

VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022

MEETING:	PLAN COMMISSION
DATE AND TIME:	<u>MONDAY, MAY 9, 2016 6:30 p.m.</u>
LOCATION:	Germantown Village Hall Board Room

- I. **CALL TO ORDER:** This meeting has been given public notice in accordance with Wisconsin Statutes, Section 19.83 and 19.84 in such form that will apprise the general public and news media of subject matter that is intended for discussion and action.
- II. **ROLL CALL**
- III. **PUBLIC 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)
- IV. **APPROVAL OF MINUTES:** April 25, 2016
- V. **NEW BUSINESS:**
 - A. Charles Schmit for Riversbend Golf Course – N96 W18034 County Line Road.
Temporary Use Permit for Seasonal Golf Course Operation and Mobile Office Trailer
 - B. Village of Germantown- Municipal Code Chapter 17 (Zoning) and Chapter 18
(Subdivision & Platting) Code Amendments
- VI. **ANNOUNCEMENTS**
- VII. **ADJOURNMENT**

The next Plan Commission Meeting will be on June 13, 2016 at 6:30 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. Notice is given that a majority of the Village Board may attend this meeting to gather information about an item over which they have decision making responsibility. This may constitute a meeting of the Village Board per State ex rel. Badke v. Greendale Village Board, even though the Village Board will not take formal action at this meeting.

**PLAN COMMISSION MINUTES
APRIL 25, 2016**

CALL TO ORDER: 6:30 pm

ROLL CALL: Chairman Dean Wolter, Trustee Representative David Baum, Commissioners Bill Shadid, Mary Ellen Gray, Peter Nilles and Tony Laszewski were present. Also present were Village Planner Jeff Retzlaff and Planning Assistant Lori Johnson.

PUBLIC INPUT: Dick Kent, N114 W15920 Hilbert Lane, spoke on the Saxony Village development. He asked the Plan Commission to reconsider the developers request for a private road and make a recommendation to the Village Board to request a public road.

APPROVAL OF MINUTES: ***MOTION Baum second Shadid to Approve the minutes from 4-11-16.***

MOTION carried 5-1 (Baum abstained)

Skyline Development Corporation – N104 W13885 Donges Bay Road. Skyline Development has submitted revised architectural site plans for Sports Specialists of Milwaukee for a 32,000 sqft warehouse distribution and office building on a 4.7 acre parcel located on Donges Bay Road & STH 145/Fond du Lac Avenue in the Germantown Business Park. Planner Retzlaff summarized the revisions. Gregg Prossen, Consortium Engineering, explained both options add vertical reveals and option B introduces a third olive green accent color.

MOTION Baum second Laszewski to Approve the site development and building plans, using Option B, for the proposed 32,000 sqft warehouse distribution and office building on a 4.7 acre parcel located on Donges Bay Road @ STH 145/Fond du Lac Avenue in the Germantown Business Park subject to the following conditions:

- 1. This approval is subject to all of the conditions and requirements set forth herein and adopted by the Plan Commission. Approval is granted for the site development and building plan set dated stamped April 5, 2016 unless superseded by subsequent plan sheets approved by the Village Planner pursuant to revisions required herein and/or by the Plan Commission.***
- 2. All landscaping, screening, grading, and paving improvements shown on the approved site plans shall be installed as proposed prior to issuance of an occupancy permit unless a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that installation of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.***
- 3. The following items shall be provided as required by the Village Fire Department: (a) one Knox box shall be installed at a location approved by the Fire Department; (b) the Fire Department Connection (FDC) and alarm panel locations shall be approved by the Fire Department.***
- 4. All exterior doors (except primary entrance) shall be clearly marked with reflective 5" or larger letters/numbers to aid emergency personnel access as***

required by the Police Department.

- 5. State approved plans and a \$20,000 occupancy bond are required by the Building Inspection Department as part of the building permit application.*
- 6. All technical corrections raised in the Village Engineer's February 23, 2016 review memo shall be addressed and reflected in a revised set of plans submitted to the Village Engineer for review/approval prior to issuance of a building permit.*
- 7. The requirement for architectural screening of any roof-mounted HVAC equipment shall be re-assessed by Skyline and the Plan Commission within one (1) year after issuance of an occupancy permit. If deemed necessary by the Plan Commission, the owner shall submit plans and renderings for said screening to the Plan Commission for review/approval with any required screening to be installed within two (2) years after issuance of an occupancy permit.*
- 8. To comply with the Business Park covenants and restrictions, additional architectural devices, e.g. pilaster, more pronounced reveals, wall panel articulation, material changes or other architectural features or enhancements shall be added to the south and west elevations that also wrap the northwest corner of the north expansion wall. The proposed smooth-finish wall panels shall include an additional architectural finish that is not limited to just different color. A revised elevation/architectural plan and rendering showing these changes shall be prepared and submitted to the Plan Commission for review/approval prior to issuance of a building permit.*
- 9. Five (5) additional Black Hills Spruce trees shall be added to the landscape plan.*

MOTION carried unanimously.

