

\*\*\*Revised

The Facebook page for the Economic Development Commission (<https://www.facebook.com/forwardfranklin/>) will be live streaming the Common Council meeting so that the public will be able to watch and listen to the meeting.

CITY OF FRANKLIN  
COMMON COUNCIL MEETING\*  
FRANKLIN CITY HALL – COMMON COUNCIL CHAMBERS  
9229 WEST LOOMIS ROAD, FRANKLIN, WISCONSIN  
AGENDA\*\*  
TUESDAY, JUNE 16, 2020 AT 6:30 P.M.

- A. Call to Order and Roll Call.
- B.
  - 1. Citizen Comment Period.
  - 2. Mayoral Announcements: Small Business Grant From Wisconsin Economic Development Corporation.
- C. Approval of Minutes:
  - 1. Regular Common Council Meeting of June 2, 2020.
  - 2. Special Common Council Meeting of June 4, 2020.
- D. Hearings.
- E. Organizational Business. The following Mayoral appointments have been submitted for Council confirmation:
  - 1. Arthur Skowron, 9046 S. Cordgrass Circle East, Ald. Dist. 6 – Environmental Commission (3 year term expiring 4/30/23).
  - 2. Rosemarie Bosch, 11625 W. St. Martins Rd., Ald. Dist. 6 – Fair Commission (3 year term expiring 4/30/23).
  - 3. Dennis Ciche, 8128 S. 43rd St., Ald. Dist. 5 – Finance Commission (1 year term expiring 4/30/21).
  - 4. John Howard, 6658 W. Robinwood Ln., Ald. Dist. 5 – Finance Commission (1 year term expiring 4/30/21).
  - 5. Lori O’Neil, 8236 S. 79th St., Ald. Dist. 1 – Board of Health (2 year term expiring 4/30/22).
  - 6. Amy Marzofka, 7950 S. 61st Street, Ald. Dist. 5 – Board of Health (2 year term expiring 4/30/22).
  - 7. Terrence Berres, 8203 S. 58th St., Ald. Dist. 5 – Library Board (3 year term expiring 6/30/23).
  - 8. Dale Wikel, 3755 W. Sharon Ln., Ald. Dist. 5 – Personnel Committee (3 year term expiring 4/30/23).
  - 9. Tom Traynor, 7951 S. 43rd St., Ald. Dist. 5 – Personnel Committee (3 year term expiring 4/30/23).
  - 10. Jim Bartnicki, 7718 W. Terrace Dr., Ald. Dist. 2 – Board of Public Works (3 year term expiring 4/30/23).

F. Letters and Petitions.

G. Reports and Recommendations:

1. Standards, Findings and Decision of the City of Franklin Common Council Upon the Application of Mills Hotel Wyoming, LLC, Applicant, for a Special Exception to Certain Natural Resource Provisions of the City of Franklin Unified Development Ordinance.
2. A Resolution Conditionally Approving a 2 Lot Certified Survey Map, Being All of Lot 84 in Ryan Meadows, Located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 and the Northeast 1/4 of the Southwest 1/4 and the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin (Mills Hotel Wyoming, LLC, Applicant) (Generally on the East Side of Monarch Drive, South of Chicory Street, Area Commonly Known as Area G).
3. A Resolution Authorizing Certain Officials to Accept a Conservation Easement for Lot 84 of Ryan Meadows (Mills Hotel Wyoming, LLC, Applicant) (Generally on the East Side of Monarch Drive, South of Chicory Street, Area Commonly Known as Area G).
4. A Resolution Authorizing the Installation of a Fence Within the 30 Foot Landscape Planting Buffer Plat Restriction, Upon Lot 8 in Dover Hill Subdivision (7244 South Dover Hill Court) (Scott A. McElroy and Andrea L. McElroy, Applicants).
5. A Resolution Authorizing Certain Officials to Accept a Landscape Bufferyard Easement for and as Part of the Approval of a 2 Lot Certified Survey Map, Being a Division of a Part of the Southeast 1/4 of the Southwest 1/4 of Section 23, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin (Anup K. Khullar, 5100 LLC, Applicant) (at 5112 West Ryan Road).
6. A Resolution Authorizing Certain Officials to Execute a Facility Use Agreement With the Franklin Public School District and to Accept and Consent to a Waiver of Conflict of Interest to Allow for von BRIESEN & ROPER, s.c. to Represent the District with Respect to the Agreement.
7. An Ordinance to Amend Ordinance 2019-2398, An Ordinance Adopting the 2020 Annual Budgets for the Capital Outlay Fund to Provide for \$16,130 of Grant Resources and \$26,884 of Police Appropriations for Updated 9-1-1 Capabilities.
8. An Ordinance to Amend Ordinance 2019-2398, an Ordinance Adopting the 2020 Annual Budgets for the General Fund to Carry Forward \$23,000 of Unused Economic Development Appropriations to Appropriate Expenditures for Economic Development Commission Marketing Appropriations and Upgrades to the Unified Development Ordinance.
9. Authorization to Execute a Contact Tracing Contract with Maxim Healthcare Staffing Services, Inc. Estimated at \$38,000.
10. A Resolution to Provide Conservation Easement with the Milwaukee Metropolitan Sewerage District for the 36th Street Biofilter.
11. An Ordinance to Amend Ordinance 2019-2398, an Ordinance Adopting the 2020 Annual Budgets for TID 5 and TID 6 to Carryforward Unused 2019 Appropriations and Detail

- 2020 Construction Appropriations in TID 4 and Provide Additional Municipal Revenue Obligation Appropriations in TID 3.
12. An Ordinance to Repeal and Recreate Sections 13-1. Through 13-3. of the Franklin Municipal Code, Chapter 13, "Budget," in Order to Amend the Budget Process, Including Delegating to the Finance Committee the Responsibility for the Initial Review of the Mayor's Recommended Annual Budget.
  13. Report on Expenditures Related to the COVID-19 Public Health Emergency Thru June 11, 2020.
  14. Recommendation from the Fair Commission Regarding the 2020 St. Martins Labor Day Fair.
  15. Potential property acquisitions for the development of West Elm Road widening and public utilities public improvements for the Tax Incremental District No. 4 Franklin Corporate Park: 10627 South 27th Street, Tax Key Nos. 951-9996-002 (potential acquisition of approximately 5,969 square feet) and 951-9999-001 (potential acquisition of approximately 5,234 square feet); 3001 West Elm Road, Tax Key No. 978-9996-006 (potential acquisition of approximately 15,977 square feet); and 10613 South 27th Street, Tax Key No. 951-9996-009 (potential acquisition of approximately 24,008 square feet). The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(e), for market competition and bargaining reasons, to deliberate and consider terms relating to potential property acquisitions for the development of West Elm Road widening and public utilities public improvements for the Tax Incremental District No. 4 Franklin Corporate Park: 10627 South 27th Street, Tax Key Nos. 951-9996-002 (potential acquisition of approximately 5,969 square feet) and 951-9999-001 (potential acquisition of approximately 5,234 square feet); 3001 West Elm Road, Tax Key No. 978-9996-006 (potential acquisition of approximately 15,977 square feet); and 10613 South 27th Street, Tax Key No. 951-9996-009 (potential acquisition of approximately 24,008 square feet); and the investing of public funds and governmental actions in relation thereto and to effect such acquisitions, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.
- \*\*\*16. Standards, Findings and Decision of the City of Franklin Common Council Upon the Application of Mills Hotel Wyoming, LLC, Applicant, for a Special Exception to Certain Natural Resource Provisions of the City of Franklin Unified Development Ordinance; A Resolution Conditionally Approving a 2 Lot Certified Survey Map, Being All of Lot 84 in Ryan Meadows, Located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 and the Northeast 1/4 of the Southwest 1/4 and the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin (Mills Hotel Wyoming, LLC, Applicant) (Generally on the East Side of Monarch Drive, South of Chicory Street, Area Commonly Known as Area G); and Site Plan application by Copart of Connecticut, Inc. to allow for construction of a 7,200 square foot building and vehicle storage yard for Copart, Inc. (on approximately 44-acres upon or adjacent to the afore described properties), approved at the May 7, 2020 Plan Commission meeting, conditioned in part on the approval of a concurrent rezoning application (Mills Hotel Wyoming, LLC, Applicant) (for a portion of the afore described properties), which was denied by the Common Council on May 19,

Common Council Meeting Agenda

June 16, 2020

Page 4

2020 (all related to properties within the Bear Development Ryan Meadows Development). The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council who is rendering oral or written advice concerning strategy to be adopted by the body with respect to potential litigation with regard to the Special Exception to Certain Natural Resource Provisions, Certified Survey Map and Site Plan applications by Mills Hotel Wyoming, LLC and Copart of Connecticut, Inc., respectively, in which it is likely to become involved, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate

H. Licenses and Permits.

Miscellaneous Licenses from License Committee Meeting of June 16, 2020.

I. Bills.

Request for Approval of Vouchers and Payroll.

I. Adjournment.

\*Notice is given that a majority of the Fair Commission may attend this meeting to gather information about an agenda item over which the Fair Commission has decision-making responsibility This may constitute a meeting of the Fair Commission, per State ex rel Badke v Greendale Village Board, even though the Fair Commission will not take formal action at this meeting

\*\*Supporting documentation and details of these agenda items are available in the Common Council Meeting Packet on the City of Franklin website [www.franklinwi.gov](http://www.franklinwi.gov)

[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:

June 18	Plan Commission Meeting	7:00 pm.
July 3	Fourth of July	City Hall Closed
July 7	Common Council Meeting	6:30 p.m.
July 9	Plan Commission Meeting	7:00 p.m.
July 21	Common Council Meeting	6:30 p.m.
July 23	Plan Commission Meeting	6:30 p.m.
August 4	Common Council Meeting	6:30 p.m.
August 6	Plan Commission Meeting	7:00 p.m.

B.2.



The Wisconsin Economic Development Corporation (WEDC) will issue 30,000 grants of \$2,500 to Wisconsin small businesses to help them get back on their feet amid disruptions caused by the COVID-19 pandemic.

Funded by the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, WEDC's We're All In Small Business Grant aims to assist with the costs of business interruption or for health and safety improvements, wages and salaries, rent, mortgages and inventory

**APPLICATION PERIOD** 8:00 a.m , Monday, June 15 – 11:59 p.m., Tuesday, June 23.

**BE PREPARED** Applicants are encouraged familiarize themselves with the eligibility requirements that can be found at [wedc.org/WAI-Small-Business-Grant](http://wedc.org/WAI-Small-Business-Grant)

Gathering the necessary documents prior to applying will also help streamline the process:

**2018 or 2019 federal tax return for business. Applicable tax returns are:**

- IRS form 1065 Partnership Return (no K-1s required)
- IRS form 1120 Corporation Return (no schedules required)
- IRS form 1120S S Corporation Return (no K-1s required)
- IRS form 1040 (sole proprietors) and the following:
  - Schedule C, Profit and Loss from Business

Signed and dated W-9 form available at [www.irs.gov/pub/irs-pdf/fw9.pdf](http://www.irs.gov/pub/irs-pdf/fw9.pdf)

**A letter or email of acknowledgement from a community organization indicating your business was in operation in February 2020. The letter or email can be from any of the following:**

- |   |   |
|---|---|
| Chamber of commerce                             | Local bank, credit union or community development financial institution |
| Main Street or Connect Communities organization | Regional UW Small Business Development Center                           |
| Local business improvement district             | U.S. Export Assistance Center – Wisconsin                               |
| Neighborhood economic development association   | Regional economic development organization                              |
| Local economic development organization         | Regional Planning Commission  |
| County economic development organization        | Trade association   |
| Municipality, including tribal government       |   |
| County  |   |

Sample text for a letter or email can be found at [wedc.org/WAI-Small-Business-Grant](http://wedc.org/WAI-Small-Business-Grant)



## We're All In Small Business Grant Program: Eligible Industries

### NAICS Code - Description

- 113 - Forestry and Logging
- 114 - Fishing, Hunting and Trapping
- 115 - Support Activities for Agriculture and Forestry
- 212 - Mining (except Oil and Gas)
- 221 - Utilities
- 236 - Construction of Buildings
- 237 - Heavy and Civil Engineering Construction
- 238 - Specialty Trade Contractors
- 311 - Food Manufacturing
- 312 - Beverage and Tobacco Product Manufacturing
- 313 - Textile Mills
- 314 - Textile Product Mills
- 315 - Apparel Manufacturing
- 316 - Leather and Allied Product Manufacturing
- 321 - Wood Product Manufacturing
- 322 - Paper Manufacturing
- 323 - Printing and Related Support Activities
- 325 - Chemical Manufacturing
- 326 - Plastics and Rubber Products Manufacturing
- 327 - Nonmetallic Mineral Product Manufacturing
- 331 - Primary Metal Manufacturing
- 332 - Fabricated Metal Product Manufacturing
- 333 - Machinery Manufacturing
- 334 - Computer and Electronic Product Manufacturing
- 335 - Electrical Equipment, Appliance, and Component Manufacturing
- 336 - Transportation Equipment Manufacturing
- 337 - Furniture and Related Product Manufacturing
- 339 - Miscellaneous Manufacturing
- 423 - Merchant Wholesalers, Durable Goods
- 424 - Merchant Wholesalers, Nondurable Goods
- 425 - Wholesale Electronic Markets and Agents and Brokers
- 441 - Motor Vehicle and Parts Dealers
- 442 - Furniture and Home Furnishings Stores
- 443 - Electronics and Appliance Stores
- 444 - Building Material and Garden Equipment and Supplies Dealers
- 445 - Food and Beverage Stores
- 446 - Health and Personal Care Stores
- 447 - Gasoline Stations
- 448 - Clothing and Clothing Accessories Stores
- 451 - Sporting Goods, Hobby, Book, and Music Stores
- 452 - General Merchandise Stores
- 453 - Miscellaneous Store Retailers
- 454 - Nonstore Retailers
- 481 - Air Transportation

484 - Truck Transportation  
485 - Transit and Ground Passenger Transportation  
487 - Scenic and Sightseeing Transportation  
488 - Support Activities for Transportation  
492 - Couriers and Messengers  
493 - Warehousing and Storage  
511 - Publishing Industries (except Internet)  
512 - Motion Picture and Sound Recording Industries  
515 - Broadcasting (except Internet)  
517 - Telecommunications  
518 - Data Processing, Hosting, and Related Services  
519 - Other Information Services  
522 - Credit Intermediation and Related Activities  
523 - Securities, Commodity Contracts, and Other Financial Investments and Related Activities  
524 - Insurance Carriers and Related Activities  
531 - Real Estate  
532 - Rental and Leasing Services  
533 - Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)  
541 - Professional, Scientific, and Technical Services  
551 - Management of Companies and Enterprises  
561 - Administrative and Support Services  
562 - Waste Management and Remediation Services  
611 - Educational Services  
621 - Ambulatory Health Care Services  
622 - Hospitals  
623 - Nursing and Residential Care Facilities  
624 - Social Assistance  
711 - Performing Arts, Spectator Sports, and Related Industries  
712 - Museums, Historical Sites, and Similar Institutions  
713 - Amusement, Gambling, and Recreation Industries  
721 - Accommodation  
722 - Food Services and Drinking Places  
811 - Repair and Maintenance  
812 - Personal and Laundry Services

**BLANK PAGE**



CITY OF FRANKLIN  
COMMON COUNCIL MEETING  
JUNE 2, 2020  
MINUTES

- ROLL CALL                    A.        The regular meeting of the Common Council was held on June 2, 2020 and called to order at 6:30 p.m. by Mayor Steve Olson in the Franklin City Hall Council Chambers, 9229 W. Loomis Road, Franklin, Wisconsin. On roll call, the following were in attendance: Alderman Mark Dandrea, Alderman Dan Mayer, Alderwoman Kristen Wilhelm, Alderwoman Shari Hanneman, Alderman Mike Barber (by telephone), and Alderman John R. Nelson. Also present were City Engineer Glen Morrow, City Attorney Jesse A. Wesolowski and City Clerk Sandra Wesolowski.
  
- CITIZEN COMMENT        B.1.        Citizen comment period was opened at 6:31 p.m. and closed at 6:33 p.m.
  
- COVID-19 UPDATE        B.2.a.      An update was provided by Health Services Director Courtney Day relating to the Coronavirus Disease (COVID-19).
  
- FIRE DEPT. ISO RATING CHANGE    B.2.b.      No action was taken on the presentation made by Fire Chief Adam Remington on the change in the City’s Insurance Services Office (ISO) Public Protection Classification (PPC) rating from ISO Class 4 to ISO Class 2.
  
- MINUTES MAY 19, 2020        C.1.        Alderwoman Wilhelm moved to approve the minutes of the regular Common Council meeting of May 19, 2020 as presented at this meeting. Seconded by Alderman Dandrea. All voted Aye; motion carried.
  
- MINUTES MAY 28, 2020        C.2.        Alderwoman Hanneman moved to approve the minutes of the special Common Council meeting of May 28, 2020 as presented at this meeting. Seconded by Alderman Nelson. All voted Aye; motion carried.
  
- BALLPARK COMMONS UPDATE    G.1.        No action was taken following a project update on Ballpark Commons presented by Mike Zimmerman, ROC Ventures.
  
- TOURISM COMMISSION UPDATE    G.2.        No action was taken following an update on current activities and plans presented by the Tourism Commission.
  
- EAGLE SCOUT PROJECT        G.3.        Alderwoman Hanneman moved to approve the Eagle Scout Project presented by Noah Grandsard, Troop 531 for a memorial tribute to first responders that will be placed adjacent to the other memorials at the Library. Seconded by Alderman Mayer. Upon voice vote, unanimous Aye; motion carried.
  
- RES. 2020-7630            G.4.        Alderwoman Wilhelm moved to adopt Resolution No. 2020-7630, A

- RES. 2020-7630  
LAND COMBINATION  
6932 S. TUMBLECREEK  
DR. (TKN: 739-0120-000  
AND 739-0037-000)
- G.4. Alderwoman Wilhelm moved to adopt Resolution No. 2020-7630, A RESOLUTION CONDITIONALLY APPROVING A LAND COMBINATION FOR TAX KEY NOS. 739-0120-000 AND 739-0037-000 (6932 SOUTH TUMBLECREEK DRIVE AND OUTLOT 30 OF PLAT OF OUTLOTS 1 THROUGH 5 OF TUMBLECREEK) (ZACHARY D. PAWLOWSKI AND LAUREN M. PAWLOWSKI, APPLICANTS). Seconded by Alderman Dandrea. All voted Aye; motion carried.
- AGREEMENT FOR  
LAW ENFORCEMENT  
SERVICES FOR THE  
2020 DNC
- G.5. Alderman Mayer moved to approve and authorize the execution of an Intergovernmental Agreement for Law Enforcement Services for the 2020 Democratic National Convention in Milwaukee, Wisconsin, with the understanding of and conditioned upon the fact that this agreement is in lieu of and/or replaces the agreement for the same subject matter and purpose as previously approved by the Common Council on February 17, 2020, with the final document to be prepared by the City Attorney with minor technical corrections. Seconded by Alderwoman Hanneman. All voted Aye; motion carried.
- AGREEMENT WITH  
MILWAUKEE FOR  
EMERGENCY SERVICES  
FOR THE DNC
- G.6. Alderman Mayer moved to approve and authorize the execution of an Intergovernmental Agreement for Fire & Other Protection Services for the 2020 Democratic National Convention in Milwaukee, Wisconsin, with the understanding of and conditioned upon the fact that this agreement is in lieu of and/or replaces the agreement for the same subject matter and purpose as previously approved by the Common Council on February 17, 2020, with the final document to be prepared by the City Attorney with minor technical corrections. Seconded by Alderman Dandrea. All voted Aye; motion carried.
- REZONE FROM M-1 TO  
M-2, LOT 84 IN RYAN  
MEADOWS
- G.7. Alderman Nelson moved to table to the Common Council meeting of June 16, 2020, a Resolution Conditional Approving a 2 Lot Certified Survey Map, Being All of Lot 84 in Ryan Meadows, Located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 and the Northeast 1/4 of the Southwest 1/4 and the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin (Generally on the East Side of South Monarch Drive, South of West Chicory Street, Area Commonly Known as Area G). Seconded by Alderman Barber. All voted Aye; motion carried.
- CONSERVATION  
EASEMENT RYAN  
MEADOWS LOT 84
- G.8. Alderman Nelson moved to table to the Common Council meeting of June 16, 2020, a Resolution Authorizing Certain Officials to Accept a Conservation Easement for and as Part of the Approval of a 2 Lot Certified Survey Map, Being All of Lot 84 in Ryan Meadows (Mills Hotel Wyoming, LLC, Applicant) (Generally on the East Side of South Monarch Drive, South of West Chicory Street, Area

Commonly Known as Area G) Subject to Technical Corrections by Staff. Seconded by Alderman Barber. All voted Aye; motion carried.

NATURAL RESOURCE  
PROVISIONS (MILLS  
HOTEL WYOMING, LLC  
APPLICANT)

- G.9. Alderman Nelson moved to reconsider the adopted motion to deny the Application of Mills Hotel Wyoming, LLC, Applicant, for a Special Exception to Certain Natural Resource Provisions. Seconded by Alderman Barber. On roll call, Alderman Dandrea, Alderwoman Wilhelm, Alderwoman Hanneman, Alderman Barber, and Alderman Nelson voted Aye; Alderman Mayer voted No. Motion carried.

Alderman Nelson moved to refer the subject matter to staff for further review and preparation and further Common Council review and discussion and return of the subject matter to the June 16, 2020 Common Council meeting. Seconded by Alderman Dandrea. All voted Aye; motion carried.

RES. 2020-7631  
DEVELOPMENT  
AGREEMENT WITH  
OAKES ESTATES  
DEVELOPER

- G.10. Alderman Mayer moved to adopt Resolution No. 2020-7631, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE A SUBDIVISION DEVELOPMENT AGREEMENT WITH THE DEVELOPER OF OAKES ESTATES SUBDIVISION upon review and acceptance by the City Attorney. Seconded by Alderman Dandrea. All voted Aye; motion carried.

RES. 2020-7632  
CONSERVATION  
EASEMENT FOR  
OAKES ESTATES  
(S. 92ND ST./  
W. WOELFEL RD.)

- G.11. Alderman Mayer moved to adopt Resolution No. 2020-7632, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A CONSERVATION EASEMENT FOR AND AS PART OF THE APPROVAL OF A FINAL PLAT FOR OAKES ESTATES SUBDIVISION (AT APPROXIMATELY SOUTH 92ND STREET AND WEST WOELFEL ROAD) (MAXWELL J. OAKES AND DANIEL D. OAKES-OAKES ESTATES LLC, APPLICANT), subject to technical corrections by the City Attorney. Seconded by Alderman Nelson. All voted Aye; motion carried.

ANCILLARY WORK BY  
ATC AND ASBESTOS  
INSP. BY TERRACON  
CONSULTANTS AT 3548  
W. SOUTH COUNTY  
LINE RD.

- G.12. Alderwoman Hanneman moved to authorize staff to make payment of up to \$10,000 to American Transmission Company for ancillary work on the South Hickory Street Corridor Utility Project and authorize Terracon Consultants, Inc. up to \$10,000 to perform asbestos inspection work for farmhouse and ancillary structures at 3548 West South County Line Road. Seconded by Alderman Dandrea. All voted Aye; motion carried.

RES. 2020-7633  
REIMBURSE AN  
EXPENDITURE

- G.13. Alderwoman Hanneman moved to adopt Resolution No. 2020-7633, A RESOLUTION TO DECLARE OFFICIAL INTENT TO REIMBURSE AN EXPENDITURE WITH PROCEEDS OF A BORROWING OR BORROWINGS. Seconded by Alderman Dandrea. All voted Aye; motion carried.

- RES. 2020-7634  
CHANGE ORDER NO. 1  
FOR THE GREEN  
SOLUTIONS FUNDING  
AGREEMENT
- G.14. Alderwoman Wilhelm moved to adopt Resolution No. 2020-7634, A RESOLUTION TO EXECUTE CHANGE ORDER NO. 1 FOR THE GREEN SOLUTIONS FUNDING AGREEMENT M03076 (36TH STREET BIOFILTER) WITH THE MILWAUKEE METROPOLITAN SEWERAGE DISTRICT, with corrections as noted by Alderwoman Wilhelm. Seconded by Alderman Nelson. All voted Aye; motion carried.
- COVID-19  
EXPENDITURES
- G.15. Alderman Mayer moved to place on file the report on expenditures related to the COVID-19 Public Health Emergency through May 29, 2020. Seconded by Alderman Barber. All voted Aye; motion carried.
- ROOT-PIKE WIN FOR  
THE DNR STORM  
WATER PERMIT  
REQUIREMENTS
- G.16. Alderman Mayer moved to authorize the City to execute a contract for professional services with Root-Pike Watershed Initiative Network (WIN) for information and education program for meeting the 2020-2021 Department of Natural Resources storm water permit requirements for a not to exceed fee of \$10,500. Seconded by Alderman Barber. All voted Aye; motion carried.
- RES. 2020-7635  
ENGINEERING SVCS.  
AGREEMENT WITH  
WI DOT
- G.17. Alderman Mayer moved to adopt Resolution 2020-7635, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE AN ENGINEERING SERVICES AGREEMENT WITH WISCONSIN DEPARTMENT OF TRANSPORTATION FOR SIGNAL WORK AT KNOLLWOOD LEGACY APARTMENTS AND SOUTH LOVERS LANE ROAD. Seconded by Alderwoman Hanneman. All voted Aye; motion carried.
- APRIL, 2020  
FINANCIAL REPORT
- G.18. Alderman Dandrea moved to receive and place on file the April, 2020 financial report. Seconded by Alderwoman Hanneman. All voted Aye; motion carried.
- COMMUNITY DEV.  
BLOCK GRANT & HUD  
HOME FUNDS FOR 2021-  
2023
- G.19. Alderman Mayer moved to authorize the Mayor and City Clerk to execute a Cooperation Agreement with Milwaukee County for an additional 3-year participation, program years 2021 through 2023, in the Community Development Block Grant and HUD HOME funds, subject to approval as to form by the City Attorney, which changes from the attached document may include technical corrections, clarification, or other such changes that do not entail a substantial substantive difference. Seconded by Alderman Barber. All voted Aye; motion carried.
- LICENSES AND  
PERMITS
- H. Alderwoman Hanneman moved to approve the following license recommendations from the License Committee meeting of May 5, 2020:

Grant 2019-2020 Operator licenses to Destanie M Evans, 726 Marquette Ave., #2, South Milwaukee;

Grant 2019-2020 and 2020-2021 Operator licenses to Danielle M Krueger, W1369 County Rd C, Sharon; Sandra J Fojut, 5928 S. 28<sup>th</sup> St., Greenfield; Vanesa C Peterson, 6975 S. Brain Ct.; Annamaria E Robel, 26716 Julia St., Wind Lake; Andrew D Zakula, 7507 S. Lenox Ave., Oak Creek;

Grant 2020-2021 Operator licenses to: Margarita Charaim, 421 Kelburn Rd., #214, Deerfield, IL.; Paul J Robinson, 4201 S. Taylor Ave., Milwaukee; Kristen N Fenninger, 9750 S. 31<sup>st</sup> St.; Adrianna-Cristina M Bratel, 10548 W. Cortez Cir., #14; Sandy Y Gallagher, 1923 Grange Ave., Racine; Carinn Hoffmann, 2745 N. 90th, Milwaukee; Marie E Idzikowski, 5348 S. 8<sup>th</sup> St., Milwaukee; Joanne E Krafcheck, 10464 W. Whitnall Edge Dr. #102; Scott A Kruszka, 726 Marquette Ave., #1, South Milwaukee; Leah B Kutz, 205 W. Aspen Ct., #8, Oak Creek; Rose Lenz, 3232 W. Fitzsimmons Rd.; Joey D Merchan, 8164 W. Legend Dr.; Michael Norman, 9741 S. Deerpath Dr., Oak Creek; Rebecca K Omick, 3907 E. Klieforth Ave., Cudahy; Anaka C Schwulst, 2134 W. 7 Mile Rd., Franksville; Angela L. Stevenson, 4935 N. 89<sup>th</sup> St., Milwaukee; Amber R Torres, 1802 Minnesota Ave., South Milwaukee; Melissa K Waulters, 6605 W. Howard Ave., Milwaukee; Matthew E Zemla, 3101 W. Drexel Ave., #224; Jamie M Balistreri, 7712 Dunkelow Rd., Franksville; Tyson T Beck, N33 W22163 Memory Ln., Pewaukee; Michelle L Blue, 11229 W. National Ave., #114, West Allis; Michael J Boese, 9169 W. Elm Ct., Unit E; Nicole Bower, 1875 E. Hidden Creek Ct., #102, Oak Creek; Tammy Bresette, 3912 W. Denis Ave., Milwaukee; Kayla M Corona, 315 E. Fieldstone Ct., #3, Oak Creek; Barbara J Davison, 6931 S. Phyllis Ln.; Sarah K Deshambo, 1912 E. Eden Pl., St. Francis; Richard G Elliott, 9461 S 27<sup>th</sup> St., #3; Jennacy Frey, 3440 Britton Ridge, Union Grove; Leah A Gdaniec, S76 W20251 Sunny Hill Dr., Muskego; Jacob S Heller, 8145 S. 35<sup>th</sup> St.; Kristen M Herwig-Kuzmiuk, 10005 S. Jennifer Ln., Oak Creek; Daniel P Hodach, 4520 Empire Ln., Waterford; Sarah L Jasinski, 2513 S. 68<sup>th</sup> St., Milwaukee; Harpreet Kaur, 6590 S. Carroll Cir.; Kimberly D Leannais, 8080 S. Chapel Hill Dr.; Joseph M Ligoeki, 10400 S. Redwood Ln., Oak Creek; June A. Loh, 7930 W. Coldspring Rd., Greenfield; Grace M Mantyh, 4073 W. Rivers Edge Cir., Unit 8, Brown Deer; Antonio D Marte Santiago, 200 Rainbow Ridge Dr., #912, Oak Creek; Jennifer L Martinez, 8725 Woodcreek Dr., #8, Oak Creek; Mark J Matecki, 1007 W. Morgan Ave., Milwaukee; Mandy L Mayrand, 28911 Fir Ln., Waterford; Martha E Norman, 9741 S. Deerpath Dr., Oak Creek; Amy Ottaviani, 28706 Beach Dr., Wind

Lake; Julie Palivoda, 4551 S. 51<sup>st</sup> St., Greenfield; Brittany L Perleberg, 1522 S. 37<sup>th</sup> St., Milwaukee; Amber L Pflueger, 4001 S. 76<sup>th</sup> St., #6, Milwaukee; Mary C Pitcher, 7955 S. Mission Dr.; Nisa Razo, 1826 S. 18<sup>th</sup> St., Milwaukee; Breanna L Roberts, 7517 S. Riverview Rd.; Toni M Ruyle, 1835 Ellis Ave., Racine; Jason M Schepker, 7026 S. North Cape Rd.; Sally A Schroeder, 12152 W. Woodcrest Cir.; James A Seehausen, 1220 Michigan Ave., South Milwaukee; Angela M Spingola, 4169 S. 5<sup>th</sup> Pl., Milwaukee; Alexis M Steltz, S65 W18717 Onyx Dr., Muskego; James A Steuck, 3119 S. 122<sup>nd</sup> St., #19, West Allis; Mariya Syed, 7132 S. Madison Ct.; Taylor Takerian, 8605 S. River Terrace Dr.; Angelina Tarantino, 3676 W. Hilltop Ln.; Kathryn M Theis, 5774 Euston St., Greendale; Tiffany A Torres, S65 W18718 Onyx Dr., Muskego; Sarah J Walkington, 2231 N Himount Blvd., Milwaukee; Aimee E Waraxa, 2835 S 130<sup>th</sup> St., New Berlin; Kathleen R Wegner, 26545 Nordic Ridge Dr., Wind Lake; Savana C Weitkuhn, 3709 Candle Ct., #5, Racine; Walter F Wooley, 7112 S. 47<sup>th</sup> Pl.; Sandra M Zimmer, 2620 108<sup>th</sup> St., Franksville; Phillip L Zurowski, 11836 W. Howard Ave., Greenfield;

Grant 2020-2021 Auto Salvage License subject to compliance with City Ordinances and approval of inspections to Al's Auto Salvage, Owner Albert Schill; 10942 S.124<sup>th</sup> St.;

Grant 2020-2021 Amusement Device Operators license to: National Amusements, Owner Janis Thein, 2740 S. 9<sup>th</sup> Pl., Milwaukee;

Grant 2020-2021 Class A Combination licenses, subject to payment, compliance with City Ordinance and approval of inspections to Spirit Dreams LLC, Agent Scott Haese, 6507A S. 27<sup>th</sup> St.; New Liquor & Food Inc., Agent Gurjeet Singh, 8305 S. 27<sup>th</sup> St.; Jujhar LLC, Agent Hardip S Bhatti, 11123 W. Forest Home Ave.; Mega Marts, LLC, Agent Benjamin Guyette, 7780 S. Lovers Lane Rd; Ultra Mart Foods, LLC, Agent Ricky Kloth, 7201 S. 76<sup>th</sup> St.;

Grant 2020-2021 Class B Combination and Entertainment & Amusement licenses, subject to compliance with City Ordinance, approval of inspections Buckhorn Bar & Grill, Owner Christopher Matecki, 9461 S. 27<sup>th</sup> St.; Irish Cottage of Franklin LLC, Agent Jenny Jennings, 11433 W. Ryan Rd.; Jax on 27<sup>th</sup> LLC, Agent William Rushman, 6357 S. 27<sup>th</sup> St.; The Landmark of Franklin LLC, Agent Lorie Beth Knaack-Helm, 11401 W. Swiss St.; Little Cancun LLC, Agent Veronica Cervera, 7273A S. 27<sup>th</sup> St.; BST, LLC, Agent Brian Francis, 8933 S. 27<sup>th</sup> St.; Point After LLC, Agent Darryl Malek, 7101 S. 76<sup>th</sup> St.; Polish Heritage Alliance Inc., Agent Jeffrey Kuderski, 6941 S. 68<sup>th</sup> St.; Polonia Sport Club Inc., Agent Irene Hawkinson, 10200 W. Loomis Rd.; Rawson Pub, Inc., Agent Steven Schweitzer,

5621 W. Rawson Ave.; The Rock Sports Complex LLC, Agent Thomas Johns, 7005 S. Ballpark Dr.; Alley Katz Pub and Grill LLC; Agent John Trudeau, 11430 W. Swiss St.;

Grant 2020-2021 Class B Combination, Entertainment & Amusement and Bowling licenses, subject to payments, compliance with City Ordinances and approval of inspection to Root Group LLC, Agent David Church, 7220 W. Rawson Ave.;

Grant 2020-2021 Class B Combination license subject to compliance with City Ordinance and approval of inspections to M&W Leung, LLC, Agent May Leung, 7236 S. 76<sup>th</sup> St.; Robley Tech In, Agent Dennis Rau, 8330 W. Puetz Rd.; Enthusiast Approved LLC, Apsotolos Evreniadis, 9405 S. 27<sup>th</sup> St.;

Grant 2020-2021 Class B Combination license and Premise Transfer subject to compliance with City Ordinance and approval of inspections to Pantheon of Wisconsin Inc., Agent Debbie Koutromanos, 7221 S. 76<sup>th</sup> St.;

Grant 2020-2021 Reserve Class B Combination, Entertainment & Amusement licenses subject to compliance with City Ordinance and approval of inspections to: Federation of Croatian Societies, Inc., Agent Josip Weber, 9100 S. 76<sup>th</sup> St.; Rock Snow Park LLC, Agent Michael R Schmitz, 7011 S. Ballpark Dr.; Franklin Hotel Company LLC, Agent Vicki Jesson, 9575 S. 27<sup>th</sup> St.;

Grant 2020-2021 Class B Combination, Country Club and Entertainment & Amusement licenses to Tuckaway Country Club, Agent Jennifer Jacobi, 6901 W. Drexel Ave.;

Grant 2020-2021 Class B Beer and Class C Wine license, subject to compliance with City Ordinances and approval of inspections to Asian Bistro LLC, Agent Kenneth Sithy, 6509B S. 27<sup>th</sup> St.;

Grant 2020-2021 Class B Beer licenses, subject to compliance with City Ordinances and approval of inspections to Marcus Cinemas of Wisconsin, LLC, Agent Michael D Ridgway, 8910 S. 102<sup>nd</sup> St.;

Grant 2020-2021 Day Care licenses to: KinderCare Education, LLC, Manager Katelyn Rekowski, 7363 S. 27<sup>th</sup> St.;

Grant 2020-2021 Entertainment & Amusement license, subject to compliance with City Ordinances and approval of inspections to Innovative Health and Fitness Building LLC, Owner Scott Cole, 8800 S. 102<sup>nd</sup> St.;

Grant 2020-2021 Mobile Home license subject to compliance with City Ordinances and approval of inspections to Badger MHP, LLC, Manager Jason Janda, 6405 S 27<sup>th</sup> St.

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

VOUCHERS AND  
PAYROLL

- I. Alderman Dandrea moved to approve the following:  
City vouchers with an ending date of June 1, 2020 in the amount of \$1,085,169.12; and Payroll dated May 22, 2020 in the amount of \$386,704.45 and payments of the various payroll deductions in the amount of \$417,810.95 plus City matching payments; and estimated payroll dated June 5, 2020 in the amount of \$395,000.00 and payments of the various payroll deductions in the amount of \$258,000.00, plus City matching payments; and property tax disbursements with an ending date of May 28, 2020 in the amount of \$6,175.59; and approval to release payments to miscellaneous vendors in the amount of \$492,811.87. Seconded by Alderwoman Hanneman. On roll call, all voted Aye. Motion carried.

ADJOURNMENT

- J. Alderman Nelson moved to adjourn the meeting at 9:22 p.m. Seconded by Alderwoman Wilhelm. All voted Aye; motion carried.



CITY OF FRANKLIN  
SPECIAL COMMON COUNCIL MEETING  
JUNE 4, 2020  
MINUTES

- ROLL CALL                    A.        The special meeting of the Common Council was held on June 4, 2020 and called to order at 6:30 p.m. by Mayor Steve Olson in the Franklin City Hall Council Chambers, 9229 W. Loomis Road, Franklin, Wisconsin. On roll call, the following were in attendance: Alderman Mark Dandrea, Alderman Dan Mayer, Alderwoman Kristen Wilhelm, Alderwoman Shari Hanneman, Alderman Mike Barber (by telephone), and Alderman John R. Nelson. Also present were City Engineer Glen Morrow, Dir. of Health and Human Services Courtney Day, Dir. of Information Technology James Matelski, City Attorney Jesse A. Wesolowski and City Clerk Sandra Wesolowski.
- CITIZEN COMMENT            B.        Citizen comment period was opened at 6:31 p.m. and closed at 6:33 p.m.
- CIVIC CELEBRATION  
CANCELLATION                C.        Civic Celebrations Committee Chair John Bergner appeared before the Common Council to discuss the Committee's recommendation. Alderwoman Hanneman then moved to cancel all currently contemplated Independence Day activities including the parade, Legend Park fireworks and Civic Center Festival. Seconded by Alderman Barber. All voted Aye; motion carried.
- ADJOURNMENT                 D.        Alderman Barber moved to adjourn the special meeting at 6:47 p.m. Seconded by Alderman Dandrea. All voted Aye; motion carried.

**BLANK PAGE**

<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COMMON COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;"><b>06-16-20</b></p>
<p style="text-align: center;"><b>ORGANIZATIONAL BUSINESS</b></p>	<p style="text-align: center;"><b>Board and Commission Appointments</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><i>E.</i></p>

The following Mayoral appointments have been submitted for Council confirmation:

1. Arthur Skowron, 9046 S. Cordgrass Circle East, Ald. Dist. 6 – Environmental Commission (3 year term expiring 4/30/23).
2. Rosemarie Bosch, 11625 W. St. Martins Rd., Ald. Dist. 6 – Fair Commission (3 year term expiring 4/30/23).
3. Dennis Ciche, 8128 S. 43rd St., Ald. Dist. 5 – Finance Commission (1 year term expiring 4/30/21).
4. John Howard, 6658 W. Robinwood Ln., Ald. Dist. 5 – Finance Commission (1 year term expiring 4/30/21).
5. Lori O’Neil, 8236 S. 79th St., Ald. Dist. 1 – Board of Health (2 year term expiring 4/30/22).
6. Amy Marzofka, 7950 S. 61st Street, Ald. Dist. 5 – Board of Health (2 year term expiring 04/30/22).
7. Terrence Berres, 8203 S. 58th St., Ald. Dist. 5 – Library Board (3 year term expiring 6/30/23).
8. Dale Wikel, 3755 W. Sharon Ln., Ald. Dist. 5 – Personnel Committee (3 year term expiring 4/30/23).
9. Tom Traynor, 7951 S. 43rd St., Ald. Dist. 5 – Personnel Committee (3 year term expiring 4/30/23).
10. Jim Bartnicki, 7718 W. Terrace Dr., Ald. Dist. 2 – Board of Public Works (3 year term expiring 4/30/23).

**COUNCIL ACTION REQUESTED**

Motion to confirm the following Mayoral appointments:

1. Arthur Skowron, 9046 S. Cordgrass Circle East, Ald. Dist. 6 – Environmental Commission (3 year term expiring 4/30/23).
2. Rosemarie Bosch, 11625 W. St. Martins Rd., Ald. Dist. 6 – Fair Commission (3 year term expiring 4/30/23).
3. Dennis Ciche, 8128 S. 43rd St., Ald. Dist. 5 – Finance Commission (1 year term expiring 4/30/21).
4. John Howard, 6658 W. Robinwood Ln., Ald. Dist. 5 – Finance Commission (1 year term expiring 4/30/21).
5. Lori O’Neil, 8236 S. 79th St., Ald. Dist. 1 – Board of Health (2 year term expiring 4/30/22).
6. Amy Marzofka, 7950 S. 61st Street, Ald. Dist. 5 – Board of Health (2 year term expiring 4/30/22).
7. Terrence Berres, 8203 S. 58th St., Ald. Dist. 5 – Library Board (3 year term expiring 6/30/23).
8. Dale Wikel, 3755 W. Sharon Ln., Ald. Dist. 5 – Personnel Committee (3 year term expiring 4/30/23).

9. Tom Traynor, 7951 S. 43rd St., Ald. Dist. 5 – Personnel Committee (3 year term expiring 4/30/23).
10. Jim Bartnicki, 7718 W. Terrace Dr., Ald. Dist. 2 – Board of Public Works (3 year term expiring 4/30/23).

<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;">June 16, 2020</p>
<p style="text-align: center;"><b>REPORTS AND RECOMMENDATIONS</b></p>	<p style="text-align: center;">Standards, Findings and Decision of the City of Franklin Common Council Upon the Application of Mills Hotel Wyoming, LLC, Applicant, for a Special Exception to Certain Natural Resource Provisions of the City of Franklin Unified Development Ordinance</p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><i>G.1.</i></p>

The above subject matter was before the Common Council at its regular meeting on May 19, 2020 on the agenda as item G.5. The Council action adopted was to deny the application, as set forth in the meeting minutes of that meeting. At the June 2, 2020 Common Council meeting, a motion to reconsider the adopted motion to deny the Application of Mills Hotel Wyoming, LLC, Applicant, for a Special Exception to Certain Natural Resource Provisions, and, a motion to refer the subject matter to staff for further review and preparation and further Common Council review and discussion and return of the subject matter to the June 16, 2020 Common Council meeting were adopted.

§15-3.0102 Special Exceptions ...to a Natural Resource Feature, of the Unified Development Ordinance, provides in part at §15-3.0102B.: “[t]he 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.

Wis. Stat. § 62.23(7) Zoning, provides for and is applicable to special exceptions as follows:

(de) Conditional use permits. 1. In this paragraph:

a. “Conditional use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.

b. “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

2. a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.

3. Upon receipt of a conditional use permit application, and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.

4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.

5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e)10.

Annexed hereto is a copy of the revised draft Standards, Findings and Decision upon the subject application which was before the Common Council on May 19, 2020. The original findings pursuant to §15-10.0208B.2.a., b. and c. of the Unified Development Ordinance for Common Council consideration are set forth therein. The revised draft for reconsideration also stipulates both the facts and findings for a denial, or proposed enhanced conditions should the Common Council wish to approve the Special Exception. Revised text has been

underlined in the draft.

Also attached are materials from the applicant, Mills Hotel Wyoming, LLC (Bear Development) for the Council's consideration: a letter from the applicant with supplemental information related to the NSRE, and from the Heartland Ecological Group detailing the wetlands under consideration.

### **COUNCIL ACTION REQUESTED**

Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of Mills Hotel Wyoming, LLC, applicant, to deny the special exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance.

or

Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of Mills Hotel Wyoming, LLC, applicant, to allow for a special exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance, subject to the conditions therein.

MX/JW

*Redraft 06/11/2020 for reconsideration*

*Please note: revised text is underlined>*

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

Whereas, Mills Hotel Wyoming, LLC, applicant, having filed an application dated January 22, 2020, 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 March 25, 2020 being annexed hereto and incorporated herein as Exhibit B; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated May 7, 2020 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 generally located at West Loomis Road and West Ryan Road, zoned M-2 General Industrial 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 January 22, 2020, by Mills Hotel Wyoming, LLC, applicant, pursuant to the City of Franklin Unified Development Ordinance, the proceedings heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

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

*The CSM resulting in this request for an NRSE was at the request of the applicant who owns the surrounding properties to the east and west and has conducted a series of property divisions to meet the requests of various users. A different lot configuration with this wetland at the property boundary or within a larger easement area may have been possible.*

*Application materials for this NRSE detail only “thirteen (13) acres of vacant land in the City of Franklin... part of Tax Key 939-9994-000,” however the total final area of the property subject to the NSRE will be greater than 43 acres. Even within the final completed parcel, different site configurations may be possible.*

*In responses to the required Natural Resource Special Exception standards, for §15-9.0110C4.b.iv, “State what geographical areas were searched for alternative sites,” the applicant responded “none.”*

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

a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives: *The strict application of natural resource protection to this area, including wetland preservation, buffers and setbacks would render the parcel unusable; and*

*The CSM resulting in this request for an NRSE was at the request of the applicant who owns several of the surrounding properties and has conducted a series of redivisions to meet the requests of various users. A different lot configuration with this wetland at the property boundary may have been possible. The applicant has shown that they are willing to protect wetlands when they are close to the property line, or to set aside conservation areas as needed for parts of other platting.*



The applicant's responses to §15-9.0110C4.b.i state that "The applicant provided a full Practical Alternatives Analysis to the WDNR as part of the General Permit process. It was determined that the size, shape and orientation of the swale prevents a practical use of the property." They likewise obtained permits from the Army Corps of Engineers. However this proposal only considered the 13 acre parcel containing the wetland in question "W-4" on the delineation for that property and does not consider alternative configurations including the additional lands.

b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: *Applicant represents that the denial of the NRSE would be unreasonable and negatively impact the applicants proposed use of the property based on the fact that the impacts are minimal and occur in areas of degraded, farmed wetland. There are no reasonable alternatives for development of the property.*

The applicant, Mills Hotel Wyoming, LLC, submitted the application for an NRSE without a specific business proposed for the site in relation to the NRSE. The initial application also did not include a site plan for any project demonstrating the need for the wetland's removal. Subsequent submittals identified the Copart business as the future user and included site plans for that use. Other businesses might be able to use the site in a manner that complies with the requirements of the Franklin natural resource protection standards. Additionally, other Copart facilities in Wisconsin are not as large as the final proposed site plan for the final property. Copart could potentially still have a business with a reduced footprint that does impact this wetland, setbacks, or buffers.

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*

The existing condition is a farmed wetland adjacent to an area designated by Southeastern Wisconsin Regional Plan Commission as an Isolated Natural Resource Area.

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The situation and conditions related to this project are unique. Other properties seeking the same relief would need to meet similar standards; and*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *Applicant represents that the unique*

*circumstances involved with this request is what the NRSE process was intended for; and*

*§15-4.0103A stipulates that “the functional values of natural resource features will be preserved or enhanced in co-existence with development.” The proposed end user would potentially negatively impact the quality of water and habitat for the surrounding area.*

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

*§15-4.0103A stipulates that “the functional values of natural resource features will be preserved or enhanced in co-existence with development.” The proposed end user would potentially negatively impact the quality of water and habitat for the surrounding area.*

*§15-3.1102B3 prohibits discharge of toxic and noxious matter across property boundaries: “No use on any property shall discharge across the boundaries of said property toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to other property or business.” The current proposed surface does not adequately manage nonpoint pollution.*

*The applicant’s responses to §15-9.0110C4.f.ix note that “The swale is a natural depressional area which leads to a functional wetland. Groundwater and surface water will continue to drain to the peripheral wetlands.”*

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

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *The proposed improvements which cause the need for the NRSE include grading, roadways, underground utilities and lot grading. The improvements will not negatively affect surrounding properties.*

*The applicant, Mills Hotel Wyoming, LLC, submitted the application for an NRSE without a specific business proposed for the site in relation to the NRSE. Subsequent submittals identified the Copart business as the future user. Other businesses might*

be able to use the site in a manner that complies with the requirements of the Franklin natural resource protection standards.

The CSM resulting in this request for an NRSE was at the request of the applicant who owns several of the surrounding properties and has conducted a series of redivisions to meet the requests of various users. A different lot configuration with this wetland at the property boundary may have been possible. The applicant has shown that they are willing to protect wetlands when they are close to the property line, or to set aside conservation areas as needed for parts of other platting.

2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *The exceptional, extraordinary or unusual circumstance is that the resource being impacted has been designated as low quality and is orientated in a way that prevents practical development on the remaining land.*

The City of Franklin has significant areas of hydric soils throughout the City. The property is at the headwaters of the Ryan Creek watershed; the applicant's assertion that the wetland is low quality does not negate its value to the hydrologic system.

The wetland in question is connected to a larger wetland system at the headwaters of the Ryan Creek watershed, and a wetland identified by the Southeastern Wisconsin Regional Plan Commission as an Isolated Natural Resource Area.

The applicant has been the instigator of the platting of this parcel and could have configured the property boundaries differently so as to not impact the wetland.

3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The future use of the property has been affirmed through recent zoning and Certified Survey Map. The future improvements will be permanent.*

The CSM resulting in this request for an NRSE was at the request of the applicant who owns several of the surrounding properties and has conducted a series of redivisions to meet the requests of various users. A different lot configuration with this wetland at the property boundary or within a larger easement area may have been possible.

4. Aesthetics: *There will be no negative impact to aesthetics.*

5. Degree of noncompliance with the requirement allowed by the Special Exception: *The NRSE is not over-reaching. Applicant represents that the specific situation is what the NRSE was intended for.*

Application materials for this NRSE detail only “thirteen (13) acres of vacant land in the City of Franklin... part of Tax Key 939-9994-000,” however the total final area of the property subject to the NSRE will be greater than 43 acres. The application does not evaluate the true final end purpose of the requested NSRE

Army Corps permits, issued specifically for the smaller 13 acre parcel, require that “A change in location or project plans may require re-evaluation of your project.”

6. Proximity to and character of surrounding property: *Applicant owns the adjacent property to the east and west. The property to the South of the site (Zoned residential) is owned by the current owner of the parcel subject to the NRSE, and has granted permission for development of the parcel and this NRSE request, prior to the property sale. Bear Development or its partners own the other surrounding properties as part of their development project for this part of Franklin.*

The wetland in question is connected to a larger wetland system at the headwaters of the Ryan Creek watershed, and a wetland identified by the Southeastern Wisconsin Regional Plan Commission as an Isolated Natural Resource Area.

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

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

§15-3.1102B3 prohibits discharge of toxic and noxious matter across property boundaries: “No use on any property shall discharge across the boundaries of said property toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to other property or business.” The current proposed parking lot surface does not adequately manage nonpoint pollution.

The wetland subject to the NRSE is connected to a wetland identified by the Southeastern Wisconsin Regional Plan Commission as an Isolated Natural Resource Area.

9. Natural features of the property: *The wetland resource that will be impacted consists primarily of low-quality, farmed vegetation.*

The wetland in question is connected to a larger wetland system at the headwaters of the Ryan Creek watershed. In addition to wetlands under consideration for the NRSE, the applicant is requesting removal of wetland, setback, and buffer of two

smaller wetland areas which were exempted by the Army Corp of Engineers and Department of Natural Resources.

10. Environmental impacts: *There are no other environmental impacts associated with the NRSE with exception to the reduction of approximately 10,000 square feet of farmed wetland. The applicant proposes mitigation by enhancing an existing wetland that is part of the same watershed.*

The proposed NRSE constitutes removal of part of a portion of wetland connected to a larger wetland system in the Ryan Creek watershed. The applicant requested the special exception without a particular use proposed; the site plan for the proposed end use for which the NRSE is being requested has a potential risk of nonpoint pollution of groundwater and surface water.

§15-3.1102B3 prohibits discharge of toxic and noxious matter across property boundaries: “No use on any property shall discharge across the boundaries of said property toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to other property or business.” The current proposed parking lot surface does not adequately manage nonpoint pollution.

§15-3.1106A explicitly disallows “the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters...”

The wetland subject to the NRSE is connected to a wetland identified by the Southeastern Wisconsin Regional Plan Commission as an Isolated Natural Resource Area.

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 March 25, 2020 is incorporated herein.*

The Environmental Commission recommendation that the applicant provide restoration of wetland, setbacks, and buffers in lieu of mitigation did not meet the standards of §15-4.0103B4 which require mitigation of wetlands; and the recommendation did not specify the quantity of area of mitigation required.

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.*

*§15-9.0110C4.b and §15-9.0110C4.c require that all possible alternatives to the exception be explored and compared in detail. The applicant's materials do not detail alternative sites. In response to the requirements of §15-9.0110C4.c the applicant states that "Possible alternatives were not considered as it is clear from the size, shape and orientation of the swale that the property cannot be developed without the requested impact."*

*In responses to the required Natural Resource Special Exception standards, for §15-9.0110C4.b.iv, "State what geographical areas were searched for alternative sites," the applicant responded "none."*

#### Decision

*Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby denies a Special Exception for such relief.*

#### OR

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

- 1) that the natural resource features and mitigation areas upon the properties to be developed be protected by a perpetual conservation easement to be approved by the Common Council prior to any development within the areas for which the Special Exception is granted prior to the issuance of any Occupancy Permits;*
- 2) that the applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted;*
- 3) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for Mills Hotel Wyoming, LLC, applicant, and all other applicable provisions of the Unified Development Ordinance.*

- 4) Mitigation is provided by the applicant be in compliance with the standards of §15-4.0103.B.4. Mitigation may be provided off-site, within the same subwatershed.
- 5) The applicant shall provide a revised NRPP which clearly illustrate and enumerate all natural resource features as required by §15-4.0102 and §15-7.0201.I. If a category of natural resource is not present, it shall be indicated in the table on the map.
- 6) The applicant shall provide documentation prior to any land disturbing activities that the required federal and state approvals are not void for the final total parcel area created by any completed or proposed land divisions or combinations.
- 7) The applicant shall provide documentation prior to any land disturbing activities that the removal of the subject wetland is acceptable to the Southeastern Wisconsin Regional Plan Commission and does not negatively impact the nearby Isolated Natural Resource Area.
- 8) The applicant shall provide documentation prior to any land disturbing activities that the removal of the subject wetland is acceptable to the Milwaukee Metropolitan Sewerage District and does not negatively affect regional stormwater facilities or requirements for surrounding development, for review and approval by the Engineering Department.
- 9) The applicant shall complete an environmental study prior to any land disturbing activities, to establish current environmental conditions and contamination levels, of soils, surface water or groundwater, and area wells.
- 10) The applicant shall provide ongoing enhanced pollution controls to manage nonpoint pollution contamination of surface groundwater, in accordance with the standards of §15-3.1102B3 and §15-3.1106A
- 11) The applicant shall conduct annual testing for contamination of groundwater and wells for all properties adjacent to the site, and quarterly testing at a sampling station subject to the review of the Engineering Department.
- 12) Any site plan requiring this exception will include paved surfaces with curb and gutter facilities to adequately prevent nonpoint pollution of surrounding properties.

