

VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022

MEETING:	PLAN COMMISSION
DATE AND TIME:	MONDAY, JANUARY 8, 2018 6:30 p.m.
LOCATION:	Germantown Village Hall Board Room

- I. **CALL TO ORDER:** This meeting has been given public notice in accordance with Wisconsin Statutes, Section 19.83 and 19.84 in such form that will apprise the general public and news media of subject matter that is intended for discussion and action.
- II. **ROLL CALL**
- III. **PUBLIC INPUT/PUBLIC APPEARANCE:** Please be advised per §19.84(2) that information will be received from the public, however, no action will be taken at this time.
- IV. **APPROVAL OF MINUTES:** December 11, 2017
- V. **UNFINISHED BUSINESS:**
 - A. Community Development Department – Proposed Zoning Code Amendments (Residential Accessory Uses, Buildings and Structures)
- VI. **NEW BUSINESS**
 - A. St1x Golf Entertainment Bar, LLC, Agent for Compass Properties, Property Owner, W164 N11271 Squire Drive. Sign Review Application.
 - B. Metro Cigars, LLC, Agent for MLG Germantown Investment LLC, Property Owner, Germantown Business Park, Lot #5 Willow Creek Way. Conditional Use & Site Plan Consultation.
 - C. Baudhuin Surveying & Engineering, Agent for Top Leaf Development LLC and Alan & Lynda Luther, Property Owners – 107 Acres South of Freistadt Road, North of Elm Lane and West of Wasaukee Road. Approval of Revised Rezoning Concept Plan and Subdivision Code Variance Request from 25' Wetland Setback/Open Space Outlot Requirement under Section 18.02(6).
- VII. **ANNOUNCEMENTS**
- VIII. **ADJOURNMENT:**

The next Plan Commission Meeting will be on February 12, 2018 at 6:30 p.m.

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service please contact the Village Clerk at (262)250-4740 at least 2 days prior to the meeting. Notice is given that a majority of the Village Board may attend this meeting to gather information about an item over which they have decision making responsibility. This may constitute a meeting of the Village Board per State ex rel. Badke v. Greendale Village Board, even though the Village Board will not take formal action at this meeting.

PLAN COMMISSION MINUTES
December 11, 2017

CALL TO ORDER: Chairman Wolter called the meeting to order at 6:30 p.m.

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

PUBLIC INPUT: Bruce Bernarde, N120 W14645 Freistadt Road, spoke regarding the Top Leaf Development proposal. He was concerned with water runoff.

APPROVAL OF MINUTES: ***MOTION Baum second Gray to Approve the Minutes from November 13, 2017 and November 29, 2017.***

MOTION carried unanimously.

Saxony Village – N115 W16200 Main Street. Scott Bence, property owner, is seeking approval to relocate a previously approved monument sign for the multi-family Saxony Village apartment community. Planner Retzlaff summarized the proposal.

MOTION Baum second Laszewski to Approve the revised monument sign location near the Hilbert Lane entrance for the Saxony Village community located at N115 W16200 Main Street as proposed.

MOTION carried unanimously.

J.W. Speaker Corporation – N120 W19434 Freistadt Road and 144 acres of land east of Goldendale Road and North of Freistadt Road. Request for approval of a rezoning application to create an M-1: Limited Industrial Planned Development District. Planner Retzlaff summarized the proposal.

MOTION Baum second Shadid to Approve the proposed rezoning of approximately 144 acres from A-1: Agricultural (39.7-ac Mayer/Neu property) and M-1: Limited Industrial (47.4-ac Roskopf and 57-ac Phylmac LLC properties) into the M-1: Limited Industrial Planned Development District (M-1/PDD) subject to the following:

- 1. The draft conditions & restrictions resolution dated December 11, 2017, shall constitute the specific conditions and restrictions for the PDD;***
- 2. The General Development Plan (GDP) dated December 11, 2017, shall constitute the General Development Plan required under Section 17.27 of the Zoning Code.***

Planner Retzlaff said the document was drafted and created by staff with input from the Speaker Corporation. Trustee Baum asked if there was language in the PDD that documented when the landscaping trees would be installed. Planner Retzlaff said the language in Section 2(c) Landscaping and buffering and Section 5 Perimeter Landscaping & Buffer Plan Required explains how landscaping is addressed. He explained a detailed landscaping plan is required before any roadway construction is commenced. Discussion continued. Trustee Baum said he'd like to include something addressing sound levels will not be any greater than they are today. Planner Retzlaff pointed out Section 9, Applicability of Municipal Code, that would apply to sound levels. He explained without something specific addressing sound levels, it would default to whatever applies throughout the Village. Trustee Baum asked that something be added that says this is a quiet neighborly business today and will

continue to be a quiet neighborly business tomorrow. Planner Retzlaff said we rely on the permitted land use section to address that. Trustee Baum said accessory uses allows for auxiliary power generators and he has had complaints on these in the past. Planner Retzlaff explained auxiliary power generators are for emergency purposes only. Mr. Speaker confirmed the auxiliary generator is for emergency use only if there is a loss of power to fill the gaps.

MOTION to Amend Baum second Shadid that the auxiliary power generator only be run for exercise purposes between the hours of 9:00 a.m. and 5:00 p.m. and only be operated for functionality when there is a power outage of the main power service.

MOTION to Amend carried unanimously.

Discussion continued regarding the storm water management plan. Planner Retzlaff said a plan would be required and is forthcoming. Storm water plans will be reviewed as part of the road construction plans and as each of the building sites are developed. No detailed storm water analysis evaluation has been done on the site yet. He said they have been given information from Mr. Roskopf about existing storm water runoff issues that might be addressed by way of incorporating some type structure facility across some of the lots. Chairman Wolter said the Village Engineer will review the storm water plans and ensure that they are meeting the criteria and not causing any issues as part of their review. Planner Retzlaff said it would be reasonable for Plan Commission to also require review of the storm water management plan, but language would need to be added.

MOTION to Amend Baum second Shadid that the development of the road and storm water management come before the Plan Commission for review.

Chairman Wolter said the motion is for ensuring the public to view and that the residents' concerns with water issues are addressed.

MOTION to Amend carried unanimously.

Trustee Baum said he heard a lot of complaints regarding light pollution, but knows the proposal has dark sky requirements. Planner Retzlaff confirmed section 7 (h) requires exterior lighting shall utilize dark sky compliant technology and be consistent with the Village's outside lighting guidelines and addresses all future development. Trustee Baum said he had visited the site and stated there was no light that comes within 200 yards or that crossed the property line. He is sensitive to the resident's concerns, but he's not sure what to do because it is not a trespassing light issue, its simply seeing the lights that's the issue. He said this issue will be discussed when site plans are reviewed.

Discussion continued regarding 7(e) screening mechanical equipment.

MOTION to Amend Baum second Shadid that rooftop units shall be screened from adjacent roadways including Isabelle Farms Drive, Meadow Brook Court and Prairie Ridge Court.

Trustee Baum said he wants to clarify that screening from view is required from the roadway and not from a second story or deck. The screening would be required to go around the sides of the units and not the top.

MOTION to Amend carried (4-3 Gray, Laszewski, Williams).

Trustee Baum had a concern with Section 7(a)(vii) regarding the maximum lot coverage allowance of 80 percent of impervious area. He said if we're promising a park like setting, limiting 50 percent impervious area shouldn't be a problem.

MOTION to Amend Baum second Shadid to change Section 7(a)(vii) Lot Coverage (maximum) to 65 percent impervious area.

Planner Retzlaff said 80 percent is the standard allowance in the M-1 District. He explained it would be applied by lot or separate parcels. If lot 1 is created as a separate parcel and a building comes for development, 80 percent coverage would be applied to lot 1. If the entire PDD becomes 1 parcel, and the individual lines are eliminated, the 80 percent coverage would be applied to the entire PDD area.

Chairman Wolter stated the amendment is looking to restrict what the M-1 Zoning District allows and is too restrictive. Commissioner Gray agreed. Mr. Speaker explained 50 percent coverage is fine with the 144 total acres but if the property is divided up it could be overly restrictive with the smaller lots. He said it's not his intention to divide up the property, but if he did, it would be a concern. Trustee Baum said the neighbors have been promised a certain aesthetic for this park. Mr. Speaker said additional green space was added as a compromise, making building space more restrictive and 50 percent lot coverage makes the building space even more restrictive. He could accept 70 or 65 percent but 50 percent is too restrictive. Trustee Baum said he would change the motion to 65 percent, the second agreed with the change.

MOTION to Amend Fails (3-4 Williams, Laszewski, Gray, Wolter).
Discussion continued.

MOTION to Amend Baum second Shadid to change Section 7(a)(vii) to 50 percent impervious area maximum across the entire 144 acres and 70 percent coverage of a single lot.

MOTION to Amend carried (5-2 Williams, Gray).

Trustee Baum commented that the neighbors want to be continually involved. He said the buildings, roadway and civil work all need to come back to the Plan Commission for review which will give the residents plenty of opportunities to get involved.

Commissioner Laszewski was concerned with 3 (a)(iv) Warehouse and Distribution Facilities listed as Principal Uses. He said those uses are somewhat incompatible to a corporate park setting and was concerned Phase 4 could include a mini Amazon or Target doesn't go along with this project. He asked if there was any intent to do warehousing which will create traffic. Mr. Speaker explained the company already does warehousing and distribution today, but they are not an Amazon. He said it's not the sole part of the business, but he can't eliminate it either. Discussion continued. Chairman Wolter said the uses are not specific to a building type but what Speaker Corp. currently does and is all encompassing. Commissioner Laszewski stated he was looking down the road for what a new business would be allowed with the language.

MOTION to Amend Baum second Laszewski to change 3 (a)(iv) to warehouse and distribution facilities ancillary to the primary function.

Chairman Wolter was hesitant with the language because the Whitney Drive facility currently does some distribution. Mr. Speaker said both facilities do distribution and could vary from time to time, but

it is important to the business. Discussion continued. Chairman Wolter explained the use needs to be in addition to the Speaker Corporation in its daily operation and cannot be a separate large warehouse and distribution facility.

MOTION to Amend carried (5-2 Williams, Gray)

MOTION to Approve as Amended carried unanimously.

Top Leaf Development LLC – 107 Acres South of Freistadt Road, North of Elm Lane and West of Wasaukee Road. Alan & Lynda Luther, property owners, are requesting approval of a rezoning application and concept plan for a 107-acre residential subdivision with 47 single family lots. Planner Retzlaff summarized the proposal. Pete Hurth, Baudhuin Surveying and Shari Waggoner, Top Leaf Development spoke on the project. Mr. Hurth said the wetland and soil work has been completed. He said all the wetland areas have been placed on separate lots, but they did not account for the 25-foot setback requirement and asked that the additional 25 feet not be required.

