

CITY OF FRANKLIN
PLAN COMMISSION MEETING*
FRANKLIN CITY HALL COUNCIL CHAMBERS
9229 W. LOOMIS ROAD, FRANKLIN, WISCONSIN
AGENDA
THURSDAY, MARCH 17, 2016, 7:00 P.M.

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

B. **Approval of Minutes**

1. Approval of regular meeting of February 4, 2016.

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

1. **DAVID DRAGER AND RHONDA DRAGER SINGLE-FAMILY RESIDENCE CONSTRUCTION.** Natural Resource Features Special Exception and Certified Survey Map applications by David Drager and Rhonda Drager to permit removal of approximately 0.03 acres (1,307 square feet) of mature woodland grove (removal of 6 trees within a mature grove of 16 trees) and for division of an existing lot containing a residential building into 2 lots, to allow for construction of a single-family residence upon property located at 2925 West Acre Avenue, zoned R-3 Suburban/Estate Single-Family Residence District (Tax Key No. 832-9962-000). **A PUBLIC HEARING IS SCHEDULED FOR THIS MEETING UPON THE NATURAL RESOURCE FEATURES SPECIAL EXCEPTION APPLICATION OF THIS MATTER.**

2. **PLANNED DEVELOPMENT DISTRICT NO. 37 (THE ROCK SPORTS COMPLEX) PROPOSED BASEBALL COMMONS (A SPORTS ANCHORED MIXED-USE DEVELOPMENT).** Planned Development District Amendment and Comprehensive Master Plan Amendment applications by Mike Zimmerman and Greg Marso, Zim-Mar Properties, LLC and John Dargle, Jr., Director, Milwaukee County, Department of Parks, to revise the District and to expand the District to encompass certain adjacent area lands to create the “Ballpark Commons” sports anchored Mixed-Use development, which proposed development also includes commercial, retail and residential uses, for the properties located at 7900 West Crystal Ridge Drive, and along West Rawson Avenue and West Loomis Road and West Old Loomis Road, including, but not limited to 8220, 8240, 8316 and 8490 West Old Loomis Road (not all of the properties subject to the applications currently have an address). The properties which are the subject of this application bear tax key numbers / current zoning designations as follows:

708-8996-000 / PDD No. 37 and FW Floodway District

708-8999-000 / PDD No. 37

744-8980-001 / PDD No. 37 and FW Floodway District

744-8989-000 / PDD No. 37
744-8988-000 / PDD No. 37
744-8985-001 / PDD No. 37
744-8985-002 / PDD No. 37
745-8998-000 / PDD No. 37
745-0029-000 / PDD No. 37
745-8999-004 / PDD No. 37

755-9995-002 / R-3E Suburban/Estate Single-Family Residence District
755-9995-001 / R-3E Suburban/Estate Single-Family Residence District
755-9996-000 / R-3E Suburban/Estate Single-Family Residence District
754-9988-001/ R-3E Suburban/Estate Single-Family Residence District
754-9988-002 / R-3E Suburban/Estate Single-Family Residence District

One parcel, located between West Crystal Ridge Drive on the north and West Loomis Road on the south, immediately south of the existing The Rock Sports Complex, currently zoned B-1 Neighborhood Shopping District, does not bear a tax key number or an address;

and to amend the City of Franklin 2025 Comprehensive Master Plan to change the Future Land Use Map use designations for properties located at approximately 7900 West Crystal Ridge Drive, and along West Rawson Avenue and West Loomis Road and West Old Loomis Road, including, but not limited to 8220, 8240, 8316 and 8490 West Old Loomis Road, from Residential Use and Transportation Use to Mixed-Use (lands south of West Rawson Avenue), and to reclassify certain existing road right-of-ways from Transportation Use to Mixed-Use (lands north of West Rawson Avenue) with regard to the proposed Ballpark Commons sports anchored mixed-use development (Greg Marso, Zim-Mar Properties, LLC, applicant). The properties which are the subject of this application bear addresses / tax key numbers / current zoning designations as follows: 8220 West Old Loomis Road / 755-9995-002 / R-3E Suburban/Estate Single-Family Residence District, 8240 West Old Loomis Road / 755-9995-001 / R-3E Suburban/Estate Single-Family Residence District, 8316 West Old Loomis Road / 755-9996-000 / R-3E Suburban/Estate Single-Family Residence District, [no address] West Rawson Avenue / 754-9988-001 / R-3E Suburban/Estate Single-Family Residence District, 8490 West Old Loomis Road / 754-9988-002 / R-3E Suburban/Estate Single-Family Residence District, and one parcel, located between West Crystal Ridge Drive on the north and West Loomis Road on the south, immediately south of the existing The Rock Sports Complex, currently zoned B-1 Neighborhood Shopping District, does not bear a tax key number or an address, consisting of approximately 14.964 total acres of land (north of West Rawson Avenue) and 39.419 total acres of land (south of West Rawson Avenue). **A PUBLIC HEARING IS SCHEDULED FOR THIS MEETING UPON THE PLANNED DEVELOPMENT DISTRICT AMENDMENT APPLICATION OF THIS MATTER.**

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

1. **PLANNED DEVELOPMENT DISTRICT NO. 13 (WAL-MART/SAM'S WHOLESALE CLUB) AND HOBBY LOBBY LAND DIVISION.**
Condominium (Final) Plat, Certified Survey Map, minor Planned Development District Amendment and Land Division Variance applications by Victor Michel, Treasurer of Manager of WS Franklin LLC, to divide the existing property into two smaller lots to enhance marketability at the rear of the site (Hobby Lobby warehouse space) and to provide outparcel for new development of the front of the site (abutting South 27th Street). The proposed Planned Development District Amendment is to allow for zero foot interior building and parking setbacks between these two parcels and the Land Division Variance is required to waive the prohibition of flag lots (Section 15-5.0106 of the Unified Development Ordinance) for Lot 1, for property zoned Planned Development District No. 13 (Wal-Mart/Sam's Wholesale Club) and FW Floodway District, Lots 1 and 2 located at 6803, 6805 and 6807 South 27th Street; Tax Key No. 738-9974-006.

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 7, 2016

City of Franklin
Plan Commission Meeting
February 4, 2016
Minutes

unapproved

Call to Order and Roll Call

- A. Mayor Steve Olson called the February 4, 2016 Regular Plan Commission meeting to order at 7:01 p.m. in the Council Chambers at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin.

Present were Alderman Mark Dandrea, City Engineer Glen Morrow, and Commissioners Kevin Haley and Patricia Hogan. Excused were Commissioners Scott Thinnes and David Fowler. Also present was Principal Planner Nick Fuchs.

Approval of Minutes

Regular Meeting of January 7, 2016.

- B.
1. Commissioner Hogan moved and Commissioner Haley seconded approval of the January 7, 2016 minutes of the Regular meeting of the Plan Commission as presented. On voice vote, all voted 'aye'. Motion carried.

Public Hearing Business Matters

(action may be taken on all matters following the respective Public Hearing thereon)

- C. None

Business Matters

WE ENERGIES TEMPORARY JOB REPORTING SITE AND STAGING AREA FOR AN ELECTRIC

FACILITIES PROJECT Temporary Use application by Agent Paul Mallas, We Energies, for a job reporting site and staging area to enhance system reliability by bringing in a new feeder and updating facilities in the area, with crews arriving at the site between 6:30 a.m. and 7:15 a.m., leaving the site at approximately 4:00 p.m., Monday through Friday, with possible limited weekend hours for planned outages only, from February 8, 2016 through May 8, 2016 (90 days), at 11339-11401 West Forest Home Avenue, on property zoned M-2 General Industrial District; Tax Key No. 748-9992-000

- D.
1. Principal Planner Nick Fuchs presented the request by Agent Paul Mallas, We Energies, for Temporary Use approval.

Commissioner Haley made a motion to approve a resolution imposing conditions and restrictions for the approval of a Temporary Use for a job reporting site and staging area for an electric facilities project upon property located at 1139-11401 W. Forest Home Avenue. Seconded by Hogan. On voice vote, all voted 'aye'. Motion carried (6-0-0).

Adjournment

- E. Commissioner Hogan moved and Commissioner Haley seconded to adjourn the Plan Commission meeting of February 4, 2016 at 7:02 p.m. All voted 'aye'; motion carried.

DRAFT



CITY OF FRANKLIN



REPORT TO THE PLAN COMMISSION

Meeting of March 17, 2016

Certified Survey Map and Natural Resource Special Exception

RECOMMENDATION: City Development Staff recommends approval of the Certified Survey Map and Natural Resource Special Exception Applications, subject to the conditions of approval in attached draft resolution and Standards Findings and Decision.

Project Name:	Drager Certified Survey Map and NRSE
Project Address:	2925 West Acre Avenue
Applicant:	David & Rhonda L. Drager
Property Owner:	David & Rhonda L. Drager
Current Zoning:	R-3 Suburban/Estate Single-Family Residence District
2025 Comprehensive Plan:	Residential and Areas of Natural Resource Features
Use of Surrounding Properties:	Single-family residential to the north, east and west and vacant land zoned mixed-use commercial to the south.
Applicant Action Requested:	Recommendation to the Common Council for approval of the proposed Certified Survey Map (CSM) and Natural Resource Special Exception (NRSE)

Please note:

- Staff recommendations are *underlined, in italics* and are included in the draft ordinance.

INTRODUCTION:

On September 22, 2015, the applicants filed a Certified Survey Map (CSM) Application with the Department of City Development, requesting approval to split an approximately 1.83-acre property into two parcels. Mr. and Mrs. Drager intend to build a new single-family home for themselves on the newly created parcel. The initial CSM application submittal lacked a complete Natural Resource Protection Plan (NRPP) as required by Section 15-7.0201 of the City of Franklin Unified Development Ordinance. At that time, the applicants were not sure whether protected resources would be impacted by their proposed development, because they did not have a design for their new home yet. As a result, a complete NRPP could not be completed until building plans were prepared by an architect.

According to Section 15-9.0309-C of the UDO, the Common Council shall approve, approve conditionally and thereby require resubmission of corrected Certified Survey Map, or reject such Certified Survey Map within ninety (90) days from the date of filing of the map unless time is extended by agreement with the Subdivider. December 21st, 2015 was the 90-day deadline for the application. Therefore, Staff recommended the applicants provide the City with a letter granting

an extension for reviewing their application beyond the 90 day deadline. On October 26, 2015, Staff received a letter from David and Rhonda Drager granting the City a 120-day extension for reviewing their CSM application. With the extension, the new deadline for the Common Council to approve, approve conditionally and thereby require resubmission of corrected Certified Survey Map, or reject such Certified Survey Map is April 19, 2016.

On February 16, 2016, after completion of architectural plans for their new home, the Drager's submitted a Natural Resource Special Exception Application to the Department of City Development. The applicants are requesting approval of a Special Exception to Natural Resource Feature Provisions to impact approximately 0.03 acres (1,307 square feet) of mature woodland grove.

PROJECT DESCRIPTION:

The property at 2925 West Acre Avenue is approximately 1.83-acres and encompasses the Drager's existing single-family residence. As previously stated, the Drager's are proposing to divide their property into two lots. The proposed lots are shown on the Certified Survey Map (CSM) as Lot 1 and Lot 2 respectively. Lot 1 will retain the Drager's existing home and accessory structures and have an area of approximately 0.91 acres. Staff recommends the applicant demonstrate the existing driveway on Lot 1 of the proposed CSM meets the minimum required 6' setback from the west lotline. Lot 2 will be a vacant developable lot and have an area of approximately 0.92 acres. The Drager's are planning to build a new single-family home for themselves on Lot 2. Both lots will be served by sanitary sewer, but public water is not available in this area of the City. The applicants must request the Common Council extend public water to serve the proposed new lots and if rejected, then a well-water system may be utilized for each lot. Therefore, Staff recommends the note on Sheet 1 of 4 stating, "Land is served by public Sanitary Sewer and Water" be changed to, "This land is served by public sanitary sewer only; public water is not available in this area."

The proposed lots meet the R-3 Suburban/Estate Single-Family Residence District minimum lot area of 20,000 square feet as well as the minimum lot width of 100 feet. While the existing lot is being divided in half, the two proposed lots are still comparable in size to adjacent lots on West Acre Avenue. The proposed CSM is bordered to the north, east and west by single-family lots that range from 0.78 acres to 0.94 acres.

In addition to the Certified Survey Map Application, the applicant is requesting approval of a Special Exception to Natural Resource Feature Provisions to impact approximately 0.03 acres (1,307 square feet) of mature woodland grove, beyond the allowable 30% impact (0.11 acres), for the construction of a new single-family home on the proposed Lot 2.

According to Division 15-11.0100 of the City of Franklin Unified Development Ordinance a Mature Woodland is defined as, "An area or stand of trees whose total combined canopy covers an area of one (1) acre or more and at least fifty (50) percent of which is composed of canopies of trees having a diameter at breast height (DBH) of at least ten (10) inches; or any grove consisting of eight (8) or more individual trees having a DBH of at least twelve (12) inches whose combined canopies cover at least fifty (50) percent of the area encompassed by the grove."

Based on a site field reconnaissance conducted by Tina Myers, PWS, Ecologist/Project Manager for R.A. Smith National on June 9, 2015, the property contains one mature woodland grove totaling 0.38 acres. The grove consists of more than eight (sixteen total) healthy trees that were 12” or greater including tree species such as box elder (*Acer negundo*), silver maple (*Acer saccharinum*), white willow (*salix alba*), American elm (*Ulmus pumila*) and apple tree (*Malus, pumila*). The property also contains two 50-foot wetland setbacks, totaling 0.054 acres, which are associated with two adjacent off-site wetlands. The applicant is not proposing any impacts to the wetland setbacks on the property.

The applicant is proposing to remove 0.14 acres (38%) of the mature woodland grove, which represents six total trees. The specific trees to be removed include an 18.0” diameter at breast height (DBH) silver maple, two 14.5” DBH silver maples, 22.0” DBH silver maple, 43” DBH white willow and 10.5” DBH apple tree. This would result in ten (10) trees with an area of 0.24 acres remaining on the property. The Wisconsin Department of Natural Resources (WDNR) and U.S. Army Corps of Engineers (USACOE) do not claim jurisdiction over mature woodlands, which is a protection standard required solely by the city of Franklin Unified Development Ordinance. Therefore, no permits are required from either the WDNR or the USACOE.

The applicant is proposing .038 acres of woodland mitigation, which equates to one 2.5” native deciduous tree. The proposed deciduous tree will be planted in the middle of the remaining portion of the mature woodland grove, along the east property line of the proposed Lot 2. The applicant will be selecting one of the following species for the mitigation planting American Basswood (*Tilia americana*), Common Hackberry (*Celtis occidentalis*), Sugar Maple (*Acer saccharum*), Red Oak (*Quercus rubra*) and Bur Oak (*Quercus macrocarpa*). The proposed mitigation complies with mitigation standards for woodlands found in Section 15-4.0103B.1 of the City of Franklin Unified Development Ordinance. Staff recommends the mitigation planting and remaining trees on site, with the exception of Tree No. 3, be placed in a Conservation Easement. Staff also recommends the Conservation Easement be added to the face of the Certified Survey Map. Finally, Staff recommends submittal of a written Conservation Easement for review and approval by the Common Council and recorded with the Milwaukee County Register of Deeds Office.

The Environmental Commission considered the merits of the requested Natural Resource Special Exception at their meeting held on February 24, 2016 and made a recommendation dated March 11, 2016. The Environmental Commission recommended approval under the following specified conditions:

1. A note shall be added to the Conservation Easement exhibit indicating there is a 50-foot wetland setback on the property.
2. Mitigation shall be provided for the proposed impacts to the mature woodland grove.
3. The location of the wetland setbacks shall be verified.

CONCLUSION:

City Development Staff recommends approval of the Certified Survey Map and Natural Resource Special Exception Applications, subject to the conditions of approval in the attached draft resolution and Standards Finding and Decision.

RESOLUTION NO. 2016-_____

A RESOLUTION CONDITIONALLY APPROVING A 2 LOT CERTIFIED
SURVEY MAP, BEING THAT PART OF THE SOUTHEAST 1/4 OF SECTION 13,
TOWN 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, COUNTY
OF MILWAUKEE, STATE OF WISCONSIN
(DAVID DRAGER AND RHONDA L. DRAGER, APPLICANTS)
(2925 WEST ACRE AVENUE)

WHEREAS, the City of Franklin, Wisconsin, having received an application for approval of a certified survey map, such map being that part of the Southeast 1/4 of Section 13, Town 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, more specifically, of the property located at 2925 West Acre Avenue, bearing Tax Key No. 832-9962-000, David Drager and Rhonda L. Drager, applicants; said certified survey map having been reviewed by the City Plan Commission and the Plan Commission having recommended approval thereof pursuant to certain conditions; and

WHEREAS, the Common Council having reviewed such application and Plan Commission recommendation and the Common Council having determined that such proposed certified survey map is appropriate for approval pursuant to law upon certain conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Certified Survey Map submitted by David Drager and Rhonda L. Drager, as described above, be and the same is hereby approved, subject to the following conditions:

1. That any and all objections made and corrections required by the City of Franklin, by Milwaukee County, and by any and all reviewing agencies, shall be satisfied and made by the applicant, prior to recording.
2. That all land development and building construction permitted or resulting under this Resolution shall be subject to impact fees imposed pursuant to §92-9. of the Municipal Code or development fees imposed pursuant to §15-5.0110 of the Unified Development Ordinance, both such provisions being applicable to the development and building permitted or resulting hereunder as it occurs from time to time, as such Code and Ordinance provisions may be amended from time to time.
3. Each and any easement shown on the Certified Survey Map shall be the subject of separate written grant of easement instrument, in such form as provided within the *City of Franklin Design Standards and Construction Specifications* and such form and content as may otherwise be reasonably required by the City Engineer or

DAVID DRAGER AND RHONDA L. DRAGER – CERTIFIED SURVEY MAP
RESOLUTION NO. 2016-_____

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designee to further and secure the purpose of the easement, and all being subject to the approval of the Common Council, prior to the recording of the Certified Survey Map.

4. David Drager and Rhonda L. Drager, successors and assigns, and any developer of the David Drager and Rhonda L. Drager 2 lot certified survey map project, shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consults to the City of Franklin, 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.
5. The approval granted hereunder is conditional upon David Drager and Rhonda L. Drager and the 2 lot certified survey map project for the property located at 2925 West Acre Avenue: (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.
6. The existing driveway on Lot 1 of the proposed Certified Survey Map shall meet the minimum required 6-foot driveway setback, in accordance with Section 15-5.0202C.8 of the City of Franklin Unified Development Ordinance.
7. The note on Sheet 1 of 4 stating, “Land is served by public Sanitary Sewer and Water” shall be changed to, “This land is served by public sanitary sewer only; public water is not available in this area.”
8. The mitigation planting and the remaining trees of the mature woodland grove, with the exception of Tree No. 3, shall be placed in a Conservation Easement.
9. The Conservation Easement shall be graphically indicated and clearly delineated and dimensioned on the face of the Certified Survey Map in accordance with Section 15-7.0702P of the Unified Development Ordinance.
10. A written Conservation Easement shall be submitted for review and approval by the Common Council and recorded with the Milwaukee County Register of Deeds Office.
11. [other conditions, etc.]

BE IT FURTHER RESOLVED, that the Certified Survey Map, certified by owners, David Drager and Rhonda L. Drager, be and the same is hereby rejected without final approval and without any further action of the Common Council, if any one, or more than one of the above conditions is or are not met and satisfied within 180 days from the date of adoption of this Resolution.

BE IT FINALLY RESOLVED, that upon the satisfaction of the above conditions within 180 days of the date of adoption of this Resolution, same constituting final approval, and pursuant to all applicable statutes and ordinances and lawful requirements and procedures for the recording of a certified survey map, the City Clerk is hereby directed to obtain the recording of the Certified Survey Map, certified by owners, David Drager and Rhonda L. Drager, with the Office of the Register of Deeds for Milwaukee County.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

DAVID DRAGER AND RHONDA L. DRAGER – CERTIFIED SURVEY MAP
RESOLUTION NO. 2016-_____

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APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

Draft 3/10/16

Standards, Findings and Decision
of the City of Franklin Common Council upon the Application of David Drager and
Rhonda Drager for a Special Exception to Certain Natural Resource Provisions of the
City of Franklin Unified Development Ordinance

Whereas, David Drager and Rhonda Drager having filed an application dated February 15, 2016, for a Special Exception pursuant to Section 15-9.0110 of the City of Franklin Unified Development Ordinance pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature; a copy of said application being annexed hereto and incorporated herein as Exhibit A; and

Whereas, the application having been reviewed by the City of Franklin Environmental Commission and the Commission having made its recommendation upon the application, a copy of said recommendation dated February 24, 2016 being annexed hereto and incorporated herein as Exhibit B; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated March 17, 2016 being annexed hereto and incorporated herein as Exhibit C; and

Whereas, the property which is the subject of the application for a Special Exception is located at approximately 2925 West Acre Avenue, zoned R-3 Suburban/Estate Single-Family Residence District, and such property is more particularly described upon Exhibit D annexed hereto and incorporated herein; and

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

Now, Therefore, the Common Council makes the following findings pursuant to Section 15-10.0208B.2.a., b. and c. of the Unified Development Ordinance upon the application for a Special Exception dated February 15, 2016, by David Drager and Rhonda Drager, pursuant to the City of Franklin Unified Development Ordinance, the

proceedings heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

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

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

a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives:_____; *or*

b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: _____.

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

a. be consistent with the existing character of the neighborhood: *the proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood; and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: _____; *and*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement:_____; *and*

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

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

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks:_____.

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

Decision

Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby grants a Special Exception for such relief as is described within Exhibit C, upon the conditions: 1) that the natural resource features upon the property to be developed be protected by a perpetual conservation easement to be approved by the Common Council prior to any development within the areas for which the Special Exception is granted; 2) that the

applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted; 3) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for David Drager and Rhonda Drager and all other applicable provisions of the Unified Development Ordinance. The duration of this grant of Special Exception is permanent.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

City of Franklin Environmental Commission

TO: Common Council
DATE: March 11, 2016
RE: Special Exception application review and recommendation
APPLICATION: David Drager and Rhonda Drager, Applicants, dated: February 16, 2016 (2925 West Acre Avenue)

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

1. Unified Development Ordinance Section(s) from which Special Exception is requested: *Table 15-4.0100 of the Unified Development Ordinance.*
2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions):
3. Applicant's reason for request: *The Special Exception requested is to impact approximately 0.03 acres (1,307 square feet) of mature woodland grove (or 1 extra tree), beyond the allowable 30% impact. In other words, the request is to remove six (6) trees from the sixteen (16) tree mature woodland grove on Lot 2 for the construction of the Drager's new single-family residence, instead of the allowable five (5) trees.*
4. Applicant's reason why request appropriate for Special Exception: *Without the requested special exception, the Drager's could not build a new single-family residence in compliance with the R-3 District Standards on Lot 2 of the proposed Certified Survey Map.*

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

1. Diversity of flora including State and/or Federal designated threatened and/or endangered species: *No significant impact is anticipated. The undisturbed trees on the property include various species. The proposed improvements will not impact any State or Federal designated threatened or endangered species or species of special concern.*

2. Storm and flood water storage: *No significant impact is anticipated. The property does not include floodplains or wetlands and the wetland setbacks on the property will remain undisturbed.*
3. Hydrologic functions: *No significant impact is anticipated.*
4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances: *No significant impact is anticipated.*
5. Shoreline protection against erosion: *No impact is anticipated. The property does not contain any shoreline and proper erosion control measures will be employed.*
6. Habitat for aquatic organisms: *No impact is anticipated.*
7. Habitat for wildlife: *No significant impact is anticipated.*
8. Human use functional value: *No impact is anticipated.*
9. Groundwater recharge/discharge protection: *No significant impact is anticipated. After the construction of the proposed home, the property will still have a significant amount of undisturbed green space for groundwater recharge/discharge protection.*
10. Aesthetic appeal, recreation, education, and science value: *The removal of trees and addition of a new single-family residence will change the aesthetic appearance of the property from the street, but there will still be undisturbed trees in the rear portion of the property and the new home will be aesthetically compatible with surrounding homes in the neighborhood.*
11. State or Federal designated threatened or endangered species or species of special concern: *Not applicable – The proposed improvements will not impact any State or Federal designated threatened or endangered species or species of special concern.*
12. Existence within a Shoreland: *Not applicable – The area is not located within a shoreland.*
13. Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time: *Not applicable – The area is not located within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area as mapped by the Southeastern Wisconsin Regional Planning Commission.*

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

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *The proposed location of the single-family residence within the mature woodland grove is the result of complying with the City's development standards for the R-3 Suburban/Estate Single-Family Residence District and an attempt to keep in line with neighboring homes.*
2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:
 - a. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives: ; or
 - b. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives: *Due to the position of the mature woodland grove on the property, impacts are unavoidable. Especially when factoring the City's minimum setback requirements and minimum dwelling size requirements for the proposed residence. The applicants do not own any other property in the City to serve as an alternate site.*
3. The Special Exception, including any conditions imposed under this Section will:
 - a. be consistent with the existing character of the neighborhood: *The proposed impacts to the mature woodland grove are minimal and will not adversely impact the character of the neighborhood. Furthermore, the proposed single-family residence will be consistent with the existing character of the neighborhood; and*
 - b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The circumstances surrounding this project are unique to the Drager's and thus will not undermine the City's ability to apply or enforce the natural resource protection requirements with respect to other properties ; and*
 - c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *As the requested exception is nominal and will be mitigated on site; and whereas the mitigation and remaining trees will be protected in perpetuity by a conservation easement,*

the proposed project is in harmony with the general purpose and intent of the provisions of this Ordinance; and

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

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

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The project will meet all other zoning requirements.*
2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *The Drager's property is the larger than any of the adjacent lots and probably the only divisible lot on the block. Furthermore, the other lots on the block we're all developed prior to the City's natural resource protection standards.*
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The existing use is residential and the future use will remain residential.*
4. Aesthetics: *The proposed special exception will have minimal impacts on the aesthetics of the property. When completed, the new home will be consistent with the aesthetics of neighboring properties.*
5. Degree of noncompliance with the requirement allowed by the Special Exception: *The Special Exception requested is to impact approximately 0.03 acres (1,307 square feet) of mature woodland grove (or 1 extra tree), beyond the allowable 30% impact. In other words, the request is to remove six (6) trees from the sixteen (16) tree mature woodland grove on Lot 2 for the construction of the Drager's new single-family residence, instead of the allowable five (5) trees.*
6. Proximity to and character of surrounding property: *The Drager's property is bordered by single-family residences to the north, east and west and vacant commercial land to the south.*
7. Zoning of the area in which property is located and neighboring area: *The Drager's property and the properties to the north, east and west are zoned R-3*

Suburban/Estate Single-Family Residence District. The vacant property to the south is zoned B-4 South 27th Street Mixed-Use Commercial District.

8. Any negative affect upon adjoining property: *No negative effects are anticipated.*
9. Natural features of the property: *Mature woodland grove and wetland setbacks.*
10. Environmental impacts: *The Special Exception requested is to impact approximately 0.03 acres (1,307 square feet) of mature woodland grove (or 1 extra tree), beyond the allowable 30% impact. In other words, the request is to remove six (6) trees from the sixteen (16) tree mature woodland grove on Lot 2 for the construction of the Drager's new single-family residence, instead of the allowable five (5) trees.*

V. Environmental Commission Recommendation:

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

1. The recommendations set forth in Sections III. and IV. Above are incorporated herein.
2. The Environmental Commission recommends [**approval**] of the Application upon the aforesaid recommendations for the reasons set forth therein.
3. The Environmental Commission recommends that should the Common Council approve the Application, that such approval be subject to the following conditions:
 - a. *A note shall be added to the Conservation Easement stating exhibit indicating there is a 50-foot wetland setback on the property.*
 - b. *Mitigation shall be provided for impacts to the mature woodland grove.*
 - c. *The location of the wetland setbacks shall be verified.*

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the ____ day of _____, 2016.