*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 \_\_\_\_\_, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:

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

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





## DEVELOPMENT

4011 80<sup>th</sup> Street, Kenosha, WI 53142  
Phone: (262) 842-0556 Fax: (262) 842-0557

June 11, 2020

City of Franklin Planning  
Attn: Marion Ecks  
9229 West Loomis Road  
Franklin, WI 53132

Re: Franklin Mills Natural Resource Special Exception

Dear Ms. Ecks,

In reference to the Natural Resource Special Exception, we respectfully request that this letter and the enclosed Heartland Ecological Group, Wetland Impact Assessment, dated June 11, 2020 be included in the Common Council packets for the June 16, 2020 Common Council Meeting.

**Supplemental Information regarding the Findings & Standards for the Franklin Mills Natural Resource Special Exception.**

The applicant shall have the burden of proof to present evidence sufficient to support the findings required under sub. 2 below.

**In addition to providing detailed reports and applications to the City of Franklin Environmental Commission and Plan Commission, the applicants have provided significant information to the Wisconsin Department of Natural Resources and U.S. Army Corps of Engineers. Upon submission and review, the burdens of proof for a Nationwide Permit (ACOE) and General Permit (WDNR) were met and wetland impact permits were granted by both agencies.**

**Please reference the enclosed Wetland Impact Assessment compiled by Heartland Ecological Group, Inc.**

- 1.) That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant; and

**The conditions giving rise for the need for the NRSE are not self-imposed. The location, orientation and shape of the wetland was not caused by the applicant. The wetland is a feature which is inherent to the site.**

- 2.) 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,

**The strict application of natural resource protection of this area, including wetland preservation and application of wetland buffers and setbacks is unreasonably burdensome, as the application would render the site unusable.**

**The wetland subject to the NRSE is a farmed wetland. It has been continually farmed, since at least 1937, therefore it does not feature the ecological values and functions of a typical wetland.**

**Please reference the enclosed Wetland Impact Assessment compiled by Heartland Ecological Group, Inc.**

**The Practical Alternatives Analysis, as accepted by the WDNR found that there were no practical alternatives to avoid wetland impact on the site.**

- b.) Unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives; and

**Applicant represents that the denial of the NRSE would be unreasonable and negatively impact the applicants use of the property. This representation is based on the following:**

- **The impacts to natural resources are minimal as the subject wetland is farmed and exhibits low functional value.**
- **The Practical Alternatives Analysis, as accepted by the WDNR found that there are no practical alternatives to avoid wetland impact on the site.**

- **It is not reasonable to use the property as zoned and designated in the Comprehensive Plan while preserving a linear wetland that nearly bisects the property.**
- **The subject property was recently included in Tax Increment District #6. Development is expected and anticipated on the property.**

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

- a. Be consistent with the existing character of the neighborhood; and

**The proposed NRSE and requested impact will be consistent with the existing character of the neighborhood. The general area is planned for industrial land uses. The NRSE is being requested to meet the goals and objectives of the Comprehensive Plan.**

- b. Not effectively undermine the ability to apply or enforce the requirement with respect to other properties; and

**The situation and conditions related to this request are unique, particularly in regard to the quality and functional value of the subject wetland. Further, Federal and State Permits for the wetland impact have been granted. Other properties seeking the same relief would be required to meet the same standards, and if met, should be approved.**

**Please reference the enclosed Wetland Impact Assessment compiled by Heartland Ecological Group, Inc.**

- c. Be in harmony with the general purpose and intent of the provisions of this Ordinance prescribing the requirement.

**Applicant represents that the unique circumstances involved with this particular NRSE request is what the NRSE process was intended to administer: A means of reasonable relief from the strict application of natural resource protection based on specific circumstances.**

- 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.

**The applicant fully understands and agrees to record Conservation Easements on other areas of natural resources on the site in addition to any areas of mitigation required by the City of Franklin.**

**The subject wetland is an overland drainage feature which is continually farmed. During rain events the swale deposits silt and sediment into the adjacent wetlands.**

**In a finished condition, the stormwater drainage would be detained in stormwater basins, allowing sediment to settle within the basins. The net effect would reduce sedimentation of adjacent wetlands.**

**Please reference the enclosed Wetland Impact Assessment compiled by Heartland Ecological Group, Inc.**

In making its determinations, the Common Council shall consider factors such as:

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 proposed improvements by future development include lot grading, underground storm sewer and stormwater retention basins. The improvements cannot be installed without the impact requested in the NRSE. The applicants request is limited to the subject wetland that is within the property boundaries and will not affect adjacent natural resource features or adjacent properties.**

**Please reference the enclosed Wetland Impact Assessment compiled by Heartland Ecological Group, Inc.**

2. Any exceptional, extraordinary, or unusual circumstance or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district;

**The exceptional, extraordinary, and unusual features include:**

- **The subject wetland features a shape, size and orientation which nearly bisects the property.**
- **The subject wetland is a farmed wetland that is not vegetated and does not provide wildlife habitat.**
- **The subject property is currently zoned M-2 General Manufacturing.**
- **The subject property and proposed use are consistent with the Comprehensive Land Use Plan.**
- **The City Environmental Commission recommended approval of the NRSE.**
- **The City Plan Commission recommended approval of the NRSE.**
- **The Army Corps of Engineers granted a Nationwide Permit for the proposed wetland impact.**
- **The Wisconsin Department of Natural Resources granted a General Permit for the proposed wetland impact.**
- **The City Plan Commission approved a Site Plan with the proposed wetland impact contemplated.**

3. Existing and future use of property; useful life of improvements at issue; disability of an occupant;

- **The future land use has been affirmed by zoning approval, Certified Survey Map approval and Site Plan approval, with knowledge that a NRSE was required to facilitate the plan.**
- **The proposed use is consistent with the Comprehensive Plan.**
- **The property was recently included in the Tax Increment District #6.**

4. Aesthetics;

**There will be no negative aesthetic impacts.**

5. Degree of noncompliance with the requirement allowed by the Special Exception;

- **The NRSE is not over-reaching. Applicant represents that the specific situation is what the NRSE is intended for.**
- **The Army Corps of Engineers and Wisconsin Department of Natural Resources found that the applicant has met the requirements for permits.**

6. Proximity to and character of surrounding property;

**The wetland subject to the NRSE is located in the interior of the property. There will be no affect to surrounding properties or their existing character.**

7. Zoning of the area in which property is located and neighboring area;

**The property was zoned M-2 General Manufacturing by the City of Franklin in December 2019. The surrounding properties are designated Business Park on the Comprehensive Plan but carry current zoning designations which are not consistent with the Comprehensive Plan.**

8. Any negative affect upon adjoining property;

**The requested NRSE will not have any negative effects on adjoining property. The adjacent wetland to the east will likely benefit as the current runoff will be detained and treated with engineered stormwater basins before being released into the adjacent wetland. The subject wetland impact cannot be viewed from adjacent properties.**

9. Natural features of the property;

**Please reference the enclosed Wetland Impact Assessment compiled by Heartland Ecological Group, Inc.**

10. Environmental impacts;

**The applicant represents that the environmental impacts associated with the NRSE is limited to the reduction of 9980 square feet of farmed wetlands. The applicant has agreed to wetland mitigation within the same watershed. All impacts are contained on the subject property and described in the NRSE application materials.**

**Please reference the enclosed Wetland Impact Assessment compiled by Heartland Ecological Group, Inc.**

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; and

**The Environmental Commission recommended approval of the NRSE.**

12. The practicable alternatives analysis required by § 15-9.0110C.4. of this 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 Environmental Commission and Plan Commission recommendations address these factors and are incorporated herein. A Practicable Alternatives Analysis was approved by the Wisconsin Department of Natural Resources for permit issuance.**

# Heartland

**ECOLOGICAL GROUP INC**

506 Springdale Street, Mount Horeb, WI 53572

June 11, 2020

Mr. Dan Szczap  
Franklin Mills, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142

**RE: Wetland Impact Assessment – Franklin Mills, LLC, City of Franklin,  
Milwaukee County, Wisconsin**

Dear Mr. Szczap:

At the request of Franklin Mills, LLC, Heartland Ecological Group, Inc. ("Heartland") is providing the following summary of environmental impacts associated with development of the Matthson Property, specifically associated with the proposed impacts to regulatory wetlands.

Heartland completed a wetland assessment and wetland delineation of the Matthson Property on behalf of Bear Development and identified and mapped four (4) distinct wetland areas (W-1, W-2, W-3 and W-4) within the property. W-1 and W-4 have been determined to be nonfederal wetlands and exempt from state jurisdiction per WI Act 183. No wetland impacts are proposed to W-3 and therefore the focus of this assessment is related to the wetland impacts proposed to a portion of W-2. Approximately 9,969 square feet of wetland impact is proposed to the overall 19,602 square feet of mapped wetland associated with W-2.

### Wetland Description

W-2 consists of a narrow drainage swale that is typically incorporated into the agricultural row cropping of the adjacent upland agricultural fields. W-2 drains to the south and extends beyond the property limits where it ultimately connects to W-3 and is part of larger wetland complex consisting of naturalized vegetation communities such as wet meadow, shrub-carr, and shallow marsh. As W-2 is generally planted with crops, natural vegetation is often void and the wetland area consists of cropped vegetation such as corn or soybeans. At times, the area may be too wet to farm, such as the period of time during the wetland delineation in 2018, where limited crops were present and the area was colonized by typical early successional agricultural weeds such as fall panic grass and yellow nut sedge. Soils within the wetland area are mapped as Elliot silt loam, a predominantly upland mineral soil that may contain inclusions of poorly drained soils within depressions.

### Wetland Functional Value and Impact Assessment

The following wetland functional values are derived from 15-9.0110C.4.f of the City of Franklin's Unified Development Ordinance and are specific to the wetland functional values of W-2 and the portion proposed to be impacted with the project (the "subject wetland").

1. *Diversity of flora including State and/or Federal designated threatened and/or endangered species.*

Solutions for people, projects, and ecological resources.





#### *Baseline Condition Assessment*

The subject wetland area is typically incorporated into row cropping agricultural practices when conditions are suitable. This generally involves plowing, tilling, disking, cultivating, planting, pesticide applications, and harvesting throughout each growing season. This current and past land use practice results in continuous, on-going disturbance to the wetland, particularly the vegetation. As a result, there is not any flora diversity, because the current land use practice is specifically designed to limit the flora to a single plant species of a specific crop such as corn or soybeans. During time periods where the wetland area is too wet to crop or manage appropriately the wetland may from time to time become colonized by typical early successional agricultural weeds (e.g. yellow nut sedge and fall panic grass). However, any such colonization by natural vegetation is eventually removed through standard agricultural practices. There are no state or federally designated threatened or endangered species known to inhabit the wetland area. Additionally, there is no suitable habitat present within the wetland area that is suitable for supporting any known threatened or endangered species.

#### *Impact Assessment*

Based on the highly degraded nature of the floristic diversity of the subject wetland area typically consisting of a single crop species or sometimes a few temporarily present early successional agricultural weeds, there would be no significant impacts to wetland floristic diversity as a result of the proposed wetland impacts.

## 2. *Storm and flood water storage.*

#### *Baseline Condition Assessment*

The subject wetland area has limited storm and flood water storage functions based on the following conditions or limitations:

1. The subject wetland does not receive floodwaters and is not located within a floodplain.
2. The subject wetland is not adjacent to a stream.
3. The subject wetland is not located within a geomorphic landscape position or shaped in a manner that allows the wetland to temporarily store stormwater runoff to be gradually released back to a surface water resource. Rather, during heavy rainfall events surface water runoff that enters the wetland swale rapidly flows off the property into the larger wetland complex where stormwater storage functions are much more substantial. The subject wetland area likely contributes to additional sediment accumulation in the larger wetland complex due to the agricultural use and generally erodible, unvegetated soils.
4. The subject wetland does not contain dense, persistent vegetation that contributes to stormwater runoff storage and/or filtration.

#### *Impact Assessment*

The proposed impacts to the subject wetland will have minimal if any adverse impacts to storm and floodwater storage functions associated with the wetland since the current state of the wetland contributes little to no storm or floodwater storage



function. The proposed project includes a stormwater management plan designed to meet the stormwater management regulatory requirements of the City of Franklin and the state of Wisconsin. These regulatory requirements for stormwater management specific to storage and runoff management far exceed any existing function of the subject wetland. The proposed project, including the wetland impacts will reduce the contribution of sediment accumulation within the larger off-site wetland complex currently resulting from the erodible soils within the subject wetland.

3. *Hydrologic functions.*

*Baseline Condition Assessment*

The subject wetland hydrology can be characterized, based on field assessments and historic and recent aerial photograph reviews, as highly influenced by surface water runoff and precipitation that supports seasonally saturated soils. The wetland lies within a natural draw/swale where surface water runoff is directed. The wetland is often dry enough to successfully crop upland vegetation for agricultural purposes. Soils may remain saturated near the surface for prolonged periods of time when climatic conditions are wetter than normal, which prohibits the successful establishment and/or harvest of upland crops. There are no unique and/or significant hydrologic functions identified associated with the subject wetland.

*Impact Assessment*

No significant impacts to any unique and/or significant hydrologic functions are expected to result from the proposed wetland impacts. The subject wetland is a typical low-lying swale within an agricultural field that is subject to seasonal saturation due to surface water runoff following snow melt and heavy rain events. Although any minimal hydrologic function of the subject wetland will be removed within the impacted area, there are no anticipated impacts to hydrologic functions of the remaining wetland and the wetland complex that continuous off-site. The proposed stormwater management plan accounts for maintaining hydrologic conditions of the protected wetland areas.

4. *Water quality protection including filtration and storage of sediments, nutrients or toxic substances.*

*Baseline Condition Assessment*

The subject wetland area has limited water quality protection functions based on the following conditions or limitations:

1. The subject wetland does not provide substantial storage of storm and floodwater as determined in Section i).
2. The geomorphic position of the wetland is not a basin nor contains a constricted outlet. Rather the wetland lies within an open swale geomorphic position.
3. Channelized/eroded conditions are present within portions of the subject wetland indicating the lack of opportunity to trap sediment.
4. The subject wetland is not associated with a lake or stream.
5. The wetland does not support dense, persistent vegetation.



6. Outflow from the subject wetland does not discharge directly to a surface water.

*Impact Assessment*

The proposed impacts to the subject wetland will have minimal if any adverse impacts to water quality protection functions associated with the wetland since the current state of the wetland contributes little to no water quality protection functions. The proposed project includes a stormwater management plan designed to meet the stormwater management regulatory requirements of the City of Franklin and the state of Wisconsin. These regulatory requirements for stormwater management specific to water quality treatment and protection far exceed any existing function of the subject wetland, particularly considering the contribution of agricultural runoff is a significant source of the existing surface water inputs to the subject wetland. The proposed project will likely result in improved water quality protection of downstream water resources including existing wetlands through implementation of an approved stormwater management plan.

5. Shoreline Protection Against Erosion.

*Baseline Condition Assessment*

The subject wetland is not located along a shoreline of a stream, lake, pond, or open water area (>1 acre) therefore shoreland protection against erosion is not an applicable function of the subject wetland.

*Impact Assessment*

There will not be any loss of shoreline protection against erosion as a result of the proposed wetlands impacts since this is not a functional value provided by the subject wetland.

6. Habitat for aquatic organisms.

*Baseline Condition Assessment*

The subject wetland does not support suitable hydrologic conditions for aquatic organisms. The geomorphic position of the open swale wetland does not allow for prolonged standing water and is not connected or contiguous with a perennial stream or lake. Habitat for aquatic organisms is not a function of the subject wetland.

*Impact Assessment*

No impacts to aquatic organisms or habitat for aquatic organisms will result from the proposed wetland impacts. The subject wetland does not provide suitable habitat for aquatic organisms.

7. Habitat for wildlife.

*Baseline Condition Assessment*

The subject wetland provides minimal habitat for wildlife, primarily due to the fact that it is actively farmed with row crops and generally void of any other natural vegetation or support prolonged ponding conditions. The subject wetland does not provide any wildlife habitat that is unique to specific wetland characteristics but is



more similar to the wildlife habitat functions of the adjacent upland agricultural fields. Therefore, the wildlife that may utilized or traverse the subject wetland would be similar to those that utilize or traverse the agricultural fields such as whitetail deer, raccoon, coyote, fox, opossum, and other small mammals and rodents. Pollinator plant species are not present that may otherwise attract birds, butterflies and/or bees. In addition, there is not nesting habitat available for grassland birds or waterfowl. In contrast, the adjacent, off-site wetland complex may provide suitable habitat for a variety of wildlife species both for foraging and nesting, however the subject wetland does not contribute to the habitat value of the off-site wetland complex.

#### *Impact Assessment*

The subject wetland provides minimal functional value that is unique to wetland habitat and provides the same general wildlife habitat characteristics of the surrounding and adjacent upland agricultural fields, which is widespread in the area and supports the most common wildlife species. Therefore, no significant impacts to wildlife habitat will result from the impacts to the subject wetland. The off-site wetland complex which supports substantially more unique wetland habitats for a variety of wildlife will remain protected and is independent of the subject wetland habitat functions.

#### 8. *Human use functional value.*

##### *Baseline Condition Assessment*

The subject wetland provides minimal functional value for human use as follows:

1. The wetland area is not utilized or accessible for public recreation such as public hunting, birding, or hiking.
2. The wetland area has not been utilized for educational or scientific purposes.
3. The wetland is not visually or physically accessible to the public.
4. The wetland does not support any unique characteristics that are aesthetically pleasing such as diversity of habitat types, floristic diversity, or lack of degradation or disturbance.
5. The subject wetland does not contain any known archaeological or cultural resource sites.

##### *Impact Assessment*

No significant impacts will result to human use functional values as a result of the proposed impacts to the subject wetland. The subject wetland does not support the characteristics generally necessary to attract human use nor is it accessible for public use.

#### 9. *Groundwater recharge/discharge protection.*

##### *Baseline Condition Assessment*

Groundwater recharge and/or discharge protection is not a significant function of the subject wetland based on the following conditions or limitations:

1. There are no observed or indications of the presence of springs, seeps, or other indicators of groundwater presence within the subject wetland area.



2. The subject wetland is not located near a groundwater divide.
3. The subject wetland does not remain saturated for an extended time period with no additional surface water input. Rather the wetland is an open swale on a slope in which surface water rapidly drains, leading to very seasonal saturated soil conditions dependent on surface water inputs.
4. The soils within the subject wetland are not organic but rather consist of mineral soils. Organic soils form under prolonged conditions of saturation and inundation often associated with groundwater fed wetland systems.
5. The wetland is not located within a wellhead protection area.

*Impact Assessment*

No significant impacts to groundwater recharge and/or discharge protection are expected to result from the proposed impacts to the subject wetland. Groundwater recharge and/or discharge protection are not a direct function of the subject wetland, which is a surface water dependent wetland swale, and does not remain saturated or inundated for a prolonged period of time to allow substantial groundwater recharge.

10. Aesthetic appeal, recreation, education, and science value.

*Baseline Condition Assessment*

The wetland provides minimal aesthetic appeal, recreation, education, and/or science value. See assessment for "Human use functional value" which addresses these items.

*Impact Assessment*

No significant impacts will result to aesthetic appeal, recreation, education, and/or science functional values as a result of the proposed impacts to the subject wetland. The subject wetland does not support the characteristics generally necessary to attract human use nor is it accessible for public use.

11. *Specify any State or Federal designated threatened or endangered species or species of special concern.*

There are no state or federal designated threatened or endangered species or species of special concern known to occur within the subject wetland, confirmed by WDNR and USACE review through their respective wetland permitting review process. In addition, the subject wetland does not provide suitable habitat for any threatened, endangered or special concern species known to occur regionally based on the characteristics of the subject wetland previously described.

12. *Existence within a Shoreland.*

The subject wetland 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.*



The subject wetland or any of the lands in the property are not designated environmental corridor, secondary or primary or isolated natural resource area by SEWRPC.

Based upon the functional value assessment criteria specified by the City of Franklin's Unified Development Ordinance related to the proposed impacts to the subject wetland, there will be no significant loss of such wetland functional values as a result of the proposed project.

US Army Corp of Engineers and Wisconsin Department of Natural Resources Review and Determination

Furthermore, similar assessments of the significance of the proposed wetland impacts were considered by various regulatory agencies or other government bodies that either specialize in the assessment of wetland and water resource impacts or have some amount of focused responsibilities on reviewing and assessing environmental impacts. The conclusions have been consistent between all regulatory agencies and government bodies that the proposed wetland impacts will not result in a significant environmental impact and are unavoidable after considering various practicable alternative. This includes the following:

1. *Wisconsin Department of Natural Resources (WDNR)*. The WDNR wetland regulatory process requires that all proposed wetland impacts meet the following criteria (in addition to many other criteria not listed here):
  - i. There are no practicable alternatives that will avoid wetland impacts.
  - ii. The proposed project minimizes wetland impacts to the greatest extent practicable.
  - iii. The wetland impact will not result in significant environmental effects.
  - iv. The project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complexes.

The WDNR assesses the significance of the proposed wetland impacts through the assessment of existing functional values of the subject wetland and the resulting impact of the proposed wetland impacts on those functional values.

The WDNR completed their review of the proposed wetland impacts and concluded and certified that the project met all the criteria above and issued a General Permit for the 9,969 square feet of wetland impact on January 8, 2020.

2. *U.S. Army Corps of Engineers (USACE)*. The USACE regulates the discharge of fill material into wetlands that are associated with waters of the U.S. under the provisions of the Clean Water Act (CWA). The subject wetland was determined to be a federal wetland and therefore the proposed impacts are subject to federal review under the CWA. The USACE wetland regulatory review process is similar to the WDNR process in which specific standards must be met that demonstrate unavoidable wetland impacts that are minimized to the greatest extent practicable and will not result in significant environmental impacts. The USACE determined that the proposed wetland impacts are authorized by a Nationwide Permit (NWP) on January 8, 2020. Projects authorized by the Corps NWP process meet the standards set forth in the Clean Water Act, Endangered Species Act, and National Environmental Protection Act (NEPA).



3. *City of Franklin – Environmental Commission and Planning Commission.* The Environmental Commission of the City of Franklin completed a review and assessment of the environmental impacts associated with the proposed project including the proposed impacts to the subject wetland for compliance with the environmental and natural resources standards set forth in the Unified Development Ordinance, which includes an evaluation of wetland functional values and impacts to such functional values. The Environmental Commission concluded that the project meets the standards set forth in the UDR 15-10.0208B for approval of a Natural Resource Special Exemption (NRSE) with additional conditions on March 25, 2020. The City of Franklin Plan Commission also recommended approval of the NRSE with the same additional conditions recommended by the Environmental Commission on May 7, 2020. Franklin Mills, LLC has agreed to comply with the additional conditions recommended by the Commissions.

#### Wetland Mitigation

Lastly, wetland mitigation is proposed by the Franklin Mills, LLC that will provide environmental lift of wetland functional values well beyond those currently provided by the subject wetland and certainly will result in mitigating well beyond the minimal functional value lost by the proposed wetland impacts. The wetland mitigation will be completed within the same watershed as the wetland loss and will include mitigation for the wetland, setback, and buffer. Although a mitigation plan has not yet been completed, it is anticipated that the mitigation will consist of the enhancement and/or rehabilitation of existing highly degraded, agricultural wetlands currently under the control of Franklin Mills, LLC or Bear Development. The mitigation will result in the establishment of high-quality naturalized wetland communities that will provide a variety of functional values suited to the landscape and geomorphic position of the wetland. The wetland mitigation areas will be managed appropriately to limit the establishment of invasive plant species while promoting the establishment of desirable native wetland plants and will be included within a conservation easement that will protect the wetlands in perpetuity.

Please let me know if you have any questions or require any additional information. I have included my resume that highlights my nearly 20 years of qualifications and experience in wetland assessment, restoration, and regulatory review.

Regards,

Jeff Kraemer, Principal  
Heartland Ecological Group, Inc.  
[jeff@heartlandecological.com](mailto:jeff@heartlandecological.com)  
608.490.2450 Ext. 2



## **Jeff Kraemer**

Principal Scientist

506 Springdale Street

Mount Horeb, WI 53572

jeff@heartlandecological.com

(608) 433-9864

---

Jeff is the founder of Heartland Ecological Group, Inc. With over 18 years of experience as an environmental consultant, ecological and regulatory policy practitioner, and managing business leader, Jeff provides proven value to clients with his vast experience guiding often complex projects through environmental regulatory and technical challenges applied throughout a diversity of industry sectors. Jeff is recognized by the Wisconsin Department of Natural Resources Wetland Delineation Assurance Program and is the longest standing assured wetland delineator in the state of Wisconsin.

Jeff is a recognized expert in the field of wetland ecology and delineation; wetland restoration and mitigation banking; and regulatory policy and permitting associated with wetlands and waterways. His experience includes: Wetland Determination, Delineation & Functional Assessment; Wetland Restoration, Mitigation, Banking & Monitoring; Botanical / Biological Surveys & Natural Resource Inventories; Rare Species Surveys, Conservation Plans & Monitoring; Habitat Restoration, Wildlife Surveys, SCAT surveys, Environmental Assessments; Local, state, federal permit applications; Expert Witness testimony; and Regulatory permit compliance.

## **Education**

MS, Biological Sciences (Emphasis in Wetland Ecology), University of Wisconsin – Milwaukee, WI, 2003

BS, Biological Sciences (Emphasis in Aquatic Biology) University of Wisconsin – La Crosse, WI, 1999

Regional Supplement Field Practicum  
Wetland Training Institute (WTI)  
Portage, WI, 2017

Basic and Advanced Wetland Delineation  
Training, Continuing Education and Extension,  
UW-La Crosse, WI, 2001

Identification of Sedges Workshop,  
UW-Milwaukee, Saukville, WI, 2001

Vegetation of Wisconsin Workshop,  
UW-Milwaukee, Saukville, WI 2000

Environmental Corridor Delineation Workshop,  
Southeastern Wisconsin Regional Planning  
Commission (SEWRPC), 2004

Wetland Soils and Hydrology Workshop,  
Wetland Training Institute, Toledo, OH, 2003

Critical Methods in Wetland Delineation  
University of Wisconsin – La Crosse Continuing  
Education and Extension  
Madison, WI, 2006 - 2018

Federal Wetland Regulatory Policy Course  
Wetlands Training Institute (WTI)  
Cottage Grove, WI, 2010

## **Registrations**

Professionally Assured Wetland Delineator,  
Wisconsin Department of Natural Resources  
(2005-Present)

Wetland Professional in Training (WPIT),  
Society of Wetland Scientists Certification  
Programs

Solutions for people, projects, and ecological resources.





## Project Experience

### Energy

**Ameren Corporation Transmission Line Projects: LaSalle-Ottawa, LaSalle Co., IL; Wood River Refinery, Madison Co., IL; Rockwood-Big River, Jefferson Co., MO; Saddle Creek 73, Franklin Co., MO.; Havana Rebuild, Mason Co., IL**

*Managed support for environmental and GIS services to gain regulatory approvals for various new transmission lines. Provided project support for transmission line siting, critical issues analysis, route matrices, GIS data acquisition and mapping services, coordination of regulatory agency meetings, completion of field wetland delineations, threatened and endangered species, biological assessment and Section 404 permitting, CPCN approvals, community advisory and public workshop support, and expert witness testimony.*

**Alliant Energy, Nelson Dewey Power Generation Facility Expansion Project, Cassville, WI**

*Completed field evaluations and delineations of wetlands in preparation of the National Environmental Policy Act (NEPA) documentation for a proposed expansion of the facility.*

**Enbridge, Inc., Southern Access Expansion Project, Crude Petroleum Pipeline Project, WI**

*Completed wetland delineations and habitat assessments along a 343-mile proposed crude petroleum pipeline corridor through Wisconsin as part of Enbridge Energy's Southern Access Expansion Program.*

**American Transmission Company, Arrowhead to Weston, WI, 345 kV Transmission Line Project**

*Completed wetland delineations, threatened and endangered plant surveys, and habitat assessments along a 208-mile proposed new electric transmission line.*

**Midwest Generation, Waukegan Power Generation Facility Expansion Project, Lake County, IL**

*Completed field evaluations of wetlands and threatened and endangered species in coordination with Section 404 permitting requirements for expansion of the power generation facility.*

**Commonwealth Edison Co. (ComEd), Prairie Program, Greater Chicago Area, IL**

*Managed ComEd's Prairie Program for over 10 years that involved nearly 200 acres of prairie restoration and management within their transmission line rights-of-way throughout the greater Chicago area.*

**Alliant Energy, Hydroelectric Dam, Prairie Du Sac, WI**

*Conducted purple loosestrife surveys on Lake Wisconsin shorelines and wetlands to develop a purple loosestrife management plan in support of the hydroelectric facility FERC licensing.*

**Alliant Energy, Edgewater Generation Facility, Sheboygan, WI**

*Managed and coordinated environmental regulatory process for expansion of existing fly ash disposal facility which required approvals from the USACE and WDNR for wetland impacts associated with the project.*

**Guardian, Pipeline Wetland Mitigation, Winnebago County, WI**

*Managed and lead the site selection, design, construction oversight, and long-term monitoring and management of a 30-acre wetland mitigation project consisting of prairie, wetland, and forested wetland restoration. The mitigation successfully compensated for wetland impacts associated with the Guardian gas pipeline construction.*



## **Transportation**

### **Canadian National Railroad, Stanberry Subdivision, Douglas County, WI**

*Supported CN with gaining approval to construct an approximate 2.5-mile new railroad siding track in Douglas County, WI. Completed wetland delineations and threatened and endangered resources assessments. Completed permit applications and gained approval for approximately 2-acres of wetland impacts and construction of bridges over navigable waterways.*

### **Wisconsin Department of Transportation (WisDOT), Neptune Wetland Mitigation Monitoring, Richland County WI**

*Completed annual comprehensive vegetation surveys, mapping, performance evaluations, and reporting of a 50-acre wetland mitigation site.*

### **WisDOT, Threatened Plant Species Consultation, Port Wing, WI**

*Completed comprehensive study of a threatened plant species population in support of STH 13 Reconstruction project including preparation of relocation and monitoring plan, physical relocation of plants, and follow-up annual monitoring.*

### **WisDOT, Wildcat Mountain Wetland Mitigation Monitoring, Vernon County, WI**

*Completed comprehensive vegetation surveys, mapping, performance evaluations, and reporting of 38-acre wetland mitigation site.*

### **WisDOT, World Dairy Center Wetland Mitigation Bank, Madison, WI**

*Led the baseline studies, design and approval of an approximate 200-acre compensatory wetland mitigation bank on behalf of the WisDOT. The project involved lengthy stakeholder coordination, detailed hydrology evaluations and assessments, complex wetland determinations. The mitigation plan consisted of restoration of farmed and drained organic soils utilizing drain tile valves to wet meadow, sedge meadow, shallow marsh and mesic prairie.*

### **City of Stoughton, Academy Street Reconstruction, Stoughton, WI**

*Completed wetland assessments and delineations within the study area of the Academy Street reconstruction project.*

### **City of Tomah, Gopher Avenue Reconstruction, Tomah, WI**

*Completed wetland assessments and delineations within the project area of the Gopher Avenue reconstruction project.*

## **Residential & Commercial Development**

### **Veridian Homes, Smiths Crossing, Sun Prairie, WI**

*Completed wetland delineations on the approximate 50-acre portion of the proposed residential development project. Completed wetland permit applications and gained approval for impacts to jurisdictional wetlands. Completed and gained approval for artificial wetland exemptions per WI Act 183.*

### **Hovde Properties, Sprecher Road Property, Madison, WI**

*Completed wetland delineations on the approximate 100-acre property proposed for residential and commercial development. Completed and gained approval for artificial wetland exemptions per WI Act 183.*

### **Ruedebusch Development and Construction, Packers Avenue Parcel, Madison, WI**

*Completed wetland delineations on the approximate 30-acre property proposed for development. Completed and gained approval for artificial wetland exemptions per WI Act 183.*

### **Newport Development Corp., Briarwoods Condominiums, Caledonia, WI**

*Completed wetland delineations on the approximate 10-acre property proposed for development. Completed and gained approval for artificial wetland exemptions per WI Act 183.*



**William Ryan Homes, West Prairie Village, Sun Prairie, WI**

*Completed wetland delineations throughout the approximate 80-acre property proposed for development Completed and gained approval for artificial wetland exemptions per WI Act 183 and NR103.06*

**Bielinski Homes, Chapman Property, Mukwonago, WI**

*Completed wetland delineations throughout the approximate 65-acre property proposed for residential development*

**Logistics Property Company, Nelson-Heckel Properties, Kenosha County, WI**

*Completed wetland delineations throughout the approximate 105-acre property proposed for commercial development*

**Country View Estates Development Project, DeForest, WI**

*Completed wetland delineation/evaluation, wetland permitting, and mitigation planning in support of a 400-acre mixed residential/commercial/recreational development project*

**Industrial, Manufacturing & Institutional Facilities**

**Berlon Industries Expansion Project, Hustisford, WI**

*Completed wetland delineation/evaluation, wetland permitting, and wetland mitigation planning in support of the expansion of the industrial facility*

**Ashley Furniture Industries Expansion Project, Arcadia, WI**

*Developed and gained WDNR/USACE approval for 35-acre wetland mitigation plan in support of wetland impact application for expansion of the manufacturing facility, Managed the construction of the wetland bank and completed over 10 years of monitoring and management through project close-out*

**AllEnergy Proposed Sand Mine, Trempealeau County, WI**

*Completed wetland delineations, wetland permitting support, and wetland mitigation support for a proposed sand mine in Trempealeau County The project consisted of over 500 acres of wetland delineation and wetland and waterway permitting associated with a rail spur expansion Supported community engagement through presentations at various town hall meetings*

**Conway Central Express Expansion Wetland Permitting, Franklin, WI**

*Completed wetland delineation/evaluation, wetland permitting, and wetland mitigation design for expansion of the trucking facility*

**Morrison Creek Cranberry Company, Wetland Mitigation Bank Monitoring and Remediation, Oakdale, WI**

*Completed annual mitigation site monitoring, vegetation surveys, and performance evaluations of 60-acre mitigation bank site Completed mitigation remediation management plan for compliance with USACE performance standards*

**Northwestern Mutual Campus Facility, Native Landscape Management, Franklin, WI**

*Managed and coordinated the development of a native landscape plan for the 50 acres of open space surrounding Northwestern Mutual's campus facility The plan consisted of wetland, woodland, and prairie restoration Managed and coordinate the implementation of the native landscape installation and long-term management*

**Daybreak Foods, Proposed Facility Expansion, Lake Mills, WI**

*Completed wetland assessment and delineations on over 175 acres of various properties of DayBreak Foods Provided wetland regulatory guidance to support the expansion of the egg production and processing facilities*

**Sinsinawa Dominican Sisters, Grant County, WI**

*Completed wetland delineations on the 57-acre Sinsinawa Dominican Sisters property in support of a land use planning study*



## **Government & Non-Government Organizations**

### **City of Fitchburg, Fitchburg Northeast Neighborhood Plan, Fitchburg, WI**

*Completed wetland mapping and assessment and developed wetland protection standards for the City of Fitchburg's NE Neighborhood Plan*

### **Lake Koshkonong Wetlands Association, Lake Koshkonong Water Level and Wetland Studies, Lake Koshkonong, WI**

*Developed and conducted various scientific wetland studies for development of a water level management plan E prairie fringed orchid hydrology study, Floodplain forest/hydrology study, Floristic quality assessment/vegetation mapping within 4000 acres of wetlands on behalf of the Lake Koshkonong Wetlands Association*

### **Richland Center Utilities, New Force Main Project, Richland Center, WI**

*Supported the planning and approval of a new force main utility corridor on behalf of Richland Center Utilities Completed wetland delineations and threatened and endangered species assessments along the approximate 3.5-mile project corridor Completed wetland and waterway permit applications, wetland restoration plans, and completed annual monitoring of restored wetland areas*

### **Portage Parks Department, Samuelson Fen Restoration, Portage, IN**

*Developed a restoration plan to restore a degraded 30-acre fen, conducted vegetation surveys, floristic quality assessments and hydrology monitoring*

### **Badger Prairie Health Care Center Expansion, Verona, WI**

*Completed wetland delineation/evaluations and wetland permitting in support of the expansion of the healthcare facility*

### **City of Fitchburg, Native Restoration Support, Fitchburg, WI**

*Assisted the City of Fitchburg with restoration activities on multiple projects involving incorporating native restoration within various regional stormwater and outlot facilities*

### **City of Tomah, Proposed Bike Trail Project, Tomah, WI**

*Completed wetland delineations along an approximate 1-mile proposed bike trail path on behalf of the City of Tomah*

### **City of Sun Prairie, Sheehan Park, Sun Prairie, WI**

*Completed wetland delineations throughout the 50-acre Sheehan Park on behalf of the City of Sun Prairie.*

### **City of Madison, Various Projects, Madison, WI**

*Completed numerous wetland delineations on behalf of the City of Madison in support of stormwater improvement and other facility improvement projects*

## **Private Landowners & Recreational Properties**

### **Erin Hills Golf Course, Washington County, WI**

*Completed wetland delineations throughout the approximate 200-acre golf course property Provided wetland regulatory guidance in support of the renovation of Erin Hills in preparation for hosting the 2017 U S Open championships*

### **La Belle Golf Course, The Prestwick Group, Inc., Lac La Belle, WI**

*Completed wetland delineations throughout the approximate 250-acre golf course property Provided wetland regulatory guidance in support of the renovation of the La Belle Golf Course*

### **Big Hollow Wetland Mitigation Bank, Spring Green, WI**

*Completed wetland delineations on the approximate 200-acre property and evaluated the potential for developing a private wetland mitigation bank Coordinated detailed hydrology monitoring and modeling to address potential off-site water impacts and support the development of the hydrology restoration plan Completed the prospectus documents and submittals to the Interagency Review Team*



*Organized and led public informational meetings, and various stakeholder meetings to address local concerns*

**The Farm Golf Course, Cottage Grove, WI**

*Completed wetland delineations throughout the approximate 100-acre golf course property. Provided wetland regulatory guidance in support of residential development adjacent to the golf course*

**BLANK PAGE**

<b>APPROVAL</b>  <i>slw</i>	<b>REQUEST FOR</b>  <b>COUNCIL ACTION</b>	<b>MEETING DATE</b>  <b>06/16/20</b>
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>A RESOLUTION CONDITIONALLY APPROVING A 2 LOT CERTIFIED SURVEY MAP, BEING ALL OF LOT 84 IN RYAN MEADOWS, LOCATED IN THE SOUTHWEST 1/4 AND NORTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 ALL IN SECTION 30, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN (MILLS HOTEL WYOMING, LLC, APPLICANT) (GENERALLY ON THE EAST SIDE OF MONARCH DRIVE, SOUTH OF CHICORY STREET, AREA COMMONLY KNOWN AS AREA G)</b>	<b>ITEM NUMBER</b>  <i>G. 2.</i>

On May 7, 2020, the Plan Commission carried a motion to recommend approval of this resolution. On May 19 and June 2, the Common Council tabled this Certified Survey Map (CSM) request.

Lot 2 of this CSM was planned to be part of the Copart development with an emergency ingress/egress from Monarch Drive, as noted in the May 7, report to the Plan Commission. For compatibility with the Copart development, staff recommended the dedication of a cul-de-sac with an island (see staff memorandum dated April 16, comment No. 2).

On May 19, the Common Council denied the rezoning application for this property, from M-1 Limited Industrial to M-2 General Industrial. As a result, Lot 2 cannot be used for the Copart development, so Lot 2 would need to have a standard driveway instead of an emergency access.

Even though lots 1 and 2 meet the dimensional requirements of the M-1 zoning district, the resulting Monarch Drive with a length of approximately 1,600 feet from the intersection with Chicory street would not comply with the Unified Development Ordinance (UDO) §15-5.0103A.1., which states that cul-de-sac streets shall not exceed 800 feet in length.

It is noted that staff previously raised this concern in two occasions: First, in the staff report dated December 5, 2019, as part of the suggestions for a CSM request west of Lot 84 (page 3). Second, during the review of this CSM and the Copart site plan (see attached e-mails from the Departments of Engineering and Fire).

Additionally, staff has considered the proposed use and the potential runoff off of potential oils and such drainage from damaged motor vehicles into the groundwaters, surface waters, public waters in the area and the potential impacts to nearby properties served by private wells, and such considerations and the applications of the Unified Development Ordinance, Wisconsin Statutes and Wisconsin case law to the subject are addressed in the attached Memorandum, with additions thereto from the draft provided to the Common Council at its meeting on June 2, 2020 being highlighted and underlined.

According to Wis. Stats. §236.34 the approving authority shall take action to approve, approve conditionally, or reject the CSM and state in writing the conditions of approval or reasons for rejection. The 90-day review time frame for this request expires on June 21, 2020.

This packet contains updated comments from the Milwaukee County Register of Deeds received on June 8, 2020.

#### **COUNCIL ACTION REQUESTED**

A motion to adopt Resolution No. 2020-\_\_\_\_\_, conditionally approving a 2 lot certified survey map, being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 and the Northeast 1/4 of the Southwest 1/4 and the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin (generally on the east side of Monarch Drive, south of Chicory Street, area commonly known as area G).

OR

A motion to deny the Certified Survey Map application and adopt the Memorandum



setting forth the decision thereupon as presented to the Common Council at this meeting.

Department of City Development: RMM

RESOLUTION NO. 2020-\_\_\_\_\_

A RESOLUTION CONDITIONALLY APPROVING A 2 LOT CERTIFIED SURVEY MAP, BEING ALL OF LOT 84 IN RYAN MEADOWS, LOCATED IN THE SOUTHWEST 1/4 AND NORTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 ALL IN SECTION 30, TOWNSHIP 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN (MILLS HOTEL WYOMING, LLC, APPLICANT)  
 (GENERALLY ON THE EAST SIDE OF MONARCH DRIVE, SOUTH OF CHICORY STREET, AREA COMMONLY KNOWN AS AREA G)

---

WHEREAS, the City of Franklin, Wisconsin, having received an application for approval of a certified survey map, such map being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 and the Northeast 1/4 of the Southwest 1/4 and the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, more specifically, of the property generally located on the east side of Monarch Drive, south of Chicory Street, area commonly known as Area G, bearing part of Tax Key No. 891-9010-002, Mills Hotel Wyoming, 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 Mills Hotel Wyoming, 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 and building permitted or resulting hereunder as it occurs from time to time, as such

MILLS HOTEL WYOMING, LLC – CERTIFIED SURVEY MAP  
RESOLUTION NO. 2020-\_\_\_\_\_

Page 2

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. Mills Hotel Wyoming, LLC, successors and assigns, and any developer of the Mills Hotel Wyoming, LLC subdivision of Lot 84 of the Ryan Meadows Subdivision into 2 lots 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 Mills Hotel Wyoming, LLC and the subdivision of Lot 84 of the Ryan Meadows Subdivision into 2 lots certified survey map project for the property generally located on the east side of Monarch Drive, south of Chicory Street, area commonly known as Area G: (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 revise the conservation easement “Wetland 1 – Lot 84 & Outlot 3” to include the shore buffer area for review by the Department of City Development and the City Attorney and approval by the Common Council, prior to the recording of the Certified Survey Map.
7. The applicant shall submit civil plans of the Monarch Drive cul-de-sac for review and approval by the Engineering Department, prior to the recording of the Certified Survey Map.

BE IT FURTHER RESOLVED, that the Certified Survey Map, certified by owner, Mills Hotel Wyoming, 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.

MILLS HOTEL WYOMING, LLC – CERTIFIED SURVEY MAP  
RESOLUTION NO. 2020-\_\_\_\_\_

Page 3

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 owner, Mills Hotel Wyoming, 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 \_\_\_\_\_, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

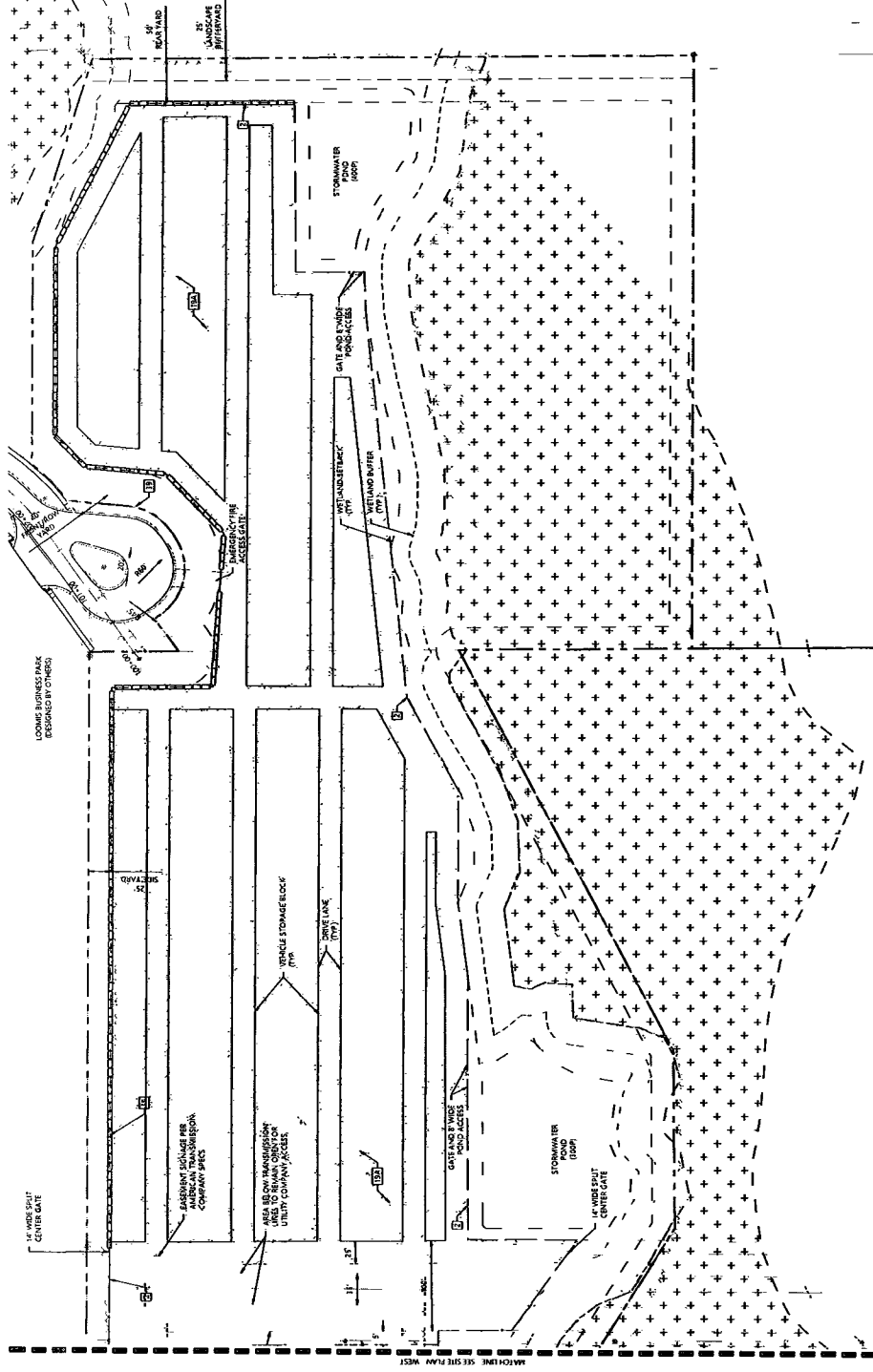
ATTEST:

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

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

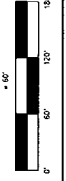
### SITE LEGEND

- |  |                          |
|--|--------------------------|
|  | EXISTING                 |
|  | PROPOSED                 |
|  | PROPERTY LINE            |
|  | SETBACK LINE             |
|  | EASMENT LINE             |
|  | CURB AND GUTTER          |
|  | TIP-OUT CURB AND GUTTER  |
|  | POND NORMAL WATER LEVEL  |
|  | WETLAND PERMIT           |
|  | ASPHALT DRIVE            |
|  | CONCRETE PAVEMENT        |
|  | CONCRETE SIDEWALK        |
|  | BITUMINOUS PAVEMENT      |
|  | ROCK BALLAST SURFACING   |
|  | WETLAND                  |
|  | NUMBER OF PARKING STALLS |
|  | SITE LIGHTING            |
|  | POWER POLE               |
|  | POWER BOX                |
|  | BOUNDARY POST            |



#### □ SITE DETAILS (SI-0XX)

- 2 COPART METAL PANEL FENCE
- 19 PAVEMENT SECTIONS
- 19A WAD SURFACE SECTION
- 79 HAZARD FENCE



DATE:	03/17/20
DRAWN BY:	BY CITY/COUNTY
CHECKED BY:	CITY AND COUNTY COMPARISON
APPROVED BY:	CITY AND COUNTY COMPARISON
DATE:	03/17/20

PREPARED FOR



FRANKLIN PROPERTY  
FRANKLIN, VT

**Westwood**  
Professional Services, Inc.  
1275 Route 100  
Franklin, VT 05641

SITE PLAN - EAST

PROJECT NUMBER: 0035687.00 DATE: 04/22/20

SHEET NUMBER  
**5** of **17**

15/02/15/20 02:51:06/C:\Users\JF\OneDrive\1591\018

**CITY OF FRANKLIN****REPORT TO THE PLAN COMMISSION**

Meeting of May 7, 2020

**Certified Survey Map**


---

**RECOMMENDATION:** City Development Staff recommends approval of the Certified Survey Map application submitted by Bear Development, LLC, subject to the conditions in the draft resolution.

---

<b>Project Name:</b>	Ryan Meadows Lot 84 – Certified Survey Map
<b>Project Location:</b>	Not Assigned/891-9010-002
<b>Property Owner:</b>	Mills Hotel Wyoming
<b>Applicant:</b>	Daniel Szczap. Bear Development, LLC
<b>Current Zoning:</b>	M-1 Limited Industrial District
<b>Proposed Zoning:</b>	M-2 General Industrial District (separate application)
<b>2025 Comprehensive Plan:</b>	Business Park and Areas of Natural Resource Features
<b>Applicant's Action Requested:</b>	Recommendation of approval of the Certified Survey Map.

---

The applicant, Bear Development, LLC, filed a Certified Survey Map to subdivide Lot No. 84 of the Ryan Meadows Subdivision into two separate parcels. Lot 1 has an area of 13.46 acres and Lot 2 has an area of 10.59 acres. The land division request will accommodate the proposed Copart, Inc. Site Plan, which utilizes Lot 2 for the storage of vehicles and an emergency ingress/egress from Monarch Drive.

The applicant submitted this CSM application on March 23, 2020. Pursuant to Wisconsin Statutes §236.34(1m)(f), the approving authority (Common Council) shall take action within 90 days of application submittal unless a time extension is granted by the applicant. The 90-day review time frame expires on June 21, 2020.

There are no current plans for the development of Lot 1, but is anticipated for Business Park/Industrial development.

The subject property is currently zoned M-1 Limited Industrial District; however, the applicant has a Rezoning Application currently under review to change the zoning to M-2 General Industrial District.

**Recommended Motions**

A motion to recommend approval of the Certified Survey Map to the Common Council, subject to the conditions set forth in the attached resolution.

## MEMORANDUM

Date: April 16, 2020/ April 23, 2020  
To: Daniel Szczap. Bear Development, LLC. / Regulo Martinez Montilva  
From: Department of City Development/ Daniel Szczap, Bear Development, LLC  
RE: Application for Certified Survey Map (CSM). / Resubmittal of Lot 84 Certified Survey Map

---

Bear Development, LLC. submitted this CSM application on March 23, 2020, the 90-day review time frame set forth in Wis. Statutes §236.34 (1m)(f) expires on June 21, 2020.

