

VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022
AMENDED 7-15-16

MEETING: REGULAR MEETING OF THE VILLAGE BOARD

DATE AND TIME: MONDAY, July 18, 2016 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. Approval of Village Board Minutes: June 20, 2016

B. Accounts payable/payroll

1.	June 25, 2016	Accounts Payable	\$ 483,190.01
2.	June 28, 2016	Payroll (hourly)	\$ 237,928.65
3.	June 30, 2016	Payroll (salary)	\$ 84,554.65
4.	June 2016	Accounts Payable	\$ 26,064.99
5.	July 10, 2016	Accounts Payable	\$ 429,929.69
6.	July 12, 2016	Payroll (hourly)	\$ 249,329.49
7.	July 15, 2016	Payroll (salary)	\$ 85,622.69

C. Operator Licenses: July 19, 2016 to June 30, 2017: [Recommended Approval]

New Applicants: David Abuya, Carissa Blaha, Kevin Conley, Molly Ebert, Cassandra Feuerstahler, Allyah Ford, Kimberly Fraser, Cynthia Heyman, Michael Hogan, Justine Keller, Susan Lauterbach, Ruth Lunde, Joshua Murphy, Lisa Phetvisay, Susan Roxbury, Brenda Schultz, Kayla Staroseiec, Alexandria Steinke, Dane Storck, Marissa Vita

VII. CONSENT AGENDA continued:

Operator Licenses continued:

Renewal Applicants: Amin Al-hassan, Kevin Debroux, Megan Depies, Lisa Dhein, Carolyn English, Christine Feuerstahler, Sharon Hagenkord, Alan Marquardt, Luis Ortega, Jill Peters, Christopher Reason, Sharna Sinjakovic, Mehul Soni, Patricia Stengel, Sara Turner

The following items were forwarded from the Public Works Committee with a unanimous recommendation:

- D. Authorize Payment Of HD Supply Invoice In Amount Of \$5,041.00 For Purchase Of Various Materials For Unforeseen Watermain Repairs And 2016 Road Reconstruction Projects With Funds To Be Allocated From Acct. #50-743-530-6730. [Recommended Approval]
- E. Recommendation To Contract M&M Tree Service For EAB Ash Tree Treatments At An Approximate Total Cost Of \$5,776.10 With Funds To Be Allocated From Account #10-553-530-5290. [Recommended Approval]

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

- F. Approve Purchase of 18 Security Cameras at a Cost not to Exceed \$15,548 School District Facility with Funds To Be Allocated from Recreation Facility Fee Fund [Recommended Approval]
- G. **Resolution No. xx-16**, Approving Amendments to the 2016 Budget, Line Item Transfer to Allocate Contingency Funds to Departments to Cover Wage Increase [Recommended Approval]
- H. Approve Amendment to Village of Germantown Code of **Ordinances, Section 12.17 Junk/Recycling Dealers** Clarifying Steps Taken for Initial License, Annual Renewals, Inspections Required and Other Language Clarifications [Recommended Renewals]

VIII. UNFINISHED BUSINESS:

- A. In The Matter of the Complaint Against: Maple Road, LLC, Holder of "Class B" Alcohol Beverage Licenses for Buzdum's Pub & Grill, Radomir Buzdum, Agent, Premises at W188 N10515 Maple Road, Germantown, Wisconsin; Hearing Pursuant to Wis. Stat. § 125.12(2) And §§12.02(1) And (12) Of The Municipal Code of The Village of Germantown, Wisconsin
 - 1. Rules of Evidence, Burden of Proof, Impartial Decision-Maker and Other Procedural Matters.
 - 2. Hearing Pursuant to Wis. Stat. §125.12(2)(B)1. Or 2. And 3.
- B. Action on Buzdum's License (Approval or Non-Renewal) *(for Maple Road, LLC, Radomir Buzdum, Agent, 1027 N. 4th Street, Watertown, WI, 53098, d/b/a Buzdum's Pub & Grill, W188 N10515 Maple Road, Germantown, WI, 53022. (Includes an outdoor patio area and bleacher area until 9:00 p.m.).* The Village Board May Enter Closed Session During the Meeting Pursuant to Wis. Stat. § 19.85(1)(A) To Deliberate Upon Any Proposed and Submitted Stipulated Disposition and/or Upon a Failure to Appear or The Conclusion of a Hearing to Discuss Its Determination, and to Reenter Open Session at The Same Place Thereafter to Act On Such Matters as Discussed Therein as It Deems Appropriate

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).* None

X. **NEW BUSINESS:**

- A. Peter Ogorek, Perspective Design Inc., Agent for Compass Properties LLC, Property Owner of Lot 2 of CSM#5588, a 4.6-acre Parcel in the Germantown Marketplace II Shopping Center on Mequon Road; Applications to: (1) **Resolution** Amending the Adopted Conditions and Restrictions of the Germantown Marketplace II Planned Development District; and (2) Divide the Parcel with a 2-lot **Certified Survey Map** (CSM)
- B. Robert & Lori Snow, Property Owners of a 29.4-Acre Parcel Located at W148N12301 Pleasant View Drive; 3-Lot **Certified Survey Map** (CSM)
- C. Development Agreement – Gatewood Place Subdivision:
- D. Development Agreement – Saxony Village:
- E. Resignation of Trustee Daniels and Selection of Process to Address Vacancy
- F. Purchase of Unication Pager in Lieu of Portable Water Tank
- G. ****An Ordinance Amending Chapter 5 of the Municipal Code of Germantown Relating to Fire Prevention and Protection Within the Village*

XI. **ADJOURNMENT**

The next Village Board meeting will be on **August 1, 2016** 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.

VII G

STATE OF WISCONSIN VILLAGE OF GERMANTOWN WASHINGTON COUNTY

RESOLUTION NO. - 16

APPROVING AMENDMENTS TO THE 2016 BUDGET

Line Item Transfer

Allocate Contingency Funds to Departments to Cover Wage Increase

WHEREAS, the Village Board of the Village of Germantown approved 2016 Salary Resolution #8-16 on March 7, 2016 and;

WHEREAS, the 2016 Budget included contingency funds in the General Government Department Wage and Benefits lines to cover salary increases, and;

WHEREAS, the funds need to be allocated to the correct department accounts to facilitate proper accounting for the increase, and;

NOW THEREFORE BE IT RESOLVED, that the attached budget amendment detail be approved.

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: Trustee

Adopted:

Vote: Ayes:

Nays:

Absent:

Dean M. Wolter, Village President

ATTEST:

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

Allocate 2016 Wage Increase

Description	Account Number	Original Budget	Amendment	New Total
Salaries - Administration	105125101100	64,160	1,481	65,641
Social Security - Admin	105125202100	4,908	113	5,021
Retirement - Admin	105125202200	4,235	98	4,333
				0
Salaries - Clerk Regular	105135101100	162,218	2,411	164,629
Social Security	105135202100	12,410	184	12,594
Retirement	105135202200	10,706	159	10,865
				0
Salaries - Finance	105145101100	105,492	1,954	107,446
Social Security	105145202100	8,070	149	8,219
Retirement	105145202200	6,962	129	7,091
				0
Salaried - Data Processing	105175101100	24,085	107	24,192
Social Security	105175202100	1,843	8	1,851
Retirement	105175202200	1,590	7	1,597
				0
Salaries - DPW Adm & Eng	105415101100	112,482	4,101	116,583
Social Security	105415202100	8,605	314	8,919
Retirement	105415202200	6,600	271	6,871
				0
Salaries - Police Admin	105215101110	921,490	2,086	923,576
Salaries - Police Dispatch	105215101140	318,011	5,848	323,859
Social Security	105215202100	221,533	607	222,140
Retirement	105215202200	335,953	524	336,477
				0
Salaries - Fire Dept Adm	105225101110	86,275	1,294	87,569
Social Security	105225202100	57,781	99	57,880
Retirement	105225202200	66,570	124	66,694
				0
Salaries - Highway Supervisory	105425101100	149,266	1,916	151,182
Salaries - Highway Streets	105425101110	757,456	5,544	763,000
Social Security	105425202100	67,069	571	67,640
Retirement	105425202200	53,254	492	53,746
				0
Salaries - Recycle	105465101100	10,800	97	10,897
Social Security	105465202100	2,736	7	2,743
Retirement	105465202200	1,753	6	1,759
				0
Salaries - Blgs & Grounds	105195101500	106,536	289	106,825
Social Security	105195202100	10,848	22	10,870
Retirement	105195202200	8,929	19	8,948
				0
Salaries - Recreation	105525101100	227,684	3,415	231,099
Social Security	105525202100	45,493	261	45,754
Retirement	105225202200	26,383	225	26,608
				0
Salaries - Senior Center Staff	105545101800	46,645	622	47,267
Social Security	105545202100	3,568	48	3,616
Retirement	105545202200	2,782	41	2,823
				0
Salaries - Planning	105635101100	93,634	1,746	95,380
Social Security	105635202100	7,301	134	7,435
Retirement	105635202200	6,180	115	6,295
				0
Salaries - Bld Inspection	105245101100	145,613	1,500	147,113
Social Security	105245202100	12,134	115	12,249
Retirement	105245202200	9,610	99	9,709
				0
Library	105515101100	204,883	5,751	210,634
Social Security	105515202100	23,477	440	23,917
Retirement	105515202200	17,000	380	17,380
Salaries - Gen Govt Contingency	105185101900		-40,162	
	105185202100		-3,072	
	105185202200		<u>-2,689</u>	
			-45,924	

VII. H.

**BUSINESS OF VILLAGE BOARD
VILLAGE OF GERMANTOWN**

MEETING DATE: July 18, 2016

AGENDA ITEM: New Business

ITEM TITLE: AN ORDINANCE AMENDING § 12.17 THE MUNICIPAL CODE OF GERMANTOWN RELATING TO JUNK DEALERS

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



SUMMARY EXPLANATION:

I have recommended changes to the Junk Dealers ordinance in the Village's Municipal Code to clarify what inspections are required and when items are required for new applications or renewal as well, when these are being handled within the Clerk's Department.

The changes to the ordinance, clarify what steps are taken for initial licenses vs. annual renewal licenses and what inspections are required for each, as well as other language changes suggested.

General Government and Finance Committee reviewed this ordinance and changes at their June 22, 2016 meeting and have recommended approval unanimously to approve the amendment to the ordinance as presented.

ATTACHMENT: ORDINANCE XX RESOLUTION _____ OTHER _____

RECOMMENDATION:

Recommendation is for approval of the attached Ordinance Amendment to Section 12.17 Junk Dealers as submitted.

ORDINANCE NO. ____-16

AN ORDINANCE AMENDING SECTION 12.17 OF THE
MUNICIPAL CODE OF GERMANTOWN RELATING TO THE
LICENSING OF JUNK DEALERS WITHIN THE VILLAGE

WHEREAS, the Village Board having previously adopted section 12.17 of the Municipal Code of Germantown which establishes a license requirement for certain “junk dealers” within the Village; and

WHEREAS, the Village Clerk has identified the need to amend that section to address certain aspects of the application process for such license; and

WHEREAS, the licensing of “junk dealers” within the Village is a matter in the interest of the public’s health, safety and welfare;

NOW, THEREFORE, the Village Board of the Village of Germantown, Wisconsin, do ordain as follows:

SECTION I:

Section 12.17 of the Municipal Code of Germantown is hereby amended to read as follows (NOTE: Additions are underlined; Deleted text is ~~struck through~~):

12.17 - JUNK DEALERS.

(1) **LICENSE REQUIRED.** No person within the Village shall keep, conduct or maintain any building, structure, yard or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly or continually, or for the buying or selling at retail or wholesale or dealing in any old, used or second hand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metal, furniture, used motor vehicles or the parts thereof, or other article which from its worn condition renders it practically useless for the purpose for which it was made and which is commonly classed as junk, whether with a fixed place of business or as an itinerant peddler, without first having obtained and paid for a license as hereinafter provided. One carrying on the aforesaid business shall be referred to herein as "junk dealer."

(2) **EXCEPTION.** No license shall be required for the storage of wrecked motor vehicles stored within service garages and filling stations or on any service garage or filling station site provided that only 3 wrecked vehicles may be stored on said premises at any one time for a period not exceeding 14 calendar days.

(3) APPLICATION. Application for such license shall be made to the Village Clerk on a form provided by ~~him~~ the Village Clerk. This same form shall be used for annual renewal of such license.

(4) LICENSE FEE. (Am. Ord. #9-93) The license fee shall be \$250.00 per year or any fraction thereof, said year to commence on July 1 and end on June 30. In addition, there shall be an investigation and inspection fee of \$200.00 for the initial license.

(5) INSPECTION REQUIRED. The Village Clerk shall report such initial application to the Chief of Police, Fire Chief and the Building Inspector, who shall inspect or cause to be inspected such premises to determine whether it complies with all laws, ordinances, rules and regulations. Said premises and all structures thereon shall be so situated and constructed that the business of junk dealer may be carried on in a sanitary manner, shall contain no fire hazards, and shall be arranged so that thorough inspection may be made at any time by the proper health, fire, building and police authorities. Annual renewal applications require inspections by Chief of Police and Fire Chief only.

(6) REFERRAL TO PLAN COMMISSION. The initial application shall first be submitted to the Plan Commission for a hearing to determine the suitability of the site for the business proposed there on. The Plan Commission may recommend conditions for granting the license.

(7) REFERRAL TO VILLAGE BOARD. The initial application, together with the recommendation of the Plan Commission, shall be referred to the Village Board which may grant, grant with conditions, or deny the license. Annual renewal applications shall be referred to the Village Board which may grant, grant with conditions, or deny the license.

(8) REVOCATION. Upon complaint being made in writing by any 3 residents or any official of the Village to the Village Board that any licensee hereunder has violated any of the provisions of this section, the Board shall summon such licensee to appear before it at the time specified in the summons, which shall be not less than 3 days after the date of the service thereof, to show cause why his license shall not be revoked or suspended. The Board shall thereupon proceed to hear the matter and if it finds that the allegations of said complaint are true, may revoke or suspend the license of such person. The provisions hereunder shall not be effective unless the licensee has received notice from the Village Clerk Building Inspector that a complaint has been filed with the Board as to the operation of his premises and such licensee has been given a reasonable time to correct the condition complained of or to otherwise satisfy such complaint.

SECTION II:

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III:

All ordinances or parts of ordinances contravening the terms of this ordinance are hereby to that extent repealed.

SECTION IV:

This ordinance shall take effect and be in full force upon its passage and the day after publication.

Introduced by Trustee:

Adopted: _____, 2016 Vote: Ayes: Nays: Absent:

Dean Wolter, Village President

ATTEST:

Barbara K.D. Goeckner, Village Clerk

Approved as to form:

Brian C. Sajdak, Village Attorney

X.A.

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

MEETING DATE: July 18, 2016

AGENDA ITEM: New Business **(PDD Conditions & Restrictions Resolution;
Certified Survey Map)**

ITEM TITLE: Peter Ogorek, Perspective Design Inc., Agent for Compass Properties LLC, Property Owner of Lot 2 of CSM#5588, a 4.6-acre parcel in the Germantown Marketplace II Shopping Center on Mequon Road; Applications to: (1) amend the Germantown Marketplace II Planned Development District; and (2) divide the parcel with a 2-lot Certified Survey Map (CSM)

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

SUMMARY EXPLANATION:

Compass Properties LLC, property owner of the Germantown Marketplace located on Mequon Road, is requesting approval of an amendment to the Germantown Marketplace II Planned Development District (PDD) and a Certified Survey Map (CSM) application in order to divide the 4.6-acre parcel into two parcels to facilitate the future sale of the existing buildings.

As shown in the CSM and plat of survey, the owner proposes to divide the 4.6-acre Germantown Marketplace property into two (2) parcels: a 3.05-acre parcel that will contain two existing multi-tenant retail commercial buildings totaling 21,053 sqft and 164 parking stalls (Lot 1); and a 1.55-acre parcel that will contain one existing commercial building totaling 10,400 sqft and 75 parking stalls (Lot 2). Cross-access, parking and utility easements are already in effect with the Life Church parcel to the north and other retail parcels to the east (i.e. Starbucks and Speedway). These easements are necessary in order to maintain the ability for the development of all the parcels to function "as is" with common driveway access, circulation, shared parking, and utility connections.

The proposed PDD amendments are intended to make the minimum changes necessary to accommodate the creation of the two lots and maintain code compliance for the existing development.

ATTACHMENTS:

- ◆ 6/13/16 Staff Report
- ◆ 6/13/16 Plan Commission Meeting Minutes
- ◆ PDD Conditions & Restrictions Resolution (Draft w/ amendments)
- ◆ Preliminary Certified Survey Map (CSM)
- ◆ Plat of Survey (showing proposed lots and existing developed features)
- ◆ Declaration of Covenants (creating & maintaining easements)

PLAN COMMISSION RECOMMENDATION:

APPROVE the proposed amendments to the Germantown Marketplace II Planned Development District (PDD) subject to the following conditions:

1. The proposed PDD amendment is a “minor” change that does not require a public hearing prior to (or concurrent with) the Village Board’s review and consideration.

APPROVE the proposed Certified Survey Map (CSM) to divide the Germantown Marketplace II property into two (2) parcels as proposed subject to the following conditions:

1. All technical corrections listed in the Village Surveyor’s May 24, 2016 review memo shall be reflected in a revised CSM prior to recording the CSM.
2. The declaration of covenants containing the proposed cross-access, cross-parking, storm water, utility and sign easements shall be submitted to and be approved by the Village Attorney prior to recording the CSM.

NOTE: Both conditions have been met; the CSM has been revised as directed and the declaration of covenants has been submitted to the Village Attorney.

PLANNED DEVELOPMENT DISTRICT (PDD) AMENDMENT & CERTIFIED SURVEY MAP (CSM)

6/13/16 Plan Commission Meeting

S Perspective Design Inc. / Compass Properties Germantown LLC

Village Planner Report

Germantown, Wisconsin

Summary

Perspective Design Inc., agent for Compass Property Management LLC, agent for Compass Properties Germantown LLC, property owner of a 4.6-acre parcel located in the Germantown Marketplace II Planned Development District (PDD) and existing commercial retail center located on Mequon Road, is requesting approval of an amendment to the Planned Development District (PDD) and a 2-lot Certified Survey Map (CSM) application in order to divide the property into two separate parcels.

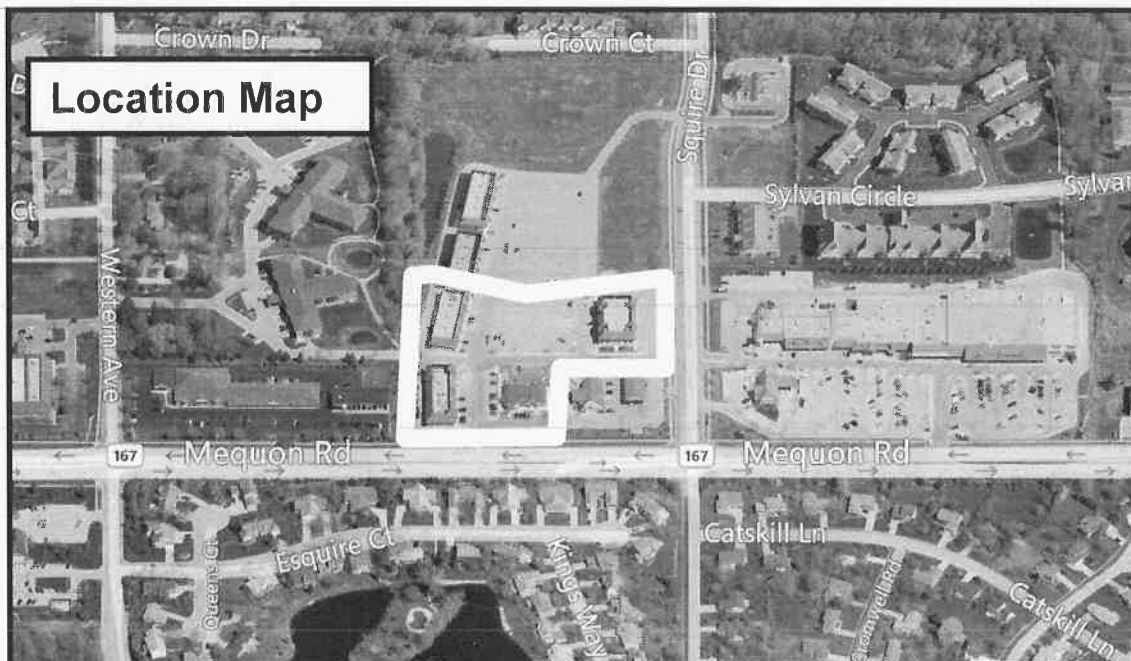
Location: N.W. corner Mequon Road @ Squire Drive

Applicant/

Property Owner: Peter Ogorek Compass Properties Germantown LLC
Perspective Design 4501 STH 66
11525 W. North Ave Stevens Point, WI
Wauwatosa, WI 53226

Current Zoning: B-2: Community Business/Planned Development District (PDD)

Adjacent Land Uses		Zoning
North	Commercial/Residential	B-1/Rm-2
South	Residential	Rd-2/Rm-2
East	Commercial	B-2
West	Commercial	B-2/PDD



Proposal

Perspective Design Inc., agent for Compass Property Management LLC, agent for Compass Properties Germantown LLC, property owner of a 4.6-acre parcel located in the Germantown Marketplace II Planned Development District (PDD) and existing commercial retail center located on Mequon Road, is requesting approval of an amendment to the Planned Development District (PDD) and a 2-lot Certified Survey Map (CSM) application in order to divide the property into two separate parcels.

The Planned Development District (PDD) zoning designation creates the ability to relax the basic restrictions in the B-2 Zoning District (e.g. setbacks, lot coverage) and other applicable zoning code provisions (e.g. parking and signage).

Certified Survey Map (CSM)

As shown in the preliminary CSM, the owner proposes to divide the 4.6-acre Germantown Marketplace property into two (2) parcels: a 3.05-acre parcel that will contain two existing multi-tenant retail commercial buildings totaling 21,053 sqft and 164 parking stalls (Lot 1); and a 1.55-acre parcel that will contain one existing commercial building totaling 10,400 sqft and 75 parking stalls (Lot 2). Cross-access, parking and utility easements are already in effect with the Life Church parcel to the north and other retail parcels to the east (i.e. Starbucks and Speedway). These easements are necessary in order to maintain the ability for the development of all the parcels to function “as is” with common driveway access, circulation, shared parking, and utility connections.

Planned Development District (PDD)

As reflected in the “draft” resolution amending the adopted conditions and restrictions, the proposed amendment is intended to make the minimum changes necessary to the basic B-2 Zoning District and other applicable zoning restrictions that make up the Germantown Marketplace II District in order to accommodate the creation of the two lots (Lot 1 and Lot 2) and maintain code compliance for the existing development. The proposed amendment affects the following sections in the “draft” resolution:

- Building Bulk Regulations (Section 2)
- Lot Size (Section 3)
- Parking (Section 4)

Staff CommentsEngineering

The Village Surveyor has also identified one minor technical correction in his May 24, 2016 memo that will need to be addressed prior to recording the CSM.

Planning & Zoning

The proposed land division will not affect the continued operation of the existing retail center as it currently functions. The proposed and previous agreements to allow cross-access to/from and parking on the various parcels will be preserved “as is” and the current/future owners of the parcels cannot/will not have the ability to alter close off access or prohibit patrons from another parcel from parking. The number of parking stalls that are retained for each parcel exceeds the minimum recommended number (1 stall per 200 sqft). Lot 1 has 164 stalls (vs. the minimum recommended 105 stalls) and Lot 2 has 75 stalls (vs. 52 recommended).

One area of concern is preservation of the existing architecture, exterior materials and overall appearance of the buildings. The three existing buildings on the land proposed for division into two lots, as well as one of the two retail buildings lying on the Life church property to the north, have a “Germanic” theme architecture. The new Life Church facility was allowed to develop with more contemporary architecture and materials. One result of the proposed land division could be the need/desire of a new owner to update or change the architecture or materials to be different than the other buildings. The proposed language in Section 6 of the “draft” resolution is somewhat vague and would allow the architectural design of the buildings to conform to either the existing “Germanic” appearance or the contemporary design and appearance of Life Church. If the Plan Commission agrees with the notion that a buildings architectural design could be either one and effectively defer any decision about future building design or material changes, Section 6 may need to be revised to clearly state that is the case. Otherwise, Section 6 should be revised to require that a buildings architecture and materials be consistent with either the “Germanic” or contemporary design.

Finally, any change or amendment to a pre-existing PDD requires both Plan Commission and Village Board review and approval. As stated in Section 17.27 of the Zoning Code, the overall intent of the Planned Development (PD) overlay District is to “...*permit greater flexibility...more creative design...while providing a higher level of amenities...while providing the Village with assurances that the project will retain the character envisioned at the time of approval*”.

Under the PDD requirements in Section 17.27(9) of the Zoning Code, the Plan Commission is required to determine if a proposed change to a PDD is “minor”, or, if the proposed change is significant enough to “...materially affect the intended design of the project and the impact of the project on neighboring uses”. If the Plan Commission determines that a change is “minor”, then the Plan Commission recommendation can be considered by the Village Board without the need for holding a public hearing. If the PC determines that a proposed change is “substantial”, then a public hearing of the proposal is required to be held before the Village Board renders a decision on the proposed change.

In this case, Staff is of the opinion that the proposed PDD amendments and 2-lot land division is a “minor” change and should not require a public hearing before the Village Board considers the proposal.

VILLAGE PLANNER RECOMMENDATION

APPROVE the proposed amendment to the Germantown Marketplace II Planned Development District (PDD) subject to the following conditions:

1. The proposed PDD amendment is a “minor” change that does not require a public hearing prior to (or concurrent with) the Village Board’s review and consideration.

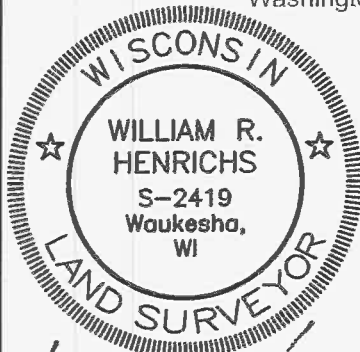
VILLAGE PLANNER RECOMMENDATION

APPROVE the proposed Certified Survey Map (CSM) to divide the Germantown Marketplace II property into two (2) parcels as proposed subject to the following conditions:

1. All technical corrections listed in the Village Surveyor's May 24, 2016 review memo shall be reflected in a revised CSM prior to recording the CSM.
2. The declaration of covenants containing the proposed cross-access, cross-parking, storm water, utility and sign easements shall be submitted to and be approved by the Village Attorney prior to recording the CSM.

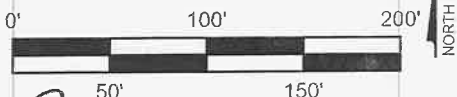
CERTIFIED SURVEY MAP NO. _____

Being a redivision of Lot 2 of Certified Survey Map No. 5588,
being a part of the Southeast 1/4 of the Southwest 1/4 of Section 22,
Town 9 North, Range 20 East, Village of Germantown,
Washington County, Wisconsin.

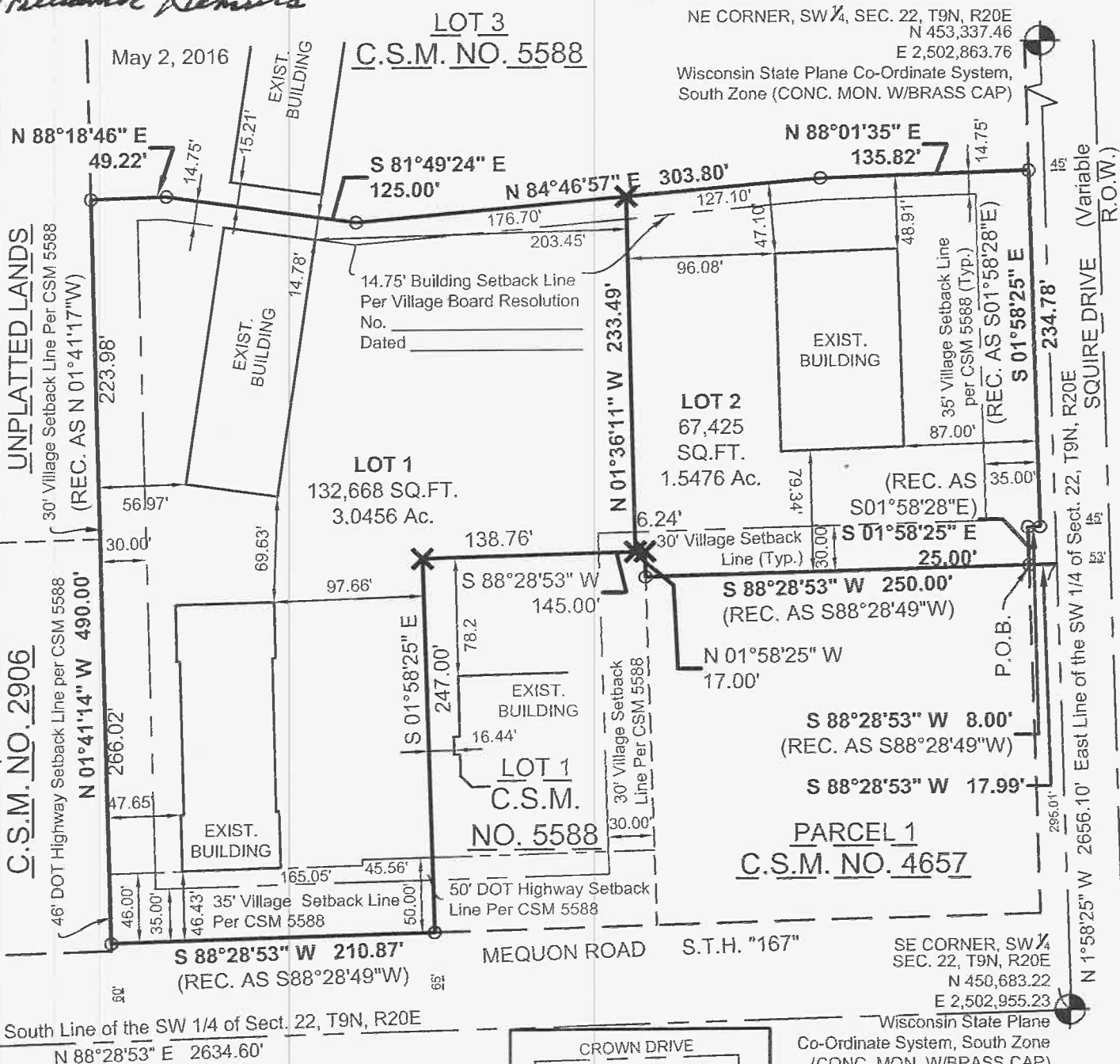
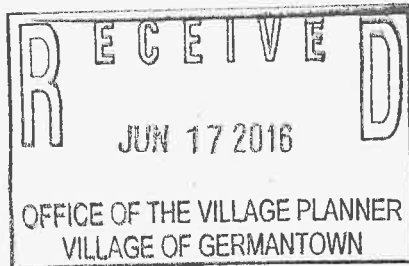


- LEGEND**
- — Denotes 1" iron pipe found
 - — Denotes 1" x 24" iron pipe set, 1.68 lbs. per lin. ft.
 - X — Denotes PK nail set.

GRAPHIC SCALE

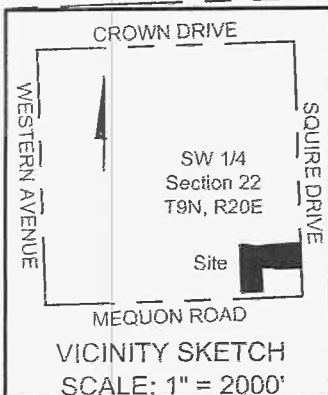


1 INCH = 100 FEET



Prepared For:
Compass Properties Germantown, LLC
735 N. Water Street
Milwaukee, WI 53202
414-765-0305

DAAR
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All bearings refer to Grid North of the Wisconsin State Plane Coordinate System, South Zone (NAD 1927). The east line of the SW 1/4 of Sec. 22-9-20 has a reference bearing of N 1°58'25" W.

This instrument drafted by
William R. Henrichs, PLS S-2419

Job Number: 120154
Sheet 1 of 6 Sheets

Being a redivision of Lot 2 of Certified Survey Map No. 5588, being a part of the Southeast 1/4 of the Southwest 1/4 of Section 22, Town 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin.