Dated this ____ day of _____, 2016.

Wesley Cannon, Chairman

Attest:

Curtis Bolton, Vice-Chairman

CERTIFIED SURVEY MAP NO. _____

Being a part of the Southeast 1/4 of the Southeast 1/4 of Section 13, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

WISCONSIN
DENNIS SAUER
S-2421
FRANKLIN, WI
September 8, 2015
Revised March 9, 2016

C/L W. Acre Ave.

(60' R.O.W.)

S 88°03'36" W 201.10'

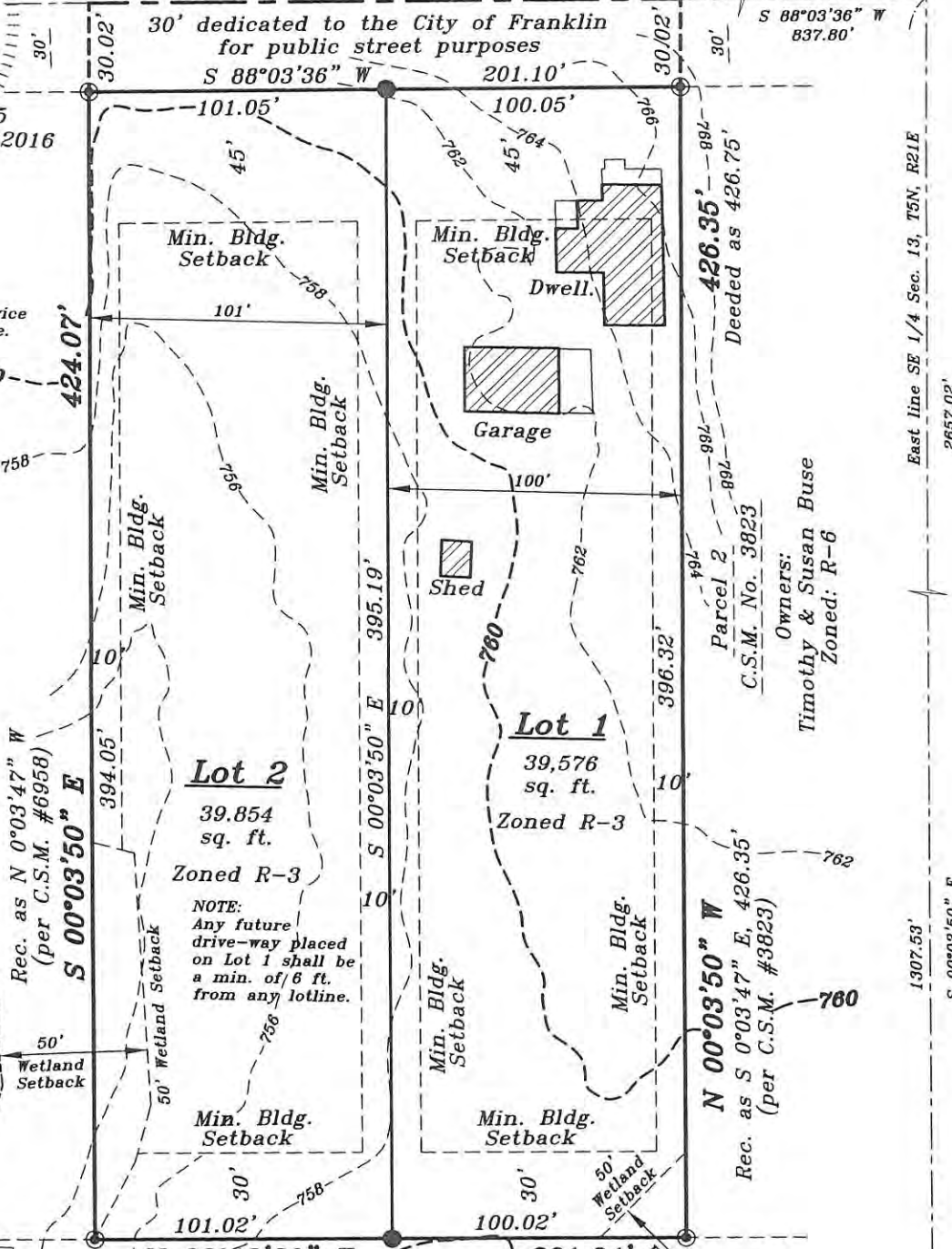
NE Cor., SE 1/4
Sec. 13-5-21
(conc mon.
w/brass cap)
N = 332,768.13
E = 2,549,156.52

Prepared by:
Metropolitan Survey Service
9415 W. Forest Home Ave.
Hales Corners, WI 53130

Prepared for:
David & Rhonda Drager
2925 W. Acre Ave.
Franklin, WI 53132

Parcel 2
C.S.M. No. 6958
Owners:
Jack & Mary Wojes
Zoned: R-3

Scale:
1"=60'

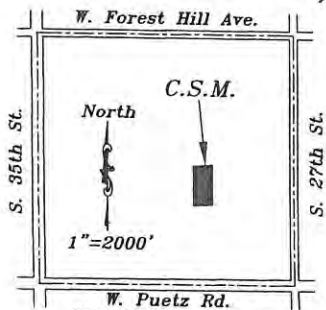


R-3 Zoning Setback Requirements:
Front = 45ft.
Rear = 30ft.
Side = 10ft.

Land is served by Sanitary Sewer and Water.

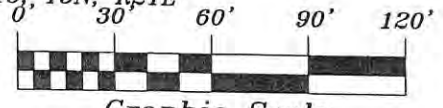
- — Denotes 1" x 24" iron pipe set.
- ⊙ — Denotes iron pipe found and accepted.

Map bearings refer to Grid North of the Wisconsin State Plane Co-ordinate System, South Zone (NAD-27), with the East line of the SE 1/4 of Sec. 13, T5N, R21E having an assumed bearing of N 0°03'50" W.



Vicinity Map

SE 1/4 Sec. 13, T5N, R21E



Graphic Scale
Scale: 1"=60'

CERTIFIED SURVEY MAP NO. _____

Being a part of the Southeast 1/4 of the Southeast 1/4 of Section 13,
Township 5 North, Range 21 East, in the City of Franklin, Milwaukee
County, Wisconsin.

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)
MILWAUKEE COUNTY) SS

I, Dennis C. Sauer, Professional Land Surveyor, do hereby certify:
That I have surveyed a part of the Southeast 1/4 of the Southeast 1/4
of Section 13, Township 5 North, Range 21 East, in the City Franklin,
Milwaukee County, Wisconsin; bounded and described as follows:
Commencing at the Northeast corner of said Southeast 1/4; thence S
00° 03' 50" E, along the East line of said Southeast 1/4, 1349.49
feet to a point on the Centerline of West Acre Avenue; thence S 88°
03' 36" W along said Centerline, 837.80 feet to the point of
beginning of the lands to be described; thence continuing S 88° 03'
36" W along said Centerline, 201.10 feet to a point; thence S 00° 03'
50" E, 424.07 feet to a point; thence N 88° 42' 30" E, 201.04 feet to
a point; thence N 00° 03' 50" W, 426.35 feet to the point of
beginning. Dedicating therefrom the North 30.00 feet for Public
Street Purposes. Said lands contain 85,464 square feet (1.96 acres).

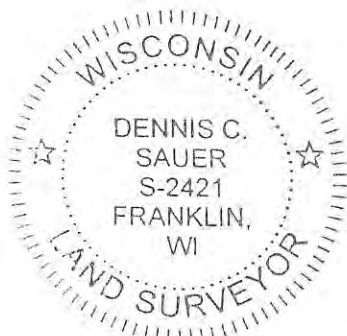
That I have made such survey, land division and map by the direction
of David Drager and Rhonda L Drager, husband and wife, owners of said
land.

That such map is a correct representation of all the exterior
boundaries of the land surveyed and the land division thereof made.

That I have fully complied with the provisions of Chapter 236.34 of
the Wisconsin State Statutes and the Unified Development Ordinance -
Division 15, of the City of Franklin Municipal Code in surveying,
dividing and mapping the same.

September 8, 2015
Date


Dennis C. Sauer
Professional Land Surveyor S-2421



PREPARED FOR:
David & Rhonda Drager
2925 W Acre Avenue
Franklin, WI 53132

PREPARED BY:
Metropolitan Survey Service
9415 West Forest Home Avenue
Hales Corners, WI 53130

CERTIFIED SURVEY MAP NO. _____

Being a part of the Southeast 1/4 of the Southeast 1/4 of Section 13,
Township 5 North, Range 21 East, in the City of Franklin, Milwaukee
County, Wisconsin.

OWNER'S CERTIFICATE

As owners, David Drager and Rhonda L Drager, husband and wife, do hereby certify that we have caused the land described on this map to be surveyed, divided, mapped and dedicated as represented on this map in accordance with the requirements of Chapter 236.34 of the Wisconsin State Statutes and Unified Development Ordinance - Division 15, of the City of Franklin Municipal Code.

WITNESS the hand and seal of said owners this _____ day of _____, 20_____.

David Drager

Rhonda L Drager

STATE OF WISCONSIN)
Milwaukee COUNTY) SS

PERSONALLY came before me this _____ day of _____, 20_____, David Drager and Rhonda L Drager, husband and wife, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public
State of Wisconsin
My Commission Expires: _____

CONSENT OF MORTGAGEE

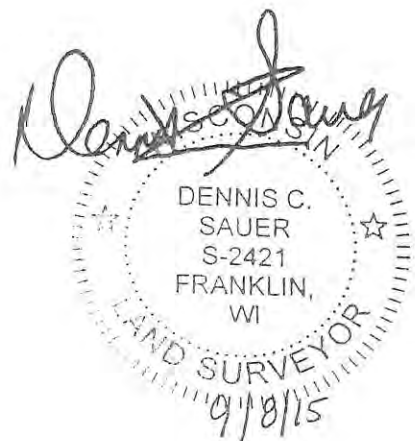
Landmark Credit Union, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, mortgagee of the above described land, does hereby consent to the surveying, dividing, mapping and dedication of the land described on this map and does hereby consent to the above certification of owner.

IN WITNESS WHEREOF, the said Landmark Credit Union, has caused these presents _____ to _____ be _____ signed by _____, (title) _____, at _____, Wisconsin, this _____ day of _____, 20_____.

Landmark Credit Union:

Signed
Print Name and Title: _____

STATE OF WISCONSIN)
MILWAUKEE COUNTY) SS



CERTIFIED SURVEY MAP NO. _____

Being a part of the Southeast 1/4 of the Southeast 1/4 of Section 13,
Township 5 North, Range 21 East, in the City of Franklin, Milwaukee
County, Wisconsin.

CONSENT OF MORTGAGEE CONTINUED:

PERSONALLY came before me this _____ day of _____, 20____,
_____, (Title) _____, of Landmark Credit
Union, to me known to be the person who executed the foregoing
instrument and to me known to be such officer of said corporation and
acknowledged the same.

Signature

Print Name: _____
Notary Public State of Wisconsin
My Commission Expires: _____

COMMON COUNCIL APPROVAL

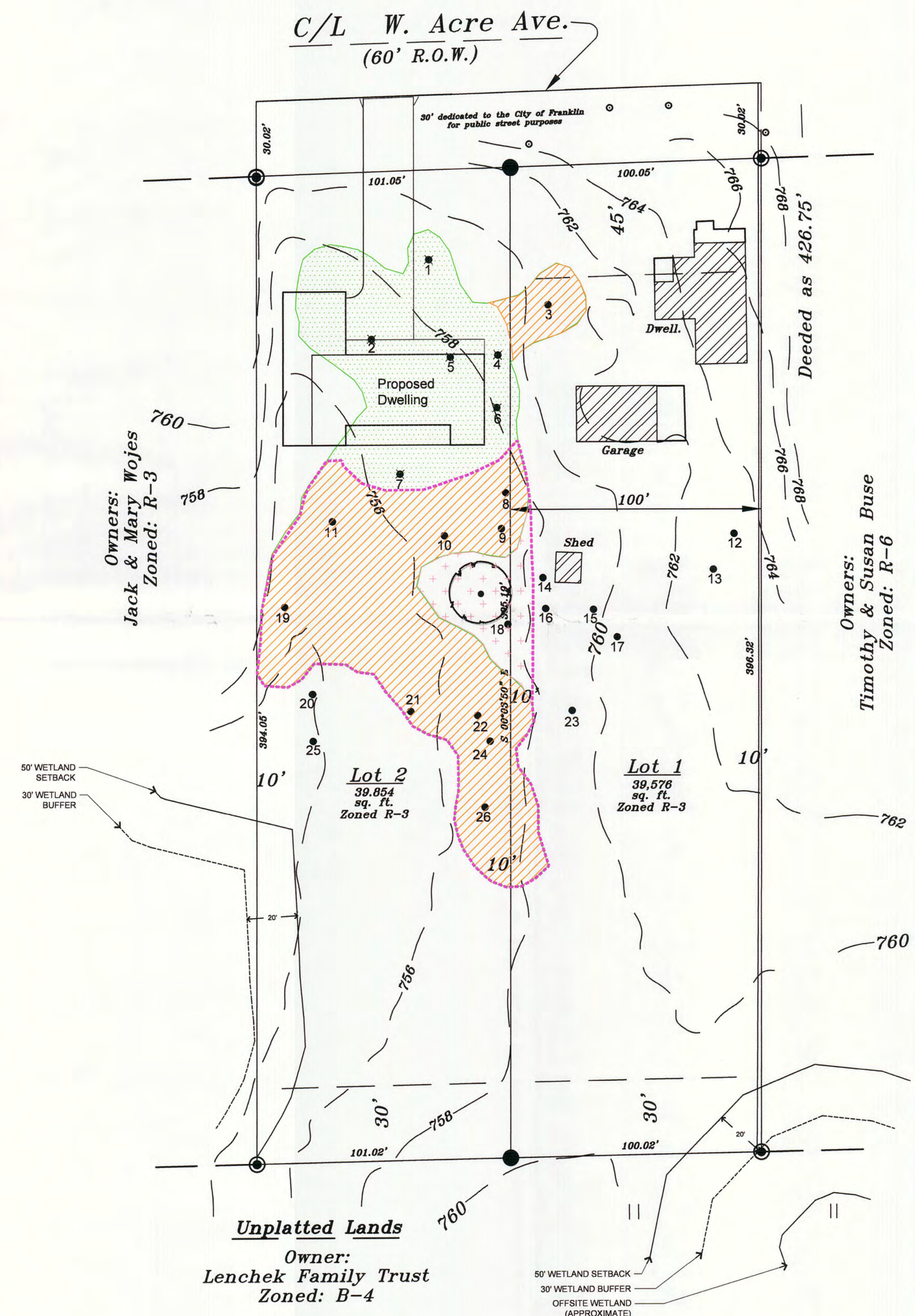
APPROVED and Dedication accepted by the Common Council of the City of
Franklin, Resolution No. _____, on this _____ day of
_____, 20_____.

Stephen Olson, Mayor
City of Franklin

Sandra L. Wesolowski, Clerk
City of Franklin



THIS INSTRUMENT WAS DRAFTED BY:
Dennis C Sauer, P.L.S. S-2421



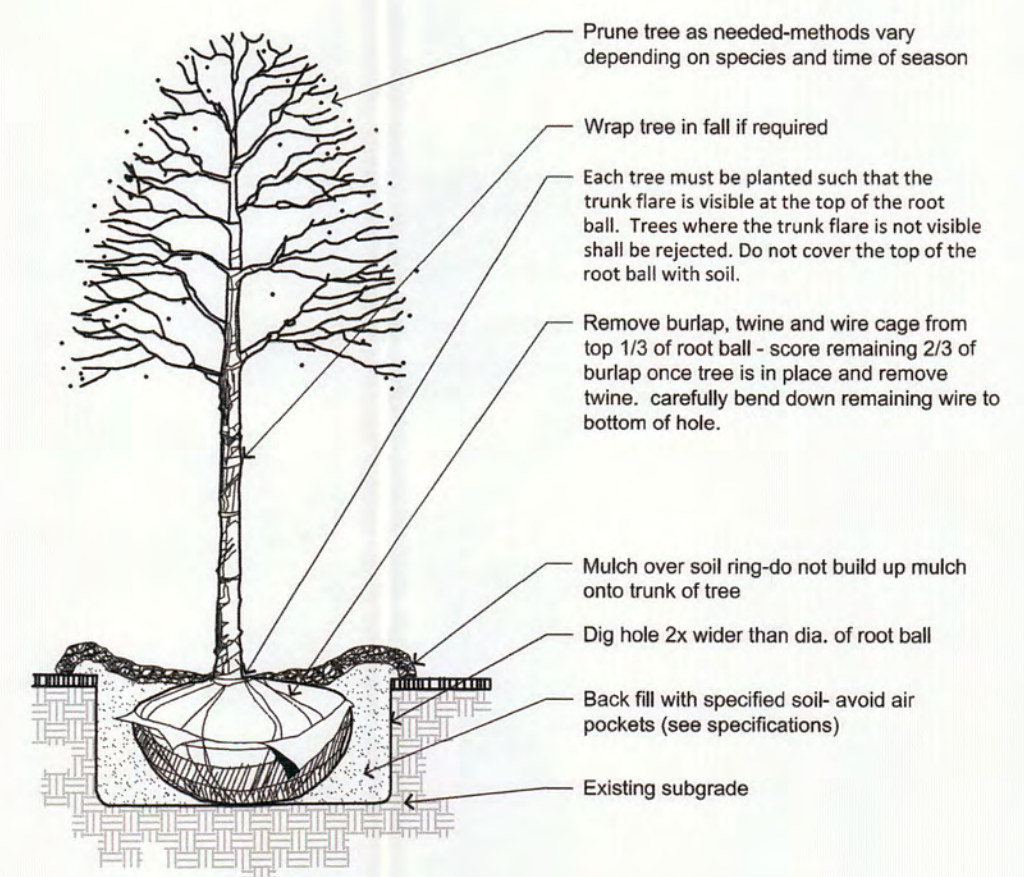
Tree Survey Table

Tree #	Tree Type	DBH (inches)	Comment
1	Malus pumila	10.5	
2	Salix alba	43.0	
3	Acer saccharinum	34.0	
4	Acer saccharinum	18.0	
5	Acer saccharinum	14.5	
6	Acer saccharinum	14.5	
7	Acer saccharinum	22.0	
8	Acer negundo	15.0	
9	Acer saccharinum	20.0	
10	Salix alba	40.0	
11	Acer saccharinum	20.0	
12	Gleditsia tricanthos	19.0	
13	Acer saccharinum	25.0	
14	Acer negundo	12.0	
15	Acer negundo	15.5	dying
16	Acer negundo	18.5	dying
17	Acer negundo	17.0	
18	Acer negundo	16.5	dying
19	Ulmus americana	20.0	
20	Acer negundo	21.0	dying
21	Acer negundo	13.0	
22	Salix alba	33.0	
23	Acer negundo	13.0	
24	Ulmus americana	10.0	
25	Acer negundo	17.0	
26	Salix alba	30+	

Legend

- MATURE WOODLAND IMPACTED - 0.144 Acres
- CONSERVATION EASEMENT - 0.255 Acres
- MATURE WOODLAND TO BE PRESERVED - 0.237 Acres
- MATURE WOODLAND MITIGATION AREA - 0.038 Acres

- Existing Tree to remain
- ✱ Existing Tree to be removed
- 2.5" Cal. Native Deciduous Tree to be planted
Choose one from the following list:
American Basswood (*Tilia americana*)
Common Hackberry (*Celtis occidentalis*)
Sugar Maple (*Acer saccharum*)
Red Oak (*Quercus rubra*)
Bur Oak (*Quercus macrocarpa*)



1 DECIDUOUS TREE PLANTING DETAIL
NOT TO SCALE

Table 15-3.0503
Worksheet for the Calculation of the Resource Protection Plan

Natural Resource Feature	Protection Standard Based Upon Zoning District Type (circle applicable standard from Table 15-4.0100 for the type of zoning district in which the parcel is located)		Acres of Land in Resource Feature	Acres of Land Required to be Preserved	Acres of Land to be Impacted	Acres of Land Required to be Mitigated
	Agricultural District	Residential District				
Steep Slopes						
10-19%	0	0.6	0.4	X 0.000 = 0.000	0.000	0.000
20-30%	0.65	0.75	0.7	X 0.000 = 0.000	0.000	0.000
30% +	0.9	0.85	0.8	X 0.000 = 0.000	0.000	0.000
Woodlands & Forests						
Mature	0.7	0.7	0.7	X 0.381 = 0.267	0.144	0.038
Young	0.5	0.5	0.5	X 0.000 = 0.000	0.000	0.000
Lakes & Ponds	1	1	1	X 0.000 = 0.000	0.000	0.000
Streams	1	1	1	X 0.000 = 0.000	0.000	0.000
Shore Buffer	1	1	1	X 0.000 = 0.000	0.000	0.000
Floodplains/Floodlands	1	1	1	X 0.000 = 0.000	0.000	0.000
Wetland Buffers	1	1	1	X 0.000 = 0.000	0.000	0.000
Wetland Setbacks	1	1	1	X 0.054 = 0.054	0.000	0.000
Wetlands & Shoreland	1	1	1	X 0.000 = 0.000	0.000	0.000
Wetlands	1	1	1	X 0.000 = 0.000	0.000	0.000
TOTAL RESOURCE PROTECTION LAND (Total of Acres of Land in Resource Required to be Protected)				= 0.32 Acres		0.04 Acres

Table 15-3.0504
Site Intensity and Capacity Calculations

STEP 1: CALCULATE MINIMAL REQUIRED ON-SITE OPEN SPACE:		
Take Base Site Area (from Step 5 in Table 15-3.0502):	1.820	
Multiply by Minimum Open Space Ratio (OSR) (see specific residential zoning district OSR standard):	X 0.000	0.00 acres
Equals MINIMUM REQUIRED ON-SITE OPEN SPACE :	= 0.000	
STEP 2: CALCULATE NET BUILDABLE SITE AREA:		
Take Base Site Area (from Step 5 in Table 15-3.0502):	1.820	
Subtract Total Resource Protection Land (from Table 15-3.0503) or Minimum Required On-Site Open Space (from Step 1 above), whichever is greater:	- 0.267	1.55 acres
Equals NET BUILDABLE SITE AREA :	= 1.550	
STEP 3: CALCULATE MAXIMUM NET DENSITY YIELD OF SITE:		
Take Net Buildable Site Area (from Step 2 above):	1.550	
Multiply by Maximum Net Density (ND) (see specific residential zoning district ND standard):	X 1.718	2.66 acres
Equals MAXIMUM NET DENSITY YIELD OF SITE :	= 2.660	
STEP 4: CALCULATE MAXIMUM GROSS DENSITY YIELD OF SITE:		
Take Base Site Area (from Step 5 in Table 15-3.0502):	1.820	
Multiply by Maximum Gross Density (GD) (see specific residential zoning district GD standard):	X 1.718	3.13 acres
Equals MAXIMUM GROSS DENSITY YIELD OF SITE :	= 3.130	
STEP 5: DETERMINE MAXIMUM PERMITTED D.U.s OF SITE:		
Take the lowest of Maximum Net Density Yield of Site from Step 3 above) or Maximum Gross Density Yield of Site (from Step 4 above):	2.660	2.66 D.U.s

Owners:
David & Rhonda Drager
2925 W. Acre Ave.
Franklin, WI 53132

Contact Person:
David & Rhonda Drager
262-909-4340

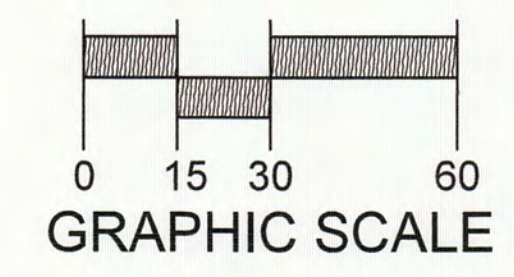
Project Area Location:
Lots 1 & 2 2925 W. Acre Ave.
in the SE 1/4 of Section 13
Township 5 North, Range 21 East

Natural Resources Investigation
Performed on June 5, 2015
by Tina Myers, R.A. Smith National, Inc.

Survey Prepared by:
Metropolitan Survey Service
9415 W. Forest Home Ave.
Hales Corners, WI 53130

Prepared for:
David & Rhonda Drager
2925 W. Acre Ave.
Franklin, WI 53132

Franklin
MAR 03 2016
City Development



DESCRIPTION
 CITY COMMENTS
 DATE
 03-07-2016

R.A. Smith National
 Beyond Surveying
 and Engineering
 www.rasmithnational.com

NATURAL RESOURCES PROTECTION PLAN
 2925 W. Acre Ave.
 CITY OF FRANKLIN
 MILWAUKEE COUNTY, WI

© COPYRIGHT 2016
 R.A. Smith National, Inc.
 DATE: 03/04/2016
 SCALE: 1" = 30'
 JOB NO. 1150379
 PROJECT MANAGER:
 Tina M. Myers, PWS

Item C.2.

The materials for Item C.2., Planned Development District No. 37 (the Rock Sports Complex) proposed Baseball Commons (a sports anchored mixed-use development), will be distributed next week.



CITY OF FRANKLIN



REPORT TO THE PLAN COMMISSION

Meeting of March 17, 2016

Condominium Plat, Certified Survey Map, Land Division Variance and Planned Development District Amendment

RECOMMENDATION: City Development Staff recommends approval of the proposed Condominium Plat, Certified Survey Map, Land Division Variance and Planned Development District Amendment, subject to the conditions in the draft resolutions.

Project Name:	6803, 6805 & 6807 S. 27 th Street Condominium Plat, Certified Survey Map, Land Division Variance and Planned Development District Amendment
Project Address:	6803, 6805 & 6807 S. 27 th Street
Applicant:	Victor Michel, WS Franklin LLC
Owners (property):	GENEVA ASHX I LLC (22.46%) ET AL and GENEVA EXCHANGE FUND XI LLC (7.73574%)
Current Zoning:	Planned Development District No. 13 and FW Floodway District
2025 Future Land Use:	Commercial and Areas of Natural Resource Features
Use of Surrounding Properties:	Commercial to the north, south, and east and residential to the west
Applicant Action Requested:	Approval of the Condominium Plat, Certified Survey Map, Land Division Variance and PDD Amendment

INTRODUCTION

Please note:

- Staff recommendations are *underlined, in italics* and are included in the draft ordinance.
- Staff suggestions are only underlined and are not included in the draft resolution.

On December 14, 2015, the applicant filed a Certified Survey Map (CSM), Land Division Variance and Planned Development District Amendment Applications requesting to subdivide the property at 6803, 6805 and 6807 South 27th Street. Following staff review and revisions to the CSM, the applicant subsequently submitted a Condominium Plat Application on March 3, 2016 to divide the existing building into two separate units.

The existing building consists of Hobby Lobby and vacant tenant space. Hobby Lobby occupies the easternmost approximately 53,126 square feet of space closest to S. 27th Street. The remaining approximately 62,915 square feet of space directly behind or west of the Hobby Lobby is vacant and was formerly utilized for Ashley's Furniture's warehouse and distribution operations.