Staff comments are as follows for the Certified Survey Map application, for Lot 84 of Ryan Meadows subdivision:

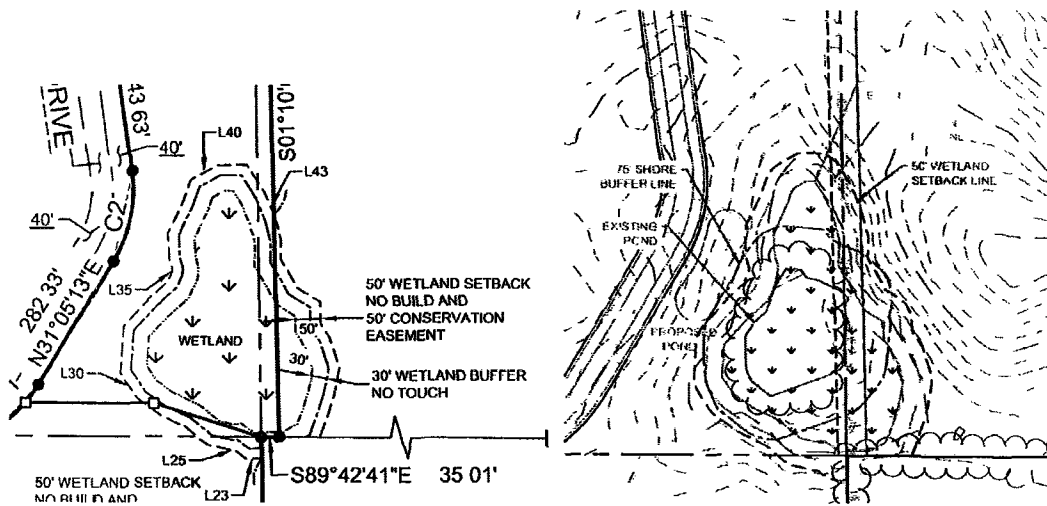
### City Development Department comments

1. Per Section 15-7.0702 of the UDO, please show correctly on the face of the CSM, in addition to the information required by § 236.34 of the Wisconsin Statutes, the following:
  - a. Existing and Proposed Contours. Existing and proposed contours at vertical intervals of not more than two (2) feet. Elevations shall be marked on such contours based on National Geodetic Vertical Datum of 1929 (mean sea level). This requirement may be waived if the parcel(s) created are fully developed.  
Existing and proposed contours have been added to the Certified Survey Map per Section 15-7 0702 of the UDO.
  - b. Owner, Subdivider, Land Surveyor. Name and address of the owner, Subdivider, and Land Surveyor. – It is recommended that the owner/subdivider label on Sheet 5 be moved to Sheet 1.  
Owner/Subdivider information has been moved to Page 1 per the City's request.
  - c. Existing Zoning. The Certified Survey Map shall indicate on its face the current zoning and zoning boundary lines of all parcels, lots or outlots proposed to be created by the Certified Survey Map. – Please label the zoning districts of each parcel.  
Existing zoning classifications have been included on the face of the CSM
2. The temporary turnaround at the end of Monarch Drive shall be removed and replaced with a cul-de-sac to be consistent with the Copart, Inc. development proposal. The cul-de-sac must meet City standards, which includes an island. Note that if any land is being dedicated to the City to accommodate the cul-de-sac design, the CSM must also be revised to note the 'dedication accepted' language under the City of Franklin Common Council Approval section of the CSM. Adequate land area has been provided as right of way dedication to accommodate a City cul-de-sac. The design of the cul-de-sac has been previously discussed with City Engineering. Full design plans of the cul-de-sac will follow approval of the CSM.
3. Sheet 3 does not show the 30-foot wetland buffer, which is shown on Sheet 2. Please include the 30-foot Buffer notation throughout the CSM.  
The 30-foot wetland buffer has been added at the request of the City

4. Please revise the Mayor's name to Stephen R. Olson.  
Corrected.
5. As previously discussed, Lot 2 must be combined to the other Copart, Inc. site if utilized for that same development. Again, all plats, CSMs, and land transfers to create the parcel presented for the Copart, Inc. development must be completed prior to the issuance of a Certificate of Occupancy. Noted The combination will be completed after the Copart approvals have been granted.
6. The proposed CSM and one of the conservation easements for Lot No. 84 does not appear to include the Shore Buffer as shown on the NRPP. See below. This CSM and easement must be revised accordingly to show the full extent of the protected area, including the Shore Buffer. The revised CSM depicts the full extent of protected areas. The Conservation Easement will be revised accordingly

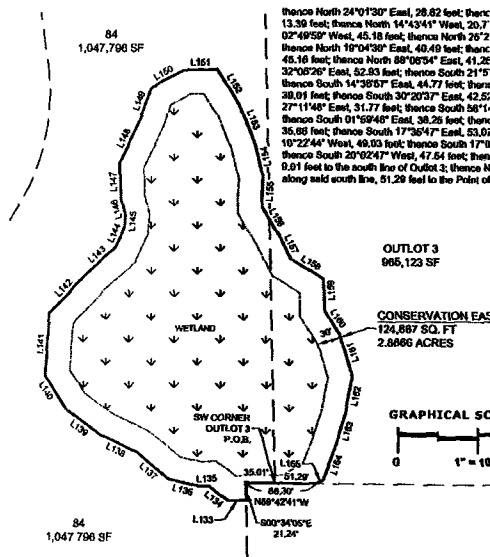
Proposed Certified Survey Map

NRPP Map



Conservation Easement





**Engineering Department comments**

- 7. Add the recording information of Ryan Meadows subdivision to the header of this proposal.  
Recording information is included in the legal description
- 8. Indicate in this proposal the sentence "Lot 1 & 2 are served by Public Sewer and Water."  
Language added.
- 9. Show the section corners coordinates, at least two corners.  
Completed
- 10. Show the dedication of the right of way by the cul-de-sac of Monarch Drive.  
Completed
- 11. Remove the word "Temporary Turn Around Easement" as this will be a dedicated for public road right of way.  
Completed
- 12. The legal description needs to be adjusted to reflect the dedication of the right of way.  
Completed
- 13. Under the Owner Certificate, insert the word after the Wisconsin Statutes " and the Unified Development
- 14. Ordinance Division-15 of the City of Franklin".  
Language added
- 15. Under the Common Council Approval, insert the word after Approved " and the dedication accepted".  
Language added

Note: The Engineering comments may be revised to reflect comments from the Milwaukee County.

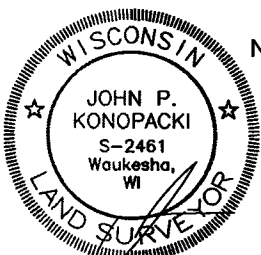
**Milwaukee County comments**

See attached letter.

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

Being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin.

SEE SHEET 7 FOR  
BOUNDARY  
CURVE TABLE  
AND NOTES



REVISED  
APRIL 23, 2020  
MARCH 16, 2020

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

LOT 83  
RYAN MEADOWS  
OWNER STRAUSS  
INVESTMENTS LLC  
ZONED M1

LOT 1  
586,423  
SQ. FT.  
13,462.4  
ACRES

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

OUTLOT 3  
RYAN MEADOWS  
OWNER RYAN MEADOWS  
HOMEOWNERS  
ASSOCIATION  
ZONED R6

**LEGEND:**

- Denotes Found 1" Iron Pipe
- Denotes Found 3/4" Iron Rod
- Denotes Set 3/4" X 18" Iron Rebar 150 LBS./FT
- Denotes Wetland
- (R) Denotes 'Recorded As'
- D Denotes 'Dedicated' See Sheet II for Detail

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

SE CORNER NE 1/4  
SEC 30, T5N, R21E  
(FOUND CONC MON  
W/ BRASS CAP)

N53°44'29"E  
201.16'

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

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

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

S89°42'41"E 35.01'

2008.73'  
NORTH LINE OF THE SW 1/4  
SEC 30, T5N R21E  
S00°34'08"E  
98.50'

LOT 2  
452,797 SQ. FT  
10,394.8  
ACRES

PARCEL 1  
C.S.M. NO. 975  
OWNER. SINGH  
ZONED R2

UNPLATTED LANDS  
OWNER. MATHSON  
ZONED R2

GRAPHICAL  
SCALE (FEET)

0 1" = 250'

Prepared By  
**PINNACLE ENGINEERING GROUP**  
20725 WATERTOWN ROAD 1 SUITE 100  
BROOKFIELD WI 53186  
OFFICE. (262) 754-8888

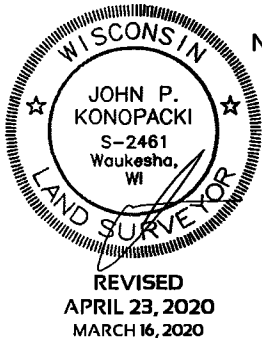
UNPLATTED LANDS  
OWNER GRANDLICH

Owner/Subdivider  
MILLS HOTEL WYOMING, LLC  
4011 80th Street  
Kenosha WI 53142  
(262) 842-0484

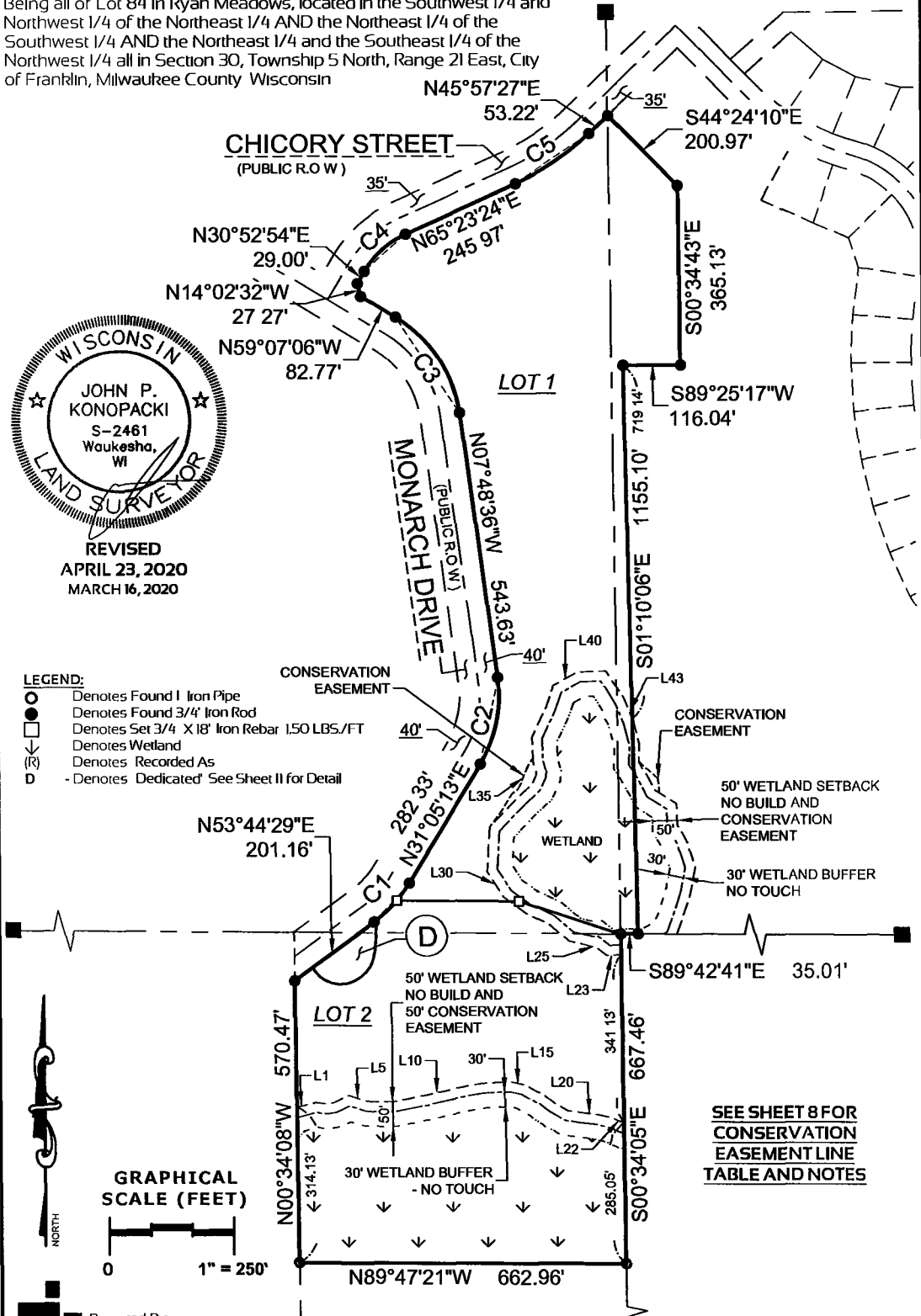
SE CORNER, SW 1/4 SEC. 30 T5N R21E  
N=321,446.94 E=2,520,189.42  
(FOUND CONC MON W/ BRASS CAP)  
PEG JOB#809,20

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

Being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County Wisconsin



- LEGEND:**
- Denotes Found 1 Iron Pipe
  - Denotes Found 3/4" Iron Rod
  - Denotes Set 3/4" X 18" Iron Rebar 1.50 LBS./FT
  - ↔ Denotes Wetland
  - Ⓜ Denotes Recorded As
  - D - Denotes Dedicated See Sheet II for Detail



**SEE SHEET 8 FOR  
CONSERVATION  
EASEMENT LINE  
TABLE AND NOTES**

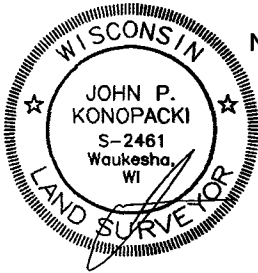
Prepared By  
**PINNACLE ENGINEERING GROUP**  
 20725 WATERTOWN ROAD | SUITE 100  
 BROOKFIELD WI 53186  
 OFFICE: (262) 754-8888

This Instrument drafted by John P. Konopacki, PLS-License No. 5-2461

PEG JOB#809.20  
**SHEET 2 OF 11**

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

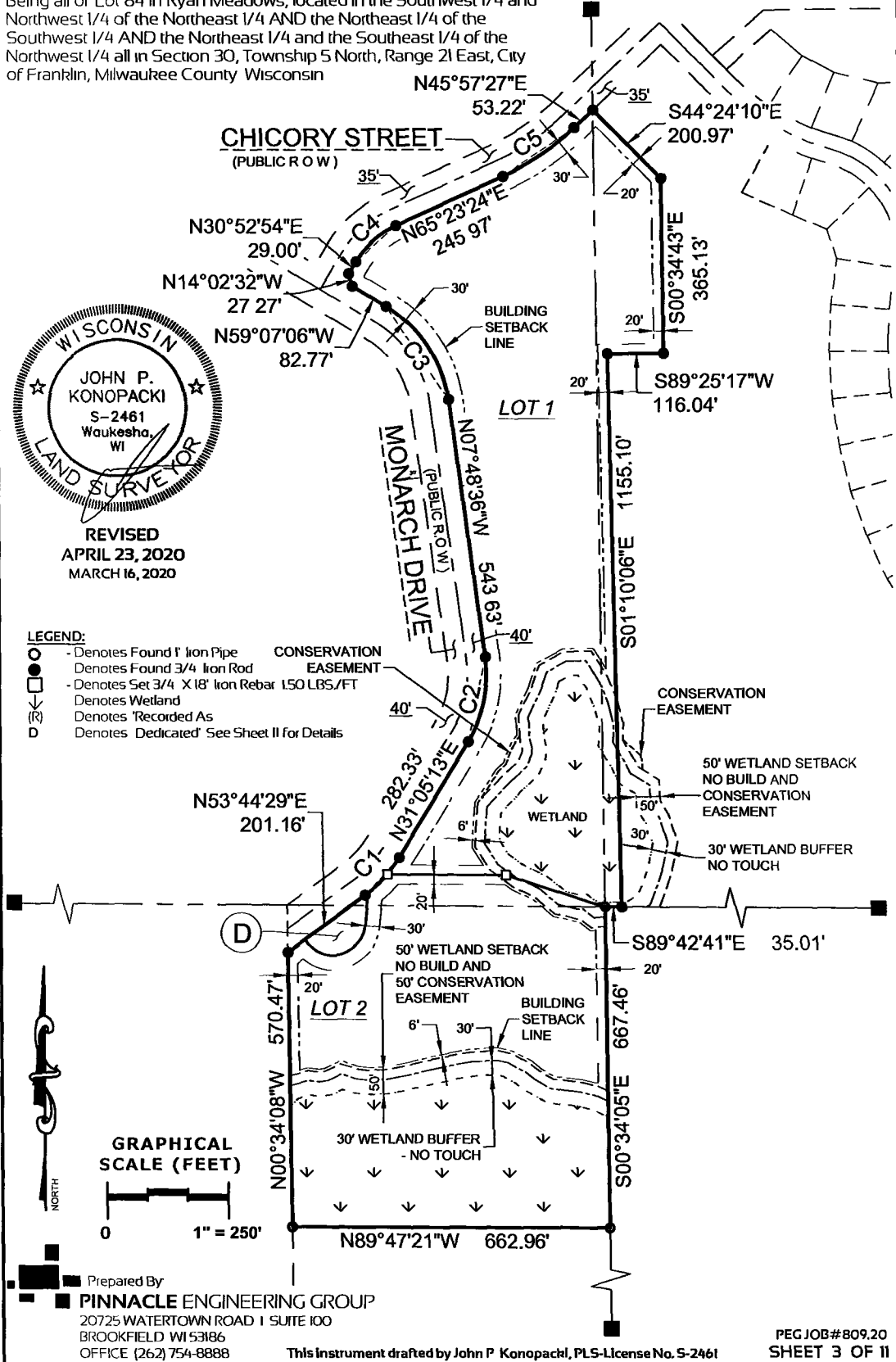
Being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County Wisconsin



REVISED  
APRIL 23, 2020  
MARCH 16, 2020

**LEGEND:**

- Denotes Found 1" Iron Pipe
- Denotes Found 3/4" Iron Rod
- Denotes Set 3/4" X 18" Iron Rebar 150 LBS./FT
- Denotes Wetland
- D Denotes 'Recorded' As
- D Denotes 'Dedicated' See Sheet II for Details



Prepared By  
**PINNACLE ENGINEERING GROUP**  
20725 WATERTOWN ROAD 1 SUITE 100  
BROOKFIELD WI 53186  
OFFICE (262) 754-8888

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

PEG JOB#809,20  
SHEET 3 OF 11

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

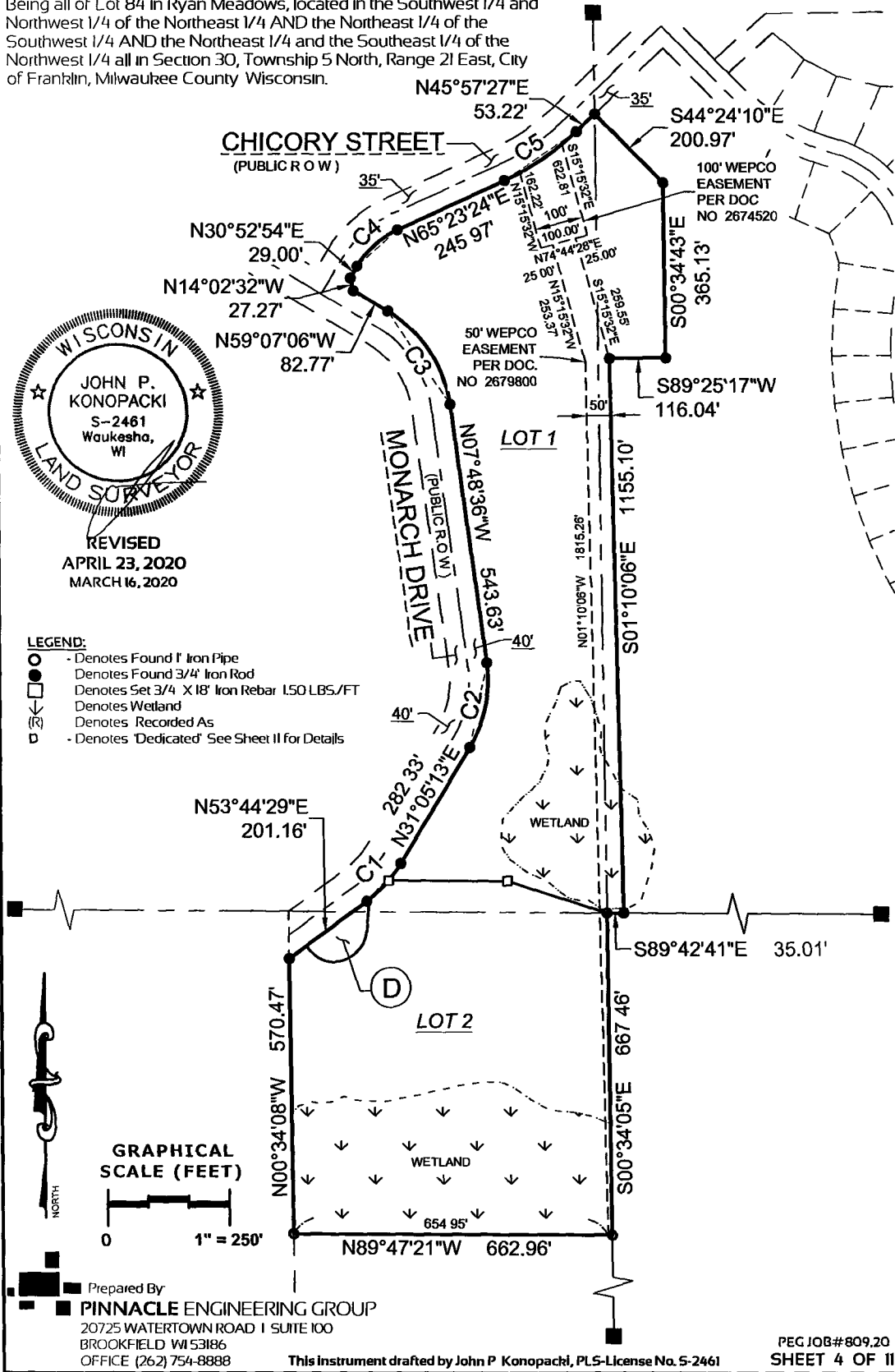
Being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County Wisconsin.



REVISED  
APRIL 23, 2020  
MARCH 16, 2020

**LEGEND:**

- Denotes Found 1" Iron Pipe
- Denotes Found 3/4" Iron Rod
- Denotes Set 3/4" X 18" Iron Rebar 150 LBS./FT
- ↘ Denotes Wetland
- ▭ Denotes Recorded As
- ▭ Denotes 'Dedicated' See Sheet II for Details



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

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

PEG JOB# 809.20  
SHEET 4 OF 11

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

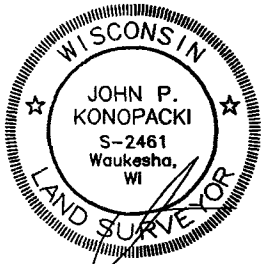
Being all of Lot 84 in Ryan Meadows located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin

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

**MONARCH DRIVE**  
(PUBLIC R.O.W.)

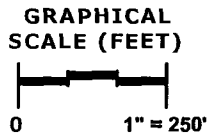
**LOT 1**  
586,423  
SQ. FT  
13.4624  
ACRES

**LOT 2**  
452,797 SQ. FT.  
10.3948 ACRES



REVISED  
APRIL 23, 2020  
MARCH 16, 2020

- LEGEND:**
- - Denotes Found 1" Iron Pipe
  - - Denotes Found 3/4" Iron Rod
  - - Denotes Set 3/4" X 18" Iron Rebar 150 LBS./FT
  - ↘ - Denotes Wetland



**EXISTING TOPOGRAPHY**  
Vertical Datum National Geodetic Vertical Datum of 1929 (NGVD29) Contours are shown at a 2' interval based on actual ground survey of the current ground terrain Reference Benchmark Concrete monument with brass cap at the Northwest corner of the Northeast 1/4 Section 30, Town 5 North, Range 21 East, Elevation = 803.18

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

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

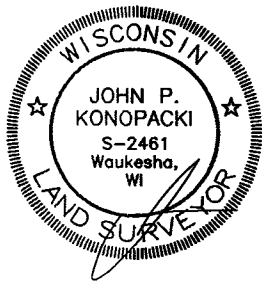
PEG JOB#809 20  
SHEET 5 OF 11

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

Being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin

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

**LOT 1**



REVISED  
APRIL 23, 2020  
MARCH 16, 2020

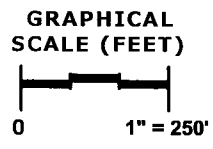
- LEGEND:**
- - Denotes Found 1" Iron Pipe
  - - Denotes Found 3/4" Iron Rod
  - - Denotes Set 3/4" X 18" Iron Rebar 1.50 LBS/FT
  - ↘ - Denotes Wetland
  - 800 — - Denotes Existing Contour
  - (800) - Denotes Proposed Contour

**MONARCH DRIVE**  
(PUBLIC R O W)

**WETLAND**

**LOT 2**

**PROPOSED GRADING**  
Vertical Datum National Geodetic Vertical Datum of 1929 (NGVD29) Reference Benchmark Concrete monument with brass cap at the Northwest corner of the Northeast 1/4 Section 30, Town 5 North, Range 21 East, Elevation = 803.18.



Prepared By  
**PINNACLE ENGINEERING GROUP**  
20725 WATERTOWN ROAD 1 SUITE 100  
BROOKFIELD WI 53186  
OFFICE: (262) 754-8888

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

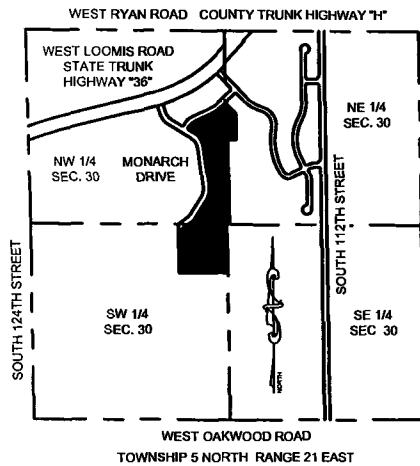
PEG JOB#809.20  
**SHEET 6 OF 11**

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

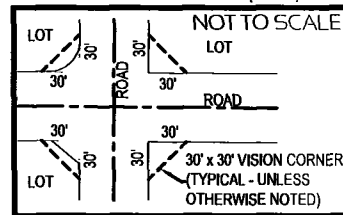
Being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin.

BOUNDARY CURVE TABLE							
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH	TANGENT	TANGENT
C1	106.76'	270.00'	022°39'16"	N42°24'51"E	106.06'	N53°44'29"E	N31°05'13"E
C2	183.30'	270.00'	038°53'49"	N11°38'18"E	179.80'	N31°05'13"E	N07°48'36"W
C3	241.78'	270.00'	051°18'30"	N33°27'51"W	233.79'	N07°48'36"W	N59°07'06"W
C4	114.43'	190.00'	034°30'30"	N48°08'09"E	112.71'	N30°52'54"E	N65°23'24"E
C5	181.45'	535.00'	019°25'57"	N55°40'26"E	180.58'	N65°23'24"E	N45°57'27"E
C6	56.55'	270.00'	012°00'00"	N46°14'44"E	56.45'	N52°14'44"E	N40°14'44"E
C7	43.16'	270.00'	009°09'31"	N35°39'59"E	43.11'	N40°14'44"E	N31°05'13"E

### VICINITY SKETCH SCALE 1"=2000'



### CITY OF FRANKLIN VISION CORNER EASEMENT DETAIL (VCE)

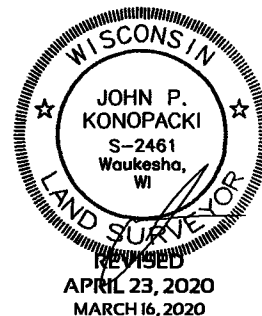


### NOTES

1. Flood Zone Classification The property lies within Zone "X" of the Flood Insurance Rate Map Community Panel No. 55079C0206E AND 55079C0206E dated SEPTEMBER 26 2008. Zone "X" areas are determined to be outside the 0.2% annual chance floodplain.
2. Bearings referenced to the Wisconsin State Plane Coordinate System South Zone (N.A.D. 1927). The north line of the Northeast 1/4 of Section 30, Township 5 North, Range 21 East bears S89°44'26"E.
3. Wetlands delineated by Heather D. Patti, PWS - Senior Wetland Ecologist, Project Manager, R.A. Smith National, Inc. on December 8, 2014.
4. VISION CORNER EASEMENTS. No obstructions permitted. No visual obstructions, such as structures, parking, or vegetation shall be permitted between the heights of 2.5 feet and 10 feet above the plane through the mean curb grades within the Vision Corner Easement.
5. Lot 1 and Lot 2 are served by Public Sewer and Water.
6. Temporary Turn Around Easement shown on the recorded plat of Ryan Meadows on Lot 2 of this Certified Survey Map to be vacated via separate document.

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

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



PEG JOB#809.20  
**SHEET 7 OF 11**



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

Being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin.

## 50' CONSERVATION EASEMENT

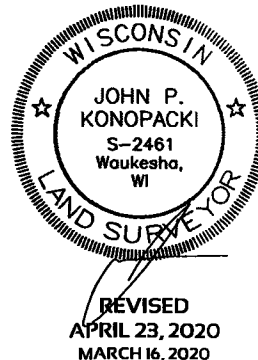
LINE TABLE		
LINE NO	BEARING	DISTANCE
L1	N75°22'21"E	39 14'
L2	S83°24'58"E	22 94'
L3	N81°01'31"E	12 95'
L4	N64°22'19"E	35 35'
L5	S72°46'48"E	38 10'
L6	S84°45'14"E	19 51'
L7	N89°55'05"E	35 37'
L8	N78°42'05"E	35 25'
L9	N78°13'06"E	34 92'
L10	N76°36'18"E	38.42'
L11	N78°25'24 E	42 12'
L12	N80°05'35"E	32.68'
L13	N86°06'12"E	30.49'
L14	N88°33'35"E	28 34'
L15	S78°35'50' E	28 25'
L16	S61°51'16"E	43 50'
L17	S51°40'09' E	26.71'
L18	S60°48'43"E	32.81'
L19	S82°18'03 E	25 35'
L20	S83°46'43"E	34 76'
L21	S76°59'19' E	32 39'
L22	S65°37'25' E	23.62'

LINE TABLE		
LINE NO	BEARING	DISTANCE
L23	S85°51'26"W	29 14'
L24	N52°02'25"W	30 19'
L25	S85°12'42"W	5.62'
L26	N76°55'48"W	47.86'
L27	N49°54'31"W	53.03'
L28	N64°32'14"W	50 77'
L29	N54°16'58"W	57 16'
L30	N32°49'08"W	60.42'
L31	N03°52'01"E	91 68'
L32	N35°53'42"E	38.67'
L33	N31°25'06"E	39.65'
L34	N47°16'20"E	22 14'
L35	N21°59'20"E	43.89'
L36	N33°40'08"W	23 04'
L37	N02°49'59"W	42 67'
L38	N25°21'49"E	65.72'
L39	N19°04'30"E	47 01'
L40	N60°46'28' E	57 64'
L41	N88°06'54' E	57 62'
L42	S32°06'26"E	66.20'
L43	S21°57'55"E	45 18'

**NOTES**

**1 CONSERVATION EASEMENT RESTRICTIONS**

- No construction or placement of buildings or any structure
- No construction or any improvements unless notwithstanding covenant 1 above the improvement is specifically and previously approved by the Common Council of the City of Franklin, upon the advice of such other persons, entities, and agencies as it may elect such improvements as may be so approved being intended to enhance the resource value of the protected property to the environment or the public and including but not limited to animal and bird feeding stations, park benches, the removal of animal blockage of natural drainage or other occurring blockage of natural drainage and the like
- No excavation, dredging, grading, mining, drilling, or change the topography of the land or its natural condition in any manner including any cutting or removal of vegetation, except for the removal of dead or diseased trees, with the exception of limited grading within the wetland setback area as defined by the City of Franklin Unified Development Ordinance. Grading within the wetland setback is limited to the grading shown in the approved Final Engineering Plans for the Strauss Brands Facility development.
- No filling, dumping, or depositing of any material whatsoever including but not limited to soil, yard waste or other landscape materials, ashes, garbage or debris
- No planting of any vegetation not native to the protected property or not typical wetland vegetation,
- No operating snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any other types of Motorized vehicles.



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

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

PEG JOB#809.20  
**SHEET 8 OF 11**

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

Being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin

## SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)  
WAUKESHA COUNTY) SS

I, John P. Konopacki, Professional Land Surveyor, do hereby certify

That I have surveyed, mapped and divided Lot 84 in Ryan Meadows, as recorded in the Register of Deeds office for Milwaukee County as Document No. 10962414 located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North Range 21 East, City of Franklin Milwaukee County Wisconsin, described as follows.

Commencing at the southwest corner of the Northwest 1/4 of said Section 30,  
Thence South 89°39'32" East along the south line of said Northwest 1/4 and then along a south line of Ryan Meadows a recorded subdivision 2008 73 feet to the north right of way line of Monarch Drive and a west line of said Ryan Meadows,  
Thence South 00° 34'08" East along said west line of Ryan Meadows, 98 50 feet to the south right of way line of Monarch Drive and the Point of Beginning

Thence North 53°44'29" East along said south right of way line, 201 16 feet to a point of curvature  
Thence northeasterly 106 76 feet along the arc of said curve to the left and said right of way line whose radius is 270.00 feet and whose chord bears North 42°24'51" East, 106.06 feet,  
Thence North 31°05'13" East along said right of way line, 282.33 feet to a point of curvature,  
Thence northeasterly 183 30 feet along the arc of said curve to the left and said right of way line, whose radius is 270 00 feet and whose chord bears North 11°38'18" East, 179 80 feet,  
Thence North 07°48'36" West along said right of way line, 543.63 feet to a point of curvature  
Thence northwesterly 241 78 feet along the arc of said curve to the left and said right of way line whose radius is 270 00 feet and whose chord bears North 33°27'51" West, 233.79 feet,  
Thence North 59°07'06" West along said right of way line, 82 77 feet,  
Thence North 14°02'32" West, 27 27 feet to the south right of way line of Chicory Street;  
Thence North 30°52'54" East along said south right of way line, 29 00 feet to a point of curvature  
Thence northeasterly 114.43 feet along the arc of said curve to the right and said right of way line whose radius is 190 00 feet and whose chord bears North 48°08'09" East, 112 71 feet,  
Thence North 65°23'24" East along said right of way line 245 97 feet to a point of curvature;  
Thence northeasterly 181.45 feet along the arc of said curve to the left and said right of way line, whose radius is 535 00 feet and whose chord bears North 55°40'26" East 180 58 feet,  
Thence North 45°57'27" East along said right of way line 53 22 feet to the west line of Outlot 3 in said Ryan Meadows,  
Thence South 44°24'10" East along said west line, 200.97 feet,  
Thence South 00°34'43" East along said west line, 365.13 feet,  
Thence South 89°25'17" West along said west line 116 04 feet;  
Thence South 01°10'06" East along said west line 1155 10 feet to the south line of the Northeast 1/4 of said Section 30 and a south line of Ryan Meadows,  
Thence North 89°42'41" West along said south line 35 01 feet to the southwest corner of said Northeast 1/4,  
Thence South 00°34'05" East along the east line of the Southwest 1/4 of said Section 30 and an east line of said Ryan Meadows 667.46 feet to a south line of said Ryan Meadows  
Thence North 89°47'21" West along said south line, 662 96 feet to a west line of said Ryan Meadows,  
Thence North 00°34'08" West along said west line, 570.47 feet to the Point of beginning

Dedicating that portion of subject property as graphically shown for public road right of way purposes.

Containing 1,047,796 square feet (24 0541 acres) of land Gross and 1,039 220 square feet (23.8572 acres) of land Net, more or less

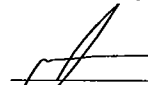
That I have made such survey, land division and map by the direction of MILLS HOTEL WYOMING LLC LOOMIS COTTAGE VENTURES LLC and STRAUSS INVESTMENTS, LLC owners of said land

That such plat 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 requirements of Chapter 236 of the Wisconsin State Statutes and the City of Franklin Land Division Ordinance and the Unified Development Ordinance Division - 15 of the City of Franklin in surveying the certified survey map.

Date REVISED  
APRIL 23, 2020  
MARCH 16, 2020



  
John P. Konopacki  
Professional Land Surveyor S-2461

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

This Instrument drafted by John P. Konopacki, PLS-LIcense No. S-2461

PEG JOB#809.20  
SHEET 9 OF 11

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

Being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin

## OWNER'S CERTIFICATE OF DEDICATION

MILLS HOTEL WYOMING, LLC Limited Liability Companies duly organized and existing under and by virtue of the laws of the State of Wisconsin as owners, do hereby certify that said limited liability companies caused the land described on this certified survey map to be surveyed, divided, dedicated and mapped as represented on this certified survey map

MILLS HOTEL WYOMING, LLC, also certifies that this plat is required by s.236.10 or s 236 12 of the Wisconsin State Statutes and the Unified Development Ordinance Division-15 of the City of Franklin to be submitted to the following for approval or objection

1 City of Franklin

IN WITNESS WHEREOF, the said **MILLS HOTEL WYOMING, LLC**, has caused these presents to be signed by Stephen C. Mills Member and Martha L. Mills, Member at (city) \_\_\_\_\_, \_\_\_\_\_ County Wisconsin on this \_\_\_\_\_ day of \_\_\_\_\_, 2020

In the presence of **MILLS HOTEL WYOMING, LLC**  
By Mills Enterprises, LLC, it Manager

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

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

STATE OF WISCONSIN)  
\_\_\_\_\_ COUNTY ) SS

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_ 2020 Stephen C. Mills Member, and Martha L. Mills, Member of the above named **MILLS HOTEL WYOMING, LLC** to me known to be the persons who executed the foregoing instrument, and to me known to be such members of said limited liability company and acknowledged that they executed the foregoing instrument as such officer as the deed of said limited liability company by its authority

\_\_\_\_\_  
Notary Public  
Name \_\_\_\_\_  
State of Wisconsin \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

## PLAN COMMISSION APPROVAL

Approved by the Plan Commission of the City of Franklin on this \_\_\_\_\_ day of \_\_\_\_\_ 2020

\_\_\_\_\_  
Date

\_\_\_\_\_  
Stephen R. Olson, Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary

## COMMON COUNCIL APPROVAL

Approved and the dedication accepted by the Common Council of the City of Franklin Wisconsin on this \_\_\_\_\_ day of \_\_\_\_\_ 2020

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

Prepared By  
**PINNACLE ENGINEERING GROUP**  
20725 WATERTOWN ROAD 1 SUITE 100  
BROOKFIELD WI 53186  
OFFICE: (262) 754-8888

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



REVISED  
APRIL 23, 2020  
MARCH 16, 2020

PEG JOB#809.20  
SHEET 10 OF 11

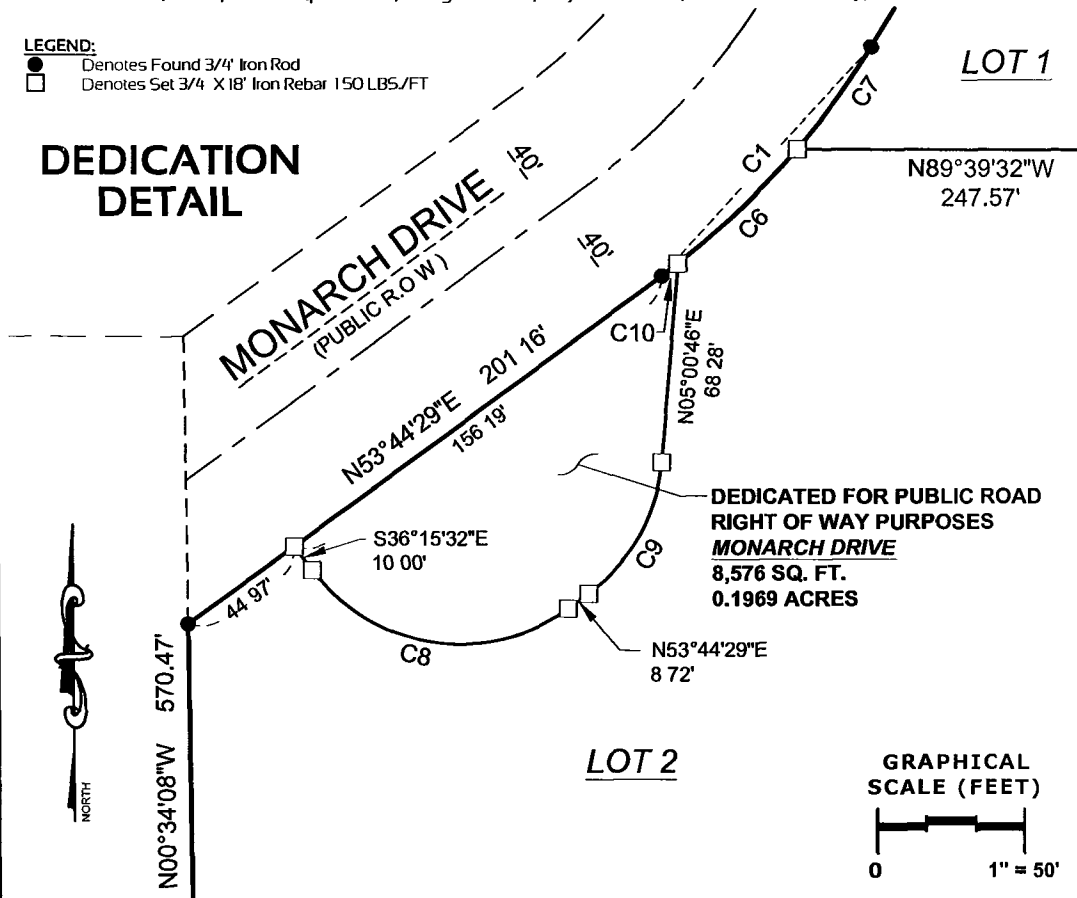
# CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Being all of Lot 84 in Ryan Meadows, located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin

**LEGEND:**

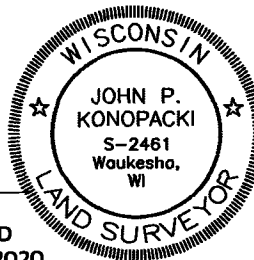
- Denotes Found 3/4" Iron Rod
- Denotes Set 3/4" X 18' Iron Rebar 150 LBS./FT

## DEDICATION DETAIL



**BOUNDARY CURVE TABLE**

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH	TANGENT	TANGENT
C1	106.76'	270 00'	022°39'16"	N42°24'51"E	106.06'	N53°44'29"E	N31°05'13"E
C6	56.55'	270 00'	012°00'00"	N46°14'44"E	56.45'	N52°14'44"E	N40°14'44"E
C7	43.16'	270 00'	009°09'31"	N35°39'59"E	43.11'	N40°14'44"E	N31°05'13"E
C8	98.17'	62.50'	089°59'59"	S81°15'32"E	88.39'	S36°15'32"E	N53°44'29"E
C9	53.15'	62.50'	048°43'42"	N29°22'38"E	51.57'	N53°44'29"E	N05°00'46"E
C10	7.05'	270 00'	001°29'44"	N52°59'37"E	7.05'	N53°44'29"E	N52°14'44"E

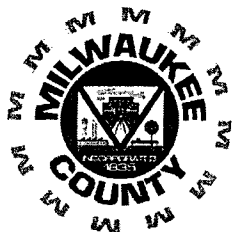


Prepared By  
**PINNACLE ENGINEERING GROUP**  
 20725 WATERTOWN ROAD 1 SUITE 100  
 BROOKFIELD WI 53186  
 OFFICE: (262) 754-8888

**REVISED**  
**APRIL 23, 2020**  
 MARCH 16, 2020

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

PEG JOB#809.20  
**SHEET II OF II**



REGISTER OF DEEDS

*Milwaukee County*

June 8, 2020

ISRAEL RAMÓN • Register of Deeds

City of Franklin Planning Department  
Attn: Gail M. Olsen, City Development Secretary  
9229 W. Loomis Road  
Franklin, WI 53132-9728

**\$75.00 Review Fee Not Paid**

RE: Preliminary Review of Certified Survey Map  
That Part of Lot 84 in Ryan Meadows, SW ¼ & NW ¼ of NE ¼ & SW ¼ of NW ¼ of  
SEC 30 T 5N, R21E, City of Franklin, County of Milwaukee, State of Wisconsin

**Tax Key Number (s): 891-1084 (2021 Tax Key Number)**

**Owners(s): MILLS HOTEL WYOMING, LLC**

**Comment:** On sheet 1 please add a statement to “See detail on sheet 11” under the dedication symbol regarding the dedicated road.

**Comment:** Milwaukee County is reviewing the Preliminary Plat for closure issues and to verify ownership. Please refer to Wisconsin State Stats 236 and the local municipalities ordinances for further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosita Ross".

Rosita Ross

Real Property Supervisor

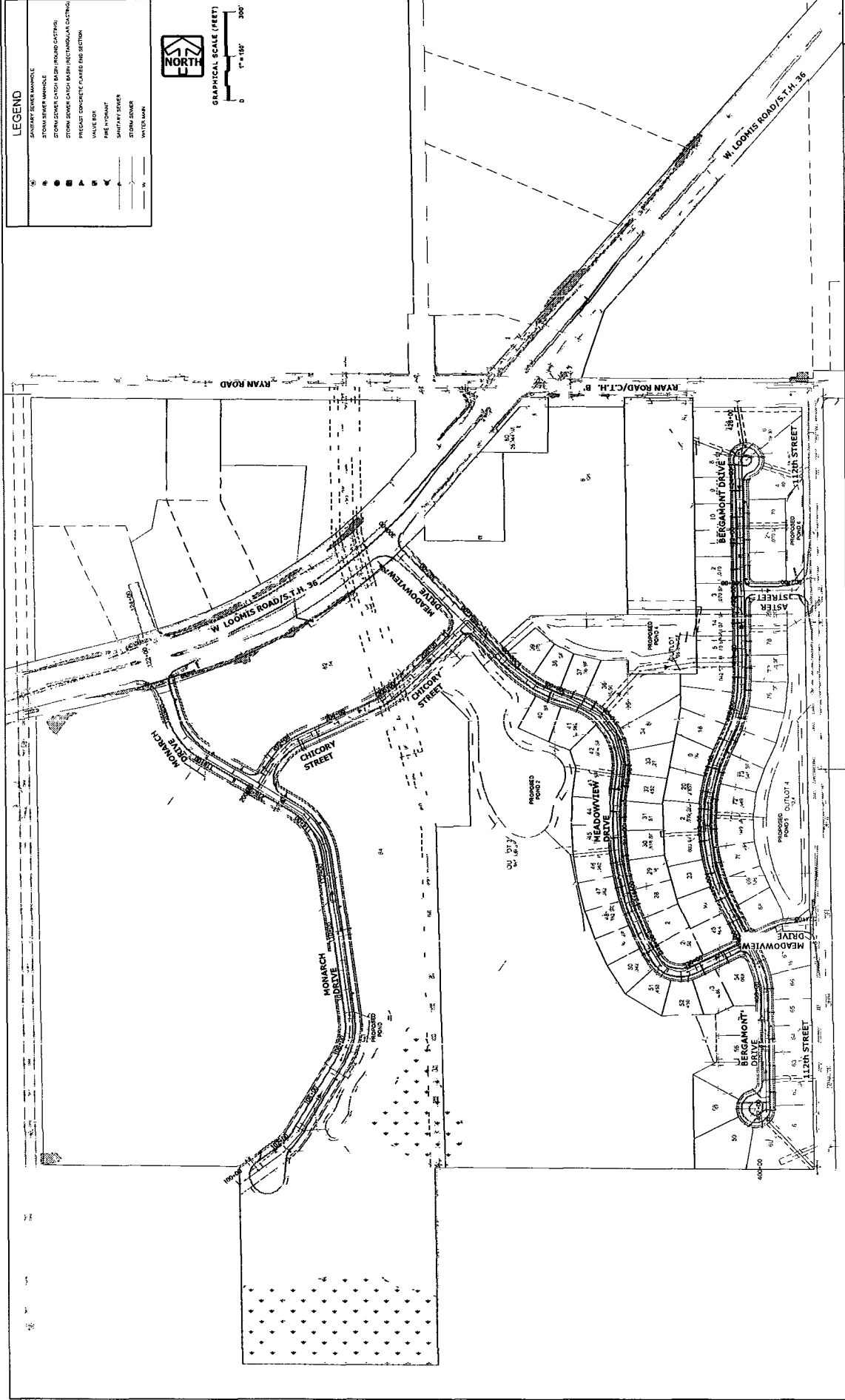
[Rosita.Ross@MilwaukeeCountywi.gov](mailto:Rosita.Ross@MilwaukeeCountywi.gov)

414-278-4047

Cc file

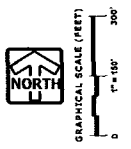
Ronnie Asuncion, Engineering Technician

John P. Konopacki/Pinnacle Engineering Group



**LEGEND**

- SANITARY SEWER MANHOLE
- STORM SEWER MANHOLE
- STORM SEWER CATCH BASIN (RECTANGULAR CASTING)
- ▣ STORM SEWER CATCH BASIN (RECTANGULAR CASTING)
- ▤ PRECAST CONCRETE FLARED END SECTION
- VALVE BOX
- FIRE HYDRANT
- SANITARY SEWER
- STORM SEWER
- WATER MAIN



**REVISIONS**

NO.	DATE	DESCRIPTION
1	02/27/20	ISSUED FOR PERMIT
2	03/10/20	ISSUED FOR PERMIT
3	03/10/20	ISSUED FOR PERMIT

**ADDRESS CITY COMMENTS**

1. ADDRESS CITY COMMENTS

2. ADDRESS CITY COMMENTS

3. ADDRESS CITY COMMENTS

**UTILITY PLAN OVERVIEW**

**RYAN MEADOWS & LOOMIS BUSINESS PARK**  
FRANKLIN, WI

**PINNACLE ENGINEERING GROUP**  
ENGINEERING NATURAL RESOURCES SURVEYING

PLANNING DELIVER

PROJECT: 2019040030 - W/CD/SHEETS/603 23-W/ UTILITY PLAN DWG

## Regulo Martinez-Montilva

---

**From:** Sara Arnold  
**Sent:** Friday, March 13, 2020 8:39 AM  
**To:** Regulo Martinez-Montilva; 'Daniel Szczap'  
**Cc:** Marion Ecks, Glen Morrow, Ronnie Asuncion, Kevin Schlueter; 'Nicholas Fuchs'  
**Subject:** RE: Comments for Planning- Site Plan (Copart)10082 S 124th St

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Regulo, Staff did raise concern about the fact that the cul-de-sac is twice the allowed maximum length. We were actually told that the road was eventually going to go through, so, along with the fact that road is extra wide, the City permitted the proposal.

Dan, the Bear development was approved with a "temporary turnaround" at the end of Monarch because we were told the road would eventually continue on. Since Copart is now going to be built and the road will remain a dead-end, the design will need to be revised to meet the City requirements for a cul-de-sac with an island. Your engineer will need to redesign that area, which will require revisions to the ROW.

Thank you.

**Sara Arnold, P.E.**

414-425-7510

**From:** Regulo Martinez-Montilva  
**Sent:** Thursday, March 12, 2020 4:57 PM  
**To:** Sara Arnold <SArnold@franklinwi.gov>  
**Subject:** RE: Comments for Planning- Site Plan (Copart)10082 S 124th St

Sara,

I received comments from Nick. I am particularly concerned about the following:

- *What is the length of Monarch Drive as a proposed cul-de-sac? Section 15-5.0103A of the UDO states that cul-de-sacs shall not exceed 800 feet in length. If this is exceeded, has the extension of this road through the development or an alternate design to keep it a through street as originally planned been considered? If it remains a cul-de-sac, please discuss the design requirements with the Engineering Department.*

Any thoughts?

Thanks,

**Régulo Martínez-Montilva, AICP**

Associate Planner - Department of City Development

City of Franklin

9229 W. Loomis Road

Franklin, WI 53132

Phone (414) 425-4024 / 427-7564

[RMartinez-Montilva@franklinwi.gov](mailto:RMartinez-Montilva@franklinwi.gov)



**From:** Sara Arnold  
**Sent:** Tuesday, March 10, 2020 4:16 PM  
**To:** Regulo Martinez-Montilva <[RMartinez-Montilva@franklinwi.gov](mailto:RMartinez-Montilva@franklinwi.gov)>; General Planning <[GeneralPlanning@franklinwi.gov](mailto:GeneralPlanning@franklinwi.gov)>  
**Cc:** Ronnie Asuncion <[RAsuncion@franklinwi.gov](mailto:RAsuncion@franklinwi.gov)>  
**Subject:** FW: Comments for Planning- Site Plan (Copart)10082 S 124th St

See below. In addition, Engineering previously reviewed a plan set and storm water management plan. That review is attached. Due to the significant amount of storm water comments, it is unknown whether the management facilities will require changes that will affect the site plan.

**Sara Arnold, P.E.**  
414-425-7510

**From:** Ronnie Asuncion  
**Sent:** Tuesday, March 10, 2020 4:08 PM  
**To:** Sara Arnold <[SArnold@franklinwi.gov](mailto:SArnold@franklinwi.gov)>  
**Subject:** FW: Comments for Planning- Site Plan (Copart)10082 S 124th St

Hi Sara,

Below are my comments for this site. Please include when you reply to General Planning.  
Thanks

Comments:

- Must provide legal access to the ponds.
- Must submit a plat of survey meeting the requirement for the plat's submittal (for Building permit).
- Must meet the requirement of the City of Franklin for the proposed retaining wall (Legend shows proposed retaining wall).

I have no comments on the proposed 8-ft decorative fence.



Ronnie Asuncion  
Eng Lead Tech  
(414) 425-7510  
[Rasuncion@franklinwi.gov](mailto:Rasuncion@franklinwi.gov)

**From:** Jacqueline Clark  
**Sent:** Friday, March 6, 2020 3:17 PM  
**To:** Engineering Dept <[EngineeringDept@franklinwi.gov](mailto:EngineeringDept@franklinwi.gov)>  
**Subject:** Comments for Planning- 10082 S 124th St

Any comments, please see Ronnie



3/6/20

City of Franklin  
Department of City Development  
Planning & Zoning

Please email your comments DIRECTLY to:  
generalplanning@franklinwi.gov before:

⇒ March 13<sup>th</sup>, 2020

Routing # 01 Application Type: Site Plan

- |   |   |   |
|---|---|---|
| <input checked="" type="checkbox"/> Mayor Steve Olson             | <input type="checkbox"/> Planning – Marion Ecks                         | ◆ Health / Registered Sanitarian                              |
| <input checked="" type="checkbox"/> Engineering - Ronnie Asuncion | <input checked="" type="checkbox"/> Planning – Regulo Martinez-Montilva | ◆ <input checked="" type="checkbox"/> Attorney's Office       |
| <input checked="" type="checkbox"/> Police – Kevin Magno          | <input checked="" type="checkbox"/> Planning - File                     | ◆ <input type="checkbox"/> Franklin Public Schls-Judy Mueller |
| <input checked="" type="checkbox"/> Fire Dept – Adam Remington    | <input type="checkbox"/> ◆ Planning Mgr - Joel Dietl                    | ◆ <input type="checkbox"/> Whitnall School District           |
| <input checked="" type="checkbox"/> Inspection–Scott Satula       | ◆ Ald. Daniel Mayer   | ◆ <input type="checkbox"/> Oak Creek-Franklin Scht Dist       |
|   |   | ◆ Clerk's Office – Sandi Wesolowski                           |

**Project Name:** Copart of Connecticut Inc  
**Address Location:** 10082 S 124<sup>th</sup> Street  
**Tax Key #(s):** 939-9995-000 and a portion of Tax Key Nos. 939-9994-000, 891-9010-002  
**Zoning:** R-2 Estate Single-Family Residence District, C-1 Conservancy District, R-8 Multiple Family Residence District  
**Property Owner(s):** Franklin Mills LLC  
**Mailing Address:** 4011 80<sup>th</sup> Street Kenosha, WI  
**Email:** dszczap@beardevelopment.com  
**Applicant Name:** Copart of Connecticut  
**Mailing Address:** 14185 Dallas Parkway Suite 300 Dallas, TX  
**Telephone #:** 952-391-5375  
**Email:** Mason.laycock@copart.com

**Summary**

The applicant has submitted an application for a Site Plan for the development of a 7,200 square foot building and vehicle storage yard for Copart, Inc., which is global online vehicle auction company specializing in asset liquidation. Copart, Inc. is classified under Standard Industrial Classification No. 5012 Automobiles and other Motor Vehicles, which is a Permitted Use in the M-2 Zoning District. Note that the applicant has concurrently submitted a Rezoning Application, requesting to rezone the property from M-1 Limited Industrial District to M-2 General Industrial District.

The development is proposed on approximately 44-acres, of which about .5-acres are located within the City of Muskego. The development consists of the building, which contains office and shop space, as well as associated parking, landscaping, lighting, fencing, and storm water management facilities. In addition, the site plan includes a drop lot for receiving vehicles and a significant amount of space dedicated for vehicle storage.

Comments: or email directly to: [generalplanning@franklinwi.gov](mailto:generalplanning@franklinwi.gov) before 3/13/20.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Jackie Clark  
City of Franklin  
Engineering Department  
414-425-7510

## Regulo Martinez-Montilva

---

**From:** Adam Remington  
**Sent:** Friday, March 13, 2020 6:48 AM  
**To:** Regulo Martinez-Montilva  
**Cc:** Catherine Heder  
**Subject:** RE: Site Plan; 10082 S 124th St (Copart)/Franklin Mills

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Regulo,

We generally prefer connectivity over cul-de-sacs, but we could live with the cul-de-sac provided that there are hydrants the entire length – which may in turn pose difficulty for the water department if that main does not loop and reconnect to the system.... (I have copied Mike Roberts for his input)

Adam

**From:** Regulo Martinez-Montilva  
**Sent:** Thursday, March 12, 2020 5:01 PM  
**To:** Adam Remington  
**Cc:** Catherine Heder  
**Subject:** RE: Site Plan; 10082 S 124th St (Copart)/Franklin Mills

Chief Remington,

We have received comments from our consultant, I am particularly concerned about the following:

- *Monarch Drive was planned to be extended south. They are now proposing a cul-de-sac that is over 800-feet in length. Not only is extending the street better connectivity, but the Fire Dept. may have concerns with allowing such a long cul-de-sac. Conversely, the protected natural resources make it difficult to extend this drive.*

Any thoughts?