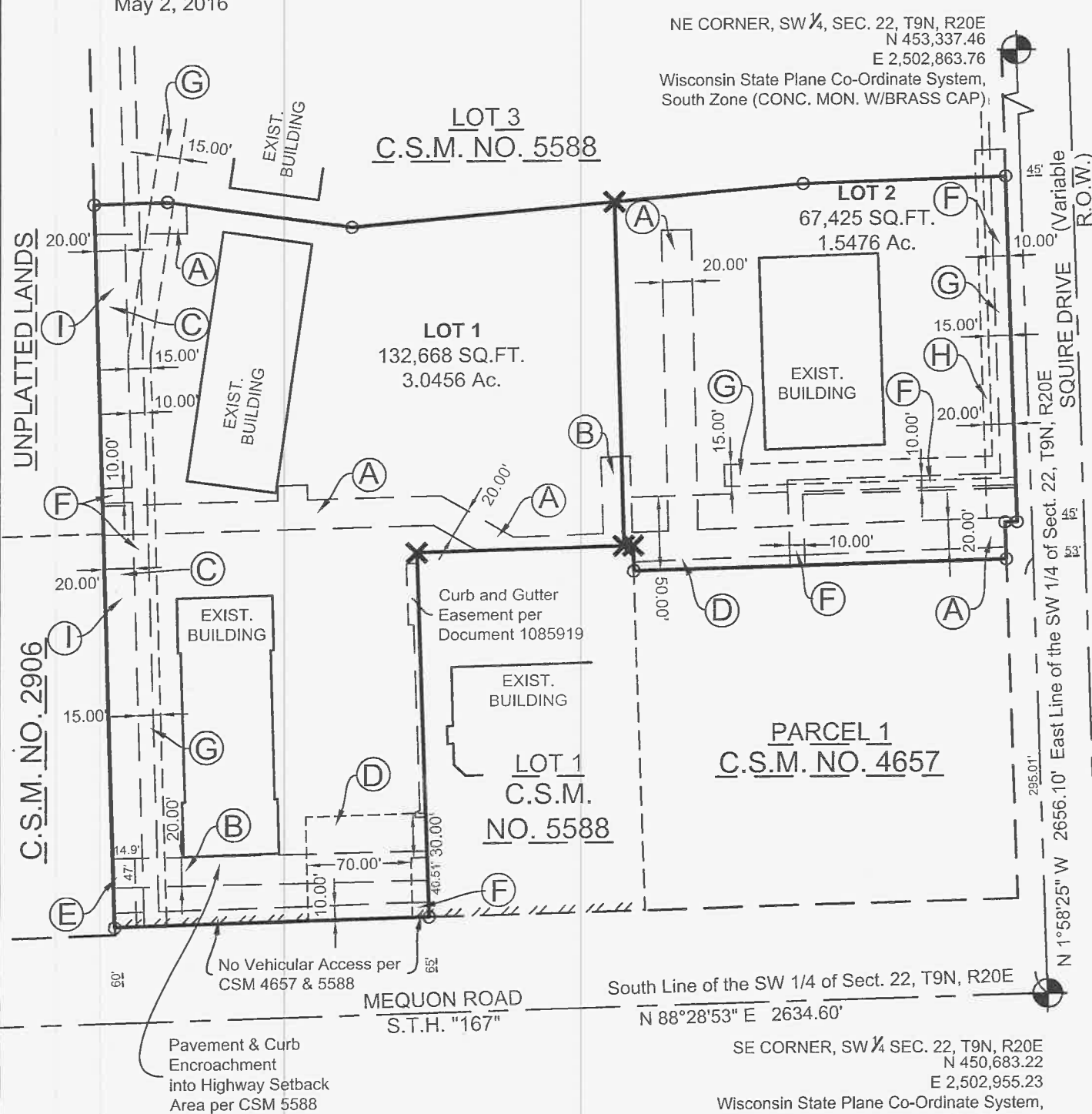


EASEMENTS

1 INCH = 100 FEET

LEGEND

- — Denotes 1" iron pipe found
- — Denotes 1" x 24" iron pipe set,
1.68 lbs. per lin. ft.
- ✕ — Denotes PK nail set.



SE CORNER, SW ¼ SEC. 22, T9N, R20E
N 450,683.22
E 2,502,955.23
Wisconsin State Plane Co-Ordinate System,
South Zone (CONC. MON. W/BRASS CAP)

Prepared For:
Compass Properties Germantown, LLC
735 N. Water Street
Milwaukee, WI 53202
414-765-0305

Job Number: 120154

This instrument drafted by
William R. Henrichs, PLS S-2419 Sheet 2 of 6 Sheets

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CERTIFIED SURVEY MAP NO. _____

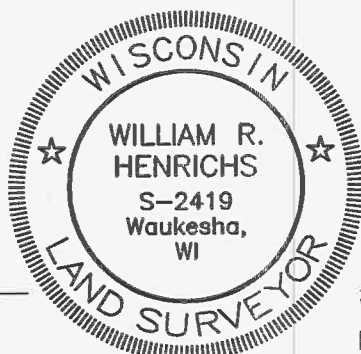
Being a redivision of Lot 2 of Certified Survey Map No. 5588, all being a part of the Southeast 1/4 of the Southwest 1/4 of Section 22, Town 9 North, Range 20 East, in the Village of Germantown, Washington County, Wisconsin.

EASEMENTS

- A** - 20' wide Watermain Easement (Per C.S.M. 5588 & C.S.M. 4657).
- B** - 20' Sanitary Sewer Easement (Per C.S.M. 5588 & C.S.M. 4657).
- C** - 20' Drainage Easement (Per C.S.M. 5588 & C.S.M. 4657).
- D** - Easement for Ingress/Egress (Per C.S.M. 5588 & C.S.M. 4657).
- E** - Permanent Limited Drainage Facility Easement set forth in Deed (Per Document No. 706915 & C.S.M. 5588).
- F** - 10' wide Right-of-Way Grant to Wisconsin Bell Telephone Company Easement (Per Document No. 745510 & C.S.M. 5588).
- G** - 15' wide Utility Easement granted to Wisconsin Electric Power Company and Ameritech-Wisconsin (Per Document No. 791652 & C.S.M. 5588).
- H** - 20' wide perpetual Watermain Easement granted to Village of Germantown (Per Document No. 815048 & C.S. M. 5588).
- I** - 20' wide Storm Sewer Easement (Per Document No. 976900 & C.S.M. 5588).

May 2, 2016

Date



William R. Henrichs
Professional Land Surveyor, S-2419



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Job Number: 120154

This instrument drafted by
William R. Henrichs, PLS S-2419 Sheet 3 of 6 Sheets

CERTIFIED SURVEY MAP NO. _____

Being a redivision of Lot 2 of Certified Survey Map No. 5588, all being a part of the Southeast 1/4 of the Southwest 1/4 of Section 22, Town 9 North, Range 20 East, in the Village of Germantown, Washington County, Wisconsin.

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)
MILWAUKEE COUNTY) SS

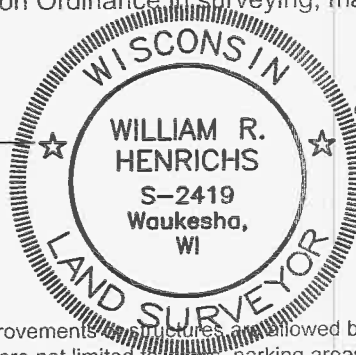
I, William R. Henrichs, Professional Land Surveyor, do hereby certify:
That I have surveyed, mapped and divided Lot 2 of Certified Survey Map 5588, being a part of the Southeast 1/4 of the Southwest 1/4 of Section 22, Township 9 North, Range 20 East, in the Village of Germantown, Washington County, Wisconsin, which is bounded and described as follows:

Commencing at the Southeast corner of said Southwest 1/4;
Thence North 01°58'25" West, on and along the East line of said Southwest 1/4 Section, 295.01 feet to a point; Thence South 88°28'53" West, 17.99 feet to the Southeast corner of Lot 2 of said Certified Survey Map 5588 and place of beginning of the land hereinafter described:
Continuing thence South 88°28'53" West, 250.00 feet;
Thence North 01°58'25" West, 17.00 feet;
Thence South 88°28'53" West, 145.00 feet;
Thence South 01°58'25" East, 247.00 feet to the North line of Mequon Road;
Thence South 88°28'53" West, 210.87 feet on and along the said North line;
Thence North 01°41'14" West, 490.00 feet;
Thence North 88°18'46" East, 49.22 feet;
Thence South 81°49'24" East, 125.00 feet;
Thence North 84°46'57" East, 303.80 feet;
Thence North 88°01'35" East, 135.82 feet to the West line of Squire Drive;
Thence South 01°58'25" East on and along the said West line, 234.78 feet;
Thence South 88°28'53" West, on and along the said West line, 8.00 feet;
Thence South 01°58'25" East on and along the said West line, 25 feet to the place of beginning.
Said lands containing 200,092 square feet, 4.5935 acres.

That I have made such survey, land division and map by the direction of Compass Properties Germantown, LLC., owner of said land.
That such plat is a correct representation of all the exterior boundaries of the land surveyed and the land division thereof made.
That I have fully complied with the provisions of s.236.34 of the Wisconsin State Statutes and the Village of Germantown Land Division Ordinance in surveying, mapping and dividing the same.

May 2, 2016

Date

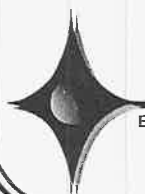


William R. Henrichs

William R. Henrichs
Professional Land Surveyor, S-2419

WI DOT HIGHWAY NOTES

1. S.T.H. "167" Highway Setback: No improvements or structures are allowed between the right-of-way line and the highway setback line. Improvements and structures include, but are not limited to: signs, parking areas, driveways, wells, septic systems, drainage facilities, buildings and retaining walls. It is expressly intended that this restriction is for the benefit of the public as provided in section 236.293, Wisconsin Statutes, and shall be enforceable by the Wisconsin Department of Transportation or its assigns. Contact the Wisconsin Department of Transportation for more information. The phone number may be obtained by contacting the County Highway Department.
2. All lots and blocks are hereby restricted so that no owner, possessor, user, licensee or other person may have any right of direct vehicular ingress from or egress to any highway lying within the right-of-way of S.T.H. "167" or Mequon Road, as shown on the land division map; it is expressly intended that this restriction constitute a restriction for the benefit of the public as provided in s. 236.293, Wisconsin Statutes and shall be enforceable by the department or its assigns. Any access shall be allowed only by special exception. Any access allowed by special exception shall be confirmed and granted only through the driveway permitting process and all permits are revocable.
3. Highway Noise: The lots of this land division may experience noise at levels exceeding the levels in s.Trans 405.04, Table 1. These levels are based on Federal standards. The Wisconsin Department of Transportation is not responsible for abating noise from existing state trunk highways or connecting highways, in the absence of any increase by the department to the highway's through-lane capacity.
4. Vision Corner: No structure or improvement of any kind is permitted within the vision corner. No vegetation within the vision corner may exceed 30 inches in height.



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This instrument drafted by
William R. Henrichs, PLS S-2419

Job Number: 120154

Sheet 4 of 6 Sheets

CERTIFIED SURVEY MAP NO. _____

Being a redivision of Lot 2 of Certified Survey Map No. 5588, all being a part of the Southeast 1/4 of the Southwest 1/4 of Section 22, Town 9 North, Range 20 East, in the Village of Germantown, Washington County, Wisconsin.

OWNER'S CERTIFICATE

Compass Properties Germantown, LLC., a Limited Liability Company duly organized and existing under and by virtue of the laws of the State of Wisconsin, as owner, does hereby certify that said limited liability company caused the land described on this certified survey map to be surveyed, divided, mapped and dedicated as represented on this certified survey map. I also certify that this certified survey map is required by s.236.10 or s.236.12 of the Wisconsin State Statutes to be submitted to the following for approval or objection:

1. Village of Germantown

IN WITNESS WHEREOF, the said Compass Properties Germantown, LLC. has caused these presents to be signed by Tyler J. Noel, President, on this _____ day of _____, 2016.

In the presence of: Compass Properties Germantown, LLC.

By: _____
Tyler J. Noel, President

STATE OF WISCONSIN)
_____ COUNTY) SS

Personally came before me this _____ day of _____, 2016, Tyler J. Noel, President, of the above named limited liability company, to me known to be the person who executed the foregoing instrument, and to me known to be such President of said limited liability company, and acknowledged that he executed the foregoing instrument as such President as the deed of said limited liability company, by its authority.

Notary Public
State of Wisconsin
My Commission Expires: _____

CONSENT OF CORPORATE MORTGAGEE

Associated Bank, National Association, a national banking association duly organized and existing mortgagee of the above described land, does hereby consent to the surveying, dividing, mapping and dedication of the land described on this certified survey map and does hereby consent to the above certification of owners.

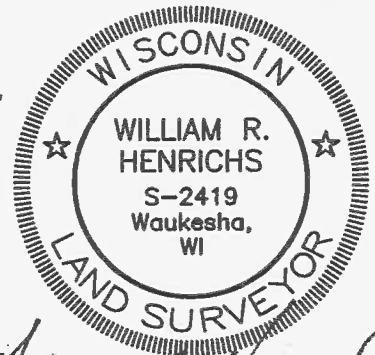
IN WITNESS WHEREOF, the said Associated Bank, National Association, has caused these presents to be signed by _____, its President, and its corporate seal to be hereunto affixed this _____ day of _____, 2016.

Date By: _____
President of Associated Bank, National Association

STATE OF WISCONSIN)
_____ COUNTY) SS

Personally came before me this _____ day of _____, 2016, _____, to me known to be the person who executed the foregoing instrument and to me known to be such officer of said corporation and acknowledged the same.

Notary Public
State of Wisconsin
My Commission Expires: _____



William R. Henrichs
May 2, 2016



This instrument drafted by
William R. Henrichs, PLS S-2419 Sheet 5 of 6 Sheets

Job Number: 120154

CERTIFIED SURVEY MAP NO. _____

Being a redivision of Lot 2 of Certified Survey Map No. 5588, all being a part of the Southeast 1/4
of the Southwest 1/4 of Section 22, Town 9 North, Range 20 East,
in the Village of Germantown, Washington County, Wisconsin.

VILLAGE OF GERMANTOWN PLANNING COMMISSION APPROVAL

This Certified Survey Map is hereby approved by the Planning Commission of the Village of
Germantown, Wisconsin, on this _____ day of _____, 2016.

Date

Dean Wolter, Chairman

Date

Laura A. Johnson, Secretary

VILLAGE OF GERMANTOWN BOARD APPROVAL

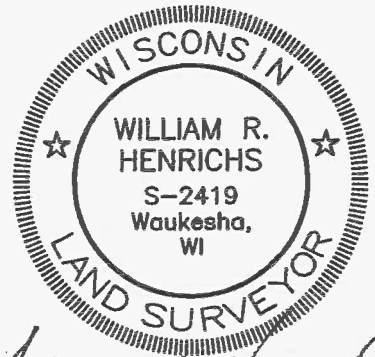
This Certified Survey Map, Being a redivision of Lot 2 of Certified Survey Map No. 5588, all
being a part of the Southeast 1/4 of the Southwest 1/4 of Section 22, Town 9 North, Range
20 East, in the Village of Germantown, Washington County, Wisconsin, having been
approved by the Planning Commission being the same, is hereby approved and is hereby
accepted by the Village Board of Trustees of the Village of Germantown on this _____ day
of _____, 2016.

Date

Dean Wolter, Village President

Date

Barbara K.D. Goeckner, Village Clerk



William R. Henrichs

May 2, 2016

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Job Number: 120154

Sheet 6 of 6 Sheets

MOTION Gray second Nilles to Approve the proposed rezoning of the 5.57 acre area from A-1: Agricultural to M-1: Limited Industrial; and

Approve the proposed 2-lot Certified Survey Map (CSM) for the Roskopf and Phylmack LLC parcels as drafted subject to the following conditions:

- 1. All technical corrections identified in the Village Surveyor's May 24, 2016 memo shall be addressed prior to recording the CSM.***

George Lehnerer, J.W. Speaker, said the technical corrections have been completed. Planner Retzlaff confirmed they had been received but have not been approved yet by the Village Surveyor. Chairman Wolter congratulated J.W. Speaker on their continued growth and continued success in the Village of Germantown.

MOTION carried unanimously.

Ravinia Communities for Hilltop Highlands & Brookside Meadows Mobile Home Parks Hilltop Drive. The owner is seeking approval of a revised site plan in order to realign/reorient six (6) existing mobile home sites within the mobile home park located on Hilltop Drive south of Freistadt Road. Planner Retzlaff summarized the proposal. Herb Wolf, Wolf & Associates, explained the change will reduce the need for contouring the lots, include a new office trailer and help dress up the entrance to the Park.

MOTION Gray second Shadid to Approve a revised site development plan for the Hilltop Highlands Mobile Home Park that realigns six (6) sites (#87 through #94) as shown on the plan maps dated May 10, 2016.

Motion carried unanimously.

Mr. Wolf introduced Joshua Barron the new operations and project manager for the park.

Compass Properties Germantown – W164 N11269-71 Squire Drive. Perspective Design, agent for Compass Property Management, property owner of a 4.6 acre parcel located in the Germantown Marketplace II Planned Development District (PDD) and existing commercial retail center located on Mequon Road, is requesting approval of an amendment to the Planned Development District (PDD) and a 2 lot Certified Survey Map (CSM) application in order to divide the property into two separate parcels. Planner Retzlaff summarized the proposal. He explained the current Germanic themed building architecture that exists today is uncertain for the future because language in the draft resolution is vague as far as where one can take the architecture and materials in the future. He said if there is a desire to ensure that the Germanic architecture remain in place, language could be added to that effect or deal with it if and when it is proposed down the road. Discussion continued regarding the contemporary architecture of Life Church and how the proposed resolution language could allow that type of architectural change for the remaining buildings in the future.

Chairman Wolter said commercial properties have always been held to the Germanic architectural theme along the Mequon Road corridor but churches have never been held to that standard. Discussion continued. Commissioner Laszewski said holding the

development to the same architecture makes sense. Commissioner Nilles said changing the language to specify Germanic architecture would not preclude a property owner from coming back some time in the future to propose something different and he would prefer to stay with the standard that has been set. Planner Retzlaff said there is no reference in the zoning code to the Germanic theme. It is concept implemented and enforced on a case by case basis with the site review process. He said if the Plan Commission wants to lock in the architecture of these three building in some way, he would suggest adding a condition to revise section #6 in the draft resolution.

MOTION Gray second Laszewski to Approve the proposed amendment to the Germantown Marketplace II Planned Development District (PDD) subject to the following conditions:

- 1. The proposed PDD amendment is a “minor” change that does not require a public hearing prior to (or concurrent with) the Village Board’s review and consideration.***

Motion to Amend Nilles to include language that would include architecture within the Germanic style within what is considered Germantown’s Germanic corridor.
Motion dies no second.

Discussion continued. Commissioner Shadid said adding the condition wouldn’t preclude someone from coming to Plan Commission and approving a different design. Peter Ogorek, Perspective Design, said they asked for the variation in architecture to keep that door open for the possibility of a different design style for a future development, without amending the PDD.

MOTION carried unanimously.

MOTION Shadid second Gray to Approve the proposed Certified Survey Map (CSM) to divide the Germantown Marketplace II property into two (2) parcels as proposed subject to the following conditions:

- 1. All technical corrections listed in the Village Surveyor’s May 24, 2016 review memo shall be reflected in a revised CSM prior to recording the CSM.***
- 2. The declaration of covenants containing the proposed cross-access, cross-parking, storm water, utility and sign easements shall be submitted to and be approved by the Village Attorney prior to recording the CSM.***

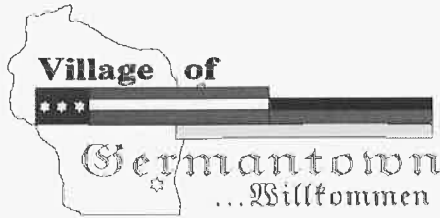
MOTION carried unanimously.

ANNOUNCEMENTS: Chairman Wolter said tomorrow is Flag Day.

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:25 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant



Engineering Department Memorandum

To: Jeff Retzlaff Village Planner

CC:

From: Bob Beilfuss, PLS, Village Surveyor

Date: May 24, 2016

Re: Compass CSM

Jeff,

Here are my review comments for the CSM received 1-8-2016.

Certified Survey Map

Applicant or Owner: Tyler Noel

Land Surveyor/Firm: Bill Henrichs, PLS, DaaR Engineering

Current Zoning **New Zoning:**

1. Building setback line missing along the north line of Lots 1 and 2

No further review comments.

Document Submittals and Data Conversion

As of October, 2005, the Village of Germantown requires a digital copy of all Certified Survey Maps, Condominium Plats and Subdivision Plats in addition to the documents as required by Wisconsin Statute and Village Ordinances as part of the land division approval.

Prior to Recording the Certified Survey Map, the professional land surveyor is responsible for submitting a copy of the AutoCad drawing file (.dwg) of the document in version 2007 on compact disk (CD) or via email to the Village Surveyor.

All digital professional land surveyor seals and signatures will be purged from the digital copy prior to submittal.

The model space of the drawing will be done in Wisconsin State Plane Coordinate System, South Zone (NAD 1927 datum) and the Grid Bearing basis.

Prior to Recording the Certified Survey Map, the Village Engineering Department will verify that the boundary markers have been installed as described on the submitted map. All boundary corners are to be clearly marked in the field by the professional land surveyor of record.

DRAFT

RESOLUTION NO. _____
AMENDING THE ADOPTED CONDITIONS AND RESTRICTIONS
FOR THE PLANNED DEVELOPMENT DISTRICT OF GERMANTOWN MARKETPLACE II

WHEREAS, the Village Board of the Village of Germantown zoned the Germantown Marketplace II (1995 Key Numbers GTNV 223-981 and 223-999) a B-2 Community Business Planned Development (the "PDD") pursuant to Resolution No. 29-95 approved on June 5, 1995 and ~~amended on February 17, 2003 by Resolution No. 07-03~~; and

~~**WHEREAS**, Life Church, Inc., a Wisconsin nonstock corporation ("Applicant") acquired those portions of the lands subject to the PDD consisting of 2009 Key Numbers GTNV 223-852 and 223-853 (hereinafter "the Property"), and the Village Board of the Village of Germantown issued Conditional Use Permit #01-01A to the Applicant to authorize the operation of a church on the property; and~~

~~**WHEREAS**, the Applicant has applied for rezoning of the Property to the I Institutional District to facilitate expanded religious and educational uses on the Property, thereby removing the Property from the PDD; and~~

WHEREAS, Section 17.27(4) of the Village of Germantown Municipal Code (the "Code") allows for the adoption of conditions and restrictions for PDDs; and

WHEREAS, various amendments, conditions and restrictions were applied to the PDD by Resolution Nos. ~~29-95 and 07-03~~ and 09-43-09 (together with Resolution No. 29-95, the "PDD"); and

~~**WHEREAS**, the Plan Commission has recommended further amending the conditions and restrictions for the PDD, removing the Property from the PDD and rezoning the Property to I Institutional District on the date hereof;~~

~~**WHEREAS**, the Village of Germantown desires to remove the Property from the PDD, provided that the PDD may continue as a standalone PDD;~~

WHEREAS, Compass Properties Germantown, LLC ("Applicant"), as owner of Lot 2 CSM 5588 (Key Number GTNV 223-851) (the "Property"), has applied for approval of a new Certified Survey Map ("CSM") creating new Lots 1 and 2; and

WHEREAS, the Plan Commission, at its meeting held on _____, has recommended further amending the conditions and restrictions for the PDD.

NOW THEREFORE BE IT RESOLVED that the Village Board of the Village of Germantown hereby amends the Germantown Marketplace II PDD as follows:

1) **General Site Plan:** The plan set dated and revised April 27, 1995 and further revised October 28, 2009 ~~to exclude the Property~~ shall, after the date hereof as modified herein, be considered the approved General Site Plan ~~for the remaining PDD property (excluding the Property) includes the following overall project groups: site grading and utilities plan, development plan, landscaping plan, lighting plan, architectural designs and roadway alignment plans. Detailed site plans covering any portion of the total project intended for any future construction shall be presented to the Plan Commission prior to issuance of any building permits. These detailed plans shall conform substantially to the approved General Site~~

Plan and shall comply with the requirements of Section 17.43 of the Code for site plan approval. If material revisions of the site plan are necessary due to adverse site conditions, resubmittal and approval of all such revisions by the Plan Commission will be required.

2) **Building Bulk Regulations:**

Front Yard Setback	from Mequon Road right-of-way	= 35 feet
	from Squire Drive right-of-way	= 35 feet
Side Yard Setback	from north property line	= 15 14.75 feet
	from west property line	= 30 feet
Internal building separation		= minimum 30 feet
Maximum building height		= 45 feet
Average lot area		= 155,000 SF (3.5 Acres)
Minimum lot area		= 35,814 sf (0.82 acres)
Maximum lot coverage for the entire site Including parking and loading areas		= 75 85% provided that all areas of existing hard surface on the PDD property are permitted.
Floor area per store		= 450 SF minimum 50,000 SF maximum

All existing lot frontage, lot area, lot coverage, setbacks and separations are considered compliant.

3) **Lot Size and Access:** All future parcels within this PDD shall maintain ~~an average of 155,000 SF a~~
minimum of 35,814 SF per lot, with Plan Commission and Village Board approval of all lot splits and
easement agreements, pursuant to Chapter 18, Municipal Code. The Wisconsin Department of
Transportation shall approve the location and size of access drives to Mequon Road (State Highway
167). The Village Engineer shall approve the location and size of access drives to Squire Drive. The
location of these access points shall substantially comply with the General Site Plan.

4) **Parking:** ~~When completed, the~~ PDD shall include a minimum of 250 off-street parking spaces.
The overall parking ratio shall be a minimum of one parking space for every 400 SF of first floor building
area; ~~plus one space for each 4 seats in auditorium or theater uses.~~ Parking layout shall substantially
comply with the General Site Plan. Parking by invitees to the lands subject to the PDD onto the Property
and parking by invitees to the Property onto the lands subject to the PDD, to the extent authorized by
recorded easement, may be considered to satisfy the parking requirements set forth in this paragraph.

Within the parking lot areas of ~~lots 1 through 2 and the Property~~ the PDD, the interior parking lot
greenbelt shall be reduced from 8' from the property lines to 0'. All parking areas abutting a public
roadway (Mequon Road and Squire Drive) must maintain a minimum of an 8' greenbelt. In addition, the
western lot line of lot 2 of CSM 5588 shall maintain a minimum of 8' greenbelt for all parking and loading
areas.

The existing parking stall size, accessory landscape areas, accessory landscape islands, and greenbelt configurations are considered compliant.

5) **Stormwater Retention:** ~~A portion of the Property is devoted to area for retention of stormwater runoff from the parking lot and building roofs of the Property and the lands remaining subject to the PDD. Stormwater on the Property and the lands remaining subject to the PDD shall continue to be managed consistent with the Easements and Covenants Agreement recorded on February 27, 2003 with the Washington County Register of Deeds as Document No. 976900 (the "ECR") as amended by the First Amendment of Easements and Covenants Agreement reviewed together with this resolution (the "Amendment") as it may be amended.~~

6) **Architectural Design and Exterior Materials:** The architectural design of the commercial buildings on Lot 1 or Lot 2 of CSM 5588 shall generally conform in style, design, finish materials and appearance as depicted in the architectural designs approved as part of the General Site Plan the other buildings on Lot 2 of CSM 5588 or generally conform in style, design, finish materials and appearance to the more contemporary Life Church buildings to the north of Lot 2. These designs were reviewed by the Plan Commission on April 24, 1995, and approved by the Village Board on June 5, 1995. These will be the minimum guidelines used by the Plan Commission for architectural approval for each building.

7) **Accessory Buildings:** No accessory storage garages or other extraneous buildings shall be permitted in the PDD. All garages and storage areas shall be within or attached to a principal building. Dumpster locations and screening shall be reviewed on the specific site plans. Existing trash areas, dumpster locations and screening are considered compliant.

8) **Signage:** The 6.74 acre site remaining subject to the PDD shall be allowed a total of ~~three (3)~~four (4) free standing signs allotted in the following manner:

- a) One monument sign at the intersection of Mequon Road and Squire Drive (Speedway Gas Station is the current tenant).
- b) One monument sign located in the southwest corner of Lot ~~21~~ (per proposed CSM of Lot 2 of CSM 5588). The size of this sign shall be a maximum of 80 SF per side, with a maximum of 160 SF for both sides. The existing monument sign in this location is considered compliant.
- c) One monument sign located on Lot 1 of CSM 5588 abutting Mequon Road. The sign shall not exceed 80 SF per side, with a maximum of 160 SF for both sides. The existing monument sign in this location is considered compliant.
- d) One monument sign to be located on Lot 2 (per proposed CSM of Lot 2 of CSM 5588) abutting Squire Drive. The sign shall not exceed 80 SF per side, with a maximum of 160 SF for both sides.

Each building shall be allowed individual signage calculated in the following manner: leasehold width X .8 X 2. [e.g. store with 50 feet of width gets 50X.8X2 = 80 SF.] No wall or roof sign shall extend more than 5 (five) feet above the eave of the roof.

In addition, all signs described in the ECR, as amended by the Amendment, including off-premises signage benefiting the Property lands remaining in the PDD, shall be allowed. No off-premises signage benefitting lands outside of the PDD shall be allowed. Existing building-mounted signs and monument signs are considered compliant.

9) **Interior Roadway Construction and Ownership:** All internal roadways, parking spaces, ~~and~~ access drives and stormwater retention areas shall be privately owned. Standards for construction will be reviewed and approved by the Village Engineer prior to new construction.

10) **Entrance Design Standards:** Entrance curb openings shall be designed and reconfigured only after review and approval of location and sizing by the Village Engineer on Squire Drive and State Department of Transportation on Mequon Road (STH 167). Existing shared driveways, driveway dimensions, and driveway locations are considered compliant.

11) **Maintenance of Interior Roadways and Common Open Space:** ~~Permanent~~Ongoing maintenance on the interior roadways, parking spaces and stormwater retention areas shall be assured by requirements in the Developer's Agreement to permanently indemnify the Village of any and all maintenance responsibilities, except due to the acts or omissions of the Village of Germantown.

12) **Landscaping:**

- a) Any new sStreet trees along Mequon Road and Squire Drive shall be installed at a maximum 35 foot separation. All existing tree configurations are considered compliant.
- b) Any new specific landscaping plan for the west property line shall be approved by the Plan Commission~~shall be maintained.~~ All existing landscaping on the west property line is considered compliant.
- c) ~~Specific~~Any new foundation landscaping plans that are materially different than what is existing shall be approved by the Plan Commission~~shall be maintained.~~ All existing configurations and planting are considered compliant.
- d) The existing ratio of landscape to hardscape is considered compliant.

13) **Lighting:**

- a) Any new general site lighting plan shall be approved by the Plan Commission~~shall be maintained.~~ All existing lighting and configuration is considered compliant.
- b) Any new sSpecific lighting plans shall be submitted and approved by the Plan Commission as buildings are proposed throughout the site. These lighting plans shall meet all standards in existence at the time of application. All existing specific lighting is considered compliant.

14) **Public Utilities:** ~~It shall an explicit condition of this approval that t~~The Village Engineer must approve all grading plans, on-site stormwater retention facilities, sanitary sewer and municipal water system extensions by written permit prior to construction of these facilities. All existing grading, on-site stormwater retention facilities, sanitary sewer and municipal water system extensions are considered compliant. The developer will provide all necessary easements and dedication of facilities as required by

the Village Engineer

15) **Garbage and Refuse Collection:** Garbage and refuse collection and disposal shall be assured by requirements in the ~~Developer's Agreement~~ Declaration of Conditions, Covenants, and Restrictions for the property to permanently indemnify the Village of any and all collection and disposal responsibilities, except due to the acts or omissions of the Village of Germantown.

16) **Agreements:** This Amendment, in substantial conformity to the form reviewed and approved by the Village Board on ~~December 21, 2009~~ _____, shall be signed, dated and recorded at the Washington County Register of Deeds office. A copy of the recorded document shall be submitted to the Village.

17) **Existing Conditions:** Nothing contained in this Amendment is intended to render the remaining PDD property nonconforming, and all conditions at the remaining PDD property in existence as of the date of this Amendment are deemed to be in compliance with this Amendment.

Introduced by Village President ~~Thomas Kempinski~~ Dean Wolter

Adopted: ~~December 21, 2009~~ _____

Vote: Ayes: 9 ___ Nays: 0 ___

~~Thomas Kempinski~~ Dean Wolter, Village President

Attest: _____

~~Elizabeth Knaak, MMC~~

Barbara K.D. Goechner

Village Clerk

**DECLARATION REGARDING
CONDITIONS, COVENANTS,
AND RESTRICTIONS**



Drafted By and Return To:

Angela Black
Whyte Hirschboeck Dudek S.C.
33 East Main Street, Suite 300
Madison, WI 53703-4655

PIN: GTNV 223-851

THIS DECLARATION REGARDING CONDITIONS, COVENANTS, AND RESTRICTIONS (the "Declaration") is made as of the _____ day of _____, 2016, by Compass Properties Germantown, LLC, a Wisconsin limited liability company ("Declarant").

WHEREAS, Declarant is the owner of Lots 1 and 2 of Certified Survey Map No. _____ recorded _____ in the Office of the Washington County Register of Deeds as Document No. _____ (the "CSM") as more particularly shown on the attached Exhibit A;

WHEREAS, Declarant desires to establish for itself, its successors and assigns and the future owners ("Owners") of Lots 1 and 2 of the CSM (each a "Lot" and collectively the "Lots") and their respective tenants, subtenants, licensees, contractors, concessionaires, suppliers, agents, employees, customers, and invitees (collectively, "Permittees") certain easements, rights, privileges and restrictions, and to provide for timely and proper maintenance and repair of such easements as more fully described below; and

WHEREAS, The Lots are subject to the Ingress/Egress Easement Agreement dated September 3, 1996 and recorded September 6, 1996 as Document No. 727466, and further subject to the Easements and Covenants Agreement dated February 17, 2003 and recorded February 27, 2003 as Document No. 976900 (collectively, the "Prior Agreements").

