

VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022

MEETING: REGULAR MEETING OF THE VILLAGE BOARD

DATE AND TIME: **MONDAY, July 6, 2015 7:00 p.m.**

LOCATION: Germantown Village Hall Board Room

- I. **CALL TO ORDER:** *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
- II. **ROLL CALL**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **PRESIDENT'S REPORT**
- V. **ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST/COMMITTEE REPORTS:**
The following individuals will be given the opportunity to make announcements of future municipal activities: Village President, Village Board Members, Village Administrator, Village Attorney and Village Clerk.
- VI. **CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing:**
Please be advised per §19.84(2), information will be received from the public. It is the policy of this municipality that there be a three (3) minute time period, per person, with time extension per the Chief Presiding Officer's discretion; be further advised that there may be limited discussion on the information received, however, no action will be taken under public comments. (15 minutes)
- VII. **CONSENT AGENDA:**
 - A. Minutes – June 15, 2015 Regular and June 29, 2015 Special Village Board Meetings
 - B. Accounts payable/payroll
 1. June 16, 2015 Payroll (hourly) \$ 222,783.68
 2. June 25, 2015 Accounts Payable \$ 312,044.90
 3. June 30, 2015 Payroll (salary) \$ 609,544.05
 4. June 2015 Accounts Payable \$ 35,019.83
 - C. Operator Licenses: July 7, 2015 – June 30, 2016 [Recommended Approval]
Renewal Applicants: Gianna Aurelio, Jane Boudreau, Becky Buzdum, Carolyn English, Tyler Hart, Mark Janeshek, Christine Klippel, Jessica Lomibao, Chilistina Monroe, Nicholas Ronge, Kaitlynn Sommers, Mehul Soni, Kathleen Sudik, Emily Tarlo, Asif Vadsaria, Duane VanStraten, Courtney Vela
New Applicants: Anthony Erlandson, Sharon Hagenkord, Tammy Lugo, Jade McKenna, Chad Parham, Nicholas Rump, Teri Staude, Curtis Taylor, Amy Westra

VII. CONSENT AGENDA continued:

The following items were forwarded from the General Government and Finance Committee with a unanimous recommendation:

- D. Recommended Approval of Resolution No. 22-15, Approving Amendments to the 2015 Budget – Germantown Community Library – County Non-lapsing Funds FY2014
- E. Recommended Approval to Purchase Virtual Server to Replace Existing APP Server & Engineering Server from SBA (Schultz-Bernstein & Associates, Not to Exceed \$13,650 Allocated From Acct #10-517-570-8100

VIII. UNFINISHED BUSINESS: None.

IX. PUBLIC HEARINGS – 7:00 P.M. OR LATER: *The purpose of said hearing(s) is to hear any and all parties, their attorneys or agents, for or against the application(s) filed by the petitioner(s).*

- A. Midwest Assisted Living Partners LLC, Agent for the Equitable Bank, Property Owner of Parcel #GTNV 281-960 (N108W17478 Virginia Avenue) and Applicant for a Conditional Use Permit (CUP) for the Development and Operation of a 64-unit Community-Based Residential Facility (CBRF) Pursuant to Section 17.09(3) of the Village Zoning Code
- B. Germantown Diamond Club, Agent for Steven A. Dahlke, Property Owner of Parcel #GTNV 103-994 (W172N13050 Division Road) and Applicant for a Conditional Use Permit (CUP) for the Operation of an Indoor Recreation Facility (youth baseball & softball training) From an Existing Building on the Above Parcel, Pursuant to Section 17.33(3)(h) of the Village Zoning Code.
- C. Jeff Vilione Agent for Enviro-Safe Resource Recovery and JDV Real Estate Holdings LLC, Property Owner, of Parcel #GTNV 254-280 (W130N10500 Washington Drive and Applicant to Amend Conditional Use Permit (CUP) #3-11 to Include Non-Hazardous Solid Waste Processing to the List of Recycling Activities Allowed from the Facility Pursuant to Section 17.33(3)(a) and (b) of the Village Zoning Code

X. NEW BUSINESS:

- A. **Conditional Use Permit** - Midwest Assisted Living Partners LLC, Agent for the Equitable Bank, Property Owner of Parcel #GTNV 281-960 (N108W17478 Virginia Avenue) and Applicant for the Development and Operation of a 64-unit Community-Based Residential Facility (CBRF) Pursuant to Section 17.09(3) of the Village Zoning Code
- B. **Conditional Use Permit** - Germantown Diamond Club, Agent for Steven A. Dahlke, Property Owner of Parcel #GTNV 103-994 (W172N13050 Division Road) and Applicant for the Operation of an Indoor Recreation Facility (youth baseball & softball training) From an Existing Building on the Above Parcel, Pursuant to Section 17.33(3)(h) of the Village Zoning Code.
- C. **Amendment to Conditional Use Permit #3-11-** Jeff Vilione Agent for Enviro-Safe Resource Recovery and JDV Real Estate Holdings LLC, Property Owner, of Parcel #GTNV 254-280 (W130N10500 Washington Drive and Applicant to Amend CUP #3-11 to Include Non-Hazardous Solid Waste Processing to the List of

X. NEW BUSINESS continued:

- Recycling Activities Allowed from the Facility Pursuant to Section 17.33(3)(a) and (b) of the Village Zoning Code
- D. Recommendation by EMC Insurance Regarding Claim of 4/17/2015, International Concrete Products N104W13561 Donges Bay Rd, Germantown WI 53022
 - E. Request for Approval of Junk Dealer/Auto Salvage Establishment License for July 1, 2015 to June 30, 2016 for WM Recycle America LLC, W132 N10487 Grant Drive, Germantown WI 53022 for Recycling Facility
 - F. Review of Sales Agreement for Medical Oxygen from Airgas
 - G. Wisconsin Gas – PSC Application; Germantown-Mequon High Pressure Gas Main Project
 - H. Discussion of Planned Development District (PDD) and Possible Changes to Village of Germantown Municipal Code, Section 17.27, Zoning/PD
 - I. Amendment No. 4 to Declaration of Restrictions and Covenants for Germantown Business Park TIF#4
 - J. Potential Land Sale Agreement For Lot 34 (CSM 6396) In the Germantown Business Park. The Village Board may enter into closed session as per Wis. Stat. §19.85(1)(e) for the purpose of deliberating or negotiating, when competitive or bargaining reasons require a closed session and then re-enter open session to take such action as it deems appropriate.
 - K. Potential land acquisition of an easement on N104W15652 Donges Bay Road (Tax Key No. GTNV 274-117) as part of the Donges Bay Road reconstruction project. The Village Board may enter into closed session as per Wis. Stat. §19.85(1)(e) for the purpose of deliberating or negotiating, when competitive or bargaining reasons require a closed session and then re-enter open session to take such action as it deems appropriate.
 - L. Review Applicants for the Director of Public Works position. The Village Board may enter into closed session per Wis. Stats. §19.85(1)(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility and then re-enter open session to take such action as it deems appropriate.

XI. ADJOURNMENT

The next Village Board meeting will be on July 20, 2015 at 7:00 p.m.

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For Additional information or to request this service please contact the Village Clerk at (262)250-4740 at least 2 days prior to the meeting.

**BUSINESS OF
THE GENERAL GOVERNMENT & FINANCE COMMITTEE
THE VILLAGE BOARD**

MEETING DATE:

June 17, 2015 - GGF
July 6, 2015 - Village Board

ITEM TITLE:

Resolution – Approving Amendments to the 2015
Budget

Germantown Community Library County Revenue
Unexpended funds

SUBMITTED BY:

Kim Rath, Finance Director
Sent from Germantown Community Library Board

SUMMARY EXPLANATION:

Resolution to amend the 2015 budget with the Germantown Community Library County
Unexpended Revenue allocations. Passed by the Library Board in May 2015.

ATTACHMENT: ORDINANCE____ RESOLUTION X OTHER ____

RECOMMENDATION:

Approval

ACTION BY Committee

RESOLUTION NO. 22 – 15

**APPROVING AMENDMENTS TO THE 2015 BUDGET
Germantown Community Library - County Non-lapsing Funds FY2014**

WHEREAS, the Village Board of the Village of Germantown approved the appropriation of funds for operations for the year 2015, and,

WHEREAS, Excess Washington County Library revenue in the amount of \$69,366.53 was unspent in 2014 and these funds are deemed non-lapsing, and,

WHEREAS, the Germantown Community Library Board, at its May 2015 meeting, has approved the carry over of these unspent funds to be used during the 2015 budget year.

NOW THEREFORE BE IT RESOLVED, by the Village Board of the Village of Germantown that the 2015 Budget be amended as attached:

BE IT FURTHER RESOLVED that the Village Clerk is hereby authorized and directed to publish a copy of this Resolution as a Class I Notice in accordance with Section 65.90 (a) Wisconsin Statutes.

Introduced by: _____

Adopted: _____

Vote: Ayes: _____ Nays: _____

Dean M. Wolter, Village President

ATTEST:

Barbara K.D.Goeckner, MMC/WCPC
Village Clerk

Germantown Community Library - County Unexpended Funds

Approved GCLB

Allocation - Budget Amendment

2014 funds to 2015

Account Number	Description	Debit	Credit	Current Budget	Adjusted Budget
10-551-510-1150	Wages - County Salaries	8,474.51		117,532.00	126,006.51
10-551-520-2110	Fringe Benefit - Social Security	648.30		9,083.00	9,731.30
10-551-520-2210	Fringe Benefit - WI Retirement	523.72		9,600.00	10,123.72
10-551-530-3410	Postage - County	300.00		400.00	700.00
10-551-530-3645	Audio Visual - County	20,468.00		14,998.00	35,466.00
10-551-530-3610	Books - County	23,372.54		20,000.00	43,372.54
10-551-530-3625	Book Processing - County	15,579.46		15,000.00	30,579.46
Total carry over funds		69,366.53	0.00	186,613.00	255,979.53

**BUSINESS OF THE VILLAGE BOARD
GERMANTOWN, WI**

MEETING DATE: July 6, 2015

AGENDA ITEM: Public Hearing & New Business **(Conditional Use Permit)**

ITEM TITLE: Midwest Assisted Living Partners LLC, Agent for the Equitable Bank, Property Owner of Parcel #GTNV 281-960 (west Virginia Avenue); CUP Application for the operation of a 64-unit Community-Based Residential Facility (CBRF) for senior residents with Alzheimer's and Dementia.

SUBMITTED BY: Jeffrey W. Retzlaff, Director, Community Development Department 

SUMMARY EXPLANATION:

Midwest Assisted Living Partners LLC is seeking approval of a CUP to allow the development and operation of a 32-unit (expandable to 64 units) CNA-level, Community Based Residential Facility (CBRF) for seniors with Alzheimer's and Dementia.

Tender Reflections is intended to provide assisted living services to on-site residents specifically design and licensed to accommodate residents with Alzheimer's and other forms of dementia. As indicated in the applicant's demographic analysis, Tender Reflections is intended to address an estimated shortfall of 68 units needed in Germantown for this type of memory care CBRF facility. The facility would serve up to 36 total residents in Phase I (72 total residents in Phase II), and be staffed 24 hours/day with (7) full-time and (6) part-time employees on-site.

Tender Reflections will be developed in two phases with Phase I (projected for 2015) including an extension of Virginia Avenue, an internal road and on-site parking, and an initial 32-unit building. Phase II would consist of another 32-unit building (attached wings w/ 16 units each) and an attached open garden patio area (no specific timeline for Phase II is proposed).

ATTACHMENTS:

- ◆ June 8, 2015 Staff Report & Plan Commission Meeting Minutes
- ◆ Draft CUP

PLAN COMMISSION RECOMMENDATION:

APPROVE a Conditional Use Permit for Midwest Assisted Living Partners LLC and the Equitable Bank to allow the development and operation of a 32-unit (expandable to 64-unit Phase II) Community Based Residential Facility (CBRF) for seniors with Alzheimer's and Dementia on the 5.3-acre parcel on Virginia Avenue subject to five (5) conditions.

NOTE: See draft CUP for recommended conditions of approval.

NOTICE OF PUBLIC HEARING VILLAGE OF GERMANTOWN

NOTICE is hereby given that a Public Hearing will be held before the Village of Germantown Village Board at the Germantown Village Hall located at N112 W17001 Mequon Road, Germantown, Wisconsin on the following date and at the time noted below (or soon thereafter):

DATE: Monday, July 6, 2015

TIME: 7:00 p.m. or later

The purpose of said hearing is to hear any and all parties, their attorneys or agents, for or against the applications filed by the following petitioner for: (1) a CONDITIONAL USE PERMIT for the development and operation of a 64-unit Community-Based Residential Facility (CBRF) on the property described below pursuant to Section 17.09(3) of the Village Zoning Code.

Petitioner: Midwest Assisted Living Partners LLC, agent for the Equitable Bank, property owner
Property: N108 W17478 Virginia Avenue (Parcel ID GTNV# 281-960)

Being a 5.33 acre parcel located in the Southeast ¼ of the Northeast ¼ of Section 28, Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin, bounded and described as follows:

Commencing at the southeast corner of the Northeast ¼ of Section 28; thence North 01°12'28" West along the east line of said ¼ Section, 1070.21 feet; thence South 89°21'12" West, 964.48 feet to the point of beginning; thence South 01°06'48" East, 683.64 feet; thence South 89°12'46" West, 354.47 feet; thence North 01°11'50" West, 936.73 feet; thence North 89°21'12" East, 326.00 feet; thence South 01°12'48" East, 30.00 feet; thence North 89°21'12" East, 28.73 feet to the point of beginning. Said lands containing 232,159 sqft or 5.33 acres more or less.

A copy of the application is on file in the Village Planning Department office and is available for public inspection during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday.

Dated this 10th day of June, 2015.

Barbara K. D. Goeckner, Village Clerk

To Be Published On: June 18th and June 25th, 2015

CONDITIONAL USE PERMIT

6/8/15 Plan Commission Meeting

Midwest Assisted Living Partners LLC / Equitable Bank

Village Planner Report

Germantown, Wisconsin

Summary

Midwest Assisted Living Partners LLC, agent for the Equitable Bank, property owner of a 5.3-acre parcel on Virginia Avenue, is seeking approval of a conditional use permit to allow the development and operation of a 32-unit (expandable to 64-unit Phase II) Community Based Residential Facility (CBRF) for seniors with Alzheimer's and Dementia.

Property Location: Virginia Avenue ¼ mile west of Division Road

Applicant: Midwest Assisted Living Partners LLC
5131 175th St
Chippewa Falls, WI 54729

Current Zoning: Rs-1: Single-family Residential

Adjacent Land Uses		Zoning
North	Residential	Rs-1
South	Residential	Rs-3
East	Elderly Housing/Residential	EH/Rs-4
West	Agricultural	A-2



Background

The subject parcel, part of an overall 7-acre property formerly owned by Weber Homes, Inc., was approved for a senior residential development in March, 2005. "Greenbriar Square" obtained rezoning approval from Rs-1 to Rd-2/PDD for a proposed 36-unit "senior" condominium development comprised of (16) side-by-side duplex dwelling units around two cul-de-sacs. After granting two extensions to the 1-year expiration date for commencing construction, the PDD rezoning and site plan approvals expired and zoning of the property reverted back to the original Rs-1 Zoning District.

In 2011, Weber Homes submitted a revised development proposal for a 20-unit CBRF. "Greenbriar on the Pond" would involve re-dividing the 1.67-acre and 5.33-acre parcels and relocating the existing Virginia Ave right-of-way with the 20-unit facility developed on the northerly 2.2- acres. Conditional Use Permit #9-11 for a 20-unit CBRF for seniors with Alzheimer's and other forms of dementia was granted by the Village subject to the submittal of a certified survey map and detailed site development and building plans. Since then, an effort to increase the number of units permitted from 20 to 40 on the 2.2-acre were never approved and two 1-year extensions to the CUP were granted by the Village Board. Ultimately CUP #9-11 expired in September, 2014, and ownership of the property was assumed by the Equitable Bank.

Proposal

At this time, Midwest Assisted Living Partners LLC, agent for the Equitable Bank, owner of the 5.3-acre parcel south of Virginia Avenue (see enclosed survey map), is seeking approval of a conditional use permit to allow the development and operation of a 32-unit (expandable to 68-unit Phase II) CNA-level, Community Based Residential Facility (CBRF) for seniors with Alzheimer's and Dementia.