PROJECT DESCRIPTION/ANALYSIS

Condominium Plat:

The applicant is proposing a Condominium Plat to create two separate condominium units for the existing building located at 6803, 6805 and 6807 S. 27th Street. Unit 1 of the proposed Condominium Plat consists of the Hobby Lobby portion of the existing building. Unit 2 is the remaining back portion of the building consisting of warehouse space.

The Condominium Plat was submitted on March 3, 2016. Staff has conducted a preliminary review; however, recommend that the applicant resolve all staff comments related to the Condominium Plat following a detailed staff review, prior to recording with the Milwaukee County Register of Deeds.

Certified Survey Map (CSM):

The proposed Certified Survey Map (CSM) will divide the existing approximately 823,908 square foot (19.67-acre) property into two separate lots. Lot 1 has an area of 767,326 square feet and consists of the existing building, adjacent parking and the westernmost greenspace portion of the property primarily consisting of protected natural resource features. Lot 2 has an area of 56,582 square feet and is currently utilized for parking.

Associated with the requested land division, the applicant has provided a Conservation Easement, Reciprocal Easement Agreement and a Watermain Easement. The Conservation Easement protects approximately 388,424 square feet (8.92-acres) of property and is discussed further below in this report. The Reciprocal Easement Agreement addresses shared uses and services between the two properties, such as shared vehicular access and parking and utilities. The Watermain Easement is required for the watermain lateral extension for the proposed Lot 2.

Staff recommends that the applicant shall record the Reciprocal Easement Agreement with the Milwaukee County Register of Deeds at the time the Certified Survey Map is recorded.

Staff further recommends that the Watermain Easement and Conservation Easement be recorded with the Milwaukee County Register of Deeds following Common Council approval and at the time the Certified Survey Map is recorded.

Staff also recommends that the applicant record a Cross-Access Easement Agreement allowing access from the Wal-Mart property to the north to enter upon their property. Staff encourages the applicant and can provide assistance in contacting Wal-Mart, so the agreement may be a reciprocal agreement between the two property owners.

The applicant has not indicated a proposed user for Lot 2. Once identified, that development will likely be subject to either a Site Plan Application or Special Use Application dependent upon the specific business use. PDD No. 13 allows permitted and special uses of the former B-3 Business District (from the 1987 Zoning Ordinance). The site would then have to be developed in accordance with PDD No. 13 development standards.

Land Division Variance:

The Land Division Variance Application has been submitted to allow the resulting flag lot of the proposed Lot 1. The flag lot, Lot 1, has 145.73 feet of frontage along S. 27th Street. As the property extends west, the width of the property increases to approximately 415 feet creating a flag-shaped lot; thus meeting the Unified Development Ordinance (UDO) definition and prohibition of flag lots (below). Note that PDD No. 13 does not contain a minimum lot width requirement.

Lot, Flag. A lot, typically not meeting minimum frontage requirements and where access to a public street is by a narrow, private access easement, strip of land, or driveway.

Flag Lots Prohibited. Flag-shaped lots, or lots not meeting the minimum frontage requirements of this Ordinance or where access to a public street right-of-way to such lots is by a narrow strip of land, shall not be permitted. Flag lots are where the rear of the lot is disproportionate in width to the front of the lot width without a gradual widening of the lot as the lot increase in depth (shaped like a flag with the pole being the lot frontage).

Per Section 15-9.0310 of the UDO, the Plan Commission may waive or modify land division requirements of Divisions 15-5.0100, 15-8.0100, and 15-8.0200 of this ordinance upon application. This Section states, “Where, in the judgment of the Plan Commission, it would be inappropriate to apply literally the provisions of Divisions 15-5.0100, 15-8.0100, and 15-5.0200 of this Ordinance because exceptional or undue hardship would result, the Plan Commission may waive or modify any requirement to the extent deemed just and proper.”

Section 15-9.0310B. of the UDO indicates the findings of fact and conditions that should be considered in granting a land division variance and states, “No variance to the provisions of Divisions 15-5.0100, 15-8.0100, and 15-8.0200 of this Ordinance shall be granted unless the Plan Commission finds by the greater weight of the evidence that all the following facts and conditions exist and so indicates in the minutes of its proceedings.” The facts and conditions to be considered and addressed by the Plan Commission are contained within the draft Land Division Variance resolution.

Please note that a majority vote is required by the Plan Commission to approve a land division variance.

Planned Development District Amendment:

The proposed PDD Amendment is to allow for zero foot interior building and parking setbacks between Lot 1 and Lot 2.

Natural Resource Protection Plan:

The applicant has provided a Wetland Delineation Report, dated October 26, 2015, from R.A. Smith National, Inc. The report includes a study area encompassing the westernmost greenspace portion of the property, starting from the edge of the existing pavement. The vast majority of the study area is wetland. The study area also contains floodplain. *Staff recommends that the applicant update the Certified Survey Map and Natural Resource Protection Plan map to show current floodplain information, prior to recording the Certified Survey Map.* The applicant has drawn the conservation easement boundary slightly beyond the farthest edge of the wetland buffer line; thus fully protecting the natural resources onsite.

As the entire area surrounding the wetlands and wetland buffers are being protected, staff is not recommending that a wetland concurrence be done.

There are two areas of wetland setback that are not proposed to be included within the conservation easement; therefore, staff is recommending that a note on Sheet 3 of the CSM and Conservation Easement Exhibit stating that 50-foot Wetland Setbacks, as defined in Division 15-11.0100 of the Unified Development Ordinance, exist onsite outside of the conservation easement boundary and Wetland Setbacks shall be protected per 15-4.0102I. of the Unified Development Ordinance.

As previously stated, the Conservation Easement will be recorded with the Milwaukee County Register of Deeds.

Consistency with the Comprehensive Master Plan

The proposed applications are consistent with the City of Franklin Comprehensive Master Plan. It can be noted that the Plan's Future Land Use Map identifies the subject area's future land use as Commercial and Areas of Natural Resource Features.

STAFF RECOMMENDATION

City Development Staff recommends approval of the proposed Condominium Plat, Certified Survey Map, Land Division Variance and Planned Development District Amendment, subject to the conditions in the draft resolutions.

RESOLUTION NO. 2016-_____

A RESOLUTION CONDITIONALLY APPROVING A
CONDOMINIUM PLAT FOR 6803 CONDOMINIUMS AT 6803, 6805
AND 6807 SOUTH 27TH STREET
(GENEVA ASHX I LLC, GENEVA EXCHANGE FUND XI LLC, WS FRANKLIN LLC,
OWNERS/ WS FRANKLIN LLC, APPLICANT)

WHEREAS, the City of Franklin, Wisconsin, having received an application for approval of a condominium plat for 6803 Condominiums, such plat being upon property more particularly described as 6803, 6805 and 6807 South 27th Street, being a part of Certified Survey Map No. 6543, recorded on August 7, 1998, Reel 43667, Images 1756 to 1758 inclusive, as Document No. 7578744, as corrected by Affidavit of Correction recorded as Document No. 7724864, part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 1, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, of the properties located at 6803, 6805 and 6807 South 27th Street, bearing tax key no. 738-9974-006, Geneva Ashx I LLC, Geneva Exchange Fund XI LLC, WS Franklin LLC, owners/ WS Franklin LLC, applicant; said Condominium Plat having been reviewed by the City Plan Commission following the reviews and recommendations or reports of the Department of City Development and the City Engineering Department, and the Plan Commission having recommended approval thereof at its meeting on March 17, 2016, pursuant to certain conditions; and

WHEREAS, the Common Council having reviewed such application and Plan Commission recommendation and the Common Council having determined that such proposed condominium plat is appropriate for approval pursuant to law upon certain conditions, and will serve to further orderly growth and development and promote the health, safety and welfare of the Community.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Condominium Plat for 6803 Condominiums, as submitted by WS Franklin LLC, owner/applicant, as described above, be and the same is hereby approved, subject to the following conditions:

1. That any and all objections made and corrections required by the City of Franklin, by Milwaukee County, and by any and all reviewing agencies, shall be satisfied and made by the applicant, and that all minor technical deficiencies within the Condominium Plat be rectified, all prior to the recording of the Condominium Plat.
2. That all land development and building construction permitted or resulting under this Resolution shall be subject to impact fees imposed pursuant to §92-9. of the Municipal Code or development fees imposed pursuant to §15-5.0110 of the Unified

A RESOLUTION CONDITIONALLY APPROVING A CONDOMINIUM PLAT FOR WS FRANKLIN LLC, OWNER (6803 CONDOMINIUMS) RESOLUTION NO. 2016-_____

Page 2

Development Ordinance, both such provisions being applicable to the development and building permitted or resulting hereunder as it occurs from time to time, as such Code and Ordinance provisions may be amended from time to time.

3. WS Franklin LLC, owner/applicant, 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, including fees of consults to the City of Franklin, for the 6803 Condominiums development, 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.
4. The approval granted hereunder is conditional upon WS Franklin LLC, owner/applicant, and the 6803 Condominiums development for the properties located at 6803, 6805 and 6807 South 27th Street: (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.
5. The 6803 Condominiums development project shall be developed in substantial compliance with the terms and provisions of this Resolution.
6. The applicant shall resolve all staff comments related to the Condominium Plat following a detailed staff review, prior to recording with the Milwaukee County Register of Deeds.
7. [other conditions, etc.]

BE IT FURTHER RESOLVED, that the Condominium Plat for 6803 Condominiums be and the same is hereby rejected without final approval and without any further action of the Common Council, if any one, or more than one of the above conditions is or are not met and satisfied within 180 days from the date of adoption of this Resolution.

BE IT FINALLY RESOLVED, that upon the satisfaction of the above conditions within 180 days of the date of adoption of this Resolution, same constituting final approval, and pursuant to all applicable statutes and ordinances and lawful requirements and procedures for the recording of a condominium plat, the City Clerk is hereby directed to obtain the recording of the Condominium Plat for 6803 Condominiums with the Office of the Register of Deeds for Milwaukee County.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

A RESOLUTION CONDITIONALLY APPROVING A CONDOMINIUM PLAT FOR WS
FRANKLIN LLC, OWNER (6803 CONDOMINIUMS) RESOLUTION NO. 2016-____
Page 3

Passed and adopted at a regular meeting of the Common Council of the City of
Franklin this _____ day of _____, 2016.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

RESOLUTION NO. 2016-_____

A RESOLUTION CONDITIONALLY APPROVING A 2 LOT CERTIFIED SURVEY MAP, BEING LOT 1 OF CERTIFIED SURVEY MAP NO. 6543, RECORDED ON AUGUST 7, 1998, REEL 43667, IMAGES 1756 TO 1758 INCLUSIVE, AS DOCUMENT NO. 7578744, AS CORRECTED BY AFFIDAVIT OF CORRECTION RECORDED AS DOCUMENT NO. 7724864, PART OF THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN
(WS FRANKLIN LLC, APPLICANT)
(6803, 6805 AND 6807 SOUTH 27TH STREET)

WHEREAS, the City of Franklin, Wisconsin, having received an application for approval of a certified survey map, such map being Lot 1 of Certified Survey Map No. 6543, recorded on August 7, 1998, Reel 43667, Images 1756 to 1758 inclusive, as Document No. 7578744, as corrected by Affidavit of Correction recorded as Document No. 7724864, part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 1, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, more specifically, of the properties located at 6803, 6805 and 6807 South 27th Street, bearing Tax Key No. 738-9974-006, WS Franklin LLC, applicant; said certified survey map having been reviewed by the City Plan Commission and the Plan Commission having recommended approval thereof pursuant to certain conditions; and

WHEREAS, the Common Council having reviewed such application and Plan Commission recommendation and the Common Council having determined that such proposed certified survey map is appropriate for approval pursuant to law upon certain conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Certified Survey Map submitted by WS Franklin LLC, as described above, be and the same is hereby approved, subject to the following conditions:

1. That any and all objections made and corrections required by the City of Franklin, by Milwaukee County, and by any and all reviewing agencies, shall be satisfied and made by the applicant, prior to recording.
2. That all land development and building construction permitted or resulting under this Resolution shall be subject to impact fees imposed pursuant to §92-9. of the Municipal Code or development fees imposed pursuant to §15-5.0110 of the Unified Development Ordinance, both such provisions being applicable to the development

WS FRANKLIN LLC – CERTIFIED SURVEY MAP
RESOLUTION NO. 2016-_____

Page 2

and building permitted or resulting hereunder as it occurs from time to time, as such Code and Ordinance provisions may be amended from time to time.

3. Each and any easement shown on the Certified Survey Map shall be the subject of separate written grant of easement instrument, in such form as provided within the *City of Franklin Design Standards and Construction Specifications* and such form and content as may otherwise be reasonably required by the City Engineer or designee to further and secure the purpose of the easement, and all being subject to the approval of the Common Council, prior to the recording of the Certified Survey Map.
4. WS Franklin LLC, successors and assigns, and any developer of the WS Franklin LLC 2 lot certified survey map project, shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consults to the City of Franklin, 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.
5. The approval granted hereunder is conditional upon WS Franklin LLC and the 2 lot certified survey map project for the properties located at 6803, 6805 and 6807 South 27th Street: (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.
6. The applicant shall record the Reciprocal Easement Agreement with the Milwaukee County Register of Deeds at the time the Certified Survey Map is recorded.
7. The Watermain Easement and Conservation Easement shall be recorded with the Milwaukee County Register of Deeds following Common Council approval and at the time the Certified Survey Map is recorded.
8. The applicant shall record a Cross-Access Easement Agreement allowing access from the Wal-Mart property to the north to enter upon their property.
9. The applicant shall update the Certified Survey Map and Natural Resource Protection Plan map to show current floodplain information, prior to recording the Certified Survey Map.

10. A note shall be placed on Sheet 3 of the Certified Survey Map and Conservation Easement Exhibit stating that 50-foot Wetland Setbacks, as defined in Division 15-11.0100 of the Unified Development Ordinance, exist onsite outside of the conservation easement boundary and Wetland Setbacks shall be protected per 15-4.0102I. of the Unified Development Ordinance.

11. [other conditions, etc.]

BE IT FURTHER RESOLVED, that the Certified Survey Map, certified by owners, Geneva Ashx I LLC, Geneva Exchange Fund XI LLC, WS Franklin LLC/The Walcott Group Inc. and Fidelity Capital Holdings, LLC, be and the same is hereby rejected without final approval and without any further action of the Common Council, if any one, or more than one of the above conditions is or are not met and satisfied within 180 days from the date of adoption of this Resolution.

BE IT FINALLY RESOLVED, that upon the satisfaction of the above conditions within 180 days of the date of adoption of this Resolution, same constituting final approval, and pursuant to all applicable statutes and ordinances and lawful requirements and procedures for the recording of a certified survey map, the City Clerk is hereby directed to obtain the recording of the Certified Survey Map, certified by owners, Geneva Ashx I LLC, Geneva Exchange Fund XI LLC, WS Franklin LLC/The Walcott Group Inc. and Fidelity Capital Holdings, LLC, with the Office of the Register of Deeds for Milwaukee County.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

RESOLUTION NO. 2016-_____

A RESOLUTION CONDITIONALLY APPROVING A LAND DIVISION VARIANCE FOR A 2 LOT CERTIFIED SURVEY MAP, BEING LOT 1 OF CERTIFIED SURVEY MAP NO. 6543, RECORDED ON AUGUST 7, 1998, REEL 43667, IMAGES 1756 TO 1758 INCLUSIVE, AS DOCUMENT NO. 7578744, AS CORRECTED BY AFFIDAVIT OF CORRECTION RECORDED AS DOCUMENT NO. 7724864, PART OF THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN
 (GENEVA ASHX I LLC, GENEVA EXCHANGE FUND XI LLC, WS FRANKLIN LLC, OWNERS/ WS FRANKLIN LLC, APPLICANT)
 (6803, 6805 AND 6807 SOUTH 27TH STREET)

WHEREAS, the City of Franklin, Wisconsin, having received an application from WS Franklin LLC, for a land division variance to allow a flag-shaped lot, such variance being necessary as a concurrent application for approval of a certified survey map, such map being Lot 1 of Certified Survey Map No. 6543, recorded on August 7, 1998, Reel 43667, Images 1756 to 1758 inclusive, as Document No. 7578744, as corrected by Affidavit of Correction recorded as Document No. 7724864, part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 1, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, more specifically, of the property located at 6803, 6805 and 6807 South 27th Street, bearing Tax Key No. 738-9974-006, WS Franklin LLC, applicant; and

WHEREAS, §15-9.0310 of the Unified Development Ordinance allows for Land Division Variances in part from the provisions of Division 15-5.0100, §15-5.0106K. providing that flag-shaped lots are prohibited; and

WHEREAS, §15-9.0310 of the Unified Development Ordinance sets forth findings which must be made by the Plan Commission and approved by a majority vote of the entire membership of the Plan Commission (4 votes) for approval of a Land Division Variance application.

NOW, THEREFORE, BE IT RESOLVED, by the Plan Commission of the City of Franklin, Wisconsin, that the Commission makes the following findings upon the greater weight of the evidence that all the following facts and conditions exist:

1. There are exceptional, extraordinary, or unusual circumstances or conditions where a literal enforcement of the requirements of this Ordinance would result in severe hardship, to wit: _____.

A RESOLUTION CONDITIONALLY APPROVING A LAND DIVISION VARIANCE
FOR WS FRANKLIN LLC
RESOLUTION NO. 2016-_____

Page 2

2. Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that the land division portions of the Unified Development Ordinance should be changed, to wit: _____.
3. Such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity, to wit: _____.
4. That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest, to wit: _____.

BE IT FURTHER RESOLVED, that a Declaration of Easements, Covenants and Restrictions, Conservation Easement and Access Easements be approved by the Common Council and recorded with the Milwaukee County Register of Deeds prior to the issuance of any Occupancy Permit.

BE IT FINALLY RESOLVED, that the application by WS Franklin LLC, for a Land Division Variance, upon the above findings, be and the same is hereby approved, subject to the approval of the aforesaid certified survey map application by WS Franklin LLC and the foregoing condition.

Introduced at a regular meeting of the Plan Commission of the City of Franklin this _____ day of _____, 2016.

Passed and adopted at a regular meeting of the Plan Commission of the City of Franklin this _____ day of _____, 2016.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

ORDINANCE NO. 2016-_____

AN ORDINANCE TO AMEND SECTION 15-3.0418 OF THE
UNIFIED DEVELOPMENT ORDINANCE PLANNED DEVELOPMENT
DISTRICT NO. 13 (WAL-MART/SAM'S WHOLESALE CLUB) TO ALLOW
FOR ZERO FOOT INTERIOR PROPERTY LINES SETBACKS FOR BUILDING
AND PARKING LOT SETBACKS
(6803, 6805 AND 6807 SOUTH 27TH STREET)
(WS FRANKLIN LLC, APPLICANT)

WHEREAS, §15-3.0418 of the Unified Development Ordinance provides for and regulates Planned Development District No. 13 (Wal-Mart/Sam's Wholesale Club), same having been created by Ordinance No. 1989-1071 and later amended by Ordinance Nos. 1994-1313, 1995-1342, 2001-1645, 2002-1705, 2004-1814, 2008-1940, 2010-1995 and 2013-2123, with such District primarily being located at the 6700 Block of South 27th Street; and

WHEREAS, Planned Development District No. 13 (Wal-Mart/Sam's Wholesale Club) includes those lands legally described as follows:

Lot 1 of Certified Survey Map No. 6543, recorded on August 7, 1998, Reel 43667, Images 1756 to 1758 inclusive, as Document No. 7578744, as corrected by Affidavit of Correction recorded as Document No. 7724864, part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 1, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the northeast corner of the Southeast 1/4 of said Section 1; thence South 00°06'34" West along the east line of said Southeast 1/4, 401.22 feet; thence South 87°35'33" West, 84.53 feet to the west right of way line of South 27th Street - State Trunk Highway "241" and the northeast corner of Lot 1 of CSM 6543 and the point of beginning;

Thence South 00°52'38" East along the west right of way line of South 27th Street and the east line of said Lot I of CSM No. 6543, 258.33 feet; thence South 00°06'34" West along said east line of CSM No. 6543, 157.41 feet to the southeast corner of Lot 1 of said CSM No. 6543; the following 8 courses follow the boundary of said Lot 1; thence South 89°59'55" West, 503.59 feet; thence South 87°51'06" West, 755.75 feet; thence South 00°07'09" West, 531.71 feet; thence South 87°31'24" West, 531.35 feet; thence North 01°18'51" West, 661.78 feet; thence North 87°32'56" East, 548.08 feet; thence North 00°06'58" East, 260.22 feet; thence North 87°33'33" East, 1255.32 feet to the aforesaid west right of way line of South 27th Street- State Trunk Highway "241" and the point of beginning.

Containing in all 856,806 square feet (19.6695 acres) of land, more or less.
Tax Key No. 738-9974-006; and

WHEREAS, WS Franklin LLC having petitioned for further amendments to Planned Development District No. 13 (Wal-Mart/Sam's Wholesale Club), to allow for zero foot lot line setbacks from interior property lines for buildings and parking setbacks between Parcels 1 and 2 of Certified Survey Map No. _____, which is the subject of a 2 Lot Certified Survey Map approval granted upon even-date herewith; and

WHEREAS, the City of Franklin Plan Commission determined that the amendment to Planned Development District No. 13 (Wal-Mart/Sam's Wholesale Club) was not a substantial change to the Plan, thus not requiring a public hearing upon the aforesaid petition, and the Plan Commission thereafter having determined that the proposed amendment would promote the health, safety and welfare of the City and having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the petition and having concurred with the recommendation of the Plan Commission and having determined that the proposed amendment would promote the health, safety and welfare of the Community.

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

SECTION 1: §15-3.0418 Planned Development District No. 13 (Wal-Mart/Sam's Wholesale Club), of the Unified Development Ordinance of the City of Franklin, Wisconsin, as previously amended, is hereby amended to allow for zero foot lot line setbacks from interior property lines for buildings and parking setbacks between Parcels 1 and 2 of Certified Survey Map No. _____, which is the subject of a 2 Lot Certified Survey Map approval granted upon even-date herewith, pursuant to those plans City file-stamped _____.

SECTION 2: All other applicable terms and provisions of §15-3.0418 shall apply to the property described in SECTION 1 of this Ordinance of Planned Development District No. 13 (Wal-Mart/Sam's Wholesale Club), and all terms and provisions of §15-3.0418 as existing immediately prior to the adoption of this Ordinance shall remain in full force and effect.

SECTION 3: 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 4: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 5: 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 _____, 2016, by Alderman _____.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

APPROVED:

Stephen R. Olson, Mayor

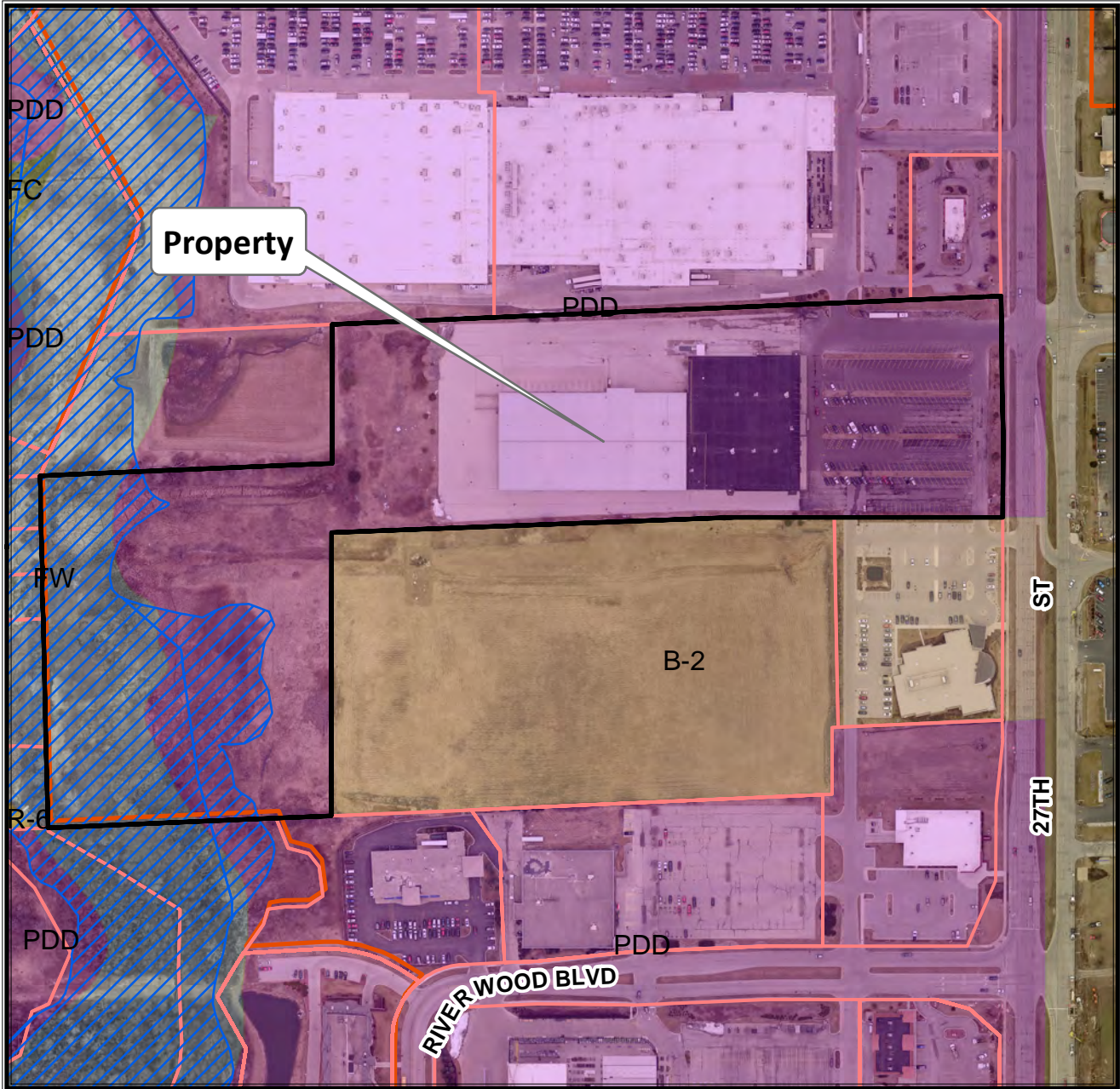
ATTEST:

Sandra L. Wesolowski, City Clerk

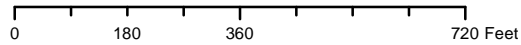
AYES _____ NOES _____ ABSENT _____



6803-6805-6807 South 27th Street
TKN 738-9974-006



Planning Department
(414) 425-4024

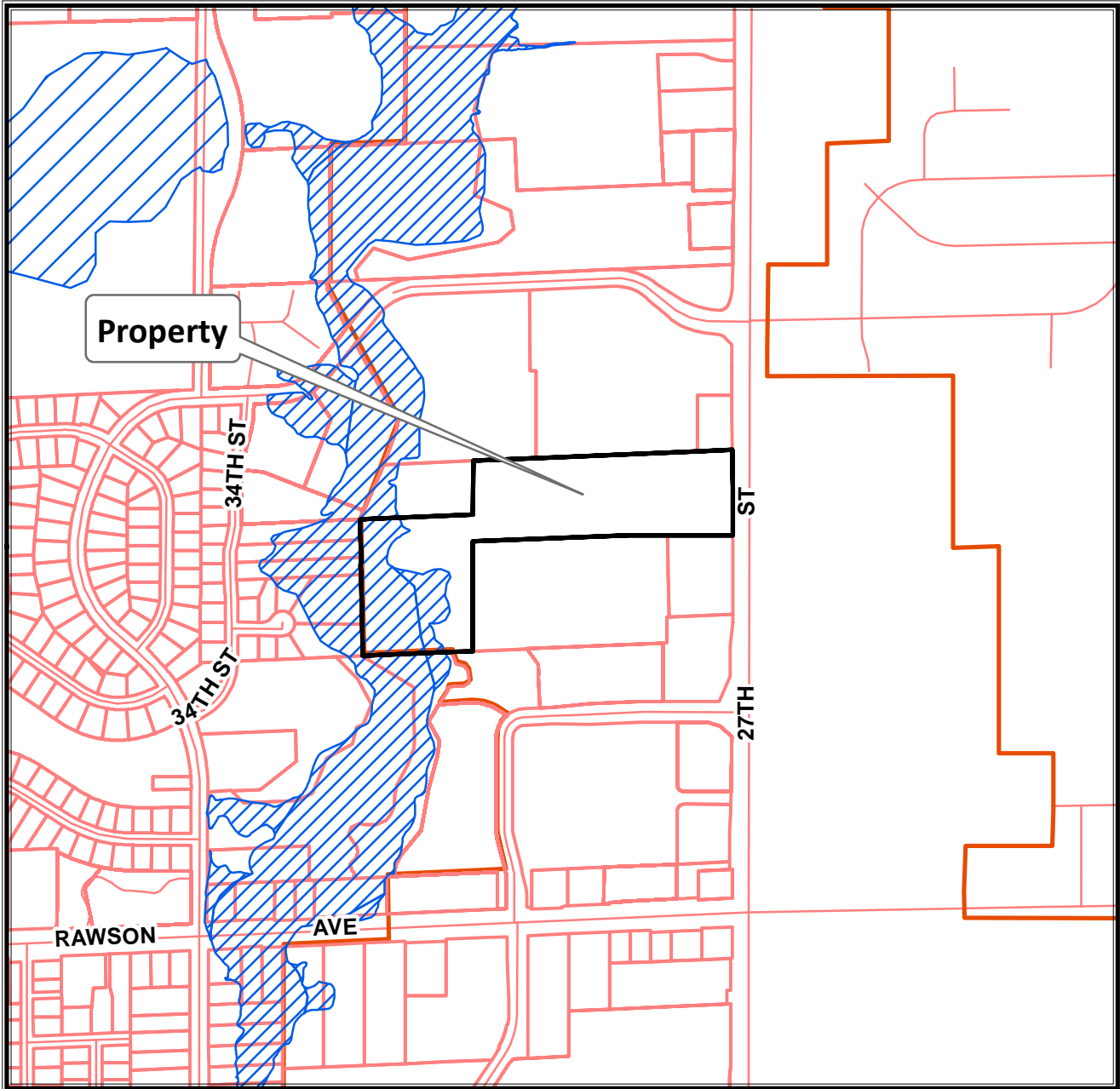


2015 Aerial Photo

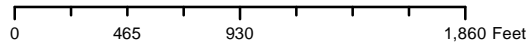
This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.