Discussion followed. Bruce Bernarde, commented on the plan and was concerned how and where water will drain. Mr. Hurth said they will modify the storm water plan to address those concerns. Discussion continued the road connections in both directions being beneficial for emergency access, traffic purposes and all development in the area. Mr. Hurth agreed to curve the north/south road to avoid headlights pointing directly at the existing house. Ms. Waggoner discussed the connection and upgrading of Elm Lane. She said adding 700 feet has a significant financial impact to the project and she doesn't want to foot the bill for all of Elm Lane. Trustee Baum wants the developer to fill the gap and leave the rest of the road improvements as part of the Village plan. He asked that the Public Works Department determine the suitability of the road and bring a recommendation to the Village Board. Chairman Wolter is appreciative of the contiguous roadway and feels any improvements beyond the reach of the subdivision falls on the Village.

MOTION Baum second Gray to Approve the proposed concept plan.

MOTION to Amend Baum second Shadid to slide the last 2 lots (#36 & #37) over to move the north/south road to the west slightly and to provide the Elm Street access east and west and the western new road can just go off at a straight tangent as opposed to curving back.

MOTION to Amend carried unanimously.

Planner Retzlaff commented on the 25-foot wetland setback requirement. He said this concept plan reflects the wetland delineation and boundaries and the subdivision code requirement that there is a wetland setback that the Village enforces needs to be dealt with. He said the Plan Commission doesn't have the authority to waive the requirement, but Village Board may grant a waiver to the subdivision regulations.

MOTION carried.

MOTION Baum second Shadid to Approve the proposed rezoning of approximately 107 acres from the A-1: Agricultural District to the Rs-3: Residential Single-Family district.

MOTION to Approve carried.

Ms. Waggoner asked when to request a waiver for the 25-foot wetland setback because it would significantly impact the plan and they would lose lots. Planner Retzlaff reviewed the code and said

the Plan Commission may grant a waiver to the wetland setback requirement under extraordinary circumstances or hardship conditions exist. He said he would not recommend waiving the requirement simply because they didn't know about it. Chairman Wolter suggested bringing forward the waiver request at the time the preliminary plat is brought forward. Mr. Hurth said maintaining the setback requirement would change the design of the plat. Chairman Wolter offered bringing the item back to the Plan Commission at the January 8th meeting for consideration. Planner Retzlaff advised them to submit a letter asking for the waiver for Plan Commission to consider.

Scott & Georgene Sommer – W148 N12696 Pleasant View Drive. The property owners of a 120-acre farm presented a proposal to operate a farm kitchen, brewery and sausage production facility on their property in the A-1 Agricultural Zoning District. Planner Retzlaff summarized their proposal.

Scott Sommer addressed questions. Plan Commission had the following comments and concerns.

- The use could be allowed with a Conditional Use Permit
- No livestock will be raised on property
- Commission members like the idea
- There are no current plans for weddings or corporate or special events. Plans are to be open for breakfast and lunch. Intend to work with other groups including the Sons of Norway, the Park & Recreation Department for classes and other organizations to use the facility for breakfast
- Likes the idea of going back to Germantown heritage and selling farm goods. It's not competitive against other businesses and the area is perfect for this type of operation.
- Mr. Sommer explained the sausage will be produced in their kitchen, in a way that is packaged and distributed through wholesale markets. He said they acquired an existing sausage shop a year ago and will be selling to those existing customers as well as in their store and will also promote the products on line. They are required to meet certain standards with state.
- Mr. Sommer said the business will need 3 phase power installed, a separate well and a 4,000 to 6,000 gallon holding tank. He estimates using approximately 400 gallons of water for beer production and another 30 gallons for cleanup, sanitary uses, kitchen and toilet facilities per week. Planner Retzlaff said more details will be needed on water consumption and water demand and may require an assessment on surrounding wells. A co-mingling variance from the County will be needed for the holding tank because of animal product and yeast going into the tank.
- Mr. Sommer looked at comparable business to study how much traffic will be generated. He estimates Saturday will be their peak time from 1:00 pm to 6:00 pm. Deliveries will be once a week for meat, but other products will be brought home.

This item was for discussion. No action was taken.

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:58 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant

ZONING CODE AMENDMENTS

1/8/18 Plan Commission Meeting

Germantown Community Development Department

Village Planner Report

Germantown, Wisconsin

Summary

The Community Development Department is proposing amendments to the allowances, limitations and restrictions for residential accessory buildings. The amendments are proposed in order to reflect recent actions and/or policy decisions by the Village, and, to clarify or otherwise improve staff's ability to administer and enforce these regulations in light of changing technological, socio-economic and general land use conditions and trends.

At their November 13, 2017 meeting, the Plan Commission recommended approval of three sets of related amendments, but tabled action on a fourth set pending the submittal of optional language for the Commission to consider regarding "temporary storage structures" as presented herein.

Section 7 below is intended to address a "gap" in the current regulations for certain types of accessory buildings that is becoming more and more commonplace and, in some cases, necessary... temporary storage containers and structures such as "PODS" and metal-framed "hoop" structures used for carports and equipment storage. The amendment below creates a new section in the Code that establishes some basic restrictions on the use, duration and location of these types of structures on residential property.

SECTION 7. That Section 17.41(7) (TEMPORARY STORAGE STRUCTURES) is created as follows:

17.41(7) TEMPORARY STORAGE STRUCTURES.

- (a) For purposes of this section, a "temporary storage structure" is defined as a building or other enclosed or covered structure intended for the shelter, storage and/or conveyance of vehicles, equipment, building materials, household or personal items, junk and trash, etc. on a short-term or long-term basis. Examples of "temporary storage structures" include, but are not limited to, portable storage containers sold or rented under the business name "UNITS" and "PODS" and all other similar structures, freight-type shipping containers, metal-frame and/or fabric-covered canopies, vehicle shelters or carports, "hoop" buildings, and dumpsters.
- (b) Temporary storage structures intended for may be permitted in any Single-family or Two-family Zoning District (including the Rs-1 through Rs-7 and Rd-2 Districts), provided that:
 - 1. temporary storage structures may be installed on a property for a period not to exceed thirty (30) consecutive or cumulative days without a permit or approval from the Village if said structure is used for storing or moving vehicles, equipment, building materials, household or personal items while

the property owner is moving to/from the property, the property is being renovated, or for any emergency or other reasonable purpose deemed acceptable by the Zoning Administrator. Temporary storage structures allowed under this provision may be located in a front, side or rear yard of a property;

2. temporary storage structures installed on a property for a period greater than thirty (30) but less than ninety (90) consecutive or cumulative days may be allowed with a "Temporary Storage Structure-Zoning Permit" issued by the Village. Temporary storage structures allowed under this provision may be located only in a side or rear yard of a property;
3. temporary storage structures installed on a property for a period greater than ninety (90) but less than (180) consecutive or cumulative days may be allowed as a "temporary use" subject to the Temporary Use Permit requirements under Section 17.07(2a). Temporary storage structures allowed under this provision may be located only in a side or rear yard of a property and meet applicable building setback requirements;
4. Property owners/tenants who want to install a temporary storage structure on a property for a period greater than (180) consecutive or cumulative days can only do so if more than one Temporary Use Permit is issued by the Village pursuant to section 3. above.

With respect to section 2. Above, it is intended that a new category of Zoning Permit be created with an application fee of fifty (50) dollars (vs. the current Zoning Permit fee of \$175 or the current Temporary Use Permit fee of \$210).

ORIGINAL LANGUAGE PROPOSED BY STAFF AND REVIEWED BY THE PLAN COMMISSION AT THE NOVEMBER 13, 2017 MEETING:**17.41(7) TEMPORARY STORAGE STRUCTURES.**

Temporary storage structures intended for short or long-term storage of vehicles, equipment, materials and/or household items, including but not limited to: portable storage containers such as “UNITS” and “PODS”, shipping containers, metal-frame and/or fabric-covered canopies, vehicle shelters or carports, “hoop” buildings may be permitted in any single-family and 2-family district (Rs-1 through Rs-7 and Rd-2), provided that:

- (a) the owner/installer of any temporary storage structure has obtained a Temporary Use Permit from the Village for the installation and use of said structure;
- (b) said structure shall be located in a side or rear yard of the property except as provided below:
 - 1. temporary storage structures may be located in a front yard for a period not to exceed forty-five (45) days if said structure is used for storing or moving equipment and household items while the property owner is moving to/from the property, the property is being renovated, or for any emergency or other reasonable purpose deemed acceptable by the Zoning Administrator.

SIGN PERMIT REVIEW

1/8/18 Plan Commission Meeting

St1X Golf Entertainment / Germantown Marketplace II

Village Planner Report

Germantown, Wisconsin

Summary

Ryan Hughes, agent for St1X Golf Entertainment, operator, and Compass Properties of Germantown LLC, property owner of the Germantown Marketplace II, is requesting approval for a wall-mounted sign and monument sign panel for St1X, a new tenant in the retail center on Mequon Road.

Property Location: W164 N11271 Squire Drive (Germantown Marketplace II)

**Property Owner/
Applicant:**

Ryan Hughes
St1x Golf Entertainment LLC
N108 W6905 Berkshire Ct
Cedarburg, WI 53012

Compass Properties LLC
735 N. Water Street
Milwaukee, WI

Current Zoning: B-2: Community Business District w/ PDD Overlay

Adjacent Land Uses		Zoning
North	Institutional (Life Church)	I
South	Commercial	B-2
East	Commercial	B-2
West	Commercial	B-2



Proposal

Ryan Hughes, agent for St1X Golf Entertainment, operator, and Compass Properties of Germantown LLC, property owner of the Germantown Marketplace II, is requesting approval for a wall-mounted sign and monument sign panel for St1X, a new tenant in the retail center on Mequon Road:

- 5'8" x 7' (40 sqft) wall-mounted sign to be located on the east façade (facing interior of parking lot) of the building above the tenant space. The sign will be comprised of an LED internally-illuminated cabinet with an acrylic face;
- 2'4" x 4'11" monument sign panel insert.

Staff Analysis

The proposed wall sign meets the sign requirements including the allowance for 1.5 sqft of sign area for every 1 linear foot of building frontage (23.75 sqft proposed vs. the maximum allowance of 52.5 sqft).

When considering previous new tenant signage, the issue of sign placement has been discussed. Many of the existing businesses have roof-mounted channel lettering signs vs. signs mounted in a lower position on an exterior wall (or roof gable as is the case here). In the past, the need to be consistent with sign location has not been an issue with either mounting location acceptable as determined by the tenant and/or property owner/manager.

Village Planner Recommendation

APPROVE the proposed wall-mounted sign and monument sign panel for St1X Golf entertainment in the Germantown Marketplace II subject to the following conditions:

1. An electrical permit shall be obtained from Inspection Services prior to installation of any/all electrical components.
2. All electrical sign components must be listed and labeled by a recognized lab.