Thank you,

**Régulo Martínez-Montilva, AICP**  
Associate Planner - Department of City Development  
City of Franklin  
9229 W. Loomis Road  
Franklin, WI 53132

Phone (414) 425-4024 / 427-7564  
[RMartinez-Montilva@franklinwi.gov](mailto:RMartinez-Montilva@franklinwi.gov)



**From:** Adam Remington  
**Sent:** Tuesday, March 10, 2020 7:04 AM  
**To:** General Planning <GeneralPlanning@franklinwi.gov>  
**Cc:** Catherine Heder <CHeder@franklinwi.gov>  
**Subject:** Site Plan; 10082 S 124th St (Copart)/Franklin Mills

The fire department has the following comments/concerns:

- All structures on site must meet WI DSPS requirements regarding fire protection and associated systems.



Adam Remington  
Fire Chief | City of Franklin  
414-425-1420 Station  
414-427-7580 Desk  
414-425-7067 Fax

*This message is intended for the sole use of the individual and entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended addressee, nor authorized to receive for the intended addressee, you are hereby notified that you may not use, copy, disclose or distribute to anyone the message or any information contained in the message. If you have received this message in error, please immediately advise the sender by reply email and delete the message.*



**CITY OF FRANKLIN**  
**REPORT TO THE PLAN COMMISSION**

**Meeting of December 5, 2019**

**Rezoning, Certified Survey Map and Land Division Variance**

---

**RECOMMENDATION:** City Development Staff recommends approval of the Rezoning, Certified Survey Map (CSM) and Land Division Variance, applications submitted by Bear Development, LLC., subject to the conditions in the draft resolutions and draft ordinance.

---

<b>Project Name:</b>	Bear Development Rezoning, Certified Survey Map, and Land Division Variance
<b>Project Location:</b>	10082 124th Street/Tax Key No. 939 9994 000 and property generally located south of Loomis Court and east of South North Cape Road/Tax Key No. 939 9995 000
<b>Property Owner:</b>	Franklin Mills, LLC (Tax Key No. 939 9995 000) and Daniel and Virginia Mathson (Tax Key No. 939 9994 000)
<b>Applicant:</b>	Daniel Szczap. Bear Development, LLC
<b>Current Zoning:</b>	939 9994 000 /R-2 Estate Single-Family Residence District, R-8 Multiple-Family Residence District, and C-1 Conservancy District 939 9995 000 /R-2 Estate Single-Family Residence District
<b>Proposed Zoning:</b>	R-3 Suburban/Estate Single-Family Residence District.
<b>2025 Comprehensive Plan:</b>	Business Park and Areas of Natural Resource Features
<b>Applicant's Action Requested:</b>	Recommendation of approval of the Rezoning and Certified Survey Map, and approval of the Land Division Variance request.

---

**Introduction**

On October 10, 2019, the applicant, Bear Development, LLC, filed applications for a Rezoning and Certified Survey Map (CSM) for properties bearing Tax Key Nos. 939-9994-000 and 939-9995-000. City Development staff determined that a Land Division Variance is required for the proposed CSM, the applicant submitted such application on October 21, 2019.

All applications are related to the reconfiguration of two existing lots to allow Franklin Mills, LLC to purchase approximately 13 acres of land from the Mathson family.

The proposed Lot 1 is anticipated for Business Park/Industrial development; however, detailed plans have not yet been provided. The applicant does not have a specific development proposal for this land at this time. A general description of the proposed development, a site plan, a landscape plan, and architectural plans, as required by Section 15-9.0203 of the UDO, have not been provided. However, it can be noted that the City has not always required such information when specific development proposals were unknown at the time of the rezoning.

It should also be noted that any future development will require use and site plan approval by the City. Further, additional information related to the site plan, landscaping, lighting, signage, storm water, grading, etc. will be required at that time.

The applicant is requesting that the required Landscape Bufferyard Easement be 25' in depth rather than the typical 30'. It can be noted that the depth of the required landscape bufferyard easement is only specified in Section 15-5.0102 of the UDO, in regard to limited access highways. Staff recommends that the typical 30' bufferyard easement be provided.

The applicant is also requesting to defer, to the time of development, the requirement to place protected natural resource features within conservation easements. Staff recommends that the conservation easement be provided as part of, and recorded simultaneously with, the CSM as required by Section 15-7.0702P. of the UDO.

### **Project Description and Analysis**

#### **Certified Survey Map:**

The proposed Certified Survey Map reconfigures the subject two lots. The southernmost lot abutting S. 124th Street is owned by Daniel & Virginia Mathson and Robert Mathson. The property is currently about 41.24 acres. The lot to the north is owned by Franklin Mills LLC and is approximately 20.01 acres.

The CSM creates two new lots with Lot 1 having an area of approximately 33.051 acres (to be owned by Franklin Mills LLC) and Lot 2 having an area of about 28.408 acres (to remain owned by Daniel & Virginia Mathson and Robert Mathson). Again, the land division request will allow Franklin Mills, LLC to purchase about 13 acres of land to combine to their existing parcel.

#### **Land Division Variance:**

The Land Division Variance request is necessary in conjunction with the CSM as the proposed Lot 1 does not abut 60-feet of frontage along a public right-of-way as required by Section 15-5.0101B.1. of the Unified Development Ordinance (UDO). This property has access to S. North Cape Road through a 60-foot wide ingress/egress easement on the property to the west, which was designated on CSM No. 11704 and, in part, is for the specific benefit of this parcel. It should be noted that this outlot is also owned by Franklin Mills, LLC.

#### **Rezoning:**

The Rezoning Application proposes to change the zoning of the proposed Lot 1 from R-2 Residence District to M-2 General Industrial District for potential future industrial development. The applicant is not proposing to rezone the proposed Lot 2; therefore, it will remain as currently zoned (R-8, R-2, and C-1 districts).

Section 15-3.0103 of the UDO states that split zoning of any newly created lot or parcel into more than one zoning district shall not be allowed except for the AO, FW, FC, and SW Districts.

The applicant is requesting that Lot 2 remain as currently zoned as it already consists of split zoning. The applicant has further indicated that the Mathson family does not have plans at this time to develop the property. However, pursuant to Section 15-3.0103 of the UDO, staff recommends that the rezoning request be revised to eliminate the split lot zoning.

**Comprehensive Master Plan:**

The area to be rezoned is designated as Business Park and Areas of Natural Resource Features on the City's 2025 Future Land Use Map. The proposed rezoning to the M-2 District for the proposed Lot 1 is consistent with the City's Comprehensive Master Plan; therefore, an amendment is not required.

**Recommendation**

Staff recommends approval of the rezoning, Certified Survey Map, and Land Division Variance subject to the conditions in the draft resolutions and draft ordinance.

Staff suggestions include:

- That Monarch Drive (approved but not yet constructed as part of the adjacent Industrial Park) be extended through the proposed lot 1 (via reservation or dedication) to connect to S. 124<sup>th</sup> Street. It can be noted that Monarch Drive (from Chicory Street to its dead end at the northeastern corner of Lot 1 of the proposed CSM) is over 1,200 feet in length, which exceeds the UDO maximum cul-de-sac length of 800 feet.
- That the applicant prepare general description of the proposed development, a preliminary site plan, a preliminary landscape plan, and preliminary architectural plans, as required by Section 15-9.0203 of the UDO.

**Recommended Motions**

Motions to recommend approval of the Rezoning and Certified Survey Map Applications and a motion to approve the Land Division Variance request.

With regards to the conditions of approval for the Certified Survey Map Resolution, the applicant is requesting the following:

- Condition No. 6. The applicant is requesting to defer any rezoning classification of Lot 2 to the time of development.
- Conditions No. 7 and 8. The applicant is requesting to postpone the delineation of outlots and conservation easement to the time of development.
- Condition No. 9. The applicant is requesting to reduce the landscape buffer width from 30 feet to 25 feet. It is noted that the UDO Section 15-5.0302 does not regulate the width of buffers separating different zoning districts.

2 Lot Certified Survey Map, Being all of Lot 84 in Ryan Meadows, Located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 and The Northeast 1/4 of the Southwest 1/4 and the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Wisconsin (Mills Hotel Wyoming, LLC, Applicant) Application

Memorandum

*redraft 6/12/20*

The Common Council has reviewed and considered the above application. Pursuant to the staff report to the Plan Commission for its meeting of May 7, 2020, “[t]he land division request will accommodate the proposed Copart, Inc. Site Plan, which utilizes Lot 2 for the storage of vehicles and an emergency ingress/egress from Monarch Drive. In addition to the Site Plan, the proposed Copart, Inc. development included applications for a rezoning, a natural resources special exception and the above certified survey map application, which has a conservation easement application in relation thereto. Staff has reviewed the proposed Copart, Inc. use, including in part visits and inspections of Copart, Inc. operations premises in Cudahy and Caledonia, and reported those visits to the Plan Commission in part and the Common Council. Public comments of concern regarding the proposed use were heard at the April 9, 2020 and May 7, 2020 Plan Commission meetings, at the May 5, 2020 Common Council meeting with regard to the related Amendment to the Project Plan and Boundaries of Tax Incremental District No. 6, and the May 19, 2020 Common Council meeting involving the above and related applications; comments included those of Kevin Haley, an experienced landscape architect with knowledgeable natural resources protection experience while working for Milwaukee County, who expressed serious concerns regarding the proposed use and property location with regard to the potential runoff off of potential oils and such drainage from damaged motor vehicles into the groundwaters, surface waters, public waters in the area and the potential impacts to nearby properties served by private wells. The Common Council also recognizes that representatives of the proposed use developer have stated that oil and such potential leakage and drainage is not an issue because the vehicles to be on the property will all previously have been processed at vehicle accident sites and repair facilities with regard any leakage or drainage issues and so there would be no leakage or drainage issue for any vehicle at the proposed properties site; and that that site would be developed with a clay liner. A transcript of the statements of Kevin Haley, as well as those of former Plan Commission member Randy Ritter, developer representative S.R. Mills and Copart, Inc. Attorney Rick Donner, presented to the Common Council at the May 19, 2020 meeting, is annexed hereto

Notwithstanding the proposed use, the proposed certified survey map includes a cul-de-sac with a length of approximately 1,600 feet. §15-5 0103 Street and Road Design Standards, of the Unified Development Ordinance, provides at §15-5 0103A. Cul-de-Sac Streets, “1. Length. Cul-de-sac streets designed to have one end permanently closed shall not exceed 800 feet in length.” The proposed certified survey map does not comply with this requirement.

With regard to the proposed use potential runoff off of potential oils and such drainage from damaged motor vehicles into the groundwaters, surface waters, public waters in the area and the potential impacts to nearby properties served by private wells, §15-3 1106 Water Quality Protection, of the Unified Development Ordinance, provides at §15-3.1106A General Water Quality Standards: “No activity shall locate, store, discharge, or permit the discharge of any

treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life ” The proposed use potential runoff off of potential oils and such drainage from damaged motor vehicles does not comply with this requirement.

The rezoning application was denied by the Common Council on May 19, 2020 following statements by Council members that the proposed use does not promote the health, safety, and welfare of the City and of the Community. The approval of the Site Plan by the Plan Commission on May 9, 2020 was contingent upon the Council approval of the rezoning.

Upon consideration of all of the information provided and reviewed, and considering the proposed use of the property, and that nearly half of the Lot 2 of the proposed certified survey map to be used for the proposed use storage of vehicles, is required to be protected by a conservation easement for a natural resources feature wetland, immediately adjacent to the proposed use, and the review and consideration of the application of the Wisconsin Statutes, Municipal Code and Wisconsin caselaw set forth below, and as emphasized therein, the Common Council hereby denies the Certified Survey Map Application because the proposed use does not promote the health, safety and welfare of the City and the Community, is inconsistent with the character of the municipality, potentially would not protect or enhance the area and beyond natural resources features, and would not serve the encouragement of or be the most appropriate use of land in the proposed development area and throughout the municipality. The Common Council hereby denies the Certified Survey Map Application because the proposed use potential runoff off of potential oils and such drainage from damaged motor vehicles does not comply with §15-3.1106A General Water Quality Standards of the Unified Development Ordinance. The Common Council hereby denies the Certified Survey Map Application because the proposed cul-de-sac does not comply with §15-5 0103A.1. Length, of the Unified Development Ordinance. The foregoing determinations are in addition to and in combination with the application of the provisions of law set forth below.

Introduced at a regular meeting of the Common Council of the City of Franklin this  
day of \_\_\_\_\_, 2020

Passed and adopted at a regular meeting of the Common Council of the City of Franklin  
this day of \_\_\_\_\_, 2020

APPROVED:

ATTEST

Stephen R. Olson, Mayor

Sandra L. Wesolowski, City Clerk

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



Wisconsin Statutes citations (*emphasis added*):

Wis. Stat. Ch. 236 Platting Lands and Recording and Vacating Plats

Wis. Stat. § 236.01 Purpose of chapter

The *purpose* of this chapter *is* to regulate the subdivision of land *to promote public health, safety and general welfare; to further the orderly layout and use of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways;* to provide for adequate light and air; to facilitate adequate provision for water, sewerage and other public requirements; to provide for proper ingress and egress; and to promote proper monumenting of land subdivided and conveyancing by accurate legal description. The approvals to be obtained by the subdivider as required in this chapter shall be based on requirements designed to accomplish the aforesaid purposes.

Wis. Stat. § 236.34(1m) Preparation \*\*\*

(f) *Within 90 days* of submitting a certified survey map for approval, the approving authority, or its agent authorized to approve certified survey maps, shall *take action to approve, approve conditionally, or reject the certified survey map and shall state in writing any conditions of approval or reasons for rejection*, unless the time is extended by agreement with the subdivider. Failure of the approving authority or its agent to act within the 90 days, or any extension of that period, constitutes an approval of the certified survey map and, upon demand, a certificate to that effect shall be made on the face of the map by the clerk of the authority that has failed to act.

Wis. Stat. § 236.45. *Local subdivision regulation*

(1) Declaration of legislative intent. The *purpose* of this section *is to promote the public health, safety and general welfare of the community* and the regulations authorized to be made are designed to *lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other dangers;* to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; to facilitate the further resubdivision of larger tracts into smaller parcels of land. The regulations provided for by this section shall be made *with reasonable consideration, among other things, of the character of the municipality*, town or county *with a view of conserving the value of the buildings placed upon land, providing the best possible environment for human habitation*, and for *encouraging the most appropriate use of land throughout the municipality*, town or county.

(2) Delegation of power. (ac) To accomplish the purposes listed in sub. (1), any municipality, town or county that has established a planning agency may enact ordinances governing the subdivision or other division of land that are more restrictive than the provisions of this chapter, except that no ordinance may modify in a more restrictive way time limits, deadlines, notice requirements, or other provisions of this chapter that provide protections for a subdivider.

Unified Development Ordinance citations (*emphasis added*):

§15-1.0101 Authority.

These regulations are adopted under the authority granted by §§ 62.23(7), 62.231, 62.234, 66.1027, 87.30, 144.26, and **236.45** of the Wisconsin Statutes and amendments thereto. Therefore, the Common Council of the City of Franklin does ordain as follows:

§15-1.0102 Title.

This Ordinance shall be known as, referred to, or cited as, "Unified Development Ordinance, City of Franklin, Wisconsin."

§15-1.0103 Purpose.

The purpose of this Ordinance is to ***promote the health, safety, morals, prosperity, aesthetics, and general welfare*** of the City of Franklin, Wisconsin and to ***regulate and control the division of land*** within the limits of the City of Franklin, Wisconsin, and its extraterritorial plat approval jurisdiction in order to ***promote the public health, safety, morals, prosperity, aesthetics, and general welfare of the City and its environs.***

§15-1.0104 Intent.

It is the general intent of this Ordinance to ***regulate the division of land*** and restrict the use of all structures, lands, and waters so as to: \*\*\*

D. ***Secure safety from fire, flooding, pollution, contamination, panic, and other dangers;***

E. ***Stabilize and protect existing and potential property values;***

F. ***Encourage compatibility between different land uses*** and protect the scale and character of existing development from the encroachment of incompatible development;

G. ***Further the wise use, conservation, protection, and proper development of the City's natural resources including soils, topography and steep slopes, water, floodplains, shore buffers, shorelands, drainageways, wetlands and shoreland wetlands, woodlands and forests, and wildlife resource features and attain a proper adjustment of land division, land use and development to the supporting and sustaining natural resource base;***

H. ***Preserve and protect the beauty of the City of Franklin, Wisconsin and environs;***

I. ***Further the orderly layout and appropriate use of land;***

J. ***Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters;***

K. ***Further the maintenance of safe and healthful water conditions; \*\*\****

M. ***Provide for and protect a variety of suitable commercial and industrial sites; \*\*\****

P. ***Restrict building sites in areas covered by poor soils or in other areas poorly suited for development due to natural resource features or other characteristics; \*\*\****

S. ***Avoid the harmful effects resulting from the premature division of land;***

T. Implement those municipal, County, watershed, or regional comprehensive plans or their components adopted by the City and in general facilitate enforcement of those development standards as set forth in the adopted regional, County, and municipal local comprehensive master plans, master plan, comprehensive plan, neighborhood plans, planning district plans, adopted plan components, Unified Development Ordinance, and Building Code of the City of Franklin, Wisconsin;

§15-2.0103 Compliance. \*\*\*

C. **Land Division and Condominium Compliance.** No person, firm, or corporation shall divide any land located within the jurisdictional limits of these regulations so that such division results in a subdivision, minor land division, condominium or replat; as defined herein; without compliance with all requirements of this Ordinance and the following documents:

1. Wisconsin Statutes. **Chapters 236** and 703 and Section 80.08 of the Wisconsin Statutes and any subsequent amendments thereto. \*\*\*

Division 15-2.0300

General Land Division Provisions \*\*\*

§15-2.0304 Land Suitability.

No land shall be subdivided for residential use which is determined to be unsuitable for such use by the Plan Commission for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography, or any other feature likely to be harmful to the health, safety, or welfare of either current City residents or the future residents of the proposed Subdivision, Certified Survey Map, Condominium, or of the City. In addition: \*\*\*

§15-3 1106 Water Quality Protection

- A. General Water Quality Standards. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- B. Minimum State Requirements to be Met No activity shall withdraw or discharge any liquid or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards set forth in Paragraph A above, and those other standards and the application of those standards set forth in Chapter NR-102 of the Wisconsin Administrative Code as amended.

Division 15-5.0100

Design Standards for Land Divisions \*\*\*

§15-5.0103 Street and Road Design Standards.

The minimum right-of-way and roadway width of all proposed streets and alleys shall be as specified on the official map, County jurisdictional highway system plan, County Development Plan, City of Franklin Comprehensive Master Plan or plan component, detailed planning district plan, or detailed neighborhood development plan, or if no width is specified therein, the minimum widths shall be as shown in Table 15-5.0103

Street sections are for standard arterial streets only. Cross-sections for freeways, expressways, and parkways should be based upon detailed engineering studies. In addition:

A. Cul-de-Sac Streets

1. Length Cul-de-sac streets designed to have one end permanently closed shall not exceed

**800 feet in length**

2 Adequate Turn-Around to be Provided Cul-de-sac streets shall terminate in a circular turn-around having a minimum right-of-way radius of 60 feet and a minimum outside curb radius of 45 feet.

B Temporary Street Termination Temporary termination of streets longer than 250 feet intended to be extended at a later date shall be accomplished with a temporary cul-de-sac in accordance with the standards set forth above, or by the construction of a temporary 'T' § 24 feet in width and 30 feet in length (as measured from the centerline of the street right-of-way) abutting the right-of-way lines of the access street on each side Figure 15-5 0103(B) illustrates the design of a temporary street termination. The removal of a temporary street termination shall be the full responsibility of the developer of adjoining property for which development the extension of the street is required

Table 15-5 0103

Minimum Dimensional Design Standards for Streets and Other Public Ways \*\*\*

		Urban Areas	Rural Areas	
<u>Cul-de-Sac (turn-around)</u>	<u>60 radius</u>	<u>Pavement =45 radius (outside face of curb radius) and 21 (inside pavement radius forming planting island in center of cul-de-sac)</u> <u>Curb Lawn =15</u> <u>Sidewalk = None Required</u>	<u>60 radius</u>	<u>Pavement =39 radius (outside face of curb radius) and 21 (inside pavement radius forming planting island in center of cul-de-sac)</u> <u>Shoulders=6</u> <u>Roadside Ditches=15</u> <u>Sidewalk = None Required</u>

§15-5.0106 Lots.

The size, shape, and orientation of **lots shall be appropriate for** the location of the subdivision and for **the type of development and use contemplated**. The lots should be designed **to provide an aesthetically pleasing building site** and a proper architectural setting for the building contemplated. In addition: \*\*\*

§15-5.0109 Easements.

A. **Natural Resource Features Protection/Mitigation, Conservation, Landscape Bufferyard, and Utility Easements Required**. The Plan Commission shall require natural resource features protection/mitigation, conservation, landscape bufferyard, and/or utility easements of widths deemed adequate for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for natural resource feature protection, landscape bufferyards (see Division 15-5.0300 of this Ordinance), electric power and communication lines, wires, conduits, storm and sanitary sewers, and gas, water, and other utility lines. \*\*\*

Division 15-7.0700

Certified Survey Map

§15-7.0701 General.

A Certified Survey Map prepared by a Wisconsin registered land surveyor shall be required for

all minor land divisions. It shall *comply* in all respects *with* the requirements of § 236.34 of the *Wisconsin Statutes*. The Certified Survey Map shall comply with the *design standards and improvement requirements* set forth in Divisions 15-8.0100, 15-8.0200, **15-8.0300**, and 15-8.0400 of this Ordinance. The Certified Survey Map shall be tied to the horizontal control system established by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) for the City of Franklin. \*\*\*

§ 15-7.0702 Additional Information. \*\*\*

P. Location of Proposed Deed Restrictions, Landscape Easements, and/or *Conservation Easements*. The location of any proposed deed restrictions, landscape easements, and/or conservation easements shall be graphically indicated and clearly delineated and dimensioned on the face of the Certified Survey Map. The location and extent of conservation easements should be directly related to the "Natural Resource Protection Plan." Deed restrictions and/or conservation easements as required by this Ordinance shall be filed with the Certified Survey Map or submitted for review *as a condition of any approval thereof*, in the manner and for the purposes as set forth under § 15-7.0603D. for final plats.

Division 15-7.0500

Preliminary *Plat*

§15-7.0501 General. \*\*\*

H. *Use Statement*. A statement of the proposed use of the lots stating the use type of buildings and/or uses proposed to occupy the lots, number of proposed lots, and number of dwelling units per lot, and proposed density.

I. Proposed Zoning Changes. If any zoning changes are contemplated, the proposed zoning plan for the property, including dimensions. The indication of such information, however, shall not constitute an application for a zoning amendment. All applications for zoning amendments shall meet the applicable requirements of this Ordinance.

Division 15-8.0300

Construction Site Erosion

§15-8.0301 Purpose, Intent and Authority.

A. Purpose and Intent. *The City of Franklin finds that runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the State and of the City of Franklin, including from sites where the only development activity is grading, filling, and/or excavating*, independent of or prior to building construction. It is the *purpose* of this Division *to help preserve the natural resources; to protect the quality of the waters of the State and of the City; and to protect and promote the health, safety and welfare of the people, to the extent practicable, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams, nature conservancy areas and wetlands*, by minimizing the amount of airborne dust and by preventing the destruction of natural resources intended to be preserved by this ordinance, through the administration and enforcement of the permit, plan, control measure and maintenance requirements of this Division.

§15-8.0301 Purpose, Intent and Authority. \*\*\*

B. Authority. \*\*\*

5. This Division is additionally intended to *further the purposes of* and is made pursuant to the authority granted under §§ 62.23(7), 62.234 and **236.45**, Stats.

§15-8.0702

Part 8: Improvements and Construction Provisions Conflict With Other Land Division Laws. Pursuant to Wis. Stat. § 236.45 (2)(ac), the provisions of *this Part 8* as they may pertain to the subdivision or other division of land that are *more restrictive than the provisions of Wis. Stat. Ch. 236 shall apply*, except that no such provision may modify in a more restrictive way time limits, deadlines, notice requirements, or *other provisions of Wis. Stat. Ch. 236* that provide protections for a subdivider.

§15-9.0309 Minor Land Division (Certified Survey Map). \*\*\*

B. \*\*\*

4. The applicant shall be responsible for transmitting copies of the Certified Survey Map to all affected utilities for their respective review and comments.

5. The recommendations of all approving authorities shall be transmitted to the Plan Commission within 20 days from the date the map is filed with the City Clerk, or prior to the next available meeting.

6. The Certified Survey Map shall be reviewed by the Plan Commission for *conformance with this Ordinance and all other ordinances, rules, regulations, adopted regional, County, or City of Franklin Comprehensive Master Plans or adopted plan components which affect it*.

7. The Plan Commission shall within 60 days from the date of filing of the Certified Survey Map recommend approval, conditional approval, or rejection of the map, and shall transmit the map along with its recommendations to the Common Council.

C. Common Council Approval. In cases where a Certified Survey Map has been transmitted by the Plan Commission to the Common Council, *the Common Council shall approve, approve conditionally and thereby require resubmission of a corrected Certified Survey Map, or reject such Certified Survey Map within 90 days from the date of filing* of the map unless the time is extended by agreement with the Subdivider.

1. If the map is approved, the Common Council shall cause the City Clerk to so certify on the face of the original map and return the map to the Subdivider.

2. *If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the Subdivider.*

D. *Natural Resource Protection Plan Required.* For properties proposed to be divided by Certified Survey Map, and that contain natural resource features as described in Divisions 15-4.0100 and 15-11.0100 of this Ordinance, a "Natural Resource Protection Plan," as described in Division 15-7.0200 of this Ordinance, shall be submitted for review by the City Planner and Plan Commission.

E. Deed Restrictions, Conservation Easements, and Landscape Bufferyard Easements. For properties proposed to be divided by Certified Survey Map and which contain natural resources required to be preserved or landscape bufferyard easements under the provisions of this Ordinance, the Plan Commission shall require that deed restrictions and/or conservation easements, and landscape bufferyard easements be filed with the Certified Survey Map or submitted for review as a condition of any approval thereof, in the manner and for the purposes as set forth under § 15-7.0603D. for final plats.

§15-10.0105 Duties.

The City Plan Commission shall have the following functions and duties:

D. Prepare and Recommend Land Division Regulations. To prepare and recommend *land division regulations* to the Common Council *in accordance with § 236.45* of the Wisconsin Statutes.

§15-3.0310

M-2 General Industrial District.

A. District Intent.

1. The M-2 General Industrial District is intended to:

a. Provide for manufacturing, industrial, warehousing, and uses of a more general and less restrictive nature and size than either the M-1 or BP Districts.

b. Be used in locations where the *relationship to surrounding land use would create fewer problems of compatibility*.

2. The M-2 District is *not intended to*:

a. *Abut residential zoning* districts.

b. *Accommodate industrial or business parks* under unified design and ownership which exceed 20 acres in area.

*Wood v. City of Madison*, case citations:

[T]he Supreme Court, Ann Walsh Bradley, J., held that: (1) municipality has statutory authority to reject preliminary plat under its extraterritorial jurisdictional authority based upon subdivision ordinance that considers plat's proposed use; overruling *Gordie Boucher Lincoln–Mercury v. Madison Plan Comm'n*, 178 Wis.2d 74, 503 N.W.2d 265, and (2) city acted within its authority in rejecting application. *Wood v. City of Madison*, 2003 WI 24, 260 Wis. 2d 71, 659 N.W.2d 31  
\*\*\*

¶ 2 In its certification, the court of appeals more precisely states the issue as follows:

Does Wis. Stat. ch. 236 authorize a municipality to reject a preliminary plat under its extraterritorial jurisdictional authority based on a subdivision ordinance that considers the plat's proposed use?

In addition, the court of appeals requests that we review the holding in *Gordie Boucher Lincoln–Mercury v. Madison Plan Comm'n*, 178 Wis.2d 74, 503 N.W.2d 265 (Ct.App.1993), which previously addressed this \*75 issue. The court of appeals advances that *Gordie Boucher* “was probably wrongly decided.”

\*\*33 ¶ 3 In response to the issue presented, we conclude that Wis. Stat. ch. 236 (1999–2000)<sup>3</sup> does authorize a municipality to reject a preliminary plat under its extraterritorial jurisdictional authority based upon a subdivision ordinance that considers the plat's proposed use. Because *Gordie Boucher* declared otherwise, we agree with the court of appeals that it was in error. We also conclude that the standards set forth in the subdivision ordinance in this case were neither vague nor applied in an arbitrary, unreasonable, or discriminatory manner. Accordingly, we determine that the City of Madison acted within its authority, and we affirm the circuit court

order which upheld Madison's rejection of the Woods' plat. *Wood v City of Madison*, 2003 WI 24, ¶¶ 2-3, 260 Wis. 2d 71, 74-75, 659 N.W.2d 31, 32-33 \*\*\*

¶ 13 We begin with the issue presented by the court of appeals:

\*79 Does Wis. Stat. ch. 236 authorize a municipality to reject a preliminary plat under its extraterritorial jurisdictional authority based on a subdivision ordinance that considers the plat's proposed use?

Chapter 236 of the Wisconsin Statutes is entitled “Platting Lands and Recording and Vacating Plats.” It “regulates intensively the process by which land can be divided into building sites.” *Town of Sun Prairie v. Storms*, 110 Wis.2d 58, 61, 327 N.W.2d 642 (1983). The purpose of the chapter is set out in Wis. Stat. § 236.01:

The purpose of this chapter is to regulate the subdivision of land to promote public health, safety and general welfare; to further the orderly layout and use of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage and other public requirements; to provide for proper ingress and egress; and to promote proper monumenting of land subdivided and conveyancing by accurate legal description. The approvals to be obtained by the subdivider as required in this chapter shall be based on requirements designed to accomplish the aforesaid purposes. *Wood v. City of Madison*, 2003 WI 24, ¶ 13, 260 Wis. 2d 71, 78-79, 659 N.W.2d 31, 34-35 \*\*\*

¶ 17 Wisconsin Stat. § 236.45(1) explains the legislative intent behind the additional subdivision plat approval authority granted under the section:

(1) Declaration of legislative intent. *The purpose of this section is to promote the public health, safety and general welfare of the community and the regulations authorized to be made are designed to ... further the orderly layout and use of land, ... to prevent the overcrowding of land; to avoid undue concentration of population;... The regulations provided for by this section shall be made with reasonable consideration, among other things, of the character of the municipality, town or county with a view of conserving the value of the buildings placed upon land, providing the best possible environment for human habitation, and for \*81 encouraging the most appropriate use of land throughout the municipality, town or county*

Wis. Stat. § 236.45(1) (emphasis added).

¶ 18 In *Mequon*, 52 Wis.2d at 774, 190 N.W.2d 912, we described the statement of legislative intent in § 236.45(1) as “indicat[ing] that the purpose of the law is to permit a municipality to adopt regulations encouraging the most appropriate use of land throughout.” Noting that under \*\*36 § 236.45(2)(b), “any ordinance adopted by a municipality shall be liberally construed in favor of the municipality,” we described § 236.45 as granting wide discretion that a municipality may exercise by ordinance or appropriate resolution. *Id.*



6 ¶ 19 The plain language of the declaration of intent in § 236.45(1) leaves no doubt that subdivision regulations and ordinances may consider the use of land. In fact, the statute requires that such ordinances “*shall be made with reasonable consideration ... of the character of the municipality, town or county with a view ... for encouraging the most appropriate use of land throughout the municipality, town or county.*” Wis. Stat. § 236.45(1)(emphasis added). *Wood v. City of Madison*, 2003 WI 24, ¶¶ 17-19, 260 Wis. 2d 71, 80–81, 659 N.W.2d 31, 35–36 \*\*\*

Notably, both zoning and subdivision plat approval authority state that regulation “shall be made with reasonable consideration ... of the character of the district ... with a view to ... encouraging the most appropriate use of land.” Wis. Stat. §§ 62.23(7)(c) and 236.45(1). *Wood v. City of Madison*, 2003 WI 24, ¶ 23, 260 Wis. 2d 71, 83, 659 N.W.2d 31, 37 \*\*\*

Therefore, any regulation relating to the “quality” of a subdivision must necessarily consider the “most appropriate use” of land. We cannot fathom how an ordinance can consider the most appropriate use of land if it cannot consider the use of land. *Wood v. City of Madison*, 2003 WI 24, ¶ 30, 260 Wis. 2d 71, 85, 659 N.W.2d 31, 38 \*\*\*

¶ 36 We further stated in *Storms*, in comparing zoning and subdivision approval authority, that:

Zoning presupposes that the needs of the community have become sufficiently crystallized to permit the enactment of specific regulations. *Subdivision control*, on the other hand, *establishes more general standards to be specifically applied* by an administrative body *in order to insure that the change of use will not be detrimental to the community.*

\*88 *Id.* at 69, 327 N.W.2d 642 (citations omitted) (emphasis added). We thus spoke of subdivision approval authority as essentially regulating the “use” of land.

¶ 37 For these reasons, we conclude, in response to the issue set forth in the certification, that Wis. Stat. ch. 236 does authorize a municipality to reject a preliminary plat under its extraterritorial jurisdictional authority based upon a subdivision ordinance that considers the plat's proposed use. Because *Gordie Boucher* concluded otherwise, its holding must be overruled.

¶ 38 Our conclusion in large part is driven by the plain language of the declaration of intent in § 236.45(1) which leaves no doubt that subdivision ordinances may consider the proposed use of land. *Wood v. City of Madison*, 2003 WI 24, ¶¶ 36-38, 260 Wis. 2d 71, 87–88, 659 N.W.2d 31, 39 \*\*\*\*

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A  
CONSERVATION EASEMENT  
MILLS HOTEL WYOMING, LLC, APPLICANT  
RESOLUTION NO. 2020-\_\_\_\_\_

Page 2

Passed and adopted at a regular meeting of the Common Council of the City of  
Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:

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

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

**CONSERVATION EASEMENT**

Ryan Meadows  
Wetland 1- Lot 84 & Outlot 3

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

WITNESSETH

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mills Hotel Wyoming, LLC

By: Mills Enterprises, LLC its Manager

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

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

STATE OF WISCONSIN        )  
  ) ss  
COUNTY OF MILWAUKEE    )

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

Stephen C. Mills. Member, Mills Enterprises, LLC

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

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

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

STATE OF WISCONSIN        )  
  ) ss  
COUNTY OF MILWAUKEE    )

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

Martha L. Mills. Member, Mills Enterprises, LLC

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

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

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

**Acceptance**

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

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

CITY OF FRANKLIN

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

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

STATE OF WISCONSIN     )  
  ) ss  
COUNTY OF MILWAUKEE    )

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

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

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

This instrument was drafted by the City of Franklin.

Approved as to contents:

\_\_\_\_\_  
Regulo Martinez- Montilva  
Associate Planner  
Department of City Development

\_\_\_\_\_  
Date

Approved as to form only:

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

\_\_\_\_\_  
Date

**MORTGAGE HOLDER CONSENT**

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

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

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

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF WISCONSIN )  
                                  ) ss  
COUNTY OF MILWAUKEE )

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

Name: \_\_\_\_\_

Notary Public, State of *[Wisconsin]*

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

## **LEGAL DESCRIPTION:**

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

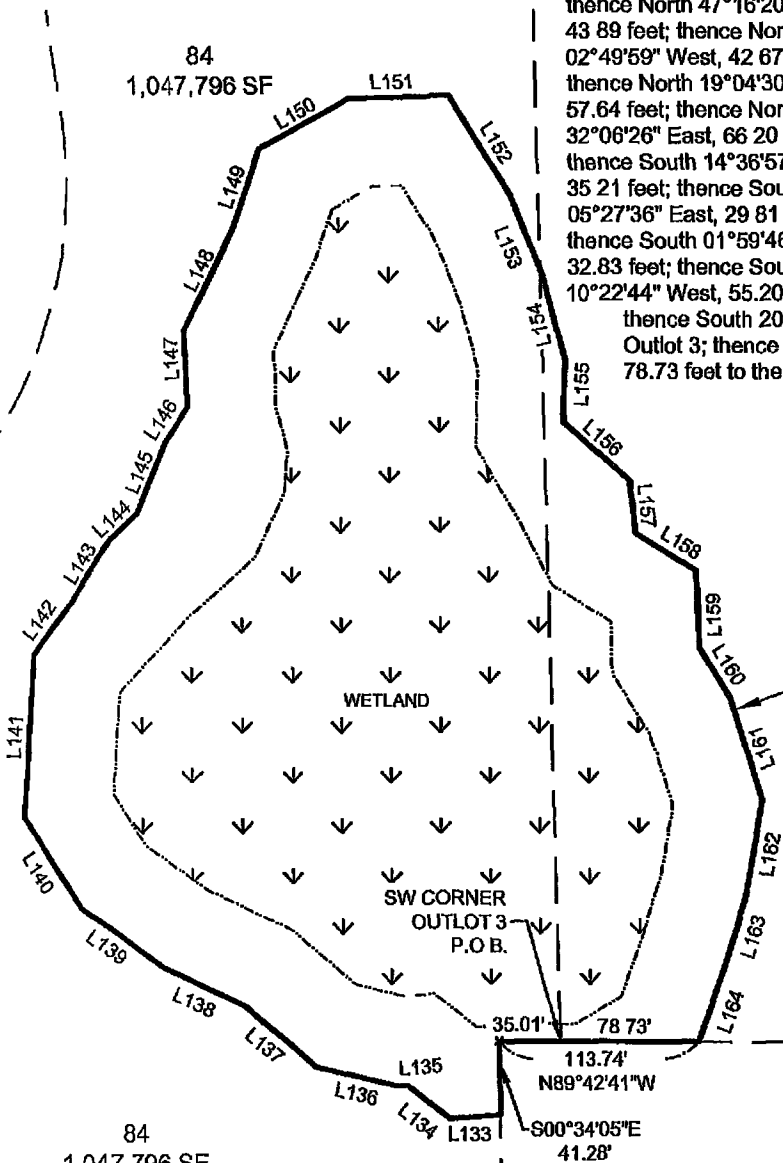
Beginning at the southwest corner of said Outlot 3; thence North 89°42'41" West along the south line of said Lot 84, 35.01 feet; thence South 00°34'05" East along the east line of said Lot 84, 41.28 feet; thence South 85°51'26" West, 29.14 feet; thence North 52°02'25" West, 30.19 feet; thence South 85°12'42" West, 5.62 feet; thence North 76°55'48" West, 47.86 feet; thence North 49°54'31" West, 53.03 feet; thence North 64°32'14" West, 50.77 feet; thence North 54°16'58" West, 57.16 feet; thence North 32°49'08" West, 60.42 feet; thence North 03°52'01" East, 91.68 feet; thence North 35°53'42" East, 38.67 feet; thence North 31°25'06" East, 39.65 feet; thence North 47°16'20" East, 22.14 feet; thence North 21°59'20" East, 43.89 feet; thence North 33°40'08" East, 23.04 feet; thence North 02°49'59" West, 42.67 feet; thence North 25°21'49" East, 65.72 feet; thence North 19°04'30" East, 47.01 feet; thence North 60°46'28" East, 57.64 feet; thence North 88°06'54" East, 57.62 feet; thence South 32°06'26" East, 66.20 feet; thence South 21°57'55" East, 49.90 feet; thence South 14°36'57" East, 48.96 feet; thence South 01°56'25" West, 35.21 feet; thence South 48°44'10" East, 50.35 feet; thence South 05°27'36" East, 29.81 feet; thence South 58°14'57" East, 40.51 feet; thence South 01°59'46" East, 43.63 feet; thence South 31°43'54" East, 32.83 feet; thence South 17°35'47" East, 60.53 feet; thence South 10°22'44" West, 55.20 feet; thence South 17°08'13" West, 40.52 feet; thence South 20°02'47" West, 45.66 feet to the south line of Outlot 3; thence North 89°42'41" West along said south line, 78.73 feet to the Point of Beginning.



**LEGAL DESCRIPTION:**

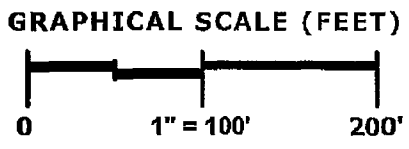
Being a part of Lot 84 and Outlot 3 in Ryan Meadows, located in the Southwest 1/4 of the Northeast 1/4 AND the Northeast 1/4 of the Southwest 1/4 AND the Southeast 1/4 of the Northwest 1/4, Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County Wisconsin, described as follows:

Beginning at the southwest corner of said Outlot 3; thence North 89°42'41" West along the south line of said Lot 84, 35.01 feet; thence South 00°34'05" East along the east line of said Lot 84, 41.28 feet; thence South 85°51'26" West, 29.14 feet; thence North 52°02'25" West, 30.19 feet; thence South 85°12'42" West, 5.62 feet; thence North 76°55'48" West, 47.86 feet, thence North 49°54'31" West, 53.03 feet; thence North 64°32'14" West, 50.77 feet; thence North 54°16'58" West, 57.16 feet; thence North 32°49'08" West, 60.42 feet, thence North 03°52'01" East, 91.68 feet; thence North 35°53'42" East, 38.67 feet; thence North 31°25'06" East, 39.65 feet; thence North 47°16'20" East, 22.14 feet; thence North 21°59'20" East, 43.89 feet; thence North 33°40'08" East, 23.04 feet; thence North 02°49'59" West, 42.67 feet; thence North 25°21'49" East, 65.72 feet; thence North 19°04'30" East, 47.01 feet; thence North 60°46'28" East, 57.64 feet; thence North 88°06'54" East, 57.62 feet; thence South 32°06'26" East, 66.20 feet; thence South 21°57'55" East, 49.90 feet; thence South 14°36'57" East, 48.96 feet; thence South 01°56'25" West, 35.21 feet; thence South 48°44'10" East, 50.35 feet; thence South 05°27'36" East, 29.81 feet; thence South 58°14'57" East, 40.51 feet; thence South 01°59'46" East, 43.63 feet; thence South 31°43'54" East, 32.83 feet; thence South 17°35'47" East, 60.53 feet; thence South 10°22'44" West, 55.20 feet; thence South 17°08'13" West, 40.52 feet; thence South 20°02'47" West, 45.66 feet to the south line of Outlot 3; thence North 89°42'41" West along said south line, 78.73 feet to the Point of Beginning.



**OUTLOT 3**  
965,123 SF

**CONSERVATION EASEMENT**  
155,829 SQ. FT  
3.5773 ACRES



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

**PARCEL 1**  
**C.S.M NO 975**

**SHEET 1 OF 2**

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L133	S85°51'26"W	29.14'
L134	N52°02'25"W	30.19'
L135	S85°12'42"W	5.62'
L136	N76°55'48"W	47.86'
L137	N49°54'31"W	53.03'
L138	N64°32'14"W	50.77'
L139	N54°16'58"W	57.16'
L140	N32°49'08"W	60.42'
L141	N03°52'01"E	91.68'
L142	N35°53'42"E	38.67'
L143	N31°25'06"E	39.65'
L144	N47°16'20"E	22.14'
L145	N21°59'20"E	43.89'
L146	N33°40'08"E	23.04'
L147	N02°49'59"W	42.67'
L148	N25°21'49"E	65.72'
L149	N19°04'30"E	47.01'

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L150	N60°46'28"E	57.64'
L151	N88°06'54"E	57.62'
L152	S32°06'26"E	66.20'
L153	S21°57'55"E	49.90'
L154	S14°36'57"E	48.96'
L155	S01°56'25"W	35.21'
L156	S48°44'10"E	50.35'
L157	S05°27'36"E	29.81'
L158	S58°14'57"E	40.51'
L159	S01°59'46"E	43.63'
L160	S31°43'54"E	32.83'
L161	S17°35'47"E	60.53'
L162	S10°22'44"W	55.20'
L163	S17°08'13"W	40.52'
L164	S20°02'47"W	45.66'

SHEET 2 OF 2



# CONSERVATION EASEMENT

**PINNACLE ENGINEERING GROUP**

20725 WATERTOWN ROAD | SUITE 100 | BROOKFIELD, WI 53186

WWW.PINNACLE-ENGR.COM

05/13/2020

PLAN | DESIGN | DELIVER

PEG JOB#809.20

**BLANK PAGE**

1 Excerpt from Franklin Common Council meeting of May 19, 2020

2 Kevin Haley, "Good evening, Kevin Haley 8945 S 116th, Franklin. Thank you  
3 for the opportunity to address the Council. As you are aware I'm a member of  
4 the Plan Commission. I've been that for over 15 years and on the  
5 Environmental Commission before that. At the last Plan Commission meeting we  
6 had took action/discussion on Item 6, the Copart Project, I have many  
7 concerns. At that time I expressed my concerns, I'd like this opportunity to  
8 address the full Council and sort of reiterate those. I think I'm organized  
9 here, no need to ramble on and on, but I do think it's important to  
10 understand the concerns that I have. You guys make the decisions, here's  
11 what I think. Copart seems to be a successful business, it probably fills an  
12 important niche in the world. I've done research, I've been going on their  
13 websites, what they do is a good thing. Could be good for Franklin, don't  
14 know. What I do know is this is probably the wrong place for this activity  
15 and most of those concerns are going to focus on environmental concerns and  
16 impacts I'll get to those. I will speak briefly to the whole Economic  
17 Development potential. We've all struggled for years to try to get this  
18 business park up and running and funding. It's great that we got some  
19 interest in it. The concern that I have is this is prime real estate, this  
20 is our gateway to the southwest, this is where everyone comes in to Franklin  
21 for the southwest and will do so more in the future. So, it's prime real  
22 estate. It's the first thing people will see, creates a first impression of  
23 the City of Franklin. Is this the highest and best use for it? It's the  
24 first development in the TID. You would think that would be the standard  
25 that it would be the finest. No more Economic Development to other people.

Excerpt from Franklin Common Council Meeting 05/19/2020

1 What I want to speak to is mainly environmental concerns. My concerns arise  
2 from the fact that this site straddles the subcontinental divide. I'll make  
3 it simple, there's a line running through the parcel, most of the water on  
4 site runs to the northwest towards the Mississippi River, everything else on  
5 site runs to the Root River water shed and ultimately to Lake Michigan. So,  
6 there is a small piece of this project site that actually drains to the  
7 northwest into Muskego. That's their issue, their problem. I would think  
8 that they would have some of the similar concerns, but this is the City of  
9 Franklin. So, the issue that we have is because it's at the top of the water  
10 shed, everything's trying to move through Franklin to, Lake Michigan and it's  
11 hydraulically connected both with surface water and sub surface water. So  
12 the rain that falls on the parcel right now, soaks in the grass, it's a very  
13 wet farm field. Soaks into the grass, ultimately into the ground water,  
14 that's a good thing. If that water somehow gets tainted and absorbed into  
15 the ground water we've got a problem. If it runs off the site as it's  
16 designed to do, into our ground water supply, into our water shed we've got  
17 other problems. So I think we need "

18

19 Alderwoman Kristen Wilhelm, "Mayor, point of order. There's just way too  
20 much conversation going on here, you've got one over here, one over there,  
21 one back there and I'd like to hear the gentlemen speaking, please!"

22

23 Kevin Haley, "Okay if I might, the thing that I think is important to  
24 remember as we move through this is that we've got surface water and ground  
25 water and I think they both have the potential to be impacted. The site is

1 hydraulically connected to the Root River water shed. That means a drop of  
2 water here moves through the whole water shed on its way out to the lake, the  
3 fields, they're farm fields and they're currently drain tiled. And for those  
4 of you with a historic perspective on farming, drain tiles are put in to  
5 drain very wet soils so that they can be farmed. It's wet, I was out there  
6 again today. It's very wet, we've had a lot of rain, agreed. But the  
7 interesting thing is, is that the proposal that's come up with is basically,  
8 go into the site, remove or destroy all of the drain tiles, says that right  
9 in the plans, unless that's some that may impact adjacent uses, and then you  
10 should talk to the Engineer. So, we've destroyed those head waters, regrade  
11 the site, compact it, and then put in a compacted layer of stone on it, 100%  
12 proctor, which is almost like concrete, so that gets spread across the entire  
13 site. (muffled speaking, "that's fine, that's fine, I'm sorry, that's all we  
14 can do.") So drain tiles are gone, surface water comes in, you've got an  
15 impervious, for all practical purposes, stone layer on the entire forty some  
16 acres site, so the intention there is not to let water move through the site  
17 as it currently does, but to actually shed it off and divert it to various  
18 corners of the project, where there are these detention basins. Detention  
19 basins are intended to capture storm water runoff, hold it, let it infiltrate  
20 into the soil and ultimately flow out into the water shed. So, the water  
21 does not go anywhere. It flows off the site, to the catch basins, where it  
22 lays and it either absorbs directly or overflow, with the next major storm,  
23 storm event. So, anything that falls on that 40+ acres eventually is finding  
24 its way into our watershed. Now, it's been argued just very little impacts  
25 the vehicles are all drained, you know they come in everything's clean. I

Excerpt from Franklin Common Council Meeting 05/19/2020

1 took it upon myself and went and looked at Copart's website, pictures, all  
2 the pictures on it show waste stains, dripping machinery, it's horrendous.  
3 And you'd think they would clean up their website to not show that stuff.  
4 But the point I'd like to make is even small drips and dribbles and things  
5 like that, there all cumulative. And, they also have the potential for more  
6 catastrophic spills or loss or tank rupture, something, it happens. The  
7 point is these are cumulative, they don't go away, anything that happens out  
8 there on this site will end up in our water shed. I've spent 25 years of my  
9 life cleaning up Super Fund Project, EPA projects, contaminated park land  
10 from spills. It's almost impossible to reverse it. All you can do is spend  
11 money on trying to clean it up. So, my concern here is not with what will  
12 happen, will be involved, that your inviting potential and trouble into a  
13 very sensitive environmental area. The wetlands that we're proposing to  
14 eliminate, well fine, so they just go away. But, now the water is moving  
15 into the other wetlands. They're all part of a complex, and this complex,  
16 you look at in on the plans everything that's green, it's all draining to  
17 Lake Michigan. All those trees out there, the contours bring that water and  
18 take it there. So Muskego's got a little problem, we've got another problem.  
19 But concerning this is that there's these incremental and possible  
20 catastrophic impacts. So you've got 40 acres with an 8' fence around it,  
21 covered with compacted stone that will cause the water to run off into the  
22 detention basins and then the surrounding wetlands and water sheds. Just to  
23 summarize that. According to the developer we've got up to 5,000 vehicles  
24 there for an average duration of 50-60 days. That's a lot of time for things  
25 to drip out. Where I'm going with this is, we are going to have drippages

1 and spillages and whatever, so, they should be, then can be mediated,  
2 accommodated, there's things you can do to help prevent that or lessen the  
3 impacts when it happens. Why invite the catastrophe? This is a wetland,  
4 it's like a giant sponge, it's like a giant sponge, and right at the top of  
5 our water shed, we're going to bring in thousand and thousand of vehicles and  
6 let them have their way with the land. Again, I've got no problem with the  
7 development, it's this land usage on this site. Damaged vehicles leak, we  
8 know that, that pictures bear that out, they the Company has protocols in  
9 place to deal with the inevitable spills that we'll have on site. I've read  
10 through this, it's good things, but it acknowledges the fact that there will  
11 be spills. And looking at the aerial photographs and their web photographs  
12 there are, they're everywhere. There's black stains on everything. Point is,  
13 it happens and we know it's going to be there. The first flush is the one we  
14 always worry about in storm waters, as stuff slowly accumulates, gets into  
15 the catch basins. The first flush comes through, pushes all that stuff  
16 downstream. Just a reality. Just how a storm system works. The issue, one  
17 of the issues before you is the Natural Resource Special Exception and  
18 Franklin has taken upon itself to protect natural resources because they're  
19 significant, not just because they're cool or neat to look at. Their part of  
20 the sustainability of this community. They're part of the functional  
21 ecosystem, the water, these are all things that are out there. And Franklin  
22 has chosen not only to piggyback on what State and Federal regulations  
23 protect the wetlands but also it's buffers around it, a larger, greater,  
24 area. What your being asked to do besides everything else is basically let  
25 them bulldoze, scrape the site clean, put a raincoat on it, shoot it all off



1 to the edges. It doesn't make sense to me in this location. The Natural  
2 Resource Special Exception process exists. The City created it because we  
3 realized that the restrictions were sometimes onerous and they were put in  
4 place to accommodate unavoidable incidental impacts. Not self-imposed by the  
5 applicant. The developer chose this site. Any number of other developments  
6 could go there, but basically, they state in their material, it's a non-  
7 developable site, unless we do this. They're just looking in the wrong  
8 place. And I think that's the message we need to get through to them. As  
9 much respect as I have for the Environmental Commission, they did their  
10 review, they did their recommendation. I re-read it twice. It does not  
11 speak to anything off site. They focus on impacts to the protected natural  
12 resources and them going away. There's been no detailed research as to how  
13 the ground water moves, what's out there. We've got this beautiful  
14 residential neighborhood going in directly east, downstream of all of this.  
15 We've got people living in two story houses to be built looking over an 8'  
16 fence. RVs, trucks, tractors, all of that folks higher than 8'. Think about  
17 it. This is the future of Franklin. It's our first one out there. We need  
18 to be smart about what we do. The environment is important it's not just  
19 about making an exception to accommodate someone to come in. It's about  
20 protecting Franklin's future livelihood. Thank you for your time."

21

22 Randy Ritter, "Randy Ritter, 7621 Mission Hills Drive here in Franklin. Some  
23 of you may remember I was on the Plan Commission for 21 years. I was  
24 involved with many activities over these years, including joint meetings with  
25 other boards and commissions to try to improve our Economic Development

Excerpt from Franklin Common Council Meeting 05/19/2020

1 planning. I'm here tonight to speak on what Assemblyman Skowronski and  
2 Commissioner Haley spoke on and spoke on very well. And just by the way,  
3 there used to be a time limit on what you could say in public comment. When  
4 you've got somebody who really knows what their talking about, has got really  
5 good stuff to say, I'm glad you did away with the time limit. I will try to  
6 keep it quick. Going back to all the years we had so many activities by so  
7 many groups try to work on, you know bettering our Economic Development, I  
8 don't think 44 acres of auto-salvage is what we had in mind. In fact, I will  
9 guarantee it's not what we had in mind. Now, I know your only dealing with  
10 the environmental impact part of it. That some of the other stuffs already  
11 been done. But if it's not too late to get this thing stopped I would  
12 encourage you to take whatever means you could to follow the advice you've  
13 been given for the very sound reasons you've been given. And try to not  
14 bring this in, at least in this location. This is undeveloped land at this  
15 point. I think we in years ago envisioned a whole lot of better things than  
16 auto salvage for Franklin. I don't know why this has gotten as far as it has  
17 gotten and I don't even want to speculate on just exactly why that has been.  
18 Because it's hard to come up with a good answer. But I would encourage you  
19 to listen to what you've been told, and even Commissioner Haley. My drainage  
20 experience goes back to growing up on a farm. I've personally experienced  
21 installing drainage tiles even when I was a kid. It's been around that long  
22 and a whole lot longer, and it's just as important now and the consequences  
23 are just as significant now as they were generations ago. So, I certainly  
24 encourage you to give full credence to Commissioner Haley's comments and  
25 think this through thoroughly. I don't know, maybe your

Excerpt from Franklin Common Council Meeting 05/19/2020

1 thinking this is just temporary, it's bare land now, it will be there in a  
2 few years and something better will come along, well don't count on ever  
3 seeing that yourselves. Is that what you want to leave for the future  
4 generations of Franklin? Thank you."