6803-6805-6807 South 27th Street
TKN 738-9974-006



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.



March 3, 2016

Mr. Nick Fuchs
City of Franklin
9229 West Loomis Road
Franklin, WI 53132

Subject: Hobby Lobby CSM
Franklin, WI

Dear Mr. Fuchs,

Please accept the attached application for a proposed Certified Survey Map, Condominium Plat and PDD Amendment at the existing Hobby Lobby property located at 6803 South 27th Street, Franklin, Wisconsin. The purpose of the proposal is to divide the subject property into smaller, more desirable pieces, and that by doing so we can enhance the marketability of the property. At this time there is no defined end user for the new outlot or the warehouse space, but we believe that the separated parcels will help to draw desirable users to the site and create vibrant new development for the South 27th Street corridor.

Project Description

The subject parcel has historically been used for retail purposes. Originally, Menards was located at the site, later it was converted to an Ashley Furniture Store, and most recently, Hobby Lobby has occupied the building. Over time, building modifications have occurred in order to serve the primary business. One of those modifications involved the construction of a warehouse space at the back of the main building. This warehouse space has been difficult to re-purpose, and there have been concerns raised by residents to the west regarding noise generated by those users. With that in mind, it is our hope that creating a commercial condominium over that portion of the site will give us the ability to draw a more stable, low-impact user to that space. Likewise, the front parking lot of the site is underutilized, and could easily support an outparcel that could draw customer traffic to the property. Our proposal requests approval of a 1.30 acre lot at the southeast corner of the property, abutting South 27th Street, which would be marketed to retail or fast-casual restaurant users.

The proposed land division is not without complexities. Most notably, the shape and existing use of the property make it difficult to meet standard building and parking setbacks relative to the new outlot. To address that issue, and to provide the maximum flexibility for an end user on the outlot, we request that zero-foot building and parking setbacks be allowed for all lots on the subject site. Furthermore, we request open space ratio requirements for the proposed outlot be waived in consideration of the large expanse of open space being provided and protected in perpetuity by conservation easement at the westerly portion of the development site. In the case of the outlot, numerous existing easements are present in that location which impact where a building could be placed. The reduced building setbacks will allow for appropriate building placement and provide a user the maximum amount of flexibility in bringing forward a great new development for that piece of land.

March 3, 2016
Hobby Lobby CSM
Page 2 of 2

As part of this land division, all wetlands, wetland buffers and floodplain existing at the westerly end of the site will be placed in conservation easement. Said Conservation Easement and other existing access and utility easements throughout the property will be maintained through a Reciprocal Easement Agreement to which all parcels within the property will be subject. At the present time, there are no stormwater implications created by the land division. At such time as development is proposed for the new outparcel, detailed stormwater calculations will be performed and a formal Major PDD Amendment application submitted for approval.

Thanks again for your consideration of this proposal. We look forward to your review and approval. Please feel free to give me a call with any questions or comments.

Sincerely,
JSD PROFESSIONAL SERVICES, INC.

Justin L. Johnson, P.E.
Associate

Legal Description

Part of a re-division of Lot 1 of Certified Survey Map No. 6543, recorded on August 7, 1998, Reel 43667, Images 1756 to 1758 inclusive, as Document No. 7578744, as corrected by Affidavit of Correction recorded as Document No. 7724864, part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 1, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the northeast corner of the Southeast 1/4 of said Section 1; thence South $00^{\circ}06'34''$ West along the east line of said Southeast 1/4, 401.22 feet; thence South $87^{\circ}33'33''$ West, 84.53 feet to the west right of way line of South 27th Street - State Trunk Highway "241" and the northeast corner of Lot 1 of CSM 6543 and the point of beginning;

Thence South $00^{\circ}52'38''$ East along the west right of way line of South 27th Street and the east line of said Lot 1 of CSM No. 6543, 258.33 feet; thence South $00^{\circ}06'34''$ West along said east line of CSM No. 6543, 157.41 feet to the southeast corner of Lot 1 of said CSM No. 6543; the following 8 courses follow the boundary of said Lot 1; thence South $89^{\circ}59'55''$ West, 503.59 feet; thence South $87^{\circ}51'06''$ West, 755.75 feet; thence South $00^{\circ}07'09''$ West, 531.71 feet; thence South $87^{\circ}31'24''$ West, 531.35 feet; thence North $01^{\circ}18'51''$ West, 661.78 feet; thence North $87^{\circ}32'56''$ East, 548.08 feet; thence North $00^{\circ}06'58''$ East, 260.22 feet; thence North $87^{\circ}33'33''$ East, 1255.32 feet to the aforesaid west right of way line of South 27th Street - State Trunk Highway "241" and the point of beginning.

Containing in all 856,806 square feet (19.6695 acres) of land, more or less.

CERTIFIED SURVEY MAP CHECKLIST

Date of Submittal	01/25/16
Taxkey ID #	7389974006
Project Name	Hobby Lobby

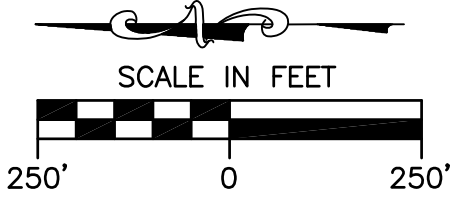
		Required Information	Ordinance #
<i>Staff Use</i>	<i>Indicate Complete or NA</i>		
	X	Existing Features Including all Buildings	15-7.0702-A
	X	Building Setback Lines with dimensions	15-7.0702-B
	X	Utility, Drainage, and Access Easements (Existing and Proposed)	15-7.0702-C
	N/A	Reserved Lands	15-7.0702-D
	N/A	Special Restrictions*	15-7.0702-E
	X	Existing and Proposed Contours	15-7.0702-F
	X	Floodplain Limits and Contours	15-7.0702-G
	X	Map Date	15-7.0702-H
	X	Scale and North Arrow	15-7.0702-I
	X	Owner, Subdivider, Land Surveyor	15-7.0702-J
	X	Indicate Area Contiguous to CSM Showing Existing Zoning and Ownership	15-7.0702-K
	X	Lot and Outlot Size	15-7.0702-L
	X	Existing Zoning Identified	15-7.0702-M
	X	Location of Soil Boring Tests	15-7.0702-N
	N/A	Location of Soil Percolation Tests and Test Results	15-7.0702-O
	X	Location of Proposed Deed Restrictions, Landscape and/or Conservation Easements	15-7.0702-P
	X	Natural Resource Protection Plan (see NRPP checklist)	15-7.0702-Q
	X	Additional Info required by Planning, Engineering, Plan Comm or CC	15-7.0702-R
	N/A	Any portions of the parent parcel not to be sold for development shall be shown as an outlot.	
	N/A	May Require Letter of Credit and Dev. Agreement if Public Improvements are Required.	
	N/A	Stormwater Management and Calcs or Letter that Area of Impervious Surface is < 0.5 acres	
	X	All conservation easements are shown and noted on plats as required per UDO.	
	X	The 75-ft undisturbed shore buffer is shown for navigable waterways.	
	X	Wetland Delineation Required or Certification Letter Showing Non-existence	
	X	Access Restrictions if Required	
	X	Street Dedications Full Width as Called for in Master Plans	
	N/A	Vision Triangles	
	X	Statement if Land is Served by Sanitary Sewer and Water	
	X	Compliance with Trans 233 if abuts a State Highway	

*as required by the Plan Commission, e.g. conservation easements, highway access control, floodplain or wetland delineation, resource mitigation areas, and landscape bufferyard easements,

Staff Notes:

CERTIFIED SURVEY MAP No. _____

BEING A REDIVISION OF LOT 1 OF CERTIFIED SURVEY MAP No. 6543, RECORDED ON AUGUST 7, 1998 AND AS CORRECTED BY AFFIDAVIT OF CORRECTION RECORDED AS DOCUMENT No. 7724864 BEING A PART OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN

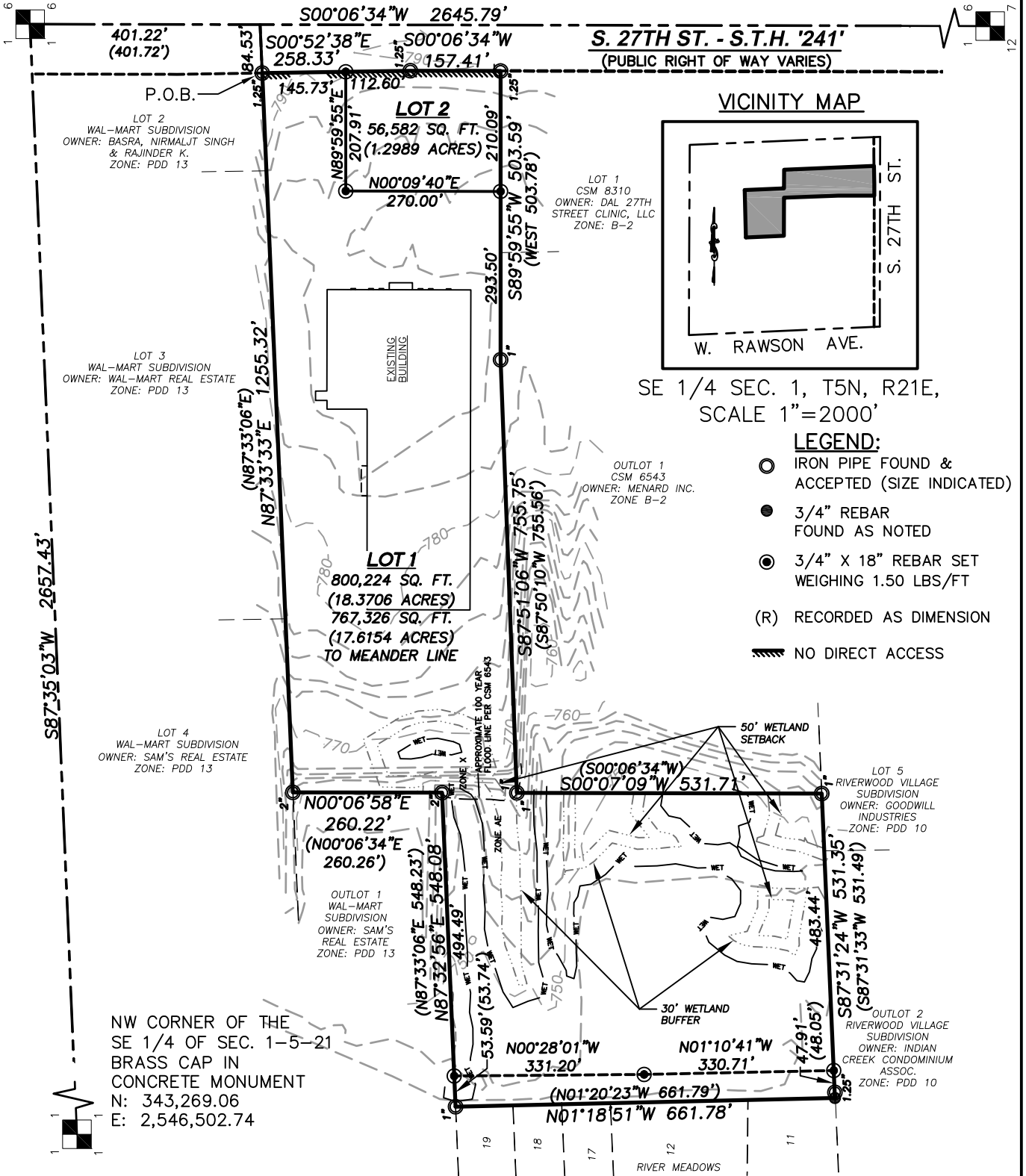


PREPARED BY:
JSD Professional Services, Inc.
Engineers • Surveyors • Planners
 MILWAUKEE REGIONAL OFFICE
 N22 W22931 NANCY'S COURT SUITE 3
 WAUKESHA, WISCONSIN 53186
 262.513.0666 PHONE | 262.513.1232 FAX

PREPARED FOR:
 WS FRANKLIN, LLC
 935 W. CHESTNUT, SUITE 600
 CHICAGO, IL 60642

NE CORNER OF THE SE 1/4 OF SEC. 1-5-21 MONUMENT REMOVED DUE TO CONSTRUCTION ON SOUTH 27TH STREET
 N: 343,381.08
 E: 2,549,157.81

SE CORNER OF THE SE 1/4 OF SEC. 1-5-21 BRASS CAP IN CONCRETE MONUMENT
 N: 340,735.29
 E: 2,549,152.76



File: C:\Users\amertz\appdata\local\temp\AcPublish_4724\1506984 CSM.dwg Layout: csm 1 of User: amertz Plotted: Jan 25, 2016 - 9:24am

THE SUBJECT PROPERTIES ARE ZONED AS A PART OF PLANNED DEVELOPMENT DISTRICT NUMBER 13 AND A FW FLOODWAY DISTRICT. IN ADDITION, IS SERVED BY SANITARY SEWER AND WATER.

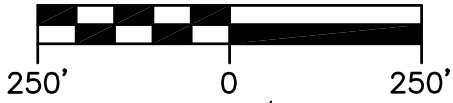
DATED THIS 12th DAY OF NOVEMBER, 2015
 THIS INSTRUMENT WAS DRAFTED BY MICHAEL J. PIERING, S-2521

CERTIFIED SURVEY MAP No. _____

BEING A REDIVISION OF LOT 1 OF CERTIFIED SURVEY MAP No. 6543, RECORDED ON AUGUST 7, 1998 AND AS CORRECTED BY AFFIDAVIT OF CORRECTION RECORDED AS DOCUMENT No. 7724864 BEING A PART OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN



SCALE IN FEET



PREPARED BY:



MILWAUKEE REGIONAL OFFICE
N22 W22931 NANCYS COURT SUITE 3
WAUKESHA, WISCONSIN 53186
262.513.0666 PHONE | 262.513.1232 FAX

PREPARED FOR:

WS FRANKLIN, LLC
935 W. CHESTNUT, SUITE 600
CHICAGO, IL 60642

NE CORNER OF THE SE 1/4 OF SEC. 1-5-21 MONUMENT REMOVED DUE TO CONSTRUCTION ON SOUTH 27TH STREET
N: 343,381.08
E: 2,549,157.81

SE CORNER OF THE SE 1/4 OF SEC. 1-5-21 BRASS CAP IN CONCRETE MONUMENT
N: 340,735.29
E: 2,549,152.76

EASEMENTS

S. 27TH ST. - S.T.H. '241'
(PUBLIC RIGHT OF WAY VARIES)

LEGEND:

- IRON PIPE FOUND & ACCEPTED (SIZE INDICATED)
- 3/4" REBAR FOUND AS NOTED
- ⊙ 3/4" X 18" REBAR SET WEIGHING 1.50 LBS/FT
- (R) RECORDED AS DIMENSION
- ▨ NO DIRECT ACCESS

- ① 5' COMMUNICATIONS EASEMENT PER DOC NO. 10348931
- ② 15' ELECTRIC EASEMENT PER DOC NO. 10348931
- ③ 12' ELECTRIC EASEMENT PER DOC NO. 8677711 & CSM 6543
- ④ 12' ELECTRIC EASEMENT PER DOC NO. 10348931
- ⑤ 12' UTILITY EASEMENT PER DOC NO. 6980642 & CSM 6543
- ⑥ 20' STORM SEWER EASEMENT PER CSM 6543 & DOC NO. 7734132
- ⑦ SANITARY SEWER EASEMENT PER CSM 6543 & DOC NO. 7734132
- ⑧ EXCEPTION PER DOCUMENT NO. 10355403
- ⑨ ACCESS EASEMENT PER DOC NO. 7622943 CSM 6543
- ⑩ NOTICE OF REMEDIAL ACTION PER DOC NO. 6778269
- ⑪ 100' DRAINAGE EASEMENT PER CSM 6543
- ⑫ PROPOSED WATERMAIN EASEMENT
- ⑬ PROPOSED NO BUILD EASEMENT

BUILDING SETBACKS:

FRONT/STREET YARD: 25 FEET
SIDE YARD: 10 FEET
REAR YARD: 20 FEET
*INTERIOR LOT LINE SETBACKS ARE ZERO PER PDDI NO. 13

LOT 1
800,224 SQ. FT.
(18.3706 ACRES)
767,326 SQ. FT.
(17.6154 ACRES)
TO MEANDER LINE

LOT 2
56,582 SQ. FT.
(1.2989 ACRES)

EXISTING BUILDING

ZONE X
APPROXIMATE 100-YEAR
FLOOD LINE PER CSM 6543

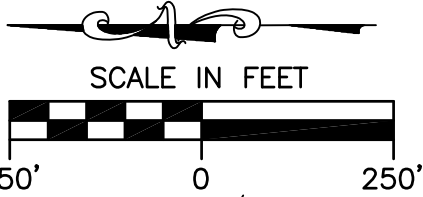
ZONE AE

EAST BRANCH ROOT RIVER

NW CORNER OF THE SE 1/4 OF SEC. 1-5-21 BRASS CAP IN CONCRETE MONUMENT
N: 343,269.06
E: 2,546,502.74

CERTIFIED SURVEY MAP No. _____

BEING A REDIVISION OF LOT 1 OF CERTIFIED SURVEY MAP No. 6543, RECORDED ON AUGUST 7, 1998 AND AS CORRECTED BY AFFIDAVIT OF CORRECTION RECORDED AS DOCUMENT No. 7724864 BEING A PART OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN



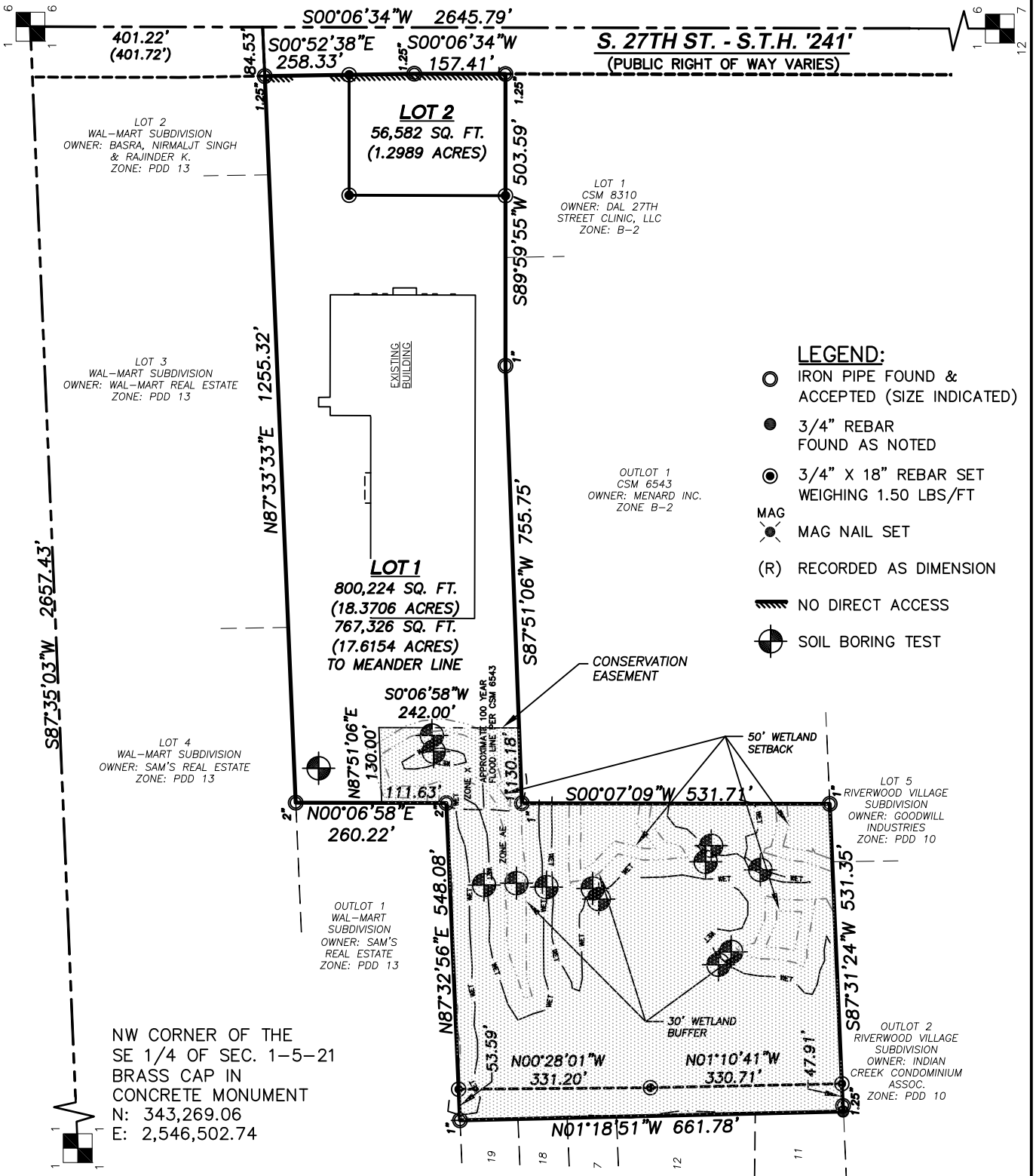
PREPARED BY:
JSD Professional Services, Inc.
 Engineers • Surveyors • Planners
 MILWAUKEE REGIONAL OFFICE
 N22 W22931 NANCY'S COURT SUITE 3
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 262.513.0666 PHONE | 262.513.1232 FAX

PREPARED FOR:
 WS FRANKLIN, LLC
 935 W. CHESTNUT, SUITE 600
 CHICAGO, IL 60642

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SE CORNER OF THE SE 1/4 OF SEC. 1-5-21 BRASS CAP IN CONCRETE MONUMENT
 N: 340,735.29
 E: 2,549,152.76

CONSERVATION EASEMENT



- LEGEND:**
- IRON PIPE FOUND & ACCEPTED (SIZE INDICATED)
 - 3/4" REBAR FOUND AS NOTED
 - ⊙ 3/4" X 18" REBAR SET WEIGHING 1.50 LBS/FT
 - MAG ✕ MAG NAIL SET
 - (R) RECORDED AS DIMENSION
 - ▨ NO DIRECT ACCESS
 - ⊕ SOIL BORING TEST

CERTIFIED SURVEY MAP No. _____

BEING A REDIVISION OF LOT 1 OF CERTIFIED SURVEY MAP No. 6543, RECORDED ON AUGUST 7, 1998 AND AS CORRECTED BY AFFIDAVIT OF CORRECTION RECORDED AS DOCUMENT No. 7724864 BEING A PART OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN

SURVEYOR'S CERTIFICATE

State of Wisconsin)
) SS
County of Milwaukee)

I, Michael J. Piering, Professional Land Surveyor, do hereby certify that I have surveyed, divided and mapped Lot 1 of Certified Survey Map No. 6543, recorded on August 7, 1998, Reel 43667, Images 1756 to 1758 inclusive, as Document No. 7578744, as corrected by Affidavit of Correction recorded as Document No. 7724864, part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 1, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the northeast corner of the Southeast 1/4 of said Section 1; thence South 00°06'34" West along the east line of said Southeast 1/4, 401.22 feet; thence South 87°33'33" West, 84.53 feet to the west right of way line of South 27th Street - State Trunk Highway "241" and the northeast corner of Lot 1 of CSM 6543 and the point of beginning;

Thence South 00°52'38" East along the west right of way line of South 27th Street and the east line of said Lot 1 of CSM No. 6543, 258.33 feet; thence South 00°06'34" West along said east line of CSM No. 6543, 157.41 feet to the southeast corner of Lot 1 of said CSM No. 6543; the following 8 courses follow the boundary of said Lot 1; thence South 89°59'55" West, 503.59 feet; thence South 87°51'06" West, 755.75 feet; thence South 00°07'09" West, 531.71 feet; thence South 87°31'24" West, 531.35 feet; thence North 01°18'51" West, 661.78 feet; thence North 87°32'56" East, 548.08 feet; thence North 00°06'58" East, 260.22 feet; thence North 87°33'33" East, 1255.32 feet to the aforesaid west right of way line of South 27th Street - State Trunk Highway "241" and the point of beginning.

Containing in all 856,806 square feet (19.6695 acres) of land, more or less.

All subject to easements and restrictions of record and government restrictions, if any.

That I have made such survey, land division and map by the direction of Fidelity Capital Holdings, LLC purchaser of said land.

That such map is a correct representation of all exterior boundaries and the land surveyed and the land division thereof made.

That I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes and Division 15-7.0700 of the City of Franklin Unified Development Ordinance in surveying, dividing and mapping the same.