NOW, THEREFORE, Declarant declares the Lots be owned, held and occupied subject to the following covenants, conditions, restrictions and easements:

1. DEFINITIONS.

- a) "Easement Areas" or "Easements" shall collectively refer to the locations and rights of the Cross Access Easement, Cross Parking Easement,

Stormwater Drainage Easement, Utility Easement and Sign Easement described below.

2. EASEMENTS.

- a) Cross Access Easement. Declarant declares a non-exclusive, private "Cross Access Easement," for the mutual benefit of the Lots, and the Owners of the Lots and their Permittees, over, across and through any area within the Lots which may now or in the future be improved as a paved driveway, sidewalk, or other similar surface. The Cross Access Easement shall be used solely for the purpose of vehicular and pedestrian ingress and egress, passage, and travel among the Lots, and to and from the Lots to the nearest adjacent public rights of way (Squire Drive and Mequon Road as of the date of this Declaration). An Owner shall have the right, at its sole cost and expense, to relocate any area of the Cross Access Easement located on that Owner's Lot upon thirty (30) days' advance notice to all other Owners provided, however, that (i) each Owner shall be obligated at all times to maintain a paved driveway upon its Lot in such a manner and in such a location so as to coordinate and connect with the portion of the Cross Access Easement located upon any other Lot, (ii) any relocated Cross Access Easement upon a Lot shall continue to provide unimpeded and legal ingress and egress among the Lot and to and from a public right of way in accordance with the purposes of this Declaration, and (iii) upon relocation, the Owners of all the affected Lots shall execute and record an amendment to this Declaration depicting and describing the area of the relocated Cross Access Easement. Each Owner shall bear its own costs in connection with the preparation and negotiation of such amendment to this Declaration. The cost of recording such amendment shall be borne by that Owner who relocates and/or reconfigures the Access Easement Area on its Lot.
- b) Cross Parking Easement. Declarant declares a non-exclusive, private "Cross Parking Easement," for the mutual benefit of the Lots, and the Owners of the Lots and their Permittees, over all portions of the Lots now or hereafter improved for and intended for use for vehicular and bicycle parking. The Cross Parking Easement shall be used solely for the purpose of vehicle and bicycle parking. An Owner may not permanently reduce the available parking on its Lot but shall have the right to relocate or reconfigure the Cross Parking Easement located on that Owner's Lot upon thirty (30) days' advance notice to all other Owners provided, however, that any relocated or reconfigured Cross Parking Easement upon a Lot (i) continues to comply with all applicable laws, regulations, and ordinances, (ii) remains in accordance with the purposes of this Declaration, and (iii) upon relocation or reconfiguration, the Owners of all the affected Lots shall execute and record an amendment to this Declaration depicting and describing the new location of the Cross Parking Easement. Each Owner shall bear its own costs in connection with the preparation and negotiation

of such amendment to this Declaration. The cost of recording such amendment shall be borne by that Owner who relocates and/or reconfigures the Cross Parking Easement Area on its Lot. An Owner shall have the right to temporarily obstruct a portion of the Cross Parking Easement Area on a Lot owned by it for purposes of conducting short-term outdoor events without consent of the other Owners. Temporary obstruction, for any reason, of a portion of the Cross Parking Easement Area located on a Lot owned by another requires prior consent of the affected Owner.

- c) Stormwater Drainage Easement. Declarant hereby declares for the mutual benefit of the Lots, and the Owners of the Lots and their Permittees, a non-exclusive, private, "Stormwater Drainage Easement" over and across the Lots, and all existing or future stormwater management and infiltration facilities and improvements on the Lots (collectively "Stormwater Facilities"), for the purposes of allowing passage and infiltration of stormwater on and across the Lots and functioning with the Storm Sewer Easement set forth in the Easements and Covenants Agreement dated February 17, 2003 and recorded February 27, 2003 as Document No. 976900.
- d) Utility Easement. Declarant hereby declares for the mutual benefit of the Lots, and the Owners of the Lots, a non-exclusive, private, reciprocal "Utility Easement" over, across and through the Lots for access to and the maintenance, repair and replacement of all existing utilities. If the Declarant or future Lot Owner reasonably requires an easement for utilities over another Owner's Lot, such Owners shall reasonably cooperate with each other and act in good faith in connection with the granting of such an easement.
- e) Sign Easement. Declarant hereby declares for the mutual benefit of the Lots, and the Owners of the Lots and their Permittees a non-exclusive "Sign Easement" for access, ingress and egress over Lot 2 to install, maintain, repair, and replace a monument sign in accordance with all applicable laws, regulations and ordinances on Lot 2 over any area on Lot 2 upon which a such a sign may hereafter be erected. Any exercise of Sign Easement rights on Lot 2 shall be at the sole cost and expense of the Owner of Lot 2. Any modifications of the sign installed by Owner of Lot 2 that are for the benefit of a tenant in a building located on Lot 1 shall be at the cost of the Owner of the building whose tenant is benefiting from the sign modification. The existing sign located on Lot 1 is for the exclusive use of Lot 1 Owner and its Permittees only.

3. MAINTENANCE OF EASEMENT AREAS; UTILITY CHARGES. In the event all the Lots are no longer under common ownership, and subject to the Prior Agreements, the Owner of the Lot nearest Mequon Road (the "Manager") shall perform all maintenance and repair required within the Easement Areas, to maintain the same in good condition and repair

and, in Manager's reasonable judgment, with the same type and quality of materials as the original construction or such substitute materials as are equal or superior to such original materials in quality, appearance and durability, in accordance with applicable industry standards. Manager shall have the right to stockpile snow on the Lots as needed, at Manager's sole discretion.

- a) All reasonable costs and expenses incurred by Manager for such maintenance and repair work ("Maintenance Cost") , including any costs incurred pursuant to the Prior Agreements, shall be shared proportionately among the Owners of all of the Lots based on land area. Each Owner's proportionate share shall be determined by dividing the land area of each Lot by the total land area of all Lots.
 - i. Upon performance of maintenance or repair work by Manager as required by this Declaration, Manager shall bill each other Owner for its proportionate share of the Maintenance Cost, plus a ten percent (10%) administrative fee, and each other Owner shall reimburse Manager within thirty (30) days of receipt of the bill.
 - ii. If an Owner fails to make payment within such thirty- (30-) day period, the amount of the bill shall accrue interest at the lesser of six percent (6%), or the maximum rate of interest allowed by law. The amount of any unpaid bill, plus accrued interest, shall constitute a lien against that Owner's Lot if permitted by applicable laws.
- b) Notwithstanding anything to the contrary in subsection (a) above or elsewhere in this Declaration, any damage within any Easement Area which is caused by the negligent or willful acts of any Owner or its Permittees shall be repaired by Manager consistent with subsection (a) above, but at the sole cost and expense of that Owner.
- c) Notwithstanding anything to the contrary in subsection (a) above or elsewhere in this Declaration, Manager shall have no obligation to or liability for repairs, maintenance and/or replacement of any capital items or improvements (including, but not limited to parking lots or areas, driveways, sidewalks curbs, lighting, light poles and landscaping) which are not located in the Easement Areas or are dedicated for the benefit of a single Lot. If any Owner fails or refuses within thirty (30) days following written notice from Manager to perform any maintenance, repair or replacement required under this Declaration, the Manager may elect (but shall not be required) to cause or perform the required maintenance, repair or replacement consistent with subsection (a) above, but at the sole cost and expense of the non-responsive Owner.

4. RESERVED RIGHTS; OBLIGATIONS.

- a) Except to the extent expressly set forth in this Declaration, each Owner shall be solely responsible to:
 - i. Maintain and repair the Owner's respective Lots and all associated improvements as a first-class retail building;
 - ii. Keep the Lots in good repair and in a safe condition in accordance with all applicable laws, regulations, and ordinances;
 - iii. Ensure all maintenance, repair and improvements to the Owner's Lot and the improvements thereon be architecturally harmonious either with the improvements then-located on the other Lots and on adjacent parcel GTNV 223-854 or with the improvements then-located on parcel GTNV 224-856; and
- b) Subject to the default and cure provisions in this Declaration, each Owner shall be solely responsible to pay when due all utilities charges metered to, and real and personal property taxes or special assessments levied against, their respective Lot or Lots.
- c) The Owners and their successor owners or assigns shall have the right to use each of their respective Lots in any way not inconsistent with the Easements and Exclusives provided herein, however, no Owner or its Permittees may grant any easement, right-of-way, or other right or license to give any rights to adjacent lands rights to any Lots other than as provided for herein.
- d) The Owners, and their respective Permittees, shall not do or permit anything to interfere with the use and enjoyment of the Easements granted by this Declaration, provided, however, temporary obstructions (a) as may be necessary for the performance of the obligations required under this Declaration, or (b) as may result from any Owner's exercise of the rights granted under this Declaration, shall be permitted so long as use of the Easements is not completely prevented by such temporary obstruction, or the Owner or Permittee causing or permitting the obstruction provides alternate use or access rights during any total obstruction, if applicable.

5. PROHIBITED AND EXCLUSIVE USES. During the term of this Declaration, the following uses shall be prohibited on the Lots: Pool hall, pawn shop, adult video/entertainment store, off-track betting establishment, abortion/drug rehabilitation offices/facility, liquor store, tattoo/body art/piercing shop, gun/weapons shop, smoke/tobacco/marijuana outlet, massage parlor, or any other use similar or related to those listed above. The Owner of Lot 2 shall have the exclusive right to the following use during the term of this Declaration: Martial arts or fitness related school/studio (does not include general gym use). The following use shall not be allowed on either Lot prior to January 31, 2021: hair salon or barber shop. The following uses shall not be allowed on either Lot prior to January 1,

2023: packing and shipping services; UPS, DHL, FedEx or any other related overnight delivery and/or courier services; sales of USPS® metered mail; facsimile services for profit; printing services (including color and black and white photocopying, digital printing, digital imaging, binding, on-line printing/document access, mounting, laminating, large format printing, and the production of banners); on-site computer rentals (including document access); mailbox services; digital live scan technology (i.e., fingerprinting); or any substitutes which are the technological evolution of the foregoing (except as incidental to tenant's transactions).

6. INSURANCE. So long as this Declaration is in effect, each Owner shall keep and maintain a policy of commercial general liability insurance with respect to that Owner's and its Permittees' use and enjoyment of the Easements with a combined single limit of Two Million Dollars (\$2,000,000) general aggregate for injury to or death of persons and loss of or damage to property. Each Owner, and if requested by another Owner, such Owner's mortgagee or mortgagees, shall be named as an additional insured on such policy and a certificate evidencing such coverage shall be furnished to each other Owner within thirty (30) days of request.

7. INDEMNIFICATION. Each Owner shall indemnify, defend and hold all other Lot Owners harmless against all claims for injury or death to persons, damage to or loss of property, demands, actions, causes of action, losses (including, but not limited to, loss of rents resulting from the termination by a tenant of its lease), damages, costs, and expenses, including court costs and reasonable attorneys' fees, including any cost or legal expenses of an Owner due to the negligence or willful misconduct of such Owner or its Permittees. This indemnification and release shall be applicable notwithstanding any Owner's failure to insure as required herein.

8. DEFAULT AND REMEDIES

- a) Default and Enforcement. If any Owner fails or neglects to perform any obligation or pay any amount required by this Declaration or violates this Declaration, any other Owner may deliver written notice demanding compliance or payment. If the defaulting Owner fails to comply or pay within thirty (30) days of receiving the notice, the other Owner shall have the right to enforce this Declaration by proceedings at law or in equity, and shall be entitled to damages, injunctive relief, specific performance or any other remedy available at law or in equity. If a lawsuit or other cause of action is brought to enforce this Declaration, the prevailing party shall be entitled to recover its actual costs and expenses in bringing or defending against the lawsuit or action, including reasonable attorney's fees, from the non-prevailing party. The term "prevailing party" means the party obtaining substantially the relief sought, whether by compromise, settlement or judgment.
- b) Right to Cure. In addition to any other remedies provided in this Declaration, if any Owner, or its Permittees, fails to comply with any applicable provisions of this Declaration within thirty (30) days following written notice from another Owner, the noticing Owner shall have the right, but not the obligation, to perform or cause to be performed such maintenance, replacement, restoration or other action as the noticing

Owner deems necessary or appropriate to cure the violation, and the actual costs and expenses incurred by such noticing Owner shall be reimbursed by the other Owner.

9. RUNNING WITH THE LAND. All the provisions in this Declaration, including the benefits and burdens, are perpetual and shall run with the land and shall be binding upon and inure to the benefit of the Lots and be enforceable by the Owners and their respective successors and assigns in ownership of the Lots. The Easements are solely for the benefit of the Lots and shall not benefit any other lands other than the Lots. The Owners, and any successor or assign in ownership, shall cease to have any liability under this Declaration arising after they no longer have a fee simple ownership interest in any Lot.

10. NO PUBLIC DEDICATION. Nothing in this Declaration shall be deemed to be a gift or dedication of any portion of the Easements to the general public or for any public purpose whatsoever.

11. NON-USE. Non-use or limited use of the Easements shall not prevent the later use of the same to the fullest extent authorized herein.

12. PRIOR AGREEMENTS. Nothing contained in this Declaration is intended to affect, supersede, amend or obviate the Prior Agreements or any provision thereof.

13. SEVERABILITY. If any portion or provision of this Declaration, or its application to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Declaration and the application thereof shall be valid, and enforced, to the fullest extent permitted by law.

14. WAIVERS. Whenever a waiver, consent or approval is required or permitted herein, it must be express and in writing; no waiver, consent or approval shall be implied. No delay or omission in exercising any right or power accruing upon any default, non-compliance or failure of performance under this Declaration shall be construed to be a waiver. A waiver of any obligation under this Declaration shall be in writing by the waiving party and shall not be construed to be a waiver of any subsequent breach or a breach of any other terms, covenants or conditions of this Declaration.

15. CAPTIONS. The captions and section headings in this Declaration are intended for convenience only and in no way define or limit the scope or intent of the various provisions herein.

16. GOVERNING LAW. This Declaration shall be construed and enforced in accordance with the laws of the State of Wisconsin, without regard for conflict of law provisions.

17. ENTIRE DECLARATION; AMENDMENT. Except as set forth herein, this Declaration and the Easements may not be terminated, amended or changed except by a written document executed and acknowledged by all the Owners and duly recorded in the office of the Register of Deeds of Washington County, Wisconsin.

[signature on following page]

This Declaration is made effective as of the date set forth above.

DECLARANT:

Compass Properties Germantown, LLC

By: _____
Tyler J. Noel, President

STATE OF WISCONSIN)
) ss.
COUNTY OF _____)

On _____, 2016, before me personally appeared Tyler J. Noel, as the President of **Compass Properties Germantown, LLC**, who is personally known to me to be the same person who executed the within instrument, in the stated capacity, on behalf of the company, and who duly acknowledged the execution of the same to be his free act and deed, duly authorized by the company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(Print or type name of Notary)_____
Notary Public, State of Wisconsin
My commission (is permanent) (expires: _____.)

EXHIBIT A

CSM

PLAT OF SURVEY

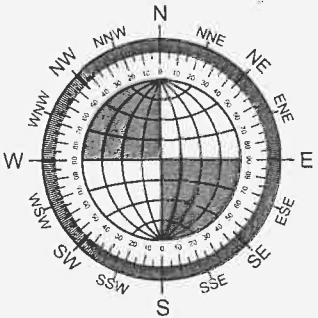
Survey No. 120154

LOCATION: N112W16560 Mequon Road, Germantown, Wisconsin

LEGAL DESCRIPTION:

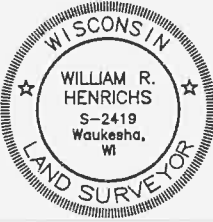
Lot Two (2), of Certified Survey Map No. 5588, recorded February 27, 2003, Volume 40 of Certified Survey Maps, Pages 149-158, as Document No. 976899, being a re-division of Parcel 2, Certified Survey Map No. 4657, all being a part of the Southeast 1/4 of the Southwest 1/4 and the Southwest 1/4 of the Southeast 1/4 of Section 22, Town 9 North, Range 20 East, in the Village of Germantown, Washington County, Wisconsin. Tax ID No.: GTNV 223-851

OFFICE OF THE VILLAGE PLANNER
VILLAGE OF GERMAN TOWN
MAY 09 2010
RECEIVED



Bearings refer to Grid North of the Wisconsin State Plane Coordinate System Grid, South Zone per N.A.D. 1927. The East line of the Southwest 1/4 of Section 22, Township 9 North, Range 20 East has a reference bearing of N 01°58'25" W.

Prepared For:
Compass Properties Germantown, LLC
735 N. Water Street
Milwaukee, WI 53202
414-765-0305

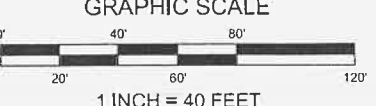


DAAR ENGINEERING, INC.
ENGINEERS PLANNERS SURVEYORS
518 West Cherry Street, Milwaukee, WI 53212
PHONE (414) 604-0674 FAX (414) 604-0677
www.daarcorp.com

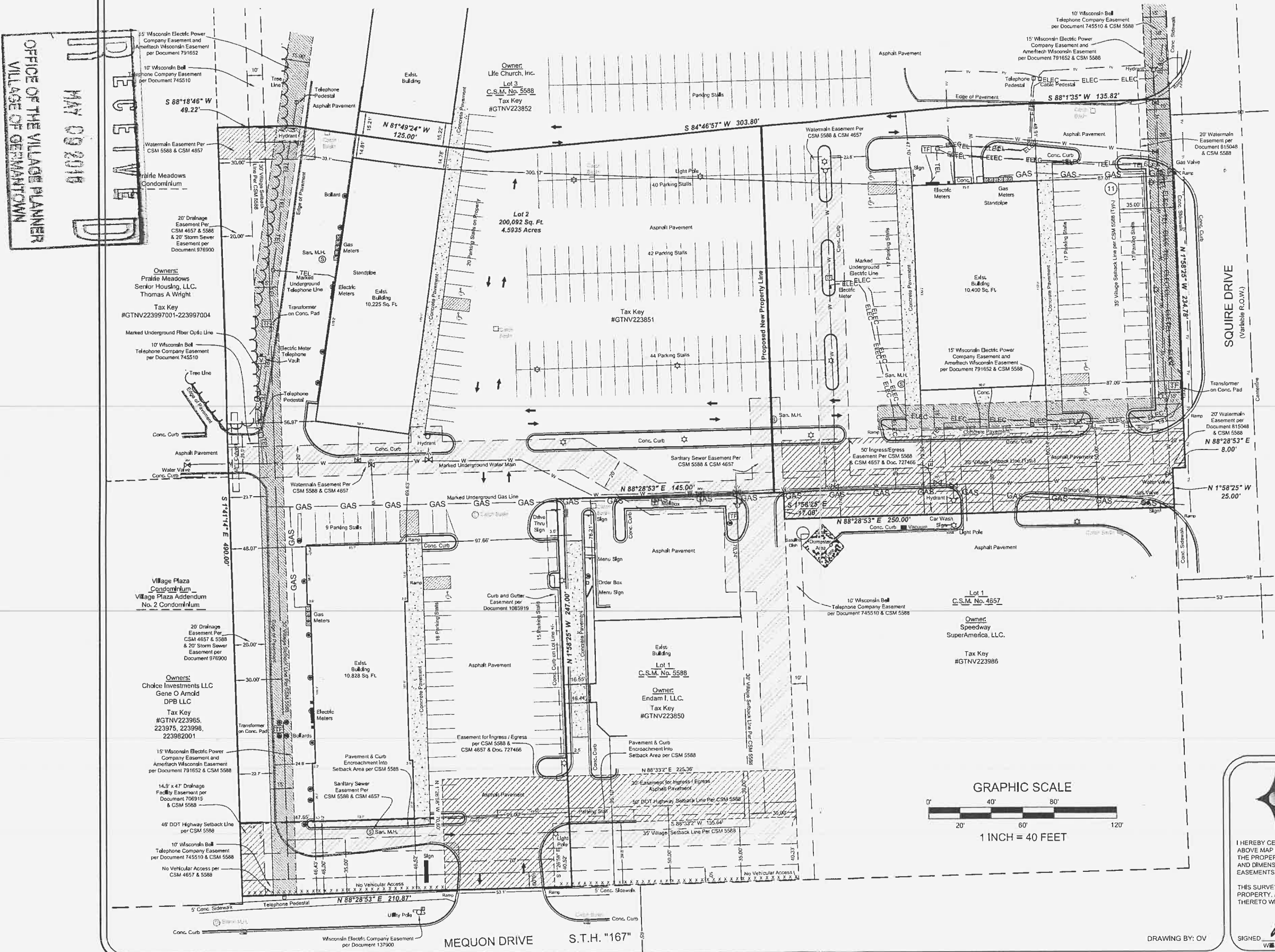
I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY, ITS EXTERIOR BOUNDARIES, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS AND ROADWAYS AND VISIBLE ENCROACHMENT, IF ANY.

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM THE DATE HEREOF.

William R. Henrichs
SIGNED: William R. Henrichs, Professional Land Surveyor S-2419



DRAWING BY: OV



X.B.

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

MEETING DATE: July 18, 2016

AGENDA ITEM: New Business (CERTIFIED SURVEY MAP)

ITEM TITLE: Robert & Lori Snow, Property Owners of a 29.4-acre parcel located at W148 N12301 Pleasant View Drive; 3-Lot Certified Survey Map (CSM)

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

SUMMARY EXPLANATION:

In 1999, Robert & Lori Snow received approval of a certified survey map and rezoning that resulted in the creation of the subject 29.4-acre parcel in the Rs-1 Zoning District. As part of that CSM, a 60' ingress/egress easement was created in order to provide access to/from a separate 38.7-acre parcel lying to the west. At this time, the owners of the 29.4-acre parcel are requesting approval of a 3-lot Certified Survey Map (CSM) to divide the 29.4-acre parcel into three (3) residential parcels (two new parcels lying north of the existing ingress/egress easement).

ATTACHMENTS:

- ◆ 6/13/16 Staff Report
- ◆ 6/13/16 Plan Commission Meeting Minutes
- ◆ Preliminary CSM & Access Easement Agreement

PLAN COMMISSION RECOMMENDATIONS:

APPROVE the proposed 3-lot Certified Survey Map (CSM) for the Robert and Lori Snow property on Pleasant View Drive subject to the following conditions:

1. All requirements and technical corrections identified in the Village Surveyor's May 24, 2016 memo shall be addressed in a revised CSM prior to Village Board approval.
2. A shared driveway/access easement agreement applicable to the 40' ingress/egress easement across the interior property lines shall be prepared and submitted to the Village for review prior to review of the CSM by the Village Board. At a minimum, the agreement shall address construction of the driveway to the minimum design standards set forth in Section 18.07(d) of the Village's Subdivision Code, and, ownership and maintenance responsibilities for the easement and driveway.

NOTE: Both conditions have been met; the CSM has been revised as directed and the declaration of covenants has been submitted to the Village Attorney.

CERTIFIED SURVEY MAP (CSM)

6/13/16 Plan Commission Meeting

Robert & Lori Snow

Village Planner Report

Germantown, Wisconsin

Summary

Robert & Lori Snow, property owners of a 29.4-acre parcel located on Pleasant View Drive are requesting approval of a 3-lot Certified Survey Map (CSM) in order to create three (3) residential parcels.

Location: W148 N12301 Pleasant View Drive (south of Lovers Lane)

Property Owner/

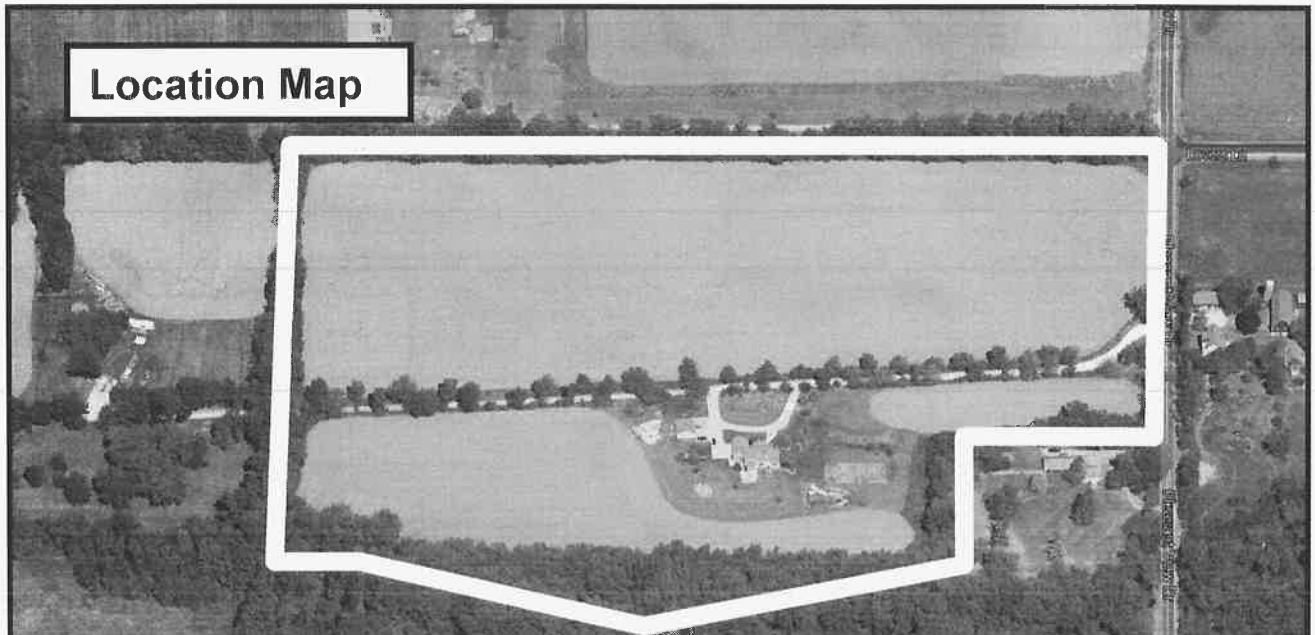
Applicant:

Robert Snow & Lori Snow
W148 N12301 Pleasant View Drive
Germantown, WI

Current Zoning District: Rs-1: Single-family

Adjacent Land Uses		Zoning
North	Agricultural/Residential	A-1/Rs-2
South	Residential	Rs-1
East	Agricultural	A-1/A-2
West	Agricultural	A-1

Location Map



Proposal/Background

In 1999, Robert & Lori Snow were party to a certified survey map proposal that resulted in the rezoning and creation of the subject 29.4-acre parcel into the Rs-1 Zoning District. As part of CSM #5124 (copy attached), a 60' ingress/egress easement was created in order to provide access to/from a separate 38.7-acre parcel lying to the west.

At this time, Robert & Lori Snow, property owners of the 29.4-acre parcel located on Pleasant View Drive (Lot 2 in the original CSM), are requesting approval of a 3-lot Certified Survey Map (CSM) in order to divide the 29.4-acre parcel into three (3) residential parcels (two new parcels lying north of the existing ingress/egress easement.

Staff CommentsConformance with Zoning District & Subdivision Requirements.

The proposed lots meet the requirements of the Rs-1 Zoning District. Soil evaluations are being prepared for two of the proposed parcels (Lot 1 & Lot 2) with the third parcel containing an existing dwelling and septic system (Lot 3).

The most significant feature of the proposal is the limited amount of road frontage and shared driveway easement proposed for the three parcels. As set forth in Section 18.07 of the Subdivision regulations (copy attached), a private shared driveway (listed therein as "private street") may be permitted by the Village Board provided that certain criteria and design standards are met. The proposed 3-lot CSM appears to comply with the criteria under 18.07(1)(d) with sufficient area to meet the minimum design standards in Table 3.

The Village Surveyor has identified a number of technical corrections/issues in his May 24, 2016 review memo (copy attached) that will need to be addressed as part of the final CSM prior to Village Board approval and recording.

The most important issue concerns road right-of-way for the possible future extension of Lovers Lane westerly from Pleasant View Drive. As discussed in 2015 when the Schlee property 3-lot CSM was being considered (i.e. the land located adjacent to and north of the Snow property), the construction of Lovers Lane west of Pleasant View Drive was anticipated as far back as 1850 when the (then) Town Board ordered Lovers Lane to be created as a 4 rod road (in a 66' wide highway easement). It's important to note that there is a strip of land 16.5 feet wide south of the Schlee property that has a different property owner. As a result, the Village required the Schlee's to reserve 23.5' along their south property line. The 16.5' strip of land would have to be acquired by purchase or dedication to the Village to make up the balance of the 40' wide right-of-way north of the ¼ section line. As shown on the original Snow CSM (CSM#5124), a separate 40' wide "road reservation" already exists along the south side of the ¼ section line. Both the Schlee and Snow 40' wide road reservations are consistent with the Village's ultimate right-of-way map that requires a total of 80 feet of right-of-way for the future extension/construction of Lovers Lane west of Pleasant View Drive (if that ever occurs). Currently, the Village has no plans showing the extension of Lovers Lane.

The proposed lots (Lot 1 and Lot 2) meet the minimum requirements for parcels in the Rs-1: Single-family Zoning District (5-acre minimum parcel size). Soil evaluations have been completed for the proposed lots that indicate both are suitable for installation of a private on-site wastewater treatment system (POWTS). Lot 3 has an existing dwelling and functioning POWTS.

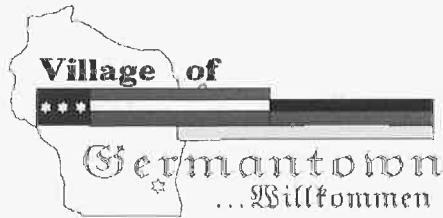
Lot 3 also contains an area of wetland and floodplain associated with the Menomonee River adjacent to and south of the Snow property. Because Lot 3 is already developed, staff is recommending that the Village defer the wetland delineation requirement.

Because the existing shared driveway within the ingress/egress easement will serve four parcels, it may need to be improved in order to comply with the minimum design standards and other requirements set forth in Section 18.07(d) of the Village's Subdivision and Platting Code regarding "private streets" serving up to 7 parcels/lots, including lane width, addition of a cul-de-sac turnaround, and the requirement for deed restrictions and/or covenants dictating ownership and maintenance responsibilities for the easement and driveway.

Village Planner Recommendation

APPROVE the proposed 3-lot Certified Survey Map (CSM) for the Robert & Lori Snow property on Pleasant View Drive subject to the following conditions:

1. All requirements and technical corrections identified in the Village Surveyor's May 24, 2016 memo shall be addressed in a revised CSM prior to Village Board approval;
2. A shared driveway/access easement agreement applicable to the 60' ingress/egress easement across the interior property lines shall be prepared and submitted to the Village for review prior to review of the CSM by the Village Board. At a minimum, the agreement shall address construction of the driveway to the minimum design standards set forth in Section 18.07(d) of the Village's Subdivision Code, and, ownership and maintenance responsibilities for the easement and driveway.



Engineering Department Memorandum

To: Jeff Retzlaff Village Planner

CC:

From: Bob Beilfuss, PLS, Village Surveyor

Date: May 24, 2016

Re: Snow CSM

Jeff,

Here are my review comments for the CSM received 5-9-2016.

Certified Survey Map

Applicant or Owner: Robert and Lori Snow

Land Surveyor/Firm: Rich Simon, PLS, Cornerstone Surveying

Current Zoning **New Zoning:** No rezoning required

1. 25' wetland setback line is missing from proposed Lot 3.
2. No wetland delineation is shown on this Lot.
3. 75' stream setback line is missing from proposed Lot 3.
4. Based on FEMA records, there is floodplain located on proposed Lot 3 and needs to be mapped based on a FEMA-approved benchmark and vertical datum.
5. No soil boring shown on proposed Lot 1 or 2.
6. No soil boring report provided.
7. The street name and status of the adjoining parcel underscore is to be a dashed or dotted line.
8. The professional land surveyors seal and signature is missing from all sheets.
9. Monument symbols for found or set markers are missing for the common line between proposed Lot 1 and Lot 2. The monument symbol is also missing at the end of the 639.75' long line which is defining the west right of way line of Pleasant View Drive
10. **Mortgagee's Certificate** (Required if land is mortgaged)
 - ☐ Complete statements per Chapter 236.21(2)(a)
 - ☐ Lending institution name, signature of bank officer and date.
 - ☐ Notary statement, seal, signature and date.

May 24, 2016

The mortgage certificate requirement is waived if owner can provide written proof of ownership that the property is free of mortgage from the lending institution.

No further review comments.

Document Submittals and Data Conversion

As of October, 2005, the Village of Germantown requires a digital copy of all Certified Survey Maps, Condominium Plats and Subdivision Plats in addition to the documents as required by Wisconsin Statute and Village Ordinances as part of the land division approval.

Prior to Recording the Certified Survey Map, the professional land surveyor is responsible for submitting a copy of the AutoCad drawing file (.dwg) of the document in version 2007 on compact disk (CD) or via email to the Village Surveyor.

All digital professional land surveyor seals and signatures will be purged from the digital copy prior to submittal.

The model space of the drawing will be done in Wisconsin State Plane Coordinate System, South Zone (NAD 1927 datum) and the Grid Bearing basis.

Prior to Recording the Certified Survey Map, the Village Engineering Department will verify that the boundary markers have been installed as described on the submitted map. All boundary corners are to be clearly marked in the field by the professional land surveyor of record.

PLAN COMMISSION MINUTES
JUNE 13, 2016

CALL TO ORDER: 6:30 pm

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

PUBLIC INPUT: None

APPROVAL OF MINUTES: *MOTION Laszewski second Gray to Approve the minutes from 5-9-16.*

MOTION carried (Shadid abstained).

