards for review shall be utilized in the review of a Planned Development application as a whole, including any requested site development allowances and the modification standards proposed to justify those requests. No application for a planned development shall be approved unless the Common Council finds that the application meets all of the following standards:

- A. **Plan and Policy Alignment.** The Planned Development is consistent with the goals, objectives, and policies set forth in the Comprehensive Master Plan and other adopted plans and policy documents of the City.
- B. **Placemaking.** The planned development has a distinctive identity and brand that is carried through the sign designs, unique streetscape features, architecture, public gathering spaces, open spaces, etc.
- C. **Integrated Design with Identifiable Centers and Edges.** The Planned Development shall be laid out and developed as a unit in accordance with an integrated overall design, in which the various land uses included function as a cohesive whole and support one another. The design shall provide identifiable centers, which form focus areas of activity in the development, and edges, which define the outer borders of the development, through the harmonious grouping of buildings, uses, facilities, public gathering spaces, and open space.
- D. **Public Welfare.** The Planned Development is designed, located, and proposed to be operated and maintained so that it will not impair an adequate supply of light and air to adjacent property and will not substantially increase the danger of fire or otherwise endanger the public health, safety, and welfare.
- E. **Compatibility with Adjacent Land Uses.** The Planned Development includes uses which are generally compatible and consistent with the uses of adjacent parcels. If the uses are not generally compatible, all adverse impacts have been mitigated through screening, landscaping, public open space, and other buffering features that protect uses within the development and surrounding properties.
- F. **Impact on Public Facilities and Resources.** The Planned Development is designed so that adequate utilities, road access, drainage, and other necessary facilities will be provided to serve it.
- G. **Archaeological, Historical or Cultural Impact.** The Planned Development does not substantially adversely impact an archaeological, historical, or cultural resource, included on the local, state, or federal register, located on or off the parcel(s) proposed for development.
- H. **Drives, Parking and Circulation.** The Planned Development makes adequate provision to provide necessary parking. Principal vehicular access is from dedicated public streets, and access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. With respect to vehicular and pedestrian circulation (including walkways, interior drives, and parking), special attention has been given to the location and number of access points to public streets, the width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, adequate provision for service by emergency vehicles, and arrangement of parking areas that are safe, convenient, and do not detract from the design of proposed buildings and structures and the neighboring properties. Access points are limited through the use of cross access connections.

15-10-06. Procedures

- A. **Pre-Filing Administrative Review Conference(s).** A prospective applicant, prior to submitting a formal application for a Planned Development, shall meet for a pre-filing conference(s) with staff. The purpose of the conference(s) is to help the applicant understand: City plans and policies; the UDO; site development allowances; the standards by which the application will be evaluated; and the application requirements.
- B. **Pre-Filing Project Introduction (Optional).** After the initial pre-filing conference, the prospective applicant may introduce their project to the Plan Commission. The Plan Commission may provide feedback to the applicant based on materials presented. Feedback from the Plan Commission is intended to provide the applicant with an initial impression relative to the character, appropriateness, and intensity of the proposed development, prior to the applicant officially filing for a planned development. Any comments and feedback from the Plan Commission at this meeting is non-binding. The applicant is expected to provide a brief narrative and development concept plan sufficient to communicate the character of the proposed development.
- C. **Application Requirements Waiver Request.** After completing the pre-application conference the applicant may request a waiver of any application requirement which in the applicant's judgment should not apply to the proposed planned development. Such request shall be made in writing prior to the submission of the formal application documents. A final determination regarding the waiver shall be made by the Zoning Administrator and given to the prospective applicant following the decision. An appeal of the determination of the Zoning Administrator may be brought to the Plan Commission for consideration.
- D. **Application for a Planned Development.** Following the pre-application conference, the owner or his agent may file an application with the Zoning Administrator for a Planned Development.
- E. **Referral to Plan Commission.** The application and staff report for a Planned Development shall be referred to the Plan Commission for its review and recommendation, including any additional conditions or restrictions which it may deem necessary or appropriate.
- F. **Hearing and Recommendation by the Plan Commission.** Upon receipt of a completed application, the Zoning Administrator will schedule a public hearing at the Plan Commission. The Plan Commission, before formulating its recommendations to the Common Council, shall hold a public hearing pursuant to the provisions of [§ 15-9.0205](#). Following the public hearing, the Plan Commission shall consider the proposed planned development, the staff report, and the public comment and make a recommendation to the Common Council to make one of the following recommendations base:
1. Recommend approval of the Planned Development,
 2. Recommend approval of the Planned Development with conditions, or
 3. Recommend denial of the Planned Development based on the applicable review standards.
- G. **Action by Common Council.** The Zoning Administrator, on behalf of the Plan Commission, shall transmit a report containing the Plan Commission's recommendation to approve, approve with conditions, or deny the application to Common Council. Common Council shall consider the staff report, public comment received at the public hearing, and recommendation of the Plan Commission and shall take one of the following actions:
1. Approve the Planned Development,
 2. Approve the Planned Development with conditions,
 3. Deny the Planned Development,
 4. Refer the Planned Development back to the Plan Commission for further review.