DATED THIS 12th DAY OF NOVEMBER, 2015

Michael J. Piering, P.L.S.
Professional Land Surveyor, S-2521

CERTIFIED SURVEY MAP No. _____

BEING A REDIVISION OF LOT 1 OF CERTIFIED SURVEY MAP No. 6543, RECORDED ON AUGUST 7, 1998 AND AS CORRECTED BY AFFIDAVIT OF CORRECTION RECORDED AS DOCUMENT No. 7724864 BEING A PART OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN

CORPORATE OWNER'S CERTIFICATE

WS Franklin LLC, certifies that said corporation caused the land described on this map, to be surveyed, divided, and mapped as represented on this map, in accordance with the provisions of Chapter 236 of the Wisconsin State Statutes and Division 15-7.0700 of the City of Franklin Unified Development Ordinance.

WS Franklin LLC/The Walcott Group Inc.,:

Victor F. Michel
Treasurer

State of _____)
) SS
_____ County)

Personally came before me this _____ day of _____, 2015, the above named _____, _____, and _____, _____, of the above named corporation, to me known to be such _____, and _____ of said corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation by its authority.

Notary Public, _____ County, _____
My Commission Expires _____

CORPORATE OWNER'S CERTIFICATE

Fidelity Capital Holdings, LLC, as owner, certifies that said corporation caused the land described on this map, to be surveyed, divided, and mapped as represented on this map, in accordance with the provisions of Chapter 236 of the Wisconsin State Statutes and Division 15-7.0700 of the City of Franklin Unified Development Ordinance.

Fidelity Capital Holdings, LLC:

State of _____)
) SS
_____ County)

Personally came before me this _____ day of _____, 2015, the above named _____, _____, and _____, _____, of the above named corporation, to me known to be such _____, and _____ of said corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation by its authority.

Notary Public, _____ County, _____
My Commission Expires _____

CERTIFIED SURVEY MAP No. _____

BEING A REDIVISION OF LOT 1 OF CERTIFIED SURVEY MAP No. 6543, RECORDED ON AUGUST 7, 1998 AND AS CORRECTED BY AFFIDAVIT OF CORRECTION RECORDED AS DOCUMENT No. 7724864 AND BEING A PART OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN

CITY OF FRANKLIN COMMON COUNCIL APPROVAL

This Certified Survey Map is hereby approved by the Common Council of the City of Franklin, on this _____ day of _____, 2015.

By: _____
Stephen Olson, Mayor

Date: _____

By: _____
Sandra L. Wesolowski, City Clerk

Date: _____

"BUILDING RELATIONSHIPS WITH A COMMITMENT TO CLIENT SATISFACTION THROUGH TRUST, QUALITY AND EXPERIENCE"

- CIVIL ENGINEERING
- SURVEYING & MAPPING
- CONSTRUCTION SERVICES
- WATER RESOURCES
- PLANNING & DEVELOPMENT
- TRANSPORTATION ENGINEERING
- LANDSCAPE ARCHITECTURE

MILWAUKEE REGIONAL OFFICE
 N22 W22811 WANCYS COURT SUITE 3
 WAUKESHA, WISCONSIN 53186
 262.513.0666 PHONE | 262.513.1232 FAX

MADISON | MILWAUKEE
 KENOSHA | APPLETON
 www.jsdinc.com

SERVICES PROVIDED TO:
FIDELITY CAPITAL HOLDINGS, LLC.

PROJECT:
HOBBY LOBBY
 6803 S. 27TH STREET

PROJECT LOCATION:
 CITY OF FRANKLIN
 FRANKLIN COUNTY, WI

JSD PROJECT NO.: 15c6984

SEAL/SIGNATURE:

ALTHOUGH EVERY EFFORT HAS BEEN MADE IN PREPARING THESE PLANS AND CHECKING THEM FOR ACCURACY, THE CONTRACTOR AND SUBCONTRACTORS MUST CHECK ALL DETAIL AND DIMENSIONS ON THEIR TRADE AND BE RESPONSIBLE FOR THE SAME.

DESIGN BY: APM 12-01-2015
 DRAWN BY: APM 12-01-2015
 CHECKED BY: ALJ 12-01-2015

PLAN MODIFICATIONS:

DIGGERS HOTLINE

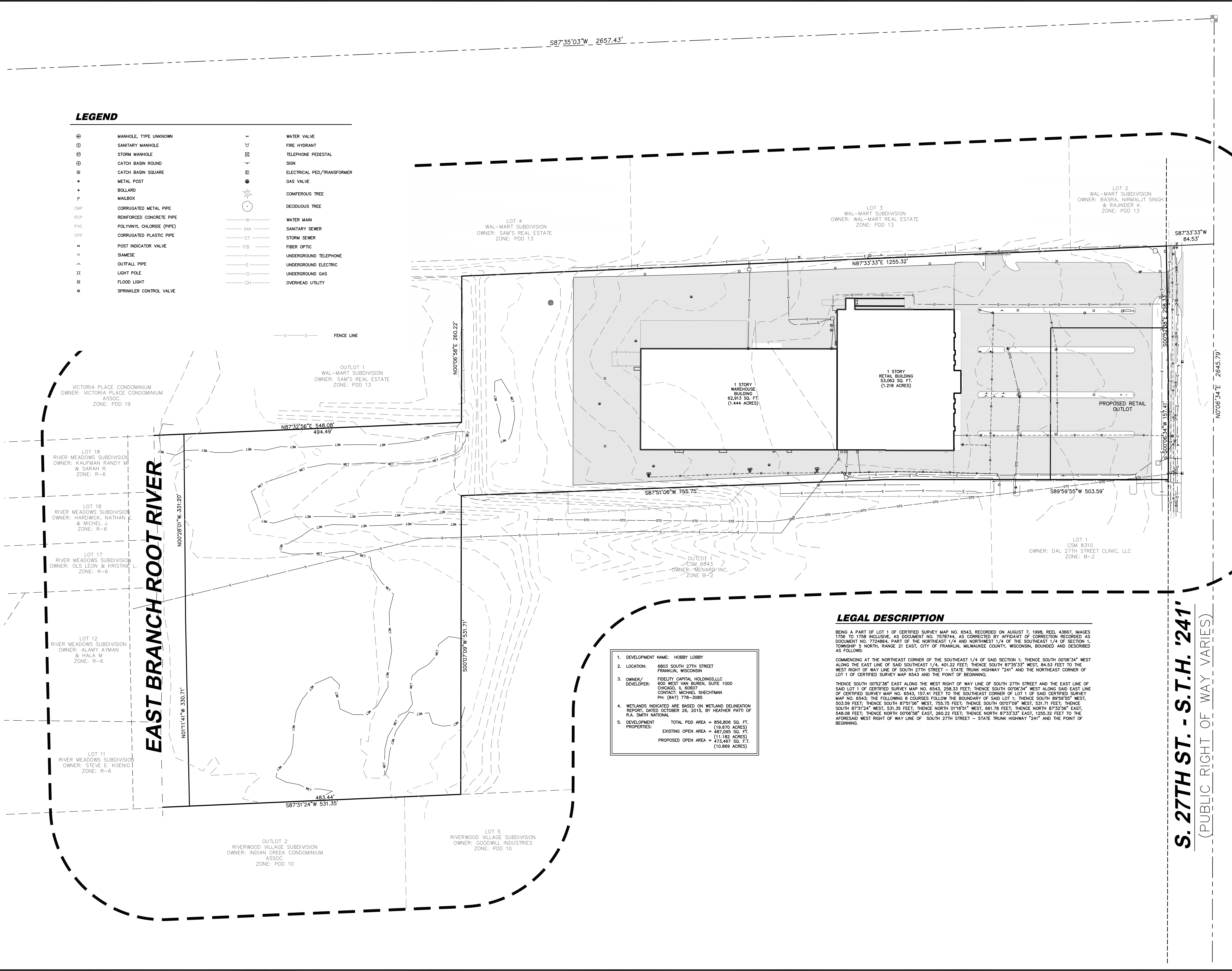
Call 811 or (800) 242-8511
 Milwaukee Area (262) 432-7910
 Hearing Impaired TDD (800) 542-2289
 www.DiggersHotline.com

SHEET TITLE:
PLAN DEVELOPMENT DISTRICT - SITE EXHIBIT

SHEET NUMBER:
EXHIBIT

LEGEND

- | | | | |
|-----|---------------------------|---------|----------------------------|
| ⊙ | MANHOLE, TYPE UNKNOWN | ⊙ | WATER VALVE |
| ⊙ | SANITARY MANHOLE | ⊙ | FIRE HYDRANT |
| ⊙ | STORM MANHOLE | ⊙ | TELEPHONE PEDESTAL |
| ⊙ | CATCH BASIN ROUND | ⊙ | SIGN |
| ⊙ | CATCH BASIN SQUARE | ⊙ | ELECTRICAL PED/TRANSFORMER |
| • | METAL POST | • | GAS VALVE |
| • | BOLLARD | • | CONIFEROUS TREE |
| P | MAILBOX | • | DECIDUOUS TREE |
| CMP | CORRUGATED METAL PIPE | — W — | WATER MAIN |
| RCP | REINFORCED CONCRETE PIPE | — SAN — | SANITARY SEWER |
| PVC | POLYVINYL CHLORIDE (PIPE) | — ST — | STORM SEWER |
| CPV | CORRUGATED PLASTIC PIPE | — FIB — | FIBER OPTIC |
| + | POST INDICATOR VALVE | — T — | UNDERGROUND TELEPHONE |
| + | SIAMASE | — E — | UNDERGROUND ELECTRIC |
| + | OUTFALL PIPE | — G — | UNDERGROUND GAS |
| ⊙ | LIGHT POLE | — OH — | OVERHEAD UTILITY |
| ⊙ | FLOOD LIGHT | | |
| ⊙ | SPRINKLER CONTROL VALVE | | |



LEGAL DESCRIPTION

BEING A PART OF LOT 1 OF CERTIFIED SURVEY MAP NO. 6543, RECORDED ON AUGUST 7, 1998, REEL 43667, PAGES 1756 TO 1758 INCLUSIVE, AS DOCUMENT NO. 7576744, AS CORRECTED BY AFFIDAVIT OF CORRECTION RECORDED AS DOCUMENT NO. 7724864, PART OF THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 1; THENCE SOUTH 00°06'34" WEST ALONG THE EAST LINE OF SAID SOUTHEAST 1/4, 401.22 FEET; THENCE SOUTH 87°35'33" WEST, 84.53 FEET TO THE WEST RIGHT OF WAY LINE OF SOUTH 27TH STREET - STATE TRUNK HIGHWAY "241" AND THE NORTHEAST CORNER OF LOT 1 OF CERTIFIED SURVEY MAP 6543 AND THE POINT OF BEGINNING;

THENCE SOUTH 00°52'38" EAST ALONG THE WEST RIGHT OF WAY LINE OF SOUTH 27TH STREET AND THE EAST LINE OF SAID LOT 1 OF CERTIFIED SURVEY MAP NO. 6543, 258.33 FEET; THENCE SOUTH 00°06'34" WEST ALONG SAID EAST LINE OF CERTIFIED SURVEY MAP NO. 6543, 157.41 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF SAID CERTIFIED SURVEY MAP NO. 6543; THE FOLLOWING 8 COURSES FOLLOW THE BOUNDARY OF SAID LOT 1; THENCE SOUTH 89°59'55" WEST, 503.59 FEET; THENCE SOUTH 87°51'06" WEST, 755.75 FEET; THENCE SOUTH 00°07'09" WEST, 531.71 FEET; THENCE SOUTH 87°31'34" WEST, 531.35 FEET; THENCE NORTH 01°16'51" WEST, 661.78 FEET; THENCE NORTH 87°32'56" EAST, 548.08 FEET; THENCE NORTH 00°06'34" EAST, 260.22 FEET; THENCE NORTH 87°33'33" EAST, 1255.32 FEET TO THE AFORESAID WEST RIGHT OF WAY LINE OF SOUTH 27TH STREET - STATE TRUNK HIGHWAY "241" AND THE POINT OF BEGINNING.

1.	DEVELOPMENT NAME:	HOBBY LOBBY
2.	LOCATION:	6803 SOUTH 27TH STREET FRANKLIN, WISCONSIN
3.	OWNER / DEVELOPER:	FIDELITY CAPITAL HOLDINGS, LLC 600 WEST VAN BUREN, SUITE 1000 CHICAGO, IL 60607 CONTACT: MICHAEL SHECHTMAN PH: (847) 778-3085
4.	WETLANDS INDICATED ARE BASED ON WETLAND DELINEATION REPORT, DATED OCTOBER 26, 2015, BY HEATHER PATTI OF A.A. SMITH NATIONAL.	
5.	DEVELOPMENT PROPERTIES:	TOTAL PDD AREA = 856,806 SQ. FT. (19.670 ACRES) EXISTING OPEN AREA = 487,095 SQ. FT. (11,182 ACRES) PROPOSED OPEN AREA = 473,487 SQ. FT. (10.869 ACRES)

S. 27TH ST. - S.T.H. '241'
 (PUBLIC RIGHT OF WAY VARIES)

EAST BRANCH ROOT RIVER

VICTORIA PLACE CONDOMINIUM
 OWNER: VICTORIA PLACE CONDOMINIUM ASSOC.
 ZONE: PDD 19

LOT 18
 RIVER MEADOWS SUBDIVISION
 OWNER: KAUFMAN RANDY M & SARAH R.
 ZONE: R-6

LOT 18
 RIVER MEADOWS SUBDIVISION
 OWNER: HARDWICK, NATHAN E. & MICHEL J.
 ZONE: R-6

LOT 17
 RIVER MEADOWS SUBDIVISION
 OWNER: OLS LEON & KRISTINE L.
 ZONE: R-6

LOT 12
 RIVER MEADOWS SUBDIVISION
 OWNER: ALAMY AYMAN & HALA M
 ZONE: R-6

LOT 11
 RIVER MEADOWS SUBDIVISION
 OWNER: STEVE E. KOENIG
 ZONE: R-6

OUTLOT 2
 RIVERWOOD VILLAGE SUBDIVISION
 OWNER: INDIAN CREEK CONDOMINIUM ASSOC.
 ZONE: PDD 10

LOT 5
 RIVERWOOD VILLAGE SUBDIVISION
 OWNER: GOODWILL INDUSTRIES
 ZONE: PDD 10

LOT 4
 WAL-MART SUBDIVISION
 OWNER: SAM'S REAL ESTATE
 ZONE: PDD 13

LOT 3
 WAL-MART SUBDIVISION
 OWNER: WAL-MART REAL ESTATE
 ZONE: PDD 13

LOT 2
 WAL-MART SUBDIVISION
 OWNER: BASRA, NIRMALJIT SINGH & RAJINDER K.
 ZONE: PDD 13

LOT 1
 CSM 8310
 OWNER: DAL 27TH STREET CLINIC, LLC
 ZONE: B-2

OUTLOT 1
 CSM 6543
 OWNER: SIENARD INC.
 ZONE B-2

PREPARED FOR:
WS FRANKLIN, LLC
935 W. CHESTNUT, SUITE 600
CHICAGO, IL 60642

PREPARED BY:
JSD Professional Services, Inc.
Milwaukee Regional Office
N22 W22931 NANCY'S COURT SUITE 3
WAUKESHA, WISCONSIN 53186
262.513.0686 PHONE | 262.513.1232 FAX

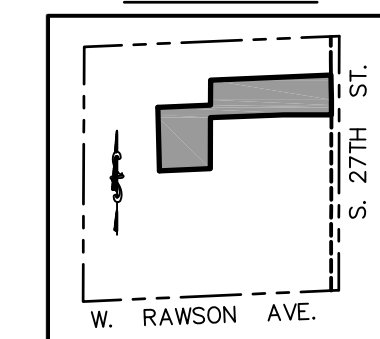
6803 CONDOMINIUMS

A CONDOMINIUM PLAT

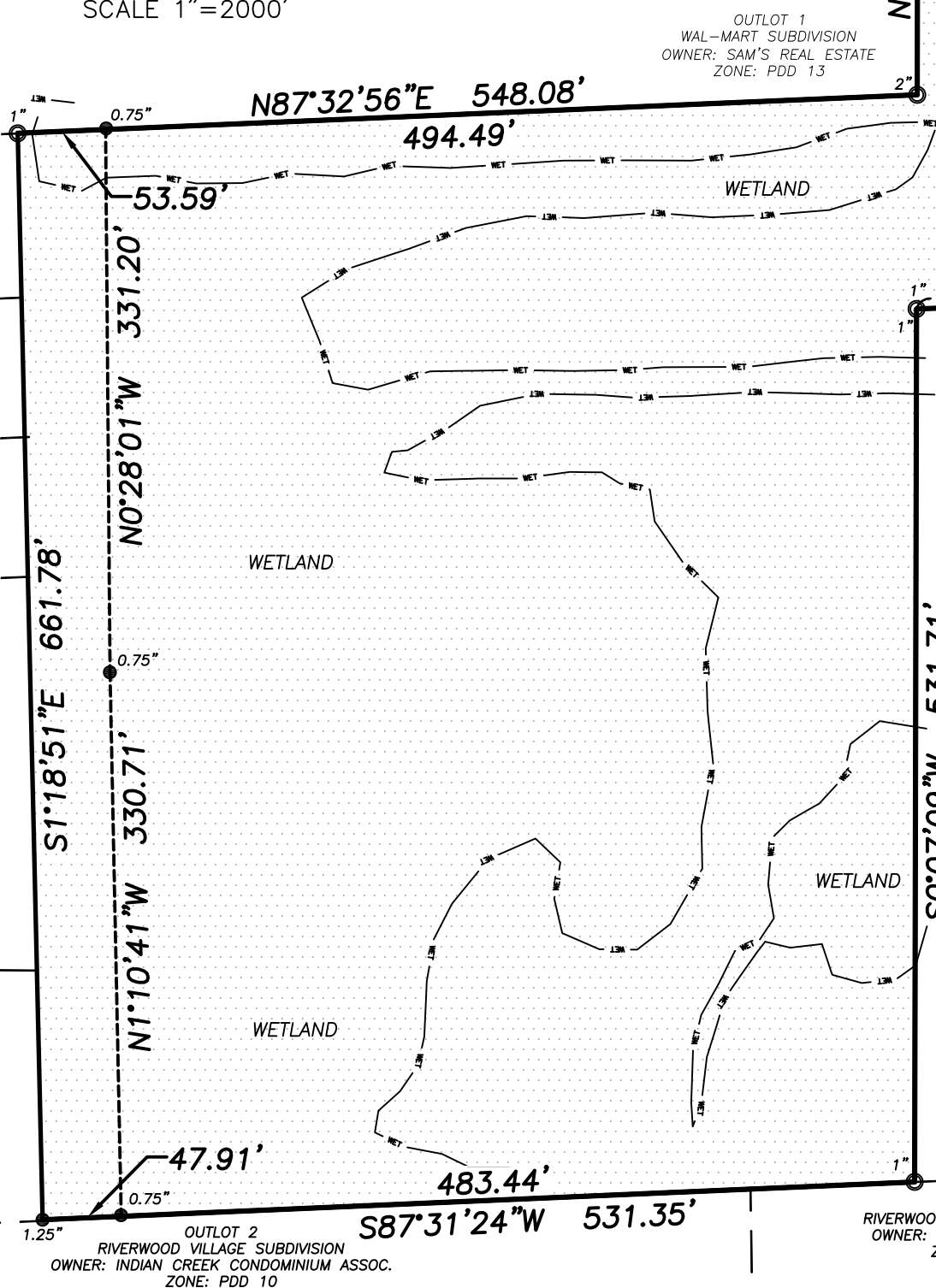
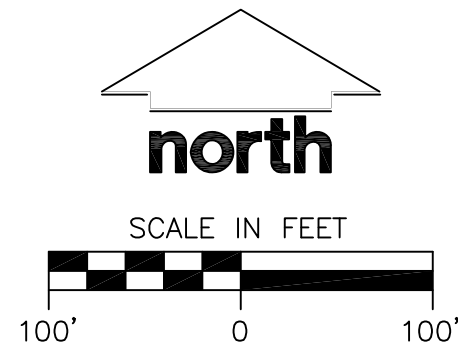
LOT 1 OF CERTIFIED SURVEY MAP No. _____, RECORDED ON _____, 2016 AS DOCUMENT NO. _____, BEING A PART OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

NE CORNER OF THE SE 1/4 OF SEC. 1-5-21 MONUMENT REMOVED DUE TO CONSTRUCTION ON SOUTH 27TH STREET
NW CORNER OF THE SE 1/4 OF SEC. 1-5-21
SE 1/4 OF SEC. 1-5-21
BRASS CAP IN CONCRETE MONUMENT

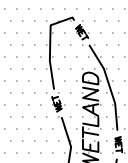
VICINITY MAP



SE 1/4 SEC. 1, T5N, R21E,
SCALE 1"=2000'



CONSERVATION EASEMENT PER C.S.M. #-----



SURVEYOR'S CERTIFICATE

I hereby certify that, in compliance with chapter 703.11 of Wisconsin Statutes, the condominium plat shown hereon is a correct representation of the plat described and further that the building locations have been field verified and that the identification and location of each unit and the common elements can be determined from the plat.

Craig W. Riley
Wisconsin Professional
Land Surveyor, S-2264

Date: _____

THERE ARE NO OBJECTIONS TO THIS CONDOMINIUM WITH RESPECT TO SECTION 703 OF WISCONSIN STATUTES AND IT IS HEREBY APPROVED FOR RECORDING.
DATED THIS _____ DAY OF _____ 20____
MILWAUKEE COUNTY

THERE ARE NO OBJECTIONS TO THIS CONDOMINIUM WITH RESPECT TO SECTION 703 OF WISCONSIN STATUTES AND IS HEREBY APPROVED FOR RECORDING.
DATED THIS _____ DAY OF _____ 20____
CITY OF GREENFIELD

LEGAL DESCRIPTION

Lot 1 of Certified Survey Map (CSM) No. _____, recorded on Month _____, 2016, as Document No. _____, part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 1, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin.

Containing in all 800,224 square feet (18.3706 acres) of land, more or less.

All subject to easements and restrictions of record and government restrictions, if any.

OFFICE OF THE REGISTER OF DEEDS
MILWAUKEE COUNTY, WISCONSIN
RECEIVED FOR RECORD _____
2016 AT _____ O'CLOCK _____ M AS
DOCUMENT # _____
IN VOL. _____ OF CONDOMINIUM
PLATS ON PAGE(S) _____
REGISTER OF DEEDS

PROJECT NO:	15-6984	SURVEYED BY:	CJH
FILE NO:	15-6984	DRAWN BY:	CJH
FIELDBOOK/PG:	33	CHECKED BY:	CWR
		APPROVED BY:	CWR

NOTES

- Bearings for this survey and map are referenced to Wisconsin State Plane Coordinate System, South Zone. The East Line of the Southeast 1/4 bears South 00°06'34" West.
- All measurements have been made to the nearest one-hundredth of a foot.
- All angular measurements have been made to the nearest one second.
- Field work performed by JSD Professional Services, Inc. on October 1-2 & 14, 2015.
- The subject properties are zoned as a part of Planned Development District Number 13 and a FW Floodway District.
- All areas and features of the condominium are common elements unless otherwise noted as units.
- All areas depicted on the condominium plat as limited common elements shall be governed by the terms and conditions of the declaration.

LEGEND

- IRON PIPE FOUND (DIAMETER INDICATED)
- REBAR FOUND (DIAMETER INDICATED)

SE CORNER OF THE SE 1/4 OF SEC. 1-5-21 BRASS CAP IN CONCRETE MONUMENT

S. 27TH ST. - S.T.H. '241'
(PUBLIC RIGHT OF WAY VARIES)

**DECLARATION OF 6803
CONDOMINIUMS**
Document Title

Document Number

Recording Area

Name and Return Address:

Joseph E. Tierney IV
Davis & Kuelthau, s.c.
111 East Kilbourn Avenue
Suite 1400
Milwaukee, Wisconsin 53202

PIN: See Exhibit A

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6803 CONDOMINIUMS**

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DECLARATION OF 6803 CONDOMINIUMS

This Declaration of 6803 Condominiums (the “Declaration”) is made and entered into by WS Franklin LLC, an Illinois limited liability company, (the “Declarant”) pursuant to the small condominiums provisions of the Wisconsin Condominium Ownership Act (the “Act”).

Recitals

Declarant owns the real property located in the City of Franklin (the “City”), County of Milwaukee, State of Wisconsin, as more particularly described and depicted on the attached **Exhibit A** (the “Real Property”). By this Declaration, Declarant intends to submit the Real Property, together with all improvements located thereon and appurtenances thereto (collectively, the “Property”) to the small residential condominium form of ownership and to establish certain easements, rights, restrictions and obligations with respect to the ownership, use and maintenance of the Property.

Declaration

Now, therefore, Declarant by this Declaration (1) submits the Property and such improvements to the small residential condominium form of use and ownership as provided in the Act; (2) establishes and imposes the provisions, restrictions, conditions, easements and uses herein upon the Property; and (3) specifies that the provisions of this Declaration shall constitute covenants running with the land which shall be binding upon Declarant and all subsequent owners and occupants of all or any part of the Property.

SECTION 1 - DEFINITIONS

1. **Act**. The “Act” shall mean the Wisconsin Condominium Ownership Act, as currently set forth at Chapter 703 of the Wisconsin Statutes and as it is amended or renumbered from time to time.
2. **Association**. The “Association” shall mean the 6803 Condominiums Association, Inc., established under Section 3 hereof.
3. **Association Insurance**. “Association Insurance” shall mean all policies of insurance to be maintained by the Association under this Declaration.
4. **Board**. The “Board” or “Board of Directors” shall be the governing body of the Association, elected in accordance with the Bylaws.
5. **Building**. A “Building” shall be any free standing structure located on the Property.
6. **Bylaws**. The “Bylaws” shall mean the Bylaws of the Association as adopted by the Board.

7. Common Elements. The “Common Elements” for Unit 1 and Unit 2 shall consist of all of the Condominium except for the Buildings and Building Envelopes shown on the Plat, and are composed of two categories. Certain Common Elements are available for the nonexclusive use and enjoyment of all Owners and Occupants and are referred to as the “General Common Elements.” The General Common Elements for Unit 1 shall include (i) all land not shown as a proposed Building envelope; (ii) the proposed common drives and entrances; (iii) the Party Wall; and (iv) any shared utility services that service the Buildings. The General Common Elements for Unit 2 shall include (i) all land not shown as a Building; (ii) the proposed common drives and entrances; (iii) the Party Wall (as hereinafter defined); and (iv) any shared utility services that service the Buildings. Other Common Elements are limited to the use by the Owner and Occupants of a particular Unit to which such Common Elements are appurtenant and are referred to as “Limited Common Elements.” The Limited Common Elements for Unit 1 are the parking lot located directly east of Building “A” as shown on the Plat. The Limited Common Elements for Unit 2 are the asphalt parking areas located directly north of Building “B” as shown on the Plat.

8. Common Expenses. The “Common Expenses” are any and all expenses incurred by the Association in connection with the management of the Condominium, maintenance of the Common Elements and administration of the Association, including expenses storm water compliance and runoff, improvements to the Common Elements, Association Insurance premiums, any shared utility services for the Common Elements, fire alarm systems, maintenance and management wages, and fees of outside consultants.

9. Condominium. The “Condominium” shall be known as 6803 Condominiums and shall mean the Property together with the Units and Common Elements as they are currently constructed or as they may hereafter be constructed on the Property.

10. Condominium Documents. The “Condominium Documents” are this Declaration, the Articles of Incorporation and Bylaws of the Association, and such Rules and Regulations as may be adopted by the Board pursuant to this Declaration or the Bylaws.