Village of



Germantown

Willkommen

Fee must accompany application

\$275 Sign Review Fee

\$ 75 Sign Face Replacement

Paid J Date 12-8-17

SIGN REVIEW APPLICATION

Pursuant to Section 17.46 of the Municipal Code

Please read and complete this application carefully. All applications must be signed and dated.

1	APPLICANT OR AGENT	PROPERTY OWNER
	<u>STIX Golf Entertainment Bar, LLC</u>	<u>COMPASS PROPERTIES (GERMANTOWN), LLC</u>
	<u>Ryan Hughes</u>	<u>735 N. WATER STREET, M180</u>
	<u>Daniel Hughes</u>	<u>MILWAUKEE, WI 53202</u>
	<u>Phone (414) 640-2218</u>	<u>Phone (414) 765-0305</u>
	<u>Fax ()</u>	<u>TJAHNKE@COMPASSPROPERTIES.COM</u>
	<u>E-Mail <u>stixgolfbar@gmail.com</u></u>	

2 **PROPERTY ADDRESS OR GENERAL LOCATION**

W164 N11271 Squire Dr. Germantown, WI
53022

3 **SIGN INFORMATION**

Sign Dimensions 5'-8" height x 7' width Single/Multi Tenant (circle one)
Number of Sides _____ Building Frontage SF _____
Total Square Footage of Sign (include all sides) _____
Total height of the Sign _____
Is the Sign to be illuminated _____ yes _____ no
Type of Sign Construction Materials _____
Distance to Closest Property Line _____
* Plans are attached.
Are there any existing signs on the property _____
If yes, what is the total Square Footage of existing signs _____
What are the intentions for the existing signs: Take down _____ Remain _____

4 **SIGNATURES -- ALL APPLICATIONS MUST BE SIGNED BY OWNER!**

<u>Ryan Hughes</u>	<u>12/8/17</u>	<u>[Signature]</u>	<u>12/6/17</u>
Applicant	Date	Owner	Date
		Auth. Agent	

STIX GOLF ENTERTAINMENT - Illuminated "Cloud" Wall Sign

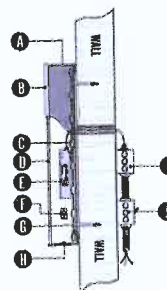


WALL "CLOUD" SIGN

ONE (1) SINGLE SIDED WALL "CLOUD" SIGN, INTERNALLY ILLUMINATED w/ WHITE LED - UL APPROVED FABRICATION
 6" DEEP ALUMINUM RETURNS - BLACK
 FABRICATED RETAINER - BLACK
 FACE - WHITE POLY CARBONATE
 GRAPHICS - 3M TRANSLUCENT FILM, LIGHT EUROPEAN BLUE 3630-147 & BLACK BLOCKOUT 3635-228,
 APPLIED 1st SURFACE
 SELF CONTAINED POWER SUPPLY

FACE LIT CHANNEL LETTER TYPE "CLOUD" SIGN / CROSS SECTION DETAIL

SELF CONTAINED POWER SUPPLY



6" DEEP ALUMINUM RETURN (C.040)
BLACK
FABRICATED RETAINER
BLACK
LED MODULES
WHITE
WHITE PLEXI w/ 3M TRANSLUCENT FILM
LIGHT EUROPEAN BLUE 3630-147 &
BLACK BLOCKOUT 3635-228
POWER SUPPLY (SELF CONTAINED)
120V
DISCONNECT TOGGLE SWITCH
MOUNTING HARDWARE
WEEP HOLES
BAFFLE
JUNCTION BOX
ELECTRICAL DISCONNECT



NOTE: FINAL ELECTRICAL CONNECTION IS THE RESPONSIBILITY OF THE OWNER. LEMBERG WILL ONLY PROVIDE CONNECTION IF APPROPRIATE ELECTRICAL SOURCE IS WITHIN 3' OF THE SIGN.

LEMBERG



SIGNS

4885 North 120th Street, Brookfield, WI 53005
 P. 262.791.5200
 F. 262.791.1548
 www.lemberg-electric.com

PROJECT:
 Stix Golf Entertainment
 ADDRESS:
 W 164 N 11271 Squire Drive, Germantown WI 53022

DRAWING: 2(2)
 DATE: 11-13-17
 SCALE: 3/4" = 1'
 REVISION DATE: 11-28-17
 SALES REP: Skip DeBack
 DESIGNER: Mark Mayzik

LANDLORD APPROVAL SIGNATURE / DATE:
 CLIENT APPROVAL SIGNATURE / DATE:

PAGE #:

1 OF 3

THESE DESIGNS & DRAWINGS ARE THE EXCLUSIVE PROPERTY OF LEMBERG ELECTRIC INC. USE OR DUPLICATION WITHOUT EXPRESSED WRITTEN PERMISSION OF LEMBERG ELECTRIC INC. IS PROHIBITED. DRAWINGS ARE FOR CONCEPTUAL USE ONLY. DIMENSIONS, SPECIFICATIONS & COLORS ARE NOT FINAL. THE DOCUMENT REPRESENTS ONLY AN APPROXIMATION OF MATERIAL & COLORS. ACTUAL PRODUCT COLORS MAY VARY FROM PRINT.

STIX GOLF ENTERTAINMENT - Vinyl Window Graphics



VINYL WINDOW GRAPHICS

ONE (1) VINYL WINDOW GRAPHIC
3M OPAQUE VINYL - WHITE 7726-10 & LIGHT BLUE 7726-107, APPLIED TO 1st SURFACE OF GLASS

NOTE: FINAL ELECTRICAL CONNECTION IS THE RESPONSIBILITY OF THE OWNER. LEMBERG WILL ONLY PROVIDE CONNECTION IF APPROPRIATE ELECTRICAL SOURCE IS WITHIN 3' OF THE SIGN.

  4065 North 120th Street, Brookfield, WI 53005 P. 262.791.1000 F. 262.791.1540 www.lembergelectric.com	PROJECT: Stix Golf Entertainment ADDRESS: W 164 N 11271 Squire Drive, Germantown WI 53022	DRAWING: 3(2)	REVISION DATE: 11-28-17	REVISION #: (2)	LANDLORD APPROVAL SIGNATURE / DATE:	PAGE #: 2 of 3
		DATE: 11-13-17	SALES REP: Skip DeBack		CLIENT APPROVAL SIGNATURE / DATE:	
		SCALE: 1" = 1'	DESIGNER: Mark Mayzik			

THESE DESIGNS & DRAWINGS ARE THE EXCLUSIVE PROPERTY OF LEMBERG ELECTRIC INC. USE OR DUPLICATION WITHOUT EXPRESSED WRITTEN PERMISSION OF LEMBERG ELECTRIC INC. IS PROHIBITED. DRAWINGS ARE FOR CONCEPTUAL USE ONLY. DIMENSIONS, SPECIFICATIONS & COLORS ARE NOT FINAL. THE DOCUMENT REPRESENTS ONLY AN APPROXIMATION OF MATERIAL & COLORS. ACTUAL PRODUCT COLORS MAY VARY FROM PRINT.

STIX GOLF ENTERTAINMENT - Tenant Panels



Two (2) Req'd.

TENANT PANELS - FOR AN EXISTING MONUMENT SIGN

TWO (2) TENANT PANELS FOR AN EXISTING DOUBLE SIDED MONUMENT SIGN, INTERNALLY ILLUMINATED
SUBSTRATE - WHITE POLY CARBONATE
GRAPHICS - 3M TRANSLUCENT FILM, LIGHT EUROPEAN BLUE 3830-147 & BLACK BLOCKOUT 3635-228, APPLIED 1st SURFACE



Optional Layout



Double Sided Monument Sign

NOTE: FINAL ELECTRICAL CONNECTION IS THE RESPONSIBILITY OF THE OWNER. LEMBERG WILL ONLY PROVIDE CONNECTION IF APPROPRIATE ELECTRICAL SOURCE IS WITHIN 3' OF THE SIGN.

  4985 North 122nd Street, Brookfield, WI 53005 P. 262.781.1500 F. 262.781.1540 www.lembergelectric.com	PROJECT: Stix Golf Entertainment	DRAWING: 4(0)	REVISION DATE:	REVISION #: (0)	LANDLORD APPROVAL SIGNATURE / DATE:	PAGE #: 3 OF 3
	ADDRESS: W 164 N 11271 Squire Drive, Germantown WI 53022	DATE: 11-29-17	SALES REP: Skip DeBack	CLIENT APPROVAL SIGNATURE / DATE:		
		SCALE: 1"=1'	DESIGNER: Mark Mayzik			

THESE DESIGNS & DRAWINGS ARE THE EXCLUSIVE PROPERTY OF LEMBERG ELECTRIC INC. USE OR DUPLICATION WITHOUT EXPRESSED WRITTEN PERMISSION OF LEMBERG ELECTRIC INC. IS PROHIBITED. DRAWINGS ARE FOR CONCEPTUAL USE ONLY. DIMENSIONS, SPECIFICATIONS & COLORS ARE NOT FINAL. THIS DOCUMENT REPRESENTS ONLY AN APPROXIMATION OF MATERIAL & COLORS. ACTUAL PRODUCT COLORS MAY VARY FROM PRINT.

SITE PLAN/CONDITIONAL USE PERMIT CONSULTATION

1/8/18 Plan Commission Meeting

Paul & Jennifer Groh / Metro Cigars LLC

Village Planner Report

Germantown, Wisconsin

Summary

Paul & Jennifer Groh, owner/operator of Metro Cigars located at W182 N9606 Appleton Avenue, are requesting feedback regarding a proposal to re-locate their tobacco store & lounge/bar to a new building in the Willow Creek Business Park.