Robert & Lori Snow – W148 N12301 Pleasant View Drive. The property owners of a 29.4 acre parcel are requesting approval of a 3-lot Certified Survey Map (CSM) in order to create three (3) residential parcels. Planner Retzlaff summarized the proposal. He indicated that the owners have proposed to change the 60 foot easement as shown on the CSM to a 40 foot wide easement that is consistent with the private street regulations. A revised CSM will need to be submitted showing the change. Discussion followed.

MOTION Gray second Shadid to Approve the proposed 3-lot Certified Survey Map (CSM) for the Robert and Lori Snow property on Pleasant View Drive subject to the following conditions:

- 1. All requirements and technical corrections identified in the Village Surveyor's May 24, 2016 memo shall be addressed in a revised CSM prior to Village Board approval.***
- 2. A shared driveway/access easement agreement applicable to the 40' ingress/egress easement across the interior property lines shall be prepared and submitted to the Village for review prior to review of the CSM by the Village Board. At a minimum, the agreement shall address construction of the driveway to the minimum design standards set forth in Section 18.07(d) of the Village's Subdivision Code, and, ownership and maintenance responsibilities for the easement and driveway.***

Discussion continued. Mr. Snow said his attorney is drafting the easement agreement and shared driveway maintenance agreement.

MOTION carried unanimously.

Phylmack LLC for J.W. Speaker – N120 W19434 Freistadt Road & Thomas & Joan Roskopf – Freistadt Road. Phylmack LLC, property owner and agent for the Roskopf's has submitted a 2-lot certified survey map (CSM) to detach 5.57 acres of land from the Roskopf property and attach it to the Phylmack property (J.W. Speaker) and an application to rezone the 5.57 acres from A-1: Agricultural to M-1: Limited Industrial District for possible future

GRANT OF EASEMENT

DOCUMENT NUMBER

NAME AND RETURN ADDRESS: ROBERT M. & LORI A. SNOW
W148 N12301 PLEASANT VIEW DR.
GERMANTOWN, WI 53022

PARCEL IDENTIFICATION NO.: GTNV 143987



RESERVED FOR RECORDING DATA

THIS GRANT OF EASEMENT, is created and established this _____ day of _____, 2016,
by ROBERT M. SNOW and LORI A. SNOW, (hereafter SNOWS);

RECITALS:

WHEREAS, SNOWS are the owners of the following parcels of real estate:

LOT 1

Lot 1 of Certified Survey Map No. _____, being a Redivision of Lot 2 of
Certified Survey Map No. 5124, recorded on _____,
20____, in Volume _____ of Certified Survey Maps on Pages _____ to _____ as Document
No. _____, and being a part of the Northwest 1/4 and Northeast 1/4 of the
Southwest 1/4 of Section 14, Township 9 North, Range 20 East, in the Village of Germantown,
Washington County, Wisconsin.

LOT 2

Lot 2 of Certified Survey Map No. _____, being a Redivision of Lot 2 of
Certified Survey Map No. 5124, recorded on _____,
20____, in Volume _____ of Certified Survey Maps on Pages _____ to _____ as Document
No. _____, and being a part of the Northwest 1/4 and Northeast 1/4 of the
Southwest 1/4 of Section 14, Township 9 North, Range 20 East, in the Village of Germantown,
Washington County, Wisconsin.

LOT 3

Lot 3 of Certified Survey Map No. _____, being a Redivision of Lot 2 of
Certified Survey Map No. 5124, recorded on _____,
20____, in Volume _____ of Certified Survey Maps on Pages _____ to _____ as Document
No. _____, and being a part of the Northwest 1/4 and Northeast 1/4 of the
Southwest 1/4 of Section 14, Township 9 North, Range 20 East, in the Village of Germantown,
Washington County, Wisconsin.

WHEREAS, SNOWS desire to establish for themselves, their successors and assigns, and the future owners
(hereafter "Owners") of said LOTS, certain easements, rights, privileges and restrictions, and to provide for timely
and proper maintenance and repair of such easements as more fully described below; and,

NOW THEREFORE, in consideration of the covenants, promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, SNOWS hereby create and establish the following:

1. The Owners of said LOTs hereby give, grant and convey to any and all existing and future Owners of said LOT 1, LOT 2 and LOT 3, a non-exclusive, perpetual right to utilized a 40 foot Easement Area, (hereafter EASEMENT AREA), set for in said Certified Survey Map No. _____, for all ordinary, residential purposes of ingress and egress, to and from Pleasant View Drive, and their respective properties, and additionally for the purpose of providing any utility services to said LOTs
2. The Owners of said LOTs shall not use or leave any vehicle, or anything else on said EASEMENT AREA so as to prevent the free and uninterrupted use of the same by the other Owners.
3. All expenses associated with the installation, maintenance and/or repair of any shared driveway, (hereafter SHARED DRIVEWAY), located within said EASEMENT AREA, shall be allocated as follows:
 - 25 % to said Lot 1
 - 25 % to said Lot 2
 - 25 % to said Lot 3
 - 25 % to the owner of Lot 1 of Certified Survey Map No 5124 based on an existing Easement Agreement recorded as Document No. 833031, with the Washington County Register of Deeds, (hereafter "Owner of Lot 1 of CSM 5124")

The Owners of said LOTs, and the Owner of Lot 1 of CSM 5124 shall jointly make all decisions with regard to the type, manner and timing of all installation, maintenance and/or repair of said SHARED DRIVEWAY. The Owners of said LOTs, and the Owner of Lot 1 of CSM 5124 shall be equally and solely responsible for installing the SHARED DRIVEWAY in accordance with the "Shared Driveway" Private Street Design Standards in Table 3 of Section 18.07 of the Village Subdivision and Platting Code. If the Owners are not able to agree on the installation, maintenance and/or repair work, then they shall attempt to agree on an impartial third party, such as a contractor or engineer, to whom they shall submit the dispute, and shall abide by the determination of such third party. Notwithstanding the above provisions, should a owner cause damage, other than normal usage, to said driveway, through the actions, omissions or negligence on the part of that owner, their guests or invitees, such owner shall be solely responsible for any and all costs associated with repairing such damage.

4. SNOWS hereby declare for the mutual benefit of said LOTs, and the Owners of said LOTs, a non-exclusive, private, reciprocal, "Utility Easement" over, across and through said LOTs for access to and the maintenance, repair and replacement of all existing utilities. If the SNOWS, or future LOT Owners reasonably require an easement for utilities over another Owner's LOT, such Owners shall reasonably cooperate with each other and act in good faith in connection with the granting of such an easement. The Owners of said LOTs, shall be solely responsible for all expenses associated with the installation, maintenance and/or repair of any utilities servicing their respective LOT, and shall have sole discretion regarding all decisions with regard to the location, type, manner and timing of all installation, maintenance and/or repair activities associated with the same. Notwithstanding the above provisions, should a Owner cause damage, other than normal usage, to said EASEMENT AREA, through the actions, omissions or negligence on the part of that Owner, their guests or invitees, such Owner shall be solely responsible for any and all costs associated with repairing such damage.
5. Notwithstanding the previous provisions, should a dispute arise which cannot be satisfactorily settled by mutual consent of the Owners, said dispute shall be submitted to arbitration at the option of any owner. Such arbitration to be held under the voluntary arbitration rules of the American Arbitration Association, and said decision being final and binding upon the Owners.

6. Each Owner shall indemnify and hold the other owner harmless against any and all loss, costs, claims, liabilities or damages caused by the negligence, fault or omission of the owner, their guests or invitees, associated with activities conducted on the EASEMENT AREA. The Owners and their successor Owners or assigns shall have the right to use each of their respective Parcels in any way not inconsistent with the easements and exclusives provided herein, however, no Owner or its permittees may grant any easement, right-of-way, or other right or license to give any rights to adjacent lands rights to any LOT other than as provided herein.
7. This Agreement may be modified or amended only by the mutual written consent of the Owners of said LOTs.
8. This Agreement, and the covenants and conditions contained therein, shall constitute a covenant running with the land, and shall be for the benefit of, and binding upon the Owners of said LOTs, their successors, heirs, personal representatives, and assigns. If any Owner fails or neglects to perform any obligation or pay any amount required by this Agreement or violates this Agreement, any other Owner may deliver written notice demanding compliance or payment. If the defaulting Owner fails to comply or pay within thirty (30) days of receiving the notice, the other Owner shall have the right to enforce this Agreement by proceedings at law or in equity, and shall be entitled to damages, injunctive relief, specific performance or any other remedy available at law or in equity. If a lawsuit or other cause of action is brought to enforce this Agreement, the prevailing party shall be entitled to recover its actual costs and expenses in bringing or defending against the lawsuit or action, including reasonable attorney's fees, from the non-prevailing party. The term "prevailing party" means the party obtaining substantially the relief sought, whether by compromise, settlement or judgment. In addition to any other remedies provided in this Agreement, if any Owner, or its Permittees, fails to comply with any applicable provisions of this Agreement within thirty (30) days following written notice from another Owner, the noticing Owner shall have the right, but not the obligation, to perform or cause to be performed such maintenance, replacement, restoration or other action as the noticing Owner deems necessary or appropriate to cure the violation, and the actual costs and expenses incurred by such noticing Owner shall be reimbursed by the other Owner.
9. All the provisions in this Agreement, including the benefits and burdens, are perpetual and shall run with the land and shall be binding upon and inure to the benefit of said LOTs and be enforceable by the Owners and their respective successors and assigns in ownership of said LOTs. The easements are solely for the benefit of LOTs and shall not benefit any other lands other than said LOTs. The Owners, and any successor or assign in ownership, shall cease to have any liability under this Agreement arising after they no longer have a fee simple ownership interest in any said LOT.
10. Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of the easements to the general public or for any public purpose whatsoever.
11. Non-use or limited use of the easements shall not prevent the later use of the same to the fullest extent authorized herein.
12. Nothing contained in this Agreement is intended to affect, supersede, amend or obviate prior Agreements or any provision thereof.
13. If any portion or provision of this Agreement, or its application to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement and the application thereof shall be valid, and enforced, to the fullest extent permitted by law.
14. Whenever a waiver, consent or approval is required or permitted herein, it must be express and in writing; no waiver, consent or approval shall be implied. No delay or omission in exercising any right or power accruing upon any default, non-compliance or failure of performance under this Agreement shall be construed to be a waiver.

15. This Declaration shall be construed and enforced in accordance with the laws of the State of Wisconsin, without regard for conflict of law provisions.
16. Except as set forth herein, this Agreement, and the easements may not be terminated, amended or changed except by a written document executed and acknowledged by all the Owners and duly recorded in the office of the Register of Deeds of Washington County, Wisconsin.

ROBERT M. SNOW

LORI A. SNOW

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS

COUNTY)

Personally came before me this _____ day of _____, 2016, the above named ROBERT M. SNOW and LORI A. SNOW, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public
My Commission Expires: _____

Drafted by: ROBERT M. SNOW

RECEIVED
JUL 08 2016
OFFICE OF THE VILLAGE PLANNER
VILLAGE OF GERMANTOWN

Certified Survey Map No. _____

A Redivision of Lot 2 Certified Survey Map No. 5124, being part of the Northwest $\frac{1}{4}$ and Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 14, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin.

Rs-1 Zoning Setbacks

45' - Front Yard
30' - Side Yard
35' - Rear Yard

Northeast corner of the
Southwest $\frac{1}{4}$ of Section 14-9-20
Rebar Found
458757.07
2507951.62

Scale 1"= 200'



Surveyor:

Richard Simon
5080 Fairy Chasm
West Bend, WI 53095
(262) 424-5630

Owners:

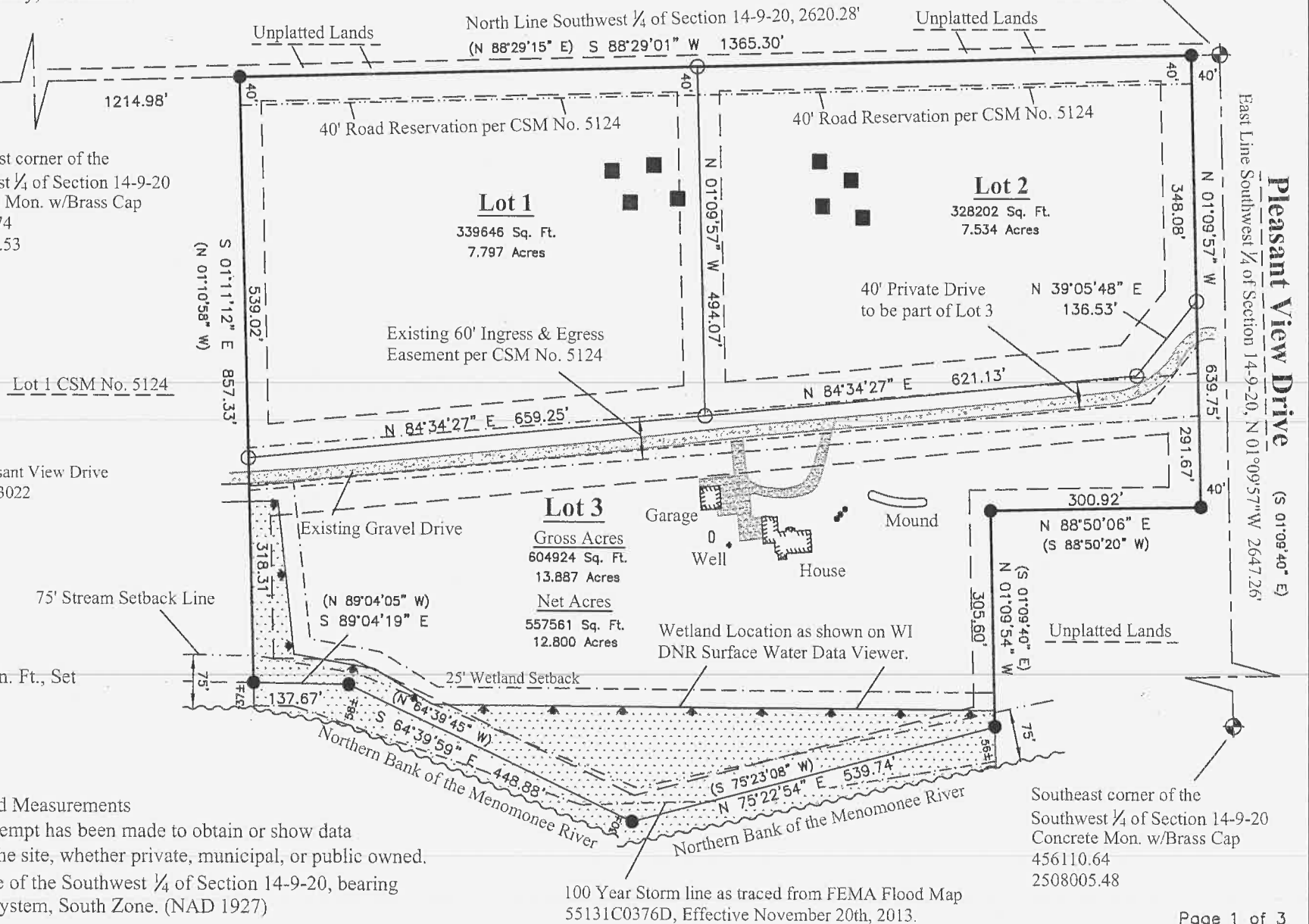
Robert M. Snow
Lori A. Snow
W148 N12301 Pleasant View Drive
Germantown, WI 53022

Legend:

- Denotes Iron Pipe Found
- 3#4" OD X 18" Iron Rod 1.50 Lbs./Lin. Ft., Set
- Location of Soil Borings

Notes:

- 1) Bearings or Distances in () are Recorded Measurements
- 2) In providing this boundary survey no attempt has been made to obtain or show data concerning the existence of any utility on the site, whether private, municipal, or public owned.
- 3) Bearings are referenced to the North line of the Southwest $\frac{1}{4}$ of Section 14-9-20, bearing S88°29'01"W per State Plane Coordinate System, South Zone. (NAD 1927)



Certified Survey Map No. _____

A Redivision of Lot 2 Certified Survey Map No. 5124, being part of the Northwest ¼ and Northeast ¼ of the Southwest ¼ of Section 14, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin.

Surveyor's Certificate

I, Richard L Simon, Professional Land Surveyor, hereby certify:

A Redivision of Lot 2 Certified Survey Map No. 5124, being part of the Northwest ¼ and Northeast ¼ of the Southwest ¼ of Section 14, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin.

Described as follows:

A Redivision of Lot 2 Certified Survey Map No. 5124, being part of the Northwest ¼ and Northeast ¼ of the Southwest ¼ of Section 14, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin.

Said parcel contains 29.3915 Acres Gross

That I have made such survey, division, and map by the direction of Robert M. Snow & Lori A. Snow.

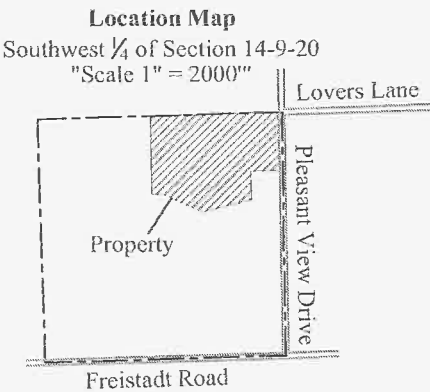
That this map is a correct representation of all exterior boundaries of the land surveyed and the land division thereof made.

That I have fully complied with provisions of s. 236.34 of the Wisconsin Statutes and the subdivision regulations of the Village of Germantown in surveying, dividing, and mapping the same.

Dated this 9th day of April, 2016

Revised this 8th day of July, 2016

Richard L Simon, P.L.S. #2698
Cornerstone Land Surveying
5080 Fairy Chasm Road
West Bend, WI 53095
262-424-5630



Village of Germantown Planning Commission Approval

This Certified Survey Map is hereby approved by the Planning Commission of the Village of Germantown on this day of _____, 2016.

Dean Wolter, Chairman Date

Laura A. Johnson, Secretary Date

Village of Germantown Board Approval

This Certified Survey Map, being a division of (NE¼ & NW ¼ of the SW ¼, Section 14, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin, having been approved by the Planning Commission being the same, is hereby approved and accepted by the Village Board of Trustees of the Village of Germantown on this ___day of _____, 2016.

Dean Wolter, Village President Date

Barbara K.D. Goeckner, Village Clerk Date

Certified Survey Map No.

A Redivision of Lot 2 Certified Survey Map No. 5124, being part of the Northwest 1/4 and Northeast 1/4 of the Southwest 1/4 of Section 14, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin.

Owner's Certificate

We, Robert M. Snow & Lori A. Snow do herby certify that we caused the land described in the foregoing affidavit of Richard L. Simon , Surveyor, to be surveyed, divided and mapped as represented on this Certified Survey Map.

WITNESS the hand and seal of said Signer, this day of ,

Robert M. Snow Lori A. Snow

State of Wisconsin) SS
County)

Personally came before me this day of , the above named, Robert M. Snow & Lori A. Snow to me, known to be the people who executed the foregoing instrument and acknowledge the same.

Notary Public
County, State of Wisconsin
My commission expires:

Consent of Mortgagee

I, of , mortgagee of the above described land, do hereby consent to the surveying, dividing, and mapping of the described land on this Certified Survey Map, and I do hereby consent to the certificate of Robert M. Snow & Lori A. Snow , as owners of said land.

Witness the hand and seal of said mortgagee this day of ,

Bank Officer

State of Wisconsin) SS
County)

Personally came before me this day of , the above named, Robert M. Snow & Lori A. Snow to me, known to be the people who executed the foregoing instrument and acknowledge the same.

Notary Public
County, State of Wisconsin
My commission expires:

T.C.

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

MEETING DATE: July 18, 2016

AGENDA ITEM: New Business

ITEM TITLE: Development Agreement – Gatewood Place Subdivision

SUBMITTED BY: Lawrence W Ratayczak, P.E., Public Works Director

SUMMARY EXPLANATION:

Gatewood Place is a development consisting of Four (4) single-family residential Lots. The proposed development is located on 6.88 acres on the south side of Donges Bay Road nearly across from Magnolia Dr. The public improvements included in this project include: public water main extension, fire hydrant relocation, sanitary sewer extension and Cul-de-Sac construction at the end of existing Gatewood Drive. This agreement also includes the Developer to be responsible for a maximum amount of \$5,000.00 towards the construction of an 8 foot wide bituminous paved walking path across the 500 lineal feet of the developments frontage on Donges Bay Road.

ATTACHMENT: ORDINANCE____ RESOLUTION____ OTHER X

Development Agreement for Gatewood Place Subdivision.

RECOMMENDATION:

Staff is forwarding with a positive recommendation from The Public Works and Highway Committee to approve the Developer Agreement for Gatewood Place Subdivision with the additional directive that the Village staff design the sidewalk/pathway on the Donges Bay Road section of the subdivision with the Developer's cost share not to exceed \$5,000.00

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.

DEVELOPMENT AGREEMENT
GATEWOOD PLACE

THIS AGREEMENT is entered into by and between the Village of Germantown, a Municipal Corporation of the State of Wisconsin located in Washington County, hereinafter called the "Village", and Steven Stoffel., hereinafter referred to as "Developer".

WHEREAS, the Village has heretofore approved CSM Map No. _____ (Exhibit C), recorded in the Washington County Register of Deeds as Document No. _____ in the Northeast ¼ of the Northeast ¼ of Section 35, Township 9 North, Range 20 East in the Village of Germantown, Washington County, Wisconsin; and

WHEREAS, Developer has submitted for approval by the Village a development plan for a proposed 4-Lot single-family residential subdivision (the "Development" or "Subdivision") to be located in the Village of Germantown on Lots #1,2,3, & 4 of CSM Map No. _____, recorded in the Washington County Register of Deeds as Document No. _____ in the Northeast ¼ of the Northeast ¼ of Section 35, Township 9 North, Range 20 East (the "Property") which Developer proposes to complete as described in the plans submitted to the Village, and as ultimately approved by it; and

WHEREAS, the Village may require that Developer make and install any public improvements reasonably necessary and/or that Developer execute a certified check or irrevocable letter of credit to ensure that those improvements will be made within a reasonable time; and further that the acceptance of dedication of these improvements may be conditioned upon the construction of such improvements according to Village specifications and without cost to the Village; and

WHEREAS, it will be necessary that Developer construct and install water distribution, sanitary sewer, landscaping, and roadway facilities in public right-of-way, and the Village will require that such plans and designs be approved and permitted, and that the Developer furnish an appropriate financial guarantee; and

WHEREAS, The Village seeks to protect the health, safety and general welfare of the Village as a whole and, in particular, property owners who abut the site or are potentially affected by the project through application of the Municipal Code and rules and regulations of governmental agencies with jurisdiction.

NOW, THEREFORE, in consideration of these recitals, the mutual agreements, benefits and responsibilities outlined herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

DEVELOPMENT AGREEMENT

ARTICLE I - REQUIRED IMPROVEMENTS

1.01 GENERALLY. Developer, entirely at its own expense, shall, except as herein provided, design and install the public improvements required by Sec.18.08 of the Municipal Code in accordance with the provisions of that section and as directed by the Village Engineer or Village Board. It is the intent of this Agreement that all public improvements shall be installed by Developer. Notwithstanding the foregoing, the public improvements described in this Agreement are deemed to be undertaken for a public (not a private) purpose.

1.02 SANITARY SEWERAGE SYSTEMS. Developer shall extend and install public sanitary sewer with privately owned lateral stubs extending to the edge of right-of-way to provide wastewater utility service to all lots within the Subdivision.

Developer shall design and submit to the Village Engineer for review and approval all proposed plans, specifications and contract documents for all sanitary sewerage system facilities before authorization for construction will be given. Design and installation shall conform to Milwaukee Metropolitan Sewerage District Ch. 2 Rule, Sec. 18.08(7) of the Municipal Code, and the Village Design, Drafting & Construction Standards & Specifications, Sec. 5.0 "Sanitary Sewer System Requirements". All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village. All sanitary sewer improvements that are to be transferred to the Wastewater Utility shall be contained within the Village right-of-way or a utility easement. The easement shall be dedicated to the Village through plat (provided that said plat also contains specific terms associated with the easement and not just a location) or an easement document prepared and submitted by Developer, subject to review and approval by the Village Engineer and the Village Attorney.

Public utility permits shall be applied for by Developer and secured from the Village Engineering Dept. Wisconsin Department of Natural Resources and Milwaukee Metropolitan Sewerage District sanitary sewer extension forms shall be prepared by Developer and provided to the Village Engineer. All sanitary sewer improvements that will be transferred to the Village shall be inspected by Wastewater Utility personnel prior to acceptance by the Public Works & Highway Committee. The Wastewater Utility will televise the sewer, create a punchlist of defects, and perform one follow-up televised inspection at no expense to Developer. Additional follow-up televised inspections shall occur at Developer expense.

Sanitary sewer main and lateral trenches in an existing roadway shall be aggregate slurry backfilled. Street resurfacing required due to surface disturbance for connection to the Village sanitary sewer shall be inspected and approved by the Highway Superintendent prior to acceptance by the Public Works & Highway Committee. Lateral ends shall be marked with

DEVELOPMENT AGREEMENT
GATEWOOD PLACE

green painted maple heart boards 2" x 4". A minimum of 6 feet of engineered fill shall be maintained over the pipe in all areas of installation.

1.03 WATER SUPPLY FACILITIES. Developer shall extend and install public water main with privately owned lateral stubs extending to the edge of right-of-way to provide potable water utility service to lots #2, #3 and #4 within the Subdivision CSM.

Developer shall design and submit to the Village Engineer for approval all proposed plans, specifications and contract documents for all water supply facilities before authorization of construction will be given. Design and installation shall conform to Sec. 18.08(8) of the Municipal Code and the Village Design, Drafting & Construction Standards & Specifications, Sec. 6.0 "Water Distribution System Requirements". All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village. All water utility improvements that are to be transferred to the Water Utility shall be contained in Village right-of-way or a utility easement dedicated to the Village. The easement shall be dedicated to the Village through plat (provided that said plat also contains specific terms associated with the easement and not just a location) or an easement document prepared and submitted by Developer, subject to review and approval by the Village Engineer and the Village Attorney.

Public utility permits shall be applied for by Developer and secured from the Village Engineering Dept. Wisconsin Department of Natural Resources water main extension forms shall be prepared by Developer and submitted to the Department of Natural Resources. All water supply improvements that will be transferred to the Village shall be inspected by Water Utility personnel prior to acceptance by the Public Works & Highway Committee.

Water main and lateral trenches in an existing roadway shall be aggregate slurry backfilled. Street resurfacing required due to surface disturbance for connection to the Village water supply system shall be inspected and approved by the Highway Superintendent prior to acceptance by the Public Works & Highway Committee. Lateral ends shall be marked with blue painted maple heart boards 2" x 4". A minimum of 6 feet of engineered fill shall be maintained over the pipe in all areas of installation.

1.04 OTHER UTILITIES. Developer shall be responsible for and cause electrical power, telephone, cable and natural gas facilities to be installed in such manner as to make proper and adequate service available to each occupied building in the Subdivision. All such services shall be located underground in accordance with applicable codes. Design and installation shall conform to Sec. 18.08(11) of the Municipal Code. Public utility and/or work-

DEVELOPMENT AGREEMENT

in-right-of-way permits shall be applied for by Developer and secured from the Village Engineering Dept. Private utility permits shall be applied for and secured from the Village Building Inspection Dept.

1.05 GRADING, STREET SURFACING, CONCRETE CURB AND GUTTER, SIDEWALKS, AND TRAFFIC SIGNS AND STREET SIGNS. Developer shall grade the development's surface and install internal roads having an urban cross section for vehicular access to all lots within the Subdivision. Developer shall install traffic signs and street signs.

Developer shall design and submit to the Village Engineer for approval all proposed plans, specifications and contract documents for all grading, street surfacing, concrete curb and gutter, sidewalks, and traffic signs and street signs before authorization for construction will be given. Design and installation shall conform to Sec. 18.08(2), 18.08(3), 18.08(4), 18.08(6), and 18.08(13) and 18.08(15) of the Municipal Code and the Village Design, Drafting & Construction Standards & Specifications, Sec. 3.0 "Grading and Erosion Control Requirements" and Sec. 8.0 "Roadway Requirements". All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village. All grading, street surfacing, concrete curb and gutter, traffic signs and street signs that are to be transferred to the Village shall be contained in Village right-of-way dedicated to the Village.

Final yard grades, building elevations and contours shall be established by individual property owners in compliance with Building Inspection & Village Engineer review and approval. If any discrepancies arise refer to Sec. 14.076 of the Municipal Code. Developer shall not export topsoil without permission from the Public Works & Highway Committee pursuant to Sec. 17.441 of the Municipal Code.

Work-in-right-of-way permits shall be applied for by Developer and secured from the Village Engineering Dept. All grading, street surfacing, concrete curb and gutter and traffic signs and street signs related to the Subdivision that will be transferred to the Village shall be inspected by Engineering Dept. and Highway Dept. personnel prior to acceptance by the Public Works & Highway Committee.

1.06 CURB AND GUTTER. Developer shall construct, at a minimum, concrete curb and gutter in accordance with Sec. 18.08(4) of the municipal Code within the Development at the locations depicted on the approved Site Development Plan. More specifically the developer shall begin and end the proposed curb and gutter by abutting to the ends of the existing curb and gutter.

DEVELOPMENT AGREEMENT
GATEWOOD PLACE

1.07 IMPROVEMENTS TO STREETS ABUTTING SUBDIVISION. Developer shall replace existing bituminous pavement, on Gatewood Place, south to match with the line created with the joining of the existing curb and gutter with the proposed curb and gutter.

Developer shall design and submit to the Village Engineer for approval all proposed plans, specifications and contract documents for all improvements to streets abutting development before authorization for construction will be given. Design and installation shall conform to Sec. 18.08(15) of the Municipal Code and the Village Design, Drafting & Construction Standards & Specifications, Sec. 3.0 “Grading and Erosion Control Requirements” and Sec. 8.0 “Roadway Requirements”. All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village. All improvements to streets abutting development that are to be transferred to the Village shall be contained in Village right-of-way dedicated to the Village.

Work-in-right-of-way permits shall be applied for by Developer and secured from the Village Engineering Dept. All improvements to streets abutting the Subdivision that will be transferred to the Village shall be inspected by Engineering Dept. and Highway Dept. personnel prior to acceptance by the Public Works & Highway Committee.

Developer shall remain responsible for maintenance of all monument signs.

1.08 EROSION CONTROL. Developer shall install and maintain erosion and sediment control devices within the Subdivision and for all related work abutting the Subdivision.

Developer shall design and submit to the Village Engineer for approval all proposed plans, specifications and contract documents for all construction site erosion and sediment control before authorization for construction will be given. Design and installation shall conform to Wisconsin Department of Natural Resources Conservation Practice Standards, Ch. 29 of the Municipal Code, and the Village Design, Drafting & Construction Standards & Specifications, Sec. 3.0 “Grading and Erosion Control Requirements”. All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village.

DEVELOPMENT AGREEMENT

Work-in-right-of-way permits shall be applied for and secured from the Village Engineering Dept. Wisconsin Department of Natural Resources construction site storm water permit forms shall be prepared by Developer and submitted to the Department of Natural Resources. An erosion control permit shall be applied for and secured from the Village Building Inspection Dept.

Developer shall monitor and mitigate off-site tracking through use of tracking pads and daily sweeping of streets. In event Developer defaults in keeping the Village streets clear of tracking, the Developer will reimburse the Village for performing street sweeping services within 30 days of invoice. In event Developer defaults payment, the Village may charge the Developer's escrow account or draw from the Developer's letter-of-credit to recover such costs. Notwithstanding the foregoing, the right of the Village to respond to off-site sediment tracking hereunder shall not excuse Developer from strict compliance with required erosion control measures or be considered a substitute or replacement for such measures.

Developer shall remove and dispose of all erosion and sediment control devices after landscaping and after 85% successful vegetative cover has been achieved to the satisfaction of the Village Engineer.

1.09 POST-CONSTRUCTION STORMWATER MANAGEMENT AND STORMWATER DRAINAGE FACILITIES. NONE

1.10 LANDSCAPING. Developer shall provide permanent landscaping, including topsoil, seeding and other vegetation, of all publicly owned rights of way. Developer shall also provide temporary landscaping of privately owned lots to establish and maintain vegetative cover.

A minimum of 4" of topsoil (i.e., after settlement) free of deleterious materials shall cover all areas of the terrace areas. Section 17.441(4)(a) prohibits topsoil export without special exception by the Village Public Works & Highway Committee.

All landscaping related to the Subdivision that will be transferred to the Village shall be inspected by Engineering Dept. and Highway Dept. personnel prior to acceptance by the Public Works & Highway Committee.

1.11 STREET TREES. NONE

Work-in-right-of-way permits shall be applied for by Developer and secured from the Village Engineering Dept.

DEVELOPMENT AGREEMENT
GATEWOOD PLACE

1.12 YARD LIGHTS. Property Owners shall install yard lights in the same manner and of similar material to those installed in Berrywood Subdivision. Yard Lights shall be installed in conjunction with the construction of the residential dwelling.

Property Owners shall submit to the Village Engineer for approval of proposed yard light before authorization for construction will be given. Design and installation shall conform to Sec. 18.08(12) of the Municipal Code.