11. Declarant. The “Declarant” shall mean WS Franklin LLC, an Illinois limited liability company, and the successors and assigns of Declarant pursuant to assignment in accordance with Section 16(g) of this Declaration.

12. Declaration. “Declaration” shall mean this Declaration of 6803 Condominiums as the same may be amended from time to time.

13. Director. A “Director” shall mean a member of the Board.

14. Improvement. An “Improvement” shall mean any construction, installation, or erection of a new permanent structure or work (such as planting trees) or modification or alteration greater than \$10,000.00 to an existing permanent structure or work on the Real Property, which increases its value or extends its useful life.

15. Interest. “Interest” shall have the meaning set forth in Section 2(a).
16. Mortgage. “Mortgage” shall mean a recorded first lien mortgage against a Unit or the vendor’s interest under a recorded first lien land contract of the Unit.
17. Mortgagee. “Mortgagee” shall mean the holder of a Mortgage.
18. Occupant. “Occupant” shall mean the Owner or any other person or entity occupying a Unit including, without limitation, any lessee, guest, or invitee of a Unit.
19. Owner. “Owner” shall mean each fee simple owner of a Unit and each vendee of a Unit under a recorded land contract. The Declarant is an Owner with respect to each Unit to which it holds title.
20. Party Wall. The “Party Wall” shall mean that certain party wall that is shared between the Buildings located on Unit 1 and Unit 2, as shown on the Plat.
21. Pet. A “Pet” is a domestic dog, cat or bird (other than large birds of prey) which is not maintained for breeding or commercial purposes.
22. Plat. “Plat” shall mean the plat of the Condominium, comprised of an as-built survey of the Property, building floor plans and unit addresses as recorded or to be recorded in the Register’s Office and as the same may be amended from time to time.
23. Property. The “Property” shall mean the Real Property, together with all improvements located thereon and appurtenances thereto.
24. REA. The “REA” shall mean that certain Agreement of Restrictive Covenants and Reciprocal Easements that shall be executed by the Declarant and the owner of the outparcel adjacent to and directly east of the Property and legally described on **Exhibit C** attached hereto (the “**Outparcel**”), and recorded in the Register’s Office contemporaneous with the recording of this Declaration.
25. Register’s Office. The “Register’s Office” is the Office of the Register of Deeds for Milwaukee County, Wisconsin.
26. Rules. The “Rules” shall mean rules and regulations established by the Association from time to time.
27. Unit. “Unit” shall mean a separate freehold estate, consisting of the space bounded and described in Section 2(a).

SECTION 2 - UNITS

(a) *General.* The Condominium consists of two (2) Units. Unit 1 shall consist of the existing Building A. Unit 2 shall consist of the existing Building B. Building A and Building B share the Party Wall. The boundaries of Unit 1 consist of the exterior surface perimeter walls, exterior surface roof, foundation, and the Party Wall up to and including the surface of such wall, as shown on the Plat. The boundaries of Unit 2 consist of the exterior surface perimeter walls, exterior surface roof, foundation, and the Party Wall up to and including the surface of such wall, as shown on the Plat. Each Unit also includes all windows and doors, and all mechanical and utility installations which exclusively service the Unit. Unit 1 has a fifty percent (50%) interest in the General Common Elements (the "Unit 1 Interest"). Unit 2 has a fifty percent (50%) interest in the General Common Elements (the "Unit 2 Interest"; together or separately, the Unit 1 Interest and Unit 2 Interest may be referred to as the "Interest"). Each Unit and its associated share of the Common Elements comprise the Interest.

(b) *Common Elements.* Each Unit also has appurtenant Common Elements, which consist of both General Common Elements and Limited Common Elements as described above. The Limited Common Elements are reserved for the exclusive use of the Unit to which they are appurtenant and are generally identified on the Plat attached as **Exhibit B**. The General Common Elements shall consist of all of the Condominium except the Units and the Limited Common Elements. Any supply lines, waste lines, pipes, wires, conduits or public utility lines (a) running through a Unit and (b) servicing only that Unit shall be part of the Unit; and any supply lines, waste lines, pipes, wires or conduits or portions thereof, if any, which do not service one particular Unit (regardless of whether or not such lines, pipes, wires or conduits run through any part of a Unit) shall be General Common Elements to the extent not owned and/or maintained by any public utility, governmental unit or cable television company.

(c) *No Separation of Units.* Units may not be separated.

(d) *Merger of Units.* Units may not be merged.

(e) *Roofs.* Building A and Building B each have separate roofs, which shall not be considered part of the Common Elements or the subject of any Common Expenses. For purposes of clarity, the Owner and Occupants of a particular Unit shall be responsible for the maintenance, repair, and replacement obligations with respect to the roof for each respective Building.

SECTION 3 – ASSOCIATION OF UNIT OWNERS

(a) *Administration.* The Declarant shall create the Association, which shall be incorporated and shall adopt Bylaws for the governance and administration of the Condominium. The Association shall administer the Condominium and the provisions of the Declaration and the Bylaws, acting through its Board. From time to time, the Board may, but need not, adopt and amend Rules regarding the use of the Common Elements and other matters concerning the Condominium and Association, provided such Rules are not inconsistent with this Declaration or the Bylaws. After adoption, the Rules shall be binding upon Owners and Occupants.

(b) Membership and Voting. Each Owner shall be a member of the Association and membership shall commence and terminate with ownership. Each Unit shall be vested with a vote equal to the numerical equivalent of its percentage Interest, so that the total number of votes is one hundred (100), to be cast as set forth in the Bylaws.

(c) Notice. Notice of Board meetings shall be given to each Unit Owner as provided in the Bylaws.

(d) Board Action and Grievance Procedure. The Board has the authority to make expenditures required by this Declaration and for the improvement of the Condominium. Actions by the Board, including all expenditures that exceed Five Thousand Dollars (\$5,000.00), must be approved by an affirmative vote or written consent of at least fifty-one percent (51%) of the Board. If a proposed action for the repair, maintenance or upkeep of the Condominium is either (1) not approved by the Board and an Owner believes the action is necessary for the safety and proper use of its Unit, or (2) approved by the Board and an Owner believes the action is contrary to the safety and proper use of its Unit, then such Owner may initiate the following grievance procedure:

(1) The Owner challenging a decision of the Board shall give written notice of the objection to all Owners within twenty (20) days after the decision but before any action is taken or expenditure is made. Upon receipt of this notice, the Board shall reconsider its decision and either affirm, reverse or modify the decision.

(2) The Unit Owner may challenge the decision after reconsideration, or if no reconsideration takes place within fourteen (14) days after the notice is given, only in an arbitration proceeding under Wisconsin Statutes Ch. 788.

(3) Upon submission of the matter to arbitration, the Board shall name a proposed arbitrator. The Owner may accept the proposed arbitrator or propose a different arbitrator. If there is no agreement on a single arbitrator, the two (2) arbitrators shall select a third (3rd) person and the three (3) shall serve as an arbitration panel chaired by the third (3rd) person. The expense of the arbitration shall be shared equally by all of the Owners.

(4) The arbitration award by the arbitration panel shall permit or prohibit the decision and the decision shall not be implemented, if it is an affirmative action, until the award is final unless there is a bona fide emergency requiring it.

(e) Management. The Board shall be responsible for all aspects of the management, operations and duties of the Association, but may retain a manager for the Condominium.

SECTION 4 – ASSESSMENTS

(a) Budget. The Association shall annually adopt and distribute to all Owners a budget of Common Expenses. Common Expenses shall include any cost attributable to the Condominium or Units under the REA, any costs under Section 5(a) or 5(c), and/or any other costs associated with the General Common Elements hereunder. The budget shall include the funding of an adequate replacement reserve out of general assessments and shall set forth the

following: (1) all anticipated Common Expenses and any amounts to be allocated to a statutory reserve account, if any, and to any other funds for future expenditures, (2) the amount and any purpose of any other anticipated Association expenditure, (3) the amount in any statutory reserve account (if one is created and maintained) or any other funds held for future expenditures, (4) any common surpluses, (5) the amount and source of any income, other than assessments from Owners, and (6) the aggregate amount of any assessment to be levied against Owners and the purpose of the assessment. In no event shall any reserve account established hereunder be deemed to be a statutory reserve account pursuant to Section 703.163 of the Act. The Declarant hereby acknowledges that it is not establishing an initial statutory reserve account for the Condominium and anticipates that future expenditures for the repair and replacement of Common Elements will be funded through a non-statutory reserve account established and funded solely pursuant to the terms of this Declaration. Notwithstanding anything contained herein to the contrary, the statutory reserve account rules found in Section 703.163 of the Act do not apply herein unless the Declarant or the Association, along with a written consent of a majority of Unit votes, elects to be governed by Section 703.163 of the Act.

(b) General Assessments. The Association shall levy assessments based on each budget. The budget shall be allocated pro rata based on the Interest of each Unit, except as otherwise set forth in this Declaration.

(c) Special Assessments and Charges. The Association may also levy (1) special assessments on all Units for any purpose for which a general assessment may be levied, (2) special assessments or fines on a particular Owner for the purpose of collecting any amounts due the Association or enforcing compliance by such Owner with any provision of the Condominium, and (3) special assessments for other charges and amounts owing to the Association.

(d) Installments; Late Payments. General assessments shall be made on an annual basis but shall be due and payable in monthly installments on the first day of each month. Special assessments shall be due and payable at such time and in such manner as the Board may determine. Any assessment or installment of an assessment not received by the Association within ten (10) days of its due date may be subject to a One Hundred Fifty Dollar (\$150) late charge.

(e) Enforcement; Liens. If an Owner defaults in any payment, the Association may take appropriate measures as provided by law. The defaulting Owner shall be responsible for all costs incurred by the Association in seeking to enforce payment including reasonable attorneys' fees. Each Owner shall be personally liable for assessments and a lien shall be imposed against such Owner's Unit for any unpaid assessments. Liens for unpaid assessments shall also extend to and secure interest, fines and reasonable costs of collection, including reasonable attorneys' fees incurred by the Association incident to the collection of assessments or enforcement of liens. The Association may purchase a Unit upon the foreclosure of its lien.

(f) Payment of Assessments by Declarant. During the period of Declarant control, Declarant may, but shall not be obligated to, directly pay bills or provide services which would otherwise represent Association obligations to which regular assessments would

be applied. Declarant shall be entitled to offset expenses incurred by Declarant in performing or paying for such Association obligations against assessments due on Declarant owned Units.

(g) Common Expenses and Surpluses. Except as otherwise provided in this Declaration, Common Expenses and surpluses shall be allocated among all Owners according to their respective Interests. All common surpluses of the Condominium for each of its fiscal years shall be retained for Common Expenses of the Condominium for the next succeeding fiscal year.

SECTION 5 – MAINTENANCE

(a) Association's Responsibility. The Association shall maintain in good condition and repair, replace and operate all of the General Common Elements, except as expressly stated in Section 5(b). Neither the Declarant nor the Association is under any duty or obligation to investigate and ensure compliance with proper maintenance of the interior of the Unit.

(b) Owner's Responsibility. Each Owner, at the Owner's sole cost, shall: (1) maintain the interior of its Unit in a healthful and safe condition so as to comply with all applicable Wisconsin statutory and common law requirements, administrative code regulations, and local ordinances; (2) perform routine maintenance, repair and replacement of all components or installations inside the Unit and such Unit's Limited Common Elements so as to comply with all applicable Wisconsin statutory and common law requirements, administrative code regulations, and local ordinances; (3) to the extent not covered by insurance, pay for the repair and replacement of the General Common Elements and all other Units and property damaged through the fault or negligence of such Owner or such Owner's employees, guests, invitees or any other Occupants of the Owner's Unit; and (4) be responsible for the reasonable security and safety of the Owner's Unit and shall be liable for damages caused to any other Unit(s), or the Common Elements, to the extent not covered by insurance, as a result of a breach of such security. Each Owner shall also reimburse the Association for the cost of defending against or settling a claim for damages for a personal injury which was caused by an act or omission of such Owner or such Owner's employees, guests, invitees or lessees, to the extent that such costs are not covered by Association Insurance. The Board may use the remedies listed in Section 13 to enforce this subsection.

(c) Utilities. The Units are separately metered for water, gas, and electric utility service. Each Owner shall be responsible for the payment of the bills for these utility services. Sanitary, storm water compliance and runoff, fire alarm systems, and any other shared utility services for the Common Elements are Common Expenses.

SECTION 6 – ARCHITECTURAL CONTROL OF CERTAIN CONSTRUCTION AND LANDSCAPING

(a) Improvements/Alterations that Require Board Approval. An Owner or the Association, prior to undertaking any improvement or alteration, must receive approval of at least fifty-one percent (51%) of the Board for (1) any construction to the exterior of any Building, or (2) the installation of or any change to the landscaping; and must receive

unanimous approval of the Board for (3) the reconstruction of any Unit or Building following a casualty loss thereto; or (4) the demolition of any Unit or Building ((1) through (4) collectively, "Improvements"). The vote of the Owner undertaking such Improvement or alteration shall be counted towards the fifty-one percent (51%) vote required by this subsection. Notwithstanding the foregoing, if improvements to the Party Wall are required, as determined by the Association, the Owners of Unit 1 and Unit 2 shall split the costs of such improvements pro rata based on their Interests.

(b) *Process of Approval.* Prior to the application for a municipal building permit, the Owner proposing an Improvement that is subject to subparagraph (a) shall submit to the Board: (1) three sets of the preliminary plans for the Improvement, including dimensions and exterior elevations on all sides; and (2) three sets of site plans, showing the location of the Improvement. When considering approval of any Improvements, the Board is permitted, but not required, to consider the reputation and creditworthiness of any contractor or agent hired by an Owner to perform work, and whether the Improvement as depicted on the preliminary plans conform with the character of the Condominium and will not interfere with the rights of Owners, the Association, or the Declarant. Approval of alterations by the Board shall not be deemed approval by the municipality and approval by the municipality shall not be deemed approval by the Board.

(c) *Applicability of Section.* This Section 6 shall not apply to Declarant.

SECTION 7 – RESTRICTIONS ON USE AND OCCUPANCY

(a) *Lease of Units.* An Owner may lease its Unit; provided, however, that any lessee shall be provided with a true, accurate, and complete copy of the Condominium Documents by such Owner and further provided that such lessee shall agree in writing to be bound by the Condominium Documents.

(b) *Pets.* Owners and/or their Occupants may not keep any Pets or any other animals in a Unit or in any of the General Common Elements or areas outside of a Building.

(c) *No Obstructions.* No person shall cause or permit the General Common Elements to be used as to deny any Owner or Occupant the full use of the General Common Elements or its Unit.

(d) *Parking and Exterior Storage.* No outdoor parking of vehicles shall be permitted anywhere in the Condominium except in (i) Limited Common Elements, or (ii) storage structures. No person shall occupy, park or otherwise use a vehicle so as to block access. Exterior storage of trailers, campers, camping trucks, boats or other marine craft, house trailers, motorcycles, mopeds, motorized bicycles, snowmobiles, land vehicles, inoperative or unlicensed vehicles or the like shall not be permitted on the General Common Elements. No vehicle maintenance or lubrication shall be permitted anywhere in the Condominium, except washing of cars in an Association dedicated area. No playground equipment, bicycle racks or other obstructions may be placed on the Common Elements except as the Board permits by Rule. The Board may adopt Rules that further limit or prohibit parking on the Common

Elements, including without limitation Rules concerning the indoor parking of boats, and limits on the period of time during which vehicles may be parked outside even in marked spaces.

(e) Waste. Accumulations of waste, litter, excess or unused building materials or trash other than in appropriate receptacles is prohibited, and garbage containers shall be situated only in locations designated by the Association.

(f) Antennas. No antenna, aerial, satellite dish or cable for television or radio reception shall be erected or installed on or in any roof or any other portion of the Condominium, except as erected or installed by Declarant, or by the Association, or by any individual Owner with written approval of the Board pursuant to Section 6(a).

(g) Temporary Structures. No structure, trailer, tent, shack or barn, temporary or otherwise, shall be placed or maintained on any portion of the Condominium without written approval of the Board.

(h) Quiet Enjoyment. Each Owner shall have the right to use its Unit in accordance with this Declaration and applicable law, free from unreasonable interference from other Owners and Occupants.

(i) Noxious Activity. No use or practice shall be allowed on the Condominium which is immoral, improper or offensive in the sole opinion of fifty-one percent (51%) the Board or which is in violation of the Declaration. By way of example and not limitation, offensive activity shall include excessive amplification of musical instruments and/or audio or audio visual equipment.

(j) Environmental Matters. Each Owner and Occupant shall comply with all applicable governmental or Association statutes, ordinances, regulations or Rules relating to the storage, transport and release to, from, on or in such Unit of any substance or compound governed by any one or more of Wis. Stats. Chap. 292; CERCLA; TOCSA; RCRA; amendments to any of the foregoing; and similar laws now or hereafter in effect relating to the storage, transport or release of substances and compounds.

(k) Signs. No Owner may erect, post or display posters, signs or advertising material on the Common Elements or areas of Units outside of Buildings without the prior written consent of the Association and approval from the City. If consent is sought and obtained, the permitted signs will be erected and maintained in accordance with all ordinances, Rules, regulations and conditions applicable thereto. "Signs" as used herein shall be construed and interpreted in the broadest possible sense and shall include any placard, posters or other such devices as may be affixed to the interior of any exterior windows so as to be visible from the exterior of the Building. This subsection will not apply to Declarant.

(l) Alteration to Common Elements. No Owner shall physically alter the General Common Elements without the prior written consent of the Board.

SECTION 8 – RECONSTRUCTION AND CONDEMNATION

In the event of fire, casualty or any other damage affecting one or more of the Units or Common Elements (the “Damaged Premises”), the Damaged Premises shall be reconstructed and repaired, unless otherwise determined as provided below.

(a) Reconstruction. In the event of fire, casualty or any other disaster affecting one or more of the Units or Common Elements (the “Damaged Premises”), the Damaged Premises shall be reconstructed and repaired, unless otherwise determined as provided below. Reconstruction and repair shall mean restoring the Damaged Premises to substantially the same condition as existed prior to the fire, casualty or disaster, and in accordance with the maps, plans and specifications used in the original construction insofar as practicable. The Board may authorize changes to the same with the consent of the Mortgagees of the Units so affected and with the recordation of an amendment to this Declaration noting the effects thereof.

(b) Insufficient Proceeds. If insurance proceeds are insufficient to reconstruct or repair General Common Elements, then, subject to Section 8(c), the Owners of all Units shall be assessed according to their Interests for the deficiency relating to the reconstruction or repair of General Common Elements comprising Damaged Premises. The provisions of Section 4 shall apply to all sums assessed for any deficiency.

(c) Partition. If the insurance proceeds are insufficient to reconstruct or repair the General Common Elements (excluding any deductibles under the Association Insurance), then the Condominium shall be subject to an action for partition upon obtaining the written consent of all Owners and Mortgagees. If such approval is not obtained within thirty (30) days from the date of adjustment of insurance proceeds following the fire, casualty or other disaster, then no such action for partition shall be maintained or initiated.

(d) Control of Adjustment and Restoration. The Association shall have the sole power to settle adjustments with the insurance carrier for Association Insurance. The Association shall have the sole power to engage contractors to restore the Common Elements and insured portions of the Units. The Association shall have no responsibility to repair, reconstruct or replace any improvements in a Unit which are not insured by Association Insurance or any improvements installed subsequent to the date of the Declaration.

(e) Construction Fund. Insurance proceeds and special assessments under Section 8(b) shall constitute a construction fund, with insurance proceeds disbursed first. Any surplus funds shall be held or distributed to the Owners and their Mortgagees as their interests may appear, in accordance with their Interests.

(f) Condemnation. If all or any portion of the Condominium is taken under the power of eminent domain or sold in settlement or anticipation of any pending or threatened proceeding, Section 703.195 of the Act shall control.

(g) Status of Damaged Units. A damaged Unit shall not cease to be a Unit for purposes of this Declaration.

SECTION 9 – ASSOCIATION INSURANCE

(a) Association Insurance. The Association shall obtain and maintain commercial general public liability insurance for occurrences on the Common Elements, special forms of loss casualty insurance coverage on the General Common Elements, and such other policies or coverage as the Board deems necessary or advisable.

(b) Coverage of Association Insurance. The casualty insurance coverage shall be in an amount equal to the maximum insurable replacement value, with an “agreed amount” and a “replacement cost” endorsement, without deduction or allowance for depreciation. This coverage amount shall be annually reviewed and shall insure against loss or damage by fire and other hazards as commonly covered by a standard extended coverage endorsement and such other hazards as customarily covered with respect to improvements similar in construction, location and use. Comprehensive general liability coverage shall be in such amounts as the Board determines annually, but not less than Two Million and no/100 Dollars (\$2,000,000) per occurrence.

(c) Proceeds. Association Insurance proceeds for casualty loss shall be for the benefit of the Association, Owners of damaged Units and their Mortgagees as their interests appear in order to finance reconstruction of damaged Common Elements. Liability coverage and other insurance proceeds shall be applied as the Association directs.

(d) Cost. All premiums for Association Insurance and other insurance obtained by the Association shall be a Common Expense of the Condominium, except that any increase in the rating or premium charged for any such insurance caused by the character or use of a Unit shall be allocated solely to its Owner.

(e) Waiver of Subrogation. The Association and each Owner acting both for themselves and for their respective insurers, waive any claim it or they may have against the other for any loss insured under any policy obtained by either to the extent of insurance proceeds actually received, however loss is caused, including such losses as may be due to the negligence of the other party, its agents or employees. All policies of insurance shall contain a provision that they are not invalidated by the foregoing waiver, but such waiver shall cease to be effective if the existence thereof precludes the Association from obtaining any policy of insurance at a reasonable and customary rate.

(f) Acts Affecting Insurance. No Owner or Occupant shall commit or permit any violation of covenants or agreements contained in the Association Insurance, or do or permit anything to be done, or keep or permit anything to be kept, or permit any condition to exist, which might (1) result in termination of any such policies, (2) adversely affect the right of recovery thereunder, (3) result in reputable insurance companies refusing to provide such insurance, or (4) result in an increase in the insurance rate or premium over the premium which would have been charged in the absence of such violation or condition, provided that, in the case of such increase, the Owner responsible for such increase shall pay the same. If the rate of premium payable with respect to the Association Insurance or with respect to any policy of insurance carried by any Owner shall be increased over the rate charged for the lowest-rated Unit, (w) by the size, design or composition of the Unit, (x) by reason of anything done or kept

in a Unit, or (y) the failure of any Owner or Occupant to comply with Association Insurance requirements or (z) the failure of any Owner or Occupant to comply with this Declaration or the Bylaws, then the particular Owner shall reimburse the Association for the resulting additional premiums. The Association reimbursement right is without prejudice to any other Association remedy, and may be enforced by special assessment against the particular Unit.

(g) Exclusions From Coverage. Association Insurance coverage may exclude (1) coverage on the Unit itself and any personal property located within or pertaining to the exclusive use of a Unit; and (2) liability coverage on an Owner, its guests, invitees, employees or any other Occupants of such Unit, arising out of any occurrences within a Unit or relating to an Owner's personal property. It is the sole responsibility of each Owner to obtain such insurance coverages as are excluded from Association Insurance.

SECTION 10 – AMENDMENT TO DECLARATION

(a) General Amendment. Except as otherwise provided herein, this Declaration may be amended only by the written consent of Owners of Units which represent at least fifty-one percent (51%) of the Interests, or such greater percentage as may be required by the Act. Consent by the Owner of a Unit which is subject to a Mortgage is not effective unless approved by the Unit's Mortgagee, if any. Amendments shall be prepared and executed by the Board after approval by the Owners as described above, and shall become effective when recorded in the Register's Office. No action to challenge the validity of an amendment shall be commenced more than one (1) year after the amendment is recorded. Notwithstanding the foregoing, for as long as the Declarant owns a Unit it may amend this Declaration without the written consent of the other Owners.

(b) Requirement for Special Approvals of Certain Amendments. No amendment shall adversely affect a special right conferred on or reserved to Declarant under this Declaration without Declarant's written consent, including a right of Declarant to amend.

(c) Material Amendments. If an amendment is proposed which would affect any of the following provisions of this Declaration, it shall also require approval by fifty-one percent (51%) of Mortgagees: (1) voting rights; (2) assessments, assessment liens, or the priority of assessment liens; (3) reserves for maintenance, repair, and replacement of Common Elements; (4) responsibility for maintenance and repairs; (5) reallocation of Interests in the General or Limited Common Elements, or rights to their use; (6) redefinition of any Unit boundaries; (7) convertibility of Units into Common Elements or vice versa; (8) expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the Condominium; (9) insurance or fidelity bond; (10) leasing of Units; (11) imposition of any restrictions on a Unit Owner's right to sell or transfer the Owner's Unit; (12) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than as specified herein; (13) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or (14) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

(d) Alternative Procedure for Amending the Declaration. As an alternative to Section 10(a) above, this Declaration may be amended in accordance with Section 703.093 of the Act.

SECTION 11 – RIGHTS OF MORTGAGE HOLDERS

(a) Notice. Any holder, insurer or guarantor of a Mortgage encumbering a Unit (“Mortgagee”) that makes written request on the Association for the following, which request shall identify the name and address of such holder, insurer or guarantor and the Unit number or address, any such holder, insurer or guarantor, will be entitled to timely written notice of:

(1) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its Mortgage;

(2) Any thirty (30) day delinquency in the payment of assessments owed by the Owner of the Unit on which it holds a Mortgage or any breach of the provisions of any instrument or rule governing the Condominium which is not cured by such Owner within thirty (30) days of such Owner’s receipt of notice of such breach;

(3) A lapse, cancellation or material modification of any Association Insurance policy or any fidelity bond maintained by the Association; and

(4) Any proposed action that requires the consent of Mortgagees.

(b) Mortgagee Acquisition of Unit. A Mortgagee acquiring title to a Unit pursuant to remedies provided in its Mortgage or by a deed in lieu of foreclosure following an Owner’s default under the Mortgage shall not be liable for such Unit’s unpaid assessments accruing prior to the Mortgagee’s acquisition of title to the Unit (except to the extent that any uncollected assessments may be included in any subsequent budget).

(c) Restoration. Any restoration or repair of the Condominium after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications, unless other action is approved by at least fifty-one percent (51%) of the Mortgagees.

(d) Termination. Any election to terminate the Condominium must require Mortgagee approval as follows: fifty-one percent (51%).

SECTION 12 – RIGHTS OF DECLARANT; CLAIMS AGAINST DECLARANT

(a) Rights Reserved by Declarant. Notwithstanding anything in this Declaration to the contrary, until the earlier of (i) the sale by Declarant of one (1) Unit, or (ii) three years after the Declarant has sold at least one Unit, Declarant may, but shall not be obligated to:

(1) Manage and operate the Condominium in accordance with this Declaration, including the right to contract for professional management of the Condominium.

(2) Use the General Common Elements and any unsold Units on the Condominium in any manner as may facilitate sale or leasing of all Units.

(3) Grant easements upon, over, through and across the General Common Elements as may be required for furnishing any kind of utility services, including, but not limited to, cable television or master antenna service, which easements may be granted to itself or its nominee and/or as may be necessary for excavation and construction of any of the Units.

(4) Grant easements upon, over, through or across the General Common Elements for permanent or temporary ingress and egress to and from the Condominium and other real property adjacent to it.

(5) Lease Units owned by Declarant on such terms as Declarant desires.

(b) Claims Against Declarant.