Planner Retzlaff asked for clarification and pointed out that Condition #8 is no longer necessary if option B is selected as the preferred architecture.

MOTION Gray second Baum to Rescind the MOTION that was just passed.

MOTION carried unanimously.

MOTION Baum second Shadid to Approve the site development and building plans for the proposed 32,000 sqft warehouse distribution and office building on a 4.7 acre parcel located on Donges Bay Road @ STH 145/Fond du Lac Avenue in the Germantown Business Park subject to the following conditions, removing Item 8 from the Planners recommendations and replacing it with Option B as presented.

- 1. This approval is subject to all of the conditions and requirements set forth herein and adopted by the Plan Commission. Approval is granted for the site development and building plan set dated stamped April 5, 2016 unless superseded by subsequent plan sheets approved by the Village Planner pursuant to revisions required herein and/or by the Plan Commission.*
- 2. All landscaping, screening, grading, and paving improvements shown on the approved site plans shall be installed as proposed prior to issuance of an occupancy permit unless a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that*

installation of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.

- 3. The following items shall be provided as required by the Village Fire Department: (a) one Knox box shall be installed at a location approved by the Fire Department; (b) the Fire Department Connection (FDC) and alarm panel locations shall be approved by the Fire Department.*
- 4. All exterior doors (except primary entrance) shall be clearly marked with reflective 5" or larger letters/numbers to aid emergency personnel access as required by the Police Department.*
- 5. State approved plans and a \$20,000 occupancy bond are required by the Building Inspection Department as part of the building permit application.*
- 6. All technical corrections raised in the Village Engineer's February 23, 2016 review memo shall be addressed and reflected in a revised set of plans submitted to the Village Engineer for review/approval prior to issuance of a building permit.*
- 7. The requirement for architectural screening of any roof-mounted HVAC equipment shall be re-assessed by Skyline and the Plan Commission within one (1) year after issuance of an occupancy permit. If deemed necessary by the Plan Commission, the owner shall submit plans and renderings for said screening to the Plan Commission for review/approval with any required screening to be installed within two (2) years after issuance of an occupancy permit.*
- 8. The building elevation plans using the Option B color scheme should be used.*
- 9. Five (5) additional Black Hills Spruce trees shall be added to the landscape plan.*

MOTION carried unanimously.

Gehl Foods, LLC – N116 W15953 Main Street. The property owner is seeking approval of a revised site development plan to add 24 parking stalls to an existing 39 stall off-site parking area on the .91-acre lot. Planner Retzlaff summarized the revisions. He questioned where the fence is proposed to be installed. Lyle Roecker, Gehl Foods, explained the fence will be facing the road on the edge of the sidewalk next to the landscaping. Commissioner Gray said she had suggested the offset be 1 foot from the sidewalk with annuals planted in the front. She was told Gehl's did not have the ability to plant annuals and water them. Mr. Roecker said Gehl's did not have water on that side of street, but had hired a contractor to water the first year.

MOTION Baum second Shadid to Approve the revised Site Development Plans for Gehl Foods LLC and the proposed 24-stall expansion to the existing "off-site" parking area located at N116 W15953 Main Street subject to the following conditions:

- 1. All landscaping, grading, and paving improvements shown on the approved site plans shall be installed as proposed within six (6) months after the plan approval date. To ensure completion by the required deadline, a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village shall be submitted to the Village within thirty (30) days after said approval date.*
- 2. The relocated/new light pole and fixtures shall not exceed a mounting height of 18' (15' pole and 3' base) in order to match the approved height for the original plan.*

- 3. Any signage of the off-site parking area shall be reviewed and approved by the Plan Commission.**
- 4. All of the technical requirements and conditions of approval set forth in the Engineering Department's February 24, 2016 memo shall be addressed prior to commencement of construction.**

MOTION to Amend Baum second Shadid to have the fence installed 12 to 18 inches behind the edge of the sidewalk.

Chairman Wolter said a buffer would be beneficial to help minimize damage. Mr. Roecker asked if the buffer could be up to 18 inches.

MOTION to Amend carried unanimously.

MOTION to Amend Baum second Shadid to move the daylilies from the back curb to the space between the fence and sidewalk and slide all the rest back.