1.13 SURVEY MONUMENTS. The Developer shall install survey monuments placed in accordance with Sections 18.02(4)(c) and 18.08(1) of the Municipal Code not later than one year (12 months) after the acceptance of this agreement.

1.14 SIDEWALK/PATHWAY. Developer shall participate in a cost share for the construction of the sidewalk/pathway in a not to exceed amount of \$5,000.00.

ARTICLE II - CONSTRUCTION

2.01 GENERALLY. Developer, entirely at its own expense, shall construct and install all public improvements and provide all plans, specifications and other documents in accordance with Sec. 18.09 of the Municipal Code or as required by the Village Engineer pursuant to Sec. 18.09. Developer understands and acknowledges that the Municipal Code may be and is subject to revision from time to time, and that such revisions may impose altered or additional obligations on individual and entities creating subdivisions and other developments in the Village, including Developer. Developer hereby agrees that with respect to any such revision which shall be approved by the Village prior to issuance of permits for all public improvements provided for herein, or as mutually agreed upon between Developer and the Village after the commencement of work, Developer shall incorporate any such revision into Developer's plans, specifications and work.

Developer shall provide a schedule of construction setting forth approximate dates of commencement and completion of each phase of the construction. Developer agrees that no work shall be scheduled for the improvements without the Village Engineer's written approval of the starting date and schedule.

A pre-construction meeting shall be scheduled between Developer, the Contractors and the Village prior to commencement of any construction on the improvements. Developer shall, prior to such meeting, notify all utilities of the planned construction and the date and location of the pre-construction meeting.

DEVELOPMENT AGREEMENT

2.02 BUILDING AND OCCUPANCY PERMITS. No building or occupancy permits shall be issued by the Village for any construction within the Subdivision until all roads, water main, sanitary sewer, storm sewer, and all other improvements required under this Agreement are installed, inspected by the Village Water Utility, Wastewater Utility, and/or Highway Dept., approved by the Village Engineer, the Village has received all record-drawings in accordance with 2.05 below, and have been accepted by the Public Works & Highway Committee, except that notwithstanding the above, building permits may be issued prior to the installation of sidewalk and the initial asphalt lift on roadway surfaces (roadway areas must be stoned) provided that Developer's Letter of Credit provides for acceptable security to the Village to ensure eventual installation. Occupancy permits may be issued prior to the installation of the final asphalt lift on roadway surfaces and sidewalk installation provided that Developer's Letter of Credit provides for acceptable security to the Village to ensure eventual installation.

2.03 REQUIRED PLANS. Developer shall submit to the Village Engineer for approval all of the plans, profiles and specifications required by Sec. 18.09(3) of the Municipal Code. Required plans for improvements shall include the following:

- (1) Grading plans, including interim and final;
- (2) Erosion & sediment control plans, including interim and final;
- (3) Private utility plans and capacity computations, including sanitary sewer & laterals, water main & laterals, and storm sewer & laterals;
- (4) Public utility plans, profiles and capacity computations, including sanitary sewer & laterals, water main & laterals.
- (5) Paving plans & profiles, including public roads, sidewalks, curb-and-gutter.
- (6) Storm water management plan; **Not required as part of plans**
- (7) Landscape plans; and

In addition, Developer shall submit to the Village Engineer for approval all specifications before authorization for construction will be given. Implicit in this provision is the right of the Village Engineer to require document revisions and modifications in the best interests of the Village.

2.04 EXISTING FLORA. Developer shall, in accordance with Sec. 18.09(5) of the Municipal Code, make reasonable efforts to protect and retain all existing trees, shrubbery, vines and grasses not actually lying within public roadways, drainage-ways, building foundation sites, private driveways and parking areas, soil absorption waste and disposal areas, paths and trails, except as necessary for implementation of the Development Plan. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by use of wells or islands or retaining walls whenever abutting grades are altered.

2.05 RECORD DRAWING DOCUMENTS. Developer shall prepare and submit to the Village Engineer record-drawing documents in digital format (i.e., .dwg extension) of the public sanitary sewerage systems, public water supply facilities, and post-construction storm

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water management. All record-drawing measurements shall include horizontal and vertical location referenced to the Village coordinate system (Wisconsin State Plane Coordinate System, South Zone, based on North American Datum of 1927 (NAD 27)). If Developer is unable to furnish the location and digital files as required, the Village Engineer shall complete the record-drawing plans with costs charged back to Developer. Each original or copy shall be certified by Developer's engineer and/or architect, in accordance with requirements of the Village Engineering Department. Record drawings shall be submitted by Developer before applying for a Village occupancy permit.

ARTICLE III - DEDICATION AND ACCEPTANCE

3.01 GENERAL: Developer agrees that the improvements will not be accepted by the Village until: (i) all outstanding charges to be paid by Developer under the Ordinances have been paid in full, (ii) affidavits and lien waivers are received by the Village indicating that all contractors providing work, services or materials in connection with the improvements have been paid in full for all such work, services and materials, and (iii) the Village has received evidence satisfactory to it that no liens or other encumbrances (except those approved in writing by the Village) encumber the improvements.

Any water main installation shall not be accepted until two consecutive bacteriological safe samples have satisfactorily pass and one pressure test has successfully passed. Developer or his Contractor shall flush the main and obtain the samples required for this testing under the supervision of the Village Engineering Dept. or Water Utility. Upon completion of the water mains and service laterals and acceptance of the system by the Village Public Works & Highway Committee, ownership and control shall be turned over without reservation to the Village.

Developer shall request in writing to the Village Engineer, acceptance of the public improvements. The Village Engineer will order an inspection of the improvements by the Village Water Utility, Wastewater Utility, Highway Dept., and Engineering Dept., and a punch-list of corrections (if needed) shall be forwarded to Developer for completion prior to acceptance. Upon completion of corrective action, Developer shall inform the Village Engineer in writing and request acceptance by the Public Works & Highway Committee. Upon satisfaction of the conditions set forth in this Agreement, and upon written request by Developer, the Village shall accept the improvements (the "Final Acceptance"). The acceptance of the public improvements by the Public Works & Highway Committee shall commence running of the one-year warranty period provided for and in accordance with Section 7.01 of this Agreement.

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ARTICLE IV - PAYMENT OF FEES

4.01 GENERALLY. Developer shall pay all fees, expenses, costs and disbursements which Developer is required to pay, pursuant to Sec. 18.10 of the Municipal Code. Nothing in this provision, nor in the remaining provisions of this article, shall be construed as exempting Developer, its successors and assigns, from such future fees, expenses, costs, or assessments which might be imposed by way of general operation of law or ordinance, and as otherwise assessable against properties within the Village of Germantown.

4.02 IMPACT FEES. As a condition of the approval of this Agreement by the Village, Developer shall pay to the Village Treasurer tax impact fees/Residential Unit that have been determined in accordance with Sec. 3.14 of the Municipal Code. These fees include:

Water: (\$832.00/Res. Unit)
Parks: (\$736.00/Res. Unit)
Fire: (\$171.00/Res. Unit)
Police: (\$148.00/Res. Unit)
Library: (\$281.00/Res. Unit)
Sewer Connection Fee: (\$3,808.00/Res. Unit)

REC is a residential unit equivalent for pumping and storing municipal water or as per Section 15.07(2) of the Municipal Code and per Resolution No. 27-07, establishing the sewer connection charge. The REC Fees change annually with the current year REC Fee to be used at the time of Building Permit issuance. These fees are payable at the time of individual lot Building Permit issuance.

4.03 IMPROVEMENT REVIEW FEE. Developer shall pay a fee based on the cost of required development improvements for all phases of the project to cover the cost of the Village for checking and reviewing plan and specification documents. Such improvement review fee shall be as provided by Sec. 18.10(3) of the Municipal Code. The fee shall be calculated as follows:

- (1) 2.25% of the first \$250,000 of construction costs; plus
- (2) 1.75% of the next \$250,000 of construction costs; plus
- (3) 1.25% of construction costs which exceed \$500,000; plus
- (4) A minimum \$5,000 Developer's Agreement fee pursuant to Section 18.10(3) of the Municipal Code.

4.04 PROFESSIONAL FEES AND INSPECTION FEES. In accordance with Sec. 18.10(4), 18.10(7), and 18.10(8) of the Municipal Code, Developer shall be responsible for all professional (technical and legal) fees incurred by the Village in connection with this Development. Inspection costs shall be reimbursed to Village by Developer, whether performed by the Village Engineering Dept., Water Utility, Wastewater Utility, Highway Dept., or

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outsourced to a third-party engineering consultant, and shall also be reimbursed for services rendered by the Village Attorney. Developer will be billed for Village personnel at the standard rates presented in Exhibit B. Developer will be billed for third-party engineering consultants by presenting their invoices.

4.05 DATA CONVERSION FEE. In accordance with Section 18.10(13) of the Municipal Code, Developer shall be responsible for all fees associated with the upload of Geographic Information System data incurred by the Village in connection with this project.

4.06 PREPAYMENT OF CERTAIN FEES. Developer, and/or a lot owner in the case of impact fees, shall pay the fees specified in Paragraphs 4.02, 4.03 and 4.05, as itemized in Exhibit A, prior to the issuance of any building permit for the Property.

ARTICLE V - SPECIAL PROVISIONS

5.01 SEWER CONNECTIONS. In accordance with the rules and regulations of the Village, Developer has been authorized one (1) sewer connection for this Development, subject to the provisions of Sec. 5.02 of this Agreement.

5.02 SEWER CAPACITY. It is understood by and between the parties that the Village, by entering into this Agreement, makes no representations or guarantees with respect to sewer capacity for the Development contemplated by this Agreement. It is understood by Developer that other governmental authorities having jurisdiction may impose limitations or restrictions upon the Village's decision to authorize the sewer connections referred to in Sec. 5.01 of this Agreement.

5.03 WETLAND AND FLOODPLAIN CONDITIONS. It shall be an explicit condition that Developer shall comply with all required regulations and shall obtain all necessary approvals in writing from the appropriate agencies relative to the wetlands and floodplain areas which may be on the Property. Approval of the subject Development Plan by the Village Plan Commission shall not be construed to be Village approval of intrusions into wetland or floodplain areas, or Village approval of filling or modifications to wetlands or floodplain areas. Developer, except as required on approved plans, will not be allowed to grade, fill, or conduct any other type of development within 75 feet of the high water mark of a navigable waterway or 25 feet from a wetland. If the Zoning Administrator suspects the presence of wetlands or navigable stream upon site inspection, an updated delineation will be required. Final delineation of wetlands and navigable streams shall be confirmed by the Southeastern Wisconsin Regional Planning Commission.

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5.04 PHASES. Developer has represented that it will construct the public improvements for this project in one phase. All public improvement work associated with the Development shall be completed within one year following the date of issuance of permits for such work by the Village.

ARTICLE VI - FINANCIAL GUARANTY

6.01 AMOUNT. Developer shall deposit with the Village a certified check or provide an irrevocable letter of credit which shall assure the faithful performance of Developer's obligations under this Agreement as itemized in Exhibit "A" attached hereto and incorporated herein by reference. The Village may in its sole discretion following Developer's request and acceptance by the Village Public Works & Highway Committee of some but not all of the improvements constructed as part of this Agreement, reduce the deposit or letter of credit to the amount estimated by the Village Engineer (in a manner consistent with the Ordinances) to be necessary to secure performance by Developer hereunder. In no event shall the amount of the guaranty be reduced below the aggregate total estimated cost of the improvements not yet installed or accepted, plus fifteen percent (15%). The Village is hereby authorized to contact directly Developer's financial agent from time to time regarding the sufficiency of the financial guaranty. The termination date of the Letter of Credit, following acceptance by the Village shall be no earlier than one year following the date of issuance of permits for public improvement work by the Village. If the public improvements to be undertaken by Developer under this Agreement are not complete within one year following the issuance of permits for such work, for any reason including force majeure under Section 8.03 below and without regard to the fault of Developer, then Developer's obligation to provide a letter of credit shall be extended through the completion of the work and its inspection and acceptance of dedication by the Village. After construction and total completion of the project and acceptance of the project by the Village Public Works & Highway Committee, the surety will be reduced to 10% of the actual cost of construction for a period of one (1) year (the guaranty period). In the event the original surety would, by its terms, expire prior to the end of the one year guaranty period, or if the guaranty period is extended due to repairs of defects as provided in Sec 7.01, a new surety shall be issued to cover the remaining guaranty period for the 10% of actual original construction costs.

6.02 FORM. The form of the letter of credit shall be approved by the Village Attorney prior to acceptance of the letter of credit by the Village as satisfying Developer's obligation as provided in Section 6.01 above. The letter of credit shall provide that it may be drawn upon only by the Village to guaranty to the Village the performance by Developer of all obligations under this Agreement. The letter of credit shall be from a local lending institution, in the form of an irrevocable standby letter of credit and auto renewable.

6.03 LIABILITY NOT RELEASED. All deposits or Letters of Credit given hereunder are security devices only which in no manner limit the liability of Developer to the Village, however arising and regardless of the amount.

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6.04 RESERVATION OF ASSESSMENT RIGHTS. In addition to the remedies for default provided to the Village by this financial guaranty, the Village reserves the right without notice or hearing to impose special assessments or charges for any amounts to which it is specifically entitled by virtue of this Agreement for improvements specifically provided for herein upon the property described in Exhibit "C" attached hereto. Such special assessments or charges shall be collected on the next succeeding tax roll as are other special assessments or charges. This provision constitutes Developer's Waiver of Notice and Consent to all special assessment or special charges proceedings which may be required by law.

6.05 REMEDIES. At the option of the Village, a material breach of this Agreement shall result in the Village having the right to revoke any and all occupancy or use permits, or to rescind any zoning granted in consideration of the proposed project. Compliance with this contract shall be deemed a condition of any such zoning, which shall revert to the original zoning classification upon action of the Village Board under authority of this provision. As an alternative thereto, and at the option of the Village the Village may impose a liquidated damage penalty in the amount of \$500.00 per diem as until such time as there shall be compliance. In addition, the Village shall have the right to remedy such breach at its expense and assess the cost thereof against the subject property. All remedies as stated herein shall be deemed alternative remedies, and cumulative as and to such other remedies in law or equity as the Village may assert and herein reserves.

ARTICLE VII - GUARANTEE AND INDEMNIFICATION

7.01 GUARANTEE OF IMPROVEMENTS. Developer shall guarantee all dedicated improvements against defects due to faulty materials or workmanship which appear within one (1) year from the date of Final Acceptance by the Village, as provided in Article III of this Agreement. Developer shall repair or replace any such improvements as required by the Village Engineer to eliminate such defects and shall pay for all damages to Village property resulting from such defects. Each repair or replacement performed pursuant to this paragraph shall be guaranteed for one (1) year from the completion thereof.

7.02 GENERAL INDEMNIFICATION. Developer shall indemnify and hold the Village harmless against and from any and all liability, judgments, costs and expenses incurred by the Village as the result of any action by whomsoever or whenever brought or obtained against the Village or Developer, or both, which may in any manner result from or arise in the course of, out of, or as a result of the carelessness, negligence or neglect of Developer, its agents, contractors or employees. In every case where judgment is recovered against the Village and where notice of the pendency of the suit and an opportunity to defend the same has been given to Developer within ten (10) days after its commencement, the judgment shall be conclusive upon Developer, not only as to the amount of damages, but also as to its liability to the Village.

DEVELOPMENT AGREEMENT

7.03 CONTRACTOR INSURANCE. Contractors engaged by Developer to perform the work required by this Agreement within public rights-of-way shall, prior to commencing such work, submit to the Village proof of the following:

- (1) Unemployment and Workers' Compensation insurance which is in strict compliance with state laws.
- (2) Personal and public liability insurance having limits of not less than \$1,000,000.00.
- (3) Property damage insurance having limits of not less than \$500,000.00.
- (4) Fire and extended coverage which shall insure against losses and damage to completed work, materials or equipment until the same has been accepted by the Village.

7.04 INDEMNIFICATION FOR ENVIRONMENTAL CONTAMINATION: Developer shall indemnify, and hold the Village and its officers, agents and employees harmless from and against any and all losses, damages, costs, expenses, liabilities, obligations, claims or suits (including, without limitation, reasonable attorneys' fees, punitive damages, fines, penalties and consequential damages) resulting from or relating in any way to the presence of toxic or hazardous material or substances present or suspected to be present in or on the real property dedicated or conveyed to the Village, pursuant to, or in connection with the platting/subdivision of Developer's Property as more specifically detailed in the terms of this Agreement. For purposes of this Agreement, "toxic or hazardous material or substances" is defined as any pollutant, contaminant, waste or toxic or hazardous chemicals, wastes or substances, including, without limitation, asbestos, urea formaldehyde insulation, petroleum, PCBs, lead, air pollutants, water pollutants, soil pollutants and other substances defined as hazardous or toxic or words of similar import under federal, state or local statute, rule, regulation or order of any government entity having jurisdiction over the control of such wastes or substances.

Upon the Village becoming aware of the occurrences of any event or the existence of any state of facts in respect of which the Village has or will have a claim for indemnification under this Section 7.04 ("Claim"), as soon as reasonably practicable thereafter:

- (a) the Village shall provide Developer notice of the losses, damages, costs, expenses, liabilities, obligations, claims or suits (including, without limitation, reasonable attorney's fees, punitive damages, fines, penalties, and consequential damages) as and when reasonably apprehended. Notwithstanding anything to the contrary contained herein, the Village's failure to timely notify Developer shall not prevent or in any way impair recovery by the Village unless Developer is materially prejudiced as a result of such failure;
- (b) subject to paragraphs (c) through (f) below, Developer diligently, at its own

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expense, shall control and shall be responsible for the defense, negotiation and/or settlement of the Claim, including the diligent performance of any remediation associated therewith;

- (c) the Village may at its own expense hire counsel or consultants to monitor the Claim;
- (d) Developer shall not, without the prior written consent of the Village, which consent shall not be unreasonably delayed, withheld or conditioned, settle any Claim;
- (e) Developer shall lose its right to defend, negotiate and settle any Claim if, in the reasonable judgment of the Village, it fails to diligently defend, negotiate or settle such Claim. In the event that Developer has lost its right to defend, negotiate or settle any Claim: (i) the Village shall have the right, without prejudice to its right of indemnification hereunder, at Developer's cost and expense, to defend, negotiate and settle any Claim, and (ii) Developer shall pay such reasonable costs and expenses incurred by the Village within twenty (20) days of receipt of written notice from the Village;
- (f) If Developer does not timely assume responsibility for any Claim, the Village shall have the right, without prejudice to its right of indemnification hereunder, at the sole cost and expense of Developer, to assume control of the defense, negotiation and/or settlement of the Claim, and may engage counsel or other agents, consultants, and contractors to contest, defend, settle or otherwise dispose of such Claim, including, without limitation, hiring any environmental consultant or contractor to perform any remediation necessary to address the Property or the toxic or hazardous materials or substances at the Property.

ARTICLE VIII - TIME OF COMPLETION

8.01 COMPLETION DATE. The work required by this Agreement shall be completed by Developer not later than one (1) year after acceptance of this Agreement by the Village Board.

8.02 DEFAULT. In the event Developer does not complete installation of the public improvements required by this Agreement within thirty (30) days after the Village has served notice of default upon Developer, the Village may complete the same and take title thereto. The costs of doing such work shall be collected as provided in Article VI of this Agreement.

8.03 FORCE MAJEURE. Notwithstanding anything herein to the contrary, in the event that Developer is delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of

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power, restrictive governmental regulations, orders or decrees, riots, insurrection, war, acts of God, inclement weather, or other reasons beyond Developer's reasonable control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for the period of such delay.

8.04 SUNSET CLAUSE. The conditions of this Agreement shall terminate two (2) years after Village Board approval unless construction has begun or amended in writing by both parties.

ARTICLE IX - GENERAL PROVISIONS

9.01 PLATTING REGULATIONS. All provisions of the Village's subdivision and platting code as set forth in Chapter 18 of the Municipal Code of the Village which are not inconsistent with or in conflict with any of the provisions of this Agreement are incorporated herein by reference and all such provisions shall bind the parties hereto and be a part of this Agreement as fully as if set forth herein. This Agreement, shall be performed and carried out in strict compliance with and subject to the provisions of Chapter 18.

9.02 APPROVAL TERMS. The approvals granted by the Village to Steven Stoffel are conditioned upon the fact that Steven Stoffel (Developer), use is not tax-exempt and shall be subject to general property taxation; No tax-exempt use is authorized by the aforesaid approvals.

9.03 AGREEMENT FOR BENEFIT OF PURCHASER. Developer agrees that in addition to the Village's rights herein, the provisions of this Agreement shall be for the benefit of the purchaser of any dwelling unit, building, lot or parcel of land within the Development.

9.04 ENTIRE AGREEMENT. This written Agreement and written amendments and any referenced attachments thereto shall constitute the entire agreement between the Developer and the Village.

9.05 AMENDMENTS. This Agreement may be amended or modified only by an instrument in writing executed by all of the parties to this Agreement.

9.06 OWNERSHIP. Steven Stoffel (Developer) certifies and warrants to the Village that the owner of the real estate within said Development and all of the land contract vendors and/or mortgagees having interest in said real estate are as follows: Steven Stoffel.

9.07 AUTHORITY. Steven Stoffel, Owner and Developer.

9.08 NO VESTED RIGHTS GRANTED. Except as expressly provided by law or as expressly provided by this Agreement, no vested rights in connection with this project shall inure to

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the Developer, its heirs, successors or assigns.

9.09 NO WAIVER. No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provision, nor shall it be deemed or constitute a continuing waiver unless expressly provided for by a duly signed and executed, written amendment by all parties to this Agreement. The Village's failure to act or exercise any right under this Agreement shall not constitute the approval or a waiver of its right to act or exercise any right under this Agreement or a ratification of any wrongful or negligent act by the Developer or the acceptance of any improvement or performance on the part of the Developer.

9.10 APPROVAL. No approval by the Village Engineer or the Village attorney or any other person acting on behalf of the Village shall be construed as a waiver of any of the requirements of the Ordinances, or any statute or regulation governing the improvements.

9.11 COVENANTS AND DEED RESTRICTIONS. Developer shall, before selling any lots within the Subdivision, record restrictive covenants and deed restrictions. All proposed covenants and deed restrictions shall be submitted to and be approved by the Village Attorney prior to recording, and shall include the following:

- (1) Covenants and deed restrictions shall follow closely Articles 1 and 2 only of the "Berrywood Development Covenants".
- (2) A requirement that the lot owner set the final yard grade, building elevations and contours subject to the approval of the Villages Building Inspector and Engineer prior to construction. The lot owner shall also ensure that the lot is graded in accordance with such approval.
- (3) A requirement that the lot owners install a front yard light that is consistent in design and installation with the lights within Berrywood Subdivision and in conformance with Sec. 18.08(12) of the Municipal Code subject to the approval of the Village Engineer.
- (4) VILLAGE REMEDIES. The Village shall have the right to remedy deficiencies under the preceding paragraphs, the right to charge Developer for costs incurred and the right to enforce collection of such amounts in

DEVELOPMENT AGREEMENT

accordance with § 66.0627 of the Wisconsin Statutes.

9.12 SEVERABILITY. If any part, term or provision of this Agreement is held by a court to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term or provision; and the right of the parties will be construed as if the part, term or provision was never part of the Agreement.

ARTICLE X - NON-ASSIGNMENT

This Agreement which is binding upon Developer, Developer's agents, officers, employees, personal representatives, guardians and trustees shall not be assigned by Developer to any individual, firm, partnership or corporation without the express approval of the Village.

IN WITNESS WHEREOF, Developer and the Village have caused this Agreement to be signed in duplicate originals this _____ day of _____, 2016 which shall be the effective date of this Agreement.

OWNER / DEVELOPER

Personally came before me this ____ day of _____, 2016, the above-named, Steven Stoffel, to me known to be the person who executed the foregoing instrument and to me known to be such OWNER , and acknowledged that he executed the foregoing instrument in such capacity.

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

By Barbara K.D. Goeckner, Village Clerk

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DEVELOPMENT AGREEMENT

STATE OF WISCONSIN)
) SS
_____COUNTY)

Personally came before me this ____ day of _____, 2016, the above-named, Dean M. Wolter, Village President, and Barbara K.D. Goeckner, Village Clerk, to me known to be the persons who executed the foregoing instrument and to me known to be the persons who executed the foregoing instrument in such capacity and acknowledged the same.

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

Approved as to form:

Brian C. Sajdak, Village Attorney

This instrument was drafted by:
Lawrence W Ratayczak, P.E., Director of Public Works

DEVELOPMENT AGREEMENT
GATEWOOD PLACE

EXHIBIT “A”

FINANCIAL

EXHIBIT "A"

GATEWOOD PLACE

RESIDENTIAL DEVELOPMENT AGREEMENT

ITEM DESCRIPTION	BASIS	ESTIMATED AMOUNT
Survey Monuments	1.02	\$350.00
Site & Street Grading	1.03 & 1.11	\$23,400.00
Gravel Base and Asphalt Pavement	1.03	\$29,110.00
Asphalt Surface Coarse	1.03	include in above
Curb & Gutter	1.04	\$5,100.00
Sidewalks / Walk Paths	1.05	N/A
Sanitary Sewer System	1.06	\$54,500.00
Water System	1.07	included in sanitary #
Other Sewer & Water Facilities	1.08	N/A
Underground Utilities	1.09	N/A
Street Lights	1.1	N/A
Street Signs	1.08	N/A
Erosion Control	1.11 & 2.04	\$570.00
Storm Water System & Drainage	1.12	N/A
Permanent Barricades	1.13	N/A
SUB-TOTAL		\$113,030.00
DATA Conversion Fee	4.03	\$500.00 *
Improvement Review Fee: Minimum Fee	4.03	\$5,000.00 *
Professional Fee (Attorney)	4.05	\$500.00 *
Developers Share Cost Sidewalk/Pathway	1.14	\$5,000.00 *
Inspection Fee (Estimate)	4.05	\$3,000.00 *
SUB-TOTAL		\$14,000.00
IMPACT & CONNECTION FEE'S TO BE PAID AT THE TIME OF BUILDING PERMIT ISSUANCE		
Sanitary Sewer (3 REC @ \$3,808 / REC)	4.02	\$11,424.00 **
Water (3 REC @ \$832 / REC)	4.02	\$2,496.00 **
Fire (3 REC @ \$171.00 / REC)	4.02	\$513.00 **
Police (3 REC @ \$148.00 / REC)	4.02	\$444.00 **
Park & Recreation (3 REC @ \$736.00 / REC)	4.02	\$3.00 **
Library (3 REC @ \$281.00 / REC)	4.02	\$843.00 **
SUB-TOTAL		\$15,723.00
TOTAL (Letter of Credit Amount)		\$142,753.00
* Amount to be Paid at Time of Signing of Development Agreement		\$14,000.00
** Amount to be Paid at Time of Building Permit Issuance		\$15,723.00

DEVELOPMENT AGREEMENT

EXHIBIT “B”

CERTIFIED SURVEY MAP

CERTIFIED SURVEY MAP NO. _____

PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35, TOWN 9 NORTH, RANGE 20 EAST, IN THE VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN.

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN) SS
MILWAUKEE COUNTY)

I, MICHAEL J BERRY, PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY:

THAT I HAVE SURVEYED, DIVIDED AND MAPPED A PORTION OF LAND IN THE NORTHEAST 1/4, NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 9 NORTH, RANGE 20 EAST, IN THE VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID 1/4 SECTION; THENCE SOUTH 88°23'49" WEST ALONG THE NORTH LINE OF SAID 1/4 SECTION 825.00 FEET TO THE POINT OF BEGINNING OF LANDS TO BE DESCRIBED; THENCE SOUTH 01°26'11" EAST 688.02' FEET; THENCE SOUTH 89°39'24" WEST 499.59 FEET; THENCE NORTH 01°29'27" WEST 677.04 FEET TO A POINT ON THE NORTH LINE OF SAID 1/4 SECTION; THENCE NORTH 88°23'49" EAST ALONG SAID NORTH LINE 500.14 FEET TO THE POINT OF BEGINNING.

LANDS CONTAIN 341,139 SQUARE FEET OR 7.8315 ACRES

THAT I HAVE MADE SUCH SURVEY, LAND DIVISION AND MAP BY THE DIRECTION OF STEVEN A. STOFFEL, OWNER OF SAID LAND.

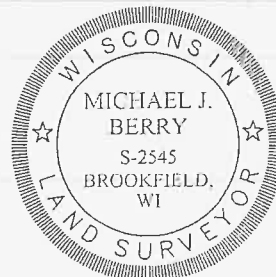
THAT SUCH MAP IS A CORRECT REPRESENTATION OF ALL EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND THE DIVISION THEREOF MADE.

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236.34 OF THE STATUTES OF THE STATE OF WISCONSIN AND CHAPTER 330 OF THE VILLAGE OF GERMANTOWN CODE OF ORDINANCES IN SURVEYING, DIVIDING, AND MAPPING THE SAME.

DATED THIS 7TH DAY OF MARCH, 2016.


MICHAEL J BERRY
PROFESSIONAL LAND SURVEYOR,
S-2545
STATE OF WISCONSIN

CURVE TABLE					
CURVE	ARC	RADIUS	BEARING	CHD. LENGTH	DELTA
C1	13.09'	20.00'	N 16°47'31" W	12.85'	37°29'31"
C2	119.65'	60.00'	N 21°35'21" E	100.79'	114°15'16"
C3	40.51'	60.00'	S 81°56'24" E	39.75'	38°41'13"
C4	145.09'	60.00'	S 06°40'52" W	112.24'	138°33'20"
C5	305.24'	60.00'	S 69°47'22" W	67.54'	291°28'58"



CERTIFIED SURVEY MAP NO. _____

PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35, TOWN 9 NORTH, RANGE 20 EAST, IN THE VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN.

OWNER'S CERTIFICATE

STEVEN A. STOFFEL, AS OWNER, CERTIFIES THAT HE HAS CAUSED THE LAND DESCRIBED ON THIS MAP TO BE SURVEYED, DIVIDED, MAPPED AS REPRESENTED ON THIS MAP IN ACCORDANCE WITH THE REQUIREMENTS OF THE VILLAGE OF GERMANTOWN CODE OF ORDINANCES.

THIS AGREEMENT SHALL BE BINDING ON THE UNDERSIGNED AND ASSIGNS. IN WITNESS WHERE OF, STEVEN A. STOFFEL HAS CAUSED THESE PRESENTS TO BE SIGNED AT THE VILLAGE OF GERMANTOWN, WISCONSIN, THIS _____ DAY OF _____, 2016.

IN THE PRESENCE OF:

(WITNESS)

STEVEN A. STOFFEL

STATE OF WISCONSIN) SS
COUNTY)

PERSONALLY CAME BEFORE ME THIS _____ DAY OF _____, 2016, TIM HILLER, OF THE ABOVE NAMED CORPORATION, TO ME KNOW AS THE PERSON WHO EXECUTED THE FOREGOING INSTRUMENT, AND TO ME KNOWN TO BE THE REPRESENTATIVE OF THE ABOVE CORPORATION, AND ACKNOWLEDGED THAT THEY EXECUTED THE FOREGOING INSTRUMENT AS SUCH OFFICER AS THE DEED OF THE CORPORATION, BY ITS AUTHORITY.

NOTARY PUBLIC
STATE OF WISCONSIN
MY COMMISSION EXPIRES: _____

VILLAGE OF GERMANTOWN PLAN COMMISSION APPROVAL

THIS CERTIFIED SURVEY MAP IS HEREBY APPROVED BY THE PLAN COMMISSION OF THE VILLAGE OF GERMANTOWN ON THIS DAY _____ OF _____, 2016.

DEAN WOLTER, VILLAGE PRESIDENT

DATE

BARBARA GOECKNER, VILLAGE CLERK

DATE

VILLAGE OF GERMANTOWN BOARD APPROVAL

THIS CERTIFIED SURVEY MAP IS HEREBY APPROVED BY THE VILLAGE BOARD OF THE VILLAGE OF GERMANTOWN ON THIS DAY _____ OF _____, 2016.

DEAN WOLTER, VILLAGE PRESIDENT

DATE

BARBARA GOECKNER, VILLAGE CLERK

DATE



X-D

**SAXONY VILLAGE
DEVELOPMENT AGREEMENT**

THIS AGREEMENT is entered into by and between the Village of Germantown, a municipal corporation of the State of Wisconsin located in Washington County, hereinafter called the "Village", and Heritage Place Joint Venture., hereinafter referred to as "Developer".

WHEREAS, the Developer owns that part of Outlot Four (4) and Outlot Five (5) in Assessor's Plat of the Village of Germantown, Northwest ¼ of the southeast ¼ of Section 22, Town 9 North of Range 20 East, Washington County, Wisconsin and together with the associated exceptions as described in the attached Exhibit "C" in the Village of Germantown, Washington County, Wisconsin (the "Property"); and

WHEREAS, Developer has submitted for approval by the Village a development plan for a proposed 172-Unit multi-family residential facility (included in the plan are 1-38 unit building, 2-35-unit buildings, 2-26 unit buildings, a clubhouse, maintenance building and a 12-unit building with additional detached garages) to be located in the Village of Germantown on the Property which Developer proposes to complete as described in the plans submitted to the Village, and approved by the Plan Commission on December 18, 2016; and

WHEREAS, the Village may require that Developer make and install any public improvements reasonably necessary and/or that Developer execute a certified check or irrevocable letter of credit to ensure that those improvements will be made within a reasonable time; and further that the acceptance of dedication of these improvements may be conditioned upon the construction of such improvements according to Village specifications and without cost to the Village; and

WHEREAS, it will be necessary that Developer construct and install water distribution facility partly in public right of way and partly in a dedicated easement on the Property, and the Village will require that such plans and designs be approved and permitted, and that the Developer furnish an appropriate financial guarantee; and

WHEREAS, The Village seeks to protect the health, safety and general welfare of the Village as a whole and, in particular, property owners who abut the site or are potentially affected by the project through application of the Municipal Code and rules and regulations of governmental agencies with jurisdiction.