As presented in the attached concept plan and project description, the project will consist of the following:

- 32 units (expandable to 64 total units)
 - 28 single-bed units
 - 4 double-bed units
- 330' extension of Virginia Avenue w/ temporary cul-de-sac
- Internal private roads serving (23) parking spaces (Phase I; 44 total stalls Phase II)
- On-site storm water management facilities
- Contemporary residential architecture with:
 - Hip & gable roofs
 - Manufactured stone & horizontal vinyl siding
 - Architectural grade shingles

Tender Reflections is intended to provide assisted living services to on-site residents specifically design and licensed to accommodate residents with Alzheimer's and other forms of dementia.

As indicated in the project summary and Demographic Analysis Summary (copies

enclosed), Tender Reflections is intended to fill an estimated 68-unit deficit for this type memory care CBRF facility. The facility would serve up to 36 total residents in Phase I (72 total residents in Phase II), and be staffed 24 hours/day with (7) full-time and (6) part-time employees on-site.

Tender Reflections will be developed in two phases with Phase I (projected for 2015) including the extension of Virginia Avenue, internal road and ½ of the proposed parking, and (1) 32-unit building. Phase II would consist of another 32-unit building (two attached wings w/ 16 units each) and an attached open garden patio area (no specific timeline for Phase II is proposed).

Staff Analysis

Under the Village's Zoning Code (and consistent with state statutes), CBRF's, Adult Family Homes and Adult Day Care facilities can be permitted in the Rs-1 Zoning District with a conditional use permit (CUP). This parcel is located within an area designated as "Mixed Use" on the 2020 Future Land Use Plan Map.

At this time, Midwest Assisted Living Partners has only submitted the CUP application. If the CUP is approved, detailed site development, building and road construction plans will need to be prepared and review/approved by the Plan Commission (with road construction and other public utilities approved by the Public Works Committee and Village Board).

A total of 23 parking stalls are proposed in Phase I (44 total stalls in Phase II). Village guidelines recommend 1 space/3 beds + 1 space/3 employees for "rest and nursing homes" or 16 total spaces for Phase I. Consequently, the proposed 29 parking spaces should be adequate for buildout of the project.

Public water and sanitary sewer will be extended to serve the development. Storm water run-off will be managed on-site and be diverted to a single on-site storm water basin propose din the south side of the property (see enclosed preliminary site and building plans). A storm water management plan and report will be required at the time site development and building plans are submitted.

The Village Engineer has commented on the proposed CUP and has identified a series of plan requirements, permits and approvals that will be required if/when the development proceeds in a May 8, 2015 review memo (copy enclosed).

The Fire Department has commented on the preliminary plans and will be requiring the following as part of any future site plan approval:

- Three (3) approved fire hydrants will be required: one at the west end of extended Virginia Avenue and the other two hydrants on the south end of the proposed perimeter road/fire lane (to be located inside the curb);
- A written Emergency Plan will be required prior to issuance of an occupancy permit;
- A Knox box shall be installed on the building at the main entrance;
- A Fire Department connection shall be located near the main entrance.

Landscaping, lighting and signage are details that would be addressed as part of any site development and building plans submitted at a later date if this project moves forward.

If the Plan Commission is supportive of the proposed use a recommendation on the conditional use permit can be forwarded to the Village Board with the understanding that approval of detailed site development and building plans will be required prior to development. Further comments or direction on the concept plan and/or building plans can also be made at this time.

Village Planner Recommendation

APPROVE a conditional use permit (CUP) for Midwest Assisted Living Partners LLC and the Equitable Bank to allow the development and operation of a 32-unit (expandable to 64-unit Phase II) Community Based Residential Facility (CBRF) for seniors with Alzheimer's and Dementia on the 5.3-acre parcel on Virginia Avenue subject to the following conditions:

1. The principal use of the Community-based Residential Facility (CBRF) and 5.3-acre property shall be limited to providing assisted living services for senior or other residents suffering from the effects of advanced age and/or disease, mild to moderate dementia (including Alzheimer's) and other client groups specified in the required state of Wisconsin license for a non-ambulatory CNA-class CBRF. The principal use of this property and all facilities thereon for any other purpose shall be prohibited.
2. This conditional use permit shall not be transferable to any subsequent property owner and/or business operator that is not or cannot be licensed to operate a CBRF as permitted under condition 1 above. This CUP shall be transferable to a subsequent property owner and/or business operator that are licensed to operate a CBRF as permitted under Condition #1 above. A new CUP shall be required (but not necessarily approved by the Village) for any significant change in the type of use or operation, including but not limited to, CBRF services for residents and clients other than those permitted under Condition #1 above.
3. Detailed site development and building plans shall be submitted for review and approval by the Village Plan Commission. Said plans shall be consistent with the concept plan approved as part of this CUP. Significant changes or deviations from the approved concept plan may result in the need to obtain a revised CUP.
4. This permit shall be deemed null and void if approval of such plans is not granted by the Plan Commission, or, development activities have not commenced within 12 months after Village Board approval pursuant to Section 17.42(6) of the Zoning Code.
5. The Owner/operator shall obtain and maintain all applicable state and county licenses, certifications, etc. for the CBRF and adult daycare facilities and operations. Copies of said licenses, certifications, etc. shall be provided to the Village Zoning Administrator prior to and as a condition of issuance of an occupancy permit.

prior to issuance of an occupancy permit and commencement of any club activities.

12. The CUP shall not be transferrable to any other organization and/or business operator.

MOTION carried unanimously.

Midwest Living Partners I, LLC – Lot 2 of CSM 6090 Virginia Avenue. The applicant is seeking approval of a conditional use permit to allow the development and operation of a 32-unit Community Based Residential Facility (CBRF) for seniors with Alzheimer's and Dementia. Planner Retzlaff summarized the proposal. Discussion followed.

MOTION Yokes second Shadid to Approve a conditional use permit (CUP) for Midwest Assisted Living Partners LLC and the Equitable Bank to allow the development and operation of a 32-unit (expandable to 64-unit Phase II) Community Based Residential Facility (CBRF) for seniors with Alzheimer's and Dementia on the 5.3-acre parcel on Virginia Avenue subject to the following conditions:

- 1. The principal use of the Community-based Residential Facility (CBRF) and 5.3-acre property shall be limited to providing assisted living services for senior or other residents suffering from the effects of advanced age and/or disease, mild to moderate dementia (including Alzheimer's) and other client groups specified in the required state of Wisconsin license for a non-ambulatory CNA-class CBRF. The principal use of this property and all facilities thereon for any other purpose shall be prohibited.***
- 2. This conditional use permit shall not be transferable to any subsequent property owner and/or business operator that is not or cannot be licensed to operate a CBRF as permitted under condition 1 above. This CUP shall be transferable to a subsequent property owner and/or business operator that are licensed to operate a CBRF as permitted under Condition #1 above. A new CUP shall be required (but not necessarily approved by the Village) for any significant change in the type of use or operation, including but not limited to, CBRF services for residents and clients other than those permitted under Condition #1 above.***
- 3. Detailed site development and building plans shall be submitted for review and approval by the Village Plan Commission. Said plans shall be consistent with the concept plan approved as part of this CUP. Significant changes or deviations from the approved concept plan may result in the need to obtain a revised CUP.***
- 4. This permit shall be deemed null and void if approval of such plans is not granted by the Plan Commission, or, development activities have not commenced within 12 months after Village Board approval pursuant to Section 17.42(6) of the Zoning Code.***
- 5. The Owner/operator shall obtain and maintain all applicable state and county licenses, certifications, etc. for the CBRF and adult daycare facilities and operations. Copies of said licenses, certifications, etc. shall be provided to the Village Zoning Administrator prior to and as a condition of issuance of an occupancy permit.***

Trustee Baum questioned the purpose of the drive lane around the building and if an outdoor area would be provided. Matt Hieb, ACA, said the drive will act as their fire lane. Curt Crotty, ICM, said Phase I will not have a secure outdoor area. He said any resident who spends time outdoors will need to be accompanied by a care provider or a relative. He said

the building will be constructed middle of the road as far as amenities but in a very functional form that allows a profitable operation. He said they will not only serve private pay residents but those on public assistance as well. Chairman Wolter asked if all the buildings have the long promenade to the front door without a protected drop off. Mr. Crotty said they have not incorporated a protected drop off into any of their designs and it has not been a concern with any of their families. Trustee Rep Baum said that the Stormwater pond looked huge. Mr. Hieb said it meets the standards and the future build out.

Trustee Zabel commented saying the density for the Rs-1 zoning district has 2.5 percent maximum lot coverage and this development is a lot more than that. Trustee Baum asked why the developer didn't propose rezoning to the Elderly Housing Zoning District. Mr. Crotty said they looked at rezoning but density was an issue and this was the best solution.

MOTION carried unanimously.

ANNOUNCEMENTS: Chairman Wolter said the public is invited to an informational meeting with Waste Management on a new garbage collection proposal scheduled for Wednesday, June 10th at 5:30 p.m. at Village Hall. Commissioner Gray commented that Menomonee Falls has apartment buildings with 3 and 4 stories that are attractive and interesting.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:00 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant

CUP # 15 – XX

Document No.

CONDITIONAL USE PERMIT

Document Title

**VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN
CONDITIONAL USE ZONING PERMIT**

Whereas the Applicant:

Midwest Assisted Living Partners LLC, Property Owner

agree to comply with applicable Codes and Ordinances of the Village of Germantown, Wisconsin, and further agrees that all work done pursuant to the permission granted herewith will conform with the applications and drawings filed with and approvals granted by officials of the Village for the purpose of obtaining this permit.

Now, therefore, this permit is issued to the Applicants to permit the operation of a 64-unit Community-Based Residential Facility (CBRF) for Seniors with Alzheimer's or Dementia from the 5.3-acre property located at N109 W17478 Virginia Avenue pursuant to Section 17.09(3) of the Village Zoning Code.

Name & Return Address:

**Village of Germantown
P.O. Box 337
Germantown, WI 53022**

Parcel Identification No:

GTNV 281-960**On the following described property located in the Village of Germantown, Washington County, Wisconsin:**

Being a 5.33 acre parcel located in the Southeast ¼ of the Northeast ¼ of Section 28, Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin, bounded and described as follows:

Commencing at the southeast corner of the Northeast ¼ of Section 28; thence North 01012'28" West along the east line of said ¼ Section, 1070.21 feet; thence South 89021'12" West, 964.48 feet to the point of beginning; thence South 01006'48" East, 683.64 feet; thence South 89012'46" West, 354.47 feet; thence North 01011'50" West, 936.73 feet; thence North 89021'12" East, 326.00 feet; thence South 01012'48" East, 30.00 feet; thence North 89021'12" East, 28.73 feet to the point of beginning. Said lands containing 232,159 sqft or 5.33 acres more or less.

Tax Key No: 281-960

Address: N109 W17478 Virginia Avenue

Pursuant to the following condition(s):

1. The principal use of the Community-based Residential Facility (CBRF) and 5.3-acre property shall be limited to providing assisted living services for senior or other residents suffering from the effects of advanced age and/or disease, mild to moderate dementia (including Alzheimer's) and other client groups specified in the required state of Wisconsin license for a non-ambulatory CNA-class CBRF. The principal use of this property and all facilities thereon for any other purpose shall be prohibited.

2. This conditional use permit shall not be transferable to any subsequent property owner and/or business operator that is not or cannot be licensed to operate a CBRF as permitted under condition 1 above. This CUP shall be transferable to a subsequent property owner and/or business operator that are licensed to operate a CBRF as permitted under Condition #1 above. A new CUP shall be required (but not necessarily approved by the Village) for any significant change in the type of use or operation, including but not limited to, CBRF services for residents and clients other than those permitted under Condition #1 above.
3. Detailed site development and building plans shall be submitted for review and approval by the Village Plan Commission. Said plans shall be consistent with the concept plan approved as part of this CUP. Significant changes or deviations from the approved concept plan may result in the need to obtain a revised CUP.
4. This permit shall be deemed null and void if approval of such plans is not granted by the Plan Commission, or, development activities have not commenced within 12 months after Village Board approval pursuant to Section 17.42(6) of the Zoning Code.
5. The Owner/operator shall obtain and maintain all applicable state and county licenses, certifications, etc. for the CBRF and adult daycare facilities and operations. Copies of said licenses, certifications, etc. shall be provided to the Village Zoning Administrator prior to and as a condition of issuance of an occupancy permit.

Granted by the Village Board of the Village of Germantown, Washington County, Wisconsin on the ____ day of _____, 2015.

ATTEST:

Dean Wolter, Village President

Barbara K. D. Goeckner, Village Clerk

STATE OF WISCONSIN) SS
WASHINGTON COUNTY)

Personally came before me this ____ day of _____, 2015, the above named Dean Wolter, Village President, and Barbara K. D. Goeckner, Village Clerk, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin
My Commission Expires: _____

ACCEPTANCE OF TERMS AND CONDITIONS BY PROPERTY OWNER

As the property owner, Midwest Assisted Living Partners LLC, I hereby accept the terms and conditions set forth in this Permit and realize that non-adherence to the terms and conditions as stated hereon may result in the revocation of this Permit by the Village of Germantown.

Dated this ____ day of _____, 2015

Midwest Assisted Living Partners LLC, Authorized Agent (PRINT NAME)

Signature

STATE OF WISCONSIN) SS
_____) COUNTY)

Personally came before me this ____ day of _____, 2015, being the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin
My Commission Expires: _____

This instrument was drafted by:
Jeffrey W. Retzlaff, AICP
Community Development Director/Zoning Administrator
Village of Germantown, Wisconsin

**BUSINESS OF THE VILLAGE BOARD
GERMANTOWN, WI**

MEETING DATE: July 6, 2015

AGENDA ITEM: Public Hearing & New Business **(Conditional Use Permit)**

ITEM TITLE: Germantown Diamond Club, Agent for Steve Dahlke, Property Owner of Parcel #GTNV 103-994 (W172 N13050 Division Road); CUP Application for the operation of an Indoor Recreational Facility (baseball training).

SUBMITTED BY: Jeffrey W. Retzlaff, Director, Community Development Department 

SUMMARY EXPLANATION:

Germantown Diamond Club (GTDC) is a non-profit organization offering Germantown boys and girls an opportunity to play tournament competition baseball and fast-pitch softball. GTDC is seeking a CUP to operate an Indoor Recreation Facility for youth baseball training activities from the existing industrial building located at W172 N13050 Division Road.

The training facility is an indoor facility with baseball hitting and throwing areas partitioned off using mesh netting. There is no spectator seating planned or provided. A number of building improvements are required given the change of use in the building, including the installation of fire walls, fire-rated doors and a new modular "portable toilet" with integrated holding tank and roof venting. Access to and parking for the facility will be provided in the gravel area in front of the building with security gate access to members only.

The facility will be available for use by club members any time 24 hours/day, 7 days/week year round. Organized team activities would typically include 10-12 youth players and 2-4 coaches in the facility at a time. However, all members are able to use the facility on an unrestricted basis.

ATTACHMENTS:

- ◆ June 8, 2015 Staff Report & Plan Commission Meeting Minutes
- ◆ Draft CUP

PLAN COMMISSION RECOMMENDATION:

APPROVE a Conditional Use Permit for Steve Dahlke, property owner and the Germantown Diamond Club, operator to operate an Indoor Recreation Facility for youth baseball training activities from the existing industrial building located at W172 N13050 Division Road subject to twelve (12) conditions.

NOTE: See draft CUP for recommended conditions of approval.

NOTICE OF PUBLIC HEARING VILLAGE OF GERMANTOWN

NOTICE is hereby given that a Public Hearing will be held before the Village of Germantown Village Board at the Germantown Village Hall located at N112 W17001 Mequon Road, Germantown, Wisconsin on the following date and at the time noted below (or soon thereafter):

DATE: Monday, July 6, 2015
TIME: 7:00 p.m. or later

The purpose of said hearing is to hear any and all parties, their attorneys or agents, for or against the applications filed by the following petitioner for: (1) a CONDITIONAL USE PERMIT for the operation of an Indoor Recreation Facility (youth baseball & softball training) Facility from an existing building located at W172 N13050 Division Road pursuant to Section 17.33(3)(h) of the Village Zoning Code.

Petitioner: Germantown Diamond Club, agent for Steven A. Dahlke, property owner
Property: W172 N13050 Division Road (Parcel ID# 103-994)

Lot 1 of Certified Survey Map #4641, a 7.13 acre parcel located in the Northwest 1/4 and the Southwest 1/4 of the Southwest 1/4 of Section 10, Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin.

A copy of the application is on file in the Village Planning Department office and is available for public inspection during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday.

Dated this 10th day of June, 2015.
Barbara K. D. Goeckner, Village Clerk

To Be Published On: June 18th and June 25th, 2015.