MOTION to Amend carried unanimously.

MOTION to Approve as Amended carried unanimously.

Stryker Spine – W189 N1110 Kleinmann Drive – The new tenant in the Kleinmann Center is requesting sign approval. Planner Retzlaff summarized the proposal.

MOTION Baum second Gray to Approve the proposed wall sign and monument insert for Stryker Spine Corp. in the Kleinmann Center located at W189 N11100 Kleinmann Drive subject to the following conditions:

- 1. Electrical permits shall be obtained from Inspection Services prior to installation.**
- 2. All electronic components shall be inspected and labeled by a licensed lab.**

MOTION carried unanimously

Margaret & Keith Kiehnau – N108 W15620 Hudson Drive. The property owners are seeking approval to replace an existing section of privacy fence in a front yard at a height of 6' on the residential lot. Planner Retzlaff summarized the proposal. He said there had been some allowance in the past to allow fences to be built at 6 feet, but said the code says a permit is needed. He questioned if there was some type of blanket allowance in the past to allow 6 foot fences along Pilgrim Road. Chairman Wolter said he had not heard of a blanket approval for those fences. He added that the applicant would need to meet the 2 foot setback from the property line on Pilgrim Road.

MOTION Baum second Shadid to Approve the proposed installation and replacement of fence up to a height of 6' in the Pilgrim Road front yard for the residential lot located at N108 W15620 Hudson Drive subject to the following conditions:

- 1. Installation of the fence shall meet the minimum required 2' setback from the property line along Pilgrim Road.**

Margaret Kiehnau clarified their request is to replace the entire fence, not just the section of fence along Pilgrim Road. Trustee Baum questioned if the Motion was still correct. Planner Retzlaff confirmed it was.

MOTION carried unanimously.

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:15 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant

TEMPORARY USE PERMIT REVIEW

5/9/16 Plan Commission Meeting

Charles Schmit / Riversbend Golf Course

Village Planner Report

Germantown, Wisconsin

Summary

Charles Schmit, property owner, is seeking approval of a Temporary Use Permit to continue the seasonal operation of the Riversbend Golf Course located at N96 W18034 County Line Road.

Property Location: N96 W18034 County Line Road

Applicant/

Property Owners: Charles Schmit
N132 W18021 Rockfield Road
Germantown, WI

Current Zoning: I: Institutional

Adjacent Land Uses		Zoning
North	Agricultural	A-1
South	Commercial	B-5
East	Commercial/Residential	B-5/Rm-3
West	Commercial	B-1



History

The 9-hole public Riversbend Golf Course has been in operation since 1986. In 2013, Charles Schmit and Continental Development received approval for a series of development permits & plans (including the creation of a special Planned Development District) to redevelop 3.5 acres of the total 38 acre property with frontage on County Line Road for commercial/retail uses (Buffalo Wild Wings, multi-tenant retail and associated parking lot). Continental acquired the 3.3 acres with Schmit retaining ownership of the remaining golf course land. As shown in the attached site plan, the golf course property was slightly reconfigured with a new 1,515 sqft clubhouse building proposed north of the parking lot. Shared access and parking easements were created with the intent that, once the retail development and parking lot was completed (2014), Schmit would complete the planned clubhouse building, golf cart storage area and landscaping as approved. In 2014, Schmit notified the Village that construction of the new clubhouse and remaining site improvements was put on hold indefinitely due to financial reasons. Schmit requested and was granted a temporary use permit in 2014 and again 2015 to operate the golf course from a small mobile office trailer and portable toilet with the understanding that Schmit was pursuing the necessary financial resources needed to make the planned/approved improvements.

In 2014 and 2015, staff received complaints from property owners/residents in the nearby Riversbend residential condominium development regarding the appearance of the temporary operation, trailer and view of the retail parking lot (which was intended to be partially shielded from their view by additional landscaping and the new clubhouse).

In late 2015, Schmit notified the Village that the golf course is/has been up for sale and that there are no current plans to complete the clubhouse and site improvements previously approved.

Proposal

Charles Schmit, property owner, is seeking approval of a Temporary Use Permit to continue the golf course operation from the same mobile office building and portable toilet for a third season.

Staff Comments

Under Section 17.07(2a), Temporary Use Permits (TUP's) are granted by staff upon review and recommendation by Village departments and compliance with a set of basic requirements. The maximum length of time for which a TUP remains valid is six (6) months with no prescription or prohibition to how many TUP's can be issued. Staff's opinion is/has been that TUP's are intended for "one-time" or at most seasonal uses or activities of a specific or limited nature and duration and should not be used for an indefinite period of time simply as a replacement for (or avoidance of) making permanent site and/or building improvements consistent with the Village's land use plan.