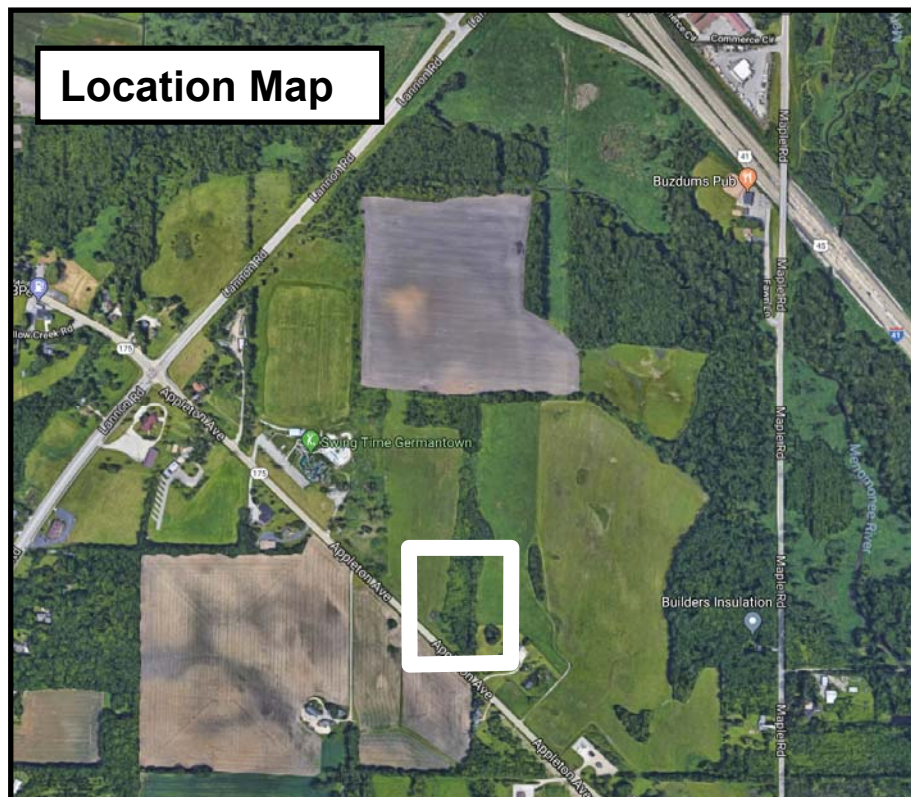
Property Location: Lot 5 Willow Creek Business Park

Applicant/

Property Owner: Paul & Jennifer Groh MLG Germantown Investment LLC
W182 N9606 Appleton Ave 13400 Bishops Lane
Germantown, WI Brookfield, WI

Current Zoning: M-1: Limited Industrial

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



Proposal

Paul & Jennifer Groh, owner/operator of Metro Cigars located at W182 N9606 Appleton Avenue, are requesting feedback regarding a proposal to re-locate their cigar store & lounge/bar to a new building in the Willow Creek Business Park.

As discussed in their December 10 letter, the Groh's would expand their existing operation into a 4,000 sqft building with space for retail sales, of cigars and accessories, a cigar smoking lounge and bar area, a private conference room, and a deck for seasonal activities and seating.

Staff Comments

As shown in the attached survey map, the gross area of Lot 5 is 2.08 acres and is located on the inside curve of Willow Creek Way near the park entrance (see enclosed lot map). The buildable area within Lot 5 is impacted by a drainage easement, a landscape & signage easement, and a large wetland area on the south side and 25' wetland setback restriction, resulting in a net buildable area of approximately 1.3 acres. Consequently, the size of any building or development on this parcel will contain uses that are more commercial retail, office or personal service-oriented than the light industrial, warehousing and corporate office uses expected on the larger parcels in the Park.

Under the Willow Creek Business Park covenants, commercial retail uses are allowed provided that they meet the M-1 Zoning District provisions. Like past discussions regarding other land uses that are not specifically a "by right" permitted use in the M-1 District, the proposed cigar store & lounge/bar may be allowed in the M-1 District with a conditional use permit. As set forth in the Zoning Code, the list of CUP uses that may be allowed in the M-1 District includes ***"commercial activities allowed in the B-2 Community Business District when the Plan Commission finds that the activity directly supports the businesses in the Industrial Park and can be integrated into an overall plan..."*** [see Section 17.33(3)(h)]. Consequently, before the proposal can move forward, the Plan Commission is required to consider and determine if the proposed use is the type of business that directly supports the businesses in the Business Park, and, if it can be integrated into the overall park layout.

In staff's opinion, developing a free-standing cigar store & smoking lounge in the Willow Creek BP is challenging given the M-1 Zoning District for the area and the requirement that this specialty-type business *"...will directly support the businesses of the industrial park and be integrated into an overall plan for the park"*. The more typical or customary uses that would likely meet this requirement include: daycare facilities, gasoline or convenience stores, sandwich shops and restaurants, etc. Arguably, these types of operations are likely to serve the needs of a larger number of employees and visitors working and/or doing business in the Park. With that said, the Village has approved some B-2 commercial uses in the Germantown Industrial Park (also zoned M-1) that are not so typical, e.g. martial arts & fitness operation, doggy daycare, indoor recreation center & birthday party/special event venue.

While staff believes a retail cigar store & lounge is too narrowly focused to provide the degree of support to other businesses and does not meet the “directly-supports-the-other-businesses” requirement, this short-coming may be overcome if the use operated from a multi-tenant building that could also accommodate other businesses that would be more typical and supportive, e.g. child daycare, convenience store, sandwich shop or restaurants.

Other notable Business Park covenant requirements include:

- a requirement that the minimum building size be 4,000 sqft per one acre of buildable land area (approximately 5,200 sqft for 1.3 buildable acres for Lot 5);
- acceptable primary building materials comprised of masonry, brick, decorative concrete masonry units, pre-cast concrete panels, cut stone or stone-faced concrete block, Acceptable accent materials such as glass, EIFS and architectural metal panels, tile, and smooth-faced concrete block cannot exceed 30% of exterior wall area.

Regardless if the business is operated from a free-standing or a multi-tenant building, the expectation is that the architecture and materials will meet the minimum Willow Creek Business Park covenants and Village Zoning Code requirements.

Additional comments from the Public Works Department include:

1. Connection to sanitary sewer is only available at the far side of the parcel near the drainage easement. The sanitary may be a tight fit with the possibility having to encroach on Outlot #3. A sampling manhole will be required.
2. Connection to water would be available along Appleton Ave and Willow Creek Parkway, with Willow Creek Parkway being more preferred.
3. Engineering would suggest any driveway access to Willow Creek Parkway be located toward the northeast part of the parcel.
4. Any signs for the business must not interfere with the Business Park Monument sign.
5. Possible need for storm water detention depending on size of parcel and improvements; at a minimum, a storm water management analysis will be required.

Finally, the “public places” smoking ban adopted in 2009 and 2010 under Wis. Stats. 101.123 specially exempts existing tobacco stores and tobacco bars from the prohibition of smoking under certain conditions:

- (3)** EXCEPTIONS. The prohibition against smoking in sub. (2) (a) does not apply to the following:
- (h)** A private residence.
 - (i)** A room used by only one person in an assisted living facility as his or her residence.
 - (j)** A room in an assisted living facility in which 2 or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.
 - (L)** A retail tobacco store that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.
 - (m)** A tobacco bar that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.

Although Metro Cigars has been in business for 14+ years and pre-dates the 2009 smoking ban in public places, a question about whether a pre-existing and exempt business can relocate and retain their exempt status remains (a legal opinion from the Village Attorney on this question is pending).

At this time, staff and the Groh’s are requesting feedback on their proposal before formal application for a conditional use permit and Site Plan application is submitted to the Village for review, public hearing and action. The PC members should consider what, if any, other conditions or circumstances might sway their thinking that this business meets the “directly-supports-the-other-businesses” criteria, such as being located in a multi-tenant building with another use that more directly supports the park.

17.33 - M-1 LIMITED INDUSTRIAL DISTRICT .

The M-1 Industrial District is intended to provide for warehousing, manufacturing or fabrication operations which, on the basis of physical and operational characteristics, would not be detrimental to the immediate surrounding area or to the Village as a whole by reason of smoke, odor, noise, dust, flash, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably insure compatibility with the surrounding area in this respect. All uses in this District must meet the State of Wisconsin industrial standards.

(1) **PERMITTED PRINCIPAL USES.**

- (a) Building and yards for the storage and wholesale of goods and materials other than chemical, flammable, liquid, gaseous, vaporous or explosive substances where such goods or materials are temporarily stored inside a building or within an open area visually screened from public streets or highways and adjacent nonindustrial uses.
- (b) All uses involving the manufacture and fabrication of goods within the confines of a building and in which any smoke, noise, dust, flash or odor produced in the manufacturing process is confined within the building.
- (c) All uses involving the provisions of a service which is either manufacturing-related or fabrication-related and not permitted in business districts confined within a building, and in which smoke, dust, flash, heat, noise or odor produced by such service uses is confined within the building.
- (d) Commercial self-storage buildings where all storage is conducted within an enclosed building or individual units within a building. (Cr. Ord. #09-16)

(2) **PERMITTED ACCESSORY USES.**

- (a) Enclosed as well as screened areas for the storage of materials other than explosive or flammable materials or substances used in the manufacturing or fabrication process.
- (b) Offices normally auxiliary to the principal use.
- (c) Garages for the storage of vehicles used in conjunction with the operation of the warehouse or industrial use.
- (d) Auxiliary power generators.
- (e) Off-street parking and loading areas.
- (f) One aboveground storage tank (maximum 5,000 gallon capacity) for storage of flammable materials, subject to compliance with section 11.071 of this Code. (Cr. Ord. #30-97)

(3) **CONDITIONAL USES.** (Rep. & Recr. Ord. #30-97)

- (a) Buildings, structures or underground storage tanks used for the storage of chemicals, flammable liquids and gaseous or vaporous substances.
- (b) Two or more aboveground storage tanks (over 5,000 gallon capacity) for storage of flammable materials, subject to compliance with section 11.071 of this Code.
- (c) Yards and structures used for the temporary storage or holding of animals not for slaughter.
- (d) Recycling collection/processing center.
- (e) Commercial self-storage buildings where storage is conducted within an enclosed building, individual units within a building, or outside of a building but within a secure area screened from view. (Cr. Ord. #09-16)
- (f) Secondhand stores greater than 5,000 square feet in area, subject to all other requisite approvals applicable to conditional use and subject to the Plan Commission determining reasonable regulations for the collection, warehousing, sorting and repair of materials in the course of operation of such secondhand stores.

- (g) Child care, day care centers or preschool centers licensed by the State and in continuous compliance with all applicable State and local regulations. (Cr. Ord. #34-97)
 - (h) Commercial activities permitted in the B-2, Community Business District when the Plan Commission finds that the activity will directly support the businesses of the industrial park and can be integrated into an overall plan for the industrial park. (Cr. Ord. #11-00)
 - (i) Agricultural and dairy product silos, cooling towers, and other accessory structures whose height exceeds 45 feet. (Cr. Ord. #23-03; Am. Ord. #31-07)
 - (j) Principal buildings exceeding a height of 45 feet provided that: (Cr. Ord. #31-07)
 - 1. A new or expanded building should normally not exceed the height of any existing principal building(s) on an adjacent or opposing property (across the street) if the height of the new building will be greater than twice the height of the nearest, tallest existing building;
 - 2. The site design and architecture of the new or expanded building includes additional setback, and, variation or articulation of the wall and roof components of the new or expanded building to provide a transition in height; and
 - 3. The new or expanded building is not on property that is adjacent to a residential zoning district or other established residential area.
- (3a) **TEMPORARY USES.** (Cr. Ord. #32-91) Any use listed as a permitted use within the district of a limited duration as established in section 17.07(2a) of this chapter and as defined in section 17.08(83) of this chapter.