CONDITIONAL USE PERMIT APPLICATION

6/8/15 Plan Commission Meeting

Germantown Diamond Club / Steve Dahlke

Village Planner Report

Germantown, Wisconsin

Summary

Germantown Diamond Club, agent for Steve Dahlke, property owner, is seeking a Conditional Use Permit to allow the operation of an Indoor Recreation Facility for youth baseball training activities from the existing industrial building located at W172 N13050 Division Road.

Property Location: W172 N13050 Division Road

Applicant/

Property Owner:

Troy Schmidt
Germantown Diamond Club
Germantown, WI 53022

Steve Dahlke
1615 Mayfield Road
Richfield, WI 53076

Current Zoning: M-1: Limited Industrial District

Adjacent Land Uses		Zoning
North	Residential/Industrial	Rs-3/M-1
South	Commercial/Industrial	M-1
East	Agricultural	A-2
West	Residential	Rs-4



Background

The existing 9,700 sqft. wood-frame metal building is one of seven buildings on the 7.31-acre property and has been vacant for a number of years. Formerly occupied by Share Building Products, Inc., a manufacturer of stone veneer and landscaping stone products. Before that, the buildings were constructed and occupied by Cost of Wisconsin, a fabricator of simulated environments and habitats for museums, zoos, theme parks, restaurants, etc., now located in Jackson. The property is owned by Steven Dahlke LLC, with two of the industrial buildings (south side of property) occupied by Criterion Barrels, a manufacturer of rifle barrels. A CUP was granted to Dahlke in 2013 for a child daycare facility within the existing office building. The other buildings are used for miscellaneous storage.

Proposal

Germantown Diamond Club (GTDC) is a non-profit organization formed to offer Germantown boys and girls an opportunity to play tournament competition baseball (boys 14 under) and fast-pitch softball (girls up to 18 under). GTDC is seeking a Conditional Use Permit to allow the operation of an Indoor Recreation Facility for youth baseball training activities (the "Hawks Nest") from the existing industrial building located at W172 N13050 Division Road.

The proposed Hawks Nest training facility is intended to be an indoor facility with baseball hitting and throwing areas partitioned off using mesh netting (see Floor Plan Sheet A-1). There are no spectator seating planned or provided. A number of building improvements are required given the change and type of uses in the buildings, including: installation of fire walls and 1-hour fire rated doors and installation of a new modular "portable toilet" (with integrated holding tank and roof venting). Access to and parking for the facility will be provided in the gravel area in front of the building and security gate/fence.

The facility will be available for use by club members any time 24 hours/day, 7 days/week year round. Organized team activities would typically include 10-12 youth players and 2-4 coaches in the facility at a time. However, all members are able to use the facility on an unrestricted basis.

Staff Comments

The property is not served by municipal water or sanitary. The existing holding tank sanitary system and potable water well serve multiple buildings, including the existing toilet in the adjacent (north) storage building. The training facility building will have a new portable toilet installed with roof venting (vs. tying into the existing holding tank) and a new potable water connection with service sink and drainage connecting to the existing well and drainage system.

Staff is concerned about access to the building and parking. Currently, there's a security fence with locked gate between the two main buildings on the site. The applicant doesn't indicate if the security gate will be accessible to Diamond Club members or not. The only other way to access the building would be via the secondary driveway along the south property line. That access driveway also has a security fence

and gate but is regularly open to the employees and delivery vehicles associated with the industrial use operating from that building. Either way, unless Club members are driven to the facility by parents and dropped off in front of the building, access by any other means, e.g. walk-ins, bicycles, would require kids to go in/out of the property by the internal driveways and/or parking lot also used by vehicle and truck traffic associated with the industrial operation. A better plan for getting Club members to/from the facility is needed.

With respect to parking, particular for those vehicles brought to the site by the coaches and/or parents, there is a small grassed area in front of the building and behind the security fence that could be used for parking. A more detailed plan for the parking and drop-off area is required. While there are no recommended parking stall guidelines for this type of facility in the Zoning Code, an area large enough to accommodate a minimum of ten (10) parking stalls should be dedicated and clearly marked on the site.

Fire Department staff has reviewed the proposal and have recommended approval subject to the following comments:

- An approved hard surface for the Fire Department access road shall be provided to within 150 feet of the rear center of the building per NFPA1 Chapter 18 (2012 Edition);
- The access road should connect to the center gate in the security fence;
- The access road will need to be sufficient to accommodate the weight of fire apparatus and be at least 20 feet in width;
- If the Fire Department access road exceeds 150 feet in length it shall include an adequate turn-around approved by the Village;
- The access gate in the security fence shall remain open at all times the training facility is occupied;
- An additional Knox Box shall be installed at the access gate for Fire Department access;
- A written emergency plan shall be completed and approved by the Fire Department prior to issuance of an occupancy permit.

At this time, there is no exterior lighting on the site within the parking lot, at the access gate or in close proximity to the building. Because the facility is intended to be accessible 24 hours/day, and given that members are encouraged to use the facility for practice in the off-season months of the year (when it can be dark as early as 5:00 pm), there should be exterior lighting installed at the access driveway and within close proximity to the front entrance of the building and wherever the parking area is designated. Any such exterior lighting should provide adequate lighting levels with full cut-off fixtures and strategically located to not create excessive light or glare affecting the adjacent residential properties.

The Building Inspector has indicated that state-approved plans are required (and are already prepared) for the interior improvements required in the building.

Village Planner Recommendation

APPROVE a Conditional Use Permit for Steve Dahlke, property owner and the Germantown Diamond Club, operator to operate an Indoor Recreation Facility for youth baseball training activities from the existing industrial building located at W172 N13050 Division Road subject to the following conditions:

1. This permit authorizes the uses and activities set forth in the conditional use permit application dated May 4, 2015 and in the supporting documents and plans made part of the application, including the building plan set dated April 6, 2015, All of the operational characteristics and activities proposed, as well as any commitments made by the Applicant in the application and supporting documents are deemed to be conditions of approval.
2. If the use, activities and/or operation of the training facility subject of this permit falls out of conformity with the conditions herein, or where there is a change in the character, intensity or extent of the activities that causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to ameliorate or eliminate harmful effects associated with the use but are insufficient to do so, or for similar cause based upon consideration for the public comfort, safety, and welfare, the conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.
3. The maximum number of occupants in the building at any one time shall not exceed thirty-four (34) persons. Use of the facility and participation in any/all training activities shall be limited to Diamond Club members or their invited guests with permission provided a Club member is present.
4. All training activities shall be conducted entirely within the building.
5. A detailed site plan shall be prepared and submitted to the Village Planner for review and approval prior to issuance of a building permit. Said plan shall indicate the location of a paved parking area adequately marked/stripped to indicate a minimum of ten (10) parking stalls to serve the training facility; Said plan shall clearly indicate the access drive(s) within the site that will be available for use by Club members to access the facility, and, available for use by the Fire Department and other emergency services.
6. The owner/operator shall cooperate with the Fire Department to conduct a pre-occupancy inspection and provide/install whatever fire safety measures are required under the Village and other applicable codes.
7. The property owner/operator shall contact the Washington County Planning & Parks Department and/or other authorized agencies to conduct pre-occupancy inspections of the existing on-site sanitary system and potable well to ensure compliance with applicable County and State licensing and sanitary regulations.

8. The property owner or operator shall install exterior lights at the access driveway security gate and in or around the front of the building. Said lights shall be full cut-off fixtures with metal halide lamps. The location, type, intensity, etc. of said lights shall be included in a lighting plan prepared by the property owner/operator and submitted to the Village Planner for review and approval consistent with the Village's lighting requirements and guidelines;
9. All exterior signs shall comply with the Village's sign regulations including obtaining approval and/or permits from the Village Planning Department and Plan Commission.
10. All of the following items shall be provided as required by the Fire Department:
 - (a) an approved hard surface for the Fire Department access road shall be provided to within 150 feet of the rear center of the building per NFPA1 Chapter 18 (2012 Edition);
 - (b) the access road should connect to the center gate in the security fence;
 - (c) the access road will need to be sufficient to accommodate the weight of fire apparatus and be at least 20 feet in width;
 - (d) if the Fire Department access road exceeds 150 feet in length it shall include an adequate turn-around approved by the Village;
 - (e) the access gate in the security fence shall remain open at all times the training facility is occupied;
 - (f) an additional Knox Box shall be installed at the access gate for Fire Department access;
 - (g) a written emergency plan shall be completed and approved by the Fire Department prior to issuance of an occupancy permit.
11. The owner/operator shall contact Inspection Services regarding the need for building, electrical and plumbing permits for any interior and exterior renovations. State-approved plans are required for any improvements and shall be submitted with or prior to any building permit application. All building code and fire safety improvements shown in the plan set dated April 6, 2015, including the new portable toilet, shall be installed, inspected and approved prior to issuance of an occupancy permit and commencement of any club activities.
12. The CUP shall not be transferrable to any other organization and/or business operator.

Enviro-Safe Consulting – W130 N10500 Washington Drive. Jeff Vilione, JDV Real Estate Holdings LLC, is seeking approval of an amendment to Conditional Use Permit #3-11 to include non-hazardous solid waste processing to the list of recycling activities allowed in the existing Enviro-Safe facility located at W130 N10500 Washington Drive in the Germantown Business Park. Planner Retzlaff summarized the proposal.

MOTION Baum second Yokes to Approve an amendment to Conditional Use Permit #3-11 to include non-hazardous solid waste processing to the list of uses and activities allowed in the existing Enviro-Safe facility located at W130 N10500 Washington Drive in the Germantown Business Park subject to the following additional conditions:

- 1. All General Condition, Operations and Reporting conditions of approval and requirements set forth in the DNR approval letter dated April 20, 2015 are hereby adopted as conditions of approval for this permit.***

MOTION carried unanimously.

Germantown Diamond Club – W172 N13050 Division Road. The application is for a Conditional Use Permit to allow the operation of an Indoor Recreation Facility for youth baseball training activities from an existing industrial building. Planner Retzlaff summarized the proposal.

Troy Schmidt, Germantown Diamond Club, explained the hours for the training facility would generally be after school from 3:00-3:30 p.m. until approximately 9:30-10:00 p.m. during the off season. Commissioner Yokes said he had visited the site and was concerned the central gate was not operational and could be a security issue. He said emergency vehicles should have access to the gate. He was also not comfortable with the facility being open 24/7 for safety reasons and suggested adding some restrictions on time along with requiring additional lighting. Planner Retzlaff said the Fire Department comments indicate that the access road be connected the center gate. Chairman Wolter was concerned with the congestion of drop off traffic combined with the daycare operation.

MOTION Baum second Shadid to Approve a Conditional Use Permit for Steve Dahlke, property owner and the Germantown Diamond Club, operator to operate an Indoor Recreation Facility for youth baseball training activities from the existing industrial building located at W172 N13050 Division Road subject to the following conditions:

- 1. This permit authorizes the uses and activities set forth in the conditional use permit application dated May 4, 2015 and in the supporting documents and plans made part of the application, including the building plan set dated April 6, 2015, All of the operational characteristics and activities proposed, as well as any commitments made by the Applicant in the application and supporting documents are deemed to be conditions of approval.***
- 2. If the use, activities and/or operation of the training facility subject of this permit falls out of conformity with the conditions herein, or where there is a change in the character, intensity or extent of the activities that causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to ameliorate or eliminate harmful effects associated with the use but are insufficient to do so, or for similar cause based upon consideration for the***

public comfort, safety, and welfare, the conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.

- 3. The maximum number of occupants in the building at any one time shall not exceed thirty-four (34) persons. Use of the facility and participation in any/all training activities shall be limited to Diamond Club members or their invited guests with permission provided a Club member is present.*
- 4. All training activities shall be conducted entirely within the building.*
- 5. A detailed site plan shall be prepared and submitted to the Village Planner for review and approval prior to issuance of a building permit. Said plan shall indicate the location of a paved parking area adequately marked/stripped to indicate a minimum of ten (10) parking stalls to serve the training facility; Said plan shall clearly indicate the access drive(s) within the site that will be available for use by Club members to access the facility, and, available for use by the Fire Department and other emergency services.*
- 6. The owner/operator shall cooperate with the Fire Department to conduct a pre-occupancy inspection and provide/install whatever fire safety measures are required under the Village and other applicable codes.*
- 7. The property owner/operator shall contact the Washington County Planning & Parks Department and/or other authorized agencies to conduct pre-occupancy inspections of the existing on-site sanitary system and potable well to ensure compliance with applicable County and State licensing and sanitary regulations.*
- 8. The property owner or operator shall install exterior lights at the access driveway security gate and in or around the front of the building. Said lights shall be full cut-off fixtures with metal halide lamps. The location, type, intensity, etc. of said lights shall be included in a lighting plan prepared by the property owner/operator and submitted to the Village Planner for review and approval consistent with the Village's lighting requirements and guidelines;*
- 9. All exterior signs shall comply with the Village's sign regulations including obtaining approval and/or permits from the Village Planning Department and Plan Commission.*
- 10. All of the following items shall be provided as required by the Fire Department:*
 - (a) an approved hard surface for the Fire Department access road shall be provided to within 150 feet of the rear center of the building per NFPA1 Chapter 18 (2012 Edition);*
 - (b) the access road should connect to the center gate in the security fence;*
 - (c) the access road will need to be sufficient to accommodate the weight of fire apparatus and be at least 20 feet in width;*
 - (d) if the Fire Department access road exceeds 150 feet in length it shall include an adequate turn-around approved by the Village;*
 - (e) the access gate in the security fence shall remain open at all times the training facility is occupied;*
 - (f) an additional Knox Box shall be installed at the access gate for Fire Department access;*
 - (g) a written emergency plan shall be completed and approved by the Fire Department prior to issuance of an occupancy permit.*
- 11. The owner/operator shall contact Inspection Services regarding the need for building, electrical and plumbing permits for any interior and exterior renovations. State-approved plans are required for any improvements and shall be submitted with or prior to any building permit application. All building code and fire safety improvements shown in the plan set dated April 6, 2015, including the new portable toilet, shall be installed, inspected and approved*

prior to issuance of an occupancy permit and commencement of any club activities.

12. The CUP shall not be transferrable to any other organization and/or business operator.

MOTION carried unanimously.

Midwest Living Partners I, LLC – Lot 2 of CSM 6090 Virginia Avenue. The applicant is seeking approval of a conditional use permit to allow the development and operation of a 32-unit Community Based Residential Facility (CBRF) for seniors with Alzheimer's and Dementia. Planner Retzlaff summarized the proposal. Discussion followed.

MOTION Yokes second Shadid to Approve a conditional use permit (CUP) for Midwest Assisted Living Partners LLC and the Equitable Bank to allow the development and operation of a 32-unit (expandable to 64-unit Phase II) Community Based Residential Facility (CBRF) for seniors with Alzheimer's and Dementia on the 5.3-acre parcel on Virginia Avenue subject to the following conditions:

- 1. The principal use of the Community-based Residential Facility (CBRF) and 5.3-acre property shall be limited to providing assisted living services for senior or other residents suffering from the effects of advanced age and/or disease, mild to moderate dementia (including Alzheimer's) and other client groups specified in the required state of Wisconsin license for a non-ambulatory CNA-class CBRF. The principal use of this property and all facilities thereon for any other purpose shall be prohibited.**
- 2. This conditional use permit shall not be transferable to any subsequent property owner and/or business operator that is not or cannot be licensed to operate a CBRF as permitted under condition 1 above. This CUP shall be transferable to a subsequent property owner and/or business operator that are licensed to operate a CBRF as permitted under Condition #1 above. A new CUP shall be required (but not necessarily approved by the Village) for any significant change in the type of use or operation, including but not limited to, CBRF services for residents and clients other than those permitted under Condition #1 above.**
- 3. Detailed site development and building plans shall be submitted for review and approval by the Village Plan Commission. Said plans shall be consistent with the concept plan approved as part of this CUP. Significant changes or deviations from the approved concept plan may result in the need to obtain a revised CUP.**
- 4. This permit shall be deemed null and void if approval of such plans is not granted by the Plan Commission, or, development activities have not commenced within 12 months after Village Board approval pursuant to Section 17.42(6) of the Zoning Code.**
- 5. The Owner/operator shall obtain and maintain all applicable state and county licenses, certifications, etc. for the CBRF and adult daycare facilities and operations. Copies of said licenses, certifications, etc. shall be provided to the Village Zoning Administrator prior to and as a condition of issuance of an occupancy permit.**

Trustee Baum questioned the purpose of the drive lane around the building and if an outdoor area would be provided. Matt Hieb, ACA, said the drive will act as their fire lane. Curt Crotty, ICM, said Phase I will not have a secure outdoor area. He said any resident who spends time outdoors will need to be accompanied by a care provider or a relative. He said

**VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN
CONDITIONAL USE ZONING PERMIT**

Whereas the Applicants:

Steve Dahlke, Property Owner & Germantown Diamond Club

agree to comply with applicable Codes and Ordinances of the Village of Germantown, Wisconsin, and further agrees that all work done pursuant to the permission granted herewith will conform with the applications and drawings filed with and approvals granted by officials of the Village for the purpose of obtaining this permit.