5  
6 S.R. Mills, "Thank you, S.R. Mills 4011 80<sup>th</sup> St Kenosha WI. Very appreciative  
7 of all the time and effort. Certainly this, numerous meetings, Franklin's  
8 been a great partner to us in conjunction, and very excited and continue to  
9 move that forward in whatever capacity that looks like. I'm proud to say as  
10 I've talked with Alderman Nelson. We've took terrible time to start moving  
11 dirt and when you get 3" of rain in 24 hours, but we're working through that  
12 and excited though that to see the overall project come to fruition. This  
13 particular site, we've been working on since August/September I think of 2019  
14 is when we originally started our meetings. Our first Commission hearing, we  
15 received Plan Commission, I think it was unanimous Plan Commission and Common  
16 Council approval relation to the 33 acres. Again, we have kind of two  
17 components here, 33 acres was rezoned to M2, December of 19. At that time as  
18 many of you remember but not all, part of that reason we could not rezone  
19 that last 5 acre, 5 acre usable component was because of a split zoning  
20 regulation that you are not supposed to have two different zonings on a  
21 single parcel. So, we worked through that process as well as the Natural  
22 Resource Exception obtaining all the approvals and permits and everything  
23 needed there. So that's what really puts us here today. So I'm just going  
24 to briefly talk about the rezone and the Natural Resource Exception. Again,  
25 what we're talking about is a rezone from M1 to M2. This usable

Excerpt from Franklin Common Council Meeting 05/19/2020

1 acreage, is approximately 5 acres that we're talking about. Right now it's  
2 zoned M1. I've heard a lot of the comments here this evening that it's a  
3 salvage yard. If that was in fact true, we wouldn't need to be looking for a  
4 rezone. It's not a salvage yard, because salvage yards are allowed within M1  
5 zoning. We're likely the neighbor, we're certainly, with the most  
6 economically to lose on this, we have a very large investment to the north  
7 and to the east. If we thought it was a bad decision, we wouldn't we  
8 wouldn't propose this. Frankly we like the M2 rezone because it's at least  
9 in relation to this is more restrictive and has, you can't do salvage yards  
10 within an M2 so that's part of the reason why we think this makes, this makes  
11 sense. Related back to the Natural Resource Exception, again I just want to  
12 put into context what we're talking about, 9900 plus or minus square feet.  
13 This is land, that it an area really devoid of any vegetation, I believe  
14 there were some pictures that were attached in your packets. Anything that  
15 we, I typically think of wetland properties, vegetation, this, this really  
16 doesn't have that. This area is been farmed we think probably in excess of  
17 100 years, I think that mapping goes back 1937. It's been farmed since that  
18 time. So, it's really a wetland because of topography and some old soils,  
19 etc. which it's a very low-quality wetland just because again it's being  
20 farmed. So, what we're proposing to do is take a very low-quality wetland  
21 with no vegetation and create a high-quality high-functioning wetland and  
22 mitigate that, just to the northeast so it's still functional in the same  
23 basin area for the wetlands to, so it's a higher quality and all the comments  
24 about filtering the water and cleaning it, slowing it down are all very  
25 important things. And so it's part of the reason that

1 we're happy to mitigate it and create more high-quality wetlands. Just a  
2 couple of other points that I've heard in the commentary tonight, we have a  
3 big impediment for future development in this area to the southwest, it's the  
4 landfill back there. So, I think just by nature of what's there, we're gonna  
5 only have so many allowable uses when we look at re-development. Notably,  
6 industrial as we talk about the proposed rezone site here and to the south.  
7 We're very comfortable with the single family to the northeast, the 79 lots.  
8 Again, we have a lot of action on those now, were looking forward to bringing  
9 them to homeowners and selling the end product. I think some of it, even  
10 when we talk about the impact it will or won't have, I believe later in your  
11 agenda tonight you have an additional subdivision directly across the street.  
12 So, I don't think, that the, we don't see this as a negative relating back to  
13 the subdivision. I'm here for any additional comments you might have. Thank  
14 you."

15  
16 Rick Donner, "Good evening, My name is Rick Donner. I'm the Attorney for  
17 Copart. My address in 1000 North Water Street, Milwaukee, Wisconsin. I  
18 appreciate the opportunity to be before this evening. So, as you know Copart  
19 is a publicly traded company with over 19 billion dollars in assets and more  
20 than 240 locations worldwide. Copart is excited about the opportunity to  
21 invest in the City of Franklin. I just wanted to touch on two points that  
22 were in the staff report and some of the comments made tonight. First, and  
23 follow up to what Mr. Mills said and what was in the staff report, the zoning  
24 request tonight for, being made tonight, from M1 to M2 is a more restrictive  
25 zoning. Salvage yards, used motor vehicle parts sales, and tire

1 sales are all allowed in the M1 current zoning. They are not allowed in the  
2 M2 zoning. Additionally, the proposed rezoning to M2 is consistent with the  
3 City's Comprehensive Master Plan. Second, the staff report, and again  
4 another point made by Mr. Mills and in the staff report, what we're talking  
5 about is a 10 acre section of the 44 acre parcel. The previous 33 acre  
6 section was approved, the rezoning was approved unanimously by this Council  
7 back in December. The second point from the staff report I just wanted to  
8 touch on was a report included from the City Engineer, describing a Copart  
9 facility in Caledonia. Just wanted to give a little background information  
10 on that. The facility in Caledonia is a temporary overflow lot that Copart  
11 has been using for less than a year. Copart's client base is expanding.  
12 Their clients include insurance companies, licensed dealers, financial  
13 institutions, charities, municipalities and fleet operators. So Copart needs  
14 additional storage space which is why it's developing to Milwaukee and  
15 proposes this site in Franklin. The lot is a temporary solution to address  
16 Copart's storage needs. Regarding the condition of these vehicle at the  
17 Caledonia lot as described in the report, the vehicles belong to Copart's  
18 clients. Copart never takes ownership of the vehicles despite a previous  
19 commentary tonight. Additionally, Copart can't predict what the vehicles are  
20 going to look like before it gets them. It also can't tell clients it will  
21 only take vehicles in a certain condition. Part of the service that Copart  
22 provides is a space for damaged vehicles to go while it's clients figure out  
23 what to do. So, when there are wild fires in California and floods in  
24 Houston, the cars can be efficiently removed to a Copart facility and clean  
25 up can begin. The report speculates that in 4-6 months damaged vehicles, the

1 damaged vehicles it describes will be moved to Copart. This is less than  
2 accurate for a few reasons. First, the Copart facility will not be ready in  
3 4-6 months. If those cars were to go anywhere, they would go to a Milwaukee  
4 facility. Second, there's a misunderstanding there in that what Copart does.  
5 The reality is the damaged cars noted in that report won't be around before  
6 any either facility in Milwaukee or Franklin is completed. If there's a  
7 significant car accident, what happens? The drivers call their insurance  
8 companies, the insurance companies have their vehicles towed to their  
9 preferred auto body garage, the garage determines if the vehicle is totaled.  
10 If it's totaled, the insurance company has the vehicle brought to a Copart  
11 facility. As a sidebar, it's important to note the vast majority of the  
12 fluids that may be leaking as talked about tonight as a result of the  
13 accident come out at the accident site or the body shop during the assessment  
14 process, not at a Copart facility. And Copart, like it's neighbors will also  
15 be on a well system. When the vehicle arrives at a Copart facility, it is  
16 inspected, photographed, and placed into storage. Once in storage, it is  
17 made available for sale on Copart's auction website for purchase by Copart  
18 registered members only. It's not available to the general public.  
19 Typically, if a vehicle is not sold within approximately 60 days, it may be  
20 because it's so severely damaged the insurance company sells it to a salvage  
21 operation. The salvage operator than promptly removes the vehicle from the  
22 Copart facility intact, in one piece. So, severely damaged cars are not  
23 going to sit for years at a Copart site, unlike they would at a junk yard.  
24 So, to remind everyone, there is no stacking, dismantling, performing of  
25 mechanical repairs, removal of tire or batteries, crushing, draining of

1 fluids or sale of parts at a Copart facility. It is not a used car lot and  
2 the facility is not open to the public. Representatives from Copart are here  
3 and available to answer questions. Thank you.”  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;">06/16/20</p>
<p style="text-align: center;"><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A CONSERVATION EASEMENT FOR LOT 84 OF RYAN MEADOWS.</b></p> <p style="text-align: center;"><b>(MILLS HOTEL WYOMING, LLC, APPLICANT) (GENERALLY ON THE EAST SIDE OF MONARCH DRIVE, SOUTH OF CHICORY STREET, AREA COMMONLY KNOWN AS AREA G)</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><i>G.3.</i></p>

As part of the review of the concurrent Certified Survey Map (CSM), staff noted that the CSM and one of the conservation easements for Lot No. 84 did not include the Shore Buffer as shown on the Natural Resource Protection Plan (NRPP). Staff recommended to revise the easement area to include the Shore Buffer. At its June 2, 2020, the Common Council tabled the conservation easement to this meeting.

The applicant submitted a conservation easement for Common Council approval to comply with the recommended conditions of approval for the CSM.

**COUNCIL ACTION REQUESTED**

A motion to adopt Resolution No. 2020-\_\_\_\_, a resolution authorizing certain officials to accept a conservation easement for lot 84 of Ryan Meadows (Mills Hotel Wyoming, LLC, applicant) (generally on the east side of Monarch Drive, south of Chicory Street, area commonly known as area G), subject to technical corrections by staff.

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

[6-10-2020]

RESOLUTION NO. 2020-\_\_\_\_\_

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A  
CONSERVATION EASEMENT FOR LOT 84 OF RYAN MEADOWS  
(MILLS HOTEL WYOMING, LLC, APPLICANT)  
(GENERALLY ON THE EAST SIDE OF MONARCH DRIVE, SOUTH  
OF CHICORY STREET, AREA COMMONLY KNOWN AS AREA G)

---

WHEREAS, the Common Council having approved the Ryan Meadows Final Plat upon the application of Mills Hotel Wyoming LLC, on September 17, 2019, and the Plan Commission having conditioned approval thereof in part upon Common Council approval of a Conservation Easement to protect the wetlands, wetland buffers and setbacks, ponds and shore buffers on the site; and

WHEREAS, §15-7.0603.B of the Unified Development Ordinance requires the submission of a Conservation Easement and Natural Resource Protection Plan in the Final Plat review process and the Unified Development Ordinance requires conservation easements to be imposed for natural resource features identified within such Plan to protect such features, all as part of the approval process for a Final Plat; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Conservation Easement submitted by Mills Hotel Wyoming LLC, in the form and content as annexed hereto, be and the same is hereby approved, subject to technical corrections by the Departments of City Development and Engineering as well as City Attorney; and the Mayor and City Clerk are hereby authorized to execute such Easement as evidence of the consent to and acceptance of such easement by the City of Franklin.

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

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

<p>APPROVAL</p> <p><i>slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>06/16/20</p>
<p>REPORTS &amp; RECOMMENDATIONS</p>	<p>A RESOLUTION AUTHORIZING THE INSTALLATION OF A FENCE WITHIN THE 30 FOOT LANDSCAPE PLANTING BUFFER PLAT RESTRICTION, UPON LOT 8 IN DOVER HILL SUBDIVISION</p> <p>(7244 SOUTH DOVER HILL COURT) (SCOTT A. MCELROY AND ANDREA L. MCELROY, APPLICANTS)</p>	<p>ITEM NUMBER</p> <p>G.4.</p>

On June 4, 2020, the Plan Commission *carried a motion to recommend approval of a Resolution authorizing the installation of a fence within the 30 foot landscape planting buffer plat restriction, upon Lot 8 in Dover Hill Subdivision (7244 South Dover Hill Court), and replace Condition No. 2 to make application for construction of shed paying fees per Ordinance where it is currently located within the landscape bufferyard easement and the shed is being released from the easement contingent upon obtaining a building permit.*

**COUNCIL ACTION REQUESTED**

A motion to adopt Resolution No. 2020-\_\_\_\_\_, authorizing the installation of a fence within the 30 foot landscape planting buffer plat restriction, upon Lot 8 in Dover Hill Subdivision (7244 South Dover Hill Court) as recommended by the Plan Commission.

RESOLUTION NO. 2020-\_\_\_\_\_

A RESOLUTION AUTHORIZING THE INSTALLATION OF A FENCE  
WITHIN THE 30 FOOT LANDSCAPE PLANTING BUFFER PLAT  
RESTRICTION, UPON LOT 8 IN DOVER HILL SUBDIVISION  
(7244 SOUTH DOVER HILL COURT)  
(SCOTT A. MCELROY AND ANDREA L. MCELROY, APPLICANTS)

WHEREAS, the Dover Hill Subdivision Plat prohibits the building of structures within the 30 foot “Landscape Planting Buffer” described thereon; and

WHEREAS, Scott A. McElroy and Andrea L. McElroy having applied for a release of the 30 foot “Landscape Planting Buffer” easement restriction upon their property to the extent necessary to install a black, aluminum, five foot tall colonial fence within the 30 Foot “Landscape Planting Buffer” located along the rear of the property line which abuts South 68th Street (the “Landscape Planting Buffer” extends approximately 866 feet along South 68th Street and overlaps 8 lots in Dover Hill Subdivision), property located at 7244 South Dover Hill Court, zoned Planned Development District No. 17 (Dover Hill Subdivision/Westminster Condominiums), bearing Tax Key No. 756-0220-000, more particularly described as follows:

Lot 8 in DOVER HILL, being a subdivision of a part of the Northeast 1/4 of the Northwest 1/4 of Section 10, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin; and

WHEREAS, the 30 foot “Landscape Planting Buffer” easement restriction upon the Final Plat for Dover Hill Subdivision and its accompanying restriction of the building of structures is a restriction which was imposed by the Franklin Common Council in its approval of the Final Plat; and

WHEREAS, Wis. Stats. § 236.293 provides in part that any restriction placed on platted land by covenant, grant of easement or in any other manner, which was required by a public body vests in the public body the right to enforce the restriction at law or in equity and that the restriction may be released or waived in writing by the public body having the right of enforcement; and

WHEREAS, the Common Council having considered the request for the release of the 30 foot “Landscape Planting Buffer” easement restriction only so as to allow for the subject fence installation, and having considered the proposed location of and type of fence to be installed upon the subject property in conjunction with existing and required landscaping on the property, and that the proposed fence will not be readily visible from the adjoining highway or create any adverse impact upon the aesthetic or buffering purposes of

the landscape bufferyard.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the installation of the proposed fence of the type and specifications as described and only upon the location as set forth within the plans accompanying the application of Scott A. McElroy and Andrea L. McElroy filed on March 23, 2020, be and the same is hereby authorized and approved and that the "Landscape Planting Buffer" easement restriction as it would otherwise apply to such installation upon the subject property only, is hereby waived and released, subject to the following conditions:

1. The subject fence shall not be constructed without first obtaining a fence permit from the Inspection Services Department.
2. The applicant shall apply for a building permit for the shed paying fees per Ordinance where it is currently located within the landscape bufferyard easement and the shed is being released from the easement contingent upon obtaining a building permit.
3. The subject fence shall not impede the stormwater drainage way.
4. This Resolution is not approving the removal of any landscaping features nor modifications to the topography within the landscape bufferyard easement area.

BE IT FURTHER RESOLVED, that the applicant shall further obtain all required permit(s) for the installation of the subject fence and that the subject fence shall be installed pursuant to such permit(s) within one year of the date hereof, or all approvals granted hereunder shall be null and void.

BE IT FINALLY RESOLVED, that the City Clerk be and the same is hereby directed to obtain the recording of this Resolution 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 \_\_\_\_\_, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

RESOLUTION NO. 2020-\_\_\_\_\_

Page 3

ATTEST:

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

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

RESOLUTION NO. 2020-\_\_\_\_\_

A RESOLUTION AUTHORIZING THE INSTALLATION OF A FENCE  
WITHIN THE 30 FOOT LANDSCAPE PLANTING BUFFER PLAT  
RESTRICTION, UPON LOT 8 IN DOVER HILL SUBDIVISION  
(7244 SOUTH DOVER HILL COURT)  
(SCOTT A. MCELROY AND ANDREA L. MCELROY, APPLICANTS)

WHEREAS, the Dover Hill Subdivision Plat prohibits the building of structures within the 30 foot "Landscape Planting Buffer" described thereon; and

WHEREAS, Scott A. McElroy and Andrea L. McElroy having applied for a release of the 30 foot "Landscape Planting Buffer" easement restriction upon their property to the extent necessary to install a black, aluminum, five foot tall colonial fence within the 30 Foot "Landscape Planting Buffer" located along the rear of the property line which abuts South 68th Street (the "Landscape Planting Buffer" extends approximately 866 feet along South 68th Street and overlaps 8 lots in Dover Hill Subdivision), property located at 7244 South Dover Hill Court, zoned Planned Development District No. 17 (Dover Hill Subdivision/Westminster Condominiums), bearing Tax Key No. 756-0220-000, more particularly described as follows:

Lot 8 in DOVER HILL, being a subdivision of a part of the Northeast 1/4 of the Northwest 1/4 of Section 10, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin; and

WHEREAS, the 30 foot "Landscape Planting Buffer" easement restriction upon the Final Plat for Dover Hill Subdivision and its accompanying restriction of the building of structures is a restriction which was imposed by the Franklin Common Council in its approval of the Final Plat; and

WHEREAS, Wis. Stats. § 236.293 provides in part that any restriction placed on platted land by covenant, grant of easement or in any other manner, which was required by a public body vests in the public body the right to enforce the restriction at law or in equity and that the restriction may be released or waived in writing by the public body having the right of enforcement; and

WHEREAS, the Common Council having considered the request for the release of the 30 foot "Landscape Planting Buffer" easement restriction only so as to allow for the subject fence installation, and having considered the proposed location of and type of fence to be installed upon the subject property in conjunction with existing and required landscaping on the property, and that the proposed fence will not be readily visible from the adjoining highway or create any adverse impact upon the aesthetic or buffering purposes of

the landscape bufferyard.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the installation of the proposed fence of the type and specifications as described and only upon the location as set forth within the plans accompanying the application of Scott A. McElroy and Andrea L. McElroy filed on March 23, 2020, be and the same is hereby authorized and approved and that the "Landscape Planting Buffer" easement restriction as it would otherwise apply to such installation upon the subject property only, is hereby waived and released, subject to the following conditions:

1. The subject fence shall not be constructed without first obtaining a fence permit from the Inspection Services Department.
2. The applicant shall remove or relocate the existing nonconforming shed to comply with the setbacks and easement restrictions of the Dover Hill subdivision plat and Planned Development District No. 17, prior to the issuance of a fence permit. A building permit is required for relocation of the subject shed.
3. The subject fence shall not impede the stormwater drainage way.
4. This Resolution is not approving the removal of any landscaping features nor modifications to the topography within the landscape bufferyard easement area.

BE IT FURTHER RESOLVED, that the applicant shall further obtain all required permit(s) for the installation of the subject fence and that the subject fence shall be installed pursuant to such permit(s) within one year of the date hereof, or all approvals granted hereunder shall be null and void.

BE IT FINALLY RESOLVED, that the City Clerk be and the same is hereby directed to obtain the recording of this Resolution 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 \_\_\_\_\_, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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



RESOLUTION NO. 2020-\_\_\_\_\_

Page 3

ATTEST:

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

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

## Franklin City Council and Planning

Prior to our meeting scheduled on next Thursday June 4<sup>th</sup> at 7:00PM, I would like to address the concern over the shed that is holding our fence request from being approved.

### 1 Shed Permit

We moved here in 1997 (over 23 years ago). Over 20 years ago we hired a carpenter to custom build the shed to be aesthetically appealing and to conform with Franklin requirements. We believed permits were pulled however failed to confirm. The shed is under 150 SQ FT (not 225 SQ FT stated in the resolution as having been estimated through aerial imagery) and it is below 15 Ft in height. Per the City of Franklin-Inspection Services "Garages and Accessory Building General Guidelines" sheds under 150 SQ FT are not required to be setback 40 FT from property line.

<https://franklinwi.gov/Files/Inspection/ACCBLDGrev2018.pdf> The area around the shed was landscaped as well

### 2 Shed Location

The shed was mistakenly built into the Landscaping easement a few years after we moved here. We were unaware of the easement that takes up over half our backyard. We were aware of the Home Owners Association that was in place until all lots were sold. The shed placement at that time was never a problem. Moving the shed is not an option as it would be too close to my house and affect rain flowage. It would need to be ripped down.

### 3 Landscaping Easement (Bufferyard)

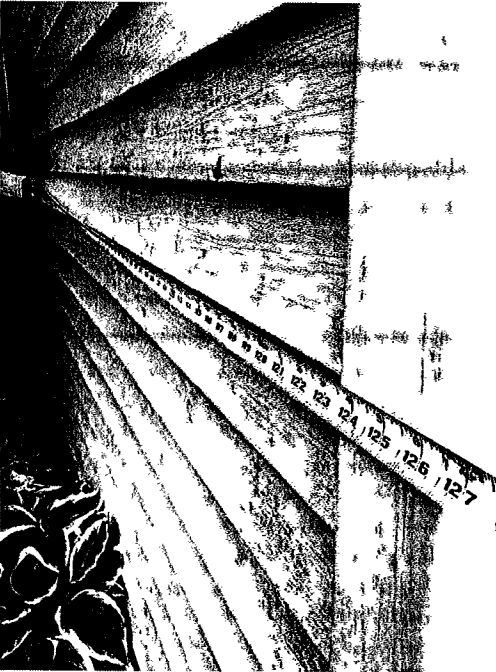
The City description of the Landscaping easement is to block noise more so for privacy for adjacent neighbors. Per definition, the intent of a "Bufferyard" is "to limit continuously the view and/or sound from the lot or site to adjacent lots or sites". We only have 68<sup>th</sup> street to the back side of the easement. I would think the easement was put in place to protect our newly developed neighborhood from street noise on 68<sup>th</sup> Street since it runs the span of all home whose property runs along that road. With the tree line going through the top of the easement our eight properties affected can barely be seen, to include my shed. With your aerial views you would be able to clearly see that we are not the only residents who have accidentally encroached this easement. I have had most of these same neighbors for 23 years and they were also unaware of the easement and are very concerned with the outcome of this decision as it may affect them as well.

Lastly, even if we pulled our request for approval of the fence you would still require us to rip the shed down. I believe that is an unfair request to ask of a long-standing tax payer of this community. We purposely chose Franklin as our community after a 20-year military career to raise our children. We are trying to do this right. At this point you have stated the fence has basically been approved, however, this is now a shed issue. We are pleading with the council to allow us to pay whatever fines you feel necessary and get a permit for the shed and release this easement for both the shed and fence.

Please see shed and measurement pictures below:



10 ft 6 inches



14 ft 4 inches



 **CITY OF FRANKLIN** 

**REPORT TO THE PLAN COMMISSION**

**Meeting of June 4, 2020**

**Miscellaneous application – Fence encroachment into a landscape bufferyard easement**

**RECOMMENDATION:** City Development Staff recommends approval of a Miscellaneous application to allow the encroachment of a fence into a landscape bufferyard easement, subject to the conditions set forth in the attached resolution.

<b>Project Name:</b>	McElroy, fence encroachment into a bufferyard easement.
<b>Project Address:</b>	7244 S. Dover Hill Ct
<b>Property Owner:</b>	Scott and Andrea McElroy.
<b>Applicant:</b>	Scott and Andrea McElroy.
<b>Zoning:</b>	PDD No. 17 Dover Hill – Westminster
<b>Use of Surrounding Properties:</b>	Residential – single family
<b>Comprehensive Plan:</b>	Residential
<b>Applicant Action Requested:</b>	Approval of Miscellaneous application

**Introduction:**

On March 23, 2020, Scott and Andrea McElroy submitted a Miscellaneous application to allow for the encroachment of a fence into a landscape bufferyard easement. The subject property is located in the Dover Hill subdivision, platted in 1993. Per the subdivision plat, the landscape bufferyard easement is 30-foot wide and extends approximately 866 feet along S 68<sup>th</sup> Street, the easement overlaps 8 lots of this subdivision

It is noted that this subdivision does not have a Homeowners Association (HOA) in operation.

The proposed black aluminum fence would enclose the rear yard of the property and would be 5-foot tall. The fence would be setback 3 feet from the rear property line (abutting 68<sup>th</sup> Street). According to the submitted materials, the purpose of this fence is to keep the family pet(s) in the backyard.

**Analysis:**

The subject property is a double frontage lot, with the front located in Dover Hill Ct and the rear in 68<sup>th</sup> street. The proposed fence complies with the Unified Development Ordinance (UDO) §15-3.0802.E 2.b which states as follows:

*In the case of a double-frontage lot, fences may be constructed to locate property lines in the yard opposite the front of the residence, provided such fence is constructed and maintained in compliance with all other applicable provisions of § 15-3 0802E*

However, the fence would encroach into a landscape bufferyard easement depicted in the Dover Hill subdivision plat. Even though staff did not find a separate document for this particular easement (if

any), it is a valid easement because it is graphically delineated in the recorded plat, which is consistent with the bufferyard definition.

According to the UDO definition for bufferyard, fences may be permitted within a bufferyard:

***Bufferyard***

*An area of land within the boundaries of a lot or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences, and/or berms, designed to limit continuously the view and/or sound from the lot or site to adjacent lots or sites. Bufferyards are typically defined by a delineated easement graphically indicated on the face of the Site Plan, Landscape Plan, Certified Survey Map, Subdivision Plat, or Condominium Plat. [emphasis added]*

In summary, staff has no objections to the fence encroachment into this landscape bufferyard easement. However, staff is concerned about the existing shed in the rear yard and is recommending its removal or relocation for the following reasons.

1. This shed does not comply with 40-foot rear setback, as required by the PDD Ordinance 92-1234, §13-19.D.3. The current location of this shed is approximately 11 feet from the rear property line, based on aerial imagery. The area of this shed is approximately 225 square feet
2. This shed is encroaching into the landscape bufferyard easement and it is not a permitted obstruction in accordance with the bufferyard definition.
3. This shed was installed without a building permit, see attached e-mail from the Department of Inspection Services

**STAFF RECOMMENDATION:**

City Development Staff recommends approval of a Miscellaneous application to allow the encroachment of a fence into a landscape bufferyard easement, subject to the removal or relocation of the existing nonconforming shed and other conditions set forth in the attached resolution

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

*[Draft 5-28-20]*

RESOLUTION NO. 2020-\_\_\_\_\_

A RESOLUTION AUTHORIZING THE INSTALLATION OF A FENCE  
WITHIN THE 30 FOOT LANDSCAPE PLANTING BUFFER PLAT  
RESTRICTION, UPON LOT 8 IN DOVER HILL SUBDIVISION  
(7244 SOUTH DOVER HILL COURT)  
(SCOTT A. MCELROY AND ANDREA L. MCELROY, APPLICANTS)

---

WHEREAS, the Dover Hill Subdivision Plat prohibits the building of structures within the 30 foot “Landscape Planting Buffer” described thereon; and

WHEREAS, Scott A. McElroy and Andrea L. McElroy having applied for a release of the 30 foot “Landscape Planting Buffer” easement restriction upon their property to the extent necessary to install a black, aluminum, five foot tall colonial fence within the 30 Foot “Landscape Planting Buffer” located along the rear of the property line which abuts South 68th Street (the “Landscape Planting Buffer” extends approximately 866 feet along South 68th Street and overlaps 8 lots in Dover Hill Subdivision), property located at 7244 South Dover Hill Court, zoned Planned Development District No. 17 (Dover Hill Subdivision/Westminster Condominiums), bearing Tax Key No. 756-0220-000, more particularly described as follows:

Lot 8 in DOVER HILL, being a subdivision of a part of the Northeast 1/4 of the Northwest 1/4 of Section 10, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin; and

WHEREAS, the 30 foot “Landscape Planting Buffer” easement restriction upon the Final Plat for Dover Hill Subdivision and its accompanying restriction of the building of structures is a restriction which was imposed by the Franklin Common Council in its approval of the Final Plat; and

WHEREAS, Wis. Stats. § 236.293 provides in part that any restriction placed on platted land by covenant, grant of easement or in any other manner, which was required by a public body vests in the public body the right to enforce the restriction at law or in equity and that the restriction may be released or waived in writing by the public body having the right of enforcement; and

WHEREAS, the Common Council having considered the request for the release of the 30 foot “Landscape Planting Buffer” easement restriction only so as to allow for the subject fence installation, and having considered the proposed location of and type of fence to be installed upon the subject property in conjunction with existing and required landscaping on the property, and that the proposed fence will not be readily visible from the adjoining highway or create any adverse impact upon the aesthetic or buffering purposes of

the landscape bufferyard.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the installation of the proposed fence of the type and specifications as described and only upon the location as set forth within the plans accompanying the application of Scott A. McElroy and Andrea L. McElroy filed on March 23, 2020, be and the same is hereby authorized and approved and that the "Landscape Planting Buffer" easement restriction as it would otherwise apply to such installation upon the subject property only, is hereby waived and released, subject to the following conditions:

1. The subject fence shall not be constructed without first obtaining a fence permit from the Inspection Services Department.
2. The applicant shall remove or relocate the existing nonconforming shed to comply with the setbacks and easement restrictions of the Dover Hill subdivision plat and Planned Development District No. 17, prior to the issuance of a fence permit. A building permit is required for relocation of the subject shed.
3. The subject fence shall not impede the stormwater drainage way.
4. This Resolution is not approving the removal of any landscaping features nor modifications to the topography within the landscape bufferyard easement area.

BE IT FURTHER RESOLVED, that the applicant shall further obtain all required permit(s) for the installation of the subject fence and that the subject fence shall be installed pursuant to such permit(s) within one year of the date hereof, or all approvals granted hereunder shall be null and void.

BE IT FINALLY RESOLVED, that the City Clerk be and the same is hereby directed to obtain the recording of this Resolution 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 \_\_\_\_\_, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

RESOLUTION NO. 2020-\_\_\_\_\_

Page 3

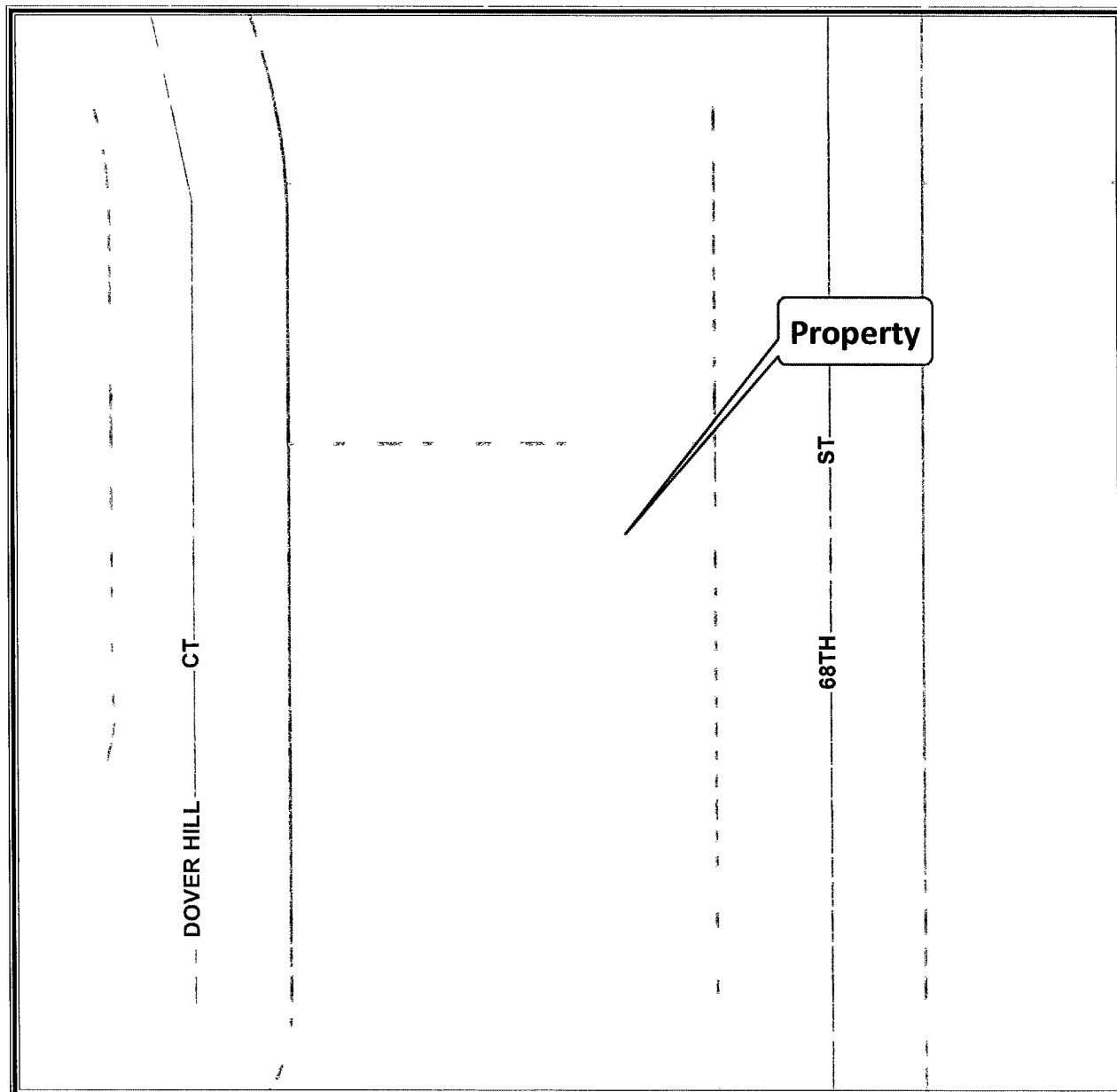
ATTEST:

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

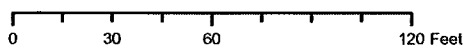
AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_



7244 S Dover Hill Ct  
TKN: 756 0220 000



Planning Department  
(414) 425-4024

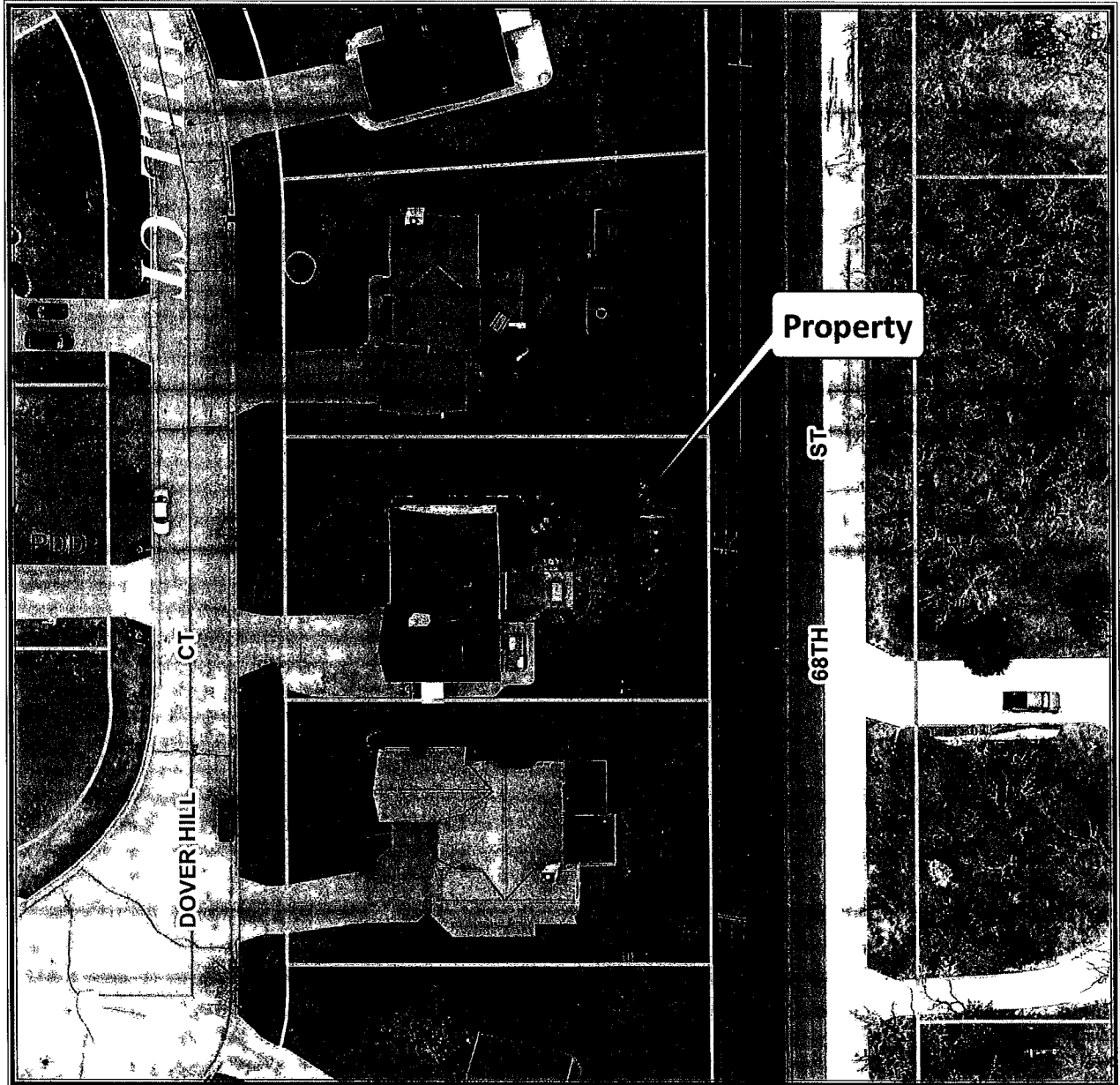


*This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal engineering or surveying purposes.*

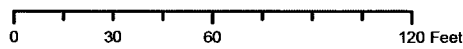




7244 S Dover Hill Ct  
TKN: 756 0220 000



Planning Department  
(414) 425-4024



2017 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.*

## Regulo Martinez-Montilva

---

**From:** Dale Hochevar  
**Sent:** Tuesday, May 5, 2020 8 10 AM  
**To:** Regulo Martinez-Montilva  
**Subject:** RE 7244 S Dover Hill Ct

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Regulo,

There is not a permit in the file for a shed for this address

Thanks!

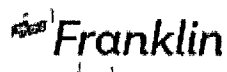
Dale

**From:** Regulo Martinez-Montilva  
**Sent:** Monday, May 4, 2020 3:32 PM  
**To:** Dale Hochevar <DHochevar@franklinwi.gov>  
**Subject:** 7244 S Dover Hill Ct

Dale,

We are reviewing an application to allow for the encroachment of a fence into a landscape bufferyard easement I noticed a shed in the rear yard that is likely located in the easement area I did not find a permit in Govern, do you have a permit record of this shed in your files?

Thanks,  
**Régulo Martínez-Montilva, AICP**  
Associate Planner - Department of City Development  
City of Franklin  
9229 W Loomis Road  
Franklin, WI 53132  
Phone (414) 425-4024 / 427-7564  
[RMartinez-Montilva@franklinwi.gov](mailto:RMartinez-Montilva@franklinwi.gov)





# DOVER HILL

BEING A SUBDIVISION OF A PART OF THE NE 1/4 OF THE NW 1/4 OF SECTION 10, TOWN 5 NORTH, RANGE 21 EAST IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY WISCONSIN.

### SURVEYOR'S CERTIFICATE

I, KENNETH E. BERKE, A REGISTERED WISCONSIN LAND SURVEYOR, DO HEREBY CERTIFY THAT I HAVE SURVEYED, DIVIDED AND MAPPED DOVER HILL, BEING A SUBDIVISION OF A PART OF THE NE 1/4 OF THE NW 1/4 OF SECTION 10, T 5 N, R 21 E, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NW 1/4 SECTION; THENCE SOUTH 00° 06' 53" EAST ALONG THE EAST LINE OF SAID 1/4 SECTION 405.00 FT TO THE POINT OF BEGINNING OF THE LANDS TO BE DESCRIBED; THENCE CONTINUING SOUTH 00° 06' 53" EAST ALONG SAID EAST LINE 917.24 FT TO A POINT;

THENCE SOUTH 89° 29' 14" WEST 785.89 FT. TO A POINT;  
 THENCE NORTH 00° 21' 37" EAST 285.27 FT TO A POINT;  
 THENCE NORTH 31° 31' 43" EAST 80.17 FT TO A POINT;  
 THENCE NORTH 05° 44' 40" WEST 204.23 FT TO A POINT;  
 THENCE NORTH 84° 15' 20" EAST 25.70 FT. TO A POINT;  
 THENCE NORTHEASTERLY 18.31 FT ALONG THE ARC OF A CURVE WHOSE CENTER LIES TO THE NORTHWEST, WHOSE RADIUS IS 200.00 FT. AND WHOSE CHORD BEARS NORTH 82° 27' 30" EAST 16.31 FT TO A POINT;  
 THENCE NORTH 09° 20' 20" WEST 145.00 FT. TO A POINT;  
 THENCE NORTH 6° 48' 28" EAST 55.00 FT TO A POINT;  
 THENCE NORTH 47° 13' 49" EAST 67.48 FT TO A POINT;  
 THENCE NORTH 32° 23' 32" EAST 208.15 FT TO A POINT;  
 THENCE NORTH 44° 35' 26" EAST 114.34 FT. TO A POINT;  
 THENCE NORTH 38° 29' 40" EAST 114.13 FT. TO A POINT;  
 THENCE NORTH 78° 00' 30" EAST 131.95 FT. TO A POINT;  
 THENCE SOUTH 00° 06' 53" EAST 130.00 FT. TO A POINT;  
 THENCE NORTHEASTERLY 20.35 FT. ALONG THE ARC OF A CURVE WHOSE CENTER LIES TO THE SOUTHWEST WHOSE RADIUS IS 340.00 FT AND WHOSE CHORD BEARS NORTH 79° 16' 03.5" EAST 20.35 FT TO A POINT;  
 THENCE SOUTH 00° 06' 53" EAST 36.30 FT TO A POINT;  
 THENCE NORTH 89° 29' 14" EAST 215.00 FT. TO THE POINT OF BEGINNING, EXCEPTING AND DEDICATING THEREFROM LOTS FOR PUBLIC STREET PURPOSES AS SHOWN.

THAT I HAVE MADE THIS SURVEY LAND DIVISION AND PLAT BY THE DIRECTION OF DOVER HILL, A PARTNERSHIP.

THAT SUCH PLAT 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 OF THE WISCONSIN STATUTES AND THE SUBDIVISION REGULATIONS OF THE CITY OF FRANKLIN IN SURVEYING, DIVIDING AND MAPPING THE SAME.

DATED THIS 23<sup>rd</sup> DAY OF JUNE 1993  
 REVISED THIS 8<sup>th</sup> DAY OF SEPTEMBER 1993  
 REVISED THIS 10<sup>th</sup> DAY OF JANUARY 1994  
 REVISED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 1994



*Kenneth E. Berke* (SEAL)  
 KENNETH E. BERKE  
 WISCONSIN REGISTERED LAND SURVEYOR 5-107

### OWNER'S CERTIFICATE

DOVER HILL, A PARTNERSHIP, AS OWNERS, DO HEREBY CERTIFY THAT THEY CAUSED THE LAND DESCRIBED IN THE FOREGOING AFFIDAVIT OF KENNETH E. BERKE, SURVEYOR, TO BE SURVEYED, DIVIDED, MAPPED AND DEDICATED AS REPRESENTED ON THIS PLAT.

DOVER HILL, A PARTNERSHIP, AS OWNERS DO FURTHER CERTIFY THAT THIS PLAT IS REQUIRED BY S.236.10 OR 236.12 TO BE SUBMITTED TO THE FOLLOWING FOR APPROVAL OR OBJECTION:

- DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
- MILWAUKEE COUNTY
- CITY OF FRANKLIN

WITNESS THE HANDS AND SEALS OF SAID PARTNERS, THIS 23 DAY OF JUNE 1993

IN THE PRESENCE OF:

*Paul J. Burbach, Jr.*  
 Paul J. Burbach, Jr. GENERAL PARTNER

*Terrance J. Arken*  
 Terrance J. Arken GENERAL PARTNER

STATE OF WISCONSIN) SS  
 MILWAUKEE COUNTY (

PERSONALLY CAME BEFORE ME THIS 23rd DAY OF June 1993 THE ABOVE NAMED PAUL J. BURBACH, AND TERRANCE J. ARKEN, AS PARTNERS IN DOVER HILL, A PARTNERSHIP, TO ME KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAME.

*Carol E. Arnold*  
 NOTARY PUBLIC, STATE OF WISCONSIN  
 MY COMMISSION EXPIRES 10/17/95  
 MY COMMISSION IS PERMANENT



### CONSENT OF CORPORATE MORTGAGEE

UNIVERSITY NATIONAL BANK, 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, RESTRICTING AND DEDICATION OF THE LAND DESCRIBED IN THE FOREGOING CERTIFICATE OF KENNETH E. BERKE, SURVEYOR AND DOES HEREBY CONSENT TO THE ABOVE CERTIFICATE OF DOVER HILL, A PARTNERSHIP.

IN WITNESS WHEREOF THE SAID UNIVERSITY NATIONAL BANK HAS CAUSED THESE PRESENTS TO BE SIGNED BY PHILIP F. HUDSON ITS PRESIDENT AND COUNTERSIGNED BY David R. Johnson ITS Asst. Vice President AT MILWAUKEE, WISCONSIN THIS 24 DAY OF JUNE 1993.

IN THE PRESENCE OF:

*Philip F. Hudson*  
 PHILIP F. HUDSON, PRESIDENT

*David R. Johnson*  
 COUNTERSIGNED BY

STATE OF WISCONSIN) SS  
 MILWAUKEE COUNTY (

PERSONALLY CAME BEFORE ME THIS 24 DAY OF JUNE 1993 PHILIP F. HUDSON AND David R. Johnson OF THE ABOVE NAMED CORPORATION TO ME KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND TO ME KNOWN TO BE SUCH PRESIDENT AND Asst. Vice President OF THE ABOVE NAMED CORPORATION AND ACKNOWLEDGED THAT THEY EXECUTED THE FOREGOING INSTRUMENT AS SUCH OFFICERS AS THE DEED OF SUCH CORPORATION, BY ITS AUTHORITY

*David R. Johnson* (SEAL)  
 NOTARY PUBLIC, STATE OF WISCONSIN  
 MY COMMISSION EXPIRES JUNE 15, 1997  
 MY COMMISSION IS PERMANENT

### CERTIFICATE OF CITY TREASURER

I, James C. Payne, BEING THE DULY APPOINTED, QUALIFIED AND ACTING CITY TREASURER OF THE CITY OF FRANKLIN, DO HEREBY CERTIFY THAT COPIES OF THIS PLAT WERE FORWARDED AS MY OFFICE THERE ARE NO UNPAID TAXES OR SPECIAL ASSESSMENTS AS OF June 8, 1994 ON ANY OF THE LANDS INCLUDED IN THE PLAT OF DOVER HILL.

SUBDIVISION \_\_\_\_\_

DATE March 3, 1994

*James C. Payne*  
 JAMES C. PAYNE, CITY TREASURER

### CERTIFICATE OF CITY CLERK

I, JAMES C. PAYNE, BEING THE DULY APPOINTED, QUALIFIED AND ACTING CLERK OF THE CITY OF FRANKLIN, DO HEREBY CERTIFY THAT COPIES OF THIS PLAT WERE FORWARDED AS REQUIRED BY S.236.12(2) ON THE 23 DAY OF June 1993 AND THAT WITHIN THE TWENTY (20) DAY LIMIT, S. 236.12 (3) NO OBJECTIONS TO THE PLAT HAVE BEEN FILED, OR ALL OBJECTIONS TO THE PLAT HAVE BEEN MET.

DATE March 8, 1994

*James C. Payne*  
 JAMES C. PAYNE, CITY CLERK

### CERTIFICATE OF COUNTY TREASURER

I, THOMAS W. NEWMAN, BEING THE DULY APPOINTED COUNTY TREASURER OF THE COUNTY OF MILWAUKEE, DO HEREBY CERTIFY THAT THE RECORDS IN MY OFFICE SHOW NO UNREDEEMED TAX SALES AND NO UNPAID TAXES OR SPECIAL ASSESSMENTS AS OF June 8, 1994 AFFECTING THE LANDS INCLUDED IN THE PLAT OF DOVER HILL.

SUBDIVISION \_\_\_\_\_

DATE June 8, 1994

*Thomas W. Newman*  
 THOMAS W. NEWMAN, COUNTY TREASURER

### COMMON COUNCIL RESOLUTION

RESOLVED THAT THE PLAT OF DOVER HILL, IN THE CITY OF FRANKLIN, WISCONSIN, DOVER HILL, A PARTNERSHIP AS OWNER, IS HEREBY APPROVED CONDITIONALLY BY THE COMMON COUNCIL.

DATE March 8, 1994

APPROVED AND SIGNED: Frederick F. Klumetz, MAYOR



I HEREBY CERTIFY THAT THE FOREGOING IS A COPY OF A RESOLUTION ADOPTED BY THE COMMON COUNCIL OF THE CITY OF FRANKLIN AND THAT ALL THE CONDITIONS FOR APPROVAL HAVE BEEN MET AS OF THE 10 DAY OF June 1993.

*James C. Payne*  
 JAMES C. PAYNE, CITY CLERK



**national survey & engineering**  
 4125 north 124th street brookfield, wisconsin, 53005-4444  
 phone 414/781-1000 fax 414/781-8466 telex 414/781-0514

## MEMORANDUM

Date May 8, 2020  
To. Scott and Andrea McElroy  
From Department of City Development  
RE: Miscellaneous application - 7244 S. Dover Hill Ct.

---

On March 23, 2020, Scott and Andrea McElroy submitted a Miscellaneous application to allow the encroachment of a fence into a landscape bufferyard easement, review comments are as follows:

### **City Development Department comments**

1. Per Franklin Property Viewer aerial imagery, an existing shed is encroaching into the 30-foot landscape bufferyard easement. Staff did not find records of this encroachment in the City Development Department files. It is noted that this shed is not allowed in such easement, unless approved by the Common Council and/or Homeowners Association. Please clarify.
2. Have you contacted the Homeowners Association about this fence project? Fencing may require a separate approval from the Homeowners Association
- 3 Please note that in addition to this application, a building permit would be required prior to commencement of work For more information, call the Inspection Services Department at 414-425-0084.
- 4 Are you proposing any landscaping associated with this fence?
5. Any separation between the fence and the property line? If so, please add dimensions to the sketch plan.

### **Engineering Department comments**

6. Landscape easement (or sound barrier, abutting South 68th Street) was created per the UDO requirement? We have no files of this easement. The City may not have the authority to approve their request They need to check the HOA documents regarding this easement
7. The proposed fence should not impede the stormwater drainage way.

### **Fire Department comments**

8. The fire department has no comments

### **Police Department comments**

- 9 The police Department has no objections.

May 11, 2020

To: Department of City Development

From: Scott and Andrea McElroy

RE: Miscellaneous application – 7244 S Dover Hill Ct

To Whom it May Concern:

On May 8, 2020 we were provided with “Staff Comments” regarding our Miscellaneous application submitted March 23, 2020 to allow us to place a fence on the “landscape bufferyard easement” Below is our response to the comments received

**City Development Department comments**

- 1 Per Franklin Property Viewer aerial imagery, an existing shed is encroaching into the 30-foot landscape bufferyard easement. Staff did not find records of this encroachment in the City Development Department files It is noted that this shed is not allowed in such easement, unless approved by the Common Council and/or Homeowners Association Please clarify.

**Response**

- a. *There is a shed in what we now understand is a “bufferyard easement” of 30 feet from the property line. The shed was built shortly after we moved into the house in 1997; we were unaware of an easement at that time. We added 3 arborvitaes to flank each side with a decorative pathway on each side as well. The design was created to be a similar style to the house. We were unaware of the need for special application to add a 10’ X 14’ shed on our property.*
  - b. *Other homeowners have also used the easement to place sheds, hot tubs, garden beds, etc. in their yard.*
  - c. *We respectfully suggest that the shed is immaterial to the request to use our full back yard to place a fence, the 30’ easement is ½ of the back yard and comes past where the yard begins to slope for the sound barrier to 68<sup>th</sup> St.*
2. Have you contacted the Homeowners Association about this fence project? Fencing may require a separate approval from the Homeowners Association

**Response**

- a. *There is no homeowner association for Dover Hill. Karek Builders and Regulo Martinez-Montilva have confirmed.*
  - b. *The builder has no record of the original covenants and restrictions that may have been in place prior to the completion of this subdivision. Their records date back only to 2003 per record retention policy. They informed me that any covenants and restrictions would have been dissolved since no formal association as created and filed with the City*
- 3 Please note that in addition to this application, a building permit would be required prior to commencement of work For more information, call the Inspection Services Department at 414-425-0084.

**Response:**

- a. *The City of Franklin Building Permit application has been completed and will be submitted the week of 5/11/2020.*

- 4 Are you proposing any landscaping associated with this fence?

**Response:**

*No*

- 5 Any separation between the fence and the property line? If so, please add dimensions to the sketch plan

**Response:**

- a. *Dimensions added*
  - i. *South side = 6" (inches)*
  - ii. *Back (East) = 3 feet*
  - iii. *North = 3 feet*

**Engineering Department comments**

6. Landscape easement (or sound barrier, abutting South 68th Street) was created per the UDO requirement? We have no files of this easement. **The City may not have the authority to approve their request.** They need to check the HOA documents regarding this easement

**Response:**

- a. *We do not know if the easement was created per the UDO requirement; respectfully we would expect the City Planning department to have that information*
  - b. *If the Engineering Department has no files of the easement we do not understand the concern about using the full length of our yard*
  - c. *If there is no authority for the City to approve as engineering suggests, then is furtherance of this process necessary?*
  - d. *There is no homeowners association and no documents – see explanation 2(a) & (b) above*
  - e. *As of Monday May 11, 2020 the bolded information above in Item 6 of the staff comments has been forwarded by Regulo Martinez-Montilva to the City Attorney for further review*
- 7 The proposed fence should not impede the stormwater drainage way

**Response:**

- a. *This is good to know*

**Fire Department comments**

- 8 The fire department has no comments

**Police Department comments**

- 9 The police Department has no objections





Date of Application: 3/21/2020

### MISCELLANEOUS APPLICATION

Complete, accurate and specific information must be entered. Please Print.