When the Continental Development proposal was first proposed, many residents in the

nearby neighborhood expressed opposition due, in part, to the reduced separation between their dwellings and the golf course and BWW buildings, as well as, the anticipated increases in the volume and duration of traffic, noise and lighting associated with the new development. Those concerns were addressed, in part, by enhanced landscaping and low-level berming in the northeast corner of the parking lot. Other improvements on the golf course property, including additional landscaping and the new clubhouse building itself, were intended to provide an additional buffer between the residential area and the new commercial development. Without those improvements on the golf course property, the original concerns raised by nearby property owners have not been addressed as intended.

The remaining 34.5-acre golf course property is zoned I: Institutional, subject to the development restrictions contained in the "Riversbend PDD" conditions & restriction resolution (copy enclosed) and generally undevelopable because almost all of the property lies within a 100-year floodplain. Arguably, the current golf course use is the highest and best use of the property given current environmental and regulatory constraints. The previously approved site plans have been completed to the extent of the commercial retail sites; however, because construction of the golf clubhouse and site improvements were never completed (much less commenced), approval for those improvements has expired as of February 2015.

Staff is looking for direction from the Plan Commission on how to proceed with Schmit's TUP application. At this time, there is no evidence that any of the planned improvements will be made and no new plans have been submitted. There is no evidence that the golf course is in the process of being acquired by another entity for purposes of operating a golf course. While continued operation of the business would likely ensure ongoing maintenance of the property for golf course purposes, e.g. maintaining the fairways, greens, irrigation and other equipment, it is not necessary to do so for marketing purposes.

Given the discussion and reasons above, staff supports the issuance of a temporary use permit for operation of the golf course for the 2016 season provided that, at a minimum, the owner/operator is required to: (1) submit a revised site, grading and landscape plan to the Plan Commission for approval that enhances the buffer between and view of the mobile trailer & portable toilet areas and the residential area location. Said plan to be considered as an interim development plan until such time as the property owner/operator submits revised site development plans for a permanent golf course clubhouse and facility as was originally intended; (2) submit a \$20,000 cash bond or letter of credit as a financial guarantee to ensure that the site, grading and landscape plan is implemented as planned, or, to ensure that the temporary structures and facilities are properly removed and the building pad area is properly graded, seeded and generally restored to a safe and nuisance-free condition no later than May 1, 2017; (3) obtain a letter of approval from the adjoining commercial/retail property owner(s) who share parking and access regarding the continued operation of the golf course using a mobile office building and portable toilets; (4) obtain a letter of approval from the Riversbend Condominium Association regarding the continued operation of the golf

course using a mobile office building and portable toilets.

Staff acknowledges that these conditions are rather stringent but feels they are necessary to ensure movement in the direction of completing permanent improvements that bring the golf course operation to a condition on par (pun intended) to what existed before the commercial/retail “re-development” was initially approved in 2013. Staff does not support the perpetual use and operation of a golf course operation from a mobile office building and portable toilets in this location given the type and quality of existing adjacent development. Other alternatives and suggestions that are intended to accomplish the same goal will be considered and are requested from the Plan Commission.

Village Planner Recommendation

APPROVE a Temporary Use Permit to Charles Schmit to continue operation of the Riversbend Golf Course for the 2016 golf season located at N96 W18034 County Line Road subject to the following conditions:

1. The property owner/operation shall submit a revised site, grading and landscape plan to the Plan Commission that enhances the buffer between and view of the mobile trailer & portable toilet areas and the residential area location. Said plan to be considered as an interim development plan until such time as the property owner/operator submits revised site development plans for a permanent golf course clubhouse and facility as was originally intended. Said plan to be submitted no later than June 1, 2016.
2. The property owner/operation shall submit a \$20,000 cash bond or letter of credit as a financial guarantee to ensure that the site, grading and landscape plan is implemented as planned, or, to ensure that the temporary structures and facilities are properly removed and the building pad area is properly graded, seeded and generally restored to a safe and nuisance-free condition no later than May 1, 2017. Said financial guarantee shall be submitted to the Village prior to issuance of the temporary use permit.
3. The property owner/operation shall obtain a letter of approval from the adjoining commercial/retail property owner(s) who share parking and access regarding the continued operation of the golf course using a mobile office building and portable toilet. Said approval letter shall be submitted to the Village prior to commencement of the operation;
4. The property owner/operation shall obtain a letter of approval from the Riversbend Condominium Association regarding the continued operation of the golf course using a mobile office building and portable toilet. Said approval letter shall be submitted to the Village prior to commencement of the operation.