Now, therefore, this permit is issued to the Applicants to permit the operation of an Indoor Recreation Facility for youth baseball and softball training activities from the property located at W172 N13050 Division Road pursuant to Section 17.33(3)(h) of the Village Zoning Code.

Name & Return Address:

**Village of Germantown
P.O. Box 337
Germantown, WI 53022**

Parcel Identification No:

GTNV 281-972

On the following described property located in the Village of Germantown, Washington County, Wisconsin:

Lot 1 of Certified Survey Map #4641, a 7.13 acre parcel located in the Northwest 1/4 and the Southwest 1/4 of the Southwest 1/4 of Section 10, Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin.

Tax Key No: 103-994

Address: W172 N13050 Division Road

Pursuant to the following condition(s):

1. This permit authorizes the uses and activities set forth in the conditional use permit application dated May 4, 2015 and in the supporting documents and plans made part of the application, including the building plan set dated April 6, 2015, All of the operational characteristics and activities proposed, as well as any commitments made by the Applicant in the application and supporting documents are deemed to be conditions of approval.
2. If the use, activities and/or operation of the training facility subject of this permit falls out of conformity with the conditions herein, or where there is a change in the character, intensity or extent of the activities that causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to ameliorate or eliminate harmful effects associated with the use but are insufficient to do so, or for similar cause based upon consideration for the public comfort, safety, and welfare, the conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.
3. The maximum number of occupants in the building at any one time shall not exceed thirty-four (34) persons. Use of the facility and participation in any/all training activities shall be limited to Diamond Club members or their invited guests with permission provided a Club member is present.

4. All training activities shall be conducted entirely within the building.
5. A detailed site plan shall be prepared and submitted to the Village Planner for review and approval prior to issuance of a building permit. Said plan shall indicate the location of a paved parking area adequately marked/stripped to indicate a minimum of ten (10) parking stalls to serve the training facility; Said plan shall clearly indicate the access drive(s) within the site that will be available for use by Club members to access the facility, and, available for use by the Fire Department and other emergency services.
6. The owner/operator shall cooperate with the Fire Department to conduct a pre-occupancy inspection and provide/install whatever fire safety measures are required under the Village and other applicable codes.
7. The property owner/operator shall contact the Washington County Planning & Parks Department and/or other authorized agencies to conduct pre-occupancy inspections of the existing on-site sanitary system and potable well to ensure compliance with applicable County and State licensing and sanitary regulations.
8. The property owner or operator shall install exterior lights at the access driveway security gate and in or around the front of the building. Said lights shall be full cut-off fixtures with metal halide lamps. The location, type, intensity, etc. of said lights shall be included in a lighting plan prepared by the property owner/operator and submitted to the Village Planner for review and approval consistent with the Village's lighting requirements and guidelines;
9. All exterior signs shall comply with the Village's sign regulations including obtaining approval and/or permits from the Village Planning Department and Plan Commission.
10. All of the following items shall be provided as required by the Fire Department: (a) an approved hard surface for the Fire Department access road shall be provided to within 150 feet of the rear center of the building per NFPA1 Chapter 18 (2012 Edition); (b) the access road should connect to the center gate in the security fence; (c) the access road will need to be sufficient to accommodate the weight of fire apparatus and be at least 20 feet in width; (d) if the Fire Department access road exceeds 150 feet in length it shall include an adequate turn-around approved by the Village; (e) the access gate in the security fence shall remain open at all times the training facility is occupied; (f) an additional Knox Box shall be installed at the access gate for Fire Department access; (g) a written emergency plan shall be completed and approved by the Fire Department prior to issuance of an occupancy permit.
11. The owner/operator shall contact Inspection Services regarding the need for building, electrical and plumbing permits for any interior and exterior renovations. State-approved plans are required for any improvements and shall be submitted with or prior to any building permit application. All building code and fire safety improvements shown in the plan set dated April 6, 2015, including the new portable toilet, shall be installed, inspected and approved prior to issuance of an occupancy permit and commencement of any club activities.
12. The CUP shall not be transferrable to any other organization and/or business operator.

Granted by the Village Board of the Village of Germantown, Washington County, Wisconsin
on the _____ day of _____, 2015.

ATTEST:

Dean Wolter, Village President

Barbara K. D. Goeckner, Village Clerk

STATE OF WISCONSIN) SS
WASHINGTON COUNTY)

Personally came before me this _____ day of _____, 2015, the above
named Dean Wolter, Village President, and Barbara K. D. Goeckner, Village Clerk, to me
known to be the persons who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin
My Commission Expires: _____

ACCEPTANCE OF TERMS AND CONDITIONS BY PROPERTY OWNER

As the property owner, Steve Dahlke, and training facility operator, _____, representing the Germantown Diamond Club, we hereby accept the terms and conditions set forth in this Permit, and realize that non-adherence to the terms and conditions as stated hereon may result in the revocation of this Permit by the Village of Germantown.

Dated this ____ day of _____, 2015

Germantown Diamond Club Representative

Steve Dahlke, Property Owner

STATE OF WISCONSIN) SS
_____) COUNTY)

Personally came before me this ____ day of _____, 2015, being the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin
My Commission Expires: _____

This instrument was drafted by:
Jeffrey W. Retzlaff, AICP
Community Development Director/Zoning Administrator
Village of Germantown, Wisconsin

**BUSINESS OF THE VILLAGE BOARD
GERMANTOWN, WI**

MEETING DATE: July 6, 2015

AGENDA ITEM: Public Hearing & New Business **(Conditional Use Permit)**

ITEM TITLE: Jeff Vilione Agent for Enviro-Safe Resource Recovery and JDV Real Estate Holdings LLC, Property Owner, of Parcel #GTNV 254-280 at W130 N10500 Washington Drive; Application to amend CUP #3-11 to include Non-Hazardous Solid Waste Processing.

SUBMITTED BY: Jeffrey W. Retzlaff, Director, Community Development Department

SUMMARY EXPLANATION:

Enviro-Safe Resource Recovery is seeking approval of an amendment to CUP #3-11 to include non-hazardous solid waste processing to the list of recycling activities allowed in the facility. Under their existing DNR License #4564, Enviro-Safe operates a non-hazardous solid waste transfer station (with limited solid waste processing allowed). Enviro-Safe recently received conditional approval from the DNR to replace the Transfer Station Operation license with a Solid Waste Processing Operation license. The DNR approval and conditions of said approval are contained in a letter dated April 20, 2015 (copy attached).

The proposal to include solid waste processing and change their DNR license from a transfer facility to a processing facility will enable Enviro-Safe to more efficiently process material by being able to co-mingle material from multiple sources before recycling, and, expand the volume of material they can process above the current 50 ton per day limit of the current transfer facility license. Enviro-Safe estimates that with approval they could process up to 1,200 tons of solid waste annually. The same recycling and transferring activities allowed under the Transfer Station Operation license and CUP #3-11 would continue to occur, but the change to a Solid Waste Processing Operation license would enable Enviro-Safe to process more solid waste and in a slightly different manner than what is allowed under the current license.

ATTACHMENTS:

- ◆ June 8, 2015 Staff Report & Plan Commission Meeting Minutes
- ◆ DNR April 20, 2015 Approval Letter
- ◆ Draft CUP

PLAN COMMISSION RECOMMENDATION:

APPROVE an amendment to Conditional Use Permit #3-11 to include non-hazardous solid waste processing to the list of uses and activities allowed in the existing Enviro-Safe facility located at W130 N10500 Washington Drive in the Germantown Business Park subject to one (1) condition.

NOTE: See draft CUP for recommended conditions of approval.

NOTICE OF PUBLIC HEARING VILLAGE OF GERMANTOWN

NOTICE is hereby given that a Public Hearing will be held before the Village of Germantown Village Board at the Germantown Village Hall located at N112 W17001 Mequon Road, Germantown, Wisconsin on the following date and at the time noted below (or soon thereafter):

DATE: Monday, July 6, 2015
TIME: 7:00 p.m. or later

The purpose of said hearing is to hear any and all parties, their attorneys or agents, for or against the application filed by the following petitioner for an amendment to CONDITIONAL USE PERMIT #03-11 to include non-hazardous solid waste processing to the list of recycling activities allowed from the facility pursuant to Section 17.33(3)(a) and (b) of the Village Zoning Code.

Petitioner: Jeffrey Vilione, agent for JDV Real Estate Holdings, LLC, property owner and Enviro-Safe Consulting LLC & Enviro-Safe Resource Recovery, operator
Property: W130 N10500 Washington Drive (GTNV#254-280)

Lot 33 of Certified Survey Map No. 6396, recorded February 22, 2011, in Volume 48 of Certified Survey Maps on Pages 195 to 199, as Document No. 1273968, being a redivision of Lot 25 of Certified Survey Map No. 6275, located in that part of the Southwest 1/4 and the Northwest 1/4 of the Southeast 1/4 of Section 25, Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin.

A copy of the application is on file in the Village Planning Department office and is available for public inspection during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday.

Dated this 10th day of June, 2015.
Barbara K. D. Goeckner, Village Clerk

To Be Published On: June 18th and June 25th, 2015

Enviro-Safe Consulting – W130 N10500 Washington Drive. Jeff Vilione, JDV Real Estate Holdings LLC, is seeking approval of an amendment to Conditional Use Permit #3-11 to include non-hazardous solid waste processing to the list of recycling activities allowed in the existing Enviro-Safe facility located at W130 N10500 Washington Drive in the Germantown Business Park. Planner Retzlaff summarized the proposal.

MOTION Baum second Yokes to Approve an amendment to Conditional Use Permit #3-11 to include non-hazardous solid waste processing to the list of uses and activities allowed in the existing Enviro-Safe facility located at W130 N10500 Washington Drive in the Germantown Business Park subject to the following additional conditions:

- 1. All General Condition, Operations and Reporting conditions of approval and requirements set forth in the DNR approval letter dated April 20, 2015 are hereby adopted as conditions of approval for this permit.***

MOTION carried unanimously.

Germantown Diamond Club – W172 N13050 Division Road. The application is for a Conditional Use Permit to allow the operation of an Indoor Recreation Facility for youth baseball training activities from an existing industrial building. Planner Retzlaff summarized the proposal.

Troy Schmidt, Germantown Diamond Club, explained the hours for the training facility would generally be after school from 3:00-3:30 p.m. until approximately 9:30-10:00 p.m. during the off season. Commissioner Yokes said he had visited the site and was concerned the central gate was not operational and could be a security issue. He said emergency vehicles should have access to the gate. He was also not comfortable with the facility being open 24/7 for safety reasons and suggested adding some restrictions on time along with requiring additional lighting. Planner Retzlaff said the Fire Department comments indicate that the access road be connected the center gate. Chairman Wolter was concerned with the congestion of drop off traffic combined with the daycare operation.

MOTION Baum second Shadid to Approve a Conditional Use Permit for Steve Dahlke, property owner and the Germantown Diamond Club, operator to operate an Indoor Recreation Facility for youth baseball training activities from the existing industrial building located at W172 N13050 Division Road subject to the following conditions:

- 1. This permit authorizes the uses and activities set forth in the conditional use permit application dated May 4, 2015 and in the supporting documents and plans made part of the application, including the building plan set dated April 6, 2015, All of the operational characteristics and activities proposed, as well as any commitments made by the Applicant in the application and supporting documents are deemed to be conditions of approval.***
- 2. If the use, activities and/or operation of the training facility subject of this permit falls out of conformity with the conditions herein, or where there is a change in the character, intensity or extent of the activities that causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to ameliorate or eliminate harmful effects associated with the use but are insufficient to do so, or for similar cause based upon consideration for the***

CONDITIONAL USE PERMIT AMENDMENT

6/8/15 Plan Commission Meeting

Enviro-Safe Consulting LLC / JDV Real Estate Holdings, LLC

Village Planner Report

Germantown, Wisconsin

Summary

Jeff Vilione, agent for JDV Real Estate Holdings LLC, property owner, and Enviro-Safe Resource Recovery & Enviro-Safe Consulting LLC, is seeking approval of an amendment to Conditional Use Permit #3-11 to include non-hazardous solid waste processing to the list of recycling activities allowed in the existing Enviro-Safe facility located at W130 N10500 Washington Drive in the Germantown Business Park.

Property Location: W130 N10500 Washington Drive

Applicant/

Property Owners:

Jeff Vilione
Enviro-Safe Consulting
W218 N5469 Taylors Woods Dr
Menomonee Falls, WI 53051

Current Zoning: M-1: Limited Industrial

Adjacent Land Uses		Zoning
North	Industrial	M-1
South	Industrial	M-1
East	Industrial	M-1
West	Industrial	M-1



Background

Enviro-Safe Resource Recovery is a multi-disciplinary environmental, safety and resource management and recovery company. Currently, of the services Enviro-Safe provides transportation, collection, bulking (repackaging) and overall recycling services of flammable, combustible, hazardous and non-hazardous liquids, solvents and solid wastes that are redirected to other users in an alternative reuse program.

In May, 2011, the Village Board granted CUP #3-11 (copy attached) that permits Enviro-Safe to operate a facility for the bulk storage of flammable hazardous and non-hazardous liquid materials in the M-1: Limited Industrial Zoning District.

Proposal

Jeff Vilione, agent for Enviro-Safe Resource Recovery & Enviro-Safe Consulting LLC, is seeking approval of an amendment to CUP #3-11 to include non-hazardous solid waste processing to the list of recycling activities allowed in the facility.

Under their existing DNR License #4564, Enviro-Safe operates a non-hazardous solid waste transfer station. Enviro-Safe recently received conditional approval to replace the Transfer Station Operation license with a Solid Waste Processing Operation license. The DNR approval and conditions of said approval are contained in a letter dated April 20, 2015 (copy attached). The Operations Plan submitted to the DNR and upon which DNR approval has been granted is also attached (Stantec Report dated March 18, 2015).

As indicated in the Operations Plan report, the proposal to include solid waste processing and change their DNR license from a transfer facility to a processing facility will enable Enviro-Safe to more efficiently process material by being able to co-mingle material from multiple sources before recycling, and, more importantly, expand the volume of material they can process above the current 50 ton per day limit of the current transfer facility license. Enviro-Safe estimates that with approval they could process up to 1,200 tons of solid waste through the facility on an annual basis. The same activities allowed under the Transfer Station Operation license and CUP #3-11 would continue to occur, but the change to a Solid Waste Processing Operation license would enable Enviro-Safe to process more solid waste and in a slightly different manner than what is allowed under the current license.

Staff Analysis

The zoning for this parcel in the Business Park is M-1: Limited Industrial. The existing use of and activities conducted within the building, i.e. storage and recycling of flammable, combustible, hazardous and non-hazardous liquid and solid waste, is only allowed with a conditional use permit. As with all CUP uses, the owner/operator must show how the proposed use(s) are or would *"...not be hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or community"*.

Since the operation began in 2012, Enviro-Safe has conducted its business consistent with the terms of CUP #3-11 and the operations plan upon which CUP #3-11 was granted.

As indicated in his June 4, 2015 e-mail, Villione indicates that the proposed change is not a significant change to the overall operation. As is the case now, all solid waste processing activities will be conducted inside the building with no changes to exterior of the building or site. No outside storage of equipment or materials is proposed (or permitted) and there will be no new or additional environmental impacts (e.g. noise, odor, heat, glare, air quality, vibration, etc.) associated with this change.

Staff recommends that the DNR general, operational and reporting conditions of approval also be adopted by reference into CUP #3-11 (see DNR letter dated April 20, 2015 pages 5 and 6).

VILLAGE PLANNER RECOMMENDATION

APPROVE an amendment to Conditional Use Permit #3-11 to include non-hazardous solid waste processing to the list of uses and activities allowed in the existing Enviro-Safe facility located at W130 N10500 Washington Drive in the Germantown Business Park subject to the following **ADDITIONAL** conditions:

1. All General Condition, Operations and Reporting conditions of approval and requirements set forth in the DNR approval letter dated April 20, 2015 are hereby adopted as condition of approval for this permit.