<p><b>Applicant</b> (Full Legal Name[s]):          Name: <u>Scott &amp; Andrea McElroy</u>          Company: <u>N/A</u>          Mailing Address: <u>7244 Dover Hill CT</u>          City / State: <u>Franklin WI</u> Zip: <u>53132</u>          Phone: <u>(414) 870-4504 or (414) 313-2673</u>          Email Address: <u>Scott.McElroy@casece.com or Andrea.McElroy@aurora.org</u></p> <p><b>Project Property Information:</b>          Property Address: <u>7244 Dover Hill CT Franklin, WI 53132</u>          Property Owner(s): <u>Scott &amp; Andrea McElroy</u></p> <p>Mailing Address: <u>7244 Dover Hill CT</u>          City / State: <u>Franklin, WI</u> Zip: <u>53132</u>          Email Address: <u>Scott.McElroy@casece.com or Andrea.McElroy@aurora.org</u></p>	<p><b>Applicant is Represented by (contact person)</b> (Full Legal Name[s]):          Name: _____          Company: _____          Mailing Address: _____          City / State: _____ Zip: _____          Phone: _____          Email Address: _____</p> <p>Tax Key Nos: _____</p> <p>Existing Zoning: _____          Existing Use: <u>Landscape Easement Release</u>          Proposed Use: <u>Same as current but with a decorative fence</u>          Future Land Use Identification: _____</p>
--	---

\*The 2025 Comprehensive Master Plan Future Land Use Map is available at: <http://www.franklinwi.gov/Home/Resources/Documents/Maps.htm>

**Miscellaneous Application submittals for review must include and be accompanied by the following:**

- This Application form accurately completed with original signature(s). Facsimiles and copies will not be accepted.
- Application Filing Fee, payable to City of Franklin:  \$125
- Legal Description for the subject property (WORD.doc or compatible format).
- (1) original and six (6) copies of a written Project Narrative, including detailed description of the project.
- Other information as may be deemed appropriate for the request.

- Upon receipt of a complete submittal, staff review will be conducted within ten business days.
- Submittal of Application for review is not a guarantee of approval.
- Plan Commission, Community Development Authority and/or Common Council review and approval may be required.

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

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

Scott A McElroy  
 Signature - Property Owner  
Scott A. McElroy  
 Name & Title (PRINT)  
 Date: 3/23/2020

Andrea McElroy  
 Signature - Property Owner  
Andrea McElroy  
 Name & Title (PRINT)  
 Date: 3/23/2020

Scott A McElroy  
 Signature - Applicant  
Scott A. McElroy  
 Name & Title (PRINT)  
 Date: 3/23/2020

Andrea McElroy  
 Signature - Applicant's Representative  
Andrea McElroy  
 Name & Title (PRINT)  
 Date: 3/23/2020

SCOTT A McELROY  
ANDREA L McELROY  
7244 DOVER HILL CT  
FRANKLIN, WI 53132-9053

2-2566/710

5879

DATE 3-23-2020

PAY TO THE  
ORDER OF

City of Franklin

\$125.00

One Hundred Twenty-Five and <sup>00</sup>/<sub>100</sub>

DOLLARS

Security Features  
Included  
Details on Back.

**BMO**  **Harris Bank**  
BMO Harris Bank N.A.  
Chicago, Illinois

MEMO

Fence approval

Andrea McElroy

MP

⑆071025661⑆ ~~552405480~~ ⑆05879

# REQUEST FOR RELEASE OF 30' LANDSCAPE EASEMENT

For: 7244 Dover Hill CT Franklin WI 52132

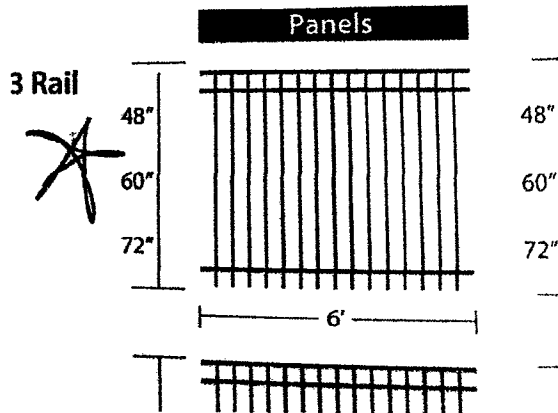
## Description of project:

As 23year residents at the above address, we, Andrea and Scott McElroy are respectfully requesting the release of the 30' landscaping easement so we can have the professional company of C & M Fencing install a black 3 rail ornamental aluminum 5' colonial fence as seen below in our backyard.



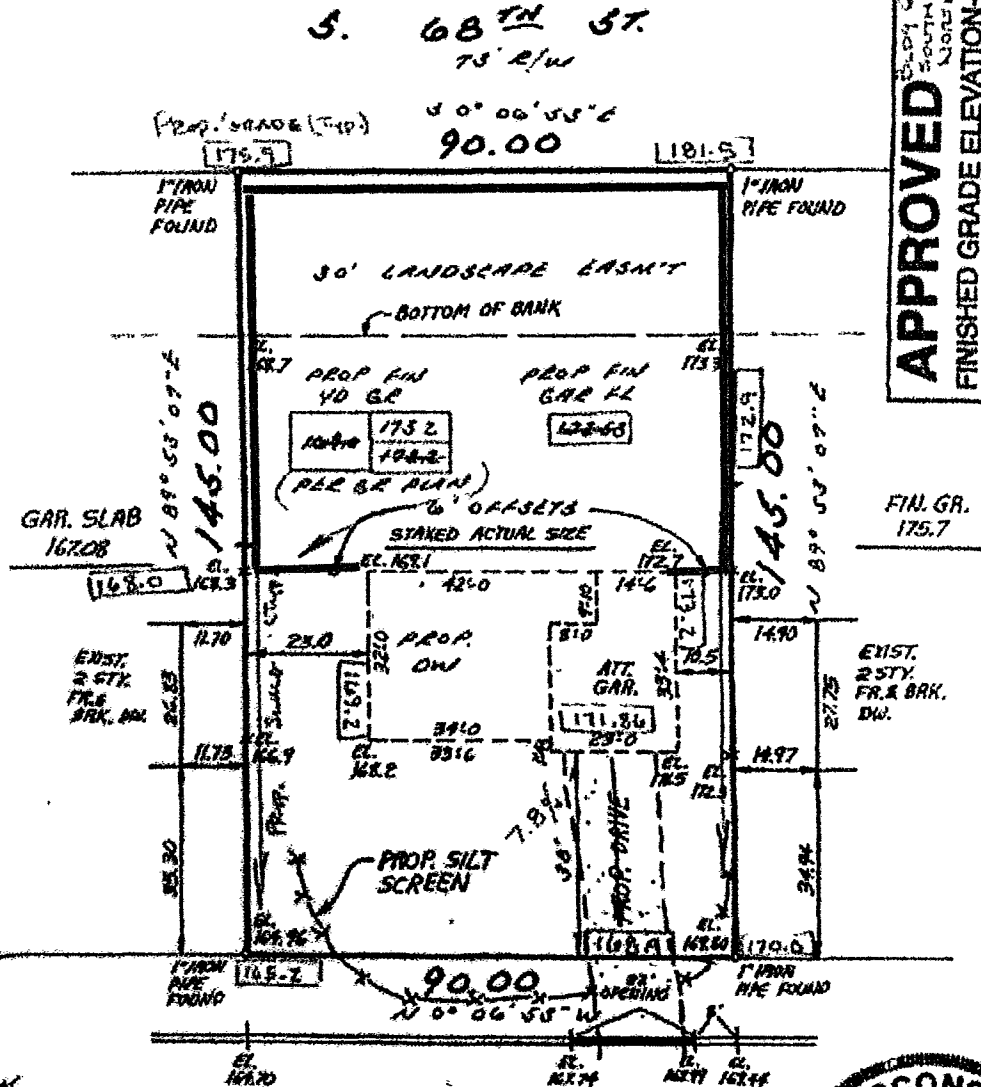
## Universal

1" Rails & 5/8" Pickets



- The fence location will be below in red on the plat survey.

Wing Only  
 lding Staked 8/4/95  
 laed Drawing 8/9/95



**APPROVED**  
 FINISHED GRADE ELEVATION - 171.84  
 AT THE PLACE CITY OF FRANKLIN DATUM  
 N 89° 53' 07" E  
 SOUTH = 173.70  
 NORTH = 149.70

B.M. HYD. BETWEEN  
 2078 627  
 NW FLAG. BOLT  
 EL. 143.00

**DOVER HILL CT.**  
 60' R/W

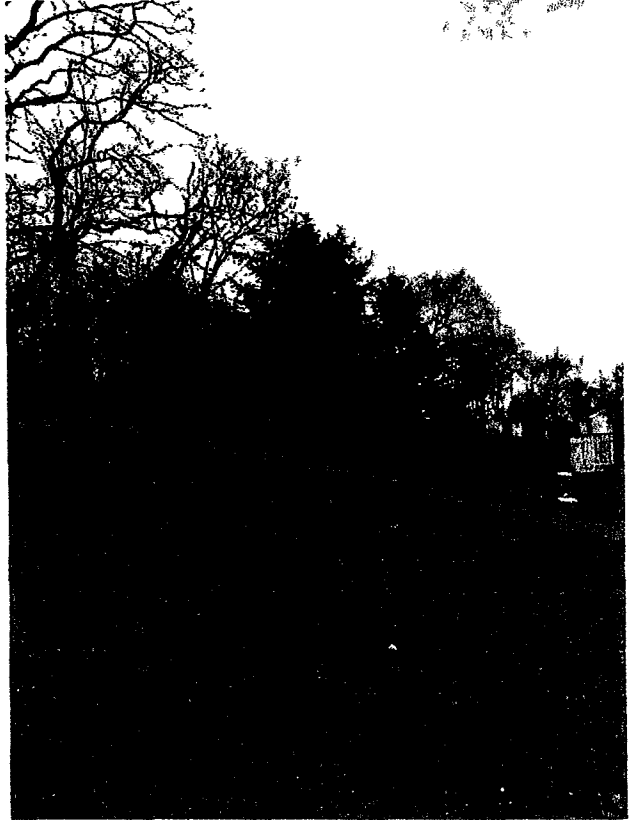
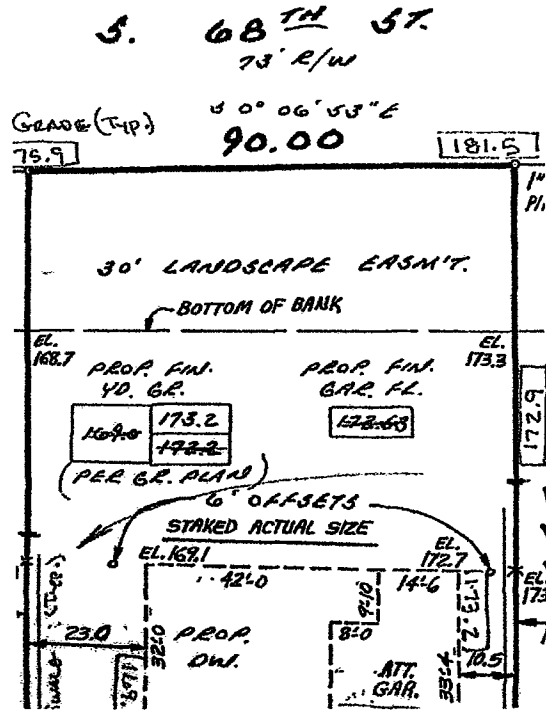


**POPOLITAN SURVEY SERVICE, INC.**

WARRANTY CERTIFICATE: I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE A...

- RED Line showing proposed fence location

- BLUE Line represents location of 30' landscaping easement
- RED Line represents location of fence request




**Justification and reasons for approval of release of landscaping easement:**

- Wooded growth over the many years between 68<sup>th</sup> St, and the back of our property has created natural privacy and buffer from the traffic.
- The 30' landscaping easement/berm takes up nearly 50% of my backyard for which we pay significantly in taxes for.
- The aluminum ornamental fence is aesthetically pleasing and accepted by the nearby neighbors as a high dollar improvement to enclose our yard while increasing a level of privacy for the neighboring houses.
- All properties with in this subdivision have been established over 20 years ago with many owners adding, utilizing, and improving their properties to include their property with in landscaping easement space with no negative impact to the neighborhood.
- The ornamental fence request is to protect our family puppy from leaving our backyard into 68<sup>th</sup> St.
- Section 15.11.0103 of the Unified Development Ordinance (UDO) defines a bufferyard as follows:

An area of land within the boundaries of a lot or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences, and/or berms, designed to limit continuously the view and/or sound from the lot or site to adjacent lots or sites. Bufferyards are typically defined by a delineated easement graphically indicated on the face of the Site Plan, Landscape Plan, Certified Survey Map, Subdivision Plat, or Condominium Plat. Bufferyards may be required between zoning districts and/or land uses to eliminate or minimize conflicts between them as set forth in Division 15-3.0300 of this Ordinance.

Lastly, as long-standing citizens and contributors to the Franklin community we feel our request for release of the 30' landscaping and bufferyard space has no negative impact on Franklin or our neighborhood. We respectfully ask that you grant approval.

Scott A. McElroy  Date: 3/23/2020

Andrea L. McElroy  Date: 3/23/2020

Spec

### PLAT OF SURVEY

**LOCATION:** 7244 Dover Hill Court, Franklin, Wisconsin

### LEGAL DESCRIPTION:

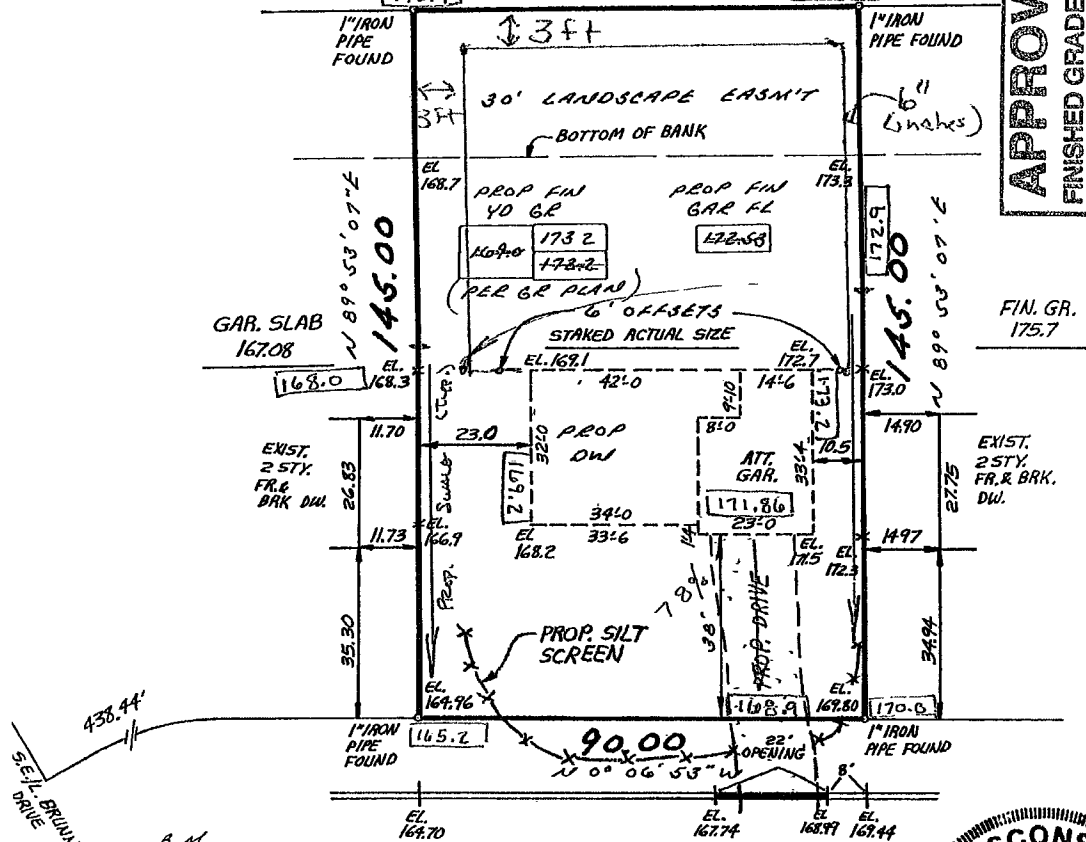
Lot 8 in DOVER HILL, being a subdivision of a part of the Northeast 1/4 of the Northwest 1/4 of Section 10, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

August 2, 1995  
Drawing Only  
Building Staked 8/4/95  
Revised Drawing 8/9/95

Survey No. 85550

5. 68<sup>TH</sup> ST.  
75' R/W

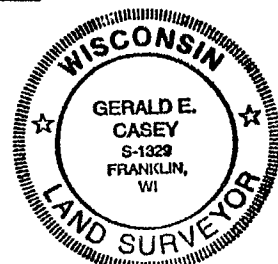
Prop. Grade (TYP) 0° 06' 53" E  
175.9 90.00 181.5



**APPROVED**  
 Finished Grade Elevation - 171.86  
 AT LARGE, CITY OF FRANKLIN DATUM  
 W.A.B. 8-30-95  
 CITY ENGINEER PER DATE

B.M.  
 HYD BETWEEN  
 LOTS 6 & 7  
 NW FLNG BOLT  
 EL. = 163.00

DOVER HILL CT.  
 60' R/W



**METROPOLITAN SURVEY SERVICE, INC.**  
 REGISTERED LAND SURVEYORS  
 3415 W FOREST HOME AVE., SUITE 202, HALES CORNERS, WI 53130  
 PH. 529-5380 FAX 529-9787

I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY, ITS EXTERIOR BOUNDARIES, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS AND ROADWAYS AND VISIBLE ENCROACHMENTS, IF ANY.

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM DATE HEREOF

**CITY OF FRANKLIN**  
**BUILDING PERMIT APPLICATION**  
 9229 W LOOMIS ROAD, FRANKLIN, WI 53132  
 Phone (414) 425-0084 Fax (414) 425-7513  
 Application Forms and Handouts can be found at

Application No. \_\_\_\_\_  
 Permit No. \_\_\_\_\_

Project Address: 7244 S. Dover Hill Ct Unit or Suite #: \_\_\_\_\_ Project/Business Name (if applicable): Fence

Property Owner's Name: Scott & Andrea McElroy  Owner resides or will reside at job address Email Address: andrea.mcelroy@qah.org  
 Mailing Address: 7244 Dover Hill Ct Franklin WI City: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: 414-870-4504

Contractor Name: C + M Fencing WI DC# / Exp Date: N/A  
 Dwelling Contractor Qualifier Name (1 or 2 family dwellings): N/A WI DCQ# / Exp Date: \_\_\_\_\_ Email Address: Cmfencing@yahoo.com

Mailing Address: 5039 S Loftus Ct. New Berlin WI 53151 City: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: 414-338-0951  
 Applicant (if other than owner or contractor): owner Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

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

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

- New (other than 1 & 2 family)  Fence - Type and Height: 5' - (Colonial) 3 rail
  - Addition  Spa/Hot Tub  On Slab  On Deck Aluminum Fence
  - Alteration  Pool  In Ground  Above Ground (Ht above ground) \_\_\_\_\_
  - Demolition  Deck  Attached  Detached  Pool
  - Building Damage Repair  Occupancy - \$200 plus \$7 Technology Fee
  - Building Move  Accessory Bldg./Garage (> 120 sq. ft.) Size \_\_\_\_\_ on slab
  - Foundation Repair  Fireplace  Other \_\_\_\_\_
  - Accessory Building (wood) OR  Prefab Storage Encl (metal, vinyl, resin) (120 sq. ft. or <) Size \_\_\_\_\_
  - Reroofing  Complete Tear Off  Over One Layer - Type of Material \_\_\_\_\_
  - Residing - Existing Material \_\_\_\_\_ Replacement Material \_\_\_\_\_
- Additional Project Description \_\_\_\_\_

Estimate "Net" Total Project Cost. \$ \_\_\_\_\_ Estimate Total Project Cost: \$ \_\_\_\_\_  
 ("Net" excludes cost for Plumbing/Electrical/HVAC work)

**Cautionary Statement To Owners Obtaining Building Permits**

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

CONTACT PERSON (print): Andrea McElroy PHONE: 414-870-4504  
 APPLICANT'S SIGNATURE: [Signature] DATE: 5/18/2020

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

BLDG PERMIT APP rev 11/2019

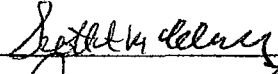
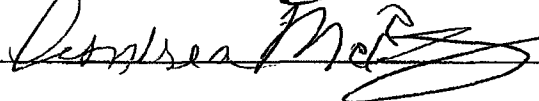


**OWNER'S ACKNOWLEDGEMENT OF CONDITIONS FOR FENCES LOCATED IN  
WE ENERGIES UTILITY EASEMENTS**

Fences may be permitted in We Energies utility easements only subject to the following:

1. The fence shall not be positioned nearer than 3' to any side of a transformer if present.
2. The fence shall not be positioned nearer than 10' to the door of any transformer if present.  
*EXCEPTION: If a gate or easily removable section of fence is positioned directly in front of the door and measures at least as wide as the door to the transformer, the distance may be reduced to 3'.*
3. We Energies will not repair or replace any portion of the fence in the utility easement if the fence needs to be removed for any utility work including clearing obstructions in the easement area.
4. The fence shall not be attached to any utility equipment.
5. "Digger's Hotline" shall be contacted prior to any excavation work.
6. This authorization only applies to We Energies utility easements.

Property Owner(s) hereby acknowledges that he/she has read and understands the above conditions:

Sign  Print Scott McElroy  
Sign  Print Andrea McElroy

**NOTE: The owner must sign this acknowledgement and include it with their fence permit submittal.**

**BLANK PAGE**

<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;">06/16/20</p>
<p style="text-align: center;"><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A LANDSCAPE BUFFERYARD EASEMENT FOR AND AS PART OF THE APPROVAL OF A 2 LOT CERTIFIED SURVEY MAP, BEING A DIVISION OF A PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 21 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN (ANUP K. KHULLAR, 5100 LLC, APPLICANT)  (AT 5112 WEST RYAN ROAD)</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><i>G. 5</i></p>

City Development staff recommends approval of a resolution authorizing certain officials to accept a landscape bufferyard easement for and as part of the approval of a 2 lot certified survey map upon property located at 5112 West Ryan Road, bearing Tax Key No. 882-9999-002, Anup K. Khullar, 5100 LLC, subject to review and approval by the Department of City Development and technical corrections by the City Attorney.

The applicant submitted a landscape bufferyard easement for Common Council approval to comply with condition No. 9 of Certified Survey Map Resolution No. 2020-7613:

*The applicant shall submit a landscape bufferyard easement, for Common Council review and approval, prior to the recording of the Certified Survey Map.*

It is noted that this easement allows the placement of structures as long as the location is in compliance with previously approved plans of Resolution 2020-7613.

**COUNCIL ACTION REQUESTED**

A motion to adopt Resolution No. 2020-\_\_\_\_\_, authorizing certain officials to accept a landscape bufferyard easement for and as part of the approval of a 2 lot certified survey map, being a division of a part of the Southeast 1/4 of the Southwest 1/4 of Section 23, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin (Anup K. Khullar, 5100 LLC, applicant) (at 5112 West Ryan Road).

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

[6-11-2020]

RESOLUTION NO. 2020-\_\_\_\_\_

RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A LANDSCAPE  
 BUFFERYARD EASEMENT FOR AND AS PART OF THE APPROVAL OF A 2 LOT  
 CERTIFIED SURVEY MAP, BEING A DIVISION OF A PART OF THE SOUTHEAST  
 1/4 OF THE SOUTHWEST 1/4 OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 21  
 EAST, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN  
 (ANUP K. KHULLAR, 5100 LLC, APPLICANT)  
 (AT 5112 WEST RYAN ROAD)

---

WHEREAS, the Common Council having approved a Certified Survey Map upon the application of Anup K. Khullar, 5100 LLC, on April 6, 2020, and the Plan Commission having conditioned approval thereof in part upon Common Council approval of a Landscape Bufferyard Easement; and

WHEREAS, §15-5.0102 of the Unified Development Ordinance requires landscape bufferyards when a Certified Survey Map abuts arterial roadways, and said landscape bufferyard or plating strip to be protected by a landscape bufferyard easement; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Landscape Bufferyard Easement submitted by Anup K. Khullar, 5100 LLC, in the form and content as annexed hereto, be and the same is hereby approved, subject to review and approval by the Department of City Development and technical corrections by the City Attorney; and the Mayor and City Clerk are hereby authorized to execute such Easement as evidence of the consent to and acceptance of such easement by the City of Franklin.

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

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO ACCEPT A  
LANDSCAPE BUFFERYARD EASEMENT

ANUP K. KHULLAR, 5100 LLC

RESOLUTION NO. 2020-\_\_\_\_\_

Page 2

APPROVED:

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

ATTEST:

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

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

**LANDSCAPE BUFFERYARD EASEMENT**  
**5100 LLC LANDSCAPE IMPROVEMENT PROJECT**

This Landscape Bufferyard easement is made by and between the City of Franklin, a municipal corporation of the State of Wisconsin, hereinafter referred to as "Grantee," and 5100 LLC, hereinafter referred to as "Grantor," and shall become effective upon the recording of this Grant of Landscape Bufferyard Easement, together with the Acceptance following, with the Office of the Register of Deeds for Milwaukee County, pursuant to §700.40(2)(b) of the Wisconsin Statutes

WITNESSETH

WHEREAS, Grantor is the owner in fee simple of certain real property, located within the City of Franklin, Milwaukee County, Wisconsin, at 5112 West Ryan Road, described in Exhibit A attached hereto and hereby made a part hereof (protected property), and

WHEREAS, the Grantor is required by Section 15-5.0102A of the City of Franklin Unified Development Ordinance to provide a thirty (30) foot-wide planting strip adjacent to South 51<sup>st</sup> Street and West Ryan Road, and

WHEREAS, 5100 LLC was the applicant for a proposed approval of a 2 lot certified survey map for the property located at 5112 West Ryan Road as set forth in City of Franklin Plan, conditionally approving [or approving] a 2 lot certified survey map for the property located at 5112 West Ryan Road [type of application and name of the project], and the Common Council adopted Resolution No. 2020-7613, on April 6, 2020. Condition Numbers 8 and 9 of Resolution No. 2020-7613 thereof providing: "8 The Landscape Plan for the bufferyard easement areas shall be subject to review and approval by the Department of City Development, prior to the recording of the Certified Survey Map. And 9. The applicant shall submit a landscape bufferyard easement, for Common Council review and approval, prior to the recording of the Certified Survey Map.", and

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

WHEREAS, the Grantor and Grantee, by the conveyance to the Grantee of the Landscape Bufferyard Easement on, over, and across the protected property, desire to reserve the area for the planting of trees and shrubs and prevent the use or development of the protected property for any purpose or in any manner inconsistent with the terms of this Landscape Bufferyard Easement, and

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

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

Grantee's rights hereunder shall consist solely of the following

- 1 To establish and ensure the continuance of an area reserved for the planting of trees and shrubs for the private use by the owners of the underlying fee simple interests, to the exclusion of all others, for the purpose of buffering the properties adjoining South 51<sup>st</sup> Street and West Ryan Road by requiring this protected property to be open space in perpetuity; the protected property shall consist of natural existing vegetation and approved landscaping of trees, shrubs, fences, and/or berms, designed to provide a screen and buffer between Grantor's property located at 5112 W. Ryan Road and the adjacent South 51<sup>st</sup> Street and West Ryan Road;
2. To enforce by proceeding at law or in equity the covenants subsequently set forth, including, and in addition to all other enforcement proceedings, proceedings to obtain all penalties and remedies set forth under Division 15-9.0500 of the Unified Development Ordinance of the City of Franklin, as amended from time to time, any violation of the covenants subsequently set forth being and constituting a violation of such Unified Development Ordinance, as amended from time to time, or such local applicable ordinance as may be later adopted or in effect to enforce such covenants or the purposes

for which they are made, it being agreed that there shall be no waiver or forfeiture of the Grantee's right to insure compliance with the covenants and conditions of this grant by reason of any prior failure to act; and

- 3 To enter the protected property at all reasonable times for the purpose of inspecting the protected property to determine if the Grantor is complying with the covenants and conditions of this grant.

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

- 1. Construct or place buildings or any structure, beyond those buildings and structures and improvements as identified on any engineering or construction plans approved by the City of Franklin, including, without limitation, the civil engineering plans approved on April 6, 2020 as City of Franklin Resolution No, 2020-7613, are specifically permitted and allowed within the limits of the Easement Area in compliance with this Landscape Bufferyard Easement;
- 2. Construct or make any improvements, unless, notwithstanding Covenant 1 above, the improvement is specifically and previously approved by the, by the Plan Commission of the City of Franklin, 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 open space buffer value of the protected property to the occupants of land adjoining or neighboring the protected property including, but not limited to fences, berms, and the like.

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

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

To Grantor  
5100 LLC  
8200 W. Brown Deer Road  
Suite 301  
Milwaukee, WI 53223

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

In witness whereof, the grantor has set its hand and seals this on this date of May 8, 2020

5100 LLC

By. [Signature]  
Anup Khullar, Member

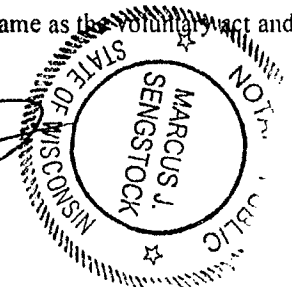
STATE OF WISCONSIN )  
 ) ss  
COUNTY OF MILWAUKEE )

This instrument was acknowledged before me on the 8<sup>th</sup> day of May, A D. 2020 by

Anup Khullar as Authorized Officer and Signatory of 5100 LLC [business name]

To me known to be the person(s) who executed the foregoing Easement and acknowledged the same as the potential grantor and deed of said 5100 LLC [business name].

[Signature]  
Notary Public



My commission expires plm

**Acceptance**

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

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

**CITY OF FRANKLIN**

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

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

STATE OF WISCONSIN        )  
  ) ss  
COUNTY OF MILWAUKEE    )

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

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

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

This instrument was drafted by the City of Franklin.

Approved as to contents:

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

\_\_\_\_\_  
Date

Approved as to form only.

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

\_\_\_\_\_  
Date



MORTGAGE HOLDER CONSENT

The undersigned, (name of mortgagee), a Wisconsin banking corporation ("Mortgagee"), as Mortgagee under that certain Mortgage encumbering encumbering the Property and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin, on May 20<sup>th</sup>, 2020, as Document No \_\_\_\_\_, hereby consents to the execution of the foregoing easement and its addition as an encumbrance title to the Property

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

Name of Mortgagee  
a Wisconsin Banking Corporation

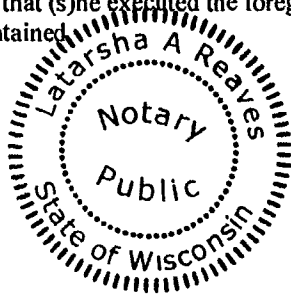
By: [Signature]

Name: Nathan Peters

Title: VP Commercial Banking

STATE OF WISCONSIN )  
 )ss  
COUNTY OF MILWAUKEE )

On this, the 20 day of May, 2020, before me, the undersigned, personally appeared name of officer of mortgagee, the (title of office, i.e : VP) of (name of mortgagee), a Wisconsin banking corporation, and acknowledged that (s)he executed the foregoing instrument on behalf of said corporation, by its authority and for the purposes therein contained.



Name: [Signature]

Notary Public, State of Wisconsin

My commission expires 10/22/2023

The following is a legal description of 5112 West Ryan Road which is the property upon which the open space buffery lands are located.

Exhibit A

Parcel I:

That part of the Southwest  $\frac{1}{4}$  of Section 23, Township 5 North, Range 21 East, bounded and described as follows: Commencing at the Southeast corner of the Southwest  $\frac{1}{4}$  of Section 23, Township 5 North, Range 21 East, running thence North  $0^{\circ} 56' 43''$  East along the East line of said  $\frac{1}{4}$  Section, said line being also the center line of South 51<sup>st</sup> Street, 60.02 feet to the point of beginning of the land herein described; thence North  $0^{\circ} 56' 43''$  East along the East line of said  $\frac{1}{4}$  Section, said line being also the center line of South 51<sup>st</sup> Street, 414.98 feet to a point; thence South  $89^{\circ} 43' 34''$  West and parallel to the South line of said  $\frac{1}{4}$  Section, 253.00 feet to a point; thence South  $0^{\circ} 56' 43''$  West and parallel to the East line of said  $\frac{1}{4}$  Section, 414.98 feet to a point on the North line of the Ryan Road, said point being 60.00 feet North of (measured at right angles) the center line of Ryan Road; thence North  $89^{\circ} 43' 34''$  East along the North line of Ryan Road, and parallel to the South line of said  $\frac{1}{4}$  Section, 253.00 feet to the point of beginning. Said land being in the City of Franklin, County of Milwaukee, State of Wisconsin.

Parcel II:

That part of the Southwest  $\frac{1}{4}$  of Section 23, Township 5 North, Range 21 East, bounded and described as follows: Commencing at the Southeast corner of the Southwest  $\frac{1}{4}$  of Section 23, Township 5 North, Range 21 East; running thence South  $89^{\circ} 43' 34''$  West along the South line of said  $\frac{1}{4}$  Section, said line being also the center line of the Ryan Road, 253 feet to a point; thence North  $0^{\circ} 56' 43''$  East and parallel to the East line of said  $\frac{1}{4}$  Section 60.02 feet to a point on the North line of Ryan Road, said point being also the point of beginning of the land herein described; thence North  $0^{\circ} 56' 43''$  East and parallel to the East line of said  $\frac{1}{4}$  Section, 414.98 feet to a point; thence South  $89^{\circ} 43' 34''$  West and parallel to the South line of said  $\frac{1}{4}$  Section 220 feet to a point; thence South  $0^{\circ} 56' 43''$  West and parallel to the East line of said  $\frac{1}{4}$  Section, 414.98 feet to a point on the North line of the Ryan Road, said point being 60 feet North of (measured at right angles) the center line of the Ryan Road; thence North  $89^{\circ} 43' 34''$  East along the North line of the Ryan Road, and parallel to the South line of said  $\frac{1}{4}$  Section, 220 feet to the point of beginning. Said land being in the City of Franklin, County of Milwaukee, State of Wisconsin.

EXCEPTING THEREFROM that part of the Southwest  $\frac{1}{4}$  of Section 23, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, State of Wisconsin, described as follows:

Commencing at the Southeast corner of said  $\frac{1}{4}$  Section; thence South  $88^{\circ} 22' 14''$  West, 253 feet along the South line of said  $\frac{1}{4}$  Section to the point of beginning; thence North  $0^{\circ} 24' 05''$  West, 100.03 feet to a line that is 100 feet North of (as measured at right angles) and parallel with the South line of said  $\frac{1}{4}$  Section; thence South  $88^{\circ} 22' 14''$  West, 220 feet along said parallel line to the West line of the property of the owner; thence South  $0^{\circ} 24' 05''$  East, 100.03 feet along said West line to the South line of said  $\frac{1}{4}$  Section; thence North  $88^{\circ} 22' 14''$  East, 220 feet along said South line to the point of beginning.

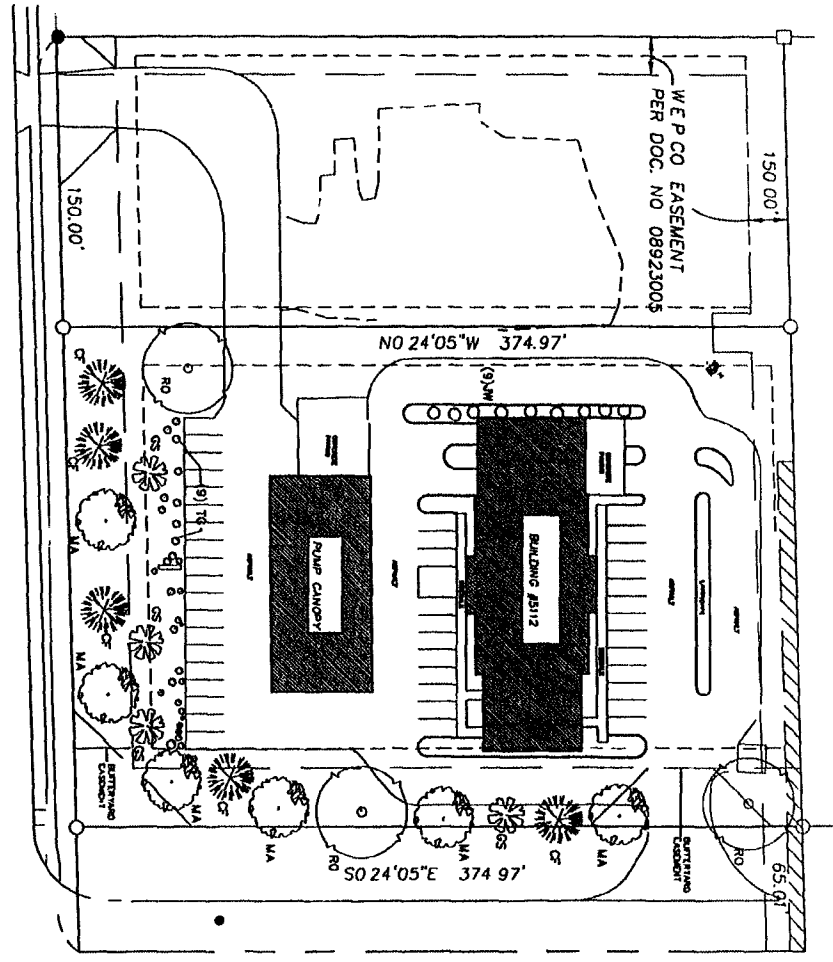
ALSO EXCEPTING THEREFROM that part of the Southwest  $\frac{1}{4}$  of Section 23, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, State of Wisconsin, described as follows:

Commencing at the Southeast corner of said  $\frac{1}{4}$  Section; thence South  $88^{\circ} 22' 14''$  West, 253 feet along the South line of said  $\frac{1}{4}$  Section to the point of beginning; thence North  $0^{\circ} 24' 05''$  West, 100.03 feet to a line that is 100 feet North of (as measured at right angles) and parallel with the South line of said  $\frac{1}{4}$  Section; thence North  $88^{\circ} 22' 14''$  East, 253 feet along said parallel line to the East line of said  $\frac{1}{4}$  Section; thence South  $0^{\circ} 24' 05''$  East, 100.03 feet along said East line to the South line of said  $\frac{1}{4}$  Section; thence South  $88^{\circ} 22' 14''$  West, 253 feet along said South line to the point of beginning

A Map depicting the buffery easement is attached hereto as Exhibit B.

"B"

LANDSCAPE PLAN



PLANT MATERIAL SCHEDULE

QTY	SCIENTIFIC NAME	COMMON NAME	SEE PLANT REPORT	PLANT HEIGHT	SYMBOL
1	SHADE TREE				
1	WAXY JASMINE	ASH GINKGO	2 1/2' OK	2'	MA
3	GRANDIS BIRCH	RED OAK	2 1/2' OK	2'	RO
1	EVERGREEN TREE	ALBERTA WILLOW	4'	6'-15'	JW
1	ORNAMENTAL TREE				
3	MAJESTIC SPYRUS	ORANGE FLOUNDER	1 1/2' OK		CF
4	MAJESTIC SPYRUS	ORANGE FLOUNDER	1 1/2' OK		CS
ORNAMENTAL SHRUB					
1	EVERGREEN SHRUB	AROMATIC TROPIC ALBES	3'		TG
GROUND COVER					

DATE: 03-29-2003  
 DESIGNED BY: L100

**ANUP KHULLAR**  
 CERTIFIED SURVEY MAP  
 5112 W. RYAN ROAD  
 FRANKLIN, WI

**Architects Engineers**  
 Vision  
 Tony Antonopoulos  
 5562 S. 25th Street  
 Milwaukee, WI 53221  
 Call 414-897-4723  
 tycj990c@gmail.com

NO.	DATE	REVISIONS	BY
1	4-13-03	RELEASED PLANTS	

**BLANK PAGE**

<p><b>APPROVAL</b></p> <p><i>slw</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p>June 16, 2020</p>
<p><b>REPORTS AND RECOMMENDATIONS</b></p>	<p>A Resolution Authorizing Certain Officials to Execute a Facility Use Agreement With the Franklin Public School District and to Accept and Consent to a Waiver of Conflict of Interest to Allow for von BRIESEN &amp; ROPER, s.c. to Represent the District With Respect to the Agreement</p>	<p><b>ITEM NUMBER</b></p> <p><i>G.6.</i></p>

A copy of the Facility Use Agreement and a copy of the Request for Conflict Waiver are annexed hereto. Also annexed is a copy of the above-entitled Resolution.

**COUNCIL ACTION REQUESTED**

A motion to adopt A Resolution Authorizing Certain Officials to Execute a Facility Use Agreement With the Franklin Public School District and to Accept and Consent to a Waiver of Conflict of Interest to Allow for von BRIESEN & ROPER, s.c. to Represent the District With Respect to the Agreement.

June 10, 2020

Mayor Steve Olson  
City of Franklin  
9229 W. Loomis Road  
Franklin, WI 53132

Re: Request for Conflict Waiver

Dear Mayor Olson:

As you are aware, our office represents the City of Franklin in relation to labor and employment matters. Our office also represents the Franklin Public School District with respect to labor and employment matters, as well as general school law matters. Recently, the Franklin Public School District approached us about drafting an agreement between the City of Franklin and the Franklin Public School District to memorialize the City's use of a District middle school for purposes of conducting law enforcement active shooter training. Following discussions with City Attorney Jesse Wesolowski, it was agreed that Attorney Wesolowski would represent the City in this matter and our office would represent the Franklin Public School District, thereby allowing for both parties to have competent representation. Under these circumstances, we are asking for the City's consent to von Briesen's representation of the Franklin Public School District with regard to the aforementioned agreement between the Franklin Public School District and the City of Franklin.

Our firm's ethics policies and the Model Rules of Professional Conduct governing the actions of lawyers require an affirmative disclosure to clients of all actual and potential conflicts of interest and the written consent of all parties to continue representation in these circumstances. The ethical standards which govern our conduct as lawyers prohibit us from representing any client in a matter where the interests of one client are directly adverse to another client. Further, we may not represent a client in a matter where a conflict of interest could materially limit our responsibilities as lawyers to another client.

An exception exists when clients consent in writing to the representation after consultation, and when we, as your attorneys, believe that the representation will not adversely affect the relationship with the clients. As noted above, Attorney Wesolowski has agreed to represent the City with respect to the aforementioned agreement and our office would represent the Franklin Public School District with respect to such agreement. Under these circumstances, we do not believe that our concurrent representation of the Franklin Public School District will adversely affect our ability to represent the City of Franklin with regard to labor and employment matters and that the City of Franklin's interests will not be adversely affected by this concurrent representation.

Attorneys are also prohibited from using confidential information obtained during representation of a client to the disadvantage of that client. This will confirm that our office will not use any confidential information obtained in our representation of the City of Franklin in labor and employment matters in any manner that is disadvantageous to any party.

Please let us know if you have any concerns regarding our ongoing representation of the Franklin Public School District in the aforementioned agreement in light of our concurrent representation of the City of Franklin in labor and employment matters. Otherwise, please confirm your consent by signing this correspondence where indicated below, and by emailing a PDF copy of the fully signed correspondence to my attention. I will, of course, be happy to provide further information you may require.

Very truly yours,

von BRIESEN & ROPER, s.c.

Ryan P. Heiden

---

Potential conflict acknowledged and waived this \_\_\_\_ day of June, 2020.

By: \_\_\_\_\_  
Mayor Steve Olson  
City of Franklin

## FACILITY USE AGREEMENT

This Facility Use Agreement (“Agreement”) is made and entered into as of the \_\_\_ day of June, 2020, by and between the City of Franklin, a Wisconsin municipality existing under the laws of the State of Wisconsin (the “City”), and Franklin Public School District, a school district organized and existing under the laws of the State of Wisconsin (the “District”). The City and District are hereinafter referred to individually as a “Party” and together as the “Parties.”

### *RECITALS*

**WHEREAS**, the City’s Police Department needs a facility to conduct active shooter training as part of its quarterly in-service training and in preparation for the Democratic National Convention scheduled to be held in Milwaukee, Wisconsin later this year; and

**WHEREAS**, the District has available space for such training sessions at Forest Park Middle School on the dates identified by the City’s Police Department; and

**WHEREAS**, the District would like to make Forest Park Middle School available to the City for such purposes upon the terms and conditions set forth herein; and

**WHEREAS**, the Parties hereto enter into this Agreement to support the City’s training needs and the mutual desire to provide high quality law enforcement services to the City’s and District’s citizens.

**NOW, THEREFORE**, in consideration of the mutual premises, promises, covenants and conditions contained herein, and for other good and valuable consideration, both the receipt and legal sufficiency of which are hereby acknowledged, the Parties agree as follows:

### *AGREEMENT*

1. *Use of District Buildings.* District shall make Forest Park Middle School available to the City’s use as a training site upon the dates and hours mutually agreed upon by the Parties until such time as this Agreement terminates or either Party, in its sole and absolute discretion, terminates this Agreement in accordance with Paragraph 5 below.

The City will be provided access to Forest Park Middle School for the dates and hours mutually agreed upon by the Parties by the Middle School’s Principal, who shall provide the Chief of Police or his designee a key or other method of access to the Middle School no later than the day prior to any agreed upon training sessions. The Chief of Police or his designee shall return any key or other methods of access, if applicable, to the Middle School Principal within a reasonable period of time following each training session covered by this Agreement.

This Agreement shall not be considered a lease of the District’s building and no rent obligation shall be implied as a result of the City’s use of the building. District is providing the City with the use of District’s building at no cost to the City. Similarly, the City understands and agrees that its use of the District’s building shall not be exclusively provided, however, the District shall use its reasonable best efforts to not interfere with City’s use of the District’s buildings during the term of this Agreement. The District shall retain the right to enter such buildings at any time,



with or without notice, provided that District complies with all applicable laws and regulations related to access.

2. Compliance with Federal, State, and Local Emergency Management Directives. Parties shall actively follow directives from federal, state, and local emergency management agencies during the term of this Agreement. The Parties agree and understand that such directives may prohibit the City's use of Forest Park Middle School or other District buildings while any such directives remain in effect.

3. City's Covenants.

3.1 The City agrees that it shall at all times supervise the use of Forest Park Middle School with appropriate personnel.

3.2 The City shall be solely responsible for the provision and layout of any equipment or furnishings at Forest Park Middle School that are needed or otherwise utilized in connection with training conducted under this Agreement. Upon termination of this Agreement, the City shall be responsible for removing all equipment and furnishings and otherwise returning Forest Park Middle School to the condition existing prior to execution of this Agreement. All costs associated with repairing the physical space for the City's operations and returning the physical space to its pre-Agreement condition shall be the City's sole responsibility.

5. Term and Termination. The term of this Agreement shall begin upon execution of this Agreement and shall remain in effect until 11:59 p.m. on December 31, 2020 unless extended pursuant to a mutual, written agreement by the Parties or unless otherwise terminated by a Party or the Parties as stated hereafter in this Paragraph 5. This Agreement may be terminated by either Party upon fifteen (15) days' written notice to the other Party for any reason or no reason at all. Upon termination of this Agreement, District will cooperate with the City to ensure the orderly transition of equipment and furnishings from District property or buildings to the City.

6. Insurance. The City shall carry Workers' Compensation coverage with statutory limits for Wisconsin.

7. Relationship of the Parties No act or failure to act by any Party shall be construed to make or render the other Party to this Agreement its partner, joint venturer, employee, employer, principal, agent or associate. The District and the City shall be solely responsible for the payment of the salaries of their respective personnel, including withholding or payment of applicable taxes and any other withholding required by law or regulation. No agent, employee or representative of a Party shall be deemed to be an agent, employee or representative of another Party. Neither Party shall have the authority to act for or on behalf of the other Party to bind the other Party without the express written approval of the other Party. Except as expressly provided herein, neither of the Parties shall have the right to exercise any control whatsoever over the activities or operations of the other Party. Each Party is independent of the other and shall not hold themselves out to be the agent, employer, or partner of the other. The only relationship is by virtue of this Agreement and no fiduciary relationship is created hereunder.

8. Indemnification.

8.1. To the extent permitted by law, the City agrees to defend, indemnify and hold harmless District and its board members, officers, employees, agents, insurers, successors and assigns from and against any and all losses, judgments, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and costs of settlement) which directly result from or arise out of any: (a) misrepresentation or breach by City of any of its representations, warranties, covenants or obligations in this Agreement; or (2) any act or omission of the City or any of the City's elected officials, appointed officials, employees, affiliates, representatives, agents, successors or assigns constituting negligent acts or omissions, strict liability or willful acts or omissions in carrying out the City's use of District's buildings under this Agreement, including, without limitation, injury to or death of persons caused by any act or failure to act of City.

8.2 To the extent permitted by law, the District agrees to agrees to defend, indemnify and hold harmless the City and its elected officials, appointed officials, employees, affiliates, representatives, and agents from and against all losses, judgments, damages, costs (including reasonable attorneys' fees), and other expenses which directly result from or arise out of any: (i) any act or omission of the District or any of the District's board members officials, employees, affiliates, representatives, agents, successors or assigns constituting grossly negligent acts or omissions, strict liability or willful acts or omissions in carrying out the District's obligations or responsibilities under this Agreement or (ii) any material breach of any of the representations, warranties or covenants contained herein by District.

9 Governing Law. This Agreement shall be interpreted according to the laws of the State of Wisconsin. Claims arising out of or requiring the interpretation of this Agreement shall be brought and litigated exclusively in the courts located within Milwaukee County, Wisconsin, or if a federal court, the court whose district includes Milwaukee County, Wisconsin.

10. Notices. All notices and other communications required or permitted under this Agreement shall be effective upon receipt or rejection. Any notice shall be delivered to the Parties as follows:

District: Franklin Public Schools  
8255 West Forest Hill Avenue  
Franklin, WI 53132

Attn: Dr. Judy Mueller

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

Attn: Ms. Margaret Steeno

11. Severability Clause. In the event any term or provision of this Agreement is found to be unenforceable or void, in whole in part, as drafted, such provision shall be fully severable and the unenforceability thereof shall not affect the remainder of this Agreement, and the balance of this Agreement shall remain in full force and effect and no covenant or provision shall be

deemed dependent on any other covenant or provision unless specifically expressed herein. To the extent this Agreement or any provision herein is in violation of applicable law, then the Parties consent and agree to negotiate in good faith to amend the Agreement or the provision, to the extent possible consistent with its purposes, to conform to law.

12. Amendments. Amendments may only be made to this Agreement via mutual, written agreement of the Parties.

13. Assignment. This Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent may be withheld in the Party’s sole and absolute discretion.

14. Waiver. The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any such Party’s rights with respect to any subsequent breach thereof.

15. Entire Agreement. This Agreement supersedes all previous contracts and constitutes the entire agreement between the Parties. Oral statements or prior written material not specifically incorporated herein shall be of no force and effect and no changes in or additions to this Agreement shall be recognized unless and until made in writing signed by the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set out above.

**Franklin Public School District**

**City of Franklin**

By: \_\_\_\_\_

By: \_\_\_\_\_

Stephen R. Olson, Mayor

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Sandra L. Wesolowski, City Clerk

Date: \_\_\_\_\_

By: \_\_\_\_\_

Paul Rotzenberg, Director of Finance and Treasurer

Date: \_\_\_\_\_

Approved as to form:

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

Date: \_\_\_\_\_

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2020-\_\_\_\_\_

A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE A FACILITY USE AGREEMENT WITH THE FRANKLIN PUBLIC SCHOOL DISTRICT AND TO ACCEPT AND CONSENT TO A WAIVER OF CONFLICT OF INTEREST TO ALLOW FOR VON BRIESEN & ROPER, S.C. TO REPRESENT THE DISTRICT WITH RESPECT TO THE AGREEMENT

---

WHEREAS, the Police Department needs a facility to conduct active shooter training as part of its quarterly in-service training and in preparation for the Democratic National Convention scheduled to be held in Milwaukee, Wisconsin later this year; and

WHEREAS, the Franklin Public School District has available space for such training sessions at Forest Park Middle School on the dates identified by the City's Police Department and the District is willing to make the School available to the City for such purposes pursuant to an agreement therefore; and

WHEREAS, von BRIESEN & ROPER, s.c. represents both the City and the District with regard to labor and employment matters and has requested a waiver of any conflict of interest by the City to allow it to represent the District with respect to the Facility Use Agreement pursuant to the attorneys' rules of professional conduct; and

WHEREAS, the Common Council having reviewed such agreement and conflict waiver and having found same to be reasonable and in the public interest.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Facility Use Agreement with the Franklin Public School District Use, in the form and content as annexed hereto, be and the same is hereby approved.

BE IT FURTHER RESOLVED, that the Request for Conflict Waiver is hereby accepted, consented to and granted; and

BE IT FINALLY RESOLVED, that the Mayor, City Clerk and Director of Finance and Treasurer be and the same are hereby authorized to execute and deliver such agreement, and that the Mayor is hereby authorized to execute and deliver the conflict waiver.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

RESOLUTION NO. 2020-\_\_\_\_\_  
Page 2

APPROVED:

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

ATTEST:

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

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

**BLANK PAGE**

<p>APPROVAL <i>slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE June 16, 2020</p>
<p>REPORTS &amp; RECOMMENDATIONS</p>	<p>AN ORDINANCE TO AMEND ORDINANCE 2019-2398, AN ORDINANCE ADOPTING THE 2020 ANNUAL BUDGETS FOR THE CAPITAL OUTLAY FUND TO PROVIDE FOR \$16,130 OF GRANT RESOURCES AND \$26,884 OF POLICE APPROPRIATIONS FOR UPDATED 9-1-1 CAPABILITIES</p>	<p>ITEM NUMBER <i>G, 7.</i></p>

**Background**

The Police Department received a federal grant to pay 60% of the upgrade costs to the City's 9-1-1 system. The system upgrade costs total \$26,884, which was last upgraded in 2013. The Common Council accepted the grant on April 2, 1 2020 (G-3).

**Analysis**

The 2020 Budget did not include this 9-1-1 upgrade. The Council directed that a 2020 budget amendment be drafted that recognized the \$16,130 grant and the \$26,884 project cost, and to move funds from the Capital Outlay Contingency appropriation to fund this project.

**Recommendation**

The Director of Finance & Treasurer recommends adoption of the DRAFT Budget Amendment to provide for \$16,130 Grant Resources and \$26,884 of Police Computer appropriations, transferring \$10,754 from Capital Outlay Contingency.

**COUNCIL ACTION REQUESTED**

Motion to adopt an ordinance to amend Ordinance 2019-2398, an Ordinance adopting the 2020 annual budgets for the Capital Outlay Fund to provide for \$16,130 of grant resources and \$26,884 of Police appropriations for updated 9-1-1 capabilities

Roll Call Vote Required

Finance Dept - Paul

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

ORDINANCE NO. 2020 \_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE 2019-2398, AN ORDINANCE ADOPTING THE 2020 ANNUAL BUDGETS FOR THE CAPITAL OUTLAY FUND TO PROVIDE FOR \$16,130 OF GRANT RESOURCES AND \$26,884 OF POLICE APPROPRIATIONS FOR UPDATED 9-1-1 CAPABILITIES

-----

WHEREAS, the Common Council of the City of Franklin adopted the 2020 Annual Budgets for the City of Franklin on November 19, 2019; and

WHEREAS, the Police administration has secured a Federal Grant for 60% of the cost to an upgraded 9-1-1 system; and

WHEREAS, the Common Council accepted the Grant at the April 21, 2020 Common Council Meeting; and

WHEREAS, the 2020 Capital Outlay Budget did not include appropriations for an upgrade to the 9-1-1 system; and

WHEREAS, the Common Council on April 21, 2020 directed that a 2020 Budget Amendment be drafted to transfer \$10,800 from Capital Outlay Contingency appropriations to the Police Department Computer Equipment appropriations; and

WHEREAS, the Common Council on April 21, 2020 directed that 2020 Capital Outlay resources include a \$16,200 Grant along with a new Police Computer Equipment appropriation of \$27,000.