ZONING & SUBDIVISION CODE AMENDMENTS

5/9/16 Plan Commission Meeting

Germantown Community Development Department

Village Planner Report

Germantown, Wisconsin

Summary

The Community Development Department is proposing amendments to various provisions to Section 17 (Zoning Code) and Section 18 (Subdivision & Platting). The amendments are proposed in order to: bring these provisions up-to-date in light of changes to Wisconsin statutes; reflect recent actions and/or policy decisions by the Village; or clarify and otherwise improve staff's ability to administer and enforce these particular regulations.

Amendment #1

Section 17.48(5) provides an allowance for non-conforming residential structures to be enlarged or expanded subject to certain limitations. The intent is to expand this allowance to also include agricultural structures.

17.48(5) NONCONFORMING CHARACTERISTICS OF RESIDENTIAL STRUCTURES. Subject to subsection (3)(c) above, residential structures which encroach upon setback and other yard requirements, but which met setback and yard requirements at the time of construction, may be structurally altered and expanded provided that:

- 1. Said structure is not located in any right-of-way;*
- 2. Such alteration or expansion does not create a greater degree of encroachment;*
- 3. The extent or size of any such alteration or expansion (measured in square feet), either separately or cumulatively when combined with a previous alteration or expansion, does not exceed 50% of the footprint (in square feet) of the structure at the time said structure became nonconforming.*

The following text amendment to Section 17.48(5) is proposed where words ~~stricken~~ are to be deleted and words underlined are to be added:

17.48(5) NONCONFORMING CHARACTERISTICS OF RESIDENTIAL AND AGRICULTURAL STRUCTURES.

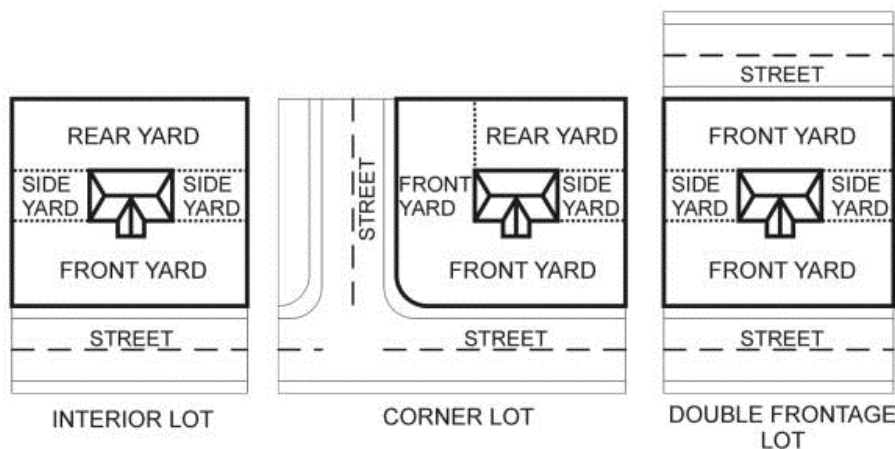
Subject to subsection (3)(c) above, residential and agricultural structures which encroach upon setback and other yard requirements, but which met setback and yard requirements at the time of construction, may be structurally altered and expanded provided that:

- 1. Said structure is not located in any right-of-way;*
- 2. Such alteration or expansion does not create a greater degree of encroachment;*
- 3. The extent or size of any such alteration or expansion (measured in square feet), either separately or cumulatively when combined with a previous alteration or expansion, does not exceed 50% of the footprint (in square feet) of the structure at the time said structure became nonconforming.*

Amendment #2

Section 17.08(48) defines what a “double frontage lot” is and how said lots are viewed in terms of which yards (i.e. front, street, rear and side) are what for purposes of determining setbacks and other applicable building restrictions. The current definition was adopted in 1988 when the Zoning Code underwent a comprehensive revision and/or replacement of the previous code adopted back in 1978.

17.08(48) LOT, DOUBLE FRONTAGE. A lot having a pair of opposite lot lines along 2 more or less parallel public streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.



As shown in the figure above, a “double frontage lot” has two street or front yards by the current definition (1988). This is significant when one considers that the ability of a property to install such things as accessory buildings and fences is limited/prohibited depending on the type of and location of the “yards” are on their property. For example, in almost all residential zoning districts, accessory buildings are only allowed in a rear or side yard, and, in all residential districts, fences cannot exceed a height of 4’ in a front/street yard but can be as high as 6’ in a side and rear yard. These restrictions can be significant for double frontage lots where, by definition, there are two (2) front yards and no rear yards (see figure above).