April 20, 2015

Mr. Jeffrey Vilione, President
Enviro-Safe Consulting, LLC
W130 N10500 Washington Drive
Germantown, WI 53022

FID 267193300
Washington County
SW / CORR

Subject: Solid Waste Processing Facility, Plan of Operation Approval, to Comingle Small Quantities of Solid Waste to Facilitate Beneficial Reuse/Energy Recovery at Licensed Energy Recovery Facilities

Dear Mr. Vilione:

Your proposal to operate the above referenced solid waste processing facility located at W130 N10500 Washington Drive, Germantown, Wisconsin, has been reviewed and conditionally approved. This approval allows Enviro-Safe Consulting, LLC to store and process solid wastes for the purpose of beneficial energy recovery of the processed material at off-site alternative fuel facilities.

The proposal should provide for a safe operation provided the operational requirements in section NR 502.08(6), Wis. Adm. Code, and the conditions of the attached approval are followed.

Based upon the primary purpose of the processing activity to convert solid waste into usable materials, products or energy, the department has honored your request to waive the plan review and licensing fees under NR 520 Table 2 for this facility. Based upon the similarity of the solid waste storage and processing locations, an August 2012 DNR Initial Site Inspection response for the existing solid waste transfer facility at this location was considered to be appropriate for the solid waste processing facility which will be replacing the transfer facility.

Enviro-Safe maintains an Irrevocable Standby Letter of Credit with the Village of Germantown as the beneficiary for the cost for closure of all waste handling activities at this location. There is a condition in this approval that Enviro-Safe annually identifies that this letter of credit remains current.

The attached Solid Waste Facility Initial License Application (Form 4400-088) needs to be submitted prior to initial operation. An electronic version can be found at <http://dnr.wi.gov/files/PDF/forms/4400/4400-088.pdf>. Please submit the completed form along with a copy of this approval cover letter, to Ms. Heidi Jasso at the address listed on the letterhead above.

You are reminded that this approval does not relieve you of obligations to meet all other applicable federal, state and local permits, as well as zoning and regulatory requirements. If you have any questions about this approval, please contact Ken Hein at 414-263-8714, or by email at Kenneth.Hein@wisconsin.gov.

Sincerely,

Cynthia Moore
Waste & Materials Management Supervisor
Southeast Region

Attached: Solid Waste Facility Initial License Application (Form 4400-088)

cc SER File
Mike Roznowski, Stantec Consulting Services, Inc. (e-copy)

**PROJECT SUMMARY - SOLID WASTE PROCESSING FACILITY
ENVIRO-SAFE CONSULTING, LLC
GERMANTOWN, WISCONSIN**

Authorized Contact: Mr. Jeffrey Vilione, President
Enviro-Safe Consulting, LLC
W130 N10500 Washington Drive
Germantown, WI 53022
Phone: (262) 790-2500
Email: jvilione@enviro-safe.com

Consultant: Mr. Mike Roznowski
Stantec Consulting Services, Inc.
12075 Corporate Parkway
Mequon, WI 53092
(920) 278-3200 (office)
(920) 655-1852 (cell)

Facility Name Enviro-Safe Resource Recovery
And Location: W130 N10500 Washington Drive
Germantown, WI 53022

Other Activities At This Location Not Covered under This Processing Facility Approval:

Enviro-Safe Consulting (ESC) currently holds a less than 50 ton/day solid waste transfer facility, License # 4564, which will be replaced by the processing operation. ESC will continue to perform other DNR regulated waste services which include:

- Solid Waste/Recyclables Transportation, License # 15810
- Hazardous Waste Transportation – PCB – Full Service Contractor, License # 15809
- Hazardous Waste –Small Quantity Generator, USEPA ID No. WIR000142877
- Hazardous Waste Transfer Facility
- Used Oil Marketer and Transfer under NR 679, Wis. Adm. Code
- Universal Waste Handling under NR 673, Wis. Adm. Code

Waste Types and Process Description:

ESC services primarily Wisconsin manufacturing clientele through routing appropriate non-hazardous wastes for beneficial reuse/energy recovery at off-site alternative fuel facilities. In general, the non-hazardous wastes are outdated, unused, of specification products as well as production residuals.

This service has been performed under their existing solid waste transfer facility license. Increased business and an interest in comingling appropriate wastes to enhance their fuel recovery characteristics resulted in ESC transitioning activities to a processing operation. Materials will be received in small quantities (pails, drums or totes). Not all delivered materials will require processing. Materials with sufficient fuel recovery characteristics will be loaded onto semi-trailers for shipment without further processing. Materials requiring processing will be tested for compatibility prior to being comingled to improve their characteristics by transferring the materials using drum handling equipment into larger drum or totes prior to shipment. If large quantities of liquids have accumulated, drums and totes will be pumped directly to a parked tanker within the bulk tank storage area loading pad.

No hazardous waste materials will be used in this comingling activity. ESC estimated in 2014 approximately 87% of the non-hazardous waste was shipped for energy recovery. This comingling process will allow them to recycle more materials.

Processing Activity Location and Capacity:

The ESC facility was specifically designed for the multiple waste handling practices performed. Figure 3 of the March 18, 2015 "Solid Waste Processing Operations Plan" identifies where all the on-site waste handling activities are performed. All solid waste storage and processing will be performed within the existing building (room 124) in the area previously dedicated to the solid waste transfer activities. There has been no significant increase in solid waste storage capacity. All other on-site waste handling activities are performed within designated areas shown on Fig 3. Manifest documents and customer waste profile information will designate where materials are routed within the building. ESC estimated they could accept 1,200 tons of solid waste through the facility annually. Of that quantity, an estimated 125 tons would require comingle processing to enhance energy recovery characteristics.

Exemption Requests and Waivers:

Based upon the similarity of the solid waste storage and processing locations, an August 2012 DNR Initial Site Inspection response for the existing solid waste transfer facility at this location was considered to be appropriate for the solid waste processing facility which will be replacing the transfer facility.

With the primary purpose of the processing activity to convert solid waste into usable materials, products or energy, the department honored ESC's request to waive the plan review and licensing fees under NR 520 Table 2 for this facility.

NR 502.04(6) establishes an option for the department to require financial responsibility for the closure of facilities which includes the cost of disposal of accumulated materials. ESC provided information on an existing Irrevocable Standby Letter of Credit with the Village of Germantown as the beneficiary for the cost for closure of all waste handling activities at this location, including the storage of materials associated with this processing operation. As such, a separated NR 502.04(6) financial assurance mechanism was not required as part of initial licensing of the solid waste processing operation.

**BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
SOLID WASTE PROCESSING FACILITY APPROVAL
ENVIRO-SAFE CONSULTING, LLC
GERMANTOWN, WISCONSIN**

FINDINGS OF FACT

The Department finds:

1. Enviro-Safe Consulting, LLC (dba Enviro-Safe Resource Recovery) owns property located at W130 N10500 Washington Drive, Germantown, Wisconsin. The property is located in the NW1/4, SE1/4, Sec. 25, T9N-R20E, Washington County.
2. Enviro-Safe Consulting (ESC) currently performs multiple waste handling activities at this location of which the processing operation will replace transfer facility # 4564.
 - a. Less than 50 ton/day Solid Waste Transfer Facility, License # 4564
 - b. Solid Waste/Recyclables Transportation, License # 15810
 - c. Hazardous Waste Transportation – PCB – Full Service Contractor, License # 15809
 - d. Hazardous Waste –Small Quantity Generator, USEPA ID No. WIR000142877
 - e. Hazardous Waste Transfer Facility
 - f. Used Oil Marketer and Transfer under NR 679, Wis. Adm. Code
 - g. Universal Waste Handling under NR 673, Wis. Adm. Code
3. On August 22, 2012 DNR issued an Initial Site Inspection response for the solid waste transfer activity which this processing activity will replace.
4. On February 18, 2015 the department met with ESC to discuss options to address increased business in their non-hazardous wastes beneficial reuse/energy recovery service. Based upon the similarity of the solid waste storage and processing locations, the August 2012 ISI response was considered to be appropriate for a transition to a solid waste processing facility.
5. ESC Consultant, Stantec Consulting Services, submitted the following documents which the department considered in this Conditional Plan Of Operation Approval:
 - a. A report dated March 18, 2015 and received by the department on March 19, 2015 entitled; "Solid Waste Processing Operations Plan".
 - b. An email dated April 2, 2015 containing a plan review request cover letter and a revised Figure 3 in the March 18, 2015 report.
 - c. An email dated April 17, 2015 clarifying the estimated total tons of solid waste to be received at the facility and tons requiring processing to enhance their energy recovery characteristics.
6. The department has waived the plan review fees and licensing fees for this facility based upon the facility's primary purpose of converting solid waste into usable materials, products or energy in accordance with NR 520.04(4) Wis. Adm. Code and specifically NR 520 Table 2 footnote 4.

CONCLUSIONS OF LAW

1. The Department has authority under s. 289.05, Stats. and ch. NR 502.08, Wis. Adm. Code, to approve a solid waste processing facility plan of operation if it complies with chs. NR 500 to 538, Wis. Adm. Code.

2. The Department has authority under s. 289.05, Stats. and ch. NR 502.08, Wis. Adm. Code, to approve a plan of operation with special conditions if the conditions are needed to ensure compliance with chs. NR 500 to 538, Wis. Adm. Code.
3. In accordance with foregoing, the Department has the authority under ch. 289, Stats., to issue the following conditional approval.

CONDITIONS OF APPROVAL

The Department hereby approves the plan of operation for the Enviro-Safe Consulting Solid Waste Processing Facility Plan of Operation, subject to compliance with chs. NR 500 to 538, Wis. Adm. Code, and the following conditions:

General Conditions

1. All aspects of solid waste storage, processing, and disposal shall be performed in accordance with the plan of operation referenced in Finding of Fact #5 above, the requirements of chapter NR 502.08, Wis. Adm. Code, and the conditions contained in this approval.
2. Any proposed changes to the processing operation plan, storage capacity, processing methods or the conditions of this approval shall be submitted to the Department in writing for approval prior to implementing.
3. A copy of the plan of operation, accompanying drawings, and this approval shall be retained at the facility for reference by personnel responsible for proper operation of the facility.

Operations

4. At no time shall the quantity of stored unprocessed and processed solid waste exceed the capacity of the designated areas within room 124 on Figure 3 of the plan of operation.
5. Daily operations records shall be maintained for the processing activity and made available for department inspection containing at a minimum the following information:
 - a. The weight of solid waste delivered to the processing operation with generator and waste profile information.
 - b. The weight of comingled materials processed with the generator and waste profile information.
 - c. The weight of materials shipped off site for beneficial reuse/energy recovery with information identifying the receiving facilities
 - d. The weight of materials from the processing activity shipped off site for recycling other than energy recovery with a description of the material and identifying the receiving facility.
 - e. The weight of materials from the processing activity shipped off site for disposal identifying the receiving facility.
6. The processing activity shall be supervised by individuals familiar with the submitted plan of operation and this approval and an operator training manual in accordance with NR 502.08(6)(h) shall maintained for the processing facility. Records documenting employee training shall be maintained.

Reporting

7. Enviro-Safe Consulting shall submit an annual report by March 1st of each year summarizing the preceding calendar year performance records maintained in condition #5. At a minimum, the report shall identify the reporting year and include the following:

- a. A table showing monthly and annual total tons for the following Processing Operation data:
 - i. Solid waste delivered to the Processing Operation.
 - ii. Materials commingled or blended through the processing operation.
 - iii. Materials shipped for beneficial reuse/energy recovery. Each receiving facility shall be a separate line item.
 - iv. Materials shipped off site for recycling other than energy recovery. Each line item shall describe the material, the recycling option, and identify the receiving facility.
 - v. Materials from the processing activity shipped off site for disposal.
- b. A discussion of any operational problems encountered with the processing activity and actions taken to prevent their reoccurrence.
- c. A statement assuring that the Irrevocable Standby Letter of Credit with the Village of Germantown as the beneficiary for the cost for closure of all waste handling activities at this location remains current.

This approval is based on the information available to the Department as of the date of approval. If additional information, project changes, or other circumstances indicate a possible need to modify this approval, the Department may ask you to provide further information relating to this activity. Likewise, the Department accepts proposals to modify approvals, as provided for in state statutes and administrative codes.

NOTICE OF APPEAL RIGHTS

If you believe you have a right to challenge this decision made by the Department, you should know that Wisconsin statutes and administrative codes establish time periods and requirements for reviewing Department decisions.

To seek judicial review of the Department's decision, sections 227.52 and 227.53, Stats., establish criteria for filing a petition for judicial review. You have 30 days after the decision is mailed or otherwise served by the Department to file your petition with the appropriate circuit court and serve the petition on the Department. The petition shall name the Department of Natural Resources as the respondent.

Dated: April 20, 2015

DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Cynthia Moore
Waste and Materials Management Supervisor
Southeast Region

Kenneth Hein
Waste Management Specialist
Southeast Region

Jeff Retzlaff

From: Jeff Vilione <JVilione@enviro-safe.com>
Sent: Thursday, June 04, 2015 9:03 AM
To: Jeff Retzlaff
Subject: RE: CUP Amendment Application
Attachments: Enviro-Safe_Solid Waste Processing Plan Submittal_FINAL_20150318.pdf

Jeff,

In response to your e-mail below, I have listed my responses to your questions in red. Jeff, I know this new license sounds like a big change, but I truly don't believe it is in comparison to how we are currently conducting our operations. What it does provide, is more flexibility to manage non-recyclable materials and place into a recycling program from multiple companies.

1. The March 18, 2015 report "Solid Waste Processing Operations Plan" and any amendments or revisions made to that report (this was cited in the DNR's approval letter);
Attached is the electronic version of the Solid Waste Operations Plan dated March 18th, 2015. There have been no amendments or revisions to date.
2. A general summary in layman's terms as to what changes to your existing operation are being proposed... the statement made in your cover letter "...the change would be co-mingling/consolidation of non-hazardous compatible materials for the purpose of beneficial energy recovery..." really doesn't mean anything to me. From what I read in the April 20, 2015 DNR letter, you are changing the business from a transfer facility to a processing facility. Can you explain that, too?
From an operational standpoint, there will not be any major changes. Currently, we are allowed to conduct repackaging of materials from a single company. With the license changing from a transfer facility to a processing facility, this will allow us to repackage material from multiple companies.
3. If the graphics in the March 18 report are not sufficient, can you provide a separate floor plan or something that clearly shows where the new activities will be conducted within and outside the building?
See attached Solid Waste Processing Operation Plan Diagram – Site layout – Figure 3 "Solid Waste Staging and Processing Area"
4. What if any exterior changes to the site will be required?
The building exterior will remain unchanged.
5. Will there be any outside storage of equipment and/or materials as a result of this operational change?
There will not be any outside storage of equipment or materials resulting from this operational change.
6. What, if any, different or additional impacts are associated with the operational change...such as different or additional noise, odor, air quality, vibration, sound, heat, etc. impacts?
There will not be any additional impacts at all.

Jeff, I hope this helps. Let me know if you need anything further. I will be out of town this Friday. Thanks.

Jeffrey D. Vilione
President
Enviro-Safe Resource Recovery
Enviro-Safe Consulting, LLC.
W130 N10500 Washington Drive

CUP # 15 – XX

Document No.

CONDITIONAL USE PERMIT

Document Title

**VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN
CONDITIONAL USE ZONING PERMIT**

Whereas the Applicants:

JDV Real Estate Holdings LLC, Property Owner, Enviro-Safe Consulting LLC, and Enviro-Safe Resource Recovery, Operator

agree to comply with applicable Codes and Ordinances of the Village of Germantown, Wisconsin, and further agrees that all work done pursuant to the permission granted herewith will conform with the applications and drawings filed with and approvals granted by officials of the Village for the purpose of obtaining this permit.

Now, therefore, this permit is issued to the Applicants to permit the development and operation of facility used for the bulk storage and processing of flammable hazardous and non-flammable non-hazardous liquid and solid waste materials pursuant to Section 17.33(3)(a) and (b) of the Village's Zoning Code.

Name & Return Address:

**Village of Germantown
P.O. Box 337
Germantown, WI 53022**

Parcel Identification No:

GTNV 254-280

On the following described property located in the Village of Germantown, Washington County, Wisconsin:

Lot 33 of Certified Survey Map No. 6396, recorded February 22, 2011, in Volume 48 of Certified Survey Maps on Pages 195 to 199, as Document No. 1273968, being a re-division of Lot 25 of Certified Survey Map No. 6275, located in that part of the Southwest 1/4 and the Northwest 1/4 of the Southeast 1/4 of Section 25, Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin.