(4) **LOT, YARD AND BUILDING REQUIREMENTS.**

Lot frontage at setback	Minimum 120 ft.
Lot area	Minimum 30,000 sq. ft.
Principal building:	
Front yard	Minimum 30 ft.
Side yards	Minimum 10 ft.
Rear yard	Minimum 25 ft.
Building height	Maximum 45 ft.
Percentage of coverage, including parking and loading	Maximum 80%

(5) **PARKING AND LOADING REQUIREMENTS.** See section 17.45 of this chapter.

(6) **SITE PLAN APPROVAL REQUIRED.** See section 17.43 of this chapter.

Village of



Germantown

Willkommen

Fee must accompany application

- ☐ \$700 Minor Addition
- ☐ \$1,240 Construction <10,000 SF
- ☐ \$2,095 Construction 10,000 SF to 50,000
- ☐ \$3,460 Industrial Construction >50,000 SF
- ☐ \$3,460 Commercial Construction >50,000
- ☒ \$200 Plan Commission Consultation
- ☐ \$125 Fire Department Plan Review

PAID

DATE

12-11-17

SITE PLAN REVIEW APPLICATION

Pursuant to Section 17.43 of the Municipal Code

Please read and complete this application carefully. All applications must be signed and dated.

1

APPLICANT OR AGENT

Paul + Jennifer Groit
METRO CIGARS LLC
W182 N9606 Appleton Ave
GERMANTOWN, WI 53022

Phone (262) 255-1996

E-Mail paul.metro.cigars@gmail.com

PROPERTY OWNER

LOT 5
MLG GERMANTOWN INVESTMENT LLC
13400 Bishops Lane
Suite 270
BROOKFIELD, WI 53005
Barry Chavin - Agent

Phone (414) 395-4676

E-Mail

2

PROPERTY ADDRESS

GERMANTOWN BUSINESS PARK LOT 5
WILLOW CREEK WAY

3

NEIGHBORING USES - Specify name and type of use, e.g. Enviro Tech - Industrial, Smith - Residential, etc.

North	South	East	West

4

READ AND INITIAL THE FOLLOWING:

- ☒ I am aware of the Village of Germantown ordinance requiring fire sprinklers in most new construction.
- ☒ I understand that all new development is subject to Impact and/or Connection Fees that must be paid before building permits will be issued.
- ☒ I understand that an incomplete application will be withdrawn from the Plan Commission agenda and that all resubmissions to the Plan Commission are subject to a new application fee.

5

SIGNATURES - ALL APPLICATION MUST BE SIGNED BY OWNER!

Paul Groit 12/10/17
Applicant Date

Owner

Date



December 10, 2017

Village of Germantown
Planning Commission

Re: Plan Commission Consultation

Currently we have a business in the Village of Germantown called Metro Cigars, LLC for over 14 years located at W182 N9606 Appleton Ave suite 104. We are looking to expand our footprint. Our first thought is to purchase Lot 5 in the business park and build our own building. We would build a 4,000 sq ft building. This would include retail space (cigars and accessories), cigar smoking and bar lounge area and a private conference room available for rent. We would like to build a deck off the back for summer activities and seating. Our current lease is complete September 2018.

Sincerely,

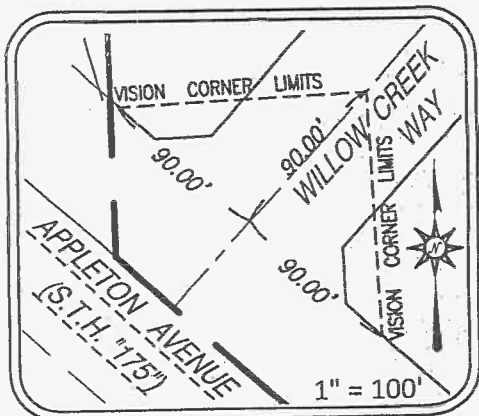
A handwritten signature in blue ink, appearing to read "Paul Jennifer", is written over the printed names.

Paul and Jennifer Groh
Metro Cigars, LLC

CERTIFIED SURVEY MAP NO. _____

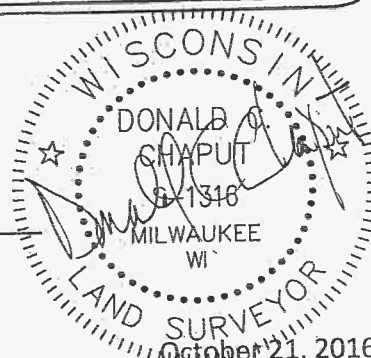
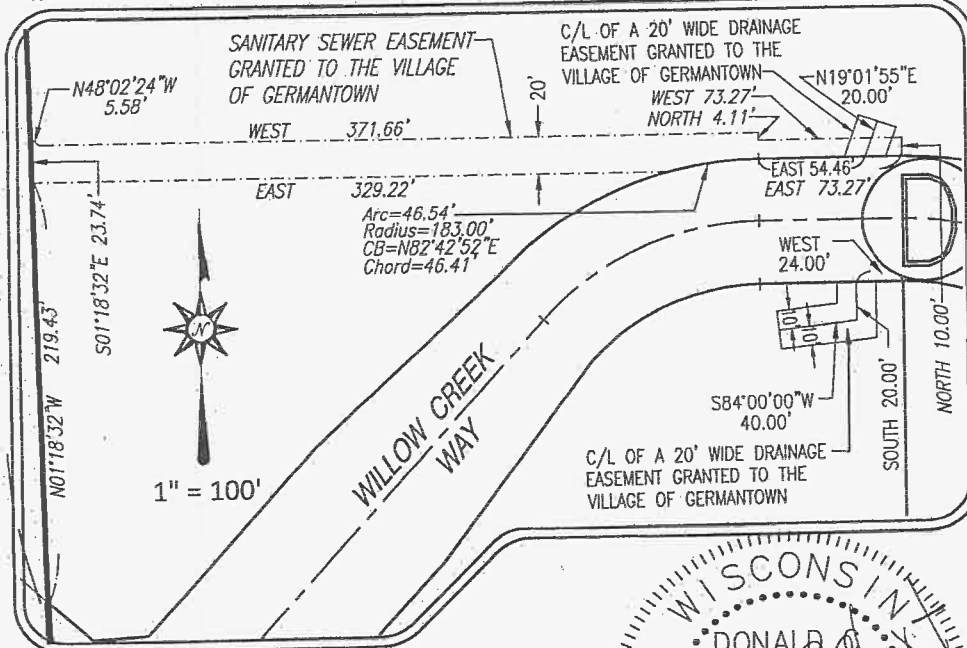
Part of the Northwest 1/4, Northeast 1/4, Southwest 1/4 and Southeast 1/4 of the Northeast 1/4 of Section 32, and part of the Southeast 1/4 of the Southeast 1/4 of Section 29 all in Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin.

VISION CORNER RESTRICTION BY THE VILLAGE OF GERMANTOWN ZONING CODE



EASEMENT DETAILS

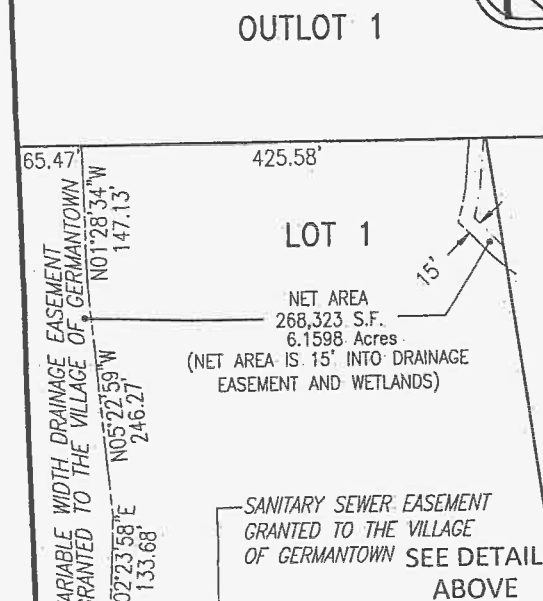
SANITARY SEWER EASEMENT GRANTED TO THE VILLAGE OF GERMANTOWN AND 20 FOOT WIDE DRAINAGE EASEMENT GRANTED TO THE VILLAGE OF GERMANTOWN



Revised: December 9, 2016
Revised: January 17, 2017
Revised: February 21, 2017
Revised: April 25, 2017
Revised: July 17, 2017
Revised: August 15, 2017

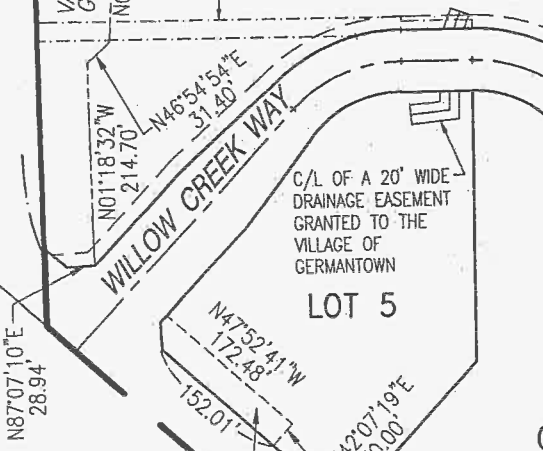
LOT 3

NET AREA
478,957 S.F.
10.9953 Acres
(EXCLUDING WETLANDS, 100 YEAR FLOODPLAIN AND LANDS MORE THAN 15 FEET INTO THE W.E.P.CO. EASEMENT)



LOT 2

15' PRIVATE UTILITY EASEMENT GRANTED TO THE PUBLIC



30' LANDSCAPE AND SIGNAGE EASEMENT GRANTED TO THE WILLOW CREEK BUSINESS PARK ASSOCIATION, INC.



GRAPHIC SCALE

1" = 200' This instrument was drafted by Donald C. Chaput Professional Land Surveyor S-1316

LOT 4

20' x 36' WIDE DRAINAGE EASEMENT GRANTED TO THE VILLAGE OF GERMANTOWN



DOC# 1438853

Map No. 6784 UAC 54 Page 162

WILLOW CREEK BUSINESS PARK



For more information:

Barry Chavin
414 395 4676
bchavin@mlgcommercial.com

Stephen Provancher
414 395 4689
sp@mlgcommercial.com

NAI MLG Commercial
COMMERCIAL REAL ESTATE SERVICES WORLDWIDE

Prospective Buyer/Tenant is hereby advised that: (1) Principals of NAI MLG Commercial ("NAI MLG") are also Principals of Owner; and (2) NAI MLG is acting solely as an agent of Owner and may receive a commission in connection with the sale or lease of the Property.

757 North Broadway Street, Suite 700
Milwaukee, WI 53202
414 347 9400
mlgcommercial.com
Offices in Madison and Milwaukee, WI

35708

1438853



RECORDED

September 28, 2017 10:13 AM

SHARON A MARTIN

REGISTER OF DEEDS

WASHINGTON COUNTY, WI

Recording Fee Paid: \$30.00

Exemption: 77.25(2R)

CERTIFIED SURVEY MAP NO.