NOW, THEREFORE, the Common Council of the City of Franklin does hereby ordain as follows:

Section 1 That a 2020 Budget for the Capital Outlay Fund be amended as follows:

Intergovernmental Grant Resources	Increase	\$10,800
Contingency	Decrease	16,200
Police – Computer Appropriations	Increase	27,000

Section 2 Pursuant to §65.90(5)(a), Wis. Stats., the City Clerk is directed to publish a Class 1 notice of this budget amendment within ten days of adoption of this ordinance.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:



---

Sandra L. Wesolowski, City Clerk

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

- BALLPARK COMMONS UPDATE G.2. No action was taken following a project update for Ballpark Commons.
- 
- UPGRADE OF 911 NEXTGEN \* G.3. Alderwoman Wilhelm moved to accept the grant with the commitment to fund 100% of the project costs of \$26,883.50 with the expectation the City would receive 60% of the costs, estimated to be \$16,130.00, as a reimbursement, with City costs being \$10,754.00, and further that the Council directs the Director of Finance & Treasurer to prepare budget amendment to move contingency appropriation to Police Equipment and reflect the grant resources. Seconded by Alderman Mayer. On roll call, all voted Aye. Motion carried.
- 
- STATEWIDE HEALTH INFORMATION NETWORK CONTRACT G.4. Alderman Barber moved to allow the Director of Health and Human Services to enter into a 90-day trial contract for access to the Wisconsin Statewide Health Information Network (WSHIN) organization data to improve communicable disease investigation and follow-up. Seconded by Alderman Mayer. On roll call, Alderman Nelson, Alderman Barber, Alderwoman Hanneman, Alderman Mayer, and Alderman Dandrea voted Aye; Alderwoman Wilhelm Abstained. Motion carried.
- ICC AGREEMENT COVID-19 G.5. Alderman Mayer moved to authorize the City of Franklin to participate in an Intergovernmental Cooperation Agreement for procuring personal protection equipment and other necessary sanitation and medical supplies in response to the COVID-19 public health emergency. Seconded by Alderman Barber. On roll call, all vote Aye. Motion carried.
- COVID-19 EXPENDITURES G.6. No action taken on the report on expenditures related to the COVID-19 Public Health Emergency through April 15, 2020.
- COVID-19 EMPLOYEE TREATMENT COVERAGE G.7. Alderman Mayer moved to authorize coverage of 1st dollar medical costs for COVID-19 treatment for employees covered on the City's health insurance plan. Seconded by Alderman Barber. On roll call, all voted Aye. Motion carried.
- RES. 2020-7616 DEV. AGREEMENT KNOLLWOOD LEGACY APARTMENTS G.8. Alderman Dandrea moved to adopt Resolution No. 2020-7616, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE A DEVELOPMENT AGREEMENT WITH THE DEVELOPER OF KNOLLWOOD LEGACY APARTMENTS UPON REVIEW AND ACCEPTANCE BY CITY ATTORNEY. Seconded by Alderman Barber. On roll call, Alderman Barber,

<p><b>APPROVAL</b></p> <p><i>slw</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p><i>4/21/2020</i></p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p><b>REQUEST TO ACCEPT GRANT TO UPDATE NEXTGEN 9-1-1 CAPBILITY</b></p>	<p><b>ITEM NUMBER</b></p> <p><i>6.3.</i></p>
<p>The police department requests the acceptance of a federal grant that would pay 60% of upgrade costs to the department's call recording/logging system which was last upgraded in 2013.</p> <p>We are 2-versions behind our current system and the next upgrade/version would necessitate a complete replacement of hardware (server) and software. Our current system though, will no longer be supported without both the software upgrades and a server replacement. A new system will afford us the opportunity to perform many more time saving functions such as being able to email a recording (for court purposes); geo fence searches (for open record requests); viewing call locations on a map (assists with investigative details of the location a person was calling from); text message replay (a necessary entity with text-2-911).</p> <p>The upgrade project would necessitate the purchase of the Eventide NexLog 740 system, which provides NG9-1-1; P25; Digital Mobile Radio (DMR); IP Dispatch; T1/E1; Integrated Services Digital Network (ISDN) the standard of simultaneous digital transmission of voice, data and other network services over traditional circuits; and ED137 which is the interoperability standard for airport communication. These are just a handful of critical communication solutions it provides.</p> <p>The quote for the project is \$26,883.50. The grant requires the city to pay for the project in full and the city would then receive the 60% federal portion as a re-imbusement.</p> <p>While funding would not be necessary until 2021, the grant requires the city to certify it has committed funds for the total cost of the project prior to June 30, 2020.</p> <p>This upgrade is going to be necessary with or without the grant.</p> <p>FISCAL NOTE: Sufficient contingency appropriations exist in the <u>Capital Outlay</u> fund for this <u>\$27,000</u> project.</p> <p>RECOMMENDATION</p> <p>Motion to accept the grant with the commitment to fund 100% of the project costs of \$26,883.50 with the expectation the city would receive 60% of the costs, estimated to be \$16,130.00, as a reimbursement. The city costs would be \$10,754.00. Recommend that Council direct the Director of Finance &amp; Treasurer to prepare budget amendment to move contingency appropriation to Police Equipment and reflect the grant resources.</p> <p style="text-align: right;"><i>Note to Res 4/22/2020</i></p>		

**BLANK PAGE**

<p>APPROVAL <i>slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE June 16, 2020</p>
<p>REPORTS &amp; RECOMMENDATIONS</p>	<p><b>AN ORDINANCE TO AMEND ORDINANCE 2019-2398, AN ORDINANCE ADOPTING THE 2020 ANNUAL BUDGETS FOR THE GENERAL FUND TO CARRY FORWARD \$23,000 OF UNUSED ECONOMIC DEVELOPMENT APPROPRIATIONS TO APPROPRIATE EXPENDITURES FOR ECONOMIC DEVELOPMENT COMMISSION MARKETING APPROPRIATIONS AND UPGRADES TO THE UNIFIED DEVELOPMENT ORDINANCE</b></p>	<p>ITEM NUMBER <i>G. 8.</i></p>

**Background**

On December 17, 2019 the Common Council recognized that the Economic Development Department would have un-used 2019 appropriations and directed that a 2020 budget amendment be prepared to carryforward the un-used 2019 Economic Development Department appropriations to the 2020 Economic Development Department to fund Economic Development Commission marketing plan appropriations and appropriations to partially fund upgrades to the Unified Development Ordinance.

**Recommendation**

The Director of Finance & Treasurer recommends the DRAFT Ordinance that carries forward \$23,000 of unused Economic Development Department Non-personnel costs to 2020 Economic Development Department Non-personnel costs to provide additional appropriations for EDC marketing and upgrades to the Unified Development Ordinance or related planning tools.

**COUNCIL ACTION REQUESTED**

Motion to adopt an ordinance to amend Ordinance 2019-2398, an Ordinance adopting the 2020 annual budgets for the General Fund to carry forward \$23,000 of unused Economic Development appropriations to appropriate expenditures for Economic Development Commission marketing appropriations and upgrades to the Unified Development Ordinance

Roll Call Vote Required

Finance Dept - Paul

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

ORDINANCE NO. 2020\_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE 2019-2398, AN ORDINANCE ADOPTING THE 2020 ANNUAL BUDGETS FOR THE GENERAL FUND TO CARRY FORWARD \$23,000 OF UNUSED ECONOMIC DEVELOPMENT APPROPRIATIONS TO APPROPRIATE EXPENDITURES FOR ECONOMIC DEVELOPMENT COMMISSION MARKETING APPROPRIATIONS AND UPGRADES TO THE UNIFIED DEVELOPMENT ORDINANCE

WHEREAS, the Common Council of the City of Franklin adopted the 2020 Annual Budgets for the City of Franklin on November 19, 2019; and

WHEREAS, the Economic Development Department had \$23,000 of unused Non-personnel expenditures; and

WHEREAS, the Common Council on December 17, 2019 directed that a 2020 budget amendment be drafted to carryforward the unused 2019 appropriations to 2020; and

WHEREAS, those unused 2019 appropriations were to enhance Economic Development Commission marketing appropriations or to upgrade the Unified Development Ordinance or related planning tools.

NOW, THEREFORE, the Common Council of the City of Franklin does hereby ordain as follows:

Section 1 That a 2020 Budget for the General Fund be amended as follows:

Economic Development			
	Non-Personnel expenditures	Increase	\$23,000

Section 2 Pursuant to §65.90(5)(a), Wis. Stats., the City Clerk is directed to publish a Class 1 notice of this budget amendment within ten days of adoption of this ordinance.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:

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

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

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> December 17, 2019
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>Carry Over Remaining 2019 Economic Development Non-Personnel Funds to 2020 for Anticipated 2020 Activities</b>	<b>ITEM NUMBER</b> <i>G.14.</i>

The Economic Development Department is requesting two budget carry-forwards for two specific purposes in 2020:

- 1) **Marketing.** The Economic Development Commission (EDC) is in the process of setting up a 2020 Marketing Plan and has reviewed a proposed slate of potential projects and activities, as shown in the proposal provided by THIEL Brand Design. As the EDC researches the various options and opportunities, a robust plan will require more funding than what is available to the EDC in total non-personnel budget line items in either the remaining 2019 available funds or 2020 available funds. The EDC is, therefore, requesting that the Common Council allow the EDC to carry forward up to \$15,000 from the 2019 funds into the 2020 Marketing Services fund. Combined with the 2020 Marketing Services approved budget of \$8,000, this will allow the EDC and Common Council to select activities to execute in 2020.
  
- 2) **Professional Services for UDO Upgrade.** The EDC has determined that the UDO, as a significant tool of and impact to successful economic development planning and activity, needs to be updated to be more effective and easier for the business community to understand and apply. The EDC would like to see the processes for moving business projects through Community Development streamlined, simplified, and documented to reflect an updated UDO and to assist staff and stakeholders involved in development to be more accurate and efficient in how projects move through the process. The EDC would like to carry forward up to \$20,000 from 2019 non-personnel budget line items to the 2020 budget and would then match the carry-forward with an additional \$20,000 from the 2020 budget in order to contribute \$40,000 towards a UDO upgrade.

1) 15,000  
2) 20,000  
Total 35,000  
2019 unused = 23,770

**COUNCIL ACTION REQUESTED**

Motion to support the carryover of 2019 marketing and professional services funding in the Economic Development Department for a total amount not-to-exceed \$35,000 and to direct the Director of Finance and Treasurer to bring forth a budget modification for such purpose.

RES. 2019-7568  
TID 6  
WATERMAIN  
EASEMENT

G.10. Alderman Barber moved to adopt Resolution No. 2019-7568, A RESOLUTION ACCEPTING A PUBLIC WATERMAIN EASEMENT FOR EUGENE D. AND MARLENE MAGARICH, TAX KEY 892-9994-001, 11327 W. RYAN ROAD. Seconded by Alderman Nelson. All voted Aye; motion carried.

Alderman Taylor arrived at 7:55 p.m.

RES. 2019-7569  
ROOT-PIKE WIN  
CONTRACT FOR  
PROGRAMS

G.11. Alderman Barber moved to adopt Resolution No. 2019-7569, A RESOLUTION AUTHORIZING THE CITY TO EXECUTE A CONTRACT FOR PROFESSIONAL SERVICES WITH ROOT-PIKE WIN FOR INFORMATION AND EDUCATION PROGRAM FOR MEETING THE 2020-2021 DEPARTMENT OF NATURAL RESOURCES STORM WATER PERMIT REQUIREMENTS FOR A NOT TO EXCEED FEE OF \$10,500 with the condition that staff work toward a presentation by Root-Pike WIN before the Environmental Commission. Seconded by Alderman Mayer. All voted Aye; motion carried.

AUDIT AGREEMENT  
WITH BACKER TILLY  
LLP

G.12. Alderman Dandrea moved to direct the Mayor, City Clerk and Director of Finance & Treasurer to execute the Audit Agreement between Baker Tilly LLP and the City of Franklin for an audit of the 2019 annual financial statements subject to technical corrections by the City Attorney. Seconded by Alderman Mayer. All voted Aye; motion carried.

DPW LED LIGHTING

G.13. Alderman Taylor moved to authorize staff to solicit and purchase various LED lighting equipment using unspent 2019 funds. Seconded by Alderwoman Wilhelm. All voted Aye; motion carried.

2019 CARRYOVER  
MARKETING AND  
SERVICES FUNDING IN  
THE ECON. DEV. DEPT.



G.14. Alderman Mayer moved to support the carryover of 2019 marketing and professional services funding in the Economic Development Department for a total amount not-to-exceed \$35,000 and to direct the Director of Finance and Treasurer to bring forth a budget modification for such purpose. Seconded by Alderman Barber. On roll call, all voted Aye. Motion carried.

CARRY FORWARD  
2019 APPROPRIATIONS  
FROM INSP. SVCS.

G.15. Alderman Mayer moved to recommend carrying forward the available Personnel Services appropriations within the Inspection Services Department, not to exceed \$78,362, and directing the Director of Finance and Treasurer to prepare a 2020 Budget modification for consideration. Seconded by Alderman Barber. All voted Aye; motion carried.

EXCHANGE SERVER  
AND SQL LICENSES

G.17. Alderman Dandrea moved to authorize the purchase of 2019 Exchange service licenses for \$18,310.64 and 2019 SQL server licenses for



CITY OF FRANKLIN WISCONSIN  
General Fund  
Schedule of Expenditures and Transfers Out Budget and Actual (on a Budgetary Basis)  
For the Year Ended December 31 2019

	Original Budget	Change Inc (Dec)	Final Budget	Actual	Variance with final budget Excess (Deficiency)
<b>CURRENT</b>					
<b>Public Works</b>					
Engineering Personnel Services	612 306	(609)	611 697	540 914	70 783
Engineering Other Services	30 860	650 000 <sup>2</sup>	680 860	675 297	5 563
Highway Personnel Services	1 736 098	(77 608) <sup>3</sup>	1 658 490	1 648 581	9 909
Highway Other Services	833 318		833 318	805 896	27 422
Street lighting	349 500		349 500	344 092	5 408
Weed control	9 050		9 050	5 898	3 152
Total Public Works	<u>3 571 132</u>	<u>571 783</u>	<u>4 142,915</u>	<u>4 020 678</u>	<u>122,237</u>
<b>Health and Human Services</b>					
Public health Personnel Services	634 447	(9 935)	624 512	528 981	95 531
Public health Other Services	73 250		73 250	75 056	(1 806)
Animal control	43 100		43 100	42 723	377
Total Health and Human Services	<u>750 797</u>	<u>(9 935)</u>	<u>740 862</u>	<u>646 760</u>	<u>94 102</u>
<b>Culture and Recreation</b>					
Senior activities and travel program	22 000	1 450	23 450	23 411	39
Parks Personnel Services	112 477	42 091 <sup>3</sup>	154 568	153 110	1 458
Parks Other Services	48 225		48 225	46 839	1 386
Total Culture and Recreation	<u>182,702</u>	<u>43,541</u>	<u>226,243</u>	<u>223 360</u>	<u>2 883</u>
<b>Conservation and Development</b>					
Planning Personnel Services	375 395	(22 199)	353 196	332 122	21 074
Planning Other Services	74 450	87 100	161 550	113 214	48 336
Economic development Personnel Services	103 431	20 612	124 043	123 622	421
Economic development Other Services	87 500	(12 000)	75 500	51 730	23,770
Total Conservation and Development	<u>640 776</u>	<u>73 513</u>	<u>714 289</u>	<u>620 688</u>	<u>93 601</u>
Total Expenditures	27 824 442	439 218	28 263 660	25 588 311	2 675 349
Transfers to Other Funds	<u>274,000</u>	<u>8 100</u>	<u>282 100</u>	<u>52 100</u>	<u>230,000</u>
<b>Total Expenditures and Transfers Out</b>	<b><u>\$ 28 098 442</u></b>	<b><u>\$ 447 318</u></b>	<b><u>\$ 28 545 760</u></b>	<b><u>\$ 25 640 411</u></b>	<b><u>\$ 2 905 349</u></b>

- 1 Outside services to support vacancies
- 2 Recorded Engineering Services gross rather than net s n prior years
- 3 Highway & Parks share personnel shifted budget to align actual usage

**BLANK PAGE**

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> June 16, 2020
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>Authorization to Execute a Contact Tracing Contract with Maxim Healthcare Staffing Services, Inc Estimated at \$38,000</b>	<b>ITEM NUMBER</b> <i>G.9.</i>

**Background**

The Public Health Emergency has placed demands for services upon the Franklin Health Department that exceed available resources. For each COVID19 positive case, certain contact tracing is advisable to contain further spread of the virus. Health Department staff has been committing nearly all of its time to this contact tracing, prioritizing this effort over other required Public Health service activities.

The Director of Public Health Services requests authorization to engage Maxim Healthcare Staffing Services, Inc to provide four temporary trained staff in contact tracing activities. The contract contains a one-year term, cancelable upon 30 day notice. Current estimates are for eight weeks of service, and then re-evaluate the situation at that time.

**Analysis**

The State has notified the Public Health Director that these costs would be covered by a CARES Act grant to the City in the amount of \$300,000, and will not require any local funding.

The contract is subject to technical corrections by the City Attorney.

**COUNCIL ACTION REQUESTED**

Motion Authorizing the Director of Public Health to Execute a Contact Tracing Contract with Maxim Healthcare Staffing Services, Inc Estimated at \$38,000



## TRACER MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (together with the Riders hereto, this "Agreement") is entered into this 3rd day of June 2020 ("Effective Date"), by and between Franklin Health Department, with offices located at 9229 W Loomis Road, Franklin WI 53132 ("CLIENT"), and **Maxim Healthcare Staffing Services, Inc.**, with offices located at 7221 Lee DeForest Drive, Columbia, MD 21046, ("MAXIM"). CLIENT and MAXIM are sometimes referred to collectively herein as the "Parties" and individually as a "Party."

In consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, and intending to be legally bound, the Parties hereby agree to the following terms and conditions of this Agreement and the attached Rider(s). CLIENT and MAXIM agree that any Rider(s) attached hereto are incorporated herein by reference and form a part of this Agreement. If there is any conflict between this Agreement and any Rider(s), the terms of the Rider(s) will govern.

### ARTICLE 1. TERM OF AGREEMENT

**1.1 Term.** This Agreement shall be in effect for one (1) year from the Effective Date (the "Initial Term") At the end of the Initial Term, the Agreement shall automatically be renewed for successive one (1) year terms unless either party terminates in accordance with Section 1.2.

**1.2 Termination of the Agreement.** Either Party may terminate this Agreement at any time, with or without cause, by providing at least thirty (30) days advance written notice of the termination date to the other Party. Either Party may terminate this Agreement immediately in the event of a material breach of this Agreement by the other Party by providing written notice to other Party, however, the notice must describe in reasonable detail the nature of the alleged breach and provide for a cure period of at least five (5) days. Any termination will have no effect upon the rights and obligations resulting from any transactions occurring prior to the effective date of the termination. Termination of the Agreement will also serve to terminate any applicable Riders.

**1.3 Termination of Riders.** Either party may terminate any Rider(s) attached hereto at any time without cause by providing the other party with thirty (30) days' advanced written notice.

### ARTICLE 2. RESPONSIBILITIES MAXIM

**2.1 Services.** MAXIM will, upon request by CLIENT, provide one or more licensed or unlicensed healthcare providers (collectively, "Personnel") as specified by CLIENT to provide off-site, remote healthcare Tracer services to CLIENT, subject to availability of qualified Personnel, to perform duties as stated herein and as more fully defined in the attached "Rider(s) "

**2.2 Personnel.** All Personnel provided by MAXIM shall be employees or contractors of MAXIM, and not of CLIENT. MAXIM'S duty to supply Personnel on request of CLIENT is subject to the availability of qualified MAXIM Personnel. Subject to the availability of Personnel, to the extent that MAXIM is unable to provide the type of healthcare provider requested by CLIENT, MAXIM will provide CLIENT with a higher skilled healthcare provider. MAXIM must, however, bill that higher skilled provider at that provider's fair market value rate.

**2.3 Insurance.** MAXIM will maintain (at its sole expense), or require the Personnel it provides under this Agreement to maintain, a valid policy of insurance evidencing general and professional liability coverage of not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate, covering the sole negligent acts or omissions of Personnel occurring in connection with the provision of Services under this Agreement. MAXIM will provide a certificate of insurance evidencing such coverage upon request by CLIENT. MAXIM further agrees to maintain, or to cause any subcontractor to maintain, any statutorily required worker's compensation insurance for all of its Personnel providing Services under this Agreement.

**2.4 Employment and Taxes.** MAXIM will follow its standard employment policies and procedures to verify that all Personnel meet applicable licensing requirements. MAXIM, or its subcontractor if applicable, will maintain direct responsibility as employer for the payment of wages and other compensation, and for any applicable mandatory withholdings and contributions such as federal, state, and local income taxes, social security taxes, worker's compensation, and unemployment insurance.

**2.5 Use of Independent Contractors and Subcontractors.** Personnel provided to CLIENT are employees of MAXIM and are subject to MAXIM'S standard screening process, as well as additional qualifications as required in this Agreement. If MAXIM deems it necessary to obtain the services of a subcontractor to fulfill its requirements under this Agreement, MAXIM may assign this Agreement, in whole or in part, to an entity owned by or under common control with MAXIM or in connection with any acquisition of all of the assets or capital stock of a party. In the interest of providing outreach and engagement services and assessment review, MAXIM may assign those portions of this Agreement, in whole or in part to a third party provider, which will be required to adhere to the terms of this Agreement.

### **ARTICLE 3. RESPONSIBILITIES OF CLIENT**

**3.1 Responsibility for Tracer(s).** CLIENT retains full authority and responsibility for directing the Tracer and/or Remote Service(s), as applicable. Additionally, CLIENT retains full authority, responsibility, and oversight over any applicable Protocol(s) for how Service(s) will be provided, including, but not limited to Protocol(s) itself and compliance with the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH), and any other applicable federal or state law and guidelines, Protocol(s) instruction(s) provided to MAXIM Personnel, additionally provided pursuant to Section 1.7, and compliance with Section 1.9 and Section, including that those Sections shall comply with this Section's referenced laws. Additionally, CLIENT agrees to indemnify and hold harmless MAXIM, its directors, officers, shareholders, employees, and agents from and against any and all claims, actions, or liabilities arising out of and/or in connection with any Protocol(s) provided to MAXIM and/or MAXIM Personnel, including whether or not Protocol(s) were followed by CLIENT and MAXIM.

**3.2 Insurance.** CLIENT will maintain at its sole expense valid policies of general liability insurance with minimum limits of \$1,000,000 per occurrence and \$3,000,000 annual aggregate covering the acts or omissions of its employees, contractors and agents which may give rise to liability in connection with the Services under this Agreement. CLIENT will give MAXIM prompt written notice of any material change in CLIENT coverage.

**3.3 Work Environment.** If Service(s) are provided on-site, CLIENT will provide a clean and properly maintained workspace for MAXIM that will enable MAXIM to safely provide Services. CLIENT will provide furniture at its sole risk to include, but not limited to, tables and chairs, and allow MAXIM Personnel reasonable access to telephones for business use. MAXIM will not be responsible for the proper maintenance of any property supplied by CLIENT. MAXIM will assume no responsibility or liability for crowd control and security at Tracer(s).

**3.4 Supplies.** CLIENT shall furnish MAXIM Personnel all tools, office supplies, equipment, supplies, software/hardware, and materials, including, without limitation electronic/mobile devices, which will be needed by MAXIM Personnel to perform their job duties ("Supplies"). These items are the property of the CLIENT and the use of these items are for work-related activity only and must conform to CLIENT and state policies and procedures. This does not include vehicle or any mode of transportation to and from job site. CLIENT shall provide a cellular phone. The use of a cellular phone is for work related activity only, for those jobs that require them in performing their job duties. CLIENT will provide these devices items at no cost to MAXIM or MAXIM Personnel. The cost for use of these any electronic/mobile devices for any purpose other than CLIENT business shall be billed to MAXIM for reimbursement. MAXIM Personnel shall be responsible for the safekeeping of these devices and shall pay for any damage or loss. CLIENT agrees to defend, indemnify, and hold harmless MAXIM, and its directors, officers, shareholders, employees and agents, from and against any and all claims, actions, or liabilities which may be asserted against them arising from any and all claims, actions, or liabilities in connection with any Supplies provided, or the inability of either party to obtain Supplies due to supply shortages or for any reason, in connection with this Agreement.

**3.5 Pending Credentialing Waiver(s).** If CLIENT accepts MAXIM Personnel to begin work assignment(s) while any credentialing requirement(s) is/are pending, CLIENT agrees to indemnify and hold harmless MAXIM, its directors, officers, shareholders, employees, and agents from and against any and all claims, actions, or liabilities arising out of and/or in connection with the credentialing result(s), or inability to perform credentialing, under this Agreement. Acceptance of MAXIM Personnel for work assignment(s) constitutes Acceptance.

**3.6 Guarantee.** CLIENT and MAXIM hereby agree that the FACILITY shall schedule MAXIM Personnel for a minimum of four (4) hours for an assignment shift. CLIENT acknowledges and agrees that there is a substantial

investment incurred by MAXIM in recruiting, training, and employing Personnel to provide Services to FACILITY, as well as recruiting challenges for identifying Personnel willing and able to work for less than above minimum shift requirement(s)

**3.7 Staff Order Cancellation.** If CLIENT cancels greater than fifty percent (50%) of an entire order less than seventy-two (72) hours prior to the start of a shift, MAXIM will bill CLIENT for one entire shift of hours scheduled at the established fee for each scheduled Personnel. MAXIM will be responsible for contacting MAXIM Personnel prior to reporting time.

**3.8 Right to Dismiss.** CLIENT may request the dismissal of any MAXIM Personnel for any reason. CLIENT agrees to notify MAXIM of any such action immediately in writing, providing in reasonable detail the reason(s) for such dismissal. CLIENT shall be obligated to compensate MAXIM for all Personnel hours worked prior to dismissal.

**3.9 Orientation.** CLIENT will promptly provide MAXIM Personnel with an adequate and timely orientation to the FACILITY and CLIENT 's premises. CLIENT shall review instructions regarding confidentiality and orient MAXIM Personnel to any Exposure Control Plan of the CLIENT as it pertains to OSHA requirements for blood-borne pathogens, as well as any of CLIENT's specific policies and procedures provided to MAXIM for such purpose.

**3.10 Incident Reports.** CLIENT shall report to MAXIM any unexpected incident known to involve any Maxim Personnel (such as Personnel errors or other unanticipated event or injuries known or suspected to be attributable to Maxim Personnel, and any safety hazards known to be caused by or the result of Services provided by Personnel) if the incident may have an adverse impact on the CLIENT and/or MAXIM, in order to comply with MAXIM's incident tracking program. Incident Reports are not required for routine Services being performed by Maxim Personnel. Complaints and grievances regarding MAXIM Personnel may be reported to the local MAXIM representative at any time

#### **ARTICLE 4. MUTUAL RESPONSIBILITIES**

**4.1 Non-discrimination.** Neither MAXIM nor CLIENT will discriminate on the basis of age, race, color, national origin, religion, sex, disability, being a qualified disabled veteran, being a qualified veteran of the Vietnam era, or any other category protected by applicable law.

#### **ARTICLE 5. COMPENSATION**

**5.1 Invoicing.** MAXIM will supply Personnel under this Agreement at the rates listed in the Rider(s) to this Agreement. MAXIM will submit invoices to CLIENT every week for Personnel provided to CLIENT during the preceding week. Invoices shall be submitted to the address set forth in Section 6.4

**5.2 Payment.** All amounts payable to MAXIM are due and payable within thirty (30) days from date of such invoice. CLIENT will send all payments to MAXIM at the address set forth of the invoice.

**5.3 Late Payment.** Payments not received within thirty (30) days from the applicable invoice date will accumulate interest, until paid, at the rate of one and one-half percent (1.5%) per month on the unpaid balance, equal to an annual percentage rate of eighteen percent (18%), or the maximum rate permitted by applicable law, whichever is less.

**5.4 Rate Changes.** MAXIM will give CLIENT prompt notice of any change in rates, which will be mutually agreed upon in writing by both Parties.

#### **ARTICLE 6. GENERAL TERMS**

**6.1 Independent Contractors.** The Parties enter into this Agreement as independent contractors, and nothing contained in this Agreement will be construed to create a partnership, joint venture, agency, or employment relationship between the Parties.

**6.2 Assignment.** Subject to Section 2.5, no Party may assign this Agreement without the prior written consent of the other Party, and such consent will not be unreasonably withheld, delayed or conditioned. No such consent will be required for assignment to an entity owned by or under common control with assignor, but the

assignor shall provide assignee with prompt written notice of the assignment. In any event, the assigning Party will remain fully liable to the other Party under this Agreement.

**6.3 Indemnification.** During the term of this Addendum, Maxim is offering a public health service(s) and should be afforded all applicable state immunity related to such, Maxim will be considered an agent of CLIENT while performing Services under Addendum Accordingly, CLIENT, at its own expense, shall defend and indemnify Maxim and its subsidiaries, affiliates, directors, officers, employees, and agents from any action arising out of the Maxim's performance of Services under this Addendum while acting as an agent of CLIENT.

**6.4 Notices.** Any notice or demand required under this Agreement will be in writing, will be personally served or sent by certified mail, return receipt requested and postage prepaid, or by a recognized overnight carrier which provides proof of receipt, and will be sent to the addresses below Either Party may change the address to which notices are sent by sending written notice of such change of address to the other Party in the manner specified herein.

Franklin Health Department  
9229 W Loomis Road  
Franklin, WI 53132  
ATTN Contracts

Maxim Healthcare Staffing Services, Inc  
7227 Lee DeForest Drive  
Columbia, MD 21046  
ATTN Contracts Department

**6.5 Headings.** The headings of the sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.

**6.6 Entire Contract; Counterparts.** This Agreement (including all Riders hereto) constitutes the entire contract between CLIENT and MAXIM regarding the Services to be provided hereunder Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document. No amendments to this Agreement will be effective unless made in writing and signed by duly authorized representatives of both Parties. The Parties acknowledge and agree that the execution and delivery of this Agreement by facsimile transmission shall be valid and binding.

**6.7 Force Majeure.** Neither MAXIM nor CLIENT shall be liable for any failure or inability to perform their respective obligations under this Agreement for a period of up to forty-five (45) days due to any cause beyond the reasonable control of the non-performing Party, including but not limited to acts of God, regulations of laws of any government, acts of war or terrorism, acts of civil or military authority, fires, floods, accidents, epidemics, quarantine restrictions, unusually severe weather, explosions, earthquakes, strikes, labor disputes, loss or interruption of electrical power or other public utility, freight embargoes or delays in transportation, or any similar or dissimilar cause beyond its reasonable control If a Party's non-performance under this section extends for forty-five (45) days or longer, the Party affected by such non-performance may immediately terminate this Agreement by providing written notice thereof to the other Party.

**6.8 Compliance with Laws.** Both Parties agree that all Services provided pursuant to this Agreement shall be performed in compliance with applicable federal, state, or local rules and regulations.

**6.9 Severability.** In the event that one or more provision of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision, the remaining provisions will be deemed to continue in full force and effect.

**6.10 Governing Law, Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Maryland, without regard to its principles of conflict of laws. Any dispute or claim from this Agreement shall be resolved exclusively in the federal and state courts of the State of Maryland and the Parties hereby irrevocably submit to the personal jurisdiction of said courts and waive all defenses thereto

**6.11 Limitation of Liability.** Neither MAXIM nor CLIENT will be responsible for special, indirect, incidental, punitive, consequential, or other similar damages, including but not limited to lost profits, that the other Party may incur or experience in connection with this Agreement or the Services provided, however caused, even if such Party has been advised of the possibility of such damages.

**6.12 Amendment.** No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the Party against whom enforcement of the amendment, modification, discharge or waiver is sought

**6.13 Attorneys' Fees.** In the event either Party is required to obtain legal assistance to enforce its rights under this Agreement, or to collect any monies due, hereunder, the prevailing Party shall be entitled to recover from the other Party, in addition to all other sums due, reasonable attorney's fees (including a reasonable hourly rate for the time expended by in-house counsel), court costs and expenses, if any, incurred enforcing its rights and/or collecting its monies.

## **ARTICLE 7. CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION**

### **7.1 Confidentiality.**

**A. MAXIM/CLIENT Information.** The parties recognize and acknowledge that, by virtue of entering into this Agreement and providing services hereunder, the parties will have access to certain information of the other party that is confidential and constitutes valuable, special, and unique property of the party. Each of the parties agrees that neither it nor his/her staff shall, at any time either during or subsequent to the term of this Agreement, disclose to others, use, copy, or permit to be copied, except pursuant to his duties for or on behalf of the other party, any secret or confidential information of the party, including, without limitation, information with respect to the party's patients, costs, prices, and treatment methods at any time used, developed or made by the party during the term of this Agreement and that is not available to the public, without the other party's prior written consent.

**B. Terms of this Agreement.** Except for disclosure to his/her legal counsel, accountant or financial or other advisors/consultants neither party nor its respective staff shall disclose the terms of this Agreement to any person who is not a party or signatory to this Agreement, unless disclosure thereof is required by law or otherwise authorized by this Agreement. Unauthorized disclosure of the terms of this Agreement shall be a material breach of this Agreement and shall provide the party with the option of pursuing remedies for breach or immediate termination of this Agreement in accordance with the provisions stated herein.

**C. Patient/Customer Information** Neither party nor its employees shall disclose any financial or medical information regarding Patient(s) treated hereunder to any third-party, except where permitted or required by law or where such disclosure is expressly approved by CLIENT, MAXIM and patient/customer in writing. Further, each party and its employees shall comply with the other party's rules, regulations and policies regarding the confidentiality of such information as well as all federal and state laws and regulations including, without limitation, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HITECH")

**D.** The obligations set forth in this Section shall survive the termination of this Agreement

**7.2 HIPAA/HITECH Obligations.** Each party and its respective staff shall comply with all federal and state laws and regulations, and all rules, regulations, and policies of the other party, regarding the confidentiality of patient information, to include, without limitation, HIPAA and HITECH. In addition, if necessary, the parties agree to resist any effort to obtain access to such records or information in judicial proceedings, except such access as is expressly permitted by federal/state regulations

**7.3 Data Security.** CLIENT will be responsible for establishing and overseeing all information and/or data security measures, which may be needed to maintain and protect the security of all computer systems, networks, files, data, and software related to the services under this Addendum and Agreement. CLIENT will be responsible for providing all education and training to MAXIM Personnel as it relates to CLIENT's privacy and security processes, including, without limitation the CLIENT's process and expectations for collecting, storing, securing, and transferring data collected under this Addendum and Agreement. CLIENT acknowledges and understands that no PII or PHI will be relayed, transmitted, or otherwise provided to or stored by MAXIM Personnel and that in terms of Maxim Personnel placed in the CLIENT's physical or technical environment as a result of this Addendum and Agreement for remote services, any Personally identifiable information ("PII") or Protected Health Information ("PHI") viewed, created, accessed, and/or stored by MAXIM Personnel would be done solely in the CLIENT's technical environment. Additionally, CLIENT agrees to indemnify and hold harmless MAXIM, its directors, officers, shareholders, employees,



and agents from and against any and all claims, actions, or liabilities arising out of and/or in connection with any data security or lack of data security while MAXIM Personnel is providing remote service(s).

CLIENT and MAXIM have acknowledged their understanding of and agree to the mutual promises written above by executing this Agreement as of the Effective Date

Franklin Health Department

MAXIM HEALTHCARE STAFFING SERVICES,  
INC.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## Tracer Rider

Rider, ("Rider") is effective June 3<sup>rd</sup> 2020 by and between Maxim Healthcare Staffing Services, Inc. ("MAXIM") and CLIENT and CLIENT on behalf of FACILITY.

**Rates.** The following Rates shall apply

Service	Hourly Rate
Contact Tracer	\$30.00
Communicable Disease Investigator	\$40.00
Epidemiologist	\$90.00
	\$

**COVID-19 Tracer Protocol.** MAXIM Personnel will provide Tracer Service(s) based on CLIENT protocol(s) that will be provided to MAXIM in advance by CLIENT.

**Disclaimer.** MAXIM and/or MAXIM Personnel will not be providing and/or responsible for clinical judgement for Services

**Orientation.** Rates listed above will be charged for all time spent in orientation.

**Overtime.** Overtime rates are charged for all hours worked in excess of forty (40) per week or per applicable state law and will be one and one-half (1.5) times the billing rate.

**Holidays.** Holiday rates will apply to shifts beginning at 11 00 p.m the night before the holiday through 11 00 p m. the night of the holiday and will be one and one-half (1.5) times the billing rate

New Year's Eve (from 3 PM)	New Year's Day	Presidents Day
Martin Luther King Day	Easter	Memorial Day
Independence Day	Labor Day	Pioneer Day (Utah Only)
Thanksgiving Day	Christmas Eve (from 3 PM)	Christmas Day

CLIENT and MAXIM acknowledge their understanding of the Agreement and to the mutual promises written above by executing this Rider as of the effective date above.

Franklin Health Department

MAXIM HEALTHCARE STAFFING SERVICES,  
INC.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>June 16, 2020</b>
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>RESOLUTION TO PROVIDE CONSERVATION EASEMENT WITH THE MILWAUKEE METROPOLITAN SEWERAGE DISTRICT FOR THE 36<sup>TH</sup> STREET BIOFILTER</b>	<b>ITEM NUMBER</b> <i>G.10.</i>
<p><b><u>BACKGROUND</u></b>  One of the final requirements to close out the 36<sup>th</sup> Street Biofilter (part of the work in Rawson Homes Neighborhood) is to provide an easement to Milwaukee Metropolitan Sewerage District (MMSD). The biofilter is located on the northwest corner of S. 36<sup>th</sup> Street and W. Madison Blvd.</p> <p><b><u>ANALYSIS</u></b>  This 10-year conservation easement (August 1, 2020 to July 31, 2030) places restrictions that Franklin will keep, preserve, and maintain the biofilter in a functional manner for the life of the easement.</p> <p><b><u>OPTIONS</u></b></p> <ul style="list-style-type: none"> <li>A. Authorize execution of conservation easement with MMSD.</li> <li>B. Refer back to Staff with further direction.</li> </ul> <p><b><u>FISCAL NOTE</u></b>  No significant fiscal impact if this easement is granted. DPW will need to assign periodic efforts to maintain the facility.</p> <p><b><u>COUNCIL ACTION REQUESTED</u></b>  (OPTION A) authorize Resolution 2020-_____, a resolution to provide conservation easement with the Milwaukee Metropolitan Sewerage District for the 36th Street Biofilter.</p>		

Engineering-GEM

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 2020 -

RESOLUTION TO PROVIDE CONSERVATION EASEMENT WITH THE MILWAUKEE METROPOLITAN SEWERAGE DISTRICT FOR THE 36<sup>TH</sup> STREET BIOFILTER

---

WHEREAS, ON October 3, 2017, the Common Council adopted Resolution 2017-7306- a resolution authorizing Milwaukee Metropolitan Sewerage District (MMSD) funding agreement FR07 Private Property Infiltration and Inflow Reduction Agreement for \$465,830 and Green Solutions Funding Agreement M03076P53 for \$171,858; and

WHEREAS, the funding agreements provided a partnership with MMSD to improve the Rawson Homes Area which includes a bio filter at the corner of S. 36<sup>th</sup> Street and W. Madison Blvd.; and

WHEREAS, the MMSD requires that a 10-year conservation easement be provided to ensure that the facility be maintained and functional.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Common Council of the City of Franklin that it would be in the best interest of the City to execute Conservation Easement with the Milwaukee Metropolitan Sewerage District for the 36th Street Biofilter.

Introduced at a regular meeting of the Common Council of the City of Franklin the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by Alderman \_\_\_\_\_.

PASSED AND ADOPTED by the Common Council of the City of Franklin on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:

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

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

GEM/db

---

## LIMITED TERM CONSERVATION EASEMENT

---

This LIMITED TERM CONSERVATION EASEMENT FOR GREEN INFRASTRUCTURE is granted on the first day of August 2020 by the City of Franklin (Landowner) to the Milwaukee Metropolitan Sewerage District (Easement Holder).

### RECITALS

**A. Property.** The Landowner is the sole owner of property located in Milwaukee County, Wisconsin, which is described in Exhibit A and depicted on the map shown in Exhibit B (the Property). The Property is at northwestern corner of the intersection of South 36<sup>th</sup> Street and West Madison Boulevard in Franklin.

This Limited Term Conservation Easement applies only to the area of the Property that has conservation value. This area contains infrastructure designed to capture and hold stormwater in place to reduce the quantity and improve the quality of runoff. Exhibit C shows the area within the Property that is subject to this Limited Term Conservation Easement.

**B. Conservation Values.** In its present state, the Property has conservation value because it has a bioswale with an area of 6,042 square feet (the Green Infrastructure). This Green Infrastructure provides a total design detention capacity of 181,567 gallons.

**C. Baseline Documentation.** The condition of the Property and specifically the Green Infrastructure is documented in an inventory of relevant features, characteristics, and Conservation Values (Baseline Report), which is on file at the office of the Easement Holder and incorporated into this Conservation Easement by reference. This Baseline Report consists of reports, maps, photographs, and other documentation that both parties agree provides an accurate representation of the condition of the Property at the time of the conveyance of this Easement and which is intended to serve as an objective, but not exclusive, baseline for monitoring compliance with the terms of this Easement.

**D. Public Policies.** The preservation of the Conservation Values of the Property will serve the public policy set forth in Section 700.40 of the Wisconsin Statutes, which provides for the creation and conveyance of conservation easements to protect the natural, scenic, and open space values of real

#### Recording Area

##### Name and Return Address

Milwaukee Metropolitan  
Sewerage District  
Attention: Michael Hirsch  
260 West Seeboth Street  
Milwaukee, Wisconsin 53204

##### Tax Key Number:

**7600064000**  
**7600065000**  
**7600066000**

property; assure its availability for agriculture, forestry, recreation or open space uses; protect natural resources; maintain or enhance air and water quality; and preserve archaeological sites.

**E. Qualified Organization.** The Easement Holder is qualified to hold conservation easements under Section 700.40(1)(b) because it is a governmental body empowered to hold an interest in real property under the laws of the State of Wisconsin.

**F. Conservation Intent.** The Landowner and Easement Holder share the common purpose of preserving the Conservation Values for a period of ten years. The Landowner intends to place restrictions on the use of the Property to protect those Conservation Values. In addition, the Landowner intends to convey to the Easement Holder and the Easement Holder agrees to accept the right to monitor and enforce these restrictions.

**G. Funding Provided by Easement Holder.** The Easement Holder has provided funding to the Landowner for the installation of the Green Infrastructure. The Landowner acknowledges the receipt and sufficiency of this funding.

#### GRANT OF CONSERVATION EASEMENT

In consideration of the facts recited above, the mutual covenants contained in this Easement, the funding provided by the Easement Holder, and the provisions of Section 700.40 of the Wisconsin Statutes, the Landowner voluntarily conveys to the Easement Holder a Conservation Easement (the Easement) for a period of ten years on the Property. This Easement consists of the following terms, rights, and restrictions:

- 1. Purpose.** The purpose of this Easement is to require the Landowner to keep, preserve, and maintain the Green Infrastructure installed on the Property.
- 2. Effective Dates.** This Easement becomes effective August 1, 2020 and terminates on July 31, 2030.
- 3. Recording of Easement.** The Easement Holder will record this Easement at the Easement Holder's expense.
- 4. Operation and Maintenance.** The Landowner will operate and maintain the Green Infrastructure so that it remains functional for the entire term of this Easement. The Landowner is solely responsible for operation, maintenance, and evaluating performance.
- 5. Additional Reserved Rights of the Landowner.** The Landowner retains all rights associated with ownership of the Property, including the right to use the Property, and invite others to use the Property, in any manner that is not expressly restricted or prohibited by the Easement or inconsistent with the purpose of the Easement. However, the Landowner may not exercise these rights in a manner that would adversely impact the Conservation Values of the Property.

The Landowner expressly reserves the right to sell, give, bequeath, mortgage, lease, or otherwise encumber or convey the Property, subject to the following conditions.

- 5.1 The encumbrance or conveyance is subject to the terms of this Easement.
- 5.2 The Landowner incorporates the terms of this Easement by reference in any subsequent deed or other legal instrument by which the Landowner transfers any interest in all or part of the Property.
- 5.3 The Landowner notifies the Easement Holder of any conveyance in writing within fifteen days after the conveyance and provides the Easement Holder with the name and address of the recipient of the conveyance and a copy of the legal instrument transferring rights.
- 5.4 Failure of the Landowner to perform any act required in Subparagraphs 5.2 and 5.3 does not impair the validity of this Easement or limit its enforceability in any way.

**6. Easement Holders Rights and Remedies.** To accomplish the purpose of this Easement, the Landowner expressly conveys to the Easement Holder the following rights and remedies.

- 6.1 Preserve Conservation Values. The Easement Holder has the right to preserve and protect the Conservation Values of the Property.
- 6.2 Prevent Inconsistent Uses. The Easement Holder has the right to prevent any activity or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of areas or features of the Property that are damaged by any inconsistent activity or use, pursuant to the remedies set forth below.
- 6.3 Enter the Property. The Easement Holder has the right to enter the Property to: inspect it and monitor compliance with the terms of this Easement; obtain evidence for use in seeking judicial or other enforcement of the Easement; and otherwise exercise its rights under the Easement. The Easement Holder will: provide prior notice to the Landowner before entering the Property, comply with the Landowner's safety rules, and avoid unreasonable disruption of the Landowner's use of the Property.

**7. Remedies for Violations.** The Easement Holder and the Landowner have the right to enforce the terms of this Easement and prevent or remedy violations through appropriate legal proceedings.

- 7.1 Notice of Problems. If the Easement Holder identifies problems with the Green Infrastructure, then the Easement Holder will initially attempt to resolve the problems collaboratively. The Easement Holder will notify the Landowner of the problems and request remedial action within a reasonable time.

- 7.2 Notice of Violation and Corrective Action. If the Easement Holder determines that a violation of the terms of this Easement has occurred or is threatened, the Easement Holder will give written notice of the violation or threatened violation and allow at least thirty (30) days to correct the violation. If the Landowner fails to respond, then the Easement Holder may initiate judicial action. The requirement for an initial notice of violation does not apply if, in the discretion of the Easement Holder, immediate judicial action is necessary to prevent or mitigate significant damage to the Property or if good faith efforts to notify the Landowner are unsuccessful.
- 7.3 Remedies. When enforcing this Easement, the Remedies available to the Easement Holder include: temporary or permanent injunctive relief for any violation or threatened violation of the Easement, the right to require restoration of the Green Infrastructure to its condition at the time of the conveyance of this Easement, specific performance or declaratory relief, and recovery of damages resulting from a violation of the Easement or injury to any of the Conservation Values of the Property.
- 7.4 Enforcement Delays. A delay or prior failure of the Easement Holder to discover a violation or initiate enforcement proceedings does not waive or forfeit the right to take any action necessary to assure compliance with the terms of this Easement.
- 7.5 Waiver of Certain Defenses. The Landowner hereby waives any defense of laches, such as failure by the Easement Holder to enforce any term of the Easement, or estoppel, such as a contradictory statement or action on the part of the Easement Holder.
- 7.6 Acts Beyond Landowner's Control. The Easement Holder may not bring any action against the Landowner for any injury or change in the Property resulting from causes beyond Landowner's control, including, but not limited to, natural disasters such as fire, flood, storm, natural earth movement and natural deterioration, or prudent actions taken by the Landowner under emergency conditions to prevent or mitigate damage from these causes, provided that the Landowner notifies the Easement Holder of any occurrence that has adversely impacted or interfered with the purpose of this Easement.

## **8. General Provisions.**

- 8.1 Amendment. The Landowner and Easement Holder may amend this Easement in a written instrument executed by both parties and recorded in the Office of the Register of Deeds for the county in which the Property is located, provided that no amendment shall be allowed if, in the judgment of the Easement Holder, it:
- a. diminishes the Conservation Values of the Property,
  - b. is inconsistent with the purpose of the Easement,



c. affects the duration of the Easement, or

d. affects the validity of the Easement under Section 700.40 of the Wisconsin Statutes.

8.2 Assignment. The Easement Holder may convey, assign, or transfer its interests in this Easement to a unit of federal, state, or local government or to an organization that is (a) qualified within the meaning of Section 170(h)(3) of the Internal Revenue Code and in the related regulations or any successor provisions then applicable, and (b) qualified to hold conservation easements under Section 700.40 of the Wisconsin Statutes. As a condition of any assignment or transfer, any future holder of this Easement is required to carry out its purpose for the remainder of its term. The Easement Holder will notify the Landowner of any assignment at least thirty (30) days before the date of such assignment. However, failure to give such notice does not affect the validity of assignment or limit its enforceability in any way.

8.3 Captions. The captions in this Easement have been inserted solely for convenience of reference and are not part of the Easement and have no effect on construction or interpretation.

8.4 Controlling Law and Liberal Construction. The laws of the State of Wisconsin govern the interpretation and performance of this Easement. Ambiguities in this Easement shall be construed in a manner that best effectuates the purpose of the Easement and protection of the Conservation Values of the Property.

8.5 Counterparts. The Landowner and Easement Holder may execute this Easement in two or more counterparts, which shall, in the aggregate, be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

8.6 Entire Agreement. This instrument sets forth the entire agreement of the Landowner and Easement Holder with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged into this Easement.

8.7 Extinguishment. This Easement may be terminated or extinguished before the expiration of its term, whether in whole or in part, only through judicial proceedings in a court of competent jurisdiction. Furthermore, the Easement may be extinguished only under the following circumstances: (a) exercise of the power of eminent domain or purchase in lieu of condemnation takes all or part of the Property or (b) the Landowner and Easement Holder agree that a subsequent, unexpected change in the condition of or surrounding the Property makes accomplishing the purpose of the Easement impossible.

8.8 Ownership Responsibilities, Costs and Liabilities. The Landowner retains all responsibilities and will bear all costs and liabilities related to the ownership of the Property, including, but not limited to, the following:

- a. *Operation, upkeep, and maintenance*. The Landowner is responsible for the operation, upkeep, and maintenance of the Property.
- b. *Control*. In the absence of a judicial decree, nothing in this Easement establishes any right or ability in the Easement Holder to:
  - (i) exercise physical or managerial control over the day-to-day operations of the Property;
  - (ii) become involved in the management decisions of the Landowner regarding the generation, handling, or disposal of hazardous substances; or
  - (iii) otherwise become an operator of the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), or similar laws imposing legal liability on the owner or operator of real property.
- c. *Permits*. The Landowner remains solely responsible for obtaining applicable government permits and approvals for any construction or other activity or use permitted by this Easement and all construction, other activity, or use shall be undertaken in accordance with applicable federal, state and local laws, regulations, and requirements.
- d. *Indemnification*. The Landowner releases and will hold harmless, indemnify, and defend the Easement Holder and its members, directors, officers, employees, agents, contractors, and the heirs, personal representatives, successors and assigns of each of them (collectively “Indemnified Parties”) from and against all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, judgments or administrative actions, including, without limitation, reasonable attorneys’ fees, arising from or in any way connected with:
  - (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties;
  - (ii) the violation or alleged violation of, or other failure to comply with, any state, federal or local law, regulation, including without limitation, CERCLA, by any person other than the Indemnified Parties, in any way affecting, involving, or related to the Property;

(iii) the presence or release in, on, from, or about the Property, at any time of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties.

e. *Taxes.* Before delinquency, the Landowner shall pay all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "Taxes"), including any taxes imposed upon or incurred in response to this Easement, and shall furnish the Easement Holder with satisfactory evidence of payment upon request.

8.9 Recording. The Easement Holder shall record this Easement in the Office of the Register of Deeds for the county in which the Property is located and may re-record it or any other document necessary to protect its rights under this Easement.

8.10 Severability. If any provision or specific application of this Easement is found to be invalid by a court of competent jurisdiction, then the remaining provisions or specific applications of this Easement shall remain valid and binding.

8.11 Successors. This Easement is binding upon and inures to the benefit of the Landowner and Easement Holder and their respective personal representatives, heirs, successors and assigns, and shall continue as a servitude running with the Property for the term of the Easement.

8.12 Terms. The terms "Landowner" and "Easement Holder," wherever used in this Easement, and any pronouns used in their place, mean either masculine or feminine, singular or plural, and include Landowner's and Easement Holder's respective personal representatives, heirs, successors, and assigns.

8.13 Warranties and Representations. The Landowner warrants and represents that:

- a. The Landowner and the Property comply with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;
- b. No civil or criminal proceedings or investigations are pending or threatened that would in any way affect, involve, or relate to the Property. No facts or circumstances exist that the Landowner might reasonably expect to form the basis for any proceedings, investigations, notices, claims, demands or orders; and
- c. The person signing this Easement has authority to grant this Conservation Easement to the Easement Holder.

GRANT OF INTEREST TO EASEMENT HOLDER

As Mayor of the City of Franklin, I execute the foregoing Limited Term Conservation Easement and acknowledge the same on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

STATE OF WISCONSIN

MILWAUKEE COUNTY

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, the person known as Stephen R. Olson came before me and executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Signature of Notary Public

Notary Public, State of \_\_\_\_\_

My Commission expires \_\_\_\_\_.

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

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Jesse A. Wesolowski, City Attorney

DATE: \_\_\_\_\_

ACCEPTANCE OF EASEMENT HOLDER'S INTEREST

The Milwaukee Metropolitan Sewerage District accepts the foregoing Limited Term

Conservation Easement on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Kevin L. Shafer, P.E.  
Executive Director

STATE OF WISCONSIN  
MILWAUKEE COUNTY

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, the person known as Kevin L. Shafer  
came before me and executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Signature of Notary Public  
Notary Public, State of \_\_\_\_\_  
My Commission expires \_\_\_\_\_.

Approved as to Form: \_\_\_\_\_  
Attorney for the District

Thomas A. Nowicki, Staff Attorney, Milwaukee Metropolitan Sewerage District, drafted this  
conservation easement.