Tax Key No: 254-280

Address: W130 N10500 Washington Drive

Pursuant to the following condition(s):

1. Subject to the additional allowances under Condition No. 8 herein, this permit authorizes the uses, activities and facilities set forth in the conditional use permit application dated March 14, 2011 and the supporting documents and plans made part of the application including: Responses to the requirements of Section 11.071 (dated 3-14-2011); MSI letter and attached Plan of Operation (dated March 14, 2011); the draft SPCC (dated March 2011); Enviro-Safe Consulting LLC "CUP Application Review" letter (dated March 30, 2010); Letter of Intent (dated March 11, 2011); and the site development and building plan set (dated 3-14-2011, unless otherwise revised by a subsequent plan set approved by the Village Planner pursuant to revisions required herein). All of the commitments made by the Applicant in the application and supporting documents cited herein are deemed conditions of approval. This approval includes the same uses and activities conducted in/as part of the proposed 12,573 sqft building expansion shown in the site development and building plans.

2. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional use which causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to ameliorate or eliminate harmful effects associated with the use but are insufficient to do so, or for similar cause based upon consideration for the public comfort, safety, and welfare, the conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.
3. All business operations and activities conducted on the property and by Enviro-Safe while in the Village shall meet and continuously comply with the performance standards set forth in Zoning Code section 17.47, including, but not limited to odor, fire and explosive hazards, and water quality protection. In the event of a complaint substantiated by Village staff to the extent that a potential violation of or determination of non-compliance with one or more of the performance standards in Section 17.47 may have occurred or is occurring, the applicant shall be responsible for all costs for and resulting from the Village retaining a third party environmental expert capable of investigating and/or monitoring the site and operation. Said expert shall report its findings to the Village for subsequent use in investigating and enforcing said complaint or potential violation of the "performance standards" found in Section 17.47 of the Zoning Code.
4. The type and amount of material to be stored shall be limited to that which is proposed in the application materials including the documents referenced in Condition #1 herein. Any changes to the type, amount, location, and containers from that presented in the application materials and/or site development and building plans, or, any changes to the methods of storage, dispensing, mixing, or transportation activities shall be reported to the Village Planning Department. Modifications to the approved CUP and/or site and building plans or conditions of said approvals may be required by the Village at that time.
5. Enviro-Safe shall develop a closure plan the same as that which required for solid waste storage facilities under WDNR NR 502.04 and submit said plan to the Village Engineer for review and approval prior to issuance of an occupancy permit, including the submittal of a letter of credit or other financial guarantee acceptable to the Village that ensures removal and/or clean-up of remaining inventory can be accomplished by a third party environmental firm (if necessary) in the unanticipated event the business relocates from or ceases to exist in the Village.
6. The applicant is responsible for obtaining all applicable state, federal or other agency permits and approvals and continuously operating within the requirements and restrictions of said permits and approvals. Copies of all state and federal agency permits issued shall be provided to the Village Fire and Planning Department.
7. The overnight storage of hazardous and non-hazardous materials that are not in a protected controlled environment is prohibited.
8. All General, Operations and Reporting conditions of approval and requirements set forth in DNR approval letter dated April 20, 2015 are hereby adopted as conditions of approval for this conditional use permit.

Conditional Use Permit (CUP) # 15-XX

JDV Real Estate Holdings LLC/Enviro-Safe Consulting LLC/Enviro-Safe Resource Recovery

Village of Germantown, Germantown, Wisconsin

Page 3 of 4

Granted by the Village Board of the Village of Germantown, Washington County, Wisconsin
on the _____ day of _____, 2015.

ATTEST:

Dean Wolter, Village President

Barbara K. D. Goeckner, Village Clerk

STATE OF WISCONSIN) SS

WASHINGTON COUNTY)

Personally came before me this _____ day of _____, 2015, the above
named Dean Wolter, Village President, and Barbara K. D. Goeckner, Village Clerk, to me
known to be the persons who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin

My Commission Expires: _____

ACCEPTANCE OF TERMS AND CONDITIONS BY APPLICANT

I, Jeff Vilione, authorized representative for Enviro-Safe Consulting LLC, Enviro-Safe Resource Recovery and JDV Real Estate Holdings LLC, hereby accept the terms and conditions set forth in this Permit, and realize that non-adherence to the terms and conditions as stated hereon may result in the revocation of this Permit by the Village of Germantown under Section 17.42 Germantown Municipal Code.

Dated this ____ day of _____, 2015

{type or print name above}

Signature

STATE OF WISCONSIN) SS
_____ COUNTY)

Personally came before me this ____ day of _____, 2015, being the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin
My Commission Expires: _____

This instrument was drafted by:
Jeffrey W. Retzlaff, AICP
Community Development Director/Zoning Administrator
Village of Germantown, Wisconsin

X. D

**BUSINESS OF THE VILLAGE BOARD
VILLAGE OF GERMANTOWN**

MEETING DATE: July 6, 2015

AGENDA ITEM: New Business

ITEM TITLE: Recommendation by EMC Insurance, Regarding Claim of 4/17/2015, International Concrete Products, Inc., N104 W13561 Donges Bay Rd, Germantown WI 53022

SUBMITTED BY: Barbara K. D. Goeckner, Village Clerk

SUMMARY EXPLANATION:

On April 30, 2015, John Krupo of International Concrete Products, Inc., N104W13561 Donges Bay Road, Germantown WI 53022 reported a claim for damage to finished product panels, occurring on April 16, 2015. The claim stated: *Fire hydrants were flushed resulting in rust in our water supply used to make concrete. Finished product for that day has a darker color than previous product.*

The claim was submitted to the Village's M3 Insurance (EMC Insurance) Plan. EMC investigated the claim and determined there was no negligence on the part of the Village of Germantown as public notice of the water main flushing was provided before the loss date and is recommending the Village disallow this claim pursuant to the Wisconsin Statute for disallowance of claim 893.80(1g).

ATTACHMENT: ORDINANCE _____ RESOLUTION _____ OTHER X

RECOMMENDATION:

Motion by the Village Board to disallow the claim filed by John Krupo, VP of International Concrete Products, Inc. as recommended by EMC Insurance, Village insurance provider.

Milwaukee Claim Department



June 10, 2015

Mr. John Krupo
International Concrete Products, Inc.
N104 W13561 Donges Bay Rd
Germantown WI 53022-4423

Re: Our Policyholder: Village of Germantown
Claim Number: 1146218
Date of Loss: 4/17/2015

Dear Mr. Krupo:

We have completed our investigation in the above-captioned matter.

The policy under which this claim was submitted is one of liability insurance. It is our obligation to pay only for claims for which our policyholder is legally responsible. It is our opinion that there was no negligence on the part of our policyholder for this loss.

Respectfully, we must deny your claim. Public notice of the water main flushing was provided before the loss date.

Sincerely,

A handwritten signature in dark ink, appearing to read "Arlene V. Chambers", written over a horizontal line.

Arlene V. Chambers
Sr. Claims Adjuster
EMC INSURANCE COMPANIES
855-495-1800, ext. 3920; direct dial 262-717-3920
Fax: 888-992-6125
Arlene.V.Chambers@emcins.com

cc: Village of Germantown

P.O. Box 327 | Brookfield, WI 53008-0327 | 262.717.3900 | 855.495.1800 | F 888.992.6125 | milwaukee.claims@emcins.com | www.emcins.com

Employers Mutual Casualty Company
EMCASCO Insurance Company
EMC Reinsurance Company

Illinois EMCASCO Insurance Company
Dakota Fire Insurance Company
EMC Property & Casualty Company

Union Insurance Company of Providence
Hamilton Mutual Insurance Company
EMC Risk Services, LLC

EMC Underwriters, LLC
EMC National Life Company (affiliate)

RECEIVED

APR 06 2015
OFFICE OF VILLAGE CLERK
VILLAGE OF GERMANTOWN

Wm Recycle
X.E

VILLAGE OF GERMANTOWN

APPLICATION FOR JUNK DEALER / AUTO SALVAGE ESTABLISHMENT

FEE: \$250.00 / ANNUALLY

CHAPTER 12.17

INITIAL INVESTIGATION AND INSPECTION FEE: \$200.00

LICENSE PERIOD: JULY 1 TO JUNE 30

DATE: 3/12/2015

BUSINESS TRADE NAME: WM Recycle America

BUSINESS ADDRESS: W132 N10487 Grant Dr.

CITY / STATE / ZIP CODE: Germantown, WI 53022

BUSINESS PHONE NUMBER: 262-260-8742

OWNER'S NAME: Waste Management of Wisconsin Inc.

ADDRESS: W132 N10487 Grant Dr.

CITY / STATE / ZIP CODE: Germantown, WI 53022

DRIVER'S LICENSE NUMBER: FEIN# 39-0967466

DESCRIPTION OF OPERATION: Recycling

STATE OF WISCONSIN SELLER'S PERMIT NUMBER: 004-0000827774-01

OTHER REQUIRED PERMITS: _____

INSPECTIONS REQUIRED:

POLICE DEPARTMENT: _____

BUILDING INSPECTION: _____

PLAN COMMISSION MEETING: _____

VILLAGE BOARD MEETING: _____

PERMIT NO. _____

[Signature]
SIGNATURE OF OWNER

[Signature]
WITNESS

BUSINESS OF THE VILLAGE BOARD OF TRUSTEES

GERMANTOWN, WI

Fire Department

MEETING DATE: July 6, 2015

AGENDA ITEM: New Business

ITEM TITLE: Review of Sales Agreement for Medical Oxygen from Airgas.

SUBMITTED BY: Chief Gary L. Weiss

SUMMARY EXPLANATION:

Current the GFD pay .24 cents rental for our large medical oxygen bottles- we have 8 in stock, and .23 cents rental for the small portable medical oxygen bottles- we have 24 in stock.

I have negotiated with Airgas a reduction in the cost of the bottle rentals with a three year agreement with Airgas. New costs are .16 cents a day for the large bottles and .12 cents a day for the small bottles.

This equates to a significant saving to the Village as listed below:

CURRENT COSTS

Small Bottle-	\$2,014.80 annual bottle rental cost.
Large Bottles-	\$700.80 annual bottle rental cost.
Total Current Cost:	\$2,715.60

NEW COSTS:

Small Bottles:	1,051.20 annual bottle rental cost. (.16 per day)
Large Bottles:	467.20 annual bottle rental costs. (.12 per day)
Total New Costs:	\$1,518.40

ANNUAL SAVING: \$1,197.20.

ATTACHMENT: ORDINANCE____ RESOLUTION____ OTHER_X____

Product Sales Agreement

RECOMMENDATION:

The Fire Department respectfully requests the Village Board approve this agreement.

Agreement by and between Airgas USA, LLC., ("Seller"), with an address at 2855 South 163rd Street, New Berlin, WI 53151 and Village of Germantown Fire Department ("Buyer"), with an address at N115W18752 Edison Drive, Germantown, WI 53022 ("Agreement"), whereupon Seller agrees to sell and Buyer agrees to buy its present and future requirements of gas in rental cylinders ("Cylinders") and other products and supplies ("Product(s)") listed on the attached Rider. For and in consideration of the mutual covenants set forth below and intending to be legally bound thereby, the parties agree as follows:

1. **Term.** (a) The initial term of this Agreement shall be for three (3) years for cylinders and shall commence upon the date signed by Seller. Thereafter, this Agreement shall automatically renew for successive one (1) year terms unless terminated at the end of the then-current term upon not less than ninety (90) days' written notice by either party. Seller shall have the right to terminate this Agreement and recover the possession of the Cylinders, if at any time during the term of this Agreement or any renewal hereof, any of the following occurs:

(b) **DISCLOSURE: PARAGRAPH 1 ABOVE CONTAINS LANGUAGE STATING THAT THIS AGREEMENT WILL BE RENEWED FOR ADDITIONAL ONE YEAR TERMS UNLESS BUYER DECLINES RENEWAL BY PROVIDING NINETY (90) DAYS' WRITTEN NOTICE PRIOR TO THE END OF ANY TERM. NOTICE MUST BE GIVEN ON OR BEFORE THE END OF THE THIRD YEAR OF THIS AGREEMENT, I.E., [JULY 09, 2017]. NO PRICE INCREASES SHALL AUTOMATICALLY APPLY UPON A RENEWAL OR EXTENSION OF THIS AGREEMENT. PRICE CHANGES OCCURRING AFTER A RENEWAL OR EXTENSION OF THIS AGREEMENT SHALL CONTINUE TO BE GOVERNED BY ARTICLE 14.**

i) The institution by or against Buyer of proceedings in bankruptcy, reorganization, or insolvency, or ii) Buyer fails to abide by any terms of this Agreement, including but not limited to, the failure to pay any charges when and as due.

2. **Charges.** See the Rider attached hereto and incorporated herein.

3. **Payment Terms.** Payment terms are Net 30 days from date of invoice. Continued open account credit is subject to Seller's assessment of Buyer's financial condition and ability to pay.

4. **Surcharges.** Upon notice and receipt of underlying documentation. Buyer shall pay to Seller a surcharge in the event of any extraordinary or emergency increase(s) in the cost of (a) power and/or raw materials used in the production of Product (b) fuel. Such surcharge shall not be deemed a "Price Change" subject to the provision(s) below of this Agreement.

5. **Taxes.** Buyer shall be responsible for all applicable taxes assessed under this Agreement.

6. **Damage to Cylinders.** Buyer assumes full responsibility for any loss of or damage to the Cylinders (including all fittings and caps), during the time said Cylinders are in Buyer's possession, including but not limited to loss or damage by theft, fire, and explosion or otherwise. If such Cylinders are lost, damaged, destroyed or stolen while in Buyer's possession, Buyer agrees to promptly pay Seller the then-current list price for a new Cylinder of that type. The total or partial destruction or loss of any of the Cylinders shall not release or relieve Buyer from the duty to pay the charges set forth herein.

7. **Ownership of Cylinders.** The Cylinders shall at all times remain the property of Seller. Buyer shall at all times keep the Cylinders free of all claims, liens, and encumbrances.

8. **Compliance with Laws.** Buyer covenants and agrees to comply with all local, state, federal and other applicable laws and regulations regarding the use, storage, handling, and transfilling of the Cylinders. Buyer agrees to comply with all applicable law, rule and regulation regarding the sale, distribution storage, handling and use of medical gases. It is a responsibility of the Buyer to comply with all relevant reporting obligations under the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. section 11001-11049 (EPCRA, also commonly known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III) resulting from the presence of the chemicals supplied under the Agreement. Further, it is the responsibility of the Buyer to warn and protect its employees and others exposed to the hazards posed by the Buyer's storage and use of the Product.

9. **Price Change.** In the event that Seller increases the price for a specific Product sold under this Agreement, such increase shall become effective fifteen (15) days after written notice is given to Buyer.

10. **Warranties.** Seller warrants that gas Products supplied by it will meet the manufacturer's specifications and Seller's purity specifications in effect at the time of shipment. **SELLER SPECIFICALLY DISCLAIMS ANY OTHER EXPRESS OR IMPLIED STANDARDS, GUARANTEES OR WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT AND ANY WARRANTIES THAT MAY BE ALLEGED TO ARISE AS A RESULT OF CUSTOM OR USAGE.**

11. **Remedy.** Buyer's exclusive remedy for the unexcused failure on the part of Seller to deliver Product when required by Buyer, regardless of cause of such failure,

including negligence, shall be to recover from Seller the difference between the cost to Buyer of any reasonable purchase of Product in substitution for Product not delivered and the lesser price of such quantity of Product hereunder. Buyer's exclusive remedy for each unexcused failure of Product to meet the Seller's standard purity levels shall be to receive a refund of the price of such non-conforming Product or replacement thereof with Product that meets such purity levels. During the term of this Agreement, Seller may, in its sole discretion, elect to repair any Cylinder that in the sole judgment of Seller requires repair, where such repair is not required as a result of the Buyer's misuse, breach of this Agreement, or negligent act or omission.

12. **Itemized Charges:** (a) The total amount due from the Buyer may include various itemized charges, including: charges for the handling of hazardous materials and for compliance with laws and regulations concerning hazardous materials; charges for handling, delivery, and shipping; and/or charges for energy or fuel. None of the charges represent a tax or fee paid to or imposed by any governmental authority and all of the charges are retained by Seller. Seller has not specifically quantified the relationship between the charges and the actual costs associated with the charges, which can vary by product, service, time and place, among other things. (b) No such charges not already provided for in a Rider hereto will be imposed without mutual consent.