NOW, THEREFORE, in consideration of these recitals, the mutual agreements, benefits and responsibilities outlined herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I - REQUIRED IMPROVEMENTS

1.01 GENERALLY. Developer, entirely at its own expense, shall, except as herein provided, design and install the public improvements required by Sec.18.08 of the Municipal Code in accordance with the provisions of that section and as directed by the Village Engineer or Village Board. It is the intent of this Agreement that all public improvements shall be installed by Developer. Notwithstanding the foregoing, the public improvements described in this Agreement are deemed to be undertaken for a public (not a private) purpose.

1.02 WATER SUPPLY FACILITIES. Developer shall design and submit to the Village Engineer for approval all proposed plans, specifications and contract documents for all water supply facilities before authorization for construction will be given, in accordance with Sec. 18.08(8) of the Municipal Code. All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village. All water utility improvements that are to be transferred to the Village Water Utility Department shall be contained in Village right-of-way or a utility easement dedicated to the Village. The easement shall be dedicated to the Village through an easement document prepared and submitted by Developer, subject to review and approval by the Village Engineer and the Village Attorney. Water main and lateral trenches in an existing roadway shall be aggregate slurry backfilled.

12" water main shall be extended west from the west property line to the existing water main located in Castle Drive. The Village shall reimburse the developer for the cost to install the approximate 80 lineal feet of 12 inch water main to connect to the existing water main in Castle Drive. The 80 lineal feet of water main is not located on "The Property". Exhibit "D" gives an estimated cost breakdown that totals \$45,072.30. This cost may be adjusted depending on the unknown cost to perform any contaminated soil or contaminated dewatering water disposal that may arise during the construction process. The final cost will be the actual cost to complete the installation of the water main.

1.03 SANITARY SEWERAGE SYSTEMS. Developer shall design and submit to the Village Engineer for approval all proposed plans, specifications and contract documents for all sanitary sewerage systems facilities before authorization for construction will be given, in accordance with Sec.18.08(8) of the Municipal Code. All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village. All sanitary sewerage system improvements that are to be transferred to the Village Waste Water Utility shall be contained in Village right-of-way or a utility easement dedicated to the Village. The easement shall be dedicated to the Village through an easement document prepared

and submitted by Developer, subject to review and approval by the Village Engineer and the Village Attorney. Sanitary Sewer main and lateral trenches in an existing roadway shall be aggregate slurry backfilled.

18" sanitary sewer shall be installed south from the proposed manhole in Main Street crossing beneath the existing railroad tracks to the point of connection with the existing 30" sanitary sewer near the south property line.

The Village shall reimburse the developer for a portion of the costs to construct the 18" sanitary sewer described above. The Village's reimbursement to the Developer shall be calculated as follows: The Actual Cost of construction less \$195,824.00 (Actual Cost - \$195,842 = Reimbursement Amount).

The installation of this 18 inch sanitary sewer shall be contingent upon the Village entering into a satisfactory agreement with a third party to share the cost of the sewer. In the event that an agreement cannot be reached, the Village retains the right to remove the 18" sanitary sewer from the developments plans at which point the Developer shall install the sewer lines originally proposed at its sole cost with no reimbursement from the Village under this paragraph.

1.04 OTHER UTILITIES. Developer shall be responsible for and cause electrical power, telephone facilities, and natural gas facilities to be installed in such manner as to make proper and adequate service available to each occupied building in the Development. All such services shall be located underground in accordance with applicable codes.

1.05 EROSION CONTROL. In order to minimize and control erosion, siltation, sedimentation and washing of soils during the period of construction, Developer shall evaluate, initiate and undertake such measures as may be necessary from time to time and as the Village Engineer may require or direct pursuant to Sec.17.44 of the Municipal Code, and, in addition, shall undertake the following measures to insure sediment control:

- (1) Submit an Erosion Control Plan for approval by the Village Engineer.
- (2) Developer is required to obtain an erosion control permit from the Building Inspection Department. Developer is required to maintain all erosion control until the final top-soiling, grading, seeding, mulching, sodding, has been completed for the entire project and until the vegetation has sufficient growth to control the run-off as shall be determined by the Village engineering staff. Silt fencing shall be removed by Developer promptly, following establishment of vegetation on all disturbed areas sufficient to control run-off from the site, as shall be determined by the Village's engineering staff.
- (3) Developer shall promptly undertake topsoiling, fine grading, seeding and fertilizing of all drainage easements and areas within the public right-of-way and all approved drainage swales in accordance with the approved Master Grading and Erosion

Control Plans after installation of all electric, gas, telephone, cable TV and drainage utilities and appurtenances. All surface restoration shall be completed prior to acceptance of dedication of improvements by the Public Works Committee.

- (4) Off-site sediment tracking is closely monitored by Village and County Inspectors. To assist in reduction of sediment infiltration of ponds and streams, sediment tracking must adhere to the sediment and erosion control plan. Violations of tracking practices shall result in the Village cleaning the streets traveled by construction equipment with a street sweeper as deemed necessary by the Village Building Inspector or Engineer. Such cleaning shall not exceed a frequency of twice weekly. Developer shall be charged and invoiced at standard rates set by the Village for any such street sweeping services rendered, and Developer shall remit payment within 30 days of receipt of such invoice(s). If not so promptly paid, the Village may charge Developer's escrow account or draw on Developer's letter of credit established pursuant to Section 6.01 of this Agreement, to recover such costs. Notwithstanding the foregoing, the right of the Village to respond to off-site sediment tracking hereunder shall not excuse Developer from strict compliance with required erosion control measures or be considered a substitute or replacement for such measures.
- (5) Topsoil to be stockpiled on site. No topsoil to be transported off site, except as provided by Section 17.441 of the Municipal Code.

1.06 STORM WATER DRAINAGE FACILITIES. Developer shall design and submit to the Village Engineer for approval storm water drainage and retention and detention facilities adequate to accommodate expected surface water flow within and through the Development, in accordance with Section 18.08 (10) of the Municipal Code and Chapter 13 of the MMSD Rules.

1.07 LANDSCAPING. Developer shall complete and continually maintain all landscaping as accepted by the Village in the site plan approval granted December 18, 2015.

1.08 STREET SIGNS AND MARKINGS. Developer shall install all required street signs and markings at Developer expense, including a Stop sign at the intersection of Main Street and Saxony Village Boulevard.

And Street Signs for; Saxony Village Boulevard and Saxony Square

1.09 SIDEWALKS AND PATHWAYS.

1) The Developer shall install a 12 foot wide asphalt path from Saxony Village Boulevard south, to be located on top of the proposed sewer main to sanitary manhole no. 4.

2) Developer shall construct approximately 240 lineal feet of concrete sidewalk on Hilbert Lane from the terminus of the existing sidewalk south to Sylvan Circle.

ARTICLE II - CONSTRUCTION

2.01 GENERALLY. Developer, entirely at its own expense, shall construct and install all public improvements and provide all plans, specifications and other documents in accordance with Sec.18.09 of the Municipal Code or as required by the Village Engineer pursuant to Sec.18.09. Developer understands and acknowledges that the Municipal Code may be and is subject to revision from time to time, and that such revisions may impose altered or additional obligations on individual and entities creating subdivisions and other developments in the Village, including Developer. Developer hereby agrees that with respect to any such revision which shall be approved by the Village prior to issuance of permits for all public improvements provided for herein, or as mutually agreed upon between Developer and the Village after the commencement of work, Developer shall incorporate any such revision into Developer's plans, specifications and work.

Developer shall provide a schedule of construction setting forth approximate dates of commencement and completion of each phase of the construction. Developer agrees that no work shall be scheduled for the improvements without the Village Engineers written approval of the starting date and schedule.

A pre-construction meeting shall be scheduled between Developer, the Contractors and the Village prior to commencement of any construction on the improvements. Developer shall, prior to such meeting, notify all utilities of the planned construction and the date and location of the pre-construction meeting.

2.02 BUILDING AND OCCUPANCY PERMITS. No occupancy permits shall be issued until the water main, sanitary sewer and storm sewer improvements servicing said building are installed, inspected by the Village Utility and approved by the Village Engineer, all record-drawings are filed with the Village and approved by the Village Engineer in accordance with 2.05 below, and all other improvements required by this Agreement, are installed and accepted by the Public Works Committee.

2.03 REQUIRED PLANS. Developer shall submit to the Village Engineer for approval all of the plans, profiles and specifications required by Sec.18.09 (3) of the Municipal Code. Required plans for improvements shall include the following:

- (1) Master site grading and asphalt path plan
- (2) Water main record-drawings
- (3) Erosion and sedimentation controls
- (4) Water main extensions
- (5) Sanitary Sewer Record Drawings
- (6) Sanitary Sewer extensions

In addition, Developer shall submit to the Village Engineer for approval all specifications before authorization for construction will be given. Implicit in this provision is the right of the Village Engineer to require document revisions and modifications in the best interests of the Village.

2.04 EXISTING FLORA. Developer shall, in accordance with Sec.18.09(5) of the Municipal Code, make reasonable efforts to protect and retain all existing trees, shrubbery, vines and grasses not actually lying within public roadways, drainageways, building foundation sites, private driveways and parking areas, soil absorption waste and disposal areas, paths and trails, except as necessary for implementation of the Development Plan. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by use of wells or islands or retaining walls whenever abutting grades are altered.

2.05 RECORD-DRAWING DOCUMENTS. Developer shall, not later than sixty (60) days following Final Acceptance of the improvements, provide the Village with record-drawing documents in digital format using the latest version of AutoCAD and on non-fading, double matte mylar (4 mil minimum thickness) of the water main, sanitary sewer, pond outlet structure and emergency overflow area. Reproducible copies of all final plans supplied by Developer to the Village pursuant to Sec. 18.09(3) of the Municipal Code shall include record-drawing information for all improvements. All record-drawing measurements shall include horizontal and vertical location referenced to the Village coordinate system (Wisconsin State Plane Coordinate System, South Zone, based on North American Datum of 1927 (NAD 27)). If Developer is unable to furnish the location and digital files as required, the Village Engineer shall complete the record-drawing plans with costs charged back to Developer. Each original or copy shall be certified by Developer's engineer and/or architect, in accordance with requirements of the Village Engineering Department.

ARTICLE III - DEDICATION AND ACCEPTANCE

Developer agrees that the improvements will not be accepted by the Village until (i) all outstanding charges to be paid by Developer under the Ordinances have been paid in full, (ii) affidavits and lien waivers are received by the Village indicating that all contractors providing work, services or materials in connection with the improvements have been paid in full for all such work, services and materials, and (iii) the Village has received evidence satisfactory to it that no liens or other encumbrances (except those approved in writing by the Village) encumber the improvements. Any water main installation shall not be accepted until a bacteriologically safe sample and satisfactory pressure test results are obtained. Developer or his Contractor will flush the main and obtain the samples required for this testing under the supervision of the Village

Inspector. Upon completion of the water mains and service laterals and acceptance of the system by the Village Public Works Committee, ownership and control shall be turned over without reservation to the Village.

Developer shall request in writing to the Village Engineer, acceptance of the public improvements. The Village Engineer will order an inspection of the improvements by the Village Inspector and a punch-list of corrections (if required) shall be forwarded to Developer for completion prior to acceptance. Upon completion of corrective action, Developer shall inform the Village Engineer in writing and request acceptance by the Public Works Committee. Upon satisfaction of the conditions set forth in this Agreement, and upon written request by Developer, the Village shall accept the improvements (the "Final Acceptance"). The acceptance of the public improvements by the Public Works Committee shall commence running of the one-year warranty period provided for and in accordance with Section 7.01 of this Agreement.

ARTICLE IV - PAYMENT OF FEES

4.01 GENERALLY. Developer shall pay all fees, expenses, costs and disbursements which Developer is required to pay, pursuant to Sec. 18.10 of the Municipal Code. Unless required to be pre-paid as a condition of the approval of this Agreement, such amount shall be paid by Developer within thirty (30) days after being billed by the Village. Nothing in this provision, or in the remaining provisions of this article, shall be construed as exempting Developer, its successors and assigns, from such future fees, expenses, costs, or assessments which might be imposed by way of general operation of law or ordinance, and as otherwise assessable against properties within the Village of Germantown.

4.02 IMPACT FEES. As a condition of the approval of this Agreement by the Village, Developer shall pay to the Village Treasurer tax impact fees/Residential Unit that have been determined in accordance with Sec. 3.14 of the Municipal Code. These fees include:

(1) Water:	\$ 832.00/REC
(2) Fire Protection:	\$ 171.00/REC
(3) Police Protection Facilities:	\$ 148.00/REC
(4) Park & Recreation:	\$ 736.00/REC
(4) Library Facilities:	\$ 281.00/REC
(5) Sanitary Sewer Connection:	\$3,808.00/REC

REC is a residential unit equivalent for pumping and storing municipal water or as per Section 15.07(2) of the Municipal Code and per Resolution No. 27-07, establishing the sewer connection charge. The REC Fees change annually with the current year REC Fee to be used at time of Building Permit issuance. These fees are payable at the time of Building Permit issuance.

4.03 IMPROVEMENT REVIEW FEE. Developer shall pay a fee based on the cost of required development improvements for all phases of the project to cover the cost of the Village for checking and reviewing plan and specification documents. Such improvement review fee shall be as provided by Sec.18.10 (3) of the Municipal Code. The fee shall be calculated as follows:

2.25% of the first \$250,000 of construction costs
1.75% of the next \$250,000 of construction costs, and
1.25% of construction costs which exceed \$500,000

If a Developer's Agreement is required for this project, the Engineering Department shall charge a minimum fee of \$5,000 for a fee as per Section 18.10(3) of the Municipal Code.

4.04 PROFESSIONAL FEES AND INSPECTION FEES. In accordance with Sec. 18.10(7) and (8) of the Municipal Code, Developer shall be responsible for all professional (technical and legal) fees incurred by the Village in connection with this Development. The Village shall be reimbursed for engineering services, whether provided by a staff engineer or technician or designated employee or by a consultant, and shall also be reimbursed for services rendered by the Village Attorney. Additionally, Developer shall reimburse the Village costs for inspection and related services provided by the Village or by a consultant, on the basis of all such services rendered as deemed necessary by the Village Engineer.

4.05 DATA CONVERSION FEE. In accordance with Section 18.10(13) of the Municipal Code, Developer shall be responsible for all fees associated with the upload of Geographic Information System data incurred by the Village in connection with this project.

4.06 PREPAYMENT OF CERTAIN FEES. Developer shall pay the fees specified in Paragraphs 4.02 through 4.05, as itemized in Exhibit A, for each phase of the building prior to the issuance of a building permit for said phase of the building Property.

ARTICLE V - SPECIAL PROVISIONS

5.01 SEWER CONNECTIONS. In accordance with the rules and regulations of the Village, Developer has been authorized seven (7) sewer connections for this Development, subject to the provisions of Sec. 5.02 of this Agreement.

5.02 SEWER CAPACITY. It is understood by and between the parties that the Village, by entering into this Agreement, makes no representations or guarantees with respect to sewer capacity for the Development contemplated by this Agreement. It is understood by Developer that

other governmental authorities having jurisdiction may impose limitations or restrictions upon the Village's decision to authorize the sewer connections referred to in Sec. 5.01 of this Agreement.

5.03 WETLAND AND FLOODPLAIN CONDITIONS. It shall be an explicit condition that Developer shall comply with all required regulations and shall obtain all necessary approvals in writing from the appropriate agencies relative to the wetlands and floodplain areas which may be on the Property. Approval of the subject Development Plan by the Village Plan Commission shall not be construed to be Village approval of intrusions into wetland or floodplain areas, or Village approval of filling or modifications to wetlands or floodplain areas. Developer, except as required on approved plans, will not be allowed to grade, fill, or conduct any other type of development within 75 feet of the high water mark of a navigable waterway or 25 feet from a wetland. A note regarding this restriction shall be placed on the Final Plat. If the Zoning Administrator suspects the presence of wetlands or navigable stream upon site inspection, an updated delineation will be required. Final delineation of wetlands and navigable streams shall be confirmed by the Southeastern Wisconsin Regional Planning Commission.

5.04 PHASES. Developer has represented that it will construct the public improvements for this project in one phase. All public improvement work associated with the Development shall be completed within one year following the date of issuance of permits for such work by the Village.

5.05 GARBAGE COLLECTION. In accordance with Sec. 11.08 of the Municipal Code, the Village is not responsible for garbage, refuse and recyclables collection from the Development. The Developer, its successor and assigns shall be responsible to contract for private garbage, refuse and recyclables collection.

5.06 ROADWAY MAINTENANCE. The Developer, its successors and assigns shall be responsible to provide or contract for all maintenance and repair services, including snow and ice removal, for all roadways within the Development.

5.07 WETLAND AND FLOODPLAIN CONDITIONS. It shall be an explicit condition that the Developer shall comply with all required regulations and shall obtain all necessary approvals in writing from the appropriate agencies relative to the wetlands and floodplain areas which may be on the subject site.

ARTICLE VI - FINANCIAL GUARANTY

6.01 AMOUNT. Developer shall deposit with the Village a certified check or provide an irrevocable letter of credit which shall assure the faithful performance of Developer's obligations under this Agreement as itemized in Exhibit "A" attached hereto and incorporated herein by reference. The Village may in its sole discretion following Developer's request and acceptance by

the Village Public Works Committee of some but not all of the improvements constructed as part of this Agreement, reduce the deposit or letter of credit to the amount estimated by the Village Engineer (in a manner consistent with the Ordinances) to be necessary to secure performance by Developer hereunder. In no event shall the amount of the guaranty be reduced below the aggregate total estimated cost of the improvements not yet installed or accepted, plus fifteen percent (15%). The Village is hereby authorized to contact directly Developer's financial agent from time to time regarding the sufficiency of the financial guaranty. The termination date of the Letter of Credit, following acceptance by the Village shall be no earlier than one year following the date of issuance of permits for public improvement work by the Village. If the public improvements to be undertaken by Developer under this Agreement are not complete within one year following the issuance of permits for such work, for any reason including force majeure under Section 8.03 below and without regard to the fault of Developer, then Developer's obligation to provide a letter of credit shall be extended through the completion of the work and its inspection and acceptance of dedication by the Village. After construction and total completion of the project and acceptance of the project by the Village Public Works Committee, the surety will be reduced to 10% of the actual cost of construction for a period of one (1) year (the guaranty period). In the event the original surety would, by its terms, expire prior to the end of the one year guaranty period, or if the guaranty period is extended due to repairs of defects as provided in Sec 7.01, a new surety shall be issued to cover the remaining guaranty period for the 10% of actual original construction costs.

6.02 FORM. The form of the letter of credit shall be approved by the Village Attorney prior to acceptance of the letter of credit by the Village as satisfying Developer's obligation as provided in Section 6.01 above. The letter of credit shall provide that it may be drawn upon only by the Village to guaranty to the Village the performance by Developer of all obligations under this Agreement. The letter of credit shall be from a local lending institution, in the form of an irrevocable standby letter of credit and auto renewable.

6.03 LIABILITY NOT RELEASED. All deposits or Letters of Credit given hereunder are security devices only which in no manner limit the liability of Developer to the Village, however arising and regardless of the amount.

6.04 RESERVATION OF ASSESSMENT RIGHTS. In addition to the remedies for default provided to the Village by this financial guaranty, the Village reserves the right without notice or hearing to impose special assessments or charges for any amounts to which it is specifically entitled by virtue of this Agreement for improvements specifically provided for herein upon the property described in Exhibit "C" attached hereto. Such special assessments or charges shall be collected on the next succeeding tax roll as are other special assessments or charges. This provision constitutes Developer's Waiver of Notice and Consent to all special assessment or special charges proceedings which may be required by law.

6.05 REMEDIES. In the event of a material breach of this Agreement by the Developer, the Village shall, within a reasonable amount of time, give notice of such breach to the Developer. If Developer fails to remedy the breach within thirty (30) days of the notice (or such other amount of time to which the parties might agree) (the "Cure Period"), the Village shall have the option of ordering the Developer to not proceed any further with the construction and installation of the utilities described in this Agreement until such time as the breach is remedied. In addition, if the Developer does not cure the breach within the Cure Period, the Village shall have the right to revoke any and all occupancy or use permits, to remedy such breach at its expense and assess the cost thereof against the subject property, and/or impose a liquidated damage penalty in the amount of \$500.00 per diem until such time as there shall be compliance. All remedies as stated herein shall be deemed alternative remedies, and cumulative as and to such other remedies in law or equity as the Village may assert and herein reserves.

ARTICLE VII - GUARANTEE AND INDEMNIFICATION

7.01 GUARANTEE OF IMPROVEMENTS. Developer shall guarantee all dedicated improvements against defects due to faulty materials or workmanship which appear within one (1) year from the date of Final Acceptance by the Village, as provided in Article III of this Agreement. Developer shall repair or replace any such improvements as required by the Village Engineer to eliminate such defects and shall pay for all damages to Village property resulting from such defects. Each repair or replacement performed pursuant to this paragraph shall be guaranteed for one (1) year from the completion thereof.

7.02 GENERAL INDEMNIFICATION. Developer shall indemnify and hold the Village harmless against and from any and all liability, judgments, costs and expenses incurred by the Village as the result of any action by whomsoever or whenever brought or obtained against the Village or Developer, or both, which may in any manner result from or arise in the course of, out of, or as a result of the carelessness, negligence or neglect of Developer, its agents, contractors or employees. In every case where judgment is recovered against the Village and where notice of the pendency of the suit and an opportunity to defend the same has been given to Developer within ten (10) days after its commencement, the judgment shall be conclusive upon Developer, not only as to the amount of damages, but also as to its liability to the Village.

7.03 CONTRACTOR INSURANCE. Contractors engaged by Developer to perform the work required by this Agreement within public rights-of-way shall, prior to commencing such work, submit to the Village proof of the following:

- (1) Unemployment and Workers' Compensation insurance which is in strict compliance with state laws.
- (2) Personal and public liability insurance having limits of not less than \$1,000,000.00.
- (3) Property damage insurance having limits of not less than \$500,000.00.

- (4) Fire and extended coverage which shall insure against losses and damage to completed work, materials or equipment until the same has been accepted by the Village.

7.04 INDEMNIFICATION FOR ENVIRONMENTAL CONTAMINATION:

Developer shall indemnify, and hold the Village and its officers, agents and employees harmless from and against any and all losses, damages, costs, expenses, liabilities, obligations, claims or suits (including, without limitation, reasonable attorneys' fees, punitive damages, fines, penalties and consequential damages) resulting from or relating in any way to (a) Developer's introduction of toxic or hazardous material or substances in or on the real property dedicated or conveyed to the Village; or (b) toxic or hazardous material or substances not introduced by Developer, but which cause damage because of work performed pursuant to, or in connection with the platting/subdivision of Developer's Property or this Agreement. For purposes of this Agreement, "toxic or hazardous material or substances" is defined as any pollutant, contaminant, waste or toxic or hazardous chemicals, wastes or substances, including, without limitation, asbestos, urea formaldehyde insulation, petroleum, PCBs, lead, air pollutants, water pollutants, soil pollutants and other substances defined as hazardous or toxic or words of similar import under federal, state or local statute, rule, regulation or order of any government entity having jurisdiction over the control of such wastes or substances.

Upon the Village becoming aware of the occurrences of any event or the existence of any state of facts in respect of which the Village has or will have a claim for indemnification under this Agreement ("Claim"), as soon as reasonably practicable thereafter:

- (a) the Village shall provide Developer notice of the losses, damages, costs, expenses, liabilities, obligations, claims or suits (including, without limitation, reasonable attorney's fees, punitive damages, fines, penalties, and consequential damages) as and when reasonably apprehended. Notwithstanding anything to the contrary contained herein, the Village's failure to timely notify Developer shall not prevent or in any way impair recovery by the Village unless Developer is materially prejudiced as a result of such failure;
- (b) subject to paragraphs (c) through (e) below, Developer diligently, at its own expense, shall control and shall be responsible for the defense, negotiation and/or settlement of the Claim, including the diligent performance of any remediation associated therewith;
- (c) the Village may at its own expense hire counsel or consultants to monitor the Claim;
- (d) Developer shall not, without the prior written consent of the Village, which consent shall not be unreasonably delayed, withheld or conditioned, settle any Claim;

- (e) Developer shall lose its right to defend, negotiate and settle any Claim if, in the reasonable judgment of the Village, it fails to diligently defend, negotiate or settle such Claim. In the event that Developer has lost its right to defend, negotiate or settle any Claim: (i) the Village shall have the right, without prejudice to its right of indemnification hereunder, at Developer's cost and expense, to defend, negotiate and settle any Claim, and (ii) Developer shall pay such reasonable costs and expenses incurred by the Village within twenty (20) days of receipt of written notice from the Village;
- (f) If Developer does not timely assume responsibility for any Claim, the Village shall have the right, without prejudice to its right of indemnification hereunder, at the sole cost and expense of Developer, to assume control of the defense, negotiation and/or settlement of the Claim, and may engage counsel or other agents, consultants, and contractors to contest, defend, settle or otherwise dispose of such Claim, including, without limitation, hiring any environmental consultant or contractor to perform any remediation necessary to address the Property or the toxic or hazardous materials or substances at the Property.

ARTICLE VIII - TIME OF COMPLETION

8.01 COMPLETION DATE. The work required by this Agreement shall be completed by Developer not later than one (1) year after acceptance of this Agreement by the Village Board.

8.02 DEFAULT. In the event Developer does not complete installation of the public improvements required by this Agreement within thirty (30) days after the Village has served notice of default upon Developer, the Village may complete the same and take title thereto. The costs of doing such work shall be collected as provided in Article VI of this Agreement.

8.03 FORCE MAJEURE. Notwithstanding anything herein to the contrary, in the event that Developer is delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental regulations, orders or decrees, riots, insurrection, war, acts of God, inclement weather, or other reasons beyond Developer's reasonable control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for the period of such delay.

8.04 SUNSET CLAUSE. The conditions of this Agreement shall terminate two (2) years

after Village Board approval unless construction has begun or amended in writing by both parties.

ARTICLE IX - GENERAL PROVISIONS

9.01 PLATTING REGULATIONS. All provisions of the Village's subdivision and platting code as set forth in Chapter 18 of the Municipal Code of the Village which are not inconsistent with or in conflict with any of the provisions of this Agreement are incorporated herein by reference and all such provisions shall bind the parties hereto and be a part of this Agreement as fully as if set forth herein. This Agreement shall be performed and carried out in strict compliance with and subject to the provisions of Chapter 18.

9.02 APPROVAL TERMS. The approvals granted by the Village for the Saxony Village project are conditioned upon the fact that the Saxony Village use is not tax-exempt and shall be subject to general property taxation. No tax-exempt use is authorized by the aforesaid approvals.

9.03 AGREEMENT FOR BENEFIT OF PURCHASER. Developer agrees that in addition to the Village's rights herein, the provisions of this Agreement shall be for the benefit of the purchaser of any dwelling unit, building, lot or parcel of land within the Development.

9.04 ENTIRE AGREEMENT. This written Agreement and written amendments and any referenced attachments thereto shall constitute the entire agreement between the Developer and the Village with respect to the construction and installation of utilities of the Property. Nothing in this Agreement shall be construed to withdraw or terminate the negotiation between the Village and Developer with respect to cost-sharing for the construction and installation of utilities on the Property, or otherwise invalidate the action taken by the Village of Germanton Public Works & Highway Committee on December 1, 2015, with respect to this subject.

9.05 AMENDMENTS. This Agreement may be amended or modified only by an instrument in writing executed by all of the parties to this Agreement.

9.06 OWNERSHIP. Developer certifies and warrants to the Village that all of the owners of the real estate within said Development and all of the land contract vendors and/or mortgagees having interest in said real estate are as follows: Heritage Place Joint Venture.

9.07 AUTHORITY. Developer, by the undersigned, represents, certifies and warrants that the undersigned has the authority to bind Heritage Place Joint Venture as a general partner of the same.

9.08 NO VESTED RIGHTS GRANTED. Except as expressly provided by law or as expressly provided by this Agreement, no vested rights in connection with this project shall inure to the Developer, its heirs, successors or assigns.

9.09 NO WAIVER. No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provision, nor shall it be deemed or constitute a continuing waiver unless expressly provided for by a duly signed and executed, written amendment by all parties to this Agreement. The Village's failure to act or exercise any right under this Agreement shall not constitute the approval or a waiver of its right to act or exercise any right under this Agreement or a ratification of any wrongful or negligent act by the Developer or the acceptance of any improvement or performance on the part of the Developer.

9.10 APPROVAL. No approval by the Village Engineer or the Village attorney or any other person acting on behalf of the Village shall be construed as a waiver of any of the requirements of the Ordinances, or any statute or regulation governing the improvements.

9.11 SEVERABILITY. If any part, term or provision of this Agreement is held by a court to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term or provision; and the right of the parties will be construed as if the part, term or provision was never part of the Agreement.

[THIS SPACE INTENTIONALLY BLANK]

ARTICLE X - NON-ASSIGNMENT

This Agreement which is binding upon Developer, Developer's agents, officers, employees, personal representatives, guardians and trustees shall not be assigned by Developer to any individual, firm, partnership or corporation without the express approval of the Village.

IN WITNESS WHEREOF, Developer and the Village have caused this Agreement to be signed in duplicate originals this _____ day of _____, 2016 which shall be the effective date of this Agreement.

Heritage Place Joint Venture

By: _____,
General Partner

STATE OF WISCONSIN)
) SS
_____COUNTY)

Personally came before me this ____ day of _____, 2016, the above-named, _____, General Partner of Heritage Place Joint Venture, to me known to be the person who executed the foregoing instrument and to me known to be such General Partner of said Corporation and acknowledged that he executed the foregoing instrument in such capacity.

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

"In Duplicate"

VILLAGE OF GERMANTOWN

By _____
Dean Wolter, Village President

By _____
Barbara Goeckner, Village Clerk

Per Village Board Approval: Dated _____

STATE OF WISCONSIN)
) SS
_____COUNTY)

Personally came before me this ____ day of _____, 2014, the above-named, Dean Wolter, Village President, and Barbara Goeckner, Village Clerk, to me known to be the persons who executed the foregoing instrument and to me known to be such President and Clerk of the above-named municipal corporation, Village of Germantown, and acknowledged that they executed the foregoing instrument as such officers, as the deed of said municipal corporation, by its authority and pursuant to Resolution No. _____ adopted by its Village Board on the ____ day of _____, 2016.