Part of the Northwest 1/4, Northeast 1/4, Southwest 1/4 and Southeast 1/4 of the Northeast 1/4 of Section 32, and part of the Southeast 1/4 of the Southeast 1/4 of Section 29 all in Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin.

Bearings are referenced to the Wisconsin State Plane Coordinate System, South Zone (NAD 1927 datum) in which the South line of the NE 1/4 of Section 32 bears N89°56'02"W.

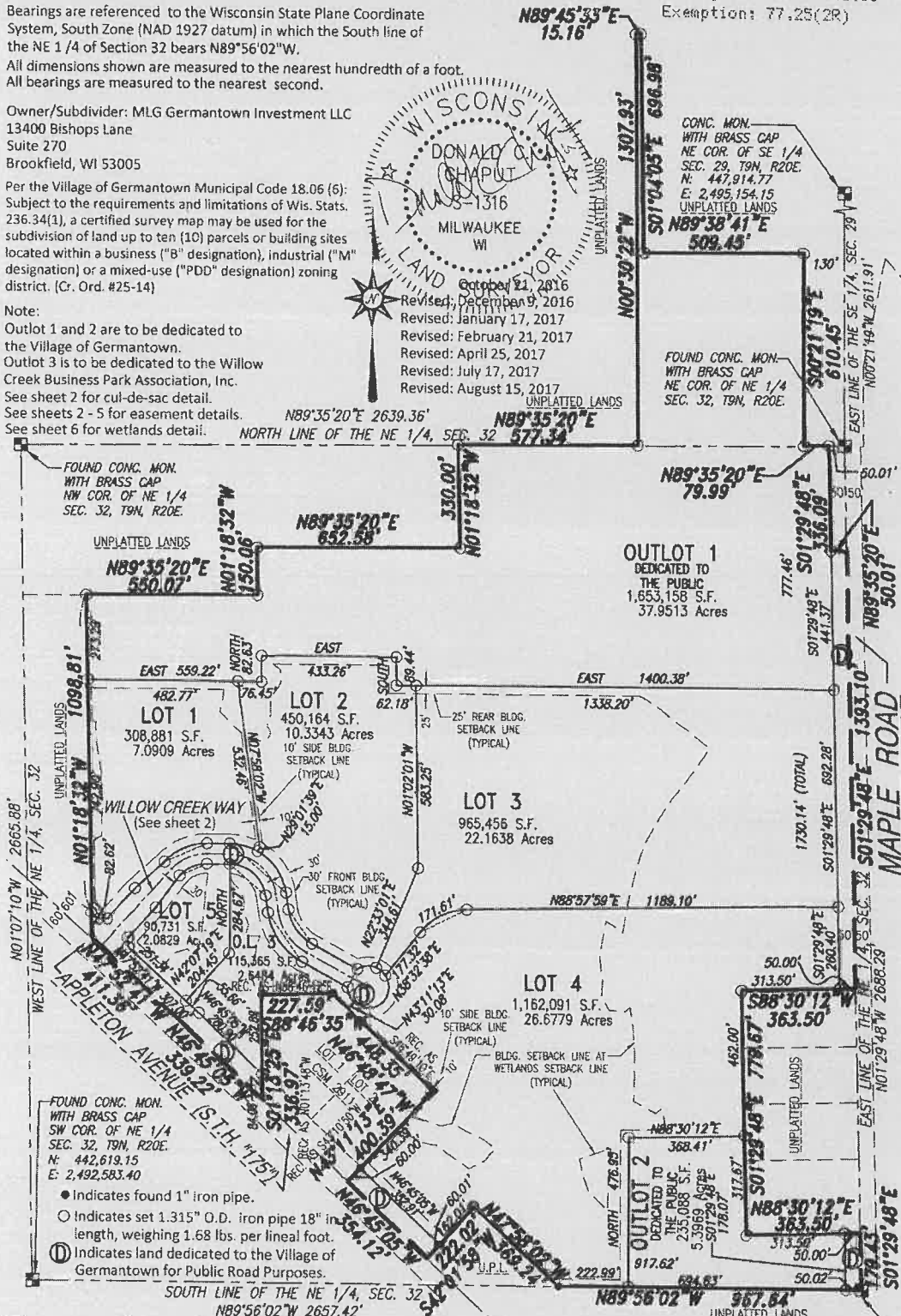
All dimensions shown are measured to the nearest hundredth of a foot.
All bearings are measured to the nearest second.

Owner/Subdivider: MLG Germantown Investment LLC
13400 Bishops Lane
Suite 270
Brookfield, WI 53005

Per the Village of Germantown Municipal Code 18.06 (6): Subject to the requirements and limitations of Wis. Stats. 236.34(1), a certified survey map may be used for the subdivision of land up to ten (10) parcels or building sites located within a business ("B" designation), industrial ("I" designation) or a mixed-use ("PDD" designation) zoning district. (Cr. Ord. #25-14)

Note:

Outlot 1 and 2 are to be dedicated to the Village of Germantown.
Outlot 3 is to be dedicated to the Willow Creek Business Park Association, Inc.
See sheet 2 for cul-de-sac detail.
See sheets 2 - 5 for easement details.
See sheet 6 for wetlands detail.



CHAPUT LAND SURVEYS LLC

234 W. FLORIDA STREET
MILWAUKEE, WI 53204
414-224-8068
www.chaputlandsurveys.com

Drawing No. 1665-grb

This instrument was drafted by Donald C. Chaput
Professional Land Surveyor S-1316

GRAPHIC SCALE 1" = 400'

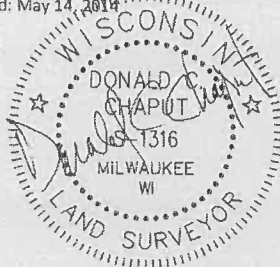
Sheet 1 of 12 Sheets

(POINT OF BEGINNING)

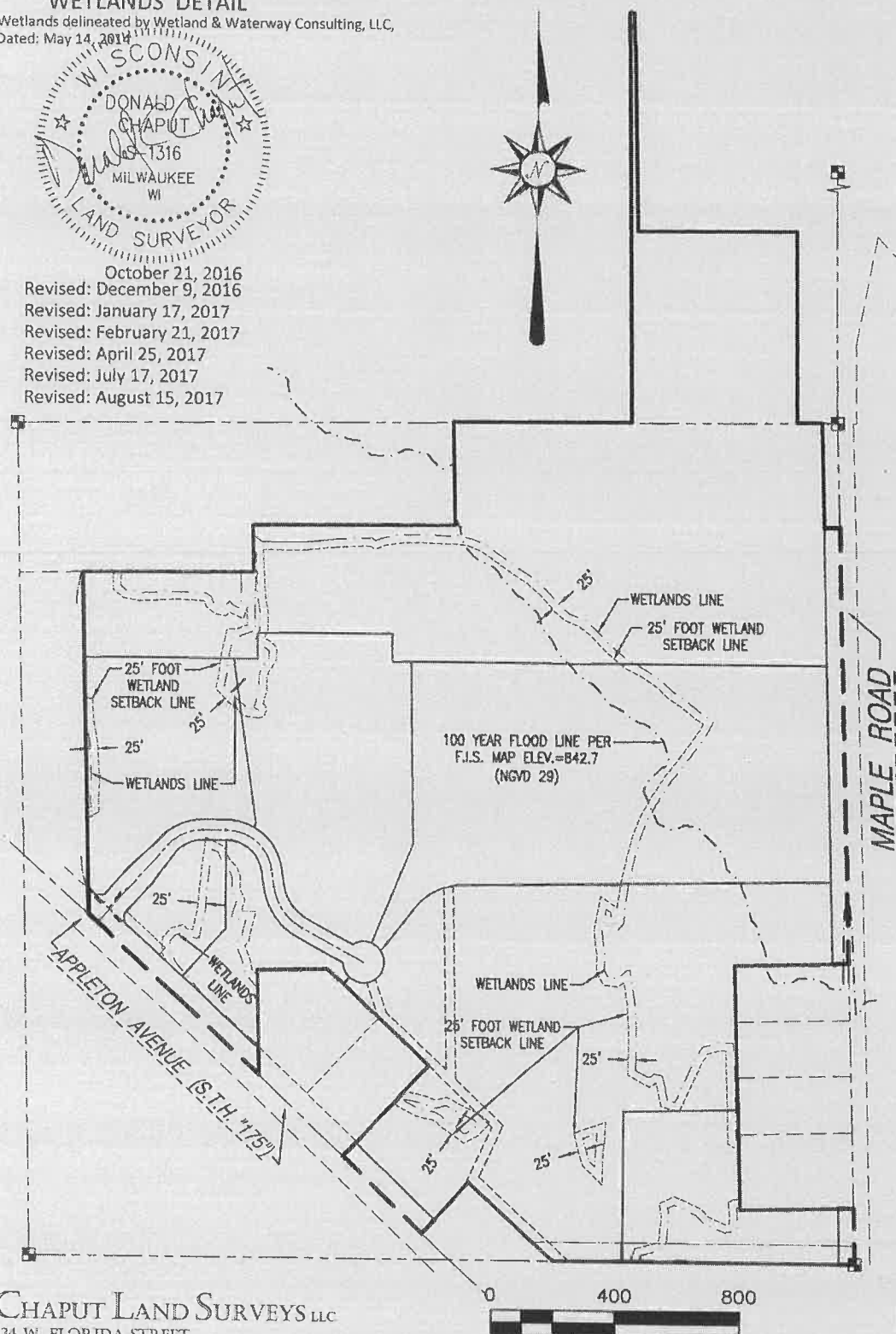
Map No. 6782 Vol 53 Page 160

Part of the Northwest 1/4, Northeast 1/4, Southwest 1/4 and Southeast 1/4 of the Northeast 1/4 of Section 32, and part of the Southeast 1/4 of the Southeast 1/4 of Section 29 all in Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin.

Wetlands delineated by Wetland & Waterway Consulting, LLC,
Dated: May 14, 2014



October 21, 2016
Revised: December 9, 2016
Revised: January 17, 2017
Revised: February 21, 2017
Revised: April 25, 2017
Revised: July 17, 2017
Revised: August 15, 2017



Map No. 6782 Vol 52 Page 165

DOC# 1458853

234 W. FLORIDA STREET
MILWAUKEE, WI 53204
414-224-8068
www.chapullandsurveys.com

This instrument was drafted by Donald C. Chaput
Professional Land Surveyor S-1316

GRAPHIC SCALE
1" = 400'

Drawing No. 1665-grb
Sheet 6 of 12 Sheets

REVISED REZONING CONCEPT PLAN

1/8/18 Plan Commission Meeting

Baudhuin Surveying & Engineering / Top Leaf Development LLC

Village Planner Report

Germantown, Wisconsin

Summary

Pete Hurth, Baudhuin Surveying & Engineering, and Top Leaf Development LLC and Alan & Lynda Luther, property owners, are requesting approval of a REVISED rezoning application concept plan for a 107-acre residential subdivision with 47 single-family lots south of Freistadt Road, north of Elm Lane and west of Wasaukee Road.