(1) Submission to Arbitration. All claims of Owners and the Association against the Declarant shall only be brought in an arbitration proceeding under Chapter 788 of the Wisconsin Statutes. Acceptance of a conveyance of a Unit is deemed to constitute an agreement by the Unit Owner and the Association to submit claims against Declarant to arbitration.

(2) Procedure. The Unit Owner(s) or the Association making a claim (the "Claimant") shall send a written notice of the claim to the Declarant ("Notice of Claim"). Within thirty (30) days of receipt of the Notice of Claim, the Declarant shall name a proposed arbitrator. The Claimant may accept the proposed arbitrator or propose a different arbitrator. If there is no agreement on a single arbitrator, the 2 proposed arbitrators shall select a 3rd arbitrator and the 3 shall serve as an arbitration panel chaired by the 3rd arbitrator. The expense of the arbitration shall be shared equally by the Association and the Claimant. A Claimant may not submit a claim to arbitration if the claim would otherwise be barred by an applicable statute of limitations.

SECTION 13 – REMEDIES FOR VIOLATION BY OWNER

(a) General Remedies. If any Owner or Occupant fails to comply with the Act, this Declaration, the Bylaws or the Rules, such Owner shall be liable for damages or any other remedy provided by the Declaration, Bylaws and Rules adopted by the Association, or the Act or subject to injunctive relief, or all of the above, as a result of such noncompliance. The Association, or in a proper case, an aggrieved Owner, may bring an action because of such noncompliance.

(b) Owner Violation; Association Right to Cure. In addition to any other remedies provided herein, if any Owner fails to properly maintain its Unit or any part or

portion thereof or the Limited Common Elements appurtenant thereto or to otherwise comply with this Declaration, the Bylaws or the Rules, which failure continues for a period of fifteen (15) days following written notice from the Association, or such longer reasonable period as may be necessary to cure matters which require greater than fifteen (15) days to rectify, so long as the work to cure the violation is commenced within such fifteen day period and diligently pursued to completion, the Association shall have the right but not the obligation, to perform or cause to be performed such maintenance, replacement, restoration or other action as the Association deems necessary or appropriate. Expenses incurred by the Association shall be specifically assessed against the Unit and its Owner and shall be subject to all rights and remedies reserved under this Declaration with respect to collection, expenses, late payment penalties or interest, filing of a lien and/or foreclosure as reserved at Section 4 of this Declaration. Once the Association has taken such an action, it may, but shall not be obligated to, take any other or further action with respect to the same for a similar or subsequent failure by the same or a different Owner or Occupant of a particular Unit.

SECTION 14- SERVICE OF PROCESS

(a) Service of process on the Association shall be made on Victor F. Michel at 935 West Chestnut, Suite 600, Chicago, Illinois 60642. Any change in the person or location for the service of process designated by the Association may be accomplished by resolution adopted by a majority of the Board and by the filing of such change with the Department of Financial Institutions of the State of Wisconsin or such other office as shall then be designated for the filing of a change of registered agent for non-profit corporations and shall become effective upon the recording of notice thereof in the Register's Office.

SECTION 15 – EASEMENTS

(a) *Right of Entry.* A right of entry to each Unit is reserved to the Association and its agents to service utility installations provided request for entry is made in advance and at a convenient time for the Owner. In case of emergency, entry of a Unit may be made immediately, whether the Owner or Occupant of the Unit is or is not present and without liability to the Association or its agents. Any damage or loss caused as a result of such emergency entry shall be at the sole expense of the Owner if, in the reasonable judgment of those authorizing the entry, such entry was for emergency purposes.

(b) *Encroachments.* If any portion of the Common Elements encroaches upon a Unit or any Unit encroaches upon the Common Elements or upon any other Unit or if any utility lines encroach upon either the Common Elements or a Unit, a valid easement for the encroachment and maintenance of same shall exist for the duration of the encroachment, without payment of any consideration to any Owner. Minor encroachments of parts of the Common Elements and utility lines due to reconstruction of part or all of a Unit shall be permitted and an easement for such encroachments and the maintenance thereof is prospectively reserved.

(c) *Electrical Service Easement.* Unit 1 hereby grants to Unit 2 an electric service distribution easement upon, over, across, through, in, and under that portion of the Condominium from the transformer located directly west of Building A to Building B (the

“Electrical Service Easement”). The Electrical Service Easement shall apply to and be binding on any Owners of Unit 1 and Unit 2 and their successors and assigns, and shall be of perpetual duration and run with the land.

(d) Gas Service Easement. Unit 1 hereby grants to Unit 2 a gas service distribution easement upon, over, across, through, in, and under that portion of the Condominium from the gas meter hookup located on the western perimeter wall of Building A and going to Building B (the “Gas Service Easement”). The Gas Service Easement shall apply to and be binding on any Owners of Unit 1 and Unit 2 and their successors and assigns, and shall be of perpetual duration and run with the land.

(e) Water Service Easement. Unit 1 hereby grants to Unit 2 a water service distribution easement upon, over, across, through, in, and under that portion of the Condominium to the extent there is not a lateral connection that services Building B (the “Water Service Easement”). The Water Service Easement shall apply to and be binding on any Owners of Unit 1 and Unit 2 and their successors and assigns, and shall be of perpetual duration and run with the land.

(f) Sanitary Service Easement. Unit 1 and Unit 2 share a sanitary lateral line for sanitary services as identified on the Plat. Unit 1 hereby grants to Unit 2, and Unit 2 hereby grants to Unit 1, a reciprocal sanitary service easement upon, over, across, through, in, and under that portion of the Condominium to the extent Unit 1 and Unit 2 share a sanitary line for sanitary services (the “Sanitary Service Easement”). The Sanitary Sewer Service Easement shall apply to and be binding on any Owners of Unit 1 and Unit 2 and their successors and assigns, and shall be of perpetual duration and run with the land.

(g) Storm Water Easement. There is no connection to Building A or Building B for storm sewer or storm water services. Unit 1 hereby grants to Unit 2, and Unit 2 hereby grants to Unit 1, a reciprocal storm water easement upon, over, across, through, in, and under each Unit for any storm water runoff from either Unit, including the Buildings, as necessary for drainage of storm water (the “Storm Water Easement”). The Storm Water Easement shall apply to and be binding on any Owners of Unit 1 and Unit 2 and their successors and assigns, and shall be of perpetual duration and run with the land.

(h) Telephone Service Easement. Unit 1 hereby grants to Unit 2 a telephone service distribution easement upon, over, across, through, in, and under that portion of the Condominium to the extent there is not a telephone service connection that services Building B (the “Telephone Service Easement”). The Telephone Service Easement shall apply to and be binding on any Owners of Unit 1 and Unit 2 and their successors and assigns, and shall be of perpetual duration and run with the land.

(i) Conservation Easement. The Owners hereby acknowledge that the Declarant or an affiliate thereof may enter into a conservation easement with the City for certain wetland areas directly southwest of the Property, as generally identified on the Plat.

(j) Further Easements. The Association may grant easements over and through the General Common Elements for such purposes as the Board deems reasonable for the benefit of the Owners.

SECTION 16 – MISCELLANEOUS

(a) Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. The term “person” includes all legal entities.

(b) Including. Whenever used herein, the term “including” preceding a list of one or more items shall indicate that the list contains examples of a general principle and is not intended as an exhaustive listing.

(c) Captions. The captions and article and section headings in this Declaration are intended for convenience and reference only and in no way define or limit the scope or intent of the various provisions hereof.

(d) Severability. If any portion of this Declaration or its application to any person or circumstance is held to be invalid or unenforceable, the remainder of this Declaration, or the application of such provision, or any part thereof, to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby. The remainder of this Declaration shall be valid, and enforced, to the fullest extent permitted by law.

(e) Remedies. All remedies herein are cumulative.

(f) Waivers. Whenever a waiver, consent or approval is required or permitted herein, it must be express and in writing; no waiver, consent or approval shall be implied. A waiver, consent or approval to any one matter shall not be deemed a waiver, consent or approval to any subsequent matter whether similar or not.

(g) Assignment of Declarant’s Rights. All of the rights and benefits conferred on or reserved herein for Declarant in its status as such (as opposed to those rights or benefits conferred on or reserved for all Unit Owners or groups thereof) may be assigned as follows: (1) to any person by an instrument in writing specifically identifying the rights and benefits so assigned which is recorded in the Register’s Office, or (2) to any purchaser of the Declarant’s rights in a foreclosure sale or deed in lieu of foreclosure, without any specific written assignment of Declarant’s rights, or (3) to any person or entity to which Declarant’s rights have been collaterally assigned upon the exercise of such person’s or entity’s rights under such collateral assignment, without any specific written assignment of Declarant’s rights. An assignment of Declarant’s rights is effective from the date of recordation of the assignment under (1), the deed under (2), or notice by such collateral assignee of such exercise under (3). A mortgage or other security interest granted in Declarant’s rights does not confer on the mortgagee or holder of the security interest the right to act as Declarant without some further act under (1) or (2) or (3). From and after each assignment, only the assignee may act as

Declarant under this Declaration with respect to the rights assigned and all prior persons holding Declarant's rights shall no longer be entitled to exercise such rights. No successor Declarant shall be responsible or liable for the obligations of a Declarant arising before the date on which such successor Declarant may act as above.

(h) List of Exhibits. The following exhibits, which are referenced in this Declaration, are incorporated herein by reference: **Exhibit A**, "Legal Description of the Property," **Exhibit B**, "Plat," and **Exhibit C**, the "Legal Description of the Outparcel."

[Rest of page intentionally left blank. Signatures to follow on the next page.]

Executed this _____ day of _____, 2016.

DECLARANT:

WS FRANKLIN LLC

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss
_____ COUNTY)

Personally before me, this ____ day of _____, 2016, came _____ as a
_____ of WS Franklin LLC, to me known to be the person who executed the foregoing
document in such capacity and acknowledged that he executed the same for the purposes therein
contained.

Notary Public, State of _____
My commission: _____

This instrument was drafted by:

Joseph E. Tierney IV
Davis & Kuelthau, s.c.
111 East Kilbourn Avenue
Suite 1400
Milwaukee, Wisconsin 53202
(414) 225-1471

Exhibit A

Legal Description of the Property

Being a part of Certified Survey Map No. 6543, recorded on August 7, 1998, Reel 43667, Images 1756 to 1758 inclusive, as Document No. 7578744, as corrected by Affidavit of Correction recorded as Document No. 7724864, part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 1, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the northeast corner of the Southeast 1/4 of said Section 1; thence South 00°06'34" West along the east line of said Southeast 1/4, 401.22 feet; thence South 87°33'33" West, 84.53 feet to the west right of way line of South 27th Street - State Trunk Highway "241" and the northeast corner of Lot 1 of CSM 6543 and the point of beginning;

Thence South 00°52'38" East along the west right of way line of South 27th Street and the east line of said Lot 1 of CSM No. 6543, 145.74 feet; thence South 89°59'55" West, 207.90 feet; thence South 00°09'40" West, 270.00 feet to the south boundary line of said Lot 1; the following 8 courses follow the boundary of said Lot 1; thence South 89°59'55" West, 293.51 feet; thence South 87°51'06" West, 755.75 feet; thence South 00°07'09" West, 531.71 feet; thence South 87°31'24" West, 531.35 feet; thence North 01°18'51" West, 661.78 feet; thence North 87°32'56" East, 548.08 feet; thence North 00°06'58" East, 260.22 feet; thence North 87°33'33" East, 1255.32 feet to the aforesaid west right of way line of South 27th Street - State Trunk Highway "241" and the point of beginning.

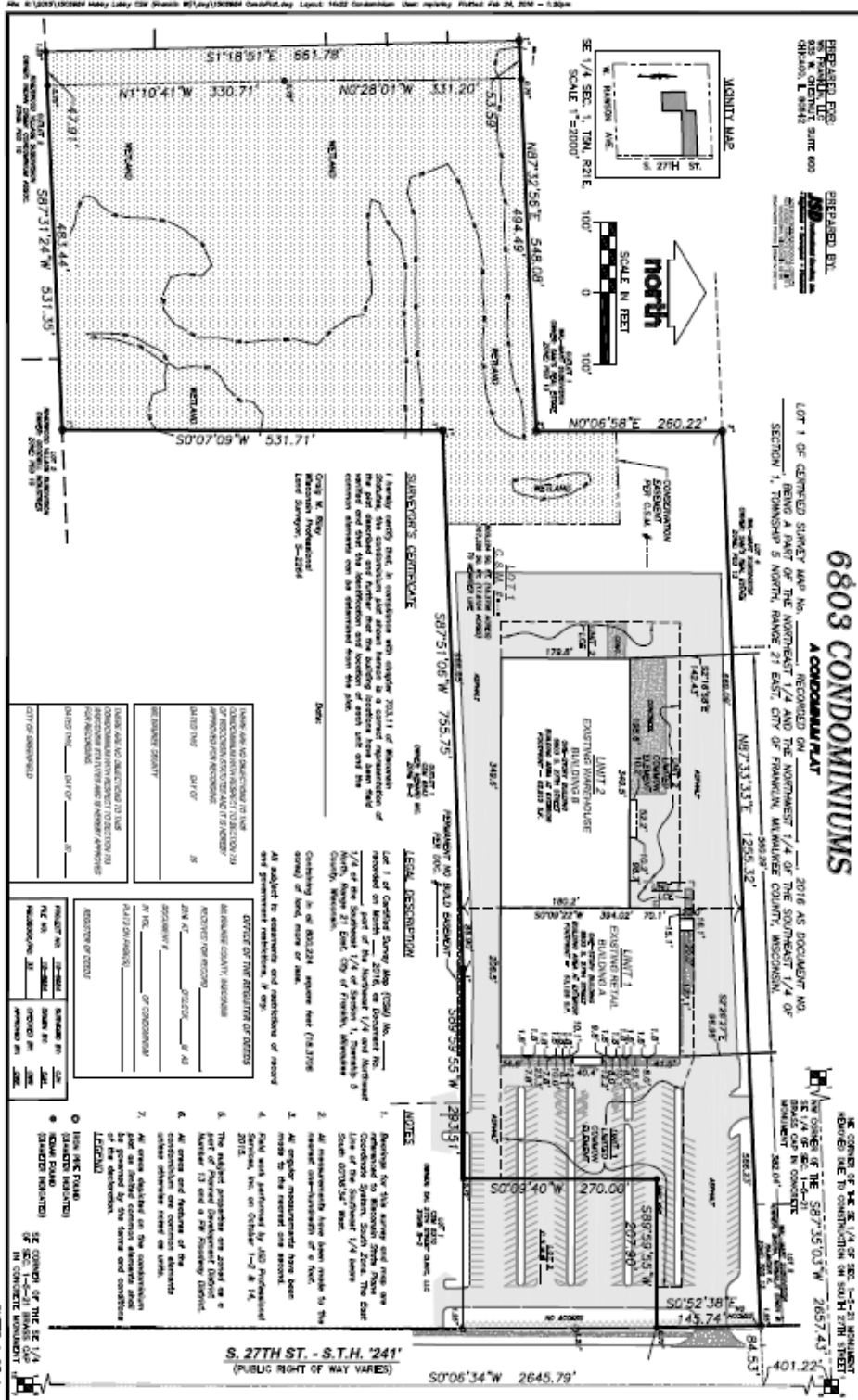
Containing in all 800,224 square feet (18.3706 acres) of land, more or less.

All subject to easements and restrictions of record and government restrictions, if any.

[Exhibit A to Declaration of 6803 Condominiums]

Exhibit B

Plat



[Exhibit B to Declaration of 6803 Condominiums]

Exhibit C

Legal Description of the Outparcel

Being a part of Certified Survey Map No. 6543, recorded on August 7, 1998, Reel 43667, Images 1756 to 1758 inclusive, as Document No. 7578744, as corrected by Affidavit of Correction recorded as Document No. 7724864, part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 1, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the northeast corner of the Southeast 1/4 of said Section 1; thence South 00°06'34" West along the east line of said Southeast 1/4, 401.22 feet; thence South 87°33'33" West, 84.53 feet to the west right of way line of South 27th Street - State Trunk Highway "241" and the northeast corner of Lot 1 of CSM 6543; thence South 00°52'38" East along the west right of way line of South 27th Street and the east line of said Lot 1 of CSM No. 6543, 145.74 feet to the point of beginning;

Thence continuing South 00°52'38" East along the west right of way line of South 27th Street and the east line of said Lot 1 of CSM No. 6543, 112.60 feet; thence South 00°06'34" West along the west right of way line of South 27th Street and the east line of said Lot 1 of CSM No. 6543, 157.41 feet to the south boundary line of said Lot 1; thence South 89°59'55" West along said south line, 210.09 feet; thence North 00°09'40" East, 270.00 feet; thence North 89°59'55" East, 207.90 feet to the point of beginning.

Containing in all 56,582 square feet (1.2989 acres) of land, more or less.

All subject to easements and restrictions of record and government restrictions, if any.

[Exhibit C to Declaration of 6803 Condominiums]

Document Number

**CONSERVATION EASEMENT
AGREEMENT**

Document Title

Recording Area

Name and Return Address

Joseph E. Tierney IV, Esq.

Davis & Kuelthau, sc

111 E. Kilbourn Avenue, Suite 1400

Milwaukee, WI 53202

See Exhibit A

Parcel Identification Numbers

CONSERVATION EASEMENT AGREEMENT

THIS CONSERVATION EASEMENT AGREEMENT (“Agreement”) is dated as of _____, 2016, and is by and between WS Franklin LLC, an Illinois limited liability company (the “Grantor”), and the City of Franklin, a municipal corporation of the State of Wisconsin (the “Grantee”).

RECITALS

A. Grantor owns the real property located at 6803 S. 27th Street in Franklin, Wisconsin, as legally described and depicted on the attached **Exhibit A** (the “Grantor Property”).

B. the Grantor desires and intends that the natural elements and the ecological and aesthetic values of the protected property including, without limitation, streams, floodplains, floodways, floodlands, shore buffers, wetland buffers, wetlands and shoreland wetlands, refer to Natural Resource Investigation by R.A. Smith National, Inc., October 26th, 2015 to be preserved and maintained by the continuation of land use that will not interfere with or substantially disrupt the natural elements or the workings of natural systems.

C. Grantee is a “holder”, as contemplated by Wis. Stat. § 700.40(1)(b)1., whose purposes include, while exercising regulatory authority granted to it, *inter alia*, under Wis. Stat. §§ 62.23 and 236.45, the conservation of land, natural areas, open space, and water areas.

D. Grantor and Grantee, by the grant to the Grantee of the conservation easement described herein on, over, and across the Grantor Property, desire to conserve the natural values thereof and prevent the use or development of the protected property for any purpose or in any manner inconsistent with the terms of this Agreement.

E. Heartland Bank and Trust Company, mortgagee of the Grantor Property (“Mortgagee”), consents to the grant of this Easement by Grantor to Grantee and Mortgagee’s consent is attached hereto and identified as “Mortgage Holder Consent”.

AGREEMENTS

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Grantor hereby declares, conveys and grants an easement (the “Easement”) to the Grantee, and the Grantee hereby accepts such Easement from the Grantor all as provided herein, as follows:

1. Incorporation of Recitals. The foregoing recitals are true, correct, and incorporated herein and made a part of this Agreement.

2. Description of Easement Area. The Easement Area consists of the Grantor Property described on **Exhibit A** attached hereto.

3. Purpose of Easement; Grant of Easement. The Easement (as hereinafter defined) is being granted for the purpose of preserving and protecting the natural elements and ecological

and aesthetic values of the Easement Area. Grantor grants to Grantee, and Grantee accepts from Grantor, the following conservation easement (the "Easement"): Grantee shall have the right to do all of the following on the on, upon, within, or with respect to the Easement Area:

(a) to view the Easement Area in its natural, scenic, and open condition;

(b) to enforce by proceeding at law or in equity the covenants subsequently set forth, including, and in addition to all other enforcement proceedings, proceedings to obtain all penalties and remedies set forth under Division 15-9.0500 of the Unified Development Ordinance of the City of Franklin, as amended from time to time, any violation of the covenants subsequently set forth being and constituting a violation of such Unified Development Ordinance, as amended from time to time, or such local applicable ordinance as may be later adopted or in effect to enforce such covenants or the purposes for which they are made, it being agreed that there shall be no waiver or forfeiture of the Grantee's right to insure compliance with the covenants and conditions of this grant by reason of any prior failure to act; and

(c) to enter the Easement Area at all reasonable times for the purpose of inspecting the Easement Area to determine if the Grantor is complying with the covenants and conditions of this Agreement.

4. Covenants of Grantor. In furtherance of the rights afforded to Grantee pursuant to the Easement described in Section 3 hereof, Grantor makes the following covenants which shall run with and bind the Easement Area in perpetuity, namely, that, on, over, or across the Easement Area, Grantor, without the prior consent of the Grantee, shall not do all of the following:

(a) construct or place buildings or any structure;

(b) construct or make any improvements, unless, notwithstanding Section 4(a) above, the improvement is specifically and previously approved by the Common Council of the City of Franklin, upon the advice of such other persons, entities, and agencies as it may elect; such improvements as may be so approved being intended to enhance the resource value of the protected property to the environment or the public and including, but not limited to animal and bird feeding stations, park benches, the removal of animal blockage of natural drainage or other occurring blockage of natural drainage, and the like;

(c) excavate, dredge, grade, mine, drill, or change the topography of the land or its natural condition in any manner, including any cutting or removal of vegetation, except for the removal of dead or diseased trees;

(d) conduct any filling, dumping, or depositing of any material whatsoever, including, but not limited to soil, yard waste, or other landscape materials, ashes, garbage, or debris;

(e) plant any vegetation not native to the Easement Area or not typical wetland vegetation; and

(f) operate snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any other types of motorized vehicles.

5. Rights and Obligations of Grantor. Except as expressly limited herein, Grantor reserves all rights as owner of the Easement Area, including, but not limited to, the right to use the Easement Area for all purposes not inconsistent with the Easement and the covenants and obligations described in this Agreement. Grantor shall be responsible for the payment of all general property taxes levied, assessed, or accruing against the Easement Area pursuant to law.

6. Release by Grantee. Grantee hereby releases and forever discharges Grantor from any and all claims, actions and causes of action whatsoever in any way arising out of or related to any damages to or casualty with respect to the Easement Area at any time arising from or relating to the grant of the Easement and caused by any reason other than the willful misconduct of Grantor. The release described in this section is intended to be perpetual, to run with the land and bind Grantee and its successors, assigns and transferees to the Grantee.

7. Covenants Run with Land. All of the terms and conditions in this Agreement, including the benefits and burdens, shall run with the land and shall be binding upon, inure to the benefit of, and be enforceable by the Grantor and the Grantee and their respective successors and assigns. This Agreement is intended to be a burden on the Grantor Property, and a benefit to the Grantee. This Agreement is intended to bind all future owners, occupants and mortgagees of the Easement Area.

8. Recording. This Agreement shall be recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin (“Register of Deeds”).

9. Term. The term of this Agreement shall commence on the date that it is filed of record in the Register of Deeds and shall continue in perpetuity unless terminated by a duly executed and authenticated instrument between Grantor and Grantee memorializing such termination, in recordable form.

10. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

11. Entire Agreement; Amendments. This Agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by all parties to this Agreement and duly recorded in the office of the Register of Deeds. This Agreement may not be amended, except by a writing executed and delivered by Grantor and Grantee or their respective personal representatives, heirs, successors, and assigns.

12. Notices. All notices to either party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the other party at the addresses identified in this section. Either party may change its address for notice by providing written notice to the other party.

To Grantor:

WS Franklin LLC
Attn: Mr. Victor Michele
935 West Chestnut, Suite 600
Chicago, Illinois 60642

To Grantee:

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

With a copy to:

Davis & Kuelthau, s.c.
Attn: Joseph E. Tierney IV, Esq.
111 E. Kilbourn Avenue, Suite 1400
Milwaukee, WI 53212

13. Invalidity. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.

14. Waiver. No delay or omission by any party in exercising any right or power arising out of any default under any of the terms or conditions of this Agreement shall be construed to be a waiver of the right or power. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms or conditions of this Agreement.

15. Enforcement. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this Agreement, either to restrain or prevent the violation or to obtain any other relief.

16. No Public Dedication. Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of the easements granted under this Agreement to the general public.

17. Counterparts; Headings. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original. The signature of the parties hereto on this Agreement may be executed and notarized on separate pages, and when attached to this Agreement shall constitute one complete document. The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

18. Effectiveness of this Agreement. This Agreement is expressly conditioned on Grantor recording that certain Declaration of 6803 Condominiums (the "Declaration") in the office of the Register of Deeds on or before January 1, 2017. In the event Grantor does not record the Declaration in the office of the Register of Deeds on or before January 1, 2017, this Agreement shall be null, void, and of no further force or effect, and the parties shall have no

further obligations to each other hereunder. For purposes of clarity, the parties' obligations hereunder shall become effective on the date that Grantee records the Declaration in the office of the Register of Deeds.

[Signatures appear on next page.]

Drafted by:
Joseph E. Tierney IV, Esq.
Davis & Kuelthau, sc
111 E. Kilbourn Avenue, Suite 1400
Milwaukee, WI 53202

GRANTEE:

CITY OF FRANKLIN

By: _____
Stephen R. Olson, Mayor

By: _____
Sandra L. Wesolowski, City Clerk

STATE OF WISCONSIN)
)ss
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____, 2016, the above named Stephen R. Olson, Mayor and Sandra L. Wesolowski, City Clerk, of the above named municipal corporation, City of Franklin, to me known to be such Mayor and City Clerk of said municipal corporation, executed the foregoing document on behalf of said municipal corporation.

Notary Public
_____ County, State of _____
My Commission: _____

Approved as to contents:

Nicholas Fuchs, Senior Planner
Department of City Development
Date _____

Approved as to form only:

Jesse A. Wesolowski
City Attorney
Date _____

MORTGAGE HOLDER CONSENT

The undersigned, Heartland Bank and Trust Company, an Illinois banking corporation (“Mortgagee”), as Mortgagee under that certain insert name of mortgage/security agreement encumbering the Grantor Property and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin, on _____, 20____, as Document No. _____, hereby consents to the execution of the foregoing easement and its addition as an encumbrance title to the Grantor Property.

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

Heartland Bank and Trust Company
an Illinois banking corporation

By: _____

Name: _____

Title: _____

STATE OF _____)

)ss

COUNTY OF _____)

On this, the ____ day of _____, 2016, before me, the undersigned, personally appeared _____, the _____ of Heartland Bank and Trust Company, an Illinois banking corporation, and acknowledged that (s)he executed the foregoing instrument on behalf of said corporation, by its authority and for the purposes therein contained.