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

Approved as to form:

Brian C. Sajdak, Village Attorney

This instrument was drafted by: Lawrence W. Ratayczak, P.E., Director of Public Works

EXHIBIT “A”

EXHIBIT "A"**SAXONY VILLAGE****APARTMENT DEVELOPMENT AGREEMENT**

<u>ITEM DESCRIPTION</u>	<u>BASIS</u>	<u>ESTIMATED AMOUNT</u>
Gravel Base and 12' Asphalt Pavement (For Sanitary Access)	1.09	\$25,400.00
Sanitary Sewer System (Developer)	1.03	\$195,824.00
Sanitary Sewer System (Village)	1.03	\$458,795.41
Water System (Developer)	1.02	\$127,927.00
Water System (Village)	1.02	\$45,073.00
Street Signs	1.08	\$200.00
SUB-TOTAL		\$853,219.41
DATA Conversion Fee	4.05	\$500.00 *
Improvement Review Fee: Minimum Fee	4.03	\$5,000.00 *
Professional Fee (Attorney)	4.04	\$500.00 *
Inspection Fee (Estimate: \$7,000; billed monthly)	4.04	\$0.00 *
SUB-TOTAL		\$6,000.00
TOTAL		\$859,219.41
* Amount to be Paid at Time of Signing of Development Agreement		\$6,000.00

INITIAL LETTER OF CREDIT AMOUNT	\$853,219.41
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NOTE: BELOW FOR REFERENCES PURPOSES ONLY**IMPACT & CONNECTION FEE'S TO BE PAID AT THE TIME OF EACH BUILDING PERMIT ISSUANCE**

Sanitary Sewer (1 REC @ \$3,808 / REC)	4.02
Water (1 REC @ \$832 / REC)	4.02
Fire (1 REC @ \$171.00 / REC)	4.02
Police (1 REC @ \$148.00 / REC)	4.02
Park & Recreation (1 REC @ \$736.00 / REC)	4.02
Library (1 REC @ \$281.00 / REC)	4.02

NOTE: REC Fee will be charged at the current REC Fee at time of Building Permit Issuance

Developer or Owner

Lawrence W Ratayczak, P.E.
Director of Public Works

Print Name

Date:

EXHIBIT “B”

[illegible]

EXHIBIT “C”

EXHIBIT C

LEGAL DESCRIPTION

Parcel I:

That part of Outlot Three (3) in Assessor's Plat of the Village of Germantown, Northwest 1/4 of the Southeast 1/4 of Section 22, Town 9 North of Range 20 East, Washington County, Wisconsin, described as follows, viz:

Commencing at the center of said Section 22; thence South 88°33'42" West along the North line of the Southwest 1/4 of said Section, 135.00 feet to a point; thence South 01°58'28" East along the East line of Squire Drive, 240.00 feet to the point of beginning of the land to be described; thence North 88°33'14" East, 135.00 feet to a point on the North-South 1/4 line of said Section; thence North 88°37'44" East, 371.13 feet to a point, said point being the Southeast corner of Certified Survey Map No. 2386; thence South 01°24'56" East, 12.49 feet to a point; thence South 63°30'56" East, 213.52 feet to a point; thence North 26°29'04" East, 150.00 feet to a point; thence South 63°30'56" East 274.54 feet to a point; thence North 26°29'04" East, 60.00 feet to a point; thence South 63°30'56" East, 60.00 feet to a point; thence North 26°29'04" East, 60.00 feet to a point in the Southwesterly right of way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad; thence South 63°30'56" East along said right of way line, 383.50 feet to a point; thence South 01°56'58" East, 878.04 feet to the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of said Section 22; thence South 88°35'23" West, 1208.33 feet to a point on the East line of Squire Drive, said point being 110.00 feet North 88°35'23" East of the Southwest corner of the Northwest 1/4 of the Southeast 1/4 of said Section 22; thence North 01°58'28" West, 113.97 feet to a point; thence Northwesterly, 384.07 feet along the arc of a curve whose center lies to the West whose radius is 1186.28 and whose chord bears North 11°14'58" West, 382.39 feet to a point; thence North 20°31'28" West, 458.55 feet to a point; thence North 14°49'57" West, 168.40 feet to the point of beginning; EXCEPTING THEREFROM the following described real estate:

Commencing at the Northwest corner of said Southeast 1/4 Section; thence South 01°58'28" East along the West line of said Southeast 1/4 Section, 240.00 feet to the point of beginning of the land to be described;

Thence North 88°37'44" East along the South line of Certified Survey Map No. 2386 and parallel with the North line of said 1/4 Section, 371.13 feet to a point; thence South 01°24'56" East, 12.49 feet to a point; thence South 63°30'56" East, 85.00 feet to a point; thence South 00°54'18" East, 880.31 feet to a point; thence North 89°09'27" West 320.90 feet to a point in the East line of Squire Drive; thence Northerly along said East line, 330.28 feet on the arc of a curve whose center lies to the Southwest whose radius is 1186.28 and whose chord bears North 12°31'24" West, 329.22 feet to a point; thence North 20°31'28" West along said East line, 458.55 feet to a point; thence North 14°49'57" West along said East line and parallel with the North line of said Southwest 1/4 Section, 135.00 feet to the point of beginning. Note: The above excepted parcel is also known as Buildings 24, 26, 27, 28, 29 and 31 in Lake Park Extension, a recorded condominium; and Parcel 1 of Certified Survey Map No. 3501, recorded in the Washington County Registry on January 25, 1990 in Volume 21 of Certified Surveys on pages 168-172, as Document No. 554789.

TOGETHER WITH;

That part of Outlot Five in Assessor's Plat of the Village of Germantown, Northwest 1/4 of the Southeast 1/4 of Section 22, Town 9 North, Range 20 East, Washington County, Wisconsin, described as follows:

Commencing at the center of said Section 22, said point being South 88°37'57" West 2638.00 feet from the Northeast corner of said 1/4 Section; thence North 88°37'57" East along said North line 216.98 feet to a point; thence South 63°30'53" East along the Southwesterly line of said Outlot 5 a distance 389.49 feet to the point of beginning of lands hereinafter described; thence North 26°29'07" East 100.15 feet to a point on the Southwesterly line of lands described in Document No. 465242; thence South 63°30'53" East along said Southwesterly line 351.38 feet to a point; thence North 26°29'07" East along said Southwesterly line 20.00 feet to a point on the Southwesterly line of the Wisconsin & Southern Railroad lands; thence South 63°30'53" East along said Southwesterly line 3.62 feet to a point on the Southeasterly line of said Outlot 5; thence South 26°29'07" West along said Southeasterly line 120.15 feet to a point on the Southwesterly line of said Outlot 5; thence North 63°30'53" West along said Southwesterly line 355.00 feet to the point of beginning.

ALSO TOGETHER WITH;

That part of Outlot Three and Outlot Four in Assessor's Plat of the Village of Germantown, Northwest 1/4 of the Southeast 1/4 of Section 22, Town 9 North, Range 20 East, Washington County, Wisconsin, bounded and described as follows:

Commencing at the center of said Section 22, said point being South 88°37'57" West 2638.00 feet from the Northeast corner of said 1/4 Section; thence North 88°37'57" East along said North line 216.98 feet to a point; thence South 63°30'53" East along the Southwesterly line of Outlot 5 in said Assessor's Plat 370.02 feet to the point of beginning of lands hereinafter described; thence continuing South 63°30'53" East along said Southwesterly line 100.00 feet to a point; thence South 26°29'07" West 150.00 feet to a point; thence North 63°30'53" West 100.00 feet to a point; thence North 26°29'07" East 150.00 feet to the point of beginning.

Parcel II:

Outlot 5 of Assessor's Plat of the Northwest 1/4 and the Southeast 1/4 of Section 22, Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin.

Except that part taken in Award of Damages recorded as Document No. 465242.

ALSO EXCEPTING THEREFROM;

That part of Outlot Five in Assessor's Plat of the Village of Germantown, Northwest 1/4 of the Southeast 1/4 of Section 22, Town 9 North, Range 20 East, Washington County, Wisconsin, described as follows:

Commencing at the center of said Section 22, said point being South 88°37'57" West 2638.00 feet from the Northeast corner of said 1/4 Section; thence North 88°37'57" East along said North line 216.98 feet to a point; thence South 63°30'53" East along the Southwesterly line of said Outlot 5 a distance 389.49 feet to the point of beginning of lands hereinafter described; thence North 26°29'07" East 100.15 feet to a point on the Southwesterly line of lands described in Document No. 465242; thence South 63°30'53" East along said Southwesterly line 351.38 feet to a point; thence North 26°29'07" East along said Southwesterly line 20.00 feet to a point on the Southwesterly line of the Wisconsin & Southern Railroad lands; thence South 63°30'53" East along said Southwesterly line 3.62 feet to a point on the Southeasterly line of said Outlot 5; thence South 26°29'07" West along said Southeasterly line 120.15 feet to a point on the Southwesterly line of said Outlot 5; thence North 63°30'53" West along said Southwesterly line 355.00 feet to the point of beginning.

Parcel III:

All of Outlot Four (4) and that part of Outlot Three (3), all in Assessor's Plat of the Village of Germantown, Northwest 1/4 of the Southeast 1/4 of Section 22, Township 9 North of Range 20 East, Washington County, Wisconsin, bounded and described as follows:

Commencing at the center of said Section 22, Town 9 North of Range 20 East; thence east along the North line of said Southeast 1/4 Section and on the center line of Main Street 217 feet; thence South 62°06' East (measured South 63°30'56" East) 177.05 feet to the place of beginning of the parcel to be described; thence South (measured South 01°24'56" East), 169.75 feet to a point; thence South 62°06' East (measured South 63°30'56" East), 213.52 feet to a point; thence North 27°54'00" East (measured North 26°29'04" East), 150.00 feet to a point; thence North 62°06' West (measured North 63°30'56" West), 292.95 feet to the place of beginning.

EXCEPTING THEREFROM;

That part of Outlot Three and Outlot Four in Assessor's Plat of the Village of Germantown, Northwest 1/4 of the Southeast 1/4 of Section 22, Town 9 North, Range 20 East, Washington County, Wisconsin, bounded and described as follows:

Commencing at the center of said Section 22, said point being South 88°37'57" West 2638.00 feet from the Northeast corner of said 1/4 Section; thence North 88°37'57" East along said North line 216.98 feet to a point; thence South 63°30'53" East along the Southwesterly line of Outlot 5 in said Assessor's Plat 370.02 feet to the point of beginning of lands hereinafter described; thence continuing South 63°30'53" East along said Southwesterly line 100.00 feet to a point; thence South 26°29'07" West 150.00 feet to a point; thence North 63°30'53" West 100.00 feet to a point; thence North 26°29'07" East 150.00 feet to the point of beginning.

Source of Legal Description:

Boundary survey prepared by Donald C Chaput, Professional Land Surveyor S-1316 dated October 20, 2015.

EXHIBIT “D”

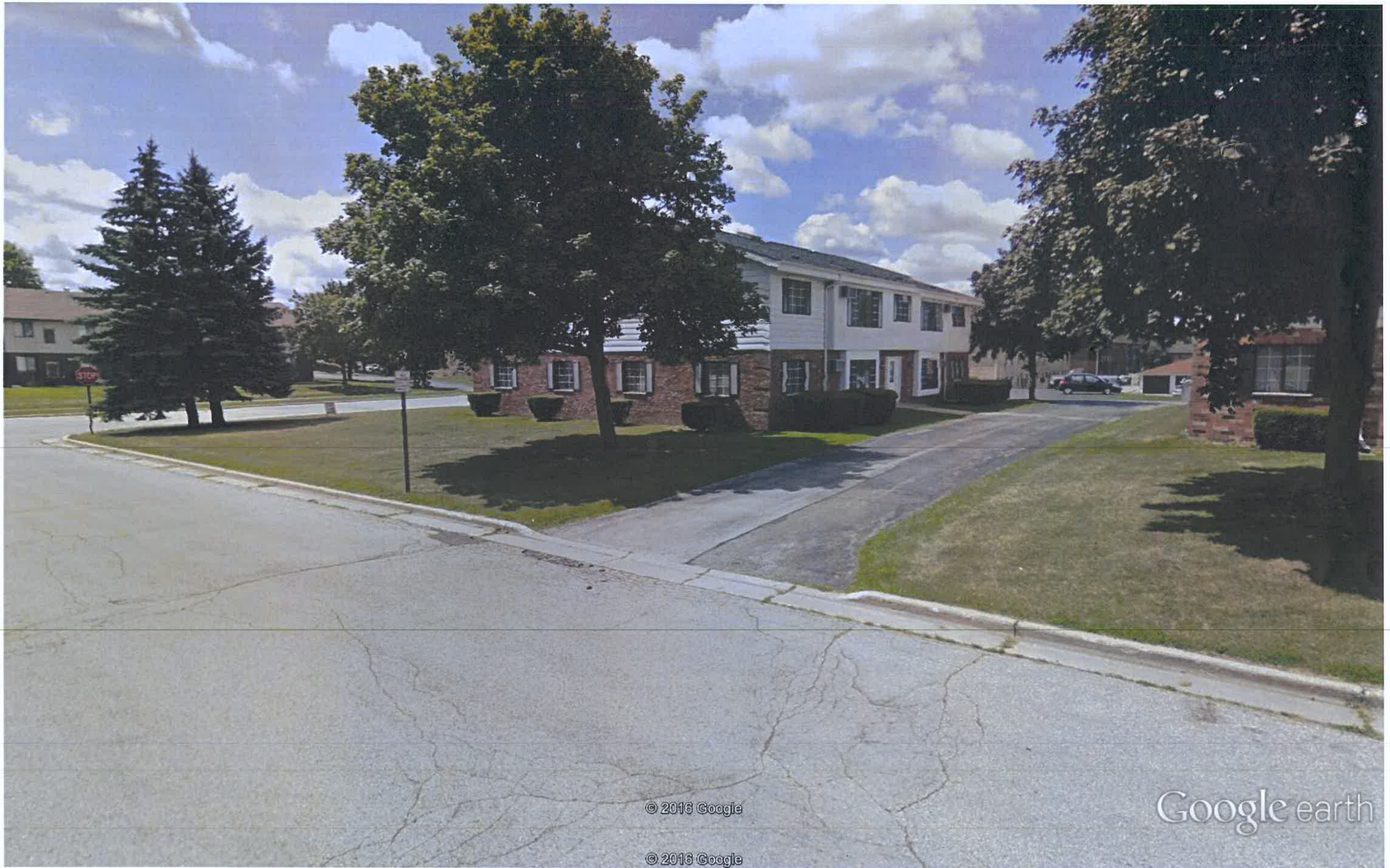
Savony Village Utility Costs

Rev. 7-6-16
Rev. 8-23-16
18-Nov-15

Item Description	Qty.	Est. Amount	Nov. 15, 2015	23-Jun-16
			Amount	Rebid based on final design
<u>Offsite Watermain (approximately 80' west of the west property line to connection on Castle Drive)</u>				
12" Watermain "Offsite"	1	12,340.00	Drill 12"- Offsite	\$19,586.00
Removal Offsite of Contaminated Spoil	1	6,300.00		\$0.00 \$81.60 per ton To be bill as an extra if needed
Soil management plan and observation	1	7,633.00		\$7,633.00
Dewatering and dewatering permit	0	T.B.D.		0.00 To be bill as an extra if needed
Rock removal	0	Excluded		0.00 To be bill as an extra if needed
Clearing and grubbing	1	0.00		\$1,275.00
Restoration Castle Drive	1	5,600.00		\$5,600.00
Village inspection services	1	2,400.00		\$2,400.00 Allowance, to be adjusted based on actual billed amount
Village improvement review fee	1	827.39		827.39 Allowance, to be adjusted based on actual billed amount
Village Professional fee	1	1,000.00		\$1,000.00
Engineering/Survey design	1	1,500.00		\$1,850.00
Project Management fee	1	3,760.04		4,017.14
Bond/LOC	1	0.00		888.77
Total		41,360.43 *		45,072.30 *
<u>Offsite Sanitary (install sanitary from Main Street/Park Street South under railroad to property line)</u>				
15 Inch sanitary "Offsite"	1	113,000.00	Drill 18"- Offsite	\$46,100.00
Removal Offsite of Contaminated Spoil	1	7,296.00		\$0.00 \$81.60 per ton To be bill as an extra if needed
Soil management plan and observation	1	6,850.00		\$6,850.00
Dewatering and dewatering permit	0	T.B.D.		0.00 To be bill as an extra if needed
Rock removal	0	Excluded		0.00 To be bill as an extra if needed
Railroad Crossing Permit	1	1,900.00		\$1,900.00
Main Street restoration	1	5,000.00		\$7,500.00
Village inspection services	1	2,400.00		\$2,400.00 Allowance, to be adjusted based on actual billed amount
Village improvement review fee	1	482.63		482.63 Allowance, to be adjusted based on actual billed amount
Village Professional fee	1	1,000.00		\$1,000.00
Engineering/Survey design	1	1,500.00		\$1,500.00
Project Management fee	1	13,942.86		6,773.26
Bond/LOC	1	0.00		1,490.12
Total		153,371.49 *		75,996.01 *
Upgrade				
Upgrade to 18 Inch main, ADD	1	4,958.00	Included above	
Project Management	1	495.80		
Upgrade Total		5,453.80 *		
<u>Original Sanitary Design -Connect at the SE corner of the site (Alternate Plan Set)</u>				
Sanitary System (This was the system that was designed until the Village encountered the Gehl Issue)		195,824.00		195,824.00
Removal of Contaminated spoil	1	0.00		0.00
Dewatering and dewatering permit	0	0.00		0.00
Rock removal	0	Excluded		Excluded
Total		195,824.00 **		195,824.00 **
<u>Village changed the sanitary to connect to the SW which has extra capacity for Gehl Foods (Utility Plan Set)</u>				
Sanitary System			18" Sanitary Sewer	\$503,052.00
15 Inch sanitary	1	350,862.00		\$0.00 \$81.60 per ton To be bill as an extra if needed
Removal Offsite of Contaminated Spoil	1	40,000.00		\$0.00 To be bill as an extra if needed
Dewatering and dewatering permit	0	T.B.D.		0.00 To be bill as an extra if needed
Rock removal	0	Excluded		0.00 To be bill as an extra if needed
DNR wetland permit	1	4,000.00		\$4,000.00
Clearing and grubbing	1	5,000.00		\$6,700.00
Restoration from Squire Drive to new manhole	1	7,000.00		\$7,000.00
Upgrade pedestrian path to an access road to service sanitary manholes	1	21,420.00		\$25,400.00
Extra Village inspection services beyond original design	1	2,000.00		\$2,000.00 Allowance, to be adjusted based on actual billed amount
Extra Village improvement review fee above original design	1	4,025.00		6,160.00 Allowance, to be adjusted based on actual billed amount
Village Professional fee	1	0.00		\$0.00 Allowance, to be adjusted based on actual billed amount
Extra Engineering/Survey design fee	1	2,100.00		\$2,635.00
Project Management fee (above the \$195,824.00)	1	24,058.30		35,232.80
Bond/LOC	1	0.00		11,843.60
Sub Total		430,282.00		604,023.40
Less the cost of the original design		195,824.00		195,824.00
Total cost		234,458.00 *		408,199.40 *
Upgrade				
Upgrade to 18 Inch main, ADD		22,425.00	Included above	
Project Management	1	2,242.50		
Upgrade Total		24,667.50 *		
* Village cost to be reimbursed to developer				
**Developer cost				
Total Due to Developer		\$459,311.22	Total Due to Developer	\$529,267.71 ***

***The price is slightly higher than the November estimate because it includes drilling of the sanitary and watermain through the contaminated zone. The reason for drilling vs. open cut is that you avoid the cost of removing the contaminated soil from the open cut trenches. Additionally, it is anticipated that there will be substantially less dewatering with the drilling vs. the open cut construction.
Note: Any special soil condition, dewatering, treatment of contaminated water, will be bill as an extra to the Village of Germantown.







X.F.

Business of the Village Board of Trustee's

Germantown, WI

Fire Department

Meeting Date: July 18, 2016

Agenda item: New Business

Item Title: Purchas of Unication Pager in lieu of Portable Water Tank

Submitted By: Gary L. Weiss, Fire Chief

Summary Explanation: The fire department is respectfully requesting to purchase with funds from account # 10-522-570-8100 nine Unication G1 Pagers for the fire department. We have \$5,200.00 for a Portable Water Tanks and associated accessories. Currently we have issued all of our pagers and no spares or additional one for new members.

Since we received one portable water tank under a Grant (non-matching grant) we can delay purchasing the second one. Additionally I will apply of the same grant again for the second tank.

Per the quote each pager would cost \$549.00, this includes an extended warranty of 3 years (for a total of 5 years of warranty). Additionally we would purchase one (1) G1 Programmer so we can program the pagers and not have to send them out.

I would like approval to purchase t total of nine (9) Unication G1 pagers and one (1) G1 Programmer for a total cost of \$5000.00.

I did contact Unication for cost and they referred me to General Communication as the local authorized dealer.

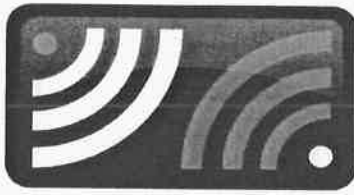
Attachment: Ordinance _____ Resolution _____ Other X _____

General Communication Quote

G1 Spec Sheet

Requested Action:

Approval for the Purchase of the Pagers



GENERAL COMMUNICATIONS

your safety is our business

Customer: Germantown Fire

Date: 7-05-16

Phone:

Fax:

Attn: Chief Gary Weiss

Valid For: 60 Days

Rep: John Tramburg
jtramburg@gencomm.com

Unication G1 Quote

1	G1	Voice Pager with Standard Charger	\$470.00
1	EXTWARRANTY-G1	3 Yr. Extended Warranty (Total 5 Yrs.)	<u>\$ 79.00</u>
Total			\$549.00

1	OG1PXXX1	G1 PROGRAMMER	\$ 59.00
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Madison
2880 Commerce Park Drive
Madison, WI 53719
(608) 271-4848 / (800) 356-3200

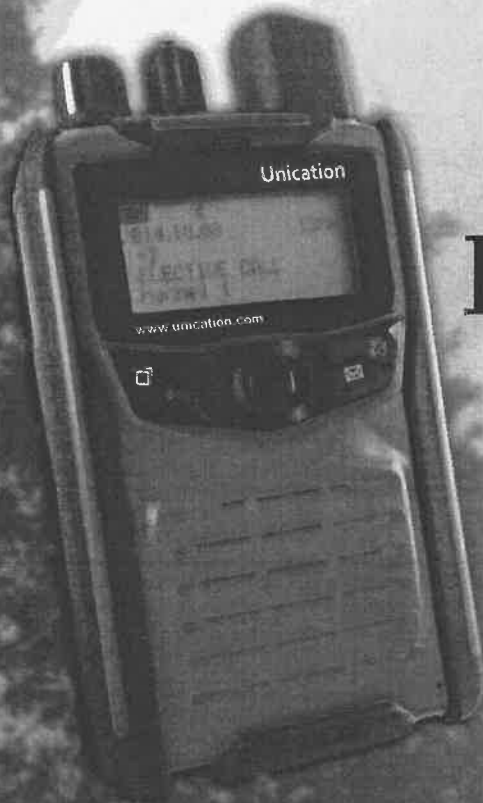
jtramburg@gencomm.com
www.gencomm.com

Milwaukee
N57 W13466 Reichert Avenue
Menomonee Falls, WI 53051
(262) 439-2126 / (800) 546-9468

G1

The Only Submersible Voice Pager

DESIGNED FOR PUBLIC SAFETY



IP67 Rating

Waterproof
Dustproof

Available in

Low Band, VHF, UHF

Scan Modes

Free, Silent,
Normal, Priority

2 Year Warranty

With additional 3 years

Standard Features

Bluetooth

Voice Memo

Voice Storage

AAA Batteries

Up to 64 Channels

Programmable Music
& Voice Alerts



Unication Makes a \$20 Donation
From the Sale of Each Red G1 to the
National Fallen Firefighters Foundation

The G1 is rich with standard features including 16 minutes of stored voice and 11 minutes of voice memo. This enables you to record your own personal messages for on-the-scene reminders, notes, etc! The included Bluetooth allows you to pair your G1 with other devices. There are seven different backlight color options that allow you to assign colors to different channels.

This device is a software-defined pager that allows for updates with the latest features. Don't miss out on the most rugged voice pager on the market! With included features and units in stock, we have your back while you serve your community! Available in Red, Yellow, Black, and Pink.

Get Connected:

Follow us  :

www.UnicationUSA.com

www.Facebook.com/UnicationUSA



Unication

G1 STANDARD FEATURES

Signaling Options:
 2 Tone, 5/6 Tone
 CDCSS(DPL), CTCSS(PL)
AAA Batteries: Rechargeable or Alkaline
 16 Minutes voice storage
 11 Minutes voice memo
 7 Backlight colors
 64 Channels
 Rejects cellphone interferences
 Message Lock
 Duty On/Off feature
 Auto On/Off feature
 Bluetooth (compatible with most phones and headsets)
Scan Modes:
 Normal (Probability Scan)
 Free, Priority, Silent, Monitor, Selective
 Standard 2 years warranty (5 years optional)

ADDITIONAL INFORMATION

Best in class message reception
 Submersible to 3 ft. for up to 30 minutes.
 Software-defined technology
 Weighs 200g
 Dimensions (mm)
 100.5 x 65.2 x 26.45
 Charger comes standard
 Charger detects alkaline and rechargeable batteries
 Charger Amplifier (optional):
 Extensive input, output control
 Heavy duty belt clip
 Temperature range: -10 C ~ +50 C
 Special rubberdized housing

TECHNICAL SPECIFICATIONS

RF Perf/Band	Low	VHF	UHF	
Sensitivity/Alerting (uV/m)	3.5	2	3	
Sensitivity/12dB SINAD (uV/M)	9	8	9	
Frequency Stability (ppm)	+/-10	+/-3	+/-3	
Adjacent Channel Selectivity	70/65dB			25/12.5kHz (VHF)
Spurious	>70dB			
Image Rejection	>70dB			
Audio Output Linear	>300mw			
Audio Distortion	<3%			
SPL Output (12")	96dB			
Speech Output (12")	94dB			
Dust/Water Proof Level	IP67			
UL	Class I, Div. II			
FCC	FCC Part 15			
MIL-STD	810E, Procedures 1 for Driving Rain			
Channel Spacing	Narrowband or Wideband			
Frequency Band	Low Band			VHF
Frequency Range (MHz)	33-39			137-153
	43-49			148-164
				465-485
				495-512



Reliable. Rugged. Built to Last.

X. G.

STATE OF WISCONSIN VILLAGE OF GERMANTOWN WASHINGTON COUNTY

ORDINANCE NO. ____-16

AN ORDINANCE AMENDING CHAPTER 5 OF THE MUNICIPAL CODE
OF GERMANTOWN RELATING TO FIRE PREVENTION AND
PROTECTION WITHIN THE VILLAGE

WHEREAS, the Village Board having previously adopted Chapter 5 of the Municipal Code of Germantown which relates to fire protection within the Village; and

WHEREAS, the Fire Chief has identified the need for certain changes within those regulations to better reflect current best practices; and

WHEREAS, fire prevention and protection within the Village is a matter in the interest of the public's health, safety and welfare;

NOW, THEREFORE, the Village Board of the Village of Germantown, Wisconsin, do ordain as follows:

SECTION I:

Chapter 5 of the Municipal Code of Germantown is hereby amended to read as shown in the attached Exhibit A, which is incorporated herein by reference.

SECTION II:

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III:

All ordinances or parts of ordinances contravening the terms of this ordinance are hereby to that extent repealed.

SECTION IV:

This ordinance shall take effect and be in full force upon its passage and the day after publication.

Introduced by Trustee:

ORDINANCE NO. ____-16

Page 2

Adopted: _____, 2016

Vote: Ayes:

Nays:

Absent:

Dean M. Wolter, Village President

ATTEST:

Barbara K.D. Goeckner, Village Clerk

Approved as to form:

Brian C. Sajdak, Village Attorney

EXHIBIT A

(NOTE: Additions are underlined; Deleted text is ~~struck through~~)

Chapter 5 - FIRE PREVENTION AND PROTECTION

Note— These are Village of Germantown Code of Ordinances rules in addition to the requirements in the NFPA, ICC and Wisconsin Administrative Codes as adopted.

5.01 - FIRE DEPARTMENT ORGANIZATION.

- (1) MEMBERSHIP. The Fire Department of the Village shall be known as the Village of Germantown Fire Department and shall consist of the Fire Chief, Deputy Chiefs, Captains, Lieutenants and as many drivers, firefighters and EMTs as may be provided by Department rules and regulations to provide the necessary services to the community.
- (2) APPOINTMENT, TERMS, DISCIPLINARY ACTIONS. The Police and Fire Commission shall appoint the Fire Chief, who shall hold office during good behavior, subject to suspension or removal by the Commission for cause. The Chief shall appoint subordinate members of the Department, subject to approval by the Police and Fire Commission. Such appointments, promotions, suspensions and removals shall be made as provided in §62.13, Wis. Stats., which section is adopted by reference and made a part hereof.
- (3) REGULATIONS. Members of the Department shall be governed by the rules and regulations adopted by the Fire Chief, resolutions and ordinances of the Village Board and the Wisconsin Statutes.
- (4) INTENT AND PURPOSE. The mission of the Germantown Fire Department is to prevent or minimize injury and the loss of life and property when a fire or other emergency occurs; to maintain a professional level of protection providing fire, rescue and hazardous materials services for our community through training and educational programs; to mitigate the consequences of natural and manmade disasters; and to provide prevention and educational programs for all ages as requested by our community.

5.02 - EMERGENCY MEDICAL SERVICE.

Emergency medical service shall be provided to the Village and ~~the Town of Germantown~~ contracted areas by the Department under the direction of the Fire Chief.

5.03 - FIRE CHIEF, POWERS AND DUTIES.

The Fire Chief shall direct the operation of the Department at fires, subject to Department rules and regulations and Village ordinances, issue and enforce such orders as in his judgment may be

best calculated for the protection of property and the extinguishing of fires; enforce all ordinances and rules and regulations of the Department; report annually to the Village Board all fires occurring in the Village, the origin thereof, if possible, together with the amounts and value of property destroyed and the amount of insurance, if any; make a full statement of the condition of the Department at the end of each year and make further reports as may be requested by the Village Board.

Additional resources. The fire chief or his designee will have the authority to request any additional resources from other jurisdictions under the joint mutual aid or MABAS agreements.

5.04 – ~~ASSISTANT~~ DEPUTY CHIEFS, POWERS AND DUTIES.

In the absence of the Chief, the senior ranking ~~Assistant~~ Deputy Chief shall take command and perform his duties.

5.05 - POLICE POWER OF DEPARTMENT.

- (1) POLICE AUTHORITY AT FIRES. The Chief and ~~assistant~~ Deputy Chief or officers in command at any fire are hereby vested with full and complete police authority at fires. Any officer of the Department may cause the arrest of any person failing to give the right of way to the Fire Department in responding to a fire.
- (2) CONTROL OF FIRES. The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons except firemen and policemen and those admitted by order of any officer of the Department shall be permitted to come. The Chief may cause the removal of any property whenever it shall become necessary for the preservation of such property from fire, or to prevent the spreading of fire, or to protect the adjoining property, and during the progress of any fire he may order the removal or destruction of any property necessary to prevent the further spread of the fire. He may also cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Department during a fire.
- (3) ENTERING PREMISES. Any ~~fireman~~ firefighter while acting under the direction of the Fire Chief or other officer in command may enter upon the premises adjacent to or in the vicinity of any building or other property then on fire for the purpose of extinguishing such fire, and no person shall hinder, resist or obstruct any fireman in the discharge of his duty.
- (4) DUTIES OF BYSTANDERS. Every person present at a fire shall be subject to the orders of the Fire Chief or officer in command and may be required to render assistance in fighting the fire or in removing or guarding property. Such officer may cause the arrest of any person refusing to obey such orders.
- (5) INJURY TO EQUIPMENT PROHIBITED. No person shall willfully injure any hose, hydrant or fire apparatus belonging to the Department; and no vehicle or railroad equipment shall be driven over any unprotected hose of the Fire Department when laid

down on any street, private driveway, track or other place to be used at any fire or alarm of fire without the consent of the Fire Department official in command.

- (6) FIRE PLAN INSPECTIONS. The Chief of the Fire Department, or any subordinate designated by the Chief, may, at all reasonable hours, enter any building or premises within the jurisdiction of the Village of Germantown for the purpose of making any inspection, or investigation which, under the provisions of this Code, he or they may deem necessary to ensure that the owner or operator is in compliance with his or her fire plan. Occupants who are not in compliance shall be subject to citation by the Fire Inspector or designee, and subject to penalties provided under section 5.4520. Private dwellings shall not be entered without the consent or permission of an adult occupant.

5.06 - FIRE INSPECTOR.

- (1) FIRE CHIEF TO BE FIRE INSPECTOR. The Fire Chief shall hold the office of Village Fire Inspector with power to appoint one or more deputy fire inspectors, who shall perform the same duties and have the same powers as the Fire Inspector.
- (2) POWERS AND DUTIES. The Fire Inspector shall make such inspections as may be necessary to ascertain the compliance of the Owners or occupants of private premises with the provisions of this chapter, and he may enter any building or upon any premises at any reasonable hour for the purpose of such inspection. Should he find a fire hazard within the Village, he may serve a notice in writing on the owner of the property giving the owner 48 hours in which to remove the hazard. If the fire hazard is not removed within that time, it shall be deemed a nuisance and the Fire Inspector may have the same removed by the Village and the cost of removal shall be recovered by the Village as a special charge pursuant to ~~§66.60(16)~~ 66.0627, Wis. Stats.
- (3) Fire inspections of all public buildings and places of employment, as defined in Wis. Stats. Ch. 101, shall be provided for at least twice per calendar year or as otherwise ordered by the Fire Chief, provided the interval between each such inspections shall not exceed 12 months.
- (3) ~~WRITTEN RECORD OF INSPECTIONS. The Chief shall keep a written record card of each property inspected which shall conform to the requirements of the State Department of Industry, Labor and Human Relations, and shall make the quarterly report of inspections required by the Department.~~
- (4) ~~CORRECTION OF FIRE HAZARDS. When any inspection by the Fire Chief or his deputies reveals a fire hazard, the Chief or his deputies may serve a notice in writing upon the owner of the property, giving such owner a reasonable time in which to remove the hazard. If the fire hazard is not removed within the time allowed, it shall be deemed a nuisance and the Fire Chief or his deputy may have the same removed by the Village. The cost of such removal shall be recovered in an action by the Village against the Owner of the property and may also be entered on the tax roll as a special charge against the property pursuant to §66.60(16), Wis. Stats.~~

- (5) ~~ENTERING ON PREMISES. No person shall deny the Fire Inspector or his deputies free access to any property within the Village at any reasonable time for the purpose of making fire inspections. No person shall hinder or obstruct the Fire Inspector in the performance of his duty or refuse to observe any lawful direction given by him.~~
- (6) ~~ENFORCEMENT OF FIRE PLAN. The Fire Inspector, or any subordinate designated by the Fire Inspector, may, at all reasonable hours, enter any building or premises within the jurisdiction of the Village of Germantown for the purpose of ensuring that the owner or operator is in compliance with the fire plan and hazardous materials and infectious agents disclosure as required by section 5.13. Occupants who are not in compliance shall be subject to citation by the Fire Inspector or designee, and subject to penalties provided under section 5.15.~~

5.07 - RESPONSIBILITY.

The responsible party for every new and existing building, structure or premises shall construct, arrange, equip, maintain and operate in accordance with this chapter to provide a reasonable level of life safety, property protection, and public welfare from the actual and potential hazards created by fire, explosion and other hazardous conditions. Compliance with this chapter does not relieve the responsible party from compliance with other ordinances or Wisconsin Statutes and Administrative Rules.