Property Location: Freistadt Road, Elm Lane and Wasaukee Road

Applicant/

Property Owner:

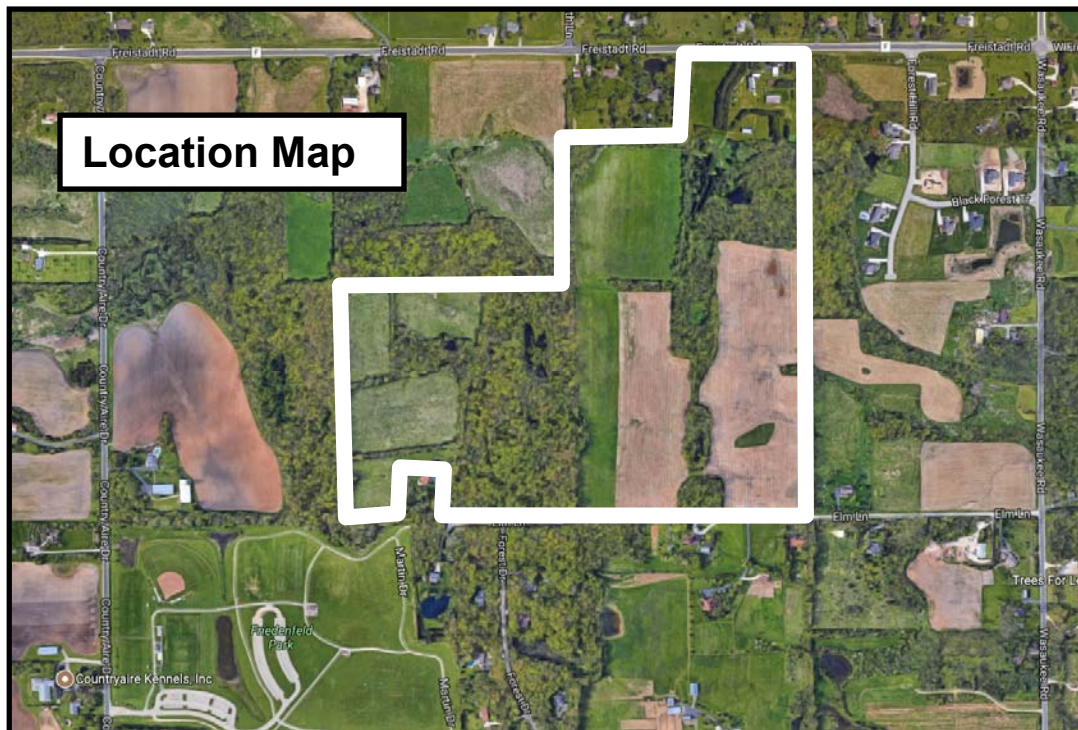
Pete Hurth
Baudhuin Survey & Eng
312 N 5th Ave
Sturgeon Bay, WI

Shari Waggoner
Alan & Lynda Luther
Top Leaf Development LLC
Colgate, WI

Current Zoning: A-1: Agricultural

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

Location Map



Background/Proposal

Pete Hurth, Baudhuin Surveying & Engineering, and Top Leaf Development LLC and Alan & Lynda Luther, property owners, are requesting approval of a REVISED rezoning application concept plan for a 107-acre residential subdivision with 47 single-family lots south of Freistadt Road, north of Elm Lane and west of Wasaukee Road.

At the December 11, 2017 meeting, the Plan Commission recommended approval of a rezoning application and concept plan for the 47-lot subdivision proposal subject to making a change to the north-south roadway alignment at the intersection with Elm Lane. That change has been made and presented in the latest revised concept plan (see enclosed).

At the December 11 meeting, Staff raised the issue that the Village's 25' wetland setback requirement around all wetland areas needs to be met and, more importantly, that all wetlands and associated wetland setbacks are required to be contained in open space outlots vs. being located on or across platted lots. The Owner/Developer indicated that while all of the wetland areas have been placed in open space outlots, they did not account for the 25' wetland setbacks. As a result, 15 of the proposed 47 lots would have wetland setback areas located on/within the lot boundaries. Consequently, the Owner/Developer indicated that they would request a waiver from the 25' wetland setback requirement.

Since the December 11 meeting, the Owner/Developer has revised some of the lot boundaries to account for the 25' wetland setback such that only 7 lots in the latest revised concept plan would have wetland setback areas on/within the lot boundaries (see enclosed annotated concept plan). As detailed in their January 2 letter (copy enclosed), the Owner/Developer is requesting a waiver from the 25' wetland setback "outlot" requirement for the remaining 7 lots.

Since the December 11 meeting, Staff obtained further clarification of the wetland and wetland setback requirements under 18.02, as well as, the variance provisions in the Subdivision Code. The Village Attorney agrees that the terms "generally" and "should" as used in Section 18.02(6) provide the Plan Commission some latitude in terms of enforcement. By comparison, where "shall" is typically taken to mean something is compulsory or mandatory, words such as "may" or "should" are typically taken to mean something is permissive or recommended, but not necessarily required.

With that in mind, it appears that the Plan Commission could allow the proposed lot layout to move forward "as is" without a waiver from the terms of 18.02(6)(a)... repeated below for reference:

(6) **LAND SUITABILITY.** No land shall be subdivided or developed which is determined to be unsuitable for its proposed use by the Plan Commission for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the Village. In addition:

(a) **No lot or parcel 2 acres or less in area shall include floodplain or wetlands**, and all lots or parcels more than 2 acres in size shall contain not less than one acre of land which is at an elevation at least 2 feet above the elevation of the 100-year floodplain or, where such data is not available, 5 feet above the maximum flood of record. **Generally, floodplain and wetlands within a parcel of land subject of a subdivision plat or certified survey map "minor" land division and the area within any required setbacks extending outward from any such floodplain or wetlands should be platted so as to be included in open space or other outlots and not within or part of a developable lot or parcel.** (Cr. Ord. #09-08)

Notwithstanding, the Plan Commission's authority to grant a waiver or variance is limited to other sections of the Subdivision Code... and not Section 18.02(6). A more careful reading and accurate interpretation of 18.02(5) of the Subdivision Code indicates that the Plan Commission can only grant variances from Section 18.07 (Design Standards) and 18.08 (Required Improvements) and then only after making specific findings based on documented evidence that the rigid "exceptional circumstances" and "severe hardship" criteria are proven to exist (and not just for personal financial reasons or ignorance of the law type excuses).

Since the 25' wetland setback requirement is an actual requirement found in the Village's Shoreland-Wetland Zoning Code, if the Owner/Developer (or even a subsequent lot owner of one of the 7 lots) wants to seek a variance from the 25' wetland setback requirement, they would have to submit a variance petition to the Village's Board of Zoning Appeals and go through that process separately, and, make the necessary legal arguments proving that "exceptional circumstances" or a "severe hardship" exists.

Under the category of "better late than never" ...the reasoning behind the requirement under 18.02(6)(a) that all wetlands and wetland setbacks be contained in open space outlots comes down to enforcement issue. Generally speaking, the Village determined long ago that the protection of wetlands is important, and, that the "standard" protections available through DNR regulations are not sufficient. Consequently, the Village adopted its own 25' wetland setback requirement in the Shoreland-Wetland Zoning Code to effectively prohibit any land development activity (e.g. from grading and filling to building construction) within 25 feet of a delineated wetland. While there is a provision in the Shoreland-Wetland Code that allows development within a 25' setback area with a conditional use permit (along with a specific compensation plan), the 25' wetland setback requirement has been an effective "no development zone" protecting wetlands throughout the Village.

However, with respect to enforcement, it is/would be extremely difficult and cost-prohibitive to monitor any and all development activity within the multitude of wetlands and wetland setback areas throughout the Village, particularly if those wetland setback areas encroach into or across thousands of parcels in the Village.

As a result, in an effort to limit the extent or number of parcels subject to the development restrictions associated with a 25' wetland setback, the Village added the provisions in 18.02(6)(a) that prohibit the creation of lots 2 acres or less in area with any wetlands or floodplains within its boundaries, and, to "require" wetlands, floodplains and any required setback areas to be located within open space outlots and NOT part of a developable lot.

With that said, Staff recommends that the Plan Commission NOT approve the revised concept plan that results in wetland setback encroachments on the 7 lots as shown, and, direct the Owner/Developer to revise the plan such that all wetlands and wetland setback areas be contained in open space outlots.

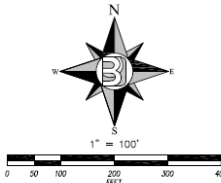
However, if the Plan Commission decides to take advantage of the "latitude" created in the Code through the use of the permissive terms "generally" and "should", and approve the revised concept plan with the wetland setback encroachments affecting the 7 lots, Staff recommends the following:

1. The side yard building setback lines for each of the 7 lots affected by and adjacent to a 25' wetland setback (Lots #2, #13, #14, #15, #38, #41 & #47) be set at a minimum of 25 feet (vs. the standard 20 feet); and
2. that the subdivision plat present with lines and/or shading the location and extent of the 25' wetland setback areas extending outward from the wetlands and across the 7 lots affected by a 25' wetland setback (Lots #2, #13, #14, #15, #38, #41 & #47); and
3. that the subdivision plat contain a restriction by way of a note on the face of the plat indicating that development within the wetland setback boundaries across the 7 lots affected by a 25' wetland setback (Lots #2, #13, #14, #15, #38, #41 & #47) is subject to the restrictions and limitations contained in the Village's Shoreland-Wetland Code.

SITE PLAN

LOCATED IN:
THE NW 1/4 OF THE NE 1/4, THE SW 1/4 OF THE NE 1/4,
AND THE SE 1/4 OF THE NW 1/4

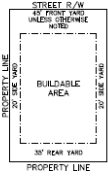
ALL IN:
SECTION 24, TOWNSHIP 9 NORTH, RANGE 20 EAST,
TOWN OF CENANTOWN,
WASHINGTON COUNTY,
WISCONSIN.