There are a number of double frontage lots in the Village, including lots along several major arterials including Pilgrim Road and Mequon Road. As is the case with almost all double frontage lots, only one of the street frontages serves as the principal means of access, and, is usually the street to which the front door and façade of the dwelling faces (with the rear of the dwelling and other rear yard features located on the opposite side).

Over time, and particularly in recent years, the owners of double frontage lots have had to appeal for variances and special Plan Commission approval to install accessory buildings and fences where/when the owners of interior and corner lots do not. What we have discovered in some situations (and assume to be the case in others) is that these restrictions have caused many owners to simply ignore the regulations and install either accessory buildings or fences without obtaining necessary permits and without meeting

applicable setbacks and other restrictions. This is particularly true with respect to some double frontage lots located along Pilgrim Road.

What has complicated matters is the fact that the “old” 1978 Zoning Code definition attempted to resolve such an inequity by specifically assigning yard designations based on which street frontage the dwelling faced and to which access was provided. By this definition, there was only one front or street yard and one rear yard. As a result, property owners of double frontage lots installed accessory buildings and fences in their rear yards which then became front or street yards after the definition was changed in the 1988 Zoning Code. As a result, when owners seek permits to install replacement fences or accessory buildings in the same size and location, they have to get a variance or special permission from the Plan Commission.

It is staff’s recommendation that the definition of “double frontage lot” be revised to include the same language as the “old” 1978 definition. The following text amendment to Section 17.08(48) is proposed where words stricken are to be deleted and words underlined are to be added:

17.08(48) LOT, DOUBLE FRONTAGE. A lot having a pair of opposite lot lines along 2 more or less parallel public streets and which is not a corner lot. ~~On a through lot, both street lines shall be deemed front lot lines.~~ For the purpose of this ordinance, double frontage lots in residential districts shall be deemed to have one front yard on the street to which the dwelling faces and from which principal access is provided.

Amendment #3

On land located in the Village’s two agricultural zoning districts (A-1 and A-2), specifically Sections 17.12(2)(m) & (gg) and Sections 17.13(2)(s) & (mm), property owners are eligible to apply for a conditional use permit that would allow them to use such land for the storage of recreational vehicles, boat storage, commercial vehicles and similar equipment provided such storage is “...completely enclosed within a building”. Typically, such storage is done on a “commercial” basis where storage space is leased for a specified period of time and fee as agreed upon by the property owner and leasee.

A-1: Agricultural

- 17.12(2)(m) *Recreational vehicle and boat storage if completely enclosed within a building.*
- 17.12(2)(gg) *Storage of commercial vehicles and equipment if completely enclosed within a building.*

A-2: Agricultural

- 17.13(2)(s) *Recreational vehicle and boat storage if completely enclosed within a building.*
- 17.13(2)(mm) *Storage of commercial vehicles and equipment if completely enclosed within a building.*

By definition, the use of property in the A-1 and A-2 Districts for “commercial” storage purposes is only allowed with a conditional use permit (CUP) that is issued by the Village Board following review and recommendation by the Plan Commission and a public hearing before the Board. The Board cannot issue a CUP unless it is determined that the use is “...found to not be hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community”, and, is subject to “...conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or park requirements” that may be recommended by the Plan Commission upon its finding that such conditions are necessary to fulfill those findings.

CUP’s are evaluated for compliance and necessary conditions of approval in light of the specific circumstances of the proposal, including the type, magnitude, and relative location of the proposed use and potential impact on surrounding properties and overall community.

As currently provided, the allowance for storage in the A-1 & A-2 Districts provided such storage is completely enclosed within a building limits the circumstances that can/should be considered and effectively pre-determines that storage outside of a building is hazardous, harmful, offensive or otherwise adverse to the environment or value of the neighborhood.

As was discussed in the most recent case of a property owner seeking a CUP for commercial storage use on their A-2 zoned property on Bonniwell Road, the Plan Commission and Village Board discussed how the type of storage (recreational vehicles) and the location relative to US41 and the nearest neighbors is such that outside storage within the area adjacent to the metal buildings proposed for storage would not be adverse to the neighborhood and could be allowed... if not for the code limitation that such storage be completely enclosed within a building.