15-10-07. Amendments to Planned Developments

- A. **Determination.** Upon receiving a Planned Development amendment application, including the information required by the Zoning Administrator, the Zoning Administrator shall determine whether the amendment is a major amendment, or a minor amendment based on the criteria detailed in **Section ###-##-###** (B) and (C) below.
- B. **Major Amendment.** A major amendment is any proposed change to an adopted Planned Development that results in one (1) or more of the following changes:
1. Increase in density;
 2. A five (5) percent increase in impervious surface or modification to the approved stormwater management plan.
 3. Reduction of open space by more than five (5) percent;
 4. Modification of the proportion of housing types;
 5. Increase in the approved gross floor area by more than five hundred (500) square feet;
 6. Alteration of the alignment of roads, utilities, or drainage;
 7. Modification of any other site feature inconsistent with any standard or condition imposed by the Common Council in approving the Planned Development, as determined by the Zoning Administrator.
- C. **Minor Amendment.** A minor amendment is any proposed change to an approved Planned Development that is consistent with the standards and conditions upon which the Planned Development application was approved and Planned Development adopted, which does not alter the concept or intent of the Planned Development and is not considered a major amendment as detailed in **Section ###-##-###**.
- D. **Approval Processes.**
1. A major amendment to an adopted Planned Development shall follow the procedure set in **Section ###-##-###**.
 2. A minor amendment to an approved Planned Development may be approved by the Zoning Administrator.

Article 11. Nonconforming Buildings, Structures, and Uses

15-11-01. Existing Nonconforming Uses 1

15-11-02. Existing Nonconforming Structures 1

15-11-03. Existing Substandard Lots 2

15-11-04. Continuance of Use 2

15-11-05. Discontinuance of Use 2

15-11-06. Repairs and Alterations 3

15-11-07. Damage and Destruction 3

15-11-08. Additions and Enlargements 4

15-11-09. Changes and Substitutions 4

15-11-10. Exempted Buildings, Structures, and Uses 4

15-11-01. Existing Nonconforming Uses

- A. The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this UDO may be continued although the use does not conform with the provisions of this UDO provided that:
1. **Portion of the Land or Water in Actual Use May Be Continued.** Only that portion of the land or water in actual use may be so continued and the nonconforming use may not be extended, enlarged, substituted, or moved, except when required to do so by law or order or so as to comply with the provisions of this UDO.
 2. **Substitution of New Equipment.** Substitution of new equipment may be permitted by the Board of Zoning and Building Appeals if such equipment will reduce the incompatibility of the nonconforming use or structure with the neighboring uses.
 3. **Conforming Conditional Uses.** See **Division ##-#-##** for uses existing at the effective date of this UDO, which would be classified as Conditional Uses under the provisions of this UDO.