5.08 - ENFORCEMENT AND PENALTY.

- (1) Enforcement. The Fire Chief, Fire Inspector, Deputy Fire Chief and/or Deputy Fire Inspector (the "authority having jurisdiction" or "AHJ") shall be authorized to ascertain and cause to be corrected any condition liable to cause fire or any violation of any law or order relating to the fire hazard or to the prevention of fire.
- (2) Notice of violations. Whenever the AHJ determines violations of this chapter, a written or electronic notice shall be issued to confirm such findings.
- (3) Serving notice of violation. Any order or notice of violation issued pursuant to this chapter shall be served upon the owner, operator, occupant, registered agent, or other person responsible for the condition or violation by one of the following means:
- (a) Personal service.
 - (b) Mailed to last known address of the owner, operator, or registered agent or other person responsible for the condition or violation. In addition to mailing, the order or notice may also be emailed to last known address of the owner, operator, or registered agent or other person responsible for the condition or violation.

- (4) For unattended or abandoned locations. A copy of such order or notice of violation shall be posted on the premises in a conspicuous place at or near the entrance to such premises, and the order or notice shall be disseminated as follows:
 - (a) Mailed to last known address of the owner, operator or registered agent, or other person responsible for the condition or violation. In addition, the order or notice may also be emailed to last known address of the owner, operator or registered agent, or other person responsible for the condition or violation, and
 - (b) Published as a class 1 notice under Chapter 985, Wis. Stats.
- (5) Duty to correct. Upon notification of a violation, the responsible party shall have the duty to correct the violation(s) within the time specified by the AHJ.
- (6) Failure to comply. Any person who fails to comply with the provisions of this chapter, fails to carry out an order made pursuant to this chapter, or violates any condition attached to a permit, approval or certificate shall constitute a public nuisance and be subject to the penalties established by the Municipal Code.
- (7) Citations. The Fire Chief, or his designee(s), are authorized to issue citations for violations of the provisions of this chapter. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time as determined and set by the AHJ. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. Each day upon which a provision of this chapter shall be violated shall constitute a separate offense.
- (8) Cost recovery method and process. The Fire Chief shall report in writing to the Finance Director the costs for providing special services and materials where authorized under this chapter. The Village shall invoice the responsible party. Any fees remaining unpaid as of November 1 of each year shall be placed on the annual tax roll for collection as a special charge together with a reasonable administrative charge per parcel.

5.09 - CODES ADOPTED.

In addition to the regulations, standards and procedures set forth in this Code, the following are also adopted, incorporated herein and made a part of this Code by reference as though they were fully set forth herein, subject to the subsection (2) below:

- (1) All orders, rules and regulations of the Department of Commerce set forth in the Wisconsin Administrative Code, and from time to time amended, are hereby adopted and incorporated herein by reference. The most current legislatively enacted versions will be enforced. This includes but is not limited to the Commercial Building Code, the Fire Prevention Code, the Electrical Code and all administrative codes not listed.

- (2) ~~The Fire Prevention Code (National Fire Prevention Code 1) and all referenced standards are hereby adopted and incorporated herein by reference. The most current available printed version of all NFPA codes and standards shall be enforced.~~
- (3) ~~The International Building Code and all associated documents are adopted by reference in their most current printed version.~~
- (4) ~~In the event of conflict or ambiguity between the provisions adopted under this section, and the regulations, standards and procedures set forth elsewhere in this Code, the stricter provision shall apply.~~

~~A copy of the above codes are on file in the office of the Fire Chief. (Please note that more stringent Village requirements apply.)~~

- (1) Adoption of National Fire Protection Code (NFPA) 1, Fire Code. The provisions of the NFPA 1, Fire Code, the referenced publications of NFPA 1 Chapter 2 and the Annexes, as published on or before the effective date of this chapter, or as they may be amended or renumbered from time to time.

Note: A copy of National Fire Protection Code (NFPA) 1, Fire Code, is on file in the offices of the fire department. Copies of NFPA 1, Fire Code, may be purchased from the National Fire Protection Association at 11 Tracy Drive, Avon, MA 02322; and may be purchased or accessed free of charge at www.nfpa.org.

- (2) Adoption of International Fire Code (IFC). The provisions of the International Fire Code (IFC), the referenced publications of IFC Chapter 45 and the Appendixes, as published on or before the effective date of this chapter, or as they may be amended or renumbered from time to time.
- (3) Adoption of International Property Maintenance Code (IPMC). The provisions of the International Property Maintenance Code (IFC), the referenced publications of IFC Chapter 08 and the Appendixes, as published on or before the effective date of this chapter, or as they may be amended or renumbered from time to time.

Note: Many of the model codes created by the International Code Council (ICC) and adopted by the Village may be viewed free of charge on the ICC internet site. To access these codes, go to <http://www.ecodes.biz/> and click on "Free Codes." Online viewers should determine whether the version available on the Internet is the version adopted above.

Note: A copy of the International Codes (ICC) adopted is on file in the offices of the fire department. Copies of the International Codes may be purchased from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, (708) 799-2300, website www.iccsafe.org.

- (4) Adoption of Wisconsin Department of Safety and Professional Services Codes. The provisions of Wisconsin Administrative Codes, published on or before the effective date of this chapter, or as they may be amended or renumbered from time to time, including, but not limited to, the following:

<u>SPS 303</u>	<u>Administrative Procedures</u>
<u>SPS 305</u>	<u>Licenses, Certifications and Registrations</u>
<u>SPS 307</u>	<u>Explosives and Fireworks</u>
<u>SPS 308</u>	<u>Mines, Pits and Quarries</u>
<u>SPS 314</u>	<u>Fire Prevention</u>
<u>SPS 316</u>	<u>Electrical</u>
<u>SPS 318</u>	<u>Elevators, Escalators, and Lift Devices</u>
<u>SPS 320-325</u>	<u>Uniform Dwelling Code</u>
<u>SPS 326</u>	<u>Manufactured Home Communities</u>
<u>SPS 328</u>	<u>Smoke Detectors And Carbon Monoxide Detectors</u>
<u>SPS 330</u>	<u>Fire Department Safety and Health Standards</u>
<u>SPS 332</u>	<u>Public Employee Safety and Health</u>
<u>SPS 333</u>	<u>Passenger Ropeways</u>
<u>SPS 334</u>	<u>Amusement Rides</u>
<u>SPS 335</u>	<u>Infectious Agents</u>
<u>SPS 340</u>	<u>Gas systems</u>
<u>SPS 341</u>	<u>Boilers and Pressure Vessels</u>
<u>SPS 343</u>	<u>Anhydrous Ammonia</u>
<u>SPS 345</u>	<u>Mechanical Refrigeration</u>
<u>SPS 361-366</u>	<u>Commercial Building Code</u>
<u>SPS 371</u>	<u>Solar energy systems</u>
<u>SPS 375-379</u>	<u>Buildings Constructed Prior To 1914</u>

Note: Copies of the Wisconsin Department of Safety and Professional Services Codes are available online at <https://docs.legis.wisconsin.gov/code/toc/sp>

- (5) Adoption of the Wisconsin Agriculture, Trade and Consumer Protection Codes. The provisions of Wisconsin Administrative Codes, published on or before the effective date of this chapter, or as they may be amended or renumbered from time to time, including, but not limited to, the following:

<u>ATCP 93</u>	<u>Flammable, Combustible and Hazardous Liquids</u>
<u>ATCP 94</u>	<u>Petroleum and Other Liquid Fuel Products</u>

Note: Copies of the Wisconsin Agriculture, Trade and Consumer Protection Codes are available online at <https://docs.legis.wisconsin.gov/code/toc/atcp>

- (6) Where different code provisions conflict, the most restrictive provisions, as determined by the AHJ, shall govern.

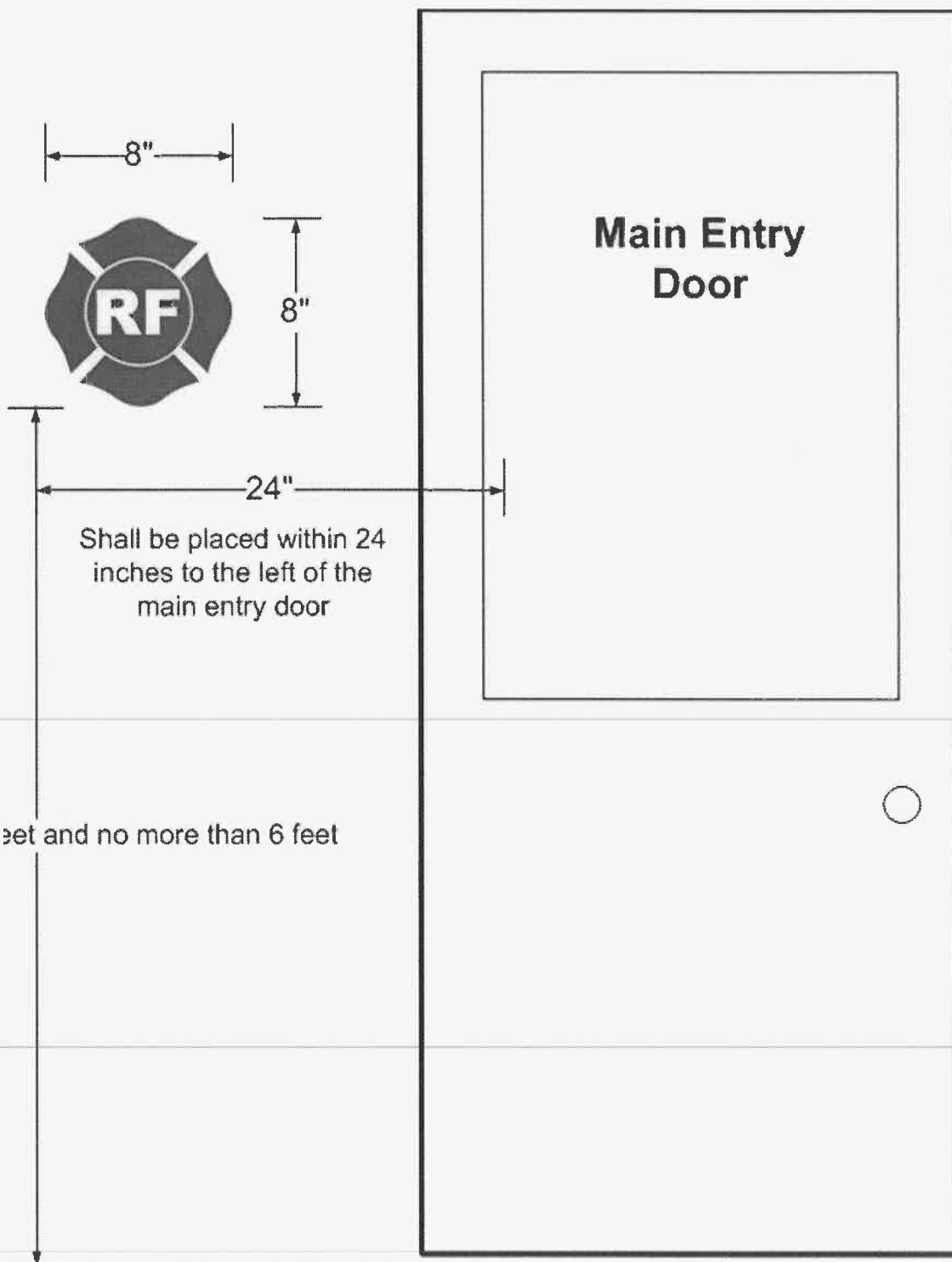
- (7) Any fire hazard not herein addressed by this chapter or adopted standards will be addressed on the basis of the current editions of the National Fire Protection Association and the International Code Council, Inc., Standards and Codes.

5.10 - STRUCTURES WITH LIGHT-FRAME TRUSS-TYPE CONSTRUCTION.

- (1) Purpose: The purpose of this rule is to require the placement of an identifying symbol on structures constructed with a light-frame truss component in a manner sufficient to warn persons conducting fire control and other emergency operations of the existence of light-frame truss-type construction in the structure.
- (2) Definitions.
- (a) “Light-frame truss-type construction” means a type of construction whose primary structural elements are formed by a system of repetitive wood or light gauge steel framing members.
- (b) “Approved Symbol” means a Maltese Cross measuring 8 inches horizontally and 8 inches vertically, of a bright red reflective color, designed in accordance with Figure 1.

Figure 1:





- (3) Any commercial, industrial, or multi-unit residential structure of three units or more, which uses horizontal or vertical light-frame truss-type construction in any portion shall be marked with an Approved Symbol. Each Approved Symbol shall include within the center circle one of the following designations as illustrated in Figure 1:
- (a) Structures with light-frame truss roofs shall be marked with the letter “R”.
 - (b) Structures with light-frame truss floor systems shall be marked with the letter “F”.
 - (c) Structures with light-frame truss floor and roof systems shall be marked with the letters “RF.”
- (4) The Approved Symbol shall be:
- (a) Permanently attached to the face of the structure on a contrasting background, or mounted on a contrasting base material which is then permanently attached to the face of the structure;
 - (b) Placed within 24 inches to the left of the main entry door;
 - (c) Placed such that the bottom edge of the Approved Symbol is not less than 4 feet (48 in.) nor more than 6 feet (72 in.) above the grade, walking surface or the finished floor of the structure
 - (d) In structures with multiple main entry doors, the Authority Having Jurisdiction is authorized to require that other main entry doors of the structure be marked with an Approved Symbol to carry out the purpose in subsection (1) above, except that Approved Symbols shall be marked on one side of the structure only and spaced not closer than 100 feet or at each end of the structure when such structure is less than 100 feet in length.
- (8) The owner of each qualifying new structure required to comply with this section shall mark the structure with the Approved Symbol prior to receiving a certificate of occupancy.
- (9) The owner of each qualifying existing structure required to comply with this section shall mark the structure with the Approved Symbol within 180 days of the effective date of this ordinance.
- (10) Where the owner of the structure and the Authority Having Jurisdiction disagree as to the use of light-frame truss-type construction within the structure, the owner shall be granted not more than 45 days to provide written verification from a licensed engineer or licensed architect; otherwise, the owner shall comply with the rule.

5.11. – DAMAGING OR DRIVING OVER FIRE HOSE PROHIBITED.

- (1) No person shall damage a fire hose in any way nor shall anyone drive over any fire hose with a vehicle.
- (2) If a fire hose is damaged or driven over, the person(s) responsible will be held responsible for all costs incurred to the city for cleaning, testing, drying and if necessary, the repair or replacement cost of the hose in addition to being subject to a penalty as provided for in Sec. 5.

5.12. - COST RECOVERY FOR SPECIAL SERVICES AND MATERIALS REQUIRED.

- (1) All costs for special services associated with an incident response including, but not limited to, class A or B foam and private vendor services, shall be recovered in an action by the city against the property owner of record.
- (2) When, in the opinion of the AHJ, a danger exists, the AHJ shall be authorized to order the occupants to vacate, or temporarily close for use or occupancy, a building, the right-of-way, sidewalks, streets, or adjacent buildings or nearby areas. The AHJ shall be authorized to employ the necessary resources to perform the required work in order to mitigate the danger. Costs incurred by the AHJ in the performance of emergency work shall be the responsibility of the property owner or other responsible party creating such danger.

5.13 - COST RECOVERY FOR RESPONSES TO NUISANCE FIRES.

Any person, industry, commercial establishment, railroad, apartment house complex or other who shall cause multiple nuisance fires including, but not limited to, rubbish and grass fires, shall forfeit to the Village the sum of all costs incurred for the response to the reported nuisance fire. Each additional nuisance fire shall constitute a separate penalty.

5.1314 - FIRE PLAN—DISCLOSURE OF HAZARDOUS MATERIALS AND INFECTIOUS AGENTS; REIMBURSEMENT FOR CLEANUP OF SPILLS.

- (1) APPLICATION.
 - (a) The provisions of this section shall apply to all persons, firms or organizations using, researching, producing or storing hazardous materials and/or infectious agents on and after the date which is 120 days after the effective date of this section.
 - (b) All persons, firms or organizations using, researching or producing hazardous materials and/or infectious agents shall notify the Fire Department as prescribed by this section.

(2) DEFINITIONS.

- (a) Infectious Agent is a bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans which is used, researched, produced or stored within or on premises.
- (b) Hazardous Materials are those materials that can cause death or disabling injury from brief exposure; those materials that could cause a lost time injury from exposure; and those materials that could cause temporary disability or injury without permanent effects which are used, researched, produced or stored within or on premises except those household consumer products used at the point of consumption or retail sale, and not used for commercial or experimental purposes. This definition of hazardous materials shall include radioactive materials.

(3) INFORMATION REQUIRED.

- (a) Any person, firm or organization using, researching, producing and/or storing any hazardous materials shall provide in writing to the Fire Department the following information:
 - 1. Address, location of where hazardous materials are used, researched, stored or produced;
 - 2. The floor plan of the premises storing the hazardous material;
 - 3. The trade name of the hazardous material;
 - 4. The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;
 - 5. The exact locations on the premises where materials are used, researched, stored and/or produced;
 - 6. Amounts of hazardous materials on premises per exact location;
 - 7. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the hazardous material;
 - 8. The flashpoint and flammable limits of the hazardous substance;
 - 9. Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;
 - 10. The stability of the hazardous substance;
 - 11. Recommended fire extinguishing media, special firefighting procedures and fire and explosion hazard information for the hazardous material;
 - 12. Any effect of over exposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;
 - 13. Any condition or material which is incompatible with the hazardous material and must be avoided;
 - 14. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials;

15. Procedures for handling or coming into contact with the hazardous materials.

(b) Any person, firm or organization using, researching, producing and/or storing infectious agent and/or carrier of an infectious agent shall provide in writing to the Fire Department the following:

1. The name and any commonly used synonym of the infectious agent;
2. Address/location where infectious agents are used, researched, stored and/or produced;
3. The floor plan of the premises storing the infectious agents;
4. The exact locations where infectious agents are used, researched, stored and/or produced;
5. Amount of infectious agent on premises per exact locations;
6. Any methods of route of transmission of the infectious agents;
7. Any symptoms of effect of infection, emergency and first aid procedure and a telephone number to be called in an emergency;
8. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent;
9. Procedure for handling, clean up and disposal of infectious agents leaked or spilled.

(4) ~~REIMBURSEMENT FOR CLEANUP OF SPILLS.~~ Any person who possesses or controls a hazardous material or infectious agent which was discharged or who causes the discharge of a hazardous material or infectious agent shall reimburse the Village for actual and necessary expenses incurred by the Village or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the circumstance.

(5) ~~RECOVERY OF COSTS.~~

(a) Every person, firm or corporation using, storing, handling or transporting flammable or combustible liquids, chemicals, gasses or other hazardous materials shall comply with the requirements of Wis. Adm. Code Ch. ~~COMM-10~~ ATCP 93, as the same is now in force and may hereafter from time to time be amended.

(b) Every person, firm or corporation using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials shall be liable to the Village for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or clean up any such hazardous material which is involved in any accidental spill or in threat of any fire or accidental spill.

(6) ~~COMPLIANCE.~~ Any person, firm or organization using, researching, producing and/or storing any hazardous materials or infectious agents without an approved fire plan is in

violation of this section and shall be cited by the Fire Inspector or designee. An owner or operator in violation of this section shall have 15 days from the date of the initial citation to submit the required fire plan. An owner or operator who fails to submit the approved fire plan will be cited for daily and continuous violations of this section and be subject to graduated penalties as provided under section 5.4520.

5.4415 - BURNING REGULATED.

(1) PERMIT REQUIRED.

- (a) Except as provided for in sub. (b), no person shall kindle or allowed to be kindled any open fire in the Village without first obtaining a burning permit from the Village Fire Department. Permits can be obtained from the Fire Department in any manner established by Department Policy. The Fire Chief or its designee reserves the right, after inspection, to deny any requested permit if in the judgment of the Chief or designee, hazardous conditions exist. Such permits shall be posted on the premises of the burning site at all times when such burning is taking place. Any permit issued hereunder shall be for a period not to exceed one-month in duration.
- (b) No burning permit shall be required for the following:
 - 1. Cooking and recreational fires in barbecue pits, grills and outdoor fireplaces, except that such fires must otherwise with the locational and safety requirements of the NFPA 1.
 - 2. Indoor domestic and commercial incinerators.
 - 3. Fires authorized by the Fire Chief which are set for the practice and instruction of firefighters.
- (c) Recreational Fire Defined. When used in this section, "recreational fire" shall mean an outdoor fire used for pleasure, religious, ceremonial, cooking, warmth or similar purposes that is contained in an outdoor fireplace or pit which has a maximum width of 3 feet in diameter and a maximum height of 2 feet and which burns materials other than yard waste, rubbish or debris.

(2) All outdoor burning shall comply with NFPA 1.

(3) RESTRICTIONS AND LIMITATIONS.

- (a) Notwithstanding anything herein to the contrary, no burning shall be allowed:
 - ~~(a)~~1. When the wind velocity exceeds 12 miles per hour as indicated by the National Weather Service.
 - ~~(b)~~2. During periods when the Village President, Village Fire Chief or their Designee, or the Department of Natural Resources has issued a burning ban.
 - ~~(c)~~3. Before 8:00 a.m. and after 8:00 p.m., except for cooking and recreational fires. All open burning shall be extinguished by 8:00 p.m.

- (b) All open fires shall be constantly attended by a competent person equipped with either a garden hose or a fire extinguisher available and ready for use.
 - (c) Approved burning shall take place 30 feet or more from any structure, flammable liquid or other materials that constitute a potential fire hazard or any location approved in writing by the Fire Chief.
 - (d) There shall be no open burning of yard wastes in accumulations greater than 5 feet in diameter nor 2½ feet in height.
- (4) PROHIBITED BURNING. No person should burn, or attempt to burn, the following:
- (a) Garbage.
 - (b) Materials emitting toxic fumes or substances, noxious odors or creating health hazards.
 - (c) Flammable liquids or other materials which may create a fire hazard.
 - (d) Building materials, waste materials and rubbish resulting from building construction, demolition, or site clearings.
- (5) ~~SIZE LIMITATIONS. Any burning permitted herein shall be limited to a burn pile of not greater than a 5-foot square area.~~

5.0716 - TRAFFIC LAWS APPLY TO FIRE APPARATUS.

Except when actually responding to a fire alarm or other emergency incident, the apparatus of the Fire Department shall have no special right of way or privileges of any kind, but shall be subject to the same traffic regulations as other vehicles.

5.0817 - TRAFFIC LAWS APPLY TO VOLUNTEERS/PAID ON CALL FIREFIGHTERS.

All firefighters, when responding to an emergency call with a private vehicle, shall comply with all traffic regulations. A firefighter that is a certified MPO or that has completed an Emergency Vehicle Operators Course (EVOC at the firefighter's expense):

- (1) May display a red light on their personal vehicle that provides 360-degree visibility coverage.
- (2) May utilize an audible alerting device (siren) on their personal vehicle.
- (3) Any firefighter utilizing a light and/or audible alerting device shall, annually on or before January 15, provide to the Fire Chief proof of insurance covering the vehicle and firefighter in their personal vehicle while responding to an authorized emergency. The firefighter shall notify the Fire Chief of any changes to the insurance coverage. The Fire Chief may require such proof of insurance at any time.
- (4) Probationary firefighters may not use a light or audible alerting device in their personnel vehicle.

5.4018 - AUTOMATIC SPRINKLER SYSTEMS.

- (1) PURPOSE. To provide the means for the automatic extinguishment of fire in buildings or parts of buildings which, because of their size, construction or occupancy or lack of suitable protective equipment, constitute a special fire hazard to life or property or an excessive burden upon the fire extinguishing capabilities of the Fire Department.
- (2) DEFINITIONS. For the purpose of this subsection, the following definitions shall apply.
 - (a) Approved.
 1. As Applied to Automatic Fire Sprinkler Systems. Approved by the authority charged with the enforcement of this section.
 2. As Applied to Automatic Fire Sprinklers and Devices. Approved by a recognized testing laboratory recognized by NFPA.
 - (b) Area. Ground area of buildings or sections of buildings divided by approved fire wall, each section being considered a separate area.
 - (c) Automatic Fire Sprinkler Equipment. An integrated system of underground and overhead piping designed in accordance with fire engineering standards. The system includes a suitable water supply such as a gravity tank, fire pump, reservoir or pressure tank and/or connection by underground piping to a municipal water main. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building, structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually actuated by heat from a fire and discharges water over the fire area.
 - (d) Basement. Any story where less than $\frac{1}{2}$ of the height between floor and ceiling is above the average level of street, sidewalk or finished grade.
 - (e) Fire Resistive. That type of construction in which the structure members, including walls, partitions, columns, floor and roof construction, are of noncombustible materials as more fully defined in the Wisconsin Administrative Code ~~with fire resistant ratings not less than those specified in Wis. Adm. Code ILHR Table 51.03A.~~
 - (f) NFPA. For the purpose of this section, NFPA means the current editions of the National Fire Protection Association Codes and Standards.
 - (g) Story. That part of a building comprised between a floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling above it.
- (3) INSTALLATION STANDARDS. Approved automatic fire sprinkler equipment shall be installed in accordance with the current edition of Pamphlet #13, "Standards for the

Installation of Sprinkler Systems," and/or the current edition of Pamphlet #13D "Sprinkler Systems—One and Two Family Dwellings," and other applicable standards of NFPA.

(3.1) PERMIT.

- (a) Required. Construction on any building that requires an automatic sprinkling system may not be started prior to submittal and approval of plans in accordance with the following process. Installation Standards must meet the current Edition of NFPA 13, and ~~section 5.10 of the Municipal Code of the Village of Germantown which requires sprinkler installations more stringent than the State of Wisconsin~~ the applicable provisions of the Wisconsin Administrative Code.

- (b) Application. A minimum of 4 sets (additional copies may be requested) of plans and calculations shall be submitted for review and approval to the Village's designated fire safety plan reviewer.

A cover letter shall be required detailing the project work to be done. A copy of the cover letter shall also to be sent to the Fire Chief of the Village of Germantown Fire Department at the time of submittal.

- (c) Fees. An administrative fee shall be charged for each application (job) submitted in an amount to be determined and set by the Village Board from time to time. An invoice will be mailed after the review process. Payment is to be made directly to the Village's designated fire safety plan reviewer, and all plan approvals shall be conditioned upon receipt of such payment.
- (d) Final Site Inspection and Certification. The Village of Germantown Fire Department shall charge and be compensated by the developer or contractor for final site inspection and certification in an amount to be determined and set by the Village Board from time to time. A check is to be made payable to the Germantown Fire Department and sent with the cover letter at the time of application. Upon completion of the inspection and certification, the sprinkler system must be put in service and operational.

(4) RESERVED.

- (5) BUILDINGS WHERE INSTALLATION REQUIRED. Every building constructed or structurally altered shall have an approved automatic sprinkler system installed and maintained when occupied in whole or in part for the following purposes:

- (a) ~~Buildings Housing Combustible Goods. The manufacture, storage or sale of combustible goods or merchandise in:~~
 - 1. ~~Fire Resistive Buildings. If over 6,000 square feet in area, or over 3 stories or 60 feet:~~

- ~~2. Throughout Every Building. Regardless of number of stories where the floor area is undivided by fire walls and exceeds 5,000 square feet, and where any point within the building is more than 50 feet measured in a straight line, from any exterior and accessible opening of the building.~~
 - ~~3. Throughout Every Building of Nonfire Resistive Construction. Over 5,000 square feet in area, or 2 stories in height regardless of area.~~
- ~~(b) Public Garages. Fire resistive buildings over 6,000 square feet in area and nonfire resistive buildings over 5,000 square feet in area.~~
 - ~~(c) Basements. Throughout all basements and cellars of buildings having an area of 2,000 square feet or more used for the manufacture, storage or sale of combustible material or merchandise or the housing of automobiles.~~
 - (d) Hotels, Motels. Throughout hotel and motel buildings of nonfire resistive construction.
 - ~~(e) Dwellings and Dormitories. (Am. Ord. #20-90) In the basements, cellars, store rooms, work rooms, hallways and stairways of multifamily buildings and dormitories of nonfire resistive construction 2 stories or more in height or over 4,000 square feet in area.~~
 - ~~(f) Theaters and Halls. Throughout buildings occupied or used as places of public assembly having a stage arranged for theatrical, operatic or similar performances, excepting only the auditorium, foyers and lobbies; and throughout all such buildings of nonfire resistive construction if such places of assembly are located above the first floor, whether or not there is a stage.~~
 - (g) Institutional Occupancies. Throughout all hospitals; nursing, convalescent, old age and other institutional buildings; and community-based residential facilities.
 - ~~(h) Business Occupancy. Fire resistive buildings over 5,000 square feet or more in area on any one floor or throughout all buildings of nonfire resistive construction if over 2,500 square feet in area or over 2 stories in height regardless of area, including multiple occupancies, such as apartments above mercantile stores or offices. Exits from basements to be approved standard door to grade or stairway.~~
 - ~~(i) Educational Occupancies. Throughout all buildings of nonfire resistive construction. In such buildings of fire resistive construction, throughout basements, work shops, laboratories, stairways and corridors, stage areas of auditoriums, janitor closets, kitchens, cafeterias and throughout all other areas where combustible materials are handled or stored.~~
 - (j) Hazardous Occupancies. Throughout every building which, by reason of its construction or highly combustible occupancy, involves a severe life hazard to its occupants, or, in the judgment of the Fire Chief, constitutes a fire menace.

(6) EXCEPTIONS. The following classes of buildings shall be exempt from the requirement of automatic sprinkler systems:

(a) Any portion of a building housing a process or material which would interact with water to create a greater fire hazard than without water, provided an alternate fire suppression system is used.

~~(b) One family and 2 family dwelling units.~~

(7) FIRE DEPARTMENT HOSE CONNECTIONS.

(a) Every automatic sprinkler system installed in new or existing buildings shall be equipped with at least one Fire Department hose connection at a location approved by the Fire Chief.

(b) The Fire Department Connection (FDC) shall be posted one (1) Foot above, in line with or above the FDC just below the roof line with a sign that is a minimum of 10 in. high by 14 in. wide with white reflective lettering that is at least 1.5 in. on a red background.

(8) CONNECTIONS.

(a) Underground water mains, hydrants and valves shall conform to current specifications of the Village.

(b) The Water Utility will require such tests as may be required by the National Fire Protection Association's standards. Such tests shall be conducted under the supervision of a Utility representative who shall certify acceptance or rejection of the system.

(9) INTERIM INSTALLATIONS.

(a) Unless or until such time as a municipal water supply is available to serve a building in which installation of an automatic sprinkler is required, connection of the system to a water supply shall not be required; however, all design characteristics of systems installed under this section shall include provisions for eventual connection to a municipal water supply. In addition, such interim installations shall also include:

1. One or more Fire Department connections with 2 female couplings with National Standard Threads attached to a header of adequate size in accordance with fire protection engineering standards, but not less than 4 inches, to supply the system.
2. An automatic fire detection and alarm system of a type approved by the Fire Chief or his designee having jurisdiction.

- (b) All fire sprinkler systems installed under the requirements of this section shall be connected to a municipal water system within 6 months after water mains to serve the building are available for use.

(10) SECURITY KEY AND VAULT SYSTEM.

- (a) Purpose. When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life savings or fire fighting purposes.
- (b) Key Box Required. The Knox Box vault system has been adopted for use by this Fire Department. A Knox Box shall be installed in all existing buildings which have an automatic alarm system which is monitored or has an automatic sprinkler system. The key box shall be a type approved by the Fire Department and shall contain those keys found to be necessary to provide emergency access. Exception: This section does not apply to one-family and 2-family dwellings.
- (c) Location. The Knox Box shall be installed at such location as designated by the Fire Chief or Deputy Fire Inspector.
- (d) Property Owner Responsible. The property owner is responsible to assure that keys maintained within a key box are those of the current type. When a change of locks within the building is necessary, the Fire Department shall be notified with new keys placed in the key box.
- (e) Installation. The Knox Box shall be installed at the owner's or occupant's expense.

5.4219 - FLAMMABLE LIQUID STORAGE PERMITS.

- (1) PERMIT REQUIRED. No service station island may be constructed, no gasoline or diesel pump may be installed, and no flammable liquid storage tank may be installed or removed without first obtaining a flammable liquid storage permit from the Fire Chief.
- (2) APPLICATION. An application for a flammable liquid storage permit shall be made in writing to the Fire Chief upon a form supplied by the Chief and shall be accompanied by the proper fee as set forth in subsection (3) below.
- (3) PERMIT FEES. The flammable liquid storage fees are as follows:

Gasoline or diesel pump	\$5.00 each
Service station island	\$5.00 each
Flammable liquid storage tank removal	\$50.00/1,000 gal. capacity plus \$6.00/1,000 gal. thereafter, \$50.00 minimum
Flammable liquid storage tank installation	\$50.00/1,000 gal. capacity plus

	\$6.00/1,000 gal. thereafter, \$50.00 minimum
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NOTE: If any work is commenced before a flammable liquid storage permit is obtained, all of the above fees shall be doubled.

- (4) COMMENCEMENT OF WORK. No work under a flammable liquid storage permit shall commence prior to the date and time assigned by the Fire Chief and no work shall proceed in the absence of a Fire Department Inspector.

5.1520 - PENALTY.

Any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in section 25.04 of this Code.