Staff is recommending that these code sections be revised to remove the “completely enclosed within a building” requirement so that the CUP process can be used to consider the specific circumstances of any such outside storage proposals and determine on a case-by-case basis if such storage should be limited to being completely enclosed within a building, and, if storage outside of a building may be permitted, what, if any, conditions such storage would have to meet (e.g. enclosed within a fence, completely obscured from view with landscaping, only on the east side of the building opposite from the nearest residential dwelling, etc.). The following text amendment to these sections is proposed where words stricken are to be deleted and words underlined are to be added:

A-1: Agricultural

17.12(2)(m) *Recreational vehicle and boat storage ~~if completely enclosed within a building.~~*

17.12(2)(gg) *Storage of commercial vehicles and equipment ~~if completely enclosed within a building.~~*

A-2: Agricultural

17.13(2)(s) *Recreational vehicle and boat storage ~~if completely enclosed within a building.~~*

17.13(2)(mm) *Storage of commercial vehicles and equipment ~~if completely enclosed within a building.~~*

Amendment #4

Section 17.33(1) specifies the types of uses that are allowed “by right” in the M-1: Limited Industrial Zoning District. The M-1 District is the primary zoning district within which manufacturing, fabrication, warehousing, distribution, and other “light industrial” uses are allowed to operate in the Village. The M-1 District includes the Germantown Industrial Park, Germantown Business Park, Willow Creek Business Park, and numerous other parcels scattered throughout in the Village.

However, unlike other zoning district regulations, the M-1 District contains a series of descriptions of the type of uses that are permitted vs. a simple list. Based on these descriptions, one type of use that has been deemed allowable in the M-1 District is “self-storage” uses and buildings.

Staff is recommending that the M-1 regulations be revised to specifically include commercial “self-storage” buildings where items are kept within a building as a permitted use, and, where items are allowed to be stored outside of a building as a conditional use. The following text amendment to these sections is proposed where words stricken are to be deleted and words underlined are to be added:

17.33(1)(d) Commercial self-storage buildings where all storage is conducted within an enclosed building or individual unit within a building.

17.33(3)(e) Commercial self-storage buildings where storage is conducted within an enclosed building, individual unit within a building, or outside of a building but within a secure area screened from view.

Amendment #5

Consistent with Wis. Stats. Chapter 236, Section 18.02 provides a series of general provisions governing the platting and division of land in the Village. By statute, the Village's subdivision and platting regulations must contain the same, minimum requirements as Wis. Stats. Chapter 236, but can be more restrictive. Basically, the division of land into lots or parcels is accomplished in one of three ways: (1) recording a Subdivision Plat (used to create 5 or more lots or parcels); (2) recording a Certified Survey Map (used to create 4 or fewer parcels); or (3) recording a deed. As provided under Wis. Stats. Chapter 236, both Subdivision Plats and CSM's are required to be reviewed and approved by the Village under Section 18.

Also consistent with Wis. Stats. 236, Section 18.02(1) specifically exempts certain land divisions from the requirements of and regulation under Section 18 of the Village Code. The land divisions that are exempt from Section 18 can and typically are processed with the recording of a deed. It's fair to say that while all exempt land divisions are recorded with a deed, not all land divisions that can be recorded with a deed should be exempt from regulation.

Historically, non-exempt land divisions that can be recorded by deed that can and have result in problems for the Village and/or affected property owners (present and future), typically involve the sale of land from one owner to an adjacent owner where additional lots or parcels are not created (where a common property line between two parcels is essentially moved to increase land area of one parcel while simultaneously reducing the land area of another). Land divisions accomplished by deed are submitted directly to the Washington County Register of Deeds and not to the Village. Because the Register of Deeds is not a "gate keeper" for the Village who might be on the lookout for land divisions that don't comply with the Village's zoning or other regulations, such land divisions often result in parcels that are smaller than required under the applicable zoning or parcels that are located in two or more different zoning districts.

While not necessarily a "loophole", there currently is a gray area between when a CSM, Subdivision Plat or deed can or should be used to regulate these types of land divisions. More often than not, because the preparation, review and approval of a CSM or Subdivision Plat requires significant time and money (not to mention the risk of being denied due to non-compliance with the applicable zoning district regulations), property owners opt for the most convenient, inexpensive and legal means of accomplishing a the land division they need or want.

Like many communities in Wisconsin, Staff is recommending that the Village revise its subdivision and platting regulations to require Subdivision Plats or CSM's for all land divisions that are not explicitly exempt from regulation by Wis. Stats. Chapter 236.

The following text amendments are proposed where words stricken are to be deleted and words underlined are to be added:

18.02(2a) Division of Land Other than a Subdivision or Minor Land Division.
Any division of land, other than a subdivision or minor land division as defined herein,
shall be surveyed and a certified survey map prepared and recorded as provided in Wis.
Stats. Chapter 236.34. Such land divisions shall also comply with the requirements and
applicable procedures for the review, approval and recording of certified survey maps
set forth in this chapter.