15-11-02. Existing Nonconforming Structures

- A. The lawful nonconforming use of a structure existing at the time of the adoption or amendment of this UDO may be continued although the structure's size or location does not conform with the established building setback line along streets or the yard, height, parking, loading, access, and lot area or lot area per dwelling unit provisions of this UDO provided that:
1. **Total Structural Repairs or Alterations.** Total structural repairs or alterations to a nonconforming structure shall not exceed fifty (50) percent of the municipality's equalized assessed value of the structure unless it is permanently changed to conform to the use provisions of this UDO.
 2. **Substitution of New Equipment.** Substitution of new equipment may be permitted by the Board of Zoning and Building Appeals if such equipment will reduce the incompatibility of the nonconforming use or structure with the neighboring uses.

3. **Repairs and Alterations.** Repairs and alterations permitted under the provisions of this Ordinance to nonconforming buildings and structures located in floodplains shall include floodproofing to those portions of the building or structure involved in such repairs or alterations. Certification of floodproofing shall be made to the Zoning Administrator and shall consist of a plan or document certified by a registered professional engineer that the flood-proofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one-hundred-year recurrence interval flood level for the particular area.

15-11-03. Existing Substandard Lots

- A. **Residential Substandard Lots.** A lot located in a residential district which does not contain sufficient area to conform to the dimensional requirements of this UDO, but which lot is at least fifty (50) feet wide and six-thousand (6,000) square feet in area, may be used as a single building site provided that:
 1. The use is permitted in the governing district.
 2. The lot is a lot of record in the Milwaukee County Register of Deeds Office prior to the effective date of this UDO.
 3. The lot has the ability to connect to public sanitary sewer, if less than forty-thousand (40,000) square foot in size.
- B. **Nonresidential District Substandard Lots.** A lot located in a commercial and mixed-use, industrial and agricultural, or miscellaneous district which does not contain sufficient area to conform to the dimensional requirements of this UDO may be used as a building site provided that the lot is a lot of record in the Milwaukee County Register of Deeds Office prior to the effective date of this UDO.
- C. **Setback and Yard Requirements.** Substandard lots granted permits under this UDO shall be required to meet the setback and other yard requirements of this UDO. A Building Permit for the improvement of a lot with lesser dimensions and requisites than those stated in Section A. of this Section shall be issued only after a variance is granted by the Board of Appeals.
- D. **Two (2) or More Substandard Lots with Continuous Frontage Under the Same Ownership.** If two (2) or more substandard lots with continuous frontage have the same ownership as of the effective date of this UDO, the lots involved shall be considered to be an individual parcel for the purpose of this UDO.

15-11-04. Continuance of Use

- A. **Legal Nonconforming Use.** Any lawfully established use of a building or land that does not conform to the use regulations for the district in which it is located at the time of the adoption of this UDO shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.
- B. **Continuation of Legal Nonconforming Uses.** Any legal nonconforming buildings or structures may be continued in use provided there is no physical changes other than necessary maintenance and repair, except as otherwise permitted herein.
- C. **Buildings and Uses for which a Zoning Compliance Permit, Conditional Use Permit, or Building Permit Has Been Granted.** Any building or use for which a Zoning Compliance Permit, Conditional Use Permit, or Building Permit has been lawfully granted may be completed in accordance with the approved plans, provided construction is started within ninety (90) days and the exterior of the building or use is completed within six (6) months of the effective date of this UDO. Such building or use shall thereafter be deemed a lawfully established building or use.

15-11-05. Discontinuance of Use

- A. **Building, Structure, or Land Occupied by a Nonconforming Use Changed to or Replaced by a Conforming Use.** Whenever any part of a building, structure, or land occupied by a nonconforming use is changed to or replaced by a conforming use, such premises shall not thereafter be used or occupied by another nonconforming use, even though the building may have been originally designed and constructed for the prior nonconforming use.