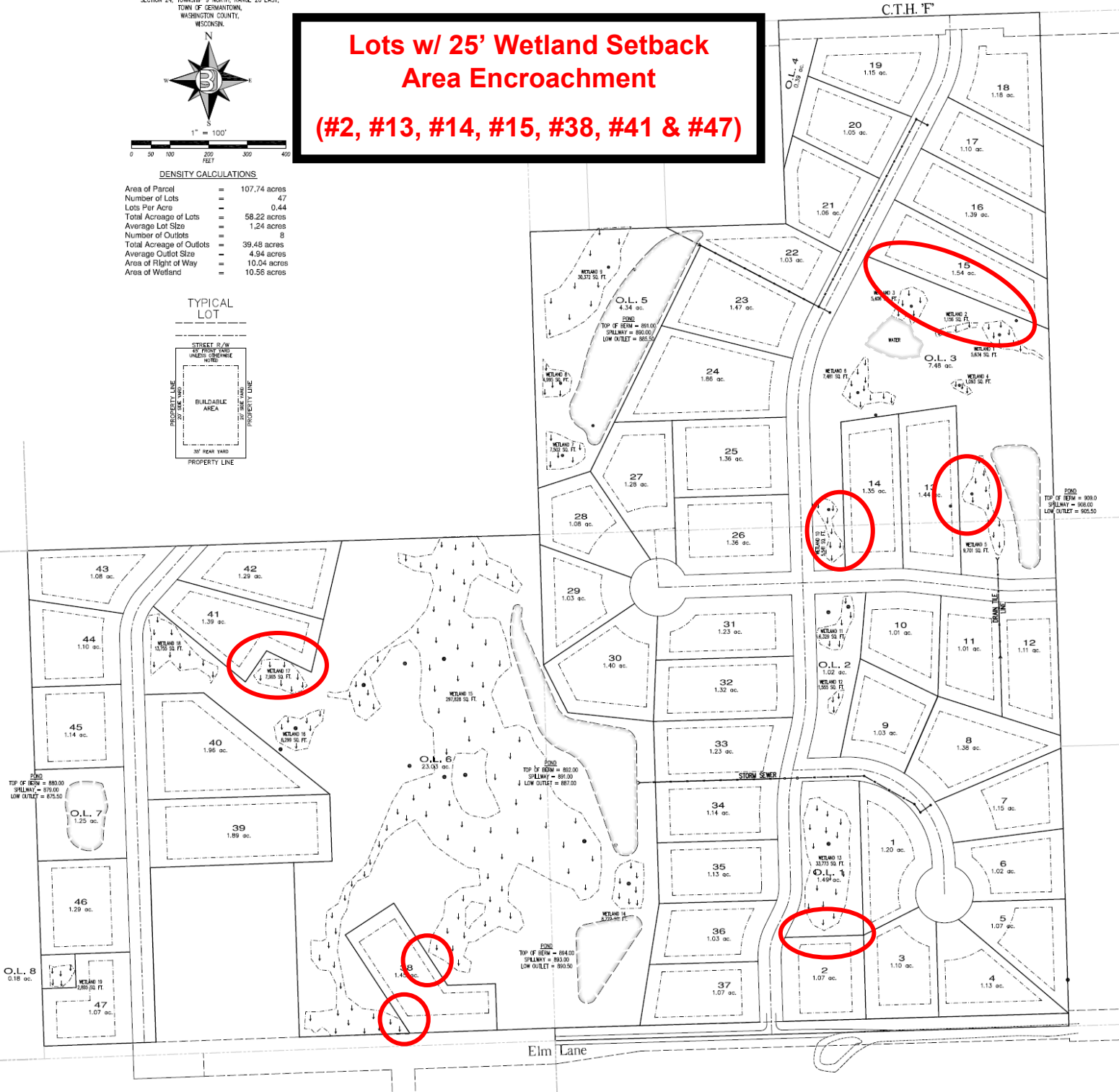
DENSITY CALCULATIONS

Area of Parcel	=	107.74 acres
Number of Lots	=	47
Lots Per Acre	=	0.44
Total Acreage of Lots	=	58.22 acres
Average Lot Size	=	1.24 acres
Number of Outlots	=	8
Total Acreage of Outlots	=	39.48 acres
Average Outlot Size	=	4.94 acres
Area of Right of Way	=	10.04 acres
Area of Wetland	=	10.58 acres

TYPICAL LOT



**Lots w/ 25' Wetland Setback
Area Encroachment
(#2, #13, #14, #15, #38, #41 & #47)**



January 2, 2018

Germantown Plan Commission,

Attached is the updated concept plan showing the two changes per the December 11 Plan Commission meeting. We shifted the South connection to Elm Lane so it is not directly in line with the house to the South and we eliminated the "S" curve where the road meets the North property line on the West section. We also adjusted multiple lots to meet the 25' wetland setback wherever possible. Originally fifteen lots did not meet the requirement, but we reduced the number to seven lots.

We are requesting a waiver from Section 18.02 of the Subdivision Code, which states "Generally, floodplain and wetlands within a parcel of land subject of a subdivision plat or certified survey map "minor" land division and the area within any required setbacks extending outward from any such floodplain or wetlands should be platted so as to be included in open space or other outlots and not within or part of developable lot or parcel". This section generally requires a 25' setback from wetlands to be included in outlot areas.

Under Section 18.02, the Plan Commission may waive or modify any requirements to the extent deemed just and proper. "The Plan Commission makes a specific finding based on documented evidence that all of the following facts and conditions exist:

- (a) Exceptional, extraordinary or unusual circumstances or conditions exist where a literal enforcement of the requirements of this chapter would result in severe hardship. Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that this chapter should be changed.
- (b) Preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity will not be adversely affected.
- (c) Detriment to adjacent property will not be created and the variance will not materially impair or be contrary to the purpose and spirit of this chapter or the public interest."

We are requesting the waiver due to the hardship the 25' wetland setback poses on the development of the parcel of land. The unusual circumstance is that there are 19 different wetland areas spread throughout the entire property. This poses a great challenge to effectively subdivide the land to make the project financially feasible. We've looked at the layout countless ways to meet the 25' setback requirement, but we cannot do this without losing multiple lots. Losing additional lots creates a significant hardship due to the amount of internal road length and the additional new construction of two sections of Elm Lane.

The inefficiencies can be seen looking at this concept plan. Over half of the main internal road running North and South does not have lots on one side and the road running North and South on the West side of the parcel has a similar situation. In addition to these inefficiencies, the amount of Elm Lane being constructed became more substantial after the wetland delineation and updated concept plan. Before the wetland delineation, we had 49 lots with about 400' of Elm Lane to construct. After the wetland delineation was completed, we lost 2 lots and added an additional 700' of Elm Lane, totaling 1,100' to construct. That is a significant financial impact.

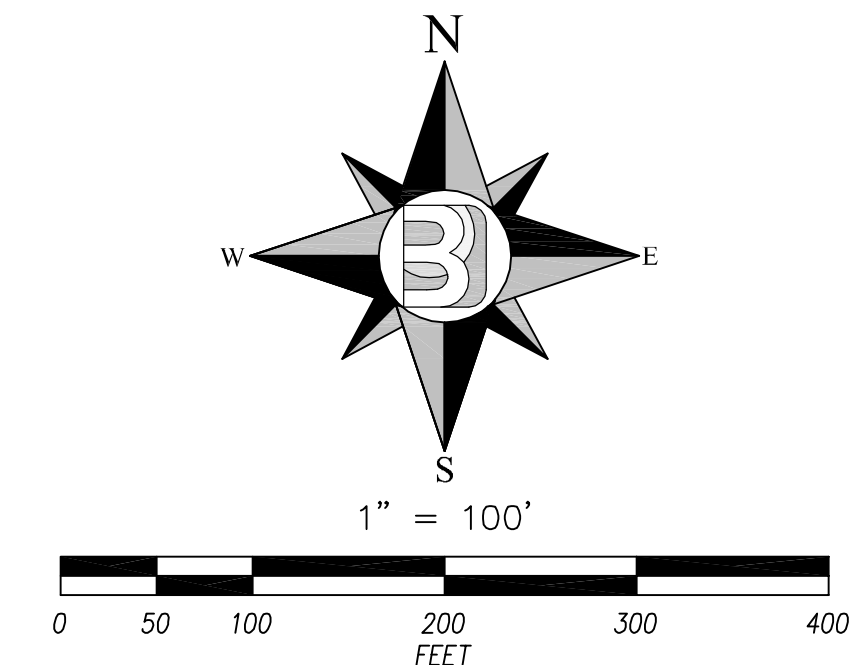
Waiving this requirement should not pose to be detrimental to any other properties or the public interest.

Thank you for your time and consideration,

Shari Waggoner
Top Leaf Development LLC

SITE PLAN

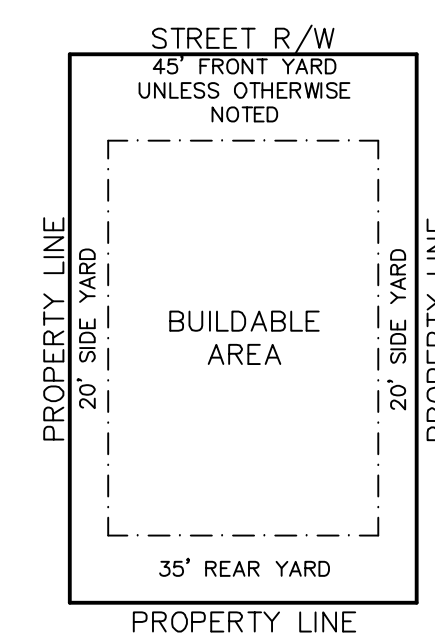
LOCATED IN:
THE NW 1/4 OF THE NE 1/4, THE SW 1/4 OF THE NE 1/4,
AND THE SE 1/4 OF THE NW 1/4
ALL IN:
SECTION 24, TOWNSHIP 9 NORTH, RANGE 20 EAST,
TOWN OF GERMANTOWN,
WASHINGTON COUNTY,
WISCONSIN.



DENSITY CALCULATIONS

Area of Parcel	=	107.74 acres
Number of Lots	=	47
Lots Per Acre	=	0.44
Total Acreage of Lots	=	58.22 acres
Average Lot Size	=	1.24 acres
Number of Outlots	=	8
Total Acreage of Outlots	=	39.48 acres
Average Outlot Size	=	4.94 acres
Area of Right of Way	=	10.04 acres
Area of Wetland	=	10.56 acres

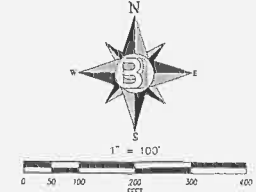
TYPICAL LOT



DECEMBER 11, 2017

SITE PLAN - OPTION 'B' - 47 LOTS

LOCATED IN:
THE NW 1/4 OF THE NE 1/4, THE SW 1/4 OF THE NE 1/4,
AND THE SE 1/4 OF THE NW 1/4
ALL IN:
SECTION 24, TOWNSHIP 8 NORTH, RANGE 20 EAST,
TOWN OF COWARTOWN,
WASHINGTON COUNTY,
MINNESOTA.



APPROXIMATE LENGTH OF ROAD = 6,725 FT. ±