13. **Indemnity.** Buyer shall indemnify Seller and hold Seller harmless from any and all liability, loss, damage, expense, causes of action, suits, claims or judgments arising from injury to person or property resulting from or based upon the actual or alleged use, operation, delivery or transportation of any or all of the Cylinders or their use or condition, and shall, at Seller's own cost and expense, defend any and all suits which may be brought against Seller, either alone or in conjunction with others, upon any such liability or claim. Buyer shall certify, pay or discharge any and all judgments and fines that may be incurred by Seller in any such actions.

13. **Limitation of Liability. SELLER SHALL NOT BE LIABLE FOR ANY DIRECT (EXCEPT AS EXPRESSLY PROVIDED HEREIN), INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE AND/OR CONSEQUENTIAL DAMAGES, ARISING OR ALLEGED TO ARISE OUT OF OR IN CONNECTION WITH ITS PERFORMANCE HEREUNDER OR WITH ANY PRODUCT, OTHER ITEMS OF SALE, OR EQUIPMENT SOLD OR LEASED HEREUNDER, WHETHER SUCH DAMAGE RESULTS FROM ANY NEGLIGENCE ACT OR OMISSION OR IS RELATED TO STRICT LIABILITY, OR OTHERWISE.**

14. **Attorneys' Fees.** In the event that an attorney must be employed for the collection of any amount due hereunder, or with any failure of Buyer to abide by the terms of this Agreement, Buyer shall pay all such reasonable attorneys' fees.

15. **Force Majeure.** Service and deliveries by Seller are subject to and contingent upon floods, strike or other labor disturbances, fire, accidents, war, delays of carriers, inability to obtain raw materials, failures of normal sources of supply, restraints of government, (whether or not it later proves to be invalid), or any other similar or dissimilar cause beyond Seller's reasonable control. Seller shall advise Buyer in writing of the reason for and anticipated length of any such event. If any such event affects only a part of Seller's capacity to perform, Seller may allocate production and deliveries among its customers in a fair and reasonable manner. Buyer may source unavailable Products from another supplier for the duration of the force majeure event.

16. **Governing Law:** This Agreement shall be governed by and construed in accordance with the substantive law of the State of Delaware. The United Nations Convention on Contracts for the International Sale of Goods will not, for any purpose, govern or apply to this Agreement. The terms and conditions of this Agreement govern over any other terms and conditions, purchase orders or other documents.

IN WITNESS WHEREOF, the parties hereto, by their authorized representatives, have caused this Agreement to be signed as of the day and the year accepted by Seller below.

Village of Germantown Fire Dept. Airgas USA, LLC. (Seller)
(Buyer)

Signature: _____ Submitted By: Tyson W. Schmitz

Printed Name: _____ Accepted By: _____

Title: _____ Printed Name: Ron Weber

Date: July 10, 2015 Title: Area VP - Midwest Region

Date: _____

Rider to Airgas Product Sale Agreement

Dated February 1, 2015

Products and Pricing

Product	Description	Price	Cylinder Size	Rental Charge
OX USP200	Medical Oxygen	\$13.37	H	\$0.16 per day
OX USPDABEMS	Medical Oxygen	\$ 5.57	EMS DA	\$0.12 per day
DEL	Delivery Charge	\$22.00		
HAZ	Hazmat Fee per Invoice	\$12.00		
FUEL	Fuel Surcharges Apply			

Agreed to and accepted by:

Village of Germantown Fire Dept. (Buyer)

Signature: _____

Printed Name: _____

Title: _____

Date: July 10, 2015

Airgas USA, LLC. (Seller)

Submitted By: Tyson W. Schmitz

Accepted By: _____

Printed Name: Ron Weber

Title: Area VP – Midwest Region

Date: _____

X. G

**BUSINESS OF THE VILLAGE BOARD
GERMANTOWN, WI**

MEETING DATE: July 6, 2015

AGENDA ITEM: New Business

ITEM TITLE: Wisconsin Gas – PSC Application; Germantown-Mequon High Pressure Gas Main Project

SUBMITTED BY: Brionne R. Bischke, P.E., Interim DPW Director / Village Engineer 

SUMMARY EXPLANATION:

The Public Safety Commission (PSC) sent the attached letter notifying the Village of prospective high pressure gas main relay route alternatives. Alternative A and C include Donges Bay Road between Pilgrim Road and Fond du Lac Ave. The Village plans on reconstructing that segment of Donges Bay Road in 2016. If one of these alternatives is selected, we would want the gas main relay project to be completed before we started our reconstruction project so their project would not interfere with ours and so to protect our new pavement from being patched. We would also want Wisconsin Gas to backfill their trench with a cementitious slurry under Village pavements to eliminate risk of settlement.

ATTACHMENTS:

PSC letter

INTERIM DPW DIRECTOR RECOMMENDATION TO BOARD:

Direct staff to send the following comments to PSC:

1. Village will be reconstructing Donges Bay Road between Pilgrim Road and Fond du Lac Avenue in 2016.
2. Wisconsin Gas shall complete their relay in Donges Bay Road no later than June 1, 2016 to eliminate interference with the Village project and to eliminate patchwork in the Village's new pavements.
3. Wisconsin Gas shall backfill their trench with cementitious slurry underneath Village pavements to eliminate settlement of the Village's new pavements.

COMMITTEE ACTION:

Proper parliamentary procedure to deny a request is to have a motion made in the affirmative and by voting NAY would deny the request if a majority vote.



Public Service Commission of Wisconsin

Ellen Nowak, Chairperson
Phil Montgomery, Commissioner
Mike Huebsch, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

Public Service Commission of Wisconsin
RECEIVED: 06/22/15, 1:08:01 PM

June 19, 2015

Re: Application of Wisconsin Gas, LLC, as a gas utility, for authority to construct and place in service its Germantown-Mequon HP Gas Main Replacement Project in the Village of Germantown, Washington County and the City of Mequon, Ozaukee County, Wisconsin

6650-CG-243

To the Person Addressed:

Wisconsin Gas LLC (WG), doing business as We Energies, filed an application with the Public Service Commission (Commission or PSC) on February 24, 2015, seeking authority to replace existing high pressure gas main facilities located in the village of Germantown, city of Mequon, and city of Milwaukee. Commission staff are writing to landowners along the proposed routes of this project. Commission staff is also sending this notification letter to places where the public will see it posted and to public officials in the project area. If you are a county or municipal clerk, please post this announcement publicly.

Project Description

Wisconsin Gas LLC is proposing to replace approximately 43,200 feet (8.2 miles) of 20-inch steel pipe that was installed in 1953. The proposed project would replace this gas main with 24-inch steel pipe. In some areas the pipe would be installed in existing easements; however, all proposed routes would have areas where they leave the existing easement and would need new easements or use public right-of-ways (ROW). If the project is approved, WG would typically seek a permanent easement width of 50 feet where the route would cross private land, with temporary workspace adjacent to the easement of between 25 and 50 feet. This project would be part of a larger, ongoing effort to improve WG's system integrity and reliability.

Project Location (see attached maps)

WG initially provided two potential routes for this project, described as Route A and Route B, both of which would start at the company's existing Menomonee Falls Gate Station (1,800 feet northwest of the intersection of State Trunk Highway (STH) 175 and Maple Road) and finish south of the intersection of STH 181 and West Glenbrook Road. Both proposed routes would be primarily 24-inch steel gas main, with 6-inch or 8-inch steel main to connect to existing regulator stations.

Route A would have approximately 48,093 feet (9.1 miles) of 24-inch steel main. It would start at the existing gate station northwest of the intersection of STH 175 and Maple Road and would follow the existing gas line and associated easements to Pilgrim Road, where it would leave the existing line and proceed north, underneath the road, to Donges Bay Road. It would then proceed east along Donges Bay Road to rejoin existing pipeline and easements west of STH 181. Route A would also have approximately 5,481 feet of 6-inch steel main starting at North Granville Road and Donges Bay Road and proceeding south to West County Line Road and North Granville Road.

To the Person Addressed
Docket 6650-CG-243
Page 2

Route B would have approximately 54,933 feet (10.4 miles) of 24-inch steel main, and it would proceed south from the gate station to County Line Road where it would then proceed east, crossing STH 175, U.S. Highway 41, and Pilgrim Road, eventually turning north at Fond du Lac Avenue. The proposed route would rejoin the existing easement and line and proceed east to North Granville Road, where it would divert from the existing easement and follow the same proposed route as Route A along West Donges Bay Road to STH 181. In addition to the 24-inch steel main, this route would have approximately 3,338 feet of 8-inch steel main proceeding from County Trunk Highway Q and Division Road to the intersection of Division Road with Revere Lane. It would also have approximately 2,729 feet of 6-inch steel main traveling north from West County Line Road and North Granville Road.

After reviewing the application, Commission staff requested the applicants provide an alternate route that would utilize a greater percentage of existing easement. This is shown as Route C on the enclosed map and would follow the same route as proposed Route A from the Menomonee Falls Gate Station to the intersection of Donges Bay Road and STH 145. Here it would leave Donges Bay Road, to proceed south and rejoin the existing easement. Route C would travel east and follow the cross-country existing easement to the proposed terminus of this project west of STH 181. Commission staff are awaiting a response from WG as to the costs and viability of such a route.

Project Environmental Review

The Commission will review this proposed project and determine whether to approve, modify, or deny WG's application. If the project is approved the Commission will decide upon a route and any conditions. Commission staff is reviewing and analyzing information about the need for the project, its proposed routes, and its potential environmental and social impacts. The public is encouraged to comment at this point on topics or issues that may be affected by this project.

The Commission is the state agency that regulates utilities and investigates proposed energy-related projects. This is a Type II action under Wis. Admin. Code § PSC 4.10(2) as a result of the size of the pipe and length of the pipe installation.

The Commission is seeking comments on the environmental aspects of this proposal to assist in the preparation of an environmental assessment (EA). The information gained through the EA process will determine whether the proposed project warrants preparation of an environmental impact statement.

By July 10, 2015, please send your comments (by phone, e-mail, or letter) to me at:

Stacy Schumacher
Public Service Commission of Wisconsin
P.O. Box 7854
Madison, WI 53707-7854
(608) 267-2547
stacy.schumacher@wisconsin.gov

Proposed Project

If this project is approved, construction would tentatively be planned to start in February 2016 and conclude in November 2017. The existing 20-inch steel gas main pipe would be capped off and retired in place. Construction would begin with site preparation, including clearing the area of vegetation and grading the soil if necessary to provide a level work area for pipe-laying and transport. The majority of the routes would be constructed using open trenching, with materials excavated placed to one side of the project corridor and replaced after pipe installation. Trench width could vary depending on the construction area and available space. In road ROW, where there is less space available, trenches may only be four feet wide and utilize trench boxes to safely allow construction up to seven feet in depth. Where the project is constructed outside ROWs in easements, trench width may be up to 20 feet wide by 7 feet deep.

An alternative construction technique would be used in some sensitive areas such as waterways, some wetlands, or certain road areas. Horizontal directional drilling is a method of construction that bores below the surface of the ground to install pipe, greatly reducing environmental impacts when compared to trenching.

The project would have an impact to landowners and businesses where the installation would cross driveways and roads. These crossings would typically be accomplished by open-cut trenching, would be backfilled after pipe installation to allow access, and would be restored to previous condition at the completion of the project. Woody vegetation such as trees or shrubs would need to be kept clear of a 20-foot wide area over the pipeline in forested areas.

Further Project Information

All documents in this docket are filed on the Commission's Electronic Regulatory Filing system. To view these documents: 1) go to the Commission's web site at <http://psc.wi.gov>, 2) enter "6650-CG-243" in the box labeled "Link Directly to a Case", and 3) select "GO".

Public Service Commission Contact for Media

Members of the media are urged to contact Nathan Conrad, Communications Director, before contacting any staff associated with this project. Mr. Conrad can be reached at (608) 266-9600 or nathan.conrad@wisconsin.gov.

Sincerely,

/s/ Stacy Schumacher

Stacy Schumacher
Environmental Analyst
Gas and Energy Division

STS:jlt:DL: 00959352

Enclosures: Maps

Germantown to Mequon Gas Transmission Main Replacement Project

6650-CG-243

Proposed Route A – Menomonee Falls Gate Station to STH 181



Germantown to Mequon Gas Transmission Main Replacement Project

6650-CG-243

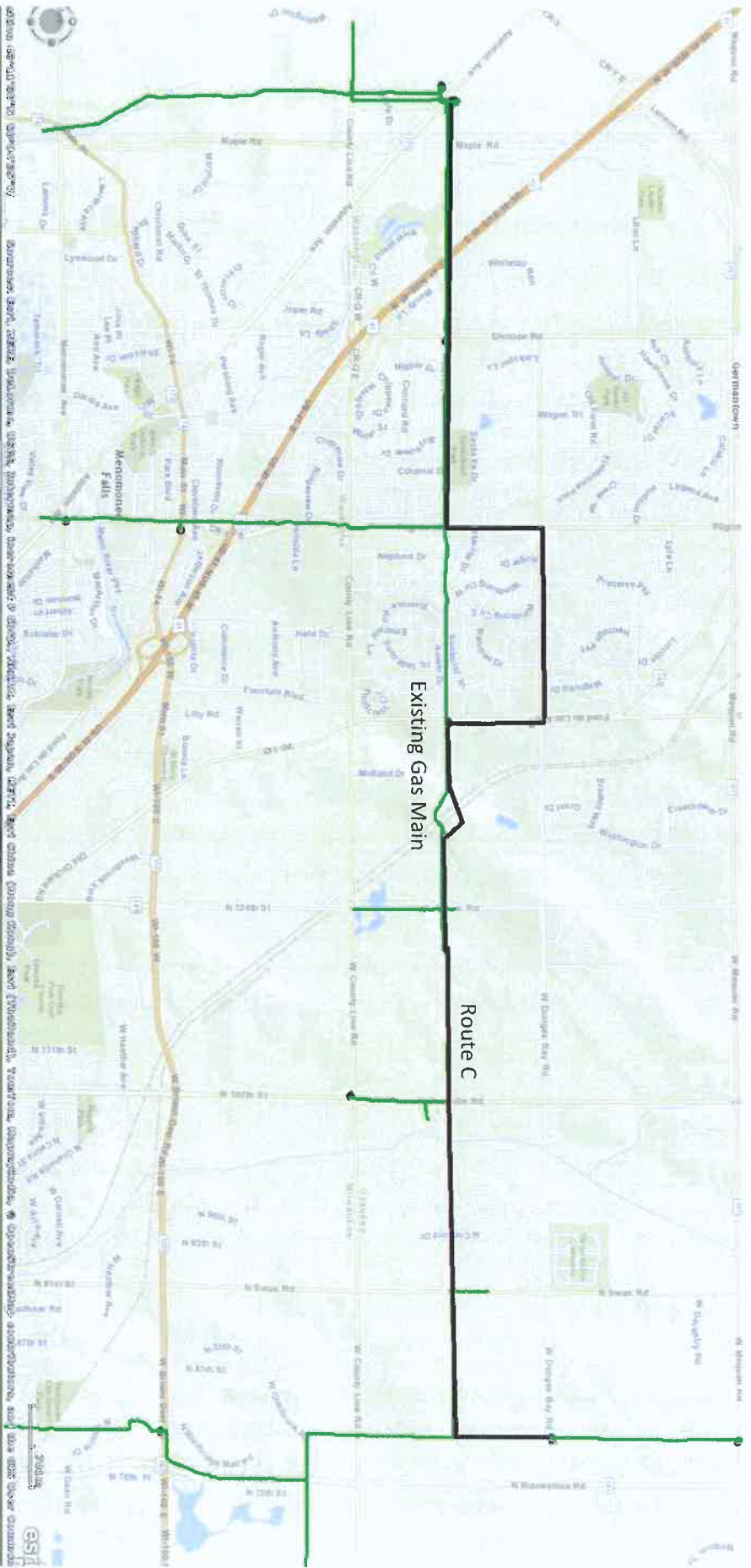
Route B – Menomonee Falls Gate Station to STH 181



Germanatown to Mequon Gas Transmission Main Replacement Project

6650-CG-243

Route C – Menomonee Falls Gate Station to STH 181



X.H

Village Clerk
Village of Germantown
P.O. Box 337
Germantown, WI 53022

Dear Village Clerk:

Pursuant to Section 2.05(1) of the Municipal Code, we hereby request that the following item(s) be placed on the Village Board agenda for Monday,

JULY 6, 2015, for consideration and action:
DISCUSSION OF PLANNED DEVELOPMENT
DISTRICT (PDD) AND POSSIBLE CHANGES
TO ZONING CODE 17.27

Dated this 29 day of JUNE, 2015

Art Zabel
[Signature]

REQUESTS MUST BE RECEIVED BY 12:00 P.M. ON THE WEDNESDAY
PRECEDING THE VILLAGE BOARD MEETING.