18.03(7)(a) Certified Survey Map Required.

When it is proposed to divide land into not more than 4 building parcels or lots, any one of which is less than 20 acres in size, or when it is proposed to create by land division not more than 4 lots within a recorded subdivision plat without changing the boundaries of said block, lot or outlot, or as required under Section 18.02(2a), the subdivider shall ~~may~~ subdivide by use of a certified survey map. The subdivider shall prepare the certified survey map in accordance with this chapter and shall file the required number of copies ~~6 copies of the map~~ and a letter of application ~~with the Village Planner~~ at least 15 days ~~15 days~~ prior to the meeting of the Plan Commission as specified by the Village Planner.

18.03(7)(b)4.

The Village Board shall approve, approve conditionally or reject such map within ninety (90) ~~60~~ days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider.

Amendment #6

The division of land in the Village using a Subdivision Plat or Certified Survey Map (CSM) requires the preparation of a preliminary plat or CSM containing specific data and information, including the location and boundary of any environmentally sensitive areas such as floodplains and wetlands. Similarly, the development of lots or parcels regulated under the Zoning Code also requires the location and boundary of environmentally sensitive areas including floodplains and wetlands.

Currently, the delineation of wetland boundaries is conducted by DNR-certified personnel qualified under the DNR's "professional assurance program", or, by other qualified professionals whose work is ultimately reviewed and certified by DNR staff. In either case, certified wetland boundaries are flagged out in the field, surveyed by a licensed land surveyor, and ultimately presented to the Village as part of a preliminary plat or CSM.

The calculation of wetland (as well as floodplain) areas and the boundaries of both are used when determining the location of suitable areas for new lots and development. Moreover, as the result of recent changes to the Village's Zoning Code last year, wetland areas are also used in the determination of the number of development units allowed in certain residential zoning districts.

While wetland delineations are conducted by qualified professionals meeting stringent standards and requirements under Wisconsin Admin. Code NR 103, NR 352 and in

compliance with strict standards and guidelines contained in the 1987 US Army Corp of Engineers Wetland Delineation Manual, wetland areas are subject to change over time. Consequently, its common practice to only accept wetland delineations as being valid for a prescribed period of time; typically for no more than five (5) years. Physical changes to a particular wetland and/or surrounding upland areas that affect the condition and/or maintenance of a wetland area may necessitate a re-delineation sooner than every five years.

It's common knowledge that the Wisconsin DNR typically only accepts wetland delineations for purposes of evaluating development proposals for compliance with their rules and regulations if such delineations are less than five (5) years old. Unfortunately, DNR staff cannot point to any specific DNR Admin. Code requirement specifying a maximum five (5) year time period for valid wetland delineations. Currently, the Village does not specify a time period for the validity of a wetland delineation for purposes of evaluating development proposals in the Village. At the risk of being viewed as redundant, Staff is recommending that Section 18 be amended to include a five (5) year "validity period" for wetland delineations based on current practice implemented by the DNR. The following text amendments are proposed where words stricken are to be deleted and words underlined are to be added:

18.03(9) Wetland Delineation Requirements.

The delineation of wetland boundaries required herein shall follow current recommended procedures and practices of the Wisconsin Department of Natural Resources (DNR) as specified under Admin. Code NR103 and NR352 (as may be amended). The boundaries of wetlands presented on Subdivision Plats and Certified Survey Maps required under this section for purposes of reviewing and approving land divisions shall be based on wetland delineations conducted no sooner than five (5) years before the date of submission of a Subdivision plat or Certified Survey Map application unless it is determined by Village staff that significant physical changes have been made to the wetland area(s) being delineated or the upland area(s) adjacent thereto, or, other circumstances exist that can reasonably be expected to have affected the extent of such wetland(s). In which case, a new wetland delineation shall be required.

17.43(3a) Wetland Delineation Requirements.

The delineation of wetland boundaries required herein shall follow current recommended procedures and practices of the Wisconsin Department of Natural Resources (DNR) as specified under Admin. Code NR103 and NR352 (as may be amended). The boundaries of wetlands presented on Site Plans required under this section for purposes of reviewing and approving development shall be based on wetland delineations conducted no sooner than five (5) years before the date of submission of a Site Plan application unless it is determined by Village staff that significant physical changes have been made to the wetland area(s) being delineated or the upland area(s) adjacent thereto, or, other circumstances exist that can reasonably be expected to have affected the extent of such wetland(s). In which case, a new wetland delineation shall be required.