- B. **Discontinuance of Nonconforming Use.** Whenever a nonconforming use or part thereof has been discontinued for a period of twelve (12) consecutive months, or whenever there is evidence of a clear intent on the part of the owner to abandon a nonconforming use, such use shall not, after being discontinued or abandoned, be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the zoning district in which the use is located.
- C. **Discontinuance of Nonconforming Use Where No Enclosed Building Is Involved.** Where no enclosed building is involved, discontinuance of a nonconforming use for a period of twelve (12) months shall constitute abandonment and shall not thereafter be used in a nonconforming manner.
- D. **Nonconforming Uses to be Discontinued.** A nonconforming use not authorized by the provisions of this UDO at the time of the adoption of this UDO shall be discontinued.

15-11-06. Repairs and Alterations

- A. **Normal Maintenance Permitted.** Normal maintenance of a building or other structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.
- B. **No Structural Alteration.** No structural alteration shall be made in a building or other structure containing a nonconforming use, except in the following situations:
 1. When the alteration is required by law.
 2. When the alteration will actually result in elimination of the nonconforming use.
 3. When a building is in a residential district containing residential nonconforming uses, said building may be altered in any way to improve livability, provided no structural alterations are made which would increase the number of dwelling units or the bulk of the building.
 4. When a residential building is non-conforming in terms of insufficient yard setback, the residential building may be expanded only where yard setbacks are conforming and in no situation shall the non-conformance setback be expanded.

15-11-07. Damage and Destruction

- A. **Damaged or Destroyed Building, or Other Structure Containing a Nonconforming Use.** If a non-conforming building or other structure, or a building or structure containing a nonconforming use is damaged or destroyed by any means to the extent of fifty (50) or more of its replacement value at that time, the building or other structure can be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the district in which it is located. In the event the damage or destruction is less than fifty (50) of its replacement value, based upon prevailing costs, the building may then be restored to its original condition and the occupancy or use may be continued.
- B. **Reconstruction of Buildings and Structures Located on Floodplains.** Reconstruction permitted under the provision of this Division to building and structures located on floodplains shall include floodproofing to a height two foot above the elevation of the one-hundred-year recurrence interval flood as delineated on large-scale topographic maps prepared by the City or by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) under the Root River Watershed study or as determined through the use of flood profiles and accompanying hydrologic and hydraulic engineering data, to those portions of the building or structure involved in such reconstruction. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one-hundred-year recurrence interval flood level for the particular area.

15-11-08. Additions and Enlargements

- A. **Nonconforming Building Shall Not Be Extended.** A nonconforming building shall not be extended unless the entire building is thereafter devoted to a conforming use and said extension meets all applicable UDO requirements and is made to conform to all the regulations of the district in which it is located.
- B. **Buildings Partially Occupied by a Nonconforming Use.** No building partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use.
- C. **Limitations on the Expansion of a Nonconforming Use.** No nonconforming use may be extended in such a way as to occupy any required usable open space, or any land beyond the boundaries of the zoning lot as it existed on the effective date of this UDO, or to displace any conforming use in the same building or on the same parcel of land.
- D. **Building or Structure Nonconforming with Respect to Yard Setbacks or Any Other Element of Bulk.** A building or structure which is nonconforming with respect to yard setbacks, or any other element of bulk shall not be altered or expanded in any manner which would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located.
- E. **Additions and Enlargements Located on Floodplains.** Additions and enlargements permitted under the provisions of this Division to building and structures located on floodplains shall include floodproofing to a height two foot above the elevation of the one-hundred-year recurrence interval flood as delineated on large-scale topographic maps prepared by the City or by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) under the Root River Watershed study or as determined through the use of flood profiles and accompanying hydrologic and hydraulic engineering data, to those portions of the building or structure involved in such additions and enlargements. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one-hundred-year recurrence interval flood level for the particular area.