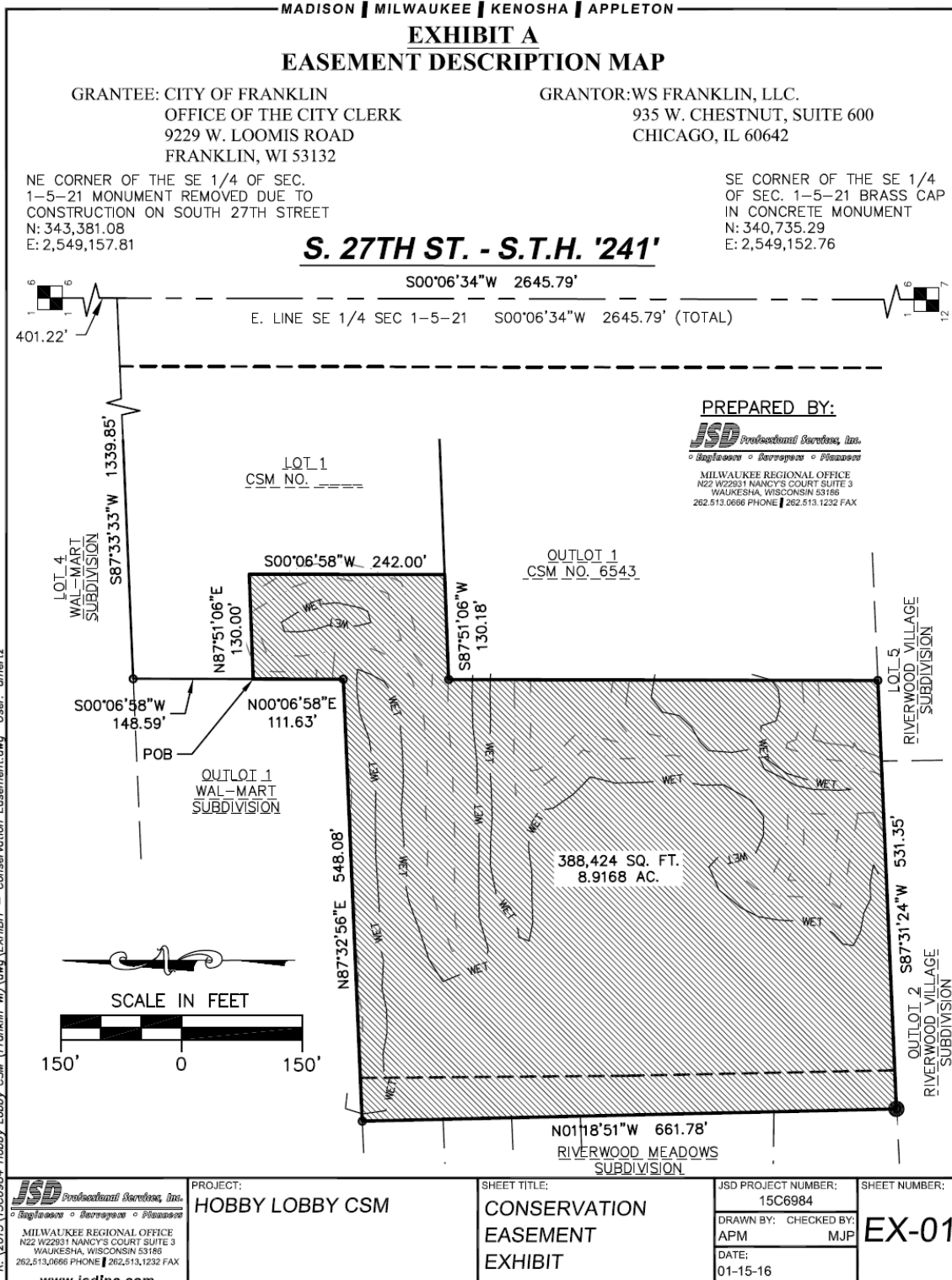
Name: _____

Notary Public, State of _____

My commission expires

EXHIBIT A

(Grantor Property Legal Description and Depiction)



[Exhibit A to Conservation Easement Agreement
between WS Franklin LLC and City of Franklin]

**EXHIBIT A
EASEMENT DESCRIPTION MAP**

GRANTEE: CITY OF FRANKLIN
OFFICE OF THE CITY CLERK
9229 W. LOOMIS ROAD
FRANKLIN, WI 53132

GRANTOR: WS FRANKLIN, LLC.
935 W. CHESTNUT, SUITE 600
CHICAGO, IL 60642

LEGAL DESCRIPTION


Part of Lot 1 of Certified Survey Map No. _____, recorded in Milwaukee County Register of Deeds Office on _____, 2016 as Document No. _____, being a redivision of Lot 1 of Certified Survey Map No. 6543, recorded on August 7, 1998, Reel 43667, Images 1756 to 1758 inclusive, as Document No. 7578744, as corrected by Affidavit of Correction recorded as Document No. 7724864, part of the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 1, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the northeast corner of the Southeast 1/4 of said Section 1; thence South 00°06'34" West along the east line of said Southeast 1/4 section, 401.22 feet to the easterly extension of the south line of Lot 4 of Wal-Mart Subdivision; thence South 87°33'33" West, along said easterly extension and then along said south line, 1339.85 feet to the northeast corner of Outlot 1 of said Wal-Mart Subdivision; thence South 00°06'58" West along the east line of said Outlot 1, 148.59 feet to the point of beginning;

Thence North 87°51'06" East, 130.00 feet; thence South 00°06'58" West, 242.00 feet to the north line of Outlot 1 of Certified Survey Map No. 6543; thence South 87°51'06" West along the north line of said Outlot 1, 130.18 feet to the northwest corner of said Outlot 1; thence South 00°07'09" West along the west line of said Outlot 1, 531.71 feet to the north line of Riverwood Village Subdivision; thence South 87°31'24" West along the north line of said Subdivision, 531.35 feet to the east line of Riverwood Meadows Subdivision; thence North 01°18'51" West along the east line of said Subdivision, 661.78 feet to the south line of Outlot 1 of said Wal-Mart Subdivision; thence North 87°32'56" East along the south line of said Outlot 1, 548.08 feet to the southwest corner of said Outlot 1; thence North 00°06'58" East along the east line of said Outlot 1, 111.63 feet to the point of beginning.

Containing in all 388,424 square feet (8.9168 acres) of land, more or less.

R: \\201515C6984 Hobby Lobby CSM (Franklin WI) \dwg\EXHIBIT - Conservation Easement.dwg User: mplerling

 <p>MILWAUKEE REGIONAL OFFICE N22 W22831 NANCY'S COURT SUITE 3 WAUKESHA, WISCONSIN 53186 262.513.0666 PHONE 262.513.1232 FAX</p> <p>www.jsdinc.com</p>	PROJECT: HOBBY LOBBY CSM	SHEET TITLE: CONSERVATION EASEMENT EXHIBIT	JSD PROJECT NUMBER: 15C6984	SHEET NUMBER: EX-02
			DRAWN BY: APM CHECKED BY: MJP	
			DATE: 01-15-15	

[Exhibit A to Conservation Easement Agreement
between WS Franklin LLC and City of Franklin]

City of Franklin
City Development Department

NATURAL RESOURCE PROTECTION PLAN CHECKLIST

<i>Staff Use</i>	<i>Complete or NA</i>	Natural Resources that must be Identified, Measured, Graphically Depicted	Ordinance #
	X	Steep Slopes, measured & graphically Indicated	15-4.0102-A
	X	Woodlands and Forests, as defined, measured & graphically Indicated	15-4.0102-B
	N/A	Lakes and Ponds, measured & graphically Indicated	15-4.0102-C
	X	Streams, measured & graphically Indicated	15-4.0102-D
	X	Shore Buffers, measured & graphically Indicated	15-4.0102-E
	X	Floodplain(s), Floodway(s) & Floodland(s), measured & graphically Indicated	15-4.0102-F
	X	Drainageways (as defined in the City of Franklin Unified Development Ordinance), measured & graphically Indicated	15-4.0102-G
	X	Wetlands and Shoreland Wetlands, measured & graphically Indicated	15-4.0102-H
	X	Project Name	15-7.0201-A
	X	Location (physical address and/or Section - 1/4 Section information)	15-7.0201-B
	X	Scale, North Arrow, Contours (2' interval)	15-7.0702-L
	X	Names, Addresses, Telephone #s of Owners, Subdividers, Lessee & Developer	15-7.0201-C
	X	Date and All Applicable Revision Dates	15-7.0201-D
	X	Site Boundary	15-7.0201-E
	X	Lot Lines, Right of Way Lines and Easements	15-7.0201-F
	X	Existing Streets	15-7.0201-G
	X	Easements along property boundaries adjacent to the site	15-7.0201-H
	X	Location and extent of existing Natural Resource features	15-7.0201-I
	X	Disturbed and Preserved Nat. Resource Features (shown graphically and in numerical sequence on plan)	15-7.0702-J
	X	Method of Natural Resource Preservation (Conservation Easements)	15-7.0702-K
	N/A	Site Intensity Calculations	15-7.0702-N
	N/A	Mitigation Plan (See attached pages)	15-4.0103
	X	Name of Person Performing Wetland Delineation	
	X	Date of Wetland Delineation	
	X	50' Wetland Building Setback Lines, identified & dimensioned	
	X	75' Shoreland Buffer Areas, identified & dimensioned	

Signature of the person preparing this checklist

Staff Notes

Reviewer's Initials: _____

S87°35'03"W 2657.43'

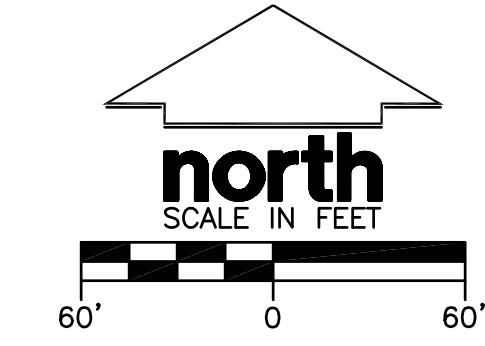
LEGEND

	WETLAND		WETLAND DISTURBANCE
	WETLAND BUFFER		WETLAND BUFFER DISTURBANCE
	WETLAND SETBACK		WETLAND SETBACK DISTURBANCE
	WOODLAND (MATURE)		WOODLAND (MATURE) DISTURBANCE

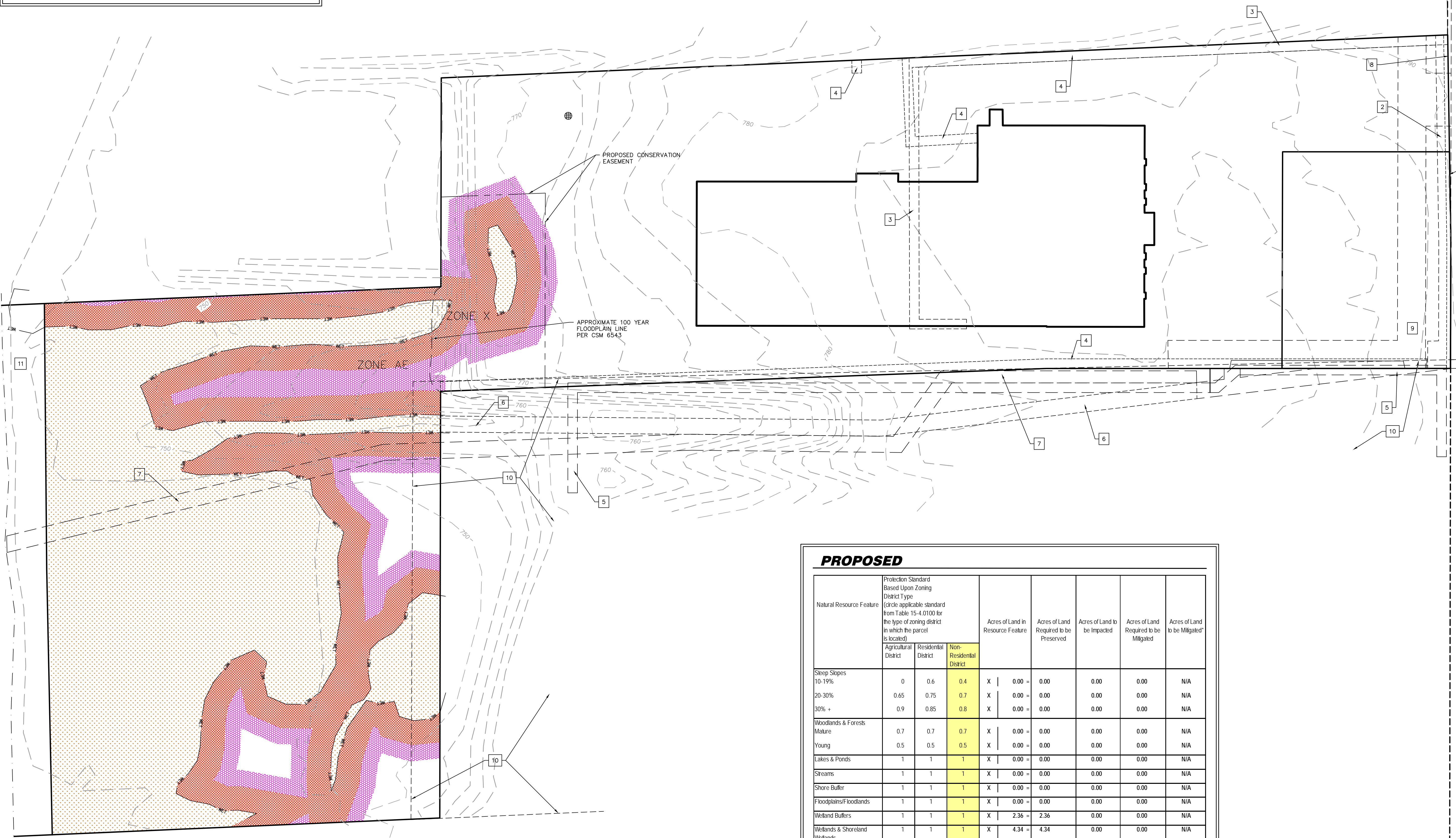
EASEMENT DESCRIPTIONS

- 1'5" COMMUNICATIONS EASEMENT PER DOC NO. 10348931
- 15' ELECTRIC EASEMENT PER DOC NO. 10348931
- 12' ELECTRIC EASEMENT PER DOC NO. 8677711 & CSM 6543
- 12' ELECTRIC EASEMENT PER DOC NO. 10348931
- 12' UTILITY EASEMENT PER DOC NO. 6980642 & CSM 6543
- 20' STORM SEWER EASEMENT PER CSM 6543 & DOC NO. 7734132
- SANITARY SEWER EASEMENT PER CSM 6543 & DOC NO. 7734132
- EXCEPTION PER DOCUMENT NO. 10355403
- ACCESS EASEMENT PER DOC NO. 7622943 CSM 6543
- NOTICE OF REMEDIAL ACTION PER DOC NO. 6778269
- 100' DRAINAGE EASEMENT PER CSM 6543

1. DEVELOPMENT NAME: HOBBY LOBBY
 2. LOCATION: 6803 SOUTH 27TH STREET
 FRANKLIN, WISCONSIN
 3. OWNER/DEVELOPER: FIDELITY CAPITAL HOLDINGS, LLC
 600 WEST VAN BUREN, SUITE 1000
 CHICAGO, IL 60607
 CONTACT: MICHAEL SHECHTMAN
 PH: (847) 778-3085
 4. WETLANDS INDICATED ARE BASED ON WETLAND DELINEATION REPORT, DATED OCTOBER 26, 2015, BY HEATHER PATTI OF R.A. SMITH NATIONAL



EAST BRANCH ROOT RIVER



S. 27TH ST. - S.T.H. '241'
 (160' PUBLIC RIGHT OF WAY)

PROPOSED

Natural Resource Feature	Protection Standard Based Upon Zoning District Type (circle applicable standard from Table 15-4.0100 for the type of zoning district in which the parcel is located)			Acres of Land in Resource Feature	Acres of Land Required to be Preserved	Acres of Land to be Impacted	Acres of Land Required to be Mitigated	Acres of Land to be Mitigated
	Agricultural District	Residential District	Non-Residential District					
Shrub Slopes								
10-19%	0	0.6	0.4	X 0.00	0.00	0.00	0.00	N/A
20-30%	0.65	0.75	0.7	X 0.00	0.00	0.00	0.00	N/A
30% +	0.9	0.85	0.8	X 0.00	0.00	0.00	0.00	N/A
Woodlands & Forests								
Mature	0.7	0.7	0.7	X 0.00	0.00	0.00	0.00	N/A
Young	0.5	0.5	0.5	X 0.00	0.00	0.00	0.00	N/A
Lakes & Ponds	1	1	1	X 0.00	0.00	0.00	0.00	N/A
Streams	1	1	1	X 0.00	0.00	0.00	0.00	N/A
Shore Buffer	1	1	1	X 0.00	0.00	0.00	0.00	N/A
Floodplains/Floodlands	1	1	1	X 0.00	0.00	0.00	0.00	N/A
Wetland Buffers	1	1	1	X 2.36	2.36	0.00	0.00	N/A
Wetlands & Shoreland Wetlands	1	1	1	X 4.34	4.34	0.00	0.00	N/A
Wetland Setback	1	1	1	X 0.94	0.94	0.00	0.00	N/A
TOTAL RESOURCE PROTECTION LAND					7.64			Acres
<i>(Total of Acres of Land in Resource Required to be Protected)</i>								

THESE PLANS AND DESIGNS ARE COPYRIGHT PROTECTED AND MAY NOT BE USED IN WHOLE OR IN PART WITHOUT THE WRITTEN CONSENT OF JSD PROFESSIONAL SERVICES, INC.

Wetland Delineation Report



Approximately 10-Acre Study Area 6803 S. 27th St., City of Franklin, Milwaukee County, Wisconsin

RASN Project No. 1150531

October 26th, 2015

Prepared by:

Ms. Heather Patti, PWS
Ecologist/Project Manager
R.A. Smith National, Inc.

Prepared for:

Mr. Justin Johnson, P.E.
JSD Professional Services, Inc.
N22 W22931 Nancy Ct., Ste. 3
Waukesha, WI 53186

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- Figure 1: USGS Topographic/Site Location Map**
- Figure 2: Wetland Boundary Map**
- Figure 3: Surface Water Data Viewer Map**
- Figures 4A-G: Aerial Photographs (1970, 1980, 1990, 2000, 2005, 2010, & 2013)**
- Figure 5: Wisconsin Wetland Inventory Map**
- Figure 6: Advanced Hydrologic Prediction Service 90-day Departure from Normal Precipitation Map**

Appendix 2: WETS Table Analysis, NRCS WETS Table, & Daily Precipitation Table

Appendix 3: Site Photographs

Appendix 4: Wetland Determination Data Forms – Midwest Region

Appendix 5: NR 151 Wetland Susceptibility Table

October 26th, 2015

INTRODUCTION

R.A. Smith National, Inc. (RASN) is pleased to provide this Wetland Delineation Report for an approximately 10-acre Study Area located at 6803 S 27th Street in the City of Franklin, Milwaukee County, Wisconsin (Figure 1). The Study Area is located within the SE ¼ of Section 1, Township 5 North, Range 21 East. The delineation was completed at the request of the JSD Professional Services Inc.

The purpose of the wetland delineation was to identify the proximity and extent of wetlands for a planned development project. Three (1) wetlands, hereby referred to as “W-1 through W-3”, were identified within the Study Area (Figure 2, Appendix 1) by Senior Wetland Scientists Heather Patti and Tina Myers on September 28th of 2015. The total acreage of wetland within the Study Area is 5.07 acres. In addition, one waterway was observed which flows southerly along the far western property boundary. The waterway is fed by Mud Lake to the north and ultimately connects to the Root River which is roughly 2.5 miles southeast of the Study Area. This delineation is presented here in terms of qualifications, methodology, results, and conclusions.

STATEMENT OF QUALIFICATIONS

Ms. Heather Patti, PWS with RASN, was the technical lead and author of this delineation report. Heather earned a Masters Degree in Botany and a minor in Ecology from North Carolina State University. Ms. Patti is experienced with a variety of aspects of wetland delineation, ecological restoration, including wetland, mixed hardwood, and prairie restoration. She provides over 15 years of experience in wetland delineation, assessment, and mitigation. Ms. Patti attended the Basic & Advanced Wetland Delineation course offered by UW-LaCrosse in 2005 & 2013, became a WDNR Assured Wetland Delineator in 2009, and attended the Hydric Soil Identification Course offered by UW-LaCrosse in 2011.

Ms. Tina Myers, PWS with RASN has over 15 years of multidisciplinary ecological experience and has been recognized as a Professional Wetland Scientist (PWS) by the Society of Wetland Scientists (SWS) since 2004. She is also recognized as a Certified Wetland Specialist (CWS) in Illinois. Tina earned a Bachelor’s degree in Conservation Biology from the University of Milwaukee in 1998 and has taken a multitude of ongoing educational courses including the Corps Wetland Delineation Training which she took in 2006, Regional Supplement and Field Practicum which she took in 2012, Advanced Wetland Delineation Training which she took in 2013, and Critical Methods in Wetland Delineation which she takes annually. She has performed hundreds of wetlands delineations throughout Wisconsin and Illinois and is also experienced in wetland restoration, wetland and waterway permitting, wetland assessment, vegetation surveys including rare species surveys, wildlife surveys, and environmental monitoring.

WETLAND DELINEATION METHODOLOGY

The wetland delineation consisted of a review of available maps and information followed by a site visit to document field conditions. The presence and absence of hydrophytic vegetation, wetland hydrology, and hydric soil indicators were documented using methodology defined in the *US Army Corps of Engineers (USACE) 1987 Wetland Delineation Manual, Regional Supplement to the 1987 Corps of Engineers Wetland Delineation Manual: Midwest Region* (Midwest Supplement) (USACE ERDC, 2010) and *Guidance for Submittal of Delineation Reports to the St. Paul District Army Corps of Engineers and the Wisconsin Department of Natural Resources* (USACE St. Paul District, 2015). See References section for a complete list of guidance and sources utilized.

Deliver excellence, vision, and responsive service to our clients.

Vegetation

At the sample plots, herbaceous, shrub/sapling, tree and vine strata were typically measured using 5-foot, 15-foot and 30-foot radius plots, respectively. When necessary, plot sizes were adjusted to fit the plant community represented. Percent cover was visually estimated within the plots and dominant species were determined by applying the 50/20 rule and/or Prevalence Index. *The National Wetland Plant List: 2013 wetland ratings* (Lichvar, 2013) was used to determine the wetland indicator status of observed vegetation.

Hydrology

The nearest available Natural Resource Conservation Service (NRCS) WETS Table and the National Atmospheric and Oceanic Organization (NOAA) Advanced Hydrologic Prediction Service were analyzed to determine the antecedent hydrologic condition of the Study Area. Inundation, water table and/or saturation were measured at the sample plots, if present. Soil pits were generally left open for at least 15-30 minutes prior to measurement to allow for the normalization of water level. Primary and secondary indicators of wetland hydrology were investigated and if present were noted on the data sheets.

Soils

At the sample plots, a soil pit was excavated to a depth of at least 20 to 24 inches, where possible. The color and texture of the soil matrix and associated mottling was recorded for each observed soil layer within the pit. The Munsell Soil Color Book was used to determine the color of observed moist soils. The soil was analyzed for hydric soil characteristics and, if met, hydric soil(s) was/were indicated on the data sheets.

Sources Reviewed

The United States Geological Survey (USGS) Topographic Map (Figure 1, Appendix 1), a one-foot contour map (Figure 2, Appendix 1), the WDNR Surface Water Data Viewer Map which includes the NRCS Soil Survey and Wisconsin Wetland Inventory (WWI) (Figure 3, Appendix 1), aerial photos from the years 1970, 1980, 1990, 2000, 2005, 2010 and 2013 (Figures 4A-G, Appendix 1), and a NOAA 90-Day Percent of Normal Precipitation Map (Figure 5, Appendix 1), were reviewed prior to the wetland delineation in order to gain familiarity with the site's topography, wetland history, soils, and past land uses.

RESULTS

Existing Environmental Mapping

The USGS topographic map depicts the general location of the Study Area and depicts the unnamed tributary to the Root River that flows south along the far western property boundary (Figure 1, Appendix 1). The one-foot contour map (Figure 2) depicts the elevation within this site ranging from 745 feet to 777 feet with the highest point in the northeast part of the site and the lowest elevation along the waterway in the far southwestern portion of the site. Most of the site is relatively flat to very gently rolling, except in the vicinity of two wetland ditches associated with W-2 and the western end of the northeast portion of the Study Area where a steep slope leads down towards an off-site stormwater retention pond.

The NRCS Web Soil Survey indicates the presence of three mapped soils within the Study Area (Table 1 and Figure 3). As shown on the table, there are two mapped partially hydric soils within the Study Area and one non-hydric soil. The partially hydric soils account for the majority of the Study Area.

Table 1. Mapped Soils within Study Area.

Soil Unit Name (Symbol)	Hydric Inclusion	Drainage Class	Percent of Study Area
Blount silt loam, 1-3% slopes (BIA) §	Ashkum	Somewhat poorly drained	56.7
Lawson silt loam, (Lo) §†	Wet Alluvial land	Somewhat poorly drained	20.9
Morley silt loam, 2-6% slopes, eroded (MzdB2)	--	Well drained	22.4

§ WDNR Wetland Indicator Soil

† NRCS Listed Hydric Soil

Based on a review of aerial photographs from 1970, 1980, 1990, 2000, 2005, 2010, and 2013 (Figures 4A-G), there have been changes to the landscape during this time period and there has been previous site disturbance. For example, the 1970 aerial shows the Study Area and surrounding landscape prior to any development in this area. At this time, the Study Area and the land around it were used for agricultural crops and there is no strong indication that wetlands are present. The waterway is evident as a dark linear tone along the far western Study Area boundary. Row cropping continued into 1980, however site disturbance can be observed in the southeast corner of the site as well as on the adjacent parcel to the east. The 1990 aerial shows the site after the cessation of farming and following construction of buildings and parking within and adjacent to the Study Area. Note that there was a parking lot built within the northeast part of the Study Area and there appears to have been grading in the southwest portion including a large pond that extended off-site to the east. In addition, the two ditches that are now part of W-2 were excavated around this time. By 2000, the pond had been filled in and the southwest part of the Study Area remained fallow and undeveloped. However, the parking lot in the northeast portion of the site was still present. Prior to 2005, the parking lot in the northeast portion of the Study Area was removed and the area landscaped with evergreen trees. The wetlands are much more visible on this aerial as dark tones than any other previous historical aerials. From 2005 to 2013, no significant changes were observed, but the wetlands appear to have become more evident over time.

The WWI map (Figure 5) indicates the presence of two WWI mapped wetland types within the Study Area depicted as T3/S3K meaning Forested (T), Broad-leaved Deciduous (3) / Scrub Shrub (S) Broad-leaved deciduous (3) / Wet Soil, Palustrine (K) and E1K meaning Emergent (E), Persistent (1), Wet Soil, Palustrine (K). The mapped wetland is depicted in the same approximate location as the delineated boundary of W-2 with minor discrepancies. There are no mapped wetlands in the areas that RASN delineated as W-1 and W-3. The discrepancies between the WWI mapped wetland and RASN's delineated boundaries are attributed to the level of wetland delineation employed during the investigation. The presence of wetlands and the location of wetland boundaries as determined by examination of aerial photography are not as accurate as physical examination of site conditions using methods outlined in the 1987 Corps annual and its Midwest Supplement.

Antecedent Hydrologic Condition

Based on the WETS Analysis Worksheet in Appendix 2, precipitation was within the normal range for the months of July through September. Additionally, NOAA's Advanced Hydrologic Prediction Service Map (Figure 5) which analyzes precipitation data exactly 90 days prior to the date of the site visit indicates that climatic conditions were considered to be within 75-90% of normal precipitation which on the drier end of the normal range. According to the Daily Precipitation Table in Appendix 2, there was no precipitation recorded one week prior to the September 28th site visit, although there was 2.33 inches recorded two weeks prior to the site visit.

Field Investigation

All areas called out as wetland or containing wetland indicators on the above-mentioned maps were evaluated in the field. Photos were taken of each wetland and its adjacent upland area and are included in Appendix 3. A total of fourteen (14) sample plots were examined and three (3) wetlands were delineated by RASN (Figure 2). Pink wire flags with the words "Wetland Delineation" were used to mark wetland boundaries. Consecutively