- ATTACHMENTS  
EXHIBIT A Description of the Property  
EXHIBIT B Map Showing the Location of the Property  
EXHIBIT C Map Showing the Bioswale Subject to this Easement

**EXHIBIT A**  
**DESCRIPTION OF THE PROPERTY**

**Address:** None  
**Tax Key:** 7600066000  
**Legal Description:** RAWSON HOMES ADDN NO 1 LOT 17 BLK 7

**Address:** 7367 South 36<sup>th</sup> Street  
**Tax Key:** 7600065000  
**Legal Description:** RAWSON HOMES ADDN NO 1 LOT 16 BLK 7

**Address:** 7355 South 36<sup>th</sup> Street  
**Tax Key:** 7600064000  
**Legal Description:** RAWSON HOMES ADDN NO 1 LOT 15 BLK 7

EXHIBIT B  
MAP SHOWING THE LOCATION OF THE PROPERTY

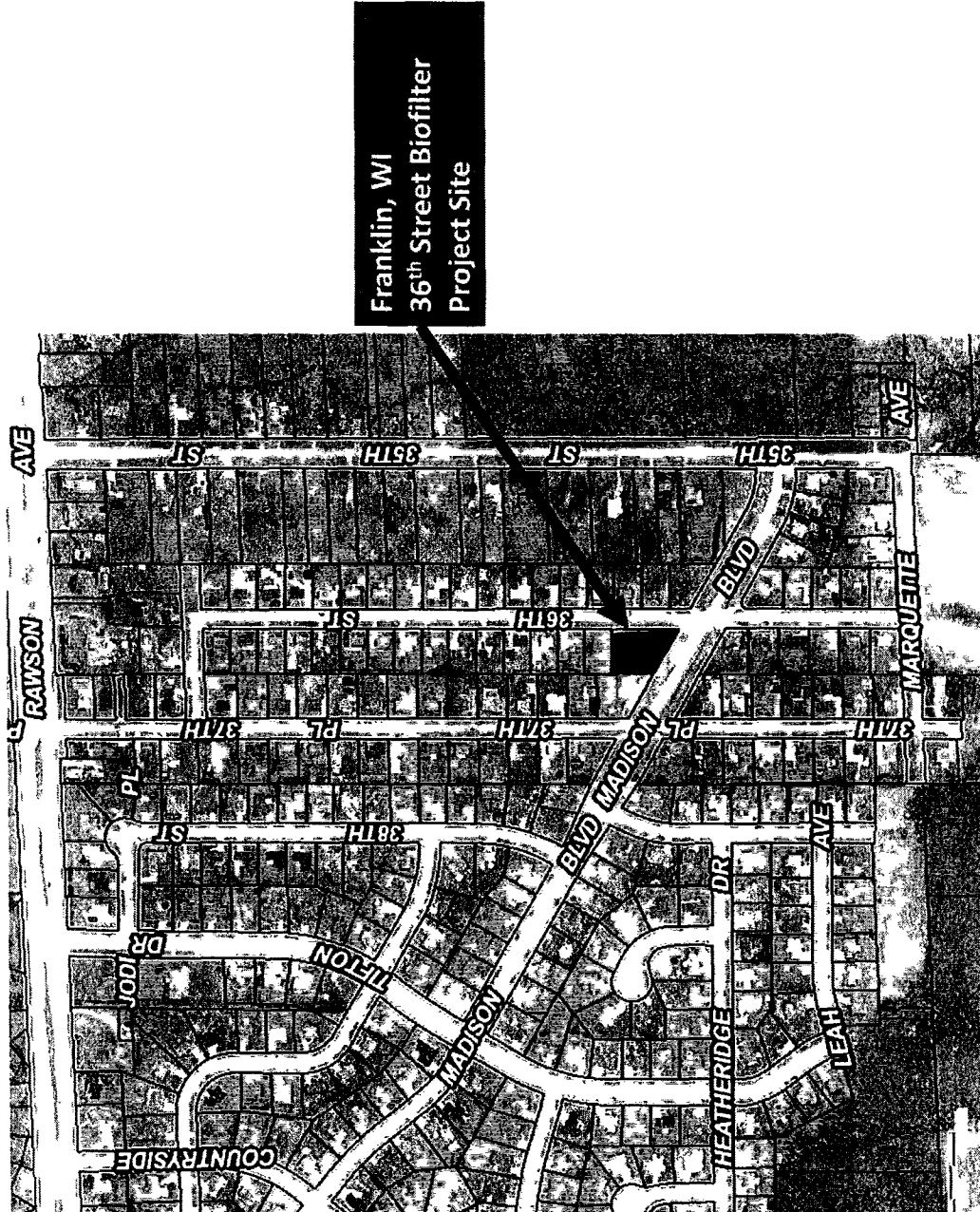
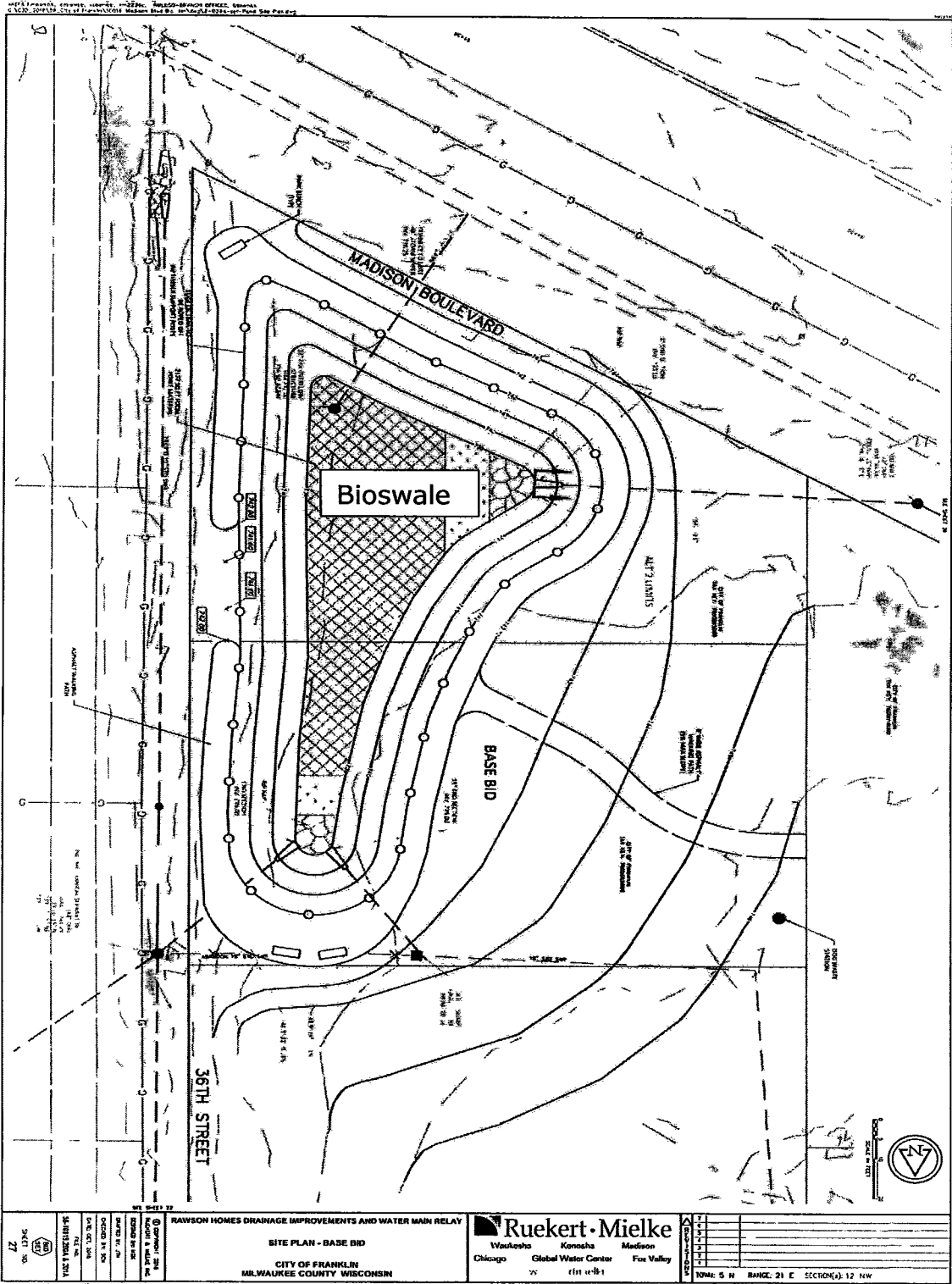


EXHIBIT C

MAP SHOWING THE BIOSWALE SUBJECT TO THIS EASEMENT





<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> June 16, 2020
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>AN ORDINANCE TO AMEND ORDINANCE 2019-2398, AN ORDINANCE ADOPTING THE 2020 ANNUAL BUDGETS FOR TID5 AND TID6 TO CARRYFORWARD UNUSED 2019 APPROPRIATIONS AND DETAIL 2020 CONSTRUCTION APPROPRIATIONS IN TID4 AND PROVIDE ADDITIONAL MUNICIPAL REVENUE OBLIGATION APPROPRIATIONS IN TID 3</b>	<b>ITEM NUMBER</b> <i>G.11.</i>

**Background**

In TID3, 2020 resources increased such that the Municipal Revenue Obligation payment was increased from \$711,005 to \$760,005. As TID resources are restricted for use by the TID, to hold the added resources served no purpose. The extra \$49,000 2020 payment reduced future interest costs to the TID.

Several 2020 TID budgets require budget amendments to carryforward 2019 projects that were not completed in 2019.

In TID4, the 2020 Budget includes \$11,000,000 for infrastructure costs. In January 2020, the Common Council awarded several contracts for the work, that was detailed out into smaller project descriptions. Staff is recommending that the \$11 million appropriation be split into smaller parts with future actual payments aligned with those detailed component parts. This will provide greater accountability for the project work. The amendment does NOT change the total amount appropriated.

In TID5, a \$4 million refunding of the 2018 Note Anticipation Note was initiated in December 2019, with the note payment delayed until March 1, 2020 (by terms of the original 2018 note issuance). The \$4 million note payment was included in the 2019 budget, but actually occurred in 2020, carrying forward the appropriation to 2020.

In TID6, the 2019 budget was established for the infrastructure construction project which was anticipated to be completed in 2019. Only the water main project was worked upon in 2019. The infrastructure project continues. The 2019 budget included \$9 million of City commitments on the infrastructure. Bear Development completed \$1 million related to water in 2019, and continues working on the project. The attached Budget Amendment will carryforward the \$8 million appropriation into 2020 as Bear Development continues the project. Current Developer estimates has the project continuing into 2021.

**Recommendation**

The Director of Finance & Treasurer recommends adoption of the DRAFT Budget Amendment that updates the various 2020 TID budgets.

**COUNCIL ACTION REQUESTED**

Motion adopting an ordinance to amend Ordinance 2019-2398, an Ordinance adopting the 2020 annual budgets for TID5 and TID 6 to carryforward unused 2019 appropriations and detail 2020 construction appropriations in TID4 and provide additional municipal revenue obligation appropriations in TID 3

Roll Call Vote Required

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

ORDINANCE NO. 2020 \_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE 2019-2398, AN ORDINANCE ADOPTING THE 2020 ANNUAL BUDGETS FOR TID5 AND TID6 TO CARRYFORWARD UNUSED 2019 APPROPRIATIONS AND DETAIL 2020 CONSTRUCTION APPROPRIATIONS IN TID4 AND PROVIDE ADDITIONAL MUNICIPAL REVENUE OBLIGATION APPROPRIATIONS IN TID 3

---

WHEREAS, the Common Council of the City of Franklin adopted the 2020 Annual Budgets for the TID Funds of the City of Franklin on November 19, 2019; and

WHEREAS, TID3 has a Municipal Revenue Obligation payment that offers prepayment when funds are available such that the City made a \$49,000 payment in excess of the 2020 budget appropriation saving future interest costs; and

WHEREAS, the 2020 TID4 budget contains an \$11,000,000 appropriation for infrastructure projects that were detailed in a January 21, 2020 Common Council contract award by more detailed projects; and

WHEREAS, modifying the 2020 TID 4 \$11,000,000 infrastructure appropriation into smaller individual projects will provide for more accountability without changing the total appropriation; and.

WHEREAS, TID5 initiated a \$4,000,000 refunding of the 2018 Note Anticipation Note in December 2019 with the principal payment on March 1, 2020 such that the \$4 million principal payment was not included in the adopted 2020 Budget; and

WHEREAS, the TID6 2019 infrastructure construction was not complete in 2019 carrying over to 2020 such that the 2020 Budget now needs to reflect the remaining \$8 million appropriation.

NOW, THEREFORE, the Common Council of the City of Franklin does hereby ordain as follows:

Section 1 That a 2020 Budget for TID3 be amended as follows:

Econ Dev	Developer Incentives	Increase	\$49,000
----------	----------------------	----------	----------

Section 2 That a 2020 Budget for TID4 be amended as follows:

Highway	Sanitary Sewer	Decrease	\$10,824,000
Engineering	Profession Fees – Corp Pk	Increase	609,000
Engineering	Professional Fees – Hickory	Increase	460,000
Engineering	Professional Fees – Elm Rd	Increase	350,000
Highway	Storm Sewer	Increase	200,000
Highway	Land Purch Hickory ROW	Increase	610,000
Highway	Tree mitigation	Increase	25,000

Highway	Land Purch – Elm Rd ROW	Increase	530,000
Water	Water Main – Elm Rd	Increase	1,200,000
Water	Water Main – Hickory	Increase	2,250,000
Sewer	Pump Station	Increase	950,000
Sewer	Sanitary Sewer – Hickory	Increase	2,250,000
Sewer	Pump/Lift Station	Increase	190,000
Sewer	Sanitary Sewer – Elm Rd	Increase	1,200,000

Section 3 That a 2020 Budget for TID5 be amended as follows:

Debt Service	Principal Payment	Increase	\$4,000,000
--------------	-------------------	----------	-------------

Section 4 That a 2020 Budget for TID6 be amended as follows:

Highway	Street Construction	Increase	\$3,000,000
Water	Water Main	Increase	\$1,500,000
Sewer	Sanitary Sewer Main	Increase	\$1,500,000

Section 5 Pursuant to §65.90(5)(a), Wis. Stats., the City Clerk is directed to publish a Class 1 notice of this budget amendment within ten days of adoption of this ordinance.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:

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

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

**BLANK PAGE**

<p>APPROVAL <i>slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE <i>JUNE 16, 2020</i></p>
<p>REPORTS &amp; RECOMMENDATIONS</p>	<p>AN ORDINANCE TO REPEAL AND RECREATE SECTIONS 13-1 THROUGH 13-3 OF THE FRANKLIN MUNICIPAL CODE, CHAPTER 13, "BUDGET", IN ORDER TO AMEND THE BUDGET PROCESS, INCLUDING DELEGATING TO THE FINANCE COMMITTEE THE RESPONSIBILITY FOR THE INITIAL REVIEW OF THE MAYOR'S RECOMMENDED ANNUAL BUDGET</p>	<p>ITEM NUMBER <i>G.12.</i></p>

**Background**

Prior to July 2012, the Mayor's Recommended Budget was referred to the Finance Committee for initial review and any recommended changes. In July, 2012, the Budget Ordinance was amended to have the Committee of the Whole replace the Finance Committee.

The Ordinance was also amended to have a Budget Time table set by March 1 each year.

The Ordinance also established the Mayor's Recommended Budget as the Proposed Budget for the Public Hearing notice should no action be taken by the Committee of the Whole.

At the May 26, 2020 Finance Committee meeting, the Finance Committee expressed interest in having the opportunity to review the Mayor's Recommended Budget.

The proposed Ordinance amendment would assign the initial review of the Mayor's Recommended Budget to the Finance Committee. The Finance Committee's review would result in recommended changes to the Mayor's Recommended Budget, however amending the Mayor's Recommended Budget would remain with the Common Council.

The Mayor's Recommended Budget would become the Proposed Budget, unless the Common Council amends it prior to the Public Hearing Notice as currently directed by section 13-4 of the Ordinances.

**Recommendation**

The DRAFT Ordinance would move setting the time table for the Budget process to the first Tuesday in May. This would provide a newly constituted Common Council to establish the time table for the following budget cycle.

The DRAFT Ordinance would permit the Finance Committee to review and make recommended changes to the Mayor's Recommended Budget, but leave the responsibility for actually changing the Recommended Budget with the Common Council.

**COUNCIL ACTION REQUESTED**

Motion adopting an ordinance to repeal and recreate sections 13-1 through 13-3 of the Franklin Municipal Code, Chapter 13, "Budget", in order to amend the budget process, including delegating to the Finance Committee the responsibility for the initial review of the Mayor's Recommended Annual Budget

STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

ORDINANCE NO. 2020 \_\_\_\_\_

AN ORDINANCE TO REPEAL AND RECREATE SECTION 13-1 THROUGH 13-3 OF THE FRANKLIN MUNICIPAL CODE, CHAPTER 13, "BUDGET", IN ORDER TO AMEND THE BUDGET PROCESS, INCLUDING DELEGATING TO THE FINANCE COMMITTEE THE RESPONSIBILITY FOR THE INITIAL REVIEW OF THE MAYOR'S RECOMMENDED ANNUAL BUDGET

---

WHEREAS, the Franklin Common Council believes Finance Committee's role in the budget development process should be restored; and

WHEREAS, the time table for the annual budget process is more appropriately established by any newly constituted Common Council following the April elections; and

WHEREAS, in order to effectuate the desired change, it is necessary to amend portions of Chapter 13, "Budget", of the Franklin Municipal Code.

NOW, THEREFORE, the Franklin Common Council does hereby ordain as follows:

Section 1      § 13-1. through § 13-3. of the Franklin Municipal Code is hereby repealed and recreated as follows:

§ 13-1. Departmental Estimates

The Mayor shall file with the Clerk an itemized statement of disbursements made to carry out the powers and duties of each officer, department or committee during the preceding fiscal year and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the Mayor and shall be designated as "departmental estimates" and shall be as nearly uniform as possible for the main division of all departments.

§ 13-2. Preparation of budget; information included; copies

A. Budget to include. Each year, the Mayor shall present a budget timetable to the Common Council no later than the first Tuesday in May, for the review and approval of the Common Council. The Mayor, with the assistance of the Director of Administration, all other department heads, and other staff as the Mayor shall determine is appropriate, shall be responsible for the preparation of the City's proposed annual budget, presenting a financial plan for conducting the affairs of the City for the ensuing calendar year, and shall submit same to the Finance Committee for its review. The Finance Committee shall review the Recommended Budget and submit its recommended changes to the Common Council. The Budget shall include the following information:

**(1)** The expense of conducting each department and activity of the City for the ensuing fiscal year and corresponding items for the current year and last

preceding fiscal year, with reasons for increase and decrease recommended as compared with appropriations for the current year

**(2)** An itemization of all anticipated income of the City from sources other than general property taxes and bond issue(s), with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal year.

**(3)** An itemization of the amount of money to be raised from general property taxes, which, with income from other sources, will be necessary to meet the proposed expenditures.

**(4)** Such other information as may be required by the Council and state law.

B. The Council shall provide a reasonable number of copies of the budget thus prepared for distribution or availability to citizens.

§ 13-3. Public Hearing

The Council shall hold a public hearing on the budget as required by law. Unless otherwise amended by the Common Council, the Mayor's Recommended Budget shall be the Proposed Budget for the public Hearing.

Section 2 The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

Section 3 All ordinance and parts of ordinances in contravention to this ordinance are hereby repealed.

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

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:

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

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

### 13-1 Departmental Estimates

[Amended 7-10-2012 by Ord. No. 2012-2082]

~~When requested by the Common Council each year, T~~he Mayor shall file with the Clerk an itemized statement of disbursements made to carry out the powers and duties of each officer, department or committee during the preceding fiscal year and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the Mayor and shall be designated as "departmental estimates," and shall be as nearly uniform as possible for the main division of all departments.

### § 13-2 Preparation of budget; information included; copies.

[Amended 1-23-2001 by Ord. No. 2001-1635; 7-10-2012 by Ord. No. 2012-2082]

**A.** Budget to include. Each year, the Mayor shall present a budget timetable to the Common Council no later than ~~March~~ the first Tuesday in May<sup>4</sup>, for the review and approval of the Common Council. ~~Each year, T~~he Mayor, with the assistance of the Director of Administration, all other department heads, and other staff as the Mayor shall determine is appropriate, shall be responsible for the preparation of the City's proposed annual budget, presenting a financial plan for conducting the affairs of the City for the ensuing calendar year, and shall submit same to the ~~Committee of the Whole~~ Finance Committee for its review, ~~and recommendation. Upon its review of the proposed budget, the Committee of the Whole shall submit same, together with the Committee of the Whole's recommendations thereon, to the Common Council for its review and approval. The Finance Committee shall review the Recommended Budget and submit its recommended changes to the Common Council.~~ The budget shall include the following information:

**(1)** The expense of conducting each department and activity of the City for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for increase and decrease recommended as compared with appropriations for the current year.

**(2)** An itemization of all anticipated income of the City from sources other than general property taxes and bond issued(s), with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal year.



(3) An itemization of the amount of money to be raised from general property taxes, which, with income from other sources, will be necessary to meet the proposed expenditures.

(4) Such other information as may be required by the Council and state law.

**B.** The Council shall provide a reasonable number of copies of the budget thus prepared for distribution or availability to citizens.

§ 13-3 **Public hearing.**

[Amended 7-10-2012 by Ord. No. 2012-2082]

The Council shall hold a public hearing on the budget as required by law. Unless otherwise ~~directed—amended~~ by the Common Council, the Mayor's ~~proposed recommended~~ annual budget, ~~as amended by action or actions of the Committee of the Whole~~, shall be the ~~budget proposal~~ Proposed Budget for the public hearing.

§ 13-4 **Changes in budget; public notice.**

[Amended 12-15-1998 by Ord. No. 98-1526]

The amount of the tax to be levied or certified, the amounts of the various appropriations and the purposes thereof shall not be changed after approval of the budget except by a two-thirds vote of the entire membership of the City Council. Notice of such transfer shall be given by publication within 10 days thereafter in the Official City Newspaper.

§ 13-5 **Appropriation of funds.**

No money shall be drawn from the treasury of the city nor shall any obligation for the expenditure of money be incurred except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by § 13-4 this chapter. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to re-appropriation; but appropriations may be made by the Council, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriations shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

**BLANK PAGE**

APPROVAL <i>slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE June 16, 2020
REPORTS & RECOMMENDATIONS	Report on Expenditures related to the COVID-19 Public Health Emergency thru June 11, 2020	ITEM NUMBER <i>G.13.</i>

**Background**

On March 17, 2020 the Common Council authorized spending up to \$250,000 in response to the COVID-19 Public Health Emergency.

Thru June 11, 2020, the City has spent \$131,955 (up from \$129,453 two weeks earlier) of Labor funds, \$46,557 (up from \$38,559 two weeks earlier) in operating costs (principally \$10,000 in extra postage for absentee ballots), and \$11,587 on equipment (with an additional \$5,596 on order). Details of the expenditures are:

	May 27	June 11
Elections	13,878	13,878
Info Systems	846	3,678
Admin – postage	10,000	10,000
Finance	128	128
Muni Buildings	647	1,793
Police	2,652	2,652
Fire	2,513	6,532
Highway	5,645	5,645
Parks	2,251	2,251
Total	38,559	46,557

Total expenditures and encumbrances are \$185,195 (up from \$185,195 on May 27).

The FEMA grant will potentially cover overtime costs, which total \$74,473 currently (up from \$72,979 last report). Very little else of these funds are recoverable under the COVID-19 FEMA grant, as they don't meet the requirements of the grant.

The State has notified the Health Department of an additional \$300,000 Grant for health related expenditures. Another agenda item will consider a temporary help contract for contact tracing, which would be funded by this grant.

In addition, it appears that certain city resources are going to be negatively impacted, specifically, ambulance revenues are down \$72,000 from a year ago at the end of April, hotel tax receipts will be down, as the major hotels have been effectively shut down, Fines/Forfeitures are down \$37,506 from 2019 thru April 30, investment income on reduced interest rates (estimated to reduce annual revenues by \$80,000), the school liaison officer – approximately \$22,000 (with the school closed – the officer was not needed), and landfill siting revenues. These amounts total \$211,000 so far. It is too early to understand the total revenue shortfalls, but clearly there will be some sizable amounts.

**COUNCIL ACTION REQUESTED**

Information Only – no action requested.

**BLANK PAGE**

<p><b>APPROVAL</b></p> <p><i>slw</i></p>	<p><b>REQUEST FOR COUNCIL ACTION</b></p>	<p><b>MEETING DATE</b></p> <p><b>06/16/2020</b></p>
<p><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p>Recommendation from the Fair Commission regarding the 2020 St. Martins Labor Day Fair</p>	<p><b>ITEM NUMBER</b></p> <p><i>G.14.</i></p>

At the Fair Commission meeting scheduled for 5:00 p.m. on Tuesday, June 16, 2020, the Commission will be discussing the 2020 St. Martins Labor Day Fair. The recommendation to continue or cancel the event will be brought forward to the Common Council for action.

**COUNCIL ACTION REQUESTED**

Motion to (cancel or continue) the 2020 St. Martins Labor Day Fair.

Or

As directed.

**BLANK PAGE**

<b>APPROVAL</b>  <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b>  <b>June 16, 2020</b>
<b>REPORTS AND RECOMMENDATIONS</b>	<p>Potential property acquisitions for the development of West Elm Road widening and public utilities public improvements for the Tax Incremental District No. 4 Franklin Corporate Park: 10627 South 27th Street, Tax Key Nos. 951-9996-002 (potential acquisition of approximately 5,969 square feet) and 951-9999-001 (potential acquisition of approximately 5,234 square feet); 3001 West Elm Road, Tax Key No. 978-9996-006 (potential acquisition of approximately 15,977 square feet); and 10613 South 27th Street, Tax Key No. 951-9996-009 (potential acquisition of approximately 24,008 square feet). The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(e), for market competition and bargaining reasons, to deliberate and consider terms relating to potential property acquisitions for the development of West Elm Road widening and public utilities public improvements for the Tax Incremental District No. 4 Franklin Corporate Park: 10627 South 27th Street, Tax Key Nos. 951-9996-002 (potential acquisition of approximately 5,969 square feet) and 951-9999-001 (potential acquisition of approximately 5,234 square feet); 3001 West Elm Road, Tax Key No. 978-9996-006 (potential acquisition of approximately 15,977 square feet); and 10613 South 27th Street, Tax Key No. 951-9996-009 (potential acquisition of approximately 24,008 square feet); and the investing of public funds and governmental actions in relation thereto and to effect such acquisitions, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</p>	<b>ITEM NUMBER</b>  <i>6.15.</i>

### COUNCIL ACTION REQUESTED

A motion to enter closed session pursuant to Wis. Stat. § 19.85(1)(e), for market competition and bargaining reasons, to deliberate and consider terms relating to potential property acquisitions for the development of West Elm Road widening and public utilities public improvements for the Tax Incremental District No. 4 Franklin Corporate Park: 10627 South 27th Street, Tax Key Nos. 951-9996-002 (potential acquisition of approximately 5,969 square feet) and 951-9999-001 (potential acquisition of approximately 5,234 square feet); 3001 West Elm Road, Tax Key No. 978-9996-006 (potential acquisition of approximately 15,977 square feet); and 10613 South 27th Street, Tax Key No. 951-9996-009 (potential acquisition of approximately 24,008 square feet); and the investing of public funds and governmental actions in relation thereto and to effect such acquisitions, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

<p style="text-align: center;"><b>APPROVAL</b></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b> June 16, 2020</p>
<p style="text-align: center;"><b>REPORTS AND RECOMMENDATIONS</b></p>	<p>Standards, Findings and Decision of the City of Franklin Common Council Upon the Application of Mills Hotel Wyoming, LLC, Applicant, for a Special Exception to Certain Natural Resource Provisions of the City of Franklin Unified Development Ordinance; A Resolution Conditionally Approving a 2 Lot Certified Survey Map, Being All of Lot 84 in Ryan Meadows, Located in the Southwest 1/4 and Northwest 1/4 of the Northeast 1/4 and the Northeast 1/4 of the Southwest 1/4 and the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 all in Section 30, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin (Mills Hotel Wyoming, LLC, Applicant) (Generally on the East Side of Monarch Drive, South of Chicory Street, Area Commonly Known as Area G); and Site Plan application by Copart of Connecticut, Inc. to allow for construction of a 7,200 square foot building and vehicle storage yard for Copart, Inc. (on approximately 44-acres upon or adjacent to the afore described properties), approved at the May 7, 2020 Plan Commission meeting, conditioned in part on the approval of a concurrent rezoning application (Mills Hotel Wyoming, LLC, Applicant) (for a portion of the afore described properties), which was denied by the Common Council on May 19, 2020 (all related to properties within the Bear Development Ryan Meadows Development). The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council who is rendering oral or written advice concerning strategy to be adopted by the body with respect to potential litigation with regard to the Special Exception to Certain Natural Resource Provisions, Certified Survey Map and Site Plan applications by Mills Hotel Wyoming, LLC and Copart of Connecticut, Inc., respectively, in which it is likely to become involved, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;">G.16.</p>
<p>Attached is a legal opinion letter regarding the above from Attorney Paul Kent, Counsel for Bear Development.</p>		



### **COUNCIL ACTION REQUESTED**

A motion to enter closed session pursuant to Wis. Stat. § 19.85(1)(g), to confer with legal counsel for the Common Council who is rendering oral or written advice concerning strategy to be adopted by the body with respect to potential litigation with regard to the Special Exception to Certain Natural Resource Provisions, Certified Survey Map and Site Plan applications (all related to properties within the Bear Development Ryan Meadows Development) by Mills Hotel Wyoming, LLC and Copart of Connecticut, Inc., respectively, in which it is likely to become involved, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

To City of Franklin Common Council and City Attorney

From Paul Kent, Counsel for Bear Development

Date June 11, 2020

Re Ryan Meadows Development

As you know, Bear Development (“Bear”) proposes to develop roughly 44 acres of land within the City of Franklin (“City”) for use by Copart for its operations. The City has already approved the site plan for the project. In addition, Bear has applied for and received a certified survey map (“CSM”) approval for a 33 acre parcel along with a zoning change on December 17, 2019, subject to either recording a conservation easement for a wetland on the parcel or obtaining a natural resources special exception (“NRSE”) for the project.

Two approvals are now scheduled for the June 16, 2020 City Council meeting. The first relates to the approval of a CSM that divides an additional 24 acre parcel and conveys 10 acres to Copart. City staff and the Plan Commission recommended City approval of the CSM. This would provide Copart with a 43 acre parcel that is consistent with the site plan approval.

The second action concerns the reconsideration of the denial of the NRSE. A low grade wetland is located on the development property that requires filling, which the NRSE would allow. The U.S. Army Corps of Engineers (“Corps”) and the Wisconsin Department of Natural Resources (“DNR”) have granted permits to fill the wetland. City Staff, the Environmental Commission, and Plan Commission all recommended approval of the NRSE. Nevertheless, the NRSE was denied several weeks ago.

We understand that the City has concerns with the second CSM based on various land use considerations which the City Attorney outlined in his memo on June 2<sup>nd</sup>. In addition, we understand that there are residual concerns about the approval of the NRSE which is now up for reconsideration. Our memo of June 2<sup>nd</sup> outlined our concerns with respect to the denial of the NRSE. This memo primarily outlines Bear’s position regarding the second CSM, but also offers some additional comments on the NRSE.

## **1. Land Use is a Prohibited CSM Consideration.**

The City cannot withhold approval of the second CSM based on an applicant's intended land use. While a land division ordinance *could* impose a land use approval criteria in an ordinance (*See Wood v. City of Madison*, 2003 WI 24, 260 Wis. 2d 71, 659 N.W.2d 31), the City has not done so.

The City's unified development ordinance ("UDO") only allows use consideration if the applicant intends to construct a *residential* development.

No land shall be subdivided for *residential use* which is determined to be unsuitable for such use by the Plan Commission for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography, or any other feature likely to be harmful to the health, safety, or welfare of either current City residents or the future residents of the proposed Subdivision, Certified Survey Map, Condominium, or of the City.

UDO § 15-2.0304 (emphasis added). This language clearly limits land suitability determinations to only residential land divisions. No other CSM approval criteria mention land use. The City Attorney has cited general purpose or intent statements that mention land use, but those are not ordinance standards or requirements. Thus, they cannot form the basis for a denial.

Cities can only apply statutory or ordinance requirements to a land division. Since the City has not explicitly made intended land use an approval criteria, it would be beyond the scope of the City's legal authority to deny a CSM based upon Copart's planned land use. Should the City deny the CSM based on the proposed land use, we believe it could be successfully challenged.

## **2. The Plan Commission Exceeded its Authority by Conditioning Site Plan Approval upon Obtaining a Rezone and CSM.**

Even apart from the fact that a CSM cannot be conditioned on land use when the ordinance does not provide for such a determination, there is no basis for the City to condition the site plan upon obtaining a rezoning and CSM under the facts of this case.

The City's Plan Commission imposed a condition upon the site plan approval that Bear rezone Lot 84 to M2. However, any condition imposed upon the approval must be reasonable and based upon substantial evidence. The Plan Commission satisfied neither element.

Act 67 applies to the site plan approval. Wis. Stat. § 62.23(7)(de)1.a. broadly defines a conditional use as “a use allowed under a conditional use permit, special exception, *or other special zoning permission issued by a city*, but does not include a variance.” (emphasis added). The expansive statutory definition of conditional use encompasses more than the traditional conditional use permit. This broad language clearly includes site plan approval because it is a type of zoning permission needed prior to development.

The rezoning condition was unreasonable because the underlying zoning district does not prohibit Copart’s proposed use. Copart’s use is allowed under two of the City’s Standard Industrial Classification (“SIC”) codes. The use can either be SIC 5012 (automobile and other vehicles) or SIC 5015 (motor vehicle parts, used). SIC 5012 is a permitted use within a M2 zone while SIC 5015 is a permitted use within a M1 zone. Alternatively, SIC 5015 is a special use within an M2 zone.

Since Copart’s intended use is allowed within the zoning code, the Plan Commission had no legal basis to impose rezoning as a condition of approval. Indeed, the UDO provides that the Plan Commission must approve a site plan if “[t]he proposed use(s) conform(s) to the uses permitted as either a ‘Permitted Use’ or ‘Special Use’ (whichever is applicable) in the zoning district.” UDO § 15-7.0102A. This development was either a permitted use or a special use, mandating Plan Commission approval, not conditional approval.

Even if the Plan Commission could impose such a condition, the condition must be supported by substantial evidence. Wis. Stat. § 62.23(7)(de)2.a. The Plan Commission cited no evidence supporting imposition of such a condition. Therefore it is inoperable.

Additionally, the Plan Commission lacked legal authority to condition approval of the site plan upon City approval of a CSM. Wis. Stat. § 66.10015(4) states “no political subdivision may enact or enforce an ordinance or take any other action that requires one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged.” The site plan approval clearly violated this restriction because the approval forces Bear/Copart to merge adjacent lots. Thus, this condition is also invalid.

### **3. Development Can Proceed Regardless of the City’s Decision on the CSM and Rezoning.**

Bear can develop the subject properties even if the City does not approve the second CSM. First, Bear could sell all of lot 84 to Copart. This would allow Bear to develop the project as planned without any additional City approvals. As already explained, Copart’s use falls within SIC 5012 and 5015, meaning it is a permitted use under M1 and M2 zoning. There would be no dual zoning of a single parcel because the development would occur on distinct parcels. No UDO provisions prohibit a single development on two lots with

different zoning codes. Consequently, Bear and Copart could develop the properties without the City approving a CSM.

Second, Bear could convey the needed acreage of lot 84 to Copart via lot line adjustment. This type of transfer is executed pursuant to Wis. Stat. § 236.45(2)(am)3., which exempts “the sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes” from local land division approval. The UDO also codified this exemption. *See* UDO § 15-2.0102B.3. This means Bear could convey the 10 acres and create a single parcel without any input from the City.

This type of conveyance also extends the zoning district with it. The zoning code establishes that lot lines are used to determine zoning boundaries. UDO § 15-3.0103A.2. On December 17, 2019, the City rezoned the entirety of lot 1 of Bear’s first CSM to M2. By expanding lot 1 via a lot line adjustment, the zoning boundary necessarily extends with it by the express terms of the rezoning legislation and UDO. This means the development would occur on a single lot entirely within a M2 district.

Even if the City took the position that its rezoning approval did not apply to the entirety of lot 1, the development would be in compliance with City requirements. The City prohibits dual zoning of a *newly created* lot. UDO § 15-3.0103A.3. A lot line adjustment does not create a new lot. It only expands an existing lot. This would allow Bear to develop the lot under dual zoning because the use would be permitted under both M1 and M2.

The bottom line is that this development can occur even if the City denies the CSM.

#### **4. Act 67 Precludes Denial of the NRSE.**

We have previously expressed why we believe that the City does not have a reasonable basis to deny the requested NRSE under Act 67, and why when reconsidered, the NRSE should be granted.

Bear met the Act 67 criteria under the ordinance. Bear submitted a voluminous application that detailed how the application satisfied every single criteria in the special exception ordinance by providing facts, such as state and federal permits, and engineering designs. The Environmental Commission prepared a detailed report on March 25, 2020 concluding that Bear satisfied the 16 criteria in the ordinance. The City staff agreed in the Environmental Commission’s recommendations on April 9, 2020, and the Plan Commission recommended approval on May 7, 2020. The statute’s language is unambiguous: “[i]f an applicant for a [special exception] permit meets or agrees to meet all of the requirements and conditions...*the city shall grant* the [special exception] permit.” Wis. Stat. § 62.23(7)(de)2.a. (emphasis added).

For the City to deny the request or impose conditions it must do so based on substantial evidence. Act 67 defines substantial evidence as “facts and information, *other than merely personal preferences or speculation*, directly pertaining to the requirements and conditions an applicant must meet to obtain a...[special exception] and that reasonable persons would accept in support of a conclusion.” Wis. Stat. § 62.23(7)(de)1.b. Mere assertions, without facts and information to support them, cannot justify a special exception denial.

There is no evidence in the record that would support a NRSE denial. City staff, the Environmental Commission, and the Plan Commission all concluded that Bear satisfied the NRSE approval criteria. With no evidence to the contrary, the City must approve the NRSE.

### **5. Denying the CSM and NRSE would be Arbitrary and Capricious.**

Bear was entitled to a fair and impartial review of its CSM and NRSE. *Marris v. City of Cedarburg* establishes that

zoning decisions are especially vulnerable to problems of bias and conflicts of interest because of the localized nature of the decisions.... Since biases may distort judgment, impartial decision-makers are needed to ensure both sound fact-finding and rational decision-making as well as to ensure public confidence in the decision-making process.

176 Wis. 2d 14, 25-26, 498 N.W.2d 842, 847 (1993). An applicant’s rights to an impartial decision-maker are violated when there is bias, unfairness in fact, or when the risk of bias is impermissibly high. *Marris*, 176 Wis. 2d. at 25.

*Marris* establishes the low threshold for finding impermissible bias. The court held that the chairperson of a zoning committee merely referring to the applicant’s position as a “loophole in need of closing”, and stating the committee “get” the applicant on a rule applied to someone convicted of fraud, constituted an impartial or biased decision-making process. *Id.* at 29-30.

Denying the CSM and NRSE would be an arbitrary and capricious decision prohibited by *Marris*. At the May 19, 2020 common council meeting, the City denied the NRSE without providing any evidence to support that decision. Realizing that error, the City again discussed the NRSE and CSM at the June 2, 2020 meeting. Despite having an additional two weeks to evaluate the proposal, the City could not provide a legal or factual basis to deny the applications. Instead, the City tabled the CSM and NRSE items. During the tabling discussion, council members made clear their intent “obviously is to deny this.” To further that goal, the City ordered staff to reverse itself and “prepare the appropriate documents

for denial” without providing any evidence or legal justification for that conclusion. This amounts to the Council directing staff to find reasons for denial, rather than judging the applications upon their merits. That is contrary to sound fact-finding and rational decision-making. It demonstrates that the City intends to thwart the project, despite recommendations to approve by staff, the Environmental Commission, and Plan Commission, and is grasping at straws to justify its decision after the fact. Denying the CSM and NRSE now would be exactly the type of action that courts have consistently ruled impermissible.

## **6. Requested Action**

Bear and Copart want to work with the City to make the development a success. Both have complied with every City demand and demonstrated compliance with all UDO requirements. Denying the CSM and NRSE would be contrary to the facts in the record and law. Even if the City did deny both items, Bear and Copart could still proceed with development. However, Bear and Copart believe it is in the best interests for all parties if the City proceeds down the less contentious path and approves the CSM and NRSE.

**BLANK PAGE**



APPROVAL <i>slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE 6/16/20
LICENSES AND PERMITS	MISCELLANEOUS LICENSES	ITEM NUMBER H.

See attached listing from meeting of June 16, 2020.

**COUNCIL ACTION REQUESTED**



414-425-7500

**License Committee  
Agenda\*  
Aldermen's Room  
June 16, 2020 – 4:00 p.m.**

<b>1.</b>	<b>Call to Order &amp; Roll Call</b>	<b>Time:</b>
<b>2.</b>	<b>Applicant Interviews &amp; Decisions</b>	
<b>License Applications Reviewed</b>		<b>Recommendations</b>

<b>Type/ Time</b>	<b>Applicant Information</b>	<b>Approve</b>	<b>Hold</b>	<b>Deny</b>
Operator 2020-2021 New 4:10 p.m.	<b>Gallagher, Sandy Y</b> 1923 Grange Ave Racine, WI 53403 On the Border			
Operator 2020-2021 New 4:15 p.m.	<b>Robinson, Paul J</b> 4201 S Taylor Ave Milwaukee, WI 53207 Tuckaway Country Club			
Operator 2020-2021 New 4:20 p.m.	<b>Waulters, Melissa K</b> 6605 W Howard Ave Milwaukee, WI 53220 Wegner's St Martins Inn			
Operator 2020-2021 Renew 4:25 p.m.	<b>Corona, Kayla M</b> 315 E Fieldstone Cir Apt #3 Oak Creek, WI 53154 Chili's Grill & Bar			
Extraordinary Entertainment & Special Event 4:30 p.m.	<b>Federation of Croatian Societies-Croatian Park Croatian Festival</b> Person in Charge: Thomas Krenz Location: Croatian Park, 9100 S. 76 <sup>th</sup> St Date/Time of Event: Friday 7/17 & Saturday 7/18 - 10 am to 11 pm; Sunday 7/19 – 10 am to 11 pm			
Operator 2020-2021 New 4:50 p.m.	<b>Schwulst, Anaka C</b> 2134 W 7 Mile Rd Franksville, WI 53126 Iron Mike's			
Operator 2019-2020 New	<b>Church, Mason D</b> 17321 W Horizon Dr New Berlin, WI 53146 Root River Center			
Operator 2020-2021 New	<b>Bartels, Daniel P</b> 8489 S Golden Lake Ct. Franklin, WI 53132 Point After Pub & Grille			
Operator 2020-2021 New	<b>Cantwell, Terrance M</b> 800 E Henry Clay St #104 Whitefish Bay, WI 53217 Sam's Club #8167			
Operator 2020-2021 New	<b>Castellon, Crystal</b> 4322 S 20 <sup>th</sup> St Milwaukee, WI 53221 Hampton Inn & Suites			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 New	<b>Charnon, Owen A</b> S72W12501 Tess Corners Dr Muskego, WI 53150 The Rock Sports Complex			
Operator 2020-2021 New	<b>Connolly, Amanda</b> 2926 River Valley Rd Waukesha, WI 53189 Hampton Inn & Suites			
Operator 2020-2021 New	<b>Geske, Jennifer B</b> 460 Raynor Ave Franksville, WI 53126 Irish Cottage			
Operator 2020-2021 New	<b>Hansen, Lisa M</b> 14000 60 <sup>th</sup> St Bristol, WI 53104 7-Eleven			
Operator 2020-2021 New	<b>Pengelly IV, William R</b> 1808 W Meyer Ln Apt 5106 Oak Creek, WI 53154 Sam's Club #8167			
Operator 2020-2021 New	<b>Peterson, Tyler T</b> 8800 Greenhill Ln Greendale, WI 53129 Pick 'n Save #6431			
Operator 2020-2021 New	<b>Radaj, Amy L</b> 1819 S 12 <sup>th</sup> St Milwaukee, WI 53204 Root River Center			
Operator 2020-2021 New	<b>Rinelli, Angela M</b> 2100 W Henry Ave Milwaukee, WI 53221 The Rock Sports Complex			
Operator 2020-2021 New	<b>Rosin Carrie J</b> 3159 S 39 <sup>th</sup> St Milwaukee, WI 53215 Milwaukee Burger Company			
Operator 2020-2021 New	<b>Rozek, Jessica L</b> 3222 S 38 <sup>th</sup> St Milwaukee, WI 53215 Crossroads II Pizza & Subs			
Operator 2020-2021 New	<b>Walker, Tamika C</b> 1124 White Rock Ave Waukesha, WI 53186 Sam's Club #8167			
Operator 2019-2020 New	<b>Baird, Mikayla K</b> 3560 N Oakland Ave Shorewood, WI 53211 Rawson Pub			
Operator 2020-2021 Renewal	<b>Baird, Mikayla K</b> 3560 N Oakland Ave Shorewood, WI 53211 Rawson Pub			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2019-2020 New	<b>Bryant, Sara A</b> 3925 W Denis Ave Greenfield, WI 53221 Root River Center			
Operator 2020-2021 Renewal	<b>Bryant, Sara A</b> 3925 W Denis Ave Greenfield, WI 53221 Root River Center			
Operator 2019-2020 New	<b>Chatfield, Anthony M</b> 10224 W Forest Home Ave #319 Hales Corners, WI 53130 Croatian Park			
Operator 2020-2021 Renewal	<b>Chatfield, Anthony M</b> 10224 W Forest Home Ave #319 Hales Corners, WI 53130 Croatian Park			
Operator 2019-2020 New	<b>Huettl, Jacquelyn M</b> 5970 S 32 <sup>nd</sup> St Greenfield, WI 53221 Root River Center			
Operator 2020-2021 Renewal	<b>Huettl, Jacquelyn M</b> 5970 S 32 <sup>nd</sup> St Greenfield, WI 53221 Root River Center			
Operator 2019-2020 New	<b>Pfeifer, Emma K</b> 5695 S Meadow Park Dr Hales Corners, WI 53130 The Rock Sports Complex			
Operator 2020-2021 Renewal	<b>Pfeifer, Emma K</b> 5695 S Meadow Park Dr Hales Corners, WI 53130 The Rock Sports Complex			
Operator 2019-2020 New	<b>Potis, Christina</b> 18600 W National Ave New Berlin, WI 53146 Irish Cottage			
Operator 2020-2021 Renewal	<b>Potis, Christina</b> 18600 W National Ave New Berlin, WI 53146 Irish Cottage			
Operator 2019-2020 New	<b>Salem, Faten S</b> 1785 W Meyer Ln Apt 16203 Oak Creek, WI 53154 Andy's On Ryan Rd			
Operator 2020-2021 Renewal	<b>Salem, Faten S</b> 1785 W Meyer Ln Apt 16203 Oak Creek, WI 53154 Andy's On Ryan Rd			
Operator 2020-2021 Renewal	<b>Adamczyk, Lauren E</b> 3911 W Jerelin Dr Franklin, WI 53132 Michaelangelo's Pizza			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Applin, Qyinn M</b> 4521 W Ramsey Ave, #65 Greendale, WI 53129 Country Lanes			
Operator 2020-2021 Renewal	<b>Baker, Nicole E</b> 7554 S 75 <sup>th</sup> St Franklin, WI 53132 CVS Pharmacy #5390			
Operator 2020-2021 Renewal	<b>Bearder, Leesa R</b> 9644 S 31 <sup>st</sup> St Franklin, WI 53132 Hampton Inn & Suites			
Operator 2020-2021 Renewal	<b>Calimlim, Jefferson M</b> 9125 Sura Ln #222 Greenfield, WI 53228 Hampton Inn & Suites			
Operator 2020-2021 Renewal	<b>Cauley, Joseph A</b> 1813 S 70 <sup>th</sup> St West Allis, WI 53214 Rawson Pub			
Operator 2020-2021 Renewal	<b>Cieslak, Tadeusz A</b> 4226 Tumblewood Ln Greendale, WI 53129 Polonia Sport Club			
Operator 2020-2021 Renewal	<b>Djurina, Milan</b> 2326 W Clayton Crest Milwaukee, WI 53221 Croatian Park			
Operator 2020-2021 Renewal	<b>DuCharme, Christine L</b> 7811 S Scepter Dr Apt 4 Franklin, WI 53132 Pick 'n Save #6431			
Operator 2020-2021 Renewal	<b>Gernhauser, Madeline A</b> 1124 Sundance Lane Racine, WI 53402 Milwaukee Burger Company			
Operator 2020-2021 Renewal	<b>Gilbert, Shelby L</b> 947 Perkins Ave Waukesha, WI 53186 Sam's Club #8167			
Operator 2020-2021 Renewal	<b>Greer, Patricia A</b> 1702 E Eden Pl St. Francis, WI 53235 CVS Pharmacy #5390			
Operator 2020-2021 Renewal	<b>Haase, Jody L</b> 2431 W Carroll Ave Oak Creek, WI 53154 7-Eleven			
Operator 2020-2021 Renewal	<b>Hoehn, Kendrick W</b> 1008 Montclair Dr Racine, WI 53402 Milwaukee Burger Company			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Humont, Kenneth C</b> 7119 W Jordan Ct Franklin, WI 53132 The Rock Sports Complex			
Operator 2020-2021 Renewal	<b>Kagerbauer, Justin D</b> S86W18930 Woods Rd, #301 Muskego, WI 53150 Croatian Park			
Operator 2020-2021 Renewal	<b>Khudarathullah, Vasim S</b> 13455 W Fountain Dr New Berlin, WI 53151 Andy's On Ryan Rd			
Operator 2020-2021 Renewal	<b>Klafka, Taylor</b> 4785 S 82 <sup>nd</sup> St Greenfield, WI 53220 Rawson Pub			
Operator 2020-2021 Renewal	<b>Kuglitsch, Kelly K</b> 4358 S Louisiana Ave Milwaukee, WI 53221 Irish Cottage			
Operator 2020-2021 Renewal	<b>Kust, Apolonia</b> 10845 W St. Martins Rd Franklin, WI 53132 Crossroads II Pizza & Subs			
Operator 2020-2021 Renewal	<b>Lee, Christian J</b> 8401 S 116 <sup>th</sup> St Franklin, WI 53132 Crossroads II Pizza & Subs			
Operator 2020-2021 Renewal	<b>Lloyd, Michael J</b> 8908 W Verona Ct Milwaukee, WI 53227 The Rock Sports Complex			
Operator 2020-2021 Renewal	<b>Menzel, Kristen A</b> 13100 Northwestern Ave Franksville, WI 53126 Rawson Pub			
Operator 2020-2021 Renewal	<b>Nelson, Samantha A</b> S75W16880 Gregory Dr, Apt D Muskego, WI 53150 Milwaukee Burger Company			
Operator 2020-2021 Renewal	<b>Neu, Jessica L</b> 2217 W Hilltop Ln Oak Creek, WI 53154 Iron Mike's			
Operator 2020-2021 Renewal	<b>Nicolai, Camille M</b> 7935 W Park Circle Way S Franklin, WI 53132 Hampton Inn & Suites			
Operator 2020-2021 Renewal	<b>Okrzezik, Tyler K</b> 6010 S New York Ave Cudahy, WI 53110 Milwaukee Burger Company			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Otto, Lori A</b> 5967 Oriole Ln Greendale, WI 53129 Rawson Pub			
Operator 2020-2021 Renewal	<b>Peters, Miranda R</b> 4950 S Heritage Dr, Apt 101 Greenfield, WI 53220 Irish Cottage			
Operator 2020-2021 Renewal	<b>Rabiega, Richard G</b> 7731 Cedar Ridge Ct Franklin, WI 53132 Polonia Sport Club			
Operator 2020-2021 Renewal	<b>Risacher Cavros, Jean M</b> 4620 W Anita Ln Franklin, WI 53132 Hampton Inn & Suites			
Operator 2020-2021 Renewal	<b>Rozek, Jenna</b> 8945 S 116 <sup>th</sup> St Franklin, WI 53132 Crossroads II Pizza & Subs			
Operator 2020-2021 Renewal	<b>Watson, Tinnia M</b> 11130 W Morgan Ave Greenfield, WI 53228 7-Eleven			
Operator 2020-2021 Renewal	<b>Wiltzius, Julie A</b> 4889 S 72 <sup>nd</sup> St Greenfield, WI 53220 Irish Cottage			
Operator 2020-2021 Renewal	<b>Zalewski, Raquel M</b> 3625 W Ruskin St Milwaukee, WI 53215 Rawson Pub			
Change of Agent 2020-2021	<b>Sam's Club #8167</b> Michelle L Peterson 3983 W Heatheridge Dr Franklin, WI 53132			
Entertainment & Amusement 2020-2021	<b>Prime Timez, LLC</b> Db a Fun Timez 6544 S Lovers Lane Rd Mohammed Nowman, Agent			
<b>3.</b>	<b>Adjournment</b>			
		Time		

\*Notice is given that a majority of the Common Council may attend this meeting to gather information about an agenda item over which they have decision-making responsibility. This may constitute a meeting of the Common Council per State ex rel Badke v Greendale Village Board, even though the Common Council will not take formal action at this meeting.

**BLANK PAGE**



<b>APPROVAL</b> <i>slw</i> <i>pk</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>6/16/2020</b>
<b>Bills</b>	<b>Vouchers and Payroll Approval</b>	<b>ITEM NUMBER</b> <i>7</i>

Attached are vouchers dated June 2, 2020 through June 12, 2020 Nos 178620 through Nos 178819 in the amount of \$ 1,614,024 43 Also included in this listing are EFT's Nos 4320 through Nos 4329, Library vouchers totaling \$ 736 69, Property tax refunds totaling \$ 10,024 46 and Water Utility vouchers totaling \$ 27,116 80 Voided checks in the amount of \$ (1,047 10) are separately listed

Vouchers approved at prior Council meetings that are included in this distribution

BS & A	Comm Dev & Complaints Software	\$ 47,150 00
Building Services	Chairs	\$ 9,425 00
Super Excavators	S Hickory St Utility Improvements	\$ 428,236 87
American Transmission Company	Power interruption	<u>\$8,000 00</u>
<b>TOTAL</b>		<b>\$492,811.87</b>

Early release disbursements dated June 2, 2020 through June 11, 2020 in the amount of \$ 394,254 89 are provided on a separate listing and are also included in the complete disbursement listing These payments have been released as authorized under Resolution 2013-6920

The net payroll dated June 5, 2020 is \$ 396,145 36 previously estimated at \$ 395,000 00 Payroll deductions dated June 5, 2020 are \$ 254,266 96 previously estimated at \$ 258,000 00

The estimated payroll for June 19, 2020 is \$ 400,000 00 with estimated deductions and matching payments of \$ 415,000 00

The estimated payroll for July 3, 2020 is \$ 388,000 00 with estimated deductions and matching payments of \$ 217,000 00

Attached is a list of property tax disbursements EFT's Nos 322 through Nos 329 and 233(S) through Nos 235(S) dated May 29, 2020 through June 12, 2020 \$ 4,852,824 10 represent settlements, \$ 30,527 60 represents tax refunds, and \$4,300,000 00 represents temporary investments

The Library Board has not approved June 2020 vouchers for payment as of this writing Approval of Library vouchers will be considered at the June 22, 2020 meeting Upon their approval, request is made to authorize the release of these payments not to exceed \$15,000 00

**COUNCIL ACTION REQUESTED**

Motion approving the following

- City vouchers with an ending date of June 12, 2020 in the amount of \$ 1,614,024 43 and
- Payroll dated June 5, 2020 in the amount of \$ 396,145 36 and payments of the various payroll deductions in the amount of \$ 254,266 96 plus City matching payments and
- Estimated payroll dated June 19, 2020 in the amount of \$ 400,000 and payments of the various payroll deductions in the amount of \$ 415,000 00, plus City matching payments and
- Estimated payroll dated July 3, 2020 in the amount of \$ 388,000 and payments of the various payroll deductions in the amount of \$ 217,000, plus City matching payments and
- Property tax disbursements with an ending date of June 12, 2020 in the amount of \$ 5,943,135 02 and the use of investment funds for tax settlements of \$ 3,240,216 68 and
- Approval to release Library vouchers upon approval by the Library Board not to exceed 15,000 00

**ROLL CALL VOTE NEEDED**