15-11-09. Changes and Substitutions

- A. **Nonconforming Use Changed to Conforming Use or Substandard Structure Altered to Comply with this UDO.** Once a nonconforming use has been changed to a conforming use or a substandard structure has been altered so as to comply with this UDO, it shall not revert back to a nonconforming use or substandard structure.
- B. **Substitution of More Restrictive Nonconforming Use for Existing Nonconforming Use.** Once the Board of Zoning and Building Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the prior existing use shall lose its status as a legal nonconforming use and the substituted use shall become subject to all the conditions required by the Board of Zoning and Building Appeals.

15-11-10. Exempted Buildings, Structures, and Uses

- A. Whenever a lawfully existing building or other structure otherwise conforms to the use regulations of the district in which it is located, but is nonconforming only in the particular manner hereinafter specified, the building and use thereof shall be exempt from the requirements of **Section ##-##-##**:
 1. **Dwelling Structure Nonconforming Only as to the Number of Dwelling Units Contained.** In any residential district where a dwelling structure is nonconforming only as to the number of dwelling units it contains, provided no such building shall be altered in any way so as to increase the number of dwelling units therein.
 2. **Commercial and Mixed-Use or Industrial and Agricultural District Where the Use is Less Distant from a Residential Zoning District than Specified.** In any commercial and mixed-use or industrial and agricultural district, where the use is less distant from a residential district than that specified in the regulations for the district in which it is located.

3. **Other.** In any district where an established building, structure, or use is nonconforming with respect to the standards prescribed herein for any of the following:
 - a. Yard setbacks - front, street side, interior side, rear.
 - b. Off-street parking and loading.
 - c. Lot area or lot area per dwelling unit.
 - d. Building height.
 - e. Gross floor area.
 - f. Required landscaping.
4. **Pre-existing Lot Sizes.** Where a lot size was conforming prior to the most recent adoption of this UDO, and subsequent modification to this UDO has revised minimum lot size requirements for a particular district, the lot shall continue to be considered a conforming lot.
5. **Enlargement or Extension of a Nonconforming Use May be Allowed by the Common Council.** The enlargement or extension of a nonconforming use may be allowed by the Common Council, following a public hearing duly noticed and held by the Board of Zoning and Building Appeals, provided that the Board shall determine and set forth in writing:
 - a. Such enlargement or extension is consistent with the public interest.
 - b. Such enlargement or extension will not have an "adverse" effect on property in the surrounding neighborhood on account of visual appearance, increased traffic (pedestrian or vehicular), noise, smoke, odor, or other factors. Further, no such enlargement or extension of a nonconforming use shall be permitted unless all building height, yard, coverage, and off-street parking and loading requirements of this ordinance for the district in which such use is located are adhered to. In the event that a written protest against any enlargement or extension of a nonconforming use, signed and acknowledged by the owners of twenty (20) percent of the property immediately adjoining or across an alley therefrom, or by the owners of twenty (20) percent of the frontage directly across the street therefrom, is filed with the Board of Zoning and Building Appeals, such enlargement or extension shall not be allowed, except by a three-fourths (3/4) vote of the Common Council. No nonconforming use may be enlarged or expanded in floor area or lot area by more than fifty (50) in the aggregate, based upon its size or scope on the effective date of this amendatory ordinance, whether or not such aggregate enlargement or expansion occurs at one time or at successive times.
 - c. Enlargements or extensions permitted under the provisions of this section to building and structures located on floodplains shall include floodproofing to a height two foot above the elevation of the one-hundred-year recurrence interval flood as delineated on large-scale topographic maps prepared by the City or by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) under the Root River Watershed study or as determined through the use of flood profiles and accompanying hydrologic and hydraulic engineering data, to those portions of the building or structure involved in such enlargements or extensions. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one-hundred-year recurrence interval flood level for the particular area.