Received: 6-29-15

**GENERAL GOVERNMENT &
FINANCE COMMITTEE
MEETING MINUTES
May 20, 2015
Page 2**

**1991 FIRE COMPANY AGREEMENT FOR USE OF SHELTER AT FIREMEN'S PARK
(Cont.):**

gave his thoughts of the meeting he attended in 1991 regarding the handshake agreement because the lawyer that created the agreement said it was too long already. A motion was made at the Park and Recreation commission meeting on March 11, 2015 to forward the item to the General Government and Finance committee to formalize the agreement in writing. ***Motion (Daniels/Warren) to direct staff and legal to review and work on a mutual agreement with an updated list of Fire Company members from the 1991 list that have the right to use the Firemen's Park shelter on available dates, motion carried unanimously.***

AUTHORIZATION TO ADVERTISE FOR THE POSITION OF DIRECTOR OF PUBLIC WORKS: Administrator Schornack stated the Director of Public Works Dan Ludwig is retiring from the Village of Germantown and an advertisement should be done looking for a new Public Works Director. It is normal to include a starting salary or salary range. Cost for advertising is minimal because the Village no longer advertises in the Journal/Sentinel. ***Motion (Daniels/Warren) to recommend the Village Board authorize advertising for the Director of Public Works position with the pay grade salary range included, motion carried.***

APPOINTMENT OF INTERIM DIRECTOR OF PUBLIC WORKS: Administrator Schornack discussed the need to appoint an interim Director of Public Works until the position of Director of Public Works is filled. The current Director's last day on the job is June 16, 2015. ***Motion (Warren/Daniels) to recommend the Village Board appoint the current Village Engineer Brionne Bischke as interim Director of Public Works effective June 17, 2015 at a salary of \$83,565, motion carried unanimously but will be placed under New Business on the June 1, 2015 Village Board agenda.***

NON-UNION EMPLOYEE COMPENSATION ADJUSTMENTS NEEDED TO MEET AREA MEDIAN PAY FOR COMPARABLE POSITIONS: Administrator Schornack explained at the last General Government and Finance committee meeting Trustee Kaminski wanted to look at the salary survey that was conducted earlier this year. Because Trustee Kaminski was unavailable for this meeting, Administrator Schornack recommended waiting on this item until she is present. ***Motion (Daniels/Warren) to table this item until next month, motion carried.***

DISCUSSION OF PLANNED DEVELOPMENT DISTRICT (PDD) AND POSSIBLE CHANGES UNDER ZONING CODE 17.27: Chairman Zabel added this item for discussion because he feels every development that's coming into the Village is under the Planned Development District and no one is using the standard zoning because they know they can play with the densities. Zoning Code 17.27 General Provisions under item D) Density, it states The Planned Development District may permit the transfer of density (dwelling units) from one portion of the subject site to another and will permit the clustering of dwelling units in one or more locations within the total site.

**GENERAL GOVERNMENT &
FINANCE COMMITTEE
MEETING MINUTES
May 20, 2015
Page 3**

DISCUSSION OF PLANNED DEVELOPMENT DISTRICT (PDD) AND POSSIBLE CHANGES UNDER ZONING CODE 17.27 (Cont.): However the density of use cannot exceed the density permitted in the underlying existing zoning district. After talking to the Attorney, the code needs to define what net density means. The original South East Regional Planning Code adopted back in 1978 had net and gross densities defined. The assumption is a developer can use all of the total density to create with instead of only using the net density. ***Motion (Warren/Daniels) to forward recommendation to Plan Commission to add an agenda item to the next Plan Commission meeting for discussing the densities of Planned Unit Developments based on our code and create a definition of net densities, motion carried.***

REPORTS:

Monthly Year to Date Financials:

Revenue and Expense Report – All Funds: The committee reviewed and discussed the reports and placed them on file. Fire Chief Weiss announced the Fire Department's Ladder Truck needs a new transmission due to the high use of engine hours. Administrator Schornack will send out an email to the trustees after receiving more information on repair costs.

Health and Dental Plans: The Health and Dental Plans were reviewed.

Impact Fees Financial Reports: The reports were reviewed and placed on file.

Accounts Payable: Items on the Accounts Payable report was discussed and the report was placed on file.

Monthly Code Violation Reports: Building Inspection Department and Planning Department: The committee discussed a few complaints and reviewed the reports.

C.I.P. PROJECTS: The committee reviewed the projects.

Letter of Credit Summaries: Building Inspection Department, Public Works Department, and Planning Department: The Letter of Credit summaries were placed on file.

Summary of all Village Contracts: Administrator Schornack summarized the Village contracts.

17.27 - PD PLANNED DEVELOPMENT DISTRICT.

- (1) **INTENT.** Planned Development District regulations are intended to permit greater flexibility and, consequently, more creative and imaginative design for the development of a site than is possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, a higher level of amenities, and preservation of the natural qualities of open spaces. The planned development procedure requires a high degree of cooperation between the developer and the Village. The procedure described herein is designed to give the developer general plan approval before completing all detailed design work while providing the Village with assurances that the project will retain the character envisioned at the time of approval.
- (2) **GENERAL PROVISIONS.** The Plan Commission may recommend and the Village Board may, upon the request of the owners, establish planned development districts which will, over a period of time, tend to promote the maximum benefit from coordinated area site planning by permitting the diversified location of structures and mixed dwelling types and mixed compatible uses.
 - (a) *Permitted Uses.* Permitted and accessory uses in the Planned Development District shall be the same as those permitted in the underlying existing zoning district in which the PDD is located. If a developer desires uses different than those permitted by the existing zoning, the developer must simultaneously petition for rezoning of the underlying existing zoning to a zoning district which allows the desired use(s).
 - (b) *Mixed Uses.* A mix of different uses within a Planned Development District may be permitted if the Plan Commission and the Village Board determine that the mix of uses is compatible and necessary to achieve the objectives of the PDD.
 - (c) *Number of Buildings on a Lot.* The Planned Development District may allow more than one building on a lot.
 - (d) *Density.* The Planned Development District may permit the transfer of density (dwelling units) from one portion of the subject site to another and will permit the clustering of dwelling units in one or more locations within the total site. However, the density of use shall not exceed the density permitted in the underlying existing zoning district.
 - (e) *Minimum Area for a Planned Development District.* Planned Development Districts are intended to provide flexibility to encourage more creative design for all sizes of sites that would be allowed under conventional zoning. To achieve this goal, there is no minimum area for a PDD.
 - (f) *Temporary Uses.* (Cr. Ord. #32-91) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.
- (3) **APPLICATION PROCEDURE AND REQUIRED INFORMATION.**
 - (a) *Preliminary Consultation.* An applicant may meet with the Plan Commission and appropriate Village staff members for a preliminary consultation prior to formally submitting a rezoning petition for planned development zoning. The purpose of this preliminary consultation is to discuss the proposed request and review the local regulations and policies applicable to the project and discuss the land use implications of the proposal.
 - (b) *Rezoning Petition and General Development Plan.* The applicant shall submit a rezoning petition in accordance with the application procedure described in section 17.51 of this chapter. In addition to the required information noted in section 17.51, a general development plan shall be submitted to the Plan Commission and the Village Board for review 30 business days prior to any rezoning hearing. The general development plan shall show the locations of buildings, common open space, parking and drive areas, recreation facilities, principal landscaping features and other major components of the proposed project.
 - (c) *Other Information.* In addition, other documents or related information or plans showing the architectural designs of buildings may be required by the Plan Commission and the Village Board. This information shall also be submitted to the Plan Commission and the Village Board for review

rom: Brian C. Sajdak [brian@wrslegal.net]
Sent: Wednesday, June 17, 2015 2:49 PM
To: Art Zabel
Cc: Dave Schornack; Jeff Retzlaff; Dean Wolter
Subject: Re: Out of Office

It is my opinion that GGF committee does not have the ability to add a request to the agenda directly. The applicable statute provides:

62.23(7)(d)2. The council may adopt amendments to an existing zoning ordinance after first submitting the proposed amendments to the city plan commission, board of public land commissioners or plan committee for recommendation and report and after providing the notices as required in subd. 1. b.

<[https://docs.legis.wisconsin.gov/document/statutes/62.23\(7\)\(d\)1.b](https://docs.legis.wisconsin.gov/document/statutes/62.23(7)(d)1.b)> of the proposed amendments and hearings thereon.

Thus, the Village Board can adopt zoning code amendments but only have they have been submitted to the plan commission for its recommendation. Thus, the Village Board as a whole would be able to direct the plan commission to take up an issue. The GGF committee itself does not have that authority. The GGF recommendation would have to be forwarded to the Village Board for the full Board to pass on the item to the Plan Commission.

Outside of that express statutory authorization, without some specific policy adopted by the Village Board or Plan Commission as to how the Plan Commission sets its agenda, the Chair of the body generally has the ability to control the agenda under parliamentary procedure. The Chair could accept the recommendation to add to the agenda or not.

Brian

**AMENDMENT NO. 4 TO DECLARATION
OF RESTRICTIONS AND COVENANTS FOR
GERMANTOWN BUSINESS PARK TIF #4**

Parcel Id Numbers:

GTNV251959, GTNV251960, GTNV251961, GTNV251967,
GTNV251968, GTNV251972, GTNV251973, GTNV251976,
GTNV251978, GTNV251979, GTNV251988, GTNV252963,
GTNV252973, GTNV252974, GTNV252980, GTNV252984,
GTNV253977, GTNV253978, GTNV253980, GTNV253981,
GTNV253982, GTNV253983, GTNV253984, GTNV253985,
GTNV253993, GTNV254273, GTNV254280, GTNV254281,
GTNV254974, GTNV254975, GTNV254980, GTNV254981,
GTNV254986, GTNV254987, GTNV361995, GTNV361996,
GTNV362983, GTNV362986, GTNV362988, GTNV362989,
GTNV362992, GTNV362993, and GTNV362994

Instrument Drafted by & Return To:

Brian C. Sajdak, Village Attorney
Wesolowski, Reidenbach & Sajdak
11402 W. Church St.
Franklin, WI 53132

For the following described land:

Being all of the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$, of the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$, the East $\frac{1}{2}$ of the Southwest $\frac{1}{4}$, the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ and part of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 25, Township 9 North, Range 20 East; all of the North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ and part of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 36, Township 9 North, Range 20 East, in the Village of Germantown, Washington County, Wisconsin, more particularly described as follows:

Commencing at the Southwest corner of Section 25, Township 9 North, Range 20 East, also being the point of beginning; thence North $02^{\circ}43'15''$ West along the west line of the SW $\frac{1}{4}$ of said Section 25, 2,648.50 feet to the West $\frac{1}{4}$ corner of said Section 25; thence North $88^{\circ}21'41''$ East along the north line of the Southwest $\frac{1}{4}$ of said Section 25, 1,316.09 feet to the northeast corner of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 25; thence North $02^{\circ}29'15''$ West along the west line of the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of said Section 25, 2,649.17 feet to the northwest corner of the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of said Section 25 and to a point on the centerline of Mequon Road; thence North $88^{\circ}23'28''$ East along the north line of the Northwest $\frac{1}{4}$ of said Section 25 and along the centerline of Mequon Road, 1,322.70 feet to the North $\frac{1}{4}$ corner of said Section 25; thence North $88^{\circ}11'21''$ East along the north line of the Northeast $\frac{1}{4}$ of said Section 25 and along the centerline of Mequon Road, 1,327.42 feet to the northeast corner of the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of said Section 25; thence South $02^{\circ}12'00''$ East along the east line of said West $\frac{1}{2}$, 2,642.34 feet to the southeast corner of said West $\frac{1}{2}$ and to the northeast corner of the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of said Section 25; thence South $02^{\circ}10'14''$ East along the east line of the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of said Section 25, 2,640.33 feet to the southeast corner of said West $\frac{1}{2}$ and to a point on the centerline of Donges Bay Road; thence South $88^{\circ}01'20''$ West along the south line of said Southeast $\frac{1}{4}$ and along the centerline of Donges Bay Road 390.06 feet to the northeast corner of Certified Survey Map No. 278 (recorded in Volume 2 on Page 58 as Document No. 314198); thence South $32^{\circ}31'20''$ West (recorded as S. $32^{\circ}43'44''$ W.) along the

southeast line of said Certified Survey Map, 60.67 feet to the south right-of-way line of Donges Bay Road; thence South 35°58'20" West (recorded as S. 36°10'44" W.) along the southeast line, 502.75 feet to the east line of Lot 2 of Certified Survey Map No. 4324, (recorded in Volume 28 on Page 264 as Document No. 668027); thence South 35°36'02" West along said east line, 158.42 feet; thence South 30°59'19" West, 897.33 feet to the southeast corner of the North ½ of the Northwest ¼ of Section 36; thence South 88°11'44" West along the south line of said North ½, 2,621.31 feet to the southwest corner of said North ½; thence North 01°26'22" West along the west line of said Northwest ¼, 1,322.45 feet to the point of beginning.

Excepting those lands described in Volume 314 of Deeds on Page 368 as Document No. 241197. Said exception containing 5.50 acres of land.

Said parcel of land contains 487.0902 acres of land.

AMENDMENT

WHEREAS, the Declaration of Restrictions and Covenants for Germantown Business Park TIF #4 was recorded in the Office of Register of Deeds for Washington County on February 23, 1999 as Document No. 815487; and,

WHEREAS, such Declaration of Restrictions was previously amended in part by an Amendment to Declaration of Restrictions and Covenants for the Germantown Business Park TIF #4 which was recorded in the Office of Register of Deeds for Washington County on April 23, 2009 as Document No. 1218277; and,

WHEREAS, such Declaration of Restrictions was previously amended in part by Amendment No. 2 to Declaration of Restrictions and Covenants for the Germantown Business Park TIF #4 which was recorded in the Office of Register of Deeds for Washington County on July 11, 2013 as Document No. 1341456; and

WHEREAS, such Declaration of Restrictions was previously amended in part by Amendment No. 3 to Declaration of Restrictions and Covenants for the Germantown Business Park TIF #4, which applies only to lands within the Business Park, and which was recorded in the Office of the Register of Deeds for Washington County on _____ as Document No. _____; and

WHEREAS, Section 16 of the Declaration of Restrictions and Covenants allows for amendments to the same upon approval of the majority of the lot owners within the Business Park and also by the Village of Germantown; and

WHEREAS, the Wisconsin Department of Transportation's planed reconstruction of Fond du Lac Avenue to consist of a roundabout at the intersection of Fond du Lac and Donges Bay and accompanying shift of the Fond du Lac ROW to the east which will negatively impact lands in TID 4 which abut the same;

NOW, THEREFORE, Pursuant to Section 16 of the Declaration of Restrictions and Covenants for Germantown Business Park TIF #4, the undersigned, being a majority of all lot owners in the Germantown Business Park and as representatives of the Village of Germantown, do hereby amend section 3.D. the Declaration of Restrictions and Covenants for Germantown Business Park TIF #4 to read as follows (NOTE: Additions are Underlined; Deleted text is ~~Struck through~~):

3. SITE RESTRICTIONS.

D. *Building Setbacks.* No building, or part thereof (trash enclosures, overhangs, etc.) shall be located within the following distance of a property line:

- Front Yard (corner lots shall have two front yards)
 - Abutting Mequon Road ROW: 50' or the southerly edge of the berm lying along Mequon Road, whichever is greater
 - ~~— Abutting other primary ROW 75'~~
 - ~~(Donges Bay Rd, FDL Ave)~~
 - Abutting Donges Bay Rd 50'
 - Abutting ~~internal~~ all other street ROW 30'
- Side Yard 25'
- Rear Yard 25'
- From any wetland boundary 25'
- From any navigable waterway 75'

All remaining provisions of the Declaration of Restrictions and Covenants for Germantown Business Park TIF #4 shall remain in full force and effect unless and until amended or repealed pursuant to Section 16 of said Declaration.

IN WITNESS WHEREOF, the undersigned have hereunto set their hand as of the dates specified below.

[SIGNATURE PAGES FOLLOW]

GTNV253980
GTNV252974
GTNV252984
GTNV254273
GTNV254281

VILLAGE OF GERMANTOWN

Dean Wolter, Village President Date

ATTEST:

Barbara K.D. Goeckner, Village Clerk Date

[illegible]

Personally came before me this _____ day of _____, 2015, the above-named Dean Wolter and Barbara K.D. Goeckner, to me know to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My commission: _____